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DEPARTMENT OF TRANSPORTATION

5 CFR Part 6001

RINs 2105–AD08, 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Department of Transportation

AGENCY: Department of Transportation.

ACTION: Final rule; amendment.

SUMMARY: The Department of Transportation, with the concurrence of the Office of Government Ethics (OGE), amends the Supplemental Standards of Ethical Conduct for Employees of the Department of Transportation (Transportation Ethics Regulations). The amendment adds authority to waive the general prohibition against Federal Aviation Administration (FAA) employees holding stock or other securities interests in airlines, aircraft manufacturing companies or suppliers of components or parts to those entities. The exercise of this waiver authority will be conditioned in each case upon a determination that the waiver is not inconsistent with the standards of ethical conduct for employees of the Executive Branch and that application of the general FAA prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality.

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: William R. Register, Senior Ethics Counsel, Office of the General Counsel, Department of Transportation, Room 10102, Washington, DC 20590, (202) 366–9154; or John Walsh, Associate Chief Counsel for Ethics, (202) 366–4099, FAA General Law Division, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

The Transportation Ethics Regulations were issued in 1996 to minimize potential conflicts of interest and supplement OGE's Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635) (Standards). *See* 61 FR 39901–39904 (July 31, 1996), as codified at 5 CFR part 6001. The FAA-pertinent part of the Transportation Ethics Regulations, at 5 CFR 6001.104(b), generally prohibits FAA employees from holding any stock or other securities interest in an airline or aircraft manufacturing company, or in a supplier of components or parts to an airline or aircraft manufacturing company. The requirement prevents employees from taking actions that may violate conflict of interest laws or that may appear to do so. Exceptions to the general prohibition permit FAA employees to invest in certain mutual funds that hold the prohibited interests. *See* 5 CFR 6001.104(c).

The FAA's experience has shown, however, that the absolute prohibition in the current regulation is not needed to preserve the integrity of FAA operations. Also, employees for whom a waiver may be granted will nevertheless be subject to the conflict of interest laws and ethics regulations that apply to all Federal employees. These laws and regulations prohibit employees from taking action in any matter affecting a company in which they have any stock or other financial interest unless a regulatory exemption or a written waiver is obtained. Therefore, an amendment is being adopted to include in the regulation waiver language such as has been used for years by other agencies. See, for example, the regulations of the Department of the Interior at 5 CFR 3501.104(b)(5).

Under new § 6001.104(d), an agency designee, as defined in 5 CFR 6001.102, may grant a waiver from the regulatory restriction in § 6001.104(b) based on a determination that the waiver is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law and that, under the particular circumstances, application of the restriction is not necessary to avoid the appearance of misuse of position or loss of impartiality and objectivity with which agency programs are administered. An FAA employee may be required under the waiver to disqualify himself from a particular matter or take other appropriate action. Initially, this new waiver authority will permit the FAA to consider a broader pool of applicants currently under consideration for temporary security positions at the nation's airports.

In addition, the Department is revising the authority citation of the Transportation Ethics Regulations to add reference to 5 U.S.C. 7353 concerning restrictions on gifts to Federal employees.

II. Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(a)(2), (b), and (d), the Department has found that good cause exists for waiving the regular notice of proposed rulemaking, and opportunity for public comment. The Department also finds that good cause exists for making this final rule effective immediately upon publication in the **Federal Register**. We make these findings because it is in the public interest that this rule, which concerns matters of agency management, personnel, organization, practice and procedure, and which relieves certain restrictions placed on FAA employees, become effective on the date of publication.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, no regulatory flexibility analysis is required.

Executive Order 12866 Determination

The Department has determined that this final rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866, nor is the rule significant as defined in DOT's Regulatory Policies and Procedures.

Unfunded Mandates Reform Act of 1995 Determinations

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act)[1] requires that an agency prepare a budgetary impact statement before promulgating a rule

[1] Pub. L. 104–4, 109 Stat. 48 (codified at 2 U.S.C. Chs. 17A–25)

that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (as adjusted for inflation) in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. As discussed in the preamble, this rule limits the restrictions on FAA employees holding financial interests in aviation industry entities. The Department therefore has determined that the rule will not result in expenditures by State, local or tribal governments or by the private sector of $100 million or more. Accordingly, the Unfunded Mandates Act does not apply to this rulemaking.

List of Subjects in 5 CFR Part 6001

Conflict of interests, Ethics, FAA employees, Government employees.

Dated: November 21, 2001.

Norman Y. Mineta,

Secretary of Transportation.

Approved: November 27, 2001.

Amy L. Comstock,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Department, with the concurrence of OGE, amends 5 CFR part 6001 as follows:

PART 6001—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF TRANSPORTATION

1. The authority citation for part 6001 is revised to read as follows:

Authority: 5 U.S.C. 301, 7301, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); 49 U.S.C. 322; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.203(a), 2635.403(a), 2635.807.

2. Section 6001.104 is amended by:

a. Revising paragraph (b);

b. Redesignating paragraph (d) as paragraph (e); and

c. Adding new paragraph (d).

The revision and addition read as follows:

§ 6001.104 Prohibited financial interests.

* * * * *

(b) *Federal Aviation Administration (FAA).* Except as provided in paragraphs (c) and (d) of this section, no FAA employee, or spouse or minor child of the employee, may hold stock or have any other securities interest in an airline or aircraft manufacturing company, or in a supplier of components or parts to an airline or aircraft manufacturing company.

* * * * *

(d) *Waiver.* An agency designee may grant a written waiver from the prohibition contained in paragraph (b) of this section, based on a determination that the waiver is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law, and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which FAA programs are administered. A waiver under this paragraph may be accompanied by appropriate conditions, such as requiring execution of a written statement of disqualification. Notwithstanding the granting of any waiver, an employee remains subject to the disqualification requirements of 5 CFR 2635.402 and 2635.502.

* * * * *

[FR Doc. 01–29890 Filed 11–30–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–87–AD; Amendment 39–12516; AD 2001–23–17]

RIN 2120–AA64

Airworthiness Directives; GARMIN International GNS 430 Units

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain GARMIN International (GARMIN) GNS 430 units that are installed on aircraft. This AD requires you to modify the unit to incorporate circuitry changes to the GNS 430 unit's deviation and flag outputs. This AD is the result of reports of inaccurate course deviations caused by external electrical noise to the GNS 430 unit's course deviation indicator (CDI). The actions specified by this AD are intended to prevent such external noise from causing inaccurate course deviation displays in the GNS 430 unit's CDI or horizontal situation indicator (HSI). Such displays could result in the pilot making flight decisions that put the aircraft in unsafe flight conditions.

DATES: This AD becomes effective on December 28, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of December 28, 2001.

ADDRESSES: You may obtain the service information referenced in this AD from GARMIN International, 1200 East 151st Street, Olathe, Kansas 66062. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–87–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407; e-mail: *roger.souter@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The FAA has received information that external electrical noise to the course deviation indicator (CDI) of GARMIN GNS 430 units could result in the CDI or horizontal situation indicator (HSI) displaying inaccurate course deviations. This could prompt the pilot to make flight decisions that put the aircraft in unsafe flight conditions.

Certain GNS 430 installations have received electrical noise between 1 and 3 volts alternating current (AC) peak-peak (induced into the GNS 430 CDI input) from other items installed on the aircraft. This high level of noise causes an undesirable oscillation of the CDI outputs, which results in inaccurate course deviation displays in the GNS 430 unit's CDI/HSI.

The condition is installation dependent. The GNS 430 units continue to meet all requirements in the technical standard order (TSO). The condition occurs in aircraft with installations that impose large noise spikes upon the CDI D-bar control wiring. Such installations are autopilots, fan motors, or similar accessories.

What is the potential impact if FAA took no action? As described above, such external noise could cause inaccurate course deviation displays in the GNS 430 unit's CDI/HSI. This could result in the pilot making flight decisions that put the aircraft in unsafe flight conditions.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include

an AD that would apply to certain GARMIN GNS 430 units that are installed on aircraft. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 6, 2001 (66 FR 40926). The NPRM proposed to require you to modify the unit to incorporate circuitry changes to the GNS 430 unit's deviation and flag outputs. The proposed actions would be accomplished in accordance with GARMIN Service Bulletin No.: 9905, Revision A, dated September 17, 1999.

Was the public invited to comment? The FAA encouraged interested persons to participate in the making of this amendment. The paragraphs that follow present the comment received on the proposal and FAA's response to this comment.

Comment Disposition

What is the commenter's concern? The commenter states that the majority of, if not all, the owners/operators of aircraft with the GARMIN GNS 430 units installed have already complied with the proposed AD through the manufacturer's warranty program. The commenter recommends that FAA withdraw the NPRM.

What is FAA's response to the concern? We do not concur with withdrawing the NPRM. Many of the airplanes equipped with the GARMIN GNS 430 units may actually incorporate the modification. However, AD action is the only way we can mandate that all units currently installed either have the modification incorporated or keep the modification incorporated and that all units installed in the future incorporate this modification.

We are not changing the final rule as a result of this comment.

FAA's Determination

What is FAA's final determination on this issue? After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How many airplanes does this AD impact? We estimate that 2,010 affected GARMIN GNS 430 units could be installed on aircraft in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes? GARMIN will cover all workhours and parts costs associated with this modification under warranty. This AD will not impose any cost impact upon the owners/operators of any aircraft incorporating one of the affected GNS 430 units.

Compliance Time of This AD

What is the compliance time of this AD? The compliance time of this AD is within the next 6 months after the effective date of this AD.

Why is the compliance time presented in calendar time instead of hours time-in-service (TIS)? The compliance time for this AD is presented in calendar time instead of hours TIS because the condition exists regardless of aircraft operation. The external noise outputs could occur and cause the inaccurate CDI/HSI displays regardless of the number of times and hours the aircraft was operated or the age of the GNS 430 unit. For these reasons, we have determined that a compliance based on calendar time should be utilized in this AD in order to ensure that the unsafe condition is addressed within a reasonable time period on all aircraft with an affected GNS 430 unit installed.

Regulatory Impact

Does this AD impact various entities? The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does this AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this action (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2001–23–17 GARMIN International: Amendment 39–12516; Docket No. 99–CE–87–AD.

(a) *What airplanes are affected by this AD?* This AD applies to the GNS 430 units that are specified in paragraph (a)(1) of this AD and are installed on aircraft. These GNS 430 units are installed in, but not limited to, aircraft that are certificated in any category and presented in paragraph (a)(2) of this AD:

(1) GNS 430 Units, part number 011–00280–00: serial numbers 9630001, 96300002, 96300017, 96300028, 96300034, 96300040, 96300068, 96300104, 96300108, 96300122, 96300125, 96300130, 96300142, 96300149, 96300161, 96300165, 96300218, 96300222, 96300232, 96300269, 96300272, 96300308, 96300333, 96300340, 96300348, 96300354, 96300369, 96300372, 96300382, 96300394, 96300411, 96300413, 96300429, 96300437, 96300451, 96300484, 96300485, 96300489, 96300504, 96300506, 96300513, 96300522, 96300549, 96300563, 96300585, 96300587, 96300618, 96300621, 96300624, 96300628, 96300641, 96300653, 96300664, 96300713, 96300734, 96300756, 96300766, 96300781, 96300785, 96300786, 96300808, 96300831, 96300837, 96300842, 96300846, 96300866, 96300870, 96300872, 96300899, 96300916, 96300923, 96300925, 96300929, 96300941, 96300961, 96300984, 96300987, 96301021, 96301108, 96301130, 96301280, and 96301296 through 96303200.

(2) Aircraft with the GNS 430 Unit Installation (other aircraft could have field approval installations):

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3
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TC holder	Airplane models
Cessna Aircraft Company.	172, 182, 206, 208, 210, 401, 402, 404, 406, 411, 414, 414A, 421A, 421B, 421C, 425, 441, 500, 550, S550, 552, 560, 560XL, 501, 525, and 551.
Mooney Aircraft	M20, M20A, M20B, M20C, M20D, M20E, M20F, M20G, M20J, M20K, M20L, M20M, M20R, M20S, and M22.
Raytheon Aircraft Company.	Beech Models E33, F33, G33, E33A, F33A, E33C, F33C, 35, 35R, A35, B35, B35TC, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35TC, V35A, V35A–TC, V35B, V35B–TC, 36, A36, A36TC, 50, B50, C50, D50, D50A, D50B, D50C, D50E, E50, F50, G50, H50, J50, 60, A60, B60, 65–90, 65–A90, B90, C90, C90A, C90B, E90, F90, 100, A100, B100, 95–55, 95–A55, 95–B55, 95–C55, D–55, E55, 58, 58P, and 58TC.
Socata	TBM 700.
The New Piper Aircraft, Inc.	J3C–40, J3C–50, J3C–50S (Army L–4, L–4B, L–4H, and L–4J), J3C–65 (Navy NE–1 and NE–2), J3C–65S, J3F–50, J3F–50S, J3F–60, J3F–60S, J3F–65 (Army L–4D), J3F–65S, J3L, J3L–S, J3L–65 (Army L–4C), J3L–65S, J4, J4A, J4A–S, J4E (Army L–4E), J5A (Army L–4F), J5A–80, J5B (Army L–4G), J5C, AE–1, HE–1, PA–11, PA–11S, PA–12, PA–12S, PA–14, PA–15, PA–16, PA–16S, PA–17, PA–18, PA–18A, PA–18A (Restricted), PA–18S, PA–18–"105" (Special), PA–18S–"105" (Special), PA–18–"125" (Army L–21A), PA–18AS–"125", PA–18S–"125", PA–18–"135" (Army L–21B), PA–18A–"135", PA–18A–"135" (Restricted), PA–18AS–"135", PA–18S–"135", PA–18–"150", PA–18A–"150", PA–18A–"150" (Restricted), PA–18AS–"150", PA–18S–"150", PA–19 (Army L–18C), PA–19S, PA–20, P–20S, PA–20–"115", PA–20S–"115", PA–20–"135", PA–20S–"135", PA–22, PA–22–108, PA–22–135, PA–22S–135, PA–22–150, PA–22S–150, PA–22–160, PA–22S–160, PA–24, PA–24–250, PA–24–260, PA–24–400, PA–25, PA–25–235, PA–25–260, PA–28–140, PA–28–150, PA–28–151, PA–28–160, PA–28–161, PA–28–180, PA–28–235, PA–28S–160, PA–28R–180, PA–28S–180, PA–28–181, PA–28R–200, PA–28R–201, PA–28R–201T, PA–28RT–201, PA–28RT–201T, PA–28–201T, PA28–236, PA–32R–301 (SP), PA–32R–301 (HP), PA–32R–301T, PA–32–301, PA–32–301T, PA–36–285, PA–36–300, PA–36–375, PA–38–112, PA–46–310P, and PA–46–350P.

(b) *Who must comply with this AD?* Anyone who wishes to operate any aircraft with one of the affected GNS 430 units installed must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent external noise from causing inaccurate course deviation displays in the GNS 430 unit's course deviation indicator (CDI) or horizontal situation indicator (HSI). Such displays could result in the pilot making flight decisions that put the aircraft in unsafe flight conditions.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Modify the affected GNS 430 unit to incorporate circuitry changes to the deviation and flag outputs.	Within the next 6 months after December 28, 2001 (the effective date of this AD).	In accordance with the MODIFICATION INSTRUCTIONS section of GARMIN Service Bulletin No.: 9905, Revision A, dated September 17, 1999.
(2) Do not install an affected GNS 430 unit unless it has been modified as required by paragraph (d)(1) of this AD.	As of December 28, 2001 (the effective date of this AD).	In accordance with the MODIFICATION INSTRUCTIONS section of GARMIN Service Bulletin No.: 9905, Revision A, dated September 17, 1999.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: This AD applies to any aircraft with the equipment installed as identified in paragraph (a) of this AD, regardless of whether the aircraft has been modified, altered, or repaired in the area subject to the requirements of this AD. For aircraft that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407, e-mail: roger.souter@faa.gov.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with GARMIN Service Bulletin No.: 9905, Revision A, dated September 17, 1999. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies from GARMIN International, 1200 East 151st Street, Olathe, Kansas 66062. You may view this information at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on December 28, 2001.

Issued in Kansas City, Missouri, on November 14, 2001.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–29325 Filed 11–30–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–23–AD; Amendment 39–12524; AD 2001–24–08]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model EC 120 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) that applies to Eurocopter France (ECF) Model EC120B helicopters and currently requires adjusting the clearance of the cabin sliding door if necessary. This amendment requires adding an end stop to the front rail and modifying the rear stop of the middle rail to increase its adjustment range for certain cabin sliding doors. This amendment is prompted by an in-flight loss of a cabin sliding door, which had been locked in the open position. The actions specified by this AD are intended to prevent in-flight loss of a cabin sliding door, impact with the horizontal stabilizer or fenestron tail rotor, and subsequent loss of control of the helicopter.

DATES: Effective January 7, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 7, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 by superseding AD 2000–17–07, Amendment 39–11881 (65 FR 52012, August 28, 2000), which applies to ECF Model EC120B helicopters, was published in the **Federal Register** on August 23, 2001 (66 FR 44319). That action proposed to supersede AD 2000–17–07 to require, within 90 days or before the next flight with a door open, whichever occurs first, adding a stop to the front rail and modifying the rear stop of the middle rail of the cabin sliding doors.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 24 helicopters of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per helicopter to add and modify the cabin sliding door stops, and that the average labor rate is $60 per work hour. Required parts will cost approximately $25 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3480.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended].

2. Section 39.13 is amended by removing Amendment 39–11881 (65 FR 52012, August 28, 2000), and by adding a new airworthiness directive (AD), Amendment 39–12524, to read as follows:

2001–24–08 Eurocopter France: Amendment 39–12524. Docket No. 2001–SW–23–AD. Supersedes AD 2000–17–07, Amendment 39–11881, Docket No. 2000–SW–33–AD.

Applicability: Model EC120B helicopters, serial number 1169 and below, with a cabin sliding door rail, part number C533C8102201, C533C8102202, C533C8103201, or C533C8103202, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within 90 days or before the next flight with the door open, whichever occurs first, unless accomplished previously.

To prevent in-flight loss of a cabin sliding door, impact with the horizontal stabilizer or fenestron tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Add a stop to the front rail and modify the rear stop of the middle rail in accordance with the Operational Procedure, paragraph 2.B., of Eurocopter France Alert Service Bulletin No. 52A004, Revision 1, dated April 19, 2001.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(c) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter with the sliding

cabin doors closed or removed to a location where the requirements of this AD can be accomplished.

(d) The modification shall be done in accordance with the Operational Procedure, paragraph 2.B., of Eurocopter France Alert Service Bulletin No. 52A004, Revision 1, dated April 19, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on January 7, 2002.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 2000–285–005(A) R2, dated May 16, 2001.

Issued in Fort Worth, Texas, on November 20, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–29592 Filed 11–30–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–15–AD; Amendment 39–12523; AD 2001–24–07]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A109C, A109E, and A109K2 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) that applies to Agusta S.p.A. (Agusta) Model A109C, A109E, and A109K2 helicopters and currently requires inspecting the main rotor blade (blade) tip cap for bonding separation and a crack. This amendment contains the same requirements as the existing AD but also requires a tap inspection of the tip cap for bonding separation in the blade bond area and a dye penetrant inspection of the tip cap leading edge along the welded joint line of the upper and lower tip cap skin shells for a crack. This amendment is prompted by three occurrences in which the blade tip cap leading edge opened in flight due to cracks, resulting in excessive helicopter vibration. The actions specified by this AD are intended to prevent failure of a blade tip cap, excessive vibration, and subsequent loss of control of the helicopter.

DATES: Effective January 7, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 7, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 by superseding AD 98–19–04, Amendment 39–11039 (64 FR 7494, February 16, 1999), which applies to Agusta Model A109C, A109E, and A109K2 helicopters, was published in the **Federal Register** on August 23, 2001 (66 FR 44320). That action proposed to supersede AD 98–19–04, which requires inspecting between the metal shells and honeycomb core for bonding separation, visually inspecting the blade tip for swelling or deformation, and visually inspecting the welded bead along the leading edge of the blade tip cap for a crack. This AD retains the requirements of AD 98–19–04 and also requires tap inspection of the tip cap for bonding separation in the blade bond area and a dye penetrant inspection of the tip cap leading edge along the welded joint line of the upper and lower tip cap skin shells for a crack. Installing tip caps, P/N 709–0103–29–109, on all affected blades is terminating action for the requirements of this AD.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for updating the language in Note 1 and adding "Agusta" before "Alert Bollettino Tecnico" in paragraph (a). These changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 44 helicopters of U.S. registry will be affected by this AD and that it will take approximately 6 work hours per helicopter for the initial and repetitive inspections of the fleet. The average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $15,840. This estimate is based on the assumption that no blade will need to be replaced as a result of these inspections.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11039 (64 FR 7494, February 16, 1999), and by adding a new airworthiness directive (AD), Amendment 39–12523, to read as follows:

2001–24–07 Agusta S.p.A.: Amendment 39–12523. Docket No. 2001–SW–15–AD. Supersedes AD 98–19–04, Amendment 39–11039, Docket No. 98–SW–40–AD.

Applicability: Model A109C, A109E, and A109K2 helicopters, with main rotor blade (blade), part number (P/N) 709–0130–01—all dash numbers, having a serial number (S/N) up to and including S/N 1428 with a prefix of either "EM–" or "A5–" installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within 10 hours time-in-service (TIS), unless accomplished previously, and thereafter at intervals not to exceed 25 hours TIS.

To prevent failure of a blade tip cap, excessive vibration, and subsequent loss of control of the helicopter, accomplish the following:

(a) Tap inspect the upper and lower sides of each tip cap for bonding separation between the metal shells and the honeycomb core using a steel hammer, P/N 109–3101–58–1, or a coin (quarter) in the area indicated as honeycomb core on Figure 1 of Agusta Alert Bollettino Tecnico Nos. 109–106, 109K–22, or 109EP–1, all Revision B, and dated December 19, 2000 (ABT), as applicable. Also, tap inspect for bonding separation in the tip cap to blade bond area (no bonding voids are permitted in this area).

(b) Visually inspect the upper and lower sides of each blade tip cap for swelling or deformation.

(c) Dye-penetrant inspect the tip cap leading edge along the welded joint line of the upper and lower tip cap skin shells for a crack in accordance with the Compliance Instructions, paragraph 3, of the applicable ABT.

(d) If any swelling, deformation, crack, or bonding separation that exceeds the prescribed limits in the applicable maintenance manual is found, replace the blade with an airworthy blade.

(e) Replacement blades affected by this AD must comply with the repetitive inspection requirements of this AD. Replacing an affected blade with a blade having an airworthy blade tip cap, P/N 709–0103–29–109, is terminating action for the requirements of this AD for that blade.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(g) A special flight permit may be issued under 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished. No special flight permit will be issued for any flight with a known tip cap crack.

(h) The inspections shall be done in accordance with Figure 1 and paragraph 3 of Agusta Alert Bollettino Tecnico Nos. 109–106, 109K–22, or 109EP–1, all Revision B, and dated December 19, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on January 7, 2002.

Note 3: The subject of this AD is addressed in Ente Nazionale per l'Aviazionne Civile (Italy) AD's 2000–571, 2000–572, and 2000–573, all dated December 22, 2000.

Issued in Fort Worth, Texas, on November 21, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–29591 Filed 11–30–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–113–AD; Amendment 39–12525; AD 2001–24–09]

RIN 2120–AA64

Airworthiness Directives; Short Brothers Model SD3 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Short Brothers Model SD3 series airplanes, that requires repetitive tests (checks) of the engine power lever to ensure that the fuel control unit (FCU) lever is contacting the maximum stop, adjustment of the FCU rigging, if necessary, and an engine ground run for correct gas generator rotational speed. This AD also requires a static reduced power check on each engine to ensure correct operation of the reserve takeoff power (RTOP) system; and follow-on actions, if necessary. This action is necessary to prevent failure of the engines to reach adequate RTOP boost during takeoff, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective January 7, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 7, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Short Brothers Model SD3 series airplanes was published in the **Federal Register** on August 28, 2001 (66 FR 45196). That action proposed to require repetitive tests (checks) of the power lever movement of the fuel control unit (FCU) lever to ensure the lever is contacting the maximum stop, adjustment of the FCU rigging, if necessary, and an engine ground run for correct gas generator rotational speed. That action also proposed to require a static reduced power check on each engine to ensure correct operation of the reserve takeoff power system; and follow-on actions, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Remove Repetitive Tests/Checks

The commenter requests that the FAA revise the proposed AD to remove the requirement for repetitive tests (checks) every 90 days. The commenter suggests that, after the initial tests, the tests should only be repeated after the FCU is replaced or during a "Hot Section" inspection.

We do not concur with the commenter's request. The commenter provides no justification for its request and no data to support that its suggestion would provide an acceptable level of safety. No change to the final rule is necessary in this regard.

Explanation of New Relevant Service Information

Since the issuance of the proposed AD, the manufacturer has issued Shorts Service Bulletins SD3 SHERPA–71–2, SD360 SHERPA–71–2, SD360–71–19, and SD330–71–24; all Revision 1; all dated August 2, 2001. The proposed rule referenced the original issues of these service bulletins, all dated February 5, 2001, as the appropriate sources of service information for accomplishment of the proposed actions. The actions in Revision 1 are essentially similar to those in the original issue of the service bulletins. Revision 1 of all four service bulletins corrects minor errors and clarifies certain procedures for the static reduced power check on each engine. Accordingly, the FAA has revised paragraph (a) of this final rule to refer to Revision 1 of the service bulletins as the appropriate sources of service information for the actions required by that paragraph. Also, the FAA has added a new Note 2 to this final rule (and re-lettered subsequent notes accordingly) to give credit for tests, checks, and follow-on actions accomplished before the effective date of this AD per the original issue of the applicable service bulletin.

Explanation of Changes to Terminology

For clarification, the FAA has revised the "Summary" section and paragraph (a) of the proposed AD to clarify certain terminology concerning the test of the engine power lever to ensure that the lever is contacting the maximum stop.

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 46 Model SD3 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required tests (checks), and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $8,280, or $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–09 Short Brothers PLC: Amendment 39–12525. Docket 2001–NM–113–AD.

Applicability: All Model SD3–SHERPA, SD3–60, and SD3–60 SHERPA series airplanes; and Model SD3–30 series airplanes having PT6A–45R series engines; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the engines to reach adequate reserve takeoff power (RTOP) boost during takeoff, which could result in reduced controllability of the airplane, accomplish the following:

Repetitive Inspections/Corrective Action

(a) Within 100 flight cycles or 90 days after the effective date of this AD, whichever comes later: Do a test (check) of the engine power lever to ensure that the fuel control unit (FCU) lever is contacting the maximum stop; and adjust the FCU rigging if the lever is not contacting the stop; do an engine ground run for correct gas generator rotational speed; and do a static reduced power check on each engine to ensure correct operation of the RTOP system; per Shorts Service Bulletin SD3 SHERPA–71–2, SD360 SHERPA–71–2, SD360–71–19, or SD330–71–24; all Revision 1; all dated August 2, 2001; as applicable. Before further flight, do any follow-on actions necessary (includes a functional check of the RTOP solenoid, replacement of any defective RTOP solenoid with a new solenoid, adjustment of the RTOP system if system fails to provide adequate

boost, adjustment to the torque of the FCU Ng servo valve, test for leakage or restrictions of the FCU pnuematic system, or overhaul of the FCU), per the applicable service bulletin. Repeat the tests (checks) after that at intervals not to exceed 90 days.

Note 2: Tests, checks, and follow-on actions accomplished before the effective date of this AD per Shorts Service Bulletin SD3 SHERPA–71–2, SD360 SHERPA–71–2, SD360–71–19, or SD330–71–24; all dated February 5, 2001; as applicable; are acceptable for compliance with paragraph (a) of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Shorts Service Bulletin SD3 SHERPA–71–2, Revision 1, dated August 2, 2001; Shorts Service Bulletin SD360 SHERPA–71–2, Revision 1, dated August 2, 2001; Shorts Service Bulletin SD360–71–19, Revision 1, dated August 2, 2001; or Shorts Service Bulletin SD330–71–24, Revision 1, dated August 2, 2001; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in British airworthiness directives 002–02–2001, 003–02–2001, 004–02–2001, and 005–02–2001.

Effective Date

(e) This amendment becomes effective on January 7, 2002.

Issued in Renton, Washington, on November 21, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–29590 Filed 11–30–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 256

RIN 1010–AC68

Leasing of Sulphur or Oil and Gas in the Outer Continental Shelf—Revision of Requirements Governing Surety Bonds for Outer Continental Shelf Leases

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule modifies requirements governing surety bonds for activities on the Outer Continental Shelf (OCS). These changes codify the terms and conditions under which a surety will be relieved of responsibility when MMS terminates the period of liability of a bond. Codifying these terms and conditions is necessary to clarify the responsibilities of the lessee and the surety after the lease expires.

DATES: This rule is effective January 2, 2002.

FOR FURTHER INFORMATION CONTACT: John Mirabella, Engineering and Operations Division, (703) 787–1600.

SUPPLEMENTARY INFORMATION: OCS lessees must comply with regulations governing operations, payments of rents and royalties, and end-of-lease obligations. To ensure that the lessee will be financially able to meet all requirements, including end-of-lease requirements, MMS requires the lessee to post a bond. This rule amends the provisions of 30 CFR 256.58 concerning the cancellation of a bond.

It sometimes happens that a problem arising during the period covered by a bond is only discovered after the coverage period ends. For example, an audit may reveal that the lessee owes us additional royalty. As a rare example, a plugged well may start to leak. In either case, the lessee is responsible for correcting the problem.

This rule addresses how long MMS will hold a bond to ensure that situations of this type are covered. The current regulation does not set a limit on the period that MMS may continue to hold the bond company responsible for a problem that occurs during the liability period.

On January 8, 2001, MMS published a proposed rule in the **Federal Register** (66 FR 1277). The rule provides for a period of 7 years (plus such additional time taken for appeals or litigation) during which MMS may hold the bond to cover any claims based upon obligations that accrued during the liability period. During this 7-year period, we will retain security or collateral pledged to us in lieu of a surety. We will cancel the bond after 7 years. We believe that the 7-year period provides adequate protection to the Government and will provide a measure of certainty to bond companies.

The 7-year provision applies to all base bonds, unless we find that less security needs to be retained. If you are a supplemental bond provider, this rule would release you from liability after completion of the bonded work, unless we find that potential liability is greater than the amount of the base bond. We will normally release the supplemental bond upon completion of the bonded work because, in most cases, we anticipate that the general bond will be sufficient to cover our estimate of potential residual liabilities.

The rule does not change the provision in 30 CFR 256.58(c) that allows MMS to reinstate your bond in extraordinary circumstances. That provision allows us to reinstate your bond as if no cancellation or release had occurred if: (1) You make a payment under the lease and the payment is rescinded or must be repaid by the recipient because you are insolvent, bankrupt, subject to reorganization, or placed in receivership; or (2) you represent to us that you have discharged your obligations under the lease and your representation was materially false.

The notice of proposed rulemaking requested comments during a 60-day public comment period. MMS received three comment letters during the comment period—one from an oil company, one from a trade association representing companies that write surety bonds, and one from an individual representing two companies that provide surety bonds for the OCS.

One comment requested clarification of how termination and cancellation of a bond will affect responsibilities of the surety and the lessee. Termination of the period of liability is important because it ends the surety's responsibility for further activities on a lease. The surety is responsible for all obligations that accrue during the period of liability. Accrued obligations include those associated with plugging of wells drilled and removal of

platforms installed during the period of liability. In addition, obligations accrue for all wells or platforms that were on the lease during any portion of the period of liability. Obligations can also accrue when the operator takes other actions, such as installing a piece of equipment, which must later be removed. When the period of liability is terminated, the surety continues to be liable for accrued obligations. When MMS cancels the bond, the cancellation ends all obligations for the surety, including previously accrued obligations.

A commenter recommended that the rules provide for cancellation of a bond when a new lessee has sufficient financial strength to provide for security without a supplemental bond. We agree with the commenter. The proposed rules already had specified conditions for cancellation of a bond when the lessee obtains a replacement bond. We agree that the proposal should be broadened. When a new lessee has sufficient financial strength on the basis of which MMS determines that a supplemental bond is unnecessary, we will cancel the supplemental bond because that financial strength provides a similar level of security as a bond.

A commenter recommended that a supplemental bond be cancelled when replaced by a new supplemental bond and that MMS not require the new bond issuer to accept all liabilities of the previous bond issuer. We revised the proposed rule so that accepting liabilities of the previous bond issuer applies only to base bonds and not to supplemental bonds, unless the Regional Director (1) determines that the base bond may not be adequate to cover liabilities accruing during the period of liability of the supplemental bond and which the replacement supplemental bond would not cover, and (2) notifies the provider of the bond that all or part of the supplemental bond will not be cancelled unless the issuer of the replacement bond accepts the liabilities of the previous supplemental bond issuer to the extent the Regional Director specifies.

One commenter recommended that the bond be cancelled 7 years after the termination of the lease rather than 7 years after meeting all lease obligations. Another commenter recommended that the bond be cancelled after 6 years instead of 7. The time difference between the termination of the lease and the meeting of all obligations is typically less than 1 year but can be longer. The lease covering offshore operations requires that the lessee remove all devices, works, and structures from the lease within 1 year of lease termination. The lease provides that MMS can allow the devices, works, and structures to remain longer for drilling or producing on other leases. When MMS grants a lessee additional time to meet these end-of-lease obligations, we require that the lessee maintain the bond until the obligations are met. In this situation, the period of liability does not end until the lessee has met the obligations, and we believe that the time period should not start until the lessee has met the obligations. However, when more than a year has elapsed between the end of the lease and the meeting of all lease obligations, we believe that an additional 6 years will be sufficient. Accordingly, we have modified the rule to provide for bond cancellation at the latest of 7 years after the termination of the lease, 6 years after completion of all bonded obligations, or the conclusion of any appeals or litigation related to your bonded obligations.

A commenter recommended that MMS make mandatory the provision that allows the Regional Director to reduce the amount of bond. MMS has maintained a policy of not requiring more bond than is necessary to ensure that obligations are met. The rule has been revised to address the commenter's concern. Under the final rule, the lessee may request a reduction in the level of the bond or the amount of security. The Regional Director will then reduce the bond or return a portion of the security if the Regional Director determines that the lessee needs less than the full amount of the base bond to meet any possible future obligation.

A commenter recommended that the bond form should reflect the 90-day termination provision in the rule. This notice addresses the rule and not the bond form. MMS will consider the comment during any revisions to the bond form. However, the provision for termination will be available and can be exercised by the surety whether or not the provision appears on the bond form.

Editorial Corrections: With this final rule, MMS is also making two minor editorial corrections to 30 CFR 256.52.

(1) Section 256.52(b) lists the three MMS OCS areas. We are correcting the first area listed to state that it is "The Gulf of Mexico and the area offshore the Atlantic Coast."

(2) In several paragraphs under § 256.52, the word "alternate" is used when referring to another form or type of security. This word is corrected to the more accurate term "alternative" in each place that it appears.

Procedural Matters

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rule, in many important ways, follows aspects of current policy. The rule will also extend that policy to other forms of security, such as escrow accounts, which are not currently used for base bonds. Since this rule normally will not apply to supplemental bonds without specific action by the Regional Supervisor, the impact of this change is minimal.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Other agencies are not affected by the bonds and other forms of surety that protect the Department of the Interior's interests.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule will have no effect on the rights of the recipients of entitlements, grants, user fees, or loan programs.

(4) This rule does not raise novel legal or policy issues. The rule more clearly conforms MMS practice to that of the private sector and provides certainty with respect to the cancellation of surety bonds and other lease security.

Regulatory Flexibility (RF) Act

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities under the RF Act (5 U.S.C. 601 *et seq.*).

This rule will affect lessees and operators of leases on the OCS. This includes about 130 different companies. These companies are generally classified under the North American Industry Classification System (NAICS) code 211111, Crude Petroleum and Natural Gas Extraction, which includes companies that extract crude petroleum and natural gas. For this NAICS classification, a small company is one with fewer than 500 employees. Based on these criteria, we estimate that about 54 percent of the companies are considered small. This rule, therefore, affects a substantial number of small entities.

The companies that are considered small have an average of about 15 offshore facilities. We estimate that the small companies have annual sales between $1 million and $380 million.

As discussed above, we do not expect this rule to have a significant effect on any company, large or small. Under current regulations, when a lessee meets all of the lease requirements, the period of liability ends. If MMS later discovers a problem with the way the work was performed, we will hold the lessee responsible. If the lessee is not able to meet the obligation, we hold the bond company responsible. This regulation establishes a time period during which MMS will hold the bond before cancellation. The codification of a policy on bond cancellation is new. The other change from current practice is that MMS will retain pledged securities for the same length of time that we will wait before canceling surety bonds. While this new provision is needed to ensure consistency of agency practice, the provision will not have a significant effect since, in almost all cases, companies currently do not use instruments other than surety bonds to meet the basic bond requirement.

This rule will also affect companies that sell surety bonds or provide other types of security to OCS lessees. For those companies, this rule will provide certainty with regard to residual liabilities. Since the provisions in this rule are generally the same as current practice, any effects on bonding companies will be minor. Those minor effects will be reflected in costs charged to oil and gas lessees and will ultimately be borne by oil and gas lessees. These effects are included in the estimates addressing the oil and gas lessees.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under SBREFA (5 U.S.C. 804(2)). This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

We do not expect this rule to have a significant effect because, as discussed earlier, this rule would, generally, codify policies already in use. The substantive change for securities other than surety bonds will not have a significant effect because the rule applies to the general bond requirement, and surety bonds are used by almost all MMS lessees to satisfy the base bond requirement.

Paperwork Reduction Act (PRA) of 1995

The PRA provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information and assigns a control number, you are not required to respond. OMB approved the information collection requirements in current 30 CFR part 256 regulations under OMB control number 1010–0006, with a current expiration date of March 31, 2004. The information collection aspects of this rule remain unchanged from current regulations, contain no additional paperwork requirements, and an OMB form 83–I submission to OMB under the PRA is not required.

Federalism (Executive Order 13132)

With respect to Executive Order 13132, the rule does not have Federalism implications. This rule does not substantially and directly affect the relationship between the Federal and State governments. The bonding requirements apply to leases between the Federal Government and its oil and gas lessees. The bond does not affect obligations between the lessee and any State or local government. This rule does not impose costs on States or localities. State or local governments do not provide bonds and do not need to comply with bonding requirements.

Takings (Executive Order 12630)

With respect to Executive Order 12630, this rule does not have significant Takings implications. A Takings Implication Assessment is not required. This rulemaking is not a governmental action capable of interfering with constitutionally protected property rights.

Energy Supply, Distribution, or Use (Executive Order 13211)

This rule is not a significant rule and is not subject to review by OMB under Executive Order 12866. The rule does not have a significant effect on energy supply, distribution, or use because the rule, in many important ways, follows aspects of current policy for bonds. The rule will also extend that policy to other forms of security such as escrow accounts. The new policy will apply only in the rare times when the other forms of security are used for a base bond. Thus, a Statement of Energy Effects is not required.

Civil Justice Reform (Executive Order 12988)

With respect to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

National Environmental Policy Act of 1969

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A Categorical Exclusion Review determined that this action is considered a categorically excluded action, as it results only in administrative effects causing no significant impacts on the environment and does not require preparation of an environmental assessment. The rulemaking does not represent an exception to the established criteria for categorical exclusions.

Unfunded Mandate Reform Act (UMRA) of 1995

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. This rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 256

Administrative practice and procedure, Continental shelf, Government contracts, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

Dated: November 7, 2001.

J. Steven Griles,

Acting Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service (MMS) amends 30 CFR part 256 as follows:

PART 256—LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 256 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*, 42 U.S.C. 6213.

2. Section 256.52 is amended as follows:

A. Paragraph (b)(1) is revised to read as set forth below:

B. In paragraphs (d), (e), (g) introductory text, and (g)(1) and (2), remove the word "alternate" and add, in its place, the word "alternative".

§ 256.52 Bond requirements for an oil and gas or sulphur lease.

* * * * *

(b) * * *

(1) The Gulf of Mexico and the area offshore the Atlantic Coast.

* * * * *

3. Section 256.58 is revised to read as follows:

§ 256.58 Termination of the period of liability and cancellation of a bond.

This section defines the terms and conditions under which MMS will terminate the period of liability of a bond or cancel a bond. Terminating the period of liability of a bond ends the period during which obligations continue to accrue but does not relieve the surety of the responsibility for obligations that accrued during the period of liability. Canceling a bond relieves the surety of all liability. The liabilities that accrue during a period of liability include obligations that started to accrue prior to the beginning of the period of liability and had not been met and obligations that begin accruing during the period of liability.

(a) When the surety under your bond requests termination:

(1) The Regional Director will terminate the period of liability under your bond within 90 days after MMS receives the request; and

(2) If you intend to continue operations, or have not met all end of lease obligations, you must provide a replacement bond of an equivalent amount.

(b) If you provide a replacement bond, the Regional Director will cancel your previous bond and the surety that provided your previous bond will not retain any liability, provided that:

(1) The new bond is equal to or greater than the bond that was terminated, or you provide an alternative form of security, and the Regional Director determines that the alternative form of security provides a level of security equal to or greater than that provided for by the bond that was terminated;

(2) For a base bond submitted under § 256.52(a) or under § 256.53(a) or (b), the surety issuing the new bond agrees to assume all outstanding liabilities that accrued during the period of liability that was terminated; and

(3) For supplemental bonds submitted under § 256.53(d), the surety issuing the new supplemental bond agrees to assume that portion of the outstanding liabilities that accrued during the period of liability which was terminated and that the Regional Director determines may exceed the coverage of the base bond, and of which the Regional Director notifies the provider of the bond.

(c) This paragraph applies if the period of liability is terminated for a bond but the bond is not replaced by a bond of an equivalent amount. The surety that provided your terminated bond will continue to be responsible for accrued obligations:

(1) Until the obligations are satisfied; and

(2) For additional periods of time in accordance with paragraph (d) of this section.

(d) When your lease expires or is terminated, the surety that issued a bond will continue to be responsible, and the Regional Director will retain other forms of security as shown in the following table:

For the following type of bond	The period of liability will end	Your bond will be cancelled . . .
(1) Base bonds submitted under § 256.52(a), § 256.53(a), or (b).	When the Regional Director determines that you have met all of your obligations under the lease.	Seven years after the termination of the lease, 6 years after completion of all bonded obligations, or at the conclusion of any appeals or litigation related to your bonded obligation, whichever is the latest. The Regional Director will reduce the amount of your bond or return a portion of your security if the Regional Director determines that you need less than the full amount of the base bond to meet any possible future problems.
(2) Supplemental bonds submitted under § 256.53(d).	When the Regional Director determines that you have met all your obligations covered by the supplemental bond.	When you meet your bonded obligations, unless the Regional Director: (i) Determines that the future potential liability resulting from any undetected problems is greater than the amount of the base bond; and (ii) Notifies the provider of the bond that the Regional Director will wait 7 years before cancelling all or a part of the bond (or longer period as necessary to complete any appeals or judicial litigation related to your bonding obligation).

(e) For all bonds, the Regional Director may reinstate your bond as if no cancellation or release had occurred if:

(1) A person makes a payment under the lease and the payment is rescinded or must be repaid by the recipient because the person making the payment is insolvent, bankrupt, subject to reorganization, or placed in receivership; or

(2) The responsible party represents to MMS that it has discharged its obligations under the lease, and the representation was materially false when the bond was canceled or released.

[FR Doc. 01–29899 Filed 11–30–01; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP TAMPA–01–129]

RIN 2115–AA97

Security Zone; Port of Tampa, Tampa, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary fixed security zone in all waters in the vicinity of MacDill Air Force Base (AFB). This security zone is needed for national security reasons to protect MacDill AFB from potential subversive acts. Entry into this zone is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida or his designated representative.

DATES: This regulation is effective at 7 a.m. (EDT) on October 24, 2001 and will remain in effect until 7 a.m. (EST) on January 31, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP Tampa 01–129] and are available for inspection or copying at Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida 33606–3598 between 7:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Michael Holland, Coast Guard Marine Safety Office Tampa, at (813) 228–2189 extension 130.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners and place Coast Guard or other law enforcement vessels in the vicinity of these zones to advise mariners of the restriction.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to MacDill Air Force Base. This security zone will encompass all waters in the vicinity of MacDill Air Force Base commencing from a point at 27° 50.20′ N/82° 32.14′ W extending 1,000 yards from shore to a point at 27° 49.60′ N/82° 32.14′ W then south-easterly 1,000 yards from shore to a point at 27° 48.90′ N/82° 28.20′ W then circling 1,000 yards from shore to a point at 27° 51.51′ N/82° 28.60′ W then westerly to end at a point at 27° 51.51′ N/82° 29.18′ W. The Coast Guard will issue a broadcast notice to mariners regarding this security zone and what law enforcement vessels will be on-scene enforcing the zone. Entry into this security zone is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida or his designated representative.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979) because this temporary security zone covers a limited area and is only in effect for a limited period of time. Moreover, vessels may be allowed to enter the zone on a case-by-case basis with the permission of the Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because small entities may be allowed to enter on a case by case basis with the authorization of the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

A rule has implication for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive

Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationships between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or use. We have determined that it is not a "significant energy action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information andRegulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 6.04–11, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–129 is added to read as follows:

§ 165.T07–129 Security Zone; Port of Tampa, Tampa Florida.

(a) *Regulated area.* The Coast Guard is establishing a temporary fixed security zone in all waters in the vicinity of MacDill Air Force Base commencing from a point at 27° 50.20′ N/82° 32.14′ W extending 1,000 yards from shore to a point at 27° 49.60′ N/82° 32.14′ W then south-easterly 1,000 yards from shore to a point at 27° 48.90′ N/82° 28.20′ W then circling 1,000 yards from shore to a point at 27° 51.51′ N/82° 28.60′ W then westerly to end at a point at 27° 51.51′ N/82° 29.18′ W.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port, or his designated representative. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 13 and 16 (157.1 MHz).

(c) *Dates.* This section becomes effective at 7 a.m. (EDT) on October 24, 2001 and will remain in effect until 7 a.m. (EST) on January 31, 2002.

Dated: October 23, 2001.

A.L. Thompson, Jr.,

Captain, U. S. Coast Guard, Captain of the Port.

[FR Doc. 01–29885 Filed 11–30–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900–AJ73

Board of Veterans' Appeals: Rules of Practice—Notice of Appeal in Simultaneously Contested Claim

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Board of Veterans' Appeals (Board) adjudicates appeals from denials of claims for veterans' benefits filed with the Department of Veterans Affairs (VA). This document amends a Board Rule of Practice, pertaining to a type of notice given in simultaneously contested claim appeals, to eliminate an inconsistency between that Rule of Practice and an Appeals Regulation and to update a presumption related to communication of the notice.

DATES: Effective Date: January 2, 2002.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on October 1, 1999 (64 FR 53302), we proposed to amend the Board's Rules of Practice to reconcile conflicting regulatory requirements in 38 CFR 19.102 and 38 CFR 20.502 concerning the information provided to other parties to a contested claim about the appeal of a contesting party. We also proposed to change a presumption concerning the date of furnishing this information .

The only comment that we received raised an objection concerning the presumption. As proposed, the rule would provide a presumption that information about the content of one contesting party's Substantive Appeal was furnished to other contesting parties on the date of the letter from VA that accompanies the information. The date the information is furnished is important because it begins a statutory 30-day time limit for filing a brief or argument in response to a Substantive Appeal.

A national veterans' service organization recommended that the time limit for filing the response begin to run on the date of mailing the information, stating that the "proposed rule does not take into consideration the time delay of placing mail within the internal mail system of the Department." In the alternative, the organization suggested that the rule require that the information and letter be placed "directly into the U.S. mail system."

The presumption in this rule has been based on the date of the letter for a number of years and the proposed rule would not change that. It merely would establish the presumption that the information was furnished on the date of the letter, as opposed to the previous presumption that the information was mailed on the date of the letter. The change was proposed specifically to remove the presumption's tie to mailing, inasmuch as the means of communication is not limited to mailing by regulation or statute. The applicable statute, 38 U.S.C. 7105A, merely requires that notice of the substance of the appeal be "communicated to the other party or parties in interest" by

"forward[ing] to the last known address of record." VA does not believe that it is prudent to unduly limit flexibility by foreclosing every means of communication other than mailing, as would result from adoption of the commenter's suggestion.

Presumptions are useful because they serve to establish critical facts when there is no contrary evidence. VA considers the proposed presumption "rebuttable." If the information is furnished by mail and the date of the letter and the date of mailing do not actually match in a particular case, a party may easily rebut the presumption by submitting a copy of the postmarked envelope. The presumption may be rebutted in other cases by other appropriate evidence, depending on the means by which the information was furnished.

For the reasons stated in this document and in the preamble to the proposed rule, VA is adopting the rule as proposed, except for a nonsubstantive grammatical change.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule may affect individual claimants for VA benefits and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirement of sections 603 and 604.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Lawyers, Legal services, Veterans.

Approved: November 26, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, amend 38 CFR part 20 as follows:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

2. Revise § 20.502 to read as follows:

§ 20.502 Rule 502. Time limit for response to appeal by another contesting party in a simultaneously contested claim.

A party to a simultaneously contested claim may file a brief or argument in answer to a Substantive Appeal filed by another contesting party. Any such brief or argument must be filed with the agency of original jurisdiction within 30 days from the date the content of the Substantive Appeal is furnished as provided in § 19.102 of this chapter. Such content will be presumed to have been furnished on the date of the letter that accompanies the content.

(Authority: 38 U.S.C. 7105A(b))

[FR Doc. 01–29844 Filed 11–30–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRN–7112–6]

RIN: 2050–AE07

Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-from Rules: Delay of Effective Date; Reopening of Comment Period

ACTION: Delay of effective date and reopening of comment period.

SUMMARY: EPA issued a direct final rule in the **Federal Register** on October 3, 2001 at 66 FR 50332 entitled *Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-from Rules; Direct Final Rule.* During and after the comment period for that direct final rule, U.S. mail delivery to EPA's dockets was delayed due to concerns about possible contamination. This document delays the effective date of that direct final rule and reopens the comment period for thirty days to assure that EPA receives any comments that were mailed during the comment period but were not received by EPA by the end of the comment period. EPA is requesting that anyone who submitted comments during the previous comment period resubmit those comments as described below.

DATES: This action is made on December 3, 2001. The effective date of the Correction to the Hazardous Waste Identification Rule, amending 40 CFR 261.3 published in the **Federal Register** on October 3, 2001 at 66 FR 50332, is delayed for 60 days, from December 3, 2001 to a new effective date of February 1, 2002. That direct final rule will be effective on February 1, 2002 unless EPA receives adverse comment by January 2, 2002.

ADDRESSES: Please send an original and two copies of your comments referencing Docket number F–2001–WH3P–FFFFF to (1) if using regular U.S. Postal Service mail: RCRA Docket Information Center, Office of Solid Waste (5305W), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002, or (2) if delivering in person, or using special delivery, such as overnight express service: RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia 22202. Because of possible mail delays in the Washington DC area, please send a separate copy of each public comment either (1) via Internet email to *rcra-docket@epamail.epa.gov*, or (2) to David M. Friedman, U.S. EPA Region 3, Mail Code 3WC11, 1650 Arch Street, Philadelphia, PA 19103–2029. If sending comments via email, please make sure this electronic copy is in an ASCII format that doesn't use special characters or encryption. Cite the docket Number F–2001–WH3P–FFFFF in your electronic file.

The RCRA Information Center is located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington Virginia. If you would like to look at and copy supporting information for RCRA rules, please make an appointment with the RCRA Information Center by calling (703) 603–9230. Docket hours are from 9:00 A.M. to 4:00 P.M. Monday through Friday, except for Federal holidays. You may copy up to 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Call Center at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC, metropolitan area,

call (703) 412–9810 or TDD (703) 412–3323.

For more detailed information on specific aspects of this rulemaking, contact Tracy Atagi, Office of Solid Waste 5304W, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002, 703–308–8672, *atagi.tracy@epa.gov*.

SUPPLEMENTARY INFORMATION: On October 3, 2001, EPA published in the **Federal Register** at 66 FR 50332 a direct final rule taking final action on two clarifying revisions to the mixture rule. The first revision reinserts certain exemptions to the mixture rule which were inadvertently deleted. The second revision clarifies that mixtures consisting of certain excluded wastes (commonly referred to as Bevill wastes) and listed hazardous wastes that have been listed solely for the characteristic of ignitability, corrosivity, and/or reactivity, are exempt once the characteristic for which the hazardous waste was listed has been removed.

EPA also published a separate document at 66 FR50379 (October 3, 2001) to serve as the proposal to *Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-from Rules* if adverse comments were filed. The rule was scheduled to become effective on December 3, 2001 unless EPA received adverse comment by November 2, 2001. However, during and after the comment period for that rule, U.S. mail delivery to all EPA Headquarters offices in Washington, DC and Northern Virginia, including EPA's dockets, was delayed due to concerns about possible contamination. Because of the unexpected and unprecedented nature of this U.S. mail delay and the resulting uncertainty about whether EPA may have received any comments that were sent by U.S. mail, EPA believes that it is in the public interest to temporarily delay the effective date of that direct final rule for sixty days. The purpose of delaying the effective date is to reopen the comment period for thirty days to assure that EPA receives any comments that were submitted by U.S. mail during the comment period but were delayed due to U.S. mail delays.

EPA expects that all delayed mail will be delivered by the end of this thirty-day period. However, to assure that EPA receives the comments, anyone who submitted comments during the comment period for *Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-from Rules* should resubmit those comments in accordance with the directions in the **ADDRESSES** section of this notice. If EPA receives adverse comment on the direct final rule, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule.

To the extent that this action is subject to 5 U.S.C. 553, EPA's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Seeking public comment is impracticable and unnecessary in light of the imminent effective date and the extraordinary nature of the delays which affected all U.S. mail directed to EPA Headquarters offices. A brief extension of the effective date is in the public interest because it will assure that all comments are received and that interested parties are not disadvantaged by these unique circumstances.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget and is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 18355, May 22, 2001). In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This action also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it does not alter the relationship or the distribution of power and responsibilities established by applicable statute. Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. Because this action does not involve technical standards, EPA did not consider the use of any voluntary consensus standards under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note). This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Waste treatment and disposal.

Dated: November 29, 2001.

Christine Todd Whitman,

Administrator.

[FR Doc. 01–29958 Filed 11–30–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 411

[CMS–1809–IFC]

RIN 0938–AL29

Medicare and Medicaid Programs; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships: Partial Delay of Effective Date

AGENCY: Centers for Medicare & Medicaid Services (CMS), DHHS.

ACTION: Interim final rule with comment period; partial delay in effective date.

SUMMARY: This interim final rule with comment period delays for 1 year the effective date of the last sentence of 42 CFR 411.354(d)(1). Section 411.354(d)(1) was promulgated in the final rule entitled "Medicare and Medicaid Programs; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships," published in the **Federal Register** on January 4, 2001 (66

FR 856). A 1-year delay in the effective date of the last sentence in § 411.354(d)(1) will give Department officials the opportunity to reconsider the definition of compensation that is "set in advance" as it relates to percentage compensation methodologies in order to avoid unnecessarily disrupting existing contractual arrangements for physician services. Accordingly, the last sentence of § 411.354(d)(1), which would have become effective January 4, 2002, will not become effective until January 6, 2003.

DATES: *Effective date:* The effective date of the last sentence in § 411.354(d)(1) of the final rule published in the **Federal Register** on January 4, 2001 (66 FR 856), is delayed for 1 year, from January 4, 2002 until January 6, 2003.

Comment date: Comments on the length of the delay of the effective date of the last sentence in § 411.354(d)(1) of the January 4, 2001 final rule will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on February 1, 2002.

ADDRESSES: In commenting, please refer to file code CMS–1809–IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Mail written comments (one original and three copies) to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1809–IFC, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for commenters wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late. For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Joanne Sinsheimer, (410) 786–4620.

SUPPLEMENTARY INFORMATION:

Copies: This **Federal Register** document is available from the **Federal Register** online database through *GPO Access*, a service of the U.S. Government Printing Office. The Web site address is: *http://www.access.gpo.gov/nara/index.html.*

In addition, the information in this interim final rule with comment period will be available soon after publication in the **Federal Register** on our MEDLEARN Web site: *www.hcfa.gov/medlearn/refphys.htm.*

I. Background

The final rule, entitled "Medicare and Medicaid Programs; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships," published in the **Federal Register** on January 4, 2001 (66 FR 856), interpreted certain provisions of section 1877 of the Social Security Act (the Act). Under section 1877, if a physician or a member of a physician's immediate family has a financial relationship with a health care entity, the physician may not make referrals to that entity for the furnishing of designated health services (DHS) under the Medicare program, and the entity may not bill for the services, unless an exception applies. Many of the statutory and new regulatory exceptions that apply to compensation relationships require that the amount of compensation be "set in advance." Section 411.354(d)(1) of the final rule defines the term "set in advance."

The last sentence of § 411.354(d)(1) reads: "Percentage compensation arrangements do not constitute compensation that is 'set in advance' in which the percentage compensation is based on fluctuating or indeterminate measures or in which the arrangement results in the seller receiving different payment amounts for the same service from the same purchaser." Many of the comments we received regarding the January 4, 2001 physician self-referral final rule indicated that physicians are commonly paid for their professional services using a formula that takes into account a percentage of a fluctuating or indeterminate measure (for example, revenues billed or collected for physician services). According to the commenters, this compensation methodology is frequently used by hospitals, physician group practices, academic medical centers, and medical foundations. Several commenters pointed out that this aspect of the final rule, which is applicable to academic medical centers and medical foundations (among others), is inconsistent with the compensation methods permitted under the statute for many physician group practices and employed physicians (that is, neither section 1877(h)(4)(B)(i) of the Act nor section 1877(e)(2) of the Act contains the "set in advance" requirement). We understand that hospitals, academic medical centers, medical foundations and other health care entities would have to restructure or renegotiate thousands of physician contracts to comply with the language in § 411.354(d)(1) regarding percentage compensation arrangements.

II. Provisions of This Interim Final Rule With Comment Period

To avoid any unnecessary disruption to existing contractual arrangements while we consider modifying this provision, we are postponing for 1 year the effective date of the last sentence of § 411.354(d)(1). This delay should afford us enough time to reconsider the matter and to publish further guidance on the issue. In the meantime, compensation that is required to be "set in advance" for purposes of compliance with section 1877 of the Act may continue to be based on percentage compensation methodologies, including those in which the compensation is based on a percentage of a fluctuating or indeterminate measure. We note that the remaining provisions of § 411.354(d)(1) will still apply and that all other requirements of exceptions must be satisfied (including, for example, the fair market value and "volume and value" requirements).

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking and invite public comment on the proposed rule. This procedure can be waived, however, if an agency finds good cause that the notice and comment rulemaking procedure is impracticable, unnecessary, or contrary to the public interest and if the agency incorporates in the rule a statement of such a finding and the reasons supporting that finding.

Our implementation of this action without opportunity for public comment is based on the good cause exceptions in 5 U.S.C. 553(b)(B). We find that seeking public comment on this action is impracticable, unnecessary, and contrary to the public interest. We are implementing this delay

of effective date as a result of our review of the public comments that we received on the January 4, 2001 physician self-referral final rule. As discussed above, we understand from those comments that, unless we delay the effective date of the last sentence of § 411.354(d)(1), hospitals, academic medical centers, and other entities will have to renegotiate numerous contracts for physician services, potentially causing significant disruption within the health care industry. We are concerned that the disruption could unnecessarily inconvenience Medicare beneficiaries or interfere with their medical care and treatment. Accordingly, we do not believe that it is in the public interest to offer yet another opportunity for public comment on essentially the same issue in the limited context of whether to delay this sentence of the regulation. In addition, given the imminence of the January 4, 2002 effective date, we find that seeking public comment on this delay in effective date would be impracticable because it would generate uncertainty regarding an imminent effective date. This uncertainty could cause health care providers to renegotiate thousands of contracts with physicians in an effort to comply with the regulation by January 4, 2002 if the proposed delay is not finalized until after the opportunity for public comment. Thus, providing the opportunity for public comment could result in the very disruption that this delay of effective date is intended to avoid.

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; Program No. 93.774, Medicare—Supplementary Medical Insurance Program; and Program No. 93.778, Medical Assistance Program)

Dated: November 5, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Approved: November 19, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–29904 Filed 11–28–01; 3:20 pm]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2880; MM Docket No. 99–259; RM–9685, RM–9775]

Radio Broadcasting Services; Soperton, Swainsboro, and East Dublin, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of Lacom Communications, Inc. this document substitutes Channel 251C3 for Channel 251A at Swainsboro, Georgia, reallots Channel 251C3 to East Dublin, Georgia, and modifies the Station WELT license to specify operation on Channel 251C3 at East Dublin, Georgia. *See* 64 FR 39964, published July 23, 1999. In doing so, this document denies a proposal filed by John Morgan Dowdy proposing a Channel 253A allotment at Soperton, Georgia. The reference coordinates for the Channel 251C3 allotment at East Dublin, Georgia, are 32–33–28 and 82–42–10.

DATES: Effective January 2, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order* in MM Docket No. 99–259, adopted November 14, 2001, and released November 16, 2002. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, D.C. 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

List of Subjects in 47 CFR part 73

Radio Broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 251A, Swainsboro, and adding East Dublin, Channel 251C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–29873 Filed 11–30–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2679; MM Docket No. 01–12; RM–10039]

Radio Broadcasting Services; Arthur, ND

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Vision Media, Incorporated, substitutes Channel 280A for Channel 244A at Arthur, North Dakota, and modifies Station WVMI(FM)'s license accordingly. *See* 66 FR 8559, February 1, 2001. Channel 280A can be allotted to Arthur in compliance with the Commission's minimum distance separation requirements with site restriction of 6.35 kilometers (3.94 miles) west at petitioner's requested site. The coordinates for Channel 280A at Arthur are 47–05–42 North Latitude and 97–18–01 West Longitude.

DATES: Effective December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–12, adopted November 7, 001, and released November 16, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex International, Portals II, 445 12th Street, SW, Room CY–B–402, Washington, DC 20554.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under North Dakota, is amended by adding Channel 280A and removing Channel 244A at Arthur.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–29872 Filed 11–30–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2628; MM Docket No. 00–195; RM–9973, RM–10193, RM–10194]

Radio Broadcasting Services; Clinton and Oliver Springs, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making*, 65 FR 64924 (October 31, 2000), that proposed the allotment of Channel 291A to Clinton, Tennessee, this document grants a counterproposal to allot Channel 291A to Oliver Springs, Tennessee, and provides Oliver Springs with its first local competitive aural transmission service. The initial petition for rulemaking filed by Clyde Scott, Jr., D.B.A. EME Communications, that proposed allotting Channel 291A to Clinton as a fourth local aural transmission service, was denied. The coordinates for Channel 291A at Oliver Springs are 36–05–12 North Latitude and 84–21–25 West Longitude.

DATES: Effective December 24, 2001.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–195, adopted October 31, 2001, and released November 9, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202 863–2893. faosimile 202 863–2898, or via e-mail *qualexint@aol.com*.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1.The authority citation for Part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

1. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by adding Channel 291A at Oliver Springs.

Federal Communications Commission.

John A. Karousos

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–29871 Filed 11–30–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–4515; Notice 4]

RIN 2127–AI57

Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Response to petitions for reconsideration; final rule.

SUMMARY: This document responds to petitions for reconsideration of the Federal motor vehicle safety standard that addresses occupant crash safety issues exclusive to electric vehicles: electrolyte spillage and electrical shock protection. We are making clarifying amendments regarding the application of the standard, and regarding the test conditions for battery state of charge and electrical isolation. We are denying a petition to specify an alternative performance requirement for electrical isolation.

DATES: The final rule is effective December 1, 2001.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact Charles Hott, Office of Safety Performance Standards, NHTSA (202–366–0427). For legal issues, contact Taylor Vinson, Office of Chief Counsel, NHTSA (202–366–5263).

SUPPLEMENTARY INFORMATION: On September 27, 2000, the agency published a final rule establishing Federal Motor Vehicle Safety Standard No. 305 "Electric-powered vehicles: Electrolyte spillage and electrical shock protection" (65 FR 57980), effective October 1, 2001. On February 8, 2001, the effective date was delayed to December 1, 2001 (66 FR 9533).

Standard No. 305 applies to all electric vehicles (EVs) (except those covered by FMVSS No. 500 "Low-Speed Vehicles") that have a propulsion power source greater than 48 volts and a gross vehicle weight rating (GVWR) of 4536 kg (10,000 lbs) or less. The final rule was based on the Society of Automotive Engineers (SAE) J1766 "Recommended Practice for Electric and Hybrid Electric Vehicle Battery Systems Crash Integrity Testing." The final rule contains provisions similar to those in the SAE recommended practice, with only those changes that were necessary to accommodate the regulatory text.

Standard No. 305 establishes performance criteria that must be met when an EV is subjected to the frontal impact test procedures of Standard No. 208 (including the 30-degree oblique impact test), the side impact test procedures of Standard No. 214, and the rear impact test procedure of Standard No. 301. No spillage of electrolyte into the occupant compartment is permitted. Electrolyte spillage outside the passenger compartment is limited to 5 liters for the 30-minute period after vehicle motion ceases, and throughout the post-crash rollover test. Battery modules must stay restrained in the vehicle without any component intruding into the occupant compartment. Electrical isolation between the chassis and high voltage system must be at least 500 ohms per nominal volt as determined by the SAE test procedure.

Petitions for Reconsideration

We received two petitions for reconsideration of Standard No. 305, one from General Motors Corporation (GM) and another from DaimlerChrysler Corporation (DC).

1. Petition Pertaining to S3, Application

GM believes that a change in the regulatory text of S3 Application is

needed to clarify the application of the standard. GM argued that the discussion in the preamble of the September 27, 2000 final rule indicates that the reference to "48V" in S3 is intended to mean "48V nominal" voltage rating. It noted that the preamble repeatedly refers to "nominal voltage" in explaining the agency's selection of 48V as the application breakpoint. GM explained that the practical necessity of this change stems in part from the emergence of 42 volt nominal voltage as the likely industry standard for automotive battery systems. Just as today's automotive batteries have a nominal voltage rating of 12V and an operating voltage that can be close to 14V, the emerging 42V nominal systems may have peak operating voltages that slightly exceed the 48V breakpoint specified in Standard No. 305. GM argued that the standard should be amended to clarify that Standard No. 305 is not intended to apply to these 42V battery systems, including 42V battery systems used to supplement propulsion power.

GM is correct that the 48 volts referred to in S3 is intended to be nominal voltage. As we stated in the preamble to the final rule, this breakpoint voltage was determined from SAE J1673, "High Voltage Automotive Wiring Assembly Design;" SAE J1797, "Packaging of Electric Vehicle Battery Modules;" and SAE Information Report 52232, "Vehicle System Voltage—Initial Recommendations." All refer to nominal voltages. We agree with GM that the application section of Standard No. 305 should be modified to clearly state that the voltage specified is nominal voltage. Accordingly, we are granting GM's petition and amending S3 to add the word "nominal" after the words "48 volts."

2. Petition Pertaining to S7.1, Battery State of Charge

Paragraph S7.1 of Standard No. 305 specifies the state of charge of the batteries at the time of compliance testing. S7.1 specifies that the state-of-charge of the propulsion battery pack is at the maximum level recommended by the manufacturer, or at a level not less than 95 percent of the maximum capacity of the battery pack if the manufacturer does not provide a written recommendation. GM commented that, for certain vehicles, neither of these options is appropriate. GM asserted that hybrid EVs are being designed so that the propulsion battery pack is recharged exclusively by another onboard energy source, instead of by off-vehicle sources as surmised by the options in S7.1. Thus, there are no provisions to connect these hybrid EVs to an electrical charging port. GM stated that since vehicle owners will not have any means to charge directly the propulsion battery pack, there is no reason for the manufacturer to recommend a charging procedure or state-of-charge level in the operator's manual. GM further stated that the propulsion battery pack in these hybrid EVs is likely to be designed to operate within a state-of-charge range that is below 95 percent of the maximum capacity of the battery pack in order to maximize battery life.

We agree with GM's comment. Hybrid EVs already produced by Toyota and Honda do not contain any provision for charging the battery pack externally, and currently operate at a capacity of less than 95 percent. Accordingly, we are granting GM's petition, and amending S7.1 to specify that, in the case of a vehicle whose batteries are rechargeable only by an energy source on the vehicle, the battery state of charge for testing is "any state of charge within the normal operating voltage, as defined by the vehicle manufacturer."

3. Petition Pertaining to S7.6.1, Electrical Isolation Test Procedure

Paragraph S7.6.1 of Standard No. 305 specifies the procedures for the electrical isolation test. S7.6.1 specifies that, if a vehicle "utilizes an automatic disconnect between the propulsion battery system and the traction system, the electrical isolation measurement after the impact is made from the battery side of the automatic disconnect to the vehicle chassis." DC currently designs an automatic disconnect that is located entirely inside the battery container, and therefore, inaccessible to any measurement of electrical isolation without removal of the battery. DC stated that the intent of this design is to better confine the voltage to the inside of the battery compartment in an impact. DC argued that, in order to avoid being design restrictive, the measurement for electrical isolation should be made using a method that parallels SAE J1766.

GM provided supplemental information to support DC's petition, arguing that the present provision for measuring the voltage from the battery side of any contactors is overly design restrictive. GM reminded us that, in its response to the Notice of Proposed Rulemaking (NPRM) on Standard No. 305, it recommended that the agency clarify the measurement location in the regulatory text, and that Standard No. 305 contains the language GM suggested. GM now agrees with DC that Standard No. 305 should allow for the isolation measurement to be made from the traction side of the automatic disconnect in designs in which the disconnect is located inside the battery pack. GM stated that, like DC, it also has designs with an automatic disconnect that is located entirely inside the battery container, and that the intent of its design is also to better confine the voltage to the inside of the battery compartment after an impact.

GM related that it and other vehicle manufacturers have been marketing inherently safe battery-powered EVs since 1996. With respect to electrical safety, GM has designed its EV1 and S10 EVs in accordance with SAE J1766. The design strategy used has been to isolate the propulsion battery high voltage from the accessible areas of the vehicle if the system is compromised (e.g., loss of electric isolation, loss of interlock pilot line, loss of ground reference, etc.). According to GM, this approach of containing high voltage to the vehicle battery pack has been demonstrated in validation testing, and has been successful in the field.

GM argued that, by requiring the electrical isolation measurements to be made on the battery side of the contactors following the impact tests, it is probable that electrically-safe EVs would not comply with Standard No. 305 as presently written. In GM's view, it is possible that a side impact test could result in contact between the vehicle structure and one of the battery terminals. The automatic disconnect would immediately detect this condition and open the high voltage contactors (which are located inside the battery pack), removing all high voltage from the accessible areas of the vehicle. Although the high voltage is now referenced to the vehicle chassis ground, there is no accessibility to high voltage, and therefore no electric shock hazard.

Nevertheless, the present language of Standard No. 305 would prohibit this design. GM stated that its EVs' high voltage bus is designed to be electrically isolated from the vehicle chassis ground, primarily to add a level of fault tolerance to the electrical safety system (a "bus," in electrical terms, is a location in an electrical system used to distribute electrical voltage/power). By itself, a loss of electrical isolation between a point on the high voltage bus and vehicle chassis ground is not an electrical safety hazard. If the loss of electrical isolation occurs, the high-voltage bus is purposely referenced to vehicle chassis ground. GM further stated that, with a chassis-referenced high-voltage bus, it would take at least one failure (access to the other side of the high voltage) to become an electric

safety hazard. With an isolated high voltage bus, which is the EV original equipment manufacturers' design standard in the U.S., at least two failures (access to two separate areas of the high voltage bus) are needed to create a possible electric safety hazard.

GM further argued that, in the event that electrical isolation is lost during a vehicle crash, containing the high voltage to the inaccessible battery pack has been demonstrated to be an effective method for ensuring EV safety.

GM believes that to ensure that there is no loss of electrical isolation during a vehicle impact, sufficient crush space must be provided. In frontal collisions, with batteries that are located away from the accessible underhood area of the vehicle, there is typically sufficient crush space to reduce chassis structural impingement into the battery module area. However, in side or rear collisions, depending on the location of the battery modules, there may be less crush space available. GM argued that, in smaller, lower mass vehicles, the problem of maintaining adequate crush space for preventing loss of electrical isolation, while meeting the manufacturer's driving range goals, becomes increasingly difficult. In its opinion, the present language of Standard No. 305 would require a reduction in the amount of energy storage on the vehicle, thus reducing its available range. GM related that most of the automotive manufacturers are considering the smaller, "city cars" as part of their EV product portfolio. If the electrical isolation measurements are made on the battery side of the contactors, there would be a reduction in range performance to achieve compliance with Standard No. 305. This reduction in range would essentially render "city cars" not viable.

To address these concerns, GM recommended that S5.3 and S7.6.1 be revised to read as follows:

S5.3 Electrical Isolation. Electrical isolation between the battery system and the vehicle electricity-conducting structure after each test must be not less than 500 ohms/volt. Alternatively, if the vehicle utilizes an automatic disconnect between the propulsion battery system and the traction system that is physically contained within the battery pack system, the measured voltage after each test must be less than or equal to 30 volts.

and

S7.6.1 Prior to any barrier test, the propulsion battery system is connected to the vehicle's propulsion system, and the vehicle ignition is in the "on" (traction (propulsion) system energized) position. If the vehicle utilizes an automatic disconnect between the propulsion battery system and the traction system that is physically contained within the battery pack system, the electrical isolation measurement after the impact is made from the traction side of the automatic disconnect to the vehicle chassis. If the vehicle utilizes an automatic disconnect that is not physically contained within the battery pack system, the electrical isolation measurement after the impact is made from the battery side of the automatic disconnect to the vehicle chassis.

GM argued that the proposed modification of S7.6.1 to specify electrical isolation measurement from the traction side of the battery will meet the need of motor vehicle safety by safeguarding against electric shock hazards in EVs and would still be consistent with SAE J1766. In addition, it would be consistent with the test protocol that the agency validated in May 1998 in the 35 mph frontal crash test of an EV1.

DC's design with the automatic disconnect located inside the battery pack is similar to the design tested on GM's EV1. We agree with DC's and GM's assertions that this requirement, based on GM's comments to the NPRM, may now be overly design restrictive. In fact, NHTSA's own testing of EVs to date has measured electrical isolation from the traction side of the contactors. We believe that SAE J1766 is somewhat vague as to where the measurement should be taken. We agree with GM that a loss of electrical isolation between a point on the high voltage bus and the vehicle chassis ground is not an electrical safety hazard. Further, we do not believe that there would be any detriment to safety from taking the measurements on the traction side of the contactors, provided that the contactors are located inside the battery pack of the vehicle. We note that the same is not true if the contactors are located outside the battery pack. In that instance, there is an increased risk of someone coming in contact with high voltage caused by chaffed wires leading to the contactors if the isolation switch is located outside the battery pack. In that configuration, the measurement should be taken from the battery side of the contactors.

We are granting DC's and GM's petitions, and are amending S7.6.1 to add at the end of the existing text:

If the vehicle utilizes an automatic disconnect that is not physically contained within the battery pack system, the electrical isolation measurement after the impact is made from the battery side of the automatic disconnect to the vehicle chassis.

As noted earlier, GM also recommended changing S5.3, the electrical isolation requirement, to state that, for EVs which have an automatic disconnect located entirely in the battery pack, a voltage measurement of more than 30 volts would be required to perform the electrical isolation test. GM did not provide any rationale for why it sought this change. The GM recommendation would specify a minimum voltage above which the electrical isolation test procedure would be performed. We do not believe that specifying a minimum voltage to perform the electrical isolation test will add any safety benefit that is not already provided for in the standard. The standard now requires electrical isolation of 500 ohms/volt. This establishes an exposure of 0.002 ampere, which is at the threshold of sensation and well below a level of physiological concern. The GM recommendation would not change this exposure. In fact, if there is any voltage, the standard requires that the isolation test be performed. The GM recommendation would unnecessarily restrict the voltage over which the electrical isolation test could be conducted. Further, the GM recommendation would add requirements to the standard that need to be the subject of public notice and comment before they can be adopted. For the reasons discussed above, we see no justification at this time for requiring a change in S5.3 to specify a minimum voltage to perform the isolation test. Accordingly, we are denying this aspect of GM's petition for reconsideration of Standard No. 305.

Standard No. 305 is effective December 1, 2001. We have concluded that the minor amendments to Standard No. 305 effected by this notice should also be effective December 1, 2001, rather than 180 days after issuance of this notice. It is in the public interest to make the amendments effective on that date because they will facilitate compliance by manufacturers of EVs.

Rulemaking Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This document was not reviewed under Executive Order 12866. It has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. In promulgating the final rule in September 2000, we discussed at some length the impact of that final rule, and concluded that the impacts of that rule were so minimal as not to warrant preparation of a full regulatory evaluation. Today's final rule merely clarifies that earlier final rule.

Regulatory Flexibility Act

We have also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.* I certify that this rulemaking action does not have a significant economic impact upon a substantial number of small entities.

The following is our statement providing the factual basis for the certification (5 U.S.C. 605(b)). This final rule merely clarifies the original final rule. When we analyzed the original final rule for the purposes of the Regulatory Flexibility Act, we concluded that the overall economic impact was not considered to be significant, and, accordingly, no regulatory flexibility analysis was prepared.

Executive Order 13132 (Federalism)

Executive Order 13132 on "Federalism" requires us to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'" The E.O. defines this phrase to include regulations "that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule, which regulates the manufacture of certain motor vehicles, will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in E.O. 13132. As noted above, it merely clarifies an earlier final rule.

National Environmental Policy Act

We have analyzed this rulemaking action for purposes of the National Environmental Policy Act. The rulemaking action will not have a significant effect upon the environment as it does not affect the present method of manufacturing electric vehicles.

Civil Justice Reform

This rule will not have any retroactive effect. Under 49 U.S.C. 30103(b)(1), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule will not have a $100 million effect, we have not prepared an Unfunded Mandates assessment.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (the Act) requires agencies to evaluate and use existing voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law (e.g., the statutory provisions regarding our vehicle safety authority) or otherwise impractical. In meeting that requirement, we are required to consult with voluntary, private sector, consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If we do not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation for not using such standards.

As we have explained in the preamble, this final rule is based upon SAE J1766 FEB96 "Recommended Practice for Electric and Hybrid Electric Vehicle Battery Systems Crash Integrity Testing," and is substantially similar to it in its specifications for prohibition of electrolyte spillage in front, side, and rear impacts, and battery retention during such impacts, and electrical isolation.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30166; delegation of authority at 49 CFR 1.50.

2. In § 571.305, paragraphs S3, S7.1, and S7.6.1 are revised to read as follows:

§ 571.305 Standard No. 305; Electric-powered vehicles: electrolyte spillage and electrical shock protection.

* * * * *

S3 *Application.* This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks and buses with a GVWR of 4536 kg or less, that use more than 48 nominal volts of electricity as propulsion power and whose speed attainable in 1.6 km on a paved level surface is more than 40 km/h.

* * * * *

S7.1 *Battery state of charge.* The battery system is at the level specified in the following paragraph (a), (b), or (c), as appropriate:

(a) At the maximum state of charge recommended by the manufacturer, as stated in the vehicle operator's manual or on a label that is permanently affixed to the vehicle;

(b) If the manufacturer has made no recommendation, at a state of charge of not less than 95 percent of the maximum capacity of the battery system; or

(c) If the batteries are rechargeable only by an energy source on the vehicle, at any state of charge within the normal operating voltage, as defined by the vehicle manufacturer.

* * * * *

S7.6.1 Prior to any barrier impact test, the propulsion battery system is connected to the vehicle's propulsion system, and the vehicle ignition is in the "on" (traction (propulsion) system energized) position. If the vehicle utilizes an automatic disconnect between the propulsion battery system and the traction system that is physically contained within the battery pack system, the electrical isolation measurement after the impact is made from the traction side of the automatic disconnect to the vehicle chassis. If the vehicle utilizes an automatic disconnect that is not physically contained within the battery pack system, the electrical isolation measurement after the impact is made from the battery side of the automatic disconnect to the vehicle chassis.

* * * * *

Issued on: November 27, 2001.

Jeffrey W. Runge,

Administrator.

[FR Doc. 01–29901 Filed 11–30–01; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 112701B]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Reopening of the Commercial Red Snapper Component

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Announcement of a reopening of a fishery.

SUMMARY: NMFS announces that the closed commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico will reopen. Reopening of the fishery is necessary because the 2001 annual quota for red snapper has not been reached.

DATES: The commercial fishery for red snapper will reopen at noon, local time, December 1, 2001, and will close at noon, local time, December 3, 2001. The fishery will remain closed until noon, local time, on February 1, 2002.

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone 727-570-5305, fax 727-570-5583, e-mail Phil.Steele@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622. Those regulations set the commercial quota for red snapper in the Gulf of Mexico at 4.65 million lb (2.11 million kg) for the current fishing year, January 1 through December 31, 2001. The red snapper commercial fishing season is split into two time periods, the first commencing at noon on February 1 with two-thirds of the annual quota (3.10 million lb (1.41 million kg)) available, and the second commencing at noon on October 1 with the remainder of the annual quota available. During the commercial season, the red snapper commercial fishery opens at noon on the first of each month and closes at noon on the 10th of each month, until the applicable commercial quotas are reached. The fall season was originally scheduled to be closed at noon, local time, on November 10, 2001, when NMFS projected the fall quota would be reached. However, inclement weather during the November 1-10 opening limited fishing activities for red snapper in some areas of the Gulf and, therefore, the fall quota was not reached.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that the available commercial quota of 4.65 million lb (2.11 million kg) for red snapper will be reached when the fishery closes at noon on December 3, 2001. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper will remain closed until noon, local time, on February 1, 2002. The operator of a vessel with a valid reef fish permit having red snapper aboard must have landed and bartered, traded, or sold such red snapper prior to noon, local time, December 3, 2001.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of red snapper in or from the EEZ in the Gulf of Mexico, and the sale or purchase of red snapper taken from the EEZ is prohibited. In addition, the bag and possession limits for red snapper apply on board a vessel for which a commercial permit for Gulf reef fish has been issued, without regard to where such red snapper were harvested. However, the bag and possession limits for red snapper apply only when the recreational quota for red snapper has not been reached and the bag and possession limit has not been reduced to zero. The prohibition on sale or purchase does not apply to sale or purchase of red snapper that were harvested, landed ashore, and sold prior to noon, local time, December 3, 2001, and were held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

Dated: November 28, 2001.

Jonathan M. Kurland,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–29879 Filed 11–28–01; 2:21 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 232
Monday, December 3, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–12]

Proposed Establishment of Class D Airspace; Titusville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class D airspace at Titusville, FL. A federal contract tower with a weather reporting system is in operation at the National Aeronautics and Space Administration (NASA) Shuttle Landing Facility. Therefore, the airport meets the criteria for establishment of Class D airspace. Class D surface area airspace is required when the control tower is open to contain existing Standard Instrument Approach Procedures (SIAPs) and other Instrument Flight Rules (IFR) operations at the airport. This action would establish Class D airspace extending upward from the surface to and including 1,900 feet MSL within a 5.7-mile radius of the NASA Shuttle Landing Facility.

DATES: Comments must be received on or before January 2, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 01–ASO–12, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320. The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 01–ASO–12," The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class D airspace at Titusville, FL. Class D airspace designations for airspace areas extending upward from the surface of the earth are published in Paragraph 5000 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective

September 16, 2001, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D Titusville, FL [New]

NASA Shuttle Landing Facility, FL
(Lat. 28°36′54″ N, long. 80°41′40″ W)
Space Coast Regional Airport
(Lat. 28°30′50″ N, long. 80°47′58″ W)

That airspace extending upward from the surface to and including 1,900 feet MSL within a 5.7-mile radius of NASA Shuttle Landing Facility, excluding the portion east of a line connecting the 2 points of intersection with the 4-mile radius circle centered on Space Coast Regional Airport; excluding the portion west of a line connecting 2 points of intersection with Restricted Area R–2934; excluding the portion within Restricted Areas R–2932 and R–2934 when they are active. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on November 26, 2001.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 01–29887 Filed 11–30–01; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–7108–9]

RIN 2060–AJ79

Regulation of Fuel and Fuel Additives: Reformulated Gasoline Terminal Receipt Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: With today's action the Environmental Protection Agency (EPA) is proposing to establish April 15 as a new annual compliance date for reformulated gasoline (RFG) and reformulated blendstock for oxygenate blending (RBOB), on or after which no persons except retailers and wholesale purchaser consumers would be able to accept receipt of any RFG other than summer grade RFG. This action is intended to help ease the annual spring transition from winter grade RFG to summer grade RFG by increasing RFG inventories during the transition period. Requiring all terminals to receive summer grade RFG by a fixed date should help reduce the competitive pressure that keeps terminals from accepting summer grade RFG for as long as possible, and may provide for a smoother transition in certain geographic areas by lengthening the turnover time for terminal tanks. We are also proposing to simplify the existing blendstock accounting requirements. This action will allow refineries more flexibility to transfer gasoline blendstocks from one refinery to another. Finally, we are proposing to update certain ASTM designated analytical test methods for reformulated and conventional gasoline to their most recent ASTM version, and also update several sampling methods to their most recent ASTM version. These updates will allow improvements in the test method procedures and sampling procedures that would ensure better operation for the user of the test methods and sampling procedures.

DATES: Comments. All public comments must be received on or before January 2, 2002. To request a public hearing, contact Chris McKenna at (202) 564–9037 or *mckenna.chris@epa.gov*. If a hearing is requested within 20 days of the date of publication of this document in the **Federal Register**, a hearing will be held on December 24, 2001 at the location indicated in the **ADDRESSES** section below. Persons wishing to testify at a public hearing must contact Chris McKenna at (202) 564–9037, and submit copies of their testimony to the docket and to Chris McKenna at the addresses below, no later than 10 days prior to the hearing. After the hearing, the docket for this rulemaking will remain open for an additional 30 days to receive comments. If a hearing is held, EPA will publish a document in the **Federal Register** extending the comment period for 30 days after the hearing.

ADDRESSES: Any person wishing to submit comments should send them (in duplicate, if possible) to the docket address listed below and to Chris McKenna (6406J), Chemical Engineer, U.S. Environmental Protection Agency, Office of Transportation and Air Quality, Transportation and Regional Programs, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Materials relevant to this have been placed in docket (A–2001–21) located at U.S. Environmental Protection Agency, Air Docket Section, Room M–1500, 401 M Street, SW., Washington, DC 20460. The docket is open for public inspection from 8:00 a.m. until 5:30 p.m., Monday through Friday, except on Federal holidays. A reasonable fee may be charged for photocopying services.

FOR FURTHER INFORMATION CONTACT: For further information about this proposed rule, contact Chris McKenna, Chemical Engineer, Office of Transportation and Air Quality, Transportation and Regional Programs Division, at (202) 564–9037 or mckenna.chris@epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially affected by this action include those involved with the production, importation, distribution, sale and storage of gasoline motor fuel.

The table below gives some examples of entities that may have to comply with the regulations. However, since these are only examples, you should carefully examine these and other existing regulations in 40 CFR part 80. If you have any questions, please call the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Category	NAICSs codes [a]	SIC codes [b]	Examples of potentially regulated parties
Industry	324110	2911	Petroleum refiners.
Industry	422710	5171	Gasoline marketers and distributors.
	422720	5172	

[a] North American Industry Classification System (NAICS).
[b] Standard Industrial Classification (SIC) system code.

Outline

I. New Terminal Receipt Date for Summer Grade Reformulated Gasoline
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B. What is EPA Proposing?
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D. What Is the Cost of Today's Proposal?
II. On What Issues Is EPA Requesting Comment?
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VI. Administrative Requirements
A. Executive Order 12866
B. Executive Order 13132 (Federalism)

C. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)
D. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 USC 601 et. seq.
E. Paperwork Reduction Act
F. Unfunded Mandates Reform Act
G. Executive Order 13045: Children's Health Protection
H. National Technology Transfer and Advancement Act of 1995 (NTTAA)
I. Executive Order 13211 (Energy Effects)
VII. Statutory Provisions and Legal Authority

I. New Terminal Receipt Date for Summer Grade Reformulated Gasoline

A. Background

The purpose of the reformulated gasoline (RFG) program is to improve air quality in certain specified ozone nonattainment areas. Gasoline sold in RFG covered areas must achieve certain reductions in emissions of ozone forming volatile organic compounds (VOCs) and toxic air pollutants, pursuant to 211(k) of the Clean Air Act (CAA or the Act), as amended [1]. The Act requires RFG in the ten metropolitan areas with the worst summertime ozone problems, and certain other areas have opted into the program.

Phase I of the RFG program ran from 1995 through 1999, and more stringent Phase II RFG standards began in 2000. During the summer ozone season EPA's Phase II RFG regulations require a 29 percent reduction in VOC emissions from RFG in southern (class B) areas, and a 27.4 percent reduction in such emissions from RFG in northern (class C) areas (representing approximately an additional 10 percent reduction in VOC emissions beyond the Phase I requirements).

One significant way of reducing VOC emissions from RFG is to decrease the Reid Vapor Pressure (RVP) of the RFG during summer months. As a result, summer grade RFG has a significantly lower RVP than winter grade RFG. RVP is a measure of a gasoline's volatility, or the tendency for a gasoline to evaporate. As gasoline RVP increases, the tendency of the gasoline to emit volatile material also increases. Higher emissions of volatile material increase pollution. Therefore, gasoline RVP is permitted to be relatively high during colder months because colder temperatures reduce the tendency of gasoline to evaporate and reduce emissions of volatile material. During hotter months, refiners must reduce gasoline RVP by removing the most volatile portion of the gasoline in order to reduce evaporative emissions from the gasoline.

Each spring, refiners and importers must reduce the RVP of the gasoline that they produce or import in order to comply with federal summer emissions requirements, and refiners, gasoline terminal facilities and retail stations must replace high RVP winter grade RFG in storage tanks with lower RVP summer grade RFG. EPA regulations stipulate that gasoline retailers must be selling only summer grade RFG by June 1 of each year. In order to meet the June 1 compliance date, EPA regulations stipulate that by May 1 the RFG at terminals and all other facilities upstream of the retailer must meet the summertime RFG requirements. Refineries typically begin producing lower RVP RFG in March or April in order for terminals to meet the May 1 compliance date.

Storage terminals use different methods for meeting the applicable compliance dates. Some terminals completely convert their tanks from high to low RVP gasoline by starting to blend summer gasoline into the terminal tank prior to May 1, so that by May 1 the gasoline in the terminal tank meets summer specifications—the "blend down" method. Alternatively, some terminals draw down their inventory of winter gasoline by continuing to make deliveries of winter gasoline, but not replacing it. When the tank is sufficiently low, the terminal begins accepting summer gasoline in order to meet the May 1 compliance date. This method is called the "draw down" method.

Because low RVP summer grade RFG is more expensive than high RVP winter grade RFG, distributors have incentive to delay terminal receipt of more expensive summer grade fuel, and draw down tanks as much as possible before refilling. Then, with the tank about empty, the last minute addition of summer grade fuel allows terminal tanks to quickly come into compliance with summer grade RFG requirements. This practice minimizes the cost of converting the tank from winter grade RFG to summer grade RFG. This economic incentive increases the likelihood that terminals will use the draw down method for the transition to summer fuel. Terminals practicing the draw down method only wish to receive summer grade RFG just before May 1 when their tanks are low. This practice delays production and importation of summer RFG. This practice may also lead to low gasoline inventories and increased supply pressure, particularly if there are any disruptions to the production or distribution system during this period. Additionally, during the past two spring transition periods, refiners have also tried to keep RFG inventories low in the expectation that future crude oil prices would decrease and RFG inventories could be replenished by processing less expensive crude in the future. The effort to increase inventories by establishing a new terminal receipt date might be limited by the conditions in the broader crude oil and petroleum product market.

EPA has no regulations governing the methods by which terminal operators turn over their tanks from winter to summer grade RFG. Terminal operators choose whether to use the blend down method or the draw down method to turn over their tanks. Although EPA has heard anecdotal comments about difficulties with tank turnover, primarily in the Midwest, no refiner or terminal operator has contacted EPA with specific problems.

In response to concerns about tight RFG supplies in the Midwest during spring 2000 and spring 2001, EPA met with midwestern producers and distributors of RFG in March, 2001 and asked that anyone experiencing difficulty with tank turnover contact EPA for help in addressing their problem. No refiners, importers or terminal operators contacted EPA during the transition months regarding difficulties with tank turnover. Nonetheless, we believe that the practice of drawing down terminal tanks in connection with the transition from winter to summer grade RFG can have an adverse impact on spring RFG inventories and potentially on gasoline supply. Therefore, we believe it is appropriate for EPA to proceed with today's proposed rule, and for EPA to ask for comment on several potential actions, many of which have been suggested to EPA by fuel producers and distributors, that address this issue. EPA believes that today's proposed action would have a positive impact on distribution and supply, and would help to assure a smoother transition from summer to winter grade RFG.

B. What Is EPA Proposing?

We are proposing to establish a new April 15 date on or after which no persons except retailers and wholesale purchaser consumers would be able to accept receipt of any RFG or RBOB other than summer grade RFG or RBOB. While this restriction would apply to

[1] Section 211(k) also includes compositional specifications for reformulated gasoline including a 2.0 weight percent oxygen minimum, a 1.0 volume percent benzene maximum, and a prohibition on heavy metal content, as well as a requirement that emissions of oxides of nitrogen (NO_x) from RFG not increase compared to baseline emissions (baseline emissions are the emissions of 1990 model year vehicles operated on 1990 baseline gasoline).

both terminals and pipelines, barges or other companies transporting fuel to terminals, effectively the restriction applies most directly to terminals so for ease of discussion the April 15 date will be referred to as a terminal receipt date. Also for ease of discussion, since the April 15 date applies to both RFG and RBOB, all references to RFG in connection with the April 15 date will apply to both RFG and RBOB. Batch report information submitted to EPA for 2000 indicates that approximately 181 million gallons of winter grade RFG was produced by refiners or imported from April 15, 2000 through April 30, 2000, all of which was produced or imported in PADDs 1, 2, and 3. The average RVP of this volume was 8.04 psi. Thus, establishing an April 15 summer RFG receipt date would require the RVP of at least 181 million gallons of RFG to be reduced from an average of 8.04 psi to a nominal 6.8 psi to meet the summer RFG specifications.

One suggested alternative to establishing a new April 15 receipt date was to instead establish a new refinery production date for summer grade RFG. For example, a refinery production date of April 1 could be established in place of an April 15 receipt date. The receipt date option being proposed will give a refiner more flexibility in deciding when to begin production of summer grade RFG based on its particular situation. For example, an RFG batch produced at a Gulf Coast refinery would take 2–3 weeks to be transported to terminals in the Midwest or Northeast. However, a refinery located in the Midwest or Northeast may take only one or two days to transport its RFG to local terminals.

Establishing a receipt date for summer grade RFG means that refineries must begin producing summer grade RFG batches early enough that the RFG arrives at its destined terminal by April 15. A 1986 study commissioned by EPA estimated an average national transit time of approximately 7 days between refinery and terminal for gasoline produced in May [2]. Subtracting this transit time from April 15 means that, on average, RFG batches produced or imported from April 8 through April 30 would need to be produced or imported as summer grade RFG. Batch report information submitted to EPA for 2000 indicates that 315.6 million gallons of winter grade RFG was produced by refiners or imported from April 8, 2000 through April 30, 2000, all of which was produced or imported in PADDs 1, 2, and 3. The average RVP of this volume was 8.34 psi. Winter grade RFG volumes produced or imported in each PADD from April 8, 2000 through April 30, 2000 are summarized in Table 1, along with the corresponding average RVP.

[2] "Petroleum Storage and Transport Times" by Jack Faucett Associates under contract to EPA, September, 1986.

TABLE 1.—RFG BATCH INFORMATION FROM APRIL 8, 2000 THROUGH APRIL 30, 2000

PADD	Winter grade RFG produced from April 8, 2000 through April 30, 2000 million gallons	Average RVP of RFG produced from April 8, 2000 through April 30, 2000 psi
1	132.8	9.06
2	160.7	7.52
3	22.1	9.97
Total	315.6	8.34

C. How Will This Proposal Help the Transition Period?

This proposal should help to provide for a smoother transition from winter to summer RFG by requiring some terminals to begin turning over their tanks from winter grade RFG to summer grade RFG earlier than they currently do. Because some terminals draw down their gasoline storage tanks to very low levels in late April to drain as much winter grade RFG as possible from their tanks before refilling the tanks with summer grade RFG, in order to minimize cost, there is the potential for very low inventories of RFG during this transitional period which increases the likelihood of supply problems. Requiring all terminals to begin receiving summer grade RFG by a fixed date will remove much of the incentive for terminals to draw down their tanks to very low levels all at the same time. We expect instead that it will encourage a blend down of their tanks to meet summer RFG requirements and increase volumes of RFG at terminals during the transition, allowing terminals to more gradually turn over their tanks from winter to summer grade RFG, and help spread the transition period out over the last two weeks in April. This should help to avoid situations where many terminals draw down their inventories and turn over their tanks simultaneously at the end of April.

Establishing an April 15 terminal receipt date for summer grade RFG will not reduce the market pressure for refiners to delay production of summer gasoline until it is required. However, the April 15 date will reduce the market pressure that causes terminals to delay accepting summer grade RFG for as long as possible. Terminals would be required to begin receiving summer grade RFG on April 15 and would, at the latest, turn their tanks over between April 15 and May 1. Turnover times would vary with terminal storage capacity and throughput of RFG at the terminal. Terminals would not be economically encouraged to draw down the winter gasoline in their tanks prior to April 15. The April 15 date applies to gasoline supplies received on or after that date, but does not require that the gasoline in the tanks be in compliance with summer specifications on April 15. This should lead to greater use of the blend down method to meet the May 1 date by which all RFG in terminal storage tanks must meet the summertime RFG standards [3]. EPA requests comment on the premise that an April 15 terminal receipt date will encourage greater use of the blend down method.

D. What Is the Cost of Today's Proposal?

The total estimated cost of establishing an April 15 receipt date is estimated to be between $1.5 million per year and $2.3 million per year. Dividing these costs by the 315.6 million gallons per year of gasoline which would need to be produced as summer grade RFG instead of winter grade RFG produces an equivalent cost range of 0.49 cents per gallon RFG to 0.73 cents per gallon RFG. Both of these estimates include the operational cost of removing sufficient butane to reduce the RVP of 315.6 million gallons per year of winter grade RFG from an average RVP of 8.34 psi to a nominal summer grade RFG RVP of 6.8 psi. Assuming an RVP decrease of 1 psi for every 1.5 volume % decrease in butane, 7.3 million gallons per year of butane must be removed from 315.6 million gallons per year of RFG.

The lower cost estimate ($1.5 million per year or 0.49 cents per gallon RFG) includes the cost of new tankage to store all the butane until the butane can be used the following winter. The higher cost estimate ($2.3 million per year or 0.73 cents per gallon RFG) assumes that all the additional butane removed is directly sold to the spot butane market. Thus, the higher cost estimate includes the effect of directly selling 7.3 million gallons per year of product as relatively less valuable butane instead of more valuable RFG.

The cost, in cents per gallon affected RFG, of producing more summer grade

[3] Note that while we are not proposing eliminating this May 1 terminal compliance requirement, we are interested in the continuing need for a May 1 terminal compliance requirement to ensure adequate and timely supplies of summer RFG to meet the existing requirement of June 1 for retail station compliance.

RFG and less winter grade RFG from April 8 through April 30 is less than the cost differential between typical winter grade RFG and summer grade RFG. Based on data obtained from DOE, winter grade RFG prices were approximately 6 cents per gallon less than summer grade RFG during Phase I, and 9 cents per gallon less than summer grade RFG during Phase II[4]. These price differences are due to two factors, the additional cost to produce summer grade RFG, and demand. The cost difference is due to blending more butane, a relatively inexpensive gasoline blendstock, into winter grade RFG in place of more expensive blendstocks required for summer grade RFG, especially alkylate blendstock needed to produce very low RVP RBOB for ethanol blended RFG. DOE has estimated the cost differential between winter and summer RFG at approximately 3 cents per gallon, which does not include demand induced price effects[5].

Typical winter grade RFG may have an RVP as high as 15 psi, compared to an average RVP of 8.34 psi for all winter grade RFG produced between April 8, 2000 and April 30, 2000. EPA's cost estimate includes only the cost of reducing the RVP of winter grade RFG produced from April 8 through April 30 to summer grade RVP levels. However, we are aware there may be other costs associated with the production of more summer grade RFG and less winter grade RFG from April 8 through April 30, in addition to the cost of reducing RVP.

II. On What Issues Is EPA Requesting Comment?

A. Inventory Build Before April 15

While EPA believes that establishing an April 15 terminal receipt date for summer grade RFG should result in greater use of the blend down method to meet the May 1 date by which all RFG in terminal storage tanks must meet the summertime RFG standard, we are concerned about the possibility of strategic behavior that may undermine this result. Since winter grade gasoline is cheaper than summer grade, there is an incentive under today's proposal for distributors to stockpile as much winter grade gasoline as possible before the April 15 deadline and simply defer purchases of summer grade gasoline for as long as possible as supplies of winter gasoline are drawn down. Depending on tank and pipeline capacity, this could theoretically result in the same reliance on the "draw down" method for meeting the May 1 compliance date as exists today. EPA therefore requests comment on the effects of today's proposal on gasoline inventories during the winter to summer transition.

B. Eliminate or Delay May 1 Compliance Date

In connection with today's proposal to establish a new April 15 terminal receipt date, we request comment on the impact and feasibility of also eliminating the existing May 1 compliance date, or, in the alternative, moving the May 1 compliance date to May 15. Under any such approach, the existing June 1 compliance date for retail stations would remain in its current form. Under the proposed April 15 terminal receipt requirement, we anticipate that most, if not all, terminals will turn over their RFG to summer grade specifications by May 1 based on the normal throughput of fuel at the terminal. The May 1 compliance date currently provides retail stations with one month to turn over their tanks from winter grade to summer grade RFG after all upstream facilities have made the transition. Discussions to date with retailers, terminals and refiners have indicated that many retail stations may actually need less time to turn over their tanks. Eliminating or delaying the May 1 compliance date would further widen the window of time following the proposed April 15 receipt date that terminals would have to turn all their tanks over from winter to summer grade RFG. This improved flexibility could allow, for example, a specific tank to still be in the blend down process on May 1, selling fuel with an RVP approaching, but not yet meeting summer grade requirements, a fuel which would be anticipated to be purchased by consumers prior to June 1. This would reduce the need for terminals to draw their RFG inventories down to very low levels during the spring transition. Feedback received thus far has been that if the May 1 compliance date is maintained, some terminals may still need to draw down their inventories in at least some of their tanks to very low levels to achieve the seasonal transition.

While we in general believe supplies of compliant summer grade RFG will be sufficiently available to meet retail needs, it is possible that some markets, particularly with low demand such as premium fuel, might be slow to turn over at both the retail outlet and the terminal. In such a case, without the need for terminals to meet summer fuel requirements for all their fuel, it may be more difficult for retail outlets to find sufficient fuel to meet that niche need early enough in May to allow for orderly transition to summer requirements. Comments are specifically requested on this issue of assuming sufficient supply to slow turnover markets without a certain May 1 terminal compliance date.

C. Establish April 1 Terminal Receipt Date

We also request comment on establishing April 1 instead of April 15 as an annual starting date for receipt of summer grade RFG; an April 1 date would further assure the availability of summer grade RFG prior to the June 1 retail compliance requirement to further reduce the potential for sudden drawdowns in RFG stocks. However, to the extent April 1 requires earlier production of summer grade RFG batches, refinery processing costs will increase perhaps with little or no real benefit to the retail outlet or to the environment (the increased environmental benefit due to summer grade RFG would largely parallel the increase). Second, an April 1 receipt date will be more likely to impact vehicle driveability in the event of cold weather late in the early spring.

Establishing an April 1 receipt date and allowing an average transit time of 7 days for transport of RFG from refinery to terminal means that shipment of summer grade RFG batches from refineries would need to start March 24. Batch report information submitted to EPA for 2000 indicates that 738.6 million gallons of winter grade RFG was produced by refiners or imported from March 24, 2000 through April 30, 2000, all of which was produced or imported in PADDs 1, 2, and 3. The average RVP of this volume was 9.28 psi. Winter grade RFG volumes produced or imported in each PADD from March 24, 2000 through April 30, 2000 are summarized in Table 2, along with the corresponding average RVP.

TABLE 2.—RFG BATCH INFORMATION FROM MARCH 24, 2000 THROUGH APRIL 30, 2000

PADD	Winter grade RFG produced from March 24, 2000 through April 30, 2000 million gallons	Average RVP of RFG produced from March 24, 2000 through April 30, 2000 psi
1	376.8	9.65
2	283.0	8.52

[4] EIA Memo: Potential Gasoline Price Impacts Due to Winter-Summer Transition, November, 8, 2001.

[5] EIA Memo: Potential Gasoline Price Impacts Due to Winter-Summer Transition, November, 8, 2001.

TABLE 2.—RFG BATCH INFORMATION FROM MARCH 24, 2000 THROUGH APRIL 30, 2000—Continued

PADD	Winter grade RFG produced from March 24, 2000 through April 30, 2000 million gallons	Average RVP of RFG produced from March 24, 2000 through April 30, 2000 psi
3	77.1	10.27
Total	738.6	9.28

The total estimated cost of establishing an April 1 receipt date is estimated to be between $4.9 million per year and $7.6 million per year. Dividing these costs by the 738.6 million gallons per year of gasoline which must be produced as summer grade RFG instead of winter grade RFG produces an equivalent cost range of 0.65 cents per gallon RFG to 1.04 cents per gallon RFG. Both of these estimates include the operational cost of removing sufficient butane to reduce the RVP of 738.6 million gallons per year of winter grade RFG from an average RVP of 9.28 psi to a nominal summer grade RFG RVP of 6.8 psi. Assuming an RVP decrease of 1 psi for every 1.5 volume % decrease in butane, 27.5 million gallons per year of butane must be removed from 738.6 million gallons per year of RFG.

The lower cost estimate ($4.8 million per year or 0.65 cents per gallon RFG) includes the cost of new tankage to store all the butane until the butane can be used the following winter. The higher cost estimate ($7.6 million per year or 1.04 cents per gallon RFG) assumes that all the additional butane removed is directly sold to the spot butane market. Thus, the higher cost estimate includes the effect of directly selling 27.5 million gallons per year of product as relatively less valuable butane instead of more valuable RFG.

As discussed in Section I.D. our cost estimate includes only the cost of reducing the RVP of winter grade RFG produced from March 24 through April 30 to summer grade RVP levels. However, we are aware there may be other costs associated with the production of more summer grade RFG and less winter grade RFG from March 24 through April 30, in addition to the cost of reducing RVP. A full discussion of the cost estimate can be found in the Draft Technical Support Document for this proposed rule, which is available in the docket for this rulemaking (A–2001–21; Item II–B–1) and on the web at: www.epa.gov/otaq/rfg.

D. Two Step RVP Phase-In

We also request comment on a two step phase-in process, as an alternative to the proposed terminal receipt date, which gradually reduces RFG RVP by establishing an intermediate terminal compliance date and intermediate target RVP. We request comment on the following four sub-options for this two step phase-in option.

1. Terminals must have their RFG tanks completely turned over to an intermediate RVP of 8.0 psi by April 15 and completely turned over to summer grade RFG by May 1.

2. Terminals must have their RFG tanks completely turned over to an intermediate RVP of 9.0 psi by April 15 and completely turned over to summer grade RFG by May 1.

3. Terminals must have their RFG tanks completely turned over to an intermediate RVP of 8.0 psi by May 1 and completely turned over to summer grade RFG by May 15.

4. Terminals must have their RFG tanks completely turned over to an intermediate RVP of 9.0 psi by May 1 and completely turned over to summer grade RFG by May 15.

The two step phase-in is intended to reduce the degree to which terminals must draw down their tanks to meet the final terminal compliance date by turning tanks over in two smaller steps instead of one large step. Using sub-option 1 above as an example, in step 1 a tank containing 19,000 barrels of winter grade RFG with a 13.0 psi RVP could be blended with 81,000 barrels of summer grade RFG with a 6.8 psi RVP to produce 100,000 barrels of RFG with an 8.0 psi RVP, using linear blending. In step 2, the volume of RFG in the tank with an 8.0 psi RVP would only have to be reduced to 25,000 barrels. This residual volume of 25,000 barrels of RFG with an 8.0 psi RVP could then be blended with 75,000 barrels of summer grade RFG with a 6.4 psi RVP to produce 100,000 barrels of summer grade RFG with a 6.8 psi RVP, using linear blending.

In contrast, to accomplish the same turnover in one step would require the volume of 13.0 psi RVP winter grade RFG in the tank to be reduced to 6,000 barrels. Then 94,000 barrels of 6.4 psi RVP summer grade RFG would have to be blended with this 6,000 barrels of winter grade RFG to produce 100,000 barrels of summer grade RFG with a 6.8 psi RVP, using linear blending. The net effect of the two step phase-in is that RFG inventory does not have to be reduced as greatly in order to achieve the winter to summer RVP transition. A terminal using the two step phase-in from the example above would only have to reduce its tankage volume to a minimum of 19,000 barrels instead of 6,000 barrels in order to achieve its RVP transition.

Thus far, feedback on the idea of a two step phase-in option has been mixed. Some parties with whom EPA has spoken prefer a phase-in approach to a terminal receipt date. Others have expressed concern that the addition of a second transitional RVP compliance date would increase record keeping requirements and would not significantly reduce the current practice of drawing down tanks to very low levels. EPA requests comment on the two step phase-in approaches listed above, as well as any alternatives to help accomplish a smooth phase-in.

E. Limit Applicability of Terminal Receipt Date to Chicago/Milwaukee Areas

We also request comment on the option of limiting the applicability of the proposed terminal receipt date to the Chicago and Milwaukee metropolitan areas. These two areas have been most severely impacted by low gasoline inventories during the past two spring transitions from winter to summer grade gasoline.

F. Reduce Allowable Minimum RVP to 6.0 psi

We also request comment on the option of decreasing the allowable minimum RVP for RFG at the refinery gate to 6.0 psi from 6.4 psi, as an addition to the proposed terminal receipt date, to further help ease the winter to summer RVP transition. Under the emissions model used to measure RFG performance, the lowest allowable RVP for RFG is 6.4 psi. Reducing the RVP of gasoline at the refinery gate gives terminals the flexibility to maintain slightly higher inventories of winter grade RFG during the transition period by allowing sub-RVP RFG to be blended with winter grade RFG during the tank turnover process. For example, if a tank contained 6,000 barrels of winter grade RFG with a 13.0 psi RVP, this volume could be blended with 94,000 barrels of summer grade RFG with a 6.4 psi RVP to produce a 100,000 barrel mix with an RVP of 6.8 psi, using linear blending. However, if the minimum allowable RVP of summer grade RFG were decreased, a greater volume of winter grade RFG could be blended with the sub-RVP summer grade RFG to produce an acceptable blend of summer grade RFG. For example, the tank volume of winter grade RFG with a 13.0 psi RVP would only have to be reduced to 11,000 barrels during the RVP

transition. This 11,000 barrels could then be blended with 89,000 barrels of 6.0 psi RVP RFG to produce a 100,000 barrel mix with an RVP of 6.8 psi, using linear blending. The net effect of reducing the minimum allowable RVP is that RFG inventory does not have to be reduced as greatly in order to achieve the winter to summer RVP transition.

We have identified two potential concerns related to reducing the minimum allowable RVP for RFG at the refinery gate. First, reducing RVP also reduces the driveability index of RFG. In the event of late cold weather, vehicles could experience driveability problems if fueled with RFG with an RVP less than 6.4 psi. A potential solution would be to relax the minimum RVP only at the refinery gate, and not allow terminals to release RFG with an RVP lower than 6.4 psi. Second, refiners may be reluctant to use this option due to the additional processing costs associated with reducing RVP below 6.4 psi.

III. Eliminate Current Blendstock Accounting Regulation 40 CFR 80.102

Today's action proposes to replace the current blendstock accounting requirements at 40 CFR 80.102 with simpler, less restrictive requirements. These requirements are a part of the anti-dumping regulations for conventional gasoline (CG).

The Clean Air Act required EPA to establish the anti-dumping regulations as part of the RFG program to prevent increases in oxides of nitrogen (NO_X) and toxics air emissions from conventional gasoline as a result of RFG production. Thus, the anti-dumping regulations prevent a refinery from transferring, or "dumping," the relatively dirty components that it removes from its RFG (such as benzene) into its CG. Specifically, the anti-dumping regulations require that the CG produced or imported by each refinery and importer must be at least as clean with respect to NO_X and toxics emission performance, on an annual average basis, as the gasoline produced or imported by that refinery or importer in 1990. Under these regulations, refineries and importers are required to develop individual baselines for these emissions based on the quality of the gasoline they produced or imported in 1990. Refiners and importers who are not able to develop an individualized baseline are subject to a predetermined baseline that is representative of the average exhaust toxics and NO_X emission performance of 1990 gasoline, referred to as the anti-dumping statutory baseline. A refinery's or importer's individual 1990 baseline, or alternatively the statutory baseline, functions as the refinery's or importer's anti-dumping "standard."[6]

Requirements for blendstock accounting were included in the anti-dumping regulations out of a concern that refineries with 1990 baselines cleaner than the anti-dumping statutory baseline would transfer dirty blendstocks to refineries with dirtier baselines because such refineries would be better able to use the dirty blendstocks while still meeting their anti-dumping baseline. Under the blendstock accounting provisions, if a cleaner refinery transfers large quantities of dirty gasoline blendstocks to another refinery, the cleaner refinery must account for all of the blendstocks it produces and transfers in its anti-dumping compliance calculations in specified subsequent annual averaging periods. Thus, the cleaner refinery could not benefit from such a transfer. The regulations require significant additional reporting by a refinery with a baseline cleaner than the anti-dumping statutory baseline that transfers ten percent or more blendstocks than it transferred in 1990 relative to its total production.

EPA now believes that the current blendstock accounting requirements are unnecessary. When refineries produce more total gasoline than that produced in 1990, the additional gasoline over and above the 1990 baseline volume must meet the statutory baseline for all refineries regardless of the refinery's individual baseline. Since nearly all refineries currently produce significantly more gasoline than they produced in 1990, EPA believes that the blendstock transfers that are likely to occur today will be between donor and recipient refineries whose total production is well above 1990 baseline volume levels with or without a transfer. If transfers under these conditions occur between refiners producing only CG, there will be no net change in the quality of their combined CG pool because the donor refiner's gallons at the statutory baseline would be replaced by the recipient refiner's gallons at this same baseline. Thus, there would likely be no motivation or opportunity for "gaming the system" under these circumstances. Where either or both refiners make RFG and CG, there is some potential for meeting a slightly lower baseline by transferring blendstocks.[7] However, it is unlikely that there would ever be any impact more significant than a small decrease in the stringency of compliance requirements, meaning that the gaming possibilities of such a transfer are very small, and thus any such transfers would produce only very small economic benefits which may be more than offset by the transactional costs associated with the transfer. As a result, the shifting of blendstocks from one refinery to another where both refineries produce more gasoline than they did in 1990 has very little potential to cause any adverse environmental impact.

Additionally, EPA has carefully examined individual refinery situations and has concluded that for the very limited number of refineries producing volumes where a transfer could result in some increased emissions, there is little possibility for gaming since clean/dirty refinery baseline pairs within a specific emission category (NO_X or toxics) are very uncommon. (i.e, for NO_X and toxics, almost all members of this refinery subset are clean for one pollutant and dirty for the other leaving little chance of gaming for either.)[8]

Finally, the recently promulgated Mobile Source Air Toxics rule[9] requires each refinery to meet a performance standard for toxic air emissions for CG and RFG equivalent to the performance of that refinery's CG or RFG during the baseline years 1998, 1999, and 2000. Because this new baseline performance is better than 1990 baselines, refineries with dirty baselines would be even less likely to be able to accept dirty blendstocks since these blendstocks would potentially degrade performance relative to these years.

We believe the current blendstock accounting provisions create significant additional compliance and reporting requirements, and, in some cases, may have the effect of deterring refiners or importers from transferring gasoline blendstocks that they otherwise would transfer in the normal course of business in response to legitimate supply concerns and other refinery needs. Moreover, we believe that eliminating these requirements will help to improve the responsiveness of the gasoline supply system by increasing refiners' flexibility to transfer gasoline

[6] Refiners producing CG at several facilities have the option of meeting the antidumping standards on an aggregate basis with an aggregated baseline. 40 CFR 80.101(h).

[7] This is due to the concept of "equivalent CG volume" contained in the compliance baseline equation under the anti-dumping regulations in § 80.101(f). For a full discussion of this concept and the effects of RFG production on anti-dumping compliance, see "Technical Support Document for RFG Terminal Receipt Date Rule" in the docket for this rulemaking.

[8] Refinery-specific information is submitted to EPA as confidential business information under the RFG and anti-dumping reporting requirements and cannot be made public.

[9] 66 FR 17230 (March 29, 2001)

blendstocks.[10] Consequently, today's rule proposes to eliminate the current blendstock accounting requirements.

There remains some concern about the possibility that a refiner with a clean baseline could create an off-site terminal blending facility acting as a refinery for the sole purpose of certifying gasoline at the less stringent statutory baseline. To gain a significant compliance advantage the clean refiner would have to transfer a great deal of its gasoline production such that the original clean refinery would be making less gasoline than in 1990. Otherwise, the clean refinery would be producing incremental gasoline at approximately the statutory baseline and the transfer would not result in any significant compliance advantage. To address the limited situations in which blendstock transfers could possibly be undertaken for the purpose of evading a more stringent baseline, today's rule proposes provisions which would require a refinery with a baseline that is cleaner than the anti-dumping statutory baseline, and that produces less gasoline than its 1990 baseline volume during the annual averaging period, to petition EPA for approval to transfer specified "applicable" (i.e., "dirty") blendstocks in excess of 5% of the refinery's annual production. The refinery would be required to demonstrate that such blendstock transfers were for a legitimate operational purpose and not for the purpose of evading a more stringent baseline.

We believe that most blendstock transfers needed for operational purposes, for example during desulfurization unit turnarounds (which are projected to take approximately two weeks), are likely not to exceed 5% of the refinery's annual production. While we believe that 5% is the upper limit for necessary transfers of dirty blendstocks in most situations, the petition process would be available for unusual situations where desulfurization unit turnarounds or other such legitimate operational needs require blendstock transfers in excess of 5%. This petition processwould requires refineries to forecast total production for the entire year averaging period to be less than 1990 baseline volumes. The requirement to petition EPA for approval to transfer dirty blendstocks in excess of 5% of the refinery's annual production applies only to the highly unusual situation where a refinery possesses a baseline cleaner than the statutory baseline and produces less than its 1990 baseline volume during the annual averaging period. Other refineries would not be required to petition EPA for approval to transfer blendstocks even when in excess of 5% of their annual production. EPA requests comment on the practicality of this approach and on whether 5% is an appropriate trigger.[11]

IV. Updating ASTM Designated Analytical Test Methods for Reformulated and Conventional Gasoline to Their Most Recent ASTM Version

Refiners, importers and oxygenate blenders producing gasoline and diesel fuel are required to test RFG, CG and diesel fuel for RVP, aromatics, benzene, and various other parameters. During the federal RFG rulemaking, and in response to comments by the regulated industry, EPA designated analytical test methods that the Agency would use for enforcement and compliance purposes. See 40 CFR 80.46. On July 11, 1997, the Agency proposed to update the designated test methods that were ASTM standards in § 80.46 (a) through (g) to their most recent version, as well as replace the designated test methods for RVP and oxygenates with the ASTM version.[12] This proposal was never finalized by the Agency, and since the time of the proposal, these designated test methods have been updated by ASTM.

Since the July 11, 1997, proposal was published, newer versions of several designated test methods have been published by ASTM. We have reviewed these newer versions of the ASTM test methods. The Agency believes that the revisions in the newer versions of the ASTM designated test methods are not significant changes that would cause a user of an older version of the same method to incur significant costs. All of the revisions were deemed necessary by ASTM so that improvements in the test method's procedures would ensure better operation for the user of the test method. Therefore, today the Agency is proposing to update each designated test method for gasoline that is an ASTM standard, excluding the measurement of sulfur and aromatics in gasoline, at § 80.46 to its most recent ASTM version, as well as replace the designated test methods for RVP and oxygenates with the ASTM version. Table 3 lists the designated analytical test methods for each parameter measured under the RFG and CG fuels program under today's proposal.

TABLE 3.—DESIGNATED ANALYTICAL TEST METHOD UNDER THE RFG AND CG FUEL PROGRAMS

Fuel parameter	Designated analytical test method
Olefins	ASTM D–1319–98, entitled "Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Absorption"
Reid Vapor Pressure	ASTM D 5191–99, entitled "Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method), except that the following correlation equation be used with ASTM D 5191–99: RVP psi = (0.956*X) – 0.347 RVP kPa = (0.956*X) – 2.39

[10] EPA is aware that refiners have concerns regarding blendstock transfers under the newly promulgated gasoline sulfur reduction regulations. During maintenance periods for sulfur removal units or "turnarounds", refineries may have to transfer fairly large amounts of low-sulfur blendstocks into refineries during maintenance periods. Refiners have indicated that these transfers could trip the current complicated blendstock accounting requirements. We believe that today's proposal resolves this concern by removing the current blendstock accounting requirements. Discussions with refiners have also indicated that the 5% trigger for the petition process is sufficiently high so as to be unlikely to interfere with such transfers, especially considering that the 5% trigger is only applicable to refiners making less gasoline than produced in 1990.

[11] Two trigger mechanisms contained in today's action (the 5% trigger mechanism and annual gasoline production volumes less than 1990 volumes) would result in the petition process. These triggers essentially replace two criteria that, under the current regulations, would trigger blendstock accounting. These current criteria include a 3% transfer of blendstocks and a 10 percent increase in a multi-year ratio of blendstock transfers to total production for a facility relative to baseline years in the early 1990s. The 10% criteria required a fairly complex ongoing multi-year calculation of blendstock ratios which we believe is unnecessary. (These criteria are discussed more completely in "Technical Support Document for RFG Terminal Receipt Date Rule:" included in the docket for this rulemaking.) EPA believes that the 5% trigger mechanism is sufficient to allow free transfer of blendstocks, without a petition, for most or all refiners in most or all situations. Additionally, the petition process would not be tripped even if more than 5% of blendstocks, relative to total production, are transferred unless a refinery is making less total volume than in 1990. Thus, for the petition process, we are proposing to eliminate the two criteria in the current regulations for blendstock accounting and substituting the new 5% trigger for the petition process.

[12] 62 FR 37338, July 11, 1997.

TABLE 3.—DESIGNATED ANALYTICAL TEST METHOD UNDER THE RFG AND CG FUEL PROGRAMS—Continued

Fuel parameter	Designated analytical test method
	Where: X = total measured vapor pressure in psi or kPa
Distillation	ASTM D–86–00a, entitled "Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure"
Oxygen and Oxygenate content analysis	ASTM D 5599–00, entitled "Standard Test Method for Determination of Oxygenates in Gasoline by Gas Chromatography and Oxygen Selective Flame Ionization Detection[1]

[1] Prior to September 1, 2004, and when oxygenates present are limited to MTBE, ETBE, TAME, DIPE, tertiary-amyl alcohol, and C_1 and C_4 alcohols, any refiner, importer, or oxygenate blender may determine oxygen and oxygenated content using ASTM standard method D–4815–99, entitled "Standard Test Method for Determination of MTBE, ETBE, TAME, DIPE, tertiary-amyl Alcohol and C_1 and C_4 Alcohols in Gasoline by Gas Chromatography provided the result is correlated to ASTM D 5599–00.

V. Corrections to Gasoline and Diesel Sample Testing Methodology

40 CFR Part 80, Appendices D and G, specify sampling procedures for gasoline and diesel fuel for all motor vehicle fuel programs under 40 CFR Part 80, including the programs for unleaded gasoline, gasoline volatility, diesel sulfur, RFG, and anti-dumping. Today's proposal would replace the sampling procedures in Appendices D and G with the following ASTM standard practices:

- D 4057–95(2000), "Standard Practice for Manual Sampling of Petroleum and Petroleum Products;"
- D 4177–95(2000), "Standard Practice for Automatic Sampling of Petroleum and Petroleum Products;"
- D 5842–95(2000), "Standard Practice for Sampling and Handling of Fuels for Volatility Measurements;" and
- D 5854–96(2000), "Standard Practice for Mixing and Handling of Liquid Samples of Petroleum and Petroleum Products."

These changes were formerly proposed in "Regulation of Fuels and Fuel Additives: Modifications to Standards and Requirements for Reformulated and Conventional Gasoline—Proposed Rule," 62 FR 37338 (July 11, 1997), although these provisions were never finalized. Since we are proposing to update various other test methods via this notice, it is logical to consider sampling methodologies here as well.

Appendices D and G of 40 CFR Part 80 were adopted from the 1981 version of D 4057. Over time, however, ASTM has updated D 4057, and these changes are not reflected in Appendices D and G. For example, Appendix D addresses the collection of samples from a "tap" in the shell of a petroleum storage tank. The current requirement under Appendix D, reflective of D 4057–81, requires that taps extend at least three feet into the storage tank. See 11.3.1.1 of Appendix D. However, tap extensions are necessary only for heavy petroleum products (and not for gasoline and diesel fuel), and, furthermore, tap extensions are not possible with floating roof storage tanks that are commonly used today. As a result, EPA and regulated parties currently agree to waive the tap extension requirement on a case-by-case basis. Under D 4057–95(2000) sampling tap extensions are not required for light petroleum products such as gasoline and diesel fuel, so that if this ASTM procedure were adopted the tap extension issue would be resolved for all cases.

EPA is proposing to adopt three ASTM methods in addition to D 4057–95(2000) in order to include procedures that address a broad scope of sampling situations that are relevant to EPA's motor vehicle fuels programs. D 4177–95(2000) deals with automatic sampling of petroleum products, which is relevant under the anti-dumping regulations for refiners who produce conventional gasoline using an in-line blending operation where automatic sampling is necessary. Similarly, D 5842–95(2000) deals with sampling and sample handling for volatility measurement, which is relevant to determining compliance with the volatility standards in § 80.27 and the RFG standards in § 80.41. Last, D 5854–96(2000) deals with the creation of composite samples, which is relevant under the RFG and anti-dumping programs in certain situations involving imported gasoline where the gasoline from multiple ship compartments is treated as a single batch.

EPA believes it is appropriate to replace Appendices D and G with ASTM standard practices. The current ASTM practices reflect up to date procedures, which if followed would result in improved sample quality for regulatory purposes. In addition, the adoption of industry standard procedures would reduce regulatory burden because parties would be able to follow their customary practices when meeting regulatory requirements.

VI. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order."

EPA has determined that this regulation is a significant regulatory action under item (4) above. Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this a "significant regulatory action" within the meaning of the Executive Order. EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in

the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The proposed rule would establish a new April 15 receipt date by which terminals must physically begin receiving summer grade RFG, and is intended to help stabilize the supply of RFG during the spring RVP transition. This proposed rule also simplifies the existing blendstock accounting requirements at 40 CFR 80.102 and updates ASTM test methods to their most recent version. Thus, Executive Order 13132 does not apply to this proposed rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

C. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

On January 1, 2001, Executive Order 13084 was superseded by Executive Order 13175. However, this proposed rule was developed during the period when Executive Order 13084 was still in force, and so tribal considerations were addressed under Executive Order 13084. Development of the final rule will address tribal considerations under Executive Order 13175. Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This RFG terminal receipt date rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This proposed rule applies to gasoline refiners, blenders and importers that supply gasoline to RFG areas. Today's action proposes some changes that would modify the Federal RFG requirements, and does not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

D. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that has not more than 1,500 employees (13 CFR 121.201); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We have determined that no small entities will experience an impact from this proposal. RFG batch results reported for 2000 indicate that no winter grade RFG produced or imported from April 8 through April 30 was supplied by small businesses.

Although this proposed rule will not have a significant impact on a substantial number of small entities, EPA has nonetheless tried to reduce the impact of this rule on small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

E. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (OMB # 2060–0277, EPA ICR No. 1591.14) and a copy may be obtained from Susan Auby by mail at Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW, Washington, DC 20460, by e-mail at *farmer.sandy@epamail.epa.gov*, or by calling (202) 260–2740. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr*.

Under today's proposed rule, EPA is requiring refiners to keep certain records associated with the supply of RFG. However, EPA believes that this requirement will be met using documents created and kept for commercial business purposes; i.e., documents that show the movement of RFG to storage tanks and volume and parameter measurements. This requirement, therefore, is not expected to impose additional recordkeeping burdens on regulated parties.

Today's action also proposes to eliminate the current blendstock accounting provisions and instead requires only a small subset of refiners, and only under unusual situations, to submit a petition to EPA in order to transfer certain blendstocks. The information collection hour burden associated with the current blendstock accounting requirements is estimated to be 24 hours to track blendstock transfers and prepare each blendstock accounting report, and 80 hours to prepare a request for a waiver of the blendstock accounting requirements (under extreme or unusual circumstances). These burdens would be eliminated under this action. The petition requirement proposed under this action is estimated to be 3 hours to prepare each petition. The respondent cost associated with the current blendstock accounting requirement is estimated to be $60 per hour for blendstock tracking and preparation of each blendstock accounting report and blendstock accounting waiver request. The respondent cost per petition under this action is also estimated to be $60 per hour. The total information collection hour burden associated with the current blendstock provisions is estimated to be 4,680 hours per year. This is based on an estimate of 200 respondents at 24 hours for blendstock tracking and

preparation of blendstock accounting reports, and one respondent at 80 hours for preparation of blendstock accounting waiver requests. These burdens would be eliminated under this action. The information collection hour burden associated with the petition requirement potentially applicable to the small subset of refiners under this action is estimated to be a total of 15 hours, based on an estimated 5 respondents at 3 hours per petition. The total information collection hour burden, therefore, would be reduced by 4,865 hours (4,880 − 15). Based on previous experience with the RFG/anti-dumping program, EPA believes the estimates of the number of respondents both under the current rule and this action are likely to be the maximum number of respondents during an annual averaging period. The total cost burden associated with the current blendstock provisions is estimated to be $292,800 (4,880 hours × $60 per hour). This cost would be eliminated under this action. The total cost burden associated with the petition requirement applicable to the small subset of refiners included in today's rule is estimated to be $900 (15 hours × $60 per hour). As a result, today's rule would provide an overall reduction in cost burden of approximately $291,900 ($292,800 − $900). We request comment on this change in the information collection burden associated with anti-dumping compliance.

Regarding recordkeeping and reporting burdens, in a letter dated December 12, 2000, the National Petrochemical & Refiners Association (NPRA) commented on EPA's draft Information Collection Request for reformulated and conventional gasoline reporting. 65 FR 60939 (October 13, 2000). In the letter, NPRA made several requests relating to the RFG program's current information collection burden. Although today's proposed action does not address all of NPRA's requests, as discussed above, today's action would eliminate all of the current burden associated with the RFG program's anti-dumping blendstock accounting requirements. The current blendstock provisions impose substantial recordkeeping and reporting burdens on refiners who transfer blendstocks. These recordkeeping and reporting burdens may have had the effect of deterring refiners from transferring such blendstocks. Today's action would eliminate these burdens for all refiners. The information collection burden on the small subset of refiners who would be required to petition EPA under today's action would be minimal. We believe this reduction in information collection burden would result in a more free exchange of blendstocks.

OMB has approved the information collection requirements contained in the final RFG/anti-dumping rulemaking (See 59 FR 7716 (February 16, 1994) and has assigned OMB control number 2060–0277 (EPA ICR No. 1591.13). Upon promulgation of a final rule, ICR 1591.14 associated with this rule will be encompassed in the next renewal of ICR 1591.13.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after December 3, 2001, a comment to OMB is best assured of having its full effect if OMB receives it by January 2, 2002. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

F. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector. The proposed rule would impose no enforceable duty on any State, local or tribal governments or the private sector. This proposed rule applies to gasoline refiners, blenders and importers that supply gasoline to RFG areas.

G. Executive Order 13045: Children's Health Protection

Executive Order 13045: "Protection of Children from Environmental health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a

disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposal is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. National Technology Transfer and Advancement Act of 1995 (NTTAA)

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking involves environmental monitoring or measurement. Consistent with the Agency's Performance Based Measurement System ("PBMS"), EPA proposes not to require the use of specific, prescribed analytic methods. Rather, the Agency plans to allow the use of any method that meets the prescribed performance criteria. The PBMS approach is intended to be more flexible and cost-effective for the regulated community; it is also intended to encourage innovation in analytical technology and improved data quality. EPA is not precluding the use of any method. whether it constitutes a voluntary consensus standard or not, as long as it meets the performance criteria specified.

This proposed rule would update certain designated analytical test methods to their most recent ASTM version for the RFG program. Today's proposed action does not establish new technical standards or analytical test methods, although it does update certain ASTM test methods and sampling methods to their current versions. To the extent that this proposed action would allow the use of standards developed by voluntary consensus bodies (such as ASTM) this action would further the objectives of the NTTAA. The Agency plans to address the objectives of the NTTAA more broadly in an upcoming rulemaking to establish performance-based criteria for qualification of alternative analytical test methods.

I. Executive Order 13211 (Energy Effects)

This rule is not an economically "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it does not have a significant adverse effect on the supply, distribution, or use of energy. Although this rule will slightly decrease the volume of summer grade RFG produced from April 8 through April 30 by approximately 0.4 percent due to earlier production of summer grade RFG, the annual cost associated with this rule is less than $100 million. Also, this rule will provide for a smoother annual transition to summer RFG, which should help to alleviate seasonal pressures on gasoline supply. Moreover, EPA is allowing additional flexibility for refiners to transfer blendstocks, which should allow refiners to better respond to fluctuations in gasoline supply or demand.

VII. Statutory provisions and Legal Authority

Statutory authority for today's final rule comes from sections 211(c) and 211(k) of the CAA (42 U.S.C. 7545(c) and (k)). Section 211(c) allows EPA to regulate fuels that contribute to air pollution which endangers public health or welfare, or which impairs emission control equipment. Section 211(k) prescribes requirements for RFG and conventional gasoline and requires EPA to promulgate regulations establishing these requirements. Additional support for the procedural aspects of the fuels controls in today's rule comes from sections 114(a) and 301(a) of the CAA.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Imports, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: November 20, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble, part 80 of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7545 and 7601(a).

2. Section 80.8 is added to subpart A to read as follows:

§ 80.8 Sampling methods for gasoline and diesel fuel.

The sampling methods specified in this section shall be used to collect samples of gasoline and diesel fuel for purposes of determining compliance with the requirements of this part.

(a) *Manual sampling.* Manual sampling of tanks and pipelines shall be performed according to the applicable procedures specified in American Society for Testing and Materials (ASTM) method D 4057–95(2000), entitled "Standard Practice for Manual Sampling of Petroleum and Petroleum Products."

(b) *Automatic sampling.* Automatic sampling of petroleum products in pipelines shall be performed according to the applicable procedures specified in ASTM method D 4177–95(2000), entitled "Standard Practice for Automatic Sampling of Petroleum and Petroleum Products."

(c) *Sampling and sample handling for volatility measurement.* Samples to be analyzed for Reid Vapor Pressure (RVP) shall be collected and handled according to the applicable procedures in ASTM method D 5842–95(2000), entitled "Standard Practice for Sampling and Handling of Fuels for Volatility Measurement."

(d) *Sample compositing.* Composite samples shall be prepared using the applicable procedures in ASTM method D 5854–96(2000), entitled "Standard Practice for Mixing and Handling of Liquid Samples of Petroleum and Petroleum Products."

(e) *Incorporations by reference.* ASTM standard practices D 4057–95(2000), D 4177–95(2000), D 5842–95(2000), and D 5854–96(2000), are incorporated by reference. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Dr., West

Conshohocken, PA 19428. Copies may be inspected at the Air Docket Section (LE–131), room M–1500, U.S. Environmental Protection Agency, Docket No. A–97–03, 401 M Street, SW, Washington, DC 20460, or at the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, (202) 523–4534.

3. Section 80.27 is amended by revising paragraphs (b) and (d)(2) to read as follows:

§ 80.27 Controls and prohibitions on gasoline volatility.

* * * * *

(b) *Determination of compliance.* Compliance with the standards listed in paragraph (a) of this section shall be determined by the use of the sampling methodologies specified in § 80.8 and the testing methodology specified in § 80.46(c).

* * * * *

(d) * * *

(2) In order to quality for the special regulatory treatment specified in paragraph (d)(1) of this section, gasoline must contain denatured, anhydrous ethanol. The concentration of the ethanol, excluding the required denaturing agent, must be at least 9% and no more than 10% (by volume) of the gasoline. The ethanol content of the gasoline shall be determined by the use of one of the testing methodologies specified in § 80.46(g). The maximum ethanol content shall not exceed any applicable waiver conditions under section 211(f) of the Clean Air Act.

* * * * *

4. Section 80.28 is amended by revising paragraphs (g)(2)(ii) and (g)(4)(i) to read as follows:

§ 80.28 Liability for violations of gasoline volatility controls and prohibitions.

* * * * *

(g) * * *

(2) * * *

(ii) Test results using the sampling methodology set forth in § 80.8 and the testing methodology set forth in § 80.46(c), or any other test method where adequate correlation to § 80.46(c) of this part is demonstrated, which show evidence that the gasoline determined to be in violation was in compliance with the applicable standard when it was delivered to the next party in the distribution system.

* * * * *

(4) * * *

(i) Test results using the sampling methodology set forth in § 80.8 and the testing methodology set forth in § 80.46(c), or any other test method where adequate correlation to § 80.46(c) is demonstrated, which show evidence that the gasoline determined to be in violation was in compliance with the applicable standard when transported from the refinery.

* * * * *

5. Section 80.40 is amended by revising paragraph (c)(1) to read as follows:

§ 80.40 Fuel certification procedures.

* * * * *

(c)(1) "Adjusted VOC gasoline" for purposes of the general requirements in § 80.65(d)(2)(ii), and the certification procedures in this section is gasoline that contains 10 volume percent ethanol, or RBOB intended for blending with 10 volume percent ethanol, that is intended for use in the areas described at § 80.70(f) and (i), and is designated by the refiner as adjusted VOC gasoline subject to less stringent VOC standards in § 80.41(e) and (f). In order to for "adjusted VOC gasoline" to qualify for the regulatory treatment specified in § 80.41(e) and (f), reformulated gasoline must contain denatured, anhydrous ethanol. The concentration of the ethanol, excluding the required denaturing agent, must be at least 9% and no more than 10% (by volume) of the gasoline. The ethanol content of the gasoline shall be determined by use of one of the testing methodologies specified in § 80.46(g).

* * * * *

6. Section 80.46 is amended by revising paragraphs (b), (c), (d), (e)(1), (f)(2), (g) and (h) to read as follows:

§ 80.46 Measurement of reformulated gasoline fuel parameters.

* * * * *

(b) *Olefins.* Olefin content shall be determined using ASTM standard method D 1319–98, entitled "Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption."

(c) *Reid vapor pressure (RVP).* Reid vapor pressure (RVP) shall be determined using ASTM standard method D 5191–99, entitled "Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method)," except that the following correlation equation must be used:

$$RVP\ psi = (0.956 * X) - 0.347$$

$$RVP\ kPa = (0.956 * X) - 2.39$$

Where

X = total measured vapor pressure in psi or kPa

(d) *Distillation.* Distillation parameters shall be determined using ASTM standard method D 86–00a, entitled" Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure."

* * * * *

(f) * * *

(2)(i) Prior to September 1, 2004, any refiner or importer may determine aromatics content using ASTM standard method D 1319–99, entitled "Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Flourescent Indicator Adsorption," for purposes of meeting any testing requirement involving aromatics content; provided that

(ii) The refiner or importer test result is correlated with the method specified in paragraph (f)(1) of this section.

* * * * *

(g) *Oxygen and oxygenate content analysis.* (1) Oxygen and oxygenate content shall be determined using ASTM standard method D 5599–00, entitled "Standard Test Method for Determination of Oxygenates in Gasoline by Gas Chromatography and Oxygen Selective Flame Ionization Detection."

(2)(i) Prior to September 1, 2004, and when the oxygenates present are limited to MTBE, ETBE, TAME, DIPE, tertiary-amyl alcohol, and C1 to C4 alcohols, any refiner, importer, or oxygenate blender may determine oxygen and oxygenate content using ASTM standard method D 4815–99 entitled "Standard Test Method for Determination of MTBE, ETBE, TAME, DIPE, tertiary-Amyl Alcohol, and C1 to C4 Alcohols in Gasoline by Gas Chromatography," for purposes of meeting any testing requirement; provided that

(ii) The refiner or importer test result is correlated with the method specified in paragraph (g)(1) of this section.

(h) *Incorporations by reference.* ASTM standard methods D 3606–99, entitled "Standard Test Method for Determination of Benzene and Toluene in Finished Motor and Aviation Gasoline by Gas Chromatography;" D 1319–98, entitled "Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption;" D 1319–99, entitled "Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption;" D 4815–99, entitled "Standard Test Method for Determination of MTBE, ETBE, TAME, DIPE, tertiary-Amyl Alcohol and C_1 to C_4 Alcohols in Gasoline by Gas Chromatography;" D 2622–98, entitled "Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry;" D 5453–00, entitled "Standard Test

Method for Determination of Total Sulfur in Light Hydrocarbons, Motor Fuels, and Oils by Ultraviolet Fluorescence;" D 4045–99, entitled "Standard Test Method for Sulfur in Petroleum Products by Hydrogenolysis and Rateometric Colorimetry;" D 6428–98, entitled "Test Method for Total Sulfur in Liquid Aromatic Hydrocarbons and Their Derivatives by Oxidative Combustion and Electrochemical Detection;" D 3120–96 entitled "Standard Test Method for Trace Quantities of Sulfur in Light Petroleum Hydrocarbons by Oxidative Microcoulometry;" D 3246–96, entitled "Standard Test Method for Sulfur in Petroleum Gas by Oxidative Microcoulometry;" D 4468–85 (Re-approved 1995), entitled "Standard Test Method for Total Sulfur in Gaseous Fuels by Hydrogenolysis and Rateometric Colorimetry;" D 1266–98, entitled "Standard Test Method for Sulfur in Petroleum Products (Lamp Method)," D 6334–98, entitled "Standard Test Method for Sulfur in Gasoline by Wavelength Dispersive X-Ray Fluorescence;" D 5191–99, entitled, "Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method);" D 5599–00, entitled, "Standard Test Method for Determination of Oxygenates in Gasoline by Gas Chromatography and Oxygen Selective Flame Ionization Detection;" and D 86–00a, entitled, "Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure;" are incorporated by reference in this section. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society of Testing and Materials, 1916 Race Street, Philadelphia. PA 19103. Copies may be inspected at the Air Docket Section (LE–131), room M–1500, U.S. Environmental Protection Agency, Docket Nos. A–97–03, A–99–06, and A–2001–21, 401 M Street, SW, Washington DC 20460 or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

7. Section 80.65 is amended by revising paragraph (d)(3) to read as follows:

§ 80.65 General requirements for refiners, importers, and oxygenate blenders.

* * * * *

(d) * * *

(3) Every batch of reformulated or conventional gasoline or RBOB produced or imported at each refinery or import facility shall be assigned a number (the "batch number"), consisting of the EPA-assigned refiner, importer or oxygenate blender registration number, the EPA facility registration number, the last two digits of the year in which the batch was produced, and a unique number for the batch, beginning with the number one for the first batch produced or imported each calendar year and each subsequent batch during the calendar year being assigned the next sequential number (e.g., 4321–54321–95–000001, 4321–54321–95–000002, etc.).

* * * * *

8. Section 80.78 is amended by adding paragraph (a)(11) to read as follows:

§ 80.78 Controls and prohibitions on reformulated gasoline.

* * * * *

(a) * * *

(11) No persons except retailers and wholesale purchaser-consumers may take physical custody of reformulated gasoline or reformulated blendstock for oxygenate blending (RBOB) that is not VOC-controlled during the period April 15 through September 15 of each year.

* * * * *

9. Section 80.91 is amended by removing paragraph (a)(1)(iii) and removing the "; and" at the end of paragraph (a)(1)(ii) and replacing it with a period.

10. Section 80.92 is amended by revising the first sentence of paragraph (a)(1) to read as follows:

§ 80.92 Baseline auditor requirements.

(a) * * *

(1) Each refiner or importer is required to have its individual baseline determination methodology, resulting baseline fuel parameter, volume and emissions values verified by an auditor which meets the requirements described in this section. * * *

* * * * *

11. Section 80.101 is amended by removing and reserving paragraphs (d)(2) and (e)(2), and removing paragraph (h)(2)(iii), and revising paragraphs (h)(2)(i) and (ii) to read as follows:

§ 80.101 Standards applicable to refiners and importers.

* * * * *

(h) * * *

(2) * * *

(i) Be made as part of the report for the 1995 averaging period required by § 80.105; and

(ii) Apply for the 1995 averaging period and for each subsequent averaging period, and may not thereafter be changed.

* * * * *

12. Section 80.102 is revised to read as follows:

§ 80.102 Restrictions on transferring applicable blendstocks

(a) The following petroleum products are considered "applicable blendstocks" for purposes of this subpart E:

(1) Reformate;
(2) Light coker naphtha;
(3) FCC naphtha;
(4) Benzene/toluene/xylene;
(5) Pyrolysis gas;
(6) Aromatics;
(7) Polygasoline; and
(8) Dimate.

(b)(1) No refinery or importer whose 1990 baseline value for any emission performance, as determined in accordance with §§ 80.91 and 80.92, is more stringent than the anti-dumping statutory baseline value for that emission performance may transfer applicable blendstock(s) under paragraph (a) of this section to others in excess of five per cent of the refinery's or importer's total gasoline production (including conventional gasoline, reformulated gasoline and RBOB) during an annual averaging period, unless the refiner for the refinery or the importer petitions for and obtains approval from EPA to transfer such blendstock(s).

(2) A petition under paragraph (b)(1) of this section must include a demonstration that the transfer of blendstock(s) is for a legitimate operational purpose and not for the purpose of evading a more stringent baseline.

(3) The provisions of paragraph (b)(1) of this section do not apply in the case of a refinery or importer whose total gasoline production (including conventional gasoline, reformulated gasoline and RBOB) during the entire annual averaging period in which the blendstock transfers are made is equal to or greater than the refinery's or importer's 1990 baseline volume.

(c) Applicable blendstocks under paragraph (a) of this section may be excluded from the requirements of this section where the refiner or importer has sufficient evidence in the form of documentation that the blendstocks are:

(1) Exported;
(2) Used for other than gasoline blending purposes;
(3) Transferred to a refiner that used the blendstock as a "feedstock" in a refining process during which the blendstock underwent a substantial chemical or physical transformation; or
(4) Transferred between refineries that have been grouped pursuant to § 80.101(h) by a refiner for the purpose of determining compliance under this subpart;

(5) Used to produce California gasoline as defined in § 80.81(a)(2).

13. Section 80.104 is amended by revising paragraph (a)(1)(i) and removing and reserving paragraph (a)(2)(ix) to read as follows:

§ 80.104 Recordkeeping requirements.

* * * * *

(a) * * *

(1) * * *

(i) Each batch of conventional gasoline; and

* * * * *

14. Section 80.105 is amended by removing and reserving paragraphs (a)(2) and (a)(3).

15. Section 80.106 is amended by removing and reserving paragraph (b).

16. Section 80.128 is amended by removing paragraphs (h) and (i).

Appendix D—[Reserved.]

17. Appendix D is removed and reserved.

Appendix E to Part 80—[Reserved.]

18. Appendix E is removed and reserved.

Appendix F to Part 80—[Reserved.]

19. Appendix F is removed and reserved.

Appendix G to Part 80—[Reserved.]

20. Appendix G is removed and reserved.

[FR Doc. 01–29777 Filed 11–30–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 61

RIN 3067–AD27

National Flood Insurance Program (NFIP); Increased Rates for Flood Coverage

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: We (the Federal Insurance and Mitigation Administration of FEMA) propose to increase the amount of premium policyholders pay for flood insurance coverage under the NFIP for "pre-FIRM" buildings in coastal areas subject to high velocity waters, such as storm surges, and wind-driven waves ("V" zones). (The term "pre-FIRM buildings" means buildings whose construction began on or before December 31, 1974, or the effective date of the community's Flood Insurance Rate Map (FIRM), whichever date is later. Most pre-FIRM buildings and their contents are eligible for subsidized rates under the NFIP.) We propose this rate increase to bring the premiums we currently charge for pre-FIRM, V-zone properties more in line with their actual risk.

DATES: We invite comments on this proposed rule, which we should receive on or before January 2, 2002.

ADDRESSES: Please submit any written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., room 840, Washington, DC 20472, (facsimile) 202–646–4536, or (e-mail) *rules@fema.gov*.

FOR FURTHER INFORMATION CONTACT: Thomas Hayes, Federal Emergency Management Agency, Federal Insurance and Mitigation Administration, 500 C Street SW., Washington, DC 20472, 202–646–3419, (facsimile) 202–646–7970, or (e-mail) *Thomas.Hayes@fema.gov*.

SUPPLEMENTARY INFORMATION:

Background

On March 17, 1999, we published at 64 FR 13115 a final rule that increased the subsidized premiums rates for "pre-FIRM" buildings in V-zones—areas subject to high velocity waters, such as storm surges and wind-driven waves. (We use the term "pre-FIRM" to describe construction that was started on or before December 31, 1974, or the effective date of the Flood Insurance Rate Map (FIRM) for a community, whichever date is later. The premium rates we charge for flood insurance coverage on pre-FIRM buildings are less than full-risk premiums.) This is how we summarized our reasons for the increase in 1999 at 64 FR 13116:

"In summary, we believe that targeting a particularly risky class of properties with higher premium rates supports FEMA's overall program of loss reduction. It more accurately reflects the loss exposure of pre-FIRM, V-zone properties, which are at a greater exposure to flood loss than pre-FIRM, A-zone properties. Also, it helps make policyholders aware of the danger of their V-zone properties."

Currently, the rates for pre-FIRM, V-zone properties that apply to the first-layer limits of flood insurance coverage established by 42 U.S.C. 4013 are roughly twenty percent higher than the equivalent rates for pre-FIRM, A-zone properties. (For example, first layer coverage for single-family dwellings amounts to $35,000 out of $250,000—the maximum amount available for such structures under the National Flood Insurance Program.) We believe that the difference in loss exposure between these two groups of risks is much greater than that. Therefore, we are proposing a further increase in the pre-FIRM, V-zone rates.

Section 572 of the National Flood Insurance Reform Act of 1994, Pub. L. 103–325, 42 U.S.C. 4015, however, imposes the following annual limitation on rate increases under the NFIP:

"Notwithstanding any other provision of this title, the chargeable risk premium rates for flood insurance under this title for any properties within any single risk classification may not be increased by an amount that would result in the average of such rate increases for properties within the risk classification during any 12-month period exceeding 10 percent of the average of the risk premium rates for properties within the risk classification upon commencement of such 12-month period." (42 U.S.C. 4015)

Our proposed rate increase for such properties would comply with this statutory limitation on annual rate increase under the NFIP.

Statutory Mandates for Setting Flood Insurance Premiums

The Flood Disaster Protection Act of 1973 requires us to charge full-risk premiums for flood insurance coverage on buildings when their construction began after December 31, 1974, or on or after the effective date of the Flood Insurance Rate Map, if the second date is later. (We call such construction "post-FIRM" construction.)

The Flood Disaster Protection Act of 1973 also authorizes us to apply chargeable premiums to pre-FIRM property and gives FEMA flexibility to set the flood insurance rates for such property. The legislation calls for us to balance the need to offer reasonable rates that encourage people to buy flood insurance with the statutory goal to distribute burdens fairly between all who will be protected by flood insurance and the general public.

Proposed Changes and Their Purposes

We are proposing to increase the current subsidized rates we charge for the initial limits of coverage under the NFIP for pre-FIRM properties in "V" zones on FEMA's FIRMs. ("V" zones represent coastal areas subject to high velocity water such as wind-driven waves from storms or tidal surges that are extremely hazardous to people and property.) Currently, these premium rates are about twenty percent higher than the equivalent rates we charge for pre-FIRM, A-zone zone properties. We are proposing to further increase the rates we charge for V-zone, pre-FIRM properties to bring them more in line with their greater exposure to flood losses.

Currently, the sum of the premium and other administrative fees one pays for flood insurance on subsidized pre-FIRM properties is less than our expected expenses and loss payments. This applies especially to pre-FIRM, V-zone properties.

Subsidized Rate Increases in the Past

We have increased the chargeable or subsidized premium rates four times during the program's history for the same reason that we are proposing this rule: to distribute burdens fairly among all who will be protected by flood insurance and to reduce the burden on the general public. The changes proposed in this rule for pre-FIRM, V-zone properties would move us closer toward that goal by bringing subsidized premiums charged for buildings in extremely hazardous areas more in line with the actual risk.

Comparison of Proposed Rate Increases With Current Rates

The following chart compares the current rates we charge for pre-FIRM, V-zone properties with the proposed rate increases for pre-FIRM, V-zone properties. The rates for pre-FIRM, A-zone properties would be unaffected by this proposal. Also these proposed increases apply only to the rates charged for the "first layer" of flood insurance coverage set by Congress in Section 1306 of the National Flood Insurance Act of 1968, as amended (Pub. L. 90–448):

Type of structure	Current V Zone [1] rates per year per $100 coverage on:		Proposed V Zone rates per year per $100 coverage on:	
	Structure	Contents	Structure	Contents
1. Residential:				
No Basement or Enclosure	.82	.95	.91	1.06
With Basement or Enclosure	.88	.95	.98	1.06
2. All other including hotels and motels with normal occupancy of less than 6 months duration:				
No basement or Enclosure	.95	1.90	1.06	2.10
With basement or Enclosure	1.01	1.90	1.12	2.10

[1] V Zones are Zones V1–V30, VE, and unnumbered V Zones.

National Environmental Policy Act (NEPA)

Pursuant to section 102(2) (C) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4317 *et seq.*, we are conducting an environmental assessment of this proposed rule. The assessment will be available for inspection through the Rules Docket Clerk, Federal Emergency Management Agency, room 840, 500 C St. SW., Washington, DC 20472.

Executive Order 12866, Regulatory Planning and Review

We have prepared and reviewed this proposed rule under the provisions of E.O. 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to OMB review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

For the reasons that follow we have concluded that the proposed rule is neither an economically significant nor a significant regulatory action under the Executive Order. The rule would result in a modest increase in premiums for V-zone, pre-FIRM buildings and their contents. The adjustment in premiums rates would increase by slightly less than $3 million the amount of premium collected and deposited in the National Flood Insurance Fund each year. It would not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, the insurance sector, competition, or other sectors of the economy. It would create no serious inconsistency or otherwise interfere with an action taken or planned by another agency. It would not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Nor does it raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The Office of Management and Budget has not reviewed this proposed rule under the provisions of Executive Order 12866.

Paperwork Reduction Act

This rule does not contain a collection of information and is therefore not subject to the provisions of the Paperwork Reduction Act.

Executive Order 13132, Federalism

Executive Order 13132 sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

We have reviewed this proposed rule under E.O. 13132 and have determined that the rule does not have federalism implications as defined by the Executive Order. The rule would adjust the premiums for pre-FIRM buildings in V-zone areas. The rule in no way that we foresee affects the distribution of power and responsibilities among the various levels of government or limits the policymaking discretion of the States.

List of Subjects in 44 CFR Part 61

Flood insurance.

Accordingly, we propose to amend 44 CFR part 61 as follows:

PART 61—INSURANCE COVERAGE AND RATES

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. Revise § 61.9 to read as follows:

§ 61.9 Establishment of chargeable rates.

Under section 1308 of the Act, we are establishing annual chargeable rates for each $100 of flood insurance coverage as follows for pre-FIRM, A zone properties, pre-FIRM, V-zone properties, and emergency program properties.

Type of structure	A Zone rates [1] per year per $100 coverage on:		V Zone rates [2] per year per $100 coverage on:	
	Structure	Contents	Structure	Contents
1. 1. Residential:				
No Basement or Enclosure	.68	.79	.91	1.06
With Basement or Enclosure	.73	.79	.98	1.06
2. All other including hotels and motels with normal occupancy of less than 6 months duration:				
No basement or Enclosure	.79	1.58	1.06	2.10
With basement or Enclosure	.84	1.58	1.12	2.10

[1] A Zones are zones A1–A30, AE, AO, AH, and unnumbered A Zones
[2] V Zones are zones V1–V30, VE, and unnumbered V Zones

Dated: November 26, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–29747 Filed 11–30–01; 8:45 am]

BILLING CODE 5718–03–P

Notices

Federal Register
Vol. 66, No. 232
Monday, December 3, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Center for Nutrition Policy and Promotion; Agency Information Collection Activities; Proposed Collection; Comment Request—Consumer Food Guide Pyramid Study

AGENCY: Center for Nutrition Policy and Promotion, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on a proposed information collection. This notice announces the Center for Nutrition Policy and Promotion's intention to request the Office of Management and Budget approval of the information collection instruments to be used during consumer research with focus groups of consumers to identify key issues of concern related to understanding and use of the Food Guide Pyramid. The information collected will be used in the reassessment and potential revision of the Food Guide Pyramid.

DATES: Written comments on this notice must be submitted on or before February 1, 2002.

ADDRESSES: Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the propose collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Carole Davis, Nutrition Promotion Staff Director, Center for Nutrition Policy and Promotion, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1034, Alexandria Virginia, 22302.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval, All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Patricia Britten, (703) 305–2477.

SUPPLEMENTARY INFORMATION:

Title: Consumer Food Guide Pyramid Study.

OMB Number: Not assigned yet.

Expiration Date: Not applicable.

Type of Request: New collection of information.

Abstract: The U.S. Department of Agriculture's Food Guide Pyramid is designed to help all healthy Americans two years of age and over implement the Dietary Guidelines for Americans. The proposed qualitative consumer research will describe consumers' understanding and use of the Food Guide Pyramid along with possible barriers to following the Pyramid's guidance. This study involves eighteen focus group sessions, 6 with general consumers and 4 each with the elderly, overweight, and food stamp recipients, to explore how consumers understand the concepts and messages of the consumer brochure and graphic illustration of the Food Guide Pyramid. The study will also obtain feedback on how and to what extent consumers use the Pyramid to make food choices, and will help to identify any barriers they face in applying Pyramid recommendations to their food choices. The information gathered along with additional information will be used by USDA in the reassessment and potential revision of the Food Guide Pyramid, and in message development and other communications efforts used to promote the Pyramid.

Affected Public: Adult Consumers.

Estimated Number of Respondents: 180.

Estimated Time Per Response: 2 hours.

Estimated Total Annual Burden on Respondents: 360 hours.

Dated: November 28, 2001.

Steven N. Christensen,

Acting Deputy Director, Center for Nutrition Policy and Promotion.

[FR Doc. 01–29852 Filed 11–30–01; 8:45 am]
BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Advisory Committee on Emerging Markets: Nominations.

SUMMARY: Notice is hereby given that nominations are being sought for qualified persons to serve on the Advisory Committee on Emerging Markets. The role of the committee is to provide information and advice, based upon knowledge and expertise of the members, useful to the U.S. Department of Agriculture (USDA) in implementing the Emerging Markets Program. The committee also advises USDA on ways to increase the involvement of the U.S. private sector in cooperative work with emerging markets in food and rural business systems and reviews proposals submitted to the Program for funding technical assistance activities.

DATES: Written nominations must be received by the Foreign Agricultural Service (FAS) before or at the close of business January 2, 2002.

ADDRESSES: All nominating materials should be sent to Mr. Douglas Freeman, Foreign Agricultural Service, Room 4932–Stop 1042, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–1042. Forms may also be submitted by fax to (202) 720–9361.

FOR FURTHER INFORMATION CONTACT: Persons interested in serving on the Advisory Committee on Emerging Markets or in nominating individuals to serve, should contact FAS by telephone (202) 720–4327, by fax (202) 720–9361, by mail (Mr. Douglas Freeman, Foreign Agricultural Service, Room 4932—Stop 1042, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250–1042), or by electronic mail to *emo@fas.usda.gov* and request Form AD–755 and Form SF–181. Form AD–755 is required and is available at the FAS home page: *http://www.fas.usda.gov/admin/*

ad755.pdf. Form SF–181 is requested but optional, and is available at *http://www.fas.usda/admin/sf181.pdf*.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Emerging Markets is authorized by section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624), as amended. The overall purpose of the Committee is "to provide the Secretary with information that may be useful * * * in carrying out the provisions of [the Emerging Markets Program]." The Committee is to be composed of representatives of the various sectors of the food and rural business systems of the United States. More information about the purpose and function of the Advisory Committee may be found at the FAS/Emerging Markets Program Web site: *http://www.fas.usda.gov/mos/em-markets/acem.html*. The members of the Advisory Committee are appointed by the Secretary of Agriculture and serve at the discretion of the Secretary. Committee members serve without compensation, but can receive reimbursement for travel expenses to attend Committee meetings if requested, in accordance with USDA travel regulations.

The Committee has a balanced membership of up to 20 members, representing a broad cross-section of the U.S. agricultural and agribusiness industry. All appointments will expire two years from the date of appointment. The Secretary may renew an appointment for one or more additional terms.

Most meetings will be held in Washington, DC, though other locations may be selected on an occasional basis. Committee meetings will be open to the public, unless the Secretary of Agriculture determines that the Committee will be discussing issues the disclosure of which justify closing all or a portion of a meeting, in accordance with 5 U.S.C. 552(c).

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, physical handicap, marital status, or sexual orientation. To ensure that the work of the Committee takes into account the needs of the diverse groups served by the Department of Agriculture, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the interest of minorities, women, and persons with disabilities.

Members are selected primarily for their experience, expertise and knowledge of international agriculture and of trade and development issues as they affect emerging markets. No person, company, producer, farm organization, trade association, or other entity has a right to representation on the Committee. In making selections, every effort will be made to maintain balanced representation of the various broad industries within the United States, and of a geographic diversity as well.

Signed at Washington, DC, November 26, 2001.

Mary T. Chambliss,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 01–29876 Filed 11–30–01; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

North End Sheep Allotment Range Analysis, Caribou-Targhee National Forest, Caribou and Bonneville Counties, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Soda Springs Ranger District, Caribou-Targhee National Forest, will be preparing an Environmental Impact Statement (EIS) to analyze the effects to grazing on several sheep allotments. Allotment Management Plans for the following sheep allotments; Bald Mountain, Barnes Creek, Black Canyon, Bridge Creek, Comb Creek, Deep Creek, Eagle Creek-Morgan Meadow, Hell Creek, Keenan City, Little Elk Mountain, Miners Delight, Pole Creek, Spring Creek, Squaw Creek, Taylor Creek, West Jensen and Wolverine-Kirk will be updated based on the analysis. All of these allotments are located on the North end of the Caribou Range in Townships 2–5 South, Ranges 43–46 East, Boise Meridian, within Caribou and Bonneville Counties. An EIS will be prepared to display the effects of sheep grazing on these allotments. Public comments will be used to develop issues and alternative management systems. The purpose for this project is to assess current conditions on the allotments and ensure that riparian and upland vegetation are meeting Forest Plan objectives and other applicable laws and regulations. The EIS will outline standards and guidelines for livestock management, which will be used to revise Allotment Management Plans for each allotment. The EIS and subsequent revision of the Allotment Management Plans will bring these allotments into compliance with Public Law 104, the Caribou National Forest Land and Resource Management Plan, and other applicable laws and regulations. The decision to be made by the District Ranger is what changes need to be made for future livestock management within the boundaries of these allotments.

DATES: Written comments concerning the analysis should be received within 30 days of the date of publication of this notice in the **Federal Register**.

ADDRESSES: Send written comments to Soda Springs Ranger District, Attn: David Whittekiend, 421 West 2nd South, Soda Springs, Idaho 83276. The responsible official for this decision is David Whittekiend, District Ranger.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed action and EIS should be directed to Derek Hinckley, Range Management Specialist, at (208) 547–4356.

SUPPLEMENTARY INFORMATION: The EIS and subsequent revision of the Allotment Management Plans will bring these allotments into compliance with Public Law 104, the Caribou National Forest Land and Resource Management Plan, and other applicable laws and regulations.

Initial scoping and issue development identified the following tentative issues: riparian/fisheries, wildlife, vegetation and watershed/soils.

The Forest Service has previously scoped this project in February of 2001. If you have already commented, your comments are part of the record and will be considered in determining issues, and alternatives. The Forest Service invites written comments and suggestions on the issues related to the proposal and the area being analyzed. Information received will be used in preparation of the Draft EIS and Final EIS. For most effective use, comments should be submitted to the Forest Service within 30 days from the date of publication of this Notice in the **Federal Register**.

Agency representatives and other interested people are invited to visit with Forest Service officials at any time during the EIS process. Two specific time periods are identified for the receipt of formal comments on the analysis. The two comment periods are, (1) during the scoping process, the next 30 days following publication of this Notice in the **Federal Register**, and (2) during the formal review period of the Draft EIS.

The Draft EIS is estimated to be filed with the Environmental Protection Agency (EPA) and available for public review in August of 2002. At that time,

the EPA will publish an availability notice of the Draft EIS in the **Federal Register**.

The Forest Service estimates the Draft EIS will be filed within 10 months of this Notice of Intent, approximately August of 2002. The Final EIS will be filed within 6 months of that date, approximately December of 2002.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and intentions.

Vermont Yankee Nuclear Power Corp. v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Court of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft environmental impact statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered: however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that under the FOIA, confidentiality may be granted in only very limited circumstances such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

Dated: November 26, 2001.

David C. Whittekiend,

Soda Springs Ranger District.

[FR Doc. 01–29836 Filed 11–30–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Squirrel Meadows-Grand Targhee Land Exchange; Caribou-Targhee National Forest, Teton County, WY

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a Supplemental Environmental Impact Statement.

SUMMARY: The U.S. Department of Agriculture, Forest Service will prepare a Supplemental Environmental Impact Statement (SEIS) to comply with Idaho District Court Judge Winmill's Judgment and Memorandum Decision dated August 8, 2001 in Civil Case Number 01–0176–E–BLW. These documents are available at the District Court of Idaho's Remote Access to Court Electronic Records (RACER) Web page *http://www.id.uscourts.gov/* or upon request from the Forest Service.

The Forest Service proposes to acquire 400 acres of private land at Squirrel Meadows that is considered to be important habitat for the threatened grizzly bear and other wildlife for 120 acres of National Forest System lands at the base of the Grand Targhee Ski and Summer Resort. The proposed action remains essentially the same as in the Final Environmental Impact Statement for the Squirrel Meadows-Grand Targhee Land Exchange, dated December of 2000. In the FEIS the proposal was to exchange up to 158 acres of NFS lands at Grand Targhee; however, in the Record of Decision, the acreage was reduced to 120 acres to balance the appraised values.

DATES: Written comments concerning the analysis required by the Judgment and Memorandum Decision should be received within 15 days of the date of publication of this notice in the **Federal Register**. The Forest Service estimates the Draft SEIS will be filed in February of 2002. The Final SEIS will be filed within 3 months of that date, approximately May of 2002.

ADDRESSES: Send written comments to Caribou-Targhee National Forest Headquarters, Attn: Lisa Klinger, 1405 Hollipark Drive, Idaho Falls, Idaho 83401. The responsible official for this decision is Jerry Reese, Caribou-Targhee National Forest Supervisor.

FOR FURTHER INFORMATION CONTACT: Copies of the December 2000 Final EIS and Record of Decision (ROD) for the Squirrel Meadows-Grand Targhee land Exchange can be obtained by contacting the Caribou-Targhee National Forest Headquarters Office at (208) 557–5760 or the Teton Basin Ranger District at (208) 354–2312. Questions concerning the proposed action and SEIS should be directed to Lisa Klinger, Recreation Specialist, at (208) 557–5760 or Cheryl Probert, Forest Planner, at (209) 557–5821.

SUPPLEMENTARY INFORMATION: Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered: however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27 (d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that under the FOIA, confidentiality may be granted in only very limited circumstances such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the

submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested in this proposed action participate at this time. To be most helpful, comments on the draft environmental impact statement should be a specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed. (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviews of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaning and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completing of the final environmental impact statement. *City of Angoon* v. *Hodel,* (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections area made available to the Forest Service at time when it can meaningfully consider them and respond to them in the final.

Dated: November 26, 2001.

Jerry B. Reese,

Caribou-Targhee Forest Supervisor.

[FR Doc. 01–29837 Filed 11–30–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Black Ant Fire Salvage EIS—Lewis and Clark National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement on a proposal to salvage fire killed trees on approximately 1,000 acres on the Lewis and Clark National Forest, in Meagher County, Montana. The Lost Fork Fire burned an estimated 2,300 acres in September of 2001. A preliminary assessment indicated about ⅓ of the burned area contains trees of commercial value. In order to further the purposes of the National Environmental Policy Act and to provide full disclosure of effects, the analysis will be documented in an Environmental Impact Statement (EIS).

DATES: Comments concerning the scope of the analysis, issues, the alternatives, and evaluation of alternatives are requested. A draft document will be provided upon request.

ADDRESSES: Send written comments to Rick Prausa, Forest Supervisor, Lewis and Clark National Forest, 1101 15th Street North, Box 869, Great Falls, MT 59403. Electronic mail may be sent to *rl lewisclark comments@fs.fed.us* (**Note:** there are spaces before and after lewisclark.)

FOR FURTHER INFORMATION CONTACT: Scott Hill, EIS Team Leader, Judith Ranger District, POB 484, Stanford MT, 59479. Phone: (406) 566–2292, Electronic Mail: *shill02@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The Forest Service proposes to salvage fire-killed trees of commercial value on approximately 1,000 acres in the North Fork of the Musselshell and the North Fork of the Smith River drainages on the Lewis and Clark National Forest. The entire project area covers about 2,300 acres in the central portion of the Little Belt Mountains. The purposes of the proposed action is to make use of trees of commercial value while the opportunity exists. No salvage or road construction within identified roadless areas is proposed.

Decisions To Be Made: The Forest Supervisor will decide whether and where salvage activities would take place in the project area. He will decide the number of acres, if any, on which salvage would take place and the treatment methods to be used. He will decide when any management activities would take place, what mitigation measures would be implemented to address concerns, and whether the action requires amendment(s) to the Lewis and Clark Forest Plan

Responsible Official: Rick Prausa, Forest Supervisor, is the Responsible Official for making the decision to implement any of the alternatives evaluated. He will document his decision and rationale in a Record of Decision.

Preliminary Issues: Issues associated with salvage harvest that have been identified during scoping and development of proposed action include impacts of proposed activities on wildlife and fish species and their habitat and soil resources.

Public Involvement, Rationale, and Public Meetings: Scoping for this project will begin in October 2001. A letter will be sent to individuals requesting their comment on the proposed action. A 45-day review period for comments on the Draft EIS will be provided. Comments received will be considered and included in documentation of the Final EIS. The public is encouraged to take part in the process and to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service has sought and will continue to seek information, comments and assistance from Federal, State and local agencies and other individuals or organizations who may be interested in, or affected by, the proposed action.

Electronic Access and Filing Addresses: Comments may be sent by electronic mail (e-mail) to *rl lewisclark comments@fs.fed.us.* Please reference the Black Ant Salvage EIS on the subject line. Also, include your name and mailing address with your comments so documents pertaining to this project may be mailed to you.

Estimated Dates for Filing: The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by February, 2002. At that time EPA will publish a Notice of Availability of the draft EIS in the **Federal Register.** The comment period on the draft EIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**. It is very important that those interested in the management of this area participate at that time.

The final EIS is scheduled to be completed by May, 2002. In the final EIS, the Forest Service will respond to comments received during the comment period that pertain to the environmental consequences of the action, as well as those pertaining to applicable laws, regulations, and policies. These will be considered in making a decision regarding the proposal.

The Reviewers Obligation To Comment: The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statement must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmetnal objections that could be

raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F.Supp. 1334, 1338 (E.D. Wis. 1980). As shown by these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: November 27, 2001.

Rick Prausa,

Lewis and Clark Forest Supervisor.

[FR Doc. 01–29841 Filed 11–30–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

South Texas Electric Cooperative, Inc.; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from South Texas Electric Cooperative (STEC) for assistance from RUS to finance the construction and operation of a 177 MW combined-cycle combustion turbine generation facility in Victoria County, Texas.

FOR FURTHER INFORMATION CONTACT: Dennis E. Rankin, Environmental Protection Specialist, RUS, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone: (202) 720–1953 or e-mail: *drankin@rus.usda.gov*.

SUPPLEMENTARY INFORMATION: STEC is proposing to construct a combined-cycle combustion turbine generation plant at the existing Sam Rayburn Plant which is located in Nursery, Texas. The 177 MW capacity project would consist of three combustion turbine units connected to a single combined-cycle unit. Approximately 5.5 acres of the existing site will be needed for the proposed project. The existing plant infrastructure will be utilized for this new generation addition including existing gas lines, cooling water ponds and switchyard.

Copies of the Environmental Assessment and FONSI are available for review at, or can be obtained from, RUS at the address provided herein, or from Mr. John Packard, STEC, FM 447, Nursery, Texas 77976, telephone: (361) 575–6491.

Dated: November 26, 2001.

Blaine D. Stockton,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 01–29877 Filed 11–30–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 (2001) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than the last day of December 2001, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in December for the following periods:

	Period
Antidumping Duty Proceedings	
Brazil:	
Certain Carbon Steel Butt-Weld Pipe Fittings, A–351–602	12/1/00–11/30/01
Silicomanganese, A–351–824	12/1/00–11/30/01
Chile: Certain Preserved Mushrooms,A–337–804	12/1/00–11/30/01
India: Stainless Steel Wire Rod, A–533–808	12/1/00–11/30/01
Japan:	
Drafting Machines and Parts Thereof, A–588–811	12/1/00–11/30/01
Polychloroprene Rubber, A–588–046	12/1/00–11/30/01
P.C. Steel Wire Strand, A–588–068	12/1/00–11/30/01
Vector Supercomputers, A–588–841[1]	10/1/00–9/30/01
Mexico: Porcelain-on-Steel Cooking Ware, A–201–504	12/1/00–11/30/01
Republic of Korea: Welded ASTM A–312 Stainless Steel Pipe, A–580–810	12/1/00–11/30/01
Taiwan:	
Carbon Steel Butt-Weld Pipe Fittings, A–583–605	12/1/00–11/30/01
Porcelain-On-Steel Cooking Ware, A–583–508	12/1/00–11/30/01
Welded ASTM A–312 Stainless Steel Pipe, A–583–815	12/1/00–11/30/01

	Period
The People's Republic of China:	
Cased Pencils, A–570–827	12/1/00–11/30/01
Porcelain-on-Steel Cooking Ware, A–570–506	12/1/00–11/30/01
Silicomanganese, A–570–828	12/1/00–11/30/01
Countervailing Duty Proceedings	
None	
Suspension Agreements	
None	

[1] On October 1, 2001 (66 FR 49923) this order was inadvertently listed in the opportunity notice for October cases. This case has been revoked and the effective date of the revocation is 1/1/2000.

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Duty Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of December 2001. If the Department does not receive, by the last day of December 2001, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: November 27, 2001.

Holly A. Kuga,

Senior Office Director, Group II, Office 4, Import Administration.

[FR Doc. 01–29895 Filed 11–30–01; 8:45 am]

BILLING CODE 3510–DS–F

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Initiation of Five-Year ("Sunset") Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of five-year ("sunset") reviews.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating a five-year ("sunset") review of the suspended antidumping investigation listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notice of *Institution of Five-Year Review* covering this same suspended investigation.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–5050, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205–3176.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the "Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("Department") regulations are to 19 CFR part 351 (2001). Pursuant to sections 751(c) and 752 of the Act, an antidumping ("AD") or countervailing duty ("CVD") order will be revoked, or the suspended investigation will be terminated, unless revocation or termination would be likely to lead to continuation or recurrence of (1) dumping or a countervailable subsidy, and (2) material injury to the domestic industry.

The Department's procedures for the conduct of sunset reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Background

Initiation of Review

In accordance with 19 CFR 351.218 we are initiating a sunset review of the following suspended investigation:

DOC case No.	ITC case No.	Country	Product
A–588–839	731–TA–740	Japan	Sodium Azide

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* (19 CFR 351.218) and *Sunset Policy Bulletin*, the Department's schedule of sunset reviews, case history information (*i.e.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset Internet website at the following address: *"http://ia.ita.doc.gov/sunset/"*.

All submissions in this sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303. Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. The Department will make additions to and/or deletions from the service list provided on the sunset website based on notifications from parties and participation in this review. Specifically, the Department will delete from the service list all parties that do not submit a substantive response to the notice of initiation.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order ("APO") immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties (defined in 19 CFR 351.102) wishing to participate in this sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of sunset reviews.[1] Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: November 27, 2001.

Richard W. Moreland,

Acting Assistant Secretary, for Import Administration.

[FR Doc. 01–29893 Filed 11–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–868]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or John Drury, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0405, and (202) 482–0195, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Preliminary Determination

We preliminarily determine that folding metal tables and chairs ("FMTC") from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

This investigation was initiated on May 17, 2001. See Initiation of Antidumping Duty Investigation: Folding Metal Tables and Chairs from the People's Republic of China, 66 FR 28728, May 24, 2001 ("Notice of Initiation"). The Department set aside a period for all interested parties to raise issues regarding product coverage. See Notice of Initiation at 28730. We received comments regarding product coverage as follows:

(1) Cosco, Inc. (an importer of the merchandise under investigation) suggested on June 6, 2001, that folding tables and folding chairs should be considered as primarily of metal only if at least two structural components consist entirely of metal;

(2) Meco Corporation (the petitioner) responded on June 18, 2001, that Cosco's suggested clarification was an impermissible attempt to change the intended scope of the investigation to exempt merchandise that the petition expressly covers, and to permit future

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation, 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

circumvention of antidumping duty order through minor alterations; and

(3) On October 5, 2001, National Public Seating Corp. ("NPSC"), an importer, asked that certain double-hinged chairs be excluded from the scope. On October 26, 2001, Meco responded that the petition expressly covers the type of chair NPSC sought to exclude.

On June 11, 2001, the United States International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of the subject merchandise from the PRC, which was published in the **Federal Register** on June 15, 2001. See Certain Folding Metal Tables and Chairs From China, 66 FR 32644.

On June 21, 2001, the Department issued a questionnaire requesting volume and value of U.S. sales information to the Embassy of the PRC and to the Ministry of Foreign Trade and Economic Development, and sent courtesy copies to the following known producers/exporters of subject merchandise identified in the petition: Dongguan Shichang Metals Factory Co., Ltd., Xiamen New-Tec Jcc Co., Ltd., Samwise Hardware Products Factory, Office Max, Inc., Fujian Anxi Yinfa Handicrafts Co., Ltd., Shin Crest (Div. Taiwan Shin Yeh Enterprise Co.), Shian International Co., Tian Jian Industries (Group) Co. Ltd., China National Aero-Technology Import & Export Corp., Numark Industries Co., Ltd., Sun Son Trading Co. (Agent of Supper Chair Enterprise Co., Ltd.), Fujian Province Materials General Co., Xiaguang Industry Co., Ltd., China North Industries Guangzhou, Ningbo United Group Co., Ltd., China Precision Machinery, Xiamen Xiangjiang Imp. and Exp. Corp., Wuxi East Grace Garments Imp. Exp. Corp., Mitex International (H K) Ltd., and Nanhai Hongda Metal Products Co., Ltd. Additionally, we notified the PRC Government that it was responsible for ensuring that volume and value information for those companies and for all other companies not identified in our list be provided to the Department.

A timely response to the Department's questionnaire seeking volume and value of U.S. sales information was received on July 9, 2001, from Dongguan Shichang Metals Factory Co. Ltd. ("Dongguan"). Because Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd. ("Feili Group"), New-Tec Integration Co., Ltd. ("New-Tec") and Shin Crest Pte. Ltd. ("Shin Crest") did not file public versions of their original submissions in proper form on July 6 and 9, 2001, respectively, we rejected these submissions, but indicated they would be accepted if refiled in proper form. They were refiled in proper form on July 13, 2001, by Shin Crest and on July 16, 2001, by Feili Group and New-Tec. On August 3, 2001, the Department issued the respondent selection memorandum, selecting Feili Group and Shin Crest to be investigated (see Selection of Respondents section below). Additional responses were received on August 9, 2001, from Himark Industry Corp. Ltd. and on September 13, 2001, from Supper Chair Enterprise Co., Ltd., which were rejected by the Department as untimely.

On July 12, 2001, Meco proposed product characteristics. On August 6, 2001, the Department issued its antidumping questionnaire to Feili Group and Shin Crest and a letter to interested parties providing an opportunity to comment on the Department's proposed product characteristics. Comments were submitted on August 13, 2001 by Cosco proposing additional characteristics, which were not accepted by the Department.

On August 7, 2001, the Department received requests from Dongguan and New-Tec to be treated as voluntary respondents in this investigation. Dongguan also requested that if it were not selected as a voluntary respondent that it be allowed to answer section A of the questionnaire and be granted a rate equal to the average of the mandatory respondents' rates.

The Department received section A responses from Feili Group and New-Tec on August 27, 2001, and from Dongguan and Shin Crest on September 4, 2001. On September 7, 2001, petitioners submitted comments regarding respondents' section A responses. On September 12, 2001, the Department received a section C and D questionnaire response from Dongguan. On September 13, 2001, the Department issued section A supplemental questionnaires to Feili Group and Shin Crest and received sections C and D questionnaire responses from Feili Group, New-Tec and Shin Crest. The Department received responses from Feili Group and Shin Crest to its section A supplementals on September 27, 2001. On September 24, 2001, petitioners submitted comments on respondents' section C and D responses. On September 25 and 27, 2001, the Department issued sections C and D supplemental questionnaires to Shin Crest and Feili Group, respectively, and received responses on October 10 and 12, 2001.

On August 29, 2001, the Department issued a request for parties to submit comments on surrogate market-economy country selection, and publicly available information for valuing the factors of production. The petitioner and Feili Group submitted comments in response to these requests on September 28, 2001. On October 1, 2001, Shin Crest submitted surrogate value data to the Department. On October 9, 2001, and subsequent dates petitioner, Feili Group and Shin Crest provided additional information and comments on surrogate country selection and surrogate value data. The petitioner proposed to use Indonesia as the surrogate country, although Indian data were used in the petition. The respondents proposed to use India. See Surrogate Country section below.

On October 4, 2001, petitioner alleged that Feili Group and Shin Crest purchased cold-rolled steel inputs from market-economy suppliers at prices that were below the producers' cost of production, or subsidized, or both. On October 15, 2001, Shin Crest commented that the Department's regulations and practice require the use of actual prices paid to market-economy suppliers in NME investigations. Feili Group commented on the same date that petitioner's argument regarding subsidized Korean steel prices is based on a case that was terminated by the ITC. On November 6, 2001, petitioner responded that the Department has the authority to disregard the price that an NME producer pays for an input purchased from a market-economy supplier if it has reason to believe or suspect that the input has been dumped or subsidized.

In response to a request by petitioners for a thirty-day postponement of the preliminary determination, the Department postponed the deadline for the preliminary determination to November 5, 2001, pursuant to section 733(c)(1)(A) of the Act. See Notice of Postponement of Preliminary Antidumping Duty Determination: Folding Metal Tables and Chairs from the People's Republic of China, 66 FR 50608 (October 4, 2001). On October 23, 2001, petitioners requested an additional postponement. On November 9, 2001, the Department published a notice extending the deadline to November 23, 2001 (66 FR 56635).

Period of Investigation

The period of investigation (POI) is October 1, 2000 through March 31, 2001. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition

(April 27, 2001). See 19 CFR 351.204(b)(1).

Scope of Investigation

The merchandise subject to this investigation consists of assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

(1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal ("folding metal tables"). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal tables are the following:

- Lawn furniture;
- Trays commonly referred to as "TV trays";
- Side tables;
- Child-sized tables;
- Portable counter sets consisting of rectangular tables 36″ high and matching stools; and
- Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28″ to 36″ wide by 48″ to 96″ long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal ("folding metal chairs"). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: Those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal chairs are the following:

- Folding metal chairs with a wooden back or seat, or both;
- Lawn furniture;
- Stools;
- Chairs with arms; and
- Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401710010, 9401710030, 9401790045, 9401790050, 9403200010 and 9403200030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and U.S. Customs Service purposes, the Department's written description of the merchandise is dispositive.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (A) A sample of exporters, producers, or types of products that is statistically valid based on the information available to the Department at the time of selection; or (B) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. After consideration of the complexities expected to arise in this proceeding and the resources available to the Department, we determined that it was not practicable in this investigation to examine all known producers/exporters of subject merchandise. Instead, we limited our examination to two producers, based on the relative volumes of their reported U.S. sales during the POI.

The subject merchandise is classified under broad HTSUS headings and cannot be distinguished from non-subject merchandise in official import statistics. Consequently, the Department could not use this information to determine the volume of imports of the subject merchandise. Therefore, to determine the two largest producers/exporters of subject merchandise for the PRC, we relied on the data submitted by the producers/exporters in response to the Department's June 21, 2001, request for information, which was sent to all companies identified in the petition, as well as to the PRC Government and Embassy in Washington. The data submitted by the four producers/exporters that submitted timely responses to the quantity and value questionnaire show that, of these producers/exporters, Feili Group and Shin Crest were the two largest producers/exporters of subject merchandise to the United States during the POI. Feili Group was not identified in the petition, but responded to the Department's request for information. While information submitted by petitioners indicates that these producers/exporters may not constitute the universe of possible producers/exporters of subject merchandise during the POI, because we did not receive any response from the PRC indicating what constitutes the complete universe, we must rely on data submitted by the four producers/exporters for purposes of respondent selection. See Memorandum from Richard O. Weible to Joseph A. Spetrini on Respondent Selection (August 3, 2001).

Non-Market Economy Country Status

The Department has treated the PRC as a non-market economy ("NME") country in all past antidumping investigations (see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China, 65 FR 33805 (May 25, 2000); Notice of Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China, 65 FR 19873 (April 13, 2000) (Apple Juice)). A designation as an NME remains in effect until it is revoked by the Department (see section 771(18)(C) of the Act). No party to this investigation has requested a revocation of the PRC's NME status. We have, therefore, preliminarily determined to continue to treat the PRC as an NME country. When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base the normal value ("NV") on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the "Normal Value" section, below.

Furthermore, no interested party has requested that the folding metal tables and chairs industry in the PRC be treated as a market-oriented industry and no information has been provided that would lead to such a determination. Therefore, we have not treated the folding metal tables and chairs industry

in the PRC as a market-oriented industry in this investigation.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. The two companies that the Department selected to investigate (i.e., Feili Group and Shin Crest) and the PRC companies that were not selected as mandatory respondents by the Department for this investigation, but which have submitted separate rates responses (i.e., New-Tec and Dongguan) have provided the requested separate rates information and have stated that, for each company, there is no element of government ownership or control.

We considered whether each PRC company is eligible for a separate rate. The Department's separate rate test to determine whether the exporters are independent from government control does not consider, in general, macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See, e.g., Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value, 62 FR 61754, 61757 (November 19, 1997); Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising out of the Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) ("Sparklers"), as amplified by Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) ("Silicon Carbide"). In accordance with the separate rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. See Sparklers, 56 FR at 20508.

All four PRC companies seeking separate rates reported that the subject merchandise was not subject to any government list regarding export provisions or export licensing, and was not subject to export quotas during the POI. Each company also submitted copies of its respective business license. We found no inconsistencies with the exporters' claims of the absence of restrictive stipulations associated with an individual exporter's business license. Our examination of the record indicates that each exporter submitted copies of the legislation of the PRC or documentation demonstrating the statutory authority for establishing the de jure absence of government control over the companies. Thus, we believe that the evidence on the record supports a preliminary finding of *de jure* absence of governmental control based on: (1) an absence of restrictive stipulations associated with the individual exporter's business license; and (2) the applicable legislative enactments decentralizing control of the companies.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See Silicon Carbide, 59 FR at 22586–87; see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995). As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See Silicon Carbide, 56 FR at 22587. Therefore, the Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Regarding whether each exporter sets its own export prices independently of the government and without the approval of a government authority, each exporter reported that it determines its prices for sales of the subject merchandise based on the cost of the merchandise, movement expenses, overhead, profit, and the market situation in the United States. Each exporter stated that it negotiates prices directly with its customers. Also, each exporter claimed that its prices are not subject to review or guidance from any governmental organization. Regarding whether each exporter has authority to negotiate and sign contracts and other agreements, our examination of the record indicates that each exporter reported that it has authority to negotiate and sign contracts and other agreements. Also, each exporter claimed that its negotiations are not subject to review or guidance from any governmental organization. There is no evidence on the record to suggest that there is any governmental involvement in the negotiation of contracts.

Regarding whether each exporter has autonomy in making decisions regarding the selection of management our examination of the record indicates that each exporter reported that it has autonomy in making decisions regarding the selection of management. Also, each exporter claimed that its selection of management is not subject to review or guidance from any governmental organization. There is no evidence on the record to suggest that there is any governmental involvement in the selection of management by the exporters.

Regarding whether each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses, our examination of the record indicates that each exporter reported that it retains the proceeds of its export sales, using profits according to its business needs. Also, each exporter reported that the allocation of profits is determined by its top management.

There is no evidence on the record to suggest that there is any governmental involvement in the decisions regarding disposition of profits or financing of losses.

Therefore, we determine that the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing that: (1) Each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each exporter has the authority to negotiate and sign contracts and other agreements; and (4) each exporter has autonomy from the government regarding the selection of management.

The evidence placed on the record of this investigation by Dongguan, Feili Group, New-Tec and Shin Crest demonstrates an absence of government control, both in law and in fact, with respect to each of the exporter's exports of the merchandise under investigation, in accordance with the criteria identified in Sparklers and Silicon Carbide. Therefore, for the purposes of this preliminary determination, we are granting separate rates to the two mandatory respondents, Feili Group and Shin Crest, and a rate equal to the weighted average of the mandatory respondents' rates (excluding zero or *de minimis* rates and rates based entirely on adverse facts available) to Dongguan and New-Tec, which provided complete questionnaire responses, including supplemental responses. For a full discussion of this issue, see the memorandum from Helen Kramer to Richard Weible, Folding Metal Tables and Chairs from the People's Republic of China: Separate Rates Analysis for the Preliminary Determination, dated November 23, 2001 ("Separate Rates Memorandum").

Facts Available

Section 776(a) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if that information is necessary to the determination but does not meet all of the requirements established by the Department provided that all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting Department requirements; and (5) the information can be used without undue difficulties.

Section 776(a)(2)(B) of the Act requires the Department to use facts available when a party does not provide the Department with information by the established deadline or in the form and manner requested by the Department. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of that party as facts otherwise available.

PRC-Wide Rate

As discussed above (see "Separate Rates"), all PRC producers/exporters that do not qualify for a separate rate are treated as a single enterprise. As noted above in "Case History," all producers/exporters were given the opportunity to respond to the Department's questionnaire regarding volume and value of U.S. sales. As explained above, we received timely responses from Dongguan, Feili Group, New-Tec, and Shin Crest. Late responses were submitted by Himark Industry Corp. Ltd. and Supper Chair Enterprise Co., Ltd. The Department did not receive responses from the following companies identified in the petition as exporters of the subject merchandise to the United States during the POI: Samwise Hardware Products Factory, Office Max, Inc., Fujian Anxi Yinfa Handicrafts Co., Ltd., Shian International Co., Tian Jian Industries (Group) Co. Ltd., China National Aero-Technology Import & Export Corp., Numark Industries Co., Ltd., Sun Son Trading Co. (Agent of Supper Chair Enterprise Co., Ltd.), Fujian Province Materials General Co., Xiaguang Industry Co., Ltd., China North Industries Guangzhou, Ningbo United Group Co., Ltd., China Precision Machinery, Xiamen Xiangjiang Imp. and Exp. Corp., Wuxi East Grace Garments Imp. Exp. Corp., Mitex International (H K) Ltd., and Nanhai Hongda Metal Products Co., Ltd.

Because these companies did not respond to our June 21, 2001, request for information, we assume that these companies also exported the subject merchandise to the United States during the POI. Consequently, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters in the PRC based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China, 65 FR 25706, 25707 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from Dongguan, Feili Group, New-Tec, and Shin Crest.

As set forth above, section 776(b) of the Act provides that, in selecting from among the facts available, the Department may employ adverse inferences against an interested party if that party failed to cooperate by not acting to the best of its ability to comply with requests for information. See also "Statement of Administrative Action" accompanying the URAA, H.R. Rep. No. 103–316, 870 (1994) ("SAA"). The Department finds that exporters (i.e., the single PRC entity) who did not respond to our request for information have failed to cooperate to the best of their ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate. See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Germany, 63 FR 10847 (March 5, 1998).

Section 776(b) provides that an adverse inference may include reliance on information derived from (1) the petition, (2) the final determination in the investigation segment of the proceeding, (3) a previous review under section 751 of the Act or a determination under section 753 of the Act, or (4) any other information placed on the record. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse "as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner." See Static Random Access Memory Semiconductors from Taiwan: Final Determination of Sales at Less than Fair

Value, 63 FR 8909, 8932 (February 23, 1998). The Department also considers the extent to which a party may benefit from its own lack of cooperation in selecting a rate. See Roller Chain, Other than Bicycle, from Japan; Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review, 62 FR 60472, 60477 (November 10, 1997). Accordingly, in order to ensure that the rate is sufficiently adverse so as to induce cooperation by the PRC entity, we have preliminarily assigned the highest dumping margin calculated in this segment of the proceeding, which is 134.77 percent, to the PRC entity, based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China, 65 FR 25706, 25707 (May 3, 2000) ("Synthetic Indigo").

Because this is a preliminary margin, the Department will consider all margins on the record at the time of the final determination for the purpose of determining the most appropriate final PRC-wide margin. See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation, 65 FR 1139 (January 7, 2000).

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production, valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that: (A) are at a level of economic development comparable to that of the NME country; and (B) are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below.

The Department has determined that India, Pakistan, Indonesia, Sri Lanka and the Philippines are countries comparable to the PRC in terms of economic development. See Memorandum from Jeffrey May to Richard Weible, "Antidumping Duty Investigation of Folding Metal Tables and Chairs from the People's Republic of China," dated July 31, 2001. Customarily, we select an appropriate surrogate country based on the availability and reliability of data from the countries. For PRC cases, the primary surrogate country has most often been India, if it is a significant producer of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise. See Surrogate Country Selection Memorandum to The File from John Drury and Helen M. Kramer, dated November 23, 2001, ("Surrogate Country Memorandum").

We used India as the primary surrogate country and, accordingly, we have calculated NV using Indian prices to value the PRC producers' factors of production, when available and appropriate. See Surrogate Country Memorandum. We have obtained and relied upon publicly available information wherever possible. See Factor Valuation Memorandum to The File from Case Analysts, dated November 23, 2001 ("Factor Valuation Memorandum").

In accordance with section 351.301(c)(3)(i) of the Department's regulations, for the final determination in an antidumping investigation, interested parties may submit publicly available information to value factors of production within 40 days after the date of publication of this preliminary determination.

Fair Value Comparisons

To determine whether sales of folding metal tables and chairs to the United States by Feili Group and Shin Crest were made at less than fair value, we compared export price ("EP") to normal value ("NV"), as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs.

Export Price

In accordance with section 772(a) of the Act, export price is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).

In accordance with section 772(a) of the Act, we used EP for Feili Group and Shin Crest because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and because CEP was not otherwise indicated. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the NVs.

Feili Group

We calculated weighted-average EP for Feili Group's U.S. sales, based on packed prices, F.O.B. port of export, to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. Feili Group reported that it paid a fee to an unaffiliated trucking company in the PRC which included all movement expenses. Therefore, Feili Group reported all movement expenses paid in a single field. The charges in this single field include brokerage and handling, and foreign inland freight. Because transportation for all sales was provided by a NME company, we based movement expenses associated with these sales on surrogate values.

Shin Crest

We calculated EP for Shin Crest based on packed F.O.B. prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included domestic inland freight and brokerage and handling charges. Shin Crest reported that it used NME carriers for foreign inland freight to certain ports. We based these expenses for these sales on Indian surrogate freight rates and the distances to the respective ports. For other sales we used Shin Crest's reported foreign inland freight expenses paid to market-economy carriers. For all sales we used the reported brokerage and handling charges, which were paid to a market-economy company. See Factor Valuation Memorandum.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the normal value ("NV") using a factors-of-production methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

Factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used factors of production, reported by respondents, for materials, energy, labor, by-products, and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will

normally use publicly available information to value factors of production. However, the Department's regulations also provide that where a producer sources an input from a market economy and pays for it in market-economy currency, the Department employs the actual price paid for the input to calculate the factors-based NV. Id.; see also *Lasko Metal Products* v. *United States*, 43 F. 3d 1442, 1445–1446 (Fed. Cir. 1994) ("Lasko"). Respondents Feili Group and Shin Crest reported that some of their inputs were sourced from market economies and paid for in a market-economy currency. See Factor Valuation Memorandum, dated November 23, 2001 for a listing of these inputs.

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by respondents for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States*, 117 F. 3d 1401 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, see Factor Valuation Memorandum.

Except as noted below, we valued raw material inputs using the weighted-average unit import values for the period April 2000—February 2001 derived from the Monthly Trade Statistics of Foreign Trade of India—Volume II—Imports (February 2001) ("Indian Import Statistics"). We valued electricity using the cost in India per kwh in 1997 reported in U.S. dollars, adjusted for inflation using wholesale price indices published in the International Monetary Fund's International Financial Statistics. We valued water as reported for India in 1997 by the Asian Development Bank, adjusted for inflation. See Factor Valuation Memorandum.

As noted above, respondents Shin Crest and Feili Group sourced certain raw material inputs from market-economy suppliers and paid for them in market-economy currencies. Specifically, Feili Group sourced cold-rolled steel, plastic pellets and polyester fabric from market-economy suppliers. Shin Crest reported that it sourced cold-rolled steel coils, PVC sheets, polyester fabric, polyurethane foam, rivets, screws, polyethylene panels, plywood, plastic caps, plastic bags, cartons and powder paint from market-economy suppliers. For this preliminary determination, the Department has used the market-economy prices for the inputs listed above, in accordance with 19 CFR 351.408(c)(1). We added to the weighted-average price for each input the Indian surrogate value for transporting the input to the factory, where appropriate (i.e., where the sales terms for the market-economy inputs were not delivered to the factory).

For all instances in which respondents reported delivery by truck to calculate domestic inland freight, we used an average of multiple price quotes in September 2000 and April 2001 for transporting materials by truck between Mumbai (Bombay) and various Indian cities, which were reported by The Financial Express of India on its website. We converted the Indian rupee value to U.S. dollars.

As noted above under Case History, the petitioner has urged the Department to reject the prices paid for cold-rolled steel. Section 773(c)(1) of the Act requires the Department to use "best available information" to value a NME producer's factors of production. Section 351.408(c)(1) of the Department's regulations describes our method for valuing factors of production, including our preference for using the price paid by a NME producer that imports the input, when the input is purchased from a market-economy supplier and paid for in a market-economy currency. It is not the Department's practice to reject actual prices paid in market-economy currencies to market-economy suppliers, unless they are not at arm's length or if the amount purchased was insignificant. See Helical Spring Lock Washers from the People's Republic of China; Final Results of Antidumping Administrative Review, 65 FR 31143 (May 16, 2000), Issues and Decision Memorandum at Comment 1, where the Department stated:

> We do not believe that substituting a surrogate value for the price a NME producer actually paid to a market economy supplier for an input actually used to produce the merchandise being sold to the United States could meet the best available information standard imposed by the statute.

See also Shakeproof Assembly Components Division of Illinois Tool Works, Inc. v. United States, 2001 U.S. App. LEXIS 22491, Fed. Cir. Slip Op. 00–1521 (October 12, 2001). The Department intends to verify on-site the respondents' reported factor prices.

Respondents identified steel scrap as a by-product which they claimed was sold. The Department has offset the respondents' cost of production by the amount of reported scrap. See Factor Valuation Memorandum for a discussion of the surrogate value used.

For energy, to value electricity, we used 1997 data reported as the average Indian domestic prices within the category "Electricity for Industry," published in the International Energy Agency's publication, Energy Prices and Taxes—Quarterly Statistics (Third Quarter 2000), as adjusted for inflation. We valued water using the Asian Development Bank's Second Water Utilities Data Book: Asian and Pacific Region (1997), adjusted for inflation. We valued LPG and diesel oil using prices as of June 2001 from India Infoline.

For direct, indirect, and packing labor, consistent with section 351.408(c)(3) of the Department's regulations, we used the PRC regression-based wage rate at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 2000 (see *http://ia.ita.doc.gov/wages*). The source of the wage rate data on the Import Administration's Web site is the 1999 Year Book of Labour Statistics, International Labor Office (Geneva: 1999), Chapter 5B: Wages in Manufacturing.

To value factory overhead, selling, general and administrative expenses ("SG&A") and profit, we used the audited financial statements for the year ended March 31, 2001, from an Indian producer of steel furniture, including the subject merchandise, Godrej & Boyce Manufacturing Company Ltd. ("Godrej"). See Factor Valuation Memorandum for the calculation of these ratios from Godrej's financial statements. The petitioner argued that the Department should use the financial statement of an Indonesian producer of steel furniture (but not the subject merchandise) to calculate the overhead, selling, general and administrative expenses ("SG&A") and profit ratios. As discussed in the Surrogate Country Memorandum, India is the preferred surrogate country, and Godrej is a producer of comparable merchandise; therefore we used Godrej's financial statements rather than those of an Indonesian surrogate.

Finally, to value material inputs for packing, we used the reported values for purchases from market-economy suppliers. For packing materials

purchased from NME sources, we used Indian Import Statistics data for the period April 1, 2000 through February 2001. See Factor Valuation Memorandum.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify company information relied upon in making our final determination.

Rate for Producers/Exporters That Responded to the Questionnaires

For Dongguan and New-Tec, which were not selected as respondents, but provided separate rates information in section A and also responded to the sections C and D questionnaires, we have calculated a weighted-average margin based on the rates calculated for those producers/exporters that were selected to respond. The rate for these companies is analogous to the Department's calculation of the All Others rate (see section 735(c)5 of the Act). It is equal to an average of all calculated margins other than any zero or de minimis margins, or any margins determined entirely under section 776 of the Act. As Shin Crest's preliminary margin is zero, the rate for Dongguan and New-Tec is equal to Feili's margin.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise, except for merchandise produced and exported by Shin Crest, entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average percent margin
Shin Crest Pte. Ltd.	0.00
Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd.	134.77
Dongguan Shichang Metals Factory Co. Ltd.	134.77
New-Tec Integration Co., Ltd.	134.77
China-Wide	134.77

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. See 19 CFR 351.309(c)(1)(i); 19 CFR 351.309(d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c).

If this investigation proceeds normally, we will make our final determination no later than 75 days after the date of the preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: November 23, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–29814 Filed 11–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–812]

Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Ronald Trentham at (202) 482–3936 and (202) 482–6320, respectively, AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended, (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2000).

Background

On September 28, 2001, in accordance with sections 735(d) and 777(i)(1) of the Act, the Department published its affirmative final determination in this proceeding. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia*, 66 FR 49628.

Scope of Order

For purposes of this order, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with

plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included within the scope of this order are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this order:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to this order is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled carbon steel flat products covered by this order, including: Vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise subject to this proceeding is dispositive.

Antidumping Duty Order

On November 13, 2001, in accordance with section 735(d) of the Act, the International Trade Commission (the Commission) notified the Department of its final determination that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from Indonesia, pursuant to section 735(b)(1)(A) of the Act. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of certain hot-rolled carbon steel flat products from Indonesia. These antidumping duties will be assessed on all unliquidated entries of hot-rolled steel products from Indonesia entered, or withdrawn from the warehouse, for consumption on or after May 3, 2001, the date on which the Department published its *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia*, (66 FR 22163).

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs must require, at the same time as importers would normally deposit estimated duties, cash deposits for the subject merchandise equal to the estimated weighted-average dumping margins noted below. The "All Others" rate applies to all exporters of subject merchandise not specifically listed below.

Manufacturer/exporter	Margin (percent)
PT Krakatau Steel Corporation	47.86
All Others	47.86

This notice constitutes the antidumping duty order with respect to certain hot-rolled carbon steel flat products from Indonesia. Interested parties may contact the Department's Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is issued and published published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: November 20, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–29810 Filed 11–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–820]

Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: We are amending our *Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From India*, October 3, 2001 (66 FR 50406) (*Final Determination*), to reflect the correction of ministerial errors made in the final determination. This correction is in accordance with section 735(e) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.224 of the Department of Commerce's (the Department's) regulations. The period of investigation (POI) covered by this amended final determination is October 1, 1999, through September 30, 2000. This notice also constitutes the antidumping duty order with respect to certain hot-rolled carbon steel flat products from India.

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Timothy Finn, John Conniff, or Howard Smith at (202) 482–0065, (202) 482–1009, or (202) 482–5193, respectively, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2000).

Scope of Order

For purposes of this order, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included within the scope of this order are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this order:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to this order is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled carbon steel flat products covered by this order, including: Vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for

convenience and U.S. Customs purposes, the written description of the merchandise subject to this proceeding is dispositive.

Amended Final Determination

On October 3, 2001, in accordance with sections 735(d) and 777(i)(1) of the Act, the Department published its affirmative final determination in this proceeding. See *Final Determination*, 66 FR 50406. Pursuant to 19 CFR 351.224(c), on October 2, October 3, and October 4, 2001, we received timely filed submissions from respondents, Essar Steel Ltd. (Essar) and Ispat Industries Ltd. (Ispat), and certain petitioners [1] alleging that the Department made ministerial errors in its final determination. On October 9, 2001, we received rebuttal comments from Ispat and petitioners regarding the allegations of ministerial errors in the calculation of Ispat's margin.

Petitioners allege that in calculating Ispat's weighted-average margin, the Department (1) failed to include bad debt expenses in the reported home market indirect selling expenses, and (2) failed to include a significant portion of interest expenses in the interest expense ratio. Although Ispat agrees with petitioners' contention that bad debt expense should be included in indirect selling expenses, it disagrees with the methodology used by petitioners to recalculate the indirect selling expense ratio. In addition, Ispat claims that there is no ministerial error with respect to the interest expense calculation.

Moreover, both parties allege that the Department failed to use costs that properly reflect the "Customs Duty Adjustment."

With respect to Essar, petitioners allege that the Department's margin calculations (1) Fail to account for interest expenses and interest income associated with home market and U.S. sales, (2) fail to account for direct labor expense, (3) fail to base general, administrative and interest expenses on adjusted total manufacturing costs, and (4) fail to include the proper facts available rate for unreported U.S. sales.

Essar alleges that the Department failed to take into account home market freight revenue in calculating home market credit expense.

In accordance with section 735(e) of the Act, we have determined that, with the exception of the allegation regarding the interest expense ratio, ministerial errors were made in our final margin calculations. Thus, we are amending our final determination in order to revise the antidumping duty rate for Essar and Ispat. The revised weighted-average dumping margins are listed in the "Antidumping Duty Order" section below. For a detailed analysis of the ministerial errors that we addressed, and the Department's position on each, *see* the Memorandum to Bernard T. Carreau from Holly A. Kuga, dated November 19, 2001, regarding *Ministerial Error Allegations* on file in room B–099 of the Main Commerce building.

Antidumping Duty Order

On November 13, 2001, in accordance with section 735(d) of the Act, the International Trade Commission (the Commission) notified the Department of its final determination that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from India, pursuant to section 735(b)(1)(A) of the Act. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of certain hot-rolled carbon steel flat products from India. These antidumping duties will be assessed on all unliquidated entries of subject merchandise from India entered, or withdrawn from warehouse, for consumption on or after May 3, 2001, the date on which the Department published its *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Hot-Rolled Carbon Steel Flat Products From India*, (66 FR 22157).

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs must require, at the same time as importers would normally deposit estimated duties, cash deposits for the subject merchandise equal to the estimated weighted-average dumping margins listed below. The "All Others" rate applies to all exporters of subject merchandise not specifically listed below.

Manufacturer/exporter	Revised margin (percent)
Ispat Industries Ltd	44.40
Essar Steel Ltd.	36.53
All Others	38.72

This notice constitutes the antidumping duty order with respect to certain hot-rolled carbon steel flat products from India. Interested parties may contact the Department's Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211.

November 20, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–29896 Filed 11–30–01; 8:45 am]

BILLING CODE 3510–DS–P

[1] The petitioners that filed ministerial error allegations are Bethlehem Steel Corporation, United States Steel, LLC, National Steel Corporation, and LTV Steel Company, Inc.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–828]

Administrative Review of the Suspension Agreement on Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Michael Ferrier at (202) 482–1394, Phyllis Hall at (202) 482–1398, or Dena Aliadinov at (202) 482–3362, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce ("the Department") to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested, and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days and for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On July 6, 1999, the Department entered into Antidumping Duty Suspension Agreement regarding certain hot-rolled flat-rolled carbon-quality steel products ("hot-rolled steel") from Brazil produced by Companhia Siderurgica Nacional ("CSN"), Usinas Siderurgicas de Minas Gerais ("USIMINAS"), and Companhia Siderurgica Paulista ("COSIPA"). This agreement was entered into under section 734(c) of the Tariff Act of 1930, as amended, requiring, among other things, that the estimated margin of each entry under the suspension agreement does not exceed 15 percent of the margin found in the investigation. In addition, the Agreement requires that sales of subject merchandise are not made below the reference price (calculated quarterly, to prevent price suppression or undercutting). On July 28, 2000, petitioners requested that the Department conduct an administrative review of the agreement. The Department initiated this review on September 6, 2000. *See* 65 FR 53980 (September 6, 2000). On March 8, 2001 the Department extended the time limit for completion of the preliminary results by 120 days. *See* 66 FR 13891 (March 8, 2001). The preliminary results were published on August 8, 2001. *See* 66 FR 41500 (August 8, 2001). The final results are due on December 6, 2001, which is 120 days after the date of publication for the preliminary results.

Extension of Time Limit for Final Results of Review

This is the first administrative review of this suspension agreement. There are several novel and complex issues relating to compliance with the suspension agreement, including those involving: The precise nature of the relationships between the Brazilian mills and other parties involved in the U.S. sales process; the appropriate methods of margin calculations with respect to the requirements of the suspension agreement; and the treatment of certain Brazilian domestic taxes. Because of these issues, we find it is not practicable to complete this review within the initial time limits mandated by section 751(a)(3)(A) of the Act. Therefore, we are fully extending the due date for the final results to 180 days after the publication date of the preliminary results, until February 4, 2002.

This extension of the time limit is in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: November 23, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 01–29808 Filed 11–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–822]

Notice of Extension of the Time Limit for Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Plate in Coils From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy or Stephen Shin, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0165 or (202) 482–0413.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department") regulations are to the current regulations as codified at 19 CFR part 351 (2001).

Background

On May 31, 2001, Accai Speciali Terni S.p.A. and its affiliated company, requested that the Department conduct an administrative review. On June 19, 2001, the Department published a notice of initiation of the administrative review of the antidumping duty order on Stainless Steel Plate in Coils from Italy, covering the period May 1, 2000 through April 30, 2001. *See Initiation of Antidumping and Countervailing Duty Administrative Review and Requests for Revocation in Part*, 66 FR 32934 (June 19, 2001). The preliminary results of this review are currently due no later than January 31, 2002.

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of the preliminary results of a review if it determines that it is not practicable to complete the preliminary results within the statutory time limit of 245 days from the date on which the review was initiated. On October 22, 2001, the Department initiated a sales-below-the-cost-of-production investigation with respect to home market sales made by AST. On November 23, 2001, AST submitted the company-specific cost data. In order to properly analyze and consider the cost data in the Department's preliminary results, the Department has determined that it is not practicable to complete the preliminary results of this review for Accai Speciali Terni S.p.A. and its affiliates within the initial time limits provided in section 751(a)(3)(A) of the Act and section 351.213(h) of the Department's regulations.

Therefore, we are extending the due date for the preliminary results by 60 days, until no later than April 2, 2002. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: November 26, 2001.

Barbara E. Tillman,

Acting Deputy Assistant Secretary, for Import Administration, Group III.

[FR Doc. 01–29892 Filed 11–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Amended Final Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, United States Department of Commerce.

ACTION: Notice of amended final results of administrative review.

SUMMARY: The United States Court of International Trade has affirmed the Department of Commerce's final remand results affecting the final weighted-average margins for the 1994/1995 administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China. There was no appeal to the United States Court of Appeals for the Federal Circuit. As there is now a final and conclusive court decision in this case, we are amending the final results of review and we will instruct the Customs Service to

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liquidate entries subject to this review. The period of review is June 1, 1994, through May 31, 1995.

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: George Callen or Richard Rimlinger, AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0180 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions in effect as of December 31, 1994.

Background

On February 11, 1997, the Department published the final results of administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished (TRBs), from the People's Republic of China covering the period June 1, 1994, through May 31, 1995. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China, Final Results of Antidumping Duty Administrative Review*, 62 FR 6173 (February 11, 1997) (*Final Results*).

The Timken Company contested the Department's decision in the *Final Results*. In issuing its decision in this case, the United States Court of International Trade (CIT) instructed the Department to make the following changes to its margin calculations for the *Final Results*: (1) Eliminate from the cost-of-manufacture calculation the category "purchases of traded goods" and (2) recalculate marine insurance expense on a value rather than weight basis. See *Timken Company* v. *United States*, Court No. 97–01–00394, Slip Op. 99–73 (CIT July 30, 1999). The Department issued final results of redetermination on remand on December 13, 1999. The CIT affirmed the Department's final remand results and dismissed the case. See *Timken Company* v. *United States*, Slip Op. 200–13 (CIT February 8, 2000).

There was no appeal to the United States Court of Appeals for the Federal Circuit. As there is now a final and conclusive court decision in this action, we are amending our final results of review and we will instruct the Customs Service to liquidate entries subject to this review.

Amendment to Final Results

Pursuant to section 516A(e) of the Act, we are now amending the final results of administrative review of the antidumping duty order on TRBs from the People's Republic of China for the period of review June 1, 1994, through May 31, 1995. The revised weighted-average margins are as follows:

Company	Margin
Premier Bearing and Equipment, Ltd.	2.89
Tianshui Hailin Import and Export Corporation	25.63
Zhejiang Machinery Import and Export Corporation	3.04
East Sea Bearing Company, Ltd.	3.60

Accordingly, the Department will determine and the Customs Service will assess appropriate antidumping duties on entries of the subject merchandise exported by firms covered by this review. Weighted-average margins for other respondent companies and the PRC-wide rate for others remain as published in the *Final Results*.

We are issuing and publishing this determination in accordance with section 751(a) of the Act.

Dated: November 21, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–29891 Filed 11–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–549–818]

Notice of Countervailing Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein at (202) 482–1391, Sean Carey at (202) 482–3964, or Scott Lindsay at (202) 482–3782, Office of AD/CVD Enforcement VII, Group III, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930, as amended. In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (2000).

Scope of Order

The merchandise subject to this investigation is certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation.

Specifically included within the scope of this investigation are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or

0.15 percent of vanadium, or 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, ASTM specifications A543, A387, A514, A517, A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTS.
- Tool steels, as defined in the HTS.
- Silico-manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to this investigation is classified in the HTS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.36.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211,14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled flat-rolled carbon-quality steel covered by this investigation, including: Vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00. and 7212.50.00.00. Although the HTS subheadings are provided for convenience and U.S. Customs purposes, the Department's written description of the merchandise subject to this proceeding is dispositive.

Countervailing Duty Order

In accordance with section 705(d) of the Act, on October 3, 2001, the Department published in the **Federal Register** its final affirmative determination in the countervailing duty investigation of certain hot-rolled carbon steel flat products from Thailand (66 FR 50410). On November 13, 2001, the International Trade Commission (ITC) notified the Department of its final determination, pursuant to section 705(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of imports of hot-rolled carbon steel flat products from Thailand.

Therefore, countervailing duties will be assessed on all unliquidated entries of certain hot-rolled carbon steel flat products from Thailand entered, or withdrawn from warehouse, for consumption on or after April 20, 2001, the date on which the Department published its preliminary countervailing duty determination in the **Federal Register**, and before August 18, 2001, the date that the Department instructed the U.S. Customs Service to terminate the suspension of liquidation in accordance with section 703(d) of the Act, and on all entries and withdrawals on or after the date of publication of this countervailing duty order in the **Federal Register**. Section 703(d) of the Act states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for longer than four months. Entries of certain hot-rolled carbon steel flat products made on or after August 18, 2001, and prior to the date of publication of this order in the **Federal Register** are not liable for the assessment of countervailing duties due to the Department's termination, effective August 17, 2001, of suspension of liquidation.

In accordance with section 706 of the Act, the Department will direct U.S. Customs officers to reinstate the suspension of liquidation effective the date of publication of this notice in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the counteravailable subsidy rate for the subject merchandise.

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the counteravailable subsidy rates noted below. The All Others rate applies to all producers and exporters of certain hot-rolled carbon steel flat products from Thailand not specifically listed below. The cash deposit rates are as follows:

Producer/exporter	Net subsidy rate
Sahaviriya Steel Industries Public Company Ltd.	2.38% *Ad Valorem*.
All Others	2.38% *Ad Valorem*.

This notice constitutes the countervailing duty order with respect to certain hot-rolled carbon steel flat products from Thailand, pursuant to section 706(a) of the Act. Interested parties may contact the Central Records Unit, for copies of an updated list of countervailing duty orders currently in effect.

This countervailing duty order is published in accordance with section 706(a) of the Act and 19 CFR 351.211.

Dated: November 26, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–29811 Filed 11–30–01; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–821, C–560–813]

Notice of Amended Final Determination and Notice of Countervailing Duty Orders: Certain Hot-Rolled Carbon Steel Flat Products From India and Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds (202) 482–6071 (India), and Stephanie Moore (202) 482–3692 (Indonesia), Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations codified at 19 CFR part 351 (2001).

Scope of Orders

For purposes of these orders, the products covered are certain hot-rolled flat-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of these orders.

Specifically included within the scope of these orders are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of these orders, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of these orders unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of these orders:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, ASTM specifications A543, A387, A514, A517, A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTS.
- Tool steels, as defined in the HTS.
- Silico-manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to these orders are classified in the HTS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled flat-rolled carbon-quality steel covered by these orders, including: Vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTS subheadings are provided for convenience and U.S. Customs purposes, the Department's written description of the merchandise subject to these proceedings is dispositive.

Amended Final Determination for India

On October 3, 2001, petitioners[1] alleged ministerial errors in the calculations of the *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 49635 (September 28, 2001) (*Final Determination*), with respect to Essar Steel Limited (Essar) and the Steel Authority of India Limited (SAIL). On October 9, 2001, we received comments from SAIL regarding petitioners' ministerial error allegations.

Regarding Essar, petitioners alleged that the Department incorrectly calculated the number of days outstanding for one of Essar's Pre-Shipment loans. We agree with petitioners and have recalculated the benefit under the program using the correct number of days outstanding.

Regarding SAIL, petitioners alleged that the Department incorrectly calculated the *ad valorem* subsidy rate for SAIL's Steel Development Fund (SDF) loan that was outstanding during the period of investigation (POI). They argued that in calculating the benefit under the program, the Department properly calculated the benefit from the interest deferral granted to the company in each month but inadvertently failed to take into account the additional benefit received by SAIL from each month's interest deferral over the entire POI. In other words, they contended that the Department should calculate the benefit from the January interest payment deferral over a 12-month period, the benefit from the February interest payment deferral over an 11-

[1] The petitioners in these proceedings are Bethlehem Steel Corporation, Gallatin Steel Company, IPSCO Steel Inc., LTV Steel Company, Inc., National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., U.S. Steel Group, a unit of USX Corporation, Weirton Steel Corporation, Independent Steelworkers Union, and the Independent Steelworkers of America.

month period, etc. SAIL argued that if the Department agrees with petitioners, it should revise the approach advocated by petitioners so that the duration of each interest payment deferral period is calculated on the last day of each month, which was the day the interest payment was due. We agree with petitioners that we should take into account the benefit received by SAIL from each month's interest waiver over the entire POI. The Department's Countervailing Duty (CVD) Regulations state that interest-free loans and deferred interest payments should be treated as government-provided loans in the amount of the interest deferred. *See* Preamble to CVD Regulations at 63 FR 65369 and 19 CFR 351.509(a)(2). Accordingly, we have revised our calculation under this program such that the benefit corresponds to the duration of each interest payment deferral period during the POI. In addition, in accordance with SAIL's comments, we have calculated the duration of each interest payment deferral period beginning on the last day of each month.

Regarding SAIL, petitioners further alleged that with respect to the company's use of the Exemption of Pre-Shipment Export Credit from Interest Tax program, the Department inadvertently divided the benefit by SAIL's total export sales rather than dividing the benefit by SAIL's total sales of subject merchandise to the United States. We agree with petitioners. Information on the record of this investigation indicates that SAIL's use of this program is tied to individual shipments. Accordingly, we have divided SAIL's benefit under this program by its total sales of subject merchandise to the United States.

The corrections for Essar and SAIL are discussed in further detail in the October 16, 2001 memorandum to Bernard Carreau, Deputy Assistant Secretary, AD/CVD Enforcement II, Import Administration, from Melissa G. Skinner, Director, Office of AD/CVD Enforcement VI. The public version of this memorandum is on file in Room B–099 in the Central Records Unit (CRU) of the Main Commerce Building.

As a result of our corrections, the estimated net countervailable subsidy rate attributable to Essar increased from 8.32 percent *ad valorem* to 8.35 percent *ad valorem*. The cash deposit rate attributable to Essar increased from 8.25 percent *ad valorem* to 8.28 percent *ad valorem*. The estimated net countervailable subsidy rate attributable to SAIL increased from 18.38 percent *ad valorem* to 18.45 percent *ad valorem*. The cash deposit rate attributable to SAIL increased from 18.22 percent *ad valorem* to 18.27 percent *ad valorem*.

Due to the revisions of Essar's and SAIL's net subsidy and cash deposit rates, the all others rate has also changed. The all others net countervailable subsidy rate increased from 16.17 percent *ad valorem* to 16.20 percent *ad valorem*. The all others cash deposit rate increased from 16.08 percent *ad valorem* to 16.10 percent *ad valorem*.

Countervailing Duty Orders

In accordance with section 705(d) of the Act, on September 28, 2001, the Department published its final determinations in the countervailing duty investigations of certain hot-rolled carbon steel flat products from India (66 FR 49635) and Indonesia (66 FR 49637). On November 13, 2001, the International Trade Commission (ITC) notified the Department of its final determination, pursuant to section 705(b)(1)(A)(i) of the Act, that an industry in the United States suffered material injury as a result of subsidized imports of certain hot-rolled carbon steel flat products from India and Indonesia.

Therefore, countervailing duties will be assessed on all unliquidated entries of certain hot-rolled carbon steel flat products from India and Indonesia entered, or withdrawn from warehouse, for consumption on or after April 20, 2001, the date on which the Department published its preliminary affirmative countervailing duty determinations in the **Federal Register**, and before August 18, 2001, the date the Department instructed the U.S. Customs Service to discontinue the suspensions of liquidation in accordance with section 703(d) of the Act, and on all entries and withdrawals of subject merchandise made on or after the date of publication of these countervailing duty orders in the **Federal Register**. Section 703(d) states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months. Entries of certain hot-rolled carbon steel flat products made on or after August 18, 2001, and prior to the date of publication of these orders in the **Federal Register** are not liable for the assessment of countervailing duties due to the Department's discontinuation, effective August 18, 2001, of the suspensions of liquidation.

In accordance with section 706 of the Act, the Department will direct U.S. Customs officers to reinstitute the suspension of liquidation for certain hot-rolled carbon steel flat products from India and Indonesia effective the date of publication of this notice in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise.

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the rates noted below. The All Others rates apply to all producers and exporters of certain hot-rolled carbon steel flat products from India and Indonesia not specifically listed below. The cash deposit rates are as follows:

Producer/exporter: India	Cash deposit rate
Essar Steel Limited (Essar).	8.28 percent *ad valorem*.
Ispat Industries Limited (Ispat).	31.89 percent *ad valorem*.
Steel Authority of India Limited (SAIL).	18.27 percent *ad valorem*.
Tata Iron and Steel Company Limited (TISCO).	9.17 percent *ad valorem*.
All Others Rate	16.10 percent *ad valorem*.

Producer/exporter: Indonesia	Cash deposit rate
P.T. Krakatau Steel ...	10.21 percent *ad valorem*.
All Others Rate	10.21 percent *ad valorem*

This notice constitutes the countervailing duty orders with respect to certain hot-rolled carbon steel flat products from India and Indonesia, pursuant to section 706(a) of the Act. Interested parties may contact the CRU, for copies of an updated list of countervailing duty orders currently in effect.

These countervailing duty orders and amended final determination are issued and published in accordance with sections 706(a) and 705 of the Act and 19 CFR 351.211 and 351.224.

Dated: November 21, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–29812 Filed 11–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–791–810]

Notice of Countervailing Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From South Africa

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon at (202) 482–0162, Mark Hoadley at (202) 482–0666, or Julio Fernandez at (202) 482–0190, Office of AD/CVD Enforcement VII, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930 (the Act), as amended. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Scope of Order

The merchandise subject to this investigation is certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation.

Specifically included within the scope of this investigation are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this investigation, regardless of definitions in the *Harmonized Tariff Schedule of the United States* (HTSUS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to this investigation is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled carbon steel flat products covered by this investigation, including vacuum degassed fully stabilized, high strength low alloy, and the substrate for motor lamination steel, may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

Countervailing Duty Order

In accordance with section 705(d) of the Act, on October 3, 2001, the Department published in the **Federal Register** its final affirmative determination in the countervailing duty investigation of certain hot-rolled carbon steel flat products from South Africa (66 FR 50412). On November 13, 2001, the International Trade Commission (ITC) notified the Department of its final determination, pursuant to section 705(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of imports of certain hot-rolled carbon steel flat products from South Africa.

Therefore, countervailing duties will be assessed on all unliquidated entries of certain hot-rolled carbon steel flat products from South Africa entered, or withdrawn from warehouse, for consumption on or after April 20, 2001, the date on which the Department

published its preliminary countervailing duty determination in the **Federal Register**, and before August 18, 2001, the date on which the Department instructed the U.S. Customs Service to terminate the suspension of liquidation in accordance with section 703(d) of the Act, and on all entries and withdrawals on or after the date of publication of this countervailing duty order in the **Federal Register**. Section 703(d) of the Act states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for longer than four months. Entries of certain hot-rolled carbon steel flat products made on or after August 18, 2001, and prior to the date of publication of this order in the **Federal Register** are not liable for the assessment of countervailing duties as a result of the Department's termination, effective August 18, 2001, of the suspension of liquidation.

In accordance with section 706 of the Act, the Department will direct U.S. Customs (Customs) to reinstate the suspension of liquidation effective on the date of publication of this notice in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the countervailable subsidy rate for the subject merchandise. In its instructions, the Department will direct Customs to exclude Highveld Steel and Vanadium Corporation Limited (Highveld), which received a *de minimis* subsidy rate in the Department's final determination, from this reinstatement of the suspension of liquidation and any subsequent assessment of countervailing duties.

On or after the date of publication of this notice in the **Federal Register**, Customs must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the countervailable subsidy rates noted below. The "All Others" rate applies to all producers and exporters, except for Highveld, of certain hot-rolled carbon steel flat products from South Africa not specifically listed below. The cash deposit rates are as follows:

Producer/exporter	Net subsidy rate
Saldanha Steel/Iscor	5.76% *Ad Valorem*.
All Others	5.76% *Ad Valorem*.

This notice constitutes the countervailing duty order with respect to certain hot-rolled carbon steel flat products from South Africa, pursuant to section 706(a) of the Act. Interested parties may contact the Central Records Unit, for copies of an updated list of countervailing duty orders currently in effect.

This countervailing duty order is published in accordance with section 706(a) of the Act and 19 CFR 351.211.

Dated: November 26, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–29813 Filed 11–30–01; 8:45 am]

BILLING CODE 3510–DS–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

Agency Holding the Meeting: Commodity Futures Trading Commission.

Time and Date: 11 a.m., Friday, December 7, 2001.

Place: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

Status: Closed.

Matters to be Considered: Surveillance Matters.

Contact Person for More Information: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–29924 Filed 11–28–01; 4:47 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act; Meeting

Agency Holding the Meeting: Commodity Futures Trading Commission.

Time and Date: 11 a.m., Friday, December 14, 2001.

Place: 1155 21st St., NW., Washington, DC., 9th Floor Conference Room.

Status: Closed.

Matters to be Considered: Surveillance Matters.

Contact Person for More Information: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–29925 Filed 11–28–01; 4:47 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

Agency Holding the Meeting: Commodity Futures Trading Commission.

Time and Date: 11 a.m., Friday, December 21, 2001.

Place: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

Status: Closed.

Matters to be Considered: Surveillance Matters.

Contact Person for More Information: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–29926 Filed 11–28–01; 4:47 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

Agency Holding the Meeting: Commodity Futures Trading Commission.

Time and Date: 11 a.m., Friday, December 28, 2001.

Place: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

Status: Closed.

Matters to be Considered: Surveillance Matters.

Contact Person for More Information: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–29927 Filed 11–28–01; 4:47 pm]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection: Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork

Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its AmeriCorps Volunteer Generation Survey. Copies of the information collection requests can be obtained by contacting the office listed below in the address section of this notice.

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by February 1, 2002.

ADDRESSES: Send comments to the Corporation for National and Community Service, Office of Evaluation, Attn: Chuck Helfer, 1201 New York Avenue, NW., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Chuck Helfer, (202) 606–5000, ext. 248.

SUPPLEMENTARY INFORMATION:

AmeriCorps Volunteer Generation Study

I. Background

The three AmeriCorps programs of the Corporation (AmeriCorps*State/National, National Civilian Community Corps (NCCC) and Volunteers In Service To America (VISTA)) depend on volunteers to help link program activities to individuals and institutions in the communities served by AmeriCorps. Each program plans and implements its own volunteer mobilization and deployment strategies. Volunteer mobilization includes volunteer position development, recruitment, screening, and training. Deployment includes management (i.e. placement, scheduling, coordination, record keeping, volunteer/paid staff relations), recognition and development of appropriate volunteer policies and procedures.

II. Current Action

The Corporation seeks to evaluate the volunteer mobilization and deployment practices and outcomes of AmeriCorps programs. The evaluation will determine the extent to which the mobilization and deployment of local volunteers is meeting AmeriCorps goals for community strengthening and getting things done and AmeriCorps programs are engaging in effective volunteer mobilization and deployment practices. The evaluation will entail mail survey of approximately 1500 surveys to program/project directors and/or site staff. The Corporation will use the data collected through these activities to help programs and projects improve their volunteer-related practices.

Type of Review: New collection.

Agency: Corporation for National and Community Service.

Title: AmeriCorps Volunteer Generation Study.

OMB Number: None.

Agency Number: None.

Affected Public: AmeriCorps program staff, members, volunteers, and other stakeholders.

Total Respondents: 1500 survey respondents.

Frequency: One time.

Average Time Per Response: 45 minutes.

Estimated Total Burden Hours: 1125 hours (survey).

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintenance): 0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: November 27, 2001.

David B. Rymph,

Acting Director, Department of Evaluation and Effective Practices.

[FR Doc. 01–29842 Filed 11–30–01; 8:45 am]

BILLING CODE 6050–65–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Acquisition, Technology & Logistics), DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Acquisition, Technology & Logistics) announces a proposed public information colleciton and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collected on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by February 1, 2002.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Director, Acquisition Initiatives, ATTN: Dr. Jay Mandelbaum, 3620 Defense Pentagon, Washington, DC 20301–3620.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Office of the Director, Acquisition Initiatives, at 703–614–3882.

Title: Defense Suppliers Customer Satisfaction Diagnostic Survey.

Needs and Uses: The information collection is necessary to determine the reasons for supplier satisfaction/dissatisfaction with Defense acquisition processes. The information will be used to improve Defense acquisition processes to assure supplier satisfaction.

Affected Public: Business or other for profit.

Annual Burden Hours: 95.

Number of Respondents: 380.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of the Information Collection

DoD has identified three activities that interface with its suppliers and are relevant for acquisition improvement. These are providing information that contractors need to do business with DoD, establishing a business relationship with each contractor, and then maintaining that business relationship on a long-term basis. The best leverage for improving the overall satisfaction of suppliers is in improving the relationships DoD maintains with them. The proposed collection has been designed to diagnose problems with supplier customer satisfaction. This feedback will be used to formulate policies, programs and practices for improving the level of supplier customer satisfaction. A web-based survey is planned for the supplier diagnostic survey. The survey instrument will be posted on the web, and suppliers will be sent invitations via e-mail to access the web site and complete the survey instrument. The basis for this method is that the cost and time for the survey could be reduced, minimizing the burden on the supplier base.

Dated: November 27, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–29843 Filed 11–30–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507(j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by December 21, 2001. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before February 1, 2002.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren_Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: November 27, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Part B of the Individual with Disabilities Education Act Biennial Performance Report for School Years 1999–2000 through 2000–2001.

Abstract: State educational agencies are required to establish goals for the performance of children with disabilities in that State that promote the purposes of Part B of the Individuals with Disabilities Education Act (Part B). States must also establish performance indicators that the State will use to assess its progress in achieving these goals. Section 612(a)(16) of Part B requires States to report to the Secretary biennially on the progress that the State has made toward meeting its goals.

Additional Information: Information required provides States an opportunity to analyze and explain data that are reported in the Annual Report of Children Served, i.e., number of children served, suspension and expulsion, graduation, and dropout data.

Frequency: Biennially.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 57.

Burden Hours: 4,560.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *OCIO.RIMG@ed.gov*, or should be faxed to 202–708–9346.

Comments regarding burden and/or the collection activity requirements, contact Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–29832 Filed 11–30–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–51–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 27, 2001.

Take notice that on November 16, 2001, Colorado Interstate Gas Company (CIG) tendered for filing as part of its

FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of January 1, 2002:

Twentieth Revised Sheet No. 10
Thirty-Fourth Revised Sheet No. 11

CIG states that the tariff sheets are being filed to revise the Gas Research Institute surcharges.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29862 Filed 11–30–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–54–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 27, 2001.

Take notice that on November 20, 2001 Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets in the above captioned docket, bear a proposed effective date of November 1, 2001.

ESNG states that the purpose of this instant filing is to track rate changes attributable to storage services purchased from Transcontinental Gas Pipe Line Corporation (Transco) under its Rate Schedules GSS and LSS. The costs of the above referenced storage services comprise the rates and charges payable under ESNG's respective Rate Schedules GSS and LSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedules GSS and LSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29865 Filed 11–30–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–341–001]

Egan Hub Partners, L.P.; Notice of Compliance Filing

November 27, 2001.

Take notice that on November 20, 2001, Egan Hub Partners, L.P. (Egan Hub) tendered for filing pro forma tariff sheets in compliance with Order Nos. 637, *et seq.*

Egan Hub states that the purpose of this filing is to comply with the requirement of Order Nos. 637, *et seq.* either to file pro forma tariff sheets that implement certain tariff changes relating to scheduling procedures, capacity segmentation, imbalance management, and penalties, or to explain why the Order No. 637 requirements do not apply to the pipeline's tariff and operating practices.

Egan Hub states that copies of its filing have been mailed to all affected customers and interested state commissions.

Egan Hub proposes that the Commission grant interested parties thirty days from the date of the filing within which to submit initial comments regarding the filing, and a further twenty day period within which Egan Hub may submit reply comments.

Any person desiring to file initial comments in said filing should file the comments with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All initial comments must be filed on or before December 20, 2001. Egan must file reply comments to the initial comments on or before January 9, 2002. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29858 Filed 11–30–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–343–005]

Kinder Morgan Interstate Gas Transmission LLC; Notice of Compliance Filing

November 27, 2001.

Take notice that on November 19, 2001, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing as part of its FERC Gas Tariff, the tariff sheets listed on Appendix A and Appendix B–1 to the filing.

KMIGT is filing the above-referenced tariff sheets in compliance with the Commission's Order No. 637 and with the Commission's Letter Order dated October 19, 2001 in Docket No. RP00–343.

KMIGT states that a copy of this filing has been served upon all parties on the official service list for this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29859 Filed 11–30–01; 8:45 am]

BILLING CODE 5717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–382–007]

Northern Natural Gas Company; Notice of Compliance Filing

November 27, 2001.

Take notice that on November 19, 2001, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet proposed to be effective November 1, 2001.

Substitute Eighth Revised Sheet No. 263

Northern states that the reason for this filing is to comply with the Commission's Order dated November 15, 2001 in Docket RP01–382–006. Pursuant to the Order, Northern has removed the reference to the customer buyout surcharge that pertains to future winter heating seasons from the above noted tariff sheet.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29860 Filed 11–30–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–53–000]

Overthrust Pipeline Company; Notice of Tariff Filing

November 27, 2001.

Take notice that on November 19, 2001, Overthrust Pipeline Company (Overthrust) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1 the following tariff sheets to be effective December 19, 2001:

Sixth Revised Sheet No. 3
Fifth Revised Sheet No. 5

Overthrust is proposing to modify its tariff for two separate cleanup purposes as described below:

1. Overthrust states that on March 24, 2000, Questar Pipeline Company bought Enron Overthrust Pipeline Company's (Enron) interest in the Overthrust partnership resulting in Enron's removal from the general partnership, effective January 1, 2000.

2. Natural Gas Pipeline Company of America permanently released capacity to Duke Energy Trading & Marketing, LLC, effective November 1, 1998.

Overthrust states that this filing reflects these changes. Overthrust states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29864 Filed 11–30–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP02–17–001 and CP00–65–006]

Tennessee Gas Pipeline Company; Notice of Compliance Filing and Associated Tariff Filing

November 27, 2001.

Take notice that on November 16, 2001, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Substitute First Revised Sheet No. 23F, with an effective date of December 1, 2001, and withdraws its Sixth Revised Sheet No. 159 which the Commission accepted in its November 2, 2001 letter order.

Tennessee states that the filing is being made in compliance with the Commission's November 2, 2001, Letter Order in Docket Nos. RP02–17–000 and CP00–65–005 and to propose Extended Receipt Service (ERS) and Extended Delivery Service (EDS) on Incremental Laterals such as the Stagecoach Lateral

for shippers receiving firm transportation service under Rate Schedule FT–A.

Tennessee states that for an additional incremental charge, FT–A shippers will be able to access such Incremental Laterals, without executing a separate contract under Rate Schedule FT–IL. Tennessee requests that any waivers be granted and this filing be accepted and the tariff sheet be made effective on December 1, 2001, so that Tennessee can implement the proposed ERS and EDS on the same date that all other services relating to the Stagecoach Lateral will be effective.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29861 Filed 11–30–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02–7–000]

Trunkline Gas Company and CMS Trunkline Gas Company, LLC; Notice of Proposed Changes in FERC Gas Tariff

November 27, 2001.

Take notice that on November 19, 2001, Trunkline Gas Company (Trunkline) and CMS Trunkline Gas Company, LLC tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to reflect a corporate name change to become effective December 1, 2001.

Trunkline states that the revised tariff sheets reflect a corporate name change that will occur on December 1, 2001. On that date, Trunkline will convert from a Corporation to a limited liability company and will change its corporate name to CMS Trunkline Gas Company, LLC.

Trunkline states that copies of its transmittal letter and appendices have been mailed to all affected customers and interested state commissions. Trunkline states that copies of the tariff sheets will be provided, via overnight mail, upon request.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29856 Filed 11–30–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–52–000]

Wyoming Interstate Company, Ltd.; Notice of Proposed Changes in FERC Gas Tariff

November 27, 2001.

Take notice that on November 16, 2001, Wyoming Interstate Company, Ltd. (WIC) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 2, the following tariff sheets, with an effective date of January 1, 2002:

Seventh Revised Sheet No. 4C
Third Revised Sheet No. 78

WIC states that the tariff sheets are being filed to revise the Gas Research Institute surcharges and add the "check the box" contribution mechanism.

WIC states that it has served copies of the filing to all shippers on WIC's system, and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29863 Filed 11–30–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–360–000, et al.]

UAE Lowell Power LLC, et al.; Electric Rate and Corporate Regulation Filings

November 23, 2001.

Take notice that the following filings have been made with the Commission:

1. UAE Lowell Power LLC

[Docket No. ER02–360–000]

Take notice that on November 16, 2001, UAE Lowell Power LLC (ULP), tendered for filing with the Federal

Energy Regulatory Commission (Commission) a Notification of Change in Status. ULP seeks to notify the Commission that it is no longer affiliated with Duke Energy Corporation (Duke). Due to this change in affiliation with Duke, ULP is amending its Rate Schedule No. 1 to remove the Code of Conduct (Supplement No. 1 to Rate Schedule No. 1) between ULP and Duke. ULP requests an effective date of December 16, 2001 for the amendment.

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Lowell Cogeneration Company Limited Partnership

[Docket No. ER02–361–000]

Take notice that on November 16, 2001, Lowell Cogeneration Company LP. (LCCLP) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notification of Change in Status. LCCLP seeks to notify the Commission that it is no longer affiliated with Duke Energy Corporation (Duke). Due to this change in affiliation with Duke, LCCLP is amending its Rate Schedule No. 1 to remove its Code of Conduct (Supplement No. 1 to Rate Schedule No. 1) between LLCLP and Duke. LCCLP requests an effective date of December 16, 2001 for the amendment.

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. United American Energy Corp.

[Docket No. ER02–362–000]

Take notice that on November 16, 2001, United American Energy Corp. (UAE), tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notification of Change in Status. UAE seeks to notify the Commission that it is no longer affiliated with Duke Energy Corporation (Duke). Due to this change in affiliation with Duke, UAE is amending its Rate Schedule No. 1 to remove the Code of Conduct (Supplement No. 1 to Rate Schedule No. 1) between UAE and Duke. UAE requests an effective date of December 16, 2001 for the amendment.

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Calpine Construction Finance Company, L.P.

[Docket No. ER02–363–000]

Take notice that on November 16, 2001, Calpine Construction Finance Company, L.P. (CCFC) filed a revised executed long-term power marketing agreement under which CCFC will make wholesale sales of electric energy to Calpine Energy Services, L.P. at market-based rates. CCFC requests confidential treatment of this agreement.

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. American Transmission Company LLC

[Docket No. ER02–364–000]

Take notice that on November 16, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Distribution-Transmission Interconnection Agreement between ATCLLC and City of Algoma.

ATCLLC requests an effective date of June 25, 2001.

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. American Transmission Company LLC

[Docket No. ER02–365–000]

Take notice that on November 16, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Distribution-Transmission Interconnection Agreement between ATCLLC and Rock County Electric Cooperative Association. ATCLLC requests an effective date of June 29, 2001.

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Exelon Generation Company, LLC

[Docket No. ER02–366–000]

Take notice that on November 16, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and Florida Power Corporation under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Exelon Generation Company, LLC

[Docket No. ER02–367–000]

Take notice that on November 16, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and Carolina Power & Light Company under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Xcel Energy Operating Companies, Northern States Power Company, Northern States Power Company (Wisconsin)

[Docket No. ER02–368–000]

Take notice that on November 19, 2001, Northern States Power Company and Northern States Power Company (Wisconsin) (jointly NSP), wholly-owned utility operating company subsidiaries of Xcel Energy Inc., tendered for filing with the Federal Energy Regulatory Commission (FERC or Commission) a Firm Point-to-Point Transmission Service Agreement between NSP and Alliant Energy Corporate Services Inc. NSP proposes the Agreement be included in the Xcel Energy Operating Companies FERC Joint Open Access Transmission Tariff, First Revised Volume No. 1, as Service Agreement 193–NSP, pursuant to Order No. 614.

NSP requests that the Commission accept the agreement effective November 1, 2001, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: December 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER02–369–000]

Take notice that the California Independent System Operator Corporation (ISO), on November 19, 2001, tendered for filing with the Federal Energy Regulatory Commission (Commission) a Meter Service Agreement for Scheduling Coordinators between the ISO and Quiet, LLC for acceptance by the Commission. The ISO states that this filing has been served on Quiet, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of November 6, 2001.

Comment date: December 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. California Independent System Operator Corporation

[Docket No. ER02–370–000]

Take notice that the California Independent System Operator Corporation (ISO), on November 19, 2001, tendered for filing with the Federal Energy Regulatory Commission (Commission) a Scheduling Coordinator Agreement between the ISO and Quiet, LLC for acceptance by the

Commission.The ISO states that this filing has been served on Quiet, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Scheduling Coordinator Agreement to be made effective as of November 6, 2001.

Comment date: December 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. American Electric Power Service Corporations

[Docket No. ER02–371–000]

Take notice that on November 19, 2001, American Electric Power Service Corporation tendered for filing on behalf of the operating companies of the American Electric Power System (collectively, AEP), proposed amendments to the AEP Open Access transmission Tariff (OATT) and to the Transmission Coordination Agreement (TCA).

AEP requests that the amendments to the OATT be made effective in two stages. AEP requests that the stage one amendments become effective as of January 1, 2002 and that the stage two amendments to the OATT become effective as of the date AEP implements corporate separation of its facilities in the Electric Reliability Council of Texas (ERCOT). AEP requests that the amended TCA become effective as of the date AEP implements corporate separation of its facilities in the ERCOT.

Copies of the transmittal letter and the prefiled testimony have been served upon AEP's transmission customers and copies of the complete filing have been served on the public service commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Tennessee, Texas, Virginia, West Virginia, and the Oklahoma Corporation Commission.

Comment date: December 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Entergy Services, Inc.

[Docket No. ER02–372–000]

Take notice that on November 19, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Morgan Stanley Capital Group Inc.

Comment date: December 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. American Transmission Company LLC

[Docket No. ER02–373–000]

Take notice that on November 19, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Distribution-Transmission Interconnection Agreement between ATCLLC and the City of Reedsburg.

ATCLLC requests an effective date of June 19, 2001.

Comment date: December 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. American Transmission Company LLC

[Docket No. ER02–374–000]

Take notice that on November 19, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Distribution-Transmission Interconnection Agreement between ATCLLC and the City of Sun Prairie.

ATCLLC requests an effective date of June 26, 2001.

Comment date: December 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Phelps Dodge Energy Services, LLC

[Docket No. ER02–375–000]

Take notice that on November 19, 2001, Phelps Dodge Energy Services, LLC, (PDES) filed with the Federal Energy Regulatory Commission (Commission) a letter informing the Commission of a change in the amount of capacity available to PDES that may be relevant to PDES'' market-based rate authority granted by letter order on July 1, 1999. See Green Power Partners I LLC, 88 FERC ¶ 61,005 (1999).

Comment date: December 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29830 Filed 11–30–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

November 27, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application type:* Amendment of License.

b. *Project no.:* 10455–021.

c. *Date filed:* November 8, 2001.

d. *Licensee:* JDJ Energy Company.

e. *Name of project:* River Mountain Pumped Storage Hydroelectric Project.

f. *Location:* The project is located on Lake Dardanelle on the Arkansas River in Logan County; Arkansas. The project does not occupy any federal lands.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Licensee contact:* Mr. Donald H. Clarke, Counsel, Law Offices of GKRSE, 1500 K Street NW., Suite 330, Washington, DC 20005; (202) 408–5400.

i. *FERC Contact:* Any questions on this notice should be addressed to Steve Naugle, *steven.naugle@ferc.fed.us*, or (202) 219–2805.

j. *Deadline for filing comments and or motions:* December 13, 2001.

All documents (original and eight copies) should be filed with Mr. David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. Please reference the

following number, P–10455–021, on any comments or motions filed.

k. *Description of proposal:* The licensee requests that article 412 of the project license be deleted from the license. License article 412 requires the licensee to file with the Commission, for approval, the proposed terms and conditions of an agreement between the licensee and the Pine Bluff Sand & Gravel Company for lost mineral resources as a result of the project. The licensee asserts that this article imposes additional and unnecessary procedures with respect to the licensee's acquisition of project property.

l. *Locations of the application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–29857 Filed 11–30–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7111–3]

Underground Injection Control Program Hazardous Waste Injection; Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; E. I. du Pont de Nemours & Company, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on a no migration petition reissuance.

SUMMARY: Notice is hereby given that a reissuance of an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to E. I. du Pont de Nemours & Company, Inc. (DuPont) for three Class I injection wells located at Beaumont, Texas. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by the petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the continued underground injection by DuPont, of the specific restricted hazardous wastes identified in the exemption, into Class I hazardous waste injection wells No. WDW–100, WDW–101, and WDW–188 at the Beaumont, Texas facility, until December 31, 2020, for the Frio Sand and until December 31, 2010, for the Oakville Sand, unless EPA moves to terminate the exemption under provisions of 40 CFR 148.24. As required by 40 CFR 148.22(b) and 124.10, a public notice was issued November 27, 2000, and a comment period extension notice was issued December 28, 2000, notifying the public of the opportunity to comment on this action. The initial public comment period opened on November 27, 2000, and closed on January 31, 2001. There was a public hearing held January 4, 2001. The second comment period opened on July 19, 2001, and closed on September 4, 2001. A responsiveness summary was prepared to address all of the extensive comments received. This decision constitutes final Agency action.

DATES: This action is effective as of November 21, 2001.

ADDRESSES: Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Quality Protection Division, Source Water Protection Branch (6WQ–S), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Philip Dellinger, Chief Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–7165.

Sam Becker,

Acting Division Director, Water Quality Protection Division (6WQ).

[FR Doc. 01–29866 Filed 11–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7111–2]

Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act, the Resource Conservation Recovery Act, and the Missouri Hazardous Waste Law, Sentinel Wood Treating Site, Ava Douglas County, MO

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposal of prospective purchaser agreement for the Sentinel Wood Treating Site.

SUMMARY: Notice is hereby given that a proposed prospective purchaser agreement associated with the Sentinel Wood Treating Site, located in Ava, Douglas County, Missouri, was executed by the Agency on October 25, 2001, the Missouri Department of Natural Resources on November 7, 2001, the Missouri Attorney General's Office on October 22, 2001, the City of Ava on October 19, 2001, and concurred upon by the United States Department of Justice on October 22, 2001. The Site is an inactive woodtreating facility. The agreement, between the City of Ava, Missouri ("the purchaser"), the United States Environmental Protection Agency ("EPA"), and the Missouri Department of Natural Resources ("MDNR") is subject to final approval after the comment period. The Prospective Purchaser Agreement would resolve

certain potential EPA claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), and potential MDNR claims under the Missouri Hazardous Waste Law.

Under this proposed agreement, the purchaser would be required to sample, if necessary, and dispose of contaminated materials that are excavated during road construction and related construction activities, restrict access to two ponds located north of the Site, and refrain from any activity which disturbs the former lagoon area of the Site and the ground water drainage diversion system at the Site. The purchaser must also provide to EPA copies of all construction plans at least thirty (30) days in advance of construction activities. Further, the settlement also requires the purchaser to restrict the use of ground water and ensure non-interference with the performance, operation, and maintenance of any selected response action.

The purchaser is required to grant access to the property to EPA, its authorized officers, employees, representatives, and all other persons performing response actions under EPA oversight. If the purchaser fails to comply with the terms of the Agreement and Covenant Not to Sue, the purchaser would be liable for all litigation and other enforcement costs incurred by the United States to enforce this Agreement.

This notice is also hereby given in accordance with section 7003(d) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973(d). The proposed settlement includes an EPA covenant not to sue the purchaser pursuant to section 7003 of RCRA, 42 U.S.C. 6973. Commenters may request an opportunity for a public meeting in the affected area in accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d).

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101, and the information repository for the Sentinel Wood Treating site located at the Douglas County Public Library, Ava, Missouri.

DATES: Comments must be submitted on or before January 2, 2002.

Availability. The proposed settlement is available for public inspection at the U.S. Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101, and the information repository for the Sentinel Wood Treating Site located at the Douglas County Public Library, Ava, Missouri. A copy of the proposed agreement may be obtained from Alyse Stoy, Assistant Regional Counsel, U.S. Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101. Comments should reference "The Sentinel Wood Treating Site Prospective Purchaser Agreement" and should be forwarded to Alyse Stoy, at the above address.

FOR FURTHER INFORMATION CONTACT: Alyse Stoy, Assistant Regional Counsel, Office of Regional Counsel, United States Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551–7826.

Dated: November 16, 2001.

James B. Gulliford,

Regional Administrator, Region VII.

[FR Doc. 01–29867 Filed 11–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–OW–7111–4]

Notice of Extension of Comment Period on Draft Aquatic Life Criteria Document for Atrazine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of comment period on draft aquatic life criteria document for atrazine.

SUMMARY: Section 304(a)(1) of the Clean Water Act (CWA) requires the Environmental Protection Agency (EPA) to develop and publish, and from time to time revise, criteria for water accurately reflecting the latest scientific knowledge. These criteria provide EPA's recommendations to states and authorized tribes as guidance in establishing their water quality standards as state or tribal law or regulation. On September 26, 2001, at 66 FR 49186, EPA published a notice of availability for a draft aquatic life criteria document for atrazine. Today, in response to an official request, EPA is notifying the public that the comment period on this draft aquatic life criteria document has been extended for an additional sixty days, until January 25, 2002.

As discussed in the original **Federal Register** notice, EPA's Office of Pesticide Programs (OPP) released its preliminary ecological fate and effects risk assessment of atrazine for a sixty day comment period (66 FR 49180) concurrent with the EPA's Office of Water (OW) draft aquatic life criteria document. However, the 60-day time extension announced today is only for comments on OW's draft aquatic life criteria document. OPP's ecological fate and effects risk assessment will be revised after public comments have been considered and incorporated, and OPP will be soliciting public comment on risk mitigation ideas for 60 days. Both offices continue to ask that comments be submitted to both the OW (W–01–10) and OPP (OPP–34237A) dockets, as discussed in the original **Federal Register** notices.

EPA is notifying the public about the availability of this draft document in accordance with the Agency's process for developing or revising criteria (63 FR 68354, December 10, 1998). As indicated in the December 10, 1998 FR notice, the Agency believes it is important to provide the public with an opportunity to submit scientific information on draft criteria.

DATES: All significant scientific information must be submitted to the Agency under docket number W–01–10. All significant scientific information submissions are requested to be submitted by January 25, 2002. The Administrative Record supporting this draft guidance document is available at the Water Docket, Room EB 57, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 on Monday through Friday, excluding Federal holidays, between 9 a.m. and 4 p.m. For access to docket materials call (202) 260–3027 for an appointment. A reasonable fee will be charged for photocopies.

ADDRESSES: Send an original and three copies of any written significant scientific information to W–01–10 Comment Clerk, Water Docket (MC4101), USEPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Information may be hand-delivered to the Water Docket, USEPA, Room EB 57, 401 M Street, SW., Washington, DC 20460. Information may also be submitted electronically to *OW-Docket@epa.gov*. Information should be submitted as a WP5.1, 6.1 and/or 8.0 or an ASCII file with no form of encryption.

Copies of the criteria document entitled, *Ambient Aquatic Life Water Quality Criteria for Atrazine* may be obtained from EPA's Water Resource

Center by phone at (202) 260–7786, or by e-mail to *center.water-resource@epa.gov* or by conventional mail to EPA Water Resource Center, RC–4100, 1200 Pennsylvania Ave., Washington, DC 20460. Alternatively, consult *www.epa.gov/OST* for download availability.

FOR FURTHER INFORMATION CONTACT: Frank Gostomski, Health and Ecological Criteria Division (4304), US EPA, 1200 Pennsylvania Avenue NW., Washington, DC 20460; (202) 260–1321; *gostomski.frank@epa.gov*

SUPPLEMENTARY INFORMATION:

What Are Recommended Water Quality Criteria?

Recommended water quality criteria are the concentrations of a chemical in water at or below which aquatic life are protected from acute and chronic adverse effects of the chemical. Section 304(a)(1) of the Clean Water Act requires EPA to develop and publish, and from time to time revise, criteria for water accurately reflecting the latest scientific knowledge. Water quality criteria developed under section 304(a) are based solely on data and scientific judgments. They do not consider economic impacts or the technological feasibility of meeting the criteria in ambient water. Section 304(a) criteria provide guidance to States and Tribes in adopting water quality standards and provide a scientific basis for them to develop controls of discharges or releases of pollutants. The criteria also provide a scientific basis for EPA to develop Federally promulgated water quality standards under section 303(c).

What Is Atrazine and Why Are We Concerned About It?

Atrazine is an organic chemical used as an herbicide throughout the U.S. for control of weeds in agricultural crops. Environmental exposure occurs mainly from its application as an herbicide but may also occur from industrial manufacture, distribution releases, precipitation, field runoff, and drift. Atrazine is moderately volatile and soluble in water, and resistant to natural degradation in water. Because of atrazine's chemical properties and widespread use as an herbicide, concerns have been raised over the potential risks posed by exposure of aquatic organisms to it. For these reasons, EPA has developed the following water quality criteria:

Freshwater

Aquatic life should not be affected unacceptably if the: One-hour average concentration of atrazine does not exceed 350 ug/l more than once every three years on the average (Acute Criterion); and Four-day average concentration of atrazine does not exceed 12 ug/l more than once every three years on the average (Chronic Criterion).

Saltwater

Aquatic life should not be affected unacceptably if the: One hour average concentration of atrazine does not exceed 760 ug/l more than once every three years on the average (Acute Criterion); and Four-day average concentration of atrazine does not exceed 26 ug/l more than once every three years on the average (Chronic Criterion).

Definitions of Criteria Terminology

One hour average: The average of all samples taken during a one hour period by either continuous sampling or periodic grab samples.

Four day average: The average of all samples taken during four consecutive days by either continuous sampling or periodic grab samples. Also known as a 96-hour average.

Acute Criterion: A chemical concentration protective of aquatic organisms from short term exposure to fast acting chemicals or spikes in concentrations. For example exposure of a fish moving through an area for foraging but not residing in the area.

Chronic Criterion: A chemical concentration protective of aquatic organisms from longer term exposure to slower acting chemicals or relatively steady concentrations. For example, exposure of a fish that resides in an area.

Why Is EPA Notifying the Public About the Extension of the Comment Period on the Draft Atrazine Criteria Document?

Today, EPA is notifying the public about the extension of the comment period on the draft aquatic life criteria document for atrazine to expand the public's involvement in the criteria development process. EPA notified the public of its intent to develop aquatic life criteria for atrazine in the **Federal Register** on October 29, 1999 (64 FR 58409). At that time EPA made available to the public all references identified by a recent literature review and solicited any additional pertinent data or scientific views that would be useful in developing the aquatic life criteria for atrazine. On September 26, 2001, EPA notified the public of the availability of a draft aquatic life criteria document for atrazine (66 FR 49186). EPA is now making the draft aquatic life criteria document for atrazine available for public review for an additional sixty days. As indicated in the December 10, 1998 FR notice, the Agency believes it is important to provide the public with an opportunity to submit scientific information on draft criteria. EPA is soliciting views from the public on issues of science pertaining to the information used to derive the draft criteria. EPA will review and consider significant scientific information submitted by the public that might not have otherwise been identified during development of these criteria.

Where Can I Find More Information on EPA's Revised Process for Developing New or Revised Criteria?

The Agency published detailed information about its revised process for developing and revising criteria in the **Federal Register** on December 10, 1998 (63 FR 68354) and in the EPA document entitled, *National Recommended Water Quality—Correction* (EPA 822–Z–99–001, April 1999). The purpose of the revised process is to provide expanded opportunities for public input, and to make the criteria development process more efficient.

Dated: November 7, 2001.

Geoffrey H. Grubbs,

Director, Office of Science and Technology.

[FR Doc. 01–29868 Filed 11–30–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: Review of Local Mitigation Planning Initiatives and practices.

Type of Information Collection: New.

Abstract: The data collected from the survey will support the Federal Insurance and Mitigation Administration and the Office of the Inspector General in conducting a national review of local mitigation planning. The goal of the survey is to determine the extent to which communities are formulating, adopting and adhering to local mitigation plans, and to review the overall quality of

these plans. Additional goals are to document the "best practices" and identify characteristics of successful planning programs at the local level.

Affected Public: State, local or tribal governments.

Estimated Annual Burden Hours: 188.

Frequency of Responses: Annually.

Estimated Annual Costs to Respondents: $30.00 per respondent.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days from the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, Chief, Records Management Section, Program Services and Systems Branch, Facilities Management and Services Division, Administration and Resource Planning Directorate, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625, Fax number (202) 646–3347, or e-mail address: *muriel.anderson@fema.gov.*

Dated: September 28, 2001.

Reginald Trujillo,

Branch Chief, Program Services and Systems Branch, Facilities Management and Services Division, Administration and Resource Planning Directorate.

[FR Doc. 01–29869 Filed 11–30–01; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1395–DR]

Oklahoma; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma, (FEMA–1395–DR), dated October 25, 2001, and related determinations.

EFFECTIVE DATE: November 16, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov.*

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 25, 2001: Caddo and Kiowa Counties for Individual Assistance and Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–29870 Filed 11–30–01; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 27, 2001.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Chittenden Corporation, Burlington, Vermont; to acquire 100 percent of the voting shares of, and thereby merge with Ocean National Corporation, Kennebunk, Maine, and thereby indirectly acquire Ocean National Bank, Kennebunk, Maine.

B. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. F.N.B. Corporation, Naples, Florida; to acquire up to 20 percent of the voting shares of Sun Bancorp, Inc., Selinsgrove, Pennsylvania, and thereby indirectly acquire voting shares of Sun Bank, Selinsgrove, Pennsylvania.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Jane Austin Chapman Limited Partnership, L.P., Jacksonville, Texas; to become a bank holding company by directly acquiring 14.8 percent of the voting shares of Austin Bancorp, Inc., Jacksonville, Texas; and thereby indirectly acquire voting shares of TEB, Inc., Shreveport, Louisiana; and Austin Bank, Texas National Association, Jacksonville, Texas; and directly acquire 8.1 percent of the voting shares of Capital Bancorp, Inc., Jacinto City, Texas, and thereby indirectly acquire voting shares of JACI, Inc., Wilmington, Delaware, and Capital Bank, Jacinto City, Texas; and directly acquire 9.9 percent of the voting shares of Frankston Bancorp, Inc., Frankston, Texas, and thereby indirectly acquire voting shares of FDB, Inc., Dover, Delaware, and First State Bank, Frankston, Texas; and directly acquire 5.9 percent of the voting shares of First State Bank, Athens, Texas.

Board of Governors of the Federal Reserve System, November 27, 2001.

Margaret McCloskey Shanks,

Assistant Secretary of the Board.

[FR Doc. 01–29845 Filed 11–30–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 01-28713) published on page 57718 of the issue for Friday, November 16, 2001.

Under the Federal Reserve Bank of Kansas City heading, the entry for First National Bancshares, Inc., Goodland, Kansas, is revised to read as follows:

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. First National Bancshares, Inc., ESOP and 401 (K) Trusts, and First National Bancshares, Inc., both of Goodland, Kansas; to acquire 86.4 percent of the voting shares of Security State Bank, Bird City, Kansas.

Comments on this application must be received by December 10, 2001.

Board of Governors of the Federal Reserve System, November 27, 2001.

Margaret McCloskey Shanks,

Assistant Secretary of the Board.

[FR Doc. 01–29846 Filed 11–30–01 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 17, 2001.

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Meader Insurance Agency, Inc., Waverly, Kansas; to retain Waverly Insurance Agency, Inc., Waverly, Kansas, and thereby engage in insurance activities in a place of less than 5,000 persons, pursuant to § 225.28(b)(11)(iii) of Regulation Y.

Board of Governors of the Federal Reserve System, November 27, 2001.

Margaret McCloskey Shanks,

Assistant Secretary of the Board.

[FR Doc. 01–29847 Filed 11–30–01; 8:45 am]

BILLING CODE 6210-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities: Proposed Submission to the Office of Management and Budget (OMB) for Clearance; Comment Request; New Information Collection

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, provides an opportunity for comment on the following proposal for the collection of information in compliance with the Paperwork Reduction Act (PRA; Pub. L. 96–511): National Outcome Measures Surveys of Older Americans Act (OAA) Clients.

Type of Request: New information collection.

Use: Consumer assessment data will be collected in this initial set of surveys to initiate national program outcome assessment consistent with the requirements of the Government Performance and Results Act and the Older Americans Act.

Frequency: One-time.

Respondents: Elderly individuals who have received selected services under Title 3 of the Older Americans Act.

Estimated Number of Responses: 3,500.

Total Estimated Burden Hours: 2,000.

Additional Information or Comments:

The Administration on Aging plans to submit to the Office of Management and Budget for approval the National Outcome Measures Surveys of Older Americans Act (OAA) Clients, pursuant to requirements set forth by congressional statute. Through a contract with WESTAT, Inc., AoA will draw samples of individuals served through Area Agencies on Aging across the country for the purpose of obtaining OAA program service assessments from these individuals. The surveys will utilize information collection instruments and methods developed and tested by experts in the field of gerontology and by State and local entities that administer OAA programs. The surveys will include assessments from among the following service categories: nutrition, transportation, caregiver support, home-care, and information and assistance.

Written comments and recommendations for the proposed information collection should be sent within 60 days of the publication of this notice directly to the following address: Office of Planning and Evaluation, Administration on Aging, Attention: David Bunoski, 330 Independence Avenue, SW., Rm. 4755, Washington, DC 20201.

Dated: November 27, 2001.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 01–29818 Filed 11–30–01; 8:45 am]

BILLING CODE 4154-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02020]

Cooperative Agreement for Research and Human Resource Development in Human Infectious Diseases in Guatemala; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement program for Research and Human Resource Development in Human Infectious Diseases in Guatemala. This program addresses the "Healthy People 2010" focus area of Immunization and Infectious Diseases.

The purpose of this program is to conduct multi-disciplinary laboratory and field research studies and related activities to control and prevent human infectious diseases of public health importance in Guatemala and to achieve the health promotion and diseases prevention objectives of a national activity to reduce morbidity and mortality and improve the quality of health.

B. Eligible Applicants

Assistance will be provided only to the Universidad del Valle. No other applications are solicited.

The Universidad del Valle is the only non-government organization (NGO) in Guatemala with an established collaboration with the Guatemala Ministry of Health and Social Assistance (MOH).

The Universidad del Valle is the only research organization in Guatemala that possesses the requisite scientific and technical expertise, the infrastructure capacity, and which had conducted research in the areas of parasitic diseases and other human infectious diseases through collaboration with CDC for the past twenty three years.

Note: Title 2 of the United States Code, section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

C. Availability of Funds

Approximately $500,000 is available in FY 2002 to fund one award. It is expected that the awards will begin on or about April 1, 2002, and will be made for a 12-month budget period within a project period of up to five years. The funding estimate may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Where To Obtain Additional Information

Business management technical assistance, contact: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2757, E-mail address: *coc9cdc.gov*.

Program technical assistance may be obtained from: Diana Curtis, Division of Parasitic Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Atlanta, GA 30333, Telephone: (770) 488–7744, E-mail address: *dcy1@cdc.gov*.

Dated: November 26, 2001.

Rebecca B. O'Kelley,

Chief, International Grants and Contracts Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–29838 Filed 11–30–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

[Docket No. 98N–0917]

RIN 0910–AA52

Opioid Drugs in Maintenance and Detoxification Treatment of Opiate Addiction; Notice of Approval of Accreditation Organizations for Opioid Treatment Programs Under 42 CFR Part 8

AGENCY: Substance Abuse and Mental Health Services Administration, DHHS.

ACTION: Notice.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) is announcing the approval of four accreditation organizations under new opioid treatment program regulations. Under the provisions of the new regulations which went into effect on May 18, 2001, opioid treatment programs must apply to one of these approved accreditation organization as a condition of SAMHSA certification.

FOR FURTHER INFORMATION CONTACT: Nicholas Reuter, Center for Substance Abuse Treatment (CSAT), SAMHSA, Rockwall II, 5600 Fishers Lane, Rockville, MD, 20857, 301–443–0457, e-mail: *nreuter@samhsa.gov*. For further information on accreditation issues contact Raymond Hylton, Center for Substance Abuse Treatment (CSAT), SAMHSA, Rockwall II, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6502, e-mail: *rhylton@samhsa.gov*.

SUPPLEMENTARY INFORMATION: New regulations effective May 18, 2001 (66 FR 15347, March 19, 2001, see also 66 FR 4092, January 17, 2001) establish an accreditation based regulatory system for opioid treatment programs (OTPs) that use methadone or ORLAAM for the maintenance or detoxification treatment of opiate addiction. Under 42 CFR 8.3, interested private nonprofit organizations or State governmental entities can submit applications to become accreditation bodies under the new rules. Four entities submitted applications and have been determined by SAMHSA under 42 CFR 8.3(d) to substantially meet the conditions for approval.

1. CARF * * * The Rehabilitation Accreditation Commission, 4891 East Grant, Tucson, Arizona 60181, telephone: 520–325–1044, fax: 520–318–1129, Web site: *http://www.carf.org/CARF*.

2. Council on Accreditation for Children and Family Services, 120 Wall Street, 11th Floor, New York, New York 10005, telephone: 212–797–3000, fax: 212–797–1428, Web site: *http://www.coanet.org*.

3. Joint Commission on Accreditation of Healthcare Organizations, One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181, telephone: 630–792–5800, fax: 630–792–5005, Web site: *http://www.jcaho.org*.

4. Division of Alcohol and Substance Abuse, Washington Department of Social and Health Services, Division of Alcohol and Substance Abuse, P.O. Box 45330 (Mail Stop 45330), Olympia, Washington 98504–5330, telephone: 360–438–8056, fax: 360–407–5318, Web site: *http://www-app2.wa.gov/dshs/dasa*.

SAMHSA is providing this notice to OTPs and others to facilitate accreditation applications as necessary for certification under the provisional and transitional certification provisions of Subpart B of the new regulation (see 42 CFR 8.11(a), (d), and (e)). OTPs with transitional certification must apply to an approved accreditation body no later than March 4, 2002. SAMHSA is also notifying OTPs directly about the approval of these four accreditation organizations and will notify OTPs of future approvals in a similar manner.

Additional information on accreditation and related issues can be obtained from the SAMHSA/CSAT Web page at *www.opat.samhsa.gov* or by writing to the Substance Abuse and Mental Health Services Administration, CSAT Office of Pharmacologic and Alternative Therapies, Attention: OTP Accreditation Program, 5600 Fishers Lane, Room 12–105, Rockville, MD 20857.

Dated: November 27, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–29839 Filed 11–30–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Permit No. TE–048470

Applicant: Sonoma County Permit and Resource Management Department, Santa Rosa, California.

The applicant requests a permit to take (capture) the California freshwater shrimp (*Syncaris pacifica*) in conjunction with surveys throughout the species range in California for the purpose of enhancing its survival.

Permit No. TE–048739

Applicant: Daniel Cordova, Santa Maria, California.

The applicant requests a permit to take (locate and monitor nests) the California least tern (*Sterna antillarum browni*) in conjunction with population monitoring in San Luis Obispo and Santa Barbara Counties, California, for the purpose of enhancing its survival.

Permit No. TE–049072

Applicant: Wayne D. Spencer, San Diego, California.

The applicant requests a permit to take (capture, handle, mark, and release) the Pacific pocket mouse (*Perognathus longimembris pacificus*), San Bernardino kangaroo rat (*Dipodomys merriami parvus*), and Stephens' kangaroo rat (*Dipodomys stephensi*) in conjunction with demographic and ecological research throughout the species' range for the purpose of enhancing their survival.

Permit No. TE–702631

Applicant: Assistant Regional Director-Ecological Services, Region 1, U.S. Fish and Wildlife Service, Portland, Oregon.

The applicant requests a permit amendment to remove/reduce to possession specimens of the following plant species: *Silene spaldingii* (Spalding's catchfly). Authorization is also requested to take the following species: Ohlone tiger beetle (*Cicindela ohlone*). Collection and take activities will be conducted throughout the species' range in conjunction with recovery efforts for the purpose of enhancing their propagation and survival.

Permit No. TE–049461

Applicant: Jaymee Marty, Galt, California.

The applicant requests a permit to take the vernal pool tadpole shrimp (*Lepidurus packardi*) in Sacramento County, California, in conjunction with population monitoring for the purpose of enhancing its survival.

Permit No. TE–026932

Applicant: Darlene Woodbury, Santa Maria, California.

The permittee requests a permit amendment to take (capture and band) the California least tern (*Sterna antillarum browni*) in conjunction with population monitoring in San Luis Obispo and Santa Barbara Counties, California, for the purpose of enhancing its survival.

Permit No. TE–802107

Applicant: Patricia Baird, Long Beach, California.

The permittee requests a permit amendment to take (collect blood) the least tern (*Sterna antillarum*) throughout the its range in conjunction with genetic research for the purpose of enhancing its survival.

Permit No. TE–049175

Applicant: Melanie R. Huffman, Pheonix, Arizona.

The applicant requests a permit to take (survey) the Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*), and take (pursue) the Quino Checkerspot Butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the range of each species for the purpose of enhancing their survival.

Permit No. TE–049470

Applicant: Chris A. Niemela, La Mirada, California,

The applicant requests a permit to take (pursue) the Quino Checkerspot Butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the range of the species for the purpose of enhancing its survival.

Permit No. TE–049540

Applicant: Riverside-Corona Resource Conservation District, Riverside, California.

The applicant requests a permit to take (capture and remove from the wild) the Santa Ana sucker (*Catostomus santaanae*) in conjunction with relocation and captive propagation in a controlled stream site, and release to the wild for the purpose of enhancing its survival.

Permit No. TE–048660

Applicant: Dharm S. Pellegrini, Los Angeles, California.

The applicant requests a permit to take (survey, locate and monitor nests) the southwestern willow flycatcher (*Empidonax trailii extimus*) and take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with population monitoring in San Bernadino, Riverside, Orange, San Diego, Kern, Los Angeles, and Ventura Counties, California for the purpose of enhancing their survival.

DATES: Written comments on these permit applications must be received within 30 days of the date of publication of this notice.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species, Ecological Services, Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: November 15, 2001.

Rowan W. Gould,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 01–29825 Filed 11–30–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: Mark Groger, Cumming, GA, PRT–050072

The applicant request(s) a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus*

dorcas) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Blair Allen Murphy, Gaylord, MI, PRT–050074

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: November 19, 2001.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Office of Management Authority.

[FR Doc. 01–29849 Filed 11–30–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: San Diego Zoo, San Diego, California, PRT–049659.

The applicant request a permit to export four captive born Blyth's tragopans (*Tragopan blythii*) to The City of Belfast Zoological Gardens (Belfast Zoo), Northern Ireland for the purpose of enhancement of the survival of the species through propagation.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: November 23, 2001.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Office of Management Authority.

[FR Doc. 01–29851 Filed 11–30–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Recovery Plan for Coastal Plants of the Northern San Francisco Peninsula for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of the Draft Recovery Plan for Coastal Plants of the Northern San Francisco Peninsula. This recovery plan includes the endangered San Francisco lessingia (*Lessingia germanorum*) and Raven's manzanita (*Arctostaphylos hookeri* ssp. *ravenii*). The portion of the plan dealing with Raven's manzanita is a revision of the 1984 Raven's Manzanita Recovery Plan. Additional species of concern that will benefit from recovery actions taken for these plants are also discussed in the draft recovery plan. The draft plan includes recovery criteria and measures for San Francisco lessingia and Raven's manzanita.

DATES: Comments on the draft recovery plan must be received on or before March 4, 2002.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following location: U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California (telephone (916) 414–6600). Requests for copies of the draft recovery plan and written comments and materials regarding this plan should be addressed to Wayne S. White, Field Supervisor, Ecological Services, at the above Sacramento address. The draft recovery plan is also available on the World Wide Web at *http://www.r1.fws.gov/es/endsp.htm.*

FOR FURTHER INFORMATION CONTACT: Carmen Thomas, Fish and Wildlife Biologist, at the above Sacramento address.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for downlisting or delisting listed species, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plan. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plan, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of

implementing recovery actions. Individual responses to comments will not be provided.

San Francisco lessingia and Raven's manzanita are restricted to the San Francisco peninsula in San Francisco County, California. San Francisco lessingia, an annual herb in the aster family, is restricted to coastal sand deposits. Raven's manzanita is a rare evergreen creeping shrub in the heath family which was historically restricted to few scattered serpentine outcrops. Habitat loss, adverse alteration of ecological processes, and invasion of non-native plant species threaten San Francisco lessingia. Raven's manzanita has also been threatened by habitat loss; at present it is threatened primarily by invasion of non-native vegetation and secondarily by disease organisms and poor reproductive success. The draft plan also makes reference to several other federally listed species which are ecologically associated with San Francisco lessingia and Raven's manzanita, but which are treated comprehensively in other recovery plans. These species are beach layia (*Layia carnosa*), Presidio clarkia (*Clarkia franciscana*), Marin dwarf-flax (*Hesperolinon congestum*), Myrtle's silverspot butterfly (*Speyere zerene myrtleae*), and bay checkerspot butterfly (*Euphydryas editha bayensis*). In addition, 16 plant species of concern and 17 plant species of local or regional conservation significance are considered in this recovery plan.

The draft recovery plan stresses re-establishing dynamic, persistent populations of San Francisco lessingia and Raven's manzanita within plant communities which have been restored to be as "self-sustaining" as possible within urban wildland reserves. Specific recovery actions for San Francisco lessingia focus on the restoration and management of large, dynamic mosaics of coastal dune areas supporting shifting populations within the species' narrow historic range. Recovery of Raven's manzanita will include, but will not be limited to, the strategy of the 1984 Raven's Manzanita Recovery Plan, which emphasized the stabilization of the single remaining genetic individual. The draft plan also seeks to re-establish multiple sexually reproducing populations of Raven's manzanita in association with its historically associated species of local serpentine outcrops. The objectives of this recovery plan are to delist San Francisco lessingia and to downlist Raven's manzanita through implementation of a variety of recovery measures including: (1) Protection and restoration of a series of ecological reserves (often with mixed recreational and conservation park land uses); (2) promotion of population increases of San Francisco lessingia and Raven's manzanita within these sites, or reintroduction of them to restored sites; (3) management of protected sites, especially the extensive eradication or suppression of invasive dominant non-native vegetation; (4) research; and (5) public participation, outreach, and education.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of this plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: November 20, 2001.

Steve Thompson,

Acting California/Nevada Operations Manager, U.S. Fish and Wildlife Service, Sacramento, California.

[FR Doc. 01–29824 Filed 11–30–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability; Draft Environmental Impact Statement on Double-Crested Cormorant Management

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability for public comment.

SUMMARY: The U.S. Fish and Wildlife Service has prepared a Draft Environmental Impact Statement, which is available for public review. The DEIS analyzes the potential environmental impacts of several management alternatives for addressing problems associated with increasing double-crested cormorant populations. The analysis provided in the DEIS is intended to accomplish the following: inform the public of the proposed action and alternatives; address public comment received during the scoping period; and disclose the direct, indirect, and cumulative environmental effects of the proposed action and each of the alternatives. The Service invites the public to comment on the DEIS.

DATES: Written comments on the DEIS must be received by January 15, 2002.

ADDRESSES: Requests for copies of the DEIS should be mailed to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 634, Arlington, Virginia 22203. Copies of the DEIS can also be downloaded from the Division of Migratory Bird Management Web site at: *http://migratorybirds.fws.gov/issues/cormorant/cormorant.html.*

FOR FURTHER INFORMATION CONTACT: Jon Andrew, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, MS634, Arlington, VA 22203; phone: 703/358–1714; fax: 703/358–2272.

SUPPLEMENTARY INFORMATION: On November 8, 1999, a notice was published in the **Federal Register** (64 FR 60826) announcing that the Service intended to prepare an Environmental Impact Statement " to [address] impacts caused by population and range expansion of the double-crested cormorant in the contiguous United States." This announcement commenced a public scoping period that ended on June 20, 2000. Over 1,400 public comments were received and were considered in the development of the DEIS, which is now being made available for public review. This notice is provided pursuant to Fish and Wildlife Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6).

The DEIS evaluates six management alternatives to address biological and socioeconomic resource conflicts associated with cormorants: (1) No Action or a continuation of current cormorant management practices (Alternative A); (2) implement only non-lethal management techniques (Alternative B); (3) expand current cormorant damage management policies (Alternative C); (4) establish a new Depredation Order to address public resource conflicts (Alternative D) (PROPOSED ACTION); (5) reduce regional cormorant populations (Alternative E); and (6) establish frameworks for a cormorant hunting season (Alternative F). Our proposed action (Alternative D) modifies the existing Aquaculture Depredation Order and establishes a new Public Resource Depredation Order to allow public resource managers greater flexibility in dealing with cormorant conflicts while ensuring Federal oversight via reporting and monitoring requirements.

You may mail or deliver comments to the Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 634, Arlington, Virginia 22203.

Additionally, you may submit comments on the DEIS via the internet to: *cormorant_eis@fws.gov*. Please include your name and return address in your e-mail message, and submit your comments as an ASCII file. Do not use special characters or encryption. If you do not receive a confirmation from the system that we received your e-mail message, you can contact us directly at 703/358–1714.

In order to be considered, submission of comments (written or electronic) must include your name and postal mailing address; we will not consider anonymous comments. All comments received, including names and addresses, will become part of the public record. The public may inspect comments during normal business hours in Room 634 " Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's National Environmental Policy Act regulations [40 CFR 1506.6(f)]. Our practice is to make comments available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If a respondent wishes us to withhold his/her name and/or address, this must be stated prominently at the beginning of the comment.

Several public hearings will be held throughout the country during the comment period to solicit further comments from the public. The dates and locations of these hearings are yet to be determined. A notice of public meetings with the locations, dates, and times will be published in the **Federal Register**.

Kevin R. Adams,

Acting Deputy Director.

[FR Doc. 01–29881 Filed 11–30–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and an Application for an Incidental Take Permit for the Temecula Ridge Apartments and Temecula Village Development Projects in Riverside County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: AGK Group, LLC and Temecula Village Development, L.P. (the Applicants) have applied to the Fish and Wildlife Service (Service) for incidental take permits pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended. The Service is considering issuance of a 7-year permit to each Applicant that would authorize take of the threatened coastal California gnatcatcher (Polioptila californica californica) incidental to otherwise lawful activities. Such take would occur during the construction of multi-family residential structures and associated commercial/retail space on a 44-acre infill site adjacent to Rancho California Road in the City of Temecula in southwestern Riverside County, California. We request comments from the public on the permit application, and an Environmental Assessment, both of which are available for review. The permit application includes the proposed Habitat Conservation Plan (HCP) and an accompanying Implementing Agreement (legal contract). The HCP describes the proposed action and the measures that the Applicants would undertake to minimize and mitigate take of the coastal California gnatcatcher.

DATES: We must receive your written comments on or before February 1, 2002.

ADDRESSES: Please address written comments to Mr. Jim Bartel, Field Supervisor, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. You also may send comments by facsimile to (760) 431–5902.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Evans, Assistant Field Supervisor, at the above address or call (760) 431–9440.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of these documents for review by contacting the above office. Documents also will be available for public inspection, by appointment, during normal business hours at the above address and at the Temecula Library located at 41000 County Center Drive, Temecula, California.

Background

Section 9 of the Endangered Species Act (Act) and federal regulations prohibit the "take" of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act to include "harass, harm, pursue, hunt, shot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." The Service may, under limited circumstances, issue permits to authorize incidental take (i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22.

The Applicants are proposing development of multi-family residential structures (containing a total of 406 residential units) and associated commercial and retail space on 44 acres. The development site is an infill area within the City surrounded by a combination of multi-family and single family residential complexes.

Biologists surveyed the combined project site for biological resources in 1999 and 2000. Two years of protocol surveys for Quino checkerspot butterfly (*Euphydryas editha quino*) were conducted, but no sign of the species was detected. Two pairs of coastal California gnatcatchers were found in 2000. Given the limited amount of sage scrub habitat available for these two pairs on this infill site (14 acres), it is presumed that the two pairs are also utilizing, to some degree, portions of the remaining 30 acres, which consist of non-native grassland, ruderal vegetation, and barren areas.

Based on the survey results, the Service concluded that implementation of the two proposed projects would result in take of the two pairs of gnatcatchers found on this infill site, through the permanent removal of the vegetation on the 44 acres of this combined site: 14 acres of riversidean sage scrub, and 30 acres of non-native grassland and ruderal vegetation. Environmental effects addressed in the HCP and Environmental Assessment include the loss of both pairs of gnatcatchers given the removal of the vegetation from the site.

The Applicants propose to implement the following measures to mitigate and minimize take of coastal California gnatcatchers: (1) Avoid ground disturbing activities during the California gnatcatcher breeding season; (2) stake the construction boundaries of the project; (3) random inspections of the project site by a biological monitor; (4) purchase conservation credits for 45 acres of riversidean sage scrub occupied by two pairs of gnatcatchers from an off-site mitigation bank in the Riverside County area; and (5) purchase an additional 25 acres of riversidean sage scrub conservation credits from another

off-site mitigation bank in the Riverside County area. Both conservation banks possess a management endowment to ensure their permanent management for sensitive species and habitats, including the California gnatcatcher.

The Environmental Assessment considers the environmental consequences of four alternatives, including the Proposed Action. The Proposed Action consists of the issuance of two incidental take permits and implementation of the HCP and its Implementing Agreement, which includes measures to minimize and mitigate impacts of the two projects on the coastal California gnatcatcher. Under the "No Action" alternative, the Service would not issue a permit to either Applicant. Under this alternative, the proposed residential developments would not be constructed at this time. Both pairs of gnatcatchers may still be lost over time because the small isolated project site is not well-suited to the long term preservation of gnatcatcher pairs. Contributions to more permanent gnatcatcher preservation efforts in the region (through participation in regional conservation mitigation banks) would not occur.

Under the "Reduced Project" alternative, one of the two multi-family residential projects would not receive an incidental take permit. One of the applicants would not develop their property at this time. The other project would receive a permit. It is likely that both gnatcatcher pairs would ultimately be lost from the 44 acre combined site since development of either project alone would likely eliminate so much habitat as to render the remaining isolated habitat incapable of supporting any gnatcatcher pairs in the long term. This alternative would provide only half of the conservation benefits of the Proposed Action while ultimately resulting in the same level of incidental take as the Proposed Action.

Under the "Different Location" alternative, the two adjoining projects would be relocated to another area in the City of Temecula. The opportunities for needed multi-family housing in the City of Temecula are severely limited, and the identification and acquisition of an alternative site in the City cannot be assured. Under this alternative, both pairs of gnatcatchers may still be lost because the small isolated project site is not well-suited to the long term preservation of gnatcatcher pairs. No conservation contributions to regional gnatcatcher preservation would be made.

The alternatives to the Proposed Action would result in less habitat conservation value for the coastal California gnatcatcher in the Riverside County region and contribute less to its long-term survival in the wild than the off-site conservation bank habitat preservation/management mitigation measures under the Proposed Action.

This notice is provided pursuant to section 10(a) of the Endangered Species Act and the regulations of the National Environmental Policy Act of 1969 (40 CFR 1506.6). All comments that we receive, including names and addresses, will become part of the official administrative record and may be made available to the public. We will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the National Environmental Policy Act regulations and section 10(a) of the Endangered Species Act. If we determine that those requirements are met, we will issue a permit to each Applicant for the incidental take of the coastal California gnatcatcher. We will make our final permit decision no sooner than 60 days from the date of this notice.

Dated: November 26, 2001.

John Engbring,

Acting Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 01–29840 Filed 11–30–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permit for Marine Mammals

On August 29, 2001, a notice was published in the **Federal Register** (66 FR 45689), that an application had been filed with the Fish and Wildlife Service by Andy Krook for a permit (PRT–046899) to import one polar bear (*Ursus maritimus*) taken from the Southern Beaufort Sea population, Canada, for personal use.

Notice is hereby given that on October 29, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On September 6, 2001, a notice was published in the **Federal Register** (66 FR 46650), that an application had been filed with the Fish and Wildlife Service by Gerald Moschgat for a permit (PRT–047378) to import one polar bear (*Ursus maritimus*) taken from the Northern Beaufort Sea population, Canada, for personal use.

Notice is hereby given that on October 29, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On September 25, 2001, a notice was published in the **Federal Register** (66 FR 49035), that an application had been filed with the Fish and Wildlife Service by Douglas E. Snell for a permit (PRT–047054) to import one polar bear (*Ursus maritimus*) taken from the Northern Beaufort Sea population, Canada, for personal use.

Notice is hereby given that on November 9, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone (703) 358–2104 or fax (703) 358–2281.

Dated: November 19, 2001.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–29850 Filed 11–30–01; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–740 (Review)]

Sodium Azide From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the suspended investigation on sodium azide from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether termination of the suspended investigation on sodium azide from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the

Commission;[1] to be assured of consideration, the deadline for responses is January 22, 2002. Comments on the adequacy of responses may be filed with the Commission by February 19, 2002. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

SUPPLEMENTARY INFORMATION:

Background

On January 7, 1997, the Department of Commerce suspended an antidumping duty investigation on imports of sodium azide from Japan (62 FR 973). The Commission is conducting a review to determine whether termination of the suspended investigation would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 01–5–066, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Definitions

The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Japan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. For the purpose of the preliminary investigation, the Commission defined the Domestic Like Product as all sodium azide.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. For the purpose of the preliminary investigation, the Commission defined the Domestic Industry as producers of sodium azide.

(5) The *Order Date* is the date that the investigation was suspended. In this review, the Order Date is January 7, 1997.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is January 22, 2002. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also

file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is February 19, 2002. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution

As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and e-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigation on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1996.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2000 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2000 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2000 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into

production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: November 27, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–29894 Filed 11–30–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2169C–01]

Notice of Corrected Address for Aliens Seeking Relief Pursuant to the Settlement Agreement in *Walters* v. *Reno*

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of change of address.

SUMMARY: On September 20, 2001, the Immigration and Naturalization Service (Service) published a notice in the **Federal Register** at 66 FR 48480–82, regarding the class action settlement agreement in the case of *Walters et al.* v. *Reno et al.*, Civ. No. 94–1204C. In the notice the Service incorrectly listed the address for class members to mail their requests for a refund for a previously paid civil money penalty for a section 274c violation. The correct mailing address for such requests is: INS Debt Management Center, 188 Harvest Lane, Williston, VT 05495–7554.

This change is necessary to ensure that class members have the proper mailing address for requesting refunds from the Service.

DATES: This notice is effective December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Warren McBroom, Immigration and Naturalization Service, 425 I Street, NW, Suite 6100, Washington, DC 20536, telephone (202) 514–2895.

Dated: November 19, 2001.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–29884 Filed 11–30–01; 8:45 am]

BILLING CODE 4410–10–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 97–5C]

Copyright Restoration of Works in Accordance With the Uruguay Round Agreements Act; Notification Pertaining to Notices of Intent To Enforce Restored Copyrights

AGENCY: Copyright Office, Library of Congress.

ACTION: Notification of request to retract prior filings of notices of intent to enforce restored copyrights.

SUMMARY: This notice gives public notice that the Copyright Office has received a notification of a request to retract the filing of certain notices of intent to enforce restored copyrights under the Uruguay Round Agreements Act.

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Charlotte Douglass, Principal Legal Advisor to the General Counsel, or Marilyn Kretsinger, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: Under the Uruguay Round Agreements Act, the Copyright Office is charged with publishing in the **Federal Register** any notices of intent to enforce restored copyrights timely filed with the Office. Notices filed with the Office must be filed within 24 months after a work initially becomes eligible. See 17 U.S.C. 104A(d)(2)(A). At this time, only works the source country of which is a foreign member of the World Trade Organization or the Berne Convention are eligible for restoration. 17 U.S.C. 104A(h)(3). On or shortly after January 1, 1996, the effective date of the Uruguay Round Agreements Act, the great majority of these countries fulfilled the conditions for eligibility. For those reasons, the time for filing notices of intent from the overwhelming majority of countries has now expired. Thus, typically, the Office does not receive new NIEs that are timely.

The URAA also prescribes conditions under which NIEs may be corrected. In 1997, the Copyright Office adopted an interim regulation under which corrections of errors in Notices of Intent to Enforce restored copyright may be filed. 62 FR 55736 (1997). In accordance with that regulation, the Office has published in the **Federal Register** lists of certain Correction Notices which reflect information erroneously listed on or omitted from original NIEs. 37 CFR 201.34. Any timely filed original or correction NIEs are published within four months after receipt on the next scheduled publication date. 17 U.S.C. 104A(e)(1)(B).

The Office now publishes a list of NIEs that is neither of original nor Correction NIEs but a judicially required statement which is the result of an action related to ownership of certain restored copyrights. The Office publishes this notice consistent with the intent of the URAA that makes the Copyright Office responsible for providing public notice of significant facts regarding, inter alia, the ownership of restored copyrights.

In a letter dated August 30, 2001, responding to an Amended Final Judgment in *Alameda Films, S.A.* v. *H. Jackson Shirley III*, No. H–99–0734, slip op. at 4 (S.D. Tex. Aug. 1, 2001), Mr. Shirley notified the U.S. Copyright Office that the Authors Rights Restoration Corporation retracts all filings in the U.S. Copyright Office in any way related to the eighty-one films listed in Exhibit "A" of the district court's order. This case has been appealed to the fifth circuit, No. 01–20869, docketed August 24, 2001.

The titles from Exhibit A are as follows:

U.S. copyright owner	Film title	Translated title
Alameda Films, S.A	El Baron del Terror	The Baron of Terror.
Alameda Films, S.A	El Grito de la Muerte	Cry of Death.
Alameda Films, S.A	El Hombre y El Monstruo	The Man and the Monster.
Alameda Films, S.A	La Cabeza Viviente	The Living Head.

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U.S. copyright owner	Film title	Translated title
Cima Films, S.A. de C.V	Dios Los Cria	Made By God.
Cima Films, S.A. de C.V	Juan Armenta el Repatriado	Juan Armenta the Repatriated.
Cima Films, S.A. de C.V	La Ley del Monte	The Law of the Mountain.
Cima Films, S.A. de C.V	La Valentina	The Valentina.
Cinematografica Filmex, S.A. de C.V	Tacos Al Carbon	Tacos Al Carbon.
Cinematografica Filmex, S.A. de C.V	Diamantes, Oro y Amor	Diamonds, Gold and Love.
Cinematografica Jalisco, S.A. de C.V	El Desconocido	The Unknown.
Cinematografica Sol, S.A. de C.V	Carceria Humana	Human Hunter.
Cinematografica Sol, S.A. de C.V	En Peligro de Muerte	In Danger of Dying.
Cinematografica Sol, S.A. de C.V	El Ansia de Matar	The Longing of Kill.
		The Longing of Death.
		Eager to Kill.
Cinematografica Sol/S.A. de C.V	El Hombre Violento	The Violent Man.
Cineproducciones Internacionales, S.A. de C.V	El Trinquetero	The Cheater.
Cineproducciones Internacionales, S.A. de C.V	El Sargento Perez	The Sargent Perez.
Cineproducciones Internacionales, S.A. de C.V	El Arte de Enganar	The Art of Fooling.
Cineproducciones Internacionales, S.A. de C.V	El Deseo En Otono	The Autumn Desire.
Cinevision, S.A. de C.V	La Gatita	The Pussy Cat.
Cumbre Films, S.A. de C.V	Acorralado	Corralled.
Cinematografica Sol, S.A. de C.V	El Hombre Violento	The Violent Man.
Cineproducciones Internacionales, S.A. de C.V	El Trinquetero	The Cheater.
Cineproducciones Internacionales, S.A. de C.V	El Sargento Perez	The Sargent Perez.
Cineproducciones Internacionales, S.A. de C.V	El Arte de Enganar	The Art of Fooling.
Cineproducciones Internacionales, S.A. de C.V	El Deseo En Otono	The Autumn Desire.
Cinevision, S.A. de C.V	La Gatita	The Pussy Cat.
Cumbre Films, S.A. de C.V	Acorralado	Corralled.
Cumbre Films, S.A. de C.V	El Cuatrero	The Cattle Thief.
Cumbre Films, S.A. de C.V	El Diablo El Santo, y El Tonto	The Devil, the Saint, and the Idiot.
Cumbre Films, S.A. de C.V	El Embustero	The Lying.
Cumbre Films, S.A. de C.V	El Macho	The Macho Man.
Cumbre Films, S.A. de C.V	Entre Compadres Tu Veas	Seen Between Godfathers.
Cumbre Films, S.A. de C.V	Por Tu Maldito Amor	For Your Dammed Love.
Cumbre Films, S.A. de C.V	Sinverguenza Pero Honrado	Brazen But Honest.
Cumbre Films, S.A. de C.V	Mi Querido Viejo	My Dear Old Man.
Cumbre Films, S.A. de C.V	Matar O Morir	To Kill Or To Die.
Cumbre Films, S.A. de C.V	El Sinverguenza	The Scoundrel.
Diana Films Internacionales, S.A. de C.V	Cartas Marcadas	Marked Cards.
Diana Films Internacionales, S.A. de C.V	Duro Pero Seguro	Hard But Sure.
Diana Films Internacionales, S.A. de C.V	La Presidenta Municipal	The Town President.
Filmadora Mexicana, S.A. de C.V	Medianoche	Middle Night.
Filmadora Mexicana, S.A. de C.V	La Esquina de Mi Barrio	My Neighborhood Corner.
Filmadora Mexicana, S.A. de C.V	Duena y Senora	Owner and Lady.
Filmadora Mexicana, S.A. de C.V	La Casa Chica	The Other House.
Gazcon Films, S.A. de C.V	Dos de Abajo	Two From Below.
Gazcon Films, S.A. de C.V	Perro Callerjero I	Wild Dog I.
Grupo Galindo, S.A. de C.V	El Rey de Los Albures	The King of Double Meaning.
Grupo Galindo, S.A. de C.V	Amaneci en Tus Brazos	I Woke Up In Your Arms.
Grupo Galindo, S.A. de C.V	Carabina 30–30	30–30 Carbine.
F. Mier, S.A	Vivo O Muerto	Dead Or Alive.
F. Mier, S.A	La Hermana Blanca	The White Sister.
F. Mier, S.A	El Nino Perdido	The Lost Boy.
Oro Films, S.A. de C.V	El Martir de Calvario	The Martyr Of The Calvary.
Oro Films, S.A. de C.V	El Hombre Sin Rostro	The Man Without A Face.
Oro Films, S.A. de C.V	El Aviso y Inoportuno	The Unexpected Announcement.
Oro Films, S.A. de C.V	Vivillo Desde Chiquillo	Smart Since Childhood.
Oro Films, S.A. de C.V	Casa De Vecindad	House Of The Neighborhood.
Peliculas y Videos Internacionale, S.A. de C.V	Ay Amor Como Me Has Puesto	Oh Love, What Has Become Of Me.
Peliculas y Videos Internacionale, S.A. de C.V	El Cielo y la Tierra	The Sky and the Earth.
Peliculas y Videos Internacionale, S.A. de C.V	El Tesoro del Rey Salomon	The Treasure Of King Solomon.
Peliculas y Videos Internacionale, S.A. de C.V	Esposa O Amante	Wife Or Lover.
Peliculas y Videos Internacionale, S.A. de C.V	Lagrimas de Amor	Tears Of Love.
Procinema, S.A. de C.V	Un Par a Todo Dar	A Great Pair.
Producciones Galubi, S.A. de C.V	El Bronco	The Bronco.
Producciones Galubi, S.A. de C.V	La Golfa Del Barrio	The Woman.
Producciones Galubi, S.A. de C.V	El Hijo del Palenque	Palenque's Son.
Producciones Galubi, S.A. de C.V	Santos vs. Los Asesinos De Ortros Mundos	Santo Versus the Assassins from Other Worlds.
Producciones Galubi, S.A. de C.V	El Agente Viajero	The Traveling Agent.
Producciones Matouk, S.A. de C.V	Las Aventuras de Juliancito	The Adventures of Juliancito.
Producciones Matouk, S.A. de C.V	Chico Ramos	Young Ramos.
Producciones Matouk, S.A. de C.V	Primera Comunion	First Communion.
Producciones Rosas Priego, S.A. de C.V	Quinceanera	She's Fifteen.
Producciones Rosas Priego, S.A. de C.V	Azahares Rojos	Red Blossom.
Producciones Rosas Priego, S.A. de C.V	Cricifijo de Piedra	The Stone Cross.

U.S. copyright owner	Film title	Translated title
Producciones Rosas Priego, S.A. de C.V	El Aguila Negra	The Black Eagle.
Producciones Torrente, S.A. de C.V	Narcoterror	Narcoterror.
Producciones Torrente, S.A. de C.V	Pandilla de Criminales	Gang Of Criminals.
Producciones Torrente, S.A. de C.V	Ladrones de Tumbas	Thieves Of The Tombs.
Producciones Virgo, S.A. de C.V	Andante	Walker.
Producciones Virgo, S.A. de C.V	El Sexo Sentido	The Sex Sense.
Producciones Virgo, S.A. de C.V	No Hay Cruces en el Mar	There Are No Crosses In The Sea.
Producciones Virgo, S.A. de C.V	El Sexo Me da Risa	Sex Makes Me Laugh.
Secine, S.A. de C.V	El Gallo de Oro	The Golden Rooster.
Video Universal, S.A. de C.V	Thaimi, La Hija del Pescador	Thaima, Daughter of the Fisherman.
Video Universal, S.A.' de C.V	La Tortola del Ajusco	The Turtledove Of Ajusco.
Video Universal, S.A. de C.V	El Fantastico Mundo de los Hippies	The Fantastic World of the Hippies.
Video Universal, S.A. de C.V	El Reino de los Gangsters	Reign of the Gangsters.

Dated: November 28, 2001.

Marilyn J. Kretsinger,

Assistant General Counsel.

[FR Doc. 01–29900 Filed 11–30–01; 8:45 am]

BILLING CODE 1410–30–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request use of NA Form 14116, Customer Request for Information and Order, a web-based form to be completed by members of the public who wish to either request printed order forms for copies of genealogical records or to obtain information about NARA's archival holdings or services. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before February 1, 2002 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to *tamee.fechhelm@nara.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways, including the use of information technology, to minimize the burden of the collection of information on respondents. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Customer Request for Information and Order Forms.

OMB number: 3095—New.

Agency form number: NA Form 14116.

Type of review: Regular.

Affected public: Individuals and households.

Estimated number of respondents: 130,000.

Estimated time per response: 5 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 10,833 hours.

Abstract: The form is a web-based form to be completed by members of the public who wish to either request printed order forms for copies of genealogical records or to obtain information about NARA's archival holdings or services. Customers who request printed forms indicate the type and quantity of form wanted. Those who need information about NARA's archival holdings choose a subject heading to help describe their request. The form entails no burden other than that necessary to identify the customer, the date, the customer's address, and the nature of the request. This information is used only to facilitate answering the request and is not retained after the request is completed. The information is not used for any subsequent purpose.

Dated: November 27, 2001.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 01–29819 Filed 11–30–01; 8:45 am]

BILLING CODE 7515–01–U

NATIONAL SCIENCE FOUNDATION

Proposal Review; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces its intent to hold proposal review meetings throughout the year. The purpose of these meetings is to provide advice and recommendations concerning proposals submitted to the NSF for financial support. The agenda for each of these meetings is to review and evaluate proposals as part of the selection process for awards. The majority of these meetings will take place at NSF, 4201 Wilson Blvd., Arlington, Virginia 22230.

All of these meetings will be closed to the public. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act. NSF will continue to review the agenda and merits of each meeting for overall compliance of the Federal Advisory Committee Act.

These closed proposal review meetings will no longer be announced

Other

on an individual basis in the **Federal Register**. NSF intends to publish a notice similar to this on a quarterly basis. For an advance listing of the closed proposal review meetings that include the names of the proposal review panel and the time, date, place, and any information on changes, corrections, or cancellations, please visit the NSF Web-site: *www.nsf.gov/home/pubinfo/advisory.htm*. This information may also be requested by telephoning 703/292–8182.

Dated: November 27, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–29880 Filed 11–30–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Deployment of the NRC's Redesigned Public Web Site

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) plans to deploy its newly redesigned public Web site in a phased approach between now and the end of the year. The redesign gives the Web site a new and consistent look and feel. It is organized by content and topic rather than by NRC organizational structure, uses top-down logic going from the general to specific topics, makes navigation easy, gives greater visibility to frequently accessed information, uses plain language where possible, and complies with Section 508 of the Rehabilitation Act. As a result of the events of September 11, 2001, the NRC shut down its public Web site on October 11 and is conducting a thorough review of the original scope of the redesigned site. This review includes all of the content available at the NRC public Web site prior to October 11. As reviews are completed, NRC will restore content incrementally in the redesigned format.

ADDRESSES: NRC's newly redesigned Web site will be made available at *www.nrc.gov*. For updates on the planned deployment, see the redesign notice at *www.nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Walter Oliu, Office of the Chief Information Officer, Mail Stop T–6 E7, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone (301) 415–7823, or e-mail *nrcweb@nrc.gov*.

SUPPLEMENTARY INFORMATION: As a result of a public meeting to discuss NRC interactions with stakeholders on nuclear material and waste activities, the Commission directed the NRC staff to improve NRC's Web site by (1) reviewing other major Web sites as models for possible improvements to the NRC site; (2) soliciting the views of stakeholders, including members of the general public, researchers, and representatives of the library community; (3) implementing goals for the public site to support NRC's Strategic Plan; and (4) ensuring that the public site is compliant with the Americans With Disabilities Act.

The NRC staff established the following objectives for the external Web site to support the goals of NRC's Strategic Plan: (1) Increase public confidence in the NRC by providing information that enhances the ability of stakeholders to participate effectively in the regulatory process; provide information that enhances the public's understanding of NRC's mission, goals, and performance; make it easy to find desired information; ensure the timeliness and accuracy of information at the site; and (2) make doing business with the NRC more efficient and effective by providing easy access to necessary information and tools for conducting business electronically via the Web.

The NRC formed two groups to provide agencywide input to the redesign effort: a Web Redesign Working Group, composed of staff who currently maintain the NRC's content at our public Web site, and a Web Redesign Steering Committee, composed of senior managers and chaired first by a representative from the Office of Nuclear Reactor Regulation and later by a representative from the Office of Public Affairs.

The NRC staff contracted for a usability analysis of the existing Web site. Stakeholders, including representatives of public interest groups, librarians, licensees, State officials, members of the international nuclear regulatory community, and NRC staff who frequently interact with the public were involved in this process through several focus groups, a usability test at NRC's Regulatory Information Conference, and a Web survey. An expert evaluation of how well NRC's current Web site follows best practices and considers human factors, and how accessible it is to individuals with disabilities (in compliance with Section 508 of the Rehabilitation Act) was also done. In addition, the staff compared NRC's Web site with other highly rated government sites and confirmed that there were significant opportunities to improve the current site's structure and organization, navigability, style, understandability, and accessibility. The recommendations included:

- Create a "common look and feel" for the entire NRC Web site (enforce standards);
- Organize by content and topic rather than by NRC organizational structure;
- Use top-down logic going from the general to the specific;
- Make navigation consistent (links to top-level pages, within-page navigational devices, and links to external non-NRC sites); and
- Comply with Section 508 of the Rehabilitation Act (test pages on multiple platforms and with browsers favored by people with disabilities).

The results of these assessments formed the basis for developing a prototype for the redesigned Web site. The prototype contained improvements adopted from all the recommendations listed above and was reviewed by the NRC Web staff, the Web Redesign Working Group, and the Web Redesign Steering Committee. In addition, NRC collected and evaluated comments on the prototype from stakeholders who were involved in the initial usability study, as well as others. The agency obtained OMB clearance to collect comments from stakeholders. The NRC staff as a whole was also provided an opportunity to comment.

An analysis of the feedback on the prototype indicated that users were more satisfied with the prototype than with NRC's existing public Web site. Many suggestions for further improvements were adopted and implemented for the redesigned site.

As a result of the events of September 11, 2001, the NRC shut down its public Web site on October 11 and is conducting a thorough review of the original scope of the redesigned site. This review includes all document collections available at the NRC public Web site prior to October 11 (over 50,000 pages and nearly all of the other content, over 1,000 pages). As reviews are completed, NRC will restore content incrementally in the redesigned format. Updates on the redesign will be posted at the Web site (*www.nrc.gov*) as the deployment proceeds.

Dated at Rockville, Maryland this 27th day of November 2001.

For the Nuclear Regulatory Commission.

Stuart Reiter,

Chief Information Officer.

[FR Doc. 01–29874 Filed 11–30–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25299/File No. 812–12572]

Mutual of America Life Insurance Company, et al.

November 26, 2001.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of an application for an order pursuant to section 11(a) of the Investment Company Act of 1940 (the "Act").

APPLICANTS: Mutual of America Life Insurance Company ("Mutual of America"), Mutual of America Separate Account No. 2 (the "Annuity Account") and Mutual of America Separate Account No. 3 (the "VUL Account," and together with the Annuity Account, "Mutual Accounts").

SUMMARY OF APPLICATION: Applicants seek an order approving the terms of a proposed offer of exchange of interests in the Mutual Accounts for interests issued by The American Life Insurance Company of New York ("American Life").

FILING DATE: The application was filed on July 13, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on December 21, 2001, and be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, Deborah S. Becker, Esq., Senior Vice President and Associate General Counsel, Mutual of America, 320 Park Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Kenneth C. Fang, Attorney, or Keith E. Carpenter, Branch Chief, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW., Washington DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. Mutual of America is a mutual life insurance company organized under the laws of the State of New York in 1945, having its home office at 320 Park Avenue, New York, New York 10022. Mutual of America is authorized to sell individual and group life insurance policies, variable annuity contracts and variable universal life policies in 50 states and the District of Columbia.

2. The Annuity Account is a separate account of Mutual of America established for the purpose of providing an investment medium for variable contracts, including individual annuities. It is registered under the Act as a unit investment trust (File No 811–4679), and three registration statements on Form N–4 filed pursuant to the Securities Act of 1933 ("1933 Act") are in effect for sales of interests under group and individual variable accumulation annuity contracts (File Nos. 2–90201, 33–5609 and 33–11023). One registration statement (File No. 2–90201) covers several forms of contract, including Individual Retirement Annuity ("IRA") Contracts and Flexible Premium Deferred Annuity ("FPA") Contracts. The IRA and FPA Contracts issued by Mutual of America are herein referred to as the "Contracts."

3. The VUL Account is a separate account of Mutual of America established for the purpose of providing an investment medium for variable contracts, including individual life policies. It is registered under the Act as a unit investment trust (File No. 811–9487), and a registration statement on Form S–6 filed pursuant to the 1933 Act is in effect for sales of interests under individual variable universal life insurance policies (the "Policies") (File No. 333–83413).

4. The Mutual Accounts currently hold assets in their respective seventeen subaccounts ("investment funds"), each of which invests in shares of a corresponding mutual fund portfolio (collectively, the "Underlying Funds"). Each of the Underlying Funds is a series of a management investment company registered under the Act and its shares are registered for sale under the 1933 Act.

5. Mutual of America serves as the principal underwriter of the Contracts and the Policies, and also is the principal underwriter for the Mutual of America Investment Corporation. It is a broker-dealer registered under the Securities and Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

6. Mutual of America intends to make offers of exchange to the holders ("Owners") of variable annuity and life insurance products that were issued by American Life at a time when American Life was an indirectly wholly-owned subsidiary of Mutual of America. American Life is a stock life insurance company organized under the laws of the State of New York in 1955, with headquarters at 435 Hudson Street, New York, New York 10014, and substantial operations at 300 Distillery Commons, Louisville, Kentucky 40206.

7. The American Separate Account No. 2 (the "American Annuity Account") is a separate account of American Life established for the purpose of providing an investment medium for variable contracts, including individual annuities. The American Annuity Account is registered under the Act as a unit investment trust (File No. 811–7904), and a registration statement on Form N–4 filed pursuant to the 1933 Act is in effect for sales of interests under IRA Contracts and FPA Contracts, which are variable individual accumulation annuity contracts (File No. 33–66406). The American IRA and American FPA Contracts issued by American Life are herein referred to as the "American Contracts."

8. The American Separate Account No. 3 (the "American VUL Account") is a separate account of American Life established for the purpose of providing an investment medium for variable contracts, including individual life policies. The American VUL Account is registered under the Act as a unit investment trust (File No. 811–8368), and a registration statement on Form S–6 filed pursuant to the 1933 Act is in effect for sales of interests under individual variable universal life insurance policies (the "American Policies") (File No. 33–75280).

9. The American Annuity Account and American VUL Account are herein called the "American Accounts." The American Accounts each have seventeen investment funds that invest in shares of corresponding Underlying Funds.

10. American Life ceased selling the American Contracts and Policies as of April 1, 2000. In reliance on the Commission's no-action position in *Great-West Life & Annuity Insurance Co.* (publicly available October 23, 1990), American Life in 2001 did not file updating amendments to the registration statements covering the American Contracts and the American Policies.

11. On March 16, 2001, Mutual of America sold to a third party all of the

outstanding common stock of a holding company, which owned all of the outstanding common stock of American Life. For accounting purposes, the sale was effective as of February 28, 2001. Under an Indemnity Reinsurance Agreement, dated as of February 28, 2001, between Mutual of America and American Life (the "Indemnity Agreement"), Mutual of America has indemnity reinsured American Life's general account liabilities under the American Contracts and Policies. Under an Administrative Services Agreement, dated as of February 28, 2001, between Mutual of America and American Life (the "Servicing Agreement"), Mutual of America provides all administrative services for the American Contracts and America Policies, including administrative services with respect to the American Accounts. Under an Amendment, dated as of February 28, 2001, to the Distribution and Administration Agreement between Mutual of America and American Life, Mutual of America is the principal underwriter of the American Contracts and Policies for new contributions and premiums paid by existing Owners (the "Distribution Agreement"). Mutual of America entered into the Servicing Agreement, the Indemnity Agreement and the Distribution Agreement to facilitate the sale of American Life to a third party.

12. American Life and Mutual of America entered into a reinsurance and assumption agreement, which was effective April 1, 2000 (the "assumption agreement"), relating to various individual annuity contracts and individual life policies, including the then outstanding American Contracts and Policies. In the assumption agreement, American Life ceded all of its obligations, rights and liabilities under the American Contracts and Policies to Mutual of America on an assumption reinsurance basis, and Mutual of America agreed to assume all such obligations, rights and liabilities transferred to it, subject to compliance with applicable state insurance laws and regulations.

13. Under the insurance laws and regulations of some states, Owners had the right to opt out of the proposed assumption reinsurance of their contracts by Mutual of America, and in some states Owners were required to affirmatively consent to the assumption reinsurance. In addition, the New York State Insurance Department has administratively prohibited the assumption reinsurance of variable annuity contracts and variable life insurance policies issued in New York when contractholders are no longer New York residents. Upon effectiveness of the assumption agreement, a substantial portion of the American Contracts and Policies were transferred to Mutual of America, which replaced American Life as the issuer of such Contracts and Policies. Mutual of America, however, was not able to assumption reinsure American Contracts and Policies when an Owner: (a) Was required under applicable state insurance law to give affirmative consent to Mutual of America's assumption reinsurance and did not provide such consent; (b) had the right under applicable state insurance law to opt out of Mutual of America's assumption reinsurance and timely exercised such right; or (c) was a resident of the State of New York when the American Contract or Policy was issued and subsequently moved to another state.

14. On November 4, 1999, Mutual of America, the Mutual Accounts, American Life and the American Accounts (the "Initial Applicants") filed with the Commission an application for an order pursuant to Section 17(b), Section 17(d) and Rule 17d–1 thereunder, and Section 11(a) of the Act, in connection with the assumption agreement and the reinsurance transactions contemplated thereunder. Among other things, the application requested an order to permit the offers of exchange when Owners had opt out rights or the consent of Owners was required in connection with the assumption reinsurance of American Contracts and Policies by Mutual of America. The Initial Applicants filed an amended and restated application on February 16, 2000 (the "Initial Application"), and the Commission issued an Order granting the requested exemptions to the Initial Applicants on March 13, 2000, Inv. Co. Act Rel. No. 24336, File No. 812–11840 (the "Initial Order").

15. At the time of the Initial Application, Mutual of America and American Life contemplated that they would make additional offers of exchange only through requests for consent to assumption by Owners whose American Contracts and Policies were not assumption reinsured effective April 1, 2000. Accordingly, the exemptive relief that was requested in the Initial Application and granted in the Initial Order with respect to offers of exchange contemplated that such offers would be made in connection with assumption reinsurance transactions, either before or after the sale of American Life by Mutual of America.

16. Mutual of America intends to make offers of exchange to Owners, pursuant to which Owners would exchange their American Contracts and Policies for Contracts and Policies, respectively. A reduction in the number of Owners, or their elimination, would reduce or eliminate, respectively, the cost to Mutual of America of providing administrative services for the American Contracts and Policies and the American Accounts, as required under the Servicing Agreement, and for reinsuring American Life's general account liabilities, pursuant to the Indemnity Agreement. It would be less expensive for Mutual of America to provide administrative services only to owners of its Contracts and Policies rather than to provide such services for both Contracts and Policies and American Contracts and Policies. The exchanges also would benefit Owners, because owners of Contracts and Policies may utilize Mutual of America's regional service offices and may use Mutual of America's toll-free telephone number and Internet web site for transactions as well as to obtain contract information, while Owners must send transaction requests in writing to the New York administrative office that is servicing the American Contracts and Policies and may use a toll free number only to obtain information. American Life will not issue additional contracts or policies through the American Accounts, and therefore the Accounts are expected to decline in asset size and number of Owners over a period of time.

17. The terms of the Contracts and Policies are identical to the American Contracts and Policies except for the identity of the issuing company and depositor of the separate account, the funding separate account, and the right of owners of Contracts and Policies to participate in the divisible surplus of Mutual of America, a mutual company. In addition, when Mutual of America issues policies in exchange for American Policies, it will waive the suicide clause and will not require medical underwriting. As a consequence, Owners will not be subject to new incontestability periods under their Policies for suicide or medical conditions.

18. The Underlying Funds, the current administrative charges and the maximum permitted administrative charges, the mortality and expense risk charges, and the rates for the cost of insurance charges in the case of the Policies are identical under the Contracts and Policies and the American Contracts and Policies, respectively. The unit values for the investment funds of the Annuity Account and the American Annuity

Account are identical, and the unit values for the investment funds of the VUL Account and the American VUL Account also are identical.

19. Mutual of America will send offers of exchange to Owners who, after being contacted by a Mutual of America representative, indicate their interest in receiving the exchange materials. The materials will include a current prospectus and any supplements thereto for the Contract or Policy, as appropriate. Owners who wish to accept the offers of exchange will complete and return the exchange materials to Mutual of America, which will review them for completeness. When an Owner's exchange materials are incomplete, a representative of Mutual of America will contact the Owner to attempt to obtain any missing information or signatures.

20. Applicants expect that Owners will have no adverse tax consequences from the exchanges. Exchanges of American IRA Contracts will be non-taxable direct transfers under the Internal Revenue Code, as amended (the "Code"), and exchanges of American FPA Contracts and American VUL Policies will be tax-free exchanges under Section 1035 of the Code.

21. In certain limited circumstances, a Policy may be treated differently for tax purposes than the American Policy being exchanged. Prior to making offers of exchange to Owners, Mutual of America will review the amount of insurance coverage under each American Policy, the initial premium to be paid under the Policy issued in exchange and the Policy's scheduled premiums to ascertain whether the Policy (a) Would be a modified endowment contract ("MEC") under the Code when the American Policy is not an MEC, (b) would be unable to accept additional premiums, because such payments would cause the Policy to not be treated as life insurance under the Code when premiums could be paid under the American Policy, (c) would become an MEC upon the payment of additional scheduled premiums, when payment of such premiums under the American Policy would not cause that Policy to become an MEC, or (d) would fail to continue to qualify as life insurance as defined in the Code. As part of any exchange offer made in such situation, Mutual of America will notify the Owner in writing of the potential change in tax treatment that would result from the issuance of a Policy in exchange for the Owner's American Policy. Mutual of America may suggest an increase in the face amount of the insurance coverage under the Policy in an amount sufficient so that the situations in (a)–(d), as the case may be, would not apply to the Policy, and Mutual of America will not issue a Policy if it would not be deemed life insurance under the Code.

22. When an Owner's exchange materials are complete, Mutual of America will provide the surrender request to American Life, which will redeem the shares of the Underlying Funds held by the American Accounts that are attributable to the American Contract or Policy exchanged and arrange for the withdrawal of any funds held in American Life's general account. An Owner's account balance as of the close of business on the date of surrender of the American Contract or Policy, without the imposition of any sales charge, as of the close of business on the purchase order date. The applicable Mutual Account will purchase shares of the Underlying Funds, and/or Mutual of America will allocate amounts to its General Account,[1] based on the allocation instruction set forth on the purchaser's application and the amount transferred to Mutual of America from American Life.

23. Because Mutual of America is providing all administrative services for the American Contracts and Policies and the American Accounts and has indemnity reinsured American Life's general account portion of the American Contracts and Policies, Mutual of America will implement the surrender of an American Contract or Policy and issue its Contract or Policy on the same day. As a result, the redemption order given to the Underlying Funds by Mutual of America, as servicer for American Life and the American Accounts, and the purchase order given to the Underlying Funds by Mutual of America, as issuer of the Contract or Policy, will be placed with the Underlying Funds on the same day. Assuming that the Owner selects the same investment allocations in the Mutual of America application as the Owner has selected under the American Contract or Policy, the Underlying Funds will be able to offset the redemption and purchase orders, and therefore the exchange will have no impact on the Underlying Funds' portfolio securities. The Underlying Funds are not parties to the exchange offers, and the terms of the Participation Agreements pursuant to which they sell shares to and redeem shares from the American Accounts and Mutual Accounts are not affected by the exchanges.

24. Applicants anticipate that some Owners will retain their American Contracts and Policies, which will remain unchanged. Mutual of America will continue to provide administrative services to these Owners pursuant to the Servicing Agreement, and will indemnity reinsure the general account portion of such Contracts and Policies pursuant to the Indemnity Agreement. As previously noted, the American Accounts are expected to decline in asset size and number of Owners over a period of time. Depending on the number of Owners who remain in each of the American Accounts, either one or both of the American Accounts may be deregistered pursuant to Section 8(f) of the Act, immediately following the exchanges made in response to the offers or at some future date.

Applicants Legal Analysis

1. Section 11(a) of the Act makes it unlawful for a registered open-end investment company or its principal underwriter to offer securities of an investment company in exchange for other securities of the same or another investment company, unless the exchange either is based on the respective net asset values of the securities or the terms of the offer have received prior approval of the Commission. Section 11(c) provides that in the case of a unit investment trust, the prohibition of Section 11(a) is applicable irrespective of the basis of exchange.

2. The exchange offers to be made to Owners by Mutual of America relate to contracts that participate in the American Accounts and the Mutual Accounts, which are registered unit investment trusts. Therefore, the offers of exchange fall within the prohibitions of Section 11(a) and (c).[2]

[1] The transfer of general account amounts under American Contracts and Policies to Contracts and Policies issued in exchange will be without charge or expense to the Owners.

[2] In *Alexander Hamilton Funds* (available July 20, 1994), the Commission stated that the legislative history of Section 11(a) shows "Congress primarily intended to deter switching between affiliated investment funds," rather than offers by unaffiliated investment companies, so long as offers are at relative net asset values. It noted, however, that "there may be circumstances when Section 11(a) would apply to exchange offers between unaffiliated funds," explaining in footnote 4: "For example, Section 11 would apply if two unaffiliated fund complexes agree, formally or informally, to offer a waiver of sales load or some other incentive for an exchange of shares from one fund family to the other." Mutual of America has an economic incentive to issue Contracts and Policies in place of American Contracts and Policies in order to reduce or eliminate the costs of administering the American Contracts and Policies and the American Accounts and of indemnity reinsuring the general account portion of the American Contracts and Policies. In addition, Owners may not place orders

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3. The Commission in the Initial Order granted exemptions for exchange offers made in the context of opt-out rights and affirmative consent for assumption reinsurance transactions. Those exemptions are not applicable to the proposed exchange offers, solely because the proposed offers will not involve any assumption reinsurance transactions.

4. Applicants request an order pursuant to Section 11(a) approving the terms of Mutual of America's proposed offers of exchange to Owners of American Contracts and Policies.

5. Applicants submit that the terms of the proposed exchange offers are fair to Owners and should be approved by the Commission. Since no sales or other charges will be assessed in connection with the exchanges made pursuant to the offers, the sales charge abuse to which Section 11(a) is directed will not be present.[3] The only change resulting from the exchange of American Contracts and Policies for Mutual of America's Contracts and Policies is in the identity of the issuing insurance company and depositor of the separate account, the funding separate account, and the right of owners of Contracts and Policies to participate in Mutual of America's divisible surplus. In addition, the unit values of the investment funds in the Annuity Account are identical to those of the American Annuity Account, and the unit values of the investment funds in the VUL Account are identical to those of the American VUL Account. Applicants believe as well that the exchanges of American IRA Contracts will be tax-free direct transfers and that the exchanges of American FPA Contracts and American Policies will come within the provisions of Section 1035 of the Code, so that there will be no adverse tax consequences for Owners as a result of the exchanges. As part of the exchange offers, Mutual of America will disclose to each Owner when the tax treatment for the Policy would be different than that of the American Policy in that the Policy would be an MEC, would not be able to accept additional premiums because such payments would cause the Policy to not be treated as life insurance, would become an MEC upon the payment of additional scheduled premiums or would not qualify as life insurance under the Code. Mutual of America will not issue a Policy if it would not be deemed life insurance under the Code. Mutual of America has substantial assets and surplus to assure the performance of its obligations under the Contracts and Policies, and it currently performs all administrative services for the American Contracts and Policies pursuant to the Servicing Agreement.

6. Owners will receive current prospectuses for the Contracts or Policies, as applicable. The exchanges of interests will be made on the basis of relative net asset values. The provisions of the Contracts and Policies will be identical to the provisions of the American Contracts and American Policies, respectively, except for the addition of the right to participate in Mutual of America's divisible surplus. Owners will have investment funds available in the Mutual Accounts with the same Underlying Funds as available in the America Accounts.

7. Applicants note that the Commission has previously approved offers of exchange in circumstances when Rule 11a–2 would not apply because the insurance companies were not affiliated or might not be affiliated at the time certain exchange offers for variable annuities were made or consummated relating to assumption reinsurance transactions.[4] In *Family Life Insurance Company, et al.*, the applicants noted that the offers of exchange for the variable annuity contracts involved would satisfy all of the conditions of Rule 11a–2 if made prior to the sale of the ceding company. Applicants state that the terms of their proposed exchange offers would satisfy all of the conditions of Rule 11a–2 applicable to affiliated companies if they had been made prior to the sale of American Life by Mutual of America and that the offers satisfy the standards of the Commission for determining that the terms of an exchange offer are fair to contract holders. Applicants further state that the terms of the proposed exchange offers are identical to the exchange offers approved by the Commission in the Initial Order except that the proposed offers would not be made in connection with assumption reinsurance transactions.

Conclusion

On the basis of the precedents cited and the showing by Applicants that the terms of the exchange offers involved are fair, Applicants submit that the requested relief should be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–29826 Filed 11–30–01; 8:45 am]

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via a toll free telephone number of Internet web site, while holders of Contracts and Policies may place orders using Mutual of America's toll free telephone number or its web site, which may provide an incentive to Owners to make the exchanges.

[3] The Commission's Report on the "Public Policy Implications of Investment Company Growth," H.R. Rep. No. 2337 (1966) at p. 331, stated:

Section 11(a) was specifically designed to prevent the practices of "switching" and "reloading" whereby the holders of securities were induced to exchange their certificates for new certificates on which a new load would be payable.

[4] *Family Life Insurance Company, et al.*, Inv. Co. Act Rel. Nos. 18179 (June 3, 1991) (notice) and 18217 (July 2, 1991) (order), involved exchange offers under assumption reinsurance between affiliates in contemplation of the sale of the ceding company; and *The Lincoln National Life Insurance Company, et al.*, Inv. Co. Act Rel. Nos. 22189 (Aug. 29, 1996) (notice) and 22251 (Sept. 26, 1996) (order); *AUSA Life Insurance Company, Inc. et al.*, Inv. Co. Act Rel. Nos. 20518 (Aug. 31, 1994) (notice) and 20587 (Sept. 28, 1994) (order); and *Pacific Corinthian Life Insurance Company, et al.*, Inv. Co. Act Rel. Nos. 18925 (Sept 2. 1992) (notice) and 18975 (Sept. 24, 1992) (order), involved exchange offers under variable annuity assumption reinsurance transactions between non-affiliates when Rule 11a–2 would have been available if the insurance companies had been affiliated.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45094; File No. SR–ISE–00–17]

Self Regulatory Organizations; International Securities Exchange LLC; Order Granting Approval to Proposed Rule Change and Amendments No. 1 and No. 2 by the International Securities Exchange LLC Relating to Its Arbitration Program

November 21, 2001.

I. Introduction

On November 20, 2000, the International Securities Exchange LLC ("ISE") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to make certain changes to its arbitration rules. These changes were intended to reflect and facilitate ISE's regulatory services agreement with NASD Regulation, Inc. ("NASDR") pursuant to which, among other things, NASDR provides services related to arbitration proceedings to involving ISE members.[3] On March 5, 2001, the Exchange filed Amendment

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that although the regulatory services agreement at issue is between ISE and NASDR, the actual administration of arbitrations on behalf of ISE members pursuant to the agreement will be performed by a recently-created NASD subsidiary, NASD Dispute Resolution, which performs all arbitration and mediation services for NASD members.

No. 1 to the proposed rule change,[4] and on July 16, 2001, the Exchange filed Amendment No. 2 to the proposed rule change.[5]

The proposed rule change was published for comment in the **Federal Register** on July 26, 2001.[6] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

In its proposed rule change, the ISE proposed amendments to Chapter 18, Arbitration, of the ISE Rules. Specifically, the ISE proposes to repeal Rules 1800 through 1835 and create new Rule 1800, which will state that the NASD Code of Arbitration, as the same may be in effect from time to time, shall govern Exchange arbitrations. The proposed rule also states that the Exchange shall retain jurisdiction over its members for failure to honor arbitration awards and any right, action or determination by the Exchange which it would otherwise be authorized to adopt, administer or enforce is in no way limited or precluded by incorporation of the NASD Code of Arbitration.

The Exchange has contracted with NASDR to perform arbitrations under ISE's rules. Accordingly, the Exchange proposes to eliminate all of the arbitration rules currently contained in Chapter 18 of the ISE Rules and incorporate the NASD Code of Arbitration by reference.[7] The proposed rule also specifies that potential violations of ISE rules identified during an arbitration hearing may be referred to the ISE for investigation, and that disciplinary action may be brought by the ISE as a result thereof. Finally, a member or person associated with a member will be subject to discipline by the ISE if it fails to honor an award made as a result of an arbitration initiated under ISE Rules.[8]

III. Discussion

After careful review, the Commission finds that implementation of the proposed rule change is consistent with the requirements of section 6 of the Act[9] and the rules and regulations thereunder applicable to a national securities exchange.[10] Specifically, the Commission believes that the proposal is consistent with section 6(b)(5) of the Act.[11] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to facilitate transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.[12] Section 6(b)(5) also requires that those rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. In particular, the Commission believes that the proposed rule change eliminating the ISE's arbitration program and referring cases to NASDR for arbitration will help protect investors and the public interest by ensuring that there is a fair arbitration forum available for all ISE arbitration claims.

The proposed rule change submitted by the ISE would eliminate all of the arbitration rules currently contained in Chapter 18 of the ISE Rules and create new ISE Rule 1800, essentially incorporating the NASD Code of Arbitration by reference, by stating that the NASD Code of Arbitration, as the same may be in effect from time to time, shall govern Exchange arbitrations. The Commission believes that it is consistent with the Act to allow NASDR to administer ISE arbitrations, as the ISE has made the business decision to enter into an agreement with NASDR to provide a forum for its arbitrations for a flat annual fee, rather than to absorb the ongoing costs and administrative burden of continuing to manage its own arbitrations.

Procedurally, the Commission believes that the proposed rule change should ensure that all arbitration cases otherwise subject to ISE's arbitration process will be administered under the NASDR arbitration program by virtue of ISE members being deemed "members" of the NASD for purposes of arbitrating any claims involving the securities business of any members of ISE, except for narrowly enumerated exceptions. The proposed rule change accomplishes this by subjecting ISE members to the NASD Code of Arbitration for "[a]ny dispute, claim or controversy arising out of or in connection with the business of any member of the Exchange, or arising out of the employment or termination of employment of associated person(s) with any member may be arbitrated under this Rule 1800 except that (1) a dispute, claim, or controversy alleging employment discrimination (including a sexual harassment claim) in violation of a statute may only be arbitrated if the parties have agreed to arbitrate it after the dispute arose; and (2) any type of dispute, claim, or controversy that is not permitted to be arbitrated under the NASD Code of Arbitration, such as class action claims, shall not be eligible for arbitration under this Rule 1800."[13] In effect, the proposed rule change requires that ISE members abide by the NASD's Code of Arbitration as if they were members of the NASD for purposes of arbitration.

In addition, the Commission believes that the proposed rule change provides for enforcement of arbitration awards and discipline of members, as appropriate, in a manner consistent with the Act, because ISE will continue to have ultimate responsibility for the enforcement and disciplining of its members regarding arbitration. An ISE member's refusal to submit to arbitration pursuant to the NASD Code of Arbitration or failure to pay an arbitration award rendered pursuant to the NASD Code of Arbitration would constitute a violation of section (b) of new ISE Rule 1800, which subjects ISE members to NASD jurisdiction, as well as section (e) which reserves ISE's right to discipline its members.

As stated above, by virtue of ISE's agreement with NASDR to perform arbitrations for ISE members, as well as the proposed amendments to ISE's arbitration rules contained herein, the ISE proposes to incorporate by reference the NASD Code of Arbitration. Accordingly, the ISE has submitted to the Commission a letter requesting an

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[4] *See* Letter from Katherine Simmons, Vice President and Associate General Counsel, ISE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated March 5, 2001 ("Amendment No. 1"). In Amendment No. 1, the ISE added paragraphs (a) and (b), which are jurisdictional provisions currently contained in ISE Rule 1800, to the proposed rule text.

[5] *See* Letter from Jennifer M. Lamie, Assistant General Counsel, ISE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated July 16, 2001 ("Amendment No. 2"). Amendment No. 2 replaced the initial filing and Amendment No. 1 in their entirety. In Amendment No. 2, the ISE made minor changes to the order of the subsections under ISE rule 1800, amended the language of its proposed jurisdictional provisions, and added subsection (c), which governs predispute arbitration agreements.

[6] *See* Securities Exchange Act Release No. 44572 (July 18, 2001), 66 FR 39069 (July 26, 2001).

[7] The ISE represents that, as of this date, no cases have been opened under the Exchange's existing arbitration rules.

[8] NASDR performs arbitrations for the Philadelphia Stock Exchange. *See* Securities Exchange Act Release No. 40517 (October 1, 1998), 63 FR 54177 (October 8, 1998). Because there have not been any arbitrations initiated under ISE rules, the proposed rule does not contain language found in the Phlx rules to address pending arbitrations.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

[12] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] *See* proposed ISE Rule 1800(b) ("Jurisdiction").

exemption pursuant to Section 36 of the Act from the rule filing procedures of Section 19(b) of the Act and Rule 19b–4 thereunder,[14] with respect to the arbitration and margin rules of other self-regulatory organizations it has incorporated by reference, in accordance with the section 36 exemptive request filing procedures published by the Commission.[15] According to the ISE, the purpose of this request is to avoid having to file duplicative proposed rule changes with the Commission pursuant to section 19(b) and Rule 19b–4 each time the NASD changes its Code of Arbitration. In its letter, the ISE also represents that its proposed incorporations by reference are regulatory in nature and are intended to be a comprehensive integration of the relevant rules of the other exchange into the ISE rules, and that the ISE agrees to provide written notice to its members whenever the Commission publishes for comment a proposed rule change to the NASD Code of Arbitration.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[16] that the proposed rule change (SR–ISE–00–17), as amended, is hereby approved.

For the Commission, by the Division of market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–29828 Filed 11–30–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45087; File No. SR–ISE–2001–29]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange LLC Relating to Changes to the Exchange's Delisting Criteria

November 20, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 19, 2001, the International Securities Exchange LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the ISE. The proposed rule change has been filed by the ISE as a "non-controversial" rule change under Rule 19b–4(f)(6) under the Act.[3] The Commission is publishing this notice to solicit comments on the proposed change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend ISE Rule 503, Withdrawal of Approval of Underlying Securities, governing the circumstances under which the Exchange may not continue to add new options series for underlying securities.

The text of the proposed rule change is available at the ISE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of and statutory basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ISE Rule 503, Withdrawal of Approval of Underlying Securities, contains certain criteria with respect to the securities underlying options classes traded on the Exchange. The rule restricts the Exchange from adding additional series of an options class in the event that the underlying security fails to meet these criteria. These criteria currently are uniform across all of the options exchanges. However, due to the complexity of the requirements, it has become apparent that the options exchanges do not always interpret and apply these rules in a consistent manner.

ISE Rule 503 currently provides that the Exchange may not list additional series if, among other things, the underlying security has not closed above $5 for the majority of business days during the preceding six calendar months as measured by the highest closing price reported in any market in which the underlying security traded. ISE Rule 503 further provides that new series may not be added unless the closing price from the preceding day was at least $5. However, there is an exception to these two $5 criteria that permits the Exchange to add additional series, so long as the underlying security has closed above $3 for the majority of business days during the preceding six calendar months and the underlying price is at least $3 at the time the new series are authorized, in addition to certain other criteria being satisfied, provided that if this exception were relied upon to add any new series during the preceding calendar months, each of the $3 requirements becomes a $4 requirement.

The ISE represents that the application of the current requirements and exceptions in ISE Rule 503 creates unnecessary confusion and administrative burdens on the Exchange, and often results in disputes between the exchanges, as inconsistent application of the criteria can competitively disadvantage an exchange that interprets the requirements differently. Accordingly, the ISE proposes to amend ISE Rule 503 to simplify the criteria used to determine whether new options series may be added with respect to particular options classes, and to clarify when new options series may not be added by the Exchange. The Exchange believes its proposal is consistent with a similar proposal by the Chicago Board Options Exchange ("CBOE").[4]

Under the ISE proposal, the $5 criteria described above, as well as the $3 and $4 exceptions, would be replaced by a single $3 requirement. None of the other requirements currently contained in Rule 503 (such as the number of shares that must be held by non-insiders, number of holders and trading volume) would be changed. The new proposed requirement specifies the following: (1) New series may not be added for the next day unless, in addition to satisfying the other requirements of the rule, the underlying security closed at or above $3 on the previous trading day; and (2) new series may not be added intra-day unless, in addition to satisfying the other requirements of the rule, including that the underlying security

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[14] *See* Letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Jonathan G. Katz, Secretary, Commission, dated October 29, 2001.

[15] *See* Securities Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998).

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 44964 (October 19, 2001), 66 FR 54559 (October 29, 2001) (order approving File No. SR–CBOE–2001–29).

closed at or above $3 on the previous trading day, the last reported trade in the underlying security at the time the Exchange determines to add the new series is at or above $3. When determining the closing price and last reported trade for an underlying security, the Exchange will look to the primary market in which the underlying security trades.

The Exchange believes this proposal is reasonably designed to assure that options are not listed on securities that lack sufficient liquidity needed to maintain fair and orderly markets, while removing unnecessarily complex requirements. In addition, the ISE does not believe that it is necessary or desirable to restrict the ability of investors to trade options on securities trading between $3 and $5. In determining to list any number of new options series under the new less restrictive standard, the Exchange will ensure that its own systems and those of the Options Price Reporting Authority can handle any increased capacity requirements.

2. Statutory Basis

The ISE believes that the proposed rule change is consistent with section 6 of the Act,[5] general, and with section 6(b)(5) of the Act,[6] specifically, in that is designated to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change, as amended: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change,[7] or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)[9] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The ISE seeks to have the proposed rule change, as amended, become operative immediately. The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change, as amended, operative as of November 19, 2001.[10] The Commission notes that the proposed rule change, as amended, is substantially similar in all material respects to the rule of another exchange that the Commission has already noticed for public comment and approved[11] and, therefore, the proposed rule change raises no new issues of regulatory concern.

At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the ISE.

All submissions should refer to File No. SR–ISE–2001–29 and should be submitted by December 24, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

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[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] *See* letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated October 8, 2001.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] *See supra* note 4.

[12] *See* Section 19(b)(3)(C) of the Act, 15 U.S.C. 78(b)(3)(C).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45096; File No. SR–NYSE–2001–28]

Self-Regulatory Organizations; the New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change To Administer NYSE Rule 91.10 Pursuant to the NYSE's Minor Rule Violation Plan

November 21, 2001.

On August 21, 2001, the New York Stock Exchange, Inc. ("NYSE" "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to administer NYSE Rule 91.10, Taking or Supplying Securities Named in Order pursuant to the NYSE's Minor Rule Violation Plan ("Plan"). NYSE Rule 91.10 requires that whenever a specialist has elected to take or supply for his or her account the securities named in an order entrusted to the specialist, he or she must summon a representative of the firm that entered

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the order to confirm, in written format, the acceptance or rejections of such transaction.

The proposal was published for comment in the **Federal Register** on September 7, 2001.[3] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, the requirements of section 6 of the Act[5] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 6(b)(6) of the Act[6] in that it will provide a procedure whereby member organizations can be appropriately disciplined in those instances when a rule violation is minor in nature, but a sanction more serious than an admonition letter is appropriate. Additionally, the Commission finds the proposed rule change is consistent with the requirements of sections 6(b)(7)[7] and 6(d)(1)[8] of the Act. Section 6(b)(7) requires the rules of an exchange to be in accordance with the provisions of section 6(d) of the Act, and, in general, to provide a fair procedure for the disciplining of members and persons associated with members. Section 6(d)(1) requires an exchange to bring specific charges, notify such member or person of, and give him an opportunity to defend against, such charges, and keep a record, in any proceeding to determine whether a member or person associated with a member should be disciplined. Finally, the Commission finds the proposal is consistent with Rule 19d-1(c)(2)[9] that governs minor rule violation plans.

In approving this proposal, the Commission in no way minimizes the importance of compliance with this rule, and all other rules subject to the imposition of fines under the Plan. The Commission believes that the violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, in an effort to provide the Exchange with greater flexibility in addressing certain violations, the Plan provides a reasonable means to address the rule violations that do not rise to the level of requiring formal disciplinary proceedings. The Commission expects that the NYSE will continue to conduct surveillance with due diligence, and make a determination based on its findings whether fines of more or less than the recommended amount are appropriate for violations of rules under the Plan, on a case by case basis, or if a violation requires formal disciplinary action.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–NYSE–2001–28) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–29827 Filed 11–30–01; 8:45 am]

BILLING CODE 8010–01–M

[3] See Securities Exchange Act Release No. 44752 (August 29, 2001), 66 FR 46853.

[4] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(6).

[7] 15 U.S.C. 78f(b)(7).

[8] 15 U.S.C. 78f(d)(1).

[9] 17 CFR 240.19d–1(c)(2).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9N60]

State of Florida

Franklin County and the contiguous counties of Gulf, Liberty and Wakulla in the State of Florida constitute an economic injury disaster loan area as a result of a Florida Red Tide. The Florida Red Tide was confirmed on October 16, 2001 in the waters of Apalachicola Bay, which includes the coast of Franklin County. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on August 21, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The number assigned for economic injury for the State of Florida is 9N6000.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: November 21, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01–29807 Filed 11–30–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Senior Executive Service; Performance Review Board Members

ACTION: Notice of members of the FY 2001 Performance Review Board.

SUMMARY: Section 4314(c)(4) of Title 5, U.S.C. requires each agency to publish notification of the appointment of individuals who may serve as members of that Agency's Performance Review Boards (PRB). The following have been designated to serve on the FY 2001 Performance Review Board for the U.S. Small Business Administration:

1. Susan W. Wiles; Counselor to the Administrator;
2. Alfredo Armendariz, Associate Deputy Administrator for Government Contracting and Business Development;
3. Kaaren Johnson Street, Associate Deputy Administrator for Entrepreneurial Development;
4. Michael L. Barrera, National Ombudsman;
5. Thomas Dumaresq, Acting Associate Deputy Administrator for Management and Administration;
6. Janet Tasker, Associate Administrator for Lender Oversight;
7. Judith Roussel, District Director (Chicago);
8. Jane Butler, Associate Administrator for Financial Assistance;
9. Aubrey Rogers, District Director (New York);
10. Robert Moffitt, Associate Administrator for Surety Guarantees;
11. Nancy Q. Raum, Assistant Administrator for Human Resources;
12. Richard Spence, Assistant Administrator for Congressional and Legislative Affairs;
13. Patrick J. Rhode, Associate Administrator for Communications and Public Liaison;
14. Calvin Jenkins, Acting Associate Administrator for Field Operations;
15. Jeanne Sclater, Acting Associate Deputy Administrator for Capital Access, and
16. Eric Benderson, Associate General Counsel for Litigation.

Dated: November 23, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 01–29833 Filed 11–30–01; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information

collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub.L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer and at the following addresses:

(OMB)
Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, DC 20503

(SSA)
Social Security Administration, DCFAM, Attn: Reports Clearance Officer 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–4145, or by writing to him at the address listed above.

1. Information Collections Conducted by State Disability Determination Services (DDS) on Behalf of SSA—0960–0555. The State DDSs collect certain information to administer SSA's disability program. The information collected is as follows: (1) Medical evidence of record (MER)—DDSs use MER information to determine a person's physical and/or mental status prior to making a disability determination; (2) consultative exam (CE) medical evidence—DDSs use CE medical evidence to make disability determinations when the claimant's own medical sources cannot or will not provide the information; (3) CE claimant forms—The DDSs request that claimants complete an authorization form for the release of consultative exam information to a personal physician and to complete an appointment form to confirm scheduled CE appointments; (4) CE provider information—DDSs use the CE provider information to verify medical providers' credentials and licenses before hiring them to conduct CEs; (5) activities of daily living (ADL)—this information and other medical evidence are part of the evidentiary documentation used by the DDS's in evaluating a person's disability; and (6) pain information—this information is used by the DDSs to assess the effects of symptoms on functionality for determining disability. The respondents are medical providers, other sources of MER and disability claimants.

(1) MER (Respondents—Medical Providers and Other Sources)

Number of Responses: 6,052,494
Frequency of Response: Unknown
Average Burden Per Response: 15 minutes
Estimate Annual Burden: 1,513,124

(2) CE Medical Evidence (Respondents—Medical Providers)

Number of Responses: 1,640,269
Frequency of Response: Unknown
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 820,135 hours

(3) CE Forms (Respondents—Claimants)

	Appointment form	Medical release
Number of Respondents:	820,134	1,640,269.
Frequency of Response:	1	1.
Average Burden Per Response:	5 minutes	5 minutes.
Estimated Annual Burden:	68,345 hours	136,689 hours.

(4) CE Providers (Respondents—Medical Providers)

Number of Responses: 3,000
Frequency of Response: 1
Average Burden: 20 minutes
Estimated Annual Burden: 1,000 hours

(5) ADL (Respondents—Claimants)

Number of Responses: 2,000,000
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 500,000 hours

(6) Pain (Respondents—Claimants)

Number of Responses: 1,000,000
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Average Burden: 250,000 hours

2. Application for U.S. Benefits Under the Canada-U.S. International Agreement—0960–0371. The information collected on Form SSA–1294 is used to determine entitlement to benefits. The respondents are individuals who live in Canada and file for U.S. Social Security Benefits.

Number of Respondents: 1,000
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 250 hours

3. Disability Hearing Officer's Report of Disability Hearing (DC)—0960–0507. The information collected on form SSA–1204–BK is used by the Disability Hearing Officer (DHO) to conduct and document disability hearings, and to provide a structured format that concerns all conceivable issues relating supplemental security income claims for disabled children. The completed form SSA–1204–BK will aid the DHO in preparing the disability decision and will provide a record of what transpired at the hearing.

The respondents are DHO's in the State Disability Determination Services.

Number of Respondents: 100,000
Frequency of Response: 1
Average Burden Per Response: 60 minutes
Estimated Annual Burden: 100,000 hours

4. Statement of Death by Funeral Director—0960–0142. The Social Security Administration (SSA) uses the information on form SSA–721 to make timely and accurate decisions based on a report of death. The respondents are funeral directors with knowledge of the fact of death.

Number of Respondents: 1,059,400
Frequency of Response: 1
Average Burden Per Response: 4 minutes
Estimated Annual Burden: 70,627 hours

5. Statement Regarding Marriage—0960–0017. Form SSA–753 elicits information from third parties to verify the applicant's statements about intent, cohabitation, and holding out to the public as married, which are the basic tenets of a common-law marriage. The responses are used by SSA to determine if a valid marital relationship exists and to make an accurate determination regarding entitlement to spouse/widow(er) benefits. The respondents are individuals who are familiar with and can provide confirmation of an applicant's common-law marriage.

Number of Respondents: 40,000
Frequency of Response: 1
Average Burden Per Response: 9 minutes

Estimated Annual Burden: 6,000

6. Quarterly Statistical Report on Recipients and Payments Under State-Administered Assistance Programs for Aged, Blind, and Disabled (Individuals and Couples) Recipients—0960–0130. The information collected on Form SSA–9741 is used by States to provide statistical data on recipients and assistance payments under the SSI State-administered State Supplementation Programs. The data are needed to complement information available for the programs administered by SSA and to fully explain the impact of the public income support programs on the needy, aged, blind, and disabled. The respondents are State agencies who administer supplementary payment programs under SSI.

Number of Respondents: 30
Frequency of Response: 4
Average Burden Per Response: 60 minutes
Estimated Annual Burden: 2 hours

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed above.

1. Modified Benefits Formula Questionnaire, Employer—0960–0477. Form SSA–58 is used by SSA to verify or disprove a claimant's allegation regarding a pension based on non-covered employment after 1956. It also shows whether that claimant was eligible for the pension before 1986. The respondents are persons who are eligible (after 1985) for both Social Security benefits and a pension from their employer, based on work not covered by SSA.

Number of Respondents: 30,000
Frequency of Response: 1
Average Burden Per Response: 20 minutes
Estimated Annual Burden: 10,000 hours

2. Application for Survivors Benefits—0960–0062. The information collected on Form SSA–24 is needed to satisfy the "Jointly Prescribed Application" of title 38 U.S.C. 5105. The provision requires that survivors who file with SSA or the VA shall be deemed to have filed with both agencies, and that each agency's forms must request information to constitute an application for both SSA and VA benefits. The respondents are survivors of military service veterans filing for Social Security benefits.

Number of Respondents: 3,200
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 800 hours

3. Medical Report (Individual With Childhood Impairment)—0960–0102. The information on Form SSA–3827–BK is needed to determine the claimant's physical and mental status prior to making a childhood disability determination. The respondents are medical sources.

Number of Respondents: 12,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 6,000 hours

4. Work Activity Report (Self-Employed)—0960–0598. Form SSA–820–F4 is used to determine whether work an individual performs in self-employment is at the substantial gainful activity (SGA) level. An individual's entitlement to benefits ends if he/she demonstrates an ability to perform SGA. The respondents are social security disability beneficiaries and Supplemental Security Income recipients.

Number of Respondents: 100,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 50,000 hours

5. Agreement to Sell Property—0960–0127. Form SSA–8060–U3 is used by SSA to document and ensure that individuals or couples who are otherwise eligible for Supplemental Security Income (SSI) payments, but who own in excess of the statutory limit, may receive conditional benefit payments if they agree to dispose of the excess resources and repay any overpayments with the proceeds of the disposition. The form is also used to ensure that the individuals understand their obligations under the agreement. The respondents are individuals (or couples) who are receiving (or will receive) conditional SSI payments.

Number of Respondents: 20,000
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 3,333 hours

6. Reconsideration Disability Report—0960–0144. SSA uses the information collected on Form SSA–3441 to determine if the claimant's medical or vocational situation changed after the initial disability determination, when the claimant requests a reconsideration of a denied disability claim. The form also elicits additional sources of medical and vocational evidence that were not considered in the initial determination. The respondents are disability beneficiaries who request a reconsideration of their claim.

Number of Respondents: 400,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Average Burden: 200,000 hours

7. Electronic Benefit Verification Information—0960–0595. SSA provides verification of benefits, when requested, to individuals receiving title II and/or title XVI benefits. In order to provide to the public an easy and convenient means of requesting benefit information, SSA has developed an electronic request form that will allow persons to request the information through the Internet. The information collected on the electronic screens will be used by SSA to process the request for a benefit verification statement. To ensure appropriate confidentiality, the statement will be mailed to the recipient/beneficiary address shown in SSA's records. The respondents are title II and XVI recipients/beneficiaries who request benefit verification information using the Internet.

Number of Respondents: 133,920
Frequency of Response: 1
Average Burden Per Response: ½ minute
Estimated Average Burden: 1,116 hours

8. Statement by School Official About Student's Attendance; Statement to U.S. Social Security Administration By School Outside the United States About Student's Attendance—0960–0090. The information collected on Forms SSA–1371 and SSA–1371–FC is used by SSA to verify a student's alleged full-time attendance at an educational institution, in order to determine the student's eligibility for Social Security student benefits. The respondents are school officials who provide the information on these forms.

Number of Respondents: 5,000
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Average Burden: 833 hours

9. Report of Continuing Disability Interview—0960–0072. SSA periodically reviews the cases of individuals who receive Social Security benefits and Supplemental Security Income (SSI) to determine if disability continues. During a review, SSA uses Form SSA–454–BK to collect information on disability. The information on the form is used to update the record of the disabled individual on recent medical treatment, vocational and educational experiences,

work activity, and evaluations of potential for return to work. Based on this information and other evidence, SSA makes a determination on whether disability continues or has ended, and if so, when disability ended. The respondents are individuals who receive Social Security or SSI disability benefits, or their representatives.

Number of Respondents: 852,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 426,000 hours

Dated: November 26, 2001.

Nicholas E. Tagliareni,

Director, Center for Publications Management, Social Security Administration.

[FR Doc. 01–29848 Filed 11–30–01; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF STATE

[Public Notice 3849]

Culturally Significant Objects Imported for Exhibition Determinations: "Korean Ceramics From the Fitzwilliam Museum, Cambridge"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, I hereby determine that the objects to be included in the exhibit "Korean Ceramics from the Fitzwilliam Museum, Cambridge," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with a foreign lender. I also determine that the temporary exhibition or display of the exhibit objects at The Metropolitan Museum of Art, of New York, NY, from on or about November 5, 2002, to on or about April 6, 2003, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW, Room 700, Washington, DC 20547–0001.

Dated: November 28, 2001.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–29999 Filed 11–30–01; 8:45 am]

BILLING CODE 4710–05–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comment With Respect to the Annual National Trade Estimate Report on Foreign Trade Barriers

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Pursuant to section 303 of the Trade and Tariff Act of 1984, as amended, USTR is required to publish annually the National Trade Estimate Report on Foreign Trade Barriers (NTE). With this notice, the Trade Policy Staff Committee (TPSC) is requesting interested parties to assist it in identifying significant barriers to U.S. exports of goods, services and overseas direct investment for inclusion in the NTE. Particularly important are impediments materially affecting the actual and potential financial performance of an industry sector. The TPSC invites written comments that provide views relevant to the issues to be examined in preparing the NTE. Due to the disruption of postal service at the Office of the United States Trade Representative, the Department of Commerce will receive comments in response to this Notice. Commenters should review carefully the written comments section of this Notice for special procedures for filing comments this year.

DATES: Public comments are due not later than Monday, December 17, 2001.

ADDRESSES: *Paper submissions:* NTE Comments, Office of Trade and Economic Analysis, Room H–2815, U.S. Department of Commerce, Washington, DC 20230.

Submissions by electronic mail: ntecomments@ita.doc.gov.

FOR FURTHER INFORMATION CONTACT: Procedural questions about transmitting comments or viewing public submissions should be directed to Ms. Marva Thompson (202–482–2185) or Mr. Howard Schreier (202–482–4180), U.S. Department of Commerce. Questions regarding the report or its subject matter should be directed to Ms. Gloria Blue, Office of Policy Coordination, Office of the United States Trade Representative (202–395–3475).

SUPPLEMENTARY INFORMATION: Last year's report may be found on USTR's Internet homepage (*www.ustr.gov*) under the section on Reports. In order to ensure compliance with the statutory mandate for reporting foreign trade barriers that are significant, we will focus particularly on those restrictions where there has been active private sector interest.

The information submitted should relate to one or more of the following ten categories of foreign trade barriers:

(1) Import policies (*e.g.*, tariffs and other import charges, quantitative restrictions, import licensing, and customs barriers);

(2) Standards, testing, labeling, and certification (including unnecessarily restrictive application of phytosanitary standards, refusal to accept U.S. manufacturers' self-certification of conformance to foreign product standards, and environmental restrictions);

(3) Government procurement (*e.g.*, "buy national" policies and closed bidding);

(4) Export subsidies (*e.g.*, export financing on preferential terms and agricultural export subsidies that displace U.S. exports in third country markets);

(5) Lack of intellectual property protection (*e.g.*, inadequate patent, copyright, and trademark regimes);

(6) Services barriers (*e.g.*, limits on the range of financial services offered by foreign financial institutions, regulation of international data flows, restrictions on the use of data processing, quotas on imports of foreign films, and barriers to the provision of services by professionals (*e.g.*, lawyers, doctors, accountants, engineers, nurses, etc.));

(7) Investment barriers (*e.g.*, limitations on foreign equity participation and on access to foreign government-funded R&D consortia, local content, technology transfer and export performance requirements, and restrictions on repatriation of earnings, capital, fees and royalties);

(8) Anticompetitive practices with trade effects tolerated by foreign governments (including anticompetitive activities of both state-owned and private firms that apply to services or to goods and that restrict the sale of U.S. products to any firm, not just to foreign firms that perpetuate the practices);

(9) Trade restrictions affecting electronic commerce (*e.g.*, tariff and non-tariff measures, burdensome and discriminatory regulations and

standards, and discriminatory taxation); and

(10) Other barriers (*i.e.*, barriers that encompass more than one category, *e.g.* bribery and corruption, or that affect a single sector).

As in the case of last year's NTE, we are asking that particular emphasis be placed on any practices that may violate U.S. trade agreements. We are also interested in receiving any new or updated information pertinent to the barriers covered in last year's report as well as new information. Please note that the information not used in the NTE will be maintained for use in future negotiations.

It is MOST IMPORTANT that your submission contain estimates of the potential increase in exports that would result from the removal of the barrier, as well as a clear discussion of the method(s) by which the estimates were computed. Estimates should fall within the following value ranges: less than $5 million; $5 to $25 million; $25 million to $50 million; $50 million to $100 million; $100 million to $500 million; or over $500 million. Such assessments enhance USTR's ability to conduct meaningful comparative analyses of a barrier's effect over a range of industries.

Please note that interested parties discussing barriers in more than one country should provide a separate submission (*i.e.*, one that is self-contained) for each country.

Written Comments: U.S. Government agencies in the Washington, DC area and the Office of the United States Trade Representative, in particular, continue to apply restrictions causing disruptions and delays in receiving mail from the U.S. Postal Service and other commercial express delivery services.

In order to ensure the most timely receipt and consideration of comments submitted in response to this Notice, the following guidelines and special procedures have been established:

(1) All comments will be received at the U.S. Department of Commerce rather than the Office of the United States Trade Representative;

(2) The Department of Commerce has arranged to accept non-confidential, public submissions by electronic mail (e-mail). An automatic reply confirming receipt of e-mail submissions will be sent. E-mail submissions in Microsoft Word or Corel WordPerfect are preferred. If a word processing application other than those two is used, please advise us in your submission of the specific application used;

(3) In order to facilitate prompt processing of submissions, the Department of Commerce strongly urges and prefers e-mail submission of non-confidential, public comments.

(4) To ensure security, submissions containing business confidential information should not be sent by e-mail, but via the U.S. Postal Service or commercial express delivery (see paragraph 6 and 7 below for special requirements applying to such submissions). If a submission contains business confidential information, a non-confidential public version must also be submitted along with the business confidential version.

(5) Business-confidential submissions must be accompanied by a justification as to why the information contained in the submission should be treated confidentially. In addition, any submissions containing business confidential information must be clearly marked "Confidential" at the top and bottom of the cover page (or letter) and of each succeeding page of the submission. The version that does not contain confidential information should also be clearly marked, at the top and bottom of each page, "public version" or "non-confidential."

(6) When comments are submitted using the U.S. Postal Service or commercial couriers, it is strongly recommended that submitters notify the Department of Commerce by e-mail as to the date of transmittal and method of delivery (U.S. Postal Service or name of courier company). this will facilitate tracking in the event of delivery irregularities.

(7) All submissions must be in English and should conform to the information requirements of 15 CFR 2003. If submissions are made via U.S. Postal Service or commercial express delivery, a party must provide five copies of its submission and the submission should be accompanied by a computer disk containing a machine-readable version. The disk should have a label identifying the software used, the submitter and the title of the submission. In addition, business confidential and public or non-confidential submissions should be submitted on separate disks which are clearly marked "business confidential" or "non-confidential", as appropriate.

Submissions must be received at the Department of Commerce no later than Monday, December 17, 2001.

Written comments submitted in connection with this request, except for information granted "business confidential" status pursuant to 15 CFR 2003.6, will be available for public inspection shortly after the filing deadline in the Foreign Trade Reference Room (room 2233) in the U.S. Department of Commerce. The Department of Commerce is located at 14th St. and Constitution Ave., NW. in Washington, DC. Hours of operation for the Foreign Trade Reference Room are from 9 am to 4 pm, Monday through Friday. Questions regarding the operation of the Reference Room should be directed to Ms. Marva Thompson at 202–482–2185.

Carmen Suro-Bredie,

Chairman, Trade Policy Staff Committee.

[FR Doc. 01–29979 Filed 11–29–01; 1:06 pm]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2001–10524]

Information Collection Under Review by the Office of Management and Budget (OMB): 2115–0514

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded one Information Collection Report (ICR) abstracted below to OMB for review and comment. Our ICR describes the information we seek to collect from the public. Review and comment by OMB ensure that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before January 2, 2002.

ADDRESSES: You may send comments by mail to (1) the Docket Management System (DMS), U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street S.W., Washington, DC 20590–0001; and (2) the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), 725 17th Street N.W., Washington, DC 20503, to the attention of the Desk Officer for the USCG.

Copies of the complete ICRs are available for inspection and copying in public dockets. A copy of this complete ICR is available in docket USCG 2001–10524 of the Docket Management Facility between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays; for inspection and printing on the Internet at *http://dms.dot.gov;* and for inspection from the Commandant (G–CIM–2), U.S. Coast Guard, room 6106, 2100 Second Street SW., Washington, DC, between 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; Dorothy Beard, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–5149, for questions on the docket.

SUPPLEMENTARY INFORMATION

Regulatory History

This request constitutes the 30-day notice required by OMB. The Coast Guard has already published [66 FR 47055 (September 10, 2001) the 60-day notice required by OMB. That notice elicited no comments.

Request for Comments

The Coast Guard invites comments on the proposed collection of information to determine whether the collection is necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the Department's estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collections; and (4) ways to minimize the burden of collection on respondents, including the use of automated collection techniques or other forms of information technology.

Comments, to DMS or OIRA, must contain the OMB Control Number of the ICR addressed. Comments to DMS must contain the docket number of this request, USCG 2001–10524. Comments to OIRA are best assured of having their full effect if OIRA receives them 30 or fewer days after the publication of this request.

Information Collection Requests

Title: Submission of Continuous-Discharge Book, Revised Merchant Mariner's Application, Report of Entry-Level Physical, Report of Other Physical, Report of New Sea Service, and Report of Chemical Testing.

OMB Control Number: 2115–0514.

Type of Request: Extension of a currently approved collection.

Affected Public: Merchant Mariners.

Forms: CG–719A, CG–719B, CG–719K, CG–719S, CG 719P and CG–719K/E

Abstract: The Coast Guard needs this various information to evaluate the competency, character, and physical fitness of individuals applying for Coast Guard Licenses, Certificates of Registry, and Merchant Mariners' Documents.

Annual Estimated Burden Hours: The estimated burden is 21,359 hours a year.

Dated: November 21, 2001.

V.S. Crea,

Director of Information and Technology.

[FR Doc. 01–29886 Filed 11–30–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Prepare an Environmental Impact Statement and To Conduct Environmental Scoping for Improvements to the Gary/Chicago Airport in Gary, IN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Corrected notice to prepare an Environmental Impact Statement and to hold a public scoping meeting.

SUMMARY: Previous notices to prepare an Environmental Impact Statement and to conduct a public scoping meting for the Gary/Chicago Airport were published in the **Federal Register** on November 07, 2001 (page 56369) and on November 16, 2001 (page 57770). Due both to the anticipated high level of interest in matters pertaining to the Gary/Chicago Airport, and a desire to fully accommodate persons, agencies and other potentially interested entities, the Federal Aviation Administration (FAA) is issuing this corrected notice to advise the public that an Environmental Impact Statement or other appropriate environmental documentation will be prepared to assess certain improvements to the Gary/Chicago Airport. This corrected notice changes the comment receipt date from December 27, 2001 to January 29, 2002 and also changes the scoping meeting date from December 13, 2001 to January 15, 2002. The environmental review will assess various improvements associated with the existing air carrier Runway 12–30, including railroad relocation and improved runway safety areas; an extension of the existing air carrier Runway 12–30; expansion of the existing terminal site; and analysis of sites for new passenger terminal and air cargo areas. A public scoping process will be held in order that all significant issues related to the proposed actions are identified.

FOR FURTHER INFORMATION CONTACT: Michael W. MacMullen, Airports Environmental Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Mr. MacMullen can be contacted at (847) 294–7522 (voice), (847) 294–7046 (facsimile).

SUPPLEMENTARY INFORMATION: At the request of the Gary/Chicago Airport Authority, the FAA is preparing an Environmental Impact Statement or other appropriate environmental documentation. The review will address specific improvements of Gary/Chicago Airport as identified during the 2001 Airport Master Plan process and shown on the 2001 Airport Layout Plan. The following improvements have been grouped in four categories and are identified as ripe for review and decision: Improvements associated with Existing Runway 12–30, the primary air carrier runway at the airport, relocate E.J. & E. Railroad, acquire land northwest of airport to allow for modifications to runway safety area, relocate airside perimeter roadway, relocate Runway 12–30 navaids, improve Runway Safety Area for Runway 12, relocate Runway 12 threshold to remove prior displacement, and acquire land southeast of airport, located within or immediately adjacent to runway protection zone; Extension of Runway 12–30, including acquire land or rights northwest of existing runway, relocate/bury power lines, relocate airside perimeter roadway, extend Runway 12–30 (1,900 feet by 150 feet), relocate Runway 12–30 navaids, displace Runway 30 threshold using declared distance standards, extend parallel taxiway A to new end of Runway 12, construct deicing hold pads on Taxiway A at Runway 12 and Runway 30, and develop two high-speed exit taxiways; Expansion of existing passenger terminal to accommodate projected demands; and analysis of sites adjacent to extended runway for aviation related development, including new passenger terminal and air cargo areas.

The purpose and need for these improvements will be reviewed in the environmental documentation. All reasonable alternatives will be considered including the no-action alternative.

Copies of a scoping document with additional detail can be obtained by contacting the FAA informational contact person identified above. Federal, State, and local agencies and other interested parties are invited to make comments and suggestions to ensure that the full range of issues related to these proposed actions are addressed and all significant issues identified. The FAA informational contact person identified above should receive these comments and suggestions by January 29, 2002.

Public Scoping Meeting: To facilitate receipt of comments, two public scoping meetings will be held on January 15,

2002 at the Gary/Chicago Airport, 6001 Industrial Highway, Gary, Indiana. The first meeting will be held between 10 am and 2 pm Central Standard Time for Federal, State, and local agencies in the administrative offices. The second meeting will be held from 3 PM to 7 PM Central Standard Time for other interested parties in the passenger terminal facility.

Issued in Des Plaines, Illinois on November 19, 2001.

Philip M. Smithmeyer,

Manager, Chicago Airports District Office, Great Lakes Region.

[FR Doc. 01–29888 Filed 11–30–01; 8:45 am]

BILLING CODE 4910–33–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Security Advisory Committee; Meeting

AGENCY: Federal Aviation Administration, DOT.

SUMMARY: Notice is hereby given of a meeting of the Aviation Security Advisory Committee.

DATES: The meeting will be held December 18, 2001, from 10 a.m. to 1 p.m.

ADDRESSES: The meeting will be held at the Capitol Holiday Inn, 550 C Street, SW, Discovery II Room, Washington, DC 20024, telephone 202–479–4000.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 11), notice is hereby given of a meeting of the Aviation Security Advisory Committee to be held December 18, 2001, at the Capitol Holiday Inn, 550 C Street, SW., Discovery II Room, Washington, DC. The agenda for the meeting will include: Regulatory/Legislative Initiatives, Enforcement Policy, and Status of Rapid Response Team Recommendations. The meeting is open to the public but attendance is limited to space available. Members of the public may address the committee only with the written permission of the chair, which should be arranged in advance. The chair may entertain public comment if, in its judgment, doing so will not disrupt the orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the committee at any time. Persons wishing to present statements or obtain information should contact the Office of the Associate Administrator for Civil Aviation Security, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–7622.

Issued in Washington, DC, on November 28, 2001.

Lynne Osmus,

Deputy Associate Administrator for Civil Aviation Security.

[FR Doc. 01–29889 Filed 11–30–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Final Report of RTCA Future Flight Data Collection Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Final Report of RTCA Future Flight Data Collection Committee.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting on the Final Report of RTCA Future Flight Data Collection Committee.

DATES: The meeting will be held December 4, 2001, starting at 1 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc. 1828 L Street, NW., Suite 805, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Appendix 2), notice is hereby given for the Final Report of the Future Flight Data Collection Committee, being reviewed at an RTCA Policy Board meeting. The agenda will include:

- December 4:
  - Opening Session (Welcome and Introductory Remarks)
  - Consider Document for Publication: *Future Flight Data Collection Committee Final Report*
  - Closing Session (Other Business, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 26, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–29821 Filed 11–30–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Association of American Railroads

[Docket Number FRA–2001–10654]

The Association of American Railroads (AAR) has petitioned, on behalf of its member railroads, for a permanent waiver of compliance from the requirements of the 49 CFR Federal Track Safety Standards part 213.143; *Frog Guard Rails and Guard Faces; Gage.* This requirement prescribes a minimum and maximum value for guard check and guard face gages, respectively. Guard check gage is the distance between the gage line of a frog and the guard line of its guard rail or guarding face. Allowable minimum guard check dimensions vary with track classification, *i.e.*, train speed. FRA minimum safety standards permit a variation of 4-feet 6 ⅛-inches in Class 1 track, 4-feet 6 ¼-inches in Class 2 track, 4-feet 6 ⅜-inches in Class 3 and 4 track, and 4-feet 6 ½-inches in Class 5 and above track.

The AAR petition seeks relief from the guard check requirements for Class 5 track for a particular type of frog design called a "heavy-point" frog. The AAR seeks a waiver for its member railroads permitting application of the minimum guard check for Class 3 and 4 track to Class 5 track when through gage plates are used to control the movement of a "heavy-point" frog relative to its guard rails.

The heavy-point frog is a unique design, which has a thicker frog point. The AAR states that it offers safety benefits over a traditional frog because there is more insert mass to reduce metal fatigue from impact loading,

greater durability, reduced susceptibility to point rollover, and better ability to guide the wheel flange toward the proper flangeway. Heavy-point frog insert design characteristics gradually widen to 31/32-inch (0.9688) overall, resulting in the heavy-point frog insert point being thicker at the actual 5/8-inch (0.6250) frog point gage lines. The gage line is actually 11/32 (0.3438) thicker than a traditional 5/8-inch (0.6250) RBM frog point. Heavy-point frogs reduce standard guard check distance from 4-feet 6 5/8 (54.6250) inches to 4-feet 6 29/64 inches (54.4531) which does not comply with minimum safety standards for Class 5 track.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2001–10654) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC, 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.—5:00 p.m.) at above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

Issued in Washington, DC, on November 27, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–29882 Filed 11–30–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 183)]

Salt Lake City Corporation—Adverse Abandonment—in Salt Lake City, UT

On November 13, 2001, Salt Lake City Corporation (City) filed an adverse application under 49 U.S.C. 10903 requesting that the Surface Transportation Board (Board) authorize the abandonment by Union Pacific Railroad Company (UP) of a portion of a line of railroad known as the 900 South Line extending from milepost 781.0 to milepost 782.32 in Salt Lake City, UT, a distance of 1.32 miles. The line traverses United States Postal Service ZIP Codes 84101 and 84104 and includes no stations.

The City filed the adverse abandonment application to prevent UP from reactivating the line. At issue is a Franchise Agreement, dated March 20, 1989, between the City and UP, which the City submits obligates UP to remove its track on the line and to take the necessary steps to permit that removal. The City views UP's use of the line as "creating conflicts" with the City's plans for the area. If the line is reactivated, the City states that trains will run through a minority community and cross a major thoroughfare, posing safety risks and creating environmental justice violations.

In a decision served in this proceeding on October 5, 2001, the City was granted a waiver from many of the filing requirements of the Board's abandonment regulations at 49 CFR 1152 that were not relevant to its adverse abandonment application. Specifically, the City was granted waiver from 49 CFR 1152.10–14 and 1152.24(e)(1), pertaining to System Diagram Maps, from 49 CFR 1152.20(a)(3), pertaining to posting notice requirements, and from 49 CFR 1152.24(f) and 1152.29(e)(2), pertaining to abandonment consummation notice. However, the City was required to comply with 49 CFR 1152.20(a)(2), which pertains to service requirements, and 49 CFR 1152.20(a)(4), which pertains to publishing requirements. Also, the Board did not waive the environmental regulations at 49 CFR 1105, 49 CFR 1152.20(c), and 49 CFR 1152.22(f).

The City states that the line does not contain federally granted rights-of-way. Any documentation in the City's possession will be made available promptly to those requesting it. The City's entire abandonment case in chief was filed with the application, except for its Environmental and Historic Report filed on October 22, 2001, and errata thereto filed on October 31, 2001.

The City states that the interests of railroad employees will not be adversely affected because there have been no freight operations for the past 2 years.

Any interested person may file written comments concerning the proposed abandonment or protests (including protestant's entire opposition case) by December 28, 2001. All interested persons should be aware that, following any abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (49 CFR 1152.28) or for a trail use condition under 16 U.S.C. 1247(d) (49 CFR 1152.29) must be filed by December 28, 2001. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27). The due date for applicant's reply is January 14, 2002.

Persons opposing the proposed adverse abandonment who wish to participate actively and fully in the process should file a protest. Persons who may oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Parties seeking information concerning the filing of protests should refer to 49 CFR 1152.25.

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub-No. 183) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street; NW., Washington, DC 20423–0001; and (2) Charles A. Spitulnik, McLeod, Watkinson & Miller, One Massachusetts Ave., NW, Suite 800, Washington, DC 20001. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152.

The October 5 decision noted that the City had requested waiver from the environmental requirements of 49 CFR 1152.22(f), arguing that its proposal has no environmental impact because there has been no traffic for 2 years and, in effect, qualifies for treatment under 49

CFR 1105.6(c). However, the October 5 decision indicated that the City should make that showing in its application, rather than seeking a waiver. As noted, on October 22, 2001, the City filed a Combined Environmental and Historic Report and, on October 31, 2001, filed errata thereto. Questions concerning environmental issues may be directed to the Section of Environmental Analysis (SEA) at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact SEA. EAs in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: November 27, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–29883 Filed 11–30–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Proposed Extension of Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, "(MA)—Loans in Areas Having Special Flood Hazards (12 CFR 22)."

DATES: You should submit written comments by February 1, 2002.

ADDRESSES: You should direct written comments to the Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0202, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov*. You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: (MA)–Loans in Areas Having Special Flood Hazards (12 CFR 22).

OMB Number: 1557–0202.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection. The OCC requests only that OMB extend its approval of the information collection. This regulation requires national banks to make disclosures and keep records regarding whether a property securing a loan is located in a special flood hazard area.

This information collection is required by section 303(a) and title V of the Riegle Community Development and Regulatory Improvement Act, Pub. L. 103–325, title V, 108 Stat. 2160, the National Flood Insurance Reform Act of 1994 amendments to the National Flood Insurance Act of 1968 (42 U.S.C. 4104a and 4104b), the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a and 4106(b)), and by OCC regulations implementing those statutes. The information collection requirements are contained in 12 CFR part 22.

Section 22.6 requires a national bank to use and maintain a copy of the Standard Flood Hazard Determination Form developed by the Federal Emergency Management Agency (FEMA).

Section 22.7 requires a national bank or its loan servicer, if a borrower has not obtained flood insurance, to notify the borrower to obtain adequate flood insurance coverage or the bank or servicer will purchase flood insurance on the borrower's behalf.

Section 22.9 requires a national bank making a loan secured by a building or a mobile home to advise the borrower and the loan servicer that the property is, or is not, located in a special flood hazard area, if flood insurance is available under the National Flood Insurance Program, and if Federal disaster relief may be available in the event of flooding. The bank must maintain a record of the borrower and loan servicer's receipts of these notices.

Section 22.10 requires a national bank making a loan secured by a building or a mobile home located in a special flood hazard area to notify FEMA of the identify of the servicer, and of any change in servicers.

These information collection requirements ensure bank compliance with applicable Federal law, further bank safety and soundness, provide protections for banks and the public, and further public policy interests.

Type of Review: Extension of OMB approval.

Affected Public: Businesses or other for-profit (national banks).

Estimated Number of Respondents: 2,600.

Estimated Total Annual Responses: 262,600.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 67,600 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 26, 2001.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 01–29897 Filed 11–30–01; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Name Change—Commercial Union Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 14 to the Treasury Department Circular 570; 2001 Revision, published July 2, 2001, at 66 FR 35024.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6507.

SUPPLEMENTARY INFORMATION: Commercial Union Insurance Company, a Massachusetts corporation, has formally changed its name to OneBeacon America Insurance Company, effective August 31, 2001. The Company was last listed as an acceptable surety Federal bonds at 66 FR 30533, July 2, 2001.

A Certificate of Authority as an acceptable surety on Federal bonds, dated today, is hereby issued under Sections 9304 to 9308 of Title 31 of the United States Code, to OneBeacon America Insurance Company, Boston, Massachusetts. This new Certificate replaces the Certificate of Authority issued to the Company under its former name. The underwriting limitation of $28,750,000 established for the Company as of July 2, 2001, remains unchanged until June 30, 2002.

Certificates of Authority expire on June 30, each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the Company remains qualified (31 CFR, part 223). A list of qualified companies is published annually as of July 1, in the Department Circular 570, which outlines details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 2001 Revision, at page 35050 to reflect this change.

The Circular may be viewed and downloaded through the Internet (*http://www.fms.treas.gov/c570/index.html*). A hard copy may be purchased from Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 769–004–04067–1.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782.

Dated: November 19, 2001.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 01–29816 Filed 11–30–01; 8:45 am]

BILLING CODE 4810–35–M

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DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Name Change—CGU Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury

ACTION: Notice.

SUMMARY: This is Supplement No. 13 to the Treasury Department Circular 570; 2001 Revision, published July 2, 2001, at 66 FR 35024.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6507.

SUPPLEMENTARY INFORMATION: CGU Insurance Company, a Pennsylvania corporation, has formally changed its name to OneBeacon Insurance Company, effective August 28, 2001. The company was last listed as an acceptable surety on Federal bonds at 66 FR 35031, July 2, 2001.

A Certificate of Authority as an acceptable surety on Federal bonds, dated today, is hereby issued under Sections 9304 to 9308 of Title 31 of the United States Code, to OneBeacon Insurance Company, Philadelphia, Pennsylvania. This new Certificate replaces the Certificate of Authority issued to the Company under its former name. The underwriting limitation of $112,260,000 established for the Company as of July 2, 2001, remains unchanged until June 30, 2002.

Certificates of Authority expire on June 30, each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the Company remains qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1, in the Department Circular 570, which outlines details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 2001 Revision, at page 35050 to reflect this change.

The Circular may be viewed and downloaded through the Internet (*http://www.fms.treas.gov/c570/index.html*). A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 769–004–04067–1.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattasville, MD 20782.

Dated: November 19, 2001.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 01–29815 Filed 11–30–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds; Name Change—General Accident Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 15 to the Treasury Department Circular 570; 2001 Revision, published July 2, 2001, at 66 FR 35024.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6507.

SUPPLEMENTARY INFORMATION: General Accident Insurance Company, a Pennsylvania corporation, has formally changed its name to Pennsylvania General Insurance Company, effective August 28, 2001. The Company was last listed as an acceptable surety on Federal bonds at 66 FR 35039, July 2, 2001.

A Certificate of Authority as an acceptable surety on Federal bonds, dated today, is hereby issued under Sections 9304 to 9308 of Title 31 of the United States Code, to Pennsylvania General Insurance Company, Philadelphia, Pennsylvania. This new Certificate replaces the Certificate of Authority issued to the Company under

its former name. The underwriting limitation of $9,791,000 established for the Company as of July 2, 2001, remains unchanged until June 30, 2002.

Certificates of Authority expire on June 30, each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the Company remains qualified (31 CFR, part 223). A list of qualified companies is published annually as of July 1, in the Department Circular 570, which outlines details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 2001 Revision, at page 35051 to reflect this change.

The Circular may be viewed and downloaded through the Internet (*http://www.fms.treas.gov/c570/index.html*). A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 769–004–04067–1.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782.

Dated: November 19, 2001.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 01–29817 Filed 11–30–01; 8:45 am]

BILLING CODE 4810-35-M

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Corrections

Federal Register
Vol. 66, No. 232
Monday, December 3, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

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DEPARTMENT OF COMMERCE
DEPARTMENT OF DEFENSE
DEPARTMENT OF EDUCATION
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DEPARTMENT HOUSING AND URBAN DEVELOPMENT
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DEPARTMENT OF TREASURY
DEPARTMENT OF VETERANS AFFAIRS
AGENCY FOR INTERNATIONAL DEVELOPMENT
ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD
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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE
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SOCIAL SECURITY ADMINISTRATION
TENNESSEE VALLEY AUTHORITY
DEPARTMENT OF DEFENSE/ GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
COMMODITY FUTURES TRADING COMMISSION
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NATIONAL CREDIT UNION ADMINISTRATION
NATIONAL INDIAN GAMING COMMISSION
NUCLEAR REGULATORY COMMISSION
SECURITIES AND EXCHANGE COMMISSION
SURFACE TRANSPORTATION BOARD

Semiannual Regulatory Agenda

Correction

In the proposed rule documents printed as a part of the Unified Agenda of Federal Regulatory and Deregulatory Actions, Parts II through LXII, in (today's issue) the issue of Monday, December 3, 2001, pages 61125–62905, the time on all file lines appeared as 8:45am. They should be corrected to read 9:45am.

[FR Docs. C1–28099; C1–27113; C1–26030; C1–23849; C1–23850; C1–28100; C1–27742; C1–25307; C1–26703; C1–26704; C1–25308; C1–27114; C1–27743; C1–27115; C1–25309; C1–27116; C1–23851; C1–25310; C1–23852; C1–26031; C1–26705; C1–25311; C1–25312; C1–23853; C1–26032; C1–23864; C1–23854; C1–23855; C1–23856; C1–25313; C1–28101; C1–23857; C1–23858; C1–25314; C1–26033; C1–28070; C1–23859; C1–23860; C1–25315; C1–23861; C1–23862; C1–23863; C1–26034; C1–25316; C1–23865; C1–23866; C1–23867; C1–23868; C1–23869; C1–23870; C1–23871; C1–25317; C1–23872; C1–25318; C1–23873; C1–23874; C1–25319; C1–25320; C1–23875; C1–26035; C1–23876 Filed 11–30–01; 5:00 pm]

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REMINDERS
The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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H.R. 2924/P.L. 107–78
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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

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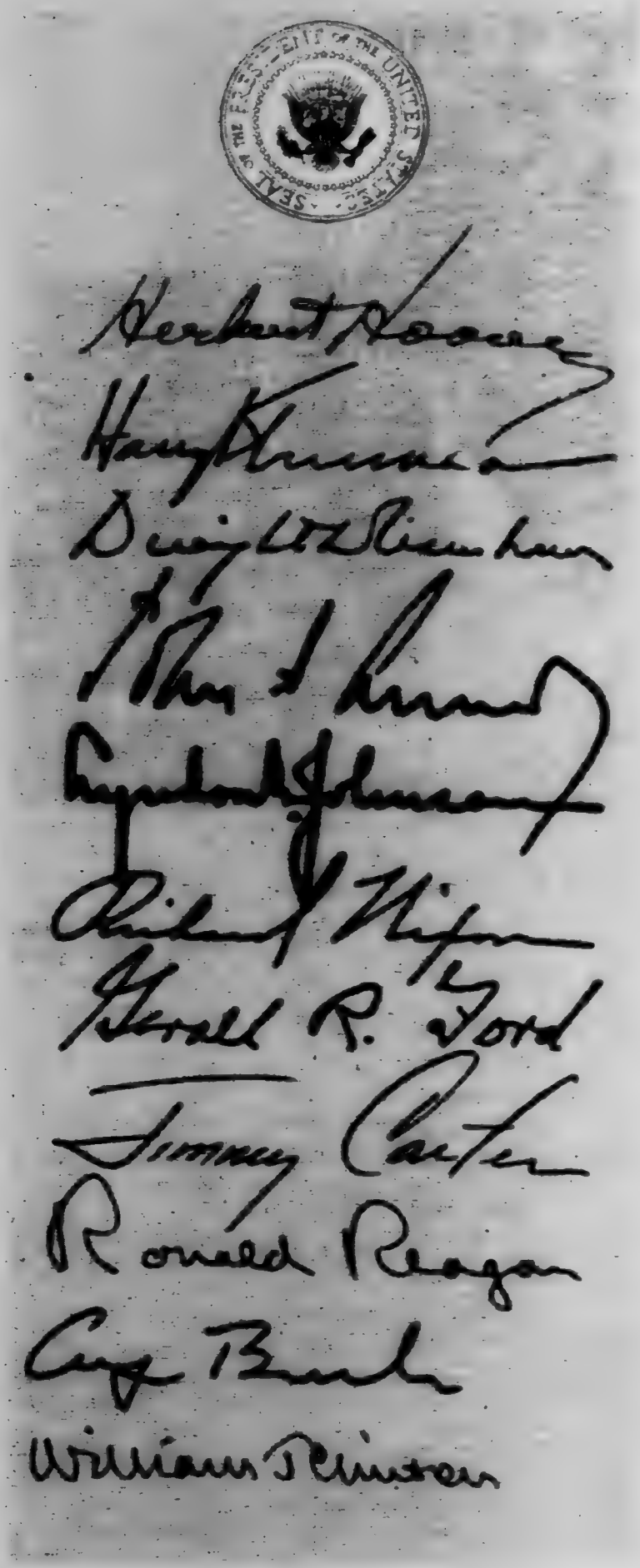

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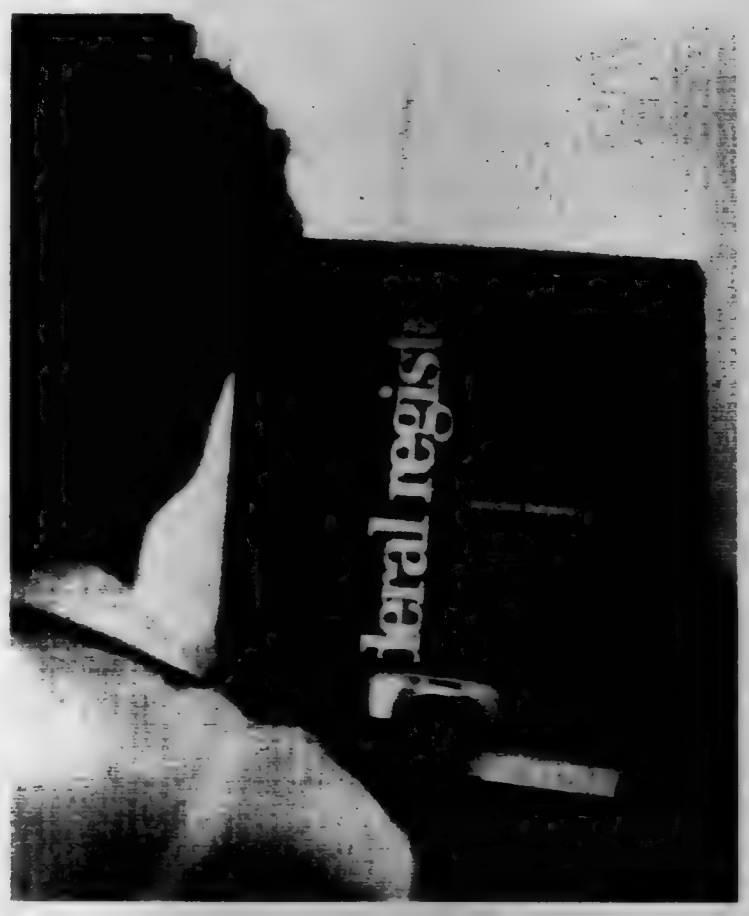

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SUMMARY: The Regulatory Flexibility Act requires that agencies publish semiannual regulatory agendas describing regulatory actions they are developing (5 U.S.C. 602). Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and Office of Management and Budget memoranda implementing section 4 of that Order establish minimum standards for agencies' agendas, including specific types of information for each entry.

The Unified Agenda helps agencies fulfill all of these requirements. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of this publication.

Section 4 of Executive Order 12866 also directs that, as part of their submissions to the October edition of the Unified Agenda, agencies prepare a regulatory plan of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. The agency plans appear as the first section of this joint publication; the agency agendas follow.

The Regulatory Plan begins with an introduction, and then The RegulatoryPlans of 28 Federal departments and agencies. Each of these agencies has also submitted a regulatory agenda describing its other regulatory actions. The regulatory agendas for these and 32 other Federal agencies appear in Parts III-LXII of this issue of the **Federal Register**, followed by indexes to both Plan and Agenda entries.

ADDRESSES: Regulatory Information Service Center (MI), General Services Administration, 1800 F Street NW., Suite 3039, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the Agency Contact listed for each entry.

To provide comment on or to obtain further information about this publication, contact: Ronald C. Kelly, Executive Director, Regulatory Information Service Center (MI), General Services Administration, 1800 F Street NW., Suite 3039, Washington, DC 20405, (202) 482-7340. You may also send comments to us by e-mail at:

RISC@gsa.gov

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INTRODUCTION TO THE REGULATORY PLAN AND THE UNIFIED AGENDA OF FEDERAL REGULATORY AND DEREGULATORY ACTIONS

I. What Are The Regulatory Plan and the Unified Agenda?

The Regulatory Plan (Plan) serves as a defining statement of the Administration's regulatory and deregulatory policies and priorities. The Plan is part of the fall edition of the Unified Agenda. Each participating agency's regulatory plan contains: (1) A narrative statement of the agency's regulatory priorities and, for most agencies, (2) a description of the most important significant regulatory and deregulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. This edition includes the regulatory plans of 28 departments and agencies.

The Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda) provides information, in a uniform format, about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** twice each year since 1983. This edition includes regulatory agendas from 60 Federal departments and agencies. Agencies of the United States Congress are not included.

The Regulatory Information Service Center (the Center) compiles the Plan and the Unified Agenda for the Office of Information and Regulatory Affairs (OIRA), part of the Office of Management and Budget. OIRA is responsible for overseeing the Federal Government's regulatory, paperwork, and information resource management activities, including implementation of E.O. 12866. The Center also provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The activities included in the Agenda are, in general, those that will have a regulatory action within the next 12 months. Agencies may include activities that will have a longer timeframe than 12 months. Agency agendas also show actions or reviews completed or withdrawn since the last agenda. The agendas do not contain regulations that were excluded under Executive Order 12866, such as those concerning military or foreign affairs functions or regulations related to agency organization, management, or personnel matters.

Agencies prepared entries for this publication to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed.

The Regulatory Plan and the Unified Agenda do not create a legal obligation on agencies to adhere to schedules within it or to confine their regulatory activities to those regulations that appear in this publication. The information in this edition is accurate as of October 1, 2001, in the judgment of the submitting agencies, except as otherwise noted by the agencies. In addition, some agencies submitted updates after that date.

Where applicable, individual actions will be subject to review for compliance with applicable Executive orders, the Regulatory Flexibility Act, and the Paperwork Reduction Act at appropriate points in the regulatory process.

II. Why Are The Regulatory Plan and the Unified Agenda Published?

The Regulatory Plan and the Unified Agenda help agencies comply with their obligations under the Regulatory Flexibility Act and various Executive orders and other statutes.

Regulatory Flexibility Act

The *Regulatory Flexibility Act* requires agencies to identify those rules that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Agencies meet that requirement by including the information in their submissions for the Unified Agenda. Agencies may also indicate those regulations that they are reviewing as part of their periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610).

Executive Order 12866

Executive Order 12866 entitled "Regulatory Planning and Review" (September 30, 1993; 58 FR 51735) requires covered agencies to prepare an agenda of all regulations under development or review. The Order also requires that certain agencies prepare annually a regulatory plan of their

"most important significant regulatory actions," which appears as part of the October Unified Agenda.

Executive Order 13132

Executive Order 13132 entitled "Federalism" (August 4, 1999; 64 FR 43255) directs agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have "federalism implications" as defined in the Order. Under the Order, an agency that is proposing regulations with federalism implications, which either preempt State law or impose nonstatutory unfunded substantial direct compliance costs on State and local governments, must consult with State and local officials early in the process of developing the regulation. In addition, the agency must provide to the Director of the Office of Management and Budget a federalism summary impact statement for such regulations, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which those concerns have been met. As part of this effort, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions may have an effect on the various levels of government and whether those actions have federalism implications.

Unfunded Mandates Reform Act of 1995

The *Unfunded Mandates Reform Act of 1995* (P.L. 104-4, title II) requires agencies to prepare written assessments of the costs and benefits of significant regulatory actions "that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more . . . in any 1 year . . . ." The requirement does not apply to independent regulatory agencies, nor does it apply to certain subject areas excluded by section 4 of the Act. Affected agencies identify in the Unified Agenda those regulatory actions they believe are subject to title II of the Act.

Executive Order 13211

Executive Order 13211 entitled "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (May 22, 2001, 66 FR 28355) directs agencies to provide, to the extent possible, information regarding the adverse effects that agency actions may have on the supply, distribution, and use of energy. Under the Order, the agency must prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for "those matters identified as significant energy actions." As part of this effort, agencies may optionally include in their submissions for the Unified Agenda, information on whether they have prepared or plan to prepare a Statement of Energy Effects for their regulatory actions.

Small Business Regulatory Enforcement Fairness Act

The *Small Business Regulatory Enforcement Fairness Act* (P.L. 104-121, title II) established a procedure for congressional review of rules (5 U.S.C. 801 et seq.), which defers, unless exempted, the effective date of a "major" rule for at least 60 days from the publication of the final rule in the **Federal Register**. The Act specifies that a rule is "major" if it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act. If the issuing agency believes that a rule may be major, it indicates this under the "Priority" heading of the entry. The Act provides that the Administrator of OIRA will make the final determination as to whether a rule is major.

III. How Are The Regulatory Plan and the Unified Agenda Organized?

The Regulatory Plan appears in Part II of this edition of the **Federal Register**. Following the Plan, each agency's agenda appears as a separate part. The sections of the Plan and the parts of the Unified Agenda are organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority (Agenda only); and independent regulatory agencies. Departments may in turn be divided into subagencies.

Each department's or agency's section of the Plan contains a narrative statement of regulatory priorities, and, for most agencies, a description of each of the department's or agency's most important significant regulatory and deregulatory actions.

Each department's or agency's part of the Agenda begins with a preamble providing information specific to that part. Following the preamble, for each agency that requests it, the Center provides a table of contents that appears in the Agenda after the agency preamble. Next is a description of each of the department's or agency's regulatory and deregulatory actions.

In the Agenda, each agency presents its entries under one of five headings according to the rulemaking stage of the entry. In the Plan, only the first three stages are applicable. The stages are:

1. *Prerule Stage* — actions agencies will undertake to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking (NPRM) and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. *Proposed Rule Stage* — actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. *Final Rule Stage* — actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step in their rulemaking process.

4. *Long-Term Actions* — items under development but for which the agency does not expect to have a regulatory action within the 12 months after publication of this edition of the Unified Agenda. Some of the entries in this section may contain abbreviated information.

5. *Completed Actions* — actions or reviews the agency has completed or withdrawn since publishing its last agenda. This section also includes items the agency began and completed between issues of the Agenda.

In the Agenda, an agency may use subheadings to identify regulations that it has grouped according to particular topics. When these subheadings are used, they appear above the title of the first regulation in each group.

A bullet (•) preceding the title of an entry indicates that the entry appears in this publication for the first time.

All entries are numbered sequentially from the beginning to the end of the publication. The sequence number preceding the title of each entry identifies the location of

the entry in this edition. This sequence number is used as the reference in the table of contents and in all indexes to enable readers to find entries. Entries in the Plan are also in the Unified Agenda with the same RIN but with different sequence numbers. For these entries, the Plan sequence number is used as the reference in all indexes.

This publication contains six indexes. Index A lists entries for which agencies have indicated that they are conducting a periodic review under section 610(c) of the Regulatory Flexibility Act. Index B lists the regulatory actions for which agencies believe that the Regulatory Flexibility Act may require a Regulatory Flexibility Analysis. Index C lists additional regulatory actions for which agencies have chosen to indicate that some impact on small entities is likely even though a Regulatory Flexibility Analysis may not be required. Index D lists entries that agencies believe may have effects on levels of government. Index E lists entries that agencies believe may have federalism implications as defined in Executive Order 13132. Index F is a subject index based on the **Federal Register Thesaurus of Indexing Terms**.

IV. What Information Appears for Each Entry?

All entries in the Unified Agenda contain uniform data elements including, at a minimum, the following information:

Title of the Regulation — a brief description of the subject of the regulation, possibly including section 610 review designation. The notation "Section 610 Review" following the title indicates that the agency has selected the rule for its periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610(c)). Some agencies have indicated completions of section 610 reviews or rulemaking actions resulting from completed section 610 reviews

Priority — an indication of the significance of the regulation. Agencies assign each entry to one of the following five categories of significance.

(1) Economically Significant

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The definition of an "economically significant" rule is similar but not identical to the definition of a "major" rule under 5 U.S.C. 801 (P. L. 104-121). (See below.)

(2) Other Significant

A rulemaking that is not economically significant but is considered significant by the agency. This category includes rules that the agency anticipates will be reviewed under E.O. 12866 or rules that are a priority of the agency head. These rules may or may not be included in the agency's regulatory plan.

(3) Substantive, Nonsignificant

A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

(4) Routine and Frequent

A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

(5) Informational/Administrative/Other

A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Unified Agenda to inform the public of the activity.

In addition, if an agency believes that a rule may be "major" under 5 U.S.C. 801 (P.L. 104-121) because it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act, the agency indicates this under the "Priority" heading. (The Act provides that the Administrator of the Office of Information and Regulatory Affairs will make the final determination as to whether a rule is major.)

Unfunded Mandates — whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (P.L. 104-4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than $100 million in 1 year, agencies, other than independent regulatory agencies, shall prepare a written statement containing an assessment of the anticipated costs and benefits of the Federal mandate. If the agency believes the entry is not subject to the Act, this data element will not be printed.

Legal Authority — the section(s) of the United States Code (U.S.C.) or Public Law (P.L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.

CFR Citation — the section(s) of the Code of Federal Regulations that will be affected by the action.

Legal Deadline — whether the action is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some other action.

Abstract — a brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, alternatives that the agency is considering to address the problem; and potential costs and benefits of the action.

Timetable — the dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date printed in the form 12/00/01 means the agency is predicting the month and year the action will take place but not the day it will occur. In some instances, agencies may indicate what the next action will be, but the date of that action is "To Be Determined." "Next Action Undetermined" indicates the agency does not know what action it will take next. Dates after 1999 are printed in the same form as other dates, using the last two digits of the year.

Regulatory Flexibility Analysis Required — whether an analysis is required by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because the rulemaking action is likely to have a significant economic impact on a substantial number of small entities as defined by the Act.

Small Entities Affected — the types of small entities (businesses, governmental jurisdictions, or organizations) on which the rulemaking action is likely to have an impact as defined by the Regulatory Flexibility Act. Some agencies have chosen to indicate likely effects on small entities even

though they believe that a Regulatory Flexibility Analysis will not be required.

Government Levels Affected — whether the action is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Federalism — whether the action has "federalism implications" as defined in Executive Order 13132. This term refers to actions "that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." If the action does not have federalism implications, this data element will not be printed. Independent regulatory agencies are not required to supply this information.

Agency Contact — the name and phone number of one or more persons in the agency who is knowledgeable about the rulemaking action. The agency may also provide the title, address, fax number, e-mail address, and TDD for each agency contact.

Procurement — whether the action is related to procurement and, if so, whether it is required by statute and whether it involves a paperwork burden. The Procurement heading appears only if the entry is related to procurement.

Some agencies have provided the following optional information:

Compliance Cost to the Public — the estimated gross compliance cost of the action.

Affected Sectors — the industrial sectors that the action may most affect, either directly or indirectly. Affected Sectors are identified by North American Industry Classification System (NAICS) codes.

Energy Effects — an indication of whether the agency has prepared or plans to prepare a Statement of Energy Effects for the action, as required by Executive Order 13211 "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" issued on May 18, 2001 (66 FR 28355; May 22, 2001).

Entries appearing in **The Regulatory Plan** should also include the following information:

Statement of Need — a description of the need for the regulatory action.

Summary of the Legal Basis — a description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.

Alternatives — a description of the alternatives the agency has considered or will consider as required by section 4(c)(1)(B) of E.O. 12866.

Anticipated Costs and Benefits — a description of preliminary estimates of the anticipated costs and benefits of the action.

Risks — a description of the magnitude of the risk the action addresses, the amount by which the agency expects the action to reduce this risk, and the relation of the risk and this risk reduction effort to other risks and risk reduction efforts within the agency's jurisdiction.

V. Abbreviations

The following abbreviations appear throughout this publication:

ANPRM — An Advance Notice of Proposed Rulemaking is a preliminary notice, published in the **Federal Register**, announcing that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule. The ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR — The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the departments and agencies of the Federal Government. The Code is divided into 50 titles, and each title covers a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

EO — An Executive order is a directive from the President to executive agencies, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

FR — The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal departments and agencies.

FY — The Federal fiscal year runs from October 1 to September 30.

NPRM — A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum:

- a statement of the time, place, and nature of the public rulemaking proceeding;
- a reference to the legal authority under which the rule is proposed; and
- either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL — A Public Law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, PL 105-4 is the fourth public law of the 105th Congress.

RFA — A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

RIN — The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in **The Regulatory Plan** and the Unified Agenda, as directed by E.O. 12866 (section 4(b)). Additionally, OMB has asked agencies to include RINs in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register**, to make it easier for the public and agency officials to track the publication history of regulatory actions throughout their development.

Seq. No. — The Sequence Number identifies the location of an entry in this publication. Note that a specific regulatory action will have the same RIN throughout its development but will generally have different sequence numbers in different editions of **The Regulatory Plan** and the Unified Agenda.

USC — The United States Code is a consolidation and codification of all general and permanent laws of the United States. The USC is divided into 50 titles, and each title covers a broad area of Federal law.

VI. How Can Users Get Copies of the Plan and the Agenda?

Printed copies of this edition of the Federal Register are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325, (202) 512-1800.

Copies of individual agency materials may be available directly from the agency. Please contact the particular agency for further information.

All editions of **The Regulatory Plan** and the **Unified Agenda of Federal Regulatory and Deregulatory Actions** since October 1995 are also available in electronic form. You can search the Agenda and the Plan on the World Wide Web at:

http://reginfo.gov

You may also search the Agenda and the Plan on the Government Printing Office's GPO Access, which is accessible through:

http://www.access.gpo.gov

Dated: November 5, 2001.

Ronald C. Kelly,

Executive Director.

[FR Doc. 01–28099 Filed 11–30–01; 8:45 am]

BILLING CODE 6820–27–S

DEPARTMENT OF AGRICULTURE (USDA)

Statement of Regulatory Priorities

The Department of Agriculture, consistent with its reputation as the "people's Department," will pursue regulations that enhance and protect the quality of American agriculture, assist and promote America's farmers and ranchers, and benefit the lives of all Americans. USDA will remain vigilant to ensure the safety of our Nation's food supply and to address the potential threats posed by bioterrorism.

- Farmers, ranchers, and other USDA customers will find significant changes in all aspects of regulations that govern their interaction with the Department and its programs. Farm credit, a mainstay of the Nation's rural economy, is being significantly streamlined by the merger of cumbersome loan-making regulations with forms and certifications simplified to facilitate the application process. Existing forms and procedures are also being reviewed for their applicability to electronic submission and collection. The Department is undertaking a number of actions in the regulation of commodities that will increase efficiency, improve customer service, and reduce intervention in markets.
- USDA will develop new regulations and review existing ones that address the potential threats posed by domestic outbreaks of exotic animal diseases such as Foot-and-Mouth Disease (FMD) and Bovine Spongiform Encephalopathy (BSE).
- In the area of food safety, the Department will continue to refine existing regulations to assist industry in implementing a consistent, science-based process control system while developing new regulations that address emerging and exotic threats to the safety of the Nation's meat, poultry, and egg products supply.
- The Department is also improving the regulations that serve rural communities. Regulations are being streamlined and simplified so that they will be more customer friendly while providing for more efficient and effective program management.
- Nutrition programs are being improved to strengthen dietary quality by providing a wider variety of food packages to children and low-income participants while also improving the efficiency and integrity of program operations.

Reducing Paperwork Burden on Farmers

The Department has made substantial progress in implementing the goal of the Paperwork Reduction Act of 1995 to reduce the burden of information collection on the public. The Government Paperwork Elimination Act (GPEA) is leading all agencies in the Department to evaluate how they conduct business and migrate toward electronically oriented methods. The Farm Service Agency, Natural Resources Conservation Service, Rural Development, and Risk Management Agency are also working to implement the Freedom to E-File Act. Freedom to E-File directs the agencies, to the maximum extent practicable, to modify forms into user-friendly formats with user instructions and permits those forms to be downloaded and submitted via facsimile, mail, or similar means. As a result, producers should have the capability to electronically file forms and all other documentation if they so desire. Underlying these efforts will be analyses to identify and eliminate redundant data collections and streamline collection instructions. The end result of implementing both of these pieces of legislation will be better service to our customers so that they can choose when and where to conduct business with USDA.

The Role of Regulations

The programs of the Department are diverse and far reaching, as are the regulations that attend their delivery. Regulations codify how the Department will conduct its business, including the specifics of access to, and eligibility for, USDA programs. Regulations also specify the behavior of State and local governments, private industry, businesses, and individuals that is necessary to comply with their provisions. The diversity in purpose and outreach of our programs contributes significantly to the USDA being near the top of the list of departments that produce the largest number of regulations annually. These regulations range from nutrition standards for the school lunch program, to natural resource and environmental measures governing national forest usage and soil conservation, to regulations protecting American agribusiness (the largest dollar value contributor to exports) from the ravages of domestic or foreign plant or animal pestilence, and they extend from farm to supermarket to ensure the safety, quality, and availability of the Nation's food supply. Many regulations function in a dynamic environment, which requires their periodic modification. The factors determining various entitlement, eligibility, and administrative criteria often change from year to year. Therefore, many significant regulations must be revised annually to reflect changes in economic and market benchmarks. Almost all legislation that affects departmental programs has accompanying regulatory needs, often with a significant impact. The Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act), the Farm Bill of 1996, Public Law 104-127, had considerable regulatory consequences. This key legislation affects most agencies of USDA and resulted in the addition of new programs, the deletion of others, and modification to still others. In addition, the "Agricultural Risk Protection Act of 2000," Public Law 106-224, provides further assurances that agricultural programs will continue to achieve long-term improvements, particularly in reforms to the crop insurance programs. This legislation also provides for improvements in market loss and conservation assistance, crop and livestock disease pest protection, marketing program enhancements, child nutrition program measures, pollution control, and research and development for biomass.

Major Regulatory Priorities

Five agencies are represented in this regulatory plan. They include the Farm Service Agency, the Food and Nutrition Service, the Food Safety and Inspection Service, the Animal and Plant Health Inspection Service, and the Agricultural Marketing Service. This document represents summary information on prospective significant regulations as called for in Executive Order 12866. A brief comment on each of the five agencies appears below, which summarizes the Agency mission and its key regulatory priorities. The Agency summaries are followed by the regulatory plan entries.

Farm Service Agency

Mission: The Farm Service Agency (FSA) administers contract commodity, conservation, farm loan, commodity purchase and emergency loan, and disaster programs as prescribed by various statutes. The Agency's objective is to support farming certainty and flexibility, ensure compliance with highly erodible land, farm conservation and wetland protection requirements, and to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources.

Priorities: FSA's priority for 2002 will be to continue to emphasize service to our customers. As Administration initiatives and changes in law require revisions to the Agency's regulations, the Agency's focus will be to implement the changes in such a way as to provide benefits for, while minimizing program complexity and regulatory burden for, program participants. As regulations are revised for program changes, opportunities will be taken to clarify, simplify, and reduce confusion whenever possible. The FSA regulations that operate the contract commodity programs, such as production flexibility contracts and marketing assistance loans, were revised a few years ago to remove the link between income support payments and farm prices and provide for seven annual payments. More changes to the laws governing those programs and the related regulations changes are anticipated in 2002. However, the Agency's ability to promote new policy initiatives when implementing these regulations is limited, due to the need to adhere to legislative intent. Therefore, due to their economic magnitude, they are noted here to acknowledge their significance in the overall USDA regulatory plan but are not further listed in the body of the plan that appears below.

A primary mission of FSA is to administer commodity payment and commodity marketing assistance loan programs. Generally, these programs are authorized by the 1996 Act with respect to the 1996 through 2002 crop years. Accordingly, FSA envisions no major changes in the last year of the regulations used to administer these programs but anticipates major initiatives once legislation is enacted which would authorize such programs for the 2003 and subsequent crops.

FSA is committed to the Paperwork Reduction Act of 1995's goal of reducing the information collection burden on the public. FSA is streamlining its farm loan-making and servicing regulations and reducing the information collection burden associated with the programs. FSA plans to reduce the number of CFR parts containing its farm loan program regulations by approximately 70 percent. In addition, FSA hopes to achieve a significant reduction in the total number of CFR pages by removing administrative provisions and internal policy and eliminating duplicative material. Furthermore, FSA intends to improve the clarity of the farm loan program regulations by following the guidelines established in the Plain Language in Government Writing Initiative.

As part of this project, all farm program regulations and internal Agency directives will be completely rewritten. All application processes and information collections will be reviewed, and unnecessary or redundant requirements will be eliminated. All forms associated with the programs were reviewed and assigned to one of the following categories:

- Prepared by the public;
- Prepared by the Agency, reviewed by the public; or
- Internal agency use only.

FSA will concentrate on streamlining forms assigned to the first category to reduce public burden. In addition, a data base was developed listing each field contained on the forms. This information will be used to identify duplicate collections and ensure consistency in terminology.

FSA has completed the streamlining of the Guaranteed Loan Program, Indian Tribal Land Acquisition Loan Program, and portions of the direct loan program. The balance of the direct loan program will be published in three separate rulemaking packages. A final rule streamlining the loan-making process for emergency loans should be published by the end of the 2001 calendar year. A proposed rule streamlining the loan-making process for farm ownership and operating loans and servicing of direct loans will be published in the spring of 2002. A proposed rule streamlining special loan programs, including boll weevil eradication, drainage and irrigation, and grazing associations is planned for the fall of 2002.

Finally, FSA is a full participant in the USDA Electronic Access Initiative and is taking the lead on the implementation of the Government Paperwork Elimination Act. All FSA information collections, forms, and procedures are reviewed for their applicability to electronic submission and collection.

Food and Nutrition Service

Mission: FNS increases food security and reduces hunger in partnership with cooperating organizations by providing children and low-income people access to food, a healthful diet, and nutrition education in a manner that supports American agriculture and inspires public confidence.

Priorities: In addition to responding to provisions of legislation authorizing and modifying Federal nutrition assistance programs, FNS' 2002 regulatory plan supports the broad goals and objectives in the Agency's strategic plan, which include:

- *Improved nutrition of children and low-income people*. This goal represents FNS' efforts to improve nutrition by providing access to program benefits (Food Stamps, WIC food vouchers, commodities, and State administrative funds), nutrition education, and quality meals and other benefits. It includes three major objectives: 1) improved food security, which reflects nutrition assistance benefits issued to program participants; 2) improved ability of FNS program participants to make healthy food choices, which represents our efforts to improve nutrition knowledge and behavior through nutrition education and breastfeeding promotion; and 3) improved nutritional quality of meals, food packages, commodities, and other program benefits, which represents our efforts to ensure that program benefits meet the appropriate nutrition standards to effectively improve nutrition for program participants.

In support of this goal, FNS plans to propose a rule mandated under Public Law 106-387 to increase food stamp benefits for household with high shelter costs and to make it easier for low-income working families to receive food stamps and own a reliable vehicle. The Agency also plans a proposed rule to amend regulations governing food packages provided in WIC to improve their variety and consistency with the *Dietary Guidelines for Americans* and to increase the nutritional adequacy of food packages for those with special medical needs.

- *Improved Stewardship of Federal Funds*. This goal represents FNS' ongoing commitment to maximize the accuracy of benefits issued, maximize the efficiency and effectiveness of program operations, and minimize participant and vendor fraud. It includes two major objectives: 1) improved benefit accuracy and reduced fraud, which represents the Agency's effort to reduce participant and Agency errors and to control Food Stamp and WIC trafficking and participant, vendor, and administrative Agency fraud, and 2) improved efficiency of program administration, which represents our efforts to streamline program

operations and improve program structures as necessary to maximize their effectiveness.

In support of this goal, FNS plans to publish a final rule making changes in Child and Adult Care Food Program (CACFP) rules designed to improve management and financial integrity in this important program. FNS also plans to publish a final rule, mandated under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Balanced Budget Act of 1997, which is designed to provide State agencies that administer the Food Stamp Program greater flexibility to support personal responsibility and independence and encourage work.

Food Safety and Inspection Service

Mission: The Food Safety and Inspection Service (FSIS) is responsible for ensuring that meat, poultry, and egg products in commerce are safe and not adulterated or misbranded.

Priorities: Since the mid-1990's, FSIS has been reviewing its regulations to eliminate duplication of and inconsistency with its own and other agencies' regulations and to convert "command-and-control" regulations to performance standards. The review effort is directed, in particular, at improving the consistency of the regulations with the Agency's pathogen reduction and hazard analysis and critical control point (PR/HACCP) regulations. HACCP is a science-based process control system for producing safe food products. FSIS-inspected meat and poultry establishments are required to develop and implement HACCP plans incorporating the controls the establishments have determined are necessary and appropriate to produce safe products. Under the HACCP regulations, establishments assume the responsibility for producing meat and poultry products that are safe, but they are able to tailor their control systems to their particular needs and processes and to take advantage of the latest technological innovations.

FSIS is continuing to revise its numerous command-and-control regulations, which prescribe the exact means establishments must use to ensure the safety of their products. Some of these regulations specify precise time-and-temperature combinations for processing meat, poultry, or egg products. Others require the prior approval by FSIS of equipment and procedures, in effect assigning to the Agency the responsibility for determining the means used by establishments to comply with the regulations. As a general matter, such command-and-control regulations are incompatible with HACCP because they deprive plants of the flexibility to innovate, and they undercut the clear delineation of responsibility for food safety.

In addition to undertaking regulatory amendments based on the results of its review activities, FSIS has been developing regulations for emergency use. Such regulations are an outcome of the Agency's proactive, risk-based policy toward emerging and exotic threats to the safety of the Nation's meat, poultry, and egg product supply.

Following are some of the Agency's recent and planned initiatives to convert command-and-control regulations to performance standards, to streamline and simplify the regulations, and to make the meat, poultry products, and egg products inspection regulations more consistent with the pathogen reduction and HACCP systems final rule:

FSIS has proposed a rule clarifying requirements for meat produced using advanced recovery systems by replacing the compliance program parameters in the current regulations with non-compliance criteria for bone solids, bone marrow, and neural tissue. Establishments would have to have process control procedures in place before labeling or using the product derived by use of such systems.

FSIS has proposed a rule to establish food safety performance standards for all processed ready-to-eat meat and poultry products and partially heat-treated meat and poultry products that are not ready-to-eat.

FSIS plans to propose generic Eshcerichia coli process control criteria based on the sponge method of sampling, for cattle, wine, and geese slaughtering establishments and for turkey slaughtering establishments based on both the sponge and the whole-bird rinse sampling methods. The Agency also plans to propose updated Salmonella performance standards for all market classes of cattle and swine.

FSIS will propose removing from the poultry products inspection regulations the requirement for ready-to-cook poultry products to be chilled to 40 degrees or below within certain time periods according to the weight of the dressed carcasses.

In addition, FSIS will be proposing to require federally inspected egg product establishments to develop and implement HACCP systems and sanitation standard operating procedures. The Agency will be proposing pathogen reduction performance standards for pasteurized egg products. Further, the Agency will be proposing to remove requirements for approval by FSIS of egg-product plant drawings, specifications, and equipment prior to use and to end the system for pre-marketing approval of labels for egg products.

Besides the foregoing initiatives, FSIS has proposed requirements for the nutrition labeling of ground or chopped meat and poultry products and single-ingredient products. This proposed rule would require nutrition labeling, on the label or at the point-of-purchase, for themajor cuts of single-ingredient, rawproducts and will require nutrition information on the label of ground or chopped products.

Finally, FSIS is planning to propose stand-by emergency procedures for dealing with any occurrences of bovine spongiform encephalopathy (BSE), known as mad-cow disease, to prevent any meat or meat products of animals affected by BSE from entering commerce. To date, no cases of BSE have been found in the United States herd. Any final rule that may be developed after the proposal would become effective when and if a native case of BSE is detected in the United States.

Animal and Plant Health Inspection Service

Mission: The major part of the mission of the Animal and Plant Health Inspection Service (APHIS) is to protect U.S. animal and plant resources from destructive pests and diseases. APHIS conducts programs to prevent the introduction of exotic pests and diseases into the United States and monitors and manages pests and diseases existing in this country. These activities enhance agricultural productivity and competitiveness and contribute to the national economy and the public health.

Priorities: APHIS is reviewing its existing regulations and developing new regulatory initiatives to ensure that a comprehensive framework is in place to address the threats posed by exotic and endemic animal diseases. Prompted in part by recent outbreaks of foot-and-mouth disease elsewhere in the world, APHIS is developing a proposed rule to amend its regulations for the cooperative control and eradication of animal diseases to ensure their adequacy with regard to the valuation of animals and materials, as well as the payment of indemnity, should an

outbreak of foot-and-mouth disease occur in the United States. APHIS has also published, or is developing, proposed and final rules pertaining to the group of neurological diseases known as transmissible spongiform encephalopathies, which includes scrapie (a disease of sheep and goats), bovine spongiform encephalopathy (BSE, which affects cattle), and chronic wasting disease (a disease of deer and elk). APHIS has recently established an expanded regulatory program incorporating interstate movement restrictions and compensation for scrapie, strengthened its restrictions on the importation of ruminant-derived animal products that present a risk of introducing BSE, and is in the early stages of developing a cooperative eradication program for chronic wasting disease. In addition, APHIS, in coordination with the Department's Food Safety and Inspection Service, has begun developing an advance notice of proposed rulemaking to solicit public comment on BSE-related issues, including mandatory testing of down/dead/dying animals and requirements for the disposal of the carcasses of such animals.

APHIS documents published in the Federal Register and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov /ppd/rad/webrepor.html.

Agricultural Marketing Service

Mission: The Agricultural Marketing Service (AMS) facilitates the marketing of agricultural products in domestic and international markets, while ensuring fair trading practices and promoting a competitive and efficient marketplace to the benefit of producers, traders, and consumers of U.S. food and fiber products.

Priorities: (1) AMS is proposing to develop a Lamb Promotion, Research, and Information Order (Order). The proposed Order, if implemented, would establish an industry-funded program that would be subject to a referendum within 3 years after assessments begin under the Order. The proposed Order provides for an assessment of one-half per pound of live lambs sold to be paid by producers, seedstock producers, feeders, and exporters and remitted to a 12-member industry board by the first handler or exporter. The program would generate an estimated $3 million annually, all from the domestic lamb industry. Importers of lamb would not be assessed.

(2) AMS plans to amend the National Organic Program (NOP) to add practice standards for Organic Certification of Wild Captured Aquatic Animals. The Organic Foods Production Act states that an organic certification program be established for producers and handlers of agricultural products that have been produced using organic methods. The NOP has been reviewing organic certification of fish including wild captured and aquaculture operations in response to a FY 2000 congressional mandate to develop regulations for the certification of seafood. The NOP has engaged in public meetings and workshops and conducted public comment proceedings on this subject. The NOP considers it advantageous to proceed with a proposed rule for wild capture operations prior to issuing a proposed rule for aquaculture systems because of the significant impact that wild capture standards will have on the production and use of fish meal confined systems.

(3) AMS published in the Federal Register on July 13, 2001, a proposed rule implementing the Hass Avocado Promotion, Research, and Information Order (Order) and a proposed rule containing referendum procedures for the program. Under the proposed Order, producers and importers would pay an assessment to the proposed Hass Avocado Board (Board). The Board would use the assessment collected to conduct a promotion, research, and information program to maintain, develop, and expand markets for Hass avocados in the United States. The comment period ended August 27, 2001. On August 28, 2001, AMS published a notice extending the comment period until September 12, 2001, due to several requests that were received. AMS plans to publish a final rule before the end of this calendar year.

AMS Program Rulemaking Pages. Most of AMS' rules as published in the Federal Register are available on the Internet at: http://www.ams.usda.gov/rulemaking. This site also includes commenting instructions and addresses, links to news releases and background material, and comments received so far on various rules.

USDA—Agricultural Marketing Service (AMS)

PROPOSED RULE STAGE

1. • ESTABLISHING A LAMB PROMOTION, RESEARCH, AND INFORMATION ORDER (LS-01-12)

Priority:

Other Significant

Legal Authority:

7 USC 7401 through 7425

CFR Citation:

7 CFR 1280

Legal Deadline:

None

Abstract:

The Agricultural Marketing Service (AMS) is planning to issue a proposed rule establishing an industry-funded promotion, research, and information program for lamb and lamb products including pelts but excluding wool and wool products. In response to an invitation published in the Federal Register to submit proposals for a Lamb Promotion, Research, and Information (Order), AMS received a proposal from the lamb industry.

Statement of Need:

The United States sheep industry has identified this program as a key to its future viability. Due to the negative impact on producer prices caused by high levels of imports, the sheep industry has sought Government assistance and is seeking to fund this self-help program to improve industry profitability. A $100 million trade adjustment assistance package has been provided based on a Presidential Proclamation. The proposed Lamb Promotion, Research, and Information Program would be a self-help program funded through assessments on sales of live lambs. The assessments would be paid by producers, feeders, and lamb slaughters.

Summary of Legal Basis:

Section 512(b) of the Commodity Promotion, Research, and Information Act (Act) of 1996 indicates that the purpose of the Act is to authorize the Secretary to establish programs of promotion, research, and information for agricultural commodities to strengthen their position in domestic and foreign markets. Section 514 of the Act provides that to carry out the

purpose of the Act, the Secretary may issue orders applicable to producers of an agricultural commodity and others in the marketing chain.

Alternatives:

Not issue a proposed Order.

Anticipated Cost and Benefits:

The proposed program would generate approximately $3 million annually for promotion, research, and information activities designed to benefit the sheep and lamb industry. These funds would be generated from assessments on sales of lamb paid by producers, feeders, and lamb slaughters. The Department of Agriculture costs associated with the implementation and oversight of the program would be reimbursed from the assessments collected under the program. The activities funded under the program would likely increase the demand for lamb and lamb products and have a positive impact on producer profitability.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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USDA—AMS

FINAL RULE STAGE

2. HASS AVOCADO PROMOTION, RESEARCH, AND INFORMATION ORDER (FV-01-705)

Priority:

Other Significant

Legal Authority:

7 USC 7801 to 7813

CFR Citation:

7 CFR 1219

Legal Deadline:

None

Abstract:

Under the Hass Avocado Promotion, Research, and Information Order, Hass avocado producers and importers will pay an assessment of 2.5 cents per pound on Hass avocados produced and imported into the U.S. The funds will be used by the Hass Avocado Board to increase demand for Hass avocados in the U.S.

Statement of Need:

The Agricultural Marketing Service (AMS) is proposing an industry-funded research, promotion, industry information, and consumer information program for Hass avocado. A proposed program—the Hass Avocado Research, Promotion, and Consumer Information Order (Order)—was submitted to AMS by the California Avocado Commission. In addition, Mexican, Chilean, and New Zealand producers and associations submitted partial proposals. Under the proposed order, producers and importers would pay an initial assessment of 2.5 cents per pound of Hass domestic and imported avocados to the Hass Avocado Board (Board). The Board would be appointed by the Secretary of Agriculture to conduct research, promotion, industry information, and consumer information needed for the maintenance, expansion, and development of domestic markets for Hass avocados. The purpose of the program is to increase consumption of Hass avocados in the United States.

Summary of Legal Basis:

The proposed Order is issued under the Hass Avocado Research, Promotion, and Consumer Information Act (Pub.L. 104-127), enacted on October 23, 2000.

Alternatives:

Not issue a proposed Order.

Anticipated Cost and Benefits:

The proposed Order would authorize assessments on producers (to be collected by first handlers) and on importers (collected by Customs) of Hass avocados at an initial rate of 2.5 cents a pound. Exports of domestic Hass avocados are exempt from assessment. At the initial rate of assessment, about $10 million will be collected to administer the program—about 65 percent from domestic production and 35 percent from imports. All costs of program administration, including conducting the program, AMS oversight, and collection of assessments by Customs will be covered by the collected assessments.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	07/13/01	66 FR 36869
NPRM Comment Period End	08/27/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—Animal and Plant Health Inspection Service (APHIS)

PROPOSED RULE STAGE

3. • FOOT-AND-MOUTH DISEASE; PAYMENT OF INDEMNITY

Priority:

Other Significant

Legal Authority:

21 USC 111; 21 USC 114 to 114a; 21 USC 134a to 134h

CFR Citation:

9 CFR 53

Legal Deadline:

None

Abstract:

APHIS is proposing to amend its regulations for the cooperative control

and eradication of livestock or poultry diseases. These changes would provide APHIS with much needed flexibility in responding in an effective manner in the event of an outbreak of foot-and-mouth disease so that eligible claimants may be compensated while at the same time protecting the U.S. livestock and poultry population from the further spread of this highly contagious disease.

Statement of Need:

APHIS has recently reviewed these regulations to determine their sufficiency should an occurrence of foot-and-mouth disease occur in the United States. This review has been prompted, in part, by the series of outbreaks of foot-and-mouth disease that have taken place in the United Kingdom and elsewhere around the world. Based on this review, APHIS has determined that changes to the regulations are needed with regard to the valuation of animals and materials, as well as the payment of an indemnity to those persons who suffer loss of property as a result of foot-and-mouth disease.

Summary of Legal Basis:

The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions, farmers' associations and similar organizations, and individuals, is authorized to control and eradicate any communicable diseases of livestock or poultry and contagious or infectious diseases of animals that, in the opinion of the Secretary, constitute an emergency and threaten the livestock industry of the country, including the payment of claims growing out of destruction of animals (including poultry), and of materials affected by or exposed to any such disease, in accordance with such regulations as the Secretary may prescribe (21 U.S.C. 114a).

Alternatives:

The proposed rule would comprise several regulatory changes, each of which is intended to facilitate the control and eradication of foot-and-mouth disease, should an outbreak of this disease occur in the United States. Reasonable alternatives to the proposed rule would be to (1) not make any changes at all or (2) to provide alternative levels of compensation.

Anticipated Cost and Benefits:

The proposed rule is expected to affect livestock operations and Federal and State government agencies. The vast majority of livestock operations are small entities. The potential costs and benefits would depend upon the degree of compensation provided should a compensation alternative be chosen.

Risks:

The changes contained in the proposed rule would be particularly important in facilitating early and effective intervention should an outbreak of foot-and-mouth disease occur in the United States. An effective response in the early stages of such an outbreak greatly reduces the risk of the disease's wider dissemination.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Additional Information:

APHIS documents published in the Federal Register and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov /ppd/rad/webrepor.html.

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USDA—APHIS

4. • CHRONIC WASTING DISEASE IN ELK; INTERSTATE MOVEMENT RESTRICTIONS AND PAYMENT OF INDEMNITY

Priority:

Other Significant

Legal Authority:

21 USC 111 to 114a-1; 21 USC 120 to 121; 21 USC 125; 21 USC 134b

CFR Citation:

9 CFR 55; 9 CFR 81

Legal Deadline:

None

Abstract:

APHIS is proposing to establish minimum requirements for the interstate movement of farmed elk and to provide indemnity for the depopulation of farmed elk that have been infected with, or exposed to, chronic wasting disease (CWD).

Statement of Need:

CWD has been confirmed in free-ranging deer and elk in a limited number of counties in northeastern Colorado and southeastern Wyoming and has also been diagnosed in farmed elk herds in South Dakota, Nebraska, Oklahoma, Montana, and Colorado. The proposed rule is intended to prevent the spread of, and perhaps eliminate altogether, CWD in farmed elk herds in the United States. APHIS believes that establishing restrictions on the interstate movement of infected and exposed farmed elk, coupled with the payment of some level of indemnity for infected and exposed animals, will encourage elk producers who are not yet engaging in surveillance activities to begin doing so. To date, the level of support from States and the farmed elk industry for such a program has been high. Without a Federal program in place to depopulate infected and exposed animals, the movement of infected elk into new herds and States with no known infection will continue or may even accelerate. APHIS needs to take action to document the prevalence of the disease and to prevent its further spread.

Summary of Legal Basis:

The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions, farmers' associations and similar organizations, and individuals, is authorized to control and eradicate any communicable diseases of livestock or poultry and contagious or infectious diseases of animals that, in the opinion of the Secretary, constitute an emergency and threaten the livestock industry of the country, including the payment of claims growing out of destruction of animals (including poultry), and of materials affected by or exposed to any such disease, in

accordance with such regulations as the Secretary may prescribe (21 U.S.C. 114a).

Alternatives:

APHIS has identified two alternatives to the proposed rule. The first—to maintain the status quo—was rejected because it would not address the animal disease risks associated with CWD. The second option would have been to provide financial and technical assistance to the elk industry for continuation and expansion of a variety of herd management practices to reduce or eliminate CWD. Although this option may be less costly than the option chosen by APHIS (i.e., the proposed rule), this option was not selected because it would not advance CWD eradication as quickly or effectively as the chosen option. However, APHIS will continue to work with industry to develop voluntary herd management practices to preserve and increase the reduction in CWD levels that the proposed program is expected to achieve.

Anticipated Cost and Benefits:

The presence of CWD in elk causes significant economic and market losses to U.S. producers. Recently Canada has begun to require, as a condition for importing U.S. elk into Canada, that the animals be accompanied by a certificate stating that the herd of origin is not located in Colorado or Wyoming, and CWD has never been diagnosed in the herd of origin. The Republic of Korea recently suspended the importation of deer and elk and their products from the United States and Canada. The domestic prices for elk are severely affected by fear of CWD; it is extremely difficult for producers to sell elk that are associated with any hint of exposure to CWD.

Risks:

Aggressive action in controlling this disease now will decrease the chance of having to deal with a much larger, widespread, and costly problem later, such as the situation with bovine spongiform encephalopathy ("mad cow disease") in Europe. Although there is currently no evidence that CWD is linked to disease in humans, or in domestic animals other than deer and elk, a theoretical risk of such a link exists.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Additional Information:

APHIS documents published in the Federal Register and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

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USDA—Food and Nutrition Service (FNS)

PROPOSED RULE STAGE

5. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): REVISIONS IN THE WIC FOOD PACKAGES

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 1786

CFR Citation:

7 CFR 246

Legal Deadline:

None

Abstract:

This proposed rule will amend regulations governing the WIC food packages to disallow low-iron WIC formulas in food packages for infants; revise the maximum monthly allowances and minimum requirements for certain WIC foods; revise the substitution rates for certain WIC foods and allow additional foods as alternatives; make technical adjustments in all of the food packages to accommodate newer packaging and physical forms of the WIC foods; add vegetables as a food category in Food Packages III-VII for women and children; require that State agencies make available the full maximum foods allowed in each package; revise the criteria for developing State agency proposals for alternative food packages to accommodate participant food preferences more effectively; revise the purpose, content, and requirements for Food Package III; and address general provisions that apply to all the food packages. These revisions will improve the likelihood that WIC recipients achieve the food servings recommendations of the Dietary Guidelines for Americans and nutritional recommendations, providing WIC participants with a wider variety of foods, accommodating newer packaging and physical forms of WIC foods, and providing WIC State agencies with greater flexibility in prescribing food packages, especially to accommodate participants with hardships or cultural/food preferences. (99-006)

Statement of Need:

While WIC has been successful in many areas, obesity and inappropriate dietary patterns have become equal, if not greater, problems for many in WIC's target population. WIC food packages and nutrition education are the chief means by which WIC affects the dietary quality and habits of participants. Results of a recent WIC study found that the supplemental food package is consistently ranked by pregnant and postpartum women as the leading positive attribute of the program. Therefore, revised food packages, which will foster greater consistency with the Dietary Guidelines for Americans, are an appropriate response to further increase the positive effects of the program among the WIC eligible population.

The overarching objective of this rule is to improve disease prevention and nutritional status by improving dietary quality and nutritional adequacy of the WIC food packages by:

1. Improving the manner in which the nutrients lacking in the target population's diet are provided by revising food packages to reflect more closely the Dietary Guidelines for Americans as represented by the diet recommendations of the Food Guide Pyramid; and

2. Increasing the nutritional adequacy of the WIC food packages for medically needy participants.

Summary of Legal Basis:

The WIC Program was established to provide nutritious supplemental foods, nutrition education, and referrals to related health and social services to low-income pregnant, breastfeeding, and non-breastfeeding postpartum women, infants, and children up to age 5. Section 17 of the Child Nutrition Act of 1966 (as amended, 42 U.S.C. 1786) clearly established the WIC Program as a supplemental nutrition program designed to provide nutrients determined by nutritional research to be lacking in the diets of the WIC target population. WIC law requires that, to the extent possible, the fat, sugar, and salt content of WIC foods be appropriate. The law gives substantial latitude to the Department in designing WIC food offerings but obligates the Department to prescribe foods that effectively and economically supply the target nutrients.

Alternatives:

None.

Anticipated Cost and Benefits:

None.

Risks:

This rule is intended to improve the nutritional status and dietary patterns of the WIC target population, as a response to the threat of increasing risk factors for nutrition-related diseases—obesity, diabetes, coronary heart disease, stroke, and cancer, to name a few—in the WIC eligible population.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
NPRM Comment Period End	08/00/02	
Final Action	02/00/03	
Final Action Effective	06/00/03	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Tribal, Federal

Federalism:

This action may have federalism implications as defined in EO 13132.

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USDA—FNS

6. • FOOD STAMP PROGRAM: VEHICLE AND MAXIMUM EXCESS SHELTER EXPENSE DEDUCTION PROVISIONS OF PUBLIC LAW 106-387

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

PL 106-387

CFR Citation:

7 CFR 272.1; 7 CFR 273.8; 7 CFR 273.9

Legal Deadline:

None

Abstract:

This proposed rule will (1) implement a revision of the Food Stamp Program's resource eligibility standards regarding vehicle ownership and (2) set the maximum excess shelter expense deduction for fiscal year 2001 and, for future years, index it to the Consumer Price Index. (01-006)

Statement of Need:

This rule is necessary to implement revisions to the Food Stamp Program's resource eligibility standards regarding vehicle ownership and maximum excess shelter expense deduction.

Summary of Legal Basis:

All provisions of this proposed rule are mandated by Public Law 106-387.

Alternatives:

The alternative would be not to revise current rules, which have been superseded by changes brought about by Public Law 106-387.

Anticipated Cost and Benefits:

Low-income households will benefit by claiming larger income deductions for shelter expenses, thereby obtaining higher food stamp benefits. The new vehicle ownership provisions will make more low-income households eligible for food stamps and make it easier for them to own a reliable vehicle. States will benefit by having more flexibility and simpler administrative options for determining the effect of vehicle ownership upon food stamp eligibility.

Risks:

Not implementing this proposed rule would ignore the mandates contained in Public Law 106-387.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	
Final Action	11/00/02	
Final Action Effective	01/00/03	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local

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RIN: 0584–AD13

USDA—FNS

FINAL RULE STAGE

7. CHILD AND ADULT CARE FOOD PROGRAM: IMPROVING MANAGEMENT AND PROGRAM INTEGRITY

Priority:

Other Significant

Legal Authority:

42 USC 1766; PL 103-448; PL 104-193; PL 105-336

CFR Citation:

7 CFR 226

Legal Deadline:

None

Abstract:

This rule amends the Child and Adult Care Food Program (CACFP) regulations. The changes in this rule result from the findings of State and Federal program reviews and from audits and investigations conducted by the Office of Inspector General. This rule will revise: State agency criteria for approving and renewing institution applications; program training and other operating requirements for child care institutions and facilities; State- and institution-level monitoring requirements; and criteria for terminating agreements with institutions and day care homes. This rule also includes changes that are required by the Healthy Meals for Healthy Americans Act of 1994 (Pub. L. 103-448), the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (Pub. L. 104-193), the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Pub. L. 105-336), the Agricultural Risk Protection Act of 2000 (Pub. L. 106-224), and the Grain Standards and Warehouse Improvement Act of 2000 (Pub. L. 106-472).

The changes are designed to improve program operations and monitoring at the State and institution levels and, where possible, to streamline and simplify program requirements for State agencies and institutions. (95-024)

Statement of Need:

In recent years, State and Federal program reviews have found numerous cases of mismanagement, abuse, and in some instances, fraud by child care institutions and facilities in the CACFP. These reviews revealed weaknesses in management controls over program operations and examples of regulatory noncompliance by institutions, including failure to pay facilities or failure to pay them in a timely manner; improper use of program funds for non-program expenditures; and improper meal reimbursements due to incorrect meal counts or to mis-categorized or incomplete income eligibility statements. In addition, audits and investigations conducted by the Office of Inspector General (OIG) have raised serious concerns regarding the adequacy of financial and administrative controls in CACFP. Based on its findings, OIG recommended changes to CACFP review requirements and management controls.

Summary of Legal Basis:

Some of the changes proposed in the rule are discretionary changes being made in response to deficiencies found in program reviews and OIG audits. Other changes codify statutory changes made by the Healthy Meals for Healthy Americans Act of 1994 (Pub. L. 103-448), the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (Pub. L. 104-193), the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Pub. L. 105-336), the Agricultural Risk Protection Act of 2000 (Pub. L. 106-224), and the Grain Standards and Warehouse Improvement Act of 2000 (Pub. L. 106-472).

Alternatives:

In developing the proposal, the Agency considered various alternatives to minimize burden on State agencies and institutions while ensuring effective program operation. Key areas in which alternatives were considered include State agency reviews of institutions and sponsoring organization oversight of day care homes.

Anticipated Cost and Benefits:

This rule contains changes designed to improve management and financial integrity in the CACFP. When implemented, these changes would affect all entities in CACFP, from USDA to participating children and children's households. These changes will primarily affect the procedures used by State agencies in reviewing applications submitted by, and monitoring the performance of, institutions which are participating or wish to participate in the CACFP. Those changes which would affect institutions and facilities will not, in the aggregate, have a significant economic impact.

Data on CACFP integrity is limited, despite numerous OIG reports on individual institutions and facilities that have been deficient in CACFP management. While program reviews and OIG reports clearly illustrate that there are weaknesses in parts of the program regulations and that there have been weaknesses in oversight, neither program reviews, OIG reports, nor any other data sources illustrate the prevalence and magnitude of CACFP fraud and abuse. This lack of information precludes USDA from estimating the amount of money lost due to fraud and abuse or the reduction in fraud and abuse the changes in this rule will realize.

Risks:

Continuing to operate the CACFP under existing provisions of the regulations that do not sufficiently protect against fraud and abuse in CACFP puts the program at significant risk. This rule includes changes designed to strengthen current program regulations to reduce the risk associated with the program.

Timetable:

Action	Date	FR Cite
NPRM	09/12/00	65 FR 55103
NPRM Comment Period End	12/11/00	
Interim Final Rule	07/00/02	
Interim Final Rule Effective	08/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local

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USDA—FNS

8. FOOD STAMP PROGRAM: WORK PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 AND THE FOOD STAMP PROVISIONS OF THE BALANCED BUDGET ACT OF 1997

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

PL 104-193

CFR Citation:

7 CFR 273.7; 7 CFR 273.22

Legal Deadline:

None

Abstract:

This proposed rule will implement revisions to the Food Stamp Program's work and employment and training requirements, as well as new provisions for a work supplementation or support program and an employment initiative program. (96-025)

Statement of Need:

This rule is necessary to implement revisions to the Food Stamp Program's work requirements.

Summary of Legal Basis:

All provisions of this proposed rule are mandated by Public Law 104-193 and the Balanced Budget Act of 1997.

Alternatives:

The alternative is not to revise current rules. This is not practical. The current rules have been superseded by changes brought about by Public Law 104-193.

Anticipated Cost and Benefits:

None.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/23/99	64 FR 72196
NPRM Comment Period End	02/22/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local

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USDA—Food Safety and Inspection Service (FSIS)

PRERULE STAGE

9. POULTRY INSPECTION: REVISION OF FINISHED PRODUCT STANDARDS WITH RESPECT TO INGESTA

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

21 USC 451 to 470 et seq

CFR Citation:

9 CFR 381

Legal Deadline:

None

Abstract:

FSIS is seeking to clarify its Poultry Inspection regulations regarding visible ingesta on poultry carcasses and parts. A preliminary regulatory impact analysis conducted by FSIS determined that costs to achieve a zero tolerance for ingesta far outweighed benefits. This action was precipitated by a civil suit filed against USDA.

Statement of Need:

FSIS is seeking to clarify the regulations respecting visible ingesta on poultry carcasses and parts. In 1997, FSIS issued a final rule removing the process tolerance level for fecal contamination on poultry carcasses, in effect, adopting a zero process tolerance for poultry fecal matter. During the comment period on the final rule, several commenters supported a zero tolerance for ingesta. As a result, FSIS solicited comments and information on ingesta to determine whether there was a need for additional regulatory measures regarding ingesta. No comments were received. Lacking any information to suggest the current tolerance standards were inadequate, FSIS let stand the current process tolerance for ingesta contamination. However, partly in view of a civil suit, now dismissed, that alleged disparate regulation of the meat and poultry industries by FSIS and challenged the existing process tolerance for ingesta contamination of poultry carcasses, FSIS is issuing an ANPRM to determine how it should proceed on this issue.

Summary of Legal Basis:

This action is authorized under the Poultry Products Inspection Act (21 U.S.C. 451-470).

Alternatives:

No action.

Anticipated Cost and Benefits:

FSIS is seeking information and data from the public about the costs of establishing any of several alternative tolerance levels for ingesta and the effects on operations of large and small poultry establishments. In addition, we are soliciting comments on the availability of new technology that would reduce the levels of contamination of birds. FSIS is interested in having information on new research that identifies microbial hazards and determines whether or not their presence results in pathogen contamination of the poultry.

Risks:

None.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—FSIS

PROPOSED RULE STAGE

10. PERFORMANCE STANDARDS FOR BACON

Priority:

Other Significant

Legal Authority:

21 USC 601 et seq; 21 USC 451 et seq

CFR Citation:

9 CFR 424.22(b)

Legal Deadline:

None

Abstract:

FSIS is proposing to revise the regulatory provisions concerning the production and testing of bacon (9 CFR 424.22(b)). FSIS is proposing to remove provisions that require the Agency to test bacon for nitrosamines and to remove provisions that prescribe the substances and amounts of such substances that must be used to produce bacon. FSIS is proposing to replace these provisions with performance standards that establishments producing bacon must meet. To meet these proposed performance standards, the process used would be required to limit the presence of nitrosamines when the product is cooked. Under the hazard analysis and critical control points (HACCP) system, establishments would incorporate the proposed performance standards into their HACCP plans.

Statement of Need:

FSIS is proposing to replace restrictive provisions concerning the processing of bacon with a performance standard. The proposed performance standard concerns limiting the presence of volatile nitrosamines in bacon products. The Agency is also proposing to remove provisions that require the Agency to sample and test bacon for the presence of nitrosamines. These proposed changes are necessary to make the bacon regulations consistent with those governing Hazard Analysis and Critical Control Point (HACCP) systems.

Summary of Legal Basis:

Under the Federal Meat Inspection Act (21 U.S.C. 601-695) a meat or meat food product is adulterated "if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health" (21 U.S.C. 601(m)(1)). Volatile nitrosamines are deleterious because carcinogenic and, though not added directly to bacon, they may be produced when the bacon is fried. Processors can control the levels of nitrosamines that may be present when the product is fried by controlling the levels of nitrite and nitrosamine inhibitors that are used in the bacon curing process. In 1978, USDA stated that nitrosamines present at confirmable levels in bacon after preparation for eating were deemed to be adulterative. FSIS still maintains that bacon with confirmable levels of nitrosamines after preparation for eating is adulterated. In this proposed rule, processors would control the levels of nitrosamines by complying with a performance standard.

Alternatives:

No action; performance standards for all types of bacon (not just pumped bacon, as proposed); removal of the FSIS testing provisions without converting prescriptive regulations to performance standard.

Anticipated Cost and Benefits:

Because FSIS is proposing to convert existing regulations to a performance standard and is not proposing any new requirements for establishments producing bacon, FSIS does not anticipate that this proposed rule would result in any significant costs or benefits. Bacon-processing establishments whose HACCP plans do not address nitrosamines as hazards reasonably likely to occur may incur some costs. Also, establishments that choose to test their products for nitrosamines may incur some costs. Because this rule provides establishments the flexibility to develop new procedures for producing bacon, this rule may result in profits to processors who develop cheaper means of producing product or who develop a product with wide consumer appeal.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	07/00/02	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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USDA—FSIS

11. EGG AND EGG PRODUCTS INSPECTION REGULATIONS

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

21 USC 1031 to 1056

CFR Citation:

9 CFR 590.570; 9 CFR 590.575; 9 CFR 590.146; 9 CFR 590.10; 9 CFR 590.411; 9 CFR 590.502; 9 CFR 590.504; 9 CFR 590.580; 9 CFR 591; ...

Legal Deadline:

None

Abstract:

The Food Safety and Inspection Service (FSIS) is proposing to require shell egg packers and egg products plants to develop and implement Hazard Analysis and Critical Control Points (HACCP) systems and Sanitation Standard Operating Procedures (SOPs). FSIS also is proposing pathogen reduction performance standards that would be applicable to pasteurized shell eggs and egg products. Plants would be expected to develop HACCP systems that ensure products meet the pathogen reduction performance standards. Finally, FSIS is proposing to amend the Federal egg and egg products inspection regulations by removing current requirements for prior approval by FSIS of egg products plant drawings, specifications, and equipment prior to their use in official plants. The Agency also plans to eliminate the prior label approval system for egg products.

The actions being proposed are part of FSIS's regulatory reform effort to improve FSIS's egg and egg products food safety regulations, better define the roles of Government and the regulated industry, encourage innovations that will improve food safety, remove unnecessary regulatory burdens on inspected egg products plants, and make the egg and egg products regulations as consistent as possible with the Agency's meat and poultry products regulations. FSIS is also taking these actions in light of changing inspection priorities and recent findings of salmonella in pasteurized egg products.

Statement of Need:

FSIS is proposing to require egg products plants to develop and implement HACCP systems and Sanitation Standard Operating Procedures (SSOPs). FSIS also is proposing a pathogen reduction performance standard that would be applicable to pasteurized egg products. Plants would be expected to develop HACCP systems that ensure egg products meet the lethality required by the pathogen reduction performance standard. In addition, FSIS is proposing to amend the Federal shell egg and egg products inspection regulations by removing current requirements for approval by FSIS of egg product plant drawings, specifications, and equipment prior to their use in official (FSIS-inspected) plants. Finally, the Agency plans to eliminate the pre-marketing label approval system for egg products but to require safe-handling labels on shell eggs and egg products.

The actions being proposed are part of FSIS's regulatory reform effort to improve FSIS's shell egg and egg products food safety regulations, better define the roles of Government and the regulated industry, encourage innovations that will improve food safety, remove unnecessary regulatory burdens on inspected egg products plants, and make the shell egg and egg products regulations as consistent as possible with the Agency's meat and poultry products regulations. FSIS also is taking these actions in light of changing inspection priorities and recent findings of Salmonella in pasteurized egg products.

This proposal is directly related to FSIS's PR/HACCP initiative.

Summary of Legal Basis:

This proposed rule is authorized under the Egg Products Inspection Act (21 U.S.C. 1031-1056). It is not the result of any specific mandate by the Congress or a Federal court.

Alternatives:

A team of FSIS economists and food technologists is conducting a cost-benefit analysis to evaluate the potential economic impacts on the public, the egg products industry, and FSIS of several alternatives. These alternatives include: (1) taking no regulatory action; (2) requiring all inspected egg products plants to develop, adopt, and implement written Sanitation SOPs and HACCP plans; and (3) converting to a lethality-based pathogen reduction performance standard many of the current highly prescriptive egg products processing requirements. The team will consider the effects of a uniform, across-the-board standard for all egg products; a performance standard based on the relative risk of different classes of egg products; and a performance standard based on the relative risks to public health of different production processes.

Anticipated Cost and Benefits:

FSIS is analyzing the potential costs of this proposed rulemaking to industry, to FSIS and to other Federal agencies, to State and local governments, to small entities, and to foreign countries. The expected costs to industry will depend on a number of factors. These costs include the required lethality, or level of pathogen reduction, and the cost of HACCP plan and SSOP development, implementation, and associated employee training. The pathogen reduction costs will depend on the amount of reduction sought and in what classes of product, product formulations, or processes.

Relative enforcement costs to FSIS and FDA may change because the two agencies share responsibility for inspection and oversight of the egg industry and a common farm-to-table approach for shell egg and egg products food safety. Other Federal agencies and local governments are not likely to be affected.

FSIS has cooperative agreements with six States and the Commonwealth of Puerto Rico under which they provide inspection services to egg processing plants under Federal jurisdiction. FSIS reimburses the States for staffing costs and expenses for full-time State inspectors. HACCP implementation may result in a reduction of staffing resource requirements in the States and a corresponding reduction of the Federal reimbursement. As a result, some States may decide to stop providing inspection services and convert to Federal inspection of egg products plants.

Egg and egg product inspection systems of foreign countries wishing to export eggs and egg products to the U.S. must be equivalent to the U.S. system. FSIS will consult with these countries, as needed, if and when this proposal becomes effective.

This proposal is not likely to have a significant impact on small entities. The entities that would be directly affected by this proposal would be the approximately 75 federally inspected egg-processing establishments, most of which are small businesses, according to Small Business Administration criteria. If necessary, FSIS will develop compliance guides to assist these small firms in implementing the proposed requirements.

The impacts on the FSIS budget will be influenced by the alternatives proposed and industry responses. Most likely, fewer FSIS inspection personnel will be required over time as more uniform inspection practices are employed among the meat, poultry, and egg products industries.

Potential benefits associated with this rulemaking include: Improvements in human health due to pathogen reduction; improved utilization of FSIS inspection program resources; and cost savings resulting from the flexibility of egg products plants in achieving a lethality-based pathogen reduction performance standard. Once specific alternatives are identified, economic analysis will identify the quantitative and qualitative benefits associated with each.

Human health benefits from this rulemaking are likely to be small because of the low level of (chiefly post-processing) contamination of pasteurized egg products. In light of recent scientific studies that raise questions about the efficacy of current regulations, however, it is likely that measurable reductions will be achieved in the risk of foodborne illness.

Risks:

FSIS believes that this regulatory action may result in a further reduction in the risks associated with egg products. The development of a lethality-based pathogen reduction performance standard for egg products, replacing command-and-control regulations, will remove unnecessary regulatory obstacles to, and provide incentives for, innovation to improve the safety of egg products.

To assess the potential risk-reduction impacts of this rulemaking on the public, an interagency panel of scientific and technical experts is conducting a risk management analysis. The panel has been charged with identifying the lethality requirement sufficient to ensure the safety of egg products and the alternative methods for implementing the requirement. The egg products processing and distribution module of the Salmonella enteritidis Risk Assessment, made public June 12, 1998, will be appropriately modified to evaluate the risk associated with the regulatory alternatives.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

None

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USDA—FSIS

12. PATHOGEN REDUCTION; HAZARD ANALYSIS AND CRITICAL CONTROL POINTS (HACCP) SYSTEMS; ADDITIONS TO GENERIC E. COLI CRITERIA

Priority:

Other Significant

Legal Authority:

21 USC 601 to 695; 21 USC 451 to 470

CFR Citation:

9 CFR 310; 9 CFR 381

Legal Deadline:

None

Abstract:

FSIS is proposing to add generic E. coli criteria to the regulations. In addition, FSIS is proposing to revise the terms used to identify and define certain classes of product listed in the Salmonella tables.

FSIS is proposing to delay making the proposed criteria and standards applicable for 1 year for small establishments and for 2 years for very small establishments.

Statement of Need:

FSIS is proposing to update its pathogen reduction (PR)/Hazard Analysis and Critical Control Point (HACCP) System regulations by adding generic Escherichia coli (E. coli) criteria for cattle, swine, and goose carcasses based on the sponging method of sample collection and for turkey carcasses based on the sponging and rinse methods of sample collection. FSIS is also proposing new pathogen reduction performance standards for Salmonella in cattle, swine, young turkey, and goose carcasses by the sponging method and fresh pork sausage by direct sampling. The new cattle performance standard would replace the existing Salmonella performance standards for steers/heifers and cows/bulls. The new swine standard would replace the existing standard for hogs. These new standards apply to all market classes of cattle and swine, respectively.

The National Academy of Sciences and the National Advisory Committee on Microbiological Criteria for Foods are examining the Salmonella performance standards and generic E. coli criteria. FSIS will take into account their findings and concerns before issuing rules on this matter.

In addition, FSIS is proposing to revise the terms used to identify and define certain classes of product listed in the Salmonella tables to more accurately reflect the products sampled in the baseline studies that are the basis for the standards. The Agency also intends to correct some errors in the E. coli and Salmonella tables and to change the footnotes to the tables for greater clarity.

These changes would ensure that the pathogen reduction performance standards and process control criteria applying to products and establishments regulated by FSIS are appropriate and accurate. The additional performance standards for Salmonella and criteria for E. coli will help establishments to improve process controls for certain classes of raw product. Improved process controls will help reduce pathogens on certain raw products and may result in the reduction of foodborne illness. The provision of E. coli criteria based on the sponge method of sampling would provide affected establishments with flexibility in complying with the rule.

In addition to the need to update and add flexibility to existing PR/HACCP requirements, the rule is needed to help address the market failure associated with the consumer's lack of information about pathogens that may be present in certain classes of meat and poultry products and to help meet the commitments made by FSIS in its PR/HACCP and associated regulatory reform initiatives.

Summary of Legal Basis:

This action is authorized under the Federal Meat Inspection Act (21 U.S.C. 601-695) and the Poultry Products Inspection Act (21 U.S.C. 451-470).

Alternatives:

No action.

Anticipated Cost and Benefits:

The costs of the proposal are estimated to be in the $18 million to $20 million range and are attributable to the need for some firms to modify their processes to meet the new standards.

Benefits would accrue from reductions in pathogen levels, which in turn, might lead to reductions in foodborne illness. There is, however, a great deal of uncertainty associated with the human health benefits estimates, including data reflecting a decline in foodborne illness after implementation of the PR/HACCP regulations, because of the lack of prevalence data for the period before and after implementation of the regulations.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	07/00/02	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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USDA—FSIS

13. • ELIMINATION OF CHILLING TIME AND TEMPERATURE REQUIREMENTS FOR READY-TO-COOK POULTRY (SECTION 610 REVIEW)

Priority:

Other Significant

Legal Authority:

21 USC 451 to 470

CFR Citation:

9 CFR 381.66

Legal Deadline:

None

Abstract:

FSIS is proposing to eliminate the time and temperature requirements for chilling ready-to-cook poultry carcasses and giblets. The Agency is taking this action because the requirements are inconsistent with the Agency's Pathogen Reduction/Hazard Analysis and Critical Control Point (HACCP) System regulations, with its final rule further restricting retained water in raw meat and poultry, and with the Agency's regulatory reform program. Moreover, because of these regulations, the meat and poultry industries receive disparate regulatory treatment: No regulations that apply to the chilling of poultry apply to the chilling of meat. This proposal responds to longstanding petitions by industry trade associations.

Statement of Need:

This proposed rule addresses Federal regulations that are inconsistent with the PR/HACCP regulations because they restrict the ability of poultry processors to choose appropriate and effective measures to eliminate, reduce, or control biological hazards identified in their hazard analyses. The regulations also complicate efforts by establishments to comply with the terms of the January 9, 2001, final rule further restricting the amount of water that may be retained in raw meat or poultry products after post-evisceration processing; some establishments may have to use chilling procedures that result in higher levels of retained water in carcasses than may be necessary to achieve the same food safety objective. For example, establishments that operate automated chillers may have to subject poultry carcasses to higher agitation rates or longer dwell times in the chillers. Also, as discussed above, the time/temperature chilling regulations for poultry result in disparate regulatory treatment of the meat and poultry industries.

Summary of Legal Basis:

This regulatory action is authorized under the Poultry Products Inspection Act (21 U.S.C. 451-470).

Alternatives:

FSIS evaluated five regulatory alternatives: (1) taking no regulatory action; (2) replacing the command-and-control requirements with a performance standard; (3) requiring meatpackers, as well as poultry processors, to comply with such a performance standard; (4) requiring all establishments that prepare raw meat or poultry products or handle, transport, or receive the products in transportation to comply with a performance standard; or (5) removing the command-and-control requirements from the poultry products inspection regulations. The Agency chose the fifth alternative.

Anticipated Cost and Benefits:

Poultry processors would gain the flexibility to choose the best processing techniques and procedures for achieving production efficiencies, meeting HACCP food safety objectives, and preventing economic adulteration of raw product with retained water in amounts greater than unavoidable for food-safety purposes. They would be able to operate with a wider range of chilling temperatures consistently with the requirements of the PR/HACCP regulations. The poultry products industry could achieve energy efficiencies resulting in annual savings of as much as $2.8 million.

The industry could also reduce carcass "dwell times" in immersion chillers and thereby reduce the amount of water absorbed and retained by the carcasses. The reduction in dwell time might enable some establishments, particularly those currently operating at the throughput capacity of their chillers, to increase production by installing additional evisceration lines. Poultry establishments would therefore be able to operate more efficiently to provide consumers with product that is not adulterated.

FSIS also would gain some flexibility by being able to reallocate some inspection resources from measuring the temperature of chilled birds to such activities as HACCP system verification.

This proposed rule would directly impose no new costs on the regulated industry. It would relieve burdens arising from the disparate impacts of the current regulations on the meat and poultry industries.

Risks:

None

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—FSIS

14. • EMERGENCY REGULATIONS TO PREVENT MEAT FOOD AND MEAT PRODUCTS THAT MAY CONTAIN THE BSE AGENT FROM ENTERING COMMERCE

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

21 USC 601 et seq

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

FSIS is proposing to amend the meat inspection regulations to add emergency regulations to prevent meat and meat food products that may contain the bovine spongiform encephalopathy (BSE) agent from entering commerce. The emergency regulations would become effective when, and if, BSE is diagnosed in native cattle in the United States. The proposed regulations provide for periodic review by FSIS to determine their effectiveness and to evaluate the need to modify or remove some measures or impose additional measures.

Statement of Need:

FSIS is proposing to amend the meat inspection regulations to add provisions to prevent meat and meat products that may contain the BSE agent from entering commerce in the event that BSE is diagnosed in native cattle in the U.S. Any final rule that is developed as a result of this proposal will become effective when, and if, a native case of BSE is detected in the U.S.

BSE is a chronic, degenerative, neorological disorder of cattle. Worldwide, there have been more than

178,000 cases since the disease was first diagnosed in 1986 in Great Britain. There have been no cases of BSE detected in the United States despite 10 years of active surveillance for the disease. Recent laboratory and epidemiological research indicate that there is a causal association between BSE and variant Creutzfeldt-Jakob Disease (vCJD), a slow degenerative disease that affects the central nervous system of humans. Like BSE, vCJD has not been detected in the United States. Both BSE and vCJD are always fatal.

Although BSE has not been detected in the U.S., USDA policy in regard to BSE has been to be proactive and preventive. Therefore, FSIS is proposing these regulations so that the Agency will have an immediate regulatory response in the event that BSE is detected in the U.S. Once finalized, the proposed measures will be incorporated in the meat inspection regulations but would only become effective when, and if, BSE is detected in native cattle.

Summary of Legal Basis:

Under the Federal Meat Inspection Act (21 U.S.C. 601-695), FSIS issues regulations governing the production of meat and meat food products. The regulations, along with FSIS inspection programs, are designed to ensure that meat food products are safe, not adulterated, and properly marked, labeled, and packaged.

Alternatives:

As an alternative to the proposed requirements, FSIS considered taking no action. FSIS rejected this option because, as previously mentioned, USDA policy in regard to BSE has been to be proactive and preventive. Publishing a proposed rule will inform the public of the type of regulatory response it can expect from FSIS when, and if, BSE is detected in native cattle.

In addition to the proposed requirements, FSIS is considering taking actions prior to the detection of BSE in the U.S. to minimize human exposure to materials from cattle that could potentially contain the BSE agent. The measures under consideration are targeted at the materials of cattle that are most likely to contain the BSE agent, if such animals have been infected with BSE, and those cattle that have consumed feed prohibited by Food and Drug Administration's (FDA) regulations (i.e., mammalian meat and bone meal in ruminant feed).

Anticipated Cost and Benefits:

None.

Risks:

Although vCJD is a rare condition, the symptoms are severe, and it is always fatal. This proposed rule is intended to reduce the risk of humans developing vCJD in the U.S. in the event BSE is detected in native cattle. The measures proposed by FSIS are intended to minimize human exposure to materials from cattle that could potentially contain the BSE agent. In April 1998, USDA entered into a cooperative agreement with Harvard University's School of Public Health to conduct a risk analysis to assess the potential pathways for entry into U.S. cattle and the U.S. food supply, to evaluate existing regulations and policies, and to identify any additional measures that could be taken to protect human and animal health. FSIS will use the findings of the risk assessment to evaluate the level of risk reduction associated with the proposed measures.

Unlike bacterial and viral pathogens that may be found in or on meat food products, the BSE agent cannot be destroyed by conventional methods, such as cooking or irradiation. Also, although it is rare, vCJD, the human disease associated with exposure to the BSE agent, is generally more severe than the human illnesses associated with exposure to bacterial and viral pathogens. Thus, if BSE were detected in the U.S., additional measures to reduce the risk of human exposure to the BSE agent are necessary to protect public health.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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USDA—FSIS

FINAL RULE STAGE

15. MEAT PRODUCED BY ADVANCED MEAT/BONE SEPARATION MACHINERY AND RECOVERY SYSTEMS

Priority:

Economically Significant

Legal Authority:

21 USC 601 to 695

CFR Citation:

9 CFR 301.2; 9 CFR 318.24 (Revision); 9 CFR 320.1(b)(10)

Legal Deadline:

None

Abstract:

In 1994, the Food Safety and Inspection Service amended its regulations to recognize that product resulting from advanced meat/bone separation machinery comes within the definition of meat when recovery systems are operated to assure that the characteristics and composition of the resulting product are consistent with those of meat. Subsequent compliance problems and other concerns have made it apparent that the regulations are inadequate to prevent misbranding and economic adulteration. Therefore, FSIS is developing a rule to clarify the regulations and supplement the rules for assuring compliance.

Statement of Need:

In 1998, FSIS proposed to clarify the meat inspection regulations regarding mechanically separated meat contained in a final rule issued in December 1994. The proposed rule would replace the present compliance program parameters with non-compliance criteria for bone and bone-related material. The proposed rule would require, as a prerequisite to labeling or using product derived by mechanically separating skeletal muscle tissue from cattle bones as meat, that

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establishments implement and document procedures for ensuring that their production process is in control. FSIS intends to issue a final rule in the first quarter of 2002 that prohibits central nervous system tissue in meat produced by advanced meat separation and recovery systems.

Summary of Legal Basis:

This action is authorized under the Federal Meat Inspection Act (21 U.S.C. 601-695).

Alternatives:

No action.

Anticipated Cost and Benefits:

Although the 1998 proposed rule was determined to be not economically significant, FSIS restudied the projected costs using data from various FSIS data bases and other sources to develop an improved estimate of the benefits and costs of implementing the final rule. To date, it appears that the final rule will not be economically significant, but data evaluation continues. The benefit of publishing a rule that prohibits central nervous system tissue is that the meat industry would be producing a product that is not misbranded or economically adulterated.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	04/13/98	63 FR 17959
NPRM Comment Period End	06/12/98	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

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USDA—FSIS

16. PERFORMANCE STANDARDS FOR ON-LINE ANTIMICROBIAL REPROCESSING OF PRE-CHILL POULTRY CARCASSES

Priority:

Other Significant

Legal Authority:

21 USC 451 to 470

CFR Citation:

9 CFR 381; 9 CFR 424

Legal Deadline:

None

Abstract:

This rule is proposing to allow, on a voluntary basis, the on-line reprocessing of pre-chill poultry carcasses that are accidentally contaminated with digestive tract contents during slaughter. The treated carcasses must meet pre-chill performance standards that are substantially lower than the current performance standard and criteria.

Statement of Need:

On December 1, 2000, FSIS issued a proposed rule to permit on-line antimicrobial reprocessing of pre-chill poultry carcasses on a voluntary basis. It is estimated that approximately 90 poultry slaughter establishments are now engaged in on-line processing. Permitting pre-chill poultry to be reprocessed on-line rather than off-line yields great benefits to industry and reduces microbial loads on visibly contaminated and visibly clean birds.

Summary of Legal Basis:

This action is authorized by the Poultry Products Inspection Act (21 U.S.C. 456 et seq.) Exercise of the Secretary of Agriculture's functions under this Act has been delegated to the Under Secretary for Food Safety (7 CFR 2.18) and by the Under Secretary to the Administrator of FSIS (7 CFR 2.53).

Alternatives:

Executive Order 12866 requires that FSIS identify and assess alternative forms of regulation. FSIS considered two alternatives to this proposed rule: (1) not proposing to allow for the on-line reprocessing of contaminated carcasses and (2) proposing to require plants to perform on-line reprocessing of pre-chill contaminated carcasses and establishing specific numerical performance standards that the reprocessed poultry must meet using a mandated antimicrobial treatment or process. FSIS rejected both alternatives for the reasons explained below.

Failing To Propose

FSIS is committed to reducing the levels of microbial pathogens in poultry products. On-line reprocessing of poultry in commercial trials using solutions of TSP/chlorine and acidified sodium chlorite has been shown to be a highly effective method of reducing the microbial levels of raw poultry to levels substantially below the performance standards and criteria established by the pathogen reduction/HACCP final rule.

Mandating Procedures, Materials, and Methods

FSIS is proposing to give all establishments the option of adopting on-line reprocessing of visibly contaminated birds. By not mandating that all plants adopt on-line reprocessing, FSIS is recognizing that there are other solutions to reducing bacterial loads that may be more appropriate and cost-effective for small plants. There are many possible solutions for pathogen reduction of raw poultry and poultry products, and the industry continues to seek out new products and equipment that will be effective.

Pathogen reduction is central to the FSIS food safety strategy. However, eliminating as many prescriptive or command-and-control regulations as possible also is an important part of the overall strategy for updating and improving inspection in light of HACCP. Therefore, there will be no mandate proposed for establishments to use TSP or any other substance as the antimicrobial reprocessing aid. Various substances have undergone trials to determine their potential as antimicrobial processing agents. Such substances include acidified sodium chlorite; organic acids such as lactic, acetic, and formic acids; chlorine dioxides; and ozone. Plants will be free to use other products that have demonstrated their efficacy in reducing levels of microorganisms in in-plant commercial trials. This is consistent with the Agency's strategy of encouraging the industry to take advantage of new technology to reduce the risks associated with the consumption of meat and poultry products.

Anticipated Cost and Benefits:

The economic impact of this rule is likely to be minimal because of the voluntary nature of the practice this

proposal would authorize. An establishment will use on-line reprocessing if it is consistent with the objectives of the firm, conforms with plant configuration, provides increased efficiency in achieving product standards, improves product characteristics, and other factors. The poultry industry is highly competitive; an increase in product price by a single producer is likely to result in a loss of market share. A firm is not likely to purchase new equipment that will increase overall production costs or reduce profits.

The cost for a poultry plant to adopt an acceptable on-line reprocessing system will vary from plant to plant and will be contingent on the location, physical structure, and age of the plant and the adaptability of the equipment. Available information indicates that the capital cost per line ranges from $10,000 to more than $55,000, with an average cost of $35,600, which is close to the manufacturer's estimate for a single line cost of $30,000.

Operating costs associated with on-line reprocessing systems also can vary significantly as a result of plant size, number of lines, processing capacity, plant configuration, and other factors. Rhodia estimates that the TSP application cost will be about 0.2 cents per pound for an average chicken slaughter plant. The application of other antimicrobial substances may vary slightly in cost. Plant data suggest that total annual operating costs, which include labor, water softener, TSP, and water, are very close to the manufacturer's estimate. Available information suggests annual operating costs of about $125,000 per line for an average plant. Costs associated with off-line reprocessing would be expected to decline following installation of on-line reprocessing equipment because of reduced labor and other operating requirements. Available data suggest the decrease in operating costs because of reduced off-line reprocessing is about $70,000 per line, somewhat more than half of the increase in operating costs associated with TSP on-line reprocessing. The available plant information suggests that about two-thirds of the plants would not experience any change in sewage treatment. The remaining third would be required to perform additional treatment at the plant to meet discharge limits. Two-thirds of the plants would show no change in water use, while the remaining plants will have to increase use by 1 to 2 gallons per bird, or about 10 percent.

For the average plant, the net present value of capital costs and the net change in operating costs of TSP on-line reprocessing is about $1.2 million over a 10-year period using a discount rate of 7 percent. Based on the assumptions that the average plant processes about 200,000 birds per day, that an average bird has a dressed weight of 3.6 pounds, and the plant operates an average of 255 days per year over the next 10 years, the increase in total production costs is slightly more than .2 cents per pound. The capital costs amortized over a 10-year period are minimal on a per pound basis. The costs to the poultry processing industry would accrue to plants engaged in slaughter, either exclusively or in combination with processing. In 1996, there were 281 federally inspected plants of this description. Only one Federal-State cooperative inspection plant is currently engaged in poultry slaughter. If all such plants voluntarily install an on-line reprocessing system, the total cost to the poultry industry would be about $345 million over a 10-year period.

Risks:

The cost of a TSP on-line reprocessing system represents an insignificant portion of the retail price per pound of poultry. If there is any increase in the retail price of poultry, it will be modest and offset by consumer confidence that the product presents lower microbial risks.

Timetable:

Action	Date	FR Cite
NPRM	12/01/00	65 FR 75187
NPRM Comment Period End	01/30/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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DEPARTMENT OF COMMERCE (DOC)

Statement of Regulatory and Deregulatory Priorities

Enhancing long-term economic growth is a central focus of the President's policies and priorities. The mission of the Department of Commerce is to promote job creation, economic growth, technological competitiveness, sustainable development, and improved living standards for all Americans by working in partnership with businesses, universities, communities, and workers to:

- Build for the future and promote U.S. economic competitiveness in the global marketplace by strengthening and safeguarding the Nation's economic infrastructure;
- Keep America competitive with cutting-edge science and technology and an unrivaled information base; and
- Provide effective management and stewardship of our Nation's resources and assets to ensure sustainable economic opportunities.

The DOC mission statement, containing our three strategic themes, provides the vehicle for understanding the Department's aims, how they interlock, and how they are to be implemented through our programs. This statement was developed with the intent that it serves as both a statement of departmental philosophy and as the guiding force behind the Department's programs.

The importance that this mission statement and these strategic themes have for the Nation is amplified by the vision they pursue for America's communities, businesses, and families. Commerce is the smallest Cabinet agency, yet our presence is felt, and our contributions are found, in every State.

The DOC touches Americans, daily, in many ways—we make possible the weather reports that all of us hear every morning; we facilitate the technology that all of us use in the workplace and in the home each day; we support the development, gathering, and transmitting of information essential to competitive business; we make possible the diversity of companies and goods found in America's (and the world's) marketplace; and we support environmental and economic health for the communities in which Americans live.

The DOC has a clear and powerful vision for itself, for its role in the Federal Government, and for its roles supporting the American people, now and in the future. We confront the intersection of trade promotion, civilian technology, economic development, sustainable development, and economic analysis, and we want to provide leadership in these areas for the Nation.

We work to provide programs and services that serve our country's businesses, communities, and families, as initiated and supported by the President and the Congress. We are dedicated to making these programs and services as effective as possible, while ensuring that they are being delivered in the most cost-effective ways. We seek to function in close concert with other agencies having complementary responsibilities so that our collective impact can be most powerful. We seek to meet the needs of our customers quickly and efficiently, with programs, information, and services they require and deserve.

As a permanent part of the Federal Government, but serving an Administration and Congress that can vary with election results, we seek to serve the unchanging needs of the Nation, according to the priorities of the President and the Congress. The President's priorities for the Department range from issues concerning the economy to the environment. For example, the President directs the Department to promote and develop alternative sources of energy that conserve the environment; promote electronic commerce activities; encourage open and free trade; represent American business interests abroad; and assist small businesses expand and create jobs. We are able to address these priorities effectively by functioning in accordance with the legislation that undergirds our programs and by working closely with the President and the committees in Congress, which have programmatic and financial oversight for our programs.

Among the President's priorities, the DOC works to advance alternative energy sources as discussed in the President's national energy policy. In his State of the Union address, the President acknowledged that many citizens were struggling with the high cost of energy. In response to the energy crisis, the President charged Vice President Cheney and Cabinet secretaries to develop a national energy policy that encourages production of energy while protecting our environment. In doing so, the President emphasized the need to promote alternative energy to ensure that "future generations of Americans will have access to the energy they need."

The DOC is working to reform the hydropower licensing process so that applicants will encounter less uncertainty. Hydropower ranks as the fourth largest source of the Nation's energy; it accounted for 7 percent of the Nation's total energy needs in 2000. To promote the use of this renewable source of power, the Department is streamlining the licensing process to ensure more public participation, adopt more effective fish and wildlife conditions, and provide interagency resolution before conflicting mandatory license conditions are implemented.

The DOC also promotes and expedites American exports, helps nurture business contacts abroad, protects U.S. firms from unfair foreign competition, and makes how-to-export information accessible to small and mid-sized companies throughout the Nation, thereby ensuring that U.S. market opportunities span the globe.

The DOC encourages development in every community, clearing the way for private-sector growth by building and rebuilding economically deprived and distressed communities. We promote minority entrepreneurship to establish businesses that frequently anchor neighborhoods and create new job opportunities. We work with the private sector to enhance competitive assets.

As the Nation looks to revitalize its industries and communities, The DOC works as a partner with private entities to build America with an eye on the future. Through technology, research and development, and innovation, we are making sure America continues to prosper in the short-term, while also helping industries prepare for long-term success.

The DOC's considerable information capacities help businesses understand clearly where our national and world economies are going, and take advantage of that knowledge by planning the road ahead. Armed with the Department's economic and demographic statistics, businesses can undertake the new ventures, investments, and expansions that make our economy grow.

The DOC has instituted programs and policies that lead to cutting-edge, competitive, and better paying jobs. We work every day to boost exports, to deregulate business, to help smaller manufacturers battle foreign competition, to advance the technologies critical to our future prosperity, to invest in our

communities, and to fuse economic and environmental goals.

The DOC is American business' surest ally in job creation, serving as a vital resource base, a tireless advocate, and its Cabinet-level voice.

The Regulatory Plan directly tracks these policy and program priorities, only a few of which involve regulation of the private sector by the Department.

Responding to the Administration's Regulatory Philosophy and Principles

The vast majority of the Department's programs and activities do not involve regulation. Of the Department's 12 primary operating units, only two—the Bureau of Export Administration (BXA) and the National Oceanic and Atmospheric Administration (NOAA)—plan significant preregulatory or regulatory actions for this Regulatory Plan year. However, none of these significant actions rise to the level of "most important" of the Department's "significant regulatory actions" planned for the Regulatory Plan year.

Though not principally a regulatory agency, the DOC has long been a leader in advocating and using market-oriented regulatory approaches in lieu of traditional command-and-control regulations when such approaches offer a better alternative. All regulations are designed and implemented to maximize societal benefits while placing the smallest possible burden on those being regulated.

The DOC is also refocusing on its regulatory mission by taking into account, among other things, the President's regulatory principles. To the extent permitted by law, all preregulatory and regulatory activities and decisions adhere to the Administration's statement of regulatory philosophy and principles, as set forth in section 1 of Executive Order 12866. Moreover, we have made bold and dramatic changes, never being satisfied with the status quo. We have emphasized, initiated, and expanded programs that work in partnership with the American people to secure the Nation's economic future. At the same time we have downsized, cut regulations, closed offices, and eliminated programs and jobs that are not part of our core mission. The bottom line is that, after much thought and debate, we have made many hard choices needed to make this Department "state of the art."

The Secretary has prohibited the issuance of any regulation that discriminates on the basis of race, religion, gender, or any other suspect category and requires that all regulations be written so as to be understandable to those affected by them. The Secretary also requires that the Department afford the public the maximum possible opportunity to participate in departmental rulemakings, even where public participation is not required by law.

National Oceanic and Atmospheric Administration

The National Oceanic and Atmospheric Administration (NOAA) establishes and administers Federal policy for the conservation and management of the Nation's oceanic, coastal, and atmospheric resources. It provides a variety of essential environmental services vital to public safety and to the Nation's economy, such as weather forecasts and storm warnings. It is a source of objective information on the state of the environment. NOAA plays the lead role in achieving the departmental goal of promoting stewardship by providing assessments of the global environment.

Recognizing that economic growth must go hand-in-hand with environmental stewardship, the Department, through NOAA, conducts programs designed to provide a better understanding of the connections between environmental health, economics, and national security. Commerce's emphasis on "sustainable fisheries" is saving fisheries and confronting short-term economic dislocation, while boosting long-term economic growth. The Department is where business and environmental interests intersect, and the classic debate on the use of natural resources is transformed into a "win-win" situation for the environment and the economy.

Three of NOAA's major components, the National Marine Fisheries Services (NMFS), the National Ocean Service (NOS), and the National Environmental Satellite, Data, and Information Service (NESDIS), exercise regulatory authority.

NMFS oversees the management and conservation of the Nation's marine fisheries, protects marine mammals, and promotes economic development of the U.S. fishing industry. NOS assists the coastal states in their management of land and ocean resources in their coastal zones, including estuarine research reserves; manages the Nation's national marine sanctuaries; monitors marine pollution; and directs the national program for deep-seabed minerals and ocean thermal energy. NESDIS administers the civilian weather satellite program and licenses private organizations to operate commercial land-remote sensing satellite systems.

The Administration is committed to an environmental strategy that promotes sustainable economic development and rejects the false choice between environmental goals and economic growth. The intent is to have the Government's economic decisions guided by a comprehensive understanding of the environment. The Department, through NOAA, has a unique role in promoting stewardship of the global environment through effective management of the Nation's marine and coastal resources and in monitoring and predicting changes in the Earth's environment, thus linking trade, development, and technology with environmental issues. NOAA has the primary Federal responsibility for providing sound scientific observations, assessments, and forecasts of environmental phenomena on which resource management and other societal decisions can be made.

In the environmental stewardship area, NOAA's goals include: rebuilding U.S. fisheries by refocusing policies and fishery management planning on increased scientific information; increasing the populations of depleted, threatened, or endangered species of marine mammals by implementing recovery plans that provide for their recovery while still allowing for economic and recreational opportunities; promoting healthy coastal ecosystems by ensuring that economic development is managed in ways that maintain biodiversity and long-term productivity for sustained use; and modernizing navigation and positioning services. In the environmental assessment and prediction area, goals include: modernizing the National Weather Service; implementing reliable seasonal and interannual climate forecasts to guide economic planning; providing science-based policy advice on options to deal with very long-term (decadal to centennial) changes in the environment; and advancing and improving short-term warning and forecast services for the entire environment.

Magnuson-Stevens Act Rulemakings

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) rulemakings concern the conservation and management of fishery resources in the U.S. 3-to-200-mile Exclusive Economic Zone (EEZ). Among the several hundred

rulemakings that NOAA plans to issue in the Regulatory Plan year, a number of the preregulatory and regulatory actions will be significant. The exact number of such rulemakings is unknown, since they are usually initiated by the actions of eight regional Fishery Management Councils (FMCs) that are responsible for preparing fishery management plans (FMPs) and FMP amendments, and for drafting implementing regulations for each managed fishery. Once a rulemaking is triggered by an FMC, the Magnuson-Stevens Act places stringent deadlines upon NMFS by which it must exercise its rulemaking responsibilities. Most of these rulemakings will be minor, involving only the opening or closing of a fishery under an existing FMP. While no one Magnuson-Steven Act rulemaking is among the Department's most important significant regulatory actions, and, therefore, none is specifically described below, the sum of these actions, and a few of the individual actions themselves, are highly significant.

The Magnuson-Stevens Act, which is the primary legal authority for Federal regulation to conserve and manage fishery resources, establishes eight regional FMCs, responsible for preparing FMPs and FMP amendments. NMFS issues regulations to implement FMPs and FMP amendments. FMPs address a variety of fishery matters, including depressed stocks, overfished stocks, gear conflicts, and foreign fishing. One of the problems that FMPs may address is preventing overcapitalization (preventing excess fishing capacity) of fisheries. This may be resolved by limiting access to those dependent on the fishery in the past and/or by allocating the resource through individual transferable quotas, which can be sold on the open market to other participants or those wishing access. Quotas set on sound scientific information, whether as a total fishing limit for a species in a fishery or as a share assigned to each vessel participant, enable stressed stocks to rebuild. Other measures include staggering fishing seasons or limiting gear types to avoid gear conflicts on the fishing grounds, and establishing seasonal and area closures to protect fishery stocks.

The FMCs provide a forum for public debate and, using the best scientific information available, make the judgments needed to determine optimum yield on a fishery-by-fishery basis. Optional management measures are examined and selected in accordance with the national standards set forth in the Magnuson-Stevens Act. This process, including the selection of the preferred management measures, constitutes the development, in simplified form, of an FMP. The FMP, together with draft implementing regulations and supporting documentation, is submitted to NMFS for review against the national standards set forth in the Magnuson-Stevens Act, in other provisions of the Act, and other applicable laws. The same process applies to amending an existing approved FMP.

The Magnuson-Stevens Act contains ten national standards against which fishery management measures are judged. NMFS has supplemented the standards with guidelines interpreting each standard, and has updated and added to those guidelines. One of the national standards requires that management measures, where practicable, minimize costs and avoid unnecessary duplication. Under the guidelines, NMFS will not approve management measures submitted by an FMC unless the fishery is in need of management. Together, the standards and the guidelines correspond to many of the Administration's principles of regulation as set forth in section 1(b) of Executive Order 12866. One of the national standards establishes a qualitative equivalent to the Executive Order's "net benefits" requirement—one of the focuses of the Administration's statement of regulatory philosophy as stated in section 1(a) of the Order.

Bureau of Export Administration

The Bureau of Export Administration (BXA) promotes U.S. national and economic security and foreign policy interests by managing and enforcing the Department's security-related trade and competitiveness programs. BXA plays a key role in challenging issues involving national security and nonproliferation, export growth, and high technology. The Bureau's continuing major challenge is combating the proliferation of weapons of mass destruction while furthering the growth of U.S. exports, which are critical to maintaining our leadership in an increasingly competitive global economy. BXA strives to be the leading innovator in transforming U.S. strategic trade policy and programs to adapt to the changing world.

Major Programs and Activities

The Export Administration Regulations (EAR) provide for export controls on dual use goods and technology (primarily commercial goods that have potential military applications) not only to fight proliferation, but also to pursue other national security, short supply, and foreign policy goals (such as combating terrorism). Simplifying and updating these controls in light of the end of the Cold War has been a major accomplishment of BXA.

BXA is also responsible for:

- Enforcing the export control and antiboycott provisions of the Export Administration Act (EAA), as well as other statutes such as the Fastener Quality Act. The EAA is enforced through a variety of administrative, civil, and criminal sanctions.
- Analyzing and protecting the defense industrial and technology base, pursuant to the Defense Production Act and other laws. As the Defense Department increases its reliance on dual-use high technology goods as part of its cost-cutting efforts, ensuring that we remain competitive in those sectors and sub-sectors is critical to our national security.
- Helping Ukraine, Kazakstan, Belarus, Russia, and other newly emerging countries develop effective export control systems. The effectiveness of U.S. export controls can be severely undercut if "rogue states" or terrorists gain access to sensitive goods and technology from other supplier countries.
- Working with former defense plants in the Newly Independent States to help make a successful transition to profitable and peaceful civilian endeavors. This involves helping remove unnecessary obstacles to trade and investment and identifying opportunities for joint ventures with U.S. companies.
- Assisting U.S. defense enterprises to meet the challenge of the reduction in defense spending by converting to civilian production and by developing export markets. This work assists in maintaining our defense industrial base as well as preserving jobs for U.S. workers.

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DEPARTMENT OF DEFENSE (DOD)

Statement of Regulatory Priorities

Background

The Department of Defense (DoD) is the largest Federal department consisting of 3 military departments (Army, Navy, and Air Force), 9 unified combatant commands, 15 Defense agencies, and 7 DoD field activities. It has over 1,370,000 military personnel and 670,000 civilians assigned as of May 31, 2001, and over 500 military installations and properties in the continental United States, U. S. territories, and foreign countries. The overall size, composition, and dispersion of the Department of Defense, coupled with an innovative regulatory program, presents a challenge to the management of the Defense regulatory efforts under Executive Order 12866 "Regulatory Planning and Review" of September 30, 1993.

Because of its diversified nature, DoD is impacted by the regulations issued by regulatory agencies such as the Departments of Energy, Health and Human Services, Housing and Urban Development, Labor, Transportation, and the Environmental Protection Agency. In order to develop the best possible regulations that embody the principles and objectives embedded in Executive Order 12866, there must be coordination of proposed regulations among the regulating agencies and the affected Defense components. Coordinating the proposed regulations in advance throughout an organization as large as DoD is straightforward, yet a formidable undertaking.

DoD is not a regulatory agency but occasionally issues regulations that have an impact on the public. These regulations, while small in number compared to the regulating agencies, can be significant as defined in Executive Order 12866. In addition, some of DoD's regulations may impact the regulatory agencies. DoD, as an integral part of its program, not only receives coordinating actions from the regulating agencies, but coordinates with the agencies that are impacted by its regulations as well.

The regulatory program within DoD fully incorporates the provisions of the President's priorities and objectives under Executive Order 12866. Promulgating and implementing the regulatory program throughout DoD presents a unique challenge to the management of our regulatory efforts.

Coordination

Interagency

DoD annually receives regulatory plans from those agencies that impact the operation of the Department through the issuance of regulations. A system for coordinating the review process is in place, regulations are reviewed, and comments are forwarded to the Office of Management and Budget. The system is working in the Department, and the feedback from the Defense components is most encouraging, since they are able to see and comment on regulations from the other agencies before they are required to comply with them. The coordination process in DoD continues to work as outlined in Executive Order 12866.

Internal

Through regulatory program points of contact in the Department, we have established a system that provides information from the Administrator of the Office of Information and Regulatory Affairs (OIRA) to the personnel responsible for the development and implementation of DoD regulations. Conversely, the system can provide feedback from DoD regulatory personnel to the Administrator, OIRA. DoD continues to refine its internal procedures, and this ongoing effort to improve coordination and communication practices is well received and supported within the Department.

Overall Priorities

The Department of Defense needs to function at a reasonable cost, while ensuring that it does not impose ineffective and unnecessarily burdensome regulations on the public. The rulemaking process should be responsive, efficient, cost-effective, and both fair and perceived as fair. This is being done in the Department while it must react to the contradictory pressures of providing more services with fewer resources. The Department of Defense, as a matter of overall priority for its regulatory program, adheres to the general principles set forth in Executive Order 12866 as amplified below.

Problem Identification

Congress typically passes legislation to authorize or require an agency to issue regulations and often is quite specific about the problem identified for correction. Therefore, DoD does not generally initiate regulations as a part of its mission.

Conflicting Regulations

Since DoD plans to issue just two significant regulations this year, the probability of developing conflicting regulations is low. Conversely, DoD is impacted to a great degree by the regulating agencies. From that perspective, DoD is in a position to advise the regulatory agencies of conflicts that appear to exist using the coordination processes that exist in the DoD and other Federal agency regulatory programs. It is a priority in the Department to communicate with other agencies and the affected public to identify and proactively pursue regulatory problems that occur as a result of conflicting regulations both within and outside the Department.

Alternatives

DoD will identify feasible alternatives that will obtain the desired regulatory objectives. Where possible, the Department encourages the use of incentives to include financial, quality of life, and others to achieve the desired regulatory results.

Risk Assessment

Assessing and managing risk is a high priority in the DoD regulatory program. The Department is committed to risk prioritization and an "anticipatory" approach to regulatory planning, which focuses attention on the identification of future risk. Predicting future regulatory risk is exceedingly difficult due to rapid introduction of new technologies, side effects of Government intervention, and changing societal concerns. These difficulties can be mitigated to a manageable degree through the incorporation of risk prioritization and anticipatory regulatory planning into DoD's decisionmaking process, which results in an improved regulatory process and increases the customer's understanding of risk.

Cost-Effectiveness

One of the highest priority objectives of DoD is to obtain the desired regulatory objective by the most cost-effective method available. This may or may not be through the regulatory process. When a regulation is required, DoD considers incentives for innovation to achieve desired results, consistency in the application of the regulation, predictability of the activity outcome (achieving the expected results), and the costs for regulation development, enforcement, and compliance. These will include costs to the public, Government, and regulated entities, using the best available data or parametric analysis methods, in the

cost-benefit analysis and the decisionmaking process.

Cost-Benefit

Conducting cost-benefit analyses on regulation alternatives is a priority in the Department of Defense so as to ensure that the potential benefits to society outweigh the costs. Evaluations of these alternatives are done quantitatively or qualitatively or both, depending on the nature of the problem being solved and the type of information and data available on the subject. DoD is committed to considering the most important alternative approaches to the problem being solved and providing the reasoning for selecting the proposed regulatory change over the other alternatives.

Information-Based Decisions

The Defense Department uses the latest technology to provide access to the most current technical, scientific, and demographic information in a timely manner through the world-wide communications capabilities that are available on the Internet. Realizing that increased public participation in the rulemaking process improves the quality and acceptability of regulations, DoD is committed to exploring the use of Information Technology (IT) in rule development and implementation. IT provides the public with easier and more meaningful access to the processing of regulations. Furthermore, the Department endeavors to increase the use of automation in the Notice and Comment rulemaking process in an effort to reduce time pressures in the regulatory process.

Performance-Based Regulations

Where appropriate, DoD is incorporating performance-based standards that allow the regulated parties to achieve the regulatory objective in the most cost-effective manner.

Outreach Initiatives

DoD endeavors to obtain the views of appropriate State, local, and tribal officials and the public in implementing measures to enhance public awareness and participation both in developing and implementing regulatory efforts. Historically, this has included such activities as receiving comments from the public, holding hearings, and conducting focus groups. This reaching out to organizations and individuals that are affected by or involved in a particular regulatory action remains a significant regulatory priority of the Department and, we feel, results in much better regulations.

The Department is actively engaged in addressing the requirements of the Government Paperwork Elimination Act (GPEA) in implementing electronic government and in achieving IT accessibility for individuals with disabilities. One of the Department's regulatory priorities, specifically Defense Acquisition, will, as a goal, establish acquisition policy on electronic and IT accessibility.

Coordination

DoD has enthusiastically embraced the coordination process between and among other Federal agencies in the development of new and revised regulations. Annually, DoD receives regulatory plans from key regulatory agencies and has established a systematic approach to providing the plans to the appropriate policy officials within the Department. Feedback from the DoD components indicates that this communication among the Federal agencies is a major step forward in improving regulations and the regulatory process, as well as in improving Government operations.

Minimize Burden

In the regulatory process, there are more complaints concerning burden than anything else. In DoD, much of the burden is in the acquisition area. Over the years, acquisition regulations have grown and become burdensome principally because of legislative action. But, in coordination with Congress, the Office of Federal Procurement Policy, and the public, DoD is initiating significant reforms in acquisition so as to effect major reductions in the regulatory burden on personnel in Government and the private sector. DoD has implemented a multi-year strategy for reducing the paperwork burden imposed on the public. This plan shows that DoD has met and will exceed the goals set forth in the Paperwork Reduction Act. It is the goal of the Department of Defense to impose upon the public the smallest burden viable, as infrequently as possible, and for no longer than absolutely necessary.

Plain Language

Ensuring that regulations are simple and easy to understand is a high regulatory priority in the Department of Defense. All too often, the regulations are complicated, difficult to understand, and subject to misinterpretation, all of which can result in the costly process of litigation. The objective in the development of regulations is to write them in clear, concise language that is simple and easy to understand.

DoD recognizes that it has a responsibility for drafting clearly written rules that are reader-oriented and easily understood. Rules will be written for the customer using natural expressions and simple words. Stilted jargon and complex construction will be avoided. Clearly written rules will tell our customers what to do and how to do it. DoD is committed to a more customer-oriented approach and uses plain language rules thereby improving compliance and reducing litigation.

In summary, the rulemaking process in DoD should produce a rule that addresses an identifiable problem, implements the law, incorporates the President's policies defined in Executive Order 12866, is in the public interest, is consistent with other rules and policies, is based on the best information available, is rationally justified, is cost-effective, can actually be implemented, is acceptable and enforceable, is easily understood, and stays in effect only as long as is necessary. Moreover, the proposed rule or the elimination of a rule should simply make sense.

Specific Priorities

For this regulatory plan, there are three specific DoD priorities, all of which reflect the established regulatory principles. One of these, "Improve Health Care Delivery in the Defense Department," will have two significant regulatory actions as defined by E.O. 12866. In those areas where rulemaking or participation in the regulatory process is required, DoD has studied and developed policy and regulations that incorporate not only the provisions of the President's priorities and objectives under the Executive order.

DoD has focused its regulatory resources on the most serious environmental, health, and safety risks. Perhaps most significant is that each of the three priorities described below promulgates regulations to offset the resource impacts of Federal decisions on the public or to improve the quality of public life, such as those regulations concerning civil functions of the U.S. Army Corps of Engineers, acquisition, and improving health care delivery in the Department of Defense.

U.S. Army Corps of Engineers, Directorate of Civil Works

Preserve Quality and Quantity of Wetlands

During Fiscal Year (FY) 2002, the U.S. Army Corps of Engineers is not

proposing any significant regulations as defined by Executive Order 12866. The Office of the Assistant Secretary of the Army (Civil Works) and the Corps have completed one regulation.

On May 10, 1999, the Corps issued a Final Rule in the Federal Register (64 FR 25120) modifying our definition of "discharge of dredged material" in response to the Court of Appeals holding in *National Mining Association* v. *United States Army Corps of Engineers*, 145 F.3rd 1339 (D.C. Cir. 1998) ("NMA") and to ensure compliance with the District Court's injunction. That rule made those changes that were necessary to conform the Corps' regulations to the Court's decision. The preamble to the Corps' May 10, 1999, rulemaking stated that they would be undertaking additional notice and comment rulemaking to further the Clean Water Act's objective to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." On April 17, 2001, the Corps published a Final Rule in the Federal Register (66 FR 10367) amending the Clean Water Act section 404 regulations defining the term "discharge of dredged material." This action was coordinated with the Office of Management and Budget.

On April 20, 2001, the Corps also proposed revisions to the Clean Water Act regulatory definitions of "Fill Material" and "Discharge of Fill Material" (65 FR 21292). This proposal would revise the definitions in order to clarify those pollutants that are regulated by the Corps. The Corps intends to issue a Final Rule in late FY 2001 or early FY 2002. Development of the rule is being facilitated by the Office of Management and Budget.

Natural Disaster Procedures

The President's Federal Response Plan, developed through the efforts of 27 departments and agencies, describes the basic methodology by which the Federal Government will mobilize resources and conduct activities to assist States in coping with the consequences of significant disasters. Within the Plan, the Department of Defense has designated the U.S. Army Corps of Engineers as the primary agency for planning, preparedness, and response under the Emergency Support Function #3, Public Works and Engineering. The purpose of this Emergency Support Function is to provide lifesaving or life protecting assistance to augment efforts of the affected State(s) and local response efforts following a major or catastrophic disaster.

The Corps supports the Nation and other agencies during times of crisis by providing "All Hazards Response," while maintaining a high level of preparedness. The Corps is proposing revisions to 33 CFR 203 (Natural Disaster Procedures: Preparedness, Response, and Recovery Activities of the Corps of Engineers). This revision is necessary to reflect current policy, add features required by the Water Resources Development Act of 1996 (Public Law 104-303), and streamline procedures regarding Corps authority.

Defense Acquisition

The Department continues its efforts to reengineer its acquisition system to achieve its vision of an acquisition system that is recognized as being the smartest, most efficient, most responsive buyer of best value goods and services, which meet the warfighter's needs from a globally competitive base. To achieve this vision, the Department will focus in the acquisition regulations arena during this next year on implementing and institutionalizing initiatives that may include additional changes to existing and recently modified regulations to ensure that we are achieving the outcomes we desire (continuous process improvement).

The Department of Defense is committed to acquisition reform and continues to make significant improvements in this area, consistent with Executive Order 12866. DoD continuously reviews its supplement to the Federal Acquisition Regulation (FAR) and continues to lead Government efforts to simplify the following acquisition processes:

- Rewrite of FAR part 45, Government Property. The primary objectives of the rewrite are to: Reduce the amount of Government property in the possession of contractors; rely to a greater extent on the contractors' own processes and procedures; eliminate Government reviews; hold the contractor accountable and liable for property provided for their use; rely on the Government's own internal records as the official recordkeeping and reporting mechanism for compliance with the Chief Financial Officers Act and related legislation; and make greater use of property management contracts for long-term storage or use concurrently on multiple contracts.
- Rewrite of FAR part 27, Patents, Data, and Copyrights. The goals of the FAR part 27 rewrite are to clarify, streamline, and update guidance and clauses on patents, data, and copyrights.
- Revise policy on profit. The goal of this initiative is to make changes to DoD profit policy that would reduce and eventually eliminate emphasis on facilities investment, increase emphasis on performance risk, and encourage contractor cost efficiency.
- Establish policy on Electronic Commerce in Federal Procurement. The goal of this initiative is to establish policies and procedures to employ electronic commerce in the conduct and administration of the procurement system.

Improve Health Care Delivery in the Defense Department

The Military Health System (MHS) supports the Department of Defense and our Nation's security by providing health support for the full range of military deployments and sustaining the health of members of the Armed Forces, their families, and others to advance our national security interests. Major goals of the Military Health System emphasize readiness, wellness and fitness, managed care growth, and integration of technologies to enable the best possible and most cost beneficial clinical and management outcomes.

The principal health-related regulatory publications of the Department involve CHAMPUS, the Civilian Health and Medical Program of the Uniformed Services (32 CFR part 199). CHAMPUS regulations comprehensively address such issues as eligibility, benefits, authorized providers, claims payment, appeals procedures, and similar topics. Amendments to the CHAMPUS regulations generally focus on program changes arising from revisions to the statutory base or from DoD initiatives to improve the program, such as TRICARE.

During FY 2001, the Department submitted two Interim Final Rules, affecting the Military Health System, which are categorized as economically significant, as defined by E.O. 12866. Both are promulgated to comply with statutory requirements. One action, "Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)/TRICARE; Partial Implementation of Pharmacy Benefits Program; Implementation of National Defense Authorization Act Medical Benefits for Fiscal Year 2001," implements several sections of the Floyd D. Spence National Defense Authorization Act. Specifically, the rule: Allows coverage of physical examinations for beneficiaries ages 5

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through 11 that are required in connection with school enrollment; provides an additional 2-year period for survivors of deceased active-duty members to remain eligible for TRICARE medical and dental benefits at active-duty dependent rates; extends eligibility for medical and dental benefits to Medal of Honor recipients and their immediate dependents in the same manner as if the recipient were entitled to retired pay; partially implements the Pharmacy Benefits Program establishing revised copays and cost-shares for the prescription drug benefit; and implements the TRICARE Senior Pharmacy Program by establishing a new eligibility for prescription drug benefits for Medicare-eligible retirees. Additionally the rule: Allows a waiver of copayments, cost-shares, and deductibles for all Uniformed Services TRICARE eligible active duty family members residing with their sponsor within a TRICARE Prime Remote designated area; provides for the elimination of TRICARE Prime copayments for active duty family members enrolled in TRICARE Prime; provides for the reimbursement of reasonable travel expenses for TRICARE Prime beneficiaries referred by a primary care provider; and reduces the maximum amount which retirees, their family members, and survivors would be liable.

The other significant action, "TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Eligibility and Payment Procedures for CHAMPUS Beneficiaries Age 65 and Over," implements section 712 of the National Defense Authorization Act for Fiscal Year 2001. Section 712 extends TRICARE eligibility to persons age 65 and over who would otherwise have lost their TRICARE eligibility due to attainment of entitlement to hospital insurance benefits under Part A of Medicare. In order for these individuals to retain their TRICARE eligibility, they must be enrolled in the supplementary medical insurance program under part B of Medicare. In general, in the case of medical or dental care provided to these individuals for which payment may be made under both Medicare and TRICARE, Medicare is the primary payer and TRICARE will normally pay the actual out-of-pocket costs incurred by the person. This rule prescribes TRICARE payment procedures and makes revisions to TRICARE rules to accommodate Medicare-eligible CHAMPUS beneficiaries.

DOD

FINAL RULE STAGE

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17. • CHAMPUS/TRICARE; PARTIAL IMPLEMENTATION OF PHARMACY BENEFITS PROGRAM; IMPLEMENTATION OF NATIONAL DEFENSE AUTHORIZATION ACT MEDICAL BENEFITS FOR FISCAL YEAR 2001

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

10 USC 55; 5 USC 301

CFR Citation:

32 CFR 199

Legal Deadline:

Final, Statutory, April 1, 2001, Implements Public Law 106-398.

Provisions of act effective October 30, 2000, or 180 days thereafter.

Abstract:

This rule implements several sections of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. The rule allows coverage of physical examinations for beneficiaries ages 5 through 11 that are required in connection with school enrollment; provides an additional 2-year period for survivors of deceased active-duty members to remain eligible for TRICARE medical and dental benefits at active-duty dependent rates; extends eligibility for medical and dental benefits to Medal of Honor recipients and their immediate dependents in the same manner as if the recipient were entitled to retired pay; partially implements the Pharmacy Benefits Program establishing revised copays and cost-shares for the prescription drug benefit; implements the TRICARE Senior Pharmacy Program by establishing a new eligibility for prescription drug benefits for Medicare-eligible retirees; allows a waiver of copayments, cost-shares, and deductibles for all Uniformed Services TRICARE eligible active duty family members residing with their TRICARE Prime Remote eligible Active Duty Service Member Sponsor within a TRICARE Prime Remote designated area until implementation of the TRICARE Prime Remote for Family Member Program or October 30, 2001, whichever is later; provides for the elimination of TRICARE Prime copayments for active-duty family members enrolled in TRICARE Prime; provides for the reimbursement of reasonable travel expenses for TRICARE Prime beneficiaries referred by a primary care provider to a specialty care provider who provides services over 100 miles away; and reduces the maximum amount which retirees, their family members, and survivors would be liable from $7,500 to $3,000. The Department is publishing this rule as an interim final rule in order to meet statutorily required effective dates.

Statement of Need:

The rule implements requirements of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. In addition, because of the effect on the overall pharmacy program of the new statutorily required TRICARE Senior Pharmacy Program and the change in TRICARE Prime active duty dependent copayments, this rule also partially implements the Pharmacy Benefits Program.

Summary of Legal Basis:

The rule implements provisions of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 that were effective upon the date of enactment or a date within 180 days thereafter. Specifically, the rule implements the following sections of the Act:

Section 703, school required physicals, which was effective on the date of enactment;

Section 704, 2-year extension of benefits for survivors, which was effective on the date of enactment;

Section 706, benefits for Medal of Honor recipients, which was effective on the date of enactment;

Section 711, TRICARE Senior Pharmacy Program, which was effective April 1, 2001;

Section 722, that portion of TRICARE Prime Remote for Family Members that was effective on the date of enactment;

Section 752, elimination of copayments for active-duty dependents in TRICARE Prime, which the statute requires be implemented within 180 days;

Section 758, reimbursement of certain travel expenses for TRICARE Prime beneficiaries, which was effective on the date of enactment; and

Section 759, reduction of retiree catastrophic cap, which was effective on the date of enactment.

Alternatives:

The rule implements statutorily required provisions to expand TRICARE benefits. No other alternatives are applicable.

Anticipated Cost and Benefits:

For FY02, it is anticipated that costs for the programs covered by this rule will be about $900 million. Provides for coverage of physical examinations in connection with school enrollment; extends eligibility for medical and dental benefits; partially implements the Pharmacy Benefits Program; allows a waiver of copayments, cost-shares, and deductibles for members within a TRICARE Prime Remote designated area; provides for the elimination of TRICARE Prime copayments; provides for the reimbursement of reasonable travel expenses; and reduces the maximum amount which retirees, their family members, and survivors would be liable from $7,500 to $3,000.

Risks:

The rule implements statutorily required provisions to expand TRICARE benefits. No risk to the public is applicable.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/01	66 FR 9651
Interim Final Rule; Correction	03/26/01	66 FR 16400
Interim Final Rule; Change in Effective Date	04/01/01	66 FR 10367
Interim Final Rule Comment Period End	04/10/01	66 FR 9651
Interim Final Rule Effective	04/10/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal

Agency Contact:

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Department of Defense
Office of Assistant Secretary for Health Affairs
Phone: 303 676-3801

RIN: 0720–AA62

DOD

18. • TRICARE; CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); ELIGIBILITY AND PAYMENT PROCEDURES FOR CHAMPUS BENEFICIARIES AGE 65 AND OVER

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

10 USC 55; 5 USC 301

CFR Citation:

32 CFR 199

Legal Deadline:

Final, Statutory, October 1, 2001, Implements section 712 of FY 2001 NDAA.

Abstract:

This rule implements section 712 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. Section 712 extends TRICARE eligibility to persons age 65 and over who would otherwise have lost their TRICARE eligibility due to attainment of entitlement to hospital insurance benefits under Part A of Medicare. In order for these individuals to retain their TRICARE eligibility, they must be enrolled in the supplementary medical insurance program under Part B of Medicare. In general, in the case of medical or dental care provided to these individuals for which payment may be made under both Medicare and TRICARE, Medicare is the primary payer and TRICARE will normally pay the actual out-of-pocket costs incurred by the person. This rule prescribes TRICARE payment procedures and makes revisions to TRICARE rules to accommodate Medicare-eligible CHAMPUS beneficiaries. The Department is publishing this rule as an interim final rule in order to meet the statutorily required effective date.

Statement of Need:

This rule is necessary to comply with the statutory requirement. It implements procedures which help to ensure that military retirees do not incur substantial out-of-pocket expenses for necessary health care.

Summary of Legal Basis:

This rule is required by section 712 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106-398), as codified at section 1086(d) of title 10, United States Code.

Alternatives:

The rule implements statutorily required provisions to expand TRICARE benefits. No other alternatives are applicable.

Anticipated Cost and Benefits:

The provisions of this rule will affect an estimated 1.5 million beneficiaries. In most cases, these beneficiaries will have no out-of-pocket expenses for health care. For FY01 we expect to incur about $90 million in start-up costs, and we estimate FY02 health care and administration costs will be about $3 billion.

Risks:

The provisions of this rule will ensure that beneficiaries have a seamless coordination of benefits between two Federal entitlement programs. This coordination will minimize the risk of any personal liability or out-of-pocket costs on the part of the beneficiary when the service or supply is payable under both plans.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/03/01	66 FR 40601
Interim Final Rule Effective	10/01/01	
Interim Final Rule Comment Period End	10/02/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal

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DEPARTMENT OF EDUCATION (ED)

Statement of Regulatory and Deregulatory Priorities

General

We support States, local communities, institutions of higher education, and others to improve education nationwide. Our roles include providing leadership and financial assistance for education to agencies, institutions, and individuals in situations in which there is a national interest; monitoring and enforcing Federal civil rights laws in programs and activities that receive Federal financial assistance; and supporting research, evaluation, and dissemination of findings to improve the quality of education.

To connect our customers to a "one-stop-shopping" center for information about our programs and initiatives, we instituted 1-800-USA-LEARN (1-800-872-5327). We also set up 1-800-4FED-AID (1-800-433-3243) for information on student aid; and we provide an on-line library of information on education legislation, research, statistics, and promising programs at the following Internet address:

http://www.ed.gov

More than 660,000 people take advantage of these resources every week. We have forged effective partnerships with customers and others to develop policies, regulations, guidance, technical assistance, and approaches to compliance. We have a record of successful communication and shared policy development with affected persons and groups, including parents, students, educators, representatives of State and local governments, neighborhood groups, schools, colleges, special education and rehabilitation service providers, professional associations, advocacy organizations, business, and labor.

In particular, we continue to seek greater and more useful customer participation in our rulemaking activities through the use of consensual rulemaking and new technology. If we determine that the development of regulations is absolutely necessary, we seek customer participation at all stages—in advance of formal rulemaking, during rulemaking, and after rulemaking is completed in anticipation of further improvements through statutory or regulatory changes. We have expanded our outreach efforts through the use of satellite broadcasts, electronic bulletin boards, and teleconferencing. For example, we invite comments on all proposed regulations through the Internet.

We are streamlining information collections, reducing burden on information providers involved in our programs, and making information maintained by us easily available to the public. We are looking into coordinating similar information collections across programs as one possible approach to reduce overlapping or inconsistent paperwork requirements. To the extent permitted by statute, we'll revise regulations to eliminate barriers that inhibit coordination across programs (such as by creating common definitions). This should help reduce the frequency of reports and eliminate unnecessary data requirements.

Recently, we have piloted two new Internet-based software applications, e-Application and e-Reports. These enable applicants, grantees, and grant teams to process applications and file performance reports online. We have received positive feedback from participants in the pilot programs. Our goal over time is to encourage applicants and grantees to make electronic commerce, or the process of conducting business over the Internet, their preferred method of doing business.

New Initiatives

The Secretary's initiatives include No Such Thing as a Vacation from Reading, our campaign to encourage families to read together during the summer to help school-aged children develop and strengthen reading skills and prevent summer fall-off. The Secretary has designed this initiative to counter the documented loss of reading skills that can take place when children do not practice through the extended vacation from school. No Such Thing as a Vacation from Reading is supported by our Partnership for Family Involvement in Education, which we initially formed to involve businesses, community organizations, faith-based organizations, foundations, schools, and other groups in building and supporting strong relationships between children and adults.

Also, at the National Summit on the 21st Century Workforce, the Secretary announced a partnership between our Department and the Department of Labor to enhance the quality of basic skills training in reading and math offered to young adults and adults through workforce training programs.

One of the Secretary's first initiatives, the management improvement initiative, has resulted in actions to address and close more than 300 audit and management recommendations. This initiative focuses on strengthening financial management, addressing audit deficiencies, modernizing student aid delivery and management, and reducing student loan default costs to taxpayers. In addition to recovering $65 million in student loan default costs through the use of a new data base, we have recovered almost $350 million in Department funds previously called into question by our Inspector General.

Principles for Regulating

Our Principles for Regulating determine when and how we will regulate. Through aggressive application of the following principles, we have eliminated outdated or unnecessary regulations and identified situations in which major programs could be implemented without any regulations or with only limited regulations:

We will regulate only if regulating improves the quality and equality of services to our customers, learners of all ages. We will regulate only if absolutely necessary and then in the most flexible, most equitable, and least burdensome way possible.

Whether to Regulate:

- When essential to promote quality and equality of opportunity in education.
- When a demonstrated problem cannot be resolved without regulation.
- When necessary to provide legally binding interpretation to resolve ambiguity.
- Not if entities or situations to be regulated are so diverse that a uniform approach does more harm than good.

How to regulate:

- Regulate no more than necessary.
- Minimize burden and promote multiple approaches to meeting statutory requirements.
- Encourage federally funded activities to be integrated with State and local reform activities.
- Ensure that benefits justify costs of regulation.
- Establish performance objectives rather than specify compliance behavior.
- Encourage flexibility so institutional forces and incentives achieve desired results.

Regulatory and Deregulatory Priorities for the Next Year

Making No Child Left Behind a Reality

Reauthorization of the Elementary and Secondary Education Act of 1965 will reflect President Bush's No Child Left Behind plan for reforming our public schools. Our priorities include amending existing regulations in 34 CFR chapter II (Office of Elementary and Secondary Education) to make the No Child Left Behind plan a reality and to implement various changes in statutes as they are enacted.

ED

PROPOSED RULE STAGE

19. REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (SECTION 610 REVIEW)

Priority:

Other Significant

Legal Authority:

20 USC 6301 to 8962

CFR Citation:

34 CFR 299

Legal Deadline:

None

Abstract:

These regulations would implement changes made by the reauthorization of the Elementary and Secondary Education Act of 1965. This action is a notice that ED is reviewing the regulations in 34 CFR chapter II under section 610 of the Regulatory Flexibility Act (5 U.S.C. 610). The purpose of this review is to determine if these regulations should be continued without change, or should be amended or rescinded, to minimize any significant economic impact upon a substantial number of small entities. We are requesting comment on the continued need for the regulations; the complexity of the regulations; the extent to which they overlap, duplicate, or conflict with other Federal, State, or local government rules; and the degree to which technology, economic conditions, or other relevant factors have changed since the regulations were promulgated.

Statement of Need:

These regulations may be necessary to implement new legislation. The Department is also completing its review of these regulations under section 610(c) of the Regulatory Flexibility Act. In developing any regulations, the Department will seek to reduce regulatory burden and increase flexibility to the maximum extent possible.

Summary of Legal Basis:

Anticipated legislation.

Alternatives:

In addition to implementing new legislation, the purpose of reviewing these regulations is to determine whether there are appropriate alternatives.

Anticipated Cost and Benefits:

Existing regulatory provisions may be eliminated or improved as a result of this review.

Risks:

These regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

No

Government Levels Affected:

Undetermined

Agency Contact:

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RIN: 1810–AA91

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DEPARTMENT OF ENERGY (DOE)

Statement of Regulatory and Deregulatory Priorities

The Department makes vital contributions to the Nation's welfare through its extraordinary scientific and technical capabilities in energy research, environmental remediation, and national security. The Department's mission is to:

- Foster a secure and reliable energy system that is environmentally and economically sustainable;
- Provide responsible stewardship of the Nation's nuclear weapons;
- Clean up the Department's facilities;
- Lead in the physical sciences and advance the biological, environmental and computational sciences; and,
- Provide premiere instruments of science for the Nation's research enterprise.

The Department of Energy's regulatory plan reflects the Department's continuing commitment to enhance safety, cut costs, reduce regulatory burden, and increase responsiveness to the public. While not primarily a major Federal regulatory agency, the Department's regulatory activities are essential to achieving its critical mission and to implementing major initiatives in the President's National Energy Plan.

Energy Efficiency Program for Consumer Products and Commercial Equipment

The Department's rulemaking activities, related to energy efficiency standards and determinations, have been categorized as high, medium, or low priority. These priorities were established with significant input from the public and are reflected in the rulemaking schedules set forth in The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions.

During the past year, the Department published final rules that revised existing energy efficiency standards for clothes washers and for residential water heaters. It is estimated that the revised standards will reduce energy consumption by an amount equivalent to 1.7 billion barrels of oil over the next 27 years. Once fully implemented, the revised standards also will reduce annual greenhouse gas emissions by an amount equal to that produced by 7.8 million cars and conserve enough water to meet the annual needs of 6.6 million households. The Department also published a final rule that set efficiency standards for certain types of commercial equipment that fall under the scope of the American Society for Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Standard 90.1.

During the coming year, the Department expects to publish a final rule that would establish new energy efficiency standards for residential central air conditioners and heat pumps. The Department will also begin action to revise the existing statutory standards for residential furnaces, boilers and mobile home furnaces, for electric distribution transformers, and for commercial central air conditioners and heat pumps rated 65-240 kBtu's/hr. Additional information and timetables for these high priority actions can be found below.

The Department also expects to publish in the coming months final rules concerning test procedures for dishwashers, residential central air conditioners and heat pumps, electric distribution transformers, commercial warm air furnaces and air conditioning equipment, package boilers, and commercial water heaters. Information and timetables concerning these actions, other medium and low priority standards rulemakings, and other test procedures can be found in the Department's regulatory agenda, which appears elsewhere in this issue of the **Federal Register**.

Nuclear Safety Regulations

The Department is committed to openness and public participation as it addresses one of its greatest challenges—managing the environment, health, and safety risks posed by its nuclear activities. A key element in the management of these risks is to establish the Department's expectations and requirements relative to nuclear safety and to hold its contractors accountable for safety performance. The 1988 Price-Anderson Amendments Act revisions to the Atomic Energy Act of 1954 (AEA) provide for the imposition of civil and criminal penalties for violations of DOE nuclear safety requirements. As a result, new nuclear safety requirements were initiated with the publication of four notices of proposed rulemaking for review and comment in 1991. The Department's nuclear safety procedural regulations (10 CFR part 820) were published as a final rule in 1993. The Department's substantive nuclear safety requirements (10 CFR parts 830 and 835) were finalized in 2001 and 1998, respectively. The remaining action, 10 CFR part 834, Radiation Protection and the Environment, is scheduled for publication by the end of fiscal year 2002.

DOE—Energy Efficiency and Renewable Energy (EE)

PRERULE STAGE

20. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL FURNACES, BOILERS, AND MOBILE HOME FURNACES

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

42 USC 6295

CFR Citation:

10 CFR 430

Legal Deadline:

Final, Statutory, January 1, 1994.

Abstract:

The Energy Policy and Conservation Act, as amended, establishes initial energy efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for furnaces, boilers and mobile home furnaces.

Statement of Need:

This rulemaking is required by statute. Experience has shown that the choice of residential appliances and commercial equipment being purchased by both builders and building owners is generally based on the initial cost rather than on life-cycle costs. Thus, the law requires minimum energy efficiency standards for appliances to eliminate inefficient appliances and equipment from the market.

Summary of Legal Basis:

The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy efficiency standard levels for most types of major residential

appliances and certain commercial equipment. The EPCA generally requires DOE to undergo rulemakings, at specified times, to determine whether the standard for a covered product should be made more stringent.

Alternatives:

The statute requires the Department to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, the Department conducts a thorough analysis of the alternative standard levels, including the existing standard, based on criteria specified by statute. The process improvements that were recently announced (61 FR 36974, July 15, 1996) further enhance the analysis of alternatives in the appliance standards development process. For example, under this process, the Department will ask stakeholders and private sector technical experts to review its analyses of the likely impacts, costs and benefits of alternative standard levels. In addition, the Department will solicit and consider information on nonregulatory approaches for encouraging the purchase of energy efficient products.

Anticipated Cost and Benefits:

The specific costs and benefits for these rulemakings have not been established because the final standard levels have not been determined. Nevertheless, existing appliance standards are projected to save 23 quadrillion Btu's from 1993 to 2015, resulting in estimated consumer savings of $1.7 billion per year in 2000 and estimated annual emission reductions of 107 million tons of carbon dioxide and 280 thousand tons of nitrogen oxides in that year. Under the existing standards, the discounted energy savings for consumers are 2.5 times greater than the up-front price premium paid for the appliance.

Risks:

Without appliance standards, energy use will continue to increase with resulting damage to the environment caused by atmospheric emissions. Enhancing appliance energy efficiency reduces atmospheric emissions such as CO2 and NOx. Establishing standards that are too stringent could result in excessive increases in the cost of the product, possible reductions in product utility and may place an undue burden on manufacturers that could result in loss of jobs or other adverse economic impacts

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
Screening Workshop	07/17/01	
Supplemental ANPRM	09/00/02	
NPRM	09/00/03	
Final Action	09/00/04	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local

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RIN: 1904–AA78

DOE—EE

21. • ENERGY EFFICIENCY STANDARDS FOR ELECTRIC DISTRIBUTION TRANSFORMERS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 6317

CFR Citation:

10 CFR 430

Legal Deadline:

None

Abstract:

The Energy Policy and Conservation Act, as amended, (EPCA) establishes initial energy efficiency standard levels for most types of major residential appliances and certain types of commercial equipment. The EPCA generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the current standard for a covered product should be amended.

This is the initial review of the statutory standards for electric distribution transformers

Statement of Need:

This rulemaking is required by statute. Experience has shown that the choice of residential appliances and commercial equipment being purchased by both builders and building owners is generally based on the initial cost rather than on life-cycle cost. Thus, the law requires minimum energy efficiency standards for appliances to eliminate inefficient appliances and equipment from the market.

Summary of Legal Basis:

EPCA establishes initial energy efficiency standard levels for most types of major residential appliances and certain types of commercial equipment and generally requires DOE to undergo rulemakings, at specified times, to determine whether the standard for a covered product should be made more stringent.

Alternatives:

The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, the Department conducts a thorough analysis of alternative standard levels, including the existing standard, based on criteria specified by statute. The process improvements that were recently announced (61 FR 36974, July 15, 1996) further enhance the analysis of alternative standards. For example, DOE will ask stakeholders and private sector technical experts to review its analyses of the likely impacts, costs, and benefits of alternative standard levels. In addition, the Department will solicit and consider information on nonregulatory approaches for encouraging the purchase of energy efficient products.

Anticipated Cost and Benefits:

The specific costs and benefits for these rulemakings have not been established because the final standard levels have not been determined. Nevertheless, existing appliance standards are projected to save 23 quadrillion Btu's of energy from 1993 to 2015, resulting in estimated consumer savings of $1.7 billion per year in the year 2000 and estimated annual emission reductions of 107 million tons of carbon dioxide and 280 thousand tons of nitrogen oxides in the year 2000. Under the existing standards, the discounted energy savings for consumers are 2.5

times greater than the up-front price premium paid for the appliance.

Risks:

Without appliance efficiency standards, energy use will continue to increase with resulting damage to the environment caused by atmospheric emissions. Enhancing appliance energy efficiency reduces atmospheric emissions of carbon dioxide and nitrogen oxides. Establishing standards that are too stringent could result in excessive increases in the cost of the product, possible reductions in product utility and may place an undue burden on manufacturers that could result in a loss of jobs or other adverse economic impacts.

Timetable:

Action	Date	FR Cite
Determination Notice	10/22/97	62 FR 54809
ANPRM	09/00/02	
NPRM	09/00/03	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

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RIN: 1904–AB08

DOE—EE

22. • ENERGY EFFICIENCY STANDARDS FOR COMMERCIAL CENTRAL AIR CONDITIONING UNITS AND HEAT PUMPS RATED 65-240 KBTU'S/HR

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

42 USC 6293

CFR Citation:

10 CFR 431

Legal Deadline:

None

Abstract:

The Energy Policy and Conservation Act, as amended, (EPCA) establishes initial energy efficiency standard levels for most types of major residential appliances and certain types of commercial equipment. The EPCA generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the current standard for a covered product should be amended.

This is the initial review of the statutory standards for these products.

Statement of Need:

These rulemakings are required by statute. Experience has shown that the choice of residential appliances and commercial equipment being purchased by both builders and building owners is generally based on the initial cost rather than on life-cycle cost. Thus, the law requires minimum energy efficiency standards for appliances to eliminate inefficient appliances and equipment from the market.

Summary of Legal Basis:

EPCA establishes initial energy efficiency standard levels for most types of major residential appliances and certain types of commercial equipment and generally requires DOE to undergo rulemakings, at specified times, to determine whether the standard for a covered product should be made more stringent

Alternatives:

The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, the Department conducts a thorough analysis of alternative standard levels, including the existing standard, based on criteria specified by statute. The process improvements that were recently announced (61 FR 36974, July 15, 1996) further enhance the analysis of alternative standards. For example, DOE will ask stakeholders and private sector technical experts to review its analyses of the likely impacts, costs, and benefits of alternative standard levels. In addition, the Department will solicit and consider information on nonregulatory approaches for encouraging the purchase of energy efficient products.

Anticipated Cost and Benefits:

The specific costs and benefits for this rulemaking has not been established because the final standard levels have not been determined.

Risks:

Without energy efficiency standards, energy use will continue to increase with resulting damage to the environment caused by atmospheric emissions. Enhancing energy efficiency reduces atmospheric emissions of carbon dioxide and nitrogen oxides. Establishing standards that are too stringent could result in excessive increases in the cost of the product, possible reductions in product utility and may place an undue burden on manufacturers that could result in a loss of jobs or other adverse economic impacts.

Timetable:

Action	Date	FR Cite
Screening Workshop	09/12/01	
ANPRM	09/00/02	
NPRM	12/00/03	
Final Action	12/00/04	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

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RIN: 1904–AB09

DOE—EE

FINAL RULE STAGE

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23. ENERGY EFFICIENCY STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

42 USC 6295

CFR Citation:

10 CFR 430.32

Legal Deadline:

Final, Statutory, January 1, 1994.

Abstract:

The Energy Policy and Conservation Act, as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for central air conditioners and heat pumps.

Statement of Need:

This rulemaking is required by statute. Experience has shown that the choice of residential appliances and commercial equipment being purchased by both builders and building owners is generally based on the initial cost rather than on life-cycle cost. Thus, the law requires minimum energy efficiency standards for appliances to eliminate inefficient appliances and equipment from the market.

Summary of Legal Basis:

The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy efficiency standard levels for most types of major residential appliances and certain types of commercial equipment and generally requires DOE to undergo rulemakings, at specified times, to determine whether the standard for a covered product should be made more stringent.

Alternatives:

The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, the Department conducts a thorough analysis of alternative standard levels, including the existing standard, based on criteria specified by statute. The process improvements that were announced (61 FR 36974, July 15, 1996) further enhance the analysis of alternative standards. For example, DOE will ask stakeholders and private sector technical experts to review its analyses of the likely impacts, costs, and benefits of alternative standard levels. In addition, the Department will solicit and consider information on nonregulatory approaches for encouraging the purchase of energy efficient products.

Anticipated Cost and Benefits:

The proposed energy efficiency standards for central air conditioners would provide significant energy savings to the Nation. Over a 25-year period more than 4 quadrillion Btu's of energy would be saved, equivalent to all the energy consumed by nearly 12 million Americans in a single year. These energy savings would also significantly reduce the emissions of air pollutants and greenhouse gases associated with electricity production by avoiding the emission of 60 million tons of carbon and 150 thousand tons of nitrogen oxide. Also, the standards would eliminate the need for the construction of at least 6 new 500-megawatt power plants.

Risks:

Without appliance efficiency standards, energy use will continue to increase with resulting damage to the environment caused by atmospheric emissions. Enhancing appliance energy efficiency reduces atmospheric emissions of carbon dioxide and nitrogen oxides. Establishing standards that are too stringent could result in excessive increases in the cost of the product, possible reductions in product utility and may place an undue burden on manufacturers that could result in a loss of jobs or other adverse economic impacts.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
Screening Workshop	06/30/98	
Supplemental ANPRM	11/24/99	64 FR 66305
NPRM	10/05/00	65 FR 59589
Final Rule	01/22/01	66 FR 7170
Supplemental NPRM and Proposal to Withdraw Final Rule	07/25/01	66 FR 38821
Final Action	02/00/02	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local

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DOE—Departmental and Others (ENDEP)

FINAL RULE STAGE

24. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT

Priority:

Other Significant

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR 834

Legal Deadline:

None

Abstract:

This action would add a new 10 CFR 834 to DOE's regulations establishing a body of rules setting forth the basic requirements for ensuring radiation protection of the public and environment in connection with DOE nuclear activities. These requirements stem from the Department's ongoing effort to strengthen the protection of health, safety, and the environment from the nuclear and chemical hazards posed by these DOE activities. Major elements of the proposal included a dose limitation system for protection of the public; requirements for liquid discharges; reporting and monitoring requirements; and residual radioactive material requirements.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligation to protect health and safety is fulfilled and to provide, if needed, a basis for the imposition of civil and criminal penalties consistent with the Price-Anderson Amendments Act of 1988. This action is consistent with the Department's commitment to the issuance of nuclear safety requirements using notice and comment rulemaking.

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Summary of Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department of Energy has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health and safety of the public and workers affected by its operations and the protection of the environs around its facilities.

Alternatives:

The Department could continue to impose nuclear safety requirements through directives made applicable to DOE contractors through the terms of their contracts.

Anticipated Cost and Benefits:

The incremental costs of the proposed rules should be minimal because contractors are currently bound by comparable contractual obligations. Full compliance by contractors with nuclear safety standards will result in substantial societal benefits.

Risks:

This rulemaking should reduce the risk of nuclear safety problems by clarifying safety requirements applicable to DOE contractors and improving compliance.

Timetable:

Action	Date	FR Cite
NPRM	03/25/93	58 FR 16268
Second NPRM	08/31/95	60 FR 45381
Final Action	09/00/02	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

When it comes to serving the American people, the status quo just isn't good enough. That's why, when it comes to regulations, we need to move aggressively to streamline, revise and, where necessary, to cut those rules that keep us from fulfilling our most fundamental mission — enhancing the health and quality of life for every American.

Tommy G. Thompson

Statement of Regulatory Priorities

The Department of Health and Human Services (HHS) is responsible for a vast array of programs designed to protect and promote the health and the social and economic well being of the American public. These programs affect some of the Nation's most vulnerable populations, including children, the elderly and persons with disabilities. In one way or another, HHS programs and activities touch the lives of virtually every person in our country, citizens and non-citizens alike.

HHS' programs and activities include: Medicare, Medicaid, the State Children's Health Insurance Program (SCHIP), support for biomedical research, substance abuse and mental health treatment, assuring food safety, assuring safe and effective drugs and other medical products, financial assistance to low income families, Head Start, services to older Americans and direct health services delivery. These programs and activities are essential to the well-being of millions of Americans across our country—people of every age, in every location and in every walk of life.

To improve the administration and conduct of these programs and activities, Secretary Thompson has made it clear that the Department must operate under a culture of responsiveness, where listening and responding to those we serve—State, Local and Tribal governments, our business partners and stakeholders—is our cornerstone. For example, Secretary Thompson has launched a nationwide series of community listening sessions to give voice to persons receiving benefits from the Temporary Assistance for Needy Families (TANF) program. This will help HHS better meet the needs of those on the downside of advantage as they work to become productive members of our society, and to prepare for major policy discussions about TANF reauthorization that will occur this fiscal year.

In the same way, we will hold listening sessions to provide individuals across the country with an opportunity to offer personal input concerning their health needs, their problems with the existing system and their ideas for how to make the delivery of health care simpler, better and more efficient. From health care to child welfare to food safety, the Secretary is committed to widening communication between consumers, beneficiaries and Federal administrators.

Given the size and scope of the Department's responsibilities, effective program regulations are critical. Yet too often, excessive regulation can be more of a hindrance than a help. Programs become caught in a web of mandates, rules and paperwork. And those the programs were intended to serve fail to receive the help they need. Regulations do not exist for their own sake. They exist to help implement good policies. If they deter that implementation, they have to change—or be eliminated altogether.

Earlier this year, Secretary Thompson announced an initiative to reduce regulatory burdens. A major part of his initiative is to encourage a more rapid response to those affected by HHS rules and to listen to their concerns more closely. Consequently, the Department is establishing the Secretary's Advisory Committee on Regulatory Reform to provide recommendations regarding potential regulatory changes.

These changes will enable HHS programs to reduce burdens and costs associated with Departmental regulations, while at the same time maintaining or enhancing the effectiveness, efficiency, impact and accessibility of HHS programs. Over the next year, the Advisory Committee will hold public hearings, listen to public concerns and make recommendations for beneficial changes in four broad areas: health care delivery; health systems operations; biomedical and health research, and the development of pharmaceuticals and other medical products. While the Department will strive to reduce regulatory burdens on the public, to fulfill its mission, it must also issue new regulations to protect the public from health hazards, other threats and to improve the lives of all Americans.

FY 2002 Themes

The Secretary has adopted four overarching regulatory themes for FY 2002:

- Improving America's health and well-being;
- Protecting America's consumers;
- Improving the Department's ability to respond to emergencies and disasters; and
- Modernizing and simplifying the Department's programs.

The Department's regulatory priorities for this fiscal year will fall under these themes. It should be noted, however, that the Secretary's overall priorities go beyond these four regulatory categories, and include for example: Medicare modernization; disease prevention; long-term care improvement; children's health and development, and intra-Departmental management reform.

Improving America's Health and Well Being

The 20th century brought remarkable and unprecedented improvements in the health of the American people. We saw the infant mortality rate plummet and life expectancy increase by 30 years. The challenge for the 21st century is twofold. First, we must ensure that significant health advances continue. Second, we must make certain that quality of life applies throughout this extended life span for all Americans.

Over the years, it has become clear that individual health is closely linked to community health—the health of the communities and environments in which individuals live, work, and play. Consequently, the Secretary plans to work to improve not only the health of individuals, but also the health of America's communities.

Regulations in the Plan that address this theme include:

- A proposed rule to establish a Medicare prescription drug discount card program;
- A proposed rule establishing new conditions of coverage and performance measures for organ procurement organizations;
- A proposed rule that would improve services to long-term care facility residents;
- Medicare and Medicaid managed care rules that will enhance these programs for beneficiaries, potential beneficiaries, providers and States;
- A final rule designed to make it easier for certain prescription drugs to be purchased over-the-counter, thereby providing increased access to a number of drugs.

Protecting America's Consumers

Consumer safety is a major concern for the public and the Secretary. A

recent Institute of Medicine report highlighted the risks of medical errors in the health delivery system. Similarly, ensuring a safer food supply is paramount. Every year, tens of thousands of Americans become sick and many die from food borne pathogens. The size of vulnerable populations (e.g., the elderly and those with compromised immune systems) is growing. The Secretary is especially interested in identifying opportunities that exist to make patient care and the food supply safer.

Regulations under this theme include:

- A proposed rule controlling the manufacturing and packaging of dietary supplements;
- A final rule to require that amounts of trans fatty acids be included in food labeling because such information has significant potential to reduce the risk of coronary heart disease;
- Several proposed rules designed to reduce the frequency of medical errors associated with prescription drug use; and
- Several regulations addressing the importation and re-importation of foods and drugs.

Improving the Ability of HHS to Respond to Emergencies and Disasters

HHS is responsible for directing and coordinating the medical and public health response to natural disasters, terrorism, major accidents and other events that can result in mass casualties. Timely and well-focused responses to such events are key to limiting mortality and morbidity. The Department and its partners must be able to react quickly, and tailor responses to the specific emergency without being encumbered by unnecessary or counter productive activities.

Regulations in the Plan that are designed to help ensure that HHS has appropriate authority and flexibility to address emergencies and disasters include:

- A final rule on new procedures for establishing the efficacy of a new drug or biologic product designed to combat chemical or biological terrorism, (e.g. new anti-viral drugs to treat smallpox);
- A proposed rule to permit use of an investigational medical product during a potential chemical or biological terrorism event;
- A proposed rule issued by the Centers for Disease Control and Prevention to update provisions dealing with the spread of communicable disease; and
- A set of proposed rules that will implement Administration sponsored legislation dealing with bioterrorism. These rules would address, among other things: biological agents that could pose a threat to national security; detention and recall of foods presenting a serious health threat; tampering with food products; record keeping regarding the distribution of foods, food-shipment importation procedures and related matters.

Modernizing and Simplifying the Department's Programs

To ensure that beneficiaries and taxpayers continue to receive the most effective and highest quality services, we need to streamline program requirements and bring openness and responsiveness into the regulatory process. Payment systems and regulatory requirements need to be modernized to reflect the significant advances in today's changing health care delivery system.

While the impressive improvements made in health information technology have helped make the American health care system the best in the world, new and updated requirements are needed so that the health care system can capture the full benefit of these technological advances. At the same time, patients are concerned about unwanted and invasive access to their health records. Rules are needed to ensure that all Americans have confidence that their medical records will remain private.

Most of the regulations under this theme are associated with either Medicare reimbursement issues, or implementation of provisions under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Priority Medicare reimbursement rules include:

- A new prospective payment scheme for long-term care hospitals;
- A fee schedule for ambulance services; and
- A variety of other prospective payment revisions and updates.

With regard to HIPAA, the law requires the Secretary to adopt a series of regulations. While some of these have already been issued, others are expected during FY 2002. These include regulations addressing:

- Security of information held by providers;
- National provider and employer ID's; and
- Modifications to existing electronic transaction requirements.

Public Comments and Reactions

The Secretary welcomes comments not only on specific regulations as they are published in the **Federal Register**, but also on the themes he has established for 2002 and the regulatory priorities noted above. The regulations we issue affect a wide array of health care consumers, providers and others, and the Secretary wants to hear from those affected by the rules most directly. Comments, as well as ideas and specific suggestions for regulatory improvements and initiatives should be sent to: The Honorable Tommy G. Thompson, Secretary of Health and Human Services, Attention Ann Agnew, Executive Secretary to the Department, Room 603, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Listing of Priority Regulations by Theme

1. Improving America's Health and Well Being

- Program to Endorse Prescription Drug Discount Programs
- Organ Procurement Organizations Condition for Coverage
- Requirement for Paid Feeding Assistants in Long-Term Care Facilities
- Additional Criteria and Procedures for Classifying Over-the-Counter Drugs as Generally Recognized as Safe and Effective and Not Misbranded
- Medicaid Managed Care
- Modification to Medicare Managed Care Rules Based on Provisions of BIPA and Technical Corrections

2. Protecting America's Consumers

- Current Good Manufacturing Practice in Manufacturing, Packing or Holding Dietary Ingredients and Dietary Supplements
- Food Labeling: Trans Fatty Acids in Nutrition Labeling, Nutrient Content Claims, and Health Claims;
- Control of Salmonella Enteritidis in Shell Eggs During Production and Retail
- Marking Requirements for and Prohibitions on the Reimportation of Imported Food Products That Have Been Refused Admission into the United States
- Foreign Establishment Registration and Listing
- Labeling for Human Prescription Drugs, Revised Format

- Safety Reporting Requirements for Human Drug and Biological Products
- CGMPs for Blood and Blood Components: Notification of Consignees and Transfusion Recipients Receiving Blood and Blood Components at Increased Risk of Transmitting HCV (Lookback)
- Bar Code Label Requirements for Human Drug Products

3. Improving the Department's Ability to Respond to Emergencies and Disasters

- Implementing the Bioterrorism Prevention Response Act of 2001
- Control of Communicable Diseases
- Efficacy Evidence Needed for Products to be Used Against Toxic Substances When Human Studies are Unethical
- Exception from General Requirements for Informed Consent; Request for Comments and Information

4. Modernizing and Simplifying the Department's Programs, Rules and Systems

HIPAA Administrative Simplification Regulations

- Modifications to the Standards for Privacy of Individually Identifiable Health Information
- Health Insurance Reform: Standards for Electronic Claims Attachments
- Health Insurance Reform: Modifications to Standards for Electronic Transactions
- Revisions to Transaction and Code Set Standards for Electronic Transactions
- Health Insurance Reform: Standard Unique Health Care Provider Identifier
- National Standard Employer Identifier
- Security Standards
- National Standard for Identifiers of Health Plans

Payment Modernization Rules

- Prospective Payment System for Long Term Care Hospitals for FY 2003
- Fee Schedule for the Payment of Ambulance Services and Revisions to the Physician's Certification Requirements for Coverage of Non-emergency Ambulance Services
- Home Health Prospective Payment System Refinements
- Home Health Prospective Payment System Rate Update for FY 2003
- Hospital Inpatient Prospective Payment System for FY 2003
- Hospital Outpatient Prospective Payment System for CY 2003
- Revisions to Payment Policies Under the Physician Fee Schedule for CY 2003
- Hospital Inpatient Rehabilitation Prospective Payment System FY 2003
- Tribal Self-Governance Amendments
- Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities-Update
- Modification of the Medicaid Upper Payment Limit for Inpatient Hospital Services and Outpatient Hospital Services

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HHS—Office of the Secretary (OS)

PROPOSED RULE STAGE

25. • MODIFICATIONS TO STANDARDS FOR PRIVACY OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

Priority:

Other Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal goverments.

Legal Authority:

42 USC 1320d-2; 42 USC 1320d-3; PL 104-191, sec 262; PL 104-191, sec 264

CFR Citation:

45 CFR 160; 45 CFR 164

Legal Deadline:

None

Abstract:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) required the Department of Health and Human Services (the Department) to issue standards for health plans, health care clearinghouses, and certain health care providers to protect the privacy of individually identifiable health information. The Department published these standards, entitled "Standards for Privacy of Individually Identifiable Health Information," (the Privacy Rule) as a final rule on December 28, 2000. The final rule was effective on April 14, 2001. The proposed rule would amend the Privacy Rule to, among other things, support the delivery of the highest quality of health care to patients and address concerns regarding the workability of the rule for entities subject to its requirements.

Statement of Need:

The Department received many inquires from Congress, industry, and private citizens about how the rule will operate, and concerns over the complexity and workability of the rule. On July 6, 2001, in response to these and other comments, the Department issued guidance to address some of the misunderstandings regarding the rule, and to provide clarifications on various provisions. The Department has preliminarily determined that some modifications to the Privacy Rule would be appropriate. Entities covered by the Privacy Rule have until April 14, 2003 to come into compliance (and until April 14, 2004 for small health plans). Timely action is needed so that covered entites can implement these modifications to meet these deadlines with minimal cost and disruption.

Summary of Legal Basis:

Section 262 of the Health Insurance Portability and Accountability Act of 1996, adding Section 1174 to the Social Security Act (42 U.S.C. 1320d-3), generally provides that the Department, in reference to the privacy and other standards, "shall review the standards ... and shall adopt modifications to the standards (including additions to the standards), as determined appropriate .... Any addition or modification to a standard shall be completed in a manner which minimizes the disruption and cost of compliance."

Alternatives:

Modifications to the Privacy Rule requires rulemaking. Therefore, there are no alternatives to regulatory action.

Anticipated Cost and Benefits:

The anticipated cost and benefits are not known at this time because decisions have not been made regarding specific changes in the Privacy Rule. The options being considered to address workability are expected to reduce cost and to remove barriers to access to or the quality of health care.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal, State, Local, Tribal

Federalism:

This action may have federalism implications as defined in EO 13132.

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HHS—OS

26. • IMPLEMENTING THE BIOTERRORISM PREVENTION AND RESPONSE ACT OF 2001

Priority:

Other Significant

Legal Authority:

Not Yet Determined

CFR Citation:

None

Legal Deadline:

None

Abstract:

A variety of regulations will be required once the Bioterrorism Prevention and Response Act has been signed into law. These regulations would among other things address: biological agents that have the potential to pose a national security threat; detention and recall of foods presenting a serious health threat; tampering with food products; recordkeeping regarding the distribution of foods, food-shipment importation procedures and related matters. For example, laboratories possessing certain biological agents would have to adhere to strict safety and security provisions.

Statement of Need:

The Secretary has testified before Congress that, while the Nation is currently prepared to respond to a biological attack, we must accelerate current efforts to build the strongest, most coordinated capacity possible for responses to acts of terrorism involving biological agents. He stressed that a strong and flexible public health infrastructure is the best defense against any disease outbreak.

Summary of Legal Basis:

Congressional enactment of the Bioterrorism Prevention and Response Act of 2001 is required.

Alternatives:

Not applicable.

Anticipated Cost and Benefits:

Not applicable.

Risks:

Regulations implementing legislation to protect the health of citizens against biological terrorism would advance the development, organization and enhancement of public health prevention systems and tools. The magnitude of the risks addressed by such systems and tools is at least as great as the other risk reduction efforts within HHS's jurisdiction.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Tribal, Federal

Agency Contact:

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RIN: 0991–AB15

HHS—Centers for Disease Control and Prevention (CDC)

PROPOSED RULE STAGE

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27. CONTROL OF COMMUNICABLE DISEASES

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

42 USC 216; 42 USC 243; 42 USC 264; 42 USC 271

CFR Citation:

42 CFR 70; 42 CFR 71

Legal Deadline:

None

Abstract:

This proposal updates existing regulations related to prevention of the introduction, transmission, or spread of communicable diseases from foreign countries to the U.S. and from State to State. The regulation addresses the: process by which persons infected with, or who have been exposed to, modern communicable diseases should be quarantined; surveillance of quarantined persons; and requirements for carriers (e.g., airlines, etc.) to maintain passenger manifests for a determined period of time.

Statement of Need:

The quarantine of persons believed to be infected with communicable diseases is a long-term prevention measure that has been used effectively to contain the spread of disease. As diseases evolve due to the natural occurrences or bioterrorist events, it is important to assure procedures reflect new threats and uniform ways to contain them.

The existing regulations are outdated and do not address communicable diseases that currently pose a substantial public health threat.

Summary of Legal Basis:

USC 42 section 264 authorizes the Surgeon General, with the approval of the Secretary, to make and enforce regulations as are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession.

Alternatives:

In the absence of this regulation, uniform application of procedures for the quarantine of individuals exposed to or infected with a communicable disease would be unavailable.

Anticipated Cost and Benefits:

It is anticipated that there will be a cost to carriers to maintain passenger manifests for an extended period of time. However, these costs are undetermined.

Risks:

This rule would allow for improvements to existing quarantine

procedures and clarify due process procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

State

Federalism:

Undetermined

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HHS—Food and Drug Administration (FDA)

PROPOSED RULE STAGE

28. SAFETY REPORTING REQUIREMENTS FOR HUMAN DRUG AND BIOLOGICAL PRODUCTS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 216; 42 USC 241; 42 USC 242a; 42 USC 262; 42 USC 263; 42 USC 263a-n; 42 USC 264; 42 USC 300aa; 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360b-j; 21 USC 361a; 21 USC 371; 21 USC 374; 21 USC 375; 21 USC 379e; 21 USC 381

CFR Citation:

21 CFR 310; 21 CFR 312; 21 CFR 314; 21 CFR 600; 21 CFR 320; 21 CFR 601; 21 CFR 606

Legal Deadline:

None

Abstract:

This regulation is one component of the Secretary's initiative to reduce medical errors. The proposed rule would amend the expedited and periodic safety reporting regulations for human drugs and biological products to revise certain definitions and reporting formats as recommended by the International Conference on Harmonisation and to define new terms; to possibly add to or revise current reporting requirements; to consider revising certain reporting time frames; and to suggest other revisions to these regulations to enhance the quality of safety reports received by FDA.

Statement of Need:

FDA currently has safety reporting requirements in section 21 CFR 312.32 for sponsors of investigational drugs for human use. FDA also has safety reporting requirements in sections 21 CFR 310.305, 314.80, 314.98 and 600.80 for applicants, manufacturers, packers and distributors of approved human drug and biological products. FDA has undertaken a major effort to clarify and revise these regulations to improve the management of risks associated with the use of these products. For this purpose, the agency is proposing to implement certain definitions and reporting formats and standards recommended by the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH) to provide more effective and efficient safety reporting to regulatory authorities worldwide. Currently, the United States, European Union, and Japan require submission of safety information for marketed drug and biological products using different reporting formats and different reporting intervals.

Summary of Legal Basis:

The agency has broad authority under sections 505 and 701 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 355 and 371) and section 351 of the Public Health Service Act (42 U.S.C. 262) to monitor the safety of drug and biological products for human use.

Alternatives:

The alternatives to the proposal include not amending our existing safety reporting requirements. This alternative would be inconsistent with FDA's efforts to harmonize its safety reporting requirements with international initiatives and with its mission to protect public health.

Anticipated Cost and Benefits:

Manufacturers of human drug and biological products currently have limited incentives to invest capital and resources in standardized global safety reporting systems because individual firms acting alone cannot attain the economic gains of harmonization. This proposed rule would harmonize FDA's safety reporting requirements with certain international initiatives, thereby providing the incentive for manufacturers to modify their safety reporting systems. Initial investments made by manufacturers to comply with the rule are likely to ultimately result in substantial savings to them over time.

The impact on industry includes costs associated with revised safety reporting and recordkeeping requirements. The benefits of the proposed rule are public health benefits and savings to the affected industries. The expected public health benefits would result from the improved timeliness and quality of the safety reports and analyses; making it possible for health care practitioners and consumers to expedite corrective actions and to make more informed decisions about treatments. Savings to the affected industry would accrue from more efficient allocation of resources resulting from international harmonization of the safety reporting requirements.

Risks:

None

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

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RIN: 0910–AA97

HHS—FDA

29. CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PACKING, OR HOLDING DIETARY INGREDIENTS AND DIETARY SUPPLEMENTS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

21 USC 321; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371; 21 USC 374; 21 USC 381; 21 USC 393; 42 USC 264

CFR Citation:

21 CFR 111

Legal Deadline:

None

Abstract:

The Food and Drug Administration (FDA) announced in an advance notice of proposed rulemaking (ANPRM) of February 6, 1997 (62 FR 5700), its plans to consider developing regulations establishing current good manufacturing practices (CGMP) for dietary supplements and dietary ingredients. The ANPRM was published in order for FDA to solicit comments on whether it should initiate action to establish CGMP regulations and if so, what constitutes CGMP for these products. FDA announced that this effort was in response to the section of the Federal Food, Drug, and Cosmetic Act (the Act) that provides authority to the Secretary of Health and Human Services to promulgate CGMP regulations and to a submission from the dietary supplement industry asking that FDA consider an industry-proposed CGMP framework as a basis for CGMP regulations. The ANPRM also responds to concerns that such regulations are necessary to ensure that consumers are provided with dietary supplement products which have not been adulterated as a result of manufacturing, packing, or holding; which have the identity and provide the quantity of dietary ingredients declared in labeling; and which meet the quality specifications that the supplements are represented to meet.

Statement of Need:

FDA intends to publish a proposed rule to establish current good manufacturing practices (CGMP) for dietary supplements and dietary ingredients for several reasons. First, FDA is concerned that some firms may not be taking appropriate steps during the manufacture of dietary supplements and dietary ingredients to ensure that products are not adulterated as a result of manufacturing, packing, or holding. There have been cases of misidentified ingredients harming consumers using dietary supplements. FDA is also aware of products that contain potentially harmful contaminants because of apparently inadequate manufacturing controls and quality control procedures. The agency believes that a system of CGMP is the most effective and efficient way to ensure that these products will not be adulterated during manufacturing, packing, or holding.

Summary of Legal Basis:

If CGMP regulations were adopted by FDA, failure to manufacture, pack, or hold dietary supplements or dietary ingredients under CGMP regulations would render the dietary supplement or dietary ingredients adulterated under section 402(g) of the Act.

Alternatives:

The two principal alternatives to comprehensive CGMP are end-product testing and Hazard Analysis Critical Control Points (HACCP). In the ANPRM, FDA asked for public comment on approaches to ensure that dietary supplements and dietary ingredients are not adulterated during the manufacturing process. The agency asked whether HACCP may be a more effective approach than a comprehensive CGMP, and whether different approaches may be better able to address the needs of the broad spectrum of firms that conduct one or more distinct operations, such as the manufacture of finished products, or solely the distribution and sale of finished products at the wholesale or retail level. FDA will consider the information it received in response to the ANPRM and from other sources, such as public meetings and small business outreach meetings, in its consideration of whether CGMP or other approaches are most appropriate.

Anticipated Cost and Benefits:

A comprehensive CGMP (or other system of ensuring that dietary supplements and dietary ingredients are not adulterated during manufacturing, packing, or holding) would permit more effective and efficient oversight by Federal, State, and local governments. It would place primary responsibility for ensuring that these products are not adulterated during manufacturing, packing, or holding on the manufacturer, packer or holder by requiring that they implement a system to control their processes. FDA anticipates that costs to industry generated by implementing a comprehensive manufacturing process, whether CGMP or other plan, would be offset in four ways: (1) by reducing the amount of supplement-associated illnesses or adverse events; (2) by increasing public confidence in dietary supplements marketed in the United States; (3) by enabling U.S. supplements companies to compete more effectively in the world market; and (4) by decreasing the number of future product recalls.

Risks:

Any potential for consumers to be provided adulterated (e.g., contaminated with industrial chemicals, pesticides, microbial pathogens, or dangerous misidentified ingredients or toxic components of ingredients) products must be considered a very serious risk because of the possibility that such contamination could be widespread, affecting whole segments of the population, causing some severe long-term effects and even loss of life. Dietary supplements are used by a large segment of the American public. Moreover they are often used by segments of the population that are particularly vulnerable to adulterated products, such as the elderly, young children, pregnant and nursing women, and persons who may have serious illnesses or are taking medications that may adversely interact with dietary supplements. FDA has adopted or proposed manufacturing controls for a number of foods and commodities that present potential health hazards to consumers if not processed properly, including seafood, juice products, and fruits and vegetables and it is appropriate that FDA consider whether manufacturing controls are necessary to assure consumers that dietary supplements are not adulterated during the manufacturing, packing, or holding process.

Timetable:

Action	Date	FR Cite
ANPRM	02/06/97	62 FR 5700
ANPRM Comment Period End	06/06/97	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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RIN: 0910–AB88

HHS—FDA

30. CONTROL OF SALMONELLA ENTERITIDIS IN SHELL EGGS DURING PRODUCTION AND RETAIL

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

21 USC 321; 21 USC 342; 21 USC 371; 21 USC 381; 21 USC 393; 42 USC 264; 42 USC 243; 42 USC 264; 42 USC 271; ...

CFR Citation:

21 CFR 16; 21 CFR 116; 21 CFR 118

Legal Deadline:

None

Abstract:

The President's Council on Food Safety was established in August 1998 to improve the safety of the food supply through science-based regulations and well-coordinated inspection, enforcement, research, and education programs. The Council has identified egg safety as one component of the public health issue of food safety that warrants immediate Federal, interagency action.

In July 1999, the Food and Drug Administration (FDA) and the Food Safety Inspection Service (FSIS) committed to developing an action plan to address the presence of salmonella enteritidis (SE) in shell eggs and egg products using a farm-to-table approach. FDA and FSIS held a public meeting on August 26, 1999, to obtain stakeholder input on the draft goals, as well as to further develop the objectives and action items for the action plan. The Egg Safety Action Plan was announced on December 11, 1999. The goal of the Action Plan is to reduce egg-related SE illnesses by 50 percent by 2005 and eliminate egg-related SE illnesses by 2010.

The Egg Safety Action Plan consists of eight objectives covering all stages of the farm-to-table continuum as well as support functions. On March 30, 2000 (Columbus, OH), April 6, 2000 (Sacramento, CA), and July 31, 2000 (Washington, DC), joint public meetings were held by FDA and FSIS to solicit and discuss information related to the implementation of the objectives in the Egg Safety Action Plan.

In accordance with discussions at the public meetings, FDA intends to publish a proposed rule to require that shell eggs be produced under an SE risk reduction plan that is designed to prevent transovarian SE from contaminating eggs at the farm during production.

Because egg safety is a farm-to-table effort, FDA intends to include in its proposal certain provisions of the 1999 Food Code that are relevant to how eggs are handled, prepared, and served at certain retail establishments. In addition, the agency plans to propose specific requirements for certain retail establishments that serve populations most at-risk of egg-related illness (i.e., the elderly, children, and the immunocompromised).

Statement of Need:

FDA is proposing regulations as part of the farm-to-table safety system for eggs outlined by the President's Council on Food Safety in its Egg Safety Action Plan to require that shell egg producers implement SE risk reduction plans at the farm and that retail establishments institute certain egg-relevant provisions of the 1999 Food Code. FDA intends to propose these regulations because of the continued reports of outbreaks of foodborne illness and death caused by SE that are associated with the consumption of shell eggs. The agency believes these regulations can have significant effect in reducing the risk of illness from SE-contaminated eggs and will contribute significantly to the interim public health goal of the Egg Safety Action Plan of a 50 percent reduction in egg-related SE illness by 2005.

Summary of Legal Basis:

FDA's legal basis for the proposed rule derives in part from sections 402(a)(4), and 701(a) of the Federal Food, Drug and Cosmetic Act (the Act)((21 U.S.C. 342(a)(4) and 371(a)). Under section 402(a)(4) of the Act, a food is adulterated if it is prepared, packed, or held in insanitary conditions whereby it may have been contaminated with filth or may have been rendered injurious to health. Under section 701(a) of the Act, FDA is authorized to issue regulations for the efficient enforcement of the Act. FDA also intends to rely on section 361 of the Public Health Service Act (42 U.S.C. 264), which gives FDA authority to promulgate regulations to control the spread of communicable disease.

Scientific reports in published literature and data gathered from existing voluntary egg quality assurance programs indicates that measures designed to prevent SE from entering a poultry house (e.g., rodent/pest control, use of chicks from SE-monitored breeders, and biosecurity programs) can be very effective in reducing SE-contamination of eggs and related foodborne illness.

Moreover, the use of shell eggs or egg products that have been treated to destroy SE or thorough cooking of untreated eggs in retail establishments will significantly contribute to the reduction of egg-related SE illnesses.

Alternatives:

There are several alternatives that the agency intends to consider in the proposed rule. The principal alternatives include: (1) no new regulatory action; (2) alternative testing requirements; (3) alternative on-farm mitigation measures; (4) alternative retail requirements; and (5) HACCP. FDA will consider the information that it receives in response to the public meetings in its consideration of the various alternatives.

Anticipated Cost and Benefits:

The benefits from a regulation designed to reduce the risk of SE contamination on the farm and at retail derive from better farming practices and safer handling and cooking of eggs at the retail level. While numerical estimates of benefits currently are not yet available, FDA believes that the benefits of the proposed rule will be significant. FDA plans to estimate benefits using data from the United

States Department of Agriculture (USDA) Risk Assessment for SE in Eggs, the Layers '99 study of on-farm SE controls, and from other available information on the effectiveness of SE controls.

The costs of the proposed rule are undetermined at this time.

Risks:

Any potential for contamination of eggs with SE and its subsequent survival or growth must be considered a very serious risk because of the possibility that such contamination, survival and growth could cause widespread foodborne illness, including some severe long-term effects and even loss of life. FDA made a decision to publish a proposed rule to require that shell egg producers have on-farm SE risk reduction plans and that retail establishments institute certain egg-relevant provisions of the 1999 Food Code based on a considerable body of evidence, literature and expertise in this area. In addition, this decision was also based on the USDA risk assessment on SE in shell eggs and egg products and the identified public health benefits associated with controlling SE in eggs at the farm and retail levels.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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RIN: 0910–AC14

HHS—FDA

31. • EXCEPTION FROM GENERAL REQUIREMENTS FOR INFORMED CONSENT; REQUEST FOR COMMENTS AND INFORMATION

Priority:

Other Significant

Legal Authority:

21 USC 321; 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 360bbb; 21 USC 360c; 21 USC 360d; 21 USC 360e; 21 USC 360f; 21 USC 360h; 21 USC 360i; 21 USC 360j; 21 USC 371; 21 USC 379e; 21 USC 381; 42 USC 241; 42 USC 262; 42 USC 263b-263n

CFR Citation:

21 CFR 50.23(e)

Legal Deadline:

None

Abstract:

FDA is proposing to add a new exception from the general requirement for informed consent to address situations associated with preparedness and response to chemical and biological terrorism, when investigational products regulated by FDA need to be used.

Statement of Need:

The agency is proposing this action because it is concerned that during a potential chemical or biological terrorism event, delaying the use of investigational products may threaten the lives of subjects. In many instances, there may also be others who have been exposed to or be at risk of exposure to a dangerous chemical or biological agent.

Summary of Legal Basis:

FDA believes the statutory authority provided in the Federal Food, Drug, and Cosmetic Act (the Act) would permit a limited exception to obtaining informed consent for chemical or biological terrorism events. The Act specifically states when an exception from informed consent is permissible. The statutory provision governing informed consent for investigational devices 520(g)(3)(D) of the Act, provides that informed consent is required unless the clinical investigator determines in writing that: (1) there exists a life-threatening situation involving the human subject of such testing which necessitates the use of such device; (2) it is not feasible to obtain informed consent from the subject; and (3) there is not sufficient time to obtain such consent from his representative. Further, a licensed physician uninvolved in the testing must agree with this three-part determination in advance of using the product unless immediate use of the device is required to save the life of the human subject of such testing and there is not sufficient time to obtain such concurrence. The statute states that the exceptions to requiring informed consent are subject to such conditions as the Secretary may prescribe. This proposed rule is not required by statute or court order.

Alternatives:

The only other option open to the agency is to do nothing. FDA believes that this option is not acceptable because it could result in improper treatment or no treatment for persons with serious illnesses because the health professionals could not use these investigational products in absence of informed consent.

Anticipated Cost and Benefits:

The minimal burdens imposed by this rule are offset by the fact that, in the absence of this rule, the sponsor would be required to obtain informed consent, which is just as burdensome, if not more so. The rule would permit use of investigational products without

which patients' lives might be threatened. Because of uncertainty about the nature or extent of any chemical or biological terrorism event, FDA cannot estimate the extent of the benefits of this rule.

Risks:

The primary risk addressed by this rule is the risk that patients may go untreated or may be improperly treated because health professionals could not use an investigational product in the absence of informed consent. FDA cannot determine the extent of this risk without knowing the nature or extent of any chemical or biological terrorism event.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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RIN: 0910–AC25

HHS—FDA

32. • BAR CODE LABEL REQUIREMENTS FOR HUMAN DRUG PRODUCTS

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

CFR Citation:

21 CFR 201.25; 21 CFR 601.67

Legal Deadline:

None

Abstract:

This regulation is one component of the Secretary's initiative to reduce medical errors. The proposal would require human drug products and biological products to have a bar code. The bar code would contain certain information about the product and, when used in conjunction with bar code scanners and computer equipment, will help reduce the number of medication errors.

Statement of Need:

In 1999, the Institute of Medicine (IOM) report titled, To Err Is Human: Building a Safer Health System, cited studies and articles estimating that between 44,000 and 98,000 Americans may die each year due to medical mistakes made by health care professionals, with most deaths attributable to medication errors. The report also indicated that, between 1983 and 1993, the medication error rate leading to a patient's death may have increased by over 2.5 times. While later medical articles have questioned the IOM's estimates, other studies have indicated that, regardless of the medication error rate, many medication errors are or were preventable.

Medication errors are a significant economic cost to the United States. An article published in 1995 estimated the direct cost of preventable drug-related mortality and morbidity to be $76.6 billion, with drug-related hospital admissions accounting for much of the cost. The authors suggested that indirect costs, such as those relating to lost productivity, might be two to three times greater than the direct costs, making the total cost of all preventable, drug-related mortality and morbidity range from $138 to $182 billion. Another article, published in 2001, used updated cost estimates derived from current medical and pharmaceutical literature to revise the $76.6 billion estimate to exceed $177.4 billion; hospital admissions accounted for $121.5 billion in costs, and long-term care admissions accounted for another $32.8 billion.

Various organizations and health professional associations have advocated the use of bar codes as a method for reducing medication errors. For example, if a health professional could use a bar code scanner to compare the bar code on a human drug product to a specific patient's drug regimen, the health professional would be able to verify that the patient is receiving the right drug, at the right dose, and at the right time. Most organizations and associations have recommended that the bar code contain the drug's National Drug Code number (a unique numerical code identifying the manufacturer, product, and package size or type), lot number, and expiration date.

Thus, FDA is proposing to require human drug products and biological products to be bar coded. The bar code would contain certain information about the product, such as its National Drug Code number. The agency is considering whether to require other information, such as the drug's expiration date and lot number, to make it easier to identify expired drugs and recalled drugs that may not be safe and effective for use. The bar code, when used in conjunction with bar code scanners and computer equipment, will enable health professionals to decrease the medication error rate.

Summary of Legal Basis:

Section 502 of the Federal Food, Drug, and Cosmetic Act (the Act) considers a drug to be misbranded unless it bears a label containing (in part) the name of the manufacturer and the drug's name (see sections 502(b) and 502(e)(1)(A) of the Act).

Section 501(a)(1) of the Act considers a drug to be adulterated if, among other things, the methods used in, or the facilities and controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that the drug meets the requirements of the Act as to safety and "has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess...."

Section 701(a) of the Act, in turn, authorizes FDA to issue regulations for the efficient enforcement of the Act.

A bar code requirement for human drug products and biological products would be consistent with, and aid in the efficient enforcement of, sections 501 and 502 of the Act. For example, if the bar code merely contained the drug's National Drug Code number, the bar code would identify the manufacturer and the drug, and this would be consistent with sections 502(b) and 502(e)(1)(A) of the Act. If the bar code contained other information, such as lot

number and expiration date (pieces of information required under FDA's good manufacturing practice regulations (see 21 CFR 211.130 and 211.137), this would be consistent with section 501(a)(1) of the Act.

Therefore, using its general rulemaking authority at section 701(a) of the Act, the agency finds that it has sufficient authority to propose requiring human drug products to have a bar code.

Alternatives:

FDA considered a voluntary bar coding program, but this would be akin to a "no action" alternative as many products are not bar coded or not coded in a manner that would help health professionals. A voluntary bar coding system might also lead to the adoption of incompatible bar coding formats on human drug products and biological products, thereby deterring hospitals and health care professionals from buying bar code scanners and computer equipment.

FDA also considered decreasing the amount of information it would require on the bar code. This would decrease bar coding costs to drug manufacturers and labelers, but also decrease the usefulness of the bar code and its ability to reduce medication errors.

Anticipated Cost and Benefits:

FDA is continuing to examine the potential costs and benefits associated with bar coding. The anticipated costs may vary greatly depending on the amount of information required in a bar code and the products to be bar coded. FDA's preliminary estimate is that the rule would cost between $500 million and $1.4 billion over a 10-year period; the wide range in the cost estimate reflects the agency's uncertainty as to the costs associated with various pieces of information that might go into a bar code, whether all or some human drug products and biological products are bar coded, and possible changes in labeling operations.

The rule's principal benefit would be a reduction in the number of medication errors, including reduced mortality and morbidity. As stated earlier, medication error costs have been estimated in the billions of dollars, and the agency is trying to determine the extent to which medication errors would be reduced.

Risks:

There is a possible risk that some manufacturers and repackagers, if required to bar code individual unit dose packages, would eliminate such types of packaging and only supply their products in bulk containers. Individual unit dose packages are convenient for hospitals, health professionals, and patients, but are expensive to produce, and bar coding may increase production costs. Consequently, a manufacturer or repackager who wanted to reduce its expenses might decide to reduce the number of packages, particularly individual unit dose packages, that would be subject to a bar coding requirement.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0910–AC26

HHS—FDA

FINAL RULE STAGE

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33. LABELING FOR HUMAN PRESCRIPTION DRUGS; REVISED FORMAT

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

21 USC 321; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

CFR Citation:

21 CFR 201

Legal Deadline:

None

Abstract:

This regulation is one component of the Secretary's initiative to reduce medical errors. The regulation would amend the regulations governing the format and content of professional labeling for human prescription drug and biologic products, 21 CFR 201.56 and 201.57. The regulation would require that professional labeling include a section containing highlights of prescribing information, and a section containing an index to prescribing information; reorder currently required information and make minor changes to its content, and establish minimum graphical requirements for professional labeling. The regulation would also eliminate certain unnecessary statements that are currently required to appear on prescription drug labels and move certain information to professional labeling.

Statement of Need:

The current format and content requirements in sections 201.56 and 201.57 were established to help ensure that labeling includes adequate information to enable health care practitioners to prescribe drugs safely and effectively. However, various developments in recent years, such as technological advances in drug product development, have contributed to an increase in the amount, detail, and complexity of labeling information. This has made it harder for practitioners to find specific information and to discern the most critical information in product labeling.

FDA took numerous steps to evaluate the usefulness of prescription drug labeling for its principal audience and to determine whether, and how, its format and content can be improved. The agency conducted focus groups and a national survey of office-based physicians to ascertain how prescription drug labeling is used by health care practitioners, what labeling information is most important to practitioners, and how professional labeling should be revised to improve its usefulness to prescribing practitioners.

Based on the concerns cited by practitioners in the focus groups and physician survey, FDA developed and tested two prototypes of revised labeling formats designed to facilitate

access to important labeling information. Based on this testing, FDA developed a third revised prototype that it made available to the public for comment. Ten written comments were received on the prototype. FDA also presented the revised prototype at an informal public meeting held on October 30, 1995. At the public meeting, the agency also presented the background research and provided a forum for oral feedback from invited panelists and members of the audience. The panelists generally supported the prototype.

The proposed rule discribed format and content requirements for prescription drug labeling that incorporate information and ideas gathered during this process. The agency has received several comments on the proposal and the comment period was extended until June 22, 2001.

Summary of Legal Basis:

The agency has broad authority under sections 201, 301, 501, 502, 503, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (the Act)(21 U.S.C. 321, 331, 351, 352, 353, 355 and 371) and section 351 of the Public Health Service Act (42 U.S.C. 262) to regulate the content and format of prescription drug labeling to help ensure that products are safe and effective for their intended uses. A major part of FDA's efforts regarding the safe and effective use of drug products involves FDA's review, approval, and monitoring of drug labeling. Under section 502(f)(1) of the Act, a drug is misbranded unless its labeling bears "adequate directions for use" or it is exempted from this requirement by regulation. Under section 201.100 (21 CFR 201.100), a prescription drug is exempted from the requirement in section 502(f)(1) only if, among other things, it contains the information required, in the format specified, by sections 201.56 and 201.57.

Under section 502(a) of the Act, a drug product is misbranded if its labeling is false or misleading in any particular. Under section 505(d) and 505(e) of the Act, FDA must refuse to approve an application and may withdraw the approval of an application if the labeling for the drug is false or misleading in any particular. Section 201(n) of the Act provides that in determining whether the labeling of a drug is misleading, there shall be taken into account not only representations or suggestions made in the labeling, but also the extent to which the labeling fails to reveal facts that are material in light of such representations or material with respect to the consequences which may result from use of the drug product under the conditions of use prescribed in the labeling or under customary usual conditions of use.

These statutory provisions, combined with section 701(a) of the Act and section 351 of the Public Health Service Act, clearly authorize FDA to promulgate a final regulation designed to help ensure that practitioners prescribing drugs (including biological products) will receive information essential to their safe and effective use in a format that makes the information easier to access, read, and use.

Alternatives:

The alternatives to the final rule include not amending the content and format requirements in sections 201.56 and 201.57 at all, or amending them to a lesser extent. The agency has determined that although drug product labeling, as currently designed, is useful to physicians, many find it difficult to locate specific information in labeling, and some of the most frequently consulted and most important information is obscured by other information. In addition, the agency's research showed that physicians strongly support the concept of including a highlights section of the most important prescribing information, an index and numbering system that permits specific information to be easily located, and other requirements, such as the requirement for a minimum type size. Thus, the agency believes that the requirements in the final rule will greatly facilitate health care practitioners' access and use of prescription drug and biological labeling information.

Anticipated Cost and Benefits:

The expected benefits from the final rule include reduced time needed for health care professionals to read or review labeling for desired information, increased effectiveness of treatment, and a decrease in adverse events resulting from avoidable drug-related errors. For example, the proposed revised format is expected to significantly reduce the time spent on reading labeling by highlighting often used information at the beginning of labeling and facilitating access to detailed information.

The potential costs associated with the final rule include the cost of redesigning labeling for previously approved products to which the proposed rule would apply and submitting the new labeling to FDA for approval. In addition, one-time and ongoing incremental costs would be associated with printing the longer labeling that would result from additional required sections. These costs would be minimized by applying the amended requirements only to newer products and by staggering the implementation date for previously approved products.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/22/00	65 FR 81082
Final Action	09/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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RIN: 0910–AA94

HHS—FDA

34. FOREIGN ESTABLISHMENT REGISTRATION AND LISTING

Priority:

Other Significant

Legal Authority:

21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360; 21 USC 360b; 21 USC 360c; 21 USC 360i; 21 USC 360j; 21 USC 371; 21 USC 374; 21 USC 381; 21 USC 393; 42 USC 262; 42 USC 264; 42 USC 271

CFR Citation:

21 CFR 207.3; 21 CFR 207.7; 21 CFR 207.10; 21 CFR 207.20; 21 CFR 207.21; 21 CFR 207.25; 21 CFR 207.37; 21 CFR 207.40; 21 CFR 607.3; 21 CFR 607.7; 21 CFR 607.20; 21 CFR 607.22; 21 CFR 607.25; 21 CFR 607.26; 21 CFR 607.31; 21 CFR 607.35; 21 CFR 607.37; 21 CFR 607.40; 21 CFR 607.65; 21 CFR 807.3; 21 CFR 807.20; 21 CFR 807.25; 21 CFR 807.40

Legal Deadline:

None

Abstract:

The final rule requires persons who manufacture, prepare, propagate, compound, or process a drug or device that is imported or offered for import into the United States to register the name and place of business of the establishment and to identify a United States agent for the establishment.

Statement of Need:

Section 417 of the Food and Drug Modernization Act (PL 105-115) requires any establishment in any foreign country that is engaged in the manufacture, preparation propagation, compounding, or processing of a drug or device that is imported or offered for import into the United States to register the name and place of business of the establishment and to identify a United States agent.

The final rule implements the statutory requirement by amending the establishment registration and listing regulations for human drugs and biological products (21 CFR part 207), blood and blood products (21 CFR part 607), and devices (21 CFR part 807). The final rule also discusses the duties of the United States agent. The United States agent's duties, under the final rule, include facilitating communications with the foreign establishment and responding to inquiries about the foreign establishment's products that are imported or offered for import into the United States. The final rule will strengthen FDA's procedures for ensuring that products imported or offered for import into the United States are safe and effective.

Summary of Legal Basis:

The principal legal basis can be summarized as follows. Section 510 of the Federal Food, Drug, and Cosmetic Act (the Act) requires establishment registration and listing. Section 417 of the Food and Drug Modernization Act amended section 510 by requiring foreign establishments to register, to list their products, and to identify a United States agent.

Section 701(a) of the Act gives FDA authority to promulgate regulations for the efficient enforcement of the Act. Thus, the final rule represents FDA's effort to enforce section 510 of the Act, as amended by section 417 of the Food and Drug Modernization Act.

Alternatives:

FDA considered requiring less establishment registration information, but the information required by the rule is quite minimal, consisting largely of the establishment's address, names of owners or responsible officials, and additional identifying information (such as the type of establishment). An alternative that would have required less information would not give FDA sufficient information to identify a foreign establishment's location, type, or responsible persons, and this would complicate efforts to locate or contact the foreign establishment.

FDA also rejected requiring less frequent registration by foreign establishments because this would increase the likelihood that the information would become incorrect or obsolete and would hinder regulatory actions involving foreign establishments.

FDA also considered comments seeking an exemption from the United States agent requirement or to allow the United States agent to be in a foreign country. However, the statute requires foreign establishments to have a United States agent, and the most logical interpretation of the statute is that the United States agent must be in the United States rather than in a foreign country. FDA did state that the United States agent may be an entity or a person.

Anticipated Cost and Benefits:

FDA examined the potential costs and benefits associated with foreign establishment registration. Given its experience with establishment registration for domestic firms, FDA estimates the total registration costs for foreign establishments to be $809,820. Recordkeeping costs are estimated at $810,000.

The rule's principal benefit would be the creation of an accurate, comprehensive list of foreign establishments. This list will make it easier for FDA to identify foreign establishments, schedule inspections, and contact foreign establishments when needed. The United States agent is another benefit as the United States agent will help FDA in communications with the foreign establishment, respond to questions regarding the foreign establishment's products that are imported or offered for import into the United States, and help schedule inspections of the foreign establishment.

Risks:

Before the enactment of the Food and Drug Modernization Act, Federal law required domestic establishments to register with FDA and to list their products. Foreign manufacturers could register their establishments voluntarily, but were required to list their products. The different treatment between domestic and foreign establishments created some confusion among foreign establishments. Some foreign establishments erroneously believed that listing was voluntary; others neither registered their establishments nor listed their products.

Establishment registration enables FDA to identify manufacturers and other FDA-regulated entities for inspection, communication, and other administrative or regulatory action. For example, if a foreign product presented a health or safety concern, FDA would contact the foreign manufacturer, but if the foreign establishment was not registered, the agency might find it difficult to contact the foreign manufacturer promptly or to contact the manufacturer at all.

Requiring foreign establishments to register will facilitate FDA's regulatory and enforcement actions and treat domestic and foreign establishments alike. Moreover, the regulation implements section 417 of the Food and Drug Modernization Act.

Timetable:

Action	Date	FR Cite
NPRM	05/14/99	64 FR 26330
NPRM Comment Period Reopen	08/09/99	
NPRM Comment Period End	10/08/99	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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RIN: 0910–AB21

HHS—FDA

35. FOOD LABELING: TRANS FATTY ACIDS IN NUTRITION LABELING, NUTRIENT CONTENT CLAIMS, AND HEALTH CLAIMS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371; ...

CFR Citation:

21 CFR 101

Legal Deadline:

None

Abstract:

Section 403(q) of the Federal Food, Drug, and Cosmetic Act, which was added by the Nutrition Labeling and Education Act of 1990 (NLEA), requires that the label or labeling of food products bear nutrition information. Among other things, section 403(q) of the Act authorizes the Food and Drug Administration (FDA) to add or delete nutrients that are to be declared on the labels or labeling of food products by regulation if it finds such action necessary to assist consumers in maintaining healthy dietary practices. FDA issued final regulations implementing NLEA in 1993. FDA subsequently received a citizen petition requesting that FDA amend its regulations on food labeling to require that the amount of trans fatty acids be listed in the nutrition label and be limited wherever saturated fat limits are placed on nutrient content claims, health claims, or disqualifying levels and disclosure levels. In response to this petition and based on new evidence, FDA proposed the actions requested in the petition on November 17, 1999 (64 FR 62746). In addition, FDA proposed to define the claim "trans fat free."

Statement of Need:

FDA intends to publish a final rule amending its nutrition labeling regulations to incorporate requirements for trans fatty acids in labeling, nutrient content and health claims for several reasons. First, this final rule responds, in part, to a citizen petition on trans fatty acids in food labeling from the Center for Science in the Public Interest. Also, recent research shows that dietary trans fatty acids raise low density lipoprotein cholesterol (LDL-C), the major diet related risk factor for coronary heart disease (CHD). Finally, the information on trans fatty acids in nutrition labeling is needed to assist consumers in maintaining healthy dietary practices.

Summary of Legal Basis:

The NLEA (Pub. L. 101-535) amended the Federal Food, Drug, and Cosmetic Act (the Act) to provide, among other things, that certain nutrients and food components be included in nutrition labeling. Sections 403(q)(2)(A) and (q)(2)(B) of the Act provide the agency with authority to, by regulation, add or delete nutrients included in the food label or labeling if the agency finds that such action will assist consumers in maintaining healthy dietary practices.

Alternatives:

FDA proposed, in the November 1999 proposal, that when trans fatty acids are present in a food, the declaration of saturated fat must bear a symbol that refers to a footnote at the bottom of the nutrition label that states the number of grams of trans fatty acids present in a serving of the product, i.e., "Includes ——— g trans fat." In addition to the proposed option, the agency considered a variety of other options for the declaration of trans fatty acids in the Nutrition Facts panel. The other options were: (1) include trans fatty acids with saturated fat and call the total value "saturated fat;" (2) include trans fatty acids with saturated fat and call the total value "saturated fat," and add an asterisk after the term "saturated fat" when the food contains trans fatty acids that refers to a footnote stating "Contains ——— g trans fat;" (3) include trans fatty acids with saturated fat and call the total value "saturated + trans fat;" and (4) list trans fatty acids separately under saturated fat.

Anticipated Cost and Benefits:

FDA has estimated the benefits of the proposed rule in the range of $25 to $50 billion compared with costs in the range of $400 to $900 million (discounted at 7 percent for 20 years). The value of the benefits were estimated based on CHD morbidity and mortality prevented. The costs were estimated based on a formula that included costs for testing, decisionmaking, information panel reprinting, relabeling of the principal display panels and product reformulation.

Risks:

The American Heart Association estimates that CHD causes 1.1 million heart attack cases annually, with 33 percent of them fatal. FDA used these estimates as the baseline to estimate the number of cases and fatalities prevented by this rule. The agency estimated the rule would annually prevent 6,300 to 17,100 cases of CHD and 2,100 to 5,600 deaths, using three different methods to estimate these benefits. Thus, the labeling changes resulting from this rule are expected to reduce the risk of CHD, preventing, at a minimum, 6,300 cases of CHD and 2,100 deaths annually.

Timetable:

Action	Date	FR Cite
NPRM	11/17/99	64 FR 62746
NPRM Comment Period Reopened	12/05/00	65 FR 75887
NPRM Comment Period End	01/19/01	
Final Rule	09/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0910–AB66

HHS—FDA

36. CGMPS FOR BLOOD AND BLOOD COMPONENTS: NOTIFICATION OF CONSIGNEES AND TRANSFUSION RECIPIENTS RECEIVING BLOOD AND BLOOD COMPONENTS AT INCREASED RISK OF TRANSMITTING HCV (LOOKBACK)

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

21 USC 321; 42 USC 216; 42 USC 262; 42 USC 263; 42 USC 263a; 42 USC 264; 42 USC 300aa-25; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371; 21 USC 374

CFR Citation:

21 CFR 606; 21 CFR 610

Legal Deadline:

None

Abstract:

This rulemaking is one of a number of actions being taken to amend the biologics regulations to remove, revise, or update the regulations applicable to blood, blood components, and blood derivatives. These actions are based on a comprehensive review of the regulations performed by FDA, and are also based on reports by the U.S. House of Representatives Committee on Government Reform and Oversight, Subcommittee on House Resources and Intergovernmental Relations, the General Accounting Office, and the Institute of Medicine, as well as public comments. In this rulemaking, FDA will amend the biologics regulations to require that blood establishments prepare and follow written procedures for appropriate action when it is determined that blood and blood components pose an increased risk for transmitting hepatitis C virus (HCV) infection because they have been collected from a donor who, at a later date, tested repeatedly reactive for evidence of HCV.

Statement of Need:

In the Federal Register of June 22, 1999 (64 FR 33309), FDA announced the availability of guidance, which updated previous guidance, providing recommendations for donor screening and further testing for antibodies to HCV, notification of consignees, transfusion recipient tracing and notification, and counseling by physicians regarding transfusion with blood components at increased risk for transmitting HCV (often called "lookback"). While available evidence indicates that blood establishments are following these recommendations, FDA believes that regulations should be codified, consistent with the previous recommendations, to assure there is clear enforcement authority in case deficiencies in an establishment's lookback program are found and to provide clear instructions for continuing lookback activities.

Summary of Legal Basis:

The Public Health Service Act (21 U.S.C. 216 et seq.) and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) authorize FDA to regulate biological products and to ensure that the products are safe, pure, potent, and effective. The Public Health Service Act also contains the authority under which FDA can promulgate regulations to prevent the spread of communicable diseases. These regulations would assure that appropriate action is taken when blood components have been transfused which may potentially be capable of transmitting HCV, that persons who have been transfused with such blood components are notified so that they receive proper counseling and treatment, and to help prevent the further transmission of HCV.

Alternatives:

FDA has considered permitting the continued voluntary compliance with the recommendations that have already issued. However, lookback will remain appropriate for the foreseeable future, and FDA believes that the procedures should be clearly established in the regulations.

Anticipated Cost and Benefits:

FDA is in the process of analyzing the costs related to the rulemaking. Monetary burdens will be associated to the tracing of previous donations of donors, identifying the recipients of these previous blood donations, and notifying these recipients, as appropriate. FDA believes these costs will be more than compensated by the public health benefits, including benefits related to the notification of past transfusion recipients who may be unaware that they may be infected with HCV.

Risks:

FDA believes there are minimum risks posed by requiring that appropriate lookback procedures for HCV be prepared and followed.

Timetable:

Action	Date	FR Cite
NPRM	11/16/00	65 FR 69377
NPRM Comment Period End	02/14/01	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

See RIN 0910-AB26.

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RIN: 0910–AB76

HHS—FDA

37. MARKING REQUIREMENTS FOR AND PROHIBITIONS ON THE REIMPORTATION OF IMPORTED FOOD PRODUCTS THAT HAVE BEEN REFUSED ADMISSION INTO THE UNITED STATES

Priority:

Other Significant

Legal Authority:

15 USC 145; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 343; 21 USC

352; 21 USC 355; 21 USC 360b; 21 USC 362; 21 USC 371; 21 USC 374; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 216; 42 USC 241; 42 USC 243; 42 USC 262; 42 USC 264

CFR Citation:

21 CFR 1.98

Legal Deadline:

None

Abstract:

The rule would require food products that have been refused entry into the United States for safety reasons to be marked, "United States Refused Entry." The proposed rule is intended to protect the public health against contaminated or unsafe imported food products and to facilitate FDA's examination of imported products.

Statement of Need:

In 1998, the General Accounting Office issued a report titled, "Food Safety: Federal Efforts to Ensure the Safety of Imported Foods Are Inconsistent and Unreliable." The report stated that some food importers evade import controls and are able to introduce contaminated, adulterated, or unsafe food into the United States even after FDA refused to admit the food and the Customs Service ordered the food to be reexported or destroyed.

Additionally, in 1998, the Senate Permanent Subcommittee on Investigations conducted hearings on the safety of food imports. The subcommittee heard testimony about reimporting refused foods through another port (a practice known as "port shopping)." On July 3, 1999, the President issued a memorandum to the Secretary of Health and Human Services and the Secretary of the Treasury directing them, in part, to take all actions available to "prohibit the reimportation of food that has been previously refused admission and has not been brought into compliance with United States laws and regulations" by requiring the marking of shipping containers and/or papers of imported food that is refused admission for safety reasons.

Consequently, FDA and the Department of the Treasury jointly prescribed a rule to require that imported food that has been refused admission for safety reasons be marked as "UNITED STATES REFUSED ENTRY." The mark will make it easier to detect previously refused food and reduce, if not eliminate, "port shopping."

Summary of Legal Basis:

Section 801(a) of the Federal Food, Drug, and Cosmetic Act (the Act) authorizes FDA to refuse to admit imported food if the food has been manufactured, processed, or packed under insanitary conditions, is forbidden or restricted in sale in the country in which is was produced, or is adulterated or misbranded. Sections 402 and 403 of the Act describe when a food is adulterated or misbranded respectively. Section 701(a) of the Act authorizes FDA to issue regulations for the efficient enforcement of the Act, while section 701(b) of the Act authorizes FDA and the Department of the Treasury to jointly prescribe regulations for the efficient enforcement of section 801 of the Act.

The final rule is within FDA's authority at sections 402, 403, 701, and 801 of the Act. In general, unsafe food is often adulterated under section 402 of the Act, and may also be misbranded under section 403 of the Act if the food purports to meet a particular definition, standard of identity, or standard of quality. Marking refused foods will make it easier for FDA to refuse to admit previously-refused, adulterated or misbranded food imports into the United States.

Additionally, section 301 of the Public Health Service Act (PHS Act) authorizes FDA to "render assistance" to appropriate health authorities in the conduct of or to promote coordination of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of disease. Section 361 of the PHS Act authorizes FDA to issue regulations to prevent the introduction, transmission, or spread of communicable diseases into the United States. Marking refused food products will help foreign health officials determine whether to take regulatory action against a particular product. It would also alert foreign officials to previously refused food and help prevent the introduction, transmission, or spread of communicable diseases into the United States by making it more difficult for unsafe food to reenter the United States.

Alternatives:

FDA considered exempting small businesses from the rule, but, because most importers and consignees would qualify as small businesses, this would negate the rule's purpose.

The agency also considered ordering the destruction of all refused food imports, but this would not be feasible because it would divert federal resources to supervising or otherwise ensuring that the refused food imports are stored until they can be destroyed and that they are destroyed.

A "no action" alternative was rejected because it would allow illegal practices, such as port shopping, to continue, resulting in unsafe food entering the United States.

FDA also rejected marking some, but not all, imported food refused entry for safety reasons. While this alternative would be less costly, it would also be less efficient because some refused food imports would be able to reenter the United States and because a previously-refused, but unmarked, food would be difficult to detect compared to a previously-refused and marked food. This alternative would also result in arguments as to the criteria to be applied and whether a particular food should be marked.

Anticipated Cost and Benefits:

FDA examined the potential costs and benefits associated with marking refused food imports. Importers and consignees would bear the costs associated with marking refused food imports. If these importers and consignees use labeling (an inexpensive and time efficient method) as their marking method, the annual cost to importers and consignees would be $398,663 with an additional $39,600 in costs for labeling equipment. FDA would incur an estimated $308,131 in hourly wage costs associated with refusals to admit an imported food and for supervising the marking process.

The rule's principal benefit would be a reduction in the number of illnesses and injuries caused by unsafe imported food. The agency is unable to quantify the amount of illegal importation of previously refused foods, so it cannot accurately predict the value of reduced illnesses and injury.

Risks:

There is a possible risk that previously refused, unpackaged food (such as loose grain in a railroad car) would be able to enter the United States because the food itself cannot be marked, although the final rule would require the importer or consignee to affix the mark on papers accompanying the product.

Timetable:

Action	Date	FR Cite
NPRM	01/22/01	66 FR 6502

Action	Date	FR Cite
NPRM Comment Period End	04/09/01	
Final Rule	04/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0910–AB95

HHS—FDA

38. EFFICACY EVIDENCE NEEDED FOR PRODUCTS TO BE USED AGAINST TOXIC SUBSTANCES WHEN HUMAN STUDIES ARE UNETHICAL

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

15 USC 1451 to 1561; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360c to 360f; 21 USC 360h to 360j; 21 USC 371; 21 USC 374; 21 USC 379e; 21 USC 381; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 263b; 21 USC 321; PL 105-115, sec 122, 111 stat 2322 (21 USC 355 note)

CFR Citation:

21 CFR 314; 21 CFR 601

Legal Deadline:

None

Abstract:

The agency plans to publish a final rule that would amend its new drug and biological product regulations to identify the information needed to provide substantial evidence of the efficacy of new drug and biological products used to reduce or prevent the toxicity of chemical, biological, radiological, or nuclear substances when adequate and well-controlled efficacy studies in humans ethically cannot be conducted. Efficacy studies in humans cannot be conducted ethically if: 1) the studies would involve administering a potentially lethal or permanently disabling toxic substance or organism to healthy human volunteers without a proven treatment; and 2) field trials (assessment of use of the product after accidental or hostile exposure to the substance) are not feasible. FDA is taking this action because it recognizes the importance of improving medical responses to the use of lethal or permanently disabling chemical, biological, radiological, and nuclear substances in order to protect individuals exposed to these substances.

Statement of Need:

A distinct possibility exists that American military personnel and civilians may be exposed to lethal or permanently disabling chemical, biological, or radiological substances in the course of conventional or unconventional warfare, as a result of terrorist actions, or as a consequence of an industrial accident. Significant difficulties are presented in conducting efficacy studies on drug and biological products intended to reduce or prevent the toxicity of these substances in humans. The incidence of exposure is so low that field efficacy studies cannot be conducted and the toxicity of the substances prevents them from being ethically given to healthy volunteers. The only practical and ethical means of evaluating the efficacy of drugs and biological products in these situations is to rely on data from animal studies that are an adequate model for the action of both the toxin and the drug or biological product in humans.

Summary of Legal Basis:

FDA approves new drugs under the authority of the Federal, Food, Drug, and Cosmetic Act (the Act) and biological products under section 351 of the Public Health Service Act. Section 505(d) (21 USC 355(d)) of the Act authorizes the Secretary of Health and Human Services to issue an order refusing to approve a new drug application if the Secretary finds that "there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof ...." The term substantial evidence is defined in section 505(d) of the Act as"... evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and responsibly be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof."

In interpreting the term "substantial evidence," FDA has viewed the phrase "adequate and well-controlled investigations, including clinical investigations" as meaning that efficacy determinations must include studies of efficacy in humans. The agency's regulations did not contemplate situations in which efficacy studies cannot ethically be conducted in humans, and FDA believes that it would be inconsistent with the statute's public health objectives to conclude that FDA cannot use some other basis for considering the efficacy of such products. The legislative history does not address this issue. Concluding that such products cannot ever be approved because human efficacy trials cannot be conducted is contrary to the public interest and inconsistent with the Act's purpose of public health protection.

FDA has therefore concluded that, where definitive human efficacy studies cannot ethically be conducted because they would necessarily expose healthy subjects to a potentially lethal or permanently disabling substance, the statutory standard permits efficacy to be based on adequate and well-controlled investigations that are not conducted in humans. This conclusion is consistent with the recognition by Congress of the importance of ethical behavior in the study of unapproved products. For FDA to approve products where definitive efficacy studies cannot be conducted in humans there must be sufficient data available to meet the statutory standard. The data must be such that experts are able to fairly and responsibly conclude "that the drug will have the effect it purports or is represented to have ..." in humans. Where data from adequate and well-controlled animal studies meet this standard, FDA may approve the product.

Alternatives:

FDA did not identify any valid alternatives to using efficacy data from animal studies to approve drug and biological products used to treat or

prevent the toxicity of chemical, biological, or radiological substances where the normal incidence of exposure is so low that normal clinical trials would be impractical and the deliberate exposure of volunteers to the substances would be unethical. The rule would not apply if product approval can be based on standards described elsewhere in FDA's regulations (for example, accelerated approval based on human surrogate markers or clinical endpoints other than survival or irreversible morbidity).

Anticipated Cost and Benefits:

The potential public health benefits of having new drugs and biological products approved under this rule are difficult to measure. The cost of approving new drugs and biological products under this rule should not exceed the cost of approving similar drugs based on clinical efficacy data.

Risks:

Risks from the use of drugs and biological products approved under this rule should be minimal. The safety of these products will be studied in human volunteers comparable to the people who would be exposed to the product.

Timetable:

Action	Date	FR Cite
NPRM	10/05/99	64 FR 53960
Final Action	04/00/02	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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RIN: 0910–AC05

HHS—FDA

39. • ADDITIONAL CRITERIA AND PROCEDURES FOR CLASSIFYING OVER-THE-COUNTER DRUGS AS GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED

Priority:

Economically Significant

Legal Authority:

21 USC 321; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

CFR Citation:

21 CFR 330

Legal Deadline:

None

Abstract:

The OTC drug review establishes conditions under which OTC drugs are generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This final rule establishes additional criteria and procedures by which other OTC conditions may become eligible for consideration in the OTC drug monograph system. The additional criteria and procedures describe how OTC drugs marketed in the United States after the OTC drug review began in 1972 and OTC drugs without any U.S. marketing experience may become eligible and, if found eligible, how the drug would be evaluated for general recognition of safety and effectiveness.

Statement of Need:

This final rule establishes additional criteria and procedures by which over-the-counter (OTC) conditions (e.g., ingredients, combinations of ingredients, uses) may become eligible for inclusion in the OTC drug monograph system. This rule benefits manufacturers and consumers because it provides for increased access to certain OTC drugs under certain conditions.

Summary of Legal Basis:

The legal basis is the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. sections 321, 351, 352, 353, 355, 360 and 371. No aspect of the action is required by statute or court order.

Alternatives:

Without this final rule, the only alternative to marketing approval for drugs subject to the rule would be an NDA.

Anticipated Cost and Benefits:

The major benefit of this rule will be increased over the counter access to drugs, and potential cost savings to consumers. Considering potential one-time cost savings associated with prescription drug user fees and reduced reporting requirements of marketing under an OTC drug monograph vs. an NDA, the agency calculates a one-time cost savings to industry of around $300,000 per submission. Future yearly cost savings could total around $21,000 per product and $142,000 per establishment if the submitted product were the establishment's only product. If FDA receives 25 to 50 submissions a year, industry would save between $7.3 and $14.5 million in one-time costs alone.

Risks:

There are minimal risks associated with this final rule. The flexibility to market drug products under FDA's OTC drug monograph system provides an overall net benefit to the companies seeking to use this approach, as well as to the American public. One important benefit to sponsoring companies is the saving of NDA user fees (see Anticipated Costs and Benefits above). The American public benefits by having OTC drugs without any U.S. marketing experience but sufficient foreign marketing experience become available in the U.S.

Timetable:

Action	Date	FR Cite
ANPRM	10/03/96	61 FR 51625
ANPRM Comment Period End	01/02/97	
NPRM	12/20/99	64 FR 71062
NPRM Comment Period End	03/22/00	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

No

Government Levels Affected:

None

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HHS—Indian Health Service (IHS)

PROPOSED RULE STAGE

40. TRIBAL SELF-GOVERNANCE AMENDMENTS

Priority:

Other Significant

Legal Authority:

PL 106-260, sec 517(a)(2); 25 USC 450, Tribal Self-Governance Amendments

CFR Citation:

None

Legal Deadline:

NPRM, Statutory, August 18, 2001, Expiration of authority to promulgate final rule: May 18, 2002.

Abstract:

Title V of the Tribal Self-Governance Amendments of 2000 (Pub. L. 106-260) made permanent the demonstration program which allowed tribes full control over the operation and redesign of various activities historically managed by IHS. The proposal includes provisions that govern how IHS and Tribes will carry out their responsibilities under the Act.

Statement of Need:

Given the success of the Self-Governance demonstration program that had been in operation since 1992, Congress elected to make the program permanent. Under the Act, Tribal compacts initiated under the demonstration program will continue with up to 50 additional compact awards each year. Currently, almost 44 percent of IHS funds are allocated for tribally controlled programs.

Summary of Legal Basis:

Section 517(a) of the Act requires the Secretary to initiate procedures to negotiate and promulgate the regulations.

Alternatives:

Negotiated rulemaking is prescribed by the Act and is consistent with Federal policy on coordination and consultation with tribal governments. Given the number of Indian and Alaska Native Tribes and extent of the provisions covered by the Act, absence of this regulation would have a substantial negative impact on the implementation of title V. The proposed rule represents a consensus of Tribal and Federal representatives on most of the provisions. Failure to implement the rule would result in wide variation in interpretation of the provisions and potential for increased litigation. Further, failure to implement the rule would be received poorly by Tribal leaders who have worked in good faith to reach consensus on the provisions.

Anticipated Cost and Benefits:

Not appicable.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Rule	05/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, Tribal

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HHS—Centers for Medicare & Medicaid Services (CMS)

PROPOSED RULE STAGE

41. NATIONAL STANDARD FOR IDENTIFIERS OF HEALTH PLANS (CMS-4145-P)

Priority:

Other Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal goverments.

Legal Authority:

42 USC 1320d-2(b)(1) of the Social Security Act

CFR Citation:

45 CFR 160.103; 45 CFR 162

Legal Deadline:

Final, Statutory, February 21, 1998.

Abstract:

This rule would implement a standard identifier to identify health plans that process and pay certain electronic health care transactions. It would implement one of the requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996.

Statement of Need:

This rule would implement the national health plan identifier; one of the requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996.

Summary of Legal Basis:

Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104-191, August 21, 1996, sec. 1173).

Alternatives:

Three alternatives were considered:

Option 1: Federal and State Medicaid Agencies Cost : $38.1M

Option 2: Private Organizations Cost : $38.1M

Option 3: Registry Cost : $34.9M

Duration: Every option is required to complete the enumeration process within two years of the promulgation and effective date of the Final Rule for all health plans, except that small health plans have three years to comply.

Option 1: Two or more coordinating entities will share responsibility for enumerating health plans. The entities would consist of Federal and State Medicaid programs.

Option 2: Same as option one, except that coordinating entities would consist of private organizations.

Option 3: CMS, acting through a contractor, would be the single entity enumerating all health plans and maintaining the registry.

Decision: The Secretary has selected option three, not only because its costs are lower, but also because it would result in less burden on organization in coordinating enumeration, less confusion for health plans, better quality control of data control, and better management of the enumeration process.

Anticipated Cost and Benefits:

A benefit/cost analysis was conducted with three contribution rates of PlanID toward overall HIPPA cost savings. Given a 1 percent contribution rate, the PlanID project shows a net present value of over $12.8 M and a benefit/cost ratio of 1.45. For 5 and 15 percent rates, the net present values are $179.2M and $595.3M, respectively, and the benefit cost ratios are 7.23 and 21.69, respectively. These values indicate that the implementation of the PlanID project will result in a considerable positive return on investment.

Risks:

There are three categories of risk:

Technical and Operational—physical/logical system

Schedule—delays/slippage

Cost/Budget—cost overruns, funding shortfalls, unexpected funding needs

An assessment and mitigation of risks was conducted as part of the information technology documentation. The subsequent risk analysis determined the project to be a low risk endeavor.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State

Federalism:

This action may have federalism implications as defined in EO 13132.

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RIN: 0938–AH87

HHS—CMS

42. HEALTH INSURANCE REFORM: STANDARDS FOR ELECTRONIC CLAIMS ATTACHMENTS (CMS-0050-P)

Priority:

Other Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal goverments.

Legal Authority:

42 USC 1320d-2(a)(2)(B)

CFR Citation:

45 CFR 162

Legal Deadline:

Final, Statutory, August 21, 1998.

Abstract:

This rule proposes an electronic standard transmissions for claims attachments. The standard is required by HIPAA. It would be used to transmit clinical data, beyond those data contained in the claims standard, to help establish medical necessity or coverage.

Statement of Need:

The Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 requires the Secretary of Health and Human Services to adopt standards for electronically requesting and supplying additional information to support submitted claims data. This rule stipulates the requirements necessary to comply with the law.

Summary of Legal Basis:

The Administrative Simplification provisions of HIPAA require the Secretary to establish standards that additionally support information attached to claims.

Alternatives:

In the absence of this regulation, claims attachments in electronic form would be left with the private industry to develop. This action may create an inconsistent standard use of electronic claims attachments within the health care industry.

Anticipated Cost and Benefits:

As the effect of any one of the HIPAA standards is affected by the implementation of other standards, it is misleading to discuss the impact of one standard by itself. Therefore, an Impact Analysis on the total effect of all standards was published in the proposed rule concerning the national provider identifier (HCFA-0045-P) which was published on May 7, 1998 (63 FR 25320).

Risks:

Failure to publish this rule would mean that no standard for electronic claims attachments would be established for use within the health care system. Lack of a standard electronic claims attachments would decrease the amount of savings in health care costs.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Federal, Tribal

Federalism:

This action may have federalism implications as defined in EO 13132.

Procurement:

This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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HHS—CMS

43. HEALTH INSURANCE REFORM: MODIFICATIONS TO STANDARDS FOR ELECTRONIC TRANSACTIONS (CMS-0003-P)

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Legal Authority:

Social Security Act, sec 1871

CFR Citation:

45 CFR 162

Legal Deadline:

None

Abstract:

This proposed rule would adopt modifications to certain standards for retail pharmacies adopted in our regulations entitled "Health Insurance Reform: Standards for Electronic Transactions" published in the Federal Register on August 17, 2000 (65 FR 50312), which implemented some of the requirements of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996. This rule proposes to adopt the National Council for Prescription Drug Programs Batch Standard Batch Implementation Guide, Version 1, Release 1 (Version 1.1), January 2000 for the following standards for retail pharmacy transactions: health care claims or equivalent encounter information; eligibility for a health plan; referral certification and authorization; and coordination of benefits. Additionally, we propose to modify the standard for the health care claim payment and remittance advice transaction as the standard for the retail pharmacy sector by adopting, in place of the current standard, the ASC X12N 835, Health Care Claim Payment/Advice, as the standard for the retail pharmacy transaction.

This rule also proposes to repeal the adoption of National Drug Codes as the standard medical data code set for reporting drugs and biologics in all standard transactions, except those for retail pharmacy transactions, for which standards have been adopted.

Statement of Need:

The Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 requires the Secretary of Health and Human Services to adopt standards for electronic transactions. This rule modifies previous adopted standards to standards that are currently in use throughout the health care industry.

Summary of Legal Basis:

The Administrative Simplification provisions of HIPAA require the Secretary to establish standards of electronic transactions for health plans, health care clearing houses, and certain health care providers.

Alternatives:

Failure to publish this rule would cause non-compliance with standards that are already in widespread use throughout the health care industry.

Anticipated Cost and Benefits:

The estimated costs and benefits of this rule would not change the impact of the Standard for Electronic Transaction final rule published on August 17, 2000 (65 FR 50312).

Risks:

This rule would permit compliance with standards currently used within the health care industry.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

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HHS—CMS

44. PROSPECTIVE PAYMENT SYSTEM FOR LONG-TERM CARE HOSPITALS FOR FY 2003 (CMS-1177-P)

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Legal Authority:

BBRA, sec 123; BIPA, sec 307; PL 105-33, sec 4422; PL 106-113, sec 123; PL 106-544, sec 307(b)

CFR Citation:

42 CFR 412

Legal Deadline:

NPRM, Statutory, December 31, 2001, Final rule 4/30/02.

Abstract:

This rule would implement a prospective payment system for long-term care hospitals.

Statement of Need:

The Medicare inpatient hospital acute-care PPS was established by the Social Security Amendments of 1983 (Pub. L. 98-21). This prospective payment system (PPS) generally applies to all hospitals participating in the Medicare program with certain exclusions, exemptions, and adjustments specifically set out under the law. Long-term care hospitals (LTCHs), established under section 101 of Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982, which amended section 1886(b) of the Social Security Act, was one of four classes of specialty hospitals (the others being children's, psychiatric, rehabilitation, and psychiatric and rehabilitation units in acute-care hospitals) that were excluded from the inpatient acute-care PPS. These classes of hospitals and cancer hospitals, which were added to the category of, excluded hospitals beginning in fiscal year 1990, under section 6004 of the Omnibus Budget Reconciliation Act (OBRA) of 1989, continued to be paid for under TEFRA. The exemption of these facilities from the PPS was intended to be a temporary measure, pending the development of more appropriate systems to pay these providers under a PPS.

Section 123 of Public Law 106-113, the Balanced Budget Refinement Act of 1999 (BBRA), requires the establishment and implementation of a prospective payment system (PPS) for long-term care hospitals (LTCHs) by October 1, 2002. Section 307(b) of Public Law 106-554, the Benefits Improvement and Protection Act of 2000 (BIPA), authorized the Secretary to examine and evaluate a number of adjustment factors for inclusion in the LTCH PPS. Congressional intent regarding a timely implementation of the LTCH PPS is reflected in the statutory establishment of a default model under which LTCHs will receive

Medicare payments for services furnished on or after October 1, 2002.

Summary of Legal Basis:

Section 123 of Public Law 106-113, the BBRA, requires that the Secretary develops and implements the PPS for LTCHs by October 1, 2002. Section 307(b) of Public Law 106-554 confers broad authority on the Secretary to determine whether and which payment adjustments should be included in the system.

Alternatives:

None.

Anticipated Cost and Benefits:

Section 123(a) of the BBRA requires that the PPS for LTCH maintain budget neutrality. Payment will be estimated using the excluded hospitals' market basket update. The ability to pay for long-term care prospectively at LTCHs will have a direct, positive impact on the Medicare system by controlling the increase in costs for services that these hospitals provide. Although some hospitals will benefit more than others during the first year of the PPS due to variations in individual case mix indices, we anticipate that the system to "self-correct" within two years, because the more accurate coding and data-reporting required by a PPS will affect payment rates. Operating under a PPS will also have a beneficial impact on the efficient management and planning capability of individual LTCHs.

Risks:

Failure to develop and implement the PPS for LTCHs by October 1, 2002 would place us in violation of the BBRA and BIPA. Moreover, failure to meet the deadlines imposed by the notice and comment rulemaking process (citation) would make it impossible to comply with statutory requirements for implementation.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Local, Federal

Federalism:

Undetermined

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HHS—CMS

45. MODIFICATIONS TO MEDICARE MANAGED CARE RULES BASED ON PROVISIONS OF BIPA AND TECHNICAL CORRECTIONS (CMS-1180-P)

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

BIPA, sec 601 to 608; BIPA, sec 611 to 621; BIPA, sec 623; BIPA, sec 634

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

This regulation would implement certain Medicare payment provisions of the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) of 2000. The policy changes include premium reductions for M+C enrollees, uniform coverage for M+C plans in multiple locations, eliminating health disparities, M+C program compatibility with employer or union group plans, ESRD enrollees, and increased civil money penalties for M+C organizations that terminate contracts mid-year. Moreover, this regulation describes CMS' authority to waive or modify requirements that hinder the design of, the offering of, or the enrollment in such M+C plans offered to employers or labor unions.

Statement of Need:

This rule would implement changes to the Social Security Act (the Act) enacted in sections 606, 612, 615, 616, 617, 620, 621, and 623 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA), relating to the Medicare+Choice (M+C) program. These changes include permitting premium reductions as additional benefits, restricting implementation of significant new regulatory requirements midyear, allowing a uniform local coverage policy for M+C plans covering multiple localities, and allowing us to waive or modify certain requirements that hinder the offering of M+C plans to employers or labor unions.

Summary of Legal Basis:

Sections 606, 612, 615, 616, 617, 620, 621, and 623 of BIPA.

Alternatives:

None.

Anticipated Cost and Benefits:

These changes to the M+C regulations, implementing the provisions of BIPA pertaining to the M+C program would result in more flexibility for the M+C plans, enabling them to better serve their Medicare enrollees, including ESRD enrollees. The changes would also assist the M+C organizations in the marketplace by allowing them to waive or modify certain regulatory requirements that hinder the offering of M+C plans to employers or labor unions.

Risks:

If not published timely, the regulations will not implement changes mandated by the Congress. With the exception of one, all of the provisions of BIPA have already taken effect consistent with the effective dates established by the BIPA.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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RIN: 0938–AK71

HHS—CMS

46. REVISIONS TO TRANSACTION AND CODE SET STANDARDS FOR ELECTRONIC TRANSACTIONS (CMS-0005-P)

Priority:

Other Significant

Legal Authority:

Social Security Act, sec 1171 to 1179; PL 104-191

CFR Citation:

45 CFR 162

Legal Deadline:

None

Abstract:

This rule would adopt modifications to the standards for electronic health care transactions adopted by the Secretary in regulations published August 2000. These modifications enable covered entities to comply with the standards and area result of the Designated Standard Maintenance Organization (DSMO) process.

Statement of Need:

The Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 requires the Secretary of Health and Human Services to adopt standards for electronic transactions. This rule modifies previous adopted standards as a result of the Designated Standard Maintenance Organization (DSMO) process.

Summary of Legal Basis:

The Administrative Simplification provisions of HIPAA require the Secretary to establish standards of electronic transactions for health plans, health care clearing houses, and certain health care providers.

Alternatives:

In the absence of this regulation, standard for electronic transactions would be left with the private industry to develop. This action may create an inconsistent standard use of electronic claims attachments within the health care industry.

Anticipated Cost and Benefits:

The estimated costs and benefits of this rule would not change the impact of the Standard for Electronic Transaction Final Rule published on August 17, 2000 (65 FR 50312).

Risks:

Modifying standards established in the Standard for Electronic Transaction Final Rule (65 FR 50312), as a result of the Designated Standard Maintenance Organization (DSMO) process, will allow the health care industry to be in compliance with regulations under HIPAA. This proposed rule would enable providers, health plans, and clearinghouses to utilize a consistent set of electronic standards that are in compliance throughout the entire health care community.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

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HHS—CMS

47. ORGAN PROCUREMENT ORGANIZATION CONDITION FOR COVERAGE (CMS-3064-IFC)

Priority:

Other Significant

Legal Authority:

42 USC 1320b-8(b)(1)(A)(i); 42 USC 273(b)(2)

CFR Citation:

42 CFR 486.301

Legal Deadline:

Final, Statutory, January 1, 2002, Requires promulgation of new conditions.

Abstract:

This rule would establish conditions for coverage for organ procurement organizations (OPOs) to be certified by the Secretary to receive payment from Medicare and Medicaid for organ procurement costs and to be designated by the Secretary for a specific geographic service area.

Statement of Need:

This rule contains new conditions for coverage for organizations OPOs, including new performance standards. This rule would also increase the rectification cycle for OPOs from two years to four years.

Summary of Legal Basis:

Section 1138(b) of the Social Security Act (the Act) provides the statutory qualifications and requirements that an OPO must meet in order to receive payment for organ procurement costs associated with procuring organs for hospitals under the Medicare and Medicaid programs. This section gives the Secretary broad authority to establish performance-related standards for OPOs. Under this authority, the Secretary established conditions for coverage for OPOs at 42 CFR 486.301, et seq. Section 1138(b) of the Act specifies that an OPO must be certified or rectified by the Secretary as meeting the standards to be a qualified OPO as described in section 371(b) of the Public Health Service (PHS) Act. The PHS Act requirements were established by the National Organ Transplant Act of 1984 and include provisions for OPO board membership, staffing, agreements with hospitals, and membership in the OPTN. The Organ Procurement Organization Certification Act of 2000 (section 701 of Pub. L. 106-505, 42 U.S.C. section 273(b)(1)(D)) amended section 371(b) of the PHS Act to require CMS to increase the certification cycle for OPOs from two years to four years and promulgate new performance standards for OPOs.

Alternatives:

CMS is considering various alternatives in the development of performance measures and additional conditions for coverage and will solicit public comments in order to identify additional alternatives.

Anticipated Cost and Benefits:

Undetermined.

Risks:

Undetermined.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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HHS—CMS

48. • HOME HEALTH PROSPECTIVE PAYMENT SYSTEM REFINEMENTS (CMS-1161-P)

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

PL 105-33, sec 4603(a); PL 105-277, sec 5101(c); PL 105-277, sec 5101(d); PL 106-113, sec 305 to 306; PL 106-554, sec 502; PL 106-554, sec 508; 42 USC 1395ff

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

This rule proposes refinements to the case-mix policies governing the home health prospective payment system (PPS) for FY 2004.

Statement of Need:

This rule proposes refinements to the PPS case-mix for FY 2004. Future refinements may include, but are not limited to, accuracy, modification of existing adjustments to the PPS to improve distributional integrity of the system, and changes to improve case-mix.

Summary of Legal Basis:

Section 1895 of the Social Security Act allows the Secretary to establish a prospective payment system for payment of all costs of Medicare home health services. Section 1895(b)(3)(B) allows the Secretary to adjust the standards prospective payment amount (or amounts) for subsequent fiscal years so as to eliminate the effect of coding or classification changes that do not reflect real changes in case mix.

Alternatives:

In this regulation, we will explore the possibility of PPS refinements based on an analysis of the appropriateness and accuracy of payments for different case mixes and the overall distributional effects of PPS.

Anticipated Cost and Benefits:

At this point, it is too early to determine any specific costs and benefits of this regulatory action. We believe the overall effect of such refinements will be a more equitable distribution of payments to home health agencies.

Risks:

The home health industry will benefit from refinements that will result in more precise and equitable payments based on ongoing analysis of the PPS environment and refinements to the case mix methodology. Beneficiaries will similarly benefit from payment methodology improvements which more accurately distribute Medicare payments based on relative patient needs. We believe any risk will be minimized by assuring that proposed refinements are based on objective analysis of ongoing data reflecting HHA behavior and beneficiary impacts under the current system.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
Final Action	05/00/03	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

None

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HHS—CMS

49. • MEDICAID MANAGED CARE (CMS-2104-F)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

Sec 4701 to 4710, Balanced Budget Act of 1997; sec 1932, Social Security Act

CFR Citation:

42 CFR 400; 42 CFR 430; 42 CFR 431; 42 CFR 434; 42 CFR 435; 42 CFR 438; 42 CFR 440; 42 CFR 447

Legal Deadline:

None

Abstract:

This rule will revise recently published provisions for the Medicaid Managed Care program. It would also address quality of care and services under Medicaid managed care arrangements. In addition, this rule would affect enrollee rights and responsibilities, as well as contracts between State agencies and managed care organizations.

Statement of Need:

This regulation is necessary in order to implement the Medicaid managed care provisions of the Balanced Budget Act of 1997 (BBA). The Secretary has committed to releasing this final regulation as soon as possible so that States can begin to make necessary changes to their systems and operations.

Summary of Legal Basis:

Section 4701 through 4710 of the Balanced Budget Act of 1997; Section 1932 of the Social Security Act.

Alternatives:

To not publish a final regulation, which will leave States with no guidance for implementing the BBA's managed care provisions.

Anticipated Cost and Benefits:

This regulation is economically significant. However, the regulation includes new managed care rate setting provisions that will be of great benefit to States and health plans. We have heard repeatedly from States and health plans that they are in support of the rate setting provisions as they will help offset the cost of other provisions within the regulation.

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Risks:

If we do not publish a final regulation by August 16, 2002, the final rule with comment period that was published on January 19, 2001 will take effect.

Timetable:

Action	Date	FR Cite
NPRM	08/20/01	66 FR 43613
NPRM Comment Period End	10/19/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

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RIN: 0938–AK96

HHS—CMS

50. • MEDICAID UPPER PAYMENT LIMIT FOR NON-STATE GOVERNMENT-OWNED OR OPERATED HOSPITALS (CMS-2134-P)

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

Sec 1902(a)(30), Social Security Act

CFR Citation:

42 CFR 447.321

Legal Deadline:

None

Abstract:

This rule concerns the Medicaid upper payment limit (UPL) for inpatient hospital services and outpatient hospital services furnished by non-State government-owned or operated hospitals.

Statement of Need:

This rule addresses the Medicaid upper payment limit for inpatient and outpatient hospitals furnished by non-State government-owned or operated facilities.

Summary of Legal Basis:

Section 1902(a)(30)(A) of the Social Security Act requires the State plan provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist the plan at least to the extent that such care and services are available to the general population in the geographic area.

Alternatives:

None.

Anticipated Cost and Benefits:

Undetermined.

Risks:

Undetermined.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State

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RIN: 0938–AL05

HHS—CMS

51. • HOME HEALTH PROSPECTIVE PAYMENT SYSTEM RATE UPDATE FOR FY 2003 (CMS-1198-NC)

Priority:

Other Significant

Legal Authority:

Balanced Budget Act, PL 105-33, sec 460.3(a); OCESAA, PL 105-277, sec 5101(c); OCESAA, PL 105-277, sec 5101(d); Balanced Budged Act Refinement Act of 1999, PL 100-113, sec 305; Balanced Budget Act Refinement Act of 1999, PL 100-113, sec 306; Medicare, Medicaid & SCHIP Benefits Improve.& Protection Act of 2000, PL 106-544; ...

CFR Citation:

Not Yet Determined

Legal Deadline:

Other, Statutory, October 1, 2002, Publish by 07/01/2002.

Abstract:

This notice with comment period updates rates for the home health prospective payment system for FY 2003.

Statement of Need:

This annual rate update is required by section 1895(b)(3)(B) of the Social Security Act.

Summary of Legal Basis:

Section 1895 of the Social Security Act allows the Secretary to establish a prospective payment system for payment of all costs of Medicare home health services. Section 1895(b)(3)(B) provides for the Secretary's adjustment of the standard prospective payment amount (or amounts) for subsequent fiscal years.

Alternatives:

There are no alternatives to a home health prospective payment system rate update for FY 2003 without new legislation.

Anticipated Cost and Benefits:

At this time, the data are not available to determine the specific rate updates for FY 2003.

Risks:

We risk being out of compliance with the statutory requirement that the home health prospective payment system rates be updated annually for inflation.

Timetable:

Action	Date	FR Cite
Notice	07/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0938–AL16

HHS—CMS

52. • REQUIREMENTS FOR PAID FEEDING ASSISTANTS IN LONG-TERM CARE FACILITIES (CMS-2131-P)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

Sec 1819(a) to (f) of the Social Security Act; sec 1919(a) to (g) of the Social Security Act; PL 100-203

CFR Citation:

42 CFR 483.73; 42 CFR 483.75(c)

Legal Deadline:

None

Abstract:

This rule would permit long-term care facilities to use paid feeding assistants to supplement the services of certified nurse aids. If facilities choose this option, feeding assistants must complete a specified training program. This proposed rule would benefit residents by ensuring that more of them will receive the help with eating and drinking that they need.

Statement of Need:

The Secretary wants to revise the policy in order to permit long term care facilities to employ paid feeding assistants.

Summary of Legal Basis:

Sections 1819(a) through (f) and 1919(a) through (g) of the Social Security Act, PL 100-203.

Alternatives:

None.

Anticipated Cost and Benefits:

This rule may help nursing homes to supplement staffing in order to help more residents who have eating and drinking difficulties.

Risks:

This rule may cause confusion in State survey agencies, which have the responsibility for surveying long-term care facilities. It may also cause concerns for nursing home resident advocates.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

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RIN: 0938–AL18

HHS—CMS

53. • HOSPITAL OUTPATIENT PROSPECTIVE PAYMENT SYSTEM FOR CALENDAR YEAR 2003 (CMS-1206-P)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

42 USC 1395 L; BBA'97; BBRA' 99; BIPA' 00

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

These rules would revise the Medicare hospital outpatient department prospective payment system for the January 2, 2003 update.

Statement of Need:

Annual updates to the hospital outpatient prospective payment systems rates are required by section 1833 of the Social Security Act (the Act), as amended by the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (BBRA), and the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA), relating to Medicare payments for hospital outpatient department patient prospective payment systems.

Summary of Legal Basis:

Section 1833(t) of the Act sets forth a system of payment for hospital outpatient department services furnished to Medicare beneficiaries based on prospectively set rates.

Alternatives:

None.

Anticipated Cost and Benefits:

Undetermined.

Risks:

Failure to update the hospital outpatient department prospective payment systems would place us in violation of the Act. Moreover, failure to meet the publication deadline imposed by the Act would also constitute a violation.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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RIN: 0938–AL19

HHS—CMS

54. • PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED BILLING FOR SKILLED NURSING FACILITIES-UPDATE FOR FY 2003 (CMS-1202-P)

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

Sec 1888(e) of the Social Security Act

CFR Citation:

42 CFR 410; 42 CFR 411; 42 CFR 413; 42 CFR 424; 42 CFR 489

Legal Deadline:

NPRM, Statutory, March 29, 2002.

Final, Statutory, July 31, 2002.

Abstract:

This rule sets forth updates to the payment rates under the prospective payment system (PPS) for skilled nursing facilities (SNFs) for fiscal year (FY) 2003.

Statement of Need:

The Medicare SNF PPS was established by section 4432 of the Balances Budged Act of 1997 (BBA). The PPS applies to all costs (routine, ancillary, and capital) of covered SNF services furnished to beneficiaries under part A of the Medicare program, effective for cost reporting periods beginning on or after July 1, 1998. Annual updates to the PPS rates are required by section 1888(e) of the Social Security Act (the Act), as amended by the Medicare, Medicaid, and SCHIP Balanced Budged Refinement Act of 1999 (BBRA), and the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA), relating to Medicare payments and consolidated billing for SNFs.

Summary of Legal Basis:

Section 1888(e)(4)(H) requires that annual updates to the SNF PPS rates be published in the Federal Register before August 1 of each year, to be effective on the first day of the fiscal year.

Alternatives:

None.

Anticipated Cost and Benefits:

Section 1888(e) of the Act established the SNF PPS for the payment of Medicare SNF services for cost reporting periods beginning on or after July 1, 1998. This section also specifies that the base year cost date to be used in computing the Resource Utilization Group III (RUG-III) payment rates must be from FY 1995. The Act also requires that a number of elements be incorporated into the SNF PPS, such as case-mix classification methodology, the Minimum Data Set (MDS) assessment schedule, a market basket index, a wage index, and the urban and rural distinction used in the development or adjustment of the Federal rates. Payment for SNF care prospectively has a direct, positive impact on the Medicare program by controlling the increase in costs for services provided by SNFs. Operating under a PPS also has a beneficial impact on the efficient management and planning capability of individual SNFs.

Risks:

Failure to update the SNF PPS by October 1, 2002 would place us in violation of the Act. Moreover, failure to meet the publication deadline imposed by the Act would also constitute a violation.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

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RIN: 0938–AL20

HHS—CMS

55. • REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE FOR CALENDAR YEAR 2003 (CMS-1204-P)

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

42 USC 1395W-4

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

This rule would make several changes affecting Medicare part B payment.

Statement of Need:

Since January 1, 1992, Medicare has paid for physicians' services under section 1848 of the Social Security Act (the Act), "Payment for Physicians' Services." This section provides for three major elements: 1) a fee schedule for the payment of physicians' services; 2) a sustainable growth rate for the rates of increase in Medicare expenditures for physicians' services; and 3) limits on the amounts that nonparticipating physicians can charge beneficiaries. The Act requires that payments under the fee schedule be based on national uniform relative value units (RVUs) based on the resources used in furnishing a service. Section 1848(c) of the Act requires that national RVUs be established for physician work, practice expense, and malpractice expense.

Summary of Legal Basis:

Section 6102 of the Omnibus Reconciliation Act of 1989 (Pub. L. 101-239) amended the Act by adding section 1848, "Payment for Physicians' Services" that requires Medicare to pay for physicians' services under a fee schedule. Section 4644 of the Balanced Budget Act of 1997 (Pub. L. 105-33)

amended section 1848(b)(1) of the Act by requiring that we publish fee schedules that establish payment amount of all physicians' services before November 1 of the preceding year, each year.

Alternatives:

None.

Anticipated Cost and Benefits:

The statute requires that annual adjustments to physician fee schedule RVUs not cause annual payments to differ by more than $20 million from what they would have been had the adjustments not been made. If this threshold is exceeded, we would make adjustments to the conversion factor (the dollar amount that converts relative values into a payment amount for a physician's service) to preserve budget neutrality.

Because changes to RVUs must be budget neutral, if we increase a service's RVUs, we must reduce the overall multiplier (or the actual RVUs) that converts the RVUs to a dollar amount. Therefore, certain physician specialty groups may experience an increase in payment and some may experience a decrease in payment.

Risks:

Failure to establish payment amounts for physicians' services would place us in violation of section 1848 of the Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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RIN: 0938–AL21

HHS—CMS

56. • HOSPITAL INPATIENT REHABILITATION PROSPECTIVE PAYMENT SYSTEM FOR FY 2003 (CMS-1205-P)

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

PL 105-33, sec 4421; 42 USC 1395ww(j), sec 1886(j) of the Social Security Act

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

We will revise the Medicare inpatient rehabilitation hospital PPS to implement statuary requirements and incorporate changes that arise from our experience with the system. We will also review the amounts and factors used to determine rates for Medicare rehabilitation hospitals and rehabilitation units of a hospital.

The provision specified in the prospective payment system inpatient rehabilitation for hospitals 2002 final regulation will become effective for cost reporting periods on or after January 2002.

Statement of Need:

The Balanced Budget Act (BBA) significantly changed the way we will pay for Medicare covered services furnished to a Medicare inpatient in a rehabilitation facility. The BBA requires payments to be based on the inpatient operating and capital costs of rehabilitation facilities and adjusted for: 1) case mix using patient classification groups; 2) area wages; 3) inflation; 4) outlier and special payments; and 5) other factors necessary to reflect variations in costs of treatment. Total payments made under the system to rehabilitation facilities during fiscal year 2002 are required to equal 100 percent of the estimated payments that would have been made under the current TEFRA payment system. Outlier payments in a fiscal year may not exceed five percent of the total projected payments for the fiscal year.

The BBA gives us considerable discretion in designing the prospective payment system. Payment rates must be based on the discharge. The case mix classification groups may be based on those factors as the Secretary deems appropriate such as impairment, age, related prior hospitalization, co-morbidities, and functional capability of the patient.

Summary of Legal Basis:

Section 1886(j) to the Social Security Act, as added by section 4421 of the BBA, and as amended by section 125 of BBRA and section 305 of BIPA, to provide prospective payment for inpatient rehabilitation facilities (freestanding and units).

Alternatives:

None.

Anticipated Cost and Benefits:

Based on the results of implementation of other Medicare prospective payment systems, CMS believes that the implementation of the prospective payment system, as the method to pay for the services furnished to Medicare beneficiaries who are inpatients in rehabilitation facilities, will yield significant savings to the Medicare program. We estimate that the inpatient rehabilitation facilities prospective payment system costs for FY 2003 will be $10 million. The FY 2003 estimated costs of $10 million are associated with the portion of inpatient rehabilitation facilities cost reporting periods between October 1, 2002, and September 30, 2003 using the FY 2002 rates. However, we have not completed our analysis, so we can not be specific about the expected full costs and benefits of the FY 2003 rates.

Risks:

Altering the method that we pay rehabilitation facilities for the services they furnish to Medicare inpatients has the potential to affect a beneficiary's access to care and the quality of care furnished to a beneficiary. Therefore, we will be implementing methods to monitor the effect of the prospective payment system on these two associated patient care concerns.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

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RIN: 0938–AL22

HHS—CMS

57. • HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM FOR FY 2003 (CMS-1203-P)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

Sec 1886(d) of the Social Security Act

CFR Citation:

Not Yet Determined

Legal Deadline:

NPRM, Statutory, April 1, 2002.

Final, Statutory, August 2, 2002.

Abstract:

We would revise the Medicare hospital inpatient prospective payment system for operating costs to implement changes arising from our continuing experience with the system. In addition, in the Addendum, we describe changes to the amounts and factors used to determine the rates for Medicare hospital inpatient services for operating costs and capital-related costs. These changes apply to discharges occurring on or after October 2, 2002.

Statement of Need:

Annual updates to the hospital inpatient prospective payment system rates are required by section 1886 of the Social Security Act (the Act), as amended by the Medicare, Medicaid, and SCHIP Balanced Budged Refinement Act of 1999 (BBRA), and the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA), relating to Medicare payments for hospital inpatient prospective payment systems.

We are proposing to revise the Medicare hospital inpatient prospective payment systems for operating and capital costs to: describe proposed changes to the amounts and factors used to determine the rates for Medicare hospital inpatient services for operating costs and capital-related costs. These changes would be applicable to discharges occurring on or after October 1, 2002. We also are setting forth proposed rate-of-increase limits as well as proposed policy changes for hospitals and hospital units excluded from the prospective payment systems.

Summary of Legal Basis:

Section 1886(d) of the Social Security Act sets forth a system of payment for the operating costs of the acute care hospital inpatient system under Medicare part A based on prospectively set rates. Section 1866(g) of the Act requires the Secretary to pay for the capital-related costs of hospital inpatient stays under a prospective payment system.

Section 1886(e)(5)(B) requires that annual updates to the hospital inpatient prospective payment systems rates be published in the Federal Register before August 1 of each year, to be effective on the first day of the fiscal year (FY).

Alternatives:

None.

Anticipated Cost and Benefits:

The cost and benefits of this regulation will depend upon the market basket projection by the Office of the Actuary. Under current law, the update for FY 2003 will be market basket minus .55 percentage points. A one percent change in payments under the inpatient prospective payment system represents an approximately $760 million change.

Risks:

Inadequately paying for the services hospitals furnish to Medicare beneficiaries has the potential to affect a beneficiary's access to care and the quality of care furnished to a beneficiary. Therefore, we will carefully assess the impacts of all of the changes we implement through this regulation to mitigate these risks.

Failure to update the hospital inpatient prospective payment systems by October 1, 2003 would place us in violation of the Act. Moreover, failure to meet the publication deadline imposed by the Act would also constitute a violation.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Federalism:

Undetermined

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RIN: 0938–AL23

HHS—CMS

58. • INITIATIVE TO ENDORSE PRESCRIPTION DRUG DISCOUNT PROGRAMS (CMS-4027-P)

Priority:

Economically Significant

Legal Authority:

42 USC 1395b-3; 42 USC 1302; 42 USC 1302b-10

CFR Citation:

None

Legal Deadline:

None

Abstract:

The proposed rule would set forth a Department of Health and Human Services' initiative for a Medicare endorsement to entities currently offering prescription drug discounts to the general public to offer prescription drug discount cards to Medicare beneficiaries. The proposed rule would set forth the criteria the Department proposes to establish for participation in the initiative, including qualifications for entities for endorsement, and the proposed method by which entities could apply for Medicare endorsement. The proposed rule would request public comment on all aspects of the prescription drug discount card initiative.

Statement of Need:

Currently, Medicare beneficiaries have limited opportunities to obtain

discounts on prescription drugs, and lack information on how to pursue such opportunities that exist. The proposed rule would propose a program, among other things: (1) to educate Medicare beneficiaries about private market methods available for securing discounts on the purchase of prescription drugs; (2) to provide a mechanism for Medicare beneficiaries to gain access to the effective tools widely used in the private sector to receive lower priced, quality pharmaceuticals; (3) to endorse qualified private sector prescription drug discount card programs; and (4) to provide Medicare beneficiaries an opportunity to enroll in a prescription drug discount card program.

Because of the limited opportunities Medicare beneficiaries have to obtain discounts on prescription drugs, on July 12, 2001, President George W. Bush and Secretary Tommy Thompson announced an initiative to provide Medicare beneficiaries with a way to obtain a Medicare-endorsed prescription drug discount card and to educate them about such discount card programs. On September 11, 2001, a District Court judge preliminarily enjoined the Secretary from implementing that Medicare-Endorsed Prescription Drug Discount Card initiative, published in the Federal Register on July 18, 2001. The judge's order was based in part on a preliminary finding that the Secretary should have issued the initiative through notice and comment rulemaking. This proposed rule would open to public comment the discount card initiative as a whole, as well as the qualifications necessary for the Medicare endorsement.

Summary of Legal Basis:

There are a number of legal authorities that support the Secretary's endorsement of available prescription drug discount programs, including 42 U.S.C. 1395b-3; 42 U.S.C. 1302 (authority to make and publish such rules and regulations as are necessary to the efficient administration of the functions charged under the Social Security Act); and 42 U.S.C. 1320b-10.

Alternatives:

Rather than offering Medicare endorsement to entities that meet defined qualifications, the Secretary could perform a study of prescription drug discount cards currently available in the market and provide recommendations to Medicare beneficiaries regarding which prescription drug discount cards provide the highest-quality services.

The Secretary could also serve as a clearinghouse for currently available prescription drug discount card sponsors to provide information on their products. Such information could include information on enrollment fees, the names or types of drugs for which discounts are offered, the discounts available on such drugs, and the scope of discount cards' networks of pharmacies.

Anticipated Cost and Benefits:

The benefits of this proposed initiative will be: (1) the education of Medicare beneficiaries about private market methods available for securing discounts on the purchase of prescription drugs, and (2) the provision of a mechanism for Medicare beneficiaries to gain access to the effective tools widely used by prescription benefit managers and by discount card programs to get lower drug prices and higher quality pharmaceutical care. The Department anticipates that, as a result of this proposed initiative, Medicare recipients could obtain prescription drugs they currently may be unable to afford and may, thus, remain healthier. The Department anticipates that this, in turn, may ultimately lead to cost-savings for Medicare.

The Department will incur some program costs associated with developing educational materials on discount programs and providing such information to Medicare beneficiaries, evaluating applicants, and assisting the start-up of a consortium of prescription drug programs to run the program. Applicants and entities offering endorsed prescription drug discount cards will incur certain costs, but such costs are voluntary since participation in the program is voluntary.

Risks:

Undetermined.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0938–AL28

HHS—CMS

FINAL RULE STAGE

59. HEALTH INSURANCE REFORM: STANDARD UNIQUE HEALTH CARE PROVIDER IDENTIFIER (CMS-0045-F)

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

42 USC 1320D-2(b)(1)

CFR Citation:

42 CFR 160; 42 CFR 162

Legal Deadline:

Final, Statutory, February 21, 1998.

Abstract:

This rule addresses the health care industry's need for a standardized provider identifier. It implements one of the requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996. A standard provider identifier will save the health insurance industry significant costs incurred in maintaining multiple identifier systems.

Statement of Need:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. 104-191) creates a new part C, entitled "Administrative Simplification," to title XI of the Social Security Act. One of the standards for health identifiers that is mandated by part C is a standard unique health care provider identifier, to be used in the

health care system. This regulation announces the adoption of the National Provider Identifier (NPI) as the standard unique health care provider identifier. It also provides information on how health care providers will be assigned NPIs and defines the requirements of health plans, health care providers, and health care clearinghouses with respect to obtaining and using this standard. Implementation of the NPI and the other Administrative Simplification standards will increase the efficiency of the processing of standard transactions within the health care system.

Summary of Legal Basis:

Currently, health plans assign identification numbers to their member health care providers. Different health plans assign different numbers to the same health care providers. The identifiers are frequently not standard within a health plan or across health plans. This results in health care providers having different identification numbers for different health programs, often having multiple billing numbers issued within a single health program. This complicates the health care providers' claims submissions and other transactions and increases the costs incurred by health care providers in conducting those transactions.

The Administrative Simplification provisions of HIPAA were designed to improve the efficiency and effectiveness of the health care system by encouraging the development of a health information system through the establishment of the standard unique health care provider identifier and other standards and requirements to facilitate the electronic transmission of certain health information.

Alternatives:

This regulation announces the NPI as the standard unique health care provider identifier. The NPI is a 10-position all numeric identifier, with a check-digit in the tenth position. There is no intelligence in the number. This design and our assignment strategy will allow more than 200 million NPIs to be issued. The NPI meets the principles established by the Department of Health and Human Services (HHS) for designation as a national standard. This final regulation defines "health care provider" in terms of the entities that will receive NPIs.

Health care providers will be enumerated by a federally directed registry (the enumeration contractor). The enumeration contractor will use the National Provider System (NPS) to uniquely identify a health care provider and issue it an NPI. The NPS will be developed by CMS. Health care providers must supply updates to their NPS data to the enumeration contractor within 30 days of the effective dates of the changes.

The NPS will establish the National Provider File (NPF), which will contain information collected from health care providers in order to assign them NPIs. The NPS will assign a single, unique NPI to a health care provider. Upon the dissolution of an organization health care provider or the death of a individual health care provider, the NPS will deactivate the NPI that had been issued to that health care provider and will not assign a deactivated NPI to any other health care provider.

Anticipated Cost and Benefits:

Our analysis of the costs and savings of the HIPAA Administrative Simplification standards is an aggregate impact of all the standards. Assessing the impact of each standard independently would inflate the costs and would yield inaccurate results. While each individual standard is beneficial, the standards as a whole have a synergistic effect on savings. A difficulty in this analysis was the fact that we have no historical experience in assessing the costs and benefits of such a sweeping change. The costs of implementing the standards specified in HIPAA are primarily one-time or short-term costs related to conversion. These costs will be incurred during the first three years of implementation. Benefits will accrue almost immediately, but will not exceed costs for health care providers until after the third year of implementation. After the third year, the benefits will continue to accrue into the fourth year and beyond. The impact analysis for the costs and benefits associated with all the Administrative Simplification standards indicates that the combined net savings for health plans and health care providers would amount to $1.5 billion dollars after five years.

Risks:

This rule will formally establish the standard for the unique health care provider identifier and will communicate the requirements for health plans, health care providers, and health care clearinghouses in implementing this standard.

Failure to publish this rule would jeopardize the benefits of administrative simplification. Payers would continue to maintain their own system of enumerating providers, and providers would need to maintain systems to store the different identifiers. Additional costs would thus be incurred.

Timetable:

Action	Date	FR Cite
NPRM	05/07/98	63 FR 25320
NPRM Comment Period End	07/06/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal, State, Local, Tribal

Federalism:

This action may have federalism implications as defined in EO 13132.

Additional Information:

None

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RIN: 0938–AH99

HHS—CMS

60. SECURITY STANDARDS (CMS-0049-F)

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

PL 104-191; 42 USC 1320d-2(d)

CFR Citation:

45 CFR 162

Legal Deadline:

Final, Statutory, February 21, 1998.

Abstract:

This rule implements some of the requirements of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996. It establishes standards for the security of health information used by health

plans, health care clearinghouses, and certain health care providers. These entities would use the security standards to develop and maintain the security of all electronic health information.

Statement of Need:

The Health Insurance Portability and Accountability Act of 1996 requires the Secretary of Health and Human Services to adopt security standards that require reasonable and appropriate administrative, technical and physical safeguards to: 1) ensure the integrity and confidentiality of health information; 2) protect against any reasonably anticipated threats or hazards to the security or integrity of the information; and 3) protect against unauthorized uses or disclosures of the information. This rule stipulates the requirements necessary to comply with the law.

Summary of Legal Basis:

The Administrative Simplification provisions of HIPAA require the Secretary to establish standards for the security of health information use by health plans, health care clearing houses, and certain health care providers.

Alternatives:

In the absence of Federal regulations, the security of health care information in electronic form would be left to the private sector to develop. It is believed that this course of action would result in an extremely uneven level of protection (ranging from none to excessive) for electronic health information pertaining to individuals and make it difficult, if not impossible, to provide for privacy of this information.

Anticipated Cost and Benefits:

As the effect of any one of the HIPAA standards is affected by the implementation of other standards, it is misleading to discuss the impact of one standard by itself. Therefore, an Impact Analysis on the total effect of all the standards was published in the proposed rule concerning the national provider identifier (HCFA-0045-P) which was published on May 7, 1998 (63 FR 25320). Security protection for health care information is not a "stand alone" type requirement. Appropriate security protections will be a business enabler, encouraging the growth and use of electronic data interchange. The synergistic effect of the employment of the recommended security practices, procedures and technologies will enhance all aspects of HIPAA's Administrative Simplification requirements.

Risks:

The storage, handling and transmission of health information has long been a paper process. However, the transition from paper to electronic media has begun and is increasing at a rapid pace. This transition has brought on a significantly increased risk to the security and confidentiality of health information, particularly for information pertaining to individuals. This rule formally establishes a baseline set of requirements for security that must be adopted by health care providers, health plans and health care clearinghouses. Compliance with these requirements will greatly decrease risk to the security, integrity and confidentiality of health information.

Timetable:

Action	Date	FR Cite
NPRM	08/12/98	63 FR 43242
NPRM Comment Period End	10/13/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Tribal, Federal

Federalism:

Undetermined

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RIN: 0938–AI57

HHS—CMS

61. NATIONAL STANDARD EMPLOYER IDENTIFIER (CMS-0047-F)

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

PL 104-191; 42 USC 1320d to 1320-d-8

CFR Citation:

45 CFR 162

Legal Deadline:

Final, Statutory, February 21, 1998.

Abstract:

This rule institutes the employer identification number (EIN) as the standard for identifying employers for purposes of administrative simplification, as required by the Health Insurance Portability and Accountability Act of 1996. Use of one standard in the health care industry will reduce the cost of identifying employers in electronic health care transactions.

Statement of Need:

The Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104-191) includes Subtitle F-Administrative Simplification, whose purpose is to improve the Medicare and Medicaid programs under the Social Security Act, and the efficiency and effectiveness of the health care system, by the establishment of standards and requirements for the electronic transmission of certain health information. This regulation establishes the standard for a unique employer identifier, as required by the Administrative Simplification provisions of Public Law 104-191.

Summary of Legal Basis:

The Administrative Simplification provisions of HIPAA require the Secretary of HHS to adopt a standard unique health identifier for each employer for use in the health care system and to specify the purposes for which a unique health identifier may be used.

Alternatives:

HHS examined several existing identifiers that might be adopted for the standard. In keeping with the requirements of HIPAA, because no standard setting organization had developed, adopted, or modified a standard for an employer identifier, HHS consulted with the National Uniform Billing Committee, the National Uniform Claim Committee, the Workgroup for Electronic Data Interchange and the American Dental Association in selecting this standard. HHS also relied on the recommendations of the National Committee on Vital and Health Statistics.

Anticipated Cost and Benefits:

As the effect of any one standard is affected by the implementation of other standards, it can be misleading to discuss the impact of one standard by itself. Therefore HHS did an impact analysis showing total costs and savings of all the HIPAA standards in the proposed rule concerning the national provider identifier (HCFA-0045-P), which can be found at 63 FR 25320. HHS determined that the requirements concerning the employer identifier would have a one time impact on those providers, clearinghouses, and health plans that have to convert to use the EIN, and on those employers that would have to disclose the EIN to covered entities.

Risks:

Failure to publish this rule would mean that no standard employer identifier would be established for use in the health care system. Lack of a standard employer identifier would decrease the savings in health care costs to be realized from administrative simplification.

Timetable:

Action	Date	FR Cite
NPRM	06/16/98	63 FR 32784
NPRM Comment Period End	08/17/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State

Federalism:

This action may have federalism implications as defined in EO 13132.

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HHS—CMS

62. FEE SCHEDULE FOR PAYMENT OF AMBULANCE SERVICES AND REVISIONS TO THE PHYSICIAN'S CERTIFICATION REQUIREMENTS FOR COVERAGE OF NONEMERGENCY AMBULANCE SERVICES (CMS-1002-FC)

Priority:

Other Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

PL 105-33, sec 4531(b)

CFR Citation:

42 CFR 410; 42 CFR 414

Legal Deadline:

Final, Statutory, January 1, 2000.

Abstract:

The Balanced Budget Act (BBA) of 1997 requires that the Secretary establish a fee schedule for ambulance services through negotiated rulemaking. The fee schedule was to be effective beginning with services furnished on or after January 1, 2000. However, other statutory obligations and the scope of systems changes required to implement the ambulance fee schedule were so numerous as to make it impossible for us to accomplish this concurrent with the critical work that we and our contractors had to perform to assure that our respective systems were compliant with the year 2000 requirements.

In the September 12, 2000 proposed rule, we indicated our intention to implement the fee schedule beginning January 1, 2001. However, although the proposed rule was largely based on an agreement reached as part of a negotiated rulemaking process with representatives of the ambulance industry and other interests, we received over 340 public comments. We did not have sufficient time to carefully consider all comments and publish a final rule in time to implement the fee schedule by January 1, 2001. This final rule establishes an implementation date of January 1, 2002. Our objective is to have the ambulance fee schedule become effective as soon as feasibly possible after the statutory date, in this case, April 1, 2002.

In addition to setting the payment rates, the Secretary is to ensure that the aggregate amount of payment made for ambulance services in 2001 may not exceed the amount of payment that would have been made absent the fee schedule. This is a cap on payment, not a budget neutrality adjustment. Negotiations were conducted by a committee chartered under the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2). We used the services of an impartial conveyer to help identify interests that would be significantly affected by the proposed rule (including residents of rural areas) and the names of persons who were willing and qualified to represent those interests. The Negotiated Rulemaking Committee on the Medicare Ambulance Services Fee Schedule consisted of national representatives of interests that were likely to be significantly affected by the fee schedule. To the extent that this proposed rule accurately reflected the Committee Statement as signed on February 14, 2000, each member to the Committee agreed not to comment on those issues on which consensus was reached.

In our proposed rule (65 FR 55078), we discussed the negotiated rulemaking procedure used to formulate our policy for the ambulance fee schedule. We also proposed additions to part 414, based on recommendations of the Committee. We discussed operational and regional variations, cost of living differences, services furnished in rural areas and mileage. The structure of the fee schedule, the ambulance inflation factor and phase-in methodology were also covered.

In addition, we proposed changes not based on the negotiated rulemaking, on matters including coverage of ambulance services, physician certification requirements, payment during the first year, and billing method. We discussed local or State ordinances, mandatory assignment, and miscellaneous payment policies, including multiple patients, pronouncement of death, multiple arrivals, and BLS services furnished in an ALS vehicle.

We presented our methodology for determining the conversion factor (CF) and for implementing the fee schedule. We discussed expenditure control for ambulance services, adjustments to account for inflation and the medical conditions list.

Statement of Need:

The establishment of this fee schedule is required by section 4531 of the BBA. In going through the negotiated rulemaking process, a fairer payment system will be implemented that is

consistent with the services furnished and that takes into account the variations caused by regional and operational differences among ambulance companies.

Summary of Legal Basis:

Section 4531 of the BBA requires the establishment of this fee schedule.

Alternatives:

Because section 4531 of the BBA requires the establishment of this fee schedule, no alternatives to this regulation exist.

Anticipated Cost and Benefits:

Benefits include establishing a fee schedule that will be commensurate with the services furnished, and will take into account the regional and operational variations in providing ambulances. The current reasonable charge/reasonable cost systems do not result in a fair geographic variation in payment allowances, since some areas receive two to three times the payment of other areas for the same services.

Risks:

Failing to implement the Medicare ambulance fee schedule would perpetuate an inequitable payment system that sometimes overpays and other times underpays for this critical aspect of medical care. The current system also has unintentional incentives to provide inefficient ambulance services in some areas, and inadequate ambulance services in areas of low population.

Timetable:

Action	Date	FR Cite
NPRM	09/12/00	65 FR 55078
Final Action	04/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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RIN: 0938–AK30

BILLING CODE 4150-24-S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Statement of Regulatory Priorities

The Department of Housing and Urban Development is the Federal agency responsible for national policy and programs that address Americans' housing needs, work to improve and develop the Nation's communities, and enforce fair housing laws. HUD's mission is to help to provide a decent, safe and sanitary home and suitable living environment for every American. HUD also plays a major role in supporting homeownership by underwriting homeownership for lower- and moderate-income families through its mortgage insurance programs.

HUD's regulatory plan for fiscal year 2002 reflects the leadership of Secretary Mel Martinez, who has called upon HUD to focus on activities that support its core mission. By concentrating on its basic responsibilities of helping to provide and maintain affordable housing and homeownership opportunities and promote economic growth in our Nation's communities, HUD minimizes the number of initiatives and programs that are not central to its mission, that consume critical resources, and consequently undermine HUD's ability to administer programs that are key to the success of achieving its mission.

Consistent with the Secretary's direction, the regulations highlighted in this regulatory plan and in the semiannual agenda of regulations, published elsewhere in today's **Federal Register**, are directed to implementing policies, procedures and programs that support HUD's core mission.

Priority: Expand Homeownership Opportunities

Homeownership plays a vital role in creating strong communities by giving families a stake in their neighborhoods and helping them to build wealth. Although a period of sustained economic growth has helped to raise the overall homeownership rate to a record level, the homeownership rates for minorities and low-income families lag far behind those of other families. For example, while more than two-thirds of Americans own their own homes, fewer than half of African-American and Hispanic families are homeowners.

While many of HUD's core programs, including the HOME Investment Partnerships Program, Federal Housing Administration mortgage insurance and the Community Development Block Grant program, help low-income families achieve the goal of homeownership, Secretary Martinez is moving forward with regulatory initiatives to create homeownership opportunities for low-income residents of public and assisted housing.

Regulatory Action: Implement the Section 8 Downpayment Initiative and Improve the Section 8 Homeownership Program

This initiative expands the use of Section 8 vouchers for homeownership. Section 301 of the American Homeownership and Economic Opportunity Act of 2000 authorizes the public housing agency to provide, in lieu of paying a monthly homeownership assistance payment, a single downpayment assistance grant to be used toward the purchase of a home. The final rule to be published in fiscal year 2002 follows publication of a June 2001 proposed rule, and will take into consideration public comment received on the proposed rule.

Regulatory Action: Implement the Public Housing Homeownership Program

This program, authorized by the Quality Housing and Work Responsibility Act of 1998, allows a public housing agency to make public housing dwelling units, public housing developments, and other housing developments available for purchase by low-income families as their principal residence. The final rule to be published in fiscal year 2002 follows publication of a September 1999 proposed rule, and will take into consideration public comment received on the proposed rule.

Priority: Maintaining Homeownership—Prohibiting Predatory Lending Practices

Over the last several years, our Nation has made enormous progress in expanding access to capital for previously underserved borrowers. Despite this progress, however, too many families are suffering today because of a growing incidence of predatory lending practices in this segment of the mortgage lending market. Predatory lending involves engaging in deception or fraud, manipulating the borrower through aggressive sales tactics, or taking unfair advantage of a borrower's lack of understanding about loan terms. These practices are often combined with loan terms that are abusive or make the borrower more vulnerable to abusive practices. Predatory lending threatens homeownership by placing on borrowers loans that are so expensive or have such high rates that borrowers are unable to repay and risk default. This significantly undercuts the Department's efforts to revitalize communities and expand homeownership for millions of Americans.

To address predatory lending, the Department is pursuing several regulatory initiatives.

Regulatory Action: Prohibition of Property Flipping in HUD's Single Family Mortgage Insurance Programs

This rule will prohibit "property flipping," a practice whereby recently acquired properties are immediately resold at an artificially inflated value, often abetted by collusion with the appraiser. The rule is designed to protect FHA borrowers from becoming unwitting victims of property flipping. The final rule to be published in fiscal year 2002 follows publication of a September 2001 proposed rule and ngle Family Loan Feestakes into consideration public comment received on the proposed rule.

Regulatory Action: Limitation on FHA Single Family Loan Fees

This proposed rule would cap the total amount of expenses and fees that can be charged on a mortgage insured by FHA. The cap would vary depending on the original principal amount of the mortgage. The cap would not include legitimate fees paid to service providers (such as settlement attorneys, property inspectors, appraisers), reasonable and customary discount points, and prepaid expenses (including escrows for taxes and insurance).

Regulatory Action: Appraiser Qualifications for Placement on FHA Single Family Appraiser Roster

This rule is designed to strengthen the integrity of FHA appraisals by requiring that appraisers have the minimum professional credentials required by the Appraiser Qualifications Board of the Appraisal Foundation. This rule helps ensure that homebuyers seeking FHA-insured mortgages receive accurate and complete appraisal of the homes they seek to purchase.

Priority: Providing and Maintaining Affordable Rental Housing

While seeking to expand homeownership opportunities, HUD recognizes that homeownership may not be practical for all families. To assist these families obtain safe, decent and affordable housing, HUD's regulatory plan will strengthen its current rental assistance programs rather than proposing any new ones. HUD will

focus in particular on improving housing agencies utilization of assistance.

Regulatory Action: Fully Implement the Capital Fund Program

The Capital Fund Program rule will fully implement the primary "bricks and mortar" program assisting public housing. The Capital Fund Program addresses the capital and management improvement needs of public housing agencies through the use of assistance made available under the Capital Fund Formula. The Capital Fund Formula was established by a final rule published on March 16, 2000. This Capital Fund Program rule continues and expands the streamlining of procedures and requirements initiated under the Comprehensive Grant and CIAP (Comprehensive Improvement Assistance Program) programs, and will remove and replace those program regulations as well as the existing development program requirements. The new Capital Fund Program Rule will govern not only the modernization of public housing, but the development of replacement housing and public housing management improvements as well as more flexible use of funds allowed by the Quality Housing and Work Responsibility Act of 1998.

Regulatory Action: Implement the Final Requirements for the Operating Fund Formula

This final rule will complete the rulemaking that establishes the new Operating Fund Formula, which began with a proposed rule developed through the negotiated rulemaking process. The Operating Fund Formula rule governs the payment of operating subsidies to public housing agencies. The interim rule, published on March 29, 2001, followed publication of a June 20, 2000 proposed rule, and took into consideration the public comments received on the proposed rule. The policies and procedures described in the interim rule will govern the determination of funding distributions to public housing agencies under the Operating Fund until a final rule, reflecting the results of a congressionally requested public housing cost study is developed and published.

Regulatory Action: Implement the Project-Based Voucher Program

This proposed rule will begin the rulemaking process to implement the new Project-Based Voucher Program. The Project-Based Voucher Program will extensively revise the existing project-based voucher program and further the Department's efforts to provide affordable housing to very low-income families. The rule will also implement congressional intent to make project-basing of voucher assistance more flexible.

Regulatory Action: Improve the Public Housing Assessment System

This proposed rule will propose changes to the Public Housing Assessment System (PHAS) and the regulations implementing that system. The PHAS, established in 1998, assesses the management performance of public housing agencies and resident management corporations in four critical areas of public housing operations: the physical condition of public housing; the financial condition of the public housing agency or resident management corporation; the management operations of the public housing agency or resident management corporation; and the satisfaction of the residents with the housing and services. The Department has begun meeting with public housing agencies, residents, representatives of these groups and other interested parties, to solicit input on how the PHAS can be improved and expects to put PHAS into effect on an interim basis shortly. The proposed rule to be issued will incorporate the input from these important stakeholders. Improvements made to the PHAS will in turn promote maintaining affordable rental housing.

Priority: Building Assets and Skills Among Low-Income Families

Central to HUD's mission of promoting strong communities are activities to help low-income working families acquire skills that will increase their earnings and to help families on welfare make progress towards self-sufficiency. HUD also seeks to help low-income families accumulate assets so that they can achieve homeownership, pursue educational opportunities, start a new business, and attain other important goals.

Regulatory Action: Revisions to Resident Participation Regulation

This rule will help promote building assets and skills among public housing residents. Among other changes, the proposed rule would establish policies, procedures, and requirements for participating in the Resident Opportunities and Self-Sufficiency Program. Overall, the rule will promote effective resident participation in public housing and assist in creating and maintaining a positive living environment.

Priority: Supporting Community and Economic Development

Regulatory Action: Making Brownfields Activities a CDBG-Eligible Activity

This rule will improve the ability of entitlement communities and States' grant recipients to use Community Development Block Grant (CDBG) funds for brownfields activities. By making eligible under the CDBG Program the cleanup and development of environmentally contaminated properties, the Department will move toward achieving one of the objectives under the CDBG Program, which is eliminating slums or blighting conditions.

The Priority Regulations That Comprise HUD's FY 2002 Regulatory Plan

A more detailed description of the priority regulations that comprise HUD's FY 2002 Regulatory Plan follows.

HUD—Office of Housing (OH)

PROPOSED RULE STAGE

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63. PROHIBITION OF PROPERTY FLIPPING IN HUD'S SINGLE FAMILY MORTGAGE INSURANCE PROGRAMS (FR-4615)

Priority:

Other Significant

Legal Authority:

12 USC 1709; 12 USC 1710; 12 USC 1715b; 12 USC 1715u; 42 USC 3535(d)

CFR Citation:

24 CFR 203

Legal Deadline:

None

Abstract:

This rule addresses property "flipping," the practice whereby a property recently acquired is resold for a considerable profit with an artificially inflated value, often abetted by a lender's collusion with the appraiser. Specifically, the proposed rule would establish certain new requirements regarding the eligibility of properties for FHA mortgage insurance. The regulatory amendments made by this rule will protect FHA borrowers from becoming unwitting victims of property flipping. Further, the proposed changes comply with congressional mandates to maintain the FHA Insurance Fund in a sound actuarial manner.

Statement of Need:

Predatory lending — whether undertaken by creditors, brokers or even home improvement contractors — involves engaging in deception or fraud, manipulating the borrower through aggressive sales tactics, or taking unfair advantage of a borrower's lack of understanding about loan terms. These practices are combined with loan terms that, alone or in combination, are abusive or make the borrower more vulnerable to abusive practices. A major example of predatory lending is property "flipping," the practice whereby a recently acquired property is resold for a considerable profit with an artificially inflated value, often abetted by a lender's collusion with the appraiser. Most property flipping occurs within a matter of days after acquisition, and usually with only minor cosmetic improvements, if any.

Summary of Legal Basis:

The National Housing Act and HUD's authority under the Department of Housing and Urban Development Act authorize HUD to provide a home financing system through the insurance of mortgages that would maintain and expand homeownership opportunities, particularly to first-time homebuyers and low-income families.

Alternatives:

Nonregulatory initiatives to date have not proven to be sufficiently successful in curbing predatory lending practices.

Anticipated Cost and Benefits:

This rulemaking will help to reduce excessive fees and costs of home mortgages. The anticipated benefit is that the rule will help to reduce foreclosure arising from high-cost mortgages.

Risks:

This rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/05/01	66 FR 46502
NPRM Comment Period End	11/05/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

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HUD—OH

64. APPRAISER QUALIFICATIONS FOR PLACEMENT ON FHA SINGLE FAMILY APPRAISER ROSTER (FR-4620)

Priority:

Other Significant

Legal Authority:

12 USC 1701 to 1715z-18; 42 USC 3535(d)

CFR Citation:

24 CFR 200

Legal Deadline:

None

Abstract:

This rule makes several regulatory changes designed to strengthen the licensing and certification requirements for placement on the Federal Housing Administration (FHA) Appraiser Roster. First, the rule requires that appraisers on the Appraiser Roster must have professional credentials that are based on the minimum licensing/certification standards issued by the Appraiser Qualifications Board of the Appraisal Foundation. The rule also clarifies that an appraiser may be removed from the Appraiser Roster if the appraiser loses his or her license or certification in any State due to disciplinary action, even if the appraiser continues to be licensed or certified in another State. Finally, the rule provides that an appraiser who is licensed or certified in a single State and whose license or certification has expired, or has been revoked, suspended or surrendered as a result of a State disciplinary action, will be automatically suspended from the Appraiser Roster until HUD receives evidence demonstrating renewal or that the State-imposed sanction has been lifted.

Statement of Need:

HUD's Appraiser Roster lists those appraisers who are eligible to perform FHA single family appraisals. HUD maintains the Appraiser Roster to provide a means by which HUD can monitor the quality of appraisals performed on single family homes financed through the FHA single family programs and to ensure that appraisers performing FHA appraisals meet high competency standards. The Appraiser Roster is an important part of the FHA Single Family Mortgage Insurance program because accurate appraisals are vital to the success of the program and HUD's ability to protect the FHA Insurance Fund. The changes made by this final rule are necessary to ensure that homebuyers seeking FHA-insured mortgages receive accurate and complete appraisals of the homes they seek to purchase.

Summary of Legal Basis:

The National Housing Act and HUD's authority under the Department of Housing and Urban Development Act authorize HUD to provide a home financing system through the insurance of mortgages that would maintain and expand homeownership opportunities, particularly to first-time homebuyers and low-income families. This authority includes the regulation of appraisers participating in the FHA single family mortgage insurance programs.

Alternatives:

HUD has established codified placement and removal procedures for the FHA Appraiser Roster. The changes made by this final rule would modify these requirements and, therefore, must also be promulgated through regulation. Furthermore, nonregulatory alternatives (such as promulgation through mortgagee letter) would not be binding upon appraisers.

Anticipated Cost and Benefits:

This rulemaking will strengthen the FHA Appraiser Roster licensing and certification requirements. The anticipated benefit is that the rule will enhance the accuracy and integrity of FHA appraisals, thereby reducing opportunities for fraud and predatory lending abuses conducted with the collusion of unscrupulous appraisers, such as property flipping.

Risks:

This rule poses no risk to public health, safety or the environment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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HUD—OH

65. • LIMIT ON FHA SINGLE FAMILY LOAN FEES (FR-4700)

Priority:

Other Significant

Legal Authority:

12 USC 1709; 12 USC 1710; 12 USC 1715b; 12 USC 1715u; 12 USC 1715z to 1720; 42 USC 3535(d); ...

CFR Citation:

24 CFR 203; 24 CFR 206

Legal Deadline:

None

Abstract:

This proposed rule would implement one of several new HUD initiatives to combat predatory lending in the Federal Housing Administration (FHA) single family mortgage insurance programs. The proposed rule would cap the total amount of charges and fees that may be charged on FHA-insured single family mortgages. This maximum amount would vary depending on the original principal amount of the mortgage. If the original principal amount of the mortgage is $20,000 or less, the total allowable charges and fees may not exceed 6 percent of the original principal amount or $1,000, whichever is the greater. If the original principal amount of the mortgage is greater than $20,000, the total allowable charges and fees may not exceed 5 percent of the original principal amount. The cap would not include legitimate fees paid to service providers (such as settlement attorneys, property inspectors, appraisers, credit reporting agencies and title insurers), reasonable and customary discount points, and prepaid expenses (including escrows for taxes and insurance).

Statement of Need:

Predatory lending — whether undertaken by creditors, brokers or even home improvement contractors — involves engaging in deception or fraud, manipulating the borrower through aggressive sales tactics, or taking unfair advantage of a borrower's lack of understanding about loan terms. These practices are combined with loan terms that, alone or in combination, are abusive or make the borrower more vulnerable to abusive practices. While no one set of abusive lending practices or terms characterizes a predatory mortgage loan, a loan can be predatory when lenders or brokers charge borrowers excessive, often hidden fees or make loans without regard to a borrower's ability to repay.

Summary of Legal Basis:

The National Housing Act and HUD's authority under the Department of Housing and Urban Development Act authorize HUD to provide a home financing system through the insurance of mortgages that would maintain and expand homeownership opportunities, particularly to first-time homebuyers and low-income families.

Alternatives:

Nonregulatory initiatives to date have not proven to be sufficiently successful in curbing predatory lending practices.

Anticipated Cost and Benefits:

This rulemaking will help to reduce excessive fees and costs of home mortgages. The anticipated benefit is that the rule will help to reduce foreclosure arising from high-cost mortgages.

Risks:

This rule poses no risk to public health, safety or the environment.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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HUD—Office of Community Planning and Development (CPD)

PROPOSED RULE STAGE

66. • CDBG BROWNFIELDS/SLUM/BLIGHT (FR-4699)

Priority:

Other Significant

Legal Authority:

42 USC 3535(d); 42 USC 5301 et seq

CFR Citation:

24 CFR 570

Legal Deadline:

None

Abstract:

This rule will improve the ability of entitlement communities and States' grant recipients to use Community Development Block Grant (CDBG) funds for brownfields activities. The rule will clarify the eligibility of activities involving the cleanup and development of environmentally contaminated properties under section 105(a) of the Housing and Community Development Act of 1974, as amended. The rule also will increase CDBG recipients' flexibility to undertake activities meeting the national objective of preventing or eliminating slums or blighting conditions. The criteria for meeting the slum/blight national objective will be revised to specifically recognize economic obsolescence of buildings and the presence of environmental contaminants as blighting influences on an area or property. This rule will further clarify the list of activities that may be undertaken to address the slum/blight national objective criteria on a spot basis. Finally, this rule makes corresponding changes in the eligibility regulations governing the Section 108 Loan Guarantee component of the CDBG program.

Statement of Need:

Current CDBG regulations concerning the slum/blight national objective only recognize the presence of physically deteriorated buildings or public improvements as blighting influences on an area or property. Professional practice and thinking in the community development field is evolving toward a more encompassing view of the factors that influence urban decay. Failure to update and streamline CDBG program rules would hinder grantees' efforts to redevelop underutilized properties and improve physical conditions in neighborhoods. In the FY 1999 HUD Appropriations Act (Public Law 105-276), Congress included language clarifying the eligibility of activities to clean up and develop environmentally contaminated properties; this rule will revise the eligible activities discussion in the CDBG regulations to reflect this statutory language. In addition, the rule will respond to a HUD OIG audit recommendation by adding clarifying language regarding activities that may be undertaken to address the slum/blight national objective on a spot basis.

Summary of Legal Basis:

Under 42 U.S.C. 3535(d), the Department may make such rules and regulations as may be necessary to carry out its functions, powers, and duties. The Department's regulations governing the Community Development Block Grant program are found at 24 CFR part 570, and are promulgated pursuant to the statutory authority to administer the program vested by the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.).

Alternatives:

The Department has considered a number of options regarding the regulatory approach to take in issuing this rule; the Department has commissioned a number of independent studies on the use of CDBG funds to remediate and develop brownfields, and has consulted with practitioners in the community development and brownfields professional fields. In 1994, the Department sought comment from the public on how to proceed with such a rule. The Department plans to pursue a rule that provides as much flexibility as possible to grantees in determining what types of remediation/development activities may be undertaken. The Department has also considered the "no rule" option; however, grantees and other interested parties continue to voice support for issuance of such a rule.

Anticipated Cost and Benefits:

Costs: None. The rule simply adds flexibility to grantees in their choice of activities with which to assist with CDBG funding; no additional cost or burden is imposed on grantees that choose to take advantage of this flexibility.

Benefits: Grantees will gain the flexibility to use CDBG funds to assist in redeveloping a larger universe of properties whose conditions negatively influence the condition of the surrounding area.

Risks:

This rule poses no threat to public safety, health or the environment. Any cleanup of contaminated sites will be governed by existing Federal and State standards for environmental remediation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local

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RIN: 2506–AC12

HUD—Office of Public and Indian Housing (PIH)

PROPOSED RULE STAGE

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67. PUBLIC HOUSING CAPITAL FUND PROGRAM (FR-4507)

Priority:

Other Significant

Legal Authority:

42 USC 1437g; 42 USC 3535(d)

CFR Citation:

24 CFR 905

Legal Deadline:

None

Abstract:

This rule will implement the new Capital Fund Program for the capital and management improvement needs of public housing agencies. The rule will complement the rule for the Public Housing Capital Fund Program formula allocation funding system published on March 16, 2000 (65 FR 14422). This rule will implement the regulatory framework for the Capital Fund Program that will govern the use of the assistance made available through the Capital Fund formula. The new rule at part 905 will replace and remove several other rules that currently govern a PHA's use of HUD assistance including part 941 - Public Housing Development and part 968 - Public Housing Modernization. This rule will continue and expand the streamlining of procedures and requirements initiated under the Comprehensive Grant and Comprehensive Improvement programs at part 968.

Statement of Need:

Assistance under the Capital Fund Program is the primary, regular source of funding made available by HUD to a PHA for its capital activities, including modernization and development of public housing. This final rule will implement the requirements for the use of assistance made available under the Capital Fund program. The regulations will provide the appropriate notice of the legal framework for the program, and clear and uniform guidance for program operation.

Summary of Legal Basis:

Sections 518, 519, and 539 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276, referred to as the Public Housing Act) amended sections 9 and 5, and added section 35(g) of the U.S. Housing Act of 1937 (42 U.S.C. 1437g).

Alternatives:

The QHWRA required a formula system to be established through negotiated rulemaking to govern funding of PHAs' public housing capital needs. Guidance for administration of these funds necessitates a permanent legal framework rather than informal and sporadic HUD notices.

Anticipated Cost and Benefits:

The costs of the program as administered with one fund from which a PHA will fund all of its capital needs is the same as under existing provisions. The benefits of having one funding mechanism for all such needs, and the provision of additional flexibility to PHAs to manage their physical assets provides increased benefits to the PHAs. Likewise, uniform program administration of these funds will provide increased benefits to the PHAs.

Risks:

This rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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HUD—PIH

68. PROJECT-BASED VOUCHER PROGRAM (FR-4636)

Priority:

Other Significant

Legal Authority:

42 USC 1437f; 42 USC 3535(d)

CFR Citation:

24 CFR 983

Legal Deadline:

None

Abstract:

The rule will implement the new Section 8 project-based voucher program. It is based on comprehensive legislation that Congress passed along with HUD's FY 2001 appropriation. Among the many changes made by the law, the rule will cover requirements on: competition, consistency of the PHA plan and deconcentration efforts, definition of supportive services, and HQS inspections.

Statement of Need:

This rule proposes an extensive revision of the Section 8 project-based assistance program to eliminate the differences between the current project-based assistance regulations and the new law (Pub.L. 106-377) which implements the new Section 8 project-based assistance voucher program. Additionally, this rule will implement Congress' intent to make Section 8 project-basing of voucher assistance more flexible and further the Department's efforts to provide affordable housing for very-low-income families.

Summary of Legal Basis:

Section 232 of the FY 2001 Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act (Pub.L. 106-377) substantially revised the provisions of the U.S. Housing Act of 1937 that govern the authority of a public housing agency to designate a portion of its available tenant-based voucher funds for project-based assistance.

Alternatives:

None.

Anticipated Cost and Benefits:

This rule will have the benefit of increasing the number of affordable housing units for very low-income families. Increasing the flexibility of the project-based requirements will make the project-based voucher program more flexible and more workable. Because the revised regulation would be a refinement or improvement of existing procedures, and should result in no additional, or a decrease in, monitoring or reporting burdens, additional costs to PHAs and to HUD are negligible.

Risks:

The rule poses no risk to public health, safety or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local

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HUD—PIH

69. RESIDENT PARTICIPATION IN PUBLIC AND SECTION 8 HOUSING (FR-4657)

Priority:

Other Significant

Legal Authority:

42 USC 1437c-1; 42 USC 1437r; 42 USC 1437t; 42 USC 1437z-6; 42 USC 3535(d); 42 USC 1437d; 42 USC 1437g; 42 USC 1437l;; 12 USC 1715z-1b(a)

CFR Citation:

24 CFR 964

Legal Deadline:

None

Abstract:

This rule would update existing provisions of 24 CFR 964 and incorporate new provisions of the Quality Housing and Work Responsibility Act of 1998 related to resident/tenant participation. In particular, the rule would establish policies, procedures, and requirements for participating in the Resident Opportunities and Self-Sufficiency (ROSS) Program. Additionally, the proposed rule contains expanded definitions and other general information sections as part of HUD's long-standing efforts to support resident organizations and resident self-sufficiency.

Statement of Need:

Various sections of QHWRA provide statutory authority for permanent programs. These regulations will provide appropriate notice of the legal framework for these programs, and clear and uniform instructions and procedures for implementation.

Summary of Legal Basis:

Various sections of QHWRA provide statutory authority for permanent programs. These regulations will provide appropriate notice of the legal

framework for these programs, and clear and uniform instructions and procedures for implementation.

Alternatives:

The programs authorized under QHWRA need a long-term legal framework. Therefore regulations are required as an alternative to short-term program notices or notices of funding availability (NOFAs).

Anticipated Cost and Benefits:

The establishment of regulations will bring certainty to the resident related programs authorized by QHWRA, to confirm their permanency. The regulations when issued will provide the legal basis for these resident related programs. The certainty to be provided through issuance of regulations should reduce costs by providing longer-term participation and planning on the part of program participants.

Risks:

The rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Organizations

Government Levels Affected:

None

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HUD—PIH

70. • AMENDED PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS) RULE (FR-4707)

Priority:

Other Significant

Legal Authority:

42 USC 1437d(j); 42 USC 3535(d)

CFR Citation:

24 CFR 902

Legal Deadline:

None

Abstract:

Through this rule, the Department will be revising the regulations that govern the Public Housing Assessment System (PHAS). This rule will incorporate the input of public housing stakeholders groups in the public housing assessment process.

Statement of Need:

Per the directive of the Secretary of HUD, the Department has agreed to consider changes to the current PHAS rule based on consultation with public housing stakeholders including industry representatives, resident groups and other interested Federal and congressionally chartered agencies. As most PHAS Indicators have been in an advisory status since its inception, the Department believes that the entire PHAS system needs to be reevaluated and modified.

Summary of Legal Basis:

The Secretary of HUD is directed under section 6(j) of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) to develop and publish in the Federal Register indicators to assess the management performance of public housing agencies and resident management corporations. Such indicators shall enable the Secretary to evaluate the performance of public housing agencies and resident management corporations in all major areas of management operations.

Alternatives:

An interim rule is an alternative currently under consideration. However, the intent of the interim rule is to provide the Department with a fully implemented assessment system while the amended PHAS rule is being rewritten. Other alternatives that have been considered, such as utilizing the Management Indicator (MASS) only, fails to meet the Department's strategic goal of ensuring that public housing agencies provide decent, safe and sanitary housing.

Anticipated Cost and Benefits:

This rule will have the benefit of promoting the success of PHAS by ensuring the buy-in of public housing stakeholder groups in the public housing assessment process. The new rule will soon be in the development phase; therefore, accurate cost estimates cannot be provided at this time.

Risks:

This rule poses no risk to public health, safety or the environment.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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HUD—PIH

FINAL RULE STAGE

71. OPERATING FUND ALLOCATION FORMULA (FR-4425)

Priority:

Other Significant

Legal Authority:

42 USC 1437g; 42 USC 3535(d)

CFR Citation:

24 CFR 990

Legal Deadline:

None

Abstract:

This final rule will follow publication of a March 29, 2001 interim rule that governs the determination of funding distribution to public housing agencies under the Operating Fund and will reflect the results of a Congressionally mandated cost study. The Conference Report to HUD's FY 2000 Appropriations Act (Pub.L. 106-74, approved October 20, 1999) directs HUD to contract with the Harvard University Graduate School of Design to conduct a study of the cost incurred

in operating well-fund public housing and provides the results to the negotiated rulemaking committee and the appropriate congressional committees). As portions of the study are completed, HUD is meeting with representatives of the negotiated rulemaking committee that helped HUD develop the Operating Fund proposed rule, as well as other interested parties. These meetings have also been open to the public. HUD will develop the final rule based on the results of the cost study, the comments on the interim rule and further input from the members of the Operating Fund proposed rule negotiating committee and other interested members of the public.

Statement of Need:

Section 519 of the Quality Housing and Work Responsibility Act requires HUD to develop this rule to govern funding of PHAs' operating and management needs.

Summary of Legal Basis:

Section 519 of the Quality Housing and Work Responsibility Act amending section 9 of the U.S. Housing Act of 1937, codified at 42 USC 1437g.

Alternatives:

The Quality Housing and Work Responsibility Act of 1998 requires that this new formula system be developed through negotiated rulemaking.

Anticipated Cost and Benefits:

The costs of the program as administered with one fund from which a PHA will fund all of its operating and management needs will be the same as under existing provisions. The benefits of having this new formula system developed through negotiated rulemaking is that it allows those entities and individuals directly affected — public housing agencies and their residents — to have a say in how the formula will operate, and consequently to help foster constructive, creative and acceptable solutions to difficult problems.

Risks:

This rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
Notice	02/03/99	64 FR 5570
Notice Comment Period End	03/05/99	
NPRM	07/10/00	65 FR 42488
NPRM Comment Period End	08/09/00	
Interim Final Rule	03/29/01	66 FR 17276
Interim Final Rule Effective	04/30/01	
Interim Final Rule Comment Period End	05/29/01	
Final Action	08/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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HUD—PIH

72. PUBLIC HOUSING HOMEOWNERSHIP PROGRAMS (FR-4504)

Priority:

Other Significant

Legal Authority:

42 USC 1437z-4; 42 USC 3535(d)

CFR Citation:

24 CFR 906

Legal Deadline:

None

Abstract:

This rule will set forth the requirements and procedures governing a new statutory homeownership program to be administered by public housing agencies. Under this rule, a PHA makes public housing dwelling units available for purchase by low-income families as their principal residences.

Statement of Need:

This rulemaking is needed to implement the public housing homeownership program authorized by section 32 of the U.S. Housing Act of 1937.

Summary of Legal Basis:

Section 536 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA) amended title I of the U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.) by adding a new section 32, which authorized a new public housing homeownership program to replace the program formerly authorized under section 5(h) of the 1937 Act.

Alternatives:

There are no alternatives to rulemaking in order to implement the program.

Anticipated Cost and Benefits:

The rule provides the parameters for the use of public housing properties to create homeownership opportunities for low-income residents of public housing and other low-income families should a public housing agency choose to do so. The rule's major effect is on individuals; any incidental effect on other entities would be limited to their cooperative efforts in promoting homeownership among public housing residents and other low-income families.

Risks:

This rule poses no threat to the to public health, safety or the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/14/99	64 FR 49932
NPRM Comment Period End	11/15/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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HUD—PIH

73. • SECTION 8 DOWNPAYMENT INITIATIVE (FR-4670)

Priority:

Other Significant

Legal Authority:

42 USC 1437f; 42 USC 3535(d)

CFR Citation:

24 CFR 982

Legal Deadline:

None

Abstract:

Section 301 of the American Homeownership and Economic Assistance Act of 2000 authorizes an alternative form of assistance under the Section 8 homeownership option by providing for assistance in the form of a single downpayment assistance grant. Under section 301, a public housing agency (PHA) may, in lieu of paying a monthly homeownership assistance payment on behalf of a family, provide homeownership assistance for the family in the form of a single grant to be used toward the downpayment required in connection with the purchase of the home.

Statement of Need:

This rulemaking is needed to implement section 301 and complete the Section 8 Homeownership Program regulation at 24 CFR part 982, which currently only provides for monthly homeownership assistance payments.

Summary of Legal Basis:

Under 42 U.S.C. 3535(d), the Department may make such rules and regulations as may be necessary to carry out its functions, powers, and duties. Section 301 of the American Homeownership and Economic Assistance Act of 2000 (Public Law 106-569, 114 Stat. 2944, 2952, approved December 27, 2000) amends the "homeownership option" under section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) to permit downpayment assistance and provides specific authority for this rule.

Alternatives:

This additional statutory authority expands the use of Section 8 assistance for homeownership and compliments an existing rule which must be amended to address the new form of assistance made available.

Anticipated Cost and Benefits:

This rule adds a new eligible use of Housing Choice Vouchers as authorized by statute. A PHA may choose whether or not to make assistance available for this new use, and local conditions on the relative benefits of eligible uses will influence its determination to make such assistance available, thereby maximizing the benefit.

Risks:

This rule poses no threat to public safety, health or the environment.

Timetable:

Action	Date	FR Cite
NPRM	06/13/01	66 FR 32198
NPRM Comment Period End	08/13/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local

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BILLING CODE 4210-01-S

DEPARTMENT OF THE INTERIOR (DOI)

Statement of Regulatory Priorities

The Department of the Interior (DOI) is the principal Federal steward of our Nation's public lands and resources, including many of our cultural treasures. We serve as trustee to Native Americans and Alaska natives and also are responsible for relations with the island territories under United States jurisdiction. We manage more than 450 million acres of Federal lands, including 384 park units, 537 wildlife refuges, and 24,000 miles of trails, and approximately 1.7 billion acres in submerged waters in offshore waters. The Department recovers endangered species, manages water projects, fights wildland fires, leases coal, oil and gas to meet the Nation's energy needs, educates children in Indian schools and provides recreational opportunities for almost 300 million visitors annually in our national parks.

In carrying out these responsibilities, the Department:

- Manages natural resources on public lands, including energy and mineral resources, water and grazing lands;
- Provides recreation opportunities;
- Protects the environment and preserves our Nation's natural and cultural resources;
- Meets our trust responsibilities to Indian tribes and our commitments to the people of the U.S. territories; and
- Provides science relating to land and resource management.

The Department is committed to achieving its stewardship objectives in partnership with States, communities, and others through consultation, cooperation, and communication.

We will review and update the Department's regulations and policies to ensure that they are effective, efficient, and promote accountability. Special emphasis will be given to regulations and policies that:

- Adopt performance-based approaches focusing on achieving results in the most cost-effective and timely manner;
- Incorporate the best available science, including peer review wherever appropriate;
- Promote partnerships with States and other groups and individuals;
- Provide incentives for private landowners to achieve conservation goals; and
- Minimize regulatory and procedural burdens, promoting fairness and accountability by agency regulators while maintaining performance goals.

Major Regulatory Areas

Among the Department's bureaus and offices, the Office of Surface Mining Reclamation and Enforcement (OSM) has the highest concentration of regulatory responsibilities. OSM, in partnership with the States and Indian tribes, has the responsibility for setting and enforcing environmental standards during coal mining and reclamation operations. Other DOI bureaus rely on regulations to implement legislatively mandated programs by focusing on the management of natural resources and public or trust lands. Some of these regulatory activities include:

- Management of migratory birds and preservation of certain marine mammals and endangered species;
- Management of dedicated lands, such as national parks, wildlife refuges, and American Indian trust lands;
- Management of public lands open to multiple use;
- Leasing and oversight of development of Federal energy, minerals, and renewable resources;
- Management of revenues from American Indian and Federal minerals;
- Fulfillment of trust and other responsibilities pertaining to American Indian tribes;
- Natural resource damage assessments; and
- Management of financial and nonfinancial assistance programs.

Regulatory Policy

How DOI Regulatory Procedures Relate to the Administration's Regulatory Policies

Within the requirements and guidance in Executive Orders 12866, 12630, and 13132, DOI's regulatory program seeks to:

- Fulfill all legal requirements as specified by statutes or court orders;
- Perform essential functions that cannot be handled by non-Federal entities;
- Minimize regulatory costs to society while maximizing societal benefits; and
- Operate programs openly, efficiently and in cooperation with Federal and non-Federal entities.

DOI bureaus have taken the initiative in working with other Federal agencies, non-Federal government agencies, and public entities to make our regulations easier to comply with and understand. Because regulatory improvement is a continuing process that requires the participation of all affected parties, we strive continually to include all affected entities in the decisionmaking process and to issue rules more efficiently. To better manage and review the regulatory process, we have revised our internal rulemaking guidance. Results have included:

- Increased bureau awareness of and responsiveness to the needs of small businesses and better compliance with the Small Business Regulatory Enforcement Fairness Act (SBREFA);
- A departmentwide effort to evaluate the economic effects of rules and regulations that are planned; and
- Issuance of new guidance in the Departmental Manual to ensure the use of plain language in Government writing.

We are committed to improving the regulatory process through the use of plain language. Simplifying regulations has resulted in a major rewrite of the regulations for onshore oil and gas leasing and operations in an easily understandable form that: (a) Puts previously published rules into one location in a logical sequence; (b) eliminates duplication by consolidating existing regulations and onshore orders and national notices to lessees; (c) incorporates industry standards by reference; and (d) implements performance standards in some of the operating regulations. Our regulatory process ensures that bureaus share ideas on how to reduce regulatory burden while meeting the requirements of the laws they enforce and improving their stewardship of the environment and resources under their purview.

Encouraging Responsible Management of the Nation's Resources

The Department's mission includes protecting and providing access to our Nation's natural and cultural heritage and honoring our trust responsibilities to tribes. We are committed to this mission and to applying laws and regulations fairly and effectively. The Department's priorities include protecting public health and safety, restoring and maintaining public lands, solving land and resource-management problems on public lands, and ensuring accountability and compliance with Federal laws and regulations.

An example of this is the "no surprises" policy of the U.S. Fish and Wildlife Service (FWS). This policy gives property owners an incentive to implement voluntary conservation measures for a proposed or candidate endangered or threatened species, or a species likely to become a candidate or proposed in the near future. These property owners will receive assurances from FWS that additional conservation measures will not be required and additional land, water, or resource use restrictions will not be imposed should the species become listed in the future. This policy results in more involvement by landowners in species protection, fewer fines, no "surprises" (in the form of unexpected fines) for conforming landowners, better overall protection of species, and better compliance with the Endangered Species Act.

Minimizing Regulatory Burdens

We are using the regulatory process to ease the burdens on various entities throughout the country while improving results. For instance, the Endangered Species Act (ESA) allows for the delisting of threatened and endangered species if they no longer need the protection of the ESA. We have identified approximately 40 species for which delisting or downlisting (reclassification from endangered to threatened) may be appropriate.

We use performance standards in a variety of regulations to improve compliance and achievement of regulatory goals. These allow the affected entity to choose the most economical method to accomplish a goal provided it meets the requirements of the regulations. An example of this is Minerals Management Service's (MMS) training rule, which will allow companies with operations in the Outer Continental Shelf (OCS) to select their own training courses or programs for employees. The new rule will allow lessees and contractors to properly train the employees by any method they choose as long as the employees are competent. We anticipate that this will result in new and innovative training techniques and allow companies added flexibility in tailoring their training to employees' specific duties.

Encouraging Public Participation and Involvement in the Regulatory Procedure Process

Encouraging increased public participation in the regulatory process to improve results by ensuring that regulatory policies take into account the knowledge and ideas of our customers, regulated community, and other interested participants. The Department is reaching out to communities to seek public input on a variety of regulatory issues. For example, every year FWS establishes migratory bird hunting seasons in partnership with "flyway councils," which are made up of State fish and wildlife agencies. As the process evolves each year, FWS holds a series of public meetings to give other interested parties, including hunters and other groups, opportunities to participate in establishing the upcoming season's regulations.

Similarly, the Bureau of Land Management (BLM) uses Resource Advisory Councils (RACs) made up of affected parties to help prepare land management plans regulations that it issues under the Rangeland Reform Act.

We encourage public consultation during the regulatory process. For example:

- OSM is continuing its outreach to interested groups to improve the substance and quality of rules and, to the greatest extent possible, achieve consensus on regulatory issues;
- The Bureau of Indian Affairs is developing its roads program rule using the negotiated rulemaking process. Because of the importance of the roads program to the individual tribes and because of the varying needs of the tribal governments, the negotiated rulemaking process will result in a rule that better serves the diverse needs of the Native American community.

The Future of DOI

Interior plans to develop a single Departmentwide strategic plan during FY 2002 in response to congressional, OMB, and other appraisals indicating that Interior's ten separate strategic planning documents are too long and lack the appropriate agency-level focus. Interior also intends to use the single Strategic Plan as the basis for preparing a single Departmentwide Annual Performance Plan beginning with the plan for FY 2004. The Interior bureaus will continue to prepare internal plans to support their budget initiatives and to meet management excellence and accountability needs. However, in the future we plan to submit only Departmentwide strategic and annual plans to the Congress. Finally, the process of developing a single strategic plan also will provide the Secretary with an opportunity to:

- Set an agenda for Interior that reflects the Administration's and the Secretary's priorities,
- Consult with key interested constituents on the future direction of the Department, and
- Make Interior programs more "results-oriented" and accountable to citizens.

Bureaus and Offices Within DOI

The following brief descriptions summarize the regulatory functions of DOI's major regulatory bureaus and offices.

Office of the Secretary, Natural Resource Damage Assessment and Restoration Program

The regulatory functions of the Natural Resource Damage Assessment and Restoration Program (Restoration Program) stem from requirements under section 301(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). Section 301(c) requires the development of natural resource damage assessment rules and the biennial review and revision, as appropriate, of these rules. Rules have been promulgated for the optional use of natural resource trustees to assess compensation for damages to natural resources caused by hazardous substances. The Restoration Program is overseeing the study and possible promulgation of additional rules pursuant to section 301(c)(2) and the review and possible revision of the existing rule in compliance with section 301(c)(3).

In undertaking DOI's responsibilities under section 301(c), the Restoration Program is striving to meet three regulatory objectives: (a) make the regulation user friendly through the use of plain language so that the assessment and restoration process can be followed by all interested parties; (b) move towards a restoration bases approach for determining compensation rather than monetizing economic damages, and (c) follow a process that is based on facilitating negotiated settlements rather than litigation over natural resource damages.

Bureau of Indian Affairs

The Bureau of Indian Affairs (BIA) is responsible for managing trust responsibilities to the Indian tribes and encouraging tribal governments to assume responsibility for BIA programs.

The Bureau's rulemaking and policy development processes are designed to foster public and tribal awareness of the standards and procedures that directly affect them. The processes also encourage the public and the tribes to participate in developing these

standards and procedures. The goals of BIA regulatory policies are to: (a) ensure consistent policies within BIA that result in uniform interactions with the tribal governments; (b) facilitate tribal involvement in managing, planning, and evaluating BIA programs and services; and (c) ensure continued protection of tribal treaties and statutory rights.

Bureau of Land Management

The Bureau of Land Management manages about 264 million acres of land surface and about 570 million acres of Federal mineral estate. These lands consist of extensive grasslands, forests, mountains, arctic tundra, and deserts. Resources on the lands include energy and minerals, timber, forage, wild horse and burro populations, habitat for fish and wildlife, wilderness areas, and archeological and cultural sites. BLM manages these lands and resources for multiple purposes and the sustained yield of renewable resources. Primary statutes under which the Agency must operate include: The Federal Land Policy and Management Act of 1976; the General Mining Law of 1872; the Mineral Leasing Act of 1920, as amended; the Recreation and Public Purposes Act; the Taylor Grazing Act; and the Wild, Free-Roaming Horses and Burros Act.

The regulatory program mirrors statutory responsibilities and Agency objectives. Agency objectives include:

- Providing for a wide variety of public uses while maintaining the long-term health and diversity of the land and while preserving significant natural, cultural, and historical resource values;
- Understanding the arid, semi-arid, arctic, and other ecosystems we manage and committing to using the best scientific and technical information to make resource management decisions;
- Understanding the needs of the public that use BLM-managed lands and providing them with quality service;
- Committing to recovering a fair return for using publicly owned resources and avoiding the creation of long-term liabilities for American taxpayers; and
- Resolving problems and implementing decisions in cooperation with other agencies, States, tribal governments, and the public.

The regulatory program contains its own objectives. These include preparing regulations that:

- Are the product of coordination and consultation with all affected members of the public;
- Are understandable to the general public, especially those to whom they are directly applicable; and
- Are reviewed periodically to determine whether or not BLM still needs them, whether or not they need to be updated to reflect statutory and policy changes, and whether they are achieving desired results.

Minerals Management Service

The Minerals Management Service (MMS) has two major responsibilities: (1) timely and accurate collection, distribution, accounting for, and auditing of revenues owed by holders of Federal onshore, offshore, and tribal land mineral leases in a manner that meets or exceeds Federal financial integrity requirements and recipient expectations; and (2) management of the resources of the Outer Continental Shelf in a manner that provides for safety, protection of the environment, and conservation of natural resources. These responsibilities are carried out under the provisions of the Federal Oil and Gas Royalty Management Act, the Minerals Leasing Act, the Outer Continental Shelf Lands Act, the Indian Mineral Leasing Act, and other related statutes.

Our regulatory philosophy is to develop clear, enforceable rules that support the missions of each program. For the Offshore Minerals Management program, as authorized by the Deep Water Royalty Relief Act (DWRRA) (P.L. 104-58), we plan to issue a final regulation to revise current regulations at 30 CFR 203. The revised rule would provide detailed instructions on how deep water leases issued before the DWRRA may apply and qualify for royalty-suspension on a case-by-case basis. We plan to revise and extend these instructions to certain additional categories of OCS leases, especially those issued after 2000. We will also continue to review rules and issue amendments in response to new technology and new industry practices.

We also plan to continue our review of existing regulations and to issue rules to refine the Minerals Revenue Management (MRM) regulations in chapter II of 30 CFR. MRM is in the process of issuing regulations to: (1) revise its oil valuation regulations for Indian leases; and (2) codify provisions in the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996; and (3) implement new financial and compliance procedures resulting from a major reengineering initiative.

Office of Surface Mining Reclamation and Enforcement

The Office of Surface Mining Reclamation and Enforcement (OSM) was created by the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to "strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy."

The principal regulatory provisions contained in title V of SMCRA set minimum requirements for obtaining a permit for surface coal mining operations, set standards for those operations, require land reclamation once mining ends, and require rules and enforcement procedures to ensure that the standards are met. Under SMCRA, OSM is the primary enforcer of SMCRA's provisions until the States achieve "primacy"; that is, until they demonstrate that their regulatory programs meet all the specifications in SMCRA and have regulations consistent with those issued by OSM.

When a primacy State takes over the permitting, inspection, and enforcement activities of the Federal Government, OSM then changes its role from regulating mining activities directly to overseeing and evaluating State programs. Today, 24 of the 27 key coal-producing States have primacy. In return for assuming primacy, States are entitled to regulatory grants and to grants for reclaiming abandoned mine lands. In addition, under cooperative agreements, some primacy States have agreed to regulate mining on Federal lands within their borders. Thus, OSM regulates mining directly only in nonprimacy States, on Federal lands in States where no cooperative agreements are in effect, and on Indian lands.

SMCRA charges OSM with the responsibility of publishing rules as necessary to carry out the purposes of the Act. The fundamental mechanism for ensuring that the purposes of SMCRA are achieved is the basic policy and guidance established through OSM's permanent regulatory program and related rulemakings. This regulatory framework is developed, reviewed, and applied according to policy directives and legal requirements.

Litigation by the coal industry and environmental groups is responsible for some of the rules now being considered by OSM. Others are the result of efforts by OSM to address areas of concern that have arisen during the course of

implementing OSM's regulatory program, and one is the result of legislation.

OSM has sought to develop an economical, safe, and environmentally sound program for the surface mining of coal by providing a stable, consistent regulatory, results-focused framework. At the same time, however, OSM has recognized the need (a) to respond to local conditions, (b) to provide flexibility to react to technological change, (c) to be sensitive to geographic diversity, and (d) to eliminate burdensome recordkeeping and reporting requirements that over time have proved unnecessary to ensure an effective regulatory program.

Major regulatory objectives regarding the mining of surface coal include:

- Continuing outreach activities with interested groups during the rulemaking process to increase the quality of the rulemaking process, improve the substance of the rules, and, to the greatest extent possible, reflect consensus on regulatory issues;
- Minimizing the recordkeeping and regulatory compliance burden during rulemaking; and
- Publishing final rules to implement the Energy Policy Act of 1992, Public Law 102-486 and section 510(c) of SMCRA.

U.S. Fish and Wildlife Service

The mission of the U.S. Fish and Wildlife Service is working with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. Four principal mission goals include:

- The sustainability of fish and wildlife populations. We conserve, protect, restore, and enhance fish, wildlife, and plant populations entrusted to our care. We carry out this mission goal through migratory bird conservation at home and abroad; native fisheries restoration; recovery and protection of threatened and endangered species; prevention and control of invasive species; and work with our international partners.
- Habitat conservation — a network of lands and waters. Cooperating with others, we strive to conserve an ecologically diverse network of lands and waters — of various ownerships — providing habitats for fish, wildlife, and plant resources. This mission goal emphasizes two kinds of strategic actions: (1) the development of formal agreements and plans with our partners who provide habitat for multiple species, and (2) the actual conservation work necessary to protect, restore, and enhance those habitats vital to fish and wildlife populations. Our habitat conservation strategy uses an ecosystem approach to focus on the interaction and balance of people, lands, and waters, and fish and wildlife.
- Public use and enjoyment. We provide opportunities to the public to enjoy, understand, and participate in the use and conservation of fish and wildlife resources. The Service directs activities on national wildlife refuges and national fish hatcheries that increase opportunities for public involvement with fish and wildlife resources. Such opportunities include hunting, fishing, wildlife observation and photography, and environmental education and interpretation, as well as affording the public hands-on experiences through volunteer conservation activities on Service lands.
- Partnerships in natural resources. We support and strengthen partnerships with tribal, State, and local governments and others in their efforts to conserve and enjoy fish, wildlife, and plants and habitats. We administer Federal grants to States and territories for restoration of fish and wildlife resources and have a continuing commitment to work with tribal governments. We also promote partnerships with other Federal agencies where common goals can be developed.

The Service carries out these mission goals through several types of regulations and programs. The Service works continually with foreign and State governments, affected industries and individuals, and other interested parties to minimize any burdens associated with Service-related activities. We attempt to ensure a balance between any possible public burdens and adequate protection for the natural resource.

We implement and enforce regulations that govern public access, use and recreation on more than 500 national wildlife refuges and in national fish hatcheries. We authorize those uses that are compatible with the purpose for which each area was established, are consistent with State and local laws where practical, and afford the public appropriate economic, recreational, and conservation opportunities.

We administer regulations to manage migratory bird resources. Annually, the Service issues a regulation on migratory bird hunting seasons and bag limits that is developed in partnership with the States, tribal governments, and the Canadian Wildlife Service. These regulations are necessary to permit migratory bird hunting that would otherwise be prohibited by various international treaties.

The Service enforces regulations to fulfill our statutory obligation to identify and conserve species faced with extinction. The Endangered Species Act (ESA) dictates that the basis for determining endangered species is limited to biological considerations. Regulations enhance the conservation of listed species and certain marine mammals. Regulations also help other Federal agencies comply with the ESA, which prohibits them from conducting activities that would jeopardize the existence of endangered species or adversely modify critical habitat of listed species. In designating critical habitat, the Service considers biological information and economic and other impacts of the designation. Areas may be excluded if the benefits of exclusion outweigh the benefits of inclusion, provided that such exclusion will not result in the extinction of the species.

Some Service regulations permit activities otherwise prohibited by law. These regulations allow possession, sale or trade, scientific research, and educational activities involving fish and wildlife and their parts or products. In general, these regulations supplement State regulations and cover activities that involve interstate or foreign commerce. In carrying out our assistance programs, we administer regulations to help interested parties obtain Federal assistance and also to help assistance recipients comply with applicable laws and Federal requirements.

National Park Service

The National Park Service is dedicated to conserving the natural and cultural resources and values of the National Park System for the enjoyment, education, and inspiration of this and future generations. The Service is also responsible for managing a great variety of national and international programs designed to help extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world.

There are 384 units in the National Park System, including national parks and monuments; scenic parkways, preserves, trails, riverways, seashores, lakeshores, and recreation areas; and historic sites associated with important

movements, events, and personalities of the American past.

The National Park Service develops and implements park management plans and staffs the areas under its administration. It relates the natural values and historical significance of these areas to the public through talks, tours, films, exhibits, and other interpretive media. It operates campgrounds and other visitor facilities and provides, usually through concessions, lodging, food, and transportation services in many areas. The National Park Service also administers the following programs: The State portion of the Land and Water Conservation Fund, Nationwide Outdoor Recreation coordination and information and State comprehensive outdoor recreation planning, planning and technical assistance for the National Wild and Scenic Rivers System, and the National Trails System, natural area programs, the National Register of Historic Places, national historic landmarks, historic preservation, technical preservation services, Historic American Buildings survey, Historic American Engineering Record, and interagency archeological services.

The National Park Service maintains regulations that help manage public use, access, and recreation in units of the National Park System. The Service provides visitor and resource protection to ensure public safety and prevent degradation of resources. The regulatory program develops and reviews regulations, maintaining consistency with State and local laws, to allow these uses only if they are compatible with the purpose for which each area was established.

Bureau of Reclamation

The Bureau of Reclamation's mission is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. To accomplish this mission, Reclamation applies management, engineering, and scientific skills that result in effective and environmentally sensitive solutions.

Reclamation projects provide for some or all of the following concurrent purposes: Irrigation water service, municipal and industrial water supply, hydroelectric power generation, water quality improvement, groundwater management, fish and wildlife enhancement, outdoor recreation, flood control, navigation, river regulation and control, system optimization, and related uses.

Reclamation's regulatory program is designed to ensure that its mission is carried out expeditiously, efficiently, and with an emphasis on cooperative problem-solving.

DOI—Minerals Management Service (MMS)

FINAL RULE STAGE

74. VALUATION OF OIL FROM INDIAN LEASES

Priority:

Other Significant

Legal Authority:

25 USC 2101 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 30 USC 181 et seq; 30 USC 351 et seq

CFR Citation:

30 CFR 206

Legal Deadline:

None

Abstract:

This rule would modify the regulations that establish royalty value for oil produced from Indian leases and create a new form for collecting value and value differential data. These changes would decrease reliance on oil posted prices and make Indian oil royalty valuation more consistent with the terms of Indian leases.

Statement of Need:

Current oil valuation regulations rely primarily on posted prices and prices under arm's-length sales to value oil that is not sold at arm's-length. Over time, posted prices have become increasingly suspect as a fair measure of market value. This rulemaking would modify valuation regulations to place substantial reliance on the higher of crude oil spot prices major portion prices, or gross proceeds, and eliminate any direct reliance on posted prices. This rulemaking would also add more certainty to valuation of oil produced from Indian leases.

Summary of Legal Basis:

The primary legal basis for this rulemaking is the Federal Oil and Gas Royalty Management Act of 1982, as amended, which defines the Secretary of the Interior's (1) authority to implement and maintain a royalty management system for oil and gas leases on Indian lands, and (2) trust responsibility to administer Indian oil and gas resources.

Alternatives:

We considered a range of valuation alternatives such as making minor adjustments to the current gross proceeds valuation method, using futures prices, using index-based prices with fixed adjustments for production from specific geographic zones, relying on some type of field pricing other than posted prices, and taking oil in-kind. We chose the higher of the average of the high daily applicable spot prices for the month major portion prices in the field or area, or gross proceeds received by the lessee or its affiliate. We chose spot prices as one of the three value measures because (1) they represent actual trading activity in the market, (2) they mirror New York Mercantile Exchange futures prices, and (3) they permit use of an index price in proximity to the actual production whose value is being measured.

Anticipated Cost and Benefits:

We estimate compliance with this rulemaking would cost the oil and gas industry approximately $46,000 annually. Additional costs to industry and MMS would be up-front computer programming and other administrative costs associated with processing the new form. The benefits of this rulemaking would be an estimated $3.6 million increase in annual royalties collected on oil produced from Indian leases. Additional benefits would include simplification and increased certainty of oil pricing, reduced audit efforts, and reduced valuation determinations and associated litigation.

Risks:

The risk of not modifying current oil valuation regulations is that Indian recipients may not receive royalties based on the highest price paid or offered for the major portion of oil produced—a common requirement in most Indian leases. These modifications ensure that the Department fulfills its trust responsibilities for administering Indian oil and gas leases under governing mineral leasing laws, treaties, and lease terms.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/95	60 FR 65610
ANPRM Comment Period End	03/19/96	
NPRM	02/12/98	63 FR 7089

Action	Date	FR Cite
NPRM Comment Period Extended	04/09/98	63 FR 17349
NPRM Comment Period End	05/13/98	
Supplementary NPRM	01/05/00	65 FR 403
NPRM Comment Period Extended	02/28/00	65 FR 10436
Final Action	01/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Tribal

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DOI—MMS

75. DEEP WATER ROYALTY RELIEF FOR OUTER CONTINENTAL SHELF OIL AND GAS LEASES ISSUED AFTER 2000

Priority:

Other Significant

Legal Authority:

30 USC 1001 et seq; 30 USC 1701 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation:

30 CFR 203

Legal Deadline:

None

Abstract:

The rule explains who is eligible for relief, how they apply for relief, and the criteria they must meet to receive relief. The proposed rule makes a new class of leases, those sold after 2000 in the central and western Gulf of Mexico (GOM), eligible to apply for royalty suspensions to supplement any that may have been included in their original lease terms. Also, it updates certain requirements and authorizes royalty relief in special situations.

Statement of Need:

Because of the variation of geologic and economic circumstance standard leasing terms do not encourage development of all potential reserves in the deep water GOM. The Deep Water Royalty Relief Act (DWRRA)(Pub. L. 104-58) authorized the Minerals Management Service (MMS) to promote development of marginal reserves. The existing regulations at 30 CFR 203 give detailed instructions on how deep water leases issued before the DWRRA may apply and qualify for royalty suspension on a case-by-case basis. This proposed rule revises and extends these instructions to certain additional categories of OCS leases, especially those issued after 2000. Revisions to the existing instructions reflect experience with cases over the last 5 years. Also the proposed rule identifies circumstances when MMS may consider special royalty relief outside our established end-of-life and DWRR programs.

Summary of Legal Basis:

The OCS Lands Act is the basis for our regulations on suspending or lowering royalties on producing OCS leases. The DWRRA is the basis for regulations to reduce or eliminate royalty on non-producing leases in the GOM west of 87 degrees, 30 minutes West longitude. It gives the Secretary of the Interior this authority to (1) promote development or increased production on producing and non-producing leases or (2) encourage production of marginal resources on producing and non-producing leases.

Alternatives:

The specificity with which the current regulations were written was driven by the DWRRA to facilitate planning by potential applicants. Those regulations do not leave room for anything but a rulemaking fix. Otherwise, those new leases that legitimately need development assistance would be relegated to seeking relief under ad hoc special relief rules. Alternatively an extension of the DWRRA terms to fill a perceived gap may give future deep water lessees royalty-suspension terms that are not sufficiently responsive to current market conditions. Moreover, it is fairer to both applicants and taxpayers to establish clear and coherent rules by which individual leases can obtain the amount of royalty relief actually needed to induce development.

Anticipated Cost and Benefits:

This rule extends the benefit of discretionary royalty relief to certain OCS leases after November 2000 that qualify as marginally uneconomic. Lessees who choose to seek this discretionary royalty relief pay user fees that range from $12,000 to $49,000 per application, in addition to their internal costs of assembling the necessary data. Benefits from this rule come from production that otherwise would not occur or be déferred indefinitely. To date, one field qualifying for relief has gone into production and added 15 million barrels of oil equivalent to reserves in the GOM. Another on the verge of starting development would add 400 billion cubic feet of natural gas to reserves that otherwise would not be produced in the GOM.

Risks:

The risk of not modifying the discretionary royalty relief rule is that some marginal resources will be bypassed. Alternatively, royalty receipts could fall because overly generous relief will be given to many leases to avoid the loss in production by a few.

Timetable:

Action	Date	FR Cite
NPRM	11/16/00	65 FR 69259
Comment Period Extended	12/15/00	65 FR 78431
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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DOI—Bureau of Land Management (BLM)

FINAL RULE STAGE

76. OIL AND GAS LEASING AND OPERATIONS

Priority:

Other Significant

Legal Authority:

30 USC 181 et seq

CFR Citation:

43 CFR 3100 to 3180

Legal Deadline:

None

Abstract:

This rule will revise BLM's current Federal oil and gas leasing and operations regulations, except those concerning drainage (section 3100.2-2), combined hydrocarbon leasing (part 3140) and oil and gas leasing in the National Petroleum Reserve—Alaska (part 3130). The rule will: (1) Cite industry standards and incorporate them by reference rather than repeat those standards in the rule; (2) incorporate the requirements of the Onshore Oil and Gas Orders and national notices to lessees into the regulations to eliminate overlap with current regulations; (3) use performance standards in certain places instead of prescriptive requirements to allow more flexibility for operators and to protect the environment and Federal royalty interests; (4) increase certain bonding requirements and (5) eliminate redundancies, clarify procedures and regulatory requirements and streamline procedures.

Statement of Need:

This rulemaking complies with the requirements of the Government Performance and Results Act, the recommendations of the National Performance Review, and other initiatives. It will be presented in a user-friendly format, presented by process rather than by subject matter.

Summary of Legal Basis:

The Mineral Leasing Act gives BLM the authority to issue and administer the terms of oil and gas leases on Federal lands, to conduct inspections of drilling operations and to promulgate and enforce regulations pertaining to oil and gas leasing and operations. BLM is the only Federal agency with authority to issue leases for publicly owned oil and gas resources.

Alternatives:

The only alternative to the proposed regulations would be to continue to operate under the existing regulations. These regulations are not performance-based and are at times ambiguous and hard to understand. Further, the important information found in Onshore Operating Orders is published separately from the regulations and at irregular intervals.

Anticipated Cost and Benefits:

BLM anticipates the following benefits: (1) More clearly written rules will be better understood by both oil and gas lessees and operators and members of the general public; (2) performance standards, rather than prescriptive requirements, will allow lessees and operators and BLM greater flexibility to deal with unique geological or engineering circumstances within the standards set by the rule; and (3) streamlining and clarifying procedures will result in better customer service and decreased time and money for both BLM and the user public.

Risks:

The public may misunderstand one or more performance standards. BLM will publish user guides that explain in detail the standards and will provide examples of how operators might meet specific standards.

Timetable:

Action	Date	FR Cite
NPRM	12/03/98	63 FR 66840
NPRM Comment Period End	07/19/99	64 FR 29256
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Local

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DEPARTMENT OF JUSTICE (DOJ)

Statement of Regulatory Priorities

The Department of Justice is not a major regulatory agency, and it carries out its vital investigative, prosecutorial, and other law enforcement activities principally through means other than the regulatory process. Even so, the Department does have significant responsibilities for implementing the Americans with Disabilities Act (ADA), as well as the immigration laws, including the Immigration Reform and Control Act of 1986 and the Immigration Act of 1990. In addition, the Department is currently engaged in a comprehensive effort to focus its resources on the prevention of future terrorist acts and the prosecution of terrorists responsible for past attacks. The Department's key regulatory goals and initiatives are set forth in detail below.

The Department has worked actively to implement the general regulatory principles of Executive Order 12866. Relatively few of the Department's rules are significant regulatory actions requiring review by the Office of Management and Budget (OMB) under the Executive order. Accordingly, the orientation of the OMB review process to focus on significant rules has required the Department to increase its own review efforts to ensure that all of its regulations are consistent with the Administration's regulatory principles.

Pursuant to section 4(c) of Executive Order 12866, the Department of Justice provides the following statement of regulatory priorities, focusing in particular on four regulatory initiatives in the areas of civil rights and immigration.

In addition to the specific initiatives set forth below, several other components of the Department carry out important responsibilities through the regulatory process. Although their regulatory efforts are not singled out for specific attention in this regulatory plan, those components carry out key roles in implementing the Department's law enforcement priorities. The Drug Enforcement Administration (DEA) is responsible for controlling abuse of narcotics and dangerous drugs, while ensuring adequate supplies for legitimate medical purposes, by regulating the aggregate supply of those drugs. DEA accomplishes its objectives through coordination with State, local, and other Federal officials in drug enforcement activities, development and maintenance of drug intelligence systems, regulation of legitimate controlled substances, and enforcement coordination and intelligence-gathering activities with foreign government agencies. DEA continues to develop and enhance regulatory controls relating to the diversion control requirements and to the requirements of the Comprehensive Methamphetamine Control Act of 1996, which regulates certain drug products that are being diverted for the production of methamphetamine. In addition, DEA has initiated a project to propose regulations to provide an electronic alternative to the present paper-based system of distributing and dispensing Schedule II, III, IV, and V controlled substances. These rulemakings will permit DEA registrants to transmit controlled substances orders and prescriptions electronically using digital signature technology. These rulemakings will permit many DEA registrants to conduct business electronically, while maintaining appropriate security within the closed system of distribution of controlled substances mandated by the Controlled Substances Act of 1970.

On March 20, 1997, the Federal Bureau of Investigation promulgated final cost recovery regulations under the Communications Assistance for Law Enforcement Act of 1994 (CALEA). Congress enacted CALEA to address the recent and continuing advances in telecommunications technology, which have impaired and, in some instances, precluded law enforcement agencies from fully conducting various types of court-authorized electronic surveillance. The Attorney General is authorized to reimburse carriers for all of the reasonable costs directly associated with the modifications they perform on equipment, facilities, and services deployed on or before January 1, 1995. These regulations provide the cost accounting standards for the reimbursements.

In response to public comments during the cost recovery rulemaking, the FBI published on April 20, 1998, a proposed rule defining the terms "significant upgrade" and "major modification." The FBI plans to publish a supplemental notice of proposed rulemaking, which will define the terms "replaced" and "significantly upgraded or otherwise undergone major modification."

On March 12, 1998, the FBI, on behalf of law enforcement, published a Final Notice of Capacity (following two previously published notices on the same subject) informing telecommunications carriers offering local exchange services and certain commercial mobile radio services (specifically cellular service and broadband PCS) of the estimated actual and maximum number of simultaneous interceptions that law enforcement might conduct on or after specified dates.

On December 18, 1998, the FBI published a Notice of Inquiry (NOI) soliciting information and suggestions from interested parties for developing reasonable capacity methodologies for characterizing the capacity requirements for telecommunications services other than those covered by the March 12, 1998, Final Notice of Capacity. The FBI issued a Further Notice of Inquiry (FNOI) on June 30, 2000. Information gathered in response to the FNOI will be used in the publication of an Initial Notice of Capacity for developing reasonable capacity methodologies for the paging, mobile satellite, specialized mobile radio, and enhanced specialized radio services.

Several proposed changes in the National Instant Criminal Background Check System regulations are being considered by the Department. The changes include: (1) requiring the FBI to destroy information about approved firearm transfers before the beginning of the next business day following the approval; (2) allowing the FBI to retain for up to 90 days by individual gun dealer information about dates of NICS checks and the NICS transaction numbers on approved firearm transfers for the purpose of sharing such information with the ATF for use in inspections of gun dealers; (3) creating a new definition of "unresolved" transaction, i.e., transactions in which the NICS is unable to resolve within 3 business days whether a record identified by a NICS check demonstrates that a prospective gun purchaser is disqualified, and allowing the FBI to retain for up to 90 days information about unresolved transactions so that steps can be taken to retrieve a firearm from a prohibited person if information demonstrating that a person is prohibited is received within the 90-day time period; (4) requiring state Points of Contact (POCs) that conduct NICS checks for the system to provide to the FBI information about whether the POC determined that the gun transfer may proceed, is denied, or that the check is unresolved; and (5) allow a lawful firearm purchaser to consent to the FBI retaining personal information in a voluntary appeals file to avoid confusion or delay in future purchases.

Civil Rights

The Department and its Civil Rights Division are deeply committed to the rigorous enforcement of this Nation's civil rights laws. In keeping with that commitment, the Division will review and update its regulations implementing the Americans with Disabilities Act of 1990 (ADA), as well as issue a rule pertaining to the Department's authority to review police departments for a pattern or practice of unlawful conduct under the Violent Crime Control and Law Enforcement Act of 1994.

The Department is planning to make revisions in its regulations implementing titles II and III of the ADA to amend the ADA Standards for Accessible Design (28 CFR part 36, appendix A) to be consistent with the revised ADA accessibility guidelines proposed by the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) in November 1999. Title II of the ADA prohibits discrimination on the basis of disability by public entities, and title III prohibits such discrimination by places of public accommodation and requires accessible design and construction of places of public accommodation and commercial facilities. In implementing these provisions, the Department of Justice is required by statute to publish regulations that include design standards that are consistent with the guidelines developed by the Access Board.

The Access Board has been engaged in a multi-year effort to revise and amend its accessibility guidelines. The goals of this project have been: 1) to address issues such as unique State and local facilities (e.g., prisons, courthouses), recreation, play areas, and building elements specifically designed for children's use that were not addressed in the initial guidelines; 2) to promote greater consistency between the Federal accessibility requirements and the model codes; and 3) to provide greater consistency between the ADA guidelines and the guidelines that implement the Architectural Barriers Act. The Access Board has proposed and/or adopted guidelines that address all of these issues. Therefore, to comply with the ADA requirement that the ADA standards remain consistent with the Access Board's guidelines, the Department will propose to adopt the changes previously proposed by the Access Board.

The Department also plans to review its regulations implementing title II and title III (28 CFR parts 35 and 36) to ensure that the requirements applicable to new construction and alterations under title II are consistent with those applicable under title III, to review and update the regulations to reflect the current state of law, and to ensure the Department's compliance with applicable provisions of the Small Business Regulatory Enforcement Fairness Act (SBREFA).

Pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. section 14141 ("section 14141"), the Attorney General is authorized to file lawsuits seeking court orders to reform police departments engaging in a pattern or practice of conduct that deprives persons of rights, privileges, or immunities secured by the Constitution or laws of the United States. To date, the Department of Justice has conducted reviews of police departments pursuant to section 14141 using informal procedures. The Department plans to issue a rule to formalize the procedures by which the Department reviews police departments for a pattern or practice of unlawful conduct.

Immigration

The Immigration and Naturalization Service (INS) will advance the President's objectives with regulatory initiatives that minimize regulatory burdens on the public and increase the efficiency of Agency operations. INS administers regulations governing the admission of legal immigrants and temporary visitors, apprehension and deportation of illegal aliens, alien employment authorization and verification, and asylum and naturalization.

During the next 12 months, under new direction by Commissioner James W. Ziglar, INS will implement rulemaking for:

- Implementing the new Public Law 107-56, Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, which amends provisions of the Immigration and Nationality Act concerning the detention and removal of aliens who engage in terrorist activities.
- Strengthening INS law enforcement authority by extending the time period for which aliens who are arrested for immigration violations can be held in detention facilities.
- Restructuring of the INS to modernize existing systems, to streamline procedures to provide for more efficiency in service delivery, and to provide better customer service to the public.
- Eliminating the immigration benefit application backlog and obtaining a 6-month processing standard for all applications.
- Building and maintaining an immigration services system that provides immigration information and benefits in a timely, accurate, consistent, courteous, and professional manner.
- Reviewing policies related to detention of children and asylum seekers to ensure that INS only detains individuals who absolutely require detention and determining alternatives to detention where alternatives would be more appropriate.
- The Victims of Trafficking and Violence Protection Act of 2000 and the LIFE Act.
- Streamlining the immigration process faced by foreign health care workers especially to relieve the significant nursing shortage in many rural parts of the United States and examining whether current INS regulations prevent much needed physicians from settling in medically under-served areas.

INS has recently issued regulations to carry out recent legislation such as the Legal Immigration Family Equity Act of 2000 (LIFE Act). To implement the Victims of Trafficking and Violence Protection Act of 2000, INS will issue an interim final rulemaking to implement the new "T" nonimmigrant visa for victims of severe forms of trafficking. This final rule also provides both immigrant and nonimmigrant visa categories, the new grounds of inadmissibility and corresponding waiver requirements, and is one of two key regulatory priorities of the INS.

The INS will soon publish a proposed rule to implement the provisions of the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA) and the American Competitiveness in the Twenty-first Century Act of 2000 (AC21) to reflect changes made to the H-1B nonimmigrant classification. These changes include an increase in the number of visas available annually, an increase in the fee for certain petitions, a new portability provision allowing H-1B non-immigrants to commence employment with a new H-1B employer prior to approval of a subsequent petition by the Service, and improvements which will help the Service deter fraud in the H-1B nonimmigrant classification.

In addition, over the past year, INS has promulgated critical interim final rulemakings to implement the LIFE Act, which are included in the fall 2001 Unified Agenda of Federal Regulatory and Deregulatory Actions. For instance, INS prepared rulemaking for LIFE Act benefits that provide:

- For adjustment of status under section 245(i) of the Immigration and Nationality Act that allows certain persons who have an immigrant visa available but entered without inspection or otherwise violated their status (and thus are ineligible to apply for adjustment of status in the U.S.) to apply if they pay a $1,000 penalty (Interim rule, 66 FR 16383, March 26, 2001).
- A new status, temporary "V" non-immigrant classification, pending rule publication, which will be available to the spouses and minor children of lawful permanent residents waiting more than 3 years for an immigrant visa based upon an immigrant petition filed on or before the enactment date of the LIFE Act. Persons granted "V" status would receive employment authorization and are protected from removal.
- The expansion of a new temporary "K" visa non-immigrant classification available to include spouses of U.S. citizens (and their children) living abroad. Previously the K visa was only available to fiancées of U.S. citizens who were coming to the United States to get married within 90 days of arrival. (Interim rule, 66 FR 42587, August 14, 2001).
- Adjustment of status for class membership in one of three "late amnesty" lawsuits (CSS v. Meese, LULAC v. INS, and Zambrano v. INS). They are eligible to apply for adjustment of status during a 12-month period that began on July 1, 2001. The family unity provision allows spouses and unmarried children of the class action claimants will be protected from certain categories of removal and will be eligible for work authorization if they entered the United States before December 1, 1988, and resided in the United States on that date. (Interim rule, 66 FR 29661, June 1, 2001).
- Technical amendments to section 202 of the Nicaragua Adjustment and Central American Relief Act (NACARA) and section 902 of the Haitian Refugee Immigration Fairness Act of 1998 (HRFIA). Previously, certain aliens were barred from seeking adjustment of status under these provisions if they illegally reentered the United States after an order of removal or a grant of voluntary departure. The technical amendments found in section of 1505 of the LIFE Amendments exempt otherwise eligible aliens from this bar to adjustment and provided aliens already denied NACARA or HRIFA benefits for this reason with the ability to file motions to reopen. (Interim rule, 66 FR 29449, May 31, 2001).

The Bush Administration and Commissioner Ziglar will be steering the INS to ensure that obligations under immigrations laws will be met with good judgment, compassion and common sense.

DOJ—Civil Rights Division (CRT)

PROPOSED RULE STAGE

77. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES (SECTION 610 REVIEW)

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

5 USC 301; 28 USC 509; 28 USC 510; 42 USC 12186(b)

CFR Citation:

28 CFR 36

Legal Deadline:

None

Abstract:

In 1991, the Department of Justice published regulations to implement title III of the Americans with Disabilities Act of 1990 (ADA). Those regulations include the ADA Standards for Accessible Design, which establish requirements for the design and construction of accessible facilities that are consistent with the ADA Accessibility Guidelines (ADAAG) published by the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). In the time since the regulations became effective, the Department of Justice and the Access Board have each gathered a great deal of information regarding the implementation of the Standards. The Access Board is currently in the process of revising ADAAG, and it published a Notice of Proposed Rulemaking (NPRM) on November 16, 1999. In order to maintain consistency between ADAAG and the ADA Standards, the Department is reviewing its title III regulation and expects to propose, in one or more stages, to adopt the revisions proposed by the Access Board and to make related revisions to the Department's title III regulation. In addition to maintaining consistency between ADAAG and the Standards, the purpose of this review and these revisions will be to more closely coordinate with voluntary standards, to clarify areas which, through inquiries and comments to the Department's technical assistance phone lines, have been shown to cause confusion, to reflect evolving technologies in areas affected by the Standards, and to comply with section 610 of the Regulatory Flexibility Act, which requires agencies once every 10 years to review rules that have a significant economic impact upon a substantial number of small entities.

The adoption of revised ADAAG will also serve to address changes to the ADA Standards previously proposed in RIN 1190-AA26 and RIN 1190-AA38, which have been withdrawn. These changes will include technical specifications for facilities designed for use by children and accessibility standards for State and local government facilities that have previously been published by the Architectural and Transportation Barriers Compliance Board.

The timetable set forth below refers to the notice of proposed rulemaking that the Department will issue as the first stage of the above-described title III rulemaking. This notice of proposed rulemaking will be issued under both title II and title III. For purposes of the title III regulation, this notice will propose to adopt revised ADAAG as the ADA Standards for Accessible Design and will initiate the review of the regulation in accordance with the requirements of section 610 of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

Statement of Need:

Section 504 of the ADA requires the Access Board to issue supplemental minimum guidelines and requirements for accessible design of buildings and facilities subject to the ADA, including title III. Section 306(c) of the ADA requires the Attorney General to promulgate regulations implementing

title III that are consistent with the Access Board's ADA guidelines. Because this rule will adopt standards that are consistent with the minimum guidelines issued by the Access Board, this rule is required by statute. Similarly, the Department's review of its title III regulation is being undertaken to comply with the requirements of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996.

Summary of Legal Basis:

The summary of the legal basis of authority for this regulation is set forth above under Legal Authority and Statement of Need.

Alternatives:

The Department is required by the ADA to issue this regulation. Pursuant to SBREFA, the Department's title III regulation will consider whether alternatives to the currently published requirements are appropriate.

Anticipated Cost and Benefits:

The Access Board has analyzed the effect of applying its proposed amendments to ADAAG to entities covered by titles II and III of the ADA and has determined that they constitute a significant regulatory action for purposes of Executive Order 12866. The Access Board's determination will apply as well to the revised ADA standards published by the Department. The Department's proposed procedural amendments will not have a significant impact on small entities.

The Access Board has prepared a regulatory assessment, which includes a cost impact analysis for certain accessibility elements and a discussion of the regulatory alternatives considered. A summary of the Board's regulatory assessment is published at 64 FR 62282 (November 16, 1999). That assessment will also apply to the Department's proposed rule.

Risks:

Without the proposed changes to the Department's title III regulation, the ADA Standards will fail to be consistent with the ADAAG.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Additional Information:

RIN 1190-AA44, which will effect changes to 28 CFR 36 (the Department's regulation implementing title III of the ADA), is related to another rulemaking of the Civil Rights Division, RIN 1190-AA46, which will effect changes to 28 CFR 35 (the Department's regulation implementing title II of the ADA). By adopting revised ADAAG, this rulemaking will, among other things, address changes to the ADA Standards previously proposed in RIN 1190-AA26, which has been withdrawn and merged into RIN 1190-AA44 and RIN 1190-AA46. These changes include technical specifications for facilities designed for use by children that had been previously published by the Architectural and Transportation Barriers Compliance Board.

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RIN: 1190–AA44

DOJ—CRT

78. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES (SECTION 610 REVIEW)

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

5 USC 301; 28 USC 509 to 510; 42 USC 12134; PL 101-336

CFR Citation:

28 CFR 35

Legal Deadline:

None

Abstract:

On July 26, 1991, the Department published its final rule implementing title II of the Americans with Disabilities Act (ADA). On November 16, 1999, the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) issued its first comprehensive review of the ADA Accessibility Guidelines, which form the basis of the Department's ADA Standards for Accessible Design. The ADA (section 204(c)) requires the Department's standards to be consistent with the Access Board's guidelines. Therefore, the Department will publish a Notice of Proposed Rulemaking (NPRM) proposing to adopt the revisions proposed by the Access Board. The Department will also, in one or more stages, review its title II regulation for purposes of section 610 of the Regulatory Flexibility Act and make related changes to its title II regulation.

In addition to the statutory requirement for the rule, the social and economic realities faced by Americans with disabilities dictate the need for the rule. Individuals with disabilities cannot participate in the social and economic activities of the Nation without being able to access the programs and services of State and local governments. Further, amending the Department's ADA regulations will improve the format and usability of the ADA Standards for Accessible Design; harmonize the differences between the ADA Standards and national consensus standards and model codes; update the ADA Standards to reflect technological developments that meet the needs of persons with disabilities; and coordinate future ADA Standards revisions with national standards and model code organizations. As a result, the overarching goal of improving access for persons with disabilities so that they can benefit from the goods, services, and activities provided to the public by covered entities will be met.

The timetable set forth below refers to the notice of proposed rulemaking that the Department will issue as the first stage of the above-described title II rulemaking. This notice of proposed rulemaking will be issued under both title II and title III. For purposes of the title II regulation, this notice will propose to eliminate the Uniform Federal Accessibility Standards (UFAS) as an alternative to the ADA Standards for Accessible Design and to adopt revised ADAAG as the ADA Standards.

Statement of Need:

Section 504 of the ADA requires the Access Board to issue supplemental minimum guidelines and requirements for accessible design of buildings and facilities subject to the ADA, including title II. Section 204(c) of the ADA

requires the Attorney General to promulgate regulations implementing title II that are consistent with the Access Board's ADA guidelines. Because this rule will adopt standards that are consistent with the minimum guidelines issued by the Access Board, this rule is required by statute. Similarly, the Department's review of its title II regulation is being undertaken to comply with the requirements of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA).

Summary of Legal Basis:

The summary of the legal basis of authority for this regulation is set forth above under Legal Authority and Statement of Need.

Alternatives:

The Department is required by the ADA to issue this regulation as described in the Statement of Need above. Pursuant to SBREFA, the Department's title II regulation will consider whether alternatives to the currently published requirements are appropriate.

Anticipated Cost and Benefits:

The Administration is deeply committed to ensuring that the goals of the ADA are met. Promulgating this amendment to the Department's ADA regulations will ensure that entities subject to the ADA will have one comprehensive regulation to follow. Currently, entities subject to title II of the ADA (State and local governments) have a choice between following the Department's ADA Standards for title III, which were adopted for places of public accommodation and commercial facilities and which do not contain standards for common State and local government buildings (such as courthouses and prisons), or the Uniform Federal Accessibility Standards (UFAS). By developing one comprehensive standard, the Department will eliminate the confusion that arises when governments try to mesh two different standards. As a result, the overarching goal of improving access to the built environment to persons with disabilities will be better served.

The Access Board has analyzed the effect of applying its proposed amendments to ADAAG to entities covered by titles II and III of the ADA and has determined that they constitute a significant regulatory action for purposes of Executive Order 12866. The Access Board's determination will apply as well to the revised ADA Standards published by the Department. The Department's proposed procedural amendments will not have a significant impact on small entities.

The Access Board has prepared a regulatory assessment, which includes a cost impact analysis for certain accessibility elements and a discussion of the regulatory alternatives considered. A summary of the Board's regulatory assessment is published at 64 FR 62282 (November 16, 1999). That assessment will also apply to the Department's proposed rule.

The Access Board has made every effort to lessen the impact of its proposed guidelines on State and local governments but recognizes that the guidelines will have some federalism effects. These affects are discussed in the Access Board's regulatory assessment, which also applies to the Department's proposed rule.

Risks:

Without this amendment to the Department's ADA regulations, regulated entities will be subject to confusion and delay as they attempt to sort out the requirements of conflicting design standards. This amendment should eliminate the costs and risks associated with that process.

Timetable:

Action	Date	FR Cite
NPRM (RIN 1190-AA26)	06/20/94	59 FR 31808
NPRM (RIN 1190-AA26) Comment Period End	08/19/94	
RIN 1190-AA26 Merged Into 1190-AA46	02/15/00	65 FR 22968
Supplemental NPRM	12/00/01	
Supplemental NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

State, Local

Federalism:

This action may have federalism implications as defined in EO 13132.

Additional Information:

RIN 1190-AA46, which will effect changes to 28 CFR 35 (the Department's regulation implementing title II of the ADA), is related to another rulemaking of the Civil Rights Division, RIN 1190-AA44, which will effect changes to 28 CFR 36 (the Department's regulation implementing title III of the ADA). By adopting revised ADAAG, this rulemaking will, among other things, address changes to the ADA Standards previously proposed in RINs 1190-AA26 and 1190-AA38, which have been withdrawn and merged into this rulemaking. These changes include technical specifications for facilities designed for use by children and accessibility standards for State and local government facilities that had been previously published by the Architectural and Transportation Barriers Compliance Board.

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RIN: 1190–AA46

DOJ—Immigration and Naturalization Service (INS)

PROPOSED RULE STAGE

79. AMERICAN COMPETITIVENESS IN THE TWENTY-FIRST CENTURY ACT OF 2000 AND OTHER RELATED BILLS

Priority:

Other Significant

Legal Authority:

8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation:

8 CFR 103; 8 CFR 202; 8 CFR 212; 8 CFR 274a

Legal Deadline:

None

Abstract:

The American Competitiveness in the 21st Century Act, Public Law 106-313, was enacted on October 17, 2000, along with two bills, the Visa Waiver Permanent Program Act, Public Law 106-311, and a bill to increase the fee for certain H-1B petitions. Together, these bills make significant changes to

the H-1B classification. Public Law 106-313 increases the numerical H-1B cap to 195,000 for FYs 2000-2002 and the percentage of the fees that INS receives to 4 percent. It exempts certain aliens from the numerical cap, provides for the "portability" of employment authorization, in certain circumstances, 1-year extensions of stay for certain aliens who have permanent residence applications pending. It also authorizes the creation of an Immigration Services and Infrastructure Improvements Account for appropriation of funds to eliminate the immigration benefit application processing backlog. This regulation clarifies several interpretive questions raised by the bills and ensures INS practice is consistent with these laws.

Statement of Need:

This regulation is necessary to implement the AC21 and VWPPA. Failure to fully implement will result in adverse consequences for the public. For example, the scope of the "portability" benefit is unclear. This lack of clarity combined with the self executing nature of the portability benefit means that aliens who incorrectly interpret the provisions may incur adverse immigration consequences. A clear regulatory interpretation will prevent this situation.

Summary of Legal Basis:

See Statement of Need. This action is not required by the statute or by a court order but as explained in the statement of need.

Alternatives:

None.

Anticipated Cost and Benefits:

The INS anticipates a moderate cost associated with the staff time and resources necessary to conduct training and disseminate new guidelines and standard operating procedures to the field. There is little or no additional workload for adjudications officers involved with this regulation.

Risks:

This regulatory action is critical for complete and clear implementation of the provisions of this legislation. The regulation will clarify the confusion that exists in the immigration community as to the scope and applicability of many of these provisions and will thus prevent the public from taking actions which may unintentionally trigger adverse immigration consequences. Delay in this rulemaking or failure to promulgate will perpetuate confusion among the public and lead to members of the public unwittingly incurring adverse immigration consequences.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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RIN: 1115–AG11

DOJ—INS

FINAL RULE STAGE

80. NEW CLASSIFICATION FOR VICTIMS OF SEVERE FORMS OF TRAFFICKING IN PERSONS ELIGIBLE FOR THE T NONIMMIGRANT STATUS

Priority:

Other Significant

Legal Authority:

5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1104; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1252; 8 USC 1252a; 22 USC 7101; 22 USC 7105; ...

CFR Citation:

8 CFR 204; 8 CFR 212; 8 CFR 214; 8 CFR 299

Legal Deadline:

None

Abstract:

This rule sets forth application requirements for a new nonimmigrant visa classification. The T classification was created by 107(e) of the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Public Law 106-386. The T visa was designed for eligible victims of severe forms of trafficking in persons who aid the Government with their case against the traffickers and who can establish that they would suffer extreme hardship involving unusual and severe harm if they were removed from the United States after having completed their assistance to law enforcement. The rule establishes application procedures and responsibilities for the Immigration and Naturalization Service (Service) and provides guidance to the public on how to meet certain requirements to obtain T nonimmigrant status.

There is a statutory cap for victims of severe form of trafficking (principals), which is set at 5,000 T visas per annum. The law also provides that certain family members can derive a T status through the principal's application. It is estimated that there may be four derivative visas issued for each principal.

Statement of Need:

This rule is necessary to establish how an eligible alien can obtain temporary immigration benefits as a victim of a severe form of trafficking in persons while providing a means of assistance for law enforcement officials at the Federal level to investigate and prosecute trafficking in persons.

Summary of Legal Basis:

Public Law 106-386, The Victims of Trafficking and Violence Protection Act of 2000.

Alternatives:

None

Anticipated Cost and Benefits:

No money has been authorized or appropriated for the anticipated administrative or operational costs for this program. While there is no precise formula for determining anticipated costs, there will be additional costs for adjudicating benefits and investigating claims, particularly those deemed fraudulent. There will be training costs for INS staff. The T visa regulation builds on protections and assistance for victims of severe forms of trafficking

in persons outlined in section 107(c) of the VTVPA and implemented in amendments to 28 CFR part 1100 in the recent rulemaking 66 FR 38514 (July 24, 2001) (See RIN 1115-AG20). Part 1100 outlined procedures for Federal officials to identify and protect victims of severe forms of trafficking in persons; provided for access to information and translation services for victims; and outlined legal mechanisms to grant "continued presence" to victims of severe forms of trafficking in persons to allow them to remain in the U.S. during the pendency of law enforcement investigations and prosecutions. The T visa classification allows victims of severe forms of trafficking in persons to remain in the U.S. past the time of their assistance to law enforcement, if they can demonstrate that they will face extreme hardship involving unusual and severe harm if they were removed from the United States.

There may be thousands of applications that will not be approved for a variety of reasons, including failure to meet the basic T nonimmigrant requirements. All applications will be reviewed and some will require extensive investigation both here and abroad to determine if they are bona fide.

The anticipated benefit of these expenditures includes the assistance to trafficked victims and their families and the prosecution of traffickers in persons and the elimination of the abuses caused by their trafficking activities.

Benefits which may be attributed to the implementation of this rule are expected to be:

—an increase in the number of cases brought forward for investigation and/or prosecution;

—heightened awareness by the law enforcement community of trafficking in persons;

—enhanced ability to develop and work cases in trafficking in persons cross-organizationally and multi-jurisdictionally which may begin to influence changes in trafficking patterns.

Risks:

This rule is not an initiative of the INS but rather promulgated as a result of congressional action to develop a new nonimmigrant category. Risks associated with the implementation of the congressionally mandated new nonimmigrant classification include:

—increased workload on adjudicators and investigators which may impact overall efficiency and productivity;

—increases in fraudulent applications/claims of such victimization in order to obtain T nonimmigrant status; and

—changes in human trafficking patterns to elude law enforcement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Federal

Additional Information:

INS No. 2132-01

There is a related rulemaking INS No. 2170-01, the new U non-immigrant status. [RIN 1115-AG39]

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BILLING CODE 4410–BP–S

DEPARTMENT OF LABOR (DOL)

2001 Regulatory Plan

Executive Summary: Goals and Priorities

In its Strategic Plan for 1999-2004, the Department of Labor (DOL) set three overall goals: first, to enhance opportunities for America's workforce; second, to promote the economic security of workers and their families; and third, to foster quality workplaces that are safe, healthy, and fair.

To help achieve these goals, Secretary of Labor Elaine L. Chao has set a new course for the Department. DOL will emphasize prevention and compliance assistance, relying on the use of common-sense standards of safety and fairness to protect workers before they are harmed physically or economically. Education and encouragement of employers will help workers far more than enforcement alone, since no enforcement process can possibly identify every violation of the law, and fines and penalties can never fully redress losses of life, health, and economic well-being. As part of this effort, DOL will seek new strategies for advising employers and workers of their rights and responsibilities. In addition, the Department will work towards humanizing and rationalizing the immigrant worker programs. We must deal promptly and efficiently with immigrant worker applications and ensure the integrity of guestworker programs if we are to provide safe, predictable and appropriate working conditions for immigrant workers.

DOL also recognizes that the emerging 21st century economy presents challenges to workers at all skill levels and in all walks of life. Those who have been laid off from jobs because their companies could not adapt to technological changes or foreign competition, or who did not get a full education, or who made a wrong turn at some point in their lives, cannot be left behind. Some of these workers, especially young workers, need training in basic skills and help in becoming acclimated to working life. Other workers may need assistance in learning new skills or in obtaining advanced schooling. We must also take advantage of advances in technology to open the doors of the workplaces to the disabled.

At the same time, high-technology industries are creating job opportunities unheard of even a decade ago, and DOL must help employers and workers bridge the gap between the requirements of those jobs and the skills of the workers who would fill them. Workers who can keep their skills up to date throughout their careers have more productive and more rewarding economic futures.

The tools the Department will use to reach its goals revolve around five Secretarial priorities:

- Ensure the safety of every workplace;
- Guarantee an honest day's pay for an honest day's work;
- Stop discrimination;
- Protect workers from coercion and intimidation;
- Safeguard the pension and health benefits of every American worker.

The Secretary of Labor's Plan for Accomplishing These Objectives

The balance between labor and management that underlies the country's labor laws is a crucial source of stability in our economy, and the need for labor and management to work together has become increasingly evident in recent years. For these reasons, any change in the regulations that implement the country's labor and employment laws must be carefully considered, and the views of all parties affected must be taken into account.

In general, DOL will try to help employees and employers meet their needs in a cooperative fashion, with a minimum of rulemaking. However, to reflect changes in technology and business practices, and to clarify existing rules in light of new laws and legal interpretations, DOL will need to promulgate new regulations periodically.

In doing so, DOL will craft proposals that are responsive to workers' needs. Those needs span an entire range of work environments, from traditional settings that have well-defined conditions and locations of work, to newly emerging settings that are more flexibly structured in terms of schedules and workplaces.

Similarly, the skills needed by today's workforce are more varied than at any time in our country's history, and they continue to change at a rapid rate. Changes in the financial marketplace, as well as in compensation and benefit arrangements, present both challenges and opportunities for today's workers.

The following proposals represent what DOL believes to be a balanced plan for protecting workers in their current jobs and preparing them for future employment. DOL considers these proposals to be proactive, common-sense approaches to the issues most clearly needing regulatory attention.

DOL will continue to use plain language to explain the need for the rules proposed, to describe the methods for obtaining compliance, and to outline the effects of noncompliance. DOL will also explore new ways to help its various constituencies comply with existing rules and with new rules once they are adopted.

The Department's Regulatory Priorities

DOL has identified 17 high-priority items for regulatory action. Eight of them address health and safety issues, which are central to DOL's mission and which represent a major focus of the Secretary. Two agencies, the Mine Safety and Health Administration (MSHA) and the Occupational Safety and Health Administration (OSHA), are responsible for these initiatives.

MSHA administers the Federal Mine Safety and Health Act of 1977 (Mine Act). The agency demonstrates its commitment to ensuring safer and healthier workplaces for our nation's miners in a number of ways, but government intervention alone cannot eliminate occupational deaths, injuries and illnesses in mining. The commitment of miners and mine operators is also needed. MSHA will continue to concentrate on improving existing health and safety standards and addressing emerging health hazards in mining.

While levels of respirable coal dust have been significantly reduced over the years, some miners continue to develop coal workers' pneumoconiosis. MSHA intends to issue final rules that will provide a means to verify operators' coal dust control plans, allow MSHA to assume responsibility for the operator coal dust sampling program, and prevent overexposure to respirable coal dust during every working shift (RIN 1219-AB14, RIN 1219-AB18). MSHA also proposes to lower the permissible exposure limit (PEL) for asbestos in surface and underground metal and non-metal mines (RIN 1219-AB24). This rule, which reflects current scientific data, is intended to reduce miners' risk of developing asbestos-related occupational diseases.

The Occupational Safety and Health Administration administers a wide range of measures throughout the public and private sectors. OSHA is committed to establishing clear and sensible priorities, reducing occupational deaths, injuries, and illnesses, and simplifying its recordkeeping requirements.

Two of OSHA's initiatives address health standards. The first, "Standards Improvement," will streamline a number of such standards by removing language that is outdated, duplicative, unnecessary or inconsistent (RIN 1218-AB81). These changes will reduce the amount of time and effort needed to understand and comply with these standards.

The second proposes improvements in respiratory protection against airborne contaminants, which include a variety of particulates, gases, vapors and biological agents, for employees who routinely wear respirators on the job (RIN 1218-AA05).

A third proposal concerns fires in shipyards, which claim the lives of several workers each year (RIN 1218-AB51). Using the negotiated rulemaking process, OSHA proposes to update requirements set in 1971 for fire extinguishers, sprinkler systems, detection systems, alarm systems and fire brigades to reduce fire-related injuries and fatalities.

Finally, OSHA proposes two changes in response to concerns raised by stakeholders. One of these relates to highway signs, signals and barricades (RIN 1218-AB88). OSHA will revise this rule to bring it into conformity with rules set forth by the Department of Transportation and to reflect new technology and offer more flexibility for compliance. The other addresses emergency exit routes used by employees (RIN 1218-AB82). Updating the standard and using clearer language should lead to better compliance and fewer disputes about violations.

Another of the Secretary's priorities, protection of pension and health benefits, is exemplified in three initiatives by the Pension and Welfare Benefits Administration (PWBA), which administers the Employee Retirement Income Security Act (ERISA). This law establishes reporting, disclosure, fiduciary and other standards that apply to an estimated 700,000 private sector employee pension benefit plans (covering approximately 92 million participants); an estimated 2.5 million group health benefit plans (covering 131 million participants and dependents); and 3.4 million other welfare benefits plans (covering approximately 190 million participants).

PWBA's initiatives focus on encouraging voluntary compliance with the laws and regulations that apply to employee benefit plans. The first provides for adoption of a Voluntary Fiduciary Correction Program, which will promote compliance with ERISA's fiduciary responsibility requirements (RIN 1210-AA76). The second addresses revisions to PWBA's Delinquent Filer Voluntary Compliance program, which will facilitate compliance with ERISA's annual reporting requirements (RIN 1210-AA86). The third advocates development of model COBRA notices, which will promote compliance with the provisions of ERISA and the Internal Revenue Code that govern continuation of health benefits coverage (RIN 1210-AA60).

The Secretary's emphasis on meeting the needs of the 21st century workforce is reflected in a regulatory initiative developed by the Employment and Training Administration (ETA). This rule will improve the quality of employment services provided to low-income senior citizens under the Older Americans Act (RIN 1205-AB28). These individuals often need assistance in developing skills and obtaining work experience so that they can obtain unsubsidized work. This rule will also improve the performance accountability system for providers of such services and enhance the ability of the States to coordinate services.

The Department is working on certain rules in the immigration area that will enhance the security of the employment-related immigration system. One such rule is an ETA rule that will allow employers to submit H-1B labor condition applications via the Internet (RIN 1205-AB29). Another is a related Employment Standards Administration (ESA) rule that implements amendments to the H-1B program contained in the American Competitiveness and Workforce Improvement Act of 1998 (RIN 1215-AB09). The Department is evaluating comments received on an interim final rule published in December 2000.

Finally, ESA has set forth three regulatory initiatives. The Office of Labor-Management Standards (OLMS) has proposed a rule that will implement the requirements of Executive Order 13201 (RIN 1215-AB33). This Order requires Federal contractors to notify their employees that they are not required to join a union, and to inform employees of their rights with respect to use of union dues and fees.

The Secretary's priority of ensuring that appropriate wages are paid at legal levels is the subject of two proposals set forth by ESA's Wage and Hour Division. Among the statutes enforced by the Wage and Hour Division is the Fair Labor Standards Act (FLSA), which sets requirements for payment of minimum wages and overtime pay to more than 100 million employees. It also defines conditions for the employment of minors.

The Wage and Hour Division's first initiative updates the child labor rules issued under the FLSA to address changes in the nature of the workplace and situations in which minors may operate certain kinds of machinery (RIN 1215-AA09). While young workers need employment experiences that will help them gain the skills needed to find and hold good jobs later in life, they also need to focus on obtaining high-quality educations. It is our responsibility to ensure that they work in jobs that are not hazardous, and that younger workers (14 and 15 years old) work hours that will not interfere with their education, and under conditions that will not interfere with their health and well being.

The Wage and Hour Division's second initiative revises and clarifies the criteria that define the minimum wage and overtime exemptions for "executive", "administrative", "professional", and "outside sales" employees under the FLSA (RIN 1215-AA14). Changes to these rules will help employers meet their obligations voluntarily and enhance workers' understanding of their rights and benefits.

DOL—Employment Standards Administration (ESA)

PROPOSED RULE STAGE

81. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal goverments and the private sector.

Legal Authority:

29 USC 213(a)(1)

CFR Citation:

29 CFR 541

Legal Deadline:

None

Abstract:

These regulations set forth the criteria for exemption from the Fair Labor Standards Act's minimum wage and overtime requirements for "executive," "administrative," "professional" and "outside sales employees." To be exempt, employees must meet certain tests relating to duties and responsibilities and be paid on a salary basis at specified levels. A final rule increasing the salary test levels was published on January 13, 1981 (46 FR 3010), to become effective on February 13, 1981, but was indefinitely stayed on February 12, 1981 (46 FR 11972). On March 27, 1981, a proposal to suspend the final rule indefinitely was published (46 FR 18998), with comments due by April 28, 1981. As a result of numerous comments and petitions from industry groups on the duties and responsibilities tests, and as a result of case law developments, the Department concluded that a more comprehensive review of these regulations was needed. An ANPRM reopening the comment period and broadening the scope of review to include all aspects of the regulations was published on November 19, 1985, with the comment period subsequently extended to March 22, 1986.

The Department has revised these regulations since the ANPRM to address specific issues. In 1991, as the result of an amendment to the Fair Labor Standards Act (FLSA), the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also, in 1992 the Department issued a final rule which modified the exemption's requirement for payment on a "salary basis" for otherwise exempt public sector employees.

Statement of Need:

These regulations contain the criteria used to determine if an employee is exempt from the FLSA as an "executive," "administrative," "professional," or "outside sales" employee. The existing salary test levels used in determining which employees qualify as exempt were adopted in 1975 on an interim basis. These salary level tests are outdated and offer little practical guidance in applying the exemption. In addition, numerous comments and petitions have been received from industry groups regarding the duties and responsibilities tests in the regulations, requesting a review of these regulations.

These regulations have been revised to deal with specific issues. In 1991, as the result of an amendment to the FLSA, the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also in 1991, the Department undertook separate rulemaking on another aspect of the regulations, the definition of "salary basis" for public-sector employees. Because of the limited nature of these revisions, the regulations are still in need of updating and clarification.

Summary of Legal Basis:

These regulations are issued under the statutory exemption from minimum wage and overtime pay provided by section 13(a)(1) of the Fair Labor Standards Act, 29 USC 213(a)(1), which requires the Secretary of Labor to issue regulations that define and delimit the terms "any employee employed in a bona fide, executive, administrative, or professional capacity..., or in the capacity of outside salesman...," for purposes of applying the exemption to employees who meet the specified criteria.

Alternatives:

The Department will involve affected interest groups in developing regulatory alternatives. Following completion of these outreach and consultation activities, full regulatory alternatives will be developed.

Although legislative proposals have been introduced in Congress to address certain aspects of these regulations, the Department continues to believe revisions to the regulations are the appropriate response to the concerns raised. Alternatives likely to be considered range from particular changes to address "salary basis" and salary level issues to a comprehensive overhaul of the regulations that also addresses the duties and responsibilities tests.

Anticipated Cost and Benefits:

Some 32 million employees are estimated to be within the scope of these regulations. Legal developments in court cases are changing the guiding interpretations under this exemption and creating law without considering a comprehensive analytical approach to current compensation concepts and workplace practices. Clear, comprehensive, and up-to-date regulations would provide for central, uniform control over the application of these regulations and ameliorate many concerns. In the public sector, State and local government employers contend that the rules are based on production workplace environments from the 1940s and 1950s that do not readily adapt to contemporary government functions. The Federal Government also has concerns regarding the manner in which the courts and arbitration decisions are applying the exemption to the Federal workforce. Resolution of confusion over how the regulations are to be applied in the public sector will ensure that employees are protected, that employers are able to comply with their responsibilities under the law, and that the regulations are enforceable. Preliminary estimates of the specific costs and benefits of this regulatory action will be developed once the various regulatory alternatives are identified.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal To Suspend Rule Indefinitely	03/27/81	46 FR 18998
ANPRM	11/19/85	50 FR 47696
Extension of ANPRM Comment Period From 01/21/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	
NPRM	09/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Federal

Federalism:

Undetermined

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RIN: 1215–AA14

DOL—ESA

82. OBLIGATION OF FEDERAL CONTRACTORS AND SUBCONTRACTORS, NOTICE OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES

Priority:

Other Significant

Legal Authority:

EO 13201

CFR Citation:

29 CFR 470

Legal Deadline:

None

Abstract:

This regulation will implement E.O. 13201 which requires Government contractors and subcontractors to post notices informing their employees that (1) under Federal law they cannot be required to join a union or maintain membership in a union to retain their jobs, and (2) employees who choose not to be union members may object to the use of their compulsory union dues and fees for activities other than collective bargaining, contract administration, and grievance adjustment, and may be entitled to a refund and an appropriate reduction in their future payments. The proposed regulation, in accordance with E.O. 13201, will also require that, where applicable, each Government contracting agency include certain provisions of the Order in its Government contracts, and that Government contractors and subcontractors include these provisions in their nonexempt subcontracts and purchase orders.

Statement of Need:

The regulation is necessary in order to implement Executive Order 13201.

Summary of Legal Basis:

The legal basis for this regulation is section 1(b) of Executive Order 13201. The legal basis for the Executive Order is the Constitution and laws of the United States, including the Federal Property and Administrative Services Act, 40 U.S.C. 471 et seq.

Alternatives:

There is no feasible alternative to issuing regulations. Regulations are needed in order to implement Executive Order 13201 by (1) clarifying the obligations of Federal contractors and subcontractors, (2) providing exemptions as authorized by the Executive order, and (3) establishing enforcement mechanisms as authorized by the Executive order. Alternatives to the specific provisions of the proposed rule suggested in comments by the public will be considered in developing the final rule.

Anticipated Cost and Benefits:

The only costs that Federal contractors will incur are for (1) posting the notice and (2) applying for waivers from the posting requirement. These will be minimal since (1) under the proposed regulation, the Department will supply the posters, and (2) the Department's experience under similar posting requirements is that few contractors request waivers. The benefits of the Executive order and the implementing regulation are the promotion of economy and efficiency in Government procurement by having workers who are informed of their rights regarding union membership and the use of union dues and fees.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Interim Procedural Rule	04/18/01	66 FR 19988
NPRM	10/01/01	66 FR 50010
NPRM Comment Period End	11/30/01	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

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DOL—ESA

FINAL RULE STAGE

83. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Priority:

Other Significant

Legal Authority:

29 USC 203(e)

CFR Citation:

29 CFR 570

Legal Deadline:

None

Abstract:

Section 3(l) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary is also directed to designate occupations that are particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14- and 15-year-olds may be employed, and specifies the number of hours in a day and in a week, and time periods within a day, that such minors may be employed. The Department has invited public comment in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders, and whether changes are needed in some of the applicable hazardous occupation orders. Comment has also been solicited on whether revisions should be considered in the permissible hours and time-of-day standards for 14- and 15-year-olds. Comment has been sought on appropriate changes required to implement school-to-work transition

programs. Additionally, Congress enacted Public Law 104-174 (August 6, 1996), which amended FLSA section 13(c) and requires changes in the regulations under Hazardous Occupation Order No. 12 regarding power-driven paper balers and compactors, to allow 16- and 17-year-olds to load, but not operate or unload, machines meeting applicable American National Standards Institute (ANSI) safety standards and certain other conditions. Congress also passed the Drive for Teen Employment Act, Public Law 105-334 (October 31, 1998), which prohibits minors under age 17 from driving automobiles and trucks on public roads on the job and sets criteria for 17-year-olds to drive such vehicles on public roads on the job.

Statement of Need:

Because of changes in the workplace and the introduction of new processes and technologies, the Department is undertaking a comprehensive review of the regulatory criteria applicable to child labor. Other factors necessitating a review of the child labor regulations are changes in places where young workers find employment opportunities, the existence of differing Federal and State standards, and the divergent views on how best to correlate school and work experiences.

Under the Fair Labor Standards Act, the Secretary of Labor is directed to provide by regulation or by order for the employment of youth between 14 and 16 years of age under periods and conditions which will not interfere with their schooling, health and well-being. The Secretary is also directed to designate occupations that are particularly hazardous for youth between the ages of 16 and 18 years or detrimental to their health or well-being. The Secretary has done so by specifying, in regulations, the permissible industries and occupations in which 14- and 15-year-olds may be employed, and the number of hours per day and week and the time periods within a day in which they may be employed. In addition, these regulations designate the occupations declared particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being.

Public comment has been invited in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders or necessitate revision to some of the existing hazardous orders. Comment has also been invited on whether revisions should be considered in the permissible hours and time-of-day standards for the employment of 14- and 15-year-olds, and whether revisions should be considered to facilitate school-to-work transition programs. When issuing the regulatory proposals (after review of public comments on the advance notice of proposed rulemaking), the Department's focus was on assuring healthy, safe and fair workplaces for young workers, and at the same time promoting job opportunities for young people and making regulatory standards less burdensome to the regulated community.

Summary of Legal Basis:

These regulations are issued under sections 3(1), 11, 12, and 13 of the Fair Labor Standards Act, 29 USC sections 203(1), 211, 212, and 213 which require the Secretary of Labor to issue regulations prescribing permissible time periods and conditions of employment for minors between 14 and 16 years old so as not to interfere with their schooling, health, or well-being, and to designate occupations that are particularly hazardous or detrimental to the health or well-being of minors under 18 years old.

Alternatives:

Regulatory alternatives developed based on recent legislation and the public comments responding to the advance notice of proposed rulemaking included specific proposed additions or modifications to the paper baler, teen driving, explosive materials, and roofing hazardous occupation orders, and proposed changes to the permissible cooking activities that 14- and 15-year-olds may perform in retail establishments.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs and benefits of this regulatory action indicated that the rule was not economically significant. Benefits will include safer working environments and the avoidance of injuries with respect to young workers.

Risks:

The child labor regulations, by ensuring that permissible job opportunities for working youth are safe and healthy and not detrimental to their education as required by the statute, produce positive benefits by reducing health and productivity costs employers may otherwise incur from higher accident and injury rates to young and inexperienced workers. Given the limited nature of the changes in the proposed rule, a detailed assessment of the magnitude of risk was not prepared.

Timetable:

Action	Date	FR Cite
Final Action HOs 2, 10 and 12	11/20/91	56 FR 58626
Final Action Effective	12/20/91	
ANPRM	05/13/94	59 FR 25167
ANPRM Comment Period End	08/11/94	59 FR 40318
NPRM	11/30/99	64 FR 67130
NPRM Comment Period End	01/31/00	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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DOL—ESA

84. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS

Priority:

Other Significant

Legal Authority:

8 USC 1101(a)(15)(H)(i)(b); 8 USC 1182(n); 8 USC 1184; 29 USC 49 et seq; PL 102-232; PL 105-277

CFR Citation:

20 CFR 655, subparts H and I

Legal Deadline:

None

Abstract:

The H-1B visa program of the Immigration and Nationality Act allows employers to temporarily employ nonimmigrants admitted into the United States under the H-1B visa category in specialty occupations and

as fashion models, under specified labor conditions. An employer must file a labor condition application with the Department of Labor before the Immigration and Naturalization Service may approve a petition to employ a foreign worker on an H-1B visa. The Department's Employment and Training Administration administers the labor condition application process; the Wage and Hour Division of the Department's Employment Standards Administration handles complaints and investigations regarding labor condition applications. The Department published a proposed rule on January 5, 1999, in response to statutory changes in the H-1B program made by the American Competitiveness and Workforce Improvement Act of 1998 (Title IV, Pub. L. 105-277; Oct. 21, 1998). Those changes placed additional obligations on "H-1B-dependent" employers (generally, those with work forces comprised of more than 15 percent H-1B workers) and on willful violators. These employers must recruit for U.S. workers, hire U.S. workers who are at least as qualified as H-1B workers, and not displace U.S. workers by hiring H-1B workers or placing them at another employer's job site. The 1998 amendments also imposed additional obligations on all H-1B employers, such as offering benefits to H-1B workers on the same basis and according to the same criteria as offered to U.S. workers, and payment to H-1B workers during periods they are not working for an employment-related reason. The 1999 proposed rule also requested further public comment on earlier proposed provisions published in October 1995, and on particular interpretations of the statute and of the existing regulations which the Department proposed to incorporate into the regulations. Since publishing the proposed rule, Congress enacted further amendments to the H-1B provisions under the American Competitiveness in the Twenty-First Century Act of 2000 (Pub. L. 106-313; Oct. 17, 2000), the Immigration and Nationality Act - Amendments (Pub. L. 106-311; Oct. 17, 2000), and section 401 of the Visa Waiver Permanent Program Act (Pub. L. 106-396; Oct. 30, 2000). On December 20, 2000, the Department published an Interim Final Rule to implement the recent amendments and clarify the existing rules, and requested further public comment on those provisions.

Statement of Need:

Statutory amendments to the Immigration and Nationality Act relating to the H-1B visa program were enacted in 1998 and again in 2000. Under the H-1B visa program, employers may temporarily employ nonimmigrants admitted into the U.S. under H-1B visas in specialty occupations and as fashion models, provided certain conditions are met. Section 412(d) of the American Competitiveness and Workforce Improvement Act of 1998 (Title IV of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law 105-277), provides that some of the amendments made by the 1998 legislation (those relating to "H-1B-dependent" employers and willful violators) do not take effect until the Department of Labor issues implementing regulations, which are the subject of this rulemaking.

Summary of Legal Basis:

This rule is issued pursuant to provisions of the Immigration and Nationality Act, as amended, and the American Competitiveness and Workforce Improvement Act of 1998, 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184; sec. 303(a)(8), Pub. L. 102-232 (8 U.S.C. 1182 note); and secs. 412(d) and (e), Pub. L. 105-277. The objectives of the rule are to enable employers to understand and comply with applicable requirements of the amended H-1B visa program, and to advise employees and applicants for employment of the protections afforded by the amendments to U.S. and H-1B workers.

Alternatives:

Various regulatory alternatives were considered during the notice-and-comment period for implementing the statutory provisions, as discussed in the preamble to the December 2000 interim final rule. Alternatives considered included, among others, various approaches to the manner and timing for determining H-1B dependency status (and the meaning of "full-time equivalent employees" (FTEs) in the employer's work force), documentation of the dependency determination and designation of such status on the Labor Condition Application, and implementing the requirements for no "displacement" and recruitment of U.S. workers, payment of required wages and benefits to H-1B and U.S. workers, and determining short-term placement options.

Anticipated Cost and Benefits:

The Department concluded that the anticipated costs and benefits of this rule were not economically significant. This conclusion was based on the analysis that the direct, incremental costs that employers would incur because of the rule that were above customary business expenses associated with recruiting qualified job applicants and retaining qualified employees in specialized jobs would not exceed $100 million per year or otherwise trigger "economic significance" under Executive Order 12866. However, because of the importance of the rule to the public, it was treated as a significant regulatory action and was, therefore, reviewed by the Office of Management and Budget under Executive Order 12866.

Risks:

This action does not directly affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/31/95	60 FR 55339
NPRM Comment Period End	11/30/95	
NPRM	01/05/99	64 FR 628
NPRM Comment Period End	02/04/99	
Interim Final Rule	12/20/00	65 FR 80110
Interim Final Rule Effective	01/19/01	
Interim Final Rule Comment Period End	04/23/01	66 FR 10865
Final Action	09/00/02	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

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DOL—Employment and Training Administration (ETA)

PROPOSED RULE STAGE

85. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Priority:

Other Significant

Legal Authority:

8 USC 1182(a)(5)(A), 1189(p)(1); 29 USC 49 et seq

CFR Citation:

20 CFR 656

Legal Deadline:

None

Abstract:

The Employment and Training Administration (ETA) is in the process of reengineering the permanent labor certification process. ETA's goals are to make fundamental changes and refinements that will: streamline the process, save resources, improve the effectiveness of the program and better serve the Department of Labor's (DOL) customer.

Statement of Need:

The labor certification process has been described as being complicated, costly and time consuming. Due to the increases in the volume of applications received and a lack of adequate resources, it can take up to 2 years or more to complete processing an application. The process also requires substantial State and Federal resources to administer and is reportedly costly and burdensome to employers as well. Cuts in Federal funding for both the permanent labor certification program and the U.S. Employment Service have made it difficult for State and Federal administrators to keep up with the process. ETA, therefore, is taking steps to improve effectiveness of the various regulatory requirements and the application processing procedures, with a view to achieving savings in resources both for the government and employers, without diminishing protections now afforded U.S. workers by the current regulatory and administrative requirements.

Summary of Legal Basis:

Promulgation of these regulations is authorized by section 212(a)(5)(A) of the Immigration and Nationality Act.

Alternatives:

Regulatory alternatives are now being developed by the Department. The public will be afforded an opportunity to comment on the Department's plans for streamlining the permanent labor certification process in a notice of proposed rulemaking which will be published in the Federal Register.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs and benefits have not been determined at this time. Preliminary estimates will be developed after a decision is made as to what regulatory amendments are necessary and after the implementing forms and automated systems to support a streamlined permanent labor certification process have been developed.

Risks:

Possible alternative: This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
Final Rule	06/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

State, Federal

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DOL—ETA

86. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

42 USC 3056(b)(2)

CFR Citation:

20 CFR 641

Legal Deadline:

None

Abstract:

The Employment and Training Administration will implement new regulations to govern the Senior Community Service Employment Program (SCSEP) under title V of the Older Americans Act Amendments of 2000. SCSEP is the only Federally sponsored job creation program targeted to low-income older Americans. The program subsidizes part-time community service jobs for low-income persons age 55 years and older who have poor employment prospects. Approximately 100,000 program enrollees annually work in a wide variety of community service jobs, including nurse's aides, teacher aides, librarians, clerical workers and day care assistants. The Department of Labor allocates funds to operate the program to State agencies on aging and to national organizations.

Proposed regulations will:

—improve integration of SCSEP with the broader workforce investment system;

—establish an enhanced performance accountability system to hold each grantee accountable for attaining quality levels of performance with respect to core measures, such as customer satisfaction and placement in unsubsidized employment;

—improve the ability of States to coordinate services, by providing for the broad participation of stakeholders in the development of an annual plan to ensure an equitable distribution of projects within the State;

—strengthen administrative procedures by incorporating fiscal accountability provisions similar to the Workforce Investment Act, including definitions of administrative and programmatic costs and the application of uniform cost principles; and

—revise the distribution of funding.

Statement of Need:

As the baby boom generation ages, the demand for employment and training services and income support for low-income older persons will increase. Low-income seniors generally must continue working and many may not be able to find employment without work experience and additional training. The basic goals of the SCSEP are to provide community service employment for older workers with few skills and little work experience, and

to move many of those seniors into unsubsidized employment. The Employment and Training Administration will issue regulations and other guidance, provide technical assistance, and establish performance standards that will drive State and national grantees' efforts towards the program's goals.

Summary of Legal Basis:

Promulgation of these regulations is authorized by section 502(b)(2) of Pub. L. 106-501 of the Older Americans Act Amendments of 2000.

Alternatives:

The public provided comments on changes to the statute due to the Older Americans Act Amendments of 2000 during Town Hall meetings held throughout the country in spring 2001. The public also will be afforded an opportunity to comment on the Department's plans for implementing the Amendments in a notice of proposed rulemaking that will be published in the Federal Register.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local, Tribal, Federal

Federalism:

Undetermined

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DOL—Pension and Welfare Benefits Administration (PWBA)

PROPOSED RULE STAGE

87. RULEMAKING RELATING TO NOTICE REQUIREMENTS FOR CONTINUATION OF HEALTH CARE COVERAGE

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 1135; 29 USC 1136

CFR Citation:

29 CFR 2520

Legal Deadline:

None

Abstract:

This rulemaking will provide guidance concerning the notification requirements pertaining to continuation coverage under the Employee Retirement Income Security Act of 1974 (ERISA). Section 606 of ERISA requires that group health plans provide employees notification of the continuation coverage provisions of the plan and imposes notification obligations upon plan administrators, employers, employees, and qualified beneficiaries relating to certain qualifying events.

Statement of Need:

Part 6 of title I of ERISA requires that group health plans provide employees with notice of the continuation of health care coverage provisions of the plan; it imposes notification requirements upon employers, employees, plan administrators, and qualified beneficiaries in connection with certain qualifying events. The public needs guidance from the Department with regard to how they can fulfill their respective obligations under these statutory provisions.

Summary of Legal Basis:

Section 606 ERISA specifies the respective notification requirements for employers, employees, plan administrators, and qualified beneficiaries in connection with group health plan provisions relating to continuation of health care coverage. Section 606(a) of ERISA specifically refers to regulations to be issued by the Secretary of Labor clarifying these requirements. Section 505 of ERISA authorizes the Secretary to issue regulations clarifying the provisions of title I of ERISA.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which is needed by the public.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs and benefits will be developed once decisions are reached regarding the alternatives to be considered.

Risks:

Failure to provide guidance to the public concerning their notification obligations under section 606 of ERISA may complicate compliance by the public with the law and may reduce the availability of continued health care coverage in certain commonly encountered situations.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/97	62 FR 49894
ANPRM Comment Period End	11/24/97	
NPRM	09/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

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DOL—PWBA

FINAL RULE STAGE

88. VOLUNTARY FIDUCIARY CORRECTION PROGRAM (VFC PROGRAM)

Priority:

Other Significant

Legal Authority:

29 USC 1132; 29 USC 1134

CFR Citation:

29 CFR 2560

Legal Deadline:

None

Abstract:

Section 409 of ERISA provides that an employee benefit plan fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon him or her by part 4 of title I of ERISA shall be personally liable to make good to such plan any losses to the plan resulting from each such breach, and to restore to such plan any profits that such fiduciary may have made through use of assets of the plan. The Department has the authority under section 504 of ERISA to conduct investigations to deter and correct violations of title I of ERISA and under section 502(a)(2) and 502(a)(5) to bring civil actions to enforce the provisions thereof. Section 502(l) of ERISA requires the assessment of a civil penalty in an amount equal to 20 percent of the applicable recovery amount with respect to any breach of fiduciary responsibility under (or other violation of) part 4 by a fiduciary.

To encourage and facilitate voluntary correction of certain breaches of fiduciary responsibility, PWBA is adopting a Voluntary Fiduciary Correction Program (VFC Program). Under the VFC Program, plan officials will be relieved of the possibility of investigation and civil action by the Department and imposition of civil penalties, to the extent that plan officials satisfy the conditions for correcting breaches described in the program.

Statement of Need:

The VFC Program is a key element in PWBA's effort to encourage and facilitate fiduciary voluntary correction of certain breaches of fiduciary responsibility. Under the Program, plan officials will be relieved of the possibility of investigation and civil action by the Department and imposition of civil penalties, to the extent that they satisfy the conditions for correcting breaches described in the Program.

Summary of Legal Basis:

Section 409 of ERISA provides that an employee benefit plan fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon him or her by part 4 of title I of ERISA shall be personally liable to make good to such plan any losses to the plan resulting from each such breach, and to restore to such plan any profits that such fiduciary may have made through use of the assets of the plan. The Department has the authority under section 504 of ERISA to conduct investigations to deter and correct violations of title I of ERISA and under sections 502(a)(2) and 502(a)(5) of ERISA to bring civil actions to enforce the provisions thereof. Section 502(1) of ERISA requires the assessment of a civil penalty in the amount equal to 20 percent of the applicable recovery amount with respect to any breach of fiduciary responsibility under (or other violation of) part 4 by a fiduciary.

Alternatives:

The VFC Program is essentially a deregulatory initiative, and participation in the Program is entirely voluntary. PWBA has determined that this approach is more flexible, efficient and protective of plans than regulatory alternatives which do not serve to encourage voluntary correction of fiduciary breaches.

Anticipated Cost and Benefits:

Participation in the VFC Program is entirely voluntary and, as such, it is assumed that plan officials will elect to participate only when the potential benefits to them are expected to exceed the costs of participation. Benefits may include the reduction of exposure to the risk of investigation and subsequent litigation, the potential cost of which cannot be specifically quantified, and the savings of penalties under section 502(1) of ERISA which would otherwise be payable on amounts required to be restored to plans by fiduciaries pursuant to a settlement agreement with the Department or court order.

Risks:

Failure to adopt the VFC Program would deprive plan officials of significant opportunities to voluntarily correct fiduciary breaches and to avoid costly litigation and civil penalties. Because the VFC Program encourages and facilitates compliance with the law, failure to implement the VFC Program may serve as a disincentive to the proper management of employee benefit plans.

Timetable:

Action	Date	FR Cite
Enforcement Policy	03/15/00	65 FR 14164
Comment Period End	05/15/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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DOL—PWBA

89. • DELINQUENT FILER VOLUNTARY COMPLIANCE PROGRAM (DFVC PROGRAM)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 1132

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

Under ERISA section 502(c)(2) the Secretary of Labor is authorized to assess civil penalties of up to $1100 per day against plan administrators who fail or refuse to file complete and timely Form 5500 Series Annual Returns/Reports. The Secretary may waive all or part of the civil penalty upon showing by the plan

administrator of reasonable cause for failure to file a timely annual report. The Department determined that the possible assessment of these civil penalties may deter certain delinquent filers from voluntarily complying with the annual reporting requirements under title I of ERISA and adopted, on April 27, 1995, the Delinquent Filer Voluntary Compliance (DFVC) Program which was published as a Federal Register rule-related notice [60 FR 20874). The DFVC Program permits delinquent plan administrators, who are otherwise subject to the assessment of higher civil penalties under ERISA section 502(c)(2), to pay reduced civil penalties for voluntarily complying with their annual reporting obligations under title I of ERISA.

PWBA is adopting modifications to the DFVC Program to further encourage and facilitate voluntary compliance by plan administrators who are delinquent in filing annual reports under title I of ERISA. The modifications will also simplify the procedures governing participation in the DFVC Program and conform the program's provisions to the ERISA Filing Acceptance System (EFAST).

Statement of Need:

Title I of ERISA authorizes the Secretary of Labor to assess civil penalties of up to $1100 per day against plan administrators who fail or refuse to file complete and timely Form 5500 Annual Returns/Reports for employee benefit plans. ERISA also authorizes the Secretary to waive all or part of the civil penalty upon a showing of reasonable cause for failure to file a timely report. The DFVC Program, adopted in 1995, permits delinquent plan administrators, who are otherwise subject to the assessment of higher civil penalties to pay reduced civil penalties for voluntarily complying with their annual reporting obligations under Title I of ERISA. The modifications to the DFVC Program provided by this rulemaking will further encourage and facilitate voluntary compliance by plan administrators, simplify the procedures governing participation in the Program, and conform the Program to the ERISA Filing Acceptance System (EFAST).

Summary of Legal Basis:

Section 502(c)(2) authorizes the Secretary of Labor to assess the civil penalties described above upon plan administrators who are delinquent in fulfilling their annual reporting requirements with respect to employee benefit plans. A notice adopting the DFVC Program was published by the Department in the Federal Register on April 27, 1995, at 60 FR 20874. This notice will modify that Program.

Alternatives:

The DFVC Program is essentially a deregulatory initiative, and participation in the program is entirely voluntary. PWBA has determined that this approach is more flexible, efficient and protective of plans than regulatory alternatives which do not serve to encourage voluntary compliance with the statutory annual reporting requirements for employee benefit plans.

Anticipated Cost and Benefits:

Adoption of the DFVC Program modifications incorporated in this initiative will not impose increased costs upon participants, but will instead simplify the procedures for participation in the Program and facilitate compliance. Since participation in the Program is entirely voluntary, plan administrators would not be likely to participate if the costs in doing so were to exceed the benefits.

Risks:

Failure to adopt the modifications to the DFVC Program represented by this rulemaking would complicate compliance with ERISA's reporting requirements by plan administrators and may serve to discourage timely and complete reporting with regard to the operation of employee benefit plans.

Timetable:

Action	Date	FR Cite
Modified Enforcement Policy	12/00/01	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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DOL—Mine Safety and Health Administration (MSHA)

PRERULE STAGE

90. ASBESTOS EXPOSURE LIMIT

Priority:

Other Significant

Legal Authority:

30 USC 811; 30 USC 813

CFR Citation:

30 CFR 56; 30 CFR 57; 30 CFR 71

Legal Deadline:

None

Abstract:

MSHA's permissible exposure limit (PEL) for asbestos applies to surface (30 CFR part 56) and underground (30 CFR part 57) metal and nonmetal mines and to surface coal mines and surface areas of underground coal mines (30 CFR part 71) and is over 20 years old. Current scientific data indicate that this existing PEL is not adequate to protect miners' health. MSHA is considering rulemaking to lower the PEL in order to reduce the risk of miners developing asbestos-induced occupational disease. A recent report by the Office of the Inspector General (OIG) recommended that MSHA lower its existing permissible exposure limit for asbestos to a more protective level, and address take-home contamination from asbestos. It also recommended that MSHA use Transmission Electron Microscopy to analyze fiber samples that may contain asbestos.

Statement of Need:

Current scientific data indicate that the existing asbestos PEL is not protective of miners' health. MSHA's asbestos regulations date to 1967 and are based on the Bureau of Mines (MSHA's predecessor) standard of 5 mppcf (million particles per cubic foot of air). In 1969, the Bureau proposed a 2 mppcf and 12 fibers/ml standard. This standard was promulgated in 1969. In 1970, the Bureau proposed to lower the standard to 5 fibers/ml, which was promulgated in 1974. MSHA issued its current standard of 2 fibers/ml at the end of 1978 for metal and nonmetal mining [43 FR 54064]. Since enactment of the Mine Act, MSHA has conducted regular inspections at both surface and underground operations at metal and nonmetal mines. During these inspections, MSHA routinely takes

samples, which are analyzed for compliance with its standard.

Other Federal agencies have addressed this issue by lowering their PEL for asbestos. For example, the Occupational Safety and Health Administration, working in conjunction with the Environmental Protection Agency, enacted a revised asbestos standard in 1994 that lowered the permissible exposure limit and the excursion limit to an eight (8) hour time-weighted average limit of 0.1 fiber per cubic centimeter of air and to 1.0 fiber per cubic centimeter of air (1 f/cc) as averaged over a sampling period of thirty (30) minutes. These lowered limits reflected increased asbestos-related disease risk to asbestos-exposed workers.

Alternatives:

The Agency has increased sampling efforts in an attempt to determine current miners' exposure levels to asbestos, including taking samples at all existing vermiculite, taconite, talc, and other mines to determine whether asbestos is present and at what levels. Since the spring of 2000, MSHA has taken almost 900 samples at more than 40 operations employing more than 4,000 miners. During those sampling events, the MSHA staff also discussed with the miners and mine operators the potential hazards of asbestos and the types of preventive measures that could be implemented to reduce exposures. The course of action MSHA takes in addressing asbestos hazards to miners will, in part, be based on these sampling results.

Anticipated Cost and Benefits:

MSHA will develop a preliminary economic analysis to accompany any proposed rule that may be developed.

Risks:

There is concern that miners could be exposed to the hazards of asbestos during mine operations where the ore body contains asbestos. There is also potential for exposure at facilities in which installed asbestos-containing material is present. Overexposure to asbestos causes mesothelioma and other forms of cancers, such as cancers of the digestive system, as well as asbestosis.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

The Office of the Inspector General's "Evaluation of MSHA's Handling of Inspections at the W.R. Grace & Company Mine in Libby, Montana," was issued in March 2001.

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RIN: 1219–AB24

DOL—MSHA

FINAL RULE STAGE

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91. VERIFICATION OF UNDERGROUND COAL MINE OPERATORS' DUST CONTROL PLANS AND COMPLIANCE SAMPLING FOR RESPIRABLE DUST

Priority:

Other Significant

Legal Authority:

30 USC 811

CFR Citation:

30 CFR 70; 30 CFR 75; 30 CFR 90

Legal Deadline:

None

Abstract:

Our current regulations require that all underground coal mine operators develop and follow a mine ventilation plan for each mechanized mining unit that we approve. However, we do not have a requirement that provides for verification of each plan's effectiveness under typical mining conditions. Consequently, plans may be implemented by mine operators that could be inadequate to control respirable dust. The proposed rule provides for MSHA to verify the effectiveness of mine ventilation plans to control respirable dust under typical mining conditions. For longwall mine operators, we proposed to permit the limited use of either approved loose-fitting powered air purifying respirators (PAPRs) or verifiable administrative controls as a supplemental means of compliance if we have determined that further reduction in respirable dust levels cannot be achieved using all feasible engineering controls. Furthermore, MSHA proposed to assume responsibility for all compliance sampling for respirable dust in underground coal mines as required under 30 CFR parts 70 and 90.

Statement of Need:

Respirable coal mine dust levels in this country are significantly lower than they were two decades ago. Despite this progress, there continues to be concern about the respirable coal mine dust sampling program and its effectiveness in maintaining exposure levels in mines at or below the applicable standard. Our regulations require that all underground coal mine operators develop and follow a mine ventilation plan approved by us. The dust control portion of the mine ventilation plan is the key element of an operator's strategy to control respirable dust in the work environment. Although such plans are required to be designed to control respirable dust, there is no current requirement that provides for verification of each proposed plan's effectiveness under typical mining conditions. Consequently, plans may be implemented that may be inadequate to control respirable dust.

Therefore, we proposed to revoke existing operator respirable dust sampling and to implement new regulations that would require each underground coal mine operator to have a verified ventilation plan. MSHA would verify the effectiveness of the mine ventilation plan for each mechanized mining unit in controlling respirable dust under typical mining conditions.

Summary of Legal Basis:

Promulgation of these regulations is authorized by section 101 of the Federal Mine Safety and Health Act of 1977.

Alternatives:

In developing the proposed rule, we considered alternatives related to typical production levels, the use of appropriate dust control strategies, use of supplemental controls for mining entities other than longwalls, and the level of protection of loose-fitting

powered air purifying respirators (PAPRS) in underground coal mines.

Anticipated Cost and Benefits:

Benefits sought are reduced dust levels over a miner's working lifetime by the elimination of over-exposures to respirable coal dust on each and every production shift. Additional benefits include reduced health care costs and disability and black lung benefit payments. There would be a cost savings for mine operators when MSHA completely takes over compliance and abatement sampling for respirable dust. We developed cost estimates and made them available for public review.

Risks:

Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Occupational exposure to excessive levels of respirable coal mine dust can cause black lung and silicosis, which are potentially disabling and can cause death. We are pursuing both regulatory and non-regulatory actions to eliminate these diseases through the control of coal mine respirable dust levels in mines and the reduction of miners' exposure.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42122
Notice of Hearings; Close of Record	07/07/00	65 FR 42186
Extension of Comment Period; Close of Record	09/08/00	65 FR 49215
Final Action	09/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

This rulemaking is related to RIN 1219-AB18 (Determination of

Concentration of Respirable Coal Mine Dust).

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RIN: 1219–AB14

DOL—MSHA

92. DETERMINATION OF CONCENTRATION OF RESPIRABLE COAL MINE DUST

Priority:

Other Significant

Legal Authority:

30 USC 811

CFR Citation:

30 CFR 72

Legal Deadline:

None

Abstract:

The National Institute for Occupational Safety and Health and the Mine Safety and Health Administration jointly proposed that a single, full-shift measurement ("single, full-shift sample") will accurately represent the atmospheric condition to which a miner is exposed. The proposed rule addresses the U.S. Court of Appeals' concerns raised in National Mining Association v. Secretary of Labor, 153 F3d 1264 (11th Cir. 1998).

Statement of Need:

Respirable coal mine dust levels in this country are significantly lower than they were over two decades ago. Despite this progress, there continues to be concern about our current sampling programs' ability to accurately measure and maintain respirable coal mine dust exposure at or below the applicable standard on each shift. For as long as miners have taken coal from the ground, many have suffered respiratory problems due to their occupational exposures to respirable coal mine dust. These respiratory problems affect the current workforce and range from mild impairment of respiratory function to more severe diseases, such as silicosis and pulmonary massive fibrosis. For some miners, the impairment of their respiratory systems is so severe, they die prematurely. Since there is a clear relationship between a miner's cumulative exposure to respirable coal mine dust and the severity of the resulting respiratory conditions, it is imperative that each miner's exposure not exceed the applicable standard on each and every shift.

Summary of Legal Basis:

Promulgation of this regulation is authorized by section 101 of the Federal Mine Safety and Health Act of 1977.

Alternatives:

The requirements of this rule ("single full-shift sample rule") will work in tandem with those of the proposed rule (RIN 1219-AB14) in which MSHA would verify the effectiveness of ventilation plans as well as conduct all compliance sampling in underground coal mines.

Anticipated Cost and Benefits:

Benefits sought are reduced dust levels over a miner's working lifetime by the elimination of over-exposures to respirable coal dust on each and every production shift. Additional benefits include reduced health care costs and disability and black lung benefit payments. There would be a cost savings for mine operators when MSHA completely takes over compliance and abatement sampling for respirable dust. We developed cost estimates and made them available for public review.

Risks:

Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Occupational exposure to excessive levels of respirable coal mine dust can cause workers' pneumoconiosis and silicosis, which are potentially disabling and can cause death. We are pursuing both regulatory and nonregulatory actions to eliminate these diseases through the control of coal mine respirable dust levels in mines and reduction of miners' exposure.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42068
Notice of Hearings; Close of Record	07/07/00	65 FR 42185
Extension of Comment Period; Close of Record	09/08/00	65 FR 49215
Final Action	09/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

This rulemaking is related to RIN 1219-AB14 (Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust).

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RIN: 1219–AB18

DOL—Occupational Safety and Health Administration (OSHA)

PROPOSED RULE STAGE

93. ASSIGNED PROTECTION FACTORS: AMENDMENTS TO THE FINAL RULE ON RESPIRATORY PROTECTION

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

29 USC 655(b); 29 USC 657

CFR Citation:

29 CFR 1910.134

Legal Deadline:

None

Abstract:

In January 1998, OSHA published the final Respiratory Protection standard (29 CFR 1910.134), except for reserved provisions on assigned protection factors (APFs) and maximum use concentrations (MUCs). APFs are numbers that describe the effectiveness of the various classes of respirators in reducing employee exposure to airborne contaminants (including particulates, gases, vapors, biological agents, etc.). Employers, employees, and safety and health professionals use APFs to determine the type of respirator to protect the health of employees in various hazardous environments. Maximum use concentrations establish the maximum airborne concentration of a contaminant in which a respirator with a given APF may be used.

Currently, OSHA relies on the APFs developed by NIOSH in the 1980s unless OSHA has assigned a different APF in a substance-specific health standard. However, many employers follow the more recent APFs published in the industry consensus standard, ANSI Z88.2-1992. For some classes of respirators, the NIOSH and ANSI APFs vary greatly.

When OSHA published the final Respiratory Protection standard in 1998, it reserved for later rulemaking those provisions of the standard dealing with APFs and MUCs. This rulemaking action will complete the 1998 standard, reduce compliance confusion among employers, and provide employees with consistent and appropriate respiratory protection.

Statement of Need:

About 5 million employees wear respirators as part of their regular job duties. Due to inconsistencies between the APFs found in the current industry consensus standard (ANSI Z88.2-1992) and in the NIOSH Respirator Decision Logic, employers, employees, and safety and health professionals are often uncertain about what respirator to select to provide protection against hazardous air contaminants. Several industry and professional groups have asked OSHA to proceed with this rulemaking to resolve these inconsistencies and provide reliable protection of employees' health in cases where respirators must be worn.

Summary of Legal Basis:

The legal basis for this proposed rule is the determination that assigned protection factors and maximum use concentrations are necessary to complete the final Respiratory Protection standard and provide the full protection of that standard.

Alternatives:

OSHA has considered allowing the current situation to continue, in which OSHA generally enforces NIOSH APFs but many employers follow the more recent consensus standard APFs. However, allowing the continuation of this situation results in inconsistent enforcement, lack of guidance for employers, and the potential for inadequate employee protection.

Anticipated Cost and Benefits:

The scope of the proposed APF table is still under development, and estimates of the costs and benefits have not yet been developed.

Risks:

The preamble to the final Respiratory Protection rule (63 FR 1270, Jan. 8, 1998) discusses the significance of the risks potentially associated with the use of respiratory protection. No independent finding of significant risk will be made for the APF rulemaking, since it only addresses a single provision of the larger rule.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20803
ANPRM Comment Period End	09/13/82	
NPRM	11/15/94	59 FR 58884
Final Rule	01/08/98	63 FR 1152
Final Rule Effective	04/08/98	
NPRM on APFs	09/00/02	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local, Tribal, Federal

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DOL—OSHA

94. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (SHIPYARDS: FIRE SAFETY)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 655

CFR Citation:

29 CFR 1915, subpart P

Legal Deadline:

None

Abstract:

This proposal is being developed through the negotiated rulemaking process. The rule will update and revise an important but outdated part of OSHA's shipyard rules. The original rule was adopted by OSHA in 1971 and has remained unchanged since then. The negotiated rulemaking committee was convened on October 15, 1996; members of the committee include: OSHA, state government, Federal agency, small and large shipyard employers, and maritime and firefighter union representatives.

Statement of Need:

Fires in the shipyard environment claim the lives of several workers every year and thus account for a substantial number of deaths and more than 50 serious burns occurring in this 75,000-employee workforce. Updating OSHA's outdated shipyard requirements for fire extinguishers, sprinkler systems, detection systems, alarm systems, and fire brigades will facilitate compliance by employers and employees and reduce these fire-related injuries and fatalities.

Summary of Legal Basis:

The legal basis for this proposed rule is a preliminary determination that an unacceptable risk of fire-related injuries and fatalities exists in the shipyard industry.

Alternatives:

OSHA has considered but rejected the alternative of allowing the existing rule to remain in place, because the Agency believes that doing so would contribute to the unacceptable number of fire-related accidents occurring in shipyards every year.

Anticipated Cost and Benefits:

Detailed cost and benefits estimates have not yet been made for the rule, because it is still in draft form.

Risks:

A detailed risk analysis has not yet been completed for this rule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

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DOL—OSHA

95. STANDARDS IMPROVEMENT (MISCELLANEOUS CHANGES) FOR GENERAL INDUSTRY, MARINE TERMINALS, AND CONSTRUCTION STANDARDS (PHASE II)

Priority:

Other Significant

Legal Authority:

29 USC 655(b)

CFR Citation:

29 CFR 1910.142; 29 CFR 1910.178; 29 CFR 1910.219; 29 CFR 1910.261; 29 CFR 1910.265; 29 CFR 1910.410; 29 CFR 1910.1001 to 1910.1052; 29 CFR 1926.60; 29 CFR 1926.62; 29 CFR 1926.1101; 29 CFR 1926.1127; 29 CFR 1926.1129; 29 CFR 1917.92; 29 CFR 1910, subpart Z

Legal Deadline:

None

Abstract:

The Occupational Safety and Health Administration's (OSHA's) process of removing or revising provisions in its health standards are out of date, duplicative, unnecessary, or inconsistent. The Agency is proposing these changes to reduce the burden imposed on the regulated community by these requirements. In this document, substantive changes are proposed for standards that will revise or eliminate duplicative, inconsistent, or unnecessary regulatory requirements without diminishing employee protections. Phase I of this Standards Improvement process was completed in June 1998 (63 FR 33450). OSHA plans to initiate Phase III of this project at a future date to address problems in various safety standards.

Statement of Need:

Some of OSHA's standards are out of date, duplicative, unnecessary, or inconsistent. The Agency needs to periodically review its standards and make needed corrections. This effort results in standards that are easier for employers and employees to follow and comply with, and thus enhances compliance and worker protection.

Summary of Legal Basis:

The legal basis for the proposed rule is a preliminary finding that the OSHA standards need to be updated to bring them up to date, reduce inconsistency, and remove unneeded provisions.

Alternatives:

OSHA has considered updating each standard as problems are discovered, but has determined that it is better to make such changes to groups of standards so it is easier for the public to comment on like standards. OSHA has also considered the inclusion of safety standards that need to be updated. However, the Agency has decided to pursue a separate rulemaking for safety issues because the standards to be updated are of interest to different stakeholders.

Anticipated Cost and Benefits:

This revision of OSHA's standards is a deregulatory action. It will reduce employers' compliance obligations.

Risks:

The project does not address specific risks, but is intended to improve OSHA's standards by bringing them up do date and deleting unneeded provisions. The anticipated changes will have no negative effects on worker safety and health.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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DOL—OSHA

FINAL RULE STAGE

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96. UPDATE AND REVISION OF THE EXIT ROUTES STANDARD

Priority:

Other Significant

Legal Authority:

29 USC 655(b); 5 USC 353

CFR Citation:

29 CFR 1910.35; 29 CFR 1910.36; 29 CFR 1910.37; 29 CFR 1910.38

Legal Deadline:

None

Abstract:

Many Occupational Safety and Health Administration (OSHA) standards were adopted under section 6(a) of the Occupational Safety and Health Act (OSH Act; 29 U.S.C. 655(a)). This section of the OSH Act authorized the Agency, in its first 2 years of existence, to adopt national consensus standards without prior notice and comment. The versions of the consensus standards OSHA adopted are now typically well over 30 years old and have been superseded by newer ones. In addition, many of these old standards were written in technical jargon and were hard for many employers and employees to understand.

To address these problems, OSHA is undertaking a consensus standards initiative to revise OSHA's exit routes (also known as means of egress) standard. The revisions will rewrite the standard in simple, easy-to-understand language that will be easier for employers and employees to follow.

Statement of Need:

The standard being revised in this initiative is one of OSHA's oldest and most difficult to understand. The Agency has identified the exit routes standard as a standard in need of revision because it is out of date and unnecessarily complex, and stakeholders have recommended that the standard be updated quickly. OSHA also believes that revising the standard will lead to better voluntary compliance and fewer disputes about violations. With OSHA's limited resources, any effort that can substantially increase opportunities for compliance without sacrificing employee safety and health protection will have long-term benefits.

Summary of Legal Basis:

The legal basis for the final rule will be a finding that, by making these OSHA standards easier to understand and comply with, the Agency will increase compliance and reduce work-related injuries and deaths.

Alternatives:

The alternative considered - leaving the outdated standard on the books - has been rejected because doing so would not encourage compliance or enhance safety.

Anticipated Cost and Benefits:

The final standard for exit routes will have no economic impacts because this revision will not increase employers' obligations or reduce employee protections.

Risks:

Employees can be injured or killed if they are not able to exit an area safely when a fire or other emergency occurs.

Timetable:

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47712
Public Hearing	04/29/97	62 FR 9402
Final Rule	06/00/02	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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DOL—OSHA

97. SIGNS, SIGNALS, AND BARRICADES

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 651(b); 29 USC 655(b); 40 USC 333

CFR Citation:

29 CFR 1926

Legal Deadline:

None

Abstract:

Subpart G of 29 CFR part 1926 addresses the types of signs, signals and barricades that must be used in situations such as work areas on highways. OSHA's rule incorporates a 1971 ANSI standard, known as the MUTCD (Manual on Uniform Traffic Control Devices). Since the early 1970's, the U.S. Department of Transportation has drafted updates to the MUTCD. DOT requires all States to comply with its updates.

Several years ago, industry stakeholders asked OSHA to update its standard to reflect new technology and provide more flexibility for compliance.

OSHA has decided to use a Direct Final Rule to update its standard since it anticipates widespread support for and few objections to the change. The Agency's Advisory Committee on Construction Safety and Health endorsed using a Direct Final Rule to make this change in its Winter 2000 meeting.

With the current emphasis on rebuilding the Nation's highways and improving safety in work zone areas, OSHA's update is particularly appropriate.

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Statement of Need:

The safe and efficient flow of traffic through construction work zones is a major concern to transportation officials, the highway industry and the traveling public. Today the majority of highway funds are being used on system preservation-type projects (resurfacing, restoration, rehabilitation, and reconstruction) on the existing highway system; highway construction of this type is at an all time high and will continue for several years to come.

The fatality rate for highway construction workers is twice the rate for other types of construction trades (DOT FHWA Office of Program Quality Coordination, Sept. 1998).

Summary of Legal Basis:

The legal basis for this direct final rule is a finding by the Secretary of Labor that the number of highway work zone injuries and fatalities is high and that the outdated OSHA standard may be contributing to this result.

Alternatives:

The Directorate of Construction has formed a task group to formulate a plan for reducing the number of highway work zone fatalities. In order for this group to accomplish its mission the standards must reflect new technology and best practices. Other alternatives, such as compliance assistance and partnership programs, will not achieve these goals.

Anticipated Cost and Benefits:

The overwhelming majority of public roads are currently covered by DOT regulations and their related State traffic control manuals. Moreover, private roads constitute the minority of total roads, and some local governments extend coverage to these roads. Accordingly, OSHA will be solely responsible for regulating only a fraction of all highway work. The costs of compliance for those solely regulated by OSHA will, therefore, be much lower than those estimated for compliance with DOT regulations. Because DOT has found no significant costs of compliance for revisions of the MUTCD over the years, the costs of compliance for OSHA's direct final rule likewise will not be significant under Executive Order 12866.

Risks:

OSHA believes that the adoption of the direct final rule will have a direct impact on the safety of workers engaged in work zone activities, although the extent of this risk reduction has not been quantified at this point.

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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BILLING CODE 4510–23–S

DEPARTMENT OF TRANSPORTATION (DOT)

Statement of Regulatory Priorities

The Department of Transportation (DOT) consists of ten operating administrations, the Bureau of Transportation Statistics and the Office of the Secretary, each of which has statutory responsibility for a wide range of regulations. For example, DOT regulates safety in the aviation, motor carrier, railroad, mass transit, motor vehicle, maritime, commercial space, and pipeline transportation areas. DOT regulates aviation consumer and economic issues and provides financial assistance and writes the necessary implementing rules for programs involving highways, airports, mass transit, the maritime industry, railroads, and motor vehicle safety. It writes regulations carrying out such disparate statutes as the Americans with Disabilities Act and the Uniform Time Act. It regulates the construction and operation of bridges over navigable waters, the prevention of oil pollution, and the security of commercial aviation and passenger vessels. Finally, DOT has responsibility for developing policies that implement a wide range of regulations that govern internal programs such as acquisition and grants, access for the disabled, environmental protection, energy conservation, information technology, occupational safety and health, property asset management, seismic safety, security, and the use of aircraft and vehicles.

The Department has adopted a regulatory philosophy that applies to all its rulemaking activities. This philosophy is articulated as follows: DOT regulations must be clear, simple, timely, fair, reasonable, and necessary. They will be issued only after an appropriate opportunity for public comment, which must provide an equal chance for all affected interests to participate, and after appropriate consultation with other governmental entities. The Department will fully consider the comments received. It will assess the risks addressed by the rules and their costs and benefits, including the cumulative effects. The Department will consider appropriate alternatives, including nonregulatory approaches. It will also make every effort to ensure that legislation does not impose unreasonable mandates.

The Department's regulatory policies and procedures provide a comprehensive internal management and review process for new and existing regulations and ensure that the Secretary and other appropriate appointed officials review and concur in all significant DOT rules. DOT continually seeks to improve its regulatory process. The Department's creation of an electronic, Internet-accessible docket that can also be used to submit comments electronically; the use of direct final rulemaking; and the use of regulatory negotiation are three examples of this. During the next year, the Department will be taking steps to further improve our regulations by ensuring timely completion of quality rulemaking actions. We will be creating an Internet site where the public can access up-to-date information about the status of our significant rulemakings. We will also be developing a "list serve" for our Internet-accessible rulemaking dockets to permit the public to sign up for email notification when the Department issues a rulemaking document.

In addition, the Department continues to engage in a wide variety of activities to help cement the partnerships between its agencies and its customers that will produce good results for transportation programs and safety. These have included summits with front-line regulators and representatives of regulated industries. In addition, the Department's agencies have established a number of continuing partnership mechanisms in the form of rulemaking advisory committees.

Throughout the Department, we are also actively engaged in the review of existing rules to determine whether they need to be revised or revoked. These reviews are in accordance with section 610 of the Regulatory Flexibility Act, the Department's regulatory policies and procedures, and Executive Order 12866. This also includes determining if the rules would be more understandable if they are written using the plain language approach. Appendix D to our Regulatory Agenda highlights our efforts in this area.

Office of the Secretary of Transportation (OST)

The Office of the Secretary (OST) oversees the regulatory process for the Department. OST implements the Department's regulatory policies and procedures and is responsible for ensuring the involvement of top management in regulatory decisionmaking. Through the General Counsel's office, OST is also responsible for ensuring that the Department complies with Executive Order 12866 and other legal and policy requirements affecting rulemaking, including new statutes and Executive orders. Although OST's principal role concerns the review of the Department's significant rulemakings, this office has the lead role in the substance of projects concerning aviation economic rules and those affecting the various elements of the Department.

OST provides guidance and training regarding compliance with regulatory requirements and process for use by personnel throughout the Department. OST also plays an instrumental part in the Department's efforts to improve our economic analyses, risk assessment, and regulatory flexibility analyses.

OST also leads and coordinates the Department's response to Administration and congressional proposals that concern the regulatory process. The General Counsel's Office works closely with representatives of other agencies, the Office of Management and Budget, the White House, and congressional staff to provide information on how various proposals would affect the ability of the Department to perform its safety, infrastructure, and other missions.

During fiscal year 2002, OST expects to publish a notice of proposed rulemaking (NPRM) on whether it should readopt its rules governing airline computer reservation systems (CRS) and, if so, whether they should be strengthened, and if they should be applied to the sale of airline services over the Internet. OST expects to substantially complete work on a CRS final rule during the fiscal year. OST also expects to publish two NPRMs to implement provisions of the Aviation Investment and Reform Act for the 21st Century, signed into law in April 2000. One NPRM will seek to amend 14 CFR part 382, DOT's Air Carrier Access Act (ACAA) implementing rule, to cover foreign carriers operating to and from the United States or code sharing with the U.S. carriers. Another NPRM will propose to require air carriers to file with DOT detailed information on the disability-related complaints they receive to be used for enforcement, educational and other relevant purposes by DOT, disabled air travelers and Congress. OST also expects to substantially complete work on a final rule on the reporting requirements during FY 2002.

OST is continually incorporating new technology into its rulemaking process through the docket management system (DMS). The DMS stores electronic images in unalterable form. It includes all rulemaking and support documents, public comments, and other documents

included in the public docket. This electronic docket is accessible via the Internet, and now accepts electronic filing of comments. OST and the General Counsel's Office include hyperlinks to other useful DOT regulatory Web sites, including the public rulemaking dockets, and contacts for many issues of special interest to the public (http://regs.dot.gov/).

United States Coast Guard (USCG)

The United States Coast Guard's statutory responsibilities include protecting the marine environment; enforcing U.S. laws and international treaties; performing search and rescue; and ensuring marine safety and security.

The majority of the regulatory actions issued by the Coast Guard are classified as routine and frequent because they take effect for a limited time and at specific locations. These temporary actions allow local Coast Guard units to ensure safety during marine events. The Coast Guard issues approximately 20 regulations annually that set national standards or respond to specific statutory mandates. The Marine Safety Council, a board of senior Coast Guard Leaders, approves each of these rulemaking projects, monitors the Coast Guard's regulatory program, and advises the Commandant on regulatory matters. The following are significant aspects of the Coast Guard's regulatory program:

- The Coast Guard continues using plain language format for its notices and regulations. Plain language updates will be an important part of the Coast Guard's review of all regulations under the Regulatory Flexibility Act. The Coast Guard recognizes that this format facilitates better understanding of regulations and promotes more public participation.
- The Coast Guard encourages early public involvement in rulemaking through a variety of public meetings and the ongoing work of ten advisory committees. In addition, public comments are requested on existing rules identified for analysis each year and identified in Appendix D of the fall agenda.
- Recognizing that it should issue only necessary regulations tailored to impose the least burden on society, the Coast Guard has developed a broad Prevention Through People Program, which develops and encourages a wide variety of voluntary actions by industry and individuals to improve marine safety. To support this effort, the Coast Guard has several Quality Partnerships.
- Finally, to ensure that all regulations are necessary, each agenda item specifies how it supports at least one of the goals of the Coast Guard's Strategic Plan. Strategic goals include maritime safety, protection of natural resources, maritime security, maritime mobility, and national defense.

Federal Aviation Administration (FAA)

The FAA issues regulations to provide a safe, secure, and efficient global aviation system for civil aircraft. In an effort to make sure their rules are concise and easy to understand, the FAA re-examined the use of plain language in their regulations. The result of this review was revisions to 14 CFR part 11, which delineates the process for rulemaking changes. This rulemaking effort is only the first of several planned revisions to the regulations. Other actions include:

- Supporting the FAA's Safety Agenda on Safer Skies. This agenda is based on a comprehensive review of the causes of aviation accidents and is designed to bring about a five-fold (80 percent) reduction in fatal accidents. The reformed rulemaking process supports this agenda by ensuring that appropriate resources are available to support those rulemaking projects identified as the agency's highest priority. Projects related to controlled flight into terrain, loss of control of an aircraft, uncontained engine failures, runway incursions, weather, pilot decisionmaking, and cabin safety are some of the focus areas identified that may result in rulemaking, advisory and guidance materials.
- Continuing to involve the aviation community early in the regulatory process. The Aviation Rulemaking Advisory Committee completed numerous reports and recommendations, leading to the publication of seven regulatory actions and issuance of several advisory circulars and other guidance materials. The FAA Aging Transport Nonstructural Systems Plan addresses concerns with potential safety issues associated with problems that may develop in transport category airplanes systems as a result of wear and degradation in service. One important component of the plan is use of the Aging Transport Nonstructural Systems Rulemaking Advisory Committee to provide a mechanism for public input to FAA activities. The FAA will receive recommendation from the Committee in the form of regulations, guidance materials and training requirements supporting enhanced airworthiness for airplane systems.
- Continuing to harmonize the U.S. aviation regulations with those of other countries. The harmonization of the U.S. regulations with the European Joint Aviation Regulations (JAR) is the FAA's most comprehensive long-term rulemaking effort. The differences worldwide in certification standards, practices and procedures, and operating rules must be identified and minimized to reduce the regulatory burden on the international aviation system. The differences between the FAA regulations and the requirements of other nations impose a heavy burden on U.S. aircraft manufacturers and operators. Harmonization and standardization should help the U.S. aerospace industry remain internationally competitive. While the overall effort to achieve this is global, it will be accomplished by many small, individual, nonsignificant rulemaking projects. The FAA has published 30 regulations based on recommendations of ARAC that will lead to harmonizing FAA regulations and Joint Aviation Requirements.
- Continuing to recognize the needs of small entities by complying with the Small Business Regulatory Enforcement Fairness Act and addressing small entity concerns whenever appropriate in rulemaking documents. In response to the Act, the FAA has established a Small Entity Contact, a Web site on FAA's home page, a toll free number, and an e-mail address for receipt of inquiries.
- Ensuring that the congressional mandates for rulemaking deadlines established by the FAA Reauthorization Act of 1996 are met. One mandate is the issuance of a final rule 16 months after the close of the comment period on the proposed rule.

Top regulatory priorities for 2001-2002 include a duty limitations and rest requirements proposal to ensure that pilots are sufficiently rested for duty, and final rules concerning certification of airports and thermal acoustic insulation flammability and fractional ownership.

Federal Highway Administration (FHWA)

The FHWA anticipates that its priority for fiscal year 2002 will be continuing implementation of the

Transportation Equity Act for the 21st Century (TEA-21), which reauthorizes the surface transportation programs administered by the FHWA. The FHWA will continue to implement this legislation in the least burdensome and restrictive way possible consistent with the FHWA's mission. The FHWA will continue to pursue regulatory reform in areas where project development can be streamlined or accelerated, duplicative requirements can be consolidated, recordkeeping requirements can be reduced or simplified, and the decisionmaking authority of our State and local partners can be increased.

Federal Motor Carrier Safety Administration (FMCSA)

The FMCSA is the newest agency in the Department of Transportation. It was established on January 1, 2000, by the Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106-159). As required by MCSIA, FMCSA has developed a strong Safety Action Plan to guide it toward the goal of reducing the number of fatalities resulting from crashes involving large trucks. Setting new performance standards for vehicles, drivers, and motor carriers through regulation will raise the bar for safety in commercial operations. The FMCSA now is responsible for most of the functions of the former Office of Motor Carriers in the Federal Highway Administration. Several new regulatory initiatives are required by MCSIA. Over the next year, the new FMCSA is committed to developing an effective and efficient regulatory program that meets the expectations of Congress, its stakeholders and partners, and the general public. This will assist the new agency in meeting one of the stated goals of MCSIA to reduce the number and severity of large-truck involved crashes through expedited completion of rulemaking proceedings.

National Highway Traffic Safety Administration (NHTSA)

The statutory responsibilities of the National Highway Traffic Safety Administration (NHTSA) relating to motor vehicles include reducing the number of and mitigating the effects of motor vehicle crashes and related fatalities and injuries, providing motor vehicle information to consumers, and improving automotive fuel efficiency. NHTSA pursues policies that encourage the development of nonregulatory approaches when feasible in meeting its statutory mandates. It issues new standards and regulations or amendments to existing standards and regulations when appropriate. It ensures that regulatory alternatives reflect a careful assessment of the problem and a comprehensive analysis of the benefits, costs, and other impacts associated with the proposed regulatory action. Finally, it considers alternatives consistent with the Administration's regulatory principles.

In addition to numerous programs that focus on the safety and performance of the motor vehicle, the Agency is engaged in a variety of programs to improve driver behavior. These programs emphasize the human aspects of motor vehicle safety and recognize the important role of the States in this common pursuit. This goal is accomplished through a number of means, including encouraging initiatives in such areas as safety belt use, child safety-seat use, activities aimed at combating impaired driving and aggressive driving, and consumer information activities.

NHTSA is conducting several program evaluations that are designed to review and evaluate the actual benefits, costs, and overall effectiveness of existing standards and regulations. For example, it will continue evaluating Standard 208's new measures to improve the safety performance of air bags, Standard 214's dynamic side-impact requirements, the use/misuse of air bag on-off switches, and odometer fraud. It is also evaluating the efficacy of child safety seat registration for increasing consumer response to recalls of defective seats. NHTSA is starting two evaluations of safety equipment for heavy trucks and tractor trailers: antilock brake systems (Standard 121) and rear impact guards (Standards 223 and 224).

NHTSA's regulatory program includes additional proposals that will be undertaken in order to allow design flexibility, promote new technology, and encourage market competition and consumer choice.

Federal Railroad Administration (FRA)

The Federal Railroad Administration (FRA) exercises regulatory authority over all areas of railroad safety.

Fashioning regulations that have favorable benefit-to-cost ratios and that, where feasible, incorporate flexible performance standards, requires cooperative action by all affected parties. In order to foster an environment of collaborative rulemaking, FRA established the Railroad Safety Advisory Committee (RSAC). The purpose of RSAC is to develop consensus recommendations for regulatory action on issues referred to it by FRA. Where consensus is achieved, and FRA believes it serves the public interest, the resulting rule is very likely to be better understood, more widely accepted, more cost-beneficial, and more correctly applied. Where consensus cannot be achieved, however, FRA will fulfill its regulatory role without the benefit of RSAC's recommendations.

The RSAC has met on a quarterly basis so far and currently has working groups addressing the following tasks: (1) The development of regulations governing track and railroad maintenance equipment; (2) the review of FRA regulations for their applicability to historic railroads; (3) the development of safety standards for locomotive crashworthiness; (4) the development of safety standards for locomotive working conditions; (5) the development of locomotive event recorder accident survivability standards; (6) the development of regulations governing the use of processor-based signal and train control systems; (7) the development of a new accident reporting threshold; (8) the revision of FRA's accident/incident reporting regulations to ensure conformity with OSHA's revised occupational injury and illness reporting regulations; and (9) the revision of regulations governing the use of utility employees.

In addition to RSAC, FRA continues to use collaborative rulemaking to address passenger safety issues. FRA established a working group to address Passenger Equipment Safety Standards and published a final rule in the first phase of this rulemaking initiative in May 1999 based on its recommendations. FRA also employed a working group to develop Passenger Train Emergency Preparedness regulations. FRA continues to conduct research related to the second phase of the rule, and expects to convene a reconstituted working group on Passenger Safety Standards in late 2001. FRA also engaged in extensive public outreach to develop regulations regarding the use of train whistles, and published an NPRM in January 2000.

Federal Transit Administration (FTA)

The Federal Transit Administration (FTA) provides financial assistance to State and local governments for mass transportation purposes. The regulatory activity of FTA focuses on establishing the terms and conditions of Federal financial assistance available under the Federal transit laws.

FTA's policy regarding regulations is to:

- Implement statutory authorities in ways that provide the maximum net benefits to society;
- Keep paperwork requirements to a minimum;
- Allow for as much local flexibility and discretion as is possible within the law;
- Ensure the most productive use of limited Federal resources;
- Protect the Federal interest in local investments; and
- Incorporate good management principles into the grant management process.

As mass transportation needs have changed over the years, so have the requirements for Federal financial assistance under the Federal transit laws and related statutes. FTA's regulatory priorities for 2001-2002 are to continue to issue rulemakings required under the Transportation Equity Act for the 21st Century (TEA-21), to amend existing regulations as needed, and to update existing regulations for plain language.

FTA will publish a rule implementing the Clean Fuels Formula Grant Program authorized by TEA-21. The program will assist eligible applicants in meeting the objectives of reducing transit bus emissions and supporting emerging markets for clean fuel technologies.

TEA-21 also requires that FTA and FHWA amend the joint Environmental and Statewide and Metropolitan Transportation Planning rules which will be of significant interest to States, transit agencies, local governmental bodies, and environmental groups.

Maritime Administration (MARAD)

MARAD administers Federal laws and programs designed to promote and maintain a U.S. merchant marine capable of meeting the Nation's shipping needs for both national security and domestic and foreign commerce.

MARAD's regulatory objectives and priorities reflect the Agency's responsibility of ensuring the availability of adequate and efficient water transportation services for American shippers and consumers. To advance these objectives, MARAD issues regulations, which are principally administrative and interpretive in nature, when appropriate, in order to provide a net benefit to the U.S. maritime industry.

MARAD's regulatory priorities are to update existing regulations and to reduce unnecessary burden on the public.

Research and Special Programs Administration (RSPA)

The Research and Special Programs Administration (RSPA) has responsibility for rulemaking under two programs. Through the Associate Administrator for Hazardous Materials Safety, RSPA administers regulatory programs under Federal hazardous materials transportation law and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. Through the Associate Administrator for Pipeline Safety, RSPA administers regulatory programs under the Federal pipeline safety laws and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990.

In the area of hazardous materials transportation, the regulatory priority is to clarify through rulemaking the applicability of regulations to the loading, unloading, and storage of hazardous materials incidental to their movement in commerce. Clarifying the applicability of the regulations will facilitate compliance with them and also clarify when other requirements of Federal, State, local, and tribal governments apply.

Bureau of Transportation Statistics (BTS)

The Bureau of Transportation Statistics (BTS) is responsible for collecting, compiling, analyzing, and making accessible information on the Nation's transportation systems; identifying needs for new information and analysis and implementing programs to meet those needs; and enhancing the quality and effectiveness of the Department's statistical programs through research, the development of guidelines, coordination with related information-gathering activities conducted by other Federal agencies, and the promotion of improvements in data acquisition, archiving, dissemination, and use.

BTS's Office of Airline Information (OAI) collects airline financial and operating statistical data, covering both passenger and cargo traffic. This information gives the Government consistent and comprehensive economic and market data on individual airline operations and is used, for instance, in supporting policy initiatives, negotiating international bilateral aviation agreements, awarding international route authorities, and meeting international treaty obligations. The aviation, travel, and tourism communities value this information for a variety of purposes, such as conducting analyses of on-time performance, denied boardings, market trends, and economic analyses.

During FY 2002, BTS expects to publish a notice of proposed rulemaking (NPRM) and final rule concerning airline delays and cancellations. BTS is exploring the feasibility of collecting information as to the causes of flight delays and cancellations. As part of a pilot project examining the feasibility of developing a uniform collection methodology, four volunteer air carriers have been providing to BTS, on a confidential basis, flight delay and cancellation causal data. BTS hopes to develop a reporting system that would allow relevant causal information to be disseminated to the traveling public. In addition, a reporting system would enable the Department to better identify the causes of delays and evaluate its efforts to mitigate such causes.

BTS' long-range regulatory priority in the aviation area is to conduct a complete review and modernization of the Passenger Origin and Destination Survey. BTS can make significant improvements by providing data to meet the needs of DOT and other users in a way that takes advantage of the information revolution and matches the dramatically changing airline industry.

BTS, in conjunction with the Office of the Secretary, is in the process of performing a zero-base review of the financial and traffic data to determine what, if any, revisions can be made to the current data collections to ensure that these collections fully support the Department's mandated aviation responsibilities. Moreover, the review will seek to identify potential savings to the affected air carriers and the Government that can be accomplished through the application of advanced information technologies to the collection, processing, validation, and dissemination of aviation data. BTS's review and modernization of the Passenger Origin and Destination Survey will be incorporated as part of this zero-base review.

Saint Lawrence Seaway Development Corporation (SLSDC)

The Saint Lawrence Seaway Development Corporation (SLSDC) is a wholly owned Government corporation created by Congress in 1954. The primary operating service of the SLSDC is to ensure the safe transit of

commercial and noncommercial vessels through the two U.S. locks and navigation channels of the Saint Lawrence Seaway System. The SLSDC works jointly with its Canadian counterpart to operate and maintain this deep draft waterway between the Great Lakes and the Atlantic Ocean. The SLSDC also works jointly with its Canadian counterpart on all matters related to rules and regulations, overall operations, vessel inspection, traffic control, navigation aids, safety, operating dates, and trade development programs.

The regulatory priority of the SLSDC is to provide its customers with the safest, most reliable, and most efficient Seaway System possible.

DOT—U.S. Coast Guard (USCG)

PROPOSED RULE STAGE

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98. +SALVAGE AND MARINE FIREFIGHTING REQUIREMENTS; VESSEL RESPONSE PLANS FOR OIL (USCG-1998-3417)

Priority:

Other Significant

Legal Authority:

33 USC 1321

CFR Citation:

33 CFR 155

Legal Deadline:

None

Abstract:

Current vessel response plan regulations require that the owners or operators of vessels carrying groups I through V petroleum oil as a primary cargo identify in their response plans a salvage company with expertise and equipment, and a company with firefighting capability that can be deployed to a port nearest to the vessel's operating area within 24 hours of notification (groups I-IV) or a discovery of a discharge (group V). Numerous requests for clarification revealed widespread misunderstanding and confusion regarding the regulatory language, which will make the implementation of this requirement difficult. Based on comments received after the Vessel Response Plan final rule publication (61 FR 1052; January 12, 1996) and during a Coast Guard hosted workshop, the Coast Guard intends to better define the terms "salvage expertise and equipment" and "vessel firefighting capability" requirements and will reconsider the 24-hour deployment requirement which was scheduled to go into effect on February 18, 1998. Therefore, the Coast Guard suspended the effective dates of the 24-hour deployment requirements as published in the final rule. The Coast Guard will continue with this project to better define the requirements. This rulemaking supports the Coast Guard's strategic goals of maritime safety and protection of the natural resources. This rulemaking is DOT-significant because it concerns a matter of substantial public interest or controversy.

Statement of Need:

This rulemaking is intended to reduce the impact of oil spills from vessels.

Summary of Legal Basis:

The statutory authority for this rulemaking is 33 U.S.C. 1321.

Alternatives:

The Coast Guard hosted a workshop to solicit comments from the public on potential alternatives to the salvage and marine firefighting requirements contained in the vessel response plan rule.

Anticipated Cost and Benefits:

Undetermined

Risks:

The purpose of this rulemaking is to better define the terms "salvage expertise and equipment" and "vessel firefighting capability" requirements and to reconsider the 24-hour deployment requirement. The objective is to improve response and reduce environmental damage from oil spills.

Timetable:

Action	Date	FR Cite
Final Rule - Partial Suspension	02/12/98	63 FR 7069
Final Rule - Partial Suspension	01/17/01	66 FR 3876
NPRM	02/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

Partial suspension of regulations created through the Vessel Response Plan final rule, docket no. 91-034, RIN 2115-AD81. The project was originally titled "Salvage and Firefighting Equipment; Vessel Response Plans." The change was made in order to distinguish this project from other similarly titled projects within the Coast Guard.

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DOT—USCG

99. +TANK LEVEL OR PRESSURE MONITORING DEVICES (USCG-2001-9046)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

46 USC 3703

CFR Citation:

46 CFR 32; 33 CFR 157

Legal Deadline:

Final, Statutory, August 1991, Section 4110 of the Oil Pollution Act of 1990 (OPA 90).

Final, Judicial, May 2002.

Abstract:

The U.S. Court of Appeals for the District of Columbia issued a Writ of Mandamus requiring the Coast Guard to promulgate regulations for tank level or pressure monitoring (TLPM) devices as mandated by OPA 90. This regulatory project will establish performance standards for TLPM devices and require tank vessels to install such devices. This project is considered economically significant because of substantial public and industry interest and possible significant economic impact of the rulemaking. This rulemaking falls under the Coast Guard's strategic goal of protection of natural resources.

Statement of Need:

This rulemaking is required by section 4110 of the Oil Pollution Act of 1990, P.L. 101-380.

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Summary of Legal Basis:

This rule is required by section 4110 of the Oil Pollution Act of 1990 as determined by the U.S. Court of Appeals for the D.C. circuit in May 2001. The Coast Guard is under a Writ of Mandamus to publish a rule requiring the use of Tank Vessel Pressure Monitoring devices.

Alternatives:

Alternatives considered for analysis include two performance standards, however, the same cost will be achieved using either standard. We also considered the applicability of the rule to different types of vessels. Variations of these alternatives are presented as eight options in the NPRM.

Anticipated Cost and Benefits:

The present value cost of the proposed rule over the 13-year period of analysis (2002-2014) would range from approximately $64 million to $211 million depending on the option selected. Virtually all of the costs will be incurred during the 3-year or 5-year phase-in period. Under the most expensive option, the cost in nominal terms is estimated to be $80 million. Over the 13-year period of analysis, this analysis estimates that TLPM devices will reduce the amount of oil spilled in the United States by an estimated range of 211 barrels to 1,425 barrels, depending on the option selected.

Risks:

This rule addresses the risk of slow leakage from tank vessels that might otherwise go undetected. It is one of the many statutory requirements mandated by the Oil Pollution Act of 1990, which eliminates a number of oil pollution risks.

Timetable:

Action	Date	FR Cite
NPRM	10/01/01	66 FR 49877
NPRM Comment Period End	11/30/01	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Energy Effects:

Statement of Energy Effects planned as required by Executive Order 13211.

Additional Information:

This project is reopened with a new RIN and DMS docket number. The Coast Guard is reopening this project per writ of mandamus by the D.C. Circuit Court directing the Coast Guard to implement certain provisions of the Oil Pollution Act of 1990. It was previously captioned with docket number 90-071, and RIN 2115-AD69.

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RIN: 2115–AG10

DOT—USCG

FINAL RULE STAGE

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100. +MARINE TRANSPORTATION-RELATED FACILITY RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (USCG-1999-5705)

Priority:

Other Significant

Legal Authority:

33 USC 1321(j); PL 101-380

CFR Citation:

33 CFR 154

Legal Deadline:

None

Abstract:

This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a marine transportation-related facility transferring bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to marine transportation-related facilities that, because of their location, could cause harm to the environment by discharging a hazardous substance into or on the navigable waters or adjoining shoreline. A separate rulemaking, under RIN 2115-AE88, was developed in tandem with this rulemaking and addresses hazardous substances response plan requirements for tank vessels. This project supports the Coast Guard's strategic goals of maritime safety and protection of natural resources by reducing the amount of chemicals entering the environment, as well as reducing the consequence of pollution incidents. This action is considered significant because of substantial public and industry interest.

Statement of Need:

This rulemaking is intended to reduce the impact from hazardous substance spills from marine transportation-related facilities.

Summary of Legal Basis:

Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 U.S.C. 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although section 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate final rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under 33 U.S.C. 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. The Coast Guard has identified 82 hazardous substances currently carried in bulk by vessels, and transferred to or from marine transportation-related facilities.

Alternatives:

The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some of the spilled substances may not be recoverable from the water and other actions may be necessary. Plans are required, by statute, to address responses to a "worst case discharge." For facilities, a "worst case discharge" is "the largest foreseeable discharge in adverse weather conditions."

Anticipated Cost and Benefits:

The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts for response resources, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include reduced risk of human exposure and enhanced environmental quality from improved

ability to respond to, contain, and recover spilled hazardous substances, The analysis indicates that this project will not be economically significant. A regulatory assessment addressing costs and benefits of this rule is available in the public docket.

Risks:

Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of facilities involved in transferring hazardous substances in bulk or have a significant impact on the volume of hazardous substances shipped by marine transportation-related facilities. Most facilities involved in transferring hazardous substances in bulk have developed plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084
Notice of Public Hearings	07/03/96	61 FR 34775
ANPRM Comment Period End	09/03/96	
NPRM	03/31/00	65 FR 17416
NPRM Comment Period End	06/29/00	
Interim Final Rule	08/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

Old Docket Number CGD 94-048. Public hearings regarding this rulemaking were held in Washington, DC, on July 30, 1996; Houston, TX, on August 5, 1996; and Houston, TX, on February 26 and 27, 1997. Public meetings for the NPRM were held in New Orleans, LA, on May 10 and 11, 2000.

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RIN: 2115–AE87

DOT—USCG

101. +TANK VESSEL RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (USCG-1998-4354)

Priority:

Other Significant

Legal Authority:

33 USC 1231; 33 USC 1321(j); PL 101-380

CFR Citation:

33 CFR 155

Legal Deadline:

None

Abstract:

This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a tank vessel carrying bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to vessels operating on the navigable waters or within the Exclusive Economic Zone (EEZ) of the United States that carry bulk hazardous substances. A separate rulemaking under RIN 2115-AE87 would address hazardous substances response plan requirements for marine transportation-related facilities. This project supports the Coast Guard's strategic goals of maritime safety and protection of natural resources by reducing the amount of chemicals entering the environment, as well as reducing the consequences of pollution incidents. This project is considered significant because of substantial public and industry interest.

Statement of Need:

This rulemaking is intended to reduce the impact from hazardous substance spills from vessels.

Summary of Legal Basis:

Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 U.S.C. 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate final rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under section 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. The Coast Guard has identified 82 hazardous substances currently carried in bulk by vessels.

Alternatives:

The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans are required, by statute, to address responses to a "worst case discharge." For vessels, a "worst case discharge" is "a discharge in adverse weather conditions of its entire cargo."

Anticipated Cost and Benefits:

The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts for spill-response resources, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include reduced risk to human health, enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances and a reduction in the severity of the impact of accidental hazardous substance discharges. A regulatory assessment addressing costs and benefits of this rule is available in the public docket.

Risks:

Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of vessels involved in transferring hazardous substances in bulk, or have a significant impact on the volume of hazardous substances shipped by vessel. Most vessels carrying hazardous substances in bulk have developed response plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084

Action	Date	FR Cite
Notice of Public Hearings	07/03/96	61 FR 34775
ANPRM Comment Period End	09/03/96	
NPRM	03/22/99	64 FR 13734
Notice of Public Hearing	06/15/99	64 FR 31994
NPRM Comment Period Extended	06/15/99	
NPRM Comment Period End	06/21/99	
NPRM Extended Comment Period End	08/30/99	
Interim Final Rule	02/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

Old Docket Number CGD 94-032.

Public meetings regarding this rulemaking were held in Washington, DC, on July 30, 1996; Houston, TX, on August 5, 1996; and Houston, TX, on February 26 and 27, 1997. Public meetings for the NPRM were held in Houston, TX on August 12 and 13, 1999.

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RIN: 2115–AE88

DOT—Federal Aviation Administration (FAA)

PROPOSED RULE STAGE

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102. +FLIGHT CREWMEMBER DUTY PERIOD LIMITATIONS, FLIGHT TIME LIMITATIONS, AND REST REQUIREMENTS

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44701; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation:

14 CFR 121; 14 CFR 135

Legal Deadline:

None

Abstract:

This rulemaking would amend the regulations on duty period limitations, flight time limitations, and rest requirements for flight crewmembers engaged in air transportation. The FAA proposes additional changes in response to comments received on the NPRM. The changes are necessary to ensure that the rules will continue to provide the minimum level of safety. This rulemaking responds to public and congressional interest in regulating flight crewmember rest requirements, NTSB Safety Recommendations, petitions for rulemaking, and scientific data. This action is considered significant because of substantial public interest.

Statement of Need:

The aviation community requires 24-hour activities to meet operational demands. Growths in long-haul, regional, overnight cargo, and short-haul domestic operations are increasing. Therefore, shift work, night work, irregular work schedules, and time zone changes will continue to be commonplace.

With this growth, the scientific knowledge about sleep, sleep disorders, circadian physiology, fatigue, and performance decrements has also grown. Some of the scientific knowledge has indicated that aviators experience performance-impairing fatigue from sleep loss resulting from current flight and duty practices.

In addition, industry and individuals have told the FAA that the current regulations are confusing and difficult to enforce. Therefore, a second purpose of the rulemaking is to establish consistent and clear duty period limitations and rest requirements for all types of operations.

Summary of Legal Basis:

Section 44701, title 49 of the United States Code states that the Administrator shall promote safety of flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety.

Alternatives:

One obvious alternative would be to continue with the current rules, however, these regulations are rapidly becoming obsolete. As a second alternative, one commenter asked that the FAA develop a standard and then allow each carrier to design a rest/duty program that would meet that standard while accommodating differences in operations. While this works for certain rules, such as training regulations where the standard is training to proficiency, there is no way to apply this application to individual pilots on a daily basis.

Anticipated Cost and Benefits:

Undetermined.

Risks:

Although there has been only one identifiable accident due to pilot fatigue, fatigue is increasingly becoming the focus of possible causes following all accidents. Pilot reports of being fatigued to the point of incapacity are not uncommon, and intuitively, it is reasonable, given the sheer volume of air traffic, to expect fatigue to be a factor in future accidents if the regulations are not corrected.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 65951
NPRM Comment Period End	03/19/96	
NPRM Comment Period Extended to 6/19/96	03/20/95	61 FR 11492
SNPRM	12/00/01	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

Project Number: AFS-94-443R

ANALYSIS: Regulatory Evaluation, 12/20/95, 60 FR 65951

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RIN: 2120–AF63

DOT—FAA

FINAL RULE STAGE

103. +IMPROVED FLAMMABILITY STANDARDS FOR THERMAL/ACOUSTIC INSULATION MATERIALS USED IN TRANSPORT CATEGORY AIRPLANES

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 44701; 49 USC 44702; 49 USC 44704

CFR Citation:

14 CFR 25

Legal Deadline:

None

Abstract:

This document proposes upgraded flammability standards that specifically address flame propagation and entry of an external fire into the airplane (burnthrough) under realistic fire scenarios. The proposed standards are intended to reduce the incidence and severity of cabin fires, particularly those ignited in inaccessible areas where thermal/acoustic insulation materials are typically installed. Also the proposed standards would provide an increased level of safety with respect to post-crash fires by delaying the entry of such a fire into the cabin, thereby providing additional time for evacuation and enhancing survivability. The new standards would apply to new type designs, and newly manufactured airplanes entering parts 91, 121, 125, and 135 service. This action is significant because of substantial public interest.

Statement of Need:

Service history and laboratory testing demonstrate that the current flammability requirements applicable to thermal/acoustic insulation materials may not be providing the intended protection against the spread of fires. Additionally, the FAA considers that increased protection against external fire penetrating the fuselage can be provided by proper selection of the same material. These new test methods would not only provide for increased in-flight fire safety, by reducing the flammability of thermal/acoustic insulation blankets, but would provide increased time for evacuation during externally fed, post crash fires by increasing fuselage burnthrough resistance.

Summary of Legal Basis:

49 USC 4401 empowers the Administrator to prescribe regulations and minimum standards in the interest of safety for aircraft and equipment.

Alternatives:

The FAA considered several options to identify the least intrusive and most cost effective alternative to increase the level of safety for insulation materials. The alternatives considered were as follows: (1) Utilize the industry test instead of the requirements proposed; this would not screen out certain types of materials shown to propagate a fire under more realistic conditions, but would screen out the worst performers. (2) Limit replacement of insulation materials to only certain parts of the airplane; it is not feasible to specify areas of the airplane that are more crucial than others. This would be an economic consideration that would not address safety issues. (3) Change the effectivity or compliance times to reduce the number of airplanes affected; the proposal will be designed to optimize costs versus benefits in this regard. Changes to either would be less than optimal. (4) Propose some combination of the above. Other combinations would either reduce the level of safety or be less cost-effective.

Anticipated Cost and Benefits:

The total costs of this rule is $68.0 million, or $36.5 million discounted to present value if only blanket material changes are made to the aircraft. If manufacturers need to make configuration changes to the aircraft as well as material changes to their drawings, the FAA estimates that total costs would be $103.1 million or $68.2 million discounted to present value. The FAA is unable to quantify the benefits for this rule. However, preventing the loss of one airplane and its passengers over the 20-year period is not likely. Assuming such a loss would occur at the midpoint of the analysis, or in 2009, with 169 passengers, the nondiscounted loss would be $455.5 million, or $231.5 million discounted to present value (again, assuming society's willingness to pay $2.7 million to avoid a fatality). This loss does not include the value of the airplane. Even without loss of life, as several of the incidents show, a hull loss could exceed tens of millions of dollars. The FAA therefore has determined that this proposed rule would be cost beneficial.

Risks:

The FAA is aware of several events in which the flammability characteristics of thermal/acoustic insulation material may have been a contributing factor of airplane fires. The FAA initiated investigations and research to determine the appropriateness of applying existing Bunsen burner flammability criteria to thermal/acoustic insulation, as typically installed in concealed and inaccessible areas. This rule is necessary to decrease the risk of fires on airplanes and to improve airplane fire safety.

Timetable:

Action	Date	FR Cite
NPRM	09/20/00	65 FR 56992
NPRM Comment Period End	01/18/01	
Final Rule	05/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

Project Number: ANM-99-086R.

ANALYSIS: Regulatory Evaluation, 04/00/01

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DOT—FAA

104. +CERTIFICATION OF AIRPORTS

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44706; 49 USC 44709 to 40711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44719; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 46105

CFR Citation:

14 CFR 121; 14 CFR 139

Legal Deadline:

None

Abstract:

This action proposes to revise the current airport certification regulation and to establish certification requirements for airports serving scheduled air carrier operations in aircraft with 10 to 30 seats. In addition, changes are proposed to address National Transportation Safety Board recommendations and petitions for exemptions and rulemaking. A section of an air carrier operation regulation also would be amended to conform with proposed changes to airport certification requirements. The FAA believes that these proposed revisions are necessary to ensure safety in air transportation and to provide a comparable level of safety at all certificated airports. This action is significant because of substantial public interest.

Statement of Need:

The last major revision to the airport certification regulation occurred in 1987, and since then, industry practices, and technology have changed. To respond to such changes, the FAA is proposing to revise the regulation to clarify and update several requirements. Additionally, with the passage of the 1996 FAA Reauthorization Act, Congress provided the FAA the necessary authority to certificate airports serving scheduled air carrier operations with 10 to 30 seat aircraft, except in the State of Alaska (in addition to existing authority to regulate airports serving air carrier operations using aircraft with more than 30 seats). To achieve a comparable level of safety at all covered airports, FAA now proposes to exercise this authority and amend the regulation to incorporate airports serving smaller air carrier aircraft into the FAA's airport certification program. Also, the 2000 FAA Reauthorization Act (P.L. 106-181) mandates publication of the NPRM within 60 days of the Act's enactment; and publication of the final rule within one year of the close of comment period for airports serving smaller air carrier aircraft.

Summary of Legal Basis:

FAA has general and specific authority to regulate airports as set out in 49 USC 106(g) and 44701.

Alternatives:

The FAA has considered several alternative approaches to this proposed rulemaking and has attempted to minimize the potential economic impact of the proposal, especially the impact on small entities. In addition, this action fulfills the FAA's responsiblilty to meet deadlines established by Congress to certificate airports serving scheduled air carrier operations with 10 to 30 seat aircraft, except for the State of Alaska. The FAA considered alternatives based on two issues. Issue 1 was the revision of 14 CFR 139, and Issue 2 was the certification of airports serving scheduled operations of small air carrier aircraft with 10-30 passenger seats. The FAA determined that it was necessary to revise 14 CFR 139 and that the revised part 139 should include the certification of airports serving scheduled air carrier operations with 10 to 30 passenger seat aircraft.

Anticipated Cost and Benefits:

Most of the costs of this proposed rule are associated with the proposed improvements to safety and operational requirements. Most of these costs result from the expansion of ARFF services. The present value of the total cost of the rule over a 10-year period is approximately $46 million, which includes training, additional emergency response protection, wildlife management, and an updated airport certification manual that better reflects current best practices. With the tremendous cost of aviation accidents, the proposed rule provides the potential for enhanced safety for a reasonable cost. The expected benefit of this proposed rule is an enhanced level of safety resulting in reduced fatalities, injuries, and property damage at airports with scheduled air carrier operations, particularly operations in aircraft configured with 10 to 30 passenger seats. The cost of a single accident of a 30-seat scheduled passenger aircraft is greater than the total cost of the proposal. Other benefits of this proposal include provisions for snow and ice control, wildlife management, and training.

Risks:

The purpose of this rulemaking is to expand and enhance the safety benefits of the current regulation by providing, to the extent possible, a comparable level of safety at all airports used by air carriers.

Timetable:

Action	Date	FR Cite
NPRM	06/21/00	65 FR 38636
Correction	08/21/00	65 FR 50669
NPRM Comment Period Extended	08/22/00	65 FR 50945
NPRM Comment Period End	09/19/00	
NPRM Comment Period End	11/03/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

Project Number: AAS-97-072R.

ANALYSIS: Regulatory Evaluation, 06/21/00

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DOT—Federal Motor Carrier Safety Administration (FMCSA)

FINAL RULE STAGE

105. +HOURS OF SERVICE OF DRIVERS; DRIVER REST AND SLEEP FOR SAFE OPERATIONS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

49 USC 31136; 49 USC 31502; PL 74-255; PL 84-939; PL 98-554; PL 103-311; PL 104-59; PL 104-88; PL 106-159

CFR Citation:

49 CFR 1.73; 49 CFR 395

Legal Deadline:

Other, Statutory, March 1, 1996, ANPRM. PL 104-88,sec 408(a).

NPRM, Statutory, November 5, 1997, PL 104-88, sec 408(b).

Final, Statutory, November 5, 1999, PL 104-88, sec 408(b).

Abstract:

This action would revise the regulations for commercial motor vehicle driver rest requirements and duty period limitations for safe highway transportation. A broad rulemaking is required by the ICC Termination Act of 1995 (ICCTA). Other congressional actions prior to the ICCTA require modifications to the current rules.

This rulemaking responds to public and congressional interest in regulating commercial motor vehicle driver rest requirements, the NTSB's safety recommendations, petitions for rulemaking, and scientific data. There is substantial public and congressional interest in the regulation of medium- and heavy-duty truck and bus drivers' sleep, off-duty, and working periods of time. The FMCSA has proposed new rules based upon comments and scientific data submitted to the advance notice of proposed rulemaking docket. The proposal includes an initial regulatory flexibility analysis, a cost-benefit analysis, an unfunded mandates analysis, and a paperwork reduction analysis. This action is considered significant because of substantial public and congressional interest.

Statement of Need:

The motor carrier industry requires 24-hour activities to meet the operational demands of a healthy U.S. economy. Growth in long-haul, regional, overnight, local, for-hire and private carriage operations is increasing with the unprecedented growth of the U.S. economy. Therefore, night work, shift work, and irregular work schedules continue to be commonplace.

The scientific knowledge about sleep, sleep disorders, circadian physiology, fatigue, and performance decrements has also grown. One of the purposes of this rulemaking is to incorporate as much of the scientific knowledge as possible into the applicable regulations.

Summary of Legal Basis:

Section 31136 of title 49, United States Code, authorizes the Secretary of Transportation to prescribe minimum safety standards for commercial motor vehicles (Motor Carrier Safety Act of 1984, Pub. L. 98-554, Title II, October 30, 1984). Regulations prescribed under this section must ensure that: (1) commercial motor vehicles are operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicle safely (3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and (4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators.

Section 31502 of Title 49, United States Code, authorizes the Secretary of Transportation to prescribe maximum hours-of-service and qualifications requirements for operators of motor carriers when needed to promote the safety of operations (Motor Carrier Act of 1935, Pub. L. 74-255, August 9, 1935; and Migrant Farm Workers-Regulation of Interstate Transportation Act, Public Law 84-939, August 3, 1956).

Section 113 of the Hazardous Materials Transportation Authorization Act of 1994 (Pub. L. 103-311, August 26, 1994) requires the Secretary of Transportation to prescribe regulations amending part 395 to improve the compliance by commercial motor vehicle drivers and motor carriers with HOS requirements and the effectiveness and efficiency of Federal and State enforcement officers reviewing such compliance.

Section 345 of the National Highway System Designation Act of 1995 (Pub. L. 104-159, November 28, 1995) created four specific exemptions from the hours-of-service-of-drivers requirements of part 395. A fifth exemption applied only to commercial driver licensing-related requirements requiring testing of operators for alcohol and controlled substances. The Secretary of Transportation was authorized to conduct rulemaking, except for the water well drilling hours-of-service exemption, to negate or modify the exemptions upon a determination, after a rulemaking proceeding, that the exemption is not in the public interest and would have a significant adverse impact on the safety of commercial motor vehicles.

Section 408 of the ICC Termination Act of 1995 (Pub. L. 104-88, December 29, 1995) requires the Federal Highway Administration (functions transferred to the Federal Motor Carrier Safety Administration under Pub. L. 106-159) to issue a final rule dealing with a variety of fatigue-related issues pertaining to commercial motor vehicle safety (including 8 hours of continuous sleep after 10 hours of driving, loading and unloading operations, automated and tamper-proof recording devices, rest and recovery cycles, fatigue and stress in longer combination vehicles, fitness for duty, and other appropriate regulatory and enforcement countermeasures for reducing fatigue-related incidents and increasing driver-alertness).

Alternatives:

The FMCSA proposes replacing the current rules with an alternative set of rules based upon scientific knowledge and submitted comments. The FMCSA is considering different regulations for different types of drivers and operations.

The FMCSA will also consider modifying the information collection burdens that have been placed upon the motor carrier industry, including the following types of recordkeeping methods: (1) Reducing the required items on the record of duty status (log book); (2) adding electronic on-board recording devices to commercial motor vehicles; (3) eliminating all FMCSA hours-of-service record keeping requirements while relying exclusively on the duplicative hours-of-work record keeping system required by the U.S. Department of Labor under the Fair Labor Standards Act of 1938, as amended.

The FMCSA is proposing a revision to the hours-of-service regulations to require motor carriers to provide their drivers with better opportunities to obtain sleep than the current rules, and thereby reduce the number of fatigue-related crashes involving these drivers. We estimate that 755 fatalities and 19,705 injuries occur each year on the Nation's roads because of drowsy, tired or fatigued CMV drivers.

The proposed rules would make three major changes. First, and most importantly, the new rules would be science-based (related to sleep cycles) and put all drivers in a 24-hour daily cycle. Second, they would reduce the total number of hours behind the wheel in a given 24-hour cycle to no more

than 12 hours. Under current rules, a driver can reach the 60-hour on-duty limit in 4 days and 4 hours, and the 70-hour limit in less than 5 days. Third, long-haul and regional drivers (who spend one or more nights away from their normal work reporting locations) would be required, eventually, to use electronic on-board recording devices (EOBRs). These proposed changes would abandon a one-size-fits-all approach to work-rest cycles and adopt different rest periods for different types of operations.

The FMCSA has received more than 51,000 comments to date. As we are committed to fully exploring all issues and concerns of stakeholders, we held eight public hearings in may, June and July 2000, and followed up three public roundtable discussions in September and October 2000 on issues that attracted significant comment in the hearings.

The roundtables drew broad public participation and elicited in-depth discussion and exchange of supporting data on critical issues, including issues surrounding the economic analyses and assumptions used by the agency. The discussions provided the agency with information requiring careful analysis. This will help the FMCSA identify any necessary changes to the proposal that would address stakeholders' divergent concerns and support the development of a successful rule.

The FY 2001 Department of Transportation Appropriations Act, Pub. L. 106-346, includes language that prohibits the Department from adopting a final rule before October 1, 2001. This is consistent with the Department's pledge to carefully review and consider the extensive record that has been established on the rulemaking before deciding on the next appropriate step in the rulemaking process.

Anticipated Cost and Benefits:

The FMCSA has placed a Preliminary Regulatory Evaluation (PRE) in the docket. The PRE evaluates five options, based on identified key parameters. The selected option, which divides the industry into different types of motor carrier operations, is projected to save 115 lives and 2,995 injuries per year with a total net benefit of almost $3.359 billion, assuming that 15 percent of CMV-involved crashes are fatigue-related. Readers are directed to the PRE and the preamble of the NPRM for additional information.

Risks:

Fatigue is increasingly becoming the focus of possible causes following many crashes. Driver reports of being fatigued to the point of incapacity are not uncommon, and intuitively, it is reasonable, given the sheer volume of traffic, to expect fatigue to be a factor in future crashes if the regulations are not corrected. Fatigue was identified by the industry, public, and government as the highest priority safety issue at a 1995 Truck and Bus Safety Summit in Kansas City, MO.

The FMCSA has established a goal to reduce by 50 percent over ten years the number of fatalities from crashes involving any commercial motor vehicle. The FMCSA anticipates its proposal will reduce fatigue-related crashes by at least 15 percent each year to assist in its efforts to meet its overall goal of 50 percent reduction in deaths.

Timetable:

Action	Date	FR Cite
ANPRM	11/05/96	61 FR 57251
Notice of Meeting	02/11/97	62 FR 6161
ANPRM Comment Period End	03/31/97	
NPRM	05/02/00	65 FR 25540
Notice of Hearing	05/05/00	65 FR 26166
Notice of Hearing	05/22/00	65 FR 32070
Notice of change in hearing structure	05/26/00	65 FR 34132
NPRM; Correction	05/31/00	65 FR 34904
Notice of Hearing	06/12/00	65 FR 36809
Comment Period Extended	06/19/00	65 FR 37956
Comment Period Extended; Roundtable Meetings	08/15/00	65 FR 49780
NPRM Comment Period End	12/15/00	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Federal

Federalism:

This action may have federalism implications as defined in EO 13132.

Additional Information:

Transferred from RIN 2125-AD93.

During the agency's broad section 610 review of the 65-year history of the rule and all its amendments and revisions, the agency identified that RINs 2125-AD52, 2125-AD81, 2126-AA16, and 2126-AA29 also contain pertinent actions that must be incorporated into this action. Therefore, the agency incorporated them and has published a combined proposal addressing the entire topic of hours-of-service of drivers and related recordkeeping issues.

The DOT Docket Management System now identifies this rulemaking as number FMCSA-1997-2350.

More Information on ALTERNATIVES:

The FMCSA is proposing a revision to the hours-of-service regulations to require motor carriers to provide their drivers with better opportunities to obtain sleep than the current rules, and thereby reduce the number of fatigue-related crashes involving these drivers. We estimate that 755 fatalities and 19,705 injuries occur each year on the Nation's roads because of drowsy, tired or fatigued CMV drivers.

The proposed rules would make three major changes. First, and most importantly, the new rules would be science-based (related to sleep cycles) and put all drivers in a 24-hour daily cycle. Second, they would reduce the total number of hours behind the wheel in a given 24-hour cycle to no more than 12 hours. Under current rules, a driver can reach the 60-hour on-duty limit in 4 days and 4 hours, and the 70-hour limit in less than 5 days. Third, long-haul and regional drivers (who spend one or more nights away from their normal work reporting locations) would be required, eventually, to use electronic on-board recording devices (EOBRs). These proposed changes would abandon a one-size-fits-all approach to work-rest cycles and adopt different rest periods for different types of operations.

The NPRM is a proposal. The FMCSA has extensively solicited public comments at 8 public hearings and 3 public roundtable discussions. The agency has received more than 51,000 comments in docket no. FMCSA-97-2350. The agency is reviewing these comments to ensure that it can make appropriate decisions about the next steps in the rulemaking process.

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DOT—National Highway Traffic Safety Administration (NHTSA)

PROPOSED RULE STAGE

106. +FRONTAL OFFSET PROTECTION

Priority:

Other Significant

Legal Authority:

49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation:

49 CFR 571.208

Legal Deadline:

None

Abstract:

The agency is considering establishing a Federal motor vehicle safety standard for high speed frontal offset crash testing. The frontal offset test is a crash test for automobiles and light trucks in which the subject vehicles are run into a deformable honeycomb barrier. The barrier contacts only 40 percent of the front of the vehicle simulating an off-center frontal collision. The agency is considering adding the offset test to the frontal occupant protection standard to measure vehicle structural integrity and reduce the number and severity of lower-body injuries.

Statement of Need:

While the Federal motor vehicle safety standards already contain a frontal crash test, injuries and fatalities still occur in various types of frontal crashes. The European Union determined that the best test for frontal occupant protection would be an offset test with belted test dummies. As part of the House of Representatives Conference Report 104-785, to accompany H.R. 3675, the National Highway Traffic Safety Administration was directed on September 16, 1996, to conduct research "...toward establishing a Federal motor vehicle safety standard for frontal offset crash testing." Such a standard would harmonize with the European Union frontal crash standard. Subsequent research results with the 50th percentile male and the 5th percentile female Hybrid III dummies suggest that additional safety benefits would be provided for the neck and the upper and lower tibia under the offset test conditions.

Summary of Legal Basis:

Section 30111,Title 49 of the United States Code, states the Secretary shall prescribe motor vehicle safety standards. As part of the House of Representatives Conference Report 104-785, to accompany H.R. 3675, the National Highway Traffic Safety Administration was directed on September 16, 1996, to conduct research "...toward establishing a Federal motor vehicle safety standard for frontal offset crash testing."

Alternatives:

Since this program is oriented primarily toward adopting an existing European standard, the agency will focus on existing test procedures. However, the agency is working through the national and international biomechanical engineering community to develop better test devices such as improved dummy legs. Comments will be sought on the best dummy designs in the agency's proposal.

Anticipated Cost and Benefits:

A report prepared for the Australian Government estimates that adding an offset test may result in a 15 percent reduction in "Harm." Harm is a calculation of the cost of trauma and is the product of the frequency of injury and cost to the community. Most of these benefits would be seen in reduction in lower body and leg injuries. The agency has not determined the specific benefits of this test procedure.

The agency estimates that for vehicles that cannot currently pass this test, vehicle modifications would cost $14 per vehicle. Based on an estimate that 25 percent of the fleet would need to be modified, the total annual cost to the consumers would be $60 million dollars.

Risks:

Current motor vehicles provide numerous occupant protection systems, such as safety belts and strategically-placed energy absorption materials such as foam padding. However, an estimated 3,300 people per year are killed and 400,000 people per year are injured in frontal offset crashes.

The agency knows of no disadvantages to implementing this requirement.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 2127–AH73

DOT—Federal Railroad Administration (FRA)

PROPOSED RULE STAGE

107. +STANDARDS FOR DEVELOPMENT AND USE OF PROCESSOR-BASED SIGNAL AND TRAIN CONTROL SYSTEMS

Priority:

Other Significant

Legal Authority:

49 USC 20103

CFR Citation:

49 CFR 234; 49 CFR 236; 49 CFR 209

Legal Deadline:

None

Abstract:

Consistent with congressional mandate, FRA has continued its commitment to supporting Positive Train Control (PTC) technology development, testing and compatibility; and promoting deployment of PTC technology in the

near future. In September 1997, FRA initiated joint fact finding efforts through the Railroad Safety Advisory Committee (RSAC) Working Group on PTC. The advice and recommendations of RSAC formed the basis for proceeding to an NPRM that can facilitate introduction of advanced technology, including systems that support PTC functions. The rulemaking will address technical standards for all processor-based signal and train control products, amending 49 CFR part 236.

Statement of Need:

Current FRA regulations do not adequately address the use of signal and train control technology that is processor-based. In fact, application of current regulations to processor-based systems can create unnecessarily burdensome requirements. Recently, use of this technology has begun to increase on the general system of North American railroads, placing new demands on agency resources to ensure the safety objectives contemplated by the current regulations are achieved. The existence of federal regulations addressing this subject matter would further encourage safe use of the technology, which would reduce the risk of train-to-train collisions, better enforce speed restrictions, and increase the level of protection to roadway workers and their equipment. These improvements will likely result in fewer fatalities, injuries, and economic damage associated with such risks. Given the potential for substantial safety benefits that this program represents, this initiative is extremely important to the agency.

Summary of Legal Basis:

FRA is issuing this proposal pursuant to its general rulemaking authority. 49 U.S.C. 20103(a). Currently, railroads may discontinue or materially alter a signal system initially required by the Secretary of Transportation only with approval from the Secretary. 49 U.S.C. 20502. Exercise of both of these powers has been delegated to the FRA Administrator. 49 C.F.R. 1.49.

Alternatives:

Currently, FRA accepts waiver applications from railroads that seek relief from FRA safety regulations in order to test new signal and train control equipment. Since FRA must consider the safety ramifications of each application on a case-by-case basis, this procedure can take years.

Prior to this action, FRA has considered:(1) leaving the existing regulatory requirement as is, and (2) adopting a single standard for the design of processor-based signal and train control systems. However, agency inaction would hinder introduction of new, safer technology into railroad signal and train control; elimination of all railroad signal and train control system regulation would be a total abdication of the agency's statutory duties; and a single design standard would inhibit innovative signal and train control system designs.

Anticipated Cost and Benefits:

The proposed rule would provide flexible performance standards for the design of processor-based signal and train control systems, but would not mandate their usage. FRA believes that a railroad would adopt such a system under one or more of the following conditions: (1) the new system is safer; (2) the new system is less expensive; and (3) continued maintenance of the existing system is no longer feasible. The proposed rule would ensure that any replacement system is at least as safe as the current system. Concerning existing processor-based systems, the proposed rule would require railroads to adopt a software management plan, which will ensure proper software configuration, resulting in decreased risk of train accidents due to signal malfunction. FRA has not quantified these benefits because of the difficulties in estimating how many systems are likely to be affected by this rule, what the incremental cost would be, and when the benefits would accrue.

Most of the costs of this proposed rule are associated with safety documentation required to demonstrate compliance with the performance standard. As with many performance standards, this rule would require substantial safety documentation from the railroad to demonstrate compliance, both up front and during the life cycle of the system. It appears that the primary cost involved in this proposed rule will be the product risk assessment, a one-time expense presently incurred by product suppliers. For current processor-based systems, railroads face the cost of implementing a software management control plan, which is less expensive than attempting to satisfy current requirements, which did not contemplate the use of processor-based technology.

Overall, it appears that the benefits of the proposed rule outweigh the costs.

Risks:

The risk category addressed by the proposed rule is that of accidents that occur due to improper train operations and certain types of vandalism. Types of accidents that may be prevented include train-to-train collisions, derailments due to excessive train speed, and trains penetrating the work limits of roadway workers.

Timetable:

Action	Date	FR Cite
NPRM	08/10/01	66 FR 42351
NPRM Comment Period End	10/09/01	
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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DOT—Federal Transit Administration (FTA)

PROPOSED RULE STAGE

108. +CLEAN FUELS FORMULA GRANT PROGRAM

Priority:

Other Significant

Legal Authority:

PL 105-178, sec 3008; 49 USC 5308

CFR Citation:

49 CFR 624

Legal Deadline:

None

Abstract:

Section 3008 of the Transportation Equity Act for the 21st Century establishes the Clean Fuels Formula

Grant Program. This grant program will assist transit systems in purchasing or leasing clean fuel vehicles; constructing clean fuel or electrical re-charging facilities; modifying existing garage facilities to accommodate clean fuel vehicles; repowering pre-1993 engines with clean fuel technology which meets the current bus emission standards; and retrofitting or rebuilding pre-1993 engines before their half-life for rebuilding. This provision requires the Secretary to issue an implementing regulation that sets forth eligibility requirements and an apportionment formula for eligible projects. In FY 1999, all funds were apportioned to earmarked projects. This action is considered significant because of considerable congressional and public interest.

Statement of Need:

This rulemaking is intended to assist nonattainment and maintenance areas in achieving or maintaining air quality attainment status. The program also seeks to support emerging clean fuel and advanced propulsion technologies for transit buses and to create markets for these technologies.

Timetable:

Action	Date	FR Cite
NPRM	08/28/01	66 FR 45551
NPRM Comment Period End	10/21/01	
Final Rule	01/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Local

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RIN: 2132–AA64

DOT—Research and Special Programs Administration (RSPA)

PROPOSED RULE STAGE

109. +APPLICABILITY OF THE HAZARDOUS MATERIALS REGULATIONS TO LOADING, UNLOADING, AND STORAGE

Priority:

Other Significant

Legal Authority:

49 USC 5101 to 5127

CFR Citation:

49 CFR 106 to 107; 49 CFR 171 to 180

Legal Deadline:

None

Abstract:

This rulemaking proposes to better define the applicability of the Federal Hazardous Materials Regulations (HMR) in order to clarify the relationship among Federal, State, local, and tribal agencies in the regulation of hazardous materials. Under circumstances specified in Federal statutes, the regulations of other Federal agencies (EPA and OSHA) and non-Federal governments (States, localities, and Indian tribes) must be consistent with or defer to RSPA's regulation of the transportation of hazardous materials in commerce. However, other Federal and non-Federal requirements are generally not limited where hazardous materials are not in transportation. Activities relating to loading, unloading, and storage of hazardous materials have become areas of particular uncertainty and concern to both industry and non-Federal governments. This action is significant because of the substantial public interest in reducing uncertainty and avoiding conflicting regulations.

Statement of Need:

In recent years, RSPA has issued interpretations and administrative decisions on a case-by-case basis about whether particular activities are in "transportation" and therefore subject to regulation under the HMR. Because of increasing State and local regulation of hazardous materials, RSPA concluded that an overall rulemaking is appropriate, rather than just case-by-case decisions. RSPA believes that better overall definitions of the applicability of the HMR will reduce uncertainty by the regulated community and other regulatory agencies (both Federal and non-Federal) as to which agency has regulatory authority. Greater certainty in this regard should promote improved compliance with the HMR and also with the requirements of other regulatory agencies.

Summary of Legal Basis:

Section 5103 of title 49 U.S.C. specifies that the Secretary shall prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce applicable to, among others, any person who offers hazardous materials for transportation or who transport hazardous materials in commerce. In addition, section 5125 of title 49 U.S.C. sets forth the circumstances under which differing non-Federal requirements are preempted.

Alternatives:

Commenters to the ANPRM and SANPRM suggested alternative ways to describe the applicability of the HMR. One suggestion is to describe the applicability of the HMR in relationship to specific transportation functions. Another is to describe the applicability of the HMR over specific regulated entities, such as those who offer hazardous materials for transportation or those who transport hazardous materials. RSPA is considering each of the alternatives proposed.

Anticipated Cost and Benefits:

RSPA made a preliminary determination that there is neither an increase nor decrease in the costs of compliance with the HMR for persons who offer hazardous materials for transportation or transport hazardous materials in commerce. The preliminary regulatory evaluation was entered into the docket and is available for review.

Risks:

Clarifying the applicability of the HMR should reduce uncertainty as to which regulatory agency's requirements apply to any particular activity involving hazardous materials and improve compliance with the HMR, the requirements of EPA and OSHA, and non-Federal requirements. This should result in improved compliance with the applicable regulatory requirements, and improve hazardous materials transportation safety, reduce risks to the environment from hazardous materials, and promote workplace safety at facilities that manufacture or handle hazardous materials.

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Timetable:

Action	Date	FR Cite
ANPRM	07/29/96	61 FR 39522
ANPRM Comment Period End	11/30/96	
SANPRM	04/27/99	64 FR 22718
Extension Comment Period Published for SANPRM	07/26/99	
SANPRM Comment Period End	08/25/99	
NPRM	06/14/01	66 FR 32420
NPRM Comment Period Extended & Public Meetings	08/02/01	66 FR 40174
Comment Period Extended	08/02/01	66 FR 40174
Comment Period End	11/30/01	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Tribal, Federal

Federalism:

This action may have federalism implications as defined in EO 13132.

Additional Information:

Docket No. HM-223. As a result of comments received to the ANPRM, we have upgraded this rulemaking to significant.

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BILLING CODE 4910-62-S

DEPARTMENT OF THE TREASURY (TREAS)

Statement of Regulatory Priorities

The primary missions of the Department of the Treasury are:

To promote prosperous and stable American and world economics, including promoting domestic economic growth and maintaining our Nation's leadership in global economic issues, supervising national banks and thrift institutions, and helping to bring residents of distressed communities into the economic mainstream;

To manage the Government's finances by protecting and collecting the correct amount of revenue under the Internal Revenue Code and customs laws, financing the Federal Government and managing its fiscal operations, and producing our Nation's coins and currency; and

To safeguard our financial systems, protect our Nation's leaders, and secure a safe and drug-free America by enforcing laws relating to counterfeiting, Federal Government securities, firearms and explosives, money laundering, foreign commerce in goods and financial instruments, and smuggling and trafficking in contraband; protecting the President, Vice President, certain foreign diplomatic personnel, and others; and training Federal, State, and local law enforcement officers.

Consistent with these missions, most regulations of the Department and its constituent bureaus are promulgated to interpret and implement the laws as enacted by the Congress and signed by the President. Unless circumstances require otherwise, it is the policy of the Department to issue a notice of proposed rulemaking (NPRM) and carefully consider public comments before adopting final regulations. Also, in particular cases, the Department invites interested parties to submit views on rulemaking projects while the NPRM is being developed, and holds public hearings to discuss proposed rules.

To the extent permitted by law, it is the policy of the Department to adhere to the regulatory philosophy and principles set forth in Executive Order 12866, and to develop regulations that maximize aggregate net benefits to society, while minimizing the economic and paperwork burdens imposed on persons and businesses subject to those regulations.

On October 26, 2001, the President signed into law the USA PARTRIOT Act of 2001. In the coming months the Department of the Treasury will accord the highest priority to developing and issuing regulations that are within its jurisdiction that are necessary to implement this historic anti-terrorism legislation.

Internal Revenue Service

The Internal Revenue Service (IRS), working with the Office of the Assistant Secretary (Tax Policy), promulgates regulations that interpret and implement the Internal Revenue Code and related tax statutes. The purpose of these regulations is to carry out the tax policy determined by Congress in a fair, impartial and reasonable manner, taking into account the intent of Congress, the realities of relevant transactions, the need for the Government to administer the rules and monitor compliance, and the overall integrity of the Federal tax system. The goal is to make the regulations practical and as clear and simple as possible.

Most IRS regulations interpret tax statutes to resolve ambiguities or fill gaps in the tax statutes. This includes interpreting particular words, applying rules to broad classes of circumstances, and resolving apparent and potential conflicts between various statutory provisions.

During fiscal year 2002, the IRS will accord priority to the following regulatory projects:

- *Qualified Tuition Programs.* Section 529 of the Internal Revenue Code provides tax-deferred growth on college savings that are contributed to a section 529 program. Congress made significant amendments to section 529 in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). Earnings on college savings in a section 529 program are excluded from the gross income of a student if used to pay qualified higher education expenses. The Service expects to issue regulations that will clarify various rules and definitions. Regulations are necessary because many taxpayers will use a Qualified Tuition Program to save for college.
- *Research Credit.* Section 41 of the Internal Revenue Code, enacted in 1981 and modified in 1986, provides a credit for increasing research expenditures as an incentive to spur increased research spending and thereby encourage economic growth. Regulations dealing with the definition of credit-eligible research expenses (and with the computation of the credit) were proposed in January, 1997 and December, 1998. The proposed regulations were adopted as final rules in December, 2000. In Notice 2001-19, Treasury and the IRS announced a review of the policies embodied in the final research credit regulations. Treasury and the IRS intend to issue another set of proposed regulations with a definition of qualified research that is both more concordant with congressional intent and more administrable than the approach taken in the final rules adopted in December 2000.
- *Deduction and Capitalization of Expenditures.* Section 162 of the Internal Revenue Code allows a deduction for ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. Under section 263, however, no deduction is allowed for any amount paid out for new buildings, or for permanent improvements or betterments, made to increase the value of any property or estate, such as the cost of acquisition, construction, or erection of buildings, machinery and equipment, and similar property having a useful life substantially beyond the taxable year. Case law interpreting section 263 establishes that an expenditure generally must be capitalized if it creates or enhances a separate and distinct asset or produces a significant future benefit. The IRS intends to publish proposed regulations to clarify the circumstances in which taxpayers must capitalize expenditures that are expected to create future benefits for the taxpayer, but do not result in a separate and distinct tangible asset ("self-created intangibles"). The proposed are expected to address three primary issues: (1) whether costs incurred in connection with self-created intangibles are subject to capitalization under section 263; (2) if such costs are subject to capitalization, the circumstances for which capitalization is warranted (e.g., can recurring, day-to-day expenditures of the taxpayer's business create significant future benefits); and (3) if capitalization is warranted, the types of costs that must be capitalized (e.g., external costs, internal costs, direct costs, indirect/overhead costs).
- *Required Notice Regarding Certain Pension Plan Amendments.* Section 204(h) of the Employee Retiremont Income Security Act (ERISA) requires the administrator of certain qualified retirement plans to provide notices to

plan participants and others of certain reductions in the rate of future benefit accruals under the plan. Section 659 of EGTRRA substantially amended section 204(h) of ERISA, added section 4980F to the Internal Revenue Code, and required notices to be given on the elimination or reduction of early retirement benefits or retirement-type subsidies. Section 4980F generally parallels section 204(h) of ERISA, but also provides for an excise tax for failure to comply with the notice requirements. The IRS expects to issue a notice of proposed rulemaking that will provide guidance on complying with the notice requirements of both section 204(h) of ERISA, as amended by EGTRRA, and section 4980F. This guidance is needed in order to assist plan administrators in complying with their obligations and to ensure that participants receive the timely, understandable and accurate notices required by the statute.

- *Relief from Joint and Several Liability.* Section 3201 of the IRS Restructuring and Reform Act of 1998 repealed section 6013(e) and added section 6015 to the Internal Revenue Code, effective for liabilities unpaid as of July 22, 1998, and for liabilities that arose after July 22, 1998. Prior to July 22, 1998, section 6013(e) provided the only relief from joint and several liability for married taxpayers who elected to file a joint return ("innocent spouse" relief). Section 6015 provides three types of relief from joint and several liability: traditional "innocent spouse" relief; allocation of liability for spouses no longer married, legally separated, or not members of the same household for 12 months; and equitable relief for spouses who do not qualify for innocent spouse relief and allocation of liability, if it is inequitable to hold them liable for the joint liability. Proposed regulations under section 6015 were issued in January 2001. The IRS intends to issue final regulations regarding the three types of relief from joint and several liability under section 6015, as well as rules regarding the allocation of items, the procedures for filing a claim for relief, and the rights of the nonrequesting spouse.
- *Offers in Compromise.* Temporary regulations were issued in July 1999, which permit compromise of liabilities when there is doubt as to the amount of the liability owed, when there is doubt whether the full amount of the tax can be collected, and when, in light of all the facts and circumstances, compromise would promote effective tax administration. A compromise may be entered into to promote effective tax administration when collection of the full liability would create economic hardship or where, regardless of the taxpayer's financial circumstances, exceptional circumstances exist such that collection of the full liability would be detrimental to voluntary compliance. In determining a taxpayer's ability to pay, the temporary regulations require the IRS to evaluate the taxpayer's individual facts and circumstances. Guidelines published by the Secretary on national and local living expenses are to be taken into account in making this determination. A taxpayer may appeal the rejection of an offer to compromise to the IRS Office of Appeals.
- *Collection Due Process.* Section 3401 of the IRS Restructuring and Reform Act of 1998 added to the Internal Revenue Code sections 6320 and 6330 (Collection Due Process (CDP) procedures), which provide taxpayers an opportunity for a hearing before the Office of Appeals when a notice of tax lien has been filed or a levy is proposed to be made against them. These sections also provide for judicial review of Appeals' determination. The CDP procedures afforded new rights to taxpayers resulting in a significant change in the Service's administrative collection process. Temporary regulations were issued in January 1999, which provide detailed guidance to taxpayers, practitioners and Service employees for navigating the new procedural landscape. In FY 2002, the IRS intends to issue final regulations implementing the CDP procedures.
- *Recognition of Gain on Certain Distributions of Stock or Securities under Section 355(e).* Congress enacted section 355(e) of the Internal Revenue Code as part of the Taxpayer Relief Act of 1997 and made technical corrections to that section in the Internal Revenue Service Restructuring and Reform Act of 1998. Section 355(e) provides that the distributing corporation will recognize gain on certain distributions that are part of a "plan (or series of related transactions)" pursuant to which one or more persons acquires directly or indirectly stock representing a 50-percent or greater interest in the distributing or controlled corporation. Regulations were proposed in January of 2001 interpreting the phrase "plan (or series of related transactions)." The IRS and Treasury intend to revise those regulations and also intend to propose regulations that will address the definition of an acquisition.
- *Division and Geographical Source of Income in Global Dealing Operations.* In today's global capital markets, financial institutions are trading in securities, currencies, and sophisticated financial instruments in multiple jurisdictions. Because of the cross-border nature of their operations, these businesses face the risk of international double taxation. That risk is exacerbated by various regulatory provisions that are ill-suited for these types of businesses. Proposed regulations were issued in 1998 for public comment on the appropriate division and geographical source of income in such global dealing operations. Treasury and the IRS anticipate issuing a final rule during fiscal year 2002 that reflects changes in response to the comments that have been received.
- *Allocation of Losses on the Disposition of Stock and Other Personal Property.* The allocation of losses and expenses to U.S. and foreign source income is relevant in computing the amount of foreign taxes that may be claimed as a credit against the U.S. tax on foreign source taxable income. In general, a U.S. taxpayer's credit for foreign income taxes on foreign source taxable income is limited to an amount equal to what otherwise would have been the U.S. income tax on such income. This limitation is separately computed with respect to different categories of foreign source income. Proposed regulations were issued for public comment in 1996 on how losses with respect to stock and other personal property should be allocated to and among U.S. source income and the various categories of foreign source income in determining foreign source taxable income for these purposes. In January 1999, portions of these regulations were finalized and other portions were issued as temporary rules with a request for further public comment. Because the temporary regulations will sunset by operation of law in January 2002, Treasury and the IRS anticipate issuing final regulations prior to the sunset date with certain changes in response to public comments.

Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency (OCC) charters, regulates, and supervises national banks to ensure a safe, sound, and competitive national banking system that supports the citizens, communities, and economy of the United States. The substantive content of the OCC's regulations reflects four organizing principles that support this mission:

- The OCC's regulations help ensure safety and soundness by establishing standards that set the limits of acceptable conduct for national banks.
- The OCC's regulations promote competitiveness by facilitating a national bank's ability to develop new lines of business, subject to any safeguards that are necessary to ensure that the bank has the expertise to manage risk effectively and adapt its business practices to deal responsibly with its customers.
- Regulations can also affect national banks' ability to compete by contributing significantly to their costs. The OCC's goal is to improve efficiency and reduce burden by updating and streamlining its regulations and eliminating those that no longer contribute significantly to the fulfillment of its mission.
- The OCC's regulations help assure fair access to financial services for all Americans by removing unnecessary impediments to the flow of credit to consumers and small businesses, by encouraging national banks' involvement in community development activities, and by implementing Federal laws designed to protect consumers of financial services.

The OCC's regulatory workload and plans are affected directly by new statutes. Possible statutory changes are not addressed in this Regulatory Plan, but may affect some of the planned rules directly, and likely would affect how the OCC prioritizes its regulatory workload.

Important final rules issued during fiscal year 2001 (or expected to be issued before publication of this Regulatory Plan) include:

- *Safety and Soundness Standards for Safeguarding Customer Information* (12 CFR part 30). This rule, issued jointly with the other Federal banking agencies, established standards governing the administrative, technical, and physical safeguards of bank and customer records.
- *Consumer Protections for Depository Institution Sales of Insurance* (12 CFR part 14). This rule, issued jointly with the other Federal banking agencies, prescribed consumer protection regulations that apply to retail sales practices, solicitations, advertising, or offers of any insurance product by a depository institution or any person that is engaged in such activities at an office of the institution or on behalf of the institution.
- *Fiduciary Activities of National Banks* (12 CFR part 9). The OCC amended its regulations regarding the authority and standards for national banks to conduct multi-state trust operations. The rule provides enhanced guidance to national banks engaging in fiduciary activities.
- *Investment Securities; Bank Activities and Operations; Leasing* (12 CFR parts 1, 7, and 23). This rule amended its rules governing investment securities, bank activities and operations, and leasing. These changes updated and revised the OCC regulations to keep pace with developments in the law and in the national banking system.
- *Debt Cancellation Contracts* (12 CFR part 37). The OCC published a notice of proposed rulemaking that addresses debt cancellation contracts and debt suspension agreements. The purposes of the customer protections are to facilitate customers' informed choice about whether to purchase debt cancellation contracts and debt suspension agreements, based on an understanding of the costs, benefits, and limitations of the products and to discourage inappropriate or abusive sales practices. The proposed rule also promotes safety and soundness by requiring national banks that provide these products to maintain adequate loss reserves.
- *Operating Subsidiaries of Federal Branches and Agencies* (12 CFR part 5). The rule will amend its regulations to enable a Federal branch or agency to establish, acquire, or maintain an operating subsidiary in generally the same manner that a national bank may acquire or establish an operating subsidiary.

The OCC's regulatory priorities for fiscal year 2002 include projects in the following areas:

- *Risk-Based Capital Standards* (12 CFR part 3). The OCC will continue to work with the other Federal banking agencies to update the risk-based capital standards to maintain, and, where necessary, improve consistency in the agencies' rules. Regulatory projects in this area may include the following:

Collateralized Transactions. The rule would conform the banking agencies' regarding the risk-based capital treatment of loans collateralized in cash or government securities issued by members of the Organization for Economic Cooperation and Development (OECD). The rule would assign a zero risk weight for the portion of claims collateralized by cash on deposit in a bank or securities issued or guaranteed by the U.S. Government or its agencies or the central government of an OECD country, provided that certain conditions are met.

Risk-Based Capital Treatment of Recourse Transactions and Direct Credit Substitutes. The OCC intends to finalize the rulemaking on recourse and direct credit substitutes in which the OCC and other federal banking agencies have sought comment on changes that would result in more consistent treatment of recourse obligations and similar transactions among the agencies, more consistent risk-based capital treatment for certain types of transactions involving similar risk, and capital requirements that more closely reflect a banking organization's relative exposure to credit risk. This rule also would impose a dollar-for-dollar capital charge on all subordinated positions, either retained or purchased by a bank, that serve as credit enhancement on a securitization.

Managed Assets. This rulemaking will seek information on approaches to amend the risk-based capital guidelines to address the treatment of assets under management in asset securitizations. Specifically, the rulemaking will focus on the risks associated with management of assets within a securitization structure, both for the originator as well as servicer of such assets, as well as the appropriate framework within which to assess capital charges, if appropriate, to address the risks.

Domestic Capital Framework (formerly referred to as Simplified Capital Framework for Noncomplex Institutions). This rule would propose a revised capital framework to be applied to domestic banks that would not subject to the new Basel Capital Accord.

Claims on Securities Firms. This final rule would amend the risk-based capital guidelines to lower the risk weight applied to certain claims on, and claims guaranteed by, certain securities firms incorporated in countries that are members of the Organization for

Economic Cooperation and Development (OECD) from 100 percent to 20 percent, subject to certain prudential requirements. This reduced risk weighting applies to those securities firms that are subject to supervision and regulation comparable to that imposed on banks, including risk-based capital requirements that are no less stringent than those imposed on banks under the Basel Accord and its market risk amendment. This rule would implement a change made to the Basel Accord.

Merchant Banking Capital. This rule would amend the risk-based capital guidelines to establish special minimum regulatory capital requirements for equity investments in nonfinancial companies. The capital requirement would apply symmetrically to equity investments of banks and bank holding companies and would impose a series of marginal capital charges on covered equity investments that increase with the level of a banking organization's overall exposure to equity investments relative to the organization's Tier 1 capital.

Securities Borrowing Transactions. This final rule generally would lower the capital requirements for certain qualifying securities borrowing transactions by permitting the collateralized portion of the securities borrowing transactions to be subject to the market risk capital requirements at 12 C.F.R. part 3, appendix B, as opposed to the risk-based capital requirements at 12 C.F.R. part 3, appendix A. Among other things, in order to qualify for the lower market risk capital requirement under this joint interim rule, a bank must be subject to the market risk capital requirements, and the securities borrowing transaction must result in a receivable that arises from the posting of the cash collateral. Only the portion of the receivable collateralized by the market value of the securities borrowed qualifies for the lower market risk capital requirement; noncollateralized portions must continue to be risk weighted under the risk-based capital guidelines.

- *Electronic Banking* (12 CFR part 7). The OCC published a notice of proposed rulemaking that addressed ways to facilitate national banks in their efforts to engage in various forms of electronic banking. The proposal addresses national banks' exercise of their federally authorized powers through electronic means; the location of a national bank that engages in electronic activities; and the disclosures required when a national bank provides its customers with access to other service providers through hyperlinks in the bank's web site or other shared electronic space. The OCC will be evaluating the comments received and considering what changes, if any, should be made to the OCC's rules affecting electronic banking.
- *Community Reinvestment Act Regulations* (12 CFR part 25). The OCC, along with the other Federal banking agencies, published an advance notice of proposed rulemaking soliciting comments on ways to improve the CRA regulation. Based on the comments received, the OCC and other agencies will consider the need for changes to the CRA rules and will propose such changes as are deemed appropriate.
- *Real Estate Lending and Appraisals* (12 CFR part 34). The OCC intends to evaluate its rules governing adjustable rate mortgage loans to determine whether the rule continues to implement the Alternative Mortgage Transaction Parity Act of 1982 effectively and whether consumer protection safeguards are needed.
- *Implementation of Sections 1204-1206 of the Financial Regulatory Relief and Economic Efficiency Act of 2000 (the Act)* (12 CFR part 5). The OCC intends to initiate a rulemaking to implement the authority vested in national banks by the Act to reorganize into a holding company through a share exchange and to merge with a subsidiary or affiliate.

Office of Thrift Supervision

As the primary Federal regulator of the thrift industry, the Office of Thrift Supervision (OTS) has established regulatory objectives and priorities to supervise thrift institutions effectively and efficiently. These objectives include maintaining and enhancing the safety and soundness of the thrift industry; a flexible, responsive regulatory structure that enables savings associations to provide credit and other financial services to their communities, particularly housing mortgage credit; and a risk-focused, proactive approach to supervision.

OTS continues to work with the other federal banking agencies on regulations where the agencies share the responsibility to implement statutory requirements. The agencies are working to update capital standards to maintain, and, where necessary, improve consistency in the agencies' rules. Regulatory projects in this area include the following:

- *Risk-Based Capital Treatment of Recourse and Direct Credit Substitutes; and Residuals in Securitizations.* OTS expects to issue a final rule jointly with the other federal banking agencies that would treat recourse obligations and direct credit substitutes comparably. The final rule would use credit ratings and certain other alternative mechanisms to match risk-based capital requirements more closely to a depository institution's risk of loss in asset securitizations. This rule would be published in tandem with a final rule on residual interests that would better align regulatory capital requirements with the risk exposure of residual interests in asset securitizations and other transfers of assets.
- *Managed Assets.* This initiative, possibly in the form of an advance notice of proposed rulemaking, would seek information on approaches to amend the risk-based capital guidelines to address the treatment of assets under management in asset securitizations. Specifically, this rulemaking would focus on the risks associated with management of assets within a securitization structure, both for the originator as well as servicer of such assets, as well as the appropriate framework within which to assess capital charges, if appropriate, to address the risks.
- *Capital Adequacy.* The four Federal banking agencies expect to issue a joint notice of proposed rulemaking seeking comment on ways to modify the capital adequacy framework for those domestic institutions that would not be subject to the Basel Capital Accord.
- *Claims on Securities Firms.* The four Federal banking agencies expect to issue a final rule that would reduce the risk weight assigned to claims on, and claims guaranteed by, certain qualifying securities firms, subject to certain prudential requirements.
- *Miscellaneous Capital Revisions.* OTS also plans to issue a final rule to make miscellaneous amendments to update its capital rules.

OTS and the other Federal banking agencies anticipate reproposing a rule implementing provisions of the Fair Credit Reporting Act (FCRA) concerning information sharing with affiliates. The agencies informed those institutions potentially affected by the rulemaking that any final rule would not apply to

privacy notices sent before January 1, 2002 or before the effective date of the final FCRA rule, whichever is later.

The four Federal banking agencies published a joint advance notice of proposed rulemaking seeking comments on how to improve the Community Reinvestment Act (CRA) regulations. The OTS, as well as the other banking agencies, will consider changes to the CRA rules based upon the comments received, and will propose such changes as are deemed appropriate.

OTS also is reviewing its lending and subordinate organization regulations to give thrifts additional flexibility, enabling them to better serve their communities and compete with other lenders. OTS also plans to issue a final rule revising its regulations governing conversion from mutual to stock or mutual holding company form. OTS is also reviewing its current holding company regulations to determine whether and how they should be modified to reflect statutory changes made by the Gramm-Leach-Bliley Act. Additionally, OTS is considering possible amendments to its regulations governing directors and officers of savings associations and the fiduciary activities of savings associations.

Finally, OTS may revise its lending regulations, including the rules implementing the Alternative Mortgage Transactions Parity Act, to encourage responsible lending and limit the potential for predatory lending practices.

United States Customs Service

The United States Customs Service (Customs) is responsible, among other things, for administering laws concerning the importation of goods into the United States. This includes inspecting imports, collecting applicable duties, overseeing the activities of persons and businesses engaged in importing, and enforcing the laws concerning smuggling and trafficking in contraband. The regulatory priorities of Customs for fiscal year 2002 are to continue to facilitate procedures for legitimate commercial transactions and to provide further obstacles to the flow of narcotics and other contraband into the United States.

During fiscal year 2001, one of Customs' priorities was to develop and publish regulations to implement provisions of the Trade and Development Act of 2000. To that end, Customs published the following documents during the past fiscal year:

- *United States-Caribbean Basin Trade Partnership Act and Caribbean Basin Initiative.* This interim rule implements the trade provisions for Caribbean Basin countries contained in title II of the Trade and Development Act.
- *African Growth and Opportunity Act and Generalized System of Preferences.* This interim rule implements the trade provisions for sub-Saharan Africa contained in title I of the Trade and Development Act.
- *Refunds of Duties Paid on Imports of Certain Wool Products.* This rulemaking implements the provisions of section 505 of title V of the Trade and Development Act. This rule set forth the eligibility, documentation and procedural requirements necessary to substantiate a refund claim for duties paid on imports of certain wool products.
- *Duty-free Treatment for Certain Beverages Made with Caribbean Rum.* This interim rule implemented a change made by the Trade and Development Act that enables certain spirituous beverages to obtain duty-free treatment under specified conditions when the beverages are processed in the territory of Canada from rum that is the growth, product or manufacture either of a CBI beneficiary country or of the U.S. Virgin Islands.
- *Rules of Origin for Textile and Apparel Products.* This interim rule aligned the existing country of origin rules for textile and apparel products with the statutory amendments to section 334 of the Uruguay Round Agreements Act as set forth in section 405 within title IV of the Trade and Development Act.

During fiscal year 2001, one of Customs' priorities was to continue moving forward with amendments reinventing its regulatory procedures began under the authority granted by the Customs Modernization provisions of the North American Free Trade Implementation Act ("Customs Mod Act"). Customs' reinvention efforts, in accordance with the principles of E.O. 12886, have involved and will continue to involve significant input from the importing public. Of particular note regarding Customs' progress implementing the Customs Mod Act, Customs, during the last fiscal year, issued a proposal to revise the procedures by which Customs will issue administrative rulings responding to requests from prospective importers concerning how Customs will treat their transactions.

During fiscal year 2002, Customs plans to continue its progress with the Customs Mod Act. Customs plans during fiscal year 2002 to issue a final rule regarding its administrative ruling procedures and to propose revisions to its procedures regarding protests. In addition, Customs' reinvention efforts continue to involve the testing of programs to see if they work before proceeding with proposed rulemaking to permanently establish the programs.

During fiscal year 2002, Customs also plans to undertake several other regulatory actions that will affect the traveling and importing public, customs brokers, carriers and commercial importers. Consistent with the Customs Mod Act, Customs will accord priority to several projects to foster the development of a more automated environment to expedite the entry and release of imported commercial merchandise, and the processing of merchandise for export. These regulations will benefit the importing and exporting public by streamlining the work of Customs officers and the trade community through improved efficiency and reduced paperwork and administrative costs. Among these projects are:

- *Liquidations.* Customs will propose regulations allowing paperless procedures for extension and suspension of liquidation notices, improving and clarifying the administrative process and simplifying the regulations pertaining to liquidations and extensions and suspensions of liquidation.
- *Entry Reconciliation.* Customs will continue to develop through testing a "reconciliation" process that will allow the delayed submission to Customs of information that is undetermined at the time an entry summary or an import activity summary statement is required to be submitted. After Customs is satisfied with the testing, regulations will be proposed to allow reconciliation on a permanent basis.
- *Remote Location Filing.* Customs will propose regulations allowing electronic filing of entries from locations in the United States other than the port of arrival of the merchandise or the place at which the merchandise is examined. Remote location filing will provide entry filers (such as brokers and couriers) with greater flexibility and will allow

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Customs to make more efficient use of its resources.

Bureau of Alcohol, Tobacco and Firearms

The Bureau of Alcohol, Tobacco and Firearms (ATF) issues regulations to enforce the Federal laws relating to the manufacture and commerce of alcohol products, tobacco products, firearms and explosives. ATF's regulations carry out these missions and are designed to:

- Curb illegal traffic in, and criminal use of, firearms; and to assist State, local and other Federal law enforcement agencies in reducing crime and violence;
- Facilitate investigations of violations of Federal explosives laws and arson-for-profit schemes;
- Regulate the alcohol, tobacco, firearms and explosives industries, including the issuance of licenses and permits;
- Assure the collection of all alcohol, tobacco, firearms and ammunition taxes, and obtain a high level of voluntary compliance with all laws governing those industries;
- Suppress commercial bribery, consumer deception and other prohibited practices in the alcoholic beverage industry; and
- Assist the States in their efforts to eliminate interstate trafficking in, and the sale and distribution of, cigarettes in avoidance of State taxes.

ATF intends to streamline its regulations applying to the brewing industry by simplifying its brewery reports and operations and eliminating obsolete regulatory provisions. Also, ATF will propose minimum production standards for beer, thereby reducing formula filings and a revised statement of net contents requirement for certain container sizes.

ATF will continue, as a priority during Fiscal Year 2002, modifications to its regulations governing commerce in explosives. ATF is further analyzing its regulations governing storage requirements for explosives, including fireworks explosive materials, and plans to issue the notice of proposed rulemaking described in detail in part II of this Regulatory Plan.

Financial Crimes Enforcement Network

The regulations of the Financial Crimes Enforcement Network (FinCEN) constitute the core of Treasury's anti-money laundering initiatives and are an essential component of Treasury's anti-narcotics effort. The Bank Secrecy Act (BSA) authorizes the Secretary of the Treasury to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax or regulatory proceedings, and to implement counter-money laundering programs and compliance procedures.

Since mid-1994, FinCEN has been engaged in a thorough review of its regulatory policies and has been building a partnership between Government and the financial sector to fight money laundering. The cornerstone of that partnership is the recognition that only a cooperative relationship between Government and industry can provide a way to implement a three-pronged strategy of prevention, detection, and enforcement against those who seek to use the financial system to promote or further illegal activity. FinCEN recognizes that BSA compliance imposes costs on the financial community and that recordkeeping and reporting should be required only when the benefits to law enforcement efforts are clear.

During fiscal year 2002, FinCEN will continue to review and revise its existing regulations. FinCEN has issued two rules concerning the application of the BSA to certain non-bank financial institutions called money services businesses or "MSBs." MSBs include currency exchangers, check cashers, money order and traveler's check businesses, and money transmitters. Under the first rule, MSBs would be required to register with the Department of the Treasury by December 31, 2001. Under the second rule, three categories of MSBs—money order and traveler's check businesses and money transmitters—would be required to report suspicious transactions beginning January 1, 2002. To ensure the rules are implemented effectively and efficiently, FinCEN intends to publish by early fiscal 2002 a rule extending the effective date of the registration and suspicious activity reporting requirements. As a result, MSBs will not be required to register until June 30, 2002, and money order and traveler's check businesses and money transmitters will not be required to report suspicious transactions until October 1, 2002. FinCEN also intends to publish a notice re-opening the comment period for a prior notice of proposed rulemaking that would extend the requirement to report suspicious transactions to casinos and card clubs. Finally, FinCEN will publish for public comment a proposal to require brokers and dealers in securities to report suspicious transactions.

Bureau of the Public Debt

The Bureau of the Public Debt (BPD) administers regulations:

- Governing transactions in government securities by government securities brokers and dealers.
- Implementing Treasury's borrowing authority, including rules governing the sale and issue of marketable Treasury securities.
- Setting out the terms and conditions by which Treasury may redeem (buy back) outstanding, unmatured marketable Treasury securities through debt buyback operations.
- Governing the acceptability and valuation of all collateral pledged to secure deposits of public monies and other financial interests of the federal government.

The Government Securities Act of 1986 (GSA) authorizes the Secretary of the Treasury to prescribe rules governing financial responsibility, the protection of customer funds and securities, recordkeeping, reporting, audit, and large position reporting for all government securities brokers and dealers, including financial institutions. These rules fulfill the Treasury's statutory responsibility to safeguard the efficient functioning of the government securities market and are designed to prevent fraudulent and manipulative acts and practices and to protect the integrity, efficiency and liquidity of the market. The Department and BPD are committed to implementing rules that make sense from both a regulatory and market efficiency perspective. Accordingly, the Department and BPD seek to balance the benefits of regulation with the compliance costs imposed on the government securities market and its participants.

The rules setting out the terms and conditions for the sale and issue of marketable book-entry Treasury bills, notes, and bonds are known as the Uniform Offering Circular. These rules apply to securities held in accounts in the book-entry system established by the Department and operated by the Federal Reserve Banks, known as the commercial book-entry system, as well as to securities held in accounts directly with Treasury in the *TreasuryDirect* system. The Uniform Offering Circular describes the types of securities offered for sale, the auction method by which they are sold, the process for submitting bids, the process for awarding securities

to successful bidders, and the authorized payment methods.

During fiscal year 2002, BPD will accord priority to rewriting the Uniform Offering Circular in plain language. This will communicate the auction rules in a more direct and effective manner. BPD will also give priority to any further regulatory action the Department deems appropriate regarding the net long position calculation and the 35 percent award limit in marketable Treasury securities auctions. An advance notice of proposed rulemaking was published for comment on this matter in July 2001.

Financial Management Service

The Financial Management Service (FMS) issues regulations to improve the quality of Government financial management and to administer its payments, collections, debt collection, and Governmentwide accounting programs. During fiscal year 2002, FMS will continue to update its regulations that implement the Cash Management Improvement Act of 1990 (CMIA). The CMIA requires the head of each executive agency, under regulations prescribed by the Secretary of the Treasury, to provide for the timely disbursement of Federal funds. FMS issued an implementing regulation in December 1992. FMS issued a notice of proposed rulemaking to update the CMIA in fiscal year 2001. FMS will issue a final rule governing the CMIA in fiscal year 2002.

Also, FMS will revise its rule concerning the payment of Federal taxes and the Treasury Tax and Loan Program (TT&L). This revision will support operational changes to the system used for the collection of corporate withholding taxes. In addition, FMS will streamline the TT&L rule and write it in plain language.

During fiscal year 2002, FMS will propose revisions to its rule governing the indorsement and payment of checks drawn on the United States Treasury. The proposed revisions will relate to, among other things, finality of payment, liability for checks bearing material defects or alterations, and the use of powers of attorney.

Finally, FMS will continue to implement provisions of the Debt Collection Improvement Act of 1996.

Community Development Financial Institutions Fund

The Community Development Financial Institutions Fund (Fund) was established by the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*). The primary purpose of the Fund is to promote economic revitalization and community development through investments in, and assistance to, community development financial institutions (CDFIs), principally through the CDFI Program. The CDFI Program has four components: the Core Component, the Intermediary Component, the Small and Emerging CDFI Assistance Component, and the newly developed Native American CDFI Technical Assistance Component. The Fund also administers the Bank Enterprise Award (BEA) Program, which encourages insured depository institutions to engage in eligible development activities and to make equity investments in CDFIs.

In addition, the Fund is developing a new program, the New Markets Tax Credit (NMTC) Program, which the Fund will administer, in coordination with Treasury's Office of Tax Policy and the Internal Revenue Service. The NMTC Program is intended to spur investments in businesses located in low-income communities. Under the NMTC Program, taxpayers will be provided a credit against Federal income taxes for qualified investments made to acquire stock or other equity interests in designated Community Development Entities (CDEs). Substantially all of the proceeds of qualified investments must in turn be used by the CDE to make qualified investments in low-income communities.

The Fund's fiscal year 2002 regulatory priority will focus on the NMTC Program, by developing guidance regarding the submission of applications for CDE certification and guidance regarding the submission of applications for NMTC allocations.

TREAS

PROPOSED RULE STAGE

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110. REVISION OF BREWERY REGULATIONS AND ISSUANCE OF REGULATIONS FOR TAVERNS ON BREWERY PREMISES (BREWPUBS)

Priority:

Other Significant

Legal Authority:

26 USC 5051 to 5056; 26 USC 5401 to 5417; 27 USC 205

CFR Citation:

27 CFR 7; 27 CFR 25

Legal Deadline:

None

Abstract:

ATF intends to streamline regulations applying to breweries. ATF will eliminate obsolete regulatory provisions. A formula system for manufactured beer products will replace statements of process attached to the brewers notice. The annual notice for small brewers to pay the reduced rate of tax will be eliminated. Separate regulations for brewpubs will be added to part 25. A section will be added to part 25 to authorize and regulate the alternating use of brewery premises by different brewers. Regulations authorizing the operation of brew-on-premises facilities will be added to part 25.

Statement of Need:

ATF intends to streamline its regulations applying to the brewing industry. These changes will simplify brewery reports and operations and eliminate obsolete regulatory provisions. Specific changes would include the implementation of a formula system for the breweries to replace the statement of process; the establishment of a separate subpart containing simplified regulations for brewpubs; authorizing alternating brewery premises among different proprietors; eliminating the annual notice to pay the reduced rate of tax for most breweries; authorizing brewers to file the Brewer's Report of Operations on a quarterly basis; and authorizing many brewers to take inventories quarterly rather than monthly. The rule will also propose minimum production standards for beer thereby reducing formula filings and a revised statement of net contents requirement for certain container sizes.

Summary of Legal Basis:

ATF has undertaken this review of brewery regulations as part of the President's Regulatory Initiative. These regulations are issued under the general authority of the Secretary of the Treasury to promulgate regulations to implement the Internal Revenue Code and the Federal Alcohol Administration Act.

Alternatives:

Not applicable. ATF believes that industry will support these regulatory changes because they will streamline regulatory requirements applying to the brewing industry.

Anticipated Cost and Benefits:

The proposed regulations will benefit the brewing industry by reducing required inventories, notices, and other submissions to ATF.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 1512–AB37

TREAS

111. COMMERCE IN EXPLOSIVES (INCLUDING EXPLOSIVES IN THE FIREWORKS INDUSTRY)

Priority:

Other Significant

Legal Authority:

5 USC 552(a); 31 USC 9303; 31 USC 9304; 40 USC 304(k); 18 USC 847; 18 USC 921 to 930; 18 USC 1261; 19 USC 1612; 19 USC 1613; 19 USC 1618; 26 USC 7101; 26 USC 7322 to 7326; 31 USC 9301

CFR Citation:

27 CFR 55

Legal Deadline:

None

Abstract:

Pursuant to section 610 of the Regulatory Flexibility Act, ATF published a notice on January 10, 1997, seeking public comments on whether it should revise its regulations, codified at 27 CFR part 55, governing Commerce in Explosives (Including Explosives in the Fireworks Industry). Based on comments received, ATF plans to initiate a rulemaking to revise these regulations in 2001.

Statement of Need:

This notice of proposed rulemaking will address many of the issues in part 55, Commerce in Explosives, especially the issues in requirements for explosives, including fireworks explosive materials. Pursuant to the periodic review requirements of the Regulatory Flexibility Act (5 U.S.C. 610), ATF published on January 10, 1997 a General Notice initiating the review of a final rule published in 1990 concerning the storage of fireworks explosives materials. The 1990 rule, which was issued as a result of the number and severity of explosions occurring on the premises of special fireworks plants, amended certain regulations codified at 27 CFR part 55, generally concerning the recordkeeping and storage of fireworks explosive materials. The regulations also codified two fireworks related rulings issued in 1979 and 1985, and the provisions of Public Law 99-308 relating to black powder. As a result of the public comments received in response to the General Notice and further study of this issue, ATF will issue a notice of proposed rulemaking covering this and related commerce and storage of explosives issues.

Summary of Legal Basis:

18 U.S.C. 847 grants the Secretary of the Treasury broad discretion to promulgate regulations necessary for the importation, manufacture, distribution, and safe storage of explosives materials. 18 U.S.C. 846 authorizes the Secretary to prescribe precautionary measures to prevent the recurrence of accidental explosions in which explosive materials were involved. The General Notice and upcoming notice of proposed rulemaking are also being issued pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610), which requires an agency to review within 10 years of publication rules for which an agency prepared a final regulatory flexibility analysis addressing the impact of the rule on small businesses or other small entities.

Alternatives:

Alternatives will be examined in the context of public comments to the notice of proposed rulemaking.

Anticipated Cost and Benefits:

Unknown at this time.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
General Notice of Regulatory Review	01/10/97	62 FR 1386
NPRM	04/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 1512–AB48

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DEPARTMENT OF VETERANS AFFAIRS (VA)

Statement of Regulatory Priorities

The Department of Veterans Affairs (VA) administers benefit programs that recognize the important public obligations to those who served this Nation. VA's regulatory responsibility is almost solely confined to carrying out mandates of the laws enacted by Congress relating to programs for veterans and their beneficiaries. VA's major regulatory objective is to implement these laws with fairness, justice, and efficiency.

Most of the regulations issued by VA involve at least one of three VA components: The Veterans Benefits Administration, the Veterans Health Administration, and the National Cemetery Administration. The primary mission of the Veterans Benefits Administration is to provide high-quality and timely nonmedical benefits to eligible veterans and their beneficiaries. The primary mission of the Veterans Health Administration is to provide high-quality health care on a timely basis to eligible veterans through its system of medical centers, nursing homes, domiciliaries, and outpatient medical and dental facilities. The primary mission of the National Cemetery Administration is to bury eligible veterans, members of the Reserve components, and their dependents in VA National Cemeteries and to maintain those cemeteries as national shrines in perpetuity as a final tribute of a grateful Nation to honor the memory and service of those who served in the Armed Forces.

The Department of Veterans Affairs' 2001 regulatory plan contains one rulemaking action from the Veterans Benefits Administration and two rulemaking actions from the Veterans Health Administration. The Veterans Benefits Administration rulemaking is RIN 2900-AK64 "Diseases Specific to Radiation-Exposed Veterans." This proposes to amend the Department's adjudication regulations concerning presumptive service connection for certain diseases for veterans who participated in radiation-risk activities during active service or while members of reserve components during active duty for training or inactive duty training. One of the Veterans Health Administration (VHA) rulemakings is RIN 2900-AK08 "Payment or Reimbursement for Emergency Treatment Furnished at Non-VA Facilities," which amends the Department's medical regulations by establishing a mechanism for payment or reimbursement for certain non-VA emergency services furnished to veterans for nonservice-connected conditions. The other VHA rulemaking is RIN 2900-AK85 "Copayments for Medications," which proposes to amend VA's medical regulations to set forth copayment requirements for medications provided to veterans by VA.

VA

PROPOSED RULE STAGE

112. DISEASES SPECIFIC TO RADIATION-EXPOSED VETERANS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

38 USC 1112(c); PL 100-321

CFR Citation:

38 CFR 3.309(d)

Legal Deadline:

None

Abstract:

The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations concerning presumptive service connection for certain diseases for veterans who participated in radiation-risk activities during active service or while members of reserve components during active duty for training or inactive duty training. This proposed amendment would add cancers of the bone, brain, colon, lung, and ovary to the list of diseases which may be presumptively service-connected and amend the definition of the term "radiation-risk activity." The intended effect of this amendment is to ensure that veterans who may have been exposed to radiation during military service have the same burden of proof as civilians exposed to ionizing radiation who may be entitled to compensation for these cancers under comparable Federal statutes.

Statement of Need:

This proposed amendment would add cancers of the bone, brain, colon, lung, and ovary to the list of diseases that may be presumptively service-connected and amend the definition of the term "radiation-risk activity." This proposed amendment would also ensure that veterans who may have been exposed to radiation during military service have the same burden of proof as civilians exposed to ionizing radiation who may be entitled to compensation for these cancers under comparable Federal statutes.

Summary of Legal Basis:

Section 501(a)(1) of title 38, United States Code, provides that the Secretary of Veterans Affairs has the authority to promulgate regulations regarding the nature and extent of proof and evidence in order to establish entitlement to veterans' benefits. Pursuant to this authority, VA proposes to amend 38 CFR 3.309(d)(2) to add bone, brain, colon, lung, and ovarian cancers, which are covered under the Energy Employees Occupational Illness Compensation Program Act or are covered under the RECA Amendments but are currently not included in the list of diseases in 38 U.S.C. 1112(c)(2) that are presumed to be service-connected for radiation-exposed veterans. This regulation is not required by statute or court order.

Alternatives:

Veterans may establish service connection for these five cancers under 38 U.S.C. 1110 or 1131 or the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, Public Law No. 98-542, 98 Stat. 2725 (1984). Doing so is difficult because, among other things, it requires sound scientific and medical evidence establishing that it is at least as likely as not the veteran's disease resulted from exposure to radiation in service, based in part on an assessment of the amount of radiation to which a veteran was exposed.

Anticipated Cost and Benefits:

This regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. These amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Risks:

This regulation will not increase or reduce risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	08/08/01	66 FR 41483
NPRM Comment Period End	10/09/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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VA

FINAL RULE STAGE

113. PAYMENT OR REIMBURSEMENT FOR EMERGENCY TREATMENT FURNISHED AT NON-VA FACILITIES

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

38 USC 501; 38 USC 1725; PL 106-117

CFR Citation:

38 CFR 17

Legal Deadline:

NPRM, Statutory, May 22, 2000, 180 days after effective date of PL 106-117.

Abstract:

This document amends the Department of Veterans Affairs medical regulations by establishing a mechanism for payment or reimbursement for certain non-VA emergency services furnished to veterans for nonservice-connected conditions. This amendment is necessary to implement provisions of "The Veterans Millennium Health Care and Benefits Act."

Statement of Need:

Public Law No. 106-117 "The Veterans Millennium Health Care and Benefits Act" requires this amendment to implement its provisions.

Summary of Legal Basis:

38 U.S.C. 1725 authorizes VA to establish provisions for payment or reimbursement for certain non-VA emergency services furnished to Veterans for nonservice-connected conditions.

Alternatives:

The alternatives that the Department had to consider are the amount of reimbursement and the location where claimants can file a claim.

Anticipated Cost and Benefits:

Cost projection for FY 2001 is $66 to $75 million. The FY 2003 budget, in accordance with section 1725 of title 38, will provide an updated estimate of the full year impact of this legislation expected to be incurred in FY 2003.

Risks:

None.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/12/01	66 FR 36467
Interim Final Rule Effective	05/29/00	
Interim Final Rule Effective (38 CFR 17.004)	07/19/01	
Interim Final Rule Comment Period End (Information Collection)	07/19/01	
Interim Final Rule Comment Period End	09/10/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

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RIN: 2900–AK08

VA

114. • COPAYMENTS FOR MEDICATIONS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

PL 106-117; 38 USC 1722A

CFR Citation:

38 CFR 17

Legal Deadline:

None

Abstract:

This rule proposes to amend VA's medical regulations to set forth copayment requirements for medications provided to veterans by VA.

Statement of Need:

This rule is intended to make the copayments for medications more in line with industry standards.

Summary of Legal Basis:

Public Law 106-117 amended 38 U.S.C. 1722A to allow the copayment amount to be increased.

Alternatives:

Although the amount could be set at a number of different levels, we attempted to establish a rate in line with industry standards.

Anticipated Cost and Benefits:

We anticipate that this will increase collections $250 million annually.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	07/16/01	66 FR 36960
NPRM Comment Period End	09/14/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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RIN: 2900–AK85

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ENVIRONMENTAL PROTECTION AGENCY (EPA)

Statement of Priorities

The President has made it clear that he expects the American people to get full value for every taxpayer dollar government spends, and they will from the EPA. The environmental challenges we face in the 21st century are too important to allow us to do anything but use our resources wisely, efficiently, and effectively.

The President has called for Governmentwide management reforms that will, when implemented, make the Federal Government more accountable while improving the government services we provide to the American people. In order to improve the regulatory process within EPA, we established a task force to examine the Agency's rulemaking process, and to recommend ways to improve the internal process and strengthen the supporting science and analysis. The task force concluded that the regulatory process is essentially sound but improvements should be made in several areas to more effectively carry out our mission.

Better Science and Economic Analyses

Today's environmental problems are far more complex than they were in the past, and there has been a dramatic expansion in the universe of scientific, economic and social issues that we must consider. Our decisions must reflect the latest findings in relevant, high quality research, both in science and economics. To strengthen the analyses that support EPA decisions, we will involve scientists and economists in more prominent ways throughout our decisionmaking process — in identifying needed information and research, developing a range of alternative approaches, and selecting from available options. Administrator Whitman is also designating senior experts in both science and economics to advise her on the strengths and weaknesses of EPA analyses and provide Agency leadership in improving analytical consistency and quality.

Broader Consideration of Policy Options

To produce the best environmental outcomes at an acceptable cost, EPA decisionmakers must consider a broader array of policy options, including innovative alternatives and market-based approaches. We will strengthen analysis of policy issues by more systematically identifying relevant issues and providing regulatory workgroups with better training and support. We will engage EPA's senior managers more actively in selecting options and consult more effectively with internal policy advisors, co-regulators, and stakeholders. As we develop and consider available options, we will pay more attention to implementation — how EPA regions and states will be affected, what kinds of compliance assistance will be needed, and how we can tell if we're achieving desired results.

Greater Accountability

The task force found that the policymaking process in place at EPA is well designed and can function effectively, but greater accountability is needed to ensure that managers and staff properly follow the process. Senior managers will take greater responsibility for setting strategic direction, assuring high quality analysis of relevant issues, and selecting the best available options. We are creating a better management system to ensure thorough analyses and timely decision points, and that process requirements are met. We will also evaluate the effectiveness of the regulatory development process and of the regulations themselves.

Better Management of Significant Nonregulatory Decisions

Finally, we are developing a system to better manage significant nonregulatory actions that will provide the cross-agency attention that these decisions deserve. We have included three of these nonregulatory actions in this year's Plan (Persistent, Bioaccumulative, and Toxic (PBT) Pollutants Strategy (RIN 2070-AD45), TSCA Policy Statement on Oversight of Transgenic Organisms (RIN 2070-AD13), and the Acceptability of Using Human Subjects (RIN 2070-AD57).

Better Environmental Results

All of these reforms are designed to help us reach the goal of making our air cleaner, our water purer, and our land better protected. This will be the ultimate measure of our success. Everything we do should be looked at through that prism. Will this make the air cleaner? Will this make the water purer? To that end we continue to apply new methods to protect the environment by building flexibility into regulations up front, through nonregulatory approaches where effective, by creating strong partnerships with States and conducting extensive public outreach.

EPA's Regulatory Plan will address 34 of the most important actions currently under development or review. These actions will have a significant effect on public health and the environment. The accompanying regulatory agenda identifies more than 350 additional rules, policies and voluntary programs that are also underway.

The following are specific EPA priorities that will help us achieve cleaner air, purer water and better protected lands.

Cleaner air

- Enact the President's multi-emission bill
- Focus on reducing indoor air pollution, especially as it relates to children
- Promote energy conservation

Purer water

- Take a broader watershed approach to address water quality issues
- Begin to bring America's water infrastructure up to date

Land better protected

- Expand our efforts to reclaim the thousands of brownfields that continue to scar too many neighborhoods.

Highlights of the Regulatory Plan Rules and Policies

Office of Air and Radiation

EPA remains committed to taking advantage of the flexibility granted by the Clean Air Act that enables companies, States, and communities to meet clean air goals with cost-effective approaches. The following are the most significant of our air activities.

In 1997, we established new, more stringent air quality standards for ozone and particulate matter based on new scientific and technical information indicating that new standards were needed to protect public health and the environment. In 1999, the D.C. Circuit Court found that the Clean Air Act provision authorizing the new standards is unconstitutional as EPA applied it. We successfully appealed this decision to the United States Supreme Court, and we are now working on an implementation program to respond to the Court's decision.

To date, our air toxics program has focused primarily on getting broad emission reductions from large industrial sources through technology-based standards. Since 1990, EPA has issued standards affecting 77 different industries, such as petroleum refineries and chemical manufacturing plants.

When fully implemented, these standards will reduce more than one million tons of toxic air emissions per year. Through other efforts such as phasing-out of lead in gasoline, we have also significantly reduced air toxics from cars and trucks.

We are continuing to set technology-based standards for large industries. The rules listed in this year's Regulatory Plan — covering industrial boilers, institutional/commercial boilers, wood manufacturing, reciprocating engines, combustion turbines, and automobile painting operations — are among the most significant remaining categories to be regulated under this program. While working on these standards, we are beginning to evaluate those sources with standards already in place to determine if the remaining risk from these sources warrants additional regulation. We are also implementing our Urban Air Toxics Strategy, which focuses on 33 air toxics that pose the greatest risk in the largest number of urban areas and presents our plan, both nationally and more locally, to reduce those toxics. Finally, to better understand and measure risks from air toxics, we are also conducting important health research and improving our emissions inventories, modeling capability, and monitoring network.

Office of Water

Congress has directed the EPA to work with States, tribes and other Federal agencies to help finance water infrastructure, to set national drinking water standards, to protect wetlands, to control discharges from industries and sewage treatment plants, and to reduce nonpoint pollution. To fulfill these goals, the Office of Water is undertaking, among others, the following actions:

Under the Safe Drinking Water Act (SDWA) Amendments of 1996:

We will finalize a rule that will allow States and/or systems to adopt multimedia programs which reduce radon risks from indoor air and drinking water in combination.

The SWDA requires EPA to revise the existing 50 parts per billion (ppb) standard for arsenic in drinking water. In January 2001, we published a new standard for arsenic in drinking water that would require public water supplies to reduce arsenic to 10 ppb by 2006. We have delayed the effective date of this rule until February 22, 2002 to allow time for expert review of key issues, review of this standard, and requested further public comment. This is to assure that communities that need to reduce arsenic in drinking water can proceed with confidence that the final standard is based on sound science and accurate cost and benefit estimates.

The SDWA also requires EPA to review and revise, if appropriate, all National Primary Drinking Water Regulations no less frequently than once every six years (6-Year Review). According to SDWA, any revisions of drinking water regulations must maintain, or increase, the level of public health protection provided; however, EPA may identify regulatory changes that will streamline or reduce existing requirements without lessening the level of public health protection. The purpose of the review is to determine whether new data, technology, or other factors exist that justify revisions to existing NPDWRs. The outcome of the review will be a **Federal Register** preliminary notice for comment making available the results of our review. Following a review of public comments, we will issue a second notice with our final regulatory review determination together with a rulemaking schedule for any regulation the Agency determines warrants revision.

We are also taking a number of important steps under the Clean Water Act:

To control the discharge of pollutants from point sources, we are developing effluent limitations guidelines for the construction and development industry. Water quality improvements will result from a reduction in storm water and sediment discharged from construction sites and from sediment generated from stream bank erosion. Other expected benefits include protection of fishery and wildlife habitat and downstream urban flood control.

We will issue a rule to minimize the adverse impacts associated with cooling water intakes. Most costs would be borne by entities that own or operate steam electric power plants. The expected benefits will be significant reductions in aquatic organisms killed or injured by impingement (being pinned against screens or other parts of a cooling water intake structure) or entrainment (being drawn into cooling water systems and subjected to thermal, physical or chemical stresses).

In July 2000 we published a final rule amending the Agency's existing regulations implementing Total Maximum Daily Load (TMDL) program. The rule sought to provide for a more complete accounting of impaired waters, track progress towards restoration, clarify and provide more specificity regarding the scope and content of TMDLs, require implementation plans, and reasonable assurance that these plans would be implemented, and speed up the pace of TMDL establishment.

On October 18, 2001 we delayed the effective date of the July 2000 rule by 18 months to April 30, 2003. The delay in effective date would allow the Agency time to reconsider specific aspects of the rule and to develop an effective national program that involves the active participation and support of all levels of government and local communities. Over the next several months, we will conduct a stakeholder process, propose necessary changes by spring 2002, and hope to adopt such changes by April 30, 2003.

Office of Prevention, Pesticides, and Toxic Substances

Because of the potentially serious consequences of human exposure to endocrine disrupting chemicals, Congress included specific provisions on endocrine disruption in the Food Quality Protection Act. It also amended the Safe Drinking Water Act in 1996 to require EPA to develop an endocrine disruptor screening program and to screen for endocrine disruptors found in drinking water sources. The Agency has established an Endocrine Disruptor Screening and Testing Program based on the recommendations of the advisory committee we established to consider human health and ecological effects, and hormonal effects of pesticides, industrial chemicals and drinking water contaminants. In 2002-2003 we will standardize and validate assays in the screening battery and complete the priority setting system. We will issue a proposed procedural rule in 2002.

EPA is evaluating how our current policy on the protection of human subjects in testing should apply to testing that is not conducted or supported by the Agency. Current policy does not address non-EPA research. EPA will also be seeking public comment on a series of issues related to Agency use of human research data in pesticide decisionmaking. We believe this will serve two important Agency goals: ensuring the availability of sound and appropriate scientific data in its decisions, and protection of the interests, rights and safety of human research subjects. We may issue one or more documents, which may include policy statements, rulemaking or requests for public comment.

Almost a million children under 5 years of age have blood-lead levels exceeding the Center for Disease

Control's level of concern (10 ug/dl), and reducing childhood exposure to lead-based paint activities continues to be a priority. Elevated blood-lead levels can damage intelligence and create neuro-behavioral problems in young children, and can cause other health problems in children and adults. We are considering proposed approaches to address lead risks associated with renovation and remodeling activities, and investigating the lead risks associated with bridges and structures.

In FY 2002, EPA will issue final amendments to the current Toxic Substances Control Act (TSCA) Inventory Update Rule (IUR). The proposed rule requires chemical manufacturers to report to EPA data on exposure-related information and the industrial and consumer end uses of chemicals they produce or import. EPA will also consider other amendments to the existing IUR. These include removing the inorganic chemicals exemption; providing information to better assess and manage risks of inorganic chemicals; improving the linkages of IUR data to other data sources to enhance the data's usefulness; and altering the confidential business information (CBI) claim procedures to reduce the frequency of CBI claims, allowing the public greater access to relevant information on toxic chemicals. EPA has held meetings with representatives of the chemical industry, environmental groups, environmental justice leaders, labor groups, State governments and other Federal agencies to ensure public involvement in the TSCA Inventory Update Rule Amendments Project.

EPA has developed National Action Plans under a national strategy to address priority Persistent Bioaccumulative Toxic (PBT) pollutants. These pollutants pose risks because they are toxic, persist in ecosystems, and accumulate in fish and up the food chain. The PBT challenges remaining stem from the pollutants' ability to travel long distances, to transfer rather easily among air, water, and land, and to linger for generations. Through this strategy, we will create an enduring cross-office system that will address the cross-media issues associated with priority PBT pollutants. In FY 2002, we expect to issue the draft action plan for benzo(a)pyrene, and to issue the final action plans for alkyl-lead and mercury. We will also continue developing other action plans as outlined in the PBT Strategy.

Office of Solid Waste and Emergency Response

The Office of Solid Waste and Emergency Response (OSWER) is planning actions to reduce burden on the regulated community and provide regulatory innovations under the Resource Conservation and Recovery Act (RCRA), the Federal law governing hazardous waste management. Several actions of significance are listed below.

We are planning to reduce the burden imposed by RCRA reporting and recordkeeping requirements.

We will revise current Federal hazardous waste regulations to encourage recycling and better management of cathode ray tubes, the display components of televisions and computer monitors. The goal is to minimize the disposal of lead, increase resource recovery, and enhance protection of human health and the environment.

OSWER will revise current RCRA regulations that apply to recycling of hazardous wastes in the manufacturing of zinc fertilizers. We are considering establishing a more consistent application of recycling requirements to zinc fertilizer products and establishing a set of standards for contaminants in RCRA-regulated zinc fertilizers that are more appropriate to fertilizers. We are also considering specifying more appropriate, protective requirements for management of zinc-bearing hazardous secondary materials prior to recycling.

Office of Policy, Economics, and Innovation

OPEI has taken the lead in EPA's re-examination of its regulatory process to assure that all regulatory actions are scientifically sound, cost-effective, and reflect decisions based on a broad consideration of policy options. OPEI will continue its work to assure that our procedural and policy reforms are implemented throughout the Agency.

We have also designed a variety of incentives to encourage high performing facilities to participate in the National Environmental Performance Track. These include actions which recognize and highlight the achievements of the facilities that successfully fulfill the requirements for entry, but also include other incentives.

We are offering some of those incentives through administrative actions, but others will require changes in existing Federal regulations. We are now changing regulations that set reporting requirements for facilities covered by the MACT provisions of the Clean Air Act. Facilities meeting the criteria for membership in Performance Track would be eligible for reduced reporting and some other provisions, and facilities that more than meet goals for emissions reductions under MACT via pollution prevention means would qualify for some additional reduced reporting. We are also reducing reporting requirements for participating publicly owned treatment works (POTWs), under the Clean Water Act. A third change would allow POTWs to notify the public of any violations of permits by the indirect dischargers using the POTWs' services by placing notices on the Internet (rather than using paid newspaper advertisements). The last change would be a pilot test of consolidated reporting (an idea explored extensively in the past several years). This is likely to begin with one or two industry sectors, and to be modeled on pilot efforts explored in EPA's Common Sense Initiative. We will consolidate various periodic reports required under CAA, CWA, RCRA, and other statutes into one report, eliminating duplicate reporting and other difficulties. If this test is successful, EPA will consider widening the applicability to Performance Track facilities in other industry sectors.

Summary

In developing all of these actions, EPA is committed to flexible, cost-effective programs that offer increased protections for public health and the environment and get full value for our investments.

EPA

PRERULE STAGE

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115. • ACCEPTABILITY OF RESEARCH USING HUMAN SUBJECTS

Priority:

Other Significant

Legal Authority:

7 USC 136a; 21 USC 346a

CFR Citation:

40 CFR 26 (Revision)

Legal Deadline:

None

Abstract:

EPA is evaluating how its current policy with respect to the protection of

human subjects in testing should be applied to testing not conducted or supported by the Agency. Current EPA regulations apply to research conducted or supported by the Agency or "otherwise subject to regulation." The action needed to give effect to the "otherwise subject to regulation" phrase has not been taken. In addition, EPA will seek public comment on issues related to Agency use of human research data in pesticide decisionmaking. EPA believes the process being initiated will serve two important Agency goals: ensuring the availability of sound and appropriate scientific data in its decisions, and protection of the interests, rights and safety of human research subjects. EPA may issue one or more documents, which may include policy statements, rulemaking or requests for public comment.

Statement of Need:

In July 1998, the Agency committed that EPA would not consider human research on pesticides in support of decisions under the Food Quality Protection Act revisions to FIFRA and FFDCA unless a policy were in place that could assure any such studies met the highest scientific and ethical standards. The Agency convened a special joint subcommittee of the FIFRA Scientific Advisory Panel and the EPA Science Advisory Board to advise on this policy. The subcommittee has completed its work. If deemed acceptable for consideration, some human research already performed could significantly affect the Agency's risk assessments of some pesticides. Clarification of Agency policy with respect to use of human data is thus needed.

Summary of Legal Basis:

FIFRA sec. 3 authorizes EPA to define data requirements supporting pesticide decisions and to establish guidelines for conducting research to support pesticide decisions. FFDCA sec. 408 authorizes EPA to consider available and reliable data in support of pesticide tolerance decisions.

Alternatives:

Still to be identified.

Anticipated Cost and Benefits:

No analysis has been performed yet.

Risks:

No analysis has been performed yet.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal

Additional Information:

SAN No. 4610

Sectors Affected:

32532 Pesticide and Other Agricultural Chemical Manufacturing

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RIN: 2070–AD57

EPA

116. 6-YEAR REVIEW OF EXISTING NATIONAL PRIMARY DRINKING WATER REGULATIONS

Priority:

Other Significant

Legal Authority:

42 USC 300f et seq

CFR Citation:

Not Yet Determined

Legal Deadline:

Other, Statutory, August 6, 2002, Complete review for contaminants with NPDWRs promulgated prior to August 1996.

Abstract:

The Safe Drinking Water Act (SDWA) requires EPA to review and revise, if appropriate, all National Primary Drinking Water Regulations (NPDWRs) no less frequently than once every six years. According to SDWA, any revisions of drinking water regulations must maintain, or increase, the level of public health protection provided; however, EPA may identify regulatory changes that will streamline or reduce existing requirements without lessening the level of public health protection. As a part of this action, EPA will do two things: (1) develop an overall protocol for conducting each six year review; and (2) review the chemical contaminants (with the exception of arsenic which is being revised and atrazine which is being reviewed on an accelerated schedule for which NPDWRS were promulgated prior to 1996). No new requirements will be imposed by this action. The purpose of the review is to determine whether new data, technology, or other factors exist that justify revisions to existing NPDWRs. The outcome of each review will be a Federal Register notice making available the results of the Agency's review and a rulemaking schedule for the regulations the Agency believes are appropriate candidates for revision at this time. EPA may decide that any of the following need to be revised: maximum contaminant level goals, maximum contaminant levels, analytical methods, monitoring, treatment, recordkeeping and reporting requirements. EPA plans extensive stakeholder outreach and consultation in the development of the protocol and throughout the review process.

Statement of Need:

The review of each existing NPDWR is necessary to determine whether there are more current data, since the NPDWR was promulgated, that suggest a regulatory revision may be appropriate to maintain, or improve, the level of public health protection. Data considered as a part of the review include changes in risk assessment, changes in analytical feasibility (where appropriate), changes in treatment feasibility, other issues that may be relevant to the specific NPDWR, and occurrence and exposure. NPDWRs identified as candidates for revision will be those where the review suggests a regulatory revision will significantly improve public health protection or significantly reduce costs while at least maintaining the current level of public health protection.

Summary of Legal Basis:

Section 1412(b)(9) of the SDWA, as amended in 1996, requires that the Administrator shall, not less often than every 6 years, review and revise, as

appropriate, each primary drinking water regulation. SDWA also mandates that any revision maintain, or provide for greater, protection of the health of persons.

Alternatives:

The review ends with a decision by EPA that the NPDWR is, or is not, a candidate for regulatory revision at this time. NPDWRs may be eliminated from further consideration for regulatory revision at this time for one or more of the following reasons: (1) no data were identified that suggest the need for regulatory revision; (2) some potential changes were identified but are likely to result in little or no improvement in public health protection or cost savings; (3) an update of the risk assessment is in process or planned for the near future; or (4) the review identified significant data gaps or research needs that need to be addressed to determine the appropriateness of any regulatory revision. EPA will determine, on a case-by-case basis, whether to initiate activity to address these data gaps/research needs. Otherwise, EPA does not plan any further review/revision of these NPDWRs until the next review cycle. If EPA identifies the NPDWR as a candidate for revision, the Agency will begin the rulemaking process. The first part of this process will be to perform all of the analyses required to consider alternative regulatory options and to develop a Notice of Proposed Rulemaking (NPRM) for public comment. If the results of these analyses continue to suggest a regulatory revision is appropriate, and after taking the public comments received into consideration, EPA will promulgate regulatory revisions to the NPDWR.

Anticipated Cost and Benefits:

EPA is not performing detailed cost and benefit analyses during the review phase because such analyses are premature until the Agency has identified specific regulatory options. EPA will conduct the cost and benefit analyses as a part of the rulemaking phase for those NPDWRs identified as potential candidates for revision.

Risks:

As a part of the review, EPA is identifying any relative source contribution assumptions that may need further evaluation and factoring this consideration into the decision whether or not to designate the NDPWR as a candidate for regulatory revision. For those NPDWRs that EPA identifies as candidates for revision, the Agency will evaluate relative source contribution assumptions in more detail as a part of the rulemaking phase. Therefore, no statement of the magnitude of the risk, relative to other risks within EPA's jurisdiction, can be made during the review phase.

Timetable:

Action	Date	FR Cite
Notice of Preliminary Decision	01/00/02	
Notice of Final Decision	08/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

SAN No. 4424

Sectors Affected:

22131 Water Supply and Irrigation Systems

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RIN: 2040–AD67

EPA

PROPOSED RULE STAGE

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117. REGULATORY INCENTIVES FOR THE NATIONAL ENVIRONMENTAL ACHIEVEMENT TRACK PROGRAM

Priority:

Other Significant

Legal Authority:

Not Yet Determined

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

The National Environmental Achievement Track is designed to recognize facilities that consistently meet their legal requirements and have implemented high-quality environmental management systems, and to encourage them to achieve more by continuously improving their environmental performance and informing and involving the public. Facilities gain entrance to Achievement Track by submitting an application that documents that four specific criteria are met. To promote participation in the program and the environmental and other benefits that will come with it, EPA intends to offer several incentives. Among those incentives are the adjustments in current regulatory requirements that are the subjects of this rulemaking. These include reducing the frequency of reports required under the Maximum Achievable Control Technology (MACT) provisions of the Clean Air Act; streamlined by publically owned treatment works (POTWs) under the Clean Water Act; and opportunity for Achievement Track facilities to consolidate reporting under various environmental statutes into a single report.

Statement of Need:

The Administrator of EPA has announced the National Environmental Performance Track Program, of which the Achievement Track program is the first element to be implemented. By identifying facilities that have better environmental performance than others, and by requiring them to commit to goals for sustained improvements, EPA expects the environment to greatly benefit: Facilities that are able to qualify for the program will make a public commitment to reducing specific aspects of their impacts on the environment, and the program is likely to induce other facilities to make changes in their operations that will bring about analogous reductions in their environmental impacts. In order to attract significant numbers of facilities, Achievement Track will provide incentives for joining, in the form of substantial benefits to the facilities that qualify. EPA is considering alterations in reporting and other requirements (to be available only to Achievement Track facilities) that

would be made available as a result of this rulemaking. Extensive input (written comments and several public meetings) from stakeholders has convinced EPA that benefits such as these are crucial to achieving the intended environmental benefits of the Achievement Track program.

Summary of Legal Basis:

All of the modifications under consideration are modifications of existing regulations, promulgated over the past several years under statutes that include the CAA, CWA, EPCRA, SDWA, and others. Within these statutes, EPA has discretion to set reporting frequencies, the contents of reports, monitoring, and other specifics, based on an assessment of the need for information to implement the statutes.

Alternatives:

Deliberations within the Agency, and among stakeholders and EPA, have convinced EPA that a full and robust set of incentives is crucial to the successful implementation of Achievement Track. EPA developed a list of over forty different candidate incentives, and discussed many of these during a set of public meetings held during the design phase of the National Environmental Performance Track. Several incentives can be implemented through EPA administrative actions, but some potential incentives would require changes in existing regulations. The specific incentives being considered here resulted from intense analysis and debate within EPA and the Administrator's judgment that they contribute to achieving the program's aims. During the rulemaking process, EPA will consider various alternatives for these incentives, ranging from substantial changes in reporting frequency and content to no changes. EPA is also considering initiating rulemaking on other incentives beyond the ones discussed here.

Anticipated Cost and Benefits:

Overall, EPA expects there to be a net reduction in compliance costs for facilities that participate in Achievement Track. Facilities would have direct reductions in the efforts required to collect, summarize and report various data elements, and would potentially benefit from a streamlining of their environmental reporting information systems and from an integration of those data systems into company environmental management systems. EPA and some State regulatory authorities are likely to see modest increases in workload (and therefore in costs), mostly in the revising permits. This effect would be moderated by the fact that only a fraction of regulated facilities are expected to qualify for Achievement Track. Finally, because Achievement Track is designed to induce environmental improvements among those facilities that seek and obtain entrance to the program, EPA anticipates tangible environmental benefits to be realized.

Risks:

The risks of the intended rulemaking appear minimal. The criteria and the screening process for Achievement Track will identify and admit only facilities that operate significantly above the norm of other facilities. Because facilities must carry out their Achievement Track actions in the public spotlight, and because EPA expects that facilities will strive to stay qualified for the program, there is only a very small likelihood that mistakes would be made, and any such mistakes could easily be reversed. The actions being contemplated in this rulemaking entail mostly reporting changes, not substantive changes in permitted release rates or other actions that would directly impinge on the environment. All of these factors serve to limit the risks to the environment from the intended rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State

Federalism:

Undetermined

Additional Information:

SAN No. 4473

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RIN: 2090–AA13

EPA

118. NAAQS: SULFUR DIOXIDE (RESPONSE TO REMAND)

Priority:

Other Significant

Legal Authority:

42 USC 7409 CAA sec 109

CFR Citation:

40 CFR 50.4; 40 CFR 50.5

Legal Deadline:

None

Abstract:

On November 15, 1994, the Environmental Protection Agency (EPA) proposed not to revise the existing 24-hour and annual primary standards. The EPA sought public comment on the need to adopt additional regulatory measures to address the health risk to asthmatic individuals posed by short-term peak sulfur dioxide exposure. On March 7, 1995, EPA proposed implementation strategies for reducing short-term high concentrations of sulfur dioxide emissions in the ambient air. On May 22, 1996, EPA published its final decision not to revise the primary sulfur dioxide NAAQS. The notice stated that EPA would shortly propose a new implementation strategy to assist States in addressing short-term peaks of sulfur dioxide. The new implementation strategy - the Intervention Level Program - was proposed on January 2, 1997. In July 1996, the American Lung Association and the Environmental Defense Fund petitioned the U.S. Court of Appeals for the D.C. Circuit for a judicial review of EPA's decision not to establish a new 5-minute NAAQS. On January 30, 1998, the court found that EPA did not

adequately explain its decision and remanded the case so EPA could explain its rationale more fully. EPA published a schedule for responding to the remand in the May 5, 1998 Federal Register. Since that notice, EPA has continued to work on the proposed response to the remand by reviewing additional SO2 air quality information. EPA published an informational notice in the Federal Register on January 9, 2001 (66 FR 1665).

Statement of Need:

Brief exposures to elevated concentrations of sulfur dioxide, while at exercise, may cause bronchoconstriction, sometimes accompanied by symptoms (coughing, wheezing, and shortness of breath), in mild to moderate asthmatic individuals. The existing sulfur dioxide National Ambient Air Quality Standard (NAAQS) provides substantial protection against short-term peak sulfur dioxide levels. At issue is whether additional measures are needed to further reduce the health risk to asthmatic individuals.

Summary of Legal Basis:

Title I of the Clean Air Act.

Alternatives:

The March 7, 1995, proposal notice sought public comment on three alternatives to further reduce the public health risk to asthmatic individuals posed by short-term peak sulfur dioxide exposures. These included: (a) a new 5-minute NAAQS; (b) a new program under section 303 of the Act; and (c) a targeted monitoring program to ensure sources likely to cause or contribute to high 5-minute peaks are in attainment with the existing standard. The January 2, 1997, notice proposed an alternative program under section 303 of the Act that will assist States in addressing high 5-minute peaks.

Anticipated Cost and Benefits:

A draft regulatory impact analysis was completed and made available for public comment at the time of the January 2, 1997 proposal.

Risks:

Exposure analyses indicate from the national perspective that the likelihood of exposure to high 5-minute sulfur dioxide concentrations is very low. Asthmatic individuals in the vicinity of certain sources or source categories, however, may be at higher risk of exposure than the population as a whole.

Timetable:

Action	Date	FR Cite
NPRM NAAQS Review	11/15/94	59 FR 58958
NPRM NAAQS Implementation (Part 51)	03/07/95	60 FR 12492
Final Rule NAAQS Review	05/22/96	61 FR 25566
NPRM Revised NAAQS Implementation (Part 51)	01/02/97	62 FR 210
Notice Schedule for Response to NAAQS Remand	05/05/98	63 FR 24782
Notice Informational FR Notice	01/09/01	66 FR 1665
Notice	To Be	Determined

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, State, Local, Tribal

Additional Information:

SAN No. 1002

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RIN: 2060–AA61

EPA

119. IMPLEMENTATION OF OZONE AND PARTICULATE MATTER (PM) NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) AND REGIONAL HAZE REGULATIONS

Priority:

Other Significant

Legal Authority:

Clean Air Act, title I

CFR Citation:

40 CFR 50; 40 CFR 51; 40 CFR 52; 40 CFR 81

Legal Deadline:

None

Abstract:

On July 18, 1997, EPA issued new, updated air quality standards for ozone (62 FR 38856) and particulate matter (PM) (62 FR 38652). On November 17, 1998, EPA made available for comment proposed implementation guidance on implementing the revised ozone and PM NAAQS and regional haze program. On May 14, 1999, however, the U.S. Court of Appeals for the D.C. Circuit issued an opinion concerning the revised ozone and particulate matter NAAQS (American Trucking Assoc., Inc. et al. v. USEPA, No. 97-1440 (May 14, 1999)) in which the Court stated, among other things, that the revised 8-hour ozone standard cannot be enforced. The Court also vacated the revised PM10 NAAQS and remanded the PM2.5 NAAQS. On June 28, 1999, EPA requested a rehearing of the case before the Court, but the request was denied. The Department of Justice then filed a petition in January 2000 seeking U.S. Supreme Court review, and the Court subsequently agreed to review the case. Meanwhile, to assure that areas were not left without an air-quality standard, EPA took action on 7/6/00 to reinstate the previous 1-hour standard in approximately 3000 counties across the U.S. On February 27, 2001, the U.S. Supreme Court issued a ruling largely upholding EPA's positions on the issues in question, the most significant exception being the determination that EPA must reconsider its approach to implementing the revised ozone standard. EPA is now working to address this element of the Supreme Court decision, as well as another issue stemming from the earlier D.C. Circuit Court decision. EPA is also developing guidelines for determining Best Available Retrofit Technology (BART) under the Regional Haze Regulations, as well as moving forward on other revisions to the Regional Haze Regulations to incorporate the efforts of the Western Regional Air Partnership (WRAP).

Statement of Need:

Development of programs for ozone and PM are necessary to implement any revised NAAQS under title 1 of the Clean Air Act.

Summary of Legal Basis:

Title I of the Clean Air Act.

Alternatives:

This entry comprises the set of actions the Agency plans to take to implement the new ozone and fine particulate standards. The major alternative facing the Agency was whether to implement the standards strictly on a state-by-state basis, as has been the norm in the past, or to take Federal action to address the fact that emissions from one State affect the ability of other States to achieve the standards. The other major set of alternatives involved various possible strategies for infrastructure design, such as the designations of nonattainment areas and the requirements that will apply to them.

Anticipated Cost and Benefits:

EPA prepared a regulatory impact analysis (RIA) for the final ozone and PM NAAQS, as well as the regional haze reduction program.

Risks:

The risks addressed by this implementation plan are those of not attaining the National Ambient Air Quality Standards for Ozone and Particulate Matter.

Timetable:

Action	Date	FR Cite
ANPRM	12/13/96	61 FR 65764
Notice Proposed Policy	12/13/96	61 FR 65752
NPRM Regional Haze	07/31/97	62 FR 41138
Notice Review Schedule for PM2.5 Standard	10/23/97	62 FR 55201
Final Rule Areas meeting 1-hour ozone standard	06/05/98	63 FR 31013
Final Rule Additional areas meeting 1-hour ozone standard	07/22/98	63 FR 39432
Draft Guidance Implementation Planning	11/17/98	63 FR 65593
Final Rule Additional Areas Meeting 1-Hour Ozone NAAQS: 96-98 Data	06/09/99	64 FR 30911
Final Rule Regional Haze	07/01/99	64 FR 35713
Final Action Reinstatement of 1-hr standard	07/20/00	65 FR 45182
NPRM BART Guidance (SAN 4450)	07/20/01	66 FR 38108
NPRM WRAP Rule (SAN 4495)	01/00/02	
Final Action BART Guidance (SAN 4450)	07/00/02	
Final Action WRAP Rule (SAN 4495)	01/00/03	
Final Action Implementation Guidance	To Be	Determined

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Additional Information:

SAN No. 3553

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RIN: 2060–AF34

EPA

120. OPERATING PERMITS: REVISIONS (PART 70)

Priority:

Other Significant

Legal Authority:

42 USC 7661 et seq

CFR Citation:

40 CFR 51; 40 CFR 52; 40 CFR 70

Legal Deadline:

None

Abstract:

In response to litigation on the operating permits rule regulations, 40 CFR part 70, to provide more effective implementation of part 70, and to address comments provided in response to notices of proposed rulemaking, parts 70, 51 and 52 are being revised. The changes streamline the procedures for revising stationary-source operating permits issued by State and local permitting authorities under title V of the Clean Air Act.

Statement of Need:

These revised rules will allow more streamlined procedures for revising operating permits. These revisions reflect the principles articulated in the President's and the Vice President's March 16, 1995 report Reinventing Environmental Regulation. That report established as goals for environmental regulation the building of partnerships between EPA and State and local agencies, minimizing costs, providing flexibility in implementing programs, tailoring solutions to the problem, and shifting responsibility to State and local programs.

Summary of Legal Basis:

Clean Air Act, Title V

Alternatives:

In response to concerns expressed in comments on the draft final rulemaking, the EPA discussed alternatives with representatives from State and local permitting authorities and industry and environmental groups, and desires public comment on some of the proposed alternatives. EPA will then consider public comments before promulgating a final rule.

Anticipated Cost and Benefits:

The administrative cost of implementing these proposed rules by permitting authorities, EPA, and permitted sources has not yet been estimated, but is expected to be lower than the cost of the current rule. Administrative costs include a range of costs which cover the source's preparing an application through EPA's and the permitting authority's effort to complete the process.

Risks:

All major sources of air pollution are required to have a permit to operate by the Clean Air Act. No adverse effect on the public health or ecosystems should result from this action, because the rule will require permit revisions with significant environmental impact to undergo public and EPA review.

Timetable:

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44460
Supplemental NPRM Part 71	04/27/95	60 FR 20804
Supplemental NPRM Part 70	08/31/95	60 FR 45530
NPRM	03/00/02	
Final Action	03/00/03	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local

Additional Information:

SAN No. 3412

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RIN: 2060–AF70

EPA

121. NESHAP: PLYWOOD AND COMPOSITE WOOD PRODUCTS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

42 USC 7412(d)

CFR Citation:

40 CFR 63

Legal Deadline:

Final, Statutory, November 15, 2000.

Abstract:

This project is to develop national emission standards for hazardous air pollutants (NESHAP) by establishing maximum achievable control technology (MACT) for facilities manufacturing wood panels and engineered wood products. MACT standards are under development to reduce the release of hazardous air pollutants (HAP) from all industries to protect the public health and environment. Emissions of HAP from this industry have been associated with, but are not limited to, the drying of wood and binders. This rule is anticipated to apply to the manufacture of products involving wood and some kind of binder or bonding agent. This project may include, but is not limited to, facilities that manufacture waferboard, hardboard fiber board (MDF), oriented strandboard (OSB), medium density fiberboard, particleboard, strawboard, hardwood and softwood plywood, glue-laminated lumber, laminated veneer lumber, and engineered wood products. The source category may also include lumber drying kilns at sawmills which are located on the same site as a facility that manufactures any of the wood products mentioned above. The project may also include some coatings operations. The name of the source category was formerly Plywood and Particleboard MACT.

Statement of Need:

Plywood and Composite Wood Products is a source category listed to be regulated under Section 112 of the Clean Air Act.

Summary of Legal Basis:

Clean Air Act Section 112

Alternatives:

The principal alternatives are to set standards at or beyond the "floor" level of stringency. The "floor" is the minimum stringency implied by the congressionally given formula in section 112 of the Clean Air Act.

Anticipated Cost and Benefits:

In Section 112 of the Clean Air Act, Congress found that there is sufficient evidence of risk to warrant a broad, technology-based MACT program to reduce toxic emissions nationwide. In addition, an Economic Impact Analysis and Regulatory Impact Analysis have been prepared.

Risks:

In Section 112 of the Clean Air Act, Congress found that there is sufficient evidence of risk to warrant a broad, technology-based MACT program to reduce toxic emissions nationwide. Therefore, separate risk analyses are not conducted for individual rulemakings within the MACT program.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
Final Action	03/00/03	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

SAN No. 3820

Sectors Affected:

32121 Veneer, Plywood, and Engineered Wood Product Manufacturing

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RIN: 2060–AG52

EPA

122. NESHAP: RECIPROCATING INTERNAL COMBUSTION ENGINE

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 7412 CAA sec 112; PL 101-549

CFR Citation:

40 CFR 63

Legal Deadline:

Final, Statutory, November 15, 2000.

Abstract:

The stationary reciprocating internal combustion engine source category is listed as a major source of hazardous air pollutants (HAPs) under section 112 of the Clean Air Act (CAA). A major source is one which emits more than 10 tons/yr of one HAP or more than 25 tons/yr of a combination of 189 HAPs. The EPA will gather information on HAP emissions from internal combustion engines and determine the appropriate maximum achievable control technology (MACT) to reduce HAP emissions. The EPA will use information that has already been developed, if possible, by gathering information by working with State/local agencies, vendors, manufacturers of internal combustion engines, owners and operators of internal combustion engines, and environmentalists.

Statement of Need:

Reciprocating Internal Combustion Engines is a source category listed to be regulated under Section 112 of the Clean Air Act.

Summary of Legal Basis:

Section 112 of the Clean Air Act

Alternatives:

The principal alternatives are to set standards at or beyond the "floor" level of stringency. The "floor" is the minimum stringency implied by the congressionally given formula in section 112 of the Clean Air Act.

Anticipated Cost and Benefits:

In Section 112 of the Clean Air Act, Congress found that there is sufficient evidence of risk to warrant a broad, technology-based MACT program to reduce toxic emissions nationwide. Therefore, separate cost/benefit analyses are not conducted for individual rulemakings within the MACT program.

Risks:

In Section 112 of the Clean Air Act, Congress found that there is sufficient evidence of risk to warrant a broad, technology-based MACT program to reduce toxic emissions nationwide. Therefore, separate risk analyses are not conducted for individual rulemakings within the MACT program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
Final Action	06/00/03	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

None

Additional Information:

SAN No. 3656

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RIN: 2060–AG63

EPA

123. NESHAP: COMBUSTION TURBINE

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

42 USC 7412 CAA sec 112

CFR Citation:

44 CFR 63

Legal Deadline:

Final, Statutory, November 15, 2000.

Abstract:

The combustion turbine source category is listed as a major source of hazardous air pollutants (HAPs) under section 112 of the Clean Air Act (CAA). A major source is one which emits more than 10 tons/yr of one HAP or more than 25 tons/yr of a combination of 189 HAPs. Combustion turbines also emit NOx, SO2, CO, and PM. Combustion turbines are already regulated for NOx and SO2 emissions under section 111 of the CAA. The EPA will gather information on HAP emissions from combustion turbines and determine the appropriate maximum achievable control technology (MACT) to reduce HAP emissions. The EPA information that has already been developed will be used if possible and additional information will be gathered by working with State/local agencies, vendors, manufacturers of combustion turbines, owners and operators of combustion turbines, and environmentalists.

Statement of Need:

Combustion Turbines is a source category listed to be regulated under Section 112 of the Clean Air Act.

Summary of Legal Basis:

Section 112 of the Clean Air Act

Alternatives:

The principal alternatives are to set standards at or beyond the "floor" level of stringency. The "floor" is the minimum stringency implied by the congressionally given formula in section 112 of the Clean Air Act.

Anticipated Cost and Benefits:

In Section 112 of the Clean Air Act, Congress found that there is sufficient evidence of risk to warrant a broad, technology-based MACT program to reduce toxic emissions nationwide. Therefore, separate cost/benefit analyses are not conducted for individual rulemakings within the MACT program.

Risks:

In Section 112 of the Clean Air Act, Congress found that there is sufficient evidence of risk to warrant a broad, technology-based MACT program to reduce toxic emissions nationwide. Therefore, separate risk analyses are not conducted for individual rulemakings within the MACT program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
Final Action	05/00/03	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

None

Additional Information:

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RIN: 2060–AG67

EPA

124. NESHAP: INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL BOILERS AND PROCESS HEATERS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

42 USC 7412

CFR Citation:

40 CFR 63

Legal Deadline:

Final, Statutory, November 15, 2000.

Abstract:

The Clean Air Act, as amended in 1990, requires EPA to develop emission standards for sources of hazardous air pollutants (HAPs). Industrial boilers, institutional/commercial boilers and process heaters are among the potential source categories to be regulated under section 112 of the CAA. Emissions of HAPs will be addressed by this rulemaking for both new and existing sources. EPA promulgated an NSPS for these source categories in 1987 and 1990. The standards for the NESHAP are to be technology-based and are to require the maximum achievable control technology (MACT) as described in section 112 of the CAA.

Statement of Need:

Industrial boilers, institutional/commercial boilers, and process heaters are source categories listed to be regulated under Section 112 of the Clean Air Act.

Summary of Legal Basis:

Section 112 of the Clean Air Act.

Alternatives:

Alternatives will be explored as the proposal is developed. At this early stage, no alternatives have yet been identified.

Anticipated Cost and Benefits:

It is expected that this rule will result in significant costs to the affected industry, including costs for recordkeeping and reporting. These costs will be identified as the proposal is developed.

Risks:

In Section 112 of the Clean Air Act, Congress found that there is sufficient evidence of risk to warrant a broad, technology-based MACT program to reduce toxic emissions nationwide. Therefore, separate risk analyses are not conducted for individual rulemakings within the MACT program. The risks from this industry are those normally associated with combustion, such as exposure to particulate matter and sulfur oxides.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
Final Action	05/00/03	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

SAN No. 3837

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RIN: 2060–AG69

EPA

125. NESHAP: SURFACE COATING OF AUTOMOBILES AND LIGHT-DUTY TRUCKS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 7401 et seq

CFR Citation:

40 CFR 63

Legal Deadline:

None

Abstract:

The Clean Air Act, as amended in 1990, requires EPA to develop emission standards for sources of hazardous air pollutants (HAPs). The surface coating of new automobiles and light-duty trucks is among the source categories to be regulated under section 112 of the CAA. Emissions of HAPs will be addressed by this rulemaking for both new and existing sources. EPA promulgated an NSPS for this source category in 1980. The standards for the NESHAP are to be technology-based are are to require the maximum achievable control technology as described in section 112 of the CAA.

Statement of Need:

Surface coating of automobiles and ligh-duty trucks is a source category listed to be regulated under section 112 of the CAA.

Summary of Legal Basis:

Section 112 of the Clean Air Act

Alternatives:

Alternatives have been explored as the proposal has been developed. The alternatives include the minimum required "floor" level of control and other more stringent options.

Anticipated Cost and Benefits:

This rule will result in significant costs to the affected industry, including costs for recordkeeping and reporting. These costs are being identified as the proposal is being developed, and will be addressed in a Regulatory Impact Analysis accompanying the proposed rule.

Risks:

In Section 112 of the Clean Air Act, Congress found that there is sufficient evidence of risk to warrant a broad, technology-based MACT program to reduce toxic emissions nationwide.

Therefore, separate risk analyses are normally not conducted for individual rulemakings within the MACT program. The risks from this industry are those normally associated with surface coating operations, such as exposure to coating solvents which are hazardous air pollutants.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
Final Action	03/00/03	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local

Additional Information:

SAN No. 3907

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RIN: 2060–AG99

EPA

126. REVIEW OF THE NATIONAL AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER

Priority:

Economically Significant

Legal Authority:

42 USC 7408; 42 USC 7409

CFR Citation:

40 CFR 50

Legal Deadline:

Final, Statutory, July 1, 2002, Under the Clean Air Act - the next standards review is to be completed July 2002.

Abstract:

On July 18, 1997, the EPA published a final rule revising the national ambient air quality standards (NAAQS) for particulate matter (PM) (62 FR 38652). While retaining the PM10 standard levels, new standards were added for fine particles (PM2.5) to provide increased protection against both health and environmental effects of PM. On the same day, a Presidential Memorandum (62 FR 38421, July 16, 1997) was published that, among other things, directed EPA to complete the next review of the PM NAAQS by July 2002. The EPA's plans and schedule for the next periodic review of the PM NAAQS were published on October 23, 1997 (62 FR 55201). Due to the unprecedented volume of new research, the completion of the Criteria Document has been extended and as a result the overall schedule for the review of the PM NAAQS is anticipated to extend beyond the original target of July 2002. As with other NAAQS reviews, a rigorous assessment of relevant scientific information will be presented in a Criteria Document (CD), and the preparation of this document is currently under way by the EPA's National Center for Environmental Assessment. The EPA's Office of Air Quality Planning and Standards will also prepare a Staff Paper (SP) for the Administrator which will evaluate the policy implications of the key studies and scientific information contained in the CD and additional technical analyses and identify critical elements that EPA staff believe should be considered in reviewing the standards. The SP and CD will be reviewed by the Clean Air Scientific Advisory Committee (CASAC) and the public both will reflect the input received through these reviews. As the PM NAAQS review is completed, the Administrator's proposal to revise or reaffirm the PM NAAQS will be published with a request for public comment. Input received during the public comment period will be reflected in the Administrator's final decision.

Statement of Need:

As established in the Clean Air Act, the national ambient air quality standards for particulate matter are to be reviewed every five years.

Summary of Legal Basis:

Section 109 of the Clean Air Act (42 USC 7409) directs the Administrator to propose and promulgate "primary" and "secondary" national ambient air quality standards for pollutants identified under section 108 (the "criteria" pollutants). The "primary" standards are established for the protection of public health, while "secondary" standards are to protect against public welfare or ecosystem effects.

Alternatives:

The main alternatives for the Administrator's decision on the review of the national ambient air quality standards for particulate matter are whether to reaffirm or revise the existing standards.

Anticipated Cost and Benefits:

Costs and benefits of revising or reaffirming the national ambient air quality standards for particulate matter cannot be determined at present; a regulatory impact analysis will be conducted along with the review of the standards.

Risks:

The current national ambient air quality standards for particulate matter are intended to protect against public health risks associated with morbidity or premature mortality from cardiopulmonary disease. During the course of this next review, a risk assessment will be conducted to evaluate health risks associated with retention or revision of the particulate matter standards.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	
Final Action	07/00/03	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Undetermined

Additional Information:

SAN No. 4255

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RIN: 2060–AI44

EPA

127. TRANSPORTATION CONFORMITY AMENDMENTS: RESPONSE TO MARCH 2, 1999, COURT DECISION

Priority:

Other Significant

Legal Authority:

42 USC 7401 to 7671q

CFR Citation:

40 CFR 93

Legal Deadline:

None

Abstract:

The Clean Air Act requires EPA to promulgate rules that establish the criteria and procedures for determining whether highway and transit plans, programs, and projects conform to State air quality plans. Conformity means that the transportation actions will not cause or worsen violations of air quality standards or delay timely attainment of the standards. The original conformity rule was finalized on November 24, 1993, and most recently amended on August 15, 1997. On March 2, 1999, the U.S. Court of Appeals overturned certain provisions of the 1997 conformity amendments. This rulemaking will amend the conformity rule in compliance with the court decision. The rulemaking will formalize the May 14, 1999 EPA guidance and the June 18, 1999 DOT guidance that was issued to guide action on this issue until a rulemaking could be issued. Specifically, the rulemaking will clarify the types of projects that can be implemented in the absence of a conforming transportation plan. It will also explain EPA's process for reviewing newly submitted air quality plans and when those submissions can be used for conformity purposes.

Statement of Need:

The U.S. Court of Appeals remanded some provisions of EPA's conformity rule. The conformity rule must be amended in compliance with the court decision.

Summary of Legal Basis:

The Clean Air Act requires transportation plans, programs, and projects to conform to state air quality plans. The Clean Air Act also requires EPA to establish rules for how to determine the conformity of transportation actions.

Alternatives:

EPA's alternatives are constrained by the court decision.

Anticipated Cost and Benefits:

This amendment will not change the results of the economic analysis performed for the original transportation conformity rule, which was summarized in the preamble to that rule on 11/24/93 at 58 FR 62214.

Risks:

Transportation conformity is a process designed to help achieve attainment with the National Ambient Air Quality Standards. The risks addressed by the rule are therefore those risks associated with non-achievment of such standards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, State, Local, Tribal

Additional Information:

SAN No. 4340

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RIN: 2060–AI56

EPA

128. RULEMAKINGS FOR THE PURPOSE OF REDUCING INTERSTATE OZONE TRANSPORT

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

Not Yet Determined

CFR Citation:

40 CFR 51

Legal Deadline:

None

Abstract:

The Clean Air Act (CAA) requires that a state implementation plan (SIP) contain provisions to prevent a State's facilities or sources from contributing significantly to air pollution that is transported downwind to other States, exacerbating their inability to meet the national ambient air quality standards for ozone. Through a 2-year effort known as the Ozone Transport Assessment Group (OTAG), EPA worked in partnership with the 37 easternmost States and the District of Columbia, industry representatives, and environmental groups to address ozone precursor and ozone transport. This multiyear collaboration resulted in the most comprehensive analysis of ozone transport ever conducted. The OTAG States voted in favor of a range of strategies to reduce nitrogen oxide emissions from utilities and other major sources. Building on the recommendations of OTAG, EPA issued a rule known as the NOx SIP Call (10/27/98, 63 FR 57355) requiring 22 States and the District of Columbia to submit revisions to their SIPs to address the regional transport of nitrogen oxides (a precursor to ozone formation known as NOx). By reducing emissions of NOx, the actions directed by these plans will decrease the formation and transport of ozone across State boundaries in the eastern half of the United States. On March 3, 2000, the Court of Appeals issued a decision largely upholding the NOx SIP Call, but remanded four narrow issues to EPA for further rulemaking action. In an August 30, 2000 Court Order, emission reduction measures are required to be in place by May 31, 2004. On June 8, 2001, the D.C. Circuit made a related decision concerning the NOx SIP Call Technical Amendment rulemakings which largely upheld Phase I of the NOx SIP Call, but remanded one issue to EPA. EPA is now addressing in a

separate rulemaking the remanded issues mentioned above — see SAN 4433 ~~in~~ today's Regulatory Agenda. Another issue remanded, or remanded and vacated, in the technical amendments and section 126 court decisions dealing with growth projections will be addressed separately. A notice of data availability was published on 8/3/01 which made new data publicly available for notice-and-comment. Final action is expected in November 2001. In addition to the SIP Call provisions, Federal Implementation Plans (FIPs) may also be needed to reduce regional transport if any affected State fails to adequately revise its SIP to comply with the NOx SIP call (see SAN 4096 in today's Regulatory Agenda). In addition to the SIP Call remedy, the Clean Air Act also gave States the right to petition EPA to take other Federal action to prevent ozone transport that affects downwind States. Accordingly, under section 126 of the CAA, eight northeastern States filed petitions requesting EPA to make findings and require decreases in NOx emissions from certain stationary sources in upwind.

Statement of Need:

It has long been recognized that ozone transport is a major factor in the difficulty many States are having in attaining the clean-air standards for ozone. This was made more clear by the OTAG analysis outlined above.

Summary of Legal Basis:

Clean Air Act Sections 110 and 126

Alternatives:

The Clean Air Act specifies the SIP Call process, the FIP process, and the Section 126 petition process as alternate approaches to remedying the problem of ozone transport. EPA intends to use these alternatives as appropriate in an integrated program.

Anticipated Cost and Benefits:

As outlined in the Regulatory Impact Analysis for the NOx SIP Call, the rule will result in significant improvements in premature mortality, chronic asthma, chronic and acute bronchitis, upper and lower respiratory symptoms, work days lost, decreased worker productivity, visibility in urban and suburban areas, increases in yields of commercial forests currently exposed to elevated ozone levels, and reductions in loadings of nitrogen to sensitivity estuaries, helping State and local government reach target reduction goals for estuaries such as Chesapeake Bay, Albermarle-Pamlico Sound and Long Island Sound. Due to practical analytical limitations, we cannot quantify and/or monetize all potential benefits of this action. Within these limitations, the quantified and monetized benefits were estimated in the Regulatory Impact Analysis to range from $1.1 Billion to $4.2 Billion annually. Annual costs were estimated at $1.7 Billion. All figures are in 1990 dollars.

Risks:

The risks addressed by this action are the likelihood of experiencing increased health and environmental effects associated with nonattainment of the National Ambient Air Quality Standard for ozone. These effects are briefly described above in the "costs and benefits" section, and they are outlined in detail in the Regulatory Impact Analysis for the NOx SIP Call.

Timetable:

Action	Date	FR Cite
Final Action NOx SIP Call	10/27/98	63 FR 57355
NPRM NOx FIPs (SAN 4096)	10/21/98	63 FR 56393
Final Action Section 126 Findings	05/25/99	64 FR 28250
Final Action Section 126 Approvals and Remedy	01/18/00	65 FR 2674
NODA Notice of Data Availability for the NOx SIP Call & Section 126	08/03/01	66 FR 40609
NPRM Response to NOx SIP Call Court Decision (SAN 4433)	12/00/01	
Final Action Response to Remands Concerning Growth Factors	01/00/02	
Final Action Response to NOx SIP Call Court Decision (SAN 4433)	04/00/02	
Final Action NOx FIPS (SAN 4096)	To Be Determined	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State

Additional Information:

SAN No. 4466

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RIN: 2060–AJ20

EPA

129. • ELECTRIC UTILITY STEAM GENERATING UNIT MACT REGULATION

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal goverments and the private sector.

Legal Authority:

42 USC 7412

CFR Citation:

40 CFR 63

Legal Deadline:

NPRM, Judicial, December 15, 2003.

Final, Judicial, December 15, 2004.

Abstract:

In December 2000, the EPA determined that regulation of hazardous air pollutant emissions (HAP) from oil- and coal-fired electric utility steam generating units was necessary and appropriate. This finding was based on the results of the study mandated by section 112(n)(1)(A) of the Clean Air Act, as amended. The regulation(s) will be developed under section 112 and will result in standards based on the use of maximum achievable control technology (MACT). The primary benefit will be the reduction of mercury emissions to the atmosphere from coal-fired units but other HAP will also be reduced. Small businesses and State/local/tribal governments could be impacted (particularly those governments owning or operating oil- or coal-fired electric generation facilities).

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Statement of Need:

Oil and coal-fired electric utility steam generating units were added (December 20, 2000) to the list of source categories to be regulated under section 112 of the Clean Air Act, as amended.

Summary of Legal Basis:

Section 112 of the Clean Air Act, as amended.

Alternatives:

Alternatives will be identified as the proposal is developed.

Anticipated Cost and Benefits:

It is anticipated that this rule will result in significant costs to the affected industry, including Federal, State, and local entities that own/operate electric utility steam generating units. These costs will be identified as the proposal is developed.

Risks:

Risk information will become available as the proposal is developed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/03	
Final Rule	12/00/04	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Federal, State, Local

Federalism:

This action may have federalism implications as defined in EO 13132.

Energy Effects:

Statement of Energy Effects planned as required by Executive Order 13211.

Additional Information:

SAN No. 4571

Sectors Affected:

221112 Fossil Fuel Electric Power Generation

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RIN: 2060–AJ65

EPA

130. LEAD-BASED PAINT ACTIVITIES; TRAINING AND CERTIFICATION FOR RENOVATION AND REMODELING

Priority:

Other Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

15 USC 2603 TSCA Title IV; PL 102-550 sec 402(c)(3)

CFR Citation:

40 CFR 745

Legal Deadline:

Final, Statutory, October 28, 1996.

Abstract:

Under section 402(c)(2) of the Toxic Substances Control Act (TSCA) Title IV, EPA conducted a study of the extent to which persons engaged in renovation and remodeling activities in target housing are exposed to lead in the conduct of such activities or disturb lead and create a lead-based paint hazard. EPA must use the results of this study and consult with interested parties to determine which categories of renovation and remodeling activities require training and certification. EPA must then revise the training and certification regulations originally developed for individuals performing lead-based paint abatement under section 402(c)(a) of TSCA Title IV to apply them to the renovation and remodeling categories. If EPA determines that any category does not require certification, EPA must publish an explanation of the basis for that determination.

Statement of Need:

Childhood lead poisoning is a pervasive problem in the United States, with almost a million young children having more than 10 ug/dl of lead in their blood, (Center for Disease Control's level of concern). Although there have been dramatic declines in blood-lead levels due to reductions of lead in paint, gasoline, and food sources, remaining paint in older houses continues to be a significant source of childhood lead poisoning. These rules will help insure that individuals and firms conducting lead-based paint activities will do so in a way that safeguards the environment and protects the health of building occupants, especially children under 6 years old.

Summary of Legal Basis:

This regulation is mandated by TSCA section 402(c). TSCA Section 402(c) directs EPA to address renovation and remodeling activities by first conducting a study of the extent to which persons engaged in various types of renovation and remodeling activities are exposed to lead in the conduct of such activities or disturb lead and create a lead-based paint hazard on a regular basis. Section 402(c) further directs the Agency to revise the lead-based paint activities regulations (40 CFR part 745 subpart L) to include renovation or remodeling activities that create lead-based paint hazards. In order to determine which contractors are engaged in such activities the Agency is directed to utilize the results of the study and consult with the representatives of labor organizations, lead-based paint activities contractors, persons engaged in remodeling and renovation, experts in health effects, and others.

Alternatives:

TSCA Section 402(c) states that should the Administrator determine that any category of contractors engaged in renovation or remodeling does not require certification; the Administrator may publish an explanation of the basis for that determination.

Anticipated Cost and Benefits:

EPA's quantitative cost estimates fall into four categories: Training Costs, Work Practice Costs, Clearance Testing Costs, and Administrative Costs. The estimates vary depending upon the option selected. In most cases we expect that requirements related to Clearance Testing and Work Practices will contribute the most to overall rule cost. The benefits analysis will not

provide direct quantitative measures of each (or any) option. EPA does not have a complete risk assessment (with dose-response functions) that would permit direct quantitative estimates. We do have other data, such as estimated loadings of Pb generated by renovation work, number and type of renovation events, demographics of the exposed population, and the costs of various health effects previously linked to Pb exposure. With the available information we are able utilize several qualitative approaches to frame the benefits associated with an effective renovation rule.

Risks:

These rules are aimed at reducing the prevalence and severity of lead poisoning, particularly in children. The Agency has concluded that many R&R work activities can produce or release large quantities of lead and may be associated with elevated blood lead levels. These activities include, but are not limited to: sanding, cutting, window replacement, and demolition. Lead exposure to R&R workers appears to by less of a problem than to building occupants (especially young children). Some workers (and homeowners) are occasionally exposed to high levels of lead. Any work activity that produces dust and debris may create a lead exposure problem.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
Final Action	08/00/03	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

Federal, State, Local, Tribal

Additional Information:

SAN No. 3557

Sectors Affected:

23321 Single Family Housing Construction; 23322 Multifamily Housing Construction; 23521 Painting and Wall Covering Contractors; 23551 Carpentry Contractors; 23599 All Other Special Trade Contractors; 53111 Lessors of Residential Buildings and Dwellings; 531311 Residential Property Managers; 54138 Testing Laboratories

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RIN: 2070–AC83

EPA

131. ENDOCRINE DISRUPTOR SCREENING PROGRAM

Priority:

Other Significant

Legal Authority:

15 USC 2603 TSCA; 21 USC 346(a) FFDCA; 42 USC 300(a)(17) SDWA; 7 USC 136 FIFRA

CFR Citation:

Not Yet Determined

Legal Deadline:

Final, Statutory, August 3, 1999.

Abstract:

This final policy statement will set forth EPA's Endocrine Disruptor Screening Program and the procedures to be followed by regulated entities and the Agency. EPA published a proposed policy statement setting forth the Screening Program on December 28, 1998. In the final policy statement, EPA will describe the screens and tests that it will require as part of the Program. It also will address certain issues related to implementing the Program. The major actions in 2001-2003 will be the standardization and validation of assays in the screening battery and the completion of the priority setting system.

Statement of Need:

The Endocrine Disruptor Screening Program fulfills the statutory direction and authority to screen pesticide chemicals and drinking water contaminants for their potential to disrupt the endocrine system and adversely affect human health.

Summary of Legal Basis:

The mandate to screen pesticide chemicals for estrogenic effects that may affect human health is the Federal Food, Drug and Cosmetic Act (FFDCA) as amended in the Food Quality Protection Act (21 U.S.C. 346a(p)). FFDCA also provides EPA authority to require testing of substances that may have an effect that is cumulative to that of a pesticide chemical. Discretionary authority to test contaminants in sources of drinking water is in the Safe Drinking Water Act as amended in 1996 (42 U.S.C. 300j-17). General authority to test chemicals and pesticides is in TSCA (15 U.S.C. 2603) and FIFRA (7 U.S.C. 136) respectively.

Alternatives:

A Federal role is mandated under cited authority. There is no alternative to role of the Federal Government on this issue to ensure that pesticides, commercial chemicals and contaminants are screened and tested for endocrine disruption potential. A limited amount of testing may be conducted voluntarily but this will fall far short of the systematic screening which is necessary to protect public health and the environment and ensure the public that all important substances have been adequately evaluated.

Anticipated Cost and Benefits:

It is too early to project the costs and benefits of this program accurately. However, as a rough estimate, the screening battery is estimated to cost $200,000 per chemical. It is also too early to quantify the benefits of this program mathmetically. The goal of the program is to reduce the risks identified in Paragraph 22 below.

Risks:

Evidence is continuing to mount that wildlife and humans may be at risk from exposure to chemicals operating through a endocrine mediated pathway. Preliminary studies show decreases on IQ tests and increases in aggression in children. Severe malformations of the genitals of boys has increased steadily over the last two decades. Wildlife effects have been more thoroughly documented. Abnormalities in birds, marine mammals, fish and shellfish have been documented in the U.S., Europe, Japan, Canada, and Australia which have been linked to specific chemical exposures. Evidence is sufficient for the U.S. to proceed on a two track strategy: research on the basic science regarding endocrine disruption and screening to identify which chemicals are capable of

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interacting with the endocrine system. The combination of research and test data developed by this program will enable EPA to take action to reduce chemical risks.

Timetable:

Action	Date	FR Cite
Notice - Outline of Screening Program	08/11/98	63 FR 42852
Notice - Proposed Screening Program and Request for Comment	12/28/98	63 FR 71542
NPRM - Proposed Procedural Rule	06/00/02	
Final Action - Final Screening Program	06/00/03	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal

Additional Information:

SAN No. 4143

In August 2000, the Agency submited the required Status Report to Congress.

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RIN: 2070–AD26

EPA

132. PESTICIDE EMERGENCY EXEMPTION REGULATIONS

Priority:

Other Significant

Legal Authority:

7 USC 136(p)

CFR Citation:

40 CFR 166

Legal Deadline:

None

Abstract:

EPA will propose revisions to its regulations on emergency exemptions under section 18 of the Federal Insecticide, Fungicide and Rodenticide Act. Emergency exemptions allow temporary use of a pesticide not in accordance with registration requirements when emergency conditions exist. In the 1995 Presidential Reinvention Initiative, EPA identified a number of issues, which have been refined through informal discussions with States, user groups, and other stakeholders.

Statement of Need:

Stakeholders, including States and Federal agencies, have requested that EPA review its regulations for the FIFRA section 18 emergency exemption process. States and Federal agencies are the only applicants for emergency exemptions. Representatives of States have recommended modifications to the current process for application, review and approval of emergency exemptions. If adopted, the changes would reduce unnecessary burden to both applicants and EPA, expedite decisions on applications (which is critical in emergency situations) and potentially reduce risk to human health and the environment.

Summary of Legal Basis:

FIFRA sec. 18 authorizes EPA to temporarily exempt States from the requirements of registration to alleviate an emergency condition.

Alternatives:

Several measures for streamlining or improving the emergency exemption process are being considered by the Agency. EPA has analyzed these measures and has received considerable comment, both formally and informally, from stakeholders. Since this rule generally constitutes regulatory relief, and is not expected to cause any economic impact, options with varying cost do not apply.

Anticipated Cost and Benefits:

Because this regulation would provide regulatory relief, no costs are anticipated. Potential benefits include the reduced burden and cost to States and Federal agencies that apply for emergency exemptions, reduced burden to EPA, and, in some cases, reduced risk to human health and the environment. Indirect benefits may accrue to users of pesticides under emergency exemptions if changes result in faster review and approval, or greater availability of pesticides. No economic assessment of costs and benefits has yet been conducted.

Risks:

In general, the measures being considered are intended to achieve efficiencies and reduce burdens, not to reduce risks.

Timetable:

Action	Date	FR Cite
NPRM	07/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, State, Tribal

Additional Information:

SAN No. 4216

Sectors Affected:

9241 Administration of Environmental Quality Programs

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RIN: 2070–AD36

EPA

133. • PLANT INCORPORATED PROTECTANTS (PIPS); EXEMPTION FOR PIPS THAT ACT BY PRIMARILY AFFECTING THE PLANT

Priority:

Other Significant

Legal Authority:

7 USC 136 et seq; 21 USC 346a et seq

CFR Citation:

40 CFR 174

Legal Deadline:

None

Abstract:

EPA is considering the addition of plant-incorporated protectants that act by primarily affecting the plant to its plant-incorporated protectants exemptions at 40 CFR 174. Substances which plants produce for protection against pests, and the genetic material necessary to produce them, are pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), if humans intend these substances to "prevent, repel or mitigate any pest." These substances are also "chemical pesticide residues" under the Federal Food, Drug, and Cosmetic Act (FFDCA). EPA has determined that it will no longer issue split registrations for biotechnology products. Therefore, EPA is concurrently considering the exemption of plant-incorporated protectants derived through genetic engineering from sexually compatible plants from the requirement of a tolerance under section 408 of the FFDCA. Due to public interest and new scientific information, additional public comment on this proposal, originally published in 1994, was requested in a recent Supplemental Proposal (66 FR 37855).

Statement of Need:

Publication of the policy document "Coordinated Framework for the Regulation of Biotechnology" established a framework using existing statutes for inter-Agency regulation of biotechnology products. EPA began the process of establishing an internal framework for regulation of biotechnology under it's product-specific statutes through the finalization of the first set of plant-incorporated protectants rules. These rules are necessary to continue the development of and further define EPA's framework for regulation of products derived through biotechnology. The proposed exemption of plant incorporated protectants that act by primarily affecting the plant from requirements under FIFRA was originally published in 1994. At that time, it was not necessary to consider exemptions from the requirement of a tolerance under FFDCA simultaneously with FIFRA exemptions. Therefore, it will be neccessary to publish a NPRM proposing the FFDCA exemption before a Final Action on the FIFRA and FFDCA exemptions can be considered.

Summary of Legal Basis:

Under FIFRA (7 USC 136 et seq) and section 408 of the FFDCA (21 USC 346a), EPA has the authority to require the registration of pesticides and to establish tolerances, or exemptions from the requirement of a tolerance as appropriate, of pesticidal residues in food. As EPA will no longer issue split registrations for pesticides, these decisions must be considered simultaneously.

Alternatives:

The choice is either to provide an exemption or not to. There are no other alternatives to evaluate.

Anticipated Cost and Benefits:

The anticipated costs and benefits are based on those associated with the recently finalized exemption for PIPs derived through conventional breeding from sexually compatible plants. No costs are associated with this action. Benefits would include a reduction in regulatory oversight and the use of associated resources.

Risks:

This rule is an exemption, so potential risk will be examined to ensure implementation would not present a risk to public health or to the environment.

Timetable:

Action	Date	FR Cite
NPRM FIFRA Exemption	11/23/94	59 FR 60496
Supplemental NPRM	07/22/96	61 FR 37891
Supplemental NPRM	05/16/97	62 FR 27132
Supplemental NPRM	04/23/99	64 FR 19958
Supplemental NPRM	07/19/01	66 FR 37855
NPRM FFDCA Tolerance Exemption	09/00/02	
Final Action FFDCA Tolerance Exemption	12/00/03	
Final Action FIFRA Exemption	12/00/03	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

Federal

Additional Information:

SAN No. 4612

This action is a continuation of the action described in RIN 2070-AC02. Since several pieces of that action are now finalized, the Agency is spliting this piece into a separate Agenda entry so that it can continue to be tracked separately.

Sectors Affected:

32532 Pesticide and Other Agricultural Chemical Manufacturing; 111 Crop Production; 54171 Research and Development in the Physical Sciences and Engineering Sciences

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RIN: 2070–AD56

EPA

134. OFFICE OF SOLID WASTE BURDEN REDUCTION PROJECT

Priority:

Other Significant

Legal Authority:

42 USC 6907; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934; 42 USC 6935; 42 USC 6937 to 6939; 42 USC 6944; 42 USC 6949(a); 42 USC 6974; PL 104-13

CFR Citation:

40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 268; 40 CFR 270

Legal Deadline:

None

Abstract:

EPA plans to reduce the burden imposed by the RCRA reporting and recordkeeping requirements to help meet the Federal Governmentwide goal established by the Paperwork Reduction Act (PRA).

In June 1999, EPA published a Notice of Data Availability (NODA) in the Federal Register (64 FR 32859) to seek comment on a number of burden reduction ideas. After reviewing the

comments received on the NODA, EPA is drafting a proposed rulemaking to implement many of these ideas. The proposals are designed to eliminate duplicative and nonessential paperwork.

The main ideas being considered for the proposed rulemaking are: (1) eliminating or modifying one-third of the 334 RCRA-required notices and reports that are sent by the regulated community to states and EPA; (2) eliminating the RCRA emergency response training requirements that overlap with the Occupational Safety and Health Administration requirements; (3) eliminating the need for facilities to record personnel descriptions; (4) decreasing the owner/operator self-inspection frequency of hazardous waste tanks to weekly; (5) providing states and EPA with the opportunity to lengthen owner/operator self-inspection frequencies on a case-by-case basis for containers, containment buildings, and tanks; (6) eliminating the Land Disposal Restrictions generator waste determinations, recycler notifications and certifications, hazardous debris notifications and characteristic waste determinations, and streamlining the characteristic waste notification procedures; and (7) modifying the groundwater monitoring requirements for hazardous waste facilities.

Statement of Need:

The Paperwork Reduction Act of 1995 establishes a Federal Governmentwide goal to reduce the paperwork and reporting burden it imposes. The RCRA Burden Reduction Initiative Proposed Rulemaking makes the regulatory changes necessary to meet this goal.

Summary of Legal Basis:

This action is not required by statute or court order.

Alternatives:

Reducing recordkeeping and reporting will require changes in our regulations. There was no alternative to a rulemaking. The Agency sought opinions from the regulated community on various burden reduction possibilities.

Anticipated Cost and Benefits:

Our cost-benefit analysis showed a savings of $120 million and 929,000 hours. The proposed rule will have minimal impact on the protectiveness of the RCRA regulations. The proposal will eliminate or streamline paperwork requirements that are unnecessary because they add little to the protectiveness of the RCRA regulations.

Risks:

The proposed rule will have no risk impacts.

Timetable:

Action	Date	FR Cite
Notice of Data Availability	06/18/99	64 FR 32859
NPRM	01/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, State, Local, Tribal

Additional Information:

SAN No. 4084

Applicable SIC codes: Chemicals and Allied Products (28), Primary Metal Industries (33), Fabricated Metals (34), Industrial Machinery and Equipment (35), Electrical Equipment (36), Transportation Equipment (37), Other Manufacturing, Transportation and Utilities (40-49), Wholesale Trade (50-51), Services (70-89) and Other SIC Groups

Sectors Affected:

323 Printing and Related Support Activities; 324 Petroleum and Coal Products Manufacturing; 325 Chemical Manufacturing; 326 Plastics and Rubber Products Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 334 Computer and Electronic Product Manufacturing; 562 Waste Management and Remediation Services

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RIN: 2050–AE50

EPA

135. RECYCLING OF CATHODE RAY TUBES (CRTS) AND MERCURY-CONTAINING EQUIPMENT: CHANGES TO HAZARDOUS WASTE REGULATIONS

Priority:

Other Significant

Legal Authority:

42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6923; 42 USC 6924; 42 USC 6925

CFR Citation:

40 CFR 261; 40 CFR 273

Legal Deadline:

None

Abstract:

This action will ultimately revise the existing Federal hazardous waste regulations to encourage recycling and better management of Cathode Ray Tubes (CRTs) by proposing a conditional exclusion from the definition of solid waste for CRTs being recycling. A CRT is display component of a television or computer monitor. A CRT is made largely of specialized glasses, some of which contain lead to protect the user from X-rays inside the CRT. Due to the lead, when they are disposed of or reclaimed, some CRTs are hazardous wastes under the Federal Resource Conservation and Recovery Act (RCRA) regulations. This rule will also propose to streamline RCRA requirements for managing mercury-containing equipment by adding such equipment to the universal waste rule. This rule is planned in response to a June 9, 1998 recommendation on CRT recycling from the Common Sense Initiative (CSI) Council to the Environmental Protection Agency (EPA), and in response to a petition from the Utilities Solid Waste Activities Group regarding mercury-containing equipment. CSI is a consensus-based process for developing cleaner, cheaper, smarter environmental improvements that includes representatives of: industry; environmental groups; community groups; environmental justice groups; labor and, Federal, State, local, and tribal governments. The goal of this proposal is to improve management and encourage recycling, thereby minimizing disposal of lead, increasing resource recovery, and enhancing protection of human health and the environment.

Statement of Need:

This proposal is needed to respond to recommendations of the Electronics Subcommittee of the CSI Council regarding CRT recycling, and also to respond to a petition from the Utilities Solid Waste Activities Group regarding management of mercury-containing equipment. It is also needed to streamline RCRA requirements for these materials to encourage better management and recycling.

Summary of Legal Basis:

This action is not required by statute or court order.

Alternatives:

EPA plans to solicit comments on alternative management requirements, including notification and tracking, accumulation requirements, requirements for CRT glass processors, export requirements, and disposal requirements.

Anticipated Cost and Benefits:

EPA estimates that this proposal, if finalized, would result in annual savings of up to 3 million dollars to reduce administrative, transportation, and management costs compared to current regulations.

Risks:

The risks are undetermined.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, State, Local, Tribal

Additional Information:

SAN No. 4092

Sectors Affected:

334411 Electron Tube Manufacturing

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RIN: 2050–AE52

EPA

136. NPDES PERMIT REQUIREMENTS FOR MUNICIPAL SANITARY SEWER COLLECTION SYSTEMS, MUNICIPAL SATELLITE COLLECTION SYSTEMS, AND SANITARY SEWER OVERFLOWS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal goverments.

Legal Authority:

33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501(a)

CFR Citation:

40 CFR 122.38; 40 CFR 122.41; 40 CFR 122.42

Legal Deadline:

None

Abstract:

EPA is developing a notice of proposed rulemaking that would propose a broad-based reevaluation framework for sanitary sewer collection systems under the NPDES program. The Agency is proposing standard permit conditions for inclusion in permits for publicly owned treatment works (POTWs) and municipal sanitary sewer collection systems. The standard requirements address reporting, public notification, and recordkeeping requirements for sanitary sewer overflows (SSOs), capacity assurance, management, operation and maintenance requirements for municipal sanitary sewer collection systems; and a prohibition on SSOs.

Statement of Need:

The proposed regulation is intended to address three interrelated issues: (1) The risks to health and the environment caused by SSOs; (2) The need to protect and enhance local, State and Federal investments in sewer system infrastructure; and (3) The need to provide a clear and consistent regulatory program for collection systems.

Risks to health/environment: EPA estimates that about 40,000 SSO events occur each year, and perhaps ten times this many instances occur where sewage backs up into basements. These events lead to a variety of damages, including exposure of people to health risks; lowered water quality; and property damage and clean-up costs.

Protection of Investments in Sewer System Infrastructure : Sanitary sewer collection systems represent a major national investment in community infrastructure. EPA estimates that these systems have a replacement value of $1 to $2 trillion. Another source estimates that wastewater collection and treatment systems represent about 10 to 15 percent of the value of all publicly owned infrastructure in the United States. The substantial frequency of SSOs and other collection system failures indicates that operation, maintenance, repair and rehabilitation of sewer systems need to improve.

Providing Clear and Consistent Regulatory Program for Collection Systems - States are implementing the existing NPDES regulations for sanitary sewer collection systems in widely differing ways.

Summary of Legal Basis:

EPA is considering whether to publish a proposed rule that would require NPDES permits for municipal sanitary sewer collection systems to contain a standard provision for better operation and management of systems to avoid SSOs, increased attention to system planning, and better notification to the public in the event of an overflow. These proposed standard permit conditions would derive from Clean Water Act (CWA) sections 304(i), 308, and 402(a). Section 402(a) of the CWA authorizes EPA to prescribe permit conditions as necessary to carry out the provisions of the CWA, including permit conditions on data and information collection and reporting. Section 308 of the CWA authorizes EPA to require NPDES permittees to establish, maintain, and report records for determining whether there has been a violation of the CWA. The prohibition of SSO discharges is a technology-based limitation that is based, in part, on CWA section 301(a) which prohibits a discharge to waters of the United States except in compliance with an NPDES permit. The prohibition is also based on EPA's interpretation of the Act that discharges from a separate sanitary sewer system need to meet effluent limitations based on secondary treatment as defined by EPA and any more stringent limitation necessary to meet water quality standards.

Legal authority for the requirements for municipal satellite collection systems derives from the definition of "publicly owned treatment works." CWA section 212(2)(A) defines "treatment works" to include "any devices and systems used in the storage, treatment, recycling, and

reclamation of municipal sewage or industrial wastes of a liquid nature . . . including . . . intercepting sewers, outfall sewers, sewage collection systems . . . ." EPA regulations define the term "publicly owned treatment works" similarly at 40 CFR 122.2 and 403.1.

Alternatives:

NPDES requirements for municipal sanitary sewer collection systems currently under consideration include the five major alternatives discussed below. The first alternative would require NPDES permits for municipal sanitary sewer collection systems to contain a standard provision for better operation and management of systems to avoid SSOs, increased attention to system planning, and better notification to the public in the event of an overflow. The second alternative would involve extending the requirements of the proposed rule to privately owned satellite collection systems. The third alternative would be to change the technology-based standard for discharges from sanitary sewers from secondary treatment to best available technology economically achievable (BAT)/ best practicable control technology currently available (BCT). The fourth alternative would be a no action alternative. The fifth alternative would be a prescriptive capacity, management, operation, and maintenance provision. In addition to these alternatives, a number of municipalities have suggested additional alternatives which are being considered.

Anticipated Cost and Benefits:

EPA estimates that the total annual incremental cost for municipalities and Federal/State permitting authorities to comply could range from $93.5 million to $126.5 million. EPA estimates the total annual monetized benefits would range from $36 million to $97 million. The benefits are based on estimates of the benefits to water quality and the benefits associated with "smarter" management, operation and maintenance (MOM). The estimated range of benefits associated with water quality including benefits from: reduced human exposure to SSOs, leading to fewer cases of illness; increased opportunities for recreation, tourism, and fishing; and less property damage due to basement backups, ranged from $12 to $73 million annually. The range of benefits associated with improved water quality and better planning and MOM are estimated to result in a national cost savings of $24 million annually.

Risks:

EPA estimates that there are at least 40,000 SSO events per year and an additional 400,000 occurrences of sewage backing up into basements. The health and environmental risks attributed to SSOs vary depending on a number of factors including location and season (potential for public exposure), frequency, volume, the amount and type of pollutants present in the discharge, and the uses, conditions, and characteristics of the receiving waters. SSOs can release raw sewage to areas where they present high risks of human exposure, such as streets, private property, basements, and receiving waters used for drinking water, fishing and shellfishing, or contact recreation. The most immediate health risks associated with SSOs are potential exposure to bacteria, viruses, and other pathogens. EPA estimates that these overflow events cause an estimated 1.8 to 3.6 million illnesses per year. Major groups of disease-causing organisms or agents associated with untreated SSOs include: bacteria, viruses, protozoa, and helminths (intestinal worms). These pathogens can cause diseases range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to diseases that can be life-threatening, such as cholera, infectious hepatitis, dysentery, and severe gastroenteritis. Adverse health consequences can be more severe for children, the elderly, and those with weakened immune systems. In addition to pathogens, raw sewage may contain metals, synthetic chemicals (including endocrine system disruptors), nutrients, pesticides, and oils, which also can be detrimental to the health of humans and wildlife.

SSOs may affect the quality and uses of waters of the United States. Adverse water quality impacts from SSOs may include changes to the physical characteristics and viability of aquatic habitats, causing fish kills. Sewage spills and overflows (including sewage overflows from combined sewers and sanitary sewers, malfunctioning sewage treatment plants and pump stations, sewage spills and sewer-line breaks) are the leading identified cause of beach closures and swimming advisories in the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	
Final Action	04/00/03	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

Federal, State, Local, Tribal

Federalism:

This action may have federalism implications as defined in EO 13132.

Additional Information:

SAN No. 3999

Note: This rule was formerly known as "Revisions to NPDES Requirements for Compliance Reporting and Collection System Discharges."

Sectors Affected:

22132 Sewage Treatment Facilities

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RIN: 2040–AD02

EPA

137. EFFLUENT GUIDELINES AND STANDARDS FOR THE CONSTRUCTION AND DEVELOPMENT INDUSTRY

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

33 USC 1311 CWA 301; 33 USC 1314 CWA 304; 33 USC 1316 CWA 306; 33 USC 1317 CWA 307; 33 USC 1318 CWA 308; 33 USC 1342 CWA 402; 33 USC 1361 CWA 501

CFR Citation:

40 CFR 450

Legal Deadline:

NPRM, Judicial, March 31, 2002.

Final, Judicial, March 31, 2004.

Abstract:

The effluent guidelines will apply to construction activities associated with new development, as well as to those associated with re-development activities. The regulations will address storm water runoff from construction sites during the active phase of construction, as well as post-construction runoff. Construction activity is a major source of sediment and other pollutants discharged to the nation's waters. Industries potentially affected by this rulemaking include land developers, home builders, builders of commercial and industrial property, and other private and public sector construction site owners and operators. EPA will develop design criteria for erosion and sediment controls and storm water best management practices (BMPs). These requirements will be implemented in NPDES storm water permits issued to construction site owners and operators.

Statement of Need:

The 1998 National Water Quality Inventory Report to Congress indicates that 35 percent of assessed stream miles are not supporting their designated use. Siltation contributes to 38 percent of reported water quality problems in impaired rivers and streams. Construction and development projects contribute to stream impairment, because erosion and sediment controls (ESC) are not properly designed for active construction projects. The frequency of performance failure for ESCs is high due to inappropriate application, improper sizing, and lack of maintenance. For post construction projects, permanent hydromodification degrades 20 percent of the impaired river miles.

Summary of Legal Basis:

The Clean Water Act authorizes EPA to establish effluent limitations guidelines and standards to limit the pollutants discharged from point sources. In addition, EPA is bound by a provision in a consent decree entered in settlement of Natural Resources Defense Council et al. v. Reilly (D.D.C. No.89-2980) to propose regulations for this industry by March 31, 2002.

Alternatives:

The Clean Water Act directs EPA to establish a technology basis for the effluent guidelines. Limitations are based on the performance of specific technology levels, such as the best available technology economically achievable. EPA is considering a range of pollution control technologies and is also considering construction site size exemptions to reduce the impact on small dischargers.

Anticipated Cost and Benefits:

EPA expects effluent reduction benefits from more than 20,000 construction projects each year. The types of benefits associated with the effluent guidelines for construction and development involve improvements to surface water quality. The benefits from the guidelines will occur from improved control over stormwater and sediment discharged from construction sites. In addition, the guidelines will contribute to a reduction in stream bank erosion, the source of significant downstream sedimentation, flooding, and habitat destruction. The costs associated with this regulation will include capital costs to install best management practices (BMP) for active and post construction controls.

Risks:

EPA estimates that 2.2 million acres of agricultural and forest are developed each year for residential and nonresidential projects. The active construction processes require land clearing and grading that contribute to stormwater and sediment discharges. The impervious surfaces that are created within developed watersheds increase the stormwater volume and velocity and accelerate stream bank erosion and downstream sedimentation.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
Final Action	03/00/04	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal, State, Local, Tribal

Federalism:

Undetermined

Additional Information:

SAN No. 4280

For more information on construction and development visit Web site: NPRM-http://www.epa.gov/ost/guide/construction

Sectors Affected:

23 Construction; 23311 Land Subdivision and Land Development; 23321 Single Family Housing Construction; 23322 Multifamily Housing Construction; 23331 Manufacturing and Industrial Building Construction; 23332 Commercial and Institutional Building Construction; 23411 Highway and Street Construction; 23412 Bridge and Tunnel Construction; 23491 Water, Sewer, and Pipeline Construction; 23492 Power and Communication Transmission Line Construction; 23493 Industrial Nonbuilding Structure Construction; 23499 All Other Heavy Construction; 23593 Excavation Contractors; 23594 Wrecking and Demolition Contractors

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RIN: 2040–AD42

EPA

138. MINIMIZING ADVERSE ENVIRONMENTAL IMPACT FROM COOLING WATER INTAKE STRUCTURES AT EXISTING FACILITIES UNDER SECTION 316(B) OF THE CLEAN WATER ACT, PHASE 2

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

33 USC 1311 CWA sec 301; 33 USC 1316 CWA sec 306; 33 USC 1326 CWA sec 316; 33 USC 1361 CWA sec 501

CFR Citation:

40 CFR 9, 122, 123, 124 and 125

Legal Deadline:

NPRM, Judicial, February 28, 2002.

Final, Judicial, August 28, 2003.

Abstract:

This rulemaking affects, at a minimum, existing electricity generating facilities that employ cooling water intake structures and whose intake flow levels exceed a minimum threshold to be determined by EPA during the rulemaking. Section 316(b) of the Clean Water Act provides that any standard established pursuant to sections 301 or 306 of the Clean Water Act and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact. A primary purpose of the rulemaking is to minimize any adverse environmental impact that may be associated with the impingement and entrainment of fish and other aquatic organisms by cooling water intake structures. Impingement refers to trapping fish and other aquatic life on intake screens or similar devices where they may be injured or killed. Entrainment occurs when smaller aquatic organisms, eggs, and larvae are drawn into a cooling system, and then pumped back out, often with significant injury or mortality due to heat, physical stress or exposure to chemicals.

Statement of Need:

In the absence of national regulations, Permit Directors have implemented cooling water intake limitations incompletely and inconsistently and, in some cases, permit issuance or reissuance has been significantly delayed. Tons of fish and other aquatic organisms may be cropped annually as a result of cooling water intake structures at a single large facility. By court order, EPA must propose and take final action on this regulation. This regulation may have substantial ecological benefits.

Summary of Legal Basis:

This action is required under an amended consent decree in settlement of Riverkeeper Inc. et al. v. Whitman, 93 Civ. 0314 (AGS) (U.S.D.C., Southern District of New York, November 21, 2000).

Alternatives:

The analysis will cover various sizes and types of potentially regulated facilities. EPA is considering whether to regulate site-by-site, nationally, or on the basis of broad categories of water body types.

Anticipated Cost and Benefits:

Costs are not yet determined. A qualitative assessment of benefits at several large facilities indicates the potential for significant benefits when large intakes are controlled. Costs and benefits are generally expected to be smaller at facilities that use smaller amounts of cooling water.

Risks:

Cooling water intake structures may pose significant risks for aquatic ecosystems.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
Final Action	08/00/03	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Federal, State, Local, Tribal

Additional Information:

SAN No. 4474

Split from RIN 2040-AC34.

Sectors Affected:

21 Mining; 22111 Electric Power Generation; 22133 Steam and Air-Conditioning Supply; 311 Food Manufacturing; 3122 Tobacco Manufacturing; 313 Textile Mills; 321 Wood Product Manufacturing; 322 Paper Manufacturing; 324 Petroleum and Coal Products Manufacturing; 325 Chemical Manufacturing; 326 Plastics and Rubber Products Manufacturing; 327 Nonmetallic Mineral Product Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing; 335 Electrical Equipment, Appliance and Component Manufacturing; 336 Transportation Equipment Manufacturing; 61131 Colleges, Universities and Professional Schools

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RIN: 2040–AD62

EPA

FINAL RULE STAGE

139. NEW SOURCE REVIEW (NSR) IMPROVEMENT

Priority:

Other Significant

Legal Authority:

CAA as amended, title I

CFR Citation:

40 CFR 51.160 to 51.166; 40 CFR 52.21; 40 CFR 52.24

Legal Deadline:

None

Abstract:

This action is to revise the CAA new source review (NSR) regulations, which govern the preconstruction air quality review and permitting programs that are implemented by States and the Federal Government for new and modified major stationary sources of air pollution. This rulemaking will deregulate — that is, exclude from major NSR program requirements — those activities of sources that, with respect to air pollution, have little environmental impact. The rulemaking will encourage pollution control and pollution prevention projects at existing sources. Control technology requirements will be clarified with respect to when and how they apply to sources that are covered. The action seeks to more clearly define the appropriate roles and requirements of sources, permitting authorities and Federal land managers and EPA in the protection of air-quality-related values

in Federal Class I areas (i.e., certain national parks and wilderness areas) under the NSR regulations. State, local, and tribal permitting agencies will be given more flexibility to implement program requirements in a manner that meets their specific air quality management needs. Consequently, the rulemaking decreases the number of activities that are subject to NSR requirements and also expedites the permitting process for those sources that are subject to NSR. This action is designed to reduce the regulatory burden over all industries without respect to commercial size or capacity; therefore, it should have no detrimental impact on small businesses. This action also addresses several pending petitions for judicial review and administrative action pertaining to NSR applicability requirements and control technology review requirements. Regulations that will be affected are State implementation plan requirements for review of new sources and modifications to existing sources (40 CFR 51.160-166), the Federal prevention of significant deterioration program (40 CFR 52.21), and Federal restriction on new source construction (40 CFR 52.24). Finally, this NSR Improvement effort also includes a separate rulemaking (SAN 4390, Utility Sector New Source Review (NSR) Alternative Compliance Program), which will provide industries with the flexibility to focus more on existing pollution sources, with the goal of achieving as good or better environmental results than could be achieved by focusing strictly on new sources.

Statement of Need:

This effort was initiated to examine complaints from the regulated community that the current regulatory scheme is too complex, needlessly delays projects, and unduly restricts source flexibility. The goal of this effort is to address industry's concerns without sacrificing the environmental benefits embodied in the present approach; that is, protecting and improving local air quality, and stimulating pollution prevention and advances in control technologies. In 1996, this effort was considered far enough along to be proposed for public comment, and a proposed rule was issued. Thereafter, EPOA has conducted numerous meetings with interested stakeholders. More recently, the Agency has been conducting a review of the NSR program in response to a recommendation from the President's National Energy Policy Development Group. EPA is examning the impact of the NSR regulations, including administrative interpreataion and implementation, on investment in new utility and refinery generation capacity, energy efficiency and environmental protection. EPA plans to report to the President on the impact of NSR on the three areas mentioned above. At that time we will also make recommendations on whether improvements to the NSR program are needed to provide more flexibility and certainty, while ensuring protection of the environment. Many of the approaches proposed in 1996 to improve NSR are being considered as part of review recommended by the President's National Energy Policy Development Group.

Summary of Legal Basis:

There are no applicable statutory or judicial deadlines for the NSR reform rulemaking effort. However, the rule will address three outstanding settlement agreements: CMA Exhibit B, Top-down BACT, and the applicability test for modifications at utilities (WEPCO).

Alternatives:

In January 1996, EPA, as part of another regulatory streamling measure, merged portions of a separate rulemaking to implement the 1990 CAA Amendments with the Reform effort. The combined package was proposed in the Federal Register on July 23, 1996. On July 24. 1998, EPA issued another Federal Register notice seeking comment on two applicability provisions. On February 2-3, 1999, EPA convened a public meeting to listen to new stakeholder proposals for streamlining NSR applicability and control technology requirements. Stakeholder groups submitted written proposals during May and June 1999. Additionally, EPA conducted extensive stakeholder meetings as part of the NSR review recommended by the President's National Energy Policy Development Group. EPA continues to review the alternatives presented by interested stakeholders.

Anticipated Cost and Benefits:

From a cost perspective, the proposed rulemaking represents a decrease in applications and recordkeeping costs to industry of at least $13 million per year, as compared to the pre-existing program, based primarily on the fact that fewer sources will need to apply for major source permits. In addition, the cost to State and local agencies will be reduced by approximately $1.4 million per year. The Federal Government should realize a savings of approximately $116,000 per year. Additional cost reductions, which are difficult to quantify, will be realized due to the streamlining effect of the rulemaking on the permitting process, for example, the opportunity costs for shorter time periods between permit application and project completion and reduced uncertainty in planning for future source growth.

Risks:

This is a procedural rule applicable to a wide variety of source categories. Moreover, it applies to criteria pollutants for which NAAQS have been established. This action is considered environmentally neutral. However, any potential risks are considered in the NAAQS rulemaking from a national perspective.

Timetable:

Action	Date	FR Cite
NPRM	07/23/96	61 FR 38249
Final Action	03/00/02	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal, State

Additional Information:

SAN No. 3259

See also SAN 4390

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RIN: 2060–AE11

EPA

140. GROUNDWATER AND PESTICIDE MANAGEMENT PLAN RULE

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

7 USC 136(a) FIFRA sec 3; 7 USC 136(w)

CFR Citation:

40 CFR 152.170

Legal Deadline:

None

Abstract:

This regulation would establish Pesticide Management Plans (PMPs) as a new regulatory requirement for certain pesticides. Unless a State or tribal authority has an EPA-approved Plan specifying risk-reduction measures, use of the chemical would be prohibited. The rule would also specify procedures and deadlines for development, approval and modification of plans by States and tribal authorities.

Statement of Need:

EPA proposed to make specific pesticides subject to the provisions of EPA-approved Pesticide Management Plans (PMPs) because of their strong ground-water contamination potential. The rule will establish PMPs as an other regulatory restriction and define the minimum requirements and procedures for developing, approving and managing PMPs. Upon promulgation of this rule, the labels of the designated pesticides will be changed to require use in conformance with EPA-approved PMPs, and to prohibit sale and use in States or Indian Country without such approved Plans (after a period allowed for development and EPA review of these Plans). A PMP is a State's or tribe's commitment to EPA and the public to manage the use of a certain pesticide in such a way as to avoid unreasonable risks to ground water that would otherwise warrant cancellation of the use. An approved plan will embody a combination of educational, scientific, and regulatory tools to fulfill the State's ground-water protection goals, developed through a process of public participation. A plan will include a process for disseminating this information to pesticide users and marketers, and for monitoring the effectiveness of the plan through the development of appropriate indicators of environmental improvement and/or protection.

Summary of Legal Basis:

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) generally requires EPA to regulate pesticide use in such a manner as to prevent unreasonable risks to human health and the environment. Specifically, 7 USC 136a authorizes EPA to prescribe by regulation "other regulatory restrictions" for pesticides that may generally cause unreasonable risks to the environment (such as those that are associated with ground-water contamination potential) without those restrictions.

Alternatives:

This Rule is a direct outgrowth of the Pesticides and Ground Water Strategy, published in October 1991 (after extensive consultation with States, localities, and other affected stakeholders). In publishing the Strategy EPA conducted an analysis of three different alternatives to the regulation of pesticides' ground-water risks. One option was to rely exclusively on orthodox national-level pesticide regulatory tools (tantamount to a "baseline"), which would entail tolerating or remediating a certain level of ground-water contamination. At the other extreme, outright cancellation of candidate pesticides with significant ground-water contamination potential was considered to provide full assurance that no further ground water contamination would occur (taking into account the high economic losses due to the removal of the pesticide from the market). The analysis concluded that a "partnership" approach, providing a mechanism for more tailored management of pesticide use (i.e., taking into account the prevailing influence of highly variable hydrologic "sensitivity" factors), would be simultaneously a more effective and least costly alternative.

Anticipated Cost and Benefits:

EPA anticipates four categories of costs entailed in requiring PMPs. Federal Program Costs are those of administering ground-water protection activities, such as the review of State or tribal proposals. State Program Costs entail both capital and annual costs. Registrant and user impacts are the economic losses ascribed to the reduced use of the classified pesticides, as well as the costs (to the registrants) of complying with Federal, State and tribal provisions. Benefits accrue from the reduced levels of pesticide residues in ground water, and a corresponding reduction in: (1) human and ecological risk (see below); and (2) threats to the economic and intrinsic values of the ground-water resource. Significant uncertainties attend the quantification of these benefits, however. Under EO 12866, OMB designated this as an economically significant regulatory action under section 3(f) of the Executive order because of its potentially significant impact on a sector of the economy.

Risks:

The pesticides under consideration are those most frequently detected (sometimes at concentrations exceeding health-based reference points) of currently-registered Pesticides, and display physical and chemical characteristics associated with a ground-water contamination potential. The level of potential contamination (and related risk to both human health and the environment) represent a potential unreasonable risk to the environment in the absence of local management measures. State management measures are expected to avert these risks substantially. Because the Food Quality Protection Act (FQPA) requires that EPA consider drinking water as part of dietary exposure, the Agency is analyzing implications for this regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 33259
Notice of Availability regarding Metolachlor	02/23/00	65 FR 8925
Supplemental NPRM Notice of Availability and Extension of Comment Period	03/24/00	65 FR 15885
Final Action	09/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, State, Tribal

Additional Information:

SAN No. 3222

Sectors Affected:

9241 Administration of Environmental Quality Programs

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RIN: 2070–AC46

EPA

141. TSCA INVENTORY UPDATE RULE AMENDMENTS

Priority:

Other Significant

Legal Authority:

15 USC 2607(a) TSCA 8(a)

CFR Citation:

40 CFR 710

Legal Deadline:

None

Abstract:

This action would amend the current Toxic Substances Control Act (TSCA) Inventory Update Rule (IUR) to require chemical manufacturers to report to EPA data on exposure-related information and the industrial and consumer end uses of chemicals they produce or import. Currently, EPA requires chemical manufacturers to report the names of the chemicals they produce, as well as the locations of manufacturing facilities and the quantities produced. About 3,000 facilities reported data on about 9,000 unique chemicals during the last reporting cycle under the IUR. Data obtained would be used by EPA and others to: better understand the potential for chemical exposures; screen the chemicals now in commerce and identify those of highest concern; establish priorities and goals for their chemical assessment, risk management and prevention programs, and monitor the programs' progress; encourage pollution prevention by identifying potentially safer substitute chemicals for uses of potential concern; and enhance the effectiveness of chemical risk communication efforts. Additionally, EPA will consider other amendments to the IUR. These include removing the inorganic chemicals exemption providing the information to better assess and manage risks of inorganic chemicals; improving the linkages of IUR data to other data sources to enhance the data's usefulness; and altering the confidential business information (CBI) claim procedures to reduce the frequency of CBI claims, allowing the public greater access to relevant information on toxic chemicals. EPA has held meetings with representatives of the chemical industry, environmental groups, environmental justice leaders, labor groups, State governments and other Federal agencies to ensure public involvement in the TSCA Inventory Update Rule Amendments Project.

Statement of Need:

There are more than 75,000 chemicals in commerce listed on the TSCA Inventory. EPA faces the challenge of sorting through these chemicals to identify the ones of most concern, then taking the appropriate steps to mitigate unreasonable risks of those chemicals. The current IUR collects some key data, such as production volume, used to identify the chemicals of most concern. However, other exposure-related information is essential to more accurately identify the chemicals with the greater risk potential. Information on how a chemical is manufactured, processed, and used is needed to determine possible exposure routes and scenarios of these chemicals. This action will propose to modify the inventory update process to collect the exposure-related data necessary for an effective TSCA Inventory Screening program; the information will be collected in a format that makes the information easy to use to screen thousands of chemicals. A national report will make data collected via the amended IUR publicly available. This report will not contain any information claimed to be confidential.

Summary of Legal Basis:

Toxic Substances Control Act (TSCA) Section 8.

Alternatives:

Although data on the use of specific chemicals can be found in varying sources, there is no national, comprehensive, current searchable database providing consistent information on a wide variety of chemicals. EPA has examined alternate sources of the information including state information, Federal databases and privately collected information. EPA can find no information comparable to the data anticipated to be collected through amendments to the IUR.

Anticipated Cost and Benefits:

EPA anticipates costs of this action to be well under $100 million for the first year of reporting. Total costs of this action depend on the amendments to IUR that are contained in a proposed rule. The amended IUR will assist EPA in screening chemicals in commerce and identifying those of highest concern; establishing priorities and goals for chemical assessment, risk management and prevention programs and to monitor their progress; identifying potentially safer substitute chemicals for uses of potential concern; and enhancing the effectiveness of chemical risk communication efforts.

Risks:

This action will secure data on describing how chemicals in commerce are used; this data is essential to determine possible exposure routes and scenarios. Using these exposure estimates, EPA's toxics program will be able to better focus on chemical risks of most concern.

Timetable:

Action	Date	FR Cite
NPRM	08/26/99	64 FR 46771
Notice Comment Extension	10/22/99	64 FR 56998
Final Action	02/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

Additional Information:

SAN No. 3301

Sectors Affected:

324 Petroleum and Coal Products Manufacturing; 325 Chemical Manufacturing

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RIN: 2070–AC61

EPA

142. CHEMICAL RIGHT-TO-KNOW INITIATIVE; HIGH PRODUCTION VOLUME (HPV) CHEMICALS

Priority:

Other Significant

Legal Authority:

15 USC 4 TSCA; 15 USC 8 TSCA; 42 USC 313 TRI; 7 USC 136 FIFRA

CFR Citation:

40 CFR 700 et seq

Legal Deadline:

None

Abstract:

The Chemical RTK Initiative was established in 1998 in response to the finding that most commercial chemicals have very little, if any, publicly available toxicity information on which to make sound judgments about potential risks. There are three key components to this initiative, each of which is being implemented by EPA. These are: collecting and making public screening level toxicity data for 2,800 widely used commercial chemicals; additional health effects assessment for chemicals to which children are substantially exposed; and the listing and lowering of thresholds for persistent, bioaccumulative, toxic chemicals reported to the Toxic Release Inventory (TRI). This Initiative will involve several separate activities, with any regulatory related actions included as separate entries in the Regulatory Agenda.

Statement of Need:

The Chemical Right to Know Initiative grew out of the finding of an EPA study that there is very little basic publicly available information on the health and environmental effects of even the most widely used commercial chemicals. Less than 7% of the 2,800 high production volume chemicals have a full set of baseline testing information readily available, while almost 50% have no public information whatsoever. The Chemical Right to Know Initiative is designed to close these information gaps, and to make both new and existing information available to the public.

Summary of Legal Basis:

To the extent that rule-making is required to implement the chemical Right-to-Know Initiative, EPA will utilize the testing authorities available under TSCA and the chemical reporting authorities of EPCRA Section 313 (the Toxics Release Inventory).

Alternatives:

The Chemical Right-to-Know Initiative will rely on a combination of partnership programs and rule-writing to accomplish its goals. For instance, the HPV Challenge Program has asked industry to voluntarily provide both new and existing data on high production volume chemicals, while a series of HPV test rules would require testing of specific HPV chemicals of concern.

Anticipated Cost and Benefits:

The benefits of the Chemical Right-to-Know Initiative are substantial, as no one in the environmental community — whether in industry, government or the public — can make reasoned risk management decisions in the absence of reliable health and environmental information. The cost of baseline testing is well-established, and runs about $200,000 per chemical for a full set of tests, for those chemicals on which data do not already exist.

Risks:

None.

Timetable:

Action	Date	FR Cite
Notice Data Collection and Development on HPV Chemicals	12/26/00	65 FR 81686
Initiative Completed HPV Data to be received by 06/2005.	06/00/05	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Federal

Additional Information:

SAN No. 4176

See also items identified under the following RINs 2070-AD09; 2070-AD38; RIN 2070-AD16; RIN 2070-AC27.

Sectors Affected:

32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AD25

EPA

143. • PLANT INCORPORATED PROTECTANTS (PIPS); EXEMPTION FOR THOSE BASED ON VIRAL COAT PROTEINS

Priority:

Other Significant

Legal Authority:

21 USC 346(a) et seq; 7 USC 136 et seq

CFR Citation:

40 CFR 174

Legal Deadline:

None

Abstract:

EPA is considering the addition of plant-incorporated protectants based on viral coat proteins to its plant-incorporated protectants exemptions at

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40 CFR 174. Substances which plants produce for protection against pests, and the genetic material necessary to produce them, are pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), if humans intend these substances to "prevent, repel or mitigate any pest." These substances are also "chemical pesticide residues" under the Federal Food, Drug, and Cosmetic Act (FFDCA). EPA has determined that it will no longer issue split registrations for biotechnology products. Therefore, EPA is concurrently considering the exemption of plant-incorporated protectants derived through genetic engineering from sexually compatible plants from the requirement of a tolerance under section 408 of the FFDCA. Due to public interest and new scientific information, additional public comment on this proposal, originally published in 1994, was requested in a recent Supplemental Proposal (66 FR 37855).

Statement of Need:

Publication of the policy document "Coordinated Framework for the Regulation of Biotechnology" established a framework using existing statutes for inter-Agency regulation of biotechnology products. EPA began the process of establishing an internal framework for regulation of biotechnology under its product-specific statutes through the finalization of the first set of plant-incorporated protectants rules. This rule is necessary to continue the development of and further define EPA's framework for regulation of products derived through biotechnology.

Summary of Legal Basis:

Under FIFRA (7 USC 136 et seq) and section 408 of the FFDCA (21 USC 346a et seq), EPA has the authority to require the registration of pesticides and to establish tolerances, or exemptions from the requirement of a tolerance as appropriate, of pesticidal residues in food. As EPA will no longer issue split registrations for pesticides, these decisions must be considered simultaneously.

Alternatives:

The choice is either to provide an exemption or not to. There are no other alternatives to evaluate.

Anticipated Cost and Benefits:

The anticipated costs and benefits are based on those associated with the recently finalized exemption for PIPs derived through conventional breeding from sexually compatible plants. No costs are associated with this action. Benefits would include a reduction in regulatory oversight and the use of associated resources.

Risks:

This rule is an exemption, so potential risk will be examined to ensure implementation would not present a risk to public health or to the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60496
Supplemental NPRM	07/22/96	61 FR 37891
Supplemental NPRM	05/16/97	62 FR 27132
Supplemental NPRM Request for Comment on Alternate Name	04/23/99	64 FR 19958
Supplemental NPRM Seeks Additional Comment Based on NAS Report	07/19/01	66 FR 37855
FFDCA Final Action	06/00/02	
FIFRA Final Action	06/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

Federal

Additional Information:

SAN No. 4602

This action is a continuation of RIN 2070-AC02, which now contains several completed actions.

Sectors Affected:

32532 Pesticide and Other Agricultural Chemical Manufacturing; 111 Crop Production; 54171 Research and Development in the Physical Sciences and Engineering Sciences

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RIN: 2070–AD49

EPA

144. • PLANT-INCORPORATED PROTECTANTS (PIPS); EXEMPTION FOR THOSE DERIVED THROUGH GENETIC ENGINEERING FROM SEXUALLY COMPATIBLE PLANTS

Priority:

Other Significant

Legal Authority:

7 USC 136 et seq; 21 USC 346a et seq

CFR Citation:

40 CFR 174

Legal Deadline:

None

Abstract:

EPA is considering the addition of plant-incorporated protectants derived through genetic engineering from sexually compatible plants to its plant-incorporated protectants exemptions at 40 CFR 174. Substances which plants produce for protection against pests, and the genetic material necessary to produce them, are pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), if humans intend these substances to "prevent, repel or mitigate any pest." These substances are also "chemical pesticide residues" under the Federal Food, Drug, and Cosmetic Act (FFDCA). EPA has determined that it will no longer issue split registrations for biotechnology products. Therefore, EPA is concurrently considering the exemption of plant-incorporated protectants derived through genetic engineering from sexually compatible plants from the requirement of a

tolerance under section 408 of the FFDCA. Due to public interest and new scientific information, additional public comment on this proposal, originally published in 1994, was requested in a recent supplemental proposal (66 FR 37855).

Statement of Need:

Publication of the policy document "Coordinated Framework for the Regulation of Biotechnology" established a framework using existing statutes for interagency regulation of biotechnology products. EPA began the process of establishing an internal framework for regulation of biotechnology under it's product-specific statutes through the finalization of the first set of plant-incorporated protectants rules. This rule is necessary to continue the development of and further define EPA's framework for regulation of products derived through biotechnology.

Summary of Legal Basis:

Under FIFRA (7USC 136 et seq) and section 408 of the FFDCA (21 USC 346a), EPA has the authority to require the registration of pesticides and to establish tolerances, or exemptions from the requirement of a tolerance as appropriate, of pesticidal residues in food. As EPA will no longer issue split registrations for pesticides, these decisions must be considered simultaneously.

Alternatives:

The choice is either to provide an exemption or not to. There are no other alternatives to evaluate.

Anticipated Cost and Benefits:

The anticipated costs and benefits are based on those associated with the recently finalized exemption for PIPs derived through conventional breeding from sexually compatible plants. No costs are associated with this action. Benefits would include a reduction in regulatory oversight and the use of associated resources.

Risks:

This rule is an exemption, so potential risk will be examined to ensure implementation would not present a risk to public health or to the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60496
Supplemental NPRM	07/22/96	61 FR 37891
Supplemental NPRM	05/16/97	62 FR 27132
Supplemental NPRM Request for Comment on Alternate Name	04/23/99	64 FR 19958
Supplemental NPRM Extension of Comment Period	08/20/01	66 FR 43552
Final Action	09/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

Federal

Additional Information:

SAN No. 4611

This action is a continuation of the action described in RIN 2070-AC02. Since several pieces of that action are now finalized, the Agency is spliting this piece into a separate Agenda entry so that it can continue to be tracked separately.

Sectors Affected:

32532 Pesticide and Other Agricultural Chemical Manufacturing; 111 Crop Production; 54171 Research and Development in the Physical Sciences and Engineering Sciences

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RIN: 2070–AD55

EPA

145. REQUIREMENTS FOR ZINC FERTILIZER MADE FROM RECYCLED HAZARDOUS SECONDARY MATERIALS

Priority:

Other Significant

Legal Authority:

42 USC 1006 et seq

CFR Citation:

40 CFR 261; 40 CFR 266; 40 CFR 268; 40 CFR 271

Legal Deadline:

NPRM, Judicial, November 15, 2000, Settlement agreement met deadline.

Final, Judicial, May 15, 2002, Settlement agreement.

Abstract:

This rulemaking is intended to revise the current RCRA regulations that apply to recycling of hazardous wastes in the manufacture of zinc fertilizers. Specifically, it is intended to establish a more consistent application of these recycling requirements to zinc fertilizer products, to establish a set of standards for contaminants in RCRA-regulated zinc fertilizers that are more appropriate to fertilizers and are protective of human health and the environment, and to specify more appropriate, protective conditions for management of zinc-bearing hazardous secondary materials prior to recycling. These regulatory revisions are expected to directly affect companies that manufacture zinc fertilizers from hazardous secondary materials, and is likely to benefit such manufacturers that are small businesses by removing certain regulatory disincentives to legitimate recycling activities.

Statement of Need:

This rulemaking responds to concerns expressed by industry, environmental groups and state agencies regarding the need to amend current RCRA regulations that apply to zinc fertilizers made from recycled hazardous wastes. The rule is expected to encourage legitimate recycling of zinc-bearing hazardous wastes, reduce costs, and establish more appropriate standards for these products.

Summary of Legal Basis:

This rulemaking is subject to a settlement agreement with the Sierra Club, The Washington Toxics Coalition, and the Environmental Technology Council. The agreement was signed on June 20, 2000.

Alternatives:

A number of regulatory alternatives are being examined in the context of reaching final Agency decisions for the final rule.

Anticipated Cost and Benefits:

The economic impact analysis prepared for the proposed rule estimated net cost savings to industry of several million dollars from the rule. The analysis is being refined based on comments received on the proposal and other information.

Risks:

The rulemaking will result in lower levels of contaminants, such as lead and cadmium, in zinc fertilizers made from hazardous wastes, with corresponding reductions in potential risks.

Timetable:

Action	Date	FR Cite
Final Action	05/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

Federal, State

Additional Information:

SAN No. 4208

Sectors Affected:

32532 Pesticide and Other Agricultural Chemical Manufacturing; 32531 Fertilizer Manufacturing; 331111 Iron and Steel Mills; 331419 Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum); 331492 Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum); 562112 Hazardous Waste Collection

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RIN: 2050–AE69

EPA

146. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADON

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal goverments.

Legal Authority:

42 USC 300f et seq; SDWA 1412

CFR Citation:

40 CFR 141; 40 CFR 142

Legal Deadline:

NPRM, Statutory, August 6, 1999.

Final, Statutory, November 2, 2000.

Other, Statutory, February 6, 1999, Publish radon health risk reduction and cost analysis.

Abstract:

EPA proposed new regulations for radon in drinking water which will provide states flexibility in how to manage the health risks from radon, in both drinking water and in indoor air. States would be able to focus their efforts on the highest radon risks to the public - in indoor air - while reducing the highest risks from radon in drinking water. Breathing indoor radon in homes is the primary public health risk from radon, contributing to about 15,000-22,000 lung cancer deaths each year in the United States, according to a landmark report by the National Academy of Sciences. That makes radon in indoor air the second leading cause of lung cancer in the United States. Based on a NAS report, EPA estimates that radon in drinking water causes about 168 cancer deaths per year, of which about 89 percent are lung cancer from breathing radon released from water. The remaining 11 percent of the risk is for stomach cancer from drinking radon-containing water.

The proposal is based on the unique framework outlined in the 1996 Safe Drinking Water Act (SDWA). The proposed new regulation will provide two options to states and water systems for reducing public health risks from radon. Under the first option, states can choose to develop enhanced state programs to address the health risks from indoor radon while water systems reduce radon levels in drinking water to at or below the higher, alternative maximum contaminant level MCL proposed at 4,000 pCi/L (picoCuries per liter, a standard unit of radiation), ensuring protection from the highest risks from radon in drinking water. EPA is encouraging the states to adopt this approach as the most cost-effective way to achieve the greatest radon risk reduction. If a state does not elect this option, the second option would require water systems in that state to either reduce radon in drinking water levels to the MCL of 300 pCi/L, or to develop a local indoor radon program and reduce levels in drinking water to 4000 pCi/L. Those systems initially at the MCL or lower will not need to treat their water for radon.

Statement of Need:

Radon in drinking water increases risk to public health, both from inhalation of radon discharged through normal water use, such as showering, and from ingestion of water.

Summary of Legal Basis:

Pursuant to the Safe Drinking Water Act, as amended in 1996 [sec. 1412 (b)(13)], EPA is required to: (1) Withdraw the 1991 proposed radon in drinking water rule; (2) Work with the National Academy of Sciences to conduct a risk assessment for radon in drinking water, and an assessment of the health risk reduction benefits associated with various mitigation methods of reducing radon in indoor air; (3) Publish a radon health risk reduction and cost analysis for possible radon Maximum Contaminant Levels (MCLs) for public comment, by February, 1999; (4) Propose a Maximum Contaminant Level Goal (MCLG) and National Primary Drinking Water Regulation (NPDWR) for radon by August, 1999; and (5) Publish an MCLG and Final NPDWR one year after proposal. In addition, if EPA promulgates an MCL more stringent than necessary to reduce the contribution to radon in indoor air from drinking water to a concentration that is equivalent to the national average concentration of radon in outdoor air, the Agency must establish an alternative MCL (AMCL). The AMCL is to be set at a level which would result in a contribution of radon from drinking water to radon levels in indoor air equivalent to the national average concentration of radon in outdoor air. If an alternative MCL is established, EPA must publish criteria for States to develop multimedia radon mitigation programs. EPA shall approve State multimedia mitigation programs if they are expected to achieve equal or greater health risk reduction benefits than would be achieved through compliance with the MCL. If EPA approves a State multimedia mitigation program, public water supply systems within the State may comply with the AMCL. If a State does not have an approved multimedia mitigation program, any public water system may submit a program for approval by EPA

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according to the same criteria, conditions, and approval process that would apply to a State program. EPA shall evaluate multimedia mitigation programs every 5 years.

Alternatives:

EPA considered a range of MCL options for radon in drinking water in the Health Risk Reduction and Cost Analysis (HRRCA) (published in February 1999). The primary alternative is for a State or public water system to develop a multimedia mitigation program in order for it to comply with the AMCL. The National Academy of Sciences provided information on key factors (the water to air transfer factor and the national average outdoor radon level) that EPA used in setting the proposed AMCL.

Anticipated Cost and Benefits:

The total annual costs of compliance with the MCL of 300 pCi/l for radon in drinking water and the associated information collection and reporting requirements is estimated at $341-408 million. In complying with 300 pCi/l, an estimated 62.0 fatal and 3 non-fatal cancer cases are avoided each year. Because EPA expects that most States and systems will choose to comply with the alternative maximum contaminant level (AMCL) of 4,000 pCi/l and implement a Multi-Media Mitigation (MMM) program, EPA expects the total annual costs of compliance with the radon rule to be significantly less than $408 million. If most States and systems comply with the AMCL and implement a MMM program, the total annual costs of compliance are estimated at approximately $86 million. The quantifiable benefits of the health risk reduction are estimated to be $360 million for either implementation scenario. EPA expects compliance with the AMCL and implementation of a MMM program to achieve equal or greater risk reduction than is expected with strict compliance with the MCL.

Risks:

Radon is a naturally occurring volatile gas formed from the normal radioactive decay of uranium. It is colorless, odorless, tasteless, chemically inert, and radioactive. Exposure to radon and its progeny is believed to be associated with increased risks of several kinds of cancer. When radon or its progeny are inhaled, lung cancer accounts for most of the total incremental cancer risk. Ingestion of radon in water is suspected of being associated with increased risk of tumors of several internal organs, primarily the stomach. As required by the SDWA, as amended, EPA arranged for the National Academy of Sciences (NAS) to assess the health risks of radon in drinking water. The NAS Report represents a comprehensive assessment of scientific data gathered to date on radon in drinking water. The report, in general, confirms earlier EPA scientific conclusions and analyses of radon in drinking water.

The NAS Report is one of the most important inputs used by EPA in its regulatory impact analysis. EPA has used the NAS's assessment of the cancer risks from radon in drinking water to estimate both the health risks posed by existing levels of radon in drinking water and also the cancer deaths prevented by reducing radon levels.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM	07/18/91	56 FR 33050
Notice	02/26/99	64 FR 9560
Second NPRM	11/02/99	64 FR 59245
Notice	06/23/00	65 FR 39113
Final Action	03/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Federal, State, Local, Tribal

Federalism:

This action may have federalism implications as defined in EO 13132.

Additional Information:

SAN No. 2281

Sectors Affected:

22131 Water Supply and Irrigation Systems

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RIN: 2040–AA94

EPA

147. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ARSENIC AND CLARIFICATIONS TO COMPLIANCE AND NEW SOURCE CONTAMINANT MONITORING

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal goverments and the private sector.

Legal Authority:

42 USC 300f SDWA 1412

CFR Citation:

40 CFR 141(Revision); 40 CFR 142 (Revision)

Legal Deadline:

NPRM, Statutory, January 1, 2000.

Final, Statutory, June 22, 2001.

Abstract:

On January 22, 2001, EPA published a final Arsenic Rule (66 FR 6975). On March 23, 2001, EPA published a notice delaying the effective date of the final Arsenic Rule from March 23, 2001, to May 22, 2001 (66 FR 16134), in accordance with a January 20, 2001, memorandum from the Assistant to the President and Chief of Staff, entitled Regulatory Review Plan, (published in the Federal Register on January 24, 2001). The 60-day delay in effective date was necessary to give Agency officials the opportunity for further review and to consider the new rule. On May 22, 2001, EPA published a rule that further delayed the effective date of the final Arsenic Rule from May 22, 2001, to February 22, 2002 (66 FR

20579). As its next step in the process of reviewing the final Arsenic Rule, on July 19, 2001, EPA published a proposal for comment on a range of arsenic maximum contaminant level options from 3 ppb to 20 ppb to facilitate Agency review of the January 22, 2001 rule.

Statement of Need:

The 1996 amendments to the Safe Drinking Water Act require EPA to determine whether the costs of regulation would justify the benefits, including consideration of nonquantifiable benefits. In addition, EPA must determine the incremental costs and benefits of alternatives considered that do not include what would occur from compliance with other proposed or final regulations. If the costs do not justify the benefits, the Administrator may choose to raise the MCL to a level still protective of health at which costs do justify the benefits. The 1999 report issued by the National Academy of Sciences (NAS) definitely implicated inorganic arsenic's effects on bladder, lung, and skin cancer. Based on data that existed at that time, NAS urged EPA to lower the drinking water standard as soon as possible.

Summary of Legal Basis:

1412(b)(12) CERTAIN CONTAMINANTS.

(A) ARSENIC.: i) SCHEDULE AND STANDARD.— notwithstanding the deadlines set forth in paragraph (1), the Administrator shall promulgate a national primary drinking water regulation for arsenic pursuant to this subsection, in accordance with the schedule established by this paragraph.

(ii) STUDY PLAN.— Not later than 180 days after the date of enactment of this paragraph, the Administrator shall develop a comprehensive plan for study in support of drinking water rulemaking to reduce the uncertainty in assessing health risks associated with exposure to low levels of arsenic. In conducting such study, the Administrator shall consult with the National Academy of Sciences, other Federal agencies, and interested public and private entities.

(iii) COOPERATIVE AGREEMENTS.— In carrying out the study plan, the Administrator may enter into cooperative agreements with other Federal agencies, State and local governments, and other interested public and private entities.

(iv) PROPOSED REGULATIONS.— The Administrator shall propose a national primary drinking water regulation for arsenic not later than January 1, 2000.

(v) FINAL REGULATIONS.— Not later than January 1, 2001, after notice and opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for arsenic.

(vi) AUTHORIZATION.— There are authorized to be appropriated $2,500,000 for each of fiscal years 1997 through 2000 for the studies required by this paragraph.

Also see: 1412(b)(4)(E)(ii) for listing small system technologies 1412(b)(4)(C) for requiring analysis of whether costs justify benefits 1412(b)(3)(C)(i) for other requirements for the cost-benefit analyses 1412(b)(15) for small system variance technologies, if, considering the source water, no treatment technology is listed.

Alternatives:

EPA proposed an MCL of 5 ug/L for arsenic and requested comment on MCL options of 3, 10, and 20 ug/L. EPA provided benefit analyses of each of these alternatives, measured as reducing drinking water arsenic from the current standard of 50 ug/L. This proposal lists affordable technologies for small systems, as required by the 1996 amendments to the statute. Because EPA identified affordable compliance technologies for all small system sizes, EPA did not list small system variance technologies.

Anticipated Cost and Benefits:

As discussed in the January 2001 Arsenic Rule, at a seven percent discount rate, the Arsenic Rule would be expected to have a total annualized cost of $792.1 million for a MCL of 3 ug/L, $471.7 million for a MCL 5 ug/L, $205.6 million for a MCL of 10 ug/L, and $76.5 million for a MCL of 20 ug/L. The Arsenic Rule would have total health benefits as a result of avoided bladder and lung cancer cases of approximately $213.8 to $490.9 million if the MCL were set at 3 ug/L, $191.1 to $355.6 million if the MCL were set at 5 ug/L, $139.6 to $197.7 million if the MCL were set at 10 ug/L, and $66.2 to $75.3 million if the MCL were set at 20 ug/L. These monetized health benefits of reducing arsenic exposures in drinking water are attributable to the reduced incidence of fatal and non-fatal bladder cancer and lung cancer. Under baseline assumptions (no control of arsenic exposure), there are annual fatal cancers and non-fatal cancers associated with arsenic exposures through CWSs. At an arsenic MCL level of 3 ug/L, an estimated 33 to 74 fatal cancers and 25 to 64 non-fatal cancers per year are prevented; at a arsenic level of 5 ug/L, an estimated 29 to 54 fatal cancers and 22 to 47 non-fatal cancers per year are prevented; at 10 ug/L, 21 to 30 fatal and 16 to 26 non-fatal cancers per year are prevented; and at 20 ug/L, 10 to 11 fatal and approximately 9 non-fatal cancers per year are prevented. In addition to quantifiable benefits, many potential non-quantifiable benefits associated with reducing arsenic exposures in drinking water have been identified. These potential benefits were not able to be quantified for the January 2001 Rule, but may include reduced risk of skin cancer and numerous non-cancerous health effects. In addition, certain non-health related benefits may exists, such as ecological improvements and an increase in consumers' perception of drinking water. The cost/benefit analysis for the Arsenic Rule is being revised.

Risks:

According to the 1999 report issued by the National Academy of Sciences, the risk of male bladder cancer at the current standard is 1 to 1.5 additional cancers per thousand people, or 1-1.5x10-3, based on a linear approach.

Timetable:

Action	Date	FR Cite
Plan Arsenic Research Topics for Funding	12/24/96	61 FR 67800
NPRM	06/22/00	65 FR 38888
Final Action	01/22/01	66 FR 6975
Final Action - Delay of Effective Date	03/23/01	66 FR 16134
NPRM - Further Delay of Effective Date	04/23/01	66 FR 20580
Final Action - Further Delay of Effective Date	05/22/01	66 FR 28342
Second NPRM	07/19/01	66 FR 37617
Notice Result of Agency Review	10/05/01	66 FR 50961
Final Action	02/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

Federal, State, Local, Tribal

Federalism:

This action may have federalism implications as defined in EO 13132.

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Additional Information:

SAN No. 2807

Sectors Affected:

22131 Water Supply and Irrigation Systems

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EPA

148. CROSS-MEDIA ELECTRONIC REPORTING (ER) AND RECORDKEEPING RULE

Priority:

Economically Significant

Legal Authority:

PL 104-13; PL 105-277

CFR Citation:

40 CFR 3 (New); 40 CFR 9 (Revision)

Legal Deadline:

None

Abstract:

The Cross-Media Electronic Reporting (ER) and Recordkeeping Rule will provide a uniform legal framework for paperless electronic reporting and recordkeeping, including electronic signature/ certification, across EPA's environmental compliance programs. The rule will remove current legal requirements for paper and provide for mechanisms to assure the validity and authenticity of electronic documents and associated electronic signatures, whether transmitted as reports or maintained as records. This rule is important because of the Government Paperwork Elimination Act of 1998 requirements and the Administrator's Reinventing Environmental Information (REI) Action Plan goal of universal ER availability by 2003.

Statement of Need:

EPA is required by the Government Paperwork Elimination Act (GPEA) of 1998 to provide electronic reporting and recordkeeping as an option to its regulated community by 2003. To meet this deadline and comply with GPEA, the framework for electronic reporting must be in place by that time. The CROMERR rule would establish a framework to remove obstacles to electronic reporting and recordkeeping under most EPA regulations. Electronic government is also a capstone of the President's Management Agenda.

Summary of Legal Basis:

(1) Government Paperwork Elimination Act (GPEA) of 1998. GPEA requires Federal agencies to provide electronic reporting and recordkeeping to its regulated community by 2003.

(2) Electronic Signature National and Global Commerce Act (ESIGN), June 30, 2000. This law eliminates legal barriers to the use of electronic technology to form and sign contracts, collect and store documents, and send and receive notices and disclosures. ESIGN applies broadly to Federal statutes and regulations governing private sector (including business-to-business and business-to-consumer) activities. In general, it does not cover activities that are primarily governmental, which are governed by GPEA. ESIGN begins to take effect on October 1, 2000.

Alternatives:

Two alternatives to an EPA cross-media rule that applies to most compliance reports under 40 CFR, would include: (1) a business-as-usual approach to electronic recordkeeping with additional rulemaking to cover electronic reporting; or (2) individual rulemakings by each of the program offices. EPA's past experience with such rulemakings has demonstrated that such a course of action may be less effective in bringing EPA into compliance with GPEA by the 2003 deadline.

Risks:

The risks are undetermined.

Timetable:

Action	Date	FR Cite
NPRM	08/31/01	66 FR 46161
Final Action	04/00/03	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Federal, State, Local, Tribal

Procurement:

This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information:

SAN No. 4270

Fomerly listed as RIN 2020-AA41.

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RIN: 2025–AA07

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Statement of Regulatory and Deregulatory Priorities

The Equal Employment Opportunity Commission (EEOC) enforces six statutes prohibiting discrimination in employment. Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination on the basis of race, color, sex, religion, or national origin. The Equal Pay Act of 1963, as amended, prohibits the payment of different wages to women and men working in the same establishment, performing equal work that requires equal skill, effort, and responsibility under similar working conditions, unless the pay differential is based on a factor(s) other than sex. The Age Discrimination in Employment Act of 1967 (ADEA), as amended, prohibits employment discrimination on the basis of age against people age 40 and older. Title I of the Americans with Disabilities Act of 1990 (ADA), as amended, prohibits employment discrimination against qualified individuals with disabilities. Sections 501 and 505 of the Rehabilitation Act of 1973, as amended, prohibit Federal agencies from discriminating in employment against qualified individuals with disabilities and require agencies to accommodate the special needs of persons with disabilities. The Government Employee Rights Act of 1991 extends protections against employment discrimination to certain employees who were not previously covered.

The mission of the Agency is to ensure equality of opportunity by vigorously enforcing Federal legislation prohibiting discrimination in employment. Enforcement is accomplished through investigation, conciliation, alternative methods of dispute resolution, litigation, coordination, and regulation, as well as by education, policy research, and technical assistance. In pursuing its mission of eradicating discrimination in the workplace, the Commission intends that its enforcement be certain and predictable and that its remedies be preventive and remedial in scope.

One important step toward these ends is to make sure that employees, employers, and union representatives understand their rights and obligations under the Federal laws prohibiting employment discrimination. In accordance with the President's national regulatory principles, EEOC develops regulations necessary to inform employees and employers of their rights and obligations under the statutes it enforces. EEOC further educates the public on an ongoing and proactive basis through interpretive guidelines, policy documents, management directives, and other public guidance programs.

EEOC is currently considering one significant action of a regulatory nature. It has been published for public comment.

The significant action of a regulatory nature that the Commission proposes is amendment of its regulation governing Federal sector equal employment opportunity, 29 CFR 1614.203, to reflect the 1992 amendment of section 501 of the Rehabilitation Act of 1973. Congress amended section 501 to state that the nondiscrimination standards of title I of the Americans with Disabilities Act apply to complaints under section 501 of the Rehabilitation Act. The proposed rule is titled "Federal Sector Equal Employment Opportunity" and was published for public comment (NPRM) on March 1, 2000, 65 FR 11019.

(Consistent with section 4(c) of Executive Order 12866, this statement was reviewed and approved by the Chair of the Agency. The statement has not been reviewed or approved by the other members of the Commission).

EEOC

FINAL RULE STAGE

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149. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

Priority:

Other Significant

Legal Authority:

PL 102-569, The Rehabilitation Act Amendments of 1992; 42 USC 2000e-16; 29 USC 794a

CFR Citation:

29 CFR 1614

Legal Deadline:

None

Abstract:

The Commission proposes to change its Federal sector equal employment opportunity regulations to implement the Rehabilitation Act Amendments of 1992. The 1992 amendments provide that the standards used to determine if title I of the Americans with Disabilities Act has been violated will apply to complaints of nonaffirmative action employment discrimination under section 501 of the Rehabilitation Act.

Statement of Need:

The Commission promulgated its latest regulation under section 501 of the Rehabilitation Act in April 1992, several months before Congress enacted the 1992 Rehabilitation Act Amendments. The Commission is thus proposing to amend its section 501 regulation, found at 29 CFR 1614.203, to implement the Rehabilitation Act Amendments.

Summary of Legal Basis:

Pursuant to sections 501 and 505 of the Rehabilitation Act, the Commission is authorized to issue such regulations as it deems necessary to carry out its responsibilities under the Act. The proposed regulatory revisions are not required by statute or court order.

Alternatives:

The Commission has reviewed comments and has considered suggested alternatives in developing this regulatory proposal.

Anticipated Cost and Benefits:

The proposed regulatory changes will enhance enforcement of the statutory requirements. Federal agencies and individuals will have a clearer understanding of their respective obligations and rights under the Rehabilitation Act. It is not anticipated that this proposal will result in increased costs.

Risks:

The proposed regulatory changes will lessen the risk of noncompliance with statutory requirements by identifying and providing detailed guidance on the appropriate legal standards governing Federal sector claims of nonaffirmative action employment discrimination under section 501 of the Rehabilitation Act. This proposal does not address risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	03/01/00	65 FR 11019
NPRM Comment Period End	05/01/00	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required:

No

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Government Levels Affected:

Federal

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BILLING CODE 6570–01–S

GENERAL SERVICES ADMINISTRATION (GSA)

Statement of Regulatory and Deregulatory Priorities

The General Services Administration (GSA) establishes Governmentwide policy for construction and operation of buildings, procurement and distribution of supplies, travel and transportation, acquisition, information technology and electronic commerce, management of advisory committees, and utilization and disposal of real and personal property.

GSA's fiscal year 2002 regulatory priorities are to complete production of the Federal Management Regulation (FMR) and to finish rewriting the Federal Travel Regulation. The FMR is being written to replace the Federal Property Management Regulations (FPMR); as each part of the FMR is published, the corresponding parts of the FPMR will be removed.

The FTR and FMR are intended to make GSA's regulations consistent and sensible and to limit the regulatory burden on Government officials and the public. GSA is rewriting them in a question and answer format to make them easier to read and understand, and non-regulatory guidance is being moved into other, less formal publications such as customer service guides.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Statement of Regulatory Priorities

The National Aeronautics and Space Administration (NASA) was established by the National Aeronautics and Space Act of 1958 (the Act), 42 United States Code (U.S.C.) 2451 *et seq.*, which laid the foundation for NASA's mission. The Act authorizes NASA, among other things, to conduct space activities devoted to peaceful purposes for the benefit of humankind; to preserve the leadership of the United States in aeronautics and space science and technology; and to expand knowledge of the Earth and space. To carry out this mission, NASA is authorized to conduct research for the solution of problems of flight within and outside the Earth's atmosphere; to develop, construct, test, and operate aeronautical and space vehicles for research purposes; to operate space transportation systems, including the Space Shuttle and the International Space Station; and to perform such other activities as may be required for the exploration of space. NASA conducts activities required for the exploration of space with human-tended, robotic, and expendable vehicles and arranges for the most effective utilization of the scientific and engineering resources of the United States with other nations engaged in aeronautical and space activities for peaceful purposes.

NASA's mission, as documented in its 2000 Strategic Plan, is to advance and communicate scientific knowledge and understanding of the Earth, the solar system, and the universe; to advance human exploration, use, and development of space; and to research, develop, verify, and transfer advanced aeronautics and space technologies.

The following are narrative descriptions of the most important regulations being planned for publication in the **Federal Register** during fiscal year (FY) 2002.

The Federal Acquisition Regulation (FAR), 48 CFR chapter 1, contains procurement regulations that apply to NASA and other Federal agencies. NASA implements and supplements FAR requirements through the NASA FAR Supplement (NFS), 48 CFR chapter 18. Major revisions are not expected in FY 2002, except to conform to FAR changes that are currently being promulgated in part 12, Acquisition of Commercial Items; part 45, Government Property; part 30, Cost Accounting Standards Administration; and part 27, Patents, Data, and Copyrights.

In a continuing effort to keep the NFS current with NASA initiatives and Federal procurement policy, minor revisions to the NFS will be published. For instance, NASA is working on enhancing its risk-centered approach to acquisition by ensuring that all contracts address safety and also by applying it to non-contract instruments such as grants and cooperative agreements. NFS regulations addressing Acquisition of Investigations, part 1872, will be amended to incorporate NASA's risk-centered approach to acquisition, including safety, and to update guidance.

Additionally, NASA's risk-centered approach to acquisition includes security of unclassified information technology (IT) resources and dissemination of data produced or used in performance of research and development (R&D) contracts. The NFS will be amended to clarify NASA's requirements for IT security and the review requirements for data produced under R&D contracts including data contained in final reports.

To reduce the time and cost spent by the Agency and our industry partners in the procurement of basic and applied research under cooperative agreements, NASA is focusing on streamlining our processes. To go forward in this effort, regulations governing Cooperative Agreements with Commercial Firms at 14 CFR part 1274 will be rewritten to incorporate improvements and policy consistent with other NASA initiatives.

NASA is continuing consideration of revisions to the cross-waiver of liability regulation at 14 CFR part 1266. Specifically, NASA is considering implementation of the cross-waiver of liability provision of the intergovernmental agreement of the International Space Station and refinement and clarification of contractual cross-waivers in NASA agreements involving launch services.

BILLING CODE 7510-01-S

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Statement of Regulatory Priorities

The National Archives and Records Administration (NARA) issues regulations directed to other Federal agencies and to the public. Records management regulations directed to Federal agencies concern proper management and disposition of Federal records. Through the Information Security Oversight Office (ISOO), NARA also issues Governmentwide regulations concerning information security classification and declassification programs. NARA regulations directed to the public address access to and use of our historically valuable holdings, including archives, donated historical materials, Nixon Presidential materials, and Presidential records. NARA also issues regulations relating to the National Historical Publications and Records Commission (NHPRC) grant programs.

NARA's regulatory priorities for fiscal year 2002 are: (1) updating and rewriting in plain language our research room regulations in 36 CFR part 1254; (2) evaluating possible revisions to 36 CFR part 1234 relating to electronic text documents; (3) revising regulations on transfer of electronic records to the National Archives of the United States to allow additional transfer media; and (4) updating and streamlining NARA regulations relating to the National Historical Publications and Records Commission grant program.

BILLING CODE 7515-01-S

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Statement of Regulatory Priorities

As the Federal Government's human resource and personnel manager, the Office of Personnel Management's (OPM) regulatory priorities for the coming year will focus on human resource management reforms and flexibilities that will enable the Federal Government to recruit, manage, and retain the high-quality, diverse workforce needed by departments and agencies to deliver their respective missions to the American people.

The *President's Management Agenda* recognizes the critical role that human resources management must play in reforming Government, identifying it as one of five core Governmentwide strategies. It is, after all, the people who work in Government who are key to delivering citizen-centered, results-oriented, and market-based services to the American people. Consistent with its core mission, OPM anticipates a central role in implementing the *President's Management Agenda*—particularly its focus on strategic management of human capital—and stands ready to advance the agenda by way of regulation as necessary and appropriate.

Since the events of September 11, 2001, OPM's activities have focused primarily on five broad Administration priorities. We anticipate that OPM's regulatory activity over the next year will serve to facilitate implementation of the President's priorities.

War on Terrorism

Immediately following the terrorist attacks on the Pentagon and the World Trade Center, the Director of OPM communicated to all Federal departments and agencies her ability and desire to work closely with them to address immediate personnel needs. To that end, OPM has helped agencies fill the emergency vacancies in essential positions by providing flexibilities and facilitating the return to the workforce of Federal retirees wanting to help in the emergency. OPM also has worked to speed benefits to the victims of the attacks and their families, has provided guidance on helping employees deal with the traumatic events, and is serving as a central point to facilitate communication regarding anthrax and other bioterrorism threats.

In addition, OPM has provided guidance and assistance to the Office of Homeland Security on staffing issues, and intends to facilitate the placing of personnel to assist in accomplishing its mission. Congress presently is considering legislation on airport security. Regardless of whether or not airport security personnel are made Federal employees, OPM anticipates working closely with whatever department or agency is given oversight responsibility.

On all these issues, to the extent regulatory action is needed, we stand ready to promulgate regulations to facilitate successful pursuit of America's war on terrorism.

Managerial Flexibilities Act

Anticipated passage of the President's Managerial Flexibilities Act of 2001 will require OPM to promulgate new, or modify existing, regulations to implement employment restructuring assistance; voluntary early retirement; recruitment and retention incentives; results-oriented performance evaluation and compensation for senior executives; human resources management innovations; and hiring flexibilities.

Outsourcing

OPM is examining ways the private sector can add to mission delivery. OPM already has privatized two service areas—investigations and training. OPM further intends to convert positions in the Employment Service Technology Support Center to the private sector over a five-year period. We also will examine all Federal Retirement Program functions that are comparable to functions performed by commercial entities. The most sweeping long-term change under study is a comprehensive review of OPM's reimbursable services to determine if a different structure based on increased reliance on private-sector providers would be more cost-efficient.

Delayering and Restructuring

To improve OPM's organization to better deliver services to the Federal workforce, our agency customers and the American people, OPM anticipates a sweeping restructuring plan that dramatically redesigns the agency. The new plan will result in a significantly flatter, more streamlined agency that is much better positioned to focus on customer service and strategically aligned to help the President carry out his agenda. Supervisory ratios will be increased, and employees redeployed to service delivery by centralizing internal functions and terminating programs when their missions have been completed. Most of this can be done administratively, without the need for further regulatory action. However, to the extent program functions are defined by regulation, they will have to be promulgated, modified, or eliminated.

e-Government

OPM is the lead agency on three of the e-Government initiatives recently announced by OMB to accelerate Federal Government improvements in effectiveness, efficiency, and customer service. OPM is responsible for e-Training, Recruitment One-Stop, and Enterprise HR Integration. OPM currently is examining the necessary regulatory efforts needed to implement these programs.

The Office of Personnel Management will continue to accept the challenge of improving our human resource management systems in order to attract and keep the best possible talent, to promote fairness and diversity, to preserve the merit-based civil service system that serves as the cornerstone of our Democracy, and to create a Government that truly serves and produces results for our citizens.

OPM

FINAL RULE STAGE

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150. • RETENTION ALLOWANCES

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

5 USC 5754

CFR Citation:

5 CFR 575, subpart C

Legal Deadline:

None

Abstract:

These final regulations would provide agencies with greater flexibility in the use of retention allowances by allowing them to pay such allowances to employees who are likely to leave their position for other Federal employment under certain limited circumstances.

Statement of Need:

Agencies have specifically requested this regulatory change to provide them with additional flexibility to help retain Federal employees.

Summary of Legal Basis:

The governing United States Code provision is 5 U.S.C. 5754.

Alternatives:

Other alternatives, such as authorizing the use of special salary rates, were considered and rejected because they were either inappropriate, too costly, or did not offer the flexibility the agencies were seeking

Anticipated Cost and Benefits:

The final regulations would help agencies retain critical employees and avoid the costs related to employee turnover (e.g., reduced productivity, increased or prolonged recruitment actions, training new employees). Because the final regulations expand the circumstances under which retention allowances may be paid, it is possible that the costs associated with these payments may increase. However, since agencies have the discretion to use this incentive, we cannot specifically predict or quantify these costs.

Risks:

These final regulations would delegate to agencies increased authority to pay retention allowances to employees under certain limited circumstances. Through our monitoring and oversight activities, we will continue to ensure that agencies do not violate the merit system principles and prohibited personnel practices under 5 U.S.C. 2301 and 2302 when using these new authorities.

Timetable:

Action	Date	FR Cite
NPRM	01/10/01	66 FR 5491
NPRM Comment Period End	03/20/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Statement of Regulatory and Deregulatory Priorities

PBGC Insurance Programs

The Pension Benefit Guaranty Corporation (PBGC) administers two insurance programs for private defined benefit plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA): A single-employer plan termination insurance program and a multiemployer plan insolvency insurance program. The PBGC protects the pensions of nearly 43 million working men and women in about 38,000 private defined benefit plans, including about 1,800 multiemployer plans.

Under the single-employer program, the PBGC pays guaranteed and certain other pension benefits to participants and beneficiaries if their plan terminates with insufficient assets (distress and involuntary terminations). At the end of fiscal year 2000, the PBGC was trustee of almost 2,900 plans and paid $903 million in benefits to about 244,000 people during 2000. Another 314,000 people will receive benefits when they retire in the future.

Most terminating single-employer plans terminate with sufficient assets to pay all benefits. The PBGC has administrative responsibility for these terminations (standard terminations), but its role is limited to seeing that proper procedures are followed and participants and beneficiaries receive their plan benefits.

The multiemployer program (which covers about 9 million workers and retirees in about 1,750 insured plans) is funded and administered separately from the single-employer program and differs in several significant ways. The multiemployer program covers only collectively bargained plans involving more than one unrelated employer. The PBGC provides financial assistance (in the form of a repayable loan) to the plan if the plan is unable to pay benefits at the guaranteed level. Guaranteed benefits are generally less than a participant's full benefit under the plan (and less than the single-employer guaranteed benefit). PBGC financial assistance occurs infrequently.

The PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusteed by the PBGC, and recoveries from the companies formerly responsible for the trusteed plans.

To carry out these functions, the PBGC must issue regulations interpreting such matters as the termination process, establishment of procedures for the payment of premiums, and assessment and collection of employer liability.

Objectives and Priorities

PBGC regulatory objectives and priorities are developed in the context of the statutory purposes of title IV: (1) to encourage voluntary private pension plans, (2) to provide for the timely and uninterrupted payment of pension benefits to participants and beneficiaries, and (3) to maintain the premiums that support the insurance programs at the lowest possible levels consistent with carrying out the PBGC's statutory obligations (ERISA section 4002(a)).

The PBGC implements its statutory purposes by developing regulations designed: (1) to assure the security of the pension benefits of workers, retirees, and beneficiaries; (2) to improve services to participants; (3) to ensure that the statutory provisions designed to minimize losses for participants in the event of plan termination are effectively implemented; (4) to encourage the establishment and maintenance of defined benefit pension plans; (5) to facilitate the collection of monies owed to plans and to the PBGC, while keeping the related costs as low as possible; and (6) to simplify the termination process.

Regulatory and Deregulatory Initiatives

The PBGC has focused on changes that would simplify the rules and reduce regulatory burden. For example, over the past few years, the PBGC:

- Reduced penalties for late premiums that are paid before the PBGC notifies the plan of the delinquency.
- Extended the time limits for various actions required to terminate a fully funded single-employer plan in a standard termination.
- Stopped the reduction of monthly benefits under its actuarial recoupment method once the nominal amount of the benefit overpayment is repaid.
- Provided participants with benefits valued up to $5,000 in PBGC-trusteed plans with the choice of receiving their benefit in the form of an annuity or a lump sum.
- Extended the filing date for PBGC premiums to match the latest Form 5500 filing date.
- Encouraged self-correction of premium underpayments by making it easier to qualify for safe-harbor penalty relief.
- Simplified its valuation assumptions by adopting a single set of assumptions for allocation purposes.
- Assured the public that it intended to continue to calculate and publish its lump sum interest rates indefinitely and amended its regulations to make it easier for practitioners to refer to those rates.
- Solicited public comment on benefit valuation and payment issues relating to terminated cash balance plans that use variable indices to determine future retirement benefits.

In FY 2001, the PBGC:

- Amended its premium regulation to allow plan administrators to pay a prorated premium for a short plan year rather than paying a full year's premium and requesting a refund (final rule, December 1, 2000).
- Amended its premium regulation to simplify and narrow the definition of "participant" for PBGC premium purposes (final rule, December 1, 2000).
- Simplified its premium forms by introducing a new "Form 1-EZ" for use by single-employer plans that are exempt from the PBGC's variable-rate premium.
- Proposed to amend its benefit payments regulations to give participants more choices of annuity benefit forms, to clarify what it means to be able to "retire" under plan provisions for certain purposes under title IV of ERISA, and to add rules on who will get certain payments the PBGC owes to a participant at the time of death (proposed rule, December 26, 2000).
- Published a proposed penalty policy to provide guidance on assessment and review of penalties and on what constitutes "reasonable cause" for a penalty waiver (proposed rule, January 12, 2001).

The PBGC is continuing to review its regulations to look for further simplification opportunities. The PBGC's regulatory plan for October 1, 2001, to September 30, 2002, consists of one significant regulatory action.

PBGC

PROPOSED RULE STAGE

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151. ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS; VALUATION OF BENEFITS AND ASSETS

Priority:

Other Significant

Legal Authority:

29 USC 1302(b)(3); 29 USC 1341; 29 USC 1301(a); 29 USC 1344; 29 USC 1362

CFR Citation:

29 CFR 4044, subpart B

Legal Deadline:

None

Abstract:

The Pension Benefit Guaranty Corporation is considering amending its benefit valuation and asset allocation regulations by adopting more current mortality tables and otherwise simplifying and improving its valuation assumptions and methods.

Statement of Need:

The PBGC's regulations prescribe rules for valuing a terminating plan's benefits for several purposes, including (1) determining employer liability and (2) allocating assets to determine benefit entitlements. The PBGC's interest assumption for valuing benefits, when combined with the PBGC's mortality assumption, is intended to reflect the market price of single-premium, nonparticipating group annuity contracts for terminating plans. In developing its interest assumptions, the PBGC uses data from surveys conducted by the American Council of Life Insurers. The PBGC currently uses a mortality assumption based on the 1983 Group Annuity Mortality Table in its benefit valuation and asset allocation regulations (29 CFR parts 4044 and 4281).

In May 1995, the Society of Actuaries Group Annuity Valuation Table Task Force issued a report that recommends new mortality tables for a new Group Annuity Reserve Valuation Standard and a new Group Annuity Mortality Valuation Standard. In December 1996, the National Association of Insurance Commissioners adopted the new tables as models for determining reserve liabilities for group annuities. The PBGC is considering incorporating these tables into its regulations and making other modifications.

Summary of Legal Basis:

The PBGC has the authority to issue rules and regulations necessary to carry out the purposes of title IV of ERISA.

Alternatives:

Not yet determined.

Anticipated Cost and Benefits:

Cost estimates are not yet available. However, the PBGC expects that this regulation will not have a material effect on costs.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
ANPRM	03/19/97	62 FR 12982
ANPRM Comment Period End	05/19/97	
NPRM	07/00/02	
NPRM Comment Period End	09/00/02	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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RIN: 1212–AA55

BILLING CODE 7709-01-S

SMALL BUSINESS ADMINISTRATION (SBA)

Statement of Regulatory Priorities

Overview

The Small Business Administration (SBA) is America's small business resource. SBA's mission is to promote and deliver financial and business development programs to America's entrepreneurs in the most efficient and effective manner possible.

With a portfolio of guaranteed business and disaster loans, SBA is the Nation's largest single financial backer of small businesses. Through our financial assistance programs, each year, SBA seeks to serve small companies by facilitating access to capital and credit. The SBA also helps entrepreneurs to start and grow their businesses through its resource-partner programs.

SBA is committed to:

- Listening to small businesses to make sure SBA is meeting the needs of the small business community;
- Working with its financial partners to improve small business access to capital through SBA's loan and venture capital programs;
- Providing technical assistance and guidance through its entrepreneurial development partners 24 hours a day;
- Establishing new and strengthening existing its public and private partnerships to encourage greater contracting and business opportunities for small businesses.
- Measuring outcomes, such as revenue growth, job creation, and business longevity, to ensure SBA operates its programs in an efficient and effective manner.

SBA's regulatory priorities for the coming year will focus on strengthening SBA's management of programs, streamlining its HUBZone Program, and increasing opportunities for women-owned businesses.

SBA's Regulatory Plan

Small Business Lending Company Regulations

SBA is currently drafting proposed regulations that will strengthen the Agency's management and oversight of the Small Business Lending Company (SBLC) Program. SBA guarantees loans through approximately 7,000 lenders, of which 14 are SBLCs that are not otherwise regulated by Federal or State authorities. Further, consistent with congressional and Administration policy, certain SBA lenders are delegated authority to make credit decisions on loans guaranteed by SBA. At the present time, all of the SBLCs are preferred lenders with authority to make such credit decisions. The SBLCs hold approximately 20 percent of the outstanding loans guaranteed by SBA and are subject to safety and soundness examinations by SBA on a 12 to 24 month cycle. This rulemaking will clarify and strengthen the existing rules governing SBLCs in the areas of monitoring, oversight and enforcement, safe and sound operations, and compliance with SBA regulations.

HUBZone Empowerment Contracting Program

SBA is proposing regulations that will incorporate changes enacted by Public Law 106-554. The amended regulations will address eligibility requirements for small business concerns owned by Native American Tribal Governments and Community Development Corporations and the addition of new HUBZone areas called redesignated areas. The proposed amendments will streamline the program to make it more efficient.

The Women-Owned Small Business Federal Contract Assistance Program

SBA is currently drafting regulations that will implement a "restricted competition" procurement program for women-owned small businesses (WOSB). It will contain provisions about how a WOSB can be certified to participate in the program, who is eligible, and how protests will be handled. Specifically, section 8(m) of the Small Business Act limits the contracting officer's authority to restrict competition to contracts not exceeding $3 million for services or $5 million in manufacturing. This proposed rule would establish a WOSB Federal Contract Assistance Program to be administered by the Office of Federal Contract Assistance for Women Business Owners within the SBA's Office of Government Contracting. This proposed rule would also encourage contracting officers to include a subcontracting participation evaluation factor in solicitations to evaluate the participation of certain small businesses in contract performance.

SBA

PROPOSED RULE STAGE

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152. SMALL BUSINESS LENDING COMPANIES REGULATIONS

Priority:

Other Significant

Legal Authority:

15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(b)

CFR Citation:

13 CFR 120.470

Legal Deadline:

None

Abstract:

This rulemaking would amend 13 CFR 120.470 to clarify and strengthen the rules regarding Small Business Lending Companies (SBLCs) monitoring and oversight for safety and soundness, compliance, and related areas.

Statement of Need:

Section 7(a) of the Small Business Act states that the Small Business Administration (SBA) may provide financing to small businesses "directly or in cooperation with banks or other financial institutions." Today, SBA guarantees loans through approximately 7,000 lenders. Of these lenders, about 14 are Small Business Lending Companies (SBLCs) that are not otherwise regulated by Federal or State chartering, licensing, or similar regulatory control. SBA examines or audits these SBLCs periodically. Congressional and Administration policy to privatize SBA lending and levels in loan volume require that SBA increase its SBLC oversight. To that end, SBA will draft regulations that strengthen the Agency's management of the SBLC Program.

Summary of Legal Basis:

Not required by statute or court order.

Alternatives:

This rulemaking amends and expands SBA's existing regulations on the SBLC Program.

Anticipated Cost and Benefits:

This rulemaking is designed to strengthen SBA's regulations regarding the SBLC Program. No additional costs to the Government or the SBLCs associated with this rulemaking will result.

Risks:

This regulation addresses no risks to the public health and safety or to the environment.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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SBA

153. • THE WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT ASSISTANCE PROGRAM

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

15 USC 644(g)

CFR Citation:

13 CFR 127

Legal Deadline:

None

Abstract:

The Small Business Reauthorization Act of 2000 established a "restricted competition" procurement program for women-owned small businesses (WOSB). The SBA will add 13 CFR part 127 to implement this program. The Office of Contract Assistance for Women Business Owners (CAWBO) in the Office of Government Contracting is drafting proposed regulations to implement the program. The proposed rule is expected to be published in February 2002. It will contain provisions about how a WOSB can be certified to participate in the program, who is eligible, how protests will be handled, etc.

Statement of Need:

Women-owned businesses have long been regarded as the fastest growing segment of the United States business community. Although women-owned small businesses (WOSBs) in particular have increased by 78 percent between 1987 and 1996, almost twice the rate of growth of all U.S. businesses, they do not receive a commensurate share of Federal contracting dollars.

This disparity has continued despite several congressional and executive efforts over a number of years to increase Federal contracting with WOSBs. One effort that had no significant result was the 1979 Executive Order 12138 that charged Federal agencies with providing procurement assistance to WOSBs. Awards thereafter to WOSBs reached only 0.2 percent of all Federal procurements. Prior to the legislation implemented by the instant regulations, the most current legislation containing significant guidance to Federal agencies regarding increased awards with WOSBs is the Federal Acquisition Streamlining Act (FASA) of 1994. FASA established a target award of 5 percent of all Federal prime and subcontracting contract dollars to WOSBs. However, actual subsequent awards to WOSBs have never exceeded 2.5 percent of prime contract dollars and have not achieved 5 percent of subcontract dollars. In FY 2000, prime contract awards to WOSBs were below 2.3 percent of total Federal dollars, a drop from the percentage awarded to WOSBs in FY 1999.

Summary of Legal Basis:

On December 21, 2000, Congress enacted section 811 of the Small Business Reauthorization Act of 2000, Public Law 106-554, to provide contracting officials a mechanism that targeted Government programs for contracting with WOSBs. Section 811 amended the Small Business Act by adding a new section 8(m), 15 U.S.C. 637(m), authorizing contracting officers to restrict competition to eligible WOSBs for certain Federal contracts in industries that SBA has determined that WOSBs are under represented or substantially under represented in Federal procurement.

The new section 8(m) of the Small Business Act limits the contracting officer's authority to restrict competition to contracts not exceeding $3 million for services or $5 million in manufacturing. To implement the new section 8(m) of the Act, this proposed rule would establish a WOSB Federal Contract Assistance Program to be administered by the CAWBO within SBA's Office of Government Contracting. The program would be considered part of SBA's Government contracting programs set forth under part 125 of title 13 of the Code of Federal Regulations, for ease of reference, the proposed WOSB regulations would be contained in the new part 127 of title 13.

The proposed rule provides conforming amendments necessary to integrate the program into SBA's size and Government contracting regulations. The proposed rule would amend part 125.3 of the title 13 of the Code of Federal Regulations to encourage contracting officers to include a subcontracting participation evaluation factor in certain solicitations to evaluate the participation of certain small businesses in contract performance. This would provide consistency with the statutory mandate that small businesses, including WOSBs, have the maximum practicable opportunity to become subcontractors for Federal contracts exceeding $100,000 and that they be included in subcontracting plans required under section 8(d) of the Small Business Act, 15 U.S.C. 632(d).

Alternatives:

Prior to the implementation of the Women-Owned Small Business Federal Contract Assistance Program, the SBA has supported an increase in Federal prime and subcontracting to WOSBs through a number of avenues. SBA personnel from Headquarters and the district offices have provided training across the country to WOSBs through conference participation and individual counseling. Special efforts to provide this support and outreach to WOSBs have been made by the personnel of the SBA's Area Offices of the Office of Government Contracting. In addition, the Office of Government Contracting negotiates the yearly prime and subcontracting goals for WOSBs with other Federal agencies, encouraging each agency to award at least 5 percent in both prime and subcontracting dollars to WOSBs.

A major step toward an increase in Federal training and awards to WOSBs was the formation in early FY 2001 of the CAWBO. This office, part of the Office of Government Contracting, now has the primary responsibility for the yearly award of the Frances Perkins Award to deserving large businesses that have been exemplary in their support and subcontracting to WOSBs.

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Through CAWBO, the Office of Government Contracting also continues to sponsor the Federal $ and Sense Program for Women, which requires Federal participants to provide procurement training and support to WOSBs through a variety of events. CAWBO personnel also work to assist WOSBs through regular meetings with Women's Advocates from most of the primary Federal agencies. Another CAWBO effort, in concert with the National Women's Business Counsel, to train and provide Federal procurement data to WOSBs has been the launch of a web site, www.WomenBiz.gov, which provides extensive information through the procurement material on-line and links to many related web sites.

These efforts to date have resulted in an increase in Federal prime contract awards to WOSBs from 0.2 percent in the early 1990s to a current 2.3 percent, but never higher than 2.5 percent. It is anticipated that the regulations contained in section 811 of the Small Business Reauthorization Act of 2000, Public Law 106-554, will now provide contracting officers a tool that will allow all agencies to reach awards of 5 percent in both prime and subcontracting to WOSBs.

Anticipated Cost and Benefits:

In October 2000, the CAWBO was established as part of the general reorganization of the Office of Government Contracting and Business Development (GC/BD). This was the beginning of FY 2001 and neither the salaries of the six members of CAWBO, nor any other CAWBO expenses, were included in the budget. However, CAWBO has the primary responsibility for implementing the regulations now in review. To the greatest extent possible, the program has been developed to utilize already existing SBA offices, personnel, and resources. Further, the cost of certification for WOSBs not currently eligible through another Federal program will be the responsibility of the applicants and will be performed in the private sector. Most of the personnel costs associated with this new program have been absorbed in FY 2001 by the Office of Government Contracting. Some additional new program costs, once regulations are approved, are overseeing the selection of certifiers for WOSBs, providing program evaluations for the certifiers and selected certified firms, and overseeing protests of certified or self-certified WOSBs. Development and ongoing costs of the tracking systems for certification and protest data are related expenses. An initial study and later reexamination of data regarding the percentages of Federal dollars being awarded in various industries to WOSBs is central to the program. Training of both WOSBs and the Federal contracting community about the new program is also paramount to the success of the program and will require some travel and related training aids.

Assistance from other SBA offices will continue to be required to support the legislation underlying this program. The initial reviews of protests will be done in the Area Offices of the Office of Government Contracting. The Office of the General Counsel has been instrumental in producing the regulations. Other agency offices are already participating in the development of program support functions. Thus, the expense of developing and implementing the regulations is being minimized through existing offices and use of private certifiers. And to the extent possible, cooperation with other agencies, the Federal procurement community, and use of the Internet for training also reduce the costs associated with the program.

Risks:

The primary risk related to the draft regulations for the Women-Owned Small Business Federal Contract Assistance Program is the possibility that the review and implementation of the regulations will not be within the time frame planned by the Agency. However, the regulations, when examined regarding their relationship to other SBA small business contracting and certification programs, should be complimentary to programs already in existence. This program for WOSBs addresses the segment of the small business community that has been statistically most underrepresented in Federal prime and subcontracting. Further, training and other support provided by SBA personnel for this and other SBA contracting programs will benefit all segments of the small business community. In addition to higher awards to WOSBs, this synergistic relationship among SBA contracting programs is expected to produce an increase in the total Federal prime and subcontracting percentages being awarded to all small businesses.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

Procurement:

This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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SBA

154. • HUBZONE EMPOWERMENT CONTRACTING PROGRAM

Priority:

Other Significant

Legal Authority:

15 USC 632(a); PL 105-135 sec 601 et seq; PL 106-554 sec 601 et seq

CFR Citation:

13 CFR 126

Legal Deadline:

None

Abstract:

SBA proposes to amend its regulations for the HUBZone Empowerment Contracting Program to incorporate changes enacted by Public Law 106-554. The amended regulation addresses eligibility requirements for small business concerns owned by Native American Tribal Governments and Community Development Corporations and the addition of new HUBZone areas called redesignated areas.

Statement of Need:

SBA must amend its HUBZone regulations in order to implement changes in the Small Business Act mandated by Public Law 106-553, to correct typographical errors and to streamline the program.

Summary of Legal Basis:

According to 15 U.S.C. section 657a, SBA's Administrator is charged with carrying out the HUBZone Program. On December 21, 2000, the President signed into law Public Law 106-554, which amends the HUBZone Program. To carry out the program, SBA must implement these statutory changes by amending its regulations.

Alternatives:

The Agency considered issuing policy notices explaining the changes to the statute. However, this is not sufficient because the current regulations do not address the statutory changes to the program and therefore, if the regulations are not amended, the public would be confused.

Anticipated Cost and Benefits:

The proposed amendments to the HUBZone regulation would simplify the program to make it more efficient. Therefore, the benefits would be quicker processing time of HUBZone applications.

Risks:

There is no risk to the Agency.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

Federal, Tribal

Procurement:

This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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BILLING CODE 8025-01-S

SOCIAL SECURITY ADMINISTRATION (SSA)

Statement of Regulatory Priorities

The Social Security Administration (SSA) administers the retirement, survivors', and disability insurance programs under title II of the Social Security Act (the Act) and the Supplemental Security Income (SSI) program under title XVI of the Act. Generally, SSA's regulations do not impose burdens on the private sector or on State or local governments. Our regulations codify the requirements for eligibility and entitlement to benefits under the programs that we administer.

Our eight entries for The Regulatory Plan represent areas of major importance to the administration of the retirement, survivors', disability, and SSI benefit programs.

One of SSA's most important initiatives is to assure that Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) beneficiaries with disabilities who want to work have the opportunity to do so. Included in this year's Plan is the final regulation that will provide more choices for people with disabilities who seek return-to-work services so that they may become self-sufficient. This regulation implements legislation, The Ticket to Work and Work Incentives Improvement Act of 1999, which removes barriers to work for individuals with disabilities.

An area of vital interest to the Agency is the continued improvement of the disability program. We are currently preparing a final regulation that implements elements of the redesigned disability claims process that have been tested and found to further redesign goals.

Providing the best service possible to our customers remains a principal objective of SSA. One of the items in the Plan, Expansion of the Use of Video Teleconference Technology in Hearings Before Administrative Law Judges of the Social Security Administration, is expected to improve customer service by providing faster access to a hearing.

Effective stewardship of SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. A proposed regulation will define the amount of bonding necessary to provide adequate protection for our beneficiaries and the nature of licenses that are pertinent for organizational payees that are authorized to collect a fee for their services.

We have also included in this year's Plan, two regulations that provide SSA with additional tools to strengthen the integrity of the Social Security and SSI programs. One is a proposed regulation that implements a provision of the Foster Care Independence Act (FCIA) of 1999, authorizing SSA to obtain information from financial institutions in order to determine initial or continuing eligibility for SSI benefits. The other is a final regulation that implements another provision of the FCIA of 1999, which provides for the imposition by SSA of a penalty on any person for knowingly making false or misleading statements or misrepresenting a material fact for use in determining initial or continuing right to benefits.

Public Law 104-134, the Debt Collection Improvement Act of 1996, provided SSA with new tools to strengthen our efforts in collecting debts; one such provision concerns administrative wage garnishment. We are developing regulations, which will enable us to collect qualifying, delinquent title II and XVI debts owed by former beneficiaries who are now employed in other than Federal employment.

The final proposal on our Plan revises our privacy and disclosure rules to describe adequate safeguards against inappropriate disclosure of personal information, including electronic requests. In this same proposal, we revise our special procedures on access to medical records and add a new section about granting access to a minor's medical records for the minor's parent or legal guardian.

We continue to work diligently to improve our program and administrative regulations and to develop partnerships with large segments of the community of stakeholders interested in Social Security programs. We expect that these partnerships will contribute to the successful development of our Regulatory Plan entries.

SSA

PROPOSED RULE STAGE

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155. PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION (711P)

Priority:

Other Significant

Legal Authority:

5 USC 552; 5 USC 552a; 42 USC 1306(a); 42 USC 902(a)(5)

CFR Citation:

20 CFR 401.30; 20 CFR 401.45; 20 CFR 401.55; 20 CFR 401.150; 20 CFR 401.180

Legal Deadline:

None

Abstract:

We propose to revise our privacy and disclosure rules to:

1. Describe safeguards against inappropriate disclosure of personal information when individuals request information about themselves by electronic means (e.g., through the Internet);

2. Revise our special procedures on an individual's access to medical records;

3. Add a new section to grant direct access to a minor's medical records by the minor's parent or legal guardian acting on the minor's behalf; and

4. Fully describe the role and function of the Privacy Officer.

Statement of Need:

These revised regulations are necessary to:

1. Articulate the safeguards that ensure the appropriate procedures for access to and disclosure of personally identifiable information in the electronic environment;

2. Support the judicial interpretation which allows individuals whose medical records may potentially have an adverse effect to have access to this information;

3. Implement a consistent policy for both minors and adults in providing access to medical records; and

4. Provide the expanded regulatory support for the existing responsibilities and functions of the Privacy Officer as required by the Privacy Act and related Office of Management and Budget (OMB) guidelines.

Summary of Legal Basis:

Revisions to procedures for individual's access to medical records having a potentially adverse effect are required by Bavido v. Apfel, No. 98-4046, 2000 U.S. App. Lexis 13547, the Seventh Circuit.

Alternatives:

None.

Anticipated Cost and Benefits:

1. Description of safeguards against inappropriate disclosure of personal information by electronic means:

a. Cost—none.

b. Benefit—Increase public awareness of the safeguards employed by SSA to maintain the security, confidentiality, and integrity of the information we collect and maintain.

2. Revise our special procedures on an individual's access to medical records; and

3. Add a new section to grant direct access to a minor's medical records by the minor's parent or legal guardian acting on the minor's behalf:

a. Cost—none.

b. Benefit—regulatory guidelines will facilitate access for individuals whose medical records may have adverse effects.

4. Revised role of Privacy Officer

a. Cost—none.

b. Benefit—Increased public awareness of the privacy officer's role and responsibility in protecting the privacy and disclosure of the information SSA collects and maintains; general oversight to the Agency on privacy and disclosure activities.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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RIN: 0960–AE88

SSA

156. ADMINISTRATIVE WAGE GARNISHMENT (TO REPAY A DEBT OWED TO THE SOCIAL SECURITY ADMINISTRATION) (724P)

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 405; 42 USC 902; 42 USC 1383; 31 USC 3720D

CFR Citation:

20 CFR 422.311; 20 CFR 422.312

Legal Deadline:

None

Abstract:

This initiative will enable the Social Security Administration (SSA) to collect qualifying, delinquent titles II and XVI debts owed by former beneficiaries who are now employed in other than Federal employment. Administrative wage garnishment allows SSA to order an employer to deduct a percentage of the disposable pay earned by the worker/debtor, and to send that amount to SSA as payment toward satisfying the delinquent debt. Administrative wage garnishment does not require a court judgment to impose the withholding order.

Statement of Need:

This regulation is necessary in order for SSA to use administrative wage garnishment as a tool in its debt collection process.

Summary of Legal Basis:

SSA is authorized to use administrative wage garnishment by 31 U.S.C. 3720D, added by section 31001(o) of Public Law 104-134, the Debt Collection Improvement Act of 1996.

Alternatives:

None—without regulatory authority SSA would be unable to proceed with administrative wage garnishment in a manner that addresses SSA's particular needs and processes. SSA must either adopt by reference the Treasury Department's regulations on wage garnishment hearings or prescribe SSA regulations regarding such hearings consistent with those Treasury Department regulations. See 31 CFR 285.11(f)(1).

Anticipated Cost and Benefits:

Undetermined at this time.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

No

Government Levels Affected:

State, Local, Tribal

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RIN: 0960–AE92

SSA

157. ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS (815P)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 1383(e); PL 106-169, sec 213

CFR Citation:

20 CFR 416.200; 20 CFR 416.207; 20 CFR 416.421; 20 CFR 416.640; 20 CFR 416.1231; 20 CFR 416.1242; 20 CFR 416.1245; 20 CFR 416.1247; 20 CFR 416.1320; 20 CFR 416.1321; 20 CFR 416.1335; 20 CFR 416.1337; 20 CFR 416.1618

Legal Deadline:

None

Abstract:

We propose to implement a new law that will enhance our access to bank account information of Supplemental Security Income (SSI) applicants or recipients and other individuals whose income and resources we treat as belonging to the applicant or recipient.

Statement of Need:

This proposed regulation is required to implement section 213 of Public Law 106-169, the Foster Care Independence Act of 1999.

Summary of Legal Basis:

Required by section 213 of Public Law 106-169.

Alternatives:

None.

Anticipated Cost and Benefits:

Costs and benefits are undetermined at this time.

Risks:

Undetermined at this time.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

No

Government Levels Affected:

None

Federalism:

Undetermined

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RIN: 0960–AF43

SSA

158. • COMPENSATION FOR QUALIFIED ORGANIZATIONS SERVING AS A REPRESENTATIVE PAYEE (846P)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 405(j)(4(B); 42 USC 1383(a)(2)(D)

CFR Citation:

20 CFR 404.2040a; 20 CFR 416.640a

Legal Deadline:

None

Abstract:

We are proposing to amend these regulations to further define "bonded or licensed in the State in which an organizational payee serves ás representative payee." We are proposing to further define the amount of bonding necessary to provide adequate protection for our beneficiaries and the nature of licenses that are pertinent for a fee-for-service organization.

Statement of Need:

Following congressional hearings, a representative payee task force was formed to improve the representative payment program; bonding and licensing of organizational payees was identified as an area in regulations that needs further definition.

Summary of Legal Basis:

None.

Alternatives:

There are no alternatives for this regulation, this regulation will further define existing rules.

Anticipated Cost and Benefits:

We are providing protection for our beneficiaries by defining an amount that an organization must be bonded for and defining the nature of licenses that are permissible. We do not anticipate any costs.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Organizations, Governmental Jurisdictions

Government Levels Affected:

State, Local

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SSA

FINAL RULE STAGE

159. OASDI AND SSI; EXPANSION OF THE USE OF VIDEO TELECONFERENCE TECHNOLOGY IN HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES OF THE SOCIAL SECURITY ADMINISTRATION (737F)

Priority:

Other Significant

Legal Authority:

42 USC 205(a); 42 USC 205(b); 42 USC 902(a)(5); 42 USC 1383

CFR Citation:

20 CFR 404.929; 20 CFR 404.936(b); 20 CFR 404.936(c); 20 CFR 404.936(d)(8)(New); 20 CFR 404.938; 20 CFR 416.1429; 20 CFR 416.1436(b); 20 CFR 416.1436(c); 20 CFR 416.1436(d)(8)(New); 20 CFR 416.1438

Legal Deadline:

None

Abstract:

We are amending our regulations to permit us to conduct hearings before an administrative law judge (ALJ) by video teleconference (VTC). We will add new sections to the regulations that will state the conditions for an ALJ to find good cause to change the time and place of a hearing if we schedule a VTC hearing, and the individual tells us he/she does not want a VTC hearing.

Statement of Need:

Our regulations provide for a hearing in person before an ALJ. Traditionally, this has meant that the individual requesting a hearing and the ALJ were present in the same room. These changes will allow us to schedule a VTC hearing without requiring prior written consent, and set out the right to decline such a hearing. We believe that conducting hearings by VTC will improve our efficiency and allow us to serve our customers better.

The VTC provision will aid in reducing the average processing time for hearings by eliminating much of the time some ALJ's must spend to travel to remote sites to conduct hearings face-to-face.

Summary of Legal Basis:

None.

Alternatives:

Require participation in a scheduled VTC hearing; i.e., no right to decline a VTC hearing.

Anticipated Cost and Benefits:

Improved customer service by providing faster access to a hearing.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	01/05/01	66 FR 1059
NPRM Comment Period End	03/06/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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SSA

160. TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM (TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999) (767F)

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 902(a)(5); 42 USC 1320b-19; PL 106-170, sec 101

CFR Citation:

20 CFR 411.100 to 411.730

Legal Deadline:

Final, Statutory, December 17, 2000, One year after the date of enactment of Public Law 106-170.

Sec. 1148(l) of the Social Security Act (42 USC 1320b-19(1), as added by sec. 101(a) of PL 106-170, requires SSA to prescribe regulations to carry out the Ticket to Work and Self-Sufficiency Program.

Abstract:

These final regulations will implement the Ticket to Work and Self-Sufficiency Program under section 1148 of the Act, as added by section 101(a) of Public Law 106-170. They also will carry out provisions of sections 101(d) and (e) of Public Law 106-170 relating to the implementation of that program. One of SSA's most important initiatives is to assure that Social Security (SSDI) and Supplemental Security Income (SSI) beneficiaries with disabilities who want to work have the opportunity to do so. Individuals with disabilities face multiple barriers in attempting to return to work. The Ticket to Work and Self-Sufficiency Program, under section 1148 of the Act, removes such barriers by providing beneficiaries with disabilities with the opportunity to obtain rehabilitation, employment and support services from an approved vocational rehabilitation provider of their choice.

Statement of Need:

This regulatory action is necessary to implement the Ticket to Work and Self-Sufficiency Program under section 1148 of the Act, as added by section 101(a) of Public Law 106-170.

Regulations to implement the Ticket to Work and Self-Sufficiency Program are required under section 1148(l) of the Act and section 101(e) of Public Law 106-170. Section 101(e)(2) of Public Law 106-170 provides that the matters to be addressed in the regulations shall include the following:

(1) The form and manner in which tickets to work and self-sufficiency may be distributed to beneficiaries pursuant to section 1148(b)(1) of the Act;

(2) The format and wording of such tickets, which shall incorporate by reference any contractual terms governing service by employment networks under the Program;

(3) The form and manner in which State agencies may elect participation in the Ticket to Work and Self-Sufficiency Program pursuant to section 1148(c)(1) of the Social Security Act and provision for periodic opportunities for exercising such elections;

(4) The status of State agencies under section 1148(c)(1) at the time that State agencies exercise elections under that section;

(5) The terms of agreements to be entered into with program managers pursuant to section 1148(d) of the Act, including:

(a) The terms by which program managers are precluded from direct participation in the delivery of services pursuant to section 1148(d)(3) of the Act;

(b) Standards that must be met by quality assurance measures referred to in paragraph (6) of section 1148(d) of the Act and methods of requirement of employment networks; and

(c) The format under which dispute resolution will operate under section 1148(d)(7) of the Act;

(6) The terms of agreements to be entered into with employment

networks pursuant to section 1148(d)(4) of the Act, including:

(a) The manner in which service areas are specified pursuant to section 1148(f)(2)(A) of the Act;

(b) The general selection criteria and the specific selection criteria that are applicable to employment networks under section 1148(f)(1)(C) of the Act in selecting service providers;

(c) Specific requirements relating to annual financial reporting by employment networks pursuant to section 1148(f)(3) of the Act; and

(d) The national model to which periodic outcomes reporting by employment networks must conform under section 1148(f)(4) of the Act;

(7) Standards that must be met by individual work plans pursuant to section 1148(g) of the Act, including:

(a) The form and manner in which elections by employment networks of payment systems are to be exercised pursuant to section 1148(h)(1)(A) of the Act;

(b) The terms that must be met by an outcome payment system under section 1148(h)(2) of the Act;

(c) The terms that must be met by an outcome-milestone payment system under section 1148(h)(3) of the Act;

(d) Any revision of the percentage specified in paragraph (2)(C) of section 1148(h) of the Act or the period of time specified in paragraph (4)(B) of such section 1148(h) of the Act; and

(e) Annual oversight procedures for such systems; and

(8) Procedures for effective oversight of the Program by the Commissioner of Social Security, including periodic reviews and reporting requirements.

Summary of Legal Basis:

Section 1148(i) of the Act, as added by section 101(a) of Public Law 106-170, and sections 101(d)(5) and (e) of Public Law 106-170 require this regulatory action.

Alternatives:

None. This regulatory action is necessary to implement provisions of section 101 of Public Law 106-170.

Anticipated Cost and Benefits:

We anticipate substantial costs to start up the program and potential savings in later years. The anticipated benefits of this legislation include allowing individuals with disabilities to seek the services necessary to obtain employment and reduce their dependency on cash benefit programs, including SSI and SSDI.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/28/00	65 FR 82843
NPRM Comment Period End	02/26/01	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State

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RIN: 0960–AF11

SSA

161. ADMINISTRATIVE PROCEDURES FOR IMPOSING PENALTIES FOR FALSE OR MISLEADING STATEMENTS (784F)

Priority:

Other Significant

Legal Authority:

42 USC 402; 42 USC 403; 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 422(b); 42 USC 423(e); 42 USC 424a; 42 USC 425; 42 USC 902(a)(5); 42 USC 1382 to 1382d; 42 USC 1382h; 42 USC 1320a-8a; 42 USC 1383

CFR Citation:

20 CFR 404.475; 20 CFR 416.1339

Legal Deadline:

Final, Statutory, June 14, 2000.

Abstract:

These final rules reflect and implement section 207 of Public Law 106-169, which provides that SSA may impose a penalty on any person who knowingly makes, or causes to be made, a false or misleading statement or representation of a material fact for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI.

Statement of Need:

This regulation is required to implement section 207 of Public Law 106-169 enacted on December 14, 1999. Public Law 106-169 provided that SSA may impose a penalty on any person who makes or causes to be made, a statement or representation of a material fact, for use in determining title II or title XVI benefit eligibility or amount, that the person knows or should know is false or misleading or omits a material fact. The penalty is nonpayment of benefits under title II and ineligibility for cash benefits under title XVI for six consecutive months for the first violation, 12 consecutive months for the second violation and 24 consecutive months for any subsequent violation.

Summary of Legal Basis:

Public Law 106-169 required SSA to develop regulatory guidelines to implement the process within six months of enactment. That regulation was issued on July 10, 2000 at 65 FR 42283 as interim final regulations which invited public comments. This regulation will finalize the interim final regulation.

Alternatives:

None.

Anticipated Cost and Benefits:

The Office of Budget estimated that administrative costs associated with this regulation would be negligible; i.e. less than $1 million. The costs are attributable to the enactment of Public Law 106-169 rather than the regulation.

Risks:

None.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/10/00	65 FR 42283
Interim Final Rule Comment Period End	09/08/00	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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RIN: 0960–AF20

SSA

162. IMPLEMENTING THE REDESIGNED DISABILITY PROCESS (816F)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

42 USC 301

CFR Citation:

20 CFR 404; 20 CFR 416

Legal Deadline:

None

Abstract:

We plan to implement elements of the redesigned disability claims process that have been tested and found to further redesign goals. Specifically, we plan to revise the disability determination process by: (1) eliminating the reconsideration step of the appeals process; (2) enhancing the roles of the disability examiner and medical/psychological consultant to streamline the process and make more effective use of the doctor's knowledge and expertise; and (3) increasing claimant contact and explanation of the requirements for disability. We plan to implement the redesigned process in phases; the existing process will remain in effect for States that are not yet using the redesigned process.

Statement of Need:

This regulation will permit us to redesign the disability claims process to use our resources more effectively to ensure that disabled claimants are awarded benefits at the earliest point in the claims process.

Summary of Legal Basis:

None.

Alternatives:

The Agency is considering various options for phasing in the implementation of the redesigned disability claims process.

Anticipated Cost and Benefits:

Unknown at present—the cost/benefit analysis has not yet been completed.

Risks:

Not yet established.

Timetable:

Action	Date	FR Cite
NPRM	01/19/01	66 FR 5494
NPRM Comment Period End	03/20/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Federal

Additional Information:

RIN 0960-AE73 was merged into this regulation on August 14, 2000.

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COMMODITY FUTURES TRADING COMMISSION (CFTC)

Statement of Regulatory Priorities

The mission of the Commodity Futures Trading Commission is to protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity futures and options and to foster open, competitive, and financially sound commodity futures and option markets. The Commission's objectives are to: (1) Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity; (2) oversee markets which can be used effectively by producers, processors, financial institutions, and other firms for the purposes of price discovery and risk shifting; (3) promote compliance with, and deter violations of, Federal commodities laws; (4) require commodities professionals to meet high standards; (5) provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Commodity Exchange Act; (6) ensure sound financial practices of clearing organizations and firms holding customer funds; (7) promote and enhance effective self-regulation of the commodity futures and option markets; (8) facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions; and (9) promote markets free of trade practice abuses.

BILLING CODE 6351-01-S

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Statement of Regulatory Priorities

The U.S. Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of death and injury associated with consumer products. To achieve this goal, the Commission:

- participates in the development or revision of voluntary product safety standards;
- develops mandatory product safety standards or banning rules when other, less restrictive, efforts are inadequate to address a safety hazard;
- obtains repair, replacement, or refund of the purchase price for defective products that present a substantial product hazard; and
- develops information and education campaigns about the safety of consumer products.

When deciding which of these approaches to take in any specific case, the Commission gathers the best available data about the nature and extent of the hazard presented by the product. The Commission then analyzes this information to determine the best way to reduce the hazard in each case. The Commission's rules require the Commission to consider, among other factors, the following criteria when deciding the level of priority for any particular project:

- frequency and severity of injury;
- causality of injury;
- chronic illness and future injuries;
- costs and benefits of Commission action;
- unforeseen nature of the risk;
- vulnerability of the population at risk;
- probability of exposure to the hazard.

Additionally, if the Commission proposes a mandatory safety standard for a particular product, the Commission is generally required to make statutory cost/benefit findings and adopt the least burdensome requirements that adequately protect the public.

The Commission's statutory authority requires it to rely on voluntary standards rather than mandatory standards whenever a voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury and it is likely that there will be substantial compliance with the voluntary standard. As a result, much of the Commission's work involves cooperative efforts with other participants in the voluntary standard-setting process rather than promulgating mandatory standards.

In fiscal year 2002, the Commission's significant rulemaking activities will involve addressing risks of fire associated with ignition of upholstered furniture by small open flames. The emphasis on this rulemaking activity in the Commission's FY 2002 regulatory plan is consistent with the Commission's statutory mandate and its criteria for setting priorities.

CPSC

PROPOSED RULE STAGE

163. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

15 USC 1193, Flammable Fabrics Act

CFR Citation:

16 CFR 1640

Legal Deadline:

None

Abstract:

On June 15, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding for development of a flammability standard to address risks of death, injury, and property damage from fires associated with ignition of upholstered furniture by small open-flame sources such as matches, lighters, or candles. This ANPRM was issued after the Commission granted part of a petition requesting development of a mandatory flammability standard to address risks of injury from ignition of upholstered furniture by: (1) small open-flame sources; (2) large open-flame sources; and (3) cigarettes. The Commission voted to deny that part of the petition requesting development of a mandatory standard to address hazards associated with ignition of upholstered furniture by large open-flame sources. The Commission also voted to defer a decision on that part of the petition requesting development of a standard to address cigarette ignition, and directed the staff to report to the Commission on the effectiveness of, and the extent of industry compliance with, a voluntary program to reduce risks of ignition of upholstered furniture by cigarettes. The Commission staff developed a draft standard to address ignition of upholstered furniture by small open-flame sources.

On March 2, 1998, the Commission voted to defer action on small open-flame sources and gather additional information on the potential toxicity of flame-retardant chemicals that might be used to meet a standard. A public hearing on this subject was held May 5-6, 1998. The staff is analyzing data from the hearing and completing other technical studies. In CPSC's 1999 appropriations legislation, Congress directed the Commission to contract with the National Academy of Sciences (NAS) for an independent study of potential health hazards associated with the use of flame retardant chemicals that might be used in upholstered furniture fabrics to meet a CPSC standard. The draft NAS report was completed and forwarded to Congress in April 2000; the final NAS report was published in July 2000. The report concluded that of 16 flame-retardant chemicals reviewed, 8 could be used in upholstered furniture fabrics without presenting health hazards to consumers. Additional exposure studies were recommended for the remaining eight chemicals. The report indicates that a number of suitable flame-retardant treatments are available; these include treatments already in use in various textile products, including upholstered furniture sold in the United Kingdom to meet existing U.K. flammability regulations.

CPSC is also considering possible impacts of flame-retardant chemical use on worker safety and the environment. At the CPSC staff's request, the National Institute of Occupational Safety and Health is assessing potential worker exposure to and risks from certain flame-retardant chemicals that may be used by textile and furniture producers to comply with an upholstered furniture flammability standard. The CPSC staff is also working with the Environmental Protection Agency to consider possible controls on flame-retardant compounds used in residential upholstered furniture fabrics under that agency's Toxic Substances Control Act Authority. Upon completion of its chemical risk assessment and other technical activities, the CPSC staff will present alternatives for future action by the Commission.

Statement of Need:

In 1998, approximately 480 deaths, more than 1,300 injuries, and about $191 million in property damage resulted from 9,400 residential fires in the United States in which upholstered furniture was the first item to ignite. The total societal cost attributable to upholstered furniture fires was approximately $2.8 billion in 1998. This total includes fires ignited by small open-flame sources, large open-flame sources, and cigarettes. Of these, small open-flame fires accounted for approximately 80 deaths, 350 injuries and $32 million in property losses.

Summary of Legal Basis:

Section 4 of the Flammable Fabrics Act (FFA) (15 USC 1193) authorizes the Commission to issue a flammability standard or other regulation for a product of interior furnishing if the Commission determines that such a standard is "needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage.".

The Commission's regulatory proceeding could result in several actions, one of which could be the development of a mandatory standard requiring that upholstered furniture sold in the United States meet mandatory labeling requirements, resist ignition, or meet other performance criteria under test conditions specified in the standard.

Alternatives:

The ANPRM stated that the Commission was considering the following alternatives:

(1) The Commission could issue a mandatory flammability standard if the Commission finds that such a standard is needed to address an unreasonable risk of the occurrence of fire from ignition of upholstered furniture by small open-flame sources;

(2) The Commission could issue mandatory requirements for labeling of upholstered furniture, in addition to, or as an alternative to, the requirements of a mandatory flammability standard;

(3) The Commission could terminate the proceeding for development of a flammability standard and rely on a voluntary standard if a voluntary standard would adequately address the risk of fire and substantial compliance with such a standard is likely to result; and

(4) The Commission could terminate the proceeding and withdraw the ANPRM.

Anticipated Cost and Benefits:

The estimated annual cost of imposing a mandatory standard to address ignition of upholstered furniture by small open-flame sources will depend upon the test requirements imposed by the standard and the steps manufacturers take to meet those requirements. Again, depending upon the test requirements, a small open-flame standard could also reduce cigarette-ignited fire losses, the societal cost of which was over $2 billion in 1997. For this reason, the potential benefits of a mandatory standard to address the risk of ignition of upholstered furniture by small open-flame sources could be significant, even if the standard did not prevent all such fires started by open-flame sources.

Risks:

The estimated total cost to society from all residential fires associated with upholstered furniture was $2.8 billion in 1997.

Societal costs associated with upholstered furniture fires are among the highest associated with any product subject to the Commission's authority. A standard has the potential to reduce these societal costs.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30735
ANPRM Comment Period End	08/15/94	
Staff Briefing of Commission on NPRM	12/18/97	
Commission Voted To Defer Action Pending Results of Toxicity Hearing	03/02/98	
Commission Hearing May 5 & 6, 1998 on Possible Toxicity of Flame Retardant Chemicals	03/17/98	63 FR 13017
NAS Study Completed (Required by Congress)	07/10/00	
Staff Sent Briefing Package to Commission	11/01/01	
Commission Decision	04/00/02	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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FEDERAL HOUSING FINANCE BOARD (FHFB)

Statement of Regulatory and Deregulatory Priorities

The Federal Housing Finance Board (Finance Board) is an independent agency that is charged under the Federal Home Loan Bank Act (Bank Act) with supervising and regulating the Nation's Federal Home Loan Bank (Bank) System. The Bank System comprises 12 regional Banks that are each owned by their member financial institutions and provide wholesale credit to members and certain nonmembers to be used for mortgage lending and related community lending activities. The Bank System also includes the Office of Finance, which issues Bank System consolidated obligations. The Finance Board is required to prepare the following regulatory plan pursuant to section 4 of Executive Order 12866. At this time, we do not anticipate any significant regulatory or deregulatory actions that would be required to be included in a regulatory plan.

The Finance Board's highest regulatory priorities during the coming year continue to be to ensure the safety and soundness of the Bank System and to ensure that the Banks fulfill their housing finance and community investment mission. In furtherance of these statutory mandates, the Finance Board expects to issue a solicitation of comments on the implications for the Bank System raised by structural changes that have been occurring in the membership base. This action is prompted by the receipt of several petitions, each requesting that the Finance Board permit a single depository institution to be a member of two Banks simultaneously. The solicitation would request comments on how developments in the membership base have affected the Bank System, and how permitting a single depository institution to be a member of more than one Bank might affect the Bank System.

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FEDERAL MARITIME COMMISSION (FMC)

Statement of Regulatory and Deregulatory Priorities

The Federal Maritime Commission's (Commission) regulatory objectives are guided by the Agency's basic mission. The Commission's mission is to administer the shipping statutes as effectively as possible to provide an efficient, competitive, market-driven, and nondiscriminatory ocean transportation system in an environment free of unfair foreign maritime trade practices. The Commission's regulations are designed to implement each of the statutes the Agency administers in a manner consistent with this mission and in a way that minimizes regulatory costs, fosters economic efficiencies, relies on the marketplace to determine industry growth, and promotes international harmony.

Recent legislation continues to impact the Federal regulatory scheme regarding international ocean shipping. The legislation required new regulations, as well as the revision of many of the Commission's substantive regulations. One of the principal changes was the elimination of the requirement that carriers file tariffs with the Commission listing their rates and charges. Carriers are now required to publish their rates in private automated systems. The Commission continues to assess its regulations implementing this requirement, as well as other requirements of the new legislation.

Common carriers remain concerned as to the content requirements of agreements filed with the Commission. Carriers have expressed a desire for better delineation as to what matters do or do not have to be filed and have suggested that the Commission's rules should provide protections for confidential business information, provide maximum flexibility for carriers to modify cooperative arrangements, and include guidance tailored for different types of agreements. The Commission previously initiated an inquiry to solicit comments from the ocean transportation industry and the general public to assist the Commission in formulating new rules governing content requirements. This matter continues to be assessed and will be considered during calendar year 2001.

The principal objective or priority of the Agency's current regulatory plan will be to continue to assess major existing regulations for continuing need, effectiveness, burden on the regulated industry, fairness, and clarity. The Commission is scheduled to issue its 2-year study of the Ocean Shipping Reform Act of 1998 in September 2001. Findings and conclusions from that report could result in consideration of specific issues for rulemaking proposals.

The Commission continues to have under review, *inter alia*, regulations regarding passenger vessel operator financial responsibility and co-loading arrangements between non-vessel-operating common carriers. The Commission's review of existing regulations exemplifies its objective to regulate fairly and effectively while imposing a minimum burden on the regulated entities, following the principles stated by the President in Executive Order 12866.

Description of the Most Significant Regulatory Actions

The Commission currently has no actions under consideration that constitute "significant regulatory actions" under the definition in Executive Order 12866.

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FEDERAL TRADE COMMISSION (FTC)

Statement of Regulatory Priorities

I. REGULATORY PRIORITIES

Background

The Federal Trade Commission (FTC or Commission) is an independent agency charged with protecting American consumers from "unfair methods of competition" and "unfair or deceptive acts or practices" in the marketplace. The Commission strives to ensure that consumers benefit from a vigorously competitive marketplace. The Commission's work is rooted in a belief that free markets work — that competition among producers and information in the hands of consumers brings the best products at the lowest prices for consumers, spurs efficiency and innovation, and strengthens the economy.

The Commission pursues its goal of promoting competition in the marketplace through two different, but complementary, approaches. First, for competition to thrive, curbing deception and fraud is critical. Through its consumer protection activities, the Commission seeks to ensure that consumers receive accurate, not false or misleading, information in the marketplace. At the same time, for consumers to have a choice of products and services at competitive prices and quality, the marketplace must be free from anticompetitive business practices. Thus, the second part of the Commission's basic mission — antitrust enforcement — is to prohibit anticompetitive mergers or other anticompetitive business practices without unduly interfering with the legitimate activities of businesses. These two complementary missions make the Commission unique insofar as it is the Nation's only Federal agency to be given this combination of statutory authority to protect consumers.

The Commission is, first and foremost, a law enforcement agency. It pursues its mandate primarily through case-by-case enforcement of the Federal Trade Commission Act and other statutes. The Commission, however, is also charged with the responsibility of issuing and enforcing regulations under a number of statutes. Pursuant to the FTC Act, for example, the Commission currently has in place 13 trade regulation rules. The Commission also has adopted a number of voluntary industry guides. Most of the regulations and guides pertain to consumer protection matters, and are generally intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions.

Gramm-Leach-Bliley Initiative

The Gramm-Leach-Bliley Act, Pub. L. No. 106-102, was enacted on November 12, 1999.[1] Title V (Privacy) Subtitle A (Disclosure of Nonpublic Personal Information), sections 501(b) and 505(b), require the Federal Trade Commission and the Securities and Exchange Commission to implement and enforce appropriate standards for financial institutions to safeguard customers' records and information (safeguards standards) by rule. The Commission has published both a request for comments and a notice of proposed rulemaking (NPRM) to further implement the statutorily mandated safeguards standards. *See* 66 FR 41162 (Aug. 7, 2001).

The Commission has proposed amending the Children's Online Privacy Protection Rule, 16 CFR part 312, to extend by two years (until April 2004) the sliding scale mechanism of verifying parental consent for collection of data about children by Web sites or online services. The Commission proposed the rule amendment because the anticipated progress in available technology of verifying such consent has not occurred. The notice of proposed rulemaking also requests comments responding to a number of questions relating to the current and anticipated availability and affordability of secure electronic mechanisms or infomediary services for obtaining parental consent. See 66 FR 54963 (Oct. 31, 2001).

Ten-Year Review Program

In 1992, the Commission implemented a program to review its rules and guides regularly. The Commission's review program is patterned after provisions in the Regulatory Flexibility Act, 5 USC 601 *et seq.* Under the Commission's program, however, rules have been reviewed on a ten-year schedule as resources permit, not just once as usually required by section 610 of the Regulatory Flexibility Act. This program is also broader than the review contemplated under the Regulatory Flexibility Act, in that it provides the Commission with an ongoing systematic approach for seeking information about the costs and benefits of its rules and guides and whether there are changes that could minimize any adverse economic effects, not just a "significant economic impact upon a substantial number of small entities." The program's goal is to ensure that all of the Commission's rules and guides remain beneficial and in the public interest.

As part of the ten-year plan, the Commission examines the effect of rules and guides on small businesses and on the marketplace in general. These reviews often lead to the revision or rescission of rules and guides to ensure that the Commission's consumer protection and competition goals are achieved efficiently and at the least cost to business. In a number of instances, the Commission has determined that existing rules and guides were no longer necessary or in the public interest. As a result of the review program, the Commission has repealed 48 percent of its trade regulation rules and 52.5 percent of its guides since 1992.

Calendar Year 2001 Reviews and Reviews in Process

As part of the Commission's ten-year review program, in 2001 the Commission continued reviews of seven rules and three industry guides. The reviews scheduled to begin in 2001 have been deferred.[2] The Commission will commence its review of those rules and guides at a later date.

All of the matters scheduled for review this year pertain to consumer protection and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions. For example, the Telemarketing Sales Rule (Rule), 16 CFR part 310, was adopted pursuant to the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 USC 6101-6108. The Rule requires telemarketers to disclose certain material information; prohibits misrepresentations; limits the times of day telemarketers may call consumers; prohibits calls to a consumer who has asked not to be called again; and sets payment restrictions for the sale of certain goods and services. The Commission began its review of the Rule by holding a forum on the "do-not-call" provision, followed by a request for comments and a public forum on July 27-28, 2000. The Commission anticipates completing this

[1] The Commission previously published its final rule implementing other Gramm-Leach-Bliley requirements in its Rule on Privacy of Consumer Financial Information, 16 CFR part 313. *See* 65 FR 33646 (May 24, 2000).

[2] In publishing the regulatory review schedule each year, the Commission indicates that the tentative timetable may be modified in the future to incorporate new legislative rules, or to respond to external factors (such as changes in the law) or other considerations. *See, e.g.*, 64 FR 3668 (Jan. 25, 1999).

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review and reporting to the Congress on its results late this fall.

In 1999, the Commission began its regulatory review of certain aspects of the Funeral Industry Practices Rule (Funeral Rule or Rule), 16 CFR part 453. The Funeral Rule, which became effective in 1984, and was amended in 1994, requires providers of funeral goods and services to give consumers itemized lists of funeral goods and services that not only state prices and descriptions, but also contain specific disclosures. The Rule enables consumers to select and purchase only the goods and services they want, except for those which may be required by law and a basic services fee. Also, funeral providers must seek authorization before performing some services, such as embalming. In addition to an assessment of the Rule's overall costs and benefits and continuing need for the Rule, the Commission's review will examine whether changes in the funeral industry warrant broadening the scope of the Rule to include non-traditional providers of funeral goods or services and revising or clarifying certain prohibitions in the Rule. *See* 64 FR 24249 (May 5, 1999). In response to requests of industry members, the Commission determined to extend the comment period. A public workshop conference was held on November 18, 1999, to explore issues raised in the comments submitted. Staff expects to forward its recommendation to the Commission early next year.

The Commission's review of the Franchise Rule, 16 CFR part 436, is also continuing. The Commission accepted comments on an NPRM with the text of a revised rule until December 21, 1999, and rebuttal comments until January 31, 2000. The proposal addresses issues including: (1) changing the timing for making disclosures; (2) clarifying the application of the Rule to international franchise sales; (3) expanding the Rule to require additional disclosures, including pending franchiser-initiated lawsuits involving the franchise relationship, franchiser use of gag clauses and, in some instances, trademark-specific franchisee associations; (4) permitting disclosures through electronic media, including the Internet; and (5) expanding the Rule's exemptions to address sophisticated investors. In June 2001, Bureau of Consumer Protection Staff issued *Franchise and Business Opportunity Program Review 1993-2000: A Review of the Complaint Data, Law Enforcement and Consumer Education*. Staff expects to forward its report on the rulemaking to the Commission next spring.

In addition, the Commission's review of the Pay-Per-Call Rule, 16 CFR part 308, is proceeding. The Commission has held workshops to discuss proposed amendments to its Pay-Per-Call Rule including provisions to combat telephone bill "cramming" — inserting unauthorized charges on consumers' phone bills — and other abuses in the sale of products and services that are billed to the telephone including voicemail, 900-number services, and other telephone base information and entertainment services. The most recent workshop, held May 20 and 21, 2000, focused on discussions of the use of 800 and other toll-free numbers to offer pay-per-call services, the scope of the Rule, the dispute resolution process, and the need for obtaining authorization from consumers before placing charges on their telephone bills. Staff anticipates forwarding its recommendation to the Commission this winter.

The Commission completed a portion of its review of the Amplifier Rule, 16 CFR part 432, in December 2000 and, at the same time, issued a supplemental notice of proposed rulemaking (SNPRM). The SNPRM seeks comment on proposed revisions to the Rule's testing procedures to provide appropriate power output ratings for the recently introduced class of "home theater" receivers that incorporate five or more channels of amplification. The reopened comment period ended on March 30, 2001. *See* 66 FR 12915 (Mar. 1, 2001). Staff anticipates forwarding a recommendation to the Commission this fall and Commission action by the end of the calendar year, 65 FR 80798 (Dec. 22, 2000).

The reviews of the Ophthalmic Practice Rule, 16 CFR part 456, and the R-Value Rule, 16 CFR part 460, are proceeding. Staff expects to forward its recommendations to the Commission regarding these Rules early next year.

With respect to Industry Guides, the Commission continued its review of the Guides for the Household Furniture Industry (Furniture Guides), 16 CFR part 250, which were issued on December 21, 1973. The Commission requested comments about the overall costs and benefits and the continuing need for the Furniture Guides. *See* 65 FR 18933 (Apr. 10, 2000). The Furniture Guides generally advise members of the furniture industry to make affirmative disclosures of product facts, which, if known by a purchaser, would influence the purchasing decision. The specific disclosures concern identification of the types of wood and outer coverings or stuffings used in furniture. These disclosures are designed to prevent consumers from being misled that the product is different from that which is actually being offered. To that end, the Commission's request for comments included eleven questions concerning the continued utility of the Furniture Guides. The comment period, originally scheduled to close on June 9, 2000, was extended until July 10, 2000, at the request of the American Furniture Manufacturers Association. 65 FR 37317 (Jun. 14, 2000). Staff expects to forward its recommendation to the Commission before the end of the calendar year.

The Commission is continuing its review of the Guides for the Rebuilt, Reconditioned, and Other Used Automobile Parts Industry (Used Auto Parts Guides), 16 CFR part 20. The Used Auto Parts Guides, effective since 1962, advise industry members not to misrepresent the age of the product, the condition of the product, the extent of the rebuilding of the product, or that the rebuilder was the original manufacturer. Industry members must also conspicuously disclose in advertising and packaging that the products include used parts, if that is the case. The Commission's review will examine, among other things, the overall costs and benefits of the Used Auto Parts Guides and whether there is a continuing need for them. The Commission has published a Federal Register notice seeking comment on several questions concerning the Used Auto Parts Guides. *See* 63 FR 17132 (Apr. 8, 1998). Staff has completed its review of the comments and plans to forward its recommendation to the Commission this fall.

In addition, the Commission also has solicited comments on its Guide Concerning Fuel Advertising for New Automobiles (Fuel Economy Guide), 16 CFR part 259, effective in 1975. *See* 64 FR 19720 (Apr. 22, 1999). The Fuel Economy Guide is designed to prevent deceptive fuel economy advertising and to facilitate the use of fuel economy claims in advertising. Since its issuance, the Fuel Economy Guide has advised marketers to disclose the established fuel economy of the vehicle as determined by the Environmental Protection Agency (EPA) under the Automobile Information Disclosure Act, 15 USC 2206, in advertisements that make representations regarding the fuel economy of a new vehicle. These EPA fuel economy numbers also appear on window labels attached to new automobiles. The Commission amended

the Fuel Economy Guide in 1978 and 1995 to make it consistent with the Information Disclosure Act changes regarding fuel economy disclosures. Staff has completed its review of the comments and plans to forward its recommendation to the Commission this fall.

Final Actions

Since publication of the 2000 Regulatory Plan, the Commission has completed a portion of its review of the Amplifier Rule, 16 CFR part 432. The Final Rule clarifies the testing procedure for self-powered speakers, and eliminates or modifies certain testing and disclosure requirements that have outlived their usefulness to consumers. *See* 65 FR 881232 (Dec. 22, 2000).

The Commission also has completed its regulatory review of the Guides for the Jewelry, Precious Metals and Pewter Industry, 16 CFR part 23, by amending the Guides to require disclosure of permanent treatments to gemstones that significantly affect their value, including laser drilling of diamonds and certain other treatments. Although these Guides were reviewed in 1992 under the ten-year plan, the Commission responded to a petition from industry members. *See* 65 FR 78738 (Dec. 15, 2000).

Calendar Year 2002 Reviews

The specific rules and guides to be addressed under the Commission's Regulatory Review Program will be announced early next year.[3]

Summary

With regard to both content and process, the FTC's ongoing and proposed regulatory actions are compatible with the President's priorities. The actions under consideration inform and protect consumers and reduce the regulatory burdens on businesses. The Commission will continue working toward these goals. The Commission's ten-year review program is patterned after provisions in the Regulatory Flexibility Act and complies with the Small Business Regulatory Enforcement Fairness Act of 1996. The Commission's ten-year program also is consistent with section 5(a) of Executive Order 12866, 58 FR 51735 (Sept. 30, 1993), which directs executive branch agencies to develop a plan to reevaluate periodically all of their significant existing regulations. In addition, the Rule Concerning Privacy of Consumer Financial Information, 16 CFR part 313 (2001), promulgated in 2000 and effective July 1, 2001 is consistent with the Statement of Regulatory Philosophy and Principles, E.O. 12866 section 1(a), which directs agencies to promulgate only such regulations as are, *inter alia*, required by law or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public.

As set forth in Executive Order 12866, the Commission continues to identify and weigh the costs and benefits of proposed actions and possible alternative actions, and to receive the broadest practicable array of comment from affected consumers, businesses, and the public at large. As stated above, since 1992 the Commission has repealed 48 percent of its trade regulation rules and 52.5 percent of its industry guides that existed in 1992 because they had ceased to serve a useful purpose. In sum, the Commission's regulatory actions are aimed at efficiently and fairly promoting the ability of "private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people." Executive Order 12866, sec. 1.

II. REGULATORY ACTIONS

The Commission has no rules that constitute "significant regulatory actions" under the definition in Executive Order 12866.

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[3] *See* 64 FR 3868-69 (Jan. 25, 1999).

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NATIONAL INDIAN GAMING COMMISSION (NIGC)

Statement of Regulatory Priorities

The Indian Gaming Regulatory Act (IGRA or the Act), 25 U.S.C. 2701 et seq., was signed into law on October 17, 1988. The Act established the National Indian Gaming Commission (NIGC or the Commission). The stated purpose of the Commission is to regulate the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments. It is the Commission's intention to provide regulation of Indian gaming to adequately shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players.

The NIGC's regulatory priorities for the next fiscal year are to:

1. Develop technical amendments to the Minimum Internal Control Standards;
2. Develop standards for constructing and maintaining gaming facilities operated on Indian lands;
3. Revise the definitions to exclude "electronic or electromechanical facsimile," and
4. Develop regulations to establish processes for the classification, review, and approval of games and devices used in tribal gaming.

NIGC

PROPOSED RULE STAGE

164. DEFINITIONS: ELECTRONIC OR ELECTROMECHANICAL FACSIMILE

Priority:

Other Significant

Legal Authority:

25 USC 2701 et seq.

CFR Citation:

25 CFR 502

Legal Deadline:

None

Abstract:

The rule will remove the definition of "electronic and electromechanical facsimile" now set forth at 25 CFR 502.8.

Statement of Need:

In several recent decisions, Federal courts have not relied on the Commission's definition of electronic or electromechanical facsimile. Instead, courts have relied exclusively on the terms contained in the Indian Gaming Regulatory Act (IGRA) and have applied a plain language interpretation of the phrase. To ensure consistency with developments in case law and a uniform approach to the term by the Commission and the courts, the Commission has determined that the definition set forth at 25 CFR 502.8 should be removed.

Summary of Legal Basis:

IGRA expressly authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of the [Act.]" (25 U.S.C. 2706(b)(10)). The Commission relies on this section of the statute to define terms set forth in the Act and to redefine terms as necessary to implement the Act.

Alternatives:

The Commission is evaluating other alternatives, including the status quo, and considering public comments to the proposals before determining which is the most worthy.

Anticipated Cost and Benefits:

The potential benefit of this regulatory action is consistency with development in case law and a uniform approach to the term by the Commission and the courts.

Risks:

There are no known risks to this regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	06/22/01	66 FR 33494
NPRM Comment Period End	08/21/01	
Final Rule	01/00/02	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Tribal

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RIN: 3141–AA10

NIGC

165. ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Legal Authority:

25 USC 2710(b)(2)(E)

CFR Citation:

25 CFR 573

Legal Deadline:

None

Abstract:

It is necessary for the National Indian Gaming Commission to promulgate regulations which ensure that tribal gaming facilities are constructed and maintained in a manner that protects the environment and the public health and safety.

Statement of Need:

The Indian Gaming Regulatory Act (IGRA) requires that tribal gaming ordinances or resolutions submitted for the Chairman's approval ensure that "the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety." 25 U.S.C. 2710(b)(2)(E). The Commission has determined that standards are needed to ensure compliance with this statutory requirement.

Summary of Legal Basis:

The regulations proposed today rely on the Commission's authority to issue environment, public health and safety regulations. This criteria is set forth in 25 U.S.C. 2710(b)(2)(E). IGRA expressly authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of the [Act]." (25 U.S.C. 2706(b)(10)). The

Commission relies on these sections of the statute to authorize the promulgation of regulations to ensure that gaming facilities on Indian lands are constructed, maintained and operated in a manner that adequately protects the environment and public health and safety.

Alternatives:

The Commission is evaluating alternatives to the proposed rule while considering public comments.

Anticipated Cost and Benefits:

The potential benefits to this regulatory action are to establish and define for the regulated community the environmental, public health and safety standards it must follow in order to comply with the IGRA, regulations promulgated thereunder, and tribal gaming ordinances. This regulatory action will provide the regulated public with guidance as to the standards the Chairman will use to determine what constitutes an environmental, public health, or safety problem sufficient to warrant an enforcement action.

Risks:

There are no known risks to this regulatory action.

Timetable:

Action	Date	FR Cite
ANPRM	04/27/99	64 FR 22588
ANPRM Comment Period End	06/28/99	
NPRM	07/24/00	65 FR 45558
NPRM Comment Period End	01/19/01	
Second NPRM	10/02/01	66 FR 50127
Second NPRM Comment Period End	12/29/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Tribal

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NIGC

166. TECHNICAL AMENDMENTS TO THE MINIMUM INTERNAL CONTROL STANDARDS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

25 USC 2702; 25 USC 2706(b)(10)

CFR Citation:

25 CFR 542

Legal Deadline:

None

Abstract:

The National Indian Gaming Commission anticipates that there will be a need to make technical changes to the minimum internal control standards in response to changes in technology and the gaming industry. Because these standards are established by Federal regulation, it is necessary to make the changes to the current standards, which should result in better internal control standards with minimal anticipated costs.

Statement of Need:

The Indian Gaming Regulatory Act (IGRA) establishes a comprehensive system for regulating gambling activities on Indian lands. Following a thorough rulemaking process, the Commission published Minimum Internal Control Standards (MICS), 25 C.F.R. part 542, in 1999. In the period since publication, there have been changes in Indian gaming and gaming technology that need to be reflected in the MICS. Additionally, there are technical errors in the existing regulation that require correction. The Commission has determined that these changes and corrections are needed to ensure that Indian gaming continues to be adequately regulated, while maintaining the ability to adopt to, and take advantage of, technological changes in the gaming industry.

Summary of Legal Basis:

The purpose of IGRA is clearly stated in its declaration of policy: "to provide a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players...." 25 U.S.C. 2702(2). In order to accomplish these and the other stated purposes of IGRA, the Commission was expressly authorized to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of the [Act]." 25 U.S.C. 2706(b)(10). The Commission relies on these sections of the statute to authorize the promulgation of Minimum Internal Control Standards in order to ensure the integrity of gaming on Indian lands and to safeguard this source of tribal revenues.

Alternatives:

The Commission sees no alternative but to revise its current Minimum Internal Control Standards for gaming operations on Indian lands.

Anticipated Cost and Benefits:

The potential benefits of this regulatory action are to revise the current Minimum Internal Control Standards to reflect the types of gaming occurring on Indian lands, to allow the Indian gaming industry to take advantage of technological changes occurring in the gaming industry so that it may be more competitive, and to clarify areas of the existing standards that, based on comments received, have led to conflicting interpretations and applications.

Risks:

There are no known risks to this regulatory action.

Timetable:

Action	Date	FR Cite
ANPRM	11/27/00	65 FR 70673
ANPRM Comment Period End	03/30/01	66 FR 12916
NPRM	12/00/01	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Tribal

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NIGC

FINAL RULE STAGE

167. GAME CLASSIFICATION

Priority:

Other Significant

Legal Authority:

25 USC 2702; 25 USC 2703; 25 USC 2705; 25 USC 2706; 25 USC 2710; 25 USC 2713

CFR Citation:

25 CFR 504

Legal Deadline:

None

Abstract:

This rule will establish processes for the classification, review, and approval of games and devices used in tribal gaming.

Statement of Need:

Over the course of the past couple of years, the NIGC has received numerous requests for advisory opinions on the classification of a particular game or device. The Commission has through an informal process issued several advisory opinions. However, given the growing number of requests and the need for some degree of predictability and certainty in the industry regarding the classification of games or devices, the Commission believes it is necessary to develop a formal process. Consequently, the Commission will use the rulemaking process to promulgate regulations in this area.

Summary of Legal Basis:

The Indian Gaming Regulatory Act specifically defines both Class II and Class III gaming (25 U.S.C. 2703). The Act also expressly authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Act." (25 U.S.C. 2706(b)(10)). The Commission relies on these sections of the statute to authorize the development by regulation of a process of formal classification of particular games and devices.

Alternatives:

At this time, the only identified alternative is to continue with the informal process of issuing advisory opinions regarding particular games.

Anticipated Cost and Benefits:

The potential benefits to this regulatory action are to bring more clarity and predictability to the industry regarding classification. Those engaged in Indian gaming need to have some degree of certainty regarding the legal consequences of playing a particular game. For those tribes without tribal-State compacts, the need is even greater to know with as much certainty as possible the classification of a particular game or device. The anticipated costs of implementing a classification system are unknown at this time.

Risks:

There are no known risks to this regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	11/10/99	64 FR 61234
NPRM Comment Period End	02/24/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Tribal

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Monday,
December 3, 2001

Part III

Department of Agriculture

Semiannual Regulatory Agenda

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DEPARTMENT OF AGRICULTURE (USDA)

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR Chs. I-IV

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda, October 2001

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of significant and not significant regulations being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Order 12866 "Regulatory Planning and Review." The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96-354. This agenda also identifies regulatory actions that are being reviewed in compliance with section 610(c) of the Regulatory Flexibility Act. We invite public comment on those actions.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

For this edition of the USDA regulatory agenda, the most important significant regulatory actions are included in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action. Requests for copies of the agenda should include a self-addressed, stamped envelope and be directed to: Regulatory Agenda, OBPA, Office of the Secretary, Room 118-E, Jamie Whitten Building, U.S. Department of Agriculture, Washington, DC 20250, (202) 720-1272.

Dated: October 19, 2001.

Jacquelyn Y. Chandler,

Chief, Legislative and Regulatory and Automated Systems Staff.

Agricultural Marketing Service—Prerule Stage

Sequence Number	Title	Regulation Identification Number
168	Cotton Futures Act: Changing the Destination of Spot Markets (CN-01-004)	0581-AC00

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
169	General Specifications for Dairy Plants Approved for USDA Inspection and Grading	0581-AB59
170	Increase in Fees for Voluntary Federal Seed Testing and Certification Services and Establishment of a Fee for Preliminary Test Reports (LS-01-07)	0581-AB95
171	Livestock Mandatory Reporting Program—Lamb Amendment (LS-01-08)	0581-AB98
172	Regulations Governing the California Prune/Plum (Tree Removal) Diversion Program, 2001-2002 Crop Year (FV-01-81-01 PR)	0581-AC03
173	Revision of User Fees for 2002 Crop Cotton Classification Services	0581-AC04
174	Mango Promotion, Research, and Information Order (FV-01-707)	0581-AC05
175	Establishing a Lamb Promotion, Research, and Information Order (LS-01-12) **(Reg Plan Seq No. 1)**	0581-AC06
176	Establishing Fees for Voluntary Quality Systems Certification Services (LS-00-13)	0581-AC08

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Agricultural Marketing Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
177	Voluntary Shell Egg Regulations; Repackaging of Shell Eggs Under USDA's Grading Program	0581-AB56
178	Tobacco Fees and Charges for Permissive Inspection: Fee Increase (TB-00-04 FR)	0581-AB86
179	Tobacco Fees and Charges for Mandatory Inspection: Fee Increase	0581-AB87
180	Hass Avocado Promotion, Research, and Information Order (FV-01-705) **(Reg Plan Seq No. 2)**	0581-AB92
181	Increase in Fees and Charges For Eggs, Poultry, and Rabbit (PY-01-005)	0581-AB99

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Agricultural Marketing Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
182	Fresh Russet Potato Diversion Program, 2000 Crop (FV-01-80-01)	0581-AC07

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Agricultural Marketing Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
183	National Laboratory Accreditation Program	0581-AB42
184	Changes in Fees for Federal Grading and Certification of Livestock for Chicago Mercantile Exchange Futures Deliveries	0581-AB66
185	Program To Assess Organic Certifying Agencies	0581-AB70
186	Regulations Governing the Inspection of Eggs	0581-AB74
187	Discontinue the Official Grading of Imported Beef, Lamb, Veal, and Calf Carcasses Under the Authority of the Agricultural Marketing Act of 1946	0581-AB90
188	Revision of Regulations Governing the Inspection and Grading Service of Manufactured or Processed Dairy Products (DA-00-08)	0581-AB93
189	National Organic Program: Add Standards for Mushroom, Apiculture, Greenhouse and Hydroponic Production Systems and the Handling of Honey (TM-01-09)	0581-AB96
190	National Organic Program: Add Standards for the Organic Certification of Wild Captured Aquatic Animals (TM-01-08)	0581-AB97
191	Voluntary Grading of Shell Eggs; Facilities and Equipment (PY-01-003)	0581-AC02

Agricultural Marketing Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
192	Processed Fruits and Vegetables: Qualified Through Verification (QTV)	0581-AB58
193	Olive Oil Promotion, Research, and Information Order	0581-AB62
194	Honey Research, Promotion, and Consumer Information Order	0581-AB84
195	Voluntary Grading of Shell Eggs	0581-AB80
196	Revision of User Fees for 2001 Crop Cotton Classification Services to Growers (CN-00-010)	0581-AB94
197	Livestock Mandatory Reporting: Confidentially Guideline (LS-01-10)	0581-AC01

Farm Service Agency—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
198	Regulatory Streamlining of the Farm Service Agency's Direct Farm Loan Programs	0560-AF60
199	Implementation of the U.S. Warehouse Act of 2000	0560-AG45
200	Interest Assistance Program	0560-AG46
201	Non-Recourse Cotton Loan and Loan Deficiency Payment Programs; Upland Cotton First Handler Marketing Certificate Program; and Seed Cotton Recourse Loan Program	0560-AG47
202	Ocean Freight Claims Administrative Appeal Process	0560-AG49
203	Rescheduling Guaranteed Loans With Balloon Payments, Clarification of Annual Analysis Requirements for Guaranteed Lenders, and Subordination Requirements	0560-AG53
204	General Regulations Governing Commodity Loans for 1998 and Subsequent Crops	0560-AG54
205	Prompt Disaster Set-Aside Consideration and Primary Loan Servicing	0560-AG56
206	2002-Crop Peanuts National Poundage Quota for Quota Peanuts	0560-AG57
207	2002-Crop Marketing Quotas and Price Support Levels for Five Kinds of Tobacco	0560-AG58

USDA

Farm Service Agency—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
208	Part 1946 Mediation; Subpart A—Agricultural Loan Mediation Program	0560-AE26
209	Dairy Recourse Loan Program	0560-AF41
210	Lamb Meat Adjustment Assistance Program	0560-AG17
211	Reduction of Amortized Shared Appreciation Recapture Interest Rate	0560-AG43
212	Collecting Guaranteed Loss Payments From FSA Farm Loan Program Borrowers	0560-AG44
213	Tobacco Marketing Quotas, Cards, Penalty Provisions, Recordkeeping and Reporting	0560-AG52
214	2002-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AG59
215	2002-Crop Marketing Quota and Price Support Level for Flue-Cured Tobacco	0560-AG60

Farm Service Agency—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
216	Amendments to the Standards for Approval of Warehouse for Commodity Credit Corporation Storage Contracts	0560-AE50
217	Deletion of FSA Regulations Regarding Colorado River Basin Salinity Control Program	0560-AE54
218	Amendments to the Debt Settlement Policies and Procedures To Conform to the Debt Collection Improvement Act of 1996	0560-AF22
219	Amendment to the Farm Reconstitution Regulations	0560-AF38
220	1999-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AF50
221	Remove Internal Agency Provisions From FSA Farm Credit Program Regulations for Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property	0560-AF53
222	Low Documentation Loan	0560-AF71
223	Streamlining of the Emergency Farm Loan Program Regulations	0560-AF72
224	Amendments to the Conservation Reserve Program Regulations Regarding Land Eligibility	0560-AF77
225	2000-Crop Peanuts National Poundage Quota, National Average Loan Rates for Quota and Additional Peanuts and Minimum Export-Edible Sales Price for Additional Peanuts	0560-AF83
226	2000-Crop Marketing Quota and Price Support Level for Flue-Cured Tobacco	0560-AF84
227	Disaster Set-Aside Program	0560-AF91
228	Designation of Non-Auction Tobacco	0560-AG07
229	Agricultural Disaster and Market Assistance	0560-AG14
230	Noninsured Crop Disaster Assistance Program Regulations for the 2001 and Succeeding Crop Years	0560-AG20
231	Emergency Conservation Program	0560-AG26
232	2001-Crop Marketing Quota and Price Support Level for Flue-Cured Tobacco	0560-AG28
233	2001-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AG29
234	2001-Crop Marketing and Price Support Levels for Five Kinds of Tobacco	0560-AG30
235	2001-Crop Peanuts National Poundage Quota, National Average Loan Rates for 2001-Crop Quota and Additional Peanuts and Minimum Export Edible Sales Price for Additional Peanuts	0560-AG31
236	Livestock Indemnity Program and Livestock Indemnity Program for Contract Growers	0560-AG33
237	Conservation Reserve Program—Failure To Establish Cover and Good Faith Reliance	0560-AG37
238	Conservation of Farmable Wetlands	0560-AG38
239	Tobacco Loss Assistance Program and Amendments to the Tobacco Marketing Quota Regulations	0560-AG40
240	Collection of Appraisal Fees for Farm Loan Programs, Insured Loans	0560-AG42
241	Elimination of 30-Day Past-Due Period for Farm Loan Program Borrowers	0560-AG50
242	Tobacco Marketing Quotas, Acreage Allotments and Production Adjustment	0560-AG51
243	Amendment to the Regulations for Determining Acreage for Skip-Row Cotton	0560-AG55

Farm Service Agency—Completed Actions

Sequence Number	Title	Regulation Identification Number
244	Selection and Functions of Farm Service Agency State and County Committees	0560-AE33
245	Small Hog Operation Payment Plan	0560-AF70
246	Northeast Interstate Dairy Compact	0560-AG25
247	Sugar Payment-In-Kind (PIK) Diversion Program	0560-AG48

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Animal and Plant Health Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identification Number
248	Animal Welfare: Marine Mammals; Nonconsensus Language and Interactive Programs	0579-AB24

Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
249	Plant Pest Regulations; Update of Current Provisions **(Section 610 Review)**	0579-AA80
250	Phytosanitary Treatment by Ionizing Energy of Imported Fresh Fruits and Vegetables	0579-AA97
251	Importation of Solid Wood Packing Material	0579-AA99
252	Blood and Tissue Collection at Livestock Slaughtering Establishments	0579-AB13
253	Phytosanitary Certificates for Imported Fruits and Vegetables	0579-AB18
254	Bees, Beekeeping Byproducts, and Beekeeping Equipment **(Section 610 Review)**	0579-AB20
255	Veterinary Diagnostic User Fees—5-Year Plan for Fees **(Section 610 Review)**	0579-AB22
256	Nursery Stock Regulations **(Section 610 Review)**	0579-AB23
257	Draft Action Plan for the Noxious Weeds Program	0579-AB30
258	Salmonella Enteritidis Phage-Type 4; Remove Import Restrictions	0579-AB31
259	Standards for Permanent, Privately Owned Horse Quarantine Facilities **(Section 610 Review)**	0579-AB32
260	Foot-and-Mouth Disease; Payment of Indemnity **(Reg Plan Seq No. 3)**	0579-AB34
261	Chronic Wasting Disease in Elk; Interstate Movement Restrictions and Payment of Indemnity **(Reg Plan Seq No. 4)**	0579-AB35

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
262	Importation of Fuji Apples From the Republic of Korea	0579-AA93
263	Animal Welfare; Inspection, Licensing, and Procurement of Animals **(Section 610 Review)**	0579-AA94
264	Importation of Unmanufactured Wood Articles From Mexico	0579-AB02
265	Commercial Transportation of Equines to Slaughter	0579-AB06
266	Importation of Unshu Oranges	0579-AB17
267	Plum Pox Compensation	0579-AB19
268	Animal Welfare; Policy on Environment Enhancement for Nonhuman Primates	0579-AB25
269	Importation Prohibitions Because of Bovine Spongiform Encephalopathy	0579-AB26
270	Interstate Movement of Swine Within a Production System	0579-AB28
271	Animals Destroyed Because of Tuberculosis; Payment of Indemnity	0579-AB29
272	Black Stem Rust; Addition of Rust-Resistant Varieties **(Section 610 Review)**	0579-AB33

Animal and Plant Health Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
273	Importation of Certain Embryos and Animal Semen **(Section 610 Review)**	0579-AA63
274	Establishment of Regions in the European Union for Hog Cholera, Foot-and-Mouth Disease, and Swine Vesicular Disease	0579-AB03
275	Horse Protection; Horse Industry Organizations	0579-AB04
276	Aquaculture; Farm-Raised Fin Fish	0579-AB09
277	Pseudorabies in Swine; Payment of Indemnity	0579-AB10
278	Importation of Beef From Brazil	0579-AB16
279	Exportation of Livestock **(Section 610 Review)**	0579-AB21
280	Mexican Hass Avocado Import Program	0579-AB27

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Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
281	Karnal Bunt	0579-AA83
282	Interstate Movement of Sheep and Goats From States That Do Not Quarantine Scrapie-Infected and Source Flocks	0579-AA90
283	Restrictions on the Importation of Ruminants, Meat and Meat Products From Ruminants, and Certain Other Ruminant Products	0579-AA98
284	Requiring Treatment of Solid Wood Packing Material From China	0579-AB01
285	Noxious Weeds; Weed Categories and Priorities	0579-AB07
286	Noxious Weeds; Restrictions on Interstate Movement	0579-AB08
287	Citrus Canker; Payments for Commercial Citrus Tree Replacement and Lost Production Income	0579-AB15

Cooperative State Research, Education, and Extension Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
288	Higher Education Multicultural Scholars Program; Administrative Provisions	0524-AA09
289	Hispanic-Serving Institutions Education Grants Program Administrative Provisions	0524-AA17
290	Community Food Projects Administrative Provisions	0524-AA19
291	Small Business Innovation Research Program Administrative Provisions	0524-AA20
292	Biotechnology Risk Assessment Research Grants Program Administrative Provisions	0524-AA21
293	National Research Initiative Competitive Grants Program Administrative Provisions	0524-AA22

Rural Housing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
294	Civil Rights Compliance Requirements—1901-E to 1940-D	0575-AA83
295	Servicing Community Programs Loans and Grants	0575-AC12
296	Multi-Family Housing	0575-AC13
297	Self-Help Technical Assistance Grants	0575-AC20

Rural Housing Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
298	Direct Section 502 and 504 Single-Family Housing Program	0575-AB99
299	Guaranteed Single-Family Housing	0575-AC18
300	Operating Assistance for Migrant Farmworker Projects	0575-AC24
301	Technical Assistance To Encourage the Development of Domestic and Migrant Farm Labor Housing	0575-AC25
302	7 CFR 3565, Guaranteed Rural Rental Housing, Section 538 Statutory Changes	0575-AC26

Rural Housing Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
303	Environmental Program	0575-AB98
304	National Flood Insurance Regulations	0575-AC07

USDA

Rural Housing Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
305	Denying Credit to Applicants Delinquent on Any Federal Debt	0575-AA66

Federal Crop Insurance Corporation—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
306	General Administrative Regulations; Subpart D; Application for Crop Insurance	0563-AB00
307	General Administrative Regulations; Movement of Business Among Insurance Providers	0563-AB71
308	General Administrative Regulations; Sanctions	0563-AB73
309	Common Crop Insurance Regulations; Blueberry Crop Insurance Provisions	0563-AB76
310	Common Crop Insurance Regulations; Nursery Crop Insurance Provisions	0563-AB80
311	General Administrative Regulations; Actual Production History	0563-AB83
312	Common Crop Insurance Regulations; Basic Provisions and General Administrative Regulations, Subpart T, Regulations for Implementation	0563-AB85

Federal Crop Insurance Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
313	Common Crop Insurance Regulations; Small Grains Crop Insurance Provisions and Wheat Winter Coverage Endorsement	0563-AB63
314	General Administrative Regulations; Nonstandard Underwriting Classification System	0563-AB66
315	General Administrative Regulations; Premium Reductions; Payments of Rebates, Dividends, and Patronage Refunds; and Payments to Insured-Owned and Record-Controlling Entities	0563-AB70
316	Common Crop Insurance Regulations; Millet Crop Insurance Provisions	0563-AB79
317	Catastrophic Risk Protection Endorsement; Group Risk Plan of Insurance Regulations; Basic Provisions	0563-AB81
318	General Administrative Regulations; Submission of Policies and Provisions of Policies and Rates of Premiums	0563-AB84

Federal Crop Insurance Corporation—Completed Actions

Sequence Number	Title	Regulation Identification Number
319	General Administrative Regulations; Subpart S; Regulations for Insurance Coverage by Written Agreement	0563-AB07
320	Common Crop Insurance Regulations; Coarse Grains Crop Insurance Provisions	0563-AB64
321	General Administrative Regulations; Civil Rights Data Collection	0563-AB78

Grain Inspection, Packers and Stockyards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
322	Review Inspection Requirements	0580-AA58
323	Packer Recordkeeping Requirements	0580-AA72
324	Exceptions to Geographic Areas for Official Agencies Under the USGSA	0580-AA76
325	Prohibition on Disguising Grain Quality	0580-AA77
326	Laboratory Accreditation Program	0580-AA78

USDA

Grain Inspection, Packers and Stockyards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
327	Tolerances for Dividers	0580-AA57
328	Swine Packer Marketing Contracts	0580-AA71

Grain Inspection, Packers and Stockyards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
329	Poultry Grower Contracts	0580-AA51
330	Livestock Purchase or Sale: Prohibit Non-Reporting of Price	0580-AA65
331	How Can USDA Best Facilitate the Marketing of Grains, Oilseeds, Fruits, Vegetables, and Nuts in Today's Marketplace	0580-AA73

Grain Inspection, Packers and Stockyards Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
332	Fees for Commodity and Rice Inspection Services	0580-AA74
333	Fees for Official Inspection and Official Weighing Services	0580-AA75

Food and Nutrition Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
334	Special Supplemental Food Program for Women, Infants, and Children (WIC): Miscellaneous Provisions	0584-AB10
335	Food Stamp Program Matching Programs and Privacy Protections	0584-AB51
336	FSP: Civil Rights Data Collections	0584-AC75
337	Commodity Supplemental Food Program: Plain Language, Program Accountability, and Program Flexibility	0584-AC84
338	Food Stamp Program: Administrative Cost Reimbursement	0584-AC86
339	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the WIC Food Packages **(Reg Plan Seq No. 5)**	0584-AC90
340	Improving Access to the Food Stamp Program for Persons With Limited English Proficiency	0584-AD06
341	Food Stamp Program: Vehicle and Maximum Excess Shelter Expense Deduction Provisions of Public Law 106-387 **(Reg Plan Seq No. 6)**	0584-AD13
342	Child and Adult Care Food Program (CACFP): At-Risk Afterschool Suppers	0584-AD15

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Food and Nutrition Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
343	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts	0584-AB52
344	Food Stamp Program: Anticipating Income and Reporting Changes	0584-AB57
345	Child and Adult Care Food Program: Improving Management and Program Integrity **(Reg Plan Seq No. 7)**	0584-AC24
346	Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools: Provision 2 and Provision 3	0584-AC25
347	Food Stamp Program Regulatory Review: FSP Standards for Approval and Operation of Food Stamp Electronic Benefit Transfer Systems	0584-AC37
348	Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Food Stamp Provisions of the Balanced Budget Act of 1997 **(Reg Plan Seq No. 8)**	0584-AC45
349	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula	0584-AC68
350	Child Nutrition Programs: Reimbursement for Snacks in Afterschool Care Programs	0584-AC72

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Food and Nutrition Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
351	Food Distribution Program: Deletion of Requirement To Evaluate State-Run Commodity Distribution and Warehousing Systems Every 3 Years	0584-AC79
352	FSP: Electronic Benefit Transfer (EBT) Systems Interoperability and Portability	0584-AC91
353	Child and Adult Care Food Program: Implementing Legislative Reforms To Strengthen Program Integrity	0584-AC94
354	Special Nutrition Programs: Disclosure of Children's Eligibility Information Under the Child Nutrition Programs	0584-AC95
355	Special Milk Program for Children: Plain Language Revision and Reorganization	0584-AC97
356	Food Distribution Programs: Plain Language Rewrite of 7 CFR Part 250, Donation of Foods for Use in the United States, Its Territories and Possessions, and Areas Under Its Jurisdiction	0584-AC98
357	Food Distribution Programs: Plain Language Rewrite of 7 CFR Part 251, The Emergency Food Assistance Program (TEFAP)	0584-AC99
358	Food Distribution Programs: Plain Language Rewrite of 7 CFR Part 252, The National Commodity Processing Program (NCP)	0584-AD00
359	Food Distribution Programs: Plain Language Rewrite of 7 CFR Part 253, the Food Distribution Program on Indian Reservations (FDPIR)	0584-AD01
360	Food Distribution Programs: Plain Language Rewrite of 7 CFR Part 254, the Food Distribution Program on Indian Reservations (FDPIR) in Oklahoma	0584-AD02
361	Implementation of Poultry Substitution Pilot as Permanent and Modification of Commodity Recordkeeping Requirements	0584-AD08
362	Special Nutrition Programs: Uniform Federal Assistance Regulations; Nondiscretionary Technical Amendments	0584-AD16

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Food and Nutrition Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
363	State Administrative Expense Funds: Plain Language Rewrite	0584-AC96
364	Nutrition Education and Training Program: 7 CFR Part 227, Plain Language Rewrite	0584-AD03
365	State Agency Liabilities and Federal Sanctions, 7 CFR 276	0584-AD04
366	Payments of Certain Administrative Costs of State Agencies, 7 CFR 277	0584-AD05
367	School Breakfast Program: Plain Language Revision and Reorganization (7 CFR 220)	0584-AD10
368	WIC: Plain Language Rewrite of 7 CFR Part 248, Farmers' Market Nutrition Program	0584-AD11
369	Food Distribution Program on Indian Reservation: Resource Limits and Exclusions, Extended Certification Periods, and Transitional Benefits	0584-AD12

Food and Nutrition Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
370	Disclosure of Free and Reduced-Price Eligibility Information Under the School Nutrition, Summer Food Service, and Child and Adult Care Food Programs	0584-AC21
371	National School Lunch and School Breakfast Programs: Identification of Blended Beef, Pork, Poultry, or Seafood Products	0584-AC92

Food Safety and Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identification Number
372	Poultry Inspection: Revision of Finished Product Standards With Respect to Ingesta **(Reg Plan Seq No. 9)**	0583-AC77

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Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
373	Grant and Inauguration of Inspection	0583-AC07
374	Performance Standards for Bacon **(Reg Plan Seq No. 10)**	0583-AC49
375	Reform of Regulations on Imported Meat and Poultry Products	0583-AC56
376	Egg and Egg Products Inspection Regulations **(Reg Plan Seq No. 11)**	0583-AC58
377	Labeling—Generic Approval and Regulation Consolidation	0583-AC59
378	Pathogen Reduction; Hazard Analysis and Critical Control Points (HACCP) Systems; Additions to Generic E. Coli Criteria **(Reg Plan Seq No. 12)**	0583-AC63
379	Elimination of Requirements for Total Quality Control Systems	0583-AC68
380	Petitions for Rulemaking	0583-AC81
381	Classes of Poultry Updating Poultry Class Standards	0583-AC83
382	Elimination of Chilling Time and Temperature Requirements for Ready-To-Cook Poultry **(Section 610 Review)** **(Reg Plan Seq No. 13)**	0583-AC87
383	Emergency Regulations To Prevent Meat Food and Meat Products That May Contain the BSE Agent From Entering Commerce **(Reg Plan Seq No. 14)**	0583-AC88
384	Increases in Fees for Meat, Poultry, and Egg Products Inspection Services—Fiscal Year (FY) 2002	0583-AC89

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
385	Beef or Pork With Barbecue Sauce; Revision of Standards	0583-AC09
386	Meat Produced by Advanced Meat/Bone Separation Machinery and Recovery Systems **(Reg Plan Seq No. 15)**	0583-AC51
387	Incorporation of Food and Color Additives Into 21 CFR	0583-AC69
388	Performance Standards for On-line Antimicrobial Reprocessing of Pre-Chill Poultry Carcasses **(Reg Plan Seq No. 16)**	0583-AC73
389	Sharing Recall Distribution Lists With State and Other Federal Government Agencies	0583-AC75
390	Agency Organization	0583-AC78
391	Labeling of Natural or Regenerated Collagen Sausage Casings	0583-AC80
392	Food Standards: Requirements for Substantive Standardized Meat and Poultry Products Named by Use of an Expressed Nutrient Content Claim and a Standardized Term	0583-AC82
393	Mandatory Inspection of Ratites and Squabs	0583-AC84

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Food Safety and Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
394	Transportation, Storage, and Other Handling of Potentially Hazardous Foods	0583-AC05
395	Ante-Mortem and Post-Mortem Inspection of Livestock and Poultry	0583-AC43
396	Requirements for Disposition and Disposal of Inspected Raw Meat and Poultry Products	0583-AC44
397	Performance Standards for Ready-To-Eat Meat and Poultry Products	0583-AC46
398	Reworking of Meat and Poultry Carcasses Accidentally Contaminated During Evisceration	0583-AC53
399	Nutrition Labeling of Ground or Chopped Meat and Poultry Products and Single-Ingredient Products	0583-AC60
400	Food Labeling; Nutrient Content Claims, Definition of the Term Healthy	0583-AC65
401	Food Standards; Guiding Principles and Standards Modernization	0583-AC72

Food Safety and Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
402	Performance Standard for the Chilling or Other Processing of Livestock Carcasses and Ready-To-Cook Poultry	0583-AC21
403	Other Consumer Protection Activities	0583-AC64

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Food Safety and Inspection Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
404	Terminology	0583-AC79
405	Product Labeling: Defining United States Cattle and United States Fresh Beef Products	0583-AC85
406	Elimination of Requirements for Partial Quality Control Programs; Certification of Scales	0583-AC86

Foreign Agricultural Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
407	Program To Provide Technical Assistance To Promote U.S. Agricultural Exports to Emerging Markets (Emerging Markets Progam)	0551-AA62

Foreign Agricultural Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
408	Program To Assist U.S. Producers in Developing Domestic Markets for Value-Added Wheat Gluten and Wheat Starch Products	0551-AA60
409	Freedom of Information Act (FOIA) Regulations for the Foreign Agricultural Service	0551-AA61

Foreign Agricultural Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
410	CCC Supplier Credit Guarantee Program	0551-AA30
411	Facility Guarantee Program	0551-AA35

Foreign Agricultural Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
412	Export Sales Reporting Requirement	0551-AA51

Forest Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
413	Hydropower Applications	0596-AA47
414	Small Tracts Act Regulations	0596-AA79
415	Species Surplus to Domestic Manufacturing Needs	0596-AB27
416	Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Permit Urgent Removal of Other Timber	0596-AB48
417	Law Enforcement Support Activities	0596-AB61
418	Noncompetitive Sale of Timber	0596-AB70
419	Clarification of Exemptions From Special-Use Authorizations	0596-AB74
420	Sale and Disposal of National Forest System Timber; Timber Export and Substitution Restrictions	0596-AB75
421	Use of Fixed Anchors in Wilderness	0596-AB80
422	Special Forest Products and Forest Botanical Products	0596-AB81
423	Determining Fair Market Value for Recreation Residence Use Authorizations	0596-AB83
424	Inventoried Roadless Areas	0596-AB85

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Forest Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
425	National Forest System Land and Resource Management Planning	0596-AB86
426	National Environmental Policy Act Documentation for Certain Small Administrative Timber Sales on National Forest System Lands and Research Projects (Forest Service Handbook 1909.15, Chapter 30)	0596-AB88
427	Notice, Comment, and Appeal Procedures for National Forest System Projects and Activities	0596-AB89
428	Revisions to Road Management Policy (Forest Service Manual Chapter 7710)	0596-AB90

Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
429	Indian Allotments on National Forest System Lands	0596-AA52
430	Disposal of National Forest Timber; Cancellation of Timber Sale Contracts	0596-AB21
431	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations	0596-AB36
432	Preference for Visitor Service; Alaska National Forest Conservation System Units	0596-AB57
433	Categorical Exclusion for Certain Special Uses Permit Actions (FSH 1909.15, Chapter 30)	0596-AB73
434	National Forest System Land and Resource Management Planning; Extension of Compliance Deadline	0596-AB87

Forest Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
435	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands	0596-AB45

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
436	General Nonprocurement Regulations	0503-AA21

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
437	Designation of Rural Empowerment Zones and Enterprise Communities	0503-AA20

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
438	Nondiscrimination in USDA-Conducted Programs and Activities	0503-AA15

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Rural Business-Cooperative Service—Prerule Stage

Sequence Number	Title	Regulation Identification Number
439	Intermediary Relending Program Participation Agreements	0570-AA33

Rural Business-Cooperative Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
440	Business and Industry Guaranteed Loan Program—Financing Cooperative Stock	0570-AA26
441	Rural Business Enterprise Grant Program	0570-AA28

Rural Business-Cooperative Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
442	Rural Economic Development Loan and Grant Program	0570-AA19
443	Allocation Formulas	0570-AA30
444	Business and Industry Guaranteed Loan Program—Domestic Lamb Industry Adjustment Assistance Program Set-Aside	0570-AA31
445	The Rural Business Enterprise Grants and Television Demonstration Grants	0570-AA32

Rural Business-Cooperative Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
446	Business and Industrial Guaranteed Loan Program—Miscellaneous Changes	0570-AA23
447	Affirmative Fair Housing Marketing Plan	0570-AA24

Rural Business-Cooperative Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
448	Business and Industry Direct Loan Program	0570-AA22
449	Rural and Rural Area Under the Rural Community Advancement Program	0570-AA27

Rural Utilities Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
450	Telecommunications Standards and Specifications for Materials, Equipment, and Construction	0572-AB40
451	Servicing of Water Programs Loans and Grants	0572-AB59
452	Mergers and Consolidations of Electric Borrowers	0572-AB63
453	Electric Program Standard Contract Forms	0572-AB67
454	Exemptions of RUS Operational Controls Under Section 306E of the RE Act	0572-AB68

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Rural Utilities Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
455	Extensions of Payments of Principal and Interest	0572-AB60
456	Settlement of Debt	0572-AB61
457	Demand Side Management and Renewable Energy Systems	0572-AB65
458	Telecommunications Program Specification	0572-AB69
459	Distance Learning and Telemedicine Loan and Grant Program	0572-AB70

Rural Utilities Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
460	RUS Approval of Additions and Extensions to Electric Plants	0572-AB38
461	The "Buy American" Requirement	0572-AB55

Rural Utilities Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
462	Electric Standards and Specifications for Materials and Construction	0572-AA67
463	Telecommunications System Construction Contract and Specifications	0572-AB41
464	Post-Loan Policies and Procedures Common to Guaranteed and Insured Loans	0572-AB48
465	Water and Waste Disposal Programs Guaranteed Loans	0572-AB57
466	Elimination of Current Ratio Requirements	0572-AB58
467	Policy on Audits of RUS Borrowers; Generally Accepted Government Auditing Standards (GAGAS)	0572-AB62
468	Pre-Loan Policies and Procedures Common to Insured and Guaranteed Telecommunications Loans	0572-AB64
469	Policy on Audits of RUS Borrowers: Management Letter	0572-AB66

Natural Resources Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
470	Wetland Categorical Minimal Effects Exemptions	0578-AA27
471	Emergency Watershed Protection Program	0578-AA30

Natural Resources Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
472	Forestry Incentives Program	0578-AA26
473	Conservation of Private Grazing Land	0578-AA29

Natural Resources Conservation Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
474	Highly Erodible Land and Wetland Conservation	0578-AA17

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Office of Procurement and Property Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
475	Office of Procurement and Property Management (OPPM); Uniform Procedures for the Acquisition and Transfer of Excess Federal Property	0599-AA10

Office of Procurement and Property Management—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
476	New Restrictions on Lobbying	0599-AA03

Office of Procurement and Property Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
477	Agriculture Acquisition Regulation (AGAR); Contractor Employment of Migrant and Seasonal Agricultural Workers	0599-AA05
478	Agriculture Acquisition Regulation: Amendment to Part 442, Contract Administration	0599-AA08
479	Agriculture Acquisition Regulation; Part 419 Amendment; North American Industrial Classification System	0599-AA09

Department of Agriculture (USDA)
Agricultural Marketing Service (AMS)

Prerule Stage

168. • COTTON FUTURES ACT: CHANGING THE DESTINATION OF SPOT MARKETS (CN-01-004)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 156; PL 94-455, 90 Stat. 1841-1846; PL 102-287, Stat. 1844

CFR Citation: 7 CFR 27

Legal Deadline: None

Abstract: The U.S. Cotton Futures Act authorizes the Secretary of Agriculture to determine the five most appropriate spot cotton markets to designate for settlement of cotton futures contracts. Regional changes in current commercial sales of cotton makes it necessary to change the designation of spot market to more accurately reflect the commercial market prices and qualities of cotton for use in determining settlement differences for cotton traded on the cotton exchange

Timetable:

Action	Date	FR Cite
ANPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Norma Randall McDill, Deputy Administrator, Department of Agriculture, Agricultural Marketing Service, 14th & Independence Avenue SW, Room 2641-South, Washington, DC 20250
Phone: 202 720-2145
Fax: 202 690-1718
Email: norma.mcdill@usda.gov

RIN: 0581–AC00

Department of Agriculture (USDA)
Agricultural Marketing Service (AMS)

Proposed Rule Stage

169. GENERAL SPECIFICATIONS FOR DAIRY PLANTS APPROVED FOR USDA INSPECTION AND GRADING

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 58

Legal Deadline: None

Abstract: The proposed rule would: (1) Lower the maximum allowable bacterial estimate for manufacturing-grade producer milk from 1,000,000 per milliliter to 500,000 per milliliter; (2) lower the maximum allowable somatic cell count from 1,000,000 to 750,000 cells per milliliter; (3) lower the maximum permitted bacterial estimate in commingled milk from 3,000,000 per milliliter to 1,000,000 per milliliter; (4) modify the follow-up procedures when producer herd milk exceeds the maximum allowable bacterial estimate; (5) delete the laboratory screening test for somatic cells in producer-held milk samples (no change for goat milk); and (6) make editorial changes where necessary.

Timetable:

Action	Date	FR Cite
NPRM	06/13/01	66 FR 42458

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Action	Date	FR Cite
NPRM Comment Period End	10/12/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Duane R. Spomer, Acting Chief, Grading Branch, Department of Agriculture, Agricultural Marketing Service, Rm. 2746-South, Dairy Programs, P.O. Box 96456, Washington, DC 20090-6456
Phone: 202 720-7473
Fax: 202 720-2643
Email: duane.spomer@usda.gov

RIN: 0581–AB59

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170. • INCREASE IN FEES FOR VOLUNTARY FEDERAL SEED TESTING AND CERTIFICATION SERVICES AND ESTABLISHMENT OF A FEE FOR PRELIMINARY TEST REPORTS (LS-01-07)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1622; 7 USC 1624

CFR Citation: 7 CFR 75

Legal Deadline: None

Abstract: The Agricultural Marketing Service is proposing to increase the hourly fees charged for voluntary Federal seed testing and certification services and to establish a fee for preliminary test reports.

Timetable:

Action	Date	FR Cite
NPRM	10/23/01	66 FR 53550
NPRM Comment Period End	12/24/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Federalism: Undetermined

Agency Contact: Richard C. Payne, Chief, Seed Regulatory and Testing Branch, Department of Agriculture, Agricultural Marketing Service, Room 209, Building 306, BARC-East, Beltsville, MD 20705-2325
Phone: 301 504-9430
Email: richard.payne2@usda.gov

RIN: 0581–AB95

171. • LIVESTOCK MANDATORY REPORTING PROGRAM—LAMB AMENDMENT (LS-01-08)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1621

CFR Citation: 7 CFR 59

Legal Deadline: None

Abstract: The Agricultural Marketing Service is amending the Livestock Reporting Act of 1999 regulations. The amendments would: (1) Amend regulations requiring lamb packers to report negotiated purchases of live lamb and sales of carcass lamb; (2) adjust requirements for reporting of imported and domestic boxed lamb sales; and (3) make adjustments to input data collection forms. The Act was implemented April 2, 2001, and requires packers to report purchase and sales transactions for cattle, swine, sheep, boxed beef, and lamb meat.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: John Edward Van Dyke, Chief, Livestock and Grain Market News Branch, Department of Agriculture, Agricultural Marketing Service, Stop 0252, Room 2619-South, Washington, DC 20250
Phone: 202 720-6231
Fax: 202 690-3732
Email: john.vandyke@usda.gov

RIN: 0581–AB98

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172. • REGULATIONS GOVERNING THE CALIFORNIA PRUNE/PLUM (TREE REMOVAL) DIVERSION PROGRAM, 2001-2002 CROP YEAR (FV-01-81-01 PR)

Priority: Other Significant

Legal Authority: 7 USC 612c

CFR Citation: 7 CFR 81

Legal Deadline: None

Abstract: Under the California Prune/Plum (Tree Removal) Diversion Program for the 2001-2002 crop year, producers would voluntarily remove prune/plum trees to reduce acreage and help the California dried plum industry address its severe oversupply problems. The goal of the program is to remove the greatest number of trees with the greatest production potential prior to the 2002 crop for the least overall cost. The program is expected to bring supplies closer in line with market needs and provide some relief to producers faced with low prices, packer closures, and contract cancellations. Section 32 funds would be used to cover tree removal costs.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Anne M. Dec, Leader, Rulemaking Team, Department of Agriculture, Agricultural Marketing Service, 14th & Independence Avenue SW, Washington, DC 20250
Phone: 202 720-9921
Fax: 202 720-8938
Email: anne.dec@usda.gov

RIN: 0581–AC03

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173. • REVISION OF USER FEES FOR 2002 CROP COTTON CLASSIFICATION SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 473a

CFR Citation: 7 CFR 28

Legal Deadline: Final, Statutory, June 2001.

Abstract: This action would increase the user fees for cotton producers for the 2002 crop cotton classification services under the Cotton Statistics and Estimates Act.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Darryl Earnest, Associate Deputy Administrator, Department of Agriculture, Agricultural Marketing Service, Room 2633—Stop 0224, Washington, DC
Phone: 202 720-2145

USDA—AMS **Proposed Rule Stage**

Fax: 202 690-1718
Email: darryl.earnest@usda.gov

RIN: 0581–AC04

174. • MANGO PROMOTION, RESEARCH, AND INFORMATION ORDER (FV-01-707)

Priority: Routine and Frequent

Legal Authority: 7 USC 7411 through 7425

CFR Citation: 7 CFR 1206

Legal Deadline: None

Abstract: This action would establish a Mango Promotion, Research, and Information Order. The purpose of the new program would be to increase consumption of mangos in the United States. The program would be administered by the National Mango Promotion Board under the supervision of the Agricultural Marketing Service.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jeanette A. Palmer, Marketing Specialist, Department of Agriculture, Agricultural Marketing Service, Stop 0244, Fruit and Vegetable Program, Research and Promotion Branch, Room 2535-South, Washington, DC 20250-0244
Phone: 202 720-9915
Fax: 202 205-2800
Email: jeanette.palmer@usda.gov

RIN: 0581–AC05

175. • ESTABLISHING A LAMB PROMOTION, RESEARCH, AND INFORMATION ORDER (LS-01-12)

Regulatory Plan: This entry is Seq. No. 1 in part II of this issue of the **Federal Register**.

RIN: 0581–AC06

176. • ESTABLISHING FEES FOR VOLUNTARY QUALITY SYSTEMS CERTIFICATION SERVICES (LS-00-13)

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This proposed action is necessary to ensure that voluntary Quality Systems Certification Program (QSCP) services provided by the Agricultural Marketing Service's Meat Grading and Certification Branch remain financially self-sufficient and viable. The QSCP is a voluntary, audit-based program developed at the request of the industry and others to provide a means of verifying value-adding processes in the production and processing of agricultural products.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Larry R. Meadows, Chief, Meat Grading and Certification Branch, Department of Agriculture, Agricultural Marketing Service, Stop 0248, Rm. 2628-South, Livestock & Seed Program, 14th & Independence Avenue SW, Washington, DC 20250-0248
Phone: 202 720-1113
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Email: larry.meadows@usda.gov

RIN: 0581–AC08

Department of Agriculture (USDA)
Agricultural Marketing Service (AMS) **Final Rule Stage**

177. VOLUNTARY SHELL EGG REGULATIONS; REPACKAGING OF SHELL EGGS UNDER USDA'S GRADING PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 56

Legal Deadline: None

Abstract: Currently about one-third of the Nation's table eggs are marketed under the voluntary shell egg-grading program. Shell egg processors that choose to use this service pay a fee to have graders in their plants monitor processing operations and verify the grade and size of eggs packaged into packages bearing the USDA grade shield. The proposal would provide that, in order to be officially identified with a USDA consumer grade shield, shell eggs must not be more than 15 days old (or some other period between 15 and 30 days if justified by public comment) and must not have been previously shipped for retail sale.

Timetable:

Action	Date	FR Cite
NPRM	07/27/99	64 FR 40522
NPRM Comment Period End	09/27/99	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Bowden, Jr., Chief, Standardization Br., Poultry Programs, Department of Agriculture, Agricultural Marketing Service, Room 3944-S, MS 0259, 1400 Independence Avenue SW, Washington, DC 20250-0259
Phone: 202 720-3506
Fax: 202 690-0941
Email: david.bowden@usda.gov

RIN: 0581–AB56

178. TOBACCO FEES AND CHARGES FOR PERMISSIVE INSPECTION: FEE INCREASE (TB-00-04 FR)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 511 et seq

CFR Citation: 7 CFR 29

Legal Deadline: None

Abstract: The U.S. Department of Agriculture (the Department) is proposing to increase the fees and charges currently in force for permissive grading of quota and nonquota tobacco to reflect the increased costs of operating the program. The Tobacco Inspection Act requires the Secretary to fix and collect fees and charges for the voluntary inspection and certification of tobacco, and fees must cover, as nearly as practicable, the Department's costs for performing these services. The Agricultural Marketing Service is proposing that the base hourly rate be

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revised to $47.40, the overtime rate shall be revised to $54.22, and Sunday and holiday rate will be revised to $69.38. These fees would cover expenses and maintain a reserve that would meet any reasonable contingency.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/23/01	66 FR 28359
Interim Final Rule Comment Period End	06/22/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John P. Duncan III, Deputy Administrator, Department of Agriculture, Agricultural Marketing Service, Ag Code 0280, Tobacco Programs, Room 502 Annex Bldg., P.O. Box 96456, Washington, DC 20090-6456
Phone: 202 205-0567
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RIN: 0581–AB86

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179. TOBACCO FEES AND CHARGES FOR MANDATORY INSPECTION: FEE INCREASE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 511 et seq

CFR Citation: 7 CFR 29

Legal Deadline: None

Abstract: The U.S. Department of Agriculture (the Department) is increasing the fees and charges for mandatory inspection and certification of producer tobacco sold at designated auction markets. The current fee of $.0083 per pound has been in effect since 1995. The new rate will be $.0100 per pound. Due to reduced quotas, the volume of tobacco delivered for inspection has declined. An increase of $.0017 per pound is necessary to adequately fund the level of service the industry desires.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/26/00	65 FR 34039
Interim Final Rule Effective	05/30/00	
Interim Final Rule Comment Period End	06/26/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John P. Duncan III, Deputy Administrator, Department of Agriculture, Agricultural Marketing Service, Ag Code 0280, Tobacco Programs, Room 502 Annex Bldg., P.O. Box 96456, Washington, DC 20090-6456
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RIN: 0581–AB87

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180. HASS AVOCADO PROMOTION, RESEARCH, AND INFORMATION ORDER (FV-01-705)

Regulatory Plan: This entry is Seq. No. 2 in part II of this issue of the **Federal Register**.

RIN: 0581–AB92

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181. • INCREASE IN FEES AND CHARGES FOR EGGS, POULTRY, AND RABBIT (PY-01-005)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1621 through 1627

CFR Citation: 7 CFR 56; 7 CFR 70

Legal Deadline: None

Abstract: The Agricultural Marketing Service proposes to increase the fees and charges for Federal voluntary egg, poultry, and rabbit grading. These fees and charges are increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the program, and other increased agency costs.

Timetable:

Action	Date	FR Cite
NPRM	08/13/01	66 FR 42456
NPRM Comment Period End	09/12/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rex A. Barnes, Chief, Grading Branch, Department of Agriculture, Agricultural Marketing Service, Stop 0258, Poultry Programs, 14th & Independence Avenue SW, Washington, DC 20090-6456
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Email: rex.barnes@usda.gov

RIN: 0581–AB99

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182. • FRESH RUSSET POTATO DIVERSION PROGRAM, 2000 CROP (FV-01-80-01)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 612c

CFR Citation: 7 CFR 80

Legal Deadline: None

Abstract: The Agricultural Marketing Service is proposing to establish a Fresh Russet Potato Diversion Program for the 2000 crop. The proposed program will assist fresh Russet potato growers faced with oversupplies and low prices by diverting potatoes to charitable institutions, or use as livestock feed, ethanol production, or to render them nonmarketable and dispose of in conformance with Federal, State, and local regulations. AMS expects to publish a final rule in early fall.

Timetable:

Action	Date	FR Cite
NPRM	04/13/01	66 FR 19099
Comment Period Extended	05/16/01	66 FR 27045
Comment Period Extended	06/12/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Susan Proden, Branch Chief, Department of Agriculture, Agricultural Marketing Service, 14th & Independence Avenue SW, P.O. Box 96456, Room 2546-South Building, Washington, DC 20090-6456
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RIN: 0581–AC07

Department of Agriculture (USDA)
Agricultural Marketing Service (AMS)

Long-Term Actions

183. NATIONAL LABORATORY ACCREDITATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
ANPRM	11/20/92	57 FR 54727
ANPRM Comment Period End	01/19/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: James V. Falk
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RIN: 0581–AB42

184. CHANGES IN FEES FOR FEDERAL GRADING AND CERTIFICATION OF LIVESTOCK FOR CHICAGO MERCANTILE EXCHANGE FUTURES DELIVERIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 53

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John E. VanDyke
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RIN: 0581–AB66

185. PROGRAM TO ASSESS ORGANIC CERTIFYING AGENCIES

Priority: Other Significant

CFR Citation: 7 CFR 37

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/09/99	64 FR 30851
Interim Final Rule Effective	06/10/99	
Interim Final Rule Comment Period End	08/09/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Larry R. Meadows
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RIN: 0581–AB70

186. REGULATIONS GOVERNING THE INSPECTION OF EGGS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 57

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rex A. Barnes
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RIN: 0581–AB74

187. DISCONTINUE THE OFFICIAL GRADING OF IMPORTED BEEF, LAMB, VEAL, AND CALF CARCASSES UNDER THE AUTHORITY OF THE AGRICULTURAL MARKETING ACT OF 1946

Priority: Other Significant

CFR Citation: 7 CFR 54

Timetable:

Action	Date	FR Cite
NPRM	02/01/00	65 FR 4780
NPRM Comment Period End	04/03/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Martin E. O'Connor
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Fax: 202 690-4119

RIN: 0581–AB90

188. REVISION OF REGULATIONS GOVERNING THE INSPECTION AND GRADING SERVICE OF MANUFACTURED OR PROCESSED DAIRY PRODUCTS (DA-00-08)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 58

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 0581–AB93

189. • NATIONAL ORGANIC PROGRAM: ADD STANDARDS FOR MUSHROOM, APICULTURE, GREENHOUSE AND HYDROPONIC PRODUCTION SYSTEMS AND THE HANDLING OF HONEY (TM-01-09)

Priority: Other Significant

Legal Authority: 7 USC 6501 through 6522

CFR Citation: 7 CFR 205

Legal Deadline: None

Abstract: AMS is proposing to revise the regulatory provisions for labeling agricultural products as organically produced and handled (7 CFR part 205). AMS will propose production standards for mushroom, apiculture, and greenhouse production systems and handling standards for apiculture products. The proposed standards will incorporate the recommendations of the National Organic Standards Board (NOSB) finalized at its October 2001 meeting. In June 2001, the NOSB released and accepted public comment on a draft version of mushroom and greenhouse standards. Concurrently, the NOSB implemented a task force to develop production and handling standards for apiculture.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal, Tribal, State, Local

Federalism: This action may have federalism implications as defined in EO 13132.

USDA—AMS

Long-Term Actions

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RIN: 0581–AB96

190. • NATIONAL ORGANIC PROGRAM: ADD STANDARDS FOR THE ORGANIC CERTIFICATION OF WILD CAPTURED AQUATIC ANIMALS (TM-01-08)

Priority: Other Significant

Legal Authority: 7 USC 6501 through 6522

CFR Citation: 7 CFR 205

Legal Deadline: None

Abstract: AMS is proposing to revise the regulatory provisions for labeling of agricultural products as organically produced and handled (7 CFR part 205). AMS proposes to incorporate the term "aquatic animal" in the definition of livestock and to establish production and handling standards for operations that capture aquatic animals from the wild. AMS has defined "aquatic animal" as any finfish or shellfish used for human consumption, whether taken from regulated but free roaming marine and fresh water populations (wild captured) or propagated and raised in a controlled or selected environment (aquaculture). Production standards for operations producing aquatic animals will incorporate requirements for livestock origin, feed ration, health care, living conditions, and recordkeeping. Handling standards for such operations will address prevention of commingling or organically produced commodities and prevention of contact between organically produced and prohibited substances.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Richard H. Mathews, Acting Program Manager, Department of Agriculture, Agricultural Marketing Service, Rm. 2510-South, 14th & Independence Avenue SW, Washington, DC 20250
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RIN: 0581–AB97

191. • VOLUNTARY GRADING OF SHELL EGGS; FACILITIES AND EQUIPMENT (PY-01-003)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1621 through 1627

CFR Citation: 7 CFR 56

Legal Deadline: None

Abstract: The Agricultural Marketing Service (AMS) reviewed the regulations in 7 CFR part 56 and identified changes necessary to bring the regulations up-to-date. AMS is proposing to update and clarify the voluntary shell egg grading regulations for facilities required for grading service, the operating requirements of plants utilizing the grading service, and the methods by which the grading service is provided.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rex A. Barnes, Chief, Grading Branch, Department of Agriculture, Agricultural Marketing Service, Stop 0258, Poultry Programs, 14th & Independence Avenue SW, Washington, DC 20090-6456
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RIN: 0581–AC02

Department of Agriculture (USDA)
Agricultural Marketing Service (AMS)

Completed Actions

192. PROCESSED FRUITS AND VEGETABLES: QUALIFIED THROUGH VERIFICATION (QTV)

Priority: Other Significant

CFR Citation: 7 CFR 52

Completed:

Reason	Date	FR Cite
Withdrawn	08/01/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

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RIN: 0581–AB58

193. OLIVE OIL PROMOTION, RESEARCH, AND INFORMATION ORDER

Priority: Routine and Frequent

CFR Citation: 7 CFR 1217

Completed:

Reason	Date	FR Cite
Withdrawn	09/19/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret B. Irby
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RIN: 0581–AB62

194. HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

Priority: Routine and Frequent

CFR Citation: 7 CFR 1240

Completed:

Reason	Date	FR Cite
Final Action	05/01/01	66 FR 21823
Final Action Effective	05/31/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

Agency Contact: Kathie Birdsell
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USDA—AMS — **Completed Actions**

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RIN: 0581–AB84

195. VOLUNTARY GRADING OF SHELL EGGS

Priority: Substantive, Nonsignificant
CFR Citation: 7 CFR 56
Completed:

Reason	Date	FR Cite
Withdrawn	07/27/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
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RIN: 0581–AB88

196. REVISION OF USER FEES FOR 2001 CROP COTTON CLASSIFICATION SERVICES TO GROWERS (CN-00-010)

Priority: Info./Admin./Other
CFR Citation: 7 CFR 28
Completed:

Reason	Date	FR Cite
NPRM	04/23/01	66 FR 20408
Final Action	05/30/01	66 FR 29215
Final Rule Effective	07/01/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Darryl Earnest
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RIN: 0581–AB94

197. • LIVESTOCK MANDATORY REPORTING: CONFIDENTIALLY GUIDELINE (LS-01-10)

Priority: Substantive, Nonsignificant
Legal Authority: 7 USC 1621
CFR Citation: None
Legal Deadline: None

Abstract: The Agricultural Marketing Service (AMS) is proposing to modify the reporting guideline used to protect the identity of firms and preserve the confidentiality of proprietary business information submitted by the Department of Agriculture (USDA) under the Livestock Mandatory Reporting (LMR) program. The proposed modification in the confidentiality guideline would continue to preserve the confidential nature of reported livestock transactions, while enable AMS to issue more frequent and comprehensive reports on livestock and meat, and provide all segments of the livestock and meat industries with a greater volume of relevant information on which to base market decisions.

Timetable:

Action	Date	FR Cite
Notice	08/07/01	66 FR 41194

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: John Edward Van Dyke, Chief, Livestock and Grain Market News Branch, Department of Agriculture, Agricultural Marketing Service, Stop 0252, Room 2619-South, Washington, DC 20250
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RIN: 0581–AC01
BILLING CODE 3410-02-S

Department of Agriculture (USDA)
Farm Service Agency (FSA) — **Proposed Rule Stage**

198. REGULATORY STREAMLINING OF THE FARM SERVICE AGENCY'S DIRECT FARM LOAN PROGRAMS

Priority: Other Significant
Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480
CFR Citation: 7 CFR 7; 7 CFR 18
Legal Deadline: None

Abstract: The Farm Service Agency (FSA) direct farm loan programs are still using the regulations and handbooks from the former Farmers Home Administration and still share many of its regulations, forms, and handbooks with the Rural Housing Service, Rural Utilities Service, and the Rural Business-Cooperative Services of the Rural Development Agency. This is very cumbersome and confusing to both Agency employees and the general public. This action will move all the direct farm loan program regulations from 7 CFR chapter 18 to 7 CFR chapter 7 and will allow FSA the opportunity to rewrite and re-engineer its direct farm loan program regulations. This action also consolidates a number of actions that were previously included in the regulatory agenda under separate RINs: 0560-AE04, 0560-AE07, 0560-AE09, 0560-AE11, 0560-AE13, 0560-AE14, 0560-AE15, 0560-AE37, 0560-AE87, 0560-AE88, 0560-AE90, 0560-AE98, and 0560-AE99.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AF60

199. IMPLEMENTATION OF THE U.S. WAREHOUSE ACT OF 2000

Priority: Other Significant
Legal Authority: PL 106-432
CFR Citation: 7 CFR 735 to 742
Legal Deadline: NPRM, Statutory, February 7, 2001.
Final, Statutory, May 8, 2001.

Abstract: The U.S. Warehouse Act of 2000 replaced the existing statutes governing federally licensed warehouses. This action implements that Act and will re-write all the CFR parts governing warehouses. This will

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make U.S. agriculture more competitive in both domestic and foreign markets through efficiencies and cost savings provided by today's computer technology and information management systems.

The Congress originally enacted the USWA in 1916, and amended it in 1919, 1923, and 1931. However, since that time, the authorizing legislation for this program has seen little change.

The Warehouse Act of 2000 makes this program more relevant to today's agricultural marketing system. The statute and its regulations authorize and standardize electronic documents and allow their transfer from buyer to seller across State and international boundaries. This new paperless flow of agricultural commodities from farm gate to end-user will provide significant savings and efficiencies.

The new USWA allows federally licensed warehouse operators to issue electronic warehouse receipts for any approved agricultural product, an authority previously granted to cotton, as well as electronically transmit other business documents, such as grade and weight certificates, certificates, bills of lading, export evidence certificates, and business-related documents required by letters of credit.

The USWA is paid for through user fees. Therefore, implementation of the USWA is basically budget neutral statute.

Timetable:

Action	Date	FR Cite
NPRM	09/04/01	66 FR 46310
NPRM Comment Period End	10/04/01	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG45

200. • INTEREST ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: Consolidated Farm and Rural Development Act (CONACT)

CFR Citation: 7 CFR 762

Legal Deadline: None

Abstract: The Consolidated Farm and Rural Development Act authorizes the Farm Service Agency to establish and carry out an interest rate reduction program, which provides an interest subsidy for guaranteed loans. The existing Interest Assistance Program is cumbersome and administratively expensive for lenders, causing many of them not to participate. The lenders that do participate use it extensively for many of their clients, resulting in an unbalanced and regional use of the program, and not always for those producers most in need of the assistance.

Our proposal is to reduce administrative burden for the lender, with the elimination of the annual needs test, to encourage non-participating lenders to utilize the program. We also propose to reduce the number of years that a producer can receive an interest subsidy and revise the way this is determined. This reduced term will target the program to addressing short-term cash flow problems, and discourage use of the program for major expansion, capital improvements or other longer term purposes.

There will be no change in program funding. However, some allocated funds will be redirected to reach producers more in need of assistance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG46

201. • NON-RECOURSE COTTON LOAN AND LOAN DEFICIENCY PAYMENT PROGRAMS; UPLAND COTTON FIRST HANDLER MARKETING CERTIFICATE PROGRAM; AND SEED COTTON RECOURSE LOAN PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 7231; 7 USC 7234 - 7237

CFR Citation: 7 CFR 1427

Legal Deadline: None

Abstract: Changes are proposed to the regulations that implement the upland cotton non-recourse loan and loan deficiency payment (LDP) programs at 7 CFR 1427, subpart A. These changes are being proposed to improve the accuracy and timeliness of producer transactions and are not foreseen as changing the number of program applications or the total value of program outlays. Rather, payment applications and loan settlements will be simply processed in less time, at less cost to the Commodity Credit Corporation (CCC) and the cotton industry, and with a greater degree of accuracy. Additional editorial changes to these regulations are included to improve the precision of the regulations.

It also is proposed that regulations for the Upland Cotton First Handler Marketing Assistance Program at 7 CFR 1427, subpart B, be deleted because they no longer apply to the cotton program. When the cotton marketing loan program was established, the statute limited the loan repayment rate to no less than 70 percent of the loan level. If the world price fell below that minimum level, the difference between the world price and the minimum loan repayment level was to be payable with first handler marketing certificates provided by regulations at subpart B. Because there is no longer any statutory minimum to the loan repayment rate, the regulations at 7 CFR 1427, subpart B are no longer needed.

Finally, one change is proposed to 7 CFR 1427, subpart D, that adds an additional eligibility requirement for the seed cotton loan.

Expected Effects.

1.Reduced administrative burden for loan repayments for both FSA and cotton merchants.

2.Quicker release of loan collateral by CCC to the market.

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3.Reduced CCC outlays for classification information currently purchased from the Agricultural Marketing Service to represent some cotton. For the 2000 crop, CCC paid approximately $230,000 for classification information. There could be a corresponding increase in outlays for classification information by ginners or warehouses that consistently have omitted this information from bale lists submitted to CCC.

4.Purchase of software by about 25 ginners and purchase of hardware and software by 6 to 8 ginners.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG47

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202. • OCEAN FREIGHT CLAIMS ADMINISTRATIVE APPEAL PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 7 U.S.C. 1431; 7 U.S.C. 1736o; 15 U.S.C. 714 et seq.; PL 480

CFR Citation: 7 CFR 1405; 7 CFR 1499; 22 CFR 211

Legal Deadline: None

Abstract: This rule will establish an administrative appeals procedure that would be used by the Commodity Credit Corporation (CCC) with respect to ocean transportation cargo loss and damage claims arising under shipments of agricultural commodities made available by CCC under various foreign donation programs. Whether or not title to the commodities has passed from CCC to a cooperating sponsor, which may be a foreign government, private voluntary organization, or private entity, CCC either retains the right or may be assigned the right to initiate, prosecute, and with certain limited exceptions retain the proceeds of cargo loss and damage claims. This proposed rule sets forth the administrative appeal system to be used in resolving these claims. The proposed rule would require that any recipient of CCC-donated commodities must include in the contract for the ocean transportation of the commodities a provision that the ocean carrier must agree to participate in this administrative appeal process.

The current process requires CCC to file suit against ocean carriers in U.S. District Court to pursue claims that CCC is not able to settle through negotiations. CCC currently does not have an established administrative appeal process to handle the internal review of these cargo claims before the claims are referred to the U.S. Department of Justice for collection through litigation. The total amount of these claims is approximately $20 million including $10 million that has been referred to the Department of Justice. Based upon a review of the programs under which these claims arise, CCC has determined that an administrative appeals system is necessary in order to: (1) Provide a more uniform treatment of these types of claims; (2) handle these types of claims in a manner that is more consistent with the manner in which other CCC claims are handled; and (3) ensure compliance with the Debt Collection Improvement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG49

203. • RESCHEDULING GUARANTEED LOANS WITH BALLOON PAYMENTS, CLARIFICATION OF ANNUAL ANALYSIS REQUIREMENTS FOR GUARANTEED LENDERS, AND SUBORDINATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989

CFR Citation: 7 CFR 762

Legal Deadline: None

Abstract: This rule will revise FSA regulations to allow the rescheduling of guaranteed loans with balloon payments if adequate security is available, eliminate inconsistencies in the CFR regarding annual analysis requirements for lenders, and clarify subordination requirements when no additional debt is incurred.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG53

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204. • GENERAL REGULATIONS GOVERNING COMMODITY LOANS FOR 1998 AND SUBSEQUENT CROPS

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-224; PL 106-387

CFR Citation: 7 CFR 1421

Legal Deadline: None

Abstract: This action is needed for the clarification of the Marketing Assistance Loan and Loan Deficiency Payment Regulations for the 1998 through 2002 Crops of Wheat, Feed Grain, Rice, Oilseed (Canola, Crambe, Flaxseed, Mustard Seed, Rape Seed, Safflower, Soybean and Sunflower). Through this action we propose to reorganize the current regulations and

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simplify language for better understanding.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AG54

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205. • PROMPT DISASTER SET-ASIDE CONSIDERATION AND PRIMARY LOAN SERVICING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989

CFR Citation: 7 CFR 1951

Legal Deadline: None

Abstract: The Agency has found that a Disaster Set Aside (DSA) [7 CFR part 1951, subpart T) is often used to correct defaults when the account should have been serviced under the delinquent account restructuring regulations in 7 CFR part 1951, subpart S, commonly referred to as "Primary Loan Servicing," (PLS). Current regulations are not clear on when a DSA is not appropriate versus PLS. When finalized, the rule approved under this workplan will amend the regulations under 7 CFR part 1951 to require that Primary Loan Servicing be considered before a loan default is corrected using a DSA.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Rule	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG56

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206. • 2002-CROP PEANUTS NATIONAL POUNDAGE QUOTA FOR QUOTA PEANUTS

Priority: Other Significant

Legal Authority: 7 USC 1358-1; PL 101-624; PL 103-66; PL 104-127

CFR Citation: 7 CFR 729; 7 CFR 1421; 7 CFR 1446

Legal Deadline: Other, Statutory, December 15, 2001, Announcement of Quota.

Abstract: The objective of the peanut quota is to balance supply with demand at a level that will assure stable supplies for domestic use and assure producers a stable income. This action is required by statute, which provides a formula for computing the national quota based on the Secretary's estimate of the amount of peanuts required for domestic food and related uses for the 2002 marketing year. The 2002 marketing year is from August 1, 2002, through July 31, 2003. The Peanut Program, which includes the poundage quota, price support, and export policies, will result in gross outlays of $42.6 million that are expected to be offset by repayments and assessments in FY 2002 and subsequent years for a net cost of 0.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0560–AG57

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207. • 2002-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVELS FOR FIVE KINDS OF TOBACCO

Priority: Other Significant

Legal Authority: 7 USC 1312; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Other, Statutory, March 1, 2002, Announcement of marketing quotas.

Abstract: Marketing quotas/acreage allotments and price support are required by statute for these kinds of tobacco: Fire-cured (type 21), Fire-cured (types 22-23), Dark Air-cured (types 35-36), Virginia sun-cured (type 37), and Cigar Filler and Binder (types 42-44 and 53-55). Quotas and allotments are determined by statutory formula to balance supply with demand to assure stable supplies for domestic and export use. Marketing quotas are implemented if approved by producers in referenda. Producers approved quotas for the 2002 crops of fire-cured (types 21-23), dark air-cured (types 35-36) and sun-cured (type 37) in March 2001. Cigar filler and binder (types 42-44 and 53-55) were approved in March 1999. Price support levels are also set by statutory formula. The Secretary may reduce the level at the request of producer associations, and may limit increases to 65 percent of the formula increase. Gross loan outlays of $1 million are expected in FY 2002, to be offset by loan redemptions and no-net-cost assessments in FY 2002 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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USDA—FSA **Proposed Rule Stage**

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Department of Agriculture (USDA)
Farm Service Agency (FSA) **Final Rule Stage**

208. PART 1946 MEDIATION; SUBPART A—AGRICULTURAL LOAN MEDIATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 7 USC 301; PL 103-354, sec 282; PL 106-472, sec 306

CFR Citation: 7 CFR 1946 subpart A

Legal Deadline: Final, Statutory, October 13, 1994.

Abstract: Legislation expanded the State Mediation Programs to include wetland determinations, conservation compliance, and other issues the Secretary deems appropriate. This action will establish procedures for certification and for administering the matching grant program, and set out the Department's duties to participate in such programs. The USDA Reorganization Act of 1994 requires mediation to be a part of the informal hearing process when an officer, employee, or committee of an agency makes an adverse decision. The legislation also requires certification of a State's Mediation Program in order to participate in mediation pursuant to a State's Certified Mediation Program and to enable a State to receive a Federal matching grant(s) to be used for the operation and administration of the program. The Agriculture Improvement Act of 1992 increased the percentage of grants to 70 percent from 50 percent of the cost of a State's program, limited to $500,000, whichever is the lesser. The Reorganization Act of 1994 extended the mediation program authority through fiscal year 2000. The Grain Standards and Warehouse Improvement Act of 2000 (Pub. L. 106-472) re-authorizes the mediation program by extending it until 2005, clarifies that funds appropriated by Congress to the mediation program be used for farm credit cases, including USDA direct and guaranteed loans and loans from commercial entities, and stresses that mediation services can facilitate counseling services to prepare farmers prior to mediation.

Timetable:

Action	Date	FR Cite
NPRM	11/09/99	64 FR 61034
NPRM Comment Period End	01/10/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: This entry was reported as RIN 0575-AB91 prior to the reorganization of USDA.

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RIN: 0560–AE26

209. DAIRY RECOURSE LOAN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7252

CFR Citation: 7 CFR 1430

Legal Deadline: None

Abstract: Section 142 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7252) requires USDA, through the CCC, to offer recourse loans for dairy products beginning on January 1, 2000. The objective of the program is to assist processors in managing their inventories of eligible dairy products and thereby increase price stability for the dairy industry. The current regulations were promulgated as final without public review or comment, as mandated, as part of the implementation of the Federal Agriculture Improvement and Reform Act of 1996. A notice of proposed rulemaking sought public review and comment on the terms and conditions of the dairy recourse loan program as currently provided in the regulations. Industry representatives have questioned the advisability of several provisions in the current regulation. No cost is expected.

Timetable:

Action	Date	FR Cite
NPRM	07/22/99	64 FR 39442
NPRM Comment Period End	09/07/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF41

210. LAMB MEAT ADJUSTMENT ASSISTANCE PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 612c

CFR Citation: 7 CFR 784

Legal Deadline: None

Abstract: This program will provide monetary assistance to eligible sheep and lamb producers who have recently experienced record low prices and poor market conditions due the recent surge of low-priced, imported lamb meat. Lamb meat is being imported into the United States in such increased quantities as to be a substantial cause of threat of serious injury to the domestic lamb meat industry. During the first year of the program, benefits will be provided to eligible sheep and lamb producers throughout the United States based on the number of rams purchased, the number of sheep enrolled in the National Sheep Improvement Program, and the cost of

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lambing facility improvements during the period August 1, 1999, through July 31, 2000. During the second and third year, benefits will be provided to eligible sheep and lamb producers throughout the United States based on the number of slaughter lamb and feeder lamb marketed, grade, weight, and muscling during the period August 1, 2000, through July 31, 2002. The expected cost is $30 million.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	06/19/00	
Interim Final Rule	06/21/00	65 FR 38412
Interim Final Rule Comment Period End	07/21/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0560–AG17

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211. REDUCTION OF AMORTIZED SHARED APPRECIATION RECAPTURE INTEREST RATE

Priority: Other Significant

Legal Authority: PL 87-128; PL 106-387

CFR Citation: 7 CFR 761; 7 CFR 1910; 7 CFR 1927; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945

Legal Deadline: None

Abstract: The Farm Service Agency is amending the regulations regarding Shared Appreciation Agreement recapture amortization and reamortization. This modification is necessary because the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act amended the Consolidated Farm and Rural Development Act to reduce the rate applicable to amortizations from the current Homestead Protection Program Rate (currently 6.5%) to 1% less than that rate. No change in outlays is expected.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

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RIN: 0560–AG43

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212. COLLECTING GUARANTEED LOSS PAYMENTS FROM FSA FARM LOAN PROGRAM BORROWERS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3716

CFR Citation: 7 CFR 762

Legal Deadline: None

Abstract: This action will revise FSA regulations to provide that any amounts paid by FSA on account of a guaranteed loan borrower will constitute a Federal debt owed to FSA by the guaranteed loan borrower. The rule will not affect any guaranteed borrowers who have had loss claims paid on their guaranteed loans at the present time. Under the new rule, when farmers apply for a guaranteed loan, they will sign a loan application, which includes a section entitled "Federal Debt," in which they agree that any amounts paid by FSA on account of the liabilities of the guaranteed loan borrower will constitute a Federal debt owed to FSA by the guaranteed loan borrower. In such cases, FSA may use all remedies available to it, including offset under the Debt Collection Improvement Act, to collect the debt from the borrower. It will affect only those guaranteed borrowers who have a loss claim paid by FSA to the lender from whom they received a guaranteed loan. Currently, there are approximately 40,000 guaranteed farm loan borrowers with 67,000 loans. Approximately 1,200 loss claims are paid on guaranteed loans per year, and approximately 100 of those loans are discharged in bankruptcy, leaving approximately 1,100 loans that could be considered for offset.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0560–AG44

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213. • TOBACCO MARKETING QUOTAS, CARDS, PENALTY PROVISIONS, RECORDKEEPING AND REPORTING

Priority: Other Significant

Legal Authority: 7 U.S.C. 1311 et seq.

CFR Citation: 7 CFR 723

Legal Deadline: None

Abstract: This action will amend several sections of the tobacco marketing quota regulations to accommodate the implementation of an improved tobacco market reporting system, consisting mainly of non-auction receiving stations, which are common delivery points for non-auction purchases of flu-cured and burley tobacco. The new reporting system is necessary because an extremely large percentage of the 2001 flue-cured and burley crops is expected to be sold non-auction through private contact arrangements. The new system will allow for electronic reporting and paperwork reduction and will facilitate the tracking and monitoring of producer marketings, which will aid in assuring the integrity of the marketing quota system. Receiving stations are technically dealers, but a system similar to the warehouse system is needed due to the large volume of transactions. Warehouse operators and receiving stations will be given advance information through the flue-cured and burley tobacco designation programs as to the amount of tobacco that will be

USDA—FSA **Final Rule Stage**

marketed and the farms from which the tobacco will be delivered. Some cost-savings will accrue to producers, warehouses and receiving stations, and USDA due to more efficient collection of marketing information.

Timetable:

Action	Date	FR Cite
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0560–AG52

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214. • 2002-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

Legal Authority: 7 USC 1314; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Other, Statutory, February 1, 2002, Announcement of marketing quotas.

Abstract: The burley tobacco marketing quota and price support are required by statute. The purpose of the quota and price support is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are considered sufficient for producers. The national quota is based on cigarette manufacturers' intentions, 3-year average exports, a loan stocks adjustment, and a discretionary adjustment of plus or minus 3 percent. The price support level is based on a formula that averages market prices (2/3 weight) and a cost index (1/3 weight), plus discretion to limit any increase to 65 percent of the formula increase. Producers approved the program in a referendum for this kind of tobacco held in February 2001. Net receipts of $10 million in FY 2003 are expected to be offset by loan repayments and no-net-cost assessments in FY 2003 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0560–AG59

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215. • 2002-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

Legal Authority: 7 USC 1314; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Other, Statutory, December 15, 2001, Announcement of marketing quotas.

Abstract: The flue-cured tobacco marketing quota and price support are required by statute. The purpose of the quota and price support is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are considered sufficient for producers. The national quota is based on cigarette manufacturers' intentions, 3-year average exports, a loan stocks adjustment, and a discretionary adjustment of plus or minus 3 percent. The price support level is based on a formula that averages market prices (2/3 weight) and a cost index (1/3 weight), plus discretion to limit any increase to 65 percent of the formula increase. Growers approved the program in a referendum in January 2001. Net receipts of $10 million in FY 2002 and 2003 are expected to be offset by loan repayments and no-net-cost assessments in FY 2003 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0560–AG60

Department of Agriculture (USDA)
Farm Service Agency (FSA) **Long-Term Actions**

216. AMENDMENTS TO THE STANDARDS FOR APPROVAL OF WAREHOUSE FOR COMMODITY CREDIT CORPORATION STORAGE CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1421; 7 CFR 1423; 7 CFR 1427

Timetable:

Action	Date	FR Cite
NPRM-Part 1421	To Be	Determined
NPRM-Part 1423	To Be	Determined
NPRM-Part 1427	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AE50

USDA—FSA

Long-Term Actions

217. DELETION OF FSA REGULATIONS REGARDING COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 702; 7 CFR 703; 7 CFR 752

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AE54

218. AMENDMENTS TO THE DEBT SETTLEMENT POLICIES AND PROCEDURES TO CONFORM TO THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

Priority: Other Significant

CFR Citation: 7 CFR 792; 7 CFR 1403; 7 CFR 1404

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF22

219. AMENDMENT TO THE FARM RECONSTITUTION REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 718

Timetable:

Action	Date	FR Cite
NPRM	02/04/00	65 FR 5444
NPRM Comment Period End	03/06/00	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF50

221. REMOVE INTERNAL AGENCY PROVISIONS FROM FSA FARM CREDIT PROGRAM REGULATIONS FOR LIQUIDATION OF LOANS SECURED BY REAL ESTATE AND ACQUISITION OF REAL AND CHATTEL PROPERTY

Priority: Info./Admin./Other

CFR Citation: 7 CFR 1955

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF53

222. LOW DOCUMENTATION LOAN

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1941

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/09/01	66 FR 1570
Interim Final Rule Effective	01/09/01	
Interim Final Rule Comment Period End	03/12/01	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF51

220. 1999-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF71

223. STREAMLINING OF THE EMERGENCY FARM LOAN PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1945

Timetable:

Action	Date	FR Cite
NPRM	09/12/00	65 FR 54973
NPRM Comment Period End	11/13/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF72

224. AMENDMENTS TO THE CONSERVATION RESERVE PROGRAM REGULATIONS REGARDING LAND ELIGIBILITY

Priority: Other Significant

CFR Citation: 7 CFR 1410

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0560–AF77

USDA—FSA

Long-Term Actions

225. 2000-CROP PEANUTS NATIONAL POUNDAGE QUOTA, NATIONAL AVERAGE LOAN RATES FOR QUOTA AND ADDITIONAL PEANUTS AND MINIMUM EXPORT-EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Priority: Other Significant

CFR Citation: 7 CFR 729; 7 CFR 1446

Timetable:

Action	Date	FR Cite
NPRM	11/30/99	64 FR 66790
NPRM Comment Period End	12/10/99	
Quota Announcement	12/13/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF83

226. 2000-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Quota Announcement	12/15/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF84

227. DISASTER SET-ASIDE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1951

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/00	65 FR 31248
Interim Final Rule Comment Period End	07/17/00	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0560–AF91

228. DESIGNATION OF NON-AUCTION TOBACCO

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1464

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0560–AG07

229. AGRICULTURAL DISASTER AND MARKET ASSISTANCE

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 1411; 7 CFR 1427; 7 CFR 1439; 7 CFR 1464; 7 CFR 1478

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/08/00	65 FR 36550
Interim Final Rule Comment Period End	07/10/00	
Correction	08/01/00	65 FR 47840
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0560–AG14

230. NONINSURED CROP DISASTER ASSISTANCE PROGRAM REGULATIONS FOR THE 2001 AND SUCCEEDING CROP YEARS

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 1437

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AG20

231. EMERGENCY CONSERVATION PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 701

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AG26

232. 2001-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AG28

USDA—FSA

Long-Term Actions

233. 2001-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Direct Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AG29

234. 2001-CROP MARKETING AND PRICE SUPPORT LEVELS FOR FIVE KINDS OF TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG30

235. 2001-CROP PEANUTS NATIONAL POUNDAGE QUOTA, NATIONAL AVERAGE LOAN RATES FOR 2001-CROP QUOTA AND ADDITIONAL PEANUTS AND MINIMUM EXPORT EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Priority: Other Significant

CFR Citation: 7 CFR 729; 7 CFR 1421; 7 CFR 1446

Timetable:

Action	Date	FR Cite
Announcement	12/15/00	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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RIN: 0560–AG32

236. LIVESTOCK INDEMNITY PROGRAM AND LIVESTOCK INDEMNITY PROGRAM FOR CONTRACT GROWERS

Priority: Other Significant

CFR Citation: 7 CFR 1439

Timetable:

Action	Date	FR Cite
Final Rule: LIP-CG	12/29/00	65 FR 82892
NPRM: LIP 2000	03/07/01	66 FR 13679
NPRM Comment Period End: LIP 2000	04/06/01	
Final Rule: LIP 2000	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AG33

237. CONSERVATION RESERVE PROGRAM—FAILURE TO ESTABLISH COVER AND GOOD FAITH RELIANCE

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1410

Timetable:

Action	Date	FR Cite
NPRM	03/15/01	66 FR 15048
NPRM Comment Period End	05/14/01	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AG37

238. CONSERVATION OF FARMABLE WETLANDS

Priority: Other Significant

CFR Citation: 7 CFR 1410

Timetable:

Action	Date	FR Cite
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AG38

239. TOBACCO LOSS ASSISTANCE PROGRAM AND AMENDMENTS TO THE TOBACCO MARKETING QUOTA REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AG40

240. COLLECTION OF APPRAISAL FEES FOR FARM LOAN PROGRAMS, INSURED LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 761; 7 CFR 1910; 7 CFR 1927; 7 CFR 1941; 7 CFR 1945; ...

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AG42

241. • ELIMINATION OF 30-DAY PAST-DUE PERIOD FOR FARM LOAN PROGRAM BORROWERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989; 31 USC 3716; 42 USC 1480

CFR Citation: 7 CFR 1951

Legal Deadline: None

Abstract: Currently, borrowers are considered "past due" for the first 30 days after a missed Farm Loan Program (FLP) payment and are then "delinquent." This is not consistent with the terminology used by Farm Programs (FP), which considers borrowers "delinquent" immediately after a missed payment. This action will eliminate the 30-day past due period prior to delinquency. In addition to clarification and consistency, this change would allow FLP borrowers to receive debt write-down on the day after a missed payment, assuming all other primary loan servicing criteria are met, instead of waiting 31 days. This change will also clarify the use of the word delinquent with regard to all servicing and offsets. The rule will not affect the statutorily required "90 days past due" criteria that is currently used to determine the onset of primary loan servicing. This rule will not significantly affect costs for either the government or borrowers.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AG50

242. • TOBACCO MARKETING QUOTAS, ACREAGE ALLOTMENTS AND PRODUCTION ADJUSTMENT

Priority: Other Significant

Legal Authority: 7 USC 1311 et seq; 7 USC 1445

CFR Citation: 7 CFR 1464

Legal Deadline: None

Abstract: This rule will require that burley tobacco producers designate their quota tobacco to a specific auction warehouse, buying company, or dealer as a condition for receiving price support. This action is a recommendation of the Burley Tobacco Advisory Committee and will establish a Grower Designation Program for burley tobacco similar to a program for flue-cured tobacco that has been in operation since 1974. The purpose of the program will to be to improve the marketing of burley tobacco by enabling more efficient staffing of warehouses with warehouse employees and government inspectors. Designation of burley tobacco is expected to take place June 1, 2001, through August 1, 2001.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG51

243. • AMENDMENT TO THE REGULATIONS FOR DETERMINING ACREAGE FOR SKIP-ROW COTTON

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1373; 7 USC 1374; 7 USC 7201; 15 USC 714(b) and (c); 21 USC 889

CFR Citation: 7 CFR 718.107

Legal Deadline: None

Abstract: This action will amend the regulations for determining acreage for acreage-based program payments such as crop insurance and disaster payments. Program regulations provide that cotton acreage planted in a "skip-row" pattern should be factored when determining program payments. The current regulations defining skip rows allows some producers to take advantage of the provisions and devise cotton planting patterns that are considered solidly planted, and thus inflate their program payment acreage. This rule will close that loophole. Program payments using acreage determinations based on skip-row planting patterns will be more equitably distributed and crop insurance payments will be more accurate.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AG55

Department of Agriculture (USDA)
Farm Service Agency (FSA)

Completed Actions

244. SELECTION AND FUNCTIONS OF FARM SERVICE AGENCY STATE AND COUNTY COMMITTEES

Priority: Info./Admin./Other

CFR Citation: 7 CFR 7

Completed:

Reason	Date	FR Cite
Withdrawn	10/05/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE33

245. SMALL HOG OPERATION PAYMENT PLAN

Priority: Other Significant

CFR Citation: 7 CFR 761

Completed:

Reason	Date	FR Cite
No Further Action To Be Taken	10/05/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF70

246. NORTHEAST INTERSTATE DAIRY COMPACT

Priority: Other Significant

CFR Citation: 7 CFR 1430

Completed:

Reason	Date	FR Cite
Withdrawn	10/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AG25

247. • SUGAR PAYMENT-IN-KIND (PIK) DIVERSION PROGRAM

Priority: Economically Significant

Legal Authority: 7 U.S.C. 1308a

CFR Citation: None

Legal Deadline: None

Abstract: Sugar Program costs may increase because the FY 2001 Appropriations Act requires that CCC offer nonrecourse loans, which provide processors with the option of forfeiting sugar pledged as collateral. Processors may continue to exercise this option given the outlook for continued excess supply of sugar in domestic markets, a 793,000-ton, raw value, CCC sugar inventory, and the absence of a CCC inventory disposal plan. The risk, magnitude, and cost of potential forfeitures would be reduced if the Secretary has the ability, by means of a Sugar PIK Diversion Program, to replace sugar on the domestic market made from harvested sugar beets with sugar from CCC's inventory. A Sugar PIK Diversion Program would help restore balance to the sugar market and reduce CCC's sugar acquisition and storage costs. Without implementation of this Program, domestic sugar supplies are expected to exceed domestic demand requirements, leaving prices at low levels and increasing the likelihood of a second consecutive year of forfeitures in FY 2001. These forfeitures of sugar would increase CCC's current monthly storage costs of almost $1.4 million.

This option would enable the Secretary to achieve savings of $6.66 million annually based on the results of the FY 2000 PIK Diversion Program. The FY 2000 PIK Program produced a $555,000 reduction in monthly CCC storage costs and diverted about 7 percent of sugarbeet acreage from production. Reintroduction of the PIK Program in FY 2001 has received encouragement from growers and processors, who strongly supported the FY 2000 PIK Diversion Program.

Timetable:

Action	Date	FR Cite
Notice	09/12/01	66 FR 47447

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG48

BILLING CODE 3410–05–S

Department of Agriculture (USDA)
Animal and Plant Health Inspection Service (APHIS)

Prerule Stage

248. ANIMAL WELFARE: MARINE MAMMALS; NONCONSENSUS LANGUAGE AND INTERACTIVE PROGRAMS

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 3

Legal Deadline: None

Abstract: The U.S. Department of Agriculture regulates the treatment of certain marine mammals under the Animal Welfare Act. The present standards for treatment of these animals have been in effect for over 10 years. During this time, advances have been made and new information has been developed with regard to the housing and care of marine mammals. We intend to develop amendments to the marine mammal standards on which consensus was not reached during negotiated rulemaking conducted between September 1995 and July 1996. The amendments would be to standards affecting variances, indoor facilities, outdoor facilities, space requirements, and water quality, as well as swim-with-the-dolphins programs. These actions appear necessary to ensure that the minimum standards for the humane handling, care, treatment, and transportation of marine mammals in captivity are based on current general, industry, and scientific knowledge and experience.

USDA—APHIS **Prerule Stage**

Timetable:

Action	Date	FR Cite
ANPRM	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 84, 4700 River Road, Riverdale, MD 20737-1234
Phone: 301 734-7833

RIN: 0579–AB24

Department of Agriculture (USDA) **Proposed Rule Stage**
Animal and Plant Health Inspection Service (APHIS)

249. PLANT PEST REGULATIONS; UPDATE OF CURRENT PROVISIONS (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 7 USC 450; 7 USC 2260; 7 USC 7711 to 7712; 7 USC 7714; 7 USC 7718; 7 USC 7731; 7 USC 7734; 7 USC 7751; 7 USC 7754; 19 USC 1306; 21 USC 111; 21 USC 114a; 21 USC 136 to 136a; 31 USC 9701; 42 USC 4331 to 4332

CFR Citation: 7 CFR 330

Legal Deadline: None

Abstract: APHIS is undertaking rulemaking to amend its plant pest regulations by: (1) Setting out the criteria that will be used by APHIS when considering whether an organism is a plant pest; (2) adding a permit category for organisms that would be released into the environment for purposes such as the biological control of weeds; (3) establishing a notification system that could be used in place of permits for the importation and interstate movement of regulated organisms; and (4) revising or amending existing portions of the regulations to clarify or update requirements, eliminate redundancy, and make the regulations easier for the public to use. This action will serve as a follow-up to the advance notice of proposed rulemaking that APHIS published in the Federal Register on September 27, 1996, to solicit input on the need for regulatory changes and alternative methods of addressing plant pest risk.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/96	61 FR 50767
ANPRM Comment Period End	12/26/96	
NPRM	10/09/01	66 FR 51340
NPRM Comment Period End	12/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Robert Flanders, Permits and Risk Assessment, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 141, 4700 River Road, Riverdale, MD 20737-1228
Phone: 301 734-5930

RIN: 0579–AA80

250. PHYTOSANITARY TREATMENT BY IONIZING ENERGY OF IMPORTED FRESH FRUITS AND VEGETABLES

Priority: Other Significant

Legal Authority: 7 USC 7701 to 7772

CFR Citation: 7 CFR 305; 7 CFR 319.56

Legal Deadline: None

Abstract: This rulemaking would establish ionizing energy (irradiation) as a new treatment alternative for the importation of certain fresh fruits and vegetables. Ionizing energy would be allowed as an alternative to mitigation measures that are required to control certain species of fruit flies in a variety of imported fruits and vegetables. If this proposal is adopted, importers of certain fruits and vegetables will have an additional alternative to the currently approved treatments, such as fumigation and cold treatment, for treating their articles. No net societal gains and losses other than small price-related changes are expected from this rulemaking.

Timetable:

Action	Date	FR Cite
Policy Statement for Irradiation Treatment of Fresh Fruits and Vegetables	05/15/98	63 FR 24433
Proposed Rule	05/26/00	65 FR 34113
Comment Period End	07/25/00	
Proposed Rule (Supplemental Monitoring)	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna L. West, Import Specialist, Phytosanitary Issues Management Team, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6799

RIN: 0579–AA97

251. IMPORTATION OF SOLID WOOD PACKING MATERIAL

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 7 USC 166; 7 USC 450; 7 USC 7701 to 7772

CFR Citation: 7 CFR 319

Legal Deadline: None

Abstract: APHIS is undertaking rulemaking to strengthen restrictions on the importation of solid wood packing material (e.g., crates, dunnage, wooden spools, pallets, packing blocks) into the United States. Imported solid wood packing material (SWPM) has been linked to introductions of exotic plant pests, such as the pine shoot beetle and the Asian longhorned beetle. These and other plant pests that could be carried by imported SWPM pose a serious threat to U.S. agriculture and to natural, cultivated, and urban forests. SWPM accompanies nearly all types of imported commodities, from fruits and vegetables to machinery and electrical equipment.

Timetable:

Action	Date	FR Cite
ANPRM	01/20/99	64 FR 3049
ANPRM Comment Period End	03/22/99	
Notice	07/07/99	64 FR 36608
Comment Period End	09/07/99	
Notice	10/17/00	65 FR 61301
Proposed Rule	09/00/02	
Comment Period End	11/00/02	

Regulatory Flexibility Analysis Required: Undetermined

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USDA—APHIS **Proposed Rule Stage**

Government Levels Affected: Undetermined

Additional Information: APHIS documents published in the Federal Register, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

Agency Contact: Dr. Robert Flanders, Permits and Risk Assessment, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 141, 4700 River Road, Riverdale, MD 20737-1228
Phone: 301 734-5930

RIN: 0579–AA99

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252. BLOOD AND TISSUE COLLECTION AT LIVESTOCK SLAUGHTERING ESTABLISHMENTS

Priority: Other Significant

Legal Authority: 21 USC 111 to 113; 21 USC 114a to 114a-1; 21 USC 115 to 117; 21 USC 120 to 126; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 71

Legal Deadline: None

Abstract: We are considering establishing requirements for the collection of blood and tissue samples from livestock (horses, cattle, bison, sheep, and swine) and poultry at slaughter establishments when it is necessary for disease surveillance. Under this proposal, any person who moves an animal interstate for slaughter could only move the animal to a slaughter establishment that has been approved by the Administrator. The Administrator would approve a slaughter establishment after determining that it is not necessary to conduct testing at the establishment or determining that it is necessary to conduct testing at the establishment and the establishment provides space and facilities to collect blood and tissue samples for disease testing. This collection of blood and tissue samples would enable us to identify animals at slaughter that are affected by various communicable diseases. This change would affect persons moving animals interstate for slaughter, slaughter plants that receive animals in interstate commerce, and in cases where an animal that tests positive can be successfully traced back to its herd or flock of origin, the owners of such herds or flocks. The long-term effects of this change would be to improve surveillance programs for animal diseases and to contribute to the eventual control or eradication of such diseases.

Timetable:

Action	Date	FR Cite
Proposed Rule	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Diane Sutton, Senior Staff Veterinarian, VS, National Animal Health Programs, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 43, 4700 River Road, Riverdale, MD 20737-1231
Phone: 301 734-4363

RIN: 0579–AB13

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253. PHYTOSANITARY CERTIFICATES FOR IMPORTED FRUITS AND VEGETABLES

Priority: Other Significant

Legal Authority: 7 USC 166; 7 USC 450; 7 USC 7701 to 7772; 21 USC 136 to 136a

CFR Citation: 7 CFR 319.56 to 319.56-8

Legal Deadline: None

Abstract: Currently APHIS does not require a phytosanitary certificate to accompany fruits and vegetables imported into the United States except for certain fruits and vegetables grown in designated foreign regions. This proposed rule would amend our regulations to require that a phytosanitary certificate accompany all fruits and vegetables imported into the United States, with certain exceptions. This proposal would include commercial produce imported into the United States, as well as fruits and vegetables brought in by travelers. We would exempt from this requirement fruits and vegetables that are dried, cured, frozen, or processed, as well as fruits and vegetables that travelers and shoppers bring into the United States for personal use through land ports-of-entry located along the Canadian and Mexican borders. If implemented, this proposal would require changes in the practices of importers and travelers who bring produce into the United States from other countries.

Timetable:

Action	Date	FR Cite
Proposed Rule	08/29/01	66 FR 45637
Comment Period End	10/29/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne D. Burnett, Senior Import Specialist, PIM, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6799

RIN: 0579–AB18

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254. BEES, BEEKEEPING BYPRODUCTS, AND BEEKEEPING EQUIPMENT (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 7 USC 281; 7 USC 7701 to 7772

CFR Citation: 7 CFR 319; 7 CFR 322

Legal Deadline: None

Abstract: We propose to revise the regulations for the importation of honeybees and honeybee semen. Among other things, we propose to allow, under certain conditions, the importation into the United States of honeybees from Australia and honeybees and honeybee germ plasm from New Zealand. We also propose changes to make these regulations more consistent with standards established by the Office International des Epizooties, to update them to reflect current research and terminology, and to simplify them and make them more useful.

In addition, we propose to combine the regulations for the importation of honeybees and honeybee semen with the regulations established to prevent the introduction of exotic bee diseases and parasites through the importation of bees other than honeybees, certain beekeeping byproducts, and used beekeeping equipment. This change would make the regulations more useful by consolidating all of the requirements related to the importation of bees, beekeeping byproducts, and used beekeeping equipment into one part.

USDA—APHIS **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
Proposed Rule	01/00/02	
Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Wayne Wheling, Permits and Risk Assessment, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 141, 4700 River Road, Riverdale, MD 20737-1228
Phone: 301 734-8757

RIN: 0579–AB20

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255. VETERINARY DIAGNOSTIC USER FEES—5-YEAR PLAN FOR FEES (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5542; 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114 to 114a; 21 USC 134a; 21 USC 134c to 134d; 21 USC 134f; 21 USC 136 to 136a; 31 USC 3701; 31 USC 3716; 31 USC 3717; 31 USC 3719; 31 USC 3720A; 7 CFR 2.22; 7 CFR 2.80; 7 CFR 371.4

CFR Citation: 9 CFR 130

Legal Deadline: None

Abstract: We are proposing user fees for multiple fiscal years for APHIS' Veterinary Services' veterinary diagnostic user fee goods and services. We are proposing this action in order to ensure that we recover the full costs of providing these goods and services.

Timetable:

Action	Date	FR Cite
Proposed Rule	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Donna Ford, User Fee Section Head, FSSB, BASE, MRPBS, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-8351

RIN: 0579–AB22

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256. NURSERY STOCK REGULATIONS (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 166; 7 USC 450; 7 USC 7711 to 7714; 7 USC 7718; 7 USC 7731 to 7732; 7 USC 7751 to 7754; 21 USC 136 to 136a; 7 CFR 2.22; 7 CFR 2.80; 7 CFR 371.3

CFR Citation: 7 CFR 300; 7 CFR 319

Legal Deadline: None

Abstract: We are proposing to amend the regulations for importing nursery stock to provide additional treatment certifications for the importation of niger seed and lilac, to reflect recent changes in plant taxonomy and pest distributions, and to make various changes to the requirements for postentry quarantine of imported plants. We are also proposing several other amendments to update and clarify the regulations and improve their effectiveness.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Wayne D. Burnett, Senior Import Specialist, PIM, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6799

RIN: 0579–AB23

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257. • DRAFT ACTION PLAN FOR THE NOXIOUS WEEDS PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 7701 to 7772

CFR Citation: 7 CFR 360

Legal Deadline: None

Abstract: We are requesting comments on a draft document titled "Draft Action Plan for the Noxious Weeds Program" that we have developed. The draft document recommends specific changes to the noxious weeds regulatory program, including changes to the noxious weeds regulations. Because these recommendations may form the basis for future rulemaking, we are requesting public comments on the draft document so that we may consider any relevant public input before taking further action.

Timetable:

Action	Date	FR Cite
Notice	02/00/02	
Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Alan V. Tasker, National Weed Program Coordinator, Invasive Species and Pest Management, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 134, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-5225

RIN: 0579–AB30

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258. • SALMONELLA ENTERITIDIS PHAGE-TYPE 4; REMOVE IMPORT RESTRICTIONS

Priority: Other Significant

Legal Authority: 7 USC 450; 7 USC 7711 to 7714; 7 USC 7751; 7 USC 7754; 19 USC 1306; 21 USC 111; 21 USC 114a; 21 USC 134a to 134c; 21 USC 134f; 21 USC 136 to 136a; 31 USC 9701; 42 USC 4331 to 4332; 7 CFR 2.22; 7 CFR 2.80; 7 CFR 371.4

CFR Citation: 9 CFR 94

Legal Deadline: None

Abstract: We are proposing to amend the regulations to remove import restrictions on eggs (other than hatching eggs) of poultry, game birds, and other birds from regions where Salmonella enteritidis phage-type 4 exists. Previously, Salmonella enteritidis phage-type 4 had not been isolated in the United States; therefore, those import restrictions were necessary to help prevent Salmonella enteritidis phage-type 4 from being introduced into this country. However, Salmonella enteritidis phage-type 4 is now known to be present in the United States. This proposed rule would eliminate unnecessary trade restrictions on other regions where Salmonella enteritidis phage-type 4 exists.

Timetable:

Action	Date	FR Cite
Proposed Rule	03/00/02	

USDA—APHIS — **Proposed Rule Stage**

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Michael David, Asst. Director, Sanitary International Standards Team, NCIE, VS, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 33, 4700 River Road, Riverdale, MD 20737
Phone: 301 734-8093

RIN: 0579–AB31

259. • STANDARDS FOR PERMANENT, PRIVATELY OWNED HORSE QUARANTINE FACILITIES (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 136 to 136a; 31 USC 9701; 7 CFR 2.22; 7 CFR 2.80; 7 CFR 371.4

CFR Citation: 9 CFR 93

Legal Deadline: None

Abstract: We are proposing to place in the regulations standards for permanent privately-owned quarantine facilities for horses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. James P. Davis, Senior Staff Veterinarian, VS, National Center for Import/Export, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 39, 4700 River Road, Riverdale, MD 20737
Phone: 301 734-8364

RIN: 0579–AB32

260. • FOOT-AND-MOUTH DISEASE; PAYMENT OF INDEMNITY

Regulatory Plan: This entry is Seq. No. 3 in part II of this issue of the **Federal Register**.

RIN: 0579–AB34

261. • CHRONIC WASTING DISEASE IN ELK; INTERSTATE MOVEMENT RESTRICTIONS AND PAYMENT OF INDEMNITY

Regulatory Plan: This entry is Seq. No. 4 in part II of this issue of the **Federal Register**.

RIN: 0579–AB35

Department of Agriculture (USDA)
Animal and Plant Health Inspection Service (APHIS) — **Final Rule Stage**

262. IMPORTATION OF FUJI APPLES FROM THE REPUBLIC OF KOREA

Priority: Other Significant

Legal Authority: 7 USC 166; 7 USC 450; 7 USC 7701 to 7772; 21 USC 136 to 136a

CFR Citation: 7 CFR 319.56-2cc

Legal Deadline: None

Abstract: This action would amend the regulations that allow Fuji variety apples to be imported into the United States. It would allow Fuji variety apples to be imported from the Republic of Korea under a systems approach, including strict cultural control conditions, from certified orchards. This action is in response to a request from the Republic of Korea. We reviewed scientific studies and data on the Republic of Korea's pest management practices in export orchards and believe that the conditions to which the importation of Fuji variety apples from certified orchards in the Republic of Korea would be subject would reduce the risk of pest introduction to a negligible level.

Timetable:

Action	Date	FR Cite
Proposed Rule	04/26/00	65 FR 24423
Comment Period End	06/26/00	
Comment Period Extended	08/22/00	65 FR 50937
Comment Period End	10/23/00	
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Wayne D. Burnett, Senior Import Specialist, PIM, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6799

RIN: 0579–AA93

263. ANIMAL WELFARE; INSPECTION, LICENSING, AND PROCUREMENT OF ANIMALS (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 1 to 2

Legal Deadline: None

Abstract: This action would make several amendments to the Animal Welfare Act regulations to clarify them and improve their enforceability. In addition, it would amend a number of administrative procedures to make them more efficient. We believe these actions are necessary to help ensure compliance with the regulations and the Animal Welfare Act.

Timetable:

Action	Date	FR Cite
Proposed Rule	08/04/00	65 FR 47908
Comment Period End	10/03/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 84, 4700 River Road, Riverdale, MD 20737-1234
Phone: 301 734-7833

RIN: 0579–AA94

264. IMPORTATION OF UNMANUFACTURED WOOD ARTICLES FROM MEXICO

Priority: Other Significant

Legal Authority: 7 USC 166; 7 USC 450; 7 USC 7711 to 7714; 7 USC 7718; 7 USC 7731 to 7732; 7 USC 7751 to

USDA—APHIS — **Final Rule Stage**

7754; 21 USC 136 to 136a; 7 CFR 2.22; 7 CFR 2.80; 7 CFR 371.3

CFR Citation: 7 CFR 319.40

Legal Deadline: None

Abstract: This action would add restrictions on the importation of pine and fir logs and lumber, as well as other unmanufactured wood articles, from Mexico. These wood articles from Mexico would have to meet certain treatment and handling requirements to be eligible for importation into the United States. We believe this action is necessary to prevent the introduction into the United States of dangerous plant pests, including forest pests, with unmanufactured wood articles from Mexico.

Timetable:

Action	Date	FR Cite
Proposed Rule	06/11/99	64 FR 31512
Comment Period End	08/10/99	
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Wayne D. Burnett, Senior Import Specialist, PIM, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6799

RIN: 0579–AB02

265. COMMERCIAL TRANSPORTATION OF EQUINES TO SLAUGHTER

Priority: Other Significant

Legal Authority: 7 USC 1901

CFR Citation: 9 CFR 70; 9 CFR 88 (New)

Legal Deadline: None

Abstract: This action would establish regulations pertaining to the commercial transportation of equines to slaughter. The purpose of these regulations is to establish minimum standards to ensure the humane movement of equines to slaughter via commercial transportation. We are proposing these regulations to fulfill our responsibility under the 1996 Farm Bill to regulate the commercial transportation of equines to slaughter by persons regularly engaged in that activity within the United States.

Timetable:

Action	Date	FR Cite
Proposed Rule	05/19/99	64 FR 27210
Comment Period End	07/19/99	
Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Timothy R. Cordes, Senior Staff Veterinarian, National Animal Health Programs, VS, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 43, 4700 River Road, Riverdale, MD 20737-1231
Phone: 301 734-3279

RIN: 0579–AB06

266. IMPORTATION OF UNSHU ORANGES

Priority: Other Significant

Legal Authority: 7 USC 166; 7 USC 450; 7 USC 7701 to 7772; 21 USC 136 to 136a

CFR Citation: 7 CFR 319.28

Legal Deadline: None

Abstract: We are proposing to amend the regulations governing the importation of citrus fruit to allow, under certain conditions, Unshu oranges grown on Kyushu Island, Japan, to be imported into the United States. We are also proposing to amend the regulations for importing Unshu oranges from Honshu Island, Japan, by requiring fumigation using methyl bromide prior to exportation and by allowing the fruit to be imported into commercial citrus-producing areas of the United States. In addition, we are proposing to remove the requirement for individually wrapping Unshu oranges imported from Japan or the Republic of Korea. These actions would relieve restrictions on the importation into and distribution within the United States of Unshu oranges without presenting a significant risk of introducing citrus canker or other diseases or pests of plants.

Timetable:

Action	Date	FR Cite
Proposed Rule	04/18/01	66 FR 19892
Comment Period End	06/18/01	
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Dr. Inder Paul Gadh, Senior Staff Officer, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6799

RIN: 0579–AB17

267. PLUM POX COMPENSATION

Priority: Other Significant

Legal Authority: 7 USC 166; 7 USC 7711 to 7712; 7 USC 7714; 7 USC 7731; 7 USC 7735; 7 USC 7751 to 7754; sec 301.75-15 also issued under sec 204, title II, PL 106-113; 113 Stat. 1501A-293; sec 301.75-15 and 301.75.16 also issued under sec 203; title II, PL 106-224, 114 Stat. 400 (7 USC 1421 note)

CFR Citation: 7 CFR 301.74-5

Legal Deadline: None

Abstract: APHIS has published an interim rule amending its plum pox regulations to provide for the payment of compensation to the owners of commercial stone fruit orchards and fruit tree nurseries who had stone fruit trees or nursery stock destroyed in order to control plum pox. The payment of these funds is necessary in order to reduce the economic impact of the plum pox quarantine on affected commercial stone fruit growers and fruit tree nursery owners. APHIS anticipates finalizing this interim rule after addressing the comments received.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/14/00	65 FR 55431
Interim Final Rule Comment Period End	11/13/00	
Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen R. Poe, Operations Officer, Program Support Staff, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 134, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-8247

RIN: 0579–AB19

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Final Rule Stage

268. ANIMAL WELFARE; POLICY ON ENVIRONMENT ENHANCEMENT FOR NONHUMAN PRIMATES

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 3.81

Legal Deadline: None

Abstract: APHIS' Animal Welfare Act regulations require that dealers, exhibitors, and research facilities that maintain nonhuman primates develop and follow a plan for environment enhancement adequate to promote the psychological well-being of nonhuman primates.

APHIS is preparing a final policy statement to provide guidance on what we believe must be considered and included in the plan in order for dealers, exhibitors, and research facilities to adequately promote the psychological well-being of nonhuman primates. This final policy statement addresses the comments received in response to our draft policy statement.

Timetable:

Action	Date	FR Cite
Draft Policy Statement	07/15/99	64 FR 38145
Comment Period End	10/13/99	
Final Policy Statement	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 84, 4700 River Road, Riverdale, MD 20737-1234
Phone: 301 734-7833

RIN: 0579–AB25

269. • IMPORTATION PROHIBITIONS BECAUSE OF BOVINE SPONGIFORM ENCEPHALOPATHY

Priority: Other Significant

Legal Authority: 7 USC 450; 7 USC 7711 to 7714; 7 USC 7751; 7 USC 7754; 18 USC 1306; 21 USC 111; 21 USC 134b to 134c; 21 USC 134f; 21 USC 136 to 136a; 31 USC 9701; 7 CFR 2.22; 7 CFR 2.80; 7 CFR 371.4

CFR Citation: 9 CFR 94.18; 9 CFR 95.1; 9 CFR 95.4; 9 CFR 95.29 (New)

Legal Deadline: None

Abstract: This interim rule prohibits, with limited exceptions, the importation of certain animal materials and their derivatives, and any products they are used in, from regions considered to present an unacceptable risk of introducing bovine spongiform encephalopathy (BSE) into the United States. Additionally, it requires that those materials, when imported from regions not considered at risk for BSE, be accompanied by Government certification regarding the species, region of origin, processing, and handling of the materials and the animals from which they were derived. These actions are necessary to ensure that materials containing the BSE agent are not imported into the United States.

Timetable:

Action	Date	FR Cite
IRM Retroactively Effective	12/07/00	
Interim Final Rule	08/14/01	66 FR 42595
Sec 95.29 Effective	08/14/01	
Comment Period End	10/15/01	
Interim Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Donna L. Malloy, Senior Staff Veterinarian, Technical Trade Services, NCIE, VS, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 38, 4700 River Road, Riverdale, MD 20737-1231
Phone: 301 734-3277

RIN: 0579–AB26

270. • INTERSTATE MOVEMENT OF SWINE WITHIN A PRODUCTION SYSTEM

Priority: Other Significant

Legal Authority: 21 USC 111 to 113; 21 USC 114a to 114a-1; 21 USC 115 to 117; 21 USC 120 to 126; 21 USC 134b; 21 USC 134f; 7 CFR 2.22; 7 CFR 2.80; 7 CFR 371.4

CFR Citation: 9 CFR 71; 9 CFR 85

Legal Deadline: None

Abstract: We are establishing an alternative to the current requirements for moving swine interstate. Under this alternative, persons may move swine interstate without meeting individual swine identification and certain other requirements if they move the swine within a single swine production system, and if swine producers participating in that system sign agreements with the Animal and Plant Health Inspection Service and involved State governments to monitor the health of animals moving within the swine production system and to facilitate traceback of these animals if necessary. This action will facilitate the interstate movement of swine while continuing to provide protection against the interstate spread of swine diseases. This action will affect persons engaged in swine production against the interstate spread of swine diseases. This action will affect persons engaged in swine production who regularly move swine interstate in their business operations.

Timetable:

Action	Date	FR Cite
Proposed Rule	09/21/00	65 FR 57106
Comment Period End	11/20/00	
Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Dr. Arnold C. Taft, Senior Staff Veterinarian, National Animal Health Programs Staff, VS, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 43, 4700 River Road, Riverdale, MD 20737-1231
Phone: 301 734-4916

RIN: 0579–AB28

271. • ANIMALS DESTROYED BECAUSE OF TUBERCULOSIS; PAYMENT OF INDEMNITY

Priority: Other Significant

Legal Authority: 21 USC 111 to 114a-1; 21 USC 120 to 121; 21 USC 125; 21 USC 134b

CFR Citation: 9 CFR 50

Legal Deadline: None

Abstract: This action will provide that APHIS will pay owners of animals destroyed because of bovine tuberculosis an indemnity equal to the difference between the net salvage received and the appraisal value of the animals destroyed up to $3,000 per animal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/02	

USDA—APHIS **Final Rule Stage**

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Joseph Van Tiem, Staff Veterinarian, VS, National Animal Health Program, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 43, 4700 River Road, Riverdale, MD 20737-1231
Phone: 301 734-7716
Email: jvantiem@aphis.usda.gov

RIN: 0579–AB29

272. • BLACK STEM RUST; ADDITION OF RUST-RESISTANT VARIETIES (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 166; 7 USC 7711 to 7712; 7 USC 7714; 7 USC 7731; 7 USC 7735; 7 USC 7751 to 7754; 7 CFR 2.22; 7 CFR 2.80; 7 CFR 371.3

CFR Citation: 7 CFR 301

Legal Deadline: None

Abstract: We are proposing to add 32 new varieties to the list of rust-resistant varieties of Berberis, Mahoberberis, or Mahonia spp. We are also proposing to update the regulations to reflect changes to the variety listing process.

Timetable:

Action	Date	FR Cite
Proposed Rule	04/07/98	63 FR 16908
Comment Period End	05/22/98	
Proposed Rule; Withdrawal and Reproposal	06/14/01	66 FR 32268
Comment Period End	08/13/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Vedpal S. Malik, National Karnal Bunt Coordinator, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 134, 4700 River Road, Riverdale, MD 20737-1231
Phone: 301 734-6774

RIN: 0579–AB33

Department of Agriculture (USDA)
Animal and Plant Health Inspection Service (APHIS) **Long-Term Actions**

273. IMPORTATION OF CERTAIN EMBRYOS AND ANIMAL SEMEN (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 98

Timetable:

Action	Date	FR Cite
ANPRM	07/08/93	58 FR 36625
ANPRM Comment Period End	09/07/93	
NPRM	To Be Determined	
Comment Period End	08/24/99	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger Perkins
Phone: 301 734-8364

RIN: 0579–AA63

274. ESTABLISHMENT OF REGIONS IN THE EUROPEAN UNION FOR HOG CHOLERA, FOOT-AND-MOUTH DISEASE, AND SWINE VESICULAR DISEASE

Priority: Other Significant

CFR Citation: 9 CFR 92; 9 CFR 94; 9 CFR 98

Timetable:

Action	Date	FR Cite
Proposed Rule	06/25/99	64 FR 34155

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Colgrove
Phone: 301 734-8364

RIN: 0579–AB03

275. HORSE PROTECTION; HORSE INDUSTRY ORGANIZATIONS

Priority: Other Significant

CFR Citation: 9 CFR 11

Timetable:

Action	Date	FR Cite
Proposed Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jodie Kulpa
Phone: 301 734-7833

RIN: 0579–AB04

276. AQUACULTURE; FARM-RAISED FIN FISH

Priority: Info./Admin./Other

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
ANPRM	05/04/99	64 FR 23795
ANPRM Comment Period End	07/06/99	
Public Meeting	11/22/00	65 FR 70330
Public Meeting	01/16/01	66 FR 3532
Public Meeting	03/22/01	66 FR 16031
Public Meeting	05/10/01	66 FR 23877
Public Meeting	07/27/01	66 FR 39134
Public Meeting	08/31/01	66 FR 45957
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Otis Miller
Phone: 301 734-6188

RIN: 0579–AB09

277. PSEUDORABIES IN SWINE; PAYMENT OF INDEMNITY

Priority: Other Significant

CFR Citation: 9 CFR 52

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/12/99	64 FR 2545
Interim Final Rule Comment Period End	04/16/99	
Interim Final Rule	04/18/00	65 FR 20706

USDA—APHIS **Long-Term Actions**

Action	Date	FR Cite
Interim Final Rule	06/19/00	
Comment Period End		
Affirmation of Interim Rules	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Arnold C. Taft
Phone: 301 734-4916

RIN: 0579–AB10

278. IMPORTATION OF BEEF FROM BRAZIL

Priority: Other Significant

CFR Citation: 9 CFR 94

Timetable:

Action	Date	FR Cite
Proposed Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: S. Anne Goodman
Phone: 301 734-4929

RIN: 0579–AB16

279. EXPORTATION OF LIVESTOCK (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 91

Timetable:

Action	Date	FR Cite
Proposed Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Najam Faizi
Phone: 301 734-4356

RIN: 0579–AB21

280. • MEXICAN HASS AVOCADO IMPORT PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 166; 7 USC 450; 7 USC 7711 to 7714; 7 USC 7718; 7 USC 7731 to 7732; 7 USC 7751 to 7754; 21 USC 136 to 136a; 7 CFR 2.22; 7 CFR 2.80; 7 CFR 371.3

CFR Citation: 7 CFR 319.56-2ff

Legal Deadline: None

Abstract: This proposed rule would amend the regulations to allow Mexican Hass avocados to be imported into the United States for 2 additional months (March and April). This proposed rule would allow Mexican Hass avocados to be distributed in 12 additional U.S. states.

Timetable:

Action	Date	FR Cite
Proposed Rule	07/13/01	66 FR 36891
Public Hearing	07/27/01	66 FR 39121
Comment Period End	09/11/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Wayne D. Burnett, Senior Import Specialist, PIM, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6799

RIN: 0579–AB27

Department of Agriculture (USDA)
Animal and Plant Health Inspection Service (APHIS) **Completed Actions**

281. KARNAL BUNT

Priority: Other Significant

CFR Citation: 7 CFR 301

Completed:

Reason	Date	FR Cite
Final Rule	08/06/01	66 FR 40839
Compensation for the 1999-2000 and Subsequent Crop Seasons		
Final Rule Effective	08/06/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State

Agency Contact: Vedpal S. Malik
Phone: 301 734-6774

RIN: 0579–AA83

282. INTERSTATE MOVEMENT OF SHEEP AND GOATS FROM STATES THAT DO NOT QUARANTINE SCRAPIE-INFECTED AND SOURCE FLOCKS

Priority: Other Significant

CFR Citation: 9 CFR 54; 9 CFR 79

Completed:

Reason	Date	FR Cite
Final Rule	08/21/01	66 FR 43964
Final Rule Effective	09/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Diane Sutton
Phone: 301 734-4363

RIN: 0579–AA90

283. RESTRICTIONS ON THE IMPORTATION OF RUMINANTS, MEAT AND MEAT PRODUCTS FROM RUMINANTS, AND CERTAIN OTHER RUMINANT PRODUCTS

Priority: Other Significant

CFR Citation: 9 CFR 93.404(c); 9 CFR 94.18; 9 CFR 95.4(a); 9 CFR 96.2(b)

Completed:

Reason	Date	FR Cite
Withdrawn	08/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna L. Malloy
Phone: 301 734-3277

RIN: 0579–AA98

USDA—APHIS — **Completed Actions**

284. REQUIRING TREATMENT OF SOLID WOOD PACKING MATERIAL FROM CHINA

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 319.40

Completed:

Reason	Date	FR Cite
Merged With RIN 0579-AA99	08/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Flanders
Phone: 301 734-5930

RIN: 0579–AB01

285. NOXIOUS WEEDS; WEED CATEGORIES AND PRIORITIES

Priority: Other Significant

CFR Citation: 7 CFR 360; 7 CFR 361

Completed:

Reason	Date	FR Cite
Merged With RIN 0579-AB30	08/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Polly Lehtonen
Phone: 301 734-8896

RIN: 0579–AB07

286. NOXIOUS WEEDS; RESTRICTIONS ON INTERSTATE MOVEMENT

Priority: Other Significant

CFR Citation: 7 CFR 360.300

Completed:

Reason	Date	FR Cite
Affirmation of Interim Rule as Final Rule	06/14/01	66 FR 32213

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Alan V. Tasker
Phone: 301 734-5225

RIN: 0579–AB08

287. CITRUS CANKER; PAYMENTS FOR COMMERCIAL CITRUS TREE REPLACEMENT AND LOST PRODUCTION INCOME

Priority: Other Significant

CFR Citation: 7 CFR 301.75

Completed:

Reason	Date	FR Cite
FRM (Lost Production)	06/18/01	66 FR 32713
FRM (Tree Replacement)	08/17/01	66 FR 43065
Final Rule Effective	08/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen R. Poe
Phone: 301 734-8247

RIN: 0579–AB15

BILLING CODE 3410-34-S

Department of Agriculture (USDA) — **Long-Term Actions**

Cooperative State Research, Education, and Extension Service (CSREES)

288. HIGHER EDUCATION MULTICULTURAL SCHOLARS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3409

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA09

289. HISPANIC-SERVING INSTITUTIONS EDUCATION GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3412

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA17

290. COMMUNITY FOOD PROJECTS ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3416

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA19

291. SMALL BUSINESS INNOVATION RESEARCH PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3403

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA20

292. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3415

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA21

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USDA—CSREES — **Long-Term Actions**

293. NATIONAL RESEARCH INITIATIVE COMPETITIVE GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Other Significant

CFR Citation: 7 CFR 3411

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA22

BILLING CODE 3410-22-S

Department of Agriculture (USDA)
Rural Housing Service (RHS) — **Proposed Rule Stage**

294. CIVIL RIGHTS COMPLIANCE REQUIREMENTS—1901-E TO 1940-D

Priority: Other Significant

Legal Authority: PL 100-259; 29 USC 794; PL 94-135; 42 USC 6101 et seq; PL 94-239; 15 USC 1601 et seq; EO 11246; PL 88-352; 42 USC 2000d et seq; PL 90-284; 42 USC 3601 to 3619; PL 100-430; PL 92-318; 20 USC 1681 et seq; PL 93-112; EO 12898

CFR Citation: 7 CFR 15; 12 CFR 202; 28 CFR 42; 45 CFR 90; 41 CFR 60 to 64; 24 CFR 14; 7 CFR 1940 subpart D; 7 CFR 1901 subpart E

Legal Deadline: None

Abstract: This ruling will effectuate a comprehensive civil rights regulation implementing the following laws: The Equal Credit Opportunity Act (ECOA); title VI of the Civil Rights Act of 1964; title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (The Fair Housing Act); section 504 Federally Conducted and Federally Assisted Programs; title IX of the Education Amendments of 1972; Age Discrimination Act of 1975; and Executive Orders 11246 and 12898 (Environmental Justice). The revised regulations will provide detailed guidelines for field offices for improved enforcement and compliance with these laws, which heavily impact the Agency's programs. Mechanisms for monitoring compliance by field offices and recipients of Federal financial assistance at all levels will decrease the Agency's vulnerability that exist due to noncompliance with recently enacted Civil Rights legislation.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
NPRM Comment Period End	07/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Carlton L. Lewis, Chief, Program Compliance Branch, Department of Agriculture, Rural Housing Service, STOP 0703, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 692-0097
TDD Phone: 202 692-0107
Fax: 202 692-0305
Email: cllewis@rdmail.rural.usda.gov

RIN: 0575–AA83

295. SERVICING COMMUNITY PROGRAMS LOANS AND GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989; 31 USC 3711; 42 USC 1480

CFR Citation: 7 CFR 3570 subpart E; 7 CFR 1951 subpart E; 7 CFR 1951 subpart O; 7 CFR 1955 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 1956 subpart C; 7 CFR 1951 subpart F

Legal Deadline: None

Abstract: The Agency is combining seven regulations affecting the servicing of Community Programs loans and grants into one regulation. There are no policy or procedural changes. The published regulation will be simplified by removing the administrative portion and will only contain the information affecting the public.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Beth Jones, Loan Specialist, Community Programs Division, Department of Agriculture, Rural Housing Service, Room 0183/Stop 0787, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1498
Email: epjones@rdmail.rural.usda.gov

RIN: 0575–AC12

296. MULTI-FAMILY HOUSING

Priority: Other Significant

Legal Authority: 5 USC 301; 42 USC 1490a; 7 USC 1989; 42 USC 1475; 42 USC 1479; 42 USC 1480; 42 USC 1481; 42 USC 1484; 42 USC 1485; 42 USC 1486

CFR Citation: 7 CFR 1806 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 1956 subpart B; 7 CFR 1965 subpart B; 7 CFR 1965 subpart E; 7 CFR 1930 subpart C; 7 CFR 1944 subpart D; 7 CFR 1944 subpart E; 7 CFR 1951 subpart C; 7 CFR 1951 subpart D; 7 CFR 1951 subpart K; 7 CFR 1951 subpart N; 7 CFR 1955 subpart A

Legal Deadline: None

Abstract: The Rural Housing Service proposes to consolidate regulations pertaining to section 515 Rural Rental Housing, section 514 Farm Labor Housing Loans, section 516 Farm Labor Housing Grants, and section 521 Rental Assistance Payments. Fourteen published regulations will be reduced to one regulation and handbooks for program administration. This will simplify loan origination and portfolio management for applicants, borrowers, and housing operators as well as Rural Development field staff. This will also provide flexibility for program modifications to reflect current and foreseeable changes. It will also reduce regulations that address solely internal Agency program administration. Finally, the regulation will be more

USDA—RHS **Proposed Rule Stage**

customer friendly and responsive to the needs of the public.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patrick Sheridan, Assistant Deputy Administrator, MFH, Department of Agriculture, Rural Housing Service, Room 1263/Stop 0782, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1609
Email: psherida@rdmail.rural.usda.gov

RIN: 0575–AC13

297. SELF-HELP TECHNICAL ASSISTANCE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 42 USC 1480

CFR Citation: 7 CFR 1944; 7 CFR 3551

Legal Deadline: None

Abstract: The regulations for 7 CFR 1944-I "Self-Help Technical Assistance Grants" is being rewritten and renumbered to 7 CFR 3551. Changes are proposed for clarification of policy and procedures relative to the: 1) Application procedure, which is changing to an annual competitive grant process; 2) labor contribution of participating families; 3) monitoring of grantee progress through Self-Help Automated Reporting and Evaluation System (SHARES); and 4) define the roles of Technical and Management Assistance Contractors.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daryl Cooper, Senior Loan Specialist, Department of Agriculture, Rural Housing Service, Room 2209/Stop 0783, 1400 Independence Avenue SW, Washington, DC 20250-0783
Phone: 202 720-1366
Fax: 202 720-2232

Carolyn Bell, Chief, Spec. Prog./New Init. Branch, SFH Direct Loan Division, Department of Agriculture, Rural Housing Service, Stop 0783, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1532
Fax: 202 720-2232

RIN: 0575–AC20

Department of Agriculture (USDA)
Rural Housing Service (RHS) **Final Rule Stage**

298. DIRECT SECTION 502 AND 504 SINGLE-FAMILY HOUSING PROGRAM

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480; 31 USC 3700

CFR Citation: 7 CFR 1806; 7 CFR 1900; 7 CFR 1944; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1965; 7 CFR 3550

Legal Deadline: None

Abstract: The Rural Housing Service reopened the comment period on four sections of this regulation seeking potential changes to the definition of modest housing and calculation of payment subsidies. The Agency has reviewed comments and will be publishing minor corrections and clarifications in the existing regulation. In addition, the Agency will provide an updated definition of modest housing moving away from reliance on the section 203(b) mortgage limits set by the Department of Housing and Urban Development. The Agency will use more localized data and provide clearer guidance to ensure compliance with our mission to finance housing that is decent, safe, sanitary, and modest. No changes in the payment subsidy are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15395
NPRM Comment Period End	06/07/96	
Interim Final Rule	11/22/96	61 FR 59762
Interim Final Rule Comment Period End	12/26/96	
Interim Final Rule Effective	12/26/96	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carolyn Bell, Chief, Spec. Prog./New Init. Branch, SFH Direct Loan Division, Department of Agriculture, Rural Housing Service, Stop 0783, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1532
Fax: 202 720-2232

Mike Feinberg, Chief, Loan Origination Branch, SFH Direct Loan Division, Department of Agriculture, Rural Housing Service, STOP 0783, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-3214

RIN: 0575–AB99

299. GUARANTEED SINGLE-FAMILY HOUSING

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 3555; 7 CFR 1980, subpart D

Legal Deadline: None

Abstract: The Rural Housing Service is rewriting the regulations governing the Guaranteed Single-Family Housing program to provide better clarity and consistency within the program. The action is taken to update the regulations to current mortgage industry standards and provide more guidance on program oversight and monitoring.

Timetable:

Action	Date	FR Cite
NPRM	12/15/99	64 FR 70124

USDA—RHS **Final Rule Stage**

Action	Date	FR Cite
NPRM Comment Period End	02/14/00	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Roger Glendenning, Deputy Director, Guaranteed Loan Division, Department of Agriculture, Rural Housing Service, Room 2248/Stop 0784, 1400 Independence Avenue SW, Washington, DC 20250-0780
Phone: 202 720-1480
Fax: 202 205-2476
Email: rglendenning@rdmail.rural.usda.gov

RIN: 0575–AC18

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300. OPERATING ASSISTANCE FOR MIGRANT FARMWORKER PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1484; 42 USC 1486; 42 USC 1490a; PL 105-276, sec 599c

CFR Citation: 7 CFR 1944, subpart D; 7 CFR 1930, subpart C

Legal Deadline: None

Abstract: Regulation implements the provisions of Public Law 105-276, enacted October 21, 1998, which amended section 521 of the Housing Act of 1949. This amendment provides that, for migrant farmworker housing projects financed under section 514 or 516 of the Housing Act, the Secretary may, at the request of the owner, permit amounts provided for rental assistance under section 521 to be used to provide assistance for the costs of operating the project.

Timetable:

Action	Date	FR Cite
NPRM	11/02/00	65 FR 65790
NPRM Comment Period End	01/02/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Layfield, Senior Loan Specialist, Department of Agriculture, Rural Housing Service, Room 1239/STOP 0781, 1400 Independence Avenue SW, Washington, DC 20250-0781
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Fax: 202 690-3444
Email: dlayfiel@rdmail.rural.usda.gov

RIN: 0575–AC24

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301. TECHNICAL ASSISTANCE TO ENCOURAGE THE DEVELOPMENT OF DOMESTIC AND MIGRANT FARM LABOR HOUSING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1484; 42 USC 1486

CFR Citation: 7 CFR 1944, subpart D

Legal Deadline: None

Abstract: Section 514 of title V of the Housing Act of 1949 authorizes USDA to make loans for farm labor housing. Section 516 of the Act authorizes USDA to make grants for the same purpose. These authorities are implemented through 7 CFR part 1944, subpart D. Section 516 also authorizes USDA to provide financial assistance to private and public nonprofit agencies to encourage the development of farm labor housing. Recipients of this financial assistance, in turn, assist other organizations obtain loans and grants for the construction of farm labor housing. This regulation change will incorporate the "technical assistance" provision of the statute into 7 CFR 1944. The amount of assistance is limited by statute to 10 percent of the total section 516 allocation.

Timetable:

Action	Date	FR Cite
NPRM	06/01/01	66 FR 29739
NPRM Comment Period End	07/31/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Layfield, Senior Loan Specialist, Department of Agriculture, Rural Housing Service, Room 1239/STOP 0781, 1400 Independence Avenue SW, Washington, DC 20250-0781
Phone: 202 690-0759
Fax: 202 690-3444
Email: dlayfiel@rdmail.rural.usda.gov

RIN: 0575–AC25

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302. • 7 CFR 3565, GUARANTEED RURAL RENTAL HOUSING, SECTION 538 STATUTORY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1484; 42 USC 1486; PL 106-569

CFR Citation: 7 CFR 3565

Legal Deadline: None

Abstract: Section 538 of title V of the Housing Act of 1949 authorizes the Secretary of Agriculture to make commitments to guarantee loans for the development of housing and related facilities. By this authority, the Rural Housing Service administers the Guaranteed Rural Rental Housing Program. Program regulations have been issued at 7 CFR part 3565. The regulations are being revised to implement statutory changes that were made to section 538 of the Housing Act of 1949. The Act was amended by Public Law 106-569 on December 27, 2000. These regulatory revisions are required by the statutory change and the revisions to the regulation will only restate the statutory requirements.

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Douglas MacDowell, Senior Loan Specialist, Department of Agriculture, Rural Housing Service, Stop 0781, 1400 Independence Avenue SW, Washington, DC 20250-0781
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Fax: 202 690-3444
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RIN: 0575–AC26

Department of Agriculture (USDA)
Rural Housing Service (RHS)

Long-Term Actions

303. ENVIRONMENTAL PROGRAM

Priority: Other Significant

CFR Citation: 40 CFR 300; 40 CFR 260; 40 CFR 700; 40 CFR 400; 7 CFR 1940

Timetable:

Action	Date	FR Cite
NPRM	09/14/00	65 FR 55784
NPRM Comment Period End	11/13/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Susan Wieferich
Phone: 202 720-9647

RIN: 0575–AB98

304. NATIONAL FLOOD INSURANCE REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1926, subpart B; 7 CFR 1806, subpart B

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Baxter Hill
Phone: 202 720-1499

RIN: 0575–AC07

Department of Agriculture (USDA)
Rural Housing Service (RHS)

Completed Actions

305. DENYING CREDIT TO APPLICANTS DELINQUENT ON ANY FEDERAL DEBT

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1942 subpart C; 7 CFR 1944 subpart E; 7 CFR 1948 subpart B; 7 CFR 1951, subpart E; 7 CFR 1942, subpart A; 7 CFR 1942, subpart G; 7 CFR 1944, subpart D; 7 CFR 1980, subpart E

Completed:

Reason	Date	FR Cite
Withdrawn	08/13/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Local, Tribal, Federal

Agency Contact: Chris Burgess
Phone: 314 539-2360
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Email: cb167@rdmail.rural.usda.gov

RIN: 0575–AA66

BILLING CODE 3410-07-S

Department of Agriculture (USDA)
Federal Crop Insurance Corporation (FCIC)

Proposed Rule Stage

306. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART D; APPLICATION FOR CROP INSURANCE

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation amends the General Administrative Regulations by revising the "Collection of Information and Data (Privacy Act)" statement found on the general crop insurance application. The proposed amendments to the statement include defining "substantial beneficial interest" as those persons whose interest in the policyholder is in excess of 10 percent. Other minor changes have been made to more fully comply with provisions of the Privacy Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Timothy Hoffmann, Director, Product Development Branch, Department of Agriculture, Federal Crop Insurance Corporation, 6501 Beacon Drive, Kansas City, MO 64133
Phone: 816 926-7743

RIN: 0563–AB00

307. GENERAL ADMINISTRATIVE REGULATIONS; MOVEMENT OF BUSINESS AMONG INSURANCE PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To ensure that the interests of policyholders are protected and that the policies and policyholder data are transferred in an orderly manner, the Risk Management Agency is providing comprehensive regulations that will apply to agents, managing general agents, policy-issuing companies, and reinsured companies. The objective of this regulation is to prescribe uniform administrative requirements for the movement or assumption of crop insurance policies.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Heyward Baker, Director, Reinsurance Services Division, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0804
Phone: 202 720-4286

RIN: 0563–AB71

308. GENERAL ADMINISTRATIVE REGULATIONS; SANCTIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(m); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To add a new section to the Sanction regulation that will specify the conditions under which a person and affiliate may qualify for a waiver or reduction of a civil penalty imposed by the Agency.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Heyward Baker, Director, Reinsurance Services Division, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0804 Phone: 202 720-4286

RIN: 0563–AB73

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309. COMMON CROP INSURANCE REGULATIONS; BLUEBERRY CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The purpose of this rule is to solicit public comments on FCIC's proposed action to convert the blueberry pilot insurance program to a permanent insurance program. The pilot was initiated for the 1995 crop year for selected counties in Michigan, Mississippi, New Jersey, and North Carolina and covered highbush and rabbiteye blueberry varieties.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Timothy Hoffmann, Director, Product Development Branch, Department of Agriculture, Federal Crop Insurance Corporation, 6501 Beacon Drive, Kansas City, MO 64133 Phone: 816 926-7743

RIN: 0563–AB76

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310. COMMON CROP INSURANCE REGULATIONS; NURSERY CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The purpose of this proposed rule is to solicit public comments on FCIC's proposed action to revise the Nursery Crop Provisions (99-073) for the 2002 crop year to: Specify that container grown and field grown plants are separate crops, provide optional units by location for field grown nursery plant, incorporate the "lower of" rule into section 6 of the provisions, permit insureds to purchase insurance coverage on a year-round basis, incorporate provisions to provide a rehabilitation payment for plants damaged by an insured cause of loss.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Timothy Hoffmann, Director, Product Development Branch, Department of Agriculture, Federal Crop Insurance Corporation, 6501 Beacon Drive, Kansas City, MO 64133 Phone: 816 926-7743

RIN: 0563–AB80

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311. GENERAL ADMINISTRATIVE REGULATIONS; ACTUAL PRODUCTION HISTORY

Priority: Other Significant

Legal Authority: 7 USC 1506 (l); 7 USC 1506 (p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To revise actual production history regulations to reflect changes in calculation of approved APH yields as mandated by the Agricultural Risk Protection Act of 2000. Revisions will include: Assigned yields for crops produced on land not farmed before (added land), rotations to crops not previously produced (new crops), and for prevented planting acreage if planted to a substitute crop; adjustments for successful pest control efforts and for organic crops destroyed to maintain organic certification; and substitution of 60 percent of the transitional yield for low actual yields if producers elect that option.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Timothy Hoffmann, Director, Product Development Branch, Department of Agriculture, Federal Crop Insurance Corporation, 6501 Beacon Drive, Kansas City, MO 64133 Phone: 816 926-7743

RIN: 0563–AB83

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312. COMMON CROP INSURANCE REGULATIONS; BASIC PROVISIONS AND GENERAL ADMINISTRATIVE REGULATIONS, SUBPART T, REGULATIONS FOR IMPLEMENTATION

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400; 7 CFR 457.8

Legal Deadline: Final, Statutory, October 18, 2000.

Abstract: The purpose of these rules is to propose changes to the Common Crop Insurance Regulations, Basic Provisions and the General Administrative Regulations, Subpart T—Insurance Implementation, mandated by the Agricultural Risk Protection Act of 2000. The changes will be proposed to be effective beginning with the 2002 crop year for all crops with a contract change date on or after June 30, 2001. The major changes to the Common Crop Insurance Regulations, Basic Provisions are: 1) Limit indemnities and premiums when more than one crop is planted on acreage within the same crop year; 2) if an initial crop is prevented from being planted and a substitute crop is planted on the acreage within the same crop year, allow reduced prevented planting coverage for the initial crop, and the initial crop's Actual Production History (APH) will be reduced to 60 percent of the producer's APH; and 3) add scientifically sound sustainable

USDA—FCIC **Proposed Rule Stage**

and organic farming practices as good farming practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Timothy Hoffmann, Director, Product Development Branch, Department of Agriculture, Federal Crop Insurance Corporation, 6501 Beacon Drive, Kansas City, MO 64133 Phone: 816 926-7743

RIN: 0563–AB85

Department of Agriculture (USDA) **Final Rule Stage**

Federal Crop Insurance Corporation (FCIC)

313. COMMON CROP INSURANCE REGULATIONS; SMALL GRAINS CROP INSURANCE PROVISIONS AND WHEAT WINTER COVERAGE ENDORSEMENT

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457.101; 7 CFR 457.102

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to revise and clarify existing policy provisions, establish winter wheat coverage in certain South Dakota and Wisconsin counties, reduce coverage under Option B of the Wheat Winter Coverage Endorsement, and to require insurance on spring wheat planted to replace damaged winter wheat covered under the Wheat Winter Coverage Endorsement.

Timetable:

Action	Date	FR Cite
NPRM	04/20/00	65 FR 21144
NPRM Comment Period End	06/19/00	
Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Timothy Hoffmann, Director, Product Development Branch, Department of Agriculture, Federal Crop Insurance Corporation, 6501 Beacon Drive, Kansas City, MO 64133 Phone: 816 926-7743

RIN: 0563–AB63

314. GENERAL ADMINISTRATIVE REGULATIONS; NONSTANDARD UNDERWRITING CLASSIFICATION SYSTEM

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: Nonstandard Underwriting Classification System (NCS): NCS was criticized by producers and their representatives for several years and became a major issue with the repetitive floods in the upper Midwest and multi-year droughts in the Southwest. Complaints included claims that the NCS procedures: 1) Did not adequately exclude widespread causes of loss (disaster adjustment); 2) failed to recognize diverse conditions within a county; 3) unfairly hit new or struggling producers caught by repetitive disasters; and 4) set too high a premium for those producers listed. Additionally, administration of the NCS process was complicated, sometimes subjective, and labor intensive.

The Advanced Notice of Proposed Rulemaking that was published in the Federal Register in September 1997 sought comments from the public on options to improve NCS. Twenty-two comments were received in response to the advanced notice. RMA decided to replace NCS with a process that charged appropriate rates for those producers with adverse loss experience and less than average production histories.

RMA examined increasing premium rates based on producers' lower APH yields and using a surcharge based on use of the yield floor (or some other identifiable indicator of adverse experience) to determine if these measures would adequately address the need to increase premiums for those producers with the most adverse loss histories based on the frequency and severity of losses. After reviewing past NCS experience on the existing book of business, it was determined that appropriate rate increases for those producers whose APH yields were less than average would compensate entirely for the elimination of NCS.

RMA implemented the following actions to accomplish the goal of replacing NCS beginning with the 1999 crop year:

— Removed and reserved the current NCS regulation (7 CFR part 400, subpart O) by publishing a proposed rule in the Federal Register. The final rule is pending clearance, however the Agency proceeded with the process and has waived NCS since 1999.

— Developed and implemented appropriate rate adjustments to offset the removal of NCS.

Timetable:

Action	Date	FR Cite
ANPRM	09/17/97	62 FR 48798
ANPRM Comment Period End	10/17/97	
NPRM	09/02/98	63 FR 46703
NPRM Comment Period End	10/19/98	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Timothy Hoffmann, Director, Product Development Branch, Department of Agriculture, Federal Crop Insurance Corporation, 6501 Beacon Drive, Kansas City, MO 64133 Phone: 816 926-7743

RIN: 0563–AB66

USDA—FCIC

Final Rule Stage

315. GENERAL ADMINISTRATIVE REGULATIONS; PREMIUM REDUCTIONS; PAYMENTS OF REBATES, DIVIDENDS, AND PATRONAGE REFUNDS; AND PAYMENTS TO INSURED-OWNED AND RECORD-CONTROLLING ENTITIES

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p); 7 USC 1508(e)(3)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To allow approved insurance providers to apply to the Federal Crop Insurance Corporation for authority to reduce the premium charged producers in accordance with section 508(e)(3) of the Federal Crop Insurance Act, as amended, and to provide the limitations and requirements applicable to the payment of rebates, dividends, and patronage refunds to insureds and payments to insured-owned and record-controlling entities.

Timetable:

Action	Date	FR Cite
NPRM	05/12/99	64 FR 25464
NPRM Comment Period End	07/12/99	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Heyward Baker, Director, Reinsurance Services Division, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0804 Phone: 202 720-4286

RIN: 0563–AB70

316. COMMON CROP INSURANCE REGULATIONS; MILLET CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The purpose of this rule is to solicit public comments on FCIC's proposed action to convert the millet pilot crop insurance program to a permanent insurance program and clarify existing crop provisions and methodology for calculated losses for the 2001 and succeeding crop years. FCIC believes this proposed rule will provide additional coverage benefits and improve the risk management tool for millet producers in all regions of the country.

Timetable:

Action	Date	FR Cite
NPRM	06/19/00	65 FR 37919
NPRM Comment Period End	08/18/00	
Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Timothy Hoffmann, Director, Product Development Branch, Department of Agriculture, Federal Crop Insurance Corporation, 6501 Beacon Drive, Kansas City, MO 64133 Phone: 816 926-7743

RIN: 0563–AB79

317. CATASTROPHIC RISK PROTECTION ENDORSEMENT; GROUP RISK PLAN OF INSURANCE REGULATIONS; BASIC PROVISIONS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 7 USC 1506(l), 1506(p)

CFR Citation: 7 CFR 402; 7 CFR 407; 7 CFR 457

Legal Deadline: Final, Statutory, June 30, 2000.

Abstract: The Federal Crop Insurance Corporation (FCIC) amends the Catastrophic Risk Protection Endorsement (7 CFR part 402), the Group Risk Plan of Insurance Regulations (7 CFR part 407), and the Common Crop Insurance Regulations, Basic Provisions (7 CFR part 457) to revise those provisions affected by the changes in the administrative fees and subsidies and the substitution of yields in the producer's actual production history mandated by the Agricultural Risk Protection Act of 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	06/28/00	65 FR 40483
Interim Final Rule	06/30/00	65 FR 40483
Interim Final Rule Comment Period End	08/29/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Timothy Hoffmann, Director, Product Development Branch, Department of Agriculture, Federal Crop Insurance Corporation, 6501 Beacon Drive, Kansas City, MO 64133 Phone: 816 926-7743

RIN: 0563–AB81

318. GENERAL ADMINISTRATIVE REGULATIONS; SUBMISSION OF POLICIES AND PROVISIONS OF POLICIES AND RATES OF PREMIUMS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: Minor revisions will be made to the regulation for clarification and other revisions will be made as specified: Remove the need to publish policies from 508(h) submissions as a Notice of Availability in the Federal Register; information will be made available electronically to producers and approved insurance providers; confidential information may be withheld from the public under the standard for privileged or confidential information pertaining to trade secrets and commercial or financial information even after approval by the Board; there will be an expert review of submissions; the applicant will be notified in writing at least 30 days prior to the Board disapproving a submission, if the Board intends to disapprove the submission; a submission will be deemed approved by the Board if the Board fails to make a determination within a prescribed time period; applicants will be reimbursed for research and developmental costs and maintenance costs; and companies selling the product will pay fees to the developer of the product after the fourth year of the applicant being paid maintenance costs unless maintenance for the product is transferred to FCIC.

Timetable:

Action	Date	FR Cite
NPRM	07/16/01	66 FR 36951
NPRM Comment Period End	08/15/01	
Interim Final Rule	01/00/02	

USDA—FCIC

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Timothy Hoffmann, Director, Product Development Branch, Department of Agriculture, Federal Crop Insurance Corporation, 6501 Beacon Drive, Kansas City, MO 64133
Phone: 816 926-7743

RIN: 0563–AB84

Department of Agriculture (USDA)
Federal Crop Insurance Corporation (FCIC)

Completed Actions

319. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART S; REGULATIONS FOR INSURANCE COVERAGE BY WRITTEN AGREEMENT

Priority: Other Significant

CFR Citation: 7 CFR 400

Completed:

Reason	Date	FR Cite
Withdrawn	09/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Timothy Hoffmann
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RIN: 0563–AB07

320. COMMON CROP INSURANCE REGULATIONS; COARSE GRAINS CROP INSURANCE PROVISIONS

Priority: Other Significant

CFR Citation: 7 CFR 457.113

Completed:

Reason	Date	FR Cite
Withdrawn	06/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Timothy Hoffmann
Phone: 816 926-7743

RIN: 0563–AB64

321. GENERAL ADMINISTRATIVE REGULATIONS; CIVIL RIGHTS DATA COLLECTION

Priority: Other Significant

CFR Citation: 7 CFR 400

Completed:

Reason	Date	FR Cite
Withdrawn	09/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Buchanan
Phone: 202 690-6068

RIN: 0563–AB78

BILLING CODE 3410-08-S

Department of Agriculture (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Proposed Rule Stage

322. REVIEW INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800.125; 7 CFR 800.135; 7 CFR 800.87

Legal Deadline: None

Abstract: The Agency is proposing to revise regulations under the U.S. Grain Standards Act to allow interested persons to stipulate the quality factors that would be redetermined during a reinspection or appeal inspection for grade. Currently reinspections and appeal inspections for grade must include a review for all factors that (1) may determine the grade; (2) are reported on the original certificate; or (3) are required to be shown. The Agency has determined that mandating all quality factors be reexamined during a review inspection is inefficient, time consuming, and costly. Further, such a complete review of the preceding inspection service is usually not needed to confirm the true quality of the grain. This proposed action will allow interested parties to specify which official factors should be redetermined during the reinspection or appeal inspection service. However, to safeguard against inadvertent misgrading, official personnel may determine other factors, when deemed necessary.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon L. Vassiliades, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 1647-S, 1400 Independence Avenue SW, Washington, DC 20250
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Email: svassili@gipsadc.usda.gov

RIN: 0580–AA58

323. PACKER RECORDKEEPING REQUIREMENTS

Priority: Other Significant

Legal Authority: 7 USC 181 et seq

CFR Citation: 9 CFR 201

Legal Deadline: None

Abstract: GIPSA proposes adding a regulation to specify recordkeeping requirements for packers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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USDA—GIPSA — Proposed Rule Stage

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RIN: 0580–AA72

324. • EXCEPTIONS TO GEOGRAPHIC AREAS FOR OFFICIAL AGENCIES UNDER THE USGSA

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71

CFR Citation: 7 CFR 800.81; 7 CFR 800.99; 7 CFR 800.116-.118; 7 CFR 800.185; 7 CFR 800.196

Legal Deadline: None

Abstract: The Agency is proposing to revise regulations under the U.S. Grain Standards Act to reflect the amendment made by the Grain Standards and Warehouse Improvements Act of 2000 that provides an exception under which the Secretary may determine that more than one official agency can provide inspection services in a specified geographic area.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sharon L. Vassiliades, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 1647-S, 1400 Independence Avenue SW, Washington, DC 20250
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RIN: 0580–AA76

325. • PROHIBITION ON DISGUISING GRAIN QUALITY

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71

CFR Citation: 7 CFR 800.61

Legal Deadline: None

Abstract: The Agency proposes to revise regulations under the U.S. Grain Standards Act to prohibit the disguising of grain quality by adding various substances during post-harvest marketing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon L. Vassiliades, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 1647-S, 1400 Independence Avenue SW, Washington, DC 20250
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RIN: 0580–AA77

326. • LABORATORY ACCREDITATION PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 71

CFR Citation: 7 CFR 800

Legal Deadline: None

Abstract: The Agency is proposing to issue regulations under the U.S. Grain Standards Act to establish an accreditation program to meet market demand for consistency in laboratories that test for quality characteristics of grain to facilitate grain marketing.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon L. Vassiliades, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 1647-S, 1400 Independence Avenue SW, Washington, DC 20250
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RIN: 0580–AA78

Department of Agriculture (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)
Final Rule Stage

327. TOLERANCES FOR DIVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 801.10

Legal Deadline: None

Abstract: GIPSA proposes to remove section 801.10, Tolerance for Dividers, from the CFR. Since GIPSA no longer tests dividers, the rule is no longer needed. By using the direct final rule process, GIPSA will give the public general notice of its intent to remove the rule and provide interested persons an opportunity to participate in the rulemaking through submission of comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon L. Vassiliades, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 1647-S, 1400 Independence Avenue SW, Washington, DC 20250
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RIN: 0580–AA57

328. SWINE PACKER MARKETING CONTRACTS

Priority: Other Significant

Legal Authority: 7 USC 181; PL 106-78

CFR Citation: 9 CFR 206

Legal Deadline: None

Abstract: The Agency is issuing rules under the Packers and Stockyards Act to implement the Swine Packer Marketing Contracts subtitle of the Livestock Mandatory Reporting Act of 1999. The Agency will establish a swine contract library and publish contract provisions on its web site.

USDA—GIPSA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/05/00	65 FR 53653
NPRM Comment Period End	10/05/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 0580–AA71

Department of Agriculture (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Long-Term Actions

329. POULTRY GROWER CONTRACTS

Priority: Other Significant

CFR Citation: 9 CFR 201.100

Timetable:

Action	Date	FR Cite
ANPRM	02/10/97	62 FR 5935
ANPRM Comment Period End	05/12/97	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 0580–AA51

330. LIVESTOCK PURCHASE OR SALE: PROHIBIT NON-REPORTING OF PRICE

Priority: Other Significant

CFR Citation: 9 CFR 201.54

Timetable:

Action	Date	FR Cite
ANPRM	09/10/98	63 FR 48450
ANPRM Comment Period End	12/09/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 0580–AA65

331. HOW CAN USDA BEST FACILITATE THE MARKETING OF GRAINS, OILSEEDS, FRUITS, VEGETABLES, AND NUTS IN TODAY'S MARKETPLACE

Priority: Other Significant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
ANPRM	11/30/00	65 FR 71272
ANPRM Comment Period End	02/28/01	
ANPRM Comment Period End	04/16/01	66 FR 13267
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 0580–AA73

Department of Agriculture (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Completed Actions

332. FEES FOR COMMODITY AND RICE INSPECTION SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 868.90; 7 CFR 868.91

Completed:

Reason	Date	FR Cite
Final Action	04/04/01	66 FR 17775
Final Action Effective	05/04/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0580–AA74

333. FEES FOR OFFICIAL INSPECTION AND OFFICIAL WEIGHING SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 800.71

Completed:

Reason	Date	FR Cite
NPRM	04/04/01	66 FR 17817
Final Action	07/31/01	66 FR 35751
Final Action Effective	08/08/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0580–AA75

BILLING CODE 3410–EN–S

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Department of Agriculture (USDA)
Food and Nutrition Service (FNS)

Proposed Rule Stage

334. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): MISCELLANEOUS PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This proposed rule responds to a variety of program concerns, most of which have been expressed by WIC State agencies. The proposal increases State agency flexibility regarding the sharing of participant information with other programs and streamlines Federal requirements for financial and participation reporting by State agencies. Several minor clarifications and technical corrections are also made. (89-515)

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	04/00/02	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sharon Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, Room 910, 3101 Park Center Drive, Alexandria, VA 22302
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RIN: 0584–AB10

335. FOOD STAMP PROGRAM MATCHING PROGRAMS AND PRIVACY PROTECTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 552(a) Computer Matching and Privacy Protection Act; 7 USC 2015(b) Food Stamp Act

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: This proposed rule describes requirements for State agencies to report information on individuals disqualified from the program for intentional program violations to FNS and the related FNS computer matching program known as the Disqualified Recipient Subsystem (DRS).

This proposed rule also describes protections to persons whose benefits could be adversely affected by computer matches used in the Food Stamp Program. Such protections must include independent verification of computer information, notification to the affected individual, and provision of an opportunity to respond to the information before an adverse action becomes effective. (89-010)

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	
Final Action	01/00/03	
Final Action Effective	04/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AB51

336. FSP: CIVIL RIGHTS DATA COLLECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 88-352, sec 601

CFR Citation: 7 CFR 272

Legal Deadline: None

Abstract: Title VI of the Civil Rights Act of 1964 requires the collection of racial/ethnic data for all programs utilizing Federal funds. State agencies are required to collect the data by racial/ethnic categories set by the Federal Government. In 1997, those categories changed. This proposed rule would change the racial categories for State Food Stamp Program reporting to comply with the new Federal racial categories. (98-010)

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	
Final Action	10/00/02	
Final Action Effective	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AC75

337. COMMODITY SUPPLEMENTAL FOOD PROGRAM: PLAIN LANGUAGE, PROGRAM ACCOUNTABILITY, AND PROGRAM FLEXIBILITY

Priority: Other Significant

Legal Authority: PL 101-624; PL 104-127

CFR Citation: 7 CFR 247

Legal Deadline: None

Abstract: This rule will rewrite regulations pertaining to the Commodity Supplemental Food Program (7 CFR part 247) in "plain language." It will also amend regulatory provisions in this part to increase program accountability and flexibility for program operators. The rule will affect program accountability by : (1) Requiring State agencies to initiate a claim against participants for repayment of the value of program benefits obtained as a result of intentional misrepresentation; (2) extending the period that State agencies may disqualify participants for program violations for up to 1 year; (3) requiring State agencies to disqualify participants for engaging in dual participation or for other selected program violations; (4) including under program violations the physical abuse, or the threat of physical abuse, of program staff.

Amendments to increase program flexibility include: (1) Allowing the State to extend the certification of elderly persons on a fixed income for an indefinite period without a formal review of eligibility; (2) increasing the period of time the State agency has to review a local agency's application for participation; (3) allowing State agencies to request to retain more than

USDA—FNS **Proposed Rule Stage**

the maximum amount of administrative funds allocated whether or not they perform warehouse services; (4) reducing the frequency of State management evaluations of local agencies; and (5) making State plans and Federal-State agreements permanent, with amendments submitted as needed.

Other miscellaneous proposed changes include: (1) Requiring local agencies to notify applicants of a decision on their application within 10 days of the date of application; (2) including the specific factors that FNS uses to determine the amount of caseload that States will receive in addition to base caseload; (3) making the caseload cycle the period from January 1 to December 31; and (4) including a pregnant woman's embryo or fetus in utero as a household member in determining the family's income eligibility.

The rule will also incorporate legislative provisions that have been implemented through program policy, including: (1) Increasing the percentage of the program appropriation, and of funds carried over from the pervious year, to be allotted for administrative support of State and local agencies from 15 to 20 percent; and (2) requiring that State and local agencies provide information on certain other public assistance programs to participants. (99-005)

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

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RIN: 0584–AC84

338. FOOD STAMP PROGRAM: ADMINISTRATIVE COST REIMBURSEMENT

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-185, sec 502

CFR Citation: 7 CFR 277

Legal Deadline: Final, Statutory, October 1, 1998, Payment reduction required by law.

Abstract: This rule will allow State agencies to charge the FSP for its share of common costs for determining eligibility of Temporary Assistance for Needy Families (TANF) households for FSP in accordance with new HHS policy and approved cost allocation plans. (99-007)

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	
Final Action	11/00/02	
Final Action Effective	03/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Federalism: Undetermined

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RIN: 0584–AC86

339. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): REVISIONS IN THE WIC FOOD PACKAGES

Regulatory Plan: This entry is Seq. No. 5 in part II of this issue of the **Federal Register**.

RIN: 0584–AC90

340. IMPROVING ACCESS TO THE FOOD STAMP PROGRAM FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

Priority: Other Significant

Legal Authority: 42 USC 2000d

CFR Citation: 7 CFR 272.4(b)

Legal Deadline: None

Abstract: On August 11, 2000, the President signed an Executive order requiring Federal agencies to examine the services they provide and to develop and implement a system that ensures persons with limited English proficiency (LED) have meaningful access to Federal health and human services programs and activities. The Executive order clarifies long-standing title VI principles that prohibit discrimination based on national origin. (00-016)

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	
Final Action	03/00/03	
Final Action Effective	06/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local

Federalism: Undetermined

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RIN: 0584–AD06

341. • FOOD STAMP PROGRAM: VEHICLE AND MAXIMUM EXCESS SHELTER EXPENSE DEDUCTION PROVISIONS OF PUBLIC LAW 106-387

Regulatory Plan: This entry is Seq. No. 6 in part II of this issue of the **Federal Register**.

RIN: 0584–AD13

USDA—FNS

Proposed Rule Stage

342. • CHILD AND ADULT CARE FOOD PROGRAM (CACFP): AT-RISK AFTERSCHOOL SUPPERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-224, sec 243(i)

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This proposed rule would revise the Child and Adult Care Food Program (CACFP) regulations to allow reimbursement of suppers provided by at-risk afterschool care programs in six States, as authorized by the Agricultural Risk Protection Act (Pub. L. 106-224). At-risk suppers in these States (Delaware, Pennsylvania, Michigan, Missouri, New York, and Oregon) are reimbursed under the same conditions set forth in the National School Lunch Act (NSLA) for at-risk snacks in the CACFP. Children who are 18 or younger and enrolled in qualifying afterschool programs located in the six States may receive free suppers. To qualify, afterschool care programs must be located in low-income areas, provide care to children, and have an educational or enrichment purpose. (01-007)

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AD15

Department of Agriculture (USDA)
Food and Nutrition Service (FNS)

Final Rule Stage

343. WIC: REQUIREMENTS FOR AND EVALUATION OF WIC PROGRAM REQUESTS FOR BIDS FOR INFANT FORMULA REBATE CONTRACTS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: At the time the current cost containment regulations were published in 1989, there were only minor differences in infant formula wholesale prices and few differences in types of infant formulas offered by manufacturers; i.e., milk- and soy-based infant formula. However, current wholesale prices vary considerably among manufacturers for similar formulas and several new infant formulas have emerged on the market over the last decade. Therefore, to reflect market changes in the infant formula industry and to optimize competition in the WIC Program's infant formula rebate contracts, this interim rule would require WIC State agencies to award infant formula rebate contracts based on the lowest net price, allowing highest gross rebate as a basis of award only when retail prices of the different brands of infant formula vary, on average, by 5 percent or less. Additionally, this rule would define the types and forms of infant formula that must be included in cost containment systems. It would also expand on conditions that must be met for the issuance of infant formulas not covered by rebate contracts. (92-013)

Timetable:

Action	Date	FR Cite
NPRM	07/16/98	63 FR 38343
NPRM Comment Period End	09/14/98	
Interim Final Rule	08/23/00	65 FR 51213
Interim Final Rule Effective	10/23/00	
Interim Final Rule Implementation Date	11/21/00	
Interim Final Rule Comment Period End	08/23/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 0584–AB52

344. FOOD STAMP PROGRAM: ANTICIPATING INCOME AND REPORTING CHANGES

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: This rule revises Food Stamp Program procedures for reporting and acting on changes in earned income. The changes are designed to increase State agency flexibility and improve procedures for determining the eligibility and benefits of households whose income fluctuates unpredictably. Under this rule, State agencies would choose from four different reporting requirements for households with earned income. The reporting requirement a State agency selects would replace the current requirement that households report a change of more than $25 in earned income. In addition to reporting a change in source of income, households would be required to report one of the following: A change in wage rate or salary and a change in part-time or full-time status, provided the household is certified for no more than 3 months; a change in wage rate or salary and a change of more than 5 hours a week that is expected to continue for more than a month; or a change in the amount earned of more than $100 a month. The reporting requirement for changes in unearned income would be increased to changes of more than $50 a month from the current threshold of

changes of more than $25 a month. In addition to the above reporting options, State agencies would also be able to select the option of requiring households to report changes through a quarterly reporting system rather than at the time the changes become known to the household. (93-005)

Timetable:

Action	Date	FR Cite
NPRM	12/17/96	61 FR 66233
NPRM Comment Period End	02/18/97	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

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RIN: 0584–AB57

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345. CHILD AND ADULT CARE FOOD PROGRAM: IMPROVING MANAGEMENT AND PROGRAM INTEGRITY

Regulatory Plan: This entry is Seq. No. 7 in part II of this issue of the **Federal Register**.

RIN: 0584–AC24

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346. DETERMINING ELIGIBILITY FOR FREE AND REDUCED-PRICE MEALS AND FREE MILK IN SCHOOLS: PROVISION 2 AND PROVISION 3

Priority: Other Significant

Legal Authority: PL 103-448

CFR Citation: 7 CFR 245

Legal Deadline: None

Abstract: Under an alternative known as Provision 2, schools that serve all meals at no charge for 3 consecutive years may distribute applications and make free and reduced price meal eligibility determinations once every 3 years. During year 1 of the 3-year cycle, they count and claim meals by category (free, reduced price, and paid) and use these counts to develop claiming percentages to use during years 2 and 3. Public Law 103-448 amended the NSLA to allow schools to extend these procedures an additional 2 years and allow subsequent 5-year cycles, without making new free and reduced price eligibility determinations, provided the income level of the school's population remained stable. Public Law 103-448 also added a new Provision 3 for schools that serve all meals at no charge for 4 consecutive years. These schools receive the same level of cash and commodity assistance they received in the last year free and reduced price eligibility determinations and actual meal counts were taken. Additional 4-year cycles were permitted, without making new free and reduced price eligibility determinations, provided the income level of the school's population remained stable. For both provisions, schools must make up the difference between Federal reimbursement and meal costs. Public Law 105-336 subsequently amended the timeframe for Provision 2 so that both Provisions 2 and 3 are 4-year cycles, which may be extended, without making new eligibility determinations, if the income level of the school's population remains stable. The rule will codify these provisions and specify technical aspects, such as the measurement of the income level of the school's population and the types of data that may be used. (96-003)

Timetable:

Action	Date	FR Cite
NPRM	02/07/00	65 FR 5791
NPRM Comment Period End	04/07/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AC25

347. FOOD STAMP PROGRAM REGULATORY REVIEW: FSP STANDARDS FOR APPROVAL AND OPERATION OF FOOD STAMP ELECTRONIC BENEFIT TRANSFER SYSTEMS

Priority: Other Significant

Legal Authority: 7 USC 2011 TO 2034

CFR Citation: 7 CFR 274.12

Legal Deadline: None

Abstract: This rule proposes revisions to food stamp regulations affecting the standards and administration of EBT systems for food stamp issuance. Current regulations at 7 CFR 274.12 delineate the standards that EBT systems must meet in order to be approved for operation. This rule will revise those regulations to provide the State agency more flexibility in implementing and operating those systems. Clarifications and FNS settlement improvements will also be incorporated into the rule. (96-016)

Timetable:

Action	Date	FR Cite
NPRM	07/12/01	66 FR 36495
NPRM Comment Period End	09/10/01	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0584–AC37

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348. FOOD STAMP PROGRAM: WORK PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 AND THE FOOD STAMP PROVISIONS OF THE BALANCED BUDGET ACT OF 1997

Regulatory Plan: This entry is Seq. No. 8 in part II of this issue of the **Federal Register**.

RIN: 0584–AC45

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349. WIC FARMERS MARKET NUTRITION PROGRAM (FMNP): EXPANSION FUNDS ALLOCATION FORMULA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786(m)(6)

CFR Citation: 7 CFR 248

Legal Deadline: None

Abstract: The Child Nutrition Act of 1966 as amended (42 U.S.C. 1786(m)(6)) sets forth funding requirements of State agencies currently operating the program and for State agencies wishing to start a new program. The law leaves it to the discretion of the Secretary to determine the method of allocating funds to currently operating State agencies. This interim rule would implement a funding formula for the allocation of such expansion funds to existing FMNP State agencies. (98-003)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	
Interim Final Rule Comment Period End	03/00/02	
Interim Final Rule Effective	04/00/02	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

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RIN: 0584–AC68

350. CHILD NUTRITION PROGRAMS: REIMBURSEMENT FOR SNACKS IN AFTERSCHOOL CARE PROGRAMS

Priority: Other Significant

Legal Authority: PL 105-336

CFR Citation: 7 CFR 210; 7 CFR 226; 7 CFR 235; 7 CFR 245

Legal Deadline: None

Abstract: The William F. Goodling Child Nutrition Reauthorization Act of 1998 amended the National School Lunch Act to authorize reimbursement for snacks served under the NSLP in afterschool care programs operated by schools. The afterschool program must be organized primarily to provide care for children and have an educational or enrichment purpose. Additionally, the statute mandates free snacks for all children enrolled in afterschool care programs operated by schools in areas served by a school in which at least 50 percent of the enrolled children are certified for free or reduced price meals.

In the CACFP, the statute authorizes free snacks to children through age 18 enrolled in afterschool programs located in low-income areas. Low-income areas are defined in the law as areas in which at least 50 percent of the children are eligible for free or reduced price school meals. Therefore, individual eligibility determinations are not required for these programs. This rule also implements the provision of the law which permits outside school hours care programs to participate in CACFP if they meet health and safety standards where no State or local licensing or approval is required. (98-007)

Timetable:

Action	Date	FR Cite
NPRM	10/11/00	65 FR 6050
NPRM Comment Period End	01/09/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AC72

351. FOOD DISTRIBUTION PROGRAM: DELETION OF REQUIREMENT TO EVALUATE STATE-RUN COMMODITY DISTRIBUTION AND WAREHOUSING SYSTEMS EVERY 3 YEARS

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-237

CFR Citation: 7 CFR 250.14; 7 CFR 250.15

Legal Deadline: None

Abstract: Section 250.14(a) currently requires State distributing agencies that operate their own warehousing and distribution system to make a cost comparison of that system with a commercial system every 3 years. Most State distributing agencies have now either switched to a commercial system or evaluated their own system at least twice and determined it to be the most cost effective. Therefore, we propose to remove that requirement from our regulations. We will maintain the authority to require a cost comparison when circumstances warrant. We are suggesting a direct final rule rather than a proposed rule because we do not expect any objections to this discretionary change. (99-001)

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AC79

352. FSP: ELECTRONIC BENEFIT TRANSFER (EBT) SYSTEMS INTEROPERABILITY AND PORTABILITY

Priority: Other Significant

Legal Authority: PL 106-171

CFR Citation: 7 CFR 272.1; 7 CFR 274.12

Legal Deadline: Other, Statutory, September 7, 2000, PL 106-171, sec 3.
Other, Statutory, February 11, 2001, PL 106-171, sec 4.
Other, Statutory, October 1, 2002, PL 106-171, sec 3.

Abstract: This rule revises Food Stamp regulations to ensure that recipients can use their electronic food stamp benefits across State borders by requiring interoperable State electronic issuance

systems. The regulations establish uniform national standards to achieve this requirement. Also, 100 percent funding is available under the regulation to pay for the operational cost of this functionality up to a national limit of $500,000. Costs beyond this level will be covered at the standard 50 percent program reimbursement rate for State administrative costs. (00-001)

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/15/00	65 FR 49719
Interim Final Rule Effective	09/19/00	
Interim Final Rule Comment Period End	11/13/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0584–AC91

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353. CHILD AND ADULT CARE FOOD PROGRAM: IMPLEMENTING LEGISLATIVE REFORMS TO STRENGTHEN PROGRAM INTEGRITY

Priority: Other Significant

Legal Authority: PL 106-224, sec 243

CFR Citation: 7 CFR 226

Legal Deadline: Final, Statutory, October 20, 2000.

Abstract: This interim rule incorporates changes to the Child and Adult Care Food Program as required by the Agricultural Risk Protection Act (Pub. L. 106-224) to strengthen the management and integrity of the program. Provisions include 1) changes to eligibility requirements for participating institutions; 2) conditions for approval, such as ensuring financial viability, stipulating that new sponsoring organizations are allowed to participate only where there is need for the program, and the elimination of "moving toward tax exempt status" of institutions; 3) new program monitoring requirements; 4) new parental notification requirements by CACFP centers or homes that describe the program and benefits and provide parents with access to the sponsoring organization and State agency; 5) rules on allowing corrective action and appeals in situations involving the termination or suspension of participating institutions, facilities, and individuals; 6) funds recovery in situations involving fraud, abuse, or improper submissions for reimbursement; and 7) limitation on the percentage of funds that sponsoring organizations of centers can retain from day care meal reimbursements for their administrative expenses. These changes support the Department's ongoing efforts in management and integrity improvement. (00-005)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

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RIN: 0584–AC94

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354. SPECIAL NUTRITION PROGRAMS: DISCLOSURE OF CHILDREN'S ELIGIBILITY INFORMATION UNDER THE CHILD NUTRITION PROGRAMS

Priority: Other Significant

Legal Authority: PL 106-224, sec 242; PL 103-448, sec 108

CFR Citation: 7 CFR 215; 7 CFR 225; 7 CFR 226; 7 CFR 245

Legal Deadline: Final, Statutory, October 20, 2000.

Abstract: This rule establishes requirements for the disclosure of children's free and reduced price meal and free milk eligibility information by agencies that makes the free and reduced price meal or free milk determination under the National School Lunch Program, the School Breakfast Program, the Special Milk Program, the Child and Adult Care Food Program, and the Summer Food Service Program. The rule responds to amendments to the Richard B. Russell National School Lunch Act, which allow limited disclosure of children's free and reduced price meal or free milk eligibility information, Public Law 103-448, the Healthy Meals for Healthy Americans Act of 1994; and Public Law 106-224, the Agricultural Risk Protection Act of 2000; comments received on the July 25, 2000, proposed rule on "Disclosure of Children's Eligibility Information" (65 FR 45725 issued under RIN 0584-AC21) and comments received on the January 11, 2001, interim rule on "Disclosure of Children's Eligibility Information to State Medicaid and the State Children's Health Insurance" (66 FR 2195 issued under RIN 0584-AC95). This rule incorporates the proposed rule and interim rule into one final rule. Therefore, RIN 0584-AC21 is withdrawn, and the final provisions will be issued under RIN 0584-AC95. The final rule will adopt or modify as necessary many of the provisions mandated by the statute and required by the interim rule. Many of these same provisions were presented as recommendations in the proposed rule. The objective is to provide consistency in procedures when determining agencies opt to disclose children's eligibility information and to provide some protection against unauthorized disclosures and misuse of personal information, regardless of whether the disclosure is to Medicaid or SCHIP or to an education or other program. (00-004)

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/01/00	
Interim Final Rule	01/11/01	66 FR 2195
Interim Final Rule Comment Period End	04/11/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

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USDA—FNS

Final Rule Stage

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RIN: 0584–AC95

355. SPECIAL MILK PROGRAM FOR CHILDREN: PLAIN LANGUAGE REVISION AND REORGANIZATION

Priority: Info./Admin./Other

Legal Authority: 42 USC 1772; 42 USC 1779

CFR Citation: 7 CFR 215

Legal Deadline: None

Abstract: The intent of this regulation is to comply with the President's memorandum of June 1, 1998, entitled "Plain Language in Government Writing" (63 FR 31885, June 10, 1998). This memorandum encourages all existing Agency regulations to be rewritten in plain language. The revision and reorganization of part 215 will allow affected persons to easily understand the regulations of the Special Milk Program for Children. This revision and reorganization does not alter the existing policies and requirements contained within this part. (00-007)

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

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RIN: 0584–AC97

356. FOOD DISTRIBUTION PROGRAMS: PLAIN LANGUAGE REWRITE OF 7 CFR PART 250, DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS, AND AREAS UNDER ITS JURISDICTION

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 7 USC 612c; 7 USC 612c note; 7 USC 1431; 7 USC 1431b; 7 USC 1431e; 7 USC 1431 note; 7 USC 1446a-1; 7 USC 1859; 7 USC 2014; 7 USC 2025; 15 USC 713c; 22 USC 1922; 42 USC 1751; 42 USC 1755; 42 USC 1758; 42 USC 1760; 42 USC 1761; 42 USC 1762a; 42 USC 1766; 42 USC 3030a; 42 USC 5179; 42 USC 5180

CFR Citation: 7 CFR 250

Legal Deadline: None

Abstract: This rule makes no changes in the meaning of the regulations; it is only a reorganization and rewriting of the existing text in plain language. Our goal in rewriting is simple and two-fold: Allow the reader to quickly find and easily understand desired subject matter. The rewrite accomplishes our first goal by presenting material in a more logical sequence where needed, and most importantly, by splitting the text into much smaller and more easily scanned units. We have greatly increased the number of sections within the part, also increased the number of paragraphs within each of the new sections, and made greater use of italicized headings. By increasing the number of sections, we have "flattened" the regulation's structure. This in turn generally allows the elimination of at least one level of codification, despite the increased number of paragraphs and subparagraphs within each section. The result is much easier scanning of the sections for subject matter, further aided by the italicized headings. Each section is headed by a question on a major aspect of the regulations, which is then answered in the headings and paragraphs which follow. Finally, our second goal, greater comprehensibility, is accomplished by the use of shorter sentences, the active voice, and common words, except for necessary technical terms. (00-008)

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 0584–AC98

357. FOOD DISTRIBUTION PROGRAMS: PLAIN LANGUAGE REWRITE OF 7 CFR PART 251, THE EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP)

Priority: Info./Admin./Other

Legal Authority: 7 USC 7501 to 7516

CFR Citation: 7 CFR 251

Legal Deadline: None

Abstract: This rule makes no changes in the meaning of the regulations; it is only a reorganization and rewriting of the existing text in plain language. Our goal in rewriting is simple and two-fold: Allow the reader to quickly find and easily understand desired subject matter. The rewrite accomplishes our first goal by presenting material in a more logical sequence where needed, and most importantly, by splitting the text into much smaller and more easily scanned units. We have greatly increased the number of sections within the part, also increased the number of paragraphs within each of the new sections, and made greater use of italicized headings. By increasing the number of sections, we have "flattened" the regulation's structure. This in turn generally allows the elimination of at least one level of codification, despite the increased number of paragraphs and subparagraphs within each section. The result is much easier scanning of the sections for subject matter, further aided by the italicized headings. Each section is headed by a question on a major aspect of the regulations, which is then answered in the headings and paragraphs which follow. Finally, our second goal, greater comprehensibility, is accomplished by the use of shorter sentences, the active voice, and common words, except for necessary technical terms. (00-009)

USDA—FNS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

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RIN: 0584–AC99

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358. FOOD DISTRIBUTION PROGRAMS: PLAIN LANGUAGE REWRITE OF 7 CFR PART 252, THE NATIONAL COMMODITY PROCESSING PROGRAM (NCP)

Priority: Info./Admin./Other

Legal Authority: 7 USC 1431

CFR Citation: 7 CFR 252

Legal Deadline: None

Abstract: This rule makes no changes in the meaning of the regulations; it is only a reorganization and rewriting of the existing text in plain language. Our goal in rewriting is simple and two-fold: Allow the reader to quickly find and easily understand desired subject matter. The rewrite accomplishes our first goal by presenting material in a more logical sequence where needed, and most importantly, by splitting the text into much smaller and more easily scanned units. We have greatly increased the number of sections within the part, also increased the number of paragraphs within each of the new sections, and made greater use of italicized headings. By increasing the number of sections, we have "flattened" the regulation's structure. This in turn generally allows the elimination of at least one level of codification, despite the increased number of paragraphs and subparagraphs within each section. The result is much easier scanning of the sections for subject matter, further aided by the italicized headings. Each section is headed by a question on a major aspect of the regulations, which is then answered in the headings and paragraphs which follow. Finally, our second goal, greater comprehensibility, is accomplished by the use of shorter sentences, the active voice, and common words, except for necessary technical terms. (00-010)

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

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RIN: 0584–AD00

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359. FOOD DISTRIBUTION PROGRAMS: PLAIN LANGUAGE REWRITE OF 7 CFR PART 253, THE FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS (FDPIR)

Priority: Info./Admin./Other

Legal Authority: 7 USC 2011 to 2036

CFR Citation: 7 CFR 253

Legal Deadline: None

Abstract: This rule makes no changes in the meaning of the regulations; it is only a reorganization and rewriting of the existing text in plain language. Our goal in rewriting is simple and twofold: Allow the reader to quickly find and easily understand desired subject matter. The rewrite accomplishes our first goal by presenting material in a more logical sequence where needed, and most importantly, by splitting the text into much smaller and more easily scanned units. We have greatly increased the number of sections within the part, also increased the number of paragraphs within each of the new sections, and made greater use of italicized headings. By increasing the number of sections, we have "flattened" the regulation's structure. This in turn generally allows the elimination of at least one level of codification, despite the increased number of paragraphs and subparagraphs within each section. The result is much easier scanning of the sections for subject matter, further aided by the italicized headings. Each section is headed by a question on a major aspect of the regulations, which is then answered in the headings and paragraphs which follow. Finally, our second goal, greater comprehensibility, is accomplished by the use of shorter sentences, the active voice, and common words, except for necessary technical terms. (00-011)

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 0584–AD01

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360. FOOD DISTRIBUTION PROGRAMS: PLAIN LANGUAGE REWRITE OF 7 CFR PART 254, THE FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS (FDPIR) IN OKLAHOMA

Priority: Info./Admin./Other

Legal Authority: PL 97-98, sec. 1338; PL 95-113

CFR Citation: 7 CFR 254

Legal Deadline: None

Abstract: This rule makes no changes in the meaning of the regulations; it is only a reorganization and rewriting of the existing text in plain language. Our goal in rewriting is simple and twofold: Allow the reader to quickly find and easily understand desired subject matter. The rewrite accomplishes our first goal by presenting material in a more logical sequence where needed, and most importantly, by splitting the text into much smaller and more easily scanned units. We have greatly increased the number of sections within the part, also increased the number of paragraphs within each of the new sections, and made greater use of italicized headings. By increasing the number of sections, we have "flattened" the regulation's

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structure. This in turn generally allows the elimination of at least one level of codification, despite the increased number of paragraphs and subparagraphs within each section. The result is much easier scanning of the sections for subject matter, further aided by the italicized headings. Each section is headed by a question on a major aspect of the regulations, which is then answered in the headings and paragraphs which follow. Finally, our second goal, greater comprehensibility, is accomplished by the use of shorter sentences, the active voice, and common words, except for necessary technical terms. (00-012)

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 0584–AD02

361. IMPLEMENTATION OF POULTRY SUBSTITUTION PILOT AS PERMANENT AND MODIFICATION OF COMMODITY RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 612c; 7 USC 612c note; 7 USC 1431; 7 USC 1431b; 7 USC 1431e; 7 USC 1431 note; 7 USC 1446a-1; 7 USC 1859; 7 USC 2014; 7 USC 2025; 15 USC 713c; 22 USC 1922; 42 USC 1751; 42 USC 1755; 42 USC 1758; 42 USC 1760 to 1761; 42 USC 1762a; 42 USC 1766; 42 USC 3030a; 42 USC 5179 to 5180

CFR Citation: 7 CFR 250.14; 7 CFR 250.16; 7 CFR 250.30

Legal Deadline: None

Abstract: 1) Poultry and fruit and vegetables may currently be substituted for commodities under pilots and waivers. Due to the success of these programs, the regulations will be changed to allow such commercial substitution on a permanent basis. 2) Due to changes in the commercial market and the food donation program, the Department will allow vendors to use their own labels in place of USDA donated labels for school programs. This will complicate school's recordkeeping and inventory procedures. The regulations will be modified to accommodate the change in labels. (01-001)

Timetable:

Action	Date	FR Cite
Direct Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AD08

362. • SPECIAL NUTRITION PROGRAMS: UNIFORM FEDERAL ASSISTANCE REGULATIONS; NONDISCRETIONARY TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503, 111 and 7501; PL 98-502; PL 104-156

CFR Citation: 7 CFR 210, 215, 220, 225, and 235

Legal Deadline: None

Abstract: This final rule makes a number of technical changes to the regulations governing the National School Lunch Program, the Special Milk Program for Children, the School Breakfast Program, the Child and Adult Care Food Program, the Summer Food Service Program, and State Administrative Expense Funds. The United States Department of Agriculture (USDA) is revising its grants management regulations in order to bring the entitlement programs it administers under the same regulations that already apply to nonentitlement programs and to identify exceptions to these general rules that apply only to entitlement programs. (01-008)

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0584–AD16

Department of Agriculture (USDA)
Food and Nutrition Service (FNS)

Long-Term Actions

363. STATE ADMINISTRATIVE EXPENSE FUNDS: PLAIN LANGUAGE REWRITE

Priority: Info./Admin./Other

CFR Citation: 7 CFR 235

Timetable:

Action	Date	FR Cite
Direct Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0584–AC96

364. NUTRITION EDUCATION AND TRAINING PROGRAM: 7 CFR PART 227, PLAIN LANGUAGE REWRITE

Priority: Info./Admin./Other

CFR Citation: 7 CFR 227

Timetable:

Action	Date	FR Cite
Direct Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0584–AD03

365. STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS, 7 CFR 276

Priority: Info./Admin./Other

CFR Citation: 7 CFR 276

Timetable:

Action	Date	FR Cite
Direct Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

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RIN: 0584–AD04

366. PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES, 7 CFR 277

Priority: Info./Admin./Other

CFR Citation: 7 CFR 277

Timetable:

Action	Date	FR Cite
Direct Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Agency Contact: Sharon Ackerman
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Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AD05

367. • SCHOOL BREAKFAST PROGRAM: PLAIN LANGUAGE REVISION AND REORGANIZATION (7 CFR 220)

Priority: Info./Admin./Other

Legal Authority: 7 USC 2011 to 2036

CFR Citation: 7 CFR 220

Legal Deadline: None

Abstract: 7 CFR 220 has been rewritten in plain language format. The document contains only plain language writing and format changes. No policy has been changed, added, or deleted by this rewrite. (01-003)

Timetable:

Action	Date	FR Cite
Direct Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Agency Contact: Sharon Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, Room 910, 3101 Park Center Drive, Alexandria, VA 22302
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RIN: 0584–AD10

368. • WIC: PLAIN LANGUAGE REWRITE OF 7 CFR PART 248, FARMERS' MARKET NUTRITION PROGRAM

Priority: Info./Admin./Other

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 248

Legal Deadline: None

Abstract: This rule makes no changes in the meaning of the regulations; it is only a reorganization and rewriting of the existing text in plain language. Our goal in rewriting is simple and two-fold: Allow the reader to quickly find and easily understand desired subject matter. The rewrite accomplishes our first goal by presenting material in a more logical sequence where needed and, most importantly, by splitting the text into much smaller and more easily scanned units. We have greatly increased the number of sections within the part, also increased the number of paragraphs within each of the new sections, and made greater use of italicized headings. By increasing the number of sections, we have "flattened" the regulation's structure. This in turn generally allows the elimination of at least one level of codification, despite the increased number of paragraphs and subparagraphs within each section. The result is much easier scanning of the sections for subject matter, further aided by the italicized headings. Each section is headed by a question on a major aspect of the regulations, which is then answered in the headings and paragraphs which follow. Finally, our second goal, greater comprehensibility, is accomplished by the use of shorter sentences, the active voice, and common words, except for necessary technical terms. (01-004)

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sharon Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, Room 910, 3101 Park Center Drive, Alexandria, VA 22302
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RIN: 0584–AD11

369. • FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATION: RESOURCE LIMITS AND EXCLUSIONS, EXTENDED CERTIFICATION PERIODS, AND TRANSITIONAL BENEFITS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 253; 7 CFR 254

Legal Deadline: None

Abstract: This proposed rule would amend FDPIR regulations to: 1) Increase the standard FDPIR resource limit from $1750 to $2000 per household

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Long-Term Actions

(households that include a member or members age 60 or over shall continue to have a resource limit of $3000); 2) allow a resource exclusion for the first $1500 of the value of one pre-paid funeral arrangement per household member (in instances where the total value of the agreement is not already excluded because it is funded under a life insurance policy or an inaccessible trust fund; 3) allow households in which all members are elderly or disabled to be certified for up to 24 months, provided that the State agency contacts the household at least once every 12 months; and 4) allow States the option to provide transitional FDPIR benefits (for 3 months), at a minimum, to households with earnings that leave the Temporary Assistance Program for Needy Families (TANF). All of the above provisions conform to Food Stamp Program policy and will ensure consistent treatment between the two programs. (01-005)

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302
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Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AD12

Department of Agriculture (USDA)
Food and Nutrition Service (FNS)

Completed Actions

370. DISCLOSURE OF FREE AND REDUCED-PRICE ELIGIBILITY INFORMATION UNDER THE SCHOOL NUTRITION, SUMMER FOOD SERVICE, AND CHILD AND ADULT CARE FOOD PROGRAMS

Priority: Other Significant

CFR Citation: 7 CFR 215; 7 CFR 225; 7 CFR 226; 7 CFR 245

Completed:

Reason	Date	FR Cite
Withdrawn--Incorporated into RIN 0584-AC95	01/11/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sharon Ackerman
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Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC21

371. NATIONAL SCHOOL LUNCH AND SCHOOL BREAKFAST PROGRAMS: IDENTIFICATION OF BLENDED BEEF, PORK, POULTRY, OR SEAFOOD PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 210; 7 CFR 220

Completed:

Reason	Date	FR Cite
Final Action	07/24/01	66 FR 38349
Final Action Effective	08/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sharon Ackerman
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RIN: 0584–AC92

BILLING CODE 3410-30-S

Department of Agriculture (USDA)
Food Safety and Inspection Service (FSIS)

Prerule Stage

372. POULTRY INSPECTION: REVISION OF FINISHED PRODUCT STANDARDS WITH RESPECT TO INGESTA

Regulatory Plan: This entry is Seq. No. 9 in part II of this issue of the Federal Register.

RIN: 0583–AC77

Department of Agriculture (USDA)
Food Safety and Inspection Service (FSIS)

Proposed Rule Stage

373. GRANT AND INAUGURATION OF INSPECTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 304; 9 CFR 305

Legal Deadline: None

Abstract: FSIS is proposing to clarify the regulations in 9 CFR parts 304 and 305, which provide for grant and inauguration of inspection in meat and poultry establishments to address

USDA—FSIS **Proposed Rule Stage**

issues raised by the Office of Inspector General and others.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250 Phone: 202 720-5627

RIN: 0583–AC07

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374. PERFORMANCE STANDARDS FOR BACON

Regulatory Plan: This entry is Seq. No. 10 in part II of this issue of the **Federal Register**.

RIN: 0583–AC49

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375. REFORM OF REGULATIONS ON IMPORTED MEAT AND POULTRY PRODUCTS

Priority: Other Significant

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: As part of its continuing regulatory reform effort, FSIS is proposing to consolidate and streamline the regulations governing the importation of livestock and poultry products to make them consistent with the regulatory approach the Agency has taken in its Pathogen Reduction/Hazard Analysis and Critical Control Points (PR/HACCP) regulations and related rulemakings. FSIS is proposing to eliminate obsolete provisions and, where appropriate, to replace command-and-control provisions with performance standards. The Agency is proposing to require establishments where import inspection is conducted to have documented process controls that parallel in some respects the HACCP and other documented systems that establishments where inspection of domestic products is conducted must have.

Timetable:

Action	Date	FR Cite
NPRM	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250 Phone: 202 720-5627

RIN: 0583–AC56

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376. EGG AND EGG PRODUCTS INSPECTION REGULATIONS

Regulatory Plan: This entry is Seq. No. 11 in part II of this issue of the **Federal Register**.

RIN: 0583–AC58

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377. LABELING—GENERIC APPROVAL AND REGULATION CONSOLIDATION

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 451 to 470; 21 USC 601 to 695

CFR Citation: 9 CFR 317; 9 CFR 327; 9 CFR 381; 9 CFR 412

Legal Deadline: None

Abstract: This rulemaking will continue an effort initiated several years ago by amending FSIS's regulations to expand the types of labeling that are generically approved. FSIS plans to propose that the submission of labeling for approval prior to use be limited to certain types of labeling, as specified in the regulations. In addition, FSIS plans to reorganize and amend the regulations by consolidating labeling rules that currently are stated separately for livestock products and poultry products (in part 317, subpart A, and part 381, subpart N, respectively) and by amending their provisions to set out clearly various circumstances under which these products are misbranded.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250 Phone: 202 720-5627

RIN: 0583–AC59

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378. PATHOGEN REDUCTION; HAZARD ANALYSIS AND CRITICAL CONTROL POINTS (HACCP) SYSTEMS; ADDITIONS TO GENERIC E. COLI CRITERIA

Regulatory Plan: This entry is Seq. No. 12 in part II of this issue of the **Federal Register**.

RIN: 0583–AC63

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379. ELIMINATION OF REQUIREMENTS FOR TOTAL QUALITY CONTROL SYSTEMS

Priority: Other Significant

Legal Authority: 7 USC 394 et seq; 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the meat and poultry inspection regulations by removing all requirements relating to total quality control (TQC) systems. A TQC system is a comprehensive, planned documented system of activities intended to ensure the stability of processes and the uniformity of products throughout a manufacturing plant. The proposal would remove the design requirements for TQC systems and the requirements for FSIS prior approval, or approval before implementation, of such systems. The proposal also would amend the regulations governing the operating schedules of official establishments tc remove the provisions concerning establishments with approved TQC systems.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, Department of

USDA—FSIS

Proposed Rule Stage

Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC68

380. PETITIONS FOR RULEMAKING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553

CFR Citation: 9 CFR 392

Legal Deadline: None

Abstract: FSIS is proposing to amend its regulations to add a new part that prescribes procedures for the submission, consideration, and disposition of petitions for rulemaking. The proposal also describes the Agency's expectations for the type of documentation that must be submitted in support of a petition and that will facilitate regulatory development. FSIS is proposing this action to provide clear guidance to those who would like to participate in the rulemaking process by petitioning FSIS to issue, amend, or repeal a rule administered by the Agency.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC81

381. CLASSES OF POULTRY UPDATING POULTRY CLASS STANDARDS

Priority: Other Significant

Legal Authority: 21 USC 451

CFR Citation: 9 CFR 381.170(a)

Legal Deadline: None

Abstract: FSIS is proposing to amend the official U.S. classes of poultry so that they more accurately and clearly describe the characteristics of poultry in the market today. Poultry classes are defined primarily in terms of age and sex of the bird. Genetic improvements and new poultry management techniques have reduced the grow-out period for some poultry classes while extensive cross breeding has produced poultry with higher meat yields but blurred breed distinctions. This action is being taken to ensure that poultry products are labeled in a truthful and non-misleading manner.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Post, Director, Labeling and Consumer Protection Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 205-0279

RIN: 0583–AC83

382. • ELIMINATION OF CHILLING TIME AND TEMPERATURE REQUIREMENTS FOR READY-TO-COOK POULTRY (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 13 in part II of this issue of the **Federal Register**.

RIN: 0583–AC87

383. • EMERGENCY REGULATIONS TO PREVENT MEAT FOOD AND MEAT PRODUCTS THAT MAY CONTAIN THE BSE AGENT FROM ENTERING COMMERCE

Regulatory Plan: This entry is Seq. No. 14 in part II of this issue of the **Federal Register**.

RIN: 0583–AC88

384. • INCREASES IN FEES FOR MEAT, POULTRY, AND EGG PRODUCTS INSPECTION SERVICES—FISCAL YEAR (FY) 2002

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq; 21 USC 1031 et seq

CFR Citation: 9 CFR 391.2

Legal Deadline: None

Abstract: The Food Safety and Inspection Service is proposing to increase the fees it charges meat and poultry establishments, egg products plants, importers, and exporters for providing voluntary inspection services, overtime and holiday inspection services, identification services, certification services, and laboratory services. These proposed fee increases reflect the national and locality pay raise for Federal employees and inflationary costs. FSIS is proposing to make the fee increases effective as soon as possible. At this time, FSIS is not proposing to change the fee it charges for the accredited Laboratory Program. The Agency is also proposing to add part 592 to title 9 of the CFR to raise fees for the voluntary inspection of egg products.

Timetable:

Action	Date	FR Cite
NPRM	10/16/01	66 FR 52548
NPRM Comment Period End	11/15/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC89

Department of Agriculture (USDA)
Food Safety and Inspection Service (FSIS)

Final Rule Stage

385. BEEF OR PORK WITH BARBECUE SAUCE; REVISION OF STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 319

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) has been petitioned to amend the Federal meat inspection regulations by removing a meat yield requirement for the standardized products "Beef With Barbecue Sauce" and "Pork With Barbecue Sauce." Current regulations for these products require that the product contain not less than 50 percent of the species identified on the label and that the weight of the cooked pork or beef not exceed 70 percent of the uncooked weight of the meat. The first requirement is consistent with other meat and sauce requirements, but the second requirement is not. The petitioner asserts that the product standard (promulgated in 1952) does not reflect current production practices or the commercial marketability of beef or pork with barbecue sauce. The petitioner further states that producers of these products are at a competitive disadvantage with other meat and sauce producers, because other meat and sauce producers do not have a 70 percent yield requirement. For example, producers of the standardized products "Beef with Gravy," "Meat Pies," and "Spaghetti with Meat and Sauce" and similar standardized products do not have any meat yield requirements.

FSIS has determined that the petitioner's request should be granted. This action would permit fair competition between meat and barbecue sauce producers, and poultry and sauce producers, and would provide consistent requirements in both the meat and poultry inspection regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/03/97	62 FR 46450
NPRM Comment Period End	11/03/97	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC09

386. MEAT PRODUCED BY ADVANCED MEAT/BONE SEPARATION MACHINERY AND RECOVERY SYSTEMS

Regulatory Plan: This entry is Seq. No. 15 in part II of this issue of the **Federal Register**.

RIN: 0583–AC51

387. INCORPORATION OF FOOD AND COLOR ADDITIVES INTO 21 CFR

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 602 et seq; 21 USC 451 et seq; 21 USC 321 et seq

CFR Citation: 9 CFR 318.7; 9 CFR 381.147

Legal Deadline: None

Abstract: This final rule will amend the meat and poultry inspection regulations by completing earlier efforts to incorporate current listings in 9 CFR into 21 CFR.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Post, Director, Labeling and Consumer Protection Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 205-0279

RIN: 0583–AC69

388. PERFORMANCE STANDARDS FOR ON-LINE ANTIMICROBIAL REPROCESSING OF PRE-CHILL POULTRY CARCASSES

Regulatory Plan: This entry is Seq. No. 16 in part II of this issue of the **Federal Register**.

RIN: 0583–AC73

389. SHARING RECALL DISTRIBUTION LISTS WITH STATE AND OTHER FEDERAL GOVERNMENT AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552; 7 CFR 1.3; 7 CFR 2.7

CFR Citation: 9 CFR 390

Legal Deadline: None

Abstract: FSIS will add regulations concerning sharing distribution lists with State and other Federal Government agencies during a food recall.

Timetable:

Action	Date	FR Cite
NPRM	09/19/00	65 FR 56503
NPRM Comment Period End	11/20/00	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC75

390. AGENCY ORGANIZATION

Priority: Info./Admin./Other

Legal Authority: 21 USC 451 to 470; 21 USC 601 to 695; 21 USC 1031 to 1056

CFR Citation: 9 CFR 300; 9 CFR 301; 9 CFR 306; 9 CFR 320; 9 CFR 381; 9 CFR 590

Legal Deadline: None

Abstract: This rulemaking will amend FSIS's regulations adopted under the FMIA, PPIA, and EPIA by updating and consolidating organizational provisions.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directives

USDA—FSIS — **Final Rule Stage**

Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC78

391. LABELING OF NATURAL OR REGENERATED COLLAGEN SAUSAGE CASINGS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 601 to 695; 7 USC 138f; 7 USC 450; 21 USC 451 to 470

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: FSIS is requiring that the source of natural sausage casings be disclosed on the product label if they are derived from a different type of meat or poultry than the meat or poultry in the enclosed sausage. Establishments producing, manufacturing, or using natural sausage casings or sausages encased in natural casings are also required to maintain records documenting the source of the casings. FSIS is requiring that the labels of sausage products encased in regenerated collagen casings disclose the use of the regenerated collagen casing. However, FSIS is not requiring that records on the source of the regenerated collagen casings be kept.

Timetable:

Action	Date	FR Cite
NPRM	07/17/97	62 FR 38220
NPRM Comment Period End	09/15/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC80

392. FOOD STANDARDS: REQUIREMENTS FOR SUBSTANTIVE STANDARDIZED MEAT AND POULTRY PRODUCTS NAMED BY USE OF AN EXPRESSED NUTRIENT CONTENT CLAIM AND A STANDARDIZED TERM

Priority: Other Significant

Legal Authority: 21 USC 601; 21 USC 451

CFR Citation: 9 CFR 381.172; 9 CFR 319.10

Legal Deadline: None

Abstract: FSIS is amending the Federal meat and poultry inspection regulations to establish a general definition and standard of identity for standardized meat and poultry products that have been modified to qualify for use of an expressed nutrient content claim in their product names. These products will be identified by an expressed nutrient content claim, such as "fat free," "low fat," and "light," in conjunction with an appropriate standardized term. FSIS is taking this action to 1) assist consumers to maintain healthy dietary practices by providing for modified versions of standardized meat and poultry products that have reductions of certain constituents that are of health concern to some people, 2) increase regulatory flexibility and support product innovation and, 3) provide consumers with an informative nutrition labeling system.

Timetable:

Action	Date	FR Cite
NPRM	12/29/95	60 FR 67474
NPRM Comment Period End	02/27/96	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Post, Director, Labeling and Consumer Protection Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 205-0279

RIN: 0583–AC82

393. MANDATORY INSPECTION OF RATITES AND SQUABS

Priority: Other Significant

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 361; 9 CFR 381

Legal Deadline: None

Abstract: FSIS is amending the regulations to include ratites and squabs under mandatory poultry inspection.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	04/26/01	
Interim Final Rule	05/01/01	66 FR 21631
Interim Final Rule Comment Period End	07/02/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Arshad Hussain, Staff Director, Inspection and Enforcement Standards Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-3219

RIN: 0583–AC84

Department of Agriculture (USDA)
Food Safety and Inspection Service (FSIS) — **Long-Term Actions**

394. TRANSPORTATION, STORAGE, AND OTHER HANDLING OF POTENTIALLY HAZARDOUS FOODS

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 9 CFR 308; 9 CFR 317; 9 CFR 325; 9 CFR 381

Timetable:

Action	Date	FR Cite
ANPRM	11/22/96	61 FR 59372
ANPRM Comment Period End	02/20/97	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Daniel L. Engeljohn

Phone: 202 720-5627

RIN: 0583–AC05

395. ANTE-MORTEM AND POST-MORTEM INSPECTION OF LIVESTOCK AND POULTRY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 309; 9 CFR 310; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	03/00/03	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5627

RIN: 0583–AC43

396. REQUIREMENTS FOR DISPOSITION AND DISPOSAL OF INSPECTED RAW MEAT AND POULTRY PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 311; 9 CFR 314; 9 CFR 320; 9 CFR 325; 9 CFR 381; 9 CFR 428; 9 CFR 455

Timetable:

Action	Date	FR Cite
NPRM	03/00/03	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5627

RIN: 0583–AC44

397. PERFORMANCE STANDARDS FOR READY-TO-EAT MEAT AND POULTRY PRODUCTS

Priority: Economically Significant

CFR Citation: 9 CFR 317; 9 CFR 381; 9 CFR 430

Timetable:

Action	Date	FR Cite
NPRM	02/27/01	66 FR 12590
NPRM Comment Period End	05/29/01	
NPRM Extended Comment Period	07/03/01	66 FR 35112
NPRM Comment Period End	09/10/01	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5627

RIN: 0583–AC46

398. REWORKING OF MEAT AND POULTRY CARCASSES ACCIDENTALLY CONTAMINATED DURING EVISCERATION

Priority: Other Significant

CFR Citation: 9 CFR 310; 9 CFR 381; 9 CFR 433

Timetable:

Action	Date	FR Cite
NPRM	11/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5627

RIN: 0583–AC53

399. NUTRITION LABELING OF GROUND OR CHOPPED MEAT AND POULTRY PRODUCTS AND SINGLE-INGREDIENT PRODUCTS

Priority: Other Significant

CFR Citation: 9 CFR 317; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4970
NPRM Comment Period End	04/18/01	
NPRM Comment Period End	07/17/01	
Extension of Comment Period	07/20/01	66 FR 20213
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Post
Phone: 202 205-0279

RIN: 0583–AC60

400. FOOD LABELING; NUTRIENT CONTENT CLAIMS, DEFINITION OF THE TERM HEALTHY

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 317; 9 CFR 381

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/99	64 FR 72490
Interim Final Rule Comment Period End	01/27/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Post
Phone: 202 205-0279

RIN: 0583–AC65

401. FOOD STANDARDS; GUIDING PRINCIPLES AND STANDARDS MODERNIZATION

Priority: Other Significant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Robert Post
Phone: 202 205-0279

RIN: 0583–AC72

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Department of Agriculture (USDA)
Food Safety and Inspection Service (FSIS)

Completed Actions

402. PERFORMANCE STANDARD FOR THE CHILLING OR OTHER PROCESSING OF LIVESTOCK CARCASSES AND READY-TO-COOK POULTRY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 381

Completed:

Reason	Date	FR Cite
Withdrawn	07/30/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn
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RIN: 0583–AC21

403. OTHER CONSUMER PROTECTION ACTIVITIES

Priority: Other Significant

CFR Citation: 9 CFR 317; 9 CFR 318; 9 CFR 319; 9 CFR 381

Completed:

Reason	Date	FR Cite
Withdrawn	07/26/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Daniel L. Engeljohn
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RIN: 0583–AC64

404. TERMINOLOGY

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 301; 9 CFR 311; 9 CFR 327;; 9 CFR 381; 9 CFR 590

Completed:

Reason	Date	FR Cite
Withdrawn	07/26/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
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RIN: 0583–AC85

405. • PRODUCT LABELING: DEFINING UNITED STATES CATTLE AND UNITED STATES FRESH BEEF PRODUCTS

Priority: Other Significant

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 317 and 327

Legal Deadline: None

Abstract: FSIS is seeking comments on the need to clarify the definition of "U.S. Cattle" and "U.S. fresh beef products" for labeling purposes. The secretary, USDA, has been directed to promulgate regulations.

Timetable:

Action	Date	FR Cite
Withdrawn	08/07/01	66 FR 41160

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
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RIN: 0583–AC85

406. • ELIMINATION OF REQUIREMENTS FOR PARTIAL QUALITY CONTROL PROGRAMS; CERTIFICATION OF SCALES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 451 to 470; 21 USC 601 to 695

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: FSIS is amending sections 317.21(d) and 381.121d of the Federal meat and poultry inspection regulations to permit FSIS-inspected establishments to have, in lieu of certification by State or local agencies or State-licensed repair firms or persons, alternative documented procedures for showing that the scales meet the requirements of National Institute of Standards and Technology (NIST) Handbook 44. The alternative documented procedures could be a partial quality control (PQC) program for net weight (for which FSIS no longer has approval or design requirements), a total quality control (TQC) system provision, or other procedures showing the establishment's scales meet NIST Handbook 44 requirements. FSIS has determined that the regulatory provisions in question are unduly restrictive and should include an option for the establishments to have alternative documented procedures showing that scales meet NIST Handbook 44 requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/18/00	65 FR 56262
NPRM Comment Period End	10/03/00	
Final Action	10/16/01	66 FR 52484
Final Action Effective	11/15/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
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RIN: 0583–AC86

BILLING CODE 3410-DM-S

Department of Agriculture (USDA)
Foreign Agricultural Service (FAS)

Proposed Rule Stage

407. • PROGRAM TO PROVIDE TECHNICAL ASSISTANCE TO PROMOTE U.S. AGRICULTURAL EXPORTS TO EMERGING MARKETS (EMERGING MARKETS PROGAM)

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: None

Legal Deadline: None

Abstract: This rule proposes to establish regulations applicable to the Emerging Marketing Program, currently authorized by the Food, Agriculture, Conservation, and Trade Act of 1990 and amended by the Federal Agriculture Improvement and Reform Act of 1996. The Emerging Markets Program currently operates under agency guidelines. The proposed rule would amend and codify the existing guidelines. Codification of the guidelines should not change program administration noticeably. Because the program is already in operation under agency guidelines, this proposal would have no significant impact on the U.S. economy.

The proposed rule will provide specific regulations concerning program administration. Significant provisions include definition of emerging market and country eligibility, program objectives and priorities, eligible organizations, qualification requirements, application and review processes, decisions and appeals, reimbursement rules and procedures, reporting requirements, evaluations, and program controls.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Kimberly Chisley, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 6087, South Building, 1400 Independence Avenue SW, Washington, DC 20250
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RIN: 0551–AA62

Department of Agriculture (USDA)
Foreign Agricultural Service (FAS)

Final Rule Stage

408. • PROGRAM TO ASSIST U.S. PRODUCERS IN DEVELOPING DOMESTIC MARKETS FOR VALUE-ADDED WHEAT GLUTEN AND WHEAT STARCH PRODUCTS

Priority: Other Significant

Legal Authority: 15 USC 714c

CFR Citation: 7 CFR 1482

Legal Deadline: None

Abstract: The rule provides for a 2-year program to assist U.S. wheat gluten producers in fully adjusting to import competition by transitioning the industry from production of basic bulk commodities to production of value-added commodities where the market potential is more viable. U.S. producers of wheat gluten, who meet the eligibility requirements of the rule and submit the required market development plans, will receive an annual lump sum payment by CCC to conduct specific program activities aimed at facilitating the transition to value-added wheat gluten products for sale in the domestic market.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/08/01	66 FR 30801
Interim Final Rule Comment Period End	07/09/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 0551–AA60

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409. • FREEDOM OF INFORMATION ACT (FOIA) REGULATIONS FOR THE FOREIGN AGRICULTURAL SERVICE

Priority: Info./Admin./Other

Legal Authority: 5 USC 552

CFR Citation: 7 CFR 1

Legal Deadline: None

Abstract: This final rule is issued in accordance with the regulations of the Secretary of Agriculture, 7 CFR part 1—Administrative Regulations, subpart A—Official Records, 1.3, Agency Implementing Regulations, for the Freedom of Information Act (5 U.S.C. 552).

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kimberly Chisley, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 6087, South Building, 1400 Independence Avenue SW, Washington, DC 20250
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RIN: 0551–AA61

Department of Agriculture (USDA)
Foreign Agricultural Service (FAS)

Long-Term Actions

410. CCC SUPPLIER CREDIT GUARANTEE PROGRAM

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 7 CFR 1493

Timetable:

Action	Date	FR Cite
NPRM	07/19/95	60 FR 37025
NPRM Comment Period End	09/18/95	
Interim Final Rule	07/01/96	61 FR 33825
Interim Final Rule Effective	08/30/96	
Interim Final Rule Comment Period End	12/30/96	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0551–AA30

411. FACILITY GUARANTEE PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 17; 7 CFR 1493

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/93	58 FR 11786
Interim Final Rule Comment Period End	06/01/93	
Interim Final Rule	08/08/97	62 FR 42651
Interim Final Rule Comment Period End	10/07/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0551–AA35

Department of Agriculture (USDA)
Foreign Agricultural Service (FAS)

Completed Actions

412. EXPORT SALES REPORTING REQUIREMENT

Priority: Other Significant

CFR Citation: 7 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	07/25/01	66 FR 38526

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

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RIN: 0551–AA51

BILLING CODE 3410–10–S

Department of Agriculture (USDA)
Forest Service (FS)

Proposed Rule Stage

413. HYDROPOWER APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 551; 43 USC 1761

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The Forest Service is revising its current policy and procedures, implemented in February 1987, concerning administration of hydropower authorizations and the processing of proposals for hydropower projects affecting National Forest System lands. These revisions are necessary to make Agency policy and procedures consistent with regulatory changes by the Federal Energy Regulatory Commission (FERC). The proposed policy was published in the Federal Register on May 22, 1995 (60 FR 27153), for a 60-day public comment period, which was extended for another 45 days (60 FR 36401). As a result of the comments received, substantial changes were made to the proposed policy (60 FR 36401). Therefore, the Forest Service is publishing a revised proposed policy for public comment.

Timetable:

Action	Date	FR Cite
NPRM	05/22/95	60 FR 27153
NPRM Comment Period Extended	07/17/95	60 FR 36401
NPRM Comment Period End	09/05/95	
Second NPRM	04/00/02	
Second NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AA47

USDA—FS **Proposed Rule Stage**

414. SMALL TRACTS ACT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 521(c) to 521(i)

CFR Citation: 36 CFR 254

Legal Deadline: None

Abstract: Implementation of the Agency's Small Tracts regulations (adopted in 1984) has revealed an inadvertent inconsistency between the regulations at 36 CFR 254.35(f) and 254.41(a) and the legislative history of the Small Tracts Act of January 12, 1983. The regulations imply that the disposal of mineral fractions by sale can only be made in response to an application from an abutting landowner, thus discouraging the conveyance by sale to the public. The Act clearly authorizes sale of mineral fractions to the public through public sale, as well as individual applications, provided that certain conditions are met. The revisions will clarify the application of the Act to ensure that both individual applications and public sale are permissible means of disposing of qualifying tracts.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AA79

415. SPECIES SURPLUS TO DOMESTIC MANUFACTURING NEEDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 620 et seq

CFR Citation: 36 CFR 223.200

Legal Deadline: None

Abstract: This proposed rule would amend 36 CFR 223.200 to list species proposed to be surplus to domestic manufacturing needs. This proposed rule would implement a portion of section 620a(b) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620 et seq.). Section 620a(a) of the Act provides that no person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United States, or sell, trade, exchange, or otherwise convey such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States. Section 620a(b) of the Act provides that the prohibition contained in section (a) shall not apply to specific quantities of grades and species of unprocessed timber originating in Federal lands which the Secretary determines, through rulemaking, to be surplus to domestic manufacturing needs.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 0596–AA27

416. SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER; EXTENSION OF TIMBER SALE CONTRACTS TO PERMIT URGENT REMOVAL OF OTHER TIMBER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472a; 16 USC 618; 16 USC 620

CFR Citation: 36 CFR 223.50; 36 CFR 223.53

Legal Deadline: None

Abstract: This rule and policy change will provide for extension of National Forest System (NFS) timber sale contracts when such extension will permit the prompt removal and utilization of non-NFS timber damaged by catastrophic events. The change will define the responsibilities of the parties for requesting and approving such extensions and specify when such extension should be approved. This change will also allow for the use of scarce timber resources and the recovery of economic benefits from timber that might otherwise be lost because of contractual obligations to harvest undamaged timber.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 0596–AB48

417. LAW ENFORCEMENT SUPPORT ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1011(f); 16 USC 472; 16 USC 551; 16 USC 559(a) to 559(g); 40 USC 484(m)

CFR Citation: 36 CFR 262

Legal Deadline: None

Abstract: In February 1994, the Forest Service published proposed rule changes for parts 261 and 262 of title 36 of the Code of Federal Regulations. Due to the high level of interest in and comment on part 261, the decision was made to publish a second proposed rule. The majority of the public comment on part 262 referred to the definition section, which has been revised to respond to those comments. The Forest Service has decided to issue a second proposed rule for comment on part 262, Law Enforcement Support Activities. Proposed revisions to part 261 will proceed separately.

In addition, the proposed amendment to 36 CFR part 262, Law Enforcement Support Activities, would amend the rules that govern monetary rewards and payments for information leading to the arrest and conviction of people who harm natural resources or threaten employees. The proposed rule would

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remove established rewards for damaging or stealing yew trees, the natural source of taxol, as taxol is now produced synthetically. The change also would clarify the procedures in subpart B for administrative impoundments and removals of livestock, dogs, and personal property.

Timetable:

Action	Date	FR Cite
NPRM	02/16/94	59 FR 7880
NPRM Comment Period End	05/16/94	
Second NPRM	05/00/02	
Second NPRM Comment Period End	07/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB61

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418. NONCOMPETITIVE SALE OF TIMBER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472(a)

CFR Citation: 36 CFR 223.85

Legal Deadline: None

Abstract: This proposed rule would revise 36 CFR 223.85 by removing references to section 2001(k) of Public Law 104-19 (109 Stat. 246) and define "extraordinary conditions" to allow forest officers, without advertisement, to make modifications to timber and forest product sales, which result in the substitution of timber or forest products from outside the sale area specified in the contract. Under the proposed rule, substitute timber or forest products would have to come from the same administrative national forest and meet Agency requirements for compliance with the National Environmental Policy Act and other environmental laws. This proposed rule would not compel a timber purchaser to accept a timber sale modification offered under this rule. The rule only authorizes the Forest Service to propose modifications and to enter into discussions with purchasers on such modifications. This proposed rule will reduce timber sale cancellations and partial cancellations, thus reducing future damage claims on timber sales.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB70

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419. CLARIFICATION OF EXEMPTIONS FROM SPECIAL-USE AUTHORIZATIONS

Priority: Info./Admin./Other

Legal Authority: 16 USC 477 to 482; 16 USC 551; 43 USC 1761 to 1771

CFR Citation: 36 CFR 251.50(c)

Legal Deadline: None

Abstract: In April 1997, the Forest Service completed a reengineering study of its special uses program on how to manage the program in a more businesslike, customer-service-oriented way. The Agency proposes the following revisions to 36 CFR 251.50 that would implement recommendations from this study. The study determined that many units are issuing special use authorizations unnecessarily, thereby increasing workloads. The study concluded that the Agency should clarify the special uses rules at section 251.50(a) to make explicitly clear that special use authorizations should not be issued for activities that are regulated by other Forest Service regulations; for example, those governing the disposal of timber (part 223); minerals (part 228); the use of forest development roads and trails (part 212 and section 251.110); and the grazing of cattle (part 222). The study also concluded that section 251.50(d) should be revised to direct that special use authorizations should not be issued where such authorization would serve no land or resource management objective and would have nominal effects on National Forest System lands; for example, where activities are adequately regulated by other governmental entities or where an authorized officer determines that normal operation and maintenance by the holder is within the scope of a right-of-way, easement, or other valid existing real property interest. Further, the rule at section 251.50(c) would be revised to clarify that, in emergency situations, a special use authorization should be sought at the earliest opportunity following the emergency to ensure that appropriate measures are carried out to protect National Forest System lands after the emergency situation no longer exists.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0596–AB74

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420. SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER; TIMBER EXPORT AND SUBSTITUTION RESTRICTIONS

Priority: Other Significant

Legal Authority: 16 USC 620

CFR Citation: 36 CFR 223; 36 CFR 261

Legal Deadline: None

Abstract: The proposed rule for timber export and substitution restrictions would implement the Forest Resources Conservation and Shortage Relief Act of 1990, as amended. The proposed rule defines the certain terms necessary to facilitate uniform compliance; prohibits transfer of unprocessed private timber for export by a person who possesses or acquires unprocessed Federal timber; prohibits export of such unprocessed private timber by a third or successive party; prescribes procedures for reporting the acquisition and disposition of NFS and private

timber requiring domestic processing, including transfers; prescribes procedures for identifying unprocessed National Forest Service and private timber requiring domestic processing; and establishes procedures for assessing civil and criminal penalties and applying administrative remedies for violations of the Act, its implementing regulations, and contracts subject to the Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB75

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421. USE OF FIXED ANCHORS IN WILDERNESS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: Not Yet Determined

CFR Citation: 36 CFR 261

Legal Deadline: None

Abstract: The Forest Service is proposing to issue regulations on the use of climbing equipment in designated wilderness areas within the National Forest System (NFS). Prior to the adoption of the Wilderness Act, certain climbing equipment, including rock bolts, have been placed in rock faces by climbers. This practice has continued for several decades and is the focus of controversy among wilderness users. An increase in the popularity of bolt-intensive form of rock climbing in the early 1990s has fueled this controversy. Some wilderness advocates consider rock bolts and other anchors, left behind by climbers, as permanent improvements.

To address this issue on NFS lands, a negotiated rulemaking committee was convened in June 2000. After four 2-day meetings, the group failed to reach consensus on several aspects of the issue; however, consensus was reached on other aspects. The Agency is moving forward with a proposal that utilizes the advice of the committee and the aspects that were agreed upon by the committee. The Agency intends to propose for public comment several alternatives to define and regulate permanent fixed anchors, including bolts. Resolving these issues through rulemaking is preferable to other dispute resolution alternatives, such as litigation or legislative amendment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	
NPRM Comment Period End	11/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 0596–AB80

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422. SPECIAL FOREST PRODUCTS AND FOREST BOTANICAL PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 36 CFR 223

Legal Deadline: None

Abstract: The Forest Service proposes to promulgate regulations for managing special forest products and forest botanical products. The regulations will guide the Forest Service in the administration of the broader category of special forest products. The proposed rule also implements Public Law 106-113, Pilot Program of Charges and Fees for Harvest of Forest Botanical Products, Appropriations Act H.R. 3423, section 339, Forest Botanical Products. Forest botanical products include products, such as herbs, berries, seeds, and wildflowers that are not wood products. The intended effect of this rule is to give guidance and consistency for the sustainability and sale of special forest products and forest botanical products.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB81

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423. DETERMINING FAIR MARKET VALUE FOR RECREATION RESIDENCE USE AUTHORIZATIONS

Priority: Info./Admin./Other

Legal Authority: 16 USC 497; PL 106-291, title VI

CFR Citation: None

Legal Deadline: None

Abstract: The appropriations act for the Department of the Interior and related agencies for fiscal year 2001 (Pub.L. 106-291) contains provisions in title VI "Cabin User Fee Fairness Act of 2000" to ensure consistent and fair processes for appraising the fee simple value of recreation residence lots on National Forest System (NFS) lands. This act (1) establishes in law that the base annual fee for recreation residences is 5 percent of the market value of the lot; (2) changes the appraisal cycle period from 20 years to 10 years; and (3) requires the Secretary of Agriculture to (a) complete an inventory of utilities, access, and facilities serving each recreation residence tract or lot and document who paid for the installation of those improvements; (b) develop a new set of guidelines for conducting appraisals for recreation residences on NFS lands; (c) use a different annual indexing indicator; and (d) issue new Agency direction to implement the provisions of the Act within 2 years of its passage (10/11/2000). The Forest Service proposes to publish notice in the Federal Register of policy changes

to the Forest Service Manual (FSM 2723) and Handbooks (FSH 2709.11, sec. 33; and FSH 5409.12, ch. 6) that would make Agency direction consistent with the requirements in the Act for the base annual fee and appraisal cycle (described in the preceding items (1) and (2)) and to request public comment on those policy changes related to the inventory, guidelines for appraisals, and indexing indicator (described in the preceding items (3)(a) to (3)(d). Comments will be considered in development of the final policy.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 0596–AB83

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424. • INVENTORIED ROADLESS AREAS

Priority: Other Significant

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1604; 42 USC 4321

CFR Citation: 36 CFR 219

Legal Deadline: None

Abstract: The Forest Service is seeking public comment on the management of Inventoried Roadless Areas. These areas cover 58.5 million acres, or nearly one-third of the National Forest System. On January 12, 2001, USDA published a final rule prohibiting road construction, reconstruction, and timber harvesting in Inventoried Roadless Areas on National Forest System lands. On May 4, 2001, the Secretary of Agriculture stated her intent to implement the rule, with modifications to be proposed later. On May 10, 2001, the District Court of Idaho preliminarily enjoined implementation of the rule. There are seven additional lawsuits seeking to overturn the rule. Continuing controversy over the rule, the process used to develop the rule, and the long-term protection of roadless values, as well as legal uncertainties, make it impractical to offer a proposed rule at this time. However, the Secretary wants public input on these issues. This advance notice of proposed rulemaking allows the Secretary to get comment without prejudicing the outcome of legal proceedings which, along with consideration of public comment and other input, will govern whether USDA will proceed to a proposed rule.

To stabilize the management situation while the roadless rule is being litigated, the Chief has issued interim directives to reserve the authority for approving timber harvest and road building in roadless areas. Notice of the interim directives was published in the Federal Register on August 22, 2001 (66 FR 44111) with a request for public comments for consideration in adopting final direction.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/01	66 FR 35918
ANPRM Comment Period End	09/10/01	
Interim Direction	08/22/01	66 FR 44111
Interim Direction Comment End	10/22/01	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB85

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425. • NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

Priority: Other Significant

Legal Authority: 16 USC et seq; 5 USC 301

CFR Citation: 36 CFR 219, subpart A

Legal Deadline: None

Abstract: The Forest Service is proposing to revise the November 9, 2000, land and resource management planning rule. This action responds to serious concerns raised by employees and others about the Agency's ability to implement some provisions of the November 2000 rule. The Agency's ability to promptly implement the November 9, 2000, planning regulations has also been called into question through pending litigation. A coalition of environmental organizations (Citizens for Better Forestry et al., v. USFS (N.D. Calif.)) and a coalition of timber and grazing interests (American Forest & Paper Association et al., v. Veneman (D. D.C.)) have filed separate lawsuits challenging both the implementability and the legality of the new planning regulations on a variety of grounds. The Forest Service has been asked to resolve deficiencies in the November 2000 rule. In so doing, the Forest Service plans to ensure that issues or deficiencies that have evolved from over 2 decades of forest planning are also addressed. The goal is to develop a new rule that improves the planning process, decisionmaking, and legal defensibility of land and resource management plans. The goal of the Department is to have a revised planning rule in place by the end of the calendar year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0596–AB86

USDA—FS **Proposed Rule Stage**

426. • NATIONAL ENVIRONMENTAL POLICY ACT DOCUMENTATION FOR CERTAIN SMALL ADMINISTRATIVE TIMBER SALES ON NATIONAL FOREST SYSTEM LANDS AND RESEARCH PROJECTS (FOREST SERVICE HANDBOOK 1909.15, CHAPTER 30)

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: None

Legal Deadline: None

Abstract: In 1999, as a result of a court action, the Forest Service lost the ability to use a categorical exclusion from National Environmental Policy Act (NEPA) documentation for small timber sales. This category was used extensively for small timber sales to remove hazard trees, treat insect and disease outbreaks, and provide related timber products for local communities. As a consequence, the responsible official must now prepare an environmental assessment (EA) on these small volume timber sales (under 250,000 board feet of green timber or 1 million board feet of salvage timber). This has resulted in a Service-wide increase in environmental analysis costs and delays in beginning and completing these small timber sale projects on the National Forests and Research Experimental Forests. This proposal would categorically exclude from documentation in an EA or environmental impact statement (EIS) certain types of small timber sales in the National Forests and Research Experimental Forests and would enable the Agency to accomplish in a more timely and efficient manner the treatment of small fire hazard areas, insect and disease outbreaks, and hazard tree removal. This new categorical exclusion would be added to the existing categories for categorical exclusions in chapter 30 of Forest Service Handbook (FSH) 1909.15, and by Council on Environmental Quality (CEQ) regulation, this proposal requires public notice and opportunity to comment. For convenience and cost savings, the final directive may be issued temporarily as an interim directive to chapter 30 of FSH 1909.15 but would be incorporated as an amendment as soon as there are sufficient other changes to the chapter to warrant revision of the entire chapter. Decisions using this new category may be subject to a 30-day public comment period and administrative appeal under 36 CFR part 215

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	07/00/02	
Final Action Effective	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0596–AB88

427. • NOTICE, COMMENT, AND APPEAL PROCEDURES FOR NATIONAL FOREST SYSTEM PROJECTS AND ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551; PL 102-381, sec 322 (Appeal Reform Act); 106 Stat 1419 (16 USC 1612 note)

CFR Citation: 36 CFR 215 (Revision)

Legal Deadline: None

Abstract: In 1992, the Appeal Reform Act mandated the Forest Service to develop appeal regulations for site-specific projects on National Forest System lands. The regulations were promulgated in 1994. Seven years of experience have shown there are certain provisions in the regulations that consistently give rise to questions by employees and the public and reduce efficient processing of administrative appeals. This proposed rule would revise the appeal regulations to bring better focus to public participation and to improve consistency in the application of this regulation, both of which would result in improved efficiency of the appeals process for the public and the Government.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	04/00/02	
Final Action	07/00/02	
Final Action Effective	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0596–AB89

428. • REVISIONS TO ROAD MANAGEMENT POLICY (FOREST SERVICE MANUAL CHAPTER 7710)

Priority: Other Significant

Legal Authority: 16 USC 551; 23 USC 205

CFR Citation: 36 CFR 212

Legal Deadline: None

Abstract: On January 12, 2001 (66 FR 3205), the Forest Service adopted a new road management policy to improve the analysis and decisionmaking of the National Forest System road system. As part of a Governmentwide review of recently adopted rules and policies announced January 20, the Chief has conducted an internal review of the new road management policy. As a consequence, the Agency has identified several changes to be made to Forest Service Manual (FSM) chapter 7710. The first of these was to issue an interim directive (ID No. 7710-2001-1) to redelegate the authority for extending deadlines for completion of forest-scale analysis from the Chief to the Regional Foresters. Additionally, the ID granted all units an additional year to complete road inventories and analysis. This ID was effective May 31, 2001. The Agency followed with a notice in the Federal Register with a request for comment, which has not yet been published. The Agency also has determined that the interim requirements of the road management policy limiting road construction in roadless and contiguous unroaded areas are not relevant to the road management policy; rather, these requirements should be dealt with in the context of overall management of roadless areas. Moreover, field units

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generally are finding it difficult to determine how to identify and map contiguous unroaded areas, and in some recent cases involving access to oil and gas and other minerals, the interim requirements are requiring EISs for minimal road construction or reconstruction along the edge of inventoried roadless areas and contiguous unroaded areas, with resultant delays in project decisions. The Agency is preparing a second ID to rescind these interim requirements. Although the ID will be immediately effective, a notice with a request for comment will be published in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	04/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0596–AB90

Department of Agriculture (USDA)
Forest Service (FS)

Final Rule Stage

429. INDIAN ALLOTMENTS ON NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603; 43 USC 1740; 25 USC 337

CFR Citation: 36 CFR 254

Legal Deadline: None

Abstract: This rule sets forth Forest Service procedures and role in the regulation of Indian allotments on National Forest System land. The Indian Allotment Act, as amended, authorizes the Secretary of the Interior to make allotments of National Forest System lands to Indians for homesteading and agricultural and grazing purposes. The Forest Service has relied upon USDI rules and procedures at 43 CFR 2533 to govern its involvement in Indian allotment cases. Litigation and a decision by the Interior Board of Land Appeals require the Forest Service to set forth its own regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23473
NPRM Comment Period End	07/22/87	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AA52

430. DISPOSAL OF NATIONAL FOREST TIMBER; CANCELLATION OF TIMBER SALE CONTRACTS

Priority: Other Significant

Legal Authority: 16 USC 472a; 16 USC 551; 16 USC 618

CFR Citation: 36 CFR 223.30; 36 CFR 223.40; 36 CFR 223.116

Legal Deadline: None

Abstract: Current regulations governing cancellation of National Forest timber sale contracts do not adequately protect the Government's financial interests in the event the Forest Service is forced to cancel contracts due to events beyond its control arising from compliance with environmental statutes. This rulemaking would remove an unworkable compensation-of-damages formula and establish a termination-for-environmental-protection clause in timber sale contracts, a standard in most Federal procurement contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68690
NPRM Comment Period End	02/13/97	
Final Action	02/00/02	
Final Action Effective	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB21

431. COLLECTION OF REIMBURSABLE COSTS FOR PROCESSING SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Priority: Other Significant

Legal Authority: 43 USC 1764; 30 USC 181

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The objective of this proposal is to incorporate into regulation the authority contained in the Mineral Leasing Act and the Federal Land Policy and Management Act to reimburse the United States for reasonable administrative costs associated with the issuance and administration of special-use authorizations on National Forest System lands. It responds to a recommendation contained in GAO Audit Report RCED-97-16 (12/96).

Timetable:

Action	Date	FR Cite
NPRM	11/24/99	64 FR 66341
NPRM Comment Period Extended	12/29/99	64 FR 72971
NPRM Comment Period End	02/04/00	
Comment Period Extended	02/25/00	65 FR 10042
Comment Period End	03/09/00	

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Action	Date	FR Cite
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Cost reimbursement for processing special-use applications and administration of special-use authorizations was originally included under RIN 0596-AA36. All provisions pertaining to the special-use application and administration process have been merged with RIN 0596-AB35. Thus, this rulemaking addresses only the cost-reimbursement provisions.

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RIN: 0596–AB36

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432. PREFERENCE FOR VISITOR SERVICE; ALASKA NATIONAL FOREST CONSERVATION SYSTEM UNITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3197

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The Forest Service is issuing regulations to define and establish procedures for administering the statutory rights and preferences established by the Alaska National Interest Lands Conservation Act of 1980 for historical operators, Native Corporations, and local residents to conduct revenue producing visitor services on certain National Forest System Lands in Alaska. The regulations are necessary to comply with section 1307 of the Alaska National Interest Lands Conservation Act, which requires the Secretary of Agriculture to give preference to persons he determines by rule are local residents. The regulations, which have been developed in close consultation with the other Federal land managing agencies in Alaska, will apply only to Conservation System Units administered by the Forest Service. As applied to these regulations, administered Conservation System Units are Forest Service National Monuments and units of the National Wild and Scenic River Systems, National Trails System, and the National Wilderness Preservation System in Alaska.

Timetable:

Action	Date	FR Cite
NPRM	04/25/97	62 FR 20140
NPRM Comment Period End	06/24/97	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB57

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433. CATEGORICAL EXCLUSION FOR CERTAIN SPECIAL USES PERMIT ACTIONS (FSH 1909.15, CHAPTER 30)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 to 4346

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: In April 1997, the Forest Service completed a reengineering study of its special uses program. One finding in that study was that the Forest Service is conducting extensive National Environmental Policy Act (NEPA) analysis and documentation for the renewal or transfer of ownership of special use authorizations having no significant effect on the human environment, either individually or cumulatively. This level of NEPA compliance is costly, time consuming, and not commensurate with the risk attributed to the activity. Therefore, the Forest Service proposes to add a new category of categorical exclusions from NEPA documentation at sections 31.1b and 31.2 of FSH 1909.15, Environmental Policy and Procedures Handbook. This action would give clearer direction regarding the NEPA obligation, when issuance of a special use authorization is a purely ministerial action and no changes are proposed in permitted activities or facilities. Further, the Forest Service proposes to amend section 30.3 to clarify the NEPA documentation that is needed for processing applications and authorizations under a categorical exclusion when extraordinary circumstances exist. There is confusion surrounding section 30.3 about the "mere presence" of an extraordinary circumstance and the implication of a need for an Environmental Assessment (EA) or Environmental Impact Statement (EIS). The Forest Service proposes to amend this section to provide that an identified extraordinary circumstance must clearly have a significant impact on the National Forest resource to merit preparation of an EA or EIS.

Timetable:

Action	Date	FR Cite
NPRM	09/20/01	66 FR 48412
NPRM Comment Period End	11/19/01	
Final Action	02/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0596–AB73

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434. • NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING; EXTENSION OF COMPLIANCE DEADLINE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1600 et seq; 5 USC 301

CFR Citation: 36 CFR 219, subpart A

Legal Deadline: None

Abstract: The Department of Agriculture is proposing to amend the November 2000 land and resource management planning rule to extend for 1 year the date specified in 36 CFR 219.35(b) by which all plan amendments and revisions would be subject to the new planning rule requirements. This proposed rule will allow for public comment on the

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extension of the May 9, 2001, compliance date to May 9, 2002. The Department has determined that the May 9, 2001, date is impracticable for several reasons: (1) According to the new regulations, units not publishing a draft environmental document by May 9, 2001, would be required to abandon the 1982 rule procedures and start over using the new planning process. Approximately 20 units of the National Forest System have begun revising their plans under the 1982 rule, and numerous amendments are also underway. Extensive amounts of public involvement and analysis have already been invested in these efforts, and most of the units are not able to meet the May 9, 2001, deadline. The new regulations are substantially different from the 1982 regulations. As a consequence, the Agency would waste valuable time and resources halting and restarting these planning efforts already underway. For these reasons, it would be impracticable for the Department to require these units to adhere to the May 9, 2001, deadline. (2) Because of the complexity of the new regulations, the Agency has been unable to complete the necessary policy and procedural guidance needed to implement the new rule. In addition, training programs have not been developed, and technical support for many of the complex new analytical requirements of the new rule are not yet available. (3) The Department has been made aware of serious concerns about the Agency's ability to implement some provisions of the new planning rule. Therefore, extending the compliance date for 1 year to May 9, 2002, would also allow the Department to review the regulation carefully and determine if any adjustments are necessary to improve its implementation. Because the May 9, 2001, compliance date is imminent, the Department simultaneously published an interim final rule that would immediately extend the compliance deadline. While this interim action is necessary to grant relief to the approximately 20 units that have begun plan revisions under the 1982 regulations but cannot meet the impending deadline, the Department believes that the public should have an opportunity to comment on this extension. Consequently, the Department is planning to publish a proposed rule with a request for public comment.

Timetable:

Action	Date	FR Cite
NPRM	05/17/01	66 FR 27555
NPRM Comment Period End	07/16/01	
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0596–AB87

Department of Agriculture (USDA)
Forest Service (FS)

Long-Term Actions

435. APPEAL OF DECISIONS RELATING TO OCCUPANCY AND USE OF NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 251; 36 CFR 214

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	
NPRM Comment Period End	02/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB45

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Department of Agriculture (USDA)
Office of the Secretary (AgSEC)

Proposed Rule Stage

436. GENERAL NONPROCUREMENT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 901 et seq

CFR Citation: 7 CFR 3020

Legal Deadline: None

Abstract: USDA published 7 CFR part 3015, Uniform Federal Assistance Regulations, in 1981 to establish and codify departmentwide policies and standards for administering grants and cooperative agreements to governmental and nongovernmental entities. Since that time, the Office of Management and Budget has lead efforts to establish Governmentwide common rules for governmental and nongovernmental recipients of grants and cooperative agreements. Consequently, over the years, USDA has codified its Governmentwide common rules in other parts of title 7 of the CFR. This has resulted in corresponding amendments to part 3015 to revise its scope accordingly. We are proposing to remove part 3015 and to add part 3020 to parts of title 7. We are proposing to include other administrative requirements that were never codified. The alternative would be to continue to work with the disjointed, outdated part 3015. Expected results are that the new part 3020 will be more clear and concise and will only contain those crosscutting requirements not included in other USDA departmentwide administrative regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

USDA—AgSEC — **Proposed Rule Stage**

Government Levels Affected: State, Local, Tribal

Federalism: Undetermined

Agency Contact: Annie Walker-Bradley, Acting Division Director, Office of the Chief Financial Officer, Department of Agriculture, Office of the Secretary, Room 4606-S, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1204

RIN: 0503–AA21

Department of Agriculture (USDA)
Office of the Secretary (AgSEC) — **Long-Term Actions**

437. DESIGNATION OF RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Priority: Other Significant

CFR Citation: 7 CFR 25

Timetable:

Action	Date	FR Cite
NPRM	04/27/00	65 FR 24656
NPRM Comment Period End	06/26/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Jay Norman Reid
Phone: 202 619-7980

RIN: 0503–AA20

Department of Agriculture (USDA)
Office of the Secretary (AgSEC) — **Completed Actions**

438. NONDISCRIMINATION IN USDA-CONDUCTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 15

Completed:

Reason	Date	FR Cite
Final Action	11/30/99	64 FR 66709

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Winningham
Phone: 202 720-5212

RIN: 0503–AA15

BILLING CODE 3410-90-S

Department of Agriculture (USDA)
Rural Business-Cooperative Service (RBS) — **Prerule Stage**

439. INTERMEDIARY RELENDING PROGRAM PARTICIPATION AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1932 note

CFR Citation: 7 CFR 4274, subpart D

Legal Deadline: None

Abstract: The Agency is considering authorizing Intermediary Relending Program intermediaries to sell participation agreements in their loans.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/02	
ANPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wayne Stansbery, Chief, Processing Branch, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, Room 6867/Stop 3225, 1400 Independence Avenue SW, Washington, DC 20250-3225
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RIN: 0570–AA33

Department of Agriculture (USDA)
Rural Business-Cooperative Service (RBS) — **Proposed Rule Stage**

440. BUSINESS AND INDUSTRY GUARANTEED LOAN PROGRAM—FINANCING COOPERATIVE STOCK

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 4279, subpart B; 7 CFR 4279, subpart A

Legal Deadline: None

Abstract: The Agency proposes to revise the Business and Industry Program regulations to incorporate additional guidance and eliminate or reduce certain requirements when financing cooperative stock. It also proposes to develop a streamlined application form when financing working capital, which includes cooperative stock.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

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USDA—RBS **Proposed Rule Stage**

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Richard Bonnet, Sr. Loan Specialist, B&I Processing Branch, Department of Agriculture, Rural Business-Cooperative Service, Room 6864/Stop 3224, 1400 Independence Avenue SW, Washington, DC 20250
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RIN: 0570–AA26

441. RURAL BUSINESS ENTERPRISE GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1932; 7 USC 1989; 16 USC 1005

CFR Citation: 7 CFR 1942; 7 CFR 4284

Legal Deadline: None

Abstract: The Rural Business-Cooperative Service proposes to completely rewrite and renumber 7 CFR 1942, subpart G, to 7 CFR part 4284, subpart B. This rewrite will incorporate public law changes and clarify administrative regulatory procedures and guidelines in order to improve program administration.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
NPRM Comment Period End	08/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Amy Cavanaugh, Loan Specialist, Department of Agriculture, Rural Business-Cooperative Service, Room 6867/Stop 3225, 1400 Independence Avenue SW, Washington, DC 20250-3225
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RIN: 0570–AA28

Department of Agriculture (USDA) **Final Rule Stage**
Rural Business-Cooperative Service (RBS)

442. RURAL ECONOMIC DEVELOPMENT LOAN AND GRANT PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 940c

CFR Citation: 7 CFR 1703, subpart B; 7 CFR 4280, subpart A

Legal Deadline: None

Abstract: This action is part of a reinvention laboratory initiative of the Department of Agriculture and Rural Business-Cooperative Service. The regulations will be written in a "plain language" style. The regulation will be simpler and improve the ease of use by the public and program beneficiaries. The regulation will be written in a question and answer format from the perspective of questions from the applicant under this program. The regulations will simplify the application format, review and selection process, and recipient's recordkeeping requirements. It will also add a section on the appeal of adverse decisions. The comment period on the proposed rule ended February 14, 2000. The Agency received 28 written comments. The Agency conducted a meeting, which was open to the public on August 2, 2000, to allow the Agency to listen to oral presentations from the general public on the proposed rule. The Agency will respond to the comments made at the meeting in the preamble to the final rule as part of the rulemaking processing under the Administrative Procedures Act.

Timetable:

Action	Date	FR Cite
NPRM	12/15/99	64 FR 69937
NPRM Comment Period End	02/14/00	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Wing, Loan Specialist, Department of Agriculture, Rural Business-Cooperative Service, Room 6867, South Building, STOP 3225, Washington, DC 20250
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RIN: 0570–AA19

443. ALLOCATION FORMULAS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1940, subpart L

Legal Deadline: None

Abstract: This action will amend existing regulations for allocating program funds among Agency State offices. It will add the Rural Business Opportunity Grant Program and update the formulas used for Rural Business Enterprise Grant and Business and Industry Programs.

Timetable:

Action	Date	FR Cite
NPRM	08/03/00	65 FR 47695
NPRM Comment Period End	10/02/00	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wayne Stansbery, Chief, Processing Branch, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, Room 6867/Stop 3225, 1400 Independence Avenue SW, Washington, DC 20250-3225
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RIN: 0570–AA30

444. BUSINESS AND INDUSTRY GUARANTEED LOAN PROGRAM—DOMESTIC LAMB INDUSTRY ADJUSTMENT ASSISTANCE PROGRAM SET-ASIDE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 4279, subpart B

USDA—RBS **Final Rule Stage**

Legal Deadline: None

Abstract: This action provides for a set-aside of $15 million in Business and Industry Guaranteed Loans in fiscal year (FY) 2001, $15 million in FY 2002, and $5 million in FY 2003 to help fund the Domestic Lamb Industry Adjustment Assistance Program. The set-aside is to be effective September 30, 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/00	65 FR 64596
Interim Final Rule Effective	10/30/00	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roland T. Woodfolk, Loan Specialist, Department of Agriculture, Rural Business-Cooperative Service, Room 6864/STOP 3224
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RIN: 0570–AA31

445. THE RURAL BUSINESS ENTERPRISE GRANTS AND TELEVISION DEMONSTRATION GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1932; 7 USC 1989; 16 USC 1005

CFR Citation: 7 CFR 1942, subpart G

Legal Deadline: None

Abstract: The Agency proposes to revise its regulation by clarifying the definition of small and emerging private business enterprise. This action will streamline the regulation and reduce the burden to the applicant in meeting the restricted definition.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/01	66 FR 27013
Interim Final Rule Comment Period End	07/16/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Amy Cavanaugh, Loan Specialist, Department of Agriculture, Rural Business-Cooperative Service, Room 6867/Stop 3225, 1400 Independence Avenue SW, Washington, DC 20250-3225
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RIN: 0570–AA32

Department of Agriculture (USDA)
Rural Business-Cooperative Service (RBS) **Long-Term Actions**

446. BUSINESS AND INDUSTRIAL GUARANTEED LOAN PROGRAM—MISCELLANEOUS CHANGES

Priority: Other Significant

CFR Citation: 7 CFR 4287, subpart B; 7 CFR 4279, subpart A; 7 CFR 4279, subpart B

Timetable:

Action	Date	FR Cite
NPRM	11/00/02	
NPRM Comment Period End	01/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bonnet
Phone: 202 720-1804
Email: rick.bonnet@usda.gov

RIN: 0570–AA23

447. AFFIRMATIVE FAIR HOUSING MARKETING PLAN

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 7 CFR 1703 subpart B; 7 CFR 1942 subpart G; 7 CFR 4284 subpart D; 7 CFR 4287, subpart B; 7 CFR 4279, subpart B; 7 CFR 4274, subpart D; 7 CFR 4280, subpart A; 7 CFR 4287, subpart H

Timetable:

Action	Date	FR Cite
NPRM	11/00/02	
NPRM Comment Period End	01/00/03	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Concepcion Malazo
Phone: 202 690-3810

RIN: 0570–AA24

Department of Agriculture (USDA)
Rural Business-Cooperative Service (RBS) **Completed Actions**

448. BUSINESS AND INDUSTRY DIRECT LOAN PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980, subpart E; 7 CFR 1942, subpart A; 7 CFR 1951, subpart E; 7 CFR 4274, subpart I; 7 CFR 4287, subpart H

Completed:

Reason	Date	FR Cite
Withdrawn	09/12/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Local, Tribal

Agency Contact: Richard Bonnet
Phone: 202 720-1804

USDA—RBS — **Completed Actions**

Email: rick.bonnet@usda.gov
RIN: 0570–AA22

449. RURAL AND RURAL AREA UNDER THE RURAL COMMUNITY ADVANCEMENT PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 4279; 7 CFR 1980; 7 CFR 1942; 7 CFR 4284

Completed:

Reason	Date	FR Cite
Withdrawn	01/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Bill Hagy

Phone: 202 720-7287

RIN: 0570–AA27

BILLING CODE 3410–07–S

Department of Agriculture (USDA)
Rural Utilities Service (RUS) — **Proposed Rule Stage**

450. TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIALS, EQUIPMENT, AND CONSTRUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to amend 7 CFR 1755 to include requirements presently contained in RUS Bulletin 345-3. This rule would establish and codify provisions for the inclusion and removal for products from I.P. 344-2. This rule also proposes to integrate the existing section on field trials in the procedures for product acceptance and inclusion in this codification, as well as clarifying and reorganizing the field trials section.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB40

451. SERVICING OF WATER PROGRAMS LOANS AND GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 7 CFR 1782; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956

Legal Deadline: None

Abstract: This proposed action combines nine existing loan-servicing regulations of Water Programs into one. The new regulations will codify and clarify Water Programs policy relating to loan-servicing by incorporating simplified language without significantly changing any of the Agency's servicing policies or procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB59

452. MERGERS AND CONSOLIDATIONS OF ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq; 7 USC 6941 et seq

CFR Citation: 7 CFR 1717

Legal Deadline: None

Abstract: The Rural Utilities Service is proposing to amend subpart D to provide the Administrator the flexibility to limit the amount of a loan to a successor (surviving business entity following a merger) to no more than 10 percent of the municipal loan authorization for a particular fiscal year, with the balance of the limited first loan request (if any) being considered in subsequent years. The Administrator will consider this limitation in years where a significant loan backlog is determined to exist.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
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RIN: 0572–AB63

USDA—RUS — **Proposed Rule Stage**

453. • ELECTRIC PROGRAM STANDARD CONTRACT FORMS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq; 7 USC 6941 et seq

CFR Citation: 7 CFR 1724; 7 CFR 1726; 7 CFR 1755

Legal Deadline: None

Abstract: RUS proposes to amend its regulations to revise its standard forms of contracts that borrowers are required to use when contracting for construction and procurement financed through loans made or guaranteed by RUS, in accordance with applicable RUS regulations.

Timetable:

Action	Date	FR Cite
ANPRM	09/16/98	63 FR 49503
ANPRM Comment Period End	11/16/98	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB67

454. • EXEMPTIONS OF RUS OPERATIONAL CONTROLS UNDER SECTION 306E OF THE RE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq; 7 USC 6941 et seq

CFR Citation: 7 CFR 1710

Legal Deadline: None

Abstract: RUS proposes to eliminate duplicative lists of requirements and to eliminate RUS notification to each borrower informing them of their exemption from operational controls status under the 110 percent rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB68

Department of Agriculture (USDA)
Rural Utilities Service (RUS) — **Final Rule Stage**

455. EXTENSIONS OF PAYMENTS OF PRINCIPAL AND INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq; 7 USC 6941 et seq

CFR Citation: 7 CFR 1721

Legal Deadline: None

Abstract: This rule will add subpart B which will set forth the procedures under which borrowers may request an extension for the payment of principal and interest.

Timetable:

Action	Date	FR Cite
NPRM	01/09/01	66 FR 1604
NPRM Comment Period End	03/12/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB60

456. SETTLEMENT OF DEBT

Priority: Other Significant

Legal Authority: 7 USC 901 to 950b; 7 USC 1981; PL 99-591; PL 103-354

CFR Citation: 7 CFR 1717

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to amend its debt settlement procedures to allow its Administrator to modify the requirements borrowers must meet to receive debt settlements. Currently, all borrowers must meet the same requirements regardless of the amount of debt or other circumstances. The intent of the proposed change is to facilitate debt settlements where the RUS Administrator determines that the Government's interest in the debt can still be protected without having the borrower meet each of the current requirements. Such determinations would be made on a case by case basis. While the change is expected to improve the efficiency of debt settlements, it is not intended to alter the basic outcome of such settlements.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB61

457. DEMAND SIDE MANAGEMENT AND RENEWABLE ENERGY SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq; 7 USC 6941 et seq

USDA—RUS — **Final Rule Stage**

CFR Citation: 7 CFR 1710

Legal Deadline: None

Abstract: The Agency is removing subpart H in its entirety.

Timetable:

Action	Date	FR Cite
NPRM	04/25/01	66 FR 20759
NPRM Comment Period End	05/25/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB65

458. • TELECOMMUNICATIONS PROGRAM SPECIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq; 7 USC 6941 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is proposing to amend its regulations to change the manner in which it publishes the specifications that products need to meet for their use in telecommunications systems of RUS Borrowers. The specifications are currently published in the text of the CFR. This proposed rule would eliminate this unnecessary and burdensome publication in the CFR.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
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Fax: 202 720-4120

RIN: 0572–AB69

459. • DISTANCE LEARNING AND TELEMEDICINE LOAN AND GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 950aaa et seq

CFR Citation: 7 CFR 1703

Legal Deadline: None

Abstract: RUS is amending its regulations for the Distance Learning and Telemedicine (DLT) Loan and Grant Program. These amendments will clarify eligibility; change the grant minimum matching contribution; clarify the circumstances under which transmission facilities are funded; modify financial information requirements; adjust the leveraging scoring criterion; clarify financial information to be submitted; and make other minor changes and corrections. The intended effect is to clarify procedures for DLT applicants.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
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RIN: 0572–AB70

Department of Agriculture (USDA)
Rural Utilities Service (RUS) — **Long-Term Actions**

460. RUS APPROVAL OF ADDITIONS AND EXTENSIONS TO ELECTRIC PLANTS

Priority: Other Significant

CFR Citation: 7 CFR 1717.603

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB38

461. THE "BUY AMERICAN" REQUIREMENT

Priority: Other Significant

CFR Citation: 7 CFR 1787

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
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RIN: 0572–AB55

Department of Agriculture (USDA)
Rural Utilities Service (RUS)

Completed Actions

462. ELECTRIC STANDARDS AND SPECIFICATIONS FOR MATERIALS AND CONSTRUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1728

Completed:

Reason	Date	FR Cite
Withdrawn	08/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: F. Lamont Heppe
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RIN: 0572–AA67

463. TELECOMMUNICATIONS SYSTEM CONSTRUCTION CONTRACT AND SPECIFICATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1755

Completed:

Reason	Date	FR Cite
Final Action	08/17/01	66 FR 43309
Final Action Effective	09/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB41

464. POST-LOAN POLICIES AND PROCEDURES COMMON TO GUARANTEED AND INSURED LOANS

Priority: Other Significant

CFR Citation: 7 CFR 1744

Completed:

Reason	Date	FR Cite
Final Action	08/09/01	66 FR 41755

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
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Fax: 202 720-4120

RIN: 0572–AB48

465. WATER AND WASTE DISPOSAL PROGRAMS GUARANTEED LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1779; 7 CFR 1980; 7 CFR 1780

Completed:

Reason	Date	FR Cite
Final Rule	05/08/01	66 FR 23135
Final Action Effective	06/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
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RIN: 0572–AB57

466. ELIMINATION OF CURRENT RATIO REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1717

Completed:

Reason	Date	FR Cite
Withdrawn	08/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
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RIN: 0572–AB58

467. POLICY ON AUDITS OF RUS BORROWERS; GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS (GAGAS)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1773

Completed:

Reason	Date	FR Cite
Direct Final Rule	05/21/01	66 FR 27833
Final Action Effective	07/18/01	66 FR 37406

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
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Fax: 202 720-4120

RIN: 0572–AB62

468. PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED TELECOMMUNICATIONS LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1737

Completed:

Reason	Date	FR Cite
Withdrawn	08/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB64

469. POLICY ON AUDITS OF RUS BORROWERS: MANAGEMENT LETTER

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1773

Completed:

Reason	Date	FR Cite
Direct Final Rule	05/21/01	66 FR 27829
Final Action Effective	07/18/01	66 FR 37405

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB66

BILLING CODE 3410–15–S

Department of Agriculture (USDA)
Natural Resources Conservation Service (NRCS)

Proposed Rule Stage

470. WETLAND CATEGORICAL MINIMAL EFFECTS EXEMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3801 et seq

CFR Citation: 7 CFR 12

Legal Deadline: None

Abstract: The 1985 Farm Bill, as amended, gives producers a major incentive to conserve wetlands by tying eligibility for most USDA program benefits to conservation of wetlands. However, producers can convert wetlands based on available exemptions, including a minimal effect exemption. A minimal effect applies if the action, individually and cumulatively, will have minimal effect on the functional hydrological and biological value of the wetlands in the area. A categorical minimal effect is one that, when carried out, will always have a minimal effect on the hydrologic and biological functions of wetlands in the area. These activities will be identified on a regional basis.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Helen Huntington, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, Mail Stop 5460, 5601 Sunnyside Avenue, Beltsville, MD 20705
Phone: 301 504-2165
Fax: 301 504-2161
Email: helen.huntington@usda.gov

RIN: 0578–AA27

471. EMERGENCY WATERSHED PROTECTION PROGRAM

Priority: Other Significant

Legal Authority: PL 81-516; 33 USC 701; PL 95-334; 16 USC 2203

CFR Citation: 7 CFR 624

Legal Deadline: None

Abstract: A revision is necessary to incorporate changes in the program, which have resulted from the passage of the 1996 Farm Bill; to fulfill a desire to make the program more responsive and efficient; and to respond to concerns of the public and the Agency. The rule is being reorganized and several items added.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas A Weber, Deputy Chief for Programs, Department of Agriculture, Natural Resources Conservation Service, Room 5004-S, PO Box 2890, Washington, DC 20013
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RIN: 0578–AA30

Department of Agriculture (USDA)
Natural Resources Conservation Service (NRCS)

Final Rule Stage

472. FORESTRY INCENTIVES PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 2101 and 2103

CFR Citation: 7 CFR 635; 7 CFR 701

Legal Deadline: None

Abstract: The Forestry Incentives Program (FIP) supports good forest management practices on privately owned, non-industrial forest lands nationwide. FIP is designed to benefit the environment while meeting future demands for wood products. The Cooperative Forestry Assistance Act of 1978, as amended by Public Law 95-313, is the source of authority for FIP. FIP was reauthorized for fiscal year 2002 by Public Law 104-127. The interim rule sets forth FIP policies and procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/02	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Helen Huntington, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, Mail Stop 5460, 5601 Sunnyside Avenue, Beltsville, MD 20705
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Email: helen.huntington@usda.gov

RIN: 0578–AA26

473. CONSERVATION OF PRIVATE GRAZING LAND

Priority: Other Significant

Legal Authority: 16 USC 2005b

CFR Citation: 7 CFR 610

Legal Deadline: None

Abstract: Private grazing land constitutes nearly one-half of the non-Federal land of the United States and is basic to environmental, social, and economic stability of rural areas. In fact, grazing land constitutes the single largest watershed cover type in the United States and contributes significantly to the quality and quantity of water for all of the many uses in the watershed. Congress recognized the importance of grazing lands in subtitle H, section 386, of the Federal Agriculture Improvement and Reform Act of 1996 by authorizing the Secretary to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing lands.

Timetable:

Action	Date	FR Cite
NPRM	06/29/01	66 FR 34584
NPRM Comment Period End	08/28/01	
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Helen Huntington, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, Mail Stop 5460, 5601 Sunnyside Avenue, Beltsville, MD 20705

USDA—NRCS **Final Rule Stage**

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RIN: 0578–AA29

Department of Agriculture (USDA)
Natural Resources Conservation Service (NRCS) **Long-Term Actions**

474. HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION

Priority: Other Significant

CFR Citation: 7 CFR 12

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/96	61 FR 47019
Interim Final Rule Comment Period End	11/05/96	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0578–AA17

BILLING CODE 3410–16–S

Department of Agriculture (USDA)
Office of Procurement and Property Management (OPPM) **Final Rule Stage**

475. OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT (OPPM); UNIFORM PROCEDURES FOR THE ACQUISITION AND TRANSFER OF EXCESS FEDERAL PROPERTY

Priority: Info./Admin./Other

Legal Authority: 7 USC 2206a; 7 USC 301 note; 7 USC 321 et seq; 20 USC 1059c(b)

CFR Citation: 7 CFR 3200

Legal Deadline: None

Abstract: The Office of Procurement and Property Management (OPPM) is amending its procedures for the acquisition and transfer of excess personal property to 1994 Institutions (as defined in section 532 of the Equity in Education Land Grant Status Act of 1994); Hispanic-Serving Institutions (as defined in section 316(b) of the Higher Education Act of 1965); and any college or university eligible to receive funds under the Act of August 30, 1890. This amendment clarifies administrative rules regarding equipment transfer and reduces the administrative burden placed on recipient Institutions.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathleen N. Fay, Property Utilization Specialist, Department of Agriculture, Office of Procurement and Property Management, Mail Stop 9304, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-9779
Email: kathy.fay@usda.gov

RIN: 0599–AA10

Department of Agriculture (USDA)
Office of Procurement and Property Management (OPPM) **Long-Term Actions**

476. NEW RESTRICTIONS ON LOBBYING

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3018

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Joseph J. Daragan
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RIN: 0599–AA03

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Department of Agriculture (USDA)
Office of Procurement and Property Management (OPPM)

Completed Actions

477. AGRICULTURE ACQUISITION REGULATION (AGAR); CONTRACTOR EMPLOYMENT OF MIGRANT AND SEASONAL AGRICULTURAL WORKERS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 422; 48 CFR 452

Completed:

Reason	Date	FR Cite
Withdrawn	08/08/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph J. Daragan
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RIN: 0599–AA05

478. AGRICULTURE ACQUISITION REGULATION: AMENDMENT TO PART 442, CONTRACT ADMINISTRATION

Priority: Info./Admin./Other

CFR Citation: 48 CFR 442

Completed:

Reason	Date	FR Cite
Final Action	10/01/01	66 FR 49866
Final Action Effective	11/30/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph J. Daragan
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RIN: 0599–AA08

479. AGRICULTURE ACQUISITION REGULATION; PART 419 AMENDMENT; NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM

Priority: Info./Admin./Other

CFR Citation: 48 CFR 419.508; 48 CFR 452.219-70

Completed:

Reason	Date	FR Cite
Direct Final Rule	09/27/01	66 FR 49316
Direct Final Rule Effective	11/26/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph J. Daragan
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RIN: 0599–AA09

[FR Doc. 01–27113 Filed 11–30–01; 8:45 am]
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Part IV

Department of Commerce

Semiannual Regulatory Agenda

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DEPARTMENT OF COMMERCE (DOC)

DEPARTMENT OF COMMERCE

Office of the Secretary

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37 CFR Chs. I, IV, and V

48 CFR Ch. 13

50 CFR Chs. II, III, IV, and VI

October 2001 Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: Semiannual regulatory agenda.

SUMMARY: In compliance with Executive Order 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act, as amended, the Department of Commerce, in April and October of each year, publishes in the **Federal Register** an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the April 2001 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's October 2001 regulatory agenda includes regulatory activities that are expected to be conducted during the period October 1, 2001, through September 30, 2002.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Daniel Cohen, Chief Counsel for Regulation, Office of the Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230; telephone: 202-482-3151.

SUPPLEMENTARY INFORMATION: Executive Order 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of July 10, 2001, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the October 2001 Unified Agenda of Federal Regulatory and Deregulatory Actions. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to publish, in April and October of each year, a regulatory flexibility agenda which contains a brief description of the subject area of any rule which is likely to have a significant economic impact on a substantial number of small entities. The agenda also identifies those entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Department of Commerce's Statement of Regulatory Priorities is included in part II.

Explanation of Information Contained in the Agenda

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units, such as the National Oceanic and Atmospheric Administration (NOAA), the Bureau of Export Administration, and the Patent and Trademark Office issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, a section on "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Act) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries, which require conservation and management measures. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing can be conducted in a fishery in which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

The DOC October 2001 regulatory agenda follows.

Theodore Kassinger,
General Counsel.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
480	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	0690-AA30

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Office of the Secretary—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
481	Employee Responsibilities and Conduct; Removal of Obsolete Regulations	0690-AA32

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
482	Standards of Ethical Conduct—Department of Commerce Supplemental Regulations	0690-AA23

Bureau of Economic Analysis—Prerule Stage

Sequence Number	Title	Regulation Identification Number
483	Transactions of U.S. Affiliate, Except U.S. Banking Affiliate, With Foreign Parent (BE-605) and Transactions of U.S. Banking Affiliate With Foreign Parent (BE-605)	0691-AA45

Bureau of Economic Analysis—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
484	Benchmark Survey of Selected Services Transactions With Unaffiliated Foreign Persons—2001	0691-AA41
485	International Services Surveys: BE-48, Annual Survey of Reinsurance and Other Insurance Transactions by U.S. Insurance Companies With Foreign Persons	0691-AA42
486	Annual Survey of Selected Services Transactions With Unaffiliated Foreign Persons	0691-AA43
487	Benchmark Survey of Foreign Direct Investment in the United States—2002	0691-AA44
488	Initial Report on Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of Operating Assets, or U.S. Business Enterprise, Including Real Estate	0691-AA46

Bureau of the Census—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
489	Special Services and Studies by the Bureau of the Census; Amendments to Age Search Procedures	0607-AA24

Bureau of the Census—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
490	Reporting Value on Shipper's Export Declaration for Inland Freight and Insurance Charges	0607-AA29
491	Reporting the Value of Repairs and Replacement Parts on the Shipper's Export Declaration	0607-AA30
492	Notation of the Shipper's Export Declaration Filing Exemption Statement on Manifest Documents	0607-AA31
493	Mandatory Automated Export System (AES) Filing for All Items on the Commerce Control List (CCL) and the United States Munitions List (USML)	0607-AA34

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Bureau of the Census—Completed Actions

Sequence Number	Title	Regulation Identification Number
494	Furnishing Personal Census Data From Census of Population Schedules; General Requirements	0607-AA25
495	Furnishing Personal Census Data From Census of Population Schedules; General Requirements	0607-AA26
496	Special Services and Studies by the Bureau of the Census; Fee Structure for Age Search and Citizenship Information	0607-AA27

General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
497	Uniform Administrative Requirement for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofits and Commercial Organizations	0605-AA09

General Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
498	Public Information, Freedom of Information and Privacy	0605-AA14
499	Governmentwide Debarment and Suspension (Nonprocurement)	0605-AA16

International Trade Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
500	Import of Certain Worsted Wool Fabric: Implementation of Tariff Rate Quote Established Under Title V of the Trade and Development Act of 2000	0625-AA58

International Trade Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
501	Procedures for Conducting Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders	0625-AA51
502	Export Trade Certificates of Review (15 CFR 325)	0625-AA52
503	Proposed Changes in the Insular Possessions Watch, Watch Movement and Jewelry Program	0625-AA57

Bureau of Export Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
504	Removal of Licensing Exemption for Exports and Reexports of Missile Technology-Controlled Items Destined to Canada	0694-AC48

Bureau of Export Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
505	SNAP: Simplified Network Application Process	0694-AC20

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Bureau of Export Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
506	Offsets in Military Exports	0694-AC27

Bureau of Export Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
507	Chemical Weapons Convention Regulations	0694-AB06
508	Revisions to the Export Administration Regulations; Additions to the Entity List	0694-AB60
509	Revisions to the Export Administration Regulations; Country Group E:1; License Exception TMP	0694-AB76
510	Exports and Reexports of Explosive Detection Systems; Expansion of Foreign Policy Controls	0694-AB87
511	Export Administration Regulations: Support Documentation	0694-AC04
512	Exports and Reexports to Sudan	0694-AC05
513	Anti-Terrorism Controls on Iraq	0694-AC06
514	Revisions to the North Korean Embargo Policy	0694-AC10
515	Expansion of License Exception GOV; Exports and Reexports to International Organizations	0694-AC15
516	De Minimis Expansion of Eligibility: U.S. Origin Software Incorporated Into Foreign Made Retail Commodities	0694-AC17
517	Revisions to the Export Administration Regulations Related to the Missile Technology Control Regime (MTCR)	0694-AC22
518	Revision to the Export Administration Regulations: Replacement Licenses	0694-AC23
519	Revisions and Clarifications to the Export Administration Regulations	0694-AC24
520	Entity List: Additions and Revisions	0694-AC28
521	Crime Control Items: Revisions to the Commerce Control List	0694-AC31
522	License Exception AVS: Cuba, Libya, Serbia	0694-AC33
523	Clarifications to Part 753: Special Comprehensive License Requirements	0694-AC34
524	Chemical Weapons Convention: Revisions to the Export Administration Regulations	0694-AC35
525	Exports of Agricultural Commodities, Medicines and Medical Devices	0694-AC37
526	Entity List: Removal of Two Russian Entities	0694-AC40
527	Implementation of the Wassenaar Arrangement List of Dual-Use Items Revisiorfs: Computers; and Revisions to License Exception CTP	0694-AC42
528	Revisions and Clarifications to the Commerce Control List; Chemical and Biological Weapons Controls; Australia Group	0694-AC43
529	Implementation of the Wassenaar Arrangement List of Dual-Use Items: Revisions to Categories 1, 2, 3, 4, 5, 6, 7 and 9 of the Commerce Control List and Revisons to Reporting Requirements	0694-AC44
530	Exports to Afghanistan (the Taliban) and Liberia: Imposition of Foreign Policy Controls	0694-AC45
531	Addition and Revision of Missile Projects in the Export Administration Regulations	0694-AC46
532	Revision, Suspension, or Prohibition of Use of "No License Required" Provisions	0694-AC47
533	Licensing Jurisdiction for "Space Qualified" Items	0694-AC49
534	Export Administration Regulations Entity List: Removal of Indian and Pakistani Entities, and Revision in License Policy.	0694-AC50

Bureau of Export Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
535	Transfer of Dual-Use Items From U.S. Munitions List to the Commerce Control List	0694-AA52
536	Administration of State Log Exports Ban	0694-AB25
537	Change the Commerce Control List To Revise Controls on Communication Intercepting Devices (Export Commerce Control Number ECCN 5A980)	0694-AB41
538	Clarification of License Exception GFT (Humanitarian Donations)	0694-AB49
539	Exports of Technology and Software; Release of Technology or Source Code to Foreign Nationals in the United States	0694-AB59
540	India and Pakistan Sanctions	0694-AB73
541	Expansion of License Exception CIV Eligibility for "Microprocessors" Controlled by ECCN 3A001	0694-AB90
542	Export of Technology and Software Through Electronic Transmissions, Downloads, and Programmed Onto Hardware	0694-AB97
543	Short Supply Controls: Crude Oil Exports	0694-AC25

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Bureau of Export Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
544	Revisions to Encryption Items	0694-AC32

Bureau of Export Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
545	Libya: Expansion of Foreign Policy Controls	0694-AB28
546	Revisions to Commerce Control List: Addition of Technology and Software Controls for Certain Crime Control Commodities	0694-AB53
547	De Minimis Exclusion for Technology and Software	0694-AB62
548	Definition Harmonization	0694-AC03
549	License Exception CTP and PRC End-User Certificates	0694-AC12

National Institute of Standards & Technology—Completed Actions

Sequence Number	Title	Regulation Identification Number
550	National Voluntary Laboratory Accreditation Program	0693-AB50

National Oceanic and Atmospheric Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
551	Taking Marine Mammals Incidental to Rocket Launches From the Kodiak Launch Complex, Kodiak Island, Alaska	0648-AP62

National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
552	Fishery Management Plan for Tilefish	0648-AF87
553	Amendment 4 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands	0648-AG87
554	Amendments to the Observer Program - Amendment 47 to the FMP for BSAI Groundfish and Amendment 47 to the FMP for GOA Groundfish	0648-AI69
555	Regulatory Amendment To Establish Permit and Reporting Requirements for Pelagic Troll and Handline Vessels Fishing Off Pacific Remote Islands of the United States	0648-AJ06
556	Amend the Foreign Fishing Regulations To Implement the Provisions of a Pacific Insular Area Fishery Agreement	0648-AJ60
557	Establish Central Registry for Limited Access System Permits	0648-AJ77
558	Regulatory Amendment To Develop a C. Bairdi Vessel Incentive Program	0648-AK08
559	Regulatory Amendment To Allocate Pacific Halibut to the Charter Boat Fleet	0648-AK17
560	Regulatory Amendment To Require Mandatory Observer Coverage in the At-Sea Processing Sector of the Whiting Fishery	0648-AK26
561	Amendment 54 to FMP for Groundfish Fishery of Bering Sea and Aleutian Islands Area and Amendment 54 to FMP for Groundfish of Gulf of Alaska	0648-AK70
562	Adjustment of Management Program: Bottomfish Fisheries in the Hawaiian Islands	0648-AK82
563	Revise Exempted Fishing Regulations To Specify Compensatory Fishing Under Exempted Fishing	0648-AK84
564	Regulatory Amendment To Fund Purchase of Limited Entry Trawl Permits To Reduce Excess Capacity in Pacific Coast Groundfish Fleet	0648-AL66
565	Adjustment of Management Program: Crustacean Fisheries in the Western Pacific	0648-AL67
566	Regulatory Amendment To Allocate Lingcod and Bocaccio Rockfish Between Commercial and Recreational Groundfish Fisheries	0648-AL69

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National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
567	Fishery Management Plan for Calico Scallop Fishery in the South Atlantic Region (FMP)	0648-AL78
568	Comprehensive Amendment Addressing Sustainable Fisheries Act Requirements Regarding Overfishing, Bycatch, Fishing Communities and Provisions for Fishery Management Plans for the Caribbean	0648-AL86
569	Crab Community Development Quota Reserves	0648-AL92
570	Regulatory Amendment To Reinstate 6000 Pound Trip Limit of Halibut in Area Northeast of the Bering Sea	0648-AL97
571	Amendment 6 - Definition of Overfishing for Salmon Fisheries Off Alaska	0648-AL98
572	Fishery Management Plan Amendment To Revise CDQ Regulations	0648-AM07
573	Amendment 10 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP)	0648-AM23
574	Enhanced Measures To Mitigate Seabird Bycatch in the Alaska Longline Fisheries	0648-AM30
575	Alaska Groundfish Fishery Management Plan Amendment To Revise Improved Retention/Improved Utilization Program	0648-AM39
576	Amendment 67 to the FMP for the Groundfish Fishery of the Bering Sea and the Aleutian Islands area	0648-AM40
577	Regulatory Amendment To Change the Regulations Implementing the North Pacific Observer Program	0648-AM44
578	Amendment 53 to the Groundfish Fisheries of the Gulf of Alaska Fishery Management Plan	0648-AM51
579	Framework Regulatory Amendment for the Atlantic Highly Migratory Species (HMS) Fisheries	0648-AM91
580	Amendment 62 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area and Amendment 62 to the FMP for the Groundfish of the Gulf of Alaska	0648-AM94
581	Implementation of Western Pacific Coral Reef Ecosystem Fishery Management Plan (FMP)	0648-AM97
582	Adjustment of Management Program: Bottomfish Fisheries in the Western Pacific	0648-AM98
583	Atlantic Highly Migratory Species Fisheries; Management of the Atlantic Blue Marlin and White Marlin Recreational Fisheries	0648-AN06
584	Amendment 7 to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic FMP	0648-AN08
585	Amendment 18 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AN09
586	Amendment 7 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico	0648-AN10
587	Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan	0648-AN12
588	Amendment 10 to the Atlantic Sea Scallop Fishery Management Plan	0648-AN16
589	Amendment 13 to the Northeast Multispecies Fishery Management Plan	0648-AN17
590	Deep-Sea Red Crab Fishery Management Plan	0648-AN68
591	Regulatory Amendment To Prevent or Mitigate the Take of Sea Turtles in the Western Pacific Pelagic Fisheries	0648-AN75
592	Amendment 9 to the Fishery Management Plan Amendment for the Pelagic Fisheries of the Western Pacific Region	0648-AN76
593	Generic Amendment Addressing the Establishment of the Tortugas Marine Reserves Under the Fishery Management Plans of the Gulf of Mexico	0648-AN83
594	Regulatory Amendment Modifying the Gulf of Mexico BRD Protocol Under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP)	0648-AN84
595	Regulatory Amendment Modifying the South Atlantic BRD Testing and Certification Protocol	0648-AN86
596	Fishery Management Plan for Sargassum Habitat of the South Atlantic (FMP)	0648-AN87
597	Amendment 3 to the Fishery Management Plan for the Golden Crab Fishery Off the Southern Atlantic States (FMP)	0648-AO23
598	Adjustment of Management Program: Precious Coral Fisheries in the Hawaiian Islands	0648-AO47
599	Amendment 11 to Fishery Management Plan for Shrimp Fishery of Gulf of Mexico (FMP)	0648-AO51
600	Amendment 14 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan	0648-AO55
601	Regulatory Amendment To Address Inaccuracies in Current Northeast Fisheries Regulations	0648-AO57
602	Amendments to FMPs for Gulf of Mexico Reef Fish and Gulf of Mexico and South Atlantic Coastal Migratory Pelagic Resources To Limit Entry Into Gulf of Mexico Recreational-for-Hire Fisheries	0648-AO62
603	Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic, Caribbean, and Gulf of Mexico (FMP)	0648-AO63
604	Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna Incidental Catch	0648-AO75
605	Atlantic Highly Migratory Species; Exempted Fishing Permits Procedures	0648-AO79
606	Vessel Monitoring System to the Pollock, Pacific Cod, and Atka Mackerel Groundfish Fisheries in the BSAI and GOA	0648-AO81
607	Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries for Fishing Year 2002	0648-AO91
608	Atlantic Highly Migratory Species; Swordfish Quotas and Fishing Areas	0648-AO93
609	Regulatory Amendment Under the Fishery Management Plan for Gulf of Mexico Reef Fish (FMP) To Establish a Red Snapper Stock Rebuilding Plan and To Set Red Snapper Overfishing Targets and Thresholds	0648-AP02
610	Amendment 13 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region	0648-AP03
611	Specifications for the Summer Flounder, Scup, and Black Sea Bass Fisheries for Fishing Year 2002	0648-AP06
612	Specifications for the Spiny Dogfish Fishery for Fishing Year 2002	0648-AP07

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National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

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613	Specifications for the Atlantic Mackerel, Squid, and Butterfish Fisheries for Fishing Year 2002	0648-AP08
614	Specifications for the Atlantic Surf Clam and Ocean Quahog Fisheries for Fishing Year 2002	0648-AP09
615	Annual Framework Adjustment for the Monkfish Fishery Management Plan for Fishing Year 2002	0648-AP11
616	Framework Adjustment 2 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries	0648-AP12
617	American Lobster Fishery; Revisions to Lobster Trap Limits, Conservation Equivalancy in New Hampshire Waters, and Clarification of Lobster Management Boundaries per Addendum 1	0648-AP15
618	American Lobster; Modify Management Measures, Historical Participation	0648-AP18
619	Fishing Capacity Reduction Program for the Crab Species Covered by the Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs	0648-AP25
620	Extension of Implementation Date of the Year 4 Default Management Measures for Small-Mesh Multispecies (Whiting, Red Hake and Offshore Hake)	0648-AP32
621	Regulatory Amendment to Implement Permit Stacking in the Limited Entry Fixed Gear Sablefish Fishery in 2002 and Beyond	0648-AP38
622	Regulatory Amendment To Allow Experimental Setnet Sablefish Landings to Qualify Limited Entry Sablefish Endorsement Holders for Tier Assignment in the West Coast Primary Sablefish Fishery	0648-AP39
623	Amendment 5 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region	0648-AP41
624	Implementation of Fishery Management Plan for Highly Migratory Species Fisheries Off the West Coast	0648-AP42
625	Framework 1 to the Atlantic Herring Fishery Management Plan	0648-AP44
626	Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches at Vandenberg Air Force Base, CA	0648-AP47
627	Atlantic Highly Migratory Species; Pelagic Longline Fishery; Sea Turtle Protection Measures	0648-AP49
628	Regulatory Amendment Under the Coastal Migratory Pelagics Fishery Management Plan	0648-AP50
629	Amendment 2 to the Fishery Management Plan for the Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands	0648-AP51
630	Adjustment of Management Program: Bottomfish Fisheries in the Western Pacific	0648-AP53
631	Atlantic Surfclam and Ocean Quahog Fisheries; Amendment 13	0648-AP57
632	Atlantic Bluefish Fishery; Specifications for Fishing Year 2002	0648-AP59
633	Atlantic Mackerel, Squid, and Butterfish Fisheries; Amendment 9	0648-AP60
634	Rulemaking to Implement a Vessel Monitoring System under the South Pacific Tuna Act	0648-AP61
635	Sea Turtle Monitoring and Conservation Measures for Nonshrimp Fisheries	0648-AE54
636	Issuance of Permits for Marine Mammal Photography	0648-AH31
637	Proposed Guidelines for Defining Serious Injury; Request for Comments	0648-AL44
638	Section 4(d) of ESA Protective Regulations for Johnson's Seagrass, a Threatened Species	0648-AL59
639	North Atlantic Whale Protection	0648-AM85
640	Swimming or Recreational Interaction With Wild Population of Marine Mammals	0648-AN43
641	Sea Turtle Conservation Regulations; Shrimp Fishery	0648-AN62
642	Rule for Gear Modifications to the Atlantic Large Whale Take Reduction Plan	0648-AN88
643	Designated Critical Habitat: Proposed Critical Habitat for Northern California Steelhead	0648-AO04
644	Captive Steller Sea Lions	0648-AO61
645	Endangered and Threatened Species; Take of Four Threatened Evolutionarily Significant Units of West Coast Salmon	0648-AP17
646	Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations	0648-AP48
647	Revision of Overflight Regulations	0648-AI91
648	Interagency Consultation for the National Marine Sanctuary Program	0648-AL06
649	Natural Resource Damage Assessment Under the Oil Pollution Act of 1990	0648-AM80

National Oceanic and Atmospheric Administration—Final Rule Stage

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650	Guidelines for the Description, Identification, Conservation, and Enhancement of Essential Fish Habitat	0648-AJ30
651	Regulatory Amendment To Update Regulations Governing the Operation of Regional Fishery Management Councils	0648-AJ82
652	Adjustment of the Management Program for Precious Corals Fisheries in the Western Pacific	0648-AK23
653	Proposed Highly Migratory Species Process	0648-AK40

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National Oceanic and Atmospheric Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
654	Regulatory Amendment To Prohibit Fishing by Vessels Over 50 Feet From Fishing for Pelagic Management Unit Species Within 50 Nautical Miles of American Samoa	0648-AL41
655	Steller Sea Lion Conservation Measures for the BSAI and GOA Pollock Fisheries	0648-AM32
656	Prohibit Use of Set Net Gear To Harvest Groundfish in Certain Portions of the Exclusive Economic Zone Waters Seaward of California	0648-AN03
657	Resubmission of Sustainable Fisheries Act Amendment Crustaceans, Bottomfish, and Pelagics Regarding Overfishing Definitions	0648-AN79
658	Revisions to Recordkeeping and Reporting Requirements for 2001	0648-AO20
659	Regulatory Amendment to Modify the Management Program for the Western Pacific Pelagic Fisheries to Mitigate the Take of Seabirds	0648-AO35
660	2001 Quotas for Purse Seine Fisheries in the Eastern Pacific	0648-AO48
661	Pacific Coast Groundfish Fishery; Announcement of the 2002 Groundfish Fishery Specifications and Management Measures	0648-AO69
662	Steller Sea Lion Protection Measures for Groundfish Fisheries Off Alaska; Reasonable and Prudent Alternative Under November 30 Biological Opinion on Alaska Groundfish Fisheries	0648-AO82
663	Harvesting Restrictions for the Dolphin and Wahoo Fishery in the Atlantic Exclusive Economic Zone (EEZ)	0648-AO83
664	Announcement of the Optimum Yield and Harvest Limit for Pacific Sardines	0648-AP00
665	Framework 36 to the Northeast Multispecies Fishery Management Plan	0648-AP05
666	Implementation of the Shark Finning Prohibition Act	0648-AP21
667	Western Pacific Pelagics Fisheries; Hawaii-Based Pelagic Longline Restrictions and Seasonal Area Closure, Sea Turtle and Sea Bird Mitigation Measures	0648-AP24
668	Status Review of Gulf of Maine/Bay of Fundy Population of Harbor Porpoise Under the ESA	0648-AP33
669	Eligibility Criteria and Definitions for Western Pacific Community Development Programs and Western Pacific Demonstration Projects	0648-AP36
670	Annual Specifications for the Atlantic Herring Fishery for Fishing Year 2002	0648-AP37
671	Announcement of the Optimum Yield and Harvest Limit for Pacific Mackerel	0648-AP43
672	Annual Adjustment Measures for the Northeast Multispecies Fishery for Fishing Year 2002	0648-AP45
673	Framework Adjustment for the Northeast Multispecies (Whiting) Fishery	0648-AP46
674	2002-2003 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California	0648-AP52
675	Resubmission of Sustainable Fisheries Act Amendment Bottomfish, Crustacean, and Pelagics Regarding Bycatch Provisions	0648-AP54
676	Resubmission of Sustainable Fisheries Act Amendment Bottomfish, Crustaceans, and Pelagics Regarding Fishing Communities	0648-AP55
677	Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework 3	0648-AP56
678	Interagency Policy on the Prescription of Fishways Under Section 18 of the Federal Power Act	0648-AO70
679	Policy for Review of Mandatory Conditions Developed by the Departments of the Interior and Commerce in the Context of Hydropower Licensing	0648-AO84
680	Establish Guidelines for Nonlethally Deterring Marine Mammals From Endangering Personal Safety or Damaging Public or Private Property	0648-AH19
681	General Authorization for Scientific Research Involving Level B Harassment	0648-AH20
682	Provide Regulations for Permits for Capture, Transport, Import and Export of Protected Species for Public Display, and for Maintaining a Captive Marine Mammal Inventory	0648-AH26
683	Implementation of 1997 MMPA Amendments Affecting Yellowfin Tuna Purse Seine Fishing in the Eastern Tropical Pacific	0648-AI85
684	Pacific Offshore Cetacean Take Reduction Plan	0648-AL70
685	Draft Policy for Evaluation of Conservation Efforts in Making Listing Decisions	0648-AL91
686	Rulemaking for the Incidental Taking of Marine Mammals During Worldwide Deployment of the U.S. Navy's Low Frequency Active Sonar	0648-AM62
687	Sea Turtle Conservation Regulations; Summer Flounder Fishery	0648-AM89
688	Sea Turtle Conservation Regulations; Fisheries	0648-AN64
689	Taking of the Cook Inlet, Alaska, Stock of Beluga Whales by Alaska Natives	0648-AO16

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National Oceanic and Atmospheric Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
690	General Provisions for Domestic Fisheries—Standard Definitions	0648-AG46
691	Regulatory Amendment To Allocate Pacific Halibut to the Halibut Subsistence Fishery	0648-AK16
692	Fishing Capacity Reduction Program	0648-AK76
693	Halibut Bycatch Accounting for the Yellowfin Sole	0648-AM76
694	Amendment 1 to the Atlantic Herring Fishery Management Plan	0648-AN19
695	Amendment 14 to the Northeast Multispecies Fishery Management Plan	0648-AN20
696	Regulatory Amendment To Clarify the Alaska Groundfish Individual Fishing Quota Program Appeals Regulations	0648-AN21
697	Amendment 63 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area and Amendment 63 to the FMP for the Groundfish of the Gulf of Alaska	0648-AN24
698	Amendments to Alaska FMPs for Groundfish, Crab, and Scallop To Reduce Halibut Mortality	0648-AN26
699	Amendments 61/61 for BSAI and GOA Groundfish; Amendment 13 for Commercial King and Tanner Crab; and Amendment 8 for Alaska Scallop Fishery	0648-AN55
700	Distribute U.S. Allocations From the Northwest Atlantic Fisheries Organization	0648-AN60
701	Fishery Management Plan for Northeast Skate	0648-AO10
702	American Fisheries Act Regulations	0648-AO14
703	Multispecies Community Development Quota Program Bycatch Accounting	0648-AO26
704	Continue Closure of Two Mid-Atlantic Areas to Scallop Fishing	0648-AO71
705	Implement Management Measures for the Pacific Cod Fisheries in the Gulf of Alaska, the Bering Sea, and the Aleutian Islands	0648-AO73
706	Atlantic Highly Migratory Species; Pelagic Longline Fishery; Gear Requirements	0648-AO76
707	Observer Program Electronic Reporting Requirements	0648-AO90
708	Amendment 65 to BSAI Groundfish, Amendment 65 to GOA Groundfish, Amendment 12 for Commercial King and Tanner Crab of BSAI, and Amendment 7 for Scallop Fishery Off Alaska	0648-AO98
709	Establish Measures to Address the Imminent Rapid Increase in Landings and to Halt Overfishing in the Atlantic Red Crab Fishery	0648-AP10
710	Sea Turtle Conservation Regulations; Fishery Activities (TEDs)	0648-AP16
711	Extension Atlantic Highly Migratory Species (HMS); Permit Category Deadline	0648-AP29
712	Spiny Dogfish Fishery; Amendment 1	0648-AP58
713	Amendment of Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238	0648-AG80
714	Amend Regulations Governing the Taking and Importing of Marine Mammals	0648-AH83
715	Endangered and Threatened Species: Take of Threatened Southern Oregon/Northern California Coast Evolutionarily Significant Unit (ESU) Coho Salmon	0648-AJ91
716	Designate Critical Habitat; Designation of Marine Areas as Critical Habitat for Pacific Salmon	0648-AN89
717	Endangered and Threatened Species: Permit Exemptions	0648-AO37
718	Endangered and Threatened Species: Permits: Suspension Criteria and Procedures and Revocation Criteria and Procedures	0648-AO59
719	Florida Keys National Marine Sanctuary; Tortugas Ecological Reserve	0648-AO18
720	Installing and Maintaining Commercial Submarine Cables in National Marine Sanctuaries	0648-AO36
721	Revisions to Anchoring Prohibitions in Flower Garden Banks National Marine Sanctuary	0648-AP22
722	Regional Marine Research Program	0648-AF20

National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
723	Consolidate the Rules for Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic and Stone Crab Fishery of the Gulf of Mexico With 50 CFR 622	0648-AJ28
724	Implementation of Data Collection and Reporting Requirements to the Fishery Management Plan for the American Lobster Fishery	0648-AJ75
725	Amendment to Portions of Individual Fishing Quota Program Regulations	0648-AK50
726	Amendment 14 to the Pacific Coast Groundfish Fishery Management Plan	0648-AL50
727	Amendment 14 to the Pacific Coast Salmon Plan	0648-AL51
728	Regulatory Amendment To Implement a Limited Access Program That Requires Species Endorsements To Participate in Fisheries Targeting Certain Groundfish Species	0648-AL65
729	Rule To Prohibit Fishing and Anchoring of Fishing Vessels in the EEZ Seaward of Navassa Island	0648-AL93
730	Amendments to Alaska Groundfish and Crab FMPs To Revise the License Limitation Program	0648-AL95

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National Oceanic and Atmospheric Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
731	Adjustment of Management Program; Crustacean Fisheries of the Hawaiian Islands; Temporary Closure of the Northwestern Hawaiian Islands Lobster Fishery	0648-AM26
732	BSAI FMP Amendment 66 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area	0648-AM72
733	Implementation of Western Pacific Community Development Program	0648-AM96
734	Recordkeeping and Reporting Requirement Revisions to the Alaska Groundfish Fisheries Alaska Commercial Operator's Annual Report (ACOAR)	0648-AN01
735	Regulatory Amendment To Redefine Vessel Length Overall	0648-AN22
736	Regulatory Amendment To Implement an At-Sea Observer Program on Limited Entry and Open Access Catcher Vessels in the Pacific Coast Groundfish Fishery	0648-AN27
737	Atlantic Highly Migratory Species; Spotter Aircraft	0648-AN54
738	Atlantic Highly Migratory Species; Gulf of Mexico Closed Area	0648-AN63
739	Annual Specifications for Fishing Year 2001 for Atlantic Herring	0648-AN65
740	Specifications for the Atlantic Bluefish Fishery for Fishing Year 2001	0648-AN66
741	Specifications for the Atlantic Mackerel, Squid, and Butterfish Fisheries for Fishing Year 2001	0648-AN69
742	Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries for Fishing Year 2001	0648-AN70
743	Specifications for the Summer Flounder, Scup, and Black Sea Bass Fisheries for the Fishing Year 2001	0648-AN71
744	Atlantic Highly Migratory Species; Atlantic Tunas Reporting and Allocations	0648-AN97
745	Atlantic Coast Horseshoe Crab EEZ Regulations	0648-AO02
746	Annual Framework Adjustment (Framework 14) for the Atlantic Sea Scallop Fishery Management Plan for Fishing Year 2001	0648-AO07
747	Amendment 13 to the Pacific Coast Groundfish Fishery Management Plan — Bycatch Reduction/Reporting, Framework Changes to Annual Management Measures Process	0648-AO41
748	Regulating Bycatch in the Purse Seine Fishery and Establishing a Vessel Register in the Eastern Pacific Ocean	0648-AO42
749	2001-2002 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California	0648-AO49
750	Specifications for Fishing Year 2001 for the Spiny Dogfish Fishery	0648-AO53
751	Omnibus Framework to FMPs for Summer Flounder, Scup, Black Sea Bass, Atlantic Mackerel, Loligo Squid, Illex Squid, Butterfish, and Atlantic Bluefish Fisheries	0648-AO54
752	Modify American Lobster Regulations Under Atlantic Coastal Fisheries Cooperative Management Act	0648-AO58
753	Amendment 9 to the Coastal Pelagic Species Fishery Management Plan	0648-AO64
754	Atlantic Highly Migratory Species; Reducing Possibility of Serious Injury and Mortality of Right Whales by Operation of the Southeast Atlantic Shark Gillnet Fishery	0648-AO65
755	Atlantic Highly Migratory Species; Large and Small Coastal Sharks; Commercial Quota Adjustment	0648-AO85
756	Revision to the Restriction on Frequency of Limited Entry Permit Transfers and Other Permit Updates in the Pacific Coast Groundfish Fishery	0648-AO87
757	Notice of Determination of Noncompliance; Declaration of a Moratorium on Fishing for American Lobster in Rhode Island State Waters	0648-AO88
758	Magnuson-Stevens Fishery Conservation and Management Act; Amendment of Foreign Fishing Regulations	0648-AO89
759	Framework Adjustment 2 to the Fishery Management Plan for The Summer Flounder, Scup, and Black Sea Bass Fisheries	0648-AO92
760	Atlantic Highly Migratory Species; Trade Measures and Monitoring	0648-AO94
761	Atlantic Highly Migratory Species; 2001 Bluefin Tuna Quota Specifications and Effort Controls	0648-AO96
762	Establish a Control Date for Permit Ownership; Sablefish Fishery; Amendment 14 to Pacific Coast Groundfish FMP	0648-AO97
763	Announcement of the Optimum Yield and Harvest Limit for Pacific Mackerel	0648-AP01
764	Regulatory Amendment Under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) Regarding Use of Powerheads	0648-AP04
765	Atlantic Highly Migratory Species; Pelagic Longline Management	0648-AP13
766	Sea Turtle Conservation Regulations; Fisheries Activities	0648-AP14
767	Establishment of Control Date for Pelagic Offshore Handline Fishery Around the Hawaiian Islands	0648-AP19
768	Atlantic Highly Migratory Species (HMS); NOAA Information Collection Requirements; Regulatory Adjustments	0648-AP23
769	Regulatory Framework To Allow Incidental Halibut Retention in the West Coast Primary Sablefish Fishery	0648-AP25
770	Fisheries of the Northeastern United States; Black Sea Bass Fishery; Notice of Control Date	0648-AP28
771	Deep Sea Red Crab Fishery	0648-AP30
772	Atlantic Highly Migratory Species; Pelagic Longline Fishery; Sea Turtle Protection Measures	0648-AP31
773	Imports of Illegally Harvested Patagonian or Antarctic Toothfish Seized by Foreign Law Enforcement Authorities and Placed Into International Commerce	0648-AP35
774	Endangered and Threatened Species: Listing Status for White Abalone	0648-AM90
775	Regulations Governing the Approach to Humpback Whales in Alaska	0648-AN29

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National Oceanic and Atmospheric Administration—Completed Actions (Continued)

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776	Taking of Marine Mammals Incidental to Shock Testing the USS Winston Churchill Off the U.S. Atlantic Coast	0648-AN59
777	List of Fisheries for 2001	0648-AN92
778	Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Operation of a Low Frequency Sound Source by the North Pacific Acoustic Laboratory	0648-AO24
779	Marine Mammals; Subsistence Taking of Northern Fur Seals; Harvest Estimates	0648-AO40
780	Endangered and Threatened Species; Threatened Status for One Evolutionarily Significant Unit of Steelhead in California and Oregon	0648-AO86
781	Sea Turtle Conservation Regulation; Fisheries Activities	0648-AP20
782	Taking of Marine Mammals Incidental to Commercial Fishing Operatons; Temporary Area and Gear Restrictions	0648-AP27
783	Sea Turtle Conservation Regulations; Fishery Activities	0648-AP34
784	Sea Turtle Conservation Regulations; Fishery Activities	0648-AP40
785	Operations of Motorized Personal Watercraft in the Gulf of the Farallones National Marine Sanctuary	0648-AK01
786	Coastal Zone Management Act Consistency Regulations	0648-AM88

National Telecommunications and Information Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
787	Improvement of Technical Management of Internet Names and Addresses	0660-AA11
788	Mandatory Reimbursement Rules for Relocation of Federal Spectrum	0660-AA14

Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
789	Requirements for Registration To Practice Before the PTO in Patent Cases	0651-AA93
790	Technical and Nontechnical Requirements for Registration To Practice Before the PTO in Patent Cases, Disciplinary Rules, and Investigations and Disciplinary Proceedings	0651-AA95
791	Patent and Trademark Office Acquisition Regulations	0651-AB11
792	Preliminary Draft Convention on Jurisdiction and Foreign Judgments and Civil and Commercial Matters	0651-AB25
793	Rules of Practice Before the Board of Patent Appeals and Interferences in Appeals Under 35 U.S.C. 134	0651-AB27
794	Elimination of the Practice of Including Copies of U.S. Patent Documents With Office Actions	0651-AB40
795	Requirements for Claiming the Benefit of Prior-Filed Applications Under Eighteen-Month Publication of Patent Applications	0651-AB41

Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
796	Elimination of Continued Prosecution Application Practice as to Utility and Plant	0651-AB37
797	Trademark Classification; Changes To Comport With Obligations to Nice Agreement Concerning Intl Classification of Goods and Services for Purposes of Registration of Marks of June 15, 1957, as Revised	0651-AB42

Patent and Trademark Office—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
798	Complaints Regarding Invention Promoters	0651-AB12
799	Correspondence Filed in the Patent and Trademark Office	0651-AB17
800	Study of Alternative Fee Structures	0651-AB24

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Patent and Trademark Office—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
B01	Notification of Required and Optional Search Criteria for Computer-Implemented Business Method Patent Applications in Class 705 and Request for Comments	0651-AB26
B02	Protection of Audiovisual Performances To Be Considered by the WIPO Diplomatic Conference	0651-AB28
B03	Standard for Declaring a Patent Interference	0651-AB29
B04	Establishment of Database Containing Official Insignia of Federally Recognized Native American Tribes	0651-AB30
B05	Electronic Submission of Application for Trademark Registration and Other Documents	0651-AB31
B06	Changes in Rules of Practice for Patent Interferences and Related Proceedings	0651-AB32
B07	Changes to the Time Period For Making Any Necessary Deposits of Biological Materials	0651-AB33
B08	Development of Plan To Remove Patent and Trademark Classified Paper Files From Public Search Facilities	0651-AB34
B09	Revision of Patent Corporation Treaty Application Procedure	0651-AB35
B10	Changes to Representation of Others Before the U.S. Patent and Trademark Office	0651-AB38
B11	Revision of the Time Limit for National Stage Commencement in the United States for Patent Cooperation Treaty Applications	0651-AB44
B12	Madrid Protocol Implementation Act Rules Change	0651-AB45
B13	Patent and Trademark Office Acquisition Regulation	0651-AB46

Patent and Trademark Office—Completed Actions

Sequence Number	Title	Regulation Identification Number
B14	Revision of Patent and Trademark Fees for Fiscal Year 2003	0651-AB01
B15	Legal Processes	0651-AB22
B16	International Effort To Harmonize Substantive Requirements of Patent Laws	0651-AB36
B17	Notice of Electronic Products Available From the Information Products Division, Chief Information Officer, U.S. Patent and Trademark Office	0651-AB39

Technology Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
B18	Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements	0692-AA14

Technology Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
B19	Acquisition and Protection of Foreign Rights in Inventions	0692-AA15
B20	Amendment to Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements	0692-AA16

Technology Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
B21	Licensing of Government-Owned Inventions	0692-AA17

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Department of Commerce (DOC)
Office of the Secretary (OS)

Final Rule Stage

480. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 15 CFR 8; 15 CFR 8b; 15 CFR 8c; 15 CFR 20

Legal Deadline: None

Abstract: The Department of Commerce proposes to make amendments to its regulations implementing Title VI of the Civil Rights Act of 1964 (Title VI), Section 504 of The Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of "program or activity" and "program" into the Department's title VI, section 504, and Age Discrimination Act regulations. The Department's proposed regulation will be published as part of a joint notice of proposed rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Lawrence N. Self, Acting Director, Office of Civil Rights, Department of Commerce, Office of the Secretary, HCHB Room 6010, 14th and Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-0625
Fax: 202 482-5375

RIN: 0690–AA30

481. • EMPLOYEE RESPONSIBILITIES AND CONDUCT; REMOVAL OF OBSOLETE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 7301; 5 USC 7353; 26 USC 7214(b); EO 12731; ...

CFR Citation: 15 CFR

Legal Deadline: None

Abstract: The Department of Commerce issues this final rule to remove obsolete sectors of the Commerce and Foreign Trade Regulation concerning the policies and procedures relating to employee responsibilities and conduct.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Douglas Ligor, Attorney Advisor, Department of Commerce, Office of the Secretary, HCHB Room 5898C, 14th & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-0127
Fax: 202 482-2998

RIN: 0690–AA32

Department of Commerce (DOC)
Office of the Secretary (OS)

Long-Term Actions

482. STANDARDS OF ETHICAL CONDUCT—DEPARTMENT OF COMMERCE SUPPLEMENTAL REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Maggi
Phone: 202 482-5384

RIN: 0690–AA23

Department of Commerce (DOC)
Bureau of Economic Analysis (BEA)

Prerule Stage

483. • TRANSACTIONS OF U.S. AFFILIATE, EXCEPT U.S. BANKING AFFILIATE, WITH FOREIGN PARENT (BE-605) AND TRANSACTIONS OF U.S. BANKING AFFILIATE WITH FOREIGN PARENT (BE-605)

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 806.15 on the BE-605, Transactions of U.S. Affiliated, Except a U.S. Banking Affiliate, with Foreign Parent and BE-605 Bank, Transactions of U.S. Banking Affiliate with Foreign Parent, to bring the survey into conformity with the BE-12, Benchmark Survey of Foreign Direct Investment in the United States—2002.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

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DOC—BEA **Prerule Stage**

Action	Date	FR Cite
NPRM Comment Period End	10/00/02	
Final Action	11/00/02	
Final Action Effective	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, BE-50, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 606-9807
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA45

Department of Commerce (DOC)
Bureau of Economic Analysis (BEA) **Proposed Rule Stage**

484. BENCHMARK SURVEY OF SELECTED SERVICES TRANSACTIONS WITH UNAFFILIATED FOREIGN PERSONS—2001

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR part 801 to provide for the conduct of the BE-20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons—2001. The existing rule covers a similar survey for 1996 which has been completed and which the new survey will update.

Timetable:

Action	Date	FR Cite
NPRM	08/28/01	66 FR 45219
NPRM Comment Period End	10/29/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, BE-50, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 606-9807
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA41

485. • INTERNATIONAL SERVICES SURVEYS: BE-48, ANNUAL SURVEY OF REINSURANCE AND OTHER INSURANCE TRANSACTIONS BY U.S. INSURANCE COMPANIES WITH FOREIGN PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 801 to raise the reporting threshold to $2 million, from $1 million, of covered transactions for the BE-48, Annual Survey of Reinsurance and other Insurance Transactions by U.S. Insurance Companies with Foreign Persons.

Timetable:

Action	Date	FR Cite
NPRM	09/05/01	66 FR 46407
NPRM Comment Period End	11/05/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, BE-50, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 606-9807
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA42

486. • ANNUAL SURVEY OF SELECTED SERVICES TRANSACTIONS WITH UNAFFILIATED FOREIGN PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 801 to raise the threshold for reporting on the BE-22, Annual Survey of Selected Services Transactions with Unaffiliated Foreign Persons, and to bring the survey into conformity with the BE-20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
NPRM Comment Period End	08/00/02	
Final Action	10/00/02	
Final Action Effective	11/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, BE-50, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 606-9807
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA43

487. • BENCHMARK SURVEY OF FOREIGN DIRECT INVESTMENT IN THE UNITED STATES—2002

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 806.17 to provide for the conduct of the BE-12, Benchmark Survey of Foreign Direct Investment in the United States—2002,

DOC—BEA **Proposed Rule Stage**

as required in the International Investment and Trade in Services Survey Act, 22 USC 3101 to 3108 (see especially section 4(b) of the Act). The existing rule covers a similar survey for 1997 which has been completed and which the new survey will update.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
NPRM Comment Period End	08/00/02	
Final Action	09/00/02	
Final Action Effective	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, BE-50, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 606-9807
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA44

488. • INITIAL REPORT ON FOREIGN PERSON'S DIRECT OR INDIRECT ACQUISITION, ESTABLISHMENT, OR PURCHASE OF OPERATING ASSETS, OR U.S. BUSINESS ENTERPRISE, INCLUDING REAL ESTATE

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 806.15 on the BE-13, Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of the Operating Assets, of U.S. Business Enterprise, Including Real Estate and Form BE-14, Report by a U.S. Person Who Assists or Intervenes in the Acquisition of a U.S. Business by, or Who Enters Into a Joint Venture with, a Foreign Person, to bring the survey into conformity with the BE-12, Benchmark Survey of Foreign Direct Investment in the United States—2002.

Timetable:

Action	Date	FR Cite
NPRM	07/00/02	
NRPM Comment Period End	09/00/02	
Final Action	10/00/02	
Final Action Effective	11/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, BE-50, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 606-9807
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA46

Department of Commerce (DOC)
Bureau of the Census (CENSUS) **Proposed Rule Stage**

489. SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS; AMENDMENTS TO AGE SEARCH PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 15 USC 1526; 13 USC 8

CFR Citation: 15 CFR 50.1(d); 15 CFR 80.1(c); 15 CFR 80.1(g); 15 CFR 50.5

Legal Deadline: None

Abstract: Chapter 1, part 50.1(d) should be amended to read as follows: If a search is unsuccessful and additional information for a further search is requested by the Bureau, such information must be received within 90 days of the request or the case will be considered closed. Additional information received after 90 days must be accompanied by a new fee and will be considered a new request. Chapter 1, part 80.1(c): Change the address from Pittsburg, Kansas 66762 to Jeffersonville, Indiana 47131. Chapter 1, part 80.1(g): The language may be clarified by changing it to read: Census information will not be furnished to another person unless the person to whom the information relates authorizes such release in the space provided on the Form BC-600. Chapter 1, part 50.5: The note following the chart of the fee structure can be eliminated since we have not had a fee increase since February 1993.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA24

Department of Commerce (DOC)
Bureau of the Census (CENSUS)

Final Rule Stage

490. REPORTING VALUE ON SHIPPER'S EXPORT DECLARATION FOR INLAND FREIGHT AND INSURANCE CHARGES

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301; 13 USC 302

CFR Citation: 15 CFR 30.7(q)

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations to clarify the provisions for reporting the value of merchandise on the Shipper's Export Declaration (SED) when the inland and freight and insurance charges are not known. Current provisions define the value to be reported on the SED as the value at the U.S. port of export including inland freight and insurance charges. In situations where inland freight and insurance charges are not known the Census Bureau will require that the exporter add 3 percent of the value of the commodity to the value to determine the total value to be reported on the SED.

Timetable:

Action	Date	FR Cite
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Dale Dickerson, Regulations, Outreach, & Education Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Room 3148, FB-3, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA29

491. REPORTING THE VALUE OF REPAIRS AND REPLACEMENT PARTS ON THE SHIPPER'S EXPORT DECLARATION

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301; 13 USC 302

CFR Citation: 15 CFR 30.30(c)

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations to clarify provisions for reporting the value of exports that were previously imported for repairs or alterations, and the value of replacement parts. This amendment will clarify provisions for reporting the cost of repairs and/or alterations and reporting the value of replacement parts on the Shipper's Export Declaration.

Timetable:

Action	Date	FR Cite
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Dale Dickerson, Regulations, Outreach, & Education Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Room 3148, FB-3, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA30

492. NOTATION OF THE SHIPPER'S EXPORT DECLARATION FILING EXEMPTION STATEMENT ON MANIFEST DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301; 13 USC 302

CFR Citation: 15 CFR 30.50

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations (FTSR) to clarify provisions for notating the Shipper's Export Declaration (SED) filing exemption statement on the bill of lading, air waybill, or other loading document for carrier use, in all cases, when an SED is not required to be filed. This amendment will require the exporter to reference the specific FTSR section, explaining the exemption criteria, whenever an SED is not required to be filed with the statement "No SED Required, FTSR 30.XX" on the manifest document.

Timetable:

Action	Date	FR Cite
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Dale Dickerson, Regulations, Outreach, & Education Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Room 3148, FB-3, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA31

493. • MANDATORY AUTOMATED EXPORT SYSTEM (AES) FILING FOR ALL ITEMS ON THE COMMERCE CONTROL LIST (CCL) AND THE UNITED STATES MUNITIONS LIST (USML)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-113, title XII

CFR Citation: 15 CFR 30

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations to specify the Requirement for the Mandatory Automated Export System (AES) filing for all items on the Department of Commerce's Commerce Control List (CCL) and the United States Munitions List (USML) of the Department of State. The AES is an electronic method by which export information can be transmitted. This Amendment will specify the provisions and the responsibilities of parties exporting commodities identified on the CCL and USML via AES.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Dale Dickerson, Regulations, Outreach, & Education Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Room 3148, FB-3, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA34

Department of Commerce (DOC)
Bureau of the Census (CENSUS)

Completed Actions

494. FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES; GENERAL REQUIREMENTS

Priority: Info./Admin./Other

CFR Citation: 15 CFR 80.1(c)

Completed:

Reason	Date	FR Cite
Withdrawn	08/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA25

495. FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES; GENERAL REQUIREMENTS

Priority: Info./Admin./Other

CFR Citation: 15 CFR 80.1(g)

Completed:

Reason	Date	FR Cite
Withdrawn	08/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA26

496. SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS; FEE STRUCTURE FOR AGE SEARCH AND CITIZENSHIP INFORMATION

Priority: Info./Admin./Other

CFR Citation: 15 CFR 50.5

Completed:

Reason	Date	FR Cite
Withdrawn	08/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA27

Department of Commerce (DOC)
General Administration (ADMIN)

Final Rule Stage

497. UNIFORM ADMINISTRATIVE REQUIREMENT FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFITS AND COMMERCIAL ORGANIZATIONS

Priority: Other Significant

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 14

Legal Deadline: None

Abstract: On November 29, 1993, Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements, with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations" was published in the Federal Register (58 FR 62992). In the published revised circular, OMB specified as "required action" that Federal agencies responsible for awarding and administering grants and other agreements to recipients described therein, shall adopt the language of the Circular unless other provisions are required by Federal Statute or exceptions or deviations are approved by OMB. This interim final rule adopts the provisions of the Circular and its language to the maximum extent feasible with minor language changes made to make the language apply specifically to the DOC and its operating units.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/04/98	63 FR 47155
Interim Final Rule Effective	10/01/98	
Interim Final Rule Comment Period End	11/03/98	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth L. Dorfman, Acting Director, Office of Executive Assistance Management, Department of Commerce, Office of Administration, 14th Street and Constitution Avenue NW, Washington, DC 20230
Phone: 202 482-4115

RIN: 0605–AA09

Department of Commerce (DOC)
General Administration (ADMIN)

Long-Term Actions

498. PUBLIC INFORMATION, FREEDOM OF INFORMATION AND PRIVACY

Priority: Other Significant

CFR Citation: 15 CFR 4; 15 CFR 4a; 15 CFR 4b

Timetable:

Action	Date	FR Cite
NPRM	05/31/00	65 FR 34606
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Andy McCready
Phone: 202 482-8044

RIN: 0605–AA14

499. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 26

Timetable:

Action	Date	FR Cite
Final Action	03/00/03	

DOC—ADMIN

Long-Term Actions

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Robert Kugelman
Phone: 202 482-4115
Fax: 202 482-3270
RIN: 0605–AA16

Department of Commerce (DOC)
International Trade Administration (ITA)

Final Rule Stage

500. IMPORT OF CERTAIN WORSTED WOOL FABRIC: IMPLEMENTATION OF TARIFF RATE QUOTE ESTABLISHED UNDER TITLE V OF THE TRADE AND DEVELOPMENT ACT OF 2000

Priority: Other Significant

Legal Authority: PL 106-200, sec 501-504; Title V of the Trade and Development Act of 2000; Presidential Proclamation No. 7383 (December 1, 2000)

CFR Citation: 15 CFR 335; 15 CFR 340

Legal Deadline: None

Abstract: On January 22, 2001, the Department of Commerce issued interim regulations implementing section 501(e) and section 504(b) of the Trade and Development Act of 2000 (the Act). Section 501(e) requires the President to fairly allocate tariff rate quotas on the import of certain worsted wool fabrics, tariff rate quotas which were established by sections 501(a) and 501(b) of the Act. Section 504(b) authorizes the President to modify the limitations on worsted wool fabric imports under the tariff rate quotas. The President has delegated to the Secretary of Commerce the authority to allocate the quantity of imports under the tariff rate quotas and to determine whether the limitations on the quantity of imports under the tariff rate quotas should be modified. Final regulations will be issued after the period for notice and comment has expired.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/22/01	66 FR 6459
Interim Final Rule Comment Period End	03/23/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Sergio Botero, Industry Economist, Department of Commerce, International Trade Administration, HCHB Room 3119, Office of Textiles and Apparel, 14th and Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-4058
Fax: 202 482-0667

RIN: 0625–AA58

Department of Commerce (DOC)
International Trade Administration (ITA)

Long-Term Actions

501. PROCEDURES FOR CONDUCTING FIVE-YEAR (SUNSET) REVIEWS OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 351

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/98	63 FR 13516
Interim Final Rule Effective	03/20/98	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stacy Ettinger
Phone: 202 482-4618

RIN: 0625–AA51

502. EXPORT TRADE CERTIFICATES OF REVIEW (15 CFR 325)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 325

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Vanessa Bachman
Phone: 202 482-5131
Fax: 202 482-1790

RIN: 0625–AA52

503. PROPOSED CHANGES IN THE INSULAR POSSESSIONS WATCH, WATCH MOVEMENT AND JEWELRY PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 303

Timetable:

Action	Date	FR Cite
NPRM	05/23/01	66 FR 28404
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Faye Robinson
Phone: 202 482-3526

RIN: 0625–AA57

Department of Commerce (DOC)
Bureau of Export Administration (BXA)

Prerule Stage

504. • REMOVAL OF LICENSING EXEMPTION FOR EXPORTS AND REEXPORTS OF MISSILE TECHNOLOGY-CONTROLLED ITEMS DESTINED TO CANADA

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 10 USC 7420; 10 USC 7430(e); 18 USC 2501 et seq; ...

CFR Citation: 15 CFR 738; 15 CFR 742

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is reviewing the existing license exemption contained within the Export Administration Regulations (EAR) for the export of missile technology (MT)-controlled items to Canada to determine whether the exemption should be rescinded, because of the recommendations contained in the Government Accounting Office Report entitled: "Export Controls: Regulatory Change Needed to Comply with Missile Technology Licensing Requirements" (GA-01-530). BXA is seeking comments on how removing the existing licensing exemption for MT-controlled exports to Canada would affect industry and more specifically the exporting community.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No.

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AC48

Department of Commerce (DOC)
Bureau of Export Administration (BXA)

Proposed Rule Stage

505. SNAP: SIMPLIFIED NETWORK APPLICATION PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app. 2401 et seq; 50 USC 1701 et seq; EO 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; EO 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; ...

CFR Citation: 15 CFR 748

Legal Deadline: None

Abstract: This proposed rule amends the Export Administration Regulations by incorporating information about access, usage, and requirements of the Simplified Network Application Process (SNAP). SNAP is an Internet access system that allows an authorized applicant to submit export or reexport applications, high performance computer notifications, commodity classification requests, and reporting forms to the Bureau of Export Administration (BXA) via the Internet.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AC20

506. OFFSETS IN MILITARY EXPORTS

Priority: Other Significant

Legal Authority: PL 102-558, title I, sec 124; 106 Stat. 4207; 50 USC app 2099

CFR Citation: 15 CFR 701

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) proposes to amend the National Security Industrial Base Regulations to refine current defense offset reporting requirements. These changes will allow BXA to more accurately address the impact of offsets on the defense preparedness, industrial competitiveness, employment, and trade of the United States. These changes will also further standardize the data collection framework, thus reducing the burden of reporting requirements on U.S. firms.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Brad Botwin, Director, Trade Analysis Division, Department of Commerce, Bureau of Export Administration, Room 3878, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-4060
Fax: 202 482-5650

RIN: 0694–AC27

Department of Commerce (DOC)
Bureau of Export Administration (BXA)

Final Rule Stage

507. CHEMICAL WEAPONS CONVENTION REGULATIONS

Priority: Other Significant

Legal Authority: 50 USC app. 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222

CFR Citation: 15 CFR 710 et seq

Legal Deadline: None

Abstract: The final rule will make effective the proposed rule published July 21, 1999. The purpose of the regulation is to implement the provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention) and the Chemical Weapons Convention Implementation Act of 1998, requiring private facilities to submit information on certain activities involving toxic chemicals, and to make certain private facilities subject to periodic inspection by the Organization for the Prohibition of Chemical Weapons (OPCW), the international organization created to administer the Convention and to monitor compliance by States Parties.

Timetable:

Action	Date	FR Cite
NPRM	07/21/99	64 FR 39193
Interim Final Rule	12/30/99	64 FR 73744
Correction	06/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB06

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508. REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS; ADDITIONS TO THE ENTITY LIST

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 744

Legal Deadline: None

Abstract: The Export Administration Regulations (EAR) provide that the Bureau of Export Administration may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contains a list of such entities. This rule adds entities to the Entity List, and requires a license for all exports and reexports of all items subject to the EAR.

Timetable:

Action	Date	FR Cite
Addition to Entity List	05/16/97	62 FR 26922
Addition to Entity List	06/30/97	62 FR 35334
Addition to Entity List	06/30/97	62 FR 35335
Revision to Entity List	10/01/97	62 FR 51369
Addition to Entity List - Russian Entities	07/29/98	63 FR 40363
Revisions and Additions to Entity List	05/14/01	66 FR 24284
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB60

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509. REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS; COUNTRY GROUP E:1; LICENSE EXCEPTION TMP

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This interim final rule amends the Export Administration Regulations (EAR) by revising Country Group E:1 to include all terrorist-supporting countries, and replacing references to Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria with Country Group E:1 where appropriate. This rule also expands the scope of eligible countries for License Exception TMP for exhibition and demonstration to all countries except the new Country Group E:1, with certain restrictions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/10/01	66 FR 42108
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB76

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510. EXPORTS AND REEXPORTS OF EXPLOSIVE DETECTION SYSTEMS; EXPANSION OF FOREIGN POLICY CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations by expanding the current scope of control of explosive detection systems controlled by Export Control Classification Number (ECCN) 2A993 to include all types of systems that detect the presence of explosives or explosive residue. This rule also expands the control of these explosive detection systems to Iraq. In addition, this rule establishes a new licensing requirement on the export and reexport of software designed or modified for the development, production, or use of explosive detection systems to Iran, Iraq, Sudan, and Syria for antiterrorism reasons.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

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DOC—BXA

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheila Quarterman, Export Policy Analyst, Department of Commerce, Bureau of Export Administration
Phone: 202 482-2440
Email: squarter@bxa.doc.gov

RIN: 0694–AB87

511. EXPORT ADMINISTRATION REGULATIONS: SUPPORT DOCUMENTATION

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 748

Legal Deadline: None

Abstract: This rule clarifies and organizes the sections in the Export Administration Regulations that pertain to support documentation requirements for license applications.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
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RIN: 0694–AC04

512. EXPORTS AND REEXPORTS TO SUDAN

Priority: Other Significant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations (EAR) to reflect the imposition of economic sanctions on Sudan, as a result of the issuance of Executive Order 13067 on November 3, 1997. The Executive Order delegates implementation responsibility to the Department of the Treasury's Office of Foreign Assets Control, including authority for exports and certain reexports. In addition, this rule makes editorial revisions to the EAR relating to embargoes and anti-terrorism controls.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheila Quarterman, Export Policy Analyst, Department of Commerce, Bureau of Export Administration
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Email: squarter@bxa.doc.gov

RIN: 0694–AC05

513. ANTI-TERRORISM CONTROLS ON IRAQ

Priority: Other Significant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations to impose foreign policy controls on Iraq for anti-terrorism reasons.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sheila Quarterman, Export Policy Analyst, Department of Commerce, Bureau of Export Administration
Phone: 202 482-2440
Email: squarter@bxa.doc.gov

RIN: 0694–AC06

514. REVISIONS TO THE NORTH KOREAN EMBARGO POLICY

Priority: Other Significant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: On September 17, 1999, the President announced his decision to ease sanctions against North Korea. Under this new policy, most items subject to the EAR designated as EAR99 may be exported or reexported to North Korea without a license. In addition, BXA is changing the licensing policy for certain items on the Commerce Control List (CCL) destined to North Korean civil end-users from a policy of denial to case-by-case review. This regulation adds certain categories of items to the CCL for which a license will be required to North Korea. This easing of sanctions does not affect U.S. anti-terrorism or nonproliferation export controls on North Korea.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/19/00	65 FR 38148
Correction	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sheila Quarterman, Export Policy Analyst, Department of Commerce, Bureau of Export Administration
Phone: 202 482-2440
Email: squarter@bxa.doc.gov

RIN: 0694–AC10

515. EXPANSION OF LICENSE EXCEPTION GOV; EXPORTS AND REEXPORTS TO INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

DOC—BXA **Final Rule Stage**

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration maintains the Export Administration Regulations. This rule expands availability of License Exception GOV to allow certain exports and reexports to the North Atlantic Treaty Organization and to the United Nations for those organizations' official use.

Timetable:

Action	Date	FR Cite
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sheila Quarterman, Export Policy Analyst, Department of Commerce, Bureau of Export Administration
Phone: 202 482-2440
Email: squarter@bxa.doc.gov

RIN: 0694–AC15

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516. DE MINIMIS EXPANSION OF ELIGIBILITY: U.S. ORIGIN SOFTWARE INCORPORATED INTO FOREIGN MADE RETAIL COMMODITIES

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations (EAR) by allowing foriegn-made retail commodities that incorporate a de minimis, i.e., low percentage, value of controlled U.S. origin software to be considered "not subject" to the Export Administration Regulations (EAR) after: a one time report has been submitted to the Bureau of Export Administration (BXA); 30 days have elapse since receipt of the report by BXA; and BXA has not informed the submitter of the report of any objections to the report. The review will determine if the foriegn-made commodity meets the criteria for "retail" and verify the calculations of the de minimis value.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
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Email: scook@bxa.doc.gov

RIN: 0694–AC17

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517. REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS RELATED TO THE MISSILE TECHNOLOGY CONTROL REGIME (MTCR)

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 740; 15 CFR 774; 15 CFR 742

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is amending the xport Administration Regulations (EAR) to amend the Commerce Control List to reflect the reformatted Missile Technology Control Regime (MTCR) Annex of October 14, 1999 (Noordwijk/TEM). This final rule also amends Country Group A:2, MTCR, to add the Czech Republic, Korea (Republic of), Poland, Turkey, and Ukraine.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
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RIN: 0694–AC22

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518. REVISION TO THE EXPORT ADMINISTRATION REGULATIONS: REPLACEMENT LICENSES

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 748 to 750

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) licenses items subject to the Export Administration Regulations (EAR) that are classified on the Commerce Control List (CCL) and require a license. The information on a license application is deemed to be a continuing representation of the existing facts or circumstances of the transaction. If a license application is under consideration by BXA, any material or substantive change in the terms of the order, or in the facts relating to the transaction, must be promptly reported to BXA. However, if a license has been issued and information submitted on the original license application has changed or will change, and these changes are not specifically excepted by the EAR, then the licensee must apply for either a new license or a replacement license to obtain prior authorization for these changes before exporting or reexporting. This rule clarifies the instructions for applying for a replacement license.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0694–AC23

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519. REVISIONS AND CLARIFICATIONS TO THE EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; E.O. 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 730; 15 CFR 732; 15 CFR 734; 15 CFR 736; 15 CFR 740; 15 CFR 746; 15 CFR 748; 15 CFR 752; 15 CFR 758; 15 CFR 772; 15 CFR 774

Legal Deadline: None

Abstract: This rule amends the EAR by making certain revisions and clarifications and, in some cases, inserts material inadvertently omitted from previous rules.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
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RIN: 0694–AC24

520. ENTITY LIST: ADDITIONS AND REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 730 to 799

Legal Deadline: None

Abstract: The Export Administration Regulations (EAR) provide that the Bureau of Export Administration (BXA) may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contain a list of such entities called the Entity List. This rule makes additions, modifications and corrections to the Entity List.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
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RIN: 0694–AC28

521. CRIME CONTROL ITEMS: REVISIONS TO THE COMMERCE CONTROL LIST

Priority: Other Significant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 730 to 799

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations by expanding controls on restraint devices, such as handcuffs, and on discharge type arms, such as stun guns or shock batons. In addition, this rule modifies the license review policy to include consideration of whether there is civil disorder in the country or region or whether there is evidence that the government of the importing country may have violated internationally recognized human rights.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/13/00	65 FR 55177
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheila Quarterman, Export Policy Analyst, Department of Commerce, Bureau of Export Administration
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RIN: 0694–AC31

522. LICENSE EXCEPTION AVS: CUBA, LIBYA, SERBIA

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 740

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by allowing equipment, spares, and plane stores under the provisions of License Exception AVS on foreign registered aircraft subject to the EAR that are temporarily reexported to Libya and Serbia, and on U.S. or foreign registered aircraft subject to the EAR that are temporarily exported or reexported to Cuba.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Avenue NW., Washington, DC 20230
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RIN: 0694–AC33

523. CLARIFICATIONS TO PART 753: SPECIAL COMPREHENSIVE LICENSE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration administers the Special Comprehensive License (SCL) program to provide an effective export control mechanism for exporters who routinely ship to multiple end-users. This rule amends the SCL provisions of the Export Administration Regulations

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(EAR) to conform with changes in the SCL licensing process and to provide SCL applicants and consignees with additional guidance on how to fill out the forms required to submit a license application or to request changes in their SCLs. This rule also creates two new elements for SCL Internal Control Programs. These new elements require the establishment of procedures for screening customers and items to ensure that SCL transactions conform with the antiboycott provisions of the EAR and with EAR provisions concerning entities involved in weapons of mass destruction activities.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Avenue NW., Washington, DC 20230
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RIN: 0694–AC34

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524. CHEMICAL WEAPONS CONVENTION: REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) administers export controls on certain toxic chemicals and precursors that are listed in the "Schedules of Chemicals" contained within the "Annex on Chemicals" to the "Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction," also known as the Chemical Weapons Convention (CWC). This rule amends the CWC provisions in the Export Administration Regulations (EAR) to clarify BXA licensing requirements and policies for chemicals and precursors controlled for CW reasons.

Timetable:

Action	Date	FR Cite
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Avenue NW., Washington, DC 20230
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RIN: 0694–AC35

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525. EXPORTS OF AGRICULTURAL COMMODITIES, MEDICINES AND MEDICAL DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations (EAR) to implement certain provisions of the Trade Sanctions Reform and Export Enhancement Act (TSRA) of 2000. The TSRA requires the President to terminate existing U.S. unilateral agricultural and medical sanctions and also provides that the export of agricultural commodities, medicines and medical devices to designated terrorist countries be made in accordance with the licensing regime described in that Act. The Department of Commerce is implementing TSRA as it relates to exports of agricultural commodities to Cuba. This rule establishes License Exception Agricultural Commodities (AGR) to permit exports and reexports to Cuba of agricultural commodities that are not specifically identified on the Commerce Control List (CCL) and are classified as EAR99. The Department of the Treasury's Office of Foreign Assets Control (OFAC) is implementing TSRA as it relates to exports to Iran, Libya, and Sudan of agricultural commodities, medicines and medical devices that are not specifically identified on the CCL and are classified as EAR99.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/12/01	66 FR 36676
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0694–AC37

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526. ENTITY LIST: REMOVAL OF TWO RUSSIAN ENTITIES

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq 42 USC 2139a; E.O. 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 744

Legal Deadline: None

Abstract: The Export Administration Regulations (EAR) provide that the Bureau of Export Administration (BXA) may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contain a list of such entities called the Entity List. This rule removes two Russian entities from the Entity List: INOR Scientific Center, Moscow, Russia; and Polyus Scientific Production Association, 3 Ulitsa Vvedenskogo, 117342, Moscow.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0694–AC40

527. IMPLEMENTATION OF THE WASSENAAR ARRANGEMENT LIST OF DUAL-USE ITEMS REVISIONS: COMPUTERS; AND REVISIONS TO LICENSE EXCEPTION CTP

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 740; 15 CFR 742; 15 CFR 743; 15 CFR 774; 15 CFR 748

Legal Deadline: None

Abstract: On December 1, 2000, the Wassenaar Arrangement agreed to implement several changes in its List of Dual-Use Goods and Technologies. This final rule revises the CCL to implement certain recently agreed to changes in Category 4 (Computers) of the Wassenaar List of Dual-Use Goods and Technologies, specifically in the area of computers. These changes are being implemented to reflect rapid technological advances and controllability factors. Additional changes in other categories of the Wassenaar Dual-Use List will be implemented in the CCL in a supplemental regulation.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0694–AC42

528. REVISIONS AND CLARIFICATIONS TO THE COMMERCE CONTROL LIST; CHEMICAL AND BIOLOGICAL WEAPONS CONTROLS; AUSTRALIA GROUP

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to implement certain agreements reached at the October 2000 plenary meeting of the Australia Group Chemical and Biological Weapons Nonproliferation Control Regime. The Australia Group (AG), a multilateral form consisting of 30 participating countries (including the United States), maintains export controls on a list of chemicals, biological agents, and related equipment and technology that could be used in the production of chemical or biological weapons.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AC43

529. IMPLEMENTATION OF THE WASSENAAR ARRANGEMENT LIST OF DUAL-USE ITEMS: REVISIONS TO CATEGORIES 1, 2, 3, 4, 5, 6, 7 AND 9 OF THE COMMERCE CONTROL LIST AND REVISONS TO REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which identifies those items subject to Department of Commerce export controls. This final rule revises certain entries controlled for national security reasons in Categories 1, 2, 3, 4, 5, 6, 7 and 9 to conform with changes in the Wassenaar Arrangement's List of Dual-Use Goods and Technologies maintained and agreed to by governments participating in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement). The Wassenaar Arrangement controls strategic items with the objective of improving regional and international security and stability.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0694–AC44

530. • EXPORTS TO AFGHANISTAN (THE TALIBAN) AND LIBERIA: IMPOSITION OF FOREIGN POLICY CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations (EAR) to implement United Nations Security Council (UNSC) Resolutions 1333 of

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December 19, 2000 and 1343 of March 7, 2001, which mandated embargoes on the sale or supply of arms-related items, including technical assistance and training, to the Taliban and to Liberia, respectively. These steps taken by the Bureau of Export Administration (BXA) supplement controls implemented by the Department of State on exports of defense articles and services to the Taliban and to Liberia under the International Traffic in Arms Regulations. BXA already requires a license for the export and reexport to Afghanistan and Liberia of most of the items subject to the EAR that fall within the scope of the UNSC mandated ban on arms-related items (e.g., items controlled for regional stability and crime control reasons).

Timetable:

Action	Date	FR Cite
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sheila Quarterman, Export Policy Analyst, Department of Commerce, Bureau of Export Administration
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RIN: 0694–AC45

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531. • ADDITION AND REVISION OF MISSILE PROJECTS IN THE EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 740

Legal Deadline: None

Abstract: This interim rule amends the Export Administration Regulations (EAR) by revising the footnote to Country Group D, which includes missile projects of concern. This rule updates the list of missile projects by adding missile projects and revising others by expanding the scope to missile project series. This rule will increase the amount of applications for license submitted to the Bureau of Export Administration, while curtailing the availability of goods and technology that could contribute to missile proliferation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
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RIN: 0694–AC46

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532. • REVISION, SUSPENSION, OR PROHIBITION OF USE OF "NO LICENSE REQUIRED" PROVISIONS

Priority: Routine and Frequent

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 732; 15 CFR 738; 15 CFR 758

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to add provisions that alert the public that BXA has the authority to revise, suspend, or prohibit the use of "No License Required" provisions. These provisions were unintentionally not included in the newly "reformed" EAR during the "regulatory reform" exercise in March of 1996.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
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RIN: 0694–AC47

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533. • LICENSING JURISDICTION FOR "SPACE QUALIFIED" ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; EO 12002; EO 12058; EO 12214; EO 12938; EO 13026; EO 13222; ...

CFR Citation: 15 CFR 740; 15 CFR 774

Legal Deadline: None

Abstract: This interim final rule amends Export Administration Regulations(EAR) by revising Supplement No. 1 to part 774, the Commerce Control List (CCL) to clarify the licensing jurisdiction of certain "space qualified" items on the CCL. This rule also amends the EAR by removing certain "space qualified" items from License Exception eligibility in part 740 and the CCL.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
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RIN: 0694–AC49

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534. • EXPORT ADMINISTRATION REGULATIONS ENTITY LIST: REMOVAL OF INDIAN AND PAKISTANI ENTITIES, AND REVISION IN LICENSE POLICY.

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC 2401; 50 USC 1701; 22 USC 3201; 42 USC 2139a; PL 106-508

CFR Citation: 15 CFR 744; 15 CFR 742

Legal Deadline: None

Abstract: On November 18, 1998, the Bureau of Export Administration (BXA) published a rule in the Federal Register (63 FR 64322) that added certain Indian and Pakistani entities to the Entity List in the Export Administration Regulations (EAR). In addition, this rule lifts the sanctions imposed against

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India and Pakistan on November 19, 1998 (63 FR 64322). This rule also revises the license review policy for items classified as EAR99 (items that are subject to the EAR, but are not listed on the Commerce Control List) to a presumption of approval for all Indian and Pakistani listed entities, and revises the license review policy for items list on the Commerce Control List to case-by-case.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0694–AC50

Department of Commerce (DOC)
Bureau of Export Administration (BXA)

Long-Term Actions

535. TRANSFER OF DUAL-USE ITEMS FROM U.S. MUNITIONS LIST TO THE COMMERCE CONTROL LIST

Priority: Other Significant

CFR Citation: 15 CFR 774 Supplement No. 1

Timetable:

Action	Date	FR Cite
Transfer of Communications Satellites	10/23/92	57 FR 48312
Navigation and Avionics	06/23/93	58 FR 34211
Final Rule - Transfer of Commercial Communication Satellites	09/08/93	58 FR 47322
Transfer of Items From the USMI to the CCL; Imposition of Certain Foreign Policy Controls	10/26/93	58 FR 57549
Satellite Fuel	09/29/97	62 FR 50865
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brian Nilsson
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RIN: 0694–AA52

536. ADMINISTRATION OF STATE LOG EXPORTS BAN

Priority: Other Significant

CFR Citation: 15 CFR 754

Timetable:

Action	Date	FR Cite
ANPRM	06/07/95	60 FR 30030
ANPRM Comment Period End	07/07/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Willard Fisher
Phone: 202 482-2440

RIN: 0694–AB25

537. CHANGE THE COMMERCE CONTROL LIST TO REVISE CONTROLS ON COMMUNICATION INTERCEPTING DEVICES (EXPORT COMMERCE CONTROL NUMBER ECCN 5A980)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 799

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brian Nilsson
Phone: 202 482-4196

RIN: 0694–AB41

538. CLARIFICATION OF LICENSE EXCEPTION GFT (HUMANITARIAN DONATIONS)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 740

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0694–AB49

539. EXPORTS OF TECHNOLOGY AND SOFTWARE; RELEASE OF TECHNOLOGY OR SOURCE CODE TO FOREIGN NATIONALS IN THE UNITED STATES

Priority: Other Significant

CFR Citation: 15 CFR 730 to 799

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0694–AB59

540. INDIA AND PAKISTAN SANCTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Timetable:

Action	Date	FR Cite
Interim Final Rule - India and Pakistan Sanctions and Other Measures	11/19/98	63 FR 64322
Interim Final Rule - Correction to India and Pakistan Sanctions and Other Measures	11/27/98	63 FR 65352

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Long-Term Actions

Action	Date	FR Cite
Final Rule	03/17/00	65 FR 14444
Final Rule	07/26/00	65 FR 45842
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0694–AB73

541. EXPANSION OF LICENSE EXCEPTION CIV ELIGIBILITY FOR "MICROPROCESSORS" CONTROLLED BY ECCN 3A001

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/08/99	64 FR 36779
Interim Final Rule	11/26/99	64 FR 66372
Interim Final Rule	06/13/00	65 FR 37039
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0694–AB90

542. EXPORT OF TECHNOLOGY AND SOFTWARE THROUGH ELECTRONIC TRANSMISSIONS, DOWNLOADS, AND PROGRAMMED ONTO HARDWARE

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
ANPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0694–AB97

543. SHORT SUPPLY CONTROLS: CRUDE OIL EXPORTS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 750; 15 CFR 754

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Willard Fisher
Phone: 202 482-2440

RIN: 0694–AC25

544. REVISIONS TO ENCRYPTION ITEMS

Priority: Other Significant

CFR Citation: 15 CFR 730 to 799

Timetable:

Action	Date	FR Cite
Final Rule	10/19/00	65 FR 62600
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Brian Nilsson
Phone: 202 482-4196

RIN: 0694–AC32

Department of Commerce (DOC)
Bureau of Export Administration (BXA)

Completed Actions

545. LIBYA: EXPANSION OF FOREIGN POLICY CONTROLS

Priority: Other Significant

CFR Citation: 15 CFR 746

Completed:

Reason	Date	FR Cite
Withdrawn	07/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB28

546. REVISIONS TO COMMERCE CONTROL LIST: ADDITION OF TECHNOLOGY AND SOFTWARE CONTROLS FOR CERTAIN CRIME CONTROL COMMODITIES

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 774 Supplement No. 1

Completed:

Reason	Date	FR Cite
Withdrawn	07/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB53

547. DE MINIMIS EXCLUSION FOR TECHNOLOGY AND SOFTWARE

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 799

Completed:

Reason	Date	FR Cite
Withdrawn	07/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB62

548. DEFINITION HARMONIZATION

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 772

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DOC—BXA — **Completed Actions**

Completed:

Reason	Date	FR Cite
Interim Final Rule	07/16/01	66 FR 36909

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AC03

549. LICENSE EXCEPTION CTP AND PRC END-USER CERTIFICATES

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 799

Completed:

Reason	Date	FR Cite
Withdrawn	07/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer
Phone: 202 482-3856

RIN: 0694–AC12

Department of Commerce (DOC)
National Institute of Standards & Technology (NIST) — **Completed Actions**

550. NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 285

Completed:

Reason	Date	FR Cite
Final Action	05/30/01	66 FR 29219
Final Action Effective	06/29/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: David F. Alderman
Phone: 301 975-4016
Email: david.alderman@nist.gov

RIN: 0693–AB50

Department of Commerce (DOC)
National Oceanic and Atmospheric Administration (NOAA) — **Prerule Stage**

NATIONAL MARINE FISHERIES SERVICE

551. • TAKING MARINE MAMMALS INCIDENTAL TO ROCKET LAUNCHES FROM THE KODIAK LAUNCH COMPLEX, KODIAK ISLAND, ALASKA

Priority: Other Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NMFS has received a request from the Alaska Aerospace Development Corporation (AADC) for a Letter of Authorization (LOA) to take small numbers of marine mammals incidental to rocket launches from the Kodiak Launch Complex (KLC), Kodiak Island, Alaska. As a result of that request, NMFS is proposing regulations that would authorize the incidental taking of a small number of marine mammals. In order to issue such regulations, NMFS must determine that these takings will have a negligible impact on the affected species and stocks of marine mammals and will not have an unmitigable adverse impact on the availability of marine mammal species or stocks for subsistence uses.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	
ANPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Simona Perry Roberts, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Room 13727, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376
Email: simona.roberts@noaa.gov

RIN: 0648–AP62

Department of Commerce (DOC)
National Oceanic and Atmospheric Administration (NOAA) — **Proposed Rule Stage**

NATIONAL MARINE FISHERIES SERVICE

552. FISHERY MANAGEMENT PLAN FOR TILEFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This FMP would manage tilefish (Lopholatilus chamaeleonticeps) in the EEZ along the Atlantic Coast north of the Virginia/North Carolina border to rebuild the stock.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

DOC—NOAA

Proposed Rule Stage

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Federal

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AF87

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553. AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 3 would restrict the use of gillnets, fish traps, and other gear in the reef fish fishery in the Caribbean exclusive economic zone. Amendment 4 would address the possible need for permitting in the fish trap fishery.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AG87

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554. AMENDMENTS TO THE OBSERVER PROGRAM - AMENDMENT 47 TO THE FMP FOR BSAI GROUNDFISH AND AMENDMENT 47 TO THE FMP FOR GOA GROUNDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendments to FMP Amendment 47 to the Groundfish of the BSAI and FMP Amendment 47 to the Gulf of Alaska Groundfish to implement an observer program, replacing the interim Observer Program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AI69

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555. REGULATORY AMENDMENT TO ESTABLISH PERMIT AND REPORTING REQUIREMENTS FOR PELAGIC TROLL AND HANDLINE VESSELS FISHING OFF PACIFIC REMOTE ISLANDS OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action will establish NMFS permit/reporting requirements for pelagic troll and handline vessels fishing in waters off U.S. Pacific Island possessions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AJ08

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556. AMEND THE FOREIGN FISHING REGULATIONS TO IMPLEMENT THE PROVISIONS OF A PACIFIC INSULAR AREA FISHERY AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: Amend the foreign fishing regulations at 50 CFR part 600 subpart F to authorize foreign fishing under a Pacific Insular Area Fishery Agreement (PIAFA). Foreign fishing vessels fishing under a PIAFA would be authorized to fish in the EEZ around American Samoa, Guam, the Northern Mariana Islands and other U.S. insular areas in the Pacific. Prior to the negotiation of a PIAFA, American Samoa, Guam and the Northern Mariana Islands must develop a three-year Marine Conservation Plan (MCP) detailing the use of funds collected under a PIAFA. A MCP must be consistent with relevant Fishery Management Plans. The Magnuson-Stevens Act further provides that fees received by the Secretary for foreign fishing under a PIAFA for American Samoa, Guam, or the Northern Mariana Islands shall be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which the funds were collected.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric

DOC—NOAA

Proposed Rule Stage

Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AJ60

557. ESTABLISH CENTRAL REGISTRY FOR LIMITED ACCESS SYSTEM PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: Establishment of a central registry for limited access system permits as required by the Magnuson-Stevens Fishery Conservation and Management Act section 305(h).

Timetable:

Action	Date	FR Cite
ANPRM	05/07/97	62 FR 24897
ANPRM Comment Period End	08/05/97	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles L. Cooper, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2396
Email: charles.cooper@noaa.gov

RIN: 0648–AJ77

558. REGULATORY AMENDMENT TO DEVELOP A C. BAIRDI VESSEL INCENTIVE PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Develop a C. bairdi crab fishery vessel incentive program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK08

559. REGULATORY AMENDMENT TO ALLOCATE PACIFIC HALIBUT TO THE CHARTER BOAT FLEET

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 773c

CFR Citation: 50 CFR 300

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Establish measures to manage the halibut charter boat industry off Alaska.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK17

560. REGULATORY AMENDMENT TO REQUIRE MANDATORY OBSERVER COVERAGE IN THE AT-SEA PROCESSING SECTOR OF THE WHITING FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would require observer coverage on vessels in the at-sea processing sector of the whiting fishery.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AK26

561. AMENDMENT 54 TO FMP FOR GROUNDFISH FISHERY OF BERING SEA AND ALEUTIAN ISLANDS AREA AND AMENDMENT 54 TO FMP FOR GROUNDFISH OF GULF OF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: These FMP amendments would change sablefish use limits from percentages to quota share units; add a leasing provision to allow initial recipients of quota shares to lease 10 percent of their individual fishing quota pooled across all areas, with an option to restrict this allowance to the Bering Sea; and modify plan language to allow an individual who holds an initial allocation of quota share to hire a skipper to fish individual IFQ on a collectively owned vessel.

Timetable:

Action	Date	FR Cite
NPRM	10/12/01	66 FR 52090
NPRM Comment Period End	11/26/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

DOC—NOAA **Proposed Rule Stage**

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK70

562. ADJUSTMENT OF MANAGEMENT PROGRAM: BOTTOMFISH FISHERIES IN THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of NPRM comment period.

Abstract: This regulatory action would facilitate and enable adjustments to management measures governing bottomfish fisheries of the main and Northwestern Hawaiian Islands. Possible measures include a point system based on historical participation, a limited permit transfer process, or re lottery system.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AK82

563. REVISE EXEMPTED FISHING REGULATIONS TO SPECIFY COMPENSATORY FISHING UNDER EXEMPTED FISHING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: This action would revise current exempted fishing regulations to specifically authorize the use of an exempted fishing permit as the method of allowing the compensation of private vessels for their conduct of resource assessment. Specific methodology for vessel compensation would be developed on a fishery-by-fishery basis. The rule would also make other minor changes in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AK84

564. REGULATORY AMENDMENT TO FUND PURCHASE OF LIMITED ENTRY TRAWL PERMITS TO REDUCE EXCESS CAPACITY IN PACIFIC COAST GROUNDFISH FLEET

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of final rule comment period.

Abstract: Regulations would authorize Federal purchase of Pacific Coast groundfish limited entry trawl permits, under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act, "Fishing Capacity Reduction Program." Federal purchase of trawl permits would be considered a "loan" to the trawl fleet, which would be repaid by that fleet through a tax on groundfish landings by limited entry trawl vessels. The goal of this program would be to match effort within the fishery more closely with available resources.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AL66

565. ADJUSTMENT OF MANAGEMENT PROGRAM: CRUSTACEAN FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action, under an amendment to the Western Pacific Crustaceans FMP, would add the EEZ waters off the U.S. Pacific Island Possessions and Commonwealth of the Northern Mariana Islands as crustaceans management areas.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	03/60/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AL67

DOC—NOAA

Proposed Rule Stage

565. REGULATORY AMENDMENT TO ALLOCATE LINGCOD AND BOCACCIO ROCKFISH BETWEEN COMMERCIAL AND RECREATIONAL GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of interim final rule comment period.

Abstract: Regulations would set allocations of lingcod and bocaccio rockfish between the commercial and recreational fisheries for Pacific Coast groundfish.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AL69

567. FISHERY MANAGEMENT PLAN FOR CALICO SCALLOP FISHERY IN THE SOUTH ATLANTIC REGION (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The FMP could include the following measures: (1) Definitions of management unit, MSY, OY, and overfishing; (2) requirement for a vessel permit to harvest or possess calico scallops in or from the South Atlantic EEZ; (3) designation of essential fish habitat for calico scallops; (4) prohibition on harvest of calico scallops in the area bounded to the west by 80 degrees W. longitude, to the north by 28 degrees 30 minutes N. latitude, to the south by 27 degrees 30 minutes N. latitude, and to the east by the 100 fathom depth contour; and (5) requirement for use of transponders by calico scallop vessels.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL78

568. COMPREHENSIVE AMENDMENT ADDRESSING SUSTAINABLE FISHERIES ACT REQUIREMENTS REGARDING OVERFISHING, BYCATCH, FISHING COMMUNITIES AND PROVISIONS FOR FISHERY MANAGEMENT PLANS FOR THE CARIBBEAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This comprehensive amendment will amend the Caribbean Fishery Management Council's existing fishery management plans for queen conch, coral resources, spiny lobster, and reef fish to address the Sustainable Fisheries Act requirements regarding section 102 definitions (e.g., overfished, overfishing), bycatch provisions, fishery impact statements, effects on fishing communities, and preventing overfishing and rebuilding overfished stocks.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL86

569. CRAB COMMUNITY DEVELOPMENT QUOTA RESERVES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: Regulatory amendment to specify crab community development quota reserves by calendar year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL92

570. REGULATORY AMENDMENT TO REINSTATE 6000 POUND TRIP LIMIT OF HALIBUT IN AREA NORTHEAST OF THE BERING SEA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

DOC—NOAA

Proposed Rule Stage

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would reinstate a 6000 pound halibut trip limit in the halibut management area northeast of the Bering Sea.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL97

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571. AMENDMENT 6 - DEFINITION OF OVERFISHING FOR SALMON FISHERIES OFF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 6 to the Fishery Management Plan for salmon fisheries in the EEZ off Alaska would define overfishing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL98

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572. FISHERY MANAGEMENT PLAN AMENDMENT TO REVISE CDQ REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Revisions to the CDQ regulations that would include: overage/underage provisions, pooling, and removing species from CDQ; revise observer coverage requirements shoreside; crab CDQ regulations change to allow start in September crab management year instead of calendar year; change start date for CDQ trawl fisheries.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM07

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573. AMENDMENT 10 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 10 would extend the FMP requirements for using bycatch reduction devices in shrimp trawls in the EEZ from Cape San Blas, Florida, east and south to the boundary line (in South Florida) between the areas of jurisdiction of the Gulf of Mexico and South Atlantic Fishery Management Councils.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM23

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574. ENHANCED MEASURES TO MITIGATE SEABIRD BYCATCH IN THE ALASKA LONGLINE FISHERIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, One year from approval of overfishing definitions. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would enhance measures designed to mitigate seabird bycatch in the longline fisheries off Alaska.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802

DOC—NOAA

Proposed Rule Stage

Phone: 907 586-7228

RIN: 0648–AM30

575. ALASKA GROUNDFISH FISHERY MANAGEMENT PLAN AMENDMENT TO REVISE IMPROVED RETENTION/IMPROVED UTILIZATION PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Revise regulations implementing Improved Retention/Improved Utilization Program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM39

576. AMENDMENT 67 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND THE ALEUTIAN ISLANDS AREA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 67 will establish gear and Pacific cod species endorsements. This requires an additional species/gear endorsement on the License Limitation Program license of fishermen who wish to fish for Pacific cod with fixed gear.

Timetable:

Action	Date	FR Cite
NPRM	10/01/01	66 FR 49908
NPRM Comment Period End	11/15/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM40

577. REGULATORY AMENDMENT TO CHANGE THE REGULATIONS IMPLEMENTING THE NORTH PACIFIC OBSERVER PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This would change the regulations implementing the North Pacific Observer program, including authority to place NMFS personnel onboard fish or processing vessels, revised requirements for shoreside accommodations for observers, and revisions to observer coverage levels.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM44

578. AMENDMENT 53 TO THE GROUNDFISH FISHERIES OF THE GULF OF ALASKA FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This FMP amendment is to require full retention of demersal shelf rockfish to provide State of Alaska fishery managers an enhanced estimate of bycatch rates.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM51

579. FRAMEWORK REGULATORY AMENDMENT FOR THE ATLANTIC HIGHLY MIGRATORY SPECIES (HMS) FISHERIES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: Framework regulatory amendment to the HMS FMP will adjust gear/permitting/reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

DOC—NOAA

Proposed Rule Stage

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AM91

580. AMENDMENT 62 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA AND AMENDMENT 62 TO THE FMP FOR THE GROUNDFISH OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-277

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, January 30, 2000.

Abstract: Fishery Management Plan amendment to comply with the requirements of the American Fisheries Act by revising inshore/offshore directed pollock allocations and replacement requirements for eligible vessels.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM94

581. IMPLEMENTATION OF WESTERN PACIFIC CORAL REEF ECOSYSTEM FISHERY MANAGEMENT PLAN (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would implement the Western Pacific Coral Reef Ecosystem FMP. Possible initial management measures include permit and reporting requirements, framework procedures, gear restrictions, harvest limits/restrictions, marine protected areas, no anchoring zones, etc.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AM97

582. ADJUSTMENT OF MANAGEMENT PROGRAM: BOTTOMFISH FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would facilitate and enable adjustments to management measures for the bottomfish fisheries in Guam and American Samoa. Possible regulatory changes include closed areas, gear restrictions, seasons, permit and notification/reporting requirements, etc. Also, under an amendment to the FMP, the EEZ waters of the U.S. Pacific Island Possessions and Commonwealth of the Northern Mariana islands would be governed as bottomfish management areas.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AM98

583. ATLANTIC HIGHLY MIGRATORY SPECIES FISHERIES; MANAGEMENT OF THE ATLANTIC BLUE MARLIN AND WHITE MARLIN RECREATIONAL FISHERIES

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: The International Commission for the Conservation of Atlantic Tuna recommended that the United States limit annual recreational landings of Atlantic blue marlin and white marlin to 250 marlin, combined, for 2001 and 2002. NMFS may consider an adjustment of the minimum size, as well as management measure to enhance reporting of non-tournament landings to comply with the ICCAT framework provisions of Amendment 1 to the Atlantic Billfish Fishery Management Plan.

Timetable:

Action	Date	FR Cite
ANPRM	08/09/00	65 FR 48671
ANPRM Comment Period End	09/25/00	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable

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Proposed Rule Stage

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Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AN06

584. AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR THE SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC FMP

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 640

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 7 would address issues regarding the impacts of the FMP's tailing permit provisions on State spiny lobster conservation efforts.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN08

585. AMENDMENT 18 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 18 would address the need for improved conservation of grouper stocks in the Gulf of Mexico by establishing additional closed seasons and areas.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN09

586. AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR THE STONE CRAB FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 654

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 7 would adopt the relevant provisions of Florida's approved limited entry trap reduction program for the stone crab fishery and apply them to vessels fishing in the exclusive economic zone off Florida's west coast.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN10

587. AMENDMENT 13 TO THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 13 is being developed to bring the disapproved Essential Fish Habitat portions of Amendment 12 into compliance with the Sustainable Fisheries Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN12

588. AMENDMENT 10 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 10 would implement a management strategy that would incorporate rotational closed areas for rebuilding the sea scallop resource. This action may replace or modify the current DAS reduction schedule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

DOC—NOAA

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	04/00/02	
Final Action	05/00/02	
Final Action Effective	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN16

589. AMENDMENT 13 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would amend the FMP to address the Magnuson-Stevens Act requirement to implement a stock rebuilding program for all of the regulated multispecies. Management measures may include a days-at-sea reduction, gear reductions and area management.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
NPRM Comment Period End	09/00/02	
Final Action	10/00/02	
Final Action Effective	11/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN17

590. DEEP-SEA RED CRAB FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish a fishery management plan for the red crab fishery to protect the stock.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	03/00/02	
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN68

591. REGULATORY AMENDMENT TO PREVENT OR MITIGATE THE TAKE OF SEA TURTLES IN THE WESTERN PACIFIC PELAGIC FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would modify the management program for the western Pacific pelagic fisheries to mitigate or prevent the take of sea turtles.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AN75

592. AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN AMENDMENT FOR THE PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment would prevent or mitigate and conserve, manage, and allow full utilization of sharks.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AN76

593. GENERIC AMENDMENT ADDRESSING THE ESTABLISHMENT OF THE TORTUGAS MARINE RESERVES UNDER THE FISHERY MANAGEMENT PLANS OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

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Proposed Rule Stage

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The Generic Tortugas Amendment would amend the Gulf of Mexico Fishery Management Council's fishery management plans to establish the portion of the Tortugas North ecological reserve that falls within the Gulf of Mexico EEZ and to establish the Tortugas South Ecological Reserve, which resides entirely within the EEZ and includes Riley's Hump (a fish spawning aggregation site). Fishing for any species, including Atlantic highly migratory species, would be prohibited within these marine reserves. Additionally, anchoring by fishing vessels would be prohibited within the marine reserves. Along with regulations issued by the Florida Keys National Marine Sanctuary (under NOAA's National Ocean Service), the Generic Tortugas Amendment would protect unique and valuable reef resources.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN83

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594. REGULATORY AMENDMENT MODIFYING THE GULF OF MEXICO BRD PROTOCOL UNDER THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: In accordance with the FMP's framework procedure for regulatory adjustments, the Gulf Council requested that NMFS develop alternative data collection procedures and statistical tests to certify bycatch reduction devices (BRDs) for use in the shrimp fishery of the Gulf of Mexico. The regulation would provide additional flexibility in sampling procedures to facilitate BRDS meeting the testing/certifying protocol's requirements while maintaining the scientific and statistical credibility in achieving the FMP's established bycatch reduction criterion for certified BRDs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN84

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595. REGULATORY AMENDMENT MODIFYING THE SOUTH ATLANTIC BRD TESTING AND CERTIFICATION PROTOCOL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: In accordance with the framework procedure of the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region, the South Atlantic Fishery Management Council proposes to modify the data collection procedures and statistical tests used to certify BRDs for use in the Shrimp Fishery. The regulation would provide additional flexibility in the sampling procedures to facilitate meeting the protocol's requirements while maintaining the scientific and statistical credibility in achieving the established bycatch reduction criterion.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN86

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596. FISHERY MANAGEMENT PLAN FOR SARGASSUM HABITAT OF THE SOUTH ATLANTIC (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Sargassum habitat is defined as essential fish habitat for several managed fish stocks in the South Atlantic region under the provisions of the South Atlantic Fishery Management Council's fishery management plans. To further conserve and manage Sargassum habitat, the Council's proposed new FMP would restrict the commercial harvest of Sargassum to avoid further expansion of the current limited fishery and to reduce the potential for habitat loss.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN87

DOC—NOAA

Proposed Rule Stage

597. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE GOLDEN CRAB FISHERY OFF THE SOUTHERN ATLANTIC STATES (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 3 would: (1) extend the use of cable for main lines through December 31, 2002; (2) require that escape panel or doors on traps must measure at least 11 7/8 inches by 11 7/8 inches; (3) remove the 5,000 pound harvest requirement for renewing the biannual permit; (4) allow up to a 20 percent increase in vessel size from the vessel size on the original permit; (5) create a sub-zone within the southern zone for smaller vessels, as agreed to by the affected fishermen; (6) allow two new vessels to be permitted to fish only in the northern zone; (7) specify MSY, OY, and status determination criteria; and (8) modify the FMP framework procedure to allow modifications to the subzone.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AO23

598. ADJUSTMENT OF MANAGEMENT PROGRAM: PRECIOUS CORAL FISHERIES IN THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This FMP amendment would facilitate and enable adjustments to management measures for the precious coral fisheries in the Commonwealth of the Northern Mariana Islands (CNMI). Possible regulatory changes could include inclusion of the EEZ around CNMI, within the management area of the FMP, as well as permit and reporting requirements for harvesters in this area.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AO47

599. AMENDMENT 11 TO FISHERY MANAGEMENT PLAN FOR SHRIMP FISHERY OF GULF OF MEXICO (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 11 would require vessels using shrimp trawls in the Gulf of Mexico EEZ to obtain Federal permits for the purposes of identifying vessels and reporting and describe permit qualification criteria and permit application, issuance, and transferability requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AO51

600. AMENDMENT 14 TO THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: Amendment 14 is being developed to modify the quota allocations and monitoring, the permit issuance regulations, and establish trap/pot restrictions for the black sea bass fishery. In addition, this action may include additional management measures for scup and summer flounder.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AO55

601. REGULATORY AMENDMENT TO ADDRESS INACCURACIES IN CURRENT NORTHEAST FISHERIES REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

DOC—NOAA

Proposed Rule Stage

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment would modify the current regulations for the fisheries of the northeastern United States to address omissions and errors that have resulted from numerous regulatory changes.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	03/00/02	
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AO57

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602. AMENDMENTS TO FMPS FOR GULF OF MEXICO REEF FISH AND GULF OF MEXICO AND SOUTH ATLANTIC COASTAL MIGRATORY PELAGIC RESOURCES TO LIMIT ENTRY INTO GULF OF MEXICO RECREATIONAL-FOR-HIRE FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: These amendments to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico and to the FMP for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic would impose additional measures limiting entry into the recreational-for-hire (i.e., charter vessel and headboat) fisheries for reef fish and coastal migratory pelagic fish (e.g., king and Spanish mackerel) in the exclusive economic zone of the Gulf of Mexico. NMFS published an advanced notice of proposed rulemaking announcing that the Council was considering November 18, 1999, as a possible control date for this action (63 FR 64031). The FMP amendments would address the issue of the recreational sectors exceeding their annual allocations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AO62

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603. FISHERY MANAGEMENT PLAN FOR THE DOLPHIN AND WAHOO FISHERY OF THE ATLANTIC, CARIBBEAN, AND GULF OF MEXICO (FMP)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: This new FMP, as prepared jointly by the South Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils, is to provide a comprehensive management program for dolphin and wahoo in the Atlantic Ocean, Gulf of Mexico, and Caribbean exclusive economic zone.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AO63

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604. ATLANTIC HIGHLY MIGRATORY SPECIES FISHERIES; ATLANTIC BLUEFIN TUNA INCIDENTAL CATCH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS is considering rulemaking on modifications to the target catch requirements for the incidental longline fishery for Atlantic bluefin tuna (BFT). NMFS requests comments on possible changes to Atlantic tuna regulations prior to drafting proposed changes to those regulations.

Timetable:

Action	Date	FR Cite
ANPRM	11/17/00	65 FR 69492
ANPRM Comment Period End	12/14/00	
Comment Period Extended	01/16/01	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AO75

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605. ATLANTIC HIGHLY MIGRATORY SPECIES; EXEMPTED FISHING PERMITS PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS amends procedures for issuing exempted fishing permits for

fishing activities that are otherwise prohibited, and for scientific research permits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AO79

606. VESSEL MONITORING SYSTEM TO THE POLLOCK, PACIFIC COD, AND ATKA MACKEREL GROUNDFISH FISHERIES IN THE BSAI AND GOA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulation to be published within 30 days of end of NPRM comment period.

Abstract: Establish rulemaking to require the installation and use of a vessel monitoring system (VMS) on catcher/processors, motherships, and catcher vessels participating in the directed fisheries for pollock, Pacific cod, or Atka mackerel in the BSAI and GOA. The VMS would provide NMFS with accurate and timely information about the vessels' location, necessary to manage catch limits inside Steller sea lion critical habitat areas and to monitor fishing activities when these areas are closed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AO81

607. RECREATIONAL MEASURES FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish the possession limit, size limit, and other management measures for the recreational fisheries for fishing year 2002

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AO91

608. ATLANTIC HIGHLY MIGRATORY SPECIES; SWORDFISH QUOTAS AND FISHING AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: This rulemaking would implement several recommendations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) in November 2000. These recommendations include a ban on the importation of bigeye tuna from non-members Belize, Honduras, Cambodia, and St. Vincent and the Grenadines, and ICCAT member Equatorial Guinea, the development of statistical document programs for swordfish and bigeye tuna to monitor harvests and assist in the collection of trade data, the establishment of a 400 metric ton conservation reserve for North Atlantic swordfish and the establishment of a 2001 catch limit for South Atlantic swordfish, consistent with catch limits in recent years. This rule would also clarify authorized fishing areas for highly migratory species in the Atlantic Ocean.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AO93

609. REGULATORY AMENDMENT UNDER THE FISHERY MANAGEMENT PLAN FOR GULF OF MEXICO REEF FISH (FMP) TO ESTABLISH A RED SNAPPER STOCK REBUILDING PLAN AND TO SET RED SNAPPER OVERFISHING TARGETS AND THRESHOLDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment under the FMP's framework procedure would establish a revised red snapper stock rebuilding plan and red snapper overfishing targets and thresholds, all intended to meet requirements of the Magnuson-Stevens Fishery Conservation and Management Act as amended by the Sustainable Fisheries Act of 1996.

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Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 727 570-5301

RIN: 0648–AP02

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610. AMENDMENT 13 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: NPRM, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 13 will revise permit transfers, revise MSY and overfishing definitions, revise snowy grouper and golden tilefish management measures, and include a formal section 7 analysis on the interaction of gear (with an emphasis on black sea bass traps) with endangered and threatened species.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 727 570-5301

RIN: 0648–AP03

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611. SPECIFICATIONS FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would establish allowable harvest levels and other management measures for fishing year 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930 Phone: 978 281-9200

RIN: 0648–AP06

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612. SPECIFICATIONS FOR THE SPINY DOGFISH FISHERY FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: These annual specifications for spiny dogfish would implement a coastwide quota and management measures to achieve a target fishing mortality rate specified in the Spiny Dogfish FMP.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930 Phone: 978 281-9200

RIN: 0648–AP07

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613. SPECIFICATIONS FOR THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: This action would establish initial annual amounts, for fishing year 2002, of optimum yield as well as the amounts for allowable biological catch, domestic annual harvest, domestic annual processing, joint venture processing, and total allowable levels of foreign fishing for these species.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930 Phone: 978 281-9200

RIN: 0648–AP08

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614. SPECIFICATIONS FOR THE ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: This action would establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone for fishing year 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930 Phone: 978 281-9200

RIN: 0648–AP09

615. ANNUAL FRAMEWORK ADJUSTMENT FOR THE MONKFISH FISHERY MANAGEMENT PLAN FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: This action would implement management measures for the monkfish fishery for fishing year 2002.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930 Phone: 978 281-9200

RIN: 0648–AP11

616. FRAMEWORK ADJUSTMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: Framework Adjustment 2 would implement a 5-year extension of the Illex squid moratorium; a rollover of the mackerel specifications in the event the current annual specifications are not in place (excluding TALFF specifications); a modification to the overfishing definition and in-season adjustment provision for the Loligo squid fishery; and a Loligo squid trip limit exemption in the directed Illex squid fishery during the months of June to September in the event the directed Loligo squid fishery is closed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930 Phone: 978 281-9200

RIN: 0648–AP12

617. • AMERICAN LOBSTER FISHERY; REVISIONS TO LOBSTER TRAP LIMITS, CONSERVATION EQUIVALANCY IN NEW HAMPSHIRE WATERS, AND CLARIFICATION OF LOBSTER MANAGEMENT BOUNDARIES PER ADDENDUM 1

Priority: Other Significant

Legal Authority: 16 USC 5101 et seq

CFR Citation: 50 CFR 697

Legal Deadline: None

Abstract: NMFS announces that it is considering, and seeking public comment on, revisions to Federal American lobster regulations for Federal permit holders associated with Amendment 3 of the Interstate Fishery Management Plan for American Lobster (ISFMP). Addendum I to Amendment 3 of the ISFMP, approved by the Atlantic States Marine Fisheries Commission (ASMFC) on August 3, 1999, provides for the control of fishing effort as determined by historical participation in the American lobster trap fisheries in offshore waters of the Exclusive Economic Zone (EEZ) and areas of the EEZ closer to shore between New York and North Carolina. The addendum also clarifies lobster management area boundaries in Massachusetts waters. In addition, the ISFMP calls for the implementation of conservation equivalent trap limits in New Hampshire waters.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Thomas Meyer, Fisheries Biologist, Office of Intergovernmental/Recreational Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Suite 425, 8484 Georgia Avenue, Silver Spring, MD 20910 Phone: 301 427-2014

RIN: 0648–AP15

618. • AMERICAN LOBSTER; MODIFY MANAGEMENT MEASURES, HISTORICAL PARTICIPATION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 5101 et seq

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CFR Citation: 50 CFR 697

Legal Deadline: None

Abstract: In accordance with the Atlantic Coastal Fisheries Cooperative Management Act (Act), 16 U.S.C. et seq., NMFS announces that it is considering, and seeking public comment on, revisions to Federal American lobster regulations for the Exclusive Economic Zone (EEZ) in response to recommendations from the Atlantic States Marine Fisheries Commission (ASMFC) to NMFS in Addendum II to Amendment 3 of the Interstate Fishery Management Plan for American Lobster (ISFMP). Addendum II, approved by the ASMFC on February 1, 2001, revises the Amendment 3 egg production schedule in each of seven lobster conservation management areas (LCMAs) to end overfishing of American lobster stocks by the end of 2008. The management measures defined in Addendum II to meet the egg production targets include a series of minimum gauge size increases (increases in the minimum allowable harvest size of American lobster) in five of the seven LCMAs, trap gear modifications, and a 4-year trap reduction schedule for LCMA 3.

Timetable:

Action	Date	FR Cite
ANPRM	05/24/01	66 FR 28726
ANPRM Comment Period End	08/25/01	
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Thomas Meyer, Fisheries Biologist, Office of Intergovernmental/Recreational Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Suite 425, 8484 Georgia Avenue, Silver Spring, MD 20910
Phone: 301 427-2014

RIN: 0648–AP18

619. • FISHING CAPACITY REDUCTION PROGRAM FOR THE CRAB SPECIES COVERED BY THE FISHERY MANAGEMENT PLAN FOR THE BERING SEA/ALEUTIAN ISLANDS KING AND TANNER CRABS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 16 USC 1861a; 46 USC 1279f; PL 106-554

CFR Citation: 50 CFR 600

Legal Deadline: Final, Statutory, May 1, 2001, Publish Final Regulations. Other, Statutory, December 31, 2001, Complete Fishing Capacity Reduction Program.

Abstract: Establishes a fishing capacity reduction program in the fishery for the crab species covered by the Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs. The crab reduction program makes payments for revoking crab licenses in, and withdrawing fishing vessels from, the crab fishery. Reducing the number of crab licenses and vessels in the crab fishery increases post-reduction harvesting productivity, helps conserve and manage the crab resources, and fosters the potential for rationalizing crab fishery harvesting effort. The proposed regulations add a new section 600.1018 to the fishing capacity reduction framework regulations contained in subpart L to 50 CFR part 600.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael L. Grable, Chief, Financial Services Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2390
Email: michael.grable@noaa.gov

RIN: 0648–AP25

620. • EXTENSION OF IMPLEMENTATION DATE OF THE YEAR 4 DEFAULT MANAGEMENT MEASURES FOR SMALL-MESH MULTISPECIES (WHITING, RED HAKE AND OFFSHORE HAKE)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action proposes to extend the implementation date of the year-four default management measures for small-mesh multispecies (whiting, red hake and offshore hake) for one year to May 1, 2003. Under the year-four default measures, which are currently scheduled to become effective on May 1, 2002, vessels would be prohibited from fishing for whiting with mesh less than 3 inches (square or diamond) in almost all New England and Mid-Atlantic fisheries, and a 10,000 lb possession limit would automatically be implemented for whiting and offshore hake, combined.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP32

621. • REGULATORY AMENDMENT TO IMPLEMENT PERMIT STACKING IN THE LIMITED ENTRY FIXED GEAR SABLEFISH FISHERY IN 2002 AND BEYOND

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, Final Rule must be published 30 days after end of comment period on the Proposed Rule.

Abstract: This regulatory amendment would implement the following

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Amendment 14 provisions: permit owners will be required to provide detailed ownership information to ensure that no person has ownership interest in or holds more than 3 permits; current permit owners who were not permit owners before November 1, 2000, will be required to be on board the vessel fishing against the sablefish cumulative limits associated with that vessel's permit(s); vessels landing sablefish against their primary season limits will be required to contact enforcement officials before making sablefish landings; vessel owners wishing to freeze sablefish at sea will be required to provide proof of a history of freezing sablefish at sea in the years 1998, 1999, or 2000.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AP38

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622. • REGULATORY AMENDMENT TO ALLOW EXPERIMENTAL SETNET SABLEFISH LANDINGS TO QUALIFY LIMITED ENTRY SABLEFISH ENDORSEMENT HOLDERS FOR TIER ASSIGNMENT IN THE WEST COAST PRIMARY SABLEFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, Final Rule must be published 30 days after end of comment period on Proposed Rule.

Abstract: This proposed regulation would alter sablefish tier qualification requirements at 50 CFR 660 to include sablefish landings made in the 1984-1986 setnet sablefish fishery. This is a minor regulation intended to allow sablefish endorsement holders to qualify for sablefish tier assignment based on both fixed gear sablefish landings and on experimental setnet sablefish landings, and will not change the effect of the fishery on the sablefish resource nor change the overall sablefish harvest level.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AP39

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623. • AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: NPRM, Statutory, October 2001.
Final, Statutory, April 2002.

Abstract: This rule would implement Amendment 5 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP). This rule proposes to: (1) Establish a license limitation program for the rock shrimp fishery prosecuted south of the South Carolina-Georgia border in the South Atlantic Region that: (a) have held a valid rock shrimp permit prior to December 31, 1999; and (b) can demonstrate landings of at least 15,000 pounds in any one year from 1996 to 1999; (2) require captains operating permitted vessels fishing for rock shrimp in the South Atlantic EEZ to have a vessel operator's permit issued by the National Marine Fisheries Service to participate in the fishery; (3) require the minimum allowable mesh size for a trawl used to fish in the South Atlantic EEZ for rock shrimp be 1 and 7/8 inch stretched mesh; and (4) any vessel fishing for rock shrimp in the South Atlantic Council's EEZ will be required to use an approved vessel monitoring system that would not exceed $1,200 in cost for equipment and installation. Annual communication costs would not exceed $800.
This amendment would be controversial.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Peter J. Eldridge, Fishery Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration
Phone: 727 570-5305
Fax: 727 570-3583
Email: peter.eldridge@noaa.gov

RIN: 0648–AP41

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624. • IMPLEMENTATION OF FISHERY MANAGEMENT PLAN FOR HIGHLY MIGRATORY SPECIES FISHERIES OFF THE WEST COAST

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: These actions would publish proposed and final rules for a Fishery Management Plan for Highly Migratory Species Fisheries off the West Coast (FMP). The FMP is currently under development by the Pacific Fishery Management Council (Council) under the terms of the Magnuson-Stevens Act and other applicable law. The FMP will both establish a process for implementing regulations as deemed necessary in the future and provide a basis for initial regulation of selected fishery sectors (e.g., drift gillnet and longline) to ensure conservation of the fish stocks involved and protection of species of special concern such as sea turtles and seabirds. The FMP will include substantial environmental and economic analyses consistent with the requirements of the National Environmental Policy Act, the Regulatory Flexibility Act, and Executive Order 12296 and other laws and orders. Steps for reviewing and implementing approved elements of the FMP are set forth in the Magnuson-Stevens Act and include provisions for

publication of proposed and final rules within certain time periods.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
NPRM Comment Period End	06/00/02	
Final Action	07/00/02	
Final Action Effective	08/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Svein Fougner, Assistant Regional Administrator for Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Southwest Region, 501 W, Ocean Boulevard, Long Beach, CA 90802
Phone: 562 980-4040

RIN: 0648–AP42

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625. • FRAMEWORK 1 TO THE ATLANTIC HERRING FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would implement management measures to allow seasonal allocation of Area 1A total allowable catch levels.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP44

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626. • TAKING AND IMPORTING MARINE MAMMALS; TAKING MARINE MAMMALS INCIDENTAL TO ROCKET LAUNCHES AT VANDENBERG AIR FORCE BASE, CA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NMFS has received a request from the 30th Space Wing for and proposes to issue a modification to the monitoring requirements of the 5-year programmatic regulations governing the incidental take of marine mammals during rocket launch operations (50 CFR 216.120-128). The requested modification would reduce the current requirement to perform biological monitoring during all space vehicle launches at Vandenberg Air Force Base, CA (VAFB) during any time of the year to space vehicle launches at VAFB during only the Pacific harbor seal (Phoca vitulina richardsi) pupping season (March 1 to June 30). This request is based on a scientific research program and the bioacoustic monitoring of space vehicle launches conducted from 1997 through 2001 at VAFB.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Simona Perry Roberts, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Room 13727, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376
Email: simona.roberts@noaa.gov

RIN: 0648–AP47

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627. • ATLANTIC HIGHLY MIGRATORY SPECIES; PELAGIC LONGLINE FISHERY; SEA TURTLE PROTECTION MEASURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: This rule would implement measures that were discussed in the June 14, 2001, Biological Opinion to reduce the bycatch mortality of endangered and threatened sea turtles. These requirements would be adopted by vessels that fish in specified highly migratory species (HMS) fisheries in the Atlantic Ocean. Also, this rule would finalize the interim final rule published on March 30, 2001, the emergency rule that published on July 13, 2001, and clarify the HMS regulations to address certain enforcement issues.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AP49

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628. • REGULATORY AMENDMENT UNDER THE COASTAL MIGRATORY PELAGICS FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 622

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: In accordance with the FMP's framework procedure for regulatory adjustments, this action would establish biomass-based stock status criteria such as maximum-sustainable yield (MSY), optimum yield (OY), and definitions of overfishing and overfished using default control rules as required by the Magnuson-Stevens Fishery Conservation and Management Act.

DOC—NOAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AP50

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629. • AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE QUEEN CONCH RESOURCES OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 2 would establish harvest restrictions for queen conch in the exclusive economic zone (EEZ) of the U.S. Caribbean. The queen conch resource is overfished and needs to be rebuilt to a healthy level consistent with requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Possible management measures include reducing bag limits and commercial trip limits in the EEZ, possibly to zero for both measures, and gear restrictions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
NPRM Comment Period End	08/00/02	
Final Action	10/00/02	
Final Action Effective	11/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AP51

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630. • ADJUSTMENT OF MANAGEMENT PROGRAM: BOTTOMFISH FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, January 2002.

Abstract: This regulatory action would facilitate management of the limited access bottomfish fisheries of the Northwestern Hawaiian Islands by removing barriers to sustained participation. Possible measures including changes to, or elimination of, the current minimum landing requirements, and adjustments to restrictions on permit and vessel charters and leases.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AP53

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631. • ATLANTIC SURFCLAM AND OCEAN QUAHOG FISHERIES; AMENDMENT 13

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 40 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: Amendment 13 to the Fishery Management Plan for the Atlantic Surfclam and Ocean Quahog Fisheries would describe gear impacts on essential fish habitat, revise the surfclam overfishing definition, establish multiyear quotas, and add/revise other measures.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	
Final Action	05/00/02	
Final Action Effective	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP57

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632. • ATLANTIC BLUEFISH FISHERY; SPECIFICATIONS FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: This action would establish the Atlantic bluefish total allowable landings, commercial quota, recreational harvest limit, and managment measures for the exclusive economic zone for fishing year 2002

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

DOC—NOAA

Proposed Rule Stage

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP59

633. • ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES; AMENDMENT 9

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: Amendment 9 to the Fishery Management Plan for the Atlantic Mackerel, Squid and Butterfish Fisheries would establish a controlled access program for mackerel and extend the Illex squid permit moratorium.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
NPRM Comment Period End	07/00/02	
Final Action	08/00/02	
Final Action Effective	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP60

634. • RULEMAKING TO IMPLEMENT A VESSEL MONITORING SYSTEM UNDER THE SOUTH PACIFIC TUNA ACT

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 50 CFR 300

Legal Deadline: NPRM, Statutory, November 2001.
Final, Statutory, January 2002.

Abstract: This rulemaking will implement an electronic vessel monitoring system under the South Pacific Tuna Act. The system is satellite-based with individual US purse seine vessels providing automatic location information to the Forum Fisheries Agency located in Honiara, Solomon Islands. This rule will require all U.S. purse seine vessels operating within the South Pacific Tuna Treaty Area shall participate and shall install and operate a transponder of the type and in such a manner as agreed upon by the Parties to the "Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America" (implemented as the South Pacific Tuna Act).

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	06/00/02	
Final Action Effective	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AP61

635. SEA TURTLE MONITORING AND CONSERVATION MEASURES FOR NONSHRIMP FISHERIES

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 222; 50 CFR 223; 50 CFR 224

Legal Deadline: None

Abstract: NMFS proposes to protect sea turtles through the implementation of sea turtle conservation measures on nonshrimp fisheries. Bottom trawlers in the mid-Atlantic take sea turtles when not using turtle excluder devices (TEDs) and may jeopardize the continued existence of endangered sea turtles. NMFS proposes to require TEDs in all bottom trawlers operating from Texas through Delaware. Other non-shrimp fisheries using tow lines, gill nets, or other gear probably take significant numbers of sea turtles. In order to better quantify that level of take, NMFS proposes to require observers in all fisheries suspected of taking turtles in all U.S. waters.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/92	57 FR 30709
ANPRM Comment Period End	08/08/92	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Therese Conant, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, Silver Spring, MD 20910
Phone: 301 713-1431
Fax: 301 713-0376

RIN: 0648–AE54

636. ISSUANCE OF PERMITS FOR MARINE MAMMAL PHOTOGRAPHY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1372 (c)(6)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This rule will provide for the issuance of permits to take marine mammals by only level B harassment for the purpose of educational or commercial photography.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Trevor Spradlin, Marine Mammal Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289
Email: trevor.spradlin@noaa.gov

RIN: 0648–AH31

637. PROPOSED GUIDELINES FOR DEFINING SERIOUS INJURY; REQUEST FOR COMMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361

DOC—NOAA

Proposed Rule Stage

CFR Citation: 50 CFR 229

Legal Deadline: None

Abstract: Under the Marine Mammal Protection Act (MMPA), the National Marine Fisheries Service (NMFS) is responsible for assessing and reducing the level of serious injury and mortality that occurs incidental to commercial fishing operations. NMFS is issuing proposed guidelines for determining what constitutes a serious injury to a marine mammal. If finalized, NMFS will use these guidelines in assessing fisheries beginning in 2001.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Emily E. Hanson, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, NMFS (F/PR2), Marine Mammal Division, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-4060
Email: emily.hanson@noaa.gov

RIN: 0648–AL44

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638. SECTION 4(D) OF ESA PROTECTIVE REGULATIONS FOR JOHNSON'S SEAGRASS, A THREATENED SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543 et seq; 16 USC 1361 et seq

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: NMFS will issue protective regulations for Johnson's seagrass, a threatened species under section 4(d) of the Endangered Species Act (ESA). This will allow NMFS to tailor protective measures to best fit Johnson's seagrass.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: marta.nammack@noaa.gov

RIN: 0648–AL59

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639. NORTH ATLANTIC WHALE PROTECTION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1361 et seq; 16 USC 1531 et seq

CFR Citation: 50 CFR 216; 50 CFR 222

Legal Deadline: None

Abstract: Investigate the need to adopt regulations to decrease negative action of whale watching.

Timetable:

Action	Date	FR Cite
ANPRM	01/04/00	65 FR 270
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Trevor Spradlin, Marine Mammal Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289
Email: trevor.spradlin@noaa.gov

RIN: 0648–AM85

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640. SWIMMING OR RECREATIONAL INTERACTION WITH WILD POPULATION OF MARINE MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: Announces that NMFS is considering whether to issue regulations that would prohibit the public from swimming with or otherwise interacting with dolphins and other marine mammals in the wild.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Trevor Spradlin, Marine Mammal Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289
Email: trevor.spradlin@noaa.gov

RIN: 0648–AN43

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641. SEA TURTLE CONSERVATION REGULATIONS; SHRIMP FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: NMFS issues this advance notice of proposed rulemaking (ANPRM) to announce that it is considering publishing regulations that would make technical changes to the requirements for turtle excluder devices (TEDs) to increase their effectiveness. In particular, NMFS is considering increasing the size of TED escape openings to allow larger turtles to escape. The options NMFS is currently considering are: Requiring the leatherback opening with a minimum 32-inch grid in all areas (71-inch opening), or requiring a 35-inch by 16-inch opening with a minimum 30-inch grid in all areas. In addition, NMFS is considering other modifications to the TED regulations, including modifying or decertifying hooped hard TEDs and weedless TEDs, changing the requirements for the types of flotation devices allowed, and extending the requirement to have a short flap and grid angle of no greater than 45 degree on bottom opening TEDs (other than TEDs equipped with the leatherback opening) to all areas in the U.S. Gulf of Mexico and the Southeast U.S. Atlantic. NMFS is also considering modifications to the leatherback contingency plan (50 CFR 223.206(d)(2)(iv)) to provide better protection to leatherback turtles.

DOC—NOAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	04/05/00	65 FR 17852
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Therese Conant, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, Silver Spring, MD 20910
Phone: 301 713-1431
Fax: 301 713-0376

RIN: 0648–AN62

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542. RULE FOR GEAR MODIFICATIONS TO THE ATLANTIC LARGE WHALE TAKE REDUCTION PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This rule will provide gear modifications for lobster and gillnet fisheries to the ALWTRP

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/21/00	65 FR 80368
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia Lawson, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Email: patricia.lawson@noaa.gov

RIN: 0648–AN88

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543. DESIGNATED CRITICAL HABITAT: PROPOSED CRITICAL HABITAT FOR NORTHERN CALIFORNIA STEELHEAD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: Final, Statutory, June 7, 2001.

Abstract: On June 7, 2000, NMFS listed the Northern California steelhead evolutionarily significant unit of steelhead as threatened under the Endangered Species Act. NMFS will now designate critical habitat for these steelhead.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: kellie.f.carter@noaa.gov

RIN: 0648–AO04

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644. CAPTIVE STELLER SEA LIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1531-1543; subpart B, 3223.12; 16 USC 1361 et seq

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: This rule is to provide exception to captive Steller sea lions (those captured before listing) to assist the public display community in commerce involving these animals.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jennifer Lyn Skidmore, Knauss Sea Grant Fellow, Department of Commerce, National Oceanic and Atmospheric Administration, Room 13710, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289
Fax: 301 713-0376
Email: jennifer.skidmore@noaa.gov

RIN: 0648–AO61

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645. • ENDANGERED AND THREATENED SPECIES; TAKE OF FOUR THREATENED EVOLUTIONARILY SIGNIFICANT UNITS OF WEST COAST SALMON

Priority: Other Significant

Legal Authority: 16 USC 1531 to 1543; 16 USC 1361

CFR Citation: 50 CFR 223

Legal Deadline: Final, Judicial, August 31, 2001, Court Order for Final Protective Regulations.

Abstract: This rule would apply section 9 prohibitions of the ESA to California, Central Valley and California Coastal Chinook and Northern California Steelhead except in 10 specific circumstances. The would also modify the section 9 prohibitions for Central California Coast soho to not apply to the same 10 specific circumstances.

Timetable:

Action	Date	FR Cite
NPRM	08/17/01	66 FR 43150
NPRM Comment Period End	10/01/01	
Final Action	12/00/01	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal, Federal, Local

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: kellie.f.carter@noaa.gov

RIN: 0648–AP17

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646. • TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS; ATLANTIC LARGE WHALE TAKE REDUCTION PLAN REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 229

Legal Deadline: NPRM, Statutory, September 30, 2001.
Final, Statutory, December 30, 2001.

Abstract: This rule provides criteria and procedures under the regulations

DOC—NOAA **Proposed Rule Stage**

implementing the Atlantic Large Whale Take Reduction Plan to temporarily restrict fishing gear within defined areas on an expedited basis to protect North Atlantic right whales. These temporary restrictions may affect lobster and gillnet fisheries to further reduce risk of entanglement of right whales in commercial gear.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia Lawson, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Email: patricia.lawson@noaa.gov

RIN: 0648–AP48

NATIONAL OCEAN SERVICE/OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT

647. REVISION OF OVERFLIGHT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: These regulations are being revised to clarify that they are for resource protection purposes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Moore, Sanctuaries and Resources Division, Department of Commerce, National Oceanic and Atmospheric Administration, N ORM 2, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-3145

RIN: 0648–AI91

648. INTERAGENCY CONSULTATION FOR THE NATIONAL MARINE SANCTUARY PROGRAM

Priority: Other Significant

Legal Authority: 16 USC 1434(d)

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: NOAA is considering issuing regulations to implement the Federal-agency consultation requirements of the National Marine Sanctuaries Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Helen Golde, Department of Commerce, National Oceanic and Atmospheric Administration, Room 11536, Marine Sanctuaries Division, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-3145

RIN: 0648–AL06

649. NATURAL RESOURCE DAMAGE ASSESSMENT UNDER THE OIL POLLUTION ACT OF 1990

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2706(e)

CFR Citation: 15 CFR 990

Legal Deadline: None

Abstract: This proposed rulemaking amends the natural resource damage assessment rule under the Oil Pollution Act of 1990, codified at 15 CFR 990, due to court remand (General Electric vs. Commerce, 128 F. 3d 767. DC Cir. 1997).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eli Reinharz, Ecologist, Department of Commerce, National Oceanic and Atmospheric Administration, NOAA/DAC, Room 10218, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-3038
Fax: 301 713-4387

RIN: 0648–AM80

Department of Commerce (DOC)
National Oceanic and Atmospheric Administration (NOAA) **Final Rule Stage**

NATIONAL MARINE FISHERIES SERVICE

650. GUIDELINES FOR THE DESCRIPTION, IDENTIFICATION, CONSERVATION, AND ENHANCEMENT OF ESSENTIAL FISH HABITAT

Priority: Other Significant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: Final, Statutory, April 11, 1997, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Guidelines to assist Fishery Management Councils in the description and identification of essential fish habitat (EFH) in fishery management plans, and in the consideration of actions to conserve and enhance EFH, and procedures for consultation, coordination, and recommendations to protect EFH.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/96	61 FR 57843
ANPRM	01/09/97	62 FR 1306
NPRM	04/23/97	62 FR 19723
Interim Final Rule	12/19/97	62 FR 66531
Interim Final Rule Comment Period End	03/19/98	63 FR 8607
Supplemental Comment Period	11/08/99	64 FR 60731

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DOC—NOAA

Final Rule Stage

Action	Date	FR Cite
Supplemental Comment Period End	12/23/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Rolland Schmitten, Director, Office of Habitat Conservation, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910-3282
Phone: 301 713-2325
Fax: 301 713-1043
Email: rolland.schmitt@noaa.gov

RIN: 0648–AJ30

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651. REGULATORY AMENDMENT TO UPDATE REGULATIONS GOVERNING THE OPERATION OF REGIONAL FISHERY MANAGEMENT COUNCILS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq; 5 USC 561

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: Regulations governing the operation of the Regional Fishery Management Councils will be revised based on provisions in the Magnuson-Stevens Act. The revisions will clarify recent administrative and policy changes, fishery conservation and management as well as editorial changes for readability, clarity, and uniformity. The intent is to update Council regulations to reflect current policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	05/25/01	66 FR 28876
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AJ82

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652. ADJUSTMENT OF THE MANAGEMENT PROGRAM FOR PRECIOUS CORALS FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulation would modify the management program for the fisheries for precious corals in the western Pacific region. In response to new information on changes that may occur in the fishery, possible changes to the management program include the establishment of or adjustments to fishing seasons, permit requirements, quotas, closures, area limitations, gear, coral size restrictions, and fishery-dependent data reporting requirements, etc.

Timetable:

Action	Date	FR Cite
NPRM	09/05/00	65 FR 53646
NPRM Comment Period End	10/05/00	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AK23

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653. PROPOSED HIGHLY MIGRATORY SPECIES PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS proposes to revise the administrative procedures it follows to prepare and issue highly migratory species (HMS) management plans (FMPs), FMP amendments and implementing regulations for the Atlantic Ocean, Gulf of Mexico and Caribbean Sea in response to recent amendments to the Magnuson-Stevens Fishery Management Act.

Timetable:

Action	Date	FR Cite
NPRM	09/18/97	62 FR 48990
NPRM Comment Period End	10/15/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AK40

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654. REGULATORY AMENDMENT TO PROHIBIT FISHING BY VESSELS OVER 50 FEET FROM FISHING FOR PELAGIC MANAGEMENT UNIT SPECIES WITHIN 50 NAUTICAL MILES OF AMERICAN SAMOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final Regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would prohibit fishing by vessels over 50 feet from fishing for pelagic management unit species within 50 nautical miles of American Samoa.

Timetable:

Action	Date	FR Cite
NPRM	07/31/01	66 FR 39475
NPRM Comment Period End	09/13/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area

DOC—NOAA

Final Rule Stage

Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AL41

655. STELLER SEA LION CONSERVATION MEASURES FOR THE BSAI AND GOA POLLOCK FISHERIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Implement Steller Sea Lion conservation measures, consistent with court order, for the Bering Sea/Aleutian Island and Gulf of Alaska Pollock Fisheries; Total Allowable Catch allocation system for outside critical habitat and east-western 170, overage/underage rollover provisions, revise trip limit regulations for western-central Gulf of Alaska, and additional pollock exclusion zones.

Timetable:

Action	Date	FR Cite
Emergency Interim Final Rule (Effective 01/20/2000 to 07/19/2000)	01/25/00	65 FR 3892
Emergency Final Rule Effective Date Extended to 12/31/2000	06/12/00	65 FR 36795
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM32

656. PROHIBIT USE OF SET NET GEAR TO HARVEST GROUNDFISH IN CERTAIN PORTIONS OF THE EXCLUSIVE ECONOMIC ZONE WATERS SEAWARD OF CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This rule would prohibit the use of set net gear to take groundfish species in a portion of the exclusive economic zone (EEZ) seaward of California. This rule has been requested by the Pacific Fishery Management Council (Council) under procedures in the Pacific Groundfish Fishery Management Plan (FMP) that allow for implementing Federal regulations to conform to State regulations for the groundfish fishery in selected circumstances. The Council has determined that the State regulations prohibiting the use of set net gear used to take groundfish species in certain areas are consistent with the FMP and requested Federal adoption of consistent regulations in the EEZ. The conformance with State regulations is desired to ensure consistent application of conservation and management measures and enforcement in the EEZ and in State waters to the extent practicable.

Timetable:

Action	Date	FR Cite
NPRM	05/19/00	65 FR 31871
NPRM Comment Period End	06/19/00	
Comment Period Extended	07/05/00	65 FR 41426
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Svein Fougner, Assistant Regional Administrator for Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Southwest Region, 501 W, Ocean Boulevard, Long Beach, CA 90802
Phone: 562 980-4040

RIN: 0648–AN03

657. RESUBMISSION OF SUSTAINABLE FISHERIES ACT AMENDMENT CRUSTACEANS, BOTTOMFISH, AND PELAGICS REGARDING OVERFISHING DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: This action would bring these FMPs into compliance with the Sustainable Fisheries Act regarding previously disapproved overfishing definitions.

Timetable:

Action	Date	FR Cite
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AN79

658. REVISIONS TO RECORDKEEPING AND REPORTING REQUIREMENTS FOR 2001

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: Revise regulations for the recordkeeping and reporting requirements for the year 2001; to make the regulations more user-friendly; to make technical edits and clarifications to existing requirements, standardization of text, removal of duplication, and creation of table formats to replace complicated numbered paragraphs, revisions and corrections to the text, figures, and tables; and removal of outdated text.

DOC—NOAA

Final Rule Stage

Revise logbook and reporting form formats, including revisions to the combined International Pacific Halibut Commission/NMFS groundfish/ Individual Fishing Quota catcher vessel and catcher/processor logbooks by adding a new data field to indicate the type of seabird device used when fishing with hook-and-line gear; addition of new observer fields and an additional logsheet will be incorporated into each logbook for use by the observer, and addition of new management block on all logbooks and forms to describe fishery program plan (e.g., Community Development Quota, and the American Fisheries Act).

Timetable:

Action	Date	FR Cite
NPRM	08/08/01	66 FR 41664
NPRM Comment Period End	09/07/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AO20

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659. REGULATORY AMENDMENT TO MODIFY THE MANAGEMENT PROGRAM FOR THE WESTERN PACIFIC PELAGIC FISHERIES TO MITIGATE THE TAKE OF SEABIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action implements the terms and conditions of a biological opinion on the effects of the continued operation of the Hawaii-based longline fishery on the short-tailed albatross, and seabird mitigation measures proposed by the Western Pacific Fishery Management Council. All operators of vessels registered for use under Hawaii pelagic longline limited access permits will be required to use specific bird mitigation techniques when fishing with pelagic longline gear north of 23 degrees N. latitude; all vessel operators and owners must annually attend a protected species workshop conducted by NMFS; and all hooked or entangled sea birds, including the endangered short-tailed albatross, must be released in a manner that maximizes their post-release survival.

Timetable:

Action	Date	FR Cite
NPRM	07/05/00	65 FR 41424
NPRM Comment Period End	08/21/00	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AO35

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660. 2001 QUOTAS FOR PURSE SEINE FISHERIES IN THE EASTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 995 et seq

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: This action would announce harvest limits and associated fishery management measures to carry out recommendations of the IATTC that have been approved by the U.S. Department of State. The United States is a member of the IATTC, and NMFS (on behalf of the Secretary of Commerce) implements management recommendations pursuant to the Tuna Conventions Act of 1950. Procedures for announcing harvest quotas and associated management measures are set forth at 50 CFR part 300 subpart C.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Svein Fougner, Assistant Regional Administrator for Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Southwest Region, 501 W, Ocean Boulevard, Long Beach, CA 90802
Phone: 562 980-4040

RIN: 0648–AO48

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661. PACIFIC COAST GROUNDFISH FISHERY; ANNOUNCEMENT OF THE 2002 GROUNDFISH FISHERY SPECIFICATIONS AND MANAGEMENT MEASURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: NMFS announces the 2001 fishery specifications and management measures for groundfish taken in the U.S. exclusive economic zone (EEZ) and State waters of the coasts of Washington, Oregon, and California. The specifications include the levels of the acceptable biological catch (ABC) and optimum yields (OYs). The commercial OYs (the OYs reduced by expected discard and by amounts expected to be taken in tribal, recreational, and compensation fisheries) are allocated between the limited entry and open access fisheries. The management measures for 2002 are designed to keep landings within the OYs for those species for which there are OYs and to achieve the goals and objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP) and associated rebuilding plans for overfished stocks, consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the guidelines based on the National Standards in the Magnuson-Stevens Act published in the Federal Register on May 1, 1998. These management measures are intended to prevent overfishing and to rebuild Pacific Coast groundfish stocks. These measures are also intended to achieve as much harvest of healthier stocks as possible given the conservation requirements of the Magnuson-Stevens Act.

DOC—NOAA **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Tribal, Federal

Agency Contact: Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AO69

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662. STELLER SEA LION PROTECTION MEASURES FOR GROUNDFISH FISHERIES OFF ALASKA; REASONABLE AND PRUDENT ALTERNATIVE UNDER NOVEMBER 30 BIOLOGICAL OPINION ON ALASKA GROUNDFISH FISHERIES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This rule implements Steller sea lion protection measures and announces final 2001 specifications and associated management measures for groundfish fisheries of the BSAI management area in the Gulf of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	01/22/01	66 FR 7276
Correction	03/20/01	66 FR 15656
Amended	03/29/01	66 FR 17083
Interim Final Rule	06/13/01	66 FR 31845
Amended	06/13/01	66 FR 31845
Comment Period Extended	07/17/01	66 FR 37167
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AO82

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663. HARVESTING RESTRICTIONS FOR THE DOLPHIN AND WAHOO FISHERY IN THE ATLANTIC EXCLUSIVE ECONOMIC ZONE (EEZ)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622; 50 CFR 600.725

Legal Deadline: None

Abstract: This emergency interim rule for dolphin fish and wahoo in the Atlantic EEZ would prohibit use of surface and pelagic longlines within any time/area closure in the Atlantic EEZ to the use of that gear for Atlantic highly migratory species as established by the National Marine Fisheries Service.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AO83

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664. ANNOUNCEMENT OF THE OPTIMUM YIELD AND HARVEST LIMIT FOR PACIFIC SARDINES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, January 2002.
The Coastal Pelagics Fisheries regulations require that the annual specifications for Pacific sardines be published in the Federal Register before January 1, the start of the year.

Abstract: NMFS announces the annual harvest guidelines for Pacific sardine in the exclusive economic zone off the Pacific coast. The coastal pelagic species fishery management plan and its implementing regulations require NMFS to establish annual harvest guidelines for Pacific sardine based on a formula in the FMP. The intended effect of this action is to establish allocated harvest levels for coastal pelagic species off the Pacific Coast.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Svein Fougner, Assistant Regional Administrator for Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Southwest Region, 501 W, Ocean Boulevard, Long Beach, CA 90802
Phone: 562 980-4040

RIN: 0648–AP00

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665. FRAMEWORK 36 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action was originally intended to focus on measures to decrease regulatory discards in the Gulf of Maine (GOM) cod fishery. However, based on the discard information and recreational catch information ascertained from the SARC 33 review of GOM cod in June 2001, management measures will be developed to decrease GOM cod discards and reduce mortality on GOM cod by 50 percent. This action also proposes to allow tuna purse seine vessels access to the current groundfish closed areas and expand the area available for the northern shrimp harvest in he GOM.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast

DOC—NOAA

Final Rule Stage

Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP05

666. • IMPLEMENTATION OF THE SHARK FINNING PROHIBITION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: NPRM, Statutory, June 2001.

Abstract: This proposed rule would implement the Shark Finning Prohibition Act. This act provides that no person under U.S. jurisdiction may engage in shark finning at sea; possess shark fins without corresponding carcasses; or land shark fins without corresponding carcasses.

Timetable:

Action	Date	FR Cite
NPRM	06/28/01	66 FR 34401
NPRM Comment Period End	07/30/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Svein Fougner, Assistant Regional Administrator for Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Southwest Region, 501 W, Ocean Boulevard, Long Beach, CA 90802
Phone: 562 980-4040

RIN: 0648–AP21

667. • WESTERN PACIFIC PELAGICS FISHERIES; HAWAII-BASED PELAGIC LONGLINE RESTRICTIONS AND SEASONAL AREA CLOSURE, SEA TURTLE AND SEA BIRD MITIGATION MEASURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: NMFS issues this emergency interim rule that governs a vessel registered for use under a Hawaii longline limited access permit (Hawaii longline vessel). The rule prohibits the targeting of swordfish north of the equator by Hawaii longline vessels; closes all longline fishing to Hawaii longline vessels during April and May in waters south of the Hawaiian Islands (from 15 N. lat. to the equator, and from 145 W. long. to 180 long.); allows re-registration of vessels to Hawaii longline limited access permits only in October; imposes additional sea turtle handling and resuscitation measures; and requires all Hawaii longline vessel operators to attend an annual protected species workshop. This emergency interim rule implements an Order issued on March 30, 2001, by the United States District Court for the District of Hawaii (Court). This Order superseded the Court's order of August 4, 2000, and this rule supersedes the emergency rules published on August 25, 2000; November 3, 2000; February 22, 2001; and March 19, 2001. Other parts of this rule implement the terms and conditions contained in a November 28, 2000, Biological Opinion (BO) issued by the U.S. Fish and Wildlife Service on the effects of the Hawaii-based longline fishery (Hawaii longline fishery) on the endangered short-tailed albatross. Specifically, this rule requires Hawaii longline vessels fishing above the main Hawaiian Islands (north of 23 N. lat.) to use completely thawed and blue-dyed bait; to use a longline setting machine, to deploy branch lines that are weighted; to strategically discard offal and spent bait; and to employ seabird handling and resuscitation techniques in the event a short-tailed albatross is incidentally taken. The BO also requires all Hawaii longline vessel operators to attend an annual protected species workshop.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/12/01	66 FR 31561
Interim Final Rule Comment Period End	07/27/01	
Rule Effective Until	12/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Therese Conant, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, Silver Spring, MD 20910
Phone: 301 713-1431
Fax: 301 713-0376

RIN: 0648–AP24

668. • STATUS REVIEW OF GULF OF MAINE/BAY OF FUNDY POPULATION OF HARBOR PORPOISE UNDER THE ESA

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 424; 50 CFR 223; 50 CFR 224

Legal Deadline: NPRM, Judicial, July 31, 2001, Must publish the proposed status review by July 31 and allow for a 30-day public comment period. Final, Judicial, September 30, 2001, Must complete the final status review by September 30.

Abstract: The National Marine Fisheries Service (NMFS) conducted a status review of the Gulf of Maine/Bay of Fundy (GOM/BOF) stock of harbor porpoise (Phocoena phocoena). Based on analysis of the best scientific and commercial data available, as required by the Endangered Species Act (ESA), NMFS has determined that listing is not warranted at this time and intends to remove this stock from the ESA candidate species list. This notice requests comments on the status review and the determination to remove the GOM/BOF stock of harbor porpoise from the ESA candidate species list.

Timetable:

Action	Date	FR Cite
NPRM	08/02/01	66 FR 40176
NPRM Comment Period End	09/04/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Emily E. Hanson, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, NMFS (F/PR2), Marine Mammal Division, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-4060
Email: emily.hanson@noaa.gov

RIN: 0648–AP33

DOC—NOAA

Final Rule Stage

669. • ELIGIBILITY CRITERIA AND DEFINITIONS FOR WESTERN PACIFIC COMMUNITY DEVELOPMENT PROGRAMS AND WESTERN PACIFIC DEMONSTRATION PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1855 i2A

CFR Citation: None

Legal Deadline: None

Abstract: NMFS is seeking comments on definitions for terms used in eligibility criteria that communities of western Pacific indigenous peoples must satisfy in order to participate in Western Pacific Community Development Programs and to receive grants for proposals they submit pursuant to the Western Pacific Demonstration Projects Grants Program. Such grants awarded to successful applicant communities are designed to foster traditional, indigenous fishing practices in the western Pacific region. In this proposed rule NMFS also approves the eligibility criteria themselves that were submitted to NMFS by the Western Pacific Fishery Management Council. Finally, in this proposed rule NMFS announces the Western Pacific Demonstration Projects Grants Program and provides a brief description of the goals and structure of the grants program. NMFS will provide further details of the grants program in the final rule.

Timetable:

Action	Date	FR Cite
NPRM	07/27/01	66 FR 39131
NPRM Comment Period End	08/27/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Ziobro, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Hgwy., Silver Spring, MD 20910
Phone: 301 713-2239

RIN: 0648–AP36

670. • ANNUAL SPECIFICATIONS FOR THE ATLANTIC HERRING FISHERY FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would implement the 2001 specifications for the Atlantic herring fishing.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP37

671. • ANNOUNCEMENT OF THE OPTIMUM YIELD AND HARVEST LIMIT FOR PACIFIC MACKEREL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, July 2002.
The Coastal Pelagics Fisheries regulations require that the annual specifications for Pacific mackerel be published in the Federal Register before July 1, the start of the season.

Abstract: NMFS announces the annual harvest guideline for Pacific mackerel in the exclusive economic zone off the Pacific coast. The Coastal Pelagic Species Fishery Management Plan (FMP) and its implementing regulations require NMFS to set an annual harvest guideline for Pacific mackerel based on a formula in the FMP. The intended effect of this action is to establish allowable harvest levels for Pacific mackerel off the Pacific coast and to minimize the impact on other coastal pelagic fisheries.

Timetable:

Action	Date	FR Cite
Final Action	07/00/02	
Final Action Effective	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Svein Fougner, Assistant Regional Administrator for Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Southwest Region, 501 W, Ocean Boulevard, Long Beach, CA 90802
Phone: 562 980-4040

RIN: 0648–AP43

572. • ANNUAL ADJUSTMENT MEASURES FOR THE NORTHEAST MULTISPECIES FISHERY FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would implement management measures for the Northeast multispecies fishery for fishing year 2002.

Timetable:

Action	Date	FR Cite
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP45

573. • FRAMEWORK ADJUSTMENT FOR THE NORTHEAST MULTISPECIES (WHITING) FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would implement management measures for the Northeast multispecies fishery (whiting fishery).

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DOC—NOAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP46

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574. • 2002-2003 MANAGEMENT MEASURES FOR COMMERCIAL, RECREATIONAL, AND TREATY INDIAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, May 2002.

Abstract: The annual management measures for the 2002-2003 fishing year specify allowable ocean harvest levels (including quotas), allocations, management boundaries and zones, minimum size limits, gear definitions, seasons, selective fisheries, and in-season notice procedures.

Timetable:

Action	Date	FR Cite
Final Action	05/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AP52

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675. • RESUBMISSION OF SUSTAINABLE FISHERIES ACT AMENDMENT BOTTOMFISH, CRUSTACEAN, AND PELAGICS REGARDING BYCATCH PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: This action would bring these FMPS into compliance with the Sustainable Fisheries Act regarding previously disapproved bycatch provisions.

Timetable:

Action	Date	FR Cite
Final Action	03/00/02	
Final Action Effective	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AP54

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676. • RESUBMISSION OF SUSTAINABLE FISHERIES ACT AMENDMENT BOTTOMFISH, CRUSTACEANS, AND PELAGICS REGARDING FISHING COMMUNITIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: This action would bring these FMPs into compliance with the Sustainable Fisheries Act regarding previously disapproved categorization of the State of Hawaii as a fishing community.

Timetable:

Action	Date	FR Cite
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AP55

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677. • SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES; FRAMEWORK 3

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: Framework 3 to the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries would revise the overfishing definition for summer flounder.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP56

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678. INTERAGENCY POLICY ON THE PRESCRIPTION OF FISHWAYS UNDER SECTION 18 OF THE FEDERAL POWER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 742; 16 USC 661 et seq; 16 USC 791a et seq; 16 USC et 1531 et seq; 16 USC 811 et seq; ...

CFR Citation: 18 CFR 385.713

Legal Deadline: None

Abstract: This Notice of Proposed Rulemaking invites public comment on proposed internal policy for the U.S. Fish and Wildlife Service and National Marine Fisheries Service (the Services) regarding the prescription of fishways

pursuant to section 18 of the Federal Power Act for non-Federal hydropower projects licensed by the Federal Energy Regulatory Commission (FERC). The proposed policy is intended to set forth the definition of fishways in accordance with the 1992 National Energy Policy Act and the procedures for the prescription of fishways. The policy does not introduce new procedures but standardizes current practices and existing procedures for providing fishway prescriptions.

Timetable:

Action	Date	FR Cite
Notice	12/22/00	65 FR 80898
Notice Comment Period End	02/20/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathryn Conant, Habitat Specialist, NMFS, Office of Habitat Conservation, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2325
Fax: 301 713-1043
Email: kathryn.conant@noaa.gov

RIN: 0648–AO70

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679. POLICY FOR REVIEW OF MANDATORY CONDITIONS DEVELOPED BY THE DEPARTMENTS OF THE INTERIOR AND COMMERCE IN THE CONTEXT OF HYDROPOWER LICENSING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 791a et seq; 16 USC 811; 16 USC 797(e); 16 USC 8251(b)

CFR Citation: 18 CFR 385.713

Legal Deadline: None

Abstract: The Department of the Interior and the Department of Commerce (Departments) have formalized a process for public review of and comment on mandatory conditions and prescriptions the Departments develop for inclusion in hydropower licenses issued by the Federal Energy Regulatory Commission pursuant to part I of the Federal Power Act. This policy provides an opportunity for public comment on the Departments' mandatory conditions and prescriptions for both the traditional licensing process and the alternative licensing process.

Timetable:

Action	Date	FR Cite
Notice	12/13/00	65 FR 77889
Notice Comment Period End	01/03/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathryn Conant, Habitat Specialist, NMFS, Office of Habitat Conservation, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2325
Fax: 301 713-1043
Email: kathryn.conant@noaa.gov

RIN: 0648–AO84

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680. ESTABLISH GUIDELINES FOR NONLETHALLY DETERRING MARINE MAMMALS FROM ENDANGERING PERSONAL SAFETY OR DAMAGING PUBLIC OR PRIVATE PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, January 1, 1995, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: On April 30, 1994, the President signed Pub. L. 103-238, the Marine Mammal Protection Act Amendments of 1994. One part of this law implemented a new section 101(a)(4) to authorize the nonlethal harassment takings by citizens of the United States to deter marine mammals from: (1) Damaging commercial fishing gear or catch; (2) damaging private property; (3) endangering public safety; or (4) damaging public property. The amendments require a list of guidelines for use in safely deterring marine mammals and provide for prohibiting certain deterrent measures that may have a significant adverse impact on marine mammals.

Timetable:

Action	Date	FR Cite
NPRM	05/05/95	60 FR 22345
NPRM Comment Period End	07/05/95	
Interim Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20912
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AH19

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681. GENERAL AUTHORIZATION FOR SCIENTIFIC RESEARCH INVOLVING LEVEL B HARASSMENT

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 16 USC 1151 et seq Fur Seal Act; 16 USC 1631 et seq Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, August 30, 1994.

Abstract: This final rule is required by the 1994 amendments to the Marine Mammal Protection Act. These regulations establish a general authorization for bona fide scientific research on non-endangered and non-threatened marine mammals that may result in harassment with only the potential to disturb. Inclusion under the general authorization is achieved by letter of intent to the National Marine Fisheries Service and a letter of confirmation from the Service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/03/94	59 FR 50372
Interim Final Rule Comment Period End	11/17/94	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Trevor Spradlin, Marine Mammal Biologist, Office of

DOC—NOAA

Final Rule Stage

Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289
Email: treyor.spradlin@noaa.gov

RIN: 0648–AH20

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682. PROVIDE REGULATIONS FOR PERMITS FOR CAPTURE, TRANSPORT, IMPORT AND EXPORT OF PROTECTED SPECIES FOR PUBLIC DISPLAY, AND FOR MAINTAINING A CAPTIVE MARINE MAMMAL INVENTORY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1372 (c)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This rule will revise and simplify criteria and procedures specific to permits for taking, transporting, importing, and exporting protected species for public display and provide convenient formats for reporting marine mammal captive holdings and transports as required by amendments made in 1994 to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	07/03/01	66 FR 35209
NPRM Comment Period Extended	08/22/01	66 FR 44109
NPRM Comment Period End	09/04/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gene Nitta, Marine Resource Manager, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH26

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683. IMPLEMENTATION OF 1997 MMPA AMENDMENTS AFFECTING YELLOWFIN TUNA PURSE SEINE FISHING IN THE EASTERN TROPICAL PACIFIC

Priority: Economically Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: This rule would implement the 1997 amendments to the Marine Mammal Protection Act (MMPA) regarding regulation of the U.S. yellowfin tuna fishery in the eastern tropical Pacific Ocean, and the regulation of yellowfin tuna into the United States from other nations.

Timetable:

Action	Date	FR Cite
NPRM	06/14/99	64 FR 31806
Interim Final Rule	01/03/00	65 FR 30
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: Legislation amending the MMPA regarding the yellowfin tuna fishery will require implementation of regulations 3 months after the effective date of the legislation.

Agency Contact: Nicole LeBoeuf, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322

RIN: 0648–AI85

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684. PACIFIC OFFSHORE CETACEAN TAKE REDUCTION PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 229

Legal Deadline: None

Abstract: This interim final rule would allow vessel operators participating in the California/Oregon drift gillnet fishery for thresher shark and swordfish to use longer lines to attach pingers to the nets.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia Lawson, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Email: patricia.lawson@noaa.gov

RIN: 0648–AL70

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685. DRAFT POLICY FOR EVALUATION OF CONSERVATION EFFORTS IN MAKING LISTING DECISIONS

Priority: Info./Admin./Other

Legal Authority: 16 USC 1531

CFR Citation: 50 CFR 424

Legal Deadline: None

Abstract: A policy to evaluate conservation efforts in making listing decisions under the Endangered Species Act. Policy identifies considerations to be used in determining whether conservation plans and agreements, management plans or other efforts provide sufficient protections to preclude or remove the need to list a species under the ESA.

Timetable:

Action	Date	FR Cite
NPRM	06/13/00	65 FR 37102
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Margaret C. Lorenz, ESA Policy Coordinator, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: margaret.lorenz@noaa.gov

RIN: 0648–AL91

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686. RULEMAKING FOR THE INCIDENTAL TAKING OF MARINE MAMMALS DURING WORLDWIDE DEPLOYMENT OF THE U.S. NAVY'S LOW FREQUENCY ACTIVE SONAR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.101

Legal Deadline: None

Abstract: NMFS has received an application from the U.S. Navy for authorization to take marine mammals incidental to the worldwide

DOC—NOAA

Final Rule Stage

deployment of its new low frequency active sonar system. The U.S. Navy anticipates deployment of up to 4 shipboard systems within the next 5 years. This authorization can be granted under the Marine Mammal Protection Act provided the taking of marine mammals is incidental, is having no more than a negligible impact on small numbers of marine mammals and is not having an unmitigatable impact on Arctic subsistence needs. If an authorization is granted monitoring and reporting takings will be required.

Timetable:

Action	Date	FR Cite
ANPRM	10/22/99	64 FR 57026
NPRM	03/19/01	66 FR 15375
NPRM Comment Period End	05/31/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20912
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AM62

687. SEA TURTLE CONSERVATION REGULATIONS; SUMMER FLOUNDER FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 223; 50 CFR 222

Legal Deadline: None

Abstract: The National Marine Fisheries Service intends to amend the Turtle Excluder Device (TED) requirements for summer flounder trawlers at 50 CFR 223.206(d)(2)(iii). The rule change would require the use of a TED extension with a hard TED. The extension could not be more than 3.5-inch stretched mesh. The extension could extend not more than 24 inches and not less than 36 inches in front of and behind the TED. New information came to light over the winter and during TED testing in June 1999 that TED installation in larger mesh results in many turtle captures and deaths. The fishery will begin at the beginning of October, and many preventable sea turtle deaths would occur if the rule is not in place prior. Bringing the rule into effect during the course of the fishery would also be disruptive to the fishermen.
The rule is not significant and the cost to the fishermen for compliance will be minimal: less than $20 for materials and about 2 hours to reinstall the TED (many fishermen already reinstall their TEDs on an annual basis).

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/15/99	64 FR 55860
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Therese Conant, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, Silver Spring, MD 20910
Phone: 301 713-1431
Fax: 301 713-0376

RIN: 0648–AM89

688. SEA TURTLE CONSERVATION REGULATIONS; FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 742a et seq; 31 USC 9701

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: NMFS proposes to amend the sea turtle handling and resuscitation regulations. Recent scientific and technical information indicate that the current procedures need to be updated. This measure is necessary to safely handle sea turtles that are incidentally captured during scientific research or in fishing operations.

Timetable:

Action	Date	FR Cite
NPRM	06/18/01	66 FR 32787
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Therese Conant, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, Silver Spring, MD 20910
Phone: 301 713-1431
Fax: 301 713-0376

RIN: 0648–AN64

689. TAKING OF THE COOK INLET, ALASKA, STOCK OF BELUGA WHALES BY ALASKA NATIVES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1371

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NMFS is regulating subsistence harvest of Cook Inlet Beluga to ensure that the harvest is sustainable and does not substantially delay the recovery of this marine mammal stock. Specific harvest levels and distribution of the harvest will be based upon cooperative agreements with Alaska native organizations.

Timetable:

Action	Date	FR Cite
NPRM	10/04/00	65 FR 59164
NPRM Comment Period End	11/27/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations, Governmental Jurisdictions

Government Levels Affected: Tribal, Federal

Agency Contact: Thomas C. Eagle, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Room 13725, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2055
Fax: 301 713-4060
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RIN: 0648–AO16

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Department of Commerce (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Long-Term Actions

NATIONAL MARINE FISHERIES SERVICE

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690. GENERAL PROVISIONS FOR DOMESTIC FISHERIES—STANDARD DEFINITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 600

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer
Phone: 301 427-2014

RIN: 0648–AG46

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691. REGULATORY AMENDMENT TO ALLOCATE PACIFIC HALIBUT TO THE HALIBUT SUBSISTENCE FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 300

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AK16

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692. FISHING CAPACITY REDUCTION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 600

Timetable:

Action	Date	FR Cite
NPRM	02/11/99	64 FR 6869
Interim Final Rule	05/18/00	65 FR 31430
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael L. Grable
Phone: 301 713-2390
Email: michael.grable@noaa.gov

RIN: 0648–AK76

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693. HALIBUT BYCATCH ACCOUNTING FOR THE YELLOWFIN SOLE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AM76

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694. AMENDMENT 1 TO THE ATLANTIC HERRING FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AN19

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695. AMENDMENT 14 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AN20

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696. REGULATORY AMENDMENT TO CLARIFY THE ALASKA GROUNDFISH INDIVIDUAL FISHING QUOTA PROGRAM APPEALS REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AN21

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697. AMENDMENT 63 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA AND AMENDMENT 63 TO THE FMP FOR THE GROUNDFISH OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AN24

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698. AMENDMENTS TO ALASKA FMPS FOR GROUNDFISH, CRAB, AND SCALLOP TO REDUCE HALIBUT MORTALITY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AN26

DOC—NOAA

Long-Term Actions

699. AMENDMENTS 61/61 FOR BSAI AND GOA GROUNDFISH; AMENDMENT 13 FOR COMMERCIAL KING AND TANNER CRAB; AND AMENDMENT 8 FOR ALASKA SCALLOP FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AN55

700. DISTRIBUTE U.S. ALLOCATIONS FROM THE NORTHWEST ATLANTIC FISHERIES ORGANIZATION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 300

Timetable:

Action	Date	FR Cite
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Patrick Edward Moran
Phone: 301 713-2276
Fax: 301 713-2313
Email: pat.moran@noaa.gov

RIN: 0648–AN60

701. FISHERY MANAGEMENT PLAN FOR NORTHEAST SKATE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AO10

702. AMERICAN FISHERIES ACT REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/22/01	66 FR 7327
Extension of Emergency Interim Rule	07/10/01	66 FR 35911
Interim Final Rule Comment Period End	08/09/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AO14

703. MULTISPECIES COMMUNITY DEVELOPMENT QUOTA PROGRAM BYCATCH ACCOUNTING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AO26

704. CONTINUE CLOSURE OF TWO MID-ATLANTIC AREAS TO SCALLOP FISHING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/01	66 FR 9678
Interim Final Rule Effective	03/02/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AO71

705. IMPLEMENT MANAGEMENT MEASURES FOR THE PACIFIC COD FISHERIES IN THE GULF OF ALASKA, THE BERING SEA, AND THE ALEUTIAN ISLANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AO73

706. ATLANTIC HIGHLY MIGRATORY SPECIES; PELAGIC LONGLINE FISHERY; GEAR REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 635

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/01	66 FR 17370
Interim Final Rule Comment Period End	04/30/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AO76

707. OBSERVER PROGRAM ELECTRONIC REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 300

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Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AO90

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708. AMENDMENT 65 TO BSAI GROUNDFISH, AMENDMENT 65 TO GOA GROUNDFISH, AMENDMENT 12 FOR COMMERCIAL KING AND TANNER CRAB OF BSAI, AND AMENDMENT 7 FOR SCALLOP FISHERY OFF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AO98

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709. ESTABLISH MEASURES TO ADDRESS THE IMMINENT RAPID INCREASE IN LANDINGS AND TO HALT OVERFISHING IN THE ATLANTIC RED CRAB FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/08/01	66 FR 23182
Interim Final Rule Effective	05/18/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AP10

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710. • SEA TURTLE CONSERVATION REGULATIONS; FISHERY ACTIVITIES (TEDS)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq; 16 USC 1531 TO 1543

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: NMFS issues an interim final rule to add the double cover flap turtle excluder device to the list of approved.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/14/01	66 FR 24287
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Therese Conant, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, Silver Spring, MD 20910
Phone: 301 713-1431
Fax: 301 713-0376

RIN: 0648–AP16

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711. • EXTENSION ATLANTIC HIGHLY MIGRATORY SPECIES (HMS); PERMIT CATEGORY DEADLINE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: This interim final rule extends through May 31, 2001, the deadline to change Atlantic tunas permit categories for fishing year 2001. Additional time is needed due to technical difficulties with the automated permitting system. Allowing vessel owners to choose the most appropriate category will further the domestic management objectives for the Atlantic tuna fisheries.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/25/01	
Interim Final Rule	05/31/01	66 FR 29510
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AP29

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712. • SPINY DOGFISH FISHERY; AMENDMENT 1

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: Amendment 1 to the Spiny Dogfish Fishery Management Plan would revise the rebuilding plan and management measures for spiny dogfish.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	
NPRM Comment Period End	02/00/03	
Final Action	03/00/03	
Final Action Effective	04/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP58

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713. AMENDMENT OF MARINE MAMMAL REGULATIONS TO AUTHORIZE INCIDENTAL TAKINGS OF MARINE MAMMALS BY HARASSMENT AS AUTHORIZED BY PUBLIC LAW 103-238

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable:

Action	Date	FR Cite
NPRM	05/31/95	60 FR 28379
NPRM Comment Period End	10/16/95	60 FR 35891
Interim Final Rule	04/10/96	61 FR 15884
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

DOC—NOAA

Long-Term Actions

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AG80

714. AMEND REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gene Nitta
Phone: 301 713-2289

RIN: 0648–AH83

715. ENDANGERED AND THREATENED SPECIES: TAKE OF THREATENED SOUTHERN OREGON/NORTHERN CALIFORNIA COAST EVOLUTIONARILY SIGNIFICANT UNIT (ESU) COHO SALMON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 223

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/18/97	62 FR 38479
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kellie Carter
Phone: 301 713-1401
Email: kellie.f.carter@noaa.gov

RIN: 0648–AJ91

716. DESIGNATE CRITICAL HABITAT; DESIGNATION OF MARINE AREAS AS CRITICAL HABITAT FOR PACIFIC SALMON

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 226

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kellie Carter
Phone: 301 713-1401
Email: kellie.f.carter@noaa.gov

RIN: 0648–AN89

717. ENDANGERED AND THREATENED SPECIES: PERMIT EXEMPTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 222

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Terri Jordan
Phone: 301 713-1401
Fax: 301 713-0376
Email: terri.jordan@noaa.gov

RIN: 0648–AO37

718. ENDANGERED AND THREATENED SPECIES: PERMITS: SUSPENSION CRITERIA AND PROCEDURES AND REVOCATION CRITERIA AND PROCEDURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 222

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Terri Jordan
Phone: 301 713-1401
Fax: 301 713-0376
Email: terri.jordan@noaa.gov

RIN: 0648–AO59

NATIONAL OCEAN SERVICE/OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT

719. FLORIDA KEYS NATIONAL MARINE SANCTUARY; TORTUGAS ECOLOGICAL RESERVE

Priority: Other Significant

CFR Citation: 15 CFR 922 et seq

Timetable:

Action	Date	FR Cite
NPRM	05/18/00	65 FR 31633
Draft EIS	05/19/00	65 FR 31898
Final Rule	03/23/01	66 FR 16120
Final Rule	06/22/01	66 FR 33462
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Billy Causey
Phone: 305 743-2437

RIN: 0648–AO18

720. INSTALLING AND MAINTAINING COMMERCIAL SUBMARINE CABLES IN NATIONAL MARINE SANCTUARIES

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 922

Timetable:

Action	Date	FR Cite
ANPRM	08/23/00	65 FR 51264
ANPRM Comment Period End	10/23/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Helen Golde
Phone: 301 713-3145

RIN: 0648–AO36

721. • REVISIONS TO ANCHORING PROHIBITIONS IN FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1434 et seq; 16 USC 1431 et seq

CFR Citation: 15 CFR 922

Legal Deadline: None

DOC—NOAA

Long-Term Actions

Abstract: This proposed rule will amend the regulations of the Flower Garden Banks National Marine Sanctuary (FGBNMS or Sanctuary) governing anchoring of vessels within the boundaries. This change will conform domestic regulations with anchoring prohibitions adopted by the International Maritime Organization (IMO). This rule will prohibit all anchoring in the Sanctuary, except for vessels under 100 feet (30.48 meters) using sanctuary mooring buoys. This will prevent further injuries to corals in the sanctuary from anchoring impacts.

Timetable:

Action	Date	FR Cite
NPRM	05/15/01	66 FR 26822
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: G. P. Schmahl, Manager, Department of Commerce, National Oceanic and Atmospheric Administration, Suite 104, Flower Garden Banks National Marine Sanctuary, 216 W. 26th Street, Bryan, TX 77803
Phone: 979 779-2705

RIN: 0648–AP22

OFFICE OF THE ADMINISTRATOR

722. REGIONAL MARINE RESEARCH PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Don Scavia
Phone: 301 713-3060

RIN: 0648–AF20

Department of Commerce (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Completed Actions

723. CONSOLIDATE THE RULES FOR SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC AND STONE CRAB FISHERY OF THE GULF OF MEXICO WITH 50 CFR 622

Priority: Info./Admin./Other

CFR Citation: 50 CFR 622; 50 CFR 640; 50 CFR 654

Completed:

Reason	Date	FR Cite
Withdrawn	08/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph Powers
Phone: 727 570-5301

RIN: 0648–AJ28

724. IMPLEMENTATION OF DATA COLLECTION AND REPORTING REQUIREMENTS TO THE FISHERY MANAGEMENT PLAN FOR THE AMERICAN LOBSTER FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 649

Completed:

Reason	Date	FR Cite
Withdrawn	07/30/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AJ75

725. AMENDMENT TO PORTIONS OF INDIVIDUAL FISHING QUOTA PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	05/21/01	66 FR 27908

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AK50

726. AMENDMENT 14 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Timetable:

Action	Date	FR Cite
Duplicate of RIN 0648-AO97	08/10/01	

RIN: 0648–AL50

727. AMENDMENT 14 TO THE PACIFIC COAST SALMON PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	05/20/01	66 FR 29238
Final Action Effective	06/29/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Donna Darm
Phone: 206 526-6150

RIN: 0648–AL51

728. REGULATORY AMENDMENT TO IMPLEMENT A LIMITED ACCESS PROGRAM THAT REQUIRES SPECIES ENDORSEMENTS TO PARTICIPATE IN FISHERIES TARGETING CERTAIN GROUNDFISH SPECIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Withdrawn	07/25/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

Agency Contact: Donna Darm

DOC—NOAA

Completed Actions

Phone: 206 526-6150
RIN: 0648–AL65

729. RULE TO PROHIBIT FISHING AND ANCHORING OF FISHING VESSELS IN THE EEZ SEAWARD OF NAVASSA ISLAND

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 622
Completed:

Reason	Date	FR Cite
Withdrawn	08/09/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Joseph Powers
Phone: 727 570-5301
RIN: 0648–AL93

730. AMENDMENTS TO ALASKA GROUNDFISH AND CRAB FMPS TO REVISE THE LICENSE LIMITATION PROGRAM

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 679
Completed:

Reason	Date	FR Cite
Final Action	09/24/01	66 FR 48813

Regulatory Flexibility Analysis Required: Yes
Government Levels Affected: None
Agency Contact: James L. Balsiger
Phone: 907 586-7228
RIN: 0648–AL95

731. ADJUSTMENT OF MANAGEMENT PROGRAM; CRUSTACEAN FISHERIES OF THE HAWAIIAN ISLANDS; TEMPORARY CLOSURE OF THE NORTHWESTERN HAWAIIAN ISLANDS LOBSTER FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
CFR Citation: 50 CFR 660
Completed:

Reason	Date	FR Cite
Withdrawn	07/30/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Charles Karnella
Phone: 808 973-2937
RIN: 0648–AM26

732. BSAI FMP AMENDMENT 66 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 679
Completed:

Reason	Date	FR Cite
Final Action	03/07/01	66 FR 13672
Final Action Effective	04/06/01	

Regulatory Flexibility Analysis Required: Yes
Government Levels Affected: None
Agency Contact: James L. Balsiger
Phone: 907 586-7228
RIN: 0648–AM72

733. IMPLEMENTATION OF WESTERN PACIFIC COMMUNITY DEVELOPMENT PROGRAM

Timetable:

Action	Date	FR Cite
Duplicate of RIN 0648-AP36	04/01/01	

RIN: 0648–AM96

734. RECORDKEEPING AND REPORTING REQUIREMENT REVISIONS TO THE ALASKA GROUNDFISH FISHERIES ALASKA COMMERCIAL OPERATOR'S ANNUAL REPORT (ACOAR)

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 679
Completed:

Reason	Date	FR Cite
Final Action	08/20/01	66 FR 43524

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: James L. Balsiger
Phone: 907 586-7228
RIN: 0648–AN01

735. REGULATORY AMENDMENT TO REDEFINE VESSEL LENGTH OVERALL

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 679
Completed:

Reason	Date	FR Cite
NPRM	05/25/01	66 FR 28883
Final Action	09/04/01	66 FR 47416
Final Action Effective	10/03/01	

Regulatory Flexibility Analysis Required: Yes
Government Levels Affected: None
Agency Contact: James L. Balsiger
Phone: 907 586-7228
RIN: 0648–AN23

736. REGULATORY AMENDMENT TO IMPLEMENT AN AT-SEA OBSERVER PROGRAM ON LIMITED ENTRY AND OPEN ACCESS CATCHER VESSELS IN THE PACIFIC COAST GROUNDFISH FISHERY

Priority: Other Significant
CFR Citation: 50 CFR 660
Completed:

Reason	Date	FR Cite
Final Action	04/24/01	66 FR 20609
Final Action Effective	05/24/01	

Regulatory Flexibility Analysis Required: Yes
Government Levels Affected: Federal
Agency Contact: Donna Darm
Phone: 206 526-6150
RIN: 0648–AN27

737. ATLANTIC HIGHLY MIGRATORY SPECIES; SPOTTER AIRCRAFT

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 635
Completed:

Reason	Date	FR Cite
Withdrawn	08/09/01	

Regulatory Flexibility Analysis Required: Undetermined
Government Levels Affected: Undetermined
Agency Contact: Bruce C. Morehead
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov
RIN: 0648–AN54

738. ATLANTIC HIGHLY MIGRATORY SPECIES; GULF OF MEXICO CLOSED AREA

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 635

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DOC—NOAA

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn	08/09/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bruce C. Morehead
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AN63

739. ANNUAL SPECIFICATIONS FOR FISHING YEAR 2001 FOR ATLANTIC HERRING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	05/25/01	66 FR 28846
Final Action Effective	05/25/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AN65

740. SPECIFICATIONS FOR THE ATLANTIC BLUEFISH FISHERY FOR FISHING YEAR 2001

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	05/09/01	66 FR 23625
Final Action Effective	05/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AN66

741. SPECIFICATIONS FOR THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES FOR FISHING YEAR 2001

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	03/02/01	66 FR 12024
Final Action Effective	03/02/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AN69

742. RECREATIONAL MEASURES FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES FOR FISHING YEAR 2001

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
NPRM	05/25/01	66 FR 28879
Final Action	07/30/01	66 FR 39288
Final Action Effective	07/30/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Federal

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AN70

743. SPECIFICATIONS FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES FOR THE FISHING YEAR 2001

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	03/23/01	66 FR 16151

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AN71

744. ATLANTIC HIGHLY MIGRATORY SPECIES; ATLANTIC TUNAS REPORTING AND ALLOCATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 635

Completed:

Reason	Date	FR Cite
Final Action	08/15/01	66 FR 42801

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AN97

745. ATLANTIC COAST HORSESHOE CRAB EEZ REGULATIONS

Priority: Other Significant

CFR Citation: 50 CFR 697

Completed:

Reason	Date	FR Cite
Final Action	02/05/01	66 FR 8906

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Richard H. Schaefer
Phone: 301 427-2014

RIN: 0648–AO02

746. ANNUAL FRAMEWORK ADJUSTMENT (FRAMEWORK 14) FOR THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN FOR FISHING YEAR 2001

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action Effective	05/01/01	
Final Action	05/11/01	66 FR 24052

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AO07

747. AMENDMENT 13 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN — BYCATCH REDUCTION/REPORTING, FRAMEWORK CHANGES TO ANNUAL MANAGEMENT MEASURES PROCESS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

DOC—NOAA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	06/01/01	66 FR 29729
Final Action Effective	07/02/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna Darm
Phone: 206 526-6150

RIN: 0648–AO41

748. REGULATING BYCATCH IN THE PURSE SEINE FISHERY AND ESTABLISHING A VESSEL REGISTER IN THE EASTERN PACIFIC OCEAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 300

Completed:

Reason	Date	FR Cite
Final Action	09/27/01	66 FR 49317
Final Action Effective	10/26/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Svein Fougner
Phone: 562 980-4040

RIN: 0648–AO42

749. 2001-2002 MANAGEMENT MEASURES FOR COMMERCIAL, RECREATIONAL, AND TREATY INDIAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action Effective	05/02/01	
Final Action	05/08/01	66 FR 23185

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Donna Darm
Phone: 206 526-6150

RIN: 0648–AO49

750. SPECIFICATIONS FOR FISHING YEAR 2001 FOR THE SPINY DOGFISH FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action Effective	05/01/01	
Final Action	05/04/01	66 FR 22473

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Federal

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AO53

751. OMNIBUS FRAMEWORK TO FMPS FOR SUMMER FLOUNDER, SCUP, BLACK SEA BASS, ATLANTIC MACKEREL, LOLIGO SQUID, ILLEX SQUID, BUTTERFISH, AND ATLANTIC BLUEFISH FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	08/10/01	66 FR 42156
Final Action Effective	08/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AO54

752. MODIFY AMERICAN LOBSTER REGULATIONS UNDER ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 697

Completed:

Reason	Date	FR Cite
Final Action	03/13/01	66 FR 14500

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AO58

753. AMENDMENT 9 TO THE COASTAL PELAGIC SPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	08/27/01	66 FR 44986
Final Action Effective	09/26/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Svein Fougner
Phone: 562 980-4040

RIN: 0648–AO64

754. ATLANTIC HIGHLY MIGRATORY SPECIES; REDUCING POSSIBILITY OF SERIOUS INJURY AND MORTALITY OF RIGHT WHALES BY OPERATION OF THE SOUTHEAST ATLANTIC SHARK GILLNET FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 635

Completed:

Reason	Date	FR Cite
Withdrawn	08/09/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bruce C. Morehead
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AO65

755. ATLANTIC HIGHLY MIGRATORY SPECIES; LARGE AND SMALL COASTAL SHARKS; COMMERCIAL QUOTA ADJUSTMENT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 635

Completed:

Reason	Date	FR Cite
Interim Final Rule	03/06/01	66 FR 13441

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AO85

DOC—NOAA

Completed Actions

756. REVISION TO THE RESTRICTION ON FREQUENCY OF LIMITED ENTRY PERMIT TRANSFERS AND OTHER PERMIT UPDATES IN THE PACIFIC COAST GROUNDFISH FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
NPRM	05/30/01	66 FR 29276
Final Action Effective	08/01/01	
Final Action	08/06/01	66 FR 40918

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna Darm
Phone: 206 526-6150

RIN: 0648–AO87

757. NOTICE OF DETERMINATION OF NONCOMPLIANCE; DECLARATION OF A MORATORIUM ON FISHING FOR AMERICAN LOBSTER IN RHODE ISLAND STATE WATERS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 697

Completed:

Reason	Date	FR Cite
Cancellation of Moritorium	04/20/01	66 FR 20202

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Thomas Meyer
Phone: 301 427-2014

RIN: 0648–AO88

758. MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT; AMENDMENT OF FOREIGN FISHING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 600

Completed:

Reason	Date	FR Cite
Final Action	05/22/01	66 FR 28131

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dean Swanson
Phone: 301 713-2276
Email: dean.swanson@noaa.gov

RIN: 0648–AO89

759. FRAMEWORK ADJUSTMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	07/11/01	66 FR 36208
Final Action Effective	07/29/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AO92

760. ATLANTIC HIGHLY MIGRATORY SPECIES; TRADE MEASURES AND MONITORING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 635

Completed:

Reason	Date	FR Cite
Merged With RIN 0648-AO93	05/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead
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Email: bruce.morehead@noaa.gov

RIN: 0648–AO94

761. ATLANTIC HIGHLY MIGRATORY SPECIES; 2001 BLUEFIN TUNA QUOTA SPECIFICATIONS AND EFFORT CONTROLS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 635

Completed:

Reason	Date	FR Cite
NPRM	04/02/01	66 FR 17520
Final Action	06/18/01	66 FR 37921

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead
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Email: bruce.morehead@noaa.gov

RIN: 0648–AO96

762. ESTABLISH A CONTROL DATE FOR PERMIT OWNERSHIP; SABLEFISH FISHERY; AMENDMENT 14 TO PACIFIC COAST GROUNDFISH FMP

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Rule	04/03/01	66 FR 17681
NPRM	06/08/01	66 FR 30869
Final Action	08/07/01	66 FR 41152
Final Action Effective	08/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna Darm
Phone: 206 526-6150

RIN: 0648–AO97

763. ANNOUNCEMENT OF THE OPTIMUM YIELD AND HARVEST LIMIT FOR PACIFIC MACKEREL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	07/20/01	66 FR 38571
Final Action Effective	07/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Svein Fougner
Phone: 562 980-4040

RIN: 0648–AP01

764. REGULATORY AMENDMENT UNDER THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC REGION (FMP) REGARDING USE OF POWERHEADS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Withdrawn	08/09/01	

Regulatory Flexibility Analysis Required: Undetermined

DOC—NOAA

Completed Actions

Government Levels Affected: None

Agency Contact: Joseph Powers
Phone: 727 570-5301

RIN: 0648–AP04

765. ATLANTIC HIGHLY MIGRATORY SPECIES; PELAGIC LONGLINE MANAGEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 635

Completed:

Reason	Date	FR Cite
Withdrawn	05/07/01	66 FR 22994

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AP13

766. • SEA TURTLE CONSERVATION REGULATIONS; FISHERIES ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: NMFS is prohibiting, for a 30-day period, any vessel that has a commercial fishing permit from fishing with gillnets larger than 5 inches in Florida.

Timetable:

Action	Date	FR Cite
Final Action	03/15/01	66 FR 15045

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Therese Conant, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, Silver Spring, MD 20910
Phone: 301 713-1431
Fax: 301 713-0376

RIN: 0648–AP14

767. • ESTABLISHMENT OF CONTROL DATE FOR PELAGIC OFFSHORE HANDLINE FISHERY AROUND THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: At its meeting on February 14, 2001 the Western Pacific Fishery Management Council (Council) voted to establish a new control date for the Hawaii offshore pelagic handline fishery around the Cross Seamount, NOAA weather buoys, and "Bigeye Buoy" located in the U.S. exclusive economic zone around Hawaii. The control date enables the Council to inform fishermen that it is considering future action to limit the number of participants or effort and, during this period, discourage speculative entry into the fishery. Fishermen are also advised that anyone entering the fishery after the control date may not be assured of future access, regardless of their level of participation before or after the control date, if a limited access program for the fishery is developed by the council and approved by the National Marine Fisheries Service.

Timetable:

Action	Date	FR Cite
Final Action	05/18/01	66 FR 27613

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AP19

768. • ATLANTIC HIGHLY MIGRATORY SPECIES (HMS); NOAA INFORMATION COLLECTION REQUIREMENTS; REGULATORY ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq.; 16 USC 1801 et seq.

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS announces approval by the Office of Management and Budget (OMB) of a collection-of-information requirement contained in the final consolidated regulations governing the Atlantic HMS fisheries. Accordingly, NMFS amends the regulations and makes effective the requirement that vessels taking paying customers to fish for Atlantic tunas, swordfish, sharks, and billfish obtain an Atlantic HMS Charter/Headboat permit. This final rule, technical amendment, also updates the table in 15 CFR 902.1(b) to add this OMB approval, to remove expired control numbers, and to correct control numbers to the appropriate CFR part or section.

Timetable:

Action	Date	FR Cite
Final Action	06/07/01	66 FR 30651

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AP23

769. • REGULATORY FRAMEWORK TO ALLOW INCIDENTAL HALIBUT RETENTION IN THE WEST COAST PRIMARY SABLEFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 773 to 773k

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: Allocation of Pacific halibut in west coast waters is governed by the Pacific Fishery Management Council's (Council) Pacific Halibut Catch Sharing Plan (Plan). According to the Plan, when the west coast total allowable catch (TAC) is above 900,00 pounds, a portion of the TAC will be available as incidental catch in the limited entry, primary sablefish longline fishery north of Point Chehalis, Washington. At its annual meeting in January 22-25, the International Pacific Halibut Commission set a 2001 Pacific halibut TAC for waters off Washington, Oregon,

and California of 1,140,000 pounds. This is the first year since the adoption of the Plan that the TAC has been above 900,000 pounds. This proposed regulation would provide a framework in the halibut regulations at 50 CFR 300 to allow the Council and NMFS, in years when the west coast halibut TAC is above 900,000 pounds, to set annual halibut retention limits for vessels that catch halibut incidentally during the primary sablefish fishery. This is a non-controversial regulation, intended to provide sablefish longline vessels with access to the halibut quota set aside for their fisheries and will not change the effect of the fishery on the halibut resource nor change the overall halibut harvest level.

Timetable:

Action	Date	FR Cite
NPRM	06/14/01	66 FR 32310
NPRM Comment Period End	07/16/01	
Final Action	08/10/01	66 FR 42154

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AP26

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770. • FISHERIES OF THE NORTHEASTERN UNITED STATES; BLACK SEA BASS FISHERY; NOTICE OF CONTROL DATE

Priority: Info./Admin./Other

Legal Authority: 16 USC 1801

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: NMFS is considering proposed rulemaking to control future access of the black sea bass (Centropristis striata) fishery under the Magnuson-Stevens Fishery Conservation and Management Act. This announcement is intended, in part, to discourage speculative increases in effort or capacity while The Mid-Atlantic Fishery Management Council and NMFS are considering whether and how to control capacity and latent effort in this fishery. The date of publication of this notification shall be known as the "control date" and may be used for establishing eligibility criteria for determining levels of future access to the black sea bass fishery subject to Federal authority.

Timetable:

Action	Date	FR Cite
Final Action	06/05/01	66 FR 30149
Comment Period End	07/05/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George H. Darcy, Assistant Regional Administrator for Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 1930-2298
Phone: 978 281-9331
Fax: 978 281-9135
Email: george.darcy@noaa.gov

RIN: 0648–AP28

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771. • DEEP SEA RED CRAB FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This interim rule would revise the multiplier used to determine the equivalent possession limit for butchered deep sea red crab. NMFS issued an emergency interim rule for the red crab fishery on May 8, 2001, effective through November 14, 2001. The rule implemented among other things a possession limit of 65,000 pounds of whole red crab (or its equivalent in butchered or processed product); and an incidental catch possession limit of 100 pounds of whole red crab (or its equivalent). The rule stated that butchered red crab are equivalent to whole red crab based on a estimated yield of 58 percent of that limit. NMFS received information to indicate that the multiplier of 1.72 is based on a more thorough butchering method than is typically employed by those who currently at sea. Based on information provided by industry and corroborated through a recent red crab sample analyzed by NMFS, the recovery rate for red crabs butchered consistent with the method used by industry is about 64 percent. The revised multiplier would be applied to the current possession limit.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	07/18/01	
Interim Final Rule	07/23/01	66 FR 38165

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This rule was inadvertently published under the RIN 0648-AP10. That RIN number was assigned to the emergency interim red crab rule.

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP30

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772. • ATLANTIC HIGHLY MIGRATORY SPECIES; PELAGIC LONGLINE FISHERY; SEA TURTLE PROTECTION MEASURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: This emergency rule will implement the reasonable and prudent alternatives recommended by the Biological Opinion that is expected to be released in early June 2001. Based on the draft Biological Opinion which was released for public comment on April 11, 2001, NMFS expects to implement area closures and gear modifications.

Timetable:

Action	Date	FR Cite
Final Action	07/13/01	66 FR 36711

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
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RIN: 0648–AP31

DOC—NOAA

Completed Actions

773. • IMPORTS OF ILLEGALLY HARVESTED PATAGONIAN OR ANTARCTIC TOOTHFISH SEIZED BY FOREIGN LAW ENFORCEMENT AUTHORITIES AND PLACED INTO INTERNATIONAL COMMERCE

Priority: Economically Significant

Legal Authority: 16 USC 2431 et seq

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: NMFS issues this interpretive rule regarding legal requirements applicable to receivers, dealers, importers, and exporters of, Dissostichus eleginoides (Patagonian toothfish) and Dissostichus mawsoni (Antarctic toothfish) harvested in all waters, including those under the jurisdiction of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). The Antarctic fisheries are managed under the authority of the Antarctic Marine Living Resources Convention Act of 1984 (AMLRCA) codified at 16 U.S.C. 2431 et seq. NMFS implements CCAMLR conservation measures by regulations at 50 CFR part 300, subpart G. Section 306 of the AMLRCA prohibits the import of illegally harvested toothfish. NMFS interprets this prohibition to extend over products illegally harvested, seized by foreign law enforcement authorities, and then offered on the market by the country which seized the toothfish. Import is prohibited even if such products are accompanied by a Dissostichus Catch Document issued by the country which seized the toothfish.

Timetable:

Action	Date	FR Cite
Final Action	09/07/01	66 FR 46740

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark R. Wildman, Foreign Affairs Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2276
Fax: 301 713-2313
Email: mark.wildman@noaa.gov

RIN: 0648–AP35

774. ENDANGERED AND THREATENED SPECIES: LISTING STATUS FOR WHITE ABALONE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 223; 50 CFR 224

Completed:

Reason	Date	FR Cite
Final Action	05/29/01	66 FR 29046

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Terri Jordan
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Fax: 301 713-0376
Email: terri.jordan@noaa.gov

RIN: 0648–AM90

775. REGULATIONS GOVERNING THE APPROACH TO HUMPBACK WHALES IN ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 224.103

Completed:

Reason	Date	FR Cite
Final Action	05/31/01	66 FR 29502

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Trevor Spradlin
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Email: trevor.spradlin@noaa.gov

RIN: 0648–AN29

776. TAKING OF MARINE MAMMALS INCIDENTAL TO SHOCK TESTING THE USS WINSTON CHURCHILL OFF THE U.S. ATLANTIC COAST

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216.151

Completed:

Reason	Date	FR Cite
Final Action	05/04/01	66 FR 22450

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kenneth R. Hollingshead
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Email: ken.hollingshead@noaa.gov

RIN: 0648–AN59

777. LIST OF FISHERIES FOR 2001

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 229

Completed:

Reason	Date	FR Cite
Final Action	08/15/01	66 FR 42780

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Emily E. Hanson
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Fax: 301 713-4060
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RIN: 0648–AN92

778. TAKING AND IMPORTING MARINE MAMMALS; TAKING MARINE MAMMALS INCIDENTAL TO OPERATION OF A LOW FREQUENCY SOUND SOURCE BY THE NORTH PACIFIC ACOUSTIC LABORATORY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216.70

Completed:

Reason	Date	FR Cite
Final Action	08/17/01	66 FR 43442

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kenneth R. Hollingshead
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Email: ken.hollingshead@noaa.gov

RIN: 0648–AO24

779. MARINE MAMMALS; SUBSISTENCE TAKING OF NORTHERN FUR SEALS; HARVEST ESTIMATES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216.21

Completed:

Reason	Date	FR Cite
Final Action	06/21/01	66 FR 33209

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal, Federal

Agency Contact: Kellie Carter
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Thomas C. Eagle

DOC—NOAA

Completed Actions

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RIN: 0648–AO40

780. ENDANGERED AND THREATENED SPECIES; THREATENED STATUS FOR ONE EVOLUTIONARILY SIGNIFICANT UNIT OF STEELHEAD IN CALIFORNIA AND OREGON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 223

Completed:

Reason	Date	FR Cite
Final Action	04/04/01	66 FR 17845
Final Action Effective	04/04/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Kellie Carter
Phone: 301 713-1401

RIN: 0648–AO86

781. • SEA TURTLE CONSERVATION REGULATION; FISHERIES ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq; 16 USC 1531 to 1543

CFR Citation: 50 CFR 223

Legal Deadline: Final, Statutory, April 19, 2001, Temporary rule.

Abstract: NMFS is establishing conditions for the closure of the large-mesh gillnet fishery for monkfish in the mid-Atlantic to prevent unauthorized takings of sea turtles listed as threatened or endangered under the Endangered Species Act (ESA). Specifically, NMFS intends to place fishery observers aboard 100 percent of the vessels fishing for monkfish out of North Carolina in the months of April and May 2001 and out of Virginia ports in the months of May and June 2001, to monitor for sea turtle interactions. Documented sea turtle takes beyond the levels specified in the incidental take statement of the December 21, 1998, biological opinion for the monkfish fishery are not authorized. If the levels specified in the incidental take statement are met, NMFS will immediately file a notification with the Office of Federal Register. On and after the effective date of such notification for a 30-day period in all offshore Atlantic waters position of the northernmost documented sea turtle take. The closure will include all vessels using large mesh gillnets targeting monkfish. If necessary, the closure will be extended for additonal 30-day periods through the publication of additional notifications.

Timetable:

Action	Date	FR Cite
Final Action	05/25/01	66 FR 28842

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Therese Conant, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, Silver Spring, MD 20910
Phone: 301 713-1431
Fax: 301 713-0376

RIN: 0648–AP20

782. • TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATONS; TEMPORARY AREA AND GEAR RESTRICTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1631

CFR Citation: 50 CFR 229

Legal Deadline: None

Abstract: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's implementing regulations. The AA implements gear restrictions for an area totaling 460 square nautical miles (sq. nm) for 15 days to provide immediate protection to an aggregation of northern right whales. The AA also requests that fishermen adhere to voluntary measures for a 600 sq. nm precautionary area, which surrounds the restricted area.

Timetable:

Action	Date	FR Cite
Final Action	05/16/01	66 FR 27042

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia Lawson, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Email: patricia.lawson@noaa.gov

RIN: 0648–AP27

783. • SEA TURTLE CONSERVATION REGULATIONS; FISHERY ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq; 16 USC 1531 to 1543

CFR Citation: 50 CFR 223

Legal Deadline: Final, Statutory, June 18, 2001, Emergency Rule.

Abstract: NMFS is requiring all pound net leaders measuring 8 inches or greater stretched mesh and pound net leaders with stringers to be tied up in the Virginia waters of the mainstem Chesapeake Bay and tributaries for a period of 30 days. The leaders shall be tied up in such a manner so that the mesh and stringers are rolled up and tied off, and are not fishing in the water. The closed area includes all Chesapeake Bay waters between the Maryland and Virginia state line (approximately 38 deg. N. latitude) and the COLREGS line at the mouth of the Bay, including the tidal waters of the James River, York River, and Rappahannock River. NMFS is taking this action because of the large number of sea turtle strandings in the Chesapeake Bay and unauthorized takes in the pound net fishery. If necessary, the closure may be extended for additional 30-day periods through the publication of additional notifications.

Section 11(f) of the ESA authorizes the Secretary of Commerce to promulgate regulations to enforce the requirements of the Act. Section 4(d) allows the Secretary of Commerce to promulgate protective regulations for threatened sea turtles. Regulations at 50 CFR 223.206(d)(4) specify procedures that the Assistant Administrator for Fisheries may use to impose additional restrictions to conserve listed sea turtles and prevent unauthorized takings.

Timetable:

Action	Date	FR Cite
Final Action	06/22/01	66 FR 33489

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

DOC—NOAA

Completed Actions

Agency Contact: Barbara Schroeder, National Sea Turtle Coordinator, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AP34

784. • SEA TURTLE CONSERVATION REGULATIONS; FISHERY ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: NMFS intends to close waters off California to fishing using drift gillnets operating north of Point Sur extending west to 123 degrees 35 minutes W from August 15 to November 15 and, during forecasted El Nino years, south of Point Conception extending west to 120 degrees W from August 15 to August 31 and again from January 1 to January 31. This action is necessary to protect endangered and threatened sea turtles.

Timetable:

Action	Date	FR Cite
Final Action	08/24/01	66 FR 44549

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peter J. Eldridge, Fishery Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration
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Therese Conant, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, Silver Spring, MD 20910
Phone: 301 713-1431
Fax: 301 713-0376

RIN: 0648–AP40

785. OPERATIONS OF MOTORIZED PERSONAL WATERCRAFT IN THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 922

Completed:

Reason	Date	FR Cite
Final Action	09/10/01	66 FR 46942

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Daniel J. Basta
Phone: 301 713-3000

RIN: 0648–AK01

786. COASTAL ZONE MANAGEMENT ACT CONSISTENCY REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 930 et seq

Completed:

Reason	Date	FR Cite
Final Action	12/08/00	65 FR 77123
Final Action Effective	12/08/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Molly Holt
Phone: 301 713-2967

RIN: 0648–AM88

Department of Commerce (DOC)
National Telecommunications and Information Administration (NTIA)

Long-Term Actions

787. IMPROVEMENT OF TECHNICAL MANAGEMENT OF INTERNET NAMES AND ADDRESSES

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR XXIII

Timetable:

Action	Date	FR Cite
NPRM	02/20/98	63 FR 8826
NPRM Comment Period End	03/23/98	
Notice - Policy Statement	06/10/98	63 FR 31741
Notice - Request for Public Comment	08/04/98	63 FR 41547
Notice - Extension of Comment Period to 10/05/98	08/27/98	63 FR 45800
Notice - Public Meeting	02/10/99	64 FR 6633
Request for Comments	08/22/00	65 FR 50964
Comment Period End	10/06/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Rose
Phone: 202 482-3167
Email: krose@ntia.doc.gov

RIN: 0660–AA11

788. MANDATORY REIMBURSEMENT RULES FOR RELOCATION OF FEDERAL SPECTRUM

Priority: Other Significant

CFR Citation: 47 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4771
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Milton Brown
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RIN: 0660–AA14

Department of Commerce (DOC)
Patent and Trademark Office (PTO)

Proposed Rule Stage

789. REQUIREMENTS FOR REGISTRATION TO PRACTICE BEFORE THE PTO IN PATENT CASES

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 2(b)(2)(D); 35 USC 32

CFR Citation: 37 CFR 1.21; 37 CFR 10.7; 37 CFR 10.11

Legal Deadline: None

Abstract: This rulemaking involves the restructuring of the administration and format of the Registration Examination for Patent Practitioners and the establishment of a continuing education requirement and annual fee for registered practitioners.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/96	61 FR 51072
ANPRM Comment Period End	12/06/96	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry I. Moatz, Director of Enrollment and Discipline, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231
Phone: 703 306-4097

RIN: 0651–AA93

790. TECHNICAL AND NONTECHNICAL REQUIREMENTS FOR REGISTRATION TO PRACTICE BEFORE THE PTO IN PATENT CASES, DISCIPLINARY RULES, AND INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 2(b)(2)(D); 35 USC 32

CFR Citation: 37 CFR 10

Legal Deadline: None

Abstract: This rulemaking amends the rules of practice before the PTO to include the technical and nontechnical requirements for registration to practice before the PTO in patent cases, as well as new Disciplinary Rules, and new rules regarding Investigations and Disciplinary Proceedings.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry I. Moatz, Director of Enrollment and Discipline, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231
Phone: 703 306-4097

RIN: 0651–AA95

791. PATENT AND TRADEMARK OFFICE ACQUISITION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-113

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Patent and Trademark Office is developing a new procurement process consistent with authority conveyed in the Performance Based Organization Legislation, PL 106-113. The Patent and Trademark Office will publish a notice to inform industry and businesses of the availability of new acquisition regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael Anastasio, Director, Office of Procurement, Department of Commerce, Patent and Trademark Office, Crystal Park 1, Suite 810, 2011 Crystal Park Drive, Washington, DC 20231
Phone: 703 305-8014
Fax: 703 305-5484
Email: michael.anastasio@uspto.gov

RIN: 0651–AB11

792. PRELIMINARY DRAFT CONVENTION ON JURISDICTION AND FOREIGN JUDGMENTS AND CIVIL AND COMMERCIAL MATTERS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 2

CFR Citation: None

Legal Deadline: None

Abstract: The United States Patent and Trademark Office (USPTO) is seeking the views of the public concerning common jurisdictional rules for international civil and commercial cases and enforcement of judgments.

Timetable:

Action	Date	FR Cite
Request for Comments	10/17/00	65 FR 61306
Comment Period End	01/12/01	
Request for Comments	08/20/01	66 FR 43676
Public Hearing	09/11/01	
Comment Period End	10/19/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Lucas, Department of Commerce, Patent and Trademark Office, Office of Legislative and International Affairs, Washington, DC 20231
Phone: 703 305-9300
Fax: 703 305-8885
Email: jennifer.lucas@uspto.gov

RIN: 0651–AB25

793. RULES OF PRACTICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES IN APPEALS UNDER 35 U.S.C. 134

Priority: Info./Admin./Other

Legal Authority: 35 USC 2(B)(2); 35 USC 6; 35 USC 134

CFR Citation: 37 CFR 1.14; 37 CFR 1.191 to 1.198

Legal Deadline: None

Abstract: The United States Patent and Trademark Office proposes to amend its rules of patent appellate practice to simplify proceedings and to reflect changes in recent legislation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeffrey V. Nase, Administrative Patent Judge, Department of Commerce, Patent and

DOC—PTO **Proposed Rule Stage**

Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231
Phone: 703 305-9797
Fax: 703 308-7953
Email: jeffrey.nase@uspto.gov

RIN: 0651–AB27

794. • ELIMINATION OF THE PRACTICE OF INCLUDING COPIES OF U.S. PATENT DOCUMENTS WITH OFFICE ACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 2(b)(2)

CFR Citation: 37 CFR 1

Legal Deadline: None

Abstract: The United States Patent and Trademark Office (Office) currently includes a copy of every document cited in an Office action with the Office action. Since the Office provides the public with access to copies of all U.S. patents and U.S. application publications through the Office's Internet Web site (www.uspto.gov), the Office considers including copies of U.S. patents and U.S. application publications with Office actions to be unnecessary. Thus, the Office is considering eliminating the practice of including copies of U.S. patents and U.S. patent application publications with Office actions. The Office would continue to include copies of foreign patent other publications and other documents (non-patent literature).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert W. Bahr, Senior Patent Attorney, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-8850
Fax: 703 305-6916

RIN: 0651–AB40

795. • REQUIREMENTS FOR CLAIMING THE BENEFIT OF PRIOR-FILED APPLICATIONS UNDER EIGHTEEN-MONTH PUBLICATION OF PATENT APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 2(b)(2)

CFR Citation: 37 CFR 1

Legal Deadline: None

Abstract: In implementing the provisions of the American Inventors Protection Act of 1999 related to the eighteen-month publication of patent applications, the United States Patent and Trademark Office (Office) revised the rules of practice related to requirements for claiming the benefit of a prior-filed application. The Office is revising the time period for claiming the benefit of a prior-filed application in an application filed under the Patent Cooperation Treaty (PCT), revising the time period for filing an English language translation of a non-English language provisional application, and making other technical corrections to the rules of practice related to eighteen-month publication. The Office is also making permanent a temporary rule that amends the rules of practice to include the current statutory provisions that define when national stage commencement occurs in an application filed under the PCT.

Timetable:

Action	Date	FR Cite
NPRM	09/05/01	66 FR 46409
NPRM Comment Period End	10/05/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert W. Bahr, Senior Patent Attorney, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-8850
Fax: 703 305-6916

RIN: 0651–AB41

Department of Commerce (DOC)
Patent and Trademark Office (PTO) **Final Rule Stage**

796. • ELIMINATION OF CONTINUED PROSECUTION APPLICATION PRACTICE AS TO UTILITY AND PLANT

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 2(b)(2)

CFR Citation: 37 CFR 1

Legal Deadline: None

Abstract: The American Inventors Protection Act of 1999 (AIPA) enacted provisions for the continued examination of a utility or plant application at the request of the applicant (request for continued examination or RCE practice). Therefore, there no longer appears to be a need for continued prosecution application (CPA) practice as to utility and plant applications. Thus, the Office is eliminating CPA practice as to utility and plant applications. An applicant for a utility or plant patent may also continue to effectively obtain further examination of the application by filing a continuing application under section 1.53(b). Since RCE practice does not apply to design applications, CPA practice will remain in place for design applications.

Timetable:

Action	Date	FR Cite
NPRM	07/09/01	66 FR 35763
NPRM Comment Period End	09/07/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert W. Bahr, Senior Patent Attorney, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-8850
Fax: 703 305-6916

RIN: 0651–AB37

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797. • TRADEMARK CLASSIFICATION; CHANGES TO COMPORT WITH OBLIGATIONS TO NICE AGREEMENT CONCERNING INTL CLASSIFICATION OF GOODS AND SERVICES FOR PURPOSES OF REGISTRATION OF MARKS OF JUNE 15, 1957, AS REVISED

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1112; 15 USC 1113; 35 USC 2

CFR Citation: 37 CFR 6.1

Legal Deadline: None

Abstract: The United States Patent and Trademark Office (Office) issues a final rule to incorporate classification changes adopted by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks. These changes will become effective January 1, 2002, and will be listed in the International Classification of Goods and Services for the Purposes of the Registration of Marks (8th ed., 2001), which is published by the World Intellectual Property Organization (WIPO).

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jessie Marshall, Staff Attorney, Department of Commerce, Patent and Trademark Office, 2900 Crystal Drive, Arlington, VA 22202-3513
Phone: 703 308-8900
Fax: 703 872-9395
Email: jessie.marshall@uspto.gov

RIN: 0651–AB42

Department of Commerce (DOC)
Patent and Trademark Office (PTO)

Long-Term Actions

798. COMPLAINTS REGARDING INVENTION PROMOTERS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 4

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/20/00	65 FR 3127
Interim Final Rule Effective	01/28/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joseph Gerard Piccolo
Phone: 703 305-9035
Fax: 703 305-9373
Email: joseph.piccolo@uspto.gov

RIN: 0651–AB12

799. CORRESPONDENCE FILED IN THE PATENT AND TRADEMARK OFFICE

Priority: Info./Admin./Other

CFR Citation: 37 CFR 1.1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Briskin
Phone: 703 308-2000
Fax: 703 305-5907
Email: michael.briskin@uspto.gov

RIN: 0651–AB17

800. STUDY OF ALTERNATIVE FEE STRUCTURES

Priority: Info./Admin./Other

CFR Citation: None

Timetable:

Action	Date	FR Cite
Notice	10/02/00	65 FR 58746

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barrett J. Riordan
Phone: 703 305-8475
Fax: 703 305-8138
Email: barry.riordan@uspto.gov

RIN: 0651–AB24

801. NOTIFICATION OF REQUIRED AND OPTIONAL SEARCH CRITERIA FOR COMPUTER-IMPLEMENTED BUSINESS METHOD PATENT APPLICATIONS IN CLASS 705 AND REQUEST FOR COMMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert A. Clarke
Phone: 703 305-9285
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Email: robert.clarke@uspto.gov

RIN: 0651–AB26

802. PROTECTION OF AUDIOVISUAL PERFORMANCES TO BE CONSIDERED BY THE WIPO DIPLOMATIC CONFERENCE

Priority: Info./Admin./Other

CFR Citation: None

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda S. Lourie
Phone: 703 305-9300
Fax: 703 305-8885
Email: linda.lourie@uspto.gov

RIN: 0651–AB28

803. STANDARD FOR DECLARING A PATENT INTERFERENCE

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable:

Action	Date	FR Cite
Notice	12/20/00	65 FR 79809
Notice Extending Comment Period	02/01/01	66 FR 8571
Comment Period End	02/28/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Torczon

Phone: 703 308-9797
Fax: 703 305-0942
Email: interference.rules@uspto.gov

RIN: 0651–AB29

804. ESTABLISHMENT OF DATABASE CONTAINING OFFICIAL INSIGNIA OF FEDERALLY RECOGNIZED NATIVE AMERICAN TRIBES

Priority: Info./Admin./Other

CFR Citation: None

Timetable:

Action	Date	FR Cite
Notice and Request for Comments	01/09/01	66 FR 1649
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ari Leifman
Phone: 703 308-8900
Fax: 703 872-9285

RIN: 0651–AB30

805. ELECTRONIC SUBMISSION OF APPLICATION FOR TRADEMARK REGISTRATION AND OTHER DOCUMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.4; 37 CFR 1.10; 37 CFR 2.21; 37 CFR 2.56; 37 CFR 2.76; 37 CFR 2.88 to 2.89; 37 CFR 2.161; 37 CFR 2.166 to 2.168; ...

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary E. Hannon
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Fax: 703 872-9280
Email: mary.hannon@uspto.gov

RIN: 0651–AB31

806. CHANGES IN RULES OF PRACTICE FOR PATENT INTERFERENCES AND RELATED PROCEEDINGS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1; 37 CFR 41; ...

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard Torczon
Phone: 703 308-9797
Fax: 703 305-0942
Email: interference.rules@uspto.gov

RIN: 0651–AB32

807. CHANGES TO THE TIME PERIOD FOR MAKING ANY NECESSARY DEPOSITS OF BIOLOGICAL MATERIALS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert W. Bahr
Phone: 703 305-9285
Fax: 703 305-6916

RIN: 0651–AB33

808. DEVELOPMENT OF PLAN TO REMOVE PATENT AND TRADEMARK CLASSIFIED PAPER FILES FROM PUBLIC SEARCH FACILITIES

Priority: Info./Admin./Other

CFR Citation: None

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Martha Crockett Sneed
Phone: 703 308-5558
Fax: 703 306-2662
Email: martha.sneed@uspto.gov

RIN: 0651–AB34

809. REVISION OF PATENT CORPORATION TREATY APPLICATION PROCEDURE

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles Pearson
Phone: 703 308-6515
Fax: 703 305-3230

RIN: 0651–AB35

810. • CHANGES TO REPRESENTATION OF OTHERS BEFORE THE U.S. PATENT AND TRADEMARK OFFICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 500(a)

CFR Citation: 37 CFR 1; 37 CFR 2; 37 CFR 10; 37 CFR 11

Legal Deadline: None

Abstract: The United States Patent and Trademark Office (Office or USPTO) proposes to update the procedures regarding enrollment and discipline. The Office also proposes to replace the current USPTO Code of Professional Responsibility, which is based on the Model Code of Professional Responsibility of the American Bar Association, with USPTO Rules of Professional Conduct, which are largely based on the Model Rules of Professional Conduct of the American Bar Association.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Harry I. Moatz, Director of Enrollment and Discipline, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231
Phone: 703 306-4097

RIN: 0651–AB38

811. • REVISION OF THE TIME LIMIT FOR NATIONAL STAGE COMMENCEMENT IN THE UNITED STATES FOR PATENT COOPERATION TREATY APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 2(b)(2)

CFR Citation: 37 CFR 1

Legal Deadline: None

Abstract: The United States Patent and Trademark Office (Office) is revising the rules of practice to implement certain provisions of the Intellectual Property and High Technology Technical Amendments Act of 2001. The changes in this notice primarily

DOC—PTO

Long-Term Actions

involve revising the rules of practice to have a single time limit for national stage commencement in the United States for applications filed under the Patent Cooperation Treaty (PCT), regardless of whether the applicant filed a demand for an international preliminary examination.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert W. Bahr, Senior Patent Attorney, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-8850
Fax: 703 305-6916

RIN: 0651–AB44

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812. • MADRID PROTOCOL IMPLEMENTATION ACT RULES CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1123; 35 USC 2

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The purpose of the rules change is to amend 37 CFR part 2 to add new rules and change existing rules to implement the Madrid Protocol Implementaion Act, which would amend the Trademark Act of 1946, 15 U.S.C. 1051 et seq., to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes. The Madrid Protocol Implementation Act (S. 407; H.R. 741) is now pending in both the House and Senate. Because the legislation has not yet passed either the House or Senate and is subject to amendment, we have not yet determined the specific rules that will be amended.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Hannon, Staff Attorney, Department of Commerce, Patent and Trademark Office, 2900 Crystal Drive, Arlington, VA 22202-3513
Phone: 703 308-8900
Fax: 703 872-9280
Email: mary.hannon@uspto.gov

RIN: 0651–AB45

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813. • PATENT AND TRADEMARK OFFICE ACQUISITION REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 51 et seq, Patent and Trademark Office Efficiency Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: As a result of the passage of the Patent and Trademark Office Efficiency Act in 1999 (PTOEA), the U.S. Patent and Trademark Office was established as an agency within the Department of Commerce. In carrying out its functions, the USPTO is subject to the policy direction of the Secretary of Commerce, but otherwise allowed to exercise independent control of its procurements. The PTOEA specifically exempts the USPTO from the Federal Property and Administrative Services Act of 1949 (FPAS), 40 U.S.C. sec. 471 et seq. The USPTO proposes to implement acquisition regulations which reflect this specific statutory exemption from FPAS through the Patent and Trademark Office Acquisition Regulations (PTAR). In developing the PTAR, an analysis of the Federal Acquisition Regulation (FAR) was conducted to determine which parts, subparts, and clauses specifically implemented FPAS. Only those parts of the FAR which are implemented by FPAS are therefore affected. The PTAR are written with the goal of streamlining acquisition procedures and, allowing maximum innovation, flexibility, and discretion to acquisition personnel where possible.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael Anastasio, Director, Office of Procurement, Department of Commerce, Patent and Trademark Office, Crystal Park 1, Suite 810, 2011 Crystal Park Drive, Washington, DC 20231
Phone: 703 305-8014
Fax: 703 305-5484
Email: michael.anastasio@uspto.gov

RIN: 0651–AB46

Department of Commerce (DOC)
Patent and Trademark Office (PTO)

Completed Actions

814. REVISION OF PATENT AND TRADEMARK FEES FOR FISCAL YEAR 2003

Priority: Routine and Frequent

CFR Citation: 37 CFR 1.16 to 1.21; 37 CFR 1.26; 37 CFR 1.445; 37 CFR 1.482; 37 CFR 1.492; 37 CFR 2.6

Completed:

Reason	Date	FR Cite
NPRM	05/09/01	66 FR 23642
Final Action	07/31/01	66 FR 39447
Final Action Effective	10/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Matthew Lee
Phone: 703 305-8051

RIN: 0651–AB01

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815. LEGAL PROCESSES

Priority: Info./Admin./Other

CFR Citation: 37 CFR 1; 37 CFR 104

Completed:

Reason	Date	FR Cite
Final Action	09/12/01	66 FR 47387

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOC—PTO **Completed Actions**

Agency Contact: Bernard J. Knight
Phone: 703 308-2000
Fax: 703 305-5907

RIN: 0651–AB22

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816. • INTERNATIONAL EFFORT TO HARMONIZE SUBSTANTIVE REQUIREMENTS OF PATENT LAWS

Priority: Info./Admin./Other

Legal Authority: 35 USC 101; 35 USC 102(e); 35 USC 103; 35 USC 112

CFR Citation: None

Legal Deadline: None

Abstract: The United States Patent and Trademark Office (USPTO) is seeking comments to obtain the views of the public on the international effort to harmonize substantive requirements of patent laws, and the subsequent changes to United States law and practice. Comments may be offered on any aspect of this effort.

Timetable:

Action	Date	FR Cite
Final Action	04/30/01	66 FR 15409

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jon P. Santamauro, Director, Department of Commerce, Patent and Trademark Office, Box 4, Washington, DC 20231
Phone: 703 305-9300
Fax: 703 305-8885

RIN: 0651–AB36

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817. • NOTICE OF ELECTRONIC PRODUCTS AVAILABLE FROM THE INFORMATION PRODUCTS DIVISION, CHIEF INFORMATION OFFICER, U.S. PATENT AND TRADEMARK OFFICE

Priority: Info./Admin./Other

Legal Authority: 35 USC 41(a); 35 USC 41(g); 15 USC 1113

CFR Citation: None

Legal Deadline: None

Abstract: The USPTO publishes a list of the electronic patent and trademark information products currently available from the Information Products Division, Office of the Chief Information Officer, U.S. Patent and Trademark Office. The products are made available in order to disseminate information on patents and trademarks to the public.

Timetable:

Action	Date	FR Cite
Final Action	08/24/01	66 FR 44601

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Briskin, Associate Counsel for General Law, Department of Commerce, Patent and Trademark Office, Information Products Division, Crystal Park 3, Suite 441, Washington, DC 20231
Phone: 703 308-2000
Fax: 703 305-5907
Email: michael.briskin@uspto.gov

RIN: 0651–AB39

Department of Commerce (DOC)
Technology Administration (TA) **Final Rule Stage**

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818. RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

Priority: Other Significant

Legal Authority: 35 USC 206

CFR Citation: 37 CFR 401

Legal Deadline: None

Abstract: This rule issued to authorize the electronic reporting of inventions and the filing of provisional patent applications.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/95	60 FR 41811
Interim Final Rule Comment Period End	09/13/95	
NPRM	09/11/00	65 FR 54826
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Jon Paugh, Director, Technology Competitiveness, Department of Commerce, Technology Administration, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2100
Fax: 202 219-8667
Email: jonpaugh@ta.doc.gov

RIN: 0692–AA14

Department of Commerce (DOC)
Technology Administration (TA) **Long-Term Actions**

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819. ACQUISITION AND PROTECTION OF FOREIGN RIGHTS IN INVENTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 101; 37 CFR 501

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 40997
Interim Final Rule Effective	08/07/96	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 0692–AA15

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820. AMENDMENT TO RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

Priority: Routine and Frequent

CFR Citation: 37 CFR 401

Timetable:

Action	Date	FR Cite
NPRM	09/11/00	65 FR 54826
Final Rule	10/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John H. Raubitschek
Phone: 202 482-8010
Fax: 202 273-0607
Email: jraubits@doc.gov

RIN: 0692–AA18

Department of Commerce (DOC)
Technology Administration (TA)

Completed Actions

821. LICENSING OF GOVERNMENT-OWNED INVENTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 404.7

Completed:

Reason	Date	FR Cite
Final Rule	06/29/01	66 FR 34545
Final Rule Effective	06/29/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John H. Raubitschek
Phone: 202 482-8010
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Email: jraubits@doc.gov

RIN: 0692–AA17

[FR Doc. 01–26030 Filed 11–30–01; 8:45 am]
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Federal Register

Monday,
December 3, 2001

Part V

Department of Defense

Semiannual Regulatory Agenda

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DEPARTMENT OF DEFENSE (DOD)

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Defense (DoD).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Defense (DoD) is publishing this semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under Executive Order 12866 "Regulatory Planning and Review." This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under the Executive order and other regulatory guidance. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, or tribal interests under the criteria of Executive Order 12866. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

For this edition of the Department of Defense's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

The agenda portion of this document updates the report published on May 14, 2001, and includes regulations expected to be issued and under review over the next 12 months. The next agenda is scheduled to be published in April 2002, with the next regulatory plan scheduled to be published in October 2002. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. Robert Cushing, telephone 703-604-6269, or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, or e-mail: cushingr@dior.whs.mil.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-697-2714.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Mr. Dan Cragg, telephone 703-601-4722, or write to Directives and Records Division, Directorate for Correspondence and Directives, Washington Headquarters Services, Suite 501, 1111 Jefferson Davis Highway, Arlington, Virginia 22202, or e-mail: dcragg@cd.whs.mil.

For general information on Office of the Secretary agenda items which are procurement-related, contact Ms. Gail Cruz, telephone 703-602-0131, or write to Defense Acquisition Regulations Directorate, 3062 Defense Pentagon, Washington, DC 20301-3062, or e-mail: gail.cruz@osd.mil.

For general information on Department of the Army regulations, contact Ms. Luz D. Ortiz, telephone 703-806-3708, or write to the U.S. Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, 6000 6th Street, Stop 5603, Fort Belvoir, Virginia 22060-5603, or e-mail: luz.ortiz@rmda.belvoir.army.mil.

For general information on the U.S. Army Corps of Engineers regulations, contact Mr. Chip Smith, telephone 703-693-3644, or write to Office of the Deputy Assistant Secretary of the Army (Policy and Legislation), 108 Army Pentagon, Room 2E569, Washington, DC 20310-0108, or e-mail: chip.smith@hqda.army.mil.

For general information on Department of the Navy regulations, contact Lieutenant Commander Thomas Welsh, telephone 703-604-8208, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE., Suite 3000, Washington, DC 20374-5066, or e-mail: welsh.thomas@hq.navy.mil.

For general information on Department of the Air Force regulations, contact Ms. Janet A. Long, telephone 703-588-6189, or write to Department of the Air Force, HQ AF/SCTIR, 1250 Air Force Pentagon, Washington, DC 20330-1250, or e-mail: janet.long@pentagon.af.mil.

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions is composed of the regulatory status reports, including procurement-related regulatory status reports, from the Office of the Secretary of Defense (OSD) and the Departments of the Army, Navy, and Air Force. Included also is the regulatory status report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of Executive Order 12866 and involve water resource projects and regulation of activities in waters of the United States.

DoD issuances range from DoD directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement directives). The OSD agenda section contains the primary directives under which DoD components promulgate their implementing regulations.

To ease identification and to differentiate among the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes component level of authority and type of issuance, in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of Executive Order 12866, continues to be the DoD single-source reporting vehicle, which identifies issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, DoD components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;
b. Paperwork Reduction Act of 1995;
c. Unfunded Mandates Reform Act of 1995.

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Those DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the regulatory status reports in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in the regulatory status reports. Although sensitive to the needs of the public, as well as regulatory reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

Dated: September 13, 2001.

D. O. Cooke,

Director, Administration and Management.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
822	Commercial Activities Program Procedures (DoD Instruction 4100.33)	0790-AG44
823	Personnel and General Claims	0790-AG47
824	Eligibility Requirements for Education of Minor Dependents in Overseas Areas (DoD Directive 1342.13)	0790-AG71
825	Eligibility Procedures for the Education of Minor Dependents in Overseas Areas (DoD Instruction 1342.XX)	0790-AG72
826	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	0790-AG83
827	Stars and Stripes (S&S) Newspaper	0790-AG84
828	Department of Defense Newspapers, Magazines, and Civilian Enterprise Publications	0790-AG85
829	Governmentwide Debarment and Suspension (Non-procurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	0790-AG86
830	DoD Grant and Agreement Regulations	0790-AG87

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
831	Science, Mathematics, and Engineering (SME) Education	0790-AF27
832	National Security Education Program (NSEP) Grants to Institutions of Higher Education (DoD Instruction 1025.5)	0790-AF59
833	Personnel Security Policies for Granting Access to Classified Information	0790-AG54
834	National Policy on Reciprocity of Facilities and Guidelines for Implementation of Reciprocity	0790-AG55
835	National Policy on Technical Surveillance Countermeasures	0790-AG56
836	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)	0790-AG60
837	Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	0790-AG76
838	Transactions Other Than Contracts, Grants, or Cooperative Agreements for Prototype Projects	0790-AG79
839	Revitalizing Base Closure Communities and Base Closure Community Assistance	0790-AG80

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
840	Teacher and Teacher's Aide Placement Assistance Program (Troops to Teachers) (DoD Instruction 1404.13)	0790-AF71
841	DLA Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns	0790-AF72
842	DLA Acquisition Regulation; Fuel Allocation Procedures	0790-AF73
843	Military Assistance for Civil Disturbances (MACDIS) (DoD Directive 3025.12)	0790-AG21
844	Former Spouse Payments From Retired Pay; Amendment (DoD Directive 1340.16 and DoD 7000.14-R, Vol 7, Part B)	0790-AG22
845	University Research Initiative Support Program (URISP)	0790-AG26
846	Restoration Advisory Boards (RABs)	0790-AG31

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Office of the Secretary—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
847	Closed, Transferred, and Transferring Ranges Containing Military Munitions	0790-AG46

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
848	Financial Institutions on DoD Installations	0790-AG73
849	Procedures Governing Banks, Credit Unions, and Other Financial Institutions on DoD Installations (7000.14-R)	0790-AG74
850	Implementation of Executive Order 13132 "Federalism"	0790-AG81
851	Legal Assistance Matters	0790-AG88

Defense Acquisition Regulations Council—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
852	Ocean Transportation by United States-Flag Vessels—Simplified Acquistion Threshold (DFARS Case 2000-D014)	0750-AD19
853	Balance of Payments Program (DFARS Case 2000-D020)	0750-AD22
854	Subcontract Commerciality Determinations (DFARS Case 2000-D028)	0750-AD36
855	Enterprise Software Agreements (DFARS Case 2000-D023)	0750-AD37
856	Research and Development Contracting Procedures (DFARS Case 2001-D002)	0750-AD43
857	Tax Exemptions (Italy) (DFARS Case 2000-D027)	0750-AD46
858	Restriction on Contingent Fees for Foreign Military Sales—Commercial Items (DFARS 2000-D029)	0750-AD47
859	Preference for Local 8(a) Contractors—Base Closure or Realignment (DFARS Case 2001-D007)	0750-AD53

Defense Acquisition Regulations Council—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
860	Acquisition of Commercial Items (DFARS Case 95-D712)	0750-AB00
861	Anticompetitive Teaming (DFARS Case 1999-D028)	0750-AC98
862	Overseas Use of the Purchase Card in Contingency, Humanitarian, or Peacekeeping Operations (DFARS Case 2000-D019)	0750-AD16
863	Change to Profit Policy (DFARS Case 2000-D018)	0750-AD21
864	Domestic Source Restriction—Ball and Roller Bearings and Vessel Propellers (DFARS Case 2000-D301)	0750-AD33
865	Multiyear Service Contracts (DFARS Case 2000-D304)	0750-AD34
866	Performance-Based Service Contracts Using Part 12 Procedures (DFARS Case 2000-D306)	0750-AD35
867	Reporting Requirements Relating to Multiyear Contracts (DFARS Case 2000-D303)	0750-AD38
868	Cancellation of MIL-STD-973, Configuration Management (DFARS Case 2001-D001)	0750-AD41
869	Utilization of Indian Organizations and Indian-Owned Economic Enterprises (DFARS Case 2000-D024)	0750-AD42
870	Caribbean Basin Country End Products (DFARS Case 2000-D302)	0750-AD44
871	Cost or Pricing Data Threshold (DFARS Case 2000-D026)	0750-AD45
872	Use of Recovered Materials (DFARS Case 2001-D005)	0750-AD50
873	Customary Progress Payment Rate for Large Business (DFARS Case 2001-D012)	0750-AD51
874	Department of Defense Pilot Mentor-Protege Progam (DFARS Case 2001-D006)	0750-AD52
875	Extension of the MOU—8(a) Program (DFARS Case 2001-D009)	0750-AD54

Defense Acquisition Regulations Council—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
876	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)	0750-AA07

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Defense Acquisition Regulations Council—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
877	Demilitarization (DFARS Case 92-D024)	0750-AA09
878	Veterans Employment Emphasis (DFARS Case 97-D314)	0750-AC20
879	Institutions of Higher Education (DFARS Case 1999-D303)	0750-AD05
880	Qualification Requirements for Contracting Positions (DFARS Case 2000-D305)	0750-AD39

Defense Acquisition Regulations Council—Completed Actions

Sequence Number	Title	Regulation Identification Number
881	DFARS Commercially Available Off-the-Shelf Items (DFARS Case 96-D316)	0750-AB40
882	Review of Acquisition Plans for Purchases of Conventional Ammunition (DFARS Case 2000-D030)	0750-AD40
883	Reporting Requirements Update (DFARS Case 2001-D004)	0750-AD55
884	Iceland—Newly Designated Country Under TAA (DFARS Case 2001-D008)	0750-AD56

Department of the Army—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
885	Environmental Analysis of Army Actions	0702-AA34

Department of the Army—Completed Actions

Sequence Number	Title	Regulation Identification Number
886	Report On Use of Employees of Non-Federal Entities to Provide Services to the Department of the Army	0702-AA35

U.S. Army Corps of Engineers—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
887	Environmental Quality; Procedures for Implementing the National Environmental Policy Act (NEPA)	0710-AA42
888	Natural Disaster Procedures: Preparedness, Response, and Recovery Activities of the Corps of Engineers	0710-AA47

U.S. Army Corps of Engineers—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
889	Proposed Revision to the Clean Water Act Regulatory Defeinitions of "Fill Material" and the "Discharge of Fill Material"	0710-AA48

U.S. Army Corps of Engineers—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
890	Regulatory Programs of the Corps of Engineers	0710-AA30
891	Regulatory Programs of the Corps of Engineers—Wetland Delineator Certification Program	0710-AA38
892	Regulatory Programs of the Corps of Engineers, Endangered Species Act; Scope of Analysis	0710-AA43

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U.S. Army Corps of Engineers—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
893	Flood Control Cost-Sharing Requirements Under the Ability To Pay Provisions	0710-AA44

Department of the Navy—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
894	Policies and Responsibilities for Implementation of the National Environmental Policy Act Within the Department of the Navy	0703-AA51

Department of the Navy—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
895	Use of Department of the Navy Aviation Facilities by Other Than United States Department of Defense Aircraft	0703-AA48
896	Shipbuilding Capability Preservation Agreements	0703-AA50

Department of the Air Force—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
897	Appointment to the United States Air Force Academy	0701-AA58
898	Installation Entry Policy, Civil Disturbance Intervention and Disaster Assistance	0701-AA64
899	Wake Island Code	0701-AA65

Office of Assistant Secretary for Health Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
900	Civilian Health and Medical Program of the Uniformed Services; Individual Case Management Program for Persons with Extraordinary Conditions (ICMP-PEC)	0720-AA65

Office of Assistant Secretary for Health Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
901	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Hospital Payment for Ambulatory Care (DoD 6010.8-R)	0720-AA20
902	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Transplants (DoD 6010.8-R)	0720-AA28
903	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Exception to the CHAMPUS Dual Compensation/Conflict of Interest Provisions	0720-AA41
904	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Prosthetic Devices	0720-AA49
905	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Double Coverage	0720-AA50
906	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Program; Double Coverage; Third-Party Recoveries	0720-AA52
907	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Establishment of an Appeals Process for TRICARE Claimcheck Denials	0720-AA56
908	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Methodology for Coverage of NIH-Sponsored Clinical Trials	0720-AA57
909	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Prime Enrollment	0720-AA59

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Office of Assistant Secretary for Health Affairs—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
910	TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Bonus Payments in Medically Underserved Areas	0720-AA60
911	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Enhancement of Dental Benefits Under the TRICARE Retiree Dental Program	0720-AA61
912	CHAMPUS/TRICARE; Partial Implementation of Pharmacy Benefits Program; Implementation of National Defense Authorization Act Medical Benefits for Fiscal Year 2001 **(Reg Plan Seq No. 17)**	0720-AA62
913	TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Eligibility and Payment Procedures for CHAMPUS Beneficiaries Age 65 and Over **(Reg Plan Seq No. 18)**	0720-AA66

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Office of Assistant Secretary for Health Affairs—Completed Actions

Sequence Number	Title	Regulation Identification Number
914	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Payments for Professional Services in Low-Access Locations	0720-AA58

Department of Defense (DOD)
Office of the Secretary (OS)

Proposed Rule Stage

822. COMMERCIAL ACTIVITIES PROGRAM PROCEDURES (DOD INSTRUCTION 4100.33)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 32 CFR 164

Legal Deadline: None

Abstract: OMB issued a revised Circular No. A-76 supplemental handbook that contained streamlined cost comparison guidance. This rule updates DoD unique policies and assigns responsibility for commercial activities as contained in OMB Circular No. A-76, Revised Supplemental Handbook "Performance of Commercial Activities." This rule also removes 32 CFR part 169a.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: John Horsfall, Department of Defense, Office of the Secretary
Phone: 703 604-6735

RIN: 0790–AG44

823. PERSONNEL AND GENERAL CLAIMS

Priority: Other Significant

Legal Authority: 5 USC 5584; 10 USC 2575; 10 USC 2771; 10 USC 2774; 24 USC 420; 31 USC 3702; 32 USC 714; 32 USC 716; 37 USC 554

CFR Citation: 32 CFR 153

Legal Deadline: None

Abstract: The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense (DoD). Later, the General Accounting Office Act of 1996 codified many of these delegations and transferred to the OMB Director the authority of the Comptroller General to waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding $1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members to DoD and the authority to waive employee debts to the employee's agency (non-DoD agencies may request an advisory opinion from DoD). The Secretary of Defense further delegated his claims settlement authority to the Defense Office of Hearings and Appeals (DOHA). This proposed rule seeks public comments on the procedures that DOHA proposes to use to implement these authorities.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: Pending analysis of public comments and issuance of final regulations, DOHA intends to use the procedures and practices applicable to claims and waiver applications before the effective dates of the transfers of authority, June 30, 1996, and December 18, 1996, respectively, which are published in

title 4, Code of Federal Regulations, chapter 1, subchapters C and G. See also 61 FR 50285, September 25, 1996; and 62 FR 5387, February 5, 1997.

Agency Contact: Michael Hipple, Department of Defense, Office of the Secretary
Phone: 703 696-8524

RIN: 0790–AG47

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824. ELIGIBILITY REQUIREMENTS FOR EDUCATION OF MINOR DEPENDENTS IN OVERSEAS AREAS (DOD DIRECTIVE 1342.13)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 921-932; PL 105-261

CFR Citation: 32 CFR 83

Legal Deadline: None

Abstract: This rule updates eligibility requirements for the education of minor dependents in overseas areas. The updates reflect recent legislation in section 657 of Public Law 105-261 "Strom Thurmond National Defense Authorization Act for Fiscal Year 1999," October 17, 1998, which authorizes the Secretary of Defense to pay an educational allowance to defray the educational expense of certain overseas, space-required dependents.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gail Terres, Department of Defense, Office of the Secretary
Phone: 703 696-4545

RIN: 0790–AG71

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825. ELIGIBILITY PROCEDURES FOR THE EDUCATION OF MINOR DEPENDENTS IN OVERSEAS AREAS (DOD INSTRUCTION 1342.XX)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 921-932; PL 105-261

CFR Citation: 32 CFR 84

Legal Deadline: None

Abstract: This rule implements policy, assigns responsibilities, and outlines the procedures including the recent education allowance legislation that allows sponsors the choice of schools (subject to the Department of State Standardized Regulation (DSSR) rates) in areas where DoD does not operate schools.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gail Terres, Department of Defense, Office of the Secretary
Phone: 703 696-4545

RIN: 0790–AG72

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826. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Department of Defense proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of "program or activity" and "program" into the Department of Defense's title VI, section 504, and Age Discrimination Act regulations. The Department of Defense's proposed regulation will be published as part of a joint notice of proposed rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Jerry Anderson, Department of Defense, Office of the Secretary
Phone: 703 695-0105

RIN: 0790–AG83

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827. • STARS AND STRIPES (S&S) NEWSPAPER

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 113

CFR Citation: 32 CFR 246

Legal Deadline: None

Abstract: This rule establishes policies and assigns responsibilities for the Stars and Stripes (S&S) newspaper operations. It designates the Secretary of the Army as the DoD Executive Agent for nonappropriated fund support to S&S and designate the successor-in-interest to S&S.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: R. Oleszewski, Department of Defense, Office of the Secretary
Phone: 703 428-0629

RIN: 0790–AG84

DOD—OS

Proposed Rule Stage

828. • DEPARTMENT OF DEFENSE NEWSPAPERS, MAGAZINES, AND CIVILIAN ENTERPRISE PUBLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 113

CFR Citation: 32 CFR 247

Legal Deadline: None

Abstract: This rule establishes policy, assigns responsibilities, and prescribes procedures concerning authorized DoD Appropriated Funded (APF) newspapers and magazines, and Civilian Enterprise (CE) newspapers, magazines, guides, and installation maps (hereafter referred to as DoD publications) in support of the DoD Internal Information Program.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: R. Oleszewski, Department of Defense, Office of the Secretary
Phone: 703 428-0629

RIN: 0790–AG85

829. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NON-PROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant

Legal Authority: EO 12549; EO 12689; PL 103-355

CFR Citation: 32 CFR 25; 32 CFR 26

Legal Deadline: None

Abstract: The Department of Defense (DoD) proposes to adopt two updated common rules, on nonprocurement debarment and suspension and on drug-free workplace requirements for grants and agreements. In adopting these rules, the Office of the Secretary of Defense, Military Departments, Defense Agencies, and DoD Field Activities will maintain uniform policies and procedures that are consistent with those of other Executive Departments and Agencies. At the time the final rule is adopted, the Department of Defense will make conforming amendments to other parts of the DoD Grant and Agreement Regulations (32 CFR parts 21, 22, 32, and 34), to update references to the debarment and suspension and the drug-free workplace requirements that currently are 32 CFR part 25.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Herbst, Department of Defense, Office of the Secretary
Phone: 703 696-0372
Email: herbstm@acq.osd.mil

RIN: 0790–AG86

830. • DOD GRANT AND AGREEMENT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 10 USC 113

CFR Citation: 32 CFR 21; 32 CFR 22; 32 CFR 32; 32 CFR 34; 32 CFR 37

Legal Deadline: None

Abstract: The Department of Defense (DoD) proposes to add a new part 37 to the DoD Grant and Agreement Regulations (DoDGARs) to incorporate policies and procedures for the award and administration of Technology Investment Agreements (TIAs). TIAs are a relatively new class of assistance instruments. DoD Components use TIAs to support or stimulate defense research projects involving for-profit firms, especially commercial firms that do business primarily in the commercial marketplace. The new part 37 therefore gives DoD agreements officers greater flexibility to negotiate award provisions in areas that can present barriers to those commercial firms (e.g., intellectual property, audits, and cost principles). This rule also proposes revisions to parts 21, 22, 32, and 34 of the DoDGARs to conform the rest of the DoDGARs with the proposed part 37.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Herbst, Department of Defense, Office of the Secretary
Phone: 703 696-0372
Email: herbstm@acq.osd.mil

RIN: 0790–AG87

Department of Defense (DOD)
Office of the Secretary (OS)

Final Rule Stage

831. SCIENCE, MATHEMATICS, AND ENGINEERING (SME) EDUCATION

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 301

CFR Citation: 32 CFR 116

Legal Deadline: None

Abstract: This rule provides support to institutions of higher education through infrastructure assistance to historically black colleges and universities and minority institutions. It also defines minority institutions and establishes procedures for DoD programs and activities in science, mathematics, and engineering (SME) education.

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 65956
NPRM Comment Period End	02/15/94	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

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Final Rule Stage

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Keith Thompson, Department of Defense, Office of the Secretary
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RIN: 0790–AF27

832. NATIONAL SECURITY EDUCATION PROGRAM (NSEP) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION (DOD INSTRUCTION 1025.5)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1141(a)

CFR Citation: 32 CFR 206

Legal Deadline: Final, Statutory, April 5, 1994.

Abstract: The National Security Education Act provided for the National Security Education Program, the National Security Education Board, and a trust fund in the U.S. Treasury to provide all resources for the program. Under the Act, the Secretary is directed to carry out a program to award undergraduate scholarships, graduate fellowships, and grants to institutions of higher education. This rule is to inform those concerned with institutional grants to be offered under the 1994-1995 pilot grants program of the preliminary guidelines.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/05/94	59 FR 26116
Interim Final Rule	05/19/94	59 FR 26116
Interim Final Rule Comment Period End	07/18/94	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Steve Door, Department of Defense, Office of the Secretary
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Email: nsep@nsep.policy.osd.mil

RIN: 0790–AF59

833. PERSONNEL SECURITY POLICIES FOR GRANTING ACCESS TO CLASSIFIED INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 147

Legal Deadline: None

Abstract: This rule is published to streamline security practices throughout the Government. Uniform adjudicative guidelines, investigative standards, and guidelines for temporary access are being established. This initiative will simplify security processing and allow the deserving public to obtain a security clearance in a faster, more efficient manner.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/98	63 FR 4572
Interim Final Rule Effective	03/24/98	
Interim Final Rule Comment Period End	03/31/98	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Terence Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG54

834. NATIONAL POLICY ON RECIPROCITY OF FACILITIES AND GUIDELINES FOR IMPLEMENTATION OF RECIPROCITY

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 148

Legal Deadline: None

Abstract: This rule is published to make physical facilities available for reciprocal use in the storage of classified information. Once a facility has been certified as suitable for classified use by one organization, it may also be used by another for like purposes.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	09/16/97	63 FR 4580
Interim Final Rule	01/30/98	63 FR 4580
Interim Final Rule Comment Period End	03/31/98	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Terence Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG55

835. NATIONAL POLICY ON TECHNICAL SURVEILLANCE COUNTERMEASURES

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 149

Legal Deadline: None

Abstract: This rule is published to limit the use of technical surveillance countermeasures within the boundaries of the U.S. to cases where there is a reasonable showing of threat.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	09/16/97	63 FR 4582
Interim Final Rule	01/30/98	63 FR 4582
Interim Final Rule Comment Period End	03/31/98	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Terence Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG56

836. IMPLEMENTATION OF THE WILDFIRE SUPPRESSION AIRCRAFT TRANSFER ACT OF 1996 (PUB. L. 104-307)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-307

DOD—OS

Final Rule Stage

CFR Citation: 32 CFR 171

Legal Deadline: Final, Statutory, September 30, 1998.

Abstract: The Wildfire Suppression Aircraft Transfer Act of 1996 states that, notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning October 1, 1996, and ending on September 30, 2000, sell certain aircraft and aircraft parts to persons or entities that contract with the Federal Government for the delivery of fire retardant by air to suppress wildfire. The Act states that, as soon as practicable after the date of the enactment of the Act, the Secretary of Defense shall, in consultation with the Secretary of Agriculture and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section. This interim final rule prescribes regulations to implement the Wildlife Suppression Aircraft Transfer Act of 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/01/99	64 FR 29227
Interim Final Rule Effective	06/01/99	
Interim Final Rule Comment Period End	08/02/99	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Michael Stubblebine, Department of Defense, Office of the Secretary
Phone: 703 767-1537

RIN: 0790–AG60

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837. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 10 USC 113

CFR Citation: 32 CFR 22; 32 CFR 32

Legal Deadline: None

Abstract: This rulemaking is the Department of Defense portion of a multiple-agency action. The agencies are amending their rules implementing Office of Management and Budget (OMB) Circular A-110 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations." The amendments to the rules incorporate updated language in Circular A-110 requiring Federal awarding agencies to ensure that all data produced under awards subject to the Circular are made available to the public through the procedures established under the Freedom of Information Act (FOIA). OMB updated the Circular language in this way in October 1999, in response to a provision in Public Law 105-277. With this rule amendment to 32 CFR parts 22 and 32, the Department of Defense therefore will maintain policies on access to data produced under awards subject to Circular A-110 that are consistent with the policies of other Executive Departments and Agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/00	65 FR 14405
Interim Final Rule Effective	04/17/00	
Interim Final Rule Comment Period End	05/15/00	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Herbst, Department of Defense, Office of the Secretary
Phone: 703 696-0372
Email: herbstm@acq.osd.mil

RIN: 0790–AG76

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838. TRANSACTIONS OTHER THAN CONTRACTS, GRANTS, OR COOPERATIVE AGREEMENTS FOR PROTOTYPE PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-65

CFR Citation: 32 CFR 3

Legal Deadline: None

Abstract: Representatives of the military departments, defense agencies, and other DoD activities have agreed on a final rule that amends the interim rule as a result of comments received and incorporates clarification enacted in fiscal year 2001 that limits Comptroller General access in certain situations. This rule requires inclusion of a clause as required by law, providing for Comptroller General access to records in transactions other than contracts, grants, or cooperative agreements for prototype projects that provide for total payments in excess of $5,000,000. This rule is published in the Federal Register because it directly impacts the public by prescribing conduct that must be followed by a party to, or entity that participates in the performance of, any such transaction.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/05/00	65 FR 35576
Interim Final Rule Effective	07/05/00	
Interim Final Rule Comment Period End	08/04/00	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Teresa Brooks, Department of Defense, Office of the Secretary
Phone: 703 695-4258
Fax: 703 693-9616
Email: brooksta@acq.osd.mil

RIN: 0790–AG79

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839. REVITALIZING BASE CLOSURE COMMUNITIES AND BASE CLOSURE COMMUNITY ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-160; PL 106-65

CFR Citation: 32 CFR 175

Legal Deadline: None

Abstract: On July 20, 1995, the Department of Defense published a final rule (60 FR 37337) implementing title XXIX of the National Defense Authorization Act for FY 1994 (Pub. L. 103-160) and the President's Five-Part Plan "A Program to Revitalize Base

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Closure Communities," July 2, 1993. This rule will amend the final rule to implement section 2821 of the FY 2000 National Defense Authorization Act. Following the July 1993 announcement of the President's program to revitalize base closure communities, Congress created a new property conveyance authority, specifically designed to ease the economic hardship caused by base closures and realignments and to foster rapid job creation in the adversely impacted local communities. This authority is referred to as the "Economic Development Conveyance (EDC)," giving the Department of Defense the ability to transfer property to Local Redevelopment Authorities (LRAs), for consideration at or below estimated fair market value, to spur economic redevelopment and job creation. Section 2821 of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106-65) now authorizes the Department of Defense to transfer EDC property to LRAs at no cost to stimulate economic redevelopment and long-term job creation. The Department of Defense also is authorized now to modify existing EDC agreements when a change in economic circumstances necessitates a modification. This rule sets forth policies for the transfer of EDC real and personal property at no cost and the modification of existing EDC agreements. This rule does not, however, change current DoD policies for caretaker support and environmental cleanup. Similarly, the Military Departments must not alter their policies and procedures governing caretaker support and environmental cleanup because of the change in consideration for EDC property.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/02	
Interim Final Rule Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Patrick O'Brien, Department of Defense, Office of the Secretary
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RIN: 0790–AG80

Department of Defense (DOD)
Office of the Secretary (OS)

Long-Term Actions

840. TEACHER AND TEACHER'S AIDE PLACEMENT ASSISTANCE PROGRAM (TROOPS TO TEACHERS) (DOD INSTRUCTION 1404.13)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 254

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/94	59 FR 7213
Interim Final Rule Effective	02/22/94	
Interim Final Rule Comment Period End	04/18/94	
Interim Final Rule Amendment Effective	11/25/94	60 FR 30188
Interim Final Rule Amendment	06/08/95	60 FR 30188
Interim Final Rule Amendment Comment Period End	08/07/95	60 FR 30188
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Otto Thomas
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Email: thomaso@pr.osd.mil

RIN: 0790–AF71

841. DLA ACQUISITION REGULATION; SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5419; 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21954
NPRM Comment Period End	06/27/94	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Federalism: Undetermined

Agency Contact: Holley Bailey
Phone: 703 767-1374

RIN: 0790–AF72

842. DLA ACQUISITION REGULATION; FUEL ALLOCATION PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21956
NPRM Comment Period End	06/27/94	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Federalism: Undetermined

Agency Contact: Holley Bailey
Phone: 703 767-1374

RIN: 0790–AF73

843. MILITARY ASSISTANCE FOR CIVIL DISTURBANCES (MACDIS) (DOD DIRECTIVE 3025.12)

Priority: Other Significant

CFR Citation: 32 CFR 215

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

DOD—OS

Long-Term Actions

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Federalism: Undetermined

Agency Contact: G. Warren
Phone: 703 697-5454

RIN: 0790–AG21

844. FORMER SPOUSE PAYMENTS FROM RETIRED PAY; AMENDMENT (DOD DIRECTIVE 1340.16 AND DOD 7000.14-R, VOL 7, PART B)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	04/06/95	60 FR 17507
NPRM Comment Period End	06/06/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Fiti Malufau
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Email: malufauf@cleveland.dfas.mil

RIN: 0790–AG22

845. UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM (URISP)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 209

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11642
NPRM Comment Period End	05/01/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Evelyn Kent
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RIN: 0790–AG26

846. RESTORATION ADVISORY BOARDS (RABS)

Priority: Other Significant

CFR Citation: 32 CFR 202

Timetable:

Action	Date	FR Cite
NPRM	08/06/96	61 FR 40764
NPRM Comment Period End	11/04/96	61 FR 40765
NPRM Extension of Comment Period	11/19/96	61 FR 58803
NPRM Comment Period End	01/20/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Federalism: Undetermined

Agency Contact: Marcia Read
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Email: readmw@acq.osd.mil

RIN: 0790–AG31

847. CLOSED, TRANSFERRED, AND TRANSFERRING RANGES CONTAINING MILITARY MUNITIONS

Priority: Other Significant

CFR Citation: 32 CFR 178

Timetable:

Action	Date	FR Cite
NPRM	09/26/97	62 FR 50796
Public Meetings Begin	10/22/97	
Public Meetings End	12/10/97	
NPRM Comment Period End	12/26/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: John Selstrom
Phone: 703 697-5372

RIN: 0790–AG46

Department of Defense (DOD)
Office of the Secretary (OS)

Completed Actions

848. FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 230; 32 CFR 231a

Completed:

Reason	Date	FR Cite
Final Action Effective	06/01/01	66 FR 46372
Final Action	09/05/01	66 FR 46372

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Summers
Phone: 703 602-0299

RIN: 0790–AG73

849. PROCEDURES GOVERNING BANKS, CREDIT UNIONS, AND OTHER FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS (7000.14-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 231

Completed:

Reason	Date	FR Cite
Final Action Effective	06/01/01	66 FR 46707
Final Action	09/07/01	66 FR 46707

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Summers
Phone: 703 602-0299

RIN: 0790–AG74

850. IMPLEMENTATION OF EXECUTIVE ORDER 13132 "FEDERALISM"

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 339

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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DOD—OS **Completed Actions**

Agency Contact: Robert Cushing
Phone: 703 604-6269
RIN: 0790–AG81

851. • LEGAL ASSISTANCE MATTERS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 301

CFR Citation: 32 CFR 153

Legal Deadline: None

Abstract: This rule establishes a uniform approach for the execution of military testamentary instruments (including wills), powers of attorney, and advance medical directives. It seeks public comment on specific aspects of the activity.

Timetable:

Action	Date	FR Cite
Final Action Effective	06/12/01	66 FR 45169
Final Action	08/28/01	66 FR 45169
Final Rule Comment Period End	10/29/01	66 FR 45169

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lt Col K. Kinlin, Department of Defense, Office of the Secretary
Phone: 703 697-3387

RIN: 0790–AG88

Department of Defense (DOD)
Defense Acquisition Regulations Council (DARC) **Proposed Rule Stage**

852. OCEAN TRANSPORTATION BY UNITED STATES-FLAG VESSELS—SIMPLIFIED ACQUISTION THRESHOLD (DFARS CASE 2000-D014)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 247.573; 48 CFR 252.247

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to apply cargo preference provision and clause in solicitations and resultant contracts with an anticipated value at or below the simplified acquisition threshold.

Timetable:

Action	Date	FR Cite
Case Opened	05/12/00	
NPRM	09/11/01	66 FR 47153
NPRM Comment Period End	11/13/01	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Gail Cruz, Admin Assistant, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062
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Email: gail.cruz@osd.mil

RIN: 0750–AD19

853. BALANCE OF PAYMENTS PROGRAM (DFARS CASE 2000-D020)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to add language on the Balance of Payments Program and streamline procedures.

Timetable:

Action	Date	FR Cite
Case Opened	08/01/00	
NPRM	09/11/01	66 FR 47155
NPRM Comment Period End	11/13/01	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gail Cruz, Admin Assistant, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AD22

854. • SUBCONTRACT COMMERCIALITY DETERMINATIONS (DFARS CASE 2000-D028)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 244.303; 48 CFR 244.402

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to clarify that contractors must determine whether a particular subcontract item meets the definition of a commercial item. Also clarifies that administrative contracting officers must review the adequacy of the contractor's rationale documenting commercial item determinations during Contract Purchasing System Reviews.

Timetable:

Action	Date	FR Cite
Case Opened	11/29/00	
NPRM	09/11/01	66 FR 47159
NPRM Comment Period End	11/13/01	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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DOD—DARC

Proposed Rule Stage

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RIN: 0750–AD36

855. • ENTERPRISE SOFTWARE AGREEMENTS (DFARS CASE 2000-D023)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 208.001; 48 CFR 208.74; 48 CFR 239.101; 48 CFR 251.102; 48 CFR 52.251

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to add guidance on acquiring commercially available software. These revisions implement the Department of Defense Chief Information Officer Guidance and Policy Memorandum Number 12-8430, dated July 26, 2000, entitled "Acquiring Commercially Available Software."

Timetable:

Action	Date	FR Cite
Case Opened	10/03/00	
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gail Cruz, Admin Assistant, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AD37

856. • RESEARCH AND DEVELOPMENT CONTRACTING PROCEDURES (DFARS CASE 2001-D002)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 235.7003

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to delete the requirement that research and development streamlined solicitations must be posted on the RDSS/C website.

Timetable:

Action	Date	FR Cite
Case Opened	01/17/01	
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gail Cruz, Admin Assistant, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AD43

857. • TAX EXEMPTIONS (ITALY) (DFARS CASE 2000-D027)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 252.229

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to update the clause at 252.229-7003, Tax Exemptions (Italy), to identify the fiscal codes for the Army and Navy. The revisions also provide the correct address to which questions regarding Italian value-added taxes may be directed, and make plain language changes to improve the clarity of the clause.

Timetable:

Action	Date	FR Cite
Case Opened	11/28/00	
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gail Cruz, Admin Assistant, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AD46

858. • RESTRICTION ON CONTINGENT FEES FOR FOREIGN MILITARY SALES—COMMERCIAL ITEMS (DFARS 2000-D029)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 252.212

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to remove the clause at 252.225-7027, Restriction on Contingent Fees for Foreign Military Sales, from the list of clauses at DFARS 252.212-7001, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items.

Timetable:

Action	Date	FR Cite
Case Opened	12/05/00	
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gail Cruz, Admin Assistant, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
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RIN: 0750–AD47

859. • PREFERENCE FOR LOCAL 8(A) CONTRACTORS—BASE CLOSURE OR REALIGNMENT (DFARS CASE 2001-D007)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 226.71

DOD—DARC — **Proposed Rule Stage**

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to clarify policy pertaining to preferences for local businesses in acquisitions that support a base closure or realignment.

Timetable:

Action	Date	FR Cite
Case Opened	05/02/01	
NPRM	09/11/01	66 FR 47158
NPRM Comment Period End	11/13/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gail Cruz, Admin Assistant, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AD53

Department of Defense (DOD)
Defense Acquisition Regulations Council (DARC)

Final Rule Stage

860. ACQUISITION OF COMMERCIAL ITEMS (DFARS CASE 95-D712)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355

CFR Citation: 48 CFR 211.70; 48 CFR 212; 48 CFR 227.7102; 48 CFR 252.211; 48 CFR 252.212; 48 CFR 252.227

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to conform to the FAR changes pertaining to the acquisition of commercial items. Also, implements DoD-unique requirements of the Federal Acquisition Streamlining Act of 1994 regarding the acquisition of commercial items.

Timetable:

Action	Date	FR Cite
Case Opened	10/04/95	
Interim Final Rule	11/30/95	60 FR 61585
Interim Final Rule Effective	11/30/95	
Interim Final Rule Comment Period End	01/29/96	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AB00

861. ANTICOMPETITIVE TEAMING (DFARS CASE 1999-D028)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 203.3

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to add policy addressing exclusive teaming arrangements.

Timetable:

Action	Date	FR Cite
Case Opened	10/13/99	
NPRM	11/18/99	64 FR 63002
NPRM Comment Period End	01/18/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC98

862. OVERSEAS USE OF THE PURCHASE CARD IN CONTINGENCY, HUMANITARIAN, OR PEACEKEEPING OPERATIONS (DFARS CASE 2000-D019)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 213.301

Legal Deadline: None

Abstract: Modified the Defense FAR Supplement to permit contingency contracting officers, in support of contingency, humanitarian, or peacekeeping operations, to use the Governmentwide commercial purchase card on a stand-alone bases for purchases of commercial items at or below the simplified acquisition threshold ($200,000).

Timetable:

Action	Date	FR Cite
Case Opened	06/26/00	
NPRM	09/20/00	65 FR 56858
NPRM Comment Period End	11/20/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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DOD—DARC

Final Rule Stage

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RIN: 0750–AD16

863. CHANGE TO PROFIT POLICY (DFARS CASE 2000-D018)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 215.404

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to make changes to Department of Defense profit policy that would reduce and eventually eliminate emphasis on facilities investment, increase emphasis on performance risk, and encourage contractor cost efficiency.

Timetable:

Action	Date	FR Cite
Case Opened	06/05/00	
NPRM	07/24/00	65 FR 45574
NPRM Comment Period End	09/22/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AD21

864. DOMESTIC SOURCE RESTRICTION—BALL AND ROLLER BEARINGS AND VESSEL PROPELLERS (DFARS CASE 2000-D301)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-259, sec 8064; PL 106-398, sec 805

CFR Citation: 48 CFR 212.5; 48 CFR 215.504; 48 CFR 225.70; 48 CFR 252.212; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 8064 of the Fiscal Year 2001 Defense Appropriations Act (Public Law 106-259). Section 8064 restricts acquisition of ball and roller bearings and vessel propellers other than those produced by a domestic source and of domestic origin. The restrictions do not apply to the purchase of commercial items, except ball or roller bearings purchased as end items. Also implements section 805 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, which extends 10 United States Code 2534 restriction of ball and roller bearings through fiscal year 2005.

Timetable:

Action	Date	FR Cite
Case Opened	08/16/00	
Interim Final Rule	12/13/00	65 FR 77827
Interim Final Rule Comment Period End	02/12/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AD33

865. • MULTIYEAR SERVICE CONTRACTS (DFARS CASE 2000-D304)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-396, sec 802

CFR Citation: 48 CFR 217.170; 48 CFR 217.171; 48 CFR 217.172; 48 CFR 217.174

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 802 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 that clarifies the authority to enter into multiyear contracts for the acquisition of services.

Timetable:

Action	Date	FR Cite
Case Opened	11/08/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AD34

866. • PERFORMANCE-BASED SERVICE CONTRACTS USING PART 12 PROCEDURES (DFARS CASE 2000-D306)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-398, sec 821(3)

CFR Citation: 48 CFR 202.101; 48 CFR 212.102; 48 CFR 237.601

Legal Deadline: Final, Statutory, April 27, 2001.

Abstract: Modifies the Defense FAR Supplement to implement section 821(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 that authorizes the Department of Defense to treat performance-based service contracts/task orders valued at $5 million or less as commercial items if certain conditions are met.

Timetable:

Action	Date	FR Cite
Case Opened	11/08/00	
Interim Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no

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paperwork burden associated with this action.

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RIN: 0750–AD35

867. • REPORTING REQUIREMENTS RELATING TO MULTIYEAR CONTRACTS (DFARS CASE 2000-D303)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-298, sec 806

CFR Citation: 48 CFR 217.1

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 806 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 that requires an annual report that addresses all multiyear contracts, regardless of dollar value. Section 806 also requires a separate report prior to entering into a multiyear contract or extension above $500 million if the information required by section 2306b, title 10, for the contract or extension was not included in the annual report.

Timetable:

Action	Date	FR Cite
Case Opened	11/08/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AD38

868. • CANCELLATION OF MIL-STD-973, CONFIGURATION MANAGEMENT (DFARS CASE 2001-D001)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 243.205; 48 CFR 248.270; 48 CFR 252.243; 48 CFR 252.248

Legal Deadline: None

Abstract: Modified the Defense FAR Supplement to reflect the cancellation of MIL-STD-973, Configuration Management.

Timetable:

Action	Date	FR Cite
Case Opened	01/16/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AD41

869. • UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (DFARS CASE 2000-D024)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-259, sec 8022

CFR Citation: 48 CFR 226.104; 48 CFR 252.226

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 8022 of the Fiscal Year 2001 Defense Appropriations Act that specifies that a subcontractor at any tier shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974.

Timetable:

Action	Date	FR Cite
Case Opened	10/17/00	
Interim Final Rule	09/11/01	66 FR 47110
Interim Final Rule Comment Period End	11/13/01	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AD42

870. • CARIBBEAN BASIN COUNTRY END PRODUCTS (DFARS CASE 2000-D302)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-200, sec 211

CFR Citation: 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 211 of the United States-Caribbean Basin Trade Partnership Act, and the United States Trade Representative's (USTR) determinations under that Act and Executive Order 12260. Specifically, amends the definition of "Caribbean Basin country and product" and removes Panama from the list of Caribbean Basin countries consistent with USTR determination.

Timetable:

Action	Date	FR Cite
Case Opened	10/24/00	
Interim Final Rule	09/11/01	66 FR 47112
Interim Final Rule Comment Period End	11/13/01	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

DOD—DARC

Final Rule Stage

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AD44

871. • COST OR PRICING DATA THRESHOLD (DFARS CASE 2000-D026)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 215.404

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to replace three references to $500,000 with the phrase "cost or pricing data threshold."

Timetable:

Action	Date	FR Cite
Case Opened	11/27/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AD45

872. • USE OF RECOVERED MATERIALS (DFARS CASE 2001-D005)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 223.4

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to remove approval requirements pertaining to the acquisition of items that do not meet Environmental Protection Agency (EPA) minimum recovered material standards. The DFARS requirements are no longer necessary as a result of changes made to the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
Case Opened	03/14/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AD50

873. • CUSTOMARY PROGRESS PAYMENT RATE FOR LARGE BUSINESS (DFARS CASE 2001-D012)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 232.501; 48 CFR 252.232

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to increase the progress payment rate to 80 percent for large businesses.

Timetable:

Action	Date	FR Cite
Case Opened	06/20/01	
NPRM	08/24/01	66 FR 44588
NPRM Comment Period End	09/24/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AD51

874. • DEPARTMENT OF DEFENSE PILOT MENTOR-PROTEGE PROGAM (DFARS CASE 2001-D006)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-398, sec 807

CFR Citation: 48 CFR 219.71; 48 CFR app I

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to add women-owned businesses to the types of concerns that may participate as protege firms in the DoD Pilot Mentor-Protege Program.

Timetable:

Action	Date	FR Cite
Case Opened	04/06/01	
Interim Final Rule	09/11/01	66 FR 47106
Interim Final Rule Comment Period End	11/13/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 0750–AD52

DOD—DARC

Final Rule Stage

875. • EXTENSION OF THE MOU—8(A) PROGRAM (DFARS CASE 2001-D009)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 219.800

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to reflect an extension in the expiration date of a memorandum of understanding between DoD and Small Business Administration (SBA). The memorandum of understanding permits DoD to award contracts directly to 8(a) Program participants instead of awarding the contracts through the SBA.

Timetable:

Action	Date	FR Cite
Case Opened	05/15/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AD54

Department of Defense (DOD)
Defense Acquisition Regulations Council (DARC)

Long-Term Actions

876. INCREMENTAL FUNDING, FIXED PRICE CONTRACTS (DAR CASE 90-037)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232.7; 48 CFR 252.232

Timetable:

Action	Date	FR Cite
Case Opened	09/26/90	
Interim Final Rule	09/01/93	58 FR 46091
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gail Cruz
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RIN: 0750–AA07

877. DEMILITARIZATION (DFARS CASE 92-D024)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 245; 48 CFR 252.245

Timetable:

Action	Date	FR Cite
Case Opened	07/22/92	
NPRM	03/16/94	59 FR 12223
NPRM Comment Period End	05/30/94	
NPRM	03/23/95	60 FR 15276
NPRM Comment Period End	05/22/95	
NPRM	06/05/97	62 FR 30832
NPRM Comment Period End	08/04/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Gail Cruz
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RIN: 0750–AA09

878. VETERANS EMPLOYMENT EMPHASIS (DFARS CASE 97-D314)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 209.104; 48 CFR 212.503; 48 CFR 213.110; 48 CFR 217.207; 48 CFR 222.1304; 48 CFR 252.209

Timetable:

Action	Date	FR Cite
Case Opened	10/17/97	
Interim Final Rule	03/11/98	63 FR 11850
Interim Final Rule Effective	03/11/98	
Interim Final Rule Comment Period End	05/11/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 0750–AC20

879. INSTITUTIONS OF HIGHER EDUCATION (DFARS CASE 1999-D303)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 209.470; 48 CFR 243; 48 CFR 252.209

Timetable:

Action	Date	FR Cite
Case Opened	10/06/99	
Interim Final Rule	01/13/00	65 FR 2056
Interim Final Rule Comment Period End	03/13/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Gail Cruz
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RIN: 0750–AD05

880. • QUALIFICATION REQUIREMENTS FOR CONTRACTING POSITIONS (DFARS CASE 2000-D305)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-398, sec 808

CFR Citation: 48 CFR 201.603

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 808 of the Floyd D. Spence National

DOD—DARC **Long-Term Actions**

Defense Authorization Act for Fiscal Year 2001 that requires a baccalaureate degree and 24 semester credit hours in business disciplines for new entrants into the GS-1102 occupational series and for contracting officers above the simplified acquisition threshold.

Timetable:

Action	Date	FR Cite
Case Opened	11/08/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AD39

Department of Defense (DOD)
Defense Acquisition Regulations Council (DARC) **Completed Actions**

881. DFARS COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS (DFARS CASE 96-D316)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 212

Completed:

Reason	Date	FR Cite
Case Closed Without Action	09/12/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gail Cruz
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RIN: 0750–AB40

882. • REVIEW OF ACQUISITION PLANS FOR PURCHASES OF CONVENTIONAL AMMUNITION (DFARS CASE 2000-D030)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 207.103

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to require all Department of Defense components to submit acquisition plans for purchases of conventional ammunition to the Assistant Secretary of the Army, Deputy of Ammunition, for review and concurrence.

Timetable:

Action	Date	FR Cite
Case Opened	12/05/00	
Final Rule	09/11/01	66 FR 47107

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AD40

883. • REPORTING REQUIREMENTS UPDATE (DFARS CASE 2001-D004)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 204.6; 48 CFR 204.72; 48 CFR 252.204; 48 CFR 253.204

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to provide reporting requirements for fiscal year 2002 contracting actions.

Timetable:

Action	Date	FR Cite
Case Opened	03/05/01	
Final Rule	09/11/01	66 FR 47096
Final Rule Effective	10/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AD55

884. • ICELAND—NEWLY DESIGNATED COUNTRY UNDER TAA (DFARS CASE 2001-D008)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to add Iceland to the list of designated countries under the Trade Agreements Act, as directed by the U.S. Trade Representative.

Timetable:

Action	Date	FR Cite
Case Opened	05/15/01	
Final Rule	09/11/01	66 FR 47112

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gail Cruz, Admin Assistant, Department of Defense,

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DOD—DARC — **Completed Actions**

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Department of Defense (DOD)
Department of the Army (DOA) — **Final Rule Stage**

885. ENVIRONMENTAL ANALYSIS OF ARMY ACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321

CFR Citation: 32 CFR 651

Legal Deadline: None

Abstract: This rule revises policies and procedures for assessing the effect of Army actions (32 CFR 651). The revision is intended to streamline portions of the Army enviornmental actions process and strives to meet the spirit of the National Performance Review (NPR) and Executive Order 12861 "Elimination of One-Half of Executive Branch Internal Regulations."

Timetable:

Action	Date	FR Cite
NPRM	09/07/00	65 FR 54348
NPRM Comment Period End	11/06/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0702–AA34

Department of Defense (DOD)
Department of the Army (DOA) — **Completed Actions**

886. • REPORT ON USE OF EMPLOYEES OF NON-FEDERAL ENTITIES TO PROVIDE SERVICES TO THE DEPARTMENT OF THE ARMY

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2461 (g)

CFR Citation: 32 CFR 688

Legal Deadline: None

Abstract: This rule removes Department of the Army regulations on Contractor Man-Hour Reporting Requirement. Rule was reported as effective on December 26, 2000, RIN:0702-AA33.

Timetable:

Action	Date	FR Cite
Final Action	07/13/01	66 FR 36711

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Director of Defense Procurement directed the Department of the Army to withdraw regulations pending approval of and further rulemaking on the repetitive use provisions employed in covered Army contracts. In addition, the Office of Management and Budget concluded that the final rule made significant changes to the interim rule in apparent conflict with the Paperwork Reduction Act.

Agency Contact: Luz D. Ortiz, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, Stop 5603, U.S. Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, 6000 6th Street, Fort Belvoir, VA 22060-5603
Phone: 703 806-3708
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Email: luz.ortiz@rmda.belvoir.army.mil

RIN: 0702–AA35

Department of Defense (DOD)
U.S. Army Corps of Engineers (COE) — **Proposed Rule Stage**

887. ENVIRONMENTAL QUALITY; PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq; 40 CFR 1500.6

CFR Citation: 33 CFR 230

Legal Deadline: None

Abstract: The purpose of this regulatory revision is to clarify and provide additional guidance for Corps NEPA requirements for activities at Federal water resource development projects and lands.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	
Final Action	04/00/02	
Final Action Effective	11/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Forrester Einarsen, Biologist, Department of Defense, U.S. Army Corps of Engineers, Office of Environmental Policy (CECW-AR-E), 7701 Telegraph Road, Alexandria, VA 22315-3861
Phone: 703 428-7081

RIN: 0710–AA42

UMI

DOD—COE

Proposed Rule Stage

888. • NATURAL DISASTER PROCEDURES: PREPAREDNESS, RESPONSE, AND RECOVERY ACTIVITIES OF THE CORPS OF ENGINEERS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 701

CFR Citation: 33 CFR 203

Legal Deadline: None

Abstract: This revision of 33 CFR 203 is necessary to reflect current policy, add features required by the Water Resources Development Act of 1996 (PL 104-303), and streamline certain procedures concerning Corps authority for disaster preparedness, response, and recovery activities. Public Law 104-303 additions are the option of a nonstructural alternative to structural levee repairs for damage caused by flood events, and the provision of a levee owners' manual. Other changes include a change in the cost share provision for rehabilitation of Federal and non-Federal flood control works, expansion of investigation ability for potential Advance Measures work, and a streamlined approach for requests for assistance from Native American tribes and Alaska Native Corporations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Robert K. Grubbs, Program Manager, Public Law 84-99, Department of Defense, U.S. Army Corps of Engineers, CECW-OE (3F68), 441 G Street NW, Washington, DC 20314-1000
Phone: 202 761-4561
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Email: robert.k.grubbs@usace.army.mil

RIN: 0710–AA47

Department of Defense (DOD)
U.S. Army Corps of Engineers (COE)

Final Rule Stage

889. • PROPOSED REVISION TO THE CLEAN WATER ACT REGULATORY DEFEINITIONS OF "FILL MATERIAL" AND THE "DISCHARGE OF FILL MATERIAL"

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1344

CFR Citation: 33 CFR 323

Legal Deadline: None

Abstract: The regulation revises the Clean Water Act regulations defining the terms "fill material" and the "discharge of fill material." The purpose is to clarify those pollutants that are regulated by the U.S. Army Corps of Engineers under section 404 of the Clean Water Act.

Timetable:

Action	Date	FR Cite
NPRM	04/20/00	65 FR 21292
NPRM Comment Period End	06/19/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State, Tribal, Federal

Agency Contact: Thaddeus J. Rugiel, Department of Defense, U.S. Army Corps of Engineers, CECW-OR (3F75), 441 G Street NW, Washington, DC 20314-1000
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RIN: 0710–AA48

Department of Defense (DOD)
U.S. Army Corps of Engineers (COE)

Long-Term Actions

890. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 320 to 330

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Sam Collinson
Phone: 202 761-0199

RIN: 0710–AA30

891. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS—WETLAND DELINEATOR CERTIFICATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 320; 33 CFR 323; 33 CFR 325; 33 CFR 328; 33 CFR 333

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13654
NPRM Comment Period End	04/13/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Michael D. Smith
Phone: 202 761-0201

RIN: 0710–AA38

892. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, ENDANGERED SPECIES ACT; SCOPE OF ANALYSIS

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 325

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Sam Collinson

DOD—COE — **Long-Term Actions**

Phone: 202 761-0199

RIN: 0710–AA43

893. FLOOD CONTROL COST-SHARING REQUIREMENTS UNDER THE ABILITY TO PAY PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 241

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Harry M. Shoudy
Phone: 202 761-1977

RIN: 0710–AA44

Department of Defense (DOD)
Department of the Navy (NAVY) — **Final Rule Stage**

894. POLICIES AND RESPONSIBILITIES FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT WITHIN THE DEPARTMENT OF THE NAVY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 44502

CFR Citation: 32 CFR 775 (Revision)

Legal Deadline: None

Abstract: The Department of the Navy is revising its regulations, which establish the responsibilities and procedures for complying with the National Environmental Policy Act (NEPA). This revision clarifies when certain Department of the Navy actions must be studied to determine their effect on the human environment and what types of activities are excluded from the NEPA documentation requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37069
NPRM Comment Period End	09/07/99	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Egeland, Department of Defense, Department of the Navy, Office of the Assistant Secretary of the Navy (Installations and Environment), 2000 Navy Pentagon, Washington, DC 20350-2000
Phone: 703 588-6671

RIN: 0703–AA51

Department of Defense (DOD)
Department of the Navy (NAVY) — **Long-Term Actions**

895. USE OF DEPARTMENT OF THE NAVY AVIATION FACILITIES BY OTHER THAN UNITED STATES DEPARTMENT OF DEFENSE AIRCRAFT

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 766

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61561
NPRM Comment Period End	01/03/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Beaton
Phone: 703 604-7707
Fax: 703 604-6969

RIN: 0703–AA48

896. SHIPBUILDING CAPABILITY PRESERVATION AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5231 (New)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66826
Interim Final Rule Effective	12/22/97	
Interim Final Rule Comment Period End	02/20/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Clarence Belton
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Email: belton.clarence@hq.navy.mil

RIN: 0703–AA50

Department of Defense (DOD)
Department of the Air Force (AF) — **Final Rule Stage**

897. APPOINTMENT TO THE UNITED STATES AIR FORCE ACADEMY

Priority: Info./Admin./Other

Legal Authority: 10 USC 903; 10 USC 0013

CFR Citation: 32 CFR 901

Legal Deadline: None

Abstract: This rule provides instructions on processing nominations and appointments to the United States Air Force Academy.

DOD—AF **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	12/01/97	62 FR 63485
NPRM Comment Period End	01/30/98	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Parker, Department of Defense, Department of the Air Force, HQ USAFA RRA, 1040 Air Force Pentagon, Washington, DC 20330-1040
Phone: 703 697-7116

RIN: 0701–AA58

898. INSTALLATION ENTRY POLICY, CIVIL DISTURBANCE INTERVENTION AND DISASTER ASSISTANCE

Priority: Info./Admin./Other

Legal Authority: 10 USC 332-333, 50 USC 797

CFR Citation: 32 CFR 808 (previously 32 CFR 809a)

Legal Deadline: None

Abstract: This rule prescribes the installation commanders authority for enforcing orders within or near Air Force installations and controlling entry. It also provides for guidance for use of military personnel in controlling civil disturbances and in supporting disaster relief operations.

Timetable:

Action	Date	FR Cite
NPRM	07/12/01	66 FR 36523
NPRM Comment Period End	09/10/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Walter Filipak, SMSgt, Department of Defense, Department of the Air Force, HQ AFSFC/SFO, 1720 Patrick Street, Lackland AFB, TX 78236-5226
Phone: 210 671-0898
Email: walter.filipiak@lackland.af.mil

RIN: 0701–AA64

899. WAKE ISLAND CODE

Priority: Info./Admin./Other

Legal Authority: 74 Stat 424, PL 86-6244; EO 11048

CFR Citation: 32 CFR 935 (Revised)

Legal Deadline: None

Abstract: Revises and updates the Code to reflect current and anticipated use of Wake Island. Provides regulations for conduct not otherwise provided by law and provides a judicial system to enforce those requirements. Delegates authority to the Commander of Pacific Air Forces to perform most of the functions of civil administration.

Timetable:

Action	Date	FR Cite
NPRM	10/25/00	65 FR 63826
NPRM Comment Period End	12/26/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This is the information for legal authority as it is generally listed. There is some duplication of information.

Sec. 48, Act of 12 July 1960; 74 Stat. 424, Pub. L. 86-624, E.O. 11048, Sept. 1, 1962, 27 FR 8851; agreement between Dept. of Interior and Department of the Air Force, dated June 19, 1972, 37 FR 12255, and Secretary of the Air Force, Order 111.1, dated April 26, 1999.

Agency Contact: Philip Sheuerman, Associate General Counsel, Department of Defense, Department of the Air Force, Room 4C921, SAF/GCN, 1740 Air Force Pentagon, Washington, DC 20330-1740
Phone: 703 695-4691
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RIN: 0701–AA65

Department of Defense (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA) **Proposed Rule Stage**

900. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES; INDIVIDUAL CASE MANAGEMENT PROGRAM FOR PERSONS WITH EXTRAORDINARY CONDITIONS (ICMP-PEC)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: The Department of Defense proposes to amend its regulations of the Individual Case Management Program (ICMP) to implement requirements stipulated by section 703 of the Fiscal Year 2000 National Defense Authorization Act, section 8118 of the Fiscal Year 2000 Defense Appropriations Act, section 701 of the Fiscal Year 2001 National Defense Authorization Act, and section 8100 of the Fiscal Year 2001 Defense Appropriations Act. Other administrative amendments are also proposed to clarify specific policies that relate to the program.

Timetable:

Action	Date	FR Cite
NPRM	08/01/01	66 FR 39699
NPRM Comment Period End	10/01/01	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Stockdale, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 681-0039

RIN: 0720–AA65

Department of Defense (DOD) — **Final Rule Stage**

Office of Assistant Secretary for Health Affairs (DODOASHA)

901. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); HOSPITAL PAYMENT FOR AMBULATORY CARE (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes a new payment method for ambulatory care (other than ambulatory surgery) provided by hospitals to CHAMPUS beneficiaries, under which payment amounts would be based on the cost of the service rather than on the billed charge, as at present.

Timetable:

Action	Date	FR Cite
NPRM	01/20/94	59 FR 3046
NPRM Comment Period End	03/21/94	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Steve Lillie, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA20

902. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRANSPLANTS (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes coverage for heart-lung, single or double lung, and combined liver-kidney transplantation for those patients who meet specific patient selection criteria; establishes preauthorization requirements for heart, liver, heart-lung, single or double lung, combined liver-kidney transplantation, high dose chemotherapy and stem cell transplantation, and air ambulance (in conjunction with lung or heart-lung transplantation preauthorizations); extends coverage of cardiac rehabilitation to those patients who have had heart valve surgery, heart or heart-lung transplantation; authorizes an exception to the ambulance benefit to allow organ transplantation candidates to be transported to a certified CHAMPUS organ transplant center instead of the closest appropriate facility; authorizes pulmonary rehabilitation for beneficiaries whose conditions are considered appropriate for pulmonary rehabilitation according to guidelines adopted by the Director, OCHAMPUS, or a designee; recognizes certain transplant centers that meet specific criteria as an authorized CHAMPUS institutional provider; and clarifies the CHAMPUS position on consortium programs for organ transplantation to allow individual hospitals which are members of a consortium to use the combined (pooled) experience and survival data of the consortium team to meet CHAMPUS requirements for authorization as a certified CHAMPUS organ transplant center.

Timetable:

Action	Date	FR Cite
NPRM	03/17/95	60 FR 14403
NPRM Comment Period End	05/16/95	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Cynthia Speight, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA28

903. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); EXCEPTION TO THE CHAMPUS DUAL COMPENSATION/CONFLICT OF INTEREST PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: Currently, any individual who is a civilian employee of the United States Government cannot be authorized by CHAMPUS as a provider of medical services. We propose to provide an exception to this prohibition to permit these individuals to be authorized CHAMPUS providers if they meet three conditions. First, they must be employed by the Government agency on a part-time basis, that is, less than twenty (20) hours per week. Second, the agency must certify that unique or special circumstances detrimental to the delivery of quality health care exist that can be overcome only by employing part-time, non-Government physicians. Third, the agency and the physician must certify that they understand and have taken appropriate measures to avoid violation of Standards of Conduct, dual compensation, and conflict of interest requirements including protection against referral of patients to the employee's private practice.

Timetable:

Action	Date	FR Cite
NPRM	08/26/97	62 FR 45196
NPRM Comment Period End	10/27/97	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Stephen Isaacson, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA41

904. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROSTHETIC DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements section 702 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85), which authorizes purchase of prosthetic devices, as determined by the Secretary of Defense, to be necessary because of significant conditions resulting from trauma,

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congenital anomalies, or disease. The Act changes the existing limited provisions for prosthetic devices, expands coverage to include cost sharing of other prostheses; e.g., noses, ears, and fingers.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/20/99	64 FR 45453
Interim Final Rule	08/20/99	64 FR 45453
Interim Final Rule Comment Period End	10/19/99	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Margaret Brown, Department of Defense, Office of Assistant Secretary for Health Affairs
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Email: margaret.brown@tma.osd.mil

RIN: 0720–AA49

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905. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); DOUBLE COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule clarifies our double coverage policy for non-institutional claims for beneficiaries with primary health insurance. TRICARE network, non-network but participating, and non-participating providers are all reimbursed differently under current procedures. This has had the unintended effect of discouraging TRICARE network participation since non-network but participating providers receive the most favorable treatment with respect to double coverage calculations. The Department proposes to revise double coverage reimbursement calculations by reimbursing all providers up to 100 percent of the CHAMPUS Maximum Allowable Charge after the primary health insurance has paid or 115 percent for nonparticipating providers.

Timetable:

Action	Date	FR Cite
NPRM	06/17/99	64 FR 32451
NPRM Comment Period End	08/16/99	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: LTC Kathleen Larkin, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 681-3628
Email: kathleen.larkin@tma.osd.mil

RIN: 0720–AA50

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906. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE PROGRAM; DOUBLE COVERAGE; THIRD-PARTY RECOVERIES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements section 711 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, which allows the Secretary of Defense to authorize certain CHAMPUS/TRICARE claims to be paid, even though other health insurance may be primary payer, with authority to collect from the other health insurance (third-party payer) the CHAMPUS/TRICARE costs incurred on behalf of the beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	10/19/99	64 FR 56283
NPRM Comment Period End	12/20/99	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Robert Shepherd, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 303 676-3705

RIN: 0720–AA52

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907. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); ESTABLISHMENT OF AN APPEALS PROCESS FOR TRICARE CLAIMCHECK DENIALS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements section 714 of the National Defense Authorization Act for FY 1999, which requires the establishment of an appeals process for denials by TRICARE Claimcheck (TCC) or any similar software system. This rule enhances the current appeals process by adding an additional level of appeal conducted at the TRICARE Management Activity (TMA) and by codifying the entire process in this part.

Timetable:

Action	Date	FR Cite
NPRM	01/13/00	65 FR 2085
NPRM Comment Period End	03/13/00	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Donald Wagner, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 303 676-3411

RIN: 0720–AA56

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908. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); METHODOLOGY FOR COVERAGE OF NIH-SPONSORED CLINICAL TRIALS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule modifies the general prohibition against CHAMPUS cost-sharing of unproven drugs, devices, and medical treatments or

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procedures by adding a provision allowing a waiver of the prohibition in connection with clinical trials sponsored by the National Institutes of Health, if it is determined that such a waiver will promote access by covered beneficiaries to promising new treatments and contribute to the development of such treatments.

Timetable:

Action	Date	FR Cite
NPRM	05/31/00	65 FR 34627
NPRM Comment Period End	07/31/00	
Final Rule	01/31/01	66 FR 8365
Final Rule Withdrawn	02/07/01	66 FR 9199
Final Rule Effective	03/02/01	66 FR 8365
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Steve Lillie, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA57

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909. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE PRIME ENROLLMENT

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule provides for automatic enrollment of certain family members of E-4 and below in TRICARE Prime. When affected family members reside in a catchment area of a military medical treatment facility offering TRICARE Prime, the family members will be automatically enrolled in TRICARE Prime and will choose or be assigned a Primary Care Manager located in the military medical treatment facility. Such automatic enrollment may be terminated at any time.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/28/00	65 FR 39804
Interim Final Rule Effective	07/28/00	
Interim Final Rule Comment Period End	08/28/00	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LTC Kathleen Larkin, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 681-3628
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RIN: 0720–AA59

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910. TRICARE; CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); BONUS PAYMENTS IN MEDICALLY UNDERSERVED AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements a bonus payment, in addition to the amount normally paid under the allowable charge methodology, to providers in medically underserved areas. For purposes of this rule, medically underserved areas are the same as those determined by the Secretary of Health and Human Services for the Medicare program. Such bonus payments shall be equal to the bonus payments authorized by Medicare, except as necessary to recognize any unique or distinct characteristics or requirements of the CHAMPUS program and as described in instructions issued by the Director, OCHAMPUS. Due to the urgency for such bonus payments in medically underserved areas to alleviate problems by lower payments, the interim final rulemaking process has been utilized. This rule promotes a reimbursement enhancement to a limited number of providers designed to increase CHAMPUS beneficiary access to care, which also supports the use of the interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/00	65 FR 41002
Interim Final Rule Effective	08/02/00	
Interim Final Rule Comment Period End	09/01/00	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stan Regensberg, Department of Defense, Office of Assistant Secretary for Health Affairs, Washington, DC
Phone: 303 676-3742

RIN: 0720–AA60

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911. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); ENHANCEMENT OF DENTAL BENEFITS UNDER THE TRICARE RETIREE DENTAL PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements section 704 of the National Defense Authorization Act for Fiscal Year 2000 to allow additional benefits under the retiree dental insurance plan for Uniformed Services retirees and their family members that may be comparable to those under the Dependents Dental Program. The Department of Defense is publishing this rule as an interim final rule in order to comply timely with the desire of Congress to meet the needs of retirees for additional dental coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/00	65 FR 49491
Interim Final Rule Effective	08/14/00	
Interim Final Rule Comment Period End	10/13/00	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda Winter, Department of Defense, Office of Assistant Secretary for Health Affairs

DOD—DODOASHA — **Final Rule Stage**

Phone: 303 676-3682

RIN: 0720–AA61

912. • CHAMPUS/TRICARE; PARTIAL IMPLEMENTATION OF PHARMACY BENEFITS PROGRAM; IMPLEMENTATION OF NATIONAL DEFENSE AUTHORIZATION ACT MEDICAL BENEFITS FOR FISCAL YEAR 2001

Regulatory Plan: This entry is Seq. No. 17 in part II of this issue of the **Federal Register**.

RIN: 0720–AA62

913. • TRICARE; CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); ELIGIBILITY AND PAYMENT PROCEDURES FOR CHAMPUS BENEFICIARIES AGE 65 AND OVER

Regulatory Plan: This entry is Seq. No. 18 in part II of this issue of the **Federal Register**.

RIN: 0720–AA66

Department of Defense (DOD) — **Completed Actions**

Office of Assistant Secretary for Health Affairs (DODOASHA)

914. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PAYMENTS FOR PROFESSIONAL SERVICES IN LOW-ACCESS LOCATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	08/28/01	66 FR 45171
Final Action Effective	09/27/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Lillie

Phone: 703 681-3628

Email: steve.lillie@tma.osd.mil

RIN: 0720–AA58

[FR Doc. 01–23849 Filed 11–30–01; 8:45 am]

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Federal Register

Monday,
December 3, 2001

Part VI

Department of Education

Semiannual Regulatory Agenda

DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, Education.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Secretary of Education publishes a semiannual agenda of Federal regulations. The agenda is issued under the authority of section 4(b) of Executive Order 12866 "Regulatory Planning and Review." The purpose of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the agency contact listed for the regulations. Questions or comments related to preparation of this agenda should be directed to Sandy Jablonski, Division of Regulatory Services, Office of the General Counsel, Department of Education, Room 6E107, FB-6, 400 Maryland Avenue SW., Washington, DC 20202-2241; telephone: (202) 401-8300. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: Section 4(b) of Executive Order 12866, dated September 30, 1993, requires the Department of Education (ED) to publish, at a time and in a manner specified by the Administrator of the Office of Information and Regulatory Affairs, OMB, an agenda of all regulations under development or review. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires ED to publish, in October and April of each year, a regulatory flexibility agenda.

The regulatory flexibility agenda may be combined with any other agenda that satisfies the statutory requirements (5 U.S.C. 605(a)). In compliance with the Executive order and the Regulatory Flexibility Act, the Secretary publishes this agenda.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation to any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract, which includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(b)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at the Department from whom a reader can obtain additional information regarding the planned action.

In accordance with the Department's Principles for Regulating listed in its regulatory plan, ED is committed to regulating that improves the quality and equality of services to its customers, learners of all ages. ED will regulate only when absolutely necessary and then in the most flexible, most equitable, least burdensome way possible.

Interested members of the public are invited to comment on any of the items listed in this agenda that they believe are not consistent with the Principles for Regulating. Members of the public are also invited to comment on regulations listed in this agenda that are designated for periodic review under the Regulatory Flexibility Act (5 U.S.C. 610).

We will also review all regulations that are published to ensure that, if appropriate, those regulations support the National Education Goals.

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item in the agenda. The Department may elect not to pursue any of the regulatory actions listed here, and regulatory action in addition to the items listed is not precluded. Dates of future regulatory actions are subject to revision in subsequent agendas.

For this edition of ED's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at the following site:

http://www.ed.gov/legislation/FedRegister

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free, at 1-888-293-6498, or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at:

http://www.access.gpo.gov/nara/index.html

Dated: September 4, 2001.

Steven Y. Winnick,

Deputy General Counsel.

ED

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
915	Student Rights in Research, Experimental Programs, and Testing	1880-AA66

Departmental Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
916	Protection of Human Subjects (Classified Research)	1880-AA79

Office of the Chief Financial Officer—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
917	Governmentwide Requirement for Drug-Free Workplace (Financial Assistance) and Governmentwide Debarment and Suspension (Nonprocurement)	1890-AA07

Office of the Chief Financial Officer—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
918	Education Department General Administrative Regulations (EDGAR)	1890-AA02

Office of the Chief Financial Officer—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
919	Protection of Human Subjects (Classified Research)	1890-AA08

Office of Elementary and Secondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
920	Reauthorization of the Elementary and Secondary Education Act of 1965 **(Section 610 Review) (Reg Plan Seq No. 19)**	1810-AA91

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Office of Student Financial Assistance—Completed Actions

Sequence Number	Title	Regulation Identification Number
921	Performance Standards for Retention of Electronic Records in the Student Financial Assistance Programs	1845-AA21

ED

Office of Special Education and Rehabilitative Services—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
922	Early Intervention Program for Infants and Toddlers with Disabilities	1820-AB53

Department of Education (ED)
Departmental Management (EDMAN)

Proposed Rule Stage

915. STUDENT RIGHTS IN RESEARCH, EXPERIMENTAL PROGRAMS, AND TESTING

Priority: Other Significant

Legal Authority: 20 USC 1232h

CFR Citation: 34 CFR 98

Legal Deadline: None

Abstract: These regulations are needed to implement section 1017 of the Goals 2000: Educate America Act (Pub. L. 103-227, 20 U.S.C. 1232h). That provision amends the Protection of Pupil Rights Amendment (PPRA) to require schools, in certain instances, to make specific educational materials available to parents for inspection. The provision also amends the PPRA to prohibit schools from requiring a student to submit to certain surveys, analyses, or evaluations without prior parental consent. The regulations are being developed in accordance with the Department's Principles for Regulating. We are expecting new legislation that would amend the PPRA. As our next action we anticipate issuing a new NPRM based on this new legislation.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44696
NPRM Comment Period End	10/27/95	
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ellen Campbell, Family Policy Compliance Office, Department of Education, Room 2W101, 400 Maryland Avenue SW, FB-6, Washington, DC 20202-4605
Phone: 202 260-3887

RIN: 1880–AA66

Department of Education (ED)
Departmental Management (EDMAN)

Completed Actions

916. PROTECTION OF HUMAN SUBJECTS (CLASSIFIED RESEARCH)

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 97

Completed:

Reason	Date	FR Cite
Transferred to RIN 1890-AA08	08/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Helene Deramond
Phone: 202 260-5353

RIN: 1880–AA79

Department of Education (ED)
Office of the Chief Financial Officer (OCFO)

Proposed Rule Stage

917. GOVERNMENTWIDE REQUIREMENT FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE) AND GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Priority: Other Significant

Legal Authority: EO 12549; EO 12689; 20 USC 1082; 20 USC 1094; 20 USC 1221e-3; 20 USC 3474; sec 2455, PL 103-355, 108 Stat 3243 at 3327; ...

CFR Citation: 34 CFR 84; 34 CFR 85; 34 CFR 668; 34 CFR 682

Legal Deadline: None

Abstract: These regulations are part of a common rule amending the Governmentwide nonprocurement common rule for debarment and suspension and the Governmentwide rule implementing the Drug-Free Workplace Act of 1988. These regulations clarify the relationship between debarment and suspension actions and limitation, suspension, and termination actions under title IV of the HEA. Additionally, these regulations set the dollar threshold on prohibited lower-tier procurement transactions with excluded persons at $25,000. These regulations also relocate the Drug-Free Workplace Act regulations in a separate part from the debarment and suspension regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

ED—OCFO

Proposed Rule Stage

Agency Contact: Peter Wathen-Dunn, General Attorney, Department of Education, Office of the Chief Financial Officer, Room 6E211, 400 Maryland Avenue SW, FB-6, Washington, DC 20202-2243
Phone: 202 401-6700
RIN: 1890–AA07

Department of Education (ED)
Office of the Chief Financial Officer (OCFO)

Final Rule Stage

918. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1221e-3(a)(1); 20 USC 3474

CFR Citation: 34 CFR 75

Legal Deadline: None

Abstract: These regulations are needed to implement features of the Department's streamlined discretionary grants process. These regulations will establish the procedures the Secretary may use for reviewing and selecting applications submitted for new grants under discretionary grant programs. New review and selection procedures will be established and defined including a new policy to give special consideration to novice applicants.

Timetable:

Action	Date	FR Cite
NPRM	04/17/00	65 FR 20698
NPRM Comment Period End	06/30/00	65 FR 37090
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: NPRM published under RIN 1880-AA02.

Agency Contact: Valerie A. Sinkovits, Management Analyst, Department of Education, Office of the Chief Financial Officer, Room 3652, ROB-3, 400 Maryland Avenue SW, Washington, DC 20202-4248
Phone: 202 708-7568
Fax: 202 205-0667
Email: valerie.sinkovits@ed.gov

RIN: 1890–AA02

Department of Education (ED)
Office of the Chief Financial Officer (OCFO)

Long-Term Actions

919. PROTECTION OF HUMAN SUBJECTS (CLASSIFIED RESEARCH)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 42 USC 300v-1(b)

CFR Citation: 34 CFR 97

Legal Deadline: None

Abstract: These amendments would revise existing regulations to eliminate certain waiver and expedited review provisions by adopting additional protection pertaining to human subjects in classified research.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Transferred from RIN 1880-AA79

Agency Contact: Helene Deramond, Department of Education, Office of the Chief Financial Officer, Room 3652, ROB-3, 400 Maryland Avenue SW, Washington, DC 20202
Phone: 202 260-5353

RIN: 1890–AA08

Department of Education (ED)
Office of Elementary and Secondary Education (OESE)

Proposed Rule Stage

920. REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 19 in part II of this issue of the **Federal Register**.

RIN: 1810–AA91

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Department of Education (ED)
Office of Student Financial Assistance (OSFA)

Completed Actions

921. PERFORMANCE STANDARDS FOR RETENTION OF ELECTRONIC RECORDS IN THE STUDENT FINANCIAL ASSISTANCE PROGRAMS

Priority: Other Significant

CFR Citation: 34 CFR 50

Completed:

Reason	Date	FR Cite
Withdrawn	08/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gail McLarnon
Phone: 202 219-7048

RIN: 1845–AA21

Department of Education (ED)
Office of Special Education and Rehabilitative Services (OSERS)

Final Rule Stage

922. EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES

Priority: Other Significant

Legal Authority: 20 USC 1431 to 1445

CFR Citation: 34 CFR 303

Legal Deadline: None

Abstract: These regulations provide clarification and guidance regarding the provision of early intervention services in "natural environments," revise the requirements on State financing of early intervention services (including the use of public and private insurance by States), and make other changes to clarify and improve implementation of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/05/00	65 FR 53808
NPRM Period End	12/04/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: JoLeta Reynolds, Department of Education, Office of Special Education and Rehabilitative Services, Room 3082, Switzer Building, 400 Maryland Avenue SW, Washington, DC 20202
Phone: 202 205-5507

RIN: 1820–AB53

[FR Doc. 01–23850 Filed 11–30–01; 8:45 am]
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Federal Register

Monday,
December 3, 2001

Part VII

Department of Energy

Semiannual Regulatory Agenda

DEPARTMENT OF ENERGY (DOE)

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Energy has prepared and today is publishing its semiannual regulatory agenda pursuant to Executive Order 12866 "Regulatory Planning and Review," 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. sections 601-612 (1988).

FOR FURTHER INFORMATION CONTACT: For further information about any particular item on the regulatory agenda, please contact the individual listed under that item. For further information on the regulatory agenda in general, please contact: Richard L. Farman, Room 6E-078, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-8145.

SUPPLEMENTARY INFORMATION: Entries appended to this notice reflect the status of activities as of approximately September 15, 2001. They are divided into categories first by subagencies and then according to their stage of rulemaking action: prerule, proposed rulemaking, final rulemaking, long-term action, or completed action.

For this edition of the Department of Energy's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

A draft of this regulatory agenda has been transmitted to the Chief Counsel for Advocacy of the U.S. Small Business Administration for comment, if any, pursuant to 5 U.S.C. 602(b).

Issued in Washington, DC, on November 2, 2001.

Lee Liberman Otis,
General Counsel.

Energy Efficiency and Renewable Energy—Prerule Stage

Sequence Number	Title	Regulation Identification Number
923	Energy Efficiency Standards for Residential Furnaces, Boilers, and Mobile Home Furnaces **(Reg Plan Seq No. 20)**	1904-AA78
924	Alternative Fueled Vehicle Acquisition Requirements for Private and Local Government Fleets	1904-AA98
925	Energy Efficiency Standards for Electric Distribution Transformers **(Reg Plan Seq No. 21)**	1904-AB08
926	Energy Efficiency Standards for Commercial Central Air Conditioning Units and Heat Pumps Rated 65-240 kBtu's/hr **(Reg Plan Seq No. 22)**	1904-AB09

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Energy Efficiency and Renewable Energy—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
927	State and Local Incentives Program: Alternative Fuels	1904-AA66

Energy Efficiency and Renewable Energy—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
928	Test Procedures for Central Air Conditioners and Heat Pumps—Amendments	1904-AA46
929	Energy Efficiency Standards for Central Air Conditioners and Heat Pumps **(Reg Plan Seq No. 23)**	1904-AA77
930	Test Procedures for Electric Distribution Transformers	1904-AA85
931	Test Procedures for Commercial Water Heaters	1904-AA95
932	Test Procedures for Commercial Warm Air Furnaces, and Efficiency Certification, Compliance, and Enforcement for Commercial Heating, Air Conditioning, and Water Heating Equipment	1904-AA96
933	Test Procedures for Commercial Air Conditioning Equipment	1904-AA97
934	Test Procedures for Commercial Package Boilers	1904-AB02
935	Test Procedures for Dishwashers—Amendment	1904-AB04
936	Weatherization Assistance Program for Low-Income Persons	1904-AB05

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

DOE

Energy Efficiency and Renewable Energy—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
937	Energy Efficiency Code for New Federal Residential Low Rise Buildings	1904-AA53
938	National Voluntary Residential Energy Efficiency Rating Guidelines	1904-AA74
939	Determination for High Intensity Discharge Lamps	1904-AA86
940	Determination for Small Electric Motors	1904-AA87
941	Energy Efficiency Standards for Clothes Dryers and Dishwashers	1904-AA89
942	Energy Efficiency Standards for Pool Heaters and Direct Heating Equipment	1904-AA90
943	Energy Efficiency Standards for 1-200 HP Electric Motors	1904-AA91
944	Energy Efficiency Standards for Fluorescent and Incandescent Lamps	1904-AA92

Energy Efficiency and Renewable Energy—Completed Actions

Sequence Number	Title	Regulation Identification Number
945	Energy Efficiency Standards for Clothes Washers	1904-AA67
946	Alternative Fuel Program: Biodiesel	1904-AB00
947	Amendments to the Refrigeration Standards	1904-AB03
948	Energy Efficiency Standards for Commercial Heating, Air Conditioning, and Water Heating Equipment	1904-AB06

Defense and Security Affairs—Prerule Stage

Sequence Number	Title	Regulation Identification Number
949	Computer Security; Access to Information on National Nuclear Security Administration Computer Systems	1992-AA27

Defense and Security Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
950	Physical Protection of Security Interests	1992-AA23
951	Procedural Rules for DOE Nuclear Security Activities	1992-AA28
952	Human Reliability Program	1992-AA29
953	Criteria and Procedure for Establishment of the Personnel Security Assurance Program and Determinations of an Individual's Eligibility for Access to a Personnel Security Assurance Program Position	1992-AA30

Defense and Security Affairs—Completed Actions

Sequence Number	Title	Regulation Identification Number
954	General Criteria and Procedures for Determining Eligibility for Access to Classified Matters or Special Nuclear Material	1992-AA22
955	Security Requirements for Disclosure of Classified and Other Sensitive Information	1992-AA26

Departmental and Others—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
956	Freedom of Information Act	1901-AA32
957	Community Transition Activities	1901-AA77

DOE

Departmental and Others—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
958	Research Misconduct	1901-AA89

Departmental and Others—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
959	Radiation Protection of the Public and the Environment **(Reg Plan Seq No. 24)**	1901-AA38
960	Privacy Act System of Records Update	1901-AA69
961	Economic Development Transfers of Real Property	1901-AA82
962	Nondiscrimination in Federally Assisted Programs or Activities	1901-AA86
963	Reimbursement for Costs of Remedial Action at Active Uranium and Thorium Processing Sites: Technical Amendments	1901-AA88
964	Guidelines for Physician Panel Determinations on Worker Requests for Assistance in Filing for State Worker's Compensation Benefits	1901-AA90
965	Policy Review of Three Issues Arising Under Bonneville Power Administration's New Large Single Load (NLSL) Policy	1901-AA91

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Departmental and Others—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
966	Enforcement of Employee Safety Standards at Nuclear Weapons Facilities	1901-AA44
967	Annotation of Land Records for Remediated Properties in the Uranium Mill Tailings Remedial Action Project (UMTRA)	1901-AA57
968	Payments for Special Burdens and In Lieu of Taxes	1901-AA58

Departmental and Others—Completed Actions

Sequence Number	Title	Regulation Identification Number
969	General Guidelines for the Recommendation of Sites for Nuclear Waste Repository	1901-AA72

Office of Procurement and Assistance Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
970	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	1991-AB55
971	Financial Assistance Regulation: Administrative Requirements Related to For-Profit Organizations	1991-AB57
972	Energy Department Motor Vehicle Fleet Fuel Efficiency	1991-AB59
973	DEAR: Part 970 Rewrite Continuation	1991-AB60

Office of Procurement and Assistance Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
974	Classified National Security Information—E.O. 12958	1991-AB42
975	DEAR: Recycling	1991-AB47

DOE

Office of Procurement and Assistance Management—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
976	DEAR: Technical Amendments	1991-AB51
977	DEAR: Purchasing by DOE Management and Operating Contractors From Affiliated Sources	1991-AB52
978	Acquisition Regulation: Payment of Fee Relating to Security Issues	1991-AB54
979	DEAR: Patent Rights	1991-AB55

Office of Procurement and Assistance Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
980	DEAR: Work for Others	1991-AB48
981	Financial Assistance Regulation: Administrative Amendment	1991-AB58

Office of General Counsel—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
982	Conduct of Employees	1990-AA19
983	Claims for Damages Against Department of Energy Employees	1990-AA26

Department of Energy (DOE)

Prerule Stage

Energy Efficiency and Renewable Energy (EE)

923. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL FURNACES, BOILERS, AND MOBILE HOME FURNACES

Regulatory Plan: This entry is Seq. No. 20 in part II of this issue of the **Federal Register**.

RIN: 1904–AA78

924. ALTERNATIVE FUELED VEHICLE ACQUISITION REQUIREMENTS FOR PRIVATE AND LOCAL GOVERNMENT FLEETS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 13257

CFR Citation: 10 CFR 490

Legal Deadline: NPRM, Statutory, May 1, 1999.
Final, Statutory, April 1, 2000.

Abstract: The Energy Policy Act of 1992 (the Act) requires DOE to initiate a rulemaking to determine whether a private and local fleet program is deemed necessary to meet the fuel displacement goals of the Act. The criteria for making this determination is mandated by the Act. DOE conducted a series of informal workshops, including two for State and local government officials, to discuss regulatory options and other issues related to the alternative fueled vehicle requirements under the Act. DOE will make its determination within the context of the National Energy Policy and taking into account comments received as a result of the workshops.

Timetable:

Action	Date	FR Cite
ANPRM	04/17/98	63 FR 19372
Notice of Public Workshops	07/20/00	65 FR 44987
Notice of Determination	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Dana O'Hara, EE-34, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8063
Email: dana.o'hara@ee.doe.gov

RIN: 1904–AA98

925. • ENERGY EFFICIENCY STANDARDS FOR ELECTRIC DISTRIBUTION TRANSFORMERS

Regulatory Plan: This entry is Seq. No. 21 in part II of this issue of the **Federal Register**.

RIN: 1904–AB08

926. • ENERGY EFFICIENCY STANDARDS FOR COMMERCIAL CENTRAL AIR CONDITIONING UNITS AND HEAT PUMPS RATED 65-240 KBTU'S/HR

Regulatory Plan: This entry is Seq. No. 22 in part II of this issue of the **Federal Register**.

RIN: 1904–AB09

Department of Energy (DOE)
Energy Efficiency and Renewable Energy (EE)

Proposed Rule Stage

927. STATE AND LOCAL INCENTIVES PROGRAM: ALTERNATIVE FUELS

Priority: Other Significant

Legal Authority: 42 USC 13235

CFR Citation: 10 CFR 409

Legal Deadline: Final, Statutory, April 24, 1993.

Abstract: The Energy Policy Act of 1992 requires DOE to issue regulations establishing the State and Local Incentives Program. Under this program DOE may grant financial assistance to States for projects in DOE-approved State plans to promote use of alternative fuels and alternative-fueled vehicles. With the publication of an integrated State Energy Program (61 FR 35890), the alternative fuel grant programs may be a part of the State grant special projects, depending on funding availability. The next action will be a cancellation notice of any separate State grant program.

Timetable:

Action	Date	FR Cite
NPRM	03/21/95	60 FR 15020
NPRM Comment Period End	05/22/95	
Notice Withdrawing NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Marcy A. Rood, Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8161
Email: marcy.rood@hq.doe.gov

RIN: 1904–AA66

Department of Energy (DOE)
Energy Efficiency and Renewable Energy (EE)

Final Rule Stage

928. TEST PROCEDURES FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS—AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: These revisions to the test procedures for central air conditioners and heat pumps in accordance with the Energy Policy and Conservation Act will reorganize the document in a logical order and update the references. The revisions include an updated nomenclature compatible with the eventual test procedure for combined (domestic hot water and central air conditioners or heat pumps) appliances, additional tables listing test tolerances, a clearer specification for the demand defrost credit, and test methods for ECM (electronically commutated motor) blowers and history-dependent defrosts.

Timetable:

Action	Date	FR Cite
NPRM	01/22/01	66 FR 6768
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Raymond, EE-41, Program Manager, Office of Building Research and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9611
Email: michael.raymond@ee.doe.gov

RIN: 1904–AA46

929. ENERGY EFFICIENCY STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS

Regulatory Plan: This entry is Seq. No. 23 in part II of this issue of the **Federal Register**.

RIN: 1904–AA77

930. TEST PROCEDURES FOR ELECTRIC DISTRIBUTION TRANSFORMERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 430

Legal Deadline: Other, Statutory, April 24, 1995, Determination Notice.

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe testing requirements for electric distribution transformers for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	10/22/97	62 FR 54809
NPRM	11/12/98	63 FR 63359
Reopen Comment Period	01/00/02	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

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RIN: 1904–AA85

931. TEST PROCEDURES FOR COMMERCIAL WATER HEATERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial water heaters, prescribes test procedures, and requires labeling for such equipment. This

DOE—EE

Final Rule Stage

action would codify the energy conservation standards and test procedures established in the EPCA for commercial water heaters. This action will incorporate by reference energy conservation standards and test procedures, revised by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE).

Timetable:

Action	Date	FR Cite
NPRM	08/09/00	65 FR 48852
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, EE-41, Program Manager, Office of Building Research and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9138
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RIN: 1904–AA95

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932. TEST PROCEDURES FOR COMMERCIAL WARM AIR FURNACES, AND EFFICIENCY CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR COMMERCIAL HEATING, AIR CONDITIONING, AND WATER HEATING EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial heating equipment, prescribes test procedures, and requires labeling for such equipment. This action would codify the energy conservation standards and test procedures established in the EPCA for commercial heating equipment. This action will also incorporate by reference energy conservation standards and test procedures, revised by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), and will establish certification and compliance requirements for commercial heating equipment.

Timetable:

Action	Date	FR Cite
NPRM	12/13/99	64 FR 69597
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1904–AA96

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933. TEST PROCEDURES FOR COMMERCIAL AIR CONDITIONING EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial air conditioning equipment, prescribes test procedures, and requires labeling for such equipment. This action would codify the energy conservation standards and test procedures established in the EPCA for commercial air conditioning equipment. This action will also incorporate by reference energy conservation standards and test procedures, revised by the Air Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ARI/ASHRAE).

Timetable:

Action	Date	FR Cite
NPRM	08/09/00	65 FR 48828
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, EE-41, Program Manager, Office of Building Research and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AA97

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934. TEST PROCEDURES FOR COMMERCIAL PACKAGE BOILERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial heating equipment, prescribes test procedures, and requires labeling for such equipment. This action would codify these provisions. It would also incorporate by reference energy conservation standards and test procedures revised by the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

Timetable:

Action	Date	FR Cite
NPRM	08/09/00	65 FR 48838
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, EE-41, Program Manager, Office of Building Research and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AB02

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935. TEST PROCEDURES FOR DISHWASHERS—AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: This action would improve the testing specifications for the current dishwasher test procedure, revise the calculation of estimated annual operating cost, and change the definitions of compact and standard models.

Timetable:

Action	Date	FR Cite
NPRM	09/28/99	64 FR 52248
NPRM Comment Period End	02/14/00	65 FR 2077
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

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DOE—EE

Final Rule Stage

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1904–AB04

936. WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6861; 42 USC 7101

CFR Citation: 10 CFR 440

Legal Deadline: None

Abstract: This would amend the Weatherization Assistance Program for Low-Income Persons to include the three statutory changes made to the program by the Congress. The changes would add clarifying language, delete obsolete provisions, improve the overall operation of the program, and give State and local agencies additional flexibility.

Timetable:

Action	Date	FR Cite
NPRM	01/26/00	65 FR 4331
NPRM Comment Period End	03/27/00	
Interim Final Rule	12/08/00	65 FR 77209
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Gregory Reamy, Office of Technology Assistance, EE-42, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202-586-4074

RIN: 1904–AB05

Department of Energy (DOE)
Energy Efficiency and Renewable Energy (EE)

Long-Term Actions

937. ENERGY EFFICIENCY CODE FOR NEW FEDERAL RESIDENTIAL LOW RISE BUILDINGS

Priority: Other Significant

Legal Authority: 42 USC 6834

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: Title III of the Energy Conservation and Production Act as amended by the Energy Policy Act of 1992 (PL 102-486, October 24, 1992) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	05/02/97	62 FR 24164
NPRM Comment Period End	07/14/97	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stephen P. Walder, EE-41, Program Manager, Office of Building Research and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9209

RIN: 1904–AA53

938. NATIONAL VOLUNTARY RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 8236

CFR Citation: 10 CFR 437

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: DOE is required to establish by rule national voluntary guidelines for home energy rating systems. The guidelines are designed to encourage uniformity with regard to systems for rating the annual energy efficiency of residential buildings. The guidelines may be used to enable and encourage the assignment of energy efficiency ratings to residential buildings and the development of criteria for attractive financial instruments for energy efficient homes.

In response to the directives of the Energy Policy Act of 1992, DOE collaborated with hundreds of stakeholders and organizations, including the Home Energy Rating System (HERS) Council, the National Association of State Energy Officials, and HERS providers, many of whom had been meeting regarding HERS since about 1987. Based on input from all the stakeholders, DOE issued for public comment a Notice of Proposed Rulemaking on voluntary guidelines.

Most of the comments that DOE received on the proposed rule were readily resolved. But the issue of "fuel neutrality" was not easily incorporated into the rule. "Fuel neutrality" involved an interpretation of the requirement that the rule not "discriminate among fuel types" for which the EPACT legislation provided no clarification. Yet, in spite of an intensive effort by DOE to work with both the electric and gas industries, a definition regarding fuel neutrality was not resolved and remains hotly disputed.

In the fall of 2002, DOE plans to issue a Report to Congress on the HERS and Energy Efficient Mortgages, as required by Congress. This report will note that despite the fact that DOE has not issued a final rule, home energy raters are now available in 47 States, and the guidelines used by these raters are generally consistent in content to DOE's

DOE—EE

Long-Term Actions

Notice of Proposed Rulemaking on voluntary HERS guidelines.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37949
NPRM Comment Period End	05/09/96	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1904–AA74

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939. DETERMINATION FOR HIGH INTENSITY DISCHARGE LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 430

Legal Deadline: Other, Statutory, April 24, 1995, Determination Notice.

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe test procedures and efficiency standards for high intensity discharge lamps for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority and the Department does not plan to work on it this year.

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Email: ronald.lewis@ee.doe.gov

RIN: 1904–AA86

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940. DETERMINATION FOR SMALL ELECTRIC MOTORS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 431

Legal Deadline: Other, Statutory, April 24, 1995, Determination Notice.

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe test procedures for small electric motors for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Department's regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority and the Department has initiated work to gather information and conduct analyses in preparation for a determination under 42 U.S.C. 6317(b).

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Phone: 202 586-8654
Email: jim.raba@ee.doe.gov

RIN: 1904–AA87

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941. ENERGY EFFICIENCY STANDARDS FOR CLOTHES DRYERS AND DISHWASHERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, May 14, 1996, Determination Notice.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

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RIN: 1904–AA89

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942. ENERGY EFFICIENCY STANDARDS FOR POOL HEATERS AND DIRECT HEATING EQUIPMENT

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: Final, Statutory, January 1, 1992, Determination Notice.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

DOE—EE — Long-Term Actions

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

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RIN: 1904–AA90

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943. ENERGY EFFICIENCY STANDARDS FOR 1-200 HP ELECTRIC MOTORS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 6313

CFR Citation: 10 CFR 431

Legal Deadline: Final, Statutory, October 24, 1999, Determination Notice.

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy efficiency standards and test procedures for commercial and industrial electric motors. EPCA requires the Department to revise the standards periodically to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

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RIN: 1904–AA91

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944. ENERGY EFFICIENCY STANDARDS FOR FLUORESCENT AND INCANDESCENT LAMPS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, November 15, 1998, Determination Notice.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for at least the next two fiscal years.

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RIN: 1904–AA92

Department of Energy (DOE)
Energy Efficiency and Renewable Energy (EE)

Completed Actions

945. ENERGY EFFICIENCY STANDARDS FOR CLOTHES WASHERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: Final, Statutory, May 14, 1996.

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the current standard for a covered product should be amended.

This is the second review of the standard for clothes washers.

Timetable:

Action	Date	FR Cite
ANPRM	11/14/94	59 FR 56423
Supplemental ANPRM	11/18/98	63 FR 64343
Workshop	12/15/98	
NPRM	10/05/00	65 FR 59549
Final Rule	01/12/01	66 FR 3314
Final Rule Effective	04/13/01	66 FR 8744
Final Action	04/17/01	66 FR 19714

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Bryan Berringer, EE-41, Office of Building Research and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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DOE—EE

Completed Actions

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RIN: 1904–AA67

946. ALTERNATIVE FUEL PROGRAM: BIODIESEL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13211(2); 42 USC 13211(14); 42 USC 13252(b)(2)

CFR Citation: 10 CFR 490

Legal Deadline: Final, Statutory, January 1, 1999.

Abstract: This action would implement the biodiesel fuel use credit created by the Energy Conservation Reauthorization Act of 1998. It would provide for the allocation of an alternative fueled vehicle acquisition credit for a specified amount of biodiesel fuel use by those required to purchase alternative fueled vehicles under titles III and V of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/19/99	64 FR 27169
Final Rule	01/11/01	66 FR 2207
Final Rule Effective	04/13/01	66 FR 8746
Final Action	05/02/01	66 FR 21851

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Rodgers, Program Manager (EE-34), Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AB00

947. AMENDMENTS TO THE REFRIGERATION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: This action would amend the definition of electric refrigerator used in DOE's energy conservation program to exclude units whose physical configuration makes them unsuitable for general storage of perishable foods and which cannot cool below 39 degrees Fahrenheit.

Timetable:

Action	Date	FR Cite
NPRM	07/13/99	64 FR 37706
Final Action	11/19/01	66 FR 57845

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1904–AB03

948. ENERGY EFFICIENCY STANDARDS FOR COMMERCIAL HEATING, AIR CONDITIONING, AND WATER HEATING EQUIPMENT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: Final, Statutory, October 29, 2003.

Abstract: This action adopted the ASHRAE 90.1-1999 efficiency levels as a uniform national standard.

Timetable:

Action	Date	FR Cite
Preliminary Screening Analysis	05/15/00	
Final Rule	01/12/01	66 FR 3336
Final Rule Effective	04/13/01	66 FR 8745
Final Action	05/21/01	66 FR 27853

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1904–AB06

Department of Energy (DOE)
Defense and Security Affairs (DSA)

Prerule Stage

949. COMPUTER SECURITY; ACCESS TO INFORMATION ON NATIONAL NUCLEAR SECURITY ADMINISTRATION COMPUTER SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7101 et seq; 42 USC 2011 et seq; 50 USC 2425; 50 USC 2483(c)

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, January 3, 2000.

Abstract: This action would codify rules governing access to information on National Nuclear Security Administration computer systems by DOE employees and the employees of DOE contractors who perform defense nuclear-related activities.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Philip Sibert, Office of Defense Nuclear Security (NA-3), Department of Energy, National Nuclear Security Administration, 1000 Independence Avenue SW, Washington, DC 20585
Phone: 202 586-2541

RIN: 1992–AA27

Department of Energy (DOE)
Defense and Security Affairs (DSA)

Proposed Rule Stage

950. PHYSICAL PROTECTION OF SECURITY INTERESTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2011; 42 USC 7101

CFR Citation: 10 CFR 1046 subpart A; 10 CFR 1046 subpart B

Legal Deadline: None

Abstract: 10 CFR part 1046, subparts A and B, establishes DOE contractor requirements in the areas of protective force medical, physical fitness, and firearms qualifications and training. The proposed revisions are to ensure protective force personnel receive quality medical services that are consistent with the Americans with Disabilities Act of 1990. They also will enhance communications between Designated Physicians and personnel responsible for supervising physical fitness training and certification to assure better understanding of the risk of injury to Security Police Officers and Security Officers participating in physical fitness activities. Additionally, Security Police Officer I and Security Police Officer II were better defined to eliminate confusing physical fitness requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Glenn H. Bowser, Department of Energy, Office of Security and Emergency Operations, Germantown, MD 20874
Phone: 301 903-5693

RIN: 1992–AA23

951. PROCEDURAL RULES FOR DOE NUCLEAR SECURITY ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2011 et seq; 42 USC 7101 et seq; 42 USC 2282(b)

CFR Citation: 10 CFR 824

Legal Deadline: None

Abstract: This action would provide for the imposition of civil penalties on contractors for violations relating to the safeguarding or security of classified or sensitive data.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Geralyn C. Praskievicz, Department of Energy, Office of Security and Emergency Operations, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4451

RIN: 1992–AA28

952. HUMAN RELIABILITY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 710; 10 CFR 711; 10 CFR 712

Legal Deadline: None

Abstract: This action would establish a Human Reliability Program that would consolidate the Department's Personnel Security Assurance Program (PSAP) and its Personnel Assurance Program (PAP). PSAP is an access authorization program for individuals who apply for or occupy certain positions that are critical to the national security. The PSAP requires an initial and annual supervisory review, medical assessment, management evaluation, and a DOE personnel security review of all applicants or incumbents. The PAP is a nuclear explosives safety program using many of the evaluations of the PSAP to ensure that employees assigned to nuclear explosive duties do not have emotional, mental, or physical conditions that could result in an accidental or unauthorized detonation of nuclear explosives.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Repass, Department of Energy, Office of Security and Emergency Operations, 19902 Germantown Road, Germantown, MD 20874
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RIN: 1992–AA29

953. CRITERIA AND PROCEDURE FOR ESTABLISHMENT OF THE PERSONNEL SECURITY ASSURANCE PROGRAM AND DETERMINATIONS OF AN INDIVIDUAL'S ELIGIBILITY FOR ACCESS TO A PERSONNEL SECURITY ASSURANCE PROGRAM POSITION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2165; 42 USC 2201; EO 10450; 42 USC 7251, 7254, and 7256

CFR Citation: 10 CFR 710, subpart B

Legal Deadline: None

Abstract: This action would amend the Department's regulations to allow newly hired individuals in security police officer positions who have received an interim Q access authorization through DOE's Accelerated Access Authorization Program to be eligible to hold a Personnel Security Assurance Program (PSAP) position. Currently, DORE's regulations require a Q access authorization based on a full background investigation for all PSAP positions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1992–AA30

Department of Energy (DOE)
Defense and Security Affairs (DSA)

Completed Actions

954. GENERAL CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTERS OR SPECIAL NUCLEAR MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968; 42 USC 2201

CFR Citation: 10 CFR 710 subpart A

Legal Deadline: None

Abstract: 10 CFR part 710, which stipulates DOE access authorization "due process" procedures, will be revised to comply with section 5.2(a) of EO 12968. This section requires three decision levels in the process of determining whether an individual's access to classified matter will be denied or revoked, with the final decision being made by a three-member high level appeals panel. While the DOE decision structure will be revised, the DOE will continue to offer the individual the right to a hearing before a hearing officer in such cases. These revisions are not expected to significantly impact the costs, time intervals, or risks associated with DOE's administrative review process. There are no alternatives to the Department for assuring full compliance with the new requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/16/99	64 FR 44433
Final Action	09/11/01	66 FR 47061

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: A. Barry Dalinsky, Personnel Security Specialist, Department of Energy, Office of Security and Emergency Operations, Germantown, MD 20874-1290
Phone: 301 903-5010

RIN: 1992–AA22

955. SECURITY REQUIREMENTS FOR DISCLOSURE OF CLASSIFIED AND OTHER SENSITIVE INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-65, sec 3164

CFR Citation: 10 CFR 1044

Legal Deadline: None

Abstract: This action would prescribe the security requirements and procedures that a DOE or DOE contractor employee must follow to make a protected disclosure of classified or other sensitive information under the whistleblower protection provisions of section 3164 of the National Defense Authorization Act for Fiscal Year 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/18/01	66 FR 4639
Interim Final Rule Effective	04/23/01	66 FR 8747
Final Action	10/30/01	66 FR 54643

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Geralyn C. Praskievicz, Department of Energy, Office of Security and Emergency Operations, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4451

RIN: 1992–AA26

Department of Energy (DOE)
Departmental and Others (ENDEP)

Proposed Rule Stage

956. FREEDOM OF INFORMATION ACT

Priority: Other Significant

Legal Authority: 5 USC 552

CFR Citation: 10 CFR 1004

Legal Deadline: None

Abstract: On October 23, 1991, DOE proposed to amend the procedures and principles to be applied in responding to requests for records under the Freedom of Information Act (FOIA) 5 USC 552. The proposal updated names and addresses of organizational entities, and updated guidelines for the schedule of fees associated with processing requests. A proposed section on policies clarified DOE's operation of a first-in, first-out policy in responding to FOIA requests, and the role of the Office of Hearings and Appeals was clarified. The proposal also included a statement of DOE policy on contractor records.

On December 12, 1994, DOE adopted the contractor records policy, with certain modifications. DOE expects to take final action on the remainder of the proposal in the near future.

The new regulations will clarify the FOIA process by clearly defining the roles of the FOIA Officer and the Denying Official and comply with the new requirements of the Electronic Freedom of Information Act Amendment of 1996. The new regulations will be written in a more customer-friendly manner in plain English.

Timetable:

Action	Date	FR Cite
Final Rule (Contractor Records)	12/12/94	59 FR 63882
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Abel Lopez, Director, FOIA and Privacy Act Division, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955
Email: abel.lopez@hq.doe.gov

RIN: 1901–AA32

957. COMMUNITY TRANSITION ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7274h

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Section 3161 of the National Defense Authorization Act for Fiscal Year 1993, 42 USC 7274h, provides authority for DOE to provide impact assistance to communities that are adversely affected by work force restructuring. This action would establish the regulations governing the community transition program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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DOE—ENDEP

Proposed Rule Stage

Agency Contact: Robert Baney, Office of Worker and Community Transition, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-3751

RIN: 1901–AA77

958. RESEARCH MISCONDUCT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 7101 et seq; 50 USC 2401 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This action would establish policies and procedures for handling research misconduct allegations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: William J. Valdez, Director, Office of Planning and Analysis, Department of Energy, Office of Science, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9942
Fax: 202 586-7719
Email: bill.valdez@science.doe.gov

RIN: 1901–AA89

Department of Energy (DOE)
Departmental and Others (ENDEP)

Final Rule Stage

959. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT

Regulatory Plan: This entry is Seq. No. 24 in part II of this issue of the Federal Register.

RIN: 1901–AA38

960. PRIVACY ACT SYSTEM OF RECORDS UPDATE

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: This action will amend the Department's Privacy Act Regulations, 10 CFR 1008, to add three additional systems of records to the list of systems of records that are exempt from certain provisions of the Privacy Act.

Timetable:

Action	Date	FR Cite
NPRM	06/14/01	66 FR 32272
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Abel Lopez, Director, FOIA and Privacy Act Division, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955
Email: abel.lopez@hq.doe.gov

RIN: 1901–AA69

961. ECONOMIC DEVELOPMENT TRANSFERS OF REAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, sec 3158

CFR Citation: 10 CFR 770

Legal Deadline: None

Abstract: This action would establish procedures for identifying and disposing of real property by sale or lease at the Department's defense nuclear facilities for the purpose of permitting economic development. It would also establish procedures for reporting actions to Congress, informing those acquiring the property of the availability of indemnification for injury to people or property from releases or threatened releases of hazardous materials, requesting indemnification, and making claims for indemnification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/29/00	65 FR 10685
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew Duran, General Engineer, Office of Field Integration, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4548
Email: andrew.duran@hq.doe.gov

RIN: 1901–AA82

962. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 1040

Legal Deadline: None

Abstract: This action would amend the definition of "program."

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon Wyatt, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-2256
Fax: 202 586-0888
Email: sharon.wyatt@hq.doe.gov

RIN: 1901–AA86

963. REIMBURSEMENT FOR COSTS OF REMEDIAL ACTION AT ACTIVE URANIUM AND THORIUM PROCESSING SITES: TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2296a et seq

CFR Citation: 10 CFR 765

Legal Deadline: None

Abstract: This action would adopt several technical and administrative amendments to the procedural regulations governing the

DOE—ENDEP

Final Rule Stage

reimbursement of remedial action costs at active uranium and thorium processing sites. The original legislation authorizing the program has been amended three times to increase the amounts authorized for reimbursement, extend certain program dates, and make other technical corrections. The amendments to 10 CFR part 765 will reflect the legislative amendments and make other technical corrections that have been identified since the original rule was issued.

Timetable:

Action	Date	FR Cite
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David E. Mathes, Leader, Albuquerque/Nevada Team, Department of Energy, Small Sites Closure Office (EM-34), Cloverleaf Building, 19901 Germantown Road, Germantown, MD 20874-1290
Phone: 301 903-7222

RIN: 1901–AA88

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964. • GUIDELINES FOR PHYSICIAN PANEL DETERMINATIONS ON WORKER REQUESTS FOR ASSISTANCE IN FILING FOR STATE WORKER'S COMPENSATION BENEFITS

Priority: Other Significant

Legal Authority: 42 USC 7384 et seq; 42 USC 2201 and 7101 et seq; 50 USC 2401 et seq

CFR Citation: 10 CFR 852

Legal Deadline: None

Abstract: This action would establish procedures to implement subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 under which a DOE contractor employee or the employee's estate can seek assistance from DOE in filing a claim with the appropriate State workers' compensation system based on an illness or death caused by exposure to a toxic substance during the course of employment at a DOE facility.

Timetable:

Action	Date	FR Cite
NPRM	09/07/01	66 FR 46742
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kate Kimpan, Office of Worker Advocacy, EH-8, Department of Energy, 100 Independence Avenue, SW., Washington, DC 20585
Phone: 202 586-3997

RIN: 1901–AA90

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965. • POLICY REVIEW OF THREE ISSUES ARISING UNDER BONNEVILLE POWER ADMINISTRATION'S NEW LARGE SINGLE LOAD (NLSL) POLICY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 839a(13)

CFR Citation: None

Legal Deadline: None

Abstract: BPA is directed by law to determine whether large retail loads of consumer facilities served by a public body, cooperative, investor-owned utility, or Federal agency customer, whose power requirements increase or are in excess of 10 aMWs in any consecutive 12-month period, fall within the definition of NLSL. BPA may not sell electric power at the Priority Firm (PF) rate to utilities for service to NLSLs. Electric power sold by BPA for utility service to NLSLs is sold at the New Resources (NR) rate (which historically has been a higher rate), with one exception. Any load for which service by the utility customer was "committed to or contracted for" (CTCF) prior to September 1, 1979, is served at the lower PF rate. The BPA Administrator determines whether a consumer facility is a CFCT load.

The Bonneville Power Administration (BPA) has invited public comment on three specific issues relating to its existing NLSL policy: (1) whether BPA should allow current and future direct service industry (DSI) customer production load served at BPA's Industrial Firm (IP) rate (or any other rate) to transfer and receive service from a public body, cooperative, or Federal agency customer at the PF rate; (2) whether a load at a facility previously determined to be a CTCF load should be allowed to receive service from a different BPA preference customer and retain its CTCF status; and (3) whether BPA should close the class of future CFCT loads after providing customers one last opportunity to identify and request, if any, a CFCT load determination by BPA. After receipt of public comments, BPA will determine whether changes to its current NLSL policy are warranted.

Timetable:

Action	Date	FR Cite
Notice	06/25/01	66 FR 33671
Comment Period End	08/10/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Fitzsimmons, Account Executive, PSW-6, Department of Energy, Bonneville Power Administration, 905 NE 11th Avenue, Portland, OR 97232
Phone: 503 230-3685

RIN: 1901–AA91

Department of Energy (DOE)
Departmental and Others (ENDEP)

Long-Term Actions

966. ENFORCEMENT OF EMPLOYEE SAFETY STANDARDS AT NUCLEAR WEAPONS FACILITIES

Priority: Other Significant

Legal Authority: PL 102-190, sec 3131

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Public Law 102-190, section 3131, directs the Department of Energy to assess civil penalties against contractors at DOE nuclear weapons facilities who fail either to provide training to employees engaged in hazardous substance response and emergency response or fail to certify that such workers have been adequately trained.

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Long-Term Actions

Timetable:

Action	Date	FR Cite
ANPRM	08/26/94	59 FR 44139
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harry Pettengill, Director, Occupational Health and Safety Policy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-4343

RIN: 1901–AA44

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967. ANNOTATION OF LAND RECORDS FOR REMEDIATED PROPERTIES IN THE URANIUM MILL TAILINGS REMEDIAL ACTION PROJECT (UMTRA)

Priority: Substantive, Nonsignificant

Legal Authority: PL 95-604, sec 104(d); PL 104-259, sec 4(a)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Under section 104(d) of the Uranium Mill Tailings Radiation Control Act of 1978, the Department of Energy (DOE) is required to issue appropriate rules and regulations concerning the annotation of land records of designated inactive uranium mill sites and vicinity properties included for remedial action under the Act. The annotation is intended to ensure that future purchasers of remediated inactive uranium mill sites and vicinity properties will be notified, prior to such purchase, of the condition of the land.

Timetable:

Action	Date	FR Cite
NPRM	04/14/89	54 FR 29732
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: Public Law 104-259, signed into law on October 9, 1996, amended the annotation requirement to provide for States to receive certification from the Secretary for "a program which would achieve the purposes" of the annotation under section 104(d) of the UMTRCA in regards to vicinity properties. Letters have been sent to the affected States regarding the amendment language.

Agency Contact: David E. Mathes, Leader, Albuquerque/Nevada Team, Department of Energy, Small Sites Closure Office (EM-34), Cloverleaf Building, 19901 Germantown Road, Germantown, MD 20874-1290
Phone: 301 903-7222

RIN: 1901–AA57

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968. PAYMENTS FOR SPECIAL BURDENS AND IN LIEU OF TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2208 Atomic Energy Act of 1954, sec 168

CFR Citation: 10 CFR 610

Legal Deadline: None

Abstract: This action will revise the Department of Energy's policy on making payments for special burdens and in lieu of taxes to State and local taxing jurisdictions pursuant to the Atomic Energy Act of 1954. Prior to the 1987 issuance of DOE Order 2100.12, the Department and its predecessor agencies approved such payment requests on an ad hoc basis. To ensure all eligible taxing jurisdictions are provided appropriate opportunity to comment, the revised policy is being established through the rulemaking process. The Department anticipates no added costs by issuing the revised policy as a regulation rather than as an internal directive revision.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Federalism: Undetermined

Agency Contact: Helen O. Sherman, Director, Office of Financial Policy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4860

RIN: 1901–AA58

Department of Energy (DOE)
Departmental and Others (ENDEP)

Completed Actions

969. GENERAL GUIDELINES FOR THE RECOMMENDATION OF SITES FOR NUCLEAR WASTE REPOSITORY

Priority: Other Significant

Legal Authority: 42 USC 10132

CFR Citation: 10 CFR 960

Legal Deadline: None

Abstract: This action would amend the guidelines that will be used by the Department in deciding whether to recommend a site for the development of the geologic repository for the disposal of high-level radioactive waste and spent nuclear fuel. The amended guidelines would reflect statutory and policy changes that have occurred since the Nuclear Waste Policy Act was passed in 1982. The amendments would also be based on the experience the Department has gained over the last decade of investigative efforts.

Timetable:

Action	Date	FR Cite
NPRM	12/16/96	61 FR 66158
Supplemental NPRM	11/30/99	64 FR 67054
Final Action	11/14/01	66 FR 57298

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Christopher Kouts, Department of Energy, Office of Civilian Radioactive Waste Management, 1000 Independence Avenue, SW., Washington, DC 20585
Phone: 202 586-1253

RIN: 1901–AA72

Department of Energy (DOE)
Office of Procurement and Assistance Management (PR)

Proposed Rule Stage

970. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant

Legal Authority: EO 12549; EO 12689; PL 103-355, sec 2455

CFR Citation: 10 CFR 1036

Legal Deadline: None

Abstract: This Governmentwide rulemaking proposes changes to clarify and simplify the debarment and suspension process and drug-free workplace requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cynthia Yee, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1140

RIN: 1991–AB56

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971. FINANCIAL ASSISTANCE REGULATION: ADMINISTRATIVE REQUIREMENTS RELATED TO FOR-PROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7173

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: This action would seek comments on whether to initiate a rulemaking that prescribes administrative requirements for financial assistance awards tailored specifically to for-profit organizations.

Timetable:

Action	Date	FR Cite
ANPRM	05/08/01	66 FR 23197
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Trudy Wood, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5625
Email: trudy.wood@pr.doe.gov

RIN: 1991–AB57

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972. • ENERGY DEPARTMENT MOTOR VEHICLE FLEET FUEL EFFICIENCY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201

CFR Citation: 48 CFR 947; 48 CFR 970.52

Legal Deadline: None

Abstract: This action would implement sections 403 and 505 of Executive Order 13101, Greening the Government through Federal Fleet and Transportation Efficiency.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8247
Email: richard.langston@pr.doe.gov

RIN: 1991–AB59

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973. • DEAR: PART 970 REWRITE CONTINUATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 7254

CFR Citation: 48 CFR 970; 48 CFR 901 to 952

Legal Deadline: None

Abstract: This action would revise part 970 and related parts of DEAR to eliminate provisions that are unnecessary, obsolete, or duplicated elsewhere in title 48.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8247
Email: richard.langston@pr.doe.gov

Michael L. Righi, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8175

RIN: 1991–AB60

Department of Energy (DOE)
Office of Procurement and Assistance Management (PR)

Final Rule Stage

974. CLASSIFIED NATIONAL SECURITY INFORMATION—E.O. 12958

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 42 USC 486(c)

CFR Citation: 48 CFR 904; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: This action implements Executive Order 12958, which prescribes a uniform system for classifying, safeguarding, and declassifying national security information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8247
Email: richard.langston@pr.doe.gov

RIN: 1991–AB42

975. DEAR: RECYCLING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 42 USC 486(c)

CFR Citation: 48 CFR 923; 48 CFR 970.52; 48 CFR 970.23

Legal Deadline: None

Abstract: This action would implement E.O. 13101, Greening the Government Through Recycling, Waste Prevention, and Federal Acquisition. It would increase the procurement of products containing recycled materials and reduce waste generation at DOE facilities.

Timetable:

Action	Date	FR Cite
NPRM	11/30/00	65 FR 71292
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8247
Email: richard.langston@pr.doe.gov

RIN: 1991–AB47

976. DEAR: TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 900 to 970

Legal Deadline: None

Abstract: This action would make corrections and technical changes to the Department of Energy Acquisition Regulations.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Denise Wright, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue, SW., Washington, DC 20588
Phone: 202 586-6217

RIN: 1991–AB51

977. DEAR: PURCHASING BY DOE MANAGEMENT AND OPERATING CONTRACTORS FROM AFFILIATED SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 909; 48 CFR 970

Legal Deadline: None

Abstract: This action would amend provisions that cover organizational conflicts of interest and purchases from affiliated sources to protect the Department in transactions involving a DOE M&O contractor and its affiliates.

Timetable:

Action	Date	FR Cite
NPRM	10/13/99	64 FR 55453
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264

RIN: 1991–AB52

978. ACQUISITION REGULATION: PAYMENT OF FEE RELATING TO SECURITY ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would make the payment of fees to the Department's major operating contractors conditional on meeting safeguard and security requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/01/01	66 FR 8560
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael L. Righi, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585

DOE—PR

Final Rule Stage

Phone: 202 586-8175

RIN: 1991–AB54

979. DEAR: PATENT RIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 927; 48 CFR 970

Legal Deadline: None

Abstract: This action would update the Department's regulations on patent rights to reflect the current practices employed in its major facility contracts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/15/00	65 FR 68932
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264

RIN: 1991–AB55

Department of Energy (DOE)
Office of Procurement and Assistance Management (PR)

Completed Actions

980. DEAR: WORK FOR OTHERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would provide policies and procedures governing work for others by DOE contractors and would ensure that authorization is consistent and uniform.

Timetable:

Action	Date	FR Cite
Merged With 1991-AB60	08/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: A. Scott Geary, Program Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-3299

RIN: 1991–AB48

981. FINANCIAL ASSISTANCE REGULATION: ADMINISTRATIVE AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7173

CFR Citation: 10 CFR 600.6

Legal Deadline: None

Abstract: This action would change the approval authority for a determination that a noncompetitive award is in the public interest,

Timetable:

Action	Date	FR Cite
Final Action	07/02/01	66 FR 34783

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Trudy Wood, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5625
Email: trudy.wood@pr.doe.gov

RIN: 1991–AB58

Department of Energy (DOE)
Office of General Counsel (OGC)

Long-Term Actions

982. CONDUCT OF EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 42 USC 7211 et seq; PL 103-160, sec 3161; EO 12674

CFR Citation: 10 CFR 1010; 5 CFR 2635

Legal Deadline: None

Abstract: The DOE regulation on conduct of employees needs to be revised to reflect the issuance of the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR 2635) and the repeal of conflict-of-interest provisions formerly applicable to DOE employees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/05/96	61 FR 35065
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Susan Beard, Deputy Assistant General Counsel for Standards of Conduct, Department of Energy, Office of General Counsel, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1522

RIN: 1990–AA19

983. CLAIMS FOR DAMAGES AGAINST DEPARTMENT OF ENERGY EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 28 USC 2672; 42 USC 7101 et seq

CFR Citation: 10 CFR 1014

Legal Deadline: None

Abstract: This action would provide for the indemnification of employees or former employees of the Department of

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Long-Term Actions

Energy who are personally liable to pay damages for their official acts or omissions as a result of an adverse judgment or settlement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan Beard, Deputy Assistant General Counsel for Standards of Conduct, Department of Energy, Office of General Counsel, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1522

RIN: 1990–AA26

[FR Doc. 01–28100 Filed 11–30–01; 8:45 am]
BILLING CODE 6450–01–S

Federal Register

Monday,
December 3, 2001

Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

21 CFR Ch. I

42 CFR Chs. I-V

45 CFR Subtitle A, Chs. II, III, and XIII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, HHS.

ACTION: Semiannual regulatory agenda.

SUMMARY: The regulatory agenda set out below provides information to the public about regulatory actions under development within the Department of Health and Human Services (HHS). The Agenda provides an opportunity for all concerned about the potential impact of these actions to participate in their development at an early stage. Semiannual publication of the Agenda is required under provisions of the Regulatory Flexibility Act of 1980 and of Executive Order 12866.

FOR FURTHER INFORMATION CONTACT: Ann Stallion, U.S. Department of Health and Human Services, Washington, DC 20201, (202) 690-6824.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget requires that fall editions of the Agenda be augmented by a regulatory plan. The Plan is made up of a statement of the Department's regulatory priorities; this statement sets out the principles that Secretary Thompson has determined will govern the regulation-development process within HHS, and the overarching policy themes which will establish HHS regulatory priorities during fiscal year 2002. There follows amplified descriptions of those discrete regulatory actions under development which will best reflect these principles and policy themes.

As noted above, public commentary is solicited on the Plan as a whole or on specific actions described in either the Plan or the full Agenda. Interested persons should direct specific comments to the contact official cited at the end of the descriptions of specific regulatory actions. Comments of a more generic nature, or comments on subjects which cross-cut the responsibilities of specific HHS agencies, should be sent to: Ann C. Agnew, Executive Secretary to the Department, Room 603H, 200 Independence Avenue SW., Washington, DC 20201.

For this edition of HHS' regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Dated: October 5, 2001.

Ann C. Agnew,

Executive Secretary to the Department.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
984	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	0991-AB12
985	Modifications to Standards for Privacy of Individually Identifiable Health Information **(Reg Plan Seq No. 25)**	0991-AB14
986	Implementing the Bioterrorism Prevention and Response Act of 2001 **(Reg Plan Seq No. 26)**	0991-AB15

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
987	Shared Risk Exception to the Safe Harbor Provisions	0991-AA91
988	Civil Money Penalty Safe Harbor To Protect Payment of Medicare and Medigap Premiums for ESRD Beneficiaries	0991-AB04
989	Safe Harbor for Ambulance Restocking	0991-AB05
990	Revisions and Technical Corrections to 42 CFR Chapter V	0991-AB09
991	Amending the Regulations Governing Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, Sex, and Age To Conform to the Civil Rights Restoration Act of 1987	0991-AB10

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
992	Civil Money Penalties for Medicare+Choice Organizations and Medicaid Managed Care Organizations	0991-AB03
993	Safe Harbor for Arrangements Involving Federally Qualified Health Centers	0991-AB06

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Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
994	Reproduction and Sale of Official Forms and Publications	0991-AA83
995	Standards for Privacy of Individually Indentifiable Health Information	0991-AB08
996	Definition of Terms; Substantially in Excess and Usual Charges and Clarification of the Good Cause Exception	0991-AB13

Substance Abuse and Mental Health Services Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
997	Community Mental Health Services Block Grant	0930-AA08

Substance Abuse and Mental Health Services Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
998	Substance Abuse and Mental Health Services Administration Mental Health and Substance Abuse Emergency Response Criteria	0930-AA09
999	Seclusion and Restraint for Non-Medical Residential Facilities	0930-AA10

Substance Abuse and Mental Health Services Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1000	Substance Abuse Prevention and Treatment Block Grant Applications Due Date Change from March 31 to October 1 for FY 2001 and Beyond	0930-AA04
1001	Mandatory Guidelines for Federal Workplace Drug Testing Programs	0930-AA07

Centers for Disease Control and Prevention—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1002	Control of Communicable Diseases **(Reg Plan Seq No. 27)**	0920-AA03
1003	Amendments to Quality Assurance and Administrative Provision for Approval of Respiratory Protective Devices	0920-AA04
1004	Methods for Estimating Radiation Dose and Guidelines for Assessing Probability of Cancer for Energy Employees Occupational Illness Compensation Program	0920-AA05

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Centers for Disease Control and Prevention—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1005	Packaging and Handling of Infectious Substances and Select Agents	0920-AA02

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1006	Implementation of the Equal Access to Justice Act in Agency Proceedings	0990-AA02

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Departmental Management—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1007	Administrative Wage Garnishment	0990-AA05

Food and Drug Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1008	Natural Rubber-Containing Drugs; User Labeling	0910-AB56
1009	Requirements for Submission of In Vivo Bioequivalence Data	0910-AC23
1010	Requirements for Medical Gas Containers and Closure Systems	0910-AC24

Food and Drug Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1011	Over-the-Counter (OTC) Drug Review	0910-AA01
1012	Establishment Registration and Product Listing for Drugs and Biologics	0910-AA49
1013	Investigational New Drugs: Export Requirements for Unapproved New Drug Products	0910-AA61
1014	Safety Reporting and Recordkeeping Requirements for Marketed OTC Drugs	0910-AA86
1015	Safety Reporting Requirements for Human Drug and Biological Products **(Reg Plan Seq No. 28)**	0910-AA97
1016	Radioactive Drugs for Basic Research	0910-AB00
1017	Administrative Practices and Procedures; Advisory Opinions and Guidelines	0910-AB14
1018	Blood Initiative	0910-AB26
1019	Applications for FDA Approval to Market a New Drug; Complete Response Letter; Amendments to Unapproved Applications	0910-AB34
1020	Expanded Access to Investigational Therapies	0910-AB37
1021	Electronic Submission of Postmarketing Safety Reports	0910-AB42
1022	Distinguishing Marks for Drug Products Containing Insulin	0910-AB43
1023	Pregnancy Labeling	0910-AB44
1024	Positron Emission Tomography Drugs; Current Good Manufacturing Practice	0910-AB63
1025	Current Good Manufacturing Practice for Medicated Feeds	0910-AB70
1026	Fixed-Combination Prescription and Over-the-Counter Drugs for Human Use	0910-AB79
1027	Repackaging Approval Requirements	0910-AB81
1028	Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Dietary Ingredients and Dietary Supplements **(Reg Plan Seq No. 29)**	0910-AB88
1029	Submission in Electronic Format of Certain Labeling Information	0910-AB91
1030	Fees Relating to Drugs; Waiver and Reduction of Fees	0910-AB92
1031	Periodic Testing for Certain Human Drug, Veterinary Drug, and Biological Product Final Specifications	0910-AB93
1032	Requirements Pertaining to Sampling Services and Private Laboratories Used in Connection with Imported Food	0910-AB96
1033	Medical Devices, Medical Device Establishment Registration and Listing Requirements; Amendment	0910-AB99
1034	Reporting Information Regarding Falsification of Data	0910-AC02
1035	Status Reports of Distribution and Use Information for Antimicrobial Animal Drug Products Used in Food-Producing Animals	0910-AC04
1036	Labeling Dietary Supplements for Women Who Are or May Become Pregnant	0910-AC09
1037	Regulation of Carcinogenic Compounds Used in Food-Producing Animals; Definition of "No Residue"	0910-AC13
1038	Control of Salmonella Enteritidis in Shell Eggs During Production and Retail **(Reg Plan Seq No. 30)**	0910-AC14
1039	Aluminum in Large and Small Volume Parenterals Used in Total Parenteral Nutrition	0910-AC18
1040	Use of Materials Derived from Ruminant Animals in FDA Regulated Products	0910-AC19
1041	Postmarketing Reports of Substandard or Ineffective Bulk Ingredients and Bulk Ingredients from Unapproved Sources	0910-AC20
1042	Exception from General Requirements for Informed Consent; Request for Comments and Information **(Reg Plan Seq No. 31)**	0910-AC25
1043	Bar Code Label Requirements for Human Drug Products **(Reg Plan Seq No. 32)**	0910-AC26
1044	Promotion and Charging For Investigational Drugs	0910-AC27

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

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Food and Drug Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1045	New Animal Drug Approval Process; Implementation of Title I of the Generic Animal Drug and Patent Term Restoration Act (GADPTRA)	0910-AA02
1046	Current Good Manufacturing Practice; Amendment of Certain Requirements for Finished Pharmaceuticals	0910-AA45
1047	Bioavailability and Bioequivalence Requirements	0910-AA51
1048	Determination That Informed Consent Is Infeasible or Is Contrary to the Best Interest of Recipients	0910-AA89
1049	Labeling for Human Prescription Drugs; Revised Format **(Reg Plan Seq No. 33)**	0910-AA94
1050	Current Good Manufacturing Practice; Revision of Certain Labeling Controls	0910-AA98
1051	Use of Ozone-Depleting Substances	0910-AA99
1052	Exports; Notification and Recordkeeping Requirements	0910-AB16
1053	Foreign Establishment Registration and Listing **(Reg Plan Seq No. 34)**	0910-AB21
1054	FDA Export Reform and Enhancement Act of 1996; Reporting and Recordkeeping Requirements for Unapproved or Violative Products Imported for Further Processing or Incorporation and Later Export	0910-AB24
1055	Antibiotic Drug Approval and Exclusivity	0910-AB33
1056	Amendment of Regulations Regarding Certain Label Statements on Prescription Drugs	0910-AB39
1057	Supplements and Other Changes to Approved New Animal Drug Applications	0910-AB49
1058	Revisions to the General Safety Requirements for Biological Products; Direct Final Rule	0910-AB51
1059	Discontinuation of a Lifesaving Product	0910-AB60
1060	Supplements and Other Changes to an Approved Application	0910-AB61
1061	Food Labeling: Trans Fatty Acids in Nutrition Labeling, Nutrient Content Claims, and Health Claims **(Reg Plan Seq No. 35)**	0910-AB66
1062	Presubmission Conferences	0910-AB68
1063	Surgeon's and Patient Examination Gloves; Reclassification	0910-AB74
1064	CGMPs for Blood and Blood Components: Notification of Consignees and Transfusion Recipients Receiving Blood and Blood Components at Increased Risk of Transmitting HCV (Lookback) **(Reg Plan Seq No. 36)**	0910-AB76
1065	Antibiotic Resistance Labeling	0910-AB78
1066	180-Day Generic Drug Exclusivity for Abbreviated New Drug Applications	0910-AB80
1067	Food Additives: Food Contact Substances Notification System	0910-AB94
1068	Marking Requirements for and Prohibitions on the Reimportation of Imported Food Products That Have Been Refused Admission into the United States **(Reg Plan Seq No. 37)**	0910-AB95
1069	State Certification of Mammography Facilities	0910-AB98
1070	Availability for Public Disclosure and Submission to FDA for Public Disclosure of Certain Data and Information Related to Gene Therapy or Xenotransplantation	0910-AC00
1071	Examination of Administrative Record and Other Advisory Committee Records	0910-AC03
1072	Efficacy Evidence Needed for Products to be Used Against Toxic Substances When Human Studies Are Unethical **(Reg Plan Seq No. 38)**	0910-AC05
1073	Additional Safeguards for Children in Clinical Investigations of FDA Regulated Products	0910-AC07
1074	Implementing Court Decisions, ANDA Approvals, and 180-Day Exclusivity	0910-AC11
1075	Revocation of Conditions for Marketing Digoxin Products for Oral Use	0910-AC12
1076	Additional Criteria and Procedures for Classifying Over-the-Counter Drugs as Generally Recognized as Safe and Effective and Not Misbranded **(Reg Plan Seq No. 39)**	0910-AC22

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Food and Drug Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1077	Infant Formula: Requirements Pertaining to Good Manufacturing Practice, Quality Control Procedures, Quality Factors, Notification Requirements, and Records and Reports	0910-AA04
1078	Food Labeling Review	0910-AA19
1079	Medical Foods	0910-AA20
1080	Direct-to-Consumer Promotion Regulations	0910-AA90
1081	Investigational Use New Animal Drug Regulations **(Section 610 Review)**	0910-AB02
1082	Suitability Determination for Donors of Human Cellular and Tissue-Based Products	0910-AB27
1083	Current Good Tissue Practice for Manufacturers of Human Cellular and Tissue-Based Products	0910-AB28
1084	Requirements for Liquid Medicated Feed and Free-Choice Medicated Feed	0910-AB50
1085	Bulk Drug Substances for Use in Pharmacy Compounding	0910-AB57
1086	Pharmacy and Physician Compounding of Drug Products	0910-AB58

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Food and Drug Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1087	Drug Products That Present Demonstrable Difficulties for Compounding Because of Reasons of Safety or Effectiveness	0910-AB59
1088	Implementation of the Import Tolerance Provisions of the Animal Drug Availability Act of 1996	0910-AB71
1089	Mandatory HACCP Regulations for Manufacturers of Rendered Products	0910-AB72
1090	Citizen Petitions; Actions That Can Be Requested by Petition; Denials, Withdrawals, and Referrals for Other Administrative Action	0910-AB73
1091	Stability Testing of Drugs	0910-AB82
1092	Substances Prohibited From Use in Animal Food or Feed	0910-AB90
1093	Addition to the List of Drug Products That Have Been Withdrawn From the Market for Reasons of Safety or Effectiveness	0910-AC01
1094	Addition to the List of Drug Products That Have Been Withdrawn or Removed From the Market for Reasons of Safety or Effectiveness	0910-AC08
1096	Overwrap for Inhalation Products Packaged in Low Density Polyethylene (LDPE) Containers	0910-AC10
1096	Premarket Notice Concerning Bioengineered Foods	0910-AC15
1097	Rescission of Substantially Equivalent Decisions and Rescission Appeal Procedures	0910-AC16
1098	Institutional Review Boards: Registration Requirements	0910-AC17
1099	Chronic Wasting Disease: Control of Food Products and Cosmetics Derived from Exposed Animal Populations	0910-AC21

Food and Drug Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1100	Hearing Aids; Professional and Patient Labeling; Conditions for Sale	0910-AA39
1101	Classification of Computer Software Programs That Are Medical Devices	0910-AA41
1102	Reinventing FDA Food Regulations	0910-AA58
1103	Part 600-Biological Products: General **(Completion of a Section 610 Review)**	0910-AC06

Health Resources and Services Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1104	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Medical Malpractice Payments Reporting Requirements	0906-AA41
1105	Designation of Medically Underserved Populations and Health Professional Shortage Areas	0906-AA44
1106	National Vaccine Injury Compensation Program: Revisions and Additions to the Vaccine Injury Table	0906-AA55
1107	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Reporting Adverse and Negative Actions.	0906-AA57

Health Resources and Services Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1108	National Vaccine Injury Compensation Program: Revisions and Additions to the Vaccine Injury Table	0906-AA58
1109	Adoption of the Interim Final Rule as a Final Rule with Amendments for Ricky Ray Hemophilia	0906-AA59

Health Resources and Services Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1110	Compliance Alternatives for Provision of Uncompensated Services	0906-AA52

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Health Resources and Services Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1111	Final Rule for the Health Professions, Nursing, Public Health, and Allied Health Training Grant Programs Under 42 CFR Parts 57 and 58	0906-AA53

Indian Health Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1112	Tribal Self-Governance Amendments **(Reg Plan Seq No. 40)**	0917-AA05

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Indian Health Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1113	Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character	0917-AA02

National Institutes of Health—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1114	National Institutes of Health AIDS Research Loan Repayment Program	0925-AA02
1115	Undergraduate Scholarship Program Regarding Professions Needed by the NIH	0925-AA10
1116	National Cancer Institute Clinical Cancer Education Program	0925-AA17
1117	National Institutes of Health Loan Repayment Program for Research	0925-AA18
1118	NIH Center Grants	0925-AA24
1119	National Institutes of Health Clinics Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds	0925-AA25
1120	NIH Loan Repayment Program for Minority Health Disparties Research	0925-AA26
1121	Pediatric Research Loan Repayment Program	0925-AA27
1122	NIH Training Grants	0925-AA28
1123	National Institutes of Health Loan Repayment Program for Clinical Researchers	0925-AA30
1124	Standards for a National Chimpanzee Sanctuary System	0925-AA31

National Institutes of Health—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1125	National Institute of Child Health and Human Development Contraception and Infertility Research Loan Repayment Program	0925-AA19
1126	Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects	0925-AA20

National Institutes of Health—Completed Actions

Sequence Number	Title	Regulation Identification Number
1127	National Research Service Awards	0925-AA16

Office of Public Health and Science—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1128	Public Health Services Policies on Research Misconduct	0940-AA04

Office of Public Health and Science—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1129	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers	0940-AA01
1130	Federal Policy (Common Rule) for the Protection of Human Subjects	0940-AA03
1131	Protection of Human Research Subjects	0940-AA05

Centers for Medicare & Medicaid Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1132	Medicare and Medicaid Programs; Terms, Definitions, and Addresses: Technical Amendments (CMS-9877-P)	0938-AH53
1133	National Standard for Identifiers of Health Plans (CMS-4145-P) **(Reg Plan Seq No. 41)**	0938-AH87
1134	End Stage Renal Disease Bad Debt Payment (CMS-1126-P)	0938-AK02
1135	Fire Safety Requirements for RNHCI, ASC, Hospices, PACE, Hospitals, and Long-Term Care Facilities and ICFs for the Mentally Retarded (CMS-3047-P)	0938-AK35
1136	Medical Devices Coverage Decisions Related to Health Care Technology (CMS-3059-P)	0938-AK43
1137	Medicare Program; Reporting and Repayment of Overpayments (CMS-6011-P)	0938-AK45
1138	Health Insurance Reform: Standards for Electronic Claims Attachments (CMS-0050-P) **(Reg Plan Seq No. 42)**	0938-AK62
1139	Health Insurance Reform: Modifications to Standards for Electronic Transactions (CMS-0003-P) **(Reg Plan Seq No. 43)**	0938-AK64
1140	Prospective Payment System for Long-Term Care Hospitals for FY 2003 (CMS-1177-P) **(Reg Plan Seq No. 44)**	0938-AK69
1141	Modifications to Medicare Managed Care Rules Based on Provisions of BIPA and Technical Corrections (CMS-1180-P) **(Reg Plan Seq No. 45)**	0938-AK71
1142	Revisions to Transaction and Code Set Standards for Electronic Transactions (CMS-0005-P) **(Reg Plan Seq No. 46)**	0938-AK76
1143	Organ Procurement Organization Condition for Coverage (CMS-3064-IFC) **(Reg Plan Seq No. 47)**	0938-AK81
1144	Qualification Requirements for Directors of Laboratories Performing High Complexity Testing (CMS-2094-P)	0938-AK83
1145	State Allotments for Payment of Medicare Part B Premiums for Qualified Individuals; Federal Fiscal Year 2002 (CMS-2087-PN)	0938-AK91
1146	Home Health Prospective Payment System Refinements (CMS-1161-P) **(Reg Plan Seq No. 48)**	0938-AK93
1147	Medicaid Managed Care (CMS-2104-F) **(Reg Plan Seq No. 49)**	0938-AK96
1148	Medicaid Upper Payment Limit for Non-State Government-Owned or Operated Hospitals (CMS-2134-P) **(Reg Plan Seq No. 50)**	0938-AL05
1149	Home Health Prospective Payment System Rate Update For FY 2003 (CMS-1198-NC) **(Reg Plan Seq No. 51)**	0938-AL16
1150	Requirements for Paid Feeding Assistants in Long-Term Care Facilities (CMS-2131-P) **(Reg Plan Seq No. 52)**	0938-AL18
1151	Hospital Outpatient Prospective Payment System for Calendar Year 2003 (CMS-1206-P) **(Reg Plan Seq No. 53)**	0938-AL19
1152	Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities-Update for FY 2003 (CMS-1202-P) **(Reg Plan Seq No. 54)**	0938-AL20
1153	Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2003 (CMS-1204-P) **(Reg Plan Seq No. 55)**	0938-AL21
1154	Hospital Inpatient Rehabilitation Prospective Payment System for FY 2003 (CMS-1205-P) **(Reg Plan Seq No. 56)**	0938-AL22
1155	Hospital Inpatient Prospective Payment System for FY 2003 (CMS-1203-P) **(Reg Plan Seq No. 57)**	0938-AL23
1156	Initiative to Endorse Prescription Drug Discount Programs (CMS-4027-P) **(Reg Plan Seq No. 58)**	0938-AL28

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

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Centers for Medicare & Medicaid Services—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1157	Health Insurance Reform: Standard Unique Health Care Provider Identifier (CMS-0045-F) **(Reg Plan Seq No. 59)**	0938-AH99
1158	Security Standards (CMS-0049-F) **(Reg Plan Seq No. 60)**	0938-AI57
1159	National Standard Employer Identifier (CMS-0047-F) **(Reg Plan Seq No. 61)**	0938-AI59
1160	Medicare Program; Coverage and Administrative Policies for Clinical Diagnostic Laboratory Tests (CMS-3250-F)	0938-AII92
1161	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions, and Establishment of a Quality Assessment and Improvement Program (CMS-1910-F)	0938-AJ17
1162	Fee Schedule for Payment of Ambulance Services and Revisions to the Physician's Certification Requirements for Coverage of Nonemergency Ambulance Services (CMS-1002-FC) **(Reg Plan Seq No. 62)**	0938-AK30
1163	Hospital Conditions of Participation: Quality Assessment and Performance Improvements (CMS-3050-F)	0938-AK40
1164	Payment for Upgraded Durable Medical Equipment (CMS-1084-P)	0938-AK50
1165	Prospective Payment System for Hospital Outpatient Services: Criteria for Establishing New Pass-Through Categories for Medical Devices (CMS-1179-IFC)	0938-AK59
1166	Modifications to Managed Care Rules Based on Payment Provisions in BIPA and Technical Corrections (CMS-1181-F)	0938-AK90

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Centers for Medicare & Medicaid Services—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1167	"Without Fault" and Beneficiary Waiver of Recovery As It Applies to Medicare Overpayment Liability (CMS-6007-F)	0938-AD95
1168	Revision of Medicare/Medicaid Hospital Conditions of Participation (CMS-3745-F)	0938-AG79
1169	Home Health Agency (HHA) Conditions of Participation (HCMS-3819-FC)	0938-AG81
1170	End Stage Renal Disease (ESRD) Conditions for Coverage (CMS-3818-P) **(Section 610 Review)**	0938-AG82
1171	Criteria for Approval of Facilities to Perform Covered Heart, Liver, Lung, Pancreas and Intestinal Transplants (CMS-3835-P)	0938-AH17
1172	Hospice Care-Conditions of Participation (CMS-3844-P)	0938-AH27
1173	Requirements for Establishing and Maintaining Medicare Billing Privileges (CMS-6002-P)	0938-AH73
1174	Update of Ratesetting Methodology, Payment Rates and the List of Covered Surgical Procedures for Ambulatory Surgical Centers (CMS-1885-FC)	0938-AH81
1175	Medical Child Support and Health Insurance Coverage of Dependent Children (CMS-2061-P)	0938-AI21
1176	Surety Bond Requirements for Comprehensive Outpatient Rehabilitation Facilities, Rehabilitation Agencies (CMS-6005-P)	0938-AI48
1177	Appeals of Carrier Determination That a Supplier Fails To Meet the Requirements for Medicare Billing Privileges (CMS-6003-F)	0938-AI49
1178	Advance Refunding of Debt and Methodology for Repayment of Loan (CMS-1777-P)	0938-AI75
1179	Medicare Coverage of, and Payment for, Bone Mass Measurements (CMS-3004-F)	0938-AI89
1180	Coverage of Religious Non-Medical Health Care Institutions (CMS-1909-F)	0938-AI93
1181	External Quality Review of Medicaid Managed Care Organizations (CMS-2015-F)	0938-AJ06
1182	Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies (CMS-3006-F)	0938-AJ10
1183	Hospital Conditions of Participation: Laboratory Services (CMS-3014-F)	0938-AJ29
1184	Medicare Hospice Care Amendments (CMS-1022-P)	0938-AJ36
1185	Emergency Medical Treatment and Labor Act (EMTALA) (CMS-1063-P)	0938-AJ39
1186	Protection for Women Who Elect Reconstruction After a Mastectomy (CMS-2040-IFC)	0938-AJ44
1187	Surety Bonds Requirements for Suppliers of Durable Medical Equipment (CMS-6006-P)	0938-AJ64
1188	Surety Bond Requirements for Home Health Agencies (HHAS) (CMS-6001-P)	0938-AJ81
1189	Use of Restraint and Seclusion in Residential Treatment Facilities Providing Inpatient Psychiatric Services to Individuals Under Age 21 (CMS-2065-F)	0938-AJ96
1190	Application of Inherent Reasonableness to All Medicare Part B Services (Other than Physician Services) (CMS-1908-F)	0938-AJ97
1191	Supplier Standards for Home Oxygen, Therapeutic Shoes, Home Nutrition Therapy, and Consignment Closets (CMS-6010-P)	0938-AJ98
1192	Non-Federal Governmental Plans Exempt From Health Insurance Portability Requirements (CMS-2033-IFC)	0938-AK00
1193	Payment for Clinical Psychology Training Programs (CMS-1089-F)	0938-AK15
1194	Conditions of Participation of Intermediate Care Facilities for Persons With Mental Retardation (CMS-3046-P)	0938-AK23

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Centers for Medicare & Medicaid Services—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1195	Clinical Lab Requirements-Revisions to Regulations Implementing CLIA (CMS-2226-F)	0938-AK24
1196	Medicare Provider and Supplier Hearing Procedures (CMS-2093-P)	0938-AK39
1197	Supplementary Medical Insurance Premium Surcharge Agreements (CMS-4007-P)	0938-AK42
1198	Improvements to the Medicare+Choice Appeals and Grievance Procedures (CMS-4024-F)	0938-AK48
1199	Recognition of the American Osteopathic Association for Ambulatory Surgical Center Programs (CMS-2079-FN)	0938-AK53
1200	Challenges to National Coverage Determinations and Local Coverage Determinations (CMS-3063-P)	0938-AK60
1201	Revised Process for Making Medicare Coverage Decisions (CMS-3062-N)	0938-AK61
1202	Health Insurance Reform: Standards for Electronic Signatures (CMS-0051-F)	0938-AK63
1203	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships-Phase II (CMS-1810-FC)	0938-AK67
1204	Rate of Reimbursement of Photocopy Expenses for Prospective Payment System Providers (CMS-3055-P)	0938-AK68
1205	Medicare Inpatient Disproportionate Share Hospital Adjustment Calculation (CMS-1171-IFC)	0938-AK77
1206	Statement of Intent (CMS-1185-P)	0938-AK79
1207	Hospital Reference Laboratory and Medicare Secondary Payer (CMS-1187-P)	0938-AK87
1208	Portability in the Group Health Insurance Market—Shared HHS Provisions (CMS-2048-F)	0938-AK88
1209	Extended Medicaid for Certain Families Who Lose Medicaid Eligibility Because of Earned Income and the Residency of Minor Parents and Pregnancy (CMS 2026-F)	0938-AK92
1210	Extending Medicare Entitlement When Disability Benefit Entitlement Ends Because of Substantial Gainful Activity (CMS-4018-P)	0938-AK94
1211	Relief from Medicare Part A Late Enrollment Penalty for Group Buy-In for State and Local Retirees (CMS-4022-P)	0938-AK99
1212	Modifications to the State Children's Health Insurance Program (CMS-2006-IFC)	0938-AL00
1213	Continue to Allow States an Option Under the Medicaid Spousal Impoverishment Provisions to Increase the Community Spouse's Income When Adjusting the Protected Resource Allowance (CMS-2128-P)	0938-AL06
1214	Medicare Limits on the Valuation of a Depreciable Asset Recognized as an Allowance for Depreciation and Interest on Capital Indebtedness After a change of Ownership (CMS-1004-F)	0938-AL12
1215	Update Interest Assessment on Medicare Overpayment and Underpayment (CMS-6014-P)	0938-AL14
1216	Use of Restraint and Seclusion in Medicare and Medicaid Participating Facilities that Provide Inpatient or Residential Care (CMS-2130-P)	0938-AL26
1217	Payment for Respiratory Assist Devices with Bi-level Capability and a Back-up Rate (CMS-1167-P)	0938-AL27

Centers for Medicare & Medicaid Services—Completed Actions

Sequence Number	Title	Regulation Identification Number
1218	Medicaid Drugs Rebate Program (CMS-2046-FC)	0938-AF42
1219	Liability for Third Parties To Pay for Services (CMS-2080-P)	0938-AH01
1220	Requirements for Enrollment of Medicaid Recipients Under Cost Effective Employer-Based Group Health Plans (CMS-2047-FC)	0938-AH48
1221	Revisions to Conditions for Coverage for Ambulatory Surgical Centers (CMS-3887-P)	0938-AH83
1222	Medicare Program: Prospective Payment System for Inpatient Rehabilitation Hospital Services (CMS-1069-F)	0938-AJ55
1223	State Health Insurance Assistance Program (SHIP) (CMS-4005-IFC)	0938-AJ67
1224	Practice Expense Data Collection (CMS-1111-IFC)	0938-AK14
1225	Provisions of the Balanced Budget and Refinement Act of 1999; Hospital Inpatient Payments and Rates and Costs of Graduate Medical Education (CMS-1131-F)	0938-AK20
1226	Requirements for the Recredentialing of Medicare+Choice Organization Providers (CMS-1160-F)	0938-AK41
1227	Medicaid Management Information System Revised Definition of "Mechanized Claims Processing and Information Retrieval System" (CMS-2123-IFC)	0938-AK44
1228	Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities-Update (CMS-1163-F)	0938-AK47
1229	Civil Money Penalties, Assessments, and Revised Sanction Authorities (CMS-6145-FC)	0938-AK49
1230	Update to the Prospective Payment System for Home Health Agencies for FY 2002 (CMS-1147-NC)	0938-AK51
1231	Prospective Payment System for Hospital Outpatient Services for Calendar Year 2002 (CMS-1159-F)	0938-AK54
1232	Medicare as Secondary Payer-Recovery of Conditional Payments (CMS-6009-P)	0938-AK55
1233	Five Year Review of Work Relative Value Units Under the Physician Fee Schedule Proposed Notice (CMS-1170-PN)	0938-AK56
1234	Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2002 (CMS-1169-F)	0938-AK57
1235	Changes to National Coverage Determinations and Local Coverage Determinations (CMS-4019-FC)	0938-AK58

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Centers for Medicare & Medicaid Services—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1236	Replacement of Reasonable Charge Methodology by Fee Schedules for Parenteral and Enteral Nutrients, Equipment, and Supplies (CMS-1010-F)	0938-AK66
1237	Changes to the Hospital Inpatients Prospective Payment System for Fiscal Year 2002 Rates (CMS-1158-F)	0938-AK73
1238	Changes to Inpatient BIPA for Fiscal Year 2001 (CMS-1178-F)	0938-AK74
1239	Medicare+Choice ESRD Rates (CMS-1182-FN)	0938-AK75
1240	Procedures for Public Consultations for Coding and Payment Determinations for New Laboratory Tests (CMS-1186-N)	0938-AK80
1241	Recognition of the American Osteopathic Association for Critical Access Hospitals (CMS-2099-N)	0938-AK84
1242	Protection and Promotion of Resident Rights (CMS-3065-P)	0938-AK85
1243	Standards for Electronic Transactions-Elimination of NDC Coding Standards (CMS-0006-P)	0938-AK86
1244	Modification of the Medicaid Upper Payment Limit Transition Period for Inpatient, Outpatient Hospitals, Nursing and Intermediate Care Facility Services for the Mentally Retarded (CMS-2100-P)	0938-AK89
1245	Hospital Conditions of Participation: Anesthesia Services (CMS-3070-F)	0938-AK95
1246	Medicare Program; Emergency Approval for Coverage of End-Stage Renal Disease Facilities in the Houston, Texas Area (CMS-3074-F)	0938-AK98
1247	Medicare and Medicaid Programs; Change of Agency Name: Technical Amendments (CMS-9010-FC)	0938-AL02
1248	Payments for New Medical Services and New Technologies Under the Acute Care Hospital Inpatient Prospective Payment System (CMS-1176-F)	0938-AL09

Administration for Children and Families—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1249	Program Performance Standards for the Operation of Head Start Programs	0970-AB99
1250	Safeguarding Child Support and Expanded FPLS Information	0970-AC01
1251	Developmental Disabilities and Bill of Rights Act	0970-AC07

Administration for Children and Families—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1252	Construction and Major Renovation of Head Start and Early Head Start Facilities	0970-AB54
1253	Child Support Enforcement for Indian Tribes	0970-AB73
1254	Child Support Enforcement Program Omnibus Conforming Regulation	0970-AB81
1255	Family Child Care Program Option for Head Start Programs	0970-AB90
1256	Technical Revision of Head Start Regulations To Make Them Conform to Recent Statutory Revisions	0970-AC00
1257	High Performance Bonus Awards Under the TANF Program	0970-AC06

Administration for Children and Families—Completed Actions

Sequence Number	Title	Regulation Identification Number
1258	Individual Development Accounts	0970-AC08

Administration on Aging—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1259	Grants for State and Community Programs on Aging, Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians and Native Hawaiians	0985-AA00

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Administration on Aging—Completed Actions

Sequence Number	Title	Regulation Identification Number
1260	Grants for State and Community Programs on Aging, Family Caregivers, American Indians, and Native Hawaiians	0985-AA01

Department of Health and Human Services (HHS)
Office of the Secretary (OS)

Proposed Rule Stage

984. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 41 USC 701 et seq, sec 2455; PL 103-355; 31 USC 6101 note; EO 12689; EO 12549

CFR Citation: 45 CFR 76; 45 CFR 82

Legal Deadline: None

Abstract: This proposed common rule is revised to simplify and streamline nonprocurement debarment and suspension requirements, as well as correspond to procurement regulations where possible. The revision will separate the debarment and suspension and Drug-Free Workplace regulations, and will be written in the plain language format.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Diane Osterhus, Federal Assistance Policy Specialist, Department of Health and Human Services, Office of the Secretary, Room 517D, Office of Grants and Acquisition Management, 200 Independence Avenue SW., Washington, DC 20201
Phone: 202 690-5729
Fax: 202 690-6901
Email: diane.osterhus@hhs.gov

RIN: 0991–AB12

985. • MODIFICATIONS TO STANDARDS FOR PRIVACY OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

Regulatory Plan: This entry is Seq. No. 25 in part II of this issue of the **Federal Register**.

RIN: 0991–AB14

986. • IMPLEMENTING THE BIOTERRORISM PREVENTION AND RESPONSE ACT OF 2001

Regulatory Plan: This entry is Seq. No. 26 in part II of this issue of the **Federal Register**.

RIN: 0991–AB15

Department of Health and Human Services (HHS)
Office of the Secretary (OS)

Final Rule Stage

987. SHARED RISK EXCEPTION TO THE SAFE HARBOR PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1320a-7b; 42 USC 1395hh; PL 104-191, sec 216(b)

CFR Citation: 42 CFR 1001

Legal Deadline: Final, Statutory, January 1, 1997.

Abstract: This final rule establishes a new statutory exception for risk-sharing arrangements under the Federal health care programs' anti-kickback provisions. The rule sets forth an exception from liability for remuneration between an eligible organization and an individual or entity providing items or services in accordance with a written agreement between these parties. The rule allows remuneration between an organization and an individual or entity if a written agreement places the individual or entity at "substantial financial risk" for the cost or utilization of the items or services that the individual or entity is obligated to provide.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/97	62 FR 28410
ANPRM Comment Period End	06/09/97	
Interim Final Rule	11/19/99	64 FR 63504
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA91

988. CIVIL MONEY PENALTY SAFE HARBOR TO PROTECT PAYMENT OF MEDICARE AND MEDIGAP PREMIUMS FOR ESRD BENEFICIARIES

Priority: Substantive, Nonsignificant

Legal Authority: Social Security Act, sec 1128A(a)(5)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This final rule will set forth in the OIG's civil money penalty provisions in 42 CFR part 1003 a new safe harbor for unlawful inducements to beneficiaries to provide protection for independent dialysis facilities that pay, in whole or in part, premiums for Supplementary Medical Insurance (Medicare part B) or Medicare

HHS—OS

Final Rule Stage

Supplemental Health Insurance policies (Medigap) for financially needy Medicare beneficiaries with end-stage renal disease (ESRD). This safe harbor specifically establishes various standards that, if met, would result in the particular arrangement being protected from civil penalties under section 1128A(a)(5) of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	05/02/00	65 FR 25460
NPRM Comment Period End	07/03/00	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AB04

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989. SAFE HARBOR FOR AMBULANCE RESTOCKING

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-93, sec 14(a)

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This rule will set forth acceptable restocking arrangements between municipal and nonprofit ambulance companies and hospitals.

Timetable:

Action	Date	FR Cite
NPRM	05/22/00	65 FR 32060
NPRM Comment Period End	07/21/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AB05

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990. REVISIONS AND TECHNICAL CORRECTIONS TO 42 CFR CHAPTER V

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1320a-7; 42 USC 1320a-7a; 42 USC 1320a-7b; 42 USC 1320a-7d(b); 42 USC 1395u

CFR Citation: 42 CFR 1001; 42 CFR 1003; 42 CFR 1008

Legal Deadline: None

Abstract: This final rule sets forth several miscellaneous revisions and technical corrections to the OIG regulations codified in 42 CFR chapter V. Among other revisions, this rule makes revisions or clarifications to the term "item or service" contained in part 1003 of this chapter, to the reinstatement procedures relating to exclusions resulting from the default on health education or scholarship obligations set forth in part 1001, and to the statute of limitations for the OIG to impose an exclusion under part 1001.

Timetable:

Action	Date	FR Cite
NPRM	10/20/00	65 FR 63035
NPRM Comment Period End	12/20/00	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AB09

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991. AMENDING THE REGULATIONS GOVERNING NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, SEX, AND AGE TO CONFORM TO THE CIVIL RIGHTS RESTORATION ACT OF 1987

Priority: Other Significant

Legal Authority: PL 100-259, Civil Rights Restoration Act of 1987

CFR Citation: 45 CFR 80; 45 CFR 84; 45 CFR 86; 45 CFR 90; 45 CFR 91

Legal Deadline: None

Abstract: The Secretary proposes to amend the Department's regulations implementing title VI of the Civil Rights Act of 1964, as amended, section 504 of the Rehabilitation Act of 1973, as amended, title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975, as amended. The principal proposed conforming change is to amend the regulations to add the definitions of "program or activity" or "program" that correspond to the statutory definitions enacted under the Civil Rights Restoration Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	10/26/00	65 FR 64194
NPRM Comment Period End	11/27/00	
Final Action	12/00/01	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Robinsue Frohboese, Acting Director, Office for Civil Rights, Department of Health and Human Services, Office of the Secretary Phone: 202 619-0403

RIN: 0991–AB10

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Department of Health and Human Services (HHS)
Office of the Secretary (OS)

Long-Term Actions

992. CIVIL MONEY PENALTIES FOR MEDICARE+CHOICE ORGANIZATIONS AND MEDICAID MANAGED CARE ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320a-7a; 42 USC 1395mm; 42 USC 1395w-27; 42 USC 1396b; 42 USC 1396u-2

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would reflect OIG's authority to impose civil money penalties against Medicare+Choice organizations that engage in certain abusive practices, including failure to provide medically necessary care and discriminatory enrollment procedures. This rule would specifically address the Medicare+Choice provisions set forth in Public Law 105-33, the Balanced Budget Act of 1997, and the Medicaid managed care provisions.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AB03

993. SAFE HARBOR FOR ARRANGEMENTS INVOLVING FEDERALLY QUALIFIED HEALTH CENTERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-93, sec 14(a)

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This rule would set forth a new anti-kickback safe harbor addressing remuneration between Federal Qualified Health Centers and certain service providers where a significant community benefit exists.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AB06

Department of Health and Human Services (HHS)
Office of the Secretary (OS)

Completed Actions

994. REPRODUCTION AND SALE OF OFFICIAL FORMS AND PUBLICATIONS

Priority: Info./Admin./Other

CFR Citation: 45 CFR 101

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Herrell
Phone: 202 690-5739

RIN: 0991–AA83

995. STANDARDS FOR PRIVACY OF INDIVIDUALLY INDENTIFIABLE HEALTH INFORMATION

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 45 CFR 160; 45 CFR 164

Completed:

Reason	Date	FR Cite
Final Rule	12/28/00	65 FR 82462
60-Day Delay of Effective Date To 04/14/2001	02/26/01	66 FR 12434
Comment Period Extended	03/30/01	66 FR 12738

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local, Tribal, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Roxanne Gibson
Phone: 202 260-5083

RIN: 0991–AB08

996. DEFINITION OF TERMS; SUBSTANTIALLY IN EXCESS AND USUAL CHARGES AND CLARIFICATION OF THE GOOD CAUSE EXCEPTION

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 1001

Completed:

Reason	Date	FR Cite
Withdrawn	10/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer
Phone: 202 619-0089

RIN: 0991–AB13

Department of Health and Human Services (HHS)
Substance Abuse and Mental Health Services Administration (SAMHSA)

Proposed Rule Stage

997. • COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 300x-1

CFR Citation: 42 CFR 96

Legal Deadline: None

Abstract: SAMHSA is responsible for the implementation of the Community Mental health Services (CMHS) Block Grant program which distributes this year $420 million to States for the provision of community-based mental health services to adults with serious mental illness and children with serious emotional disturbance. While there is no statutory requirement that regulations be developed, the statute does give the Secretary the authority and responsibility of determining whether States have complied with the requirements of the statute. This regulation establishes the criteria the Secretary will use in determining whether a Sate is in compliance with the requirements of the statute. In order for the Secretary to act on a determination of non-compliance, the Department must issue regulations clearly identifying for the States what they are required to do.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Joseph Denis Faha, Director, DLEA, SAMHSA, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Room 12C-15, 5600 Fishers Lane, Rockville, MD 20657
Phone: 301 443-7017
Fax: 301 443-1450
Email: jfaha@samhsa.gov

RIN: 0930–AA08

Department of Health and Human Services (HHS)
Substance Abuse and Mental Health Services Administration (SAMHSA)

Final Rule Stage

998. • SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION MENTAL HEALTH AND SUBSTANCE ABUSE EMERGENCY RESPONSE CRITERIA

Priority: Other Significant

Legal Authority: PL 106-310

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: SAMHSA is drafting a regulation to define "emergency" for the purposes of implementing section 501(m) of the Public Health Service Act. Section 501(m) permits the Secretary to use up to 2.5 percent of those funds appropriated for discretionary programs "to make non-competitive, grants, contracts or cooperative agreements to public entities to enable such entities to address emergency substance abuse and mental health needs in local communities."

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/11/01	66 FR 51873
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joseph Denis Faha, Director, DLEA, SAMHSA, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Room 12C-15, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-7017
Fax: 301 443-1450
Email: jfaha@samhsa.gov

RIN: 0930–AA09

999. • SECLUSION AND RESTRAINT FOR NON-MEDICAL RESIDENTIAL FACILITIES

Priority: Other Significant

Legal Authority: PL 106-310

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, April 17, 2001.

Abstract: These regulations will implement the requirements of part I of title V of the PHS Act which make certain requirements of non-medical facilities for children which receive funds authorized by the PHS Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/02	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joseph Denis Faha, Director, DLEA, SAMHSA, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Room 12C-15, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-7017
Fax: 301 443-1450
Email: jfaha@samhsa.gov

RIN: 0930–AA10

Department of Health and Human Services (HHS)
Substance Abuse and Mental Health Services Administration (SAMHSA)

Completed Actions

1000. SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT APPLICATIONS DUE DATE CHANGE FROM MARCH 31 TO OCTOBER 1 FOR FY 2001 AND BEYOND

Priority: Routine and Frequent

CFR Citation: 45 CFR 96; 45 CFR 96.122(d); 45 CFR 96.130(e); 45 CFR 96.134(d)

Completed:

Reason	Date	FR Cite
Final Rule	07/21/00	65 FR 45301

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Thomas Reynolds
Phone: 301 443-0179

RIN: 0930–AA04

1001. • MANDATORY GUIDELINES FOR FEDERAL WORKPLACE DRUG TESTING PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7301

CFR Citation: None

Legal Deadline: None

Abstract: The Mandatory Guidelines for Federal Workplace Drug Testing Progrms (Mandatory Guidelines), as revised in the Federal Register on June 9, 1994 (59 FR 29908) and on September 30, 2997 (62 FR 51118), establish the scientific and technical guidelines for Federal workplace drug testing programs and establish standards for certification of laboratories engaged in urine drug testing for Federal agencies under authority Public Law 100-71, 5 U.S.C. 7301 note, and Exective Order 12564.

Timetable:

Action	Date	FR Cite
Notice	09/21/01	66 FR 43876

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joseph Denis Faha, Director, DLEA, SAMHSA, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Room 12C-15, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-7017
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Email: jfaha@samhsa.gov

RIN: 0930–AA07

Department of Health and Human Services (HHS)
Centers for Disease Control and Prevention (CDC)

Proposed Rule Stage

1002. CONTROL OF COMMUNICABLE DISEASES

Regulatory Plan: This entry is Seq. No. 27 in part II of this issue of the **Federal Register**.

RIN: 0920–AA03

1003. AMENDMENTS TO QUALITY ASSURANCE AND ADMINISTRATIVE PROVISION FOR APPROVAL OF RESPIRATORY PROTECTIVE DEVICES

Priority: Other Significant

Legal Authority: 29 USC 651 et seq; 30 USC 3; 30 USC 5; 30 USC 7; 30 USC 811; 30 USC 842(h); 30 USC 844

CFR Citation: 42 CFR 84

Legal Deadline: None

Abstract: NIOSH plans to modify the Administrative/Quality Assurance sections of 42 CFR part 84, Approval of Respiratory Protective Devices. Areas for potential modification in this module are: 1) upgrade of Quality Assurance requirements; 2) ability to use private sector quality auditors and private sector testing laboratories in the approval program; 3) revised approval label requirements; 4) updated and restructured fee schedule; and 5) fee retention in the Respirator program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roland Berry Ann, Team Leader, Policy Development, Respirator Branch, Department of Health and Human Services, Centers for Disease Control and Prevention, NIOSH, P04, 1095 Willowdale Road, Morgantown, WV 26505
Phone: 304 285-5907

RIN: 0920–AA04

1004. METHODS FOR ESTIMATING RADIATION DOSE AND GUIDELINES FOR ASSESSING PROBABILITY OF CANCER FOR ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM

Priority: Other Significant

Legal Authority: PL 106-398, sec 3623

CFR Citation: 42 CFR 81

Legal Deadline: None

Abstract: Pursant to Executive Order 13179, which implements section 3623 of the Energy Employees Occupational Illness Compensation Program Act, Public Law 106-398, NIOSH plans to propose and finalize regulations to establish:

1) Guidelines to assess the likelihood that an individual with cancer sustained that cancer in the performance of duty at a Department of Energy facility, or an atomic weapons employer facility, as defined in that Act; and

2) Methods for arriving at, and providing reasonable estimates of, the radiation doses received by individuals applying for assistance under this program for whom there are inadequate records of radiation exposure.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Larry Elliott, Acting Director, Office of Compensation Analysis and Support, Department of Health and Human Services, Centers for Disease Control and Prevention,

HHS—CDC **Proposed Rule Stage**

NIOSH, R44, 5555 Ridge Avenue, Cincinnati, OH 45213
Phone: 513 841-4400
RIN: 0920–AA05

Department of Health and Human Services (HHS)
Centers for Disease Control and Prevention (CDC) **Long-Term Actions**

1005. PACKAGING AND HANDLING OF INFECTIOUS SUBSTANCES AND SELECT AGENTS

Priority: Other Significant

Legal Authority: 42 USC 264; 42 USC 271; 42 USC 262 note; 31 USC 9701; 18 USC 3559; 18 USC 3571

CFR Citation: 42 CFR 72.6 (Renumbered); 42 CFR 72.7 (Renumbered); 42 CFR 72.1-5 (Revision)

Legal Deadline: None

Abstract: The purpose of this NPRM is to update regulations governing the packaging, labeling, and shipment of infectious agents. Materials must be packaged in such a way as to prevent damage and leakage during transport in order to protect workers and the public from exposure.

Timetable:

Action	Date	FR Cite
NPRM	10/28/99	64 FR 58022
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Dr. Jonathan Y. Richmond, Director, Office on Health and Safety, Department of Health and Human Services, Centers for Disease Control and Prevention, MS F05, 1600 Clifton Road NE, Atlanta, GA 30333
Phone: 404 639-2453

RIN: 0920–AA02

Department of Health and Human Services (HHS)
Departmental Management (HHSDM) **Proposed Rule Stage**

1006. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 45 CFR 13

Legal Deadline: None

Abstract: The Equal Access to Justice Act requires agencies to pay fees to parties prevailing against the Government in certain administrative proceedings. The Act has been amended several times since its 1980 enactment, most recently by the Contract with America Advancement Act of 1996, which increased the amount of the hourly fees payable. The proposed rule revises 45 CFR part 13 (HHS' regulation implementing the Equal Access to Justice Act) to conform with statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	06/19/87	52 FR 23311
NPRM Comment Period End	08/17/87	
Second NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Timothy M. White, Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Room 5362, HHS Cohen Building, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0150

RIN: 0990–AA02

1007. • ADMINISTRATIVE WAGE GARNISHMENT

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720D; 28 CFR 285.11

CFR Citation: 42 CFR 32

Legal Deadline: None

Abstract: The Department will add a new part 32 to title 42 of the Code of Federal Regulations (CFR) to implement the Administrative Wage Garnishment provisions of the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104-134, 110 Stat 1321-358, codified at 31 U.S.C 3720D, and implemented by the Department of Treasury at 31 C.F.R. 285.11. The proposed rule will be another tool for the Department to collect its debts by allowing the Department to garnish the wages of non-Federal employees administratively (i.e., without the need for a court order). The wage withholding order will be required to withold amounts from an employee's wages and pay those amounts to the Department in satisfaction of the indebtedness.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Timothy M. White, Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Room 5362, HHS Cohen Building, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0150

RIN: 0990–AA05

Department of Health and Human Services (HHS)
Food and Drug Administration (FDA)

Prerule Stage

1008. NATURAL RUBBER-CONTAINING DRUGS; USER LABELING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 374; 21 USC 379; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 371

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking requests comments on requirements under consideration for labeling statements on products regulated as drugs (including combination products regulated under drug labeling provisions) that contain natural rubber that contacts humans.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Carol Drew, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB56

1009. • REQUIREMENTS FOR SUBMISSION OF IN VIVO BIOEQUIVALENCE DATA

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 355a; 21 USC 356; 21 USC 356a; 21 USC 356b; 21 USC 356c; 21 USC 371; 21 USC 374; 21 USC 379

CFR Citation: 21 CFR 314.96(a)(1); 21 CFR 314.94(a)(7); 21 CFR 320.21(b)(1)

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to amend its regulations on submission of bioequivalence (BE) data to require an abbreviated new drug application (ANDA) applicant to submit data from all BE studies the applicant conducts on a drug product formulation submitted for approval. In the past, ANDA applicants have submitted BE studies demonstrating that a generic product meets BE criteria for FDA to approve the ANDA but have not typically submitted additional BE studies conducted on the same drug product formulation. FDA is proposing to require ANDA applicants to submit information, in either a complete or summary report, from all additional passing and nonpassing BE studies conducted on the same drug product formulation submitted for approval.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Aida L. Sanchez, Special Assistant to the Director, Department of Health and Human Services, Food and Drug Administration, HFD-650, Center for Drug Evaluation and Research, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-5847

RIN: 0910–AC23

1010. • REQUIREMENTS FOR MEDICAL GAS CONTAINERS AND CLOSURE SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The proposed rule would revise Food and Drug Administration regulations to require that medical gas manufacturers configure medical gas containers and closure systems, and provide training to personnel, to help avoid the risk of administration of the improper gas to patients.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Lee D. Korb, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AC24

Department of Health and Human Services (HHS)
Food and Drug Administration (FDA)

Proposed Rule Stage

1011. OVER-THE-COUNTER (OTC) DRUG REVIEW

Priority: Routine and Frequent

Legal Authority: 21 USC 321p; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360a; 21 USC 371a; 21 USC 331; 21 USC 360; 21 USC 360b; 21 USC 361; 21 USC 371

CFR Citation: 21 CFR 310; 21 CFR 340; 21 CFR 341; 21 CFR 342; 21 CFR 343; 21 CFR 344; 21 CFR 345; 21 CFR 330; 21 CFR 333; 21 CFR 334; 21 CFR 335; 21 CFR 336; 21 CFR 337; 21 CFR 338; 21 CFR 339

Legal Deadline: None

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. NOTE: NPRM for "Antidotes, Toxic Ingestion Products" was combined with NPRM for "Emetic

Products" and reproposed as "Poison Treatment Products." NPRM for "Astringent (Wet Dressings) Products" was included in the NPRM for "Skin Protectant Products." NPRM for "Diaper Rash Products" was included in NPRMs for "Antifungal," "Antimicrobial," "External Analgesic" and "Skin Protectant Products." NPRM for "Fever Blister/Cold Sore Products (External)" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Insect Bites and Stings (Relief) Products" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." "Poison Ivy/Oak/Sumac Prevention" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Mercurial (Topical) Products" was included in revised NPRM for "Antimicrobial Products." NPRM for "Alcohol (Topical) Products" was included in revised NPRM for "Antimicrobial Products." The NPRM for "Antimicrobial Products" was updated and split into two sections: First Aid Products and Health Care Antiseptic Products.

SMALL ENTITIES AFFECTED: The effects, if any, vary depending on the individual rulemaking. However, the Agency anticipates that the rules would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Timetable:

Acne (Topical) Products
- ANPRM 03/23/82 (47 FR 12430)
- NPRM 01/15/85 (50 FR 2172)
- NPRM (Amendment) 08/07/91 (56 FR 37622)
- Final Action 08/16/91 (56 FR 41008)

Alcohol (Oral) in OTC Drug Products
- NPRM 10/21/93 (58 FR 54466)
- Final Action 03/13/95 (60 FR 13590)
- NPRM (Amendment) 05/10/96 (61 FR 21392)
- Final Action (Amendment) 11/18/96 (61 FR 58629)

Anorectal Products
- ANPRM 05/27/80 (45 FR 35576)
- NPRM 08/15/88 (53 FR 30756)
- Final Action 08/03/90 (55 FR 31776)
- Final Action (LYCD) 09/02/93 (58 FR 46746)
- Final Action (Witch Hazel) 06/03/94 (59 FR 28766)

Antacid Drug Products
- ANPRM 04/05/73 (38 FR 8714)
- NPRM 11/12/73 (38 FR 31260)
- Final Action 06/04/74 (39 FR 9862)
- NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66754)
- Final Action (Amendment) (Warning) 08/26/93 (58 FR 45204)
- NPRM (Amendment) (Testing) 09/23/93 (58 FR 49826)
- NPRM (Amendment)(Sodium Bicarb.) 02/02/94 (59 FR 5060)
- Final Action (Technical Amendment) 11/25/94 (59 FR 60555)
- Final Action (Amendment) (Testing) 02/08/96 (61 FR 4822)
- Final Action (Amendment)(Sodium B.) 12/00/02
- Final Action (Amendment) (Overindulgence) 12/00/02

Anthelmintic Products
- ANPRM 09/09/80 (45 FR 59541)
- NPRM 08/24/82 (47 FR 37062)
- Final Action 08/01/86 (51 FR 27756)

Antibiotic First Aid Products
- ANPRM 04/01/77 (42 FR 17642)
- NPRM 07/09/82 (47 FR 29986)
- Final Action 12/11/87 (52 FR 47312)
- NPRM (Amendment) 08/18/89 (54 FR 34188)
- Final Action 03/15/90 (55 FR 9721)
- NPRM (Amendment) 05/11/90 (55 FR 19868)
- NPRM (Amendment) 06/08/90 (55 FR 23450)
- Final Action (Amendment) 10/03/90 (55 FR 40379)
- Final Action (Amendment) 12/05/90 (55 FR 50171)
- NPRM (Amendment) (Warning) 02/14/96 (61 FR 5918)
- Final Action (Amendment)(Warning) 11/15/96 (61 FR 58471)

Anticaries Products
- ANPRM 03/28/80 (45 FR 20666)
- NPRM 09/30/85 (50 FR 39854)
- NPRM 06/15/88 (53 FR 22430)
- Final Action 10/06/95 (60 FR 52474)
- Final Action (Technical Amendment) 10/07/96 (61 FR 52285)

Antidiarrheal Products
- ANPRM 03/21/75 (40 FR 12924)
- NPRM 04/30/86 (51 FR 16138)
- NPRM (Amendment)(Trav. Diar.) 04/00/02
- Final Action 04/00/02

Antidotes, Toxic Ingestion Prdts (New Poison Treatment Prdts)
- ANPRM 01/05/82 (47 FR 444)

Antiemetic Products
- ANPRM 03/21/75 (40 FR 12934)
- NPRM 07/13/79 (44 FR 41064)
- Final Action 04/30/87 (52 FR 15886)
- NPRM (Amendment) 06/26/93 (58 FR 45216)
- Final Action 04/11/94 (59 FR 16981)
- NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)
- Final Action (Amendment) (Warning) 03/00/02

Antiflatulent Drug Products
- NPRM 11/12/73 (38 FR 31260)
- Final Action 06/04/74 (39 FR 19877)
- NPRM (Amendment) 01/29/88 (53 FR 2716)
- Final Action (Amendment) 03/05/96 (61 FR 8836)

Antifungal (Topical) Products
- ANPRM 03/23/82 (47 FR 12480)
- NPRM 12/12/89 (54 FR 51136)
- NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25240)
- Final Action (Amdt.)(Diaper Rash) 12/18/92 (57 FR 60430)
- Final Action (Partial) 09/02/93 (58 FR 46744)
- Final Action 09/23/93 (58 FR 49690)
- NPRM (Amendment) (Indications) 07/22/99 (64 FR 39452)
- Final Action 08/29/00 (65 FR 52302)
- NPRM (Amendment) Clotrimazole 05/29/01 (66 FR 29059)
- Final Action Clotrimazole 04/00/02

Antimicrobial Products
- ANPRM 09/13/74 (39 FR 33103)
- NPRM 01/06/78 (43 FR 1210)
- NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25246)
- Final Action (Diaper Rash) 03/00/04

Antiperspirant Products
- ANPRM 10/10/78 (43 FR 46694)
- NPRM 08/20/82 (47 FR 36492)
- Final Action 09/00/02

Aphrodisiac Products
- ANPRM 10/01/82 (47 FR 43572)
- NPRM 01/15/85 (50 FR 2168)
- Final Action 07/07/89 (54 FR 28780)

Astringent (Wet Dressings) Prdts (Merged w/other rulemkg)
- ANPRM 09/07/82 (47 FR 39436)

Benign Prostatic Hypertrophy Products
- ANPRM 10/01/82 (47 FR 43566)
- NPRM 02/20/87 (52 FR 5406)
- Final Action 02/27/90 (55 FR 6926)

Boil Ointments
- ANPRM 06/29/82 (47 FR 28306)
- NPRM 01/26/88 (53 FR 2198)
- Final Action 11/15/93 (58 FR 60332)

Camphorated Oil Drug Products
- ANPRM 09/26/80 (45 FR 63869)
- Final Action 09/21/82 (47 FR 41716)

Cholecystokinetic Products
- ANPRM 02/12/80 (45 FR 9286)
- NPRM 08/24/82 (47 FR 37068)
- Final Action 06/10/83 (48 FR 27004)
- NPRM (Amendment) 08/15/88 (53 FR 30786)
- Final Action (Amendment) 02/28/89 (54 FR 8320)

Corn and Callus Remover Products
- ANPRM 01/05/82 (47 FR 522)
- NPRM 02/20/87 (52 FR 5412)
- Final Action 08/14/90 (55 FR 33258)

Cough/Cold (Anticholinergic) Products
- ANPRM 09/09/76 (41 FR 38312)
- NPRM 07/09/82 (47 FR 30002)
- Final Action 11/08/85 (50 FR 46582)

Cough/Cold (Antihistamine) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2200)
NPRM (Amendment) 08/24/87 (52 FR 31892)
Final Action 12/09/92 (57 FR 58356)
Final Action (Amendment)(Warning) 01/28/94 (59 FR 4216)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)
Reopen Record (Common Cold) 08/25/00 (65 FR 51780)
Final Action (Amendment)(Warning) 03/00/02
Final Action 12/00/02

Cough/Cold (Antitussive) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/19/83 (48 FR 48576)
Final Action 08/12/87 (52 FR 30042)
NPRM (Amendment) (Warning) 07/06/89 (54 FR 28442)
NPRM (Amendment) 10/02/89 (54 FR 40412)
Final Action (Amendment) (Warning) 07/06/90 (55 FR 27806)
Final Action (Amendment) 10/03/90 (55 FR 40381)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27666)
NPRM (Amendment)(Ingredients) 12/09/92 (57 FR 58378)
Final Action (Amendment)(Warning) 10/20/93 (58 FR 54232)
Final Action (Amdt.)(Ingredients) 06/03/94 (59 FR 29172)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)
NPRM (Amendment)(Flammability) 07/20/98 (63 FR 38762)
Final Action (Amendment)(Flammability) 08/01/00 (65 FR 46864)
Final Action (Amendment)(Warning) 03/00/02

Cough/Cold (Bronchodilator) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/26/82 (47 FR 47520)
Final Action 10/02/86 (51 FR 35326)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27662)
Final Action (Amendment)(Warning) 10/20/93 (58 FR 54238)
NPRM (Amendment)(MDI) 03/09/95 (60 FR 13014)
NPRM (Amendment)(Ephedrine) 07/27/95 (60 FR 38643)
Final Action (Amendment) (MDI) 05/20/96 (61 FR 25142)
Final Action (Amendment) (Ephedrine) 12/00/02

Cough/Cold (Combination) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 08/12/88 (53 FR 30522)
NPRM (Amendment)(DPH Combinations) 02/23/95 (60 FR 10286)
Final Action (Theophylline) 07/27/95 (60 FR 38636)
Final Action 09/00/02
NPRM (Amendment) (Ephedrine Combo) 12/00/02

Cough/Cold (Diphenhydramine) Products
Final Action/Enforcement Policy 04/09/96 (61 FR 15700)

Cough/Cold (Expectorant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 02/28/89 (54 FR 8494)
Final Action (Technical Changes) 06/30/92 (57 FR 29176)

Cough/Cold (Expectorant/Ipecac) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 09/14/92 (57 FR 41857)

Cough/Cold (Nasal Decongestant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2220)
NPRM (Amendment) 06/19/92 (57 FR 27658)
Final Action 08/23/94 (59 FR 43386)
Final Action; Partial Stay 03/06/96 (61 FR 9570)
Final Action (Amendment)(Levmetamfetamine) 07/30/98 (63 FR 40647)
NPRM (Phenylpropanolamine) 04/00/02

Dandruff, Seborrheic Dermatitis and Psoriasis Control Products
ANPRM 12/03/82 (47 FR 54646)
NPRM 07/30/86 (51 FR 27346)
Final Action 12/04/91 (56 FR 63554)
NPRM (Amendment) 04/05/93 (58 FR 17554)
Final Action 01/28/94 (59 FR 4000)

Daytime Sedatives
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 06/22/79 (44 FR 36378)

Diaper Rash Products (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39406)

Digestive Aid Products
ANPRM 01/05/82 (47 FR 454)
NPRM 01/29/88 (53 FR 2706)
Final Action 10/21/93 (58 FR 54450)

Eligibility Criteria for Additional Conditions
ANPRM 10/03/96 (61 FR 51625)
NPRM 12/20/99 (64 FR 71062)
Final Action 04/00/02

Emetic Products
ANPRM 03/21/75 (40 FR 12939)
NPRM 09/05/78 (43 FR 39544)

Exocrine Pancreatic Insufficiency Products
ANPRM 12/21/79 (44 FR 75666)
NPRM 11/08/85 (50 FR 46594)
NPRM (Reproposed) 07/15/91 (56 FR 32282)
Final Action 04/24/95 (60 FR 20162)

External Analgesic Products
ANPRM 12/04/79 (44 FR 69768)
NPRM 02/08/83 (48 FR 5852)
NPRM (Amendment) (Dandruff) 07/30/86 (51 FR 27360)
NPRM (Amendment) (Anorectal) 08/25/88 (53 FR 32592)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40818)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3370)
NPRM (Amendment) (1%Hydrocortisone) 02/27/90 (55 FR 6932)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25234)
Final Action (Diaper Rash) 12/18/92 (57 FR 60426)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)
Final Action (Amendment)(Warning) 03/00/02

Fever Blister Products (Internal)
ANPRM 01/05/82 (47 FR 502)
NPRM 06/17/85 (50 FR 25156)
Final Action 06/30/92 (57 FR 29166)

First Aid Antiseptic
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Revised) 07/22/91 (56 FR 33644)

Fvr Blister/Cold Sore Prdts (Ext.) (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Hair Grower and Hair Loss Prevention Products
ANPRM 11/07/80 (45 FR 73955)
NPRM 01/15/85 (50 FR 2190)
Final Action 07/07/89 (54 FR 28772)

Healthcare Antiseptic Products
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Revised) 06/17/94 (59 FR 31402)
Final Action 12/00/02

Hormone (Topical) Products
ANPRM 01/05/82 (47 FR 430)
NPRM 10/02/89 (54 FR 40618)
Final Action 09/09/93 (58 FR 57608)

Hypo/Hyperphosphatemia Products
ANPRM 12/09/80 (45 FR 81154)
NPRM 01/15/85 (50 FR 2160)
Final Action 05/11/90 (55 FR 19852)

Ingrown Toenail Relief Products
ANPRM 10/17/80 (45 FR 69128)
NPRM 09/03/82 (47 FR 39120)
Final Action 09/09/93 (58 FR 47602)
NPRM 03/00/02

Insect Bite & Sting (Relief) Prdts (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Insect Repellent Drug Products (Internal)
ANPRM 01/05/82 (47 FR 424)
NPRM 06/10/83 (48 FR 26986)
Final Action 06/17/85 (50 FR 25170)

HHS—FDA **Proposed Rule Stage**

Internal Analgesic Products
ANPRM 07/08/77 (42 FR 35346)
NPRM 11/16/88 (53 FR 46204)
NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66762)
NPRM 10/20/93 (58 FR 54224)
NPRM (Amendment)(Sodium Bicarbonate) 02/02/94 (59 FR 5068)
NPRM (Prof. Labeling)(Acute MI) 06/13/96 (61 FR 30002)
NPRM (Amendment)(Alcohol Warning) 11/14/97 (62 FR 61041)
Final Action (Alcohol Warning) 10/23/98 (63 FR 56789)
Final Action (Aspirin Prof. Label) 10/23/98 (63 FR 56802)
NPRM (Amendment)(Ibuprofen) 04/00/02
Final Action 12/00/02
Final Action (Sodium Bicarbonate) 12/00/02
Final Action (Amendment)(Overindulgence) 12/00/02

Internal Deodorant Products
ANPRM 01/05/82 (47 FR 512)
NPRM 06/17/85 (50 FR 25162)
Final Action 05/11/90 (55 FR 19662)

Labeling of Drug Products for OTC Humen Use
NPRM (Sodium Labeling) 04/25/91 (56 FR 19222)
NPRM 04/05/93 (58 FR 17553)
Final Action 01/28/94 (59 FR 3998)
NPRM (Do not mix drugs) 08/03/94 (59 FR 39499)
NPRM (Amendment) (Do not mix drugs) 10/04/95 (60 FR 52058)
NPRM (Unless a doctor tells you) 03/04/96 (61 FR 8450)
Final Action (Sodium Labeling) 04/22/96 (61 FR 17798)
NPRM (Calcium/Magnesium/Potassium) 04/22/96 (61 FR 17807)
Withdrawal (Unless a doctor tells you) 02/27/97 (62 FR 9024)
Final Action (Format/Examples) 03/17/99 (64 FR 13254)
Final Action (Technical Amendment) 01/03/00 (65 FR 7)
Final Action (Ca/Mg/K/Na) 12/00/01

Laxative Products
ANPRM 03/21/75 (40 FR 12902)
NPRM 01/15/85 (50 FR 2124)
NPRM (Amendment) (Directions/Bulk) 10/01/86 (51 FR 35136)
NPRM (Amendment) (Docusate Salts) 09/02/93 (58 FR 46589)
NPRM (Amendment)(Sodium Phosphates) 03/31/94 (59 FR 15139)
NPRM (Phenolphthalein) 09/02/97 (62 FR 45223)
Final Action (Sodium Phosphates) 05/21/98 (63 FR 27836)
NPRM (Amendment)(Phosphates Label) 05/21/98 (63 FR 27886)
NPRM (Amendment)(Stim. Laxative) 06/19/98 (63 FR 33592)
Final Action; stay (Na Phos. Enema) 12/07/98 (63 FR 67399)
Part. With. (Na Phos. Prof. Lab.) 12/09/98 (63 FR 67817)
Final Action (Phenolphthalein) 01/29/99 (64 FR 4535)
Final Action 12/00/02
Final Action (Stim. Laxative) 12/00/03

Leg Muscle Cramps (Nocturnal Relief) Products
ANPRM 10/01/82 (47 FR 43562)
NPRM 11/08/85 (50 FR 46588)
Final Action 06/22/94 (59 FR 43234)

Male Genital Desensitizer Products
ANPRM 09/07/82 (47 FR 39412)
NPRM 10/02/85 (50 FR 40260)
Final Action 06/19/92 (57 FR 27654)

Menstrual Products
ANPRM 12/07/82 (47 FR 55075)
NPRM 11/16/88 (53 FR 46194)
Final Action 12/00/02

Mercurial (Topical) Products (To be merged w/other rulemkg)
ANPRM 01/05/82 (47 FR 436)

NDA Labeling Exclusivity (Merged with other rulemaking)
NPRM 11/09/93 (58 FR 59622)

Nailbiting/Thumbsucking Deterrent Products
ANPRM 10/17/80 (45 FR 69122)
NPRM 09/03/82 (47 FR 39096)
Final Action 09/02/93 (58 FR 46749)

Nighttime Sleep Aid Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/14/89 (54 FR 6814)
NPRM (Amendment) 09/26/93 (58 FR 45217)
Final Action (Amendment) 04/11/94 (59 FR 16982)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)
Final Action (Amendment)(Warning) 03/00/02

Ophthalmic Products
ANPRM 05/06/80 (45 FR 30002)
NPRM 06/28/83 (48 FR 29788)
Final Action 03/04/88 (53 FR 7076)
Final Action (Anti-infective) 12/18/92 (57 FR 60416)
NPRM (Amendment) (Warning) 02/23/98 (63 FR 8888)
Final Action 06/21/00 (65 FR 38426)

Oral Discomfort (Relief) Products
ANPRM 05/25/82 (47 FR 22712)
NPRM 09/24/91 (56 FR 48302)
Final Action 06/00/03

Oral Health Care Products
ANPRM 05/25/82 (47 FR 22760)
NPRM 01/27/88 (53 FR 2436)
NPRM (Amendment) (Antimicrobials) 02/09/94 (59 FR 6084)
ANPRM (Plaque/Gingivitis) 06/00/02

Oral Wound Healing Products
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)
Final Action 07/18/86 (51 FR 26112)

Otic Products (Dry Water-Clogged Ears)
NPRM (Amendment) 08/17/99 (64 FR 44671)
Final Action 08/10/00 (65 FR 48902)

Otic Products (Earwax)
NPRM 07/09/82 (47 FR 30012)
Final Action 08/08/86 (51 FR 28656)

Otic Products (Swimmers Ear)
NPRM 07/30/86 (51 FR 27366)
Final Action 02/15/95 (60 FR 8916)
Final Action Partial Stay 08/16/95 (60 FR 42435)

Overindulgence Remedies
ANPRM 10/01/82 (47 FR 43540)
NPRM 12/24/91 (56 FR 66742)
Final Action 12/00/02

Overindulgence Remedies/Prevention of Inebriation
ANPRM 10/01/82 (47 FR 43540)
Final Action 07/19/83 (48 FR 32872)

Pediculicide Products
ANPRM 06/29/82 (47 FR 28312)
NPRM 04/03/89 (54 FR 13480)
Final Action 12/14/93 (58 FR 65452)
NPRM (Labeling Amendment) 04/00/02

Phenylpropanolamine Products (Labeling)
NPRM 02/14/96 (61 FR 3912)

Poison Ivy/Oak/Sumac Prevention (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Poison Treatment Products
NPRM 01/15/85 (50 FR 2244)
Final Action 12/00/02
NPRM (Amendment) 12/00/02

Quinine for Malaria
NPRM 04/19/95 (60 FR 19650)
Final Action 03/20/98 (63 FR 13526)

Salicylate (Reye Syndrome)
NPRM (Amendment)(Warning) 05/05/93 (58 FR 26886)
ANPRM 10/20/93 (58 FR 54228)
Final Action (Warning) 04/00/02

Skin Bleaching Products
ANPRM 11/03/78 (43 FR 51546)
NPRM 09/03/82 (47 FR 39108)
NPRM (Reproposed) 01/00/03

Skin Protectant Products
ANPRM 08/04/78 (43 FR 34628)
NPRM 02/15/83 (48 FR 6820)
NPRM (Amendment) (Astringent) 04/03/89 (54 FR 13490)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40808)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3362)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25204)
Final Action (Astringent) 10/21/93 (58 FR 54456)
Final Action (Witch Hazel) 06/03/94 (59 FR 28767)
Final Action (Poison Ivy) 11/00/01
Final Action 11/00/01
Final Action (Astringent) 12/00/01
Smoking Deterrent Products
ANPRM 01/05/82 (47 FR 490)
NPRM 07/03/85 (50 FR 27552)
Final Action 06/01/93 (58 FR 31236)
Status of Certain Category II and III Ingredients
NPRM 05/16/90 (55 FR 20434)
Final Action 11/07/90 (55 FR 46914)
NPRM 08/25/92 (57 FR 38568)
Final Action 05/10/93 (58 FR 27636)
Final Action 04/22/98 (63 FR 19799)
Final Action 08/24/98 (63 FR 44996)
Final Action 09/27/01 (66 FR 49276)
Final Action 12/00/01
Stimulant (Overindulgence) Products
NPRM (Amendment) 12/24/91 (56 FR 66758)
Final Action 12/00/02
Stimulant Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/29/88 (53 FR 6100)
Stomach Acidifier Products
ANPRM 10/19/79 (44 FR 60316)
NPRM 01/15/85 (50 FR 2184)
Final Action 08/17/88 (53 FR 31270)
Sunscreen Products
ANPRM 08/25/78 (43 FR 38206)
NPRM 05/12/93 (58 FR 28194)
NPRM (Amendment) 06/08/94 (59 FR 29706)
NPRM (Amendment)(Avobenzone) 09/16/96 (61 FR 48645)
Final Action (Avobenzone Enf. Pol.) 04/30/97 (62 FR 23350)
Final Action 05/21/99 (64 FR 27666)
ANPRM (and Insect Repellant) 12/00/01
NPRM (UVA/UVB) 06/00/02
Sweet Spirits of Nitre
ANPRM 02/22/80 (45 FR 11846)
Final Action 06/27/80 (45 FR 43400)
Topical Drug Products Containing Benzoyl Peroxide (Labeling)
NPRM 02/17/95 (60 FR 9554)
Final Action 12/00/02
Vaginal Contraceptive Products
ANPRM 12/12/80 (45 FR 82014)
NPRM 02/03/95 (60 FR 6892)
NPRM (Amendment) 06/00/02
Vaginal Drug Products
ANPRM 10/13/83 (48 FR 46694)
Withdrawal 02/03/95 (60 FR 5226)
NPRM (Douches) 12/00/02
Vitamin/Mineral Products
ANPRM 03/16/79 (44 FR 16126)
Withdrawal 11/27/81 (46 FR 57914)
Wart Remover Products
ANPRM 10/03/80 (45 FR 65609)
NPRM 09/03/82 (47 FR 39102)
NPRM (Amendment) 03/27/87 (52 FR 9992)
Final Action 08/14/90 (55 FR 33246)
NPRM (Amendment)(Directions) 01/28/94 (59 FR 4015)
Final Action (Amdt.)(Directions) 11/23/94 (59 FR 60315)
Water Soluble Gums
NPRM 10/30/90 (55 FR 45782)
Final Action 08/26/93 (58 FR 45194)
NPRM 12/00/02
Weight Control Products
ANPRM 02/26/82 (47 FR 8466)
NPRM 10/30/90 (55 FR 45788)
Final Action 08/08/91 (56 FR 37792)
NPRM (Phenylpropanolamine) 04/00/02

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gerald M. Rachanow, Regulatory Counsel, Division of Over-the-Counter Drug Products, Department of Health and Human Services, Food and Drug Administration, HFD-560, Center for Drug Evaluation and Research, 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AA01

1012. ESTABLISHMENT REGISTRATION AND PRODUCT LISTING FOR DRUGS AND BIOLOGICS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360; 21 USC 360b; 21 USC 371; 21 USC 374; 42 USC 262

CFR Citation: 21 CFR 201; 21 CFR 207; 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would amend FDA regulations on the registration of producers of drugs and the listing of drugs in commercial distribution. The proposed revisions would reorganize, consolidate, clarify, and modify current regulations concerning who must register establishments and list drug or biological products. The proposal describes when, how, and where to register and list and what information must be submitted for registration and listing. The proposed regulations would also require the electronic submission of most registration and listing information.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Howard P. Muller, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA49

1013. INVESTIGATIONAL NEW DRUGS: EXPORT REQUIREMENTS FOR UNAPPROVED NEW DRUG PRODUCTS

Priority: Routine and Frequent

Legal Authority: 21 USC 321; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 241; 42 USC 243; 42 USC 262; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 312.110

Legal Deadline: None

Abstract: The proposed rule would amend the regulations on the exportation of unapproved new drug products, including biological products, for investigational use. In general, the proposed rule would provide four different routes for exporting an unapproved new drug product for investigational use. One route would permit exportation, if the drug is the subject of an investigational new drug application (IND) and is being exported for use in the investigation. A second route would permit exportation, without prior Food and Drug Administration (FDA) approval and without an IND, if the product is to be exported for use in a clinical investigation and has received marketing authorization in certain developed countries. The third route

would permit exportation, without prior FDA approval and without an IND, if the product is to be exported for use in a clinical investigation in certain specified developed countries. The fourth route would permit exportation without an IND, to any country provided that the exporter sends a written certification to FDA at the time the drug is first exported. Drugs exported under any of the first three routes would, however, be subject to certain statutory requirements, such as not conflicting with the foreign country's laws and not being sold or offered for sale in the United States. Drugs exported under either the second or third routes would be subject to additional statutory requirements, such as being in substantial conformity with the current good manufacturing practices and certain labeling requirements. These provisions would implement changes in FDA's export authority resulting from the FDA Export Reform and Enhancement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AA61

1014. SAFETY REPORTING AND RECORDKEEPING REQUIREMENTS FOR MARKETED OTC DRUGS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 374; 21 USC 375; 21 USC 379; 42 USC 216; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 371

CFR Citation: 21 CFR 201; 21 CFR 211; 21 CFR 327; 21 CFR 330

Legal Deadline: None

Abstract: The proposed rule would require manufacturers of marketed nonprescription human drug products to report to FDA information they receive about adverse drug reactions, maintain records of adverse drug reactions, and permit access by FDA to adverse drug reaction records.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Audrey Thomas, Regulatory Policy Analyst, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA86

1015. SAFETY REPORTING REQUIREMENTS FOR HUMAN DRUG AND BIOLOGICAL PRODUCTS

Regulatory Plan: This entry is Seq. No. 28 in part II of this issue of the **Federal Register**.

RIN: 0910–AA97

1016. RADIOACTIVE DRUGS FOR BASIC RESEARCH

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 361

Legal Deadline: None

Abstract: The proposed rule would update FDA's regulations on the use of radioactive drugs for basic research to reflect technological changes in the field of radiopharmaceuticals. The proposed rule would also clarify and correct certain provisions.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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Fax: 301 827-5562
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RIN: 0910–AB00

1017. ADMINISTRATIVE PRACTICES AND PROCEDURES; ADVISORY OPINIONS AND GUIDELINES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 1451 to 1461; 42 USC 262; 42 USC 263b; 42 USC 264; 21 USC 41 to 50; 21 USC 141 to 149; 21 USC 321 to 394; 21 USC 467f; 21 USC 679; 21 USC 821; 21 USC 1034; 42 USC 201

CFR Citation: 21 CFR 10; 21 CFR 808

Legal Deadline: None

Abstract: This proposed rule would amend FDA regulations in 21 CFR part 10 concerning advisory opinions.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Mitchell Weitzman, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB14

1018. BLOOD INITIATIVE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262; 42 USC 263; 42 USC 263a; 42 USC 264

CFR Citation: 21 CFR 600; 21 CFR 601; 21 CFR 606; 21 CFR 607; 21 CFR 610; 21 CFR 640; 21 CFR 660; 21 CFR 680

Legal Deadline: None

Abstract: In multiple rulemakings, the Food and Drug Administration is amending the biologics regulations by removing, revising, or updating specific regulations applicable to blood, blood components, Source Plasma and blood derivative products to be more consistent with current practices and to remove unnecessary or outdated requirements. This action is based on a comprehensive review of the regulations that has been performed by FDA. It is also based on reports by the U.S. House of Representatives Committee on Government Reform and Oversight, Subcommittee on House Resources and Intergovernmental Relations; the General Accounting Office; the Institute of Medicine, as well as public comments. Some of the subjects intended to be addressed in the rulemakings include: 1) labeling; 2) notification of consignees and end users of product safety information for plasma derivative products; 3) notification of deferred donors; 4) requirements for donor suitability and testing; and 5) infectious agent clearance. These actions are intended to help ensure the continued safety of the Nation's blood supply.

Timetable:

Action	Date	FR Cite
Albumin (Human), Plasma Protein Fraction (Human) and Immune Globulin (Human); Rev. of Reqs.		
Direct Final Rule	05/14/99	64 FR 26282
NPRM	05/14/99	64 FR 26344
DFR: Confirmation in Part and Tech. Amendment	03/14/00	65 FR 13678
Final Action	08/28/00	65 FR 52016
Current Good Manufacturing Practice for Blood and Blood Components; Blood Labeling Standards		
NPRM	06/00/02	
Gen. Reqs. for Blood, Blood Compon., and Plasma Derivatives; Notification of Deferred Donors		
NPRM	08/19/99	64 FR 45355
Final Action	06/11/01	66 FR 31165
Infectious Agent Clearance		
NPRM	01/00/03	
Plasma Derivatives and Other Blood-Derived Products; Reqs. for Tracking and Notification		
ANPRM	08/19/99	64 FR 45383
NPRM	06/00/02	
Reqs. for Testing Human Blood Donors for Evid. of Infection Due to Communicable Disease Agents		
NPRM	08/19/99	64 FR 45340
Final Action	06/11/01	66 FR 31146
Rev. to the Requirements Applicable to Blood, Blood Components, and Source Plasma		
Direct Final Rule	08/19/99	64 FR 45366
NPRM	08/19/99	64 FR 45375
DFR: Confirmation in Part and Tech. Amendment	01/10/01	66 FR 1834
Final Action	08/06/01	66 FR 40886
Suitability Reqs. for Whole Blood and Source Plasma Donors		
NPRM	01/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: See RIN 0910-AB76. CGMP for Blood and Blood Components; Blood Labeling Standards formerly listed under 0910-AB89

Agency Contact: Steven F. Falter, Director, Regulations and Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
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RIN: 0910–AB26

1019. APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG; COMPLETE RESPONSE LETTER; AMENDMENTS TO UNAPPROVED APPLICATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 312; 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would amend the regulations on marketing approval of new drugs to discontinue the use of approvable and not approvable letters when taking action on a marketing application and instead use complete response letters. The proposed rule would also amend the regulations on extension of the review clock because of amendments to applications.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AB34

1020. EXPANDED ACCESS TO INVESTIGATIONAL THERAPIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 360bbb

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: The proposed rule would revise the investigational new drug regulations to clarify the conditions under which individual patients may receive investigational drugs for treatment use and to clarify the conditions under which a small group of patients may receive investigational drugs for treatment use under an access protocol.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Joseph Griffin, Regulatory Counsel, Department of

Health and Human Services, Food and Drug Administration, (HFD-40), Center for Drug Evaluation and Research, 1451 Rockville Pike, Suite 6021, Rockville, MD 20852
Phone: 301 594-6758
Fax: 301 594-5298

RIN: 0910–AB37

1021. ELECTRONIC SUBMISSION OF POSTMARKETING SAFETY REPORTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 216; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 262; 21 USC 263; 21 USC 263a; 21 USC 264; 21 USC 300aa; 21 USC 321; 21 USC 331; 21 USC 251 to 353

CFR Citation: 21 CFR 310; 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: The proposed rule would set forth requirements on the electronic submission of postmarketing safety reports using internationally accepted electronic data format, and electronic transmission standards.

Timetable:

Action	Date	FR Cite
ANPRM	11/05/98	63 FR 59746
ANPRM Comment Period End	02/03/99	
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Audrey Thomas, Regulatory Policy Analyst, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AB42

1022. DISTINGUISHING MARKS FOR DRUG PRODUCTS CONTAINING INSULIN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The proposed rule would set forth a new system of distinctive colors and marks to identify different types of insulin-containing drug products.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Howard P. Muller, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB43

1023. PREGNANCY LABELING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The proposed rule would revise the regulatory requirements for the pregnancy labeling subsection of the labeling requirements for human drugs and biologics.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Virginia G. Beakes, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB44

1024. POSITRON EMISSION TOMOGRAPHY DRUGS; CURRENT GOOD MANUFACTURING PRACTICE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 121

CFR Citation: 21 CFR 220

Legal Deadline: Final, Statutory, November 21, 1999.

Abstract: Positron emission tomography (PET) is a medical imaging modality involving the use of a unique type of radiopharmaceutical drug. PET drugs are usually injected intravenously into patients for diagnostic purposes. Most PET drugs are produced using cyclotrons at locations that are in close proximity to the patients to whom the drugs are administered (e.g., in hospitals or academic institutions). Each PET drug is compounded under a physician's prescription and, due to the short half-lives of PET drugs, is administered to the patient within a few minutes or hours.

Under section 501(a)(2)(B) of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 351(a)(2)(B)), a drug is adulterated if the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice (CGMP) to assure that the drug meets the requirements of the Act as to safety and has the identity and strength, and meets the quality and purity characteristics, that it purports or is represented to possess. FDA's CGMP requirements for drug products are set forth in 21 CFR parts 210 and 211.

On November 21, 1997, the President signed into law the Food and Drug Administration Modernization Act

(Modernization Act) (Pub. L. 105-115). Section 121 of the Modernization Act contains several provisions affecting the regulation of PET drugs. Section 121(c)(1)(A) of the Modernization Act directs FDA to establish, within two years after enactment, appropriate approval procedures and CGMP requirements for PET drugs. Section 121(c)(1)(B) directs FDA to consult with patient advocacy groups, professional associations, manufacturers, and other interested persons as the agency develops PET drug CGMP requirements and approval procedures. FDA's proposed rule on PET drug CGMP will be designed to reflect the unique nature of PET drug products.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB63

1025. CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 351; 21 USC 352; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 225

Legal Deadline: None

Abstract: This proposal is in response to a citizen petition request to merge the separate requirements of the current good manufacturing practice (CGMP) regulations, 21 CFR part 225 applicable to licensed and unlicensed feed manufacturing facilities, respectively. The merger would produce a single set of updated, streamlined CGMPs that apply to all medicated feed manufacturers. This consolidation of existing CGMPs would preserve and strengthen food safety, be more appropriate given the changing structure of the medicated feed industry, and enhance uniformity and enforcement.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: George Graber, Director, Division of Animal Feeds, Department of Health and Human Services, Food and Drug Administration, HFV-220, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
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RIN: 0910–AB70

1026. FIXED-COMBINATION PRESCRIPTION AND OVER-THE-COUNTER DRUGS FOR HUMAN USE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 361; 21 USC 371

CFR Citation: 21 CFR 300.50; 21 CFR 330.10

Legal Deadline: None

Abstract: The proposed rule would amend 21 CFR 300.50 and 21 CFR 330.10(a)(4)(iv), which state the conditions under which two or more drugs (for a prescription drug) or active ingredients (for an over-the-counter drug) may be combined in a single dosage form. The proposed rule would state how this provision will apply to products derived from natural sources, including animal or botanical raw materials and traditional fermentation products.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB79

1027. REPACKAGING APPROVAL REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would set forth requirements for FDA prior approval of certain types of repackaging of approved drug products by persons who are not holders of approved applications for the products. The proposed rule would ensure that FDA approves changes to drug product containers and closure systems by both application holders and repackagers.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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HHS—FDA

Proposed Rule Stage

Email: pendletonb@cder.fda.gov

RIN: 0910–AB81

1028. CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PACKING, OR HOLDING DIETARY INGREDIENTS AND DIETARY SUPPLEMENTS

Regulatory Plan: This entry is Seq. No. 29 in part II of this issue of the **Federal Register**.

RIN: 0910–AB88

1029. SUBMISSION IN ELECTRONIC FORMAT OF CERTAIN LABELING INFORMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 350; 21 USC 351; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e; ...

CFR Citation: 21 CFR 314.50; 21 CFR 314.81; 21 CFR 314.94

Legal Deadline: None

Abstract: The Food and Drug Administration is proposing to amend its regulations governing the format in which certain labeling in new drug applications, abbreviated new drug applications, certain biological license applications, supplements, and annual reports is required to be submitted. The proposal would require that certain labeing content described under sections 201.56 and 201.57 be submitted to FDA in electronic format.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Andrea C. Masciale, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB91

1030. FEES RELATING TO DRUGS; WAIVER AND REDUCTION OF FEES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 379g; 21 USC 379h

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Sections 735 and 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. sections 379g and 379h) require FDA to assess and collect fees related to human drug applications. Section 736(d) of the Act (21 U.S.C. 379h(d)) authorizes the agency to grant a waiver or reduction of such fees in certain circumstances. This proposed rule would establish FDA's criteria for determining when to grant a waiver or reduction of fees.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Paul C. Varki, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037, (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB92

1031. PERIODIC TESTING FOR CERTAIN HUMAN DRUG, VETERINARY DRUG, AND BIOLOGICAL PRODUCT FINAL SPECIFICATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360(b); 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 211.165; 21 CFR 314; 21 CFR 514; 21 CFR 601; 21 CFR 610

Legal Deadline: None

Abstract: The proposed rule requests comments on when certain finished product laboratory tests to determine satisfactory conformance to final specifications for new human drug, animal drug, and biological products may be performed on a periodic basis.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Carol Drew, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB93

1032. REQUIREMENTS PERTAINING TO SAMPLING SERVICES AND PRIVATE LABORATORIES USED IN CONNECTION WITH IMPORTED FOOD

Priority: Routine and Frequent

Legal Authority: 21 USC 331; 21 USC 333; 21 USC 334; 21 USC 335b; 21 USC 335c; 21 USC 342; 21 USC 343; 21 USC 351; 21 USC 352; 21 USC 361; 21 USC 362; 21 USC 371; 21 USC 372; 21 USC 374; 21 USC 376; 21 USC 381

CFR Citation: 21 CFR 59

Legal Deadline: None

Abstract: The proposed rule would establish requirements for importers and other persons who use sampling services and private laboratories in connection with imported food. For example, the proposal would pertain to persons who use sample collection services and private laboratories and would describe some responsibilities for such persons, sample collection services, and private laboratories. These responsibilities might include recordkeeping requirements to ensure

that the correct sample is collected and analyzed, and a notification requirement if a person intends to use a private laboratory in connection with imported food. The proposed rule is intended to help insure the integrity and scientific validity of data and results submitted to FDA.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AB96

1033. MEDICAL DEVICES, MEDICAL DEVICE ESTABLISHMENT REGISTRATION AND LISTING REQUIREMENTS; AMENDMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 360; 21 USC 360c; 21 USC 360e; 21 USC 360i; 21 USC 360j; 21 USC 371; 21 USC 374

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: FDA is considering revising its present establishment registration and device listing regulations. More particularly, FDA is considering whether to: (1) merge establishment registration and device listing into a single process; (2) require the electronic submission of the establishment registration and device listing information to FDA through the Internet; (3) require use of a firm identification number that would link registration and listing information for all establishments operated by the same firm; (4) amend time frames for providing and updating registration and listing data; and (5) require notification of transfer of ownership for all premarket applications.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Bryan H. Benesch, Special Assistant to the Director, Office of Compliance, Department of Health and Human Services, Food and Drug Administration, HFZ-300, Center for Devices and Radiological Health, 2094 Gaither Road, Rockville, MD 20850
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Email: bhb@cdrh.fda.gov

RIN: 0910–AB99

1034. REPORTING INFORMATION REGARDING FALSIFICATION OF DATA

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 341 to 343; 21 USC 348; 21 USC 349; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 360c; 21 USC 360e; 21 USC 360i; 21 USC 360j; 21 USC 360k; 21 USC 361; 21 USC 371; 21 USC 379e; 42 USC 262

CFR Citation: 21 CFR 70.3; 21 CFR 71.1; 21 CFR 170.3; 21 CFR 171.1; 21 CFR 312.3; 21 CFR 312.56; 21 CFR 510.3; 21 CFR 511.1; 21 CFR 812.46

Legal Deadline: None

Abstract: The proposed rule would require sponsors to promptly report any information indicating that any person has or may have falsified data in the course of proposing, designing, performing, recording, supervising, or reviewing research, or in reporting research results.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3059 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AC02

1035. STATUS REPORTS OF DISTRIBUTION AND USE INFORMATION FOR ANTIMICROBIAL ANIMAL DRUG PRODUCTS USED IN FOOD-PRODUCING ANIMALS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 360b(e); 21 USC 371(a)

CFR Citation: 21 CFR 510.300

Legal Deadline: None

Abstract: After approving a new animal drug application, the Food and Drug Administration (FDA) requires the sponsor to submit adverse experience and use information on the product. The currently submitted distribution data are insufficient to provide the use information needed by FDA. Because of concern about the effect of the use of antimicrobial drugs in food-producing animals on the development rate and extent of resistance in human pathogens, FDA published a document describing a proposed framework for evaluating and protecting human health. The Framework Document describes the need for more detailed drug distribution information to permit the evaluation of a correlation between changes in resistance and the use of antimicrobial drugs in food-producing animals. The regulatory proposal would require the reporting of the total number of distributed units of each size, strength, or potency (distribution data or quantity marketed data) and provide FDA with the more detailed information needed to assess the correlation between resistance in human pathogens and the use of antimicrobial drugs in food-producing animals.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

HHS—FDA

Proposed Rule Stage

Agency Contact: William Keller, Division Director, Division of Surveillance, Department of Health and Human Services, Food and Drug Administration, (HFV-210), Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6642

RIN: 0910–AC04

1036. LABELING DIETARY SUPPLEMENTS FOR WOMEN WHO ARE OR MAY BECOME PREGNANT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321(n); 21 USC 342(f); 21 USC 343(a)(1); 21 USC 343(r)(6); 21 USC 371(a)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to require manufacturers to label their dietary supplements with a caution statement for women who are or may become pregnant unless there is evidence demonstrating that use in pregnancy is safe. FDA is including in this proposal a list of products that would not require this caution statement, as well as a petition process by which a product may be exempted from bearing the caution statement. FDA is also proposing to require manufacturers of dietary supplements that bear a claim about an effect on a condition associated with pregnancy to maintain and permit FDA inspection of certain records. FDA is proposing this rule because of the special safety concerns associated with use of any product during pregnancy.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AC09

1037. REGULATION OF CARCINOGENIC COMPOUNDS USED IN FOOD-PRODUCING ANIMALS; DEFINITION OF "NO RESIDUE"

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 351 to 353; 21 USC 360b; 21 USC 371

CFR Citation: 21 CFR 500.82; 21 CFR 500.84; 21 CFR 500.88

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to amend its regulations relating to the operational definition of the term "no residue." The definition is used in determining whether any residue of carcinogenic compounds used in food-producing animals would "be found in food produced from those animals under conditions of use reasonably certain to be followed in practice" (21 CFR 500.80(a)). Under the current operational definition of no residue, it is possible for a residue detected by a method approved by FDA to be considered "no residue." FDA is revising its regulations to make them consistent with a 1995 Department of Justice opinion regarding this definition. The proposed changes would revise the definition of "no residue" to mean that no residue is detected with an approved regulatory method. FDA would propose several conditions that sponsors of carcinogenic compounds must satisfy with respect to the sponsors' proposed regulatory methods.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Brynes, Regulatory Scientist, Department of Health and Human Services, Food and Drug Administration, HFV-151, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
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Email: sbrynes@cvm.fda.gov

RIN: 0910–AC13

1038. CONTROL OF SALMONELLA ENTERITIDIS IN SHELL EGGS DURING PRODUCTION AND RETAIL

Regulatory Plan: This entry is Seq. No. 30 in part II of this issue of the Federal Register.

RIN: 0910–AC14

1039. ALUMINUM IN LARGE AND SMALL VOLUME PARENTERALS USED IN TOTAL PARENTERAL NUTRITION

Priority: Other Significant

Legal Authority: 21 USC 352; 21 USC 321(n); 21 USC 371(a); 21 USC 355; 21 CFR 201.51; 21 CFR 201.100; 21 CFR 314.125

CFR Citation: 21 CFR 201.323(c)

Legal Deadline: None

Abstract: The proposed rule would revise 21 CFR 323(c) to permit small volume parenterals and pharmacy bulk packages that contain less than 25 ug/L of aluminum to state "contains less than 25ug/L" rather than the exact amount of aluminum.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3059 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AC18

1040. USE OF MATERIALS DERIVED FROM RUMINANT ANIMALS IN FDA REGULATED PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

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HHS—FDA

Proposed Rule Stage

Legal Deadline: None

Abstract: The U.S. Department of Agriculture's Animal and Plant Health Inspection Service maintains, by regulation in 9 CFR 94.18(a), a list of countries: (1) where bovine spongiform encephalopathy (BSE) exists; and (2) that present an undue risk of introducing BSE into the United States. This proposed rule would restrict, in FDA regulated products, the use of most materials derived from ruminant animals born, raised, or slaughtered in a country listed in 9 CFR 94.18(a). In addition, there would be a waiver provision that could be used under appropriate criteria.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Andrea C. Masciale, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AC19

1041. POSTMARKETING REPORTS OF SUBSTANDARD OR INEFFECTIVE BULK INGREDIENTS AND BULK INGREDIENTS FROM UNAPPROVED SOURCES

Priority: Info./Admin./Other

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The proposed rule would address reporting and other issues relating to the importation or receipt of bulk ingredients that are substandard, ineffective, or come from unapproved sources. The proposal is intended to enhance FDA's ability to help ensure that human drug products have the strength, quality, and purity appropriate for an approved human drug product.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AC20

1042. • EXCEPTION FROM GENERAL REQUIREMENTS FOR INFORMED CONSENT; REQUEST FOR COMMENTS AND INFORMATION

Regulatory Plan: This entry is Seq. No. 31 in part II of this issue of the **Federal Register**.

RIN: 0910–AC25

1043. • BAR CODE LABEL REQUIREMENTS FOR HUMAN DRUG PRODUCTS

Regulatory Plan: This entry is Seq. No. 32 in part II of this issue of the **Federal Register**.

RIN: 0910–AC26

1044. • PROMOTION AND CHARGING FOR INVESTIGATIONAL DRUGS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 360bbb

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: The proposed rule would clarify the criteria under which sponsors can recover costs for investigational drugs, create one new category of investigational use for which sponsors may be able to recover cost, and clarify the types of costs that can be recovered when charging for an investigational drug.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Joseph Griffin, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, (HFD-40), Center for Drug Evaluation and Research, 1451 Rockville Pike, Suite 6021, Rockville, MD 20852
Phone: 301 594-6758
Fax: 301 594-5298

RIN: 0910–AC27

Department of Health and Human Services (HHS)
Food and Drug Administration (FDA)

Final Rule Stage

1045. NEW ANIMAL DRUG APPROVAL PROCESS; IMPLEMENTATION OF TITLE I OF THE GENERIC ANIMAL DRUG AND PATENT TERM RESTORATION ACT (GADPTRA)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 360b; 21 USC 371; 21 USC 379e; 21 USC 381

CFR Citation: 21 CFR 514

Legal Deadline: Final, Statutory, November 16, 1989, The deadline applies to the GADPTRA sections. There is no deadline relating to the other sections.

Abstract: On December 17, 1991, the Agency published a proposed revision of the existing regulations that is consistent with the current procedural regulations for human drugs, where appropriate. The New Animal Drug Application (NADA) revisions articulate general requirements in regulations containing performance standards and would complement these regulations through detailed guidance on, among other matters, appropriate ways of meeting requirements for submission of chemistry, pharmacology, and statistical data that would better address the intricate scientific issues involved. A separate proposed rule for reporting requirements for marketed animal drugs also was published on that date. The agency intends to repropose the NADA proposed rule to incorporate some recent changes in procedure. The NADA revisions are expected to include regulations to implement the provisions of the Animal Drug Availability Act of 1996, specifically the definition of flexible labeling, and implement parts of the President's National Performance Report "Reinventing the Regulation of Animal Drugs," May 1996. In the reinventing regulations report, FDA proposed to revise its regulations to reflect numerous new process changes and programs that will maintain the safety and effectiveness of new animal drugs and enable a more streamlined animal drug application review and approval process which will result in less regulatory burden upon industry and FDA. The Agency also proposes to amend its regulations to implement title I of the Generic Animal Drug and Patent Term Restoration Act, which established new standards for marketing approval of generic copies of animal drugs approved after 1962.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
ANPRM Comment Period End	01/21/97	
New Animal Drug Approval Process		
NPRM 12/17/91 (56 FR 65544)		
NPRM To Be Determined		
Records and Reports Concerning Experience with Approved New Animal Drugs		
NPRM 12/17/91 (56 FR 65581)		
Final Action 01/00/02		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: For information concerning reporting requirements for marketed animal drugs, contact William C. Keller, Director, Division of Surveillance, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, 301 827-6642.

For further information concerning generic animal drugs, contact Lonnie W. Luther, Chief, Quality Assurance Support Team, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, 301 827-0209.

Agency Contact: Claire Lathers, Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, HFV-100, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-1796

RIN: 0910–AA02

1046. CURRENT GOOD MANUFACTURING PRACTICE; AMENDMENT OF CERTAIN REQUIREMENTS FOR FINISHED PHARMACEUTICALS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 210.3; 21 CFR 211.113; 21 CFR 211.160; 21 CFR 211.165; 21 CFR 211.166; 21 CFR 211.180; 21 CFR 211.192; 21 CFR 211.220; 21 CFR 211.222; 21 CFR 211.240; 21 CFR 211.22; 21 CFR 211.68; 21 CFR 211.82; 21 CFR 211.84; 21 CFR 211.101; 21 CFR 211.103; 21 CFR 211.110; 21 CFR 211.111; ...

Legal Deadline: None

Abstract: FDA is finalizing revisions to the current good manufacturing practice (CGMP) regulations at 21 CFR parts 210 and 211 regarding finished pharmaceuticals. The new regulations will codify certain current agency policies and current industry practices. The rule will, among other things, create or clarify requirements for process and methods validation, appropriate laboratory testing procedures, and protection against contamination. The rule is designed to update the CGMP regulations in response to technological changes and the agency's experience with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/03/96	61 FR 20104
NPRM Comment Period End	09/30/96	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Howard P. Muller, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA45

1047. BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 320

Legal Deadline: None

Abstract: The final rule revises and clarifies certain sections of parts 314 and 320 and eliminates duplication and inconsistencies.

Timetable:

Action	Date	FR Cite
NPRM	11/19/98	63 FR 64222

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HHS—FDA

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	02/02/99	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3059 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA51

1048. DETERMINATION THAT INFORMED CONSENT IS INFEASIBLE OR IS CONTRARY TO THE BEST INTEREST OF RECIPIENTS

Priority: Other Significant

Legal Authority: 21 USC 321; 42 USC 241; 42 USC 262; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 371; 42 USC 216; 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 360c; 21 USC 360d; 21 USC 360e; 21 USC 360f; 21 USC 360h; 21 USC 360i; 21 USC 360j; 21 USC 379e; 21 USC 381; 42 USC 263b; 42 USC 263e; 42 USC 263f; 42 USC 263g; 42 USC 263h; 42 USC 263i; 42 USC 263j; 42 USC 263k; 42 USC 263l; 42 USC 263m; 42 USC 263n; 42 USC 263c; 42 USC 263d

CFR Citation: 21 CFR 50; 21 CFR 312

Legal Deadline: None

Abstract: The Food and Drug Administration is planning to publish a final rule that would finalize its 1999 interim final rule (64 FR 54180) that established strengthened criteria and standards for the President to apply in making a determination that informed consent is not feasible or is contrary to the best interest of military personnel engaged in specific military operations. Under the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, the President is authorized to waive the Federal Food, Drug, and Cosmetic Act's informed consent requirements in military operations, if the President finds that obtaining consent is infeasible or contrary to the best interests of recipients and on an additional ground that obtaining consent is contrary to national security interests.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/99	64 FR 54180
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-0587
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RIN: 0910–AA89

1049. LABELING FOR HUMAN PRESCRIPTION DRUGS; REVISED FORMAT

Regulatory Plan: This entry is Seq. No. 33 in part II of this issue of the **Federal Register**.

RIN: 0910–AA94

1050. CURRENT GOOD MANUFACTURING PRACTICE; REVISION OF CERTAIN LABELING CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 210; 21 CFR 211

Legal Deadline: None

Abstract: The final rule will amend the labeling control provisions for gang-printed or cut labeling in the current good manufacturing practice regulations for drug products (21 CFR parts 210 and 211) to make the provisions less burdensome while still reducing the frequency of drug product mislabeling and drug product recalls associated with cut labeling.

Timetable:

Action	Date	FR Cite
NPRM	07/29/97	62 FR 40489
NPRM Comment Period End	10/27/97	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Howard P. Muller, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AA98

1051. USE OF OZONE-DEPLETING SUBSTANCES

Priority: Other Significant

Legal Authority: 15 USC 402; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 361; 21 USC 371; 15 USC 409; 21 USC 321; 21 USC 331; 21 USC 335; 21 USC 342; 21 USC 346a; 21 USC 348; 21 USC 351

CFR Citation: 21 CFR 2

Legal Deadline: None

Abstract: FDA is amending the regulation that permits the use of ozone-depleting substances in particular circumstances to set the standard FDA will use to determine when the use of ozone-depleting substances (ODS) is no longer essential under the Clean Air Act (CAA) and set a new standard to determine when a new essential-use designation should be granted after the effective date of the rule. FDA is also amending the regulations to better conform to other statutes and regulations relating to ozone-depleting substances to eliminate potential confusion and conflicts. FDA is eliminating out-of-date transitional provisions and making other nonsubstantive housekeeping changes to its regulations on ozone-depleting substances. The intended effect of the rule is to protect the health and safety of medical product users while complying with the CAA and the Montreal Protocol.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/97	62 FR 10242
ANPRM Comment Period End	05/05/97	
NPRM	09/01/99	64 FR 47719
NPRM Comment Period End	11/30/99	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

HHS—FDA

Final Rule Stage

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RIN: 0910–AA99

1052. EXPORTS; NOTIFICATION AND RECORDKEEPING REQUIREMENTS

Priority: Routine and Frequent

Legal Authority: 15 USC 1453 to 1455; 21 USC 382; 21 USC 393; 42 USC 216; 42 USC 241; 42 USC 243; 42 USC 262; 21 USC 321; 21 USC 343; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 362; 21 USC 371; 21 USC 381

CFR Citation: 21 CFR 1.101

Legal Deadline: None

Abstract: The final rule would establish the notification recordkeeping requirements for persons exporting human drugs, animal drugs, biological products, and devices under the FDA Export Reform and Enhancement Act.

Timetable:

Action	Date	FR Cite
NPRM	04/02/99	64 FR 15944
Extension	06/17/99	64 FR 32442
NPRM Comment Period End	07/16/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0910–AB16

1053. FOREIGN ESTABLISHMENT REGISTRATION AND LISTING

Regulatory Plan: This entry is Seq. No. 34 in part II of this issue of the **Federal Register**.

RIN: 0910–AB21

1054. FDA EXPORT REFORM AND ENHANCEMENT ACT OF 1996; REPORTING AND RECORDKEEPING REQUIREMENTS FOR UNAPPROVED OR VIOLATIVE PRODUCTS IMPORTED FOR FURTHER PROCESSING OR INCORPORATION AND LATER EXPORT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1453 to 1455; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 216; 21 USC 321; 21 USC 343; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 362; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 1.84

Legal Deadline: None

Abstract: The final rule would establish reporting and recordkeeping requirements to implement sections 801(d)(3) and 801(d)(4) of the Federal Food, Drug, and Cosmetic Act (the Act) as amended by the Food and Drug Administration (FDA) Export Reform and Enhancement Act of 1996. Section 801(d)(3) of the Act provides that, under prescribed conditions, drug and device components, food and color additives, and dietary supplements may be imported if they are to be further processed or incorporated into products that are to be exported from the United States in accordance with sections 801(e) or 802 of the Act or section 351(h) of the Public Health Service (PHS) Act. Section 801(d)(4) of the Act provides that blood, blood components, source plasma, or source leukocytes, or a component, accessory, or part thereof, may not be imported under section 801(d)(3) of the Act unless the importation complies with section 351(a) of the PHS Act or FDA permits the importation under FDA-determined appropriate circumstances and conditions. Additionally, section 801(d)(4) of the Act prohibits the importation of tissue or a component or part of tissue under section 801(d)(3) of the Act unless the importation complies with section 361 of the PHS Act.

Timetable:

Action	Date	FR Cite
NPRM	11/24/98	63 FR 64930
NPRM Comment Period End	02/08/99	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0910–AB24

1055. ANTIBIOTIC DRUG APPROVAL AND EXCLUSIVITY

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 125

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The final rule would implement the incorporation of antibiotics, which were formerly regulated under authority of section 507 of the Federal Food, Drug, and Cosmetic Act, into the new drug regulatory scheme under section 505 of the Act. The regulation will describe which antibiotics are excepted under section 125(d) of the Food and Drug Administration Modernization Act of 1997 from certain provisions in section 505, including the exclusivity provisions under sections 505(c) and 505(j) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	01/24/00	65 FR 3623
NPRM Comment Period End	04/24/00	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0910–AB33

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1056. AMENDMENT OF REGULATIONS REGARDING CERTAIN LABEL STATEMENTS ON PRESCRIPTION DRUGS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-115, sec 126

CFR Citation: 21 CFR 201; 21 CFR 250; 21 CFR 310; 21 CFR 329; 21 CFR 361; 21 CFR 369; 21 CFR 290

Legal Deadline: None

Abstract: This final rule revises 21 CFR parts 10, 201, 250, 310, 329, 361, 606, and 610 by removing the requirement that prescription drugs be labeled "Caution: Federal law prohibits dispensing without prescription" and substituting a requirement that prescription drugs be labeled "Rx only." The rule also revises 21 CFR parts 201, 329, and 369 by removing the requirement that certain habit-forming drugs bear the statement "Warning—May be habit forming." The rule also revises 21 CFR part 290 to clarify that drugs that are controlled substances under the Federal Controlled Substances Act are prescription drugs.

Timetable:

Action	Date	FR Cite
NPRM	04/21/00	65 FR 21378
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3059 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB39

1057. SUPPLEMENTS AND OTHER CHANGES TO APPROVED NEW ANIMAL DRUG APPLICATIONS

Priority: Other Significant

Legal Authority: 21 USC 356a

CFR Citation: 21 CFR 514.8

Legal Deadline: None

Abstract: Section 116 of the Food and Drug Administration Modernization Act of 1997 added a new section to the Federal Food, Drug, and Cosmetic Act that sets forth categories for the reporting of manufacturing changes to a drug product (21 U.S.C. 356a). These categories are based on the potential of the change to adversely affect the identity, strength, quality, purity, and potency of the drug as they may relate to the safety and effectiveness of the drug. The rulemaking will establish the procedures for determining what information the agency would require before drugs manufactured subject to these changes may be distributed. The Center for Veterinary Medicine is amending the regulations regarding supplementary new animal drug regulations to incorporate the requirements of section 116.

Timetable:

Action	Date	FR Cite
NPRM	10/01/99	64 FR 53281
Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: William Marnane, Director, Division of Manufacturing Technologies, Department of Health and Human Services, Food and Drug Administration, HFV-140, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
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RIN: 0910–AB49

1058. REVISIONS TO THE GENERAL SAFETY REQUIREMENTS FOR BIOLOGICAL PRODUCTS; DIRECT FINAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 351

CFR Citation: 21 CFR 610.11(g)

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) issued a direct final rule and companion proposed rule to amend the biologics regulations by adding "cellular therapy products" to the list of products excepted from the general safety test (GST) and by adding an administrative procedure for obtaining an exemption from the GST requirements for other biological products. Because the agency received significant adverse comment on the administrative procedure portion of the direct final rule, FDA withdrew that portion of the rule and confirmed the remaining portion. FDA intends to finalize the companion proposed rule to respond to the significant adverse comment on the administrative procedure portion of the rule. FDA is taking this action because the GST may not be relevant or necessary for all biological products, including cellular therapy products, currently in various stages of development. This action is part of FDA's continuing effort to achieve the objectives of the "Reinventing Government" initiative, and is intended to reduce the burden of unnecessary regulations on biological products without diminishing the protection of the public health.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/20/98	63 FR 19399
Proposed Rule - Companion Document to Direct Final Rule	04/20/98	63 FR 19431
Direct Final Rule Confirmation in Part	08/05/98	63 FR 41718
Direct Final Rule Withdrawn in Part	08/05/98	63 FR 41718
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen M. Ripley, Team Leader, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
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RIN: 0910–AB51

1059. DISCONTINUATION OF A LIFESAVING PRODUCT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 356(c)

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: Section 131 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 506C to the Food, Drug, and Cosmetic Act (21 U.S.C. 356c). This proposed

rule would set forth requirements on issues related to the implementation of section 131, which requires that the sole manufacturer of certain drug products notify the Secretary of the discontinuance of the manufacture of the product at least six months prior to the discontinuance of the drug.

Timetable:

Action	Date	FR Cite
NPRM	11/07/00	65 FR 66665
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 0910–AB60

1060. SUPPLEMENTS AND OTHER CHANGES TO AN APPROVED APPLICATION

Priority: Other Significant

Legal Authority: 21 USC 356a

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: Section 116 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 506A to the Food, Drug, and Cosmetic Act (21 U.S.C. 356a). Pursuant to section 116, the rulemaking will revise current procedures for approving manufacturing changes and generally classify such changes into four categories. Major manufacturing changes, which are of a type determined by the Secretary to have a substantial potential to adversely affect the identity, strength, quality, purity, and potency of the drug as they may relate to the safety and effectiveness of a drug, require prior approval of a supplemental application. A second category of changes may be made if FDA has not notified the company within 30 days after the submission of a supplement that prior approval is required. A third category of changes may be made upon submission of a supplement to the agency. The rule will also identify another category of changes that may be made without the submission of a supplement but which must be reported in an annual report.

Timetable:

Action	Date	FR Cite
NPRM	06/28/99	64 FR 34608
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Howard P. Muller, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB61

1061. FOOD LABELING: TRANS FATTY ACIDS IN NUTRITION LABELING, NUTRIENT CONTENT CLAIMS, AND HEALTH CLAIMS

Regulatory Plan: This entry is Seq. No. 35 in part II of this issue of the **Federal Register**.

RIN: 0910–AB66

1062. PRESUBMISSION CONFERENCES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 514

Legal Deadline: None

Abstract: This rule will implement section 512(b)(3) of the Federal Food, Drug, and Cosmetic Act (the Act). This section of the Act states that any person intending to file a new animal drug application or supplemental new animal drug application, or to investigate a new animal drug is entitled to one or more conferences with the agency prior to submission to reach an agreement establishing a submission or investigational requirement. This rule would describe how to request a presubmission conference and describe the procedures for the conduct of presubmission conferences.

Timetable:

Action	Date	FR Cite
NPRM	08/25/00	65 FR 51782
Final Rule	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Gail Schmerfeld, Special Assistant, Department of Health and Human Services, Food and Drug Administration, HFV-100, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
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RIN: 0910–AB68

1063. SURGEON'S AND PATIENT EXAMINATION GLOVES; RECLASSIFICATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 371; 21 USC 374; 21 USC 331; 21 USC 351 to 352; 21 USC 360c; 21 USC 360i; 21 USC 360j

CFR Citation: 21 CFR 801.437; 21 CFR 878.4460; 21 CFR 878.4461; 21 CFR 880.6250; 21 CFR 880.6251; 21 CFR 801.440

Legal Deadline: None

Abstract: FDA is revising its present regulations governing the classification of surgeon's and patient examination gloves. The present rule classifies surgeon's and patient examination gloves as class I devices. FDA is reclassifying surgeon's and patient examination gloves as class II devices subject to special controls. FDA is also requiring additional labeling concerning powder and protein levels and expiration dating for these devices.

Timetable:

Action	Date	FR Cite
NPRM	07/30/99	64 FR 41710
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, HFZ-215, Center

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RIN: 0910–AB74

1064. CGMPS FOR BLOOD AND BLOOD COMPONENTS: NOTIFICATION OF CONSIGNEES AND TRANSFUSION RECIPIENTS RECEIVING BLOOD AND BLOOD COMPONENTS AT INCREASED RISK OF TRANSMITTING HCV (LOOKBACK)

Regulatory Plan: This entry is Seq. No. 36 in part II of this issue of the **Federal Register**.

RIN: 0910–AB76

1065. ANTIBIOTIC RESISTANCE LABELING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; 42 USC 241; 42 USC 262; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; ...

CFR Citation: 21 CFR 201.24

Legal Deadline: None

Abstract: The final rule would require the inclusion of statements on antibiotic prescription drug labeling concerning inappropriate antibiotic use and the prevalence of drug resistant microorganisms.

Timetable:

Action	Date	FR Cite
NPRM	09/19/00	65 FR 56511
Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 0910–AB78

1066. 180-DAY GENERIC DRUG EXCLUSIVITY FOR ABBREVIATED NEW DRUG APPLICATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314.107

Legal Deadline: None

Abstract: The final rule will amend regulations governing 180-day generic drug exclusivity to clarify existing eligibility requirements and conditions for abbreviated new drug application sponsors, to modify current eligibility requirements, and to impose new eligibility conditions. These revisions are the result of recent court decisions, including Mova Pharmaceutical v. Shalala, 140 F. 3d 1060 (D.C. Cir. 1998), invalidating an eligibility requirement for exclusivity.

Timetable:

Action	Date	FR Cite
NPRM	08/06/99	64 FR 42873
NPRM Comment Period End	10/04/99	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 0910–AB80

1067. FOOD ADDITIVES: FOOD CONTACT SUBSTANCES NOTIFICATION SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321 et seq

CFR Citation: 21 CFR 20.100; 21 CFR 58.3; 21 CFR 170.3; 21 CFR 170.100; 21 CFR 170.101; 21 CFR 170.102; 21 CFR 170.103; 21 CFR 170.104; 21 CFR 170.105; 21 CFR 171.1; 21 CFR 171.4; 21 CFR 174.5; 21 CFR 179.25; 21 CFR 170.106; ...

Legal Deadline: None

Abstract: In November 1997, Congress amended the Federal Food, Drug, and Cosmetic Act (FFD&C) to establish a notification process whereby manufacturers and suppliers of components of food contact materials may notify FDA 120 days prior to marketing a new food contact substance. If FDA does not object to the notification within 120 days, the substance may be marketed with the same status as a regulated food additive. FDA is authorized to publish regulations outlining the information required to be submitted in premarket notifications for food-contact substances submitted to the agency. FDA is also authorized to publish regulations that identify when a food additive petition is required in lieu of a premarket notification. FDA is not required to accept a premarket notification in any fiscal year for which an appropriation is not specifically made for this program. FDA expects that the majority of food-contact substances that are currently the subject of food additive petitions will be the subject of premarket notifications. FDA also expects that substances currently reviewed under the agency's threshold of regulation process will be reviewed as premarket notifications under the new process. Unlike food additive regulations, premarket notifications will be specific to the notifier. The proposed use of a similar or identical substance produced by another manufacturer will require a separate premarket notification submission. Also unlike food additive petitions, the existence of the notification and any otherwise releasable data within the notification is not publicly available until the 120-day period has expired. FDA expects to keep a publicly available list of effective premarket notifications to assist manufacturers, distributors, and users of food packaging and other food-contact materials. FDA published a proposed rule on the notification process for food contact substances on July 13, 2000. The comment period on the proposed rule ended on September 26, 2000. Three comments were received on the proposed rule.

HHS—FDA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/13/00	65 FR 43269
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0910–AB94

1068. MARKING REQUIREMENTS FOR AND PROHIBITIONS ON THE REIMPORTATION OF IMPORTED FOOD PRODUCTS THAT HAVE BEEN REFUSED ADMISSION INTO THE UNITED STATES

Regulatory Plan: This entry is Seq. No. 37 in part II of this issue of the **Federal Register**.

RIN: 0910–AB95

1069. STATE CERTIFICATION OF MAMMOGRAPHY FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 263b

CFR Citation: 21 CFR 900.2; 21 CFR 900.20; 21 CFR 900.21; 21 CFR 900.22; 21 CFR 900.23; 21 CFR 900.24; 21 CFR 900.25

Legal Deadline: None

Abstract: FDA is considering regulations to implement section (q) of the Mammography Quality Standards Act of 1992 (the MQSA). This section permits FDA to authorize individual States to certify mammography facilities, to conduct the inspection of the facilities, to implement the MQSA quality standards, and to administer other related functions. FDA retains oversight responsibility for the activities of the States authorized to carry out certification requirements and mammography facilities certified by those States must continue to meet the quality standards established by FDA for mammography facilities nationwide. The rule would include procedures for application, approval, evaluation, and withdrawal of approval of States as Certification Agencies. It also would include standards to be met by States receiving this authority.

Timetable:

Action	Date	FR Cite
NPRM	03/30/00	65 FR 16847
NPRM Comment Period End	05/28/00	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Ruth Fischer, Office of Health and Industry Programs, Department of Health and Human Services, Food and Drug Administration, HFZ-215, Center for Devices and Radiological Health, 1350 Piccard Drive, Rockville, MD 20850
Phone: 301 827-2960

RIN: 0910–AB98

1070. AVAILABILITY FOR PUBLIC DISCLOSURE AND SUBMISSION TO FDA FOR PUBLIC DISCLOSURE OF CERTAIN DATA AND INFORMATION RELATED TO GENE THERAPY OR XENOTRANSPLANTATION

Priority: Other Significant

Legal Authority: 5 USC 552; 21 USC 331(j); 18 USC 1905; 21 USC 355(i); 21 USC 371(a); 42 USC 264

CFR Citation: 21 CFR 20.100; 21 CFR 312.42; 21 CFR 312.130; 21 CFR 601.50; 21 CFR 601.51; 21 CFR 601.52; 21 CFR 601.53

Legal Deadline: None

Abstract: The regulation would require sponsors of human trials involving human gene therapy or xenotransplantation to submit a redacted version for public disclosure of an investigational new drug application (IND), an amendment to an IND, or other related documents. The submission would be redacted to exclude trade secret information and personal information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. FDA would then make the redacted documents available to the general public and the information would be available for discussion in open session at scientific advisory committee meetings and at other suitable fora.

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4688
NPRM Comment Period End	04/18/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 0910–AC00

1071. EXAMINATION OF ADMINISTRATIVE RECORD AND OTHER ADVISORY COMMITTEE RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321

CFR Citation: 21 CFR 14.75

Legal Deadline: None

Abstract: FDA is amending its administrative regulations in 21 CFR 14.75(a) to state that written information for consideration by an advisory committee at an advisory committee meeting is available for public disclosure, whenever practicable, before or at the time of the meeting.

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1275
Direct Final Rule	01/08/01	66 FR 1257
Direct Final Rule Withdrawn	04/23/01	66 FR 20401
Final Rule	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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HHS—FDA

Final Rule Stage

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RIN: 0910–AC03

1072. EFFICACY EVIDENCE NEEDED FOR PRODUCTS TO BE USED AGAINST TOXIC SUBSTANCES WHEN HUMAN STUDIES ARE UNETHICAL

Regulatory Plan: This entry is Seq. No. 38 in part II of this issue of the **Federal Register**.

RIN: 0910–AC05

1073. ADDITIONAL SAFEGUARDS FOR CHILDREN IN CLINICAL INVESTIGATIONS OF FDA REGULATED PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 343; 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 350a; 21 USC 350b; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360c to 360f; 21 USC 360h to 360j; 21 USC 371; 21 USC 379e; 21 USC 381; 41 USC 216; 41 USC 241; 41 USC 262; 41 USC 263b to 263n

CFR Citation: 21 CFR 50; 21 CFR 56

Legal Deadline: Other, Statutory, April 17, 2001, The Children's Health Act of 2000 requires FDA to adopt existing HHS regulations within six months of the date of its enactment on 10/17/2000. Thus FDA is required to adopt HHS Subpart D by 4/17/2001.

Abstract: The final rule will finalize the interim rule that published in April 2001 and provide additional protections for children involved as subjects in clinical investigations of FDA-regulated products, as required by the Children's Health Act of 2000.

Timetable:

Action	Date	FR Cite
Interim Rule	04/24/01	66 FR 20589
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0910–AC07

1074. IMPLEMENTING COURT DECISIONS, ANDA APPROVALS, AND 180-DAY EXCLUSIVITY

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314.107(e)

Legal Deadline: None

Abstract: The interim rule will amend regulations governing 180-day generic drug exclusivity to redefine the term court decision. The definition of court decision will be changed to the decision of a District Court deciding the relevant patent litigation case. The regulations will then correctly define court decision in accordance with recent court holdings addressing the definition.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/13/00	65 FR 43233
Final Rule	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Virginia G. Beakes, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AC11

1075. REVOCATION OF CONDITIONS FOR MARKETING DIGOXIN PRODUCTS FOR ORAL USE

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360b-f; 21 USC 360j; 21 USC 361a; 21 USC 371; 21 USC 374; 21 USC 375; 21 USC 379e; 42 USC 216; 42 USC 241; 42 USC 242a; 42 USC 262; 42 USC 263b-n

CFR Citation: 21 CFR 310.500

Legal Deadline: None

Abstract: The final rule will revoke the regulation (21 CFR 310.500) that established conditions for marketing digoxin products for oral use.

Timetable:

Action	Date	FR Cite
NPRM	11/24/00	65 FR 70538
Final Rule	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary E. Catchings, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, HFD-7, Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AC12

1076. • ADDITIONAL CRITERIA AND PROCEDURES FOR CLASSIFYING OVER-THE-COUNTER DRUGS AS GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED

Regulatory Plan: This entry is Seq. No. 39 in part II of this issue of the **Federal Register**.

RIN: 0910–AC22

Department of Health and Human Services (HHS)
Food and Drug Administration (FDA)

Long-Term Actions

1077. INFANT FORMULA: REQUIREMENTS PERTAINING TO GOOD MANUFACTURING PRACTICE, QUALITY CONTROL PROCEDURES, QUALITY FACTORS, NOTIFICATION REQUIREMENTS, AND RECORDS AND REPORTS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 350a; 21 USC 371; ...

CFR Citation: 21 CFR 106; 21 CFR 107

Legal Deadline: None

Abstract: The agency published a proposed rule on July 9, 1996 that would establish current good manufacturing practice regulations, quality control procedures, quality factors, notification requirements, and records and reports for the production of infant formula. This proposal was issued in response to the 1986 Amendments to the Infant Formula Act of 1980.

Timetable:

Current Good Mfg. Practices; Qual. Control Proc.	
	NPRM 07/09/96 (61 FR 36154)
	NPRM Comment Period End 12/06/96
	Final Action To Be Determined
Infant Form Cons Comp, Micro Test & Recd Retention Req	
	NPRM 01/26/89 (54 FR 3783)
	NPRM Comment Period End 03/27/89
	Final Rule 12/24/91 (56 FR 66566)
Infant Formula Quality Factors	
	NPRM 07/09/96 (61 FR 36154)
	NPRM Comment Period End 12/06/96
	Final Action To Be Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Darla Danford, Supervisory Nutritionist, Department of Health and Human Services, Food and Drug Administration, (HFS-800), Center for Food Safety and Applied Nutrition, 200 C Street SW, Washington, DC 20204
Phone: 202 205-5365

RIN: 0910–AA04

1078. FOOD LABELING REVIEW

Priority: Routine and Frequent

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 100; 21 CFR 101; 21 CFR 102; 21 CFR 161

Legal Deadline: None

Abstract: The Nutrition Labeling and Education Act of 1990 (NLEA) requires that most foods bear nutrition labeling. The agency issued final rules implementing most of the provisions contained in the NLEA on January 6, 1993. Subsequently, however, the agency has identified additional areas that should be the subject of rulemaking. FDA issued a proposal on January 6, 1993, to establish requirements for the identification of certain ingredients on food labels. FDA proposed on June 15, 1993, to amend its January 6, 1993, final rules on nutrient content and health claims to remove the provisions that exempted restaurant menus from the requirements for how nutrient content claims and health claims are to be made. The agency proposed on January 4, 1994, to establish reference daily intakes based on the 9th and 10th editions of the National Research Council's Recommended Dietary Allowances. On March 14, 1994, FDA published a proposal implementing the provisions for exemptions from nutrition labeling for low-volume food products of small businesses that were established by the Nutrition Labeling and Education Act Amendments of 1993. On August 18, 1993, FDA published a proposal concerning the placement of the nutrition facts panel on food labels. Finally, on July 18, 1994, FDA published proposed revised guidelines for the voluntary declaration of nutrition labeling for raw produce and fish. A final rule concerning the placement of the nutrition facts panel was published on April 5, 1995. A final rule establishing reference daily intakes based on the 9th and 10th editions of Recommended Dietary Allowances was published on December 28, 1995.

FDA published a final rule on August 2, 1996, on nutrient content claims and health claims to remove the provisions that exempted restaurant menus from the requirements for how nutrient content claims and health claims are to be made. FDA published a final rule on August 7, 1996, implementing the exemption for small businesses from the requirements for nutrition labeling and providing instructions on how to file a notice claiming the exemption. FDA published on August 16, 1996, final guidelines on the voluntary declaration of nutrition labeling for raw produce and fish.

Timetable:

Amend Standard of Identity for Grain Products (Folic Acid)	
	NPRM 10/14/93 (58 FR 53305)
	Final Action 03/05/96 (61 FR 8781)
Health Claims and Label Statements	
	NPRM Folic Acid and Neural Tube Def 10/14/93 (58 FR 53254)
	Final Action 03/05/96 (61 FR 8752)
Misleading Containers; Nonfunctional Slack Fill	
	NPRM 01/06/93 (58 FR 2957)
	Final Action 12/06/93 (58 FR 64123)
Nutrient Content Claims and Health Claims; Restaurant Foods	
	NPRM 06/15/93 (58 FR 33055)
	Final Action 08/02/96 (61 FR 40320)
Nutrient Content, Definition of the Term, Healthy	
	NPRM 01/06/93 (58 FR 2944)
	Final Action 05/10/94 (59 FR 24232)
Placement of Nutrition Facts Panel	
	NPRM 08/18/93 (58 FR 44091)
	Final Action 04/05/95 (60 FR 17202)
	Final Action Effective 05/05/95
	Final Action Correction 06/12/95 (60 FR 30786)
Protein Hydrolysates; Broth in Tuna; and/or Labeling	
	NPRM (Declaration of Ingredients) 01/06/93 (58 FR 2950)
	Final Action (Dec. of Ingredients) To Be Determined
Reference Daily Intakes	
	NPRM 01/04/94 (59 FR 427)
	Final Action 12/28/95 (60 FR 67164)
Small Business Exemption, Nutrition Labeling	
	NPRM 03/14/94 (59 FR 11872)
	Final Action 08/07/96 (61 FR 40963)
Voluntary Guidelines for Nutrition Labeling Produce	
	NPRM 07/18/94 (59 FR 36379)
	Final Action 08/16/96 (61 FR 42742)

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Federalism: Yes for Protein Hydrolysates; Broth in Tuna; and/or Labeling

Agency Contact: Christine L. Lewis, Director, Office of Nutritional Products, Labeling and Dietary Supplements, Department of Health and Human Services, Food and Drug Administration, (HFS-800), Center for Food Safety and Applied Nutrition, 200 C Street SW, Washington, DC 20204
Phone: 202 205-4561

RIN: 0910–AA19

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1079. MEDICAL FOODS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 360ee; 21 USC 371; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 350; 21 USC 350a; 21 USC 351; 21 USC 352; 21 USC 355

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Food and Drug Administration is considering development of regulations for medical foods, as defined by the Orphan Drug Act Amendments of 1988 (21 U.S.C. 360ee(b)(3)) to assure, among other things, the safety and effectiveness of these products, proper labeling of the nutrient content and purported uses, including adequate and appropriate directions for use, and quality control and good manufacturing practices.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/96	61 FR 60661
ANPRM Comment Period End	04/28/97	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Federalism: Undetermined

Agency Contact: Sue A. Anderson, Department of Health and Human Services, Food and Drug Administration, (HFS-831), Center for Food Safety and Applied, Nutrition, 200 C Street SW, Washington, DC 20204
Phone: 202 205-4240

RIN: 0910–AA20

1080. DIRECT-TO-CONSUMER PROMOTION REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 360k; 21 USC 361; 21 USC 362; 21 USC 371; 21 USC 331; 21 USC 334; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360e to 360i

CFR Citation: 21 CFR 200; 21 CFR 800

Legal Deadline: None

Abstract: The Food and Drug Administration will issue proposed regulations for direct-to-consumer promotion of human and animal prescription drugs, biologics, and restricted devices. The regulations will set forth the requirements for what type of information shall be contained in the consumer directed advertisements for these products and how the information shall be presented.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Nancy M. Ostrove, Division of Drug Marketing, Advertising, and Communications, Department of Health and Human Services, Food and Drug Administration, (HFD-42), Center for Drug Evaluation and Research, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-2828

RIN: 0910–AA90

1081. INVESTIGATIONAL USE NEW ANIMAL DRUG REGULATIONS (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 610; 21 USC 351; 21 USC 353; 21 USC 360b; 21 USC 371; 21 USC 321; 21 USC 352

CFR Citation: 21 CFR 511; 21 CFR 512

Legal Deadline: None

Abstract: FDA is proposing to revise its regulations governing investigational use of new animal drugs by proposing to delete 21 CFR 511 and establish in 21 CFR part 512 revised investigational use of new animal drug regulations. The investigational use new animal drug regulations are expected to include regulations to implement provisions of the Animal Drug Availability Act of 1996, specifically presubmission conferences, and implement parts of the President's National Performance Report, "Reinventing the Regulation of Animal Drugs," May 1996. In the reinventing regulations report, FDA proposed to revise its regulations to reflect numerous new process changes and programs that will enable a more streamlined animal drug application review and approval process, and that would result in less regulatory burden upon industry and FDA while maintaining the safety and effectiveness of new animal drugs. In addition, FDA is initiating a review of this rule under section 610 of the Regulatory Flexibility Act. The purpose of the section 610 review is to determine if the rule should be amended to minimize adverse economic impacts on small entities. FDA will consider and solicit comments on the following: 1) the continued need for the rule; 2) the nature of complaints or comments received concerning the rule; 3) the complexity of the rule; 4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State or local government rules; and 5) the degree to which technology, economic conditions or other factors have changed in the area affected by the rule.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
ANPRM Comment Period End	01/21/97	
Begin Review	04/03/00	
Proposed Rule	02/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Marty Schoenemann, Department of Health and Human Services, Food and Drug Administration, HFV-126, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0220

RIN: 0910–AB02

1082. SUITABILITY DETERMINATION FOR DONORS OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Priority: Other Significant

Legal Authority: 42 USC 216; 42 USC 243; 42 USC 262; 42 USC 263a; 42 USC 264; 42 USC 271

CFR Citation: 21 CFR 210.1(c); 21 CFR 210.2(a); 21 CFR 210.2(b); 21 CFR

211.1(b); 21 CFR 820.1(a)(1); 21 CFR 820.1(c); 21 CFR 1271

Legal Deadline: None

Abstract: As part of implementing the proposed regulatory approach to human cells, tissues, and cellular and tissue-based products, the Food and Drug Administration is requiring manufacturers of human cells, tissues, and cellular and tissue-based products to screen and test the donors of cells and tissues used in those products for evidence of or risk factors for relevant communicable disease. As part of this action, the agency is amending the current good manufacturing practice regulations that apply to human cells, tissues, and cellular and tissue-based products regulated as drugs, medical devices, and/or biological products in order to incorporate the new donor suitability requirements into existing good manufacturing practice regulations for those products.

Timetable:

Action	Date	FR Cite
NPRM	09/30/99	64 FR 52696
NPRM Comment Period Reopened	04/18/00	65 FR 20774
NPRM Comment Period End	07/17/00	
Final Action	01/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Paula S. McKeever, Regulatory Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AB27

1083. CURRENT GOOD TISSUE PRACTICE FOR MANUFACTURERS OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Priority: Other Significant

Legal Authority: 42 USC 216; 42 USC 243; 42 USC 263a; 42 USC 264; 42 USC 271

CFR Citation: 21 CFR 1271

Legal Deadline: None

Abstract: As part of implementing the proposed regulatory approach to human cells, tissues, and cellular and tissue-based products, the Food and Drug Administration (FDA) is proposing to require manufacturers of human cells and tissue to follow current good tissue practice (GTP), which includes proper handling, processing, and storage of human cells and tissue, recordkeeping, and the maintenance of a quality program. FDA is also proposing to amend the current good manufacturing practice regulations that apply to medical device products and human drug products in order to incorporate the new GTP requirements into existing good manufacturing practice regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1508
NPRM Comment Period End	05/08/01	
Final Action	01/00/03	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Paula S. McKeever, Regulatory Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AB28

1084. REQUIREMENTS FOR LIQUID MEDICATED FEED AND FREE-CHOICE MEDICATED FEED

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-250; 21 USC 360b

CFR Citation: 21 CFR 558.5; 21 CFR 510.455

Legal Deadline: None

Abstract: In response to a citizen petition filed by the American Feed Industry Association, the Food and Drug Administration (FDA) is proposing to amend the requirements for liquid medicated animal feed to clarify what information and data are required to demonstrate chemical and positional stability. The amended regulations would also clarify the provisions for the submission of such data through a master file and the reference to master files by subsequent applicants. Additionally, FDA is proposing to amend the regulations for free-choice medicated feed in order to ensure consistency with the requirements for liquid medicated feed. Finally, FDA is proposing to amend the regulations for free-choice medicated feed and liquid medicated feed so that these provisions comply with the terms of the Animal Drug Availability Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: William D. Price, Special Assistant, Department of Health and Human Services, Food and Drug Administration, HFV-200, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6652
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RIN: 0910–AB50

1085. BULK DRUG SUBSTANCES FOR USE IN PHARMACY COMPOUNDING

Priority: Other Significant

Legal Authority: PL 105-115, sec 127; 21 USC 351; 21 USC 352; 21 USC 353a; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 127 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 503A to the Food, Drug, and Cosmetic Act (21 U.S.C. 353a). Section 503A governs the application of Federal law to the practice of pharmacy compounding. Under section 503A(b)(1)(A), FDA may issue by regulation a list of bulk drug substances that may be used in compounding that are not covered by a United States Pharmacopeia (USP) or National Formulary (NF) monograph and are not

components of FDA-approved drugs. Bulk drug substances that do not appear on the list may not be used in compunding under section 127 unless such substances are covered by USP or NF monograph or are components of approved drugs.

Timetable:

Action	Date	FR Cite
NPRM	01/07/99	64 FR 996
NPRM Comment Period End	03/23/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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Email: mitchellw@cder.fda.gov

RIN: 0910–AB57

1085. PHARMACY AND PHYSICIAN COMPOUNDING OF DRUG PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353a; 21 USC 355; 21 USC 360; 21 USC 371

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 503A of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 353a) describes the circumstances under which compounded drugs may qualify for exemption from three requirements of the Act: (1) that a drug be manufactured according to current good manufacturing practice; (2) that a drug have adequate directions for use; and (3) that a marketing application be approved by FDA before a new drug product is introduced for sale (i.e., sections 501(a)(2)(B), 502(f)(1), and 505 of the Act (21 U.S.C. 351(a)(2)(B), 352(f)(1), and 355)). To qualify for the exemption, a pharmacist or physician must meet statutory conditions for compounding, including the following: (1) there generally must be a prescription for an identified individual patient before compounding; (2) compounding before receiving a prescription is allowed only under limited circumstances; (3) the quantity of drugs that may be shipped out of State is limited and may vary depending on whether the compounder is located in a State that has entered into a memorandum of understanding (MOU) with FDA; (4) drug products may only be compounded using a bulk drug substance (which is essentially the active ingredient) that is listed in the United States Pharmacopoeia (USP) or National Formulary (NF), or a bulk drug substance that is a component of an FDA-approved drug product, or a bulk drug substance that is listed in the regulation as one that FDA has found to be suitable for compounding; (5) the bulk drug substance must be made in a facility registered with FDA and the bulk drug substance must be accompanied by a certificate of analysis; (6) they cannot compound regularly or in inordinate amounts any drug products that are essentially copies of commercially available products; (7) drug products may not be compounded if they are listed in a regulation as having been removed from the market or had their FDA-approval withdrawn because they were found to be not safe or not effective; (8) drug products that are listed in the regulations as "demonstrably difficult to compound" may not be compounded. The regulations will amplify and explain the statutory requirements as well as execute tasks Congress assigned FDA in section 503A. This proposed rule will be one of several rulemakings implementing section 503A. Related regulatory initiatives are described below: (1) FDA has issued a final rule listing drug products that may not be compounded because they were found to be not safe or not effective and were removed from the market or had their FDA approval withdrawn; (2) FDA has also issued a proposed rule and is preparing a final rule listing drugs that are not the subject of a USP or NF monograph, and are not components of an FDA-approved drug product but are suitable for compounding; (3) FDA is currently preparing a proposed rule listing those drugs that are demonstrably difficult to compound and are not allowed to be compounded; and (4) FDA has published a Federal Register notice announcing the availability of a draft MOU between FDA and State boards of pharmacy.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Federalism: Undetermined

Additional Information: See RINs 0910-AB57, 0910-AB59

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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Email: mitchellw@cder.fda.gov

RIN: 0910–AB58

1087. DRUG PRODUCTS THAT PRESENT DEMONSTRABLE DIFFICULTIES FOR COMPOUNDING BECAUSE OF REASONS OF SAFETY OR EFFECTIVENESS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 127

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 127 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 503A to the Food, Drug, and Cosmetic Act (21 U.S.C. 353a). Section 503A exempts compounded drug products, under certain circumstances, from several key provisions of the Food, Drug, and Cosmetic Act. Section 503A(b)(3)(A) directs FDA to issue by regulation a list of drug products that, if compounded, will not qualify for these exemptions because their compounding would be demonstrably difficult in terms of assuring the safety or effectiveness of the compounded product.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Andrea C. Masciale, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB59

1088. IMPLEMENTATION OF THE IMPORT TOLERANCE PROVISIONS OF THE ANIMAL DRUG AVAILABILITY ACT OF 1996

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 556

Legal Deadline: None

Abstract: Section 4 of the Animal Drug Availability Act of 1996 (ADAA) (Pub. L. 104-250) permits the Secretary of HHS to establish tolerances for animal drugs used or intended for use in animals grown in an exporting nation from which an edible portion is imported into the United States. The standards used to establish tolerances are to be similar to the food safety criteria used by the Secretary to establish tolerances for drugs administered to animals grown in the United States. The data used for establishing the tolerances may be from the manufacturer and include data upon which a foreign approval is based or data available to an international organization such as the Codex Alimentarius Commission. This rule would implement the provisions in ADAA.

Timetable:

Action	Date	FR Cite
ANPRM	08/10/01	66 FR 42167
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Frances Pell, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, HFV-1, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0188
Email: fpell@cvm.fda.gov

RIN: 0910–AB71

1089. MANDATORY HACCP REGULATIONS FOR MANUFACTURERS OF RENDERED PRODUCTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 589

Legal Deadline: None

Abstract: During the notice and comment rulemaking for 21 CFR part 589, "Listing of Specific Substances Prohibited from Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed," FDA received several comments supporting the application of mandatory Hazard Analysis Critical Control Point (HACCP) regulations for renderers. Some of these comments were from renderers. Because of the need to expedite the rulemaking for 21 CFR part 589, FDA stated that it would take up the HACCP regulations for renderers as a separate initiative. This rulemaking is to address the need expressed in the comments to 21 CFR part 589 by promulgating mandatory HACCP regulations for renderers.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Daniel G. McChesney, Deputy Director, Office of Surveillance and Compliance, Department of Health and Human Services, Food and Drug Administration, HFV-200, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6648

RIN: 0910–AB72

1090. CITIZEN PETITIONS; ACTIONS THAT CAN BE REQUESTED BY PETITION; DENIALS, WITHDRAWALS, AND REFERRALS FOR OTHER ADMINISTRATIVE ACTION

Priority: Info./Admin./Other

Legal Authority: 5 USC 551 to 558; 21 USC 1034; 28 USC 2112; 42 USC 201; 42 USC 262; 42 USC 263b to 263n; 42 USC 264; 5 USC 701 to 706; 15 USC 1451 to 1461; 21 USC 41 to 50; 21 USC 141 to 149; 21 USC 321 to 393; 21 USC 467f; 21 USC 679; 21 USC 821

CFR Citation: 21 CFR 10

Legal Deadline: None

Abstract: The final rule would amend the agency's regulations pertaining to citizen petitions by specifying the types of actions that could be requested through a petition. The final rule would also revise the content requirements for citizen petitions and would allow the agency to take various administrative actions in response to citizen petitions. These changes are intended to improve the citizen petition mechanism by focusing FDA's resources on important public health issues.

Timetable:

Action	Date	FR Cite
NPRM	11/30/99	64 FR 66822
NPRM Comment Period End	02/28/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-0587
Fax: 301 827-4774
Email: pchao@oc.fda.gov

RIN: 0910–AB73

1091. STABILITY TESTING OF DRUGS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314

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Legal Deadline: None

Abstract: The proposed rule would specify required stability data that must be submitted with new drug applications.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3059 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB82

1092. SUBSTANCES PROHIBITED FROM USE IN ANIMAL FOOD OR FEED

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 342; 21 USC 348; 21 USC 371; 21 USC 343

CFR Citation: 21 CFR 589

Legal Deadline: None

Abstract: After determining that dioxins were present in some clays used as anti-caking agents in animal feeds, the agency is considering proposing a rule that would prohibit the use of these clays unless they meet certain conditions under the Federal Food, Drug, and Cosmetic Act. At this time, it is not clear whether there are other types of mined clay products that contain dioxins or whether the relatively low concentrations found in recent samples of mined clay products would have a significant impact on the public health. Thus, the advance notice of proposed rulemaking will request further information regarding the presence of dioxins in mined clay products used in animal feeds or feed ingredients and the significance of these dioxins to the public health.

Timetable:

Action	Date	FR Cite
ANPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Randall A. Lovell, Veterinary Medical Officer, Department of Health and Human Services, Food and Drug Administration, HFV-222, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0176
Fax: 301 827-1484
Email: rlovell@cvm.fda.gov

RIN: 0910–AB90

1093. ADDITION TO THE LIST OF DRUG PRODUCTS THAT HAVE BEEN WITHDRAWN FROM THE MARKET FOR REASONS OF SAFETY OR EFFECTIVENESS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 353a; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 216.24

Legal Deadline: None

Abstract: The final rule will amend 21 CFR 216.24 by adding two drug products, aminopyrine and astemizole, to the list of drug products that may not be used for pharmacy compounding under the exemptions provided by section 503A of the Federal Food, Drug, and Cosmetic Act because they have had their approval withdrawn or were removed from the market because the drug product or its components have been found to be unsafe or not effective.

Timetable:

Action	Date	FR Cite
NPRM	01/04/00	65 FR 256
NPRM Comment Period End	03/20/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562
Email: mitchellw@cder.fda.gov

RIN: 0910–AC01

1094. ADDITION TO THE LIST OF DRUG PRODUCTS THAT HAVE BEEN WITHDRAWN OR REMOVED FROM THE MARKET FOR REASONS OF SAFETY OR EFFECTIVENESS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 353a

CFR Citation: 21 CFR 216.24

Legal Deadline: None

Abstract: The NPRM proposes to amend 21 CFR 216.24 by adding three drug products, grepafloxacin, troglitazone, and cisapride to the list of drug products that may not be used for pharmacy compounding under the exemptions provided by section 503A of the Federal Food, Drug, and Cosmetic Act because they have had their approval withdrawn or were removed from the market because the drug product or its components have been found to be unsafe or not effective.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562
Email: mitchellw@cder.fda.gov

RIN: 0910–AC08

1095. OVERWRAP FOR INHALATION PRODUCTS PACKAGED IN LOW DENSITY POLYETHYLENE (LDPE) CONTAINERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 375

CFR Citation: 21 CFR 200

Legal Deadline: None

Abstract: The proposed rule would require overwrap on all inhalation products packaged in low density polyethylene (LDPE) containers to prevent ingress of contaminates.

Timetable:

Action	Date	FR Cite
NPRM	11/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol Drew, Regulatory Counsel, Office of Regulatory Policy, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AC10

1096. PREMARKET NOTICE CONCERNING BIOENGINEERED FOODS

Priority: Other Significant

Legal Authority: 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 321; 21 USC 371

CFR Citation: 21 CFR 192; 21 CFR 592

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is requiring the submission to the agency of data and information regarding plant-derived bioengineered foods that would be consumed by humans or animals. FDA is requiring that this submission be made at least 120 days prior to the commercial distribution of such foods. FDA took this action to ensure that it has the appropriate amount of information about bioengineered foods to help to ensure that all market entry decisions by the industry are made consistently and in full compliance with the law. The action will permit the agency to assess on an ongoing basis whether plant-derived bioengineered foods comply with the standards of the Federal Food, Drug, and Cosmetic Act.

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4706
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Linda Kahl, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, HFS-206, Center for Food Safety and Applied Nutrition, 200 C Street SW, Washington, DC 20204
Phone: 202 418-3101
Fax: 202 418-3131
Email: lkahl@cfsan.fda.gov

RIN: 0910–AC15

1097. RESCISSION OF SUBSTANTIALLY EQUIVALENT DECISIONS AND RESCISSION APPEAL PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 360; 21 USC 360c; 21 USC 360e; 21 USC 360i; 21 USC 360j; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 16; 21 CFR 807

Legal Deadline: None

Abstract: FDA may rescind a decision issued under the Federal Food, Drug, and Cosmetic Act (the Act) that a device is substantially equivalent to a legally marketed device, and therefore, may be marketed. In addition, under this rule a premarket notification (commonly known as a 510(k)) holder may request administrative review of a proposed rescission action. This rule would standardize the procedures for considering rescissions.

Timetable:

Action	Date	FR Cite
Proposed Rule	01/26/01	66 FR 3526
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, HFZ-215, Center for Devices and Radiological Health, 1350 Piccard Drive, Rockville, MD 20850
Phone: 301 827-2974

RIN: 0910–AC16

1098. INSTITUTIONAL REVIEW BOARDS: REGISTRATION REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 21 USC 321; 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 351 to 353; 21 USC 306c to 306f; 21 USC 360h to 360j; 21 USC 371; 21 USC 379e; 21 USC 381; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 263b to 263n; 42 USC 264

CFR Citation: 21 CFR 56.106

Legal Deadline: None

Abstract: The proposed rule would require institutional review boards (IRB) to register with FDA. The registration information would include the name of the institution operating the IRB, and names, addresses, phone numbers, facsimile (fax) numbers, and electronic mail (e-mail) addresses of the senior officer of the institution and IRB chair or contact, the range of active protocols (small, medium, or large) involving FDA-regulated products reviewed in the previous calendar year, and a description of the types of FDA-regulated products reviewed. The proposed rule would make it easier for FDA to inspect IRB's and to convey information to IRB's.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AC17

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HHS—FDA

Long-Term Actions

1099. CHRONIC WASTING DISEASE: CONTROL OF FOOD PRODUCTS AND COSMETICS DERIVED FROM EXPOSED ANIMAL POPULATIONS

Priority: Other Significant

Legal Authority: 42 USC 264; 21 USC 301 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to prohibit the use of cervids (deer, elk) for food, including dietary supplements, and cosmetics if the cervids have been exposed to chronic wasting disease (CWD). FDA is proposing this regulation because of potential risks to health.

CWD is a type of transmissible spongiform encephalopathy (TSE), a group of fatal, neurodegenerative diseases that include bovine spongiform encephalopathy (BSE) in cattle, scrapie in sheep, and Creutzfeldt-Jakob disease (CJD) in humans. CWD affects cervids in the United States and Canada.

CWD is endemic in cervid populations in certain areas of Colorado, Nebraska, and Wyoming. The disease has been identified in wild and farmed elk and wild deer populations. At least one published scientific article has reported that infectious CWD prion proteins in vitro can convert normal, non-infectious human prion proteins into abnormal, infectious forms. These data suggest that the agent of CWD could be transmitted to humans.

Currently, there are no validated analytical tests to identify animals in the pre-clinical phase of CWD, or any other TSE. CWD typically exhibits a long incubation period, during which time animals appear normal but are likely to be infectious. Therefore, FDA is proposing to require that food or cosmetic products derived from animals exposed to CWD not enter into commerce.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Rebecca Buckner, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, HFS-306, Center for Food Safety and Applied Nutrition, 200 C Street SW., Washington, DC 20204
Phone: 202 205-4081
Fax: 202 205-4422
Email: rebecca.buckner@cfsan.fda.gov

RIN: 0910–AC21

Department of Health and Human Services (HHS)
Food and Drug Administration (FDA)

Completed Actions

1100. HEARING AIDS; PROFESSIONAL AND PATIENT LABELING; CONDITIONS FOR SALE

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 21 CFR 801.420; 21 CFR 801.421

Completed:

Reason	Date	FR Cite
Withdrawn	10/10/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Joseph M. Sheehan
Phone: 301 827-2974

RIN: 0910–AA39

1101. CLASSIFICATION OF COMPUTER SOFTWARE PROGRAMS THAT ARE MEDICAL DEVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Charles S. Furfine
Phone: 301 443-2536

RIN: 0910–AA41

1102. REINVENTING FDA FOOD REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 101; 21 CFR 145; 21 CFR 146; 21 CFR 150; 21 CFR 152; 21 CFR 155; 21 CFR 156; 21 CFR 102; 21 CFR 103; 21 CFR 131; 21 CFR 133; 21 CFR 135; 21 CFR 136; 21 CFR 137; 21 CFR 139; ...

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: L. Robert Lake
Phone: 202 205-4561

RIN: 0910–AA58

1103. PART 600-BIOLOGICAL PRODUCTS: GENERAL (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 360(i); 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262; 42 USC 263(a); 42 USC 264; 42 USC 300aa-25

CFR Citation: None

Legal Deadline: None

Abstract: 21 CFR parts 600 through 680 describe regulations applicable to biological products. Part 600 describes regulations for general establishment standards, establishment inspections, and the reporting of adverse experiences applicable to manufacturers of licensed biological products. FDA is initiating a review under section 610 of the Regulatory Flexibility Act for the regulations in

part 600. The purpose of this review is to determine if any of the regulations in part 600 should be continued without change, or should be amended or rescinded, to minimize adverse economic impacts on small entities. FDA will consider, and solicit comments on, the following: (1) the continued need for a regulation in part 600; (2) the nature of complaints or comments received concerning a regulation in part 600; (3) the complexity of a regulation in part 600; (4) the extent to which a regulation in part 600 overlaps, duplicates, or conflicts with other Federal, State, or government rules; and (5) the degree to which technology, economic conditions or other factors have changed in the area affected by a regulation in part 600.

Timetable:

Action	Date	FR Cite
Begin Review of Current Regulation	04/03/00	
End Review	08/15/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven F. Falter, Director, Regulations and Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 827-6210
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RIN: 0910–AC06

Department of Health and Human Services (HHS)
Health Resources and Services Administration (HRSA)

Proposed Rule Stage

1104. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS: MEDICAL MALPRACTICE PAYMENTS REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11131

CFR Citation: 45 CFR 60.7

Legal Deadline: None

Abstract: This NPRM proposes to require that, in addition to reporting to the National Practitioner Data Bank medical malpractice payments made where physicians or other health care practitioners are named in medical malpractice actions or claims, judgments or settlements, payments be reported where they are made for the benefit of physicians or other health care practitioners not named in the judgments or settlements but who furnished or failed to furnish the health care services upon which the actions or claims were based. The purpose of this NPRM is to prevent the evasion of the medical malpractice payment reporting requirement of the Data Bank through the agreement of the parties to a lawsuit to use the corporate health care entity to "shield" practitioners. It would also require malpractice payers, in very limited circumstances, when it is impossible to identify the practitioner who furnished or failed to furnish the health care services upon which the actions or claims were based, to report why the practitioner could not be identified and to provide the name of the corporate health care entity.

Timetable:

Action	Date	FR Cite
NPRM	12/24/98	63 FR 71255
NPRM Comment Period End	02/22/99	
Second NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John M. Heyob, Director, Division of Practitioner Data Banks, Department of Health and Human Services, Public Health Service, Suite 300, 7519 Standish Place, Rockville, MD 20957
Phone: 301 443-2300
Fax: 301 443-6725

RIN: 0906–AA41

1105. DESIGNATION OF MEDICALLY UNDERSERVED POPULATIONS AND HEALTH PROFESSIONAL SHORTAGE AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 254b; 42 USC 254e

CFR Citation: 42 CFR 5; 42 CFR 51c

Legal Deadline: None

Abstract: This rule would consolidate the process for designating areas of health professional shortage and medical underservice that apply in several department programs, and would improve the criteria for designating medically underserved populations (MUPs) and Primary Care Health Professional Shortage Areas (HPSAs). This NPRM will address issues raised by comments received in a previous NPRM, dated September 1, 1998.

Timetable:

Action	Date	FR Cite
NPRM	09/01/98	63 FR 46538
NPRM Comment Period End	01/04/99	
Second NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerilyn A. Thornburg RN., MPH., Chief, Shortage Designation Branch, Department of Health and Human Services, Health Resources and Services Administration, Room 91C4, National Center for Health Workforce Analysis, Bureau of Health Professions, 4350 East-West Highway, Bethesda, MD 20814
Phone: 301 594-0197
Email: dsd@hrsa.gov

RIN: 0906–AA44

1106. NATIONAL VACCINE INJURY COMPENSATION PROGRAM: REVISIONS AND ADDITIONS TO THE VACCINE INJURY TABLE

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-170; 42 USC 300aa-14

CFR Citation: 42 CFR 100

Legal Deadline: None

Abstract: This NPRM proposes several changes to the Vaccine Injury Table (Table) (42 CFR 100.3), which will have an effect upon petitions for compensation under the National Childhood Vaccine Injury

HHS—HRSA — Proposed Rule Stage

Compensation Program including the following: 1) amending the Table by adding the injury of intussusception to the Table for vaccines containing live, oral, rhesus-based rotavirus, a category of rotavirus vaccines; 2) removing residual seizure disorder and early onset Hib disease from the Table's Qualifications and Aids to Interpretation; 3) removing hemophilus influenzae type b polysaccharide vaccines from and adding pneumococcal conjugate vaccines to the Table; and 4) changing certain dates of coverage under the Table.

Timetable:

Action	Date	FR Cite
NPRM	11/05/01	66 FR 55908
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Geoffrey Evans, Medical Director, Divison of Vaccine Injury Compensation, BHPR, Department of Health and Human Services, Health Resources and Services Administration, Room 8A-45, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-4998
Fax: 301 443-8196
Email: gevans@hrsa.gov

RIN: 0906–AA55

1107. • NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS: REPORTING ADVERSE AND NEGATIVE ACTIONS.

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396r-2

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: Public Law 100-93 amended section 1921 of the Social Security Act to require that each State have in effect a system of reporting disciplinary licensure actions taken against all licensed health care practitioners and entities. It also requires States to report any negative action or finding which a peer review organization, private accreditation entity or a State has concluded against a health care practitioner or entity. Section 1921 directs the Secretary to provide for maximum appropriate coordination in the implementation of these reporting requirements with those of the Health Care Quality Improvement Act of 1986 (title IV of Pub. L. 99-660). Section 1921 requirements will be incorporated into the National Practitioner Data Bank (NPDB).

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: John M. Heyob, Director, Division of Practitioner Data Banks, Department of Health and Human Services, Public Health Service, Suite 300, 7519 Standish Place, Rockville, MD 20957
Phone: 301 443-2300
Fax: 301 443-6725

RIN: 0906–AA57

Department of Health and Human Services (HHS)
Health Resources and Services Administration (HRSA)

Final Rule Stage

1106. • NATIONAL VACCINE INJURY COMPENSATION PROGRAM: REVISIONS AND ADDITIONS TO THE VACCINE INJURY TABLE

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-170

CFR Citation: 42 CFR 100

Legal Deadline: None

Abstract: This final rule amends the Vaccine Injury Table (Table) (42 CFR 100.3), which will have an effect upon petitions for compensation under the National Childhood Vaccine Injury Compensation Program including the following: (1) amending the Table by adding the injury of intussusception to the Table for vaccines containing live, oral, rehesus-based rotavirus, a category of rotavirus vaccines; (2) removing residual seizure disorder and early onset Hib disease from the Table's Qualifications and Aids to Interpretation; (3) removing hemophilus influenzae type b polysaccharide vaccines from and adding pneumococcal conjugate vaccines to the Table; and (4) changing certain dates of coverage under the Table.

Timetable:

Action	Date	FR Cite
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Geoffrey Evans, Medical Director, Divison of Vaccine Injury Compensation, BHPR, Department of Health and Human Services, Health Resources and Services Administration, Room 8A-45, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-4998
Fax: 301 443-8196
Email: gevans@hrsa.gov

RIN: 0906–AA58

1109. • ADOPTION OF THE INTERIM FINAL RULE AS A FINAL RULE WITH AMENDMENTS FOR RICKY RAY HEMOPHILIA

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-369 Sec. 103

CFR Citation: 42 CFR 130

Legal Deadline: None

Abstract: Facilitates petitioning and review process for providing compassionate payments to certain individuals with blood clotting disorders treated with antihemophilic factor between July 1, 1982 and December 31, 1987, and who contracted HIV, certain persons who contracted HIV from these individuals, and certain survivors. Ensures that payments made to legally incompetent individuals, such as minors, are used for their benefit. Responds to public comments on the interim final rule (65FR34860) effective July 31, 2000.

HHS—HRSA **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/31/00	65 FR 34860
Interim Final Rule Comment Period End	06/30/00	
Interim Final Rule Effective	07/31/00	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas C. Croft, Director, Division of Quality Assurance, Bureau of Health Professions, HRSA, Department of Health and Human Services, Health Resources and Services Administration, Room 8A-55, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-2300

RIN: 0906–AA59

Department of Health and Human Services (HHS)
Health Resources and Services Administration (HRSA) **Completed Actions**

1110. COMPLIANCE ALTERNATIVES FOR PROVISION OF UNCOMPENSATED SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 124, subpart F

Completed:

Reason	Date	FR Cite
Final Action	09/26/01	66 FR 49261

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eulas Dortch
Phone: 301 443-8007
Fax: 301 443-0619
Email: edortch@hrsa.gov

RIN: 0906–AA52

1111. FINAL RULE FOR THE HEALTH PROFESSIONS, NURSING, PUBLIC HEALTH, AND ALLIED HEALTH TRAINING GRANT PROGRAMS UNDER 42 CFR PARTS 57 AND 58

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 57; 42 CFR 58

Completed:

Reason	Date	FR Cite
Final Action	08/27/01	66 FR 44981

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Tise
Phone: 301 443-2381
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RIN: 0906–AA53

Department of Health and Human Services (HHS)
Indian Health Service (IHS) **Proposed Rule Stage**

1112. TRIBAL SELF-GOVERNANCE AMENDMENTS

Regulatory Plan: This entry is Seq. No. 40 in part II of this issue of the **Federal Register**.

RIN: 0917–AA05

Department of Health and Human Services (HHS)
Indian Health Service (IHS) **Final Rule Stage**

1113. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT MINIMUM STANDARDS OF CHARACTER

Priority: Info./Admin./Other

Legal Authority: 25 USC 3201 et seq

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: The Indian Health Service (IHS) is proposing to establish regulations as mandated by the Indian Child Protection and Family Violence Protection Act, Public Law 101-630, 25 U.S.C. 3201 to 3211, that prescribe minimum standards of character for individuals whose duties and responsibilities involve regular contact with, or control over, Indian children.

Timetable:

Action	Date	FR Cite
NPRM	03/25/99	64 FR 14559
NPRM Comment Period End	07/26/99	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Ramona D. Williams, Child Protection Coordinator, Department of Health and Human Services, Indian Health Service, Suite 605, 12300 Twinbrook Parkway, Rockville, MD 20852
Phone: 301 443-1589

RIN: 0917–AA02

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Department of Health and Human Services (HHS)
National Institutes of Health (NIH)

Proposed Rule Stage

1114. NATIONAL INSTITUTES OF HEALTH AIDS RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-1

CFR Citation: 42 CFR 68

Legal Deadline: None

Abstract: Section 487A of the Public Health Service (PHS) Act creates a program through which appropriately qualified health professionals may obtain federally funded repayment of educational loans by conducting AIDS research as NIH employees.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA02

1115. UNDERGRADUATE SCHOLARSHIP PROGRAM REGARDING PROFESSIONS NEEDED BY THE NIH

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-4

CFR Citation: 42 CFR 68b

Legal Deadline: None

Abstract: Section 487D of the Public Health Service Act, as added by the National Institutes of Health Revitalization Act of 1993, creates a program offering scholarships, in an amount not to exceed $20,000 per year of academic study, to individuals from disadvantaged backgrounds who are enrolled as full-time students at accredited institutions pursuing academic programs appropriate for careers in professions needed by the NIH. For each year of scholarship support, the recipient agrees to service (employment) after graduation, at the NIH, for one year. Additionally, the individual agrees to at least 10 consecutive weeks of service (employment) at the NIH during which the individual is attending the educational institution and receiving the NIH scholarship. The proposed new regulations will cover this program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA10

1116. NATIONAL CANCER INSTITUTE CLINICAL CANCER EDUCATION PROGRAM

Priority: Info./Admin./Other

Legal Authority: 42 USC 216; 42 USC 285a-1

CFR Citation: 42 CFR 52d

Legal Deadline: None

Abstract: Current regulations relating to the National Cancer Institute (NCI) Clinical Cancer Education Program will be amended to update various aspects of the regulation.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA17

1117. NATIONAL INSTITUTES OF HEALTH LOAN REPAYMENT PROGRAM FOR RESEARCH

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-3

CFR Citation: 42 CFR 68d

Legal Deadline: None

Abstract: Regulations will be issued to govern the awarding of educational loan repayments to qualified health professionals who agree to conduct research as employees of the National Institutes of Health.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA18

1118. NIH CENTER GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; PL 106-310; PL 106-505; PL 106-525

CFR Citation: 42 CFR 52a

Legal Deadline: None

Abstract: NIH proposes to amend the current center grants regulations to reflect new authorities set forth in sections 409C, 452E, 485F and 445I of the PHS Act. Section 409C concerns centers of excellence regarding research on autism; section 485F concerns centers regarding research on "fragile X;" section 452F concerns centers of excellence for research education and training for individuals who are members of minority health disparity populations, and section 445I concerns centers of excellence in Alzheimer's disease research and treatment.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

HHS—NIH

Proposed Rule Stage

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA24

1119. NATIONAL INSTITUTES OF HEALTH CLINICS RESEARCH LOAN REPAYMENT PROGRAM FOR INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; PL 105-392; PL 106-554

CFR Citation: 42 CFR 68a

Legal Deadline: None

Abstract: NIH proposes to amend the current regulations by revising sections 68a.6(a) to reflect the increase in the maximum annual loan repayment from $20,000 to $35,000, and other sections to reflect expansion of the program to include extramural investigators from disadvantaged backgrounds. This action is necessary because of the enactment of the Health Professions Education Partnership Act of 1998, Public Law 105-392, and enactment of the Consolidated Appropriations Act of 2001, Public Law 106-554. Section 410 of Public Law 105-392 amends section 487E(a) of the PHS Act to increase the maximum annual amount.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA25

1120. NIH LOAN REPAYMENT PROGRAM FOR MINORITY HEALTH DISPARTIES RESEARCH

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; PL 106-525

CFR Citation: 42 CFR 68f

Legal Deadline: None

Abstract: NIH propses to establish regulations to implement the program authorized under section 485G of the PHS Act. Section 103 of the Minority Health and Health Disparities Research and Education Act of 2000 amends the PHS Act by adding a new section 485G which authorizes the program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA26

1121. PEDIATRIC RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; PL 106-310

CFR Citation: 42 CFR 68f

Legal Deadline: None

Abstract: NIH proposes to establish regulations to implement the Pediatric Research Loan Repayment Program authorized under section 487F of the PHS Act, as added by Public Law 106-310. Section 1002 of Public Law 106-310 amends the PHS Act by adding a new section 487F which authorizes the program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA27

1122. NIH TRAINING GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; PL 106-310

CFR Citation: 42 CFR 63a

Legal Deadline: None

Abstract: NIH proposes to amend the training grants regulations to implement the new authority under section 452G of the PHS Act. This action is necessitated by enactment of the Children's Act of 2000. Section 1002 of this act adds a new section 452G that authorizes the Director of National Institute of Child Health and Human Development (NICHD) in consultation with the Administrator of Health Resources and Services Administration (HRSA), to support activities to provide for an increase in the number and size of institutional training grants to institutions supporting pediatric training.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA28

HHS—NIH

Proposed Rule Stage

1123. • NATIONAL INSTITUTES OF HEALTH LOAN REPAYMENT PROGRAM FOR CLINICAL RESEARCHERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; PL 106-505

CFR Citation: 42 CFR 68f

Legal Deadline: None

Abstract: Section 487F of the Public Health Service Act as added by the Public Health Improvement Act (Pub. L. 106-505), provides for repayment of the educational loan debt of qualified health professionals who agree to conduct clinical research. NIH is proposing to issue regulations to govern the administration of this program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA30

1124. • STANDARDS FOR A NATIONAL CHIMPANZEE SANCTUARY SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 287a-3a

CFR Citation: 42 CFR 8

Legal Deadline: NPRM, Statutory, June 18, 2001.

Abstract: The National Institutes of Health proposes to establish standards for operating a national chimpanzee sanctuary system to provide for the permanent retirement of federally-owned or supported chimpanzees no longer needed for research.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA31

Department of Health and Human Services (HHS)
National Institutes of Health (NIH)

Final Rule Stage

1125. NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT CONTRACEPTION AND INFERTILITY RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-2

CFR Citation: 42 CFR 68c

Legal Deadline: None

Abstract: Section 487B of the Public Health Service Act creates a program through which appropriately qualified health professionals may obtain federally funded repayment of education loans by conducting research with respect to contraception and/or infertility.

Timetable:

Action	Date	FR Cite
NPRM	12/10/99	64 FR 69213
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA19

1126. SCIENTIFIC PEER REVIEW OF RESEARCH GRANT APPLICATIONS AND RESEARCH AND DEVELOPMENT CONTRACT PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 282(b)(6); 42 USC 284(c)(3); 42 USC 289a; 42 USC 290aa-3

CFR Citation: 42 CFR 52h

Legal Deadline: None

Abstract: NIH staff have been reexamining the peer review process as part of its reinvention of government initiatives and have found ambiguities, misstatements, and voids in the existing regulations. These regulations, which govern the first level of review, are being amended to reflect current policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/21/00	65 FR 57132
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA20

Department of Health and Human Services (HHS)
National Institutes of Health (NIH)

Completed Actions

1127. NATIONAL RESEARCH SERVICE AWARDS

Priority: Info./Admin./Other

CFR Citation: 42 CFR 66

Completed:

Reason	Date	FR Cite
Final Rule	05/31/01	66 FR 29498

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA16

Department of Health and Human Services (HHS)
Office of Public Health and Science (OPHS)

Proposed Rule Stage

1128. • PUBLIC HEALTH SERVICES POLICIES ON RESEARCH MISCONDUCT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 241; 42 USC 289b

CFR Citation: 42 CFR 93

Legal Deadline: None

Abstract: This Notice of Proposed Rulemaking proposes substantial revisions to the existing regulations at 42 CFR part 50, subpart A, "Responsibilities of Awardee and Applicant Institutions for Dealing With and Reporting Possible Misconduct in Science," 54 FR 32449, August 8, 1989. The National Institutes of Health Revitalization Act of 1993 (NIH Act), Public Law 103-43, contains provisions that affect the current rule. For example, section 161 of the NIH Act established the Office of Research Integrity (ORI) as an independent entity reporting to the Secretary, and recent organizational changes have also affected the ORI's operations. In addition, the Office of Science and Technology Policy (OSTP) published a governmentwide policy that applies to federally-funded research and proposals submitted to the Federal agencies for research funding, 65 FR 76260, December 6, 2000. The proposed revised regulation will implement this OSTP policy, which contains a definition of research misconduct and basic guidelines for the response of Federal agencies and research institutions to allegations of research misconduct. The current regulation, which implemented section 493(e) of the Public Health Service Act, would be deleted, and a new part 93, subparts A, B, C, D, and E would be added.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State

Agency Contact: Gail Gibbons, Department of Health and Human Services, Office of Public Health and Science, 5515 Security Lane, Suite 700, Rockville, MD 20852
Phone: 301 443-3466
Fax: 301 594-0041

RIN: 0940–AA04

Department of Health and Human Services (HHS)
Office of Public Health and Science (OPHS)

Final Rule Stage

1129. PUBLIC HEALTH SERVICE STANDARDS FOR THE PROTECTION OF RESEARCH MISCONDUCT WHISTLEBLOWERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 241; 42 USC 289b

CFR Citation: 42 CFR 94

Legal Deadline: None

Abstract: To implement section 493(e) of the Public Health Service Act (added by section 163 of the National Institutes of Health Revitalization Act of 1993, Pub. L. 103-43), the Department is proposing to add a new part 94 to title 42 of the Code of Federal Regulations. Under this proposed regulation, covered institutions must follow certain requirements for preventing and responding to occurrences of retaliation against whistleblowers. The purpose of this part is to protect: (1) persons who make a good faith allegation that a covered institution or member thereof engaged in, or failed to respond adequately to, an allegation of research misconduct; and (2) persons who cooperate in good faith with an investigation of research misconduct.

Timetable:

Action	Date	FR Cite
NPRM	11/28/00	65 FR 70830
NPRM Comment Period End	01/29/01	
Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Barbara Bullman, Policy Analyst, Department of Health and Human Services, Office of Public Health and Science, Suite 700, 5515 Security Lane, Rockville, MD 20852
Phone: 301 443-5300
Fax: 301 443-5351

Gail Gibbons, Department of Health and Human Services, Office of Public Health and Science, 5515 Security Lane, Suite 700, Rockville, MD 20852
Phone: 301 443-3466
Fax: 301 594-0041

RIN: 0940–AA01

1130. FEDERAL POLICY (COMMON RULE) FOR THE PROTECTION OF HUMAN SUBJECTS

Priority: Other Significant

Legal Authority: 5 USC 301; 42 USC 289

CFR Citation: 45 CFR 46

Legal Deadline: None

HHS—OPHS

Final Rule Stage

Abstract: In compliance with the President's Memorandum of March 27, 1997, this interim final rule would amend the Federal Policy (common rule) for the Protection of Human Subjects to add a new section that applies only to classified research involving human subjects. The new section would modify the Federal Policy by: 1) prohibiting any executive branch agency from engaging in classified research involving human subjects unless the agency has adopted the Federal Policy and the interim final rule; 2) eliminating the availability of waiver of informed consent and expedited review for classified research involving human subjects; 3) enhancing the informed consent requirements and allowing for disclosure of classified information if necessary; and 4) changing the composition of the institutional review board (IRB) and establishing a process for individual IRB approvals of classified research.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Clifford Scharke, Department of Health and Human Services, Office of Public Health and Science, Suite 3B01, 6100 Executive Boulevard, Rockville, MD 20852
Phone: 301 435-5647

RIN: 0940–AA03

1131. • PROTECTION OF HUMAN RESEARCH SUBJECTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 42 USC 289(a)

CFR Citation: 45 CFR 46

Legal Deadline: None

Abstract: The Department is proposing to amend subpart B of its human subjects protections regulations published on January 17, 2001. Subpart B provides additional protections for pregnant women and human fetuses involved in research and pertain to human in vitro fertilization. A proposed rule was published on July 6, 2001, which would amend the January regulations by making the following three modifications:

(1) Require a father's consent (when the father is readily available) for participating in research directed solely at the fetus and that does not affect a mother's health.

(2) Add to the regulations the term "neonate" to describe an infant that has been delivered but for which viability determination has not yet been made.

(3) Clarify that neonates of uncertain viability may be subjected to added risk only if the research is intended to enhance the particular neonate's probability of survival to the point of viability.

Public comment was accepted through September 4; the anticipated date of the final rule is November 14, 2001.

Timetable:

Action	Date	FR Cite
NPRM	07/06/01	66 FR 73354
NPRM Comment Period End	09/04/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Irene Stith-Coleman, Ph.D, Department of Health and Human Services, Office of Public Health and Science, 200 Independence Avenue, SW, Room 733-E, Washington, DC 20201
Phone: 202 260-1587
Fax: 202 205-0493
Email: istithco@osophs.dhhs.gov

RIN: 0940–AA05

Department of Health and Human Services (HHS)
Centers for Medicare & Medicaid Services (CMS)

Proposed Rule Stage

1132. MEDICARE AND MEDICAID PROGRAMS; TERMS, DEFINITIONS, AND ADDRESSES: TECHNICAL AMENDMENTS (CMS-9877-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395x(v)(1)(A); 42 USC 1395hh

CFR Citation: 42 CFR 400 to 440; 42 CFR 442 to 447; 42 CFR 455; 42 CFR 456; 42 CFR 462 to 466; 42 CFR 473 to 476; 42 CFR 482 to 489; 42 CFR 491 to 498

Legal Deadline: None

Abstract: This rule would initiate the rationalization of our system of definitions, correct outdated addresses and formulas, clarify which steps of the appeals process are binding and which are final, remove content that is duplicative or unnecessary, and make other clarifying editorial changes.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Margaret Teeters, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C5-14-03, Division of Regulation and Issuances, 7500 Security Boulevard, Balitmore, MD 21244
Phone: 410 786-4678

RIN: 0938–AH53

1133. NATIONAL STANDARD FOR IDENTIFIERS OF HEALTH PLANS (CMS-4145-P)

Regulatory Plan: This entry is Seq. No. 41 in part II of this issue of the **Federal Register**.

RIN: 0938–AH87

1134. END STAGE RENAL DISEASE BAD DEBT PAYMENT (CMS-1126-P)

Priority: Other Significant

Legal Authority: Sec 110 of the Social Security Act; sec 1812(d) of the Social Security Act; sec 1814(b) of the Social Security Act; sec 1815 of the Social Security Act; sec 1833(a) of the Social Security Act; sec 1833(i) of the Social Security Act; sec 1833(n) of the Social Security Act; sec 1861(v) of the Social Security Act; sec 1866 of the Social Security Act; sec 1871 of the Social

HHS—CMS

Proposed Rule Stage

Security Act; sec 1881 of the Social Security Act; sec 1883 of the Social Security Act; 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g; 42 USC 1395(a); 42 USC 1395(i); 42 USC 1395(n); 42 USC 1395x(v); 42 USC 1395cc; 42 USC 1395hh; 42 USC 1395rr; 42 USC 1395tt

CFR Citation: 42 CFR 413.178

Legal Deadline: None

Abstract: This rule would remove the cap on end stage renal disease bad debts as stated in 42 CFR 413.178, which limits reimbursement of Medicare bad debts to the end stage renal disease facility's unrecovered costs. With respect to hospital-based providers, this regulation permits clearer distinctions to be made between various types of services, and ensures that these services will be paid for in an appropriate manner.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Katie Walker, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C5-03-03, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-7278

RIN: 0938–AK02

1135. FIRE SAFETY REQUIREMENTS FOR RNHCI, ASC, HOSPICES, PACE, HOSPITALS, AND LONG-TERM CARE FACILITIES AND ICFS FOR THE MENTALLY RETARDED (CMS-3047-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 403; 42 CFR 416; 42 CFR 418; 42 CFR 460; 42 CFR 482; 42 CFR 483

Legal Deadline: None

Abstract: This rule would adopt the 2000 edition of the National Fire Protection Association's Life Safety Code as the fire safety standards for RNHCI, ASC, and Hospices that provide in-patient services, PACE, Hospitals, Long-Term Care Facilities, and ICFs for the Mentally Retarded.

Timetable:

Action	Date	FR Cite
NPRM	10/26/01	66 FR 54179
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tamara Syrek, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services
Phone: 410 786-3529

RIN: 0938–AK35

1136. MEDICAL DEVICES COVERAGE DECISIONS RELATED TO HEALTH CARE TECHNOLOGY (CMS-3059-P)

Priority: Other Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395y; 42 USC 1395hh

CFR Citation: 42 CFR 405.207

Legal Deadline: None

Abstract: This rule exemption would permit coverage for, and payment, of routine patient care costs associated with certain approved clinical trials of delays subject to the investigational devices. This would also include costs due to medical complications associated with participating in approved clinical trials.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marty Abeln, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Centers for Medicare Management, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-1032

Sharon Hippler, Office of Clinical Standards and Quality, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4633

RIN: 0938–AK43

1137. MEDICARE PROGRAM; REPORTING AND REPAYMENT OF OVERPAYMENTS (CMS-6011-P)

Priority: Other Significant

Legal Authority: Sec 1102 of the Social Security Act; Sec 1870 of the Social Security Act; Sec 1871 of the Social Security Act; 42 USC 1302 of the Social Security Act; 42 USC 1395gg of the Social Security Act; 42 USC 1395hh of the Social Security Act

CFR Citation: 42 CFR 401.310

Legal Deadline: None

Abstract: This proposed rule would modify a notice of proposed rulemaking published on March 25, 1998. That notice proposed to amend regulations governing liability for overpayments to providers, suppliers, and individuals.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Wright, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C3-14-00, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4292

RIN: 0938–AK45

1138. HEALTH INSURANCE REFORM: STANDARDS FOR ELECTRONIC CLAIMS ATTACHMENTS (CMS-0050-P)

Regulatory Plan: This entry is Seq. No. 42 in part II of this issue of the Federal Register.

RIN: 0938–AK62

1139. HEALTH INSURANCE REFORM: MODIFICATIONS TO STANDARDS FOR ELECTRONIC TRANSACTIONS (CMS-0003-P)

Regulatory Plan: This entry is Seq. No. 43 in part II of this issue of the Federal Register.

RIN: 0938–AK64

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HHS—CMS

Proposed Rule Stage

1140. PROSPECTIVE PAYMENT SYSTEM FOR LONG-TERM CARE HOSPITALS FOR FY 2003 (CMS-1177-P)

Regulatory Plan: This entry is Seq. No. 44 in part II of this issue of the **Federal Register**.

RIN: 0938–AK69

1141. MODIFICATIONS TO MEDICARE MANAGED CARE RULES BASED ON PROVISIONS OF BIPA AND TECHNICAL CORRECTIONS (CMS-1180-P)

Regulatory Plan: This entry is Seq. No. 45 in part II of this issue of the **Federal Register**..

RIN: 0938–AK71

1142. REVISIONS TO TRANSACTION AND CODE SET STANDARDS FOR ELECTRONIC TRANSACTIONS (CMS-0005-P)

Regulatory Plan: This entry is Seq. No. 46 in part II of this issue of the **Federal Register**.

RIN: 0938–AK76

1143. ORGAN PROCUREMENT ORGANIZATION CONDITION FOR COVERAGE (CMS-3064-IFC)

Regulatory Plan: This entry is Seq. No. 47 in part II of this issue of the **Federal Register**.

RIN: 0938–AK81

1144. QUALIFICATION REQUIREMENTS FOR DIRECTORS OF LABORATORIES PERFORMING HIGH COMPLEXITY TESTING (CMS-2094-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: USPHSA, sec 353

CFR Citation: 42 CFR 493.1443

Legal Deadline: None

Abstract: This rule would revise and expand the qualification requirements by which an individual with a doctoral degree may qualify to serve as a director of a laboratory that performs high complexity testing.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Cecelia Hinkel, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services
Phone: 410 786-3347

RIN: 0938–AK83

1145. • STATE ALLOTMENTS FOR PAYMENT OF MEDICARE PART B PREMIUMS FOR QUALIFIED INDIVIDUALS; FEDERAL FISCAL YEAR 2002 (CMS-2087-PN)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(10)(E); 42 USC 1396x

CFR Citation: None

Legal Deadline: None

Abstract: This notice proposes state allotments that would be available for state agencies to pay Medicare part B premiums for certain eligibility groups for Federal Fiscal Year 2002.

Timetable:

Action	Date	FR Cite
Notice	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Robert Nakielny, Center for Medicaid and State Operations, Department of Health and Human Services, Centers for Medicare & Medicaid Services, S2-14-26, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4466

RIN: 0938–AK91

1146. • HOME HEALTH PROSPECTIVE PAYMENT SYSTEM REFINEMENTS (CMS-1161-P)

Regulatory Plan: This entry is Seq. No. 48 in part II of this issue of the **Federal Register**.

RIN: 0938–AK93

1147. • MEDICAID MANAGED CARE (CMS-2104-F)

Regulatory Plan: This entry is Seq. No. 49 in part II of this issue of the **Federal Register**.

RIN: 0938–AK96

1148. • MEDICAID UPPER PAYMENT LIMIT FOR NON-STATE GOVERNMENT-OWNED OR OPERATED HOSPITALS (CMS-2134-P)

Regulatory Plan: This entry is Seq. No. 50 in part II of this issue of the **Federal Register**.

RIN: 0938–AL05

1149. • HOME HEALTH PROSPECTIVE PAYMENT SYSTEM RATE UPDATE FOR FY 2003 (CMS-1198-NC)

Regulatory Plan: This entry is Seq. No. 51 in part II of this issue of the **Federal Register**.

RIN: 0938–AL16

1150. • REQUIREMENTS FOR PAID FEEDING ASSISTANTS IN LONG-TERM CARE FACILITIES (CMS-2131-P)

Regulatory Plan: This entry is Seq. No. 52 in part II of this issue of the **Federal Register**.

RIN: 0938–AL18

1151. • HOSPITAL OUTPATIENT PROSPECTIVE PAYMENT SYSTEM FOR CALENDAR YEAR 2003 (CMS-1206-P)

Regulatory Plan: This entry is Seq. No. 53 in part II of this issue of the **Federal Register**.

RIN: 0938–AL19

1152. • PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED BILLING FOR SKILLED NURSING FACILITIES-UPDATE FOR FY 2003 (CMS-1202-P)

Regulatory Plan: This entry is Seq. No. 54 in part II of this issue of the **Federal Register**.

RIN: 0938–AL20

1153. • REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE FOR CALENDAR YEAR 2003 (CMS-1204-P)

Regulatory Plan: This entry is Seq. No. 55 in part II of this issue of the **Federal Register**.

RIN: 0938–AL21

HHS—CMS **Proposed Rule Stage**

1154. • HOSPITAL INPATIENT REHABILITATION PROSPECTIVE PAYMENT SYSTEM FOR FY 2003 (CMS-1205-P)

Regulatory Plan: This entry is Seq. No. 56 in part II of this issue of the **Federal Register**.

RIN: 0938–AL22

1155. • HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM FOR FY 2003 (CMS-1203-P)

Regulatory Plan: This entry is Seq. No. 57 in part II of this issue of the **Federal Register**.

RIN: 0938–AL23

1156. • INITIATIVE TO ENDORSE PRESCRIPTION DRUG DISCOUNT PROGRAMS (CMS-4027-P)

Regulatory Plan: This entry is Seq. No. 58 in part II of this issue of the **Federal Register**.

RIN: 0938–AL28

Department of Health and Human Services (HHS)
Centers for Medicare & Medicaid Services (CMS) **Final Rule Stage**

1157. HEALTH INSURANCE REFORM: STANDARD UNIQUE HEALTH CARE PROVIDER IDENTIFIER (CMS-0045-F)

Regulatory Plan: This entry is Seq. No. 59 in part II of this issue of the **Federal Register**.

RIN: 0938–AH99

1158. SECURITY STANDARDS (CMS-0049-F)

Regulatory Plan: This entry is Seq. No. 60 in part II of this issue of the **Federal Register**.

RIN: 0938–AI57

1159. NATIONAL STANDARD EMPLOYER IDENTIFIER (CMS-0047-F)

Regulatory Plan: This entry is Seq. No. 61 in part II of this issue of the **Federal Register**.

RIN: 0938–AI59

1160. MEDICARE PROGRAM; COVERAGE AND ADMINISTRATIVE POLICIES FOR CLINICAL DIAGNOSTIC LABORATORY TESTS (CMS-3250-F)

Priority: Other Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: PL 105-33, sec 4554(b)(1)

CFR Citation: 42 CFR ch 410

Legal Deadline: Final, Statutory, January 1, 1999, BBA Section 4106.

Abstract: This rule would establish national coverage and administrative policies for clinical diagnostic laboratory services payable under Medicare part B to promote Medicare program integrity and national uniformity, and simplify administrative requirements for clinical diagnostic laboratory services. A Negotiated Rulemaking Committee (the Committee) developed the proposed policies as directed by section 4554(b)(1) of the Balanced Budget Act of 1997 (the BBA).

Timetable:

Action	Date	FR Cite
Notice of Intent To Negotiate	06/03/98	63 FR 30166
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Jacqueline Sheridan, Office of Clinical Standards and Quality, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4635

RIN: 0938–AI92

1161. RURAL HEALTH CLINICS: AMENDMENTS TO PARTICIPATION REQUIREMENTS AND PAYMENT PROVISIONS, AND ESTABLISHMENT OF A QUALITY ASSESSMENT AND IMPROVEMENT PROGRAM (CMS-1910-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 491

Legal Deadline: None

Abstract: This rule amends the requirements for certification and payment for rural health clinics (RHCs), as required by section 4205 of the Balanced Budget Act of 1997 (BBA 1997). It includes new refinements of what constitutes a qualifying rural shortage area in which a Medicare RHC must be located; establish criteria for identifying RHCs essential to delivery of primary care services that can continue to be approved as Medicare RHCs in areas no longer designated as medically underserved; and include recent statutory provisions that provide a temporary waiver of certain nonphysician practitioner staffing requirements. It imposes payment limits on provider based RHCs, and would prohibit the use of RHC space or equipment, and other RHC resources by another Medicare entity. The rule also requires establishment of a quality assessment and performance improvement program.

Timetable:

Action	Date	FR Cite
NPRM	02/28/00	65 FR 10450
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David Worgo, Center for Health Plans and Providers, Division of Integrated Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C4-15-18, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-5919

RIN: 0938–AJ17

HHS—CMS

Final Rule Stage

1162. FEE SCHEDULE FOR PAYMENT OF AMBULANCE SERVICES AND REVISIONS TO THE PHYSICIAN'S CERTIFICATION REQUIREMENTS FOR COVERAGE OF NONEMERGENCY AMBULANCE SERVICES (CMS-1002-FC)

Regulatory Plan: This entry is Seq. No. 62 in part II of this issue of the Federal Register.

RIN: 0938–AK30

1163. HOSPITAL CONDITIONS OF PARTICIPATION: QUALITY ASSESSMENT AND PERFORMANCE IMPROVEMENTS (CMS-3050-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 482.21

Legal Deadline: None

Abstract: This rule requires hospitals to develop and maintain a quality assessment and performance improvement (QAPI) program. The QAPI focuses the providers' efforts on the actual care delivered to patients, the performance of the hospital as an organization, and the impact of treatment furnished by the hospital on the health status of its patients. In addition, QAPI entails all activities required for measuring quality of care and maintaining it at acceptable levels. Performance improvement activities aim to improve overall performance assuming there is no permanent threshold for good performance. Under a performance improvement framework, hospitals will continuously study and improve the processes of healthcare and delivery of service.

Timetable:

Action	Date	FR Cite
NPRM	12/19/97	62 FR 66725
NPRM Comment Period End	02/17/98	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Stephanie Dyson, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-9226

RIN: 0938–AK40

1164. PAYMENT FOR UPGRADED DURABLE MEDICAL EQUIPMENT (CMS-1084-P)

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: 42 CFR 414

Legal Deadline: None

Abstract: This rule amends the Medicare regulations to permit Medicare suppliers to furnish certain upgraded durable medical equipment on an assignment basis. Medicare payment will be made to suppliers as if the DME were without the upgraded features.

Timetable:

Action	Date	FR Cite
NPRM	04/27/00	65 FR 24666
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William J. Long, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C4-12-18, Center for Health Plans and Providers, 7500 Security Boulevard, Baltimore, MD 21228
Phone: 410 786-5655
Email: wlong@hcfa.gov

RIN: 0938–AK50

1165. PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT SERVICES: CRITERIA FOR ESTABLISHING NEW PASS-THROUGH CATEGORIES FOR MEDICAL DEVICES (CMS-1179-IFC)

Priority: Other Significant

Legal Authority: 42 USC 1395l; BIPA 2000

CFR Citation: 42 CFR 419

Legal Deadline: None

Abstract: This rule implements the requirement of the BIPA to establish criteria for new categories of medical devices for transitional pass-through payment under the outpatient prospective payment system.

Timetable:

Action	Date	FR Cite
Interim Final Rule with Comment Period	11/02/01	66 FR 55850
Final Rule	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Nancy Edwards, Center for Medicare Mangement, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-0378
Email: nedwards@cms.hhs.gov

RIN: 0938–AK59

1166. • MODIFICATIONS TO MANAGED CARE RULES BASED ON PAYMENT PROVISIONS IN BIPA AND TECHNICAL CORRECTIONS (CMS-1181-F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: Secs 601-605 of BIPA; Secs 607-608 of BIPA; Secs 611-613 of BIPA; Secs 619-621 of BIPA; Sec 623 of BIPA; Sec 634 of BIPA; ...

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This regulation implements certain technical and minor changes of the provisions of sections 601 to 634 of the Medicare Payment provisions of the Medicare, Medicaid & SCHIP Benefits and Improvement Act (BIPA) of 2000. It is significant because although the changes mandated by BIPA are minor and technical in nature, they involve updates to payment rates.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Alfred G. D'Alberto, Office of Managed Care, Department of Health and Human Services, Centers for Medicare & Medicaid Services, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-1100

RIN: 0938–AK90

Department of Health and Human Services (HHS)
Centers for Medicare & Medicaid Services (CMS)

Long-Term Actions

1167. "WITHOUT FAULT" AND BENEFICIARY WAIVER OF RECOVERY AS IT APPLIES TO MEDICARE OVERPAYMENT LIABILITY (CMS-6007-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395gg; Sec 1870 of the Social Security Act

CFR Citation: 42 CFR 401; 42 CFR 466.86; 42 CFR 466.94; 42 CFR 473.14; 42 CFR 403.310; 42 CFR 405; 42 CFR 410.1; 42 CFR 411.23; 42 CFR 411.28; 42 CFR 413.20; 42 CFR 413.153; 42 CFR 447.31

Legal Deadline: None

Abstract: This rule would amend the Medicare regulations to clarify our interpretation of "without fault" as it applies to physician, provider, supplier, and beneficiary liability for overpayments. This definition would result in greater uniformity of determinations by carriers and intermediaries. Additionally, this rule would amend the Medicare regulations governing liability for overpayments to eliminate application of certain regulations of the Social Security Administration and to replace them with CMS regulations more specific to circumstances involving Medicare overpayments.

Timetable:

Action	Date	FR Cite
NPRM	03/25/98	63 FR 14506
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara Wright, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C3-14-00, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4292

RIN: 0938–AD95

1168. REVISION OF MEDICARE/MEDICAID HOSPITAL CONDITIONS OF PARTICIPATION (CMS-3745-F)

Priority: Other Significant

Legal Authority: 42 USC 1395x; 42 USC 1302; 42 USC 1395(cc); 42 USC 1395hh; 42 USC 13206-8

CFR Citation: 42 CFR 416; 42 CFR 482; 42 CFR 485; 42 CFR 489

Legal Deadline: None

Abstract: This rule will revise the requirements that hospitals must meet to participate in the Medicare and Medicaid programs. The revised requirements focus on patient care and the outcomes of that care, reflect a cross-functional view of patient treatment, encourage flexibility in meeting quality standards, and eliminate unnecessary procedural requirements. These changes are necessary to reflect advances in health care practices since the requirements were last revised in 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/19/97	62 FR 66726
NPRM Comment Period End	03/20/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Stephanie Dyson, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-9226

RIN: 0938–AG79

1169. HOME HEALTH AGENCY (HHA) CONDITIONS OF PARTICIPATION (HCMS-3819-FC)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395cc(a); 42 USC 1395hh; 42 USC 1395bbb

CFR Citation: 42 CFR 484

Legal Deadline: None

Abstract: This rule will revise home health agency conditions of participation to center on the patient, using outcome-oriented measures. Most of the current HHA conditions of participation have remained unchanged since home health services became a Medicare benefit in 1966. Some limited modifications have been made over the years to comply with legislative changes. As a result, most of the conditions of participation continue to be structure- and process-oriented.

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 11005
NPRM Comment Period End	06/09/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Janice Stevenson, Office of Clinical Standards and Quality, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4882

Rachael Weinstein, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6775

RIN: 0938–AG81

1170. END STAGE RENAL DISEASE (ESRD) CONDITIONS FOR COVERAGE (CMS-3818-P) (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 400; 42 CFR 405; 42 CFR 406; 42 CFR 409; 42 CFR 410; 42 CFR 412; 42 CFR 413; 42 CFR 414; 42 CFR 489; 42 CFR 494

Legal Deadline: None

Abstract: This proposed rule would revise the current conditions for coverage for end stage renal disease (ESRD) facilities approved to provide ESRD service under Medicare. It would update the conditions to reflect developments in technology and equipment, emphasize the total patient experience and develop performance expectations for the facility that result in quality, comprehensive care for the dialysis patient.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Businesses, Organizations

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Government Levels Affected: None

Agency Contact: Robert Miller, Department of Health and Human Services, Centers for Medicare & Medicaid Services, S3-02-01, Office of Clinical Standards and Quality, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6797

RIN: 0938–AG82

1171. CRITERIA FOR APPROVAL OF FACILITIES TO PERFORM COVERED HEART, LIVER, LUNG, PANCREAS AND INTESTINAL TRANSPLANTS (CMS-3835-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 482

Legal Deadline: None

Abstract: The rule establishes conditions of participation for facilities to perform Medicare-covered transplants.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Marty Abeln, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Centers for Medicare Management, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-1032

Kathy Linstromberg, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-8279

Eva Fung, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, S3-06-6, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-7539

RIN: 0938–AH17

1172. HOSPICE CARE-CONDITIONS OF PARTICIPATION (CMS-3844-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395x(dd); 42 USC 1395hh

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This rule would revise the Medicare conditions of participation for hospices to help ensure the provision of quality care through an emphasis on patient-centered outcomes. Areas of change would include, among others, assessment of patient needs, clarification of physician roles, coordination of care for hospice patients residing in nursing homes, clarification of nursing roles, patient rights, and provision of services.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Mary Rossi Coajou, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6051

Rachael Weinstein, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6775

RIN: 0938–AH27

1173. REQUIREMENTS FOR ESTABLISHING AND MAINTAINING MEDICARE BILLING PRIVILEGES (CMS-6002-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 424

Legal Deadline: None

Abstract: This rule would establish a requirement that all providers and suppliers (other than physicians who have entered into a private contract with a beneficiary) must complete an enrollment form, submit specified information to us, and periodically update and certify the accuracy of the enrollment information in order to receive and maintain billing privileges in the Medicare program. The information must clearly identify the provider or supplier and its place of business, provide documentation that it is qualified to perform the services for which it is billing, and assure that it is not currently excluded from the Medicare program. If we determine the information submitted is incomplete, invalid, or insufficient to meet Medicare requirements, we would reject, deny, inactivate, or revoke billing privileges.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Formerly known as HCFA-1023-P

Agency Contact: Michael Collett, OFM, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6121

RIN: 0938–AH73

1174. UPDATE OF RATESETTING METHODOLOGY, PAYMENT RATES AND THE LIST OF COVERED SURGICAL PROCEDURES FOR AMBULATORY SURGICAL CENTERS (CMS-1885-FC)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 13951(i)(2)(A)

CFR Citation: 42 CFR 416.61(b); 42 CFR 416.65(a)(4); 42 CFR 416.65(c); 42 CFR 416.120(c)(1); 42 CFR 416.125; 42 CFR 416.130; 42 CFR 416.140(a); 42 CFR 416.140(b); 42 CFR 488.1

Legal Deadline: None

Abstract: The final rule will update the criteria for determining which surgical procedures can be appropriately and safely performed in an Ambulatory Surgical Center (ASC); make additions to and deletions from the current list of Medicare covered ASC procedures based on the revised criteria; rebase the ASC payment rates using charge and utilization data collected by a 1994

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survey of ASCs; refine the ratesetting methodology that was implemented by a final notice published on February 8, 1990 in the Federal Register; require that ASC payment, coverage and wage index updates be implemented annually on January 1, rather than having these updates occur randomly throughout the year; establish a payment rate for Extracorporeal Shock Wave Lithotripsy; reduce regulatory burden; and make several technical policy changes.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32290
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bob Cereghino, Program Analyst, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C4-03-06, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4645

RIN: 0938–AH81

1175. MEDICAL CHILD SUPPORT AND HEALTH INSURANCE COVERAGE OF DEPENDENT CHILDREN (CMS-2081-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1396(a)(25); 42 USC 1396(a)(45); 42 USC 1396(a)(60); 42 USC 1396(o); 42 USC 1396g-1; 42 USC 1396(k)

CFR Citation: 42 CFR 433.135; 42 CFR 433.137; 42 CFR 433.170

Legal Deadline: None

Abstract: This rule would require States to provide assurances that laws relating to medical child support have satisfactorily been implemented in accordance with the Social Security Act (the Act). This requirement would implement section 13623 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66), commonly cited as OBRA 1993. The medical child support laws that the States must have in effect are set forth in section 1908 of the Act. These laws would impose requirements on insurers, employers, and State Medicaid agencies that would result in greater enrollment opportunities for children, facilitate the filing of claims by custodial parents, and establish new payment disbursement criteria.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Sue Knefley, Center for Medicaid and State Operations, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0488

RIN: 0938–AI21

1176. SURETY BOND REQUIREMENTS FOR COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES, REHABILITATION AGENCIES (CMS-6005-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395x(p); 42 USC 1395x(v); 42 USC 1395hh; 42 USC 1395x(cc)(2); 42 USC 1395x(p)

CFR Citation: 42 CFR 405; 42 CFR 413; 42 CFR 489

Legal Deadline: None

Abstract: This rule would require comprehensive outpatient rehabilitation facilities and rehabilitation agencies to furnish us with a surety bond on a continuing basis in order to participate in the Medicare program, in accordance with provisions of the Balanced Budget Act of 1997 (Pub. L. 105-33).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ralph Goldberg, Division of Provider and Supplier Enrollment, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4870
Email: rgoldberg@cms.hhs.gov

RIN: 0938–AI48

1177. APPEALS OF CARRIER DETERMINATION THAT A SUPPLIER FAILS TO MEET THE REQUIREMENTS FOR MEDICARE BILLING PRIVILEGES (CMS-6003-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395u(b)(3)(C); 42 USC 1395ff(b)

CFR Citation: 42 CFR 405.874

Legal Deadline: None

Abstract: This rule would establish an administrative appeal process whereby suppliers can request an appeal for a determination that affects their Medicare part B billing number. The purpose of this rule is to update and clarify our policy and extend administrative appeal rights to all current and prospective suppliers who are denied enrollment in the Medicare program or whose Medicare billing privileges are revoked. This rule does not apply to those suppliers covered under the appeals provisions for our regulations at 42 CFR 498.

Timetable:

Action	Date	FR Cite
NPRM	10/25/99	64 FR 57431
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Waldhauser, Division of Provider/Supplier Enrollment, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6140

Yvonne West, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6479

RIN: 0938–AI49

1178. ADVANCE REFUNDING OF DEBT AND METHODOLOGY FOR REPAYMENT OF LOAN (CMS-1777-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395x(v)

CFR Citation: 42 CFR 413

Legal Deadline: None

Abstract: This rule would amend current regulations to clarify our policies regarding the treatment of interest expense. The rule would require that, when only part of the interest on a loan is allowable, repayment would be made first to that portion of the loan on which expense is allowable. This rule would also clarify how this policy is to be applied in situations in which there are multiple loans, and one or more of the loans are not related to patient care. In addition, we would define the allowable costs associated with advance refunding of debt, and clarify the treatment of revenue and expenses.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Ann Pash, Center for Medicare Management,, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4516
Email: apash@hcfa.gov

RIN: 0938–AI75

1179. MEDICARE COVERAGE OF, AND PAYMENT FOR, BONE MASS MEASUREMENTS (CMS-3004-F)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395(rr)1; 42 USC 4106

CFR Citation: 42 CFR 410; 42 CFR 414

Legal Deadline: Other, Statutory, July 1, 1998, BBA Section 4106.

Abstract: This final responds to public comments we received on an interim final rule that set forth uniform coverage of, and payment for, bone mass measurements for qualified Medicare beneficiaries for services furnished on or after July 1, 1998. It implements provisions in section 4106(a) of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/24/98	63 FR 34320
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: William Larson, Office of Communications and Operations Support, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4639

RIN: 0938–AI89

1180. COVERAGE OF RELIGIOUS NON-MEDICAL HEALTH CARE INSTITUTIONS (CMS-1909-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395i-5; 42 USC 1395x(e); 42 USC 1395x(y); 42 USC 1395x(ss); 42 USC 1302

CFR Citation: 42 CFR 403; 42 CFR 440.170; 42 CFR 488.2; 42 CFR 488.6; 42 CFR 489.102; 42 CFR 412.90; 42 CFR 412.98; 42 CFR 431.610; 42 CFR 440.155; 42 CFR 442.12; 42 CFR 456.351; 42 CFR 456.601; 42 CFR 466.1

Legal Deadline: Final, Statutory, July 1, 1998, BBA, Section 4454(d).

Abstract: This rule implements section 4454 of the Balanced Budget Act of 1997 (BBA 1997), which amended section 1861 of the Social Security Act (the Act) and added a new section 1821 to the Act. Section 4454 of BBA 1997 removed all references to Christian Science and Christian sanatoria from the Act and substituted religious nonmedical health care institutions in their place. This change permits any qualified religious, nonmedical, health care institution to apply for payment for furnishing nonmedical services under Medicare. Section 4454 also authorizes payment for such services as an option benefit under State Medicaid plans. The rule sets forth minimum requirements and conditions of participation to qualify as a religious nonmedical health care institution for purposes of receiving payment for services furnished under Medicare and Medicaid.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/30/99	64 FR 67028
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Jean Marie Moore, Center for Health Plans and Providers, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3508

RIN: 0938–AI93

1181. EXTERNAL QUALITY REVIEW OF MEDICAID MANAGED CARE ORGANIZATIONS (CMS-2015-F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 438

Legal Deadline: None

Abstract: This rule implements section 1932(c) of the Social Security Act, added by section 4705(a) of the Balanced Budget Act of 1997. It requires State agencies that contract with managed care organizations to implement quality improvement strategies that address access and other aspects of care and services directly related to the quality of care provided by these managed care organizations and performance through annual external, independent reviews conducted by accrediting organizations that are approved by CMS.

Timetable:

Action	Date	FR Cite
NPRM	12/01/99	64 FR 67223
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Sharon Gilles, Center for Medicaid and State Operations,

Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1177

RIN: 0938–AJ06

1182. REPORTING OUTCOME AND ASSESSMENT INFORMATION SET (OASIS) DATA AS PART OF THE CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES (CMS-3006-F)

Priority: Other Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 1302; 42 USC 1395(hh)

CFR Citation: 42 CFR 484.11; 42 CFR 484.20; 42 CFR 488.68

Legal Deadline: None

Abstract: This rule requires electronic reporting of data from the Outcome and Assessment Information Set (OASIS) as a condition of participation for Home Health Agencies (HHAs). Specifically, this rule provides guidelines for HHAs for the electronic transmission of the OASIS data set as well as responsibilities of the State agency or contractor in collecting and transmitting this information to CMS. This rule also sets forth provisions concerning the privacy of patient identifiable information generated by the OASIS.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/25/99	64 FR 3748
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Janice Stevenson, Office of Clinical Standards and Quality, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4882

RIN: 0938–AJ10

1183. HOSPITAL CONDITIONS OF PARTICIPATION: LABORATORY SERVICES (CMS-3014-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 482.27

Legal Deadline: None

Abstract: This rule would require hospitals that transfuse blood and blood products to: 1) prepare and follow written procedures for appropriate action when it is determined that blood and blood products are at increased risk for transmitting hepatitis C virus (HCV); 2) quarantine prior collections from a donor who is at increased risk for transmitting HCV infection; 3) notify transfusion recipients, as appropriate, of the need for HCV testing and counseling; and 4) maintain records for at least 10 years.

Timetable:

Action	Date	FR Cite
NPRM	11/16/00	65 FR 69416
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Mary Collins, OCSQ, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3189

RIN: 0938–AJ29

1184. MEDICARE HOSPICE CARE AMENDMENTS (CMS-1022-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-33, sec 4441(a); PL 105-33, sec 4442 to 4446; PL 105-33, sec 4448

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This rule would implement sections 4441(a), 4442 to 4446, and 4448 of the Balanced Budget Act of 1997. Specific changes include updating hospice payment rates, specifying payment according to the site of service, modifying the hospice benefit periods, clarifying the services covered under the benefit, allowing hospices to contract for physician services, allowing waivers of certain staffing requirements for hospice care provided in non-urbanized areas, and extending the period for physician certification of an individual's terminal illness. Additionally, the rule would clarify other current policies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Carol Blackford, Center for Health Plans and Providers, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5909
Email: cblackford@hcfa.gov

RIN: 0938–AJ36

1185. EMERGENCY MEDICAL TREATMENT AND LABOR ACT (EMTALA) (CMS-1063-P)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1395cc; 42 USC 1395dd

CFR Citation: 42 CFR 489.24

Legal Deadline: None

Abstract: This rule would clarify the extent of the applicability of the Emergency Medical Treatment and Labor Act (EMTALA).

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: George Morey, Center For Medicare Management, Department

of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4653

RIN: 0938–AJ39

1186. PROTECTION FOR WOMEN WHO ELECT RECONSTRUCTION AFTER A MASTECTOMY (CMS-2040-IFC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300gg-6; 42 USC 300gg-52

CFR Citation: 45 CFR 146; 45 CFR 148

Legal Deadline: None

Abstract: The final rule would implement the requirements of the Women's Health and Cancer Rights Act of 1998 (WHCRA) (Pub. L. 105-277). The rule will provide protection to patients who are receiving benefits in connection with a mastectomy and who elect breast reconstruction. WHCRA provides coverage for all stages of reconstruction of the breast on which the mastectomy has been performed; surgery and reconstruction of the other breast to produce a symmetrical appearance; and coverage for prostheses and treatment of physical complications of a mastectomy, including lymphedema. Group health plans and health insurance issuers that offer medical and surgical benefits for mastectomies are subject to WHCRA's coverage requirements.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Kathryn McCann, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7623

RIN: 0938–AJ44

1187. SURETY BONDS REQUIREMENTS FOR SUPPLIERS OF DURABLE MEDICAL EQUIPMENT (CMS-6006-P)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: PL 105-33, sec 4312(a); 42 USC 1395m(a)(16)

CFR Citation: 42 CFR 424.57

Legal Deadline: NPRM, Statutory, January 1, 1998.

Abstract: This proposed rule would implement the provision of the Balanced Budget Act of 1997 that requires a Medicare supplier of durable medical equipment (DME) to furnish CMS with a surety bond.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Ralph Goldberg, Division of Provider and Supplier Enrollment, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4870
Email: rgoldberg@cms.hhs.gov

RIN: 0938–AJ64

1188. SURETY BOND REQUIREMENTS FOR HOME HEALTH AGENCIES (HHAS) (CMS-6001-P)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: PL 105-33, sec 4312(b); PL 105-33, sec 4724(b); PL 105-33, sec 1861(o)(7); PL 105-33, sec 1861(v)(1); PL 105-33, sec 1891(b); PL 105-33, sec 1903(i)(18); PL 105-33, sec 1128F

CFR Citation: 42 CFR 413; 42 CFR 440; 42 CFR 441; 42 CFR 489

Legal Deadline: NPRM, Statutory, June 15, 2000.

Abstract: This rule would amend our regulations to require an HHA surety bond of $50,000. We would remove the 15 percent provision based on concerns expressed by Congress, the home health industry, surety association representatives, and comments published in a report by the General Accounting Office. This rule would require that HHAs obtain a surety bond by October 1, 2000. Although the bond must be effective January 1, 1998, we are proposing not to hold sureties liable for excessive interim payments attributable to the implementation of the interim payment systems made between October 1, 1997 and September 30, 2000.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Ralph Goldberg, Division of Provider and Supplier Enrollment, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4870
Email: rgoldberg@cms.hhs.gov

Mary Linda Morgan, Center for Medicaid and State Operations, Department of Health and Human Services, Centers for Medicare & Medicaid Services, S2-26-12, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-2011
Email: mmorgan@hcfa.gov

RIN: 0938–AJ81

1189. USE OF RESTRAINT AND SECLUSION IN RESIDENTIAL TREATMENT FACILITIES PROVIDING INPATIENT PSYCHIATRIC SERVICES TO INDIVIDUALS UNDER AGE 21 (CMS-2065-F)

Priority: Economically Significant

Legal Authority: 42 USC 1302; 42 USC 1396d

CFR Citation: 42 CFR 441; 42 CFR 483

Legal Deadline: None

Abstract: This rule establishes a new condition of participation that

psychiatric residential treatment facilities that are not hospitals must meet to provide, or to continue to provide, the Medicaid inpatient psychiatric services benefit to individuals under age 21. Specifically, this rule establishes standards for the use of restraint or seclusion that residential treatment facilities must have in place to protect the health and safety of residents. This new COP acknowledges a resident's right to be free from restraint or seclusion except in emergency safety situations. We also are requiring residential facilities to notify a resident and his or her parent or legal guardian of the facility's policy regarding the use of restraint or seclusion during an emergency safety situation that occurs while the resident is in the program. We believe these added requirements will provide minimum safeguards to protect residents against the inappropriate use of restraint or seclusion.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/22/01	66 FR 7148
Interim Final Rule Comment Period End	03/23/01	
Interim Final Rule Effective	03/23/01	
60-Day Delay of Effective Date To 05/22/2001	03/21/01	66 FR 15800
Interim Final Rule Amendment with Clarification	05/22/01	66 FR 28110
Interim Final Rule Comment Period End	07/23/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary Kay Mullen, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, S2-14-26, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-5480

RIN: 0938–AJ96

1190. APPLICATION OF INHERENT REASONABLENESS TO ALL MEDICARE PART B SERVICES (OTHER THAN PHYSICIAN SERVICES) (CMS-1908-F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 105-33, sec 4316

CFR Citation: 42 CFR 405

Legal Deadline: None

Abstract: This rule implements sections 1842(b)(8) and (9) of the Social Security Act, as revised by section 4316 of the Balanced Budget Act of 1997. It sets forth the process for establishing realistic and equitable payment amounts for all Medicare part B items and services (other than physician services) when the existing payment amounts are inherently unreasonable because they are either grossly excessive or grossly deficient. This rule describes the factors CMS (or its carriers) will consider and the procedures that will be followed in establishing realistic and equitable payment amounts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/07/98	63 FR 687

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: William J. Long, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C4-12-18, Center for Health Plans and Providers, 7500 Security Boulevard, Baltimore, MD 21228
Phone: 410 786-5655
Email: wlong@hcfa.gov

RIN: 0938–AJ97

1191. SUPPLIER STANDARDS FOR HOME OXYGEN, THERAPEUTIC SHOES, HOME NUTRITION THERAPY, AND CONSIGNMENT CLOSETS (CMS-6010-P)

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 42 CFR 424.57

Legal Deadline: None

Abstract: This rule would establish service standards for suppliers of home oxygen equipment, therapeutic shoes, home infusion therapy, and standards for consignment closets.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Frank Whelan, Health Insurance Sepicalist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C3-02-16, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1302

RIN: 0938–AJ98

1192. NON-FEDERAL GOVERNMENTAL PLANS EXEMPT FROM HEALTH INSURANCE PORTABILITY REQUIREMENTS (CMS-2033-IFC)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: 45 CFR 146

Legal Deadline: None

Abstract: This rule amends 45 CFR part 146, as promulgated at 62 FR 16894 April 8, 1997 (BPD-890-IFC). This rule makes a correction to 45 CFR 146.150, Guaranteed Availability of Coverage for Employers in the Small Group Market.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dave Holstein, Insurance Standards Team, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1564

RIN: 0938–AK00

1193. PAYMENT FOR CLINICAL PSYCHOLOGY TRAINING PROGRAMS (CMS-1089-F)

Priority: Other Significant

Legal Authority: Social Security Act, sec 1861(v); Social Security Act, sec 1886(a)(4); PL 105-33

CFR Citation: 42 CFR 413.85

Legal Deadline: None

Abstract: This final rule revises our policy on Medicare payment for approved nursing and allied health education programs to permit payment for the costs incurred by a provider for the clinical training of students enrolled in a clinical psychology training program or a physician assistant training program. Consistent with the Conference Agreement language in the Conference Report accompanying the Balanced Budget Act of 1997 (Pub. L. 105-33), these clinical training costs would be paid separately on a reasonable cost basis pursuant to sections 1861(v) and 1886(a)(4) of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	01/12/01	66 FR 3377
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tzvi Hefter, Center for Health Plans and Providers, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-1304

RIN: 0938–AK15

1194. CONDITIONS OF PARTICIPATION OF INTERMEDIATE CARE FACILITIES FOR PERSONS WITH MENTAL RETARDATION (CMS-3046-P)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1396d

CFR Citation: 42 CFR 400; 42 CFR 435; 42 CFR 440; 42 CFR 441; 42 CFR 483

Legal Deadline: None

Abstract: This rule would revise the Conditions of Participation for Intermediate Care Facilities for Persons with Mental Retardation (ICFs/MR). It would set forth new requirements that an ICF/MR must meet to participate in the Medicaid program, as well as adhere to current trends in the field of developmental disabilities. It would also increase our focus on client-directed choices, while maintaining essential client protections that reinforce our mandate to protect the health, safety, and welfare of the clients we serve.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Nancy Archer, Office of Clinical Standards and Quality, Department of Health and Human Services, Centers for Medicare & Medicaid Services, S3-05-27, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 401 786-0596

RIN: 0938–AK23

1195. CLINICAL LAB REQUIREMENTS-REVISIONS TO REGULATIONS IMPLEMENTING CLIA (CMS-2226-F)

Priority: Other Significant

Legal Authority: PL 100-578

CFR Citation: 42 CFR 493

Legal Deadline: None

Abstract: This rule finalizes certain laboratory requirements under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), Public Law 100-578. In addition, this rule concludes the prospective dates for certain quality control and personnel requirements, addresses comments received on previously promulgated CLIA regulations, and establishes requirements for patient test management, quality control and quality assurance.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Cecelia Hinkel, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services
Phone: 410 786-3347

RIN: 0938–AK24

1196. MEDICARE PROVIDER AND SUPPLIER HEARING PROCEDURES (CMS-2093-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 498.40; 42 CFR 498.70; 42 CFR 498.83; 42 CFR 498.88

Legal Deadline: None

Abstract: This rule would revise current hearing regulations applicable to enforcement actions taken by CMS against Medicare providers and suppliers (and, in some cases, certain Medicaid providers) based on a lack of compliance with Federal certification requirements. Specifically, this rule would revise existing requirements governing the level of specificity that petitioners must include when seeking review of agency actions governed by these hearing regulations. Additionally, this rule would clarify the meaning of "good cause" as that term is used in the hearing regulations to judge whether petitioners may file requests for review after filing deadlines have passed. The rule would also require dismissal of petitions for review when a petitioner has failed to file a sufficiently detailed hearing request within the time allotted by the regulations.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Sandy Haydock, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3822

RIN: 0938–AK39

1197. SUPPLEMENTARY MEDICAL INSURANCE PREMIUM SURCHARGE AGREEMENTS (CMS-4007-P)

Priority: Other Significant

Legal Authority: Social Security Act, sec 1839(e)

CFR Citation: 42 CFR 408.200; 42 CFR 408.201; 42 CFR 408.202; 42 CFR 408.205; 42 CFR 408.207; 42 CFR 408.210; ...

Legal Deadline: None

Abstract: This rule would implement section 1839(e) of the Social Security Act (SSA), as amended by section 144 of the SSA Amendments of 1994 and the Balanced Budget Act of 1997 to allow State and local government agencies to pay a lump sum for the Supplementary Medical Insurance (SMI) late enrollment fee due for a designated group of eligible individuals.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Marty Abeln, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Centers for Medicare Management, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-1032

Sandy Clarke, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Beneficiary Choices, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7451

RIN: 0938–AK42

1198. IMPROVEMENTS TO THE MEDICARE+CHOICE APPEALS AND GRIEVANCE PROCEDURES (CMS-4024-F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: BBA, sec 4001; PL 105-33; Social Security Act, sec 1851 to 1859

CFR Citation: 42 CFR 422; 42 CFR 489

Legal Deadline: NPRM, Judicial, January 19, 2001.

Abstract: This rule sets forth several improvements to the Medicare+Choice (M+C) appeal and grievance procedures. Most notably, this rule will—ensure that M+C enrollees receive written notice, including information about appeal rights, at least four days before the proposed termination date of provider services; and establishe a new fast-track independent review process for appealing decisions to terminate services.

This rule also clarifies hospitals' responsibility for issuing discharge notices, amends the Medicare provider agreement regulations with regard to beneficiary notification requirements, and sets forth beneficiary grievance procedures.

Timetable:

Action	Date	FR Cite
NPRM	01/24/01	66 FR 7593
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: The Settlement Agreement in Grijalva v. Shalala contemplates that a final rule will be published by the end of 2002.

Agency Contact: Tony Culotta, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4661

RIN: 0938–AK48

1199. RECOGNITION OF THE AMERICAN OSTEOPATHIC ASSOCIATION FOR AMBULATORY SURGICAL CENTER PROGRAMS (CMS-2079-FN)

Priority: Routine and Frequent

Legal Authority: Social Security Act, sec 1865(b)(l); Social Security Act, sec 1832(a)(F)(i)

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, January 12, 2001, Must be published 60 days after receipt of the November 14, 2000 application.

Abstract: In this notice we announce the receipt of an application from the American Osteopathic Association (AOA), for recognition as a national accreditation program for ambulatory surgical centers that wish to participate in the Medicare or Medicaid programs. The Social Security Act requires that the Secretary publish a notice identifying the national accreditation body making the request, describing the nature of the request, and providing a 30-day public comment period.

Timetable:

Action	Date	FR Cite
Proposed Notice	03/14/01	66 FR 14906
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Joan Benny, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7233

RIN: 0938–AK53

1200. CHALLENGES TO NATIONAL COVERAGE DETERMINATIONS AND LOCAL COVERAGE DETERMINATIONS (CMS-3063-P)

Priority: Other Significant

Legal Authority: Sec 522 of the BIPA 2000

CFR Citation: 42 CFR 405

Legal Deadline: NPRM, Statutory, October 1, 2001.
The effective date for regulation changes is 10/01/01.

Abstract: This rule proposes changes to the appeals process for national and local coverage determinations.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: James Bossenmeyer, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C5-16-26, 7500 Security Boulevard, Baltimore, MD 21244

Phone: 410 786-9317
Email: jbossenmeyer@hcfa.gov

RIN: 0938–AK60

1201. REVISED PROCESS FOR MAKING MEDICARE COVERAGE DECISIONS (CMS-3062-N)

Priority: Other Significant

Legal Authority: Sec 522 of the BIPA

CFR Citation: None

Legal Deadline: Other, Statutory, October 1, 2001, Revision notice.

Abstract: This notice will announce a revised process for making Medicare national coverage determinations. It implements section 522 of the Benefits Improvement and Protection Act of 2000.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Vadim Lubarsky, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C5-16-03, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0840

RIN: 0938–AK61

1202. HEALTH INSURANCE REFORM: STANDARDS FOR ELECTRONIC SIGNATURES (CMS-0051-F)

Priority: Other Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: PL 104-91; Social Security Act, sec 1171 to 1179

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This final rule is being jointly developed by CMS and the Department of Commerce. The final rule implements administrative simplification initiatives that have a national scope beyond the Medicare and Medicaid programs. This rule establishes standards for electronic signature for health care claims processing.

Timetable:

Action	Date	FR Cite
NPRM	08/12/98	63 FR 43242
NPRM Comment Period End	10/13/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Previously reported under 0938-AI57.

Agency Contact: Barbara Clark, Office of Information Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, N2-14-10, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-3017

Stanley B. Nachimson, Senior Technical Advisor, Department of Health and Human Services, Centers for Medicare & Medicaid Services, N2-16-03, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6153

RIN: 0938–AK63

1203. PHYSICIANS' REFERRALS TO HEALTH CARE ENTITIES WITH WHICH THEY HAVE FINANCIAL RELATIONSHIPS-PHASE II (CMS-1810-FC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395nn

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: On January 4, 2001, we issued a final rule with comment period (phase I) to incorporate into regulations paragraphs (a), (b), and (h) of section 1877 of the Social Security Act. This final rule with comment period (phase II) will address comments from the January 9, 1998 proposed rule concerning the remainder of section 1877, including the ownership and investment exceptions and the compensation exceptions. In addition, this final rule will address comments from the January 4, 2001 final rule with comment period.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local

Federalism: Undetermined

Agency Contact: Joanne Sinsheimer, Technical Assistant, CHPP, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4620

RIN: 0938–AK67

1204. RATE OF REIMBURSEMENT OF PHOTOCOPY EXPENSES FOR PROSPECTIVE PAYMENT SYSTEM PROVIDERS (CMS-3055-P)

Priority: Economically Significant

Legal Authority: Social Security Act, sec 1102; Social Security Act, sec 1154; Social Security Act, sec 1159; Social Security Act, sec 1866; Social Security Act, sec 1871

CFR Citation: 42 CFR 476.78

Legal Deadline: None

Abstract: This rule would adjust the rate of reimbursement for photocopy expenses of Medicare Prospective Payment System (PPS) providers of medical records requested by Utilization and Quality Control Peer Review Organizations.

This rule is necessary due to changes in the inflation factor, salaries, and the cost of living. We would specify a provision for periodic review and adjustment of the per-page reimbursement cost to account for inflation and changes in technology. The methodology for calculating the per-page reimbursement rate would remain unchanged.

We also propose to expand the scope of the regulation to encompass other providers subject to the Medicare PPS (for example, skilled nursing facilities and home health agencies), as well as hospitals.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Valerie Mattison-Brown, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Office of Clinical Standards, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5958

RIN: 0938–AK68

1205. MEDICARE INPATIENT DISPROPORTIONATE SHARE HOSPITAL ADJUSTMENT CALCULATION (CMS-1171-IFC)

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: 42 CFR 412106

Legal Deadline: None

Abstract: This rule clarifies the Medicare DSH adjustment calculation in reference to the inclusion of Medicaid patient days. It also describes the criteria used in calculating the Medicare DSH adjustment for hospitals for purposes of payment under the prospective payment system.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stephen Phillips, Center for Health Plans and Providers, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4548

RIN: 0938–AK77

1206. STATEMENT OF INTENT (CMS-1185-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: Not Yet Determined

CFR Citation: 42 CFR 424

Legal Deadline: NPRM, Statutory, November 1, 2001.

Abstract: The purpose of this regulation is to eliminate the written statement of intent procedures for filing Medicare claims, from the current Medicare regulation at 42 CFR 424.45. Providers, suppliers and other qualified claimants would still have 15 to 27 months to submit valid claims to Medicare.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Federal

Federalism: Undetermined

Agency Contact: David Walczak, Center for Health Plans and Providers, Plan and Provider Purchasing Policy Group, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4475

RIN: 0938–AK79

1207. HOSPITAL REFERENCE LABORATORY AND MEDICARE SECONDARY PAYER (CMS-1187-P)

Priority: Info./Admin./Other

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This regulation will address current procedures with respect to independent laboratories' administrative requirements in gathering and verifying Medicare Secondary Payer information in reference lab situations involving "nonpatient" claims.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Paul Olenick, Director, Division of Beneficiary and Insurance Issues, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4472

RIN: 0938–AK87

1208. PORTABILITY IN THE GROUP HEALTH INSURANCE MARKET—SHARED HHS PROVISIONS (CMS-2048-F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300gg

CFR Citation: 42 CFR 144.103; 42 CFR 146.101; 42 CFR 146.111; 42 CFR 146.113; 42 CFR 146.115; 42 CFR 146.117; 42 CFR 146.119; ...

Legal Deadline: None

Abstract: This regulation will specify the limitations on only preexisting conditions exclusion periods imposed by group health insurance issues and non-Federal government plans, and the requirements on such issues and plans to offer special enrollment to certain individuals who lose eligibility for other coverage when a new dependent becomes eligible through marriage, birth or adoption.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16893
Interim Final Rule Comment Period End	07/07/97	
Interim Final Rule Effective	07/07/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Kathryn McCann, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7623

RIN: 0938–AK88

1209. • EXTENDED MEDICAID FOR CERTAIN FAMILIES WHO LOSE MEDICAID ELIGIBILITY BECAUSE OF EARNED INCOME AND THE RESIDENCY OF MINOR PARENTS AND PREGNANCY (CMS 2026-F)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: Sec. 1102 of the SSA; Sec. 303 of the FSA; Sec. 103 of PRWORA

CFR Citation: 42 CFR 435; 42 CFR 436; 42 CFR 440; 42 CFR 447

Legal Deadline: None

Abstract: This final rule amends the Medicaid regulations that specify eligibility groups and conditions of eligibility. It revises the provisions for extended Medicaid to families who lose Medicaid under section 1931 of the Social Security Act because of income from, or hours of, employment, or when the earned income disregards are lost.

This change codifies and interprets certain provisions of the Family Support Act of 1988, as amended by the Omnibus Budget Reconciliation Act of 1989 and 1990, and the Personal Responsibility and Work Opportunity Act of 1996.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Cheryl Camillo, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, S2-01-16, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1068

RIN: 0938–AK92

1210. • EXTENDING MEDICARE ENTITLEMENT WHEN DISABILITY BENEFIT ENTITLEMENT ENDS BECAUSE OF SUBSTANTIAL GAINFUL ACTIVITY (CMS-4018-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Sec. 202 of the TWWIIA of 1999; PL 106-170 of the TWWIA of 1999

CFR Citation: 42 CFR 406.12

Legal Deadline: None

Abstract: This rule would implement the Ticket to Work and Work Incentives Act of 1999. It would provide for continued Medicare entitlement for an additional 4.5 years beyond the current limit.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Denise Cox, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3195

RIN: 0938–AK94

1211. • RELIEF FROM MEDICARE PART A LATE ENROLLMENT PENALTY FOR GROUP BUY-IN FOR STATE AND LOCAL RETIREES (CMS-4022-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: BIPA Section 331

CFR Citation: 42 CFR 408

Legal Deadline: Final, Statutory, January 1, 2002.

Abstract: This rule would implement section 331 of BIPA. It would provide for a reduction in the Medicare part A late enrollment penalty for any beneficiary who is subject to a premium surcharge and is in a qualified State or local government retiree group.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Delilah Murphy, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4300

RIN: 0938–AK99

1212. • MODIFICATIONS TO THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM (CMS-2006-IFC)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-33

CFR Citation: 42 CFR 435; 42 CFR 436; 42 CFR 457

Legal Deadline: None

Abstract: This interim final rule with a comment period delays the effective date, revises certain provisions, and makes technical corrections and clarifications to the January 11, 2001 final rule which implemented the State Children's Health Insurance Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/25/01	66 FR 33810
Interim Final Rule Comment Period End	07/25/01	
Interim Final Rule Effective	08/24/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Regina Fletcher, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, S2-01-16, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3293

RIN: 0938–AL00

1213. • CONTINUE TO ALLOW STATES AN OPTION UNDER THE MEDICAID SPOUSAL IMPOVERISHMENT PROVISIONS TO INCREASE THE COMMUNITY SPOUSE'S INCOME WHEN ADJUSTING THE PROTECTED RESOURCE ALLOWANCE (CMS-2128-P)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: Sec 1924 of the Social Security Act

CFR Citation: 42 CFR 431

Legal Deadline: None

Abstract: This rule will revise our existing Medicaid regulations to include part of the spousal impoverishment provisions of the Social Security Act. This rule would allow States an option to count the institutionalized spouse's income as the community spouse's income when adjusting the protected resource allowance. Specifically, it would give States an option either to use an income-first or resource-first method when determining that the community spouse has insufficient income to meet minimum monthly maintenance needs.

Timetable:

Action	Date	FR Cite
NPRM	09/07/01	66 FR 46763
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Trudel, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C4-20-15, Center for Medicaid and State Operations, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-3417

RIN: 0938–AL06

1214. • MEDICARE LIMITS ON THE VALUATION OF A DEPRECIABLE ASSET RECOGNIZED AS AN ALLOWANCE FOR DEPRECIATION AND INTEREST ON CAPITAL INDEBTEDNESS AFTER A CHANGE OF OWNERSHIP (CMS-1004-F)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: Sec. 1861(v) of the Social Security Act as Amended

CFR Citation: 42 CFR 413.134

Legal Deadline: None

Abstract: This rule responds to public comments on, and makes technical corrections to, the final rule with comment period that revised the Medicare provider reimbursement regulations setting forth requirements related to allowable costs. That final rule with comment period set a limit on the valuation of a depreciable asset that may be recognized in establishing an appropriate allowance for depreciation and for interest on capital indebtedness after a change of ownership that occurs on or after December 1, 1997. The provisions apply to providers that are reimbursed on the basis of reasonable costs and implement revisions included in the Balanced Budget Act of 1997.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ann Pash, Center for Medicare Management,, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4516
Email: apash@hcfa.gov

RIN: 0938–AL12

1215. • UPDATE INTEREST ASSESSMENT ON MEDICARE OVERPAYMENT AND UNDERPAYMENT (CMS-6014-P)

Priority: Other Significant

Legal Authority: Sec. 1815(d) ofthe Social Security Act; Sec. 1833(j) ofthe Social Security Act

CFR Citation: 42 CFR 405.378

Legal Deadline: None

Abstract: This rule changes the formula used to compute interest on provider, supplier overpayments and underpayments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Paul Thomas Reed, Financial Management Specialists, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C3-15-07, 7500 Security Boulevard, Blatimore, MD 21244
Phone: 410 786-4001
Email: preed2@cms.hhs.gov

RIN: 0938–AL14

1216. • USE OF RESTRAINT AND SECLUSION IN MEDICARE AND MEDICAID PARTICIPATING FACILITIES THAT PROVIDE INPATIENT OR RESIDENTIAL CARE (CMS-2130-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Childrens's Health Act of 2000

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This rule would establish common terminology and basic expectations for the use of restraint and seclusion for health care facilities that furnish inpatient or residential care and receive Medicare and Medicaid funding.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Frank Sokolik, Center for Medicaid and State Operations, Department of Health and Human Services, Centers for Medicare & Medicaid Services, S2-13-23, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-7089

RIN: 0938–AL26

1217. • PAYMENT FOR RESPIRATORY ASSIST DEVICES WITH BI-LEVEL CAPABILITY AND A BACK-UP RATE (CMS-1167-P)

Priority: Other Significant

Legal Authority: 42 CFR 1302; 42 CFR 1395hh; 42 CFR 1395rr(b)(1); PL 103-66

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CFR Citation: 42 CFR 414

Legal Deadline: None

Abstract: This proposed rule would clarify that respiratory assist devices with bi-level capability and a back-up rate must be paid as capped rental items and not paid as items requiring frequent and substantial servicing, as defined in section 1834(a)(3) of the Social Security Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Joel Kaiser, Center for Health Plan and Providers, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4499

RIN: 0938–AL27

Department of Health and Human Services (HHS)
Centers for Medicare & Medicaid Services (CMS)

Completed Actions

1218. MEDICAID DRUGS REBATE PROGRAM (CMS-2046-FC)

Priority: Other Significant

CFR Citation: 42 CFR 447; 42 CFR 441

Completed:

Reason	Date	FR Cite
Withdrawn	09/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Larry Reed
Phone: 410 786-3325

Peggy Rahn
Phone: 410 786-3284

RIN: 0938–AF42

1219. LIABILITY FOR THIRD PARTIES TO PAY FOR SERVICES (CMS-2060-P)

Priority: Other Significant

CFR Citation: 42 CFR 433

Completed:

Reason	Date	FR Cite
Withdrawn	09/12/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Federal

Agency Contact: Robert Nakielny
Phone: 410 786-4466

RIN: 0938–AH01

1220. REQUIREMENTS FOR ENROLLMENT OF MEDICAID RECIPIENTS UNDER COST EFFECTIVE EMPLOYER-BASED GROUP HEALTH PLANS (CMS-2047-FC)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 435; 42 CFR 436

Completed:

Reason	Date	FR Cite
Withdrawn	09/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Gwendolyn Talvert
Phone: 410 786-5928
Email: gtalvert@hcfa.gov

RIN: 0938–AH48

1221. REVISIONS TO CONDITIONS FOR COVERAGE FOR AMBULATORY SURGICAL CENTERS (CMS-3887-P)

Priority: Other Significant

CFR Citation: 42 CFR 416

Completed:

Reason	Date	FR Cite
Withdrawn	09/12/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Marcia Newton
Phone: 410 786-5265

Joan Brooks
Phone: 410 786-5526

RIN: 0938–AH83

1222. MEDICARE PROGRAM: PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT REHABILITATION HOSPITAL SERVICES (CMS-1069-F)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	08/07/01	66 FR 41316

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laurence Wilson
Phone: 410 786-4603

RIN: 0938–AJ55

1223. STATE HEALTH INSURANCE ASSISTANCE PROGRAM (SHIP) (CMS-4005-IFC)

Priority: Info./Admin./Other

CFR Citation: 42 CFR 403.502; 42 CFR 403.504; 42 CFR 403.508

Completed:

Reason	Date	FR Cite
Interim Final Rule	06/01/00	65 FR 34983

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Eric Lang
Phone: 410 966-3193

RIN: 0938–AJ67

1224. PRACTICE EXPENSE DATA COLLECTION (CMS-1111-IFC)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 414

Completed:

Reason	Date	FR Cite
Final Rule	11/01/00	65 FR 65376

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Marsalek
Phone: 301 786-1115

RIN: 0938–AK14

HHS—CMS

Completed Actions

1225. PROVISIONS OF THE BALANCED BUDGET AND REFINEMENT ACT OF 1999; HOSPITAL INPATIENT PAYMENTS AND RATES AND COSTS OF GRADUATE MEDICAL EDUCATION (CMS-1131-F)

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 410.152; 42 CFR 412.90; 42 CFR 412.102; 42 CFR 412.103; 42 CFR 412.105; 42 CFR 412.108; 42 CFR 413.40; 42 CFR 413.70; 42 CFR 413.86; ...

Completed:

Reason	Date	FR Cite
Final Action	08/01/01	66 FR 39828
Final Action Effective	10/01/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Stephen Phillips
Phone: 410 786-4548

RIN: 0938–AK20

1226. REQUIREMENTS FOR THE RECREDENTIALING OF MEDICARE+CHOICE ORGANIZATION PROVIDERS (CMS-1160-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 422.204

Completed:

Reason	Date	FR Cite
Final Action	09/12/01	66 FR 47410

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Siera Gollan
Phone: 410 786-6664

RIN: 0938–AK41

1227. MEDICAID MANAGEMENT INFORMATION SYSTEM REVISED DEFINITION OF "MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEM" (CMS-2123-IFC)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 433.111; 42 CFR 433.112; 42 CFR 433.119

Completed:

Reason	Date	FR Cite
Withdrawn	08/23/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Federal

Agency Contact: Harvey Heyman
Phone: 410 786-0712

RIN: 0938–AK44

1228. PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED BILLING FOR SKILLED NURSING FACILITIES-UPDATE (CMS-1163-F)

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 411.15; 42 CFR 489.20

Completed:

Reason	Date	FR Cite
NPRM	05/10/01	66 FR 23984
Final Action	07/31/01	66 FR 39562

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: William Ullman
Phone: 401 786-5667

RIN: 0938–AK47

1229. CIVIL MONEY PENALTIES, ASSESSMENTS, AND REVISED SANCTION AUTHORITIES (CMS-6145-FC)

Priority: Info./Admin./Other

CFR Citation: 42 CFR 402.1; 42 CFR 402.105; 42 CFR 402.107; 42 CFR 405.520

Completed:

Reason	Date	FR Cite
Final Action	09/26/01	66 FR 49544
Comment Period End	10/29/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Cohen
Phone: 410 786-3349

RIN: 0938–AK49

1230. UPDATE TO THE PROSPECTIVE PAYMENT SYSTEM FOR HOME HEALTH AGENCIES FOR FY 2002 (CMS-1147-NC)

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Notice	07/03/01	66 FR 35253

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan Levy
Phone: 410 786-9364

RIN: 0938–AK51

1231. PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT SERVICES FOR CALENDAR YEAR 2002 (CMS-1159-F)

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 413; 42 CFR 419; 42 CFR 489

Completed:

Reason	Date	FR Cite
NPRM	06/24/01	66 FR 44672
Final Rule	11/01/01	66 FR 55856

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Nancy Edwards
Phone: 410 786-0378
Email: nedwards@cms.hhs.gov

George Morey
Phone: 410 786-4653

RIN: 0938–AK54

1232. MEDICARE AS SECONDARY PAYER-RECOVERY OF CONDITIONAL PAYMENTS (CMS-6009-F)

Priority: Other Significant

CFR Citation: 42 CFR 411.20; 42 CFR 411.24

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: William Zavoina
Phone: 410 966-7461

RIN: 0938–AK55

HHS—CMS

Completed Actions

1233. FIVE YEAR REVIEW OF WORK RELATIVE VALUE UNITS UNDER THE PHYSICIAN FEE SCHEDULE PROPOSED NOTICE (CMS-1170-PN)

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Notice	06/08/01	66 FR 31028

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Terrence Kay
Phone: 410 786-4497

James Menas
Phone: 410 786-4507

RIN: 0938–AK56

1234. REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE FOR CALENDAR YEAR 2002 (CMS-1169-F)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 405; 42 CFR 410; 42 CFR 411; 42 CFR 414; 42 CFR 415

Completed:

Reason	Date	FR Cite
NPRM	08/02/01	66 FR 40372
Final Rule	11/01/01	66 FR 55245

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Diane Milstead
Phone: 410 786-3355

Terrence Kay
Phone: 410 786-4497

RIN: 0938–AK57

1235. CHANGES TO NATIONAL COVERAGE DETERMINATIONS AND LOCAL COVERAGE DETERMINATIONS (CMS-4019-FC)

Timetable:

Action	Date	FR Cite
Duplicate of 0938-AK60	09/04/01	

RIN: 0938–AK58

1236. REPLACEMENT OF REASONABLE CHARGE METHODOLOGY BY FEE SCHEDULES FOR PARENTERAL AND ENTERAL NUTRIENTS, EQUIPMENT, AND SUPPLIES (CMS-1010-F)

Priority: Other Significant

CFR Citation: 42 CFR 414

Completed:

Reason	Date	FR Cite
Final Action	08/28/01	66 FR 45173

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Joel Kaiser
Phone: 410 786-4499

RIN: 0938–AK66

1237. CHANGES TO THE HOSPITAL INPATIENTS PROSPECTIVE PAYMENT SYSTEM FOR FISCAL YEAR 2002 RATES (CMS-1158-F)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 412; 42 CFR 413; 42 CFR 485; 42 CFR 486

Completed:

Reason	Date	FR Cite
NPRM	05/04/01	66 FR 22646
Final Action	08/01/01	66 FR 39828
Final Action Effective	10/01/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Stephen Phillips
Phone: 410 786-4548

RIN: 0938–AK73

1238. CHANGES TO INPATIENT BIPA FOR FISCAL YEAR 2001 (CMS-1178-F)

Priority: Economically Significant

CFR Citation: 42 CFR 410.152; 42 CFR 412.63; 42 CFR 412.92; 42 CFR 412.105; 42 CFR 412.106; 42 CFR 412.108; 42 CFR 413.40; 42 CFR 413.70; 42 CFR 413.80; 42 CFR 413.86; 42 CFR 413.87

Completed:

Reason	Date	FR Cite
Interim Final Rule	06/13/01	66 FR 32172
Interim Final Rule Effective	06/13/01	
Interim Final Rule Comment Period End	07/13/01	
Final Action	08/01/01	66 FR 39828
Final Action Effective	10/01/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Joel Kaiser
Phone: 410 786-4499

RIN: 0938–AK74

1239. MEDICARE+CHOICE ESRD RATES (CMS-1182-FN)

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	10/01/01	66 FR 49958

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Anne Hornsby
Phone: 410 786-1181

RIN: 0938–AK75

1240. PROCEDURES FOR PUBLIC CONSULTATIONS FOR CODING AND PAYMENT DETERMINATIONS FOR NEW LABORATORY TESTS (CMS-1186-N)

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: None

Completed:

Reason	Date	FR Cite
Notice	06/29/01	66 FR 34693

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Local, Federal

Agency Contact: Tzvi Hefter
Phone: 410 786-1304

RIN: 0938–AK80

1241. RECOGNITION OF THE AMERICAN OSTEOPATHIC ASSOCIATION FOR CRITICAL ACCESS HOSPITALS (CMS-2099-N)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 42 CFR 488.4

Completed:

Reason	Date	FR Cite
Proposed Notice	04/16/01	66 FR 19509
Withdrawn	09/04/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Irene Dustin
Phone: 410 786-0495
Email: idustin@hacf.gov

RIN: 0938–AK84

1242. PROTECTION AND PROMOTION OF RESIDENT RIGHTS (CMS-3065-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Merged With 0938-AL26	09/13/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Federalism: Undetermined

Agency Contact: Julie Moyers
Phone: 410 786-6772

RIN: 0938–AK85

1243. STANDARDS FOR ELECTRONIC TRANSACTIONS-ELIMINATION OF NDC CODING STANDARDS (CMS-0006-P)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 42 CFR 162.1002

Completed:

Reason	Date	FR Cite
Merged With 0938-AK64	09/04/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local, Tribal, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Stanley B. Nachimson
Phone: 410 786-6153

RIN: 0938–AK86

1244. • MODIFICATION OF THE MEDICAID UPPER PAYMENT LIMIT TRANSITION PERIOD FOR INPATIENT, OUTPATIENT HOSPITALS, NURSING AND INTERMEDIATE CARE FACILITY SERVICES FOR THE MENTALLY RETARDED (CMS-2100-P)

Priority: Economically Significant

Legal Authority: BIPA sec 701

CFR Citation: 42 CFR 447.272; 42 CFR 447.321

Legal Deadline: None

Abstract: This rule will create a transition period for States that submitted State plan amendments to CMS before March 13, 2001 that have not yet been approved or disapproved.

Timetable:

Action	Date	FR Cite
NPRM	04/03/01	66 FR 17657
Final Action	09/05/01	66 FR 46397

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Larry Reed, Chief, Medicaid Noninstitutional Payment Policy Branch, Department of Health and Human Services, Centers for Medicare & Medicaid Services, S2-01-16, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3325

RIN: 0938–AK89

1245. • HOSPITAL CONDITIONS OF PARTICIPATION: ANESTHESIA SERVICES (CMS-3070-F)

Priority: Other Significant

Legal Authority: Sec 1102 of the Social Security Act; sec 1871 of the Social Security Act

CFR Citation: 42 CFR 416; 42 CFR 482; 42 CFR 485

Legal Deadline: None

Abstract: This rule will allow CRNAs to administer anesthesiology services without supervision of a physician, if the Governor of a State requests an exemption from current Federal laws requiring such supervision.

Timetable:

Action	Date	FR Cite
NPRM	07/05/01	66 FR 35395
Final Rule	11/13/01	66 FR 56762

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Debbie Hattery, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1855

RIN: 0938–AK95

1246. • MEDICARE PROGRAM; EMERGENCY APPROVAL FOR COVERAGE OF END-STAGE RENAL DISEASE FACILITIES IN THE HOUSTON, TEXAS AREA (CMS-3074-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1230b-8; 42 USC 1395x; 42 USC 1395y(a); 42 USC 1395hh; 42 USC 1395kk; 42 USC 1395rr

CFR Citation: 42 CFR 405.2175

Legal Deadline: None

Abstract: This final rule grants a waiver of the end-stage renal disease conditions for coverage to permit the transplant team of an approved renal transplant center to furnish covered kidney transplant services in three specific hospitals in the Houston, Texas area during a state of emergency crisis.

Timetable:

Action	Date	FR Cite
Final Action	06/20/01	66 FR 33030
Final Action Effective	06/15/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jacqueline Sheridan, Office of Clinical Standards and Quality, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4635

RIN: 0938–AK98

HHS—CMS — Completed Actions

1247. • MEDICARE AND MEDICAID PROGRAMS; CHANGE OF AGENCY NAME: TECHNICAL AMENDMENTS (CMS-9010-FC)

Priority: Info./Admin./Other

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR ch I; 42 CFR ch IV; 42 CFR ch V; 42 CFR subtitle A; 45 CFR ch II

Legal Deadline: None

Abstract: In accordance with the name change of the Health Care Financing Administration to the "Centers for Medicare and Medicaid Services," this technical regulation revises all references to "Health Care Financing Administration" and "CMS" in chapters I, IV, and V of title 42 and subtitle A and chapters II and III of titles 45 of the Code of Federal Regulations. This regulation also makes conforming changes to the general definitions sections.

Timetable:

Action	Date	FR Cite
Final Action	07/31/01	66 FR 39450
Comment Period End	10/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Margaret Teeters, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C5-14-03, Division of Regulation and Issuances, 7500 Security Boulevard, Balitmore, MD 21244
Phone: 410 786-4678

RIN: 0938–AL02

1248. • PAYMENTS FOR NEW MEDICAL SERVICES AND NEW TECHNOLOGIES UNDER THE ACUTE CARE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM (CMS-1176-F)

Priority: Other Significant

Legal Authority: Sec 533 of PL 106-554; Sec 1886(d) of the Social Security Act

CFR Citation: 42 CFR 412

Legal Deadline: Final, Statutory, October 1, 2001.

Abstract: This final rule establishes a mechanism for increased Medicare payments for new medical services and technologies furnished to Medicare beneficiaries under the acute care hospital inpatient prospective payment system. The rule implements section 533 of the Medicare, Medicaid, and SCHIP [State Children's Health Insurance Program] Benefits Improvement and Protection Act of 2000; and finalizes related regulatory provisions that were addressed in a proposed rule published on May 4, 2001.

Timetable:

Action	Date	FR Cite
NPRM	05/04/01	66 FR 22646
NPRM Comment Period End	07/03/01	
Final Action	09/07/01	66 FR 46902
Final Action Effective	10/09/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stephen Phillips, Center for Health Plans and Providers, Department of Health and Human Services, Centers for Medicare & Medicaid Services, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4548

RIN: 0938–AL09

Department of Health and Human Services (HHS)
Administration for Children and Families (ACF)

Proposed Rule Stage

1249. PROGRAM PERFORMANCE STANDARDS FOR THE OPERATION OF HEAD START PROGRAMS

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1304

Legal Deadline: None

Abstract: The education component of the Head Start Performance Standards will be revised to ensure the school readiness of children participating in a Head Start program and to assure that Head Start children have certain understandings in the areas of language and numeracy.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW., Washington, DC 20447
Phone: 202 205-8569
Email: dklafehn@acf.dhhs.gov

RIN: 0970–AB99

1250. SAFEGUARDING CHILD SUPPORT AND EXPANDED FPLS INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 652 to 654A

CFR Citation: 45 CFR 302.25; 45 CFR 303.3; 45 CFR 303.21; 45 CFR 303.70

Legal Deadline: None

Abstract: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 made far-reaching amendments to title IV-D of the Social Security Act, which governs the child support enforcement program. The Balanced Budget Act of 1997, the Adoption and Safe Families Act of 1997 and the Child Support Performance and Incentive Act of 1998 further amended title IV-D. A significant result of this legislation is an expansion in the scope of information available to State IV-D child support enforcement agencies. The legislation has rendered obsolete or inconsistent several regulations at 45 CFR chapter III, Office of Child Support Enforcement, including the regulations on the Federal Parent Locator Service, the State Parent Locator Services, offset of Federal payments for purposes of collecting child support, and safeguarding of information. This regulation would update various

HHS—ACF **Proposed Rule Stage**

sections in 45 CFR chapter III to reflect the statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Eileen C. Brooks, Program Specialist, Department of Health and Human Services, Administration for Children and Families, 4th Floor East, OCSE, DPP, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-5369
Email: ebrooks@acf.dhhs.gov

RIN: 0970–AC01

1251. DEVELOPMENTAL DISABILITIES AND BILL OF RIGHTS ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-402; USC 15001 et seq

CFR Citation: 45 CFR 1385 to 1388

Legal Deadline: Final, Statutory, October 30, 2001.
The final rule for the "Indicator of Progress" must be effective by October 1, 2001, and all other changes to the regulation are required to be made by October 30, 2001.

Abstract: A notice of proposed rulemaking will be published in the Federal Register by October 30, 2001, to amend current regulations and to implement changes made by the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Elsbeth Wyatt, Program Specialist, Department of Health and Human Services, Administration for Children and Families, ADD HHH-300F, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 690-5841

RIN: 0970–AC07

Department of Health and Human Services (HHS)
Administration for Children and Families (ACF) **Final Rule Stage**

1252. CONSTRUCTION AND MAJOR RENOVATION OF HEAD START AND EARLY HEAD START FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1309

Legal Deadline: None

Abstract: This rule establishes procedures to be used by Head Start and Early Head Start agencies in requesting to use Head Start grant funds to construct or perform major renovation on a Head Start or Early Head Start Facility.

Timetable:

Action	Date	FR Cite
NPRM	02/08/99	64 FR 6013
NPRM Comment Period End	04/09/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW., Washington, DC 20447
Phone: 202 205-8569
Email: dklafehn@acf.dhhs.gov

RIN: 0970–AB54

1253. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES

Priority: Other Significant

Legal Authority: 42 USC 655(f)

CFR Citation: 45 CFR 309

Legal Deadline: None

Abstract: This rule specifies how tribes can obtain direct payments from the Department of Health and Human Services for provision of child support enforcement services if they submit a plan meeting the objectives of title IV-D, including establishment of paternity, modification and enforcement of support orders, and location of absent parents.

Timetable:

Action	Date	FR Cite
NPRM	08/21/00	65 FR 50800
NPRM Comment Period End	12/19/00	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Paige Biava, Division of Policy and Planning, Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9386

RIN: 0970–AB73

1254. CHILD SUPPORT ENFORCEMENT PROGRAM OMNIBUS CONFORMING REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 301 to 305

Legal Deadline: None

Abstract: This rule eliminates child support enforcement program regulations rendered obsolete or inconsistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and its technical amendments, the Balanced Budget Act of 1997, the Adoption and Safe Families Act of 1997, and the Child Support Performance and Incentive Act of 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/99	64 FR 6237
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

HHS—ACF

Final Rule Stage

Government Levels Affected: State

Agency Contact: Eileen C. Brooks, Program Specialist, Department of Health and Human Services, Administration for Children and Families, 4th Floor East, OCSE, DPP, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-5369
Email: ebrooks@acf.dhhs.gov

RIN: 0970–AB81

1255. FAMILY CHILD CARE PROGRAM OPTION FOR HEAD START PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1304; 45 CFR 1306

Legal Deadline: None

Abstract: This rule would allow Head Start programs to choose Family Child Care as a Head Start program option.

Timetable:

Action	Date	FR Cite
NPRM	08/29/00	65 FR 52394
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW., Washington, DC 20447
Phone: 202 205-8569
Email: dklafehn@acf.dhhs.gov

RIN: 0970–AB90

1256. TECHNICAL REVISION OF HEAD START REGULATIONS TO MAKE THEM CONFORM TO RECENT STATUTORY REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1301 to 1303; 45 CFR 1308

Legal Deadline: None

Abstract: This rule will correct several Head Start regulations that define Head Start programs as "nonprofit" agencies. Recent statutory changes now allow "for-profit" agencies to receive Head Start grant funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW., Washington, DC 20447
Phone: 202 205-8569
Email: dklafehn@acf.dhhs.gov

RIN: 0970–AC00

1257. HIGH PERFORMANCE BONUS AWARDS UNDER THE TANF PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 603(a)(4)

CFR Citation: 45 CFR 270

Legal Deadline: None

Abstract: This final rule specifies how we will implement the child care measure for awarding high performance bonuses to States in FY 2002 and FY 2003 under the Temporary Assistance for Needy Families (TANF) program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/10/01	66 FR 23854
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Stephanie Fanjul, Deputy Associate Commissioner for Child Care, Department of Health and Human Services, Administration for Children and Families, Room 2046, 330 C Street SW., Washington, DC 20201
Phone: 202 690-6782
Email: sfanjul@acf.dhhs.gov

RIN: 0970–AC06

Department of Health and Human Services (HHS)
Administration for Children and Families (ACF)

Completed Actions

1258. INDIVIDUAL DEVELOPMENT ACCOUNTS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1000

Completed:

Reason	Date	FR Cite
Final Action	09/25/01	66 FR 48970

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheldon Shalit
Phone: 202 401-4807

RIN: 0970–AC08

Department of Health and Human Services (HHS)
Administration on Aging (AOA)

Proposed Rule Stage

1259. GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING, TRAINING, RESEARCH AND DISCRETIONARY PROGRAMS; VULNERABLE ELDER RIGHTS; AND GRANTS TO INDIANS AND NATIVE HAWAIIANS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3001 et seq

CFR Citation: 45 CFR 1321; 45 CFR 1326 to 1328

Legal Deadline: None

Abstract: In response to the recent reauthorization of the Older Americans Act, Public Law 106-501, the Administration on Aging (AoA) proposes to issue a Notice of Proposed Rulemaking by the early part of 2002.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal

Federalism: Undetermined

Additional Information: Incorrectly reported as under Section 610 Review in April 2001.

Agency Contact: Edwin Walker, Director, Office of Program Operations and Development, Department of Health and Human Services, Administration on Aging, Room 4733, 330 Independence Avenue SW., Cohen Building, Washington, DC 20201 Phone: 202 619-0011

RIN: 0985–AA00

Department of Health and Human Services (HHS)
Administration on Aging (AOA)

Completed Actions

1260. GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING, FAMILY CAREGIVERS, AMERICAN INDIANS, AND NATIVE HAWAIIANS

Timetable:

Action	Date	FR Cite
Duplicate of 0985-AA00	08/24/01	

RIN: 0985–AA01

[FR Doc. 01–27742 Filed 11–30–01; 8:45 am]
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Federal Register

Monday,
December 3, 2001

Part IX

Department of Housing and Urban Development

Semiannual Regulatory Agenda

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

[Docket No. FR-4664-N-02]

Semiannual Agenda of Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with section 4(b) of Executive Order 12866, "Regulatory Planning and Review," HUD is publishing its agenda of (1) regulations already issued or that are expected to be issued over the next several months, and (2) currently effective rules that are under review. The agenda also describes regulations that may affect small entities as required by section 602 of the Regulatory Flexibility Act. The purpose of publication of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Aaron Santa Anna, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410, (202) 708-3055. (This is not a toll-free number.) A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at 1-800-877-8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Executive Order 12866, "Regulatory Planning and Review," published on October 4, 1993 (58 FR 51735), requires each agency to publish semiannually an agenda of (1) regulations that the agency has issued or expects to issue, and (2) currently effective regulations that are under agency review. The Regulatory Flexibility Act (5 U.S.C. 601-612) requires each agency to publish semiannually a regulatory agenda of rules expected to be proposed or promulgated that are likely to have a significant economic impact on a substantial number of "small entities," meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12866 and the Regulatory Flexibility Act each permit incorporation of the agenda required by these two authorities with any other prescribed agenda. Therefore, the agenda set out below combines the information required by Executive Order 12866 and the Regulatory Flexibility Act. In addition, the agenda contains certain information not required by either the Executive Order or by the Regulatory Flexibility Act which the Department considers useful, both better to inform the public and to enhance the Department's own inventory control over its body of regulations.

Section 610(c) of the Regulatory Flexibility Act requires each agency to publish annually a list of the rules that have a significant economic impact on a substantial number of small entities, and that are to be reviewed in accordance with the requirements of section 610 during the succeeding 12 months. Existing regulations that HUD proposes to amend by rules described and published in this agenda are reviewed in accordance with the principles of section 610 of the Regulatory Flexibility Act. The purpose of the review is to determine whether the rule should be continued without change, amended or rescinded. Proposed changes to existing regulations provide the opportunity for the Department to conduct a section 610 review.

The Department also is subject to certain rulemaking requirements set forth in the Department of Housing and Urban Development Act (42 U.S.C. 3531 *et seq.*). Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight of HUD (the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking and Financial Services) a semiannual agenda of all rules or regulations which are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days after transmittal of the agenda. Section 7(o) provides that if, within that period, either committee notifies the Secretary that it intends to review any rule or regulation which appears on the agenda, the Secretary must submit to both committees a copy of the rule or regulation, in the form it is intended to be proposed, at least 15 calendar days before it is published for comment. The semiannual agenda published today is the agenda transmitted to the committees in compliance with this requirement.

In addition to the authorities described above that affect HUD's regulatory process, this semiannual agenda, continues to reflect the regulatory review required by President Bush. On January 20, 2001, White House Chief of Staff Andrew H. Card, Jr. issued a memorandum entitled "Regulatory Review Plan" to all Federal departments and agencies, which sets out certain procedures that ensure that the new administration has the opportunity to review any new or pending regulations.

Consistent with the direction of the January 20, 2001 memorandum, HUD is continuing to review regulations that were begun under the previous Administration. In some cases, HUD has withdrawn rules that were placed on previous agendas and for which there has been no publication activity. Withdrawal of a rule does not necessarily mean that HUD will not proceed with the rulemaking. Withdrawal allows the new HUD Administration to further assess the subject matter and determine whether rulemaking for this subject matter is appropriate. Following this review, the Department may determine that certain rules listed as withdrawn under this agenda are appropriate. If that determination is made, the rules will be included in a succeeding semiannual agenda.

Additionally, for a few rules that have been published as a proposed or interim rule, and therefore require further rulemaking, HUD has identified the timing of the next action stage as "undetermined." These are rules that are still under review by the new HUD Administration and for which a determination of the next action stage and timing of the next action stage has not yet been made.

HUD has attempted to list in this agenda all regulations and regulatory reviews pending at the time of publication, except for minor and routine or repetitive actions, but some may have been inadvertently omitted, or may have arisen too late to be included in the published agenda. There is no legal significance to the omission of an item from the agenda. Also, where dates

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are provided for the next rulemaking actions, the dates are estimates and are not commitments to act on or by the date shown.

The format of the agenda remains unchanged from previous years. HUD's agenda items are divided first by program office. Within each program office, the agenda items are divided into five groups: (i) pre-rulemaking actions, (ii) publication or other implementations of notices of proposed rulemaking, (iii) publication or other implementations of final rules, (iv) long-term actions, and (v) completed actions. Within each grouping, rules are listed in chronological order by the part number of the CFR affected. Where a rule affects multiple parts of the CFR, the rule is listed by the first affected part number.

For this edition of the Department's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Since the purpose of publication of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about the Department's future regulatory actions, HUD invites all interested members of the public to comment on the rules listed in the agenda.

Dated: September 17, 2001.
Alphonso Jackson,
Deputy Secretary.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1261	24 CFR 5 Electronic Document Retention and Consumer Disclosure Requirements in HUD-Related Transactions (FR-4686)	2501-AC79
1262	24 CFR 5 Uniform Financial Reporting Standards for HUD Housing Programs, Additional Entity Filing Requirements (FR-4681)	2501-AC80
1263	24 CFR 24 Common Rule on Suspension and Debarments (FR-4692)	2501-AC81
1264	24 CFR 203 Single Family Mortgage Insurance; Treble Damages for Failure to Engage in Loss Mitigation Activities (FR-4553)	2501-AC66
1265	24 CFR 40 Accessibility Standards for Design, Construction and Alteration of Certain Facilities Financed with Public Funds (FR-4317)	2501-AC47
1266	24 CFR 58 Environmental Review Procedures for Entities Assuming HUD's Environmental Responsibilities (FR-4523)	2501-AC83
1267	24 CFR 92 Home Investment Partnerships Program: Grandfamilies (FR-4599)	2501-AC71

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1268	24 CFR 1 Rule To Conform Regulatory Definitions Civil Rights Restoration Act (FR-4587)	2501-AC70
1269	24 CFR 5 Temporary Assistance to Needy Families (TANF); Conforming changes to Annual Income Requirements for HUD's Public Housing and Section 8 Assistance Programs (FR-4635)	2501-AC77
1270	24 CFR 30 Amendments to HUD's Civil Money Penalty Regulations (FR-4399)	2501-AC56
1271	24 CFR 92 HOME Investment Partnerships Program — Amendments (FR-4111)	2501-AC30
1272	24 CFR 888 Fair Market Rents for the Section 8 Tenant-Based Rental Housing and Homeownership Programs; Higher Fair Market Rents for Certain FMRs Areas (FR-4606)	2501-AC75

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1273	24 CFR 28 Adjustment of HUD's Civil Money Penalties Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (FR-4555)	2501-AC67
1274	24 CFR 55 Floodplain Management and Protection of Wetlands (FR-4142)	2501-AC33
1275	24 CFR 81 The Secretary of HUD's Regulation of Fannie Mae and Freddie Mac; Prohibiting the Purchase of Certain Loans With High Costs and/or Predatory Features (FR-4614)	2501-AC76
1276	24 CFR 84 Adoption of Revisions to OMB Circular A-110 (FR-4573)	2501-AC68
1277	24 CFR 91 Consolidated Plan Amendments; Needs of Public Housing and Treatment of Troubled PHAs (FR-4518)	2501-AC62

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Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
1278	24 CFR 27 Prohibited Purchasers in Foreclosure Sales of Multifamily Projects with HUD-Held Mortgages and Sales of Multifamily HUD-Owned Projects (FR-4583)	2501-AC69
1279	24 CFR 30 Designation of Concurrent Authority To Initiate Civil Money Penalty Actions for Failing to Disclose Lead-Based Paint Hazards (FR-4647)	2501-AC78
1280	24 CFR 84 Administrative Requirements for Grantees To Reflect Single Audit Act Amendments (FR-4258)	2501-AC39
1281	24 CFR 200 Screening and Eviction for Drug Abuse and Other Criminal Activity (FR-4495)	2501-AC63

Office of Housing—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1282	FHA Accelerated Claim Disposition Demonstration Program (FR-4691)	2502-AH69

Office of Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1283	Sale of Unoccupied and Substandard HUD-Held Housing to Local Governments and Community Development Organizations (FR-4658)	2502-AH61
1284	24 CFR 203 Single Family Mortgage Insurance; Nonprofit Placement and Removal Procedures (FR-4585)	2502-AH49
1285	24 CFR 200 Appraiser Qualifications for Placement on FHA Single Family Appraiser Roster (FR-4620) **(Reg Plan Seq No. 64)**	2502-AH59
1286	24 CFR 202 Revisions to FHA Credit Watch/Termination Initiative (FR-4625)	2502-AH60
1287	24 CFR 203 Single Family Mortgage Insurance; Section 203(k) Consultant Roster Procedures (FR-4592)	2502-AH51
1288	24 CFR 203 Prohibition of Property Flipping in HUD's Single Family Mortgage Insurance Programs (FR-4615) **(Reg Plan Seq No. 63)**	2502-AH57
1289	24 CFR 203 Upfront Mortgage Insurance Premiums: Remittance Requirements(FR-4690)	2502-AH67
1290	24 CFR 203 Limit on FHA Single Family Loan Fees (FR-4700) **(Reg Plan Seq No. 65)**	2502-AH70
1291	24 CFR 236 Section 236 Excess Rental Charges (FR-4689)	2502-AH68
1292	24 CFR 245 Tenant Participation in State-Financed, HUD-Assisted Housing Developments (FR-4611)	2502-AH55
1293	24 CFR 291 Disposition of HUD-Owned Single Family Assets in Revitalization Areas (FR-4471)	2502-AH40
1294	24 CFR 891 Supportive Housing for the Elderly and Persons With Disabilities; Duration of Capital Advance (FR-4466)	2502-AH36
1295	24 CFR 891 Prepayment and Refinancing of Section 202 Loans (FR-4678)	2502-AH65
1296	24 CFR 3280 Implementation of Manufactured Housing Improvement Act of 2000 (FR-4665)	2502-AH62

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Office of Housing—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1297	24 CFR 200 Delegation of Insuring Authority to Direct Endorsement Mortgagees (FR-4169)	2502-AG87
1298	24 CFR 206 Insurance for Mortgages To Refinance Existing HECMs (FR-4667)	2502-AH63
1299	24 CFR 207 Mortgage Insurance Premiums in Multifamily Housing Programs (FR-4679)	2502-AH64
1300	24 CFR 236 Rehabilitation Grants for Certain Multifamily Projects (FR-4465)	2502-AH35
1301	24 CFR 402 Renewal of Expiring Section 8 Project-Based Assistance Contract (FR-4551)	2502-AH47
1302	24 CFR 880 Distributions to Nonprofit Owners of Certain HUD-Assisted Multifamily Rental Projects (FR-4602)	2502-AH52
1303	24 CFR 3280 Manufactured Home Construction and Safety Standards (FR-4376)	2502-AH23
1304	24 CFR 3280 Manufactured Homes Construction and Safety Standards: Smoke Alarms (FR-4552)	2502-AH48

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Office of Housing—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1305	24 CFR 242 Mortgage Insurance for the Refinancing of Existing Debt of Existing Hospitals (FR-4618)	2502-AH58
1306	24 CFR 401 Release of Information to Tenants and Other Parties Pursuant to MAHRA (FR-4531)	2502-AH45

Office of Housing—Completed Actions

Sequence Number	Title	Regulation Identification Number
1307	24 CFR 200 Section 236 Rental Assistance — Excess Rental Charges (FR-4603)	2502-AH53
1308	24 CFR 201 Strengthening the Title I Property Improvement and Manufactured Home Loan Insurance Programs and Title I Lender/Title II Mortgagee Approval Requirements (FR-4246)	2502-AG95
1309	24 CFR 202 Credit Watch Initiative—Limitation on Opening New Branches in Lending Area for Lenders in Receipt of Proposed Termination of Origination Approval Agreement (FR-4605)	2502-AH54

Office of Community Planning and Development—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1310	24 CFR 570 Community Development Block Grant - Assisted Demolition of HUD-Owned Housing Units (FR-4698)	2506-AC10
1311	24 CFR 570 CDBG Brownfields/Slum/Blight (FR-4699) **(Reg Plan Seq No. 66)**	2506-AC12
1312	24 CFR 574 Housing Opportunities for Persons with AIDS (HOPWA) (FR-4708	2506-AC11

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Office of Community Planning and Development—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1313	24 CFR 570 CDBG Program for States; Community Revitalization Strategy Requirements and Miscellaneous Technical Amendments (FR-4081)	2506-AB83
1314	24 CFR 583 Supportive Housing Program—Increasing Operating Cost Percentage (FR-4576)	2506-AC05
1315	24 CFR 598 Designation of Renewal Communities and Third Round Empowerment Zones (FR-4663)	2506-AC09

Office of Community Planning and Development—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1316	24 CFR 570 Prohibition on Use of CDBG Assistance for Job-Pirating Activities (FR-4556)	2506-AC04
1317	24 CFR 583 Supportive Housing Program (FR-4616)	2506-AC07

Government National Mortgage Association—Completed Actions

Sequence Number	Title	Regulation Identification Number
1318	24 CFR 300 Elimination of Physical Certificate for Issued Securities (FR-4533)	2503-AA14
1319	24 CFR 320 Electronic Payment on Ginnie Mae Guaranteed Securities (FR-4617)	2503-AA15
1320	24 CFR 320 Ginnie Mae MBS Program: Payments to Security Holders (FR 4629)	2503-AA16

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Office of Fair Housing and Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1321	24 CFR 100 Fair Housing Act Regulation; Conforming Amendment; Update To Reflect Current Edition of American National Standards Institute (ANSI) (FR-4554)	2529-AA88

Office of Fair Housing and Equal Opportunity—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1322	24 CFR 100 Fair Housing Act Regulations Amendments: Standards Governing Sexual Harassment (FR-4597)	2529-AA89
1323	24 CFR 135 Economic Opportunities for Low- and Very-Low-Income Persons (FR-2898)	2529-AA49

Office of Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1324	48 CFR 2401 HUD Acquisition Regulation (FR-4705)	2535-AA26

Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1325	24 CFR 902 Amended Public Housing Assessment System (PHAS) Rule (FR-4707) **(Reg Plan Seq No. 70)**	2577-AC32
1326	24 CFR 903 Public Housing Agency Plans: Deconcentration - Amendment to Established Income Range" Definition (FR-4677)	2577-AC31
1327	24 CFR 905 Public Housing Capital Fund Program (FR-4507) **(Reg Plan Seq No. 67)**	2577-AC16
1328	24 CFR 909 Public Housing Relocation Requirements (FR-4634)	2577-AC23
1329	24 CFR 941 Mixed-Finance Public Housing Development (FR-4499)	2577-AC09
1330	24 CFR 964 Resident Participation in Public and Section 8 Housing (FR-4657) **(Reg Plan Seq No. 69)**	2577-AC26
1331	24 CFR 970 Public Housing Demolition and Disposition (FR-4598)	2577-AC20
1332	24 CFR 983 Project-Based Voucher Program (FR-4636) **(Reg Plan Seq No. 68)**	2577-AC25
1333	24 CFR 1000 HUD Policy for the Administration of HUD Programs on Indian Reservations and Other Indian Areas (FR-4580)	2577-AC06

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Office of Public and Indian Housing—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1334	24 CFR 990 Operating Fund Allocation Formula (FR-4425) **(Reg Plan Seq No. 71)**	2577-AB88
1335	24 CFR 906 Public Housing Homeownership Programs (FR-4504) **(Reg Plan Seq No. 72)**	2577-AC15
1336	24 CFR 972 Required Conversion of Development From Public Housing Stock (FR-4475)	2577-AC01
1337	24 CFR 972 Voluntary Conversion of Developments From Public Housing Stock (FR-4476)	2577-AC02
1338	24 CFR 982 Section 8 Housing Choice Voucher Program; Expansion of Payment Standards Protection (FR-4586)	2577-AC18
1339	24 CFR 982 Section 8 Homeownership Program; Pilot Program for Homeownership Assistance for Disabled Families (FR-4661)	2577-AC24
1340	24 CFR 982 Section 8 Downpayment Initiative (FR-4670) **(Reg Plan Seq No. 73)**	2577-AC28
1341	24 CFR 982 Exception Payment Standard to Offset Increase in Utility Costs In the Housing Choice Voucher Program (FR-4672)	2577-AC29
1342	24 CFR 985 Revisions to SEMAP Lease-Up Indicator (FR-4604)	2577-AC21

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

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Office of Public and Indian Housing—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1343	24 CFR ch IX HOPE VI Program (FR-4530)	2577-AC17
1344	24 CFR 941 Public Housing Development Total Development Cost (TDC) (FR-4489)	2577-AC05
1345	24 CFR 1000 NAHASDA Housing Assistance for Native Hawaiians (FR-4668)	2577-AC27
1346	24 CFR 1000 Revisions to Indian Housing Block Grant Allocation Formula (FR-4676)	2577-AC30
1347	24 CFR 1005 Loan Guarantee for Indian Housing; Direct Guarantee Processing (FR-4241)	2577-AB78

Office of Public and Indian Housing—Completed Actions

Sequence Number	Title	Regulation Identification Number
1348	24 CFR 791 Review of Applications for Housing Assistance and Allocations of Housing Assistance Funds (FR-4477)	2577-AC03
1349	24 CFR 1000 Revision to Cost Limits for Native American Housing (FR-4517)	2577-AC14

Department of Housing and Urban Development (HUD)
Office of the Secretary (HUDSEC)

Proposed Rule Stage

1261. • ELECTRONIC DOCUMENT RETENTION AND CONSUMER DISCLOSURE REQUIREMENTS IN HUD-RELATED TRANSACTIONS (FR-4686)

Priority: Other Significant

Legal Authority: 12 USC 1701 et seq; 12 USC 1715Z-13a; 12 USC 2601 to 2617; 15 USC 1701 to 1706; 15 USC 7001 to 7006; ...

CFR Citation: 24 CFR 5

Legal Deadline: None

Abstract: This rule will implement the Electronic Signature Act which allows agencies to issue regulations, pursuant to their existing regulatory authority, interpreting Section 101 of ESIGN (15 U.S.C. 7001) and setting performance standards for the accuracy, integrity, and accessibility of electronically retained documents. The rule will set performance standards for the accessibility, integrity and accuracy of electronically retained documents

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Koren McKenzie-John, Attorney-Advisor, Multifamily Mortgage Division, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-4090

RIN: 2501–AC79

1262. • UNIFORM FINANCIAL REPORTING STANDARDS FOR HUD HOUSING PROGRAMS, ADDITIONAL ENTITY FILING REQUIREMENTS (FR-4681)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1703; 12 USC 1709; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 5; 24 CFR 202

Legal Deadline: None

Abstract: This rule would amend HUD's regulation on Uniform Financial Reporting Standards by adding HUD Approved Title I and Title II nonsupervised lenders, nonsupervised mortgagees and loan correspondents to the covered entities required to electronically submit annual financial information to HUD prepared in accordance with generally accepted accounting principles. Under long-standing regulatory and contractual requirements, these entities already submit financial information to HUD on an annual basis.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stacey Kniff, Department of Housing and Urban Development, Real Estate Assessment Center
Phone: 202 708-4932

RIN: 2501–AC80

1263. • COMMON RULE ON SUSPENSION AND DEBARMENTS (FR-4692)

Priority: Other Significant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 24

Legal Deadline: None

Abstract: This rule proposes substantive changes and amendments to the governmentwide nonprocurement common rule for debarment and suspension and the governmentwide rule implementing the Drug Free Workplace Act of 1988. This rule is part of a common rule on debarment and suspension that would limit the mandatory lower tier application of an exclusion to the first procurement level under a nonprocurement covered transaction. Also, the proposed common rule on debarment and suspension would set the dollar threshold on prohibited

HUD—HUDSEC

Proposed Rule Stage

lower-tier procurement transactions with excluded persons at $25,000.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

RIN: 2501–AC81

1264. SINGLE FAMILY MORTGAGE INSURANCE; TREBLE DAMAGES FOR FAILURE TO ENGAGE IN LOSS MITIGATION ACTIVITIES (FR-4553)

Priority: Other Significant

Legal Authority: 12 USC 1715u; 12 USC 1735f-14; 42 USC 3535(d)

CFR Citation: 24 CFR 203; 24 CFR 30

Legal Deadline: None

Abstract: This rule would implement section 601(f) of the fiscal year 1999 HUD Appropriations Act (Pub. L. 105-276, approved October 21, 1998). Section 601(f) amends the National Housing Act, which establishes the basic framework for HUD's single family mortgage insurance programs. Specifically, section 601(f) amends section 230 of the National Housing Act (42 U.S.C. 1715u) (entitled Authority to Assist Mortgagors in Default) to provide that, upon default of an insured single family mortgage, lenders must engage in loss mitigation activities for the purpose of providing an alternative to foreclosure. Further, section 601(f) amends section 536 of the National Housing Act (12 U.S.C. 1735f-14) (entitled Civil Money Penalties Against Mortgagees, Lenders, and Other Participants in FHA Programs) to provide for the imposition of treble civil money penalties on lenders that fail to engage in loss mitigation activities, as required under amended section 230.

Timetable:

Action	Date	FR Cite
ANPRM	12/06/00	65 FR 76520
ANPRM Comment Period End	02/05/01	
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joseph McCloskey, Director, Single Family Asset Management Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2501–AC66

1265. ACCESSIBILITY STANDARDS FOR DESIGN, CONSTRUCTION AND ALTERATION OF CERTAIN FACILITIES FINANCED WITH PUBLIC FUNDS (FR-4317)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 4151 et seq

CFR Citation: 24 CFR 40; 24 CFR 41

Legal Deadline: None

Abstract: The U.S. Architectural and Transportation Barriers Compliance Board (Access Board), of which HUD is a voting member, is revising and updating its accessibility guidelines for buildings and facilities covered by the Americans with Disabilities Act and the Architectural Barriers Act (ABA). The guidelines cover new construction and alterations and serve as the basis for enforceable standards issued by other Federal agencies, including HUD. HUD, as one of the four standard setting agencies, must adopt standards that are equivalent to or stricter than those guidelines issued by the Access Board. Thus, HUD must both update its regulations for the ABA at 24 CFR 40 and 41, but must also update/replace its Uniform Federal Accessibility Standards (UFAS) with standards equivalent to or stricter than the Access Board's guidelines.

Timetable:

Action	Date	FR Cite
Proposed Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Milton Turner, Director, Program Compliance and Disability Rights Support Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2333

RIN: 2501–AC47

1266. • ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD'S ENVIRONMENTAL RESPONSIBILITIES (FR-4523)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1707 note; 25 USC 4115; 42 USC 1437o(i)(1); 42 USC 1437o(i)(2); 42 USC 1437x; 42 USC 3535(d); 42 USC 3547; 42 USC 4332; 42 USC 4852; 42 USC 5304 (g); 42 USC 11402; 42 USC 12588; ...

CFR Citation: 24 CFR 58; 24 CFR 574; 24 CFR 582; 24 CFR 583; 24 CFR 941; 24 CFR 968; 24 CFR 970; ...

Legal Deadline: None

Abstract: This rule would update the list of programs and statutory authorities for which other entities may assume HUD's environmental responsibilities and make other changes to update the regulations on assumption of HUD's environmental responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Walter Prybyla, Deputy Director for Policy Environmental Review Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1201

RIN: 2501–AC83

1267. HOME INVESTMENT PARTNERSHIPS PROGRAM: GRANDFAMILIES (FR-4599)

Priority: Other Significant

Legal Authority: 42 USC 12701 to 12839; 42 USC 3535(d)

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rule would amend the regulations for the HOME Investment Partnerships Program to implement section 904 of the American Homeownership and Economic Opportunity Act that allows for the use of Section 8 assistance for grandfamilies.

HUD—HUDSEC **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Virginia Sardone, Program Policy Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2470

RIN: 2501–AC71

Department of Housing and Urban Development (HUD)
Office of the Secretary (HUDSEC) **Final Rule Stage**

1268. RULE TO CONFORM REGULATORY DEFINITIONS CIVIL RIGHTS RESTORATION ACT (FR-4587)

Priority: Other Significant

Legal Authority: 42 USC 2000d-1; 42 USC 2000d-7; 42 USC 3535(d)

CFR Citation: 24 CFR 1; 24 CFR 8; 24 CFR 146

Legal Deadline: None

Abstract: Title VI of the Civil Rights Act of 1964 (Title VI), section 504 of the Rehabilitation Act of 1972 (Section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act) prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to Title VI, and it added a definition of "program or activity" to Section 504 and the Age Discrimination Act. The promulgation of this rule incorporates the CRRA's definition of "program or activity" and "program" into title VI, section 504, and Age Discrimination Act regulations.

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Pamela Walsh, Director, Program Standards Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2288

RIN: 2501–AC70

1269. TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF); CONFORMING CHANGES TO ANNUAL INCOME REQUIREMENTS FOR HUD'S PUBLIC HOUSING AND SECTION 8 ASSISTANCE PROGRAMS (FR-4635)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437d; 42 USC 1437f; 42 USC 1437n; 42 USC 3535(d); ...

CFR Citation: 24 CFR 5

Legal Deadline: None

Abstract: This rule updates and clarifies HUD's annual income requirements for its public housing and Section 8 assistance programs. Specifically, this rule clarifies that annual income includes payments under the Temporary Assistance for Needy Families (TANF) program, but only to the extent such payments qualify as "assistance" under the TANF program regulations issued by the Department of Health and Human Services and are not otherwise excluded under HUD's regulation. The clarifications will make the annual income requirements easier to understand for both program participants and public housing agencies. These changes will also ensure greater conformity between HUD's annual income requirements and the TANF program regulations. The final rule follows publication of an April 20, 2001 proposed rule, and takes into consideration the public comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	04/20/01	66 FR 20368
NPRM Comment Period End	06/19/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia Arnaudo, Senior Housing Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0744

RIN: 2501–AC77

1270. AMENDMENTS TO HUD'S CIVIL MONEY PENALTY REGULATIONS (FR-4399)

Priority: Other Significant

Legal Authority: 12 USC 1701q-1; 12 USC 1703; 12 USC 1723i; 12 USC 1735-f14; 12 USC 1735f-1; 15 USC 1717a; 28 USC 2461 note; 42 USC 1437-z1; 42 USC 3535(d)

CFR Citation: 24 CFR 30

Legal Deadline: NPRM, Statutory, October 27, 1998.

Abstract: The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998; Pub. L. 105-65, approved October 27, 1997) (the Act) made several amendments to strengthen HUD's enforcement authority. This rule addresses those amendments that require rulemaking for implementation, as follows. The Act expands the list of persons and types of violations subject to a civil money penalty under HUD's multifamily insured housing programs. The Act also amends the United States Housing Act of 1937 (the statutory authority for HUD's public and assisted housing programs) to provide for the imposition of civil money penalties for noncompliance with Section 8 Housing Assistance Payment contracts. In accordance with the Act, HUD is implementing these statutory amendments through issuance of this rule. The rule would incorporate these amendments in HUD's civil

HUD—HUDSEC **Final Rule Stage**

money penalty regulations located at 24 CFR part 30.

Timetable:

Action	Date	FR Cite
NPRM	06/26/00	65 FR 39502
NPRM Comment Period End	08/25/00	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

RIN: 2501–AC56

1271. HOME INVESTMENT PARTNERSHIPS PROGRAM — AMENDMENTS (FR-4111)

Priority: Other Significant

Legal Authority: 42 USC 12701 to 12839; 42 USC 3535(d)

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rule makes final a provision published for comment as part of an otherwise final rule published on August 22, 1997, with respect to rents for over-income tenants in HOME-assisted units that "float." This rule also makes other technical clarifications.

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	61 FR 65298
NPRM Comment Period End	02/10/97	
Final Rule	08/22/97	62 FR 44838
Final Rule Effective	09/22/97	
Comment Period End	10/21/97	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Kolesar, Director, Office of Affordable Housing Programs, Department of Housing and Urban Development, Office of Community Planning and Development Phone: 202 708-2470

RIN: 2501–AC30

1272. FAIR MARKET RENTS FOR THE SECTION 8 TENANT-BASED RENTAL HOUSING AND HOMEOWNERSHIP PROGRAMS; HIGHER FAIR MARKET RENTS FOR CERTAIN FMRS AREAS (FR-4606)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 888; 24 CFR 982; 24 CFR 985

Legal Deadline: None

Abstract: This rule follows the interim final rule that implemented HUD's new fair market rent (FMR) policy. The new FMR policy targets relief to areas where higher FMRs are needed to help families, assisted under HUD's Housing Choice Voucher Program as well as other HUD programs, find and lease decent and affordable housing. The new FMR policy increases FMRs needed to promote residential choice, help families move closer to areas of job growth, and deconcentrate poverty. The increased FMR applies to all the HUD programs that use FMRs in that metropolitan area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/02/00	65 FR 58870
Interim Final Rule Comment Period End	11/16/00	
Interim Final Rule Effective	12/01/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-0477

RIN: 2501–AC75

Department of Housing and Urban Development (HUD)
Office of the Secretary (HUDSEC)

Long-Term Actions

1273. ADJUSTMENT OF HUD'S CIVIL MONEY PENALTIES PURSUANT TO THE FEDERAL CIVIL PENALTIES INFLATION ADJUSTMENT ACT OF 1990 (FR-4555)

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2461 note; 31 USC 3701 note

CFR Citation: 24 CFR 28; 24 CFR 30; 24 CFR 3282; 24 CFR 3500; 24 CFR 81

Legal Deadline: None

Abstract: This final rule would adjust for inflation the maximum amounts of HUD's civil money penalties, as required by the Federal Civil Money Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note), as amended by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3701 note). HUD is required to adjust the maximum amounts of its civil money penalties at least once every 4 years. HUD last adjusted these maximum amounts in a final rule that became effective October 24, 1996 (61 FR 50208). Accordingly, HUD must adjust the maximum amounts of its civil money penalties before October 24, 2000.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

RIN: 2501–AC67

1274. FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS (FR-4142)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); EO 11990; EO 11988; 42 USC 4001 to 4128; 42 USC 5154a

CFR Citation: 24 CFR 55

Legal Deadline: None

Abstract: This rule adopts procedures to implement Executive Order 11990 "Protection of Wetlands." This rule amends part 55 to implement the procedures for wetlands protection in accordance with Executive Order 11990. The rule makes several other changes including expanding the number of HUD programs that are

subject to the four-step decisionmaking process for ensuring compliance with part 55.

Timetable:

Action	Date	FR Cite
NPRM	06/02/98	63 FR 30046
NPRM Comment Period End	08/03/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Walter Prybyla, Deputy Director for Policy Environmental Review Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1201

RIN: 2501–AC33

1275. THE SECRETARY OF HUD'S REGULATION OF FANNIE MAE AND FREDDIE MAC; PROHIBITING THE PURCHASE OF CERTAIN LOANS WITH HIGH COSTS AND/OR PREDATORY FEATURES (FR-4614)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 12 USC 1451 et seq; 12 USC 1716 et seq; 12 USC 4501 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 81

Legal Deadline: None

Abstract: A report issued in June 2000 by HUD and the Department of Treasury entitled "Curbing Predatory Home Mortgage Lending" noted that by providing a source of funding, entities that purchase or securitize loans with high cost and/or predatory features are, knowingly or unknowingly, supporting the activities of predatory loan originators. The report recommended regulatory restrictions that would prohibit the two Government-Sponsored Enterprises (GSEs), Fannie Mae and Freddie Mac, from purchasing certain types of loans with high costs and/or predatory features altogether. Through this rulemaking, HUD will establish regulatory restrictions, consistent with the GSEs' voluntary restrictions, that will prohibit the GSEs from purchasing certain loans with high costs and/or predatory features.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sandra Fostek, GSE, Program Analyst, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2224

RIN: 2501–AC76

1276. ADOPTION OF REVISIONS TO OMB CIRCULAR A-110 (FR-4573)

Priority: Other Significant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 5; 24 CFR 44; 24 CFR 45; 24 CFR 84; 24 CFR 85

Legal Deadline: None

Abstract: This document presents the final revision to the codification, at 24 CFR part 84, of Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations." OMB issued a final revision to Circular A-110 on September 30, 1999, as required by Public Law 105-227. This rule provides uniform administrative requirements for all grants and cooperative agreements to institutions of higher education, hospitals, and other nonprofit organizations. FR-4258 (RIN 2501-AC39), which makes final an interim rule that adopted revised OMB Circular A-133 to obtain consistency and uniformity among Federal agencies for the audit of States, local governments, and nonprofit organizations expending Federal awards, is also merged with this rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/11/00	65 FR 30498
Interim Final Rule Effective	06/12/00	
Interim Final Rule Comment Period End	07/10/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William E. Dobrzykowski, Deputy Chief Financial Officer, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-3310

RIN: 2501–AC68

1277. CONSOLIDATED PLAN AMENDMENTS; NEEDS OF PUBLIC HOUSING AND TREATMENT OF TROUBLED PHAS (FR-4518)

Priority: Other Significant

Legal Authority: 42 USC 12705; 42 USC 3535(d)

CFR Citation: 24 CFR 91

Legal Deadline: None

Abstract: This rule amends the Consolidated Plan regulations to conform to recent statutory requirements contained in the Quality Housing and Work Responsibility Act that a consolidated plan from a State or unit of general local government in which any troubled PHA is located must describe the manner in which it will help address the needs of public housing and that a consolidated plan must include a description of the manner in which the State or unit will provide assistance to remove the PHA's troubled designation. The rule also makes a number of clarifying and conforming amendments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Salvatore Sclafani, Office of Executive Services, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1283

RIN: 2501–AC62

Department of Housing and Urban Development (HUD)
Office of the Secretary (HUDSEC)

Completed Actions

1278. PROHIBITED PURCHASERS IN FORECLOSURE SALES OF MULTIFAMILY PROJECTS WITH HUD-HELD MORTGAGES AND SALES OF MULTIFAMILY HUD-OWNED PROJECTS (FR-4583)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 27; 24 CFR 290

Completed:

Reason	Date	FR Cite
Final Action	07/09/01	66 FR 35846
Final Action Effective	08/08/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marc Harris
Phone: 202 708-2654

RIN: 2501–AC69

1279. DESIGNATION OF CONCURRENT AUTHORITY TO INITIATE CIVIL MONEY PENALTY ACTIONS FOR FAILING TO DISCLOSE LEAD-BASED PAINT HAZARDS (FR-4647)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 30

Completed:

Reason	Date	FR Cite
Withdrawn	09/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Herold
Phone: 202 708-2568

RIN: 2501–AC78

1280. ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS (FR-4258)

Priority: Other Significant

CFR Citation: 24 CFR 84; 24 CFR 85

Completed:

Reason	Date	FR Cite
Merged With RIN 2501-AC68 (FR-4573)	09/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Garland Reid
Phone: 202 708-3886

RIN: 2501–AC39

1281. SCREENING AND EVICTION FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY (FR-4495)

Priority: Other Significant

CFR Citation: 24 CFR 200; 24 CFR 247; 24 CFR 5; 24 CFR 880; 24 CFR 882; 24 CFR 884; 24 CFR 891; 24 CFR 960; 24 CFR 966; 24 CFR 982

Completed:

Reason	Date	FR Cite
Final Action	05/24/01	66 FR 28776
Final Action Effective	06/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Patricia Arnaudo
Phone: 202 708-0744

RIN: 2501–AC63

Department of Housing and Urban Development (HUD)
Office of Housing (OH)

Prerule Stage

1282. • FHA ACCELERATED CLAIM DISPOSITION DEMONSTRATION PROGRAM (FR-4691)

Priority: Other Significant

Legal Authority: 12 USC 1710; 42 USC 3535(d); 42 USC 3542

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces HUD's proposal to establish the Accelerated Claim Disposition (ACD) Demonstration and solicits public comment on this proposal. The Demonstration would implement amendments made by section 601 of the fiscal year 1999 Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act to section 204 of the National Housing Act (12 U.S.C. 1710). These changes are designed to increase the effectiveness of the methods used by HUD to pay insurance claims and disposing of HUD-acquired single family notes and their underlying properties. Under the ACD Demonstration, HUD would pay accelerated claims on certain defaulted FHA-insured mortgages. HUD, in its sole discretion, will use one of two disposition methodologies: joint venture partnership and/or special servicing with whole loan or securitization. HUD will select approximately five to nine mortgagees to participate in the ACD Demonstration. The demonstration will have an initial duration of three years and will initially be limited to mortgage loans secured by properties located within the jurisdiction of HUD's Philadelphia, Pennsylvania Home Ownership Center (HOC). At the conclusion of the demonstration, HUD will assess its success and determine whether to implement the ACD process, on a permanent basis, throughout the country.

Timetable:

Action	Date	FR Cite
Notice	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Williams, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2625

RIN: 2502–AH69

Department of Housing and Urban Development (HUD)
Office of Housing (OH)

Proposed Rule Stage

1283. SALE OF UNOCCUPIED AND SUBSTANDARD HUD-HELD HOUSING TO LOCAL GOVERNMENTS AND COMMUNITY DEVELOPMENT ORGANIZATIONS (FR-4658)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1715z-11a; 42 USC 3535(d)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This proposed rule would provide for a program to sell properties that are vacant or substandard to local governments and community development corporations. The properties must be used for community revitalization purposes, and must be held in the HUD inventory for at least 6 months.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beverly Miller, Director, Office of Multifamily Asset Management, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3730

RIN: 2502–AH61

1284. SINGLE FAMILY MORTGAGE INSURANCE; NONPROFIT PLACEMENT AND REMOVAL PROCEDURES (FR-4585)

Priority: Other Significant

Legal Authority: 12 USC 1702 to 1715z-21; 42 USC 3535(d)

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This rule establishes regulatory placement and removal procedures for HUD's Nonprofit Organization Roster. The Roster lists nonprofit organizations that HUD has determined are qualified to participate in certain specified Federal Housing Administration (FHA) single family activities. These activities may include acting as a mortgagor; purchasing HUD's Real Estate Owned Properties (HUD Homes) at a discount; providing secondary financing; and imposing legal restrictions on conveyance as part of affordable housing programs. Presently, there are no regulatory procedures for placing a nonprofit organization on, nor for removing a poorly performing nonprofit organization from, the Roster. The establishment of these placement and removal procedures will better protect participants in the FHA single family programs and safeguard FHA insurance funds. This rule follows publication of a September 17, 2001 proposed rule, and takes into consideration the public comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	09/17/01	66 FR 48080
NPRM Comment Period End	11/16/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH49

1285. APPRAISER QUALIFICATIONS FOR PLACEMENT ON FHA SINGLE FAMILY APPRAISER ROSTER (FR-4620)

Regulatory Plan: This entry is Seq. No. 64 in part II of this issue of the Federal Register.

RIN: 2502–AH59

1286. REVISIONS TO FHA CREDIT WATCH/TERMINATION INITIATIVE (FR-4625)

Priority: Other Significant

Legal Authority: 12 USC 1703; 12 USC 1709; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 202

Legal Deadline: None

Abstract: This rule would make several amendments to HUD's regulations for the Federal Housing Administration (FHA) Credit Watch/Termination Initiative. Under the Credit Watch/Termination Initiative, HUD identifies mortgagees with unsatisfactory performance levels and takes ameliorative action at an early stage. The proposed rule would provide that HUD will no longer provide mortgagees with written notification of Credit Watch status. Rather, mortgagees will be responsible for using HUD's Electronic Neighborhood Watch System to monitor their performance. Among other changes, the rule would also prohibit a mortgagee that has received a notice of proposed termination of its origination approval agreement from establishing a new branch for the origination of FHA-insured mortgages in the lending area covered by the proposed termination. The rule also would establish that the default and claim thresholds underlying the Credit Watch/Termination Initiative apply to both underwriting and originating mortgagees.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip Murray, Director, Office of Lender Activities and Program Compliance, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1515

RIN: 2502–AH60

1287. SINGLE FAMILY MORTGAGE INSURANCE; SECTION 203(K) CONSULTANT ROSTER PROCEDURES (FR-4592)

Priority: Other Significant

Legal Authority: 12 USC 1702 to 1715z-21; 42 USC 3535(d)

CFR Citation: 24 CFR 200; 24 CFR 203

Legal Deadline: None

Abstract: This rule establishes placement and removal procedures for HUD's list of qualified consultants under the Section 203(k) Rehabilitation Loan Insurance program. The 203(k) Program is HUD's primary program for the rehabilitation and repair of single family properties. A 203(k) lender may select a qualified independent consultant, who is an expert in the field of home inspection and construction, to perform various tasks required for the rehabilitation of the property. Presently, there are no

regulatory procedures for placing a consultant on, nor for removing a poorly performing consultant from, the list. The establishment of these placement and removal procedures will better protect 203(k) borrowers and lenders and safeguard Federal Housing Administration (FHA) insurance funds.

Timetable:

Action	Date	FR Cite
NPRM	10/24/01	66 FR 53930
NPRM Comment Period End	12/24/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH51

1288. PROHIBITION OF PROPERTY FLIPPING IN HUD'S SINGLE FAMILY MORTGAGE INSURANCE PROGRAMS (FR-4615)

Regulatory Plan: This entry is Seq. No. 63 in part II of this issue of the **Federal Register**.

RIN: 2502–AH57

1289. • UPFRONT MORTGAGE INSURANCE PREMIUMS: REMITTANCE REQUIREMENTS(FR-4690)

Priority: Other Significant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule will change the remittance period of mortgage insurance premiums. The rule will also implement a more precise definition of when the remittance period begins.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH67

1290. • LIMIT ON FHA SINGLE FAMILY LOAN FEES (FR-4700)

Regulatory Plan: This entry is Seq. No. 65 in part II of this issue of the **Federal Register**.

RIN: 2502–AH70

1291. • SECTION 236 EXCESS RENTAL CHARGES (FR-4689)

Priority: Other Significant

Legal Authority: 12 USC 1715z-1; 42 USC 3535(d)

CFR Citation: 24 CFR 236

Legal Deadline: None

Abstract: This rule would establish the terms and conditions to permit owners of projects receiving section 236 rental assistance to participate in retaining some or all of their excess charges for project use. In addition, it would permit owners to retain excess charges for non-project use after a determination by HUD that the project is well maintained housing in good condition and that the owner has not engaged in material adverse financial or managerial actions or omissions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Nimmer, Housing Project Manager, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3944

RIN: 2502–AH68

1292. TENANT PARTICIPATION IN STATE-FINANCED, HUD-ASSISTED HOUSING DEVELOPMENTS (FR-4611)

Priority: Other Significant

Legal Authority: 12 USC 1715z-1a; 12 USC 1715z-1b; 42 USC 3535(d)

CFR Citation: 24 CFR 245

Legal Deadline: None

Abstract: HUD's current regulations protecting the statutory right of tenants in HUD-assisted and insured multifamily housing developments to organize and participate in the operation of the development do not currently cover State-financed housing developments that receive assistance under certain HUD programs. However, the statutory right of tenants to organize includes those State-financed housing developments. This rule will extend the protection of tenant organization to include State-financed developments assisted under certain HUD programs.

This rule also makes a minor technical correction to a citation in the existing tenant participation regulation. Section 245.135(a)(3) of the rule intended to cross-reference 24 CFR part 24, subpart G; the CFR part was omitted.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH55

1293. DISPOSITION OF HUD-OWNED SINGLE FAMILY ASSETS IN REVITALIZATION AREAS (FR-4471)

Priority: Other Significant

Legal Authority: 12 USC 1701 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 291

Legal Deadline: NPRM, Statutory, October 21, 2000.

Abstract: This rule would implement section 602 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, 112 Stat. 2519, approved October 21, 1998). Section 602 directs HUD to carry out a program under which HUD-owned homes and mortgages are made available in a manner that promotes expanded homeownership opportunities in

designated revitalization areas. Under section 602, the Secretary will designate revitalization areas, in consultation with affected units of general local government and interested nonprofit organizations. Section 602 provides that the Secretary shall provide a preference in the sale of HUD-owned homes and mortgages to nonprofit organizations or to the unit of general local government having jurisdiction in the revitalization area.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph McCloskey, Director, Single Family Asset Management Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2502–AH40

1294. SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES; DURATION OF CAPITAL ADVANCE (FR-4466)

Priority: Other Significant

Legal Authority: 12 USC 1701q; 42 USC 1437f; 42 USC 3535(d); 42 USC 8013

CFR Citation: 24 CFR 891

Legal Deadline: None

Abstract: This rule amends the regulations for the Supportive Housing Programs for the Elderly and Persons with Disabilities (also referred to as the Section 202 Program and the Section 811 Program, respectively) to extend the duration of the fund reservation, for project development, from 24 months to 36 months. The extension to 36 months better coincides with the amount of time that is frequently involved to commence construction of supportive housing for the elderly and for persons with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH36

1295. • PREPAYMENT AND REFINANCING OF SECTION 202 LOANS (FR-4678)

Priority: Other Significant

Legal Authority: 12 USC 1701q note; 42 USC 3535(d)

CFR Citation: 24 CFR 891

Legal Deadline: None

Abstract: This rule would govern prepayment and refinancing of section 202 Supportive Housing for the Elderly Loans, and the use of unexpended amounts and project funds after refinancing under section 811 of the American Homeownership and Economic Opportunity Act of 2000.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Courtland Wilson, Office of Asset Management, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3730

RIN: 2502–AH65

1296. IMPLEMENTATION OF MANUFACTURED HOUSING IMPROVEMENT ACT OF 2000 (FR-4665)

Priority: Other Significant

Legal Authority: PL 106-569, title VI; 42 USC 5424; 42 USC 3535(d)

CFR Citation: 24 CFR 3280; 24 CFR 3282

Legal Deadline: None

Abstract: On December 27, 2000, the Manufactured Housing Improvement Act of 2000 was approved. This Act establishes a consensus rulemaking process for HUD's manufactured housing program, and provides for the establishment of installation and dispute resolution programs, among other things. As a result of this new statute, amendments are necessary to HUD's existing Manufactured Housing Program regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Elizabeth Cocke, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6409

RIN: 2502–AH62

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Department of Housing and Urban Development (HUD)
Office of Housing (OH)

Final Rule Stage

1297. DELEGATION OF INSURING AUTHORITY TO DIRECT ENDORSEMENT MORTGAGEES (FR-4169)

Priority: Other Significant

Legal Authority: 12 USC 1709; 12 USC 1710; 12 USC 1715b; 12 USC 1715u; 42 USC 3535(d); PL 104-204

CFR Citation: 24 CFR 200; 24 CFR 202; 24 CFR 203; 24 CFR 206

Legal Deadline: None

Abstract: This rule would make final the interim rule that implemented the Lender Insurance program, which reflects the Secretary's new authority to delegate the issuance of Mortgage Insurance Certificates (MICs) to mortgagees that are approved under the Direct Endorsement program. This rule provides that eligible mortgagees that participate in the Lender Insurance program will be responsible for conducting a pre-endorsement review during the origination of their single family mortgage loans and they will be responsible for endorsing the mortgages for insurance. HUD intends that delegating this insurance authority through the Lender program will be consistent with HUD's efforts to reinvent the Federal Housing Administration (FHA) by creating a more efficient and less burdensome process for providing single family mortgage insurance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/02/97	62 FR 30222
Interim Final Rule Effective	07/02/97	
Interim Final Rule Comment Period End	08/01/97	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AG87

1298. INSURANCE FOR MORTGAGES TO REFINANCE EXISTING HECMS (FR-4667)

Priority: Other Significant

Legal Authority: 12 USC 1715b; 12 USC 1715z to 1720; 42 USC 3535(d)

CFR Citation: 24 CFR 206

Legal Deadline: Final, Statutory, June 27, 2001, Section 201 of the American Homeownership and Economic Opportunity Act of 2000 requires that HUD issue final regulations within 180 days of enactment.

Abstract: This rule amends HUD's regulations for the Home Equity Conversion Mortgage (HECM) Program to implement the amendments made by section 201(a) of the American Homeownership and Economic Opportunity Act of 2000. The HECM Program enables older homeowners to withdraw some of the equity in their homes in the form of payments for life, a fixed term, or at intervals through a line of credit. Section 201(a) authorizes HUD to offer mortgage insurance for refinancing of existing HECMs, and provides consumer safeguards for such refinancings. This rule follows publication of a June 5, 2001 proposed rule, and takes into consideration the public comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	06/05/01	66 FR 30278
NPRM Comment Period End	07/05/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH63

1299. • MORTGAGE INSURANCE PREMIUMS IN MULTIFAMILY HOUSING PROGRAMS (FR-4679)

Priority: Other Significant

Legal Authority: 12 USC 1701z-11(e); 12 USC 1709(c)(1); 12 USC 1713; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 207

Legal Deadline: None

Abstract: This rule amends the regulations for HUD's multifamily mortgage insurance programs by revising 24 CFR part 207 to permit the Secretary to set mortgage insurance premiums (MIPs) at any rate within his statutory authority, rather than setting specific MIP rates by regulation. Under this rule, HUD will be able to set mortgage insurance premiums at any rate between one-fourth and one percent of the outstanding principal balance of the insured loan. For several insured housing programs, this underwriting change will eliminate the need for positive credit subsidy. Promulgation of this rule will allow HUD to avoid a shutdown of these mortgage insurance programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/02/01	66 FR 35070
Interim Final Rule Effective	08/01/01	
Interim Final Rule Comment Period End	08/31/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local, Federal, State

Agency Contact: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1142

RIN: 2502–AH64

1300. REHABILITATION GRANTS FOR CERTAIN MULTIFAMILY PROJECTS (FR-4465)

Priority: Other Significant

Legal Authority: 12 USC 1715b; 12 USC 1715z-1; 42 USC 3535(d)

CFR Citation: 24 CFR 236

Legal Deadline: None

Abstract: This rule implements a new statutory program under section 533(a)(1) of Pub. L. 106-74 codified in 12 U.S.C. 1715z-1(s) of grants to owners of certain multifamily housing projects in need of rehabilitation that cannot be funded from project income. The grants

HUD—OH **Final Rule Stage**

are funded from recaptured or uncommitted funds originally intended for interest reduction payments (IRP) by HUD.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH35

1301. RENEWAL OF EXPIRING SECTION 8 PROJECT-BASED ASSISTANCE CONTRACT (FR-4551)

Priority: Other Significant

Legal Authority: 12 USC 1715z-1; 12 USC 1735f-19(b); 42 USC 1437(c)(8); 42 USC 1437f note; 42 USC 3535(d)

CFR Citation: 24 CFR 401; 24 CFR 402

Legal Deadline: None

Abstract: This rule will replace interim part 402, which was published on September 11, 1998, together with interim part 401 that established the Mark-to-Market program. Subsequently HUD decided to separate the two parts and publish final part 401 separately, although the current rule also makes minor conforming amendments to part 401 as well. Final part 402 will set forth the regulations governing the renewal of expiring Section 8 project-based assistance contracts, whether the projects rents are above or below market, except for renewals made as part of a Mark-to-Market Restructuring Plan under part 401.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH47

1302. DISTRIBUTIONS TO NONPROFIT OWNERS OF CERTAIN HUD-ASSISTED MULTIFAMILY RENTAL PROJECTS (FR-4602)

Priority: Other Significant

Legal Authority: 12 USC 1710 to 1715

CFR Citation: 24 CFR 880; 24 CFR 881; 24 CFR 883

Legal Deadline: None

Abstract: This rule adds an exception to HUD's current Section 8 regulations that prohibit any distributions to nonprofit owners of projects receiving project-based assistance. HUD may now permit distributions of surplus cash to owners of projects with expiring Section 8 project-based assistance contracts who agree to renew their contracts, if distributions are necessary to ensure continued participation of the owners in the Section 8 program.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH52

1303. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS (FR-4376)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d); 42 USC 5403; 42 USC 5424

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: This rule will amend the Federal Manufactured Home Construction and Safety Standards (FMHCSS) to update many of the standards that are incorporated by reference therein. These reference standards, which are developed by voluntary consensus or industry groups, provide necessary technical standards for the FMHCSS. These amendments will keep the FMHCSS current with the industries that use these reference standards by incorporating the latest edition of these standards and new relevant standards.

Timetable:

Action	Date	FR Cite
NPRM	10/30/98	63 FR 58570
NPRM Comment Period End	12/29/98	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Cocke, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6409

RIN: 2502–AH23

1304. MANUFACTURED HOMES CONSTRUCTION AND SAFETY STANDARDS: SMOKE ALARMS (FR-4552)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 5403; 42 USC 5424

CFR Citation: 24 CFR 3280; 24 CFR 3282

Legal Deadline: None

Abstract: This rule will amend the Federal Manufactured Home Construction and Safety Standards to revise the location and placement of smoke alarms. The purpose of these amendments is to improve the effectiveness and performance of smoke alarms in early warning detection of manufactured home fires and to reduce the rate of fire fatalities in new manufactured housing.

Timetable:

Action	Date	FR Cite
NPRM	05/18/00	65 FR 31778
NPRM Comment Period End	07/17/00	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Elizabeth Cocke, Acting Director, Office of Consumer

HUD—OH — Final Rule Stage

and Regulatory Affairs, Department of — Housing and Urban Development, Office of Housing — Phone: 202 708-6409 — RIN: 2502–AH48

Department of Housing and Urban Development (HUD) — Office of Housing (OH) — Long-Term Actions

1305. MORTGAGE INSURANCE FOR THE REFINANCING OF EXISTING DEBT OF EXISTING HOSPITALS (FR-4618)

Priority: Other Significant

Legal Authority: 12 USC 1715b; 12 USC 1715n; 12 USC 1715z-7; 42 USC 3535(d)

CFR Citation: 24 CFR 242

Legal Deadline: None

Abstract: This interim rule implements Section 223(f) of the National Housing Act, which authorizes the Secretary of HUD to insure mortgages executed in connection with refinancing the debt of existing multifamily properties and health care facilities. This interim rule implements this authority with respect to acute care hospitals. The purpose of the Section 223(f) program is to provide hospitals the opportunity to refinance their long-term debt so that the hospitals can reduce their annual debt service and thus improve their financial viability. This in turn will further the congressional policy of assisting urgently needed hospitals that treat and care for persons who are acutely ill or injured and who otherwise require medical care and related services customarily furnished only by hospitals.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roger Miller, Acting Director for Office of Insured Health Facilities, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0599

RIN: 2502–AH58

1306. RELEASE OF INFORMATION TO TENANTS AND OTHER PARTIES PURSUANT TO MAHRA (FR-4531)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1437f note

CFR Citation: 24 CFR 401

Legal Deadline: None

Abstract: The rule is designed to provide tenants and other interested parties with access to the information needed for meaningful participation in the development of a Restructuring Plan, while ensuring appropriate protection of legitimate interest of project owners in confidential and proprietary business information.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

RIN: 2502–AH45

Department of Housing and Urban Development (HUD) — Office of Housing (OH) — Completed Actions

1307. SECTION 236 RENTAL ASSISTANCE — EXCESS RENTAL CHARGES (FR-4603)

Priority: Other Significant

CFR Citation: 24 CFR 200; 24 CFR 236; 24 CFR 880; 24 CFR 881; 24 CFR 883

Completed:

Reason	Date	FR Cite
Merged With RIN 2502-AH68 (FR-4689)	09/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Willie Spearmon
Phone: 202 708-3000

RIN: 2502–AH53

1308. STRENGTHENING THE TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOAN INSURANCE PROGRAMS AND TITLE I LENDER/TITLE II MORTGAGEE APPROVAL REQUIREMENTS (FR-4246)

Priority: Other Significant

CFR Citation: 24 CFR 201; 24 CFR 202

Completed:

Reason	Date	FR Cite
Final Action	11/07/01	66 FR 56410
Final Action Effective	12/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris
Phone: 202 708-2121

RIN: 2502–AG95

1309. CREDIT WATCH INITIATIVE—LIMITATION ON OPENING NEW BRANCHES IN LENDING AREA FOR LENDERS IN RECEIPT OF PROPOSED TERMINATION OF ORIGINATION APPROVAL AGREEMENT (FR-4605)

Priority: Other Significant

CFR Citation: 24 CFR 202

Completed:

Reason	Date	FR Cite
Merged With RIN 2502-AH60 (FR-4825)	08/08/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Phillip Murray
Phone: 202 708-1515

RIN: 2502–AH54

Department of Housing and Urban Development (HUD)
Office of Community Planning and Development (CPD)

Proposed Rule Stage

1310. • COMMUNITY DEVELOPMENT BLOCK GRANT - ASSISTED DEMOLITION OF HUD-OWNED HOUSING UNITS (FR-4698)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d); 42 USC 5301; 42 USC 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule will ensure that HUD receives notification of a grantee's intent to use CDBG funds to demolish HUD-owned housing units.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sue Miller, Director, Entitlement Communities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1577

RIN: 2506–AC10

1311. • CDBG BROWNFIELDS/SLUM/BLIGHT (FR-4699)

Regulatory Plan: This entry is Seq. No. 66 in part II of this issue of the **Federal Register**.

RIN: 2506–AC12

1312. • HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA) (FR-4708

Priority: Other Significant

Legal Authority: 42 USC 12901 et seq

CFR Citation: 24 CFR 574

Legal Deadline: None

Abstract: The Housing Opportunities for Persons with AIDS (HOPWA) program was authorized in 1992 by title VIII, subtitle D, of the Cranston-Gonzalez national Affordable Housing Act/the AIDS Housing Opportunity Act. The Program is designed to provide States and localities with resources and incentives to provide long-term comprehensive strategies for meeting the housing needs of persons with HIV/AIDS. This update to the regulation is intended to respond to the increased program knowledge in administering housing programs for persons living with HIV/AIDS.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Vos, Director, Office of HIV/AIDS Housing, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1934

RIN: 2506–AC11

Department of Housing and Urban Development (HUD)
Office of Community Planning and Development (CPD)

Final Rule Stage

1313. CDBG PROGRAM FOR STATES; COMMUNITY REVITALIZATION STRATEGY REQUIREMENTS AND MISCELLANEOUS TECHNICAL AMENDMENTS (FR-4061)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11331 to 11388; 42 USC 12701 to 12711; 42 USC 12741 to 12756; 42 USC 12901 to 12912; 42 USC 3535(d); 42 USC 3601 to 3619; 42 USC 5300 to 5320

CFR Citation: 24 CFR 570; 24 CFR 91

Legal Deadline: None

Abstract: This rule integrates the Community Revitalization Strategies concept with the State CDBG program. This concept will provide States additional flexibility in meeting certain requirements regarding the program's national objectives and public benefit. This rule also makes several technical amendments to correct errors from previous rulemaking and to enhance and clarify the regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/22/96	61 FR 54914
Interim Final Rule Effective	11/21/96	
Interim Final Rule Comment Period End	02/16/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Johnson, Director, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1322

RIN: 2506–AB83

1314. SUPPORTIVE HOUSING PROGRAM—INCREASING OPERATING COST PERCENTAGE (FR-4576)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11389; 42 USC 3535(d)

CFR Citation: 24 CFR 583

Legal Deadline: None

Abstract: This rule amended the Supportive Housing Program regulations by changing the number of years for which the grant can cover 75 percent of operating costs from the first two years to all years of the grant term. This rule will be made final as part of FR-4616, revising the Supportive Housing Program generally.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/12/00	65 FR 30822
Interim Final Rule Effective	06/12/00	
Interim Final Rule Comment Period End	07/11/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: John Garrity, Director, Office of Special Needs Assistance Programs, Department of Housing and

HUD—CPD — **Final Rule Stage**

Urban Development, Office of Community Planning and Development
Phone: 202 708-4300

RIN: 2506–AC05

1315. DESIGNATION OF RENEWAL COMMUNITIES AND THIRD ROUND EMPOWERMENT ZONES (FR-4663)

Priority: Other Significant

Legal Authority: PL 106-554; 26 USC subchapter U; 26 USC subchapter X; 42 USC 3535(d)

CFR Citation: 24 CFR 598; 24 CFR 599

Legal Deadline: Final, Statutory, April 23, 2001, Community Renewal Tax Relief Act of 2000 requires Renewal Communities regulations no later than 4 months after the date of enactment, December 21, 2000.

Abstract: Renewal Communities: This part of the rule will implement section 101 of the Community Renewal and Tax Relief Act of 2000 by setting forth policies and procedures applicable to the designation of Renewal Communities, authorized under Subchapter X of the Internal Revenue Code of 1986.

Empowerment Zones: Third Round - This part of the rule will implement section 111 of the Community Renewal and Tax Relief Act of 2000 by setting forth policies and procedures applicable to the third round of designations of urban Empowerment Zones, authorized under Subchapter U of the Internal Revenue Code 1986.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/09/01	66 FR 35850
Interim Final Rule Effective	08/08/01	
Interim Final Rule Comment Period End	09/07/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Pamela Glekas, Director, Empowerment Zones/Empowerment Communities Initiative, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-6339

RIN: 2506–AC09

Department of Housing and Urban Development (HUD)
Office of Community Planning and Development (CPD) — **Long-Term Actions**

1316. PROHIBITION ON USE OF CDBG ASSISTANCE FOR JOB-PIRATING ACTIVITIES (FR-4556)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule will implement section 588 of the Quality Housing and Work Responsibility Act of 1998 by revising HUD's regulations for the Community Development Block Grant (CDBG) program. Section 588 prohibits State and local governments from using CDBG funds for "job pirating" activities that are likely to result in significant job loss. Job-pirating, in this context, refers to the use of CDBG funds to lure or attract a business and its jobs from one community to another community.

Timetable:

Action	Date	FR Cite
NPRM	10/24/00	65 FR 63756
NPRM Comment Period End	12/26/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Richard Kennedy, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-3587

RIN: 2506–AC04

1317. SUPPORTIVE HOUSING PROGRAM (FR-4616)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11389; 42 USC 3535(d)

CFR Citation: 24 CFR 583

Legal Deadline: None

Abstract: The Department of Housing and Urban Development is proposing to amend the Supportive Housing Program regulations. The regulations will be updated to clarify existing program requirements and to add new program requirements in accordance with recent statutory changes including requirements for some local matching funds and for permanent housing. Additionally, this rule will make the Supportive Housing Program regulations clearer and allow for the full flexibility of the McKinney Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: John Garrity, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-4300

RIN: 2506–AC07

Department of Housing and Urban Development (HUD)
Government National Mortgage Association (GNMA)

Completed Actions

1318. ELIMINATION OF PHYSICAL CERTIFICATE FOR ISSUED SECURITIES (FR-4533)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 300

Completed:

Reason	Date	FR Cite
Merged With RIN 2503-AA16 (FR-4629)	08/27/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas R. Weakland
Phone: 202 708-2884

RIN: 2503–AA14

1319. ELECTRONIC PAYMENT ON GINNIE MAE GUARANTEED SECURITIES (FR-4617)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 320

Completed:

Reason	Date	FR Cite
Merged With RIN 2503-AA16 (FR-4629)	08/27/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas R. Weakland
Phone: 202 708-2884

RIN: 2503–AA15

1320. GINNIE MAE MBS PROGRAM: PAYMENTS TO SECURITY HOLDERS (FR 4629)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 320

Completed:

Reason	Date	FR Cite
Final Action	08/22/01	66 FR 44258
Final Action Effective	10/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas R. Weakland
Phone: 202 708-2884

RIN: 2503–AA16

Department of Housing and Urban Development (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Proposed Rule Stage

1321. FAIR HOUSING ACT REGULATION; CONFORMING AMENDMENT; UPDATE TO REFLECT CURRENT EDITION OF AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI) (FR-4554)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 3600 to 3620

CFR Citation: 24 CFR 100

Legal Deadline: None

Abstract: Subpart D of HUD's Fair Housing Act regulations (24 CFR part 100), which address the accessibility requirements of the Fair Housing Act, has not been updated since 1991. These regulations reference compliance with the building standards of the American National Standards Institute (ANSI), but the reference to the ANSI edition of 1986 has long been superseded by two more recent editions of 1992 and 1998. Although parties subject to the Fair Housing Act regulations may continue to refer to the 1986 edition of ANSI, the regulations need to be updated to also offer compliance with the 1992 and 1998 editions as a safe harbor for compliance. This rule will update the regulations to provide that compliance with the appropriate requirements of the 1986, 1992 or 1998 editions of ANSI A117.1 suffices to satisfy the accessibility requirements of the Fair Housing Act.

Timetable:

Action	Date	FR Cite
Notice	03/23/00	65 FR 15740
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Cheryl Kent, Special Advisor for Disability Policy, Office of Enforcement, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2333

RIN: 2529–AA86

Department of Housing and Urban Development (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Long-Term Actions

1322. FAIR HOUSING ACT REGULATIONS AMENDMENTS: STANDARDS GOVERNING SEXUAL HARASSMENT (FR-4597)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 3600 to 3620

CFR Citation: 24 CFR 100

Legal Deadline: None

Abstract: This final rule would amend HUD's Fair Housing regulations to clarify the standards the Department will use in sexual harassment cases.

Timetable:

Action	Date	FR Cite
NPRM	11/13/00	65 FR 67666
NPRM Comment Period End	01/12/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Enzel, Deputy Asistant Secretary for Enforcement and Programs, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 619-8046

RIN: 2529–AA89

1323. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY-LOW-INCOME PERSONS (FR-2898)

Priority: Other Significant

Legal Authority: 12 USC 1701u; 42 USC 1450; 42 USC 3301; 42 USC 3535(d)

CFR Citation: 24 CFR 135

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Legal Deadline: Final, Statutory, April 28, 1993.

Abstract: The regulations at 24 CFR 135 were revised substantially to incorporate the statutory amendments in the Housing and Community Development Act of 1992, to reflect certain changes in the design of the Department's programs that are subject to the section 3 regulations, to clarify the obligations of individuals and entities subject to the requirements of section 3, and to simplify the Department's administration of section 3 requirements. The final rule may make further revisions in response to public comment.

Timetable:

Action	Date	FR Cite
NPRM	10/08/93	58 FR 52534
Notice	11/09/93	58 FR 59423
Notice Comment Period End	12/08/93	
Interim Final Rule	06/30/94	59 FR 33886
Interim Final Rule Effective	08/01/94	
Interim Final Rule Comment Period End	08/29/94	
Extension of Effective Period of Interim Rule	05/31/95	60 FR 28325
Extension Effective	06/30/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: John Waller, Deputy Assistant Secretary for Economic Opportunity, Monitoring and Compliance, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-3685

RIN: 2529–AA49

Department of Housing and Urban Development (HUD)
Office of Administration (OA)

Proposed Rule Stage

1324. • HUD ACQUISITION REGULATION (FR-4705)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 41 USC 251; 42 USC 3535(d)

CFR Citation: 48 CFR 2401

Legal Deadline: None

Abstract: This rule will implement miscellaneous changes to the HUD Acquisition Regulation (HUDAR) including but not limited to corrections of regulatory citations due to revisions made to the Federal Acquisition Regulation (FAR) since the last publication of the HUDAR; revisions reflecting changes in the Department's requirements regarding organizational conflict of interest, ratification of unauthorized commitments, and disclosure of information provided to contractors.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Edward L. Girovasi Jr., Director, Policy & Evaluation Division, Office of the Chief Procurement Officer, Department of Housing and Urban Development, Office of Administration
Phone: 202 708-0294

RIN: 2535–AA26

Department of Housing and Urban Development (HUD)
Office of Public and Indian Housing (PIH)

Proposed Rule Stage

1325. • AMENDED PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS) RULE (FR-4707)

Regulatory Plan: This entry is Seq. No. 70 in part II of this issue of the **Federal Register**.

RIN: 2577–AC32

1326. • PUBLIC HOUSING AGENCY PLANS: DECONCENTRATION - AMENDMENT TO ESTABLISHED INCOME RANGE" DEFINITION (FR-4677)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 1437c; 42 USC 3535(d)

CFR Citation: 24 CFR 903

Legal Deadline: None

Abstract: This rule will amend the deconcentration component of HUD's Public Housing Agency Plans regulations to revise the definition of Established Income Range (EIR) to include within the EIR those developments in which the average income level is at or below 30 percent of the area median income, and therefore ensure that such developments cannot be categorized as having average income "above" the Established Income Range. An income level that is at or below 30 percent of the area median income is defined as "extremely low income" in HUD's regulations. HUD believes that developments with an average family income at or below 30 percent of the area median income should not be categorized as higher income developments for purposes of income mixing because efforts to place lower income families into these developments would not result in income deconcentration as contemplated by the statute. This rule follows publication of an August 15, 2001 proposed rule, and takes into consideration the public comments on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	08/15/01	66 FR 42926
NPRM Comment Period End	10/15/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

HUD—PIH

Proposed Rule Stage

Agency Contact: Rod J. Solomon, Deputy Assistant Secretary for Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AC31

1327. PUBLIC HOUSING CAPITAL FUND PROGRAM (FR-4507)

Regulatory Plan: This entry is Seq. No. 67 in part II of this issue of the **Federal Register**.

RIN: 2577–AC16

1328. PUBLIC HOUSING RELOCATION REQUIREMENTS (FR-4634)

Priority: Other Significant

Legal Authority: 42 USC 1437g; 42 USC 1437p; 42 USC 3535(d); 42 USC 4601

CFR Citation: 24 CFR 909

Legal Deadline: None

Abstract: This rule establishes the relocation requirements of HUD's Office of Public and Indian Housing (PIH) that apply to public housing agencies (PHAs) in a single part of chapter IX of title 24. The purpose of this rule is to provide a single reference point for relocation requirements that apply to PHAs, rather than repeating these requirements separately in the various PIH program regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen Holmquist, Special Deputy for Policy, Office of Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AC23

1329. MIXED-FINANCE PUBLIC HOUSING DEVELOPMENT (FR-4499)

Priority: Other Significant

Legal Authority: 42 USC 1437z-7; 42 USC 3535(d)

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This rule will implement amendments to the Department's Mixed Finance Program to reflect statutory changes enacted on October 21, 1998. Also, the rule will revise the Mixed Finance Program so that the program conforms to HUD's new Capital Fund regulations and will clarify the specific program requirements and procedures that apply to the Mixed Finance Program, including operating-subsidy-only mixed-finance developments.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Milan Ozdinec, Acting Deputy Assistant Secretary, Office of Public Housing Investments, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-8881

RIN: 2577–AC09

1330. RESIDENT PARTICIPATION IN PUBLIC AND SECTION 8 HOUSING (FR-4557)

Regulatory Plan: This entry is Seq. No. 69 in part II of this issue of the **Federal Register**.

RIN: 2577–AC26

1331. PUBLIC HOUSING DEMOLITION AND DISPOSITION (FR-4598)

Priority: Other Significant

Legal Authority: 42 USC 1437p; 42 USC 3535(d)

CFR Citation: 24 CFR 970

Legal Deadline: None

Abstract: This rule will revise HUD's regulations regarding demolition and disposition of public housing projects, in accordance with section 531 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276). This rule will establish the general and specific requirements for HUD approval of demolition and disposition applications, relocation of residents, resident participation in the form of consultation and opportunity to purchase, new requirements regarding resident relocation, the PHA Plan and local government consultation and a new authority for a PHA to demolish a small number of their units without a formal application under certain circumstances, referred to as "de minimis" demolition.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1640

RIN: 2577–AC20

1332. PROJECT-BASED VOUCHER PROGRAM (FR-4636)

Regulatory Plan: This entry is Seq. No. 68 in part II of this issue of the **Federal Register**.

RIN: 2577–AC25

1333. HUD POLICY FOR THE ADMINISTRATION OF HUD PROGRAMS ON INDIAN RESERVATIONS AND OTHER INDIAN AREAS (FR-4580)

Priority: Other Significant

Legal Authority: 25 USC 4101 et seq; EO 13084

CFR Citation: 24 CFR 1000

Legal Deadline: None

Abstract: This notice sets forth HUD's policy for ensuring regular and meaningful consultation and collaboration with Indian tribal governments in the administration of HUD programs on Indian reservations and other Indian areas. The notice implements Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, issued on May 14, 1998 (63 FR 27655, May 19, 1998). In formulating policies that significantly or uniquely affect Indian tribal governments, HUD will adhere to the principles of respect for Indian tribal self-government, sovereignty, tribal legal rights, and the responsibilities that arise from the legal relationship that exists between the

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Federal Government and Indian tribal governments. As provided in the notice, HUD will make all reasonable efforts to take into consideration and apply these principles when policy decisions are made affecting Native American communities.

Timetable:

Action	Date	FR Cite
Notice	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Agency Contact: Ed Fagan, Office of Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-7914

RIN: 2577–AC06

Department of Housing and Urban Development (HUD) **Final Rule Stage**
Office of Public and Indian Housing (PIH)

1334. OPERATING FUND ALLOCATION FORMULA (FR-4425)

Regulatory Plan: This entry is Seq. No. 71 in part II of this issue of the **Federal Register**.

RIN: 2577–AB88

1335. PUBLIC HOUSING HOMEOWNERSHIP PROGRAMS (FR-4504)

Regulatory Plan: This entry is Seq. No. 72 in part II of this issue of the **Federal Register**.

RIN: 2577–AC15

1336. REQUIRED CONVERSION OF DEVELOPMENT FROM PUBLIC HOUSING STOCK (FR-4475)

Priority: Other Significant

Legal Authority: 42 USC 1437z-5; 42 USC 3535(d)

CFR Citation: 24 CFR 972

Legal Deadline: None

Abstract: This rule implements a revision to the statute that authorizes HUD's public housing and Section 8 housing assistance programs. The revision requires Public Housing Agencies (PHAs) to identify distressed public housing developments that must be converted to tenant-based assistance. If it would be more expensive to modernize and operate a distressed development for its remaining useful life than to provide tenant-based assistance to all residents, or the PHA cannot assure the long-term viability of a distressed development, then the PHA must develop and carry out a five-year plan to remove the development from its public housing inventory, and convert it to tenant-based assistance. This rule follows publication of a July 23, 1999 proposed rule, and takes into consideration the public comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	07/23/99	64 FR 40232
NPRM Comment Period End	09/21/99	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rod J. Solomon, Deputy Assistant Secretary for Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AC01

1337. VOLUNTARY CONVERSION OF DEVELOPMENTS FROM PUBLIC HOUSING STOCK (FR-4476)

Priority: Other Significant

Legal Authority: 42 USC 1437t; 42 USC 3535(d)

CFR Citation: 24 CFR 972

Legal Deadline: None

Abstract: This rule implements a revision to the statute authorizing HUD's public housing and Section 8 housing assistance programs. The revision authorizes Public Housing Agencies (PHAs) to convert a development to tenant-based assistance by removing the development (or a portion of a development) from its public housing inventory and providing for relocation of the residents or provision of tenant-based assistance to them. This action is permitted only when that change would be cost effective, be beneficial to residents of the development and the surrounding area, and not have an adverse impact on the availability of affordable housing. This rule follows publication of a July 23, 1999 proposed rule, and takes into consideration the public comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	07/23/99	64 FR 40240
NPRM Comment Period End	09/21/99	
Final Rule	06/22/01	66 FR 33616
Final Rule Effective	07/23/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rod J. Solomon, Deputy Assistant Secretary for Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AC02

1338. SECTION 8 HOUSING CHOICE VOUCHER PROGRAM; EXPANSION OF PAYMENT STANDARDS PROTECTION (FR-4586)

Priority: Other Significant

Legal Authority: 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 982

Legal Deadline: None

Abstract: On October 21, 1999, HUD published a final rule implementing the statutory merger of the Section 8 tenant-based and certificate programs into the new Housing Choice Voucher program. This rule amends HUD's regulations governing this new merger program to expand the regulatory payment standard protection against subsidy reduction. The October 21, 1999 final rule limited payment standard protection to the first 24

months of the lease term. This rule provides that a family is not subject to a subsidy reduction until the second regular reexamination of family income and composition following the payment standard reduction. This protection extends for the duration of the lease term.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/10/00	65 FR 42508
Interim Final Rule Effective	08/09/00	
Interim Final Rule Comment Period End	09/08/00	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-0477

RIN: 2577–AC18

1339. SECTION 8 HOMEOWNERSHIP PROGRAM; PILOT PROGRAM FOR HOMEOWNERSHIP ASSISTANCE FOR DISABLED FAMILIES (FR-4661)

Priority: Other Significant

Legal Authority: PL 106-569; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 982

Legal Deadline: None

Abstract: This rule implements the pilot program authorized by section 302 of the American Homeownership and Economic Opportunity Act of 2000. Under the pilot program, a Public Housing Agency (PHA) that administers Section 8 tenant-based assistance may provide homeownership assistance for a disabled family that purchases a dwelling unit that will be occupied by the family. The rule implements the pilot program by amending HUD's regulations for the Section 8 homeownership option.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/22/01	66 FR 33610
Interim Final Rule Effective	07/23/01	
Interim Final Rule Comment Period End	08/21/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gerald J. Benoit, Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-0477

RIN: 2577–AC24

1340. • SECTION 8 DOWNPAYMENT INITIATIVE (FR-4670)

Regulatory Plan: This entry is Seq. No. 73 in part II of this issue of the **Federal Register**.

RIN: 2577–AC28

1341. • EXCEPTION PAYMENT STANDARD TO OFFSET INCREASE IN UTILITY COSTS IN THE HOUSING CHOICE VOUCHER PROGRAM (FR-4672)

Priority: Other Significant

Legal Authority: 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 982

Legal Deadline: None

Abstract: This rule amends the regulations for the Housing Choice Voucher program to temporarily authorize PHAs to use an exception payment standard of up to 120% of current Fair Market Rents (FMRs) to take into account increased utility costs because of increases in the price of energy. The changes made by the rule will expire on October 1, 2001, when new FMRs will be in effect. This rule will clarify the expiration of these temporary amendments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/06/01	66 FR 30566
Interim Final Rule Effective	07/06/01	
Interim Final Rule Comment Period End	08/06/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Gerald J. Benoit, Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-0477

RIN: 2577–AC29

1342. REVISIONS TO SEMAP LEASE-UP INDICATOR (FR-4604)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 985

Legal Deadline: None

Abstract: This rule revises the way HUD measures and verifies performance under the lease-up indicator for the Section 8 Management Assessment Program (SEMAP). Specifically, the rule revises the lease-up standard to measure the number of units leased against the number of units reserved and under Annual Contributions Contract (ACC), instead of against the number of units budgeted. This revised standard is consistent with established HUD policy on voucher renewals and unit allocations as formulated during negotiated rulemaking pursuant to the Quality Housing and Work Responsibility Act of 1998. In addition, this rule also revises the SEMAP regulations to provide for automated signature of the required SEMAP certification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/01/01	66 FR 50004
Interim Final Rule Effective	10/31/01	
Interim Final Rule Comment Period End	11/30/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing

HUD—PIH

Final Rule Stage

Phone: 202 708-0477
RIN: 2577–AC21

Department of Housing and Urban Development (HUD)
Office of Public and Indian Housing (PIH)

Long-Term Actions

1343. HOPE VI PROGRAM (FR-4530)

Priority: Other Significant

Legal Authority: 42 USC 1437v; 42 USC 3535(d)

CFR Citation: 24 CFR ch IX

Legal Deadline: None

Abstract: This rule will establish regulations that will govern funding and eligible activities of HUD's HOPE VI Program. To date HOPE VI has been operated from year to year as a demonstration program in accordance with authorization provided each year in appropriations bills. HOPE VI activities were funded and guided by notices of funding availability issued each fiscal year by HUD. The Quality Housing and Work Responsibility Act of 1998 (title V of Public Law 105-276, approved October 21 1998, 112 Stat. 2585; hereafter QHWRA) makes HOPE VI a permanent program. The regulations to be implemented for the HOPE VI program will include the provisions set out in section 535 of the QHWRA.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Milan Ozdinec, Director, Office of Urban Revitalization, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-8812

RIN: 2577–AC17

1344. PUBLIC HOUSING DEVELOPMENT TOTAL DEVELOPMENT COST (TDC) (FR-4489)

Priority: Other Significant

Legal Authority: 42 USC 1437b; 42 USC 1437c; 42 USC 1437g; 43 USC 3535(d)

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This rule will amend HUD's regulations governing Total Development Cost (TDC) for the development of public housing. The amendments will implement changes made to the statutory TDC requirements. Among other changes, this rule will limit the amount of public housing funds that a public housing agency may use to pay for housing construction costs. The rule will also provide that demolition and environmental hazard remediation costs are included in TDC only to the extent that such costs are associated with the replacement of public housing units on the project site.

Timetable:

Action	Date	FR Cite
NPRM	01/04/01	66 FR 1008
NPRM Comment Period End	03/05/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1640

RIN: 2577–AC05

1345. NAHASDA HOUSING ASSISTANCE FOR NATIVE HAWAIIANS (FR-4668)

Priority: Other Significant

Legal Authority: 25 USC 4101 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 1000

Legal Deadline: Final, Statutory, October 1, 2001.
Section 807 of the American Homeownership and Economic Opportunity Act of 2001 requires that HUD issue final regulations by October 1, 2001.

Abstract: The rule implements the provisions contained in title V, subtitle B of the American Homeownership and Economic Opportunity Act of 2000. These provisions add a new title VIII to the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996. Under NAHASDA, HUD provides grants, loan guarantees, and technical assistance to Indian tribes and Alaska Native villages for the development and operation of low-income housing in Indian areas. New title VIII expands the scope of NAHASDA to include housing assistance to Native Hawaiians, and establishes statutory requirements specific to Native Hawaiian NAHASDA assistance.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ted Key, Acting Deputy Assistant Secretary for Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing, Washington, DC 20741
Phone: 202 401-7914

RIN: 2577–AC27

1346. • REVISIONS TO INDIAN HOUSING BLOCK GRANT ALLOCATION FORMULA (FR-4676)

Priority: Other Significant

Legal Authority: 25 USC 4101 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 1000

Legal Deadline: None

Abstract: This rule would update the Indian Housing Block Grant (IHBG) allocation formula. Under the IHBG Program, HUD makes assistance available to Indian tribes for the development, operation and management of Indian housing. The amount of assistance made available to each potential grant recipient is determined using a formula that was developed through negotiated rulemaking procedures. The IHBG program regulations require that the allocation formula be reviewed within five years after issuance. This 5-year

HUD—PIH **Long-Term Actions**

period would not close until March 2003. However, the American Homeownership and Economic Opportunity Act of 2000 makes several statutory changes to the IHBG allocation formula that HUD has decided to implement through this rulemaking. Accordingly, HUD has taken the opportunity afforded by this rule to revisit the formula and make the more comprehensive changes contemplated by the 5-year review. The rule will be developed with the active participation of Indian tribal governments and using the procedures of the Negotiated Rulemaking Act of 1990.

Timetable:

Action	Date	FR Cite
Notice	07/16/01	66 FR 37098
Notice (Correction)	07/26/01	66 FR 38966
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Agency Contact: Ted Key, Acting Deputy Assistant Secretary for Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing, Washington, DC 20741
Phone: 202 401-7914

RIN: 2577–AC30

1347. LOAN GUARANTEE FOR INDIAN HOUSING; DIRECT GUARANTEE PROCESSING (FR-4241)

Priority: Other Significant

Legal Authority: 12 USC 1715z-13a

CFR Citation: 24 CFR 1005

Legal Deadline: None

Abstract: This final rule would authorize a processing alternative known as "direct guarantee" under which HUD would not issue guarantee commitments and would not review an application for guarantee until after a loan has closed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/11/98	63 FR 48988
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Ted Key, Acting Deputy Assistant Secretary for Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing, Washington, DC 20741
Phone: 202 401-7914

RIN: 2577–AB78

Department of Housing and Urban Development (HUD)
Office of Public and Indian Housing (PIH) **Completed Actions**

1348. REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATIONS OF HOUSING ASSISTANCE FUNDS (FR-4477)

Priority: Other Significant

CFR Citation: 24 CFR 791

Completed:

Reason	Date	FR Cite
Withdrawn	09/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald J. Benoit
Phone: 202 708-0477

RIN: 2577–AC03

1349. REVISION TO COST LIMITS FOR NATIVE AMERICAN HOUSING (FR-4517)

Priority: Other Significant

CFR Citation: 24 CFR 1000

Completed:

Reason	Date	FR Cite
Final Action	09/28/01	66 FR 49788
Final Action Effective	10/29/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Bruce Knott
Phone: 303 675-1600

RIN: 2577–AC14

[FR Doc. 01–25307 Filed 11–30–01; 8:45 am]
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Federal Register

Monday,
December 3, 2001

Part X

Department of the Interior

Semiannual Regulatory Agenda

DEPARTMENT OF THE INTERIOR (DOI)

DEPARTMENT OF THE INTERIOR

Office of the Secretary

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Semiannual Regulatory Agenda

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between October 2001 and April 2002. The Regulatory Flexibility Act and Executive Order 12866 require publication of the agenda.

ADDRESSES: Unless otherwise indicated, all agency contacts are located at the Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: You should direct all comments and inquiries with regard to these rules to the appropriate agency contact. You should direct general comments relating to the agenda to the Office of Executive Secretariat, Department of the Interior, at the address above or on 202-208-5257 or 202-208-3071.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12866 that the Department publish an agenda of rules that we have issued or expect to issue and of currently effective rules that we have scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to publish an agenda in April and October of each year identifying rules that will have significant economic effects on a substantial number of small entities. We have specifically identified in the agenda rules that will have such effects.

For this edition of the Department's regulatory agenda, we have included the most important significant regulatory actions in The Regulatory Plan, which appears in part II of today's **Federal Register**. The table of contents below lists The Regulatory Plan entries and denotes them by a bracketed bold reference that directs the reader to the appropriate sequence number in part II.

Richard A. Stephan,

Federal Register Liaison Officer.

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United States Fish and Wildlife Service—Long-Term Actions

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1497	Migratory Bird Permits; Introduction, General Requirements and Exceptions	1018-AE64
1498	Implementation of the 1994 Amendments to the Marine Mammal Protection Act	1018-AE72
1499	Consideration of Listing the Green Iguana (Iguana Iguana) as Injurious, Pursuant to the Lacey Act	1018-AF08
1500	Taking of Marine Mammals by Level B Harassment; Issuance of General Authorization for Scientific Research and Permits for Photography, Educational, and Commercial Purposes	1018-AF26
1501	National Wildlife Refuge System; Mission, Goals, and Purposes	1018-AG46
1502	Endangered and Threatened Wildlife and Plants; Determination of Critical Habitat for the Scaleshell	1018-AH35
1503	Endangered and Threatened Wildlife; Reclassification of the Marianna Fruit Bat on Guam from Endangered to Threatened	1018-AH55
1504	Migratory Bird Permits; Regulations Governing Education; 50 CFR 21	1018-AH71
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United States Fish and Wildlife Service—Long-Term Actions (Continued)

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1514	Marine Mammal Protection Act; Measures To Safely Deter Marine Mammals, Including Threatened and Endangered Marine Mammals	1018-AD19
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1517	Eagle Permits; Permits for Falconry Purposes	1018-AE62
1518	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Mariana Fruit Bat	1018-AE83
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1523	Endangered and Threatened Wildlife and Plants; Desert Yellowhead	1018-AF31
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1530	Endangered and Threatened Wildlife and Plants; List Ohlone Tiger Beetle as Endangered	1018-AF89
1531	Endangered and Threatened Wildlife and Plants; Establishment of Critical Habitat Designation for the Santa Ana Sucker	1018-AF94
1532	Endangered and Threatened Wildlife and Plants; Designated Ports for Listed Plants	1018-AF99
1533	Endangered and Threatened Wildlife and Plants; Proposed Listing of Two Southwest Milkvetch Plants	1018-AG02
1534	Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Piping Plover in Wintering Habitat	1018-AG13
1535	Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Piping Plover in Breeding Habitat	1018-AG14
1536	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Riverside Fairy Shrimp	1018-AG34
1537	Endangered and Threatened Wildlife and Plants; Listing and Designation of Critical Habitat for the Slickspot Peppergrass	1018-AG35
1538	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Hines Emerald Dragonfly	1018-AG37
1539	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Spruce-Fir Moss Spider	1018-AG38
1540	Migratory Bird Permits; Determination That the State of Connecticut Meets Federal Falconry Standards and Amended List of States Meeting Federal Falconry Standards	1018-AG42
1541	Regulations To Implement the Conservation and Reinvestment Act (CARA)	1018-AG43
1542	Clarification of the Definition of "Lands" for National Wildlife Refuge System Lands in Alaska	1018-AG45
1543	National Wildlife Refuge System; Habitat Management Planning Policy	1018-AG48
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1545	Migratory Bird Permits; Advance Notice of Proposed Rulemaking To Develop Additional Permitting Regulations To Govern Take of Migratory Birds	1018-AG57
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1550	Endangered and Threatened Wildlife and Plants: 5-Year Review of Foreign Psittacine Birds	1018-AG63
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1557	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Gentner's Fritillary	1018-AG78
1558	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Fender's Blue Butterfly	1018-AG79
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1560	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Kincaid's Lupine	1018-AG81
1561	Endangered and Threatened Wildlife and Plants; Listing the Northern Wormwood	1018-AG83
1562	Endangered and Threatened Wildlife and Plants; Critical Habitat for the San Diego Ambrosia	1018-AG84
1563	Endangered and Threatened Wildlife and Plants; Listing the Washington Ground Squirrel	1018-AG85
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1565	Endangered and Threatened Wildlife and Plants; Listing the Umbtanum Desert Buckwheat	1018-AG87
1566	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Northern Idaho Ground Squirrel	1018-AG89
1567	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Riparian Brush Rabbit	1018-AG90
1568	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Riparian Woodrat	1018-AG91
1569	Endangered and Threatened Wildlife and Plants; Listing the Mardon Skipper (Polites Mardon)	1018-AG95
1570	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Coastal Cutthroat Trout	1018-AG97
1571	Endangered and Threatened Wildlife and Plants; Listing the Yellow-Billed Cuckoo	1018-AG98
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1575	Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Desert Milk-Vetch	1018-AH14
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National Park Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
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1605	World Heritage Convention	1024-AC74
1606	Procedures for State, Tribal, and Local Government Historic Preservation Programs	1024-AC79
1607	Commercial Use Permits	1024-AC85
1608	Special Regulations of the National Park System; Canyonlands National Park Road Closure	1024-AC87
1609	Glen Canyon National Recreation Area; Personal Watercraft	1024-AC90
1610	Lake Mead National Recreation Area; Personal Watercraft	1024-AC91
1611	Big Thicket National Preserve; Personal Watercraft	1024-AC92
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1617	Chickasaw Recreation Area; Personal Watercraft	1024-AC98
1618	Curecanti Recreation Area; Personal Watercraft	1024-AC99
1619	Amistad Recreation Area; Personal Watercraft	1024-AD00
1620	Lake Roocevelt Recreation Area; Personal Watercraft	1024-AD01
1621	Assateague Island National Seashore; Personal Watercraft	1024-AD02
1622	Dry Tortugas National Park; Special Regulations	1024-AD04
1623	Native American Graves Protection and Repatriation Act; Future Applicability	1024-AD05

National Park Service—Final Rule Stage

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1625	Wrangell-St. Elias National Park and Preserve Resident Zone Communities	1024-AC83
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Bureau of Indian Affairs—Prerule Stage

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Bureau of Indian Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
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1643	Leasing Restricted Lands of Members of the Five Civilized Tribes, Oklahoma, for Mining	1076-AD33
1644	Tribal Reorganization Under a Federal Statute	1076-AD46
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1646	Appeals From Administrative Actions	1076-AD50
1647	Academic and Dormitory Standards	1076-AD55
1648	Education Contracts Under the Johnson-O'Malley Act	1076-AD58
1649	Loans to Indians From the Revolving Loan Fund	1076-AD59
1650	School Construction Contracts for Public Schools	1076-AD69
1651	Job Placement and Training Program	1076-AD75
1652	Indian Child Protection	1076-AD95
1653	Certificates of Degree of Indian Blood	1076-AD97
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1655	Indian Reservation Roads Program	1076-AE06
1656	Buy Indian Act Regulations	1076-AE07
1657	Indian School Equalization Program - Provisions for Exceptional Children	1076-AE14
1658	Indian Reservation Roads Program	1076-AE17
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1665	Preference in Employment	1076-AD05
1666	Grants to Tribally Controlled Community Colleges and Navajo Community College	1076-AD06
1667	Indian Tribal Justice Support	1076-AD15
1668	Leasing Osage Reservation Lands for Mining of Minerals Other Than Oil and Gas	1076-AD34
1669	Lead and Zinc Mining Operations and Leases on Quapaw Indian Lands	1076-AD35
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1672	Indian Electric Power Utilities	1076-AD45
1673	Indian Business Development Program	1076-AD70
1674	Courts of Indian Offenses	1076-AD76
1675	Use of Columbia River Fish Access Sites	1076-AD83
1676	Use of Columbia River In-Lieu Fishing Sites	1076-AD86
1677	Alaska Resupply Operation	1076-AE04
1678	Protection of Products of Indian Art and Craftsmanship	1076-AE16

Bureau of Indian Affairs—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1679	Probate of Indian Estates Except for Members of the Five Civilized Tribes	1076-AE25

Bureau of Indian Affairs—Completed Actions

Sequence Number	Title	Regulation Identification Number
1680	Adult Vocational Training	1076-AD72
1681	Land Acquisitions for Gaming	1076-AD93
1682	Encumbrance of Indian Lands—Contract Approvals	1076-AE03
1683	San Carlos Apache Tribe Trust Fund and Lease Fund	1076-AE10
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1687	Adding the Fallon Paiute-Shoshone Indian Reservation and Colony to the Listing of Courts of Indian Offenses	1076-AE19

Minerals Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1688	Refunds and Recoupment of Overpayments on OCS	1010-AC27
1689	Takes vs. Entitlements Reporting	1010-AC29
1690	Accounting Relief for Marginal Properties	1010-AC30
1691	Prepayment of Royalties	1010-AC31
1692	Plans and Information	1010-AC47
1693	Incident Reporting	1010-AC57
1694	Records and Files Maintenance	1010-AC64
1695	Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Safety Measures and Procedures for Pipeline Modifications and Repairs	1010-AC75
1696	Well Control and Production Safety Training	1010-AC78
1697	Appeals of Minerals Management Service Orders	1010-AC80
1698	Proprietary Terms and Data Disclosure	1010-AC81
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1700	Dealing with Sustained Casing Pressure	1010-AC83

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Minerals Management Service—Proposed Rule Stage (Continued)

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1701	Documents Incorporated by Reference for Offshore Floating Production Facilities	1010-AC85
1702	Documents Incorporated by Reference — API RP 14F and API 510	1010-AC89
1703	Rights-of-Use and Easements and Pipeline Rights-of-Way	1010-AC91
1704	Suspension of Operations for Exploration Under Salt Sheets	1010-AC92
1705	Outer Continental Shelf Oil and Gas Leasing - Clarifying Amendments	1010-AC94
1706	Document Incorporated by Reference — API 510 — Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration	1010-AC95

Minerals Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1707	Valuation of Oil From Indian Leases **(Reg Plan Seq No. 74)**	1010-AC24
1708	Oil and Gas Drilling Operations	1010-AC43
1709	Prospecting for Minerals Other Than Oil, Gas, and Sulphur in the Outer Continental Shelf	1010-AC48
1710	Forms and Reports	1010-AC63
1711	Decommissioning Activities	1010-AC65
1712	Requirements Governing Surety Bonds for the Outer Continental Shelf	1010-AC68
1713	Deep Water Royalty Relief for Outer Continental Shelf Oil and Gas Leases Issued After 2000 **(Reg Plan Seq No. 75)**	1010-AC71
1714	Solid Minerals Reporting Requirements	1010-AC86
1715	Technical Amendments to 30 CFR Part 218	1010-AC87
1716	Technical Amendments to 30 CFR Part 206	1010-AC88
1717	Technical Amendments to 30 CFR Part 216	1010-AC90
1718	Documents Incorporated by Reference - API RP 14C	1010-AC93

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Minerals Management Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1719	Royalty Relief Terms	1010-AC58
1720	MMS Hearings and Investigations	1010-AC79

Minerals Management Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
1721	Royalty Payment Liability	1010-AB45
1722	Credit Adjustments	1010-AB73
1723	Chronic Erroneous Reporting	1010-AC34
1724	Amendments to Sale of Federal Royalty Oil (Small Refiner Administrative Fee)	1010-AC70
1725	Leasing of Sulphur or Oil and Gas in the Outer Continental Shelf—Definition of Affected States	1010-AC74
1726	Amendments to Allowance Determination Rules	1010-AC77

Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1727	Abandoned Coal Refuse Sites—Title I	1029-AB70
1728	Contemporaneous Reclamation	1029-AB79

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Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1729	Dam Safety Rules	1029-AB92
1730	Prime Farmlands	1029-AB98
1731	Abandoned Mine Land Reclamation Notices	1029-AB99

Office of Surface Mining Reclamation and Enforcement—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1732	Indian Lands	1029-AB83
1733	Electronic Filing of the OSM-1 Form	1029-AB95
1734	Civil Penalty Adjustments	1029-AC00

Bureau of Land Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1735	Sales—Federal Land Policy and Management Act	1004-AB77
1736	Desert Land Entries	1004-AC56
1737	Disposal of Reserved Minerals Under the Stock Raising Homestead Act	1004-AC59
1738	Geothermal Resource Unit Agreement	1004-AD10
1739	Conservation; Helium Leasing	1004-AD35
1740	Hazardous Materials Compliance	1004-AD38
1741	Grazing Administration—Exclusive of Alaska	1004-AD42
1742	Permits for Recreation on Public Lands	1004-AD45
1743	Wilderness Management	1004-AD46
1744	Onshore Oil and Gas Operations	1004-AD48
1745	Disclaimers of Interest	1004-AD50

Bureau of Land Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1746	Cost Recovery; Mineral Filings and Operations	1004-AC64
1747	Rights-of-Way, Principles and Procedures; Rights-of-Way Under the Mineral Leasing Act	1004-AC74
1748	Indian Allotments	1004-AC77
1749	Oil and Gas Leasing and Operations **(Reg Plan Seq No. 76)**	1004-AC94
1750	Oil and Gas Leasing; National Petroleum Reserve, Alaska—Unit Agreements	1004-AD13
1751	Use Authorizations (Recreation)	1004-AD25
1752	Mineral Materials Disposal	1004-AD29
1753	Location Recording, and Maintenance of Mining Claims and Sites	1004-AD31
1754	Supplementary Rules for Public Demonstrations at Grand Staircase-Escalante National Monument	1004-AD40
1755	Coal Management: Noncompetitive Leases; Management Provisions and Limitations	1004-AD43

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Bureau of Land Management—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1756	Leases, Permits, and Easements	1004-AB51
1757	Coalbed Methane Development	1004-AC27
1758	Land Withdrawals	1004-AC63

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Bureau of Land Management—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1759	Land Classification	1004-AC78
1760	Carey Act Grants	1004-AC80
1761	Appeals Procedures; Hearings Procedures	1004-AC99
1762	Color of Title and Omitted Lands	1004-AD00
1763	Coal Management	1004-AD11
1764	Mineral Patent Applications; Adverse Claims, Protests, and Conflicts	1004-AD32
1765	Financial Guarantees Procedures	1004-AD49

Bureau of Land Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
1766	Segregation and Opening of Lands	1004-AC84
1767	Paleontological Resources	1004-AD03
1768	Timber Export and Substitution	1004-AD37
1769	Rights-of-Way, Principles and Procedures; Rights-of-Way Under the Mineral Leasing Act	1004-AD39
1770	Surface Management (Locatable Minerals)	1004-AD44
1771	Alaska Native Veterans Allotments	1004-AD47

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1772	Wild and Scenic Rivers	1093-AA08

Department of the Interior (DOI)

Proposed Rule Stage

Assistant Secretary for Policy, Management and Budget (ASPMB)

1350. NATURAL RESOURCE DAMAGE ASSESSMENTS: TYPE B PROCEDURES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 9651(c)

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance. CERCLA requires that natural resource damage assessment regulations be promulgated and that the regulations be reviewed, and revised as appropriate, every two years. This rulemaking is the biennial review of the administrative process for conducting assessments as well as the so-called type B procedures for determining injury and damages through scientific and economic studies. This rulemaking will also address the calculation of lost non-use values of natural resources, in compliance with State of Ohio v. Department of the Interior, 880 F.2d 432 (D.C. Cir. 1989), which ordered the Department to allow for the assessment of all reliably calculated values lost as a result of a natural resource injury.

Timetable:

Action	Date	FR Cite
ANPRM	07/16/96	61 FR 37031
ANPRM Comment Period End	09/16/96	
NPRM	04/00/02	
NPRM Comment Period End	07/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank DeLuise, Assessment Program, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 4449, 1849 C Street N.W., Washington, DC 20240
Phone: 202 208-4143

RIN: 1090–AA29

1351. DEPARTMENT HEARINGS AND APPEALS; SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.401(c)(2); 43 CFR 4.403 to 4.408; 43 CFR 4.414; 43 CFR 4.415; 43 CFR 4.422(c)(2); 43 CFR 4.450-5

Legal Deadline: None

Abstract: This document proposes to amend procedural rules governing

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Proposed Rule Stage

hearings and appeals in public-lands cases. The amendments are necessary to conform the rules to procedural practices contained in decisions of the Interior Board of Land Appeals. The amended rules would provide parties more complete information and more up-to-date procedures than the existing rules.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Will A. Irwin, Administrative Judge, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Interior Board of Appeals, 4015 Wilson Blvd., Arlington, VA 22203
Phone: 703 235-3750

RIN: 1090–AA68

1352. DEPARTMENT HEARINGS AND APPEALS; PROCEDURES APPLICABLE IN ADJUDICATIONS BEFORE THE HEARINGS DIVISION

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 372; 25 USC 373; 25 USC 373a; 25 USC 373b; 25 USC 374; 30 USC 1201 et seq; 43 USC 1201; 5 USC 571 to 583

CFR Citation: 25 CFR 15; 30 CFR 301; 43 CFR 1850; 43 CFR 4

Legal Deadline: None

Abstract: This proposed rule will amend regulations governing case management and case processing by administrative law judges in the field offices of OHA to increase efficiency.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Charles E. Breece, Deputy Director, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street N.W., Washington, DC 20240
Phone: 703 235-3810

RIN: 1090–AA73

1353. • NON-PROCUREMENT SUSPENSION AND DEBARMENT; DRUG-FREE WORKPLACE GRANT REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355; 31 USC 6101; 41 USC 252a; 41 USC 701 et seq; EO 12549; EO 12689

CFR Citation: 43 CFR 42; 43 CFR 43

Legal Deadline: None

Abstract: This proposed rule would implement a common governmnetwide rule for debarment and suspension and a common governmentwide rule for the Drug-Free Workplace Act of 1988, including several specific provisions that apply to the Department of the Interior.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Debra E. Sonderman, Property Management, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-6431

RIN: 1090–AA79

Department of the Interior (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Final Rule Stage

1354. RECORDS AND TESTIMONY; FREEDOM OF INFORMATION ACT

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 552

CFR Citation: 43 CFR 2

Legal Deadline: None

Abstract: 43 CFR part 2, subparts A and B, are being revised in their entirety to reflect the provisions of the new FOIA law Electronic FOIA Amendments of 1996, Pub. L. 104-231, the recommendations of the National Performance Review lab, and to make other changes as necessary.

Timetable:

Action	Date	FR Cite
NPRM	07/16/01	66 FR 36966
NPRM Comment Period End	09/14/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alexandra Mallus, DOI FOIA Officer (OIRM), Department of the Interior, Assistant Secretary for Policy, Management and Budget
Phone: 202 208-5342

RIN: 1090–AA61

1355. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF THE INTERIOR ON THE BASIS OF RACE, COLOR NATIONAL ORIGIN, HANDICAP, OR AGE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794; 42 USC 2000d-1; 42 USC 6101 et seq

CFR Citation: 43 CFR 17

Legal Deadline: None

Abstract: This proposed joint rule will incorporate the broadened definitions of the terms "program" and "program or activity" as contained in the Civil Rights Restoration Act of 1987 (CRRA). The CRRA broadened the definitions of those terms so that all operations of an entity that receives Federal financial

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assistance are covered, not just the particular part receiving the Federal assistance.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Melvin C. Fowler, Civil Rights Staff Assistant, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-3455

RIN: 1090–AA77

1356. DEPARTMENT HEARINGS AND APPEALS PROCEDURES; RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2; 25 USC 331; 25 USC 372; 25 USC 373; 25 USC 373a; 25 USC 373b; 25 USC 374; 25 USC 9; 5 USC 301

CFR Citation: 43 CFR 4

Legal Deadline: None

Abstract: This proposed rule will revise the procedural rules for the field division of the Office of Hearings and Appeals concerning probate hearings as a result of the Department's reinvention labs. Hearings division regulations must be amended to reflect changes made with Bureau of Indian Affairs probate regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/18/01	66 FR 32884
Interim Rule Comment Period End	08/17/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles E. Breece, Deputy Director, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street N.W., Washington, DC 20240
Phone: 703 235-3810

RIN: 1090–AA78

Department of the Interior (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Long-Term Actions

1357. REVISED STATUTE 2477 RIGHTS-OF-WAY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1 to 4; 16 USC 460k-3; 16 USC 668dd; 43 USC 1201; 43 USC 1457; 43 USC 1732(b); 43 USC 1740; 43 USC 1782(c)

CFR Citation: 43 CFR 39

Legal Deadline: None

Abstract: This proposed rule would implement the Secretary of the Interior's June 1, 1993, recommendation to Congress that the Department promulgate regulations addressing rights-of-way pursuant to R.S. 2477 across lands now administered by the Bureau of Land Management, the National Park Service, and the U.S. Fish and Wildlife Service. R.S. 2477—a provision adopted in 1866 that granted a right-of-way for the construction of highways across public land not reserved for public uses—was repealed in 1976 but valid existing rights-of-way were not terminated. This proposed rule is intended to clarify the meaning of the statute and provide a workable administrative process and standards for recognizing valid claims.

Timetable:

Action	Date	FR Cite
NPRM	08/01/94	59 FR 39216
NPRM Comment Period End	08/01/95	60 FR 4135
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Assistant Secretary for Policy, Management and Budget
Phone: 202 452-7782
Email: ron__montagna@blm.gov

RIN: 1090–AA44

1358. ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS; BUY AMERICAN ACT

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 6101 note; 31 USC 7501; 41 USC 252a; 41 USC 701 et seq; EO 12549; EO 12674; EO 12689; EO 12731; OMB Circular A-102; OMB Circular A-110; PL 104-256, sec 501; PL 105-62, sec 303; PL 105-62, sec 503; PL 105-83, sec 307

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This final rule is in response to the Department of the Interior and Related Agencies Appropriations Act, 1998, and the Energy and Water Development Appropriations Act, 1998. It implements provisions regarding lobbying restrictions; denial of funds for preventing ROTC access to campuses; and the purchase of American-made equipment and products.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Debra E. Sonderman, Property Management, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-6431

RIN: 1090–AA66

Department of the Interior (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Completed Actions

1359. LIMITATION OF AWARDS TO PERMIT APPLICANTS UNDER SECTION 525(E) OF SMCRA

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 4

Completed:

Reason	Date	FR Cite
Withdrawn - No further action to be taken.	09/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Will A. Irwin
Phone: 703 235-3750

RIN: 1090–AA74

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Department of the Interior (DOI)
Office of the Special Trustee (OST)

Completed Actions

1360. APPEALING ADMINISTRATIVE ACTIONS OF THE OFFICE OF THE SPECIAL TRUSTEE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 25 CFR 1202

Completed:

Reason	Date	FR Cite
Withdrawn - Will not be published at this time.	09/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Sarah Yepa
Phone: 505 248-5751
Fax: 505 248-5782

RIN: 1035–AA03

Department of the Interior (DOI)
United States Fish and Wildlife Service (FWS)

Prerule Stage

1361. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE MIAMI BLUE BUTTERFLY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: Other, Judicial, December 2001, Settlement agreement. A 90-day finding for the Miami Blue butterfly must be completed by December 2001.

Abstract: We will complete a 90-day finding for the Miami Blue butterfly in Florida.

Timetable:

Action	Date	FR Cite
Notice	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH30

1362. • RELEASE OF CAPTIVE-REARED MALLARDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 712; 16 USC 742(a) to 742(j)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: This notice announces our intent to resume review of all aspects of regulations pertaining to the release and harvest of captive-reared mallards.

Timetable:

Action	Date	FR Cite
Notice of Intent	08/28/01	66 FR 45274
Notice	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon_andrew@fws.gov

RIN: 1018–AI05

1363. • NORTH AMERICAN WETLANDS CONSERVATION ACT GRANT ADMINISTRATION POLICIES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 16 USC 4401 et seq

CFR Citation: None

Legal Deadline: None

Abstract: Grant Administration Policies are being published as an interim measure to guide the North American Wetlands Conservation Act (NAWCA) grants process and to provide advance notice of rulemaking; the Service intends to engage in rulemaking to set out its own regulations for NAWCA grants administration that will supersede the Grant Administration Policies.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: David A Smith, Chief, Division of Bird Habitat Conservation, Department of the Interior, United States Fish and Wildlife Service, Suite 110, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1784

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DOI—FWS **Prerule Stage**

Fax: 703 358-2282
RIN: 1018–AI13

Department of the Interior (DOI)
United States Fish and Wildlife Service (FWS) **Proposed Rule Stage**

1364. LIST OF MIGRATORY BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 704; 16 USC 712

CFR Citation: 50 CFR 10.13

Legal Deadline: None

Abstract: The List of Migratory Birds found at 50 CFR 10.13 is being revised to (1) bring the list into conformity with generally accepted taxonomy and nomenclature—English (common) and scientific names, as reflected in four published supplements to the 6th (1983) edition of the American Ornithologists' Union Checklist of North American Birds; and (2) add species that are of regular occurrence in the United States that are not included on the current list.

Timetable:

Action	Date	FR Cite
NPRM	05/09/95	60 FR 24686
Second NPRM	10/12/01	66 FR 52281
Second NPRM Comment Period End	11/13/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AB72

1365. GENERAL PROVISIONS AND GENERAL PERMIT PROCEDURES—50 CFR PART 13

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668a; 16 USC 704; 16 USC 712; 16 USC 742j-1; 16 USC 1382; 16 USC 1538(d); 16 USC 1539; 16 USC 1540(f); 16 USC 3374; 16 USC 4901 to 4916; 18 USC 42; 19 USC 1202; 31 USC 9701; EO 11911

CFR Citation: 50 CFR 13

Legal Deadline: None

Abstract: The Service proposes to amend 50 CFR part 13, which provides uniform permit procedures relating to the general administration of Service permits, to update the permit application fee schedule. Permit fees have not been revised since 1982. This change is necessary in order to recover a larger percentage of the cost of processing the permits.

Timetable:

Action	Date	FR Cite
NPRM	09/05/95	60 FR 46087
NPRM Correction	09/27/95	60 FR 49978
NPRM Comment Period Reopened	11/15/95	60 FR 57386
Second NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AC57

1366. SEIZURE AND FORFEITURE PROCEDURES, 50 CFR PART 12

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 4222 to 4241; 16 USC 4901 to 4916; 18 USC 42

CFR Citation: 50 CFR 12

Legal Deadline: None

Abstract: The Service proposes to amend regulations in 50 CFR part 12 that establish procedures relating to property seized and administrative forfeiture under various laws enforced by the Service. This revision is intended to provide uniform guidance for the bonded release, appraisement, administrative proceeding petition for remission, and disposal of items subject to forfeiture. Also these revisions are intended to provide for greater consistency of Service seizure and forfeiture procedures with those of the U.S. Customs Service. In August 2000, the Civil Asset Forfeiture Reform Act became law. CAFRA mandated many changes to 50 CFR 12 that are incorporated in this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58468
Second NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Kevin Adams, Assistant Director for Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__adams@fws.gov

RIN: 1018–AC89

1367. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION OF TEN FRESHWATER MUSSELS IN HOLSTON RIVER SYSTEM IN TN AND VA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service plans to propose to reintroduce mussels including Appalachian monkeyface pearlymussel, cracking pearlymussel, Cumberland monkeyface pearlymussel, dromedary pearlymussel, fanshell orange-foot, pimpleback pearlymussel, ring pink mussel, rough pigtoe, and tan riffleshell into historic habitat. The mussels to be used in the reintroduction will include artificially propagated juveniles and adults taken from the wild, under certain circumstances. Mussel propagation technology currently is being developed using nonendangered surrogate species. The 4(d) rule will

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exempt unavoidable and unintentional take, such as fishing, boating, trapping, or wading.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AE01

1368. REVISIONS TO THE FEDERAL AID ADMINISTRATIVE REQUIREMENTS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 16 USC 777i; 16 USC 669i; 18 USC 701

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Service proposes to revise part 80 to clarify the language in the administrative requirements section and simplify some of the procedures to enable the States and the public to better understand the procedures and requirements for obtaining and administering grants under the Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Jack Hicks, Management Analyst, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS 140, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1851
Email: jack__hicks@fws.gov

RIN: 1018–AE17

1369. U.S. PROPOSALS FOR CITES APPENDIX III; AMERICAN EEL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: Listing of native U.S. species in appendix III to CITES for more effective monitoring of trade, to ensure that traded specimens are legally acquired in their State(s) of origin, and to obtain the cooperation of other countries that are parties to CITES, in controlling the trade in such specimens.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marie Maltese, Biologist, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Email: marie__maltese@fws.gov

RIN: 1018–AF09

1370. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; RECLASSIFICATION OF THE GRAY WOLF IN CERTAIN PARTS OF ITS RANGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to make a final determination on the proposed rule to reclassify certain populations of the gray wolf from endangered to threatened status under the Endangered Species Act, based on the recent recovery achievements, and to establish distinct population segments.

Timetable:

Action	Date	FR Cite
NPRM	07/13/00	65 FR 43449
Notice - Meetings and Hearings	07/26/00	65 FR 45956
Second NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF20

1371. HUMANE AND HEALTHFUL TRANSPORT OF WILD MAMMALS, BIRDS, REPTILES AND AMPHIBIANS TO THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42; 16 USC 3371 to 3378

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The proposed rule contains amendments designed to add numerous transport standards to part 14 for reptiles and amphibians. Standards have already been promulgated for mammals and birds.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko__saito@fws.gov

RIN: 1018–AF27

1372. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ESTABLISHMENT OF A SPECIAL RULE FOR THE CANADA LYNX

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.40

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Legal Deadline: None

Abstract: The Fish and Wildlife Service plans to propose a special rule under section 4(d) of the Endangered Species Act to provide an alternative voluntary mechanism for the authorization of incidental take of lynx resulting from otherwise lawful trapping or hunting of wildlife other than lynx. The rule will establish criteria that must be satisfied by State or tribal trapping and hunting programs to minimize the likelihood of the incidental take of lynx by trappers and hunters pursuing bobcat or other species.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF40

1373. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; REMOVAL OF THE DOUGLAS COUNTY, OREGON, POPULATION OF THE COLUMBIA WHITE-TAILED DEER FROM THE LIST OF ENDANGERED AND THREATENED SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to repropose the rule to remove the Douglas County, Oregon, population of the Columbia white-tailed deer from the list of endangered and threatened species. This reproposal is based upon new information.

Timetable:

Action	Date	FR Cite
NPRM	05/11/99	64 FR 25263
NPRM Comment Period Reopened	11/03/99	64 FR 59729
NPRM Comment Period Reopened	12/29/99	64 FR 72992
Second NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF43

1374. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING AND SPECIAL RULE FOR THE COASTAL CUTTHROAT TROUT

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, June 23, 2002, Settlement agreement.

Abstract: Together with the National Marine Fisheries Service, we will list the southeastern Washington/Columbia River population of the coastal cutthroat trout under the provisions of the Endangered Species Act. We will also determine whether to remove from the list the Umpqua River population. In addition, we will propose a special rule that would exempt certain recreational fishing and forest practices from the ESA prohibitions against take for this species.

Timetable:

Action	Date	FR Cite
NPRM - Listing	04/05/99	64 FR 16397
Final Rule - Umpqua Population	04/26/00	65 FR 24420
NPRM - Clarification	07/14/00	65 FR 43730
NPRM Comment Period Reopened	09/06/00	65 FR 53974
Second NPRM - Special Rule	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF45

1375. IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE, 50 CFR PART 14

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 704, 712, 1382, 1538(d) to (f), and 1540(f); 16 USC 3371 to 3378, 4223 to 4244, and 4901 to 4916; 18 USC 42; 31 USC 483(a)

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: This proposed rule will revise the importation, exportation and transportation regulations pertaining to the movement of all wildlife into or out of the United States.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/98	63 FR 38143
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Kevin Adams, Assistant Director for Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin_adams@fws.gov

RIN: 1018–AF46

1376. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; TIBETAN ANTELOPE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Other, Statutory, 12 month finding.

Abstract: We received a petition to list the Tibetan antelope as endangered. We must determine if status review shows that the petitioned action is warranted. If so, we will propose endangered status for the Tibetan antelope, or chiru (Pantholops hodgsoni). The antelope is a wild ungulate native to Tibet, Kashmir, and north-central China. It is threatened by illegal trade in its wool,

known as shahtoosh, which is exceptionally fine. The wool and shawls made from it are in great demand on the black market, resulting in the slaughter of thousands of these animals annually. The species has experienced dramatic declines in recent years despite efforts by range countries to control poaching, as well as a prohibition on international commercial trade through listing in Appendix I of CITES.

Timetable:

Action	Date	FR Cite
Notice	04/25/00	65 FR 24171
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kurt Johnson, Biologist, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Email: kurt_johnson@fws.gov

RIN: 1018–AF49

1377. INJURIOUS WILDLIFE; ADDITION OF THE ASIAN SWAMP EEL

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: We will review economic and biologic information on the Asian swamp eel (tentatively identified as Monopterus albus) for possible addition to the list of injurious wildlife under the Lacey Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kari Jonell Duncan, Fishery Biologist, Division of Environmental Quality, Department of the Interior, United States Fish and Wildlife Service, Room 810B, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2464
Email: kari_duncan@fws.gov

RIN: 1018–AF53

1378. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE FOR BULL TROUT IN WASHINGTON STATE

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This rule would provide special regulations to authorize incidental take of bull trout in Washington State. This action would provide for enhanced Federal, State and local management options for this threatened species.

Timetable:

Action	Date	FR Cite
NPRM	11/01/99	64 FR 58934
NPRM Comment Period End	12/16/99	
Second NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF71

1379. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR THE PLANT HACKELIA VENUSTA (SHOWY STICKSEED)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 18

Legal Deadline: Final, Judicial, February 6, 2002, settlement.

Abstract: The U.S. Fish and Wildlife Service (Service) will list as endangered species status pursuant to the Endangered Species Act (Act) of 1973, as amended, for hackelia venusta (Piper) St. John (showy stickseed). The population has declined to the current size of less than 150 individual plants at a single location in Tumwater Canyon, WA. Threats include competition and shading from native trees and shrubs, encroachment onto the site by nonnative, noxious plant species, wildfire and fire suppression, activities associated with fire suppression, and low seedling establishment.

Timetable:

Action	Date	FR Cite
NPRM	02/14/00	65 FR 7339
NPRM Comment Period End	04/14/00	
NPRM Comment Period Extended to 12/07/2001	11/07/01	66 FR 56265
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF75

1380. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED RECLASSIFICATION OF THE STRAIGHT-HORNED MARKHOR POPULATION OF THE TORGHAR REGION OF BALOCHISTAN, PAKISTAN, FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Other, Statutory, 12 month finding.

Abstract: We received a petition to reclassify a certain population of the straight-horned markhor from endangered to threatened. We must determine if a status review shows that the petitioned action is warranted and if so, we will propose to change the classification of the straight-horned markhor population of the Torghar Hills region of Balochistan Province, Pakistan, from endangered to threatened under the Endangered Species Act of 1973. The markhor is a species of wild goat that occurs in small, isolated populations in rugged, arid mountain habitats in Afghanistan,

India, Pakistan, Tajikistan, Turkmenistan, and Uzbekistan.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kurt Johnson, Biologist, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Email: kurt_johnson@fws.gov

RIN: 1018–AG00

1381. FEDERAL FALCONRY STANDARDS AND FALCONRY PERMITTING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 711

CFR Citation: 50 CFR 21.28; 50 CFR 21.29

Legal Deadline: None

Abstract: We will propose changes in the regulations governing the practice of falconry in the United States. We propose substantial reorganization of the current regulations, combining 50 CFR 21.28 and 21.29 and reorganizing the topics in those sections. We will add or change some provisions in the current regulations. The changes will make it easier to understand the requirements for falconry and the procedures for obtaining a falconry permit.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon_andrew@fws.gov

RIN: 1018–AG11

1382. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DETERMINATION OF ENDANGERED STATUS AND DESIGNATION OF CRITICAL HABITAT FOR THE GILA CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, August 18, 2001, Court Order.

Abstract: We are proposing endangered status and the designation of critical habitat for the Gila chub.

Timetable:

Action	Date	FR Cite
NPRM	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG16

1383. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DELISTING THE GULF COAST DISTINCT POPULATION SEGMENT OF THE BROWN PELICAN POPULATION IN THE SOUTHEASTERN UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to remove the remaining Gulf coast population of the Brown pelican (Texas, Louisiana, Mississippi) from the list of threatened and endangered species.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG40

1384. MIGRATORY BIRD PERMITS; TAKE OF MIGRATORY BIRDS BY FEDERAL AGENCIES

Priority: Other Significant

Legal Authority: 16 USC 703 to 712

CFR Citation: 50 CFR 21.15

Legal Deadline: None

Abstract: According to a recent ruling of the United States Court of Appeals for the District of Columbia Circuit, Federal Agencies are subject to the Migratory Bird Treaty Act (MBTA) and must have authorization under the MBTA to take migratory birds. Our current regulations authorize issuance of permits to take migratory birds for activities such as scientific research, education, and depredation control. For many other activities that result in take of migratory birds, no permits have been available. This rule would allow Federal activities to take migratory birds that are not covered by existing permit regulations, provided certain conditions are met, until more specific regulations can be developed.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon_andrew@fws.gov

RIN: 1018–AG56

1385. CLEAN VESSEL ACT GUIDANCE REVISION

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-587; PL 105-178

DOI—FWS

Proposed Rule Stage

CFR Citation: 50 CFR 85

Legal Deadline: None

Abstract: We are considering revising current guidance to address the needs of inland waterways recreational boaters.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: Michael Vanderford, Division of Federal Aid, Sportfishing Outreach Coordinator, Department of the Interior, United States Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 140, Arlington, VA 22203
Phone: 703 358-2420
Email: michael__vanderford@fws.gov

RIN: 1018–AG59

1386. WILD BIRD CONSERVATION ACT: REVIEW OF APPROVED LIST OF CAPTIVE-BRED SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 4901 to 4916

CFR Citation: 50 CFR 15

Legal Deadline: None

Abstract: Under the Wild Bird Conservation Act, a species may be exempt from the prohibitions of the Act if it qualifies for inclusion in an approved list. One way for a species to be included is if the species occurs in trade only as captive-bred specimens. We intend to seek information and consider whether to amend this approved list, which was established in 1994.

Timetable:

Action	Date	FR Cite
Notice	05/29/01	66 FR 29072
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Kreger, Biologist, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Email: michael__kreger@fws.gov

RIN: 1018–AG64

1387. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 5-YEAR REVIEW OF FOREIGN SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory, ESA requirement.
ESA requires review of all listings every 5 years.

Abstract: We will review the current list of foreign species to determine if any should be reclassified or delisted. Psittacine birds have been reviewed separately (see RIN 1018-AG63). Other taxonomic groups may be dealt with separately as the review proceeds.

Timetable:

Action	Date	FR Cite
Notice	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Kreger, Biologist, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Email: michael__kreger@fws.gov

RIN: 1018–AG68

1388. INJURIOUS WILDLIFE - ADDITION OF BLACK CARP

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: We will review economic and biological information on the Black carp (Mylopharyngodon piceus) for possible addition to the list of injurious wildlife under the Lacey Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kari Jonell Duncan, Fishery Biologist, Division of Environmental Quality, Department of the Interior, United States Fish and Wildlife Service, Room 810B, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2464
Email: kari__duncan@fws.gov

RIN: 1018–AG70

1389. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DETERMINATIONS OF WHETHER DESIGNATION OF CRITICAL HABITAT IS PRUDENT FOR 81 PLANTS AND PROPOSED DESIGNATIONS FOR 76 PLANTS FROM KAUAI AND NIIHAU, HAWAII

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500; 16 USC 1531 to 1544

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, December 16, 2001, Court Order.

Abstract: We propose to designate for a second time critical habitat for 77 plants from the islands of Kauai and Niihau, Hawaii.

Timetable:

Action	Date	FR Cite
NPRM	11/07/00	65 FR 66807
Correction	11/13/00	65 FR 67796
NPRM Comment Period Reopened	03/07/01	66 FR 13691
Second NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG71

1390. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE SANTA CRUZ TARPLANT

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500; 16 USC 1531 to 1544

CFR Citation: 50 CFR 17

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DOI—FWS

Proposed Rule Stage

Legal Deadline: NPRM, Judicial, September 30, 2001, Court order.

Abstract: We propose to determine critical habitat for the Santa Cruz tarplant in California.

Timetable:

Action	Date	FR Cite
NPRM	11/15/01	66 FR 57525
NPRM Comment Period End	01/14/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG73

1391. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE PURPLE AMOLE

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, September 30, 2001, Settlement agreement.

Abstract: We propose to determine critical habitat for the Purple amole in California.

Timetable:

Action	Date	FR Cite
NPRM	11/08/01	66 FR 56508
NPRM Comment Period End	01/07/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG75

1392. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THREE COASTAL CALIFORNIA PLANTS

Priority: Other Significant

Legal Authority: 16 USC 1531 to 1544; 16 USC 1361 to 1407; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, September 30, 2001, Court order.

Abstract: We propose to designate critical habitat for three coastal plants in California: LaGraciosa thistle; Lompac Yerba Santa; and Gaviota tarplant.

Timetable:

Action	Date	FR Cite
NPRM	11/15/01	66 FR 57559
NPRM Comment Period End	01/14/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG88

1393. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR KNEELAND PRAIRIE PENNYCRESS

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, September 30, 2001, Court order.

Abstract: We propose to designate critical habitat for the Kneeland Prairie Pennycress in California.

Timetable:

Action	Date	FR Cite
NPRM	10/24/01	66 FR 53756
NPRM Comment Period End	12/10/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG92

1394. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE KECK'S CHECKERMALLOW

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, June 10, 2002, Court order.

Abstract: We propose to designate critical habitat for the Keck's checkermallow in California.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG93

1395. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE BAKER'S LARKSPUR AND THE YELLOW LARKSPUR

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, June 10, 2002, Court order.

Abstract: We propose to determine critical habitat for the Baker's larkspur and the Yellow larkspur in California.

DOI—FWS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG96

1396. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR TWO CAVE INVERTEBRATES FROM KAUAI

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, January 1, 2002, Court order to finalize by 01/01/02.

Abstract: We propose to designate critical habitat for the Kauai cave amphipod and the Kauai cave wolf spider.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH01

1397. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR 58 PLANTS IN HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, April 30, 2002, 145 plants final by 04/30/02.

Abstract: We propose to determine critical habitat for 58 plants on the island of Hawaii. This action is part of litigation involving 245 Hawaiian plants.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH02

1398. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DETERMINATIONS OF WHETHER DESIGNATION OF CRITICAL HABITAT IS PRUDENT FOR 20 PLANTS AND RE-PROPOSED DESIGNATIONS FOR 32 PLANTS FROM MOLOKAI, HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, March 20, 2002, Settlement agreement.

Abstract: We re-propose to determine critical habitat for 50 plants on Molokai, Hawaii, and 2 plants in the Maui/NUI Complex, Hawaii as the result of litigation.

Timetable:

Action	Date	FR Cite
NPRM	12/29/00	65 FR 83157
NPRM Comment Period Extended	02/22/01	66 FR 11132
Second NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH08

1399. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR PLANTS OF THE NORTHWEST ISLANDS, HAWAII

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, November 30, 2000, 100 Hawaiian plants.
Final, Judicial, November 30, 2001, 100 Hawaiian plants.

Abstract: We propose to determine critical habitat for 8 plants on the Northwest Islands of Hawaii, which action is part of litigation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH09

DOI—FWS

Proposed Rule Stage

1400. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DETERMINATIONS OF WHETHER DESIGNATION OF CRITICAL HABITAT IS PRUDENT FOR 8 PLANTS AND RE-PROPOSED DESIGNATIONS FOR 18 PLANTS FROM LANAI, HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, February 16, 2002, settlement.

Abstract: We re-propose to determine critical habitat for 33 plants on Lanai and 2 plants on Maui/Nui Complex, Hawaii, which action is part of litigation.

Timetable:

Action	Date	FR Cite
NPRM	12/27/00	65 FR 82085
NPRM	02/22/01	66 FR 11133
NPRM	04/06/01	66 FR 18223
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH10

1401. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; 12-MONTH PETITION FINDING FOR THE BIG CYPRESS FOX SQUIRREL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, March 2002, Settlement agreement.

Abstract: We announce a 12-month finding for the Big Cypress Fox squirrel.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH29

1402. ENDANGERED AND THREATENED WILDLIFE; ESTABLISHMENT OF A NONESSENTIAL EXPERIMENTAL POPULATION OF 2 FISHES IN SHOAL CREEK, ALABAMA AND TENNESSEE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose the establishment of nonessential experimental populations for 2 fishes, the Boulder darter and Spotfin chub, in Shoal Creek, Alabama and Tennessee.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH44

1403. ENDANGERED AND THREATENED PLANTS; REMOVAL OF THE TRUCKEE BARBERRY FROM THE LIST OF ENDANGERED AND THREATENED PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to remove the Truckee barberry from the list of Endangered and Threatened Plants.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH47

1404. ENDANGERED AND THREATENED WILDLIFE; REMOVAL OF FOUR ASH MEADOW SPECIES FROM THE LIST OF ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to remove four species of Ash Meadow plants and animals from the List of Endangered and Threatened Wildlife and Plants: Ash Meadows Amargusa pupfish; Ash Meadows sunray; Ash Meadows gumplant; Spring Loving centuary.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH49

DOI—FWS

Proposed Rule Stage

1405. ENDANGERED AND THREATENED WILDLIFE; REMOVAL OF THE GUAM BROADBILL AND MARIANNA MALLARD FROM THE LIST OF ENDANGERED AND THREATENED WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to remove the Guam broadbill and the Marianna mallard from the List of Endangered and Threatened Wildlife.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH50

1406. ENDANGERED AND THREATENED PLANTS; REMOVAL OF THE PAPERY WHITLOW-WORT FROM THE LIST OF ENDANGERED AND THREATENED PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to remove the Papery whitlow-wort, a plant, from the List of Endangered and Threatened Plants.

Timetable:

Action	Date	FR Cite
NPRM	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH51

1407. ENDANGERED AND THREATENED WILDLIFE; REMOVAL OF THE SAN MARCOS GAMBUSIA, A FISH, FROM THE LIST OF ENDANGERED AND THREATENED WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to remove the San Marcos gambusia, a fish, from the List of Endangered and Threatened Wildlife.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH52

1408. ENDANGERED AND THREATENED PLANTS; REMOVAL OF THE JOHNSTON'S FRANKENIA FROM THE LIST OF ENDANGERED AND THREATENED PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to remove the Johnston's frankenia, a plant which occurs in Texas, from the List of Endangered and Threatened Plants.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH53

1409. ENDANGERED AND THREATENED WILDLIFE; ESTABLISHMENT OF A NONESSENTIAL EXPERIMENTAL POPULATION OF THE BLACK-FOOTED FERRET IN WYOMING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to establish an additional (the 8th) nonessential experimental population of the black-footed ferret in Campbell, Converse, Niobrara and Weston Counties, Wyoming.

Timetable:

Action	Date	FR Cite
NPRM	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH54

1410. ENDANGERED AND THREATENED WILDLIFE; RECLASSIFICATION OF THE GILA TROUT FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

DOI—FWS

Proposed Rule Stage

Legal Deadline: None

Abstract: We propose to reclassify from endangered to threatened the Gila trout.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH57

1411. ENDANGERED AND THREATENED PLANTS; RECLASSIFICATION OF THE WIREWEED FROM ENDANGERED TO THREATENED IN FLORIDA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to reclassify the wireweed, a plant which occurs in Florida, from endangered to threatened.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH58

1412. ENDANGERED AND THREATENED PLANTS; RECLASSIFICATION OF THE MISSOURI BLADDER-POD, A PLANT, FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to reclassify the Missouri bladder-pod, a plant, from endangered to threatened.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH59

1413. EXPORT OF LIVE ALLIGATORS

Priority: Substantive, Nonsignificant

Legal Authority: EO 13112

CFR Citation: 50 CFR 13; 50 CFR 17; 50 CFR 23

Legal Deadline: None

Abstract: This policy will prohibit the export of live American alligators because of invasive species concerns in the countries of destination of the animals.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko__saito@fws.gov

RIN: 1018–AH65

1414. AUDIT RESOLUTION POLICY

Priority: Substantive, Nonsignificant

Legal Authority: OMB Circular A-133

CFR Citation: 50 CFR 80; 43 CFR 12

Legal Deadline: None

Abstract: We will publish 6 USFWS Manual chapters regarding Federal government auditing standards as they pertain to State grantees.

Timetable:

Action	Date	FR Cite
Policy	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Jack Hicks, Management Analyst, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS 140, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1851
Email: jack__hicks@fws.gov

RIN: 1018–AH69

1415. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: REPROPOSED DETERMINATIONS OF PRUDENCY AND PROPOSED DESIGNATIONS OF CRITICAL HABITAT FOR PLANTS FROM MAUI AND KAHOOLAWE, HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, November 30, 2000, 100 Hawaii plants. Final, Judicial, November 30, 2001, 100 Hawaii plants.

Abstract: We repropose a determination for critical habitat for approximately 63 plants from Maui and Kahoolawe, Hawaii.

Timetable:

Action	Date	FR Cite
NPRM	12/18/00	65 FR 79191
NPRM	02/22/01	66 FR 11131

DOI—FWS

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	04/02/01	
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH70

1416. EAGLE PERMITS: NEW DEFINITIONS, PERMITS FOR INCIDENTAL TAKING OF BALD EAGLES NECESSARY TO PROTECT OTHER INTERESTS IN ANY PARTICULAR LOCALITY

Priority: Other Significant

Legal Authority: 16 USC 668a

CFR Citation: 50 CFR 22

Legal Deadline: None

Abstract: This rule would allow take of bald eagles under the Eagle Protection Act incidental to otherwise lawful activities, in the event the species is removed from the U.S. Endangered Species List.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AH74

1417. EXPORT OF CAVIAR: LABELING OF STURGEON AND PADDLEFISH (ACIPENSERIFORMES) CAVIAR CONTAINERS INTENDED FOR INTERNATIONAL TRADE; 50 CFR 23

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This action will require the labeling of exports of native American caviar to comply with labeling requirements adopted by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), of which the United States is a party country.

Timetable:

Action	Date	FR Cite
NPRM	07/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko__saito@fws.gov

RIN: 1018–AH78

1418. MIGRATORY BIRD HUNTING; PROPOSED 2001-2002 MIGRATORY GAME BIRD HUNTING REGULATIONS (PRELIMINARY) WITH REQUESTS FOR INDIAN TRIBAL PROPOSALS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 16 USC 703 to 712; 16 USC 742(a) to 742(j)

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: This action establishes annual migratory game bird hunting regulations.

Timetable:

Action	Date	FR Cite
Final Rule	08/21/01	66 FR 44009
Final Rule	08/29/01	66 FR 45729
Final Rule	08/31/01	66 FR 46199
Final Rule	09/27/01	66 FR 49477
Final Rule	09/28/01	66 FR 49747
Final Rule	09/28/01	66 FR 49773
NPRM	10/11/01	66 FR 51919
NPRM Comment Period End	10/26/01	
Final Rule Correction, Effective 09/28/2001	11/13/01	66 FR 56780

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AH79

1419. • MIGRATORY BIRD PERMITS; REGULATIONS GOVERNING REHABILITATION ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the Migratory Bird Permit regulations which authorize permits to take, possess, transport, sell, purchase, barter, import and export migratory birds. The Service proposes to establish a new section to authorize rehabilitation permits, which currently are authorized under 50 CFR 21.27, Special Purpose permits.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AH87

DOI—FWS

Proposed Rule Stage

1420. • PROCEDURES FOR ESTABLISHING SPRING/SUMMER SUBSISTENCE HARVEST REGULATIONS FOR MIGRATORY BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 712; 16 USC 742(a) to 742(j)

CFR Citation: 50 CFR 92

Legal Deadline: None

Abstract: These regulations establish procedures for implementing a spring/summer migratory bird subsistence harvest in Alaska.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Bob Stevens, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 1011 E Tudor Road, Anchorage, AK 99503
Phone: 907 786-3499

RIN: 1018–AH88

1421. • IMPORTATION OF EXOTIC WILD BIRDS INTO THE UNITED STATES; ADDING BLUE-FRONTED AMAZON PARROTS FROM ARGENTINA'S APPROVED SUSTAINABLE USE MANAGEMENT PLAN TO THE APPROVED LIST OF NON-CAPTIVE BRED SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 4901 to 4916

CFR Citation: 50 CFR 15

Legal Deadline: None

Abstract: This rule would allow the import into the United States of parrots removed from the wild in Argentina under an approved sustainable use management plan. This is the first such plan that, if approved, would contribute to the goals of the Wild Bird Conservation Act to promote the conservation of exotic birds through sustainable use.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko__saito@fws.gov

RIN: 1018–AH89

1422. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE RIO GRANDE SILVERY MINNOW

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, November 30, 2001, settlement agreement.

Abstract: We propose to designate critical habitat for the Rio Grande silvery minnow in New Mexico.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH91

1423. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SAFE HARBOR AGREEMENTS AND CANDIDATE CONSERVATION AGREEMENTS WITH ASSURANCES

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 13; 50 CFR 17

Legal Deadline: None

Abstract: Presently, Safe Harbor Agreements and Candidate Conservation Agreements with Assurances only allow incidental take of species. The Service is proposing to amend the policies to allow for intentional take of species.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH93

1424. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR BLACKBURN'S SPHINX MOTH

Priority: Other Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, November 2001, Court order.

Abstract: We propose to designate critical habitat for the Blackburn's sphinx moth.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH94

DOI—FWS

Proposed Rule Stage

1425. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR NEWCOMB'S SNAIL

Priority: Other Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, November 2001, Court order.

Abstract: We propose to designate critical habitat for the Newcomb's snail.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH95

1426. • CIVIL PROCEDURES FOR CAFRA COMPLIANT WILDLIFE INVESTIGATIVE SEIZURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3371

CFR Citation: 50 CFR 11

Legal Deadline: None

Abstract: These regulations will contain uniform rules and procedures for the assessment of civil penalties in connection with violations of certain laws and regulations enforced by the Service.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kevin Adams, Assistant Director for Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__adams@fws.gov

RIN: 1018–AH97

1427. • PARTNERS FOR FISH AND WILDLIFE PROGRAM

Priority: Info./Admin./Other

Legal Authority: 16 USC 742(a) to 754

CFR Citation: None

Legal Deadline: None

Abstract: Portions of the U.S. Fish and Wildlife Service manual are being revised to update policy on the implementation of the Partners for Fish and Wildlife Program. This program provides private landowners with cost-sharing and restoration expertise to restore fish and wildlife habitat. The program does not acquire lands and is a voluntary incentive program. The revisions update policy, incorporate Office of Inspector General recommendations, and clarify technical assistance and cost-sharing in light of changes in U.S. Department of Agriculture conservation programs.

Timetable:

Action	Date	FR Cite
Notice of Availability	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Hannibal Bolton, Chief, Division of Fish and Wildlife Management Assistance and Habitat Restoration, Department of the Interior, United States Fish and Wildlife Service, Room 840, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1718

RIN: 1018–AH98

1428. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; RECLASSIFICATION OF TWO AUSTRALIAN PARAKEETS FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to reclassify these two species of Australian parakeets so that their listing under the Endangered Species Act accurately reflects their current status.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Michael Kreger, Biologist, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Email: michael__kreger@fws.gov

RIN: 1018–AI04

1429. • MIGRATORY BIRD HUNTING AND PERMITS; REGULATIONS FOR MANAGING HARVEST OF LIGHT GOOSE POPULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 712; 16 USC 742(a) to 742(j)

CFR Citation: 50 CFR 20; 50 CFR 21 subpart E

Legal Deadline: None

Abstract: This rule authorizes new methods of take for light goose hunting under 50 CFR part 20 and revises subpart E of 50 CFR part 21 for the management of overabundant light goose populations. It also modifies the conservation order that will increase take of such populations under the authority of this subpart.

Timetable:

Action	Date	FR Cite
NPRM	10/12/01	66 FR 52077
NPRM Correction	11/07/01	66 FR 56266
NPRM Comment Period End	12/11/01	
NPRM Comment Period End	12/14/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AI07

DOI—FWS

Proposed Rule Stage

1430. • SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPART C AND SUBPART D — 2003 SUBSISTENCE TAKING OF FISH AND SHELLFISH REGULATIONS

Priority: Routine and Frequent

Legal Authority: 16 USC 3124

CFR Citation: 50 CFR 100; 36 CFR 242

Legal Deadline: None

Abstract: This rulemaking will revise the regulations for seasons, harvest limits, methods, and means related to taking of fish and shellfish for subsistence uses during the 2003 regulatory year. This rulemaking is necessary because subpart D is subject to an annual review cycle.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: William Knauer, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503
Phone: 907 786-3888

RIN: 1018–AI09

1431. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; BELUGA STURGEON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 17

Legal Deadline: Other, Statutory, Notice of 90-day finding.
We must determine if petitioned action is warranted within 90 days or as soon as possible after receipt of petition.

Abstract: Based upon a review of the species in response to a petition, we may propose to list the Beluga sturgeon (Huso huso) as endangered. This species historically inhabited the Caspian, Black, Azor and Adriatic Seas, and all rivers flowing into them. The Adriatic Sea population has been extirpated, and no wild Beluga sturgeon has been found in the Sea of Azor since the mid 1980's. This species has declined due to fishing pressure. This species is highly valued for its caviar and is subject to both legal and substantial levels of illegal fishing. The Beluga sturgeon has also been impacted by dam building and other forms of habitat modification.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marie Maltese, Biologist, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Email: marie__maltese@fws.gov

RIN: 1018–AI11

1432. • CORRECTIONS TO RIGHTS-OF-WAY REGULATIONS

Priority: Info./Admin./Other

Legal Authority: PL 101-475

CFR Citation: 50 CFR 29

Legal Deadline: None

Abstract: The Service proposes to make revisions to the Rights-of-Way General Regulations in 50 CFR 29 - Subpart B. The revisions will correct the address of our Region 5 Office in 50 CFR 29.21-2(c)(5). We will also implement section 1 of Public Law 101-475 by correcting the names of the House and Senate Committees we must notify upon receipt of an application for a right-of-way for an oil and gas pipeline that is 24 inches or more in diameter and again before granting right-of-way. Finally, the proposed revised regulation will delete the reference to a 60-day waiting period after notification of our intent to grant the right-of-way. (The waiting period was repealed by Congress.)

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Barbara Ann Wyman, Program Manager, Division of Realty, Department of the Interior, United States Fish and Wildlife Service, Room 622, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1811
Fax: 703 358-2223
Email: barbara__wyman@fws.gov

RIN: 1018–AI12

1433. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING AND DESIGNATION OF CRITICAL HABITAT FOR THREE SNAILS AND ONE AMPHIPOD

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625; 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, February 6, 2002, Settlement agreement.

Abstract: We propose to list and designate critical habitat for Koster's tyronia, Noel's amphipod, Pecos assiminea and the Roswell springsnail in New Mexico and Texas.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AI15

1434. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE ROTA BRIDLED WHITE-EYE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625; 100 Stat.3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, September 29, 2001, Settlement agreement.

DOI—FWS

Proposed Rule Stage

Abstract: We propose to list a bird, the Rota bridled white-eye, which occurs in the Marianas Islands.

Timetable:

Action	Date	FR Cite
NPRM	10/03/01	66 FR 50383
NPRM Comment Period End	12/03/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AI16

1435. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; EMERGENCY LISTING OF THE PYGMY RABBIT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625; 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: Other, Judicial, November 23, 2001, Settlement agreement.

Abstract: We are emergency listing the Columbia Basin Distinct Population Segment of the Pygmy rabbit in Washington.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AI17

1436. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; EMERGENCY LISTING OF THE CARSON'S WANDERING SKIPPER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625; 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: Other, Judicial, November 23, 2001, Settlement agreement.

Abstract: We are emergency listing the Carson's wandering skipper, a butterfly that occurs in Nevada.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AI18

1437. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; EMERGENCY LISTING OF THE TUMBLING CREEK CAVESNAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625; 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: Other, Judicial, December 17, 2001, Settlement agreement.

Abstract: We are emergency listing the Tumbling Creek cavesnail which is known to occur in only one cave in Missouri.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AI19

1438. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE TOPEKA SHINER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625; 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, August 13, 2002, Settlement agreement.

Abstract: We propose to designate critical habitat for the fish, the Topeka shiner, which occurs in Iowa, Kansas, Minnesota, Missouri, and South Dakota.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AI20

1439. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE GULF STURGEON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625; 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, February 2, 2002, Settlement agreement.

Abstract: We propose to designate critical habitat for the Gulf sturgeon.

DOI—FWS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AI23

1440. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR 103 OAHU, HAWAII PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625; 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 30, 2002, Settlement agreement.

Abstract: We propose to designate critical habitat for 103 Oahu, Hawaii plants.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AI24

1441. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR 6 GUAM SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625; 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, June 1, 2002, Settlement agreement.

Abstract: We propose to designate critical habitat for 6 Guam species. These include two mammals, the Little Marianna fruit bat and the Marianna fruit bat, and four birds, the Guam broadbill, the Mariana crow, the Guam Micronesian kingfisher and the Guam Bridled white-eye.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AI25

1442. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR FOUR FAIRY SHRIMP AND 11 PLANTS IN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625; 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, November 30, 2001, Settlement agreement.

Abstract: We propose to designate critical habitat for four fairy shrimp and 11 plants in California. The fairy shrimp are the Conservancy fairy shrimp, the Longhorn fairy shrimp, the Vernal Pool fairy shrimp and the Vernal Pool tadpole shrimp.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AI26

1443. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR FIVE CARBONATE PLANTS IN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625; 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, January 30, 2002, Settlement agreement.

Abstract: We propose to designate critical habitat for five carbonate plants in California: Parish's daisy; Cushenbury buckwheat; Cushenbury milk-vetch; San Bernardino Mountains bladderpod; and Cushenbury oxytheca.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AI27

1444. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE ISLAND FOX

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625; 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, November 30, 2001, Settlement agreement.

Abstract: We propose to list the Island fox, which occurs on the Channel Islands off California.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

DOI—FWS

Proposed Rule Stage

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AI28

Department of the Interior (DOI)
United States Fish and Wildlife Service (FWS)

Final Rule Stage

1445. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES (CITES)

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This will be a revision to an existing rule that will incorporate decisions/interpretations made at the last nine Conferences of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Timetable:

Action	Date	FR Cite
NPRM	05/08/00	65 FR 26663
Correction	06/29/00	65 FR 40167
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko__saito@fws.gov

RIN: 1018–AD87

1446. RECLASSIFICATION OF THE VICUNA FROM ENDANGERED TO THREATENED WITH A SPECIAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This special rule will be associated with the proposed reclassification of vicuna from endangered to threatened under the Endangered Species Act. The rule will provide for the conservation of the species and will stipulate conditions that must be met to allow for the importation of commercial specimens of the species (i.e., wool and wool products).

Timetable:

Action	Date	FR Cite
NPRM	09/08/99	64 FR 48743
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Kurt Johnson, Biologist, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Email: kurt__johnson@fws.gov

RIN: 1018–AE04

1447. INJURIOUS WILDLIFE; ADDITION OF BRUSH-TAILED POSSUM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: The Service proposes to review the economic and biological information on the brush-tailed possum of genus Trichosurus for possible addition to the list of injurious wildlife under the Lacey Act.

Timetable:

Action	Date	FR Cite
ANPRM	01/24/96	61 FR 1893
ANPRM Comment Period End	03/25/96	
NPRM	11/02/99	64 FR 59149
NPRM Comment Period End	01/03/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Susan Mangin, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2466

RIN: 1018–AE34

1448. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DELISTING OF THE BALD EAGLE THROUGHOUT THE LOWER 48 STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The bald eagle was reclassified to threatened status throughout the lower 48 States in 1995. Continued recovery gains and increasing population trends now make it possible to consider removing the bald eagle from the endangered species list. The Service plans to make a final determination on the proposal to delist the bald eagle.

Timetable:

Action	Date	FR Cite
NPRM	07/06/99	64 FR 36454
NPRM Comment Period End	10/05/99	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF21

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Final Rule Stage

1449. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PREBLES MEADOW JUMPING MOUSE; SPECIAL RULE AND DESIGNATION OF CRITICAL HABITAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.40

Legal Deadline: None

Abstract: We plan to propose an amendment to the proposed special rule under the Endangered Species Act which allows limited incidental take of the Prebles Meadow jumping mouse in Colorado and Wyoming. In addition, we will propose to designate critical habitat for the Prebles Meadow jumping mouse.

Timetable:

Action	Date	FR Cite
NPRM	12/03/98	63 FR 66777
NPRM Comment Period Reopened	01/29/99	64 FR 4607
NPRM Comment Period Reopened	03/06/99	64 FR 12924
NPRM Comment Period Reopened	03/16/99	
NPRM Comment Period Reopened	06/23/00	65 FR 39117
Final Rule	01/00/01	
Final Rule	05/22/01	66 FR 28125
NPRM	08/30/01	66 FR 45829
NPRM Comment Period End	10/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF30

1450. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE FOR THE CHIRICAHUA LEOPARD FROG

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will list the Chiricahua leopard frog (Arizona and New Mexico) under the Endangered Species Act, with a special rule.

Timetable:

Action	Date	FR Cite
NPRM	06/14/00	65 FR 37343
NPRM Comment Period Reopened	09/27/00	65 FR 58033
NPRM Comment Period End	10/27/00	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF41

1451. IMPORTATION OF CAPTIVE-BRED EXOTIC BIRDS INTO THE UNITED STATES FROM BREEDING FACILITIES IN OTHER COUNTRIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 4901 to 4916

CFR Citation: 50 CFR 15.41; 50 CFR 15.42

Legal Deadline: None

Abstract: We will establish the information requirements and approval criteria for the import of captive-bred wild exotic birds from overseas breeding facilities. This rule applies primarily to species listed in the appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which are otherwise prohibited from import by the Wild Bird Conservation Act of 1992. The rule also describes the process for handling petitions to approve qualifying facilities, establishes the duration of approval, provides for the suspension and revocation of approval, and provides for notice of approved facilities in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	03/17/94	59 FR 12784
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Gabel, Chief, Branch of Consultation and Monitoring, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Email: roddy_gabel@fws.gov

RIN: 1018–AF44

1452. ADMINISTRATION OF THE NATIONAL COASTAL WETLANDS CONSERVATION GRANT PROGRAM

Priority: Other Significant

Legal Authority: 16 USC 3951 et seq

CFR Citation: 50 CFR 87

Legal Deadline: None

Abstract: We will establish the requirements of the National Coastal Wetlands Conservation Grant Program, authorized by section 305 of the Coastal Wetlands Planning, Protection and Restoration Act. The program is designed to assist coastal States by providing grants to State agencies to protect and restore their coastal wetland ecosystems. The proposed rule includes the goals of the program, eligibility requirements, ranking criteria, and grant administration procedures.

Timetable:

Action	Date	FR Cite
NPRM	08/20/01	66 FR 43555
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Hannibal Bolton, Chief, Division of Fish and Wildlife Management Assistance and Habitat Restoration, Department of the Interior, United States Fish and Wildlife Service, Room 840, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1718

RIN: 1018–AF51

DOI—FWS

Final Rule Stage

1453. POLICY FOR EVALUATION OF CONSERVATION EFFORTS IN ENDANGERED SPECIES DECISIONMAKING

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service and the National Marine Fisheries Service announce a draft policy for the evaluation of conservation efforts in making listing decisions under the Endangered Species Act of 1973, as amended (Act). The policy identifies criteria to be used in determining whether conservation agreements, conservation plans, management plans, or other formalized conservation efforts remove the need to list a species as threatened or endangered under the Act.

Timetable:

Action	Date	FR Cite
NPRM	06/13/00	65 FR 37102
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF55

1454. POLICY ON GENERAL CONSERVATION PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 1361 et seq; 16 USC 703 et seq

CFR Citation: None

Legal Deadline: None

Abstract: This policy will contain provisions to issue permits to qualified organizations to conduct general conservation activities over a specified period of time instead of issuing multiple permits for each activity.

Timetable:

Action	Date	FR Cite
Notice of Proposed Policy	10/28/99	64 FR 58086
Final Action	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko_saito@fws.gov

RIN: 1018–AF63

1455. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DELISTING THE NORTHERN POPULATION OF THE TIDEWATER GOBY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service plans to make a final determination on the proposed rule to remove the northern population of the tidewater goby from the List of Threatened and Endangered Species. Currently, all tidewater goby populations in California are on the List of Endangered and Threatened Species.

Timetable:

Action	Date	FR Cite
NPRM	06/24/99	64 FR 33816
NPRM Comment Period Reopened	02/15/00	65 FR 7483
NPRM Comment Period Reopened	01/03/01	66 FR 345
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF67

1456. ENDANGERED AND THREATENED WILDLIFE; LISTING THE GOLDEN SEDGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, January 2002, settlement.

Abstract: This action will list as endangered status the Carex lutea (golden sedge) under the Endangered Species Act. This rare plant is currently known from only eight populations in Pender and Onslow Counties, NC. If listed as endangered or threatened, the protective regulations of 50 CFR 17 would take effect.

Timetable:

Action	Date	FR Cite
NPRM	08/16/99	64 FR 44470
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF68

1457. U.S. PROPOSALS FOR CITES APPENDIX III; CERTAIN TURTLE SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This action would add certain native turtle species to Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. If adopted, exports of the species would require CITES documentation from the Service to ensure that foreign countries accept the shipments. This action is necessary to monitor the impact of trade on the species in an effort to maintain healthy populations.

Timetable:

Action	Date	FR Cite
NPRM	01/26/00	65 FR 4217

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Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	03/13/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kurt Johnson, Biologist, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Email: kurt_johnson@fws.gov

RIN: 1018–AF69

1458. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ENDANGERED STATUS FOR SOUTHERN CALIFORNIA DISTINCT VERTEBRATE POPULATION SEGMENT (DPS) OF MOUNTAIN YELLOW-LEGGED FROG

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, June 22, 2002, settlement.

Abstract: The U.S. Fish and Wildlife Service will list the southern California distinct vertebrate population segment (DPS) of mountain yellow-legged frog as endangered under the Endangered Species Act of 1973 (Act). This proposal, when made final, will extend the Act's protection to this species.

Timetable:

Action	Date	FR Cite
NPRM	12/22/99	64 FR 71714
NPRM Comment Period End	02/22/00	
NPRM Comment Period Reopened	03/20/00	65 FR 14936
NPRM Comment Period Reopened	05/19/00	65 FR 31870
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF83

1459. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ENDANGERED STATUS FOR SAN DIEGO AMBROSIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, June 15, 2002.

Abstract: The Service will list the San Diego ambrosia as endangered under the Endangered Species Act of 1973 (Act). This plant is restricted to San Diego and Riverside Counties, California and Baha California, Mexico from Colonet to Lake Chapala. This proposed rule, when made final, will extend protection under the Act to the San Diego ambrosia.

Timetable:

Action	Date	FR Cite
NPRM	12/29/99	64 FR 72993
NPRM Comment Period End	02/28/00	
NPRM	03/30/00	65 FR 16869
NPRM Comment Period End	05/30/00	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF86

1460. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST THE MISSISSIPPI GOPHER FROG DISTINCT POPULATION SEGMENT OF DUSKY GOPHER FROG AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, December 22, 2001, settlement.

Abstract: The Service will list the Mississippi gopher frog distinct population segment of the dusky gopher frog as endangered under the Endangered Species Act of 1973 (Act). Historically, the Mississippi gopher frog occurred in at least nine counties or parishes across the Mobile River delta in Alabama. Today, it is known from only one site in Harrison County, Mississippi. This proposed rule, if made final, would extend the Act's protection to the Mississippi gopher frog distinct population segment.

Timetable:

Action	Date	FR Cite
NPRM	05/23/00	65 FR 33283
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF90

1461. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATIONS FOR FOUR FISHES: DUSKYTAIL DARTER, SMOKY MADTOM, YELLOWFIN MADTOM, AND SPOTFIN CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to make a final determination on the proposed rule to designate nonessential experimental population (NEP) status under Section 10(j) of the Endangered Species Act of 1973 (Act), and reintroduce two federally listed endangered fishes—the duskytail darter and smoky madtom—and two Federally listed threatened fishes—the yellowfin madtom and spotfin chub—into the Tellico River between the backwaters of the Tellico Reservoir (approximately Tellico River mile (TRM) 19 and TRM 33, near the Tellico Ranger Station, in Monroe County, Tennessee.

Timetable:

Action	Date	FR Cite
NPRM	06/08/01	66 FR 30853
NPRM Comment Period End	08/07/01	
Final Action	06/00/02	

DOI—FWS

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF96

1462. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF BUENA VISTA LAKE SHREW AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory, March 1, 2002.

Abstract: The Service proposes to list the Buena Vista Lake shrew (Sorex ornatus relictus) as endangered under the authority of the Endangered Species Act of 1973 without critical habitat. The Buena Vista Lake shrew is found in marshes and sloughs within a site formerly known as the Kern Lake Preserve, Kern County, California. This subspecies may also occur in the Tulare Basin and at Kern National Wildlife Refuge, but its status is unknown. The only known population occurs on privately owned land that currently has no Federal protection.

Timetable:

Action	Date	FR Cite
NPRM	06/01/00	65 FR 35033
NPRM Comment Period Reopened	08/14/00	65 FR 49530
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG04

1463. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED LISTING OF VERMILION DARTER AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, November 19, 2001, settlement.

Abstract: The Fish and Wildlife Service will list the vermilion darter (Etheostoma chermocki) as endangered under the authority of the Endangered Species Act of 1973, as amended. The vermilion darter is found in only 11.6 kilometers (7.2 miles) of the main stem of Turkey Creek, and the lowermost reaches of Dry Creek and Beaver Creek, within the Turkey Creek drainage, a tributary of the Locust Fork of the Black Warrior River, northeast Jefferson County, Alabama. This proposed rule, if made final, will extend the protection of the Act to the vermilion darter.

Timetable:

Action	Date	FR Cite
NPRM	04/18/00	65 FR 20792
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG05

1464. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; RECLASSIFICATION OF SCUTELLARIA MONTANA (LARGE-FLOWERED SKULLCAP) FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory, July 12, 2001.

Abstract: The U.S. Fish and Wildlife Service (Service) plans to make a final determination on the reclassification of Scutellaria montana (large-flowered skullcap) from its present endangered status to threatened status under the authority of the Endangered Species Act of 1973, as amended (Act). This proposed reclassification is based on the substantial improvement in the status of this species. Since listing, 22 additional sites have been discovered, and the total known number of individuals has increased from about 6,700 to more than 48,000.

Timetable:

Action	Date	FR Cite
NPRM	07/12/00	65 FR 42973
NPRM Comment Period End	09/11/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG07

1465. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR THREE PLANTS FROM THE MARIANA ISLANDS AND GUAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory, June 1, 2001.

Abstract: We, the U.S. Fish and Wildlife Service (Service), propose endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for three plants (no common names): Nesogenes rotensis, Osmoxylon mariannense, and Tabernaemontana rotensis. Nesogenes rotensis and O. mariannense are found only on the island of Rota in the U.S. Commonwealth of the Northern Mariana Islands (CNMI). Tabernaemontana rotensis occurs on both Rota and the United States Territory of Guam.

Timetable:

Action	Date	FR Cite
NPRM	06/01/00	65 FR 35025

DOI—FWS

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period Reopened	10/30/00	65 FR 64649
NPRM Comment Period End	11/29/00	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG09

1466. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR 12 SPECIES OF PICTURE-WING FLIES FROM THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, July 31, 2001, Court Order.

Abstract: We propose endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for 12 species of Hawaiian picture-wing flies—Drosophila aglaia, D. differens, D. hemipeza, D. heteroneura, D. montgomeryi, D. mulli, D. musaphilia, D. neoclavisetae, D. obatai, D. ochrobasis, D. substenoptera, and D. tarphytrichia. These species are found on one or more of the following Hawaiian Islands: Kauai, Oahu, Molokai, Maui, and Hawaii. These 12 species face substantial threats from one or more of the following: habitat degradation, loss of host plants, biological pest control, and predation from alien arthropods.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3964
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG23

1467. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DELISTING OF THE HOOVER'S WOOLY-STAR

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to make a final determination on the proposed rule to remove the Hoover's Wooly-Star from the list of Endangered and Threatened Plants. This action is based on information that indicates this plant is more widespread and abundant than previously thought, more resilient and less vulnerable to certain activities, and adequately protected on public lands.

Timetable:

Action	Date	FR Cite
NPRM	03/06/01	66 FR 13474
NPRM Comment Period End	05/07/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG41

1468. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT DESIGNATION FOR THE OAHU ELEPAIO, A BIRD, IN HAWAII

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, December 30, 2001, Court order.

Abstract: We will designate critical habitat for the Oahu Elepaio, a bird, in Hawaii. This rulemaking is part of a court-ordered action.

Timetable:

Action	Date	FR Cite
NPRM	06/06/01	66 FR 30372
NPRM Comment Period Reopened	08/06/01	66 FR 40960
Correction	09/05/01	66 FR 46426
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG99

1469. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE OTAY TARPLANT

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, May 30, 2001, Settlement agreement.

Abstract: We will designate critical habitat for the Otay Tarplant in California.

Timetable:

Action	Date	FR Cite
NPRM	06/13/01	66 FR 32052
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH00

DOI—FWS

Final Rule Stage

1470. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE QUINO CHECKERSPOT BUTTERFLY

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, February 1, 2001, Court Order.

Abstract: We determine critical habitat for the Quino Checkerspot butterfly in California.

Timetable:

Action	Date	FR Cite
NPRM	02/07/01	66 FR 9475
NPRM Comment Period Reopened	06/20/01	66 FR 33046
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH03

1471. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR CHORIZANTHE PUNGENS VAR. PUNGENS (MONTEREY SPINEFLOWER)

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, January 15, 2001, Settlement agreement.

Abstract: We determine critical habitat for the Monterey spineflower in Southern California.

Timetable:

Action	Date	FR Cite
NPRM	02/15/01	66 FR 10440
NPRM Comment Period Reopened	09/19/01	66 FR 48228
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH04

1472. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE SAN BERNARDINO KANGAROO RAT

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, December 1, 2001, Court Order.

Abstract: We determine critical habitat for the San Bernardino Kangaroo rat in California as the result of litigation.

Timetable:

Action	Date	FR Cite
NPRM	12/08/00	65 FR 77177
NPRM Comment Period Reopened	09/04/01	66 FR 46251
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH07

1473. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PRUDENCY AND CRITICAL HABITAT FOR A MOLLUSK, THE CAROLINA HEELSPLITTER

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, April 1, 2002, Settlement agreement.

Abstract: We determine critical habitat for the mollusk, the Carolina Heelsplitter, in North Carolina and South Carolina.

Timetable:

Action	Date	FR Cite
NPRM	07/11/01	66 FR 36229
NPRM Comment Period End	08/27/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH31

1474. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PRUDENCY AND CRITICAL HABITAT FOR THE ROCK GNOME LICHEN

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, October 1, 2001, settlement agreement.

Abstract: We determine critical habitat for the rock gnome lichen in North Carolina and Tennessee.

Timetable:

Action	Date	FR Cite
NPRM	04/05/01	66 FR 18062
NPRM Comment Period End	06/04/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and

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DOI—FWS

Final Rule Stage

Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH32

1475. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PRUDENCY AND CRITICAL HABITAT DESIGNATION FOR A MOLLUSK, THE APPALACHIAN ELKTOE

Priority: Other Significant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, July 16, 2002, Settlement agreement.

Abstract: We designate critical habitat for the Appalachian elktoe, a mollusk, in North Carolina and Tennessee.

Timetable:

Action	Date	FR Cite
NPRM	02/08/01	66 FR 9540
Final Action	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH33

1476. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE SACRAMENTO MOUNTAIN CHECKERSPOT BUTTERFLY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, August 31, 2001, Court order.

Abstract: We propose the listing of the Sacramento Mountain checkerspot butterfly as endangered including a critical habitat determination in New Mexico.

Timetable:

Action	Date	FR Cite
NPRM	09/06/01	66 FR 46575
NPRM Comment Period Extended	09/26/01	66 FR 49158
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH40

1477. INTERAGENCY POLICY ON THE PRESCRIPTION OF FISHWAYS UNDER SECTION 18 OF THE FEDERAL POWER ACT

Priority: Other Significant

Legal Authority: 16 USC 791(a) et seq

CFR Citation: None

Legal Deadline: None

Abstract: This will invite public comment on proposed policy guidance for us and the National Marine Fisheries Service regarding the prescription of fishways under section 18 of the Federal Power Act, for non-Federal hydropower projects licensed by the Federal Energy Regulatory Commission.

Timetable:

Action	Date	FR Cite
Notice	12/22/00	65 FR 80898
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Dr. Benjamin Tuggle, Chief, Division of Federal Program Activities, Department of the Interior, United States Fish and Wildlife Service, Room 400, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2161
Fax: 703 358-1869

RIN: 1018–AH42

1478. ENDANGERED AND THREATENED PLANTS; REMOVAL OF THE ROBIN'S CINQUEFOIL FROM THE LIST OF ENDANGERED AND THREATENED SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to make a final determination on the proposed rule to remove the plant, Robin's cinquefoil, from the list of endangered and threatened wildlife.

Timetable:

Action	Date	FR Cite
NPRM	06/08/01	66 FR 30860
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH56

1479. ADDITION OF THE BASKING SHARK AND THE STAG BEETLE TO APPENDIX III UNDER CITES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This action will amend the regulations in 50 CFR part 23 by adding the basking shark and the stag beetle to appendix III under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Teiko Saito, Chief, Division of Management Authority,

DOI—FWS

Final Rule Stage

Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko_saito@fws.gov

RIN: 1018–AH66

1480. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE DOLLY VARDEN AS A THREATENED SPECIES IN WASHINGTON DUE TO SIMILARITY OF APPEARANCE TO BULL TROUT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to list the Dolly Varden (Salvelinus malma) as threatened under the "Similarity of Appearance" provision of the Endangered Species Act in Washington, due to its similarity of appearance to the bull trout.

Timetable:

Action	Date	FR Cite
NPRM	01/09/01	66 FR 1628
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH68

1481. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; REOPENING OF COMMENT PERIOD ON THE THREATENED STATUS OF THE SACRAMENTO SPLITTAIL (POGONICHTHYS MACROLEPIDOTIS)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, January 31, 2002, Settlement Agreement.

Abstract: We were ordered by a court to reanalyze the information concerning the listing decision for the Sacramento splittail. Therefore, we have reopened the comment period for this issue. The previous regulatory action that finalized the listing decision for the Sacramento splittail was assigned RIN 1018-AC26, and was completed with the publication of the final rule designating the Sacramento splittail as a threatened species, effective March 10, 1999 (64 FR 5963). Since RIN 1018-AC26 has been completed, we are considering the reopening of the comment period on this issue to be a new regulatory action, which has been assigned this current RIN.

Timetable:

Action	Date	FR Cite
Comment Period Extended	01/12/01	66 FR 2828
Comment Period Reopened	05/08/01	66 FR 23181
Comment Period End	06/07/01	
Comment Period Reopened	08/17/01	66 FR 43145
Comment Period End	10/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH73

1482. CONFERRING DESIGNATED PORT STATUS ON ANCHORAGE, ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668; 16 USC 704; 16 USC 712; 16 USC 1382; 16 USC 1538(d) to 1538(f); 16 USC 1540(f); 16 USC 3371 to 3378; 16 USC 4223 to 4244; 16 USC 4901 to 4916; 18 USC 42; 31 USC 9701; ...

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: This proposed rule will amend 50 CFR part 14 by adding the port of Anchorage, Alaska to the list of designated ports in section 14.12.

Timetable:

Action	Date	FR Cite
NPRM	08/20/01	66 FR 43554
NPRM Comment Period End	09/19/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Kevin Adams, Assistant Director for Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin_adams@fws.gov

RIN: 1018–AH75

1483. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR POLYGONUM HICKMANII (SCOTTS VALLEY POLYGONUM)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, October 19, 2001, Settlement agreement.

Abstract: We propose to list the Scotts Valley polygonum as an endangered species.

Timetable:

Action	Date	FR Cite
NPRM	11/09/00	65 FR 67335
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH76

1484. SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPART C AND SUBPART D—2002 SUBSISTENCE TAKING OF FISH AND SHELLFISH REGULATIONS

Priority: Routine and Frequent

Legal Authority: 16 USC 3124

DOI—FWS

Final Rule Stage

CFR Citation: 50 CFR 100; 36 CFR 242

Legal Deadline: None

Abstract: This proposed rule will revise the regulations for seasons, harvest limits, methods, and means related to taking of fish and shellfish for subsistence uses during the 2002 regulatory year. The rulemaking is necessary because subpart D is subject to an annual review cycle.

Timetable:

Action	Date	FR Cite
NPRM	02/13/01	66 FR 10161
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: William Knauer, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503 Phone: 907 786-3888

RIN: 1018–AH77

1485. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ESTABLISHMENT OF PROTECTION AREAS FOR THE WEST INDIAN MANATEE IN FLORIDA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, August 2001, settlement agreement. Final, Judicial, January 2002, settlement agreement.

Abstract: The Service plans to make a final determination on the proposed rule, required under a litigation agreement, that identifies 16 manatee protection areas throughout peninsular Florida. Four areas are proposed as manatee sanctuaries, where all waterborne activities are prohibited with an exception for residents, and 12 areas are proposed as manatee refuges, where certain waterborne activities are prohibited or regulated.

Timetable:

Action	Date	FR Cite
NPRM	08/10/01	66 FR 42318
NPRM	08/29/01	66 FR 45662
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH80

1486. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR POLYGONUM HICKMANII (SCOTS VALLEY POLYGONUM) AND CHORIZANTHE ROBUSTA VAR. HARTWEGII (SCOTS VALLEY SPINEFLOWER)

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, February 1, 2001, Settlement Agreement.
Final, Judicial, October 19, 2001, Settlement Agreement.

Abstract: We designate critical habitat for the Scotts Valley polygonum and the Scotts Valley spineflower.

Timetable:

Action	Date	FR Cite
NPRM	02/15/01	66 FR 10469
NPRM Comment Period Reopened	09/19/01	66 FR 48227
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH82

1487. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR CHORIZANTHE ROBUSTA VAR. ROBUSTA (ROBUST SPINEFLOWER)

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, February 1, 2001, Settlement Agreement.
Final, Judicial, October 19, 2001, Settlement Agreement.

Abstract: We designate critical habitat for the Robust spineflower in California.

Timetable:

Action	Date	FR Cite
NPRM	02/15/01	66 FR 10419
NPRM Comment Period Reopened	09/19/01	66 FR 48225
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH83

1488. • SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A AND B; INTERIM RULE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3124

CFR Citation: 50 CFR 100; 36 CFR 242

Legal Deadline: Other, Statutory, April 30, 2001, Interim Final Rule.

Abstract: This interim rule will clarify the appeal process and expand the number of items that the Federal Subsistence Board may delegate to agency field officials.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/12/01	66 FR 31533
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

DOI—FWS

Final Rule Stage

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: William Knauer, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503
Phone: 907 786-3888

RIN: 1018–AH85

1489. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE GREAT PLAINS BREEDING POPULATION OF THE PIPING PLOVER

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, March 15, 2002, court order.

Abstract: We will designate critical habitat for the Great Plains population of the piping plover.

Timetable:

Action	Date	FR Cite
NPRM	06/12/01	66 FR 31769
NPRM	07/06/01	66 FR 35580
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH96 .

1490. • PUBLIC NOTICE FOR CITES APPENDIX III LISTING OF SPANISH CEDAR AND BIGLEAF MAHOGANY BY THE GOVERNMENT OF PERU

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This notice advises the public that, by unilateral action provided for in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Government of Peru has listed Spanish cedar and bigleaf mahogany in CITES appendix III. This listing invokes certain permitting requirements to assist Peru in controlling trade in these species.

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Julie Lyke, Biologist, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Email: julie_lyke@fws.gov

RIN: 1018–AH99

1491. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ESTABLISHMENT OF A NONESSENTIAL EXPERIMENTAL POPULATION OF GRIZZLY BEARS IN THE BITTERROOT AREA OF IDAHO AND MONTANA; REMOVAL OF REGULATIONS

Priority: Economically Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service plans to make a final determination on the proposal to select the no-action alternative, as analyzed in the Bitterroot Final Environmental Impact Statement, as the preferred alternative.

Timetable:

Action	Date	FR Cite
NPRM	06/22/01	66 FR 33620
NPRM Comment Period End	08/21/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AI03

1492. • SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPART C AND SUBPART D — 2002-2003 SUBSISTENCE TAKING OF WILDLIFE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 16 USC 3124

CFR Citation: 50 CFR 100; 36 CFR 242

Legal Deadline: None

Abstract: This rule will revise the regulations for seasons, harvest limits, methods and means for the subsistence taking of wildlife during the 2002 regulatory year. This rulemaking is necessary because subpart D is subject to an annual review cycle.

Timetable:

Action	Date	FR Cite
NPRM	08/27/01	66 FR 45061
Final Action	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: William Knauer, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503
Phone: 907 786-3888

RIN: 1018–AI06

1493. • ADDITION BY INDONESIA OF RAMIN TO APPENDIX III UNDER THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This notice advises the public that, by unilateral action provided for in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Government of Indonesia has listed the tree species, Ramin, in CITES Appendix III. This listing invokes certain permitting requirements to assist Indonesia in controlling trade in this species.

DOI—FWS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Pat Ford, Biologist, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Email: pat__ford@fws.gov

RIN: 1018–AI08

1494. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; REMOVAL OF THE TINIAN MONARCH FLYCATCHER FROM THE LIST OF ENDANGERED AND THREATENED SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service is planning to make a final determination on the proposed rule to delist the Tinian monarch flycatcher from the list of endangered and threatened species, due to apparent increases in population numbers and likely improvement in habitat quality. This bird occurs on Tinian Island in the Marianas. The proposed rule was published in the Federal Register on February 22, 1999, page 8533, under RIN 1018-AE40.

Timetable:

Action	Date	FR Cite
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AI14

Department of the Interior (DOI)
United States Fish and Wildlife Service (FWS) **Long-Term Actions**

1495. EXPORTATION OF MARINE MAMMAL PRODUCTS FOR CULTURAL EXCHANGE, 50 CFR PART 18

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: This regulatory action concerns a modification to allow the export of marine mammal products and to the Native exemption provisions in the Marine Mammal Protection Act. The action will be made to allow for cultural exchange of marine mammal products between Natives of Alaska, Greenland, Russia and Canada.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Kevin Adams, Assistant Director for Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__adams@fws.gov

RIN: 1018–AE33

1496. MIGRATORY BIRD PERMITS; SPECIFIC PERMIT PROVISIONS; IMPORT AND EXPORT PERMITS; BANDING OR MARKING PERMITS; AND SCIENTIFIC COLLECTING PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the Migratory Bird Permit Regulations providing permits for the taking, possession, transportation, sale, purchase, importation, exportation, and banding or marking of migratory birds. The Service is revising the requirements for scientific collecting, banding or marking permits and import and export permits.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AE63

1497. MIGRATORY BIRD PERMITS; INTRODUCTION, GENERAL REQUIREMENTS AND EXCEPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the migratory-bird permit regulations providing permits for the taking, possession, transportation, sale, purchase, and barter of migratory birds. The Service is revising these permit regulations to update them, simplify language, and ensure consistency in text between all parts and sections.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and

Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AE64

1498. IMPLEMENTATION OF THE 1994 AMENDMENTS TO THE MARINE MAMMAL PROTECTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1374

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: Section 104 of the Marine Mammal Protection Act authorizes the Director of the Service, acting on behalf of the Secretary of the Interior, to issue permits for activities otherwise prohibited by the Act. Regulations will be developed for issuance of permits and the 1994 amendments to the Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko__saito@fws.gov

RIN: 1018–AE72

1499. CONSIDERATION OF LISTING THE GREEN IGUANA (IGUANA IGUANA) AS INJURIOUS, PURSUANT TO THE LACEY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: The Humane Society of the United States requested that the Service list the green iguana as injurious under the Lacey Act. Iguanas are released into the wild by their owners for various reasons. These iguanas may be carriers of Salmonella bacteria and could negatively impact native populations. A notice requesting information will be published so that data can be gathered as to the injurious nature of the iguanas. This information will be analyzed to determine whether listing is warranted.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kari Jonell Duncan, Fishery Biologist, Division of Environmental Quality, Department of the Interior, United States Fish and Wildlife Service, Room 610B, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2464
Email: kari__duncan@fws.gov

RIN: 1018–AF08

1500. TAKING OF MARINE MAMMALS BY LEVEL B HARASSMENT; ISSUANCE OF GENERAL AUTHORIZATION FOR SCIENTIFIC RESEARCH AND PERMITS FOR PHOTOGRAPHY, EDUCATIONAL, AND COMMERCIAL PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-238; 16 USC 1361 to 1407

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service proposes to issue regulations that would allow us to authorize harassment but not injury or death of marine mammals under our jurisdiction, for scientific research and for photography for educational or commercial purposes. This rule would further implement the 1994 Amendments to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko__saito@fws.gov

RIN: 1018–AF26

1501. NATIONAL WILDLIFE REFUGE SYSTEM; MISSION, GOALS, AND PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668(dd) to 668(ee)

CFR Citation: None

Legal Deadline: None

Abstract: This proposed policy will address the mission, goals and purposes of the National Wildlife Refuge System in the context of the National Wildlife Refuge System Improvement Act of 1997.

Timetable:

Action	Date	FR Cite
Proposed Policy	01/16/01	66 FR 3668
Comment Period Extended	03/15/01	66 FR 15136
NPRM Comment Period Reopened	05/15/01	66 FR 26879
NPRM Comment Period Reopened	06/21/01	66 FR 33268
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth, Deputy Chief, National Wildlife Refuge System, Department of the Interior, United States Fish and Wildlife Service, MS 670 ARLSQ, Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AG46

1502. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DETERMINATION OF CRITICAL HABITAT FOR THE SCALESHELL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, October 1, 2001, Settlement agreement.

Abstract: We propose to determine critical habitat for the Scaleshell, a mollusk, in Arkansas, Missouri and Oklahoma.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH35

1503. ENDANGERED AND THREATENED WILDLIFE; RECLASSIFICATION OF THE MARIANNA FRUIT BAT ON GUAM FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to reclassify the Marianna Fruit bat on Guam from endangered to threatened.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH55

1504. MIGRATORY BIRD PERMITS; REGULATIONS GOVERNING EDUCATION; 50 CFR 21

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the migratory bird permit regulations to establish a new section to authorize possession for education, which currently is authorized under 50 CFR 21.27, Special Purpose permits.

Timetable:

Action	Date	FR Cite
Notice	11/20/00	65 FR 69726

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-1714 Email: jon_andrew@fws.gov

RIN: 1018–AH71

1505. NATIONAL WILDLIFE REFUGE SYSTEM; MISCELLANEOUS RECEIPTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668(dd) to 668(ee)

CFR Citation: None

Legal Deadline: None

Abstract: This action provides specific guidance on the management and oversight of privately owned mineral rights within the National Wildlife Refuge System. The chapter clarifies the rights, responsibilities and options of both the Refuge Manager and the private holder of the reserved/excepted mineral rights.

Timetable:

Action	Date	FR Cite
Proposed Notice	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: James W. Kurth, Deputy Chief, National Wildlife Refuge System, Department of the Interior, United States Fish and Wildlife Service, MS 670 ARLSQ, Washington, DC 20240 Phone: 703 358-1744

RIN: 1018–AH81

1506. • MARINE MAMMALS: INCIDENTAL TAKE DURING SPECIFIED ACTIVITIES (MANATEES)

Priority: Other Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: NPRM, Judicial, March 6, 2001, settlement agreement.

Abstract: We intend to develop a rule that would allow for the incidental, unintentional take of small numbers of Florida manatees, that result from government activities related to watercraft and watercraft access facilities within the geographic area of the species' range in Florida for a period of not more than 5 years.

Timetable:

Action	Date	FR Cite
ANPRM	03/12/01	66 FR 14352
NPRM	11/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Agency Contact: Hannibal Bolton, Chief, Division of Fish and Wildlife Management Assistance and Habitat Restoration, Department of the Interior, United States Fish and Wildlife Service, Room 840, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-1718

RIN: 1018–AH86

1507. • MARINE MAMMALS: INCIDENTAL TAKE DURING SPECIFIED ACTIVITIES (BEAUFORT SEA POLAR BEAR AND WALRUS)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Protection Act authorizes issuance of regulations to allow the incidental, unintentional take of small numbers of marine mammals in activities (other than commercial fishing) in specific geographical areas. These regulations would authorize incidental take of polar bears and walrus in the Beaufort Sea during oil and gas energy activities for up to 5 years, when current regulations expire on March 31, 2003.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

DOI—FWS

Long-Term Actions

Small Entities Affected: No

Government Levels Affected: Federal, State, Local

Agency Contact: Hannibal Bolton, Chief, Division of Fish and Wildlife Management Assistance and Habitat Restoration, Department of the Interior, United States Fish and Wildlife Service, Room 840, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1718

RIN: 1018–AH92

1508. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: RETENTION OF THREATENED STATUS FOR ARGALI IN KYRGYZSTAN, MONGOLIA, AND TAJIKISTAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will review the status of the Argali sheep in Kyrgyzstan, Mongolia, and Tajikistan to determine if the current listing of these populations under the Endangered Species Act accurately reflects their current status.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Kurt Johnson, Biologist, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Email: kurt_johnson@fws.gov

RIN: 1018–AI02

1509. • ADMINISTRATIVE REQUIREMENTS, FEDERAL AID IN FISH & FEDERAL AID IN WILDLIFE RESTORATION ACTS

Priority: Info./Admin./Other

Legal Authority: 16 USC 777; 16 USC 669

CFR Citation: 50 CFR 80.14

Legal Deadline: None

Abstract: This rulemaking would add a paragraph at 50 CFR 80.14(b)(2)(A) and possibly (B) and (C) as well, describing exactly when and when not to hold dog field trials on State land acquired with Wildlife or Sport Fish Restoration grant funds.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Jack Hicks, Management Analyst, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS 140, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1851
Email: jack_hicks@fws.gov

RIN: 1018–AI10

1510. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE VENTURA MARSH MILKVETCH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625; 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, October 1, 2002, Settlement agreement.

Abstract: We propose to designate critical habitat for the plant, the Ventura Marsh milkvetch, which occurs in California.

Timetable:

Action	Date	FR Cite
NPRM	10/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AI21

Department of the Interior (DOI)
United States Fish and Wildlife Service (FWS)

Completed Actions

1511. CRITICAL HABITAT DESIGNATION FOR THE LOST RIVER AND SHORTNOSE SUCKERS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AC90

1512. REVISION OF MIGRATORY BIRD HUNTING REGULATIONS, 50 CFR PART 20

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
Withdrawn	10/16/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State

Agency Contact: Kevin Adams
Phone: 703 358-1949
Email: kevin_adams@fws.gov

RIN: 1018–AD01

1513. MARINE MAMMAL PROTECTION ACT; UNINTENTIONAL TAKE OF MARINE MAMMALS BY HARASSMENT ONLY IN ACTIVITIES OTHER THAN COMMERCIAL FISHING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 18

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Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton
Phone: 703 358-1718

RIN: 1018–AD18

1514. MARINE MAMMAL PROTECTION ACT; MEASURES TO SAFELY DETER MARINE MAMMALS, INCLUDING THREATENED AND ENDANGERED MARINE MAMMALS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 18

Completed:

Reason	Date	FR Cite
Withdrawn	10/19/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton
Phone: 703 358-1718

RIN: 1018–AD19

1515. TAXONOMIC CHANGE FROM SUBSPECIES TO VERTEBRATE POPULATION SEGMENT FOR THE VIRGIN RIVER CHUB

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Local

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AD22

1516. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED REVISION OF SPECIAL REGULATIONS FOR GRAY WOLF

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener
Phone: 703 358-2171

RIN: 1018–AE45

1517. EAGLE PERMITS; PERMITS FOR FALCONRY PURPOSES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 22.24

Completed:

Reason	Date	FR Cite
Withdrawn	10/28/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Jon Andrew
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AE62

1518. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED MARIANA FRUIT BAT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/28/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AE83

1519. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE COWHEAD LAKE TUI CHUB AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/28/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AE85

1520. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION STATUS FOR 16 FRESHWATER MUSSELS AND 1 FRESHWATER SNAIL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	06/14/01	66 FR 32250

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener
Phone: 703 358-2171

RIN: 1018–AE92

1521. RECLASSIFICATION OF MORELET'S CROCODILE (CROCODYLUS MORELETI) FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Javier Alvarez
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RIN: 1018–AF10

1522. MIGRATORY BIRD PERMITS; SPECIFIC PERMIT PROVISIONS; SPECIAL PURPOSE PERMITS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 21

Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

DOI—FWS

Completed Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jon Andrew
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RIN: 1018–AF28

1523. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESERT YELLOWHEAD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 17.11

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AF31

1524. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; MOUNTAIN PLOVER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 17.11

Completed:

Reason	Date	FR Cite
Withdrawn	09/28/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AF35

1525. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ASIAN BONYTONGUE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Field
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RIN: 1018–AF48

1526. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; GUIDANCE FOR CONDUCTING SECTION 7 CONSULTATIONS FOR THE INDIANA BAT

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ren Lohoefener
Phone: 703 358-2171

RIN: 1018–AF50

1527. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE SCALESHELL MUSSEL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	10/09/01	66 FR 51322

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AF57

1528. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; THREATENED STATUS FOR SPALDING'S CATCHFLY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 1

Completed:

Reason	Date	FR Cite
Final Action	10/10/01	66 FR 51597

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AF79

1529. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ENDANGERED STATUS FOR COOK'S LOMATIUM AND LARGE FLOWERED WOOLY MEADOWFOAM

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AF84

1530. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST OHLONE TIGER BEETLE AS ENDANGERED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	10/03/01	66 FR 50340

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AF89

1531. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ESTABLISHMENT OF CRITICAL HABITAT DESIGNATION FOR THE SANTA ANA SUCKER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

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Completed Actions

Government Levels Affected: None
Agency Contact: Chris Nolin
Phone: 703 358-2171
RIN: 1018–AF94

1532. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATED PORTS FOR LISTED PLANTS

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 24
Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Federal
Agency Contact: Teiko Saito
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Email: teiko_saito@fws.gov
RIN: 1018–AF99

1533. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED LISTING OF TWO SOUTHWEST MILKVETCH PLANTS

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 17
Completed:

Reason	Date	FR Cite
Final Action	09/28/01	66 FR 49560

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Chris Nolin
Phone: 703 358-2171
RIN: 1018–AG02

1534. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DESIGNATION OF CRITICAL HABITAT FOR THE PIPING PLOVER IN WINTERING HABITAT

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 17
Completed:

Reason	Date	FR Cite
Second NPRM	05/07/01	66 FR 22983
Final Action	07/10/01	66 FR 36037

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Federal
Agency Contact: Chris Nolin
Phone: 703 358-2171
RIN: 1018–AG13

1535. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DESIGNATION OF CRITICAL HABITAT FOR THE PIPING PLOVER IN BREEDING HABITAT

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 17
Completed:

Reason	Date	FR Cite
Final Action	05/07/01	66 FR 22938

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Federal
Agency Contact: Chris Nolin
Phone: 703 358-2171
RIN: 1018–AG14

1536. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE RIVERSIDE FAIRY SHRIMP

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 17
Completed:

Reason	Date	FR Cite
Final Action	05/30/01	66 FR 29383

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Federal
Agency Contact: Chris Nolin
Phone: 703 358-2171
RIN: 1018–AG34

1537. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING AND DESIGNATION OF CRITICAL HABITAT FOR THE SLICKSPOT PEPPERGRASS

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 17
Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Federal
Agency Contact: Chris Nolin
Phone: 703 358-2171
RIN: 1018–AG35

1538. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE HINES EMERALD DRAGONFLY

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 17
Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Federal
Agency Contact: Chris Nolin
Phone: 703 358-2171
RIN: 1018–AG37

1539. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE SPRUCE-FIR MOSS SPIDER

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 17
Completed:

Reason	Date	FR Cite
Final Action	07/06/01	66 FR 35547

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Federal
Agency Contact: Chris Nolin
Phone: 703 358-2171
RIN: 1018–AG38

1540. MIGRATORY BIRD PERMITS; DETERMINATION THAT THE STATE OF CONNECTICUT MEETS FEDERAL FALCONRY STANDARDS AND AMENDED LIST OF STATES MEETING FEDERAL FALCONRY STANDARDS

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 21
Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: State, Federal

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Completed Actions

Agency Contact: Jon Andrew
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AG42

1541. REGULATIONS TO IMPLEMENT THE CONSERVATION AND REINVESTMENT ACT (CARA)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State

Agency Contact: Tim Hess
Phone: 703 358-1851
Email: tim__hess@fws.gov

RIN: 1018–AG43

1542. CLARIFICATION OF THE DEFINITION OF "LANDS" FOR NATIONAL WILDLIFE REFUGE SYSTEM LANDS IN ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 36

Completed:

Reason	Date	FR Cite
Withdrawn	08/28/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: George Constantino
Phone: 907 786-3499

RIN: 1018–AG45

1543. NATIONAL WILDLIFE REFUGE SYSTEM; HABITAT MANAGEMENT PLANNING POLICY

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn	08/28/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AG48

1544. REGULATIONS FOR SUBSISTENCE HUNTING AND FISHING ON FEDERAL LANDS IN ALASKA FOR THE 2001-2002 SEASONS

Priority: Routine and Frequent

CFR Citation: 50 CFR 100; 36 CFR 242

Completed:

Reason	Date	FR Cite
Final Action	06/25/01	66 FR 33744

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William Knauer
Phone: 907 786-3888

RIN: 1018–AG55

1545. MIGRATORY BIRD PERMITS; ADVANCE NOTICE OF PROPOSED RULEMAKING TO DEVELOP ADDITIONAL PERMITTING REGULATIONS TO GOVERN TAKE OF MIGRATORY BIRDS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 21

Completed:

Reason	Date	FR Cite
Withdrawn	09/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jon Andrew
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AG57

1546. 2001-2002 REFUGE-SPECIFIC HUNTING AND SPORT FISHING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 32

Completed:

Reason	Date	FR Cite
NPRM	07/03/01	66 FR 35193
Final Action	09/04/01	66 FR 46346

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AG58

1547. ADMINISTRATIVE REQUIREMENTS FOR FEDERAL AID IN FISH AND FEDERAL AID IN WILDLIFE RESTORATION ACT

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn	09/05/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Jack Hicks
Phone: 703 358-1851
Email: jack__hicks@fws.gov

RIN: 1018–AG60

1548. UPDATING THE LIST OF FISH DISEASES OF CONCERN AND IMPROVING PROCEDURES FOR PREVENTING THEM FROM ENTERING THE UNITED STATES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 16.13

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Thomas A. Bell
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RIN: 1018–AG61

1549. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TROPICAL LADYSLIPPER ORCHIDS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Gabel

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Completed Actions

Phone: 703 358-1708
Email: roddy_gabel@fws.gov
RIN: 1018–AG62

1550. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 5-YEAR REVIEW OF FOREIGN PSITTACINE BIRDS

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 17
Completed:

Reason	Date	FR Cite
Notice	09/22/00	65 FR 57363

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Michael Kreger
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Email: michael_kreger@fws.gov
RIN: 1018–AG63

1551. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: MEXICAN BOBCAT

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 17
Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Kurt Johnson
Phone: 703 358-1708
Email: kurt_johnson@fws.gov
RIN: 1018–AG65

1552. EXPORT OF RIVER OTTERS TAKEN IN TEXAS

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 23
Completed:

Reason	Date	FR Cite
Withdrawn	09/07/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: State, Federal
Agency Contact: Robert Gabel
Phone: 703 358-1708
Email: roddy_gabel@fws.gov
RIN: 1018–AG66

1553. EXPORT OF BOBCATS TAKEN IN PENNSYLVANIA

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 23
Completed:

Reason	Date	FR Cite
Withdrawn	09/07/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: State, Federal
Agency Contact: Robert Gabel
Phone: 703 358-1708
Email: roddy_gabel@fws.gov
RIN: 1018–AG67

1554. WILD BIRD CONSERVATION ACT: REVIEW OF REGULATIONS TO ALLOW IMPORTS OF EXOTIC WILD BIRDS FOR PERSONAL PETS, SCIENTIFIC RESEARCH, ZOOLOGICAL BREEDING AND DISPLAY AND COOPERATIVE BREEDING PROGRAMS

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 15
Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Michael Kreger
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RIN: 1018–AG69

1555. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE STEPHEN'S KANGAROO RAT

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 17
Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Federal
Agency Contact: Chris Nolin
Phone: 703 358-2171
RIN: 1018–AG74

1556. ENDANGERED AND THREATENED WILDLIFE AND PLANTS, LISTING THE TAHOE YELLOWCRESS

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 17
Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Federal
Agency Contact: Chris Nolin
Phone: 703 358-2171
RIN: 1018–AG76

1557. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE GENTNER'S FRITILLARY

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 17
Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Federal
Agency Contact: Chris Nolin
Phone: 703 358-2171
RIN: 1018–AG78

1558. ENDÁNGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE FENDER'S BLUE BUTTERFLY

Priority: Substantive, Nonsignificant
CFR Citation: 50 CFR 17
Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Federal
Agency Contact: Chris Nolin
Phone: 703 358-2171
RIN: 1018–AG79

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1559. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE WILLIAMETE DAISY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG80

1560. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE KINCAID'S LUPINE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG81

1561. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE NORTHERN WORMWOOD

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG83

1562. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE SAN DIEGO AMBROSIA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG84

1563. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE WASHINGTON GROUND SQUIRREL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG85

1564. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE OREGON SPOTTED FROG

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG86

1565. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE UMBTANUM DESERT BUCKWHEAT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG87

1566. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE NORTHERN IDAHO GROUND SQUIRREL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG89

1567. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE RIPARIAN BRUSH RABBIT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG90

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1568. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE RIPARIAN WOODRAT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG91

1569. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE MARDON SKIPPER (POLITES MARDON)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG95

1570. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE COASTAL CUTTHROAT TROUT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG97

1571. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE YELLOW-BILLED CUCKOO

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG98

1572. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DETERMINATION OF CRITICAL HABITAT FOR THE WENATCHEE MOUNTAINS CHECKERMALLOW, A PLANT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	09/06/01	66 FR 46536

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH05

1573. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE KOOTENAI RIVER WHITE STURGEON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	09/06/01	66 FR 46548

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH06

1574. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE NORTHERN SEA OTTER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH12

1575. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT DESIGNATION FOR THE DESERT MILK-VETCH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH14

1576. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE MOUNTAIN PLOVER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH15

1577. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE KANAB AMBERSNAIL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH16

1578. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE CANADIAN LYNX

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH17

1579. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE COLORADO BUTTERFLY PLANT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH18

1580. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING HIRST'S PANIC GRASS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH19

1581. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE ATLANTIC SALMON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH20

1582. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THREE SPECIES OF BEACH MOUSE IN ALABAMA AND FLORIDA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH21

1583. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE ALABAMA STURGEON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH22

1584. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR 11 MUSSELS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH23

1585. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE GOLDLINE DARTER AND THE BLUE SHINER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH24

1586. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING AND CRITICAL HABITAT FOR THE HIGHLANDS TIGER BEETLE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH25

1587. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE FLORIDA SEMAPHORE CACTUS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH26

1588. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE PLANT SPECIES CORDIA RUPICOLA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH27

1589. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE PLANT SPECIES AGAVE EGGERSIANA AND SOLANIUM CONOCARPUM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH28

1590. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING TWO SNAILS IN TEXAS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH38

1591. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE ACUNA CACTUS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH39

1592. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE PAGE SPRINGSNAIL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH41

1593. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; AMENDMENT TO THE NONESSENTIAL EXPERIMENTAL POPULATION FOR THE RED WOLF

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener
Phone: 703 358-2171

RIN: 1018–AH43

1594. ENDANGERED AND THREATENED WILDLIFE; AMENDMENT TO THE NONESSENTIAL EXPERIMENTAL POPULATION FOR THE MEXICAN WOLF

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener
Phone: 703 358-2171

RIN: 1018–AH45

1595. ENDANGERED AND THREATENED WILDLIFE; ESTABLISHMENT OF A NONESSENTIAL EXPERIMENTAL POPULATION OF WHOOPING CRANES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	06/26/01	66 FR 33903

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener
Phone: 703 358-2171

RIN: 1018–AH46

1596. ENDANGERED AND THREATENED WILDLIFE; REMOVAL OF THE ARCTIC RUSSIAN POPULATION OF SPECTACLED EIDER FROM THE LIST OF ENDANGERED AND THREATENED WILDLIFE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	10/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener
Phone: 703 358-2171

RIN: 1018–AH48

1597. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CHANGES TO THE REGULATIONS FOR DESIGNATION OF CRITICAL HABITAT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH60

1598. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE BAY CHECKERSPOT BUTTERFLY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	04/30/01	66 FR 21450

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH61

1599. CHANGES IN THE LIST OF SPECIES IN APPENDICES TO THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 23

Completed:

Reason	Date	FR Cite
Final Action	05/18/01	66 FR 27601

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Javier Alvarez
Phone: 703 358-1708
Email: javier__alvarez@fws.gov

RIN: 1018–AH63

1600. IMPORT OF POLAR BEAR TROPHIES FROM CANADA: CHANGE IN THE FINDING FOR THE M'CLINTOCK CHANNEL POPULATION AND REVISION OF REGULATIONS IN SECTION 18.30

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 18.30

Completed:

Reason	Date	FR Cite
Final Action	10/05/01	66 FR 50843

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Teiko Saito
Phone: 703 358-2104
Email: teiko__saito@fws.gov

RIN: 1018–AH72

1601. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE FOR THE MOUNTAIN PLOVER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17; 50 CFR 21

Completed:

Reason	Date	FR Cite
Withdrawn	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ren Lohoefener
Phone: 703 358-2171

RIN: 1018–AH84

1602. • MIGRATORY BIRD HUNTING; WITHDRAWAL OF REGULATIONS DESIGNED TO REDUCE THE MID-CONTINENT LIGHT GOOSE POPULATION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 712; 16 USC 742(a) to 742(j); PL 106-108

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: This rule is intended to notify the public of a clarification of the expiration date of regulations imposed by Congress to reduce the population of mid-continent light geese. In this rule, we clarify the expiration date of special regulations pertaining to hunting methods (electronic calls and unplugged shotguns) for taking mid-continent light geese. We also clarify the expiration date of the conservation order for the reduction of the mid-continent light goose population.

Timetable:

Action	Date	FR Cite
Final Action	06/14/01	66 FR 32264

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AI00

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Department of the Interior (DOI)
National Park Service (NPS)

Prerule Stage

1603. • GOLDEN GATE NATIONAL RECREATION AREA; SPECIAL REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.97

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking will seek public comment on a range of potential management options for addressing appropriate pet managment within the Golden Gate National Recreation Area, consistent with protecting national park resources and assuring visitor safety.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Gibson Scott, Assistant Superintendent, Department of the Interior, National Park Service, Fort Mason, Building 201, San Francisco, CA 94123-0022
Phone: 415 561-4739
Fax: 415 561-4710
Email: mary__gibson__scott@nps.gov

RIN: 1024–AD03

Department of the Interior (DOI)
National Park Service (NPS)

Proposed Rule Stage

1604. VEHICLES AND TRAFFIC SAFETY; OPERATING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 462k; 16 USC 9a

CFR Citation: 36 CFR 4.23

Legal Deadline: None

Abstract: The National Park Service (NPS) is proposing to amend its regulations concerning motor vehicle operation under the influence of alcohol within units of the NPS. Current NPS regulations prohibit operation with a blood alcohol concentration (BAC) of 0.10 grams or more of alcohol per 100 milliliters of blood or 0.10 grams of alcohol per 210 liters of breath. On March 3, 1998, President Clinton directed the NPS to promulgate regulations adopting a stricter limit of 0.08 grams BAC within units of the NPS.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AC69

1605. WORLD HERITAGE CONVENTION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 470a-1; 16 USC 470a-2

CFR Citation: 36 CFR 73

Legal Deadline: None

Abstract: This rule will revise the existing World Heritage regulations to make necessary changes, such as correcting or eliminating the annual calendar for preparing and submitting U.S. nominations (now outdated), correcting the criteria for selecting sites (also outdated), and providing more explicit procedures for public participation. The underlying treaty (World Heritage Convention) and law (Historic Preservation Act Amendments of 1980) will remain in place unchanged.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: James Charleton, International Cooperation Specialist, Department of the Interior, National Park Service, MS 2252, Office of International Affairs, 1849 C Street N.W., MS 2252, Washington, DC 20240
Phone: 202 565-1280

RIN: 1024–AC74

1606. PROCEDURES FOR STATE, TRIBAL, AND LOCAL GOVERNMENT HISTORIC PRESERVATION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 61

Legal Deadline: None

Abstract: The NPS proposes to establish the requirements and procedures by which those Indian tribes that choose to do so can assume State Historic Preservation Officer duties with regard to tribal lands and become eligible for grants-in-aid to carry out those duties.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Bryan Mitchell, Division, Department of the Interior, National Park Service, 1849 C Street N.W., NC330, Washington, DC 20240
Phone: 202 343-9558
Fax: 202 343-3921
Email: bryan__mitchell@nps.gov

RIN: 1024–AC79

1607. COMMERCIAL USE PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-391

CFR Citation: 36 CFR 52

Legal Deadline: None

Abstract: Public Law 105-391 became effective on November 13, 1998. The

new Act mandates revised procedures for issuing commercial use authorizations. Section 417 of Public Law 105-391 requires that the Secretary promulgate implementing regulations as soon as practicable after the effective date of the Act. Existing regulations governing commercial use within National Parks are not adequate to administer the provisions of the new statute and must be revised to reflect new requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Henry Benedetti, Chief of Concessions, Southeast Region, Department of the Interior, National Park Service, Atlanta Federal Center, 1924 Building, 100 Alabama St. S.W., Atlanta, GA 30303
Phone: 404 562-3108
Fax: 404 562-3204
Email: henry__benedetti@nps.gov

RIN: 1024–AC85

1608. SPECIAL REGULATIONS OF THE NATIONAL PARK SYSTEM; CANYONLANDS NATIONAL PARK ROAD CLOSURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 460(q); 16 USC 462(k); 16 USC 9a

CFR Citation: 36 CFR 7.102

Legal Deadline: None

Abstract: In September 2000, the Tenth Circuit lifted the injunction that the U.S.District Court of Utah had placed to prevent vehicle access to a particular road in Canyonlands National Park. At the time of the Tenth Circuit's opinion, the road had been closed for two years. After the injunction was lifted, the NPS closed the road to study further the condition of the road and the benefits derived from discontinued use of the road. This rulemaking allows the road to remain closed while studies and monitoring continue until all litigation is resolved.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: K.C. Becker, Attorney-Advisor, Department of the Interior, National Park Service, Office of the Solicitor, 1849 C Street N.W., Washington, DC 20240
Phone: 202 208-7957
Email: kc__becker@doi.gov

RIN: 1024–AC87

1609. • GLEN CANYON NATIONAL RECREATION AREA; PERSONAL WATERCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k)

CFR Citation: 36 CFR 7.70

Legal Deadline: None

Abstract: This proposed rule would allow personal watercraft use in designated areas of the park. This rulemaking is necessary because the regulations that currently allow personal watercraft use in units of the National Park System will expire on April 22, 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AC90

1610. • LAKE MEAD NATIONAL RECREATION AREA; PERSONAL WATERCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k)

CFR Citation: 36 CFR 7.48

Legal Deadline: None

Abstract: This proposed rulemaking would allow personal watercraft use in designated areas of the park. The rulemaking is necessary because the regulations that currently allow personal watercraft use in units of the National Park System will expire on April 22, 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AC91

1611. • BIG THICKET NATIONAL PRESERVE; PERSONAL WATERCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k)

CFR Citation: 36 CFR 7.85

Legal Deadline: None

Abstract: This proposed rulemaking would allow personal watercraft use in designated areas of the park. The rulemaking is necessary because the regulations that currently allow personal watercraft use in units of the National Park System will expire on April 22, 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206

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Proposed Rule Stage

Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AC92

1612. • PICTURED ROCKS NATIONAL LAKESHORE; PERSONAL WATERCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k)

CFR Citation: 36 CFR 7.32

Legal Deadline: None

Abstract: This proposed rulemaking would allow personal watercraft use in designated areas of the park. The rulemaking is necessary because the regulations that currently allow personal watercraft use in units of the National Park System will expire on April 22, 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AC93

1613. • FIRE ISLAND NATIONAL SEASHORE; PERSONAL WATERCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k)

CFR Citation: 36 CFR 7.20

Legal Deadline: None

Abstract: This proposed rulemaking would allow personal watercraft use in designated areas of the park. The rulemaking is necessary because the regulations that currently allow personal watercraft use in units of the National Park System will expire on April 22, 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AC94

1614. • GATEWAY NATIONAL RECREATION AREA; PERSONAL WATERCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k)

CFR Citation: 36 CFR 7.29

Legal Deadline: None

Abstract: This proposed rulemaking would allow personal watercraft use in designated areas of the park. The rulemaking is necessary because the regulations that currently allow personal watercraft use in units of the National Park System will expire on April 22, 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AC95

1615. • BIGHORN CANYON NATIONAL RECREATION AREA; PERSONAL WATERCRAFT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k)

CFR Citation: 36 CFR 7.92

Legal Deadline: None

Abstract: This proposed rule would allow personal watercraft use in designated areas of the park. The rulemaking is necessary because the regulations that currently allow personal watercraft use in units of the National Park System will expire on April 22, 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AC96

1616. • LAKE MEREDITH RECREATION AREA; PERSONAL WATERCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k)

CFR Citation: 36 CFR 7.57

Legal Deadline: None

Abstract: This proposed rulemaking would allow personal watercraft use in designated areas of the park. The rulemaking is necessary because the regulations that currently allow personal watercraft use in units of the National Park System will expire on April 22, 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AC97

1617. • CHICKASAW RECREATION AREA; PERSONAL WATERCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k)

CFR Citation: 36 CFR 7.50

Legal Deadline: None

Abstract: This proposed rulemaking would allow personal watercraft use in designated areas of the park. The rulemakin is necessary because the regulations that currently allow personal watercraft use in units of the National Park System will expire on April 22, 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AC98

1618. • CURECANTI RECREATION AREA; PERSONAL WATERCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k)

CFR Citation: 36 CFR 7.51

Legal Deadline: None

Abstract: This proposed rulemaking would allow personal watercraft use in designated areas of the park. The rulemaking is necessary because the regulations that currently allow personal watercraft use in units of the National Park System will expire on April 22, 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AC99

1619. • AMISTAD RECREATION AREA; PERSONAL WATERCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k)

CFR Citation: 36 CFR 7.79

Legal Deadline: None

Abstract: This proposed rulemaking would allow personal watercraft use in designatd areas of the park. The rulemaking is necessary because the regulations that currently allow personal watercraft use in areas of the National Park System will expire on April 22, 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AD00

1620. • LAKE ROOSEVELT RECREATION AREA; PERSONAL WATERCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k)

CFR Citation: 36 CFR 7.55

Legal Deadline: None

Abstract: This proposed rulemaking would allow personal watercraft use in designated areas of the park. The rulemaking is necessary because the regulations that currently allow personal watercraft use in areas of the National Park System will expire on April 22, 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AD01

1621. • ASSATEAGUE ISLAND NATIONAL SEASHORE; PERSONAL WATERCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k)

CFR Citation: 36 CFR 7.65

Legal Deadline: None

Abstract: This proposed rulemaking would allow personal watercraft use in designated areas of the park. The rulemaking is necessary because the regulations that currently allow personal watercraft use in areas of the National Park System will expire on April 22, 2002.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

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DOI—NPS **Proposed Rule Stage**

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AD02

1622. • DRY TORTUGAS NATIONAL PARK; SPECIAL REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 410xx

CFR Citation: 36 CFR 7.104

Legal Deadline: None

Abstract: This rule will outline and enforce visitor use restrictions, area closures, visitor use zones, and permit requirements that are necessary to implement a recent amendment to the park general management plan. In addition, the rule will close one use zone, a research natural area, in the park to fishing, and restrict species that may be taken in the remaining zones. It will also regulate the landing of aircraft. The rule will also seek consistency with regulation of the surrounding Florida Keys National Marine Sanctuary in order to pull together management of an ecosysytem that crosses jurisdictional boundaries.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Philip Selleck, Chief Ranger, Department of the Interior, National Park Service, Dry Tortugas National Park, 40001 State Road 9336, Homestead, FL 33034-6733
Phone: 305 242-7700

RIN: 1024–AD04

1623. • NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT; FUTURE APPLICABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 3001 et seq

CFR Citation: 43 CFR 10.13

Legal Deadline: None

Abstract: This proposed rule relates to one section of the regulations that implement the Native American Graves Protection and Repatriation Act. This section will clarify the applicability of NAGPRA to museums and Federal agencies following the statutory deadlines for completion of summaries and inventories.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Robbins, Assistant Director, Cultural Resources, Department of the Interior, National Park Service, 1849 C Street N.W., NC-340, Washington, DC 20240
Phone: 202 343-3388
Fax: 202 343-5260
Email: john__robbins@nps.gov

RIN: 1024–AD05

Department of the Interior (DOI)
National Park Service (NPS) **Final Rule Stage**

1624. LEASING REGULATIONS

Priority: Other Significant

Legal Authority: 16 USC 1a-2(k); 16 USC 470h-3

CFR Citation: 36 CFR 18

Legal Deadline: None

Abstract: This proposed rule would amend current NPS regulations concerning the leasing of historic properties within areas of the National Park System to encompass additional types of properties as authorized by law and to change in certain respects the procedural requirements for leasing of properties.

Timetable:

Action	Date	FR Cite
NPRM	12/12/00	65 FR 77538
NPRM Comment Period End	02/12/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laurie Shaffer, Chief of Operations, Department of the Interior, National Park Service, P.O. Box 25287, Denver, CO 80225-0287
Phone: 303 987-6911
Fax: 303 987-6901
Email: laurie__shaffer@nps.gov

RIN: 1024–AC78

1625. WRANGELL-ST. ELIAS NATIONAL PARK AND PRESERVE RESIDENT ZONE COMMUNITIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 1361; 16 USC 1531; 16 USC 1a-2(h); 16 USC 3; 16 USC 3101 et seq; 16 USC 462(k)

CFR Citation: 36 CFR 13

Legal Deadline: None

Abstract: The proposed rulemaking will amend special regulations for Wrangell-St. Elias regarding resident zone communities. This amendment will add the communities of Dot Lake, Tetlin Tanacross, and Northway (including Northway, Northway Village and Northway Junction). This will allow residents to engage in subsistence activities in the park without needing an NPS subsistence permit.

Timetable:

Action	Date	FR Cite
NPRM	06/14/01	66 FR 32282
NPRM Comment Period End	08/13/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hunter Sharp, Chief Ranger, Department of the Interior, National Park Service, P.O. Box 439, Copper Center, AK 99573
Phone: 907 822-5234
Email: hunter__sharp@nps.gov

RIN: 1024–AC83

DOI—NPS

Final Rule Stage

1626. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT REGULATIONS; CIVIL PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 3001 et seq

CFR Citation: 43 CFR 10

Legal Deadline: None

Abstract: This final rule relates to one section of the regulations that implement the Native American Graves Protection and Repatriation Act of 1990. This section outlines procedures for assessing civil penalties upon museums that fail to comply with applicable provisions of the Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/13/97	62 FR 1820
Interim Final Rule Effective	02/12/97	
Interim Final Rule Comment Period End	04/14/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Robbins, Assistant Director, Cultural Resources, Department of the Interior, National Park Service, 1849 C Street N.W., NC-340, Washington, DC 20240
Phone: 202 343-3388
Fax: 202 343-5260
Email: john__robbins@nps.gov

RIN: 1024–AC84

1627. • VIRGIN ISLANDS CORAL REEF NATIONAL MONUMENT; SPECIAL REGULATIONS

Priority: Other Significant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k)

CFR Citation: 36 CFR 7.73; 36 CFR 7.103

Legal Deadline: None

Abstract: This is an interim regulation to implement Presidential Proclamation No. 7932, which established the Virgin Islands Coral Reef National Monument. This regulation prohibits extractive uses, with some exceptions,and anchoring within the monument, and expands the boundaries of Buck Island Reef National Monument. The regulation also implements Presidential Proclamation No. 7399, which prohibits all extractive uses and boat anchoring, except in deep sand areas (all other anchoring is subject to permit) at Buck Island. Both proclamations require NPS to prepare management plans for each park within three years. We are soliciting comments on this interim rule and will take them into account in developing the final rule once we have completed the general management plans.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: K.C. Becker, Attorney-Advisor, Department of the Interior, National Park Service, Office of the Solicitor, 1849 C Street N.W., Washington, DC 20240
Phone: 202 208-7957
Email: kc__becker@doi.gov

RIN: 1024–AC89

Department of the Interior (DOI)
National Park Service (NPS)

Long-Term Actions

1628. SNOWMOBILE USE IN NATIONAL PARK SERVICE AREAS

Priority: Other Significant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 460l-6a(e); 16 USC 469(k)

CFR Citation: 36 CFR 2.18; 36 CFR 7

Legal Deadline: None

Abstract: NPS proposes to revise existing regulations regarding snowmobile use in NPS areas. Criteria currently used to determine whether snowmobile use is appropriate will be removed and replaced with a new set of criteria. Subsequently, park-specific regulations in 36 CFR part 7 may need to be revised to meet the new criteria.

Timetable:

Action	Date	FR Cite
NPRM	01/05/01	66 FR 1069
NPRM Comment Period End	03/06/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AC82

1629. SPECIAL REGULATIONS OF THE NATIONAL PARK SYSTEM; RELIGIOUS CEREMONIAL COLLECTION OF GOLDEN EAGLETS IN WUPATKI NATIONAL MONUMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 42 USC 1996; 42 USC 2000bb

CFR Citation: 36 CFR 7.101

Legal Deadline: None

Abstract: The NPS has preliminarily determined that under certain circumstances it is appropriate to allow the Hopi Tribe to collect golden eaglets within Wupatki National Monument for religious ceremonial purposes. This rule would authorize this activity upon terms and conditions sufficient to protect park resources against impairment, and consistent with the Bald and Golden Eagle Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	01/22/01	66 FR 6516
NPRM Comment Period End	03/23/01	
Undetermined	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Patricia L. Parker, Chief, American Indian Liaison Office, Department of the Interior, National Park Service, 1849 C Street N.W., Room 3410, Washington, DC 20240
Phone: 202 208-5475
Fax: 202 273-0870

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DOI—NPS

Long-Term Action

Email: pat__parker@nps.gov
RIN: 1024–AC86

Department of the Interior (DOI)
National Park Service (NPS)

Completed Action

1630. RIGHTS-OF-WAY

Priority: Other Significant
CFR Citation: 36 CFR 14
Completed:

Reason	Date	FR Cite
Withdrawn - No further action to be taken at this time.	09/25/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Dick Young
Phone: 757 898-7846
RIN: 1024–AC01

1631. VOYAGEURS NATIONAL PARK: AIRCRAFT OPERATIONS

Priority: Substantive, Nonsignificant
CFR Citation: 36 CFR 7.33
Completed:

Reason	Date	FR Cite
Withdrawn - No further action to be taken at this time.	09/25/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Jim Hummel
Phone: 218 283-9821
RIN: 1024–AC23

1632. APPLICABILITY AND RESOURCE PROTECTION REVISIONS

Priority: Substantive, Nonsignificant
CFR Citation: 36 CFR 2
Completed:

Reason	Date	FR Cite
Withdrawn - No action to be taken at this time.	09/25/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Kym A. Hall
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov
RIN: 1024–AC38

1633. NON-FEDERAL OIL AND GAS RIGHTS

Priority: Substantive, Nonsignificant
CFR Citation: 36 CFR 9
Completed:

Reason	Date	FR Cite
Withdrawn - No action to be taken at this time.	09/25/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Carol McCoy
Phone: 303 969-2096
RIN: 1024–AC53

1634. APPALACHIAN NATIONAL SCENIC TRAIL—SNOWMOBILES

Priority: Substantive, Nonsignificant
CFR Citation: 36 CFR 7.100
Completed:

Reason	Date	FR Cite
Withdrawn - No further action to be taken at this time.	09/25/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Kym A. Hall
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov
RIN: 1024–AC67

1635. LAND AND WATER CONSERVATION FUND OF ASSISTANCE TO STATES; POST-COMPLETION COMPLIANCE RESPONSIBILITIES

Priority: Other Significant
CFR Citation: 36 CFR 59
Completed:

Reason	Date	FR Cite
Withdrawn - No further action to be taken at this time.	09/25/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: State
Agency Contact: Wayne Strum
Phone: 202 565-1129
RIN: 1024–AC68

1636. SOLID WASTE SITES IN UNITS OF THE NATIONAL PARK SYSTEM

Priority: Substantive, Nonsignificant
CFR Citation: 36 CFR 6.7
Completed:

Reason	Date	FR Cite
Withdrawn - No action to be taken at this time.	09/25/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Julia Brunner
Phone: 303 969-2012
RIN: 1024–AC70

1637. RELEASE OF INFORMATION ABOUT NATIONAL PARK SYSTEM RESOURCES

Priority: Info./Admin./Other
CFR Citation: 36 CFR 80
Completed:

Reason	Date	FR Cite
Withdrawn - No action to be taken at this time.	09/25/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: K.C. Becker
Phone: 202 208-7957
Email: kc__becker@doi.gov
RIN: 1024–AC75

DOI—NPS

Completed Actions

1638. NATIONAL CAPITAL REGION PARKS; PHOTO RADAR SPEED ENFORCEMENT

Priority: Info./Admin./Other

CFR Citation: 36 CFR 7.96

Completed:

Reason	Date	FR Cite
Withdrawn - No further action to be taken at this time.	09/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Audrey Calhoun
Phone: 703 289-2500
Email: audrey__calhoun@nps.gov

RIN: 1024–AC80

1639. CONSERVATION IN NATIONAL PARKS

Priority: Other Significant

CFR Citation: 36 CFR 1.11

Completed:

Reason	Date	FR Cite
Withdrawn - No action to be taken this time.	09/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: K.C. Becker
Phone: 202 208-7957
Email: kc__becker@doi.gov

RIN: 1024–AC81

1640. • CONCESSION CONTRACTS

Priority: Other Significant

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 51

Legal Deadline: None

Abstract: This final rulemaking amends portions of 36 CFR 51 to make binding arbitration for the final determination of construction costs and the valuation of leasehold surrender interest optional in the discretion of a concessioner. The amendment assures that 36 CFR 51 is in conformance with the Administrative Disputes Resolution Act, 5 USC 575.

Timetable:

Action	Date	FR Cite
Final Action	07/03/01	66 FR 35082
Final Action Effective	07/03/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Orlando, Concessions Program Manager, Department of the Interior, National Park Service, 1849 C Street N.W., Room 7313, Washington, DC 20240
Phone: 202 565-1212
Email: cynthia__orlando@nps.gov

RIN: 1024–AC88

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Department of the Interior (DOI)
Bureau of Indian Affairs (BIA)

Prerule Stage

1641. USE OR DISTRIBUTION OF INDIAN JUDGMENT FUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 1401 et seq

CFR Citation: 25 CFR 87

Legal Deadline: None

Abstract: This rule will update the existing provisions to reflect the changes to the Indian Judgment Funds Distribution Act that were made in 1992 by Public Law 102-572.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daisy West, Tribal Relations Officer, Department of the Interior, Bureau of Indian Affairs, Room 4603, Room 4603 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2475
Fax: 202 501-0679

RIN: 1076–AD94

Department of the Interior (DOI)
Bureau of Indian Affairs (BIA)

Proposed Rule Stage

1642. INDIAN SCHOOL EQUALIZATION PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13; 25 USC 2008

CFR Citation: 25 CFR 39

Legal Deadline: None

Abstract: This rule will change the definitions of some disabling conditions so that they are consistent with Department of Education definitions of some disabling conditions and adjust the way schools are reimbursed for student transportation services.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Whitehorn, Chief, Branch of Planning, Department of the Interior, Bureau of Indian Affairs, MS 3512 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4976

RIN: 1076–AD09

1643. LEASING RESTRICTED LANDS OF MEMBERS OF THE FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 356

CFR Citation: 25 CFR 213

Legal Deadline: None

Abstract: BIA is revising this rule to ensure consistency with existing law

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and to improve operating procedures. Issues to be addressed include authority to lease inherited restricted land processing lease payments through the Minerals Management Service, and the approval process for division orders.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Annette Jenkins, Department of the Interior, Bureau of Indian Affairs, 101 North Fifth Street, Muskogee, OK 74401
Phone: 918 687-2324

RIN: 1076–AD33

1644. TRIBAL REORGANIZATION UNDER A FEDERAL STATUTE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503

CFR Citation: 25 CFR 81

Legal Deadline: None

Abstract: This rule contains uniform procedures for conducting Secretarial elections for voting on proposed constitutions when tribes wish to reorganize, adopt constitutional amendments, ratify and amend charters, or revoke existing constitutions. This revision will incorporate changes to comply with Public Law 100-581.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Duane Bird Bear, Department of the Interior, Bureau of Indian Affairs, Tribal Government Services, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-5097

RIN: 1076–AD46

1645. PETITIONING PROCEDURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2; 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503; 25 USC 9

CFR Citation: 25 CFR 82

Legal Deadline: None

Abstract: This rule contains procedures for submitting petitions that request the Secretary to call elections to amend tribal constitutions, issue charters, and other actions. The revision will allow the petitioners' spokesman to make technical changes to petitions in consultation with the Bureau and to change the petition format.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Duane Bird Bear, Department of the Interior, Bureau of Indian Affairs, Tribal Government Services, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-5097

RIN: 1076–AD47

1646. APPEALS FROM ADMINISTRATIVE ACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2; 25 USC 9; 5 USC 301

CFR Citation: 25 CFR 2

Legal Deadline: None

Abstract: This rule changes the BIA delegations of authority and appeals process. The change will reduce burden on the tribes since there will be less confusion about how to file appeals and the processing of appeals within the Bureau. The revision will also clarify the rule and make it consistent with Bureau policy.

Timetable:

Action	Date	FR Cite
NPRM	06/21/96	61 FR 31875
NPRM Comment Period End	09/19/96	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Arthur Gary, Improvement Project, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-6246
Fax: 202 219-1146
Email: arthur_gary@bia.gov

RIN: 1076–AD50

1647. ACADEMIC AND DORMITORY STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2; 25 USC 2001 to 2003; 25 USC 9; PL 95-561

CFR Citation: 25 CFR 36

Legal Deadline: None

Abstract: This rule will eliminate subparts A through G of 25 CFR 36. Of 189 Bureau schools, 179 have adopted State or regional academic standards. BIA will assist the remaining schools to achieve State or regional accreditation. This will render the rules in subparts A through G obsolete.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Whitehorn, Chief, Branch of Planning, Department of the Interior, Bureau of Indian Affairs, MS 3512 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4976

RIN: 1076–AD55

1648. EDUCATION CONTRACTS UNDER THE JOHNSON-O'MALLEY ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 455 to 457

CFR Citation: 25 CFR 273

Legal Deadline: None

Abstract: The rule will include guidelines and responsibilities related

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Proposed Rule Stage

to agreements under the provisions of the Indian Self-Determination Act Amendments of 1994. The new provisions will reduce the burden of reporting requirements by the Tribes.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-3478

RIN: 1076–AD58

1649. LOANS TO INDIANS FROM THE REVOLVING LOAN FUND

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1469

CFR Citation: 25 CFR 101

Legal Deadline: None

Abstract: The rule for the direct loan program is being rewritten in plain language as part of the Department's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Woodrow B. Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, MS 4660, MS 4660 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4796

RIN: 1076–AD59

1650. SCHOOL CONSTRUCTION CONTRACTS FOR PUBLIC SCHOOLS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-4

CFR Citation: 25 CFR 277

Legal Deadline: None

Abstract: This rule is being eliminated because the program it governs has never been funded.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ken Ross, Department of the Interior, Bureau of Indian Affairs, 201 Third Street NW., Suite 510, Albuquerque, NM 87103
Phone: 505 346-6545

RIN: 1076–AD69

1651. JOB PLACEMENT AND TRAINING PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 26

Legal Deadline: None

Abstract: The rule for BIA's employment assistance program for adult Indians is being rewritten in plain English as part of the Department's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lynn Forcia, Office of Economic Development, Department of the Interior, Bureau of Indian Affairs, MS 4640 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 219-5270

RIN: 1076–AD75

1652. INDIAN CHILD PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 13; 25 USC 2; 25 USC 3201 et seq; 25 USC 9; 42 USC 13031

CFR Citation: 25 CFR 63

Legal Deadline: None

Abstract: The Bureau is revising subpart B to better reflect Agency practices and to provide clearer guidance to tribes and tribal organizations that receive funds under the Indian Self-Determination and Education Assistance Act and the Tribally Controlled Schools Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, PO Box 1887, Albuquerque, NM
Phone: 505 248-6082

RIN: 1076–AD96

1653. CERTIFICATES OF DEGREE OF INDIAN BLOOD

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 13; 25 USC 9

CFR Citation: 25 CFR 70

Legal Deadline: None

Abstract: This rule will codify procedures for processing certificates of degree of Indian blood.

Timetable:

Action	Date	FR Cite
NPRM	04/18/00	65 FR 20775
NPRM Comment Period Extended	06/20/00	65 FR 38228
NPRM Comment Period End	07/17/00	
NPRM Comment Period Extended	08/16/00	
NPRM Comment Period Extended	06/25/01	66 FR 33654
NPRM Comment Period End	12/31/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Duane Bird Bear, Department of the Interior, Bureau of Indian Affairs, Tribal Government Services, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-5097

RIN: 1076–AD97

1654. ARRANGEMENT WITH STATES, TERRITORIES, OR OTHER AGENCIES FOR RELIEF OF DISTRESS AND SOCIAL WELFARE OF INDIANS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2

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CFR Citation: 25 CFR 21

Legal Deadline: None

Abstract: This part, which allows BIA to seek arrangements with States or counties or other Federal agencies to provide welfare for Indians residing in a State within the exterior boundaries of Indian reservations under BIA jurisdiction, will be deleted because it has never been used.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry R. Blair, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, MS 4641, MS 4641 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2721

RIN: 1076–AD98

1655. INDIAN RESERVATION ROADS PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 23 USC 202; 25 USC 2; 25 USC 9; 5 USC 301

CFR Citation: 25 CFR 170

Legal Deadline: None

Abstract: This rule establishes a new funding formula and procedures for distributing Department of Transportation funds for Indian reservation roads.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: LeRoy Gishi, Chief, Division of Transportation, Department of the Interior, Bureau of Indian Affairs, MS 4058 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4359

RIN: 1076–AE06

1656. BUY INDIAN ACT REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 47; 36 Stat 861; 41 USC 253(c)(5)

CFR Citation: 48 CFR 14 app A

Legal Deadline: None

Abstract: This rule will regulate the implementation of BIA's longstanding policy of contracting with Indian-owned firms on a preferential basis and will regulate the determination of eligibility and availability of Indian firms to perform a specific requirement for products, services, and road construction outside the State of Oklahoma and regulate the authority to deviate from the general policy and will regulate the determination of eligibility throughout contractual performance.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Peter S. Markey, Procurement Analyst, Division of Acquisition and Property Management, Department of the Interior, Bureau of Indian Affairs, MS 2626C MIB, 1849 C Street NW., Washington, DC 20240
Phone: 703 390-6479
Email: peter__markey@bia.gov

RIN: 1076–AE07

1657. • INDIAN SCHOOL EQUALIZATION PROGRAM - PROVISIONS FOR EXCEPTIONAL CHILDREN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13; 25 USC 2008

CFR Citation: 25 CFR 39

Legal Deadline: None

Abstract: This rule would change the current practice of identifying, screening, testing, and placement of students in special education based on funding, not need. The Secretary and BIA Office of Indian Education Programs have assured the Department of Education that they will revise the funding mechanism as soon as feasible to ensure that placements do not violate the requirement of 20 U.S.C. 1412(a)(5)(A). The authority and need for this rule is 25 U.S.C. 13; 25 U.S.C. 2008. Rulemaking is preferable because the current special education procedures must be changed to comply with the "Individuals with Disabilities Education Act Amendment of 1997, Public Law 105-17.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Glenn F. Allison, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, MS 3512 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-3628

RIN: 1076–AE14

1658. • INDIAN RESERVATION ROADS PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 202; 25 USC 2; 5 USC 301

CFR Citation: 25 CFR 170

Legal Deadline: None

Abstract: This proposed rule would establish policies and procedures governing the Indian Reservation Roads (IRR) Program. It expands transportation activities available to tribes and tribal organizations and provides guidance to tribes and tribal organizations for planning, designing, constructing, and maintaining transportation facilities. This rule also includes a proposed funding formula for allocating IRR Program funds based upon the relative needs of Indian tribes, and reservation or tribal communities, for transportation assistance; and the relative administrative capacities of various tribes.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Tribal

Agency Contact: LeRoy Gishi, Chief, Division of Transportation, Department of the Interior, Bureau of Indian Affairs, MS 4058 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4359

RIN: 1076–AE17

1659. • TRUST MANAGEMENT REFORM: REPEAL OF OUTDATED RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1601; 25 USC 883; 25 USC 355; 25 USC 121; 25 USC 331; 25 USC 408; 25 USC 500; 25 USC 474

CFR Citation: 25 CFR 112; 25 CFR 116; 25 CFR 121; 25 CFR 123; 25 CFR 125; 25 CFR 154; 25 CFR 156; 25 CFR 178; 25 CFR 243

Legal Deadline: None

Abstract: BIA plans to repeal various outdated regulations in many different areas because the regulations are no longer required. Some of the regulations govern payments that have already been completed, other regulations pertain to programs that are obsolete or no longer reflect Department policy.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Arthur Gary, Improvement Project, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-6246
Fax: 202 219-1146
Email: arthur__gary@bia.gov

RIN: 1076–AE20

1660. • APPEALS OF ADMINISTRATIVE ACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 2

Legal Deadline: None

Abstract: BIA plans to update the regulations governing administrative appeals to: (1) clarify who has the right to file an appeal; (2) provide firm deadlines for filing appeals and responses; (3) provide options to appellants if BIA delays making a decision on an appeal; and (4) provide an expedited process for certain types of appeals.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Arthur Gary, Improvement Project, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-6246
Fax: 202 219-1146
Email: arthur__gary@bia.gov

RIN: 1076–AE21

1661. • TRUST FUNDS FOR TRIBES AND INDIVIDUAL INDIANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 161 (a); 25 USC 162a; 25 USC 164; 25 USC 4001

CFR Citation: 25 CFR 115

Legal Deadline: None

Abstract: BIA plans to revise that portion of the regulations relating to management of trust accounts of adult Indians. Technical corrections will also be made to other sections as necessary.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Arthur Gary, Improvement Project, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-6246
Fax: 202 219-1146
Email: arthur__gary@bia.gov

RIN: 1076–AE22

1662. • LEASES AND PERMITS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 380; 25 USC 403; 25 USC 403c; 25 USC 425 ; 25 USC 415d; 25 USC 477; 25 USC 635

CFR Citation: 25 CFR 162

Legal Deadline: None

Abstract: BIA plans to update the regulations governing leasing of Indian trust and restricted lands by adding subpart covering business and residential leases and by revising those sections of the current regulations that affect only certain Indian reservations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Arthur Gary, Improvement Project, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-6246
Fax: 202 219-1146
Email: arthur__gary@bia.gov

RIN: 1076–AE23

1663. • TRIBAL REVENUE ALLOCATION PLANS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 2710; 5 USC 301

CFR Citation: 25 CFR 290

Legal Deadline: None

Abstract: The Secretary of the Interior is responsbile for reviewing tribal plans for allocating revenues from gaming activities. The Secretary must determine whether the proposed is sufficient to promote tribal economic development and fund essential tribal programs, benefits, and services. BIA plans to revise the regulations in part 290 to include additional criteria to

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assist the Secretary making this determination.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: George Skibine, Director, Indian Gaming Management Staff, Department of the Interior, Bureau of Indian Affairs, MS 2070, MS 2070 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 219-4066

RIN: 1076–AE24

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1664. NAVAJO PARTITIONED LANDS GRAZING REGULATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 640(d)

CFR Citation: 25 CFR 161

Legal Deadline: None

Abstract: These regulations are necessary for implementation of the livestock and grazing control provisions of 25 USC 640(d). In 1982 the Federal District Court for Arizona abolished 25 CFR 153, Grazing Regulation for the Joint Use Administrative Area and ordered the Secretary to promulgate new regulations for the control of grazing and livestock for the former Joint Use Administrative Area. Due to a lack of tribal concurrence regulations were not promulgated for lands partitioned to the Navajo Tribe. Navajo tribal concurrence has been recently obtained; therefore, the BIA needs to move forward with publication of these regulations. Any cost associated with the implementation of these regulations will be assumed within the BIA annual budget. Cost associated with compliance of the provisions of these regulations will be borne by the Navajo Tribe or its members. There is no associated cost to the general public.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	60 FR 55506
NPRM Comment Period End	09/06/96	61 FR 29327
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, MS 4513, MS 4513 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-3598

RIN: 1076–AC81

1665. PREFERENCE IN EMPLOYMENT

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 479

CFR Citation: 25 CFR 5

Legal Deadline: None

Abstract: The Bureau is amending the preference in employment regulations to clarify that they apply not only within the bureau but within other organizations in the Department of the Interior.

Timetable:

Action	Date	FR Cite
NPRM	07/12/96	61 FR 36671
NPRM Comment Period End	09/10/96	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Duane Bird Bear, Department of the Interior, Bureau of Indian Affairs, Tribal Government Services, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-5097

RIN: 1076–AD05

1666. GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1801 to 1852; 25 USC 640

CFR Citation: 25 CFR 41

Legal Deadline: None

Abstract: This rule applies to the provision of financial assistance technical assistance, and endowments to tribal colleges and Navajo Community College and will strengthen requirements relating to: (1) criteria for satisfactory programs; (2) counting Indian students; (3) developing planning grants; (4) forward funding; (5) renovation and construction of facilities and (6) preparing construction feasibility reports.

Timetable:

Action	Date	FR Cite
NPRM	04/01/97	62 FR 15446
NPRM Comment Period End	06/02/98	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-3478

RIN: 1076–AD08

1667. INDIAN TRIBAL JUSTICE SUPPORT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13; 25 USC 2; 25 USC 200; 25 USC 3601 et seq; 25 USC 9; PL 103-176

CFR Citation: 25 CFR 92

Legal Deadline: None

Abstract: This rule will establish a base funding formula for the distribution of appropriations under the Indian Tribal Justice Act. BIA will use this formula to determine the funding levels to be awarded to eligible Indian tribes for use in establishing or enhancing traditional or contemporary justice systems.

Timetable:

Action	Date	FR Cite
Tribal Consultation	06/20/95	

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Action	Date	FR Cite
NPRM	07/30/96	61 FR 39607
NPRM Comment Period End	09/30/96	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Ralph Gonzales, Housing Program Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4401

RIN: 1076–AD15

1668. LEASING OSAGE RESERVATION LANDS FOR MINING OF MINERALS OTHER THAN OIL AND GAS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 59-321

CFR Citation: 25 CFR 214

Legal Deadline: None

Abstract: This revision eliminates royalties for minerals not found within the Osage Mineral Estate and gives the Osage Tribal Council authority for setting applicable royalty rates. This revision also replaces outmoded methods of exchange with modern methods and designates officials responsible for management of non-oil and gas minerals within the Osage Mineral Estate. The revisions will enhance the Department's management of the production of these minerals and eliminate inaccuracies in the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/08/96	61 FR 41365
NPRM Comment Period End	10/07/96	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Hurlburt, Department of the Interior, Bureau of Indian Affairs, 101 North Fifth Street, Muskogee, OK 74401
Phone: 918 287-1351

RIN: 1076–AD34

1669. LEAD AND ZINC MINING OPERATIONS AND LEASES ON QUAPAW INDIAN LANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 66-359; PL 75-39

CFR Citation: 25 CFR 215

Legal Deadline: None

Abstract: This rule will update the procedures for leasing and discovery testing, processing, developing, and mining lead and zinc on lands under the jurisdiction of BIA's Miami Agency in Ottawa County, Oklahoma. The revisions will assist affected Indians with the efficient development of their lead and zinc deposits without waste, avoidable loss, or damage to their natural resources, the environment, or other resources. The rule will also retitle 25 CFR 215.

Timetable:

Action	Date	FR Cite
NPRM	08/27/96	61 FR 44019
NPRM Comment Period End	10/26/96	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Dalgarn, Supervisory Realty Specialist, Department of the Interior, Bureau of Indian Affairs, Miami Agency, P.O. Box 391, Miami, OK 74355
Phone: 918 542-3396

RIN: 1076–AD35

1670. EXPLORATION, MINING, AND RECLAMATION OF LANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 355; 25 USC 396; 25 USC 473; 25 USC 501

CFR Citation: 25 CFR 216

Legal Deadline: None

Abstract: This rule will update part 216 to incorporate changes in regulations as well as the mining industry. It will bring the bureau into conformance with the standards of the Bureau of Land Management and the Office of Surface Mining and will protect the Indian mineral owners by giving them no less protection than what is given to Federal lands. Indian mineral owners will be protected through the regulation of exploration for minerals by adequate measures that avoid, minimize, or correct damage to the environment, land, water, and the public safety.

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kim Snyder, Liaison Officer, Department of the Interior, Bureau of Indian Affairs, Suite 300, 12136 West Bayaud Avenue, Lakewood Avenue, CO 80228
Phone: 303 969-5270

RIN: 1076–AD36

1671. IRRIGATION PROJECTS AND SYSTEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 385

CFR Citation: 25 CFR 171

Legal Deadline: None

Abstract: This rule governs the operation and maintenance of BIA-owned irrigation projects. It is being revised as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	07/05/96	61 FR 35167
NPRM Comment Period End	09/03/96	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs, Room 4559, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-5480

RIN: 1076–AD44

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1672. INDIAN ELECTRIC POWER UTILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 385

CFR Citation: 25 CFR 175

Legal Deadline: None

Abstract: This rule contains procedures governing the operation of BIA-owned power utilities. It is being revised as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/07/96	61 FR 29040
NPRM Comment Period End	08/06/96	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs, Room 4559, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-5480

RIN: 1076–AD45

1673. INDIAN BUSINESS DEVELOPMENT PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1524

CFR Citation: 25 CFR 286

Legal Deadline: None

Abstract: The rule for the Indian Business Development Program is being rewritten in plain English as part of the President's regulatory reform initiative. Entities already having received grants must submit business financial statements.

Timetable:

Action	Date	FR Cite
NPRM	01/30/97	62 FR 4497
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David B. Johnson, Department of the Interior, Bureau of Indian Affairs, Office of the Solicitor, Division of Indian Affairs, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-3026

RIN: 1076–AD70

1674. COURTS OF INDIAN OFFENSES

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13; 25 USC 2; 25 USC 200; 25 USC 9

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: This rule will add offenses and clarify the authority of Courts of Indian Offenses.

Timetable:

Action	Date	FR Cite
NPRM	07/05/96	61 FR 35158
NPRM Comment Period End	09/04/96	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ralph Gonzales, Housing Program Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4401

RIN: 1076–AD76

1675. USE OF COLUMBIA RIVER FISH ACCESS SITES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 100-581

CFR Citation: 25 CFR 247

Legal Deadline: None

Abstract: This rule contains procedures for permitting tribal use of fishing access sites on the Columbia River. These sites are required to allow tribes boat access to the river so that they may exercise their treaty fishing rights. The rule defines who may use the sites, permitted and prohibited activities, and health and safety standards. It also provides rules for using facilities located on the sites.

Timetable:

Action	Date	FR Cite
NPRM	10/28/97	62 FR 55767
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chuck James, Area Archeologist, Department of the Interior, Bureau of Indian Affairs
Phone: 503 231-6229

RIN: 1076–AD83

1676. USE OF COLUMBIA RIVER IN-LIEU FISHING SITES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 248

Legal Deadline: None

Abstract: This rule contains procedures for permitting tribal use of in-lieu fishing sites on the Columbia River. These sites are owned by the Federal government and are necessary to allow boat access to the river so that Indian fishers can exercise their treaty fishing rights. The rule defines who may use the sites permitted and prohibited activities, and health and safety standards. It also provides rules for using facilities on the site.

Timetable:

Action	Date	FR Cite
NPRM	10/28/97	62 FR 55767
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chuck James, Area Archeologist, Department of the Interior, Bureau of Indian Affairs
Phone: 503 231-6229

RIN: 1076–AD86

1677. ALASKA RESUPPLY OPERATION

Priority: Info./Admin./Other

Legal Authority: 25 USC 13; 25 USC 9; 38 Stat. 486; 42 Stat. 208; 5 USC 301; R.S. 463; R.S. 465

CFR Citation: 25 CFR 142

Legal Deadline: None

Abstract: This proposed rule makes technical revisions to reflect terms now

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in common usage, e.g., "Regional Director" and "Traffic Manager." A new section refers to the application of Indian preference in hiring pursuant to the Indian Reorganization Act of 1934 (25 USC 479).

Timetable:

Action	Date	FR Cite
NPRM	08/03/00	65 FR 47704
NPRM Comment Period End	10/02/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Duncan Brown, Regulatory Analyst, Department of the Interior, Bureau of Indian Affairs, Room 7229 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4582
Fax: 202 219-2100
Email: duncan_l_brown@ios.doi.gov

RIN: 1076–AE04

1678. • PROTECTION OF PRODUCTS OF INDIAN ART AND CRAFTSMANSHIP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 18 USC 1159; 25 USC 305 et seq

CFR Citation: 25 CFR 309

Legal Deadline: None

Abstract: This rule establishes regulations to provide guidance to persons who produce, market, or purchase products marketed as Indian arts and crafts, as defined under the Indian Arts and Crafts Act of 1990, PL 101-644. The proposed regulations further clarify the definition of "Indian product" by including specific examples of "Indian product," as well as examples of what is not an "Indian product," in the regulations implementing the Indian Arts and Crafts Enforcement Act of 2000, Public Law 101-497, an amendment to the Indian Arts and Crafts Act of 1990, Public Law 101-644.

Timetable:

Action	Date	FR Cite
NPRM	05/21/01	66 FR 27915
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Meridith Stanton, Department of the Interior, Bureau of Indian Affairs, Indian Arts and Crafts Board, Room 4004 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-3773

RIN: 1076–AE16

Department of the Interior (DOI)
Bureau of Indian Affairs (BIA)

Long-Term Actions

1679. • PROBATE OF INDIAN ESTATES EXCEPT FOR MEMBERS OF THE FIVE CIVILIZED TRIBES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 372; 25 USC 373; 25 USC 374

CFR Citation: 25 CFR 15

Legal Deadline: None

Abstract: BIA plans to revise the regulations covering probate of Indian estates (except for estates of members of the Five Civilized Tribes) to make necessary technical corrections.

Timetable:

Action	Date	FR Cite
NPRM	11/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Arthur Gary, Improvement Project, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-6246
Fax: 202 219-1146
Email: arthur_gary@bia.gov

RIN: 1076–AE25

Department of the Interior (DOI)
Bureau of Indian Affairs (BIA)

Completed Actions

1680. ADULT VOCATIONAL TRAINING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 25 CFR 27

Completed:

Reason	Date	FR Cite
Withdrawn - This rule is now combined with RIN 1076-AD75.	10/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lynn Forcia
Phone: 202 219-5270

RIN: 1076–AD72

1681. LAND ACQUISITIONS FOR GAMING

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 292

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken at this time.	10/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: George Skibine
Phone: 202 219-4066

RIN: 1076–AD93

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1682. ENCUMBRANCE OF INDIAN LANDS—CONTRACT APPROVALS

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 84

Completed:

Reason	Date	FR Cite
Final Action	07/26/01	66 FR 38918
Final Action Effective	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Duncan Brown
Phone: 202 208-4582
Fax: 202 219-2100
Email: duncan_l_brown@ios.doi.gov

RIN: 1076–AE03

1683. SAN CARLOS APACHE TRIBE TRUST FUND AND LEASE FUND

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 183

Completed:

Reason	Date	FR Cite
Interim Final Rule	04/27/01	66 FR 21086
Interim Final Rule Effective	04/27/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ross Mooney
Phone: 202 208-5480

RIN: 1076–AE10

1684. • DISTRIBUTION OF FISCAL YEAR 2001 INDIAN RESERVATION ROADS FUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 Stat 861; 78 Stat 241, 253, 257; 45 Stat 750

CFR Citation: 25 CFR 170.4b

Legal Deadline: None

Abstract: This rule was issued for the purpose of distributing the remaining 25 percent of the fiscal year 2001 Indian Reservation Roads funds to projects on or near Indian Reservations using the relative need formula.

Timetable:

Action	Date	FR Cite
Final Action	03/29/01	66 FR 17073
Final Action Effective	03/29/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: LeRoy Gishi, Chief, Division of Transportation, Department of the Interior, Bureau of Indian Affairs, MS 4058 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4359

RIN: 1076–AE13

1685. • ESTABLISHING A COURT OF INDIAN OFFENSES FOR THE SANTA FE INDIAN SCHOOL AND INDIAN HOSPITAL, NEW MEXICO

Priority: Info./Admin./Other

Legal Authority: RS 463; 25 USC 2; 38 Stat 586; 25 USC 200

CFR Citation: 25 CFR 11.100

Legal Deadline: None

Abstract: This rule amends the regulations by adding the Santa Fe Indian School property (Southwest Region, New Mexico) to the listing of Courts of Indian Offenses, Section 11.100(a)(14). This amendment will establish a Court of Indian Offenses for a period not to exceed one year. It is necessary to establish a Court of Indian Offenses with jurisdiction over the Santa Fe Indian School property in order to protect lives and property.

Timetable:

Action	Date	FR Cite
Final Action	05/03/01	66 FR 22119
Final Action Effective	05/03/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ralph Gonzales, Housing Program Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4401

RIN: 1076–AE15

1686. • ATTORNEY CONTACTS WITH INDIAN TRIBES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 82a; 25 USC 13; 25 USC 450 et seq

CFR Citation: 25 CFR 89

Legal Deadline: None

Abstract: We issued this final rule removing the text of certain sections pertaining to approval by the Secretary of the Interior of tribal attorney contracts. (These provisions did not apply to attorney contacts entered into by the Five Civilized Tribes (Cherokee, Choctaw, Chickasaw, Creek and Seminole) in Oklahoma.) Congress repealed our statutory authority to grant approvals of tribal attorney contracts when it passed the Indian Tribal Economic Development and Contract Encouragement Act of 2000.

Timetable:

Action	Date	FR Cite
Final Action	07/26/01	66 FR 38924
Final Action Effective	07/26/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Duncan Brown, Regulatory Analyst, Department of the Interior, Bureau of Indian Affairs, Room 7229 MIB, 1849 C Street NW, Washington, DC 20240
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RIN: 1076–AE18

1687. • ADDING THE FALLON PAIUTE-SHOSHONE INDIAN RESERVATION AND COLONY TO THE LISTING OF COURTS OF INDIAN OFFENSES

Priority: Substantive, Nonsignificant

Legal Authority: RS 463; 25 USC 2; 38 Stat 586; 25 USC 200

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: This rule amends the regulations by adding the Fallon Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony (Western Region, Nevada) to the listing of Courts of Indian Offenses, Section 11.100(a)(14). This amendment will establish a Court of Indian Offenses for a period not to exceed one year. It is necessary to establish a Court of Indian Offenses with jurisdiction over the Fallon Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony in order to protect lives and property.

Timetable:

Action	Date	FR Cite
Final Action	09/18/01	66 FR 48085
Final Action Effective	09/18/01	

Regulatory Flexibility Analysis Required: Yes

DOI—BIA

Completed Actions

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Tribal

Agency Contact: Ralph Gonzales, Housing Program Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Washington, DC 20240

Phone: 202 208-4401

RIN: 1076–AE19

BILLING CODE 4310-02-S

Department of the Interior (DOI)
Minerals Management Service (MMS)

Proposed Rule Stage

1688. REFUNDS AND RECOUPMENT OF OVERPAYMENTS ON OCS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 1001 et seq; 25 USC 1301 et seq; 25 USC 1331 et seq; 25 USC 1701 et seq; 25 USC 1735; 25 USC 1801 et seq; 25 USC 181 et seq; 25 USC 2101 et seq; 25 USC 351 et seq; 25 USC 3716; 25 USC 3720a; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 9701; 5 USC 301 et seq

CFR Citation: 30 CFR 206; 30 CFR 218; 30 CFR 230

Legal Deadline: None

Abstract: This rule allows MMS to pay interest on Federal onshore and offshore oil and gas royalty overpayments and makes interest charges more equitable between the payor and the recipient. Interest will be paid on overpayments related to royalty, rent and estimates resulting from sales of Federal onshore and offshore oil and gas production.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
NPRM Comment Period End	07/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol Shelby, Regulatory Specialist, Department of the Interior, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, CO 80225-0165
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RIN: 1010–AC27

1689. TAKES VS. ENTITLEMENTS REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 205

Legal Deadline: None

Abstract: This rule addresses reporting and payment requirements for production removed and sold from a Federal lease, unit participating area, or communitization agreement beginning September 1996.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Carol Shelby, Regulatory Specialist, Department of the Interior, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, CO 80225-0165
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RIN: 1010–AC29

1690. ACCOUNTING RELIEF FOR MARGINAL PROPERTIES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 204

Legal Deadline: None

Abstract: This rule allows reporters to seek accounting, reporting, and auditing relief for their marginal properties in accordance with section 117(c) of the Federal Oil and Gas Royalty Management Act of 1982 as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	01/21/99	64 FR 3360
NPRM Comment Period End	03/22/99	
Supplementary NPRM	06/00/02	
NPRM Comment Period End	08/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Carol Shelby, Regulatory Specialist, Department of the Interior, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, CO 80225-0165
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RIN: 1010–AC30

1691. PREPAYMENT OF ROYALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 204

Legal Deadline: None

Abstract: This rule allows payors to prepay royalty in lieu of monthly royalty payments for their marginal properties with approval from the affected States. It will establish the criteria used by payors, States, and MMS to calculate, report, and monitor royalty prepayments.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	
NPRM Comment Period End	10/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Carol Shelby, Regulatory Specialist, Department of the Interior, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, CO 80225-0165
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DOI—MMS

Proposed Rule Stage

Email: carol.shelby@mms.gov

RIN: 1010–AC31

1692. PLANS AND INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 25 CFR 250

Legal Deadline: None

Abstract: MMS requires companies to submit for approval their exploration and development plans for activities on the Outer Continental Shelf. The companies must submit these plans before they can begin any activities, except preliminary activities. This rule would rewrite the requirements into clearer language and organize them into discrete sections by topic, to make them easier to follow.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC47

1693. INCIDENT REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: There continues to be rapid growth in offshore exploration and production activities in the Gulf of Mexico. Since safety is our top priority, we must upgrade our accident investigation functions. To do this we need accurate and timely information. This rule is the only way to require operators, lessees, and permit holders in the Outer Continental Shelf (OCS) to give us a written report about each OCS accident. It will also establish clearer guidelines for accident reporting thresholds and timing.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC57

1694. RECORDS AND FILES MAINTENANCE

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2102 et seq; 25 USC 396 et seq; 30 USC 1001 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq; 5 USC 301 et seq

CFR Citation: 30 CFR 212

Legal Deadline: None

Abstract: This rule will amend records and files maintenance regulations to incorporate the longer retention requirements for records related to Federal oil and gas.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	
NPRM Comment Period End	11/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Shelby, Regulatory Specialist, Department of the Interior, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, CO 80225-0165
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RIN: 1010–AC64

1695. OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF—SAFETY MEASURES AND PROCEDURES FOR PIPELINE MODIFICATIONS AND REPAIRS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: The rule will address problems that arise out of the fact that eventually all pipeline valves leak internally. This is due to abrasion and deposition of operational residues on valve seats. Internal valve leakage poses a potential safety problem to offshore workers at the time pipeline repairs are performed because hydrocarbons and pressure differentials in the lines can pose a significant hazard of fire and explosion. The rule will require that lessees and operators consider and submit in writing the measures they plan to take and the procedures they plan to follow to ensure the safety of company or contract workers and to prevent pollution before beginning a pipeline modification or repair, and it will amend section 250.1006(b)(1) by requiring that a blind flange be installed at the platform end of any pipeline taken out of service to prevent seepage into the line through leaking valves.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC75

1696. • WELL CONTROL AND PRODUCTION SAFETY TRAINING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1331

CFR Citation: 30 CFR 250; 30 CFR 251

DOI—MMS **Proposed Rule Stage**

Legal Deadline: None

Abstract: This rule would amend MMS rules governing training of lessee employees engaged in oil and gas and sulphur operations in the OCS. We are proposing to establish a third party accreditation system and implement a cost recovery process that would: (1) Accredit an independent third party either well control or safety training programs; (2) Promote innovation by encouraging third-party accreditors to serve as "think tanks" for improved training; and (3) Provide for MMS certification through the use of a cost recovery system.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC78

1697. • APPEALS OF MINERALS MANAGEMENT SERVICE ORDERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 242; 30 CFR 290; 43 CFR 4

Legal Deadline: None

Abstract: This rule streamlines appeals process to facilitate processing appeals within the 33-month deadline required by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (RSFA). It also implements the requirements of OMB Circular A-25, which establishes guidelines for Federal agencies to assess fees to cover the costs of Government-provided services or benefits beyond those accruing to the general public. The proposed rule will: (1) Require the Appellant to file its Notice of Appeal and Statement of Reasons directly with the MMS Appeals Division and file copies with the office that issued the order; (2) Implement most of the recommendations made by the Royalty Policy Committee; (3) Eliminate the requirement for an MMS Field Report containing MMS's arguments; (4) Clarify the right of the States and tribes to participate in the appeals process ; and (5) Provide for settlement negotiations as required in RSFA.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Platte Clark, Acting Chief, Appeals Division, Department of the Interior, Minerals Management Service, 4230 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2394
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RIN: 1010–AC80

1698. • PROPRIETARY TERMS AND DATA DISCLOSURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1331

CFR Citation: 30 CFR 250; 30 CFR 251

Legal Deadline: None

Abstract: This rule would modify the proprietary terms for geophysical data and information and any of their derivatives that MMS acquires under 30 CFR part 251. We propose to change the beginning of the proprietary terms from the date of submission to MMS to the date MMS issues the permit. The rule would also allow selective disclosure of geological and geophysical data and information and allow selective disclosure of data and information generated on a lease to persons with a direct interest in issues concerning field determination and royalty relief eligibility.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC81

1699. • DOCUMENTS INCORPORATED BY REFERENCE — API SPECIFICATION 2C

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1331

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: MMS is proposing to incorporate by reference the Fifth Edition of the American Petroleum Institute's Specification for Offshore Cranes into our regulations. MMS is proposing this action to establish a minimum design standard for new cranes installed on fixed platforms on the Outer Continental Shelf (OCS) and to require all existing cranes installed on OCS fixed platforms to be equipped with anti-two block safety devices. This proposed rule would ensure that OCS lessees use the best available and safest technologies for the design and construction of cranes used in the OCS.

Timetable:

Action	Date	FR Cite
NPRM	07/19/01	66 FR 37611
NPRM Comment Period End	10/17/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC82

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DOI—MMS

Proposed Rule Stage

1700. • DEALING WITH SUSTAINED CASING PRESSURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1331

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This proposed rulemaking amends subpart E (Oil and Gas Well-Completion Operations) of MMS operating regulations. It describes procedures for dealing with sustained casing pressure in oil and gas wells on the Outer Continental Shelf. Currently, lessees must request a departure from MMS regulations to operate a well that has sustained casing pressure. When granting a departure, MMS requires that lessees perform periodic checks and evaluations to ensure that the pressure is not a danger to personnel, equipment, or the environment. This proposed rule will codify these procedures and ensure uniform regulatory practices among MMS regional offices. The proposed changes will also help ensure that lessees will continue to conduct operations in a safe manner.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC83

1701. • DOCUMENTS INCORPORATED BY REFERENCE FOR OFFSHORE FLOATING PRODUCTION FACILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1331

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: We are proposing to amend our regulations to better address floating offshore platforms that, until now, have not been expressly covered. This will require a complete rewrite of subpart I to include floating production systems. These systems are variously described as column-stabilized units; floating production, storage and offloading facilities; tension-leg platforms; spars, etc. We are also incorporating into our regulations a body of industry standards pertaining to floating production systems, and this will save the public the costs of developing Government standards.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC85

1702. • DOCUMENTS INCORPORATED BY REFERENCE — API RP 14F AND API 510

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: MMS is proposing to update one document incorporated by reference and add one new document incorporated by reference in our regulations governing oil and gas and sulphur operations in the Outer Continental Shelf. These revisions will ensure that lessees use the best available and safest technologies while operating in the OCS. The updated document is the Fourth Edition of the American Petroleum Institute's (API) Recommended Practice for Design and Installation of Electrical Systems for Fixed and Floating Offshore Petroleum Facilities for Unclassified and Class I, Division 1 and Division 2 Locations (API RP 14F), dated June 1999. The new document is the Eighth Edition of API's document titled "Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration" (API 510), dated June 1997, plus one addendum with approved revisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC89

1703. • RIGHTS-OF-USE AND EASEMENTS AND PIPELINE RIGHTS-OF-WAY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: MMS is proposing to modify requirements governing rights-of-use and easement and pipeline rights-of-way in the Outer Continental Shelf. These changes will increase rental rates for pipeline rights-of-way and establish rentals for rights-of-use and easement. The proposed rule will also allow MMS to charge additional payment when the right-of-use and easement or the pipeline right-of-way prevents MMS from making the area available to other companies for exploration and possible development and production. This change is needed because of requests by lessees and pipeline right-of-way holders to use large areas outside of the area covered by their lease and pipeline right-of-way for accessory structures.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	

DOI—MMS

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC91

1704. • SUSPENSION OF OPERATIONS FOR EXPLORATION UNDER SALT SHEETS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: Not Yet Determined

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: MMS is proposing to modify requirements governing suspensions of operations for oil and gas leases in the Outer Continental Shelf (OCS). There are instances where oil and gas companies begin to conduct timely analysis of geophysical data early in the lease term; however, this data may be inconclusive because of problems caused by the existence of salt sheets. In such cases, the proposed rule will allow companies to apply for a suspension to avoid the possibility of having to drill a well before completing the necessary geophysical analysis. In return for the consideration for additional time to analyze geophysical data under the salt sheet, the lessee must show they have made and will continue to make substantial efforts and financial commitment in the processing and reprocessing of their geophysical data.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC92

1705. • OUTER CONTINENTAL SHELF OIL AND GAS LEASING - CLARIFYING AMENDMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 260

Legal Deadline: None

Abstract: This rule proposes clarifying amendments to regulations on OCS bidding systems in 30 CFR part 260, revised as of July 1, 2001. The proposed amendments make explicit that water depth and production timing on leases issued after 2000 and placed on a field with leases issued earlier play no role in the way we determine the royalty suspension volume applicable to eligible leases on the field.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC94

1706. • DOCUMENT INCORPORATED BY REFERENCE — API 510 — PRESSURE VESSEL INSPECTION CODE: MAINTENANCE INSPECTION, RATING, REPAIR, AND ALTERATION

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule proposes adding a document to be incorporated by reference into MMS's regulations governing oil and gas and sulphur operations in the outer continental shelf (OCS). This revision will ensure that lessees use the best available and safest technologies while operating in the OCS. The new document, API 510, is titled "Pressure Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration."

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC95

Department of the Interior (DOI)
Minerals Management Service (MMS)

Final Rule Stage

1707. VALUATION OF OIL FROM INDIAN LEASES

Regulatory Plan: This entry is Seq. No. 74 in part II of this issue of the Federal Register.

RIN: 1010–AC24

1708. OIL AND GAS DRILLING OPERATIONS

Priority: Other Significant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: The rule will be written in plain English, substantive changes will be incorporated, and the rule will reflect the results of the blowout preventer study.

DOI—MMS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	06/21/00	65 FR 38453
NPRM Comment Period End	10/19/00	65 FR 46126
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC43

1709. PROSPECTING FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 280

Legal Deadline: None

Abstract: This rule will expand the provisions governing research by requiring everyone conducting geological and geophysical scientific research without a permit to file a notice with MMS. These revisions respond to changes in technology and practice.

Timetable:

Action	Date	FR Cite
NPRM	12/08/99	64 FR 68649
NPRM Comment Period End	02/07/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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Email: kumkum.ray@mms.gov

RIN: 1010–AC48

1710. FORMS AND REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2102 et seq; 25 USC 396 et seq; 30 USC 101 et seq; 30 USC 1701 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 31 USC 3176 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq; 5 USC 301 et seq

CFR Citation: 30 CFR 210

Legal Deadline: None

Abstract: This rule will update the list of Minerals Revenue Management information collections, the purpose of the collections, and the estimated reporting burden associated with each collection. It will also update MMS mailing addresses.

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Shelby, Regulatory Specialist, Department of the Interior, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, CO 80225-0165
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RIN: 1010–AC63

1711. DECOMMISSIONING ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a)

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule will amend MMS' regulations governing operations in the Outer Continental Shelf to update decommissioning requirements. The new layout of the rule follows the logical sequence of plugging a well, decommissioning the platform and pipeline, and clearing the waste site. The proposed rule also updates the requirements to reflect changes in technology. We have restructured the requirements to make the regulations easier to read and understand. The proposed technical changes will help ensure that lessees decommission operations safely and effectively.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 41892
NPRM Comment Period End	10/05/00	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC65

1712. REQUIREMENTS GOVERNING SURETY BONDS FOR THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 256

Legal Deadline: None

Abstract: This rule would change requirements governing surety bonds for activities on the Outer Continental Shelf. These changes will codify the terms and conditions under which a surety will be relieved of responsibility when MMS terminates the period and liability of a bond. Codifying these terms and conditions is necessary to clarify the responsibilities of the lessee after the lease expires.

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1277
NPRM Comment Period End	03/09/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC68

1713. DEEP WATER ROYALTY RELIEF FOR OUTER CONTINENTAL SHELF OIL AND GAS LEASES ISSUED AFTER 2000

Regulatory Plan: This entry is Seq. No. 75 in part II of this issue of the **Federal Register**.

RIN: 1010–AC71

DOI—MMS

Final Rule Stage

1714. • SOLID MINERALS REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396(A) et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USE 1001 et seq; 31 USC 9701

CFR Citation: 30 CFR 206; 30 CFR 210; 30 CFR 216; 30 CFR 218

Legal Deadline: None

Abstract: MMS is replacing eight existing solid minerals report forms with one form and three supplementary data submissions. The new information collection requirements will reduce the reporting burden for the solid minerals industry while more comprehensive data for use in MMS's compliance activities.

Timetable:

Action	Date	FR Cite
NPRM	06/05/01	66 FR 30121
NPRM Comment Period End	07/05/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Shelby, Regulatory Specialist, Department of the Interior, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, CO 80225-0165
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RIN: 1010–AC86

1715. • TECHNICAL AMENDMENTS TO 30 CFR PART 218

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 396 et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USCA 3335; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: MMS is amending its revenue collection regulations to reflect updated cross-references, organization names, publication titles, and other administrative changes.

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Shelby, Regulatory Specialist, Department of the Interior, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, CO 80225-0165
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RIN: 1010–AC88

1716. • TECHNICAL AMENDMENTS TO 30 CFR PART 206

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301 et seq; 5 USC 396 et seq; 5 USC 396a et seq; 5 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701 ; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: MMS is amending its valuation regulations to reflect updated cross-references, organization names, publication titles, and other administrative changes.

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Shelby, Regulatory Specialist, Department of the Interior, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, CO 80225-0165
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RIN: 1010–AC87

1717. • TECHNICAL AMENDMENTS TO 30 CFR PART 216

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301 et seq; 25 USC 396; 25 USC 2107; 30 USC 189; 30 USC 190; 30 USC 359; 30 USC 1023; 30 USC 1751(a); 31 USC 3716; 31 USC 9701; 43 USC 1334; 43 USC 1801; 44 USC 3506(a)

CFR Citation: 30 CFR 216

Legal Deadline: None

Abstract: MMS is amending its valuation regulations to reflect updated cross-references, organization names, publication titles, and other administrative changes.

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Shelby, Regulatory Specialist, Department of the Interior, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, CO 80225-0165
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RIN: 1010–AC90

1718. • DOCUMENTS INCORPORATED BY REFERENCE - API RP 14C

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: MMS is updating one document incorporated by reference in regulations governing oil, gas, and sulphur operations in the Outer Continental Shelf (OCS). This final rule revises the American Petroleum Institute (API) Recommended Practice (RP) 14C (API RP 14C), Sixth Edition, March 1998, currently incorporated by reference into our regulations. We are updating the API RP 14C document to the Seventh Edition, March 2001. The new edition will allow lessees to use updated industry standard technologies while operating in the OCS.

DOI—MMS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC93

Department of the Interior (DOI)
Minerals Management Service (MMS) **Long-Term Actions**

1719. ROYALTY RELIEF TERMS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 396 et seq

CFR Citation: 30 CFR 203

Legal Deadline: None

Abstract: This rule amends the circumstances that discontinue the existing royalty relief for end-of-life leases and also introduces a categorical royalty relief program for deep gas drilling on existing shallow water tracts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/02	
NPRM Comment Period End	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC58

1720. • MMS HEARINGS AND INVESTIGATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1717

CFR Citation: 30 CFR 240

Legal Deadline: None

Abstract: This rule will explain how the Minerals Management Service will conduct hearings and investigations necessary and appropriate to carrying out the Secretary's duties under the Federal Oil and Gas Royalty Management Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	10/00/02	
NPRM Comment Period End	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Shelby, Regulatory Specialist, Department of the Interior, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, CO 80225-0165
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RIN: 1010–AC79

Department of the Interior (DOI)
Minerals Management Service (MMS) **Completed Actions**

1721. ROYALTY PAYMENT LIABILITY

Priority: Other Significant

CFR Citation: 30 CFR 211

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken at this time.	10/01/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Carol Shelby
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Email: carol.shelby@mms.gov

RIN: 1010–AB45

1722. CREDIT ADJUSTMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 218

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken at this time.	10/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Shelby
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RIN: 1010–AB73

1723. CHRONIC ERRONEOUS REPORTING

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 216; 30 CFR 218

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken at this time.	10/01/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State

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RIN: 1010–AC34

DOI—MMS

Completed Actions

1724. AMENDMENTS TO SALE OF FEDERAL ROYALTY OIL (SMALL REFINER ADMINISTRATIVE FEE)

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 208

Completed:

Reason	Date	FR Cite
Final Action	05/24/01	66 FR 28655
Final Action Effective	06/26/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Shelby
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RIN: 1010–AC70

1725. LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF—DEFINITION OF AFFECTED STATES

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 256

Completed:

Reason	Date	FR Cite
Final Action	06/19/01	66 FR 32902
Final Action Effective	06/19/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Kumkum Ray
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RIN: 1010–AC74

1726. AMENDMENTS TO ALLOWANCE DETERMINATION RULES

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 206

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken at this time.	10/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Carol Shelby
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RIN: 1010–AC77

BILLING CODE 4310–MR–S

Department of the Interior (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Proposed Rule Stage

1727. ABANDONED COAL REFUSE SITES—TITLE I

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 785; 30 CFR 829; 30 CFR 830; 30 CFR 845; 30 CFR 870

Legal Deadline: None

Abstract: OSM will propose new regulations governing permitting and performance standards for on-site processing of abandoned coal refuse piles and operations for removal of abandoned coal refuse piles. The rules are required to implement section 2503(e) of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Inhi Hong, Engineer, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenuw NW, MS 120-SIB, Washington, DC 20240
Phone: 202 208-2628

RIN: 1029–AB70

1728. CONTEMPORANEOUS RECLAMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 773; 30 CFR 780; 30 CFR 816

Legal Deadline: None

Abstract: This rule will amend our regulations to ensure that coal mine operators reclaim their operations in a contemporaneous manner.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Craynon, Chief, Technology Development Staff, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 202 208-2866

RIN: 1029–AB79

1729. DAM SAFETY RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: This rule will require the surface coal mining permittee to have an emergency action plan (EAP) when a dam is placed in service. This would bring OSM's regulations on EAPs into compliance with the Federal guidelines for dam safety and the Departmental Manual. It would ensure that EAPs are in place for all Class B and Class C hazard structures that may not necessarily be regulated by the Mine Safety and Health Administration but for which OSM is responsible.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Larry Trainor, Mining Engineer, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW, Washington, DC 20240

DOI—OSMRE **Proposed Rule Stage**

Phone: 202 208-2617
RIN: 1029–AB92

1730. • PRIME FARMLANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 785; 30 CFR 823

Legal Deadline: None

Abstract: This rule will update the references to two US Department of Agriculture (USDA) handbooks that were previously incorporated by reference into our regulations. The rule will also change the names of certain USDA and OSM offices to reflect current terminology. These changes will not alter the substantive requirements or procedures contained in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Scott Boyce, Agronomist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 203 SIB, 1951 Consttution Avenue NW, Washington, DC 20240
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TDD Phone: 202 208-2737
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RIN: 1029–AB98

1731. • ABANDONED MINE LAND RECLAMATION NOTICES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 875

Legal Deadline: None

Abstract: This rule will eliminate the requirement to publish a Federal Register notice announcing the receipt of, and seeking comments on, applications for construction of public facilities that are funded from the abandoned mine land fund. The publication requirement will because a discretionary action. Previous Federal Register notices have generated little interest from the public and have added delays to the construction of AML projects.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Greer, Physical Scientist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 120 SIB, 1951 Constitution Avenue NW, Washington, DC 20240
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RIN: 1029–AB99

Department of the Interior (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE) **Final Rule Stage**

1732. INDIAN LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 700; 30 CFR 740; 30 CFR 750

Legal Deadline: None

Abstract: This rule will amend regulations to allow OSM to contract to the Navajo and Hopi Tribes certain functions relating to permitting mine plan review, bonding, and other functions authorized by the Indian land provisions of the Surface Mining Control and Reclamation Act. The rule is being proposed to implement a settlement agreement.

Timetable:

Action	Date	FR Cite
NPRM	02/19/99	64 FR 8464
NPRM Comment Period End	06/21/99	64 FR 18585
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Suzy Hudak, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW, Washington, DC 20240
Phone: 202 208-2713

RIN: 1029–AB83

1733. ELECTRONIC FILING OF THE OSM-1 FORM

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870

Legal Deadline: None

Abstract: This rule will provide mine operators the option of electronically filing the information required by the OSM-1 form. The form is used by coal mine operators to report the amount of coal sold, used, or transferred during the calendar quarter; the method of coal removal; the type of coal removal and other required information.

Timetable:

Action	Date	FR Cite
NPRM	02/15/00	65 FR 7706
NPRM Comment Period Extended	01/22/01	66 FR 6011
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sean Spillane, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Building 20K - Room B-2005, Denver, CO 80225
Phone: 303 236-0330

RIN: 1029–AB95

1734. • CIVIL PENALTY ADJUSTMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 723; 30 CFR 724; 30 CFR 845; 30 CFR 846

DOI—OSMRE

Final Rule Stage

Legal Deadline: None

Abstract: This rule will adjust the penalty amount of certain civil monetary penalties authorized by the Surface Mining Control and Reclamation Act of 1977. The rule implements the Federal Civil Penalties inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. The law requires that civil monetary penalties be adjusted for inflation at least once every four years.

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andy DeVito, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, MS 10 SIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2701

RIN: 1029–AC00

BILLING CODE 4310–05–S

Department of the Interior (DOI)
Bureau of Land Management (BLM)

Proposed Rule Stage

1735. SALES—FEDERAL LAND POLICY AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701; 43 USC 1713

CFR Citation: 43 CFR 2710

Legal Deadline: None

Abstract: This rule will amend 43 CFR part 2710 to provide for improved administration of sales of public land under the Federal Land Policy and Management Act. It will add a provision to allow the sale of public land to State or local government entities for affordable housing. Such sales may be for less than fair market value.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Room 420, 1849 C Street N.W., Washington, DC 20240
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RIN: 1004–AB77

1736. DESERT LAND ENTRIES

Priority: Info./Admin./Other

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2520

Legal Deadline: None

Abstract: This rule will transfer much of the regulation on entries of desert land to the BLM Manual if the underlying statute is not repealed as no longer practical.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AC56

1737. DISPOSAL OF RESERVED MINERALS UNDER THE STOCK RAISING HOMESTEAD ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 299

CFR Citation: 43 CFR 3814

Legal Deadline: Final, Statutory, October 13, 1993.

Abstract: This rule will establish new procedures for mineral exploration and development under the General Mining Law of 1872 on lands where the surface was patented under the Stock Raising Homestead Act of 1916 and the mineral estate remains reserved to the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0355
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RIN: 1004–AC59

1738. GEOTHERMAL RESOURCE UNIT AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1001 et seq; 43 USC 1740

CFR Citation: 43 CFR 3280

Legal Deadline: None

Abstract: This rule will rewrite unit agreement regulations, reduce and streamline information and permitting requirements, provide BLM maximum flexibility in permitting decisionmaking to accommodate the full range of unitization scenarios, and reorganize the regulations to make specific requirements easier to find and understand.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shirlean Beshir, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240
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RIN: 1004–AD10

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DOI—BLM

Proposed Rule Stage

1739. CONSERVATION; HELIUM LEASING

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701 et seq; 50 USC 167

CFR Citation: 43 CFR 16; 43 CFR 3196

Legal Deadline: None

Abstract: This rule will redesignate, amend, and extend the regulations on conservation of helium to facilitate administration and implementation of provisions in the Helium Privatization Act. The rule will move these regulations to 43 CFR subpart 3196 to consolidate helium-related regulations in one area for ease in finding and complying with them.

Timetable:

Action	Date	FR Cite
ANPRM	12/19/00	65 FR 79325
ANPRM Comment Period End	03/26/01	
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Joseph B. Peterson, Chief, Division of Helium Resources, Department of the Interior, Bureau of Land Management, Amarillo Field Office, 801 S. Fillmore, Suite 500, Amarillo, TX 79101
Phone: 806 324-2614

RIN: 1004–AD35

1740. HAZARDOUS MATERIALS COMPLIANCE

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 1890

Legal Deadline: None

Abstract: This rule will clarify the respective responsibilities of BLM and the holders of various BLM authorizations with regard to releases of hazardous materials and other violations of environmental law caused by the holder or the holder's operator on public lands.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cynthia Ellis, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street N.W., Washington, DC 20240
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RIN: 1004–AD38

1741. GRAZING ADMINISTRATION—EXCLUSIVE OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 118(d); 43 USC 1701 et seq; 43 USC 1901 et seq; 43 USC 315 et seq; 7 USC 1012

CFR Citation: 43 CFR 4100

Legal Deadline: None

Abstract: This rule will remove provisions for conservation use of grazing privileges. These provisions were determined by the Federal Circuit Court to be not consistent with the statutory authority of the Secretary of the Interior. The rule will also correct errors and omissions, and provide clarification.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1004–AD42

1742. • PERMITS FOR RECREATION ON PUBLIC LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2930

Legal Deadline: None

Abstract: This proposed rule would add a section on prohibited acts to the regulations on campgrounds and other fee areas to facilitate law enforcement at these sites.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lee Larson, Recreation Specialist, Department of the Interior, Bureau of Land Management
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RIN: 1004–AD45

1743. • WILDERNESS MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 6300

Legal Deadline: None

Abstract: This proposed rule would add provisions on use of timber or mining claims, clarifying procedures on issuing patents for mining claims, and on use of fixed anchors for rock climbing in wilderness areas.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Jeff Jarvis, Wilderness Specialist, Department of the Interior, Bureau of Land Management
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RIN: 1004–AD46

1744. • ONSHORE OIL AND GAS OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 189; 30 USC 359

CFR Citation: 43 CFR 3160

Legal Deadline: None

Abstract: This proposed rule would amend the new oil and gas drainage regulations by (a) removing the joint

DOI—BLM

Proposed Rule Stage

and several liability provision for operators if failure to drill or produce allows drainage that reduces Government revenues, and (b) restoring the provision in the previous regulations that requires diligent development and allows BLM to assess compensatory royalties if failure to drill and produce causes drainage.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1004–AD48

1745. • DISCLAIMERS OF INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 1864

Legal Deadline: None

Abstract: BLM proposes to make two minor amendments to the recordable disclaimer regulations at 43 CFR 1864.1-1 and .1-3. Presently the regulations state that any present owner of record may file an application to have a disclaimer of interest issued. Neither FLPMA nor its implementing regulations define the term "present owner of record." Neither the Federal Courts nor the Interior Board of Land Appeals have defined or elaborated on the phrase. As such, BLM wishes to amend the regulations to eliminate the phrase. Such an amendment would prevent any legal challenge to BLM's interpretation of the phrase to include state applications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

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RIN: 1004–AD50

Department of the Interior (DOI)
Bureau of Land Management (BLM)

Final Rule Stage

1746. COST RECOVERY; MINERAL FILINGS AND OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1001 et seq; 30 USC 181 et seq; 30 USC 22; 30 USC 351 to 360; 31 USC 9701; 43 USC 1734; 50 USC app 565

CFR Citation: 43 CFR 3100; 43 CFR 3200; 43 CFR 3400; 43 CFR 3500; 43 CFR 3600; 43 CFR 3700; 43 CFR 3800

Legal Deadline: None

Abstract: This rule will amend regulations for user fees for locatable minerals, mineral materials, and leasable minerals (solids and fluids) to adjust current fees or establish new fees in accordance with title V of the Independent Offices Appropriations Act of 1952 (user charges), OMB Circular A-25 "User Charges" and section 304 of the Federal Land Policy and Management Act of 1976.

Timetable:

Action	Date	FR Cite
NPRM	12/15/00	65 FR 78440
NPRM Comment Period End	02/13/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1004–AC64

1747. RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES; RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2800; 43 CFR 2880

Legal Deadline: None

Abstract: This rule will move much of the existing regulations to manuals notices to applicants, etc. This action will ease update of cost recovery schedules. Materials will be combined with other rights-of-way guidance.

Timetable:

Action	Date	FR Cite
NPRM	06/15/99	64 FR 32106
NPRM Comment Period End	10/13/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Bureau of Land Management, 260, 1849 C Street NW, Washington, DC 20240
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RIN: 1004–AC74

1748. INDIAN ALLOTMENTS

Priority: Info./Admin./Other

Legal Authority: 25 USC 334; 25 USC 336; 43 USC 1201

CFR Citation: 43 CFR 2530

Legal Deadline: None

Abstract: This rule will convert existing regulations to plain English and remove those portions that relate to procedural matters.

Timetable:

Action	Date	FR Cite
NPRM	10/16/96	61 FR 53887
NPRM Comment Period End	09/13/99	64 FR 38172
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

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Final Rule Stage

Government Levels Affected: None

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RIN: 1004–AC77

1749. OIL AND GAS LEASING AND OPERATIONS

Regulatory Plan: This entry is Seq. No. 76 in part II of this issue of the **Federal Register**.

RIN: 1004–AC94

1750. OIL AND GAS LEASING; NATIONAL PETROLEUM RESERVE, ALASKA—UNIT AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6503; 43 USC 1740

CFR Citation: 43 CFR 3130; 43 CFR 3135

Legal Deadline: None

Abstract: This proposed rule would add a new subpart to BLM's oil and gas regulations implementing new statutory authority allowing operators to form units in the National Petroleum Reserve Alaska (NPRA). The rule would also:

(A) allow for waiver suspension, or reduction of rental or royalty payments for NPRA leases;

(B) allow for suspension of operations and production for NPRA leases;

(C) amend existing regulatory language to set the primary lease term for an NPRA lease at 10 years; and

(D) add a new subpart to the NPRA regulations on subsurface storage agreements.

Timetable:

Action	Date	FR Cite
NPRM	04/26/00	65 FR 24542
NPRM Comment Period End	08/10/00	65 FR 39334
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1004–AD13

1751. USE AUTHORIZATIONS (RECREATION)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460l-6a; 43 USC 1740

CFR Citation: 43 CFR 8370

Legal Deadline: None

Abstract: This rule will revise the regulations on the issuance of special recreation permits for purposes of clarification and updating and will add regulations on the issuance of recreation use permits for the use of fee areas.

Timetable:

Action	Date	FR Cite
NPRM	05/16/00	65 FR 31233
NPRM Comment Period End	07/17/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lee Larson, Recreation Specialist, Department of the Interior, Bureau of Land Management
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RIN: 1004–AD25

1752. MINERAL MATERIALS DISPOSAL

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 30 USC 601 et seq

CFR Citation: 43 CFR 3600; 43 CFR 3610; 43 CFR 3620

Legal Deadline: None

Abstract: This rule will revise completely the regulations on mineral materials disposal to make them easier to understand. It will add provisions on recordkeeping and audit inspection and production verification, cancellation and suspension, appeals and clarification of the rights of competitive or noncompetitive purchasers against subsequent claims on and users of the public lands.

Timetable:

Action	Date	FR Cite
NPRM	09/14/00	65 FR 55864
NPRM Comment Period End	11/13/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1004–AD29

1753. LOCATION RECORDING, AND MAINTENANCE OF MINING CLAIMS AND SITES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 30 USC 22 to 54; 43 USC 1201; 43 USC 1740

CFR Citation: 43 CFR 3710; 43 CFR 3730; 43 CFR 3810; 43 CFR 3820; 43 CFR 3830; 43 CFR 3840; 43 CFR 3850

Legal Deadline: None

Abstract: This rule will amend the mining claim recordation and annual fee collection procedures to conform to the fiscal year 1999 Interior and Related Agencies Appropriations Act. It will also consolidate duplicative portions of 43 CFR part 3700 et seq. into 43 CFR part 3800 et seq., and remove the duplicative portions of these regulations from title 43. The interim final rule only implements the statutory changes in the FY 99 Appropriations Act.

Timetable:

Action	Date	FR Cite
NPRM	08/27/99	64 FR 47023
Interim Final Rule	08/27/99	64 FR 47018
NPRM Comment Period End	10/26/99	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: The $100 annual maintenance fee and related provisions expired on 9/30/98. The fee and related provisions were extended

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Final Rule Stage

in the FY 1999 budget legislation. The existing regulations must be amended to conform to the legislation. BLM will take the opportunity to do long-delayed but necessary housekeeping of these parts of title 43 to consolidate duplicative sections.

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RIN: 1004–AD31

1754. SUPPLEMENTARY RULES FOR PUBLIC DEMONSTRATIONS AT GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

Priority: Substantive, Nonsignificant

Legal Authority: 43 CFR 8365.1-6

CFR Citation: 43 CFR 8365

Legal Deadline: None

Abstract: This interim final rule would require a permit for public demonstrations at Grand Staircase-Escalante National Monument and associated facilities, and establish procedures for obtaining such a permit. It would also provide for some locations to be designated as open for demonstrations, and others to be closed to protect sensitive resources and public health and safety.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/01/00	65 FR 53516
Interim Final Rule Comment Period End	10/02/00	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1004–AD40

1755. COAL MANAGEMENT: NONCOMPETITIVE LEASES; MANAGEMENT PROVISIONS AND LIMITATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 181 et seq; 43 USC 1740; PL 106-463

CFR Citation: 43 CFR 3430; 43 CFR 3470

Legal Deadline: None

Abstract: This rule will increase the maximum acreage of Federal coal leases that may be leased to one entity in any one State from 46,080 to 75,000 acres to conform with legislation enacted in 2000, and to correct a technical error in the regulations by removing the requirements of a public hearing and publication of a notice of availability of environmental analysis documents for coal lease modifications. It will also raise the nationwide acreage limitation on coal leases that one entity can hold from 100,000 to 150,000 acres.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1004–AD43

Department of the Interior (DOI)
Bureau of Land Management (BLM)

Long-Term Actions

1756. LEASES, PERMITS, AND EASEMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1732; 43 USC 1740

CFR Citation: 43 CFR 2920

Legal Deadline: None

Abstract: This rule will amend the existing regulations to provide for improved administration of leases, permits and easements under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	11/21/90	55 FR 48810
NPRM Comment Period End	01/22/91	
Second NPRM	02/09/95	60 FR 7878
Second NPRM Comment Period End	04/10/95	
Final Rule for Minimum Impact Land Use Permits Only	06/24/96	61 FR 32351
Final Rule Effective for Minimum Impact Land Use Permits Only	07/24/96	
Third NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1004–AB51

1757. COALBED METHANE DEVELOPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13368

CFR Citation: 43 CFR 3170

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: The rule will implement section 1339 of the Energy Policy Act of 1992. It will prevent conflicts in ownership of coalbed methane from impeding development of that resource by requiring pooling of development and payment of the proceeds into an escrow account until the ownership issue is resolved by a State entity of competent jurisdiction. The rule will also allow States to avoid the Federal

regulations by promulgating their own regulations that substantially comply with Federal requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 47920
NPRM Comment Period End	11/14/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

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RIN: 1004–AC27

1758. LAND WITHDRAWALS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1714; 43 USC 1740

CFR Citation: 43 CFR 2310; 43 CFR 2370

Legal Deadline: None

Abstract: This rule will revise the regulations on withdrawals and revocations of withdrawals to streamline operations and clarify the regulations. It will also amend the regulations to expedite the opening of formerly withdrawn lands to the operation of the public land laws.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AC63

1759. LAND CLASSIFICATION

Priority: Info./Admin./Other

Legal Authority: 43 USC 1411 to 1418; 43 USC 315; 43 USC 869; EO 6910; EO 6964

CFR Citation: 43 CFR 2400

Legal Deadline: None

Abstract: This rule will revise 43 CFR group 2400 and redesignate it as part 1620. Most of these regulations are no longer needed because they contain either statutory reiteration or internal procedures best suited to the BLM Manual. Land classification can be accomplished through the BLM planning process.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AC78

1760. CAREY ACT GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 641 et seq

CFR Citation: 43 CFR 2610

Legal Deadline: None

Abstract: This rule will update these regulations as they are inconsistent with present-day management policies. Application of these provisions of the Carey Act is rarely feasible due to limited water and suitable lands.

Timetable:

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47725
NPRM Comment Period End	10/10/96	
Supplementary NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AC80

1761. APPEALS PROCEDURES; HEARINGS PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 43 USC 1701; 43 USC 1740

CFR Citation: 43 CFR 1840; 43 CFR 1850

Legal Deadline: None

Abstract: BLM proposes to amend its regulations that govern administrative review procedures for protests of proposed decisions, contested appeals of BLM decisions, and hearings on the record. The proposed regulations would provide more consistent procedures for administrative review of BLM decisions, and would clarify when and how BLM decisions go into effect and whether an appeal will stay the effectiveness of a BLM decision.

Timetable:

Action	Date	FR Cite
NPRM	10/17/96	61 FR 54120
NPRM Comment Period End	01/17/97	61 FR 58160
Second NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1004–AC99

1762. COLOR OF TITLE AND OMITTED LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2540

Legal Deadline: None

Abstract: As part of its reinventing government effort, BLM proposes to rewrite the current color of title and omitted lands regulations in plain English. No substantive changes are proposed.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

DOI—BLM

Long-Term Actions

Government Levels Affected: None

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Room 420, 1849 C Street N.W., Washington, DC 20240
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RIN: 1004–AD09

1763. COAL MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1266; 30 USC 189; 30 USC 359; 43 USC 1733; 43 USC 1740

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will clarify and streamline policy on coal exploration and post-lease operations. It will reorganize and revise portions of the Federal coal management program regulations including exploration licenses, lease suspensions, lease administration diligence, and exploration and mining operations on leased Federal coal.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Radden-LeSage, Mining Engineer, Department of the Interior, Bureau of Land Management, 1849 C Street NW, Washington, DC 20240
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RIN: 1004–AD11

1764. MINERAL PATENT APPLICATIONS; ADVERSE CLAIMS, PROTESTS, AND CONFLICTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 22 to 54; 43 USC 1201; 43 USC 1740

CFR Citation: 43 CFR 3730; 43 CFR 3740; 43 CFR 3820; 43 CFR 3860; 43 CFR 3870

Legal Deadline: None

Abstract: This rule will revise the filing and administrative procedures for mineral patent applications. It will also revise the procedures for filing adverse claims or protests against mineral patent applications and for mineral-in-character challenges to non-mineral land entries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: This rulemaking was ordered by the Secretary of the Interior on November 14, 1997. Much of the language of these regulations hasremained unchanged since 1939 and needs modernization.

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RIN: 1004–AD32

1765. • FINANCIAL GUARANTEES PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740; 30 USC 42; 30 USC 189

CFR Citation: 43 CFR 1830

Legal Deadline: None

Abstract: This proposed rule would establish procedures for obtaining, management, forfeiture, and release of bonds and other financial guarantees of performance under the various program regulations of BLM. It would provide what forms of financial guarantees are acceptable, and when bonds would be called in the event of non-performance.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 1004–AD49

Department of the Interior (DOI)
Bureau of Land Management (BLM)

Completed Actions

1766. SEGREGATION AND OPENING OF LANDS

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 2091

Completed:

Reason	Date	FR Cite
Withdrawn - No action to be taken at this time.	09/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1004–AC84

1767. PALEONTOLOGICAL RESOURCES

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 3622; 43 CFR 6600; 43 CFR 8365

Completed:

Reason	Date	FR Cite
Withdrawn - No action to be taken at this time.	09/25/01	

DOI—BLM **Completed Actions**

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laurie Bryant
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RIN: 1004–AD03

1768. TIMBER EXPORT AND SUBSTITUTION

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 4; 43 CFR 5400; 43 CFR 5420; 43 CFR 5440

Completed:

Reason	Date	FR Cite
Withdrawn - No action to be taken at this time.	09/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lyndon Werner
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RIN: 1004–AD37

1769. RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES; RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 2800; 43 CFR 2880

Completed:

Reason	Date	FR Cite
Withdrawn - No further action to be taken at this time.	09/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ron Montagna
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RIN: 1004–AD39

1770. • SURFACE MANAGEMENT (LOCATABLE MINERALS)

Priority: Other Significant

Legal Authority: 43 USC 1740; 43 USC 1061 et seq; 18 USC 1001; 18 USC 3571 et seq; 30 USC 42; 30 USC 612

CFR Citation: 43 CFR 3800

Legal Deadline: None

Abstract: This rule will remove or amend certain provisions in the regulations on surface management of unpatened mining claims on public lands. These provisions are not needed for the prevention of unnecessary or undue degredation of the public lands and are unduly burdensome to industry, and they may have been promulgated without properly following statutory procedures or may exceed the authority granted by Congress to amend these regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/23/01	66 FR 16162
NPRM Comment Period End	05/07/01	
Final Action	10/30/01	66 FR 54834
Final Action Effective	12/31/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Robert Anderson, Minerals Resources, Department of the Interior, Bureau of Land Management
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RIN: 1004–AD44

1771. • ALASKA NATIVE VETERANS ALLOTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1601 et seq; 43 USC 270-1 to 270-3

CFR Citation: 43 CFR 2560

Legal Deadline: None

Abstract: This final rule will allow certain Alaska Native veterans extended opportunity to apply for a Native allotment under the repealed Native Allotment Act of 1906, based on military service ending no later than December 31, 1971.

Timetable:

Action	Date	FR Cite
Final Action	10/16/01	66 FR 52544
Final Action Effective	11/15/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1004–AD47

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Department of the Interior (DOI)
Office of the Secretary (OS) **Long-Term Actions**

1772. WILD AND SCENIC RIVERS

Priority: Other Significant

Legal Authority: 16 USC 1278

CFR Citation: 43 CFR 39

Legal Deadline: None

Abstract: This rule would establish uniform standards and procedures by which the Department of the Interior, through its agencies that administer rivers in the National Wild and Scenic Rivers System (Bureau of Land Management, Fish and Wildlife Service, and National Park Service), will consider Federal licensing of, or assistance to, water resources projects affecting designated Wild and Scenic Rivers or congressionally authorized Study Rivers.

Timetable:

Action	Date	FR Cite
NPRM	12/09/98	63 FR 67834
NPRM Comment Period End	02/08/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John Haubert, Outdoor Recreation Planner, Department of the Interior, Office of the Secretary, Room 3230, 1849 C Street N.W., Room 3230, Washington, DC 20240
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Federal Register

Monday,
December 3, 2001

Part XI

Department of Justice

Semiannual Regulatory Agenda

DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE

II CFR Ch. I

21 CFR Ch. I

28 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Department of Justice.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Justice is publishing its October 2001 regulatory agenda pursuant to E.O. 12866 "Regulatory Planning and Review," 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. sections 601-612 (1988).

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Legal Policy, Department of Justice, Room 4258, 950 Pennsylvania Avenue NW., Washington, DC 20530, (202) 514-8059.

SUPPLEMENTARY INFORMATION: For this edition of the Department of Justice's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

The Regulatory Flexibility Act (RFA) requires that, each year, the Department publish a list of those regulations that have a significant economic impact upon a substantial number of small entities and are to be reviewed under section 610 of the Act during the succeeding 12 months. This edition of the Department's Unified Agenda includes three regulations requiring such a review: "Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements" (RIN 1115-AB73); "Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities" (RIN 1190-AA44); and "Nondiscrimination on the Basis of Disability in State and Local Government Services" (RIN 1190-AA46). In accordance with the RFA, comments are specifically invited on these regulations. Those comments should be addressed to the contact persons listed in the entries for these items.

Dated: October 12, 2001.

Viet D. Dinh,

Assistant Attorney General, Office of Legal Policy.

Bureau of Prisons—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1773	Release of Information	1120-AA96
1774	Literacy Program: GED Requirements	1120-AB02
1775	Infectious Disease Management	1120-AB03
1776	Drug Abuse Treatment Program: Subpart Revision and Clarification	1120-AB07

Bureau of Prisons—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1777	Volunteer Community Service Projects	1120-AA03
1778	Intensive Confinement Centers	1120-AA11
1779	Incoming Publications	1120-AA15
1780	Infectious Diseases	1120-AA23
1781	Postsecondary Education Programs	1120-AA25
1782	Literacy Program	1120-AA33
1783	Telephone Regulations and Inmate Financial Responsibility	1120-AA39
1784	Telephone Regulations and Inmate Financial Responsibility	1120-AA49
1785	Incoming Publications: Nudity and Sexually Explicit Material or Information	1120-AA59
1786	Good Conduct Time	1120-AA62
1787	Administrative Remedy Program: Excluded Matters	1120-AA72
1788	Visiting Regulations: Prior Relationship	1120-AA77
1789	Smoking/No Smoking Areas	1120-AA79
1790	Over-the-Counter (OTC) Medications	1120-AA81
1791	Administrative Safeguards for Psychiatric Treatment and Medication; Military Prisoners and District of Columbia Code Violators	1120-AA83
1792	Designation of Offenses Subject to Sex Offender Release Notification	1120-AA85
1793	Inmate Commissary Account Deposit Procedures	1120-AA86
1794	Drug Abuse Treatment Programs: Disincentives and Enhanced Incentives	1120-AA88
1795	Searches of Housing Units, Inmates, Inmate Work Areas, and Persons Other Than Inmates: Electronic Devices	1120-AA90
1796	Occupational Educational Programs	1120-AA92
1797	Drug Testing Program	1120-AA95
1798	Correspondence: Inspection of Outgoing General Correspondence	1120-AA98

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Bureau of Prisons—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1799	Release Gratuities, Transportation, and Clothing: Aliens	1120-AA99
1800	Religious Beliefs and Practices: Nomenclature Change	1120-AB04
1801	District of Columbia Educational Good Time Credit	1120-AB05
1802	Suicide Prevention Program	1120-AB06

Bureau of Prisons—Completed Actions

Sequence Number	Title	Regulation Identification Number
1803	Classification and Program Review	1120-AA93
1804	Administrative Remedy Program: Applicability to Contract Facilities	1120-AA97
1805	Searching and Detaining or Arresting Persons Other Than Inmates: Denial of Visiting	1120-AB01

Civil Rights Division—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1806	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities **(Section 610 Review) (Reg Plan Seq No. 77)**	1190-AA44
1807	Nondiscrimination on the Basis of Disability in State and Local Government Services **(Section 610 Review) (Reg Plan Seq No. 78)**	1190-AA46
1808	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards; Recreation Facilities	1190-AA47
1809	American Competitiveness and Workforce Improvement Act of 1998 Complaint Process	1190-AA48
1810	Nondiscrimination on the Basis of Disability in State or Local Government Facilities; Public Accommodations and Commercial Facilities; Accessibility Standards; Play Areas	1190-AA50
1811	Amendments to Procedures Advising States and Political Subdivisions Specially Covered Under the Voting Rights Act How To Seek Preclearance From the Attorney General of Proposed Voting Changes	1190-AA51
1812	Amendments to Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964	1190-AA52
1813	Procedures To Review Police Departments for a Pattern or Practice of Conduct That Deprives Persons of Rights, Privileges, or Immunities Secured or Protected by the Constitution or Laws of the U.S.	1190-AA53

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Civil Rights Division—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1814	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	1190-AA49

Civil Rights Division—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1815	Nondiscrimination on the Basis of Disability in State and Local Government Services	1190-AA36

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Drug Enforcement Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1816	Reorganization and Clarification of DEA Regulations	1117-AA63

Drug Enforcement Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1817	Guidelines for Providing Controlled Substances to Ocean Vessels	1117-AA40
1818	Sale by Federal Departments or Agencies of Chemicals Usable To Manufacture a Controlled Substance	1117-AA47
1819	Placement of Gamma-Butyrolactone in List I of the Controlled Substances Act (21 U.S.C. 802)	1117-AA52
1820	Industrial Use of Products and Materials Derived From Cannabis Plants	1117-AA55
1821	Exemption From Import/Export Requirements for Personal Medical Use	1117-AA56
1822	Allowing Central Fill Pharmacies To Fill Prescriptions for Controlled Substances on Behalf of Retail Pharmacies	1117-AA58
1823	Electronic Orders for Schedule I and II Controlled Substances	1117-AA60
1824	Electronic Prescriptions for Controlled Substances	1117-AA61
1825	Security Requirements for Handlers of Pseudoephedrine, Ephedrine, and Phenylpropanolamine	1117-AA62

Drug Enforcement Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1826	Definition and Registration of Reverse Distributors	1117-AA19
1827	Exemption of Chemical Mixtures	1117-AA31
1828	Registration and Reregistration Application Fees	1117-AA34
1829	Implementation of the Methamphetamine Control Act; Regulation of Pseudoephedrine, Phenylpropanolamine, and Combination Ephedrine Drug Products; Reports of Certain Transactions to Nonregulated Persons	1117-AA44
1830	Chemical Registration and Reregistration Fees	1117-AA50
1831	Control of Red Phosphorus, White Phosphorus, and Hypophosphorous Acid (and Its Salts) as List I Chemicals	1117-AA57

Drug Enforcement Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1832	Establishment of Freight Forwarding Facilities for DEA Distributing Registrants	1117-AA36
1833	Listed Chemicals; Final Establishment of Thresholds for Iodine and Hydrochloric Gas (Hydrogen Chloride Gas)	1117-AA43
1834	Waiver of Advance Notification Requirement To Import Acetone, 2-Butanone (MEK), and Toluene	1117-AA53
1835	Placement of Dichloralphenazone Into Schedule IV	1117-AA59

Executive Office for Immigration Review—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1836	Authority of Immigration Judges To Issue Civil Money Penalties	1125-AA18
1837	Section 212(c) Relief for Aliens With Certain Criminal Convictions Before April 1, 1997	1125-AA33
1838	Suspension of Deportation and Cancellation of Removal for Certain Battered Spouses and Children; Motions To Reopen for Certain Battered Spouses and Children	1125-AA35

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Executive Office for Immigration Review—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1839	Suspension of Deportation and Cancellation of Removal	1125-AA25
1840	Authorities Delegated to the Director of the Executive Office for Immigration Review	1125-AA27
1841	Motions To Reopen for Suspension of Deportation and Special Rule Cancellation of Removal Pursuant to Section 1505(c) of the LIFE Act Amendments	1125-AA31

Executive Office for Immigration Review—Completed Actions

Sequence Number	Title	Regulation Identification Number
1842	Board of Immigration Appeals; 23 Board Members	1125-AA34

Federal Bureau of Investigation—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1843	Implementation of Sections 104 and 109 of the Communications Assistance for Law Enforcement Act	1110-AA00
1844	Implementation of the National Stolen Passenger Motor Vehicle Information System (NSPMVIS)	1110-AA01
1845	National Instant Criminal Background Check System	1110-AA07
1846	Claims of Exemptions From Provisions of the Privacy Act as to FBI Records	1110-AA06
1847	Federal Bureau of Investigation Criminal Justice Information Service Division Systems and Procedures	1110-AA09

Federal Bureau of Investigation—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1848	Regulations Under the Pam Lychner Sexual Offender Tracking and Identification Act	1110-AA04

Federal Bureau of Investigation—Completed Actions

Sequence Number	Title	Regulation Identification Number
1849	Federal Convicted Offender DNA Data Base Program	1110-AA03

Immigration and Naturalization Service—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1850	Corporate Reorganizations (Mergers and Acquisitions) and E, H, L Nonimmigrant Classification	1115-AE55
1851	Construction Work and the B Nonimmigrant Visa Classification	1115-AG15
1852	Restricting Citizens of Bangladesh, India, Pakistan, and Sri Lanka From Participation in the International to International (ITI) Program	1115-AG30

Immigration and Naturalization Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1853	Revised Grounds of Inadmissibility, Waivers for Immigrants and Nonimmigrants, and Exceptions	1115-AB45

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Immigration and Naturalization Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1854	Fees for Participation in Dedicated Commuter Lanes at Selected Ports of Entry; Collection of Fees Under the Dedicated Commuter Lane Program	1115-AD82
1855	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses	1115-AD86
1856	Employment Authorization Document Applications and Process	1115-AE06
1857	Inspection of Persons Applying for Admission; International-to-International User Fee	1115-AE37
1858	Definition of the Term "Lawfully Present" for Purposes of Eligibility for Public Benefits	1115-AE51
1859	Petition for Employment Creation Aliens	1115-AE56
1860	Filing Factual Statements About Alien Prostitutes	1115-AE60
1861	Use of Parole for Humanitarian Reasons or Significant Public Benefit and Report to Congress	1115-AE68
1862	Certification of Certain Health Care Workers	1115-AE73
1863	Regulations Pertaining to Battered Aliens and to Mail Order Bride Businesses, as Mandated by IIRIRA	1115-AE77
1864	En Route Inspections and Reimbursement for Immigration and Naturalization Service Costs	1115-AE98
1865	Special Immigrant Juvenile Petitions	1115-AF11
1866	Extension of Deadline for Special Immigrant Religious Workers	1115-AF12
1867	Documentary Requirements for Returning Residents	1115-AF26
1868	Availability of Material Under Freedom of Information Act and Privacy Act	1115-AF32
1869	Dismissal of Asylum Application for Unexcused Failure To Appear and Effect on Eligibility for Employment Authorization	1115-AF38
1870	H-1B Nonimmigrant Worker Complaints Regarding U.S. Employer Violations Under the American Competitiveness and Workforce Improvement Act (ACWIA)	1115-AF40
1871	Additional Petitioning Requirements for the H-1B Nonimmigrant Classification Under Public Law 105-277	1115-AF41
1872	Special Immigrant Status for Certain NATO Civilian Employees	1115-AF44
1873	Contracts With Transportation Lines	1115-AF46
1874	Adjustment of Status Under the 1966 Cuban Adjustment Act	1115-AF48
1875	Adjustment of Fees for Services at Land Border Ports-of-Entry	1115-AF55
1876	Manifest Requirements and Imposition of Fines Under Section 231 of the Act	1115-AF57
1877	Adjustment of Certain Fees of the Immigration Examinations Fee Account	1115-AF61
1878	Inadmissibility To Enter the United States for Former U.S. Citizens Who Renounced Citizenship To Avoid Taxation	1115-AF69
1879	Imposition of Fines for Violations of the Immigration and Nationality Act	1115-AF70
1880	Establishment of Fee for Processing Genealogical Research Requests for INS Records	1115-AF88
1881	Intercountry Adoptions	1115-AF96
1882	Academic Honorarium for B Nonimmigrant Aliens	1115-AF97
1883	Time Limit for Appeal From Denial of Relative Visa Petition	1115-AF99
1884	Application Petition Fee Waivers	1115-AG02
1885	Adoption of Siblings, Adopted Alien Children Less Than 18 Years of Age Considered a "Child"	1115-AG04
1886	Adjustment to Lawful Resident Status of Certain Class Action Participants Who Entered Before January 1, 1982, Under the Legal Immigration and Family Equity Act (LIFE Act)	1115-AG06
1887	Procedures for Checking Juvenile Criminal Records and Submitting Fingerprints of That Additional Class of Aliens Ineligible for Family Unity	1115-AG07
1888	Authorizing Part-Time Study for F-1 Commuter Students in Contiguous Territories	1115-AG09
1889	Adjustment of Status Under Section 245(k)	1115-AG10
1890	American Competitiveness in the Twenty-First Century Act of 2000 and Other Related Bills **(Reg Plan Seq No. 79)**	1115-AG11
1891	Adjustment of Fees for Dedicated Commuter Lanes and Secure Electronic Network for Travelers' Rapid Inspection (SENTRI) Programs at Land Border Ports-of-Entry	1115-AG18
1892	Removal and Adjustment Procedures for Victims of Trafficking and Certain Criminal Activities	1115-AG21
1893	Definitions for the Terms Notice To Appear and Arrest Warrant	1115-AG24
1894	Visa Waiver Program: Guam Visa Waiver Program	1115-AG25
1895	Procedures for Detainee Hunger Strikes	1115-AG26
1896	Consent To Reapply for Admission After Removal	1115-AG28
1897	Waivers of the 2-Year Foreign Residence Requirement for Certain Exchange Visitors	1115-AG31
1898	Extension of the Validity Period for Employment Authorization Documents for Aliens Seeking Adjustment of Status	1115-AG32
1899	Illegal Entries, Unlawful Presence, and Automatic Voiding of Nonimmigrant Visas	1115-AG36
1900	Medical Examination Requirements and Designation of Civil Surgeons	1115-AG37
1901	Medical Grounds of Inadmissibility and Waivers	1115-AG38
1902	New Classification for Victims of Certain Criminal Activity; Eligibility for the "U" Nonimmigrant Status	1115-AG39

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

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Immigration and Naturalization Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1903	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements (Section 610 Review)	1115-AB73
1904	Adjustment of Status to That of Person Admitted for Permanent Residence: Conditional Residents and Fiance(e)s	1115-AC70
1905	90-Day Modified Inspection of Alien Crew Members	1115-AD95
1906	Establishing Criteria for Determining Countries Whose Citizens Are Ineligible for the Transit Without Visa (TWOV) Program	1115-AD96
1907	Petition To Classify Alien as Immediate Relative of a U.S. Citizen or as a Preference Immigrant; Self-Petitioning for Certain Battered or Abused Alien Spouses and Children	1115-AE04
1908	Conditions on Nonimmigrant Status; Disclosure of Information	1115-AE17
1909	Agreement Promising Non-Deportation or Other Immigration Benefits	1115-AE50
1910	Affidavit of Support on Behalf of Immigrants	1115-AE58
1911	Suspension of Privilege To Transport Aliens to the United States	1115-AE59
1912	Implementation of Hernandez v. Reno Settlement Agreement; Certain Aliens Eligible for Family Unity Benefits After Sponsoring Family Member's Naturalization	1115-AE72
1913	Establishment of Preinspected Automated Lane (PAL) Program at Immigration and Naturalization Service	1115-AE80
1914	Surrender of Aliens Ordered Removed From the United States	1115-AE82
1915	Early Release for Removal of Criminal Aliens in State Custody for Nonviolent Offenses	1115-AE83
1916	Amendment of the Regulatory Definition of Arriving Alien	1115-AE87
1917	Adjustment of Status, Continued Validity of Nonimmigrant Status and Unexpired Employment Authorization for Applicants Maintaining Nonimmigrant H or L Status	1115-AE96
1918	Verification of Eligibility for Public Benefits	1115-AE99
1919	Fingerprinting Applicants and Petitioners for Immigration Benefits; Establishing a Fee for Fingerprinting by the Service	1115-AF03
1920	Processing, Detention, and Release of Juveniles	1115-AF05
1921	Suspension of Deportation and Special Rule Cancellation of Removal for Certain Nationals of Guatemala, El Salvador, and Former Soviet Bloc Countries	1115-AF14
1922	Authorizing Suspension of Employment Authorization Requirements on the Basis of Severe Economic Hardship for F-1 Students and Emergent Circumstances	1115-AF15
1923	Powers of the Attorney General To Authorize State or Local Law Enforcement Officers To Carry Out Immigration Enforcement	1115-AF20
1924	Elimination of Immigration and Naturalization Service-Issued Mexican and Canadian Border Crossing Cards	1115-AF24
1925	Filing of Proposals for Designation as a Regional Center Approved To Participate in the Immigrant Investor Pilot Program	1115-AF27
1926	Nonimmigrant Visa Exemption for Nationals of the British Virgin Islands Entering the United States Through St. Thomas, United States Virgin Islands	1115-AF28
1927	Delegation of the Adjudication of Certain H-2A Petitions to the Department of Labor	1115-AF29
1928	Regulations Concerning the Convention Against Torture	1115-AF39
1929	Interim Designation of Acceptable Receipts for Employment Eligibility Verification	1115-AF42
1930	Inadmissibility and Deportability on Public Charge Grounds	1115-AF45
1931	Application for Refugee Status; Acceptable Sponsorship Agreement Guaranty of Transportation	1115-AF49
1932	Nonimmigrant Classes: Q-2 Irish Peace Process Cultural and Training Program Visitor	1115-AF51
1933	Clarification of Parole Authority	1115-AF53
1934	Extending the Period of Duration of Status for Certain F and J Nonimmigrant Aliens	1115-AF54
1935	Authorizing Collection of Fee Levied on F, J, and M Nonimmigrant Classifications Under Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)	1115-AF56
1936	Conditional Residence of Lawful Permanent Residence for Certain Alien Spouses and Sons and Daughters; Battered and Abused Conditional Residents	1115-AF59
1937	Extension of 25-Mile Limit at Select Arizona Ports-of-Entry	1115-AF60
1938	Revoking Grants of Naturalization	1115-AF63
1939	Entry Requirements for Citizens of the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau	1115-AF65
1940	Registration and Fingerprinting of Aliens in the United States: Control of Employment of Aliens	1115-AF71
1941	National Interest Waivers for Second Preference Employment-Based Immigrant Physicians Serving in Medically Underserved Areas or at Department of Veterans' Affairs Facilities	1115-AF75
1942	Petitioning Requirements for the H-1C Nonimmigrant Classification Under Public Law 106-95	1115-AF76
1943	Expansion of Dedicated Commuter Lanes; Clarification of Driver's License Requirement for Applicants to Dedicated Commuter Lanes and Automated Permit Port Programs	1115-AF77
1944	Waiving the Fingerprinting Requirement for Certain Disabled Naturalization Applicants	1115-AF80

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Immigration and Naturalization Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1945	Update of List of Countries Whose Citizens or Nationals Are Ineligible for Transit Without Visa (TWOV) Privileges to the United States Under the TWOV Program	1115-AF81
1946	Implementation of the Numerical Limit on Asylum Grants and Refugee Admissions Based on Resistance to Coercive Population Control Measures	1115-AF84
1947	Adding Actuaries and Plant Pathologists to Appendix 1603.D.1 of the North American Free Trade Agreement	1115-AF85
1948	Power of Attorney General To Terminate Deportation Proceedings and Initiate Renewal Proceedings	1115-AF87
1949	Employment Authorization for Certificate of Citizenship Applicants	1115-AF90
1950	Adjustment of Status to That of Person Admitted for Permanent Residence; Temporary Removal of Certain Restrictions of Eligibility	1115-AF91
1951	Asylum and Withholding Definitions	1115-AF92
1952	Petition To Classify Alien as Immediate Relative of a U.S. Citizen or Preference Immigrant; Adjustment of Status to That of a Person Admitted for Permanent Residence	1115-AF94
1953	Children Born Outside the United States; Applications for Certificate of Citizenship	1115-AF98
1954	Allowing for the Filing of Form I-140 Visa Petition Concurrently With a Form I-485 Application in Certain Circumstances	1115-AG00
1955	Special Immigrant Visa for Fourth Preference Employment-Based Broadcasters	1115-AG01
1956	Establishing Premium Processing Service for Employment-Based Petitions and Applications	1115-AG03
1957	Adjustment of Status for Certain Nationals of Nicaragua, Cuba, and Haiti	1115-AG05
1958	Nonimmigrant Classes; Spouses and Children of Lawful Permanent Residents; V Classification	1115-AG08
1959	K Nonimmigrant Classification, Legal Immigration Family Equity Act (LIFE)	1115-AG12
1960	Adjustment of Status for Certain Syrian Nationals Granted Asylum in the United States	1115-AG13
1961	Adjustment of Status of Certain Aliens from Vietnam, Cambodia, and Laos in the United States	1115-AG14
1962	Adding Colombia to the List of Countries Whose Citizens or Nationals Are Ineligible for Transit Without Visa (TWOV) Privileges to the United States Under the TWOV Program	1115-AG16
1963	New Classification for Victims of Severe Forms of Trafficking in Persons Eligible for the T Nonimmigrant Status **(Reg Plan Seq No. 80)**	1115-AG19
1964	Protection and Assistance for Victims of Trafficking	1115-AG20
1965	Removing Russia From the List of Countries Whose Citizens or Nationals Are Ineligible for Transit Without Visa (TWOV) Privileges to the United States Under the TWOV Program	1115-AG27
1966	Detention of Aliens Subject to Final Orders of Removal	1115-AG29
1967	Allowing Citizens and Nationals of the People's Republic of China Limited Transit Without Visa (TWOV) Privileges at TWOV-Designated Alaska International Airports	1115-AG33
1968	Custody Procedures	1115-AG40

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Immigration and Naturalization Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1969	Visa Waiver Program	1115-AB93
1970	Employer Sanctions Modifications	1115-AE21
1971	Regulations Relating to Temporary Protected Status	1115-AE26
1972	Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings	1115-AE47
1973	F-1 Visa Abusers and Foreign Students	1115-AE63
1974	Employment Verification by Employers That Are Members of a Multi-Employer Association	1115-AE67
1975	Limiting Liability for Certain Technical and Procedural Violations of Paperwork Requirements	1115-AE70
1976	Public Charge Bond Pilot Program	1115-AE78
1977	Expansion of Expedited Removal of Certain Criminal Aliens Held in Federal, State, and Local Jails	1115-AF50
1978	Increasing the Number of Officers Authorized To Issue Notices To Appear and Arrest Warrants for Immigration Violations	1115-AG22

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Immigration and Naturalization Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
1979	Progressive Clearance Stopovers	1115-AF23
1980	Adjustment of Service Fee for Fingerprinting for Immigration and Naturalization Benefits	1115-AF83
1981	Removal of Burma From Guam Visa Waiver Program	1115-AF95

Legal Activities—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1982	Revision of 28 CFR Part 15 Pertaining to the Defense of Certain Suits Against Federal Employees To Conform to the Federal Employees Liability Reform and Tort Compensation Act	1105-AA62
1983	Designation of Agencies To Receive and Investigate Reports Required Under the Protection of Children From Sexual Predators Act	1105-AA65
1984	Motor Vehicle Salvage Regulations	1105-AA71
1985	Claims Under the Radiation Exposure Compensation Act Amendments of 2000: Technical Amendments; Expansion of Coverage to Uranium Mill Workers and Ore Transporters	1105-AA75
1986	Establishment of Minimum Safety and Security Standards for Private Companies That Transport Violent Prisoners	1105-AA77

Legal Activities—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1987	Foreign Agents Registration Act; Regulations Revised and Clarified To Reflect Changes in the Law	1105-AA45
1988	Ethical Standards for Attorneys for the Government	1105-AA67
1989	Enhanced Notice and Release Procedures for Owners of Seized Property Pursuant to the CAFRA of 2000; Disposition of Seized Property Too Costly To Maintain; Consolidation of Department Regulations	1105-AA74
1990	Regulations Under the DNA Analysis Backlog Elimination Act of 2000	1105-AA78

Legal Activities—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1991	Violent Crime and Drug Emergency Areas	1105-AA29
1992	False Claims Amendments Act of 1986—Civil Investigative Demands	1105-AA42
1993	Waiver for Firearm Prohibition on Nonimmigrant Visa Holders	1105-AA66

Office of Justice Programs—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1994	Public Safety Officers' Benefits Program	1121-AA56
1995	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	1121-AA57
1996	Emergency Federal Law Enforcement Assistance	1121-AA60

Office of Justice Programs—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1997	Grants Program for Indian Tribes	1121-AA41

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Office of Justice Programs—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1998	Bulletproof Vest Partnership Grant Acts of 1998 and 2000	1121-AA48
1999	Environmental Impact Review Procedures for the VOI/TIS Grant Program	1121-AA52
2000	Criminal Intelligence Systems Operating Policies	1121-AA59

Office of Justice Programs—Completed Actions

Sequence Number	Title	Regulation Identification Number
2001	Nondiscrimination in Federally Assisted Programs or Activities	1121-AA58

Department of Justice (DOJ)
Bureau of Prisons (BOP)

Proposed Rule Stage

1773. RELEASE OF INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 31 USC 3711(f)

CFR Citation: 28 CFR 513

Legal Deadline: None

Abstract: This document revises Bureau regulations implementing the Freedom of Information Act and the Privacy Act in order to simplify the procedures and to eliminate unnecessary regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA96

1774. LITERACY PROGRAM: GED REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 28 USC 509 to 510

CFR Citation: 28 CFR 520

Legal Deadline: None

Abstract: This document addresses the relationship between participating in the literacy program and being eligible for good conduct time.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AB02

1775. INFECTIOUS DISEASE MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; ...

CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: This document is a proposed rule (split from the interim final rule, RIN 1120-AA23) on the correctional management of tuberculosis, HIV, and hepatitis B. The changes to the regulations address the circumstances under which the Bureau conducts voluntary and involuntary testing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
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RIN: 1120–AB03

DOJ—BOP

Proposed Rule Stage

1776. DRUG ABUSE TREATMENT PROGRAM: SUBPART REVISION AND CLARIFICATION

Priority: Info./Admin./Other

Legal Authority: 18 USC 3521 to 3528, 4042, 4046, 4081, 4082, 5006 to 5024, 5039; 28 USC 848, 509, 510; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; ...

CFR Citation: 28 CFR 550

Legal Deadline: None

Abstract: In this document, the Bureau of Prisons proposes to amend its regulations on the drug abuse treatment program. We intend this amendment to streamline and clarify these regulations, eliminating unnecessary text and obsolete language, and removing internal agency procedures that need not be in rules text.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AB07

Department of Justice (DOJ)
Bureau of Prisons (BOP)

Final Rule Stage

1777. VOLUNTEER COMMUNITY SERVICE PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 1512; 18 USC 5039; 28 USC 509 to 510; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024

CFR Citation: 28 CFR 551.60

Legal Deadline: None

Abstract: This document finalizes provisions for Volunteer Community Service Projects. A volunteer community service project is a project designed to provide for the public good, which has been developed by local government or by a nonprofit charitable organization for approval by the Bureau.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/93	58 FR 5210
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA03

1778. INTENSIVE CONFINEMENT CENTERS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 524.31 to 524.34

Legal Deadline: None

Abstract: This document finalizes procedures for the operation of a specialized program combining features of a military boot camp with the tradifional correctional values of the Bureau of Prisons. Inmates who successfully complete this program may be placed in community-based programs for longer periods of time than ordinarily permitted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/26/96	61 FR 18658
Interim Final Rule Effective	05/28/96	
Interim Final Rule Comment Period End	06/25/96	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA11

1779. INCOMING PUBLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 18 USC 5039; 28 USC 509 to 510; 28 USC 1346(b); 28 USC 2671 to 2680; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024

CFR Citation: 28 CFR 540.71

Legal Deadline: None

Abstract: This document amends Bureau regulations on Incoming Publications to require that inmates in medium security, high security, and administrative institutions may receive softcover publications only from the publisher, book club, or bookstore.

Timetable:

Action	Date	FR Cite
NPRM	01/18/94	59 FR 2668
NPRM Comment Period End	03/21/94	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
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Fax: 202 307-0828

RIN: 1120–AA15

DOJ—BOP

Final Rule Stage

1780. INFECTIOUS DISEASES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: This document finalizes regulations on the correctional management of tuberculosis, HIV, and hepatitis B.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/95	60 FR 52278
Interim Final Rule Comment Period End	12/04/95	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA23

1781. POSTSECONDARY EDUCATION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544

Legal Deadline: None

Abstract: This document revises the Bureau's regulations on postsecondary education to exclude courses which are offered as part of an occupational education program. Courses which are offered as part of an occupational education program are to be covered by the Bureau's regulations on occupational education. The inmate is consequently responsible for paying postsecondary education tuition costs either through personal funds, community resources, or scholarships available to the inmate. This revision is intended to simplify the organization of the Bureau's regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/17/00	65 FR 44400
NPRM Comment Period End	09/15/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA25

1782. LITERACY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544.70 to 544.76

Legal Deadline: None

Abstract: This document makes changes to the Bureau's literacy program regulations for the sake of clarification or simplification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/26/97	62 FR 50791
Interim Final Rule Effective	11/03/97	
Interim Final Rule Comment Period End	11/25/99	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA33

1783. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039

CFR Citation: 28 CFR 540

Legal Deadline: None

Abstract: This document postpones the effective date for certain provisions of the final rule on telephone regulations and inmate financial responsibility, which was published on April 4, 1994.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/02/96	61 FR 90
Interim Final Rule Comment Period End	03/04/96	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA39

1784. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 18 USC 3663; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 5 USC 552a; 18 USC 1791; 18 USC 3013; 18 USC 3571; 18 USC 3572; 18 USC 3621; 18 USC 3622; 18 USC 3624

CFR Citation: 28 CFR 540.105; 28 CFR 545.11

Legal Deadline: None

Abstract: On January 2, 1996, BOP published an NPRM proposing limitations on telephone privileges and commissary privileges for inmates who refuse to participate in the inmate financial responsibility program (BOP 1050). On December 28, 1999, BOP finalized that portion of the NPRM

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pertaining to limitations on commissary privileges. BOP is continuing to work on addressing issues raised by its proposed limitations on telephone privileges for inmates who are inmate financial responsibility program refusees. BOP will finalize that portion of its January 1996 NPRM in a separate document (BOP 1102).

Timetable:

BOP 1050
NPRM 01/02/96 (61 FR 92)
NPRM Comment Period End 03/04/96
Final Action 12/28/99 (64 FR 72798)
Final Action Effective 01/27/00

BOP 1102
Final Action 12/00/01
Final Action Effective 01/00/02

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
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RIN: 1120–AA49

1785. INCOMING PUBLICATIONS: NUDITY AND SEXUALLY EXPLICIT MATERIAL OR INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 18 USC 5039; 28 USC 509 to 510; PL 104-208; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024

CFR Citation: 28 CFR 540.70 to 540.72

Legal Deadline: None

Abstract: This rule modifies the Bureau of Prisons rule on Incoming Publications in order to implement the provisions of the Fiscal Year 1997 Omnibus Budget Act (Public Law 104-208) prohibiting use of appropriated funds for distributing or making available to an inmate any commercially published information or material when such information or material is sexually explicit or features nudity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/96	61 FR 57568
Interim Final Rule Effective	12/01/96	
Interim Final Rule Comment Period End	01/06/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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Phone: 202 307-2105
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RIN: 1120–AA59

1786. GOOD CONDUCT TIME

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3568; 28 USC 509 to 510; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039

CFR Citation: 28 CFR 523

Legal Deadline: None

Abstract: This document notes the statutory requirements for the awarding of good conduct time, including the Bureau's consideration in instances where the inmate does not have a high school diploma or GED and is not making satisfactory progress toward earning a high school diploma or GED.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/26/97	62 FR 50786
Interim Final Rule Effective	11/03/97	
Interim Final Rule Comment Period End	11/25/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
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RIN: 1120–AA62

1787. ADMINISTRATIVE REMEDY PROGRAM: EXCLUDED MATTERS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 542

Legal Deadline: None

Abstract: This document amends Bureau regulations on the Administrative Remedy Program to provide for the processing of certain requests or appeals which previously had been excluded. This amendment is intended to comply with provisions of the Prisoner Litigation Reform Act pertaining to exhaustion of available administrative remedies.

Timetable:

Action	Date	FR Cite
NPRM	06/27/00	65 FR 39767
NPRM Comment Period End	08/28/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA72

1788. VISITING REGULATIONS: PRIOR RELATIONSHIP

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 28 USC 509 to 510; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039

CFR Citation: 28 CFR 540.44

Legal Deadline: None

Abstract: This document revises regulations on visiting to require that visiting privileges at all institutions ordinarily shall be extended to friends and associates only when the relationship had been established prior to confinement. Previously this requirement was applicable only at

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Medium Security Level, High Security Level, and Administrative Institutions.

Timetable:

Action	Date	FR Cite
NPRM	05/18/99	64 FR 27166
NPRM Comment Period End	07/19/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1120–AA77

1789. SMOKING/NO SMOKING AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 1512; 18 USC 5039; 28 USC 509 to 510; EO 13058; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024

CFR Citation: 28 CFR 551.160 to 551.163

Legal Deadline: None

Abstract: This document revises the Bureau's regulations on smoking to limit smoking in Bureau facilities to visibly designated outdoor locations, unless an indoor area has been designated as a smoking area to be used exclusively for authorized religious activities.

Timetable:

Action	Date	FR Cite
NPRM	11/25/98	63 FR 65502
NPRM Comment Period End	01/25/99	
Second NPRM	05/06/99	64 FR 24468
Second NPRM Comment Period End	07/06/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA79

1790. OVER-THE-COUNTER (OTC) MEDICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 28 USC 509 to 510; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4045; 18 USC 4081 to 4082; 18 USC 4241 to 4247; 18 USC 5006 to 5024; 18 USC 5039

CFR Citation: 28 CFR 549.30 to 549.31

Legal Deadline: None

Abstract: This document establishes procedures governing inmate access to over-the-counter (OTC) medications. Selected OTC medications are currently available to the inmate population through commissary purchase. The Bureau will continue to dispense OTC medications at sick call only if the inmate does not already have the OTC medications and health services staff determine the inmate has an immediate medical need that needs to be addressed before the inmate's regularly scheduled commissary visit or that the inmate is without funds.

Timetable:

Action	Date	FR Cite
NPRM	03/01/99	64 FR 10094
NPRM Comment Period End	04/30/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
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RIN: 1120–AA81

1791. ADMINISTRATIVE SAFEGUARDS FOR PSYCHIATRIC TREATMENT AND MEDICATION; MILITARY PRISONERS AND DISTRICT OF COLUMBIA CODE VIOLATORS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 876b; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4045; 18 USC 4081 to 4082; 18 USC 4241 to 4247

CFR Citation: 28 CFR 549.43

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on involuntary psychiatric treatment and medication to conform with statutory authority pertaining to military prisoners and District of Columbia (DC) Code violators.

Timetable:

Action	Date	FR Cite
Final Action	06/00/02	
Final Action Effective	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA83

1792. DESIGNATION OF OFFENSES SUBJECT TO SEX OFFENDER RELEASE NOTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3565; 18 USC 5006 to 5024; 18 USC 5031 to 5042; 28 USC 509 to 510; 18 USC 2568 to 3569; 18 USC 3582; 18 USC 3621 to 3622; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 4201 to 4218

CFR Citation: 28 CFR 571

Legal Deadline: None

Abstract: This document designates various offenses as sexual offenses for purposes of 18 U.S.C. 4042(c). The designations ensure that notifications can be made for military offenders, for District of Columbia Code offenders,

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and for these and other Federal inmates with a sex offense in their criminal history.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/16/98	63 FR 69386
Interim Final Rule Comment Period End	02/16/99	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA85

1793. INMATE COMMISSARY ACCOUNT DEPOSIT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 509 to 510; 31 USC 725; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039

CFR Citation: 28 CFR 506; 28 CFR 540.23; 28 CFR 540.51

Legal Deadline: None

Abstract: This document specifies how an inmate may receive funds from family, friends, and other sources. Any funds sent from family or friends will be sent directly to a centralized inmate commissary account for receipt and posting. Funds received from other sources such as tax refunds, dividends from stocks, or State benefits will be forwarded for deposit to the centralized inmate commissary account.

Timetable:

Action	Date	FR Cite
NPRM	04/23/99	64 FR 20126
NPRM Comment Period End	06/22/99	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
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RIN: 1120–AA86

1794. DRUG ABUSE TREATMENT PROGRAMS: DISINCENTIVES AND ENHANCED INCENTIVES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3521 to 3528; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081; 18 USC 4082

CFR Citation: 28 CFR 550

Legal Deadline: None

Abstract: This document broadens the eligibility criteria for the drug abuse education program. In addition, this document establishes disincentives which may be imposed for the purpose of encouraging inmates to participate in the residential drug treatment program.

Timetable:

Action	Date	FR Cite
NPRM	09/20/00	65 FR 56840
NPRM Comment Period End	11/20/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
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RIN: 1120–AA88

1795. SEARCHES OF HOUSING UNITS, INMATES, INMATE WORK AREAS, AND PERSONS OTHER THAN INMATES: ELECTRONIC DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 751 to 752; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 18 USC 1791 to 1793; 18 USC 3050; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4012; 18 USC 4042; 18 USC 4081 to 4082

CFR Citation: 28 CFR 511; 28 CFR 552

Legal Deadline: None

Abstract: This document clarifies provisions in the Bureau's regulations which pertain to the use of electronic devices in searches of inmates and persons other than inmates.

Timetable:

Action	Date	FR Cite
NPRM	02/25/99	64 FR 9431
NPRM Comment Period End	04/26/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
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RIN: 1120–AA90

1796. OCCUPATIONAL EDUCATIONAL PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544

Legal Deadline: None

Abstract: This rule revises the Bureau's regulations on occupational educational programs to remove obsolete or redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/17/00	65 FR 44401
NPRM Comment Period End	09/15/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534

DOJ—BOP **Final Rule Stage**

Phone: 202 307-2105
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RIN: 1120–AA92

1797. DRUG TESTING PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4251 to 4255; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 550

Legal Deadline: None

Abstract: This document consolidates into a single drug testing program separately stated regulations on alcohol testing and urine surveillance. The consolidated regulations provide for more flexibility in the use of testing methods.

Timetable:

Action	Date	FR Cite
NPRM	09/21/00	65 FR 57126
NPRM Comment Period End	11/20/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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Phone: 202 307-2105
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RIN: 1120–AA95

1798. CORRESPONDENCE: INSPECTION OF OUTGOING GENERAL CORRESPONDENCE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 540.14

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on correspondence to require that outgoing inmate general correspondence at all institutions may not be sealed and may be read and inspected by staff. This amendment is intended to provide for the continued efficient and secure operation of the institution and to protect the public. The requirement does not apply to special mail.

Timetable:

Action	Date	FR Cite
NPRM	07/27/99	64 FR 40718
NPRM Comment Period End	09/27/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA98

1799. RELEASE GRATUITIES, TRANSPORTATION, AND CLOTHING: ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3565; 18 USC 3568 to 3569; 18 USC 3582; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 4201 to 4218; 18 USC 5006 to 5024; 18 USC 5031 to 5042; 28 USC 509 to 510

CFR Citation: 28 CFR 571.21

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on release gratuities, transportation, and clothing to require that aliens being released to immigration authorities for the purpose of release, transfer to a community corrections center, or another processing center, be provided a $10 gratuity. Aliens being released with an order of deportation, exclusion, or removal, or aliens detained or serving 60 days or less in contract facilities would not receive the gratuity.

Timetable:

Action	Date	FR Cite
NPRM	10/04/99	64 FR 53872
NPRM Comment Period End	12/03/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA99

1800. RELIGIOUS BELIEFS AND PRACTICES: NOMENCLATURE CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 42 USC 1996; ...

CFR Citation: 28 CFR 548

Legal Deadline: None

Abstract: This regulation renames the special diet that accommodates inmates' religious dietary practices. The old name was "common fare" and the new name will be "the religious diet menu."

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	
Interim Final Rule Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AB04

1801. DISTRICT OF COLUMBIA EDUCATIONAL GOOD TIME CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3568; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

DOJ—BOP

Final Rule Stage

CFR Citation: 28 CFR 523

Legal Deadline: None

Abstract: This rule establishes procedures for awarding educational good time credit consistent with the D.C. Code for D.C. Code offenders in Bureau institutions or Bureau contract facilities, under the National Capital Revitalization and Self-Government Improvement Act of 1997, who committed their offenses before August 5, 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	
Interim Final Rule Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AB05

1602. SUICIDE PREVENTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621, 3622, 3624, 4001, 4042, 4081, 4082, 5006 to 5024, 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 552

Legal Deadline: None

Abstract: This document revises Bureau regulations on the suicide prevention program for the sake of clarity and in order to remove Agency management procedures which do not need to be stated in regulations. The revised regulations more clearly delineate for the inmate the procedures used to identify and protect inmates deemed to be at risk for suicide.

Timetable:

Action	Date	FR Cite
NPRM	11/13/00	65 FR 67670
NPRM Comment Period End	01/12/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AB06

Department of Justice (DOJ)
Bureau of Prisons (BOP)

Completed Actions

1803. CLASSIFICATION AND PROGRAM REVIEW

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 524; 28 CFR 571

Completed:

Reason	Date	FR Cite
Withdrawn	08/03/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA93

1804. ADMINISTRATIVE REMEDY PROGRAM: APPLICABILITY TO CONTRACT FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 542

Completed:

Reason	Date	FR Cite
Withdrawn	07/30/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AA97

1805. SEARCHING AND DETAINING OR ARRESTING PERSONS OTHER THAN INMATES: DENIAL OF VISITING

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 511

Completed:

Reason	Date	FR Cite
Withdrawn	07/30/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi
Phone: 202 307-2105
Fax: 202 307-0828

RIN: 1120–AB01

Department of Justice (DOJ)
Civil Rights Division (CRT)

Proposed Rule Stage

1806. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 77 in part II of this issue of the **Federal Register**.

RIN: 1190–AA44

1807. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 78 in part II of this issue of the **Federal Register**.

RIN: 1190–AA46

1808. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS; RECREATION FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 28 USC 509 to 510; 42 USC 12134; 42 USC 12186; PL 101-336

CFR Citation: 28 CFR 35; 28 CFR 36

Legal Deadline: None

Abstract: On July 9, 1999, the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) published a Notice of Proposed Rulemaking (NPRM) to amend the ADA Accessibility Guidelines (ADAAG), which form the basis of the Department's ADA Standards for Accessible Design. After receiving public comments, the Access Board published a summary of proposed changes to the guidelines for public comment on July 21, 2000. This NPRM would, for the first time, establish accessibility guidelines for the design of recreation facilities, such as health clubs, golf courses, and amusement parks. The ADA (sections 204(c) and 306(c)) requires the Department's accessibility standards to be consistent with the Access Board's guidelines. Therefore, the Department expects to publish a NPRM proposing to adopt the revisions proposed by the Access Board and proposing related changes to the Department's regulations with respect to the operation of recreation facilities. Individuals with disabilities cannot participate in the social and economic realms of the Nation without being able to access public entities and public accommodations throughout the country. Promulgating this amendment to the Department's ADA regulations will ensure that the regulations are consistent with the Access Board's ADA Accessibility Guidelines, thereby preventing the confusion that could develop if the Department's regulations were inconsistent with the Access Board guidelines. In addition, amending the Department's ADA regulations will improve the Department's overarching goal of improving access for persons with disabilities. The proposed rule will ensure that new recreation facilities are readily accessible to and usable by individuals with disabilities. As new recreation facilities are designed and constructed to be accessible, individuals with disabilities will enjoy the benefits of these facilities. Operators of recreation facilities will experience increased usage and patronage by individuals with disabilities. Designers and manufacturers will have a clear and consistent set of standards with which to work. Establishing uniform standards for accessibility has resulted in innovation and new designs that are cost effective and beneficial to everyone.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD Phone: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA47

1809. AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT OF 1998 COMPLAINT PROCESS

Priority: Other Significant

Legal Authority: 8 USC 1182(n)(5)

CFR Citation: 28 CFR 44.500

Legal Deadline: None

Abstract: The American Competitiveness and Workforce Improvement Act (ACWIA)—enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998—made various changes to the Immigration and Nationality Act (the INA) relating to temporary nonimmigrant professionals. In this rule (RIN 1190-AA48), the Department's Office of Special Counsel for Unfair Immigration-Related Employment Practices (OSC) will implement the ACWIA "failure to select" protections—codified in the INA at section 212(n)(5)—by establishing a process under which U.S. workers may file complaints against employers for denying them employment opportunities by improperly hiring temporary foreign professionals on H-1B visas. Under this process, OSC may receive and review these complaints, and then—if there is reasonable cause to believe the allegations—initiate binding arbitration proceedings through the Federal Mediation and Conciliation Service (FMCS). This rule also includes changes to the regulations of the Office of the Chief Administrative Hearing Officer of the Executive Office for Immigration Review to provide for the review of arbitrators' decisions and, where appropriate, the award of administrative relief. These rules are being coordinated with the Immigration and Naturalization Service (INS) and the Department of Labor (DOL).

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: Through RIN 1115-AF40 (INS No. 1974-99), INS will implement the ACWIA "whistleblower" protection provisions—codified in the INA at section 212(n)(2)(C)(iv) and (v)—prohibiting retaliation against H-1B

workers who disclose information which they believe indicates their employer has violated the law or regulations pertaining to labor condition applications for nonimmigrants. That rule will also enable an H-1B worker who files a complaint alleging retaliation to remain in the United States and seek authorization to work in the United States for a temporary period while his or her complaint is under review.

Through RIN 1115-AF41 (INS No. 1975-99), INS will implement portions of ACWIA pertaining to new penalties for employers misrepresenting material facts in an H-1B application. That rule complements regulations issued by the Department of Labor (DOL). It also defines the term "United States employer" and implements other provisions of ACWIA.

Agency Contact: David Palmer, Acting Special Litigation Counsel, Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration Related Unfair Employment Practices, P.O. Box 27728, Washington, DC 20038-7728
Phone: 202 616-5594
Fax: 202 616-5509

Larry P. Cote, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-3172
Fax: 703 305-0443

RIN: 1190–AA48

1810. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE OR LOCAL GOVERNMENT FACILITIES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS; PLAY AREAS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 301; 28 USC 509 to 510; 42 USC 12134; 42 USC 12186; PL 101-336

CFR Citation: 28 CFR 35; 28 CFR 36

Legal Deadline: None

Abstract: On October 18, 2000, the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) published a final rule to supplement the ADA Accessibility Guidelines (ADAAG), which form the basis of the Department's ADA Standards for Accessible Design. These guidelines establish for the first time accessibility guidelines for the design of play areas. The ADA (sections 204(c) and 306(c)) requires the Department's accessibility standards to be consistent with the Access Board's guidelines. Therefore, the Department expects to publish a NPRM proposing to adopt the revisions of the Access Board and proposing related changes to the Department's regulations with respect to the operation of play areas.

Persons with disabilities cannot participate in the social and economic realms of the Nation without being able to access public entities and public accommodations throughout the country. Promulgating this amendment to the Department's ADA regulations will ensure that the regulations are consistent with the Access Board's ADA Accessibility Guidelines, thereby preventing the confusion that could develop if the Department's regulations were inconsistent with the Access Board Guidelines. In addition, amending the Department's ADA regulations will improve the Department's overarching goal of improving access for persons with disabilities. This rule is designed to ensure that new play areas are readily accessible to and usable by persons with disabilities. As new play areas are designed and constructed to be accessible, persons with disabilities will enjoy the benefits of these areas. Operators of play areas will experience increased usage and patronage by persons with disabilities. Designers and manufacturers will have a clear and consistent set of standards with which to work. Establishing uniform standards for accessibility has resulted in innovation and new designs that are cost effective and beneficial to everyone.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD Phone: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA50

1811. AMENDMENTS TO PROCEDURES ADVISING STATES AND POLITICAL SUBDIVISIONS SPECIALLY COVERED UNDER THE VOTING RIGHTS ACT HOW TO SEEK PRECLEARANCE FROM THE ATTORNEY GENERAL OF PROPOSED VOTING CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 28 USC 509 to 510; 42 USC 1973a(c); 42 USC 1973c

CFR Citation: 28 CFR 51

Legal Deadline: None

Abstract: Section 5 of the Voting Rights Act of 1965 requires that certain States and their political subdivisions (covered jurisdictions) obtain "preclearance" from the Federal Government of proposed changes in voting practices and procedures prior to their implementation. Preclearance may be obtained either through litigation in the United States District Court for the District of Columbia or administratively from the Attorney General. In 1971 the Department first issued procedures for the administration of section 5 to inform covered jurisdictions concerning the manner in which they could comply with section 5 in the administrative proceeding before the Attorney General. In subsequent years, the Department has amended these procedures to reflect changes in section 5 law, in the Attorney General's internal practices, and to make the procedures clearer and easier to follow. In the 14 years since the last major amendment to the procedures, there have been significant changes in section 5 law and in the practices employed by the Department in processing submissions, which are not reflected in the existing Procedures.

The proposed revisions will: (1) Simplify the submission process for section 5 subjurisdictions; (2) clarify the matters that are subject to section 5 review; (3) provide greater definition to the operation of the 60-day review requirement and the permissible responses of the Attorney General to a

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section 5 submission; (4) clarify access to section 5 records of persons outside the Department; and (5) make technical corrections to the delegation of authority to make preclearance decisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Joseph D. Rich, Acting Chief, Voting Section, Department of Justice, Civil Rights Division, Room 7254, 1800 G Street NW, Washington, DC 20006
Phone: 202 307-2870

RIN: 1190–AA51

1812. AMENDMENTS TO COORDINATION OF ENFORCEMENT OF NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000d et seq; 29 USC 706; 29 USC 794; EO 12250

CFR Citation: 28 CFR 42.401 to 42.415; 28 CFR 41.1 to 41.58

Legal Deadline: None

Abstract: The Department of Justice proposes to make amendments to its coordination regulations concerning agency enforcement of title VI of the Civil Rights Act of 1964, 28 CFR 42.401 to 42.415, and agency enforcement of section 504 of the Rehabilitation Act of 1972, 28 CFR 41.1 to 41.58. In 1998, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The proposed amendments explicitly incorporate the CRRA's definition of "program or activity" and "program" into the Department's title VI and section 504 coordination regulations. The Department's proposed regulation will be published as part of a joint Notice of Proposed Rulemaking which will include similar amendments to the regulations of the Department of Defense and the Department of Housing and Urban Development implementing title VI, section 504, and/or the Age Discrimination Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander, Chief, Coordination and Review Section, Department of Justice, Civil Rights Division, P.O. Box 66560, Washington, DC 20035-6560
Phone: 202 307-2222
TDD Phone: 202 307-2678
Fax: 202 307-0595
Email: merrily.a.friedlander@usdoj.gov

RIN: 1190–AA52

1813. • PROCEDURES TO REVIEW POLICE DEPARTMENTS FOR A PATTERN OR PRACTICE OF CONDUCT THAT DEPRIVES PERSONS OF RIGHTS, PRIVILEGES, OR IMMUNITIES SECURED OR PROTECTED BY THE CONSTITUTION OR LAWS OF THE U.S.

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 28 USC 509

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. section 14141 ("section 14141"), the Attorney General is authorized to file lawsuits seeking court orders to reform police departments engaging in a pattern or practice of conduct that deprives persons of rights, privileges, or immunities secured by the Constitution or laws of the United States. To date, the Department of Justice has conducted reviews of police departments pursuant to section 14141 using informal procedures. The purpose of this rule is to formalize the procedures by which the Department reviews police departments for a pattern or practice of unlawful conduct.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Robert Driscoll, Deputy Assistant Attorney General, Department of Justice, Civil Rights Division, Room 5541, 950 Pennsylvania Avenue, NW, Washington, DC 20530
Phone: 202 353-0742

RIN: 1190–AA53

Department of Justice (DOJ)
Civil Rights Division (CRT)

Final Rule Stage

1814. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 28 CFR 42.101 to 42.112; 28 CFR 42.501 to 42.540; 28 CFR 42.700 to 42.736

Legal Deadline: None

Abstract: The Department of Justice proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of "program or activity" and "program" into the Department's title VI, section 504, and Age Discrimination Act regulations. The Department's proposed regulation will be published as part of a joint Notice of Proposed Rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander, Chief, Coordination and Review Section, Department of Justice, Civil Rights Division, P.O. Box 66560, Washington, DC 20035-6560
Phone: 202 307-2222
TDD Phone: 202 307-2678
Fax: 202 307-0595
Email: merrily.a.friedlander@usdoj.gov

RIN: 1190–AA49

Department of Justice (DOJ)
Civil Rights Division (CRT)

Long-Term Actions

1815. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 35

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58462
NPRM Comment Period End	01/26/96	
NPRM Comment Period Extended to 03/01/1996	02/06/96	61 FR 4389
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: John L. Wodatch
Phone: 800 514-0301
TDD Phone: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA36

Department of Justice (DOJ)
Drug Enforcement Administration (DEA)

Prerule Stage

1816. • REORGANIZATION AND CLARIFICATION OF DEA REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 871(b)

CFR Citation: 21 CFR 1300; 21 CFR 1301; 21 CFR 1302; 21 CFR 1303; 21 CFR 1304; 21 CFR 1305; 21 CFR 1306; 21 CFR 1307; 21 CFR 1308; 21 CFR 1309; 21 CFR 1310; 21 CFR 1312; 21 CFR 1313; ...

Legal Deadline: None

Abstract: DEA is considering whether to propose a revision and reorganization of Title 21, Code of Federal Regulations, Chapter II. These regulations relate to the manufacture, distribution, dispensing, importation, and exportation of controlled substances and the manufacture, distribution, importation, and exportation of listed chemicals. DEA is considering this action to further clarify and reorganize the current regulations. In addition, if DEA decides to redraft the regulations it would do so in plain language to make them easier to understand. The decision on whether and how to revise and reorganize the regulations and the extent of any changes will be based on the information and comments submitted in response to this Advance Notice of Proposed Rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/02	
ANPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-221

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of

DOJ—DEA **Prerule Stage**

Diversion Control, Washington, DC 20537
Phone: 202 307-7297
RIN: 1117–AA63

Department of Justice (DOJ)
Drug Enforcement Administration (DEA)
Proposed Rule Stage

1817. GUIDELINES FOR PROVIDING CONTROLLED SUBSTANCES TO OCEAN VESSELS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 871(b)

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: DEA is considering whether to propose amending its regulations regarding the supply of controlled substances to ocean vessels to provide a means of supply more consistent with current industry practices for other materials. The decision on whether to propose amendments will be based on the information and comments submitted in response to this notice of proposed rulemaking and DEA's experience with the existing procedures and practices for supplying controlled substances to ocean vessels.

Timetable:

Action	Date	FR Cite
ANPRM	09/18/96	61 FR 49086
ANPRM Comment Period End	11/18/96	
NPRM	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-142

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA40

1818. SALE BY FEDERAL DEPARTMENTS OR AGENCIES OF CHEMICALS USABLE TO MANUFACTURE A CONTROLLED SUBSTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 880; 21 USC 958(f); 21 USC 965; 21 USC 890

CFR Citation: 21 CFR 1310; 21 CFR 1316

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to provide that a Federal department or agency may not sell from the stocks of the department or agency any chemical which could be used in the manufacture of a controlled substance unless the Administrator of DEA certifies in writing to the head of the department or agency that there is no reasonable cause to believe that the sale of the chemical would result in the illegal manufacture of a controlled substance. The proposed rulemaking provides regulatory guidelines and establishes a procedure for prospective bidder and/or broker to appeal if they are aggrieved by DEA's failure to provide such certification.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: DEA-176

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA47

1819. PLACEMENT OF GAMMA-BUTYROLACTONE IN LIST I OF THE CONTROLLED SUBSTANCES ACT (21 U.S.C. 802)

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: Public Law 106-172, signed into law on February 18, 2000, and known as the "Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 1999" amends section 102(34) of the Controlled Substance Act as amended (CSA) by designating gamma-butyrolactone (GBL), the precursor to gamma-hydroxybutyric acid (GHB), as a List I chemical. Reflecting this change in stature, the Drug Enforcement Administration (DEA) is amending its regulation to reflect the status of GBL as a List I chemical subject to the requirements of the CSA and its regulations. Establishments of a threshold for GBL will be the subject of a separate rulemaking. Therefore, unless and until a threshold is established, any distribution of GBL is a regulated transaction as described by 21 CFR 1300.02(b)(28). All handlers of GBL must comply with the CSA regulatory requirements pertaining to List I chemicals as described in the body of this document.

Timetable:

Placement of Gamma-Butyrolactone in List I of the Controlled Substance Act (21 U.S.C. 802)
Final Rule 04/24/00 (65 FR 21645)
Threshold for Gamma-Butyrolactone
NPRM 10/24/01 (66 FR 53746)
NPRM Comment Period End 12/24/01
Final Action 04/00/02

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-199, DEA-203

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation

Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7183

RIN: 1117–AA52

1820. INDUSTRIAL USE OF PRODUCTS AND MATERIALS DERIVED FROM CANNABIS PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 811; 21 USC 812; 21 USC 871(b)

CFR Citation: 21 CFR 1308

Legal Deadline: None

Abstract: DEA is planning to publish three rules simultaneously in the Federal Register regarding the status of products manufactured from the cannabis plant. It is anticipated that the three rules will be as follows.

The first rule will be an interpretive rule, which will provide DEA's interpretation of existing law with respect to the listing of tetrahydrocannabinols (THC) in Schedule I of the Controlled Substances Act (CSA) and DEA regulations. (Please see "Additional Information" for further details.)

The second rule will be a proposed rule, which will propose to revise the wording of the DEA regulations to more clearly reflect DEA's interpretation of the law as set forth in the interpretive rule. The proposed rule would make clear that the listing of THC in Schedule I includes both natural and synthetic THC and that any substance containing any amount of THC is a Schedule I controlled substance—even if such substance is made from "hemp."

The third rule will be an interim rule, which will exempt from application of the CSA and DEA regulations certain industrial "hemp" products. DEA would be issuing this rule to allow the continuation of what have historically been considered legitimate industrial uses of "hemp." Under this rule, industrial "hemp" products such as paper, rope, and clothing may continue to be marketed in the United States without being subject to the CSA. At the same time, in order to protect the public health and safety, the interim rule will not allow "hemp" products that result in THC entering the human body. In this manner, it will remain clear that the only lawful way THC may enter the human body is when a person is using a federally approved drug or when the person is the subject of federally approved research.

Timetable:

Clarification of Listing of Tetrahydrocannabinols	
NPRM	10/09/01 (66 FR 51535)
NPRM Comment Period End	12/10/01
Final Action	03/00/02
Exemption from Control of Certain Industrial Products and Material Derived From the Cannabis Plant	
Interim Final Rule	10/09/01 (66 FR 51539)
Interim Final Rule Comment Period End	12/10/01
Final Action	03/00/02

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: While agencies are not required to include information regarding interpretive rules in the Unified Agenda, DEA is providing a description of this interpretive rule for informational purposes. The interpretive rule will provide DEA's interpretation of existing law with respect to the listing of tetrahydrocannabinols (THC) in Schedule I of the Controlled Substances Act (CSA) and DEA regulations. The rule will further provide DEA's interpretation of the current legal status of products containing THC. In recent months, DEA has received numerous inquiries from members of the public about the legal status of products made from "hemp" (portions of the cannabis plant excluded from the CSA definition of marijuana). As stated in this rule, DEA interprets the CSA such that any substance containing any amount of THC is a Schedule I controlled substance—even if such substance is made from "hemp."

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7183

RIN: 1117–AA55

1821. EXEMPTION FROM IMPORT/EXPORT REQUIREMENTS FOR PERSONAL MEDICAL USE

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 956

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to restrict to 50 dosage units the total quantity of Schedule II, III, IV, and V controlled substances that may be imported for personal medical use by United States (U.S.) residents entering the U.S. A dosage unit is considered by DEA to be the basic unit used to quantify the amount to be taken in normal usage. The proposed 50 dosage unit limit would not apply to a U.S. resident who has a valid U.S. practitioner's prescription. This proposed rulemaking implements and extends the provisions of the Controlled Substances Trafficking Prohibition Act of 1998.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
NPRM Comment Period End	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-192

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA56

1822. ALLOWING CENTRAL FILL PHARMACIES TO FILL PRESCRIPTIONS FOR CONTROLLED SUBSTANCES ON BEHALF OF RETAIL PHARMACIES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871 (b); 21 USC 875; 21 USC 877

CFR Citation: 21 CFR 1300; 21 CFR 1301; 21 CFR 1304; 21 CFR 1305; 21 CFR 1306; 21 CFR 1307

Legal Deadline: None

Abstract: DEA is amending its regulations to provide for the use of central fill pharmacies, also known as

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refill pharmacies, fulfillment centers, or call centers. Unlike retail pharmacies which dispense controlled substances directly to the patient, central fill pharmacies provide a service to retail pharmacies by preparing and packaging prescriptions for retail pharmacies to dispense to the patient. Prescription information is transmitted from a retail pharmacy to a central fill pharmacy where the prescription is filled or refilled. The filled prescription is delivered to the retail pharmacy for pickup by the patient. Industry has expressed interest in utilizing central fill pharmacy operations to allow for more efficient delivery of prescriptions to patients.

Timetable:

Action	Date	FR Cite
NPRM	09/06/01	66 FR 46567
NPRM Comment Period End	11/05/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-208

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA58

1823. ELECTRONIC ORDERS FOR SCHEDULE I AND II CONTROLLED SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 827; 21 USC 828; 21 USC 871(b); 21 USC 958(e); 21 USC 965

CFR Citation: 21 CFR 1304; 21 CFR 1305

Legal Deadline: None

Abstract: DEA is proposing to revise its regulations to provide the option of ordering Schedule I and II controlled substances electronically in a manner consistent with the requirements of the Controlled Substances Act (CSA) (21 U.S.C. 801 et seq.). The regulations will propose that this electronic system may also be used for controlled substances in Schedules III, IV, and V. These proposed regulations would be in addition to, not a replacement of, the existing rules. These regulations are needed to give manufacturers, distributors, importers, exporters, pharmacies, and hospitals the option to use modern technology for controlled substance transactions. The proposed regulations would reduce paperwork and transaction times for DEA registrants who distribute, purchase, or handle controlled substances. These proposed regulations are consistent with paperwork reduction mandates. These proposed regulations also respond to the requirements of Public Law 106-229 the "Electronic Signatures in Global and National Commerce Act," while maintaining a closed system of distribution of controlled substances and ensuring security and authentication.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/01	66 FR 13274
NPRM	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-214

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA60

1824. ELECTRONIC PRESCRIPTIONS FOR CONTROLLED SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 829; 21 USC 871(b)

CFR Citation: 21 CFR 1306

Legal Deadline: None

Abstract: DEA is proposing to revise its regulations to permit DEA registered prescribers to electronically write, sign, and transmit prescriptions. These proposed regulations would be an addition to, not a replacement of, the existing rules. These regulations are needed to give pharmacies, hospitals, and practitioners the ability to use modern technology for controlled substance prescriptions, while maintaining the closed system of distribution of controlled substances dispensing. The proposed regulations would reduce paperwork and transaction times for DEA registrants who dispense or prescribe controlled substances. The proposed regulations would also reduce the number of prescription errors caused by illegible handwriting and misheard oral prescriptions. They would allow pharmacies and hospitals to integrate prescription records into other medical records more directly, increasing efficiency, and would reduce the time patients spend waiting to have prescriptions filled. These proposed regulations are consistent with paperwork reduction mandates. These proposed regulations also respond to the requirements of Public Law 106-229 the "Electronic Signatures in Global and National Commerce Act," while ensuring security and authentication.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/01	66 FR 13274
NPRM	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA61

1825. • SECURITY REQUIREMENTS FOR HANDLERS OF PSEUDOEPHEDRINE, EPHEDRINE, AND PHENYLPROPANOLAMINE

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 830

CFR Citation: 21 CFR 1309

Legal Deadline: None

Abstract: DEA is proposing to require that manufacturers, distributors, importers and exporters of pseudoephedrine, ephedrine and phenylpropanolamine implement security procedures similar to those of

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Schedules III-V controlled substances to prevent the theft and diversion of these List I chemicals. Pseudoephedrine and ephedrine are used in the illegal manufacture of methamphetamine and phenylpropanolamine is used in the illegal manufacture of amphetamine.

The vast majority of these clandestine laboratories were producing methamphetamine using over-the-counter regulated drug products. Some of the product found at these clandestine laboratories came from thefts at manufacturers, distributors, importers and exporters. Almost all of the reports of List I chemical thefts reported to DEA in the past few years have involved pseudoephedrine, ephedrine, or phenylopropanolmine.

Therefore, to address the problem of diversion of pseudoephedrine, ephedrine and phenylpropanolamine through theft, DEA is proposing that manufacturers, distributors, importers and exporters of these three chemicals implement security procedures similar to those now used by registrants handling Schedules III through V controlled substances. These procedures include the storage of substances in a secure safe or steel cabinet, cage, or room and installation of a monitored alarm system linked to a central location. Keeping pseudoephedrine, ephedrine, and phenylpropanolamine products in such secure areas will limit the opportunity for theft.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
NPRM Comment Period End	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-211

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA62

Department of Justice (DOJ)
Drug Enforcement Administration (DEA)

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1826. DEFINITION AND REGISTRATION OF REVERSE DISTRIBUTORS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871(b); 21 USC 875; 21 USC 877

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In years past, most pharmaceutical manufacturers and wholesalers, as a service to their customers, accepted returns of outdated/damaged merchandise. Also, agencies such as DEA and State Boards of Pharmacy accepted surrendered drugs or witnessed their disposal by controlled substance registrants. Over the past several years, environmental concerns and regulations have eliminated many of the disposal options which had been available. As a result, drug producers and government agencies alike are increasingly reluctant to be involved in the disposal process. Due to these factors and the time and resources expended by DEA and manufacturers, DEA is proposing the establishment of this essential link in the legitimate distribution chain.

Timetable:

Action	Date	FR Cite
NPRM	08/23/95	60 FR 43732
NPRM Comment Period End	10/23/95	
Interim Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-108

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA19

1827. EXEMPTION OF CHEMICAL MIXTURES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: The Domestic Chemical Diversion Control Act of 1993 removed the exemption from regulation for chemical mixtures. Chemical mixtures are now regulated, unless specifically exempted by the Administrator. In the proposed rule regarding the implementation of the Domestic Chemical Diversion Control Act of 1993, DEA proposed regulations regarding exemption of chemical mixtures. Based on industry comments, the proposed regulations were subsequently withdrawn for reassessment and consultation with industry. Based on extensive consultations with industry, DEA has published proposed regulations intended to establish the least possible burden on industry while remaining consistent with the requirements of the law. Comments received on the proposed regulations are currently being reviewed.

Timetable:

Action	Date	FR Cite
NPRM	09/16/98	63 FR 49506
NPRM Comment Period Extended to 04/16/99	02/12/99	64 FR 7144
NPRM Comment Period End	04/16/99	
Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-137

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537

DOJ—DEA

Final Rule Stage

Phone: 202 307-7183

RIN: 1117–AA31

1828. REGISTRATION AND REREGISTRATION APPLICATION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 821; 21 USC 822; 21 USC 871(b)

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In furtherance of the DEA's 1992 final rule regarding the increase of application fees (57 FR 60148), DEA is publishing this explanation of the components of the diversion control program.

Timetable:

Action	Date	FR Cite
Final Rule Republished for Further Comment	12/30/96	61 FR 68624
Comment Period End	03/31/97	
Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-140

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA34

1829. IMPLEMENTATION OF THE METHAMPHETAMINE CONTROL ACT; REGULATION OF PSEUDOEPHEDRINE, PHENYLPROPANOLAMINE, AND COMBINATION EPHEDRINE DRUG PRODUCTS; REPORTS OF CERTAIN TRANSACTIONS TO NONREGULATED PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 821 to 824; 21 USC 830; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 951; 21 USC 958

CFR Citation: 21 CFR 1300; 21 CFR 1309; 21 CFR 1310

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to implement the requirements of the Comprehensive Methamphetamine Control Act of 1996 (MCA) establishing pseudoephedrine, phenylpropanolamine, and combination ephedrine drug products as List I chemicals, and the MCA requirement that reports be submitted for certain distributions to nonregulated persons involving pseudoephedrine, phenylpropanolamine, and ephedrine, including drug products containing those chemicals. The MCA establishes pseudoephedrine, phenylpropanolamine, and combination ephedrine products as regulated List I chemicals and requires that reports of certain distributions to nonregulated persons be reported each month.

To minimize the impact of the new law, DEA is proposing to exempt retail distributors from the registration requirement. This exemption will provide the estimated 750,000 retail distributors with relief from the chemical control requirements of the regulations, including registration. Additionally, the existing exemptions from registration for CSA registrants and for distributors of prescription drug products will help minimize the impact of the requirements on other handlers of the products.

Timetable:

Action	Date	FR Cite
NPRM	10/07/97	62 FR 52294
NPRM Comment Period End	12/08/97	
Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: DEA-163

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA44

1830. CHEMICAL REGISTRATION AND REREGISTRATION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 830; 21 USC 871 (b); 21 USC 875; 21 USC 877; 21 USC 958

CFR Citation: 21 CFR 1309

Legal Deadline: None

Abstract: The Drug Enforcement Administration (DEA) proposes to amend its application fees for registration and reregistration of manufacturers, distributors, importers, and exporters of List I chemicals, as authorized by section 3(a) of the Domestic Chemical Diversion Control Act of 1993 (DCDCA), reducing the fees from $595.00 to $326.00 for initial registration, and the reregistration fees from $477.00 to $171.00. Fees for retail registrants will increase from $255.00 to $326.00 for registration, and from $116.00 to $171.00 for reregistration. Office of Management and Budget Circular A-25 requires a periodic review of user charges for agency programs. This review will bring fees into alignment with current changes in costs or market values.

Timetable:

Action	Date	FR Cite
NPRM	12/01/99	64 FR 67216
NPRM Comment Period End	01/31/00	
Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-185

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA50

1831. CONTROL OF RED PHOSPHORUS, WHITE PHOSPHORUS, AND HYPOPHOSPHOROUS ACID (AND ITS SALTS) AS LIST I CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: Because of their use and importance in the illicit manufacture of methamphetamine, a Schedule II controlled substance, DEA is proposing the addition of red phosphorus, white phosphorus (also known as yellow

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phosphorus), and hypophosphorous acid (and its salts) as List I chemicals. These phosphorus chemicals have been identified as being important chemicals for the illicit production of methamphetamine. As List I chemicals, handlers of these materials will be subject to Controlled Substances Act (CSA) chemical regulatory controls including registration, recordkeeping, reporting, and import/export requirements. DEA has determined that these controls are necessary to prevent the diversion of these chemicals to clandestine drug laboratories.

DEA has conducted an extensive review of the phosphorus industry, publishing an Advanced Notice of Proposed Rulemaking. DEA's review indicated that there are only two domestic producers of white phosphorus and three producers of red phsophorus, or hypophosphorus acid (and its salts). While producers of white phosphorus will be required to register with DEA and maintain records of each regulated transaction (i.e., all transactions of these chemicals), over 98 percent of the phosphorus produced is converted to a form not impacted by this regulation. The remaining 2 percent of the phosphorus (used domestically) is utilized in its elemental form (i.e., as red phosphorus or white phosphorus) or used to produce all other phosphorus chemicals. Therefore, this regulation will only affect the distribution of less than 2 percent of the of the industry at the end user level.

Timetable:

Action	Date	FR Cite
ANPRM	02/02/00	65 FR 4913
ANPRM Comment Period End	04/03/00	
NPRM	09/25/00	65 FR 57577
NPRM Comment Period End	11/24/00	
Final Rule	10/17/01	66 FR 52670
Comment Period End	11/16/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-198

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7183

RIN: 1117–AA57

Department of Justice (DOJ)
Drug Enforcement Administration (DEA)

Completed Actions

1632. ESTABLISHMENT OF FREIGHT FORWARDING FACILITIES FOR DEA DISTRIBUTING REGISTRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1300; 21 CFR 1304; 21 CFR 1301

Completed:

Reason	Date	FR Cite
Final Rule Effective	08/18/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia M. Good
Phone: 202 307-7297

RIN: 1117–AA36

1633. LISTED CHEMICALS; FINAL ESTABLISHMENT OF THRESHOLDS FOR IODINE AND HYDROCHLORIC GAS (HYDROGEN CHLORIDE GAS)

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1310

Completed:

Reason	Date	FR Cite
Final Rule	08/16/01	66 FR 42944

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Sapienza
Phone: 202 307-7183

RIN: 1117–AA43

1634. WAIVER OF ADVANCE NOTIFICATION REQUIREMENT TO IMPORT ACETONE, 2-BUTANONE (MEK), AND TOLUENE

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1313

Completed:

Reason	Date	FR Cite
Final Rule	09/06/01	66 FR 46519
Final Rule Effective	10/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia M. Good
Phone: 202 307-7297

RIN: 1117–AA53

1635. PLACEMENT OF DICHLORALPHENAZONE INTO SCHEDULE IV

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1308

Completed:

Reason	Date	FR Cite
Final Rule	08/16/01	66 FR 42943
Final Rule Effective	08/16/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Sapienza
Phone: 202 307-7183

RIN: 1117–AA59

Department of Justice (DOJ)
Executive Office for Immigration Review (EOIR)

Proposed Rule Stage

1836. AUTHORITY OF IMMIGRATION JUDGES TO ISSUE CIVIL MONEY PENALTIES

Priority: Other Significant

Legal Authority: 5 USC 301; 3 CFR, 1949 to 1953 Comp, p 1002; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg Plan No 2 of 1950, sec 2

CFR Citation: 8 CFR 1; 8 CFR 3

Legal Deadline: None

Abstract: This rule proposes to amend the regulations by implementing the statutory authority given to Immigration Judges to sanction by civil money penalty any action or inaction in contempt of the Judge's proper exercise of authority. This statutory authority is derived from section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104-208 (IIRIRA), September 30, 1996. This rule sets forth the types of conduct for which civil money penalty sanctions may be imposed, the procedures for imposing these sanctions, the affirmative defenses which may excuse the imposition of a civil money penalty sanction, and the procedures for appealing such sanctions. The rule also adds an additional ground for disciplinary sanctions under 8 CFR section 3.102 for engaging in a pattern and practice of conduct which has been found to be in contempt of the Immigration Judge's proper exercise of authority.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret M. Philbin, Deputy Director, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA18

1837. • SECTION 212(C) RELIEF FOR ALIENS WITH CERTAIN CRIMINAL CONVICTIONS BEFORE APRIL 1, 1997

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1224-1227; 8 USC 1251; 8 USC 1252 note; 8 USC 1252a; 8 USC 1252b; PL 105-110, sec 202-203; PL 105-277, sec 902; 8 CFR part 2

CFR Citation: 8 CFR 3

Legal Deadline: None

Abstract: The rule amends the regulations of the EOIR and the INS by establishing procedures for certain lawful permanent residents (LPRs) with certain criminal convictions to apply for a waiver of inadmissibility pursuant to former section 212(c) of the INA. It is only applicable to certain LPRs whose convictions were prior to April 1, 1997. It applies to certain LPRs who have cases pending before EOIR or are under final administrative orders. This rule will broaden eligibility for INA section 212(c) relief in light of the recent Supreme Court decision in INS v. St. Cyr, 121(S.Ct. 2271(2001).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Adkins-Blanch, General Counsel, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA33

1838. • SUSPENSION OF DEPORTATION AND CANCELLATION OF REMOVAL FOR CERTAIN BATTERED SPOUSES AND CHILDREN; MOTIONS TO REOPEN FOR CERTAIN BATTERED SPOUSES AND CHILDREN

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1101 note; 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1224-1227; 8 USC 1251; 8 USC 1252 note; 8 USC 1251a; 8 USC 1252b; 8 USC 1324b; 8 USC 1362; 28 USC 509-510; 28 USC 1746; Reorg Plan No. 2 of 1950; 3 CFR 1949-53 Comp., sec 2; PL 105-100, sec 202-203; PL 105-277, sec 902; PL 106-386, sec 1506; PL 106-554, sec 1505; PL 106-554, sec 1510; 8 CFR 2; 8 CFR 3; 8 CFR 240

CFR Citation: 8 CFR 3; 8 CFR 240

Legal Deadline: None

Abstract: This rule amends Department regulations by establishing procedures incorporating the amended requirements of cancellation of removal for battered spouses and children under 240A(b)(2) of the Immigration and Nationality Act (Act), and suspension of deportation under former section 244(a)(3)of the Act (as it existed before April 1, 1997), which were amended by section 1504 of the Battered Immigrant Women Protection Act of 2000.

This rule also amends Department regulations by establishing procedures for certain battered spouses and children to reopen their removal or deportation proceedings to apply for the relief of cancellation of removal or suspension of deportation under 240(c)(6)(C)(iv) of the Act(as amended by section 1506 of the Battered Immigrant Women Protection Act of 2000).

Additionally, this rule establishes procedures which must be followed by EOIR when an alien applies for a domestic violence victim waiver under section 237(a)(7) of the Act (as amended by section 1505(b) of the Battered Immigrant Women Protection Act of 2000).

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Adkins-Blanch, General Counsel, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA35

Department of Justice (DOJ)
Executive Office for Immigration Review (EOIR)

Final Rule Stage

1839. SUSPENSION OF DEPORTATION AND CANCELLATION OF REMOVAL

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1224 to 1227; 8 USC 1251 to 1252; 8 USC 1362; PL 105-100, sec 202

CFR Citation: 8 CFR 240

Legal Deadline: None

Abstract: This rule amends the regulations of the Executive Office for Immigration Review and the Immigration and Naturalization Service by eliminating the conditional grant process at 8 CFR 240.21 and establishing a permanent procedure for processing suspension of deportation and cancellation of removal cases. This rule is necessary to implement the numerical limitation on suspension of deportation and cancellation of removal and adjustment of status imposed by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA).

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/98	63 FR 52134
Interim Final Rule Comment Period End	11/30/98	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rule supersedes rule published October 3, 1997, in the Federal Register at 62 FR 51760 through 51762 (RIN 1125-AA19).

Agency Contact: Charles Adkins-Blanch, General Counsel, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA25

1840. AUTHORITIES DELEGATED TO THE DIRECTOR OF THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509-10; 28 USC 1746

CFR Citation: 8 CFR 3; 8 CFR 240; 28 CFR

Legal Deadline: None

Abstract: This rule outlines the authorities and powers (and limitations thereto) delegated by the Attorney General to the Director of the Executive Office for Immigration Review (EOIR), the Chairman of the Board of Immigration Appeals (BIA), and the Chief Immigration Judge. These authorities include such managerial responsibilities as: Issuing operational instructions, setting policies, providing for the training of staff, and ensuring the efficient disposition of cases. One of the limitations on the powers of the Director of EOIR, the Chairman of the BIA, and the Chief Immigration Judge is that they cannot direct the result of a case adjudication assigned to someone else. Further, the Director of EOIR cannot adjudicate cases.

Additionally, this rule makes technical amendments to better describe EOIR's components: The Board of Immigration Appeals (BIA), the Office of the Chief Immigration Judge (OCIJ), and the Office of the Chief Administrative Hearing Officer (OCAHO).

Timetable:

Action	Date	FR Cite
NPRM	12/26/00	65 FR 81434
NPRM Comment Period End	02/26/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Adkins-Blanch, General Counsel, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA27

1841. MOTIONS TO REOPEN FOR SUSPENSION OF DEPORTATION AND SPECIAL RULE CANCELLATION OF REMOVAL PURSUANT TO SECTION 1505(C) OF THE LIFE ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103, 1252 note, 1252b, 1324b, 1362; 28 USC 509 to 510; 28 USC 1746; sec 203 of PL 105-100; secs 1506 and 1510 of PL 106-386; sec 1505 of PL 106-554

CFR Citation: 8 CFR 3

Legal Deadline: None

Abstract: The rule amends the regulations of the Executive Office for Immigration Review (EOIR) by establishing a special procedure for the filing and adjudication of motions to reopen to apply for suspension of deportation and cancellation of removal pursuant to section 1505(c) of the Legal Immigration Family Equity Act Amendments of 2000 (LIFE Act Amendments). Motions to reopen under this rule must be filed on or before October 16, 2001.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/17/01	66 FR 37119
Interim Final Rule Comment Period End	09/17/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Adkins-Blanch, General Counsel, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA31

Department of Justice (DOJ)
Executive Office for Immigration Review (EOIR)

Completed Actions

1842. • BOARD OF IMMIGRATION APPEALS; 23 BOARD MEMBERS

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1324b; 8 USC 1362; 28 USC 509-510; 28 USC 1746; Reorg Plan No. 2, 3 CFR 1949-53 comp., sec 2

CFR Citation: 8 CFR 3

Legal Deadline: None

Abstract: This rule expands the Board of Immigration Appeals to 23 permanent members by adding two Board member positions. This change is necessary to maintain an effective, efficient system of appellate adjudication in light of the Board's increasing caseload.

Timetable:

Action	Date	FR Cite
Final Action	09/12/01	66 FR 47379
Final Action Effective	09/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Adkins-Blanch, General Counsel, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA34

Department of Justice (DOJ)
Federal Bureau of Investigation (FBI)

Proposed Rule Stage

1843. IMPLEMENTATION OF SECTIONS 104 AND 109 OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

Priority: Other Significant

Legal Authority: PL 103-414 Communications Assistance for Law Enforcement Act; PL 104-208 Omnibus Consolidated Appropriations Act of 1997

CFR Citation: 28 CFR 100

Legal Deadline: Other, Statutory, October 25, 1998, While CALEA required telecommunications carriers to be in compliance with section 103 by October 25, 1998, the FCC has since exercised (continued in Additional Information).

Abstract: As required by section 109 of the Communications Assistance for Law Enforcement Act (CALEA), the FBI promulgated Cost Recovery Regulations allowing telecommunications carriers to recover certain costs associated with implementing CALEA. The final rule was published on March 20, 1997 (62 FR 13307), and became effective on April 21, 1997. In response to public comment received during this rulemaking, the FBI published an ANPRM on November 19, 1996 (61 FR 58799), which solicited input on the definition of the term "significant upgrade or major modification" as used by CALEA. The "significant upgrade or major modification" NPRM was published on April 28, 1998 (63 FR 23231). The FBI is currently preparing a supplemental notice of proposed rulemaking, which will define the terms "replaced" and "significantly upgraded or otherwise undergone major modification," which when codified will amend the Cost Recovery Regulations.

Additionally, CALEA section 104 requires the Attorney General to publish a Notice of Actual and Maximum Capacity in order to provide telecommunications carriers with the information they will need to meet law enforcement's future simultaneous electronic surveillance requirements. For local exchange, cellular, and broadband PCS, the FBI published an Initial Notice of Capacity on October 16, 1995 (60 FR 53643), and a Second Notice of Capacity on January 14, 1997 (62 FR 1902). The FBI published the Final Notice of Capacity for local exchange, cellular, and broadband PCS on March 12, 1998 (63 FR 12218). Additionally, the FBI published a Notice of Inquiry (NOI) in the Federal Register on December 18, 1998 (63 FR 70160), which solicited information on and suggestions for developing reasonable methodologies for characterizing capacity requirements for telecommunications services and technologies other than local exchange, cellular, and broadband PCS. Comments were due on February 16, 1999. Information gathered in response to the NOI was used in publishing the Further Notice of Inquiry (FNOI) on June 30, 2000 (65 FR 40694). Comments were due August 29, 2000. Information gathered in response to the FNOI will be used in the publication of an Initial Notice of Capacity for developing reasonable capacity methodologies for the paging, mobile satellite, specialized mobile radio, and enhanced specialized mobile radio services.

Timetable:

"Significant upgrade or major modification"
ANPRM 11/19/96 (61 FR 58799)
ANPRM Comment Period End 12/19/96
NPRM 04/28/98 (63 FR 23231)
NPRM Comment Period End 06/29/98
Supplemental NPRM Proposing Definitions 10/05/01 (66 FR 50931)
Supplemental NPRM Comment Period End 12/04/01
Final Action 09/00/02

Cost Recovery Rule (Telecom. Carriers)
NPRM 05/10/96 (61 FR 21396)
NPRM Comment Period End 07/09/96
Final Rule 03/20/97 (62 FR 13307)
Final Rule Effective 04/21/97

Notice of Actual and Max. Cap.-local exch, cellular, brosdb PCS
Initial Notice 10/16/95 (60 FR 53643)
Second Notice 01/14/97 (62 FR 1902)
Final Notice 03/12/98 (63 FR 12217)

Notice of Actual and Max. Cap.-paging, MSS, SMR, ESMR
Notice of Inquiry (Cap Methodology) 12/18/98 (63 FR 70160)
Further Notice of Inquiry (Cap Methodology) 06/30/00 (65 FR 40694)
Initial Notice of Capacity 03/00/02

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: STATUTORY DEADLINE CONT: its authority under section 107 of CALEA to grant telecommunications carriers extensions of this compliance date. As a result of the FCC's order, carriers must now be in compliance with section 103 by June 30, 2000. If compliance is not reasonably achievable through application of available technology, the carrier may petition the FCC for an extension of up to 2 years. Additionally, as a result of the publication of the Final Notice of Capacity for local exchange, cellular

and broadband PCS carriers, these carriers must be in compliance with section 104 by March 12, 2001. An FCC public notice is forthcoming regarding the assistance capability compliance date for pocket mode communications for local exchange, cellular, and broadband PCS carriers.

Transferred from RIN 1105-AA39.

Agency Contact: Walter V. Meslar, Unit Chief, Telecommunications Contracts and Audit Unit, Department of Justice, Federal Bureau of Investigation, Suite 300, 14800 Conference Center Drive, Chantilly, VA 20151
Phone: 703 814-4900

Charles Fogle, SSA, CALEA Implementation Section, Department of Justice, Federal Bureau of Investigation, Suite 300, 14800 Conference Center Drive, Chantilly, VA 20151
Phone: 703 814-4836

RIN: 1110–AA00

1844. IMPLEMENTATION OF THE NATIONAL STOLEN PASSENGER MOTOR VEHICLE INFORMATION SYSTEM (NSPMVIS)

Priority: Other Significant

Legal Authority: 49 USC 33109 to 33111

CFR Citation: 28 CFR 89

Legal Deadline: None

Abstract: The Attorney General is required to establish a National Stolen Passenger Motor Vehicle Information System (NSPMVIS) pursuant to the Anti Car Theft Act of 1992 (49 U.S.C. 33109 to 33111). The FBI is coordinating efforts in this matter and, under delegated authority from the Attorney General, the FBI is issuing this rule to establish a national system to verify the theft status of major motor vehicle component parts and junk or salvage vehicles. The system will include certain information about each passenger motor vehicle reported to a law enforcement agency as stolen and not recovered. The rule provides how an individual or entity may obtain information from the system on whether a vehicle or part is listed as stolen. The rule also provides verification procedures to be followed by insurance carriers and certain motor vehicle part businesses. In order to verify the theft status of a part or junk or salvage vehicle, an identification number will have to be obtained from the part or vehicle.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: (RIN 1110-AA01 has been transferred from RIN 1105-AA44.)

The Criminal Division will issue a related regulation to implement the National Motor Vehicle Title Information System (NMVTIS). As required by statute, 49 U.S.C. section 30504(a), the regulation will direct junk yard and salvage yard operators and insurance carriers to file monthly reports with the operator of the NMVTIS concerning vehicles in their possession. (See RIN 1105-AA71.)

Agency Contact: Stephen A. Bucar, Domestic Projects Planning Unit, Department of Justice, Federal Bureau of Investigation, CJIS Division, Module C-3, 1000 Custer Hollow Road, Clarksburg, WV 26306
Phone: 304 625-2751
Fax: 304 625-3875

RIN: 1110–AA01

1845. • NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

Priority: Other Significant

Legal Authority: 18 USC 922 to 925; 5 USC 605(b); EO 12866; EO 13132; 5 USC 804; ...

CFR Citation: 28 CFR 25(b)(1); 28 CFR 25(b)(2); 28 CFR 25(b)(3); 28 CFR 25.9(b)(4); 28 CFR 25.2; ...

Legal Deadline: Other, Judicial, October 22, 2001, Written comments regarding proposed rule must be submitted on or before.

Abstract: The Department promulgated regulations to govern the National Instant Criminal Background Check System (NICS) in 1998 when the NICS became operational. On January 22, 2001, the Department published amendments to the original regulations, which became effective on July 3, 2001.

In this proposed rule, DOJ is publishing, for public comment and further consideration, five proposals to make additional changes in the NICS regulations. The proposed changes balance the legitimate privacy interests of law-abiding firearms purchasers and the Department's obligation to enforce the Brady Act and the Gun Control Act to prevent prohibited persons from purchasing firearms.

Timetable:

Action	Date	FR Cite
NPRM	07/06/01	66 FR 35567
NPRM Comment Period End	09/04/01	
NPRM Comment Period Reopened	09/20/01	66 FR 48390
NPRM Reopened Comment Period End	10/22/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Tribal

Agency Contact: Fanny L. Haslebacher, Attorney Advisor, Access Integrity Unit, Department of Justice, Federal Bureau of Investigation, CJIS Division, 1000 Custer Hollow Road, Clarksburg, WV 26306-0147
Phone: 304 625-2000

RIN: 1110–AA07

1846. • CLAIMS OF EXEMPTIONS FROM PROVISIONS OF THE PRIVACY ACT AS TO FBI RECORDS

Priority: Info./Admin./Other

Legal Authority: 28 USC 534

CFR Citation: 28 CFR 16.96

Legal Deadline: None

Abstract: This rule clarifies the meaning of 28 CFR 16.96 "Exemption of Federal Bureau of Investigation Systems—Limited Access" by reorganizing the material and amplifying the reasons for exempting various FBI record systems from some provisions of the Privacy Act. The benefits will be greater ease of use by the public and more understandable, targeted claims of exemptions.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

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DOJ—FBI **Proposed Rule Stage**

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Coyle, Associate General Counsel, Department of Justice, Federal Bureau of Investigation, 7338, 935 Pennsylvania Avenue NW, Washington, DC 20535
Phone: 202 324-3000
Fax: 202 324-1039

RIN: 1110–AA08

1847. • FEDERAL BUREAU OF INVESTIGATION CRIMINAL JUSTICE INFORMATION SERVICE DIVISION SYSTEMS AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 3534

CFR Citation: 28 CFR 20.3(b); 28 CFR 20.3(g)

Legal Deadline: None

Abstract: The FBI is publishing for public comment and consideration a proposal to amend regulations relating to FBI criminal justice information systems. These changes will include the term "sentencing" in the definition of the administration of criminal justice and to clarify that "sentencing" includes the establishment of sentencing guidelines and related activities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Harold M. Sklar, Attorney-Advisor, Department of Justice, Federal Bureau of Investigation, CJIS Division Module E-3, 1000 Custer Hollow Road, Clarksburg, WV 26306
Phone: 304 625-2000

RIN: 1110–AA09

Department of Justice (DOJ)
Federal Bureau of Investigation (FBI) **Final Rule Stage**

1848. REGULATIONS UNDER THE PAM LYCHNER SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 104-236, sec 9

CFR Citation: Not Yet Determined

Legal Deadline: Other, Statutory, October 3, 1999, The Act does not distinguish between NPRM and final regulations.

Abstract: The FBI is issuing regulations to carry out the Pam Lychner Sexual Offender Tracking and Identification Act of 1996. These regulations include guidelines as to the operation and use of the national sex offender registry established by the FBI and the notice to be provided to the FBI in the event a registered sex offender moves interstate. On February 16, 1999, at 64 FR 7562, the FBI published a Notice of Proposed Rulemaking (NPRM) on this subject. Comments submitted on the NPRM are currently being reviewed. It is anticipated that this regulation will be finalized by December, 2001.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7562
NPRM Comment Period End	04/19/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Additional Information: Transferred from RIN 1105-AA56.

Agency Contact: Charles Marciano, Assistant General Counsel, Department of Justice, Federal Bureau of Investigation, J. Edgar Hoover Building, 935 Pennsylvania Avenue NW, Washington, DC 20530
Phone: 202 324-4523

RIN: 1110–AA04

Department of Justice (DOJ)
Federal Bureau of Investigation (FBI) **Completed Actions**

1849. FEDERAL CONVICTED OFFENDER DNA DATA BASE PROGRAM

Timetable:

Action	Date	FR Cite
Duplicate of 1105-AA76	09/31/01	

RIN: 1110–AA03

Department of Justice (DOJ)
Immigration and Naturalization Service (INS)

Prerule Stage

1850. CORPORATE REORGANIZATIONS (MERGERS AND ACQUISITIONS) AND E, H, L NONIMMIGRANT CLASSIFICATION

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 CFR 2; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1282

CFR Citation: 8 CFR 214.1(h)

Legal Deadline: None

Abstract: The Service solicits comments on establishing policy and administrative procedure for simplifying the processing of nonimmigrant temporary workers involved in mergers, acquisitions, consolidations, or other corporate restructurings. Streamlining Service Center procedures in this respect is in the public interest in light of increased numbers of corporate reorganizations anticipated in the future.

Timetable:

Action	Date	FR Cite
ANPRM With Request for Comments	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1797-96

Agency Contact: John Brown, Adjudications Officer, Adjudciations Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE55

1851. CONSTRUCTION WORK AND THE B NONIMMIGRANT VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: The INS is soliciting comments from the public on the issue of aliens admitted to the U.S. as B nonimmigrant visitors whose intent is to engage in construction work during the alien's stay. In particular the Service is exploring the feasibility of defining the term construction as it relates to B nonimmigrant visitors. A standard definition of construction may assist both the public and the Service in determining if an alien admitted as a B nonimmigrant visitor may engage in construction during his or her period of authorized stay.

Timetable:

Action	Date	FR Cite
ANPRM	09/19/01	66 FR 48223
ANPRM Comment Period End	11/19/01	
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2126-01

Agency Contact: Craig S. Howie, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3040, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7869
Fax: 202 514-0198
Email: craig.s.howie@usdoj.gov

RIN: 1115–AG15

1852. • RESTRICTING CITIZENS OF BANGLADESH, INDIA, PAKISTAN, AND SRI LANKA FROM PARTICIPATION IN THE INTERNATIONAL TO INTERNATIONAL (ITI) PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 8 CFR Sec 212 part 1(f)(2)

Legal Deadline: None

Abstract: This regulatory action advises the public that the Immigration and Naturalization Service (Service) is amending its policy that allowed citizens from Bangladesh, India, Pakistan, and Sri Lanka the privilege to participate in the International-to-International (ITI) program despite Service regulations at title 8, section 212, part 1(f) (2) barring the citizens of these countries form participation in the Transit Without Visa (TWOV) and ITI programs. This notice proposes to correct this conflict between policy and regulations.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	
ANPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2157-01

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7499
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AG30

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Department of Justice (DOJ)
Immigration and Naturalization Service (INS)

Proposed Rule Stage

1853. REVISED GROUNDS OF INADMISSIBILITY, WAIVERS FOR IMMIGRANTS AND NONIMMIGRANTS, AND EXCEPTIONS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 5 USC 552; 8 USC 1158; 8 USC 1159; 8 USC 1160; 8 USC 1182; 8 USC 1183; 8 USC 1184; 5 USC 552a; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1157

CFR Citation: 8 CFR 103; 8 CFR 207; 8 CFR 208; 8 CFR 209; 8 CFR 210; 8 CFR 212; 8 CFR 214; 8 CFR 232; 8 CFR 235; 8 CFR 240; 8 CFR 241; 8 CFR 245; 8 CFR 245a; 8 CFR 248; 8 CFR 249; 8 CFR 274a; 8 CFR 299; ..

Legal Deadline: None

Abstract: This regulation covers the grounds of inadmissibility applicable to those aliens seeking admission to the United States temporarily or permanently. It implements several pieces of legislation. The most significant is the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), signed on September 30, 1996, which substantially revised most grounds of inadmissibility under section 212 of the Act and the waivers available to both immigrants and nonimmigrants. The Immigration and Naturalization Service will publish a proposed regulation to more effectively implement all grounds of inadmissibility and new/revised waiver provisions. The original plan was to publish one large regulation. For logistical and practical reasons, and for ease of reading, the INS will publish one larger, all-encompassing regulation, consisting of 13 subparts, entitled "Revised Grounds of Inadmissibility, Waivers for Immigrants and Nonimmigrants, and Exceptions" RIN 1115-AB45, INS No. 1413-97. The remaining regulations will focus on specific issues and include the following proposed rules: "Medical Examination Requirements and Designation of Civil Surgeons" RIN 1115-AG37, INS No. 2165-01; "Consent to Reapply for Admission After Removal" RIN 1115-AG28, INS No. 2147-01; "Waivers of the 2-Year Foreign Residence Requirement for Certain Exchange Visitors" RIN 1115-AG35, INS No. 2158-01; "Illegal Entries, Unlawful Presence, and Automatic Voidance of Nonimmigrant Visas" RIN 1115-AG36, INS No. 2166-01 and "Medical Grounds of Inadmissibility and Waivers" RIN 1115-AG38, INS No.2167-01.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1413-92

Consolidated INS Rules 1304, RIN 1115-AC01; 1235, RIN 1115-AB39; 1232, RIN 1115-AB45; and 1648, RIN 1115-AD62.

Agency Contact: Sophia Cox, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AB45

1854. FEES FOR PARTICIPATION IN DEDICATED COMMUTER LANES AT SELECTED PORTS OF ENTRY; COLLECTION OF FEES UNDER THE DEDICATED COMMUTER LANE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1182; 8 USC 1183

CFR Citation: 8 CFR 103; 8 CFR 235; 8 CFR 286; 8 CFR 299

Legal Deadline: None

Abstract: These rules provide for the collection of a fee at the time of application for participation in a Dedicated Commuter Lane (DCL), instead of at the time of approval of the application. The DCL program is a pilot project established at selected land border ports of entry to expedite the transborder movement of eligible, pre-screened, low-risk groups through designated traffic lanes. The first rule clarifies the requirements for the use of the DCL (INS No. 1675). A second rule will set forth the fee required of participants in order to cover the technological costs (INS No. 1794).

INS No. 2058-00 will propose to remove restrictions currently in place that limit the locations where the INS can establish commuter lanes. In addition, the proposed rule will incorporate other projects designed to enhance border security and effective traffic management at port of entry. Finally, the rule may adjust the fee structure in order to administer these projects.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1675 Eff. 9/29/95; Comment Period End 11/28/95	09/29/95	60 FR 50386
Interim Rule-INS No. 1794	10/11/96	61 FR 53303
Final Rule-INS No.1675-94 Effective 10/16/96	10/16/96	61 FR 53830
NPRM-INS No. 2058-00	01/00/02	
Final Rule-INS No. 1794-96	05/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: Federal

Additional Information: INS Nos. 1675 and 1794-96

Agency Contact: Thomas C. Campbell, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4214, 425 I Street NW, Washington, DC 20536
Phone: 202 305-9246

RIN: 1115–AD82

1855. NONIMMIGRANT CLASSES; S CLASSIFICATION; LAW ENFORCEMENT INITIATIVES; ALIEN WITNESSES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1324a; 8 CFR 2; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 274a; 8 CFR 299; 8 CFR 103

Legal Deadline: None

Abstract: Two regulatory initiatives dealing with the processing of alien witnesses have been prepared by the INS. INS No. 1683-94 provides the application and approval process for the admission of aliens in S nonimmigrant classification. It provides

guidance to the various law enforcement agencies needing alien witnesses and informants to complete critical law enforcement initiatives in the United States. INS No. 1728-95 establishes a fee for the processing of Form I-854, Inter-Agency Alien Witness and Informant Record, for Law Enforcement Agency (LEA) requests for S nonimmigrant classification for eligible alien witnesses and informants. The fee recovers the costs of the processing of requests for immigration benefits and is needed to comply with specific Federal immigration laws and Federal user fee statute and regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1683 Eff. 8/25/95; Comment Period End 12/4/95	08/25/95	60 FR 44260
Interim Final Rule-INS No. 1683 Correction	10/05/95	60 FR 52068
Interim Final Rule-INS No. 1683 Correction	10/05/95	60 FR 52248
NPRM-INS No. 1728	03/00/02	
Final Action-INS No. 1683	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1683-94; and INS No. 1728-95.

Agency Contact: Song Park, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AD86

1856. EMPLOYMENT AUTHORIZATION DOCUMENT APPLICATIONS AND PROCESS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: This proposed rule will amend the Immigration and Naturalization Service regulations regarding employment authorization to establish filing and eligibility requirements for Form I-765, Application for Employment Authorization. With few exceptions, only those nonimmigrant aliens who have been issued a Form I-766, Employment Authorization Document (EAD), are authorized to accept employment in the U.S. The EAD may be presented to an employer to satisfy the employment eligibility documentation requirements of IRCA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: The employment authorization document (EAD) applications and process proposed rule (INS No. 1707-95) has been pending for some time due to document reduction issues. The Service published a proposed rule (I-9) on 2/2/98 at 63 FR 5287. The remaining policy issues on the I-765 proposed rule are expected to be resolved during the next few months.

INS also has underway several other rulemakings pertaining to employment verfication requirments which are reported under RIN 1115-AB73.

Agency Contact: Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE06

1857. INSPECTION OF PERSONS APPLYING FOR ADMISSION; INTERNATIONAL-TO-INTERNATIONAL USER FEE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1356

CFR Citation: 8 CFR 286

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (Service) regulations to require air carriers to charge and collect a user fee from every International-to-International (ITI) passenger arriving in the United States, except those individuals exempted under section 286(e)(1) of the Immigration and Nationality Act (Act). This action is necessary since the Service is required to inspect all aliens who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1757

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7499
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AE37

1858. DEFINITION OF THE TERM "LAWFULLY PRESENT" FOR PURPOSES OF ELIGIBILITY FOR PUBLIC BENEFITS

Priority: Other Significant

Legal Authority: 5 USC 552; 31 USC 9701; EO 12356; 47 FR 14874 to 15557; 3 CFR 1982 comp; 8 CFR 2; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252B; 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: Section 401(a) of the Personal Responsibility and Work Reconciliation Act of 1996 (PRWORA) provides that, with limited exceptions, only qualified aliens, as defined under section 431, may receive certain Federal public benefits. Section 401(b)(2) provides an exception which allows aliens who are "lawfully present in the United States" as determined by the Attorney General to receive social security benefits under title II of the Social Security Act. PRWORA, and other laws, use the term "lawfully present" in other benefit-related contexts as well.

The interim final rule published September 6, 1996, amended the Immigration and Naturalization Service

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(Service) regulations to define the term "an alien who is lawfully present in the United States" so that the Social Security Administration may determine which aliens are eligible for benefits under title II of the Social Security Act. It is necessary to define "lawfully present" for broader purposes than just the title II benefits. Therefore, rather than issue a final rule pertaining to title VI only, the Service intends to publish a proposed rule covering all other applications of the term as well. The resulting final rule, after notice and comment, will include title II within the rule's broader coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/96	61 FR 47039
Interim Final Rule Comment Period End	11/05/96	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: INS No. 1792-96

Agency Contact: John W. Brown, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE51

1859. PETITION FOR EMPLOYMENT CREATION ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1186b; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1183; 8 USC 1184; 8 USC 1186a

CFR Citation: 8 CFR 204; 8 CFR 216; 8 CFR 235

Legal Deadline: None

Abstract: The Service solicits comments on necessary policy and administrative procedure for resolving current regulatory concerns regarding immigrant investors. (INS No. 1798-98)

The Service will also solicit comments on proposed regulations for regional center participation in the Immigrant Investor Pilot Program for employment creation immigrants who seek to invest in approved regional centers. This rule is obtaining significant pre-clearance comment and is subject to the results of the Agency's review of the Immigrant Investor Pilot Program. (INS No. 1969-98)

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1969-98	03/00/02	
NPRM-INS No. 1798-96	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rule will be divided into two separate rulemakings, INS No. 1798-98 pertaining to the petition for employment-creation aliens and the other INS No. 1969-98 pertaining to regional centers. Both rules will have information collections.

Agency Contact: Morrie Berez, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, Washington, DC 20536
Phone: 202 305-7767

RIN: 1115–AE56

1860. FILING FACTUAL STATEMENTS ABOUT ALIEN PROSTITUTES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2424; PL 104-208

CFR Citation: 28 CFR 94

Legal Deadline: None

Abstract: On September 30, 1996, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) was enacted. This law not only amended significant portions of title 8 of the United States Code, but also changed the provisions of title 18 United States Code (Crimes and Criminal Procedures). Because section 325 amends 18 U.S.C., the Immigration and Naturalization Service will publish an implementing regulation dealing with the filing of statements by individuals who keep, maintain, control, support, or harbor alien prostitutes.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1810-96	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1810-96

Agency Contact: Marcos Salazar, Senior Special Agent, Headquarters Investigations, Department of Justice, Immigration and Naturalization Service, 7115, 425 I Street NW, Washington, DC 20536
Phone: 202 616-3419

RIN: 1115–AE60

1861. USE OF PAROLE FOR HUMANITARIAN REASONS OR SIGNIFICANT PUBLIC BENEFIT AND REPORT TO CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1182

CFR Citation: 8 CFR 212

Legal Deadline: NPRM, Statutory, September 11, 1997.

Abstract: Changes to the current regulations are necessitated by section 602 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. This section has reworded certain parole authority by stipulating parole on a case-by-case basis for urgent humanitarian reasons or significant public benefit.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Rule-INS No. 1817-96	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1840-97

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This rule affects the following section of the I&NA—section 212, as amended by sections 602 IIRIRA.

(See also RIN 1115-AF53.)

Agency Contact: Kenneth Leutbecker, Director, Parole and Humanitarian Assistance Branch, Office of Field Operations, Department of Justice, Immigration and Naturalization Service, Attn: ULLICO Bldg, Third Floor, 111 Massachusetts Avenue NW, Washington, DC 20001
Phone: 202 305-2670

RIN: 1115–AE68

1862. CERTIFICATION OF CERTAIN HEALTH CARE WORKERS

Priority: Other Significant

Legal Authority: 8 USC 1182(a)(5); PL 104-208

CFR Citation: 8 CFR 204; 8 CFR 212; 8 CFR 214.2; 8 CFR 245; 8 CFR 248

Legal Deadline: Other, Statutory, January 19, 2001, Abraham v. Reno (D.D.C.).

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Section 343 prohibits the entry of any alien who seeks to enter the U.S. for the purpose of performing labor as a health care worker (other than a physician) without a certificate as to the alien's qualifications and English ability from the Commission on Graduates of Foreign Nursing Schools (CGFNS) or an equivalent independent organization approved by the Attorney General.

The Service published an interim rule (INS 1879-97) to address shortages in the occupations of nursing and occupational therapy on October 14, 1998. In addition, the Service issued a second interim rule on April 30, 1999, to grant CGFNS authorization to issue certificates to foreign health care workers in the occupations of occupational therapy and physical therapy. This rule also granted the Foreign Credentialing Commission on Physical Therapy the authority to issue certificates to foreign-trained physical therapists. The second interim rule (INS 1979-99) was published under RIN 1115-AF43 and now is consolidated with this Unified Agenda of Federal Regulations entry. A third interim rule (INS 2082-00) was published on January 16, 2001, to address certification requirements for Speech Language Pathologists, Audiologists, Medical Technologists, and Physician Assistants. Litigation over the implementation of this rule has led to a decision to publish interim rules granting temporary authority to issue certificates.

The Service will be publishing a proposed rule (INS 1824) to fully implement section 343, including requirements relating to the designation of covered health care occupations, the procedures and requirements for certifying organizations, the content of the certificates, and the process for presentation of the certificates.

INS No. 2089-00 adds five additional occupation categories for foreign health care workers.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS 1879	10/14/98	63 FR 55007
Interim Final Rule Effective-INS 1879	12/14/98	
Interim Final Rule Comment Period End-INS 1879	02/11/99	
Interim Final Rule-INS 1979-99	04/30/99	64 FR 23174
Interim Final Rule Comment Period End-INS 1979-99	06/29/99	
Interim Final Rule Effective-INS 1979-99	06/29/99	
Interim Final Rule-INS 2089-00	01/16/01	66 FR 3440
Interim Final Rule Comment Period End	03/19/01	
Interim Final Rule Effective-INS 2089-00	03/19/01	
NPRM-INS 1824-98	01/00/02	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2089-000 adds five additional occupation categories for foreign health care workers: Speech-Language Pathologists and Audiologists, Medical Technologists and Technicians, and Physician Assistants

Agency Contact: John Brown, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AE73

1863. REGULATIONS PERTAINING TO BATTERED ALIENS AND TO MAIL ORDER BRIDE BUSINESSES, AS MANDATED BY IIRIRA

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1641(c); PL 104-208

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) included a number of provisions relating to battered aliens and to mail order bride businesses. The INS anticipates rulemaking in the following areas:

INS document No. 1845-97 is necessitated by section 501 of IIRIRA, which provides certain types of public benefits for those aliens who have made a prima facie case for eligibility pursuant to the INS interim rule on self-petitions by battered aliens, published at 61 FR 13061 (March 26, 1995; INS No. 1705-95). This new rule will define what constitutes a prima facie case.

INS document No. 1838-97, an advance notice of proposed rulemaking, is to solicit public input into the regulation of certain functions of the international matchmaking industry (also referred to as "mail order bride businesses"), as required by section 652 of IIRIRA, was published on 7/16/97 (62 FR 38041).

Timetable:

Action	Date	FR Cite
ANPRM-INS No. 1838-97 Comments Due 09/15/97	07/16/97	62 FR 38041
Interim Final Rule-INS No. 1845-97	11/13/97	62 FR 60769
Interim Final Rule Comment Period End-INS 1845-97	01/12/98	
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	
Final Action (INS 1845)	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

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Government Levels Affected: None

Additional Information: INS No.1838-97. The Service submitted its report on international matchmaking organizations which can be found on the INS web site. The Service is currently preparing the informational brochures which the organizations will be required to provide to women recruits.

Agency Contact: Pearl Chang, Branch Chief, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3228

RIN: 1115–AE77

1864. EN ROUTE INSPECTIONS AND REIMBURSEMENT FOR IMMIGRATION AND NATURALIZATION SERVICE COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1356(i)

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations to define an en route inspection. The rule will also notify all affected parties that the Service will begin to bill cruise ship, train, and bus lines or other modes of transportation, or their designated shipping agents or representatives, for all expenditures of Government funds which the Service obligates in connection with the performance of en route inspections on board transportation carriers. This action is necessary in order for the Service to more accurately account for the costs associated with providing special immigration inspection services on an en route basis and to ensure their full recoupment.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1784-96

Agency Contact: Sam Farmer, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 305-8153

RIN: 1115–AE98

1865. SPECIAL IMMIGRANT JUVENILE PETITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: The Service proposes to amend its regulations to add eligibility and consent requirements for approvals of special immigrant juvenile petitions (Form I-360). The proposed rule would require petitioners for special immigrant juvenile classification to demonstrate that a dependency order relating to the juvenile beneficiary (juvenile) was granted on account of abuse, neglect, or abandonment and establish that a court has determined that the juvenile should not be returned to the home country. The proposed rule would also provide that a dependency order may not serve as a precondition to the approval of the petition unless the Attorney General gives his express consent. These changes are necessary to conform the regulations to the statutory eligibility changes made by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1998 (the Appropriations Act of 1998).

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1948-98

Agency Contact: Elizabeth N. Lee, Assistant Director, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Rooom 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF11

1866. EXTENSION OF DEADLINE FOR SPECIAL IMMIGRANT RELIGIOUS WORKERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: On June 8, 1995, at 60 FR 29751, INS published a final rule that provided that all persons, other than ministers, immigrating to the U.S. as religious workers must immigrate or adjust status to permanent residence before October 1, 1997. By statute this special immigrant category for religious workers expired on October 1, 2000. Congress has extended the category again for an additional 3 years, until October 1, 2003. This regulation will implement the extension of this category and impose additional qualifying employment experience requirements for those persons affected by this provision of immigration regulations.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1436-94	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1436-94

Agency Contact: John Brown, Adjudications Officer, Adjudciations Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AF12

1867. DOCUMENTARY REQUIREMENTS FOR RETURNING RESIDENTS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1181; 8 USC 1182; 8 USC 1203; 8 USC 1225; 8 USC 1257

CFR Citation: 8 CFR 211

Legal Deadline: None

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Abstract: This rule proposes to amend INS regulations to specify how an alien admitted for permanent residence, on returning to the United States, may prove that he or she is not to be considered an applicant for admission. This rule is necessary to implement section 101(a)(13)(C) of the Act and to clarify the responsibility for carriers who transport to the United States aliens who claim to be to be returning residents. This rule will ensure that aliens who present themselves as lawful permanent residents are properly documented as such.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1932-58	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1932-98.

Agency Contact: Una Brien, Director, National Fines Office, Inspections Division, Field Operations, Department of Justice, Immigration and Naturalization Service, Suite 425, 1525 Wilson Boulevard, Arlington, VA 22209
Phone: 202 305-7018

RIN: 1115–AF26

1868. AVAILABILITY OF MATERIAL UNDER FREEDOM OF INFORMATION ACT AND PRIVACY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 552; 8 USC 552a; 8 USC 1101; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This revised regulation is necessary to amend the Immigration and Naturalization Service regulations by providing procedures implementing the new provisions of the Electronic Freedom of Information Act (EFOIA) Amendments of 1996. New provisions implementing EFOIA require that we maintain, and provide to the public, a record in either paper or electronic format and maintain an electronic reading room. It further updates the timing of responses to requests by extending the response time from 10 to 20 working days. This regulation reflects current Service procedures for the public to request and obtain access to Service records through the Freedom of Information Act and Privacy Act. It is being updated to include the handling of requests referred from another agency to ensure that requesters are not penalized by waiting in another agency's backlog and reflects the Department of Justice's updated cost for calculating and changing fees.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: INS No.1942-98

Agency Contact: Mildred Carter, FOIA/PA Program Specialist, Files and Forms Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 514-1722

RIN: 1115–AF32

1869. DISMISSAL OF ASYLUM APPLICATION FOR UNEXCUSED FAILURE TO APPEAR AND EFFECT ON ELIGIBILITY FOR EMPLOYMENT AUTHORIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2; 8 USC 1101; 8 USC 1329a

CFR Citation: 8 CFR 208; 8 CFR 274a

Legal Deadline: None

Abstract: On December 6, 2000, the Service published a final rule to implement the asylum provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). This rule proposes to amend the current rule to clarify that dismissal of an asylum application will result in ineligibility for asylum-based employment authorization.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2011-99

Agency Contact: Joanna Ruppel, Supervisor for Asylum Operations, International Affairs, Department of Justice, Immigration and Naturalization Service, 3rd Floor, 111 Massachusetts Avenue NW, Washington, DC 20536
Phone: 202 305-2663

RIN: 1115–AF38

1870. H-1B NONIMMIGRANT WORKER COMPLAINTS REGARDING U.S. EMPLOYER VIOLATIONS UNDER THE AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT (ACWIA)

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1182; 8 USC 1184; 8 USC 1255; 8 USC 1258; 8 USC 1324

CFR Citation: 8 CFR 214; 8 CFR 248; 8 CFR 274a; 8 CFR 212; 8 CFR 245

Legal Deadline: None

Abstract: The American Competitiveness and Workforce Improvement Act (ACWIA), enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, made various changes to the Immigration and Nationality Act (INA) relating to nonimmigrant temporary workers. By this rule (RIN 1115-AF40, INS No. 1974-99), INS will amend certain parts of regulation to implement the ACWIA "whistleblower" provision, codified at INA 212 (n)(C)(iv) and (v), that prohibit retaliation against H-1B workers who disclose information that their U.S. employer has violated the law or regulations pertaining to labor condition applications filed with the DOL. This rule will describe the process established by the INS and DOL jointly to enable an H-1B nonimmigrant who files a complaint alleging intimidation, coercion, threats, blacklisting, or other discrimination to remain temporarily in the United States and seek employment authorization. The DOL will amend its regulations, as

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necessary, to implement its role in this process.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: By a related rule (RIN 1115-AF41, INS No.2021-99), INS will be implementing those portions of ACWIA pertaining to new penalties for employers misrepresenting material facts in an H-1B application. That rule complements regulations to be issued by the Department of Labor (DOL). It also defines the term "United States employer" and implements other provisions of ACWIA.

INS No. 1974-99

Agency Contact: Jacquelyn A. Bednarz, Special Assistant, Office of Policy and Planning, Department of Justice, Immigration and Naturalization Service, Room 7309, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3242

RIN: 1115–AF40

1871. ADDITIONAL PETITIONING REQUIREMENTS FOR THE H-1B NONIMMIGRANT CLASSIFICATION UNDER PUBLIC LAW 105-277

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214.2(h); 8 CFR 103.7

Legal Deadline: None

Abstract: The American Competitiveness and Workforce Improvement Act (ACWIA) Public Law 105-277—enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999—made various changes to the Immigration and Nationality Act (the INA) relating to nonimmigrant skilled workers. This rule (RIN 1115-AF41; INS No. 2021-99) implements those portions of ACWIA pertaining to new penalties for employers misrepresenting material facts in an H-1B application. This rule complements regulations to be issued by the Department of Labor (DOL). It also defines the term "United States employer" and implements other provisions of ACWIA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: By a related rule (RIN 1115-AF40; INS 1974-99), INS will implement the ACWIA "whistleblower protection" provisions—codified in the INA at section 212(n)(2)(C)(iv) and (v)—prohibiting retaliation against H-1B workers who disclose information that their employer has violated the law or regulations pertaining to labor condition applications for nonimmigrants. That rule will also enable an H-1B worker who files a complaint alleging retaliation to remain in the United States and seek authorization to work in the United States for a temporary period while his or her complaint is under review.

In 1190-AA48, the Civil Rights Division, in cooperation with DOL, will implement in the Justice Department's regulations the ACWIA "failure to select" protections—codified in the INA at section 212(n)(5)—by establishing a process under which United States workers may file complaints against employers for denying them employment opportunities by improperly hiring temporary foreign professionals on H-1B visas. Under that process, the Attorney General is to receive and review these complaints and then—where there is reasonable cause to believe a complainant's allegations—initiate binding arbitration proceedings through the Federal Mediation and Conciliation Service (FMCS).

Agency Contact: John Brown, Adjudications Officer, Adjudciations Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AF41

1872. SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154

CFR Citation: 8 CFR 204; 8 CFR 214; 8 CFR 245; 8 CFR 274

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations by establishing procedures for certain North Atlantic Treaty Organization (NATO) civilian employees and their family members to receive special immigrant status in the U.S. and become lawful permanent residents of this country. This rule also offers nonimmigrant status to any parent or child of a NATO civilian employee who has been granted special immigrant status. This rule is intended to ensure the qualifying NATO employees and their family members are aware of their opportunity to acquire special immigrant status and adjustment of status or otherwise obtain corresponding nonimmigrant status.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1984-99

Agency Contact: Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF44

1873. CONTRACTS WITH TRANSPORTATION LINES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1228

CFR Citation: 8 CFR 233

Legal Deadline: None

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Abstract: This rule proposes to amend INS regulations by providing signature authority for forms I-420, Agreement Between Transportation Line and the U.S., I-425, Agreement (Pre-Inspection) Between Transportation Line and the U.S. (At Places Outside U.S.), and I-426, Immediate and Continuous Transit Agreement Between a Transport Line & U.S., to the Commissioner or her delegated representative. This change is required by section 308 of IIRIRA which amended section 233 (a) of the I&NA by requiring carriers transporting aliens to the U.S. from all "foreign territory and adjacent islands" to enter into a contract with the U.S. prior to transportation of such aliens. Another change is to remove the signature authority of the Associate Commissioner for Examinations for the aforementioned Agreements because the position was abolished.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No.1994-99

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7499
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AF46

1874. ADJUSTMENT OF STATUS UNDER THE 1966 CUBAN ADJUSTMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1255; PL 105-100, sec 202; ...

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: This interim rule specifies what effect an alien's arrival in the United States at a place other than an open port-of-entry will have on the alien's ability to obtain permanent residence under section 1 of the Cuban Adjustment Act of 1966, as amended. This rule is necessary to establish uniform rules relating to both the alien's eligibility for this relief and to the proper exercise of the discretion to grant or deny this relief.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1966-99

Agency Contact: Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF48

1875. ADJUSTMENT OF FEES FOR SERVICES AT LAND BORDER PORTS-OF-ENTRY

Priority: Other Significant

Legal Authority: PL 100-459; 8 USC 1356(m),(n); PL 101-515; PL 82-137; 31 USC 9701

CFR Citation: 8 CFR 239; 8 CFR 287

Legal Deadline: None

Abstract: This rule proposes to adjust the fees charged by the INS for three documents processed at land border ports-of entry (POEs): (1) Form I-94, (2) Form I-94W, and (3) Form I-68. The I-94 and I-94(W) Arrival/Departure Record grants nonimmigrant visitors entering the U.S. the privilege to stay longer than 72 hours and to travel more than 25 miles from the border point of entry. The I-68, Canadian Border Boat Landing Permit, grants the privilege of making entries on the U.S. side of a body of water without reporting to a U.S. port of entry when traveling by small pleasure craft. Visits shall not exceed 72 hours nor shall travel exceed 25 miles from the border. The fee adjustment is necessary to ensure that full costs are recovered and that sufficient funds are available to service present and future applicants. The fees collected from persons filing those documents are deposited into the Immigration Examinations Fee Account (IFEA).

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2007-99

Agency Contact: Suzanne H Wilson, Chief, Border Management Branch, Department of Justice, Immigration and Naturalization Service, Room 5307, 425 I Street, Washington, DC 20536
Phone: 202 514-4721
Email: suzanne.wilson@usdoj.gov

RIN: 1115–AF55

1876. MANIFEST REQUIREMENTS AND IMPOSITION OF FINES UNDER SECTION 231 OF THE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228

CFR Citation: 8 CFR 231

Legal Deadline: None

Abstract: With the passage the of Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Congress required the Immigration and Naturalization Service to improve the accuracy of data collected on nonimmigrants entering the United States and stored in the Nonimmigrant Information System (NIIS). This rule proposes to 1) require carriers to submit Form I-94 (Arrival and Departure Record) for all arriving and departing alien passengers including legal permanent residents of the United States, first-time immigrants, and in-transit passengers. Manifests will also be required for all flights and vessels, even those arriving from and departing to contiguous territory; 2) provide criteria and procedures for imposing fines for failure to submit a properly completed arrival or departure manifest; and 3) define alternative methods for submitting Form I-94 data.

This rule will codify the imposition of fines against carriers for failure to provide correct and accurate passenger

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manifests, Form I-94. It will also clarify what category of passengers will be required to present Form I-94 on inspection.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2008-99

Agency Contact: Una Brien, Director, National Fines Office, Inspections Division, Field Operations, Department of Justice, Immigration and Naturalization Service, Suite 425, 1525 Wilson Boulevard, Arlington, VA 22209 Phone: 202 305-7018

RIN: 1115–AF57

1677. ADJUSTMENT OF CERTAIN FEES OF THE IMMIGRATION EXAMINATIONS FEE ACCOUNT

Priority: Other Significant

Legal Authority: PL 100-459; PL 101-515; PL 82-137; PL 101-576; 8 USC 1356; 31 USC 902; 31 USC 9701

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule proposes to adjust the fee schedule of the Immigration Examinations Fee Account (IEFA) for certain immigration adjudication and naturalization applications and petitions. Fees collected from persons filing these applications and petitions are deposited into the IEFA and used to fund the cost of processing immigration adjudication and naturalization applications, and petitions and associated support services; the cost of providing similar services to asylum and refugee applicants; and the cost of similar services provided to other immigrants at no charge. This rule also proposes to adjust the Immigration and Naturalization Service's (Service) fee schedule of the Immigration Examinations Fee Account (IEFA) by adjusting the fee for the fingerprinting of applicants who apply for certain immigration and naturalization benefits from $25 to $50. The fees collected from persons fingerprinted in connection with an application or petition for certain immigration and naturalization benefits are deposited into the IEFA.

Federal agencies are required to review their fees bi-annually. This rule is necessary to ensure that the fees funding the IEFA generate sufficient revenue to recover the full cost of processing immigration and naturalization applications, petitions, the cost of asylum refugee, and other support costs.

Timetable:

Action	Date	FR Cite
NPRM	08/08/01	66 FR 41456
NPRM Comment Period End	10/09/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This RIN is INS No. 2072-00. The rulemaking previously reported under RIN 1115-AF83 (INS No. 2061) has been merged into this RIN.

Agency Contact: Paul Schlesinger, Immigration Services Branch, Department of Justice, Immigration and Naturalization Service, Room 5307, 425 I Street NW, Washington, DC 20536 Phone: 202 616-2754

RIN: 1115–AF61

1678. INADMISSIBILITY TO ENTER THE UNITED STATES FOR FORMER U.S. CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID TAXATION

Priority: Other Significant

Legal Authority: 8 USC 1182(a)(10); PL 104-208

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations by establishing regulatory procedures to be followed by Service personnel and Department of State personnel in determining whether or not an expatriate alien is inadmissible to the United States under section 212(a)(10)(E) of the Immigration and Nationality Act. This ground of inadmissibility relates to former U.S. citizens who renounced U.S. citizenship on or after September 30, 1996, and the Attorney General has determined that such renunciation was done for the purpose of avoiding taxation by the United States.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2039-99

Agency Contact: Kevin J. Cummings, Assistant Director, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536 Phone: 202 514-4754

RIN: 1115–AF69

1679. IMPOSITION OF FINES FOR VIOLATIONS OF THE IMMIGRATION AND NATIONALITY ACT

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1221; 8 USC 1223; 8 USC 1227; 8 USC 1229

CFR Citation: 8 CFR 280

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service's (Service) regulations to reflect the actual process used to recommend and impose fines for violations of the Immigration and Nationality Act (Act). Since the publication of 8 CFR part 280, the Service had centralized the fines process and made some adjustments to certain procedures. The 8 CFR part 280 will be renumbered sequentially and reordered to group related issues in one section. This part will also be expanded to provide for fines imposed under section 231A(d)(2) and 274D of the Act and will introduce procedures for detaining vessels and posting bonds, as well as giving the Commissioner discretion in requiring bonds.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2041-00

Agency Contact: Una Brien, Director, National Fines Office, Inspections Division, Field Operations, Department of Justice, Immigration and Naturalization Service, Suite 425, 1525 Wilson Boulevard, Arlington, VA 22209
Phone: 202 305-7018

RIN: 1115–AF70

1880. ESTABLISHMENT OF FEE FOR PROCESSING GENEALOGICAL RESEARCH REQUESTS FOR INS RECORDS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1103; 8 USC 1201; 8 USC 1252; 8 USC 1252b

CFR Citation: 8 CFR 103; 8 CFR 299

Legal Deadline: None

Abstract: Under the Freedom of Information Act and Privacy Act the Immigration and Naturalization Service (Service) processes all requests for Service records including historical and genealogical records. This rule proposes to amend the Service's regulations by establishing the Historical Records Services (HRS) Program to process requests for the Service's historical records. The Service will charge a fee to recover the cost of searching, locating, retrieving, copying, reviewing, and mailing these records to the requester. The HRS program is necessary to provide a more timely response to requests for genealogical and historical records.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
NPRM Comment Period End	07/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 2074-00

Agency Contact: Marian L. Smith, Historian, Office of Files and Forms Management, Department of Justice, Immigration and Naturalization Service, Room 1100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2837
Fax: 202 305-8251

RIN: 1115–AF88

1881. INTERCOUNTRY ADOPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1641; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: The Immigration and Naturalization Service (Service) proposes to amend its regulations regarding the immigration of children of foreign states adopted by United States citizens. The proposed rule would establish a new definition of child to include children adopted from countries which have implemented the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Convention). The proposed rule would also change evidentiary requirements for the immigration of adopted children to state that a certificate of adoption or custody issued by the Secretary of State of the United States is conclusive evidence of the relationship between an adoptive parent and the adoptive child. These changes are necessary to conform the regulations to the Intercountry Adoption Act of 2000(IAA). (Public Law 106-279)

The proposed rule would also remove section 204.3(e)(10) from the regulations. Section 204.3(e)(10) provides that a home study properly completed in conformance with the regulation in force prior to September 30, 1994, will be considered acceptable if submitted to the Service within 90 days of September 30, 1994. Since 90 days have passed since September 30, 1994, this provision is no longer applicable.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2098-00: The legal deadline for this rulemaking is one year from implementation of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

Agency Contact: Elizabeth N. Lee, Assistant Director, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Rooom 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF96

1882. ACADEMIC HONORARIUM FOR B NONIMMIGRANT ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-277; 8 USC 1182; 8 USC 1184

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: The Immigration and Naturalization Service is proposing to amend its regulations relating to the acceptance of academic honoraria by nonimmigrant aliens admitted to the United States as a B visa visitor status. This is necessary to implement changes to section 212 of the Immigration and Nationality Act made by the American Competitiveness and Workforce Improvement Act of 1998. The amendment outlines the proposed procedures necessary for a nonimmigrant alien visiting the United States in valid B visa status to accept honoraria in connection with usual academic activities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2100-00

Agency Contact: Craig S. Howie, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3040, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7869

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Fax: 202 514-0198
Email: craig.s.howie@usdoj.gov

RIN: 1115–AF97

1883. TIME LIMIT FOR APPEAL FROM DENIAL OF RELATIVE VISA PETITION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: In this rule, the Immigration and Naturalization Service proposes to amend the regulations to provide a 15-day time-limit for an appeal to the Board of Immigration Appeals from the denial of a relative visa petition. Previously, the regulation specified a 15-day limit for such appeal. However, in 1992, that time-limit was inadvertently omitted from an amendment to the regulation, although the form for filing such an Appeal, Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals for Decision of the Director still states that there is a 15-day limit. Nevertheless, the Board of Immigration Appeals has allowed appeals filed at any time after the denial on the ground that the regulations do not specify a time-limit. A time-limit is needed so that appeals may not be filed years after a denial and so that decisions will become final within a reasonable time period.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2105-00

Agency Contact: Joanna London, Attorney, Office of the General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AF99

1884. APPLICATION PETITION FEE WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252; 8 USC 1252(b); 8 USC 1252(note); 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 244

Legal Deadline: None

Abstract: This rule proposes to amend the INS regulations concerning the adjudication of requests for fee waivers filed by applicants for Service benefits pursuant to 8 CFR 103.7(c). This applies to a waiver of fees by an immigration judge for benefit applications, petitions, appeals, motions, or requests in any case when an alien substantiates that they cannot pay the fee. When implemented, this rule will facilitate the adjudication of these requests. This rule also proposes to amend 8 CFR 244.20, which is a waiver of fees for Temporary Protected Status (TPS) applicants, for the same reasons as stated in 8 CFR 103.7(c). The rule will also be implemented in conjunction with the new Form I-912, Request for Fee Waiver Form.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2091-00

Agency Contact: John W. Brown, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AG02

1885. ADOPTION OF SIBLINGS, ADOPTED ALIEN CHILDREN LESS THAN 18 YEARS OF AGE CONSIDERED A "CHILD"

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-139; 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This proposed rule changes the definition of an adopted "child" or "orphan" from 16 years old to 18 years old in cases where the child's sibling, who is under 16, is petitioned by the same U.S. citizen(s). The change is necessary to conform the regulations to the statutory eligibility changes made by Public Law 106-139. This change allows natural siblings, who might otherwise be separated, to be adopted together into the family of a citizen or lawful permanent resident of the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2110-01

Agency Contact: Elizabeth N. Lee, Assistant Director, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Rooom 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG04

1886. ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN CLASS ACTION PARTICIPANTS WHO ENTERED BEFORE JANUARY 1, 1982, UNDER THE LEGAL IMMIGRATION AND FAMILY EQUITY ACT (LIFE ACT)

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1255a; 8 USC 1225a note

CFR Citation: 8 CFR 245a

Legal Deadline: None

Abstract: This interim rule (INS No. 2115-01) implements section 1104 of the Legal Immigration Family Equity Act (LIFE Act) and LIFE Act Amendments pertaining to adjustment of status of certain class action participants (specifically, Catholic Social Services v. Meese (CSS), 509 U.S. 43 (1993), League of United Latin American Citizens v. INS (LULAC), 509 U.S. 43 (1993), and Zambrano v. INS, 509 U.S. 918 (1993) class applicants)

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who entered before January 1, 1982, to that of person admitted for lawful residence. This rule establishes procedures for a 1-year application period to allow CSS, LULAC, and Zambrano class applicants to apply for adjustment of status to that of lawful permanent residence.

INS No. 2145-01 amends the Service's regulations by establishing procedures to apply for Family Unity benefits for certain spouses and unmarried children of aliens who adjusted to lawful permanent resident (LPR) status pursuant to section 1104 of the Legal Immigration Family Equity (LIFE) Act — known as the LIFE Legalization provision. It applies to those persons who are no longer present in the United States to allow them to apply for Family Unity benefits pursuant to section 1504 of the LIFE Act Amendments. This rule also establishes procedures for certain spouses and unmarried children who previously were granted Family Unity benefits pursuant to section 1504 of the LIFE Act Amendments to apply for an extension of their Family Unity benefits. This rule is necessary to ensure that those aliens eligible to apply for, and extend, Family Unity benefits under the provisions of the LIFE Act Amendments are able to do so in a timely manner.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS 2115 Life Legalization)	06/01/01	66 FR 29661
Interim Final Rule Comment Period End	07/31/01	
Notice	08/29/01	66 FR 45694
NPRM (INS 2145 Family Unity Benefits)	01/00/02	
NPRM Comment Period End	03/00/02	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2115-01

INS No. 2145-01

Agency Contact: Suzy Nguyen, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG06

1887. PROCEDURES FOR CHECKING JUVENILE CRIMINAL RECORDS AND SUBMITTING FINGERPRINTS OF THAT ADDITIONAL CLASS OF ALIENS INELIGIBLE FOR FAMILY UNITY

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 5031

CFR Citation: 8 CFR 236

Legal Deadline: None

Abstract: This rule describes procedures necessary for INS Service Centers, District Offices, and Application Support Centers to follow when checking juvenile criminal records and fingerprints of aliens who committed a specific act of juvenile delinquency that, if committed by an adult, would be classified as a felony "crime of violence against another individual." Section 383 of Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) provides that aliens who committed a specific act of juvenile delinquency, as defined in 18 U.S.C. 5031, are ineligible for benefits under the Family Unity Program.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 2116-01

Agency Contact: Rebecca Peters, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2454

RIN: 1115–AG07

1888. AUTHORIZING PART-TIME STUDY FOR F-1 COMMUTER STUDENTS IN CONTIGUOUS TERRITORIES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule will outline INS's requirements to qualify as a part-time commuter student from contiguous territories. Also, this rule will assist colleges and universities in the southern border regions to recruit students from Mexico. For example, Texas State law allows residents of Mexico to attend border area institutions of higher education and pay in-State tuition rates. In response, many students living close to the U.S. border are commuting from Mexico in order to pursue a part-time course of study at U.S. institutions of higher education and enter the U.S. territory using border crossing cards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2118-01

Agency Contact: Song Park, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AG09

1889. ADJUSTMENT OF STATUS UNDER SECTION 245(K)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-119

CFR Citation: 9 CFR 245

Legal Deadline: None

Abstract: This rule proposes amending Service regulations for persons using section 245(k) of the Immigration and Nationality Act to adjust status to that of lawful permanent resident (LPR).

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Section 245(k) of the Act provides for an alien with an approved employment-based petition to adjust status to LPR despite the fact that the alien has been out of status or work without authorization for a period of more than 180 days. This rule proposes eligibility criteria and adjustment procedures for persons wishing to use this section of the Act to become an LPR without leaving the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2120-01

Agency Contact: Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2763
Email: michael.valverde@justice.usdoj.gov

RIN: 1115–AG10

1890. AMERICAN COMPETITIVENESS IN THE TWENTY-FIRST CENTURY ACT OF 2000 AND OTHER RELATED BILLS

Regulatory Plan: This entry is Seq. No. 79 in part II of this issue of the **Federal Register**.

RIN: 1115–AG11

1891. ADJUSTMENT OF FEES FOR DEDICATED COMMUTER LANES AND SECURE ELECTRONIC NETWORK FOR TRAVELERS' RAPID INSPECTION (SENTRI) PROGRAMS AT LAND BORDER PORTS-OF-ENTRY

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; ...

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule proposes to adjust the fees for the Land Border Inspection Fee Account (LBIFA) for the Form I-823, Application for Alternative Inspection Services at land border ports-of-entry and related systems cost fees for participants in the Dedicated Commuter Lane (DCL) program. Form I-823 is used by applicants to the Port Passenger Accelerated Service System (PORTPASS) that includes the DCL program and several other land border programs. The Secure Electronic Network for Travelers' Rapid Inspection (SENTRI) Program at certain assigned POEs is part of the overall DCL program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2031-99

Agency Contact: Suzanne H Wilson, Chief, Border Management Branch, Department of Justice, Immigration and Naturalization Service, Room 5307, 425 I Street, Washington, DC 20536
Phone: 202 514-4721
Email: suzanne.wilson@usdoj.gov

RIN: 1115–AG18

1892. REMOVAL AND ADJUSTMENT PROCEDURES FOR VICTIMS OF TRAFFICKING AND CERTAIN CRIMINAL ACTIVITIES

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1104; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1252; 8 USC 1252a; 8 USC 1255; 22 USC 7101; 22 USC 7105; ...

CFR Citation: 8 CFR 204; 8 CFR 214; 8 CFR 245

Legal Deadline: None

Abstract: This rule sets forth measures by which certain victims of severe forms of trafficking and victims of certain crimes who have been granted T or U nonimmigrant status may apply for adjustment to permanent resident status in accordance with Public Law 106-386, the Victims of Trafficking and Violence Protection Act of 2000.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
NPRM Comment Period End	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No 2134-01

Agency Contact: Anne M. Veysey, Director, Program Strategy and Development Branch, Department of Justice, Immigration and Naturalization Service, Investigations Division, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3479

RIN: 1115–AG21

1893. • DEFINITIONS FOR THE TERMS NOTICE TO APPEAR AND ARREST WARRANT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 CFR 2

CFR Citation: 8 CFR 1

Legal Deadline: None

Abstract: This proposed rule adds definitions for the terms of notice to appear and arrest warrant. This proposed revision clarifies what is meant by those terms as they relate to the administration of immigration law. The action is necessary to improve the efficiency of the INS and to clarify how a notice to appear and an arrest warrant issued pursuant to the Immigration and Nationality Act differ from such documents issued under another statute.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2140-01

Agency Contact: Donna Kay Barnes, Acting Special Assistant, Office of Field Operations, Department of Justice, Immigration and Naturalization Service,

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Room 7114, 425 I Street NW,
Washington, DC 20536
Phone: 202 616-7488

RIN: 1115–AG24

1894. • VISA WAIVER PROGRAM: GUAM VISA WAIVER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1182; 8 USC 1184; 8 USC 1187; ...

CFR Citation: 8 CFR 103; 8 CFR 208; 8 CFR 212; 8 CFR 217; 8 CFR 233; ...

Legal Deadline: None

Abstract: On October 30, 2000, the Visa Waiver Permanent Program Act, Public Law 106-396 made the Visa Waiver Pilot Program (VWPP) permanent with some modifications. The VWPP permits nationals from participating countries to apply for admission to the U.S. for 90 days or less as nonimmigrant visitors for business or pleasure with out first obtaining a nonimmigrant visa. The proposed rule will clarify and explain the new VWP requirements as well as ensure that the VWP removal provisions apply fairly and equally to all inadmissible nonimmigrants regardless of nationality. This rule also proposes to amend the Guam Visa Waiver program regulations to allow asylum applicants arriving on Guam under section 212(l) of the Immigration and Nationality Act to have their case heard before an immigration judge without having to proceed through a credible fear interview.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2130-01;

See also INS No. 2099-00, RIN 1115-AF95

Agency Contact: Marty Newingham, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7992

RIN: 1115–AG25

1895. • PROCEDURES FOR DETAINEE HUNGER STRIKES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1223; 8 USC 1227; 8 USC 1251; 8 USC 1253; ...

CFR Citation: 8 CFR 241

Legal Deadline: None

Abstract: This regulation establishes the standards and procedures for responding to hunger strikes by individuals detained by the Immigration and Naturalization Service. All medical treatment listed in this regulation shall conform to accepted medical practice with each case evaluated on its on merits and individual circumstances.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2142-01

Agency Contact: Nik Maravich, Detention and Deportation Officer, Department of Justice, Immigration and Naturalization Service, Room 920, Offfice of Programs, 902 I Street NW., Washington, DC 20536
Phone: 202 514-4099

RIN: 1115–AG26

1896. • CONSENT TO REAPPLY FOR ADMISSION AFTER REMOVAL

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 212; 8 CFR 299

Legal Deadline: None

Abstract: This rule proposes to amend the provisions regarding consent to reapply after removal to conform with the requirements of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). This rulemaking intends to remove the provisions contained in 8 CFR 212.2(i) relating to a request for consent to reapply in conjunction with an application for admission at a port-of-entry or with an application for adjustment of status. The proposed removal of §212.2(i) reflects the overall scope of the changes made by IIRIRA and congressional intent to impose severe penalties on aliens who enter illegally or otherwise violate the U.S. immigration laws, by restricting the relief available to them in the U.S.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2147-01

Agency Contact: Kevin J. Cummings, Assistant Director, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG28

1897. • WAIVERS OF THE 2-YEAR FOREIGN RESIDENCE REQUIREMENT FOR CERTAIN EXCHANGE VISITORS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; ...

CFR Citation: 8 CFR 212 and 299

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (Service) regulations relating to the 2-year foreign residence requirement under section 212(e) of the Immigration and Nationality Act (Act). The proposed changes would conform to the requirements of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), and the Department of Justice Appropriations Act, 2000. The proposed rulemaking would affect aliens who enter the United States as J-1 or J-2 nonimmigrant exchange

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visitors and who are subject to the requirement of section 212(e) of the Act, which stipulates that they must return to their home country for a period of 2 years before they are eligible to change to a different nonimmigrant classification or apply for lawful permanent residence in the United States.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No 2158-01

Agency Contact: Kevin J. Cummings, Assistant Director, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG31

1898. • EXTENSION OF THE VALIDITY PERIOD FOR EMPLOYMENT AUTHORIZATION DOCUMENTS FOR ALIENS SEEKING ADJUSTMENT OF STATUS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; ...

CFR Citation: 8 CFR 247.a12 (c) (9)

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (Service) regulations by extending the validity period for Employment Authorization Documents (EADs) for those applying for work authorization under 8 CFR 274a.12(c)(9) from one year to two years. This category is reserved for those applying for adjustment of status, having filed Form I-485, Application to Register Permanent Residence or Adjust Status with the Service.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No 2152-01

Agency Contact: Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG32

1899. • ILLEGAL ENTRIES, UNLAWFUL PRESENCE, AND AUTOMATIC VOIDING OF NONIMMIGRANT VISAS

Priority: Other Significant

Legal Authority: 5 USC 552; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; ...

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 214; 8 CFR 248; 8 CFR 299

Legal Deadline: None

Abstract: This proposed rule defines the categories of aliens who are not eligible to be issued a visa or be admitted if: they are in the U.S. illegally because they entered without proper inspection at a port-of-entry (section 212(a)(6)(A) of the Act); they accumulated certain periods of unlawful presence because they entered the U.S. illegally or stayed in the U.S. longer than authorized (section 212(a)(9)(B) of the Act); or they entered the U.S. illegally (or attempted an illegal entry) after they accumulated unlawful presence or after they were removed (section 212(a)(9)(C) of the Act). This proposed rule also describes how a nonimmigrant visa becomes automatically void, as provided under section 222(g) of the Act. This proposed rule also explains when the provisions for unlawful presence (sections 212(a)(9)(B) and (C) of the Act) do not apply, and the legal and documentary requirements for a waiver. Promulgation of this rule ensures that the admission to the U.S. of any ineligible alien would not adversely affect the national welfare, safety, or security of the U.S.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: Split out of INS No. 1413 to move forward as a stand-alone rule.

Related RIN 1115-AB45, "Revised Grounds of Inadmissibility, Waivers for Immigrants and Nonimmigrants, and Exceptions."

Agency Contact: Sophia Cox, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

Kevin J. Cummings, Assistant Director, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG36

1900. • MEDICAL EXAMINATION REQUIREMENTS AND DESIGNATION OF CIVIL SURGEONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1222; ...

CFR Citation: 8 CFR parts 103, 232, and 299

Legal Deadline: None

Abstract: This proposed rule defines the medical examination requirements for arriving aliens. It also overhauls the civil surgeon program to create standards for designation, procedures for periodic review of the civil surgeon designation, and specific provisions for revocation, when necessary.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

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Additional Information: Split out of INS No. 1413 to move forward as a stand-alone rule.

Related RIN 1115-AB45,"Revised Grounds of Inadmissibility, Waivers for Immigrants and Nonimmigrants, and Exceptions."

Agency Contact: Sophia Cox, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

Kevin J. Cummings, Assistant Director, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG37

1901. • MEDICAL GROUNDS OF INADMISSIBILITY AND WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1157; ...

CFR Citation: 8 CFR parts 103, 212, and 299.

Legal Deadline: None

Abstract: This proposed rule describes the medical grounds of inadmissibility under section 212(a)(1) of the Immigration and Nationality Act (Act). It also describes which medical grounds of inadmissibility can be waived and the requirements for those waivers (including conditions for compliance).

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: Split out of INS No. 1413 to move forward as a stand-alone rule.

Agency Contact: Sophia Cox, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

Kevin J. Cummings, Assistant Director, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG38

1902. • NEW CLASSIFICATION FOR VICTIMS OF CERTAIN CRIMINAL ACTIVITY; ELIGIBILITY FOR THE "U" NONIMMIGRANT STATUS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1101 note; 8 USC 1102; ...

CFR Citation: 8 CFR 103; 8 CFR 204; 8 CFR 212; 8 CFR 214; 8 CFR 299

Legal Deadline: None

Abstract: This rule sets forth application requirements for a new nonimmigrant visa status. The "U" classification is for non-United States Citizen/Lawful Permanent Resident victims of certain crimes who cooperate with an investigation or prosecution of those crimes. There is a limit of 10,000 principals per year.

This rule establishes the procedures to be followed in order to petition for the U nonimmigrant visa classifications. Specifically, the rule addresses: the essential elements that must be demonstrated to receive the visa classification; procedures that must be followed to make an application; and evidentiary guidance to assist in the petitioning process. Eligible victims will be allowed to remain in the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local

Agency Contact: Anne M. Veysey, Director, Program Strategy and Development Branch, Department of Justice, Immigration and Naturalization Service, Investigations Division, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3479

RIN: 1115–AG39

Department of Justice (DOJ)
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1903. REDUCTION OF THE NUMBER OF ACCEPTABLE DOCUMENTS AND OTHER CHANGES TO EMPLOYMENT VERIFICATION REQUIREMENTS (SECTION 610 REVIEW)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 8 USC 1324a; PL 104-208

CFR Citation: 8 CFR 274a

Legal Deadline: Final, Statutory, March 31, 1998, An interim rule, published September 30, 1997, makes the minimal changes required by statute. The provisions will remain in effect until completion of this rulemaking.

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Section 412(a) of IIRIRA requires a reduction in the number of documents that may be accepted in the employment verification process. Section 412(d) clarifies the applicability of section 274A to the Federal Government. Section 610 of the Regulatory Flexibility Act requires agencies to review rules that have a significant economic impact on a substantial number of small entities every 10 years. The Service is conducting this review in conjunction with IIRIRA implementation. The proposed rulemaking published 2/12/98 implements sections 212(a) and (d) of IIRIRA and proposes other changes to the employment verification process identified through that review. A

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revised Form I-9 was included with the proposed rulemaking.

The comment period closed on 4/3/98. The Service is analyzing the comments and taking into consideration issues raised by the Alien Registration (MD) (I-551) program. It should be noted that this action supersedes the previously published regulatory plan titled "Reduction in the Number of Documents Accepted for Employment Verification." In order to avoid confusion, this regulatory action is being referenced under the current RIN, which captures all prior actions related to employment verification.

INS No. 1947-98, Interim Rule published 2/9/99 (64 FR 6187). The "Receipt Rule" permits employees to present their employer certain types of "receipts" in lieu of a document listed on the Form I-9. (Previously under RIN 1115-AE94, which was withdrawn and placed under AB73 due to the relationship of the regulations.)

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1399 Comment Period End 12/23/93	11/23/93	58 FR 61846
NPRM-INS No. 1339S Comment Period End 07/24/95	06/22/95	60 FR 32472
Notice-INS No. 1713 INS No. 1713 Applications Due 01/29/96	11/30/95	60 FR 61630
Appl. Extension Through 3/8/96 Notice Pilot Demonstration Program-INS No. 1713	02/06/96	61 FR 4378
Final Rule-INS No. 1399E	09/04/96	61 FR 46534
Interim Final Rule INS No. 1818	09/30/97	62 FR 51001
NPRM-INS No. 1890-97 Comment Period End 04/03/98	02/02/98	63 FR 5287
Final Rule INS No. 1890-97	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: The deadline for implementing section 412(a) of IIRIRA was extended to March 31, 1998, by Public Law 105-54. This rulemaking has been delayed by the need to coordinate implementation with other provisions of IIRIRA, by several complex policy and regulatory issues that have taken time to resolve, and by the review required by section 610 of the Regulatory Flexibility Act.

INS No. 1890-97; PL 104-208, title 4.

INS Nos. 1399 and 1399S-94, Control of Employment of Aliens, Supplemental Rule; Action for INS Nos. 1399 and 1399S is canceled as a result of IIRIRA requirements.

INS No. 1399E is an extracted portion of INS No. 1399, published separately to allow for the production of a new, more secure Employment Authorization Document.

INS No. 1713-95, Demonstration Project for Electronic I-9s, contact Bob Reed, (202) 514-2998.

Interim Rule INS No. 1818 was published on 9/30/97 at 62 FR 51001 to maintain the status quo as much as possible until the Service completes the more comprehensive document reduction initiative designated by INS No. 1890-97.

Agency Contact: Linda Dodd-Major, Director, Business Liaison Branch, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 305-2529
Fax: 202 305-2523
Email: linda.dodd-major@usdoj.gov

RIN: 1115–AB73

1904. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE: CONDITIONAL RESIDENTS AND FIANCE(E)S

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257; 8 CFR 2

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: This rule clarifies procedures for fiance(e)s who marry after the 90-day period of fiance(e) admission has ended and also clarifies that persons who have had conditional residence terminated are not eligible to adjust status.

Timetable:

Action	Date	FR Cite
NPRM	08/20/96	61 FR 43028
NPRM Comment Period End	10/21/96	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1353-91

Agency Contact: Karen FitzGerald, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

Suzy Nguyen, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AC70

1905. 90-DAY MODIFIED INSPECTION OF ALIEN CREW MEMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1228; 8 USC 1252; 8 USC 1184; 8 USC 1258; 8 USC 1281; 8 USC 1282; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227

CFR Citation: 8 CFR 235; 8 CFR 252

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (the Service) regulations by establishing a procedure whereby bona fide alien crewmen actively serving on board a maritime ferry or a maritime commercial cruise ship may, at the discretion of the Service, be inspected one time during every 90-day period during which the cruise ship conducts operations between Ports-of-Entry (POEs) in the United States and a foreign country. This rule is necessary in order for the Service to formally codify the long-standing practice of authorizing certain maritime crewmen landing privileges in the United States without further inspection during the intervening time between 90-day full-crew inspections.

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Timetable:

Action	Date	FR Cite
NPRM	08/15/97	62 FR 43675
NPRM Comment Period End	10/14/97	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1695-95

Agency Contact: Sam Farmer, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 305-8153

RIN: 1115–AD95

1906. ESTABLISHING CRITERIA FOR DETERMINING COUNTRIES WHOSE CITIZENS ARE INELIGIBLE FOR THE TRANSIT WITHOUT VISA (TWOV) PROGRAM

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 CFR 2; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1221; 8 USC 1229

CFR Citation: 8 CFR 212; 8 CFR 234.2

Legal Deadline: None

Abstract: This rule proposes to amend Service regulations by removing the list of those countries that are ineligible to participate in the TWOV program from the regulation. In its place the Service proposes to publish and update the list of countries that are ineligible to participate in the TWOV program by Federal Register notice. This rule also sets forth a non-exhaustive list of factors that may be considered in determining those countries whose citizens or nationals are ineligible countries and provides for a regular review of all countries to determine their eligibility for participation in the TWOV program. The TWOV program allows the Service, acting jointly with the Department of State, to waive the passport and visa requirement for aliens from certain countries who request immediate and continuous transit privileges through the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/05/01	66 FR 1053
NPRM Comment Period End	03/05/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1696-95

Negotiations are under way between the Department of State and the Immigration and Naturalization Service.

Related RIN 1115-AF81.

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7499
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AD96

1907. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A U.S. CITIZEN OR AS A PREFERENCE IMMIGRANT; SELF-PETITIONING FOR CERTAIN BATTERED OR ABUSED ALIEN SPOUSES AND CHILDREN

Priority: Other Significant

Legal Authority: 8 USC 1101; PL 103-322; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: The INS intends to finalize the interim rule published on 3/26/1996. This final rule allows battered and abused spouses and children of United States citizens and lawful permanent residents to petition for immigrant classification. The consent of the abuser would not be required. The final rule will define the term abuser to mean one who has battered his or her spouse or child to extreme cruelty. The final rule uses the term abused to mean either battered or subjected to extreme cruelty.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/26/96	61 FR 13061
Interim Final Rule Effective	03/26/96	
Interim Final Rule Comment Period End	05/28/96	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1705-95, See RIN 1115-AB73

Agency Contact: Pearl Chang, Branch Chief, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3228

RIN: 1115–AE04

1908. CONDITIONS ON NONIMMIGRANT STATUS; DISCLOSURE OF INFORMATION

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186A; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule removes the current regulatory language conditioning an alien's nonimmigrant status on his or her providing full and truthful information requested by the INS, regardless of the requested information's materiality. This rule would clarify that the nonimmigrant's stay is conditioned on, among other things, the provision of all information deemed necessary to ensure that the alien has acquired, and is maintaining, lawful nonimmigrant status during the entire period of his or her stay, or is eligible to receive any other benefit under the INA.

Timetable:

Action	Date	FR Cite
NPRM	06/14/96	61 FR 30188
NPRM Comment Period End	08/13/96	
Final Action	02/00/02	
Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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Additional Information: INS No. 1732-95

Agency Contact: Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE17

1909. AGREEMENT PROMISING NON-DEPORTATION OR OTHER IMMIGRATION BENEFITS

Priority: Other Significant

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 28 USC 515; 28 USC 516; 28 USC 517; 28 USC 518; 28 USC 519

CFR Citation: 28 CFR 0.197

Legal Deadline: None

Abstract: This final rule requires Federal prosecutors, law enforcement agencies, and other officials to obtain written consent from the Immigration and Naturalization Service when entering into a plea agreement, cooperation agreement, or similar agreement promising an alien favorable treatment by the Service. This rule ensures that favorable treatment under the immigration laws is extended only after a full consideration of its affect on overall immigration enforcement, alleviates confusion over the authority to enforce the immigration laws, and prevents the Service from being bound by agreements undertaken without its knowledge and approval. The rule codifies a long-standing position of the Department of Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/13/96	61 FR 48405
Interim Final Rule Comment Period End	11/12/96	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1791-96

Agency Contact: Joan S. Lieberman, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE50

1910. AFFIDAVIT OF SUPPORT ON BEHALF OF IMMIGRANTS

Priority: Other Significant

Legal Authority: 8 USC 1183a; PL 104-208; PL 104-193; 8 CFR 2

CFR Citation: 8 CFR 213a; 8 CFR 299

Legal Deadline: None

Abstract: This rule amends the INS regulations by establishing that an individual (the sponsor) who files an affidavit of support under section 213A of the INA on behalf of an intending immigrant incurs an obligation that may be enforced by a civil action. This rule also specifies the requirements that Federal, State, or local agencies or private entities must meet to request reimbursement from the sponsor for provision of means-tested public benefits and provides procedures for imposing the civil penalty provided for under section 213A of the INA, if the sponsor fails to give notice of any change of address. This rule is necessary to ensure that sponsors of aliens meet their obligations under section 213A of the INA.

Timetable:

Action	Date	FR Cite
Interim Final Rule - INS No. 1807-96; Comment Period End 02/7/98	10/20/97	62 FR 52346
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1807-96; PL 104-208, title IV; and PL 104-193, title IV

Agency Contact: Lisa Roney, Policy Analyst, Office of Policy and Planning, Department of Justice, Immigration and Naturalization Service, Room 6052, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3242

Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE58

1911. SUSPENSION OF PRIVILEGE TO TRANSPORT ALIENS TO THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1252; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227

CFR Citation: 8 CFR 103; 8 CFR 273

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) added a provision to the Immigration and Nationality Act that allows INS to suspend a commercial airline's privilege to transport aliens to the United States if the carrier has a record of bringing in aliens who have fraudulent documents. After consultation with other interested Government agencies, INS is proposing to implement appropriate standards and procedures governing the use of this power to suspend a carrier's privilege to transport aliens to the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/23/98	63 FR 56869
NPRM Comment Period End	12/22/98	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: This rule required coordination with several other Government agencies. INS No. 1809-96.

Agency Contact: Una Brien, Director, National Fines Office, Inspections Division, Field Operations, Department of Justice, Immigration and Naturalization Service, Suite 425, 1525 Wilson Boulevard, Arlington, VA 22209
Phone: 202 305-7018

RIN: 1115–AE59

1912. IMPLEMENTATION OF HERNANDEZ V. RENO SETTLEMENT AGREEMENT; CERTAIN ALIENS ELIGIBLE FOR FAMILY UNITY BENEFITS AFTER SPONSORING FAMILY MEMBER'S NATURALIZATION

Priority: Other Significant

Legal Authority: 8 USC 1225a note; PL 104-208

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CFR Citation: 8 CFR 236.23

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The INS will publish a regulation implementing a new basis of ineligibility for Family Unity benefits for certain juvenile offenders.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1823-96	07/14/00	65 FR 43677
Interim Final Rule Comment Period End	09/12/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1823-96; PL 104-208, title III, section 38; and this regulation will affect 8 CFR 242.5 that will be renumbered 8 CFR 236.25.

Agency Contact: Rebecca Peters, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2454

RIN: 1115–AE72

1913. ESTABLISHMENT OF PREINSPECTED AUTOMATED LANE (PAL) PROGRAM AT IMMIGRATION AND NATURALIZATION SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 287; 8 CFR 299

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations by establishing a Preinspected Automated Lane (PAL) Program for the use of eligible persons and vehicles at immigration checkpoints within the United States. This rule will facilitate the passage of people and vehicles through INS checkpoints while safeguarding the integrity of law enforcement objectives at the checkpoints.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Request for Comments by 06/17/97	04/18/97	62 FR 19024
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1830-97

Agency Contact: William J. Carter, Chief Patrol Agent, Office of Enforcement, Office of Field Operations, Department of Justice, Immigration and Naturalization Service, Room 4226, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3072

RIN: 1115–AE80

1914. SURRENDER OF ALIENS ORDERED REMOVED FROM THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1254a; 8 USC 1245a note

CFR Citation: 8 CFR 240.13; 8 CFR 240.14; 8 CFR 240.15; 8 CFR 240.16

Legal Deadline: None

Abstract: This rule requires aliens subject to a final order of removal to surrender to the INS. This rule also establishes procedures for surrender and bars persons violating these procedures from obtaining discretionary immigration benefits.

Timetable:

Action	Date	FR Cite
NPRM	09/04/98	63 FR 47205
NPRM Comment Period End	11/03/98	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel Brown, Assistant General Counsel, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7977

RIN: 1115–AE82

1915. EARLY RELEASE FOR REMOVAL OF CRIMINAL ALIENS IN STATE CUSTODY FOR NONVIOLENT OFFENSES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1223; 8 USC 1227; 8 USC 1251; 8 USC 1253; 8 USC 1255; 8 USC 1330; 8 CFR 2

CFR Citation: 8 CFR 241

Legal Deadline: None

Abstract: The final rule will amend the INS regulations relating to the apprehension and removal of aliens under section 241 of the Immigration and Nationality Act (Act). This regulatory action establishes an administrative process whereby criminal aliens in State custody convicted of nonviolent offenses may be removed prior to completion of their sentence of imprisonment. The rule will implement the authority contemplated by Congress to enhance the ability of the United States to remove criminal aliens.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1848-97	07/12/99	64 FR 37461
NPRM Comment Period End	09/10/99	
Final Action-INS No. 1848-97	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: INS No.1848-97

Agency Contact: Joan S. Lieberman, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

Ron Dodson, Supervisory Special Agent, Headquarters Investigations, Department of Justice, Immigration and Naturalization Service, Room 1000, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7310

RIN: 1115–AE83

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1916. AMENDMENT OF THE REGULATORY DEFINITION OF ARRIVING ALIEN

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 CFR 2

CFR Citation: 8 CFR 1

Legal Deadline: None

Abstract: This rule amends the INS regulations by changing the regulatory definition of an arriving alien. Under section 235(b)(1)(A)(i) of the Immigration and Nationality Act (Act), which was effective on April 1, 1997, certain arriving aliens are subject to expedited removal procedures. The existing regulatory definition of arriving aliens includes parolees. As a matter of policy, the Department has decided that it is appropriate to exempt from the new expedited removal procedures aliens who were paroled into the United States before April 1997. This rule clarifies that these aliens as well as certain other aliens who were paroled into the United States pursuent to advance parole, will not be subjected to expedited removal upon termination at parole. The rule also makes several changes in the ordering of 1.1(q) to use language that is clearer and more consistent with the wording of the statute.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/20/98	63 FR 19382
Interim Final Rule Comment Period End	06/19/98	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Re: INS No. 1868-97

Agency Contact: Frances De Choudens, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 353-0591

RIN: 1115–AE87

1917. ADJUSTMENT OF STATUS, CONTINUED VALIDITY OF NONIMMIGRANT STATUS AND UNEXPIRED EMPLOYMENT AUTHORIZATION FOR APPLICANTS MAINTAINING NONIMMIGRANT H OR L STATUS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1282; 8 CFR 2; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1255; 8 USC 1281

CFR Citation: 8 CFR 214; 8 CFR 245

Legal Deadline: None

Abstract: Over the last several years, the Service has issued numerous policy statements regarding its position on employment authorization, advance parole, and extension of nonimmigrant status for certain skilled nonimmigrant workers who have filed for adjustment to permanent resident status. This rulemaking intends to: (1) Codify existing Service policy statements by incorporating them into the Service's regulations and (2) eliminate the requirement for service permission for overseas travel for adjustment applicants who are maintaining H-1 or L nonimmigrant status.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/01/99	64 FR 29208
Interim Final Rule Comment Period End	08/02/99	
Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1881-97

Agency Contact: Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2763
Email: michael.valverde@justice.usdoj.gov

RIN: 1115–AE96

1918. VERIFICATION OF ELIGIBILITY FOR PUBLIC BENEFITS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1642

CFR Citation: 8 CFR 104

Legal Deadline: NPRM, Statutory, November 3, 1997.
Final, Statutory, February 22, 1998, Statutory deadline to promulgate regulations for State and local public benefits was previously 11/03/98. Deadline for regulations for Federal public benefits was 02/22/98.

Abstract: This regulatory action requires entities (other than nonprofit charitable organizations) providing Federal public benefits (with certain exceptions) to verify by examining documents and using an INS automated verification system that alien applicants are eligible for the benefits under Federal benefit reform legislation. This rule also sets forth provisions by which State or local governments can verify whether aliens applying for State or local public benefits are eligible for such benefits under Federal laws. In addition, the rule establishes procedures for verifying the U.S. nationality of individuals applying for benefits in a fair and nondiscriminatory manner.

The Interim Verification Guidelines were published as a notice on 11/17/97 at 62 FR 61344. The guidelines set forth procedures that benefit-granting agencies can use to verify U.S. citizens, non-citizen nationals, and qualified aliens for eligibility under title IV of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) prior to issuance of final regulations.

The proposed rule for the Verification of Eligibility for Public Benefits was published on 8/04/98 at 63 FR 41662. The changes made in response to the comments received on the proposed rule were significant enough and dealt with complex and important issues that another opportunity to comment is warranted. The next version of the rule will be issued as an interim rule, rather than a final rule, in order to implement the statutory directive to promulgate verification regulations and start the subsequent 2-year period in which Federal public benefit granting agencies must come into compliance. The interim rule is in the concurrence process and has not yet been published.

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Timetable:

Action	Date	FR Cite
NPRM-INS No. 1902-98	08/04/98	63 FR 41662
NPRM Comment Period End	10/05/98	
Interim Rule-INS No. 1902-98	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1902-98 should be referenced for any inquiries concerning this rulemaking action.

Agency Contact: John Nahan, Director, SAVE Branch, Files and Forms Management Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Ullico Building, 1st Floor, Washington, DC 20536
Phone: 202 514-2317

RIN: 1115–AE99

1919. FINGERPRINTING APPLICANTS AND PETITIONERS FOR IMMIGRATION BENEFITS; ESTABLISHING A FEE FOR FINGERPRINTING BY THE SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 299; 8 CFR 316; 8 CFR 335

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations relating to fingerprinting applicants and petitioners for benefits under the Immigration and Nationality Act by: Canceling the Designated Fingerprinting Service program; requiring applicants and petitioners for benefits to be fingerprinted at either a Service Office, a State or local law enforcement agency, or at a United States consular or military office; establishing a fee for fingerprinting by the Service; and requiring confirmation from the Federal Bureau of Investigation (FBI) that a full criminal background check has been completed before adjudication of a naturalization application is completed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/17/98	63 FR 12979
Interim Final Rule Effective	03/29/98	
Interim Final Rule Correction	04/09/98	63 FR 17489
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: INS No. 1891-97

Agency Contact: Pamela T. Wallace, Staff Officer, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, Room 980, 801 K Street NW, Washington, DC 20536
Phone: 202 305-1229

RIN: 1115–AF03

1920. PROCESSING, DETENTION, AND RELEASE OF JUVENILES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1362

CFR Citation: 8 CFR 236.3

Legal Deadline: Final, Judicial, July 31, 1998.
The court-approved settlement agreement in Flores v. Reno (C.D. Cal.) required INS to publish regulations in July 1998. However, the changes brought by AEDPA and IIRIRA delayed issuance of regs.

Abstract: The rule amends the Immigration and Naturalization Service regulations by establishing the procedures for processing alien juveniles from custody and the detention of unreleased juveniles in State-licensed programs and detention facilities. This rule also governs the transportation and transfer of juveniles in Service custody.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1906-98	07/24/98	63 FR 39759
NPRM Comment Period End	09/22/98	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1906-98.

Agency Contact: Arthur Srathern, III, Attorney, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7975

John J. Pogash, Juvenile Coordinator (Headquarters), Department of Justice, Immigration and Naturalization Service, Room 3008, 425 I Street NW, Washington, DC 20536
Phone: 202 514-1970

RIN: 1115–AF05

1921. SUSPENSION OF DEPORTATION AND SPECIAL RULE CANCELLATION OF REMOVAL FOR CERTAIN NATIONALS OF GUATEMALA, EL SALVADOR, AND FORMER SOVIET BLOC COUNTRIES

Priority: Other Significant

Legal Authority: 5 USC 552; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1251; 8 USC 1252 note; 8 USC 1252a; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1158; 8 USC 1182; 8 USC 1186a; 8 USC 1224

CFR Citation: 8 CFR 103; 8 CFR 208; 8 CFR 240; 8 CFR 246; 8 CFR 274a; ...

Legal Deadline: None

Abstract: This rule implements section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA), enacted as title II of Public Law No. 105-100, 111 Stat. 2160, 2193 (1997) (as amended by Technical Corrections to the Nicaraguan Adjustment and Central American Relief Act (NACARA), Public Law 105-139, Stat. 2644 (1997). Section 203 of NACARA provides that certain Guatemalans, Salvadorans, and nationals of former Soviet Bloc countries are eligible to apply for cancellation of removal under the standards for suspension of deportation that existed prior to enactment of Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). The rule establishes the authority of INS asylum officers to adjudicate certain applications under section 203 of NACARA, provides application and adjudication procedures, identifies factors and standards relevant to

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eligibility, and establishes a rebutable presumption of extreme hardship for certain NACARA beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1915-98	11/24/98	63 FR 64895
NPRM Comment Period End-INS No. 1915-98	01/25/99	
Interim Rule-INS No. 1915-98	05/21/99	64 FR 27856
Interim Rule Comment Period End	07/20/99	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1915-98

Agency Contact: Joanna Ruppel, Supervisor for Asylum Operations, International Affairs, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Attn: Ullico Building 3rd Floor, Washington, DC 20536
Phone: 202 305-2663

RIN: 1115–AF14

1922. AUTHORIZING SUSPENSION OF EMPLOYMENT AUTHORIZATION REQUIREMENTS ON THE BASIS OF SEVERE ECONOMIC HARDSHIP FOR F-1 STUDENTS AND EMERGENT CIRCUMSTANCES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule amends INS regulations applying to on-campus employment, off-campus employment authorization, and duration of status for nonimmigrant F-1 students. The rule permits the Commissioner to suspend some or all of the requirements for on-campus or off-campus employment where emergent circumstances exist as provided through notice in the Federal Register. The rule also amends the regulations to provide that an F-1 student who carries less than a full course of study as a result of this special employment authorization will be deemed to be maintaining status for the duration of the authorization, as long as the student carries a minimum course load of 6 credit hours if the student is an undergraduate, or 3 credit hours if the student is in graduate school.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1914-98	06/10/98	63 FR 31871
Interim Final Rule Comment Period End	08/10/98	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1914-98 (Employment Authorization for Certain F-1 Nonimmigrant Students Whose Means of Financial Support Comes From Indonesia, South Korea, Malaysia, Thailand, or the Philippines)

Agency Contact: Song Park, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF15

1923. POWERS OF THE ATTORNEY GENERAL TO AUTHORIZE STATE OR LOCAL LAW ENFORCEMENT OFFICERS TO CARRY OUT IMMIGRATION ENFORCEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 8 USC 1101; 8 USC 1103; 8 USC 1201

CFR Citation: 28 CFR 65

Legal Deadline: None

Abstract: In order to provide a more effective and efficient response to a mass migration event, this rule implements provisions in the Immigration and Nationality Act allowing the Attorney General to authorize any State and local law enforcement officer to perform certain functions related to the enforcement of the immigration laws during the period of an actual or imminent mass influx of aliens. This rule would place designated State/local law enforcement officers under the direction of the INS when enforcing immigration law. This rule also allows the Commissioner to enter into advance written agreements with State and local law enforcement officials setting forth the terms and conditions of the functions to be performed during a Federal response to a mass influx of aliens, including reimbursement of expenses.

Timetable:

Action	Date	FR Cite
NPRM	04/08/99	64 FR 17128
NPRM Comment Period End	06/07/99	
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: INS No. 1924

Agency Contact: Ron Dodson, Supervisory Special Agent, Headquarters Investigations, Department of Justice, Immigration and Naturalization Service, Room 1000, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7310

RIN: 1115–AF20

1924. ELIMINATION OF IMMIGRATION AND NATURALIZATION SERVICE-ISSUED MEXICAN AND CANADIAN BORDER CROSSING CARDS

Priority: Other Significant

Legal Authority: 5 USC 552; 8 USC 1228; 8 USC 1252; 8 USC 1304; 8 USC 1356; 8 USC 1304; 8 USC 1356; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1201; 8 USC 1225; 8 USC 1226; 8 USC 1227

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 214; 8 CFR 235; 8 CFR 247; 8 CFR 264; 8 CFR 286; 8 CFR 299

Legal Deadline: Final, Statutory, October 1, 2001.

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations to eliminate the use of Form I-175, Application for Nonresident Alien Canadian Border Crossing Card, and Form I-190, Application for Nonresident Alien Mexican Border Crossing Card. It also terminates the production of Form I-185, Nonresident Alien Canadian Border Crossing Card, and Form I-586, Nonresident Alien Mexican Border Crossing Card. In addition, this rule prohibits the use of Form I-186

(previous version of Mexican Border Crossing Card), Form I-185 and Form I-586 Border Crossing Cards (BCC's) after September 30, 2001, or whatever other date may be enacted for required use of a card containing a machine readable biometric identifier for entry (such as the fingerprint or handprint of the alien). Under the provisions of this rulemaking, an alien seeking entry into the United States by presentation of a BCC must complete a biometric verification upon each entry.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/02	
Interim Final Rule Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1931-98

Agency Contact: Michael J. Flemmi, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 305-9247

RIN: 1115–AF24

1925. FILING OF PROPOSALS FOR DESIGNATION AS A REGIONAL CENTER APPROVED TO PARTICIPATE IN THE IMMIGRANT INVESTOR PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: The regulation changes the location for the filing and adjudication of proposals to participate in the Immigrant Investor Pilot Program from Headquarters, Adjudication, to the Texas and California Service Centers. This change is necessary to ensure the uniform and effective adjudication of these complex proposals related to economic development, export trade, and job creation. Full regulation development is pending legislative action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/02	
Interim Final Rule Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1944-98

Agency Contact: Maurice R. Berez, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF27

1926. NONIMMIGRANT VISA EXEMPTION FOR NATIONALS OF THE BRITISH VIRGIN ISLANDS ENTERING THE UNITED STATES THROUGH ST. THOMAS, UNITED STATES VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1252; 8 USC 1102; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service's regulations to allow nonimmigrant visitors for business or pleasure who are nationals of the British Virgin Islands to apply for admission to the United States without a visa at the ports-of-entry of St. Thomas, United States Virgin Islands. Since visas are no longer issued from the British Virgin Islands by the Department of State, all persons needing a nonimmigrant visa have to either travel or mail their applications to Barbados, the nearest visa issuing location. The Service's action will facilitate travel to the United States for nationals of the British Virgin Islands while still ensuring that the proper application provisions of the I&NA are met.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/18/99	64 FR 7989
Interim Final Rule Comment Period End	04/18/99	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1956-98

Agency Contact: Marty Newingham, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7992

RIN: 1115–AF28

1927. DELEGATION OF THE ADJUDICATION OF CERTAIN H-2A PETITIONS TO THE DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1258; 8 USC 1281; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 103; 8 CFR 214; 8 CFR 248; 8 CFR 264

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service's regulations by delegating the adjudication of certain H-2A petitions to the United States Department of Labor (DOL). The Service has made these changes in order to streamline the existing H-2A petitioning process for certain foreign agricultural workers. This rule will make it easier and less burdensome for United States employers to file petitions for foreign agricultural workers.

A related proposed rule, INS No. 2059-00, will require alien workers to sign a petition request for change of status or extension of stay. It also provides that all petition requests including extension of stay and change of status petitions must be filed with the DOL and provides that the current Service petition fee will be collected by DOL as part of a combined fee. These changes will further streamline the H-2A petitioning process.

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Timetable:

INS No. 1946-98
NPRM 12/07/98 (63 FR 67431)
NPRM Comment Period End 02/05/99
Final Action 07/13/00 (65 FR 43527)
Final Action-Delay of effective date until 10/01/2001 11/13/00 (65 FR 67616)
Final Action-Delay of effective date to 10/1/2002 09/28/01 (66 FR 49514)

INS No. 2059-00
NPRM 07/13/00 (65 FR 43535)
NPRM Comment Period End 08/14/00
NPRM Comment Period End-Extended Date 08/17/00 (65 FR 50166)
Final Action 05/00/02

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1946-98

Agency Contact: John W. Brown, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AF29

1928. REGULATIONS CONCERNING THE CONVENTION AGAINST TORTURE

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282

CFR Citation: 8 CFR 3; 8 CFR 208; 8 CFR 235; 8 CFR 238; 8 CFR 240; 8 CFR 241

Legal Deadline: Other, Statutory, February 18, 1999, The Act requires promulgation by 02/18/99.

Abstract: This rule implements Article 3 of the United Nations Convention Against Torture or Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment for persons who may be subject to removal from the United States under the provisions of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/19/99	64 FR 8478
Interim Final Rule Effective	03/22/99	
Interim Final Rule Corrections	03/22/99	64 FR 13881
Interim Final Rule Comment Period End	04/20/99	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1976-99

Agency Contact: Kelly Ryan, Chief, Refugee and Asylum Branch, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

Charles Adkins-Blanch, General Counsel, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1115–AF39

1929. INTERIM DESIGNATION OF ACCEPTABLE RECEIPTS FOR EMPLOYMENT ELIGIBILITY VERIFICATION

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) made several amendments to the employment eligibility verification provisions of the INA. An interim rule implementing some of these amendments was issued on September 30, 1997. This rule included amendments to the "Receipt Rule," which permits employees to present a "Receipt" in lieu of a document listed on the Employment Eligibility Verification form (Form I-9). Circumstances that have become apparent since publication of the September 30, 1997, rule required that rule to be amended by this interim rule. This interim rule was also necessary to facilitate employer and employee compliance with the regulations. The rule revised the amount of time a receipt remains valid where the employee presents a Form I-94 marked with a temporary I-551 stamp and containing a photograph of the bearer. Where the employee presents a Form I-94 marked with a refugee admission stamp, the rule adds Form I-688B to the list of documents that the employee can present at the end of the receipt validity period.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/99	64 FR 6187
Interim Final Rule Comment Period End	04/12/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rule was published in the Federal Register as RIN 1115-AE94. This RIN has now been changed to 1115-AF42, INS No. 1947-98.

Agency Contact: Marguerite Przbylski, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AF42

1930. INADMISSIBILITY AND DEPORTABILITY ON PUBLIC CHARGE GROUNDS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1183; ...

CFR Citation: 8 CFR 212; 8 CFR 237

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations to establish clear standards governing a determination that an alien is admissible or ineligible to adjust status, or has become deportable, on public charge grounds. This rule is necessary to alleviate growing public confusion over the meaning of the currently undefined term public charge in immigration law and its relationship to the receipt of Federal, State, or local public benefits. By defining public charge, the Service seeks to reduce the negative public health consequences generated by the existing confusion and to provide aliens with better guidance as to the types of public benefits that

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will and will not be considered in public charge determinations.

Timetable:

Action	Date	FR Cite
NPRM	05/26/99	64 FR 28676
NPRM Comment Period End	07/26/99	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1989-99

Agency Contact: Kevin J. Cummings, Assistant Director, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF45

1931. APPLICATION FOR REFUGEE STATUS; ACCEPTABLE SPONSORSHIP AGREEMENT GUARANTY OF TRANSPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1157; 8 USC 1158; ...

CFR Citation: 8 CFR 207

Legal Deadline: None

Abstract: Section 207 of the Immigration and Nationality Act authorizes the Attorney General to admit refugees to the United States under certain conditions, including those provided for by regulation. The Immigration and Naturalization Service regulations require that sponsorship agreements be secured before an applicant is granted admission as a refugee at a U.S. port-of-entry (POE). The determination of whether or not someone is classified as a refugee is described in the Act as a separate decision from whether a refugee may be admitted to the United States in refugee status. This rule amends the Service regulations by removing language that erroneously implies that the Service requires a sponsorship agreement and guarantee of transportation prior to determining whether an applicant is a refugee. This rule is necessary to clarify issues that may appear ambiguous in the existing regulation, and provides more advantageous treatment for the limited number of applicants for refugee status who have their Service interviews before sponsorship agreements have been secured.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/99	64 FR 27660
Interim Final Rule Comment Period End	07/20/99	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1999-99

Agency Contact: Kathleen Thompson, Director, Refugee Branch, Office of International Affairs, Department of Justice, Immigration and Naturalization Service, Office of International Affairs, 425 I Street NW, 3rd Floor, Ullico Bldg., Washington, DC 20536
Phone: 202 305-2662

RIN: 1115–AF49

1932. NONIMMIGRANT CLASSES: Q-2 IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM VISITOR

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186; 8 USC 1187; ...

CFR Citation: 8 CFR 214; 8 CFR 245; 8 CFR 248; 8 CFR 274

Legal Deadline: None

Abstract: This rule amends the regulations to establish a new visa classification, Q-2. Public Law 105-319, also known as the Irish Peace Process Cultural and Training Program Act of 1998, provides the basis for this regulatory change. The Q-2 visa classification identifies those visitors from Northern Ireland and certain designated counties in the Republic of Ireland to come to the United States temporarily for training employment and to experience coexistence and conflict resolution in a diverse society.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/17/00	65 FR 14774
Interim Final Rule Effective	03/17/00	
Interim Final Rule Comment Period End	05/16/00	
Revised Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2000-99

Agency Contact: Donna Crump, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF51

1933. CLARIFICATION OF PAROLE AUTHORITY

Priority: Info./Admin./Other

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; ...

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations concerning the authority to grant the parole of aliens from Service custody by specifically identifying the scope of that authority to include the Commissioner, the Deputy Commissioner, the Executive Associate Commissioner for Field Operations, and regional directors. This action is being taken to clarify which individuals are authorized by the Attorney General, acting through the Commissioner, to grant parole from Service custody.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/28/00	65 FR 82254
Interim Final Rule Comment Period End	12/29/00	
Interim Final Rule Delay of Effective Date until 03/30/2001	01/26/01	66 FR 7863
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

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Government Levels Affected: None

Additional Information: INS No. 2004-99

(See Also 1115-AE68)

Agency Contact: Yvette LaGonterie, Director, Parole Branch, Office of International Affairs, Division Field Operations, Department of Justice, Immigration and Naturalization Service, ULLICO Bldg., Third Floor, 111 Massachuttes Avenue NW, Washington, DC 20001
Phone: 202 305-2670

Kenneth Leutbecker, Director, Parole and Humanitarian Assistance Branch, Office of Field Operations, Department of Justice, Immigration and Naturalization Service, Attn: ULLICO Bldg, Third Floor, 111 Massachusetts Avenue NW, Washington, DC 20001
Phone: 202 305-2670

RIN: 1115–AF53

1934. EXTENDING THE PERIOD OF DURATION OF STATUS FOR CERTAIN F AND J NONIMMIGRANT ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186; ...

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This interim rule amends the Immigration and Naturalization Service regulations to provide that the Commissioner may publish a notice to extend the duration of status, under specified conditions, of certain F-1 and J-1 nonimmigrant aliens who may be affected adversely because the numerical limit (cap) on H-1B nonimmigrant aliens has been reached prior to the end of a given fiscal year. This rule is a necessary stop-gap measure because of large number of F-1 and J-1 nonimmigrant aliens seeking a change of nonimmigrant status to that of H-1B after completion of their studies or their program. However, many of these aliens will be unable to change their nonimmigrant status for the remainder of a given fiscal year because of the cap on H-1B petitions. This rule will allow such aliens to avoid a lapse in their status because of a circumstance that is not under their control.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/99	64 FR 32146
Interim Final Rule Comment Period End	08/16/99	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1992-99

Agency Contact: John W. Brown, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

Efren Hernandez, Chief, Business and Trade Branch, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF54

1935. AUTHORIZING COLLECTION OF FEE LEVIED ON F, J, AND M NONIMMIGRANT CLASSIFICATIONS UNDER ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT (IIRIRA)

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; ...

CFR Citation: 8 CFR 103; 8 CFR 214; 8 CFR 299

Legal Deadline: None

Abstract: This rule amends INS regulations to establish a $95.00 fee, pursuant to section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), as amended by Public Law 106-396. In accordance with these statutes, the alien will remit the fee directly to the Attorney General at a time prior to the alien being classified as an F, J, or M nonimmigrant. The rule will outline the fee amounts, who is subject, when the fee must be paid, and the consequences that an F-1, J-1, and M-1 nonimmigrant faces upon failure to pay the fee. This rule is necessary to implement section 641 of the IIRIRA, as amended, as well as authorized under section 103 and 214 of the Immigration and Nationality Act and under 31 U.S.C. 9701.

Timetable:

Action	Date	FR Cite
NPRM	12/21/99	64 FR 71323
NPRM Comment Period End	02/22/00	
Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1991-99

Agency Contact: Song Park, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF56

1936. CONDITIONAL RESIDENCE OF LAWFUL PERMANENT RESIDENCE FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGHTERS; BATTERED AND ABUSED CONDITIONAL RESIDENTS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1154; 8 USC 1184; 8 USC 1186a

CFR Citation: 8 CFR 216

Legal Deadline: None

Abstract: Enacted on November 10, 1986, the Immigration Marriage Fraud Amendments of 1986 (IMFA) made a number of changes to the Act to deter aliens from marrying solely to obtain immigration benefits. IMFA established a conditional resident status for aliens who obtained lawful permanent resident status based upon a marriage of less than 2 years duration. The interim rule published on May 16, 1991, established procedures to allow a conditional resident who married in good faith but whose marriage was terminated by the United States citizen or lawful permanent resident spouse to seek a waiver of the joint filing requirement. The interim rule also was necessary to provide a method by which a battered conditional resident, or a conditional resident parent of an abused conditional resident child, may apply for removal of the conditional

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basis of resident status without filing a joint petition. The final rule implements certain technical changes made by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and addresses comments received in response to the interim rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/91	56 FR 22635
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Final Action for INS No. 1423-91 that was published on 5/16/1991.

Agency Contact: Pearl Chang, Branch Chief, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536 Phone: 202 514-3228

RIN: 1115–AF59

1937. EXTENSION OF 25-MILE LIMIT AT SELECT ARIZONA PORTS-OF-ENTRY

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; ...

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations to extend the distance Mexican nationals with border crossing cards to travel into the United States without obtaining additional Immigration documentation at selected ports-of-entry (POEs) along the United States and Mexico border. The selected POEs are located in the State of Arizona at Sasabe, Nogales, Mariposa, Douglas, and Naco. Once visitors to Arizona meet the inspection requirements of legal entry to the United States, they will be able to travel within the 75-mile border region of Arizona. This rule is intended to promote commerce in the Southern Arizona border area while still ensuring that sufficient safeguards are in place to prevent illegal entry to the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/08/99	64 FR 68616
Interim Final Rule Comment Period End	02/07/00	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2026-99

Agency Contact: Frances De Choudens, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536 Phone: 202 353-0591

RIN: 1115–AF60

1938. REVOKING GRANTS OF NATURALIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1443

CFR Citation: 8 CFR 340

Legal Deadline: None

Abstract: This rule amends the INS regulations relating to administrative revocation of naturalization by changing the burden of proof the INS must satisfy in order to administratively revoke a grant of naturalization and clarifying the 180-day period for the rendering of the district directors decision. This rule provides that INS will only initiate revocation proceedings based on clear, unequivocal, and convincing evidence with the burden of proof remaining with INS throughout the administrative process and through the issuance of the final decision. This rule clarifies the issues raised by the promulgation of the final rule that was published in 1996 at 61 FR 5550. A final rule requesting comments was published in the Federal Register on October 28, 1996, at 61 FR 55550.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/00	65 FR 17127
Interim Final Rule Comment Period End	05/30/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No.1858-97

Agency Contact: Janice B. Podolny, Associate General, Chief Examinations Division, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536 Phone: 202 514-2895

RIN: 1115–AF63

1939. ENTRY REQUIREMENTS FOR CITIZENS OF THE REPUBLIC OF THE MARSHALL ISLANDS, THE FEDERATED STATES OF MICRONESIA, AND PALAU

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1181; 8 USC 1182; 8 USC 1203; 8 USC 1225; 8 USC 1257; 8 CFR 2

CFR Citation: 8 CFR 211; 8 CFR 212

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations by adding documentary requirements for a naturalized citizen of the Marshall Islands, the Federated States of Micronesia, or Palau (Compact Countries) to enter into the United States, lawfully engage in occupations, accept employment, and establish residence as a nonimmigrant in the United States and its territories and possessions. This rule also clarifies the documentary requirements for an adopted child from Compact Countries who is immigrating to the United States. Without clarification of the documentary requirements for an adopted child from the Compact Countries, the Compact Countries may not consent to the adoption of children by U.S. citizens and legal permanent residents.

Timetable:

Action	Date	FR Cite
NPRM	07/18/01	66 FR 37429
NPRM Comment Period End	08/17/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

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Government Levels Affected: None

Additional Information: INS No. 2047-00

Agency Contact: Elizabeth N. Lee, Assistant Director, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Rooom 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF65

1940. REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES: CONTROL OF EMPLOYMENT OF ALIENS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1201; 8 USC 1201a; 8 USC 1301; 8 USC 1305

CFR Citation: 8 CFR 264; 8 CFR 274a

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations governing applications for renewal of 10-year Permanent Resident Cards upon their expiration. This rule adds documents to the acceptable list of registration requirements and clarifies the requirements for Lawful Permanent Resident (LPRs) to file Form I-90, Application to Replace Alien Registration Card, if they are also applying for naturalization. This rule also provides additional methods to verify employment eligibility for those in the process of renewing their expired or expiring Form I-551, Permanent Resident Card. These changes are necessary to facilitate the 10-year Form I-551 renewal process. This rule also clarifies the fingerprinting requirements for lawful permanent residents who reach the age of 14 years. An interim is necessary because the I-90 program must be implemented as the 10-year I-551 begin to be filed with INS. A proposed rulemaking will not allow the INS to meet its program requirement, and it will be burdensome on the public as it will create a class of aliens who have expired Alien Registration Cards with no means to renew their I-551.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/02	
Interim Final Rule Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No.2042-00

Agency Contact: Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF71

1941. NATIONAL INTEREST WAIVERS FOR SECOND PREFERENCE EMPLOYMENT-BASED IMMIGRANT PHYSICIANS SERVING IN MEDICALLY UNDERSERVED AREAS OR AT DEPARTMENT OF VETERANS' AFFAIRS FACILITIES

Priority: Other Significant

Legal Authority: PL 106-113; 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1641

CFR Citation: 8 CFR 204; 8 CFR 245

Legal Deadline: None

Abstract: On November 29, 1999, Public Law 106-113 was enacted. Section 117 amended the Immigration and Nationality Act (Act) at section 203 to provide national interest waivers to alien physicians agreeing to practice 5 years in designated medically undeserved areas or at Veterans' Affairs facilities. The Service proposes an amendment to 8 CFR 204 and 245 in order to implement the new statutory provisions. The Service issued an interim regulation so that applicants may begin to take advantage of the new provisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/00	65 FR 53889
Correction to Interim Final Rule	09/27/00	65 FR 57943
Interim Final Rule Effective	10/06/00	
Correction to Interim Final Rule	10/20/00	65 FR 63118
Interim Final Rule Comment Period End	11/06/00	
Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2048-00

Agency Contact: Craig S. Howie, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3040, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7869
Fax: 202 514-0198
Email: craig.s.howie@usdoj.gov

RIN: 1115–AF75

1942. PETITIONING REQUIREMENTS FOR THE H-1C NONIMMIGRANT CLASSIFICATION UNDER PUBLIC LAW 106-95

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; ...

CFR Citation: 8 CFR 214.2

Legal Deadline: None

Abstract: On November 12, 1999, the Nursing Relief for Disadvantaged Areas Act (NRDAA) was enacted creating a new H-1C nonimmigrant nurse category. This rule amends the Service's regulations in order to implement the NRDAA as it relates to the adjudication petitions for H-1C classification. This rule will facilitate the hiring of alien registered nurses to reduce the shortage of nurses in certain areas of the United States while protecting the rights of U.S. nurses.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/11/01	66 FR 31107
Interim Final Rule Comment Period End	08/10/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2050-00

Agency Contact: John W. Brown, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536

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Phone: 202 616-7435

RIN: 1115–AF76

1943. EXPANSION OF DEDICATED COMMUTER LANES; CLARIFICATION OF DRIVER'S LICENSE REQUIREMENT FOR APPLICANTS TO DEDICATED COMMUTER LANES AND AUTOMATED PERMIT PORT PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; ...

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This interim rule amends the Immigration and Naturalization Service regulations governing the Dedicated Communter Lanes (DCL) and Automated Permit Port programs by establishing DCLs along the northern borders of the United States. The rule proposes to clarify that non-driving passengers who do not have a driver's license, for example, children, certain elderly people, and others who are ineligible to drive or otherwise choose not to drive, are not required to have or present a drivers license before their application is approved.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	
Interim Final Rule Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2058-00

Agency Contact: Thomas C. Campbell, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4214, 425 I Street NW, Washington, DC 20536
Phone: 202 305-9246

RIN: 1115–AF77

1944. WAIVING THE FINGERPRINTING REQUIREMENT FOR CERTAIN DISABLED NATURALIZATION APPLICANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1181; 8 USC 1182; 8 USC 1443; 8 USC 1447; 29 USC 794(a), The Rehabilitation Act of 1973

CFR Citation: 8 CFR 316; 8 CFR 335

Legal Deadline: None

Abstract: Currently all naturalization applicants filing Form N-400, Application for Naturalization, are required to be fingerprinted on Form FD-258 Applicant Card for the purpose of conducting criminal background checks by the Federal Bureau of Investigation (FBI). This rule amends the Immigration and Naturalization Service regulations by providing a fingerprinting waiver for naturalization applicants who, because of a permanent impairment, are unable to provide any fingerprints. It also provides an alternative method for collecting the required background clearances.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Request for Comments	01/00/02	
Interim Final Rule Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2060-00

Agency Contact: Pamela T. Wallace, Adjudications Officer, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, Room 980, 801 I Street NW, Washington, DC 20536
Phone: 202 514-9475

RIN: 1115–AF80

1945. UPDATE OF LIST OF COUNTRIES WHOSE CITIZENS OR NATIONALS ARE INELIGIBLE FOR TRANSIT WITHOUT VISA (TWOV) PRIVILEGES TO THE UNITED STATES UNDER THE TWOV PROGRAM

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1221; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1229; 8 USC 1252

CFR Citation: 8 CFR 212; 8 CFR 233

Legal Deadline: None

Abstract: This interim rule (INS No. 2020-99)updates the list of those countries that the Service, acting on behalf of the Attorney General and jointly with the Department of State, has determined to be ineligible for participation in the TWOV program. This rule also removes certain countries from the ineligible listing so that aliens from these countries can have their passport and visa requirements waived. This rule is intended to benefit the traveling public by expanding the number of countries whose citizens or nationals may transit the United States without a visa while preventing an increase in the abuse of the TWOV program by citizens or nationals of countries placed on the ineligible list.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/01	66 FR 1017
Interim Final Rule Delay of Effective Date	02/02/01	66 FR 8743
Interim Final Rule Comment Period End	03/06/01	
Interim Final Rule Effective	04/06/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No.2020-99

Negotiations are under way between the Department of State and the Immigration and Naturalization Service.

INS No.2129-01

Related RIN 1115-AD96, "Establishing Criteria for Determining Countries Whose Citizens Are Ineligible for the Transit Without Visa (TWOV) Program."

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7499
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RIN: 1115–AF81

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1946. IMPLEMENTATION OF THE NUMERICAL LIMIT ON ASYLUM GRANTS AND REFUGEE ADMISSIONS BASED ON RESISTANCE TO COERCIVE POPULATION CONTROL MEASURES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1157; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 208; 8 CFR 274a

Legal Deadline: None

Abstract: Section 601(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) provides that, for any fiscal year, not more than a total of 1,000 refugees may be admitted or granted asylum based solely on resistance to coercive population control measures. This rule authorizes the Immigration and Naturalization Service and the Executive Office for Immigration Review to make conditional grants of asylum in those cases in which an applicant is found to merit asylum solely on the basis of resistance to coercive population control measures and establishes a mechanism for converting no more than 1,000 conditional grants per fiscal year to final asylum grants. The rule also establishes procedures for administering a waiting list in those years that the number of conditional grants exceeds the statutory limit for final grants, reserves a certain number of authorization numbers for purposes of refugee admission, and addresses procedures for administering derivative conditional grants, terminating conditional grants, and other procedures specific to this rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Request for Comments	12/00/01	
Interim Final Rule Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2067-00

Agency Contact: Joanna Ruppel, Supervisor for Asylum Operations, International Affairs, Department of Justice, Immigration and Naturalization Service, 3rd Floor, 111 Massachusetts Avenue NW, Washington, DC 20536
Phone: 202 305-2663

RIN: 1115–AF84

1947. ADDING ACTUARIES AND PLANT PATHOLOGISTS TO APPENDIX 1603.D.1 OF THE NORTH AMERICAN FREE TRADE AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 2

Legal Deadline: None

Abstract: The rule proposes to amend 8 CFR 214.6 by adding the occupations of actuary and plant pathologists to Appendix 1603.D.1. This rule proposes to modify the licensure requirements for Canadian citizens seeking admission to the U.S. as a TN nonimmigrant category alien. These amendments are being proposed to reflect the agreements made among the three parties to the North American Free Trade Agreement. Also, this rule will facilitate travel to the U.S. and benefit U.S. businesses.

Timetable:

Action	Date	FR Cite
NPRM	12/19/00	65 FR 79320
NPRM Comment Period End	02/20/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2068-00

Agency Contact: John W. Brown, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AF85

1948. POWER OF ATTORNEY GENERAL TO TERMINATE DEPORTATION PROCEEDINGS AND INITIATE RENEWAL PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208

CFR Citation: 8 CFR 309

Legal Deadline: None

Abstract: This rule proposes to implement section 309(c)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) by affording certain aliens rendered ineligible for relief from deportation by recent changes in the law the opportunity to have their deportation proceedings terminated and removal proceedings initiated in order to apply for relief. Certain permanent resident aliens rendered ineligible for section 212(c) relief by the Antiterrorism and Effective Death Penalty Act (AEDPA) and certain non-permanent resident aliens rendered ineligible for suspension of deportation by the stop time rule in IIRIRA may apply for "repapering" (as it is commonly known) under this rule. This process would not apply to aliens eligible for 212(c) relief pursuant to the procedures described in the Executive Office for Immigration Review (EOIR) rulemaking in response to the "Soriano" case (RIN 1125-AA29).

Timetable:

Action	Date	FR Cite
NPRM	11/30/00	65 FR 71273
NPRM Comment Period End	01/29/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2083-00

Agency Contact: Kyle D. Latimer, Associate General Counsel, Department of Justice, Immigration and Naturalization Service, Office of the General Counsel, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 616-2604

RIN: 1115–AF87

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1949. EMPLOYMENT AUTHORIZATION FOR CERTIFICATE OF CITIZENSHIP APPLICANTS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 USC 1443; 8 USC 1448; 8 CFR 2

CFR Citation: 8 CFR 274a, 8 CFR 341

Legal Deadline: None

Abstract: This interim rule amends the Immigration and Naturalization Service regulations by providing a procedure under which aliens who, believing they are actually citizens, have filed applications for certificates of citizenship (Forms N-600) may obtain employment authorization while their applications are pending. This interim rule is necessary to establish a uniform procedure to accommodate Form N-600 applicants, without creating a strong incentive for aliens to file applications in bad faith, seeking simply to obtain employment authorization.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/02	
Interim Final Rule Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No.2076-00

Agency Contact: Janice B. Podolny, Associate General, Chief Examinations Division, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AF90

1950. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE; TEMPORARY REMOVAL OF CERTAIN RESTRICTIONS OF ELIGIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252; 8 USC 1252b; 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 205; 8 CFR 245

Legal Deadline: None

Abstract: The Immigration and Naturalization Service is amending its regulations governing eligibility for adjustment of status under section 245(i) of the Immigration and Nationality Act to conform the regulations to existing policy and procedures and to remove language that has been superseded by subsequent legislation. Specifically, this interim rule conforms the regulations to include the changes made by Public Law 105-119 and Public Law 106-544. It also provides for the changes contained in the Legal Immigration Family Equity Act of 2000 (LIFE ACT). As required by the Life Act, this rule changes the sunset date of section 245(i) of the Immigration and Naturalization Act to the new date of April 30, 2001, for filing of qualifying petitions or applications that enable the applicant to apply to adjust status using section 245(i) and clarifies the effect of the new sunset date on eligibility. This means that in order to preserve the ability to apply for adjustment of status under section 245(i), an alien must be the beneficiary of a visa petition for classification under section 204 of the Act or application for labor certification properly filed on or before April 30, 2001, and determined to have approval when filed. This rule also provides guidance on the standard for review of filing for immigrant visa petitions and applications for labor certification on or before April 30, 2001.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/26/01	66 FR 16383
Interim Final Rule Effective	03/26/01	
Interim Final Rule Comment Period End	05/25/01	
Final Rule	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2078-00; This rulemaking supersedes RIN 1115-AD83.

Agency Contact: Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2763
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RIN: 1115–AF91

1951. ASYLUM AND WITHHOLDING DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 208

Legal Deadline: None

Abstract: This rule proposes to amend the Department regulations that govern establishing asylum eligibility. This rule is intended to provide guidance on certain issues that have arisen in the context of asylum adjudications. The amendments focus on portions of the regulations that deal with the definitions of persecution, membership in a particular social group, and State action. This rule codifies long standing concepts of the definition of persecution. It clarifies that gender can be a basis for membership in a particular social group. It also clarifies that a person who has suffered or fears domestic violence may be considered a member of a particular social group. The Department of Justice believes this issue required further examination after the Board of Immigration Appeals decision, Matter of R-A. This rule also clarifies that the factors considered in Ninth Circuit case law regarding membership in a particular social group are non-determinative. Finally, the rule offers further guidance on what is required to show a State's inability or unwillingness to control a persecutor.

Timetable:

Action	Date	FR Cite
NPRM	12/07/00	65 FR 76588
NPRM Comment Period End	01/22/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No 2092-00

Agency Contact: Dorthea Lay, Attorney, Office of the General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 305-8414

DOJ—INS

Final Rule Stage

Fax: 202 514-0455

RIN: 1115–AF92

1952. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A U.S. CITIZEN OR PREFERENCE IMMIGRANT; ADJUSTMENT OF STATUS TO THAT OF A PERSON ADMITTED FOR PERMANENT RESIDENCE

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; ...

CFR Citation: 8 CFR 204; 8 CFR 245

Legal Deadline: None

Abstract: This final rule amends regulations of the Immigration and Naturalization Service (Service) to provide an exception from the general prohibition against approval of immigration benefits based upon a marriage entered into during removal proceedings. The rule creates a good faith exception to the prohibition. This final rule completes the regulatory implementation of the Immigration Act of 1990 (IMMACT 90).

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: See INS No. 1419-91

Agency Contact: Elizabeth N. Lee, Assistant Director, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Rooom 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF94

1953. CHILDREN BORN OUTSIDE THE UNITED STATES; APPLICATIONS FOR CERTIFICATE OF CITIZENSHIP

Priority: Other Significant

Legal Authority: PL 106-395

CFR Citation: 8 CFR 103; 8 CFR 299; 8 CFR 310; 8 CFR 320; 8 CFR 322; 8 CFR 338; 8 CFR 341; 8 CFR 499; ...

Legal Deadline: Final, Statutory, February 27, 2001, Mandated by Law.

Abstract: This rule implements title I of the Child Citizenship Act of 2000 (CCA), Pubic Law 106-395. First, it amends the Immigration and Naturalization Service (Service) regulations by adding a new part which addresses application procedures for foreign-born children residing in the United States pursuant to a lawful admission for permanent residence, who acquire citizenship automatically under section 320 of the Immigration and Nationality Act (Act), as amended. This rule established procedures for these foreign-born children, including adopted children, to obtain certificates of citizenship. Second, this rule also addresses application procedures for foreign-born children residing outside the United States, who can acquire citizenship under section 322 of the Act, as amended, by approval of an application and taking the oath of allegiance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/13/01	66 FR 32138
Interim Final Rule Effective	06/13/01	
Interim Final Rule Comment Period End	08/13/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No 2101-00

Agency Contact: Ramona McGee, Associate General Counsel, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, Washington, DC 20536
Phone: 202 616-7965

RIN: 1115–AF98

1954. ALLOWING FOR THE FILING OF FORM I-140 VISA PETITION CONCURRENTLY WITH A FORM I-485 APPLICATION IN CERTAIN CIRCUMSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1641

CFR Citation: 8 CFR 204; 8 CFR 245

Legal Deadline: None

Abstract: The current regulations provide that an alien worker who wants to apply for permanent residence by filing the appropriate Form I-485, Application To Register Permanent Residence or Adjust Status, cannot do so until he or she obtains approval of the underlying petition, Form I-140, Immigrant Petition for Alien Worker. This procedure has resulted in aliens experiencing unnecessary delays due to the heavy backlog created by increasing numbers of cases received by the Immigration and Naturalization Service. This rule amends the Service's regulations by allowing the Forms I-140 and I-485 to be filed concurrently when a visa is immediately available, thereby improving the efficiency of the system, as well as customer service. This rule will also allow the alien worker to apply for employment authorization (Form I-765, Application for Employment Authorization) and advanced parole authorization (Form I-131, Application for Travel Document) while the Form I-485 is pending.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	01/00/02	
Interim Final Rule Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2104-00

Agency Contact: Maurice R. Berez, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AG00

1955. SPECIAL IMMIGRANT VISA FOR FOURTH PREFERENCE EMPLOYMENT-BASED BROADCASTERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1641

CFR Citation: 8 CFR 204

Legal Deadline: None

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Abstract: This interim rule amends the Immigration and Naturalization Service regulations by establishing the procedure under which the International Broadcasting Bureau of the United States Broadcasting Board of Governors (BBG), or a BBG grantee organization, may file special fourth preference immigrant petitions for alien broadcasters. This rule explains the requirements the alien broadcaster must meet in order to be the beneficiary of an immigrant visa petition. This regulatory change is necessary in order to assist the BBG in fulfilling its statutory obligation to hire alien broadcasters.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/11/01	66 FR 51819
Interim Final Rule Effective	11/13/01	
Interim Final Rule Comment Period End	12/10/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2106-00

Agency Contact: Craig S. Howie, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3040, 425 I Street NW, Washington, DC 20536
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RIN: 1115–AG01

1956. ESTABLISHING PREMIUM PROCESSING SERVICE FOR EMPLOYMENT-BASED PETITIONS AND APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103

CFR Citation: 8 CFR 103; 8 CFR 299

Legal Deadline: None

Abstract: This rule changes the Immigration and Naturalization Service regulations to establish premium processing service for certain employment-based petitions and applications. If an individual pays a fee for premium processing service, the INS will process the petition or application in 15 days. Premium Processing Service will give American businesses an option to pay for more rapid processing of petitions and applications to meet their needs for foreign workers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/01/01	66 FR 29682
Interim Final Rule Effective	06/01/01	
Interim Final Rule Comment Period End	07/31/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2108-01

Agency Contact: Tracy Renaud, Adjudications Officer, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, 10th Floor, 800 K Street NW, Washington, DC 20536
Phone: 202 305-8010

RIN: 1115–AG03

1957. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS OF NICARAGUA, CUBA, AND HAITI

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1255

CFR Citation: 8 CFR 241; 8 CFR 245

Legal Deadline: None

Abstract: This final rule implements the provisions of the Legal Immigration Family Equity Act (LIFE) and its technical amendments to both the Nicaraguan Adjustment and Central American Relief Act (NACARA), and the Haitian Refugee Immigration Fairness Act (HRIFA) of 1998. Specifically, section 1505 of the amendments to LIFE states that section 241(a)(5) of the INA does not apply to adjustment applicants under NACARA/HRIFA and that the grounds of inadmissibility under section 212(a)(9)(A) and (C) of the INA may be waived for NACARA/HRIFA adjustment applicants. Section 241(a)(5) of the Immigration and Nationality Act (Act) provides for the reinstatement of a removal order against any alien who illegally re-enters the United States after having been removed or after having departed voluntarily under an order of removal. It also bars any alien whose removal order has been reinstated from receiving any relief under the Act, including any waivers of grounds of inadmissibility necessary for the grant of adjustment of status. Sections 212(a)(9)(A) and 212(a)(9)(C) of the Act are grounds of inadmissibility relating to aliens previously removed and aliens who are unlawfully present in the United States after previous immigration violations, respectively. Section 1505 of the amendments to LIFE also states that an alien who has become eligible for benefits under NACARA/HRIFA as a result of the enactment of LIFE may file a motion to reopen his or her removal proceedings in order to apply for adjustment or to apply for cancellation of removal or suspension of deportation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/31/01	66 FR 29449
Interim Final Rule Comment Period End	05/31/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2113-01

Agency Contact: Kevin J. Cummings, Assistant Director, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
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RIN: 1115–AG05

1958. NONIMMIGRANT CLASSES; SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENTS; V CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1102; PL 106-553

CFR Citation: 8 CFR 103; 8 CFR 204; 8 CFR 205; 8 CFR 212; 8 CFR 214; 8 CFR 245; 8 CFR 248; 8 CFR 299

Legal Deadline: None

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Abstract: Section 1102 of the LIFE Act of 2000 amends the Immigration and Nationality Act to create a new nonimmigrant classification V for the spouses and children of lawful permanent residents awaiting the availability of an immigrant visa number in the appropriate preference category in accordance with the State Department's monthly Visa Bulletin. Eligible spouses and children of lawful permanent residents residing abroad that obtain the V nonimmigrant visa from the Department of State may work and reside in the United States on the basis of the V classification until they can apply for adjustment of status to that of lawful permanent resident. Certain eligible spouses and children of lawful permanent residents already present in the United States on the basis of the V classification until they can apply to adjust status to that of lawful permanent resident. This rule sets forth eligibility criteria and procedures for obtaining the V visa classification and related employment authorization.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/07/01	66 FR 46697
Interim Final Rule Effective	09/07/01	
Interim Final Rule Comment Period End	11/06/01	
Final Rule	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2117-01

Agency Contact: Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG08

1959. K NONIMMIGRANT CLASSIFICATION, LEGAL IMMIGRATION FAMILY EQUITY ACT (LIFE)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-553

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 245; 8 CFR 248; 8 CFR 274a

Legal Deadline: Final, Statutory, December 21, 2000.

Abstract: Section 1103 of the Legal Immigration Equity Act (LIFE), Public Law 106-553, creates a new nonimmigrant classification under INA 101(a)(15)(K) for the spouses and children of U.S. citizens who have pending immigrant Visa applications. This rule establishes this classification in the INS regulations, including creating filing and adjudication procedures, as well as procedures for adjusting status from this new nonimmigrant classification to that of a law permanent resident.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/01	66 FR 42587
Interim Final Rule Comment Period End	10/15/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: LIFE creates another separate nonimmigrant classification V and also amends the INA for other purposes. Each of these will be addressed in a separate rule. [INS No. 2127-01]

Agency Contact: Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG12

1960. ADJUSTMENT OF STATUS FOR CERTAIN SYRIAN NATIONALS GRANTED ASYLUM IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1255; sec 202, PL 105-100, 111 Stat 2160, 2193; 8 CFR 2

CFR Citation: None

Legal Deadline: None

Abstract: On October 27, 2000, the President signed into law Public Law 106-378, which provides for the adjustment of status to lawful permanent resident of certain Syrian nationals, without regard to the annual numerical limitation requirement. This interim rule discusses eligibility and sets forth application procedures for persons wishing to adjust status on the basis of Public Law 106-378. The INS has issued this action as an interim rule because Public Law 106-378 provided for a 1-year application period, which will end on October 26, 2001. Publication of the interim rule ensures that applicants were provided with as much time as possible to apply for the benefits under Public Law 106-378. The Service is now reviewing comments and is drafting a final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/01	66 FR 27445
Interim Final Rule Effective	05/17/01	
Interim Final Rule Comment Period End	07/17/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG13

1961. ADJUSTMENT OF STATUS OF CERTAIN ALIENS FROM VIETNAM, CAMBODIA, AND LAOS IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1255

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: On November 6, 2000, the President signed into law Public Law 106-429, the Foreign Operations Appropriations Act of 2001, section 586 of which provides for the adjustment of status for certain aliens from Vietnam, Cambodia, and Laos. To apply for adjustment under this provision, eligible applicants must have been physically present in the United States since October 1, 1997, and inspected and paroled into the United States from

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Vietnam under the Orderly Departure Program from a refugee camp in East Asia or from a displaced persons camp administered by the United Nations in Thailand. This rule further discusses eligibility, sets forth application procedures, and amends Service regulations to provide for adjustments of status on the basis of section 586 of Public Law 106-429.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	
Interim Final Rule Effective	12/00/01	
Interim Final Rule Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2124-01

Agency Contact: Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
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RIN: 1115–AG14

1962. ADDING COLOMBIA TO THE LIST OF COUNTRIES WHOSE CITIZENS OR NATIONALS ARE INELIGIBLE FOR TRANSIT WITHOUT VISA (TWOV) PRIVILEGES TO THE UNITED STATES UNDER THE TWOV PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1227

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: The Transit Without Visa program allows certain aliens to transit the United States en route to a specified foreign country without a passport or visa provided they are traveling on a carrier signatory to an agreement with the Immigration and Naturalization Service in accordance with section 233(c) of the Act. This interim rule adds Colombia to the list of those countries that the Service, acting on behalf of the Attorney General and jointly with the Department of State, has determined to be ineligible for participation in the TWOV program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/01	66 FR 17321
Interim Final Rule Effective	04/02/01	
Interim Final Rule Comment Period End	05/29/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No 2129-01

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
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RIN: 1115–AG16

1963. NEW CLASSIFICATION FOR VICTIMS OF SEVERE FORMS OF TRAFFICKING IN PERSONS ELIGIBLE FOR THE T NONIMMIGRANT STATUS

Regulatory Plan: This entry is Seq. No. 80 in part II of this issue of the **Federal Register**.

RIN: 1115–AG19

1964. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1104; 8 USC 1252; 22 USC 7101; 22 USC 7105; ...

CFR Citation: 28 CFR 95

Legal Deadline: Other, Statutory, April 28, 2001, Statutory deadline for promulgation of regulations.

Abstract: This rule amends 28 CFR and sets forth implementing guidance for section 107(c) of the Victims of Trafficking and Violence Protection Act of 2000. The Attorney General and the Secretary of State are promulgating these regulations for law enforcement, Immigration, and Department of State (DOS) officials regarding the protection of victims of severe forms of trafficking who are in custody, the access of such victims to information about their rights and translation services, and the training of appropriate Department of Justice and DOS personnel in identifying and protecting such victims. The rule also addresses the authority of Federal law enforcement officials to permit the continued presence in the United States of certain victims of severe forms of trafficking who are potential witnesses in order to aid prosecutions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/24/01	66 FR 38514
Interim Final Rule Comment Period End	10/22/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Federalism: Undetermined

Additional Information: INS No 2133-01

Agency Contact: Anne M. Veysey, Director, Program Strategy and Development Branch, Department of Justice, Immigration and Naturalization Service, Investigations Division, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3479

RIN: 1115–AG20

1965. • REMOVING RUSSIA FROM THE LIST OF COUNTRIES WHOSE CITIZENS OR NATIONALS ARE INELIGIBLE FOR TRANSIT WITHOUT VISA (TWOV) PRIVILEGES TO THE UNITED STATES UNDER THE TWOV PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; ...

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: The Transit Without Visa (TWOV) Program allows certain aliens to transit the United States en route to a specified foreign country without a passport or visa provided they are traveling on a carrier signatory to an agreement with the Immigration and

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Naturalization Service (Service) in accordance with section 233 (c) of the Immigration and Nationality Act (Act). This interim rule removes Russia from the list of those countries that the Service, acting on behalf of the Attorney General and jointly with the Department of State, has determined to be eligible for participation in the TWOV program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/01	66 FR 32529
Interim Final Rule Comment Period End	08/15/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2144-01

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
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RIN: 1115–AG27

1966. • DETENTION OF ALIENS SUBJECT TO FINAL ORDERS OF REMOVAL

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1223; 8 USC 1227; 8 USC 1231; 8 USC 1253; ...

CFR Citation: 8 CFR 241

Legal Deadline: None

Abstract: This rule amends the custody review process governing the detention of aliens who are the subject of a final order of removal, deportation or exclusion, see 8 CFR 241.4, in light of the decision of the U.S. Supreme Court in Zadvydas v. Davis, 533 U.S., 121 S. Ct. 2491 (2001). This rule adds new provisions governing cases for the Immigration and Naturalization Service (Service) to determine whether there is a significant likelihood that an alien will be removed form the United States in the reasonably foreseeable future, and cases where there are special circumstances justifying the continued detention of certain aliens. This rule also makes conforming changes to the existing post-removal period detention regulations, and provides procedures to implement the statutory provision for the extension of the removal period beyond 90 days if the alien conspires or acts to prevent his or her removal or fails or refuses to assist the Service in obtaining documents necessary to his or her removal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/14/01	66 FR 56967
Interim Final Rule Comment Period End	01/14/02	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No 2156-01

Agency Contact: Joan S. Lieberman, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AG29

1967. • ALLOWING CITIZENS AND NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA LIMITED TRANSIT WITHOUT VISA (TWOV) PRIVILEGES AT TWOV-DESIGNATED ALASKA INTERNATIONAL AIRPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; ...

CFR Citation: 8 CFR Part 212

Legal Deadline: None

Abstract: The Transit Without Visa (TWOV) Program allows certain aliens to transit the United States en route to a specified foreign country without passport or visa provided they are traveling on a carrier signatory to an agreement with the Immigration and Naturalization Service (Service) in accordance with section 233(c) of the Act and meet certain other requirements as enumerated in Service regulations at 8 CFR 212.1(f) and 214.2(c). This interim rule allows citizens and nationals of the People's Republic of China limited TWOV privileges at TWOV-designated Alaska international airports provided they meet additional requirements enumerated in the rule. This rule is intended to benefit the economy of Alaska by allowing citizens and nationals of the People's Republic of China to transit the United States without a visa at TWOV-designated Alaskan international airports while limited the risk of abuse of the TWOV program by citizens or nationals of the People's Republic of China by restricting this policy to certain Alaskan ports-of-entry.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	
Interim Final Rule Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2160-01;

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
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RIN: 1115–AG33

1968. • CUSTODY PROCEDURES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; ...

CFR Citation: 8 CFR Part 287

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations on the period of time after an alien's arrest within which the Service must make a determination whether the alien will be continued in custody or released on bond or recognizance and whether to issue a notice to appear and warrant of arrest. This rule provides that unless voluntary departure has been granted, the Service must make such determinations within 48 hours of arrest, except in the event of emergency or other extraordinary circumstance in which case the Service must make such

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determinations within an additional reasonable period of time.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	09/17/01	66 FR 48334
Interim Final Rule Published	09/20/01	66 FR 48334
Interim Final Rule Comment Period End	11/19/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No 2171-01

Agency Contact: Daniel Brown, Assistant General Counsel, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7977

RIN: 1115–AG40

Department of Justice (DOJ)
Immigration and Naturalization Service (INS)

Long-Term Actions

1969. VISA WAIVER PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 217

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1406-91 Comment Period End 5/22/91	05/07/91	56 FR 21101
Final Rule-INS No. 1406-91 Eff. 7/18/91*	07/18/91	56 FR 32952
Interim Final Rule-INS No. 1447 Eff. 10/1/91; Comment Period End 10/15/91	09/13/91	56 FR 46716
Interim Final Rule-1622-93; Eff. 7/29/93; Com. End 8/30/93; (To be merged with 1447R-93)*	07/29/93	58 FR 40581
Public Notice-INS No. 1674 Eff. 10/25/94, Comment Period End 09/30/96	02/21/95	60 FR 9699
Interim Final Rule-INS No. 1685 Eff. 4/1/95; Comment Period End 5/30/95	03/28/95	60 FR 15855
Interim Final Rule-INS No. 1777	07/08/96	61 FR 35598
Interim Final Rule-INS No. 1782-96 With Comments (Australia)	07/29/96	61 FR 39721
Interim Final Rule-INS 1786-96 With Comments (Slovenia)	09/30/97	62 FR 50998
Final Rule-INS No. 1799	12/30/98	63 FR 71726
Interim Final Rule-INS 2002-99 With Comments (Portugal, Singapore, and Uruguay)	09/03/99	64 FR 42006
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marty Newingham
Phone: 202 616-7992

RIN: 1115–AB93

1970. EMPLOYER SANCTIONS MODIFICATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 274a

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1738	10/07/96	61 FR 52235
Correction (Interim Final Rule)	10/29/96	61 FR 55840
Interim Final Rule Comment Period End	11/06/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Angelo Sorrento
Phone: 202 616-7487

RIN: 1115–AE21

1971. REGULATIONS RELATING TO TEMPORARY PROTECTED STATUS

Priority: Other Significant

CFR Citation: 8 CFR 103; 8 CFR 240; 8 CFR 299

Timetable:

Action	Date	FR Cite
TPS Final Rule (INS No. 1612) Removal of Obsolete Sections Covering TPS for Salvadorans	09/10/96	61 FR 47667
TPS Notice (INS No. 1832-97) Designation of Liberia	04/07/97	62 FR 16608
TPS Notice (INS No. 1853-97) Designation of Rwanda Eff. 06/07/97	06/19/97	62 FR 33442
TPS Notice (INS No. 1862-97) Designation of Bosnia-Hercegovina	08/01/97	62 FR 41420
TPS Notice (INS No. 1863-97) Designation of Somalia	08/01/97	62 FR 41421
TPS Notice (INS No. 1878-97) TPS Designation of Montserrat	08/28/97	62 FR 45685
TPS Notice (INS No. 1775-96) TPS Designation of Burundi	11/04/97	62 FR 59735
TPS Notice (INS No. 1877-97) TPS Designation of Sierra	11/04/97	62 FR 59736
TPS Notice (INS No. 1780-97) TPS Designation of Sudan	11/04/97	62 FR 59737
TPS Notice (INS No. 1910-98) Termination of Designation of Liberia	03/31/98	63 FR 15437

DOJ—INS **Long-Term Actions**

TPS Notice (INS No. 1929-98) TPS Designation of Kosovo	06/09/98	63 FR 31527
TPS Notice (INS No. 1945-98) Extension of Designation of Somalia	09/28/98	63 FR 51602
TPS Notice (INS No. 1953-98) Redesignation of Liberia	09/29/98	63 FR 51958
TPS Notice (INS No. 1957-98) TPS Extension of Designation of Burundi	11/03/98	63 FR 59334
TPS Notice (INS No. 1958-98) TPS Extension of Designation of Sierra Leone	11/03/98	63 FR 59336
TPS Notice (INS No. 1959-98) Extension of Designation of Sudan	11/03/98	63 FR 59337
Final Action	11/16/98	63 FR 63593
TPS Notice (INS No. 1964-98) TPS Designation of Honduras	01/05/99	64 FR 524
TPS Notice (INS No. 1965-98) TPS Designation of Nicaragua	01/05/99	64 FR 526
TPS Notice (INS No. 1960-98) TPS Designation of Guinea-Bissau	03/11/99	64 FR 12181
TPS Notice (INS No. 1986-99) TPS Redesignation of the Province of Kosovo	06/08/99	64 FR 30542
TPS Notice (INS No. 1953-99) Termination of TPS Designation of Liberia	07/30/99	64 FR 41463
TPS Notice (INS No. 2009-99) Extension of the TPS Registration Period for Hondurans and Nicaraguans	08/06/99	64 FR 42991
TPS Notice (INS No. 2006-99) Extension of TPS Designation of Bosnia-Herzegovina	08/11/99	64 FR 43720
TPS Notice (INS No. 2010-99) Extension of TPS Designation of Montserrat	09/02/99	64 FR 48190
TPS Notice (INS No. 2015-99) Extension of TPS Designation of Somalia	09/13/99	64 FR 49511
TPS Notice (INS No. 2022-99) Extension and Redesignation of Burundi Under Temporary Protected Status	11/09/99	64 FR 61123
TPS Notice (INS No. 2024-99) Extension and Redesignation of Sierra Leone Under Temporary Protected S	11/09/99	64 FR 61125
TPS Notice (INS No. 2023-99) Extension and Redesignation of Sudan Under the Temporary Protected Stat	11/09/99	64 FR 61128
TPS Notice (INS No. 2043-00) Extension and Termination of Designation of Guinea-Bissau Under TPS	03/20/00	65 FR 15016
TPS Notice (INS No. 2044-00) Designation of Angola Under TPS	03/29/00	65 FR 16634
TPS Notice (INS No. 2065-00) Extension of Designation Hondurans	05/11/00	65 FR 30438
TPS Notice (INS No. 2064-00) Extension of Nicaragua Designation	05/11/00	65 FR 30440
TPS Notice (INS No. 2066-00) Termination of the Kosovo...	05/23/00	65 FR 33356
TPS Notice (INS No. 2065R-00) Extension of Re-Registration for Hondurans	06/09/00	65 FR 36719
TPS Notice (INS No. 2064R-00) Extension of Re-Registration for Nicaraguans	06/09/00	65 FR 36729
TPS Notice (INS No. 2079-00) Termination of Bosnia-Herzegovina	08/30/00	65 FR 52789
TPS Notice (INS No. 2087-00) Extension of Designation of Montserrat Under Temporary Protected Status	10/02/00	65 FR 58806
TPS Notice (INS No. 2096-00) Extension of Designation of Burundi	11/09/00	65 FR 67404
TPS Notice (INS No. 2095-00) Extension of Designation of Sierra Leone	11/09/00	65 FR 67405
TPS Notice (INS No. 2094-00) Extension of Designation of Sudan	11/09/00	65 FR 67407
Correction TPS Notice (INS No.2090-00) Extension of Designation of Somalia	12/08/00	65 FR 77074
TPS Notice (INS 2125-01) Designation of El Salvador	03/09/01	66 FR 14214
TPS Notice (INS 2114-01) Extension and Redesignation of Angola	04/05/01	66 FR 18111
TPS Notice (INS 2135-01) Extension of Designation of Honduras under TPS	05/08/01	66 FR 23269
TPS Notice (INS 2136-01) Extension of Designation of Nicaragua under TPS	05/08/01	66 FR 23271
TPS Notice (INS 2148-01) Automatic Ext. of Work Authorization for Hondurans & Nicaraguans Under TPS	07/03/01	66 FR 35270
TPS Notice (INS 2146-01) Extension of the Designation of Monserrat under TPS	08/03/01	66 FR 40833
TPS Notice (INS 2162-01) Extension of Designation of Burundi under TPS	08/31/01	66 FR 46027
TPS Notice (INS 2163-01) Extension of the Designation of Sudan under TPS	08/31/01	66 FR 46029
TPS Notice (INS 2164-01) Extension of the Designation of Sierra Leone under TPS	08/31/01	66 FR 46031
TPS Notice (INS 2151-01) Extension of Redesignation of Somalia under TPS	09/04/01	66 FR 46288

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rebecca Peters
Phone: 202 514-2454

RIN: 1115–AE26

1972. INSPECTION AND EXPEDITED REMOVAL OF ALIENS; DETENTION AND REMOVAL OF ALIENS; CONDUCT OF REMOVAL PROCEEDINGS

Priority: Other Significant

CFR Citation: 8 CFR 1; 8 CFR 213; 8 CFR 214; 8 CFR 216; 8 CFR 217; 8 CFR 221; 8 CFR 223; 8 CFR 3; 8 CFR 103; 8 CFR 204; 8 CFR 207; 8 CFR 209; 8 CFR 211; 8 CFR 212; ...

Timetable:

Action	Date	FR Cite
Final Action-INS No. 1669-94	03/22/96	61 FR 11717
NPRM-INS No. 1788-96 Comment Period End 2/3/97	01/03/97	62 FR 444
Interim Final Rule-INS No. 1788-96 Comment Period End 7/15/97	03/06/97	62 FR 10312
Interim Final Rule Correction (Effective 04/01/97)	04/01/97	62 FR 15362
Interim Final Rule-INS No. 1788-96 Correction	04/09/97	62 FR 17048
Final Rule-INS No. 1920-98	07/22/98	63 FR 39217
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda Loveless
Phone: 202 616-7489

Charles Adkins-Blanch
Phone: 703 305-0470

RIN: 1115–AE47

1973. F-1 VISA ABUSERS AND FOREIGN STUDENTS

Priority: Other Significant

CFR Citation: 8 CFR 214.1; 8 CFR 214.2 (f); 8 CFR 214.3; 8 CFR 214.4; 8 CFR 221.1; 8 CFR 235; 8 CFR 236; 8 CFR 248

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Maura Deadrick
Phone: 202 353-8177

RIN: 1115–AE63

1974. EMPLOYMENT VERIFICATION BY EMPLOYERS THAT ARE MEMBERS OF A MULTI-EMPLOYER ASSOCIATION

Priority: Other Significant

CFR Citation: 8 CFR 274a

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marguerite Przbylski
Phone: 202 514-2895

RIN: 1115–AE67

1975. LIMITING LIABILITY FOR CERTAIN TECHNICAL AND PROCEDURAL VIOLATIONS OF PAPERWORK REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 274a

Timetable:

Action	Date	FR Cite
NPRM	04/07/98	63 FR 16909
NPRM Comment Period End	06/08/98	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marguerite Przbylski
Phone: 202 514-2895

RIN: 1115–AE70

1976. PUBLIC CHARGE BOND PILOT PROGRAM

Priority: Other Significant

CFR Citation: 8 CFR 213

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lisa Roney
Phone: 202 514-3242

Michael Hardin
Phone: 202 514-4754

RIN: 1115–AE78

1977. EXPANSION OF EXPEDITED REMOVAL OF CERTAIN CRIMINAL ALIENS HELD IN FEDERAL, STATE, AND LOCAL JAILS

Priority: Other Significant

CFR Citation: 8 CFR 212; 8 CFR 235

Timetable:

Action	Date	FR Cite
ANPRM	09/22/99	64 FR 51338
ANPRM Comment Period End	11/22/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Agency Contact: Robert Evans
Phone: 202 353-7218

RIN: 1115–AF50

1978. • INCREASING THE NUMBER OF OFFICERS AUTHORIZED TO ISSUE NOTICES TO APPEAR AND ARREST WARRANTS FOR IMMIGRATION VIOLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1221; 8 USC 1229; 8 CFR 2

CFR Citation: 8 CFR 239; 8 CFR 287

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations by increasing the number of officers authorized to issue notices to appear, and warrants of arrest for immigration violations. Currently, the authority to issue notices to appear, and to issue arrest warrants for immigration violations is limited to a small number of Service officers. The present listing identifies the officers authorized to issue by specific position. This revision increases the number of issuing officers and identifies issuing authority by job title. The action is necessary to improve Service operations since many Service employees are posted great distances away from the officials who are currently authorized to issue notices to appear and arrest warrants.

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DOJ—INS — **Long-Term Actions**

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2137-01

Agency Contact: Owen B. Cooper, General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AG22

Department of Justice (DOJ)
Immigration and Naturalization Service (INS) — **Completed Actions**

1979. PROGRESSIVE CLEARANCE STOPOVERS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 231.1; 8 CFR 231.4

Completed:

Reason	Date	FR Cite
Withdrawn	08/08/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert F. Hutnick
Phone: 202 616-7499
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AF23

1980. ADJUSTMENT OF SERVICE FEE FOR FINGERPRINTING FOR IMMIGRATION AND NATURALIZATION BENEFITS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 103

Completed:

Reason	Date	FR Cite
Merged With RIN 1115-AF61	10/03/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bert Rizzo
Phone: 202 307-8996

RIN: 1115–AF83

1961. REMOVAL OF BURMA FROM GUAM VISA WAIVER PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 212.1(e)(3)

Completed:

Reason	Date	FR Cite
Final Action	10/11/01	66 FR 51821
Final Action Effective	11/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marty Newingham
Phone: 202 616-7992

RIN: 1115–AF95

Department of Justice (DOJ)
Legal Activities (LA) — **Proposed Rule Stage**

1982. REVISION OF 28 CFR PART 15 PERTAINING TO THE DEFENSE OF CERTAIN SUITS AGAINST FEDERAL EMPLOYEES TO CONFORM TO THE FEDERAL EMPLOYEES LIABILITY REFORM AND TORT COMPENSATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2679(b)

CFR Citation: 28 CFR 15

Legal Deadline: None

Abstract: This rule revises 28 CFR part 15, pertaining to the defense of certain suits against Federal employees, to conform the regulations to changes made by the Federal Employee Liability Reform and Tort Compensation Act, Public Law 100-694. Under prior law, the defense of suits against Federal employees for torts committed in the scope of their employment was limited to claims involving the operation of motor vehicles. Public Law 100-694 expanded the coverage of the immunity provisions to include all common law torts committed by Federal employees in the scope of their employment. This rule conforms the Department's regulations to the expanded coverage of the statute.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: CIV 102

Agency Contact: James G. Touhey Jr., Trial Attorney, Torts Branch, Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, DC 20004
Phone: 202 616-4292

RIN: 1105–AA62

1983. DESIGNATION OF AGENCIES TO RECEIVE AND INVESTIGATE REPORTS REQUIRED UNDER THE PROTECTION OF CHILDREN FROM SEXUAL PREDATORS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13032

CFR Citation: 28 CFR 81

Legal Deadline: NPRM, Statutory, April 28, 1999.

Abstract: On October 30, 1998, Congress passed the Protection of Children from Sexual Predators Act of 1998 (PCSPA). The PCSPA requires providers of an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce, to report incidents of child pornography as defined by sections 2251, 2251A, 2252, 2252A, or 2260 of title 18, United States Code, to the appropriate Federal agency. In order to facilitate effective reporting, the PCSPA requires the

Attorney General to "designate an agency" to receive and investigate such reports of child pornography. The proposed rule previously published set forth the Attorney General's proposed designations and certain other matters covered by the PCSPA's reporting requirements.

On November 29, 1999, as part of the Consolidated Appropriations Act, 2000, Public Law 106-113, 113 Stat. 1501, Congress amended 42 U.S.C. 13032 to require providers to report such incidents to the Cyber Tipline at the National Center for Missing and Exploited Children, which shall forward that report to a law enforcement agency or agencies designated by the Attorney General. A second proposed rule is being prepared for publication that will reflect the change in the Agency to receive the reports.

Timetable:

Action	Date	FR Cite
NPRM	05/26/99	64 FR 28422
NPRM Comment Period End	07/26/99	
Second NPRM	12/00/01	
Second NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Thomas N. Burrows, Acting Chief, Child Exploitation and Obscenity Section, Department of Justice, 1400 New York Avenue, NW, Suite 600, Washington, DC 20530
Phone: 202 514-5780

RIN: 1105–AA65

1984. MOTOR VEHICLE SALVAGE REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 30504

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Attorney General is required to issue regulations directing junk yard and salvage yard operators and insurance carriers to file monthly reports with the operator of the National Motor Vehicle Title Information System (NMVTIS) concerning vehicles in their possession. The reports are required by statute, 49 U.S.C. section 30504(a) and (b), to provide the vehicle identification numbers, the date on which the vehicle was obtained, and the name of the individual or entity from whom the vehicle was obtained. Salvage and junk yard operators are also required to provide a statement of whether the automobile was crushed or disposed of for sale or other purposes. Insurance carriers are also required to provide the name of the owner of the automobile at the time the report is filed.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: On a related issue, the FBI expects to issue regulations implementing the National Stolen Passenger Motor Vehicle Information System (NSPMVIS). (See RIN 1110-AA01.)

Agency Contact: Deborah Sorkin, Trial Attorney, Department of Justice, Office of Enforcement Operations, Criminal Division, 1301 New York Avenue NW, Washington, DC 20530
Phone: 202 305-4023
Fax: 202 305-0562

RIN: 1105–AA71

1985. CLAIMS UNDER THE RADIATION EXPOSURE COMPENSATION ACT AMENDMENTS OF 2000: TECHNICAL AMENDMENTS; EXPANSION OF COVERAGE TO URANIUM MILL WORKERS AND ORE TRANSPORTERS

Priority: Other Significant

Legal Authority: 42 USC 2210 note, Radiation Exposure Compensation Act; PL 106-245, Radiation Exposure Compensation Act Amendments of 2000; PL 106-553, Consolidated Appropriations Act for Fiscal Year 2001

CFR Citation: 28 CFR 79

Legal Deadline: Final, Statutory, January 6, 2001.

Abstract: The Department is amending existing regulations to implement the Radiation Exposure Compensation Act Amendments of 2000, enacted on July 10, 2000. The Department is issuing two related rulemakings under this RIN to implement the Act. The first of the two related rulemakings is a final rule, technical in nature, providing conforming amendments (CIV 100). These technical revisions: (1) Expand the list of radiogenic and chronic diseases that are currently compensable for "downwinder" and "onsite participant" claimants; (2) lower the radiation exposure threshold for "uranium miner" claimants; (3) enlarge the number of uranium mining states where miners may be eligible for compensation; (4) include "aboveground" miners within the definition of "uranium miner"; (5) eliminate smoking distinctions for all claimants; (6) amend the list of geographical areas to provide additional radiation-affected areas for "downwinder" claimants; (7) modify the burden of proof for purposes of claims processing; (8) allow claimants who have previously been denied compensation to file up to three times; and (9) make other technical revisions consistent with the amended Act.

The second related rulemaking under this RIN is a proposed rule (CIV 101) expanding compensation to two new claimant categories: Uranium mill workers and individuals involved in the transport of uranium ore or vanadium-uranium ore. These amendments: (1) Set forth eligibility criteria for the new claimant categories; (2) provide definitions explaining the types of mill-related and ore transporting employment that would be compensable under the Act; (3) describe the documentation that would be required to establish proof of employment in a uranium mill or as an ore transporter; (4) determine the medical documentation necessary to establish the existence of renal cancer and chronic renal disease; and (5) provide clarification of the attorney fee provision contained in Section 9 of the amended law.

On March 22, 1999, the Department published a final rule in the Federal Register, 64 FR 13686, amending its existing regulations to allow the use of pathology reports of tissue biopsies as evidence of disease; include "in situ" lung cancers under the definition of primary cancers of the lung; and to allow claimants whose claims had been denied prior to the implementation of the regulations to file another three

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DOJ—LA **Proposed Rule Stage**

times. Both rulemakings (CIV 100 and CIV 101) will make changes to Department regulations in addition to the changes that had been made by the 1999 final rule.

Timetable:

CIV 100 - Technical Amendments
Final Action 12/00/01
CIV 101 - Expansion of Coverage
NPRM 12/00/01
NPRM Comment Period End 02/00/02

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dianne S. Spellberg, Trial Attorney, Department of Justice, Room 3123, 1425 New York Avenue NW, Washington, DC 20005
Phone: 202 616-4129
Fax: 202 616-4313
Email: dianne.spellberg@usdoj.gov

RIN: 1105–AA75

1986. • ESTABLISHMENT OF MINIMUM SAFETY AND SECURITY STANDARDS FOR PRIVATE COMPANIES THAT TRANSPORT VIOLENT PRISONERS

Priority: Other Significant

Legal Authority: PL 106-560

CFR Citation: 20 CFR 97

Legal Deadline: Final, Statutory, June 19, 2001.

Abstract: This rule proposes to implement the Interstate Transportation of Dangerous Criminals Act of 2000, Public Law 106-560 (114 Stat. 2784)(enacted December 21, 2000). In that Act, Congress found that State and local jurisdictions are increasingly turning to private companies to transport their violent prisoners, and that escapes have occurred. Congress determined that minimum regulations for the private prisoner transport industry were necessary to provide protection against risks to the public that are inherent in the transportation of violent prisoners and to assure the safety of those being transported.

According, this rule proposes that private prisoner transport companies comply with minimum standards for background checks and preemployment drug testing for potential employees, provide minimum standards for the length and type of employee training, and establish restrictions on the number of hours that transportation employees can be on duty during a given time period.

This rule also proposes that private prisoner transport companies comply with minimum standards for the use of restraints while transporting violent prisoners, and establishes categories of violent offenders required to wear identifying clothing. Further, the rule proposes a minimum guard-to-offender ratio that must be observed while transporting violent prisoners, and proposes that private prisoner transport companies comply with standards regarding employee uniforms and employee identification.

In addition, the rule proposes to require private prisoner transport companies to notify local law enforcement officials 24 hours in advance of any scheduled stops in their jurisdiction when transporting violent prisoners. In the event of an escape by a violent offender, the proposed rule requires the private prisoner transport company personnel immediately to notify appropriate law enforcement officials in the jurisdiction where the escape occurs, as well as the governmental entity that contracted with the private prisoner transport company for the transport of the escaped violent prisoner.

Finally, the rule proposes that private prisoner transport companies adopt certain minimum standards in order to protect the safety of violent prisoners in accordance with applicable Federal and State law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Lizette D. Benedi, Counsel, Department of Justice, Office of Legal Policy, 950 Pennsylvania Avenue, NW, Room 4529, Washington, DC 20530
Phone: 202 514-3824

RIN: 1105–AA77

Department of Justice (DOJ)
Legal Activities (LA) **Final Rule Stage**

1987. FOREIGN AGENTS REGISTRATION ACT; REGULATIONS REVISED AND CLARIFIED TO REFLECT CHANGES IN THE LAW

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 611 et seq Foreign Agents Registration Act of 1938

CFR Citation: 28 CFR 5.5(d)(10); 28 CFR 5.203(a); 28 CFR 5.204(a); 28 CFR 5.205(a); 28 CFR 5.206(b); 28 CFR 5.304(c); 28 CFR 5.306(a); 28 CFR 5.5(d)(11); 28 CFR 5.100(c); 28 CFR 5.100(d); 28 CFR 5.200(b); 28 CFR 5.201(a)(1); 28 CFR 5.201(a)(2); 28 CFR 5.202(b); 28 CFR 5.202(e); ...

Legal Deadline: None

Abstract: As a result of the passage of the Lobbying Disclosure Act of 1995 (LDA) and the Lobbying Disclosure Technical Amendments Act of 1998 (LDTAA), the Foreign Agents Registration Unit of the Criminal Division is issuing new regulations concerning changes in the Foreign Agents Registration Act of 1938 (FARA), as amended, 22 U.S.C. 611, et seq. These regulations replace the term "political propaganda" in the existing regulations with "informational materials" as provided in the LDA and make other changes to the FARA regulations required by the passage of the LDA and the LDTAA. The regulations also make other modifications to the existing regulations to facilitate the administration of FARA.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37065
NPRM Comment Period End	09/07/99	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

DOJ—LA

Final Rule Stage

Additional Information: CFR CITATIONS CONT: 28 CFR 5.307; 28 CFR 5.400(a) to (c); 28 CFR 5.401; 28 CFR 5.402(a) to (g); 28 CFR 5.500(a)(4); 28 CFR 5.600; 28 CFR 5.601(a); 28 CFR 5.601(b).

Agency Contact: Marshall R. Williams, Chief, Registration Unit, Internal Security Section, Criminal Division, Department of Justice, Room 9300, 1400 New York Avenue NW, Washington, DC 20530
Phone: 202 514-1216

RIN: 1105–AA45

1988. ETHICAL STANDARDS FOR ATTORNEYS FOR THE GOVERNMENT

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 530B

CFR Citation: 28 CFR 77

Legal Deadline: Final, Statutory, April 19, 1999.

Abstract: This rule supersedes the Department of Justice regulations relating to Communications with Represented Persons and implements 28 U.S.C. 530B pertaining to ethical standards for attorneys for the Government. Under that provision, an attorney for the Government shall be subject to State laws and rules, and local Federal court rules governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State. This rule fulfills the Attorney General's obligation under section 530B and provides guidance to all Department of Justice employees who are subject to section 530B regarding their obligations and responsibilities under this new provision.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/19/99	64 FR 19273
Interim Final Rule Comment Period End	06/21/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Claudia J. Flynn, Director, Professional Responsibility Advisory Office, Department of Justice, Suite 500, National Theatre Building, 1325 Pennsylvania Avenue NW, Washington, DC 20530
Phone: 202 514-0458
Fax: 202 353-7491

RIN: 1105–AA67

1989. ENHANCED NOTICE AND RELEASE PROCEDURES FOR OWNERS OF SEIZED PROPERTY PURSUANT TO THE CAFRA OF 2000; DISPOSITION OF SEIZED PROPERTY TOO COSTLY TO MAINTAIN; CONSOLIDATION OF DEPARTMENT REGULATIONS

Priority: Other Significant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1324(b); 15 USC 1177; 17 USC 509; 18 USC 981 to 983; 18 USC 1467; 18 USC 1955; 18 USC 1963; 18 USC 2253 to 2254; 18 USC 2513; 19 USC 1606 to 1608; 19 USC 1610; 19 USC 1612(b); 19 USC 1613; 19 USC 1618; 21 USC 822; 21 USC 853; 21 USC 871 to 872; 21 USC 880 to 881; 21 USC 958; 21 USC 965; 22 USC 401; 28 USC 509 to 510; 28 USC 524; PL 100-690, sec 6079

CFR Citation: 8 CFR 274; 21 CFR 1316; 28 CFR 8 (Revision); 28 CFR 9 (Revision)

Legal Deadline: Final, Statutory, August 23, 2000, CAFRA applies to all forfeiture actions commenced on or after 8/23/00.

Abstract: By this rule, the Department does four things.

First, the Department is implementing new forfeiture procedures required by the recently enacted Civil Asset Forfeiture Reform Act of 2000 (CAFRA). CAFRA's procedural changes enhance the ability of property owners to contest the forfeiture of seized property. CAFRA also makes other changes beneficial to property owners. In particular: 1) The requirement to file a bond for costs with a claim is eliminated; 2) the time for filing a claim is extended; and 3) the release of seized property is required under various circumstances. Congress made CAFRA's changes applicable to forfeiture proceedings commenced on or after August 23, 2000.

Second, the Department is adding a provision allowing the pre-forfeiture disposition of seized property when the expense of holding the property is disproportionate to its value. This provision is needed to implement the pre-existing authority of 19 U.S.C. section 1612(b)—one of the customs laws procedural statutes incorporated by reference in forfeiture statutes enforced by the Department. This provision will enable the Department to use the authority of section 1612(b) in appropriate cases to avoid disproportionately high storage and maintenance costs for seized property pending forfeiture.

Third, this rule consolidates previously existing forfeiture regulations of the INS, DEA, and the FBI in order to achieve greater consistency and promote overall fairness in the administrative forfeiture process by avoiding unnecessary differences in component procedures.

Fourth, the rule modifies the regulations at 28 CFR part 9 governing petitions for remission or mitigation of forfeiture to refer to DEA's Forfeiture Counsel and not to DEA's Office of Chief Counsel as the pertinent DEA official in DEA forfeiture cases; to incorporate where applicable CAFRA's statutory criteria for innocent ownership; and to provide discretionary authority for the Ruling Official to waive the payment of forfeiture-related costs and expenses as a condition of remission in cases in which the petitioner is a victim of the underlying offense.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	
Interim Final Rule Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph T. Donnelly, Acting Director, Department of Justice, Immigration and Naturalization Service, Office of Asset Forfeiture, Room 1040, CAB Building, 425 I Street NW, Washington, DC 20536
Phone: 202 305-8303

John Hieronymus, Forfeiture Counsel, Department of Justice, Drug Enforcement Administration, Office of Domestic Operations, Asset Forfeiture Section, Caller Number 91017, Arlington, VA 22202
Phone: 202 307-7636

Stephen J. Jobe, Acting Forfeiture Counsel, Department of Justice, Legal Forfeiture Unit, FBI, Office of the General Counsel, J. Edgar Hoover

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DOJ—LA — Final Rule Stage

Building, 935 Pennsylvania Avenue NW, Washington, VA 20535
Phone: 202 324-9700

RIN: 1105–AA74

1990. • REGULATIONS UNDER THE DNA ANALYSIS BACKLOG ELIMINATION ACT OF 2000

Priority: Other Significant

Legal Authority: 28 USC 509; 28 USC 510; 42 USC 14132; 41 USC 14135a; 42 USC 14135b; 10 USC 1565; PL 106-546

CFR Citation: 28 CFR 28

Legal Deadline: Other, Statutory, April 18, 2001, Determination of qualifying Federal offenses.
Final, Statutory, June 17, 2001, Commencement of collection of DNA samples.

Abstract: This rule implements section 3 of Public Law 106-546, the DNA Analysis Backlog Elimination Act of 2000 (the Act). The rule specifies the Federal offenses that will be treated as qualifying offenses for purposes of collecting DNA samples from Federal offenders, sets forth the responsibilities of the Bureau of Prisons for collecting DNA samples from individuals in its custody, and sets forth related responsibilities of the Federal Bureau of Investigation for analyzing and indexing DNA samples.

All 50 States authorize the collection and analysis of DNA samples from convicted State offenders and entry of resulting information into the Combined DNA Index System ("CODIS"), which the Federal Bureau of Investigation ("FBI") has established pursuant to 42 U.S.C. 14132. Until recently, however, there was no statutory authorization to collect DNA samples from convicted Federal, military, and District of Columbia offenders. Congress acted to fill this gap in the DNA identification system through provisions of the Act.

Section 3 of the Act addresses the categories of Federal offenders from whom DNA samples will be collected, the responsibility of the Bureau of Prisons ("BOP") and Federal probation offices to collect DNA samples from offenders in their custody or supervision, and the responsibility of the FBI to analyze and index DNA samples. This rule is issued pursuant to subsection (e) of section 3, which provides that, with the exception of the activities of the probation offices, the section shall be carried out under regulations prescribed by the Attorney General. The rule also addresses certain responsibilities of BOP and the FBI under other sections of the Act, which are closely related to the matters addressed in section 3.

The rule adds a new part 28 to title 28 of the Code of Federal Regulations relating to the DNA identification system. The new part contains subparts A and B, which relate respectively to the Federal offenses for which DNA samples will be collected and the responsibilities of BOP and the FBI in collecting, analyzing, and indexing DNA samples.

Timetable:

Action	Date	FR Cite
NPRM	06/28/01	66 FR 34363
NPRM Comment Period End	08/27/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David J. Karp, Senior Counsel, Department of Justice, Office of Legal Policy, 950 Pennsylvania Avenue, N.W., Room 4503, Washington, DC 20530
Phone: 202 514-3273

RIN: 1105–AA78

Department of Justice (DOJ)
Legal Activities (LA)

Long-Term Actions

1991. VIOLENT CRIME AND DRUG EMERGENCY AREAS

Priority: Other Significant

CFR Citation: 28 CFR 92 (New)

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Robert Hinchman
Phone: 202 514-8059
Email: robert.hinchman@usdoj.gov

RIN: 1105–AA29

1992. FALSE CLAIMS AMENDMENTS ACT OF 1986—CIVIL INVESTIGATIVE DEMANDS

Priority: Info./Admin./Other

CFR Citation: 28 CFR 28

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Michael F. Hertz
Phone: 202 514-7179

RIN: 1105–AA42

1993. WAIVER FOR FIREARM PROHIBITION ON NONIMMIGRANT VISA HOLDERS

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 25

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank A.S. Campbell
Phone: 202 514-2283

RIN: 1105–AA66

Department of Justice (DOJ)
Office of Justice Programs (OJP)

Proposed Rule Stage

1994. PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3711 et seq

CFR Citation: 28 CFR 32

Legal Deadline: None

Abstract: The Bureau of Justice Assistance is proposing amendments to 28 CFR part 32, which governs operation of the Public Safety Officers' Benefits Program. These proposed amendments would specify the maximum hourly fee that may be charged by representatives of claimants for financial benefits under the Public Safety Officers' Benefits Program in connection with services rendered by these representatives on behalf of claimants in any application or proceeding before the Bureau of Justice Assistance. These proposed amendments serve also to clarify applicant eligibility standards. Further, BJA is proposing to amend 28 CFR part 32 by adding an additional Appendix to inform potential Public Safety Officer Benefits (PSOB) claimants and administrative hearing officers about the eligibility standards that are applicable in the PSOB Disability Program. The disability benefit is available for public safety officers who have sustained a catastrophic injury in the line of duty which has left them permanently and totally disabled and unable to perform any gainful work.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
NPRM Comment Period End	07/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Valerie Neal, Chief, Public Safety Officers' Benefits Office, Department of Justice, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531
Phone: 202 307-0635

RIN: 1121–AA56

1995. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355, sec 2455; EO 12549

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: First, this proposed common rule on debarment and suspension would limit the mandatory lower tier application of an exclusion to the first procurement level under a nonprocurement covered transaction. Second, this proposed common rule on debarment and suspension would set the dollar threshold on prohibited lower-tier procurement transactions with excluded persons at $25,000. Third, both this proposed rule on debarment and suspension and the proposed rule on drug-free workplace requirements would eliminate the mandate for agencies and participants to obtain written certifications from awardees or persons with whom they propose to enter into covered transactions. Fourth, the proposed rule on drug-free workplace requirements would be separated from this proposed rule on debarment and suspension.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
NPRM Comment Period End	07/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Fallowfield, Attorney-Advisor, Department of Justice, Office of Justice Programs, Office of the General Counsel, 810 7th Street NW, Washington, DC 20531
Phone: 202 305-2534

RIN: 1121–AA57

1996. • EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: PL 98-473, 98 Stat 1837, 8 USC 1101 note; ...

CFR Citation: 28 CFR 32

Legal Deadline: None

Abstract: The Bureau of Justice Assistance is issuing this final rule to correct the address by which a State or local unit of governments may submit applications for the Emergency Federal Law Enforcement Assistance Program. The purpose of this program is to provide assistance to an uncommon situation, which does or threatens to escalate to serious or epidemic proportions, and State or local resources are not sufficient to protect the lives and property of citizens or to enforce the criminal law. Currently, the State must submit the application directly to the Attorney General, U.S. Department of Justice, with one copy to the Director, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Office of Justice Programs has moved to a different location in Washington, DC, necessitating this correction to the regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Linda Fallowfield, Attorney-Advisor, Department of Justice, Office of Justice Programs, Office of the General Counsel, 810 7th Street NW, Washington, DC 20531
Phone: 202 305-2534

RIN: 1121–AA60

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Department of Justice (DOJ)
Office of Justice Programs (OJP)

Long-Term Actions

1997. GRANTS PROGRAM FOR INDIAN TRIBES

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 91

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/96	61 FR 49969
Correction	10/18/96	61 FR 54333
Interim Final Rule Comment Period End	10/24/96	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Tribal

Agency Contact: Philip Merkle
Phone: 202 305-2550

RIN: 1121–AA41

1998. BULLETPROOF VEST PARTNERSHIP GRANT ACTS OF 1998 AND 2000

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 33

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/98	63 FR 50759
Interim Final Rule Effective	09/23/98	
Interim Final Rule Comment Period End	11/23/98	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Agency Contact: Robert T. Watkins
Phone: 202 514-3447

RIN: 1121–AA48

1999. ENVIRONMENTAL IMPACT REVIEW PROCEDURES FOR THE VOI/TIS GRANT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 91

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/08/00	65 FR 48592
Interim Final Rule Effective	08/08/00	
Interim Final Rule Comment Period End	10/10/00	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Philip Merkle
Phone: 202 305-2550

RIN: 1121–AA52

2000. • CRIMINAL INTELLIGENCE SYSTEMS OPERATING POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3711

CFR Citation: 28 CFR 23

Legal Deadline: None

Abstract: The purpose of this regulation is to assure that all criminal intelligence systems operating through support under the Omnibus Crime Control and Safe are utilized in conformance with the privacy and constitutional rights of individuals. This revision of part 23 updates the regulation for modern technological advances, and is drafted in plain language.

Timetable:

Action	Date	FR Cite
NPRM	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Alan M. Fisher, Attorney Advisor, Department of Justice, Office of Justice Programs, Room 5341, Office of the General Counsel, 810 Seventh Street, NW, Washington, DC 20531
Phone: 202 616-3540
Fax: 202 307-1419
Email: fisheral@ojp.usdoj.gov

RIN: 1121–AA59

Department of Justice (DOJ)
Office of Justice Programs (OJP)

Completed Actions

2001. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 42

Completed:

Reason	Date	FR Cite
Withdrawn	08/27/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Daphne Felten-Green
Phone: 202 616-9865

RIN: 1121–AA58

[FR Doc. 01–26704 Filed 11–30–01; 8:45 am]
BILLING CODE 4410–BP–S

Federal Register

Monday,
December 3, 2001

Part XII

Department of Labor

Semiannual Regulatory Agenda

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DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The Department's agencies have carefully assessed their available resources and what they can accomplish in the next twelve months and have adjusted their agendas accordingly.

The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between October 2001 and October 2002 as well as those completed during the past six months.

FOR FURTHER INFORMATION CONTACT: Barbara Bingham, Acting Director for the Office of Regulatory Economics, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210, (202) 693-5959.

NOTE: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. As permitted by law, the Department of Labor is combining the publication of its agendas under the Regulatory Flexibility Act and Executive Order 12866.

Executive Order 12866 became effective September 30, 1993, and, in substance, requires the Department of Labor to publish an agenda listing all the regulations it expects to have under active consideration for promulgation, proposal, or review during the coming 1-year period. The focus of all departmental regulatory activity will be on the development of effective rules that advance the Department's goals and that are understandable and usable to the employers and employees in all affected workplaces.

For this edition of the Department of Labor's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

The Regulatory Flexibility Act became effective on January 1, 1981, and applies only to regulations for which a notice of proposed rulemaking was issued on or after that date. It requires the Department of Labor to publish an agenda, listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602).

The Regulatory Flexibility Act (under section 610) also requires agencies to periodically review rules "which have or will have a significant economic impact upon a substantial number of small entities" and to annually publish a list of the rules that will be reviewed during the succeeding 12 months. The purpose of the review is to determine whether the rule should be continued without change, amended, or rescinded.

The next 12-month review list for the Department of Labor is provided below and public comment is invited on the listing. A brief description of each rule, the legal basis for the rule, and the agency contact are provided with each agenda item.

Occupational Safety and Health Administration

Occupational Exposure to Ethylene Oxide (RIN 1218-AB60)

Grain Handling Facilities (RIN 1218-AB73)

Excavations (RIN 1218-AC02)

Presence Sense Device Initiation of Mechanical Power Presses (RIN 1218-AC03)

Pension and Welfare Benefits Administration

Bonding Rules Under ERISA 21974 (1210-AA82)

Enforcement Pursuant to Section 502(6)(2) (1210-AA83)

Civil Penalties Under ERISA Section 502(c)(2) (1210-AA84)

Assessment of Civil Penalties under ERISA Section 502(c)(2) (1210-AA85)

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved, and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

Elaine L. Chao,

Secretary of Labor.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2002	Production or Disclosure of Information or Materials	1290-AA17

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Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2003	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H) **(Reg Plan Seq No. 81)**	1215-AA14
2004	Regulations To Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206	1215-AA96
2005	Implementation of the 1996 Amendments to the Fair Labor Standards Act	1215-AB13
2006	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AB24
2007	Stock Options, Stock Appreciation Rights, and Bona Fide Employee Stock Purchase Programs Under the Fair Labor Standards Act	1215-AB31
2008	Obligation of Federal Contractors and Subcontractors, Notice of Employee Rights Concerning Payment of Union Dues or Fees **(Reg Plan Seq No. 82)**	1215-AB33

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2009	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H) **(Reg Plan Seq No. 83)**	1215-AA09
2010	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models **(Reg Plan Seq No. 84)**	1215-AB09
2011	Minimum Wage and Overtime Violations—Civil Money Penalties (29 CFR 578); Child Labor Violations—Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation	1215-AB20
2012	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) (Revised)	1215-AB28

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2013	Application of the Fair Labor Standards Act to Domestic Service	1215-AA82
2014	Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act	1215-AB32

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2015	Records To Be Kept by Employers Under the Fair Labor Standards Act	1215-AB03

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2016	Labor Certification Process for the Permanent Employment of Aliens in the United States **(Reg Plan Seq No. 85)**	1205-AA66
2017	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System	1205-AB10
2018	Senior Community Service Employment Program **(Reg Plan Seq No. 86)**	1205-AB28

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

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Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2019	Indian and Native American Welfare-to-Work Program	1205-AB16
2020	Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Modification of Fee Structure	1205-AB24
2021	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas; Implementation of Electronic Filing	1205-AB29
2022	Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the U.S.: Delegation of Authority to Adjudication Petitions; Deferral of Effective Date	1205-AB30
2023	Disaster Unemployment Assistance Program Amendment	1205-AB31

Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2024	Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of Information in State UC Records	1205-AB18
2025	Attestations by Facilities Temporarily Employing H-1C Nonimmigrant Aliens as Registered Nurses	1205-AB27

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2026	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement	1205-AA37
2027	Disaster Unemployment Assistance Program, Amendment to Regulations	1205-AB02
2028	Trade Adjustment Assistance for Workers—Implementation of 1988 Amendments	1205-AB05
2029	Trade Adjustment Assistance for Workers—Transitional Adjustment Assistance NAFTA-TAA	1205-AB07
2030	Establishment of Fees for Immigration Programs Administered by the Employment and Training Administration	1205-AB14
2031	Welfare-to-Work (WTW) Grants	1205-AB15
2032	Labor Certification Process for the Permanent Employment of Aliens in the United States; Refiling of Applications	1205-AB25

Pension and Welfare Benefits Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2033	Bonding Rules Under the Employee Retirement Income Security Act of 1974 **(Section 610 Review)**	1210-AA82
2034	Requests for Enforcement Pursuant to Section 502(b)(2) **(Section 610 Review)**	1210-AA83
2035	Civil Penalties Under ERISA Section 502(c)(2) **(Section 610 Review)**	1210-AA84
2036	Procedures for the Assessment of Civil Penalties Under ERISA Section 502(c)(2) **(Section 610 Review)**	1210-AA85

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2037	Rulemaking Relating to Notice Requirements for Continuation of Health Care Coverage **(Reg Plan Seq No. 87)**	1210-AA60
2038	Regulation Exempting Certain Broker-Dealers and Investment Advisers From Bonding Requirements	1210-AA80

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

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Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2039	Definition of Collective Bargaining Agreement (ERISA Section 3(40))	1210-AA48
2040	Regulations Implementing the Health Care Access, Portability and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996	1210-AA54
2041	Health Care Standards for Mothers and Newborns	1210-AA63
2042	Reporting Requirements for MEWAs Providing Medical Care Benefits	1210-AA64
2043	Elimination of Filing Requirements for Summary Plan Descriptions	1210-AA66
2044	Requirement To Furnish Plan Documents Upon Request by the Secretary of Labor	1210-AA67
2045	Civil Penalty for Failure To Furnish Certain Plan Documents	1210-AA68
2046	Electronic Disclosure of Employee Benefit Plan Information	1210-AA71
2047	Rulemaking Relating to the Women's Health and Cancer Rights Act of 1998	1210-AA75
2048	Voluntary Fiduciary Correction Program (VFC Program) **(Reg Plan Seq No. 88)**	1210-AA76
2049	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status	1210-AA77
2050	Delinquent Filer Voluntary Compliance Program (DFVC Program) **(Reg Plan Seq No. 89)**	1210-AA86

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Pension and Welfare Benefits Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2051	Adequate Consideration	1210-AA15
2052	Civil Penalties Under ERISA Section 502(1)	1210-AA37
2053	Mental Health Benefits Parity	1210-AA62

Pension and Welfare Benefits Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2054	Individual Benefits Reporting Requirements for Defined Contribution Plans	1210-AA65
2055	Soft Dollar (Interpretive Bulletin)	1210-AA74
2056	Delay of Applicability Date for Claims Regulation Under ERISA	1210-AA89

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2057	Occupational Exposure to Coal Mine Dust (Lowering Concentration Limit)	1219-AB08
2058	Asbestos Exposure Limit **(Reg Plan Seq No. 90)**	1219-AB24

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2059	Belt Entry Use as Intake Aircourse To Ventilate Working Sections	1219-AA76
2060	Independent Laboratory Testing	1219-AA87
2061	Improving and Eliminating Regulations	1219-AA98
2062	Mine Rescue Teams	1219-AB20

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Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2063	Hazard Communication	1219-AA47
2064	Electric Motor-Driven Mine Equipment and Accessories and High-Voltage Longwall Equipment Standards for Underground Coal Mines	1219-AA75
2065	Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust (**Reg Plan Seq No. 91**)	1219-AB14
2066	Determination of Concentration of Respirable Coal Mine Dust (**Reg Plan Seq No. 92**)	1219-AB18
2067	Diesel Particulate Exposure of Underground Metal and Nonmetal Miners	1219-AB28

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2068	Air Quality, Chemical Substances, and Respiratory Protection Standards	1219-AA48
2069	Requirements for Approval of Flame-Resistant Conveyor Belts	1219-AA92

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2070	Confined Spaces	1219-AA54
2071	Metal/Nonmetal Impoundments	1219-AA83
2072	Surface Haulage	1219-AA93
2073	Safety Standard Revisions for Underground Anthracite Mines	1219-AA96
2074	Electrical Grounding Standards for Metal and Nonmetal Mines	1219-AB01
2075	Training and Retraining of Miners	1219-AB02
2076	Respirable Crystalline Silica Standard	1219-AB12
2077	Safety Standards for Self-Contained Self-Rescue Devices in Coal and Metal/Nonmetal Underground Mines	1219-AB19
2078	Verification of Surface Coal Mine Dust Control Plans	1219-AB21
2079	Surge and Storage Piles	1219-AB22
2080	Escapeways and Refuges	1219-AB23
2081	Accident Investigation Hearing Procedures	1219-AB26
2082	Continuous Monitoring of Respirable Coal Mine Dust in Underground Coal Mines	1219-AB27

Office of the Assistant Secretary for Administration and Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2083	Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting From Federal Financial Assistance	1291-AA28

Office of the Assistant Secretary for Administration and Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2084	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor	1291-AA21
2085	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998	1291-AA29

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Office of the Assistant Secretary for Administration and Management—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2086	Audits of States, Local Governments, and Nonprofit Organizations	1291-AA26
2087	Audit Requirements for Grants, Contracts, and Other Agreements	1291-AA27
2088	Grants and Agreements	1291-AA30
2089	Effectuation of Title VI of the Civil Rights Act of 1964 and Implementation of Section 504 of the Rehabilitation Act of 1973	1291-AA31
2090	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug Free Workplace (Grants) 29 CFR 98	1291-AA33

Office of the Assistant Secretary for Administration and Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
2091	Department of Labor Acquisition Regulation	1291-AA20

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2092	Confined Spaces in Construction (Part 1926): Preventing Suffocation/Explosions in Confined Spaces	1218-AB47
2093	Occupational Exposure to Ethylene Oxide **(Section 610 Review)**	1218-AB60
2094	Electric Power Transmission and Distribution; Electrical Protective Equipment in the Construction Industry	1218-AB67
2095	Grain Handling Facilities **(Section 610 Review)**	1218-AB73
2096	Occupational Exposure to Beryllium	1218-AB76
2097	Hearing Loss Prevention in Construction Workers	1218-AB89
2098	Cranes, Derricks, Hoists, Elevators, and Conveyors	1218-AC01
2099	Excavations **(Section 610 Review)**	1218-AC02
2100	Presence Sensing Device Initiation of Mechanical Power Presses **(Section 610 Review)**	1218-AC03

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2101	Assigned Protection Factors: Amendments to the Final Rule on Respiratory Protection **(Reg Plan Seq No. 93)**	1218-AA05
2102	Occupational Exposure to Tuberculosis	1218-AB46
2103	General Working Conditions for Shipyard Employment	1218-AB50
2104	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Shipyards: Fire Safety) **(Reg Plan Seq No. 94)**	1218-AB51
2105	Standards Improvement (Miscellaneous Changes) for General Industry, Marine Terminals, and Construction Standards (Phase II) **(Reg Plan Seq No. 95)**	1218-AB81
2106	Changes to State Plans	1218-AB91

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2107	Update and Revision of the Exit Routes Standard **(Reg Plan Seq No. 96)**	1218-AB82
2108	Signs, Signals, and Barricades **(Reg Plan Seq No. 97)**	1218-AB88
2109	Procedures for Handling of Discrimination Complaints Under the Aviation Investment and Reform Act	1218-AB99

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

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Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2110	Longshoring and Marine Terminals (Parts 1917 and 1918) — Reopening of the Record (Vertical Tandem Lifts (VTLs))	1218-AA56
2111	Scaffolds in Shipyards (Part 1915 — Subpart N)	1218-AA66
2112	Access and Egress in Shipyards (Part 1915, Subpart E) (Shipyards: Emergency Exits and Aisles)	1218-AA70
2113	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol, and Their Acetates: Protecting Reproductive Health	1218-AA84
2114	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27
2115	Indoor Air Quality in the Workplace	1218-AB37
2116	Injury and Illness Prevention	1218-AB41
2117	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium)	1218-AB45
2118	Fall Protection in the Construction Industry	1218-AB62
2119	Occupational Exposure to Crystalline Silica	1218-AB70
2120	Employer Payment for Personal Protective Equipment	1218-AB77
2121	Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips and Fall Prevention)	1218-AB80
2122	Revision and Update of Subpart S—Electrical Standards	1218-AB95
2123	Commercial Diving Operations: Revision	1218-AB97

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2124	Permissible Exposure Limits (PELs) for Air Contaminants	1218-AB54
2125	Metalworking Fluids; Protecting Respiratory Health	1218-AB58
2126	Update and Revision of the Flammable and Combustible Liquids Standard	1218-AB61
2127	Process Safety Management of Highly Hazardous Chemicals	1218-AB63
2128	Revision and Update of the Mechanical Power-Transmission Apparatus Standard	1218-AB66
2129	Safety Standards for Scaffolds Used in the Construction Industry—Part II	1218-AB68
2130	Safety and Health Programs for Construction	1218-AB69
2131	Control of Hazardous Energy (Lockout) in Construction (Part 1926) (Preventing Construction Injuries/Fatalities: Lockout)	1218-AB71
2132	Consolidation of Records Maintenance Requirements in OSHA Standards	1218-AB78
2133	Oil and Gas Well Drilling and Servicing	1218-AB83
2134	Update and Revision of the Spray Applications Standard	1218-AB84
2135	Occupational Exposure to Perchloroethylene	1218-AB86
2136	Sanitation in the Construction Industry	1218-AB87
2137	Update of Revision of the Woodworking Machinery Standard	1218-AB92
2138	Ergonomics Programs in Construction (Part 1926): Preventing Work-Related Musculoskeletal Disorders among Construction Workers	1218-AB94
2139	Occupational Health Risks in the Manufacture and Assembly of Semiconductors	1218-AB96
2140	Occupational Injury and Illness Recording and Reporting Requirements	1218-AC00

Office of the Assistant Secretary for Veterans' Employment & Training—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2141	Annual Report for Federal Contractors (2002 Revisions)	1293-AA05

Office of the Assistant Secretary for Veterans' Employment & Training—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2142	Annual Report for Federal Contractors	1293-AA07

Department of Labor (DOL)
Office of the Secretary (OS)

Proposed Rule Stage

2002. PRODUCTION OR DISCLOSURE OF INFORMATION OR MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552 as amended; 5 USC Reorganization Plan No. 6 of 1950; EO 12600, 52 FR 23781 (June 25, 1987)

CFR Citation: 29 CFR 70

Legal Deadline: None

Abstract: The regulation will incorporate the provisions of the 1996 FOIA amendments. These include extending DOL processing time from 10 to 20 days for most FOIA requests and requiring that all reading room materials created since November 1, 1996, be made available by electronic means such as the Internet.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Miriam McD. Miller, Co-Counsel for Administrative Law, Division of Legislation and Legislative Counsel, Department of Labor, Office of the Secretary, Room N2428, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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Email: miller-miriam@dol.gov

RIN: 1290–AA17

Department of Labor (DOL)
Employment Standards Administration (ESA)

Proposed Rule Stage

2003. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Regulatory Plan: This entry is Seq. No. 81 in part II of this issue of the **Federal Register**.

RIN: 1215–AA14

2004. REGULATIONS TO IMPLEMENT THE FEDERAL ACQUISITION STREAMLINING ACT OF 1994; 29 CFR PARTS 4 AND 5, 41 CFR PARTS 50-201 AND 50-206

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355, 108 Stat. 3243

CFR Citation: 29 CFR 4; 29 CFR 5; 41 CFR 50 to 201; 41 CFR 50 to 206

Legal Deadline: NPRM, Statutory, May 11, 1995.
Final, Statutory, October 1, 1995.

Abstract: The Federal Acquisition Streamlining Act of 1994, signed on October 13, 1994, amended several Acts administered by the Department of Labor: (1) the Contract Work Hours and Safety Standards Act (CWHSSA) to limit its applicability to contracts in an amount of $100,000 or greater; (2) the Davis-Bacon Act (DB) to provide waivers from the Act's prevailing wage requirements under selected laws for volunteers performing services to a State or local government or agency and for volunteers performing services to a public or private nonprofit recipient of Federal assistance; and (3) the Walsh-Healey Public Contracts Act (PCA) to eliminate the requirements that contractors on covered contracts be either manufacturers or regular dealers in the items to be supplied under the contract but retains the Secretary of Labor's authority to define the terms "regular dealer" and "manufacturer." A final rule implementing the CWHSSA and PCA changes was published on August 5, 1996 (61 FR 40714).

Timetable:

Action	Date	FR Cite
NPRM	09/07/95	60 FR 46553
NPRM Comment Period End	10/10/95	
Final Rule - Walsh-Healey/CWHSSA Rule	08/05/96	61 FR 40714
Second NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Annabelle T. Lockhart, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Room S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AA96

2005. IMPLEMENTATION OF THE 1996 AMENDMENTS TO THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

Legal Authority: PL 104-188, sec 2101 to 2105; 29 USC 201 et seq

CFR Citation: 29 CFR 4; 29 CFR 531; 29 CFR 541; 29 CFR 778; 29 CFR 785; 29 CFR 790; 29 CFR 870; 41 CFR 50-202

Legal Deadline: None

Abstract: The "Small Business Job Protection Act of 1996" (H.R. 3448) was enacted on August 20, 1996, as Public Law 104-188. Title II of this enactment amended the Portal-to-Portal Act (PA) and the Fair Labor Standards Act (FLSA). The PA amendment excludes (under certain circumstances) from compensable "hours worked" the time spent by an employee in home-to-work travel in an employer-provided vehicle. The FLSA amendments: (1) increase the $4.25 Federal minimum hourly wage by $.90 in two steps over two years (i.e., to $4.75 on October 1, 1996, and to $5.15 on September 1, 1997); (2) provide a $4.25 subminimum wage for youth under age 20 in their first 90 calendar days of employment with an employer; (3) set the employer's direct wage payment obligation for tipped employees at $2.13 per hour (provided such employees receive the balance of the full minimum wage in tips); and (4) set the hourly compensation requirements at not less than $27.63 per hour for certain exempt professional employees in computer-related occupations. Changes will be required in the regulations to reflect these amendments.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

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DOL—ESA

Proposed Rule Stage

Government Levels Affected: State, Local, Federal

Agency Contact: Annabelle T. Lockhart, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Room S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB13

2006. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 4211; 38 USC 4212; PL 102-16; PL 102-127; PL 102-484; PL 95-520; PL 93-508, amended; PL 94-502; PL 96-466; PL 101-237; PL 97-306; PL 98-223; PL 105-339

CFR Citation: 41 CFR 60-250

Legal Deadline: None

Abstract: OFCCP proposes to amend the regulations implementing the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) 38 USC 4212, to conform with the Veterans Employment Opportunities Act (the Act) of 1998 and the Veterans Benefits and Health Care Improvement Act of 2000 (VBHCIA). The Act and VBHCIA of 2000 increase the current threshold for coverage from $10,000 to $25,000. The Act and VBHCIA of 2000 expand the existing definition of Veterans, i.e., special disabled veterans and veterans of the Vietnam Era, to include recently separated veterans and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. Recently separated veterans means any veteran during the one-year period beginning on the date of such veteran's discharge or release from active duty.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, Room N3424, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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Fax: 202 693-1304
Email: jimelvin@fenix2.dol-esa.gov

RIN: 1215–AB24

2007. STOCK OPTIONS, STOCK APPRECIATION RIGHTS, AND BONA FIDE EMPLOYEE STOCK PURCHASE PROGRAMS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

Legal Authority: 29 USC 207(e)(8); PL 106-202, sec 2(e)

CFR Citation: 29 CFR 546; 29 CFR 778

Legal Deadline: None

Abstract: The Worker Economic Opportunity Act, Public Law 106-202 (May 18, 2000), amended section 7(e) of the Fair Labor Standards Act to clarify how certain employer-provided stock option programs are to be treated for purposes of overtime pay. Certain programs meeting prescribed criteria would not have to be factored into the "regular rate" otherwise required when calculating "time-and-one-half" overtime premium pay for overtime hours of work. The legislation calls for regulations to be promulgated as necessary, which will include amendments to some of the existing regulations on overtime pay.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Annabelle T. Lockhart, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Room S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB31

2008. OBLIGATION OF FEDERAL CONTRACTORS AND SUBCONTRACTORS, NOTICE OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES

Regulatory Plan: This entry is Seq. No. 82 in part II of this issue of the **Federal Register**.

RIN: 1215–AB33

Department of Labor (DOL)
Employment Standards Administration (ESA)

Final Rule Stage

2009. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Regulatory Plan: This entry is Seq. No. 83 in part II of this issue of the **Federal Register**.

RIN: 1215–AA09

2010. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS

Regulatory Plan: This entry is Seq. No. 84 in part II of this issue of the **Federal Register**.

RIN: 1215–AB09

2011. MINIMUM WAGE AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES (29 CFR 578); CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES (29 CFR 579); ADJUSTMENT OF CIVIL MONEY PENALTIES FOR INFLATION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 216(e); PL 101-410; PL 104-134

CFR Citation: 29 CFR 578; 29 CFR 579

DOL—ESA

Final Rule Stage

Legal Deadline: Final, Statutory, October 23, 1996.

Abstract: The Debt Collection Improvement Act of 1996 (PL 104-134) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (PL 101-410) to require Federal agencies to adjust certain civil money penalties for inflation. The Department is proposing adjustments in the civil money penalties that may be assessed under section 16(e) of the Fair Labor Standards Act for (1) repeated or willful violations of the minimum wage or overtime provisions; and (2) child labor violations. Any increase in the penalty amounts shall apply only to violations which occur after the effective date of the increase.

Timetable:

Action	Date	FR Cite
NPRM	12/28/98	63 FR 71405
NPRM Comment Period End	01/27/99	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Annabelle T. Lockhart, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Room S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB20

2012. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (REVISED)

Priority: Substantive, Nonsignificant

Legal Authority: EO 11246, as amended; 38 USC 4211; PL 94-502;; PL 97-306; PL 102-484; 38 USC 4212; PL 93-508, amended; PL 96-466; PL 101-237;; EO 11758; PL 98-223; PL 102-16; PL 102-127; PL 95-520; PL 105-339; 29 USC 706;; 29 USC 793; EO 11758

CFR Citation: 41 CFR 60-1 (Revision); 41 CFR 60-250 (Revision); 41 CFR 60-741 (Revision)

Legal Deadline: None

Abstract: The NPRM would remove the obligation to visit an establishment during a compliance check, which is currently required by Section 60-1.20(a)(3) in order to enhance efficiency in resource allocation. OFCCP proposes also to make the same revision in Section 60-250.60(a)(3) of the regulations implementing the affirmative action provisions of the Vietnam Era Veteran's Readjustment Assistance Act (VEVRAA). Lastly, OFCCP proposes to conform regulations implementing Section 503 of the Rehabilitation Act of 1973, as amended, to the compliance evaluation procedures contained in the regulations implementing Executive Order 11246, as amended, and the affirmative action provisions of VEVRAA, both of which expressly authorize OFCCP to use additional investigative procedures to determine a contractor's compliance with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/12/00	65 FR 60815
Final Rule	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, Room N3424, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1215–AB28

Department of Labor (DOL)
Employment Standards Administration (ESA)

Long-Term Actions

2013. APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

Priority: Other Significant

Legal Authority: Sec 13(a)(15), Fair Labor Standards Act (FLSA), as amended; Sec 13(b)(21), FLSA, as amended; 29 USC 213(a)(15); 29 USC 213(b)(21) 88 Stat 62; Sec 29(b), FLSA of 1974; PL 93-259 88, Stat 76

CFR Citation: 29 CFR 552

Legal Deadline: None

Abstract: Section 13(a)(15) of the Fair Labor Standards Act (FLSA) provides an exemption from minimum wage and overtime compensation for domestic service employees engaged in providing companionship services. Section 13(b)(21) of the FLSA provides an exemption from overtime compensation for live-in domestic service employees. DOL proposed certain technical amendments to update the regulations, 29 CFR part 552, Application of the Fair Labor Standards Act to Domestic Service, and to clarify the applicability of these exemptions to third-party employers (58 FR 69310). After reviewing the public comments, the Department adopted technical changes to update the regulations, including a revision necessitated by amendments to title II of the Social Security Act under Public Law 103-387 (Social Security Domestic Employment Reform Act) 10/22/94, (see 60 FR 46766) and reopened the public comment period on proposed revisions affecting third-party employers (section 552.109). After further review of the history and background to this exemption, a new proposed rule was published for public comment on 1/19/2001 (66 FR 5481).

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69310
NPRM Comment Period End	02/28/94	
Second NPRM	09/08/95	60 FR 46797
Final Rule	09/08/95	60 FR 46766
Third NPRM	01/19/01	66 FR 5481
NPRM Comment Period End	03/20/01	
Third NPRM Comment Period End Extended to 07/23/2001	04/23/01	66 FR 20411
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

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Long-Term Actions

Government Levels Affected: State, Local, Federal

Agency Contact: Annabelle T. Lockhart, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Room S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AA82

2014. CLAIMS FOR COMPENSATION UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 106-398; EO 13179

CFR Citation: 20 CFR 30

Legal Deadline: Other, Statutory, May 31, 2001, Interim Final Rule.
By executive order, regulations for administration of program to be promulgated by 5/31/2001.

Abstract: The Department of Labor has issued regulations for its administration of the provisions of the Energy Employees Occupational Illness Compensation Program Act. These regulations address all questions arising under this act which have not been specifically assigned to the Secretary of Health and Human Services, to the Secretary of Energy, or to the Attorney General.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/25/01	66 FR 28948
Interim Final Rule Effective	07/24/01	
Interim Final Rule Comment Period End	09/24/01	66 FR 47382
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peter M. Turcic, Director, Division of Energy Employees Occupational Illness Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Washington, DC 20210
Phone: 202 693-0081
Fax: 202 693-1465
Email: eeoic@dol-esa.gov

RIN: 1215–AB32

Department of Labor (DOL)
Employment Standards Administration (ESA)

Completed Actions

2015. RECORDS TO BE KEPT BY EMPLOYERS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 211; 29 USC 201 et seq; 29 USC 207(g); 52 Stat 1066, sec 11; 52 Stat 1060, sec 11; 103 Stat 944, sec 7

CFR Citation: 29 CFR 516 et seq

Legal Deadline: None

Abstract: This regulation gives guidance to employers on the information they must keep in records deemed essential for determining compliance with the monetary requirements of the Fair Labor Standards Act (FLSA) regarding payment of minimum wages and overtime compensation to covered and nonexempt employees, or for determining that certain statutory exemptions to FLSA's requirements for payment of the minimum wage or overtime (or both) may apply. This regulatory initiative contemplates simplification of regulatory language and streamlining of regulatory requirements to ensure that applicable standards are easily understandable and reasonable.

Timetable:

Action	Date	FR Cite
Withdrawn Due to Competing Priorities	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Annabelle T. Lockhart, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Room S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB03

Department of Labor (DOL)
Employment and Training Administration (ETA)

Proposed Rule Stage

2016. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Regulatory Plan: This entry is Seq. No. 85 in part II of this issue of the Federal Register.

RIN: 1205–AA66

2017. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; UNEMPLOYMENT INSURANCE PERFORMANCE SYSTEM

Priority: Other Significant

Legal Authority: 42 USC 501 to 504; 42 USC 1302(a); 26 USC 3301 to 3311; 5 USC 8501 to 8508; 5 USC 8521 to 8525; 42 USC 5177 to 5189a; 19 USC 2271 to 2322; 40 FR 18515

CFR Citation: 20 CFR 602; 20 CFR 640; 20 CFR 650; 20 CFR 609.6(f); 20 CFR 614.6(f); 20 CFR 614.7(c); 20 CFR 609.7(c); 20 CFR 617.51(b)

Legal Deadline: None

Abstract: This regulation will formally establish a comprehensive system for helping ensure continuous improvement in UI operational performance. It will enunciate as the

DOL—ETA **Proposed Rule Stage**

system's building blocks principles for Federal and State cooperation, key nationwide performance measures, criteria distinguishing satisfactory from unsatisfactory performance, an annual planning process, and actions which the Department may take when a State fails to perform satisfactorily.

The UI PERFORMS Regulation is consistent with the Administration's and the Secretary's emphasis on improved grants management. It is needed now to help complete the development and implementation of the UI PERFORMS system and will replace other regulations, two of which establish Secretary's Standards for first payment and lower appeals timeliness. Until those regulations have been replaced the related UI PERFORMS measures and criteria cannot be put in place. It will also establish a definitive framework for enforcing, if necessary, the elements and performance standards established as parts of the UI PERFORMS system. Until the regulation is in place, UI PERFORMS will remain incomplete.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/97	62 FR 2543
ANPRM Comment Period End	03/17/97	
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Burman Skrable, Operations Research Analyst, Division of Performance Management, OWS, Department of Labor, Employment and Training Administration, Room S4231, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-3197
Email: bskrable@doleta.gov

RIN: 1205–AB10

2018. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Regulatory Plan: This entry is Seq. No. 86 in part II of this issue of the Federal Register.

RIN: 1205–AB28

Department of Labor (DOL)
Employment and Training Administration (ETA)

Final Rule Stage

2019. INDIAN AND NATIVE AMERICAN WELFARE-TO-WORK PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 612(a)(3)(c)(iii); PL 106-113, Division B, section 1000(a)(4)

CFR Citation: 20 CFR 646

Legal Deadline: Final, Statutory, November 4, 1997, 90 days from enactment. Citation mandates Secretary to prescribe regulations within 90 days of enactment, to publish interim final rule by 10/31/98.
Other, Statutory, January 1, 2000, for 1999 amendments.

Abstract: These are program regulations needed to implement the Indian and Native American set-aside under the Welfare-to-Work program authorized by section 412(a)(3) of the Social Security Act. New interim final regulations are being issued to implement changes made by the Welfare-to-Work and Child Support Amendments of 1999 and other legislation. The Consolidated Appropriations Act of 2001 authorized the Department to extend welfare-to-work grants an additional two years. Therefore, the grants may operate until September 2004.

The Department received 14 comments and none would substantively change the regulations. The Department will provide guidance in response to those comments. The Interim Final Rule is the final.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/98	63 FR 15985
Interim Final Rule Effective	04/01/98	
Interim Final Rule Comment Period End	06/01/98	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Additional Information: Congress has changed eligibility criteria. A final rule will be published to conform with the State programs.

Agency Contact: Gregory Gross, Department of Labor, Employment and Training Administration, Room N4641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1205–AB16

2020. LABOR CERTIFICATION AND PETITION PROCESS FOR THE TEMPORARY EMPLOYMENT OF NONIMMIGRANT ALIENS IN AGRICULTURE IN THE UNITED STATES; MODIFICATION OF FEE STRUCTURE

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(15)(h)(ii)(a); 8 USC 1184; 8 USC 1188; 29 USC 49 et seq

CFR Citation: 8 CFR 655

Legal Deadline: None

Abstract: The Employment and Training Administration (ETA) of the Department of Labor (Department or DOL) proposes to amend its regulations relating to the temporary employment of nonimmigrant agricultural workers (H-2A workers) in the United States. The proposed amendments would require employers to submit fees for labor certification and the associated H-2A petitions with consolidated application form at the time of filing. The proposal also would modify the fee structure for labor certification. If the application is denied, both fees will be refunded to the employer. It is conceivable in rare instances that the statutory and regulatory standards for issuance of the certification will be met, but those applicable to the petition will not be met. In such occurrence, neither fee will be refunded because the certification fee is an issuance,

DOL—ETA

Final Rule Stage

while the petition fee is a processing fee.

The Department published a Notice of Proposed Rulemaking (NPRM) at 65 FR 43545 (July 13, 2000). Because of the continuing interest in the proposal, the Department published at 65 FR 50170 (August 17, 2000) a proposed rule reopening and extending the comment period on the July 13, 2000, NPRM. The comments received as a result of this reopening and extension of the comment period did not provide sufficient information to permit the Department to draft a final rule concerning a number of issues raised by commenters. Consequently, the Department intends to publish a proposed rule to again reopen and extend the comment period on the July 13, 2000, NPRM.

Timetable:

Action	Date	FR Cite
NPRM	07/13/00	65 FR 43545
NPRM Comment Period Reopened and Extended	09/18/00	65 FR 50170
NPRM Comment Period Reopened and Extended to 10/29/2001	09/27/01	66 FR 49328
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 693-2942
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RIN: 1205–AB24

2021. • LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS; IMPLEMENTATION OF ELECTRONIC FILING

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(15)(h)(i)(b); 8 USC 1182(n); 8 USC 1184(c)

CFR Citation: 20 CFR 655, subparts H and I

Legal Deadline: None

Abstract: The Department of Labor is amending its regulations governing the filing and processing of labor condition applications for the employment of nonimmigrant aliens on H-1B visas in specialty occupations and as fashion models. The amendments will allow employers the option of submitting LCAs electronically, utilizing Web-based forms and instructions. The electronic filing system will be convenient and less burdensome for employers, since, unlike a system based on filing applications by facsimile transmission or by mail, the new system will allow the filing of an applications without the submission of a "hard copy." Submission by mail or fax will continue to be permitted for employers who prefer one of those formats.

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
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RIN: 1205–AB29

2022. • LABOR CERTIFICATION AND PETITION PROCESS FOR THE TEMPORARY EMPLOYMENT OF NONIMMIGRANT ALIENS IN AGRICULTURE IN THE U.S.: DELEGATION OF AUTHORITY TO ADJUDICATION PETITIONS; DEFERRAL OF EFFECTIVE DATE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 8 USC 1101(a)(15)(H)(ii)(a);; 8 USC 1184; 8 USC 1188; 29 USC 49 et seq; 8 CFR 103.1(f)(iii)(j); 8 CFR 103.1(f)(iii)(w); 8 CFR 214.2(h)(5); 8 CFR 214.2(h)(11); 8 CFR 214.2(h)(12)

CFR Citation: 20 CFR 655, subpart B

Legal Deadline: None

Abstract: The Department of Labor (DOL or Department) published a final rule in this rulemaking in the Federal Register at 65 FR 43538 (July 13, 2000), with an effective date of November 13, 2000, implementing a delegation of authority from the INS to the Department of adjudicate petitions for the temporary employment of nonimmigrant aliens in agriculture in the United States. Concurrently, the INS published a final rule at 65 FR 43528 (July 13, 2000) with an effective date of November 13, 2000, transferring to the Secretary of Labor the authority to adjudicate petitions for temporary agricultural workers and the authority to decide appeals on these decisions and to make determinations for revocation of petition approvals.

Subsequently, the INS at 65 FR 67616 (November 13, 2000) published a final rule and DOL at 65 FR 67628 (November 13, 2000) published an interim final rule (IFR) deferring the effective dates of their final rules. The Department in its IFR invited comments on the deferral of the effective date. No comments were received by DOL on the deferral of the effective date.

The Department also reopened and extended the comment period at 65 FR 50170 (August 17, 2000) on a companion notice of proposed rulemaking (NPRM) published at 65 FR 43545 (July 13, 2000) setting forth implementation measures necessary to the successful implementation of the delegation of authority to adjudicate petitions. The comments received as a result of this reopening and extension of the comment period did not provide sufficient information to permit the Department to draft a final rule concerning a number of issues raised by commenters. Consequently, the Department intends to publish a proposed rule to again reopen and extend the comment period on the July 13, 2000, NPRM.

Finalizing the proposed rule is essential to the effective implementation of any delegation of authority to DOL to adjudicate petitions for temporary employment of nonimmigrant aliens in the United States. Therefore, the Department has determined to defer the effective date of the July 13, 2000, final rule for 1 year, which should be sufficient time to complete the rulemaking on the companion NPRM.

DOL—ETA **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/27/01	66 FR 49275
Interim Final Rule Comment Period End	10/29/01	
Interim Final Rule Effective	09/27/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
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RIN: 1205–AB30

2023. • DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM AMENDMENT

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 5177; EO 12673

CFR Citation: 20 CFR 625.5

Legal Deadline: None

Abstract: In 1995, ETA published an interim final rule that clarified and removed undue restrictions in the existing regulations implementing the Disaster Unemployment Assistance Program. This rule revised all of part 625. Its withdrawal from the current agenda reflects a postponement of additional rulemaking due to higher agency priorities. (See RIN 1205-AB02.) This new rule on the Disaster Unemployment Assistance Program will only address one aspect of part 625; it adds a definition of "unemployment is a direct result of the major disaster." ETA had not defined this term in its previous rule. The purpose of the new definition is to clarify eligibility for disaster unemployment assistance in the wake of the major disasters as a result of the terrorist attacks of September 11, 2001.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/13/01	66 FR 56959
Interim Final Rule Effective	11/13/01	
Interim Final Rule Comment Period End	12/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Betty E. Castillo, Chief, Division of Unemployment Insurance Operations, Department of Labor, Employment and Training Administration, Room S4231, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-3032

RIN: 1205–AB31

Department of Labor (DOL)
Employment and Training Administration (ETA) **Long-Term Actions**

2024. FEDERAL-STATE UNEMPLOYMENT COMPENSATION (UC) PROGRAM; CONFIDENTIALITY AND DISCLOSURE OF INFORMATION IN STATE UC RECORDS

Priority: Other Significant

Legal Authority: 42 USC 1302 (a); 42 USC 503; 42 USC 1320b-7; 26 USC ch 23; Secretary's Orders 4-75 and 14-75

CFR Citation: 20 CFR 603

Legal Deadline: None

Abstract: The Employment and Training Administration of the Department of Labor is preparing to issue an interim final rule on confidentiality and disclosure of information in State records collected, created, or maintained for purposes of the Federal-State UC program. The interim final rule modifies and expands the regulations implementing the Income and Eligibility Verification System (IEVS) to include the statutory requirements in title III of the Social Security Act, the Federal Unemployment Tax Act, and the Wagner-Peyser Act concerning confidentiality and disclosure of information in State UC records. The use of unemployment compensation wage records under these and other statutes has increased in recent years while privacy and confidentiality issues have not yet been addressed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: Formerly RIN 1205-AA74; was taken off regulatory agenda in 1994 due to inactivity. An NPRM was published 3/23/92 at 57 FR 10063 with comment period ending 5/22/92.

Agency Contact: Gerard Hildebrand, Chief, Division of Legislation, Department of Labor, Employment and Training Administration, Room S4231, 200 Constitution Avenue NW, FB Building, Washington, DC 20210
Phone: 202 693-3038
Email: ghildebrand@doleta.gov

RIN: 1205–AB18

2025. ATTESTATIONS BY FACILITIES TEMPORARILY EMPLOYING H-1C NONIMMIGRANT ALIENS AS REGISTERED NURSES

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(15)(H)(i)(c); 8 USC 1182(m); 8 USC 1184; 29 USC 49 et seq; PL 106-95, 113 Stat. 1312

CFR Citation: 20 CFR 655, subparts L and M

Legal Deadline: Final, Statutory, February 11, 2000.
Final or Interim Final regulations required within 90 days of enactment.

Abstract: The Nursing Relief for Disadvantaged Areas Act of 1999 (P.L. 106-95; November 12, 1999) amended the Immigration and Nationality Act to create a new temporary visa program for nonimmigrant aliens to work as registered nurses for up to three years in facilities serving health professional shortage areas, subject to certain conditions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/22/00	65 FR 51137

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Long-Term Actions

Action	Date	FR Cite
Interim Final Rule Comment Period End	09/21/00	
Interim Final Rule Effective	09/21/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Agency Contact: Michael Ginley, Director, Office of Enforcement Policy, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room N3510, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0745

RIN: 1205–AB27

Department of Labor (DOL)
Employment and Training Administration (ETA)

Completed Actions

2026. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING, AND ENFORCEMENT

Priority: Other Significant

Legal Authority: 29 USC 49k

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under title VI of the Job Training Partnership Act, and title III of the Workforce Investment Act of 1998.

Timetable:

Action	Date	FR Cite
Withdrawn	08/31/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Federal

Federalism: Undetermined

Agency Contact: Gay Gilbert, Chief, Division of Employment Service and ALMIS, Department of Labor, Employment and Training Administration, Room S4231, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
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RIN: 1205–AA37

2027. DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM, AMENDMENT TO REGULATIONS

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 5177; EO 12673

CFR Citation: 20 CFR 625

Legal Deadline: None

Abstract: This rulemaking to revise current regulations into a "Plain English" format is being postponed due to higher agency priorities.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/94	59 FR 63670
ANPRM Comment Period End	02/06/95	
Interim Final Rule	05/11/95	60 FR 25560
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Betty E. Castillo, Chief, Division of Unemployment Insurance Operations, Department of Labor, Employment and Training Administration, Room S4231, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-3032

RIN: 1205–AB02

2028. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—IMPLEMENTATION OF 1988 AMENDMENTS

Priority: Other Significant

Legal Authority: 19 USC 2320

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: The final rule implementing the 1988 amendments to the TAA program was published in the Federal Register on January 6, 1994. Although it was published as final, comments were requested on several material changes being made in the final rule which differ from the November 1988 proposed rule and on a number of other changes which were not included in the proposed rule. Comments have been received and another final rule will be published relating to these substantive changes.

Timetable:

Action	Date	FR Cite
Withdrawn	08/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: This rulemaking is withdrawn from the regulatory agenda. After further analysis, agency resources are now focused on the Administration's trade adjustment assistance initiative, which could change the focus of these regulatory items.

Agency Contact: Edward A. Tomchick, Director, Division of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, Room C5311, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-3577

RIN: 1205–AB05

2029. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—TRANSITIONAL ADJUSTMENT ASSISTANCE NAFTA-TAA

Priority: Other Significant

Legal Authority: 19 USC 2320; 19 USC 2331

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: Title V of the North American Free Trade Agreement Implementation Act (NAFTA) (PL 103-182) amends chapter 2 of title II of the Trade Act of 1974 by adding a new NAFTA Transitional Adjustment Assistance Program (NAFTA-TAA) for workers who lose their jobs because of increased imports from or a shift of production to Mexico and Canada. Most of the provisions of title V are in the form of amendments to chapter

2, title II, of the Trade Act. While some of the provisions are not in the form of amendments to the Trade Act they nonetheless must be given effect in implementing the NAFTA-TAA program. A proposed rule to amend the regulations on the trade adjustment assistance program for workers was published in the Federal Register on January 17, 1995.

Timetable:

Action	Date	FR Cite
NPRM	01/17/95	60 FR 3472
NPRM Comment Period End	03/20/95	
Withdrawn	08/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: This rulemaking is withdrawn from the regulatory agenda. After further analysis, agency resources are now focused on the Administration's trade adjustment assistance initiative, which could change the focus of these regulatory items.

Agency Contact: Edward A. Tomchick, Director, Division of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, Room C5311, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-3577

RIN: 1205–AB07

2030. ESTABLISHMENT OF FEES FOR IMMIGRATION PROGRAMS ADMINISTERED BY THE EMPLOYMENT AND TRAINING ADMINISTRATION

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Assuming Congress provides the required authorization, the regulation would establish a new fee charged to employers for processing of alien labor certification applications. The user fee would be a government receipt and would be applied to Federal and State expenditures for Federal and State program administration in the State Unemployment Insurance and Employment Service account and the Program Operations Account in DOL's Employment and Training Administration (ETA).

Timetable:

Action	Date	FR Cite
Withdrawn	08/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: The base funding of ETA immigration programs has been reduced by 30 percent since FY 1995. The fee proceeds would be used to offset the costs of administering the alien labor certification program at the State and Regional levels. ETA has worked with the States and Regional Offices and reduced the number of queued cases from 92,000 to 66,000 at the State level. The number of cases on the Regional level is 21,000. However, there was a one time reinstatement of section 245(i) as part of the LIFE legislation and this increased the queued permanent cases by 235,000 applications over the 60,000 permanent applications received in FY 2001. The regular appropriation, plus the user fees, will be necessary to work off the cases in the pipeline and become current.

Agency Contact: Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
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RIN: 1205–AB14

2031. WELFARE-TO-WORK (WTW) GRANTS

Priority: Other Significant

Legal Authority: 42 USC 603(a)(5)(c)(ix); PL 106-113, Division B, sec 1000(a)(4)

CFR Citation: 20 CFR 645

Legal Deadline: None

Abstract: The Employment and Training Administration published interim final regulations on November 18, 1997, implementing the Welfare-to-Work Grants Program. The Personal Responsibility and Work Opportunity Reconciliation Act reformed the Nation's welfare laws, when enacted in August 1996, by creating a new system of block grants to the States for Temporary Assistance for Needy Families (TANF). Moving people from welfare to work is one of the primary goals of Federal welfare policy. Section 5001 of the Balanced Budget Act of 1997 authorized the Department of Labor to provide Welfare-to-Work Grants to States and local communities to create additional job opportunities for the hardest-to-employ recipients of TANF and certain noncustodial parents. The Welfare-to-Work Grants were provided to the States through the use of a formula, and in a competitive process to local communities. A small amount of total grant funds were set aside for special purposes: one percent for Indian tribes; and 0.8 percent for evaluation.

Guidance and regulations reflect minimal amplification of the law and provide further information or clarification as needed to make the program operational. Existing regulations and systems are used wherever possible. Reporting requirements will assure program integrity and provide timely information for tracking performance. Leveraging of non-Federal resources at the State and local level is encouraged.

These funds have allowed States and local communities to help move eligible individuals into jobs by: job creation through public or private sector wage subsidies; on-the-job training; short-term vocational educational training and job training; contracts with public or private providers of job readiness, job placement, and post-employment services; job vouchers for similar services; community service or work experience; or job retention and supportive services (if such services are not otherwise available).

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/18/97	62 FR 61587
Interim Final Rule	01/11/01	66 FR 2690
Final Rule	01/11/01	66 FR 2689
Interim Final Rule Comment Period Extended to 4/11/01	02/12/01	66 FR 9763
Effective Date of Final Rule Delayed Until 4/13/01	02/12/01	66 FR 9763
Final Rule Effective	02/12/01	

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Completed Actions

Action	Date	FR Cite
Interim Final Rule Comment Period End	03/12/01	
Combined with 1205-AB16	09/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Additional Information: As a result of the interim final rule published on January 11, 2001, the Department received comments from 14 entities resulting in about 60 discrete comments on the rule implementing the 1999 Amendments. After considering several options, ETA proposes to respond at a future point in time on the Indian and Native American Welfare-to-Work Interim Final Rule (RIN 1205-AB16). This rule would apply to the system through September 2004.

Agency Contact: Dennis Lieberman, Director, Division of Welfare to Work, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, N4671, FP Building, Washington, DC 20210
Phone: 202 693-3375

RIN: 1205–AB15

2032. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES; REFILING OF APPLICATIONS

Priority: Other Significant

Legal Authority: 8 USC 1182(a)(5)(A)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: This rulemaking would amend the regulations relating to the permanent employment of aliens in the United States. The proposed amendments would permit employers to request that any labor certification application for permanent employment filed prior to a certain date and which has not been sent to the regional certifying officer to be processed as a reduction in recruitment request, provided recruitment has not been conducted pursuant to the permanent labor certification regulations. ETA anticipates that proposed amendment would reduce the backlog of labor certification application for permanent employment in State Employment Security Agencies.

This measure to reduce backlogs would result in a variety of desirable benefits, including a reduction in government resources necessary to process applications for alien employment certification a reduction in processing time for both new application and those applications currently in the queue, and would facilitate the development and implementation of a new, more efficient system for processing labor certification applications for permanent employment in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/26/00	65 FR 46082
NPRM Comment Period End	08/25/00	
Final Action	08/03/01	66 FR 40584
Final Action Effective	09/04/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 693-2942
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RIN: 1205–AB25

Department of Labor (DOL)

Pension and Welfare Benefits Administration (PWBA)

Prerule Stage

2033. BONDING RULES UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1135; 29 USC 1112

CFR Citation: 29 CFR 2580

Legal Deadline: None

Abstract: PWBA is conducting a review of the temporary bonding rules under section 412 of ERISA (29 CFR part 2580) in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rules; the extent to which the rules overlap, duplicate or conflict with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210–AA82

2034. REQUESTS FOR ENFORCEMENT PURSUANT TO SECTION 502(B)(2) (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1132(b)(2)

CFR Citation: 29 CFR 2560.502-1

Legal Deadline: None

Abstract: PWBA is conducting a review of its regulation (29 CFR 2560.502-1) relating to requests for enforcement pursuant to section 502(b)(1) of ERISA (formerly ERISA) section 502(b)(2)) of ERISA in accordance with the requirements of section 610 of the

DOL—PWBA **Prerule Stage**

Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rule; the extent to which the rules overlap, duplicate or conflict with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210–AA83

2035. CIVIL PENALTIES UNDER ERISA SECTION 502(C)(2) (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1132(c)(2)

CFR Citation: 29 CFR 2560.502(c)(2)

Legal Deadline: None

Abstract: PWBA is conducting a review of its regulations on civil penalties under section 502(c)(2) of ERISA (29 CFR 2560.502(c)(2) in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rules; the extent to which the rules overlap, duplicate or conflict with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210–AA84

2036. PROCEDURES FOR THE ASSESSMENT OF CIVIL PENALTIES UNDER ERISA SECTION 502(C)(2) (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1135; 29 USC 1132(c)(2)

CFR Citation: 29 CFR 2570.60 et seq.

Legal Deadline: None

Abstract: PWBA is conducting a review of its regulations relating to the procedures for the assessment of civil penalties under section 502(c)(2) of ERISA (29 CFR 2570.60 et seq.) in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rules; the extent to which the rules overlap, duplicate or conflict with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210–AA85

Department of Labor (DOL)
Pension and Welfare Benefits Administration (PWBA) **Proposed Rule Stage**

2037. RULEMAKING RELATING TO NOTICE REQUIREMENTS FOR CONTINUATION OF HEALTH CARE COVERAGE

Regulatory Plan: This entry is Seq. No. 87 in part II of this issue of the **Federal Register**.

RIN: 1210–AA60

2038. REGULATION EXEMPTING CERTAIN BROKER-DEALERS AND INVESTMENT ADVISERS FROM BONDING REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1112

CFR Citation: 29 CFR 2580

Legal Deadline: None

Abstract: This proposed regulation would provide an exemption from the bonding requirements of Section 412(a) of ERISA for certain broker-dealers and investment advisers who handle plan assets.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

DOL—PWBA **Proposed Rule Stage**

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stacey L. DeWalt, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210–AA80

Department of Labor (DOL)
Pension and Welfare Benefits Administration (PWBA) **Final Rule Stage**

2039. DEFINITION OF COLLECTIVE BARGAINING AGREEMENT (ERISA SECTION 3(40))

Priority: Other Significant

Legal Authority: 29 USC 1002(40)

CFR Citation: 29 CFR 2510.3-40

Legal Deadline: None

Abstract: The regulation will establish standards for determining whether an employee benefit plan is established or maintained under or pursuant to one or more collective bargaining agreements for purposes of its exclusion from the Multiple Employer Welfare Arrangement (MEWA) definition in section 3(40) of ERISA, and thus exempted from State regulation. The regulation will clarify the scope of the exception from the MEWA definition for plans established or maintained under or pursuant to one or more collective bargaining agreements by providing criteria which will serve to distinguish welfare benefit arrangements which are maintained by legitimate unions pursuant to bona fide collective bargaining agreements from insurance arrangements promoted and marketed under the guise of ERISA-covered plans exempt from State insurance regulation. The regulation will also serve to limit the extent to which plans maintained pursuant to bona fide collective bargaining agreements may extend plan coverage to individuals not covered by such agreements.

Timetable:

Action	Date	FR Cite
NPRM	08/01/95	60 FR 39208
NPRM Comment Period Extended to 11/16/95	09/29/95	60 FR 50508
Notice Establishing Negotiated Rulemaking Advisory Committee	09/22/98	63 FR 50542
Second NPRM	10/27/00	65 FR 64498
Second NPRM Comment Period End	12/26/00	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Elizabeth A. Goodman, Pension Law Specialist, Office of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210–AA48

2040. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-91, sec 101; 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1171; 29 USC 1172; 29 USC 1177

CFR Citation: 29 CFR 2590

Legal Deadline: Other, Statutory, April 1, 1997, Interim Final Rule.
Per section 734 of ERISA as added by section 101 of HIPAA.

Abstract: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended title I of ERISA by adding a new part 7, designed to improve health care access, portability and renewability. This rulemaking will provide regulatory guidance to implement these provisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Effective	06/07/97	
Interim Final Rule Comment Period End	07/07/97	
Request for Information	10/25/99	64 FR 57520
Comment Period End	01/25/00	
Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Amy Turner, Director, Office of Health Plan Standards, Department of Labor, Pension and Welfare Benefits Administration, Room N5677, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-8335

RIN: 1210–AA54

2041. HEALTH CARE STANDARDS FOR MOTHERS AND NEWBORNS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1027, ERISA sec 107; 29 USC 1059, ERISA sec 209; 29 USC 1135, ERISA sec 505; 29 USC 1171 to 1173, ERISA sec 701 to 703; 29 USC 1181, ERISA sec 711; 29 USC 1182, ERISA sec 712; 29 USC 1191 to 1194, ERISA sec 731 to 734; PL 104-191, 101 Stat 1936 (HIPAA); PL 104-204, 110 Stat 2935 (NMHPA); Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987

CFR Citation: 29 CFR 2590.711

Legal Deadline: None

Abstract: The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) was enacted on September 26, 1996 (PL 104-204). NMHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974, as amended, (ERISA) to provide protection for mothers and their newborn children with regard to the length of hospital

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stays following the birth of a child. NMHPA provisions are set forth in title XXVII of the PHSA and part 7 of subtitle B of title I of ERISA. This rulemaking will provide further guidance with regard to the provisions of the NMHPA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/27/98	63 FR 57546
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: Secs. 107, 209, 505, 701-703, 711, 712 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1171-1173, 1181 1182, 1191-1194), as amended by HIPAA (Pub. L. 104-191, 101 Stat. 1936) and NMHPA (Pub. L. 104-204) and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8335

RIN: 1210–AA63

2042. REPORTING REQUIREMENTS FOR MEWAS PROVIDING MEDICAL CARE BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1135; 29 USC 1021(g)(h) (PL 104-191; 110 Stat 1952); 29 USC 1194

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: These interim final rules govern certain reporting requirements under title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA) for multiple employer welfare arrangements (MEWAs) that provide benefits consisting of medical care. In part, the rules implement recent changes made to ERISA by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The rules also set forth elements that MEWAs would be required to file with the Department of Labor for the purpose of determining compliance with the portability nondiscrimination, renewability and other requirements of part 7 of subtitle B of title I of ERISA including the requirements of the Mental Health Parity Act of 1996 and the Newborns' and Mothers' Protection Act of 1996. The rules provide guidance with respect to section 502(c)(5) of ERISA which authorizes the Secretary of Labor to assess a civil penalty of up to $1,000 a day for failure to comply with the new reporting requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/11/00	65 FR 7152
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8335

RIN: 1210–AA64

2043. ELIMINATION OF FILING REQUIREMENTS FOR SUMMARY PLAN DESCRIPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, sec 1503

CFR Citation: 29 CFR 2520.104a-2; 29 CFR 2520.104a-3; 29 CFR 2520.104a-4; 29 CFR 2520.104a-7

Legal Deadline: None

Abstract: This rulemaking will remove from the CFR certain regulations that have been superseded by amendments to title I of ERISA effected by the Taxpayer Relief Act of 1997 (PL 105-34) that eliminate the requirement for plan administrators to file summary plan descriptions (SPDs), summaries of material modifications (SMMs), and updated SPDs with the Department of Labor. Under the amendments plan administrators must continue to furnish participants and beneficiaries with copies of these documents. Separate rulemakings (RINs 1210-AA67 and 1210-AA68) will implement the Taxpayer Relief Act amendments that require plan administrators to furnish copies of SPDs and any other documents relating to the plan to the Department on request, and authorize the Secretary of Labor to assess a civil penalty for failure to do so.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42792
NPRM Comment Period End	10/04/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lisa M. Fields, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5625, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210–AA66

2044. REQUIREMENT TO FURNISH PLAN DOCUMENTS UPON REQUEST BY THE SECRETARY OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, sec 1503

CFR Citation: 29 CFR 2520.104a-8

Legal Deadline: None

Abstract: This rulemaking will implement an amendment to title I of ERISA made by section 1503 of the Taxpayer Relief Act of 1997 (PL 105-34) which requires plan administrators to furnish copies of any documents relating to the plan to the Department on request.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42797
NPRM Comment Period End	10/04/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Lisa M. Fields, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5625, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210–AA67

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2045. CIVIL PENALTY FOR FAILURE TO FURNISH CERTAIN PLAN DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-34, sec 1503; 29 USC 1135; 29 USC 1132

CFR Citation: 29 CFR 2560; 29 CFR 2570

Legal Deadline: None

Abstract: This rulemaking will implement the enforcement aspects of amendments to title I of ERISA made by section 1503 of the Taxpayer Relief Act of 1997 (Public Law 105-34) which, while eliminating the requirement that plan administrators file summary plan descriptions (SPDs), summaries of material modifications (SMMs) and updated SPDs with the Department of Labor, also provided that administrators must furnish copies of any documents relating to the plan, including but not limited to SPDs, to the Department on request. In particular, this rulemaking will implement the amendments that authorize the Secretary of Labor to assess a civil penalty of up to $100 a day, up to a maximum of $1,000 per request, against a plan administrator who fails to furnish the requested documents on a timely basis.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42797
NPRM Comment Period End	10/04/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Lisa M. Fields, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5625, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210–AA68

2046. ELECTRONIC DISCLOSURE OF EMPLOYEE BENEFIT PLAN INFORMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, Taxpayer Relief Act; Secretary of Labor's Order No. 1-87, April 21,1987

CFR Citation: 29 CFR 2520.104b

Legal Deadline: NPRM, Statutory, December 31, 1998.

Abstract: This rulemaking will improve the ability of sponsors and administrators of all employee benefit plans covered by title I of ERISA to make certain disclosures of plan information to participants and beneficiaries through electronic means. The rule will provide guidance with respect to the conditions under which electronic disclosures will be deemed to satisfy the disclosure requirements under title I of ERISA. The rule also will establish recordkeeping standards for maintaining or storing data in electronic form.

Timetable:

Action	Date	FR Cite
NPRM	01/28/99	64 FR 4506
NPRM Comment Period End	03/29/99	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Eric A. Raps, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210–AA71

2047. RULEMAKING RELATING TO THE WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1998

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1185; PL 105-277; 112 Stat 2681; 29 USC 1135; 29 USC 1194

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Women's Health and Cancer Rights Act of 1998 (WHCRA) was enacted on October 21, 1998 (P.L. 105-277). WHCRA amended the Employee Retirement Income Security Act of 1974 (ERISA) and the Public Health Service Act (PHS Act) to provide protection for patients who elect breast reconstruction in connection with a mastectomy. The WHCRA provisions are set forth in part 7 of subtitle B of title I of ERISA and in title XXVII of the PHS Act. These interim rules will provide guidance with respect to the WHCRA provisions.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	05/28/99	64 FR 29186
RFI Comment Period End	08/28/99	
Interim Final Rule	07/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Elena Hornsby, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8335

RIN: 1210–AA75

2048. VOLUNTARY FIDUCIARY CORRECTION PROGRAM (VFC PROGRAM)

Regulatory Plan: This entry is Seq. No. 88 in part II of this issue of the **Federal Register**.

RIN: 1210–AA76

2049. PROHIBITING DISCRIMINATION AGAINST PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1027; 52 FR 13139, April 21, 1987; 29 USC 1059; 29 USC 1135; 29 USC 1171; 29 USC 1167; 29 USC 1194; PL 104-191 sec 101; 29 USC 1181, 101 Stat 1936; Secretary of Labor's Order No. 1-37

CFR Citation: 29 CFR 2590.702

Legal Deadline: None

Abstract: Section 702 of the Employee Retirement Income Security Act of 1974, amended by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), establishes that a group health plan or a health insurance issuer may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of

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the plan based on any health status-related factor. These provisions are also contained in the Internal Revenue Code under the jurisdiction of the Department of the Treasury, and the Public Health Service Act under the jurisdiction of the Department of Health and Human Services.

On April 8, 1997, the Department, in conjunction with the Departments of the Treasury and Health and Human Services (collectively, the Departments) published interim final regulations implementing the nondiscrimination provisions of HIPAA. These regulations can be found at 26 CFR 54.9802-1 (Treasury), 29 CFR 2590.702 (Labor), and 45 146.121 (HHS). That notice of rulemaking also solicited comments on the nondiscrimination provisions and indicated that the Departments intend to issue further regulations on the nondiscrimination rules. This rulemaking contains additional regulatory interim guidance under HIPAA's nondiscrimination provisions. In addition, the rulemaking contains proposed guidance on bona fide wellness programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Comment Period End	07/07/97	
NPRM: Wellness	01/08/01	66 FR 1421
Second Interim Final Rule	01/08/01	66 FR 1378
NPRM Comment Period End	04/09/01	
Interim Final Rule Comment Period End	04/09/01	
Final Rule	07/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: This item has been split off from RIN 1210-AA54 in order to provide focused guidance on section 702 of ERISA, which prohibits discrimination against participants and beneficiaries by group health plans and health insurance issuers based on health status.

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8335

RIN: 1210–AA77

2050. • DELINQUENT FILER VOLUNTARY COMPLIANCE PROGRAM (DFVC PROGRAM)

Regulatory Plan: This entry is Seq. No. 89 in part II of this issue of the Federal Register.

RIN: 1210–AA86

Department of Labor (DOL)
Pension and Welfare Benefits Administration (PWBA) — Long-Term Actions

2051. ADEQUATE CONSIDERATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1002(18); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes "adequate consideration" under section 3(18) of ERISA for assets other than securities for which there is a generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/17/88	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Paul Mannina, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, Room N4611, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-5600

RIN: 1210–AA15

2052. CIVIL PENALTIES UNDER ERISA SECTION 502(1)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1132

CFR Citation: 29 CFR 2570.80 (Procedural); 29 CFR 2560.502(l)-1 (Substantive)

Legal Deadline: None

Abstract: Section 502(l) of ERISA requires the Secretary of Labor to assess a civil penalty against a fiduciary who breaches a fiduciary duty under, or commits a violation of, part 4 of title I of ERISA, or any other person who knowingly participates in such breach or violation. The Department has published an interim rule setting forth the procedures for the assessment of penalties under ERISA section 502(l) and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment, as well as a proposed rule that defines the following pivotal terms contained in section 502(l): "applicable recovery amount," "breach of fiduciary responsibility or violation," "settlement agreement," and "court order."

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 25284
Interim Final Rule	06/20/90	55 FR 25284
NPRM Comment Period End	08/20/90	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Vicki Shteir-Dunn, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, Room N4638, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-5600

RIN: 1210–AA37

DOL—PWBA

Long-Term Actions

2053. MENTAL HEALTH BENEFITS PARITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1182 (PL 104-204; 110 Stat 2944); 29 USC 1194

CFR Citation: 29 CFR 2590

Legal Deadline: None

Abstract: The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (P.L. 104-204). MHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974 (ERISA), as amended, to provide for parity in the application of limits on certain mental health benefits with limits on medical and surgical benefits. MHPA provisions are set forth in chapter 100 of subtitle K of the Code, title XXVII of the PHSA, and part 7 of subtitle B of title I of ERISA. This rulemaking provides guidance with regard to the provisions of the MHPA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66932
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: LEGAL AUTHORITIES CONT: Secs. 107, 209, 505, 701-703, 711, 712 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1171-1173, 1181 1182, 1191-1194), as amended by HIPAA (Pub. L. 104-191, 101 Stat. 1936) and NMHPA (Pub. L. 104-204) and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

Agency Contact: Mark Connor, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room BN5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8335

RIN: 1210–AA62

Department of Labor (DOL)

Pension and Welfare Benefits Administration (PWBA)

Completed Actions

2054. INDIVIDUAL BENEFITS REPORTING REQUIREMENTS FOR DEFINED CONTRIBUTION PLANS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520.105-1

Legal Deadline: None

Abstract: ERISA sections 105 and 209 require the furnishing of statements of accrued and vested pension benefits upon request of a participant or beneficiary, upon a participant's termination of service with an employer, and upon a participant's incurring a one-year break in service. This regulation will provide guidance with respect to the furnishing of individual benefit reports to participants and beneficiaries in defined contribution pension plans.

Timetable:

Action	Date	FR Cite
Withdrawn	08/31/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: No further action is contemplated by the Agency on this item at this time.

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210–AA65

2055. SOFT DOLLAR (INTERPRETIVE BULLETIN)

Priority: Other Significant

Legal Authority: 29 USC 1103; 29 USC 1104; 29 USC 1106; 29 USC 1108; 29 USC 1135

CFR Citation: 29 CFR 2509.98-2

Legal Deadline: None

Abstract: This Interpretive Bulletin will codify the guidance provided by the Department concerning "soft dollar" and directed commission arrangements, for ease of reference by employee benefit plan fiduciaries, plan service providers, and others.

Timetable:

Action	Date	FR Cite
Withdrawn	08/31/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: No further action is contemplated by the Agency on this item at this time.

Agency Contact: David J. Lurie, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210–AA74

2058. • DELAY OF APPLICABILITY DATE FOR CLAIMS REGULATION UNDER ERISA

Priority: Substantive, Nonsignificant

Legal Authority: ERISA Section 502; ERISA Section 505; 29 USC 1132; 29 USC 1135; Secretary's Order 1-87, 52 FR 13139, April 21, 1987; Section 2560.502-1; Section 2560.502i-1; Section 2560.503-1

CFR Citation: 29 CFR 2560.503.1

Legal Deadline: None

Abstract: This action delays for at least six months and not more than one year the applicability date for the regulation governing minimum requirements for benefit claims procedures of group health plans covered by Title I of the Employee Retirement Income Security Act. As published on November 21, 2000, the benefit claims procedure would be applicable to claims filed on or after January 1, 2002. The current action amends the regulation so that it will apply to group health claims filed on or after the first day of the first plan year beginning on or after July 1, 2002, but in no event later than January 1, 2003.

DOL—PWBA **Completed Actions**

Timetable:

Action	Date	FR Cite
Final Action	07/09/01	66 FR 35886
Final Action Effective	07/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan G. Lahne, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210–AA89

Department of Labor (DOL)
Mine Safety and Health Administration (MSHA) **Prerule Stage**

2057. OCCUPATIONAL EXPOSURE TO COAL MINE DUST (LOWERING CONCENTRATION LIMIT)

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70; 30 CFR 71; 30 CFR 90

Legal Deadline: None

Abstract: MSHA is considering rulemaking to lower the respirable coal mine dust concentration limit because miners continue to be at risk of developing dust-induced occupational lung disease.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
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RIN: 1219–AB08

2058. ASBESTOS EXPOSURE LIMIT

Regulatory Plan: This entry is Seq. No. 90 in part II of this issue of the **Federal Register**.

RIN: 1219–AB24

Department of Labor (DOL)
Mine Safety and Health Administration (MSHA) **Proposed Rule Stage**

2059. BELT ENTRY USE AS INTAKE AIRCOURSE TO VENTILATE WORKING SECTIONS

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 957; 30 USC 961

CFR Citation: 30 CFR 75; 30 CFR 12; 30 CFR 48

Legal Deadline: None

Abstract: Currently, mine operators must apply to MSHA for a modification of the existing regulations if they want to use belt entries for ventilation purposes. MSHA's current regulations prohibit belt entries from being used to ventilate areas where coal is being mined. The intent was to prevent smoke from a conveyor belt fire from traveling to a miner's workplace. Improved technology, including sophisticated monitoring devices, such as atmospheric monitoring systems (AMS), makes it possible to use belt entries safely to ventilate these areas in mines, provided certain conditions are met. An AMS is a network consisting of hardware and software capable of measuring atmospheric parameters, such as carbon monoxide and oxygen concentrations; transmitting these measurements to the surface; providing local and remote alarms; manipulating and cataloging atmospheric data; and providing reports.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: In 1985 MSHA published a "pre-proposal" that included a belt air provision as part of the revisions to the ventilation regulations. In 1988 MSHA published a proposed rule that would have allowed belt air to ventilate the area where coal is being mined. Also in 1988, MSHA held six hearings to receive public comment on the proposed rule. Several thousand miners attended the hearings to voice their opposition to the belt air provision. As a result, in 1989 MSHA formed the Belt Air Ventilation Review Committee to review the use of belt air. The Committee concluded that the use of belt air could be allowed, provided environmental sensors are used to detect belt fires. Another hearing took place in 1990 to solicit further comment on the use of belt air. In 1991, the Secretary of Labor formed a Federal Advisory Committee on the use of belt air. MSHA published final ventilation rules in 1992 that omitted the use of belt air, deferring further action until the Advisory Committee recommendations were completed. In December 1992, the Advisory Committee published a report that concluded that belt air can be used to safely ventilate areas where coal is being mined, provided certain conditions are met.

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
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RIN: 1219–AA76

2060. INDEPENDENT LABORATORY TESTING

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957

DOL—MSHA **Proposed Rule Stage**

CFR Citation: 30 CFR 6; 30 CFR 29; 30 CFR 33; 30 CFR 35; 30 CFR 18; 30 CFR 19; 30 CFR 20; 30 CFR 7; 30 CFR 22; 30 CFR 23; 30 CFR 27; 30 CFR 28; 30 CFR 36

Legal Deadline: None

Abstract: This rulemaking will revise text in the CFR to reduce burden or duplication, and streamline requirements. Our current regulations set out approval requirements for MSHA testing and evaluation for approval of certain products used in gassy underground mines. The rule as proposed would allow us to accept testing and evaluation of certain mine equipment by independent laboratories; and approve products which satisfy alternative testing and evaluation requirements if those requirements are equivalent to ours, or could be enhanced to be equivalent. We are considering reproposing the rule to assure that the proposed changes are appropriate.

Timetable:

Action	Date	FR Cite
NPRM	11/30/94	59 FR 61376
NPRM Comment Period Extended to 2/21/1995	02/13/95	60 FR 8209
Public Hearing Notice	10/10/95	60 FR 52640
Notice to Reschedule Public Hearing to 4/30/1996	02/09/96	61 FR 15743
Comment Period End	05/31/96	
Second NPRM	09/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
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RIN: 1219–AA87

2061. IMPROVING AND ELIMINATING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 1 to 199

Legal Deadline: None

Abstract: This rulemaking will revise text in the CFR to reduce burden or duplication, and streamline requirements. We have reviewed our current regulations and identified provisions that are outdated, redundant, unnecessary or otherwise require change. We will be making these changes through notice and comment rulemaking where necessary. We will also consider new regulations that reflect "best practices" in the mining industry. We view this effort to be evolving and ongoing and will continue to accept recommendations from the public.

Timetable:

Action	Date	FR Cite
NPRM - Phase 5 Miscellaneous Technology Improvements (Methane Monitors on Roof-Bolting Machines)	09/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AA98

2062. MINE RESCUE TEAMS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 49

Legal Deadline: None

Abstract: We are assessing our current regulations to identify areas where we might increase flexibility and encourage underground mine operators to provide mine rescue and recovery capability at their mines. We hope to increase the number of mine rescue teams available to assist miners in life threatening emergencies.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
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RIN: 1219–AB20

Department of Labor (DOL)
Mine Safety and Health Administration (MSHA) **Final Rule Stage**

2063. HAZARD COMMUNICATION

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 47

Legal Deadline: None

Abstract: Today's complex mining environment exposes miners to many hazards, such as wastes being burned as fuel supplements at cement kilns and other chemicals brought onto mine property.

On October 3, 2000, MSHA published an interim final Hazard Communication (HazCom) rule and opened a short additional comment period which closed on November 17, 2000.

The purpose of this standard is to reduce chemically related injuries and illnesses among miners by increasing their knowledge and awareness of chemical hazards. It ensures that miners have the same protections that have been available to workers under OSHA's jurisdiction since 1987. MSHA's rule is consistent with OSHA's HazCom rule to the extent appropriate.

The interim final rule would have become effective on October 3, 2001. MSHA reopened the record and held public hearings to provide an

additional opportunity for comment on any issue relevant to the rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/31/88	
NPRM	11/02/90	55 FR 46400
NPRM Comment Period End	01/31/92	56 FR 48720
Reopen Record	03/30/99	64 FR 15144
Interim Final Rule	10/03/00	65 FR 59048
Interim Final Rule Comment Period End	11/17/00	
Public Hearing and Extension of Comment Period to 12/19/00	12/11/00	65 FR 77292
Delay Effective Date of Interim Final Rule; Reopening of Record; Public Hearings; Close of Record	08/28/01	66 FR 45167
Final Action	04/00/02	
Interim Final Rule Effective	06/30/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1219–AA47

2064. ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT AND ACCESSORIES AND HIGH-VOLTAGE LONGWALL EQUIPMENT STANDARDS FOR UNDERGROUND COAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Our current regulations require that high-voltage cables and transformers be kept at least 150 feet from coal extraction areas. These requirements are intended to eliminate an ignition source for methane and coal dust in close proximity to the work area. Highly productive longwall mining systems are now in widespread use in the mining industry. They use safe high-voltage electrical equipment and associated cables. Mine operators, however, currently must apply to us for a modification from the existing regulations if they want to use this high-voltage equipment. The proposed rule would eliminate the need for a modification to use this equipment and would establish safety requirements for the design, construction, installation, use, and maintenance of high-voltage longwall equipment and associated cables.

Timetable:

Action	Date	FR Cite
NPRM	08/27/92	57 FR 39036
Extension of Comment Period to 11/13/1992	10/23/92	57 FR 46350
Reopen Record	10/18/95	60 FR 53891
Extension of Comment Period	11/14/95	60 FR 57203
Comment Period End	12/18/95	
Reopen Record	12/28/99	64 FR 72620
Comment Period End	02/28/00	
Final Rule	09/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The first high-voltage longwall system started operating in 1985. Since that time we have issued approximately 130 system design approvals for high-voltage longwall equipment. Over the last 16 years, no electrical-type fatalities or serious injuries occurred to miners because of high-voltage equipment used in accordance with over 100 granted high-voltage petitions for modification (petitions). Because of this new improved high-voltage technology, the designed safety benefits and the observed use experience, MSHA is revising its existing 30 CFR part 18 electric motor-driven mine equipment and accessories approval requirements by adding specific design requirements for high-voltage longwall equipment in underground mines.

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RIN: 1219–AA75

2065. VERIFICATION OF UNDERGROUND COAL MINE OPERATORS' DUST CONTROL PLANS AND COMPLIANCE SAMPLING FOR RESPIRABLE DUST

Regulatory Plan: This entry is Seq. No. 91 in part II of this issue of the **Federal Register**.

RIN: 1219–AB14

2066. DETERMINATION OF CONCENTRATION OF RESPIRABLE COAL MINE DUST

Regulatory Plan: This entry is Seq. No. 92 in part II of this issue of the **Federal Register**.

RIN: 1219–AB18

2067. • DIESEL PARTICULATE EXPOSURE OF UNDERGROUND METAL AND NONMETAL MINERS

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: This proposed rule addresses two provisions of the Mine Safety and Health Administration's final rule pertaining to "Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners," published in the Federal Register on January 19, 2001 (66 FR 5706, RIN 1219-AB11). The final rule was scheduled to become effective on March 20, 2001, but MSHA delayed the effective date of the rule until May 21, 2001 in accordance with a January 20, 2001 memorandum from the President's Chief of Staff. On May 21, 2001, MSHA delayed the effective date of the final rule until July 5, 2001. The final rule was challenged by mining industry trade associations, several mining companies and the United Steelworkers of America. This proposed rule addresses two provisions: section 57.5066(b) (regarding the tagging provision of the maintenance standard) and section 57.5067(b) (regarding the definition of "introduced" in the engine standard). The proposal gives notice of MSHA's intent to revise these two provisions and requests comments from the mining community. The Agency also held a public hearing to

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receive further input from the public. The requirements of the proposed rule will work in tandum with the provisions that were effective on July 5, 2001. (66 FR 35518)

Timetable:

Action	Date	FR Cite
NPRM	07/05/01	66 FR 35521
NPRM Comment Period End	08/06/01	
Public Hearing	08/16/01	
Post-hearing Comment Period End and Close of Record	08/21/01	66 FR 35521
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking is related to RIN: 1219-AB11 which was effective on July 5, 2001 (66 FR 35518).

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RIN: 1219–AB28

Department of Labor (DOL)
Mine Safety and Health Administration (MSHA) — **Long-Term Actions**

2068. AIR QUALITY, CHEMICAL SUBSTANCES, AND RESPIRATORY PROTECTION STANDARDS

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 58; 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: Our current regulations for exposure to hazardous airborne contaminants are over 25 years old. They do not fully protect today's miners, who are potentially exposed to an array of toxic chemicals, and other hazards. Examples of these include lead, cyanide, arsenic benzene, asbestos and other well documented hazards. We will propose provisions of the air quality rule in phases based on our assessment of priority needs.

Timetable:

Action	Date	FR Cite
ANPRM	07/06/83	48 FR 31171
ANPRM	11/19/85	50 FR 47702
NPRM	08/29/89	54 FR 35760
NPRM Comment Period End	08/30/91	56 FR 29201
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1219–AA48

2069. REQUIREMENTS FOR APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957; 30 USC 811

CFR Citation: 30 CFR 14; 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Our current regulations require conveyor belts used in underground coal mines to be flame-resistant. The rule, as proposed, would set new procedures and requirements for testing and approval of these belts to evaluate their resistance to fire ignition and propagation. The proposal would also require purchase of the improved belts after one year.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61524
Extension of Comment Period to 3/26/93	02/11/93	58 FR 8028
Reopen Record and Notice of Public Hearing	03/31/95	60 FR 16589
Record Closed	06/05/95	60 FR 16558
Record Reopened	10/31/95	60 FR 55353
Extension of Comment Period to 2/5/1996	12/20/95	60 FR 65509
Record Reopened	12/28/99	64 FR 72617
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AA92

Department of Labor (DOL)
Mine Safety and Health Administration (MSHA) — **Completed Actions**

2070. CONFINED SPACES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77

Legal Deadline: None

Abstract: MSHA is withdrawing this entry from the agenda in light of resource constraints and changing safety and health regulatory priorities.

DOL—MSHA

Completed Actions

Timetable:

Action	Date	FR Cite
ANPRM	12/30/91	56 FR 67364
ANPRM Comment Period End	05/01/92	57 FR 8102
Withdrawn	08/16/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AA54

2071. METAL/NONMETAL IMPOUNDMENTS

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: MSHA is withdrawing this entry from the agenda in light of resource constraints and changing safety and health regulatory priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
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RIN: 1219–AA83

2072. SURFACE HAULAGE

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 77

Legal Deadline: None

Abstract: MSHA is withdrawing this entry from the agenda in light of resource constraints and changing safety and health regulatory priorities.

Timetable:

Action	Date	FR Cite
ANPRM	07/30/98	63 FR 40800
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1219–AA93

2073. SAFETY STANDARD REVISIONS FOR UNDERGROUND ANTHRACITE MINES

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: MSHA is withdrawing this entry from the agenda in light of resource constraints and changing safety and health regulatory priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/16/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1219–AA96

2074. ELECTRICAL GROUNDING STANDARDS FOR METAL AND NONMETAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: MSHA is withdrawing this entry from the agenda in light of resource constraints and changing safety and health regulatory priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
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RIN: 1219–AB01

2075. TRAINING AND RETRAINING OF MINERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48

Legal Deadline: None

Abstract: MSHA is withdrawing this entry from the agenda in light of resource constraints and changing safety and health regulatory priorities.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
End Review	10/01/98	
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal

Additional Information: Training and Retraining of Miners: Supervisor Training (1219-AB16) is combined with this rulemaking.

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RIN: 1219–AB02

DOL—MSHA

Completed Actions

2076. RESPIRABLE CRYSTALLINE SILICA STANDARD

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 70.101 et seq; 30 CFR 90.101 et seq; 30 CFR 71.101 et seq; 30 CFR 72.101 et seq

Legal Deadline: None

Abstract: MSHA is withdrawing this entry from the agenda in light of resource constraints and changing safety and health regulatory priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
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RIN: 1219–AB12

2077. SAFETY STANDARDS FOR SELF-CONTAINED SELF-RESCUE DEVICES IN COAL AND METAL/NONMETAL UNDERGROUND MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48; 30 CFR 57; 30 CFR 75

Legal Deadline: None

Abstract: MSHA is withdrawing this entry from the agenda in light of resource constraints and changing safety and health regulatory priorities.

Timetable:

Action	Date	FR Cite
ANPRM	07/07/99	64 FR 36632
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: This rulemaking replaces the metal and nonmetal rulemaking RIN 1219-AB06 (Self-Contained Self-Rescue Devices in Underground Metal and Nonmetal Mines). This new rulemaking addresses SCSRs at both coal and metal and nonmetal mines.

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RIN: 1219–AB19

2078. VERIFICATION OF SURFACE COAL MINE DUST CONTROL PLANS

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: 30 CFR 71

Legal Deadline: None

Abstract: MSHA is withdrawing this entry from the agenda in light of resource constraints and changing safety and health regulatory priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	08/16/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
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RIN: 1219–AB21

2079. SURGE AND STORAGE PILES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 77.209

Legal Deadline: None

Abstract: MSHA is withdrawing this entry from the agenda in light of resource constraints and changing safety and health regulatory priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
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RIN: 1219–AB22

2080. ESCAPEWAYS AND REFUGES

Priority: Other Significant

Legal Authority: 5 USC 811

CFR Citation: 30 CFR 57.11050

Legal Deadline: None

Abstract: MSHA is withdrawing this entry from the agenda in light of resource constraints and changing safety and health regulatory priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AB23

2061. ACCIDENT INVESTIGATION HEARING PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: MSHA is withdrawing this entry from the agenda in light of resource constraints and changing safety and health regulatory priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	08/16/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

DOL—MSHA

Completed Actions

Government Levels Affected: Undetermined

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RIN: 1219–AB26

2082. CONTINUOUS MONITORING OF RESPIRABLE COAL MINE DUST IN UNDERGROUND COAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813(h)

CFR Citation: 30 CFR 70; 30 CFR 72; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: MSHA is withdrawing this entry from the agenda in light of resource constraints and changing safety and health regulatory priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1219–AB27

Department of Labor (DOL)
Office of the Assistant Secretary for Administration and Management (OASAM)

Proposed Rule Stage

2083. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794 Rehabilitation Act of 1973, as amended

CFR Citation: 29 CFR 32

Legal Deadline: None

Abstract: Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance. The Department last published a final rule implementing section 504 on October 7, 1980. Since that time, section 504 has been amended several times, generally to update terminology and provide new definitions. The Department is undertaking this rulemaking to update 29 CFR part 32 to incorporate those changes.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

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RIN: 1291–AA28

Department of Labor (DOL)
Office of the Assistant Secretary for Administration and Management (OASAM)

Final Rule Stage

2084. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6101 et seq, Age Discrimination Act of 1975

CFR Citation: 29 CFR 35

Legal Deadline: NPRM, Statutory, September 10, 1979, Deadline requires publication of the NPRM within 90 days of publication and submission to HHS of final rule within 120 days of NPRM.

Abstract: The proposed regulatory action is necessary to comply with the Department's statutory and regulatory obligations under the Age Discrimination Act of 1975, as amended (the Act). The Act and the general, Governmentwide implementing rule issued by the Department of Health and Human Services (HHS) (45 CFR 90) require each Federal agency providing financial assistance to any program or activity to publish proposed regulations implementing the Act no later than 90 days after the publication date of the Governmentwide rule, and to submit final agency regulations to HHS no later than 120 days after publication of the NPRM. As a practical matter, while DOL has not issued proposed or final regulations under the Age Discrimination Act, it has complied with its enforcement obligations. Furthermore, discrimination on the basis of age is prohibited under section 188 of the Workforce Investment Act of 1998 and the implementing regulations at 29 CFR 37.

Timetable:

Action	Date	FR Cite
NPRM	12/29/98	63 FR 71714
NPRM Comment Period End	03/01/99	
Final Action	01/00/02	

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DOL—OASAM

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

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RIN: 1291–AA21

2085. IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF THE WORKFORCE INVESTMENT ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 2938 Workforce Investment Act

CFR Citation: 29 CFR 37

Legal Deadline: Final, Statutory, August 7, 1999.

Abstract: The Workforce Investment Act of 1998 (WIA) was signed into law by President Clinton on August 7, 1998. Section 188 prohibits discrimination by recipients of financial assistance under Title I of WIA on the grounds of race, color, national origin, sex, age, disability, religion, political affiliation or belief, and for beneficiaries only, participant status, and against certain noncitizens. Section 188(e) requires that the Secretary of Labor issue regulations necessary to implement section 188 not later than one year after the date of the enactment of the WIA. Such regulations will include standards for determining compliance and procedures for enforcement that are consistent with the Acts referred to in section 188(a)(1), as well as procedures to ensure that complaints filed under section 188 and such acts are processed in a manner that avoids duplication of effort.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/12/99	64 FR 61692
Interim Final Rule Comment Period End	12/13/99	
Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

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RIN: 1291–AA29

Department of Labor (DOL)
Office of the Assistant Secretary for Administration and Management (OASAM)

Long-Term Actions

2086. AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS

Priority: Info./Admin./Other

Legal Authority: 31 USC 7501 Single Audit Act Amendments of 1996; OMB Circular A-110; OMB Circular A-133

CFR Citation: 29 CFR 99

Legal Deadline: None

Abstract: This action adds a new title 29 CFR 99 "Audits of States, Local Governments, and Non-Profit Organizations" as a new regulation which codifies the revised Office of Management and Budget (OMB) Circular A-133 in its entirety. The Single Audit Act Amendments of 1996 (Public Law 104-156, 110 Stat. 136) and the June 24, 1997, revision of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," required agencies to adopt in codified regulations the standards in the revised OMB Circular A-133 by August 29, 1997, so that they will apply to audits of fiscal years beginning after June 30, 1996. The revised OMB Circular A-133 co-located audit requirements for States, local governments, and nonprofit organizations. As a consequence, the OMB rescinded OMB Circular A-128, "Audits of States and Local Governments." On August 29, 1997, the Department of Labor amended its grants common rules at 29 CFR 95 and 29 CFR 97 in accordance with OMB guidance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/25/99	64 FR 14537
Interim Final Rule Effective	03/25/99	
Interim Final Rule Comment Period End	05/24/99	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: The interim rule is in effect. The Final rule is expected in the first quarter of 2002.

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291–AA26

2087. AUDIT REQUIREMENTS FOR GRANTS, CONTRACTS, AND OTHER AGREEMENTS

Priority: Info./Admin./Other

Legal Authority: 31 USC 7500 et seq; OMB Circular A-133

CFR Citation: 29 CFR 96

Legal Deadline: None

Abstract: This interim final rule revises title 29 of the Code of Federal Regulations (CFR) part 96 "Audit Requirements for Grants, Contracts, and Other Agreements" to consolidate

various provisions and ensure consistency, continuity, and ameliorate conflicts with subtitle A of 29 CFR parts 95 and 97.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/25/99	64 FR 14537
Interim Final Rule Effective	03/25/99	
Interim Final Rule Comment Period End	05/24/99	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: The interim final rule is in effect. The final rule is expected the first quarter of fiscal year 2002.

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291–AA27

2088. GRANTS AND AGREEMENTS

Priority: Other Significant

Legal Authority: PL 105-277

CFR Citation: 29 CFR 95

Legal Deadline: None

Abstract: The Department is joining with other Federal agencies to establish revised regulations for Grants. Congress included a two-sentence provision in OMB's appropriation for fiscal year 1999, contained in Public Law 105-277, directing OMB to revise section 95.36 of Circular A-110 "to require Federal awarding agencies to ensure that all data produced under an award will be made available to public through the procedures established under the Freedom of Information Act." Circular A-110 applies to grants and cooperative agreements with institutions of higher education, hospitals, and nonprofit institutions, from all Federal agencies. OMB finalized the revision on September 30, 1999 (64 FR 54926). This interim final rule amends the agencies' codification of Circular A-110 so they reflect OMB's recent action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/00	65 FR 14405
Interim Final Rule Effective	04/17/00	
Interim Final Rule Comment Period End	05/15/00	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HHS is the lead agency and will coordinate the next action with OMB.

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291–AA30

2089. EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND IMPLEMENTATION OF SECTION 504 OF THE REHABILITATION ACT OF 1973

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000(d); 29 USC 794

CFR Citation: 29 CFR 31; 29 CFR 32

Legal Deadline: None

Abstract: This proposal would incorporate into 29 CFR parts 31 and 32 the term "program or activity" and the definition of that term as it was defined in the Civil Rights Restoration Act of 1987. Part 31 effectuates title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin in programs or activities that receive financial assistance from the Department of Labor. Part 32 implements section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs or activities that receive financial assistance from the Department of Labor.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291–AA31

2090. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG FREE WORKPLACE (GRANTS) 29 CFR 98

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 40 USC 486(c); 41 USC 701

CFR Citation: 29 CFR 94; 29 CFR 98

Legal Deadline: None

Abstract: This document proposed substantive changes and amendments to the Governmentwide nonprocurement common rule for debarment and suspension and the governmentwide rule implementing the Drug-Free Workplace Act of 1988. The most significant changes are: (1) This proposed common rule on debarment and suspension would limit the mandatory lower tier application of an exclusion to the first procurement level under a nonprocurement covered transaction; (2) This proposed common rule on debarment and suspension would set the dollar threshold on prohibited lower-tier procurement transactions with excluded persons at $25,000; (3) Both this proposed rule on debarment and suspension and the proposed rule on drug-free workplace

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requirements would eliminate the mandate for agencies and participants to obtain written certifications from awardees or persons with whom they propose to enter into covered transactions. The proposed rules will allow agencies and participants the flexibility to use other means if they so choose, such as award conditions or electronic access to the GSA List on the internet, to enforce compliance with the rules; and (4) The proposed rule on drug-free workplace requirements would be separated from this proposed rule on debarment and suspension. The drug-free workplace requirements currently are in subpart F of the Debarment and Suspension Nonprocurement Common Rule.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: OMB is waiting for other agencies participating in the common rule to submit their packages.

Agency Contact: Jeffrey D Saylor, Procurement Analyst, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue, NW, Room N5425, FP Building
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RIN: 1291–AA33

Department of Labor (DOL) **Completed Actions**
Office of the Assistant Secretary for Administration and Management (OASAM)

2091. DEPARTMENT OF LABOR ACQUISITION REGULATION

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 2900 to 2999

Legal Deadline: None

Abstract: The Department of Labor Acquisition Regulations (DOLAR) are organized following the FAR format, i.e. fifty-three chapters covering specific topics. However, the DOLAR has not been updated since 1986. Since that time numerous procurement reforms have taken place and the organizations within the Department of Labor have changed, leaving the DOLAR obsolete in many areas, particularly in the area of e-procurement.

The existing DOLAR proposed rules will be modified to:

—Remove obsolete references to policies, procedures, and offices.

—Incorporate electronic links to primary sources of reference such as the FAR, U.S. Code, and the Code of Federal Regulations in order to allow the DOLAR to be used by procurement professionals and others as a reference tool.

—Incorporate Office of Federal Procurement Policy Letters, Executive Orders and other federal acquisition initiatives into Department of Labor practices.

—Establish procedures that follow current established best practices.

—Restate procedures that have not changed and are still in effect.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291–AA20

Department of Labor (DOL) **Prerule Stage**
Occupational Safety and Health Administration (OSHA)

2092. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.36

Legal Deadline: None

Abstract: In January 1993, OSHA issued a general industry rule to protect employees who enter confined spaces (29 CFR 1910.146). This standard does not apply to the construction industry because of differences in the nature of the worksite in the construction industry. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a proposed rule to extend confined-space protection to construction workers appropriate to their work environment. One million construction workers are exposed to the hazards of confined space entry each year. OSHA intends to issue a proposed rule addressing this construction industry hazard next year.

Timetable:

Action	Date	FR Cite
Initiate Work for a SBREFA Panel	08/00/02	

DOL—OSHA

Prerule Stage

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218–AB47

2093. OCCUPATIONAL EXPOSURE TO ETHYLENE OXIDE (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.1047

Legal Deadline: None

Abstract: OSHA has undertaken a review of the ethylene oxide (ETO) standard in accordance with the requirements of the Regulatory Flexibility Act and section 5 of EO 12866. The review has considered the continued need for the rule, the impacts of the rule, comments on the rule received from the public, the complexity of the rule, whether the rule overlaps, duplicates or conflicts with other Federal, State or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was last evaluated. The Agency's findings with respect to this review will be published in a report available to the public in 2001.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
Publish Report	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB60

2094. ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT IN THE CONSTRUCTION INDUSTRY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1910.136; 29 CFR 1910.137; 29 CFR 1910.269; 29 CFR 1926.97; 29 CFR Part 1910, Subpart S; 29 CFR 1926,Subpart V

Legal Deadline: None

Abstract: Electrical hazards are a major cause of occupational death in the United States. The annual fatality rate for power line workers is about 50 deaths per 100,000 employees. The construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is nearly 30 years old. OSHA is developing a revision of this standard that will prevent many of these fatalities, add flexibility to the standard, and update and streamline the standard. In addition, OSHA intends to amend the corresponding standard for general industry so that requirements for work performed during the maintenance of electric power transmission and distribution installations are the same as those for similar work in construction.

Timetable:

Action	Date	FR Cite
Convene SBREFA Panel	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB67

2095. GRAIN HANDLING FACILITIES (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.272

Legal Deadline: None

Abstract: OSHA is undertaking a review of its grain handling standard (29 CFR 1910.272) in accordance with the requirements of section 610 of the Regulatory Flexibility Act and section 5 of EO 12866. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in the industries affected by the rule.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
End Review	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John F. Martonik, Director, Office of Program Audits and Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB73

2096. OCCUPATIONAL EXPOSURE TO BERYLLIUM

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: OSHA intends to issue a Request for Information and to undertake and support extensive research to elucidate the mechanisms

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of disease underlying Chronic Beryllium Disease or beryllium sensitization and to identify the best ways of reducing employee exposure to beryllium. OSHA will also be identifying processes, industries, and kind of businesses that involve the use of beryllium. This information is necessary if OSHA is to develop a rule to reduce worker exposure to dust or fumes from beryllium metal, metal oxides, or alloys, all of which may cause serious and sometimes fatal lung disease (chronic beryllium disease (CBD), lung cancer, and skin disease). In 1999, OSHA was petitioned to issue an emergency temporary standard by the Paper, Allied-Industrial, Chemical, and Energy Workers Union (PACE) and others. The Agency denied this petition but stated its intent to work on a standard to be issued under section 6(b)(5) of the Act to protect workers from beryllium-related disease. Before OSHA can do so, however, it needs a substantial amount of information on beryllium's toxicity, risks, and patterns of use. The Request for Information will be designed to obtain this information.

Timetable:

Action	Date	FR Cite
Request for Information	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB76

2097. HEARING LOSS PREVENTION IN CONSTRUCTION WORKERS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.52

Legal Deadline: None

Abstract: OSHA issued a section 6(b)(5) health standard mandating a comprehensive hearing conservation program for noise exposed workers in general industry in 1983. However, a number of recent studies have shown that a large number of construction workers experience work-related hearing loss. In addition, the use of engineering, administrative and personal protective equipment to reduce exposures to noise is low in this industry. OSHA intends to issue an Advance Notice of Proposed Rulemaking (ANPRM) in 2002, and to initiate stakeholder meetings to gather information on the extent of noise-induced hearing loss among workers in different trades in this industry, current practices to reduce this loss, and additional approaches and protections that could be used to prevent such loss in the future.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB89

2098. • CRANES, DERRICKS, HOISTS, ELEVATORS, AND CONVEYORS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 651(b); 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: Subpart N addresses hazards associated with various types of hoisting equipment used at construction sites. Such equipment includes cranes, derricks, hoists, elevators and conveyors. The existing rule, which dates back to 1971, is based in part on industry consensus standards from 1958, 1968 and 1969. There have been considerable technological changes since those consensus standards were developed. Industry consensus standards for derricks and for crawler, truck and locomotive cranes were updated as recently as 1995. A number of industry stakeholders have asked OSHA to update Subpart N.

OSHA's Subpart N is now 30 years old, and is based in part on industry consensus standards as much as 42 years old. No changes have been made to the OSHA standard since 1971. Significant changes have occurred in the industry since the OSHA standard was promulgated.

A cross-section of the industry has stated that there is a need to update Subpart N. OSHA has determined that the existing rule needs to be revised.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Negotiated Rulemaking Committee	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AC01

2099. • EXCAVATIONS (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 5 USC 610; 29 USC 651 et seq

CFR Citation: 29 CFR 1926.650 to 1926.652

Legal Deadline: None

Abstract: OSHA will undertake a review of the Agency's trenching and excavations standard (29 CFR 1926.650 to 1926.652) in accordance with the requirements of the Regulatory Flexibility Act and Section 5 of Executive Order 12866. The review will consider the continued need for the rule, the impacts of the rule, public

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comments the rule, the complexity of the rule, and whether the rule overlaps, duplicates, or conflicts with other regulations, among other things.

Timetable:

Action	Date	FR Cite
Begin Review	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John F. Martonik, Director, Office of Program Audits and Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AC02

2100. • PRESENCE SENSING DEVICE INITIATION OF MECHANICAL POWER PRESSES (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 610; 29 USC 651 et seq

CFR Citation: 29 CFR 1910.217(h), app A,B,C

Legal Deadline: None

Abstract: OSHA will undertake a review of the Agency's Presence Sensing Device Initiation of Mechanical Power Presses rule (29 CFR 1910.217) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider among other things, the need for the rule, the impacts of the rule, public comments on the rule, the complexity of the rule, and whether the rule overlaps, duplicates, or conflicts with other regulations.

Timetable:

Action	Date	FR Cite
Begin Review	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John F. Martonik, Director, Office of Program Audits and Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AC03

Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA) **Proposed Rule Stage**

2101. ASSIGNED PROTECTION FACTORS: AMENDMENTS TO THE FINAL RULE ON RESPIRATORY PROTECTION

Regulatory Plan: This entry is Seq. No. 93 in part II of this issue of the **Federal Register**.

RIN: 1218–AA05

2102. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1035

Legal Deadline: None

Abstract: In 1993, the Labor Coalition to Fight TB in the Workplace petitioned the Occupational Safety and Health Administration (OSHA) to develop an occupational health standard to protect workers who care for or oversee patients or others with active tuberculosis (TB) against the transmission of TB. After reviewing the available information, OSHA preliminarily concluded that a significant risk of occupational transmission of TB exists for some workers in some work settings and began rulemaking on a proposed standard. Examples of workers at risk of contracting TB as a result of their work are health care workers, detention facility personnel, and homeless shelter employees. On October 17, 1997, OSHA published its proposed standard for occupational exposure to TB (62 FR 54160). The proposed standard would require employers to protect TB-exposed workers using infection control measures that have been shown to be highly effective in reducing or eliminating work-related TB infections. Such measures include procedures for the early identification of individuals with infectious TB, isolation of individuals with infectious TB using appropriate ventilation, use of respiratory protection in certain situations, and skin testing and training of employees.

After the close of the written comment period for the proposed standard, informal public hearings were held in Washington, DC, Los Angeles, CA, New York City, NY, and Chicago, IL. The post-hearing comment period closed on October 5, 1998. On June 17, 1999 OSHA reopened the rulemaking record for 90 days to submit the Agency's report on homeless shelters and certain other documents that became available to the Agency after the close of the post-hearing comment period. During this limited reopening of the rulemaking record, OSHA also requested interested parties to submit comments and data on the Agency's preliminary risk assessment in order to obtain the best, most recent data for providing the most accurate estimates of the occupational risk of tuberculosis. At the request of Congress, the Institute of Medicine of the National Academy of Sciences (IOM) conducted a study of OSHA's proposal and the need for a TB standard. That study was completed in January 2001, and concluded that OSHA should move forward with a standard modeled after the CDC guidelines and tailored to the extent of TB risk present in the community. The IOM study concluded that an OSHA standard was needed to maintain national TB rates among health care and other employees at their current levels and to prevent future outbreaks of multi-drug resistant and other forms of TB among these workers. OSHA intends to reopen the record to obtain comment on the IOM study and the peer reviewers' comment on the risk assessment.

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Timetable:

Action	Date	FR Cite
SBREFA Panel	09/10/96	
NPRM	10/17/97	62 FR 54160
NPRM Comment Period End	02/17/98	62 FR 65388
Post Hearing Comment End	10/05/98	
Record Reopening	06/17/99	64 FR 32447
Second Reopening Comment Period End	06/28/99	64 FR 34625
Reopening Comment Period End	08/02/99	
Reopening of the Comment Period	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB46

2103. GENERAL WORKING CONDITIONS FOR SHIPYARD EMPLOYMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915, subpart F

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. Publication of a proposal addressing general working conditions in shipyards is part of this project. The operations addressed in this rulemaking relate to housekeeping, illumination, sanitation, first aid, and lockout/tagout. About 75,000 workers are exposed annually to these hazards.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB50

2104. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (SHIPYARDS: FIRE SAFETY)

Regulatory Plan: This entry is Seq. No. 94 in part II of this issue of the **Federal Register**.

RIN: 1218–AB51

2105. STANDARDS IMPROVEMENT (MISCELLANEOUS CHANGES) FOR GENERAL INDUSTRY, MARINE TERMINALS, AND CONSTRUCTION STANDARDS (PHASE II)

Regulatory Plan: This entry is Seq. No. 95 in part II of this issue of the **Federal Register**.

RIN: 1218–AB81

2106. CHANGES TO STATE PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 667

CFR Citation: 29 CFR 1953

Legal Deadline: None

Abstract: Section 18 of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 667, provides that States that wish to assume responsibility for developing and enforcing their own occupational safety and health standards relating to any occupational safety or health issue may do so by submitting and obtaining Federal approval of a State plan. A State plan consists of the laws, standards and other regulations, and procedures under which the State operates its occupational safety and health program. From time to time after initial plan approval, States may make changes to their plans as a result of legislative, regulatory or administrative actions. If the State makes a change to its plan which differs from the Federal program, the State must notify OSHA of the change to its plan which differs from the Federal program (referred to as a plan supplement). OSHA then reviews the changes; if they meet the approval criteria OSHA publishes a notice announcing the approval of the change; if the change does not meet the criteria OSHA initiates procedures to reject the change.

OSHA is proposing to amend its regulations regarding State plan changes to streamline the review and approval process and to allow more organizational flexibility in this process. Changes which are identical to components of the Federal program would not require formal review. The proposal also would reorganize 29 CFR part 1953 to eliminate repetitive language. Cross references to part 1953 in the CFR would be changed as necessary to reflect the correct references.

Timetable:

Action	Date	FR Cite
NPRM	11/06/01	66 FR 56043
NPRM Comment Period End and Request for Hearings	01/07/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

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RIN: 1218–AB91

Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA)

Final Rule Stage

2107. UPDATE AND REVISION OF THE EXIT ROUTES STANDARD

Regulatory Plan: This entry is Seq. No. 96 in part II of this issue of the **Federal Register**.

RIN: 1218–AB82

2108. SIGNS, SIGNALS, AND BARRICADES

Regulatory Plan: This entry is Seq. No. 97 in part II of this issue of the **Federal Register**.

RIN: 1218–AB88

2109. PROCEDURES FOR HANDLING OF DISCRIMINATION COMPLAINTS UNDER THE AVIATION INVESTMENT AND REFORM ACT

Priority: Info./Admin./Other

Legal Authority: PL 106-181, Wendell H. Ford Aviation Investment and Reform Act, sec 519; 49 USC 42121

CFR Citation: 29 CFR 1979

Legal Deadline: None

Abstract: On March 8, 2000, Congress enacted the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, commonly known as the Air Act. Section 519 of the Act (49 USC 42121) prohibits air carriers or air carrier contractors or subcontractors from discharging or otherwise discriminating against employees for exercising specified rights under the Act. The Act further provides that the Secretary of Labor investigate employee claims of discrimination and ultimately issue a determination and order after an opportunity for either party to request a hearing on the record. Procedural rules are needed for filing, investigating, litigating, and adjudicating complaints filed pursuant to the Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218–AB99

Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA)

Long-Term Actions

2110. LONGSHORING AND MARINE TERMINALS (PARTS 1917 AND 1918) — REOPENING OF THE RECORD (VERTICAL TANDEM LIFTS (VTLS))

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 33 USC 941; 29 USC 655

CFR Citation: 29 CFR 1918.11; 29 CFR 1918.85

Legal Deadline: None

Abstract: OSHA issued a final rule on Longshoring on July 25, 1997 (62 FR 40142). However, in that rule, the Agency reserved provisions related to vertical tandem lifts. Vertical tandem lifts (VTLs) involve the lifting of two or more empty intermodal containers, secured together with twist locks, at the same time. Because some commenters to the record questioned the safety of allowing such tandem lifts and the record did not contain adequate information to allow the Agency to address this issue, OSHA is working with national and international organizations and gathering additional information on the safety of VTLs. The Agency plans to reopen the record for comment before proceeding with a final rule.

Timetable:

Action	Date	FR Cite
NPRM on Longshoring/Marine Terminals	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Rule on Longshoring/Marine Terminals	07/25/97	62 FR 40142
Public Meeting on VTLs - 1/27/1998	10/09/97	62 FR 52671
Reopening of Record	10/00/02	
Final Rule	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AA56

2111. SCAFFOLDS IN SHIPYARDS (PART 1915 — SUBPART N)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.71

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers are subject to both shipyard and general industry standards, and this project aimed at establishing a vertical standard for shipyard employment. A proposal on scaffolds was issued in November 1988 (53 FR 48092). The next action in this rulemaking is undetermined.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48182
NPRM Comment Period End	02/27/89	
Reopened Record	04/12/94	59 FR 17290
Comment Period End	06/13/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AA68

2112. ACCESS AND EGRESS IN SHIPYARDS (PART 1915, SUBPART E) (SHIPYARDS: EMERGENCY EXITS AND AISLES)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None

Abstract: In the 1980s, OSHA embarked on a project to update and consolidate OSHA standards that applied to the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers are subject to both the shipyard and general industry standards, and this project aimed at establishing a vertical standard for shipyard employment. A proposal on access and egress was issued in November 1988 (53 FR 48092). The next action in this rulemaking is undetermined.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AA70

2113. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL, AND THEIR ACETATES: PROTECTING REPRODUCTIVE HEALTH

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655; 29 USC 657; 29 USC 651

CFR Citation: 29 CFR 1910.1000; 29 CFR 1910.1031

Legal Deadline: None

Abstract: OSHA published an advance notice of proposed rulemaking (ANPRM) on April 2, 1987 (52 FR 10586). OSHA used the information received in response to the ANPRM, as well as other information and analysis, and published a proposal on March 23, 1993 (58 FR 15526), that would reduce the permissible exposure limits for four glycol ethers and provide protection for approximately 46,000 workers exposed to these substances. The next action in this rulemaking is undetermined.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	03/23/93	58 FR 15526
NPRM Comment Period End	06/07/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AA84

2114. ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); PL 101-549 (November 15, 1990); 5 USC 552(a); 5 USC 553

CFR Citation: 29 CFR 1910.121

Legal Deadline: None

Abstract: The Superfund Amendments and Reauthorization Act (SARA) of 1986 (Public Law 99-499) established the criteria under which OSHA was to develop and promulgate the Hazardous Waste Operations and Emergency Response standard. OSHA issued an interim final standard on December 19, 1986 (51 FR 45654) to comply with the law's requirements. OSHA issued a permanent final rule with provisions on training to replace this interim rule on March 9, 1989 (29 CFR 1910.120).

On December 22, 1987, as part of an omnibus budget reconciliation bill (PL 100-202), Congress amended section 126(d)(3) of SARA to include accreditation of training programs for hazardous waste operations. OSHA issued a proposal on January 26, 1990 (55 FR 2776) addressing this issue. OSHA received public comments following the issuance of the proposal. OSHA also reopened the record in June 1992 to allow additional public comment on an effectiveness of training study that the Agency had conducted. Since that time, OSHA has developed nonmandatory guidelines to address training criteria for hazardous waste workers, and these have been widely adopted. In addition, the private sector has since established training accreditation procedures. At this time, the next action in this rulemaking is undetermined.

Timetable:

Action	Date	FR Cite
NPRM	01/26/90	55 FR 2776
NPRM Comment Period End	04/26/90	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety

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RIN: 1218–AB27

2115. INDOOR AIR QUALITY IN THE WORKPLACE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: The health of American workers may be affected by indoor air pollution in the workplace. After reviewing and analyzing available information, OSHA published a proposed indoor air quality rule on April 5, 1994. The proposal would require employers to write and implement indoor air quality compliance plans that would include inspection and maintenance of current building ventilation systems to ensure they are functioning as designed. In buildings where smoking is allowed, the proposal would require designated smoking areas that would be separate, enclosed rooms where the air would be exhausted directly to the outside. Other proposed provisions would require employers to maintain healthy air quality during renovation, remodeling, and similar activities. As proposed, the provisions for indoor air quality would apply to 70 million workers and more than 4.5 million nonindustrial indoor work environments, including schools and training centers, offices, commercial establishments, health care facilities, cafeterias and factory break rooms. The proposed environmental tobacco smoke provisions would apply to all 6 million industrial and nonindustrial work environments under OSHA's jurisdiction.

Timetable:

Action	Date	FR Cite
Request for Information	09/20/91	56 FR 47892
NPRM	04/05/94	59 FR 15968
NPRM Comment Period End	06/13/94	59 FR 30560
Record Closed	02/09/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB37

2116. INJURY AND ILLNESS PREVENTION

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1900.1

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA), many States, members of the safety and health community, insurance companies, professional organizations, companies participating in the Agency's Voluntary Protection Programs, and many proactive employers in all industries recognize the value of worksite-specific injury and illness prevention programs in reducing and preventing job-related injuries, illnesses, and fatalities. The reductions in job-related injuries and illnesses, workers' compensation costs, and absenteeism that occur after employers implement such programs dramatically demonstrate their effectiveness. OSHA has decided to develop an injury and illness prevention rule because occupational injuries, illnesses, and fatalities are continuing to occur at an unacceptably high rate. For example, an average of about 16 workers were killed each day in 1999. This number does not include an estimated 137 daily deaths associated with job-related chronic illnesses. The Agency is currently evaluating the appropriate scope and form of the proposed rule, as well as the hazards the rule will address, and is considering a number of regulatory and non-regulatory alternatives.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

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RIN: 1218–AB41

2117. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: In July 1993, the Occupational Safety and Health Administration (OSHA) was petitioned for an emergency temporary standard (ETS) to reduce the permissible exposure limit (PEL) for occupational exposures to hexavalent chromium. The Oil, Chemical, and Atomic Workers International Union (OCAW) and Public Citizen's Health Research Group (HRG) petitioned OSHA to promulgate an ETS to lower the PEL for hexavalent chromium (CrVI) compounds to 0.5 micrograms per cubic meter of air (ug/m3) as an eight-hour, time-weighted average (TWA). This would represent a significant reduction in the current PEL. The current PEL in general industry is found in 29 CFR 1910.1000 Table Z and is a ceiling value of 100 ug/m3, measured as chromium (VI) and reported as chromic anhydride (CrO3).

The amount of chromium (VI) in the anhydride compound equates to a PEL of 52 ug/m3. This ceiling limit applies to all forms of hexavalent chromium (VI), including chromic acid and chromates, lead chromate, and zinc chromate. The current PEL for hexavalent chromium (VI) in the construction industry is 100 ug/m3 as a TWA PEL, which also equates to a PEL of 52 ug/m3. After reviewing the petition, OSHA denied the request for an ETS and initiated a section 6(b)(5) rulemaking.

The major illnesses associated with occupational exposure to hexavalent chromium are lung cancer and dermatoses. OSHA estimates that approximately one million workers are exposed to hexavalent chromium on a regular basis in all industries. The major uses of hexavalent chromium are: as a structural and anti-corrosive element in the production of stainless steel, ferrochromium, iron and steel, and in electroplating, welding and painting. Work on a proposed rule continues.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB45

2118. FALL PROTECTION IN THE CONSTRUCTION INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA issued an ANPRM to gather information on fall protection issues regarding certain construction processes such as residential home building, precast concrete operations and post frame construction. The issues relate to the fall protection rules as they now apply to roofing work, residential construction operations, climbing reinforcement steel and vendors delivering materials to construction projects. These issues have arisen since OSHA revised the fall protection standard in August 1994. The comment period on the ANPRM closed January 24, 2000. OSHA is now evaluating comments to determine whether further action is required.

Timetable:

Action	Date	FR Cite
ANPRM	07/14/99	64 FR 38077
ANPRM Comment Period End	01/24/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218–AB62

2119. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910; 29 CFR 1926; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918

Legal Deadline: None

Abstract: OSHA is considering a negotiated or other consensus-based rulemaking to address the hazards posed by silica. Silica exposure remains a serious threat to nearly 2 million U.S. workers, including more than 100,000 workers in high risk jobs such as abrasive blasting, foundry work, stonecutting, rock drilling, quarry work and tunneling. The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur in sandblasters and rock drillers and by recent studies that indicate a statistically significant increase in lung cancer among silica-exposed workers. Exposure studies and OSHA enforcement data indicate that some workers are still exposed to very high levels of silica. OSHA plans in this rulemaking to modernize and standardize the Agency's current PELs for silica so that they will be consistent across all sectors.

Timetable:

Action	Date	FR Cite
Convene SBREFA Panel or Initiate Consensus-Based Process	10/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB70

2120. EMPLOYER PAYMENT FOR PERSONAL PROTECTIVE EQUIPMENT

Priority: Other Significant

Legal Authority: 29 USC 655(b); 29 USC 657; 33 USC 941; 40 USC 333

CFR Citation: 29 CFR 1910.132; 29 CFR 1915.152; 29 CFR 1917.96; 29 CFR 1918.106; 29 CFR 1926.95

Legal Deadline: None

Abstract: Generally, OSHA standards require that protective equipment (including personal protective equipment (PPE)) be provided and used when necessary to protect employees from hazards that can cause them injury, illness, or physical harm. In this discussion, OSHA uses the abbreviation "PPE" to cover both personal protective equipment and other protective equipment. The Agency has proposed to revise its PPE standards to clarify who is required to pay for required PPE and under what circumstances. OSHA is considering its options and reviewing the record and has not determined its next course of action.

Timetable:

Action	Date	FR Cite
NPRM	03/30/99	64 FR 15401
NPRM Comment Period End	06/14/99	
Informal Public Hearing End	08/13/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB77

2121. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (1910) (SLIPS, TRIPS AND FALL PREVENTION)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655 (b)

CFR Citation: 29 CFR 1910, subparts D and I

Legal Deadline: None

Abstract: In 1990, OSHA proposed (55 FR 13360) a rule addressing slip, trip, and fall hazards and establishing requirements for personal fall protection systems. Since that time, new technologies and procedures have become available to protect employees from these hazards. The Agency has been working to update these rules to reflect current technology and intends to issue a new proposal in the near future.

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	08/22/90	
Hearing	09/11/90	55 FR 29224
NPRM (Subparts D and I)	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB80

2122. REVISION AND UPDATE OF SUBPART S—ELECTRICAL STANDARDS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910. subpart S

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) is planning to revise and update its 29 CFR 1910 Subpart S-Electrical Standard and will rely heavily in that process on the materials involved in the development of the 2000 Edition of the National Fire Protection Association's (NFPA's) 70 E standard for Electrical Safety Requirements for Employee Workplaces. This revision will provide the first update of Subpart S-Electrical since the standard was originally published in 1981. It will thus allow the latest technological developments to be considered; several of these state-of-the-art safety developments will be addressed by OSHA for the first time. The update of Subpart S-Electrical will also at a future time permit the completion of standards covering safety-related maintenance requirements and safety requirements for special equipment.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB95

2123. COMMERCIAL DIVING OPERATIONS: REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1910.423

Legal Deadline: None

Abstract: OSHA's Commercial Diving Operations standard (29 CFR 1910.401 to 1910.441) was published in 1977. In the intervening years, major changes in the technology of diving systems and equipment have occurred. In December 1999, OSHA granted a permanent variance to Dixie Divers, Inc. permitting recreational diving instructors employed by that company to comply with the provisions of the variance rather than with paragraphs (b)(2) and (c)(3)(iii) of 1910.423 and paragraph (b)(1) of 1910.426. Since OSHA granted the variance, other employers of recreational diving instructors have asked OSHA to clarify the applicability of the variance to their operations. OSHA intends to issue a notice of proposed rulemaking to obtain data on the appropriateness of amending the commercial diving operations standard to reflect the alternative specified in the permanent variance granted to Dixie Divers, Inc.

Timetable:

Action	Date	FR Cite
NPRM	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB97

Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA)

Completed Actions

2124. PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 653 (b); 29 USC 657

CFR Citation: 29 CFR 1910.1000; 29 CFR 1915.1000; 29 CFR 1917.1(a)(2)(ii); 29 CFR 1918.1(b)(a); 29 CFR 1926.55

Legal Deadline: None

Abstract: OSHA enforces hundreds of permissible exposure limits (PELs) for toxic air contaminants found in U.S. workplaces. OSHA adopted most of the air contaminant limits in 1971 from recommendations issued under Federal rules, the American National Standards Institute, and other consensus organizations. These PELs thus reflect the results of research conducted before that time. Since then, much new information has become available. OSHA has not yet determined the best way to proceed with the permissible exposure limit update process. The Agency wishes both to expand the circle of stakeholders engaged in the update process and to obtain their input earlier in the process. Accordingly and in light of resource constraints, OSHA is withdrawing this entry from the regulatory agenda at this time.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB54

2125. METALWORKING FLUIDS: PROTECTING RESPIRATORY HEALTH

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b)(1); 29 USC 656(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: In December 1993, the International Union, United Automobile Aerospace and Agricultural Implement Workers of America, petitioned OSHA to take emergency regulatory action to protect workers from the risks of occupational cancers and respiratory illnesses due to exposure to metalworking fluids. In response to the petition, OSHA established a 15-member Standards Advisory Committee to make recommendations to OSHA regarding the need for a standard, a guideline, or other appropriate response to the dangers of occupational exposures to metalworking fluids. The Committee concluded that workers exposed to these fluids are at risk of developing respiratory diseases, including hypersensitivity pneumonitis, occupational asthma, and lung cancer and dermatoses. The Committee divided on the appropriate response; a majority favored rulemaking while others concluded that rulemaking was inappropriate at this time because of the complexity of the issue. The Committee submitted its report to OSHA in July, 1999. OSHA has decided to make the Committee's report available to the public on the Agency's web page. In addition, working with stakeholders and members of the Advisory Committee, OSHA has developed a Best Practices Guide for metalworking fluid users and will also make this available on the web. OSHA believes that the availability of this comprehensive and authoritative outreach material will greatly reduce the health hazards machinists and others exposed to these fluids may face. Accordingly, and in light of resource constraints, OSHA is withdrawing this entry from the agenda at this time.

Timetable:

Action	Date	FR Cite
Withdrawn	08/31/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB58

2126. UPDATE AND REVISION OF THE FLAMMABLE AND COMBUSTIBLE LIQUIDS STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b); 5 USC 553

CFR Citation: 29 CFR 1910.106

Legal Deadline: None

Abstract: OSHA identified this standard for revision as part of an initiative to update the Agency's 30-year old safety standards. OSHA may propose a revision and update of the standards contained in 29 CFR 1910.106 addressing flammable and combustible liquids storage in the near future; however, due to resource constraints, this entry is being withdrawn from the agenda at this time.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB61

2127. PROCESS SAFETY MANAGEMENT OF HIGHLY HAZARDOUS CHEMICALS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.119

Legal Deadline: None

Abstract: OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB63

2128. REVISION AND UPDATE OF THE MECHANICAL POWER-TRANSMISSION APPARATUS STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b); 5 USC 553

CFR Citation: 29 CFR 1910.219

Legal Deadline: None

Abstract: OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1663

RIN: 1218–AB66

2129. SAFETY STANDARDS FOR SCAFFOLDS USED IN THE CONSTRUCTION INDUSTRY—PART II

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.450; 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1926.453; 29 CFR 1926.454

Legal Deadline: None

Abstract: OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689
Email: bswanson@dol.gov

RIN: 1218–AB68

2130. SAFETY AND HEALTH PROGRAMS FOR CONSTRUCTION

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655; 29 USC 657; 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689
Email: bswanson@dol.gov

RIN: 1218–AB69

2131. CONTROL OF HAZARDOUS ENERGY (LOCKOUT) IN CONSTRUCTION (PART 1926) (PREVENTING CONSTRUCTION INJURIES/FATALITIES: LOCKOUT)

Priority: Economically Significant

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689
Email: bswanson@dol.gov

RIN: 1218–AB71

2132. CONSOLIDATION OF RECORDS MAINTENANCE REQUIREMENTS IN OSHA STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 40 USC 333; 29 USC 655; 33 USC 941; 5 USC 553

CFR Citation: 29 CFR 1910; 29 CFR 1915 to 1918; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: OSHA is withdrawing this entry from the agenda at this time due

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Completed Actions

to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1663

RIN: 1218–AB78

2133. OIL AND GAS WELL DRILLING AND SERVICING

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.270

Legal Deadline: None

Abstract: OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	08/31/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1663

RIN: 1218–AB83

2134. UPDATE AND REVISION OF THE SPRAY APPLICATIONS STANDARD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.107; 29 CFR 1910.94(c) and 1910.94(d)

Legal Deadline: None

Abstract: OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1663

RIN: 1218–AB84

2135. OCCUPATIONAL EXPOSURE TO PERCHLOROETHYLENE

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218–AB86

2136. SANITATION IN THE CONSTRUCTION INDUSTRY

Priority: Other Significant. Major statu under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 651(b); 29 USC 655(b); 40 USC 333; 40 USC 327

CFR Citation: 29 CFR 1926.51

Legal Deadline: None

Abstract: OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenu NW, FP Building, Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689
Email: bswanson@dol.gov

RIN: 1218–AB87

2137. UPDATE OF REVISION OF THE WOODWORKING MACHINERY STANDARD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.213

Legal Deadline: None

Abstract: OSHA is withdrawing this entry from the agenda at this time du to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1663

RIN: 1218–AB92

2138. ERGONOMICS PROGRAMS IN CONSTRUCTION (PART 1926): PREVENTING WORK-RELATED MUSCULOSKELETAL DISORDERS AMONG CONSTRUCTION WORKERS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA is withdrawing this agenda entry because the agency is currently evaluating its options for developing a comprehensive approach to the ergonomics issue. If OSHA decides in the future to address ergonomic injuries in the construction industry through rulemaking, it will include notice of that fact in a future regulatory agenda.

Timetable:

Action	Date	FR Cite
Withdrawn	08/21/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218–AB94

2139. OCCUPATIONAL HEALTH RISKS IN THE MANUFACTURE AND ASSEMBLY OF SEMICONDUCTORS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
Withdrawn	08/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218–AB96

2140. • OCCUPATIONAL INJURY AND ILLNESS RECORDING AND REPORTING REQUIREMENTS

Priority: Other Significant

Legal Authority: 29 USC 657; 5 USC 553

CFR Citation: 29 CFR 1904

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) issued a final rule on Occupational Injury and Illness Recording and Reporting Requirements (66 FR 5916, January 19, 2001), which is scheduled to become effective on January 1, 2002. Following a careful review conducted pursuant to White House Chief of Staff Andrew Card's memorandum (66 FR 7702), the Agency has determined that all but two provisions of the final rule will take effect as scheduled (66 FR 35113, July 3, 2001). The record on this proposal closed on September 4, 2001. OSHA intends to publish a final rule reflecting the effective dates for sections 1904.10 and 1904.12 in the near future.

OSHA will reconsider these two provisions in the final rule for recording occupational hearing loss based on the occurrence of a Standard Threshold Shift (STS) in hearing acuity (section 1904.10), defining "musculoskeletal disorders" and checking the column on the OSHA 300 Log identifying a recordable case as an MSD (section 1904.12). OSHA also proposed to delay the effective date of sections 1904.10 and 1904.12 until January 1, 2003 to allow time for such regulatory reconsideration.

Timetable:

Action	Date	FR Cite
NPRM	07/03/01	66 FR 35113
NPRM Comment Period End	09/04/01	
Final Action	10/12/01	66 FR 52031
Final Action Effective	01/01/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1663

RIN: 1218–AC00

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Department of Labor (DOL)
Office of the Assistant Secretary for Veterans' Employment & Training (ASVET)

Proposed Rule

2141. • ANNUAL REPORT FOR FEDERAL CONTRACTORS (2002 REVISIONS)

Priority: Other Significant

Legal Authority: PL 106-419 Veterans Benefits and Health Care Improvement Act of 2000

CFR Citation: 41 CFR 61-250

Legal Deadline: None

Abstract: The Veterans' Employment and Training Service (VETS) is proposing to issue a notice of proposed rulemaking (NPRM) to implement changes required by the Veterans' Benefits and Health Care Improvement Act of 2000. The Act adds an additional category of veterans, "recently separated veterans," to the list of protected veterans under the Vietnam Era Veterans' Readjustment Assistance Act, as amended (VEVRAA). This proposal will assist VETS in meeting the statutory requirement of annually collecting the VETS-100 Report.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: N

Agency Contact: Norm Lance, C Investigations and Compliance, V Department of Labor, Office of th Assistant Secretary for Veterans' Employment & Training, S-1316, Constitution Avenue, NW, Wash DC 20210
Phone: 202 693-4731
Fax: 202 693-4755

RIN: 1293–AA08

Department of Labor (DOL)
Office of the Assistant Secretary for Veterans' Employment & Training (ASVET)

Final Rule

2142. ANNUAL REPORT FOR FEDERAL CONTRACTORS

Priority: Other Significant

Legal Authority: PL 105-339 Veterans Employment Opportunities Act of 1998

CFR Citation: 41 CFR 61-250

Legal Deadline: None

Abstract: The Veterans' Employment and Training Service (VETS) issued a final rule implementing changes required by the Veterans' Employment Opportunities Act of 1998. The Act requires most Federal contractors and subcontractors with contracts in the amount of $25,000 or more to report their efforts toward hiring and employment of qualified veterans. The Act adds an additional category of veterans, "other veterans who have served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized," to the list of protected veterans under the Vietnam Era Veterans' Readjustment Assistance Act, as amended (VEVRAA). The Act also adds the requirement that covered contractors and subcontractors report their minimum and maximum number of employees. This rule will assist VETS in meeting the statutory requirement of annually collecting the VETS-100 Report. After publication VETS learned that the final rule may inadvertently increase recordkeeping burden on some contractors. Accordingly, an interim final rule will be published permitting contractors flexibility in how they determine the maximum and minimum number of employees reported.

Timetable:

Action	Date	FR Cite
NPRM	10/05/00	65 FR 59683
NPRM Comment Period End	12/06/00	
Final Rule	10/11/01	66 FR
Final Rule Effective	11/13/01	
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Agency Contact: Norm Lance, Ch Investigations and Compliance, V Department of Labor, Office of th Assistant Secretary for Veterans' Employment & Training, S-1316, Constitution Avenue, NW, Washi DC 20210
Phone: 202 693-4731
Fax: 202 693-4755

RIN: 1293–AA07

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Federal Register

Monday,
December 3, 2001

Part XIII

Department of State

Semiannual Regulatory Agenda

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DEPARTMENT OF STATE (STATE)

DEPARTMENT OF STATE

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[Public Notice 3813]

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of State.

ACTION: Semiannual regulatory agenda.

SUMMARY: Consistent with the Regulatory Flexibility Act of 1980, 5 U.S.C. 602, and OMB guidance to the Department of State pursuant to Executive Order 12866, the October 2001 agenda of the Department of State is set forth below. The purpose of this publication is to provide information to the public on the Department's regulatory plans. Consistent with OMB guidance, this agenda includes active continuing items from prior agendas.

FOR FURTHER INFORMATION CONTACT: Jamison Selby Borek, Assistant Legal Adviser for Legislation and General Management, Department of State, Room 3422, 2201 C Street NW., Washington, DC 20520, telephone (202) 647-2318.

Dated: October 23, 2001.

Grant Green,

Under Secretary of State for Management.

Department of State—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2143	Cultural Exchange Programs, Annual Reports	1400-AB1

Department of State—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2144	Revisions of Grants Management Common Rules on Debarment, Suspension, and Drug-Free Workplace Requirements	1400-AB3

Department of State—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2145	Foreign Prohibitions on Longshore Work by U.S. Nationals	1400-AA3
2146	Transit Without Visa (TWOV)	1400-AA4
2147	Addition of Countries Eligible To Participate in the Visa Waiver Program	1400-AA7
2148	Hague Intercountry Adoption Convention Implementation	1400-AA8
2149	Addition of "S" Nonimmigrant Visa Classification	1400-AA9
2150	Nonimmigrant Visa Fees	1400-AA9
2151	Cultural Exchange Program, Summer Work/Travel—22 CFR 62	1400-AB1
2152	Cultural Exchange Programs, Reinstatement	1400-AB1
2153	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	1400-AB1
2154	Documentation of Nonimmigrants: Visa Waiver Program	1400-AB2
2155	Documentation of Immigrants: International Broadcasters	1400-AB2
2156	Documentation of Nonimmigrants: Victims of Trafficking in Persons, Victims of Criminal Activities, and Aliens Inadmissible for Trafficking in Persons	1400-AB2
2157	Documentation of Nonimmigrants: Spouses and Children of Lawful Permanent Residents	1400-AB2
2158	Documentation of Nonimmigrants: Spouses and Children of U.S. Citizens	1400-AB2
2159	Documentation of Immigrants: Diversity Immigrants	1400-AB2
2160	Documentation of Immigrants and Nonimmigrants Under the Immigration and Nationality Act, As Amended—Refusals of Individual Visas	1400-AB2
2161	Students and Exchange Visitors—Fee Receipts	1400-AB2
2162	International Organization Employees—INTELSAT Employees	1400-AB3
2163	Grounds of Inadmissibility	1400-AB3

STATE

Department of State—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2164	B-1 Visa Classification	1400-AA54
2165	Establishing of Registry in State Department for Information About Execution of International Wills	1400-AA56
2166	Revision to Department of State Acquisition Regulation (DOSAR)	1400-AB06
2167	Amendments to the ITAR: Reporting of Shipments, Offset Arrangements, and Enhancements to Congressional Notifications	1400-AB15
2168	Amendment to the ITAR: Offset Arrangements and Enhancements to Congressional Notifications	1400-AB18
2169	Amendments to the ITAR: Reporting of Shipments	1400-AB20
2170	Classification of Nonimmigrants and Immigrants	1400-AB28

Department of State—Completed Actions

Sequence Number	Title	Regulation Identification Number
2171	Authority To Issue Visas: Issuance of O&P Visas in the United States	1400-AA96
2172	Q2 Visas for Irish Nationals Participating in Work/Training Programs	1400-AB02
2173	Aliens Ineligible for Visas for Aiding or Abetting Colombian Insurgent and Paramilitary Groups	1400-AB31
2174	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities—Implementation of Title IX of the Education Amendments of 1972	1400-AB34

Department of State (STATE)

Prerule Stage

2143. CULTURAL EXCHANGE PROGRAMS, ANNUAL REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(J), 1182, 1184, 1258; 22 USC 1431 to 1442, 1475e, 2451 to 2460; Foreign Affairs Reform and Restructuring Act, PL 105-277, 112 Stat 2681 et seq; Reorganization Plan No 2 of 1977, 3 CFR, 1977 Comp, p 200; EO 12048 of March 27, 1978, 3 CFR, 1978 Comp, p 168

CFR Citation: 22 CFR 62.15

Legal Deadline: None

Abstract: The Department is amending the Exchange Visitor Program regulations regarding annual report requirements.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sally J. Lawrence, Chief Exchange Visitor Program, Department of State, Room 734, Washington, DC 20547
Phone: 202 401-9810
Fax: 202 401-9809
Email: slawrence@pd.state.gov

RIN: 1400–AB14

Department of State (STATE)

Proposed Rule Stage

2144. REVISIONS OF GRANTS MANAGEMENT COMMON RULES ON DEBARMENT, SUSPENSION, AND DRUG-FREE WORKPLACE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 22 CFR 137; 22 CFR 133 (New)

Legal Deadline: None

Abstract: To update and bring nonprocurement debarment and suspension procedures in line with the debarment and suspension procedures used for procurement.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Gladys G. Gines, Procurement Analyst, Office of the Procurement Executive, Department of State, SA-6, Room 603, Washington, DC 20522-0602
Phone: 703 516-1691
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Email: ginesgg@state.gov

RIN: 1400–AB33

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Department of State (STATE)

Final Rule Stag

2145. FOREIGN PROHIBITIONS ON LONGSHORE WORK BY U.S. NATIONALS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1288(d)

CFR Citation: 22 CFR 89 (Revision)

Legal Deadline: Final, Statutory, December 31, 1998, Legal deadline reflects the statutory requirement that the list be updated on an annual basis.

Abstract: The above-mentioned statute requires the Secretary of State to compile and update annually, through notice-and-comment rulemaking procedures, a list, by particular longshore activity, of countries where performance of such activity is prohibited by law, regulation, or in practice in the country concerned. According to the statute cited above, the Attorney General will use this list for enforcing restrictions on work performed by crewmembers of vessels from such countries. Compilation of the list itself does not involve any significant costs and is based upon information being provided to the Department of State by U.S. diplomatic missions overseas, as well as by the public. Questions regarding the policy justification for the list and its use are best directed to the Departments of Labor, Transportation, and Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/30/91	56 FR 24338
Final Rule	12/27/91	56 FR 66970
Final Rule Effective	01/01/92	
Final Rule Correction	01/04/92	57 FR 1384
Final Rule	12/00/01	
Updated List of Countries		
NPRM 11/04/92 (57 FR 52600)		
NPRM Comment Period End 12/04/92		
Final Rule 12/13/93 (58 FR 65118)		
Final Rule Effective 12/13/93		
NPRM 03/24/94 (59 FR 13904)		
NPRM Comment Period End 04/25/94		
NPRM 11/24/95 (60 FR 58026)		
NPRM Comment Period End 12/26/95		
NPRM Comment Period Extended to 01/26/96 (60 FR 65609)		
NPRM Comment Period Extended to 02/02/96 (61 FR 2915)		
NPRM 06/06/96 (61 FR 29115)		
Final Rule 06/13/96 (61 FR 29941)		
Interim Final Rule 01/05/01 (66 FR 1033)		
NPRM 01/05/01 (66 FR 1064)		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: In accordance with the mandate to maintain annually the list of countries, the Department will issue final rules to amend the list as appropriate.

Agency Contact: Stephen Miller, Office of Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of State, 2201 C Street NW, Washington, DC 20520-5816
Phone: 202 647-6961

RIN: 1400–AA34

2146. TRANSIT WITHOUT VISA (TWOV)

Priority: Substantive, Nonsignificant

Legal Authority: sec 212(d)(4)(C) of the Immigration & Nationality Act (INA)

CFR Citation: 22 CFR 41.2(i)

Legal Deadline: None

Abstract: Under the provision of section 212(d)(4)(C), the Secretary of State and the Attorney General, acting jointly, have the authority to waive nonimmigrant visa requirements for aliens in continuous and direct transit through the United States. Yugoslavia was removed from the list of countries participating in this program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/16/93	58 FR 43438
Interim Final Rule Effective	09/15/93	
NPRM	01/05/01	66 FR 1064
Interim Final Rule	01/05/01	66 FR 1033
Interim Final Rule Effective	02/05/01	
NPRM Comment Period End	03/06/01	
Interim Final Rule Comment Period End	03/06/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA48

2147. ADDITION OF COUNTRIES ELIGIBLE TO PARTICIPATE IN THE VISA WAIVER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.2(l)

Legal Deadline: None

Abstract: Addition of countries eligibl to participate in the Visa Waiver Pilot Program. This submission was formerly titled: Addition of Countries eligible to participate in the visa waiver pilot program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/03/99	64 FR 4203
Interim Final Rule Comment Period End	10/04/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA75

2148. HAGUE INTERCOUNTRY ADOPTION CONVENTION IMPLEMENTATION

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Regulations will implement the Hague Convention on Protection o Children and Cooperation in Respect Intercountry Adoption and its associated legislation. The convention was submitted for Senate advice and consent in 1998, and the proposed implementing legislation was submitt to the full Congress in 1998 and again in 1999. Health and Human Services and the Immigration and Naturalizati Service will also write regulations regarding this convention and legislation.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

STATE

Final Rule Stage

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Edward A. Betancourt, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs, 2201 C Street NW, Washington, DC 20520-5816
Phone: 202 647-3666
Fax: 202 647-0103

RIN: 1400–AA88

2149. ADDITION OF "S" NONIMMIGRANT VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.83

Legal Deadline: None

Abstract: Implements section 130003 of Public Law 103-322 by adding a new nonimmigrant visa classification (S) under INA 101(a)(15)(S). This visa classification provides for the admission of certain alien witnesses and informants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/24/96	61 FR 1837
Interim Final Rule Comment Period End	03/25/96	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AA91

2150. NONIMMIGRANT VISA FEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-177, sec 410; 8 USC 1104

CFR Citation: 22 CFR 41.107

Legal Deadline: None

Abstract: This regulation reduces the fee for border crossing cards for aliens under age 15 and removes the fees for U.N. Observer Mission personnel.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/29/00	65 FR 52306
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AA97

2151. CULTURAL EXCHANGE PROGRAM, SUMMER WORK/TRAVEL—22 CFR 62

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(2)(15)(J), 1182, 1184, 1258; 22 USC 1431 to 1442, 1475e, 2451 to 2460; Foreign Affairs Reform and Restructing Act, PL 105-277, 112 Stat 2681 et seq; Reorganization Plan No 2 of 1977, 3 CFR, 1977 Comp, p 200; EO 12048 of March 27, 1978, 3 CFR, 1978 Comp, p 168

CFR Citation: 22 CFR 62.32

Legal Deadline: None

Abstract: The Department is adopting specific regulations governing participation in summer work/travel programs conducted by Department-designated sponsors pursuant to Public Law 105-277. These regulations supersede program guidelines promulgated by the USIA and published at 61 FR 13760 (March 28, 1996).

Timetable:

Action	Date	FR Cite
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Transfered from 3116-AA16.

Agency Contact: Sally J. Lawrence, Chief Exchange Visitor Program, Department of State, Room 734, Washington, DC 20547
Phone: 202 401-9810
Fax: 202 401-9809
Email: slawrence@pd.state.gov

RIN: 1400–AB10

2152. CULTURAL EXCHANGE PROGRAMS, REINSTATEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(j), 1182, 1184, 1258; 22 USC 1431 to 1442, 1475e, 2451 to 2460; Foreign Affairs Reform and Restructuring Act, PL 105-277, 112 Stat 2681 et seq; Reorgnization Plan No 2 of 1977, 3 CFR, 1977 Comp, p 200; EO 12048 of March 27, 1978, 3 CFR, 1978 Comp, p 168

CFR Citation: 22 CFR 62.45

Legal Deadline: NPRM, Statutory, April 2000.

Abstract: The Department is amending the Exchange Visitor Program regulations regarding reinstatment of J-1 exchange visitors to valid program status.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/13/99	64 FR 44023
Interim Final Rule Comment Period End	09/13/99	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sally J. Lawrence, Chief Exchange Visitor Program, Department of State, Room 734, Washington, DC 20547
Phone: 202 401-9810
Fax: 202 401-9809
Email: slawrence@pd.state.gov

RIN: 1400–AB11

2153. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 22 CFR 141 to 143

Legal Deadline: None

Abstract: The Department of State participated with 21 other Federal

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agencies to amend regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI, section 504, and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gloria J. Jackson, EEO Manager for Compliance Programs, Department of State, S/EEOCR; Room 4216, 2201 C Street NW, Washington, DC 20520
Phone: 202 647-9897
Fax: 202 647-4969
Email: jacksongj@state.gov

RIN: 1400–AB17

2154. DOCUMENTATION OF NONIMMIGRANTS: VISA WAIVER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.2(l)

Legal Deadline: None

Abstract: Makes permanent the Visa Waiver Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB21

2155. DOCUMENTATION OF IMMIGRANTS: INTERNATIONAL BROADCASTERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 42.32(d)(8)

Legal Deadline: None

Abstract: Adds a new category of special immigrants, international broadcasters.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB22

2156. DOCUMENTATION OF NONIMMIGRANTS: VICTIMS OF TRAFFICKING IN PERSONS, VICTIMS OF CRIMINAL ACTIVITIES, AND ALIENS INADMISSIBLE FOR TRAFFICKING IN PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.84; 22 CFR 41.85; 22 CFR 40.27

Legal Deadline: None

Abstract: Creates a new nonimmigrant status for aliens who are victims of trafficking in persons (T) or victims of criminal activities (U) to enter the U.S. as nonimmigrants. Makes aliens who are involved in trafficking of persons inadmissible.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-010
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB23

2157. DOCUMENTATION OF NONIMMIGRANTS: SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.86

Legal Deadline: None

Abstract: Permits spouses and childre of lawful permanent residents, who ar beneficiaries of immigrant petitions filed or approved 3 or more years prio to enter the U.S. as (V) nonimmigrants

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Condayan, Acting Director, Office of Foreign Missions, Department of State, Room 2105, 2201 C Street NW, Washington, DC 20520
Phone: 202 647-3416

H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L60 C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB24

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2158. DOCUMENTATION OF NONIMMIGRANTS: SPOUSES AND CHILDREN OF U.S. CITIZENS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.81

Legal Deadline: None

Abstract: Provides nonimmigrant status for spouses and children of U.S. citizens who are awaiting approval of immigrant visa petitions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB25

2159. DOCUMENTATION OF IMMIGRANTS: DIVERSITY IMMIGRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 42.33

Legal Deadline: None

Abstract: Amended to emphasize a diversity visa must be issued in the same fiscal year for which the petition was submitted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB26

2160. DOCUMENTATION OF IMMIGRANTS AND NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED—REFUSALS OF INDIVIDUAL VISAS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.41; 22 CFR 41.121; 22 CFR 41.122; 22 CFR 42.81

Legal Deadline: None

Abstract: Adds to grounds of ineligibility for nonimmigrants. Adds a new restriction on place of application for alien overstays.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB27

2161. STUDENTS AND EXCHANGE VISITORS—FEE RECEIPTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.61 and 41.62

Legal Deadline: None

Abstract: Requires F, J, and M nonimmigrants to produce receipts for payment of CIPRIS fees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB29

2162. INTERNATIONAL ORGANIZATION EMPLOYEES—INTELSAT EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.24 and 42.32(d)(5)

Legal Deadline: None

Abstract: Treats employees of INTELSAT as if they were international organization employees after INTELSAT privatization

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB30

2163. GROUNDS OF INADMISSIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 40.63; 22 CFR 40.92; 22 CFR 40.104

Legal Deadline: None

Abstract: Adds exceptions for aliens inadmissible under INA 212(a)(6)(C)(ii), INA 212(a)(9)(B), and INA 212(a)(10)(D)

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB32

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2164. B-1 VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-649, Immigration Act of 1990

CFR Citation: 22 CFR 41.31

Legal Deadline: NPRM, Statutory, October 1, 1991.

Abstract: B Visa regulation revisions, which incorporate 9FAM notes and INS OI, reflect changes in interpretation of B Visa classes resulting from enactment of Immigration and Naturalization Act of 1990 and MATINA.

Timetable:

Action	Date	FR Cite
NPRM	07/26/93	58 FR 40024
NPRM Comment Period Extended to 11/23/93	09/23/93	58 FR 49456
NPRM Comment Period End	09/24/93	
NPRM Comment Period Extended to 12/06/93	11/23/93	58 FR 61856
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA54

2165. ESTABLISHING OF REGISTRY IN STATE DEPARTMENT FOR INFORMATION ABOUT EXECUTION OF INTERNATIONAL WILLS

Priority: Substantive, Nonsignificant

Legal Authority: International Legal Material, vol XII, no 6, Nov 1973, p 1302

CFR Citation: 22 CFR 92.81(b)(3)

Legal Deadline: None

Abstract: By resolution of the international diplomatic conference that adopted the final text of the 1973 convention on the forms of international wills, there was a recommendation that States establish an internal system to permit the optional registration of information to facilitate the discovery of international wills. The President transmitted the convention to the Senate on July 2, 1986, with the recommendation that the Senate give its advice and consent to U.S. ratification of the convention and information about the intention to establish the Registry in the Department of State (Senate Treaty Doc. 99-29). The Senate gave advice and consent on August 2, 1991. Implementing legislation (the International Wills Act) is required before the United States can take further action to ratify the convention.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: U.S. ratification of the 1973 Convention Providing a Uniform Law on the Form of an International Will and implementing legislation will provide for the designation of Diplomatic and Consular Agents to act in connection with International Wills, and the establishment of a registry for such wills, and other related matters.

Agency Contact: Edward A. Betancourt, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs, 2201 C Street NW, Washington, DC 20520-5816
Phone: 202 647-3666
Fax: 202 647-0103

RIN: 1400–AA56

2166. REVISION TO DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR)

Priority: Substantive, Nonsignificant

Legal Authority: PL 93-400; PL 96-83

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: This revision to the DOSAR will make minor changes to conform the DOSAR to continuing changes in the Federal Acquisition Regulation (FAR).

Timetable:

Action	Date	FR Cite
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Gladys G. Gines, Procurement Analyst, Office of the Procurement Executive, Department of State, SA-6, Room 603, Washington, D 20522-0602
Phone: 703 516-1691
Fax: 703 875-6155
Email: ginesgg@state.gov

RIN: 1400–AB06

2167. AMENDMENTS TO THE ITAR: REPORTING OF SHIPMENTS, OFFSE ARRANGEMENTS, AND ENHANCEMENTS TO CONGRESSIONAL NOTIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2778; secs 1243 and 1245 of the Defense Offsets; Disclosure Act of 1999; sec 1302 of th Foreign Relations Authorization Act

CFR Citation: 22 CFR 120; 22 CFR 12 22 CFR 124

Legal Deadline: NPRM, Statutory, December 2001.

Abstract: New requirement to report t the Office of Defense Trade Controls shipping data within 15 days after the item has been exported. Final rule includes a new requirement that the reporting of any proposed offset agreement connected with a proposed export of any major defense equipmen sold under a contract in the amount of $14,000,000 or more or of defense articles or defense services sold under a contract in the amount of $50,000,00 or more. Also, a new requirement was added that 45 days must elapse since receipt by the Congress of an enhancement to a case notified to Congress as required by 22 U.S.C. 2776(c)(1).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Mary Frances Sweeney, Munitions Control Analyst, Department of State, 13th Floor, 2401 E Street NW, Washington, DC 20037

STATE

Long-Term Actions

Phone: 202 663-2865
Fax: 202 261-8264

RIN: 1400–AB15

2168. AMENDMENT TO THE ITAR: OFFSET ARRANGEMENTS AND ENHANCEMENTS TO CONGRESSIONAL NOTIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2778; secs 1243 and 1245 of the Defense Offsets; Disclosure Act of 1999

CFR Citation: 22 CFR 120; 22 CFR 123; 22 CFR 124

Legal Deadline: None

Abstract: New requirement to require reporting and a description of any proposed offset agreement connected with a proposed export of any major defense equipment sold under a contract in the amount of $14,000,000 or more of defense articles or defense services sold under a contract in the amount of $50,000,000 or more. Also, a new requirement was added that 45 days must elapse since receipt by the Congress of an enhancement to a case notified to Congress as required by 22 U.S.C. 2776(c) (l).

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Mary Frances Sweeney, Munitions Control Analyst, Department of State, 13th Floor, 2401 E Street NW, Washington, DC 20037
Phone: 202 663-2865
Fax: 202 261-8264

RIN: 1400–AB18

2169. AMENDMENTS TO THE ITAR: REPORTING OF SHIPMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2778; sec 1302 of the Foreign Relations Authorization Act

CFR Citation: 22 CFR 123; 22 CFR 126; 22 CFR 127

Legal Deadline: None

Abstract: New requirement to report to the Office of Defense Trade Controls shipping data within 15 days after the item has been exported.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Mary Frances Sweeney, Munitions Control Analyst, Department of State, 13th Floor, 2401 E Street NW, Washington, DC 20037
Phone: 202 663-2865
Fax: 202 261-8264

RIN: 1400–AB20

2170. CLASSIFICATION OF NONIMMIGRANTS AND IMMIGRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.12 and 42.11

Legal Deadline: None

Abstract: Adds new immigrant and nonimmigrant categories.

Timetable:

Action	Date	FR Cite
Final Rule	06/18/01	66 FR 32740
Correction	07/23/01	66 FR 38153
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB28

Department of State (STATE)

Completed Actions

2171. AUTHORITY TO ISSUE VISAS: ISSUANCE OF O&P VISAS IN THE UNITED STATES

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 41.111

Completed:

Reason	Date	FR Cite
Final Action	02/28/01	66 FR 12737

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AA96

2172. Q2 VISAS FOR IRISH NATIONALS PARTICIPATING IN WORK/TRAINING PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 41.57

Completed:

Reason	Date	FR Cite
Final Rule	09/19/01	66 FR 48224

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB02

2173. ALIENS INELIGIBLE FOR VISAS FOR AIDING OR ABETTING COLOMBIAN INSURGENT AND PARAMILITARY GROUPS

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 40.212

Completed:

Reason	Date	FR Cite
Withdrawn	10/12/01	

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Completed Action

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB31

2174. • NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority: Other Significant

Legal Authority: 20 USC 1682 et seq

CFR Citation: 22 CFR 146 (New)

Legal Deadline: None

Abstract: On June 17, 1980, the Department of Justice published a proposed regulation to implement the requirements of title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of an individual's sex in federally assisted educational programs. That regulation was never issued in final form. As a result of subsequent statutory amendments, it was necessary to revise the prior proposed title IX regulation and begin a new rulemaking process. The Department of State's regulation was published as a common rule with other agencies, including the Department of Justice, that need title IX regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/29/99	64 FR 58587
NPRM Comment Period End	12/28/99	
Final Action	08/30/00	65 FR 52878
Final Action Effective	09/29/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Gloria J. Jackson, EEO Manager for Compliance Programs, Department of State, S/EEOCR; Room 4216, 2201 C Street NW, Washington, DC 20520
Phone: 202 647-9897
Fax: 202 647-4969
Email: jacksongj@state.gov

RIN: 1400–AB34

[FR Doc. 01–27114 Filed 11–30–01; 8:45 am]
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Department of Transportation

Semiannual Regulatory Agenda

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DEPARTMENT OF TRANSPORTATION (DOT)

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

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48 CFR Ch. 12

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OST Docket 99-5129

Department Regulatory Agenda; Semiannual Summary

AGENCY: Office of the Secretary, DOT.

ACTION: Semiannual regulatory agenda.

SUMMARY: The regulatory agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of and allow it to more effectively participate in the Department's regulatory activity. The public is also invited to submit comments on any aspect of this agenda.

FOR FURTHER INFORMATION CONTACT:

General

You should direct all comments and inquiries on the agenda in general to Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-4723.

Specific

You should direct all comments and inquiries on particular items in the agenda to the individual listed for the regulation or the general rulemaking contact person for the operating administration in Appendix B.

Individuals who use a telecommunications device for the deaf (TDD) may call (202) 755-7687.

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SUPPLEMENTARY INFORMATION:

Background

Improvement of our regulations is a prime goal of the Department of Transportation (Department or DOT). There should be no more regulations than necessary and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department achieve these goals and in accordance with Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual regulatory agenda. It summarizes all current and projected rulemaking, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated or for which action has been completed since the last agenda.

The agendas are based on reports submitted by the offices initiating the rulemaking and are reviewed by the Department Regulations Council. The Department's last agenda was published in the **Federal Register** on May 14, 2001 (66 FR 25756). The next one is scheduled for publication in the **Federal Register** in April 2002.

For this edition of the Department's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register.** The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

The Department has created an Internet site that provides general information about its rulemaking responsibilities and activities. It includes hypertext links to numerous other departmental sites providing helpful information about DOT regulation. The web address for this site is http://regs.dot.gov.

Significant/Priority Rulemakings

The agenda covers all rules and regulations of the Department. We have classified rules as a DOT agency priority in the agenda if they are, essentially, very costly, controversial, or of substantial public interest under our Regulatory Policies and Procedures. All DOT agency priority rulemaking documents are subject to review by the Secretary of Transportation. If the Office of Management and Budget (OMB) decides a rule is subject to its review under Executive Order 12866, we have classified it as significant in the agenda.

Explanation of Information on the Agenda

The format for this agenda is required by Office of Management and Budget memorandum of July 10, 2001.

First, the agenda is divided by initiating offices. Then, the agenda is divided into five categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, (4) long-term actions, and (5) completed actions. For each entry, the agenda provides the following information: (1) Its "significance"; (2) a short descriptive title; (3) its legal basis; (4) the related regulatory citation in the Code of Federal Regulations; (5) any legal deadline and, if so, for what action (e.g., NPRM, final rule); (6) an abstract; (7) a timetable, including the earliest expected date for a decision on whether to take the action; (8) whether the rulemaking will affect small entities and/or levels of government and, if so, which categories; (9) whether a Regulatory Flexibility Act (RFA)

analysis is required (for rules that would have a significant economic impact on a substantial number of small entities); (10) a listing of any analyses an office will prepare or has prepared for the action (With minor exceptions, DOT requires an economic analysis for all its rulemakings.); (11) an agency contact office or official who can provide further information; (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the agenda and facilitate tracing further action on the issue; (13) whether the action is subject to the Unfunded Mandates Reform Act; (14) whether the action is subject to the Energy Act; and (15) whether the action is major under the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act. If there is information that does not fit in the other categories, it will be included under a separate heading entitled "Additional Information."

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, we only include the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations; we do not list individual regulations.

In the "Timetable" column, we use abbreviations to indicate the particular documents being considered. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, and NPRM for Notice of Proposed Rulemaking. Listing a future date in this column does not mean we have made a decision to issue a document; it is the earliest date on which we expect to make a decision on whether to issue it. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the agenda for the first time.

Request for Comments

General

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as make the agenda easier to use. We would like you, the public, to make suggestions or comments on how the agenda could be further improved.

Reviews

We also seek your suggestions on which of our existing regulations you believe need to be reviewed to determine whether they should be revised or revoked. We particularly draw your attention to the Department's review plan in Appendix D.

Regulatory Flexibility Act

The Department is especially interested in obtaining information on requirements that have a "significant economic impact on a substantial number of small entities" and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please submit them to us, along with your explanation of why they should be reviewed.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that we have targeted for review under section 610 of the Act. The phrase (Section 610 Review) appears at the end of the title for these reviews. Please see Appendix D for the Department's section 610 review plans.

Federalism

Executive Order 13132 requires us to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we encourage State and local governments to provide us with information about how the Department's rulemakings impact them.

Purpose

The Department is publishing this regulatory agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity and should result in more effective public participation. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded.

Issued in Washington, DC, on October 26, 2001.

Norman Y. Mineta,

Secretary of Transportation.

Appendix A - Instructions for Obtaining Copies of Regulatory Documents

To obtain a copy of a specific regulatory document in the agenda, you should communicate directly with the contact person listed with the regulation at the address below. We note that most if not all such documents, including the Semiannual Agenda, are available through our Internet-accessible docket at http://dms.dot.gov. See Appendix C for more information.

United States Coast Guard (USCG)

(Name of contact person), United States Coast Guard, 2100 2nd Street SW., Washington, DC 20593.

Federal Highway Administration (FHWA)

(Name of contact person), Federal Highway Administration, 400 7th Street SW., Washington, DC 20590.

Federal Motor Carrier Safety Administration (FMCSA)

(Name of contact person), Federal Motor Carrier Safety Administration, 400 7th Street SW., Washington, DC 20590.

Federal Railroad Administration (FRA)

(Name of contact person), Federal Railroad Administration, 400 7th Street SW., Washington, DC 20590.

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National Highway Traffic Safety Administration (NHTSA)

(Name of contact person), National Highway Traffic Safety Administration, 400 7th Street SW., Washington, DC 20590.

Federal Transit Administration (FTA)

(Name of contact person), Federal Transit Administration, 400 7th Street SW., Washington, DC 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

(Name of contact person), Saint Lawrence Seaway Development Corporation, 400 7th Street SW., Room 5424, Washington, DC 20590.

Research and Special Programs Administration (RSPA)

(Name of contact person), Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590.

Maritime Administration (MARAD)

Joel C. Richard, Secretary, Maritime Administration, 400 7th Street SW., Room 7210, Washington, DC 20590, (202) 366-5746.

Bureau of Transportation Statistics (BTS)

(Name of contact person), Bureau of Transportation Statistics,400 7th Street SW., Room 7210, Washington, DC 20590.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for notices and advance notices of proposed rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling (202) 267-3484 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591.

Office of the Secretary (OST)

To obtain a copy of a specific regulatory document or to receive future copies of the Department's regulatory agenda write to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, DC 20590, (202) 366-4723.

Appendix B - General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG — Steve G. Venckus, Chief, Office of Regulations and Administrative Law, USCG Headquarters Building, Room 3406, 2100 2nd Street SW., Washington, DC 20593; telephone: (202) 267-1534.

FAA - Donald Byrne, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915A, Washington, DC 20591; telephone: (202) 267-3073.

FHWA — Julie Downey, Office of Chief Counsel, 400 7th Street SW., Room 4223, Washington, DC 20590; telephone: (202) 366-0761.

FMCSA - Suzanne O'Malley, Office of Chief Counsel, 400 7th Street SW., Room 4223, Washington, DC 20590; telephone: (202) 366-1367.

FRA - Colleen Brennan, Office of Chief Counsel, 400 7th Street SW., Mail Stop 10, Washington, DC 20590; telephone: (202) 493-6028.

NHTSA - Steve Wood, Office of Chief Counsel, 400 7th Street SW., Room 5219, Washington, DC 20590; telephone: (202) 366-2992.

FTA - Richard Wong, Office of Chief Counsel, 400 7th Street SW., Room 9316, Washington, DC 20590; telephone: (202) 366-4011.

SLSDC - Marc Owen, General Counsel's Office, 400 7th Street SW., Room 5424, Washington, DC 20590; telephone: (202) 366-0108.

RSPA - Edward Bonekemper, Office of Chief Counsel, 400 7th Street SW., Room 8405, Washington, DC 20590; telephone: (202) 366-4400.

MARAD — Edmund Sommer, Jr., Office of Chief Counsel, Maritime Administration, 400 7th Street SW., Room 7221, Washington, DC 20590; telephone: (202) 366-5181.

BTS — Robert Monniere SW., Room 3430, Washington, DC 20590; telephone: (202) 366-5498.

OST - Neil Eisner, Office of Regulation and Enforcement, 400 7th Street SW., Room 10424, Washington, DC 20590; telephone: (202) 366-4723.

Appendix C - Public Rulemaking Dockets

The public may review or submit comments to the dockets for all of DOT via the Internet at the following address: http://dms.dot.gov. Examples of documents that may be in the dockets are proposed rules, public comments received, supporting analyses, studies, and reports.

The public also may review regulatory dockets at, or deliver comments on proposed rulemakings to, the Dockets Office at 400 7th Street SW., Room PL 401, Washington, DC 20590, 1-800-647-5527. Working Hours: 9-5.

Appendix D - Review Plans for Section 610 and Other Requirements

Part I - The Plan

General

The Department of Transportation has long recognized the importance of regularly reviewing its existing regulations to determine whether they need to be revised or revoked. Our 1979 Regulatory Policies and Procedures require such reviews. We also have responsibilities under E.O. 12866 ("Regulatory Planning and Review") and section 610 of the Regulatory Flexibility Act to conduct such reviews. This will include the use of plain language techniques in new rules and to consider rewriting existing rules when we have the opportunity and resources permit. The Department is currently conducting a number of reviews of existing rules and is engaged in rulemaking actions resulting from these reviews.

Section 610 Review Plan

Section 610 requires that we conduct reviews of rules that (1) have been published within the last ten years and (2) have a "significant economic impact on a substantial number of small entities" (SEIOSNOSE). It also requires that we publish in the **Federal Register** each year a list of any such rules that we will review during the next year. To better comply with section 610, the Department has updated its regulatory review plan published on June 29, 1981, to accomplish a more systematic review of all of its regulations. The Office of the Secretary and each of the Department's Operating Administrations (except for FMCSA) have a 10-year review plan. These reviews are in accordance with section 610 of the Regulatory Flexibility Act.

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Other Review Plans

All elements of the Department, except for the FMCSA and Federal Aviation Administration (FAA), have also elected to use this 10-year plan process to comply with the review requirements of the Department's Regulatory Policies and Procedures, and Executive Order 12866. FMCSA and FAA are using different approaches, which are described in Part II to this Appendix.

Changes to the Review Plan

Some reviews may be conducted earlier than scheduled. For example, to the extent resources permit, the plain language reviews will be conducted more quickly. Other events, such as accidents, may result in the need to conduct earlier reviews of some rules. Other factors may also result in the need to make changes; for example, we may make changes in response to public comment on this plan or in response to a Presidentially mandated review. If there is any change to the review plan, we will note the change in the following Unified Agenda. For any section 610 review, we will provide the required notice prior to the review.

Part II - The Review Process

The Analysis

Generally, the agencies have divided their rules into 10 different groups and plan to analyze one group each year. For purposes of these reviews, a year will coincide with the fall-to-fall schedule for publication of the Agenda. Thus, Year 1 (1998) began in the fall of 1998 and ends in the fall of 1999; Year 2 (1999) begins in the fall of 1999 and ends in the fall of 2000; and so on. We request public comment on the timing of the reviews. For example, is there a reason for scheduling an analysis and review for a particular rule earlier than we have? Any comments concerning the plan or particular analyses can be submitted to the regulatory contacts listed in Appendix B, General Rulemaking Contact Persons.

Section 610 Review

The agency will analyze each of the rules in a given year's group to determine whether any rule has a SEIOSNOSE and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. The level of analysis will, of course, depend on the nature of the rule and its applicability.

Publication of agencies' section 610 analyses list each fall in this Agenda provides the public with notice and an opportunity to comment consistent with the requirements of the Regulatory Flexibility Act. We request that public comments be submitted to us early in the analysis year concerning the small entity impact of the rules to help us in making our determinations.

In each October's Agenda, the agency will publish the results of the analyses it has completed during the previous year. For rules that had a negative finding on SEIOSNOSE, we will give a short explanation (e.g., "these rules only establish petition processes that have no cost impact" or "these rules do not apply to any small entities"). For parts, subparts or other discrete sections of rules that do have a SEIOSNOSE, we will announce that we will be conducting a formal section 610 review during the following 12 months. At this stage, we will add an entry to the Agenda in the prerulemaking section describing the review in more detail. We also will seek public comment on how best to lessen the impact of these rules and provide a name or docket to which public comments can be submitted. In some cases, the section 610 review may be part of another unrelated review of the rule. In such a case, we plan to clearly indicate which parts of the review are being conducted under section 610.

Other Reviews

The agency will also examine the specified rules to determine whether any other reasons exist for revising or revoking the rule or for rewriting the rule in plain language. In each October's Agenda, the agency will also publish information on the results of the examinations completed during the previous year.

FAA

The Federal Aviation Administration, in addition to reviewing its rules in accordance with the schedule below, has established a process by which the public is asked for its comments on which rules need review the most. Any information that the FAA receives in connection with its annual section 610 analyses would, of course, also be reviewed in the spirit of E.O. 12866. In addition, in response to a recommendation of the White House Commission on Aviation Safety and Security, the FAA has completed a review of all its existing regulations to identify those in need of rewriting as performance-based or plain language regulations. The agency also reviewed ongoing regulatory projects and proposals to identify additional candidates for revision. In all, the agency reviewed 68 parts of the CFR, containing 3,884 sections, appendices, and Special Federal Aviation Regulations. In addition to using plain language in its current and future regulations, the FAA intends to revise those regulations identified in its study when it has the opportunity and resources to do so.

FMCSA

The Federal Motor Carrier Safety Administration has underway a comprehensive, multiyear project to develop modern, uniform safety regulations that are up-to-date, clear, concise, easier to understand, and more performance oriented. The FMCSA has held 11 public outreach meetings, announced in the **Federal Register**, to solicit public involvement in this review; a total of 110 industry and government safety representatives participated in 14 one-day focus group sessions; over 2,000 comments have been received in the public docket so far.

On November 23, 1994, the FMCSA published a final rule removing obsolete and redundant regulations identified through this review. In addition, on June 18, 1998, the FMCSA published another final rule (63 FR 33254) removing and amending additional provisions of the Federal Motor Carrier Safety Regulations identified through zero-base review.

The FMCSA is developing a notice of proposed rulemaking that will propose a complete revision of the Federal Motor Carrier Safety Regulations implementing the results of the FMCSA's zero-base review of those regulations. The NPRM will include a complete reorganization of the safety regulations and a rewrite of those regulations using plain language and a question-and-answer format to enhance the clarity and understandability of those regulations. In addition, the notice will focus the regulations on safety while adopting a performance-based approach to the regulations and reducing the paperwork associated with compliance with the regulations. The FMCSA believes that this effort will produce regulations which are simpler to understand and to comply with, especially for small motor

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carriers. Because of these long-term, ongoing efforts, FMCSA is not currently reviewing these rules.

Part III- List of Pending Section 610 Reviews

The Agenda identifies the pending DOT Section 610 Reviews by inserting "(Section 610 Review)" after the title for the specific entry. Also, a Governmentwide list of section 610 reviews can be located in an index at the end of the Agenda. For further information on the pending reviews, see the Agenda entries.

OFFICE OF THE SECRETARY SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR parts 200 through 212	1998	1999
2	1999	2000	
3	14 CFR parts 234 through 254	2000	200
4	14 CFR parts 255 through 298 and part 40	2001	200
5	14 CFR parts 300 through 373	2002	200
6	14 CFR parts 374 through 398	2003	200
7	14 CFR part 399 and 49 CFR parts 1 through 11	2004	200
8	49 CFR parts 17 through 28	2005	200
9	49 CFR parts 29 through 39 and parts 41 through 89	2006	200
10	49 CFR parts 91 through 99, 48 CFR parts 1201 through 1253, and new parts and subparts	2007	200

Year 3 (Fall 2000) List of Rules continuing to be analyzed

14 CFR part 234 — Airline service quality performance reports
14 CFR part 240 — Inspection of accounts and property
14 CFR part 241 — Uniform system of accounts and reports for large certified air carriers
14 CFR part 243 — Passenger manifest information
14 CFR part 247 — Direct airport-to-airport mileage records
14 CFR part 248 — Submission of audit reports
14 CFR part 249 — Preservation of air carrier records
14 CFR part 250 — Oversales
14 CFR part 252 — Smoking aboard aircraft
14 CFR part 253 — Notice of terms of contract of carriage
14 CFR part 254 — Domestic baggage liability

Year 4 (Fall 2001) List of Rules that will be analyzed during the next year

14 CFR part 255 — Carrier-owned computer reservation systems
14 CFR part 256 — Display of joint operations in carrier-owned computer reservation systems
14 CFR part 257 — Disclosure of code-sharing arrangements and long-term wet leases
14 CFR part 258 — Disclosure of change-of-gauge services
14 CFR part 271 — Guidelines for subsidizing air carriers providing essential air transportation
14 CFR part 272 — Essential air service to the Freely Associated States
14 CFR part 291 — Cargo operations in interstate air transportation
14 CFR part 292 — International cargo transportation
14 CFR part 293 — International passenger transportation
14 CFR part 294 — Canadian charter air taxi operators
14 CFR part 296 — Indirect air transportation of property
14 CFR part 297 — Foreign air freight forwarders and foreign cooperative shippers associations
14 CFR part 298 — Exemptions for air taxi and commuter air carrier operations
49 CFR part 40 — Procedures for transportation workplace drug testing programs

UNITED STATES COAST GUARD SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Ye
1	33 CFR Parts 1 through 124	1998	19
2	33 CFR Parts 125 through 199	1999	20
3	46 CFR Parts 1 through 40	2000	20
4	46 CFR Parts 41 through 69	2001	20
5	46 CFR Parts 70 through 89	2002	20
6	46 CFR Parts 90 through 139	2003	20
7	46 CFR Parts 140 through 155	2004	20
8	46 CFR Parts 156 through 165	2005	20

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UNITED STATES COAST GUARD (Continued)
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
9	46 CFR Parts 166 through 199	2006	2007
10	New parts and subparts	2007	2008

Year 3 (Fall 2000) List of rules continuing to be analyzed

33 CFR part 126 — Handling of Class 1 (explosive) materials or other dangerous cargoes within or contiguous to waterfront facilities
33 CFR part 127 — Waterfront facilities handling liquefied natural gas and liquefied hazardous gas
33 CFR part 128— Security of passenger terminals
33 CFR part 135 — Offshore oil pollution compensation fund
33 CFR part 138 — Financial responsibility for water pollution (vessels)
33 CFR part 140 — General
33 CFR part 141 — Personnel
33 CFR part 142 — Workplace safety and health
33 CFR part 143 — Design and equipment
33 CFR part 144 — Lifesaving appliances
33 CFR part 145 — Firefighting equipment
33 CFR part 146 — Operations
33 CFR part 151 — Vessels carrying oil, noxious liquid substances, garbage, municipal or commercial waste, and ballast water
33 CFR part 153 — Control of pollution by oil or hazardous substances, discharge removal
33 CFR part 154 — Facilities transferring oil or hazardous materials in bulk
33 CFR part 155 — Oil or hazardous material pollution prevention regulations for vessels
33 CFR part 156 — Oil or hazardous material transfer operations
33 CFR part 157 — Rules for the protection of the marine environment relating to tank vessels carrying oil in bulk
33 CFR part 158 — Reception facilities for oil, noxious liquid substances, and garbage
33 CFR part 161 — Vessel traffic management
33 CFR part 162 — Inland waterways navigation regulations
33 CFR part 163 — Towing of barges
33 CFR part 164 — Navigation safety regulations
33 CFR part 165 — Regulated navigation areas and limited access areas
33 CFR part 168 — Escort requirements for certain tankers
33 CFR part 173 — Vessel numbering and casualty and accident reporting
33 CFR part 179 — Defect notification
33 CFR part 181 — Manufacturer requirements
33 CFR part 183 — Boats and associated equipment
33 CFR part 184 — 186 Reserved
33 CFR part 187 — Vessel identification system
33 CFR parts 188 through 199 — Reserved
46 CFR part 1 — Organization, general course and methods governing marine safety functions
46 CFR part 2 — Vessel inspections
46 CFR part 3 — Designation of oceanographic research vessels
46 CFR part 4 — Marine casualties and investigations
46 CFR part 5 — Marine investigation regulations — personnel action
46 CFR part 6 — Waivers of navigation and vessel inspection laws and regulations
46 CFR part 7 — Boundary lines
46 CFR part 8 — Vessel inspection alternatives
46 CFR part 9 — Extra compensation for overtime services
46 CFR part 10 — Licensing of maritime personnel
46 CFR part 12 — Certification of seamen
46 CFR part 13 — Certification of tankermen
46 CFR part 14 — Shipment and discharge of merchant mariners
46 CFR part 15 — Manning requirements
46 CFR part 16 — Chemical testing
46 CFR part 24 — General provisions
46 CFR part 25 — Requirements
46 CFR part 26 — Operations
46 CFR part 28 — Requirements for commercial fishing industry vessels
46 CFR part 30 — General provisions
46 CFR part 31 — Inspection and certification

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46 CFR part 32 — Special equipment, machinery, and hull requirements
46 CFR part 34 — Firefighting equipment
46 CFR part 35 — Operations
46 CFR part 36 — Elevated temperature cargoes
46 CFR part 38 — Liquefied flammable gases
46 CFR part 39 — Vapor control systems

Year 4 (Fall 2001) List of rules that will be analyzed during the next year

46 CFR part 42 — Domestic and foreign voyages by sea
46 CFR part 44 — Special service limited domestic voyage
46 CFR part 45 — Great lakes load lines
46 CFR part 46 — Subdivision load lines for passenger vessels
46 CFR part 47 — Combination load lines
46 CFR part 50 — General provisions
46 CFR part 52 — Power boilers
46 CFR part 53 — Heating boilers
46 CFR part 54 — Pressure vessels
46 CFR part 56 — Piping systems and appurtenances
46 CFR part 57 — Welding and brazing
46 CFR part 58 — Main auxiliary machinery and related systems
46 CFR part 59 — Repairs to boilers, pressure vessels and appurtenances
46 CFR part 61 — Periodic tests and inspections
46 CFR part 62 — Vital systems automation
46 CFR part 63 — Automatic auxiliary boilers
46 CFR part 64 — Marine portable tanks and cargo handling systems
46 CFR part 67 — Documentation of vessels
46 CFR part 68 — Documentation of vessels pursuant to extraordinary legislative grants
46 CFR part 69 — Measurement of vessels

FEDERAL AVIATION ADMINISTRATION
SECTION 610 REVIEW PLAN

Year	Regulations to be Reviewed	Analysis Year	Review Ye
1	14 CFR parts 1 through 21	1998	19
2	14 CFR parts 23 through 34	1999	20
3	14 CFR parts 35 through 49	2000	20
4 *	14 CFR parts 61 through 77	2001	20
5	14 CFR parts 91 through 105	2002	20
6	14 CFR parts 107 through 133	2003	20
7	14 CFR parts 135 through 147	2004	20
8	14 CFR parts 150 through 169	2005	20
9	14 CFR parts 170 through 198	2006	20
10	14 CFR parts 400 through 415	2007	20

* FAA will also review all other rules dealing with alcohol and drugs

Year 3 (Fall 2000) List of Rules analyzed and a summary of the results

14 CFR 23 — Airworthiness standards: normal, utility, acrobatic, and commuter category airplanes
- Section 610; No SEIOSNOSE. This rule applies to a significant number of small entities but amendments over the past decade do not have a substantial economic impact. Accordingly, a periodic review was not required.
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR 27 — Airworthiness standards: normal, utility, acrobatic, and commuter category rotorcraft
- Section 610; No SEIOSNOSE. This rule applies to a significant number of small entities but amendments over the past decade do not have a substantial economic impact. Accordingly, a periodic review was not required.
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR 29 — Airworthiness standards: transport category rotorcraft
- Section 610; No SEIOSNOSE. This rule applies to a significant number of small entities but amendments over the past decade do not have a substantial economic impact. Accordingly, a periodic review was not required.
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR 31 — Airworthiness standards: manned free ballons
- Section 610; No SEIOSNOSE. This rule applies to a significant number of small entities but amendments over the past decade do not have a substantial economic impact. Accordingly, a periodic review was not required.

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- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR 33 — Airworthiness standards: aircraft engines
- Section 610; No SEIOSNOSE. This rule applies to a significant number of small entities but amendments over the past decade do not have a substantial economic impact. Accordingly, a periodic review was not required.
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR 34 — Fuel venting and exhaust emission requirements for turbine engine powered airplanes
- Section 610; No SEIOSNOSE. This rule applies to a significant number of small entities but amendments over the past decade do not have a substantial economic impact. Accordingly, a periodic review was not required.
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR part 35 — Airworthiness standards: propellers
- Section 610; FAA will conduct a formal 610 review during the following 12 months*Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR part 36 — Noise standards; aircraft type and airworthiness certification
- Section 610; FAA will conduct a formal 610 review during the following 12 months*
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR part 39 — Airworthiness directives
- Section 610; FAA will conduct a formal 610 review during the following 12 months*
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR part 43 — Maintenance, preventive maintenance; rebuilding and alteration
- Section 610; FAA will conduct a formal 610 review during the following 12 months*
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR part 45 — Identification and registration marking
- Section 610; FAA will conduct a formal 610 review during the following 12 months*
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR part 47 — Aircraft registration
- Section 610; FAA will conduct a formal 610 review during the following 12 months*
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR part 49 — Recording of aircraft titles and security documents
- Section 610; FAA will conduct a formal 610 review during the following 12 months*
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

Year 4 (Fall 2001) List of rules that will be analyzed during the next year

14 CFR part 61 — Certification: pilots, flight instructors and ground instructions
14 CFR part 63 — Certification: flight crewmembers other than pilots
14 CFR part 65 — Certification: airmen other than flight crewmembers
14 CFR part 67 — Medical standards and certification
14 CFR part 70 — Designation of class A, class B, class C, class D and class E airspace areas; airways routes and reporting points
14 CFR part 73 — Special use airspace
14 CFR part 77 — Objects affecting navigable airspace

*A description for this action will be included in the April 2002 agenda or published in a separate notice in the *Federal Register*

FEDERAL HIGHWAY ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	None	1998	1999
2	None	1999	2000
3	23 CFR parts 450, 657 and 771	2000	2001
4	23 CFR parts 1-260	2001	2002
5	23 CFR parts 420, 460-480	2002	2003
6	23 CFR part 500	2003	2004
7	23 CFR 600-656, 658-669	2004	2005

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FEDERAL HIGHWAY ADMINISTRATION (Continued)
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
8	23 CFR parts 710-924	2005	200
9	23 CFR parts 1200-1252	2006	200
10	New parts and subparts	2007	200

Year 3 (Fall 2000) List of Rules analyzed and a summary of the results

23 CFR part 450 — Ongoing review of regulations governing Statewide and Metropolitan Transportation Planning

- The FHWA and the FTA received numerous comments to the docket in response to this NPRM. The agencies are currently reviewing the comments and discussing the options with the new Administration to determine what action should follow.

23 CFR part 657 — Ongoing review of certification of size and weight requirements

- Section 610: No SEIOSNOSE. This rule does not in any way have an impact on small governments or businesses as this regulation outlines the requirements that State governments follow in order to comply with the annual certification requirement in 23 U.S.C. 141.
- Plain language: In an upcoming rulemaking, the FHWA will rewrite the regulation using plain language.
- General: We are continuing our review of the type of information and data that should be submitted by the States in support of their annual certification of enforcement and will revise as appropriate.

23 CFR part 771— Ongoing review of regulations governing Assessment of Environmental Impact and Related procedures (NEPA Implementing Regulations)

- The FHWA and the FTA received numerous comments to the docket in response to this NPRM. The agencies are currently reviewing the comments and discussing the options with the new Administration to determine what action should follow.

Year 4 (Fall 2001) List of Rules that will be analyzed during the next year

23 CFR part 1 — General management and administration
23 CFR part 140 — Payment procedures
23 CFR part 172 — Administration of engineering and design related service contracts
23 CFR part 180 —Credit assistance for surface transportation projects
23 CFR part 190 — Incentive procedures for controlling outdoor advertising on the interstate system
23 CFR part 192 — Drug offenders driver's license suspension
23 CFR part 200 — Title IV program and related statutes-implementation and review procedures
23 CFR part 230 — External equal employment opportunity programs
23 CFR part 260 — Education and training programs

Federal-Aid Highway Program

The FHWA has adopted regulations in title 23 of the CFR, chapter I, related to the Federal-aid highway program. These regulations implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways. The primary law authorizing Federal aid for highways is chapter 1 of title 23 of the USC. Section 145 of title 23 expressly provides that chapter 1 provides for a federally assisted State program. For this reason, the regulations adopted by the FHWA in title 23 of the CFR primarily relate to requirements that States must meet to receive Federal funds for the construction and other work related to highways.

Because the regulations in title 23 primarily relate to States, which are not defined as small entities under the Regulatory Flexibility Act, the FHWA believes that its regulations in title 23 do not have a significant economic impact on a substantial number of small entities. The FHWA solicits public comment on this preliminary conclusion.

The FHWA, jointly with the Federal Transit Administration, has issued notices of proposed rulemaking that would revise the regulations currently codified at 23 CFR parts 450 and 771. These regulations will be issued in a new chapter IV of 23 CFR as "intermodal" rules renumbered respectively as 23 CFR part 1410 (planning assistance and standards) an 23 CFR part 1420 and 1430 (environmental impact and related matters). In the course of developing th notice of proposed rulemaking (NPRM for each of these regulations, the FHW and FTA solicited comment on their potential for impact on small entities, including small governments. The FHWA and the FTA received numerou comments in response to these NPRMs and are currently reviewing the data a discussing the options under the guidance of the new administration. A issues pertaining to the potential for impact will be addressed in the final regulations.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Ye
1	49 CFR parts 501 through 526 and 571.213	1998	19
2	49 CFR parts 571.131 and 571.220 through 571.222	1999	20

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NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (Continued)
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
3	49 CFR parts 591 through 594	2000	2001
4	49 CFR parts 571.101 through 571.110 and 571.135	2001	2002
5	49 CFR parts 529 through 579, except part 571	2002	2003
6	49 CFR parts 571.111 through 571.129 and parts 580 through 590	2003	2004
7	49 CFR part 571.201 through 571.212	2004	2005
8	49 CFR parts 571.214 through 571.219	2005	2006
9	49 CFR parts 571.223 through 571.304, part 500 and new parts and subparts under 49 CFR	2006	2007
10	23 CFR parts 1200's and 1300's and new parts and subparts under 23 CFR	2007	2008

Year 3 (Fall 2000) List of Rules that will continue to be analyzed during the next year

Part 591 — Implementation of vehicles and equipment subject to Federal safety, bumper and theft prevention standards

Part 592 — Registered importers of vehicles not originally manufactured to conform to the Federal Motor Vehicle Safety Standards

Part 593 — Determinations that a vehicle not originally manufactured to conform to the Federal Motor Vehicle Safety Standards is eligible for importation

Part 594 — Schedule of fees authorized by 49 U.S.C. 30141

Year 4 (Fall 2001) List of Rules that will be analyzed during the next year

49 CFR parts 571.101 — Standard No. 101; Controls and displays

49 CFR parts 571.102 — Standard No. 102; Transmission shift lever sequence starter interlock, and transmission braking effect

49 CFR parts 571.103 — Standard No. 103; Windshield defrosting and defogging systems

49 CFR parts 571.104 — Standard No. 104; Windshield wiping and washing systems

49 CFR parts 571.105 — Standard No. 105; Hydraulic and electric brake systems

49 CFR parts 571.106 — Standard No. 106; Brake hoses

49 CFR parts 571.107 — Standard No. 107; [Reserved]

49 CFR parts 571.108 — Standard No. 108; lamps, reflective devices, and associated equipment

49 CFR parts 571.109 — Standard No. 109; New pneumatic tires

49 CFR parts 571.110 — Standard No. 110; Tire selection and rims

49 CFR parts 571.135 — Standard No. 135; Passenger car brake systems

NHTSA Request for Comments

On September 13, 2000, NHTSA published in the **Federal Register** a request for comments on whether these rules have a significant economic impact on a substantial number of small entities. NHTSA received and granted a request to extend the comment period to November 13, 2000.

FEDERAL RAILROAD ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	49 CFR parts 200 through 201	1998	1999
2	49 CFR parts 207, 209, 211, 215, and 256	1999	2000
3	49 CFR parts 210, 212, 214, and 217	2000	2001
4	49 CFR parts 219	2001	2002
5	49 CFR parts 218 and 221	2002	2003
6	49 CFR parts 216 and 228 through 229	2003	2004
7	49 CFR parts 223 and 233	2004	2005
8	49 CFR parts 225, 231, and 234	2005	2006
9	49 CFR parts 235 through 236, 250, 260, and 266	2006	2007
10	49 CFR parts 213, 220, 230, 232, 239, 240, and 265	2007	2008

Year 3 (Fall 2000) List of Rules analyzed and a summary of the results

49 CFR part 210 — Railroad noise emission compliance regulations

- Section 610: No SEIOSNOSE. These are minimum compliance regulations for enforcement of noise emission standards established by EPA. To FRA's knowledge, the Railroad Noise Emission Compliance Regulation has not imposed any significant burden on any small railroads.
- Plain Language: FRA's plain language review of these rules indicates no need for substantial revision.

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- General: Having a national uniform noise emission standard benefits small railroads to the extent local government authorities would otherwise seek to impose more stringent noise emission requirements. The existence of these standards provides uniformity and benefits the small railroads as a class.

49 CFR part 212 — State safety participation regulations

- Section 610: No SEIOSNOSE. These regulations establish standards and procedures for State participation in investigative and surveillance activities under the Federal railroad safety laws and regulations. The program is entirely voluntary, and the "regulated community" is composed of those States which choose to participate. No State is a "small entity" under any reasonable definition..
- Plain Language: FRA's plain language review indicates no need for substantial revision..
- General: FRA encourages States to participate in the program, and considers State inspectors an important element in the enforcement of Federal safety laws. Training and funding is provided by FRA to the States to offset the costs of participation. In addition, FRA employs a full-time State participation program manager to work with the States to encourage participation and assist in program implementation.

49 CFR part 214 — Railroad workplace safety

- Section 610: There is a SEIOSNOSE for subpart B. FRA will conduct a formal review to identify whether additional opportunities may exist to further reduce the burden on small railroads without compromising safety. No SEIOSNOSE for subpart C. Impacts on small entities are directly related to the volume of traffic on a right-of-way, and most small railroads have low enough volume to minimize the impact.
- Plain Language: FRA's plain language review indicates no need for substantial revision. As resources permit, FRA will make such changes as may be necessary.
- General: The existence of Federal workplace safety laws benefits small entities. In the absence of Federal laws, small railroads would be subject to a wide variety of State and local laws. Even the smallest of railroads might find it necessary to understand and comply with several different sets of laws from the jurisdictions in which they operate. Federal law preempts local laws in this area, and simplifies compliance on the part of the regulated community.

49 CFR part 217 — Railroad operating rules

- Section 610: No SEIOSNOSE. FRA finds that there is a continuing need to collect information on railroad operating rules and practices, in order to monitor changes in railroad operating practice. The required periodic inspections and employee training are important for safety.
- Plain Language: FRA's plain language review of these rules indicates no need for substantial revision. The regulation is clearly written.
- General: part 217 contains provisions to mitigate the burden on small entities by reducing their record filing and recordkeeping requirements

Year 4 (Fall 2001) List of Rules that will be analyzed during the next year

49 CFR part 219 — Alcohol and drug regulations

FEDERAL TRANSIT ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Yea
1	None	1998	199
2	None	1999	200
3	None	2000	200
4	49 CFR part 661	2001	200
5	49 CFR part 665	2002	200

Year 4 (Fall 2001) List of Rules that will be analyzed during the next year

49 CFR part 661 — Buy America requirements — Surface Transportation Assistance Act of 1982, as amended

MARITIME ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Yea
1	46 CFR parts 201 through 207	1998	199
2	46 CFR parts 221 through 232	1999	200
3	46 CFR parts 249 through 295	2000	200
4	46 CFR parts 298	2001	200
5	46 CFR parts 307 through 310	2002	200
6	46 CFR parts 315 through 399	2003	200
7	46 CFR part 340 and 347	2004	200
8	46 CFR parts 349 through 380	2005	200
9	46 CFR parts 381 through 387	2006	200
10	46 CFR parts 390 through 391	2007	200

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Year 3 (Fall 2000) List of Rules analyzed and a summary of the results

46 CFR 249 Approval of underwriters for marine hull insurance
- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- Plain Language: As resources permit, MARAD will rewrite the regulations using plain language techniques.
- General: No changes are necessary because the requirements regulate in the most cost-effective manner, the benefits of the regulations justify their costs, and the regulations impose the least burden on society.

46 CFR 251 Application for subsidies and other direct financial aid

46 CFR 252 Operating-differential subsidy for bulk cargo vessels engaged in worldwide services

46 CFR 272 Requirements and procedures for conducting condition surveys and administering maintenance and repair subsidy
- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant. Congress has withdrawn MARAD's authority to issue operational-differential subsidy.
- Plain Language: We will rewrite any remaining regulations using plain language techniques.
- General: We will continue our review of operating-differential subsidy regulations and will initiate a rulemaking to eliminate these regulations as the last operating-differential subsidy contracts terminate.

46 CFR 276 Construction-differential subsidy repayment
- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant. Plain Language: We will rewrite any remaining regulations using plain language techniques.
- General: No changes are necessary because the requirements regulate in the most cost-effective manner, the benefits of the regulations justify their costs, and the regulations impose the least burden on society.

46 CFR 277 Domestic and foreign trade; interpretations

46 CFR 280 Limitations on the award and payment of operating-differential subsidy for liner operators

46 CFR 281 Information and procedure required under liner operating-differential subsidy agreements

46 CFR 282 Operating-differential subsidy for liner vessels engaged in essential services in the foreign commerce of the United States

46 CFR 283 Dividend policy for operators receiving operating-differential subsidy
- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant. Congress has withdrawn MARAD's authority to issue operational-differential subsidy.
- Plain Language: We will rewrite any remaining regulations using plain language techniques.
- General: We will continue our review of operating-differential subsidy regulations and will probably initiate a rulemaking to eliminate these regulations as the last operating-differential subsidy contracts terminate.

46 CFR 287 Establishment of construction reserve funds
- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- Plain Language: We will rewrite the regulations using plain language techniques.
- General: We will continue our review and schedule this part for revision as appropriate.

46 CFR 295 Maritime Security Program
- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- Plain Language: The text is clear and well-organized.
- General: We will revise the regulations if necessary.

Year 4 (Fall 2001) List of Rules analyzed and a summary of the results

46 CFR part 298 — Obligation Guarantees
- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- Plain Language: These regulations were rewritten in plain language in 2000.
- General: In 2000, MARAD amended part 298 by simplifying existing administrative practices governing ship financing guarantees. The revisions simplify the process for applicants. MARAD will continue to review these regulations and make additional changes when appropriate.

Year 5 (Fall 2002) List of Rules that will be analyzed during the next year

46 CFR part 307 — Establishment of mandatory position reporting system for vessels

46 CFR part 308 — War risk insurance

46 CFR part 309 — Values for war risk insurance

46 CFR part 310 — Merchant marine training

RESEARCH AND SPECIAL PROGRAMS ADMINSTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	49 CFR sections 171.15, 171.16 (incident reports)	1998	1999
2	49 CFR parts 106 and 107 (hazardous materials safety procedures), 171 (general hazmat requirements), 190 (pipeline safety procedures), and 195 (hazardous liquid pipeline corrosion control)	1999	2000

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RESEARCH AND SPECIAL PROGRAMS ADMINSTRATION (Continued)
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Yea
3	49 CFR parts 174, 177 (rail and highway carriage) , 191 (gas pipeline transportation reports), and 192 (gas pipeline corrosion control)	2000	200
4	49 CFR parts 176 (vessel carriage) and 199 (pipeline employee drug and alcohol testing)	2001	200
5	49 CFR parts 172, 173, 174, 175, 176, 177, and 178 (radioactive material)	2002	200
6	49 CFR parts 172, 173, 174, 176, and 178 (explosives), and 193 (liquefied natural gas facilities), and parts 172, 173, 178, and 180 (cylinders)	2003	200
7	49 CFR 173 (shipper requirements) and 194 (onshore oil pipeline response plans)	2004	200
8	49 CFR parts 178 (non-bulk packaging) and 195 (hazardous liquid pipeline transportation)	2005	200
9	49 CFR parts 178 through 180 (bulk packaging) and 198 (State pipeline safety grants)	2006	200
10	49 CFR parts 172 (communications, emergency response, training and hazmat table) and 175 (air carriage)	2007	200

Year 3 (Fall 2000) List of Rules analyzed and a summary of the results

49 CFR part 174 — Carriage by rail

- Section 610: No SEIOSNOSE. While these requirements apply to a substantial number of small entities, they do not have a significant economic impact on those entities. For the most part, the operating requirements impose only minimal costs above costs incurred as a result of normal business practices. Further, the requirements have little or no impact on entry to or exit from the industry.
- Plain Language: As resources permit, RSPA will rewrite regulations using plain language techniques.

49 CFR part 177 — Carriage by public highway

- Section 610: No SEIOSNOSE. While these requirements apply to a substantial number of small entities, they do not have a significant economic impact on those entities. For the most part, the operating requirements impose only minimal costs above costs incurred as a result of normal business practices. Further, the requirements have little or no impact on entry to or exit from the industry.
- Plain Language: As resources permit, RSPA will rewrite regulations using plain language techniques.

49 CFR part 191 — Gas pipeline transportation reports

- Section 610: No SEIOSNOSE. The regulations do not impose any additional costs because they are consistent with current requirements for reporting of accidents and annual reporting.
- Plain Language: Plain language techniques will be used in the revisions to incident and annual reporting requirements.
- General: Reviewed incident and annual reporting requirements and will issue rules to improve cause categories and clarify requirements.

49 CFR part 192 — Gas pipeline corrosion control

- Section 610: No SEIOSNOSE. The regulations do not impose any additional costs because they are consistent with customary industry corrosion control and cathodic protection practices.
- Plain Language: Plain language techniques will be used in any amended regulations that result from rulemaking.
- General: Reviewed corrosion control regulations with state and industry experts; changes will be proposed to incorporat modern criteria for adequate corrosion protection.

Year 4 (Fall 2001) List of Rules that will be analyzed during the next year

49 CFR part 176 — Carriage by vessel

49 CFR part 199 — Pipeline employee drug and alcohol testing

BUREAU OF TRANSPORTATION STATISTICS
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Ye
1	14 CFR parts 241, Form 41	1998	19
2	14 CFR parts 241, Schedule T-100, and part 217	1999	20
3	14 CFR parts 298, 49 CFR 1420	2000	20
4	14 CFR parts 241, section 19-7	2001	20
5	14 CFR parts 291	2002	20
6	14 CFR parts 234	2003	20
7	14 CFR part 249	2004	20
8	14 CFR part 248	2005	20
9	14 CFR part 250	2006	20
10	14 CFR part 374a, ICAO	2007	20

Year 3 (Fall 2000) List of Rules analyzed and a summary of the results

14 CFR part 298, subpart F — Schedule 298-C, Report of Financial and Operating Statistics for Small Aircraft Operators

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- Section 610: potential SEIOSNOSE. This reporting is by small entities; comments will be requested from the affected small entities to assess the economic impact of the proposed changes.
- Plain Language: A proposed rule is being drafted using plain language techniques.
- General: This rule is being reviewed as part of an overall program analysis of aviation data requirements and modernization. During the review process, BTS identified certain data gaps that exist in the current traffic statistics reported by small aircraft operators. BTS has added a notice of proposed rulemaking (RIN 2139-AA08) to its Regulatory Agenda that is intended to address the gaps in the data.

49 CFR part 1420 — Reports of motor carriers

- Section 610: No SEIOSNOSE. This reporting is by Class I and Class II motor carriers that are not small entities.
- Plain Language: Plain language techniques will be used in drafting any necessary rule changes.
- General: We will continue our review and schedule this part for revision as appropriate.

Year 4 (Fall 2001) List of Rules that will be analyzed during the next year

14 CFR part 241, section 19-7-Passenger Origin and Destination Survey

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	33 CFR parts 401 through 403	1999	1999

SLDC has completed all its reviews.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2175	+Computer Reservations System Regulations Comprehensive Review	2105-AC65
2176	+Aviation Data Requirements Review and Modernization Program	2105-AC71
2177	Nondiscrimination on the Basis of Disability in Air Travel	2105-AC97
2178	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace Grants	2105-AD01
2179	Reporting Requirement for Air Carriers Regarding Disability-Related Complaints	2105-AD04

+ DOT-designated significant regulation

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2180	+Direct Air Carrier Responsibility for Returning Stranded Charter Passengers	2105-AA40
2181	Air Travelers: Age Discrimination	2105-AA45
2182	Direct Flights	2105-AA73
2183	Diversion of Flights Within a Metropolitan Area	2105-AA78
2184	Simplified Aviation Exemption Procedures	2105-AA82
2185	Baggage Liability Notices in International Air Transportation	2105-AA84
2186	Simplified Airline Counter-Sign Notices	2105-AA88
2187	+Price Advertising	2105-AB50
2188	+Procedures for Transportation Workplace Drug-Testing Programs	2105-AB71
2189	+Transportation for Individuals With Disabilities (Accessibility Guidelines)	2105-AC06
2190	Use of Direct Final Rulemaking	2105-AC11
2191	Overbooking of Flights: Elimination of Airport Notice Signs	2105-AC45
2192	Fees and Charges for Special Services: Reinvention	2105-AC47
2193	Amendments to Modal Alcohol Testing Rules: Pre-Employment Testing	2105-AC50
2194	Nondiscrimination in Air Travel; Boarding Where Level-Entry Is Unavailable	2105-AC81
2195	+Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	2105-AC83
2196	+Americans With Disabilities Act Accessibility Standards	2105-AC86
2197	Participation by Disadvantaged Business Enterprises in Department of Transportation Programs: Memorandum of Understanding With Small Business Administration; Uniform Forms and Other Revisions	2105-AC88
2198	Participation by Minority Business Enterprises in Department of Transportation Financial Assistance Programs: Threshold Requirements and Other Technical Revisions	2105-AC89
2199	Participation by Disadvantaged Business Enterprises in Department of Transportation Programs	2105-AC91

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Office of the Secretary—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2200	Statement of Policy on Alternative Dispute Resolution	2105-AC9
2201	Nondiscrimination in Federally Assisted Programs	2105-AC9
2202	Over the Road Buses: Extension of Due Date for Information Collection	2105-AC9
2203	Standard Time Zone Boundary in the State of North Dakota: Morton County	2105-AD0

+ DOT-designated significant regulation

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2204	Policy Statement on Airline Preemption	2105-AA4
2205	+Statement of Enforcement Policy on Rebating	2105-AB3
2206	+Accessibility of Passenger Vessels to Individuals With Disabilities	2105-AB8
2207	Use of Oxygen by Air Carrier Passengers	2105-AC2
2208	+Domestic Passenger Manifest Information	2105-AC6
2209	Electronic Filing Option in DOT Proceedings	2105-AC7

+ DOT-designated significant regulation

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
2210	+Participation by Disadvantaged Business Enterprises in Airport Concessions	2105-AC7
2211	Maintenance of and Access to Records Pertaining to Individuals	2105-AC9
2212	Extension of Computer Reservation System (CRS) Regulations	2105-AD0
2213	Procedures for Transportation Workplace Drug and Alcohol Testing Programs; Technical Amendments **(Completion of a Section 610 Review)**	2105-AD0

+ DOT-designated significant regulation

U.S. Coast Guard—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2214	+Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters (USCG-2001-10486)	2115-AG2

+ DOT-designated significant regulation

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2215	Claims Procedures Under the Oil Pollution Act of 1990 (CGD 91-035)	2115-AD9
2216	+Salvage and Marine Firefighting Requirements; Vessel Response Plans for Oil (USCG-1998-3417) **(Reg Plan Seq No. 98)**	2115-AF6
2217	Deepwater Ports (USCG-1998-3884)	2115-AF6
2218	Vessel Documentation (USCG-1998-4784)	2115-AF7
2219	Vapor Control Systems (USCG-1999-5150)	2115-AF7
2220	Revision of Auxiliary Regulations (USCG-1999-6712)	2115-AF9
2221	Allowing Alternative Source to Incandescent Light in Private Aids to Navigation (USCG-2000-7466)	2115-AF9
2222	+Vessel and Facility Response Plans for Oil: 2003 Equipment Caps and Alternative Technology Revisions (USCG-2001-8661)	2115-AG0
2223	+Post Casualty Drug and Alcohol Testing (USCG-2001-8773)	2115-AG0

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U.S. Coast Guard—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2224	Electronic Chart Display and Information System (ECDIS) (USCG-2001-8826)	2115-AG09
2225	+Tank Level or Pressure Monitoring Devices (USCG-2001-9046) **(Reg Plan Seq No. 99)**	2115-AG10
2226	Navigable Waters of the United States, Territorial Sea, Contiguous Zone; Conforming Definitions to Statutory Changes and Presidential Proclamations (USCG-2001-9044)	2115-AG13
2227	Revise Options for Responding to Notices of Violations (USCG-2001-9175)	2115-AG15
2228	Shipboard Marine Pollution Emergency Plans for Oil and/or Noxious Liquid Substances (USCG-2001-9174)	2115-AG16
2229	Federal Requirements for Propeller Injury Avoidance Measures (USCG 2001-10163)	2115-AG18
2230	Portable Tanks and Intermediate Bulk Containers (USCG-2001-10180)	2115-AG19
2231	Traffic Separation Scheme: In Prince William Sound, Alaska (USCG-2001-10254)	2115-AG20
2232	Safety Zones for Outer Continental Shelf Facilities in the Gulf of Mexico (CGD08-01-025)	2115-AG22

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2233	+Discharge-Removal Equipment for Vessels Carrying Oil (CGD 90-068)	2115-AD66
2234	Reporting Marine Casualties (USCG-2000-6927)	2115-AD98
2235	Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities (USCG-1998-4302)	2115-AE22
2236	+Marine Transportation-Related Facility Response Plans for Hazardous Substances (USCG-1999-5705) **(Reg Plan Seq No. 100)**	2115-AE87
2237	+Tank Vessel Response Plans for Hazardous Substances (USCG-1998-4354) **(Reg Plan Seq No. 101)**	2115-AE88
2238	Numbering of Undocumented Barges (USCG-1998-3798)	2115-AF13
2239	Licensing and Manning for Officers of Towing Vessels (USCG 1999-6224)	2115-AF23
2240	+Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) (CGD 95-062)	2115-AF26
2241	Propeller Injury Prevention Aboard Rental Boats (USCG-2001-10299)	2115-AF28
2242	Outer Continental Shelf Activities (USCG-1998-3868)	2115-AF39
2243	Fire-Suppression Systems and Voyage Planning for Towing Vessels (USCG 2000-6931)	2115-AF53
2244	Implementation of the National Invasive Species Act of 1996 (USCG-1998-3423)	2115-AF55
2245	Pollution Prevention for Oceangoing Ships and Certain Vessels in Domestic Service (USCG-2000-7641)	2115-AF56
2246	Rules of Practice, Procedure, and Evidence for Administrative Proceedings of the Coast Guard (USCG 1998-3472)	2115-AF59
2247	Safety of Uninspected Passenger Vessels Under the Passenger Vessel Safety Act of 1993 (USCG-1999-5040)	2115-AF69
2248	Certification of Navigation Lights for Uninspected Commercial Vessels and Recreational Vessels (USCG 1999-6540)	2115-AF70
2249	Vessel Traffic Service Lower Mississippi River (USCG-1998-4399)	2115-AF75
2250	Anchorage Ground; Safety Zone; Speed Limit; Tongass Narrows and Ketchikan, AK (CGD17-99-002)	2115-AF81
2251	Mandatory Ship Reporting System off the Northeast and the Southeast Coasts of the United States (USCG-1999-5525)	2115-AF82
2252	Training and Qualifications for Personnel on Passenger Ships (USCG 1999-5610)	2115-AF83
2253	Raising the Threshold of Property Damage for Reports of Accidents Involving Recreational Vessels (USCG-1999-6094)	2115-AF87
2254	Alternate Hull Examination Program for Certain Passenger Vessels, and Underwater Surveys for Passenger, Nautical School, and Sailing School Vessels (USCG-2000-6858)	2115-AF95
2255	Noxious Liquid Substances, Obsolete Hazardous Materials in Bulk, and Current Hazardous Materials in Bulk (USCG-2000-7079)	2115-AF96
2256	Cargo Securing on Vessels Operating in U.S. Waters (USCG-2000-7080)	2115-AF97
2257	Wearing of Personal Flotation Devices (PFDs) by Certain Children aboard Recreational Vessels (USCG-2000-8589)	2115-AG04
2258	Notification of Arrival: Addition of Charterer to Required Information (USCG-2001-8659)	2115-AG06
2259	+Vessel Documentation: Lease Financing for Vessels Engaged in the Coastwise Trade (USCG-2001-8825)	2115-AG08
2260	Inspection and Enforcement of Coast Guard Regulations for Fixed Facilities by Minerals Management Service (USCG-2001-9045)	2115-AG14
2261	Alternate Compliance Program (USCG-2001-10164)	2115-AG17

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Sequence Number	Title	Regulation Identification Number
2262	Protection of Naval Vessels (LANT AREA-01-001 and PAC AREA-01-001)	2115-AG23

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. Coast Guard—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2263	Safety/Security Zone Regulations	2115-AA97
2264	Special Anchorage Areas/Anchorage Grounds Regulations	2115-AA98
2265	Permits for the Transportation of Municipal and Commercial Wastes (USCG-2000-7442)	2115-AD25
2266	+Escort Vessels for Certain Tankers (CGD 91-202)	2115-AE10
2267	State Access to the Oil Spill Liability Trust Fund (CGD 92-014)	2115-AE15
2268	Regatta Regulations	2115-AE46
2269	Drawbridge Regulations	2115-AE47
2270	+Escort Vessels in Certain U.S. Waters (CGD 91-202a)	2115-AE50
2271	Regulated Navigation Areas	2115-AE84
2272	Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan (USCG-1998-4623)	2115-AF30
2273	Carriage of Bulk Solid Materials Requiring Special Handling (USCG-2000-6932)	2115-AF41
2274	+Emergency Response Plans for Passenger Vessels (USCG-1998-3473)	2115-AF61
2275	Commercial Diving Operations (USCG-1998-3786)	2115-AF62
2276	+Improvements to Maritime Safety in Puget Sound-Area Waters (USCG-1998-4501)	2115-AF63
2277	Barges Carrying Bulk Liquid Hazardous Material (USCG-1999-5117) **(Section 610 Review)**	2115-AF71

+ DOT-designated significant regulation

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identification Number
2278	Vessel Identification System (USCG-1999-6420)	2115-AD36
2279	Marine Shipboard Electrical Cable Standards (USCG-1999-6096)	2115-AF82
2280	Great Lakes Pilotage Rates (USCG-1999-6098)	2115-AF91
2281	Chemical Testing (USCG-2000-7759)	2115-AG01
2282	Exemption of Public Vessels Equipped With Electronic Charting and Navigation Systems From Paper Chart Requirements (USCG 2000-8300)	2115-AG09
2283	Right to Appeal; Director, Great Lakes Pilotage (USCG-2001-8894)	2115-AG11
2284	Discharge of Effluents in Certain Alaskan Waters by Cruise Vessel Operations (CGD 17-01-003)	2115-AG12
2285	Temporary Requirements for Notification of Arrival in U.S. Ports (USCG-2001-10689)	2115-AG13

Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2286	+Improved Water Survival Equipment	2120-AC80
2287	+Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	2120-AC81
2288	+Corrosion Control Program	2120-AE97
2289	+National Air Tour Safety Standards	2120-AF87
2290	+Flight Crewmember Duty Period Limitations, Flight Time Limitations, and Rest Requirements **(Reg Plan Seq No. 102)**	2120-AF94
2291	+False and Misleading Statements Regarding Aircraft Parts	2120-AG03
2292	Licensing and Safety Requirements for Launch	2120-AG27
2293	+Child Restraint Systems	2120-AG28
2294	Revision of Air Carrier Crewmember and Training Regulations	2120-AG29

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Federal Aviation Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2295	Training in the Recognition of Hazardous Material	2120-AG75
2296	+Traffic Alert and Collision Avoidance Systems	2120-AG90
2297	+Air Tour Operations in State of Hawaii	2120-AH02
2298	+Fractional Ownership	2120-AH06
2299	+Flight Simulation Device Qualification	2120-AH07
2300	Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activies	2120-AH14
2301	Airworthiness Directives	2120-AH17
2302	+Certification of Pilots, Aircraft, and Repairmen for the Operation of Light Sport Aircraft	2120-AH19
2303	Powered Lift Operations	2120-AH20
2304	Refusal to Submit to an Authorized Drug Test	2120-AH23
2305	Public Address System	2120-AH30
2306	Safe, Efficient Use, and Preservation of the Navigable Airspace	2120-AH31
2307	Design Requirements for Pressurization and Pneumatic Systems Installed on Transport Category Airplanes	2120-AH33
2308	Design Standards for Fuselage Doors on Transport Category Airplanes	2120-AH34
2309	Reverse Thrust and Propeller Pitch Settings Below the Flight Regime	2120-AH35
2310	Material Strength Properties and Design Values	2120-AH36
2311	Revisions to Various Powerplant Installation Requirements for Transport Category Airplanes	2120-AH37
2312	Lower Deck Service Compartments on Transport Category Airplanes	2120-AH38
2313	Miscellaneous Flight Requirements	2120-AH39
2314	Trim Systems and Protective Breathing Equipment	2120-AH40
2315	Revisions to Passenger Facility Charge Rule for Compensation to Air Carriers	2120-AH43
2316	Noise Stringency Increase for Single-Engine Propeller-Driven Small Airplanes	2120-AH44

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2317	Objects Affecting Navigable Airspace	2120-AA00
2318	Miscellaneous Amendments	2120-AA50
2319	1-G Stalling Speed as a Basis for Aircraft Parts	2120-AD40
2320	+Revision of Part 108, Aircraft Operator Security	2120-AD45
2321	+Revision of Part 107, Airport Security	2120-AD46
2322	+Aging Aircraft Safety	2120-AE42
2323	Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System	2120-AE81
2324	Flight Attendant English Language Proficiency	2120-AE98
2325	+Revised Access to Type III Exits	2120-AF01
2326	+Flight Operational Quality Assurance Program	2120-AF04
2327	Los Angeles, CA, Class B Airspace	2120-AF16
2328	+Revision of Emergency Evacuation Demonstration Procedures To Improve Participant Safety	2120-AF21
2329	+Overflights of Units of the National Park System	2120-AF46
2330	Revised Precision Approach Landing Systems Policy	2120-AG16
2331	+Screening of Checked Baggage on Flights Within the United States	2120-AG51
2332	+Policy Regarding Airport Rates and Charges	2120-AG58
2333	Revision of Braking Systems Airworthiness Standards to Harmonize With European Airworthiness Standards for Transport Category Airplanes	2120-AG80
2334	+Certification of Screening Companies	2120-AG84
2335	+Revisions to Digital Flight Data Recorder Regulations for B-737 Airplanes and for Part 125 Operators	2120-AG87
2336	+Improved Flammability Standards for Thermal/Acoustic Insulation Materials Used in Transport Category Airplanes **(Reg Plan Seq No. 103)**	2120-AG91
2337	Fire Protection of Electrical System Components on Transport Category Airplanes	2120-AG92
2338	+Certification Procedures for Products and Parts **(Section 610 Review)**	2120-AG93
2339	+Certification of Airports **(Reg Plan Seq No. 104)**	2120-AG96
2340	Special Flight Rules in the Vicinity of Grand Canyon National Park	2120-AG97
2341	Noise Certification Standards for Subsonic Jet Airplanes and Subsonic Transport Category Large Airplanes	2120-AH03

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2343	Safe Disposition of Life Limited Aircraft Parts	2120-AH1
2344	Reduced Vertical Separation Minimum in the West Atlantic Route System Airspace	2120-AH1
2345	Alcohol and Antidrug Misuse Prevention Program for Personnel Engaged in Specified Aviation Activities	2120-AH1
2346	Civil Penalty Inflation Adjustment Revisions	2120-AH2
2347	Security Control of Air Traffic	2120-AH2
2348	Revision to Airspeed Indicating System Requirements for Transport Category Airplanes	2120-AH2
2349	Electrical Installation, Nickel Cadmium Battery Installation, and Nickel Cadmium Battery Storage	2120-AH2
2350	Design and Installation of Electronic Equipment on Transport Category Airplanes	2120-AH2
2351	Electrical Cables	2120-AH2
2352	Transition to an All Stage 3 Fleet Operating in the 48 Contiguous United States and the District of Columbia	2120-AH4
2353	Harmonization of Noise Certification Standards for Propeller-Driven Small Airplanes	2120-AH4

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Federal Aviation Administration—Long-Term Actions

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2354	+Fuel System Vent Fire Protection	2120-AA4
2355	IFR Altitudes; Miscellaneous Amendments	2120-AA6
2356	Airworthiness Directives	2120-AA6
2357	Standard Instrument Approach Procedures; Miscellaneous Amendments	2120-AA6
2358	Airspace Actions	2120-AA6
2359	Low Fuel Quantity Alerting System	2120-AB4
2360	Aircraft Engines: Fuel and Induction Systems	2120-AB7
2361	Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines	2120-AC8
2362	+Drug Enforcement Assistance	2120-AD1
2363	Airplane Engine Cowling Retention	2120-AD3
2364	Type Certificates for Some Surplus Aircraft of the Armed Forces	2120-AE4
2365	+Aircraft Ground Deicing and Anti-Icing Program	2120-AE7
2366	Civil Penalty Assessment Procedures	2120-AE8
2367	+Training and Checking in Ground Icing Conditions	2120-AF0
2368	Miscellaneous Cabin Safety Changes	2120-AF7
2369	Bird Strike	2120-AF8
2370	+Security Programs of Foreign Air Carriers and Foreign Operators of U.S. Registered Air Carriers Engaged in Common Carriage	2120-AG1
2371	+Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park	2120-AG3
2372	+Prohibition of the Transportation of Devices Designed as Chemical Generators as Cargo in Aircraft	2120-AG3
2373	+Revised Standards for Cargo or Baggage Compartments in Transport Category Airplanes	2120-AG4

+ DOT-designated significant regulation

Federal Aviation Administration—Completed Actions

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2374	Airworthiness Standards; Crash-Resistant Fuel Systems	2120-AA5
2375	+Part 145 Review: Repair Stations	2120-AC3
2376	+Sole Radio Navigation System; Minimum Standards for Certification	2120-AD2
2377	Revision of Hydraulics Systems Airworthiness Standards To Harmonize With European Airworthiness Standards for Transport Category Airplanes	2120-AF7
2378	+Fees for FAA Services for Certain Flights	2120-AG1
2379	+Protection of Voluntarily Submitted Information	2120-AG3
2380	Parachute Operations	2120-AG5
2381	+Transport Airplane Fleet Fuel Tank Ignition Source Review; Flammability Reduction, and Maintenance and Inspection Requirements	2120-AG6

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Federal Aviation Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
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2383	Financial Responsibility Requirements for Licensed Reentry Activities	2120-AG76
2384	+Emergency Medical Equipment	2120-AG89
2385	Temporary Flight Restrictions	2120-AH13
2386	Intermix Exclusion Deletion	2120-AH22
2387	Aircraft Registration Requirements; Clarification of "Court of Competent Jurisdiction"	2120-AH24
2388	Revisions to Requirements Concerning Airplane Operating Limitations and the Content of Airplane Flight Manuals for Transport Category Airplanes	2120-AH32

+ DOT-designated significant regulation

Federal Highway Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2389	Highway Beautification	2125-AD24
2390	Work Zone Safety	2125-AE29
2391	Revisions to Highway Bridge Replacement and Rehabilitation Program	2125-AE75
2392	+National Bridge Inspection Standards	2125-AE86

+ DOT-designated significant regulation

Federal Highway Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2393	Certification of Size and Weight Enforcement	2125-AC60
2394	Advanced Construction of Federal Aid Projects	2125-AD59
2395	National Standards for Traffic Control Devices; MUTCD; Minimum Retroreflectivity Requirements for Traffic Signs	2125-AE39
2396	+Federal Lands Highway Program; Management Systems Pertaining to the National Park Service, Including the Park Roads and Parkways Program	2125-AE52
2397	+Federal Lands Highway Program; Management Systems Pertaining to the Bureau of Indian Affairs, Including the Indian Reservations Road Program	2125-AE53
2398	+Federal Lands Highway Program; Management Systems Pertaining to the Fish and Wildlife Service, Including the Refuge Roads Program	2125-AE54
2399	+Federal Lands Highway Program; Management Systems Pertaining to the Forest Service, Including the Forest Highways Program	2125-AE55
2400	Revision of the Manual on Uniform Traffic Control Devices; Traffic Control Devices on Federal-Aid and Other Streets and Highways; Standards	2125-AE78
2401	+Design-Build Contracting	2125-AE79
2402	+Railroad-Highway Crossing Projects	2125-AE81
2403	Planning and Research Program Administration	2125-AE84
2404	Landscape Development	2125-AE85
2405	Discretionary Bridge Candidate Rating Factor	2125-AE88
2406	Design Standards for Highways	2125-AE89
2407	Dromedary Box Truck Tractor-Semitrailers; Specialized Equipment and Width Exclusion	2125-AE90
2408	Debt Financing	2125-AE91

+ DOT-designated significant regulation

Federal Highway Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2409	Truck Length and Width Exclusive Devices	2125-AC30
2410	Railroad Highway Projects	2125-AD66

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2411	Administration of Engineering and Design Related Services Contracts	2125-AE45
2412	+Revision of Color Specifications for Signs and Pavement Marking Retroreflective Materials	2125-AE67
2413	Engineering Services	2125-AE73
2414	Right-of-Way	2125-AE82
2415	National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices; Accessible Pedestrian Signals	2125-AE83

+ DOT-designated significant regulation

Federal Highway Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2416	Federal-Aid Highway Systems	2125-AD74
2417	Indian Reservation Road Bridge Program	2125-AE57
2418	+Statewide and Metropolitan Planning	2125-AE62
2419	Standards for Dedicated Short Range Communications (DSRC) Applications for Use by Commercial Vehicles in Intelligent Transportation Systems Projects	2125-AE63
2420	+NEPA and Related Procedures for Transportation Decisionmaking; Protection of Public Parks, Wildlife and Waterfowl Refuges and Historic Sites	2125-AE64
2421	Procedures for Abatement of Highway Traffic Noise and Construction Noise	2125-AE80

+ DOT-designated significant regulation

Federal Highway Administration—Completed Actions

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2422	Federal-Aid Project Agreement	2125-AE7
2423	National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices for Streets and Highways; Correction	2125-AE8

Federal Motor Carrier Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2424	+Federal Motor Carrier Safety Regulations; Interstate School Bus Safety	2126-AA5
2425	Posting of Employee Protections Information	2126-AA6

+ DOT-designated significant regulation

Federal Motor Carrier Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2426	+Qualification of Drivers; Vision	2126-AA0
2427	+Minimum Training Requirements for Operators and Training Instructors of Multiple Trailer Combination Vehicles	2126-AA0
2428	+Training for Entry-Level Drivers of Commercial Motor Vehicles	2126-AA0
2429	+Commercial Driver Physical Fitness as Part of the CDL Process	2126-AA1
2430	Safety Performance History of New Drivers	2126-AA1
2431	Parts and Accessories Necessary for Safe Operation; Television Receivers and Data Display Units	2126-AA1
2432	+Motor Carrier Replacement Information Registration System	2126-AA2
2433	Safety Fitness Procedures	2126-AA3
2434	+Federal Motor Carrier Safety Regulations; Zero-Base Revision	2126-AA3

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Federal Motor Carrier Safety Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2435	+New Entrant Safety Assurance Process	2126-AA59
2436	Rules of Practice for Administrative Proceedings	2126-AA63
2437	+Certification of Safety Auditors	2126-AA64

+ DOT-designated significant regulation

Federal Motor Carrier Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2438	Rules of Practice for Motor Carrier Proceedings; Investigations; Disqualifications and Penalties	2126-AA15
2439	+Railroad-Highway Grade Crossing Safety	2126-AA18
2440	+Hours of Service of Drivers; Driver Rest and Sleep for Safe Operations **(Rulemaking Resulting From a Section 610 Review) (Reg Plan Seq No. 105)**	2126-AA23
2441	Development of a North American Standard for Protection Against Shifting and Falling Cargo	2126-AA27
2442	+Revision of Regulations and Application Form for Mexican-Domiciled Motor Carriers To Operate in U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border	2126-AA33
2443	+Application by Certain Mexican Motor Carriers To Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border	2126-AA34
2444	+Safety Monitoring System and Compliance Initiative for Mexican Motor Carriers Operating in the United States	2126-AA35
2445	Out-of-Service Criteria	2126-AA36
2446	Federal Motor Carrier Safety Regulations; Waivers, Exemptions, and Pilot Programs; Rules and Procedures	2126-AA41
2447	Brake Performance Requirements for CMVs Inspected by Performance-Based Brake Testers	2126-AA46
2448	+Federal Motor Carrier Safety Regulations; Safety Requirements for Operators of Small Passenger-Carrying Commercial Motor Vehicles Used in Interstate Commerce	2126-AA52
2449	Commercial Driver's License Standards; Requirements and Penalties; Noncommercial Motor Vehicle Violations	2126-AA55
2450	Motor Carrier Identification Report	2126-AA57
2451	+Commercial Driver's License Standards; Requirements and Penalties; Commercial Driver's License Program Improvements	2126-AA60
2452	Parts and Accessories Necessary for Safe Operation; General Amendments	2126-AA61

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Federal Motor Carrier Safety Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2453	+Commercial Driver's License Standards; Biometric Identifier	2126-AA01
2454	Commercial Learner Permits	2126-AA03
2455	+Federal Motor Carrier Safety Regulations; General Transportation of Hazardous Materials	2126-AA07
2456	Parts and Accessories Necessary for Safe Operation; Sleeper Berths on Motor Coaches	2126-AA12
2457	Electronic Filing of Surety Bonds, Trust Fund Agreements, Insurance Certificates; Cancellations	2126-AA24
2458	General Jurisdiction Over Freight Forwarder Service	2126-AA25
2459	+English Language Requirement; Qualifications of Drivers	2126-AA31
2460	Transportation of Household Goods; Consumer Protection Regulations **(Rulemaking Resulting From a Section 610 Review)**	2126-AA32
2461	+General Requirements; Inspection, Repair, and Maintenance; Intermodal Container Chassis and Trailers	2126-AA38
2462	+Post-Accident Controlled Substances and Alcohol Test Results; Reporting Requirements for the Fatality Analysis Reporting System	2126-AA50

+ DOT-designated significant regulation

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Federal Motor Carrier Safety Administration—Completed Actions

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2463	Minimum Levels of Financial Responsibility for Mexican Motor Carriers	2126-AA30
2464	Conforming Amendments to DOT Drug and Alcohol Rule	2126-AA58
2465	Federal Motor Carrier Safety Regulations; Miscellaneous Technical Amendments	2126-AA62

National Highway Traffic Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2466	Review: American Automobile Labeling Act	2127-AG18
2467	Review: Heavy Truck Conspicuity	2127-AG19
2468	Review: Child Safety Seat Registration	2127-AG93
2469	Review: Air Bag On-Off Switches	2127-AH12
2470	Review: Head Restraints for Light Trucks	2127-AH98
2471	Adaptation of Instrumented Lower Legs for Hybrid III Male and Female Adult Dummies	2127-AI39

National Highway Traffic Safety Administration—Proposed Rule Stage

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2473	Seating Systems Performance	2127-AD09
2474	Certification Requirements of Multistage Vehicles	2127-AE27
2475	Convex Cross-View Mirrors	2127-AG41
2476	Upgrade Roof Crashworthiness	2127-AG51
2477	Hybrid III 95th Percentile Male	2127-AG79
2478	Buy American Requirements	2127-AG95
2479	Political Subdivision Participation in State Highway Safety Programs and State Highway Safety Agency	2127-AH01
2480	Definition of Community Transportation Vehicles	2127-AH23
2481	Metric Conversion—Phase III	2127-AH27
2482	Upgrade Door Retention Performance	2127-AH31
2483	Administrative Rewrite of the Lighting Requirements Other Than Headlamps	2127-AH33
2484	Exemption for Inconsequential Defect or Noncompliance	2127-AH51
2485	Compliance and Enforcement	2127-AH61
2486	Accelerator Control Systems	2127-AH71
2487	+Frontal Offset Protection **(Reg Plan Seq No. 106)**	2127-AH73
2488	Special Purpose Vehicles	2127-AH75
2489	Brake Hoses	2127-AH77
2490	Low-Speed Vehicle Performance Requirements	2127-AH81
2491	Headlamp Glare	2127-AH83
2492	Motorcycle Headlamp System	2127-AH91
2493	Improve Motorcycle Helmet Head Protection	2127-AI01
2494	Label Placement on Rear Impact Guards	2127-AI03
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2502	Record Retention (Amendment)	2127-AI31
2503	Improve Tire Safety Information	2127-AI33
2504	Improving the Safety of Child Restraints	2127-AI35
2505	Seat Belt Fit	2127-AI37
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2507	Voluntarily Installed Seat Belt Assembly Anchorages	2127-AI41

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National Highway Traffic Safety Administration—Proposed Rule Stage (Continued)

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2508	+Automotive Fuel Economy Manufacturing Incentive for Alternative Fuel Vehicles	2127-AI41
2509	Idle Stop Technology Used in Some Hybrid Electric Vehicles	2127-AI43
2510	+Operation of Motor Vehicles by Intoxicated Persons	2127-AI44
2511	Procedures for Participating In and Receiving Data From the National Driver Registration Problem Driver Pointer System	2127-AI45
2512	Expanding the Auto Parts Marking Requirement	2127-AI46
2513	Parking Brakes for Non-School Bus Vehicles	2127-AI47
2514	Cargo Carrying Capacity	2127-AI50
2515	Convex Mirrors for Commercial Trucks	2127-AI52
2516	Enhance Passenger-Side Mirror System	2127-AI53
2517	+Improved Tire Safety	2127-AI54
2518	Child Safety Information Labels	2127-AI55
2519	Horizontal Discharge Trailers	2127-AI56
2520	Heavier Hybrid III Type 6-Year-Old Size Test Dummy	2127-AI58

+ DOT-designated significant regulation
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National Highway Traffic Safety Administration—Final Rule Stage

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2521	Brake Lining	2127-AC66
2522	+Platform Lift Systems	2127-AD50
2523	Radiator Safety Cap	2127-AE59
2524	Upgrade Fuel Integrity Performance Requirements	2127-AF36
2525	Alternative Geometric Visibility Requirements for Lamps	2127-AF75
2526	Power-Operated Windows: Roof Panels	2127-AF83
2527	Dealer Notification of Defect or Noncompliance Determination	2127-AG27
2528	Power Window Safety Switches	2127-AG36
2529	Seat Belt Positioning Devices	2127-AG49
2530	Glare Reduction From Daytime Running Lamps	2127-AG86
2531	Administrative Rewrite for Headlamp Requirements	2127-AG87
2532	Signal Lamps Used With Light Emitting Diodes	2127-AG88
2533	Motorcycle Mounted Reflex Reflector Height	2127-AG92
2534	+Allocation of Fuel Economy Credits	2127-AG97
2535	Placement of Wheelchair Restraints on Buses	2127-AH03
2536	Incorporate the 1996 Revision of the American National Standards Institute (ANSI)	2127-AH08
2537	+Harmonization of Head Restraints	2127-AH09
2538	Truck Air Braking Requirements	2127-AH11
2539	Child Restraints for Older Children	2127-AH14
2540	Heavy Vehicle Antilock Brake System (ABS) Performance Requirement	2127-AH16
2541	Ejection Mitigation Using Advanced Glazing	2127-AH50
2542	Upper Interior Impact	2127-AH61
2543	Registered Importers of Vehicles Not Originally Manufactured to Conform with the Federal Motor Vehicle Safety Standards	2127-AH67
2544	Vehicles With Raised Roofs	2127-AH74
2545	School Bus Body Joint Strength	2127-AH84
2546	Stowable or Fold-Away Child Restraint Anchorages	2127-AH85
2547	Clarify Test Procedures for Brake Fluids	2127-AH96
2548	Child Restraint Anchorage Systems—Part 2	2127-AH99
2549	Hybrid III Type 6-Year-Old Size Test Dummy	2127-AI00
2550	Fifth Percentile Female Test Dummy	2127-AI01
2551	Hybrid III Type 3-Year-Old Size Test Dummy	2127-AI02
2552	+Advanced Air Bags	2127-AI10
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2555	Tire Pressure Monitoring System	2127-AI33

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2556	Trailer Test Rig	2127-AI4
2557	Compliance for Multistage Manufacturers and Alterers	2127-AI4
2558	Electrical Vehicle Safety	2127-AI5

+ DOT-designated significant regulation

National Highway Traffic Safety Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2559	+Crashworthiness Ratings	2127-AA0
2560	+Flammability of Interior Materials—School Buses	2127-AA4
2561	Review: Odometer Fraud	2127-AF5
2562	+Review: Side Impact Protection	2127-AF5
2563	Door Latch Exemption for Vehicles Equipped With Wheelchair Lifts and Ramps	2127-AG1
2564	Review: Redesigned Air Bags	2127-AH1
2565	Use of Universal Child Seats in Aircraft	2127-AH5
2566	Defect Reporting and Notification	2127-AH8
2567	Guidelines for States on Enforcement of Light Transmission	2127-AH9
2568	Review: Antilock Brake Systems for Heavy Trucks	2127-AI1
2569	Review: Rear Impact Guards for Truck Trailers	2127-AI1
2570	Civil Penalties	2127-AI4

+ DOT-designated significant regulation

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2571	Automotive Fuel Economy Reports	2127-AG0
2572	State-Issued Identification Documents	2127-AG9
2573	Motorcycle Braking Requirements	2127-AH1
2574	+Safety Incentive Grants for Use of Seat Belts-Allocations Based on State Seat Belt Use Rates	2127-AH3
2575	Occupant Protection Incentive Grants	2127-AH4
2576	Neck Lateral Bending for 50th Percentile Male Side Impact Dummy Hybrid III (SID/HIII)	2127-AH6
2577	Theft Data for Calendar Year 1999	2127-AI0
2578	Insurer Reporting Requirements for October 2001	2127-AI0
2579	High-Theft Lines for Model Year 2002	2127-AI0
2580	Sale or Lease of Defective or Noncompliant Tire	2127-AI2
2581	Safe Harbor Provision	2127-AI2
2582	Hybrid III Type 12-Month-Old Size Test Dummy	2127-AI3
2583	Interior Trunk Release	2127-AI5

+ DOT-designated significant regulation

Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2584	+Standards for Development and Use of Processor-Based Signal and Train Control Systems **(Reg Plan Seq No. 107)**	2130-AA
2585	Locomotive Crashworthiness	2130-AB
2586	Locomotive Event Recorders	2130-AB
2587	Revision to Railroad Safety Enforcement Procedures	2130-AB
2588	Rules of Practice	2130-AB

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Federal Railroad Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2589	+Application of Random Testing and Other Alcohol and Drug Regulations to Employees of Foreign Railroads	2130-AB39

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Federal Railroad Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2590	Local Rail Freight Assistance to States	2130-AA60
2591	+Whistle Bans at Highway-Rail Grade Crossings	2130-AA71
2592	Locomotive Cab Working Conditions	2130-AA89
2593	Small Railroads; Policy Statement on Enforcement Program	2130-AB15
2594	+Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, Acquisitions of Control and Start-Up Operations	2130-AB24
2595	Bridge Worker Safety Standards	2130-AB25
2596	Roadway Equipment Safety	2130-AB28
2597	Annual Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents	2130-AB30
2598	Determination of Minimum Testing Rate for Random Drug and Alcohol Testing	2130-AB31
2599	+Locational Requirement for Dispatching of United States Rail Operations	2130-AB36
2600	Passenger Equipment Safety Standards	2130-AB48

+ DOT-designated significant regulation

Federal Railroad Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2601	+Freight Car Safety Standards: Maintenance-of-Way Equipment	2130-AA68
2602	Blue Signal and Related Protections	2130-AA90
2603	Crane Safety Standards	2130-AB27
2604	Railroad Car Conspicuity	2130-AB41
2605	+Minimum Standards for Temperature in the Locomotive Cab	2130-AB46
2606	Improvements to the System for Reporting Train Accidents	2130-AB50
2607	Revision to the Accident/Incident Reporting Regulations and Guide	2130-AB51

+ DOT-designated significant regulation

Federal Railroad Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2608	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems	2130-AA97
2609	Revision of Regulations Addressing Discontinuance or Modification of Signal Systems	2130-AB05
2610	Revision of Signal System Reporting Requirements	2130-AB06
2611	Use of One-Person Crews in Rail Operations	2130-AB18
2612	+Requirements for Proficiency in the Use of the English Language and for the Use of English Units of Measurements in Communications About Railroad Operations in the United States	2130-AB40
2613	Automatic Train Control and Advanced Civil Speed Enforcement System; Northeast Corridor Railroads	2130-AB47
2614	Power Brake Regulations: Freight Power Brake Revisions	2130-AB49

+ DOT-designated significant regulation

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Federal Transit Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2615	+Bus Testing	2132-AA3
2616	+Clean Fuels Formula Grant Program **(Reg Plan Seq No. 108)**	2132-AA6

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Federal Transit Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2617	Buy America Requirements; Amendment to Certification Procedures	2132-AA6
2618	School Bus Operations	2132-AA6

Federal Transit Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2619	+NEPA and Related Procedures for Transportation Decisionmaking; Protection of Public Works, Wildlife and Waterfowl Refuges and Historic Sites	2132-AA4
2620	+Statewide Metropolitan Planning	2132-AA6
2621	Buy America Requirements; Permanent Waiver for Microcomputers	2132-AA6
2622	State Safety Oversight; Rail Fixed Guideway Systems	2132-AA6
2623	+Requirement for Third-Party Contracting with FTA Recipients	2132-AA7

+ DOT-designated significant regulation

Federal Transit Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2624	Charter Services Demonstration Program	2132-AA5
2625	Prevention of Alcohol Misuse and Drug Use in Transit Operations	2132-AA7

Saint Lawrence Seaway Development Corporation—Completed Actions

Sequence Number	Title	Regulation Identification Number
2626	Seaway Regulations and Rules and Tariff of Tolls	2135-AA1

Research and Special Programs Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2627	+Maps and Records of Pipeline Locations and Characteristics; Notification of State Agencies; Pipe Inventory	2137-AB4
2628	Hazardous Materials: Revision of Requirements for Carriage by Aircraft	2137-AD1

+ DOT-designated significant regulation

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Research and Special Programs Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2629	Pipeline Safety: Gas Gathering Line Definition	2137-AB15
2630	Hazardous Materials: Retention of Shipping Papers	2137-AC64
2631	+Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage **(Reg Plan Seq No. 109)**	2137-AC68
2632	Hazardous Materials: Requirements for Cargo Tanks	2137-AC90
2633	Pipeline Safety: Further Regulatory Review; Gas Pipeline Safety Standards	2137-AD01
2634	+Pipeline Safety: Recommendations To Change Hazardous Liquid Pipeline Safety Standards	2137-AD10
2635	Hazardous Materials: Hazard Communication Requirements—Petitions for Rulemaking and Miscellaneous Amendments	2137-AD28
2636	Hazardous Materials: Air Carrier Emergency Telephone Number Requirements	2137-AD29
2637	+Hazardous Materials Safety: Transportation of Oxygen Cylinders on Aircraft	2137-AD33
2638	+Hazardous Materials: Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids	2137-AD36
2639	Hazardous Materials: Adoption of latest IAEA and Other Miscellaneous Revisions and Clarifications	2137-AD40
2640	Pipeline Safety: Producer-Operated Outer Continental Shelf Gas and Hazardous Liquid Pipelines That Cross Directly Into State Waters	2137-AD42
2641	Hazardous Materials: Miscellaneous Amendments for Unloading IM Portable Tanks on a Transport Vehicle - Petition for Rulemaking	2137-AD44
2642	Hazardous Materials: Transportation of Lithium Batteries	2137-AD48
2643	Hazardous Materials: Revision of the Requirements for Hazardous Waste Manifests	2137-AD50
2644	Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Gas Transmission Pipeline Operators)	2137-AD54
2645	Hazardous Materials: Frangible Discs on Tank Cars	2137-AD57
2646	Pipeline Safety: Hazardous Liquid Pipeline Operator Annual Reports	2137-AD59

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Research and Special Programs Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2647	Quantity Limitations Aboard Aircraft	2137-AA85
2648	+Hazardous Materials: Requirements for Cylinders	2137-AA92
2649	DOT 3AL Aluminum Cylinders; Safety Problems	2137-AB51
2650	+Pipeline Safety: Response Plans for Onshore Oil Pipelines	2137-AC30
2651	Filling of Propane Cylinders	2137-AC86
2652	Hazardous Materials: Revisions to Standards for Infectious Substances and Genetically Modified Microorganisms	2137-AD13
2653	Hazardous Materials: Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures	2137-AD20
2654	Pipeline Safety: Controlling Corrosion on Hazardous Liquid and Carbon Dioxide Pipelines	2137-AD24
2655	Pipeline Safety: Periodic Updates to Pipeline Safety Requirements (1999)	2137-AD35
2656	Hazardous Materials: Limited Extension of Requirements for Labeling Certain Shipments of Materials Poisonous by Inhalation (PIH)	2137-AD37
2657	Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions	2137-AD41
2658	Revisions; Definition of Administrator	2137-AD43
2659	Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Hazardous Liquid Operators With Less Than 500 Miles of Pipeline)	2137-AD49
2660	Hazardous Materials: Reduction of Registration Fees	2137-AD53
2661	Pipeline Safety: Hazardous Liquid Pipeline Accident Reporting Revisions	2137-AD56
2662	Hazardous Materials: Requirements for Maintenance, Requalification, and Repair of DOT Specification Cylinders	2137-AD58
2663	Hazardous Materials Regulations: Editorial Corrections and Clarifications	2137-AD60
2664	Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Repair Criteria)	2137-AD61

+ DOT-designated significant regulation

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Research and Special Programs Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2665	Pipeline Safety: Passage of Internal Inspection Devices	2137-AB71
2666	+Safeguarding Food From Contamination During Transportation	2137-AC00
2667	Pipeline Safety: Periodic Underwater Inspections	2137-AC54
2668	Hazardous Materials: Revisions to the Incident Reporting Requirements and the Detailed Hazardous Materials Incident Report DOT Form	2137-AD21
2669	Pipeline Safety: Enforcement Procedures	2137-AD22
2670	Pipeline Safety: Pressure Testing Older Pipelines in Terminals	2137-AD26
2671	Hazardous Materials: Revised and Clarified Hazardous Materials Exemptions Procedures	2137-AD30
2672	Hazardous Materials: Cargo Tank Rollover Requirements	2137-AD34
2673	Pipeline Safety: Integrity Management Communication	2137-AD62
2674	Pipeline Safety: Controlling Corrosion on Gas Pipelines	2137-AD63

+ DOT-designated significant regulation

Research and Special Programs Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2675	Hazardous Materials: Revision of Requirements for Carriage by Rail Car and Motor Vehicle	2137-AD19
2676	Hazardous Materials: Minor Editorial Corrections and Clarifications	2137-AD51
2677	Pipeline Safety: Drug and Alcohol Testing for Pipeline Facility Employees	2137-AD55

Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2678	+Cargo Preference Regulations—Carriage of Agricultural Exports	2133-AB37

+ DOT-designated significant regulation

Maritime Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2679	Eligibility of U.S.-Flag Vessels of 100 Feet or Greater in Registered Length to Obtain a Fishery Endorsement to the Vessel's Documentation	2133-AB45

Maritime Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2680	Update to Part 205 - Audit Appeals; Policy and Procedure	2133-AB43
2681	Denial of Transfer to Foreign Registry Upon Revocation of Fishery Endorsement	2133-AB4-

Bureau of Transportation Statistics—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2682	Modernizing the Passenger Origin-Destination Survey	2139-AA0

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Bureau of Transportation Statistics—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2683	Air Carrier Traffic and Capacity Data By Nonstop Segment and On-Flight Market	2139-AA08
2684	+Amendment to Part 234 to Collect Causal Information for Airline Delays and Cancellations.	2139-AA09

+ DOT-designated significant regulation

Bureau of Transportation Statistics—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2685	Amendment to the Definitions of Revenue and Nonrevenue Passengers	2139-AA07

Department of Transportation (DOT)
Office of the Secretary (OST)

Proposed Rule Stage

2175. +COMPUTER RESERVATIONS SYSTEM REGULATIONS COMPREHENSIVE REVIEW

Priority: Other Significant

Legal Authority: 49 USC 41712; 49 USC 40101(a); 49 USC 40113(a); 49 USC 40105

CFR Citation: 14 CFR 255

Legal Deadline: Final, Statutory, December 31, 1997.

Abstract: The Department regulates computer reservations systems owned by airlines or airline affiliates that are used by travel agencies. The current rules are designed to prevent the systems from unreasonably prejudicing the competitive position of other airlines and to ensure that travel agencies can provide accurate and unbiased information to the public. The Department is reexamining its rules to see whether they should be readopted and, if so, whether they should be changed. As part of this action, we will be looking at ways to lessen impacts on small entities.

Timetable:

Action	Date	FR Cite
ANPRM	09/10/97	62 FR 47606
Notice Extending Comment Period	10/30/97	62 FR 58700
Request for Comments	11/07/97	62 FR 60195
ANPRM Comment Period End	11/10/97	
Extended Comment Period End	12/09/97	
Notice Extending Reply Comment Period	01/23/98	63 FR 3491
Extended Comment Period End	02/03/98	
SANPRM	07/24/00	65 FR 45551
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The extensions for the existing rule are under RINs 2105-AC75 and 2105-AD00.

Agency Contact: Thomas Ray, Office of General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4731

RIN: 2105–AC65

2176. +AVIATION DATA REQUIREMENTS REVIEW AND MODERNIZATION PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 40101; 49 USC 41101; 49 USC 41708; 49 USC 41709; 49 USC 41301; 49 USC 41501; 49 USC 41701

CFR Citation: 14 CFR 241; 14 CFR 250; 14 CFR 298; 14 CFR 374a; 14 CFR 234

Legal Deadline: None

Abstract: The Department is undertaking an aviation data requirements review and modernization program. The review is designed to harmonize the Department's aviation data systems with current regulatory and statutory needs; improve the quality of the Department's aviation databases; and eliminate obsolete data reporting and processing systems. The ANPRM was the first step in an outreach program to review aviation data collected by the Department and the measures that should be taken to modernize and improve aviation data reporting and processing systems. The Department solicited public comments from aviation data users on the nature, scope, source, and means for collecting, processing, and distributing airline traffic, fare, and financial data. Specifically, the Department invited comments to determine whether existing aviation data should be amended, supplemented, or replaced; whether selected forms and reports should be retained, modified, or eliminated; whether the Department should require all aviation data to be filed electronically; and how the aviation data system should be reengineered to enhance efficiency and to reduce costs for both the Department and airline industry. The Department has reviewed the comments and reply comments and is in the process of redefining the data elements and restructuring the data reporting requirements to be included in a NPRM. This action is significant due to substantial public and industry interest.

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Timetable:

Action	Date	FR Cite
ANPRM	07/15/98	63 FR 38128
ANPRM Comment Period End	09/14/98	
Reply Comment Period End	10/13/98	
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: Todd Homan, Industry Economist, Department of Transportation, Office of the Secretary, X-55, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9605

RIN: 2105–AC71

2177. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN AIR TRAVEL

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 41702; 14 USC 41705; 14 USC 41712

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: The Department is proposing to amend its rules implementing the Air Carrier Access Act of 1986 concerning requirements for movable aisle armrests. The amendment would clarify the application of the movable armrest requirement to all classes of service in an aircraft. In addition, in response to changed practices in parts of the airline industry, the Department is proposing to require preboarding to be made available for passengers with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723
TDD Phone: 202 755-7687
Email: bob.ashby@ost.dot.gov

RIN: 2105–AC97

2178. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355; EO 11738; EO 12549; EO 12689

CFR Citation: 49 CFR PART 29; 49 CFR PART 32

Legal Deadline: None

Abstract: This action would provide DOT specific amendments for a uniform Governmentwide rule on debarment and suspension (nonprocurement) & drug-free workplace.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ladd Hakes, Department of Transportation, Office of the Secretary, Office of the Senior Executive (M-62), 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-4268
Email: ladd.hakes@ost.dot.gov

RIN: 2105–AD01

2179. • REPORTING REQUIREMENT FOR AIR CARRIERS REGARDING DISABILITY-RELATED COMPLAINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41702; 49 USC 41705

CFR Citation: 49 CFR 382

Legal Deadline: Other, Statutory, Implementation of Plan Required by P 106-181, sec 707.

Abstract: The Office of the Secretary will propose in the NPRM a reporting requirement for air carriers to periodically file information with DOT regarding disability-related complaints they receive. The NPRM will include detailed categories for the reporting which will be of use to DOT, disabled air travelers, and Congress. DOT will report to Congress each year, on the results of the review, as required by the Wendell H. Ford Aviation Investment and Reform Act for the 21s century.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Blane A. Workie, Attorney, Department of Transportation, Office of the Secretary Room 4116/C-70, 400 7th Street SW., Washington, DC 20590
Phone: 202 366-9342
TDD Phone: 202 755-7687
Fax: 202 366-7152
Email: blane.workie@ost.dot.gov

RIN: 2105–AD04

Department of Transportation (DOT)
Office of the Secretary (OST)

Final Rule Stage

2180. +DIRECT AIR CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Priority: Other Significant

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Legal Deadline: None

Abstract: This action proposed to make direct air carriers responsible for returning charter passengers stranded by strikes or other service interruptions, by eliminating the force majeure clause from charter contracts. However, the CAB subsequently issued an interpretive rule (ER-1387, 49 FR 33436) which was affirmed in court. (Arrow Air, Inc. v. Dole, 784 F2d 1118 (1986)) Therefore, this action is now moot; the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	
Reply Comment Period End	10/10/80	
To Be Withdrawn	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: EDR 405, Docket 37169.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AA40

2181. AIR TRAVELERS: AGE DISCRIMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 376

Legal Deadline: None

Abstract: This rulemaking action was initiated by the Civil Aeronautics Board to implement the Age Discrimination Act of 1975. A draft final rule was submitted to HHS, as required by that Act, and was approved. However, in view of current airline practices with respect to travel by the elderly, and the absence of complaints of discrimination based on age, there no longer appears to be a need for further rulemaking action, and the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	09/26/79	44 FR 55383
Final Action Adopted by the Board	04/10/80	
HHS Approved Final Rule With Changes	07/13/84	
To Be Withdrawn	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SPDR-74, Docket 36639.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723
TDD Phone: 202 755-7687
Email: bob.ashby@ost.dot.gov

RIN: 2105–AA45

2182. DIRECT FLIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Donald L. Pevsner petitioned the CAB to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive, and to declare use of the term to be a prima facie violation of section 411 of the Federal Aviation Act of 1958. The Department is now considering what action to take in response to the petition.

Timetable:

Action	Date	FR Cite
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The petition is filed in Docket 41217.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AA73

2183. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504; PL 96-354; 5 USC 601

CFR Citation: 14 CFR 253; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed to amend its rules requiring notice of contract terms for domestic travel to require that actual notice be given to passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board proposed to declare it to be an unfair and deceptive practice to divert a passenger without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket. The Board considered a final rule but did not decide what action to take. DOT is withdrawing the NPRM as unnecessary since it appears that carriers no longer have the policies that promoted the CAB's concern.

Timetable:

Action	Date	FR Cite
NPRM	09/23/83	48 FR 43343
NPRM Comment Period End	11/07/83	
To Be Withdrawn	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket 41683, EDR 468/PSDR-81.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590

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Final Rule Stage

Phone: 202 366-4723

RIN: 2105–AA78

2184. SIMPLIFIED AVIATION EXEMPTION PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 302; 14 CFR 389; 14 CFR 399

Legal Deadline: None

Abstract: A Civil Aeronautics Board rulemaking proposed to revise and simplify the requirements and procedures for applying for exemptions under section 416(b) of the Federal Aviation Act. This action has become unnecessary since the Department included most of its provisions in its rule transferring the CAB's rules to DOT. Therefore, the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39337
NPRM Comment Period End	12/04/84	
To Be Withdrawn	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: PDR-88/ODR-27/PSDR-83.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AA82

2185. BAGGAGE LIABILITY NOTICES IN INTERNATIONAL AIR TRANSPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481 to 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: In response to a petition by Mr. Howard Boros, the CAB proposed to amend the baggage liability notices provided to passengers in foreign air travel. The NPRM proposed to eliminate the disclaimer of liability for fragile and perishable items because that notice is false and misleading. Because of the amount of time that has elapsed since the proposal was issued, the Department is withdrawing it.

Timetable:

Action	Date	FR Cite
NPRM	12/18/84	49 FR 49111
NPRM Comment Period End	03/19/85	
To Be Withdrawn	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket 41690; EDR-477.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AA84

2186. SIMPLIFIED AIRLINE COUNTER-SIGN NOTICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 256

Legal Deadline: None

Abstract: The American Association of Airport Executives, the Airport Operators Council International, and the Air Transport Association of America petitioned the CAB to simplify its counter-sign requirements. Presently, airlines are required to display four different consumer protection notices on their ticket counters. The petitioners alleged that the current notices are hard to read and, therefore, do not provide much notice to passengers. They proposed replacing the four notices with one simplified counter sign. A CAB NPRM proposed a number of alternatives, such as a long and/or short notice, where the notices would be required to be posted, and whether a smoking notice should be included. DOT decided not to act on these "counter signs" separately, but rather to consider whether there should be a comprehensive re-examination of all forms of notice to passengers, including notices on tickets. This NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30742
NPRM Comment Period End	09/17/84	
Reply Comment Period End	10/02/84	
To Be Withdrawn	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket 41971; EDR-474

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AA88

2187. +PRICE ADVERTISING

Priority: Other Significant

Legal Authority: 49 USC 1371; 49 USC 1381

CFR Citation: 14 CFR 380; 14 CFR 399

Legal Deadline: None

Abstract: The Department proposed in 1989 to amend its rule and policy statement with respect to air transportation price advertising. This rulemaking is significant because of substantial public interest. Because of the amount of time that has elapsed since the proposal was issued, the Department is withdrawing it.

Timetable:

Action	Date	FR Cite
NPRM	07/26/89	54 FR 31052
NPRM Extended Comment Period	08/23/89	54 FR 35005
NPRM Comment Period End	08/25/89	
NPRM Comment Period End	09/25/89	
To Be Withdrawn	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

DOT—OST

Final Rule Stage

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AB50

2188. +PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG-TESTING PROGRAMS

Priority: Other Significant

Legal Authority: 49 USC 101; 49 USC 102; 49 USC 301; 49 USC 302; 49 USC 322

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: The NPRM in 1990 concerned the question of to whom reports of negative drug test results may be sent. It will be formally withdrawn when the Department issues an NPRM under RIN 2105-AC49, Update of Drug and Alcohol Procedural Rules. This action is significant because of substantial public and congressional interest, and multimodal impact.

Timetable:

Action	Date	FR Cite
NPRM	07/13/90	55 FR 28782
NPRM Comment Period End	08/13/90	
To Be Withdrawn	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: ANALYSIS: Regulatory Evaluation, 07/13/90, 55 FR 28782

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Email: bob.ashby@ost.dot.gov

RIN: 2105–AB71

2189. +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES (ACCESSIBILITY GUIDELINES)

Priority: Other Significant

Legal Authority: 5 USC 552a

CFR Citation: 49 CFR 27; 49 CFR 37

Legal Deadline: None

Abstract: This action would amend the rules implementing the Americans with Disabilities Act by adopting the revised accessibility guidelines issued by the Architectural and Transportation Barriers Compliance Board, published June 20, 1994 (59 FR 31676) as interim final rules. The proposed rule would also conform the Department's rule implementing section 504 of the Rehabilitation Act of 1973.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31818
NPRM Comment Period End	08/19/94	
To Be Withdrawn	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2105–AC06

2190. USE OF DIRECT FINAL RULEMAKING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1657

CFR Citation: 49 CFR 5.21; 49 CFR 5.35

Legal Deadline: None

Abstract: The Department is considering a new rulemaking procedure to expedite the processing of noncontroversial changes to its regulations. Rules that the Secretary judges to be unlikely to result in public comment would be published as "direct final" rules. Such direct final rules would advise the public that no adverse comment is anticipated and that, unless written adverse comment or notice of intent to submit such comment is received within a specified number of days, the rule will become effective 60 days from the date of publication in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 39919
NPRM Comment Period End	10/03/95	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Neil Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, Room 10424 Nassif Building, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723
Fax: 202 366-9313

RIN: 2105–AC11

2191. OVERBOOKING OF FLIGHTS: ELIMINATION OF AIRPORT NOTICE SIGNS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 401; 49 USC 411; 49 USC 413; 49 USC 417

CFR Citation: 14 CFR 250

Legal Deadline: None

Abstract: This action would eliminate a consumer notice about airline overbooking of flights that is required to appear on signs at airports, city ticket offices, and travel agencies. However, that information would be available to consumers because it must accompany every ticket.

Timetable:

Action	Date	FR Cite
NPRM	06/03/96	61 FR 27818
NPRM Comment Period End	07/18/96	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Other rulemakings: RIN 2105-AA88, Simplified Airline Counter-Sign Notices. RIN 2105-AC36, Ticketless Travel: Passenger Notices, Statement of Compliance Policy published 4/22/97, 62 FR 19473.

Agency Contact: Tim Kelly, Aviation Consumer Protection Division, Office of

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the General Counsel, Department of Transportation, Office of the Secretary, C-75, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5952

RIN: 2105–AC45

2192. FEES AND CHARGES FOR SPECIAL SERVICES: REINVENTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40101; 49 USC 46101; 31 USC 9701

CFR Citation: 14 CFR 389

Legal Deadline: None

Abstract: This action would remove or update obsolete provisions and organizational references, and adjust the fee schedule for certain special services related to aviation economic proceedings that the Department makes available to the public. The regulation has not been comprehensively updated since 1985 and the revisions will take the form of a complete reissuance of part 389.

Timetable:

Action	Date	FR Cite
NPRM	01/21/99	64 FR 3229
NPRM Comment Period End	03/22/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John Miller, Analyst, Planning and Special Projects Office, Department of Transportation, Office of the Secretary, X-60, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4868

RIN: 2105–AC47

2193. AMENDMENTS TO MODAL ALCOHOL TESTING RULES: PRE-EMPLOYMENT TESTING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101; 49 USC 45106

CFR Citation: 49 CFR 219; 49 CFR 382; 49 CFR 653; 49 CFR 654; 49 CFR 121

Legal Deadline: None

Abstract: This rule would implement a statutory change required by the National Highway Systems Act of 1995, section 342, to the existing pre-employment alcohol testing provisions. It would make pre-employment testing voluntary for employers.

Timetable:

Action	Date	FR Cite
NPRM	05/09/96	61 FR 21149
NPRM Comment Period End	07/08/96	
To Be Withdrawn	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action involves four operating administrations: FAA, FHWA, FTA, and FRA. On May 10, 1995 (60 FR 24765), DOT suspended its pre-employment alcohol testing requirements after a court decision vacated the requirements of the FHWA alcohol testing rule.

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RIN: 2105–AC50

2194. NONDISCRIMINATION IN AIR TRAVEL; BOARDING WHERE LEVEL-ENTRY IS UNAVAILABLE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41702; 49 USC 41705; 49 USC 41712

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: This action requires air carriers and airports to work jointly to make lifts or other boarding devices available for aircraft, of whatever size, where level-entry loading bridges or existing lifts are not present. This action is intended to facilitate the boarding by individuals with disabilities on aircraft. It amends existing rules that implement the Air Carrier Access Act of 1986 and the Rehabilitation Act of 1973.

Timetable:

Action	Date	FR Cite
NPRM	08/26/99	64 FR 46611
NPRM Comment Period End	11/24/99	
Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2105–AC81

2195. +UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Other Significant

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 19

Legal Deadline: None

Abstract: This action implements changes to OMB Circular A-110 that were issued by OMB on October 8, 1999, providing uniform guidance for administering grants to institutions of higher education, hospitals, and other nonprofit organizations. The change provides guidance on making data produced under awards available to the public. The regulation is essentially a word-for-word issuance of the requirements in OMB Cirular A-110. An interim final rule was issued because of the limited ability to change the requirements from those in the Circular.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/00	65 FR 14406
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of

DOT—OST

Final Rule Stage

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RIN: 2105–AC83

2196. +AMERICANS WITH DISABILITIES ACT ACCESSIBILITY STANDARDS

Priority: Other Significant

Legal Authority: 5 USC 552a

CFR Citation: 49 CFR 27; 49 CFR 37

Legal Deadline: None

Abstract: The Department of Transportation is proposing to amend its rules implementing the Americans with Disabilities Act (ADA) by adopting as its standards revised accessibility guidelines proposed by the Architectural and Transportation Barriers Compliance Board (Access Board). The Access Board published a notice of proposed rulemaking (NPRM) to revise and update the accessibility guidelines for the ADA and the Architectural Barriers Act (ABA) in the November 16, 1999 issue of the Federal Register. This proposed rule would adopt the Access Board's revised and updated ADA guidelines and make a conforming change to the Department's rule implementing the ADA.

Timetable:

Action	Date	FR Cite
NPRM	08/08/00	65 FR 48444
NPRM Comment Period End	09/07/00	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2105–AC86

2197. PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION PROGRAMS: MEMORANDUM OF UNDERSTANDING WITH SMALL BUSINESS ADMINISTRATION; UNIFORM FORMS AND OTHER REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178; 112 Stat. 107 and 113; 42 USC 2000d; PL 102-581

CFR Citation: 49 CFR 26

Legal Deadline: None

Abstract: This NPRM proposes implementation procedures for a memorandum of understanding (MOU) between DOT and the Small Business Administration. The MOU establishes reciprocity and streamlines certification procedures for participation in SBA's 8(a) Business Development and Small Disadvantaged Business program, and DOT's DBE program. This document also proposed a uniform certification application form and a uniform reporting form. This document also requests comments for issues relating to personal net worth requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/08/01	66 FR 23208
NPRM Comment Period End	06/07/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Laura Aguilar, Attorney, Department of Transportation, Office of the Secretary, C-10, Room 10102
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RIN: 2105–AC88

2198. PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS: THRESHOLD REQUIREMENTS AND OTHER TECHNICAL REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, TEA-21; PL 102-581

CFR Citation: 49 CFR 26.11 (Revision); 49 CFR 26.21 (Revision); 49 CFR 26.37 (Revision); 49 CFR 26.45 (Revision); 49 CFR 26.55 (Revision)

Legal Deadline: None

Abstract: This interim final rule changes threshold requirements for Federal Transit Administration and Federal Aviation Administration recipients to establish DBE programs and overall goals. Each August 1, recipients must submit DBE goals for the following fiscal year. This change will reduce burdens on entities receiving smaller Federal grants. The DOT is issuing an interim final rule in order to reduce the burden, this fiscal year, for the smallest grant recipients. This document also makes technical changes to 49 CFR part 26.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/15/00	65 FR 68949
Interim Final Rule Effective	11/15/00	
Interim Final Rule Comment Period End	01/02/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura Aguilar, Attorney, Department of Transportation, Office of the Secretary, C-10, Room 10102
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RIN: 2105–AC89

2199. PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 324; 42 USC 2000d et seq; 49 USC 1611, 47107,

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47113, 47123; EO 12138; 3 CFR 1951 comp., p. 393, sec. 1101 (b); ...

CFR Citation: 49 CFR 2a, subpart G

Legal Deadline: Final, Statutory, June 30, 1993.

Abstract: In May 1997, the Department issued a supplemental notice of proposed rulemaking (SNPRM) to revise its disadvantaged business enterprise (DBE) regulation. The SNPRM included proposals for revising the airport concessions portion of the DBE program. When the Department, in February 1999, issued a final rule based on the SNPRM, we did not publish a final version of the airport concessions proposal.

This SNPRM seeks comments on an airport concessions subpart to part 26 that takes into account comments on the May 1997 SNPRM, adapts provisions of the rest of part 26 to the concessions context, and proposes options for provisions affecting car rental operations at airports. These options are based in part on a recent memorandum of understanding between the American Car Rental Association and the Airport Minority Advisory Council making recommendations to the Department on this aspect of the rulemaking. This SNPRM was inadvertently published under RIN 2105-AB92.

Timetable:

Action	Date	FR Cite
SNPRM	09/08/00	65 FR 54454
SNPRM Comment Period End	10/23/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2105–AC91

2200. STATEMENT OF POLICY ON ALTERNATIVE DISPUTE RESOLUTION

Priority: Info./Admin./Other

Legal Authority: 5 USC 571 to 583; 5 USC 561 to 570

CFR Citation: None

Legal Deadline: None

Abstract: This Statement of Policy on Alternative Dispute Resolution (ADR) is intended to provide information about ADR, introduce new ADR initiatives and promote the use of ADR. DOT will use ADR to advance its mission by preventing, minimizing escalation of, and resolving disputes among employees and with external parties.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/15/00	65 FR 69121
Interim Final Rule Comment Period End	01/16/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Judith S. Kaleta, Senior Counsel for Dispute Resolution, Department of Transportation, Office of the Secretary, Room 10428, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-0992
Fax: 202 366-3388

RIN: 2105–AC94

2201. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 49 CFR 21; 49 CFR 27

Legal Deadline: None

Abstract: This rule proposes to amend DOT's regulations implementing Title VI of the Civil Rights Act of 1964 (Title VI), Section 504 of the Rehabilitation Act of 1972 (Section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" an "program" to Title VI and added a definition of "program or activity" to Section 504 and the Age Discriminatio Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation incorporates the CRRA's definition of "program or activity" and "program" into Title VI, Section 504, and the Age Discrimination Act regulations. This proposed regulation also promotes consistency and enforceability of these statutes. This is a joint notice of proposed rulemaking with other Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 7646
NPRM Comment Period End	01/05/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

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RIN: 2105–AC96

2202. OVER THE ROAD BUSES: EXTENSION OF DUE DATE FOR INFORMATION COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12101-12213; 49 USC 322

CFR Citation: 49 CFR 37

Legal Deadline: None

DOT—OST — **Final Rule Stage**

Abstract: The Department of Transportation is amending its Americans with Disabilities Act regulations concerning accessibility of over-the-road buses with respect to information collection requirements by postponing the requirement for bus companies to submit information reporting ridership on accessible fixed route service and the acquisition of buses and designating of the Federal Motor carrier Safety Administration as the recipient of the data.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/06/01	66 FR 10968
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2105–AC98

2203. • STANDARD TIME ZONE BOUNDARY IN THE STATE OF NORTH DAKOTA: MORTON COUNTY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 260 to 267

CFR Citation: 49 CFR 71

Legal Deadline: None

Abstract: This rule would relocate Morton County, ND, from mountain time to central time. This proposal is based on a request from the Chairman of the Board of County Commissioners for Morton County, ND.

Timetable:

Action	Date	FR Cite
NPRM	08/03/01	66 FR 40666
NPRM Comment Period End	09/17/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AD03

Department of Transportation (DOT)
Office of the Secretary (OST) — **Long-Term Actions**

2204. POLICY STATEMENT ON AIRLINE PREEMPTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41713

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The Civil Aeronautics Board in 1979 issued an interim Policy Statement on preemption. It discusses the policy of the Department with respect to three areas in which State law has been preempted by the Airline Deregulation Act of 1978: regulation of commuter air carriers and air taxis, the rights of airport proprietors, and general State authority as it directly or indirectly affects air transportation competition. The Supreme Court has classified that section 105 of the ADA preempts even indirect State regulation that "has a connection with or reference to" airline rates, routes, or services, but does not preempt State contract law with respect to interpretation and enforcement of agreements voluntarily entered into by air carriers. Other courts continue to issue decisions applying this provision to a multitude of different circumstances. The Department believes that this process of exploring the interpretation of section 105 will continue, and is considering the admissibility of terminating this proceeding.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/79	44 FR 9948
Interim Final Rule Comment Period End	04/16/79	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: PSDR-56, Docket 34684 The 1995 decision issued by the Supreme Court is American Airlines v. Wolens (S. Ct. No. 93-1286).

Agency Contact: Paul Smith, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9285

RIN: 2105–AA46

2205. +STATEMENT OF ENFORCEMENT POLICY ON REBATING

Priority: Other Significant

Legal Authority: 5 USC 601; 49 USC 1301 to 1302; 49 USC 1305; 49 USC 1324(a); 49 USC 1371 to 1379; 49 USC 1381 to 1382; 49 USC 1384; 49 USC 1386; 49 USC 1461; 49 USC 1481 to 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 399.80; 14 CFR 399.85

Legal Deadline: None

Abstract: The Department is proposing to provide formal notice to the public of its enforcement policy concerning the rebating of international air fares by adopting that policy as a Policy Statement in the regulations. No change in the substance of that policy is intended. The Department also proposes to revoke an existing Policy Statement on the advertising of rebates that is contrary to DOT's current enforcement policy. The proposal responds to a request for such action by the American Society of Travel Agents. The proposed regulation is significant because it involves important departmental policies and substantial industry interest.

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Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41353
NPRM Comment Period End	12/20/88	
NPRM Comment Period Extended	02/03/89	54 FR 5497
Correction	02/10/89	54 FR 6475
Extended Comment Period End	02/21/89	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Betsy Wolf, Senior Trial Attorney, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9349

RIN: 2105–AB39

2206. +ACCESSIBILITY OF PASSENGER VESSELS TO INDIVIDUALS WITH DISABILITIES

Priority: Other Significant

Legal Authority: 42 USC 12101 et seq; PL 101-336, Americans with Disabilities Act

CFR Citation: 49 CFR 37

Legal Deadline: None

Abstract: The Department's Americans with Disabilities Act (ADA) final rule, published September 6, 1991 (56 FR 45584), reserved portions of the rule concerning passenger vessels. The ADA covers passenger vessels, but issuing accessibility requirements for vessels involves complex issues unlike those affecting land transportation. This action will address these issues and propose feasible requirements to make passenger vessels accessible to, and usable by, individuals with disabilities. DOT is participating in an ongoing advisory committee effort convened by the Access Board to study passenger vessel accessibility issues. September and November 1998 meetings were held. This rulemaking is considered significant because of substantial public and congressional interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 2105–AB87

2207. USE OF OXYGEN BY AIR CARRIER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41705

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: The Department is considering the use of regulatory negotiation to seek consensus among air carriers, consumers, airports, equipment manufacturers, oxygen suppliers, and safety regulators concerning the use of oxygen by passengers on air carriers when individuals need special private supplies. The need for action stems from a current situation where all carriers do not allow passengers to bring their own oxygen aboard. Issues involve conformance with RSPA and FAA hazardous materials rules and the question of providing oxygen during long layovers. The Department is considering whether to begin a regulatory negotiation.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2105–AC29

2208. +DOMESTIC PASSENGER MANIFEST INFORMATION

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 40101; 49 USC 40113 to 40114; 49 USC 41702; 49 USC 41708 to 41709; 49 USC 41711; 49 USC 46301; 49 USC 46310; 49 USC 46316

CFR Citation: 14 CFR 243

Legal Deadline: None

Abstract: This notice requested comments concerning operational and cost issues related to U.S. air carriers collecting information such as full name, date of birth and/or social security number, emergency contact and telephone number from passengers traveling on flights within the United States. This notice was issued on the Department's initiative in response to difficulties with notification in the aftermath of domestic aviation disaster and to comply with a recommendation contained in the initial report of the White House Commission on Aviation Safety and Security (1996) that urged the Department to explore immediately the costs and effects of a comprehensive passenger manifest requirement on the domestic aviation system. DOT will review the implementation of the international passenger manifest requirements (RIN 2105-AB78, 2/18/98, 63 FR 8258) as it determines how to proceed with this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/97	62 FR 1178
ANPRM Comment Period End	05/12/97	
Comment Period Reopened	05/30/97	62 FR 293
Comment Period End	06/20/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernestine Allen, Director, Office of International Transportation and Trade, Department of Transportation, Office of the Secretary, X-20, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4368

RIN: 2105–AC62

2209. ELECTRONIC FILING OPTION DOT PROCEEDINGS

Priority: Info./Admin./Other

Legal Authority: 49 USC 322; 49 USC 1655; 49 USC 1657; 45 USC 431

DOT—OST

Long-Term Actions

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: This action amends existing rules, where necessary, to allow electronic filing in all DOT proceedings as an alternative to filing hard copy. The electronic filing option will help us serve the public more quickly and efficiently and will enable the public to participate more easily in DOT proceedings. This rulemaking addresses only the procedures for filing electronically, not technical issues such as media, word-processing formats, and mechanisms for payment of filing fees.

Timetable:

Action	Date	FR Cite
Notice Requesting Comment	05/26/98	63 FR 28545
Comment Period End	07/27/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is a procedural change that presents no substantive issue that we could reasonably expect to produce further meaningful comment. It also will relieve a restriction. Therefore, good cause exists to publish this rule without prior formal notice and comments.

Agency Contact: Charlotte Boeck, Administrative Officer, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20015
Phone: 202 366-4713

RIN: 2105–AC79

Department of Transportation (DOT)
Office of the Secretary (OST)

Completed Actions

2210. +PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN AIRPORT CONCESSIONS

Priority: Other Significant

Legal Authority: PL 102-581; PL 97-248

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: This action would implement changes to the Airport and Airway Improvement Act to allow airport sponsors to count new forms of disadvantaged business enterprise (DBE) participation toward the overall goals of a DBE concession plan. These new forms include purchases from DBEs of goods and services used in operating a concession, as well as management contracts and subcontracts with DBEs. This action was initially begun in an NPRM 10/6/93, 58 FR 52050, RIN 2105-AB99. It was then combined in the DBE general update and comments were received in response to an SNPRM of 5/30/95, 62 FR 29548. However, when the general update rule was published 2/2/99, 64 FR 5096, RIN 2105-AB92, the airport concessions issue was once again separated. Future actions for airport concessions will be addressed under RIN 2105-AC91. Therefore, this action is being withdrawn.

Timetable:

Action	Date	FR Cite
SNPRM (Published under RIN 2105-AB92)	05/30/97	62 FR 29548
Withdrawn	10/05/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723
TDD Phone: 202 755-7687
Email: bob.ashby@ost.dot.gov

RIN: 2105–AC76

2211. MAINTENANCE OF AND ACCESS TO RECORDS PERTAINING TO INDIVIDUALS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552a; 49 USC 322

CFR Citation: 49 CFR 10

Legal Deadline: None

Abstract: This rule proposes to exempt from certain provisions of the Privacy Act the record system designed to assist in finding Suspected Unapproved Parts used in aviation, and a record system used to manage the flow of data about commercial motor carriers. A notice of proposed rulemaking was inadvertently published in the Federal Register under RIN 2105-AC57 (66 FR 1294). The final rule was inadvertently published under RIN Number 2105-AC9.

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1294
NPRM Comment Period End	02/20/01	
Final Action	04/23/01	66 FR 20406
Final Action Effective	05/23/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Yvonne Coates, Department of Transportation, Office of the Secretary
Phone: 202 366-6964
Fax: 202 366-7024
Email: yvonne.coates@ost.dot.gov

RIN: 2105–AC99

2212. EXTENSION OF COMPUTER RESERVATION SYSTEM (CRS) REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40101; 49 USC 40102; 49 USC 40105; 49 USC 40113; 49 USC 41712

CFR Citation: 14 CFR 255

Legal Deadline: None

Abstract: This action extends the expiration date of DOT's rules regulating computer reservation systems owned by airlines or airline affiliates that are used by travel agencies from March 31, 2001 to March 31, 2002. The Department is conducting a reexamination of the rules to see whether they should be continued or modified. That action is being taken

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under RIN 2105-AC65. The extension is necessary so that the current rules will remain in force.

Timetable:

Action	Date	FR Cite
Final Action	03/30/01	66 FR 17352
Final Action Effective	03/31/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The rules were were previously extended from March 31, 2000 to March 31, 2001 under RIN 2150-AC75.

Agency Contact: Thomas Ray, Office of General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4731

RIN: 2105–AD00

2213. • PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS; TECHNICAL AMENDMENTS (COMPLETION OF A SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 102; 49 USC 301; 40 USC 5331; 49 USC 20140; 49 USC 45106; 49 USC 31306; 49 USC 45101

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: This rule makes a series of technical amendments to DOT's drug and alcohol testing procedural rule, which goes into effect August 1, 2001. The purpose of these technical amendments is to clarify certain provisions of the final rule and address omissions or problems which have been discovered since publication of the final rule in December 2000. The final rule was published u 2105-AC49.

Timetable:

Action	Date
Final Action Effective	08/01/0
Final Action	08/09/0

Regulatory Flexibility An Required: No

Small Entities Affected: N

Government Levels Affec

Agency Contact: Robert Deputy Assistant General Regulation and Enforcem Department of Transporta the Secretary, 400 Sevent Washington, DC 20590
Phone: 202 366-4723
TDD Phone: 202 755-768
Email: bob.ashby@ost.dot

RIN: 2105–AD02

Department of Transportation (DOT)
U.S. Coast Guard (USCG)

2214. • +STANDARDS FOR LIVING ORGANISMS IN SHIPS' BALLAST WATER DISCHARGED IN U.S. WATERS (USCG-2001-10486)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 4711

CFR Citation: 33 CFR 151

Legal Deadline: None

Abstract: This rulemaking would add a performance standard (to 33 CFR part 151, subpart D) for all ballast water treatment methods being used as alternatives to mid-ocean ballast water exchange. It supports the Coast Guard's strategic goals of marine safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/02	

Regulatory Flexibility A Required: Undetermined

Small Entities Affected:

Government Levels Affe

Agency Contact: G-MSC Everett, Project Manager Transportation, U.S. Co Phone: 202 267-2243

RIN: 2115–AG21

Department of Transportation (DOT)
U.S. Coast Guard (USCG)

Propose

2215. CLAIMS PROCEDURES UNDER THE OIL POLLUTION ACT OF 1990 (CGD 91-035)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2713; 33 USC 2714

CFR Citation: 33 CFR 136

Legal Deadline: None

Abstract: This rulemaking implements section 1013 (Claims Procedures) and section 1014 (Designation of Source and Advertisement) of the Oil Pollution Act of 1990. The Interim Rule provides the requirements for the filing of claims for uncompensated removal costs or damages resulting from the discharge of oil, for the designation of the sources of the discharge, and for the advertisement of where claims are to be filed. The Interim Rule also included the processing of natural resource damage (NRD) claims. The NRD claims, however, were not processed until September 25, 1997, when the Department of Justice issued an opinion that the Oil Spill Liability Trust Fund (OSTLF) is available without further appropriation to pay trustee NRD claims under the general claims provisions of the Oil Po 1990, 33 U.S.C. 2712(a) the Final Rule will be d additional experience i adjudication of these N rulemaking supports th strategic goal of the pro natural resources.

Timetable:

Action	D
Interim Final Rule	08/
Correction	09/

DOT—USCG

Proposed Rule Stage

Action	Date	FR Cite
Interim Final Rule	12/10/92	
Comment Period End		
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Linda Burdette, Project Manager, National Pollution Fund Center, Department of Transportation, U.S. Coast Guard, Suite 1000, 4200 Wilson Boulevard, Arlington, VA 22203-1804
Phone: 202 493-6831

RIN: 2115–AD90

2216. +SALVAGE AND MARINE FIREFIGHTING REQUIREMENTS; VESSEL RESPONSE PLANS FOR OIL (USCG-1998-3417)

Regulatory Plan: This entry is Seq. No. 98 in part II of this issue of the Federal Register.

RIN: 2115–AF60

2217. DEEPWATER PORTS (USCG-1998-3884)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1503

CFR Citation: 33 CFR 148 to 150

Legal Deadline: None

Abstract: The purpose of this rulemaking is to update the Deepwater Port Regulations. Section 502 of the Coast Guard Authorization Act of 1996 necessitates changes to the current Deepwater Port regulations. These regulations were developed in the 1970s when there were no deepwater ports in the United States. The Coast Guard will be revising the regulations to: remove from the regulations, and place in the license conditions, those requirements which belong in the license conditions; and remove from the regulations those things which can be addressed in an operations manual. The Coast Guard will also consider revising the regulations to address technological advancements and operational experience gained over the last 20 years. In accordance with section 610 of the Regulatory Flexibility Act, the Coast Guard is also reviewing these regulations for their impacts on small businesses and the potential to reduce any such impacts. Public comment on small business impacts is specifically requested. This rulemaking will encompass a complete review of the Deepwater Port Regulations. This project supports the Coast Guard's strategic goals of maritime safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
ANPRM	08/29/97	62 FR 45774
ANPRM Comment Period End	10/13/97	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ANPRM was published under Docket Number USCG-1998-4441. This docket number is replaced with USCG-1998-3884.

Agency Contact: CDR Mark Prescott, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0225

RIN: 2115–AF63

2218. VESSEL DOCUMENTATION (USCG-1998-4784)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12103(d); 46 USC 31321(a)

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: This rulemaking will propose regulations to: (1) combine a Manufacturer's Certificate of Origin (MCO) with the Builder's Certificate (form CG12-1261); (2) require that the Hull Identification Number (HIN) be included on the Application for Documentation of recreational vessels for those vessels required to have an assigned HIN; (3) require the submission of the original state title, or if not a state title, the original State registration and/or official replacements issued by a titling/registering authority when documentation is based on those methods of establishing title and; (4) establish procedures for electronic submission of instruments. These four initiatives offer increased efficiency of the vessel documentation process and increased fraud protection for vessel owners; implement statutory changes from the Coast Guard Authorization Act of 1996, (Pub. L. 104-324); and implement statutory changes from the Coast Guard Authorization of 1998 (Pub. L. 105-383). This rulemaking supports the Coast Guard's strategic goal of maritime mobility.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Dennis Nelson, Project Manager, Department of Transportation, U.S. Coast Guard, National Vessel Documentation Center, 792 T.J. Jackson DR, Falling Waters, WV 25419
Phone: 304 271-2400

RIN: 2115–AF71

2219. VAPOR CONTROL SYSTEMS (USCG-1999-5150)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1225; 33 USC 1231; 33 USC 1321; 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 39; 33 CFR 154.E

Legal Deadline: None

Abstract: This project will revise the facility marine vapor control systems (VCS) safety regulations and the vessel VCS safety regulations. These existing regulations require revision to reflect new Federal and State air emissions control requirements, VCS technology developments, and to evaluate and minimize any significant economic impacts of the rules upon small entities. The revisions will also incorporate Coast Guard policies and guidelines developed to support the existing regulations and a Navigation and Vessel Inspection Circular which provides safety guidelines for the design and operation of a marine VCS at tank barge cleaning facilities. This project supports the Coast Guard Marine Safety and Environmental Protection Program's goal to reduce crewmember deaths and injuries on U.S. commercial vessels, it seeks to

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reduce the amount of oil and chemicals discharged into the Nation's waterways, and it promotes the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sara Ju, Project Manager, G-MSO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0081

RIN: 2115–AF78

2220. REVISION OF AUXILIARY REGULATIONS (USCG-1999-6712)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 633; 14 USC 892

CFR Citation: 33 CFR 5

Legal Deadline: None

Abstract: This project will revise regulations that govern the operation and administration of the Coast Guard Auxiliary. These regulations need to be changed to comform to the provisions of the Coast Guard Authorization Act of 1996 which amended the relevant statues in title 14, United States Code. These provisions clarified the organization and status of the Auxiliary, broadened the role of the Auxiliary, and provided additional liability protection for Auxiliary members assigned to Coast Guard duty. This project supports the Coast Guard strategic goals of maritime safety, maritime mobility, maritime security, and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: CDR Chris Olin, Project Manager, G-OCX, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1012

RIN: 2115–AF94

2221. ALLOWING ALTERNATIVE SOURCE TO INCANDESCENT LIGHT IN PRIVATE AIDS TO NAVIGATION (USCG-2000-7466)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 83; 14 USC 85; 43 USC 1333

CFR Citation: 33 CFR 66

Legal Deadline: None

Abstract: The Coast Guard is seeking to let the lighting industry and owners of private aids to navigation take advantage of a recent improvement in technology—one that enables the use of lanterns based on light-emitting diodes, which would reduce the consumption of power and simplify the maintenance of the aids. The use of these lanterns should stimulate competition in the industry and allow the marking of the aids in a desirable manner. This rule supports the Coast Guard's strategic goals of maritime safety and maritime mobility.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/04/00	65 FR 59124
Direct Final Rule Withdrawn	01/02/01	66 FR 8
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The Coast Guard withdrew the direct final rule because it received an adverse comment. The Coast Guard will publish an NPRM to solicit additional comments from the public.

Agency Contact: Daniel Andrusiak, Project Manager, G-OPN-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0327

RIN: 2115–AF98

2222. +VESSEL AND FACILITY RESPONSE PLANS FOR OIL: 2003 EQUIPMENT CAPS AND ALTERNATIVE TECHNOLOGY REVISIONS (USCG-2001-8661)

Priority: Other Significant

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 153; 33 CFR 155

Legal Deadline: None

Abstract: This rulemaking changes to the Vessel Resp Marine Transportation Fac Response Plans, and revise language in the Code of Fe Register concerning metho procedures for removing o coastal waters. This rulem supports the Coast Guard's goal of protection of natur

Timetable:

Action	Date
NPRM	12/00/0

Regulatory Flexibility Ana Required: No

Small Entities Affected: N

Government Levels Affec

Agency Contact: Robert F Manager, G-MOR-2, Depa Transportation, U.S. Coas Second St., SW, Washingt 20593-0001
Phone: 202 267-6603

RIN: 2115–AG05

2223. +POST CASUALTY ALCOHOL TESTING (US

Priority: Other Significan

Legal Authority: PL 105-

CFR Citation: 46 CFR 4

Legal Deadline: None

Abstract: This project wi requirements for chemica following a serious marin The revision will establis to ensure that alcohol tes conducted within 2 hour marine incident, as requi Coast Guard Authorizatio The rule will also make minor procedural change This rule supports the C strategic goal of maritim

Timetable:

Action	Dat
NPRM	12/00

Regulatory Flexibility A Required: Undetermine

Small Entities Affected: Jurisdictions, Businesse

Government Levels Aff Undetermined

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Proposed Rule Stage

Agency Contact: LCDR Scott Budka, Project Manager, G-MOA-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW
Phone: 202 267-2026

RIN: 2115–AG07

2224. ELECTRONIC CHART DISPLAY AND INFORMATION SYSTEM (ECDIS) (USCG-2001-8826)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223; 33 USC 1231; 46 USC 2103; 46 USC 3703; 46 USC 6101; 46 USC 8502

CFR Citation: 33 CFR 164

Legal Deadline: None

Abstract: This rulemaking would allow commercial vessels the option of using an IMO-approved Electronic Charting Display and Information System (ECDIS) as a primary means of navigation in U.S. waters in lieu of paper charts. Compliance with this rule would be optional, any vessel choosing not to use such an ECDIS must continue to navigate using corrected and updated printed charts and publications. This regulation supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/01	66 FR 21899
ANPRM Comment Period End	07/02/01	
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Detweiler, Project Manager G-MWV-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001
Phone: 202 267-0574

RIN: 2115–AG09

2225. +TANK LEVEL OR PRESSURE MONITORING DEVICES (USCG-2001-9046)

Regulatory Plan: This entry is Seq. No. 99 in part II of this issue of the **Federal Register**.

RIN: 2115–AG10

2226. NAVIGABLE WATERS OF THE UNITED STATES, TERRITORIAL SEA, CONTIGUOUS ZONE; CONFORMING DEFINITIONS TO STATUTORY CHANGES AND PRESIDENTIAL PROCLAMATIONS (USCG-2001-9044)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306 to 3307; 46 USC 3703; 49 USC 1804; 49 USC 1655; 14 USC 633; 14 USC 80

CFR Citation: 33 CFR 26; 33 CFR 62; 33 CFR 64; 33 CFR 95; 33 CFR 100; 33 CFR 110; 33 CFR 154 to 156; 33 CFR 160 to 161; 33 CFR 164 to 165; 46 CFR 175

Legal Deadline: None

Abstract: This project will make substantive changes to current regulations, but only to the extent required to conform to the congressionally mandated changes in the laws administered and enforced by the Coast Guard as listed in section 301 of the Coast Guard Authorization Act of 1998 (a. Ports and Waterways Safety Act, b. subtitle II of title 46). We will redefine the "territorial sea," "navigable waters of the United States," "high seas," "contiguous zone," and "exclusive economic zone" to clarify the varying definitions of those terms under different laws administered and enforced by the Coast Guard, as well as relevant Presidential proclamations. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Alex Weller, Project Manager (G-LMI), Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0097

RIN: 2115–AG13

2227. • REVISE OPTIONS FOR RESPONDING TO NOTICES OF VIOLATIONS (USCG-2001-9175)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 633; PL 100-690

CFR Citation: 33 CFR 1.07; 49 CFR 1.46

Legal Deadline: None

Abstract: This project would revise 33 CFR 1.07, Notice of violation, to change the process for a "no action" option. This change would preserve the existing options of paying the "ticket" and closing the case, or requesting a hearing; it would replace the current default of the "no action resulting in referral to a hearing officer" to "no action resulting in a finding of proved and assessment of a penalty." This project supports the Commandant's workload reduction initiative by increasing the efficiency of Coast Guard resources by removing a time-consuming, unnecessary step in the processing of notices of violations for which no response was received.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Doug Rabe, Project Manager, G-MOA, Department of Transportation, U.S. Coast Guard, Room 2407, 2100 Second Street SW., Washington, DC 20593
Phone: 202 267-1428

RIN: 2115–AG15

2228. • SHIPBOARD MARINE POLLUTION EMERGENCY PLANS FOR OIL AND/OR NOXIOUS LIQUID SUBSTANCES (USCG-2001-9174)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1901-1915

CFR Citation: 33 CFR part 151

Legal Deadline: Other, Statutory, January 1, 2003, Approved by Flag State of Convention for the Prevention of Pollution from Ships (MARPOL 73/78), Annex II, Regulation 16.

Abstract: This project would implement the requirements of the International Convention for the

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Prevention of Pollution from Ships (MARPOL 73/78), Annex II, Regulation 16. Regulation 16 requires that every ship of 150 gross tons and above, certified to carry noxious liquid substances (NLS), carry a shipboard marine pollution emergency plan for oil and/or NLS. Regulation 16 requires these plans be approved by the Flag State no later than January 1, 2003. This project will modify existing regulations in 33 CFR part 151 for Shipboard Oil Pollution Emergency Plans (SOPEP) to address this new requirement. This project supports the Coast Guard's strategic goal of protection of the marine environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT Michael Roldan, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0106

RIN: 2115–AG16

2229. • FEDERAL REQUIREMENTS FOR PROPELLER INJURY AVOIDANCE MEASURES (USCG 2001-10163)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302

CFR Citation: 33 CFR 175

Legal Deadline: None

Abstract: This rule would establish Federal requirements for non-planing recreational houseboats equipped with propeller driven propulsion located aft of the transom. This rule would require owners of these non-planing recreational houseboats to install either one or two propulsion unit measures (a propeller guard or a jet pump drive) or employ three combined measures (use of an ignition cut-off switch, where installed, and install a swim ladder interlock device and an aft-visibility device). These requirements would reduce the number of boaters who are seriously or fatally injured when struck by the propeller of a non-planing recreational houseboat. This rulemaking would implement recommendations made by the National Boating Safety Advisory Council. It supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AG18

2230. • PORTABLE TANKS AND INTERMEDIATE BULK CONTAINERS (USCG-2001-10180)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1903; 49 USC app 1804; EO 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; ...

CFR Citation: 46 CFR 98.30

Legal Deadline: None

Abstract: This project would revise the rules to permit the use of certain types of portable tanks and other bulk containers for the transfer of hazardous liquid cargoes while on board vessels. These tanks and containers are currently recognized for the transport of various hazardous materials in accordance with both the Hazardous Materials regulations (HMR) of the Department of Transportation in Title 49, Code of Federal Regulations, Subchapter C, and the International Maritime Dangerous Goods (IMDG) Code. This project supports the Coast Guard's strategic plans for marine safety and maritime mobility.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT Michael Roldan, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0106

RIN: 2115–AG19

2231. • TRAFFIC SEPARA SCHEME: IN PRINCE WILL SOUND, ALASKA (USCG-2

Priority: Substantive, Nons Major status under 5 USC 8 undetermined.

Legal Authority: 33 USC 1

CFR Citation: 33 CFR 167;

Legal Deadline: None

Abstract: This rulemaking implement amendments to Prince William Sound Traf Separation Scheme (TSS). amendments to the TSS ha approved by the Internatio Organization, and have bee by a recent Port Access Ro (PARS). Implementing thes amendments into the Code Regulations would provide traffic lanes between the B Pilot Station and Cape Hin and should reduce the risk operating within the area. of transit in Prince Willia would also be reduced. Wi change removed from the the minimum distance fro of the southbound traffic l Island would increase fro nine (9) nautical miles, re risk of drift groundings. Th supports the Coast Guard's goals of increasing maritim protecting natural resource improving marine safety.

Timetable:

Action	Date
NPRM	12/00/0

Regulatory Flexibility Ana Required: No

Small Entities Affected: N

Government Levels Affec Undetermined

Agency Contact: George L Project Manager G-MWV-3 of Transportation, U.S. Co 2100 Second St., SW, Was 20593-0001
Phone: 202 267-0574

RIN: 2115–AG20

DOT—USCG

Proposed Rule Stage

2232. • SAFETY ZONES FOR OUTER CONTINENTAL SHELF FACILITIES IN THE GULF OF MEXICO (CGD08-01-025)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 85; 33 USC 2071

CFR Citation: 33 CFR 147

Legal Deadline: None

Abstract: The Coast Guard proposes to establish safety zones around five petroleum and gas production facilities in the Outer Continental Shelf in the Gulf of Mexico. The four platforms and one moored spar buoy need to be protected from vessels operating outside the normal shipping channels and fairways. Placing safety zones around these facilities will significantly reduce the threat of allisions, oil spills and releases of natural gas. The proposed regulation would prevent all vessels from entering or remaining in specified areas around the platforms except for the following: An attending vessel; a vessel under 100 feet in length overall not engaged in towing; or a vessel authorized by the Eighth Coast Guard District Commander. The proposed safety zones are necessary to protect the safety of life, property and the environment and support the Coast Guard's strategic goals of marine safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: LT Karrie Trebbe, Department of Transportation, U.S. Coast Guard, Eighth Coast Guard District Commander, Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans, LA 70130
Phone: 504 589-6271

RIN: 2115–AG22

Department of Transportation (DOT)
U.S. Coast Guard (USCG)

Final Rule Stage

2233. +DISCHARGE-REMOVAL EQUIPMENT FOR VESSELS CARRYING OIL (CGD 90-068)

Priority: Other Significant

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 155

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: The Oil Pollution Act of 1990 directed the President by August 18, 1992, to require periodic inspection of discharge-removal equipment to ensure that it is available in an emergency, and to require carriage of discharge-removal equipment by vessels operating in the navigable waters of the United States and carrying oil or hazardous substances. This action implemented those provisions. This project supports the Coast Guard's strategic goal of protection of natural resources. This project is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	08/30/91	56 FR 43534
ANPRM Comment Period End	10/16/91	
NPRM	09/29/92	57 FR 44912
NPRM Comment Period Extended	10/26/92	57 FR 48489
NPRM Comment Period End	10/29/92	
Extension Comment Period End	11/16/92	
Interim Rule	12/22/93	58 FR 67988
Interim Rule Effective	01/21/94	
Correction	01/26/94	59 FR 3749
Comment Period End	02/22/94	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David DuPont, Project Manager, G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0971

RIN: 2115–AD66

2234. REPORTING MARINE CASUALTIES (USCG-2000-6927)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 6101; 33 USC 1901 et seq

CFR Citation: 33 CFR 151; 46 CFR 4

Legal Deadline: None

Abstract: This action would add to the definition of a reportable marine casualty, "significant harm to the environment." Some casualty reporting requirements are extended to include foreign tank vessels operating in U.S. waters, including the Exclusive Economic Zone. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the consequence of pollution incidents and further supports the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
Request for Comments	12/20/94	59 FR 65522
Comment Period End	02/20/95	
NPRM	11/02/00	65 FR 65808
Supplemental NPRM	07/12/01	66 FR 36530
Supplemental NPRM Comment Period End	09/10/01	
Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rulemaking was formerly docketed under CGD 91-216.

Agency Contact: Emily McIntyre, Project Manager, G-MOA, Department of Transportation, U.S. Coast Guard, G-MOA-2, 2100 Second Street SW, Room 2407, Washington, DC 20593
Phone: 202 267-1432
Email: emcintyre@comdt.uscg.mil

RIN: 2115–AD98

2235. HANDLING OF EXPLOSIVES OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES (USCG-1998-4302)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 126

Legal Deadline: None

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Abstract: This rulemaking is intended to revise existing regulations covering waterfront facilities that handle dangerous cargoes. The present regulations are outdated and do not reflect improved safety procedures and modern transportation methods, such as the use of containers. Where appropriate, the regulations would incorporate industry standards regarding the handling of hazardous materials at waterfront facilities. This project supports the Vice Commandant's workload reduction initiative, and also supports the Coast Guard's strategic goal of maritime safety by reducing deaths and injuries in the maritime industry.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4127
Comment Period End	04/13/93	
NPRM	10/29/98	63 FR 57964
NPRM Comment Period End	12/28/98	
NPRM Reopening of Comment Period	01/12/99	64 FR 1770
NPRM Comment Period End	03/01/99	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: An independent study has been completed and incorporated with comments from the public in the preparation of the rulemaking. Old Docket Number CGD 92-026.

Agency Contact: LCDR Charles Srioudom, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0626

RIN: 2115–AE22

2236. +MARINE TRANSPORTATION-RELATED FACILITY RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (USCG-1999-5705)

Regulatory Plan: This entry is Seq. No. 100 in part II of this issue of the **Federal Register**.

RIN: 2115–AE87

2237. +TANK VESSEL RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (USCG-1998-4354)

Regulatory Plan: This entry is Seq. No. 101 in part II of this issue of the **Federal Register**.

RIN: 2115–AE88

2238. NUMBERING OF UNDOCUMENTED BARGES (USCG-1998-3798)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12301

CFR Citation: 33 CFR 189

Legal Deadline: None

Abstract: Title 46 U.S.C. 12301, as amended by the Abandoned Barge Act of 1992, requires all undocumented barges more than 100 gross tons operating on the navigable waters of the United States be numbered. This rulemaking would establish a numbering system for these barges. The numbering of undocumented barges will allow identification of owners of barges found abandoned and help prevent future marine pollution. This rulemaking supports the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
Request for Comments	10/18/94	59 FR 52646
Comment Period End	01/17/95	
ANPRM	07/06/98	63 FR 36384
ANPRM Comment Period End	11/03/98	
NPRM	01/11/01	66 FR 2385
NPRM Comment Period End	04/11/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Old Docket Number CGD 93-091.

Agency Contact: Thomas Willis, Project Manager, National Vessel Documentation Center, Department of Transportation, U.S. Coast Guard, 792 T. J. Jackson Dr, Falling Waters, WV 25419-9502
Phone: 304 271-2506

RIN: 2115–AF13

2239. LICENSING AND MA OFFICERS OF TOWING VE (USCG 1999-5224)

Priority: Substantive, Nons

Legal Authority: 14 USC 6 3507; 46 USC 2103; 46 US USC 7106; 46 USC 7107; 4

CFR Citation: 46 CFR 10;

Legal Deadline: None

Abstract: This rulemaking as part of an overall initiat Coast Guard to improve na safety for towing vessels. I ensure that the mariner pil towing vessel has the prop and qualifications to hand tow. It will introduce a thi license where there have b two. Each level will requir experience and proficiency one before. This will preve operator with minimal exp commanding the largest fl prevent any operator from the large flotillas until he gained, and shown, the ne competence. This rulemak introduces a requirement demonstration of proficie prerequisite to being issue This will be in addition to requirements for sea servi examination, testing for d successful testing for com project supports the Coast strategic goal of maritime

Timetable:

Action	Date
NPRM	06/19/
Correction	07/11/
Correction	08/07/
Notice of Meeting	08/26/
NPRM Comment Period End	10/17/
Notice of Intent	12/18/
SNPRM	10/27/
Public Meeting Memphis 02/11/98	01/21/
Public Meeting Houston 02/13/98	01/21/
Public Meeting Boston 02/18/98	01/21/
Public Meeting Seattle 02/24/98	01/21/
SNPRM Comment Period End	02/24/
Interim Rule	11/19/
Interim Rule Comment Period End	02/17/
Interim Rule	10/27/
Notice Concerning Review	02/09/

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Action	Date	FR Cite
Interim Rule	04/26/01	66 FR 20931
Interim Rule Effective	05/21/01	
Notice of Public Meeting	07/11/01	66 FR 36223
Interim Rule Comment Period End	07/25/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Old Docket Number CGD 94-055.

Agency Contact: LCDR Luke Harden, Project Manager, G-MSO-1, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001
Phone: 202 267-1838

RIN: 2115–AF23

2240. +IMPLEMENTATION OF THE 1995 AMENDMENTS TO THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS, 1978 (STCW) (CGD 95-062)

Priority: Other Significant

Legal Authority: 44 USC 3507; 46 USC 2103; 46 USC 7101; 46 USC 7107

CFR Citation: 46 CFR 10; 46 CFR 12; 46 CFR 15

Legal Deadline: None

Abstract: The International Maritime Organization (IMO) comprehensively amended the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), in 1995. The amendments came into force on February 1, 1997. This project implements them by revising current regulations to ensure that the United States complies with their requirements on: the training of merchant mariners, the documenting of their qualifications, and watch-standing and other arrangements aboard seagoing merchant ships of the United States. This project supports the Coast Guard's strategic goal of maritime safety. It also supports the goal of our directorate for Marine Safety and Environmental Protection for reducing deaths and injuries of crewmembers on domestic merchant vessels and eliminating substandard vessels from the navigable waters of the United States. This rulemaking is significant due to the potential impact on industry and the potential effect on international interests.

Timetable:

Action	Date	FR Cite
Notice of Meeting	08/02/95	60 FR 39306
Comment Period End	09/29/95	
Notice of Inquiry	11/13/95	60 FR 56970
Comment Period End	01/12/96	
NPRM	03/26/96	61 FR 13284
Notice of Public Meetings	04/08/96	61 FR 15438
Comment Period End	07/24/96	
Notice of Intent	02/04/97	62 FR 5197
Interim Rule	06/26/97	62 FR 34505
Interim Rule Effective	07/28/97	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Old Docket Number CGD 95-062.

Agency Contact: Mark Gould, Project Manager, G-MSO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-6890

RIN: 2115–AF26

2241. PROPELLER INJURY PREVENTION ABOARD RENTAL BOATS (USCG-2001-10299)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302

CFR Citation: 33 CFR 173; 33 CFR 174; 33 CFR 175; 33 CFR 177; 33 CFR 179; 33 CFR 181; 33 CFR 183; 33 CFR 187

Legal Deadline: None

Abstract: This rulemaking would examine the number and nature of injuries sustained from vessel propellers and help the Coast Guard determine the need for Federal or State regulation of these vessels, the livery companies leasing these vessels, or the operators of these vessels. Any regulation would be implemented to reduce further injuries and fatalities involving rented boasts. The National Boating Safety Advisory Council (NBSAC) recommended that the Coast Guard consider a number of alternatives to prevent injuries, including: installing pump jets, propeller cages or a combination of boarding ladder interlocks or shaft alarms, big warning placards, or other warning devices. Future action is dependent upon consideration of reported injuries, comments received in response to past notices, results of the study conducted under a Coast Guard grant, available technology, and continued consultation with the NBSAC. This rulemaking supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
Request for Comments	05/11/95	60 FR 25191
Comment Period End	07/10/95	
Reopening of Comment Period	08/09/95	60 FR 40545
Comment Period End	11/07/95	
ANPRM	03/26/96	61 FR 13123
ANPRM Comment Period End	09/01/96	
Request for Comments	04/28/97	62 FR 22991
Comment Period End	07/28/97	
Notice of Withdrawal	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Old Docket Number CGD 95-041.

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF28

2242. OUTER CONTINENTAL SHELF ACTIVITIES (USCG-1998-3868)

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1333(d)(1); 43 USC 1348(c); 43 USC 1356

CFR Citation: 33 CFR 140 to 147

Legal Deadline: None

Abstract: This project would revise the regulations on Outer Continental Shelf (OCS) activities to: add new requirements for fixed OCS facilities for lifesaving, fire protection, training, hazardous materials used as stores, and accommodation spaces; require foreign vessels engaged in OCS activities to comply with requirements similar to those imposed on U.S. vessels similarly engaged; and allow all mobile inland drilling units (MIDUs) to operate on the

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OCS out to a defined boundary line if they meet requirements for lifesaving, firefighting, and operations similar to those for fixed OCS facilities. This project would affect the owners and operators of facilities and vessels engaged in offshore activities associated with the exploration for, development of, or production of, the resources of the OCS. The preliminary estimate of costs imposed by these amendments varies according to the unit. The Coast Guard is consulting with the Minerals Management Service, part of the Department of the Interior. It supports the Coast Guard's strategic goal of marine safety and environmental protection.

Timetable:

Action	Date	FR Cite
Request for Comments	05/27/95	60 FR 33185
Comment Period End	09/25/95	
NPRM	12/07/99	64 FR 68416
NPRM Correction	02/22/00	65 FR 8671
NPRM Comment Period Extended	03/16/00	65 FR 14226
NPRM Comment Period Extended	06/30/00	65 FR 40559
NPRM Comment Period End	11/30/00	
Final Rule	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The Notice of Request for Comments published 27 June 1995, was assigned Coast Guard docket number 95-016. Following the request for comments this docket was terminated. This project continues under docket USCG-1998-3868 and RIN 2115-AF39.

Agency Contact: James Magill, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1082

RIN: 2115–AF39

2243. FIRE-SUPPRESSION SYSTEMS AND VOYAGE PLANNING FOR TOWING VESSELS (USCG 2000-6931)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3719; 46 USC 4102

CFR Citation: 33 CFR 157; 46 CFR 27

Legal Deadline: NPRM, Statutory, October 1, 1997.

Abstract: The Coast Guard proposes requirements for (a) total-flooding or other installed systems for suppressing fires on existing towing vessels and (b) voyage-planning. The purpose of this rulemaking is to reduce oil spills from single-hull, non-self-propelled barges. Drifting oil barges have run aground and spilled their cargoes, causing considerable damage to marine life and the environment. This project was developed in cooperation with the Towing Safety Advisory Committee. It supports the Coast Guard's strategic goals of maritime safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	10/06/97	62 FR 52057
Comment Period End	01/05/98	
Reopening of Comment Period	02/27/98	63 FR 9980
Notice of Public Meeting	02/27/98	63 FR 9980
Comment Period End	05/11/98	
SNPRM	11/08/00	65 FR 66941
Notice of Public Meeting	12/28/00	65 FR 82303
SNPRM Comment Period End	03/08/01	
SNPRM; Notice of Mtg. & Second Reopening Comment Period	07/11/01	66 FR 36223
Second Reopened Comment Period End	09/15/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking was formerly titled "Towing Vessel Safety (Fire Suppression Systems and Other Measures for Towing Vessels)" (CGD 97-064). It originally proposed requirements for three sets of issues relative to the safety of towing vessel safety issues: Fire-suppression systems and other measures, Control measures for tank barges, and fire-protection measures for towing vessels. The latter two components have developed into separate rulemakings: Emergency Control Measures for Tank Barges (USCG 1998-4443) (RIN 2115-AF65) and Fire Protection Measures for Towing Vessels (USCG 19 2115-AF66).

Agency Contact: Randall Project Manager, G-MSE-4 of Transportation, U.S. Co 2100 Second Street SW, W DC 20593-0001
Phone: 202 267-1861

RIN: 2115–AF53

2244. IMPLEMENTATION NATIONAL INVASIVE SP OF 1996 (USCG-1998-342

Priority: Substantive, Nor

Legal Authority: 16 USC 4702; 16 USC 4711 to 471 4721 to 4728; 16 USC 474 4751

CFR Citation: 33 CFR 151

Legal Deadline: NPRM, S October 26, 1997.

Abstract: This rulemakin voluntary ballast water ex guidelines applicable to s entering U.S. waters, and reporting and sampling p monitor compliance. Ball been identified as a majo the introduction and spre Nuisance Species (ANS). supports the Coast Guard Safety and Environmenta program's goal to reduce untreated ballast water d United States waters, and Guard's strategic goal of natural resources.

Timetable:

Action	Dat
NPRM	04/10
NPRM Comment Period End	06/09
Interim Final Rule	05/17
Interim Final Rule Effective	07/01
Final Rule	12/00

Regulatory Flexibility An Required: No

Small Entities Affected:

Government Levels Affe

Additional Information: Number CGD 97-068.

Agency Contact: LCDR McKeown, Project Mana Department of Transport Coast Guard, 2100 Secon Washington, DC 20593-0
Phone: 202 267-0500

RIN: 2115–AF55

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Final Rule Stage

2245. POLLUTION PREVENTION FOR OCEANGOING SHIPS AND CERTAIN VESSELS IN DOMESTIC SERVICE (USCG-2000-7641)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 3703; 33 USC 1231; 33 USC 1321(j); 33 USC 1903

CFR Citation: 33 CFR 151; 33 CFR 155; 33 CFR 157; 46 CFR 170; 46 CFR 172

Legal Deadline: None

Abstract: This rulemaking concerns pollution prevention and the operational discharge of oil from vessels. It will align existing regulations on oil-water separators, operational discharge, damage and intact stability, and term of validity of International Oil Pollution Prevention Certificates with recent amendments under the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL). It will affect U.S.-flagged tank ships of 10 gross tons or more and other U.S.-flagged ships of 400 gross tons or more. It will eliminate and reduce requirements for shore connections on certain vessels of 100 gross tons or more. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into United States waters from maritime sources by 20 percent, and the Coast Guard's strategic goals of marine safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	08/08/00	65 FR 48548
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Additional Information: Previous Docket Number CGD 97-072.

Agency Contact: Robert M. Gauvin, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1053

RIN: 2115–AF56

2246. RULES OF PRACTICE, PROCEDURE, AND EVIDENCE FOR ADMINISTRATIVE PROCEEDINGS OF THE COAST GUARD (USCG 1998-3472)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 7701; 46 USC 7702; 33 USC 1321; 42 USC 9609

CFR Citation: 33 CFR 20; 46 CFR 5

Legal Deadline: None

Abstract: The Coast Guard maintains two separate sets of procedural rules: for administrative adjudication against merchant mariners' licenses, certificates of registry, and documents, and for the adjudication of class II civil penalties. The rules for suspension and revocation, contained in part 5 of title 46 of the Code of Federal Regulations (CFR), date from 1948 and are based on criminal procedure. The rules for class II civil penalties, contained in part 20 of title 33 of the CFR, date from 1994 and are based on the Model Rules of Administrative Procedure and on other modern rules for civil procedure. Neither set implements the authority of the Oil Pollution Act of 1990 (OPA 90), which provides for the temporary suspension of a license, certificate of registry, or document for up to 45 days without a hearing, in certain circumstances, and a hearing within 30 days of any such suspension. This rulemaking would consolidate all procedural rules for administrative adjudications for class II civil penalties, and allow the Coast Guard to promulgate regulations implementing the OPA 90 authority. This project supports the strategic goal of the Coast Guard to promote marine safety.

Timetable:

Action	Date	FR Cite
NPRM	04/06/98	63 FR 16731
NPRM Comment Period End	05/06/98	
NPRM Comment Period Reopened	05/20/98	63 FR 27700
NPRM Comment Period End	06/19/98	
Interim Final Rule	05/24/99	64 FR 28054
Interim Final Rule Effective	06/23/99	
Interim Final Rule Correction	06/28/99	64 FR 34540
Interim Final Rule Comment Period End	07/23/99	
Interim Final Rule Comment Period Reopened	10/05/99	64 FR 53970
Action	Date	FR Cite
Interim Final Rule Comment Period End	04/03/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rulemaking revises in part the previous docket of CGD 94-101 (RIN 2115-AD94), which was terminated on December 20, 1995.

Agency Contact: George Jordan, Project Manager, G-CJ, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-2940

RIN: 2115–AF59

2247. SAFETY OF UNINSPECTED PASSENGER VESSELS UNDER THE PASSENGER VESSEL SAFETY ACT OF 1993 (USCG-1999-5040)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2101; 46 USC 2113; 46 USC 3306; 46 USC 4105

CFR Citation: 46 CFR 15; 46 CFR 24 to 28; 46 CFR 70; 46 CFR 169; 46 CFR 175; 33 CFR 175; 33 CFR 177; 33 CFR 179; 33 CFR 181; 33 CFR 183; 46 CFR 10; 46 CFR 2; 46 CFR 30; 46 CFR 90; 46 CFR 114; 46 CFR 188; 46 CFR 199; ...

Legal Deadline: None

Abstract: This rulemaking implements the Passenger Vessel Safety Act (PVSA) (Pub. L. 103-206) by amending the rules for Uninspected Passenger Vessels (UPVs). Specifically, the Coast Guard is considering amending existing UPV definitions to create a new class of UPV of at least 100 gross tons carrying not more than 12 passengers. The Coast Guard is considering operating, equipment, licensing and special permit application requirements appropriate for the new class of vessel. The Coast Guard is also considering adding definitions of "passenger," "passenger for hire," and "consideration" to bring its rules into conformity with the PVSA. This project supports the Coast Guard's strategic goal of marine safety.

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Timetable:

Action	Date	FR Cite
ANPRM	04/01/99	64 FR 15709
ANPRM Comment Period End	06/30/99	
NPRM	03/02/00	65 FR 11410
Interim Final Rule	04/28/00	65 FR 24878
NPRM Comment Period End	05/31/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael Jendrossek, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 200593-000
Phone: 202 267-0836

RIN: 2115–AF69

2246. CERTIFICATION OF NAVIGATION LIGHTS FOR UNINSPECTED COMMERCIAL VESSELS AND RECREATIONAL VESSELS (USCG 1999-6580)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2071; 33 USC 1602; 33 USC 1607

CFR Citation: 33 CFR 84; 33 CFR 181; 33 CFR 183; 46 CFR 111

Legal Deadline: None

Abstract: This rule would place navigation lights for recreational vessels and uninspected commercial vessels under regulatory control similar to that already in place for inspected commercial vessels. Specifically, it would require certification that installed navigation lights are in compliance with the Navigation Rules' specifications, as evidenced by laboratory testing to a performance standard; this level of control is currently in place for other items of safety equipment. This action is in accordance with recommendations made by the National Boating Safety Advisory Council (NBSAC), the Navigation Safety Advisory Council (NAVSAC), and the National Association of State Boating Law Administrators (NASBLA). This project supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	08/04/00	65 FR 47936
NPRM Comment Period End	10/03/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: This rulemaking was formerly titled Certification of Navigation Lights on Recreational Vessels (CGD 97-060).

Agency Contact: Randolph J. Doubt, Project Manager, G-OPB-3, Department of Transportation, U.S. Coast Guard, 2100 Second Steet SW, Washington, DC 20593-0001
Phone: 202 267-6810

RIN: 2115–AF70

2249. VESSEL TRAFFIC SERVICE LOWER MISSISSIPPI RIVER (USCG-1998-4399)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223(a)

CFR Citation: 33 CFR 26; 33 CFR 161; 33 CFR 165

Legal Deadline: None

Abstract: This project proposes to establish a new Vessel Traffic Service (VTS) area in the Lower Mississippi River region. This Vessel Traffic Service Area (VTSA) will span from 20 miles north of Baton Rouge (mile 255 AHP) out to sea, including the South and Southwest Pass. As part of the VTSA, a VTS Special Area will be designated between mile 93.5 and 95 AHP. Unlike traditional VTSs, which are based on radar and video surveillance and rely on voice communications by VHF-FM radio, when fully operational VTS Lower Mississippi River will use Automatic Identification System transponder technology to perform the majority of both surveillance and information exchange. This rulemaking supports the Coast Guard's strategic goals of maritime safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	04/26/00	65 FR 24616
NPRM Comment Period End	07/25/00	
NPRM Comment Period Reopened	08/18/00	65 FR 50479
NPRM Comment Period End	12/01/0	
Final Rule	12/00/0	

Regulatory Flexibility Ana Required: No

Small Entities Affected: B

Government Levels Affec

Additional Information: T was originally entitled "V Service Lower Mississipp Identification System Car Requirement." The VTS L retain RIN 2115-AF75. Th requirement will be devel separate rulemaking.

Agency Contact: Jorge A Manager, G-MWV, Depart Transportation, U.S. Coas Second Street SW, Washi 20593-0001
Phone: 202 267-6277

RIN: 2115–AF75

2250. ANCHORAGE GRO SAFETY ZONE; SPEED L TONGASS NARROWS A KETCHIKAN, AK (CGD17

Priority: Substantive, No

Legal Authority: 33 USC 1231; 33 USC 2071

CFR Citation: 33 CFR 16 33 CFR 110

Legal Deadline: None

Abstract: This rulemaki an exemption from the p speed limit in Tongass N for float plane take-off a vessels 26 feet in length geographic area for the s would be expanded. A s for cruise ship anchorage redesignated as an ancho reflect actual usage of th transiting vessels would move quickly and direct anchorage, without rapi changes, to increase safe supports the Coast Guar goal of marine safety.

Timetable:

Action	Dat
NPRM	03/2
Comment Period End	05/1
Interim Final Rule	06/0
Comment Period End	11/3
Interim Final Rule	04/0

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Action	Date	FR Cite
Interim Final Rule	10/31/00	
Comment Period End		
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT P. W. Clark, Project Manager, Department of Transportation, U.S. Coast Guard, 2030 Sealevel Drive, Suite 203, Ketchikan, AK 99901
Phone: 907 225-4496

RIN: 2115–AF81

2251. MANDATORY SHIP REPORTING SYSTEM OFF THE NORTHEAST AND THE SOUTHEAST COASTS OF THE UNITED STATES (USCG-1999-5525)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1230(d)

CFR Citation: 33 CFR 169

Legal Deadline: None

Abstract: This regulatory project establishes two mandatory ship reporting systems in areas off the U.S. Atlantic Coast to protect the endangered Northern Right Whale. These areas are critically important calving and feeding grounds for that species. Although right whales are also found outside of these areas, the two areas are targeted because they have both large numbers of whales and a high volume of ship traffic. Ship collisions are the largest known source of human related mortality of right whales. Communication between shore-based authorities and ships will minimize the risk of collision damage to ships and the whales as well as provide beneficial information to ships. The reporting system requires ships over 300 gross tons to notify the Coast Guard of their intention to enter these areas. In return, the mariners are provided with automated information about the last known locations of any right whales. This project supports the Coast Guard's strategic goal of protecting the natural resources.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/01/99	64 FR 29229
Interim Final Rule Comment Period End	07/01/99	
Interim Final Rule Effective	07/01/99	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The International Maritime Organization established a June 30, 1999 implementation for a mandatory reporting system. Less than 300 northern right whales are now known to exist. Designing an effective and simple reporting program in conjunction with other Federal agencies eliminated the availability of time to propose the regulations for comment prior to promulgation. However, the Coast Guard may revise the regulations in response to comments.

Agency Contact: LT Alan Blume, Project Manager, G-MWV-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0550

RIN: 2115–AF82

2252. TRAINING AND QUALIFICATIONS FOR PERSONNEL ON PASSENGER SHIPS (USCG 1999-5610)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC ch. 71; 46 USC ch. 73

CFR Citation: 46 CFR 12; 46 CFR 15; 46 CFR 10

Legal Deadline: None

Abstract: This project will implement new amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), that impose requirements for training and qualifications of masters, officers, engineers, and "ratings." The following training courses are mandatory for the personnel on passenger ships other than roll-on, roll-off, carrying more than 12 passengers operating on international voyages: (1) Crisis Management and Human Behavior; (2) Crowd Management; (3) Special Safety; (4) Passenger Safety, with special attention given to disabled persons and others needing assistance; and (5) Special Familiarization. This rulemaking supports the Coast Guard's strategic goals of maritime safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	06/15/00	65 FR 37507
NPRM Comment Period End	09/13/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Gould, Project Manager, G-MSO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-6890

RIN: 2115–AF83

2253. RAISING THE THRESHOLD OF PROPERTY DAMAGE FOR REPORTS OF ACCIDENTS INVOLVING RECREATIONAL VESSELS (USCG-1999-6094)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 6101; 46 USC 6102

CFR Citation: 33 CFR 173; 33 CFR 174

Legal Deadline: None

Abstract: This rule would increase the threshold for reporting recreational-boat accidents involving only property damage. Because of inflation since the threshold was last revised, the threshold now requires the reporting of a large number of minor accidents. These numbers distort the statistical base for the program in Recreational Boating Safety and increase the burden of paperwork on the boating public. Raising the threshold to an appropriate level would provide for a consistent statistical base and reduce the administrative burden on the Coast Guard and on States' accident-investigation personnel as well as the burden of paperwork on the boating public. This rule supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	06/20/00	65 FR 38229
NPRM Comment Period End	10/18/00	
Final Rule	05/01/01	66 FR 21671

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Action	Date	FR Cite
Final Rule, Partial Suspension	06/26/01	66 FR 33844
Final Rule Effective	07/02/01	
Final Rule, Partial Suspension, Comment Period End	09/24/01	
Comment Period Reopened	10/24/01	66 FR 53754
Comment Period End	11/23/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bruce Schmidt, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0955

RIN: 2115–AF87

2254. ALTERNATE HULL EXAMINATION PROGRAM FOR CERTAIN PASSENGER VESSELS, AND UNDERWATER SURVEYS FOR PASSENGER, NAUTICAL SCHOOL, AND SAILING SCHOOL VESSELS (USCG-2000-6858)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3305; 46 USC 3308

CFR Citation: 46 CFR 71; 46 CFR 115; 46 CFR 167; 46 CFR 169; 46 CFR 176

Legal Deadline: None

Abstract: The regulatory project will establish hull examination alternatives and a drydock extension policy for qualifying passenger vessels that operate exclusively on benign, low-risk environments, and that have limited time under way. In addition, the proposed regulations would provide the option of alternating drydock examinations with underwater surveys for passenger vessels. This project supports the Coast Guard's strategic goal Marine Safety and Environmental Protection Program's goal of mobility by facilitating commerce and eliminate interruptions and impediments to the economical movement of goods and people.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This Project is a split-off of RIN 2115-AF73. The split was a result of comments received under the NPRM that was published under RIN 2115-AF73, 11/15/1999, 64 FR 62018, entitled Frequency of Inspection Alternate Hull Exam Program for Certain Passenger Vessels, and Underwater Surveys for Passenger, Nautical School, and Sailing School Vessels.

Agency Contact: LCDR Donald Darcy, Project Manager G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001
Phone: 202 267-1200

RIN: 2115–AF95

2255. NOXIOUS LIQUID SUBSTANCES, OBSOLETE HAZARDOUS MATERIALS IN BULK, AND CURRENT HAZARDOUS MATERIALS IN BULK (USCG-2000-7079)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321, 1903; 46 USC 2103, 3306, 3703

CFR Citation: 33 CFR 151; 46 CFR 30, 150, 151, and 153

Legal Deadline: None

Abstract: The Coast Guard revises rules on carriage of hazardous materials in bulk, treating the rules in three parts:

First, the Coast Guard revises its rules on Noxious Liquid Substances (NLSs) to include substances recently authorized for carriage by the Coast Guard or added to the Chemical Codes of the International Maritime Organization (IMO) and by making minor technical and editorial changes based on the actions taken in part C.

Second, the Coast Guard revises its rules, tables, and lists on carriage of hazardous materials in bulk by deleting from its rules, tables, and lists commodities that are no longer liquid cargoes transportable in bulk, and by canceling the classifications of obsolete commodities not included in those rules, tables, and lists.

Third, the Coast Guard revises its rules on carriage of hazardous materials in bulk by adding cargoes recently authorized for carriage by the Coast Guard or added to the Chem of the IMO and by making m technical and editorial chan

This three-part revision will tables of hazardous material transportable in bulk and be persons shipping any such m the materials' compatibility special handling requiremen project supports the Coast G strategic goal of marine safe

Timetable:

Action	Date
Direct Final Rule	11/08/00
Interim Final Rule	12/00/01

Regulatory Flexibility Analy Required: No

Small Entities Affected: No

Government Levels Affecte

Additional Information: Bas comment, we became aware in the direct final rule and t changed the next rulemakin item.

Agency Contact: Curtis Pay Manager, G-MSO-3, Departm Transportation, U.S. Coast G Second Street SW, Washing 20593-0001
Phone: 202 267-0016

RIN: 2115–AF96

2256. CARGO SECURING VESSELS OPERATING IN WATERS (USCG-2000-7080

Priority: Substantive, Nonsi

Legal Authority: 46 USC 33

CFR Citation: 33 CFR 97

Legal Deadline: None

Abstract: This rulemaking amend the cargo stowage a rules for U.S. vessels operat waters. In addition, it woul rules to require cargo secur for U.S. or foreign vessels o tons or more on internation Its goal is to reduce hazard cargo losses from vessels in waters. It supports the Coas strategic goals of maritime protection of natural resour

Timetable:

Action	Date
NPRM	12/01/00
NPRM Comment Period End	03/01/01
Final Rule	12/00/01

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Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. Gauvin, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1053

RIN: 2115–AF97

2257. WEARING OF PERSONAL FLOTATION DEVICES (PFDS) BY CERTAIN CHILDREN ABOARD RECREATIONAL VESSELS (USCG-2000-8589)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302

CFR Citation: 33 CFR 175, subpart B

Legal Deadline: None

Abstract: This rule would require every child under the age of 13 to wear a personal flotation device (PFD)—also called a lifejacket—while aboard a recreational vessel under way and while not below decks or in an enclosed cabin. It would adopt, on waters subject to the jurisdiction of the United States within any State, any requirement for the wearing of a PFD established by that State for a child under an age specified by that State. The rule would also set, on waters subject to the jurisdiction of the United States within any State lacking any such requirement, its own, comparable requirements. This project supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	05/01/01	66 FR 21717
NPRM Comment Period End	09/29/01	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AG04

2258. NOTIFICATION OF ARRIVAL: ADDITION OF CHARTERER TO REQUIRED INFORMATION (USCG-2001-8659)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 160

Legal Deadline: None

Abstract: This rulemaking will require an owner, master, operator, or person in charge of a vessel to provide the identification of a vessel's charterer in addition to the already required information when making an advance notice of arrival for vessels bound for ports or places in the United States. This project supports the Coast Guard's strategic goals of maritime safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
Request for Comments	08/18/00	65 FR 50481
Comment Period End	10/02/00	
NPRM	05/01/01	66 FR 21710
Correction Notice	05/16/01	66 FR 27216
Correction Notice	05/24/01	66 FR 28774
NPRM Comment Period End	07/02/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: CDR Mark Prescott, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0225

RIN: 2115–AG06

2259. +VESSEL DOCUMENTATION: LEASE FINANCING FOR VESSELS ENGAGED IN THE COASTWISE TRADE (USCG-2001-8825)

Priority: Other Significant

Legal Authority: 46 USC 12106; 46 USC 12120; 46 USC 12122

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: This rulemaking will amend the regulations on the documentation of vessels engaged in the coastwise trade. It is a spin-off of Vessel Documentation (USCG 1998-4784) RIN 2115-AF71. These proposals address statutory amendments eliminating certain barriers to seeking foreign financing by lease for U.S. flag vessels. These proposals would clarify the information needed to determine the eligibility of a vessel financed in this manner for a coastwise endorsement. This rulemaking supports the Coast Guard's strategic goal of maritime mobility.

Timetable:

Action	Date	FR Cite
NPRM	05/02/01	66 FR 21902
Comment Period Extended	05/29/01	66 FR 34603
Extended Comment Period End	09/04/01	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Patricia Williams, Project Manager, NVDC, Department of Transportation, U.S. Coast Guard, National Vessel Documentation Center, 792 T.J. Jackson Drive, Falling Waters, WV 25419
Phone: 304 271-2506

RIN: 2115–AG08

2260. INSPECTION AND ENFORCEMENT OF COAST GUARD REGULATIONS FOR FIXED FACILITIES BY MINERALS MANAGEMENT SERVICE (USCG-2001-9045)

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1348

CFR Citation: 33 CFR 140

Legal Deadline: None

Abstract: The Coast Guard proposes to authorize the Mineral Management Service (MMS) to perform inspections, on behalf of the Coast Guard, on fixed facilities engaged in Outer Continental Shelf activities and to enforce Coast Guard regulations applicable to those facilities. MMS already performs inspections on these facilities to determine whether they comply with MMS regulations. By authorizing MMS to also check for compliance with Coast Guard regulations, we avoid duplicating functions, reduce Federal costs, and increase the frequency of inspections. This project supports the Coast Guard's strategic goals of

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maritime safety and environmental protection.

Timetable:

Action	Date	FR Cite
NPRM	05/10/01	66 FR 23871
NPRM Comment Period End	07/09/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: James Magill, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1082

RIN: 2115–AG14

2261. • ALTERNATE COMPLIANCE PROGRAM (USCG-2001-10164)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3316

CFR Citation: 46 CFR 126

Legal Deadline: None

Abstract: This regulatory project will incorporate Offshore Supply Vessels into the Coast Guard's Alternate Compliance Program. It supports the Coast Guard's strategic plan of marine safety.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/23/01	66 FR 53542
Direct Final Rule Comment Period End	12/24/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Benjamin Nicholson, Lieutenant, G-MSO, Department of Transportation, U.S. Coast Guard, Rm. 1304, 2100 Second ST SW, Washington, DC 20593-0001
Phone: 202 267-0143

RIN: 2115–AG17

2262. • PROTECTION OF NAVAL VESSELS (LANT AREA-01-001 AND PAC AREA-01-001)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 91

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: Following terrorist attacks in New York and Washington, D.C., the Coast Guard is establishing temporary regulations for the safety or security of U.S. naval vessels in the nav waters of the United States. regulations are issued under authority contained in 14 U. Naval Vessel Protection Zon provide for the regulation of traffic in the vicinity of U.S. vessels in the navigable wat United States. This rule sup strategic goal of marine safet security.

Timetable:

Action	Date
Temporary Final Rule	12/00/01

Regulatory Flexibility Analy Required: No

Small Entities Affected: No

Government Levels Affecte

Agency Contact: Joe Billy, (Poft), Department of Transp U.S. Coast Guard, Coast Gua Area, Coast Guard Island, A 94501
Phone: 510 437-3505

Chris Doane, Commander (A Department of Transportatio Coast Guard, Coast Guard A Area, 431 Crawford Street, P VA 23704-5004
Phone: 757 398-6372

RIN: 2115–AG23

Department of Transportation (DOT)
U.S. Coast Guard (USCG)

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2263. SAFETY/SECURITY ZONE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233; 33 USC 1225

CFR Citation: 33 CFR 100; 33 CFR 165

Legal Deadline: None

Abstract: These routine and frequent regulations establish limited access zones in which the Coast Guard exercises control of all vessels to ensure the safety or security of events, vessels or individuals. They are usually of short duration, ranging from a few hours to a few days. Safety zones are established for events such as fireworks displays, high speed races, or the transit of dangerous cargoes such as explosives or liquefied petroleum gas. Security zones are established for Presidential or Vice Presidential visits, high profile events such as the Olympics, or controversial events such as transport of spent nuclear fuel. Safety and security zones are promulgated by Captains of the Port or District Commanders in response to requests or notifications from appropriate officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of marine safety, mobility, maritime security, and national defense. Total actions expected 10/01/2001 to 10/01/2002: 250.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Th docket for routine field regu

Agency Contact: Ed LaRue Manager, G-MWV, Departm Transportation, U.S. Coast Second Street SW, Washing 20593-0001
Phone: 202 267-0416

RIN: 2115–AA97

2264. SPECIAL ANCHORA AREAS/ANCHORAGE GRO REGULATIONS

Priority: Routine and Frequ

Legal Authority: 33 USC 4 2030; 33 USC 2035; 33 USC

CFR Citation: 33 CFR 110

Legal Deadline: None

Abstract: These routine an regulations are established

maritime and commercial interests require them for safety of navigation. Special anchorage areas are areas in which vessels of not more than 65 feet may anchor without displaying the required lights or sound signals. These special anchorage areas are limited geographically, and depending upon the purpose, establish both long- and short-term anchorages. Anchorage grounds are limited geographically, delineate the types and size.of vessel which may use the anchorage, and may place time and other restrictions on its use. Special anchorage areas and anchorage grounds are promulgated by District Commanders in response to requests from appropriate officials. These routine and frequent rulemakings support the Coast Guard's strategic goal of marine safety. Total actions expected 10/01/2001 to 10/01/2002: 10.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Ed LaRue, Project Manager, G-MWV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0416

RIN: 2115–AA98

2265. PERMITS FOR THE TRANSPORTATION OF MUNICIPAL AND COMMERCIAL WASTES (USCG-2000-7442)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2602

CFR Citation: 33 CFR 151

Legal Deadline: Final, Statutory, June 15, 1989.

Abstract: In May 1989, the Coast Guard began a rulemaking to incorporate into regulation certain elements of the Shore Protection Act. The objective is to help prevent trash, medical debris, and other unsightly and potentially harmful materials from being deposited into the coastal waters of the United States as a result of sloppy waste-handling procedures. This project supports the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/89	54 FR 22546
Correction	06/05/89	54 FR 24078
Comment Period End	08/24/89	54 FR 22546
Notice	12/13/95	60 FR 64001
Reopen Comment Period	05/03/01	66 FR 22137
Comment Period End	08/01/01	
Next Action Undetermined	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Old Docket Number CGD 89-014. This project was formerly known as "Implementation of the Shore Protection Act of 1988."

ANALYSIS: Regulatory Evaluation, 05/24/89, 54 FR 22546

Agency Contact: ENS William R. Sportsman, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001
Phone: 202 267-0226

RIN: 2115–AD23

2266. +ESCORT VESSELS FOR CERTAIN TANKERS (CGD 91-202)

Priority: Other Significant

Legal Authority: 46 USC 3703

CFR Citation: 33 CFR 168

Legal Deadline: None

Abstract: This rulemaking developed standards which implement section 4116(c) of the Oil Pollution Act of 1990. It addressed the areas of Prince William and Puget Sounds and requires a two-vessel escort for single-hull tankers greater than 5,000 gross tons. On November 1, 1994, the crash stop criteria were suspended because of industry concerns about meeting the criteria. On February 1, 1995, a notice of availability of a two-part study assessing the capability of escort tugs to control disabled tankers in Prince William Sound was published. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protecting natural resources. This project is considered significant because of substantial public and State government interest.

Timetable:

Action	Date	FR Cite
NPRM	07/07/92	57 FR 30058
Comment Period End	09/08/92	
Reopening of Comment Period	03/26/93	58 FR 16391
Notice of Public Hearings	04/29/93	58 FR 25959
Correction	05/19/93	58 FR 29157
NPRM Comment Period End	06/24/93	
Part 1 of Study	01/10/94	59 FR 1411
Final Rule	08/19/94	59 FR 42962
Final Rule - Partial Suspension Crash Stop Criteria	11/01/94	59 FR 54519
Final Rule Effective - Partial Suspension	11/17/94	59 FR 54519
Notice of Availability Part II of Study	02/01/95	60 FR 6345
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Additional Information: The Coast Guard, in cooperation with the Prince William Sound Regional Citizens Advisory Council, PWS Tanker Association, and Alaska Pipeline, conducted a disabled-tanker towing study. The result of the study was incorporated into this rulemaking. Tug escort requirements in areas other than Prince William Sound and Puget Sound are addressed in the project listed under RIN 2115-AE56.

ANALYSIS: Regulatory Evaluation, 08/19/94, 59 FR 42962

Agency Contact: CDR Tim M. Close, Project Manager, G-MSE-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0177

RIN: 2115–AE10

2267. STATE ACCESS TO THE OIL SPILL LIABILITY TRUST FUND (CGD 92-014)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2712

CFR Citation: 33 CFR 133

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Legal Deadline: NPRM, Statutory, February 18, 1991.

Abstract: Pursuant to the Oil Pollution Act of 1990 (OPA 90), this action specifies how the authority to obligate the pollution trust fund for oil spill response and cleanup efforts and to enter into agreements with the states will be exercised. The Coast Guard is evaluating the performance of the Interim Rule. This rulemaking supports the Coast Guard's strategic goal of the protection of natural resources.

Timetable:

Action	Date	FR Cite
Interim Rule	11/13/92	57 FR 53968
Interim Final Rule Comment Period End	02/11/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: Rulemaking was downgraded from Other Significant to Substantive Nonsignificant in the 11/14/94 Agenda; however, due to administrative error, the document erroneously reflected Other Significant in subsequent Agenda entries.

Agency Contact: Al Thuring, Project Manager, National Pollution Funds Center, Department of Transportation, U.S. Coast Guard, Suite 1000, 4200 Wilson Boulevard, Arlington, VA 22203-1804
Phone: 202 493-6801

RIN: 2115–AE19

2268. REGATTA REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100

Legal Deadline: None

Abstract: These routine and frequent special local regulations ensure the safety of participants and spectators in regattas and marine parades. They specify such things as separate participant and spectator areas, separation schemes for watercraft in the area of the event, and temporary restrictions on waterways to accommodate the event. These rules are short-term, usually applying to a single event not exceeding 8 hours in duration, and usually encompassing only a small portion of a navigable waterway. These rules are promulgated by District Commanders in response to a request from a sponsoring organization. These routine and frequent rulemakings support the Coast Guard's strategic goal of maritime safety and maritime mobility of commercial and recreational vessel traffic. Total actions expected 10/01/2001 to 10/01/2002: 75.

Timetable:

Action	Date	FR Cite
Action Will Continue Through	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AE46

2269. DRAWBRIDGE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 499

CFR Citation: 33 CFR 117

Legal Deadline: None

Abstract: These routine and frequent regulations establish operating schedules, and notice requirements, for drawbridges across navigable waterways. Drawbridge regulations establish the permanent draw operation schedules for bridges and specify what notice mariners must give to request an opening. Short-term deviations from the permanent schedule may be issued for bridge repairs or to test the effectiveness of a proposed new opening schedule. Drawbridge regulations are promulgated by District Commanders usually at the request of the bridge owner or operator, or of local officials or local Coast Guard bridge administration officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of maritime safety and maritime mobility of commercial and recreational vessel traffic. Total actions expected 10/01/2001 to 10/01/2002: 10

Timetable:

Action	Date
Action Will Continue Through	10/00/02

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Busi Governmental Jurisdictions

Government Levels Affected

Additional Information: This docket for routine field regula

Agency Contact: Alesia Stei Project Manager, G-OPT-1, D of Transportation, U.S. Coast 2100 Second Street SW, Was DC 20593-0001
Phone: 202 267-6215

RIN: 2115–AE47

2270. +ESCORT VESSELS I U.S. WATERS (CGD 91-202A

Priority: Other Significant

Legal Authority: 46 USC 370

CFR Citation: 33 CFR 168

Legal Deadline: None

Abstract: This regulation wo designate those U.S. waters, Prince William Sound and P Sound, where tankers and ot must be escorted by a towing or other appropriate vessel. supports the Coast Guard's M Safety and Environmental Pr program's goal to reduce the of oil discharged into the ma environment and the Coast G strategic goal of protecting n resources. This action is con significant because of substa and State government intere

Timetable:

Action	Date
ANPRM	04/27/93
Comment Period End	06/28/93
Request for Comments	12/21/94
Comment Period End	02/13/95
Next Action Undetermined	

Regulatory Flexibility Analy Required: No

Small Entities Affected: Bu

Government Levels Affecte

Federalism: Undetermined

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Long-Term Actions

Additional Information: This rulemaking is a companion to 2115-AE10, which concerns Prince William Sound and Puget Sound.

Agency Contact: CDR Tim M. Close, Project Manager, G-MSE-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0177

RIN: 2115–AE56

2271. REGULATED NAVIGATION AREAS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: These routine and frequent regulations establish operating requirements for vessels within specified geographic areas to ensure safety on the navigable waters where some special or unusual circumstance exists. Regulated navigation areas are limited areas in which the Coast Guard specifies operational or vessel restrictions such as vessel entry, movement or departure; and vessel size, speed, horsepower, or draft limitations. Regulated navigation areas are promulgated by District Commanders, usually at the request of Coast Guard marine safety or local maritime safety officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of waterways management, marine safety, and maritime mobility. Total actions expected 10/01/2001 to 10/01/2002: 10.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Ed LaRue, Project Manager, G-MWV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0416

RIN: 2115–AE84

2272. LIMITED SERVICE DOMESTIC VOYAGE LOAD LINES FOR RIVER BARGES ON LAKE MICHIGAN (USCG-1998-4023)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 51

CFR Citation: 46 CFR 45

Legal Deadline: None

Abstract: This regulatory project will allow certain unmanned dry cargo river barges operating on Lake Michigan to be exempted from the normal Great Lakes load line requirements provided instead that they obtain a limited domestic service load line for two specific routes (Chicago to Milwaukee, and Chicago to Muskegon). This will allow certain non-hazardous cargoes originating at inland river ports to be transported as far as Milwaukee and Muskegon by river barge, thereby benefiting from the relatively low cost per ton-mile of river barge transportation. Compliance is not mandatory other than for those river barge operators who voluntarily seek this special load line for their barges. This rulemaking supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	11/02/98	63 FR 58679
Comment Period End	03/04/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Old Docket Number CGD 95-015.

Agency Contact: Thomas Jordan, Project Manager, G-MSE-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-2988

RIN: 2115–AF38

2273. CARRIAGE OF BULK SOLID MATERIALS REQUIRING SPECIAL HANDLING (USCG-2000-6932)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321; 46 USC 3306; 46 USC 3703; 46 USC 5111; 46 USC 6101; 49 USC 1804; EO 11735; EO 12234

CFR Citation: 46 CFR 90; 46 CFR 97; 46 CFR 148

Legal Deadline: None

Abstract: This project will add materials carried with Special Permits issued under Coast Guard regulations and other materials contained in the International Maritime Organization Code of Safe Practice for Solid Bulk Cargoes (IMO Bulk Solids Code, or "BC Code"), including coal, to the list of materials permitted under the regulations. The special handling procedures associated with these materials are also included in the new rules. The revisions will harmonize U.S. regulations with recommended international practice, and eliminate the need to apply for Special Permits, except for newly classified hazardous materials. This project supports the Coast Guard's strategic goal of marine safety and mobility.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Additional Information: This project was initiated with an ANPRM (28 April 1989), and further developed in an NPRM (12 April 1994). In prioritizing resources, it was terminated on 13 April 1995. This regulatory project can now be reinitiated. Based on comments to the docket (previously CGD 87-069 and CGD 97-037), this is a non-controversial amendment to existing regulations.

Agency Contact: Brian Robinson, Project Manager, G-MSO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0018

RIN: 2115–AF47

2274. +EMERGENCY RESPONSE PLANS FOR PASSENGER VESSELS (USCG-1998-3473)

Priority: Other Significant

Legal Authority: 14 USC 633; 33 USC 1221; 33 USC 1223; 33 USC 1224; 33 USC 1231; 33 USC 1232; 46 USC 3306

CFR Citation: 46 CFR 1; 46 CFR 7 to 10; 46 CFR 199

Legal Deadline: None

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Long-Term

Abstract: This rulemaking would require owners or operators of high-capacity passenger vessels in domestic service to develop, maintain, and exercise emergency response plans. Such plans would establish a process that prevents injury and loss of life during collisions, allisions, groundings, fires, and other emergencies. They would address issues such as passenger egress, crew training, and available emergency resources both on a vessel and in a vessel's operating area. This rulemaking supports the Coast Guard's strategic goals of maritime safety and protection of natural resources. It is significant because of substantial public interest in passenger safety.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/98	63 FR 9916
ANPRM Comment Period End	05/28/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: CDR Tim M. Close, Project Manager, G-MSE-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0177

RIN: 2115–AF61

2275. COMMERCIAL DIVING OPERATIONS (USCG-1998-3786)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1509; 43 USC 1333; 46 USC 3306; 46 USC 3703; 46 USC 6101

CFR Citation: 46 CFR 197; 49 CFR 1.46

Legal Deadline: None

Abstract: This project involves reviewing and updating the commercial diving regulations, which are over 20 years old. A review of the commercial diving regulations is needed to determine what parts should be updated or changed based on the current standards of safety, technology, and industry practices and to evaluate and minimize any significant economic impact of the rules upon small entities. The project supports the Coast Guard Marine Safety and Environmental Protection Program's goal to reduce deaths and injuries on U.S. commercial vessels and the Coast Guard's strategic goal of safety.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/98	63 FR 34840
ANPRM Comment Period Extended	09/23/98	63 FR 50848
ANPRM Comment Period End	11/09/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Jendrossek, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 200593-000
Phone: 202 267-0836

RIN: 2115–AF64

2276. +IMPROVEMENTS TO MARITIME SAFETY IN PUGET SOUND-AREA WATERS (USCG-1998-4501)

Priority: Other Significant

Legal Authority: 33 USC 1223 to 1224

CFR Citation: 33 CFR 1

Legal Deadline: None

Abstract: This rulemaking would promulgate measures to improve maritime safety in Puget Sound-Area waters including Puget Sound, the Strait of Juan de Fuca, passages around and through the San Juan Islands, and the Olympic Coast National Marine Sanctuary. Based on a determination by the Secretary of Transportation regarding the status of maritime safety in the Puget Sound-area, the Coast Guard has initiated a comprehensive cost-benefit analysis to study the feasibility of implementing new safety measures, including extended tug escort requirements and a dedicated response vessel. Public input will help focus this cost-benefit analysis and develop any future proposed rules, if deemed necessary. This rulemaking supports the Coast Guard Marine Safety and Environmental Protection Program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protection of natural resources. This is a significant action due to substantial public interest.

Timetable:

Action	Date
ANPRM	11/24/98
ANPRM Comment Period End	05/24/99

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Bus

Government Levels Affected:

Federalism: Undetermined

Agency Contact: CDR Tim M Project Manager, G-MSE-1, D of Transportation, U.S. Coast 2100 Second Street SW, Was DC 20593-0001
Phone: 202 267-0177

RIN: 2115–AF68

2277. BARGES CARRYING LIQUID HAZARDOUS MATE (USCG-1999-5117) (SECTIO REVIEW)

Priority: Substantive, Nonsig

Legal Authority: 46 USC 37

CFR Citation: 46 CFR 151

Legal Deadline: None

Abstract: This rulemaking p update the regulations for b carrying bulk hazardous ma account for modernization industry. The current regula barges carrying bulk liquid materials were originally pu 1970. Over the past three de technology has advanced ar practices have changed. Thi will first ask for public com identify the rules which ne updated. Once those rules identified, the project will appropriate revisions to the Federal Regulations. This p supports the Coast Guard's goal of marine safety.

Timetable:

Action	Date
ANPRM	09/09/99
ANPRM Comment Period End	03/07/00

Next Action Undetermined

Regulatory Flexibility Anal Required: No

Small Entities Affected: N

Government Levels Affect

Agency Contact: Thomas Project Manager, G-MSO,

DOT—USCG

Long-Term Actions

Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001

Phone: 202 267-0085

RIN: 2115–AF77

Department of Transportation (DOT)
U.S. Coast Guard (USCG)

Completed Actions

2278. VESSEL IDENTIFICATION SYSTEM (USCG-1999-6420)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 12501

CFR Citation: 33 CFR 174; 33 CFR 187

Legal Deadline: None

Abstract: Shipping legislation requires the Secretary of Transportation to establish a Vessel Identification System (VIS). This rulemaking prescribes the manner and form for participating States to make information available for VIS; to establish guidelines for State vessel titling systems; and to establish procedures for certifying compliance with those guidelines. This rulemaking supports the Coast Guard's strategic goal of maritime mobility.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/89	54 FR 38358
ANPRM Comment Period End	12/14/89	
NPRM	10/05/93	58 FR 51920
Correction	10/15/93	58 FR 53624
NPRM Comment Period End	01/03/94	
NPRM Comment Period Reopened	02/24/94	59 FR 8881
NPRM Comment Period End	03/28/94	
Interim Rule	04/25/95	60 FR 20310
Comment Period End	07/24/95	
NPRM Comment Period Reopened	10/17/95	60 FR 53727
NPRM Comment Period End	12/31/95	
Change in Effective Date	02/23/96	61 FR 6943
NPRM Comment Period Reopened	10/20/97	62 FR 54385
Change in Effective Date	04/21/98	63 FR 19657
IR Change in Effective Date	04/19/99	64 FR 19039
Final Rule Removing Subpart D	10/22/99	64 FR 56965
Supplemental NPRM	02/16/00	65 FR 7926
SNPRM Comment Period End	05/16/00	
Final Action	03/20/01	66 FR 15625
Final Action Effective	04/19/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rulemaking was previously docketed under CGD 89-050.

Agency Contact: Jeanne Timmons, Project Manager, G-OPB-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Rm. 3100, Washington, DC 20593-0001
Phone: 202 267-0857

RIN: 2115–AD35

2279. MARINE SHIPBOARD ELECTRICAL CABLE STANDARDS (USCG-1999-6096)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 110; 46 CFR 111

Legal Deadline: None

Abstract: This project will amend the marine shipboard electrical cable regulations by incorporating by reference standards (concerning technical specifications) that reflect the latest industry practices and Coast Guard policy. The new standards have already been examined under Coast Guard regulations and found to be comparable to current standards that are incorporated by reference. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	02/08/00	65 FR 6111
NPRM Comment Period End	05/08/00	
NPRM Comment Period Reopened	06/05/00	65 FR 35600
NPRM Comment Period Extended Correction Notice	06/26/00	65 FR 39334
NPRM Comment Period Reopened	07/27/00	65 FR 46143
NPRM Comment Period End	09/11/00	
Final Rule	06/04/01	66 FR 29908
Final Rule Effective	07/05/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dolores Mercier, Project Manager (G-MSE-3), Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0658

RIN: 2115–AF89

2280. GREAT LAKES PILOTAGE RATES (USCG-1999-6098)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 9303(f)

CFR Citation: 46 CFR 401

Legal Deadline: None

Abstract: The Coast Guard conducts an annual review of the Great Lakes Pilotage rate based on the "Great Lakes Pilotage Rates Methodology" published in the Federal Register on May 9, 1996. Depending on the results of this review, the Coast Guard can make rate adjustments in accordance with the regulations or, if the Director of Great Lakes Pilotage determines that pilotage rates are within a reasonable range of their target, make no adjustments to the rates. This rulemaking will recur annually after the "Notice of Annual Review" is published in the Federal Register and comments to that review are received. This project supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	04/14/00	65 FR 20110
Supplemental NPRM	09/13/00	65 FR 55206
Final Rule	07/12/01	66 FR 36484
Final Rule Effective	08/13/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank Flyntz, Project Manager, G-MW-1, Department of Transportation, U.S. Coast Guard, 2100

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Second Street SW, Washington, DC 20593-0001
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RIN: 2115–AF91

2281. CHEMICAL TESTING (USCG-2000-7759)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 7101; 46 USC 7301; 46 USC 7701

CFR Citation: 46 CFR 4; 46 CFR 5; 46 CFR 16

Legal Deadline: None

Abstract: This regulatory project will conform the Coast Guard's Chemical Testing regulations with the changes to the DOT Procedures for Transportation Workplace Drug Testing Programs. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	04/30/01	66 FR 21502
NPRM Comment Period End	06/29/01	
Final Rule	08/16/01	66 FR 42964
Final Rule Effective	08/16/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LCDR Scott Budka, Project Manager, G-MOA-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW
Phone: 202 267-2026

RIN: 2115–AG00

2282. EXEMPTION OF PUBLIC VESSELS EQUIPPED WITH ELECTRONIC CHARTING AND NAVIGATION SYSTEMS FROM PAPER CHART REQUIREMENTS (USCG 2000-8300)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223; 33 USC 1231; 46 USC 2103; 46 USC 3703

CFR Citation: 33 CFR 146

Legal Deadline: None

Abstract: This rulemaking amends the Coast Guard Navigation Safety Regulations regarding navigational charts and publications for public vessels. It permits public vessels owned and operated by the U.S. government that are not engaged in commercial operations to use an agency-approved electronic charting and navigation system as an alternative to paper charts for navigation in U.S. waters. The Coast Guard will also seek comments in a similar, proposed rulemaking for commercial vessels. This rulemaking supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/02/01	66 FR 21862
Direct Final Rule; Comment Period End	07/02/01	
Direct Final Rule Effective	07/31/01	66 FR 42753
Confirmation of Effective Date	08/15/01	66 FR 42753

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Detweiler, Project Manager G-MWV-3, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001
Phone: 202 267-0574

RIN: 2115–AG03

2283. RIGHT TO APPEAL; DIRECTOR, GREAT LAKES PILOTAGE (USCG-2001-8894)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 7701

CFR Citation: 46 CFR subpart 1.03

Legal Deadline: None

Abstract: This rulemaking codifies the Coast Guard's existing practice of permitting appeals of decisions or actions taken by the Director, Great Lakes Pilotage Office. Because of a gap in current rules, these rules do not by their terms govern these appeals. This rulemaking supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/13/01	66 FR 31842
Comment Period End	08/13/01	
Notice of Effective Date	08/27/01	66 FR 44985
Direct Final Rule Effective Date	09/11/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affecte

Agency Contact: Tom Lawl Manager, G-MW-1, Departm Transportation, U.S. Coast G Second Street SW., Washing 20590
Phone: 202 267-1241

RIN: 2115–AG11

2284. DISCHARGE OF EFF CERTAIN ALASKAN WATE CRUISE VESSEL OPERATI 17-01-003)

Priority: Substantive, Nonsi

Legal Authority: 33 USC 13 554, sec 203

CFR Citation: 33 CFR 159

Legal Deadline: None

Abstract: The Coast Guard, by Congress, issued regulati regarding sewage and grayw discharges from certain crui transiting applicable waters Operators of cruise vessels or more passengers and tra applicable waters of Alaska restricted in where they ma effluents and are required t testing of sewage and grayw discharges and maintain rec such discharges. The Coast inspect, monitor, and overs process to ensure complian applicable water quality law regulations. This project su Coast Guard's strategic goal protection of natural resour eliminating or reducing the sewage and graywater disch U.S. coastlines.

Timetable:

Action	Date
NPRM	04/25/01
Final Rule	07/26/01
Final Rule Effective	07/26/01

Regulatory Flexibility Analy Required: No

Small Entities Affected: No

Government Levels Affecte

Agency Contact: LCDR Spe Project Manager, Departmen Transportation, U.S. Coast G Seventeenth District (MOC), 25517, Juneau, AK 99802-2 Phone: 907 463-2809

RIN: 2115–AG12

DOT—USCG

Completed Actions

2285. • TEMPORARY REQUIREMENTS FOR NOTIFICATION OF ARRIVAL IN U.S. PORTS (USCG-2001-10669)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 160

Legal Deadline: None

Abstract: To ensure port safety and security and to ensure the uninterrupted flow of commerce, this Temporary Final Rule would (1) require early receipt of the notice of arrival — 96 hours versus 24 hours — for vessels of 300 or more gross tons coming directly from a foreign port, (2) require NOA reports to be submitted to a central clearing house, the National Vessel Movement Center (NVMC), instead of to COTPs, (3) suspend the current exemption from reporting requirements for vessels operating under the Automated Mutual Assistance Vessel Rescue System (AMVER) and U.S.- and Canadian-flag vessels operating solely on the Great Lakes, and (4) require crew lists and passenger lists to be provided as an additional item in Notification of Arrival reports.

Timetable:

Action	Date	FR Cite
Final Rule; Temporary	10/04/01	66 FR 50565
Final Rule Effective	10/04/01	
Effective Date End	06/15/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LCDR Robyn MacGregor (G-MWP), Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593
Phone: 202 267-0483

RIN: 2115–AG24

Department of Transportation (DOT)
Federal Aviation Administration (FAA)

Proposed Rule Stage

2286. +IMPROVED WATER SURVIVAL EQUIPMENT

Priority: Other Significant

Legal Authority: 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would add new requirements for water survival equipment carried aboard airplanes and rotorcraft. The requirements would apply, after specified dates, to U.S.-certificate holders that conduct common-carriage operations with airplanes and rotorcraft. This action is in response to the Airport and Airway Safety and Capacity Enhancement Act of 1987 (PL 100-223) and relates to safety recommendations by the National Transportation Safety Board. The requirements are intended to increase the likelihood of aircraft passengers surviving a crash landing in water and, thus, this rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24890
NPRM Comment Period End	11/26/88	
SNPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AIR-85-265R.

ANALYSIS: Regulatory Evaluation, 06/30/88, 53 FR 24890

Agency Contact: Hal Jensen, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-9574

RIN: 2120–AC72

2287. +RETROFIT OF IMPROVED SEATS IN AIR CARRIER TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, April 28, 1988.

Abstract: This action would require that all seats of transport category airplanes used in air carrier operations and transport category airplanes used in scheduled intrastate service comply with improved crashworthiness standards. The Airport and Airways Safety and Capacity Expansion Act of 1987 directs the Secretary of Transportation to initiate a rulemaking proceeding to consider requiring all seats on board all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards. The intended effect of this action is to increase passenger protection and survivability in survivable impact accidents. This rulemaking is considered significant because of its safety implications and statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17650
NPRM Comment Period End	10/14/88	
Reopening of Comment Period	10/30/98	63 FR 58331
NPRM Comment Period End	01/08/99	
SNPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket 25611. Project Number: AIR-88-136R.

ANALYSIS: Regulatory Evaluation, 05/17/88, 53 FR 17650

Agency Contact: Hal Jensen, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591

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Phone: 202 267-9574

RIN: 2120–AC84

2288. +CORROSION CONTROL PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44902

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: This project would ensure that airplanes used or not used in common carriage in air transportation have a comprehensive corrosion prevention program within their maintenance or inspection programs. In April 1988, a commercial transport airplane experienced an in-flight decompression and separation of approximately 18 feet of the fuselage skin and structure at the top of the airplane. The airplane had been in service for 19 years and had flown almost 90,000 flights. The National Transportation Safety Board concluded that the failure of the airline to detect skin disbonding resulted in corrosion and metal fatigue leading to separation of the airplane's skin structure. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-93-382R

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7355

RIN: 2120–AE92

2289. +NATIONAL AIR TOUR SAFETY STANDARDS

Priority: Other Significant

Legal Authority: 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716; 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44702; 49 USC 44705

CFR Citation: 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: FAA will propose new regulations for air tour and sightseeing operations that are currently allowed to operate under less stringent regulations than those applied to other types of commercial operations. Over the past decade the number of these operations and the number of accidents and incidents associated with these operations have increased. Hot air balloons and gliders would not be included in this amendment. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-91-012R. RIN 2120-AF61 which was proposed as a new item for this agenda was a duplicate of this rulemaking and has been terminated. This rulemaking was previously titled "Sightseeing Operations."

ANALYSIS: Regulatory Evaluation, 04/00/01

Agency Contact: Katherine M. Perfetti, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3760

RIN: 2120–AF07

2290. +FLIGHT CREWMEMI PERIOD LIMITATIONS, FLI LIMITATIONS, AND REST REQUIREMENTS

Regulatory Plan: This entry 102 in part II of this issue o Federal Register.

RIN: 2120–AF63

2291. +FALSE AND MISLEA STATEMENTS REGARDING PARTS

Priority: Other Significant

Legal Authority: 49 USC 44

CFR Citation: Not Yet Dete

Legal Deadline: None

Abstract: This action propo additional rules that would certain false or misleading regarding civil aircraft, airfr aircraft engines, propellers, component parts, and mate including standard parts, th or may be used, on civil air proposals would also permi inspection by the FAA of re regarding the quality of airc The additional rules are nec prevent persons from repres as suitable for use on civil when in fact they may not proposals are intended to p assurance that aircraft own operators, and persons who aircraft, have truthful infor which to determine whethe be used in a given civil airc application. This action is because of substantial publi

Timetable:

Action	Date
NPRM	12/00/01

Regulatory Flexibility Anal Required: No

Small Entities Affected: Bu

Government Levels Affect

Additional Information: Pr Number: AVR-94-549R.

ANALYSIS: Regulatory Eva 08/00/01

Agency Contact: Mardi Ru Thompson, Regulations Div of the Chief Counsel, Depa Transportation, Federal Av Administration, 800 Indepe Avenue SW, Washington, D Phone: 202 267-3073

RIN: 2120–AG08

DOT—FAA

Proposed Rule Stage

2292. LICENSING AND SAFETY REQUIREMENTS FOR LAUNCH

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 415; 14 CFR 417

Legal Deadline: None

Abstract: This action would establish requirements for licensing the conduct of a launch from a non-Federal launch site. The law requires anyone who proposes to conduct a launch within the United States, or a U.S. citizen proposing to conduct a launch site outside the United States, to obtain a license from DOT. This action would govern obtaining a license to conduct such a launch. Currently, commercial rocket launches take place from Federal Government installations operated by the Department of Defense and NASA. Licensing requirements for those launches are being developed in a related licensing rulemaking (RIN 2120-AF99). In this action, DOT proposes to implement rules regarding obtaining a license to conduct a launch from a commercial launch site, where DOT, rather than NASA or the military has primary responsibility.

Timetable:

Action	Date	FR Cite
NPRM	10/25/00	65 FR 63922
NPRM Comment Period End	02/22/01	
SNPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project Number: AST-97-088R.

ANALYSIS: Regulatory Evaluation, 10/25/00, 65 FR 63922.

Agency Contact: Michael Dook, Licensing and Safety Division, Office of Commercial Space, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-9305

RIN: 2120–AG37

2293. +CHILD RESTRAINT SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715 to 44718; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46502

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action sought public comment on issues relating to the use of child restraint systems in aircraft during all phases of flight (i.e., taxi, takeoff, landing, or any other time the seat belt sign is illuminated). Specifically, the agency sought information about existing child restraint systems, the development of new and improved child restraint systems, the ease with which existing or new child restraint systems can be used, and the effectiveness of changing the current child restraint system regulations. The advance notice gathered information in response to a recommendation made by the White House Commission on Aviation Safety and Security. Approximately 130 comments were received on the ANPRM. This information is needed so that the FAA can determine the best way to ensure the safety of children while on board aircraft. After such a determination is made, the FAA may issue a Notice of Proposed Rulemaking with specific regulatory proposals that respond to the Commission's recommendations regarding the use of child restraint systems. This action is considered significant because of safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	02/18/98	63 FR 8324
ANPRM Comment Period End	06/18/96	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: Project Number: AFS-97-261R

Agency Contact: Cindy Nordlie, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7627

RIN: 2120–AG43

2294. REVISION OF AIR CARRIER CREWMEMBER AND TRAINING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 60; 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise title 14 of the Code of Federal Regulations part 121 subparts N, O, P, and create part 60. The proposed revision and creation will address Advanced Qualification Programs and additional training programs. The rulemaking is needed to enhance crew resource management training, to permit rapid changes to training and checking requirements for emerging technologies, to improve safety, and to respond to numerous recommendations from various sources.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-97-335R.

Agency Contact: Jan Demuth, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-8922

RIN: 2120–AG57

2295. TRAINING IN THE RECOGNITION OF HAZARDOUS MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 4711; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121; 14 CFR 135

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Proposed Ru

Legal Deadline: None

Abstract: The FAA will clarify the requirement for "will not carry" certificate holders in parts 121 and 135 to provide hazardous material recognition training so that such materials are not inadvertently placed onboard aircraft.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William Wilkening, Office of Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-5885

RIN: 2120–AG75

2296. +TRAFFIC ALERT AND COLLISION AVOIDANCE SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121; 14 CFR 129

Legal Deadline: None

Abstract: This action proposes to require the installation and use of a traffic alert and collision system (TCAS) on certain cargo airplanes. Current regulations do not require TCAS installation on all-cargo airplanes. However, because the air cargo industry has experienced rapid growth and is increasingly sharing air space with other air carriers, the FAA is proposing this action to minimize the possibility of midair collisions involving cargo airplanes. This rulemaking proposes that affected airplanes be equipped with TCAS II, or another approved traffic alert and collision avoidance system, as appropriate, no later than October 31, 2003. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project No. AFS-98-314R

Agency Contact: Alberta Brown, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-8321

RIN: 2120–AG90

2297. +AIR TOUR OPERATIONS IN STATE OF HAWAII

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44717; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46502; 49 USC 46504; 49 USC 46504; 49 USC 46506; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47530

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action proposes to extend SFAR 71, which established certain procedural, operational, and equipment requirements for air tour operators in the State of Hawaii. The FAA intends to issue a national air tour safety proposal in the near future, but until this rulemaking becomes final, there is a need to extend SFAR 71 to ensure the continuing safe environment for conducting air tours in Hawaii. During the 9 year period between 1982 and 1991, there were 11 air tour accidents with 24 fatalities in Hawaii. The apparent causes of the accidents ranged from engine power loss to encounters with adverse weather. On September 26, 1994, the FAA published an emergency final rule as SFAR 71. The rule established additional operating procedures, including minimum safe altitudes (and associated increases in visual flight rules weather minimums), minimum equipment requirements, and operational limitations for air tour aircraft in the State of Hawaii. SFAR 71 was subsequently extended until October 26, 2000. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date
NPRM	12/00/01

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected:

Agency Contact: Gary Davis, Standards Service, Departme Transportation, Federal Aviat Administration, 800 Indepen Avenue SW., Washington, DC Phone: 202 267-8166

RIN: 2120–AH02

2298. +FRACTIONAL OWNE

Priority: Other Significant

Legal Authority: 49 USC 106 USC 1155; 49 USC 40103; 49 40119; 49 USC 40120; 49 US 49 USC 44111; 49 USC 4470 49 USC 44705; 49 USC 4470 49 USC 44715 to 44717; 49 U 49 USC 44901; 49 USC 4490 49 USC 44912; 49 USC 4610 46306; 49 USC 46315; 49 US 49 USC 46504; 49 USC 4650 49 USC 47122; 49 USC 4750 47528 to 47531

CFR Citation: 14 CFR 61; 14 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: The FAA proposes and revise the regulations go operations by aircraft in frac ownership programs. Curren regulations do not adequatel fractional ownership progra clearly allocate responsibilit authority for safety and com with the regulations. This p define fractional ownership and their participants, alloc responsibility and authority of flight operations for purp compliance with the regulat ensure that fractional owne program aircraft operations high level of safety. This act significant because of substa interest.

Timetable:

Action	Date
NPRM	07/18/01
NPRM Comment Period End	10/16/01
Final Action	12/00/01

DOT—FAA

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Katherine Hakala Perfetti, Flight Standards Service, Department of Transportation, Federal Aviation Administration
Phone: 202 267-3760

RIN: 2120–AH06

2299. +FLIGHT SIMULATION DEVICE QUALIFICATION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 1; 14 CFR 11; 14 CFR 60; 14 CFR 61; 14 CFR 63; 14 CFR 141; 14 CFR 142

Legal Deadline: None

Abstract: The FAA proposes to amend the regulations to establish flight simulation device qualification requirements for all certificate holders in a new part. The basis of these requirements currently exists in different parts of the FAA's regulations and in advisory circulars. The proposed changes would consolidate and update flight simulation device requirements. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Edward Cook, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337
Phone: 404 305-6100

RIN: 2120–AH07

2300. ANTIDRUG AND ALCOHOL MISUSE PREVENTION PROGRAMS FOR PERSONNEL ENGAGED IN SPECIFIED AVIATION ACTIVIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105; 49 USC 46301

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise the FAA's Antidrug and Alcohol Misuse Prevention Programs in accordance with changes the Department of Transportation is making to 49 CFR 40. In addition, the FAA proposes some minor revisions to its Antidrug and Alcohol Misuse Prevention Program so that the requirements conform to 14 CFR 67.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Diane Wood, Acting Manager, Drug Abatement Branch, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 366-6710

RIN: 2120–AH14

2301. AIRWORTHINESS DIRECTIVES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: The FAA proposes to move several standard provisions currently found in every airworthiness directive into its regulations pertaining to airworthiness directives. The FAA will no longer include these provisions in individual airworthiness directives. This will shorten individual airworthiness directives, making them easier for readers to use. Also, the FAA is proposing this regulation in plain language. The regulation has been reworded and reorganized using plain language techniques.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donald P. Byrne, Assistant Chief Counsel, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3073

RIN: 2120–AH17

2302. +CERTIFICATION OF PILOTS, AIRCRAFT, AND REPAIRMEN FOR THE OPERATION OF LIGHT SPORT AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40105; USC 44101; 49 USC 44111; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 45102 to 45103; 49 USC 45301 to 45303; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46504; 49 USC 46506 to 46507; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47531

CFR Citation: 14 CFR 1; 14 CFR 21; 14 CFR 61; 14 CFR 65; 14 CFR 91

Legal Deadline: None

Abstract: The FAA is proposing to establish the certification and training requirements for pilots and repairmen to operate and maintain light-sport aircraft. The FAA is proposing a new sport pilot certificate and a flight instructor certificate with a sport pilot rating. The FAA also is proposing two new light-sport aircraft airworthiness certificates for existing and newly manufactured light-sport aircraft. In addition, this action proposes a new type of repairman certificate for individuals who would inspect and maintain light-sport aircraft. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

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Government Levels Affected: None

Agency Contact: Susan Gardner, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3735

RIN: 2120–AH19

2303. POWERED LIFT OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40101; 49 USC 40102; 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44106; 49 USC 44111; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44904; 49 USC 46506 to 46507; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47531

CFR Citation: 14 CFR 1; 14 CFR 43; 14 CFR 61; 14 CFR 91; 14 CFR 119; 14 CFR 133; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: The FAA is proposing to amend its regulations to cover powered-lift aircraft, a new category of aircraft that can perform as an airplane and a helicopter. This action is necessary because, as a new category of aircraft, powered-lift aircraft can't operate under the regulations that govern airplanes or helicopters. The intended effect of this action is to allow the operation of powered-lift aircraft under FAA regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William H. Wallace, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3771

RIN: 2120–AH20

2304. REFUSAL TO SUBMIT TO AN AUTHORIZED DRUG TEST

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 SUC 45102 to 45103; 49 USC 45301 to 45303

CFR Citation: 14 CFR 67

Legal Deadline: None

Abstract: This action proposes to amend airman medical standards to add as a medical disqualification the refusal to submit to an authorized drug test. Refusal to submit to a drug test includes adulteration or substitution of a urine sample. The intended effect is to ensure that airmen who may have substance abuse problems are not allowed to gain flight status until they have been examined and found fit by the Federal Air Surgeon.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sheri deVries, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8693

RIN: 2120–AH23

2305. • PUBLIC ADDRESS SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: The FAA proposes to shorten the time for passenger announcements in an emergency in transport category airplanes. This proposal would shorten the time for passenger announcements in an emergency from 10- to 3-seconds between the removal of the microphone from its stowage by a flight crewmember and its operation. Adopting this proposal would eliminate regulatory differences between the airworthiness standards for the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

Timetable:

Action	Date
NPRM	12/00/01

Regulatory Flexibility Analy Required: No

Small Entities Affected: No

Government Levels Affecte

Additional Information: Pro Number: ATA-00-490.

Agency Contact: Ellen Cru Traffic Rules Procedures Br Department of Transportatio Aviation Administration, 80 Independence Avenue SW, Washington, DC 20591

2306. • SAFE, EFFICIENT U PRESERVATION OF THE NA AIRSPACE

Priority: Substantive, Nonsig

Legal Authority: 49 USC 106 USC 40103; 49 USC 40113; 4 40113 to 40114; 49 USC 445 44701; 49 USC 44718

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: This notice of pro rulemaking proposes to add definitions for terms commo during the aeronautical eval process. This action propose amendments to obstruction for civil airport imaginary su order to promote and facilita harmonization with other FA directives. This proposal als to simplify and clarify the r language in accordance with language initiative.

Timetable:

Action	Date
NPRM	12/00/01

Regulatory Flexibility Analy Required: No

Small Entities Affected: No

Government Levels Affecte

Additional Information: Pro Number: ATA-00-490.

Agency Contact: Ellen Cru Traffic Rules Procedures Br Department of Transportatio Aviation Administration, 80 Independence Avenue SW, Washington, DC 20591

DOT—FAA

Proposed Rule Stage

Phone: 202 267-3155
RIN: 2120–AH31

2307. • DESIGN REQUIREMENTS FOR PRESSURIZATION AND PNEUMATIC SYSTEMS INSTALLED ON TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This proposal would revise the airworthiness standards for transport category airplanes by incorporating the more defined design and compliance criteria currently contained in the counterpart European standards. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth Frey, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW,, Renton, WA 98055-4056
Phone: 425 227-2673

RIN: 2120–AH33

2308. • DESIGN STANDARDS FOR FUSELAGE DOORS ON TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the design standards for fuselage doors, hatches, and exits on transport category airplanes. This proposal would relieve a certification burden on indusry by eliminating regulatory differences between the air standards of the United States and Joint Aviation Requirements of Europe without affecting current industry design practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-96-398.

Agency Contact: Jeff Gardlin, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2136

RIN: 2120–AH34

2309. • REVERSE THRUST AND PROPELLER PITCH SETTINGS BELOW THE FLIGHT REGIME

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to require a means to prevent the flightcrew on turbo-propeller-powered airplanes from inadvertently or intentionally placing the power lever below flight idle while in flight, unless the airplane has been certified for in-flight operation. This action proposes to eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-00-700.

Agency Contact: Jennifer Abdul-Wali, Transportation Specialist, Department of Transportation, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-6322
Fax: 202 366-9313
Email: jennifer.abdul-wali@ost.dot.gov

Mike Kaszycki, Transport Airplane Directorate, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2137

RIN: 2120–AH35

2310. • MATERIAL STRENGTH PROPERTIES AND DESIGN VALUES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: The FAA proposes to revise the material strength properties and material design values requirement for transport category airplanes by incorporating changes developed in cooperation with the Joint Aviation Authorities of Europe and the U.S. and European aviation industry through the Aviation Rulemaking Advisory Committee. This proposal is intended to achieve common requirements and language between the requirements of the U.S. regulations and the Joint Aviation Requirements of Europe, while maintaining at least the level of safety provided by the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-98-300.

Agency Contact: Rich Yarges, Airframe and Airworthiness Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2143

RIN: 2120–AH36

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2311. • REVISIONS TO VARIOUS POWERPLANT INSTALLATION REQUIREMENTS FOR TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to revise the standards applicable to thrust or power augmentation systems, fuel filling points, designated fire zones, and powerplant instruments. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe without affecting current industry design practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-01-467.

Agency Contact: Mike McRae, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2133

RIN: 2120–AH37

2312. • LOWER DECK SERVICE COMPARTMENTS ON TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This proposal proposes to require that two-way voice communication systems between lower deck service compartments and the flight deck remain available following loss of the normal electrical power generating system. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe without affecting current industry design practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-00-554.

Agency Contact: Jayson Claar, Transport Airplane Directorate, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue, SW
Phone: 425 227-2194

RIN: 2120–AH38

2313. • MISCELLANEOUS FLIGHT REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: The FAA proposes to amend the airworthiness standards for transport category airplanes concerning miscellaneous flight requirements. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-00-226.

Agency Contact: Don Stimson, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-4056

RIN: 2120–AH39

2314. • TRIM SYSTEMS AN PROTECTIVE BREATHING EQUIPMENT

Priority: Substantive, Nonsig

Legal Authority: 49 USC 10 USC 40113

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This proposed acti amend airworthiness standa transport category airplanes trim systems and protective equipment. The proposed ac add language that would req clearly marked range on the indication system where tak for all center of gravity posit Adopting this proposal woul regulatory differences betwe airworthiness standards of t the Joint Aviation Requirem Europe without affecting cu industry design practices.

Timetable:

Action	Date
NPRM	12/00/01

Regulatory Flexibility Analy Required: No

Small Entities Affected: No

Government Levels Affecte

Additional Information: Pro Number: ANM-00-567.

Agency Contact: Kenneth F Aircraft Certification Servic Department of Transportatio Aviation Administration, 16 Avenue SW,, Renton, WA 9 Phone: 425 227-2673

RIN: 2120–AH40

2315. • REVISIONS TO PAS FACILITY CHARGE RULE F COMPENSATION TO AIR C

Priority: Substantive, Nonsi

Legal Authority: 49 USC 10 USC 40116 to 40117; 49 US 49 USC 47114 to 47116; PL

CFR Citation: 14 CFR 158

Legal Deadline: None

Abstract: FAA proposes to passenger facility charge (P changing the amount and b compensation an air carrier for collecting, handling, an PFC revenue. This action is because statute mandates th

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carriers receive fair and reasonable compensation for their expenses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: APP-00-672R.

Agency Contact: Eric Gabler, Passenger Facility Charge Branch, Department of Transportation, Federal Aviation Administration
Phone: 202 267-3845

RIN: 2120–AH43

2316. • NOISE STRINGENCY INCREASE FOR SINGLE-ENGINE PROPELLER-DRIVEN SMALL AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44704; 49 USC 44715

CFR Citation: 14 CFR 36

Legal Deadline: None

Abstract: The FAA is proposing a change to the noise limits for propeller-driven small airplanes. The FAA, the European Joint Aviation Authorities (JAA), and representatives from the United States and European propeller-driven small airplane industries developed the ICAO Annex 16 noise limit change in a joint effort. The proposed change would provide nearly uniform noise certification standards for airplanes certificated in the United States and in the JAA countries.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AEE-01-133R.

Agency Contact: Mehmet Marsan, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7703

RIN: 2120–AH44

Department of Transportation (DOT)
Federal Aviation Administration (FAA) **Final Rule Stage**

2317. OBJECTS AFFECTING NAVIGABLE AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113 to 40114; 49 USC 44502; 49 USC 44701; 49 USC 44718; 49 USC 46101 to 46102; 49 USC 46104

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: This action would amend the standards, aeronautical studies, scope, and notice provisions concerning objects affecting navigable airspace. The notice consisted primarily of changes required by recent legislation or recommended by a government/industry task group of the National Airspace Review Advisory Committee. This action would also cover electromagnetic interference phenomenon that could create a hazard to air navigation.

Timetable:

Action	Date	FR Cite
Notice of Review	06/19/78	43 FR 26322
Review Conference	12/08/80	
NPRM	08/03/90	55 FR 31722
NPRM Correction	08/13/90	55 FR 32999
NPRM Correction	08/16/90	55 FR 33577
NPRM Correction	08/28/90	55 FR 35152
NPRM Correction	09/10/90	55 FR 37287
NPRM Comment Period End	12/31/90	
SNPRM	10/16/95	60 FR 53680
SNPRM Comment Period End	11/30/95	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ATO-85-015R.

ANALYSIS: Regulatory Evaluation, 08/03/90, 55 FR 31722

Agency Contact: Ellen Crum, Air Traffic Rules Procedures Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3155

RIN: 2120–AA09

2318. MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 5103; 49 USC 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44703; 49 USC 44705; 49 USC 44706; 49 USC 44707; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44712

CFR Citation: 14 CFR 21; 14 CFR 65; 14 CFR 107; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: The FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to amend various sections of the regulations. The proposal was to clarify language, correct improper or obsolete references, and to relax certain existing requirements. Since publication of the NPRM, many other completed, in-process, or planned actions have addressed or will address many of the issues involved. The FAA has determined that all unresolved issues should be included in more recent actions dealing with the specific sections of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/03/83	48 FR 45214
NPRM Comment Period End	12/02/83	
To Be Withdrawn	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

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Government Levels Affected: None

Additional Information: Docket No. 23781. Project Number: ARM-81-128R.

ANALYSIS: Regulatory Evaluation, 10/03/83, 48 FR 45214

Agency Contact: Linda L. Williams, Office of Rulemaking, ARM-100, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-9685

RIN: 2120–AA50

2319. 1-G STALLING SPEED AS A BASIS FOR AIRCRAFT PARTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44715

CFR Citation: 14 CFR 25; 14 CFR 36

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations to redefine the airplane reference stalling speed as the 1-g stalling speed in lieu of the minimum stalling speed. It would: (1) provide for a consistent, repeatable reference stalling speed; (2) ensure consistent and dependable maneuvering margins; (3) clarify the requirement for the use of 1-g stalling speeds in determining structural design speeds; (4) increase the head-on gust structural design requirement; and (5) provide for adjusted multiplying factors to maintain essentially equivalent requirements in areas where the use of minimum stalling speed has proven adequate. These changes are needed since the stalling characteristics of modern jet transports as determined by current methods can result in inconsistent reference stalling speeds. These changes may result in a higher level of safety where current methods have resulted in artificially low reference stalling speeds.

Timetable:

Action	Date	FR Cite
NPRM	01/18/96	61 FR 1260
Correction	02/26/96	61 FR 7157
NPRM Comment Period End	05/17/96	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-86-041R.

ANALYSIS: Regulatory Evaluation, 01/18/96, 61 FR 1260

Agency Contact: Don Stimson, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 425 227-4056

RIN: 2120–AD40

2320. +REVISION OF PART 108, AIRCRAFT OPERATOR SECURITY

Priority: Other Significant

Legal Authority: 40 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: This action amends part 108 of the Federal Aviation Regulations to incorporate new requirements in response to worldwide terrorist activity. This final rule contains changes that are intended to enhance security for the traveling public, and aircraft operators. A final rule establishing a compliance program is forthcoming, which would require compliance programs for Aircraft Operators. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41730
Notice of Public Meeting	09/15/97	62 FR 48190
NPRM Comment Period End	12/01/97	
Notice of Public Meeting	04/21/98	63 FR 19691
NPRM Comment Period Reopened	08/10/99	64 FR 43322
Comment Period End	09/24/99	
Final Action	07/17/01	66 FR 37330
Final Action Effective	11/14/01	
Final Action; Compliance Program	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected

Additional Information: Proje Number: ACS-87-107R.

ANALYSIS: Regulatory Evalu 08/01/97, 62 FR 41730

Agency Contact: Linda Vale Office of Civil Aviation Secu Department of Transportation Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3413

RIN: 2120–AD45

2321. +REVISION OF PART AIRPORT SECURITY

Priority: Other Significant

Legal Authority: 49 USC 105 USC 5103; 49 USC 40113; 49 40119; 49 USC 44701 to 447 44706; 49 USC 44901 to 449 44907; 49 USC 44913 to 449 44932; 49 USC 44935 to 449 46105

CFR Citation: 14 CFR 107

Legal Deadline: None

Abstract: This action will a 107 of the Federal Aviation to incorporate new requirem response to the worldwide t activity. The intent of this fi is to enhance security for th public, aircraft operators, an employed by or conducting public airports by increasing of and compliance with civi security measures. A final ru forthcoming on compliance, would require compliance p airport security. This rulema considered significant becau safety implications and subs public interest.

Timetable:

Action	Date
NPRM	08/01/97
Notice of Public Meeting	09/15/97
NPRM Comment Period End	12/01/97
Comment Period End 6/26/98	04/21/98
Notice of Public Meeting	04/21/98
NPRM Comment Period Reopened	08/10/99
Final Action	07/17/01
Final Action Effective	11/14/01

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Final Rule Stage

Action	Date	FR Cite
Final Action; Compliance Program	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ACS-87-106R.

ANALYSIS: Regulatory Evaluation, 08/01/97, 62 FR 41760

Agency Contact: Bob Cammaroto, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7723

RIN: 2120–AD46

2322. +AGING AIRCRAFT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135; 14 CFR 183

Legal Deadline: Other, Statutory, April 24, 1992, Action must be initiated by 04/24/92 per Aging Aircraft Safety Act of 1991.

Abstract: On October 5, 1993, the FAA published an NPRM that proposed to require air carriers of certain aircraft used in air transportation to demonstrate that the aircraft's maintenance has been adequate to ensure the highest degree of safety. After further review, and taking into consideration public comments to the NPRM, the FAA withdrew that NPRM. On March 19, 1999, the FAA issued a new NPRM that would ensure the continuing airworthiness of the most significant aging airplanes operating in air transportation by mandating aging aircraft records reviews and inspections for certain air carriers and certain aircraft and also by applying modern damage-tolerance analyses and inspection techniques to older airplane structures that were certificated before such techniques were available. The comment period closed on October 18, 1999, This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/05/93	58 FR 51944
NPRM Comment Period End	02/02/94	
Comment Period End 3/4/94	02/08/94	59 FR 5741
NPRM	04/02/99	64 FR 16298
NPRM Comment Period End	08/02/99	
NPRM Comment Period Reopened	08/18/99	64 FR 45090
Comment Period End	10/08/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number AFS-92-029R.

ANALYSIS: Regulatory Evaluation, 04/02/99, 64 FR 16298

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7355

RIN: 2120–AE42

2323. AIR TRAFFIC CONTROL RADAR BEACON SYSTEM AND MODE S TRANSPONDER REQUIREMENTS IN THE NATIONAL AIRSPACE SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise the Mode S transponder requirement for all aircraft operating under part 135 and certain aircraft operating under part 121 based on the expected availability of operational capabilities of Mode S ground sensors. For part 121 operators, the action would affect only those aircraft not required to have Traffic Alert and Collision Avoidance System II. An aviation rulemaking advisory committee has recommended that the FAA conduct a study of the installed Mode S ground sensor to determine the extent of the benefits derived and the costs involved in equipage. This action is a relieving action made necessary by the fact that ground sensors are not in place to support the requirement. Further, FAA is studying the need for Mode S transponders in part 135 and certain part 121 operations in light of the fact that transponders may not substantially increase ATC ability to view air traffic.

Timetable:

Action	Date	FR Cite
NPRM	05/23/96	61 FR 26036
NPRM Correction	06/17/96	61 FR 30551
NPRM Comment Period End	07/22/96	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-92-297R.

ANALYSIS: Regulatory Evaluation, 05/23/96, 61 FR 26036

Agency Contact: Daniel V. Meier, Jr., Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3749

RIN: 2120–AE81

2324. FLIGHT ATTENDANT ENGLISH LANGUAGE PROFICIENCY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: The FAA has reviewed the Aviation Rulemaking Advisory Committee recommendation to proceed with this rulemaking. The FAA has

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determined that it would be most appropriate to address the flight attendant English language issue in the overall context of crew training. Therefore, because the FAA will incorporate the flight attendant English language issue into the proposed revision of part 121 subpart N and O notice of proposed rulemaking, this rulemaking entry will be withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	04/18/94	59 FR 18456
ANPRM Comment Period End	07/18/94	
To Be Withdrawn	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-93-745A

Agency Contact: Cindy Nordlie, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7627

RIN: 2120–AE98

2325. +REVISED ACCESS TO TYPE III EXITS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This action proposed to adjust requirements for access to type III emergency exits in transport category airplanes with 60 or more passenger seats. The adjustments would reflect new data from tests conducted at the FAA's Civil Aeromedical Institute (CAMI) and intended to improve the ability of occupants to evacuate an airplane under emergency conditions. The FAA is withdrawing this proposed rulemaking as some of the information is outdated. The CAMI research is still ongoing. The FAA may issue a new rulemaking in the future. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/30/95	60 FR 5794
NPRM Comment Period End	05/01/95	
To be Withdrawn	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-93-005R.

Agency Contact: Mahinder K. Wahi, Transport Airplane Directorate, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, VA 98055 Phone: 425 227-2142

RIN: 2120–AF01

2326. +FLIGHT OPERATIONAL QUALITY ASSURANCE PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 106(g); 49 USC 40113; 49 USC 40119

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: The FAA proposes to codify an FAA policy encouraging the voluntary implementation of Flight Operational Quality Assurance (FOQA) programs for the routine analysis of flight data generated during line operations that reveal situations which require corrective action to prevent safety problems. The rule would also clarify the circumstances under which information obtained from voluntary FOQA programs could be used in enforcement actions against air carriers, commercial operators, or airmen. The rule would require air carriers participating in FOQA program to submit aggregate FOQA data to the FAA for use in monitoring safety trends. Under the proposed rule, the FAA may use aggregate FOQA data as a basis to promulgate safety rulemakings or to address situations calling for remedial enforcement action, e.g., a lack of qualification on the part of an operator or aircraft. This rulemaking is significant becau substantial public interest.

Timetable:

Action	Date	
Policy Statement	12/07/98	63
NPRM	07/05/00	65
NPRM Comment Period End	10/03/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Busin

Government Levels Affected:

Additional Information: Projec Number: AFS-93-154R

Agency Contact: Thomas Lon Flight Standards Services, Dep of Transportation, Federal Avi Administration, 800 Independe Avenue, SW, Washington, DC Phone: 202 267-3789

RIN: 2120–AF04

2327. LOS ANGELES, CA, CL AIRSPACE

Priority: Substantive, Nonsigni

Legal Authority: 49 USC 106(g USC 40103; 49 USC 40113; 49 40120; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: The FAA is withdra previously published Notice o Proposed Rulemaking (NPRM) proposed to alter the Los Ange Class B airspace area. The pro would have lowered certain ce while raising others to provide visual flight rules altitudes to circumnavigate the Los Angele B airspace and to provide for containment of arriving turboj action will be handled as a rou airspace action.

Timetable:

Action	Date	
NPRM	11/22/94	59
NPRM Comment Period End	01/23/95	
To Be Withdrawn	12/00/01	

Regulatory Flexibility Analysi Required: No

Small Entities Affected: No

Government Levels Affected:

Additional Information: Projec Number: ATP-94-035T RIN 21

was inadvertently used when this rulemaking was published in the Federal Register on November 22, 1994. The correct RIN is 2120-AF16.

ANALYSIS: Regulatory Evaluation, 11/22/94, 59 FR 60244

Agency Contact: William Nelson, Airspace and Obstruction Evaluation Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9295

RIN: 2120–AF16

2328. +REVISION OF EMERGENCY EVACUATION DEMONSTRATION PROCEDURES TO IMPROVE PARTICIPANT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25; 49 CFR 1.47

Legal Deadline: None

Abstract: This action would amend part 25 of the FAR by revising Appendix J, Emergency Evacuation, to allow certain alternative procedures in conducting full-scale emergency evacuation demonstrations for transport category airplanes. This is in response to recommendations from the Aviation Rulemaking Advisory Committee. The changes, which are intended to make full-scale emergency evacuation demonstrations safer for participants and to codify existing practices, would also affect manufacturers and operators of transport category airplanes. This action is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/18/95	60 FR 36932
Correction	08/25/95	60 FR 44387
NPRM Comment Period End	10/16/95	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-94-124A

ANALYSIS: Regulatory Evaluation, 07/18/95, 60 FR 36932

Agency Contact: Franklin Tiangsing, Regulations Branch, ANM-114, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056 Phone: 425 227-2121

RIN: 2120–AF21

2329. +OVERFLIGHTS OF UNITS OF THE NATIONAL PARK SYSTEM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91; 14 CFR 93; 14 CFR 121; 15 CFR 135

Legal Deadline: None

Abstract: The FAA and National Park Service (NPS) established a joint working group which is tasked with developing a notice of proposed rulemaking to reduce or prevent adverse effects of aircraft noise over our national park system. At the same time, the working group is charged with affording those persons who wish to visit our national parks from the air the opportunity to do so. The working group met from May to November 1997, and developed a concept paper that was approved by the Aviation Rulemaking Advisory Committee and the NPS Advisory Board in December 1997. A notice of proposed rulemaking has been developed and is now being reviewed by the FAA and NPS. In April 1999, the FAA issued a disposition of comments to the ANPRM. That document summarizes those comments to the ANPRM and provides an update to the public on matters concerning air tours over units of the national park system. In response to Public Law 106-181, April 5, 2000, the FAA and NPRS developed an NPRM that proposes to codify the language of the legislation and to adopt an altitude that would define a commercial air tour operation. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/94	59 FR 12740
ANPRM Correction	04/01/94	59 FR 15350
ANPRM Comment Period End	06/15/94	
Comment Period End 07/15/94	06/20/94	59 FR 31883
Notice of Public Meeting	06/06/97	62 FR 31187
Notice of Public Meeting	04/07/98	63 FR 17040
Disposition of Comments	04/09/99	64 FR 17293
NPRM	04/27/01	66 FR 21264
NPRM Comment Period End	06/11/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Refer to 1999 Regulatory Plan entry RIN 2120-AF93, Airspace Management: Special Flight Rules in the Vicinity of the Grand Canyon and also RIN 2120-AG11, Special Flight Rules in the Vicinity of the Rocky Mountain National Park. Project Number: ARM-97-318A

Agency Contact: Howard Nesbitt, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 493-4981

RIN: 2120–AF46

2330. REVISED PRECISION APPROACH LANDING SYSTEMS POLICY

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This statement announces the FAA's proposed policy for acquisition, installation, maintenance, and decommissioning of the instrument landing system (ILS) and the microwave landing system (MLS) during the transition to the global positioning system (GPS). The policy statement of December 1989 announced the transition from the ILS to the MLS for precision approach service in the National Airspace System. Since that time, advancement of GPS-based landing system technology has provided a more economical means of providing approach services.

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Timetable:

Action	Date	FR Cite
Policy Statement	12/27/89	54 FR 53231
Policy Statement	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Wedge, Airway Facilities Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7848

RIN: 2120–AG16

2331. +SCREENING OF CHECKED BAGGAGE ON FLIGHTS WITHIN THE UNITED STATES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4..

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: The FAA is proposing the screening or bag matching of passenger checked baggage on domestic flights by utilizing an FAA-approved Computer Assisted Passenger Screening (CAPS) system. This is in response to a recommendation from the White House Commission on Aviation Safety and Security (The Commission) "Final Report to President Clinton." The Commission recommended that one of the steps that should be taken to improve airline passenger security is the implementation by the FAA of a computerized system for profiling airline passengers flying out of airports located in the United States. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/19/99	64 FR 19220
Correction	05/03/99	64 FR 23554
Correction	05/26/99	64 FR 28945
Comment Period Extended	06/11/99	64 FR 31686
NPRM Comment Period End	06/18/99	
Comment Period End	08/17/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lon M. Siro, Aviation Security Specialist, Department of Transportation, Federal Aviation Administration, ACP-100, 800 Independence Avenue SW, Office of Civil Aviation Security Policy and Planning, Washington, DC 20591
Phone: 202 267-8058

RIN: 2120–AG51

2332. +POLICY REGARDING AIRPORT RATES AND CHARGES

Priority: Other Significant

Legal Authority: 49 USC 47129

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A statement of policy, Policy Regarding Airport Rates and Charges (Policy Statement), which was required by Congress as part of the DOT Authorization Act of 1994, was published in the Federal Register (61 FR 31994) on June 21, 1996. That Policy Statement announced DOT and FAA policy on the fees charged by Federally assisted airports to air carriers and other aeronautical users. This proposed action requests comments on replacement provisions for the portions of the Policy Statement vacated by the United States Court of Appeals for the District of Columbia Circuit. The Court disallowed a portion of the policy that had to do with historic cost valuation of airport property. DOT and FAA are beginning this proceeding in order to carry out their responsibility to establish reasonableness guidelines for airport fees. This policy is significant due to substantial industry interest.

Timetable:

Action	Date	FR Cite
Advance Notice of Proposed Policy	08/12/98	63 FR 43228
Comment Period End	10/13/98	
Comment Period Extended	12/22/98	63 FR 70834
Comment Period End	01/31/99	
Final Action	12/00/01	

Regulatory Flexibility Analysi Required: Undetermined

Small Entities Affected: Gove Jurisdictions

Government Levels Affected:

Additional Information: Cite p reference in Abstract paragrap States Court of Appeals for th of Columbia Circuit in Air Tra Association of America v. Dep of Transportation, 119 F.3d 3 Cir. 1997), as modified on reh Order of Oct. 15, 1997. Previo for the Policy Statement publi the Federal Register is 2120-A

Agency Contact: Barry Molar Manager, Airport Compliance Department of Transportation Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3446

RIN: 2120–AG58

2333. REVISION OF BRAKIN SYSTEMS AIRWORTHINESS STANDARDS TO HARMONIZ EUROPEAN AIRWORTHINES STANDARDS FOR TRANSPO CATEGORY AIRPLANES

Priority: Substantive, Nonsig

Legal Authority: 49 USC 106 USC 40113; 49 USC 44701; 4 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action propos the airworthiness standards f transport category airplanes t harmonize braking systems d test requirements with standa proposed for the European Jo Aviation Requirements.

Timetable:

Action	Date
NPRM	08/10/99
Correction	08/20/99
NPRM Comment Period End	11/08/99
SNPRM	12/18/00
SNPRM Comment Period End	02/16/01
Final Action	12/00/01

Regulatory Flexibility Analy Required: No

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Final Rule Stage

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-98-302A.

ANALYSIS: Regulatory Evaluation, 08/10/99, 64 FR 43570

Agency Contact: Mahinder K. Wahi, Transport Airplane Directorate, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, VA 98055
Phone: 425 227-2142

RIN: 2120–AG80

2334. +CERTIFICATION OF SCREENING COMPANIES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44707; 49 USC 44712; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901 to 44905; 49 USC 44906; 49 USC 44907; 49 USC 44913 to 44914

CFR Citation: 14 CFR 108; 14 CFR 109; 14 CFR 111; 14 CFR 129

Legal Deadline: None

Abstract: This action will require that all companies that perform aviation security screening be certificated by the FAA and meet enhanced requirements. This action is in response to a recommendation by the White House Commission on Aviation Safety and Security and to a Congressional mandate in the Federal Aviation Reauthorization Act of 1996. The action is intended to improve the screening of passengers, accessible property, checked baggage, and cargo, and to provide standards for consistent high performance and increased accountability of screening companies. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/05/00	65 FR 560
NPRM Comment Period End	04/04/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ACP-98-299R.

ANALYSIS: Regulatory Evaluation, 01/05/2000, 65 FR 560

Agency Contact: Scott Cummings, Office of Civil Aviation Security Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3946

RIN: 2120–AG84

2335. +REVISIONS TO DIGITAL FLIGHT DATA RECORDER REGULATIONS FOR B-737 AIRPLANES AND FOR PART 125 OPERATORS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121; 14 CFR 125

Legal Deadline: None

Abstract: The FAA proposes to amend the digital flight data recorder rules for transport category airplanes to add a requirement for all Boeing 737 (B-737) series airplanes to record additional flight data parameters. This amendment is based on safety recommendations issued by the National Transportation Safety Board following the investigation of the 1994 USAir Flight 427 accident. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/18/99	64 FR 63139
NPRM Comment Period End	12/20/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AIR-99-272R.

ANALYSIS: Regulatory Evaluation, 11/18/99, 64 FR 63139

Agency Contact: George Kaseote, Policy and Procedures Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8541

RIN: 2120–AG87

2336. +IMPROVED FLAMMABILITY STANDARDS FOR THERMAL/ACOUSTIC INSULATION MATERIALS USED IN TRANSPORT CATEGORY AIRPLANES

Regulatory Plan: This entry is Seq. No. 103 in part II of this issue of the **Federal Register**.

RIN: 2120–AG91

2337. FIRE PROTECTION OF ELECTRICAL SYSTEM COMPONENTS ON TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 40 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This rulemaking will amend the airworthiness standards for transport category airplanes concerning the protection of electrical system components. This action will eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices

Timetable:

Action	Date	FR Cite
NPRM	05/15/01	66 FR 26964
NPRM Comment Period End	07/16/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mahinder Wahi, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2589

Massoud Sadeghi, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2117

RIN: 2120–AG92

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2338. +CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701; 49 USC 44702; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: The FAA intends to conduct a 610 review (a review under section 610 of the Regulatory Flexibility Act) of this part and RIN 2120-AG93 has been added to the Agenda to reflect this review. The FAA carries out its responsibility to promote safety of flight of civil aircraft in air commerce by prescribing minimum standards governing the design and construction of aircraft, aircraft engines and propellers and appliances as may be required in the interest of safety. The FAA has established procedural requirements in 14 CFR part 21 for the issuance of the following certificates and approvals: (1) type certificates and changes to type certificates; (2) production certificates; (3) airworthiness certificates; (4) export airworthiness certificates and approvals; and (5) approvals of certain materials, parts processes and appliances produced for sale or installation on a type certificated product. Also contained in this part are the rules governing the holders of certificates. In order to be issued a type certificate, the applicant must show that the product complies with the airworthiness standards for the product (aircraft, aircraft engine, or propeller). The airworthiness standards are amended as needed to reflect continually changing technology, correct design deficiencies, and provide safety enhancements.

Timetable:

Action	Date	FR Cite
Review To Be Completed	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Paul Larson, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, Washington, DC 20591
Phone: 202 267-3296

RIN: 2120–AG93

2339. +CERTIFICATION OF AIRPORTS

Regulatory Plan: This entry is Seq. No. 104 in part II of this issue of the **Federal Register**.

RIN: 2120–AG96

2340. SPECIAL FLIGHT RULES IN THE VICINITY OF GRAND CANYON NATIONAL PARK

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44704; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46502; 49 USC 46504; 49 USC 46506 to 46507; 49 USC 47122; 49 USC 47508; 49 USC 48528 to 47531

CFR Citation: 14 CFR 91; 14 CFR 93; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action will further postpone the effective date for the flight-free zones, Special Flight Rules Area, and corridors portions of the December 31, 1996, Grand Canyon final rule until January 31, 2001. The FAA finds that this rule is needed so that it may issue new regulations that will substantially restore natural quiet to the Grand Canyon National Park.

Timetable:

Action	Date	FR Cite
Final Rule Effective	01/31/00	
Final Rule; Request for Comments	02/03/00	65 FR 5396
Comment Period End	03/06/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Reginald C. Matthews, Office of Air Traffic Airspace Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8783

RIN: 2120–AG97

2341. NOISE CERTIFICATION STANDARDS FOR SUBSONI AIRPLANES AND SUBSONIC TRANSPORT CATEGORY LA AIRPLANES

Priority: Substantive, Nonsig

Legal Authority: 42 USC 432 106(g); 49 USC 40113; 49 US to 44702; 49 USC 44704; 49

CFR Citation: 14 CFR 36

Legal Deadline: None .

Abstract: This action propos to the noise certification stan subsonic jet airplanes and su transport category large airpl These proposed changes are the joint effort of the FAA, t European Joint Aviation Aut (JAA), and Aviation Rulemak Advisory Committee (ARAC) harmonize the U.S. noise cer regulations and the Europea Aviation Requirements for su airplanes and subsonic trans category large airplanes. The proposed changes would pro uniform noise certifications for airplanes certificated in t and in the JAA countries. Th harmonization of the noise c standards would simplify ai approvals for import and ex purposes.

Timetable:

Action	Date
NPRM	07/11/00
NPRM Comment Period End	10/10/00
Final Action	02/00/02

Regulatory Flexibility Analy Required: No

Small Entities Affected: No

Government Levels Affecte

Agency Contact: James Ska Office of Environment and Department of Transportatio Aviation Administration
Phone: 202 267-3699

RIN: 2120–AH03

2342. NOISE CERTIFICATI REGULATIONS FOR HELIC

Priority: Substantive, Nonsi

Legal Authority: 42 USC 43 106(g); 49 USC 40113; 49 U to 44702; 49 USC 44704; 49 44715; PL 96-193; EO 1151

CFR Citation: 14 CFR 36

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Legal Deadline: None

Abstract: This proposal is based on a joint effort by the FAA, the European Joint Aviation Authorities (JAA), and the Aviation Rulemaking Advisory Committee (ARAC) to harmonize the U.S. noise certification regulations and the European Joint Aviation Requirements (JAR) for helicopters. The proposed changes would provide nearly uniform noise certification standards for helicopters certificated in the U.S., the JAA countries, and other countries that have adopted as their national regulation either the U.S. regulations, the JAA regulations, or the International Civil Aviation Organization standards. The harmonization of the noise certification standards would simplify airworthiness approvals for import and export purposes.

Timetable:

Action	Date	FR Cite
NPRM	10/05/00	65 FR 59634
NPRM Comment Period End	01/04/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AEE-94-367A.

Agency Contact: Sandy Liu, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 493-4864

RIN: 2120–AH10

2343. SAFE DISPOSITION OF LIFE LIMITED AIRCRAFT PARTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 44109; 49 USC 40113 to 40114; 49 USC 44101 to 44105; 49 USC 44107 to 44108; 49 USC 44110 to 44111; 49 USC 44504; 49 USC 44701; 49 USC 44703; 49 USC 44705; 49 USC 45302 to 45303; 49 USC 46104; 49 USC 46304; 49 USC 46306; 49 USC 47122

CFR Citation: 14 CFR 43; 14 CFR 45

Legal Deadline: None

Abstract: This action responds to the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century by proposing that all persons who remove any life-limited aircraft part be required to have a method to prevent the installation of that part that has reached its life limit. Current regulations do not adequately control the disposition of life-limited parts. This action would reduce the risk of life-limited parts from being used beyond their life limits. This proposal would also require that manufacturers of the parts provide marking instructions, when requested.

Timetable:

Action	Date	FR Cite
NPRM	10/02/00	65 FR 58879
NPRM Comment Period End	01/30/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Al Michaels, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7501

RIN: 2120–AH11

2344. REDUCED VERTICAL SEPARATION MINIMUM IN THE WEST ATLANTIC ROUTE SYSTEM AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46502; 49 USC 46504; 49 USC 46506 to 46507; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47531

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action proposes to amend airspace rules where Reduced Vertical Separation Minimum (RVSM) may be applied to include the West Atlantic Route System (WATRS) airspace. RVSM is the reduction of the vertical separation of aircraft from 2,000 feet to 1,000 feet at flight levels (FLs) between FL 290 (29,000 feet) and FL 410 (41,000 feet). RVSM is applied only between aircraft that meet stringent altimeter and autopilot performance requirements. RVSM is currently applied in North Atlantic (NAT) Minimum Navigation Performance Specifications (MNPS) and Pacific airspace.

Timetable:

Action	Date	FR Cite
NPRM	12/18/00	65 FR 79284
NPRM Comment Period End	02/16/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Regulatory Evaluation 12/18/00; 65 FR 79284.

Agency Contact: Dave Maloy, Flight Technologies and Procedures Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW,, Washington, DC 20591 Phone: 860 654-1006

RIN: 2120–AH12

2345. ALCOHOL AND ANTIDRUG MISUSE PREVENTION PROGRAM FOR PERSONNEL ENGAGED IN SPECIFIED AVIATION ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105; 49 USC 46301

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to eliminate the need for approval by FAA of antidrug program and alcohol misuse prevention program plans and delete periodic drug testing requirement, and change the pre-employment testing requirements to require pre-hire rather than preemployment drug testing. This proposal will also make other minor or terminological changes to the regulations. The FAA believes that changing or eliminating these requirements would not compromise safety and would lessen a burden on the regulated public.

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Timetable:

Action	Date	FR Cite
NPRM	04/30/01	66 FR 21492
NPRM Comment Period End	06/14/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Diane Wood, Acting Manager, Drug Abatement Branch, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 366-6710

RIN: 2120–AH15

2346. CIVIL PENALTY INFLATION ADJUSTMENT REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113 to 40114; 49 USC 44103 to 44106; 49 USC 44702 to 44703; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; 49 USC 47122; 49 USC 47306; 49 USC 47531 to 47532

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This action adjusts for inflation the amount of each statutory civil penalty subject to the Federal Aviation Administration's jurisdiction. This action is issued as a final rule without prior notice and comment because the changes are administrative and required by statute. Also, the immediate adoption of these changes is in the public interest and is necessary for the agency to properly execute its functions.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joyce Redos, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7158

RIN: 2120–AH21

2347. SECURITY CONTROL OF AIR TRAFFIC

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40106; 49 USC 40113; 49 USC 40120; 49 USC 44502; 49 USC 44721

CFR Citation: 14 CFR 99

Legal Deadline: None

Abstract: This action modifies regulations governing security control of air traffic. Specifically, this action revises the boundaries of the contiguous United States and Alaska air defense identification zones and amends flight plan and communications requirements for those pilots planning flight into, within, or out of any of these zones. This action conforms FAA regulations with Presidential Proclamation No. 5928, supports the Department of Defense in accomplishing its National defense and drug interdiction missions, and assists law enforcement agencies in their efforts to stop the transportation of illegal drugs by aircraft.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ATA-95-294R.

Agency Contact: Sheri Edgett Baron, Office of Air Traffic Airspace Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9354

RIN: 2120–AH25

2348. REVISION TO AIRSPEE INDICATING SYSTEM REQUI FOR TRANSPORT CATEGOR AIRPLANES

Priority: Substantive, Nonsign

Legal Authority: 49 USC 106(USC 40113; 49 USC 44701; 49 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action amends airworthiness standards for tr category airplanes concerning airspeed indicating system. Tl adds airspeed indication requ for speeds greater than and le the speed range for which airs indication accuracy requireme currently apply, would add a requirement that airspeed ind not cause the pilot undue diff between the initiation of rotat the achievement of a steady c condition during takeoff, and also add a requirement to lim effects of airspeed lag. Adopti rulemaking eliminates a regul difference between the airwor standards of the U.S. and the Aviation Requirements of Eur without affecting current indu design practices.

Timetable:

Action	Date
NPRM	05/15/01 6
NPRM Comment Period End	07/16/01
Final Action	12/00/01

Regulatory Flexibility Analys Required: No

Small Entities Affected: No

Government Levels Affected

Agency Contact: Don Stimso Test and Systems Branch, Air Certification Service, Departm Transportation, Federal Aviat Administration, Northwest M Region, 1601 Lind Avenue SW Renton, WA 98055-4056
Phone: 425 227-4056

RIN: 2120–AH26

DOT—FAA

Final Rule Stage

2349. ELECTRICAL INSTALLATION, NICKEL CADMIUM BATTERY INSTALLATION, AND NICKEL CADMIUM BATTERY STORAGE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action amends the airworthiness standards for transport category airplanes concerning electrical equipment and nickel cadmium battery installations, and nickel cadmium battery storage. This rulemaking eliminates regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

Timetable:

Action	Date	FR Cite
NPRM	05/17/01	66 FR 27582
NPRM Comment Period End	07/16/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Massoud Sadeghi, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056 Phone: 425 227-2117

RIN: 2120–AH27

2350. DESIGN AND INSTALLATION OF ELECTRONIC EQUIPMENT ON TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action amends the airworthiness standards for transport category airplanes concerning the design and installation of electronic equipment. The rule requires that such equipment be designed and installed so that it does not cause essential loads to become inoperative as a result of electrical power supply transients or transients from other causes. Adopting this rulemaking would eliminate regulatory differences between the airworthiness standards of the United States and the Joint Aviation Requirements of Europe, without affecting current industry design practices

Timetable:

Action	Date	FR Cite
NPRM	05/15/01	66 FR 26956
NPRM Comment Period End	07/16/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Massoud Sadeghi, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056 Phone: 425 227-2117

RIN: 2120–AH28

2351. ELECTRICAL CABLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This rule amends the airworthiness standards for transport category airplanes concerning electrical cables. This action harmonizes part 25 and JAR-25 requirements concerning cable installations and clarify the cable design requirements ensuring that the designer considers the critical conditions, routings, and markings of a proper installation. This rulemaking eliminates regulatory differences between the airworthiness standards of the United States and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

Timetable:

Action	Date	FR Cite
NPRM	05/15/01	66 FR 26942
NPRM Comment Period End	07/16/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Massoud Sadeghi, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056 Phone: 425 227-2117

RIN: 2120–AH29

2352. • TRANSITION TO AN ALL STAGE 3 FLEET OPERATING IN THE 48 CONTIGUOUS UNITED STATES AND THE DISTRICT OF COLUMBIA

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 106(g); 49 USC 1155; 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46504; 49 USC 46506; 49 USC 46507; 49 USC 47122; z49 USC 47508; 49 USC 47528 to 487531

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This final rule removes outdated language, revises several sections, and adds one new section to the noise operating regulations. Some revisions are a result of recent statutory changes to the Airport Noise and Capacity Act. The new section defines specific filing procedures and criteria for special flight authorizations. These revisions will make the noise operating regulations consistent with recent statutory provisions.

Timetable:

Action	Date	FR Cite
Final Rule; Request for Comments	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AEE-00-159.

Agency Contact: Laurie Fisher, Policy and Regulatory Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3561

RIN: 2120–AH41

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2353. • HARMONIZATION OF NOISE CERTIFICATION STANDARDS FOR PROPELLER-DRIVEN SMALL AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44704; 49 USC 44715

CFR Citation: 14 CFR 36

Legal Deadline: None

Abstract: This final rule harmonizes two technical items with international regulations to provide uniform noise certification standards for airplanes certificated in the U.S. and JAA (European Joint Aviation Authorities) countries. This will help to simplify airworthiness approvals for import and export purposes. The revisions to these two items will apply only to a small number of older technology airplanes.

Timetable:

Action	Date	FR Cite
Final Rule; Request for Comments	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected:

Additional Information: Proje Number: AEE-01-134.

Agency Contact: Mehmet Ma Office of Environment and En Department of Transportation Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-7703

RIN: 2120–AH42

Department of Transportation (DOT)
Federal Aviation Administration (FAA)

Long-Term

2354. +FUEL SYSTEM VENT FIRE PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44721; 49 USC 44722; 49 USC 44901

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require fuel vent system protection during post-crash ground fires. This proposed rule would apply to air carriers, air taxi operators, and commercial operators of transport category airplanes, as well as the manufacturers of such airplanes. This action is considered significant because of substantial public interest and the safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38078
ANPRM Comment Period End	01/25/85	
NPRM	02/02/95	60 FR 6632
NPRM Comment Period End	06/02/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket 24251. Formerly entitled Implementation of SAFER Propulsion System Recommendations. Project Number: ANM-82-050R.

ANALYSIS: Regulatory Evaluation, 02/02/95, 60 FR 6632

Agency Contact: Mike McRae, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056 Phone: 425 227-2133

RIN: 2120–AA49

2355. IFR ALTITUDES; MISCELLANEOUS AMENDMENTS

Priority: Routine and Frequent

Legal Authority: 49 USC 40120; 49 USC 44502; 49 USC 44514; 49 USC 44719; 49 USC 44721; 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40113; 49 USC 40114

CFR Citation: 14 CFR 95

Legal Deadline: None

Abstract: This is a nonsignificant body of regulations which prescribes altitudes for the operation of aircraft under instrument flight rules (IFR) on Federal airways, jet routes, area navigation low or high routes, or other direct routes for which a minimum en route IFR altitude is designated in 14 CFR part 95. In addition, mountainous areas and changeover points are designated. These regulations are an established body of technical requirements that are issued routinely and frequently to maintain op efficiency. Total actions expe 10/00/2001 - 10/00/2002.

Timetable:

Action	Date
Actions Will Continue Through	10/00/02

Regulatory Flexibility Analys Required: No

Small Entities Affected: No

Government Levels Affected

Agency Contact: Michael L. General Aviation and Comme Division, Department of Tran Federal Aviation Administrat Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8212

Jennifer Abdul-Wali, Transpo Specialist, Department of Transportation, 400 Seventh Washington, DC 20590 Phone: 202 366-6322 Fax: 202 366-9313 Email: jennifer.abdul-wali@os

Don Pate, Mike Monroney Ae Center, Department of Transp Federal Aviation Administrat South MacArthur, Oklahoma 73125 Phone: 405 954-4161

RIN: 2120–AA63

2356. AIRWORTHINESS DIRE

Priority: Routine and Frequen

Legal Authority: 49 USC 106 USC 40113; 49 USC 44701

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: The FAA issues type certificates for "products," which are aircraft, engines, propellers, and some appliances. The FAA issues a regulation called an "Airworthiness Directive" (AD) to address an unsafe condition in a type certificated product, if that unsafe condition is likely to exist or develop in products of the same type design. Part 39 of title 14 requires each operator of a product affected by an AD to comply with the terms of the AD, in order to operate that product; the AD may mandate operational limitations, maintenance, or alterations for the affected product. The vast majority of routine and frequent Airworthiness Directives are nonsignificant. Total actions expected-650. 10/00/2001 to 10/00/2002.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Jack McGrath, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9580

RIN: 2120–AA64

2357. STANDARD INSTRUMENT APPROACH PROCEDURES; MISCELLANEOUS AMENDMENTS

Priority: Routine and Frequent

Legal Authority: 49 USC 40103; 49 USC 40106; 49 USC 40113 to 40114; 49 USC 40120; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 44721 to 44722; 49 USC 106(g)

CFR Citation: 14 CFR 97

Legal Deadline: None

Abstract: Standard Instrument Approach Procedures (SIAP) provide for instrument letdown to airports in the United States. They are a nonsignificant body of regulations that are complex and technical in nature and require routine and frequent rulemaking to maintain efficiency. The FAA issues, revises, and cancels SIAPs by adopting amendments that are incorporated into 14 CFR part 97. Contemporaneously with publication in the Federal Register, the SIAPs are made available to the Aeronautical Charting and Cartography Office in the FAA and other publishers of aeronautical charts where they are published as approach procedure charts or "approach plates." These charts are made available to the members of the aviation community for use by pilots in making instrument approaches. Total actions expected—2,500. 10/00/2001 - 10/00/2002.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael L. Henry, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8212

Don Pate, Mike Monroney Aeronautical Center, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur, Oklahoma City, OK 73125
Phone: 405 954-4161

RIN: 2120–AA65

2358. AIRSPACE ACTIONS

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75

Legal Deadline: None

Abstract: This is a nonsignificant body of regulations which designates airspace areas, airways, routes, and reporting points to facilitate safe navigation. These regulations are technical in nature and are issued routinely and frequently to maintain operational efficiency. Total actions expected—400. 10/00/2001 through 10/00/2002.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Pat Crawford, Manager, Airspace Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9255

RIN: 2120–AA66

2359. LOW FUEL QUANTITY ALERTING SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require a means to alert the flight crew of potentially unsafe low fuel quantities. There have been several fuel depletion incidents involving loss of power or thrust on all engines that could have resulted in forced landings and injury or loss of life. Most of these incidents resulted from improper fuel management techniques. This proposed amendment would require new transport category airplane designs to incorporate a low fuel quantity alert system that would allow for correction of certain fuel management errors or provide the flight crew the opportunity to make a safe landing prior to engine fuel starvation.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17890
NPRM Comment Period End	09/09/87	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. 25213. Project Number: ANM-83-039R.

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ANALYSIS: Regulatory Evaluation, 05/12/87, 52 FR 17890

Agency Contact: Neil Schalekamp, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2112

RIN: 2120–AB46

2360. AIRCRAFT ENGINES: FUEL AND INDUCTION SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action would add a new section 33.35(f) to the Federal Aviation Regulations which would incorporate a requirement for the fuel mixture and throttle controls to automatically move to a position allowing continued safe flight if either control becomes disconnected.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/86	51 FR 7224
ANPRM Comment Period End	04/29/86	
NPRM	10/20/92	57 FR 47934
NPRM Comment Period End	02/17/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANE-85-002R. Former title: Engine Fuel and Induction Systems.

ANALYSIS: Regulatory Evaluation, 10/20/92, 57 FR 47934

Agency Contact: Locke Easton, Engine and Propeller Standards Staff, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803
Phone: 617 273-7088

RIN: 2120–AB76

2361. INSTALLATION OF CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: NPRM, Statutory, February 3, 1989.

Abstract: This preliminary action was initiated to determine the feasibility of installing, in all air carrier aircraft, crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident. This notice solicited public participation in identifying and selecting a regulatory course of action by inviting interested persons to submit specific comments and arguments concerning this proposed regulatory action. Originally this rulemaking was considered significant. However, because there is no substantial public interest, this rulemaking is no longer significant.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/89	54 FR 18824
ANPRM Comment Period End	10/30/89	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-89-005R.

Agency Contact: Mike Dostert, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2132

RIN: 2120–AC87

2362. +DRUG ENFORCEMENT ASSISTANCE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44702 to 44703; 49 USC 44704; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46 USC 46501 to 46502; 49 USC to 46507; 49 USC 47106; 49 U

CFR Citation: 14 CFR 13; 14

Legal Deadline: Final, Statute September 18, 1989.

Abstract: This action would certain requirements concern registration of aircraft, certifi pilots, and penalties associate registration and certification This notice also announced p procedures for processing ma and alteration forms which p fuel system modifications. Ac announced in this notice resp FAA Drug Enforcement Assis The requirements and adopte procedures are intended to a enforcement agencies in thei stop drug trafficking in gener aircraft. This rulemaking is s because of substantial public

Timetable:

Action	Date
NPRM	03/12/90
NPRM Comment Period End	05/11/90

Next Action Undetermined

Regulatory Flexibility Analys Required: Undetermined

Small Entities Affected: Bus

Government Levels Affected

Additional Information: Proj AFS-89-035R.

ANALYSIS: Regulatory Evalu 03/12/90, 55 FR 9270

Agency Contact: Sharon As Registry Modernization Staff Department of Transportatio Aviation Administration, 65 MacArthur Boulevard, Oklah OK 73125-4939
Phone: 405 954-7038

RIN: 2120–AD16

2363. AIRPLANE ENGINE C RETENTION

Priority: Substantive, Nonsig

Legal Authority: 49 USC 10 USC 40113; 49 USC 44701 t 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would airworthiness standards for category airplanes to require

cowling retention devices. A review of a number of inflight incidents where engine cowlings were lost revealed that the largest single cause of such losses was improper latching of the cowlings. If adopted, this proposal would provide additional design standards to detect improperly latched cowlings and ensure the integrity of the latching system.

Timetable:

Action	Date	FR Cite
NPRM	09/19/89	54 FR 38610
NPRM Comment Period End	03/19/90	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-87-004R.

Agency Contact: Mike McRae, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2133

RIN: 2120–AD34

2364. TYPE CERTIFICATES FOR SOME SURPLUS AIRCRAFT OF THE ARMED FORCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: Following World War II, a substantial number of surplus military airplanes were offered for sale to the public in order to meet an increased demand for civilian-use aircraft not being met by the civil aircraft industry. The current regulation permits both type and airworthiness certification for surplus military aircraft based on the particular aircraft's safety record and condition. As military aircraft have become increasingly complex and sophisticated, that practice is no longer acceptable. This action would remove the regulations for issuing type certificates for these surplus aircraft and eliminate references to obsolete standards. Surplus military aircraft would still be certificated in the normal, utility, acrobatic, commuter, transport, and restricted categories upon compliance with the applicable regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/21/94	59 FR 19114
NPRM Comment Period End	06/20/94	
Comment Period End 08/26/94	07/07/94	59 FR 34779

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Project Number: AIR-91-354R.

ANALYSIS: Regulatory Evaluation, 04/21/94, 59 FR 19114

Agency Contact: Brian Yanez, Policy and Procedures Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-6561

RIN: 2120–AE41

2365. +AIRCRAFT GROUND DEICING AND ANTI-ICING PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action establishes a requirement for part 121 certificate holders to develop an FAA-approved ground deicing/anti-icing program and to comply with that program any time conditions are such that frost, ice, or snow could adhere to the aircraft's wings, control surfaces, or propellers. This action is necessary because several accidents and the recent International Conference on Airplane Ground Deicing indicate that, under present procedures, the pilot in command may be unable to effectively determine whether critical airplane components are free of all frost, ice, or snow prior to attempting a takeoff. The action provides an added level of safety to flight operations in adverse weather conditions, and is considered significant because of its safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/23/92	57 FR 32846
NPRM Comment Period End	08/07/92	
Interim Final Rule	09/29/92	57 FR 44924
Interim Final Rule Effective	11/01/92	
Interim Final Rule Correction	11/09/92	57 FR 53385
Interim Final Rule Comment Period End	04/15/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-92-280-R.

A proposed advisory circular providing guidance on the program elements that should be included in an air carrier's approved ground deicing and anti-icing program was published September 29, 1992, requesting comments (57 FR 44944).

Various documents of this proceeding were erroneously published under RIN 2120-AE51.

ANALYSIS: Regulatory Evaluation, 09/29/92, 57 FR 44924

Agency Contact: James Gardner, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-9579

RIN: 2120–AE70

2366. CIVIL PENALTY ASSESSMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 6002; 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44103 to 44106; 49 USC 44702 to 44703; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to

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46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; 49 USC 47122

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This action would revise the procedures for the assessment of civil penalties for violations of the Federal Aviation Regulations and other provisions. The procedures proposed would implement the requirements of the FAA Civil Penalty Administrative Assessment Act of 1992, as they modify the procedures for adjudicating a civil penalty against a person acting in the capacity of a pilot, flight engineer, mechanic, or repairman.

Timetable:

Action	Date	FR Cite
NPRM	08/05/94	59 FR 40192
NPRM Comment Period End	10/04/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AGC-93-076R. This rulemaking was considered significant; however, after receiving only two comments on the NPRM issued in 8/94, and the lack of controversy regarding this rule, the FAA does not consider this a significant rulemaking.

ANALYSIS: Regulatory Evaluation, 08/05/94, 59 FR 40192

Agency Contact: Joyce Redos, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-7158

RIN: 2120–AE84

2367. +TRAINING AND CHECKING IN GROUND IC!NG CONDITIONS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44710 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722

CFR Citation: 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This amendment requires parts 125 and 135 certificate holders to provide pilot training or testing in ground deicing/anti-icing procedures and to check the airplane for contamination by frost, ice, or snow during ground icing conditions. The proposal is intended to provide an added level of safety to flight operations in adverse weather conditions under parts 125 and 135. This rulemaking is significant because it affects a substantial portion of the aviation industry.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 49164
NPRM Comment Period End	10/06/93	
Interim Final Rule	12/30/93	58 FR 69620
Advisory Circular Published	12/30/93	58 FR 69631
Interim Final Rule Effective	01/31/94	58 FR 69620
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-93-459R

ANALYSIS: Regulatory Evaluation, 12/30/93, 58 FR 69620

Agency Contact: James Gardner, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-9579

RIN: 2120–AF09

2368. MISCELLANEOUS CABIN SAFETY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 46105; 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise the airworthiness standards for transport category airplanes relating to flight attendant assist space, flight attendant assist handles, door hold open features, outside viewing means, interior compartment doors a portable oxygen equipment. W exception, these proposals ar result of any specific inciden recommendation, but are part FAA's continuing effort to up regulations to improve the ov of safety in areas where the s the-art and good design pract indicated that such upgrades warranted. These proposals w result in both new type desig regulations as well as require applicable to existing designs implemented via the operatin

Timetable:

Action	Date
NPRM	07/24/96
NPRM Comment Period End	11/21/96
Next Action Undetermined	

Regulatory Flexibility Analys Required: No

Small Entities Affected: Bus

Government Levels Affected

Additional Information: Proj Number: ANM-90-016R.

ANALYSIS: Regulatory Evalu 07/24/96, 61 FR 38552

Agency Contact: Jeff Gardlin Certification Service, Depart Transportation, Federal Avia Administration, 1601 Lind A Renton, WA 98055-4056 Phone: 425 227-2136

RIN: 2120–AF77

2369. BIRD STRIKE

Priority: Substantive, Nonsig

Legal Authority: 49 USC 10 USC 40113; 49 USC 44701 t 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action propos develop or revise requireme evaluation of transport categ airplane structure for in-flig with a bird, including the si bird and the location of the the airplane. These changes intended to harmonize the b requirements of the FAR an Aviation Requirements.

Timetable: Next Action Und

Regulatory Flexibility Analy Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-93-762A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Bill Perrella, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2116

RIN: 2120–AF80

2370. +SECURITY PROGRAMS OF FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S. REGISTERED AIR CARRIERS ENGAGED IN COMMON CARRIAGE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44712; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906

CFR Citation: 14 CFR 129

Legal Deadline: None

Abstract: As an action intended to implement the Antiterrorism and Effective Death Penalty Act of 1996 (PL 104-132, 4/14/96), the FAA is proposing to amend existing airplane operator security rules for foreign air carriers and foreign operators of U.S. registered aircraft. The proposed amendment would require the Administrator to accept a foreign air carrier's program only if the Administrator finds that the security program provides for identical security measures to those provided by U.S. air carriers serving the same airport. The proposed rule will establish the obligation to use identical security measures. The actual measures to be used will be identified through changes to the nonpublic security program of the foreign air carriers. This rule is considered significant due to substantial public interest and concern of foreign governments.

Timetable:

Action	Date	FR Cite
NPRM	11/23/98	63 FR 64764
Notice of Public Meeting	11/23/98	63 FR 64764
Second NPRM	03/22/99	64 FR 13880
NPRM Comment Period End	03/23/99	
Second NPRM Comment Period End	05/24/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ACP-96-363R.

Agency Contact: Moira Lozada, Civil Aviation Security Division, Office of Civil Aviation Security Policy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3373

RIN: 2120–AG13

2371. +NOISE LIMITATIONS FOR AIRCRAFT OPERATIONS IN THE VICINITY OF GRAND CANYON NATIONAL PARK

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This rulemaking will establish noise limitations for certain aircraft operated in the vicinity of Grand Canyon National Park. This action is one part of an overall strategy to reduce further the impact of aircraft noise on the park environment and to assist the National Park Service (NPS) in achieving its statutory mandate imposed by Public Law 100-91 to provide for the substantial restoration of natural quiet and experience in Grand Canyon National Park. The supplemental amendment removes two sections from the December 31, 1996, notice of proposed rulemaking (NPRM) that proposed to establish a corridor through the National Canyon area as an incentive route for quiet technology aircraft. The FAA and NPS have determined not to proceed with an air tour route in the vicinity of National Canyon and are presently considering alternatives to this route. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/31/96	61 FR 69334
NPRM Comment Period End	03/31/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: A final rule, which was published on 12/31/96 (61 FR 69302), establishes new operating restrictions at Grand Canyon National Park. See RIN 2120-AF93 published elsewhere in this Agenda.

ANALYSIS: Regulatory Evaluation, 12/31/96, 61 FR 69334

Agency Contact: Tom Connor, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW,, Washington, DC 20591
Phone: 202 267-8933

RIN: 2120–AG34

2372. +PROHIBITION OF THE TRANSPORTATION OF DEVICES DESIGNED AS CHEMICAL GENERATORS AS CARGO IN AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716; 49 USC 44722; 49 USC 46301

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking proposes to ban the transportation of devices designed to chemically generate oxygen in certain aircraft, with limited exceptions. This proposed ban applies to newly manufactured chemical oxygen generators that have never been filled with chemicals. It would also apply to devices designated as chemical oxygen generators that have been discharged (spent) or that are past their expiration dates. The FAA believes that newly manufactured chemical oxygen generators might be manufactured in

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one location and transported to another location to be filled. This could lead to human factors errors in determining whether the device designed as a chemical oxygen generator is actually empty.

In a final rule effective March 1, 2000, the Research and Special Programs Administration (RSPA) prohibited the transportation on an aircraft of a "spent" chemical oxygen generator, i.e., a generator whose means of ignition and all or a part of its chemical contents have been expended. (See RIN 2137-AC92)

This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/27/98	63 FR 45912
Correction	09/24/98	63 FR 51048
NPRM Comment Period End	10/26/98	
Correction	11/10/98	63 FR 69276

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project Number: AFS-97-065R

ANALYSIS: Regulatory Evaluation, 08/27/98, 63 FR 45912

Agency Contact: David Catey, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8166

RIN: 2120–AG35

2373. +REVISED STANDARDS FOR CARGO OR BAGGAGE COMPARTMENTS IN TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 44715 to 44717; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44711 to 44713

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action upgrades the fire safety standards for cargo or baggage compartments in certain transport category airplanes by eliminating Class D compartments altogether. Compartments that could no longer be designated as Class D would have to meet the standards for Class C or Class E compartments, as applicable. Certain other transport category airplanes that would not have to meet these new standards for type certification would have to meet them for use in air carrier, commuter, on-demand, or commercial service. These improved standards are needed to increase protection possible in-flight fires. This r is considered significant beca safety implications.

Timetable:

Action	Date	
NPRM	06/13/97	6
NPRM Comment Period End	09/11/97	
Final Rule Request for Comments	02/17/98	6
Final Rule Effective	03/19/98	
Final Rule Comment Period End	06/17/98	

Next Action Undetermined

Regulatory Flexibility Analys Required: Yes

Small Entities Affected: Bus

Government Levels Affecte

Additional Information: Proj Number: ANM-97-009R

ANALYSIS: Regulatory Evalu 06/13/97, 62 FR 32412

Regulatory Evaluation, 02/17 8032

Agency Contact: Mahinder Aircraft Certification Service Department of Transportatio Aviation Administration, 16 Avenue SW, Renton, WA 98 Phone: 425 227-2589

RIN: 2120–AG42

Department of Transportation (DOT)
Federal Aviation Administration (FAA)

Complete

2374. AIRWORTHINESS STANDARDS; CRASH-RESISTANT FUEL SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 40 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would have made changes to the airworthiness standards to improve the crash resistance of fuel systems on normal, utility, acrobatic, and commuter category airplanes. The changes would have improved crash resistance of these systems by limiting fuel spillage near ignition sources and thus provide additional time for the survivors of an impact to evacuate the airplane. The FAA has withdrawn the NPRM. As a result of the comments received, the FAA completed a revised economic evaluation of these safety recommendations and has concluded that the costs of the proposed changes are not justified by the potential benefits.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/85	50 FR 8948
ANPRM Comment Period End	07/03/85	
NPRM	02/28/90	55 FR 7280
NPRM Comment Period End	06/28/90	
Withdrawn	12/20/00	65 FR 73437

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affecte

Additional Information: For "Amend Part 23 To Include Requirements for Crash-Resi Systems." Project Number: A 005R.

ANALYSIS: Regulatory Eval 02/28/90, 55 FR 7280

Agency Contact: Norman W Standards Office, Aircraft C Service, Department of Tran Federal Aviation Administr 12th Street, Kansas City, M Phone: 816 426-5688

RIN: 2120–AA57

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Completed Actions

2375. +PART 145 REVIEW: REPAIR STATIONS

Priority: Other Significant

Legal Authority: 49 USC 44705; 49 USC 44707; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44713; 49 USC 44717; 49 USC 45102 to 45103; 49 USC 45301 to 45302; 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44703

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: This action updates and revises the regulations for repair stations. This action is necessary because many portions of the current repair station regulations do not reflect technical advances in aircraft maintenance practices or aircraft technology. These revisions reorganize the repair station rules to reduce duplication of regulatory language and eliminate obsolete information. This action also removes the appendix to the repair station regulations that sets forth the job functions and equipment requirements for repair stations. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meetings	07/24/89	54 FR 30866
Notice Correction	08/08/89	54 FR 32563
NPRM	06/21/99	64 FR 33142
NPRM Comment Period End	10/19/99	
NPRM Comment Period Extended	10/21/99	64 FR 56706
NPRM Comment Period End	12/03/99	
Final Rule; Request for Comments	06/06/01	66 FR 41088
Direct Final Rule; Request for Comments	06/06/01	66 FR 41088
Comment Period End	10/05/01	
Final Actions Effective	04/06/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-87-045R. This project was formerly entitled Review and Revision of Repair Station Requirements, and Repair Station and Repairmen Certification Rules.

ANALYSIS: Regulatory Evaluation, 06/21/99, 64 FR 33142

Regulatory Evaluation, 08/06/01, 66 FR 41088

Agency Contact: Diana L Frohn, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW,, Washington, DC 20591
Phone: 202 493-4941

RIN: 2120–AC38

2376. +SOLE RADIO NAVIGATION SYSTEM; MINIMUM STANDARDS FOR CERTIFICATION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91

Legal Deadline: Final, Statutory, September 30, 1989.

Abstract: The FAA is withdrawing a previously published Advance Notice of Proposed Rulemaking (ANPRM) that proposed to establish minimum standards under which a radio navigation system may be certified as the sole radio navigation system required in an aircraft conducting Instrument Flight Rules en route and terminal area operations, including nonprecision approach, in controlled airspace of the United States. This rulemaking was considered to be significant because of a congressional mandate. However, the provision was repealed in 1994 as part of the recodification of title 49. The provision was originally enacted as section 310(c) in FAA's 1987 Reauthorization bill, Pub. L. No. 100-123.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/90	55 FR 2206
ANPRM Comment Period End	05/22/90	
Withdrawn	06/21/01	66 FR 33215

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-89-215R. This project was formerly entitled Sole Means Radio Navigation System.

Agency Contact: James Crowling, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-5215

Linda Valencia, Office of Civil Aviation Security Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8222

RIN: 2120–AD26

2377. REVISION OF HYDRAULICS SYSTEMS AIRWORTHINESS STANDARDS TO HARMONIZE WITH EUROPEAN AIRWORTHINESS STANDARDS FOR TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This final rule amends the airworthiness standards for transport category airplanes to harmonize hydraulic systems design and test requirements with standards proposed for the European Joint Aviation Requirements. These actions were developed in cooperation with the Joint Aviation Authorities of Europe and the US and European aviation industries through the Aviation Rulemaking Advisory Committee (ARAC). These changes are intended to benefit the public interest by standardizing certain requirements, concepts, and procedures contained in the airworthiness standards without reducing and potentially enhancing the current level of safety.

Timetable:

Action	Date	FR Cite
NPRM	07/03/96	61 FR 35056
Correction	07/29/96	61 FR 39515
Correction	08/12/96	61 FR 41924
NPRM Comment Period End	10/01/96	
Final Action	05/16/01	66 FR 27396
Final Action Effective	06/15/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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Additional Information: Project Number: ANM-97-374A. This action is in response to an Aviation Rulemaking Advisory Committee recommendation.

ANALYSIS: Regulatory Evaluation, 07/03/96, 61 FR 35056

Agency Contact: Mahinder K. Wahi, Transport Airplane Directorate, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, VA 98055
Phone: 425 227-2142

RIN: 2120–AF79

2378. +FEES FOR FAA SERVICES FOR CERTAIN FLIGHTS

Priority: Other Significant

Legal Authority: 49 USC 45301 to 45303; 49 USC 46101 to 46102; 49 USC 46104; 49 USC 9701; 49 USC 106 (g); 49 USC 40103; 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44502; 49 USC 44701; 49 USC 44702; 49 USC 44718

CFR Citation: 14 CFR 77; 14 CFR 187

Legal Deadline: None

Abstract: Pursuant to the 1996 FAA Reauthorization Act, the FAA is issuing another interim rule to establish fees and collection procedures for FAA air traffic and related services provided to certain aircraft that transit U.S.-controlled airspace but neither take off from, nor land in, the United States. Previously, the FAA issued an interim final rule that was remanded back to FAA by the United States Court of Appeals for the District of Columbia. That interim final rule was withdrawn by the final rule issued on July 24, 1998. The new interim final rule complies with the Court's decision. This action is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/97	62 FR 13496
Correction	04/29/97	62 FR 23295
Correction	05/05/97	62 FR 24552
Interim Final Rule Effective	05/19/97	
Comment Period End	07/18/97	
Interim Final Rule	10/02/97	62 FR 51736
Interim Final Rule Effective	10/02/97	
Interim Final Rule	07/24/98	63 FR 40000
Interim Final Rule	06/06/00	65 FR 36002
Interim Final Rule Effective	08/01/00	
Comment Period End	10/04/00	
Interim Final Rule; Extension of Comment Period	10/06/00	65 FR 59713
Interim Final Rule; Extension of Comment Period	10/27/00	65 FR 64401
Interim Final Rule Comment Period End	10/27/00	
Interim Final Rule Comment Period End	12/26/00	
Final Rule	08/20/01	66 FR 43680
Final Action Effective	08/20/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: APO-96-172R.

ANALYSIS: Regulatory Evaluation, 03/20/97, 62 FR 13496

Regulatory Evaluation, 06/06/00, 65 FR 36002

Agency Contact: Randy Fiertz, Office of Cost and Performance Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591
Phone: 202 267-7140
Email: randy.fiertz@faa.dot.gov

RIN: 2120–AG17

2379. +PROTECTION OF VOLUNTARILY SUBMITTED INFORMATION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40123

CFR Citation: 14 CFR 193

Legal Deadline: None

Abstract: The Administrator has been tasked, under the Federal Aviation Reauthorization Act of 1996, to develop regulations to protect safety and security related information voluntarily disclosed by industry. This rule implements a new statutory provision. It is intended to encourage people to provide information that will assist the FAA in carrying out is safety and security duties. This rulemaking is significant because of substantial industry interest.

Timetable:

Action	Date
NPRM	07/26/99
NPRM Comment Period End	09/24/99
NPRM Comment Period Reopened	10/05/99
Comment Period End	11/04/99
Final Action	06/25/01
Final Action Effective	07/25/01

Regulatory Flexibility Analy Required: No

Small Entities Affected: Bu

Government Levels Affecte

Additional Information: Pro Number: ARM-97-040R.

ANALYSIS: Regulatory Eval 07/26/99, 64 FR 40472.

Agency Contact: Mardi Th Regulations Division, Office Chief Counsel, Department Transportation, Federal Avi Administration, 800 Indepe Avenue SW., Washington, I Phone: 202 267-3073

RIN: 2120–AG36

2380. PARACHUTE OPERA

Priority: Substantive, Nonsi

Legal Authority: 49 USC 1 USC 40113 to 40114; 49 US to 44702; 49 USC 44721

CFR Citation: 14 CFR 105

Legal Deadline: None

Abstract: This rulemaking updates the Federal Aviatio Regulations by defining ter applicable to parachute op issues concerning coordina parachute operations with control, tandem parachute and packing and equipmen requirements for foreign pa when parachuting in the U Also, this action is necessa recent airspace reclassifica parachuting equipment ap

Timetable:

Action	Date
NPRM	04/13/9
NPRM Comment Period End	07/12/9
Final Action	05/19/0
Final Action Effective	07/09/0

Regulatory Flexibility Ana Required: No

Small Entities Affected: B

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Completed Actions

Government Levels Affected: None

Additional Information: Project Number: ATA-91-202R.

ANALYSIS: Regulatory Evaluation, 04/13/99, 64 FR 18302.

Agency Contact: Ellen Crum, Air Traffic Rules Procedures Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3155

RIN: 2120–AG52

2381. +TRANSPORT AIRPLANE FLEET FUEL TANK IGNITION SOURCE REVIEW; FLAMMABILITY REDUCTION, AND MAINTENANCE AND INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This action will require type certificate holders of certain turbojet and turbofan-powered transport category airplanes to conduct a design review of fuel tank systems and develop fuel system inspection and maintenance instructions. It will also allow a certificate holder to submit documentation that the type design of the fuel system of a previously certificated airplane precludes existence of ignition sources within the airplane's fuel tanks. This action is significant because of substantial public interest in the prevention of fire and explosion in airplane fuel tanks.

Timetable:

Action	Date	FR Cite
NPRM	10/29/99	64 FR 58644
NPRM Comment Period End	01/27/00	
Correction	02/03/00	65 FR 5024
Reopen NPRM Comment Period	02/16/00	65 FR 8006
NPRM Comment Period End	03/27/00	
Final Action	05/07/01	66 FR 23086
Final Action Effective	06/06/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-98-158R.

ANALYSIS: Regulatory Evaluation, 05/07/2001; 66 FR 23086.

Agency Contact: Mike Dostert, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2132

RIN: 2120–AG62

2382. REVISED LANDING GEAR SHOCK ABSORPTION TEST REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40113; 49 USC 44502; 49 USC 44701; 49 USC 44718; 49 USC 46101 to 46102; 49 USC 46104; 49 USC 106(g); 49 USC 40103

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action amends the landing gear shock absorption test requirements for transport category airplanes to be consistent with other requirements, to reflect modern technology and to achieve common requirements and language between the Federal aviation requirements and the European joint aviation requirements without reducing the level of safety provided by the regulations and industry practices.

Timetable:

Action	Date	FR Cite
NPRM	06/18/99	64 FR 32978
NPRM Comment Period End	10/18/99	
Final Action	05/16/01	66 FR 27390
Final Action Effective	06/15/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-98-182A.

ANALYSIS: Regulatory Evaluation, 06/18/99, 64 FR 32978

Agency Contact: James Haynes, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Rind Avenue SW., Renton, WA 98055
Phone: 425 227-2131

RIN: 2120–AG72

2383. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR LICENSED REENTRY ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2601

CFR Citation: 14 CFR 450

Legal Deadline: None

Abstract: This rule establishes financial responsibility requirements covering risks associated with the licensed reentry of a reentry vehicle. This action provides general rules for demonstrating compliance with insurance requirements and implementing statutory-based Government/industry risk-sharing provisions in manner comparable to that currently utilized for commercial launches.

Timetable:

Action	Date	FR Cite
NPRM	10/06/99	64 FR 54447
NPRM Comment Period End	12/06/99	
NPRM Comment Period Reopened	12/13/99	64 FR 69628
Comment Period End	01/21/00	
Final Action	09/19/00	65 FR 56670
Final Action Effective	11/20/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AST-99-055R.

This rulemaking has been downgraded to Nonsignificant because the Congressional interest has been adequately addressed by formalizing current practice (Financial Responsibility Requirements for Licensed Launch Activities) that resulted in little or no additional cost to the industry.

ANALYSIS: Regulatory Evaluation, 10/06/99, 64 FR 54447

Regulatory Evaluation, 09/19/00, 65 FR 56670

Agency Contact: Esta Rosenberg, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2120–AG76

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2384. +EMERGENCY MEDICAL EQUIPMENT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action responds to the Aviation Medical Assistance Act of 1998 (49 USC 44701) by requiring that large, passenger-carrying air carrier operators carry automatic external defibrillators and augment currently required emergency medical kits. The intent of this action is to better equip crewmembers, and those qualified to assist them, for responding to in-flight medical events. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/24/00	65 FR 33720
NPRM Comment Period End	09/21/00	
Final Action	04/12/01	66 FR 19028
Correction	05/21/01	66 FR 28036
Correction	06/11/01	66 FR 31146
Final Action Effective	05/12/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project No: AAM-98-234R.

Regulatory Evaluation, 05/24/00, 65 FR 33720

Agency Contact: Judi Citrenbaum, Office of Aerospace Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9689

RIN: 2120–AG89

2385. TEMPORARY FLIGHT RESTRICTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 91; 14 CFR 103

Legal Deadline: None

Abstract: This action adds a new temporary flight restriction regulation to address the management of aircraft operations in the vicinity of aerial demonstrations or major sporting events. In addition, this action changes the title of the regulation used to manage aircraft operations near hazard or disaster areas. This action enhances the safe and efficient use of airspace and to prevent any unsafe congestion of sightseeing and other aircraft operations in the vicinity of hazard areas, disaster areas, aerial demonstrations or major sporting events.

Timetable:

Action	Date	FR Cite
NPRM	11/16/00	65 FR 69426
NPRM Comment Period End	01/16/01	
Final Action	09/11/01	66 FR 47372
Final Action Effective	10/11/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sheri Edgett Baron, Office of Air Traffic Airspace Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9354

RIN: 2120–AH13

2386. INTERMIX EXCLUSION DELETION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This action would amend the aircraft certification requirements by removing a provision that allows a Stage 3 airplane to operate for 90 days with a Stage 2 engine. As of December 31, 1999, no person may operate an airplane to or from any airport in the contiguous United States unless the airplane complies with Stag levels. The intended effect i prohibit use of Stage 2 engi the engine and/or nacelle ch would result in the airplane comply with Stage 3 noise requirements.

The FAA is terminating this because the agency no longe pursue this rulemaking beca International Committee on Environmental Protection h work to study this area and wants to wait to make sure rulemaking proposals we pr reflect the international agr reached.

Timetable:

Action	Date
Terminated	08/06/01

Regulatory Flexibility Analy Required: No

Small Entities Affected: No

Government Levels Affecte

Agency Contact: Laurie Fis and Regulatory Division, Of Environment and Energy, D of Transportation, Federal A Administration, 800 Indepe Avenue SW, Washington, D Phone: 202 267-3561

RIN: 2120–AH22

2387. AIRCRAFT REGISTR REQUIREMENTS; CLARIFI "COURT OF COMPETENT JURISDICTION"

Priority: Substantive, Nonsi

Legal Authority: 49 USC 10 USC 40113 to 40114; 49 US to 44108; 49 USC 44110 to USC 44703 to 44704; 49 US 49 USC 45302; 49 USC 461 46301

CFR Citation: 14 CFR 47

Legal Deadline: None

Abstract: This interpretive language in the aircraft regi regulations governing aircra previously registered in a f country. This action is nee the term "court of compete jurisdiction." This interpre intended to clearly describe constitutes satisfactory evid Administrator that foreign of an aircraft has ended or

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Completed Actions

Timetable:

Action	Date	FR Cite
Interpretive Rule	08/29/00	65 FR 52301
Effective Date	08/29/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AGC-00-547R.

Agency Contact: Julie A. Stanford, Aircraft Regulation Branch, Department of Transportation, Federal Aviation Administration, P.O. Box 25504, Oklahoma City, OK 73125
Phone: 405 954-3131

RIN: 2120–AH24

2388. • REVISIONS TO REQUIREMENTS CONCERNING AIRPLANE OPERATING LIMITATIONS AND THE CONTENT OF AIRPLANE FLIGHT MANUALS FOR TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: The FAA amends the airworthiness standards for transport category airplanes concerning airplane operating limitations and the content of airplane flight manuals. Issuing this amendment eliminates regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

Timetable:

Action	Date	FR Cite
Final Action	06/26/01	66 FR 34014
Final Action Effective	07/26/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-00-233.

Agency Contact: Don Stimson, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-4056

RIN: 2120–AH32

Department of Transportation (DOT)
Federal Highway Administration (FHWA)

Prerule Stage

2389. HIGHWAY BEAUTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 131; 23 USC 315; 49 USC 1651

CFR Citation: 23 CFR 750

Legal Deadline: None

Abstract: The revision of these subparts will reduce their complexity, recognize the existence of State laws, regulations, and organizations implementing 23 USC 131, and emphasize the position of the State as the initial, primary, and principal focal point regarding the requirement of effective control. Potential costs should be reduced, albeit minimally. The principal benefit will be to give the States greater ability, in the context of the broad requirements of 23 USC 131, to respond to concepts and issues relevant to the States. We have been reviewing these regulations with the intent to focus on changes necessitated by ISTEA and subsequent legislation (NHS Act, etc.).

We have initiated research projects to identify key information States need to administer their outdoor advertising control (OAC) programs. We will evaluate that study and incorporate the results in our proposed ANPRM.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FHWA intends to continue to review and analyze all aspects of the HBA under RIN 2125-AD24 to propose changes to reduce the complexity of the highway beautification regulations and to emphasize the role of the State in its implementation. Intended changes which appeared in a prior Agenda under RIN 2125-AD88 related to the Dire Emergency Supplemental Appropriations Act of 1992 have been suspended and consolidated under this rulemaking.

Agency Contact: Robert A. Johnson, Chief, Program Services Division, Office of Real Estate Services, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2020

RIN: 2125–AD24

2390. WORK ZONE SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 105; 23 USC 106; 23 USC 109; 23 USC 110; 23 USC 115; 23 USC 315; 23 USC 320; PL 102-240, sec 1051; PL 104-59, sec 358

CFR Citation: 23 CFR 636; 23 CFR 1.32; 49 CFR 1.48; 23 CFR 630

Legal Deadline: None

Abstract: The FHWA is proposing to amend its regulations on traffic safety and mobility in highway and street work zones. Section 1051 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) required the Secretary of Transportation (Secretary) to develop and implement a highway work zone safety program which would improve work zone safety at highway construction sites. This provision of ISTEA was implemented through non-regulatory action.

A notice published in the Federal Register on October 24, 1995 (60 FR 54562) provided an outline of the work zone safety initiative.

The current proposed regulatory action will further enhance the work zone safety initiative by expanding its focus to include both safety and mobility. The proposed action will incorporate the use of new work zone techniques

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and technologies, update current policy and regulation, and emphasize issues affecting the safety and mobility of highway workers and highway users.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charlie L. Sears, Office of Transportation Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-1555

RIN: 2125–AE29

2391. REVISIONS TO HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-424, sec 161; 23 USC 109(a); 23 USC 144(g); PL 105-178, sec 1101(a)(3); 23 USC 109(h); 23 USC 144; 23 USC 151; 23 USC 315; 23 USC 319; 33 USC 401; 33 USC 409 et seq; 33 USC 511 et seq; PL 97-134, sec 4(b); PL 105-206; ...

CFR Citation: 23 CFR 650; 23 CFR 1.32; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: The FHWA is seeking comments regarding improvements that can be made to its regulation outlining the highway bridge replacement and rehabilitation program. In addition, the FHWA is considering the inclusion and/or modification of existing policies so that they provide the flexibility necessary for the State and local governments to better manage their bridge assets. Accordingly, the FHWA intends to publish an advanced notice of proposed rulemaking.

The FHWA is also considering proposed revisions to the discretionary bridge program rating factor, which will be addressed in a separate rulemaking action.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/01	66 FR 49152
ANPRM Comment Period End	12/26/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Raymond McCormick, Director, Office of Bridge Technology, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590 Phone: 202 366-4675

RIN: 2125–AE75

2392. +NATIONAL BRIDGE INSPECTION STANDARDS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 23 USC 109(a); 23 USC 109(h); 23 USC 144; 23 USC 151; 23 USC 315; 23 USC 319; EO 11988; ...

CFR Citation: 23 CFR 650; 23 CFR 1.32; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: In this action, the would solicit comments on regulation on National Brid Inspection Standards (NBIS revised and updated. The F solicit comment on whethe need to update the regulatio incorporate current, state of bridge inspection practices public authorities may be u public authority means a Fe county, town, or township, Tribe, municipal or other lo government or instrumental authority to finance, build, maintain toll or toll-free fac primary purpose of the NBI identify bridges that need w ensure the safety of the trav public. The NBIS regulation updated 14 years ago.

Timetable:

Action	Date
ANPRM	09/26/01
ANPRM Comment Period End	12/26/01

Regulatory Flexibility Analy Required: No

Government Levels Affecte Undetermined

Federalism: Undetermined

Agency Contact: Wade F. C Department of Transportatio Highway Administration, 40 Street, SW., Washington, DC Phone: 202 366-9847

RIN: 2125–AE86

Department of Transportation (DOT)
Federal Highway Administration (FHWA)

Proposed R

2393. CERTIFICATION OF SIZE AND WEIGHT ENFORCEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 127; 23 USC 141; 23 USC 315

CFR Citation: 23 CFR 657

Legal Deadline: None

Abstract: The FHWA has resumed consideration of changes in the guidance provided to State agencies for preparing the annual size and weight enforcement certifications. Previous efforts in this area were suspended by the agency in 1994 as a result of a commitment by the Federal Highway Administrator to Congress in June 1994 to conduct a comprehensive study of all aspects of the truck size and weight issue. That study is nearly completed. Accordingly, public comment is again requested on the type of information and data that should be submitted by the States in support of their annual certification of enforcement, and how the FHWA should use the information.

Timetable:

Action	Date
ANPRM	12/16/93
ANPRM Comment Period Extended to 05/18/94	03/15/94
ANPRM Comment Period End	03/16/94
Supplemental ANPRM	09/28/00
Supplemental ANPRM Comment Period End	12/27/00
NPRM	01/00/02

DOT—FHWA

Proposed Rule Stage

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Klimek, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2212

RIN: 2125–AC60

2394. ADVANCED CONSTRUCTION OF FEDERAL AID PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104 to 106; 23 USC 109; 23 USC 110; 23 USC 113; 23 USC 115; 23 USC 118; 23 USC 120(e); 23 USC 121(c); 23 USC 125; 23 USC 134; 23 USC 315; 23 USC 320

CFR Citation: 23 CFR 630; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to revise the existing regulations that prescribe policies and procedures for advancing the construction of Federal-aid highway projects without obligating Federal funds apportioned or allocated to the States. These regulations should be revised to conform to changes made to title 23, United States Code, by technical amendments in the Transportation Equity Act of the 21st Century (TEA-21), Pub. L. 105-178, and changes made by the National Highway System Designation Act of 1995 (NHS), Pub. L. 104-59.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/95	60 FR 36991
Interim Final Rule Comment Period End	09/18/95	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Max Inman, Office of Budget and Finance, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2853

RIN: 2125–AD59

2395. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; MUTCD; MINIMUM RETROREFLECTIVITY REQUIREMENTS FOR TRAFFIC SIGNS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 104; 23 USC 105; 23 USC 109(d); 23 USC 114(a); 23 USC 135; 23 USC 217; 23 USC 307; 23 USC 315; 23 USC 402(a); PL 102-388

CFR Citation: 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: This notice of proposed amendment is intended to revise the MUTCD to include a standard for a minimum level of retroreflectivity that must be maintained for traffic signs. This minimum level is to ensure that highway users can detect and read the sign during nighttime conditions. Although the MUTCD states that regulatory and warning signs, and some guide signs, need to reflectorize, no level of retroreflectivity is specified. In recognition of this situation, the United States Congress directed the U.S. Department of Transportation, through the 1993 Department of Transportation Appropriations Act, to revise the MUTCD to include a standard for minimum levels of retroreflectivity that must be maintained.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Peter Hatzi, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8036

RIN: 2125–AE39

2396. +FEDERAL LANDS HIGHWAY PROGRAM; MANAGEMENT SYSTEMS PERTAINING TO THE NATIONAL PARK SERVICE, INCLUDING THE PARK ROADS AND PARKWAYS PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 134; 23 USC 135; 23 USC 204; 23 USC 315; PL 105-178

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. The FHWA and the appropriate Federal land management agencies are also given the authority to develop safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program (FLHP). The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

The FHWA sought public comment on four related ANPRMs that were published on September 1, 1999. The comment period closed on November 1, 1999. Six organizations provided comments on the ANPRM pertaining to the National Park Service (NPS) and the park roads and parkways program. The comments generally supported the development of a separate rule for each agency including one for the NPS. In an NPRM, the FHWA will seek public comment on a proposed rule to implement section 1115(d) of the Transportation Equity Act for the 21st Century (TEA-21) implementing safety, bridge, pavement, and congestion management systems developed by FHWA's Federal Lands Highway program office in consultation with the NPS. The NPRM is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency interest in the notices and involved program. The transportation planning procedures will be addressed in a separate NPRM.

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Proposed Rule St

Timetable:

Action	Date	FR Cite
ANPRM	09/01/99	64 FR 47749
ANRPM Comment Period End	11/01/99	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Butch Wlaschin, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-9486

RIN: 2125–AE52

2397. +FEDERAL LANDS HIGHWAY PROGRAM; MANAGEMENT SYSTEMS PERTAINING TO THE BUREAU OF INDIAN AFFAIRS, INCLUDING THE INDIAN RESERVATIONS ROAD PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 315; PL 105-178; 23 USC 134; 23 USC 135; 23 USC 204

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. The FHWA and the appropriate Federal land management agencies are also given the authority to develop safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program (FLHP). The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

The FHWA sought public comment on four related ANPRMs that were published on September 1, 1999. The comment period closed on November 1, 1999. Eight organizations provided comments on the ANPRM pertaining to the Bureau of Indian Affairs (BIA) and the Indian reservation roads program. The comments generally supported the development of a separate rule for each agency including one for the BIA. In an NPRM, the FHWA will seek public comment on a proposed rule to implement section 1115(d) of the Transportation Equity Act for the 21st Century (TEA-21), for the proposed safety, bridge, pavement, and congestion management systems developed by FHWA's Federal Lands Highway program office in consultation with the BIA. The NPRM is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency interest in the notices and involved program. The transportation planning procedures will be addressed in a separate NPRM.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/99	64 FR 47746
ANPRM Comment Period End	11/01/99	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Butch Wlaschin, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-9486

RIN: 2125–AE53

2398. +FEDERAL LANDS HIGHWAY PROGRAM; MANAGEMENT SYSTEMS PERTAINING TO THE FISH AND WILDLIFE SERVICE, INCLUDING THE REFUGE ROADS PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 134; 23 USC 135; 23 USC 204; 23 USC 315; PL 105-178

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. The FHWA and the appropriate Federal Land Management agencies are also given the authority develop safety, bridge, pavement, a congestion management systems for roads funded under the Federal lan highways program (FLHP). The roa funded under the FLHP include pa roads and parkways, forest highway refuge roads and Indian reservation roads.

The FHWA sought public comment four related ANPRMs that were published on September 1, 1999. T comment period closed on Novemb 1, 1999. Six organizations provided comments on the ANPRM pertainin the Fish and Wildlife Service (FWS and the refuge roads program. The comments generally supported the development of a separate rule for agency including one for the FWS. an NPRM, the FHWA will seek pub comment on a proposed rule to implement section 1115(d) of the Transportation Equity Act for the 2 Century (TEA-21) for the proposed safety, bridge, pavement and conge management systems developed by FHWA's Federal Lands Highway program office in consultation with FWS. The NPRM is designated as significant under E.O. 12866 and t DOT regulatory policies and proce because of the high level of interag interest in the notices and involve program. The transportation planni procedures will be addressed in a separate NPRM.

Timetable:

Action	Date	FR C
ANPRM	09/01/99	64 FR 4
ANPRM Comment Period End	11/01/99	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

Agency Contact: Butch Wlaschin, Federal Lands Highway Office, Department of Transportation, Fed Highway Administration, 400 Seve Street SW., Washington, DC 20590 Phone: 202 366-9486

RIN: 2125–AE54

DOT—FHWA

Proposed Rule Stage

2399. +FEDERAL LANDS HIGHWAY PROGRAM; MANAGEMENT SYSTEMS PERTAINING TO THE FOREST SERVICE, INCLUDING THE FOREST HIGHWAYS PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 135; 23 USC 204; 23 USC 315; PL 105-178; 23 USC 134

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. The FHWA and the appropriate Federal land managment agencies are given the authority to develop safety, bridge pavement, and congestion management systems for roads funded under the Federal lands highways program. The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

The FHWA sought public comment on four related ANPRMs that were published on September 1, 1999. The comment period closed on November 1, 1999. Seven organizations provided comments on the ANPRM pertaining to the Forest Service (FS) and the forest highway program. The comments generally supported the development of a separate rule for each agency including one for the FS. In an NPRM, the FHWA will seek public comment on a proposed rule to implement section 1115(d) of the Transportation Equity Act for the 21st Century (TEA-21) for the proposed safety, bridge, pavement and congestion management systems developed by FHWA's Federal Lands Highway program office in consultation with the FS. The NPRM is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency interest in the notices and involved program. The transportation planning procedures will be addressed in a separate NPRM.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/99	64 FR 47744
ANPRM Comment Period End	11/01/99	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Butch Wlaschin, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-9486

RIN: 2125–AE55

2400. REVISION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; TRAFFIC CONTROL DEVICES ON FEDERAL-AID AND OTHER STREETS AND HIGHWAYS; STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 105; 23 USC 109(d); 23 USC 114(a); 23 USC 135; 23 USC 217; 23 USC 307; 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 1.32; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, and is recognized as the national standard for traffic control devices on all public roads. Due to the reorganization of the FHWA and the deletion of 23 CFR 1204.4 by the National Highway Traffic Safety Administration (NHTSA), 23 CFR part 655.603 is outdated. The proposed amendments included herein will bring 23 CFR part 655 up to date.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ernest D.L. Huckaby, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-9064

RIN: 2125–AE78

2401. +DESIGN-BUILD CONTRACTING

Priority: Other Significant

Legal Authority: PL 105-178, sec 1307(c); 23 USC 112

CFR Citation: 23 CFR 635

Legal Deadline: Final, Statutory, June 9, 2001.

Abstract: The FHWA proposes to revise its regulations to implement design-build contracting as mandated by Section 1307(c) of the Transportation Equity Act for the 21st Century (TEA-21), enacted on June 9, 1998. TEA-21 requires the Secretary of Transportation to issue regulations to allow design-build contracting for selected projects. The regulations would list the criteria and procedures that will be used by the FHWA in approving the use of design-build contracting by State Transportation Departments (STDs). The regulation would not require the use of design-build contracting but rather would allow it as an optional technique in addition to traditional contracting methods.

The FHWA is soliciting comments on its proposed regulation which would establish prescribed policies and procedures for utilizing the design-build contracting technique for Federal-aid highway projects. This action is significant because of the substantial State and industry interest in the design-build contracting technique.

Timetable:

Action	Date	FR Cite
NPRM	10/19/01	66 FR 53288
NPRM Comment Period End	12/19/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: The NPRM published at 66 FR 53288 on October 19, 2001, contained an incorrect docket number. The correct docket number for the NPRM is FHWA-2000-7799. A notice of correction is scheduled for publication in the Federal Register on October 31, 2001.

Agency Contact: Gerald Yakowenko, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590 Phone: 202 366-1562

Carol Jacoby, Office of Program Administration, Department of

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Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-1561

RIN: 2125–AE79

2402. +RAILROAD-HIGHWAY CROSSING PROJECTS

Priority: Other Significant

Legal Authority: PL 91-458

CFR Citation: 23 CFR 646

Legal Deadline: None

Abstract: The FHWA proposes to amend its regulations on railroad-highway crossing projects to clarify that installation projects for passive crossing control devices, done solely to meet the minimum crossing signing requirements of Federal law or regulation, do not preempt or displace State laws concerning the adequacy of such devices. This proposal is in response to a recent decision by the Supreme Court that held that FHWA's current regulations have broad preemptive effect.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Rudolph M. Umbs, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2177

RIN: 2125–AE81

2403. PLANNING AND RESEARCH PROGRAM ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 104(f); 23 USC 103(c); 23 USC 115; 23 USC 120; 23 USC 133(b); 23 USC 134(b); 23 USC 303(g); 23 USC 315; 23 USC 505

CFR Citation: 49 CFR 1.48(b)

Legal Deadline: None

Abstract: The FHWA is updating its regulations for administration of planning and research funds provided to State DOTs under the provisions of title 23, United States Code. The revisions are necessary to reflect current legislation and OMB grant administration circulars.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tony Solury, Program Coordinator, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5003

RIN: 2125–AE84

2404. LANDSCAPE DEVELOPMENT

Priority: Substantive, Nonsignificant

Legal Authority: EO 13148; EO 13112

CFR Citation: 23 CFR 752

Legal Deadline: None

Abstract: This action, which would change the current regulation at 23 CFR 752.4, Landscape Development, is necessary to clarify and reflect FHWA policy change for the improvement of landscaping best management practices. Specifically, two recent Executive orders, E.O. 13148 and E.O. 13112, call for the improvement of Federal landscape development programs and practice. E.O. 13148 encourages the use of native plants as much as practicable. E.O. 13112 warns against the planting of known exotic and invasive plants.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Bonnie Harper-Lore, Landscape Architect, Department of Transportation, Federal Highway Administration, Galtier Plaza, Box 75, 175 E. Fifth Street, Suite 500, St. Paul, MN 55101-2904
Phone: 651 291-6104

RIN: 2125–AE85

2405. • DISCRETIONARY BRIDGE CANDIDATE RATING FACTOR

Priority: Substantive, Nonsignifica

Legal Authority: 23 USC 109(a); 23 USC 109(h); 23 USC 144; 23 USC 1 23 USC 315; ...

CFR Citation: 23 CFR 650

Legal Deadline: None

Abstract: The FHWA proposes to revise its regulation on the discretionary bridge program rating factor in order to incorporate sever administrative considerations that proven effective in the project sele process. This proposed action wou amend the current regulations according to a provision in TEA-21 which requires the Secretary of Transportation to publish both the statutory and regulatory criteria th will apply to the discretionary bri program.

These proposed changes would re that the candidate projects be read begin construction in the fiscal yea which funds are available for obligation; allow leveraged funds f local, State, county, or private sou to be used to reduce the total proje cost for use in the rating factor for disallow any discretionary allocati a State that has transferred Highwa Bridge Replacement and Rehabilit Program funds to other categories Federal funding in the previous ye and change the definition of one t in the rating factor formula.

Timetable:

Action	Date	FR
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Nor

Agency Contact: Steven Ernst, Of of Bridge Technology, Department Transportation, Federal Highway Administration, 400 Seventh Stree SW., Washington, DC 20590
Phone: 202 366-4619

RIN: 2125–AE88

2406. • DESIGN STANDARDS FO HIGHWAYS

Priority: Substantive, Nonsignifica

Legal Authority: 23 USC 109; 23 U 315; 23 USC 402; PL 102-240, sec 105 Stat. 1914; 105 Stat. 2012

DOT—FHWA

Proposed Rule Stage

CFR Citation: 23 CFR 625; 49 CFR 1.48(b); 49 CFR 1.48(n)

Legal Deadline: None

Abstract: The standards, policies, and standard specifications that have been adopted by the Federal Highway Administration (FHWA) for application on all construction and reconstruction projects on the National Highway System (NHS) are incorporated by reference in 23 CFR 625. The current document specified in paragraph 625.4(a)(1) is "A Policy on Geometric Design of Highways and Streets 1994, AASHTO" (Policy).

AASHTO recently revised the Policy and published the 2001 edition which FHWA proposes to adopt as its policy for design standards for all construction and reconstruction projects on the NHS. The primary reason for development of the new document is to incorporate the results of research since 1994.

Timetable:

Action	Date	FR Cite
NPRM	09/18/01	66 FR 48103
NPRM Comment Period End	11/19/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Seppo I. Sillan, Chief, Geometric and Roadside Design Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1327

RIN: 2125–AE89

2407. • DROMEDARY BOX TRUCK TRACTOR-SEMITRAILERS; SPECIALIZED EQUIPMENT AND WIDTH EXCLUSION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31111; 49 USC 31113

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: This action responds to two unique requests with respect to the exclusion of certain devices from established truck length and width requirements.

The FHWA has received a petition from the Department of the Army to include as specialized equipment, dromedary box equipped truck tractor-semitrailers when used to haul Class I explosives for the Department of Defense and establishes a minimum overall length limit of 75 feet for these combinations. Also proposed is an increase from 3 to 4 inches of the distance from the side of a commercial vehicle within which non-cargo carrying devices are excluded from vehicle width measurement.

In a separate matter, the Senate Committee on Appropriations has requested the FHWA consider a special allowance, within reasonable safety limitations, concerning the commercial movement of recreational vehicles (RVs) with incidental appurtenances, such as retractable awnings, that extend beyond current Federal width limitations. A number of States have enacted laws that allow incidental appurtenances on noncommercial RVs to exceed State width limitations.

The FHWA intends to issue a notice of proposed rulemaking inviting public comment and addressing all aspects of these proposed special exclusions.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Tom Klimek, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2212

RIN: 2125–AE90

2406. • DEBT FINANCING

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 122

CFR Citation: 23 CFR 140

Legal Deadline: None

Abstract: In this action, the FHWA proposes to amend its regulation on reimbursement for bond issue projects to implement the changes made to 23 USC 122 by the National Highway System Designation Act of 1995 (NHS) (Pub. L. 104-59, November 28, 1995, 109 Stat. 568). Section 311 of the NHS amended 23 USC 122 to make debt financing costs related to title 23 projects eligible for Federal reimbursement.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dale M. Gray, Federal-Aid Financial Management Division, Department of Transportation, Federal Highway Administration, Room 4313, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-0978

RIN: 2125–AE91

Department of Transportation (DOT)
Federal Highway Administration (FHWA)

Final Rule Stage

2409. TRUCK LENGTH AND WIDTH EXCLUSIVE DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 315; 49 USC 31111; 49 USC 31112; 49 USC 31113; 49 USC 31114

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA is issuing a final rule, under 49 USC 31111 through 31113, stating which safety or efficiency-enhancing devices are to be excluded when measuring the length and width of vehicles for compliance with federally mandated dimensions.

The Surface Transportation Assistance Act of 1982 (STAA), Pub. L. 97-424, 96 Stat. 2097, gave the Secretary of

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Transportation the authority to determine what safety and energy conservation devices are necessary for safe and efficient operation of commercial motor vehicles (CMVs), and what could be excluded when measuring vehicle length (section 411(h))(49 U.S.C. 31111(d)), and what could be excluded when measuring width (section 416(b))(49 U.S.C. 31113(b)).

Section 411(h) also provided that no device excluded from length measurement by the Secretary could have, by design or use, the capability to carry cargo.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/89	54 FR 52951
ANPRM Comment Period End	03/26/90	
ANPRM Comment Period Extended	06/01/90	
ANPRM Docket Reopened; Comment Period Extended to 08/21/90	06/22/90	55 FR 25673
NPRM	08/18/00	65 FR 50471
NPRM Comment Period End	11/16/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Tom Klimek, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2212

RIN: 2125–AC30

2410. RAILROAD HIGHWAY PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 315; 23 USC 109(e); 23 USC 120(c); 23 USC 130

CFR Citation: 23 CFR 140; 23 CFR 646

Legal Deadline: None

Abstract: The FHWA amends its regulations on railroad highway projects. The amendments now require railroads to submit final billings within one year following completion of work, delete the requirements of a State's certification that work was completed, increase the ceiling for lump sum agreements from $25,000 to $100,000 and incorporate changes brought about by ISTEA. The FHWA believes these changes will conform railroad/highway regulations to more recent laws or regulations, and provide State highway agencies clarification and more flexibility in implementing them.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/27/97	62 FR 45326
Interim Final Rule Comment Period End	10/27/97	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Robert Winans, Office of Highway Safety Information, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4656

RIN: 2125–AD86

2411. ADMINISTRATION OF ENGINEERING AND DESIGN RELATED SERVICES CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 112(b); 23 USC 114(a); 23 USC 302; 23 USC 315; 23 USC 402; 41 USC 253; 41 USC 259

CFR Citation: 23 CFR 172; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: This action would amend procurement procedures on administration of engineering and design related services contracts to reflect the changes made by section 307 of Public Law 104-59, National Highway System Designation Act and section 1205 of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, June 9, 1998.

Timetable:

Action	Date	FR Cite
NPRM	07/18/00	65 FR 44486
NPRM Comment Period End	09/18/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Procurement: This is a procuremen related action for which there is no statutory requirement. There is no paperwork burden associated with t action.

Agency Contact: Gary E. Moss, Department of Transportation, Fede Highway Administration, 400 Seven Street SW., Washington, DC 20590
Phone: 202 366-4654

RIN: 2125–AE45

2412. +REVISION OF COLOR SPECIFICATIONS FOR SIGNS AND PAVEMENT MARKING RETROREFLECTIVE MATERIALS

Priority: Other Significant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 4

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: The FHWA proposes to revise its color specifications for retroreflective sign materials. This revision would include daytime an nighttime specification for both assigned and unassigned colors fou in the Manual on Uniform Traffic Control Devices (MUTCD). Color specifications for fluorescent colors pavement marking material also wo be included.

Timetable:

Action	Date	FR C
NPRM	12/21/99	64 FR 7
NPRM Comment Period End	06/23/00	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

Agency Contact: Ernest Huckaby, Office of Highway Safety, Departm of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AE67

2413. ENGINEERING SERVICES

Priority: Substantive, Nonsignifican

Legal Authority: 23 USC 315; PL 1 178, sec 1212(a); 23 USC 302

CFR Citation: 23 CFR 1; 49 CFR 1.

DOT—FHWA

Final Rule Stage

Legal Deadline: None

Abstract: In this action, the FHWA amends its regulation for engineering services by removing a sentence that defined expenditures for the establishment, maintenance, general administration, supervision, and other overhead of the State highway department, or other instrumentality or entity referred to in the regulation, as ineligible for Federal participation.

This amendment to the regulation stems from a provision in the Transportation Equity Act for the 21st Century (TEA-21) that changed statutory requirements to allow for eligibility of administrative costs for State transportation departments.

Timetable:

Action	Date	FR Cite
NPRM	07/26/00	65 FR 45941
NPRM Comment Period End	09/25/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Max Inman, Office of Budget and Finance, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2853

RIN: 2125–AE73

2414. RIGHT-OF-WAY

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a)(3)

CFR Citation: 23 CFR 710

Legal Deadline: None

Abstract: The FHWA is proposing to amend section 710.203 of its right-of-way regulations for federally assisted transportation projects to provide a clarification. The proposed amendment would make it clear that federal financial assistance, provided by the FHWA pursuant to title 23, United States Code, may be used in relocation assistance benefits, provided by State and local agencies pursuant to State law, that are in addition to the relocation benefits prescribed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

Timetable:

Action	Date	FR Cite
NPRM	05/09/01	66 FR 23636
NPRM Comment Period End	07/09/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Satorius, Office of Real Estate Services, Department of Transportation, Federal Highway Administration, 555 Zang Street, Lakewood, CO 80228
Phone: 303 969-5772

RIN: 2125–AE82

2415. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; ACCESSIBLE PEDESTRIAN SIGNALS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 109(d); 23 USC 114(a); 23 USC 217; 23 USC 315; 23 USC 402(a); ...

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: The FHWA, in response to comment, amends the 2000 Millennium Edition of the Manual on Uniform Traffic Control Devices (MUTCD) that became effective on January 17, 2001. Section 4E.06 of the MUTCD relates to accessible pedestrian signals. Upon publication of the Millennium Edition, the FHWA was advised that the support and guidance statements relative to evaluation of signalized intersections to accommodate persons with visual disabilities did not adequately address the needs of such persons. Accordingly, the FHWA revises these support and guidance statements.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	05/17/01	66 FR 27480
Comment Period End	06/18/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ernest D. L. Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AE83

Department of Transportation (DOT)
Federal Highway Administration (FHWA)

Long-Term Actions

2416. FEDERAL-AID HIGHWAY SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 103(b); 23 USC 103(c); 23 USC 315

CFR Citation: 23 CFR 470

Legal Deadline: None

Abstract: This regulatory action amends 23 CFR 470 in accordance with legislation enacted in 1991, 1995, and 1998. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) rescinded the Federal-aid Primary and Secondary and Urban Systems; established an interim National Highway System (NHS); and defined Federal-aid highways. The NHS Designation Act of 1995 (NHS Act) authorized the initial National Highway System and also authorized the Secretary to approve modifications. The Transportation Equity Act for the 21st Century (TEA-21) authorized the initial NHS connectors to major intermodal terminals and recodified 23 U.S.C. 103 (Federal-aid systems). The action also consolidates in appendices all nonregulatory guidance material issued previously by the FHWA on Federal-aid highway systems.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/19/97	62 FR 33351

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Action	Date	FR Cite
Interim Final Rule Effective	07/21/97	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The FHWA issued an interim final rule with an opportunity for public comment. This rule amends regulations that the States comply with as part of the Federal-aid highway program. The FHWA has worked closely with the States, and the States have operated under the basic policies covered by this regulation for many years. A number of technical revisions are required as a result of the TEA-21 recodification of 23 U.S.C. 103, including incorporation of the provisions of former 23 U.S.C. 139 (Additions to Interstate System).

Agency Contact: Frank Clark, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-5006

RIN: 2125–AD74

2417. INDIAN RESERVATION ROAD BRIDGE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 120(j) and (k); 23 USC 202; 23 USC 315; PL 105-178, sec 1115; 49 CFR 1.48

CFR Citation: 23 CFR 661

Legal Deadline: None

Abstract: Section 1115 of the Transportation Equity Act for the 21st Century establishes a nationwide priority program for improving deficient Indian reservation road (IRR) bridges and reserves $13 million of IRR funds per year to replace and rehabilitate bridges that are in poor condition. The FHWA, Federal Lands Highway Office(FLH), and the Bureau of Indian Affairs, Division of Transportation (BIADOT), intend to implement the IRR bridge program (IRRBP) to promptly address the deficient IRR bridges. Toward that end, the FLH and the BIADOT, in consultation with Indian tribal governments, have developed project selection/fund allocation procedures for uniform application of the legislation. The FHWA is announcing the project selection/fund allocation procedures for the IRRBP.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/99	64 FR 38565
Interim Final Rule Effective	07/19/99	
Final Action	12/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Public comment was solicited in a February 12, 1999, Federal Register notice (64 FR 7229). These comments will be addressed in the final rule.

Agency Contact: Wade F. Casey, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590 Phone: 202 366-9847

RIN: 2125–AE57

2418. +STATEWIDE AND METROPOLITAN PLANNING

Priority: Other Significant

Legal Authority: 23 USC 104(f); 23 USC 134; 23 USC 135; 23 USC 217; 23 USC 315; 42 USC 7410 et seq; 49 USC 5305 to 5309

CFR Citation: 23 CFR 450; 49 CFR 613; 49 CFR 1.48(b); 49 CFR 1.51

Legal Deadline: None

Abstract: In this action, the FHWA and the FTA are jointly proposing to revise the regulations governing the development of transportation plans and programs for urbanized (metropolitan) areas and States. These revisions are the product of statutory changes made by the Transportation Equity Act for the 21st Century (TEA-21), which requires a continuous, comprehensive and coordinated process in metropolitan areas and States. The regulation at 23 CFR part 450 would be modified to reflect the impacts of the TEA-21.

Timetable:

Action	Date	FR Cite
NPRM	05/25/00	65 FR 33958
Extended Comment Period	07/07/00	65 FR 41891
NPRM Comment Period End	09/23/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmen Jurisdictions

Government Levels Affected: State

Agency Contact: Sheldon M. Edne Team Leader, Department of Transportation, Federal Highway Administration, Room 3232, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-4066
Email: sheldon.edner@fhwa.dot.gov

RIN: 2125–AE62

2419. STANDARDS FOR DEDICAT SHORT RANGE COMMUNICATION (DSRC) APPLICATIONS FOR USE COMMERCIAL VEHICLES IN INTELLIGENT TRANSPORTATION SYSTEMS PROJECTS

Priority: Substantive, Nonsignifican

Legal Authority: 23 USC 307; 23 U 315; 23 USC 502 note; PL 102-240, 6055(b); PL 105-178, sec. 5206(e)

CFR Citation: 23 CFR 1001; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA proposes to amend its regulations to require the of Dedicated Short Range Communications (DSRC) Standards ITS commercial vehicle projects usi Federal funds. DSRC Systems use microwave communications over ve short distances to allow moving vehicles to communicate with fixed roadside locations. In commercial motor vehicle applications, DSRC devices can transfer information regarding vehicle safety, performan regulatory compliance and credenti from the vehicle to inspection stati

The use of DSRC standards would promote interoperability among, an enable integration of ITS systems fo North American commercial vehicl applications, such as electronic clearance, automated weight station and border crossings. Interoperabili would also encourage institutional integration and cooperation.

Timetable:

Action	Date	FR C
NPRM	12/30/99	64 FR 7
NPRM Comment Period End	02/28/00	
Supplemental NPRM	12/12/00	65 FR 7
Next Action Undetermined		

DOT—FHWA

Long-Term Actions

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The docket will remain open until the FHWA publishes another rulemaking document when testing is complete. See the SNPRM published on December 12, 2000 at 65 FR 77534.

Agency Contact: William S. Jones, ITS Joint Program Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2128

RIN: 2125–AE63

2420. +NEPA AND RELATED PROCEDURES FOR TRANSPORTATION DECISIONMAKING; PROTECTION OF PUBLIC PARKS, WILDLIFE AND WATERFOWL REFUGES AND HISTORIC SITES

Priority: Other Significant

Legal Authority: 42 USC 4321 et seq; 49 USC 303; 23 USC 109; 23 USC 128; 23 USC 134; 23 USC 138; 23 USC 315; ...

CFR Citation: 23 CFR 530; 23 CFR 540

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA), issued an NPRM proposing to update and revise the National Environmental Policy Act implementing regulation for FHWA and FTA funded or approved projects. The current regulations were issued in 1987 (23 CFR part 771, August 28, 1987) and experience since that time, as well as changes in legislation, most recently by the Transportation Equity Act for the 21st Century (TEA-21), call for an updated approach to implementation of NEPA for FHWA and FTA projects and actions.

The FTA and the FHWA received numerous comments to the docket in response to this NPRM. The agencies are currently reviewing these comments to determine what action should follow.

Timetable:

Action	Date	FR Cite
NPRM	05/25/00	65 FR 33960
Comment Period Extended	07/07/00	65 FR 41892
NPRM Comment Period End	09/23/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Fred Skaer, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2058

RIN: 2125–AE64

2421. PROCEDURES FOR ABATEMENT OF HIGHWAY TRAFFIC NOISE AND CONSTRUCTION NOISE

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 23 USC 109(h); 23 USC 109(i); 42 USC 4331; 42 USC 4332

CFR Citation: 23 CFR 772; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: The FHWA is requesting comments on whether its regulations on noise insulation of private residences should be revised to allow Federal participation when a traffic noise impact occurs, i.e., when predicted traffic noise levels substantially exceed the existing noise levels. Currently, Federal participation in the noise insulation of private residences is allowable only in situations where: Severe traffic noise impacts exist or are expected, and normal noise abatement measures are physically infeasible or economically unreasonable. In these instances, the FHWA may approve a State's request for unusual or extraordinary abatement measures on a case-by-case basis.

When considering extraordinary abatement measures, the State must demonstrate that the affected activities experience traffic noise impacts to a far greater degree than other similar activities adjacent to highway facilities.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/00	65 FR 82301
ANPRM Comment Period End	02/26/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Armstrong, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2073

RIN: 2125–AE80

Department of Transportation (DOT)
Federal Highway Administration (FHWA)

Completed Actions

2422. FEDERAL-AID PROJECT AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 106(a); 23 USC 102(b); sec. 1304, PL 105-178; sec. 1305, PL 105-178; 23 USC 106; 23 USC 109; 23 USC 115; 23 USC 315; 23 USC 320; 23 USC 402(a)

CFR Citation: 23 CFR 630; 23 CFR 1.32; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: In this action, the FHWA combined its regulation on Federal-aid project authorization and its regulation on project agreements. Section 1305 of the Transportation Equity Act for the 21st Century (TEA-21) amended 23 U.S.C. 106(a) and combined authorization of work and execution of the project agreement for a Federal-aid project into a single action. Changes to the agreement provisions reflect these adjustments.

Additionally, section 1304 of the TEA-21 amended 23 U.S.C 102(b) to include a provision to allow the granting of time extensions for engineering cost reimbursement. Changes to the procedures provide this new flexibility.

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Timetable:

Action	Date	FR Cite
NPRM	08/31/00	65 FR 52962
NPRM Comment Period End	10/02/00	
Final Action	05/10/01	66 FR 23845
Final Action Effective	06/11/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Wasley, Federal-Aid Program Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4658

RIN: 2125–AE77

2423. • NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS; CORRECTION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 109(d); 23 USC 114(a); 23 USC 217; 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: This action incorporates by reference into the Code of Federal Regulations errata corrections to the MUTCD. The MUTCD is incorporated by reference in 23 CFR 655, subpart F, and recognized as the national standard for traffic control on all public roads. These editorial corrections affect the MUTCD in its entirety. These editorial corrections are issued to help improve the readibility of the MUT to provide clarification and consistency, and to correct grammatical, typographical, and pictorial errors.

Timetable:

Action	Date	FR Ci
Final Amendments; Correction	07/26/01	66 FR 38

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ernest Huckaby, Office of Highway Safety, Departme of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AE87

Department of Transportation (DOT)
Federal Motor Carrier Safety Administration (FMCSA) **Prerule St**

2424. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; INTERSTATE SCHOOL BUS SAFETY

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: PL 105-178, sec 4024

CFR Citation: 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 393; 49 CFR 395

Legal Deadline: Other, Statutory, December 9, 1999, PL 105-178, sec 4024 requires initiation of rulemaking by 12/9/99.

Abstract: The FMCSA is considering making the FMCSRs applicable to all interstate school transportation operations by local educational agencies. This action is in response to sec. 4024 of the Transportation Equity Act for the 21st Century (TEA-21) which mandates the FMCSA to make a determination whether to make the FMCSRs applicable to such operations. The FMCSA requests comments, data, and information to assist the agency in making this determination.

This action is considered significant because of the anticipated substantial interest by the public sector and private sector if the FMCSA expands the applicability of the FMCSRs to government operated school buses in interstate commerce.

Timetable:

Action	Date	FR Cite
ANPRM	10/22/01	66 FR 53373
ANPRM Comment Period End	01/22/02	
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Philip Hanley, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSB, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6811

RIN: 2126–AA53

2425. POSTING OF EMPLOYEE PROTECTIONS INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Federal Motor Carrier Safety Administration is considering requiring employers to display a pos to notify commercial motor vehicle (CMV) operators and other employe of their whistleblower rights under 4 U.S.C. 31105. The poster would also provide information on filing a complaint with the Occupational Sa and Health Administration for investigation.

Timetable:

Action	Date	FR Ci
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janet Nunn, Office Policy, Plans and Regulations, Department of Transportation, Feder Motor Carrier Safety Administration MC-PRR, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2797

RIN: 2126–AA68

Department of Transportation (DOT)
Federal Motor Carrier Safety Administration (FMCSA)

Proposed Rule Stage

2426. +QUALIFICATION OF DRIVERS; VISION

Priority: Other Significant

Legal Authority: 49 USC 504; 49 USC 31502

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: As part of a review of the medical qualification standards applicable to interstate CMV drivers, the FMCSA requested comments on the need, if any, to amend its driver qualification requirements relating to the vision standard. A temporary waiver program was initiated and was concluded on March 31, 1996, to permit the FHWA to observe and collect data on the driving experience of a group of vision—deficient drivers who meet certain preconditions. Additionally, the FHWA, predecessor agency to the FMCSA, considered further research to develop comprehensive performance-based visual standards for all commercial drivers. Information about the proposed research plan and public hearing on the subject was published in the Federal Register on June 5, 1996, at 61 FR 28547. The FMCSA awarded a contract with a medical center to develop medically-based recommendations for amending the current Federal vision requirements. Recommendations were delivered in October, 1998. These recommendations are being evaluated and considered in deciding what, if any, further proposals should be made concerning the vision standard. Based on the findings of the medical panel, the FMCSA anticipates publishing an NPRM to amend its regulation governing the visual field requirement in the vision standard.

New legislation (Section 4007 of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178) enacted effective June 9, 1998, changes the agency's authority to issue waivers and exemptions. The procedures to implement the new authority were published in the Federal Register on December 8, 1998 (63 FR 67600). We are now considering all requests for exemptions from the vision requirements in the Federal Motor Carrier Safety Regulations.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/92	57 FR 6793
ANPRM Comment Period End	04/28/92	
Notice Request for Comments	06/05/96	61 FR 28547
Interim Final Rule	12/08/98	63 FR 67600
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Under RIN 2125-AD73, the predecessor agency to the FMCSA, adopted a final rule to allow drivers holding valid waivers from both the vision and diabetes standards to continue to operate in interstate commerce after March 31, 1996. See 61 FR 606 (Jan. 8, 1996) (notice of proposed rulemaking); 61 FR 13338 (March 26, 1996) (final rule) 61 FR 17253 (April 19, 1996) (final rule; technical correction). (See notices published at 57 FR 6793, February 28, 1992; 57 FR 10295, March 25, 1992; 57 FR 22370, June 3, 1992; 59 FR 50887, October 6, 1994; 59 FR 59386, November 17, 1994.

Transferred from RIN 2125-AC62.

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSD, 400 Seventh Street, NW, Washington, DC 20590
Phone: 202 366-2987

RIN: 2126–AA05

2427. +MINIMUM TRAINING REQUIREMENTS FOR OPERATORS AND TRAINING INSTRUCTORS OF MULTIPLE TRAILER COMBINATION VEHICLES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: PL 102-240, sec 4007(b)(2)

CFR Citation: 49 CFR 383

Legal Deadline: Final, Statutory, December 18, 1993.

Abstract: This action proposes minimum training requirements for operators of multiple trailer combination vehicles and the instructors who train these operators. The training would include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary of Transportation. This action is significant due to public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/15/93	58 FR 4638
ANPRM Comment Period End	03/16/93	
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AC92.

Agency Contact: Robert Redmond, State Programs Division, Department of Transportation, Federal Motor Carrier Safety Administration, MC-ESS, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5014

RIN: 2126–AA08

2428. +TRAINING FOR ENTRY-LEVEL DRIVERS OF COMMERCIAL MOTOR VEHICLES

Priority: Other Significant

Legal Authority: PL 102-240, sec 4007

CFR Citation: 49 CFR 383

Legal Deadline: NPRM, Statutory, December 18, 1992.
Final, Statutory, December 18, 1993.

Abstract: This action is in response to section 4007 of the Motor Carrier Act of 1991 (title IV of the Intermodal Surface Transportation Efficiency Act of 1991). The Department has initiated a rulemaking on the need to require training of all entry-level drivers of commercial motor vehicles. The agency has submitted a report to Congress (02/05/96) on the effectiveness of private sector efforts to ensure adequate training of all entry-level drivers. This report included a cost-benefit study of requiring training of entry-level drivers. Public comments have been solicited on the report. This rulemaking action is considered significant because of substantial public interest.

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Proposed Rule St

Timetable:

Action	Date	FR Cite
ANPRM	06/21/93	58 FR 33874
ANPRM Comment Period End	09/20/93	
Report to Congress	02/05/96	
Notice of Availability	04/25/96	61 FR 18355
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The report is available through the National Technical Information Service (Order No. PB96-141536). For further information, please call 703 487-4650.

Transferred from RIN 2125-AD05.

Agency Contact: David Lehrman, Attorney, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0994

RIN: 2126–AA09

2429. +COMMERCIAL DRIVER PHYSICAL FITNESS AS PART OF THE CDL PROCESS

Priority: Other Significant

Legal Authority: PL 106-159, sec. 215; 49 USC 31305; 49 USC 31502

CFR Citation: 49 CFR 391; 49 CFR 383; 49 CFR 1.73; 49 CFR 391.11; 49 CFR 391.45

Legal Deadline: None

Abstract: The FMCSA is proposing to include the certification of fitness to operate a CMV in the commercial driver's license (CDL) process. Incorporating the commercial driver fitness determination into State-administered CDL procedures could allow elimination of the requirement that CMV drivers carry a separate medical certificate. The CDL would be evidence that the CMV driver is physically fit as well as operationally qualified to operate CMVs safely. This action addresses the driver's physical qualifications as they relate to the CDL process; it does not address whether those standards are correct or should be changed. This action is significant due to anticipated substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/94	59 FR 36338
ANPRM Comment Period End	11/14/94	
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions, Businesses

Government Levels Affected: Undetermined

Additional Information: Please note the following notice publications with respect to the advisory committee: 04/29/96 at 61 FR 18713; 07/26/96 at 61 FR 38133; 08/26/96 at 61 FR 43725; 10/07/96 at 61 FR 52401; 11/05/96 at 61 FR 56936; 12/17/96 at 61 FR 66250; and 02/13/97 at 62 FR 6753.

Transferred from RIN 2125-AD20.

Agency Contact: Teresa Doggett, Transportation Specialist, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2990

RIN: 2126–AA10

2430. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 508; 49 USC 31133; 49 USC 31136; 49 USC 31301 et seq; 49 USC 31502; PL 103-311

CFR Citation: 49 CFR 382; 49 CFR 383; 49 CFR 390; 49 CFR 391; 49 CFR 1.73

Legal Deadline: NPRM, Statutory, January 1999, See PL 105-178, sec 4014.

Abstract: This action proposes amending FMCSA regulations to specify minimum safety information that new or prospective employers must seek from former employers during the investigation of a driver's employment record. This action also proposes to increase the time period that carriers must record accident information in the accident register, from one to three years. The Hazardous Materials Reauthorization Act of 1994 initially mandated this revision. The agency is now drafting a supplemental notice of proposed rulemaking in response to Small Business Administration (SBA) comments to the docket and section 4014 of the Transportation Equity Act for the 21 Century (TEA-21) (Pub. L. 105-178). The SBA requested more in-depth Paperwork Reduction Act and Regulatory Flexibility Act analyses of the proposal. The TEA-21 provided limited employer protection from liability, strengthened employee due process provisions, and established new statutory deadline of 1/99.

Timetable:

Action	Date	FR Ci
NPRM	03/14/96	61 FR 10
NPRM Comment Period End	05/13/96	
SNPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AD66.

Agency Contact: Valerie Height, Of of Policy, Plans and Regulations, Department of Transportation, Feder Motor Carrier Safety Administration 400 Seventh Street SW., Washingto DC 20590
Phone: 202 366-0901

RIN: 2126–AA17

2431. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATIO TELEVISION RECEIVERS AND DAT DISPLAY UNITS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240; 49 US 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1

Legal Deadline: None

Abstract: The predecessor agency to the FMCSA proposed to amend the provision of the Federal Motor Carri Safety Regulations (FMCSRs) concerning television viewers or screens in commercial motor vehicle The agency was concerned that the current restrictions on the locations such devices may have the unintend effect of discouraging the use of cert Intelligent Transportation System (IT technologies such as collision avoidance and traveler information systems which could improve the safety and efficiency of commercial vehicle operations. In response to comments to the April 3, 1993 notic of proposed rulemaking (61 FR 1473

to rescind the regulation concerning television viewers or screens, the FMCSA is considering an SNPRM to propose retaining an explicit prohibition against television viewers or screens but revising the regulation to ensure that it does not impede the development and use of ITS-related technologies.

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14733
NPRM Comment Period End	06/03/96	
Supplemental NPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AD76.

Agency Contact: Gary R. Woodford, Office of Bus and Truck Standards, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-2978

RIN: 2126–AA19

2432. +MOTOR CARRIER REPLACEMENT INFORMATION REGISTRATION SYSTEM

Priority: Other Significant

Legal Authority: PL 104-88; 49 USC 13908

CFR Citation: Not Yet Determined

Legal Deadline: Final, Statutory, January 1, 1998.

Abstract: This action is in response to the requirements of section 103 of the Interstate Commerce Commission Termination Act of 1995, which added 49 USC 13908. This section requires the Secretary to initiate a rulemaking proceeding to replace the current DOT identification number system, single State registration system, the registration/licensing system, and the financial responsibility system, with a single, on-line Federal system. This action is considered significant due to substantial public interest. Statutory deadline was not met due to range and depth of issues involved.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/96	61 FR 43816
ANPRM Comment Period End	10/25/96	
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: This action is incorporating the issues contained in RIN 2125-AC28.

Transferred from RIN 2125-AD91.

Agency Contact: Angeli Sebastian, Chief, Driver and Carrier Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001
Fax: 202 366-8842

RIN: 2126–AA22

2433. SAFETY FITNESS PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31144

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: The FHWA, the predecessor agency to the FMCSA, published a final rule of RIN 2125-AC71 at 62 FR 60035 on November 6, 1997, which incorporated the safety fitness rating methodology (SFRM) into 49 CFR 385 as appendix B. In that document the FHWA identified its ultimate goal as creating a more performance-based means of determining the fitness of carriers to conduct commercial motor vehicle (CMV) operations in interstate commerce. The ANPRM requested comments on the future of a rating system that could be used both in making safety fitness determinations and meeting the demands of shippers, insurers and other present and potential users interested in evaluating motor carrier performance.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/98	63 FR 38788
ANPRM Comment Period End	09/18/98	
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Transferred from RIN 2125-AE37.

Agency Contact: William C. Hill, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSD, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6347

RIN: 2126–AA37

2434. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; ZERO-BASE REVISION

Priority: Other Significant

Legal Authority: 49 USC 113; 49 USC 501; 49 USC 504; 49 USC 13101; 49 USC 13301; 49 USC 13902; 49 USC 31101; 49 USC 31132; 49 USC 31136; 49 USC 31301; 49 USC 31502; PL 104-88

CFR Citation: 49 CFR 325; 49 CFR 393; 49 CFR 398; 49 CFR 399; 49 CFR 1.73

Legal Deadline: None

Abstract: The FMCSA is revising the Federal Motor Carrier Safety Regulations (FMCSRs) and related regulations. In 1992, a "Zero-Base Review" was launched to improve the organization, format and clarity of the FMCSRs and collateral regulations. This proposal represents the most recent phase of a "zero-based" review of motor carrier safety regulations to establish more effective, enforceable requirements. This action is the product of that review. It proposes provisions that could affect public safety and potentially raises novel policy issues concerning federalism.

The FMCSA plans to release the new rulebook in an incremental fashion to allow an ordered approach to analyzing comments. We will ensure that the final product is a unified, consistent and compatible rulebook. The completed rulebook would constitute a major rewrite of the FMCSRs, including significant format and organizational changes, as well as a significant decrease in administration, recordkeeping, and paperwork burdens. This action is significant under the regulatory policies and procedures of the DOT because of substantial public

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interest concerning motor carrier safety issues.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Previous rulemakings from this comprehensive effort have included removing and redesignating redundant or obsolete safety regulations (RIN 2125-AD55 and RIN 2125-AD28) and more substantive and complex revisions of the FMCSRs (RIN 2125-AD72). This action is also incorporating the issues contained in 2125-AD64.

Transferred from RIN 2125-AE42.

Agency Contact: Valerie Height, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0901

RIN: 2126–AA39

2435. +NEW ENTRANT SAFETY ASSURANCE PROCESS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 106-159, sec 210

CFR Citation: 49 CFR 385

Legal Deadline: NPRM, Statutory, PL 106-159, sec 210.

Abstract: This action will establish minimum requirements for new entrant motor carriers to ensure that they are knowledgeable about applicable Federal motor carrier safety standards. After ensuring that they are knowledgeable, the new entrants will operate for 18 months in which time they must pass a safety review in order to receive permanent operating authority. This rule is significant because of public and congressional interest in rules required by MCSIA.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: William C. Hill, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSD, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6347

RIN: 2126–AA59

2436. RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-159, sec 205

CFR Citation: 49 CFR 386

Legal Deadline: None

Abstract: The FMCSA proposes to adopt procedural rules in order to conduct administrative proceedings under sections 205, 206 and 219 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). These sections provide for the suspension and revocation of motor carrier registrations issued under 49 U.S.C. 13902, the issuance of cessation of operation orders, and disqualifications from operation orders issued against Mexican motor carriers. On February 16, 2000, the FMCSA issued a final rule amending the Rules of Practice to include violations of commercial regulations. However, this modification to the administrative rules applied only to civil penalty proceedings.

The FMCSA believes that specific procedures should be established to provide guidance to the public and provide adequate notice and information to the respondents in other administrative proceedings. The FMCSA proposes to establish a modified procedure which would resolve most proceedings based upon written submissions. Grounds for requesting an oral hearing would be delineated and an appeal process would be established. The FMCSA will also propose the creation of specific "Administrator Orders" designed to implement the new enforcement provisions of the MCSIA. Effective on 04/16/2001, a final rule implements section 206 of MCSIA by amending the penalty provisions of the rules of practice of the FMCSRs.

Timetable:

Action	Date	FR Ci
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Lehrman, Attorney, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0994

RIN: 2126–AA63

2437. +CERTIFICATION OF SAFETY AUDITORS

Priority: Other Significant

Legal Authority: PL 106-159, sec 21

CFR Citation: 49 CFR 385

Legal Deadline: NPRM, Statutory, December 9, 2000.

Abstract: This rule would require th any safety inspection, audit, or revie be conducted by a certified investig It would give the FMCSA authority decertify an investigator, including third-party investigator, for failure t meet the prescribe certification standards. It is required by section 2 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). This rule is significant because of public and congressional interest in rules required by MCSIA.

Timetable:

Action	Date	FR Ci
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William C. Hill, Office of Bus and Truck Standards a Operations, Department of Transportation, Federal Motor Carri Safety Administration, MC-PSD, 400 7th Street, SW, Washington, DC 205 Phone: 202 366-6347

RIN: 2126–AA64

Department of Transportation (DOT)
Federal Motor Carrier Safety Administration (FMCSA)

Final Rule Stage

2438. RULES OF PRACTICE FOR MOTOR CARRIER PROCEEDINGS; INVESTIGATIONS; DISQUALIFICATIONS AND PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 113; 49 USC 307

CFR Citation: 49 CFR 301; 49 CFR 302; 49 CFR 303; 49 CFR 304; 49 CFR 385; 49 CFR 386

Legal Deadline: None

Abstract: The FMCSA proposes to amend its rules of practice for motor carrier safety, hazardous materials, and other enforcement proceedings, motor carrier safety ratings, driver qualification proceedings and its schedule of penalties for violations of the FMCSRs and the Hazardous Materials Regulations. The FMCSA further proposes to add provisions on investigative authority and procedures and general motor carrier responsibilities. These rules would increase the efficiency of the procedures, enhance due process and the awareness of the public and regulated community, and accommodate recent programmatic changes. The rules would apply to all motor carriers, other business entities and individuals involved in motor carrier safety and hazardous materials administrative actions on the effective date of the final rule. The rules would constitute the major part of the administrative/procedural portion of the agency's zero-base revision of the entire FMCSRs. This action is being incorporated into 2126-AA39, "Federal Motor Carrier Safety Regulations; Zero-Base Revision".

Timetable:

Action	Date	FR Cite
NPRM	04/29/96	61 FR 18866
NPRM Comment Period End	07/29/96	
SNPRM	10/21/96	61 FR 54601
SNPRM Comment Period End	11/20/96	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A final rule published on November 6, 1997, (RIN 2125-AC71), incorporated the proposed provision designated as section 362.107 in the April 29 NPRM. This section with minor changes was incorporated as section 385.17. A final rule regarding adjustments to civil penalties due to inflation was published under a separate rulemaking action (RIN 2105-AC63) on 3/13/98.

Transferred from RIN 2125-AD64.

Agency Contact: Valerie Height, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0901

RIN: 2126–AA15

2439. +RAILROAD-HIGHWAY GRADE CROSSING SAFETY

Priority: Other Significant

Legal Authority: PL 102-240; PL 103-311; 49 USC 5101; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 392; 49 CFR 1.73

Legal Deadline: Final, Statutory, February 26, 1995.

Abstract: This action prohibits operators of commercial motor vehicles from driving onto a railroad grade crossing unless there is sufficient space to drive completely through the crossing without stopping. The intent of this action is to reduce the incidence of collisions between trains and CMVs. This action is required by the Hazardous Materials Transportation Authorization Act of 1994 (PL 103-311; sec. 112). This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/30/98	63 FR 40691
NPRM Comment Period End	11/27/98	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AD75.

Agency Contact: David Lehrman, Attorney, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0994

RIN: 2126–AA18

2440. +HOURS OF SERVICE OF DRIVERS; DRIVER REST AND SLEEP FOR SAFE OPERATIONS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 105 in part II of this issue of the **Federal Register**.

RIN: 2126–AA23

2441. DEVELOPMENT OF A NORTH AMERICAN STANDARD FOR PROTECTION AGAINST SHIFTING AND FALLING CARGO

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.73

Legal Deadline: None

Abstract: The FMCSA is proposing amendments to its regulations concerning cargo securement requirements for commercial motor vehicles engaged in interstate commerce. The FMCSA intends to consider adopting new cargo securement guidelines that will be based upon the results of a multi-year comprehensive research program to evaluate current regulations and industry practices. The FMCSA has requested comments on the process to be used in developing these preliminary cargo securement guidelines. The FMCSA completed work on this research program with the Canadian Council of Motor Transport Administrators (CCMTA), State and Provincial agencies responsible for motor carrier safety activities, the Commercial Vehicle Safety Alliance (CVSA), and U.S. and Canadian industry groups.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/96	61 FR 54142
ANPRM Comment Period End	12/16/96	
Notice of Meeting	04/21/97	62 FR 19252
NPRM	12/18/00	65 FR 79050
NPRM Comment Period End	03/19/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

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Final Rule

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AE05.

Agency Contact: Larry W. Minor, Chief, Vehicle and Roadside Operations, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2126–AA27

2442. +REVISION OF REGULATIONS AND APPLICATION FORM FOR MEXICAN-DOMICILED MOTOR CARRIERS TO OPERATE IN U.S. MUNICIPALITIES AND COMMERCIAL ZONES ON THE U.S.-MEXICO BORDER

Priority: Other Significant

Legal Authority: 49 USC 13907

CFR Citation: 49 CFR 368; 49 CFR 1.73

Legal Deadline: None

Abstract: This action proposes collection of some new information and also proposes revisions to the registration application form filed by one of the two classes of Mexican motor carriers that operate in the U.S. This class of carriers operates in the U.S.-Mexico border commercial zones which existed prior to NAFTA. This action is intended to increase the information available concerning these Mexican property carriers' safety profiles. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/03/01	66 FR 22328
Comment Period End	07/02/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AE31.

Agency Contact: Pamela M. Pelcovits, Chief, Regulatory Development, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-4024

RIN: 2126–AA33

2443. +APPLICATION BY CERTAIN MEXICAN MOTOR CARRIERS TO OPERATE BEYOND U.S. MUNICIPALITIES AND COMMERCIAL ZONES ON THE U.S.-MEXICO BORDER

Priority: Other Significant

Legal Authority: 5 USC 553; 5 USC 559; 16 USC 1456; 49 USC 13101; 49 USC 13301; 49 USC 13901 et seq; 49 USC 31138; 49 USC 31144

CFR Citation: 49 CFR 365; 49 CFR 1.73

Legal Deadline: None

Abstract: This action proposes collection of some new information and also proposes revisions to the registration application form filed by one of the two classes of Mexican carriers that operate in the U.S. This class of carriers has operations that go beyond the established border commercial zones. This proposed unified application form would be used by both Mexican property and passenger carriers who provide services pursuant to provisions of NAFTA. This action is intended to increase the information available concerning these Mexican carriers' safety profiles. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/03/01	66 FR 22371
NPRM Comment Period End	07/02/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AE32.

Agency Contact: Pamela M. Pelcovits, Chief, Regulatory Development, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-4024

RIN: 2126–AA34

2444. +SAFETY MONITORING SY AND COMPLIANCE INITIATIVE F MEXICAN MOTOR CARRIERS OPERATING IN THE UNITED STA

Priority: Other Significant

Legal Authority: 49 USC 113; 49 504; 49 USC 521(b)(5)(A); 49 USC 49 USC 31136; 49 USC 31144; 49 31502

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: This action would imp an accelerated safety fitness scree part of the Motor Carrier Manage Information System (MCMIS). A screening program is being target collect more information on Mex carriers. The data will be collecte stored using the existing systems information gathering structures are used for domestic carriers. Th collected will be used to oversee operations of both classes of Mex motor carriers, those operating in U.S.-Mexico border commercial z and those operating in the U.S. pursuant to the various entry provisions of NAFTA. This actio significant due to anticipated pu interest and safety-related issues.

Timetable:

Action	Date	FR
NPRM	05/03/01	66 F
Comment Period End	07/02/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Busines

Government Levels Affected: N

Additional Information: Transfe from RIN 2125-AE33.

Agency Contact: Pamela M. Pel Chief, Regulatory Development, of Policy, Plans and Regulations Department of Transportation, F Motor Carrier Safety Administra MC-PRR, 400 Seventh Street, SW Washington, DC 20590
Phone: 202 366-4024

RIN: 2126–AA35

2445. OUT-OF-SERVICE CRITE

Priority: Substantive, Nonsignifi

Unfunded Mandates: Undeterm

Legal Authority: 49 USC 31133; USC 31136; 49 USC 31310; 49 U 31502; PL 104-59

DOT—FMCSA

Final Rule Stage

CFR Citation: 49 CFR 395; 49 CFR 396; 49 CFR 1.73

Legal Deadline: None

Abstract: This action seeks public comment on the "North American Uniform Out-of-Service Criteria" (OOS Criteria). During roadside inspections, Federal, State, and local safety inspectors use the OOS Criteria as a guide in determining whether to place commercial motor vehicles (CMVs), or their drivers, "out of service." Such a status means that the CMVs or drivers are so unsafe that corrections must be undertaken before operations can resume. The FHWA is seeking public comment on the future scope and effect of the OOS Criteria, which are not part of the Federal Motor Carrier Safety Regulations (FMCSRs). In addition, the FMCSA is seeking information regarding whether it needs to formalize these guidelines pursuant to a notice and comment rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/98	63 FR 38791
ANPRM Comment Period End	09/18/98	
Extension of Comment Period	10/09/98	63 FR 54432
Comment Period End	12/08/98	
To Be Terminated	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Transferred from RIN 2125-AE35.

Agency Contact: Gary Golas, Office of Bus and Truck Standards, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2126–AA36

2446. FEDERAL MOTOR CARRIER SAFETY REGULATIONS; WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS; RULES AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31315; PL 105-178, sec 4007

CFR Citation: 49 CFR 381

Legal Deadline: Final, Statutory, December 9, 1998.

Abstract: The FMCSA is adopting regulations to implement section 4007 of the Transportation Equity Act for the 21st Century (TEA-21), concerning waivers and exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs), and the Administration of pilot programs to evaluate innovative alternatives to the regulations. The regulations establish the procedures persons must follow to request waivers and to apply for exemptions from the FMCSRs, and the procedures the FMCSA will use to process the requests for waivers and applications for exemptions. The regulations also codify statutory requirements concerning the agency's administration of pilot programs. This rulemaking is intended to provide procedures to ensure the timely processing of requests for waivers and applications for exemptions, and public disclosure of the procedures the agency would use in initiating and managing pilot programs. The FHWA, the predecessor agency to the FMCSA has issued an interim final rule, with an opportunity for public comment after publication in order to meet the statutory deadline for issuance of a final rule (180 days after date of enactment of TEA-21).

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/08/98	63 FR 67600
Interim Final Rule Effective	12/08/98	
Interim Final Rule Comment Period End	02/08/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Transferred from RIN 2125-AE48.

Agency Contact: Larry W. Minor, Chief, Vehicle and Roadside Operations, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2126–AA41

2447. BRAKE PERFORMANCE REQUIREMENTS FOR CMVS INSPECTED BY PERFORMANCE-BASED BRAKE TESTERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 1041(b); 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.73

Legal Deadline: None

Abstract: The FMCSA is proposing to amend the Federal Motor Carrier Safety Regulations (FMSCRs) to establish pass/fail criteria for use with performance based brake testers (PBBTs), which measure the braking performance of commercial motor vehicles (CMVs). The specific types of PBBTs addressed in this action are the roller dynamometer, breakaway torque tester, and flat-plate tester. This proposal would allow State and local enforcement officials to issue citations based on PBBT braking force measurements.

Timetable:

Action	Date	FR Cite
NPRM	08/09/00	65 FR 48660
NPRM Comment Period End	10/10/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AE69.

Agency Contact: Gary R. Woodford, Office of Bus and Truck Standards, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW, Washington, DC 20590.
Phone: 202 366-2978

RIN: 2126–AA46

2448. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; SAFETY REQUIREMENTS FOR OPERATORS OF SMALL PASSENGER-CARRYING COMMERCIAL MOTOR VEHICLES USED IN INTERSTATE COMMERCE

Priority: Other Significant

Legal Authority: 49 USC 13301; 49 USC 13902; 49 USC 31132; 49 USC 31133; 49 USC 31136; 49 USC 31502; 49 USC 31504; PL 104-88, sec 204

CFR Citation: 49 CFR 1.73; 49 CFR 390

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Final Rule

Legal Deadline: Final, Statutory, December 9, 2000, PL 106-159, sec 212.

Abstract: The FMCSA is proposing to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to require that motor carriers operating commercial motor vehicles (CMVs), designed or used to transport between 9 and 15 passengers (including the driver) in interstate commerce, comply with the FMCSRs when they are directly compensated for such service, and the transportation of any passenger covers a distance greater than 75 air miles (86.3 statute miles or 138.9 kilometers). Motor carriers, drivers, and the vehicles operated by them would be subject to the same safety requirements imposed upon motorcoach operations, with the exception of the commercial driver's license, controlled substances and alcohol testing regulations. The agency is proposing that any requirements implemented be made applicable to these motor carriers 90 days after the effective date of the final rule. This action is is response to section 212 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA).

Timetable:

Action	Date	FR Cite
NPRM	01/11/01	66 FR 2767
NPRM Comment Period End	04/11/01	
Final	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Philip Hanley, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSB, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6811

RIN: 2126–AA52

2449. COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES; NONCOMMERCIAL MOTOR VEHICLE VIOLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-159, sec 201(b); PL 106-159, sec 202(h)

CFR Citation: 49 CFR 383; 49 CFR 384

Legal Deadline: Final, Statutory, December 9, 2000, PL 106-159, sec 201(b).

Abstract: The FMCSA proposes regulations specifying that a driver who holds a commercial driver's license (CDL) and is convicted of a drug- or alcohol-related offense or another offense that results in the revocation, cancellation, or suspension of the CDL, while operating a noncommercial motor vehicle, be disqualified from operating a commercial motor vehicle. This action is required by sections 201(b) and 202(h) of the Motor Carrier Safety Improvement Act of 1999.

Timetable:

Action	Date	FR Cite
NPRM	05/04/01	66 FR 22499
NPRM Comment Period End	08/02/01	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: David R. Miller, Transportation Specialist, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5011

RIN: 2126–AA55

2450. MOTOR CARRIER IDENTIFICATION REPORT

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-159, sec 217

CFR Citation: 49 CFR 385

Legal Deadline: Final, Statutory, December 9, 2000, PL 106-159, sec 217.

Abstract: The Federal Motor Carrier Safety Administration is amending the Federal Motor Carrier Safety Regulations (FMCSRs) to revise the requirements for filing the Motor Carrier Identification Report (MCS-150). This action is in response to the Motor Carrier Safety Improvement Act of 1999 (MCSIA). Section 217 of MCSIA requires the FMCSA to require periodic updating, not more frequently than once every 2 years, of the motor carrier identification report filed by each motor carrier conducting operations in interstate or foreign commerce. Motor carriers are presently required to file this report prior to commencing operations. As a result of this act the FMCSA will also require mo carriers to file an update of the r every 24 months.

Timetable:

Action	Date	FI
Interim Final Rule	11/24/00	65 FI
Interim Final Rule Comment Period End	01/23/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: N

Agency Contact: Deborah M. Fr Senior Transportation Specialist of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor C Safety Administration, MC-PSV, Seventh Street SW., Washington Phone: 202 366-4009

RIN: 2126–AA57

2451. +COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALT COMMERCIAL DRIVER'S LICE PROGRAM IMPROVEMENTS

Priority: Other Significant

Unfunded Mandates: Undeterm

Legal Authority: PL 106-159, se 103(c); PL 106-159, sec 103(e); 159, sec 201(c); PL 106-159, sec PL 106-159, sec 203; PL 106-15 208; PL 106-159, sec 214

CFR Citation: 49 CFR 350; 49 C 49 CFR 384

Legal Deadline: None

Abstract: This action will amer various provisions of the Comm Driver's License (CDL) program requirements to implement cha mandated by the Motor Carrier Improvement Act of 1999. Spec issues to be addressed include following:

(1) Emergency grants to States i compliance with CDL requirem

(2) Withholding MCSAP funds States in non-compliance with requirements;

(3) Disqualification for driving suspended; Disqualified and ca fatality;

(4) Emergency disqualification drivers posing an imminent ha

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(5) Expanding the definition of serious traffic violations;

(6) Expanded driver record check;

(7) New notification requirements;

(8) Prohibition on hardship license to drivers who lose base license;

(9) Penalties for violating minimum licensing requirements;

(10) Maintaining a record of all violations;

(11) Masking prohibition;

(12) Decertification of State CDL programs for non-compliance;

(13) Definition of imminent hazard;

(14) School bus endorsement.

This rule is significant because of public and congressional interest in rules required by MCSIA.

Timetable:

Action	Date	FR Cite
NPRM	07/27/01	66 FR 39248
NPRM Comment Period End	10/25/01	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Robert Redmond, State Programs Division, Department of Transportation, Federal Motor Carrier Safety Administration, MC-ESS, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5014

RIN: 2126–AA60

2452. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; GENERAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 1041(b); 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 392; 49 CFR 393

Legal Deadline: None

Abstract: The FMCSA is amending part 393 of the Federal Motor Carrier Safety Regulations (FMCSRs), Parts and Accessories Necessary for Safe Operation. The amendments are intended to remove obsolete and redundant regulations; respond to several petitions for rulemaking; provide improved definitions of vehicle types, systems, and components; resolve inconsistencies between part 393 and the National Highway Traffic Safety Administration's Federal Motor Vehicle Safety Standards (49 CFR 571); and codify certain FMCSA regulatory guidance concerning the requirements of part 393. Generally, the amendments do not involve the establishment of new or more stringent requirements but a clarification of existing requirements. This action is consistent with the President's Regulatory Reinvention Initiative and furthers the FMCSA's ongoing Zero-Base Regulatory Review in that it proposes to make many sections more concise, easier to understand and more performance oriented.

Timetable:

Action	Date	FR Cite
NPRM	04/14/97	62 FR 18170
NPRM Comment Period Extended	06/12/97	62 FR 32066
NPRM Comment Period End	06/13/97	
Comment Period End	07/28/97	
Public Meeting	02/20/98	63 FR 8606
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: Transferred from RIN 2125-AD76.

Agency Contact: Larry W. Minor, Chief, Vehicle and Roadside Operations, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2126–AA61

Department of Transportation (DOT) — Federal Motor Carrier Safety Administration (FMCSA) — Long-Term Actions

2453. +COMMERCIAL DRIVER'S LICENSE STANDARDS; BIOMETRIC IDENTIFIER

Priority: Other Significant

Legal Authority: PL 100-690, sec 9105

CFR Citation: 49 CFR 383

Legal Deadline: Final, Statutory, December 31, 1990.

Abstract: The Truck and Bus Regulatory Reform Act of 1988 (1) required the DOT Secretary to issue regulations establishing minimum uniform standards for a biometric identification system for commercial motor vehicle (CMV) operators; and (2) authorized the Secretary to use specific funds to implement a pilot demonstration project using such a system. Alternatives including retinal eye scans and advanced fingerprint technologies were considered. After analyzing public comments to the ANPRM and reviewing demonstration project results, the FHWA, predecessor agency to the FMCSA, determined that current technology had not progressed to the point where an identification system could be established nationwide in a cost-effective manner and still provide the benefits for which a system was intended. The FHWA subsequently published an informational notice summarizing the results of the pilot study and the comments to the ANPRM to demonstrate how the technologies studied fell short of the demands in a commercial licensing environment.

Section 4011(c) of the TEA-21, 49 USC 31308 amended, requires that each commercial driver's license (CDL) issued by the States after January 1, 2001, must include unique identifiers (which may include biometric identifiers); however, as a minimum, unique identifiers in CDLs must contain the name, address, and physical description of the individual issued the CDL; the social security number or other number or information to identify the individual; the class or type of CMV the individual is authorized to operate; the name of the State that issued the license, and the dates the license is valid.

In the future, we will establish a pilot study to collect over 30,000 sample digital facial images and sets of fingerprints from volunteers. California is the lead State for this study. The

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estimated date of completion is February 2002. Therefore, no further action will be taken until completion of the pilot study.

Timetable:

Action	Date	FR Cite
ANPRM	05/15/89	54 FR 20875
ANPRM Comment Period End	07/14/89	
Information Notice	03/08/91	56 FR 9925

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Additional Information: Transferred from RIN 2125-AC24.

Agency Contact: Ronald Finn, Transportation Specialist, State Programs Division, Department of Transportation, Federal Motor Carrier Safety Administration, MC-ESS, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0647

RIN: 2126–AA01

2454. COMMERCIAL LEARNER PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; PL 99-570; 49 USC 31102

CFR Citation: 49 CFR 384; 49 CFR 383; 49 CFR 386; 49 CFR 395; 49 CFR 1.73

Legal Deadline: None

Abstract: The FHWA, the predecessor agency to the Federal Motor Carrier Safety Administration (FMCSA), reviewed learner permit practices of the states for processing a driver from the initial non-CDL driver to being a fully licensed CDL driver. A number of variations in state learner permit practices were found. The FHWA planned to establish more uniform practices, such as: 1) screening drivers before permitting them to initially drive a CMV without having obtained a full CDL; 2) the length of time a state allows the driver to hold a learner's permit; 3) procedures for drivers to obtain CDL training in a state other than their normal residency; 4) supervision requirements for learner permit drivers; 5) commercial driver license information systems (CDLIS) recordkeeping requirements. However, the next action in this project is now undetermined as the FMCSA evaluates it in connection with several requirements of the Motor Carrier Safety Improvement Act of 1999.

Timetable:

Action	Date	FR Cite
NPRM	08/22/90	55 FR 34478
NPRM Comment Period End	10/22/90	
NPRM Comment Period Extended to 11/30/90	10/23/90	55 FR 42741

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Because other regulatory changes have been made since the NPRM was published in 1990, the FMCSA intends to issue a supplemental NPRM to solicit comments on including additional requirements consistent with changes in the CDL program.

ANALYSIS: Regulatory Evaluation, 08/22/90, 55 FR 34478

Transferred from RIN 2125-AC54.

Agency Contact: Robert Redmond, State Programs Division, Department of Transportation, Federal Motor Carrier Safety Administration, MC-ESS, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5014

RIN: 2126–AA03

2455. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL TRANSPORTATION OF HAZARDOUS MATERIALS

Priority: Other Significant

Legal Authority: 49 USC 5105; 49 USC 5109

CFR Citation: 49 CFR 390.3; 49 CFR 397; 49 CFR 1.73

Legal Deadline: Final, Statutory, November 15, 1991.

Abstract: This rulemaking will implement the statutory requirements of 49 USC 5109 and 49 USC 5105. Section 5109 addresses the establishment of motor carrier safety permit regulations for motor carriers transporting Class A or B explosives, liquefied natural gases, hazardous materials designated as extremely toxic by inhalation, or highway route controlled quantity radioactive materials. Section 5105 requires inspection of vehicles transportin those radioactive materials before trip. The proposed rule will incor those provisions into the safety pe regulations. This action is conside significant because of substantial and congressional interest and saf implications.

Timetable:

Action	Date	FR
NPRM	06/17/93	58 FR
NPRM Comment Period End	08/16/93	

Next Action Undetermined.

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Business

Government Levels Affected: No

Additional Information: Transferr from RIN 2125-AC78.

Agency Contact: Larry W. Minor Chief, Vehicle and Roadside Operations, Office of Bus and Tru Standards and Operations, Depart of Transportation, Federal Motor Carrier Safety Administration, M 400 Seventh Street SW., Washing DC 20590
Phone: 202 366-4012

RIN: 2126–AA07

2456. PARTS AND ACCESSORIE NECESSARY FOR SAFE OPERA SLEEPER BERTHS ON MOTOR COACHES

Priority: Substantive, Nonsignific

Legal Authority: 49 USC 31136; USC 31502

CFR Citation: 49 CFR 393; 49 CF

Legal Deadline: None

Abstract: Comments have been s on the suitability of existing drive sleeper berth regulations for moto coaches and possible amendment account for design differences be trucks and motor coaches.

Timetable:

Action	Date	FR
ANPRM	01/12/94	59 FR
ANPRM Comment Period End	03/14/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AD25.

Agency Contact: Philip Hanley, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSB, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6811

RIN: 2126–AA12

2457. ELECTRONIC FILING OF SURETY BONDS, TRUST FUND AGREEMENTS, INSURANCE CERTIFICATES; CANCELLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-88; 49 USC 13906

CFR Citation: 49 CFR 387.323

Legal Deadline: None

Abstract: This action proposes requiring all filings of surety bonds, trust fund agreements, insurance certificates and cancellations of these instruments to be accomplished electronically. Optional electronic filing has proven economical and efficient for both the FMCSA and for electronic filers. Given this success, cost of processing paper filings can no longer be justified. Mandatory electronic filings should not impose any significant costs or burdens on either the FMCSA or the filers.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AD94.

Agency Contact: Gladys Cole, Chief, Insurance Compliance, Department of Transportation, Federal Motor Carrier Safety Administration, ECI, 400 Virginia Avenue SW., Suite 600, Washington, DC 20024
Phone: 202 358-7039
Fax: 202 358-7100

RIN: 2126–AA24

2458. GENERAL JURISDICTION OVER FREIGHT FORWARDER SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 13701

CFR Citation: 49 CFR 373; 49 CFR 1.73

Legal Deadline: None

Abstract: This action gives notice of the FMCSA's general jurisdiction over all segments of the freight forwarding industry (not just household good freight forwarders), in accordance with the ICC Termination Act of 1995, proposes changes to existing regulations to comport with those mandated by Congress, and clarifies the FMCSA's jurisdiction over freight forwarders in other areas.

Timetable:

Action	Date	FR Cite
NPRM	01/28/97	62 FR 4096
NPRM Comment Period End	03/31/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AE00.

Agency Contact: Michael Falk, Office of the Chief Counsel, Department of Transportation, Federal Motor Carrier Safety Administration, MC-CC, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0834

RIN: 2126–AA25

2459. *ENGLISH LANGUAGE REQUIREMENT; QUALIFICATIONS OF DRIVERS

Priority: Other Significant

Legal Authority: 49 USC 504; 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 391; 49 CFR 1.73

Legal Deadline: None

Abstract: The current regulation is little changed from the original rule adopted in 1936. The American Civil Liberties Union (ACLU) has written to the Department asserting that the regulation, as written, is overly broad and subject to arbitrary enforcement, causing potential interference with constitutional guarantees of due process and equal protection. The ACLU requested an opportunity to submit a comprehensive analysis of this issue. The ANPRM was intended to provide the ACLU with such an opportunity and to open this issue for public comment. The FMCSA seeks to modify its current regulation to require drivers to possess the basic functional communication/comprehension ability necessary to ensure safety, consistent with applicable law. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/97	62 FR 45200
ANPRM Comment Period End	10/27/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Transferred from RIN 2125-AE19.

Agency Contact: Janet Nunn, Office of Policy, Plans, and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2797

RIN: 2126–AA31

2460. TRANSPORTATION OF HOUSEHOLD GOODS; CONSUMER PROTECTION REGULATIONS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: PL 74-255; 49 USC 13301; 49 USC 14104; PL 104-88; PL 106-59; 49 USC 13101; 49 USC 13501 et seq.; 49 USC 14104; 49 USC 14708; 49 USC 14901 et seq.; 49 USC 14912; 49 USC 13301 et seq.

CFR Citation: 49 CFR 375; 49 CFR 377; 49 CFR 1.73

Legal Deadline: None

Abstract: The FMCSA proposed to amend the regulations governing the transportation of household goods. These regulations protect individual consumers who ship household goods, as defined in 49 USC 13102(10), by commercial motor vehicle. This action is necessary to implement the ICC Termination Act of 1995 (ICCTA),and to update the regulations. The intended

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effect of this proposal is to make the regulations easier to read and understand, remove an outdated report, address hostage freight problems (situations where non-binding estimates are lower than actual charges and the carrier refuses to deliver freight even after 110 percent of the estimate is paid at the time of delivery), modify a consumer protection publication, consider industry requests to change the rules, and propose conforming and technical amendments.

Timetable:

Action	Date	FR Cite
NPRM	05/15/98	63 FR 27126
NPRM Comment Period End	07/14/98	
NPRM Extension and Reopening of Comment Period	08/12/98	63 FR 43128
NPRM Comment Period End	10/13/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AE30.

Agency Contact: David R. Miller, Transportation Specialist, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC
Phone: 202 366-5011

RIN: 2126–AA32

2461. +GENERAL REQUIREMENTS; INSPECTION, REPAIR, AND MAINTENANCE; INTERMODAL CONTAINER CHASSIS AND TRAILERS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 504; 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 1.73; 49 CFR 390; 49 CFR 396

Legal Deadline: None

Abstract: In response to a petition for rulemaking filed by the American Trucking Association, Inc. (ATA) and the ATA Intermodal Conference (the petitioners), the FHWA, the predecessor agency to the FMCSA, agreed to consider revisions to the requirements in parts 390 and 396 of the Federal Motor Carrier Safety regulations (FMCSRs) that place upon motor carriers the responsibility for maintaining intermodal container chassis and trailers. These regulations provide the requirements for the inspection, repair and maintenance of commercial motor vehicles. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	02/17/99	64 FR 7849
ANPRM Comment Period End	04/19/99	
Comment Period End	05/05/99	64 FR 24128
Comment Period Extended	08/30/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Transferred from RIN 2125-AE40.

Agency Contact: Deborah M. Freund, Senior Transportation Specialist, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC
Phone: 202 366-4009

RIN: 2126–AA38

2462. +POST-ACCIDENT CONTROLLED SUBSTANCES AND ALCOHOL TEST RESULTS; REPORTING REQUIREMENTS FOR THE FATALITY ANALYSIS REPORTING SYSTEM

Priority: Other Significant

Legal Authority: PL 74-255; PL 98-554; PL 99-570; PL 102-143; PL 106-159; 49 USC 31136; 49 USC 31301 et seq; 49 USC 31502

CFR Citation: 49 CFR 1.73; 49 CFR 382

Legal Deadline: None

Abstract: The Federal Motor Carrier Safety Administration (FMCSA)is considering amending its contro substances and alcohol testing regulations to require employers to those requirements to report information to State-employed F Analysis Reporting System (FAR analysts concerning fatal crashes/accidents. Currently, on FMCSA and State officials with regulatory authority over the em or any of its drivers may obtain information concerning controll substances and alcohol testing r and records.

This rulemaking would propose require employers to provide information to FARS analysts, irrespective of their State autho working under contract with the National Highway Traffic Safety Administration (NHTSA). The information employers would be required to submit to the analys would enable the NHTSA, work conjunction with the FMCSA, to compile and analyze data on the incidence of commercial motor (CMV) drivers who test positive controlled substances and/or alc use in post-accident tests condu after fatal crashes.

The data would also be used by FMCSA to help assess the effect of its controlled substances and testing regulations. This action i intended to improve the FMCSA NHTSA's CMV crash data and a the need for new initiatives to f reduce the use of controlled sub and alcohol by CMV drivers.

Timetable: Next Action Undete

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organi

Government Levels Affected: L Federal

Agency Contact: David R. Mill Transportation Specialist, Offic Policy, Plans and Regulations, Department of Transportation, F Motor Carrier Safety Administra MC-PRR, 400 Seventh Street SW Washington, DC
Phone: 202 366-5011

RIN: 2126–AA50

Department of Transportation (DOT)
Federal Motor Carrier Safety Administration (FMCSA)

Completed Actions

2463. MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MEXICAN MOTOR CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31138; 49 USC 31139

CFR Citation: 49 CFR 387; 49 CFR 1.73

Legal Deadline: None

Abstract: The FMCSA is considering proposing to amend part 387, Minimum Levels of Financial Responsibility for motor carriers transporting passengers to clarify and amend the financial responsibility requirement for Mexican motor carriers who operate commercial motor vehicles in the United States.

Timetable:

Action	Date	FR Cite
Merged With RIN 2126-AA33	05/03/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: The FMCSA will issue a final rule to conform to any executive actions affecting Mexican carriers.

Transferred from RIN 2125-AE14.

Agency Contact: Pamela M. Pelcovits, Chief, Regulatory Development, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-4024

RIN: 2126–AA30

2464. CONFORMING AMENDMENTS TO DOT DRUG AND ALCOHOL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 322; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 31502

CFR Citation: 49 CFR 40; 49 CFR 382; 49 CFR 1.73

Legal Deadline: None

Abstract: This action is a conforming amendment resulting from changes to the Procedures for Transportation Workplace Drug and Alcohol Testing Programs regulations under 49 CFR part 40. The Department of Transportation (DOT) expects to finalize revisions to its drug and alcohol testing procedures regulation to make the organization and language of the regulation clearer, to incorporate guidance and interpretations of the rule into its text, and to update the rule to include new provisions responding to changes in technology, the testing industry, and the Department's program. Each DOT modal administration must amend its implementing regulations to reflect these changes. The Federal Motor Carrier Safety Administration proposes to amend 49 CFR part 382, the drug and alcohol testing rules for the motor carrier industry, as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	04/30/01	66 FR 21538
NPRM Comment Period End	06/14/01	
Final Rule	08/17/01	66 FR 43097

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenny Rodgers, Office of Enforcement and Compliance, Department of Transportation, Federal Motor Carrier Safety Administration, MC-ECE, 400 Seventh Street NW., Washington, DC 20590
Phone: 202 366-4016

RIN: 2126–AA58

2465. FEDERAL MOTOR CARRIER SAFETY REGULATIONS; MISCELLANEOUS TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 113

CFR Citation: 49 CFR 301; 49 CFR 325; 49 CFR 356; 49 CFR 360; 49 CFR 365; 49 CFR 366; 49 CFR 367; 49 CFR 368; 49 CFR 370; 49 CFR 371; 49 CFR 372; 49 CFR 374; 49 CFR 375; 49 CFR 376; 49 CFR 377; 49 CFR 379; 49 CFR 381; 49 CFR 382; 49 CFR 383; 49 CFR 384; 49 CFR 387; 49 CFR 388; 49 CFR 389; 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 393; 49 CFR 395; 49 CFR 397; 49 CFR 398

Legal Deadline: None

Abstract: This action makes technical amendments throughout 49 CFR chapter III to those rules containing incorrect references to agency and office organizations. Additionally, outdated citations to statutory and regulatory authority are amended. Typographical errors are corrected and extraneous wording is eliminated. These technical amendments are necessary because of the formation of the FMCSA and they will reflect current organizational structure, processes and requirements. The amendments will not make any substantive changes in the wording or organization of the rules affected.

Timetable:

Action	Date	FR Cite
Final Rule	10/01/01	66 FR 49867

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janet Nunn, Office of Policy, Plans, and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2797

RIN: 2126–AA62

Department of Transportation (DOT)
National Highway Traffic Safety Administration (NHTSA)

Prerule Stage

2466. REVIEW: AMERICAN AUTOMOBILE LABELING ACT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32304

CFR Citation: 49 CFR 583

Legal Deadline: None

Abstract: The American Automobile Labeling Act requires new passenger cars and light trucks, beginning October 1, 1994, to bear labels providing information on the extent to which their parts are of domestic origin. The

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objective of this review is to determine the extent to which new-vehicle buyers know about, understand and use this information, and to estimate the effect of the labels on vehicle production and sales.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/95	
Collection of Information	07/24/97	62 FR 39886
Comment Period End	09/22/97	
Collection of Information	02/18/98	63 FR 8249
Collection of Information	02/26/98	63 FR 9897
Technical Report	03/06/01	66 FR 13625
End Review	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: In a survey of 646 recent or imminent new-vehicle buyers, over 75 percent were unaware of the existence of automobile parts content labels. Among those who had read the labels, many said they used the country-of-assembly information, but none said they used the numerical U.S./Canadian parts content score. Overall U.S./Canadian parts content in new cars and light trucks dropped from an average of 70 percent in model year 1995 to 67.6 percent in 1988. However, it increased from 47 to 59 percent in transplants while dropping from 89 to 84 percent in Big 3 vehicles.

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559
Email: ckahane@nhtsa.dot.gov

RIN: 2127–AG18

2467. REVIEW: HEAVY TRUCK CONSPICUITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is initiating a study to evaluate the safety effects of the conspicuity systems requirement (section 5.7) of Federal Motor Vehicle Safety Standard No. 108. To carry out the study, the agency is having special motor vehicle crash data collected by the Florida Highway Patrol and the Pennsylvania State Police.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/95	
Collection of Information	07/01/96	61 FR 33891
Comment Period End	08/30/96	
Technical Report	05/04/01	66 FR 22640
End Review	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Retroreflective tape enhances the visibility of heavy trailers in the dark. The tape reduces side and rear impacts by other vehicles into trailers by 29 percent in dark conditions (including dark-not-lighted, dark-lighted, dawn and dusk). In dark-not-lighted conditions, the tape reduces side and rear impacts by 41 percent. When all heavy trailers have the tape, it will prevent an estimated 191-350 fatalities, 3,100-5,000 injuries and 7,800 crashed per year.

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG19

2468. REVIEW: CHILD SAFETY SEAT REGISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213; 49 CFR 588

Legal Deadline: None

Abstract: This evaluation involves analysis of the effectiveness of registering child safety seats to increase response to reports of recalled seats. This regulation was selected for review because of public interest in child passenger safety.

Timetable:

Action	Date	FR
Begin Review	10/01/97	
End Review	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Agency Contact: Charles Kahane Chief, Evaluation Division, Office Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 40 Seventh Street SW., Washington, 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AG93

2469. REVIEW: AIR BAG ON-OFF SWITCHES

Priority: Substantive, Nonsignific

Legal Authority: 49 USC 322; 49 30111; 49 USC 30115; 49 USC 30 40 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This standard allows passenger vehicles to be equippe an on-off switch for the right fron passenger air bag if the rear seat accommodate a rear-facing infant The standard also enables vehicle owners to obtain an on-off switch their passenger and/or driver air they transport people who should be exposed to an air bag deploym The agency will determine, by observation of vehicles in use, th percentage of on-off switches that being correctly used. This regulat was selected for review because public interest and potential bene

Timetable:

Action	Date	FR
Begin Review	04/01/98	
End Review	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Additional Information: Prelimin results of the observational survey that the switches were left on (wh they should be off) for 9 percent infant passengers, 27 percent of c passengers age 1-6, and 56 percen child passenger age 7-12. They w turned off for 18 percent of teen a

DOT—NHTSA

Prerule Stage

adult passengers, depriving them of any potential benefits of air bags.

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RIN: 2127–AH12

2470. REVIEW: HEAD RESTRAINTS FOR LIGHT TRUCKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.202

Legal Deadline: None

Abstract: This standard requires pick-up trucks, vans, and sport utility vehicles with gross vehicle weight of 10,000 pounds or less, manufactured after September 1, 1991, to have head restraints or high seatbacks for the driver and right-front passenger. The agency will compare the occupant injury rates in rear-crashes of trucks equipped with head restraints and trucks not equipped with head restraints. The cost of the standard will also be established. This regulation was selected for review of its costs, potential benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	09/29/99	
Technical Report	05/10/01	66 FR 23974
End Review	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH98

2471. ADAPTATION OF INSTRUMENTED LOWER LEGS FOR HYBRID III MALE AND FEMALE ADULT DUMMIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is proposing the use of crash test dummies with instrumented lower legs to assess the crashworthiness and the potential of lower limb injuries to occupants of passenger cars, vans, light trucks, and sport utility vehicles. The new legs would be retrofits for un-instrumented legs in current Hybrid III male and female adult size dummies. The legs will be used to monitor both the inertial impact and floor pan intrusion effects upon injury potential to the knees, tibia, ankle and feet. The new legs will permit the agency to assess the injury potential to the lower legs in current motor vehicles during crashes and also enable the vehicle manufacturers to design and construct vehicles that will minimize lower limb injuries.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329
Email: sbackaitis@nhtsa.dot.gov

RIN: 2127–AI39

Department of Transportation (DOT)
National Highway Traffic Safety Administration (NHTSA)

Proposed Rule Stage

2472. PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq (National Environmental Policy Act-NEPA)

CFR Citation: 49 CFR 520

Legal Deadline: None

Abstract: NHTSA's regulation will be reviewed and reissued, as necessary, where it conflicts with or is duplicative of the regulations of Council on Environmental Quality (CEQ), 40 CFR parts 1500-1508, and with DOT Order 5610.1C, each of which implements the National Environmental Policy Act (NEPA), 42 USC 4321 et seq.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen Wood, Division Chief, Rulemaking Division, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992

RIN: 2127–AB79

2473. SEATING SYSTEMS PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.207

Legal Deadline: None

Abstract: Environmental Research and Safety Technologists of Flagstaff, AZ, petitioned the agency to reexamine the seatback performance requirements of the standard in rear impact crashes.

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Timetable:

Action	Date	FR Cite
ANPRM	10/04/89	54 FR 40896
ANPRM Comment Period End	12/04/89	
Request for Comments	11/23/92	57 FR 54958
Comment Period End	01/22/93	
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Petitions for rulemaking were granted 07/24/89. See a related rulemaking action involving these petitioners under RIN 2127-AC57. The first part of the research is complete. A computer model and a prototype seat were developed. Information on this research is available in the docket along with a report on crash data analysis. The agency is currently evaluating the research results and conducting vehicle seat testing.

Agency Contact: Roger Saul, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329
Email: rsaul@nhtsa.dot.gov

RIN: 2127–AD08

2474. CERTIFICATION REQUIREMENTS OF MULTISTAGE VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 567; 49 CFR 568; 49 CFR 1.50

Legal Deadline: None

Abstract: The agency proposed to amend the certification requirements that apply to incomplete vehicles other than chassis-cabs. Incomplete vehicles are vehicles that include at least a frame and chassis structure, power train, steering system, suspension system, and brake system, but need further manufacturing performed on them to become completed vehicles. The agency proposed to extend the certification requirements currently applying to chassis-cabs to all types of incomplete vehicles. The agency recognizes that manufacturers who build vehicles in more than one stage are faced with somewhat different problems than manufacturers who build vehicles in a single stage, especially when it comes to certifying vehicles to meet Federal Motor Vehicle Safety Standards. The agency held a public meeting to listen to the views of these groups and others with respect to improving the vehicle certification process. The agency has established a negotiated rulemaking advisory committee to develop recommended amendments to the existing regulations. The agency is publishing the findings and recommendations of the negotiated rulemaking advisory committee and requesting comments from the public.

Timetable:

Action	Date	FR Cite
NPRM	12/03/91	56 FR 61392
NPRM Comment Period End	01/31/92	
Announced Public Meeting	11/17/95	60 FR 57694
Notice of Intent	05/20/99	64 FR 27499
Notice of Formation of Advisory Committee	11/26/99	64 FR 66447
Notice of Meetings	02/07/00	65 FR 5847
Notice	04/19/00	65 FR 20936
SNPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The agency has published a list of scheduled meetings.

ANALYSIS: Regulatory Evaluation, 12/03/91, 56 FR 61392

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RIN: 2127–AE27

2475. CONVEX CROSS-VIEW MIRRORS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: In response to a petitio rulemaking, the agency is request comments on the issue of rear m cross-view mirrors on light and medium duty trucks for the purp eliminating the blind spot directl behind the vehicle. The petitione requested that these mirrors be mandated to eliminate backing accidents where children could b seriously injured or killed. Petitio granted.

Timetable:

Action	Date	FR
Request for Comments	06/17/96	61 FR
Comment Period End	10/15/96	
ANPRM	11/27/00	65 FR
ANPRM Comment Period End	01/26/01	
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Business

Government Levels Affected: No

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RIN: 2127–AG41

2476. UPGRADE ROOF CRASHWORTHINESS

Priority: Substantive, Nonsignific

Legal Authority: 49 USC 322; 49 30111; 49 USC 30115; 49 USC 30 49 USC 30166

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to a petitio rulemaking, the agency is conside whether to upgrade the roof crashworthiness particularly sinc larger percentage of American ve consist of light duty and utility vehicles, a class of vehicles more to rollover accidents. Petition wa granted.

DOT—NHTSA **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
Request for Comments	10/22/01	66 FR 53376
Comment Period End	12/06/01	
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG51

2477. HYBRID III 95TH PERCENTILE MALE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is examining the possibility of proposing specifications for a new 95th percentile male Hybrid III size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard No. 208. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced restraints technologies for crash protection in frontal impacts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG79

2478. BUY AMERICAN REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-424

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The agency is proposing to exempt certain purchases by grantees from the requirements of the Department of Transportation's Buy American provisions to streamline and improve the grant process. These proposed exemptions will include small purchases not to exceed the current small purchase threshold.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Donaldson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834

RIN: 2127–AG99

2479. POLITICAL SUBDIVISION PARTICIPATION IN STATE HIGHWAY SAFETY PROGRAMS AND STATE HIGHWAY SAFETY AGENCY

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1250; 23 CFR 1251

Legal Deadline: None

Abstract: The agency is proposing to amend certain provisions concerning the State Highway Safety Programs to streamline them, address statutory changes, and delete obsolete or unnecessary requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: John Donaldson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH00

2480. DEFINITION OF COMMUNITY TRANSPORTATION VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 9 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to amend various sections of part 571 to create a new vehicle type, tentatively called community transportation vehicles, that will have to meet the crashworthiness standards applicable to school buses, but will not have to meet some of the crash avoidance standards (i.e., stop arms, flashing lights, etc.). This would allow manufacturers to certify vehicles that will be less expensive and as safe as a school bus for transportation of Head Start students because we have tentatively decided that the school bus crash avoidance features are unnecessary when there is no curb-side pickup.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH23

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2481. METRIC CONVERSION—PHASE III

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; PL 100-418, sec 5164

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency is amending selected Federal motor vehicle safety standards by converting English measurements in those standards to metric measurements. This rulemaking is the third and final in a series that the agency will undertake to implement the Federal policy that the metric system is the preferred system of weights and measures for U.S. trade and commerce. The conversions are not intended to change the stringency of the affected Federal motor vehicles safety standards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Noble Bowie, Director, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH27

2482. UPGRADE DOOR RETENTION PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.206

Legal Deadline: None

Abstract: Based upon annual average estimates from the 1988 through 1996 Fatal Analysis Reporting System (FARS) and the National Automotive Sampling System (NASS), there is an annual average of 2,515 fatalities and 1,882 serious injuries due to door ejections. Side door ejections are the second leading cause of ejections in all crashes, superseded only by ejections through fixed glazing. One of the activities of agency rollover research focuses on reducing injuries and fatalities resulting from side door ejections. This research has led the agency to identify potential significant solutions to mitigating a substantial number of these fatalities and injuries by improving side door retention performance. Therefore, the agency is proposing to upgrade the door retention requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger Saul, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH34

2483. ADMINISTRATIVE REWRITE OF THE LIGHTING REQUIREMENTS OTHER THAN HEADLAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is proposing to rewrite the reflective devices and associated equipment requirements to make the standard more readable and understandable. The standard has grown over the last 30 years by the incorporation of dozens of amendments. The document has become unwieldy to use and the agency decided to rewrite it to seperate it into sections that address each lighting function separately. These sections will state the basic performance necessary for each lighting function and for lamp installation on various vehicle types. The rewrite will continue to reference Society of Automotive Engineers (SAE) and other standards and recommended practices for test procedures if too lengthy to incorporate changes. Moreover, it will codify various age interpretations of its rules to make standard more explicit and objectiv The administrative rewrite of the headlamp regulations can be found under RIN 2127-AG87.

Timetable:

Action	Date	FR C
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesse

Government Levels Affected: Non

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RIN: 2127–AH37

2484. EXEMPTION FOR INCONSEQUENTIAL DEFECT OR NONCOMPLIANCE

Priority: Substantive, Nonsignificar

Legal Authority: 49 USC 30113

CFR Citation: 49 CFR 556

Legal Deadline: None

Abstract: Present regulation requir petitioner to submit data "supporti its petition" which advocates excu it from its notification and remedia obligations. Because the petitioner have pertinent data relevant to the agency's decision that would not support granting it, the agency is proposing a clarification that all da pertaining to the subject in the possession of the petitioner be part the petition. The agency also is proposing the petitioner provide a and accurate analysis of its petitio certify that it is accurate and comp NHTSA is withdrawing this rulem action on 8/2/01, to allow it to focu its limited resources on the defects noncompliance related rulemaking actions required by the Transportat Recall Enhancement, Accountabilit and Documentation Act of 2000.

Timetable:

Action	Date	FR
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

DOT—NHTSA

Proposed Rule Stage

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2127–AH58

2485. ACCELERATOR CONTROL SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.124

Legal Deadline: None

Abstract: The agency reviewed this standard and published a "Request for Comment" to obtain information on electronic accelerator controls. After reviewing the comments received on this notice, the agency plans to propose a revision of the standard that will make explicit the application of the standard to electronic accelerator controls and the electric vehicles. The proposal will recognize that electronic engine controls vastly increase the ways manufacturers can achieve fail-safe performance in the event of a disconnection or severance of the accelerator control system and will propose a number of alternative compliance tests for fail-safe performance to avoid design restrictions.

Timetable:

Action	Date	FR Cite
Request for Comments	12/04/95	60 FR 62061
Comment Period End	02/02/96	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH71

2487. +FRONTAL OFFSET PROTECTION

Regulatory Plan: This entry is Seq. No. 106 in part II of this issue of the **Federal Register**.

RIN: 2127–AH73

2488. SPECIAL PURPOSE VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.224

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to amend the standard for new trailers and semitrailers with a Gross Vehicle Weight Rating (GVWR) of 4,536 kilograms (10,000 pounds) or more be equipped with a rear impact guard by revising the definition of "special purpose vehicles." These are vehicles with rear mounted liftgates that operate by swinging through the area or reside in any part of the area that is designated for the horizontal member of the rear impact guard.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH75

2489. BRAKE HOSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to adopt portions of the brake component Federal safety provisions that are now in the Federal Highway Administration regulations into the agency's brake regulation.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

2465. COMPLIANCE AND ENFORCEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency is proposing to codify our long-standing general policy that motor vehicles and items of motor vehicle equipment must be cable of satisfying the requirements of each particular standard or regulation with the adjustable components of the vehicle or vehicle equipment adjusted to any position they can occupy while the vehicle is being operated unless the particular standard or regulation specifies otherwise or the manufacturer explicitly warns against placing the equipment or vehicle in that position. The agency is also proposing that where a standard provides manufacturers with more than one compliance option, manufacturers must select which compliance option(s) they are certifying to by the time they certify a vehicle or equipment item.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen Wood, Division Chief, Rulemaking Division, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH63

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DOT—NHTSA

Proposed Rule S

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH79

2490. LOW-SPEED VEHICLE PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.500

Legal Deadline: None

Abstract: Low-speed vehicles (LSV) have a maximum speed of between 20 and 25 miles per hour (mph). These vehicles are required to have certain equipment some of which does not have any performance requirements. The agency is proposing to set performance criteria for the various safety systems and hardware necessary for use on these vehicles.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard L. Van Iderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH80

2491. HEADLAMP GLARE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The current standard sets minimum and maximum intensities for headlamps to ensure that the two most important aspects of head lighting performance are balanced. These often conflicting aspects are (1) to assure the driver of the vehicles sees as much of the roadway possible, while (2) minimizing glare for other drivers using the road. The balance the agency has chosen of these two areas has changed very little since 1970. The agency has been receiving a significant number of public complaints about glare from other vehicles' headlamps. In light of significant technological changes, including improved halogen lamps and high intensity discharge lamps, fleet mix changes (nearly half of all new vehicles sold in 1998 were light trucks, with higher-mounted headlamps), and an increase in the age of the population, the agency wants to reexamine the balance it has chosen between seeing distance and glare to see if it is still appropriate. The agency will ask the public for comments and information to begin exploring this area more fully.

Timetable:

Action	Date	FR Cite
Request for Comments	09/28/01	66 FR 49594
Comment Period End	12/22/01	
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH81

2492. MOTORCYCLE HEADLAMP SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition rulemaking, the agency is considerі whether to modify the motorcycle headlamp system height of upper b and number of headlamp and light source.

Timetable:

Action	Date	FR C
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesse

Government Levels Affected: Non

Agency Contact: Richard L. Van Iderstine, Division Chief, Visibility Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D 20590
Phone: 202 366-5280

RIN: 2127–AH92

2493. IMPROVE MOTORCYCLE HELMET HEAD PROTECTION

Priority: Substantive, Nonsignifica

Legal Authority: 49 USC 322; 49 U 30111; 49 USC 30115; 49 USC 301 49 USC 30166

CFR Citation: 49 CFR 571.218

Legal Deadline: None

Abstract: In 1998, 2,284 motorcycl were killed and 49,000 injured in crashes on U.S. highways. The age believes that helmet usage by motorcyclists is the most effective method to reduce deaths and injur in motorcycle crashes. In order to improve the head protection for motorcyclists, the agency is propos to upgrade the performance standa and test procedures to incorporate technological advancements availa in the current market and to revie standard for harmonization with o major helmet standards.

Timetable:

Action	Date	FR
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesse

Government Levels Affected: No

Agency Contact: George Mouchah Team Leader, Special Vehicles an Systems Division, Department of

DOT—NHTSA

Proposed Rule Stage

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RIN: 2127–AI03

2494. LABEL PLACEMENT ON REAR IMPACT GUARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.223

Legal Deadline: None

Abstract: In response to petitions for rulemaking, the agency is proposing to allow trailer manufacturers additional flexibility in the placement of the permanent label on the guard to minimize the probability that the label will be exposed to conditions - environmental, operational, or otherwise - that may damage or destroy the guard while maintaining a location that is easily accessible and visible for inspection and enforcement purposes. Other portions of the petitions are denied.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AI04

2495. MOVING BARRIER TIRE SPECIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.214; 49 CFR 571.301

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing changing the currently specified G78-15 tires used in the moving barrier test and replacing them with P215-75R15 radial tires. The current tires are not readily available.

Timetable:

Action	Date	FR Cite
NPRM	10/10/01	66 FR 51629
NPRM Comment Period End	12/10/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AI05

2496. REORGANIZE AND HARMONIZE CONTROLS AND DISPLAYS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 SC 30166

CFR Citation: 49 CFR 571.101

Legal Deadline: None

Abstract: The agency is proposing to reorganize the controls and displays requirements to make them more user-friendly and to harmonize the standard with the Canadian Motor Vehicle Safety Standard No. 101 on the same subject. These proposed changes will list the symbols used in the standard to improve driver recognition of the function of controls and the meaning of telltales.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patrick Boyd, Division Chief, Vehicle Controls & Adapted Vehicles Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590
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RIN: 2127–AI09

2497. CONFIDENTIAL BUSINESS INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30166(M)

CFR Citation: 49 CFR 512

Legal Deadline: None

Abstract: This will propose a revision to the agency's confidential business information regulations to reflect a new provision signed into law under the transportation recall enhancement, accountability and documentation (tread) act, which provides for the disclosure of confidential business information received under the act under limited circumstances. This NPRM will propose also changes to the regulation that will streamline procedures, eliminate duplication, ensure the use of plain language and update its provision, consistent with current case law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Heidi L. Coleman, Assistant Chief Counsel for General Law, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI13

2498. "EARLY WARNING" DEFECT REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-414

CFR Citation: 49 CFR 554; 49 CFR 573

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DOT—NHTSA

Proposed Rule

Legal Deadline: Final, Statutory, June 30, 2002.
Initiation of rulemaking required not later than March 1; 2001.

Abstract: Tread Act requires NHTSA to publish a rule requiring manufacturers of motor vehicles and motor vehicle equipment to report on possible defects in their products, whether in United States or abroad, based on information in the possession of the manufacturer.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/01	66 FR 6532
ANPRM Comment Period End	03/23/01	
NPRM	01/00/02	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This will also respond to RIN AI31. This Rulemaking will combine the two RIN's AI25 and AI31 as of 8/2/01.

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RIN: 2127–AI25

2499. DEFECTS IN FOREIGN COUNTRIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30166(m)

CFR Citation: 49 CFR 573

Legal Deadline: None

Abstract: Rulemaking to implement statutory requirement that a manufacturer of motor vehicle and equipment report to NHTSA when it determines to conduct a safety-related recall on identical or substantially similar products outside the U.S. and when a foreign government determines that a safety-related campaign should be conducted.

Timetable:

Action	Date	FR Cite
NPRM	10/11/01	66 FR 51907
NPRM Comment Period End	12/10/01	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2127–AI26

2500. REIMBURSEMENT PRIOR TO RECALL

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30120(d)

CFR Citation: 49 CFR 573; 49 CFR 577

Legal Deadline: None

Abstract: Rule to implement section 6(b) of the TREAD Act, PL 106-414 by amending 49 CFR part 573, Defect and Noncompliance Notification, to add requirements that manufacturers' remedy programs concerning safety-related defects and noncompliance include plans for reimbursing owners or purchasers who incurred the cost of remedy within a "reasonable time" prior to the manufacturer's notification of the defect or noncompliance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2127–AI28

2501. DISPOSITION OF REPLACE TIRES

Priority: Substantive, Nonsignifica

Legal Authority: 49 USC 30102 to 30103; 49 USC 30112; 49 USC 30 tp 30121; 49 USC 30166 to 30167 Delegation of authority 49 CFR 1.

CFR Citation: 49 CFR 573

Legal Deadline: None

Abstract: Rule to implement sect of the TREAD Act, PL 106-414 49 30120(d) by requiring a manufact who conducts a campaign to rem a safety-related defect or noncompliance that involves the replacement of tires to develop a regarding the disposition of the ti that are replaced. The plan would address how to prevent, by mean reasonably within the manufactu control, the disposal of replaced t in landfills, particularly through shredding, crumbling, recycling, recovery, and other alternative beneficial non-vehicular uses.

Timetable:

Action	Date	FR
NPRM	01/00/02	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: N

Agency Contact: Enid Rubenstei Trial Attorney, Department of Transportation, National Highwa Traffic Safety Administration, 52 NCC-10, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-5252
Fax: 202 366-2820

RIN: 2127–AI29

2502. RECORD RETENTION (AMENDMENT)

Priority: Substantive, Nonsignifi

Legal Authority: 49 USC 30112; USC 30115 to 30121; 49 USC 30

CFR Citation: 49 CFR 576

Legal Deadline: None

Abstract: This will propose to a 49 CFR part 576 (Record Retenti extend its recordkeeping require in order to implement newly en requirements under the Transpo Recall, Enhancement, Accountab

DOT—NHTSA

Proposed Rule Stage

and Documentation (TREAD) Act PL 106-414 signed 11/1/00), codified at 49 USC 30120.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	
Final Action	05/00/02	
Final Action Effective	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This will also respond to RIN AI25. RIN AI31 is being closed out because this rulemaking Action is being combined with RIN AI25 "Early Warning" Defect Reporting Requirements as of 8/2/01.

Agency Contact: Enid Rubenstein, Trial Attorney, Department of Transportation, National Highway Traffic Safety Administration, 5219, NCC-10, 400 Seventh Street, SW, Washington, DC 20590
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RIN: 2127–AI31

2503. IMPROVE TIRE SAFETY INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575

Legal Deadline: Other, Statutory, December 1, 2000, Advanced Notice of Proposed Rulemaking.
Final, Statutory, June 1, 2002.

Abstract: The recently enacted Transportation Recall Enhancement Accountability and Documentation (TREAD) Act requires the Secretary of Transportation to initiate rulemaking to improve the labeling of tires to assist consumers in identifying tires that may be the subject of a safety recall. Pursuant to that Act, this ANPRM states that the agency is considering amendments to its regulations to improve the tire information and its availability and understandability to consumers. To aid in this effect, the agency is seeking responses from the public to questions relating to such matters as Tire Identification Number content, readability and location, loading, plies and cords, tread wear indicator, Uniform Tire Quality Grading System, speed rating, run-flat and extended mobility tires, tire inflation pressure, and dissemination of tire safety information.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/00	65 FR 75222
ANPRM Comment Period End	01/30/01	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Versailles, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057

RIN: 2127–AI32

2504. IMPROVING THE SAFETY OF CHILD RESTRAINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: Final, Statutory, November 30, 2002.

Abstract: The recently enacted Transportation Recall Enhancement Accountability and Documentation (TREAD) Act requires the Secretary of Transportation to initiate rulemaking that will improve the safety of child restraints, including minimizing head injuries from side impact collisions. The agency will consider whether to (1) require more comprehensive tests of child restraints using an array of crash conditions and an updated test seat assembly; (2) use test dummies that represent a greater range of sizes of children and that incorporate current technologies; (3) require improved protection from head injuries in side- and rear-impact crashes; (4) provide consumer information on the physical compatibility of child restraints and vehicle seats on a model-by-model basis; (5) prescribe clearer and simpler labels and instructions on child restraints; (6) consider restraints for children weighing up to 80 pounds; (7) apply scaled injury criteria performance levels, including neck injury; and (8) include a child restraint in each vehicle crash tested under the New Car Assessment Program.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI34

2505. SEAT BELT FIT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is reviewing a petition for rulemaking requesting the extension of seat belt length be an option when purchasing a new vehicle and requesting vehicle manufacturers to make seat belt extenders available for all models.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger Saul, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI36

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Proposed Rule

2506. SEAT BELT EMERGENCY LOCKING RETRACTOR

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.209

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing clarifications concerning the test procedure for the acceleration pulse shape, onset rate, time duration, and acceleration tolerance for seat belt emergency locking retractor.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger Saul, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Fax: 202 366-4329
Email: rsaul@nhtsa.dot.gov

RIN: 2127–AI38

2507. VOLUNTARILY INSTALLED SEAT BELT ASSEMBLY ANCHORAGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: In a final rule published June 12, 1998 (63 FR 32143, RIN 2127-AF91), the amendment required anchorages for voluntarily installed shoulder belts must comply with the current standard. This change applied mainly to seat locations where the minimum requirements were lap belts, such as the center rear seat in passenger cars. This change did not apply to seats where no seat belt was required. The agency is proposing to extend the anchorage requirement to seats where the entire seat belt assembly is voluntarily installed. This change will mainly affect passenger seats on large buses and large school buses where the customer decides to order the bus with seat belts.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This action is currently in research.

Agency Contact: Roger Saul, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI40

2508. +AUTOMOTIVE FUEL ECONOMY MANUFACTURING INCENTIVE FOR ALTERNATIVE FUEL VEHICLES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 49 USC 32905(f); 49 USC 32906(a)(l)(B)

CFR Citation: 49 CFR 538

Legal Deadline: Final, Statutory, December 31, 2001, Notice to either extend up to four years or discontinue the program after Model Year 2004.

Abstract: The agency must, by December 31, 2001, publish a notice that either extends the incentive program whereby automotive manufacturers earn Corporate Average Fuel Economy credits for the production of dual-fuel vehicles for up to four years beyond Model Year 2004, with a maximum allowable increase in average fuel economy per manufacturer of 0.9 miles per gallon, or explains the rationale for not extending the incentive program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kenneth Richa Katz, Lead Engineer, Consumer Program Division, Department of Transportation, National Highwa Traffic Safety Administration, 40 Seventh Street SW., Washington 20590
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Fax: 202 366-4329
Email: kkatz@nhtsa.dot.gov

RIN: 2127–AI41

2509. IDLE STOP TECHNOLOG IN SOME HYBRID ELECTRIC VEHICLES

Priority: Substantive, Nonsignifi

Legal Authority: 49 USC 322; 4 30111; 49 USC 30115; 49 USC 3 49 USC 30166

CFR Citation: 49 CFR 571.102

Legal Deadline: None

Abstract: The agency is proposi amend the standard to clarify th of the standard and allow it to accommodate "idle stop techno used in some hybrid electric ve This will respond to existing interpretations which promised modification.

Timetable:

Action	Date	F
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Busine

Government Levels Affected:

Agency Contact: Patrick Boyd, Division Chief, Vehicle Control Adapted Vehicles Division, Dep of Transportation, National Hig Traffic Safety Administration, 4 Seventh Street, SW, Washingto 20590
Phone: 202 366-6346
Fax: 202 366-4329
Email: pboyd@nhtsa.dot.gov

RIN: 2127–AI43

2510. +OPERATION OF MOTO VEHICLES BY INTOXICATED PERSONS

Priority: Economically Signific Major under 5 USC 801.

Legal Authority: PL 106-346, s

CFR Citation: 23 CFR 1225

Legal Deadline: None

DOT—NHTSA

Proposed Rule Stage

Abstract: The Transportation Equity Act for the 21st Century (TEA-21) established a grant program under which states could qualify for incentive funds if they enacted and enforced a law that provides that any person with a blood alcohol concentration of .08 percent or greater while operating a motor vehicle in the state is deemed to have committed a per se offense of driving while intoxicated or an equivalent per se offense. The agency published a final rule implementing that incentive grant program. Section 351 of the Department of Transportation (DOT) Appropriations Act for Fiscal Year (FY) 2001 (PL 106-346) contains a new provision requiring the withholding of certain Federal-aid highway funds from a state, beginning in fiscal year 2004, if the state has not enacted and is not enforcing such a law. The agency is proposing to amend the regulation implementing the incentive grant program established in TEA-21 to reflect the new sanctions provisions established in the DOT appropriations set for FY 2001.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Heidi L. Coleman, Assistant Chief Counsel for General Law, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834

Marlene Markison, Chief, Program Support, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AI44

2511. PROCEDURES FOR PARTICIPATING IN AND RECEIVING DATA FROM THE NATIONAL DRIVER REGISTRATION PROBLEM DRIVER POINTER SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30301 to 30308; PL 106-159, sec 204

CFR Citation: 23 CFR 1327

Legal Deadline: None

Abstract: The agency is amending the National Driver Register regulations to implement an amendment made by the Motor Carrier Safety Improvement Act of 1999 (PL 106-159). The amendment requires a state, before issuing or renewing a motor vehicle operator's license to an individual, to query both the National Driver Register and the Commercial Driver's License Information System on the individual's driving record.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800

RIN: 2127–AI45

2512. EXPANDING THE AUTO PARTS MARKING REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33103

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: In accordance with the Anti Car Theft Act of 1992, the Attorney General was required to report on the effectiveness of expanding the parts marking requirements of the theft prevention standard to the remaining motor vehicle lines. On the basis of the available evidence presented, the Attorney General found that the evidence did not support a finding that requiring parts marking would not substantially inhibit chop shop operations and auto theft and therefore, recommended expanding the parts marking requirements to the remaining motor vehicle lines. Based on the results of the report, the agency is required to prepare rulemaking to extend the theft prevention standard to the remaining motor vehicle lines.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Email: rproctor@nhtsa.dot.gov

RIN: 2127–AI46

2513. PARKING BRAKES FOR NON-SCHOOL BUS VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: The agency is proposing to update the standard to require non-school bus vehicles with a gross vehicle weight rating (GVWR) over 10,000 pounds to be equipped with a hydraulic parking brake system.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI47

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2514. • CARGO CARRYING CAPACITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering mandatory consumer information in the form of a label that will inform the consumer of the Cargo Carrying Capacity (CCC) of motor homes, travel trailers, and 5th wheel travel trailers. Such labeling will help the consumer make informed decisions during the purchasing process, act as a reference during cargo loading and encourage the recreational vehicle industry to allow for greater cargo carrying capacities which in turn will reduce instances of overloading.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patrick Boyd, Division Chief, Vehicle Controls & Adapted Vehicles Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-6346
Fax: 202 366-4329
Email: pboyd@nhtsa.dot.gov

RIN: 2127–AI50

2515. • CONVEX MIRRORS FOR COMMERCIAL TRUCKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering amending the standard to require that all commercial trucks traveling on the interstate highway system have convex mirrors affixed to their front right and left fenders (such as those required on school buses).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AI52

2516. • ENHANCE PASSENGER-SIDE MIRROR SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering amending the standard by extending the requirements to MPVs and trucks (independent of their weight) to allow enhanced passenger-side safer mirror systems.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AI53

2517. • +IMPROVED TIRE SAFET

Priority: Economically Significant Major under 5 USC 801.

Legal Authority: 49 USC 322; 49 U 30111; 49 USC 30115; 49 USC 301 49 USC 30166

CFR Citation: 49 CFR 571.139

Legal Deadline: Final, Statutory, J 1, 2002.

Abstract: The recently-enacted Transportation Recall Enhancemer Accountability and Documentation (TREAD) Act requires the Secretar Transportation to initiate rulemaki improve the safety requirements o tires. The agency is proposing a ne tire standard applicable to radial a non-radial tires that are mounted o passenger cars, light truck vehicles multipurpose vehicles, but not tire motorcycles and heavy trucks. The proposed requirements include tes high speed performance, endurano low pressure validation, low press high speed performance, road haza impact, resistance to bead unseatin and aging.

Timetable:

Action	Date	FR
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesse

Government Levels Affected: Non

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transporta National Highway Traffic Safety Administration, 400 Seventh Stree SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329
Email: gsoodoo@nhtsa.dot.gov

RIN: 2127–AI54

2518. • CHILD SAFETY INFORMA LABELS

Priority: Substantive, Nonsignifican

Legal Authority: 49 USC 322; 49 U 30111; 49 USC 30115; 49 USC 301 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: Final, Statutory, November 1, 2002.

Abstract: The recently enacted Transportation Recall Enhancemen Accountability and documentation

DOT—NHTSA

Proposed Rule Stage

(TREAD) Act requires the Secretary of Transportation to initiate rulemaking to improve the consumer information for child restraints by prescribing clearer and simpler labels and instructions that are required to be placed on child restraints.

Timetable:

Action	Date	FR Cite
NPRM	11/02/01	66 FR 55623
NPRM Comment Period End	01/02/02	
Final Action	11/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary Versailles, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057

RIN: 2127–AI55

2519. • HORIZONTAL DISCHARGE TRAILERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 UCS 30117; 49 USC 30166

CFR Citation: 49 CFR 571.224

Legal Deadline: None

Abstract: In response to two petitions for rulemaking, the agency is considering excluding semitrailers equipped with "horizontal discharge trailers" from the current standard. This exclusion would result in very minimal risk of safety.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI56

2520. • HEAVIER HYBRID III TYPE 6-YEAR-OLD SIZE TEST DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; ...

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is proposing to incorporate a heavier 6-year-old child dummy as part of the Hybrid III test dummy family. This dummy will have weight added to the existing dummy, making it heavier than 60 pounds. The weighted 6-year-old dummy would have application for testing child restraint systems which are rated for weights above the current 6-year-old dummy weight and would serve as an interim device until such time as the Hybrid III 10-year-old dummy has been fully developed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI58

Department of Transportation (DOT)
National Highway Traffic Safety Administration (NHTSA)

Final Rule Stage

2521. BRAKE LINING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: Petitions from R. Grabowsky and American Trucking Association (ATA) requested initiation of rulemaking concerning brake linings (all vehicles and aftermarket). Mr. Grabowsky petitioned relative to stability, friction level, fade, wear, and identification of linings. ATA petitioned relative to friction level and identification of linings for heavy vehicles only. Petitions concerned both performance levels and test procedures, and were granted.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AC66

2522. +PLATFORM LIFT SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.403; 49 CFR 571.404

Legal Deadline: None

Abstract: This supplemental notice proposes to establish two new safety standards: an equipment standard specifying requirements for platform lifts; and a vehicle standard for all vehicles equipped with such lifts. This

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supplemental notice significantly differs from our original proposal in several respects. Most notably, the scope of our proposal has been expanded to platform lifts installed on all motor vehicles. Other significant changes are additional interlock requirements, improved wheelchair retention and platform slip resistance tests, and, in some instances, lesser compliance standards for lifts installed on vehicles typically used solely for private transport. This action is considered significant due to substantial public interest in transportation of individuals with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	02/26/93	58 FR 11562
NPRM Comment Period End	04/27/93	
SNPRM	07/27/00	65 FR 46227
Correction	08/04/00	65 FR 47946
SNPRM Comment Period End	10/25/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gayle Dalrymple, Safety Engineer, Vehicle Controls and Adapted Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5559

RIN: 2127–AD50

2523. RADIATOR SAFETY CAP

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.402

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing a new Federal motor vehicle safety standard regulating new radiator caps and coolant reservoir caps, and new passenger cars, multipurpose passenger vehicles and light trucks with such caps. The agency believes that this new standard, if implemented, would result in fewer scald injuries that occur when people attempt to remove caps from motor vehicle radiators or coolant reservoirs that are under high pressure and contain hot fluids. However, this rulemaking would not require that radiator caps or coolant reservoir caps be provided on any motor vehicle.

Timetable:

Action	Date	FR Cite
Request for Comments	06/10/93	58 FR 32503
Comment Period End	08/09/93	
NPRM	06/01/01	66 FR 29747
NPRM Comment Period End	07/31/01	
NPRM Comment Period Extended	08/02/01	66 FR 40176
NPRM Comment Period End	09/28/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AE59

2524. UPGRADE FUEL INTEGRITY PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: An advance notice of proposed rulemaking in 1995 announced the agency's plan to consider upgrading the standard by making the current crash requirements more stringent and by broadening the standard's focus to include mitigation concepts related to fuel system components and environmental and aging tests related to components. The notice also requested comments on the agency's plan to explore a three-phase approach to upgrading the standard, data, methods, and strategies which may assist in the agency's regulatory decisions in defining specific requirements and test procedures for upgrading the standard. Based on th responses to the notice and availabl data, the agency is proposing to repl the current rear impact test procedu with a more stringent test procedure The agency is also proposing to repl the standard's current side impact t requirements with the side impact t requirements of Federal Motor Vehi Safety Standard No. 214, Side Impa Protection.

Timetable:

Action	Date	FR Ci
Request for Comments	12/14/92	57 FR 59
Comment Period End	02/12/93	
ANPRM	04/12/95	60 FR 18
ANPRM Comment Period End	06/12/95	
NPRM	11/13/00	65 FR 67
NPRM Comment Period End	02/12/01	65 FR 78
Final Action.	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This action will respond to RIN 2127-AE83. On December 15, 2000, extension of comment period was published in response to petitions.

Agency Contact: George Mouchaho Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AF36

2525. ALTERNATIVE GEOMETRIC VISIBILITY REQUIREMENTS FOR LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 US 30111; 49 USC 30115; 49 USC 3011 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition f rulemaking, the agency is proposing harmonize the lighting standard's geometric visibility requirements fo signal lamps and rear side marker c with those of the ECE. Harmonizatio

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of the standard worldwide, without reducing safety, would allow manufacturers to reduce costs by producing to a single world vehicle standard rather than several, thus reducing costs and improving the flow of trade. The agency is issuing additional/alternative proposals.

Timetable:

Action	Date	FR Cite
NPRM	10/26/95	60 FR 54833
NPRM Comment Period End	12/26/95	
SNPRM	12/10/98	63 FR 68233
SNPRM Comment Period End	03/10/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: On February 27, 1997 (62 FR 8883), the agency terminated rulemaking in which the agency had asked for comments on whether the performance and installation of front and rear fog lamps should be regulated. In response to these comments, the SAE has established a Fog Lamp Task Force to develop an internationally-acceptable fog lamp standard, on which a Federal standard could be based.

ANALYSIS: Regulatory Evaluation, 10/26/95, 60 FR 54833

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RIN: 2127–AF75

2526. POWER-OPERATED WINDOWS: ROOF PANELS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to amend the test procedure used to demonstrate compliance by adding an alternative testing specification for a non-contact automatic reversal system, in order to provide a more meaningful and realistic method for evaluating the compliance of such systems which do not rely on contact to sense an obstruction. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	06/04/96	61 FR 28124
Correction	06/14/96	61 FR 30209
NPRM Comment Period End	08/05/96	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AF83

2527. DEALER NOTIFICATION OF DEFECT OR NONCOMPLIANCE DETERMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30102; 49 USC 30103; 49 USC 30111; 49 USC 30112; 49 USC 30115; 49 USC 30116; 49 USC 30118; 49 USC 30119; 49 USC 30120; 49 USC 30163; 49 USC 30165

CFR Citation: 49 CFR 573; 49 CFR 577

Legal Deadline: None

Abstract: The rule will implement an amendment to 49 USC chapter 301 which prohibits dealers from selling motor vehicles or motor vehicle equipment that have been determined to contain a safety-related defect or noncompliance with a Federal motor vehicle safety standard until the defect or noncompliance is remedied. It will set forth criteria to govern the timing and content of notifications of defects and noncompliances that manufacturers must send to their dealers.

Timetable:

Action	Date	FR Cite
NPRM	09/27/93	58 FR 50314
NPRM Comment Period End	10/27/93	
SNPRM	05/19/99	64 FR 27227
SNPRM Comment Period End	06/18/99	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jonathan D. White, Chief, Recall Analysis Division, Office of Defects Investigation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG27

2528. POWER WINDOW SAFETY SWITCHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency proposed to require each power operated window, interior partition, and roof panel in a motor vehicle to be equipped with a switch designed so that contact by a form representing a small child's knee would not close window, partition, or panel.

Timetable:

Action	Date	FR Cite
NPRM	11/15/96	61 FR 58504
NPRM Comment Period End	01/14/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG36

2529. SEAT BELT POSITIONING DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing a labeling requirement for seat belt positioning devices. This label would consist of a warning regarding the suitability of these devices for a particular height/weight/age of child.

Timetable:

Action	Date	FR Cite
NPRM	08/13/99	64 FR 44164
NPRM Comment Period End	10/12/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG49

2530. GLARE REDUCTION FROM DAYTIME RUNNING LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is proposing to amend the lighting standard to reduce glare from daytime running lamps (DRLs). It would do this in three stages. One year after publication of the final rule, DRLs utilizing the upper headlamp beam would not be permitted to exceed 3,000 candela (cd) at any point, thus becoming subject to the maximum candela permitted for DRLs other than headlamps. This same limit would be applied to the upper half of lower beam DRLs two years after publication of the final rule. Finally, four years after publication of the final rule, all DRLs, except lower beam DRLs, would be subject to a flat 1,500 cd limit. Lower beam DRLs would be limited to 1,500 cd at horizontal or above. This action is intended to provide the public with all the conspicuity benefits of DRLs while reducing glare and is based on research that has become available since the final rule establishing DRLs was published in 1993.

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 42348
NPRM Comment Period End	09/21/98	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG86

2531. ADMINISTRATIVE REWRITE FOR HEADLAMP REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency has proposed to rewrite the sections relating to headlighting. The rewrite is important because of the standard's age and numerous amendments which have made it difficult to read and interpret. The revised standard should reduce burden especially to small manufacturers because of improved clarity. The reorganization of the sections relating to other lamps will addressed in a separate rulemaking.

Timetable:

Action	Date	FR Ci
NPRM	11/12/98	63 FR 63
Comment Period End 4/11/99	02/08/99	64 FR 60
NPRM Comment Period End	02/10/99	
Final	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG87

2532. SIGNAL LAMPS USED WITH LIGHT EMITTING DIODES

Priority: Substantive, Nonsignifica

Legal Authority: 49 USC 322; 49 U 30111; 49 USC 30115; 49 USC 301 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition rulemaking, the agency is proposir revise the requirements for signal equipped with 3 or more light emi diodes (LED). The current requirer have become design restrictive an service burden for vehicle and sig lamp manufacturers.

Timetable:

Action	Date	FR
NPRM	06/24/98	63 FR
Extension of Comment Period	08/03/98	63 FR
NPRM Comment Period End	10/09/98	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Business

Government Levels Affected: No

Agency Contact: Richard VanIde Division Chief, Visibility and Inju Prevention Division, Department

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RIN: 2127–AG88

2533. MOTORCYCLE MOUNTED REFLEX REFLECTOR HEIGHT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering allowing a lower minimum mounting height for side reflex reflectors on motorcycles. The intent is to harmonize United States lighting safety standards with European and Asian reflector position regulations and improve the flow of trade by creating "windows of harmonization" that will allow manufacturers to market "common" vehicles in global markets.

Timetable:

Action	Date	FR Cite
Agency Decision	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG92

2534. +ALLOCATION OF FUEL ECONOMY CREDITS

Priority: Other Significant

Legal Authority: 49 USC 32903

CFR Citation: 49 CFR 534

Legal Deadline: None

Abstract: The agency is proposing rulemaking to clarify when and how predecessor and successor automobile manufacturers may use the fuel economy credits of the predecessor or successor. The use of carry forward or carry back credits will be specified for manufacturers that merge. This action is considered significant because it will affect the treatment of the Corporate Average Fuel Economy (CAFE) penalties.

Timetable:

Action	Date	FR Cite
NPRM	01/22/01	66 FR 6523
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG97

2535. PLACEMENT OF WHEELCHAIR RESTRAINTS ON BUSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30117; 49 USC 30166; 49 USC 322; 49 USC 30111; 49 USC 30115

CFR Citation: 49 CFR 571.217

Legal Deadline: None

Abstract: To prevent blocking of the emergency exits, the agency is proposing to add a new section to the standard to not allow the placement of wheelchair securement anchorages or other devices that protrude into the aisle of an emergency exit in all buses.

Timetable:

Action	Date	FR Cite
NPRM	03/05/99	64 FR 10604
NPRM Comment Period End	05/04/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH03

2536. INCORPORATE THE 1996 REVISION OF THE AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to incorporate the 1996 revision of the American National Standards Institute (ANSI) standard for safety glazing used in motor vehicles and other minor revisions into the agency's current standard for safety glazing used in motor vehicles.

Timetable:

Action	Date	FR Cite
NPRM	08/04/99	64 FR 42330
NPRM Comment Period End	10/04/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH08

2537. +HARMONIZATION OF HEAD RESTRAINTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; 49 USC 322

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CFR Citation: 49 CFR 571.202

Legal Deadline: None

Abstract: The agency has proposed to upgrade the current head restraint requirements to increase safety. The proposal also, until the upgraded requirements become effective, allows manufacturers to certify their vehicles either to the existing U.S. requirements or to the Economic Commission for Europe (ECE) Regulation No. 25. The upgrade proposed performance requirements intended to assure that the head restraint, if adjusted, will remain locked in specific height positions and calls for the installation of head restraints in rear seats. This action is concerned significant due to the expected high cost to the private sector for the modifications to the standard.

Timetable:

Action	Date	FR Cite
NPRM	01/04/01	66 FR 967
NPRM Comment Period End	03/05/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH09

2538. TRUCK AIR BRAKING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to modify the air brake requirements for five of the ten recommended modifications. These areas are to provide consistency between table I., Stopping Sequence, item 4(b) and S5.7.3(b); provide wording for single-unit vehicles to prevent single-unit axle overloading; clarify emergency brake requirements for trucks and buses; address the misconceptions about the wheel lock provisions as they apply to vehicles with tandem axles; and correct two minor typographical errors. The other five recommendations will be denied.

Timetable:

Action	Date	FR Cite
NPRM	02/03/99	64 FR 5259
NPRM Comment Period End	04/05/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH11

2539. CHILD RESTRAINTS FOR OLDER CHILDREN

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requesting comments on whether the child restraint standard should be amended to facilitate the production of lap belt-installed booster seats and other child restraints for children weighing over 18 kilograms, such as by allowing use of a tether in some of the compliance tests.

Timetable:

Action	Date	FR Cite
Request for Comment	07/07/99	64 FR 36657
Comment Period End	09/07/99	
Agency Decision	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH14

2540. HEAVY VEHICLE ANTILOCK BRAKE SYSTEM (ABS) PERFORMANCE REQUIREMENT

Priority: Substantive, Nonsignifican

Legal Authority: 49 USC 322; 49 U 30111; 49 USC 30115; 49 USC 301 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 C 571.121

Legal Deadline: None

Abstract: The agency has proposed performance tests for ABS-equippe single unit trucks and buses. ABS equipment requirements became effective for air-braked single unit trucks, buses, and trailers on March 1998, and for hydraulic-braked truc and buses becomes effective on Ma 1, 1999. The agency indicated in pr rulemaking notices that it would consider supplementing these ABS equipment requirements with performance requirements after conducting tests to determine if su testings are practicable and repeata for trucks and buses.

Timetable:

Action	Date	FR C
NPRM	12/21/99	64 FR 7
NPRM Comment Period End	02/22/00	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesse

Government Levels Affected: Non

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RIN: 2127–AH16

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2541. EJECTION MITIGATION USING ADVANCED GLAZING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: In response to the Intermodal Surface Transportation Efficiency Act of 1991, the agency is requesting comments on the report titled "Ejection Mitigation Using Advanced Glazing: Status Report II." This report is to inform the public about the agency's research findings to date on advanced glazing materials that may prevent ejection on vehicle occupants through motor vehicle windows during crashes.

Timetable:

Action	Date	FR Cite
Request for Comments	07/19/00	65 FR 44710
Comment Period End	11/16/00	
Agency Decision	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH50

2542. UPPER INTERIOR IMPACT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: At the request of the manufacturers' organizations, the agency is proposing to amend the upper interior impact requirements (1) to modify the minimum distance between certain targets on vertical surfaces inside a vehicle and (2) add new definitions and test procedures for new-style door frames and vertical seat belt mounting structures.

Timetable:

Action	Date	FR Cite
NPRM	04/05/00	65 FR 17843
NPRM Comment Period End	06/05/00	
NPRM Comment Period Extended	06/07/00	65 FR 36106
NPRM Comment Period End	07/05/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH61

2543. REGISTERED IMPORTERS OF VEHICLES NOT ORIGINALLY MANUFACTURED TO CONFORM WITH THE FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30141; 49 USC 30147

CFR Citation: 49 CFR 592

Legal Deadline: None

Abstract: The agency is proposing to reduce regulatory burdens associated with importation of Canadian vehicles for resale in the United States when those vehicles already comply in all essential respects with the Federal motor vehicle safety standards. This proposal will enhance safety by revising application procedures to ensure a higher caliber of registered importers and clarifying existing obligations.

Timetable:

Action	Date	FR Cite
NPRM	11/20/00	65 FR 69810
NPRM Comment Period	02/01/01	
Final Action Effective	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH67

2544. VEHICLES WITH RAISED ROOFS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published on April 27, 1999 (64 FR 22567, RIN 2127-AF40) that made testing more suitable for vehicles with raised or sloped roof structures, the petitioners requested that the agency modify the portion of the rule that pertains to raised roof vehicles, particularly those vehicles used for transporting disabled persons. The petitioners claim that the test plate position requirement for these vehicles causes the plate's rear edge to contact the raised roof structure in a manner which causes abnormal penetration and failure.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/00	65 FR 4579
Interim Final Rule Effective	01/31/00	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH74

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2545. SCHOOL BUS BODY JOINT STRENGTH

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.221

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published on November 5, 1998 (63 FR 59732 RIN 2127-AC19) which extended the applicability of Standard No. 221, school bus body joint strength, to school buses with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, narrowed an exclusion of maintenance access panels from the requirements of the standard, and revised testing requirements, the agency is considering amending the definition of bus body and allowing for the testing of surrogate bus body joint. Changing the definition could exclude those joints in the van cutaway chassis and enhance the possibility of allowing van cutaways to be manufactured into school buses.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/06/00	65 FR 11751
Interim Final Rule Effective	04/05/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: In response to petitions for reconsideration, this final rule (4/20/01, 66 FR 20199)extends the effective date of the November 5, 1998, final rule to 06/01/2002. Other issues are still under consideration.

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RIN: 2127–AH84

2546. STOWABLE OR FOLD-AWAY CHILD RESTRAINT ANCHORAGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.225

Legal Deadline: None

Abstract: This action proposes requests by petitions for reconsideration to permit stowing and fold-away anchors on vehicles. The proposal would set performance and other requirements for such anchors. This pertains to the requirements established in the final rule published March 5, 1999 (64 FR 10785, RIN 2127-AG50).

Timetable:

Action	Date	FR Cite
Agency Decision	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Other issued raised by the petitioners are being addressed in RIN 2127-AH65 - Child Restraint Anchorage Systems - Part 1 and RIN 2127-AH86 - Child Restraint Anchorage Systems - Part 2.

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RIN: 2127–AH85

2547. CLARIFY TEST PROCEDURES FOR BRAKE FLUIDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.116

Legal Deadline: None

Abstract: The agency has proposed to revise the corrosion and evaporation test procedures. These revisions were intended to improve the levels of compliance test repeatability and/or reproducibility.

Timetable:

Action	Date	FR
NPRM	01/16/01	66 FR 3
NPRM Comment Period End	03/19/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH96

2548. CHILD RESTRAINT ANCHORAGE SYSTEMS—PART 2

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 US 30111; 49 USC 30115; 49 USC 3011 49 USC 30166

CFR Citation: 49 CFR 571.225

Legal Deadline: None

Abstract: This action responds to several petitions for reconsideration concerning long-term testing procedures regarding the strength an other issues of universal child restra anchors. These requirements were established by the final rule on universal child restraint anchorages published on March 5, 1999 (64 FR 10785, RIN 2127-AG50). An earlier action (RIN 2127-AH65) responded t other issues raised by the petitions.

Timetable:

Action	Date	FR Cit
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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DOT—NHTSA

Final Rule Stage

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RIN: 2127–AH99

2549. HYBRID III TYPE 6-YEAR-OLD SIZE TEST DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is responding to petitions for reconsideration of our final rule published January 13, 2000 (65 FR 2059, RIN 2127-AG76) which established design and performance specifications for a new, more advanced 6-year-old child dummy.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AI00

2550. FIFTH PERCENTILE FEMALE TEST DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is responding to petitions for reconsideration of our final rule published March 1, 2000 (65 FR 10961, RIN 2127-AG66) which adopted the Hybrid III small female size dummy.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI01

2551. HYBRID III TYPE 3-YEAR-OLD SIZE TEST DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is responding to petitions for reconsideration of our final rule published March 22, 2000 (65 FR 15254, RIN 2127-AG77) which established design and performance specifications for a new, more advanced 3-year-old child dummy.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI02

2552. +ADVANCED AIR BAGS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is responding to petitions for reconsideration of our final rule published May 12, 2000 (65 FR 30679, RIN 2127-AG70) which required future air bags be designed to create less risk of serious air bag-induced injuries that current air bags, particularly for small women and young children; and provided improved frontal crash protection for all occupants, by means that included advanced air bag technology. This action is considered significant because of substantial public interest and controversy.

Timetable:

Action	Date	FR Cite
Announces Technical Workshop	11/14/00	65 FR 68107
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Agency held a technical workshop on December 6, 2000, to give the agency an opportunity to make sure it understands the petitions' issues concerning some of the test procedures for the advanced air bag final rule.

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RIN: 2127–AI10

2553. ACCELERATION OF MANUFACTURER REMEDY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30120(c)

CFR Citation: 49 CFR 573.5(c)(9)

Legal Deadline: None

Abstract: Rule to implement Sec. 6(a) of the TREAD Act, PL 106-414 by amending NHTSA's existing regulation on Defect and Noncompliance Reports (49 CFR Part 573) to require manufacturers to accelerate recalls that are not likely to be capable of completion in a reasonable time.

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Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
NPRM Comment Period End	02/00/01	
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2127–AI27

2554. PROHIBITION OF SALE OR LEASE OF EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30120(j)

CFR Citation: 49 CFR 573; 49 CFR 577

Legal Deadline: None

Abstract: Rule regarding statutory prohibitions on the sale or lease of noncompliant and defective motor vehicles and equipment.

Timetable:

Action	Date	FR Cite
NPRM	07/23/01	66 FR 38247
NPRM Comment Period End	09/21/01	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AI30

2555. TIRE PRESSURE MONITORING SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.138; 49 CFR 571.101

Legal Deadline: Final, Statutory, November 30, 2001.

Abstract: The recently-enacted Transportation Recall Enhancement Accountability and Documentation (TREAD) Act requires the Secretary of Transportation to initiate rulemaking to require a warning system in new motor vehicles to indicate to the operator when a tire is significantly underinflated. The agency is proposing to establish a new standard for Tire Pressure Monitoring System (TPMS) on every new vehicle that uses a passenger car tire. A TPMS would detect low pressure in a tire and alert the driver through a "low tire" warning signal.

Timetable:

Action	Date	FR Cite
NPRM	07/26/01	66 FR 38982
NPRM Comment Period End	09/06/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AI33

2556. TRAILER TEST RIG

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering a technical amendment to the standard to delete a figure which is no longer referenced and to correct several typographical errors and omissions.

Timetable:

Action	Date	FR C
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AI48

2557. • COMPLIANCE FOR MULTISTAGE MANUFACTURERS ALTERERS

Priority: Substantive, Nonsignifican

Legal Authority: 49 USC 322; 49 US 30111; 49 USC 30115; 49 USC 3011 49 USC 30166

CFR Citation: 49 CFR 571.225

Legal Deadline: None

Abstract: The agency is responding a petition for extraordinary relief of compliance date by which final-stag manufacturers and alterers must ins tether anchorages in affected vehicl to comply with our final rule publis March 5, 1999 (64 FR 10786, RIN 21 AG50).

Timetable:

Action	Date	FR C
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AI49

DOT—NHTSA

Final Rule Stage

2558. • ELECTRICAL VEHICLE SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.305

Legal Deadline: None

Abstract: The agency is responding to petitions for reconsideration of a final rule published on September 27, 2000 (65 FR 57980, RIN 2127-AF34) that established a new safety standard that addressed safety issues exclusive to electric vehicles (EV). The petitioners requested changes in: 1) the application section to make it clear that the 48 volts applicability was nominal voltage; 2) changes to the battery state of charge requirements to take into account hybrid-electric vehicles that do not contain provisions for external charging; and 3) changes to the electrical isolation test procedure measurement locations.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AI57

Department of Transportation (DOT)
National Highway Traffic Safety Administration (NHTSA)

Long-Term Actions

2559. +CRASHWORTHINESS RATINGS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 5

Legal Deadline: None

Abstract: This action would require manufacturers to disseminate crashworthiness performance information concerning their cars to the public, to provide consumers with comparative information on the crashworthiness performance of new car models. This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace. The agency requested public comments on the National Academy of Sciences (NAS) study titled "Shopping for Safety - Providing Consumer Automotive Safety Information," (TRB Special Report 248) and how that study should be reflected in the agency's decision on whether, and if so, how, to proceed with a crashworthiness rating for automobiles.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7025
NPRM Comment Period End	04/22/81	
Request for Comments	05/20/97	62 FR 27648
Comment Period End	08/18/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Versailles, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057

RIN: 2127–AA03

2560. +FLAMMABILITY OF INTERIOR MATERIALS—SCHOOL BUSES

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.302

Legal Deadline: None

Abstract: Advance notice of proposed rulemaking requested comments regarding possible upgrade of Standard 302 to reduce the risk of fire to school bus occupants. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44627
ANPRM Comment Period End	01/03/89	
Request for Comments	02/26/91	56 FR 7826
Comment Period End	04/29/91	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2127–AA44

2561. REVIEW: ODOMETER FRAUD

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 580

Legal Deadline: None

Abstract: This review involves analysis of the incident rates and costs of odometer fraud and an assessment of State and Federal efforts to combat odometer fraud. To complete this review, the agency has requested permission to collect a sample of odometer readings of registered passenger cars that are less than 10 years old from vehicle dealers, distributors, vehicle title files, and State Department of Motor Vehicle agencies. Congress has directed the agency to conduct this review.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/95	

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Action	Date	FR Cite
Collection of Information	09/23/96	61 FR 49609
Comment Period End	11/11/96	
Collection of Information	06/06/97	62 FR 31186
Comment Period End	07/07/97	
End Review	11/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2127–AF53

2562. +REVIEW: SIDE IMPACT PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.214

Legal Deadline: None

Abstract: This standard requires passenger cars manufactured after September 1, 1996, to provide occupant protection when impacted in the side by a moving deformable barrier. The agency has compared the actual risk of occupant injury in side impact crashes of cars meeting the standard to the risk in pre-standard cars. The cost of the standard has been estimated. The Technical Report has been published. This regulation was selected for review because of its costs, potential benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/94	
Technical Report: Phase I	12/08/99	64 FR 68717
Comment Period End	04/06/00	
Summary and Discussion of Public Comments sent to Docket (Phase 1)	08/11/00	
End Review	06/00/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Phase I evaluation report indicates that the test injury criterion TTI(d) has a statistically significant association with fatality risk in actual side-impact crashes on the highway. In model years 1981-93 cars, make models with low TTI(d) on the Federal motor vehicle safety standard no. 214 test tend to have low fatality risk.

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RIN: 2127–AF54

2563. DOOR LATCH EXEMPTION FOR VEHICLES EQUIPPED WITH WHEELCHAIR LIFTS AND RAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.206

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to modify the "Door Locks and Door Retention Components" requirements by exempting vehicles with wheelchair ramps and to establish uniform requirements for vehicles with wheelchair lifts and ramps. These modifications are necessary because of changes in the types of vehicles equipped with wheelchair lifts/ramps and changes in lift/ramp structural designs which have come to pass in recent years. Petition was granted.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: On 05/31/96 (61 FR 27325), the agency published a grant notice. The agency believes that the suggested changes made by the petitioner merit additional study and research. The agency is currently conducting research to determine if door latch exemptions are still necessary. Simultaneously, the agen is developing a door latch procedur for sliding doors.

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RIN: 2127–AG16

2564. REVIEW: REDESIGNED AIR BAGS

Priority: Substantive, Nonsignificar

Legal Authority: 49 USC 322; 49 U 30111; 49 USC 30115; 49 USC 301 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This standard was temporarily amended to make the unbelted test for vehicles with air b less stringent and, in effect, make i easier for manufacturers to quickly depower their air bags. Redesigned bags are likely to benefit out-of-pos occupants and reduce drivers' arm injuries, but they might be less effe than earlier air bags for some occupants. This regulation was sele for review because of public interes potential benefits, and possibility o higher risk for some vehicle occup

Timetable:

Action	Date	FR C
Begin Review	05/01/98	
End Review	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Non

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RIN: 2127–AH13

2565. USE OF UNIVERSAL CHILD SEATS IN AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: This action responds to a concern expressed by the Federal Aviation Administration (FAA) regarding some new universal child seats that may be equipped with rigid connectors or prongs. FAA believes that if a universal child seat equipped with non-folding, non-retracting rigid connectors or prongs were installed on an aircraft seat, the connectors or prongs might damage the aircraft seat cushions and might protrude into the leg space and egress path of the passenger sitting immediately behind the child seat.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: See RIN 2127-AG50 for the Uniform Child Restraint Anchorage Systems rule.

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RIN: 2127–AH56

2566. DEFECT REPORTING AND NOTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30102 to 30103; 49 USC 30112; 49 USC 30115 to 30121; 49 USC 30166 to 30167

CFR Citation: 49 CFR 573; 49 CFR 576; 49 CFR 577

Legal Deadline: None

Abstract: The agency is proposing to amend its current regulations on Defect and Noncompliance Reports and Defect and Noncompliance Notification. The amendments are intended to implement the investigative and recall provisions by increasing the availability of information regarding safety related defects and noncompliance and by improving notification to consumers of recalls of defective and noncomplying motor vehicle equipment. NHTSA is withdrawing this rulemaking action on 8/2/01, to allow it to focus its limited resources on the defects and noncompliance related rulemaking actions required by the Transportation Recall Enhancement, Accountability, and Documentation Act of 2000.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jonathan D. White, Chief, Recall Analysis Division, Office of Defects Investigation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH89

2567. GUIDELINES FOR STATES ON ENFORCEMENT OF LIGHT TRANSMISSION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 402(a)

CFR Citation: 49 CFR 553.21

Legal Deadline: None

Abstract: The agency is requesting comments to gather information that will help develop uniform guidelines for states to use in the enforcement of the light transmission standards for window glazing on passenger cars and light trucks. This action is a result of the recent congressional change in this section of the law.

Timetable:

Action	Date	FR Cite
Request for Comment	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Richard Vanlderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Heidi L. Coleman, Assistant Chief Counsel for General Law, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH97

2568. REVIEW: ANTILOCK BRAKE SYSTEMS FOR HEAVY TRUCKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: These standards require antilock brake systems (ABS) on truck-tractors manufactured after March 1, 1997, semi-trailers and single-unit trucks equipped with air brakes after March 1, 1998, and single-unit trucks over 10,000 pounds GVWR equipped with hydraulic brakes after March 1, 1999. The agency will study the influence of ABS on crash involvement rates and estimate the cost of ABS. These regulations were selected for review because of their costs, potential benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/00	
Evaluation Plan Published	08/14/00	65 FR 49633
End Review	12/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2127–AI14

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Long-Term Act

2569. REVIEW: REAR IMPACT GUARDS FOR TRUCK TRAILERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.223; 49 CFR 571.224

Legal Deadline: None

Abstract: These standards set requirements for the geometry, configuration, strength, and energy absorption capability of rear impact guards on full trailers and semi-trailers over 10,000 pounds GVWR manufactured after January 26, 1998. The agency will study the influence of these guards on injuries in passenger vehicles that rear-impact trailers. The cost of the standards will also be estimated. These regulations were selected for review because of their costs, potential benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	04/15/00	
Evaluation Plan Published	08/14/00	65 FR 49633
End Review	12/00/04	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AI15

2570. CIVIL PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2461 note; 31 USC 3701 note

CFR Citation: 49 CFR 578

Legal Deadline: Final, Statutory, March 4, 2001.

Statute requires civil penalty adjustments at least once every 4 y

Abstract: Increase in civil penalties violations of certain statutes administered by NHTSA required t adjusted at least once every 4 years last increased effective March 1997

Timetable:

Action	Date	FR C
NPRM	05/18/01	66 FR 2
Final Rule	08/07/01	66 FR 4
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

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RIN: 2127–AI42

Department of Transportation (DOT)
National Highway Traffic Safety Administration (NHTSA)

Completed Ac

2571. AUTOMOTIVE FUEL ECONOMY REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32907

CFR Citation: 49 CFR 537

Legal Deadline: None

Abstract: The agency is terminating a rulemaking proceeding to amend the required form and content of the semi-annual reports that automobile manufacturers are required to submit under the Federal automotive fuel economy program. The agency has determined that the changes it proposed would increase, rather than reduce, the regulatory burdens of the manufacturers (e.g., computer reprogramming costs) and the administrative tasks of the agency and the Environmental Protection Agency (EPA).

Timetable:

Action	Date	FR Cite
NPRM	05/13/96	61 FR 22010
NPRM Comment Period End	07/12/96	
Terminate	04/13/01	66 FR 19132

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG00

2572. STATE-ISSUED IDENTIFICATION DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 656

CFR Citation: 23 CFR 1331

Legal Deadline: NPRM, Statutory, September 30, 1997.

Abstract: The agency issued a not of proposed rulemaking to implem the requirements contained in sect 656(b) of the Illegal Immigration Reform and Immigrant Responsibil Act of 1996. This section of the Ac entitled State-Issued Driver's Licen and Comparable Identification Documents, provides that a Federa agency may only accept as proof o identity a driver's license or identification document that confo to specific requirements, in accord with regulations issued by the Department of Transportation. The agency received over 2000 comme this notice. The agency's appropri act imposed a restriction on the us FY 99 funds to issue a final rule implementing the proposed requirements. Subsequently the agency's FY 2000 appropriations repealed section 656(b). The agen will take action to terminate the rulemaking.

DOT—NHTSA

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	06/17/98	63 FR 33220
NPRM Comment Period End	08/03/98	
Comment Period End 10/2/98	08/19/98	63 FR 44415
Withdrawn	11/07/01	66 FR 56261

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800

RIN: 2127–AG91

2573. MOTORCYCLE BRAKING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.122

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has admended the standard to reduce the minimum hand lever force from 5 pounds (presently specified) to 2.3 pounds and the minimum foot pedal force from 10 pounds (presently speficied) to 5.6 pounds in the fade recovery and water recovery tests.

Timetable:

Action	Date	FR Cite
NPRM	11/17/99	64 FR 62622
NPRM Comment Period End	01/18/00	
Final Action	08/14/01	66 FR 42613
Final Action Effective	08/14/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329
Email: gsoodoo@nhtsa.dot.gov

RIN: 2127–AH15

2574. +SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS-ALLOCATIONS BASED ON STATE SEAT BELT USE RATES

Priority: Other Significant

Legal Authority: PL 105-178, sec 1403

CFR Citation: 23 CFR 1240

Legal Deadline: None

Abstract: Section 1403 of TEA-21 established a new program of incentive grants (under Section 157 of chapter 1 of Title 23) to encourage States to increase seat belt use rates. This rulemaking action establishes the criteria and procedures to be followed to implement this incentive grant program. A State is eligible for an incentive grant if: (1) The State had a seat belt use rate greater than the national average for the two preceding calendar years, OR (2) The State's seat belt use rate in the previous calendar year was higher than the State's "base seat belt use rate." (The "base seat belt use rate" is defined as the State's highest use rate for any calendar year from 1996 through the calendar year preceding the previous calendar year.) The amount of funding each State is awarded is based on calculations by the Secretary of the annual savings to the Federal Government in medical costs (including savings under the medicare and medicaid programs). According to the statute, on September 1 of each year, beginning in 1998, the Department will determine which States meet the eligibility criteria, and on October 1 of each year, the Department will allocate the incentive grant funds. This rule sets forth the procedures the agency will use to evaluate seat belt use rates and to allocate funds. It was published as an interim final rule with immediate effectiveness because the first evaluations of seat belt use information were required on September 1, 1998, and the first allocations of funds were required on October 1, 1998. A final rule has been published.

The statute authorizes a total of $500 million for grants under this section for fiscal years 1999 through 2003. A State may use these grant funds for any project eligible for assistance under Title 23. If there are any unallocated funds available in FY 1999, the excess amounts will be apportioned to the states for expenditure on the Surface Transportation Program (STP). If there are any unallocated funds available in FY 2000 through FY 2003, the Secretary is directed to allocate the funds to selected States to carry out innovative projects that promote increased seat belt use rates. States will be selected based on plans submitted to the Secretary.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/29/98	63 FR 57904
Interim Final Rule Effective	10/29/98	
Comment Period End	01/29/99	
Final Action	04/26/01	66 FR 20921
Final Action Effective	05/29/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Wendi Wilson-John, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration
Phone: 202 366-2121

RIN: 2127–AH38

2575. OCCUPANT PROTECTION INCENTIVE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 2003

CFR Citation: 23 CFR 1345

Legal Deadline: None

Abstract: TEA-21 established a new program of incentive grants to encourage States to adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. An interim final rule was published to establish criteria and procedures to be followed to implement this incentive grant program. A State may become eligible to receive a grant under this section by demonstrating that it has implemented at least four of the following six criteria: (1) a law requiring safety belt use by all front seat passengers (and beginning in FY2001, in any seat in the vehicle); (2) a primary safety belt law; (3) minimum fines or penalty points for belt and

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child seat violations; (4) a special traffic enforcement program; (5) a child passenger protection education program; and (6) a child passenger protection law - requiring minors to be properly secured. The statute authorizes a total of $68 million for grants under this section over 5 years beginning in fiscal year 1999. Each State that qualifies for a grant receives up to 25 percent of its FY 1997 section 402 apportionment. An interim final rule was published with immediate effectiveness, because its criteria applied to States seeking to receive funds beginning on October 1, 1998. A final rule has been published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/01/98	63 FR 52592
Interim Final Rule Effective	11/02/98	
Interim Final Rule Comment Period End	11/30/98	
Final Action	07/26/01	66 FR 38911
Final Action Effective	07/26/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Agency Contact: Joan Tetrault, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AH40

2576. NECK LATERAL BENDING FOR 50TH PERCENTILE MALE SIDE IMPACT DUMMY HYBRID III (SID/HIII)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has proposed to modify the neck lateral bending response specifications for the Side Impact Hybrid Dummy 50th Percentile Male (SID/HIII).

Timetable:

Action	Date	FR Cite
NPRM	11/29/00	65 FR 71061
NPRM Comment Period End	01/16/01	
Final Action	10/11/01	66 FR 51880

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329
Email: sbackaitis@nhtsa.dot.gov

RIN: 2127–AH87

2577. THEFT DATA FOR CALENDAR YEAR 1999

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104(b)(4)

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: The agency has published the final theft data on passenger motor vehicles that occurred in calendar year 1999 for model year 1999. Publication of these data fulfills the agency's obligation to periodically obtain accurate and timely data and publish the information for review and comment.

Timetable:

Action	Date	FR Cite
Request for Comments	03/14/01	66 FR 14979
Comment Period End	05/14/01	
Final Action	07/31/01	66 FR 39554

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AI06

2578. INSURER REPORTING REQUIREMENTS FOR OCTOBER

Priority: Substantive, Nonsignifica

Legal Authority: 49 USC 33112

CFR Citation: 49 CFR 544

Legal Deadline: None

Abstract: The agency is proposing update its lists in appendices, A, C of passenger motor vehicle insu that are required to file reports on motor vehicle theft loss experienc these revised appendices are adop in a final rule, each insurer includ in any of these appendices must f a report for the calendar year 199 later than October 25, 2001. Furth long as the insurer remains listed, must submit reports by each subsequent October 25.

Timetable:

Action	Date	FR
NPRM	08/07/01	66 FR
NPRM Comment Period End	10/09/01	
Final Action	10/24/01	66 FR

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Business

Government Levels Affected: No

Agency Contact: Rosalind Procto Division Chief, Consumer Progra Division, Department of Transpor National Highway Traffic Safety Administration, 400 Seventh Stre SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AI07

2579. HIGH-THEFT LINES FOR M YEAR 2002

Priority: Substantive, Nonsignific

Legal Authority: 49 USC 33104

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: The agency has listed high-theft vehicle lines that are s to the parts-marking requirement the theft prevention standard and theft lines that are exempted fro parts-marking requirements for m year 2002.

Timetable:

Action	Date	FR
Final Action	08/03/01	66 FR
Final Action Effective	08/03/01	

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AI08

2580. SALE OR LEASE OF DEFECTIVE OR NONCOMPLIANT TIRE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30166(n); 49 CFR 1.50

CFR Citation: 49 CFR 573

Legal Deadline: Final, Statutory, January 30, 2001, interim final rule.

Abstract: The regulation requires the reporting of knowing and willful sales or leases for use on a motor vehicle of defective tires or tires not in compliance with safety standards. Regulation required by P.L. 106-414.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/26/00	65 FR 81409
Interim Final Rule Effective	01/25/01	
Interim Final Rule Comment Period End	02/26/01	
Final Action	07/23/01	66 FR 38159
Final Action Effective	08/22/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jennifer T. Timian, Trial Attorney, Department of Transportation, National Highway Traffic Safety Administration, 5219, NCC-10, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820
Email: jennifer.timian@nhtsa.dot.gov

RIN: 2127–AI23

2581. SAFE HARBOR PROVISION

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-414 Tread Act; 49 USC 30170(a)(2)(B)

CFR Citation: 49 CFR 578

Legal Deadline: Final, Statutory, January 30, 2001, Interim Final.

Abstract: Rule implements the "reasonable time" and "sufficient correction" as they apply to the safe harbor from criminal penalties, as required by the TREAD Act P.L. 106-414.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/26/00	65 FR 81414
Interim Final Rule Effective	01/25/01	
Interim Final Rule Comment Period End	02/26/01	
Final Action	07/24/01	66 FR 38380
Final Action Effective	08/23/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Cohen, Trial Attorney, Department of Transportation, National Highway Traffic Safety Administration, 5219, NCC-10, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-5253
Fax: 202 366-3820

RIN: 2127–AI24

2582. HYBRID III TYPE 12-MONTH-OLD SIZE TEST DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency has responded to petitions for reconsideration of our final rule published March 31, 2000 (65 FR 17180, RIN 2127-AG78) which established design and performance specifications for a new, more advanced 12-month-old child dummy. This notice makes several minor changes including: adding a channel frequency class specification if a rotary potentiometer is used for measuring head rotation; revising the impact probe specifications to include provisions for mounting suspension hardware if a cable system is used for impacts, adopt a lower minimum mass moment of inertia, and clarify the specifications for free air resonant frequency; revising the material specifications in several drawings; and correcting several minor errors in these drawings, and in the Procedures for Assembly, Disassembly and Inspection (PADI) Document.

Timetable:

Action	Date	FR Cite
Final Action	08/30/01	66 FR 45777
Final Action Effective	10/29/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329
Email: sbackaitis@nhtsa.dot.gov

RIN: 2127–AI37

2583. • INTERIOR TRUNK RELEASE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.401

Legal Deadline: None

Abstract: The agency is responding to petitions for reconsideration of our final rule published October 20, 2000 (65 FR 63014, RIN 2127-AH83) which established a new standard that requires all new passenger cars with trunks be equipped with a release latch inside the trunk compartment. The agency has made several substantive changes to the final rule. It has excluded hatchbacks, station wagons and sub-compartments that are formed within the truck compartment when a convertible power top folds down into the trunk. The agency has changed the definition of "trunk lid" to explicitly exclude the lids of interior storage compartment. The agency has revised the definition of "trunk compartment" to include standard equipment in the determination of the size of the trunk

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compartment. This amendment requires that interior trunk releases on passenger cars with front trunk compartments unlatch the primary, but not the secondary, latch if the passenger car is moving when the trunk release is actuated.

Timetable:

Action	Date	FR Cite
Final Action	08/17/01	66 FR 43113
Final Action Effective	09/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard VanId Division Chief, Visibility and Inj Prevention Division, Department Transportation, National Highwa Traffic Safety Administration, 4(Seventh Street SW., Washington 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AI51

Department of Transportation (DOT)
Federal Railroad Administration (FRA) **Proposed Rule**

2584. +STANDARDS FOR DEVELOPMENT AND USE OF PROCESSOR-BASED SIGNAL AND TRAIN CONTROL SYSTEMS

Regulatory Plan: This entry is Seq. No. 107 in part II of this issue of the **Federal Register**.

RIN: 2130–AA94

2585. LOCOMOTIVE CRASHWORTHINESS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229

Legal Deadline: Final, Statutory, March 3, 1995, Rule or Report to Congress. Report to Congress issued 9/18/96.

Abstract: The agency has proposed to address the crashworthiness of locomotives pursuant to the Rail Safety Enforcement and Review Act (1992). FRA investigated locomotive crashworthiness, as well as a variety of locomotive working conditions (See RIN 2130-AA89) and reported its finding to Congress. On October 31, 1996, the Railroad Safety Advisory Committee (RSAC) accepted a preliminary planning task to schedule handling of these issues. The Locomotive Crew Safety Working Group met on January 23, 1997 to develop task statements that were forwarded to the full RSAC and accepted on June 24, 1997. The RSAC Locomotive Crashworthiness Working Group is considering specific recommendations for regulatory action. Originally this project was considered significant; however, it appears likely that important incremental changes in current design standards can be made without significant disruption or controversy.

Timetable:

Action	Date	FR Cite
Open Meeting Notice	07/22/94	59 FR 37528
Report to Congress	09/18/96	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: This rulemaking was originally included in RIN 2130-AA89, Locomotive Cab Working Conditions.

Agency Contact: David T. Matsuda, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6046

RIN: 2130–AB23

2586. LOCOMOTIVE EVENT RECORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229

Legal Deadline: None

Abstract: FRA will propose improvements in the crashworthiness of event recorders and will propose additional requirements for data capture and recording for event recorders installed in new and rebuilt locomotives. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Busines

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: This rulemaking was previously title "Crashworthy Event Recorders"

Agency Contact: Thomas A. Ph Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh St SW., Washington, DC 20590
Phone: 202 493-6050

RIN: 2130–AB34

2587. REVISION TO RAILROAD SAFETY ENFORCEMENT PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 209

Legal Deadline: None

Abstract: This action will revis update FRA's enforcement proc This action is expected to addre recodification of the railroad sa laws and revise certain adminis hearing procedures.

Timetable:

Action	Date	F
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: N

Federalism: Undetermined

Agency Contact: Kathryn E. Sh Trial Attorney, Department of

DOT—FRA **Proposed Rule Stage**

Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 493-6063

RIN: 2130–AB35

2588. RULES OF PRACTICE

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 211

Legal Deadline: None

Abstract: This action will revise and update FRA's rulemaking procedures, and the procedures for participation in the rulemaking process, such as petitions for rulemaking, petitions for reconsideration, and petitions for waiver. These procedures will be modified to reflect the recodification of the railroad safety laws, and changes in the application of FRA's regulatory procedures that have developed over time.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Colleen A. Brennan, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 493-6028

RIN: 2130–AB36

2589. +APPLICATION OF RANDOM TESTING AND OTHER ALCOHOL AND DRUG REGULATIONS TO EMPLOYEES OF FOREIGN RAILROADS

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20140

CFR Citation: 49 CFR 219

Legal Deadline: None

Abstract: This action would apply FRA's random testing and other alcohol and drug requirements to employees of a foreign railroad whose primary reporting point is outside the United States, and who perform train service or dispatching service in the United States. Such employees are currently exempt from random testing, pre-employment testing, and requirements for employee self-referral and co-worker report policies. This action is considered significant because of substantial inter-departmental concerns.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1120 Vermont Avenue, N.W. STOP-10, Washington, DC 20590
Phone: 202 493-6060
Fax: 202 493-6068

RIN: 2130–AB39

Department of Transportation (DOT)
Federal Railroad Administration (FRA) **Final Rule Stage**

2590. LOCAL RAIL FREIGHT ASSISTANCE TO STATES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 22101

CFR Citation: 49 CFR 266

Legal Deadline: None

Abstract: This action is to revise the procedures and requirements for the receipt of financial assistance contained in part 266. These changes are required to reflect statutory modifications resulting from the Local Rail Service Reauthorization Act of 1989. The Local Freight Assistance Program has not been reauthorized after FY 1995. However, final regulations are necessary because States continue to submit applications for new projects to be funded from loan funds repaid to States by previous borrowers. FRA is reconsidering the need for these regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/30/90	55 FR 49648
NPRM Comment Period End	12/31/90	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: While this action was to be terminated in October of 1995, the agency reconsidered and decided to move forward with a final rule. FRA is now reconsidering that determination.

ANALYSIS: Regulatory Evaluation, 11/30/90, 55 FR 49648

Agency Contact: JoAnne McGowan, Chief, Freight Programs Division, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-3290

RIN: 2130–AA60

2591. +WHISTLE BANS AT HIGHWAY-RAIL GRADE CROSSINGS

Priority: Other Significant

Legal Authority: 49 USC 20153

CFR Citation: 49 CFR 222

Legal Deadline: Final, Statutory, November 2, 1996, subsequent enactment prohibited issuance prior to July 1, 2001.

Abstract: This action would govern when train whistles at grade crossings must be sounded. FRA has found that failing to use the locomotive horn can significantly increase the number of collisions with motorists using the crossing. This action is considered significant because of substantial public interest. This action is being taken pursuant to statutory mandate. FRA studied the consequences of the proposed action and prepared a draft

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environmental impact statement (EIS) for the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	01/13/00	65 FR 2230
NPRM Comment Period End	05/26/00	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: An Omnibus Bill at the end of the 106th Congress prohibited publication of a final rule before July 2001.

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6061

RIN: 2130–AA71

2592. LOCOMOTIVE CAB WORKING CONDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229

Legal Deadline: Final, Statutory, March 3, 1995, Rule or Report to Congress. Report to Congress issued 9/18/96.

Abstract: The agency has proposed to address crew working conditions on locomotives, pursuant to the Rail Safety Enforcement and Review Act (1992). FRA investigated a variety of locomotive working conditions, including sanitation, noise and temperature, and reported its findings to Congress. On October 31, 1996, the Railroad Safety Advisory Committee (RSAC) accepted a preliminary planning task to schedule handling of these issues, and established the Locomotive Crew Safety Working Group. The Working Group prepared recommendations addressing sanitation in locomotive cabs. The Working Group presented RSAC with these recommendations and the full RSAC voted to refer them to FRA as the basis for a Notice of Proposed Rulemaking (NPRM). FRA used these recommendations as the basis for an NPRM, which was published January 2, 2001. This project was originally considered significant because of substantial public interest; however, because the rule was developed through the RSAC process, which entails participation of all parties with significant interests, the expected public interest has not materialized.

Timetable:

Action	Date	FR Cite
Open Meeting Notice	07/22/94	59 FR 37528
Report to Congress	09/18/96	
NPRM (Sanitation)	01/02/01	66 FR 136
NPRM Comment Period End	03/05/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: FRA published a Notice of Proposed Rulemaking (NPRM) on sanitary conditions in locomotive cabs on January 2, 2001.

As originally proposed, this rulemaking addressed both crew working conditions on locomotives and the crashworthiness of locomotives. However, in anticipation of issuing two distinct rulemakings, FRA has separated crashworthiness of locomotives out from the original proposal and is handling that subject in a separate rulemaking (RIN 2130-AB23).

Agency Contact: Christine Beyer, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW., Washington DC 20590 Phone: 202 493-6052

RIN: 2130–AA89

2593. SMALL RAILROADS; POLICY STATEMENT ON ENFORCEMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 601 et seq; PL 104-121; 49 USC 20101 et seq

CFR Citation: 49 CFR 209

Legal Deadline: Other, Statutory, March 29, 1997, 180 Days to Final Rule.

Abstract: The Small Busine Regulatory Enforcement Act of 1996 requires, among oth that Federal agencies establi communication and enforce programs to address the uni concerns and operations of s entities.

Pursuant to SBREFA, FRA p communication and enforce policies with respect to sma in an Interim Statement of A Policy and undertook an int definition of "small entity" process. Also, FRA invited c from the public for the purp adopting a new definition of entity" in the future, and co public meeting with all inter parties to discuss this issue. issue a Final Statement of Po

Timetable:

Action	Date
Interim Policy Statement	08/11/97
Interim Policy Statement Effective	10/10/97
Comment Period End	11/30/97
Final Policy Statement	03/00/02

Regulatory Flexibility Analy Required: Yes

Small Entities Affected: Bus

Government Levels Affecte

Additional Information: A pu meeting was held on Septem 1999. (See 64 FR 46468, 8/25

Agency Contact: Nancy Lun Lewis, Trial Attorney, Depart Transportation, Federal Railr Administration, 400 Seventh SW., Washington, DC 20590 Phone: 202 493-6047

RIN: 2130–AB15

2594. †REGULATIONS ON S INTEGRATION PLANS GOVE RAILROAD CONSOLIDATIO MERGERS, ACQUISITIONS CONTROL AND START-UP OPERATIONS

Priority: Other Significant

Legal Authority: 49 USC 201 USC 20107; 49 USC 21301; 2 2461

CFR Citation: 49 CFR 244; 49

Legal Deadline: None

Abstract: FRA prepared a pro rule that would require a rail

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file a Safety Integration Plan with the Federal Railroad Administration (1) whenever a Class I railroad, the National Railroad Passenger Corporation, or a railroad providing commuter service proposes to merge, consolidate or acquire control of one another; (2) whenever an entity proposes to start operations as a railroad; (3) whenever a Class II railroad proposes to consolidate, merge, or acquire control of another Class II railroad with which it would directly interchange freight, or (4) whenever a railroad merger, consolidation or acquisition of control would result in operations that generate revenue in excess of the Class I threshold. The proposed rule prescribed content and subject matter areas that must be addressed in each plan before FRA may approve of such plan. FRA is in the process of preparing a final rule in this area and is working with the Surface Transportation Board to conduct coordinated rulemaking actions covering these transactions within the framework of each agency's jurisdiction.

Timetable:

Action	Date	FR Cite
NPRM	12/31/98	63 FR 72225
NPRM Comment Period Extended	04/21/99	64 FR 19512
Public Hearing - Notice	04/21/99	64 FR 19512
NPRM Comment Period End	05/04/99	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: A public hearing on this rulemaking was held on May 4, 1999.

Agency Contact: Jon Kaplan, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6042

RIN: 2130–AB24

2595. BRIDGE WORKER SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 214

Legal Deadline: None

Abstract: In response to a petition for rulemaking, FRA will amend the Bridge Worker Safety Rules through promulgation of an interim final rule. The interim final rule will likely prohibit the use of safety belts as fall protection, but would continue to require the use of harnesses, which are more commonly used in present industry practice. The interim final rule would also make technical clarifications to the existing standards. This action is supported by the industry and is consistent with new policies of the Occupational Safety and Health Administration. Data shows that safety belts present unnecessary safety risks, and are generally disfavored by companies involved with working at heights.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Cynthia Walters, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6064

RIN: 2130–AB25

2596. ROADWAY EQUIPMENT SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 214

Legal Deadline: None

Abstract: FRA proposes regulations governing operational and design safety of on-track equipment used by railroads for track maintenance. The regulations would cover self-propelled rail-mounted non-highway machines where light weight exceeds 7500 pounds. This rulemaking was requested by the Brotherhood of Maintenance-of-Way Employees (BMWE) as part of the organization's petition requesting revision of the track safety standards. FRA decided to respond to this portion of the BMWE petition in a rulemaking separate from the track safety standards revision.

Timetable:

Action	Date	FR Cite
NPRM	01/10/01	66 FR 1930
NPRM Comment Period End	03/12/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: This rulemaking is an off-shoot of the rulemaking to revise the track safety standards. FRA has changed the title of the current entry to the Unified Regulatory Agenda, which was originally entitled "Roadway Maintenance Machine Safety" to more accurately reflect what this action is expected to address.

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6047

RIN: 2130–AB28

2597. ANNUAL ADJUSTMENT OF MONETARY THRESHOLD FOR REPORTING RAIL EQUIPMENT ACCIDENTS/INCIDENTS

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 225

Legal Deadline: None

Abstract: This annual determination establishes the monetary threshold for reporting rail equipment accidents/incidents involving railroad property damage. This action ensures and maintains comparability between different years of data by having the threshold keep pace with fluctuations in equipment and labor costs. It is required by statute. The reporting threshold is based on the formula adopted in a final rule 5/16/96, 61 FR 60632. This agenda entry will be updated each year to show the latest annual determination. Cites for determinations already issued are provided below.

Timetable:

Action	Date	FR Cite
Notice	12/00/01	

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Final Rule

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The 2000 final rule of 11/21/2000, 65 FR 69884, maintained at $6,600 the monetary threshold for accidents/incidents that occur during calendar year 2000. There is no change from calendar years 1998 through 2000. The 1997 final rule of 2/2/97, 62 FR 63675, increased the monetary threshold from $6,500 to $6,600. The 1996 final rule of 11/29/96, 61 FR 60632, increased the monetary threshold from $6,300 to $6,500.

Agency Contact: Nancy Friedman, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6034

RIN: 2130–AB30

2598. DETERMINATION OF MINIMUM TESTING RATE FOR RANDOM DRUG AND ALCOHOL TESTING

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 219

Legal Deadline: None

Abstract: Each year FRA announces the minimum random drug and alcohol testing rates for the following year for the railroad industry. This determination is based on a review of rail industry drug and alcohol management information system data, as well as data from compliance reviews of rail industry drug and alcohol testing programs. Procedures were established in a final rule published on December 2, 1994, 59 FR 62218. For the calendar year 2001, the minimum random drug and alcohol testing rates of covered railroad employees continue to be 25 percent and 10 percent, respectively. This agenda entry will be updated each year to show the latest annual determination. Cites for determinations already issued are provided below.

Timetable:

Action	Date	FR Cite
Annual Determination	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: In the notice of determination of December 19, 2000 (65 FR 79318), the minimum random drug and alcohol testing rates of covered railroad employees remained at 25 percent and 10 percent, respectively, for calendar year 2001. In the notices of determination of 2/18/98 (63 FR 8143), 12/30/98 (63 FR 71789), and 12/27/99 (64 FR 72289), the minimum rates remained at 25 percent and 10 percent for calendar years 1998, 1999 and 2000.

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1120 Vermont Avenue, N.W. STOP-10, Washington, DC 20590
Phone: 202 493-6060
Fax: 202 493-6068

RIN: 2130–AB31

2599. +LOCATIONAL REQUIREMENT FOR DISPATCHING OF UNITED STATES RAIL OPERATIONS

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 241

Legal Deadline: None

Abstract: This interim final rule will require that all railroad operations in the United States be dispatched in the United States, with certain exceptions. This action is considered significant because of substantial interdepartmental concerns.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Agency Contact: John A. Winkle Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Stre SW, Washington, DC 20590
Phone: 202 493-6067

RIN: 2130–AB38

2600. • PASSENGER EQUIPMEN SAFETY STANDARDS

Priority: Substantive, Nonsignific

Legal Authority: 49 USC 20133; USC 20103

CFR Citation: 49 CFR 216; 49 CF

Legal Deadline: None

Abstract: This action responds to remaining issues raised in the pe for reconsideration of FRA's May 1999 final rule, which establishe comprehensive federal safety sta for railroad passenger equipment 64 FR 25540. This action clarifies amends the final rule, principally sections related to fire safety and structure of railroad passenger equipment. This action follows a response to the petitions for reconsideration related to the inspection, testing, and maintena railroad passenger equipment, as as the movement of defective equipment provisions of the May 1999 final rule. See 65 FR 41284.

Timetable:

Action	Date	FR
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Agency Contact: Daniel Alpert, Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Stre SW., Washington, DC 20590
Phone: 202 493-6026

RIN: 2130–AB48

Department of Transportation (DOT)
Federal Railroad Administration (FRA)

Long-Term Actions

2601. +FREIGHT CAR SAFETY STANDARDS: MAINTENANCE-OF-WAY EQUIPMENT

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 215

Legal Deadline: None

Abstract: This action proposes to amend the freight car safety standards to subject all maintenance-of-way vehicles to FRA's safety standards, with the exception of stenciled cars not used in revenue service and restricted to a speed of less than 20 miles per hour. This action was originally considered significant because of anticipated public and industry interest.

Timetable:

Action	Date	FR Cite
NPRM	03/10/94	59 FR 11238
NPRM Comment Period End	02/27/95	
Final Action	06/00/03	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Additional Information: The original NPRM comment period ended on 4/11/94 but was twice extended; first, to 11/28/94 (59 FR 49374) and then to 02/27/95 (59 FR 67266). Due to various contentious issues raised during the NPRM comment period, FRA believed it might be advantageous to resolve differences in an open forum. Therefore, on September 30, 1997, FRA formally proposed this rulemaking as a new task (Task 97-8) for the Railroad Safety Advisory Committee (RSAC). After discussion, the RSAC declined to accept the task at that time. The need to complete other, higher priority projects has not permitted further action on this rulemaking.

ANALYSIS: Regulatory Evaluation, 03/10/94, 59 FR 11238

Agency Contact: Billie Stultz, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6053

RIN: 2130–AA68

2602. BLUE SIGNAL AND RELATED PROTECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 218

Legal Deadline: None

Abstract: FRA is in the process of reconsidering amendments to its "Blue Signal" regulations, which prescribe minimum requirements for the protection of railroad employees engaged in the inspection, testing, repair, and servicing of rolling equipment. This task was assigned to RSAC and the working group met for the first time in October, 2000. There have been five subsequent meetings with another scheduled for October 2001. Currently, the working group is still considering several issues and, thus, the next action on this rule is undetermined.

Timetable:

Action	Date	FR Cite
Final Rule Amendments	03/01/95	60 FR 11047
Comment Period End	05/01/95	
Comment Period Reopened	06/09/95	60 FR 30469
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The final rule on utility employees was published August 16, 1993 (58 FR 43287), RIN 2130-AA77. FRA has changed the title of the current entry to the Unified Regulatory Agenda, which was originally titled "Protection of Utility Employees" to more accurately reflect what this action is expected to address.

Agency Contact: John A. Winkle, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 493-6067

RIN: 2130–AA90

2603. CRANE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: In response to a petition for rulemaking, FRA will consider whether to adopt regulations governing functional and design safety of on-track railroad cranes used for track maintenance. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Christine Beyer, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW., Washington DC 20590
Phone: 202 493-6052

RIN: 2130–AB27

2604. RAILROAD CAR CONSPICUITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 20148

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: FRA is considering requiring that retroreflective tape be applied to all railroad cars. FRA has established a docket so that interested parties may submit relevant information.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John A. Winkle, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 493-6067

RIN: 2130–AB41

2605. +MINIMUM STANDARDS FOR TEMPERATURE IN THE LOCOMOTIVE CAB

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20701-20703

CFR Citation: 49 CFR 229

Legal Deadline: None

Abstract: FRA is considering amending current niminum temperature

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requirements and establishing maximum cab temperature requirements.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Cynthia Walters, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6064

RIN: 2130–AB46

2606. • IMPROVEMENTS TO THE SYSTEM FOR REPORTING TRAIN ACCIDENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 20901; 49 USC 20902

CFR Citation: 49 CFR 225

Legal Deadline: None

Abstract: FRA initiated a pilot study to investigate a possible approach for developing a new system of reporting train accidents, potentially leading to a revision of the regulations for reporting rail equipment accidents/incidents involving railroad property damage. Under the current system, railroads are required to report any event involving property damage or injury if the total cost of the event for all railroads involved exceeds a threshold. The cost of repairing the damage therefore acts as a surrogate measure of severity. Repair cost, however, is unsatisfactory as a surrogate measure of severity. Costs can be substantially affected by factors that have no relevancy to severity, such as the newness of any destroyed equipment and facilities. Nevertheless, current regulations mandate that if a locomotive engineer has been found to be at fault for causing an event, he or she can be disqualified only if it is reportable as a train accident. The perceived unfairness of disqualification being only loosely tied to accident severity is something FRA wishes to remedy by changing the reporting requirement to more closely reflect the severity of the event rather than just the book cost.

FRA is also interested in changing the system to reduce time and effort spent by railroads in reporting and recording train accidents. The current reporting system causes substantial inconvenience and places a burden on the railroads. The railroads' initial estimates of repair costs are somewhat subjective, yet they have to decide whether to report an event on the basis of the estimate. In addition, if the actual cost of an event deviates from initial estimates by more than 10% and exceeds the threshold, then the railroad would be required to submit a report if the initial estimate was below the threshold and an amendment if the initial estimate was above. The uncertainty about the status of an event may put undue pressure on railroads to report more events as train accidents than necessary.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The results of the pilot study were insufficient to permit FRA to try out certain aspects of the proposed approach to developing a new system. Further action to be determined.

Agency Contact: Nancy Friedman, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6034

RIN: 2130–AB50

2607. • REVISION TO THE ACCIDENT/INCIDENT REPORTING REGULATIONS AND GUIDE

Priority: Substantive, Nonsignifican

Legal Authority: 49 USC 20103; 49 USC 20901; 49 USC 20902

CFR Citation: 49 CFR 225

Legal Deadline: None

Abstract: FRA intends to conform i regulations for accident/incident reporting to revised OSHA regulatio and to make appropriate revisions t the FRA Guide for Preparing Accident/Incident Reports. On Janu 19, 2001, OSHA published revised regulations for Occupational Injury Illness Recording and Reporting (66 5965). FRA accident/incident regulations pertaining to occupation injury and illness are patterned afte the prior OSHA regulations and mu be maintained in general conformity with those regulations to permit compatibility of data and integratio railroad industry data into national statistical databases. OSHA's final r is intended to become effective on January 1, 2002. Accordingly, FRA needs to revise its own injury codes and narratives, cause codes and narratives, and circumstance codes narratives (as set forth in the FRA Reporting Guide) as soon as feasible Minor administrative issues have al arisen since the last general revisio Part 225 on January 1, 1997 that wi be considered in relation to possibl amendments to the regulations or th Reporting Guide.

Timetable: Next Action Undetermin

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Nancy Friedman, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6034

RIN: 2130–AB51

Department of Transportation (DOT)
Federal Railroad Administration (FRA)

Completed Actions

2608. MAINTENANCE, INSPECTION, AND TESTING OF GRADE-CROSSING SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 234

Legal Deadline: None

Abstract: FRA is making technical changes and minor amendments to final regulations which were published on September 30, 1994. These regulations require that railroads take specific and timely actions to protect the travelling public and railroad employees from the hazards posed by malfunctioning highway-rail grade crossing warning systems, and that railroads follow specific standards for maintenance, inspection, and testing of those systems. The amendments clarify issues arising from implementation of this new regulatory program. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/96	61 FR 31802
Interim Final Rule Comment Period End	07/22/96	
Interim Final Rule Effective	08/19/96	
Final Rule	09/28/01	66 FR 49557
Effective Date	09/28/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: The final rule, RIN 2130-AA70, was published 9/30/94 (59 FR 50086), and was effective 1/1/95. In response to a petition for reconsideration, FRA conducted a review, together with rail labor and rail management, to address various implementation issues that had surfaced since the rule was enacted. After meeting with these parties in March 1995, FRA issued an Implementation Manual on April 14, 1995. An interim final rule intended to clarify implementation issues by making minor technical amendments was published on June 20, 1996, effective August 19, 1996. Response to the comments on that interim rule may result in further amendment of the rule.

Agency Contact: Mark H. Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AA97

2609. REVISION OF REGULATIONS ADDRESSING DISCONTINUANCE OR MODIFICATION OF SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20501 to 20505

CFR Citation: 49 CFR 235

Legal Deadline: None

Abstract: FRA intends to revise part 235 by reducing the list of circumstances for which signal system discontinuance approval is required. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/01/96	61 FR 33871
Interim Final Rule Comment Period End	07/31/96	
Interim Final Rule Effective	08/30/96	
Final Rule	09/28/01	66 FR 49556
Effective Date	09/28/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AB05

2610. REVISION OF SIGNAL SYSTEM REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20501 to 20505

CFR Citation: 49 CFR 233

Legal Deadline: None

Abstract: FRA is amending its signal system reporting requirements (part 233) to reduce signal system reporting burdens on the rail industry. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/01/96	61 FR 33871
Interim Final Rule Comment Period End	07/31/96	
Interim Final Rule Effective	08/30/96	
Final Rule	09/28/01	66 FR 49556
Effective Date	09/28/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AB06

2611. USE OF ONE-PERSON CREWS IN RAIL OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Concerned with the complex and immediate safety issues posed by rail operations involving the use of one-person crews, FRA will consider whether to regulate the use of one-person operations. FRA might require all railroads that propose to use one-person crew operations to enroll in a pilot program and agree to conform to safety conditions set forth by FRA. The purpose of the pilot program would be to determine under what conditions, if any, one-person crew operations can be safely operated.

Timetable:

Action	Date	FR Cite
Withdrawn	08/16/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Additional Information: An Informal Safety Inquiry concerning a proposal by Wisconsin Central Ltd. to expand its use of one-person crew and remote control operations was held by FRA on December 4 and 5, 1996 (61 FR 58736, November 18, 1996).

Agency Contact: Christine Beyer, Deputy Assistant Chief Counsel,

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Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW., Washington DC 20590
Phone: 202 493-6052

RIN: 2130–AB18

2612. +REQUIREMENTS FOR PROFICIENCY IN THE USE OF THE ENGLISH LANGUAGE AND FOR THE USE OF ENGLISH UNITS OF MEASUREMENTS IN COMMUNICATIONS ABOUT RAILROAD OPERATIONS IN THE UNITED STATES

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 220

Legal Deadline: None

Abstract: This proposed rule would require that certain railroad employees be proficient in English, speak in English when required by another railroad worker in connection with railroad operations in the United States, and generally use English units of measurement when communicating about railroad operations that occur in the United States.

Timetable:

Action	Date	FR Cite
Withdrawn	08/16/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John A. Winkle, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 493-6067

RIN: 2130–AB40

2613. • AUTOMATIC TRAIN CONTROL AND ADVANCED CIVIL SPEED ENFORCEMENT SYSTEM; NORTHEAST CORRIDOR RAILROADS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: None

Legal Deadline: None

Abstract: An Order is in effect, but amendments for technical matters or for the phasing of implementation will be added as needed. Through this amendment, FRA extended the deadlines for use of unequipped and failed locomotives to February 1, 2002 for the Massachusetts Bay Transit Authority, and to September 16, 2001 for CSX Transportation in order to give the railroads additional time to comply. Additional actions may be required to facilitate the orderly introduction of this system.

Timetable:

Action	Date	FR Cite
Final Action	06/28/01	66 FR 34512

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1120 Vermont Avenue, N.W. STOP-10, Washington, DC 20590
Phone: 202 493-6060
Fax: 202 493-6068

RIN: 2130–AB47

2614. • POWER BRAKE REGULATIONS: FREIGHT POWE BRAKE REVISIONS

Priority: Substantive, Nonsignific

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 232

Legal Deadline: None

Abstract: Pursuant to the Federal Railroad Safety Enforcement and Review Act of 1992, FRA revised regulations related to freight pow brakes. On January 17, 2001, FRA issued a final rule revising the fr power brake standards (66 FR 41 This document contains FRA's response to issues raised in the petitions for reconsideration of th rule related to the periodic maintenance and test requiremen contained in subpart D of the fin which became applicable on Aug 2001.

Timetable:

Action	Date	FR
Final Rule; Response to Petitions for Reconsideration	08/01/01	66 FR

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Agency Contact: Thomas Herrm Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Stre SW., Washington, DC 20590
Phone: 202 493-6036

RIN: 2130–AB49

Department of Transportation (DOT)
Federal Transit Administration (FTA) **Proposed Rule**

2615. +BUS TESTING

Priority: Other Significant

Legal Authority: 49 USC 5323(c)

CFR Citation: 49 CFR 665

Legal Deadline: None

Abstract: This regulation implements a statutory provision that requires any new bus model purchased after September 30, 1989, to be tested at a facility established pursuant to 49 USC 5318. This regulation is significant because of the large amount of public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 22716
NPRM Comment Period End	07/24/89	
Interim Final Rule	08/23/89	54 FR 35158
Comment Period Reopened	11/30/89	54 FR 49297
Interim Final Rule - Second	10/09/90	55 FR 41174

Action	Date	FR
Interim Procedures	09/13/91	56 FR
Interim Final Rule - New Vehicle Types	07/28/92	57 FR
Interim Final Rule - Partial Effectiveness Postponed	10/13/92	57 FR
Interim Final Rule - Comment Period Reopened to 01/29/93	01/07/93	58 FR

DOT—FTA

Proposed Rule Stage

Action	Date	FR Cite
Interim Final Rule - Partial Effectiveness Postponed	02/23/93	58 FR 10989
Notice of Meeting	02/26/93	58 FR 11549
Supplemental NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Former section 12(h) of the FT Act, as amended (now 49 USC 5302(a)(9)), defines a "new bus model" as a bus model which has not been used in mass transportation service in the United States before the date of production of such model, or a bus model which has been used in such service, but which is being produced with a major change in configuration or components. A third interim final rule, published on 07/28/92, added two new categories of buses required to be tested. On 10/13/92 FTA published a notice postponing the application of the interim final rule for these vehicle types until 02/10/93. The FTA's fourth interim final rule, issued on 11/3/93, established four subcategories of small vehicles to facilitate the phase-in of testing.

Intially, FTA had intended on issuing a final rule. However, FTA now believes that prior to the issuance of a final rule, the public should have the opportunity to provide additional comment, especially considering advances in technology and developments within the industry during the period that the interim final rule has been in effect.

ANALYSIS: Regulatory Evaluation, 07/28/92, 57 FR 33394

Agency Contact: Bruce Walker, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011
Fax: 202 366-3809

RIN: 2132–AA30

2616. +CLEAN FUELS FORMULA GRANT PROGRAM

Regulatory Plan: This entry is Seq. No. 108 in part II of this issue of the **Federal Register**.

RIN: 2132–AA64

Department of Transportation (DOT)
Federal Transit Administration (FTA)

Final Rule Stage

2617. BUY AMERICA REQUIREMENTS; AMENDMENT TO CERTIFICATION PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 3020(b)

CFR Citation: 49 CFR 661.11; 49 CFR 661.13

Legal Deadline: None

Abstract: This action would amend FTA's Buy America regulation, 49 CFR 661 in accordance with section 3020(b) of the Transportation Equity Act for the 21st Century. Section 3020(b) amended 49 USC 5323(g) to allow a bidder on an FTA-funded contract to correct an incomplete certification or a certification of noncompliance with Buy America resulting from an inadvertent or clerical error.

Timetable:

Action	Date	FR Cite
NPRM	02/18/99	64 FR 8051
NPRM Comment Period End	04/19/99	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Meghan Ludtke, Attorney Advisor, Department of Transportation, Federal Transit Administration, Room 9316, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011
Fax: 202 366-3809

RIN: 2132–AA62

2618. SCHOOL BUS OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5323(f)

CFR Citation: 49 CFR 605

Legal Deadline: None

Abstract: This rulemaking proposed to amend the definition of "tripper" service, which is mass transportation service which is open to the public and which is modified to meet the needs of school students and personnel. The amended definition would have prohibited the use of certain signage and provided that tripper buses stop only at stops that are marked as available to the public. Based on further analysis of the proposed change and review of the comments received from the NPRM, however, FTA has determined that the proposed amendment did not actually alter the definition of "tripper service" and appeared to create more confusion that clarification. Consequently, FTA intends to withdraw the amendment as no purpose would be served by the proposed change.

Timetable:

Action	Date	FR Cite
NPRM	05/03/99	64 FR 23590
NPRM Comment Period End	07/02/99	
To Be Withdrawn	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Elizabeth S. Martineau, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
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Department of Transportation (DOT)
Federal Transit Administration (FTA)

Long-Term Ac

2619. +NEPA AND RELATED PROCEDURES FOR TRANSPORTATION DECISIONMAKING; PROTECTION OF PUBLIC WORKS, WILDLIFE AND WATERFOWL REFUGES AND HISTORIC SITES

Priority: Other Significant

Legal Authority: 23 USC 109, 128, 134, 138 and 315; 42 USC 2000d-2000d-4, 4321 et seq. and 7401 et seq.; 49 USC 303 , 5301(e), 5303, 5309 and 5324(b) and (c); 49 CFR 1.48 and 1.51; 33 CFR 115.60(b); 40 CFR 1500 to 1508

CFR Citation: 23 CFR 771; 23 CFR 1420; 23 CFR 1430; 49 CFR 622; 49 CFR 623

Legal Deadline: None

Abstract: The Federal Transit Administration and the Federal Highway Administration issued an NPRM to propose updating and revising the National Environmental Policy Act (NEPA) implementing regulation for FTA- and FHWA-funded or approved projects. The current regulations were issued in 1987 (23 CFR part 771, August 28, 1987) and experience since that time as well as changes in legislation, most recently by the Transportation Equity Act for the 21st Century (TEA-21), call for an updated approach to implementation of NEPA for FTA and FHWA projects and actions.

The FTA and the FHWA received numerous comments to the docket in response to this NPRM. The agencies are currently reviewing these comments to determine what action should follow.

Timetable:

Action	Date	FR Cite
NPRM	05/25/00	65 FR 33958
Comment Period Extended	07/07/00	65 FR 41892
Comment Period End	09/23/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The corresponding FHWA RIN is 2125-AE64. This incorporates the issues contained in RIN 2125-AD32.

Agency Contact: Scott Biehl, Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0952
Fax: 202 366-3809

RIN: 2132–AA43

2620. +STATEWIDE METROPOLITAN PLANNING

Priority: Other Significant

Legal Authority: 23 USC 134; 23 USC 135; 23 USC 315; 42 USC 7410 et seq.; 49 USC 5303 to 5305; 49 CFR 1.48 and 1.51

CFR Citation: 23 CFR 450; 23 CFR 1410; 49 CFR 613; 49 CFR 621

Legal Deadline: None

Abstract: In this action, FTA and FHWA are jointly proposing to revise the regulations governing the development of transportation plans and programs for urbanized (metropolitan) areas and States. These revisions are the product of statutory changes made by the Transportation Equity Act for the 21st Century (TEA-21), which requires a continuous, comprehensive, and coordinated process in metropolitan areas and States. The regulations at 23 CFR part 450 and 49 CFR part 613 would be modified to reflect the impacts of TEA-21.

The agencies (FTA and FHWA) have received numerous comments to the docket in response to the NPRM. The comments are currently being analyzed by both agencies to determine what action should follow.

Timetable:

Action	Date	FR Cite
NPRM	05/25/00	65 FR 33958
NPRM Comment Period Extended	07/07/00	65 FR 41891
NPRM Comment Period End	09/23/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: The corresponding FHWA RIN is 2125-AE62.

Agency Contact: Scott Biehl, Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0952
Fax: 202 366-3809

RIN: 2132–AA66

2621. BUY AMERICA REQUIREM PERMANENT WAIVER FOR MICROCOMPUTERS

Priority: Substantive, Nonsignific

Legal Authority: PL 97-424

CFR Citation: 49 CFR 661

Legal Deadline: None

Abstract: Section 165(b)(2) of the Surface Transportation Assistance of 1982 provides that a waiver of Buy America requirements may b granted if materials and products procured are not produced in the United States in sufficient and reasonable quantities and of satisf quality. Such a waiver was permanently granted in 1986 for microcomputers, as FTA grantees experiencing difficulty in purcha domestically produced microcom equipment appropriate to their ne At that time, FTA reserved the rig to reassess the need for a waiver on the changing market for microcomputers. Since both the international and domestic marke microcomputers has changed sinc permanent waiver was issued, FT soliciting comments as to whethe waiver should be revoked, modifi retained.

Timetable:

Action	Date	FR
ANPRM	10/08/99	64 FR
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: St Local, Tribal

Procurement: This is a procurem related action for which there is statutory requirement. There is n paperwork burden associated wit action.

Agency Contact: Meghan Ludtke Attorney Advisor, Department of Transportation, Federal Transit Administration, Room 9316, 400 Seventh Street SW., Washington, 20590
Phone: 202 366-4011
Fax: 202 366-3809

RIN: 2132–AA68

DOT—FTA

Long-Term Actions

2622. STATE SAFETY OVERSIGHT; RAIL FIXED GUIDEWAY SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5330

CFR Citation: 49 CFR 659

Legal Deadline: None

Abstract: On the basis of State Safety Oversight audits that the Federal Transit Administration has been conducting over the past year, the agency will propose several changes to the rule, including requiring states to oversee the safety of rail fixed guideway systems in the planning, design, and construction phases. This regulation was previously reported under RIN 2132-AA39 and RIN 2132-AA59.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Jerry Fisher, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2132–AA69

2623. +REQUIREMENT FOR THIRD-PARTY CONTRACTING WITH FTA RECIPIENTS

Priority: Other Significant

Legal Authority: 49 USC 322(a); 49 USC 5301 et seq; 49 USC 107(c); 49 CFR 18 and 19

CFR Citation: 49 CFR 635

Legal Deadline: None

Abstract: Federal Transit Administration grantees must comply with FTA Circular 4220.1D, "Third-Party Contracting Requirements." FTA proposes to put that circular into regulatory form. FTA is undertaking this action based on the belief that procurement regulations will make the third-party contracting process more equitable and understandable. This action is considered significant because of substantial public and congressional interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard Wong, Attorney-Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936
Fax: 202 366-3809

RIN: 2132–AA70

Department of Transportation (DOT)
Federal Transit Administration (FTA)

Completed Actions

2624. CHARTER SERVICES DEMONSTRATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 3040

CFR Citation: 49 CFR 604

Legal Deadline: Final, Statutory, September 18, 1992.

Abstract: This rulemaking presents the results and conclusions drawn from the charter services demonstration program, previously reported under RIN 2132-AA40, which was mandated by section 3040 of the Intermodal Surface Transportation Efficiency Act. That provision directed FTA to conduct a demonstration program in four States to permit public operators to provide needed charter services to certain civic and community groups. In addition to setting forth program results, this rulemaking sought recommendations regarding improvements to the charter service regulation. However, based on a review of the comments received, the FTA has determined that there is no justification for changing the rule. Consequently, the agency has withdrawn the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	06/23/97	62 FR 33793
NPRM Comment Period End	08/22/97	
Withdrawn	09/06/01	66 FR 48110

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Elizabeth S. Martineau, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936
Fax: 202 366-3809

RIN: 2132–AA58

2625. PREVENTION OF ALCOHOL MISUSE AND DRUG USE IN TRANSIT OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5331

CFR Citation: 49 CFR 655

Legal Deadline: None

Abstract: The Federal Transit Administration has combined its drug and alcohol testing regulations at part 655. This final rule incorporates guidance that FTA has issued in the past several years in letters of interpretation, audit findings, newsletters, training classes, safety seminars, and public speaking engagements. Additionally, this final rule conforms FTA's rule to the Department of Transportation's revised drug and alcohol testing rule published on December 19, 2000.

Timetable:

Action	Date	FR Cite
NPRM	04/30/01	66 FR 21551

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DOT—FTA **Completed A**

Action	Date	FR Cite
NPRM Comment Period End	06/14/01	
Final Rule Effective	08/01/01	
Final Rule	08/09/01	66 FR 41996

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Scheryl Portee, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Str SW., Washington, DC 20590
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Fax: 202 366-3809

RIN: 2132–AA71

Department of Transportation (DOT) **Completed A**
Saint Lawrence Seaway Development Corporation (SLSDC)

2626. SEAWAY REGULATIONS AND RULES AND TARIFF OF TOLLS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 983(a); 33 USC 984(a)(4); 33 USC 988 as amended; 49 CFR 1.52

CFR Citation: 33 CFR 401; 33 CFR 402

Legal Deadline: None

Abstract: This rule amended the St. Lawrence Seaway Tariff of Tolls to reflect the fees and charges that were assessed starting in the 2001 navigation season and other conforming amendments.

Timetable:

Action	Date	FR Cite
NPRM	02/09/01	66 FR 9751
NPRM Comment Period End	03/12/01	
Final Action	03/16/01	66 FR 15327
Final Action Effective	03/23/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: N

Agency Contact: Marc C. Owen Counsel, Department of Transpo Saint Lawrence Seaway Develop Corporation, 400 Seventh Street Washington, DC 20590
Phone: 202 366-6823
Fax: 202 366-7147
Email: marc.owen@sls.dot.gov

RIN: 2135–AA12

Department of Transportation (DOT) **Prerule**
Research and Special Programs Administration (RSPA)

2627. +MAPS AND RECORDS OF PIPELINE LOCATIONS AND CHARACTERISTICS; NOTIFICATION OF STATE AGENCIES; PIPE INVENTORY

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, November 1, 1989.

Abstract: This action proposes to equalize as far as possible the requirements that gas and hazardous liquid pipeline operators keep maps and records to show the location and other characteristics of pipelines. Operators would be required to keep an inventory of pipe and periodically report mileage and other facts. In addition, operators would be required to provide certain information to State agencies upon request. This is a significant action because of congressional and State concerns about the need for appropriate public officials to have pipeline information.

Timetable:

Action	Date	FR Cite
Public Notice	05/07/97	62 FR 25013
Notice and Request for Comments	08/26/97	62 FR 45287
Public Workshops	07/01/98	63 FR 36030
To Be Withdrawn	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2426. In furtherance of this rulemaking, the Department of Transportation's Office of Pipeline Safety (OPS) is working with other Federal and State agencies and pipeline industry to create a voluntary national pipeline mapping system. This system, when complete, will show the location and selected attributes of the major natural gas and hazardous liquid pipelines and liquefied natural gas facilities operating in the United States. OPS will add additional data layers into the system, including layers on population densities, unusually sensitive areas, natural disaster probability and high consequence areas, hydrography, and transportation networks. OPS will use the syst depict pipelines in relation to th public and the environment, an work with other government age and industry during an incident

A joint government/industry Ma Quality Action Team (MQAT II) national pipeline mapping stand that are being used to create the pipeline layer. These include st for electronic data submissions, map submissions, and metadata on the data). The team also draf standards that are being used by pipeline mapping repository rec the pipeline information. The te pilot tested the draft standards established relationships with S agencies, industry, and others t exchange data that meets the st

The National Pipeline Mapping (NPMS) is a full-featured geogra information system that allows Office of Pipeline Safety (OPS), first time, to accurately view pi in relation to the communities environments they cross. The p data layers being assembled cov interstate and intrastate natural transmission pipelines and haz

DOT—RSPA **Prerule Stage**

liquid trunk lines. In conjunction with the pipeline data layers, the NPMS contains layers depicting population, urbanized areas, political boundaries, roads, railroads, hydrography, consequence and hazard areas, and usually sensitive areas. The NPMS will eventually include three accurate base data layers of differing scale derived from USGS hard-copy quads. The base layers not only provide an accurate base on which to view the location of pipelines but also contain important textual information such as places, roads, contours, and hydrography.

OPS has worked with the interstate natural gas transmission and hazardous liquid trade associations to identify a mapping contact for each operator. The operators have been contacted and OPS is assisting them in preparing their data for submission. Many of these operators have data in a digital format, which theoretically is easier and less time-consuming to process than hard-copy maps. OPS is currently working with the intrastate natural gas trade associations to recruit widespread participation in the NPMS by intrastate natural gas transmission pipeline companies.

The NPMS currently consists of a single National Repository and twelve state repositories located in Alabama, California, Connecticut, Kansas, Kentucky, Louisiana, Maine, Minnesota, New Jersey, Oklahoma, Pennsylvania, and Texas. OPS published two more Commerce Business Daily announcements in February 2000 - one for additional state repositories and the other for a regional repository.

OPS is collecting the liquid trunk line and natural gas transmission pipeline data. OPS regulates approximately 157,000 miles of liquid trunk line and 352,000 miles of natural gas transmission pipelines for a total of 509,000 miles.

Operators are submitting data to the NPMS.

Agency Contact: Christina Sames, Petroleum Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4561

RIN: 2137–AB48

2628. HAZARDOUS MATERIALS: REVISION OF REQUIREMENTS FOR CARRIAGE BY AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 48 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: Part 175 is being revised and rewritten in order to simplify and clarify the requirements, further align them with the international requirements (ICAO) and eliminate obsolete requirements.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations, Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Docket No. HM-228.

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD18

Department of Transportation (DOT)
Research and Special Programs Administration (RSPA) **Proposed Rule Stage**

2629. PIPELINE SAFETY: GAS GATHERING LINE DEFINITION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: The existing definition of "gathering line" would be clearly defined to eliminate confusion in distinguishing these pipelines from transmission lines in rural areas. The costs should be minimal since the definition will conform to prevailing practices in government and industry.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48505
Request for Comments	03/11/99	64 FR 12147
Electronic Public Meeting	04/13/99	64 FR 12147
Extension of Comment Period	04/30/99	64 FR 23256
Comment Period Ends	07/07/99	64 FR 23256
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-98-4868 (Formerly PS-122).

ANALYSIS: Regulatory Evaluation, 09/25/91, 56 FR 48505

Agency Contact: L.E. Herrick, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AB15

2630. HAZARDOUS MATERIALS: RETENTION OF SHIPPING PAPERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177

Legal Deadline: None

Abstract: This action proposes to amend the Hazardous Materials Regulations by requiring shippers and carriers to retain a copy of the hazardous material shipping paper or an electronic image of the shipping paper for a period of 365 days. A one-year retention of shipping papers is a current statutory requirement in 49 U.S.C. 5110(e); this rule will make the

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public, which relies almost exclusively on the HMR, aware of this requirement.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-207B.

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AC64

2631. +APPLICABILITY OF THE HAZARDOUS MATERIALS REGULATIONS TO LOADING, UNLOADING, AND STORAGE

Regulatory Plan: This entry is Seq. No. 109 in part II of this issue of the **Federal Register**.

RIN: 2137–AC68

2632. HAZARDOUS MATERIALS: REQUIREMENTS FOR CARGO TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107; 49 CFR 173; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: This rulemaking proposes to revise and clarify certain manufacturing, maintenance and use requirements pertaining to cargo tank motor vehicles that may be used for hazardous materials transportation. FMCSA inspections have resulted in a preliminary determination that these regulations need to be amended to make them more practical, understandable, and enforceable.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations, Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: HM-213

Agency Contact: Michael Johnsen, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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Email: rules@rspa.dot.gov

RIN: 2137–AC90

2633. PIPELINE SAFETY: FURTHER REGULATORY REVIEW; GAS PIPELINE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: This action would change miscellaneous gas pipeline safety standards to provide clarity, eliminate unnecessary or overly burdensome requirements, and foster economic growth. Some of the proposed changes result from RSPA's further review of the standards following its 1995-1996 review under the President's Regulatory Reinvention Initiative. Other changes are based on recommendations by the National Association of Pipeline Safety Representatives (NAPSR) in its November 1992 report on the standards. The proposed changes would reduce costs in the pipeline industry without compromising safety.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-124. The NAPSR report was published November 9, 1993, at 58 FR 59431, as part of the earlier review of the standards.

Early in 1992, RSPA began an extensive review of the federal gas pipeline safety regulations (49 CFR 192) and invited the public to participate (57 FR 4745; February 7, 1992). RSPA published a Notice of Proceed Rulemaking (NPRM), proposing changes to 38 regulatio part 192 (Notice 1: 57 FR 39572; August 31, 1992). In addition, the National Association of Pipeline S Representatives (NAPSR) reported separate but related review of par Because the NAPSR report concer a few of the regulations covered b NPRM and had similar objectives, published the report and requeste public comment on its various recommended rule changes (Notic 58 FR 59431; November 9, 1992) later extended the comment perio (Notice 3: 58 FR 68382; Decembe 1993). A final rule was published June 6, 1996.

However, not all the changes sugg by the commenters were incorpor in the final rule. A further review the regulatins in Part 192, based o record in this docket, was initiate late 1996. This review identified proposals from the Gas Piping Technology Committee (GPTC), th ASME B31.8 (gas pipeline safety standards) committee, and NAPSI have not yet been addressed.

In October 1997, NAPSR and the pipeline industry formed the Stat Industry Regulatory Review Comm (SIRRC), to discuss the regulatory proposals of NAPSR and other iss On May 3, 1999, the SIRRC provi OPS a report on outcome of the discussion on 329 proposed chan the gas pipeline safety regulations

Most of the SIRRC recommendati will be addressed in a subsequent notice in this docket. The weldin recommendations are being adopt the periodic update (Docket No. R 99-6106 RIN 2137-AD35). The co control recommendations are bei considered in a review of the pip corrosion regulations in Docket N RSPA-97-2762; RIN 2137-AD24.

Agency Contact: Richard Huriau Director, Technology & Regulatio Department of Transportation, Re and Special Programs Administra 400 Seventh Street SW., Washing DC 20590
Phone: 202 366-4565

RIN: 2137–AD01

DOT—RSPA

Proposed Rule Stage

2634. +PIPELINE SAFETY: RECOMMENDATIONS TO CHANGE HAZARDOUS LIQUID PIPELINE SAFETY STANDARDS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 60101 to 60128

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: In 1995, the National Association of Pipeline Safety Representatives (NAPSR) completed its review of the hazardous liquid pipeline safety regulations. NAPSR provided RSPA with 28 recommendations for changes to 49 CFR part 195, the hazardous liquid pipeline regulations. NAPSR's recommendations are aimed at making the regulations more explicit, understandable, and enforceable. This action would address the need to change part 195 as NAPSR recommended.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2717.

Agency Contact: L. M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

RIN: 2137–AD10

2635. HAZARDOUS MATERIALS: HAZARD COMMUNICATION REQUIREMENTS—PETITIONS FOR RULEMAKING AND MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172

Legal Deadline: None

Abstract: This rulemaking action would amend the Hazardous Materials Regulations (HMR) to continue improving the hazard communication requirements to better identify hazardous materials in transportation, in response to several petitions for rulemaking and RSPA initiatives. The primary areas addressed are shipping papers, marking, labeling, and placarding requirements. The proposed action is intended to improve safety for transportation workers, emergency responders, and the public. The effect of the proposed regulatory action would be to simplify, clarify, correct, or provide relief from certain regulatory requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. HM-206B

Agency Contact: Helen Engrum, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
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RIN: 2137–AD28

2636. HAZARDOUS MATERIALS: AIR CARRIER EMERGENCY TELEPHONE NUMBER REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 175

Legal Deadline: None

Abstract: The rulemaking addresses safety recommendations from the National Transportation Safety Board to require that air carriers transporting hazardous materials have the means, 24 hours per day, to quickly retrieve and provide to emergency responders consolidated specific information about the identify and location of all hazardous materials on an aircraft in a timely manner.

Timetable:

Action	Date	FR Cite
ANPRM	08/15/00	65 FR 49777
ANPRM Comment Period End	11/13/00	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. HM-206C

Agency Contact: John A. Gale, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC 20590
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Email: rules@rspa.dot.gov

RIN: 2137–AD29

2637. +HAZARDOUS MATERIALS SAFETY: TRANSPORTATION OF OXYGEN CYLINDERS ON AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 175

Legal Deadline: None

Abstract: RSPA proposes to amend the Hazardous Materials Regulations to require cylinders of oxygen to be placed in an outer container that meets certain thermal and heat protection requirements when transported in cargo compartments on aircraft. These requirements will increase the level of safety associated with transportation of oxidizing gases by air. This rule has no impact on the use of passenger-owned oxygen cylinders. This rule is significant due to public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: HM Docket: HM-224B. A separate rulemaking addressing the use of passenger owned cylinders of oxygen during a flight is under RIN 2105-AC29.

Agency Contact: John A. Gale, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC 20590
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RIN: 2137–AD33

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2638. +HAZARDOUS MATERIALS: SAFETY REQUIREMENTS FOR EXTERNAL PRODUCT PIPING ON CARGO TANKS TRANSPORTING FLAMMABLE LIQUIDS

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173; 49 CFR 180

Legal Deadline: None

Abstract: This rulemaking proposes requirements to reduce the risks associated with the retention of flammable liquid in unprotected product piping on a cargo tank motor vehicle during transportation (Wetlines). It responds to an NTSB recommendation. It is significant because of industry concerns about its cost implications.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM Docket: HM-213B.

Agency Contact: Michael Stevens, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD36

2639. HAZARDOUS MATERIALS: ADOPTION OF LATEST IAEA AND OTHER MISCELLANEOUS REVISIONS AND CLARIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking proposes to harmonize the requirements for the packaging and transportation of Class 7 (radioactive) materials with the International Atomic Energy Agency (IAEA) regulations for the safe transportation of radioactive material and the UN recommendations.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/99	64 FR 72633
Extension of Comment Period	03/01/00	65 FR 11028
ANPRM Comment Period End	03/29/00	
Comment Period Closed	06/29/00	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM-230.

Agency Contact: Charles E. Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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Email: rules@rspa.dot.gov

RIN: 2137–AD40

2640. PIPELINE SAFETY: PRODUCER-OPERATED OUTER CONTINENTAL SHELF GAS AND HAZARDOUS LIQUID PIPELINES THAT CROSS DIRECTLY INTO STATE WATERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 et seq

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This proposed rule would implement a provision of the December 10, 1996 Memorandum of Understanding (MOU) between the Department of the Interior (DOI) and the Department of Transportation (DOT) regarding Outer Continental Shelf (OCS) Pipelines. This rule would address producer-operated pipelines that cross into State waters without first connecting with a transporting operator's facility on the OCS. It is complementary to the Direct Final Rule that addressed OCS oil or gas pipelines located upstream of the points at which operating responsibility for the pipelines transfers from a producing operator to a transporting operator (62 FR 61692, November 19, 1997; and 63 FR 126598, March 16, 1998). The proposed rule also would address the procedures by which producer and transportation pipeline operators would petition for permission to operate under either DOT or DOI regulations governing pipeline design, construction, operation, and maintenance according to the operational circumstances of thei respective pipelines.

Timetable:

Action	Date	FR
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Additional Information: Docket N RSPA-99-6132.

Agency Contact: L.E. Herrick, Transportation Specialist, Depart of Transportation, Research and S Programs Administration, 400 Se Street SW., Washington, DC 2059 Phone: 202 366-5523

RIN: 2137–AD42

2641. HAZARDOUS MATERIALS: MISCELLANEOUS AMENDMENT UNLOADING IM PORTABLE TAN ON A TRANSPORT VEHICLE - PETITION FOR RULEMAKING

Priority: Substantive, Nonsignific

Legal Authority: 49 USC 5101 to

CFR Citation: 49 CFR 177

Legal Deadline: None

Abstract: RSPA is proposing a ru response to a petition for rulemak regarding the requirements applic to the unloading of Intermodal (IM portable tanks while on a transpo vehicle.

Timetable:

Action	Date	FR
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Additional Information: HM-218A

Agency Contact: Joan McIntyre, Transportation Regulations Speci Department of Transportation, Re and Special Programs Administra 400 Seventh Street SW., Washing DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD44

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Proposed Rule Stage

2642. HAZARDOUS MATERIALS: TRANSPORTATION OF LITHIUM BATTERIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172 to 175

Legal Deadline: None

Abstract: RSPA is revising requirements applicable to lithium batteries for consistency with international requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM Docket: HM-224C

Agency Contact: John A. Gale, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD48

2643. HAZARDOUS MATERIALS: REVISION OF THE REQUIREMENTS FOR HAZARDOUS WASTE MANIFESTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101-5127

CFR Citation: 49 CFR 172

Legal Deadline: None

Abstract: The NPRM proposes to update the Hazardous Waste Manifest requirements to accommodate changes the Environmental Protection Agency has proposed, including the use of electronic versions of the Hazardous Waste Manifest and electronic signatures.

Timetable:

Action	Date	FR Cite
NPRM	08/08/01	66 FR 41490
NPRM Comment Period End	10/04/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: HM Docket: HM-206E

Agency Contact: Michael Johnsen, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD50

2644. PIPELINE SAFETY: PIPELINE INTEGRITY MANAGEMENT IN HIGH CONSEQUENCE AREAS (GAS TRANSMISSION PIPELINE OPERATORS)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5121; 49 USC 60102 to 60104; 49 USC 60108, 60117, 60118, 60124; 49 CFR 1.53

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: An October 21, 1999, notice announced a public meeting to consider the need for additional safety and environmental regulations for gas transmission lines, hazardous liquid pipelines, and distribution pipelines in high-density population areas, commercially navigable waterways, and areas unusually sensitive to environmental damage. The public meeting was held on November 18-19, 1999 in Herndon, Virginia. The meeting was to determine the extent to which operators now have integrity management programs, to explore effective ways to promote their development and implementation by all operators, and to discuss mechanisms to confirm the adequacy of such operator-developed programs. Participants in the meeting discussed a practical definition of high consequence areas, as well as the need, if any, for increased inspection, enhanced damage prevention, improved emergency response, and other measures to prevent and mitigate pipeline leaks and ruptures in these areas. Comments from the public were due by January 17, 2000.

A final rule was published to require validation/testing of the integrity of certain hazardous liquid pipelines in high consequence areas (RIN 2137-AD45). A public meeting was held on February 12-14, 2001 to present information on integrity requirements for gas transmission pipelines.

Consideration of a similar gas rule is underway. Rulemakings addressing gas transmission line high consequence areas, direct assessment, and overall integrity management program will be published in 2001.

Timetable:

Action	Date	FR Cite
NPRM High Consequence Areas Definition	12/00/01	
NPRM Integrity Management Program	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-00-7666.

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571
Email: mike.israni@rpsa.dot.gov

RIN: 2137–AD54

2645. HAZARDOUS MATERIALS: FRANGIBLE DISCS ON TANK CARS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: RSPA is proposing to clarify current inspection requirements for frangible discs in pressure relief devices on rail tank cars used to transport hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HM Docket HM-216A

Agency Contact: Eileen Edmonson, Transportation Regulations Specialist, Department of Transportation, Research

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RIN: 2137–AD57

2646. • PIPELINE SAFETY: HAZARDOUS LIQUID PIPELINE OPERATOR ANNUAL REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: and 49 CFR 1.53

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking would amend the pipeline safety regulations to require hazardous liquid pipeline operatofs to submit a Hazardous Liquid Operator Annual Report. The information on the hazardous liquid operator annual report form is needed to normalize hazardous liquid accident information for identifying safety trends in the accident data. The inventory information that the annual report would provide addresses a major deficiency in the current information collection. Through a separate rulemaking, RSPA is also improving the hazardous liquid accident form by expanding "failure cause" categories and collecting more detailed information about the impact of failed pipelines. Together with the improved hazardous liquid accident report, the proposed Hazardous Liquid Operator Annual Report will address the concerns of RSPA/OPS, the National Transportation Safety Board (NTSB), Congress, and others, increase the overall usefulness of the data and analysis more efficient and meani

Timetable:

Action	Date	FR
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Additional Information: Docket No RSPA-01-9832.

Agency Contact: Roger Little, Department of Transportation, Res and Special Programs Administrat Phone: 202 366-4569

RIN: 2137–AD59

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2647. QUANTITY LIMITATIONS ABOARD AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: This action responded to a petition for rulemaking that proposed to remove the fifty-pound limit on the quantity of hazardous materials that may be stowed in an inaccessible cargo location on passenger-carrying aircraft. Comments to the NPRM indicated that further evaluation is needed. RSPA has decided to withdraw this proposal and consider the petition for rulemaking in its overall revision of 49 CFR part 175, in HM-228, RIN 2317-AD18.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/84	49 FR 13717
ANPRM Comment Period End	09/01/84	
NPRM	02/13/85	50 FR 6013
NPRM Comment Period End	05/30/85	
To Be Withdrawn	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: This project was formerly entitled: Limitation Aboard Aircraft. Docket HM-192. A related rulemaking is "Prohibition of Oxidizers Aboard Aircraft," HM-224A, RIN 2127-AC92. The proposal will be considered as part of HM-228, RIN 3217-AD18.

ANALYSIS: Regulatory Evaluation, 02/13/85, 50 FR 6013

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AA85

2648. +HAZARDOUS MATERIALS: REQUIREMENTS FOR CYLINDERS

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking proposed to amend the Hazardous Materials Regulations (HMR) by updating and consolidating requirements for the manufacture, maintenance, requalification, repair, and use of compressed gas cylinders. Because of significant adverse comment, this rulemaking will be terminated. RS will address the proposals in this rulemaking applicable to mainten requalification and repair of DOT specification cylinders; approval f cylinder requalifiers, independent inspection agencies, and non-dom chemical analyses and tests in a f rule under RIN 2137-AD58. Cylin manufacturing issues will be addr in a separate rulemaking action.

Timetable:

Action	Date	FR
NPRM	10/30/98	63 FR
NPRM Comment Period End	05/28/99	
Extension of Comment Period	05/28/99	64 FR
Comment Period Closed	09/30/99	
Termination Notice	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Business Governmental Jurisdictions, Organizations

Government Levels Affected: No

Additional Information: Formerly entitled Review: Consolidation of Specifications for High-Pressure Seamless Cylinders. Docket No. H 220.

Agency Contact: Charles Betts, Transportation Regulations Speci

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Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
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RIN: 2137–AA92

2649. DOT 3AL ALUMINUM CYLINDERS; SAFETY PROBLEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: Certain DOT 3AL cylinders made of aluminum alloy 6351 have been discovered developing cracks during service, and occasionally leaks developed that resulted in loss of contents. The ANPRM was to alert and inform all persons possessing these cylinders of the problems, identify those cylinders at risk, and suggest steps to minimize risks. Safety issues will be handled and this rulemaking addressed under RIN 2137-AD58.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/87	52 FR 26027
ANPRM Comment Period End	08/10/87	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-176A. Safety issues originally considered by this action are being addressed in Docket HM-220, RIN 2137-AA92.

ANALYSIS: Regulatory Evaluation

Agency Contact: Charles Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AB51

2650. *PIPELINE SAFETY: RESPONSE PLANS FOR ONSHORE OIL PIPELINES

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 194

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: The interim final rule established regulations requiring response plans for certain onshore oil pipelines. Those regulations are mandated by the Federal Water Pollution Control Act as amended by the Oil Pollution Act of 1990 (Pub. L. 101-380). Pipeline operators filed response plans under this interim final rule, and numerous tabletop exercises and area exercises have been conducted to validate the planning process. The purpose of these requirements is to improve response capabilities and minimize the impact of onshore oil spills from pipelines. This rule is significant because of substantial public and congressional interest. Because of time that has passed since issuance of Interim Final Rule, an advisory bulletin and an interpretation will be issued to address technical issues. Subsequently, a new NPRM will be issued to update record and support issuance of a final rule later in 2001.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/93	58 FR 244
Comment Period End	02/19/93	
Notice of Public Meeting	06/15/94	59 FR 30755
Notice of Public Hearing	11/29/96	61 FR 60679
Correction	01/21/97	62 FR 2989
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. PS-130.

ANALYSIS: Regulatory Evaluation, 01/05/93, 58 FR 244

Agency Contact: James Taylor, Response Plans Officer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8860

RIN: 2137–AC30

2651. FILLING OF PROPANE CYLINDERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: In an ANPRM, RSPA solicited comments on the merits of a petition for rulemaking to require registration and training of persons who fill propane cylinders, certification of filling equipment operators, and proof of financial responsiblity. The petition would also allow filling of propane cylinders by volume rather than by weight, which is currently required by the Hazardous Materials Regulations. A Federal Register notice will terminate rulemaking action in this docket and deny the petition for rulemaking because, based on the comments, there is no safety justification for imposing the costs of a registration, training and financial responsibility program for cylinder fillers.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/96	61 FR 43515
ANPRM Comment Period End	11/21/96	
To Be Withdrawn	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-220C.

Agency Contact: Gigi L. Corbin, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC 20590
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Fax: 202 366-3012
Email: rules@rspa.dot.gov

RIN: 2137–AC86

2652. HAZARDOUS MATERIALS: REVISIONS TO STANDARDS FOR INFECTIOUS SUBSTANCES AND GENETICALLY MODIFIED MICROORGANISMS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321; 49 USC 5101 to 5127

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CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177; 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking proposes to amend the Hazardous Materials Regulations to provide for the transport of infectious medical waste in bulk packagings, remove the blanket exception for transporting biological products and diagnostic specimens and revise the definition, hazardous communication, and packaging requirements for other infectious substances and genetically modified microorganisms to make them consistent with international transportation requirements. RSPA held a public meeting on the ANPRM via the internet.

Timetable:

Action	Date	FR Cite
ANPRM	09/02/98	63 FR 46844
ANPRM Comment Period End	12/01/98	
NPRM	01/22/01	66 FR 7942
NPRM Comment Period End	04/23/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-226. DMS Docket No. RSPA- 98-3971.

Agency Contact: Eileen Edmonson, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD13

2653. HAZARDOUS MATERIALS: REVISED AND CLARIFIED HAZARDOUS MATERIALS SAFETY RULEMAKING AND PROGRAM PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106; 49 CFR 107

Legal Deadline: None

Abstract: This rulemaking will make minor substantive changes to 49 CFR parts 106 and 107 of the hazardous materials procedural regulations, and will result in a revision of those parts in language that is easier to understand. This action is being taken in order to update RSPA's hazardous materials procedural regulations and to rewrite the current requirements in a new question and answer format that will be more user-friendly.

Timetable:

Action	Date	FR Cite
NPRM	12/11/98	63 FR 68624
NPRM Comment Period End	02/09/99	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-98-3974. (RSP-4)

Agency Contact: Karin Christian, Attorney, Room 8407, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4400
Email: rules@rspa.dot.gov

RIN: 2137–AD20

2654. PIPELINE SAFETY: CONTROLLING CORROSION ON HAZARDOUS LIQUID AND CARBON DIOXIDE PIPELINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: The corrosion-control regulations for hazardous liquid and carbon dioxide pipelines will be revised to reflect the latest safety practices for corrosion protection of steel pipe. Specific criteria for cathodic protection will be adopted.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	04/07/99	64 FR 16885
NPRM	12/08/00	65 FR 76968
NPRM Comment Period End	02/06/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State Local

Additional Information: Docket No. RSPA-97-2762. Notice of public meeting 10/29/97 (62 FR 56141).

Agency Contact: L.M. Furrow, Manager, Regulations, Department Transportation, Research and Spec Programs Administration, 400 Sev Street SW., Washington, DC 20590 Phone: 202 366-4559

RIN: 2137–AD24

2655. PIPELINE SAFETY: PERIOD UPDATES TO PIPELINE SAFETY REQUIREMENTS (1999)

Priority: Substantive, Nonsignifica

Legal Authority: 49 USC 60101 et

CFR Citation: 49 CFR 190; 49 CFR 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This periodic update rev and updates the pipeline safety regulations to provide clarity and remove unnecessary burdens to th regulated pipeline community. Revisions include updated referen voluntary specifications and stand incorporated by reference in the pipeline safety regulations, and va clarifications and grammatical corrections. These updates reflect most recent editions of each specification and standard incorp by reference. These updates enabl pipeline operators to utilize curre technology, materials, and practic thereby reducing costs and enhan economic growth.

Timetable:

Action	Date	FR
NPRM	03/22/00	65 FR
NPRM Comment Period End	05/22/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Additional Information: Docket N RSPA-99-6106

Agency Contact: Richard Huriau Manager - Regulations, Departme Transportation, Research and Spe

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Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4565

RIN: 2137–AD35

2656. HAZARDOUS MATERIALS: LIMITED EXTENSION OF REQUIREMENTS FOR LABELING CERTAIN SHIPMENTS OF MATERIALS POISONOUS BY INHALATION (PIH)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172

Legal Deadline: None

Abstract: In an interim final rule, RSPA provided a limited exception, until October 1, 2001, from the requirements for PIH labels on certain packages intended for transportation in international commerce. The interim final rule was intended to facilitate international commerce and to provide more time for the UN Committee of Experts to consider U.S. proposals for adopting the PIH labels and placards. The final rule responds to two comments received on the interim final rule and addresses further exceptions from PIH labeling and placarding requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/16/99	64 FR 50260
Interim Final Rule Effective	10/01/99	
Interim Final Rule Comment Period End	11/15/99	
Final Rule	08/22/01	66 FR 44251
Effective Date	10/01/01	
Response to Petition for Reconsideration	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM-206D

Agency Contact: Helen L. Engrum, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD37

2657. HARMONIZATION WITH THE UNITED NATIONS RECOMMENDATIONS, INTERNATIONAL MARITIME DANGEROUS GOODS CODE, AND INTERNATIONAL CIVIL AVIATION ORGANIZATION'S TECHNICAL INSTRUCTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171 to 180

Legal Deadline: None

Abstract: RSPA proposed to amend the Hazardous Materials Regulations (HMR) to maintain alignment with international standards, promulgated by the United nations, the International Maritime Organization, the International Civil Aviation Organization, and the International Atomic Agency, by incorporating numerous changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air-transport quantity limitations and vessel stowage requirements.

In a final rule published in the Federal Register on February 1, 2001, RSPA adopted some of the standards proposed in the NPRM. In a subsequent final rule, RSPA intends to adopt the other proposed standards.

Timetable:

Action	Date	FR Cite
NPRM	10/23/00	65 FR 63294
NPRM Comment Period End	12/23/00	
Final Rule	02/01/01	66 FR 8644
Final Rule	06/21/01	66 FR 33316
Correction	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM-215D. Docket No. RSPA-00-7702.

Agency Contact: Joan McIntyre, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD41

2658. REVISIONS; DEFINITION OF ADMINISTRATOR

Priority: Info./Admin./Other

Legal Authority: 33 USC 1321; 49 USC 5101 to 5127, 44701, 60101 et seq; PL 104-121, sec 212 to 213; 49 CFR 1.45 and 1.53

CFR Citation: 49 CFR 171 to 180; 49 CFR 190 to 199

Legal Deadline: None

Abstract: Modifies or adds the definition of "Administrator" for clarification and consistency within the RSPA regulations.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Astrid Lopez-Goldberg, Attorney, Department of Transportation, Research and Special Programs Administration
Phone: 202 366-4400

RIN: 2137–AD43

2659. PIPELINE SAFETY: PIPELINE INTEGRITY MANAGEMENT IN HIGH CONSEQUENCE AREAS (HAZARDOUS LIQUID OPERATORS WITH LESS THAN 500 MILES OF PIPELINE)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5121; 49 USC 60102 to 60104; 49 USC 60117 to 60118; 49 USC 60124; 49 CFR 1.53

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: The rule will apply to hazardous liquid pipeline operators who own or operate less than 500 miles of pipelines. The rule will require integrity assessment of pipeline segments that could affect high consequence areas, and consideration of additional preventive and mitigative actions to protect these locations from pipeline spills. OPS is proposing that an operator develop and follow an integrity management program that continually assesses and evaluates the integrity of those pipelines that could affect a high consequence area, through internal inspection or pressure testing, and data integration and analysis.

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Timetable:

Action	Date	FR Cite
NPRM	03/21/01	66 FR 15821
NPRM Comment Period End	05/21/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-00-7408.

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571
Email: mike.israni@rpsa.dot.gov

RIN: 2137–AD49

2660. HAZARDOUS MATERIALS: REDUCTION OF REGISTRATION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107

Legal Deadline: None

Abstract: RSPA proposed to reduce the hazmat registration fee for all persons who transport or offer for transportation certain categories and quantities of hazmat, replace the reference to the standard industrial classification (SIC) code with the North American Industry Classification System (NAICS), and clarify the registration fee for not-for-profit organizations. RSPA is delaying final action on these proposals because of their interaction with final action on the FY 2002 Federal budget.

Timetable:

Action	Date	FR Cite
NPRM	12/07/00	65 FR 76890
NPRM Comment Period End	02/02/01	
NPRM; Status	05/02/01	66 FR 22080
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. HM-208D.

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD53

2661. PIPELINE SAFETY: HAZARDOUS LIQUID PIPELINE ACCIDENT REPORTING REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5103, 60102, 60104, 60108, 60109, 60118; 49 CFR 1.53

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking will amend the pipeline safety regulations to lower the reporting threshold for hazardous liquid pipeline spills from 50 barrels to 5 gallons with an accompanying revision to the hazardous liquid accident report form to improve its usefulness. New reporting for spills for less than 5 gallons will require reporting minimal information, whereas any spill in water of 5 gallons or more, or where otherwise reportable according to existing reporting criteria as outlined in CFR 195.50, will require completion of the entire new proposed accident report.

Timetable:

Action	Date	FR Cite
NPRM	03/21/01	66 FR 15681
NPRM Comment Period End	05/21/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-01-8663.

Agency Contact: Roger Little, Department of Transportation, Research and Special Programs Administration
Phone: 202 366-4569

RIN: 2137–AD56

2662. HAZARDOUS MATERIALS: REQUIREMENTS FOR MAINTENANCE, REQUALIFICATION, AND REPAIR OF DOT SPECIFICATION CYLINDERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107; 49 CFR to 173; 49 CFR 177 to 178; 49 CFR 180

Legal Deadline: None

Abstract: The rulemaking will ma changes to the Hazardous Materia Regulations to revise the requirem for maintenance, requalification a repair of all DOT specification cylinders. In addition it will revis requirements for approval of cylin requalifiers, independent inspecti agencies, and nondomestic chemi analysis and tests, and revise cert requirements in certain cylinder inspections. Certain cylinder manufacturing proposals will be handled in a separate rulemaking action. The NPRM was under RIN 2127-AA92.

Timetable:

Action	Date	FR
NPRM	10/30/98	63 FR
NPRM Comment Period End	09/30/99	64 FR
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Busines

Government Levels Affected: N

Additional Information: HM Doc HM-220D

Agency Contact: Charles E. Bett Transportation Regulations Spec Department of Transportation, R and Special Programs Administr 400 Seventh Street SW., Washin DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD58

2663. • HAZARDOUS MATERIA REGULATIONS: EDITORIAL CORRECTIONS AND CLARIFIC

Priority: Routine and Frequent

Legal Authority: 49 USC 49 510 5127

CFR Citation: 49 CFR 107; 49 C 49 CFR 172; 49 CFR 173; 49 CF 49 CFR 177; 49 CFR 178; 49 CF 49 CFR 180; ...

Legal Deadline: None

Abstract: The purpose of this F Rule is to correct editorial error to enhance the clarity of certain provisions in the Hazardous Ma Regulations.

DOT—RSPA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	08/28/01	66 FR 45177
Final Action Effective	10/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM Docket: HM-189S

Agency Contact: Michael Stevens, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD60

2664. • PIPELINE SAFETY: PIPELINE INTEGRITY MANAGEMENT IN HIGH CONSEQUENCE AREAS (REPAIR CRITERIA)

Priority: Substantive, Nonsignificant

Legal Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; 49 CFR 1.53

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: The final rule on integrity management for hazardous liquid pipelines with 500 or more miles of pipelines (December 1, 2000, 65 FR 75378) requires operators to assess, evaluate, repair, and validate through comprehensive analysis the integrity of hazardous liquid pipeline segments that, in the event of a leak, could affect high consequence areas. An operator must develop a schedule that prioritizes defects for evaluation and repair, including time frames for promptly reviewing and analyzing the integrity assessment and completing the repairs. An operator must also provide additional protection for these pipeline segments through other remedial actions, and preventive and mitigative measures. This additional action is required because OPS completely restructured the section of the rule pertaining to actions an operator must take to address pipeline integrity issues and allowed 60 days for comments on the provisions in section 195.452(h). We are now evaluating these comments and will likely issue an additional final rule to modify the repair requirements or notice stating that the section stands as written.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-99-6355.

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571
Email: mike.israni@rpsa.dot.gov

RIN: 2137–AD61

Department of Transportation (DOT)
Research and Special Programs Administration (RSPA)

Long-Term Actions

2665. PIPELINE SAFETY: PASSAGE OF INTERNAL INSPECTION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: A final rule (59 FR 17275; April 12, 1994) amended the gas and hazardous liquid pipeline safety regulations to require that new and certain replacement pipelines be designed and constructed to accommodate the passage of instrumented internal inspection devices ('smart pigs'). This action was in response to a mandate in the pipeline Safety Reauthorization Act of 1988. The intended effected of amended regulations was to improve the safety of gas, hazard liquid, and carbon dioxide pipelines by permitting their inspection by 'smart pigs' using the latest technology for detecting and recording abnormalities in the pipe wall. This rule required new and replacement pipelines to be capable of passing a 'pig' for internal inspection.

In response to two petitions for reconsideration, Notice 2 (59 FR 49896; September 30, 1994) was published to extend the compliance date for existing gas transmission lines and to modify the requirements for modification of line sections based on partial replacement of gas transmission pipelines located offshore and in rural areas. Subsequently, Notice 3 (60 FR 7133; February 7, 1995) was published to suspend enforcement of the final rule requirements for new and existing offshore gas transmission lines and for modifications to line segments based on partial replacement of pipe in existing onshore gas transmission lines. Nonetheless, hazardous liquid pipelines, carbon dioxide pipelines, new onshore gas transmission lines, and the actual replaced components in existing onshore gas transmission lines must comply with the final rule of April 1994. The next action is undetermined.

Timetable:

Action	Date	FR Cite
NPRM	11/20/92	57 FR 54745
NPRM Comment Period End	01/19/93	
Final Rule	04/12/94	59 FR 17275
NPRM	09/30/94	59 FR 49896
NPRM Correction	10/19/94	59 FR 52863
Limited Suspension of Enforcement	02/07/95	60 FR 7133
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-126. The integrity testing proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, was consolidated, in part, into this rulemaking. The final rule (59 FR 17275; April 12, 1994) amended the gas and hazardous liquid pipeline safety regulations to require that new and certain replacement pipelines be designed and constructed to accomodate the passage of

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instrumented internal inspection devices ('smart pigs'). This action was in response to a mandate in the Pipeline Safety Reauthorization Act of 1988. The intended effect of these amended regulations was to improve the safety of gas, hazardous liquid, and carbon dioxide pipelines by permitting their inspection by 'smart pigs' using the latest technology for detecting and recording abnormalities in the pipe wall. This rule required new and replacement pipelines to be capable of passing a 'pig' for internal inspection.

ANALYSIS: Regulatory Evaluation, 04/12/94, 59 FR 17275

Agency Contact: Richard Huriaux, Manager - Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4565

RIN: 2137–AB71

2666. +SAFEGUARDING FOOD FROM CONTAMINATION DURING TRANSPORTATION

Priority: Other Significant

Legal Authority: 49 USC 5701 to 5714

CFR Citation: 49 CFR 1

Legal Deadline: Final, Statutory, August 1, 1991.

Abstract: The Sanitary Food Transportation Act of 1990 (49 USC 5701 et seq.) requires the Secretary of Transportation, in consultation with the Secretaries of Agriculture and Health and Human Services and the Administrator of the Environmental Protection Agency, to issue regulations concerning the transportation of food, food additives, drugs, devices, and cosmetics in motor and rail vehicles also used to transport nonfood products that could pose an unreasonable danger to human or animal health when so transported. This rulemaking will implement the statutory requirements. This rulemaking is significant because of substantial public and congressional interest. RSPA's next action is undetermined because it has requested personnel resources from Congress necessary to perform these food safety functions.

Timetable:

Action	Date	FR Cite
ANPRM	02/20/91	56 FR 6934
04/29/91	03/21/91	56 FR 11982
NPRM	05/21/93	58 FR 29698
Notice of Public Hearing	05/21/93	58 FR 29698
NPRM Comment Period End	10/18/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: ANALYSIS: Regulatory Evaluation, 05/21/93, 58 FR 29698

Agency Contact: Michael Johnsen, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AC00

2667. PIPELINE SAFETY: PERIODIC UNDERWATER INSPECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: This action would require operators of natural gas and hazardous liquid pipelines to conduct periodic underwater inspections of offshore pipelines and those in navigable waterways. This action would also define what constitutes an exposed underwater pipeline and what constitutes a hazard to navigation.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-97-3001. This action could include requirements for the reburial of exposed pipelines. Under an OPS contract, Texas A&M University completed a study of the issues related to burial depth and inspection requirments for underwater pipelines.

An NPRM is being drafted that will incorporate the Texas A&M recommendation for a risk-based approach.

Agency Contact: L.E. Herrick, Transportation Specialist, Departm of Transportation, Research and Sp Programs Administration, 400 Seve Street SW, Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AC54

2668. HAZARDOUS MATERIALS: REVISIONS TO THE INCIDENT REPORTING REQUIREMENTS AN THE DETAILED HAZARDOUS MATERIALS INCIDENT REPORT D FORM

Priority: Substantive, Nonsignifican

Legal Authority: 49 USC 5105 to 5

CFR Citation: 49 CFR 171

Legal Deadline: None

Abstract: This rulemaking reviews hazardous materials incident repor regulations in 49 CFR part 171, including the hazardous materials incident report (form 5800.1). The of this rulemaking is to simplify, update and review the requirement while enhancing the ability of the Research and Special Programs Administration and the DOT moda administrations to gather informati vital to increasing safety of transpo hazardous materials.

Timetable:

Action	Date	FR C
ANPRM	03/23/99	64 FR 1
Comment Period End	06/21/99	
NPRM	07/03/01	66 FR 3
NPRM Comment Period End	10/01/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesse Governmental Jurisdictions, Organizations

Government Levels Affected: Fede

Additional Information: Docket No HM-229.

Agency Contact: Diane LaValle, Transportation Specialist, Departm of Transportation, Research and Sp Programs Administration, 400 Seve Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD21

DOT—RSPA

Long-Term Actions

2669. PIPELINE SAFETY: ENFORCEMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 190.209; 49 CFR 190.213

Legal Deadline: None

Abstract: This action will revise RSPA's pipeline safety enforcement procedures to minimize paperwork in uncontested cases where a person pays a proposed civil penalty or agrees to a proposed compliance order. The procedures will be changed to show that both responses are considered offenses in determining any future civil penalty assessments. These changes will streamline the enforcement process.

Timetable:

Action	Date	FR Cite
NPRM	08/12/99	64 FR 43972
NPRM Comment Period End	10/12/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-98-4284. The changes to part 190 modify agency rules of practice and procedure.

Agency Contact: Linda Daugherty, Enforcement Officer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4577
Email: daugherll@rspa.dot.gov

RIN: 2137–AD22

2670. PIPELINE SAFETY: PRESSURE TESTING OLDER PIPELINES IN TERMINALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195.302

Legal Deadline: None

Abstract: Certain older pipelines in terminals and tank farms must be pressure tested before December 7, 2003. Based on a petition, RSPA is reconsidering this testing requirement in light of the risk and low operating stress of these pipelines. RSPA has stayed enforcement of the testing requirement against pipelines designed not to operate above 20 percent of specified minimum yield strength.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-98-4316. Notice requesting comment 2/10/98 (63 FR 6677) in Docket No. PS-121. Enforcement Stay (63 FR 63210; November 12, 1998).

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571
Email: mike.israni@rpsa.dot.gov

RIN: 2137–AD26

2671. HAZARDOUS MATERIALS: REVISED AND CLARIFIED HAZARDOUS MATERIALS EXEMPTIONS PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107

Legal Deadline: None

Abstract: This rulemaking will make minor substantive changes to the hazardous materials exemptions procedures of the hazardous materials procedural regulations and will result in a complete re-write of the exemptions procedures in language that is easier to understand. This action will follow a previous rulemaking which involved re-writing the hazardous materials rulemaking procedures. These actions are being taken to update RSPA's procedural regulations in a new question-and-answer format that will be more user-friendly.

Timetable:

Action	Date	FR Cite
NPRM	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: This is follow-on rulemaking to Docket No. RSPA-98-3974 (RSP-4).

Agency Contact: Karin V. Christian, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4400
Email: rules@rspa.dot.gov

RIN: 2137–AD30

2672. HAZARDOUS MATERIALS: CARGO TANK ROLLOVER REQUIREMENTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: The purpose of this advance notice of proposed rulemaking is to request comments concerning the need, if any, for amending the Hazardous Materials Regulations with regard to standards for cargo tank rollover protection devices on specification DOT 406, 407 and 412 cargo tank motor vehicles.

Timetable:

Action	Date	FR Cite
ANPRM	11/16/99	64 FR 62161
ANPRM Comment Period End	05/15/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: HM Docket: HM-213A

Agency Contact: Hattie L. Mitchell, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AD34

2673. • PIPELINE SAFETY: INTEGRITY MANAGEMENT COMMUNICATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5103, 60102, 60104, 60108, 60110, 601132, 60118; 49 CFR 1.53

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DOT—RSPA

Long-Term A

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: In connection with the series of rules Pipeline Integrity Management in High Consequence Areas, the Office of Pipeline Safety (OPS) may propose related rules governing operator communications with local public officials and agencies. To assist in this effort, the OPS Technical Advisory Committees created an Integrity Management Communications Subcommittee to focus on communications issues. The Subcommittee has equal representation from the public, government agencies, and the pipeline industry. It provides feedback, insight, and information to the advisory committee on the content and delivery of information conveyed to local officials and public about pipeline operations, systems, and the risks they pose in or near high consequence areas. The Subcommittee is also assisting OPS in finalizing a primer to educate local officials on pipelines and their operations. It held its first meeting on August 28, 2000, to discuss the content and delivery of pipeline information to be conveyed to local officials and members of the public in or near high consequence areas.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-00-7795.

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571
Email: mike.israni@rpsa.dot.gov

RIN: 2137–AD62

2674. • PIPELINE SAFETY: CONTROLLING CORROSION ON GAS PIPELINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5103, 60102, 60104, 60108, 60109, 60113, 60118; 49 CFR 1.53

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: The corrosion-control regulations for gas pipelines will be revised to incorporate the latest s practices for corrosion protection steel pipe. Updated criteria for corrosion protection will be incorporated into the federal pip safety regulations including, if p the incorporation by reference of voluntary consensus standards. A change will be designed to impro corrosion protection of new and existing piping for corrosion and control any deleterious effects. A changes will be comparable to th requirements for hazardous liqui carbon dioxide pipelines in 49 C Part 195.

Timetable: Next Action Undeter

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: N

Additional Information: Docket RSPA-01-10337.

Agency Contact: Richard D. Hu Manager - Regulations, Departme Transportation, Research and Sp Programs Administration, 400 S Street SW., Washington, DC 205 Phone: 202 366-4565

RIN: 2137–AD83

Department of Transportation (DOT)
Research and Special Programs Administration (RSPA)

Completed A

2675. HAZARDOUS MATERIALS: REVISION OF REQUIREMENTS FOR CARRIAGE BY RAIL CAR AND MOTOR VEHICLE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 174; 49 CFR 177

Legal Deadline: None

Abstract: This rulemaking is based on a joint petition for rulemaking submitted by the American Trucking Associations, Inc. and the Association of American Railroads. The intended impact of a proposal to address this petition is to streamline the requirements of parts 174 and 177. However, RSPA believes that we should broaden the scope of a proposal to cover all rail, air, highway, and vessel carrier requirements in parts 174, 175, 176 and 177. Further, in 2003, we will be reviewing part 176, Carriage by Vessel, in accordance with section 610 of the Regulatory Flexibility Act of 1980 (Public Law 96-354). Therefore, we are planning a new project to address requirements for transporting hazardous materials by all four modes. This rulemaking action is terminated.

Timetable:

Action	Date	FR Cite
Withdrawn	08/06/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-227.

Agency Contact: Helen Engrum, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washin DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD19

2676. HAZARDOUS MATERIALS MINOR EDITORIAL CORRECTIO AND CLARIFICATIONS

Priority: Routine and Frequent

Legal Authority: 49 USC 5101 t

CFR Citation: 49 CFR 106 to 10 CFR 110; 49 CFR 171 to 176; 49 178 to 180

Legal Deadline: None

Abstract: This final rule correct inconsistencies in terminology a makes minor editorial correctio improve the clarity of the Hazar Materials Regulations (HMR).

DOT—RSPA **Completed Actions**

Timetable:

Action	Date	FR Cite
Final Action	08/28/01	66 FR 45375
Final Action Effective	09/28/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM Docket: HM-189R

Agency Contact: Gigi L. Corbin, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-8553
Fax: 202 366-3012
Email: rules@rspa.dot.gov

RIN: 2137–AD51

2577. PIPELINE SAFETY: DRUG AND ALCOHOL TESTING FOR PIPELINE FACILITY EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 et seq

CFR Citation: 49 CFR 199

Legal Deadline: None

Abstract: We propose to conform the pipeline facility drug and alcohol testing regulations with corresponding DOT regulations (Procedures for Transportation Workplace Drug and Alcohol Testing Programs). We also propose miscellaneous changes to the pipeline facility drug and alcohol testing regulations to make them easier to apply and understand. The proposals are intended to ensure the pipeline facility drug and alcohol testing regulations are clear and consistent with the DOT regulations.

Timetable:

Action	Date	FR Cite
Final Rule	09/11/01	66 FR 47114

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-00-8417

Agency Contact: L.M. Furrow, Manager, Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

L. M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

RIN: 2137–AD55

Department of Transportation (DOT)
Maritime Administration (MARAD) **Proposed Rule Stage**

2578. +CARGO PREFERENCE REGULATIONS—CARRIAGE OF AGRICULTURAL EXPORTS

Priority: Other Significant

Legal Authority: 46 app USC 1101; 1114(b), 1122(d), 1241

CFR Citation: 46 CFR 381; 49 CFR 1.66

Legal Deadline: None

Abstract: This action proposes to clarify the Maritime Administration's cargo preference regulations governing the carriage of agricultural exports. The rulemaking will concern, among other issues, (1) incorporating into part 381 MARAD's existing rules on priority of service of various U.S.-flag services; (2) clarifying how shipper agencies should comply with the existing provisions of the regulations regarding geographic areas and booking cargo on U.S.-flag vessels before foreign-flag vessels; (3) redefining certain terms for clarity to bring them in line with commercial practices; and other related issues. This rule is significant because of public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/28/99	64 FR 4382
ANPRM Comment Period End	03/29/99	
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Harrelson, Director, Office of Cargo Preference, Room 8118, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5515

RIN: 2133–AB37

Department of Transportation (DOT)
Maritime Administration (MARAD) **Final Rule Stage**

2579. • ELIGIBILITY OF U.S.-FLAG VESSELS OF 100 FEET OR GREATER IN REGISTERED LENGTH TO OBTAIN A FISHERY ENDORSEMENT TO THE VESSEL'S DOCUMENTATION

Priority: Substantive, Nonsignificant

Legal Authority: 46 APP USC 12102; PL 105-277; 49 CFR 1.66

CFR Citation: 46 CFR 356

Legal Deadline: None

Abstract: The Maritime Administration (MARAD) published this interim final rule amending regulations implementing the new U.S. citizenship requirements set forth in the American Fisheries Act of 1998 (AFA). This new regulation will allow MARAD to waive any procedural requirement if there is good cause to do so and if the waiver would not be inconsistent with the AFA and the intent of 46 CFR part 356.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/31/01	66 FR 45945
Interim Final Rule Effective	08/31/01	

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DOT—MARAD **Final Rule**

Action	Date	FR Cite
Interim Final Rule Comment Period End	10/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Murray A. Bloom, Chief, Division of Maritime Aids, Department of Transportation, Maritime Administration, 400 Seventh Str SW., Washington, DC 20590
Phone: 202 366-5164

RIN: 2133–AB45

Department of Transportation (DOT)
Maritime Administration (MARAD)

Completed A

2680. UPDATE TO PART 205 - AUDIT APPEALS; POLICY AND PROCEDURE

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 1114, 1155, 1176, 1212

CFR Citation: 46 CFR 205; 49 CFR 1.66

Legal Deadline: None

Abstract: We updated Part 205 - Audit Appeals; Policy and Procedure. Part 205 establishes audit appeal procedures for parties who contract with the Maritime Subsidy Board or MARAD. This final rule uses plain language to update the audit procedures to reflect our current practices. The intended effect of this rulemaking is to improve our audit appeals process by updating and clarifying part 205.

Timetable:

Action	Date	FR Cite
NPRM	11/16/00	65 FR 69279
NPRM Comment Period End	01/16/01	
Final Action	05/10/01	66 FR 23860

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lennis G. Fludd, Office of Financial and Rate Approvals, Department of Transportation, Maritime Administration, Room 8117
Phone: 202 366-2324

RIN: 2133–AB42

2681. • DENIAL OF TRANSFER TO FOREIGN REGISTRY UPON REVOCATION OF FISHERY ENDORSEMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-554

CFR Citation: 46 CFR 221; 49 CFR 1.66

Legal Deadline: None

Abstract: This rulemaking will implement a statutory mandate that MARAD deny approval for a transfer of a vessel to a foreign registry or operation under authority of a foreign country when the Secretary of Commerce has removed the vessel from crab fisheries and the vessel's fishery endorsement has been revoked. PL 106-554 prohibits vessel transfer to a foreign flag when the vessel's fishery endorsement has been revoked. 554 requires the Secretary of Co to implement a fishing reduction program for crab fisheries includ the Fishery Management Plan fo Commercial King and Tanner Cr Fisheries in the Bering Sea and Aleutian Islands.

Timetable:

Action	Date	F
NPRM	08/03/01	66 F
NPRM Comment Period End	10/02/01	
Final Action	11/02/01	66 F

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Busines

Government Levels Affected: N

Agency Contact: Edmund T. So Jr., Chief, Division of General an International Law, Department o Transportation, Maritime Administration, 400 Seventh Str SW., Washington, DC 20590
Phone: 202 366-5181

RIN: 2133–AB44

Department of Transportation (DOT)
Bureau of Transportation Statistics (BTS)

Prerule

2682. MODERNIZING THE PASSENGER ORIGIN-DESTINATION SURVEY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41708; 49 USC 41709

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: Historically, the source document for the Passenger Origin-Destination Survey was the auditor's coupon of the ticket. Until recently, these coupons provided all the information that was needed for the Survey. In the last few years, the carriers have begun using trip passes in conjunction with the tickets, thereby eliminating some of the data that is required to be reported in the Survey. Other innovations used by the industry, such as change-of-gauge flights and code-sharing, have impacted the Survey and obscured some of the data that is required to be reported, such as change of planes and junction points. This rulemaking will explore whether there are alternative sources for the data and modernize the collection system to keep pace with the industry.

Timetable:

Action	Date	F
ANPRM	05/00/02	
NPRM	11/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: N

Additional Information: This act related to and may be affected b 2105-AC71. This action was form under RIN 2137-AB92 but is now administered by the Bureau of

DOT—BTS **Prerule Stage**

Transportation Statistics (BTS) under RIN 2139-AA01 since the Office of Aviation Information has been transferred to BTS from RSPA.

Agency Contact: M. Clay Moritz, Jr., Acting Chief, Regulations Division, Office of Airline Information, K-25, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA01

Department of Transportation (DOT)
Bureau of Transportation Statistics (BTS) **Proposed Rule Stage**

2683. AIR CARRIER TRAFFIC AND CAPACITY DATA BY NONSTOP SEGMENT AND ON-FLIGHT MARKET

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41708

CFR Citation: 14 CFR 217; 14 CFR 241; 14 CFR 291; 14 CFR 298

Legal Deadline: None

Abstract: The Department of Transportation is considering modifying certain parts of the Traffic Reporting System to require operating carriers to report joint-service operations. This proposal would require a report change for small certificated, commuter, and all-cargo air carriers on their air traffic activity. This would also require U.S. carriers to report the detailed market and segment information for all their military, domestic all-cargo, and domestic charter flights.

Timetable:

Action	Date	FR Cite
NPRM	08/28/01	66 FR 45201
NPRM Comment Period End	11/26/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: M. Clay Moritz Jr., Acting Chief, Regulations Division, Office of Airline Information, K-25, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA08

2684. • +AMENDMENT TO PART 234 TO COLLECT CAUSAL INFORMATION FOR AIRLINE DELAYS AND CANCELLATIONS.

Priority: Other Significant

Legal Authority: PL 106-181, sec 227

CFR Citation: 14 CFR 234

Legal Deadline: None

Abstract: DOT proposes to collect information on the causes of airline delays and cancellation. The information will be used by the Office of the Secretary, the Federal Aviation Administration, air carrier and airport operators to identify specific problem areas within the national aviation system. With this knowledge, the appropriate party or parties can take action to reduce or rectify the problem.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: M. Clay Moritz Jr., Acting Chief, Regulations Division, Office of Airline Information, K-25, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA09

Department of Transportation (DOT)
Bureau of Transportation Statistics (BTS) **Final Rule Stage**

2685. AMENDMENT TO THE DEFINITIONS OF REVENUE AND NONREVENUE PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 329

CFR Citation: 14 CFR 217; 14 CFR 241; 14 CFR 298

Legal Deadline: None

Abstract: This action would revise definitions of revenue passenger and nonrevenue passenger. It would specify that a passenger traveling on a ticket or voucher received as compensation for denied boarding or as settlement of a consumer complaint is considered to be a revenue passenger. The revised definitions will harmonize Departmental regulations with those adopted by the International Civil Aviation Organization (ICAO). This will prevent air carriers from being required to keep two sets of traffic enplanement statistics.

Timetable:

Action	Date	FR Cite
NPRM	08/22/00	65 FR 50946
NPRM Comment Period End	10/23/00	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: M. Clay Moritz Jr., Acting Chief, Regulations Division, Office of Airline Information, Department of Transportation, Bureau of Transportation Statistics, K-25, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA07

[FR Doc. 01–27743 Filed 11–30–01; 8:45 am]
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Monday,
December 3, 2001

Part XV

Department of the Treasury

Semiannual Regulatory Agenda

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DEPARTMENT OF THE TREASURY (TREAS)

DEPARTMENT OF THE TREASURY

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda and Fiscal Year 2002 Regulatory Plan

AGENCY: Department of the Treasury.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice is given pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, September 19, 1980) and Executive Order (E.O.) 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication by the Department of a semiannual agenda of regulations. E.O. 12866 also requires the publication by the Department of a regulatory plan for fiscal year 2002.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific entry in the agenda, contact the "Agency Contact" identified in the agenda item relating to that regulation.

SUPPLEMENTARY INFORMATION: The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda format developed by the Regulatory Information Service Center (RISC). For this edition of Treasu regulatory agenda, the most imp significant regulatory actions are included in The Regulatory Plan appears in part II of this issue of **Federal Register**. The Regulatory entries are listed in the table of c below and are denoted by a brac bold reference, which directs the to the appropriate sequence num part II.

Dated: October 16, 2001.

Richard S. Carro,

Senior Counsel for Regulatory and La Affairs.

Departmental Offices—Proposed Rule Stage

Sequence Number	Title	Re Ide N
2686	31 CFR 19 Common Rule Suspension and Debarment	15

Departmental Offices—Final Rule Stage

Sequence Number	Title	Re Ide N
2687	Financial Subsidiaries	15

Departmental Offices—Long-Term Actions

Sequence Number	Title	Re Ide N
2688	31 CFR ch II Possible Regulation of Access to Accounts at Financial Institutions Through Payment Service Providers	15
2689	Financial Activities of Financial Subsidiaries	15
2690	12 CFR 1501.2 Secretary's Determination of Real Estate Brokerage	15
2691	12 CFR 1501.2 Secretary's Determination of Other Activities Financial in Nature	15

Departmental Offices—Completed Actions

Sequence Number	Title	Re Ide N
2692	12 CFR 1510 Resolution Funding Corporation Operations	15
2693	17 CFR 450 Amendments to the Government Securities Act Regulations	15

Financial Crimes Enforcement Network—Proposed Rule Stage

Sequence Number	Title	R Ide N
2694	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Suspicious Activity Reporting—Broker/Dealers	15

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Financial Crimes Enforcement Network—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2695	31 CFR 103 Amendment to the Bank Secrecy Act Regulations Regarding Reporting of Cross-Border Transportation of Certain Monetary Instruments	1506-AA15
2696	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Suspicious Activity Reporting—Casinos	1506-AA22
2697	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Exemptions from the Requirement to Report Transactions in Currency	1506-AA23
2698	31 CFR 103.20(f) Amendment to the BSA Regulations-Requirement that Money Transmitters and Money Order and Travelers Check Issuers, Sellers, and Redeemers Report Suspicious Transactions-Implementation Date	1506-AA24

Financial Crimes Enforcement Network—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2699	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Delegation of Authority to Assess Civil Money Penalties on Depository Institutions	1506-AA08
2700	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Special Reporting and Recordkeeping Requirements—Money Services Businesses (MSBs)	1506-AA19

Financial Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2701	31 CFR 245 Claims on Account of Treasury Checks	1510-AA51
2702	31 CFR 285.14 Public Dissemination of Identity of Delinquent Debtors	1510-AA72
2703	31 CFR 203 Payment of Federal Taxes and the Treasury Tax and Loan Program	1510-AA79
2704	31 CFR 223 Surety Bond Reimbursement Fund	1510-AA85
2705	31 CFR 206 Management of Federal Agency Receipts and Disbursements; Operation of the Cash Management Improvement Fund	1510-AA86

Financial Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2706	31 CFR 205 Rules and Procedures for Efficient Federal-State Funds Transfers	1510-AA38
2707	31 CFR 240 Indorsement and Payment of Checks Drawn on the United States Treasury	1510-AA45
2708	31 CFR 281 Foreign Exchange Operations	1510-AA48
2709	31 CFR 256 Payments Under Judgment and Private Relief Acts	1510-AA52
2710	31 CFR 285.5 Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) To Collect Past-Due, Legally Enforceable Nontax Debt	1510-AA65
2711	31 CFR 285.7 Salary Offset	1510-AA70
2712	31 CFR 285.8 Offset of Tax Refund Payment To Collect State Income Tax Obligations	1510-AA78
2713	31 CFR 210 Federal Government Participation in the Automated Clearinghouse	1510-AA81
2714	31 CFR 211 Delivery of Checks and Warrants to Addresses Outside the United States	1510-AA88

Financial Management Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2715	31 CFR 285.6 Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) To Collect Past-Due Debts Owed to States (Other Than Child Support)	1510-AA66

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Financial Management Service—Completed Actions

Sequence Number	Title	Regula Identific Numb
2716	3 CFR 1996, comp, p. 216 Administrative Wage Garnishment	1510-A

Bureau of Alcohol, Tobacco and Firearms—Proposed Rule Stage

Sequence Number	Title	Regula Identific Numb
2717	27 CFR 7 Revision of Brewery Regulations and Issuance of Regulations for Taverns on Brewery Premises (Brewpubs) **(Reg Plan Seq No. 110)**	1512-A
2718	27 CFR 4 Amended Standard of Identity for Sherry	1512-A
2719	27 CFR 16 Alcohol Beverage Health Warning Statement	1512-A
2720	27 CFR 4 Proposed Addition of "Tannat" as a Grape Variety Name for American Wines	1512-A
2721	27 CFR Part 55 Identification Markings Placed on Explosive Materials	1512-A
2722	27 CFR 55 Commerce in Explosives-Sport Rocket Motors	1512-A
2723	27 CFR 55 Commerce in Explosives (Including Explosives in the Fireworks Industry) **(Reg Plan Seq No. 111)**	1512-A
2724	27 CFR 55 Implementation of Public Law 104-208, the Omnibus Consolidated Appropriations Act of 1997, Relating to the Establishment of a National Repository for Arson and Explosives Information	1512-A
2725	27 CFR 178 Implementation of Public Law 105-277, Making Omnibus Consolidated and Emerg. Supplemental Appropriations for FY 1999, Relating to the Permanent Provisions of the Brady Handgun Violence Prevention Act	1512-A
2726	27 CFR 178 Public Law 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for FY99, Relating to Firearms Disabilities for Nonimmigrant Aliens	1512-A
2727	27 CFR 7 Plain Language in Part 7	1512-A
2728	27 CFR 270 Elimination of Application to Remove Tobacco Products from Manufacturer's Premises for Experimental Purposes	1512-A
2729	27 CFR 270 Elimination of Statistical Classes for Large Cigars	1512-A
2730	27 CFR 44 Implementation of Section 1908 of Public Law 100-418	1512-A

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage

Sequence Number	Title	Regul Identifi Num
2731	27 CFR 9 American Viticultural Areas	1512-
2732	27 CFR 5 Labeling of Unaged Grape Brandy	1512-
2733	27 CFR 24.278 Implementation of Wine Credit Provisions of Public Law 104-188	1512-
2734	27 CFR 24.66 Implementation of Public Law 105-34, Section 1416, Relating to Refund of Tax for Domestic Wine Returned to Bond Regardless of Merchantability (Taxpayer Relief Act of 1997)	1512-
2735	27 CFR 4 Health Claims and Other Health Related Statements in the Labeling and Advertising of Alcohol Beverages	1512-
2736	27 CFR 251 Recodification of Part 251	1512-
2737	27 CFR 4 Albarino, Black Corinth and Fiano Grape Varieties	1512-
2738	27 CFR 31 Liquor Dealers; Recodification of Regulations	1512-
2739	27 CFR 31 Delegation of Authority in 27 CFR Part 31	1512-
2740	27 CFR 178 Commerce in Firearms and Ammunition (Omnibus Consolidated Appropriations Act of 1997)	1512-
2741	27 CFR 178 Residency Requirement for Persons Acquiring Firearms	1512-
2742	27 CFR 178 Commerce in Firearms and Ammunition—Annual Inventory	1512-
2743	27 CFR 41 Importation of Tobacco Products and Cigarette Papers and Tubes; Recodification of Regulations	1512-

Bureau of Alcohol, Tobacco and Firearms—Long-Term Actions

Sequence Number	Title	Regu Identif Nun
2744	27 CFR 252 Exportation of Liquors	1512-
2745	27 CFR 7 Alcoholic Content Labeling for Malt Beverages	1512-

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Bureau of Alcohol, Tobacco and Firearms—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
2746	27 CFR 20 Distribution of Denatured Alcohol and Rum	1512-AB57
2747	27 CFR 19.11 Distilled Spirits Plant Regulatory Initiative Proposal	1512-AB58
2748	27 CFR 4 Prohibition of Alcohol Beverage Containers and Standard of Fill for Distilled Spirits and Wine	1512-AB89
2749	Sake Regulations	1512-AC09
2750	Flavored Malt Beverages	1512-AC11
2751	27 CFR 4.32(d) Removal of Requirement to Disclose Saccharin in the Labeling of Wine, Distilled Spirits and Malt Beverages	1512-AC17
2752	27 CFR 252 Delegation of Authority in 27 CFR Part 252	1512-AC44
2753	27 CFR 24 Production of Agricultural Wines	1512-AC48
2754	27 CFR 5.22 Petition to Amend the Standards of Identity for Whisky and Brandy	1512-AC51
2755	27 CFR 19, subpart W Proposed Revisions to 27 CFR Part 19, Subpart W	1512-AC52
2756	27 CFR 9 Petition to Establish the Santa Barbara Highlands Viticultural Area	1512-AC53
2757	27 CFR 251 Delegation of Authority in 27 CFR Part 251	1512-AC58
2758	27 CFR 9 Proposed San Bernabe Viticultural Area	1512-AC60
2759	27 CFR 9 Petition to Establish the Trinity Lake Viticultural Area	1512-AC62
2760	27 CFR 4 Correction of Technical Error in 27 CFR Part 4	1512-AC63
2761	5 CFR 1320.7(f)(2) Implementation of the Paperwork Reduction Act	1512-AB90
2762	27 CFR 19 Delegation of Authority in 27 CFR Part 19	1512-AC06
2763	27 CFR 200 Balanced Budget Act of 1997, Public Law 105-33, Restriction on the Importation of Domestic Tobacco Products and Cigarette Papers and Tubes Returned to the United States	1512-AB81
2764	27 CFR 275 Implementation of Public Law 105-33, Section 9302, Requiring the Qualification of Tobacco Product Importers and Miscellaneous Technical Amendments	1512-AC07
2765	27 CFR 275 Prohibited Marks on Packages of Tobacco Products and Cigarette Papers and Tubes Imported or Brought into the United States	1512-AC14
2766	27 CFR 270 Determination of Tax and Recordkeeping on Large Cigars	1512-AC22
2767	27 CFR 275 Tobacco Products and Cigarette Papers and Tubes Shipped from Puerto Rico to the United States	1512-AC24
2768	27 CFR 44 Delegation of Authority in 27 CFR Part 44	1512-AC36
2769	27 CFR 40 Delegation of Authority in 27 CFR Part 40	1512-AC54
2770	27 CFR 40 Shipments of Tobacco Products or Cigarette Papers or Tubes Without Payment of Tax.	1512-AC57
2771	27 CFR 45 Delegation of Authority in 27 CFR Parts 45 and 46	1512-AC59
2772	27 CFR 44 Voluntary Waiver of Filing Claim for Credit, Refund, Allowance or Credit of Tax for Tobacco Products Manufactured in Canada	1512-AC64

Bureau of Alcohol, Tobacco and Firearms—Completed Actions

Sequence Number	Title	Regulation Identification Number
2773	27 CFR 22.21 Distribution and Use of Tax-Free Alcohol	1512-AB51
2774	27 CFR 18.56 Production of Volatile Fruit Flavored Concentrate	1512-AB59
2775	27 CFR 24.178 Implementation of Public Law 105-34, Section 1417, Related to the Use of Ameliorating Material in Certain Wines	1512-AB78
2776	27 CFR 24 Processes Authorized for the Treatment of Wine, Juice and Distilling Material	1512-AC05
2777	27 CFR 4 Petition to Recognize Counoise and St. Laurent as New Grape Varieties	1512-AC26
2778	27 CFR 170 Recodification of Part 170 into Part 29	1512-AC34
2779	27 CFR 4 Liquors and Articles From Puerto Rico and the Virgin islands; Recodification of Regulations	1512-AC40
2780	27 CFR 178 Identification Markings Placed on Firearms	1512-AB84
2781	27 CFR 70 Recodification of Statement of Procedural Rules	1512-AB54
2782	27 CFR 53 Delegation of Authority in 27 CFR Part 53	1512-AC18
2783	27 CFR 70 Delegation of Authority in Part 70	1512-AC19
2784	27 CFR 13 Delegation of Authority in 27 CFR Part 13	1512-AC21
2785	27 CFR 170 Delegation of Authority in 27 CFR Part 170	1512-AC23
2786	27 CFR 55 Technical Amendments to Regulations	1512-AC37
2787	27 CFR 1 Rules of Practice in Permit Proceedings; Recodification of Regulations	1512-AC43
2788	27 CFR 290 Exportation of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax	1512-AB03
2789	27 CFR 275 Implementation of Public Law 106-476, Sections 4002 and 4003, Relating to Tobacco Importation Restrictions, Markings, Repackaging and Destruction of Forfeited Tobacco Products	1512-AC35

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Bureau of Alcohol, Tobacco and Firearms—Completed Actions (Continued)

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2790	27 CFR 250 Delegation of Authority in 27 CFR Part 250	1512-AC
2791	27 CFR 40 Manufacture of Tobacco Products and Cigarette Papers and Tubes; Recodification of Regulations	1512-AC
2792	27 CFR 46 Tobacco Products and Cigarette Papers and Tubes; Recodification of Regulations.	1512-AC
2793	27 CFR 40 Removal of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax for Use of the United States; Recodification of Regulations.	1512-AC
2794	27 CFR 40 Exportation of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax; Recodification of Regulations	1512-AC
2795	27 CFR 40 Implementation of Public Law 106-554 for Certain Amendments Related to the Balanced Budget Act of 1997	1512-AC

Comptroller of the Currency—Prerule Stage

Sequence Number	Title	Regulatio Identificat Numbe
2796	12 CFR 3 Capital Rules	1557-AB
2797	12 CFR 25 Community Reinvestment Act Regulation	1557-AB

Comptroller of the Currency—Proposed Rule Stage

Sequence Number	Title	Regulatio Identificat Numbe
2798	12 CFR 19 Uniform Rules of Practice and Procedure; Regulation Review	1557-AB
2799	Fair Credit Reporting Regulations	1557-AB
2800	31 CFR 1 Notice of Exempt Privacy Act Systems of Records	1557-AB
2801	12 CFR 5 Rules, Policies, and Procedures for Corporate Activities	1557-AB
2802	12 CFR 19 Maintenance of Records	1557-AB
2803	12 CFR 8 Assessment of Fees	1557-AC
2804	12 CFR 5 Payday Lending	1557-AC

Comptroller of the Currency—Final Rule Stage

Sequence Number	Title	Regulatio Identificat Numbe
2805	12 CFR 37 Debt Cancellation Contracts and Debt Suspension Agreements	1557-AB
2806	12 CFR 7.1002 Bank Activities and Operations (Electronic Banking)	1557-AB
2807	12 CFR 25 Prohibition Against Use of Interstate Branches Primarily for Deposit Production	1557-AB

Comptroller of the Currency—Long-Term Actions

Sequence Number	Title	Regulatio Identificat Numbe
2808	12 CFR 12 Qualification Requirements for Transactions in Certain Securities	1557-AB
2809	Rules and Procedures for Claims Against OCC-Appointed Receiverships for Uninsured Financial Institutions	1557-AB
2810	12 CFR 34 Real Estate Appraisals	1557-AB
2811	12 CFR 21 Minimum Security Devices and Procedures	1557-AB
2812	12 CFR 9 Fiduciary Activities of National Banks	1557-AB
2813	Recordkeeping Requirements for Bank Exceptions from Securities Broker or Dealer Registration	1557-AB

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Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identification Number
2814	12 CFR 32 Community Bank-Focused Regulation Review: Lending Limits Pilot Program	1557-AB82
2815	12 CFR 8 Assessment of Fees; National Banks; District of Columbia Banks	1557-AB90
2816	12 CFR 5.34 Operating Subsidiaries of Federal Branches and Agencies	1557-AB92
2817	12 CFR 1 Investment Securities; Bank Activities and Operations; and Leasing	1557-AB94
2818	12 CFR 8 Assessment of Fees; National Banks; District of Columbia	1557-AB96

United States Customs Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2819	19 CFR 159 Liquidation; Extension; Suspension	1515-AB66
2820	19 CFR 12 Detention, Seizure, and Forfeiture of "Bootleg" Sound Recording and Music Videos of Live Musical Performances	1515-AB74
2821	19 CFR 142 Reconciliation	1515-AB85
2822	19 CFR 111 Remote Location Filing	1515-AC23
2823	19 CFR 177 Administrative Rulings	1515-AC56
2824	19 CFR 123 Simplification of In-Transit Truck Shipments Between Canada and the United States	1515-AC65
2825	19 CFR 142 National Sanctions Due to the Delinquent Payment of Customs Bills	1515-AC68
2826	19 CFR 145 Customs Examination of In-Transit Mail Shipments	1515-AC71
2827	19 CFR 122 Private Aircraft Programs: Establishment of the General Aviation Telephonic Entry (GATE) Program and Revisions to the Overflight Program	1515-AC73
2828	19 CFR 146 Expanded Weekly Entry Procedure for Foreign Trade Zones	1515-AC74
2829	19 CFR 24 User Fees	1515-AC81
2830	19 CFR 12 Dog and Cat Protection Act	1515-AC87
2831	19 CFR 10 Prototypes Used Solely For Product Development, Testing, Evaluation or Quality Control Purposes	1515-AC88
2832	19 CFR 141 Single Entry for Split Shipments	1515-AC91
2833	19 CFR 24 Procedures Governing the Border Release Advanced Screening and Selectivity (BRASS) Program	1515-AC92
2834	19 CFR 12 Patent Surveys	1515-AC93
2835	19 CFR 141 Single Entry for Unassembled or Disassembled Entities Imported on Multiple Conveyances	1515-AC94

United States Customs Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2836	19 CFR 4 Harbor Maintenance Fee	1515-AA57
2837	19 CFR 24 Donated Cargo Exemption From Harbor Maintenance Fee	1515-AA87
2838	19 CFR 181 North American Free Trade Agreement (NAFTA)—Implementation of Duty-Deferral Program Provisions	1515-AB87
2839	19 CFR 141 Customs Entry Documentation Pursuant to Anticounterfeiting Consumer Protection Act	1515-AC15
2840	19 CFR 134 Country-of-Origin Marking	1515-AC32
2841	19 CFR 24 Expanded Methods of Payment of Duties, Taxes, Interest and Fees	1515-AC40
2842	19 CFR 113 Importation and Entry Bond Conditions Regarding Other Agency Documentation Requirements	1515-AC44
2843	19 CFR 4 General Order Warehouses	1515-AC57
2844	19 CFR 4 Deferral of Duty on Large Yachts Imported for Sale	1515-AC58
2845	19 CFR 10 Civil Aircraft	1515-AC59
2846	19 CFR 4 User and Navigation Fees; Other Reimbursable Charges	1515-AC63
2847	19 CFR 191 Merchandise Processing Fee Eligible to be Claimed as Unused Merchandise Drawback	1515-AC67
2848	19 CFR 162 Civil Asset Forfeiture	1515-AC69
2849	19 CFR 10 African Growth and Opportunity Act and Generalized System of Preferences	1515-AC72
2850	19 CFR 10 United States-Caribbean Basin Trade Partnership Act and Caribbean Basin Initiative	1515-AC76
2851	19 CFR 24 Reimbursable Customs Inspectional Services: Increase in Hourly Rate Charge	1515-AC77
2852	19 CFR 10 Duty-Free Treatment for Certain Beverages Made with Caribbean Rum	1515-AC78
2853	19 CFR 102 Rules of Origin for Textile and Apparel Products	1515-AC80
2854	19 CFR 24 Amended Procedure for Obtaining Refunds of Harbor Maintenance Fees Paid on Exports of Merchandise	1515-AC82

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United States Customs Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulat Identifica Numb
2855	19 CFR 132 Licenses for Certain Worsted Wool Fabrics Subject to Tariff-Rate Quota	1515-A
2856	19 CFR 10 Amendment to Wool Duty Refund Program	1515-A
2857	19 CFR 10 Preferential Treatment of Brassieres Under the United States-Caribbean Basin Trade Partnership Act	1515-A

United States Customs Service—Long-Term Actions

Sequence Number	Title	Regulat Identifica Numb
2858	19 CFR 113 Automated Surety Interface	1515-A
2859	19 CFR 12 Textiles and Textile Products Subject to Textile Trade Agreements	1515-A
2860	19 CFR 134 Country-of-Origin Marking Requirements for Frozen Produce Packages	1515-A
2861	19 CFR 12 Entry of Softwood Lumber Shipments From Canada	1515-A
2862	19 CFR 12 Determination of the Country-of-Origin of Textiles and Textile Products	1515-A
2863	19 CFR 123 Designated Land Border Crossing Locations for Certain Conveyances	1515-A
2864	19 CFR 103 Public Disclosure of Aircraft Manifests	1515-A
2865	19 CFR 102 NAFTA Preference Override	1515-A
2866	19 CFR 19 Personal-Use Limitation for Purchases at Duty-Free Stores	1515-A
2867	19 CFR 12 Entry of Softwood Lumber Shipments from Canada	1515-A

United States Customs Service—Completed Actions

Sequence Number	Title	Regulat Identifica Numb
2868	19 CFR 24 Time Limitation for Requesting Refunds of Harbor Maintenance Fees and for Making Other Claims Against Customs	1515-A
2869	19 CFR 159 Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers	1515-A
2870	19 CFR 148 Change in Flat Rate of Duty on Articles Imported For Personal or Household Bona Fide Gifts	1515-A

Internal Revenue Service—Prerule Stage

Sequence Number	Title	Regulat Identifica Numb
2871	Gasoline Tax Claims Under Section 6416(A)(4)	1545-B

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulat Identifica Numb
2872	Reporting Requirements for Widely Held Fixed Investment Trusts	1545-A
2873	Special Rules Applicable to Sales of Debt Instrument Between Record Dates and the End of Accrual Periods	1545-A
2874	Return of Levied Property in Certain Cases	1545-A
2875	Removal of Temporary Regulations That Provide Rules for Substantiating Travel Expense Deductions for Members of Congress	1545-A
2876	Transportation of Persons and Property by Air—Sections 4261 and 4271	1545-A
2877	Estate Tax Deduction for Qualified Family-Owned Business Interests (QFOBI)	1545-A
2878	Capital Gain Guidance Relating to CRTs	1545-A
2879	Merchandise Regulation	1545-A
2880	Reporting of Payments to Attorney	1545-A
2881	Constructive Sales of Appreciated Financial Positions	1545-A
2882	Highway Vehicle—Definition	1545-A
2883	Guidance on Cost Recovery in the Entertainment Industry	1545-A

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Internal Revenue Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2884	Change of Annual Accounting Period	1545-AX15
2885	Straddles—One Side Larger Than the Other	1545-AX16
2886	Definition of Accounting Method	1545-AX21
2887	Sections 401(k) and 410(m) Cash or Deferred Arrangements	1545-AX26
2888	Inspection of Written Determinations Under IRC Section 6110	1545-AX40
2889	401(k) and 401(m) Regulations	1545-AX43
2890	Section 7430 Regulations	1545-AX46
2891	Section 414(q) Regulation	1545-AX48
2892	Address Correction	1545-AX51
2893	Compensation Deferred Under Eligible Section 457(b) Plans (Section 457 Regulations)	1545-AX52
2894	Tax on Insurance Companies Other Than Life Insurance Companies	1545-AX54
2895	Modification to Section 367(a) Stock Transfer Regulations	1545-AX77
2896	Statute of Limitations on Collection Installment Agreements	1545-AX89
2897	Assumption of Partnership Liabilities	1545-AX93
2898	Like-Kind Exchanges Under Section 168	1545-AX95
2899	Definition of Diesel Fuel	1545-AX97
2900	Constructive Transfers and Transfers of Property to Third Parties on Behalf of a Spouse	1545-AX99
2901	Guidance Necessary to Facilitate Electronic Tax Administration	1545-AY04
2902	Damages Under Section 7433	1545-AY08
2903	Electing Mark-to-Market for Marketable Stock of a PFIC	1545-AY17
2904	Guidance on Changes to the Laws for Corporate Estimated Taxes	1545-AY22
2905	Section 1445 Regulation	1545-AY24
2906	IRS NPRM Guidance Under Section 6050P Regarding Information Reporting on Cancellation of Indebtedness	1545-AY35
2907	Dollar-Value LIFO	1545-AY39
2908	Section 83-1032 Conforming Changes	1545-AY40
2909	Guidance Under Section 817A Regarding Modified Guaranteed Contracts	1545-AY48
2910	Application of Section 338 to Insurance Companies	1545-AY49
2911	Guidance Necessary to Facilitate Electronic Tax Administration	1545-AY56
2912	Normal Retirement Age for Pension Plans	1545-AY61
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2914	Normalization	1545-AY75
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2916	Disclosure of Returns and Return Information by Other Agencies	1545-AY77
2917	Research Credit III	1545-AY82
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2919	Low-Income Taxpayer Clinics	1545-AY84
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2922	Disclosure of Returns and Return Information in Judicial and Administrative Tax Proceedings	1545-AY89
2923	Section 736(b)(3)(B)	1545-AY90
2924	Regulations Under Sections 6662 and 6664 Regarding Tax Shelter Penalties	1545-AY97
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2926	Expenditures in Connection with the Creation of Intangible Assets	1545-BA00
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2934	Guidance Regarding the Treatment by a Corporation of Financial Instrument Based on the Value of that Corporation's Stock	1545-BA12
2935	Deductibility of Employer Contributions for Deferred Compensation	1545-BA13
2936	Continuation of a Consolidated Group Under 1.1502-75	1545-BA14
2937	Eligibility for Receiving LITC Grants	1545-BA19
2938	Guidance Regarding the Active Trade or Business Requirement of Section 355(b)	1545-BA20
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2942	Application of the Federal Insurance Contributions Act, Federal Unemployment Tax Act and Collection of Income Tax at Source to Statutory Stock Options	1545-BA2

Internal Revenue Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
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2944	Nonrecognition of Corporate Distributions and Reorganizations Under the Foreign Investment in Real Property Tax Act	1545-AK7
2945	Limitations on Passive Activity Losses and Credits—Self-Charged Items	1545-AN6
2946	Definition of "Highly Compensated Employee"	1545-AQ7
2947	Escrow Funds and Other Similar Funds	1545-AR8
2948	Effect of the Family and Medical Leave Act on the Operation of Cafeteria Plans	1545-AT4
2949	Treatment of Obligation-Shifting Transactions	1545-AU1
2950	Electing Small Business Trust	1545-AU7
2951	Interest on Education Loans	1545-AW0
2952	Averaging of Farm Income	1545-AW0
2953	Mark-to-Market Accounting for Dealers in Commodities and Traders in Securities and Commodities	1545-AW0
2954	Election To Treat Trust as Estate—Section 645	1545-AW2
2955	Corporate Tax Shelter Registration	1545-AW2
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2959	Middleman Regulation Under Sections 6041 and 6045	1545-AW4
2960	Relief From Joint and Several Liability on Joint Return	1545-AW6
2961	Education Credits	1545-AW6
2962	Information Reporting for Payments of Tuition and Interest on Education Loans	1545-AW6
2963	Modifications and Additions to the Unified Partnership Audit Procedures	1545-AW8
2964	Compromises	1545-AW8
2965	Notice and Opportunity for Hearing Before Levy	1545-AW9
2966	Notice and Opportunity for Hearing Upon Filing of Notice of Lien	1545-AW9
2967	Certain Asset Transfers to Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REITs)	1545-AW9
2968	Transfer of REMIC Residual Interest	1545-AW9
2969	Qualified Offers	1545-AW9
2970	Notice of Contact of Third Parties—Section 7602(c)	1545-AX0
2971	Allocation of Research Credit	1545-AX0
2972	Delay Rental Payments	1545-AX0
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2984	Definition of Income Under Section 643	1545-AX9
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2986	Check the Box Regulations—Amendment	1545-AY1
2987	"Authorized Placement Agency" Under Section 152	1545-AY1
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2995	Liabilities Assumed in Certain Corporate Transactions	1545-AY55
2996	Excise Taxes on Excess Benefit Transactions	1545-AY65
2997	Section 706 and Foreign Partners	1545-AY66
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Internal Revenue Service—Long-Term Actions

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3005	Regulations Under Section 367 To Reflect Section 131 of the Tax Reform Act of 1984 (Pub. L. 98-369)	1545-AK74
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3007	Income of Foreign Governments and International Organizations	1545-AL93
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3014	Consolidated Alternative Minimum Tax	1545-AN73
3015	Conforming Taxable Years of CFCs and FPHCs: 1989 Change	1545-AO22
3016	Earnings Stripping Payments	1545-AO24
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3032	Straddles—Miscellaneous Issues	1545-AT46
3033	Allocation of Accrued Benefits Between Employer and Employee Contributions	1545-AT82
3034	Proposed Regulation Under Sections 882 and 884	1545-AT96
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3043	Required Distributions From Qualified Plans and Individual Retirement Plans	1545-AV
3044	Foreign Tax Credit Anti-abuse Regulation	1545-AV
3045	Allocation of Loss on Disposition of Personal Property	1545-AW
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3055	Stock Transfer Rules: Carryover of Earnings and Taxes	1545-AX
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3059	Definition of Passive Foreign Investment Company Under Section 1297	1545-AX
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3063	Capitalization of Interest and Carrying Charges Properly Allocable to Straddles	1545-AX
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3070	Section 1503(d) Regulation	1545-AY
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3072	Taxable Years of CFCs and FPHCs	1545-AY
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Internal Revenue Service—Long-Term Actions (Continued)

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Internal Revenue Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
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3101	Withdrawal of Notice of Federal Tax Lien	1545-AV00
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3104	Special Rules Regarding the Simplified Production and Resale Methods with Historic Absorption Ratio Election	1545-AW54
3105	Qualified Zone Academy Bonds Credit Rate	1545-AX03
3106	Deposit of Excise Taxes—Revision	1545-AX11
3107	Grouping Rules for Foreign Sales Corporation Transfer Pricing	1545-AX41
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3109	Disclosures of Return Information to Officers and Employees of the Department of Agriculture for Certain Statistical Purposes and Related Activities	1545-AX69
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3112	Classification of Certain Employee Benefit Trusts	1545-AY09
3113	Guidance Under Section 6302 Regarding the Federal Tax Deposit System	1545-AY10
3114	Broker's Commissions and Similar Fees	1545-AY15
3115	Interest Free Adjustments Under Section 6205	1545-AY21
3116	Recognition of Gain on Certain Transfers to Foreign Trusts and Estates	1545-AY25
3117	Nondiscrimination Requirements for Certain Defined Contribution Retirement Plans	1545-AY36
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3119	6302 De Minimis Threshold	1545-AY47
3120	Time For Filing Form 1139 by a Consolidated Group	1545-AY58
3121	Withdrawal of Section 301.6656-1 and Section 301.6656-2	1545-AY79
3122	Special Aggregate Stock Ownership Rules Under 1.1502-34	1545-AY80
3123	Taxable Fuel Measurement	1545-AY85
3124	Section 355(e) Temporary Guidance	1545-BA01
3125	Modification of Tax Shelter Rules II	1545-BA04

Office of Thrift Supervision—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3126	12 CFR 563e Community Reinvestment Act	1550-AB48

Office of Thrift Supervision—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3127	12 CFR 567 Capital Rules	1550-AB11
3128	12 CFR 545 Directors and Officers	1550-AB19
3129	12 CFR 590 Due-On-Sale and Usury Preemption	1550-AB25
3130	12 CFR 571 Fair Credit Reporting	1550-AB33
3131	12 CFR 560 Lending and Investment	1550-AB37

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Office of Thrift Supervision—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3132	12 CFR 550 Fiduciary Powers of Savings Associations; Recordkeeping and Confirmation Requirements for Securities Transactions	1550-AB4
3133	12 CFR 584 Authority for Nongrandfathered Savings and Loan Holding Companies	1550-AB5

Office of Thrift Supervision—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3134	12 CFR 563b Mutual Savings Associations, Mutual Holding Company Reorganizations, and Conversions	1550-AB2
3135	12 CFR 567 Capital: Qualifying Mortgage Loan, Interest Rate Risk Component, and Miscellaneous Changes	1550-AB4

Office of Thrift Supervision—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3136	12 CFR 560 Responsible Alternative Mortgage Lending	1550-AB5

Office of Thrift Supervision—Completed Actions

Sequence Number	Title	Regulation Identification Number
3137	12 CFR 545 Types of Offices	1550-AB1
3138	12 CFR 545 Nondeposit Investment Products	1550-AB2
3139	12 CFR 584 Holding Company Activities	1550-AB3
3140	12 CFR 506 Removal of Liquidity Requirement	1550-AB4
3141	12 CFR 552 Conversion From Stock Form Depository Institution to Federal Stock Association	1550-AB4
3142	12 CFR 502 Assessments and Fees	1550-AB4
3143	12 CFR 555 Study of Banking Regulations Re: the Online Delivery of Financial Services	1550-AB5

Department of the Treasury (TREAS)
Departmental Offices (DO)

Proposed Rule Sta

2686. • COMMON RULE SUSPENSION AND DEBARMENT

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 701

CFR Citation: 31 CFR 19; 31 CFR 20

Legal Deadline: None

Abstract: The common rule provides uniform requirements for debarment and suspension by executive branch agencies to protect assistance, loans, benefits and other nonprocurement activities from waste, fraud, abuse and poor performance, similar to the system used for Federal procurement activities under subpart 9.4 of the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cathy Thomas, Management Analyst, Department of the Treasury, Room 6230, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0817
Fax: 202 622-2318

RIN: 1505–AA86

Department of the Treasury (TREAS)
Departmental Offices (DO)

Final Rule Stage

2687. FINANCIAL SUBSIDIARIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24a

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This joint rule will be adopted by the Department of the Treasury and the Board of Governors of the Federal Reserve System to implement section 121 of the Gramm-Leach-Bliley Act. The Rule will establish a portion of an indexing mechanism to adjust the maximum aggregate consolidated assets of all financial subsidiaries of a national bank permitted under the Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary W. Sutton, Senior Banking Counsel, Office of General Counsel, Department of the Treasury, Room 2014, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-1976
Fax: 202 622-1974
Email: gary.sutton@do.treas.gov

RIN: 1505–AA81

Department of the Treasury (TREAS)
Departmental Offices (DO)

Long-Term Actions

2688. POSSIBLE REGULATION OF ACCESS TO ACCOUNTS AT FINANCIAL INSTITUTIONS THROUGH PAYMENT SERVICE PROVIDERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 31 CFR ch II

Timetable:

Action	Date	FR Cite
ANPRM	01/08/99	64 FR 1149
ANPRM Comment Period End	04/08/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Roger Bezdek
Phone: 202 622-1807

RIN: 1505–AA74

2689. FINANCIAL ACTIVITIES OF FINANCIAL SUBSIDIARIES

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/00	65 FR 14819
Interim Final Rule Effective	03/14/00	
Interim Final Rule Comment Period End	05/15/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary W. Sutton
Phone: 202 622-1976
Fax: 202 622-1974
Email: gary.sutton@do.treas.gov

RIN: 1505–AA80

2690. SECRETARY'S DETERMINATION OF REAL ESTATE BROKERAGE

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 1501.2

Timetable:

Action	Date	FR Cite
NPRM	01/03/01	66 FR 307
NPRM Comment Period End	03/02/01	
NPRM Comment Period Extended	05/01/01	66 FR 12440

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary W. Sutton
Phone: 202 622-1976
Fax: 202 622-1974
Email: gary.sutton@do.treas.gov

RIN: 1505–AA84

2691. SECRETARY'S DETERMINATION OF OTHER ACTIVITIES FINANCIAL IN NATURE

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 1501.2

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/02/01	66 FR 257
Interim Final Rule Effective	01/02/01	
Interim Final Rule Comment Period End	02/02/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary W. Sutton
Phone: 202 622-1976
Fax: 202 622-1974
Email: gary.sutton@do.treas.gov

RIN: 1505–AA85

Department of the Treasury (TREAS)
Departmental Offices (DO)

Completed Actions

2692. RESOLUTION FUNDING CORPORATION OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 1510

Completed:

Reason	Date	FR Cite
Final Rule	09/11/01	66 FR 47070
Final Rule Effective	09/11/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brandon B. Straus
Phone: 202 622-1964

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Fax: 202 622-1974
RIN: 1505–AA79

2693. AMENDMENTS TO THE GOVERNMENT SECURITIES ACT REGULATIONS

Priority: Substantive, Nonsignificant
CFR Citation: 17 CFR 450

Completed:

Reason	Date	FR Cite
Final Rule	05/24/01	66 FR 28654

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Lee Grandy

Phone: 202 691-3632
Fax: 202 219-3639
Email: govsecreg@bpd.treas.gov

Deidere Brewer
Phone: 202 691-3632

RIN: 1505–AA82
BILLING CODE 4810-25-S

Department of the Treasury (TREAS)
Financial Crimes Enforcement Network (FINCEN) **Proposed Rule Sta**

2694. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SUSPICIOUS ACTIVITY REPORTING—BROKER/DEALERS

Priority: Substantive, Nonsignificant
Legal Authority: 31 USC 5318(g)
CFR Citation: 31 CFR 103
Legal Deadline: None

Abstract: This NPRM will propose to require suspicious activity reporting by broker/dealers.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None
Agency Contact: Cynthia L. Clark, Acting Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182
Phone: 703 905-3590
Fax: 703 905-3735

RIN: 1506–AA21

Department of the Treasury (TREAS)
Financial Crimes Enforcement Network (FINCEN) **Final Rule Sta**

2695. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS REGARDING REPORTING OF CROSS-BORDER TRANSPORTATION OF CERTAIN MONETARY INSTRUMENTS

Priority: Substantive, Nonsignificant
Legal Authority: 31 USC 5312(a)(3), Bank Secrecy Act
CFR Citation: 31 CFR 103
Legal Deadline: None

Abstract: This rule will require reporting of cross-border transportation of certain negotiable instruments.

Timetable:

Action	Date	FR Cite
NPRM	01/22/97	62 FR 3249
NPRM Comment Period End	04/22/97	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Cynthia L. Clark, Acting Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182
Phone: 703 905-3590
Fax: 703 905-3735

RIN: 1506–AA15

2696. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SUSPICIOUS ACTIVITY REPORTING—CASINOS

Priority: Substantive, Nonsignificant
Legal Authority: 31 USC 5318(g)
CFR Citation: 31 CFR 103
Legal Deadline: None

Abstract: This NPRM will propose to require suspicious activity reporting by casinos.

Timetable:

Action	Date	FR Cite
NPRM	05/18/98	63 FR 27230
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Cynthia L. Clark, Acting Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182
Phone: 703 905-3590
Fax: 703 905-3735

RIN: 1506–AA22

2697. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—EXEMPTIONS FROM THE REQUIREMENT TO REPORT TRANSACTIONS IN CURRENCY

Priority: Substantive, Nonsignificant
Legal Authority: 12 USC 1829b; 12 USC 1951 to 1959; 31 USC 5311 to 5330
CFR Citation: 31 CFR 103
Legal Deadline: None

Abstract: This document contains an interim rule that further reforms and simplifies the process by which depository institutions may exempt transactions of retail and other businesses from the requirement to report transactions in currency in excess of $10,000. The interim rule is part of a continuing program to reduc unnecessary burdens upon financial institutions complying with the Bank Secrecy Act and increase the cost-effectiveness of the counter-money laundering policies of the Department of the Treasury.

TREAS—FINCEN **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/28/00	65 FR 46356
Interim Final Rule Effective	07/31/00	
Interim Final Rule Comment Period End	09/26/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cynthia L. Clark, Acting Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182
Phone: 703 905-3590
Fax: 703 905-3735

RIN: 1506–AA23

2698. • AMENDMENT TO THE BSA REGULATIONS-REQUIREMENT THAT MONEY TRANSMITTERS AND MONEY ORDER AND TRAVELERS CHECK ISSUERS, SELLERS, AND REDEEMERS REPORT SUSPICIOUS TRANSACTIONS-IMPLEMENTATION DATE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1829b; 12 USC 1951 to 1959; 31 USC 5311 to 5330

CFR Citation: 31 CFR 103.20(f); 31 CFR 103.41

Legal Deadline: None

Abstract: This document would address the implementation date of the Bank Secrecy Act rule requiring money transmitters and issuers, sellers, and redeemers of money orders and traveler's checks to report suspicious transactions to the Department of the Treasury.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patrice A. Motz, Chief, Money Services Businesses Programs, Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182
Phone: 800 949-2732

RIN: 1506–AA24

Department of the Treasury (TREAS)
Financial Crimes Enforcement Network (FINCEN) **Long-Term Actions**

2699. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DELEGATION OF AUTHORITY TO ASSESS CIVIL MONEY PENALTIES ON DEPOSITORY INSTITUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cynthia L. Clark
Phone: 703 905-3590
Fax: 703 905-3735

RIN: 1506–AA08

2700. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SPECIAL REPORTING AND RECORDKEEPING REQUIREMENTS—MONEY SERVICES BUSINESSES (MSBS)

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Timetable:

Action	Date	FR Cite
NPRM	05/21/97	62 FR 27909
NPRM Comment Period End	09/30/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Cynthia L. Clark
Phone: 703 905-3590
Fax: 703 905-3735

RIN: 1506–AA19

BILLING CODE 4820–02–S

Department of the Treasury (TREAS)
Financial Management Service (FMS) **Proposed Rule Stage**

2701. CLAIMS ON ACCOUNT OF TREASURY CHECKS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 321; 31 USC 3328; 31 USC 3331; 31 USC 3343; 31 USC 3702; 31 USC 3712

CFR Citation: 31 CFR 245

Legal Deadline: None

Abstract: Title 31 CFR part 245 governs the issuance of replacement checks for checks drawn on the United States Treasury when: 1) the original check has been lost, stolen, destroyed or mutilated or defaced to such an extent that it is rendered non-negotiable; 2) the original check has been negotiated and paid on a forged or unauthorized indorsement; and 3) the original check has been cancelled pursuant to 31 CFR part 240. This regulation is being revised to update the regulation's definitions to make them consistent with the language of the proposed revisions to the definitions in 31 CFR part 240. Other revisions will govern the use of the Check Forgery Insurance Fund (Fund). The Fund is a revolving fund established to settle payee claims of non-receipt where the original check has been fraudulently negotiated. The Fund ensures that innocent payees, whose Treasury checks have been fraudulently cashed, receive replacement checks in a timely manner.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ella White, Customer Liaison Specialist, Department of the Treasury, Financial Management Service, Room 8D25, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-8445

RIN: 1510–AA51

2702. PUBLIC DISSEMINATION OF IDENTITY OF DELINQUENT DEBTORS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 321; 31 USC 3720E

CFR Citation: 31 CFR 285.14

Legal Deadline: None

Abstract: This rule implements the authority provided in the Debt Collection Improvement Act for Federal Agencies to publicly disseminate information regarding the identity of delinquent debtors.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Debt Management Service, Department of the Treasury, Financial Management Service, Room 44AB, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6660

RIN: 1510–AA72

2703. PAYMENT OF FEDERAL TAXES AND THE TREASURY TAX AND LOAN PROGRAM

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 12 USC 90; 12 USC 265; 12 USC 266; 12 USC 321; 12 USC 323; 12 USC 332; 12 USC 391; 12 USC 1452(d); 12 USC 1464(k); 12 USC 1767; 12 USC 1789(a); 12 USC 2013; 12 USC 2122; 12 USC 3102; 12 USC 6302; 31 USC 3301 to 3304

CFR Citation: 31 CFR 203

Legal Deadline: None

Abstract: This first rule amends the regulation to provide the Secretary greater flexibility to adjust the rate of interest charged on funds loaned through the Treasury Tax and Loan (TT&L) program. The rule also allows for a new TT&L investment option for financial institutions. This second rule includes general revisions which will provide needed updates to support operational changes to the system used for the collection of corporate withholding taxes and the investment of the Government's excess operating funds; streamline the regulation by converting to the plain language standard; and incorporate other needed updates.

Timetable:

General Revisions
NPRM 12/00/01
Final Action 03/00/02

Treasury Tax and Loan Rate of Interest
NPRM 07/30/99 (64 FR 41747)
NPRM Comment Period End 09/28/99
Final Action 12/00/01

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Walt Henderson, Senior Financial Program Specialist, Cash Management Policy and Planning Directorate, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6705
Email: walt.henderson@fms.treas.gov

RIN: 1510–AA79

2704. • SURETY BOND REIMBURSEMENT FUND

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 31 USC 9304 to 9308

CFR Citation: 31 CFR 223

Legal Deadline: None

Abstract: This regulation covers the procedures to grant insurance companies the authority to issue Federal surety bonds.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Wanda Rogers, Director, Financial Accounting and Services Division, Department of the Treasury, Financial Management Service, Room 620D, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-8380
Email: wanda.rogers@fms.treas.gov

RIN: 1510–AA85

2705. • MANAGEMENT OF FEDERA AGENCY RECEIPTS AND DISBURSEMENTS; OPERATION OF THE CASH MANAGEMENT IMPROVEMENT FUND

Priority: Substantive, Nonsignificant Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 301; 31 USC 321; 31 USC 3301; 31 USC 3302; 31 USC 3321; 31 USC 3327; 31 USC 33 31 USC 3335; 31 USC 3720; 31 USC 6503

CFR Citation: 31 CFR 206

Legal Deadline: None

Abstract: This regulation governs collection and deposit regulations requiring timely methods, principal Electronic Funds Transfer (EFT), fo collection and deposit of funds as authorized by section 2652 of the Deficit Reduction Act of 1984. This regulation also incorporates revisio authorized by the Cash Managemen Act of 1990 and the Cash Managem Improvement Act Amendments of 1 These revisions require executive agencies to use effective, efficient disbursement mechanisms, princip EFT, in the delivery of payments. A agency's failure to comply with thi regulation may result in a charge ec to the cost of such non-compliance the Treasury's General Fund.

Timetable:

Action	Date	FR C
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Fede

Agency Contact: Sally Phillips, Financial Program Specialist, Cash Management Policy and Planning Division, Department of the Treasu Financial Management Service, Ro 403, 401 14th Street SW., Washing DC 20227

TREAS—FMS **Proposed Rule Stage**

Phone: 202 874-7106
Email: sally.phillips@fms.treas.gov
RIN: 1510–AA86

Department of the Treasury (TREAS)
Financial Management Service (FMS) **Final Rule Stage**

2706. RULES AND PROCEDURES FOR EFFICIENT FEDERAL-STATE FUNDS TRANSFERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 301; 31 USC 321; 31 USC 3335; 31 USC 6501; 31 USC 6503

CFR Citation: 31 CFR 205

Legal Deadline: None

Abstract: This regulation governs the transfer of Federal assistance funds to State governments and implements the Cash Management Improvement Act of 1990, as amended. Revisions to the regulation will address concerns raised by both States and Federal agencies about intergovernmental financing. Rules and procedures for funds transfers will be revised to provide more options and greater flexibility.

Timetable:

Action	Date	FR Cite
NPRM	10/12/00	65 FR 60796
Comment Period End	01/10/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Sally Phillips, Financial Program Specialist, Cash Management Policy and Planning Division, Department of the Treasury, Financial Management Service, Room 403, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7106
Email: sally.phillips@fms.treas.gov

RIN: 1510–AA38

2707. INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 12 USC 391; 31 USC 321; 31 USC 3327; 31 USC 3328; 31 USC 3331; 31 USC 3334; 31 USC 3343; 31 USC 3702; 31 USC 3702 note; 31 USC 3711; 31 USC 3712; 31 USC 3716; 31 USC 3717; 318 US 363 (1943); 332 US 234 (1947)

CFR Citation: 31 CFR 240

Legal Deadline: None

Abstract: Notice of proposed rulemaking II (NPRM II) was a reissuance of NPRM I published on 9/21/95, which proposed to fix the time by which Treasury can decline payment on Treasury checks, provide financial institutions with a date certain for final payments, and provide greater clarity by defining previously undefined terms. NPRM I also proposed that the Department of the Treasury may instruct Federal Reserve Banks to intercept benefit payment checks to deceased payees and to return, unpaid, those checks. In addition to the revisions proposed in NPRM I, NPRM II announced the Department of the Treasury's intent that this regulation supersede Federal common law regarding the risk of loss on checks containing forged disbursing officer signatures, such as counterfeits. The Interim Final Rule will amend this regulation to implement provisions of the Debt Collection Improvement Act of 1996 authorizing the collection of debts owed by presenting banks through Treasury Check Offset. NPRM III is a reissuance of NPRM II and will address, at a minimum, the issues in NPRMs I and II.

Timetable:

Action	Date	FR Cite
NPRM I	09/21/95	60 FR 48940
NPRM Comment Period End	11/06/95	
NPRM II	05/30/97	62 FR 29314
Interim Final Rule	12/00/01	
NPRM III	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Lester Smalls, Manager, Reclamation Branch, Department of the Treasury, Financial Management Service, Room 700D, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-7770
Email: lester.smalls@fms.treas.gov

RIN: 1510–AA45

2708. FOREIGN EXCHANGE OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2363; 31 USC 3513; EO 10488; EO 10900

CFR Citation: 31 CFR 281

Legal Deadline: None

Abstract: This regulation governs the administration of the purchase, custody, deposit, transfer, sale and reporting of foreign exchange (including credits and currencies) by executive departments and agencies. Currently, this regulation allows the purchase of foreign currency to an amount which, together with the balance on hand in the bank, may not exceed estimated requirements for a 30-day period. The revised rule allows the purchase of foreign currency to a balance "commensurate with immediate disbursing requirements."

Timetable:

Action	Date	FR Cite
NPRM	01/29/96	61 FR 2750
NPRM Comment Period End	02/28/96	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Sally Phillips, Financial Program Specialist, Cash Management Policy and Planning Division, Department of the Treasury,

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TREAS—FMS **Final Rule Sta**

Financial Management Service, Room 403, 401 14th Street SW., Washington, DC 20227
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Email: sally.phillips@fms.treas.gov

RIN: 1510–AA48

2709. PAYMENTS UNDER JUDGMENT AND PRIVATE RELIEF ACTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-53; PL 104-316; 28 USC 2414; 28 USC 2517; 31 USC 1304

CFR Citation: 31 CFR 256

Legal Deadline: None

Abstract: This regulation governs the procedure for securing payment for money judgments against the United States. The proposed revision will update the procedure for making claims. This will benefit claimants and others in understanding the claims process. This regulation currently describes a process that involves the General Accounting Office (GAO) and the Treasury Department. The change will eliminate the GAO from this description to reflect legislative amendments that effect this change. Also, the regulation currently identifies monetary thresholds that no longer exist. The change will reflect the removal of these monetary limitations and the resulting submission requirements. These changes in the regulation will make it consistent with current practices for claimants securing money judgments against the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/08/96	61 FR 552
NPRM Comment Period End	02/07/96	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Wanda Rogers, Director, Financial Accounting and Services Division, Department of the Treasury, Financial Management Service, Room 620D, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-8380
Email: wanda.rogers@fms.treas.gov

RIN: 1510–AA52

2710. OFFSET OF FEDERAL PAYMENTS (OTHER THAN TAX REFUND AND FEDERAL BENEFIT PAYMENTS) TO COLLECT PAST-DUE, LEGALLY ENFORCEABLE NONTAX DEBT

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 321; 31 USC 3716

CFR Citation: 31 CFR 285.5

Legal Deadline: None

Abstract: This rule governs the administrative offset of Federal payments by disbursing officials of the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Debt Management Service, Department of the Treasury, Financial Management Service, Room 44AB, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6660

RIN: 1510–AA65

2711. SALARY OFFSET

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5514

CFR Citation: 31 CFR 285.7

Legal Deadline: None

Abstract: This rule governs the centralized computer matching of Federal Employee Records for purposes of salary offset to collect nontax delinquent debt owed the Federal Government.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/28/98	63 FR 23353
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Debt Management Service, Department of the Treasury, Financial Management Service, Room 44AB, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6660

RIN: 1510–AA70

2712. OFFSET OF TAX REFUND PAYMENT TO COLLECT STATE INCOME TAX OBLIGATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6402(e)

CFR Citation: 31 CFR 285.8

Legal Deadline: None

Abstract: This rule governs the offset of Federal tax refund payments to collect delinquent State income taxes.

Timetable:

Action	Date	FR Cite
NPRM	12/20/99	64 FR 7123
Interim Final Rule	12/20/99	64 FR 7122
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Federalism: Undetermined

Agency Contact: Dean Balamaci, Director, Business and Agency Liaison Division, Department of the Treasury, Financial Management Service
Phone: 202 874-6660

RIN: 1510–AA78

2713. FEDERAL GOVERNMENT PARTICIPATION IN THE AUTOMATE CLEARINGHOUSE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5525; 12 USC 391; 31 USC 321; 31 USC 3301; 31 U 3302; 31 USC 3321; 31 USC 3332; 31 USC 3335; 31 USC 3720

CFR Citation: 31 CFR 210

Legal Deadline: None

Abstract: One revision of 31 CFR par 210 will reconcile Government Automated Clearing House (ACH) regulations and private industry rules as set forth by the National Automate Clearing House Association, by updating the incorporation of certain industry rules into Federal law for th year 2002. The second revision will provide needed updates to support movement of ACH transactions on th Internet for Federal collections and t use of check conversion in Federal collections.

Timetable:

Action	Date	FR Cit
Interim Final Rule	02/00/02	
2001 ACH Rules		
Interim Final Rule	02/16/01	(66 FR 105

TREAS—FMS **Final Rule Stage**

Check Conversion and Internet Transactions
NPRM 04/12/01 (66 FR 18888)
Final Action 12/00/01

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Walt Henderson, Senior Financial Program Specialist, Cash Management Policy and Planning Directorate, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6705
Email: walt.henderson@fms.treas.gov

RIN: 1510–AA81

2714. • DELIVERY OF CHECKS AND WARRANTS TO ADDRESSES OUTSIDE THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 321; 5 USC 301

CFR Citation: 31 CFR 211

Legal Deadline: None

Abstract: This rule revises the regulations governing the delivery of checks outside the United States by removing the reference to Democratic Kampuchea, now known as Cambodia.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William S. Mehr, Manager, Administrative Services Branch, Department of the Treasury, Financial Management Service, Room 358, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6932

RIN: 1510–AA88

Department of the Treasury (TREAS)
Financial Management Service (FMS) **Long-Term Actions**

2715. OFFSET OF FEDERAL PAYMENTS (OTHER THAN TAX REFUND AND FEDERAL BENEFIT PAYMENTS) TO COLLECT PAST-DUE DEBTS OWED TO STATES (OTHER THAN CHILD SUPPORT)

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.6

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Gerry Isenberg
Phone: 202 874-6660

RIN: 1510–AA66

Department of the Treasury (TREAS)
Financial Management Service (FMS) **Completed Actions**

2716. • ADMINISTRATIVE WAGE GARNISHMENT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6402; 31 USC 321; 31 USC 3701; 31 USC 3711; 31 USC 3716; 31 USC 3720A; 31 USC 3720B; 31 USC 3720D; EO 13019

CFR Citation: 3 CFR 1996, comp, p. 216

Legal Deadline: None

Abstract: The rule makes technical amendments to regulations issued by the Department of the Treasury, Financial Management Service concerning implementation of the administrative wage garnishment provisions of the Debt Collection Improvement Act of 1996.

Timetable:

Action	Date	FR Cite
Final Action	10/11/01	66 FR 51861
Final Action Effective	10/11/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Debt Management Service, Department of the Treasury, Financial Management Service, Room 44AB, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6660

RIN: 1510–AA87

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Department of the Treasury (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Proposed Rule Sta

ALCOHOL

2717. REVISION OF BREWERY REGULATIONS AND ISSUANCE OF REGULATIONS FOR TAVERNS ON BREWERY PREMISES (BREWPUBS)

Regulatory Plan: This entry is Seq. No. 110 in part II of this issue of the Federal Register.

RIN: 1512–AB37

2718. AMENDED STANDARD OF IDENTITY FOR SHERRY

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: ATF is considering a petition to allow certain types of wine to be labeled as "sherry" rather than "light sherry."

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB96

2719. ALCOHOL BEVERAGE HEALTH WARNING STATEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205; 27 USC 215

CFR Citation: 27 CFR 16

Legal Deadline: None

Abstract: ATF is considering amending the regulations concerning the placement, legibility and noticeability of the congressionally mandated health warning statement required to appear on the labels of all containers of alcohol beverages. Based on a petition we have received, we wish to gather information by inviting comments from the public and industry as to whether the existing regulations should be revised.

Timetable:

Action	Date	FR Cite
ANPRM	05/22/01	66 FR 28135
ANPRM Comment Period End	08/20/01	
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC12

2720. • PROPOSED ADDITION OF "TANNAT" AS A GRAPE VARIETY NAME FOR AMERICAN WINES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: ATF has received a petition proposing to add a new name, "Tannat," to the list of prime grape variety names for use in designating American wines.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Berry, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 111 W. Huron Street, Room 219, Buffalo, NY 14202-2301
Phone: 716 551-4048

RIN: 1512–AC50

EXPLOSIVES

2721. IDENTIFICATION MARKINGS PLACED ON EXPLOSIVE MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 847

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: ATF is considering amendi the regulations to require licensed importers to legibly identify by mark all imported explosive materials. Bas on a petition we have received, we wish to gather information by invitin comments from the public and indus whether the regulations should be amended.

Timetable:

Action	Date	FR Cit
ANPRM	11/03/00	65 FR 676
ANPRM Comment Period End	01/12/01	
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacc and Firearms, 650 Massachusetts Avenue NW., Washington, DC 2022
Phone: 202 927-8210

RIN: 1512–AC25

2722. COMMERCE IN EXPLOSIVES-SPORT ROCKET MOTORS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 847

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: ATF is amending the regulations to clarify which explosiv are not subject to ATF importation, distribution, and storage requiremen

Timetable:

Action	Date	FR Ci
NPRM	06/00/02	
NPRM Comment Period End	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of th Treasury, Bureau of Alcohol, Tobac and Firearms, 650 Massachusetts Avenue NW., Washington, DC 2022
Phone: 202 927-8210

RIN: 1512–AC30

TREAS—BATF **Proposed Rule Stage**

FIREARMS

2723. COMMERCE IN EXPLOSIVES (INCLUDING EXPLOSIVES IN THE FIREWORKS INDUSTRY)

Regulatory Plan: This entry is Seq. No. 111 in part II of this issue of the **Federal Register**.

RIN: 1512–AB48

2724. IMPLEMENTATION OF PUBLIC LAW 104-208, THE OMNIBUS CONSOLIDATED APPROPRIATIONS ACT OF 1997, RELATING TO THE ESTABLISHMENT OF A NATIONAL REPOSITORY FOR ARSON AND EXPLOSIVES INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 846(b)

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: ATF will issue this temporary rule to implement certain provisions of Public Law 104-208, the Omnibus Consolidated Appropriations Act of 1997 (the Act), enacted September 30, 1996. The Act amended the Federal explosives laws in 18 U.S.C. chapter 40, to require all Federal agencies to report to ATF any information involving arson or the suspected criminal misuse of explosives. The Act also authorizes ATF to establish a repository for this information. In addition, the law provides that such repository will contain information on incidents voluntarily reported to ATF by State and local authorities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB73

2725. IMPLEMENTATION OF PUBLIC LAW 105-277, MAKING OMNIBUS CONSOLIDATED AND EMERG. SUPPLEMENTAL APPROPRIATIONS FOR FY 1999, RELATING TO THE PERMANENT PROVISIONS OF THE BRADY HANDGUN VIOLENCE PREVENTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: ATF will amend the regulations to implement the provision of Public Law 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999, relating to the permanent provisions of the Brady Handgun Violence Prevention Act. The new law allows a licensed pawnbroker to contact the national instant criminal background check system (NICS) prior to taking or receiving a firearm in pawn. If NICS advises the pawnbroker that receipt or possession of the firearm would be in violation of the law, the licensee must advise local law enforcement within 48 hours after receipt of information.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB83

2726. PUBLIC LAW 105-277, MAKING OMNIBUS CONSOLIDATED AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FY99, RELATING TO FIREARMS DISABILITIES FOR NONIMMIGRANT ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: ATF will issue a temporary rule amending the regulations to implement the provisions of Public Law 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999. The regulations implement the law by prohibiting, with certain exceptions, the transfer to and possession of firearms by aliens admitted to the United States under a nonimmigrant visa. Regulations are also prescribed with regard to applicants for dealer's licenses to certify that secure gun storage or safety devices will be available at any place where firearms are sold to nonlicensed individuals, and an amended definition of "antique firearm" to include certain muzzle loading firearms.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
Interim Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB93

PROCEDURAL

2727. PLAIN LANGUAGE IN PART 7

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 7

Legal Deadline: None

Abstract: This project revises regulations to plain language. The revision will make no substantive changes to the current 27 CFR part 7.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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Agency Contact: Lisa Marie Gesser, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC10

TOBACCO PRODUCTS

2728. ELIMINATION OF APPLICATION TO REMOVE TOBACCO PRODUCTS FROM MANUFACTURER'S PREMISES FOR EXPERIMENTAL PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5704

CFR Citation: 27 CFR 270

Legal Deadline: None

Abstract: This rule eliminates the requirements that manufacturers of tobacco products apply to ATF to remove tobacco products from their factories in bond for experimental purposes and replaces it with records.

Timetable:

Action	Date	FR Cite
NPRM	10/17/01	66 FR 52730
NPRM Comment Period End	12/17/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC32

2729. ELIMINATION OF STATISTICAL CLASSES FOR LARGE CIGARS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 27 CFR 270; 27 CFR 275

Legal Deadline: None

Abstract: This notice proposes to eliminate reporting categories in regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC33

2730. • IMPLEMENTATION OF SECTION 1908 OF PUBLIC LAW 10 418

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 44

Legal Deadline: None

Abstract: The temporary rule prescribes ATF regulations relating section 1908 of Public Law 100-418. This section allowed the Secretary the Treasury to establish a separate class of customs bonded warehouse duty-free sales enterprises.

Timetable:

Action	Date	FR C
NPRM	12/00/01	
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

Agency Contact: Robert P. Ruhf, Program Manager, Department of th Treasury, Bureau of Alcohol, Tobac and Firearms, 650 Massachusetts Avenue NW., Washington, DC 2022 Phone: 202 927-8210

RIN: 1512–AC56

Department of the Treasury (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Final Rule S

ALCOHOL

2731. AMERICAN VITICULTURAL AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: This rule establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Timetable:

Buena Vista Lake, CA (contact Nancy Sutton)
End Review 08/01/01

California Coast, CA (contact Nancy Sutton)
NPRM 09/26/00 (65 FR 57763)
Final Action To Be Determined

Diamond Mountain, CA (contact Jennifer Berry)
NPRM 09/29/99 (64 FR 52483)
NPRM Comment Period End 01/28/00
Final Action 06/01/01 (66 FR 29695)

Long Island (contact Lisa Gesser)
NPRM 11/06/00 (65 FR 66518)
Final Action 05/15/01 (66 FR 26789)

Oak Knoll District, CA (contact Joyce Drake)
NPRM 12/00/01

Realignment of Alexander Valley and Dry Creek Valley AVAs (Sutton)
NPRM 02/02/01 (66 FR 8925)
Final Action 10/04/01 (66 FR 50564)

River Junction, CA (contact Tim DeVanney)
NPRM 08/10/00 (65 FR 48953)
Final Action 05/09/01 (66 FR 23589)

Rockpile AVA (Nancy Sutton)
NPRM 05/01/01 (66 FR 21707)
Final Action 01/00/02

Santa Rita Hills, CA (contact Joyce Dra
NPRM 09/11/98 (63 FR 48658)
Comment Period End 12/10/98
Final Rule 05/31/01 (66 FR 29476)

West Elks (contact Lisa Gesser)
NPRM 10/16/00 (65 FR 61129)
Final Action Completed by TD 03/06/
(66 FR 13429)
Final Action Effective 05/07/01

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Non

Agency Contact: See Supplementa Timetable, American Viticultural A Department of the Treasury, Bureau Alcohol, Tobacco and Firearms, 65 Massachusetts Avenue NW., Washington, DC 20226

TREAS—BATF **Final Rule Stage**

Phone: 202 927-8230

RIN: 1512–AA07

2732. LABELING OF UNAGED GRAPE BRANDY

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5

Legal Deadline: None

Abstract: ATF proposes to amend the regulations to permit the use of the word "unaged" as an alternative to "immature," to describe grape brandy that has not been stored in oak containers.

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30015
NPRM Comment Period End	09/11/96	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB46

2733. IMPLEMENTATION OF WINE CREDIT PROVISIONS OF PUBLIC LAW 104-188

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 26 USC 5041

CFR Citation: 27 CFR 24.278; 27 CFR 24.279

Legal Deadline: None

Abstract: ATF is amending wine regulations to implement a change in the law that allows certain transferees in bond to deduct the tax credit for small wine producers. Changes to bond calculations are also included in this regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/02/97	62 FR 29681
Interim Final Rule	06/02/97	62 FR 29683
NPRM Comment Period End	08/01/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210 Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB65

2734. IMPLEMENTATION OF PUBLIC LAW 105-34, SECTION 1416, RELATING TO REFUND OF TAX FOR DOMESTIC WINE RETURNED TO BOND REGARDLESS OF MERCHANTABILITY (TAXPAYER RELIEF ACT OF 1997)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5044; 26 USC 5361; 26 USC 5367; 26 USC 5371

CFR Citation: 27 CFR 24.66; 27 CFR 24.295; 27 CFR 24.312

Legal Deadline: None

Abstract: ATF is issuing changes to the wine regulations as a result of the enactment of the Taxpayer Relief Act of 1997 and the Internal Revenue Service Reconstruction and Reform Act of 1998. This amendment informs interested parties of changes by these acts that provide for a refund of the tax for all wine returned to bond, rather than exclusively for unmerchantable or domestic wine returned to bond.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB74

2735. HEALTH CLAIMS AND OTHER HEALTH RELATED STATEMENTS IN THE LABELING AND ADVERTISING OF ALCOHOL BEVERAGES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: ATF proposes to amend the regulations to prohibit the appearance on labels or in advertisements of any statement that makes a substantive claim regarding health benefits associated with the consumption of alcohol beverages unless such claim is properly qualified. This notice also addresses the use of directional health-related statements and seeks comments on whether the negative consequences of alcohol consumption, or abuse disqualify these products entirely from entitlement to any health-related statements.

Timetable:

Action	Date	FR Cite
NPRM	10/25/99	64 FR 57413
NPRM Comment Period End	02/22/00	
Public Hearing	02/28/00	65 FR 10434
Cancellation/ Rescheduling of Hearing	04/25/00	65 FR 24158
Comment Period Extended	04/25/00	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB97

2736. RECODIFICATION OF PART 251

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 81(c); 19 USC 1202; 26 USC 5001; 26 USC 5007; 26 USC 5008; 26 USC 5041; 26 USC 5051; 26 USC 5054; 26 USC 5061; 26 USC 5111; 26 USC 5112; 26 USC 5114; 26 USC 5121; 26 USC 5122; 26 USC 5124;

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26 USC 5201; 26 USC 5205; 26 USC 5207; 26 USC 5232; 26 USC 5273; 26 USC 5301; 26 USC 5313; 26 USC 5355; 26 USC 6302; 26 USC 7805; 27 USC 203; 27 USC 205; 27 USC 206; 27 USC 215; ...

CFR Citation: 27 CFR 251

Legal Deadline: None

Abstract: Part 251 will be updated and recodified. It will be reissued as 27 CFR part 27.

Timetable:

Action	Date	FR Cite
NPRM	08/05/96	61 FR 40568
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Berry, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 111 W. Huron Street, Room 219, Buffalo, NY 14202-2301
Phone: 716 551-4048

RIN: 1512–AC27

2737. ALBARINO, BLACK CORINTH AND FIANO GRAPE VARIETIES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: ATF has received petitions proposing to add the Albarino, Black Corinth and Fiano grapes to the list of prime grape variety names for use in designating American wines.

Timetable:

Action	Date	FR Cite
NPRM	07/19/01	66 FR 37609
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Berry, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 111 W. Huron Street, Room 219, Buffalo, NY 14202-2301
Phone: 716 551-4048

RIN: 1512–AC29

2738. • LIQUOR DEALERS; RECODIFICATION OF REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 31; 27 CFR 194; ...

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) is recodifying the regulations pertaining to liquor dealers. The purpose of this recodification is to reissue the regulations in part 194 of title 27 of the Code of Federal Regulations (CFR) as 27 CFR part 31. This change improves the organization of title 27 CFR.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joanne Saponare, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Bureau of Alcohol, Tobacco and Firearms
Phone: 215 597-5739

RIN: 1512–AC45

2739. • DELEGATION OF AUTHORITY IN 27 CFR PART 31

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 31

Legal Deadline: None

Abstract: This final rule places all ATF authorities contained in part 31, title 27 of the Code of Federal Regulations (CFR), with the "appropriate ATF officer" and requires that persons file documents required by 27 CFR part 31 with the "appropriate ATF officer" or in accordance with the instructions on the form. Also, this final rule removes the definitions of, and references to, specific officers subordinate to the Director.

Timetable:

Action	Date	FR Cite
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joanne Saponare, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Bureau of Alcohol, Tobacco and Firearms
Phone: 215 597-5739

RIN: 1512–AC49

FIREARMS

2740. COMMERCE IN FIREARMS AN AMMUNITION (OMNIBUS CONSOLIDATED APPROPRIATIONS ACT OF 1997)

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 847; 18 US 921 to 930

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The Omnibus Consolidate Appropriations Act of 1997 contains amendments to the Gun Control Act 1986 (18 U.S.C. chapter 44). These amendments add to the category of "prohibited persons" anyone convic of a "misdemeanor crime of domesti violence." The amendments require individuals acquiring handguns fron Federal firearms licenses to certify (i accordance with the Brady Law) tha they have not been convicted of such a crime. The amendments also provi for sales between Federal firearms licensees of curio and relic firearms away from their licensed premises.

Timetable:

Action	Date	FR Ci
NPRM	06/30/98	63 FR 35
Interim Final Rule	06/30/98	63 FR 35
NPRM Comment Period End	09/28/98	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of th Treasury, Bureau of Alcohol, Tobac and Firearms, 650 Massachusetts Avenue NW., Washington, DC 2022
Phone: 202 927-8210

RIN: 1512–AB64

TREAS—BATF — **Final Rule Stage**

2741. RESIDENCY REQUIREMENT FOR PERSONS ACQUIRING FIREARMS

Priority: Other Significant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The temporary rule amends the regulations to provide for a firearms purchaser's affirmative statement of his or her State of residence on ATF Form 4473 (Firearms Transaction Record) and ATF Form 5300.35 (Statement of Intent to Obtain a Handgun) in acquiring a firearm from a Federal firearms licensee. The temporary rule also amends the regulations to require that aliens purchasing a firearm provide proof of residency through the use of substantiating documentation, such as utility bills or a lease agreement. In addition, the regulations are being amended to require that licensees examine a photo identification document from aliens purchasing firearms. These regulations implement President Clinton's March 5, 1997 announcement of firearms initiatives intended to protect the American public from gun violence.

Timetable:

Action	Date	FR Cite
NPRM	04/21/97	62 FR 19446
Interim Final Rule	04/21/97	62 FR 19442
NPRM Comment Period End	07/21/97	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB66

2742. COMMERCE IN FIREARMS AND AMMUNITION—ANNUAL INVENTORY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations to require federally licensed importers, manufacturers, and dealers of firearms to take at least one physical inventory each year. The proposed regulations also specify the circumstances under which these licensees must conduct a special physical inventory. In addition, these proposed regulations clarify who is responsible for reporting a firearm that is stolen or lost in transit between licensees.

Timetable:

Action	Date	FR Cite
NPRM	09/28/00	65 FR 52054
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC08

TOBACCO PRODUCTS

2743. • IMPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES; RECODIFICATION OF REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 41; 27 CFR 275

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) is recodifying the regulations in part 275, Importation of Tobacco Products and Cigarette Papers and Tubes. The purpose of this recodification is to reissue the regulations in part 275 of title 27 of the Code of Federal Regulations (CFR) as 27 CFR part 41. This change improves the organization of title 27 CFR.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Sutton, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Bureau of Alcohol, Tobacco and Firearms
Phone: 415 947-5192

RIN: 1512–AC46

Department of the Treasury (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Long-Term Actions

ALCOHOL

2744. EXPORTATION OF LIQUORS

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 252

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40887
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	10/15/92	57 FR 47320
ANPRM Comment Period Extended End	12/07/92	
ANPRM	08/09/96	61 FR 41500
ANPRM Comment Period End	12/10/96	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov

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William Foster
Phone: 202 927-8210

RIN: 1512–AA98

2745. ALCOHOLIC CONTENT LABELING FOR MALT BEVERAGES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 7

Timetable:

Action	Date	FR Cite
NPRM	04/19/93	58 FR 21233
Interim Final Rule	04/19/93	58 FR 21228
NPRM Comment Period End	07/19/93	
NPRM Comment Period Extended	07/19/93	58 FR 38543
NPRM Comment Period Extended End	09/17/93	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Foster
Phone: 202 927-8210

RIN: 1512–AB17

2746. DISTRIBUTION OF DENATURED ALCOHOL AND RUM

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 20

Timetable:

Action	Date	FR Cite
ANPRM	06/13/96	61 FR 30019
ANPRM Comment Period End	08/12/96	
NPRM	07/17/01	66 FR 37198
NPRM Comment Period End	09/17/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8210

RIN: 1512–AB57

2747. DISTILLED SPIRITS PLANT REGULATORY INITIATIVE PROPOSAL

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 19.11; 27 CFR 19.1003; 27 CFR 19.1010; 27 CFR 19.49; 27 CFR 19.153; 27 CFR 19.201 to 206; 27 CFR 19.311; 27 CFR 19.454; 27 CFR 19.605; 27 CFR 19.770; 27 CFR 19.1001

Timetable:

Action	Date	FR Cite
NPRM	11/30/98	63 FR 65720
NPRM Comment Period End	01/29/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Simon
Phone: 202 927-8210

RIN: 1512–AB58

2748. PROHIBITION OF ALCOHOL BEVERAGE CONTAINERS AND STANDARD OF FILL FOR DISTILLED SPIRITS AND WINE

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Timetable:

Action	Date	FR Cite
NPRM	02/09/99	64 FR 6486
NPRM Comment Period End	04/12/99	
Revised NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Foster
Phone: 202 927-8210

RIN: 1512–AB89

2749. SAKE REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Foster
Phone: 202 927-8210

RIN: 1512–AC09

2750. FLAVORED MALT BEVERAGES

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Foster
Phone: 202 927-8210

RIN: 1512–AC11

2751. REMOVAL OF REQUIREMEN TO DISCLOSE SACCHARIN IN THE LABELING OF WINE, DISTILLED SPIRITS AND MALT BEVERAGES

Priority: Info./Admin./Other

CFR Citation: 27 CFR 4.32(d); 27 C 5.32(b)(6); 27 CFR 7.22(b)(5)

Timetable: Next Action Undetermin

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AC17

2752. • DELEGATION OF AUTHOR IN 27 CFR PART 252

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 252

Legal Deadline: None

Abstract: This final rule places mo ATF authorities with the "appropri ATF officer" and requires that pers file documents with the "appropria ATF officer" or in accordance with instructions on the ATF form.

Timetable:

Action	Date	FR C
Final Action	To Be Determ	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

Agency Contact: Robert P. Ruhf, Program Manager, Department of t Treasury, Bureau of Alcohol, Toba and Firearms, 650 Massachusetts Avenue NW., Washington, DC 202 Phone: 202 927-8210

RIN: 1512–AC44

2753. • PRODUCTION OF AGRICULTURAL WINES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5381; 26 USC 5382; 26 USC 5385; 26 USC 5386; 26 USC 5387

CFR Citation: 27 CFR 24

Legal Deadline: None

Abstract: ATF has received two petitions relating to the production of agricultural wines. One petition proposes that the wine regulations be amended to allow for the production of dried fruit wines with an alcohol by volume content of more than 14 percent. The second petition proposes that the regulations be amended to allow for the production of honey wines with a starting Brix of less than 22 degrees.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Berry, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 111 W. Huron Street, Room 219, Buffalo, NY 14202-2301
Phone: 716 551-4048

RIN: 1512–AC48

2754. • PETITION TO AMEND THE STANDARDS OF IDENTITY FOR WHISKY AND BRANDY

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 5.22

Legal Deadline: None

Abstract: A petitioner has proposed that the regulations in 27 CFR part 5 be amended to: (1) provide for the use of oak chips, in lieu of barrel aging, as a method for aging distilled spirits; (2) allow for the use of used sherry or port barrels in the aging of whisky; (3) allow brandy aged only with wood chips to be exempt from the classification as "immature brandy;" (4) allow for the use of malt or wheat extract (made from a full mash) to be used interchangeably with fermented full malt mash in formulations; and (5) allow for the use of corn sugar (made from corn mash) to be used interchangeably with fermented full corn mash formulations.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel J. Hiland, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC51

2755. • PROPOSED REVISIONS TO 27 CFR PART 19, SUBPART W

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 19, subpart W

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend the regulations in 27 CFR part 19, subpart W, which prescribe the records that must be maintained and the reports that must be filed by distilled spirits plant proprietors. ATF believes that these proposed changes will benefit the distilled spirits industry by modernizing the requirements for records and reports and thereby allowing proprietors to operate in a more efficient manner.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel J. Hiland, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC52

2756. • PETITION TO ESTABLISH THE SANTA BARBARA HIGHLANDS VITICULTURAL AREA

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) has received a petition proposing the establishment of Santa Barbara Highlands as an American Viticultural Area (AVA). The proposed Santa Barbara Highlands area is located in Santa Barbara and Ventura counties in California. The petition was submitted by Mr. Nebil Zarif, President, Barnwood Vineyards.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kristy Colon, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms
Phone: 202 927-8206

RIN: 1512–AC53

2757. • DELEGATION OF AUTHORITY IN 27 CFR PART 251

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 251

Legal Deadline: None

Abstract: This final rule places most ATF authorities with the "appropriate ATF officer" and requires that persons file documents with the "appropriate ATF officer" or in accordance with the instructions on the ATF form.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

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TREAS—BATF

Long-Term Act

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC58

2758. • PROPOSED SAN BERNABE VITICULTURAL AREA

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) has received petitions proposing the establishment of the San Bernabe viticultural area and the realignment of the San Lucas American Viticultural Area (AVA). Both areas are situated within the Central Coast AVA, the Monterey AVA, and are located in central Monterey County, California. The proposed San Bernabe AVA would consist of 24,796 acres of land that the petitioner states is predominantly rolling hills with sandy soils that differ from the surrounding Monterey AVA. The San Lucas realignment would transfer 1,100 of its northwest acres to the proposed San Bernabe southern area in an effort to conform with geographic considerations of the new area. These proposals are the result of petitions filed by Claude Hoover of Delicato Family Vineyards.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Sutton, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Bureau of Alcohol, Tobacco and Firearms
Phone: 415 947-5192

RIN: 1512–AC60

2759. • PETITION TO ESTABLISH THE TRINITY LAKE VITICULTURAL AREA

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) has received a petition from Keith Groves of Alpen Cellars proposing the establishment of a viticultural area located in Trinity County, California. The proposed Trinity Lake viticultural area consists of approximately 96,000 acres.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Sutton, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Bureau of Alcohol, Tobacco and Firearms
Phone: 415 947-5192

RIN: 1512–AC62

2760. • CORRECTION OF TECHNICAL ERROR IN 27 CFR PART 4

Priority: Info./Admin./Other

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) is correcting a technical error in 4.22(b) regarding the ameliorating of non-grape wines.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Berry, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 111 W. Huron Street, Room 219, Buffalo, NY 14202-2301
Phone: 716 551-4048

RIN: 1512–AC63

PROCEDURAL

2761. IMPLEMENTATION OF THE PAPERWORK REDUCTION ACT

Priority: Info./Admin./Other

CFR Citation: 5 CFR 1320.7(f)(2)

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

Agency Contact: Nancy M. Kern
Phone: 202 927-8076

RIN: 1512–AB90

2762. DELEGATION OF AUTHORIT 27 CFR PART 19

Priority: Info./Admin./Other

CFR Citation: 27 CFR 19

Timetable:

Action	Date	FR C
Final Action	To Be	Determi

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

Agency Contact: Robert P. Ruhf
Phone: 202 927-8210

RIN: 1512–AC06

TOBACCO PRODUCTS

2763. BALANCED BUDGET ACT O 1997, PUBLIC LAW 105-33, RESTRICTION ON THE IMPORTAT OF DOMESTIC TOBACCO PRODU AND CIGARETTE PAPERS AND TUBES RETURNED TO THE UNITE STATES

Priority: Substantive, Nonsignifican

CFR Citation: 27 CFR 200; 27 CFR 27 CFR 275; 27 CFR 290

Timetable:

Action	Date	FR C
Interim Final Rule	12/22/99	64 FR 7
Interim Final Rule Comment Period End	02/22/00	
Reopening of Comment Period Ended	04/20/00	
Final Action	To Be	Determi

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

Agency Contact: Daniel J. Hiland
Phone: 202 927-8210

RIN: 1512–AB81

TREAS—BATF

Long-Term Actions

2764. IMPLEMENTATION OF PUBLIC LAW 105-33, SECTION 9302, REQUIRING THE QUALIFICATION OF TOBACCO PRODUCT IMPORTERS AND MISCELLANEOUS TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 275

Timetable:

Action	Date	FR Cite
NPRM	12/22/99	64 FR 71955
Interim Final Rule	12/22/99	64 FR 71947
Interim Final Rule Effective	01/01/00	
Interim Final Rule Comment Period End	05/03/00	65 FR 17477
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf
Phone: 202 927-8210

RIN: 1512–AC07

2765. PROHIBITED MARKS ON PACKAGES OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES IMPORTED OR BROUGHT INTO THE UNITED STATES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 275

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert P. Ruhf
Phone: 202 927-8210

RIN: 1512–AC14

2766. DETERMINATION OF TAX AND RECORDKEEPING ON LARGE CIGARS

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 270; 27 CFR 275

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf
Phone: 202 927-8210

RIN: 1512–AC22

2767. TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES SHIPPED FROM PUERTO RICO TO THE UNITED STATES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 275

Timetable:

Action	Date	FR Cite
NPRM	03/08/01	66 FR 13864
NPRM Comment Period End	05/07/01	
Interim Final Rule	03/08/01	66 FR 13849
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf
Phone: 202 927-8210

RIN: 1512–AC24

2768. • DELEGATION OF AUTHORITY IN 27 CFR PART 44

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 44

Legal Deadline: None

Abstract: This final rule places most ATF authorities with the appropriate ATF officer and requires that persons file documents with the appropriate ATF officer or in accordance with the instructions on the ATF form.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC36

2769. • DELEGATION OF AUTHORITY IN 27 CFR PART 40

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 40

Legal Deadline: None

Abstract: This final rule places most ATF authorities with the "appropriate ATF officer" and requires that persons file documents with the "appropriate ATF officer" or in accordance with the instructions on the ATF form.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC54

2770. • SHIPMENTS OF TOBACCO PRODUCTS OR CIGARETTE PAPERS OR TUBES WITHOUT PAYMENT OF TAX.

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 40; 27 CFR 275

Legal Deadline: None

Abstract: The proposed rule clarifies regulations and establishes procedures governing tobacco products or cigarette papers or tubes brought in bond from Puerto Rico to the Untied States. In addition, the proposed rule would allow a manufacturer of tobacco products to receive in bond, cigarette papers and tubes for placement in packages of roll-your-own tobacco and would eliminate filing bond extensions for tobacco products and cigarette papers or tubes from the Virgin Islands.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC57

2771. • DELEGATION OF AUTHORITY IN 27 CFR PARTS 45 AND 46

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 45; 27 CFR 46

Legal Deadline: None

Abstract: This final rule places most ATF authorities with the "appropriate ATF officer" and requires that persons file documents with the "appropriate ATF officer" or in accordance with instructions on the ATF form.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC59

2772. • VOLUNTARY WAIVER OF FILING CLAIM FOR CREDIT, REFUND, ALLOWANCE OR CREDIT OF TAX FOR TOBACCO PRODUCTS MANUFACTURED IN CANADA

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5142; 26 USC 5143; 26 USC 5146; 26 USC 5701; 26 USC 5703; ...

CFR Citation: 27 CFR 44

Legal Deadline: None

Abstract: This rule amends ATF regulations so as to preclude the payment of a credit, refund, allowance or drawback of the excise tax that is collected under the internal revenue laws on imported Canadian tobacco products, where the person who paid the tax has received a recovery from the Government of Canada of an amount equivalent to the excise tax so collected. This final rule responds actions taken by the Government Canada with respect to tobacco products exported to the United S whereby the Untied States import Canadian tobacco products may o a reimbursement from the Govern of Canada of an amount equivale the United States excise taxes pai the time of importation. No new requirements are imposed by the United States on importers who voluntarily participate in this Can program.

Timetable:

Action	Date	FR
Final Action	To Be	Deter

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Agency Contact: Robert P. Ruhf, Program Manager, Department of Treasury, Bureau of Alcohol, Tob and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20 Phone: 202 927-8210

RIN: 1512–AC64

Department of the Treasury (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF) **Completed A**

2773. DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 22.21; 27 CFR 22.25 to 22.27; 27 CFR 22.43; 27 CFR 22.59; 27 CFR 22.60; 27 CFR 22.62; 27 CFR 22.63; 27 CFR 22.68; 27 CFR 22.152

Completed:

Reason	Date	FR Cite
Final Action completed by TD	03/02/01	66 FR 13014
Final Action Effective	05/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf Phone: 202 927-8210

RIN: 1512–AB51

2774. PRODUCTION OF VOLATILE FRUIT FLAVORED CONCENTRATE

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 18.56

Completed:

Reason	Date	FR Cite
Final Action	05/31/01	66 FR 29480

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf Phone: 202 927-8210

Robert P. Ruhf Phone: 202 927-8210

RIN: 1512–AB59

2775. IMPLEMENTATION OF PU LAW 105-34, SECTION 1417, RE TO THE USE OF AMELIORATIN MATERIAL IN CERTAIN WINES

Priority: Substantive, Nonsignific

CFR Citation: 27 CFR 24.178; 27 4.21; 27 CFR 4.22

Completed:

Reason	Date	FR
Final Action	07/19/01	66 FR

Regulatory Flexibility Analysis Required: No

Government Levels Affected: N

Agency Contact: Jennifer Berry Phone: 716 551-4048

RIN: 1512–AB78

2776. PROCESSES AUTHORIZE THE TREATMENT OF WINE, JU AND DISTILLING MATERIAL

Priority: Substantive, Nonsignific

CFR Citation: 27 CFR 24

TREAS—BATF **Completed Actions**

Completed:

Reason	Date	FR Cite
Withdrawn	08/27/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Berry
Phone: 202 927-8210

RIN: 1512–AC05

2777. PETITION TO RECOGNIZE COUNOISE AND ST. LAURENT AS NEW GRAPE VARIETIES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 4

Completed:

Reason	Date	FR Cite
NPRM	04/17/01	66 FR 19738
Final Action	09/27/01	66 FR 49279
Final Action Effective	11/26/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Berry
Phone: 716 551-4048

RIN: 1512–AC26

2778. RECODIFICATION OF PART 170 INTO PART 29

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 170; 27 CFR 17; 27 CFR 18; 27 CFR 19; 27 CFR 20; ...

Completed:

Reason	Date	FR Cite
Final Action	08/15/01	66 FR 42735

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lisa Marie Gesser
Phone: 202 927-8210

RIN: 1512–AC34

2779. • LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS; RECODIFICATION OF REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 17; 27 CFR 19; 27 CFR 20; ...

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) is recodifying the regulations pertaining to liquors and articles from Puerto Rico and the Virgin Islands. The purpose of this recodification is to reissue the regulations in 27 CFR part 250 as 27 CFR part 26. This change improves the organization of title 27 CFR.

Timetable:

Action	Date	FR Cite
Final Action	07/25/01	66 FR 38547

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lisa Marie Gesser, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC40

2780. IDENTIFICATION MARKINGS PLACED ON FIREARMS

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 178; 27 CFR 179

Completed:

Reason	Date	FR Cite
Final Action	08/03/01	66 FR 40596
Final Action Effective	01/30/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta
Phone: 202 927-8210

RIN: 1512–AB84

2781. RECODIFICATION OF STATEMENT OF PROCEDURAL RULES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 70

Completed:

Reason	Date	FR Cite
Withdrawn	08/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB54

2782. DELEGATION OF AUTHORITY IN 27 CFR PART 53

Priority: Info./Admin./Other

CFR Citation: 27 CFR 53

Completed:

Reason	Date	FR Cite
Final Action	04/13/01	66 FR 19087

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lisa Marie Gesser
Phone: 202 927-8210

RIN: 1512–AC18

2783. DELEGATION OF AUTHORITY IN PART 70

Priority: Info./Admin./Other

CFR Citation: 27 CFR 70

Completed:

Reason	Date	FR Cite
Final Action	05/29/01	66 FR 29021

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf
Phone: 202 927-8210

RIN: 1512–AC19

2784. DELEGATION OF AUTHORITY IN 27 CFR PART 13

Priority: Info./Admin./Other

CFR Citation: 27 CFR 13

Completed:

Reason	Date	FR Cite
Final Action	04/13/01	66 FR 19084

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lisa Marie Gesser
Phone: 202 927-8210

RIN: 1512–AC21

2785. DELEGATION OF AUTHORITY IN 27 CFR PART 170

Priority: Info./Admin./Other

CFR Citation: 27 CFR 170

Completed:

Reason	Date	FR Cite
Final Action	02/02/01	66 FR 8768

Regulatory Flexibility Analysis Required: No

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TREAS—BATF **Completed A**

Government Levels Affected: None

Agency Contact: Lisa Marie Gesser
Phone: 202 927-8210

RIN: 1512–AC23

2786. • TECHNICAL AMENDMENTS TO REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 55; 27 CFR 70; 27 CFR 270; 27 CFR 275

Legal Deadline: None

Abstract: This Treasury decision makes technical amendments and corrects typographical errors in parts 55, 70, 270, and 275 of title 27 Code of Federal Regulations. All changes are to provide clarity and uniformity throughout these regulations.

Timetable:

Action	Date	FR Cite
Final Action	03/27/01	66 FR 16601

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy M. Kern, Writer-Editor, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8076

RIN: 1512–AC37

2787. • RULES OF PRACTICE IN PERMIT PROCEEDINGS; RECODIFICATION OF REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 1; 27 CFR 4; 27 CFR 5; 27 CFR 7; 27 CFR 12; ...

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) is recodifying the regulations pertaining to the rules of practice in permit proceedings. The purpose of this recodification is to reissue the regulations in part 200 of title 27 of the Code of Federal Regulations (CFR) as 27 CFR part 71. This change improves the organization of tile 27 CFR.

Timetable:

Action	Date	FR Cite
Final Action	08/15/01	66 FR 42731

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lisa Marie Gesser, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC43

2788. EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 290

Completed:

Reason	Date	FR Cite
Withdrawn	08/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB03

2789. IMPLEMENTATION OF PUBLIC LAW 106-476, SECTIONS 4002 AND 4003, RELATING TO TOBACCO IMPORTATION RESTRICTIONS, MARKINGS, REPACKAGING AND DESTRUCTION OF FORFEITED TOBACCO PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 275; 27 CFR 290; 27 CFR 296

Completed:

Reason	Date	FR Cite
Final Action	08/29/01	66 FR 45613

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel J. Hiland
Phone: 202 927-8210

RIN: 1512–AC35

2790. • DELEGATION OF AUTHO IN 27 CFR PART 250

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 250

Legal Deadline: None

Abstract: This final rule places a authorities contained in title 27 C part 250 with the "appropriate A officer" and requires that persons documents required by ATF regulations, with the "appropriat officer" or in accordance with the instructions on the ATF form. Al this final rule removes the definit of, and references to, specific offi subordinate to the Director and t word "region."

Timetable:

Action	Date	FR
Final Action	05/01/01	66 FR

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Agency Contact: Robert P. Ruhf, Program Manager, Department of Treasury, Bureau of Alcohol, Tob and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20
Phone: 202 927-8210

RIN: 1512–AC38

2791. • MANUFACTURE OF TOB PRODUCTS AND CIGARETTE PA AND TUBES; RECODIFICATION REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 40; 27 CFR 27 CFR 46; 27 CFR 70; 27 CFR 20 ...

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms is recodify the regulations in part 270, Manufacture of Tobacco Products Cigarette Papers and Tubes, title the Code of Federal Regulations (The purpose of this recodification reissue the regulations in 27 CFR 270 as 27 CFR part 40. This chan improves the organization of title

Timetable:

Action	Date	FR
Final Action	07/27/01	66 FR

TREAS—BATF **Completed Actions**

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lisa Marie Gesser, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC39

2792. • TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES; RECODIFICATION OF REGULATIONS.

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 46; 27 CFR 70; 27 CFR 270; 27 CFR 275; 27 CFR 290; ...

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) is recodifying the regulations in part 296, Miscellaneous Regulations Relating to Tobacco Products and Cigarette Papers and Tubes, title 27 of the Code of Federal Regulations (CFR). The purpose of this recodification is to reissue the regulations in 27 CFR part 296 as 27 CFR part 46. This change improves the organization of title 27 CFR.

Timetable:

Action	Date	FR Cite
Final Action	06/14/01	66 FR 32218

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lisa Marie Gesser, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC41

2793. • REMOVAL OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX FOR USE OF THE UNITED STATES; RECODIFICATION OF REGULATIONS.

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 40; 27 CFR 45; 27 CFR 70; 27 CFR 295

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF), is recodifying the regulations in part 295, Removal of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax for Use of the Untied States, title 27 of the Code of Federal Regulations (CFR). The purpose of this recodification is to reissue the regulations in 27 CFR part 295 as 27 CFR part 45. This change improves the organization of title 27 CFR.

Timetable:

Action	Date	FR Cite
Final Action	11/13/01	66 FR 56757

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lisa Marie Gesser, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC42

2794. • EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX; RECODIFICATION OF REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 40; 27 CFR 44; 27 CFR 46; 27 CFR 70; 27 CFR 290

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) is recodifying the regulations pertaining to the exportation of tobacco products and cigarette papers and tubes, without payment of tax, or with drawback of tax. The purpose of this recodification is to reissue the regulations in part 290 of title 27 of the Code of Federal Regulations (CFR) as 27 CFR part 44. This change improves the organization of title 27 CFR.

Timetable:

Action	Date	FR Cite
Final Action	08/20/01	66 FR 43478

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lisa Marie Gesser, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC47

2795. • IMPLEMENTATION OF PUBLIC LAW 106-554 FOR CERTAIN AMENDMENTS RELATED TO THE BALANCED BUDGET ACT OF 1997

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 40; 27 CFR 44; 27 CFR 275; 27 CFR 295

Legal Deadline: None

Abstract: This final rule revises the definition of manufacturer of cigarette papers and tubes and removes the definition of cigarette papers. As required by Public Law 106-544, the effective date of this rule is January 1, 2000.

Timetable:

Action	Date	FR Cite
Final Action	09/28/01	66 FR 49531

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC55

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Department of the Treasury (TREAS)
Comptroller of the Currency (OCC)

Prerule

2796. CAPITAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1828 note; 12 USC 1828(n); 12 USC 1831n note; 12 USC 1835; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: As part of the OCC's ongoing efforts to develop and refine capital standards to ensure the safety and soundness of the national banking system and to implement statutory requirements, the OCC is amending various provisions of the capital rules for national banks. Specifically, these changes include: 1) collateralized transactions; 2) recourse arrangements and direct credit substitutes (revised to include residual interests); 3) claims on securities firms; 4) domestic capital framework (formerly referred to as bifurcated capital for complex and noncomplex banks); 5) securities borrowing transactions; 6) nonfinancial equity investments (merchant banking); and 7) managed assets. The OCC is conducting all of these rulemakings jointly with the other Federal banking agencies.

Timetable:

Claims on Securities Firms
NPRM 12/06/00 (65 FR 76180)
NPRM Comment Period End 01/22/01
Final Rule 04/00/02
Collateralized Transactions
NPRM 08/16/96 (61 FR 42565)
Final Rule 04/00/02
Domestic Capital Framework (formerly Bifurcated Capital for Complex and Noncomplex Banks)
ANPRM 11/03/00 (65 FR 66193)
ANPRM Comment Period End 02/01/01
NPRM 04/00/02
Managed Assets
ANPRM 12/00/01
Nonfinancial Equity Investments (Merchant Banking)
NPRM 02/14/01 (66 FR 10212)
NPRM Comment Period End 04/16/01
Final Rule 04/00/02
Recourse and Direct Credit Substitutes (includes Residual Interests)
ANPRM/NPRM 05/25/94 (59 FR 27116)
NPRM 11/05/97 (62 FR 59944)
NPRM 03/08/00 (65 FR 12320)
NPRM Comment Period End 06/07/00
Final Rule 12/00/01
Residual Interests (merged with Recourse and Direct Credit Substitutes)
NPRM 09/27/00 (65 FR 57993)
NPRM Comment Period End 12/26/00
Final Rule 12/00/01
Securities Borrowing Transactions
Interim Final Rule 12/05/00 (65 FR 75856)
Interim Final Rule Comment Period End 01/19/01
Final Rule 04/00/02

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1557–AB14

2797. • COMMUNITY REINVESTMENT ACT REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 21; 12 USC 22; 12 USC 26; 12 USC 27; 12 USC 30; 12 USC 36; 12 USC 93a; 12 USC 161; 12 USC 215; 12 USC 215a; 1 481; 12 USC 1814; 12 USC 1816; USC 215; 12 USC 215a; 12 USC 12 USC 1814; 12 USC 1816; 12 U 1828(c); 12 USC 1835a; 12 USC to 2907; 12 USC 3101 to 3111

CFR Citation: 12 CFR 25

Legal Deadline: None

Abstract: The OCC, in conjuncti with the Board of Governors of t Federal Reserve System, the Fed Deposit Insurance Corporation, a Office of Thrift Supervision (the agencies), has issued an advance of proposed rulemaking to solici comment on the agencies' existi Community Reinvestment Act (C regulations. The agencies are conducting a review of their CR regulations to determine their effectiveness in achieving their

Timetable:

Action	Date	F
ANPRM	07/19/01	66 F
ANPRM Comment Period End	10/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: N

Agency Contact: Margaret Hess Special Counsel, Department of Treasury, Comptroller of the Cu Community and Consumer Law Division, 250 E Street SW, Wash DC 20219
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RIN: 1557–AB98

Department of the Treasury (TREAS)
Comptroller of the Currency (OCC)

Proposed Rul

2798. UNIFORM RULES OF PRACTICE AND PROCEDURE; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 12 USC 1831o; 12 USC 1972; 12 USC 3102; 12 USC 3108; 12 USC 3909; 5 USC 554 to 557; 12 USC 93a; 12 USC 93(b); 12 USC 164; 12 USC 505; 12 USC 1817; 12 USC 1818; 12 USC 1820

CFR Citation: 12 CFR 19

Legal Deadline: None

Abstract: The OCC is considering what regulatory actions may be necessary to implement section 112(g)(4) of the Federal Deposit Insurance Corp Improvement Act of 1991 to de joint agency procedures for the suspension and debarment of accountants, upon a showing o cause, from performing certain services.

TREAS—OCC **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM - Suspension and Debarment of Accountants	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1557–AB43

2799. FAIR CREDIT REPORTING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 15 USC 1681s; PL 106-102, sec 506

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The rule will address the sharing of transactional, experiential, and other consumer information among persons related by common ownership or affiliated by corporate control. Such sharing of this information constitutes an exclusion from the definition of "consumer report" under section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)).

Timetable:

Action	Date	FR Cite
NPRM	10/20/00	65 FR 63120
NPRM Comment Period End	12/04/00	
NPRM Update	03/27/01	66 FR 16624
Second NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Deborah Katz, Senior Counsel, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Divison, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB78

2800. NOTICE OF EXEMPT PRIVACY ACT SYSTEMS OF RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 321; 5 USC 552; 5 USC 552a

CFR Citation: 31 CFR 1

Legal Deadline: None

Abstract: The OCC, with the concurrence of the Department of the Treasury, is issuing a notice of proposed rulemaking to amend the Treasury Regulation that sets forth the systems of records maintained by Treasury Department agencies and bureaus that are exempt from certain provisions of the Privacy Act of 1974 (Privacy Act). The OCC is amending this regulation to update and expand the list of its systems of records that are exempt from certain provisions of the Privacy Act and to clarify the bases for these exemptions.

Timetable:

Action	Date	FR Cite
NPRM	10/26/01	
NPRM Comment Period End	11/26/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1557–AB83

2801. • RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1 et seq; 12 USC 29; 12 USC 93a; 12 USC 371; 12 USC 1701j-3; 12 USC 1828(o); 12 USC 3331 et seq; Section 5136A of the Revised Statutes (12 USC 24a)

CFR Citation: 12 CFR 5; 12 CFR 34

Legal Deadline: None

Abstract: The OCC plans to amend 12 CFR part 5 to implement the authority for national banks to merge with one or more of their nonbank subsidiaries or affiliates contained in section 1206 of the American Homeownership and Economic Opportunity Act of 2000 (AHEOA). The proposal will also amend 12 CFR part 5 by adding a new section setting forth the application and prior approval requirements described in section 1204 of AHEOA for national banks contemplating reorganization as a subsidiary of a bank holding company. In addition, the OCC also plans to amend 12 CFR part 7, to permit national banks to adopt by-laws providing for staggered boards of directors as set forth in section 1205 of AHEOA. The OCC also plans to amend 12 CFR art 34 by revising the rules governing adjustable rate mortgages and to consider revisions related to various consumer protection measures.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1557–AB97

2802. • MAINTENANCE OF RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 5 USC 554 to 557; 12 USC 93a; 12 USC 93(b); 12 USC 164; 12 USC 481; 12 USC 505; 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1831o; 12 USC 1867; 12 USC 1972; 12 USC 3102; 12 USC 3108(a); 12 USC 3909; 12 USC 4717; 15 USC 78(h); 15 USC 78(i); 15 USC 78o-4(c); 15 USC 78o-5; 15 USC 78q-1; 15 USC 78u; 15 USC 78-u2; 15 USC 78-u3; 15 USC 78w; 28 USC 2461 note; 31 USC 330; 31 USC 5321; 42 USC 4012a

CFR Citation: 12 CFR 19

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TREAS—OCC — **Proposed Rule**

Legal Deadline: None

Abstract: The notice of proposed rulemaking would invite comment on a rule that would add a new subpart P to 12 CFR part 19, which would require national banks, national bank affiliates, Federal branches and agencies of foreign banks, and bank service companies that perform services for, or contract with, national banks to establish and maintain accurate and complete documentation and records, and allow the OCC timely access to such records.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1557–AB99

2803. • ASSESSMENT OF FEES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 481; 12 USC 482; 12 USC 1867; 12 USC 3102; 12 USC 3108; 15 USC 78c; 15 USC 781; 26 DC Code

CFR Citation: 12 CFR 8

Legal Deadline: None

Abstract: The OCC plans to issue a notice of proposed rulemaking that would amend 12 CFR part 8 to permit the charging of a minimum assessment on all national banks, regardless of asset size.

Timetable:

Action	Date	FR Cite
NPRM	09/25/01	66 FR 48983
NPRM Comment Period End	10/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1557–AC00

2804. • PAYDAY LENDING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24(Seventh); 12 USC 93a; 12 USC 1818; 12 USC 1861 to 1867

CFR Citation: 12 CFR 5

Legal Deadline: None

Abstract: The OCC is considerin amending 12 CFR part 5 to addre payday lending activities engage national banks. The purpose of t rulemaking would be to adopt provisions intended to ensure th payday lending is conducted in manner that is consistent with sa sound banking practices.

Timetable:

Action	Date	FR
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: N

Federalism: Undetermined

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RIN: 1557–AC01

Department of the Treasury (TREAS)
Comptroller of the Currency (OCC) — **Final Rule**

2805. DEBT CANCELLATION CONTRACTS AND DEBT SUSPENSION AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24(Seventh); 12 USC 93a

CFR Citation: 12 CFR 37

Legal Deadline: None

Abstract: The OCC issued a notice of proposed rulemaking governing the offering of debt cancellation contracts and debt suspension agreements. The purposes of the customer protections are to facilitate customers' informed choice about whether to purchase debt cancellation contracts and debt suspension agreements, based on an understanding of the costs, benefits, and limitations of the products, and to discourage inappropriate or abusive practices.

Timetable:

Action	Date	FR Cite
ANPRM	01/26/00	65 FR 4176
ANPRM Comment Period End	03/27/00	
NPRM	04/18/01	66 FR 19901
NPRM Comment Period End	06/18/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Jean Campbell, Attorney, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Divisio E Street SW, Washington, DC 20 Phone: 202 874-5090
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RIN: 1557–AB75

2806. BANK ACTIVITIES AND OPERATIONS (ELECTRONIC BANKING)

Priority: Substantive, Nonsignifi

Legal Authority: 12 USC 1 et se USC 93a

CFR Citation: 12 CFR 7.1002; 12 7.1019; 12 CFR 7.5000 to 7.5010

Legal Deadline: None

Abstract: The OCC issued a noti proposed rulemaking that addres ways to facilitate national banks

TREAS—OCC

Final Rule Stage

their efforts to engage in various forms of electronic banking. The proposal addresses national banks' exercise of their Federally authorized powers through electronic means; the location of a national bank that engages in electronic activities; and the disclosures required when a national bank provides its customers with access to other service providers through hyperlinks in the bank's web site or other shared electronic space.

Timetable:

Action	Date	FR Cite
ANPRM	02/02/00	65 FR 4895
ANPRM Comment Period End	04/03/00	
NPRM	07/02/01	66 FR 34855
NPRM Comment Period End	08/31/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1557–AB76

2807. PROHIBITION AGAINST USE OF INTERSTATE BRANCHES PRIMARILY FOR DEPOSIT PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 21; 12 USC 22; 12 USC 26; 12 USC 27; 12 USC 30; 12 USC 36; 12 USC 93a; 12 USC 161; 12 USC 215; 12 USC 215a; 12 USC 481; 12 USC 1814; 12 USC 1816; 12 USC 1828(c); 12 USC 1835a; 12 USC 2901 through 2907; 12 USC 3101 through 3111

CFR Citation: 12 CFR 25

Legal Deadline: None

Abstract: The notice of proposed rulemaking invited comment on a rule that would amend regulations implementing section 109 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 to effectuate the amendment of section 109 of the Gramm-Leach-Bliley Act of 1999. Section 109 prohibits a bank from establishing or acquiring a branch or branches outside of its home state for the purpose of deposit production. Additionally, section 109 contains guidelines for determining whether a bank is reasonably helping to meet the credit needs of communities served by an out-of-state branch or branches. The proposed rule amends the section 109 deposit production prohibition to include any bank or branch controlled by an out-of-state bank holding company, including a bank consisting only of a main office.

Timetable:

Action	Date	FR Cite
NPRM	04/09/01	66 FR 18411
NPRM Comment Period End	06/08/01	
Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patrick Tierney, Attorney, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB95

Department of the Treasury (TREAS)
Comptroller of the Currency (OCC)

Long-Term Actions

2808. QUALIFICATION REQUIREMENTS FOR TRANSACTIONS IN CERTAIN SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1818; 12 USC 1831p-1

CFR Citation: 12 CFR 12

Legal Deadline: None

Abstract: The regulation will require bank employees to meet certain qualification standards before selling nondeposit investment products in a bank.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68823
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark J. Tenhundfeld, Assistant Director, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB54

2809. RULES AND PROCEDURES FOR CLAIMS AGAINST OCC-APPOINTED RECEIVERSHIPS FOR UNINSURED FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 192; 12 USC 206; 12 USC 3108

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This regulation will establish rules and procedures for processing claims against receivers for uninsured Federal institutions that are chartered by the OCC.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell Plave, Counsel, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB59

2810. REAL ESTATE APPRAISALS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 3331 et seq

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TREAS—OCC

Long-Term Acti

CFR Citation: 12 CFR 34

Legal Deadline: None

Abstract: This rulemaking would amend the OCC's appraisal regulation to exempt transactions involving mortgage-backed securities (MBS) from its principal appraisal requirements. The amendment would allow national banks to invest in commercial mortgage-backed securities (CMBS) without regard to appraisals.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell Plave, Counsel, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB70

2811. MINIMUM SECURITY DEVICES AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1882

CFR Citation: 12 CFR 21

Legal Deadline: None

Abstract: The OCC is considering a rulemaking that would amend the OCC's Minimum Security Devices and Procedures regulation to address recent changes made to the definition of the term "branch" in the National Bank Act by the Economic Growth and Paperwork Reduction Act of 1996 (EGRPRA). This amendment would clarify that the regulation applies to automated teller machines (ATMs) and remote service units (RSUs).

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1557–AB71

2812. FIDUCIARY ACTIVITIES OF NATIONAL BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1 et seq.; 12 USC 24 (Seventh); 12 USC 24a; 12 USC 92; 12 USC 92a(b); 12 USC 93a; 15 USC 78q; 15 USC 78q-1; 15 USC 78w

CFR Citation: 12 CFR 5; 12 CFR 9

Legal Deadline: None

Abstract: The OCC issued a notice of proposed rulemaking (NPRM) and advance notice of proposed rulemaking (ANPRM) that would amend 12 CFR part 9. The NPRM codifies OCC interpretations on national bank multi-state trust operations. The ANPRM solicits comments on the standards of care generally applicable to the exercise of national bank fiduciary powers authorized by 12 U.S.C. 92a and part 9.

Timetable:

Multi-State Trust Operations
NPRM 12/05/00 (65 FR 75872)
NPRM Comment Period End 02/05/01
Final Rule 07/02/01 (66 FR 34792)
Final Rule Effective 08/01/01

Standards of Care-Exercise of National Banks Fiduciary Powers
ANPRM 12/05/00 (65 FR 75872)
ANPRM Comment Period End 02/05/01
NPRM To Be Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined EO 13132.

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RIN: 1557–AB79

2813. RECORDKEEPING REQUIREMENTS FOR BANK EXCEPTIONS FROM SECURITIES BROKER OR DEALER REGISTRA

Priority: Substantive, Nonsignifica

Legal Authority: 12 USC 93a; 12 U 1828(t)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This notice of proposed rulemaking will seek comment on recordkeeping requirements for ba relying on exceptions to the defini of broker or dealer in paragraphs (and (5) of section 3(a) of the Secu Exchange Act of 1934.

Timetable:

Action	Date	FR
NPRM	To Be	Deterr

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

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RIN: 1557–AB93

Department of the Treasury (TREAS)
Comptroller of the Currency (OCC)

Completed Actions

2814. COMMUNITY BANK-FOCUSED REGULATION REVIEW: LENDING LIMITS PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 12 USC 84

CFR Citation: 12 CFR 32

Legal Deadline: None

Abstract: The OCC is amending its lending limit rules, in response to comments received pursuant to the OCC's community bank advance notice of proposed rulemaking published in the Federal Register on May 12, 1999 (64 FR 25469) and notice of proposed rulemaking published on September 22, 2000.

Timetable:

Action	Date	FR Cite
NPRM	09/22/00	65 FR 57292
NPRM Comment Period End	11/21/00	
Final Rule	06/11/01	66 FR 31114
Final Rule Effective	09/10/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1557–AB82

2815. ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 481; 12 USC 482; 12 USC 1867; 12 USC 3102; 12 USC 3108; 15 USC 78e; 15 USC 78l; 26 DC Code

CFR Citation: 12 CFR 8

Legal Deadline: None

Abstract: This rulemaking revises the OCC's assessments regulation to specify that the OCC may charge a national bank when the OCC conducts a special examination or investigation of a third party that provides services to the bank.

Timetable:

Action	Date	FR Cite
NPRM	12/01/00	65 FR 75196
NPRM Comment Period End	01/02/01	
Final Rule	05/08/01	66 FR 23151
Final Rule Effective	06/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1557–AB90

2816. OPERATING SUBSIDIARIES OF FEDERAL BRANCHES AND AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1 et seq.; 12 USC 24a; 12 USC 93a

CFR Citation: 12 CFR 5.34

Legal Deadline: None

Abstract: The final rule will enable a Federal branch or agency to establish or maintain an operating subsidiary in generally the same manner that a national bank may establish or control an operating subsidiary.

Timetable:

Action	Date	FR Cite
NPRM	12/05/00	65 FR 75870
NPRM Comment Period End	02/05/01	
Final Rule	09/26/01	66 FR 49093
Final Rule Effective	10/26/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1557–AB92

2817. INVESTMENT SECURITIES; BANK ACTIVITIES AND OPERATIONS; AND LEASING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1, et seq.; 12 USC 24 (Seventh); 12 USC 24 (Tenth); 12 USC 92; 12 USC 92a; 12 USC 93a; 12 USC 481; 12 USC 484; 12 USC 1818

CFR Citation: 12 CFR 1; 12 CFR 7; 12 CFR 23

Legal Deadline: None

Abstract: The OCC amended 12 CFR parts 1, 7, and 23. The revisions to part 1 incorporate the express authority to underwrite municipal bonds granted to national banks by section 151 of the Gramm-Leach-Bliley Act (GLBA). The revisions to part 7: 1) clarify the conditions under which a national bank may participate in a bona fide financial literacy program at a school without the school location being deemed a branch of the bank; 2) revise the OCC's regulation governing bank holidays to conform it with the Comptroller's statutory authority to proclaim mandatory bank closings; 3) clarify the scope of the term "NSF" fees for purposes of 12 U.S.C. 85; 4) clarify the OCC's current regulation governing national banks' non-interest charges and fees; and 5) provide that state law applies to a national bank operating subsidiary only to the extent that it applies to the parent national bank. The revisions to part 23 prescribe a percentage limit on the extent to which a national bank may rely on estimated residual value to recover its costs in personal property leasing arrangements.

Timetable:

Action	Date	FR Cite
NPRM	01/31/01	66 FR 8178
Comment Period End	04/02/01	
Final Rule	07/02/01	66 FR 34784
Correction	07/13/01	66 FR 36834
Final Rule Effective	08/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Michele Meyer, Counsel, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW
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RIN: 1557–AB94

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2818. ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 481; 12 USC 482; 12 USC 3102

CFR Citation: 12 CFR 8

Legal Deadline: None

Abstract: The OCC has amended the assessment formula it uses to assess independent credit card banks. A credit card bank is considered independent for purposes of this proposal if it engages primarily in credit card operations and is not affiliated with a full service national bank. Under the revised rate structure, all credit card banks will continue to be assessed based on balance sheet assets. However, independent credit card banks will pay an additional assessment to reflect the supervision required of these banks' off-balance sheet activities.

Timetable:

Action	Date	FR Cite
NPRM	04/04/01	66 FR 17821
NPRM Comment Period End	05/04/01	
Final Rule	06/01/01	66 FR 29890
Final Rule Effective	07/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Agency Contact: Mitchell Plave, Counsel, Department of the Treas Comptroller of the Currency, Legi and Regulatory Activities Divisio E Street SW, Washington, DC 202 Phone: 202 874-5090 Fax: 202 874-4889 Email: mitchell.plave@occ.treas.g

RIN: 1557–AB96

BILLING CODE 4810-33-S

Department of the Treasury (TREAS)
United States Customs Service (CUSTOMS)

Proposed Rule

2819. LIQUIDATION; EXTENSION; SUSPENSION

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1500; 19 USC 1504; 19 USC 1624

CFR Citation: 19 CFR 159

Legal Deadline: None

Abstract: Document would amend the Customs Regulations to implement amendments to section 504 of the Tariff Act of 1930, as amended, which pertains to limitations on the liquidation of entries that were contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. Amendments would allow the reconciliation of entries to be treated as if they were entry summaries, subject to normal liquidation requirements; authorize the electronic transmittal of notices of extension and suspension of liquidation; extend the time period in which Customs must liquidate a suspended entry after the suspension is removed; remove the application of the four-year limitation to suspended entries; and provide that Customs must also inform sureties when an entry is suspended or extended.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Rosoff, Chief, Duty Refund and Determination Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229 Phone: 202 927-2077

RIN: 1515–AB66

2820. DETENTION, SEIZURE, AND FORFEITURE OF "BOOTLEG" SOUND RECORDING AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 17 USC 602; 17 USC 603; 31 USC 9701; 19 USC 66; 19 USC 1202; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 17 USC 101; 17 USC 601

CFR Citation: 19 CFR 12; 19 CFR 24; 19 CFR 133

Legal Deadline: None

Abstract: Amendment to provide for the detention, seizure, and forfeiture of unauthorized (bootleg) copies of sound recordings and music videos of live musical performances recorded outside of and imported into the United States, as provided by section 513(a) of the Uruguay Round Agreements Act.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George F. McC Attorney, Intellectual Property R Branch, Department of the Treas United States Customs Service, 1 Pennsylvania Avenue NW., Washington, DC 20229 Phone: 202 927-2387

RIN: 1515–AB74

2821. RECONCILIATION

Priority: Substantive, Nonsignifi

Legal Authority: 19 USC 66; 19 1484; 19 USC 1500; 19 USC 162

CFR Citation: 19 CFR 142; 19 C

Legal Deadline: None

Abstract: Amendment to allow elements of an entry, other than elements relating to the admissi the merchandise, that are undet at the time an entry summary or import activity summary is requ be submitted, to be provided to Customs at a later date.

Timetable:

Action	Date	F
NPRM	07/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: N

Agency Contact: John Durant, Commercial Rulings Division, Department of the Treasury, Un States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229 Phone: 202 927-2244

RIN: 1515–AB85

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2822. REMOTE LOCATION FILING

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1484; 19 USC 1624; 19 USC 1641

CFR Citation: 19 CFR 111; 19 CFR 113; 19 CFR 141; 19 CFR 143

Legal Deadline: None

Abstract: Amendment to allow entry filers to electronically file entries of merchandise with Customs from locations within the United States other than at the port of arrival of the merchandise or the location of examination of the merchandise.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Millie Gleason, Chief, Summary Management, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0625

RIN: 1515–AC23

2823. ADMINISTRATIVE RULINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1502; 19 USC 1624; 19 USC 1625

CFR Citation: 19 CFR 177

Legal Deadline: None

Abstract: Document revises those provisions of the Customs Regulations that concern the issuance of administrative rulings and related written determinations and decisions on prospective and current transactions arising under the Customs and related laws. Changes include amendments in response to statutory changes made to the administrative ruling process by section 623 of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act, as well as substantive and organizational changes to clarify current administrative practice, and otherwise improve the layout and readability of the present regulatory texts.

Timetable:

Action	Date	FR Cite
NPRM	07/17/01	66 FR 37370
NPRM Comment Period End	10/17/01	66 FR 45235
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Elkins, Chief, Textiles Branch, Office of Regulations and Rulings, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2380

RIN: 1515–AC56

2824. SIMPLIFICATION OF IN-TRANSIT TRUCK SHIPMENTS BETWEEN CANADA AND THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1431; 19 USC 1433; 19 USC 1436; 19 USC 1448; 19 USC 1553; 19 USC 1624

CFR Citation: 19 CFR 123

Legal Deadline: None

Abstract: Amendment to simplify reporting procedures for the in-transit movement of truck shipments between Canada and the United States. Amendment is designed to reduce traffic congestion along the northern border by reducing the number of reporting stops.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Raymond Janiszewski, Supervisory Import Specialist, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0365

Walter Lechowski, Assistant Director, Operations, Department of the Treasury, United States Customs Service, Building 10, East Great Lakes CMC, 4455 Genesee Street, Buffalo, NY 14225
Phone: 716 626-0400

RIN: 1515–AC65

2825. NATIONAL SANCTIONS DUE TO THE DELINQUENT PAYMENT OF CUSTOMS BILLS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 142

Legal Deadline: None

Abstract: Amendment to provide that Customs will issue sanction warnings from a centralized site at the national level to importers that have delinquent Customs bills. The nationally issued sanction warnings will notify an importer that if Customs does not receive full payment of all the importer's delinquent Customs bills within the time specified in the sanction warning, sanctions will be imposed nationally on all of the importer's transactions at all Customs ports.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Reiley, Financial Officer, Financial Management Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1504

RIN: 1515–AC68

2826. CUSTOMS EXAMINATION OF IN-TRANSIT MAIL SHIPMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 145

Legal Deadline: None

Abstract: Amendment to provide that Customs has the authority to examine and search international mail without regard as to whether it is transiting the United States or the U.S. Virgin Islands, or is being delivered within the Customs territory of the United States or the U.S. Virgin Islands.

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Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Glen E. Vereb, Senior Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1327

RIN: 1515–AC71

2827. PRIVATE AIRCRAFT PROGRAMS: ESTABLISHMENT OF THE GENERAL AVIATION TELEPHONIC ENTRY (GATE) PROGRAM AND REVISIONS TO THE OVERFLIGHT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58b; 19 USC 66; 19 USC 1433; 19 USC 1436; 19 USC 1448; 19 USC 1459; 19 USC 1590; 19 USC 1594; 19 USC 1623; 19 USC 1624; 19 USC 1644; 19 USC 1644a

CFR Citation: 19 CFR 122; 19 CFR 123

Legal Deadline: None

Abstract: Amendment provides for the GATE Program and revises the Overflight Program. The GATE Program is a voluntary program designed to facilitate Customs processing of certain prequalified frequent travelers on preregistered general aviation aircraft arriving in the United States directly from Canada. The Overflight Program exempts certain private aircraft arriving in the continental United States from the special landing requirements applicable to such aircraft. The revision to the Overflight Program involves modifying the application process and centralizing the processing of requests for overflight privileges.

Timetable:

Action	Date	FR Cite
NPRM	08/03/01	66 FR 40649
NPRM Comment Period End	10/02/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Gilbert, Programs Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1391

RIN: 1515–AC73

2828. EXPANDED WEEKLY ENTRY PROCEDURE FOR FOREIGN TRADE ZONES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 81a to 81u; 19 USC 1202; 19 USC 1484i; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 146

Legal Deadline: None

Abstract: Amendment in conformance with the Trade and Development Act of 2000 to expand the weekly entry procedure for foreign trade zones to include merchandise involved in activities other than exclusively assembly-line production operations. Under the expanded weekly procedure, weekly entries covering estimated removals of merchandise from a foreign trade zone for any 7-day period and the associated entry summaries will have to be filed exclusively through the Automated Broker Interface, with duties, fees and taxes being scheduled for payment through the Automated Clearinghouse.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce Ingalls, Chief, Entry and Drawback Management, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1082

RIN: 1515–AC74

2829. USER FEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58a to 58c; 19 USC 66; 19 USC 1202; 19 USC 1505; 19 USC 1624; 26 USC 4461; 26 USC 4462; 31 USC 9701

CFR Citation: 19 CFR 24; 19 CFR 111

Legal Deadline: None

Abstract: Amendment to reflect amendments to 19 U.S.C. 58c, the Customs user fee statute, made by Miscellaneous Trade and Technic Corrections Act of 1999 (the Act), well as prior legislative changes t user fee statute. Amendment sets pursuant to the Act, the new fee structure for passengers arriving i United States aboard commercial vessels and aircraft, and clarifies Customs administers certain user

Timetable:

Action	Date	FR
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Agency Contact: Robert Reiley, Financial Officer, Financial Management Division, Departmen the Treasury, United States Custo Service, 1300 Pennsylvania Aven NW., Washington, DC 20229
Phone: 202 927-1504

RIN: 1515–AC81

2830. • DOG AND CAT PROTECT ACT

Priority: Substantive, Nonsignific

Legal Authority: 19 USC 66; 19 U 1202; 19 USC 1308; 19 USC 1592 USC 1593a; 19 USC 1624

CFR Citation: 19 CFR 12; 19 CFR 19 CFR 151; 19 CFR 162

Legal Deadline: Final, Statutory, August 9, 2001, Public Law 106-4

Abstract: Amendment to implem certain provisions of the Dog and Protection Act of 2000. The Dog a Cat Protection Act of 2000 prohib importation of any products cont dog or cat fur, and provides for c and criminal penalties for violati the Act. Amendment sets forth th prohibitions on dog and cat fur importations and the penalties fo violations. Amendment also implements the provision of the pertaining to Customs certificatio process of commercial laboratorie both domestic and foreign, that c determine if articles intended to imported into the United States dog or cat fur.

Timetable:

Action	Date	FR
NPRM	08/10/01	66 FR

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Action	Date	FR Cite
NPRM Comment Period End	10/09/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Luan Cotter, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue, NW, Washington, DC 20229
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Phone: 202 927-1176

RIN: 1515–AC87

2831. • PROTOTYPES USED SOLELY FOR PRODUCT DEVELOPMENT, TESTING, EVALUATION OR QUALITY CONTROL PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; PL 106-476

CFR Citation: 19 CFR 10; 19 CFR 163

Legal Deadline: Final, Statutory, September 9, 2001, Public Law 106-476.

Abstract: Amendment to establish rules and procedures under the Product Development and Testing Act of 2000 (PDTA). The purpose of the PDTA is to promote product development and testing in the United States by allowing the duty-free entry of articles, commonly referred to as prototypes, that are to be used exclusively in product development, testing, evaluation and quality control. Amendments set forth the procedures for both the identification of those prototypes properly entitled to duty-free entry, as well as the permissible sale of such prototypes, following use in the United States, as scrap, waste, or for recycling.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Fitzpatrick, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue, NW, Washington, DC 20229
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RIN: 1515–AC88

2832. • SINGLE ENTRY FOR SPLIT SHIPMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 141; 19 CFR 142

Legal Deadline: Final, Statutory, May 9, 2001, Public Law 106-476.

Abstract: Amendment to allow an importer of record, under certain conditions, to submit a single entry to cover multiple portions of a single shipment which was split by the carrier and arrives in the United States at different times.

Timetable:

Action	Date	FR Cite
NPRM	11/16/01	66 FR 57688
NPRM Comment Period End	01/15/02	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry L. Burton, Chief, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2269

Keith Fleming, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington
Phone: 202 927-1049

RIN: 1515–AC91

2833. • PROCEDURES GOVERNING THE BORDER RELEASE ADVANCED SCREENING AND SELECTIVITY (BRASS) PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 24; 19 CFR 123; 19 CFR 132; 19 CFR 142

Legal Deadline: None

Abstract: Amendment to provide for the Border Release Advanced Screening and Selectivity (BRASS) Program, an improved automated and electronic system that will replace the Line Release method of processing certain repetitive and high volume shipments of merchandise into the U.S.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Enrique S. Tamayo, Operations Officer, Trade Programs, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0693

RIN: 1515–AC92

2834. • PATENT SURVEYS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 12; 19 CFR 24

Legal Deadline: None

Abstract: Amendment to eliminate patent surveys.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Louis Alfano, Customs Officer, Commercial Enforcement, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
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RIN: 1515–AC93

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2835. • SINGLE ENTRY FOR UNASSEMBLED OR DISASSEMBLED ENTITIES IMPORTED ON MULTIPLE CONVEYANCES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 141; 19 CFR 142

Legal Deadline: Final, Statutory, May 9, 2001, Public Law 106-476.

Abstract: Amendment to allow an importer of record, under certain conditions, to submit a single entry to cover multiple portions of a single entity which, due to its size or nature, arrives in the United States on separate conveyances. Amendment implements statutory changes made to the merchandise entry laws by the Tariff Suspension and Trade Act of 2000.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Keith Fleming, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington
Phone: 202 927-1049

Larry L. Burton, Chief, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2269

Patricia Fitzpatrick, Operations Off Department of the Treasury, United States Customs Service, Office of F Operations, 1300 Pennsylvania Ave NW, Washington, DC 20229
Phone: 202 927-1106

RIN: 1515–AC94

Department of the Treasury (TREAS)
United States Customs Service (CUSTOMS)

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2836. HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; PL 99-662; 19 USC 66; 19 USC 81a to 81u; 19 USC 623; 19 USC 1202; 19 USC 1624; 31 USC 9701; PL 99-272; PL 99-509

CFR Citation: 19 CFR 4; 19 CFR 24; 19 CFR 146; 19 CFR 178

Legal Deadline: Final, Statutory, April 1, 1987.

Abstract: Amendments to the Customs Regulations to implement provisions of the Water Resources Development Act of 1986, which authorizes Customs to assess a harbor maintenance fee of 0.125 percent (.00125) on the value of commercial cargo loaded on or unloaded from a commercial vessel at a port unless specifically exempted from the fee. Proceeds of the fee are deposited in a trust fund for the U.S. Army Corps of Engineers to use for the improvement and maintenance of U.S. ports and harbors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/87	52 FR 10198
Interim Final Rule Effective	03/01/87	
Interim Final Rule Comment Period End	05/29/87	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Barbare, Operations Management Specialist, Budget Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0310

RIN: 1515–AA57

2837. DONATED CARGO EXEMPTION FROM HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 66; 19 USC 1202; 19 USC 1624; 31 USC 9701; 19 USC 58b; 19 USC 58c

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amends interim Customs Regulations relating to harbor maintenance fees. The interim regulations established a shipping fee for transporting cargo on specified U.S. waterways. The Act was amended to include an exemption for nonprofit organizations or cooperatives, which own or finance cargo determined by Customs to be intended for use in humanitarian or development assistance overseas. This amendment sets forth the applicability and terms of this exemption.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/92	57 FR 607
Interim Final Rule Effective	01/08/92	

Action	Date	FR
Interim Final Rule Comment Period End	03/09/92	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Agency Contact: Patricia Barbare, Operations Management Specialis Budget Division, Department of th Treasury, United States Customs Service, 1300 Pennsylvania Avenu NW., Washington, DC 20229
Phone: 202 927-0310

RIN: 1515–AA87

2838. NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)—IMPLEMENTATION OF DUTY-DEFERRAL PROGRAM PROVISIO

Priority: Substantive, Nonsignific

Legal Authority: 19 USC 66; 19 U 1448; 19 USC 1481; 19 USC 1484 USC 1202; 19 USC 1315; 19 USC 19 USC 3314

CFR Citation: 19 CFR 181; 19 CF 19 CFR 141; 19 CFR 144; 19 CFR

Legal Deadline: Final, Statutory, January 1, 1996.

Abstract: Document amends regulations to establish procedur other requirements that apply to collection, waiver, and reduction duties under the duty-deferral pr provisions of the North American

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Trade Agreement. The document prescribes the documentary and other requirements that must be followed when merchandise is withdrawn from a U.S. duty-deferral program, either for exportation to another NAFTA country or for entry into a duty-deferral program of another NAFTA country, the procedures that must be followed in filing a claim for a waiver or reduction of duties collected on such merchandise, and the procedures for finalization of duty collections and duty waiver or reduction claims.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/96	61 FR 2908
Interim Final Rule Effective	01/01/96	
Interim Final Rule Comment Period End	04/01/96	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shawn Filion, Commercial Program Specialist, Department of the Treasury, United States Customs Service, Office of Field Operations, North Star Commercial, P.O. Box 400, Buffalo, NY 14225
Phone: 716 551-3053

RIN: 1515–AB87

2839. CUSTOMS ENTRY DOCUMENTATION PURSUANT TO ANTICOUNTERFEITING CONSUMER PROTECTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 141

Legal Deadline: Final, Statutory, January 2, 1997.

Abstract: Document implements section 12 of the Anticounterfeiting Consumer Protection Act of 1996 (ACPA), which was enacted by Congress to protect consumers and American businesses from counterfeit copyrighted and trademarked products. Section 12 of the ACPA concerns the content of entry documentation required by Customs to determine whether the imported merchandise or its packaging bears an infringing trademark. Amendment requires importers to provide on the invoice a listing of all trademarks appearing on imported merchandise and its packaging.

Timetable:

Action	Date	FR Cite
NPRM	09/13/99	64 FR 49423
NPRM Comment Period End	12/13/99	64 FR 62135
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joanne R. Stump, Chief, Intellectual Property Rights, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-3315

RIN: 1515–AC15

2840. COUNTRY-OF-ORIGIN MARKING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Amendments clarify the country-of-origin marking rules set forth in part 134 of the Customs Regulations. Amendments promote the concept of informed compliance by the trade and proper field administration of the statutory requirement.

Timetable:

Action	Date	FR Cite
NPRM	01/26/00	65 FR 4193
NPRM Comment Period End	04/26/00	65 FR 17473
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Burton Schlissel, Attorney-Advisor, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
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RIN: 1515–AC32

2841. EXPANDED METHODS OF PAYMENT OF DUTIES, TAXES, INTEREST AND FEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 197; 19 USC 198; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 19 USC 1202; 19 USC 1450; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amendment to expand the number of ways that Customs will accept payment of duties, taxes, fees, interest and other charges. Currently, the regulations allow for credit or charge cards, which have been authorized by the Commissioner of Customs, to be used at designated Customs-serviced locations with a limitation that this method of payment may only be used by noncommercial entities. Amendment allows payment of duties, taxes, fees, interest and other charges by any electronic technology or charge cards (either debit or credit cards) that are authorized by the Commissioner of Customs and by removing the limitation that these methods of payment may only be used by noncommercial entities.

Timetable:

Action	Date	FR Cite
NPRM	03/17/99	64 FR 13141
NPRM Comment Period End	05/17/99	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Lloyd, Financial Officer, Financial Policy Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0119

RIN: 1515–AC40

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2842. IMPORTATION AND ENTRY BOND CONDITIONS REGARDING OTHER AGENCY DOCUMENTATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 113

Legal Deadline: None

Abstract: Amendment with regard to the basic importation and entry bond condition under which, if merchandise is conditionally released to the principal named in the bond, the principal agrees to furnish Customs with any document or evidence as required by law or regulation. Amendment would extend this requirement, and consequently the potential liability for payment of liquidated damages for a breach of the bond condition, to documents and evidence submitted to other Government agencies under laws and regulations of those other agencies.

Timetable:

Action	Date	FR Cite
NPRM	08/06/99	64 FR 42872
NPRM Comment Period End	10/05/99	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney-Advisor, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1176

RIN: 1515–AC44

2843. GENERAL ORDER WAREHOUSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1311; 19 USC 1312; 19 USC 1484; 19 USC 1485; 19 USC 1490 to 1493; 19 USC 1506; 19 USC 1559; 19 USC 1563

CFR Citation: 19 CFR 4; 19 CFR 19; 19 CFR 122; 19 CFR 123; 19 CFR 127

Legal Deadline: None

Abstract: Amendment principally creates a new class of bonded warehouse exclusively for the receipt of general order merchandise and includes procedures for authorizing and operating general order warehouses. Amendment also implements certain amendments to the law made by the Customs modernization portion of the North American Free Trade Agreement Implementation Act concerning the circumstances where the title to unclaimed and abandoned merchandise vests in the Government, in lieu of sale of the merchandise at public auction.

Timetable:

Action	Date	FR Cite
NPRM	07/12/00	65 FR 42893
NPRM Comment Period End	09/11/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Raymond Janiszewski, Supervisory Import Specialist, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0365

RIN: 1515–AC57

2844. DEFERRAL OF DUTY ON LARGE YACHTS IMPORTED FOR SALE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1484b; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 4; 19 CFR 113

Legal Deadline: None

Abstract: Amendment to set forth procedures for the deferral of entry filing and duty collection on certain yachts imported for sales at boat shows in the United States.

Timetable:

Action	Date	FR Cite
NPRM	06/15/00	65 FR 37501
NPRM Comment Period End	08/14/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry L. Burton, Chief, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 130 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2269

Robert E. Watt, Program Officer, Department of the Treasury, United States Customs Service, Office of Fi Operations, 1300 Pennsylvania Ave NW., Washington, DC 20229
Phone: 202 927-3654

RIN: 1515–AC58

2845. CIVIL AIRCRAFT

Priority: Substantive, Nonsignificar

Legal Authority: 19 USC 66; 19 US 1202; 19 USC 1321; 19 USC 1481; USC 1484; 19 USC 1498; 19 USC 1 19 USC 1623; 19 USC 1624; 19 US 3314

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amendment concerning duty-free entry of civil aircraft merchandise to reflect amendments General Note 6 of the Harmonized Tariff Schedule of the United State made by the Miscellaneous Trade a Technical Corrections Act of 1996.

Timetable:

Action	Date	FR C
NPRM	06/29/00	65 FR 4
NPRM Comment Period End	08/28/00	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Non

Agency Contact: Dixie Staple, Operations Officer, Department of t Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1131

RIN: 1515–AC59

2846. USER AND NAVIGATION FE OTHER REIMBURSABLE CHARGI

Priority: Substantive, Nonsignifica

Legal Authority: 5 USC 301; 19 US 58a to 58c; 19 USC 66; 19 USC 120 19 USC 1431; 19 USC 1433; 19 US 1434; 19 USC 1505; 19 USC 1624; USC 9701; 46 USC 2110 to 2112

CFR Citation: 19 CFR 4; 19 CFR 2 19 CFR 101

TREAS—CUSTOMS

Final Rule Stage

Legal Deadline: None

Abstract: Amendment regarding the proper assessment of user and navigation fees, as well as other reimbursement charges for Customs services performed in connection with, among other things, the processing of vehicles, vessels, aircraft and merchandise arriving in the United States. Purpose of the amendment is to conform the regulations with the intent of the Customs user fee statute and to reflect existing operational policy and administrative practice in this area.

Timetable:

Action	Date	FR Cite
NPRM	05/01/01	66 FR 21705
NPRM Comment Period End	07/02/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kimberly Nott, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1364

RIN: 1515–AC63

2847. MERCHANDISE PROCESSING FEE ELIGIBLE TO BE CLAIMED AS UNUSED MERCHANDISE DRAWBACK

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1313; 19 USC 1624

CFR Citation: 19 CFR 191

Legal Deadline: None

Abstract: Amendment to indicate that merchandise processing fees are eligible to be claimed as unused merchandise drawback. The change is made to reflect a recent court decision in which merchandise processing fees were found to be assessed under Federal law and imposed by reason of importation and therefore eligible to be claimed as unused merchandise drawback pursuant to 19 U.S.C. 1313(j).

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/01	66 FR 9647
Interim Final Rule Effective	02/09/01	
Interim Final Rule Comment Period End	04/10/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Rosoff, Chief, Duty Refund and Determination Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2077

RIN: 1515–AC67

2848. CIVIL ASSET FORFEITURE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 18 USC 983; 19 USC 66; 19 USC 1592; 19 USC 1593a; 19 USC 1624

CFR Citation: 19 CFR 162; 19 CFR 171

Legal Deadline: None

Abstract: Amendment to implement the provisions of the Civil Asset Forfeiture Reform Act of 2000 (CAFRA), insofar as these provisions are applicable to laws enforced by Customs. The CAFRA creates general rules governing civil forfeiture proceedings. However, CAFRA specifically exempts from certain of its requirements forfeitures that are made under a number of statutes, among those being: the Tariff Act of 1930 or any other provision of law codified in title 19, U.S.C.; the Internal Revenue Code of 1986; the Federal Food, Drug, and Cosmetic Act; and the Trading with the Enemy Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/14/00	65 FR 78090
Interim Final Rule Effective	08/23/00	
Interim Final Rule Comment Period End	02/12/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney-Advisor, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1176

RIN: 1515–AC69

2849. AFRICAN GROWTH AND OPPORTUNITY ACT AND GENERALIZED SYSTEM OF PREFERENCES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 2461; 19 USC 3314; 19 USC 3721

CFR Citation: 19 CFR 10; 19 CFR 163

Legal Deadline: Final, Statutory, October 1, 2000, Public Law 106-200.

Abstract: Amendments to implement the trade benefit provisions for sub-Saharan Africa contained in title I of the Trade and Development Act of 2000. The trade benefits under title I, also referred to as the African Growth and Opportunity Act, apply to sub-Saharan African countries designated by the President and involve the extension of duty-free treatment under the Generalized System of Preferences (GSP) to non-import-sensitive, non-textile articles normally excluded from GSP duty-free treatment, and the entry of specific textile and apparel articles free of duty and free of any quantitative limits.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/00	65 FR 59668
Interim Final Rule Effective	10/01/00	
Interim Final Rule Comment Period End	12/04/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reese, Senior Attorney, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1361

Leon Hayward, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229

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Phone: 202 927-9704

RIN: 1515–AC72

2850. UNITED STATES-CARIBBEAN BASIN TRADE PARTNERSHIP ACT AND CARIBBEAN BASIN INITIATIVE

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 2701; 19 USC 3314

CFR Citation: 19 CFR 10; 19 CFR 163

Legal Deadline: Final, Statutory, October 1, 2000, Public Law 106-200.

Abstract: Amendments to implement the trade benefit provisions for Caribbean Basin countries contained in title II of the Trade and Development Act of 2000. The trade benefits under title II, also referred to as the United States-Caribbean Basin Trade Partnership Act (the CBTPA), apply to Caribbean Basin countries designated by the President and involve the entry of specific textile and apparel articles free of duty and free of any quantitative restrictions, limitations, or consultation levels and the extension of NAFTA duty treatment standards to non-textile articles that are excluded from duty-free treatment under the Caribbean Basin Initiative program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/00	65 FR 59650
Interim Final Rule Effective	10/01/00	
Interim Final Rule Comment Period End	12/04/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Craig Walker, Senior Attorney-Advisor, Department of the Treasury, United States Customs Service, Special Classification and Marking Branch, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1116

Leon Hayward, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-9704

Cynthia Reese, Senior Attorney, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1361

RIN: 1515–AC76

2851. REIMBURSABLE CUSTOMS INSPECTIONAL SERVICES: INCREASE IN HOURLY RATE CHARGE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 6103; 19 USC 58a to 58c; 19 USC 66; 19 USC 261; 19 USC 267; 19 USC 1202; 19 USC 1450 to 1452; 19 USC 1456; 19 USC 1505; 19 USC 1557; 19 USC 1562; 19 USC 1624; 26 USC 4461; 26 USC 4462; 31 USC 9701; 46 USC 2110 to 2112

CFR Citation: 19 CFR 24; 19 CFR 101

Legal Deadline: None

Abstract: Amendment to increase the rate of charge for reimbursable Customs inspectional services.

Timetable:

Action	Date	FR Cite
NPRM	02/01/01	66 FR 8554
NPRM Comment Period End	04/02/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis Lomax, Accountant, Department of the Treasury, United States Customs Service, Accounting Services Division, Office of Finance, Indianapolis, IN 46278
Phone: 317 298-1200

RIN: 1515–AC77

2852. DUTY-FREE TREATMENT FOR CERTAIN BEVERAGES MADE WITH CARIBBEAN RUM

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 2701; 19 USC 3314

CFR Citation: 19 CFR 10; 19 CFR 163

Legal Deadline: None

Abstract: Amendment to implement a change made by the Trade and Development Act of 2000 to the Caribbean Basin Economic Recove Act, also known as the Caribbean Initiative (CBI), that enables certai liquers and spirituous beverages to obtain duty-free entry under speci conditions when the beverages are processed in the territory of Canad from rum that is the growth, produ or manufacture either of a CBI beneficiary country or of the U.S. Virgin Islands. The regulations set the certification and supporting documentation requirements that necessary to establish compliance the statutory law, thereby enabling the rum beverages are properly en to duty-free entry under the CBI.

Timetable:

Action	Date	FR
Interim Final Rule	02/09/01	66 FR
Interim Final Rule Effective	02/09/01	
Interim Final Rule Comment Period End	04/10/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Agency Contact: Leon Hayward, Operations Officer, Department of Treasury, United States Customs Service, Office of Field Operations 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-9704

RIN: 1515–AC78

2853. RULES OF ORIGIN FOR TEXTILE AND APPAREL PRODU

Priority: Substantive, Nonsignifica

Legal Authority: 19 USC 66; 19 U 1202; 19 USC 1624; 19 USC 3314; USC 3592

CFR Citation: 19 CFR 102

Legal Deadline: None

Abstract: Amendment to align the existing country of origin rules fo textiles and apparel products with statutory amendments to section 3 the Uruguay Round Agreements A set forth in section 405 within titl of the Trade and Development Ac 2000. The amendment to the Cust Regulations reflects the amendme forth in section 405 regarding the processing operations necessary t confer country of origin status to

certain textile fabrics and made-up articles.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/01/01	66 FR 21660
Interim Final Rule Effective	05/01/01	
Interim Final Rule Comment Period End	07/02/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reese, Senior Attorney, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1361

RIN: 1515–AC80

2854. AMENDED PROCEDURE FOR OBTAINING REFUNDS OF HARBOR MAINTENANCE FEES PAID ON EXPORTS OF MERCHANDISE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58a to 58c; 19 USC 66; 19 USC 1202; 19 USC 1505; 19 USC 1624; 26 USC 4461; 26 USC 4462; 31 USC 9701

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amendment to simplify the procedure for requesting refunds of harbor maintenance fees paid on exports of merchandise.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/28/01	66 FR 16854
Interim Final Rule Effective	03/28/01	
Interim Final Rule Comment Period End	04/27/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah Thompson, Accountant, Accounts Receivable Branch, Department of the Treasury, United States Customs Service, Office of Finance, Indianapolis, IN 46278
Phone: 317 298-1200

RIN: 1515–AC82

2855. LICENSES FOR CERTAIN WORSTED WOOL FABRICS SUBJECT TO TARIFF-RATE QUOTA

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1508; 19 USC 1509; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 132; 19 CFR 163

Legal Deadline: None

Abstract: Amendment to set forth the form and manner by which an importer establishes that a valid license, issued under regulations of the U.S. Department of Commerce, is in effect for certain worsted wool fabric that is the subject of a tariff-rate quota.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/01/01	66 FR 21664
Interim Final Rule Effective	05/01/01	66 FR 27453
Interim Final Rule Comment Period End	07/02/01	66 FR 21664
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Erin Riley, Trade Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-5395

RIN: 1515–AC83

2856. AMENDMENT TO WOOL DUTY REFUND PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 3314; PL 106-200

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amendment to the provision regarding the refund of duties paid on imports of wool products pursuant to section 505 of the Trade and Development Act of 2000. Principally, the document rectifies an interpretive error regarding the description of the types of wool products that are eligible to provide the basis for a wool duty refund for claim year 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/01	66 FR 20392
Interim Final Rule Effective	04/23/01	
Interim Final Rule Comment Period End	06/22/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce Ingalls, Chief, Entry and Drawback Management, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1082

RIN: 1515–AC85

2857. • PREFERENTIAL TREATMENT OF BRASSIERES UNDER THE UNITED STATES-CARIBBEAN BASIN TRADE PARTNERSHIP ACT

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 2701; 19 USC 3314

CFR Citation: 19 CFR 10; 19 CFR 163

Legal Deadline: Final, Statutory, October 1, 2001, Public Law 106-200.

Abstract: Amendment to implement those provisions within the United States-Caribbean Basin Trade Partnership Act (the CBTPA) that establish standards for preferential treatment for brassieres imported from CBTPA beneficiary countries. The amendments involve specifically the methods, procedures and related standards that will apply for purposes of determining compliance with the 75 percent aggregate U.S. fabric components content requirement under the CBTPA brassieres provision.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/04/01	66 FR 50534
Interim Final Rule Effective	10/04/01	
Interim Final Rule Comment Period End	12/03/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

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Government Levels Affected: None

Agency Contact: Dick Crichton, Operations Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0162

Cynthia Reese, Senior Attorney, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1361

RIN: 1515–AC89

Department of the Treasury (TREAS)
United States Customs Service (CUSTOMS) **Long-Term Act**

2858. AUTOMATED SURETY INTERFACE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 113

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5680
NPRM Comment Period End	04/22/93	58 FR 16632
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Hundertmark
Phone: 202 927-0355

RIN: 1515–AB25

2859. TEXTILES AND TEXTILE PRODUCTS SUBJECT TO TEXTILE TRADE AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dick Crichton
Phone: 202 927-0162

RIN: 1515–AB54

2860. COUNTRY-OF-ORIGIN MARKING REQUIREMENTS FOR FROZEN PRODUCE PACKAGES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 134

Timetable:

Action	Date	FR Cite
ANPRM	02/02/95	60 FR 6464
ANPRM Comment Period End	03/20/95	
NPRM	07/23/96	61 FR 38119
NPRM Comment Period End	10/17/97	62 FR 43958
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra L. Bell
Phone: 202 927-2244

RIN: 1515–AB61

2861. ENTRY OF SOFTWOOD LUMBER SHIPMENTS FROM CANADA

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12; 19 CFR 113

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/97	62 FR 8620
Interim Final Rule Effective	02/26/97	
Interim Final Rule Comment Period End	04/28/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joyce Metzger
Phone: 202 927-0792

RIN: 1515–AB97

2862. DETERMINATION OF THE COUNTRY-OF-ORIGIN OF TEXTILES AND TEXTILE PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dick Crichton
Phone: 202 927-0162

RIN: 1515–AC00

2863. DESIGNATED LAND BORDE CROSSING LOCATIONS FOR CERTAIN CONVEYANCES

Priority: Substantive, Nonsignifican

CFR Citation: 19 CFR 123

Timetable:

Action	Date	FR C
NPRM	11/17/97	62 FR 6
NPRM Comment Period End	01/16/98	
Final Action	To Be	Determi

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Non

Federalism: Undetermined

Agency Contact: Dennis Dore
Phone: 202 927-3274

RIN: 1515–AC12

2864. PUBLIC DISCLOSURE OF AIRCRAFT MANIFESTS

Priority: Substantive, Nonsignifican

CFR Citation: 19 CFR 103

Timetable: Next Action Undetermi

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Non

Agency Contact: Lee H. Kramer
Phone: 202 927-1251

RIN: 1515–AC13

2865. NAFTA PREFERENCE OVERRIDE

Priority: Substantive, Nonsignifican

CFR Citation: 19 CFR 102

Timetable:

Action	Date	FR C
NPRM	To Be	Determi

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Non

Agency Contact: Burton Schlissel

TREAS—CUSTOMS

Long-Term Actions

Phone: 202 927-2310

RIN: 1515–AC25

2866. PERSONAL-USE LIMITATION FOR PURCHASES AT DUTY-FREE STORES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 19

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Creighton W. Goldsmith
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RIN: 1515–AC50

2867. ENTRY OF SOFTWOOD LUMBER SHIPMENTS FROM CANADA

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/23/00	65 FR 33251
Interim Final Rule Effective	05/23/00	
Interim Final Rule Comment Period End	07/24/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dixie Staple
Phone: 202 927-1131

RIN: 1515–AC62

Department of the Treasury (TREAS)
United States Customs Service (CUSTOMS)

Completed Actions

2868. TIME LIMITATION FOR REQUESTING REFUNDS OF HARBOR MAINTENANCE FEES AND FOR MAKING OTHER CLAIMS AGAINST CUSTOMS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 24

Completed:

Reason	Date	FR Cite
Final Action	07/02/01	66 FR 34813
Final Action Effective	12/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah Thompson
Phone: 317 298-1200

RIN: 1515–AC64

2869. DISTRIBUTION OF CONTINUED DUMPING AND SUBSIDY OFFSET TO AFFECTED DOMESTIC PRODUCERS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 159

Completed:

Reason	Date	FR Cite
NPRM	06/26/01	66 FR 33920
Final Action	09/21/01	66 FR 48546
Final Action Effective	09/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey J. Laxague
Phone: 202 927-0505

RIN: 1515–AC84

2870. • CHANGE IN FLAT RATE OF DUTY ON ARTICLES IMPORTED FOR PERSONAL OR HOUSEHOLD BONA FIDE GIFTS

Priority: Routine and Frequent

Legal Authority: 19 USC 66; 19 USC 1496; 19 USC 1498; 19 USC 1624; 19 USC 1202

CFR Citation: 19 CFR 148

Legal Deadline: None

Abstract: Amendment to reflect a provision of the Tariff Suspension and Trade Act of 2000 which sets forth staged reductions of the flat rate of duty on articles imported for personal or household use or as bona fide gifts. The staged reductions of duty rates are applicable to the described categories of articles that accompany persons entering the United States and that are imported by or for the account of a person arriving from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States.

Timetable:

Action	Date	FR Cite
Final Rule	09/04/01	66 FR 46217
Final Rule Effective	09/04/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ralph L. Hackney, Operations Officer, Passenger Programs, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2931

RIN: 1515–AC90

BILLING CODE 4820-02-S

Department of the Treasury (TREAS)
Internal Revenue Service (IRS)

Prerule Stage

2871. • GASOLINE TAX CLAIMS UNDER SECTION 6416(A)(4)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The project will provide guidance regarding claims for credit or refund of the gasoline tax under section 6416(a)(4) of the Internal Revenue Code.

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TREAS—IRS

Prerule S

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: REG-143219-01

Drafting attorney: Frank K. Boland (202) 622-3130

CC:P&SI

Agency Contact: Frank K. Boland Attorney-Advisor, Department of t Treasury, Internal Revenue Servic 1111 Constitution Avenue NW, Washington, DC 20224 Phone: 202 622-3130

RIN: 1545–BA27

Department of the Treasury (TREAS) Internal Revenue Service (IRS)

Proposed Rule S

2872. REPORTING REQUIREMENTS FOR WIDELY HELD FIXED INVESTMENT TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 671; 26 USC 6034; 26 USC 6049; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: This regulation relates to the reporting requirements for widely held fixed investment trusts.

Timetable:

Action	Date	FR Cite
NPRM	08/13/98	63 FR 43354
Hearing	11/05/98	
NPRM Comment Period End	11/12/98	
Second NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106871-00 (PS-6-96)

Drafting attorney: Faith Colson (202) 622-3060

Reviewing attorney: J. Thomas Hines (202) 622-3060

Treasury attorney: Viva Hammer (202) 622-0869

CC:P&SI

Agency Contact: Faith Colson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224 Phone: 202 622-3060

RIN: 1545–AU15

2873. SPECIAL RULES APPLICABLE TO SALES OF DEBT INSTRUMENT BETWEEN RECORD DATES AND THE END OF ACCRUAL PERIODS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides rules to calculate allocation of interest and amount of sale price, when debt instrument is sold between a record date and a payment date (so that seller receives first distribution of interest and principal following sale).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-242919-96

Drafting attorney: Patrick E. White (202) 622-3920

Reviewing attorney: Alice Bennett (202) 622-3950

CC:FI&P

Agency Contact: Patrick E. White, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224 Phone: 202 622-3920

RIN: 1545–AU95

2874. RETURN OF LEVIED PROPERTY IN CERTAIN CASES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Section 501(b) of the Taxpayer Bill of Rights 2 amended section 6343 of the Internal Reven Code to authorize the Secretary to return levied property in four enumerated circumstances. Sectio 1102(d)(1)(B) of RRA 98 changed "Taxpayer Advocate" to "Nationa Taxpayer Advocate" as a person w determines what is in the best int of the taxpayer. The regulations se forth the circumstances in which Secretary may return property and procedures to implement these sections.

Timetable:

Action	Date	FR
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Additional Information: REG-1015

Drafting attorney: Kevin B. Conne (202) 622-3630

Reviewing attorney: Robert Miller 622-3630

Treasury attorney: Rita Cavanagh 622-1981

CC:P&A:CB&S

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RIN: 1545–AV01

2875. REMOVAL OF TEMPORAR REGULATIONS THAT PROVIDE RULES FOR SUBSTANTIATING TRAVEL EXPENSE DEDUCTIONS MEMBERS OF CONGRESS

Priority: Substantive, Nonsignific

Legal Authority: 26 USC 7805

TREAS—IRS **Proposed Rule Stage**

CFR Citation: 26 CFR 1; 26 CFR 5

Legal Deadline: None

Abstract: This project will remove temporary income tax regulations section 5e.274-8 (published as TD 7802 in 47 FR 2986). The regulations provide rules for the substantiation of Congress members' travel expenses, and the regulations are currently out of date because the authorizing legislation was subsequently repealed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105513-97

Drafting attorney: Edwin B. Cleverdon (202) 622-4920

Reviewing attorney: Robert A. Berkovsky (202) 622-4920

Reviewing attorney: Linda Kroening (202) 622-4800

CC:IT&A

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Phone: 202 622-4920

RIN: 1545–AV55

2876. TRANSPORTATION OF PERSONS AND PROPERTY BY AIR—SECTIONS 4261 AND 4271

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 4261; 26 USC 4271; 26 USC 7805

CFR Citation: 26 CFR 49

Legal Deadline: None

Abstract: The proposed regulations provide guidance concerning the excise taxes imposed on the amounts paid for the transportation of persons and property by air.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106167-98

Drafting attorney: Patrick S. Kirwan (202) 622-3130

Reviewing attorney: Richard Kocak (202) 622-3130

Treasury attorney: John Parcell (202) 622-2578

CC:P&SI

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Phone: 202 622-3130

RIN: 1545–AW19

2877. ESTATE TAX DEDUCTION FOR QUALIFIED FAMILY-OWNED BUSINESS INTERESTS (QFOBI)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 2057; 26 USC 7805

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: The proposed regulations will address the estate tax deduction for certain qualified family-owned business interests.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106430-98

Drafting attorney: Lian A. Mito (202) 622-7830

Reviewing attorney: Leslie H. Finlow (202) 622-3120

Treasury attorney: Beth Kaufman (202) 622-1766

CC:P&SI

Agency Contact: Lian A. Mito, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7830

RIN: 1545–AW21

2878. CAPITAL GAIN GUIDANCE RELATING TO CRTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1; 26 USC 664

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides capital gain guidance relating to charitable remainder trusts in light of the changes made to section 1(h) of the Internal Revenue Code by the Taxpayer Relief Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-110896-98

Drafting attorney: Danielle M. Grimm (202) 622-3080

Reviewing attorney: Mary Beth Collins (Carchia) (202) 622-3080

Treasury attorney: Beth Kaufman (202) 622-1766

CC:P&SI

Agency Contact: Danielle M. Grimm, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AW35

2879. MERCHANDISE REGULATION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 471; 26 USC 7805; 26 USC 446

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation clarifies when the requirement to use inventory accounting applies. It also clarifies the definition of merchandise and provides guidance with respect to when merchandise will be regarded as an income producing factor in a taxpayer's business.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-122333-97

Drafting attorney: Cheryl L. Oseekey (202) 622-4970

Reviewing attorney: Thomas Luxner (202) 622-4970

Treasury attorney: Christine Tufgeon (202) 622-0865

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Phone: 202 622-4970

RIN: 1545–AW61

2880. REPORTING OF PAYMENTS TO ATTORNEY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6045

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides information reporting requirements for payments of gross proceeds made in the course of a trade or business to attorneys in connection with legal services.

Timetable:

Action	Date	FR Cite
NPRM	05/21/99	64 FR 27730
Second NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-126024-01

Drafting attorney: Sara P. Shepherd (202) 622-4960

Reviewing attorney: Michael Montermurro (202) 622-4920

Treasury attorney: Michael Novey (202) 622-1339

CC:P&A:APJP

Agency Contact: Sara P. Shepherd, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AW72

2881. CONSTRUCTIVE SALES OF APPRECIATED FINANCIAL POSITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1259

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to principles for determining if a taxpayer has constructively sold an appreciated financial position.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: REG-102191-98

Drafting attorney: Kathleen Sleeth (202) 622-3920

Reviewing attorney: Alvin Kraft (202) 622-3920

Treasury attorney: Michael Novey (202) 622-1339

CC:FI&P

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Phone: 202 622-3920

RIN: 1545–AW97

2882. HIGHWAY VEHICLE—DEFINITION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: This document provides amendments to regulations relating to definition of highway vehicle.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103829-99

Drafting attorney: Bernard H. Weberman (202) 622-3130

Reviewing attorney: Richard Kocal (202) 622-3130

Treasury attorney: John Parcell (20 622-2578

CC:P&SI

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RIN: 1545–AX10

2883. GUIDANCE ON COST RECOVERY IN THE ENTERTAINM INDUSTRY

Priority: Substantive, Nonsignifica

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates t application of the income forecast method under section 167(g).

Timetable:

Action	Date	FR
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Additional Information: REG-103

Drafting attorney: Bernard P. Harv (202) 622-3110

Reviewing attorney: Charles B. Ra (202) 622-3110

Treasury attorney: Christopher Ol (202) 622-0865

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RIN: 1545–AX12

2884. CHANGE OF ANNUAL ACCOUNTING PERIOD

Priority: Substantive, Nonsignific

Unfunded Mandates: Undetermi

Legal Authority: 26 USC 442

TREAS—IRS **Proposed Rule Stage**

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation states under what circumstances taxpayers should be allowed to change their annual accounting period, either on an automatic basis, or with the prior approval of the Commissioner.

Timetable:

Action	Date	FR Cite
NPRM	06/13/01	66 FR 31850
Public Hearing	10/02/01	66 FR 31850

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106917-99

Drafting attorney: Martin Scully (202) 622-4960

Reviewing attorney: Roy Hirschhorn (202) 622-4960

Treasury attorney: Christine Turgeon (202) 622-0865

CC:IT&A

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RIN: 1545–AX15

2885. STRADDLES—ONE SIDE LARGER THAN THE OTHER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1092

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: A "straddle" occurs, for purposes of section 1092 of the Internal Revenue Code, when a taxpayer enters into two separate positions in financial instruments that "offset" each other. Positions offset each other when, taken together, they substantially diminish the taxpayer's risk of loss. A taxpayer in a "straddle" is subject to various limitations on recognition of loss on the positions until both positions are liquidated. These regulations will deal with the situation in which one position is larger than the other (that is, the diminution of the risk of loss for one position is only partial).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105228-99

Drafting attorney: Jeffery G. Mitchell (202) 622-7804

Reviewing attorney: Thomas Luxner (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

CC:IT&A

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Phone: 202 622-7804

RIN: 1545–AX21

2887. SECTIONS 401(K) AND 410(M) CASH OR DEFERRED ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation updates and revises regulations on qualified cash or deferred arrangements, "matching" contributions, and employee contributions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-108639-99

Drafting attorney: R. Lisa Mojiri-Azad (202) 622-6080

Reviewing attorney: Marjorie Hoffman (202) 622-6030

Treasury attorney: W. Thomas Reeder (202) 622-1341

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Agency Contact: R. Lisa Mojiri-Azad, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
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RIN: 1545–AX26

2888. INSPECTION OF WRITTEN DETERMINATIONS UNDER IRC SECTION 6110

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation amends Treasury Regulation Section 301.6110 to include Chief Counsel Advice.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

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TREAS—IRS

Proposed Rule S

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-113129-98

Drafting attorneys: Deborah Lambert-Dean (202) 622-4570

Charlotte Chyr (202) 622-4570

Reviewing attorney: Donald Squires (202) 622-4570

Treasury attorney: Elizabeth Askey (202) 622-0224

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RIN: 1545–AX40

2889. 401(K) AND 401(M) REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Update and revise regulations for cash or deferred arrangements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-108639-99

Drafting attorney: R. Lisa Mojiri-Azad (202) 622-6080

Reviewing attorney: Marjorie Hoffman (202) 622-6030

Treasury attorney: W. Thomas Reeder (202) 622-1341

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Phone: 202 622-6080

RIN: 1545–AX43

2890. SECTION 7430 REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed amendments to the Treasury Regulations incorporate the 1997 and 1998 amendments to 26 U.S.C. 7430, relating to the awarding of attorney's fees in administrative and court proceedings. The amendments to 26 U.S.C. 7430 were enacted under the Taxpayer Relief Act of 1997 and the IRS Restructuring and Reform Act of 1998.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-111833-99

Drafting attorney: Kerry H. Bryan (202) 622-7940

Reviewing attorneys: Susan Mosley (202) 622-7940

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Treasury attorney: Rita Cavanagh (202) 622-1981

CC:PA:APJP

Agency Contact: Kerry H. Bryan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7940

RIN: 1545–AX46

2891. SECTION 414(Q) REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 414

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide the definition of highly compensated employee.

Timetable:

Action	Date	FR C
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

Additional Information: REG-11127

Drafting attorney: R. Lisa Mojiri-Az (202) 622-6080

Reviewing attorney: Marjorie Hoffm (202) 622-6030

CC:TEGE

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Phone: 202 622-6080

RIN: 1545–AX48

2892. ADDRESS CORRECTION

Priority: Info./Admin./Other

Legal Authority: 26 USC 25; 26 US 103

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides certain elections, revocations of th elections, and information reports, no longer be filed at the Philadelp Service Center, but instead shall b filed at the place or places designa by the Commissioner.

Timetable:

Action	Date	FR
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Additional Information: REG-1044

Drafting attorney: David E. White 622-3980

Reviewing attorney: Timothy Jone (202) 622-3980

CC:TEGE

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RIN: 1545–AX51

TREAS—IRS

Proposed Rule Stage

2893. COMPENSATION DEFERRED UNDER ELIGIBLE SECTION 457(B) PLANS (SECTION 457 REGULATIONS)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 457

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations relate to deferred compensation plans of State and Local governments and tax-exempt entities under section 457 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local

Federalism: Undetermined

Additional Information: REG-105885-99

Drafting attorney: Cheryl E. Press (202) 622-6060

Reviewing attorney: Robert Patchell (202) 622-6060

Treasury attorney: William Bortz (202) 622-1352

CC:TEGE

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RIN: 1545–AX52

2894. TAX ON INSURANCE COMPANIES OTHER THAN LIFE INSURANCE COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will supplement guidance on what is required in order for a taxpayer to qualify as an insurance company subject to tax under section 831 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-111660-99

Drafting attorney: Robert A. Martin (202) 622-7683

Reviewing attorney: Mark Smith (202) 622-3012

CC:FI&P

Agency Contact: Robert A. Martin, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7683

RIN: 1545–AX54

2895. MODIFICATION TO SECTION 367(A) STOCK TRANSFER REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 367

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The section 367(a) stock transfer regulations will be modified to address abuses under check-the-box and through the use of convertible stock.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116053-99

Drafting attorney: Robert W. Lorence (202) 622-3860

Reviewing attorney: Charles Besecky (202) 622-3860

Treasury attorney: Michael Caballero (202) 622-0851

CC:INTL

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Phone: 202 622-3860

RIN: 1545–AX77

2896. STATUTE OF LIMITATIONS ON COLLECTION INSTALLMENT AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6331

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The purpose of this regulation is to provide for the prohibition of levy while an installment agreement is pending with the Secretary, while an installment agreement is in effect, and following the rejection or termination of an installment agreement. This levy prohibition is established in section 6331(k) of title 26, as added by the IRS Restructuring and Reform Act of 1998. The goal of the regulations is to clarify when levy is prohibited and the effect of the prohibition on the statute of limitations for collection.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-104762-00

Drafting attorney: Frederick W. Schindler (202) 622-3620

Reviewing attorney: Lawrence Schattner (202) 622-3620

CC:P&A:CB&S

Agency Contact: Frederick W. Schindler, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3620

RIN: 1545–AX89

2897. ASSUMPTION OF PARTNERSHIP LIABILITIES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 752

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation prevents the acceleration or duplication of losses through the assumption of liabilities in transactions involving partnerships.

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Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: REG-106736-00

Drafting attorney: Horace Howells (202) 622-3050

Reviewing attorney: Shannon Cohen (202) 622-3060

Treasury attorney: Deborah Harrington (202) 622-1788

CC:P&SI

Agency Contact: Horace Howells, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AX93

2898. LIKE-KIND EXCHANGES UNDER SECTION 168

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 148; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations, under section 168, relate to like-kind exchanges.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106590-00

Drafting attorney: Alan H. Cooper (202) 622-3110

Reviewing attorney: Charles Ramsey (202) 622-3110

Treasury attorney: Christopher Ohmes (202) 622-1335

CC:P&SI

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RIN: 1545–AX95

2899. DEFINITION OF DIESEL FUEL

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will revise the definition of diesel fuel.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106457-00

Drafting attorney: Frank K. Boland (202) 622-3130

Reviewing attorney: Richard Kocak (202) 622-3130

Treasury attorney: John Parcell (202) 622-2578

CC:P&SI

Agency Contact: Frank K. Boland, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AX97

2900. CONSTRUCTIVE TRANSFERS AND TRANSFERS OF PROPERTY TO THIRD PARTIES ON BEHALF OF A SPOUSE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will provide rules for determining when a redemption by a corporation of the stock of one spouse or former spouse results in a constructive transfer to the other spouse or former spouse of the proceeds of the redemption.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Non

Additional Information: REG-1071

Drafting attorney: Edward C. Schw (202) 622-4960

Reviewing attorney: William A. Jac (202) 622-4960

CC:IT&A

Agency Contact: Edward C. Schw Attorney-Advisor, Department of t Treasury, Internal Revenue Service 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AX99

2901. GUIDANCE NECESSARY TO FACILITATE ELECTRONIC TAX ADMINISTRATION

Priority: Substantive, Nonsignifica

Legal Authority: 26 USC 7805; 26 6011

CFR Citation: 26 CFR 1; 26 CFR 3

Legal Deadline: None

Abstract: This regulation will ame regulations to allow electronic filin the Form 1040.

Timetable:

Action	Date	FR
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

Additional Information: REG-1071

Drafting attorney: Sara P. Shepher (202) 622-4960

Reviewing attorney: John McGreev (202) 622-4960

Treasury attorney: John Parcell (20 622-2578

CC:P&A:APJP

Agency Contact: Sara P. Shepher Attorney-Advisor, Department of t Treasury, Internal Revenue Servic 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AY04

TREAS—IRS **Proposed Rule Stage**

2902. DAMAGES UNDER SECTION 7433

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation will implement a number of new provisions of section 7433, including raising the cap on damages for the intentional or reckless disregard of the Internal Revenue Code, or regulations in connection with a collection action, authorizing actions for the negligent disregard of the Code or regulations. It will provide rules with respect to administrative claims for damages caused by violations of the automatic stay and discharge provisions of the Bankruptcy Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-107366-00

Drafting attorney: Robert A. Miller (202) 622-3640

Kevin B. Connelly (202) 622-3630

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Phone: 202 622-3640

RIN: 1545–AY08

2903. ELECTING MARK-TO-MARKET FOR MARKETABLE STOCK OF A PFIC

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1296

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation describes the methods and procedures for electing mark-to-market treatment for marketable stock of a PFIC.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: REG-112306-00

Drafting attorney: Mark R. Pollard (202) 622-3860

Reviewing attorney: Phyllis Marcus (202) 622-3840

CC:INTL

Agency Contact: Mark R. Pollard, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3860

RIN: 1545–AY17

2904. GUIDANCE ON CHANGES TO THE LAWS FOR CORPORATE ESTIMATED TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6655

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The regulations provide guidance on changes to the law for corporate estimated taxes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-107722-00

Drafting attorney: Robert A. Desilets, Jr. (202) 622-4910

Reviewing attorney: Pamela W. Fuller (202) 622-4910

Treasury attorneys: Rita Cavanagh (202) 622-1981

Christopher Ohmes (202) 622-1335

CC:P&A:APJP

Agency Contact: Robert A. Desilets Jr., Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AY22

2905. SECTION 1445 REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1445; 26 USC 897

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation requires the use of taxpayer identifying numbers on submissions made by foreign taxpayers to reduce or eliminate tax under sections 897 and 1445.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: REG-106876-00

Drafting attorney: Robert W. Lorence (202) 622-3860

Reviewing attorney: Charles Besecky (202) 622-3860

Treasury attorney: Michael Caballero (202) 622-0851

CC:INTL

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Phone: 202 622-3860
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RIN: 1545–AY24

2906. IRS NPRM GUIDANCE UNDER SECTION 6050P REGARDING INFORMATION REPORTING ON CANCELLATION OF INDEBTEDNESS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 6050

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: This regulation relates to information reporting on the cancellation of indebtedness.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-107524-00

Drafting attorney: Sharon Lee Hall (202) 622-4930

Reviewing attorney: Christopher F. Kane (202) 622-4930

Treasury attorney: Michael Novey (202) 622-1339

CC:IT&A

Agency Contact: Sharon Lee Hall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4930

RIN: 1545–AY35

2907. DOLLAR-VALUE LIFO

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 472; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance under the dollar-value last-in, first-out (LIFO) inventory method for taxpayers that define LIFO items based on components of cost.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-107580-00

Drafting attorney: Scott H. Rabinowitz (202) 622-4970

Reviewing attorney: Jeffery G. Mitchell (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

CC:IT&A

Agency Contact: Scott H. Rabinowitz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AY39

2908. SECTION 83-1032 CONFORMING CHANGES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations clarify the mechanics of sections 1.83-6(b) and 1.83-6(d).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-113078-00

Drafting attorney: Jean Marie Casey (202) 622-6030

Reviewing attorney: Robert Misner (202) 622-6030

Treasury attorney: William Bortz (202) 622-1352

CC:TEGE

Agency Contact: Jean Marie Casey, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AY40

2909. GUIDANCE UNDER SECTION 817A REGARDING MODIFIED GUARANTEED CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 817

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to issuers of modified guaranteed contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-248110-

Drafting attorney: Ann H. Logan (202) 622-3970

Reviewing attorney: Donald J. Drees (202) 622-3970

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Phone: 202 622-3970

RIN: 1545–AY48

2910. APPLICATION OF SECTION 3 TO INSURANCE COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 148; 26 US 7805; 26 USC 721; 26 USC 338

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations prescribe t manner in which the various provisi of subchapter L, chapter 1, subtitle A of the Internal Revenue Code apply t asset acquisitions deemed to occur b reason of a section 338 election as w as to actual acquisitions of insurance company assets subject to section 10

Timetable:

Action	Date	FR Cit
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-118861-

Drafting attorneys: Mark Weiss (202) 622-7790

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Reviewing attorney: William D. Alexander (202) 622-7780

Treasury attorney: Audrey Nacamuli (202) 622-0869

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TREAS—IRS

Proposed Rule Stage

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Mark Weiss, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
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RIN: 1545–AY49

2911. GUIDANCE NECESSARY TO FACILITATE ELECTRONIC TAX ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6011

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: This document amends regulations to allow electronic filing of the Form 1040.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-107184-00

Drafting attorney: Sara P. Shepherd (202) 622-4960

Reviewing attorney: John McGreevy (202) 622-4910

Treasury attorney: John Parcell (202) 622-2578

CC:P&A:APJP

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Phone: 202 622-4960

RIN: 1545–AY56

2912. NORMAL RETIREMENT AGE FOR PENSION PLANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: These regulations will provide guidance regarding the determination of normal retirement age in a pension plan, including a money purchase pension plan, target benefit plan and defined benefit plan. Section 411(a)(8) defines the term normal retirement age as the earlier of: 1) the time a participant attains normal retirement age under the plan; or 2) the later of the time a plan participant attains age 65, or the 5th anniversary of the time a plan participant commenced participation in the plan. These regulations also would provide section 411(d)(6) relief for amendments that modify a pension plan's normal retirement age to conform with the proposed regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-125499-00

Drafting attorney: R. Lisa Mojiri-Azad (202) 622-6080

Reviewing attorney: Marjorie Hoffman (202) 622-6030

Treasury attorney: William Bortz (202) 622-1352

CC:TEGE

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RIN: 1545–AY61

2913. LIABILITIES ASSUMED IN CERTAIN CORPORATE TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 357

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to the assumption of liabilities in certain corporate transactions under section 357 of the Internal Revenue Code. The regulations affect corporations and their shareholders.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-100818-01

Drafting attorney: Douglas C. Bates (202) 622-7550

Reviewing attorney: Debra Carlisle (202) 622-7550

CC:CORP

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Phone: 202 622-7550

RIN: 1545–AY74

2914. NORMALIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 167; 26 USC 168; 26 USC 46

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to the sale or deregulation of generation assets.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-104385-01

Drafting attorney: David Selig (202) 622-3040

Reviewing attorney: Peter Friedman (202) 622-3110

Treasury attorney: John Parcell (202) 622-2578

CC:P&SI

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RIN: 1545–AY75

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2915. QUALIFIED S ELECTION FOR TESTAMENTARY TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1361

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to the qualified subchapter S election for testamentary trusts. A testamentary trust may qualify as a permitted shareholder of an S corporation for a 2-year period beginning on the day the stock is transferred to the trust. This proposed amendment would provide that the beneficiary of a qualifying testamentary trust that also qualifies as a qualified subchapters S trust (QSST) may make a QSST election at any time up to the end of the 16-day-and-2-month period beginning after the 2-year qualifying period.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: REG-106431-00

Drafting attorney: Deane M. Burke (202) 622-3070

Reviewing attorney: Mary Beth Collins (202) 622-3070

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:P&SI

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RIN: 1545–AY76

2916. DISCLOSURE OF RETURNS AND RETURN INFORMATION BY OTHER AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation permits the Commissioner to authorize agencies with access to returns and return information under section 6103 of the Code to redisclose such returns and return information, with the Commissioner's approval, to the Congressional Budget Office and other agencies authorized to receive such information in accordance with IRC section 6103.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: REG-105344-01

Drafting attorney: Julie C. Schwartz (202) 622-4570

Reviewing attorney: David L. Fish (202) 622-4580

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:P&A:D&PL

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RIN: 1545–AY77

2917. • RESEARCH CREDIT III

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 41

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Review of T.D. 8930, dealing with the credit for increasing research activities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-112991-01

Drafting attorney: Lisa Shuman (202) 622-3120

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Leslie Finlow (202) 622-3120

Treasury attorney: Chris Ohmes (202 622-1335

CC:PS&I

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Phone: 202 622-3120

RIN: 1545–AY82

2918. • TREATMENT OF COMMUNI INCOME FOR CERTAIN INDIVIDUAL NOT FILING JOINT RETURNS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 U 66

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance on the treatment o community income for certain marri taxpayers who do not file joint tax returns.

Timetable:

Action	Date	FR Ci
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-11505

Drafting attorney: Robin M. Tuczak (202) 622-4940

Reviewing attorney: Judith M. Wall (202) 622-4940

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:P&A:APJP

Agency Contact: Robin M. Tuczak, Attorney-Advisor, Department of th Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AY83

2919. • LOW-INCOME TAXPAYER CLINICS

Priority: Substantive, Nonsignifican

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

TREAS—IRS

Proposed Rule Stage

Legal Deadline: None

Abstract: This regulation amends the regulations pertaining to the definition of income tax return preparer to exclude low-income taxpayer clinics and their volunteers when operating as authorized by 26 U.S.C. 7526.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-115285-01

Drafting attorney: Brinton T. Warren (202) 622-4940

Reviewing attorney: Judith M. Wall (202) 622-4940

CC:P&A:APJP

Agency Contact: Brinton T. Warren, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AY84

2920. • NEW MARKET TAX CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 45D; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations relating to the new markets tax credit under section 45D, which was enacted by section 121(a) of the Community Renewal Tax Relief Act of 2000 (Pub. L. 106-554).

Timetable:

Action	Date	FR Cite
ANPRM	05/01/01	66 FR 21844
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-119436-01

Drafting attorney: Paul F. Handleman (202) 622-3040

Reviewing attorney: Susan Reaman (202) 622-3040

Treasury attorney: Steve Watson (202) 622-1322

CC:P&SI

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RIN: 1545–AY87

2921. • AMENDMENT TO THE DEFINITION OF PRIVATE BUSINESS USE APPLICABLE TO TAX-EXEMPT BONDS ISSUED BY STATE AND LOCAL GOVERNMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These final regulations amend section 1.141-3 of the Federal Income Tax Regulations to replace references to "180 days," "90 days," and "30 days," with "200 days,"100 days," and "50 days," respectively.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: REG-121615-01

Drafting attorney: Michael P. Brewer (202) 622-3980

Reviewing attorney: Bruce Serchuk (202) 622-3980

CC:TEGE

Agency Contact: Michael P. Brewer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AY88

2922. • DISCLOSURE OF RETURNS AND RETURN INFORMATION IN JUDICIAL AND ADMINISTRATIVE TAX PROCEEDINGS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 6103

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Proposed rule on disclosure of returns and return information in judicial and administrative tax proceedings pursuant to 26 U.S.C. 6103(h)(4).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-120297-01

Drafting attorney: Stuart D. Murray (202) 622-4580

Reviewing attorney: David L. Fish (202) 622-4580

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:P&A:DPL

Agency Contact: Stuart D. Murray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4580

RIN: 1545–AY89

2923. • SECTION 736(B)(3)(B)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 736

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations under section 736(b)(3)(B), payments for interest in a partnership if the retiring or deceased partner was a general partner in the partnership.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

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Proposed Rule S

Government Levels Affected: None

Additional Information: REG-123382-01

Drafting attorney: Jennifer S. McGinty (202) 622-4580

Reviewing attorney: Mary Beth Collins (202) 622-3070

CC:P&SI

Agency Contact: Jennifer S. McGinty, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4580

RIN: 1545–AY90

2924. • REGULATIONS UNDER SECTIONS 6662 AND 6664 REGARDING TAX SHELTER PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6662; 26 USC 6664

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Regulations under sections 6662 and 6664 regarding tax shelter penalties. Project has arisen in connection with the revision to Circular 230.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-126016-01

Drafting attorney: Brinton T. Warren (202) 622-4940

Reviewing attorney: Michael L. Gompertz (202) 622-4940

CC:F&A:AP JP

Agency Contact: Brinton T. Warren, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AY97

2925. • TORT TYPE RIGHTS TEST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 104

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, September 30, 2001.

Abstract: This proposed regulation amends section 1.104-1(c) of the Income Tax Regulations to delete the reference to "tort or tort type rights."

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-125592-01

Drafting attorney: Sheldon A. Iskow (202) 622-4920

Reviewing attorney: Michael J. Montemurro (202) 622-4920

CC:IT&A

Agency Contact: Sheldon A. Iskow, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4920

RIN: 1545–AY99

2926. • EXPENDITURES IN CONNECTION WITH THE CREATION OF INTANGIBLE ASSETS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 263

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations providing guidance on the treatment of costs incurred in connection with the creation of an intangible asset.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-125638-01

Drafting attorney: Andrew J. Keyso (202) 622-4950

Reviewing attorney: Robert Casey (202) 622-4950

Treasury attorney: Christine Turgeon (202) 622-4950

CC:IT&A

Agency Contact: Andrew J. Keyso
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Treasury, Internal Revenue Service
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RIN: 1545–BA00

2927. • ENTERTAINMENT EXPEN TREATED AS COMPENSATION

Priority: Info./Admin./Other

Legal Authority: 26 USC 274; 26 U 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulati will revise rules under 26 USC 274(e)(2), allowing deductions for entertainment expenses to the exte they have been treated by the emp as compensation paid to the recip employee, and will address issues raised in Sutherland, 114 T.C. 197 (2000).

Timetable:

Action	Date	FR
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: No

Additional Information: REG-125

Drafting attorney: Michael A. Nix (202) 622-7920

Reviewing attorney: George Baker 622-4960

Treasury attorney: Elizabeth Aske (202) 622-0224

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Phone: 202 622-7920

RIN: 1545–BA03

2928. • CONFORMING AMENDM TO SECTION 446

Priority: Substantive, Nonsignific

Legal Authority: 26 USC 446; 26 1502

CFR Citation: 26 CFR 446

TREAS—IRS **Proposed Rule Stage**

Legal Deadline: None

Abstract: Proposed regulations regarding the treatment of the consolidated return intercompany transaction rules as a method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-125161-01

Drafting attorney: Marie C. Milnes-Vasquez (202) 622-7770

Reviewing attorney: Edward Cohen (202) 622-7770

Treasury attorney: Audrey Nacamuli (202) 622-5721

CC:CORP

Agency Contact: Marie Milnes-Vasquez, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7770

RIN: 1545–BA05

2929. • MERGERS INVOLVING DISREGARDED ENTITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 368

Legal Deadline: None

Abstract: The proposed rules will provide guidance concerning the requirements to be met in order for a merger or consolidation to qualify as a reorganization under section 368(a)(1)(A). They will also address whether certain mergers involving disregarded entities can qualify as reorganizations under section 368(a)(1)(A).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-126485-01

Drafting attorneys: Reginald Mombrun (202) 622-7750

Marlene Oppenheim (202) 622-7770

Reviewing attorney: Mark S. Jennings (202) 622-7770

Treasury attorney: Audrey Nacamuli (202) 622-5721

CC:CORP

Agency Contact: Reginald Mombrum, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
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Phone: 202 622-7750

RIN: 1545–BA06

2930. • NOTICE OF SIGNIFICANT REDUCTION IN THE RATE OF FUTURE BENEFIT ACCRUAL

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will update the regulations currently in section 1.411(d) for changes made as a result of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). EGTRAA amends ERISA section 204(h) and adds section 4980F to the Code. Section 4980F imposes an excise tax for failure to satisfy notice requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-136193-01

Drafting attorney: Janet A. Laufer (202) 622-6090

Treasury attorney: William Bortz (202) 622-6090

CC:TEGE

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RIN: 1545–BA08

2931. • CONSOLIDATED RETURNS; NON-APPLICABILITY OF SECTION 357(C)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations make amendments to section 1.1502-80(d) of the consolidated return regulations dealing with the scope of the non-applicability of section 357(c) in a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-137519-01

Drafting attorney: Thomas I. Russell (202) 622-7930

Reviewing attorney: Al Bishop (202) 622-7930

Treasury attorney: Audrey Nacamuli (202) 622-5721

CC:CORP

Agency Contact: Thomas I. Russell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7930

RIN: 1545–BA09

2932. • REDUCTIONS OF ACCRUALS AND ALLOCATIONS BECAUSE OF INCREASED AGE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 411; 26 USC 411

CFR Citation: 26 CFR 1

Legal Deadline: Final, Statutory, February 1, 1988.

Abstract: These regulations will prescribe rules regarding the requirement that accruals and allocations under qualified retirement

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plans cannot be reduced because of the attainment of any age.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: REG-209500-86

Drafting attorney: Linda S.F. Marshall (202) 622-6090

Reviewing attorney: Marjorie Hoffman (202) 622-6090

Treasury attorney: Harlan Weller (202) 622-1001

CC:TEGE

Agency Contact: Linda S.F. Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6090

RIN: 1545–BA10

2933. • GUIDANCE UNDER SECTION 1502 REGARDING TRANSACTIONS INVOLVING OBLIGATIONS OF CONSOLIDATED GROUP MEMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations regarding intercompany obligations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-107592-00

Drafting attorney: Heather Johnson (202) 622-7750

Reviewing attorney: Michael J. Wilder (202) 622-7750

Treasury attorney: Audrey Nacamuli (202) 622-5721

CC:CORP

Agency Contact: Heather Johnson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–BA11

2934. • GUIDANCE REGARDING THE TREATMENT BY A CORPORATION OF FINANCIAL INSTRUMENT BASED ON THE VALUE OF THAT CORPORATION'S STOCK

Priority: Routine and Frequent

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations are being considered that would provide guidance regarding the application of section 1032 with respect to financial instruments based as the value of the corporation's stock.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-139865-01

Drafting attorney: Joseph M. Calianno (202) 622-7550

CC:CORP

Agency Contact: Joseph M. Calianno, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7550

RIN: 1545–BA12

2935. • DEDUCTIBILITY OF EMPLOYER CONTRIBUTIONS FOR DEFERRED COMPENSATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will update and clarify the general rules for deductibility of employer contributions to qualified retirement plans and other deferred compensation arrangements.

Timetable:

Action	Date	FR C
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesse

Government Levels Affected: Non

Additional Information: REG-1394

Drafting attorney: Linda S.F. Marsh (202) 622-6090

Reviewing attorney: Mark Schwim (202) 622-6090

Treasury attorney: Thomas Reeder 622-1341

CC:TEGE

Agency Contact: Linda S.F. Marsh Attorney-Advisor, Department of t Treasury, Internal Revenue Servic 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6090

RIN: 1545–BA13

2936. • CONTINUATION OF A CONSOLIDATED GROUP UNDER 1.1502-75

Priority: Substantive, Nonsignifica

Legal Authority: 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation project addresses issues related to the continuation of consolidated grou under 1.1502-75.

Timetable:

Action	Date	FR
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Additional Information: REG-126

Drafting attorney: Christopher M. (202) 622-7770

CC:CORP

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Phone: 202 622-7770

RIN: 1545–BA14

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Proposed Rule Stage

2937. • ELIGIBILITY FOR RECEIVING LITC GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7526

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations set out certain requirements for eligibility for receiving LITC grants.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-139711-01

Drafting attorney: Delilah S. Schroeder (202) 622-7940

Reviewing attorney: Peter Reilly (202) 622-7940

CC:P&A:APJP

Agency Contact: Delilah S. Schroeder, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7940

RIN: 1545–BA19

2938. • GUIDANCE REGARDING THE ACTIVE TRADE OR BUSINESS REQUIREMENT OF SECTION 355(B)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 7805; 26 USC 355

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations address the effect that certain changes (including by purchase, creation, or other acquisition) may have on a corporation's ability to comply with the active trade or business requirement of section 355(b). These proposed regulations affect corporations and are necessary to provide them with guidance in determining whether the active trade or business requirement has been satisfied.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-115365-01

Drafting attorney: Russell P. Subin (202) 622-7790

Reviewing attorney: Filiz Serbes (202) 622-7790

Treasury attorney: Audrey Nacamuli (202) 622-5721

CC:CORP

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RIN: 1545–BA20

2939. • CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulation will provide guidance for plans that permit individuals age 50 or over to make catch-up contributions under the plan.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-142499-01

Drafting attorney: John T. Ricotta (202) 622-6060

Reviewing attorney: Marjorie Hoffman (202) 622-6060

Treasury attorney: Elizabeth Drigotas (202) 622-1332

CC:TEGE

Agency Contact: John T. Ricotta, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–BA23

2940. • CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: None

Legal Deadline: None

Abstract: The proposed regulations would provide guidance for plans that permit individuals age 50 or over to make catch-up contributions under the plan.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-142499-01

Drafting attorney: John T. Ricotta (202) 622-6060

Reviewing attorney: Marjorie Hoffman (202) 622-6060

Treasury attorney: Elizabeth Drigotas (202) 622-1332

CC:TEGE

Agency Contact: John T. Ricotta, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–BA24

2941. • UNIT LIVESTOCK PRICING METHOD

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 471; 26 USC 7805

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The proposed regulations reexamines requirements to annually reevaluate and upward adjust unit livestock prices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

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Government Levels Affected: None

Additional Information: REG-125626-01

Drafting attorney: A. Katharine Kiss (202) 622-4930

Reviewing attorney: Michael Finley (202) 622-4930

CC:IT&A

Agency Contact: A. Katharine Kiss, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4930

RIN: 1545–BA25

2942. • APPLICATION OF THE FEDERAL INSURANCE CONTRIBUTIONS ACT, FEDERAL UNEMPLOYMENT TAX ACT AND COLLECTION OF INCOME TAX AT SOURCE TO STATUTORY STOCK OPTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 3101; 26 USC 3301; 26 USC 3401; 26 USC 7805; 26 USC 3208

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The proposed regulations under sections 424, 3121, 3306, 3401 contained in the Notice of Proposed Rulemaking clarify the application of the Federal Insurance Contributions Act (FICA), Federal Unemployment Tax Act (FUTA), and Collection of Income Tax at Source to statutory stock options; i.e., incentive stock options under section 422 (ISOs) and options granted under employee stock purchase plans under section 423 (ESPP options). The proposed regulations provide that at the time of the exercises of a statutory stock option, the individual who was granted the statutory stock option receives wages for FICA and FUTA purposes. The proposed regulations also provide that the amount of wages received equals the excess of the fair market value of the stock acquired pursuant to the exercise of the statutory stock option over the amount paid for the stock. The proposed regulations also provide that income tax withholding is not required when an individual exercises a statutory stock option because no income is recognized at the time of exercise by reason of section 421(a)(1).

Timetable:

Action	Date	FR C
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-14268

Drafting attorney: Stephen B. Tackn (202) 622-6040

Reviewing attorney: Michael A. Sw (202) 622-6040

Treasury attorney: Bill Bortz (202) 6 1352

CC:TEGE

Agency Contact: Stephen B. Tackn Attorney-Advisor, Department of th Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
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RIN: 1545–BA26

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2943. INCOME TAX—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 905; 26 USC 6689

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	53 FR 23659
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-209020-86 (INTL-061-86)

Drafting attorney: Bethany Ingwalson (202) 622-3850

Reviewing attorney: Barbara A. Felker (202) 622-3850

CC:INTL

Agency Contact: Bethany Ingwalson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3850

RIN: 1545–AC09

2944. NONRECOGNITION OF CORPORATE DISTRIBUTIONS AN REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Priority: Substantive, Nonsignifican

Legal Authority: 26 USC 7805; 26 U 897

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules concerning the effect certain distributions including dividends, redemptions, distributio pursuant to reorganizations, and liquidations on corporations and th shareholders under the Foreign Investment in Real Property Tax Ac Regulations will also provide rules determining the extent to which nonrecognition would apply to cert transfers of real property interests a the extent to which certain reorganizations will be treated as ex of property at fair market value.

TREAS—IRS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16233
Hearing	03/01/89	54 FR 1189
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-209039-87 (INTL-491-87)

Drafting attorney: Robert W. Lorence (202) 622-3860

Reviewing attorney: Charles P. Besecky (202) 622-3860

CC:INTL

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Phone: 202 622-3860

RIN: 1545–AK79

2945. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS—SELF-CHARGED ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0469

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the treatment of self-charged items of income and expense in connection with transactions between passthrough entities and owners of interests in those entities.

Timetable:

Action	Date	FR Cite
NPRM	04/05/91	56 FR 14034
Hearing	09/06/91	56 FR 14040
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-209365-89 (PS-39-89)

Drafting attorney: Danielle M. Grimm (202) 622-3080

Reviewing attorney: Jeanne Sullivan (202) 622-3080

Treasury attorney: John Parcell (202) 622-2578

CC:P&SI

Agency Contact: Danielle M. Grimm, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AN64

2946. DEFINITION OF "HIGHLY COMPENSATED EMPLOYEE"

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 414

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations define the term "highly compensated employee" under section 414(q) of the Code. Temporary and proposed regulations, under sections 414(q) and 414(s), were published February 19, 1988 (53 FR 4965). Final regulations, under section 414(s), were published September 19, 1991 (56 FR 47659) under project EE-129-86. The regulations under 414(q) were split off from project EE-129-86. It is anticipated that final regulations under section 414(q) will be published in the future under project REG-209558-92 (EE-32-92).

Timetable:

Action	Date	FR Cite
NPRM	02/19/88	53 FR 4999
NPRM Comment Period End	04/19/88	
Partially Closed by TD 8548	06/27/94	59 FR 32911
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Federalism: Undetermined

Additional Information: REG-209558-92

Drafting attorney: R. Lisa Mojiri-Azad (202) 622-6080

Reviewing attorney: Marjorie Hoffman (202) 622-6030

Treasury attorney: W. Thomas Reeder (202) 622-1341

CC:TEGE

Agency Contact: R. Lisa Mojiri-Azad, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6080

RIN: 1545–AQ74

2947. ESCROW FUNDS AND OTHER SIMILAR FUNDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 0468B

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides further guidance relating to certain escrow funds and other similar funds.

Timetable:

Action	Date	FR Cite
NPRM	02/01/99	64 FR 4801
NPRM Comment Period End	05/03/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209619-93 (IA-17-93)

Drafting attorney: A. Katharine Kiss (202) 622-4930

Reviewing attorney: Michael Finley (202) 622-4930

CC:IT&A

Agency Contact: A. Katharine Kiss, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
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RIN: 1545–AR82

2948. EFFECT OF THE FAMILY AND MEDICAL LEAVE ACT ON THE OPERATION OF CAFETERIA PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation contains additions to the Income Tax regulations, under section 125 of the Internal Revenue Code, relating to cafeteria plans, to answer a number of

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questions that have been raised about how the requirements under the Family and Medical Leave Act of 1993, Public Law 103-3, affect the operation of cafeteria plans.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66229
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-209767-95 (EE-20-95)

Drafting attorney: Shoshanna Chaiton (202) 622-6080

Reviewing attorney: Harry Beker (202) 622-6080

Treasury attorney: William Bortz (202) 622-1352

CC:TEGE

Agency Contact: Shoshanna Chaiton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6080

RIN: 1545–AT47

2949. TREATMENT OF OBLIGATION-SHIFTING TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations recharacterize obligation-shifting transactions. Obligation-shifting transactions are transactions in which the transferee assumes obligations, or acquires property subject to obligations under an existing lease or similar agreement. The transferor or any other party has already received, or retains the right to receive amounts that are allocable to periods after the transfer. The regulations prevent tax avoidance by recharacterizing obligation-shifting transactions in a manner that clearly reflects the parties' income.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68175
NPRM Comment Period End	04/08/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-209817-96 (FI-10-96)

Drafting attorney: Christina A. Morrison (202) 622-3950

Reviewing attorney: Alice M. Bennett (202) 622-3950

Treasury attorney: Michael Novey (202) 622-1339

CC:FI&P

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RIN: 1545–AU19

2950. ELECTING SMALL BUSINESS TRUST

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 1361; 26 USC 641

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides necessary guidance for defining and taxing electing small business trusts, which are now eligible shareholders of S Corporations, as provided by the Small Business Job Protection Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/29/00	65 FR 82963
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-251701-96

Drafting attorney: James A. Quinn (202) 622-3060

Reviewing attorney: J. Thomas Hines (202) 622-3060

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:P&SI

Agency Contact: James A. Quinn, Attorney-Advisor, Department of th Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3060

RIN: 1545–AU76

2951. INTEREST ON EDUCATION LOANS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 221; 26 US 7005

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance on the deduction of interes on education loans under section 22

Timetable:

Action	Date	FR Ci
NPRM	01/21/99	64 FR 32
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116826

Drafting attorney: Nicole E. Francis (202) 622-3653

CC:IT&A

Agency Contact: Nicole E. Francis, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3653

RIN: 1545–AW01

2952. AVERAGING OF FARM INCOM

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 US 1301

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: An individual may elect to "income average" any amount of farm income by adding 1/3 of such electe farm income to each of the three prio years' taxable income and calculating

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the increase in tax for the prior years. The taxable income of the current year is reduced by the elected farm income and the increase in tax liability for the prior three years is added to the current year's tax liability.

Timetable:

Action	Date	FR Cite
NPRM	10/08/99	64 FR 54836
Public Hearing	02/15/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-121063-97

Drafting attorney: John Moran (202) 622-4940

Reviewing attorney: Judith M. Wall (202) 622-4940

CC:IT&A

Agency Contact: John Moran, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6232

RIN: 1545–AW05

2953. MARK-TO-MARKET ACCOUNTING FOR DEALERS IN COMMODITIES AND TRADERS IN SECURITIES AND COMMODITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 475; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance concerning mark-to-market accounting for securities traders and commodities dealers and traders.

Timetable:

Action	Date	FR Cite
NPRM	01/28/99	64 FR 4374
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-104924-98

Drafting attorney: Jo Lynn Ricks (202) 622-3920

Reviewing attorney: Alvin Kraft (202) 622-3920

CC:FI&P

Agency Contact: Jo Lynn Ricks, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3920

RIN: 1545–AW06

2954. ELECTION TO TREAT TRUST AS ESTATE—SECTION 645

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 645; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance regarding the operation of section 645.

Timetable:

Action	Date	FR Cite
NPRM	12/18/00	65 FR 79015
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106542-98

Drafting attorney: Faith Colson (202) 622-3060

Reviewing attorney: J. Thomas Hines (202) 622-3060

CC:P&SI

Agency Contact: Faith Colson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3060

RIN: 1545–AW24

2955. CORPORATE TAX SHELTER REGISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6111

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation project provides guidance on the registration requirements for confidential corporate tax shelters under section 6111(d) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	03/02/00	65 FR 11272
Public Hearing	06/20/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-110311-98

Drafting attorney: Danielle M. Grimm (202) 622-3080

Reviewing attorney: Christine Ellison (202) 622-3070

CC:P&SI

Agency Contact: Danielle M. Grimm, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AW26

2956. INTERCOMPANY OBLIGATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides clarification of the tax treatment of certain transfers of intercompany obligations by or to a member of a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	12/18/98	63 FR 70354
NPRM Comment Period End	03/22/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105964-98

Drafting attorney: Heather Johnson (202) 622-7750

Reviewing attorney: Michael Wilder (202) 622-7750

CC:CORP

Agency Contact: Heather Johnson, Attorney-Advisor, Department of the

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RIN: 1545–AW30

2957. DISREGARDED ENTITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance under section 368, regarding corporate transactions involving disregarded entities.

Timetable:

Action	Date	FR Cite
NPRM	05/16/00	65 FR 31115
Comment Period End	08/14/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106186-98

Drafting attorney: Reginald Mombrun (202) 622-7750

Reviewing attorney: Mark Jennings (202) 622-7750

Treasury attorney: Audrey Nacamuli (202) 622-5721

CC:CORP

Agency Contact: Reginald Mombrun, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AW36

2958. PAYMENT OF TAXES BY CREDIT CARD AND DEBIT CARD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6311

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The purpose of this regulation is to authorize the Secretary of the Treasury to accept payment of taxes by credit cards and debit cards, pursuant to section 6311 of title 26, as amended by the Tax Relief Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/15/98	63 FR 69031
NPRM Comment Period End	03/15/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-111435-98

Drafting attorney: Robert Taylor (202) 622-4940

Reviewing attorney: Michael Gompertz (202) 622-4940

Treasury attorney: John Parcell (202) 622-2578

CC:P&A:APJP

Agency Contact: Robert Taylor, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AW37

2959. MIDDLEMAN REGULATION UNDER SECTIONS 6041 AND 6045

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6041; 26 USC 6045

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance on the legal obligation to file information returns by: 1) an intermediary or middleman who makes payments on behalf of another person; and 2) an investment advisor.

Timetable:

Action	Date	FR Cite
NPRM	10/17/00	65 FR 61292
Public Hearing	02/07/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-246249-96

Drafting attorney: Nancy L. Rose (202) 622-4910

Reviewing attorney: James C. Gibbons (202) 622-4910

Treasury attorney: Michael Novey (202) 622-1339

CC:PA:APJP

Agency Contact: Nancy L. Rose, Attorney-Advisor, Department of th Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AW48

2960. RELIEF FROM JOINT AND SEVERAL LIABILITY ON JOINT RETURN

Priority: Substantive, Nonsignifican

Legal Authority: 26 USC 6015

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document will prov procedures as are necessary to carr the provisions of section 6015, including: 1) methods for allocatio items other than the methods unde section 6015(d)(3); and 2) providin opportunity for an individual to ha notice of, and an opportunity to participate in, any administrative proceeding with respect to an elect made under section 6015(b) or sect 6015(c) by the other individual fili the joint return.

Timetable:

Action	Date	FR C
NPRM	01/17/01	66 FR 3
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

Procurement: This is a procuremer related action for which there is a statutory requirement. There is a paperwork burden associated with action.

Additional Information: REG-10644

Drafting attorney: Charles A. Hall (622-4940

Reviewing attorney: Judith M. Wall (202) 622-4940

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:P&A:APJP

Agency Contact: Charles A. Hall, Attorney-Advisor, Department of th Treasury, Internal Revenue Service 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AW64

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2961. EDUCATION CREDITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 25

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide individual taxpayers with guidance on the Hope Scholarship Credit and the Lifetime Learning Credit.

Timetable:

Action	Date	FR Cite
NPRM	01/06/99	64 FR 794
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106388-98

Drafting attorney: Donna J. Welch (202) 622-4910

Treasury attorney: Susan Brown (202) 622-0999

CC:P&A:APJP

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Phone: 202 622-4910
Fax: 202 927-9248

RIN: 1545–AW65

2962. INFORMATION REPORTING FOR PAYMENTS OF TUITION AND INTEREST ON EDUCATION LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6050

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: The regulations relate to the requirements for filing information returns for payments of qualified tuition and related expenses. The regulations relate to the requirements for filing information returns for interest received on qualified education loans. The regulations prescribe magnetic media filing requirements for these information returns.

Timetable:

Action	Date	FR Cite
NPRM	12/20/00	65 FR 79788
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-105316-98

Drafting attorney: Donna J. Welch (202) 622-4910

Reviewing attorney: John McGreevy (202) 622-4910

Treasury attorney: Susan Brown (202) 622-0999

CC:P&A:APJP

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Fax: 202 927-9248

RIN: 1545–AW67

2963. MODIFICATIONS AND ADDITIONS TO THE UNIFIED PARTNERSHIP AUDIT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6230; 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Regulations modifying the Unified Partnership Audit Procedures. These changes are based on statutory changes enacted in 1997 and 1998. As part of this project, all of the Unified Partnership Audit Procedure regulations will be brought final.

Timetable:

Action	Date	FR Cite
NPRM	01/25/99	64 FR 3886
Cancellation of Public Hearing	04/06/99	64 FR 16640
Correction To NPRM	04/19/99	64 FR 19217
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106564-98

Drafting attorney: Horace Howells (202) 622-3050

Reviewing attorney: Dianna Miosi (202) 622-3050

Treasury attorney: Deborah Harrington (202) 622-1788

CC:P&SI

Agency Contact: Horace Howells, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AW86

2964. COMPROMISES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7122

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The purpose of this regulation is to provide expanded compromise authority, pursuant to section 7122 of title 26, as amended by the Restructuring and Reform Act of 1998. Prior to the amendment, doubt as to collectibility, doubt as to liability, or both, were the only grounds for consideration of compromise cases. The goal of this regulation is to permit consideration of other factors in compromising tax liability.

Timetable:

Action	Date	FR Cite
NPRM	07/21/99	64 FR 39106
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116991-98

Drafting attorney: Frederick W. Schindler (202) 622-3620

Reviewing attorney: Lawrence Schattner (202) 622-3620

Treasury attorney: Rita Cavanagh (202) 622-1981

CC:P&A:CB&S

Agency Contact: Frederick W. Schindler, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3620

RIN: 1545–AW88

2965. NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6330

CFR Citation: 26 CFR 1

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Legal Deadline: None

Abstract: The regulation provides guidance concerning the implementation of section 6330 of title 26, as added by section 3401 of the Internal Revenue Service Restructuring and Reform Act of 1998.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3462
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-117620-98

Drafting attorney: Jerome D. Sekula (202) 622-3610

Reviewing attorney: Alan C. Levine (202) 622-3610

Treasury attorney: Rita Cavanagh (202) 622-1981

CC:P&A:CB&S

Agency Contact: Jerome D. Sekula, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3610

RIN: 1545–AW90

2966. NOTICE AND OPPORTUNITY FOR HEARING UPON FILING OF NOTICE OF LIEN

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6320

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance concerning the implementation of section 6320 of title 26, as added by the Internal Revenue Service Restructuring and Reform Act of 1998 section 3401.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3461
Cancellation of Public Hearing	06/11/99	64 FR 31529
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116824-98

Drafting attorney: Jerome D. Sekula (202) 622-3610

Reviewing attorney: Alan C. Levine (202) 622-3610

Treasury attorney: Rita Cavanaugh (202) 622-1981

CC:P&A:CB&S

Agency Contact: Jerome D. Sekula, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3610

RIN: 1545–AW91

2967. CERTAIN ASSET TRANSFERS TO REGULATED INVESTMENT COMPANIES (RICS) AND REAL ESTATE INVESTMENT TRUSTS (REITS)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 337

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations implement provisions of the Tax Reform Act of 1986, in accordance with Notice 88-19, 1988-1 C.B. 486.

Timetable:

Action	Date	FR Cite
NPRM	02/03/00	65 FR 5805
Comment Period Ends	04/19/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209135-88

Drafting attorney: Lisa A. Fuller (202) 622-7750

Reviewing attorney: Mark Jennings (202) 622-7750

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Agency Contact: Lisa A. Fuller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AW92

2968. TRANSFER OF REMIC RESIDUAL INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 U 8606

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will amen the rules on transfers of non-econon residual interests to clarify the computational component of the saf harbor rule for establishing lack of improper knowledge under existing law.

Timetable:

Action	Date	FR C
NPRM	02/07/00	65 FR 58
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-12245

Drafting attorney: Courtney Shepard (202) 622-3930

Reviewing attorneys: David Silber (622-3930

Dale Collinson (202) 622-3900

Treasury attorney: Michael Novey (622-1339

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Phone: 202 622-3930

RIN: 1545–AW98

2969. QUALIFIED OFFERS

Priority: Substantive, Nonsignificar

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates to qualified offer rule allowing the recovery of reasonable administrati litigation costs.

Timetable:

Action	Date	FR C
NPRM	01/04/01	66 FR 7
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

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Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-121928-98

Drafting attorneys: Kerry H. Bryan (202) 622-7940

Susan Mosley (202) 622-7940

Reviewing attorney: Henry Schneiderman (202) 622-7820

Treasury attorney: Rita Cayanaugh (202) 622-1981

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Agency Contact: Kerry H. Bryan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
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Phone: 202 622-7940

RIN: 1545–AW99

2970. NOTICE OF CONTACT OF THIRD PARTIES—SECTION 7602(C)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation implements and interprets section 7602(c), concerning third-party contacts, so they can understand how the law will affect them. The Restructuring and Reform Act of 1998, section 3417(a), created a new section 7602(c), which requires that the IRS may not contact third parties with request to the determination or collection of the tax liability of a taxpayer without providing reasonable notice to the taxpayer in advance. It also requires the IRS to keep a list of contacts and provide it periodically to the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	01/02/01	66 FR 77
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-104906-99

Drafting attorney: Charles B. Christopher (202) 622-3630

Reviewing attorney: Robert A. Miller (202) 622-3630

CC:P&A:CB&S

Agency Contact: Charles B. Christopher, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3630

RIN: 1545–AX04

2971. ALLOCATION OF RESEARCH CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 41

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance on the proper method of computing the research credit for a controlled group. In addition, this regulation will provide guidance on the allocation of the research credit among members of the controlled group.

Timetable:

Action	Date	FR Cite
NPRM	01/04/00	65 FR 258
Public Hearing	04/26/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105606-99

Drafting attorney: Lisa Shuman (202) 622-3120

Reviewing attorney: Leslie Finlow (202) 622-3120

Treasury attorney: Christopher Ohmes (202) 622-1335

CC:P&SI

Agency Contact: Lisa Shuman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3120

RIN: 1545–AX05

2972. DELAY RENTAL PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 263

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would clarify that section 1.612-3(c) applies to delay rental payments to the extent that section 263A does not require the payments to be capitalized.

Timetable:

Action	Date	FR Cite
NPRM	02/08/00	65 FR 6090
Public Hearing	05/26/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103882-99

Drafting attorney: Brenda M. Stewart (202) 622-3120

Reviewing attorney: J.H. Makurath (202) 622-3120

Treasury attorney: John Parcell (202) 622-2578

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Agency Contact: Brenda M. Stewart, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3120

RIN: 1545–AX06

2973. COORDINATION OF SECTIONS 755 AND 1060

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 755; 26 USC 1060

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules for determining the fair market value of partnership assets for the purpose of allocating basis adjustments under sections 732(d), 734(b) and 743(b) among partnership assets under section 755, using the residual method of section 1060.

Timetable:

Action	Date	FR Cite
NPRM	04/05/00	65 FR 17829
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

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Government Levels Affected: None

Additional Information: REG-107872-99

Drafting attorney: Craig Gerson (202) 622-3050

Reviewing attorney: Matthew Lay (202) 622-3060

CC:P&SI

Agency Contact: Craig A. Gerson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AX18

2974. DOLLAR-VALUE LIFO REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 472

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the dollar-value LIFO method, including the inventory price index computation (IPIC) method.

Timetable:

Action	Date	FR Cite
NPRM	05/19/00	65 FR 31841
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-107644-98

Drafting attorney: Leo F. Nolan, II (202) 622-4970

Reviewing attorney: Jeffery G. Mitchell (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

CC:IT&A

Agency Contact: Leo F. Nolan II, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AX20

2975. EXCLUSION OF GAIN ON THE SALE OR EXCHANGE OF PRINCIPAL RESIDENCE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 121

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These rules reflect changes made by the Taxpayer Relief Act of 1997 to sections 121 and 1034 of the Code, relating to the exclusion of gain from the sale or exchange of a taxpayer's principal residence.

Timetable:

Action	Date	FR Cite
NPRM	10/10/00	65 FR 60136
Public Hearing	01/23/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105235-99

Drafting attorney: Sara P. Shepherd (202) 622-4960

Reviewing attorney: George Baker (202) 622-4960

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:P&A:APJP

Agency Contact: Sara P. Shepherd, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AX28

2976. SPECIAL RULES FOR RETROACTIVE PAYMENTS UNDER SECTION 417(A)(7)(A) FOR QUALIFIED RETIREMENT PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 417; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance regarding the special rule in IRC section 417(a)(7)(A), which permits qualified retirement plans to provide written explanation of QJSA after the annuity starting date.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3916
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-10948

Drafting attorney: Robert M. Walsh (202) 622-6090

Reviewing attorney: Marjorie Hoffm (202) 622-6000

CC:TEGE

Agency Contact: Robert M. Walsh, Attorney-Advisor, Department of th Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6090

RIN: 1545–AX34

2977. AGENT FOR THE GROUP UNDER SECTION 1.1502-77

Priority: Substantive, Nonsignifican

Legal Authority: 26 USC 7805; 26 U 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation revises th rules under section 1.1502-77 gove the common parent as agent for the consolidated group and the designa of a new agent when the common parent ceases to exist; revises the r under section 1.1502-78 for an application for carryback adjustme with respect to a loss a rising in another consolidated group.

Timetable:

Action	Date	FR
NPRM	09/26/00	65 FR 5
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Nor

Additional Information: REG-1038

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RIN: 1545–AX56

2978. LOANS UNDER SECTION 72(P)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 72

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the application of rules for determining the income tax treatment to be accorded loans to participants or beneficiaries from qualified employer plans. The loans rules are provided in section 72(p) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	07/31/00	65 FR 46677
Notice of Public Hearing	12/06/00	65 FR 76194
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116495-99

Drafting attorney: Vernon Carter (202) 622-6070

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Treasury attorney: William Bortz (202) 622-1352

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RIN: 1545–AX68

2979. REQUIREMENT TO MAINTAIN LIST OF INVESTORS IN POTENTIALLY ABUSIVE TAX SHELTERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6112; 26 USC 7805

CFR Citation: 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: These regulations require the maintenance of lists of investors in potentially abusive tax shelters described in section 6112.

Timetable:

Action	Date	FR Cite
NPRM	03/02/00	65 FR 11271
Public Hearing	06/20/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103736-00

Drafting attorney: Danielle M. Grimm (202) 622-3080

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RIN: 1545–AX79

2980. TAX SHELTER DISCLOSURE STATEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6011; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulations require certain corporate taxpayers to file a statement under section 6011 and maintain certain documents under section 6001.

Timetable:

Action	Date	FR Cite
NPRM	03/02/00	65 FR 11269
Public Hearing	06/20/00	65 FR 11270
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103735-00

Drafting attorney: Danielle M. Grimm (202) 622-3080

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RIN: 1545–AX81

2981. HIPAA PORTABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 9833

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: These regulations provide guidance to group health plans regarding the limitations on imposing pre-existing condition exclusions and the special enrollment rules. These regulations also provide guidance regarding plans and benefits that are not subject to these rules.

Timetable:

Action	Date	FR Cite
NPRM	04/08/97	62 FR 16977
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-119828-99

Drafting attorney: Russell Weinheimer (202) 622-6080

Reviewing attorney: Alan Tawshunsky (202) 622-6000

Treasury attorney: Kevin Knopf (202) 622-2329

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RIN: 1545–AX84

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2982. DISCLOSURE OF RETURN AND RETURN INFORMATION TO DESIGNEE OF TAXPAYER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6103

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The purpose of this regulation is to implement the amendment contained in the Taxpayer Bill of Rights II (TBOR II) to Internal Revenue Code section 6103(c). TBOR II eliminated the requirement for a request or consent for disclosure to be in writing. The proposed regulations would permit the Internal Revenue Service to disclose returns and return information to a taxpayer's designee, pursuant to a non-written request for or consent to disclosure. The regulations will also provide rules and guidance for consent in an electronic environment. Additionally, the regulations will provide guidance to Internal Revenue Service personnel to clarify a number of issues that have arisen since the regulation was initially promulgated in the late 1970s.

Timetable:

Action	Date	FR Cite
NPRM	01/11/01	66 FR 2373
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103320-00

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RIN: 1545–AX85

2983. DETERMINATION OF BASIS OF PARTNERS' INTEREST; SPECIAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 705; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will limit the increase to basis under section 705, where a corporation directly or indirectly acquires an interest in a partnership that holds stock in the same corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/03/01	66 FR 315
Public Hearing	05/03/01	66 FR 315
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106702-00

Drafting attorney: Barbara MacMillan (202) 622-3050

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Treasury attorney: Deborah Harrington (202) 622-5721

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RIN: 1545–AX94

2984. DEFINITION OF INCOME UNDER SECTION 643

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 643; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance under section 643 on whether State law definition of trust income is trust income for Federal tax purposes.

Timetable:

Action	Date	FR Cite
NPRM	02/15/01	66 FR 1039
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106511

Drafting attorney: Bradford R. Post (202) 622-3060

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RIN: 1545–AX96

2985. REGULATIONS GOVERNIN PRACTICE BEFORE THE INTERN REVENUE SERVICE

Priority: Substantive, Nonsignifica

Legal Authority: 31 USC 330

CFR Citation: 31 CFR 10

Legal Deadline: None

Abstract: This regulation amends rules governing practice before the which appears in the Code of Fed Regulations and in pamphlet form Treasury Department Circular No. Regulations Governing the Practic Attorneys, Certified Public Accountants, Enrolled Agents, En Actuaries, and Appraisers Before IRS. The regulation addresses gen standards of practice and standard practice in the case of tax shelters

Timetable:

Action	Date	FR
ANPRM	05/05/00	65 FR
NPRM	01/12/01	66 FR
Public Hearing	05/02/01	66 FR
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Additional Information: REG-111

Drafting attorney: Brinton T. Warr (202) 622-4940

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CC:P&A:APJP

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RIN: 1545–AY05

2986. CHECK THE BOX REGULATIONS—AMENDMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation will provide that, for purposes of section 332, a plan of liquidation is deemed adopted immediately before a deemed liquidation pursuant to an elective change in entity classification.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3959
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-110659-00

Drafting attorney: Beverly Katz (202) 622-3050

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Treasury attorney: Deborah Harrington (202) 622-1788

CC:P&SI

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RIN: 1545–AY16

2987. "AUTHORIZED PLACEMENT AGENCY" UNDER SECTION 152

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 152

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations amend the definition of "authorized placement agency" (for purposes of determining whether a child placed for legal adoption in a taxpayer's home is a dependent of the taxpayer) to include biological parents and other persons authorized by State law to place children for legal adoption.

Timetable:

Action	Date	FR Cite
NPRM	11/30/00	65 FR 71277
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-107279-00

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RIN: 1545–AY18

2988. DISQUALIFIED PERSONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 1031

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations narrow the definition of the term "disqualified person" so that banks and bank subsidiaries may still serve as qualified intermediaries, even if an investment banker or broker is a member of the same control group.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3924
Public Hearing	06/05/01	66 FR 3925
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-107175-00

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RIN: 1545–AY19

2989. MID-CONTRACT CHANGE IN TAXPAYER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 460

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The regulations will address issues presented by a change in the taxpayer accounting for a long-term contract.

Timetable:

Action	Date	FR Cite
NPRM	02/16/01	66 FR 10643
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105946-00

Drafting attorney: John M. Aramburu (202) 622-4960

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Treasury attorney: Christine Turgeon (202) 622-0865

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RIN: 1545–AY31

2990. HIPAA GENERAL NONDISCRIMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 9833

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CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: These regulations provide guidance regarding the requirements imposed on group health plans not to discriminate in rules for eligibility under the plan on the basis of any health factor, and not to require any individual to pay a higher premium or contribution for coverage under the plan than any similarly situated individual based on any health factor.

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1435
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-114082-00

Drafting attorney: Russell Weinheimer (202) 622-6080

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Treasury attorney: Kevin Knopf (202) 622-2329

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RIN: 1545–AY32

2991. HIPAA NONDISCRIMINATION/EXCEPTION FOR CHURCH PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7853

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance on the exception for certain grandfathered church plans from the general rule requiring group health plans not to discriminate in rules for eligibility on the basis of any health factor.

Timetable:

Action	Date	FR Cite
NPRM	01/10/01	66 FR 1437
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-114083-00

Drafting attorney: Russell Weinheimer (202) 622-6080

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Treasury attorney: Kevin Knopf (202) 622-2329

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RIN: 1545–AY33

2992. HIPAA NONDISCRIMINATION/BONA FIDE WELLNESS PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 9833

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance regarding the exception for certain wellness programs to the general rule imposed on group health plans not to require a higher premium or contribution from an individual than from a similarly situated individual based on any health factor.

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1421
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-114084-00

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RIN: 1545–AY34

2993. SECTION 355(E) GUIDANCE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 U 355

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance on section 355(e) of the Internal Revenue Code. Section 355 provides that a distributing corpora will recognize gain on the distributi of stock of a controlled corporation 50 percent of the stock of the distributing corporation or controlle corporation is acquired pursuant to plan that includes the distribution.

Timetable:

Action	Date	FR C
NPRM	01/02/01	66 FR 6
Hearing	05/15/01	66 FR 6
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Non

Additional Information: REG-10756

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RIN: 1545–AY42

2994. DISCLOSURE OF RETURN INFORMATION TO OFFICERS AND EMPLOYEES OF THE DEPARTME OF COMMERCE FOR CERTAIN STATISTICAL PURPOSES AND RELATED ACTIVITIES

Priority: Substantive, Nonsignifica

Legal Authority: 26 USC 6103

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations relate to additions to the list of items of information disclosed to the Burea the Census for use in the Longitud

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Employer-Household Dynamics (LEHD) project and the Survey of Income and Program Participation (SIPP) project.

Timetable:

Action	Date	FR Cite
NPRM	02/13/01	66 FR 9991
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: REG-121109-00

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RIN: 1545–AY52

2995. LIABILITIES ASSUMED IN CERTAIN CORPORATE TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 357

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to the assumption of liabilities in certain corporate transactions under section 301 and section 357 of the Internal Revenue Code. The regulations affect corporations and their shareholders.

Timetable:

Action	Date	FR Cite
NPRM	01/04/01	66 FR 748
Second NPRM	05/23/01	66 FR 28407
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106791-00

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RIN: 1545–AY55

2996. EXCISE TAXES ON EXCESS BENEFIT TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4958

CFR Citation: 26 CFR 53; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: Section 4958 of the IRC imposes excise taxes on transactions between certain tax exempt organizations and persons in a position to exercise substantial influence over the affairs of the organization, where the transactions are at greater than fair market value. These regulations will clarify certain definitions and rules in section 4958.

Timetable:

Action	Date	FR Cite
NPRM	01/10/01	66 FR 2173
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: REG-246256-96

Drafting attorney: Phyllis D. Haney (202) 622-4290

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RIN: 1545–AY65

2997. SECTION 706 AND FOREIGN PARTNERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 706

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the determination under section 706(b) of the taxable year of a partnership with foreign partners.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3920
Public Hearing	06/06/01	66 FR 3920
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-104876-00

Drafting attorney: Daniel Carmody (202) 622-3080

Reviewing attorney: Mary Beth Collins (202) 622-3070

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RIN: 1545–AY66

2998. TAX TREATMENT OF CAFETERIA PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 125

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides information about the tax treatment of cafeteria plans.

Timetable:

Action	Date	FR Cite
NPRM	01/10/01	66 FR 1923
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

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Additional Information: REG-209461-79

Drafting attorney: Shoshanna Chaiton (202) 622-6080

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CC:TEGE

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RIN: 1545–AY67

2999. NOTICE TO INTERESTED PARTIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: These regulations set forth the applicable standards by which a plan sponsor may satisfy the notice to interested parties requirement. Before the Service can issue a determination letter, a plan sponsor must provide evidence that it has notified all persons who qualify as interested parties that an application for an advance determination will be filed regarding the qualification of the sponsor's plan. The proposed regulations affect retirement plan sponsors, interested parties, and certain representatives of interested parties.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3954
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Additional Information: REG-129

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RIN: 1545–AY68

Department of the Treasury (TREAS)
Internal Revenue Service (IRS) **Long-Term A**

3000. INCOME TAX—DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO AND POSSESSION TAX CREDIT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2726
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: W. Edward Williams
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RIN: 1545–AC10

3001. GOLDEN PARACHUTE PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19390
NPRM Comment Period End	07/05/89	
Hearing	11/21/89	54 FR 39548
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Erinn Madden
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RIN: 1545–AH49

3002. FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED, DEDUCTION, AND OTHER SPECIAL RULES FOR FSC

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6467
NPRM Comment Period End	05/02/87	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Douglas Giblen
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RIN: 1545–AI16

3003. INCOME TAX—RECIPROC EXEMPTIONS FOR CERTAIN TRANSPORTATION INCOME

Priority: Substantive, Nonsignifi

CFR Citation: 26 CFR 1

Timetable:

Action	Date	F
NPRM	02/08/00	65 F
Public Hearing	06/08/00	65 F
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Busines

Government Levels Affected: N

Agency Contact: Patricia A. Bra
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RIN: 1545–AJ57

3004. INFORMATION FROM PASSPORT AND IMMIGRATION APPLICANTS

Priority: Substantive, Nonsignifi

CFR Citation: 26 CFR 301

Timetable:

Action	Date	F
NPRM	12/24/92	57 F
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

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Long-Term Actions

Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Amanda A. Ehrlich
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RIN: 1545–AJ93

3005. REGULATIONS UNDER SECTION 367 TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (PUB. L. 98-369)
Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17990
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Michael H. Frankel
Phone: 202 622-3860
RIN: 1545–AK74

3006. FOREIGN INSURANCE COMPANIES
Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Timetable: Next Action Undetermined
Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Steven D. Jensen
Phone: 202 622-3870
RIN: 1545–AL82

3007. INCOME OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS
Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Timetable:

Action	Date	FR Cite
NPRM	06/27/88	53 FR 24100
NPRM Comment Period End	09/26/88	

Next Action Undetermined
Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: David A. Juster
Phone: 202 622-3850
RIN: 1545–AL93

3008. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES
Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Timetable:

Action	Date	FR Cite
NPRM	12/00/03	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Richard L. Chewning
Phone: 202 622-3850
RIN: 1545–AM11

3009. COMPUTATION OF A BRANCH'S TAXABLE INCOME; TAXATION OF EXCHANGE GAIN OR LOSS ON BRANCH REMITTANCES
Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48457

Next Action Undetermined
Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Steven D. Jensen
Phone: 202 622-3870
RIN: 1545–AM12

3010. EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS
Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2535

Next Action Undetermined
Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Anne Devereaux
Phone: 202 622-3850
RIN: 1545–AM90

3011. CBI INVESTMENTS OF SECTION 936 FUNDS
Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 21963
Hearing	07/12/91	56 FR 21963

Next Action Undetermined
Regulatory Flexibility Analysis Required: Undetermined
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: W. Edward Williams
Phone: 202 622-3880
RIN: 1545–AM91

3012. SECTION 351 OUTBOUND TRANSFERS OF PROPERTY TO FOREIGN CORPORATIONS
Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Timetable: Next Action Undetermined
Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Aaron A. Farmer
Phone: 202 622-3860
RIN: 1545–AM97

3013. RAILROAD UNEMPLOYMENT REPAYMENT TAX
Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 31
Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 28374
NPRM Comment Period End	07/12/93	

Next Action Undetermined
Regulatory Flexibility Analysis Required: Undetermined
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Jean Marie Casey
Phone: 202 622-6030
RIN: 1545–AN40

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3014. CONSOLIDATED ALTERNATIVE MINIMUM TAX

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/92	57 FR 62251
NPRM Comment Period End	03/01/93	
Hearing	04/06/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Martin Scully
Phone: 202 622-4960

RIN: 1545–AN73

3015. CONFORMING TAXABLE YEARS OF CFCS AND FPHCS: 1989 CHANGE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 290
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carl M. Cooper
Phone: 202 622-3840

RIN: 1545–AO22

3016. EARNINGS STRIPPING PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/18/91	56 FR 27907
Hearing	09/25/91	56 FR 27927
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Milton M. Cahn
Phone: 202 622-3870

RIN: 1545–AO24

3017. FOREIGN INSURANCE COMPANY—DOMESTIC ELECTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Valerie A. Mark
Phone: 202 622-3840

RIN: 1545–AO25

3018. FRINGE BENEFIT SOURCING UNDER SECTION 861

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/21/00	65 FR 3402
Public Hearing	07/18/00	65 FR 3402
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David F. Bergkuist
Phone: 202 622-3850

RIN: 1545–AO72

3019. TAXATION OF GLOBAL TRADING

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
ANPRM	08/28/90	55 FR 35152
NPRM	03/06/98	63 FR 11177
NPRM Comment Period End	06/04/98	
Hearing	07/14/98	63 FR 11177
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Garrett D. Gregory
Phone: 202 622-3870

RIN: 1545–AP01

3020. INFORMATION REPORTIN RECORD MAINTENANCE UNDE SECTION 6038C

Priority: Substantive, Nonsignifi

CFR Citation: 26 CFR 1

Timetable: Next Action Undeter

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: N

Agency Contact: Garrett D. Greg
Phone: 202 622-3870

RIN: 1545–AP10

3021. CHARITABLE CONTRIBU

Priority: Substantive, Nonsignifi

CFR Citation: 26 CFR 1

Timetable:

Action	Date	F
NPRM	03/12/91	56 F
Hearing	08/01/91	56 F
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: N

Agency Contact: Carl M. Coope
Phone: 202 622-3840

RIN: 1545–AP30

3022. SECTION 1.163-1(B)(2)

Priority: Substantive, Nonsignif

CFR Citation: 26 CFR 1

Timetable:

Action	Date	F
NPRM	01/21/93	58
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: I

Agency Contact: Carl M. Coop
Phone: 202 622-3840

RIN: 1545–AP33

3023. GUIDANCE IN NOTICE 9 WHICH TREATS THE RECEIPT CORPORATE PARTNER'S STO THE CORPORATE PARTNER CIRCUMVENTION OF GENERA UTILITIES REPEAL

Priority: Substantive, Nonsigni

CFR Citation: 26 CFR 1

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Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59324
NPRM Comment Period End	01/20/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lisa K. Leong
Phone: 202 622-7530

RIN: 1545–AP52

3024. USE OF GAAP EARNINGS AS E&P OF FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/01/92	57 FR 29246

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Anne Devereaux
Phone: 202 622-3850

RIN: 1545–AQ55

3025. INTEREST-FREE ADJUSTMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	57 FR 58423
NPRM Comment Period End	02/08/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karin Loverud
Phone: 202 622-6060

RIN: 1545–AQ61

3026. THE TREATMENT OF ACCELERATED DEATH BENEFITS UNDER SECTIONS 101, 7702 AND 7702A OF THE INTERNAL REVENUE CODE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59319
NPRM Comment Period End	02/26/93	
Hearing	03/19/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ann H. Logan
Phone: 202 622-3970

RIN: 1545–AQ70

3027. INTEGRATED FINANCIAL TRANSACTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Garrett D. Gregory
Phone: 202 622-3870

RIN: 1545–AR20

3028. SECTION 6048 REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Rennie Quarrie
Phone: 202 622-3880

RIN: 1545–AR25

3029. APPLICATIONS OF SECTION 1503(D) TO PARTNERSHIPS AND OTHER ITEMS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth D. Allison
Phone: 202 622-3860

RIN: 1545–AR26

3030. INTERCOMPANY TRANSFER PRICING FOR SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: J. Peter Luedtke
Phone: 202 874-1490

RIN: 1545–AR32

3031. MARK-TO-MARKET UPON DISPOSITION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 397

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert B. Williams
Phone: 202 622-3960

RIN: 1545–AS85

3032. STRADDLES—MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/02/95	60 FR 21482

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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Agency Contact: Mary Truchly
Phone: 202 622-3960
RIN: 1545–AT46

3033. ALLOCATION OF ACCRUED BENEFITS BETWEEN EMPLOYER AND EMPLOYEE CONTRIBUTIONS

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Timetable:

Action	Date	FR Cite
NPRM	12/22/95	60 FR 66532
NPRM Comment Period End	03/21/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Janet A. Laufer
Phone: 202 622-6090
Fax: 202 622-4084
RIN: 1545–AT82

3034. PROPOSED REGULATION UNDER SECTIONS 882 AND 884

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Timetable:

Action	Date	FR Cite
NPRM	03/08/96	61 FR 9377
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Garrett D. Gregory
Phone: 202 622-3870
RIN: 1545–AT96

3035. APPLICATION OF GRANTOR TRUST RULES TO NONEXEMPT EMPLOYEES' TRUST

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Timetable:

Action	Date	FR Cite
NPRM	09/27/96	61 FR 50778
NPRM Comment Period End	12/26/96	
Hearing	01/15/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: M. Grace Fleeman
Phone: 202 622-3880

Linda S.F. Marshall
Phone: 202 622-6090

James A. Quinn
Phone: 202 622-3060
RIN: 1545–AU29

3036. RECOMPUTATION OF LIFE INSURANCE RESERVES

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 71
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Mark S. Smith
Phone: 202 622-3970
RIN: 1545–AU49

3037. SOURCE RULES FOR PAYMENTS MADE PURSUANT TO CERTAIN SWAP ARRANGEMENTS

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Milton M. Cahn
Phone: 202 622-3870
RIN: 1545–AU89

3038. APPLICATION OF ATTRIBUTION RULES TO FOREIGN TRUSTS

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Timetable: Next Action Undetermined
Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Federalism: Undetermined
Agency Contact: W. Edward Willian
Phone: 202 622-3880
RIN: 1545–AU91

3039. FASIT—START-UP/OPERATIONAL/TRANSITION

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 301; 26 CFR 1
Timetable:

Action	Date	FR Ci
ANPRM	11/04/96	61 FR 56
ANPRM Comment Period End	12/31/96	
NPRM	02/07/00	65 FR 58
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Courtney Shepard
Phone: 202 622-3930
RIN: 1545–AU94

3040. AGREEMENTS FOR PAYMEN OF TAX LIABILITIES IN INSTALLMENTS

Priority: Substantive, Nonsignifican
CFR Citation: 26 CFR 301
Timetable:

Action	Date	FR C
NPRM	12/31/97	62 FR 6
Second NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: Non
Agency Contact: Frederick W. Schindler
Phone: 202 622-3620
RIN: 1545–AU97

3041. DEFINITION OF "PRIVATE ACTIVITY BONDS" ALLOCATION ACCOUNTING REGULATIONS

Priority: Substantive, Nonsignifican
CFR Citation: 26 CFR 1
Timetable:

Action	Date	FR C
NPRM	12/30/94	59 FR 6

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Action	Date	FR Cite
NPRM Comment Period End	05/01/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bruce M. Serchuk
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AU98

3042. REGULATIONS UNDER SECTION 1441 REGARDING THE ELECTRONIC TRANSMISSION OF WITHHOLDING CERTIFICATES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	10/14/97	62 FR 53504
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carl M. Cooper
Phone: 202 622-3840

RIN: 1545–AV27

3043. REQUIRED DISTRIBUTIONS FROM QUALIFIED PLANS AND INDIVIDUAL RETIREMENT PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/97	62 FR 67780
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Cathy A. Vohs
Phone: 202 622-6090

RIN: 1545–AV82

3044. FOREIGN TAX CREDIT ANTI-ABUSE REGULATION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bethany Ingwalson
Phone: 202 622-3850

RIN: 1545–AV97

3045. ALLOCATION OF LOSS ON DISPOSITION OF PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/11/99	64 FR 1571
Cancellation of Public Hearing	05/14/99	64 FR 26348
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David A. Juster
Phone: 202 622-3850

RIN: 1545–AW09

3046. STOCKS AND SECURITIES SAFE HARBOR EXCEPTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32164
Hearing	09/09/98	63 FR 32164
NPRM Comment Period End	09/10/98	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Milton M. Cahn
Phone: 202 622-3870

RIN: 1545–AW13

3047. SECTION 988—CONTINGENT DEBT INSTRUMENT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Milton M. Cahn
Phone: 202 622-3870

RIN: 1545–AW33

3048. CONVERSION TO THE EURO

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/29/98	63 FR 40383
NPRM Comment Period End	10/01/98	
Hearing Cancelled	10/16/98	63 FR 55564
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John W. Rogers
Phone: 202 622-3870

RIN: 1545–AW43

3049. SOURCE OF INCOME FROM CERTAIN SPACE AND OCEAN ACTIVITIES AND FOR COMMUNICATIONS INCOME

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3903
Hearing	05/23/01	66 FR 12916
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Edward R. Barret
Phone: 202 874-1490

RIN: 1545–AW50

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3050. GUIDANCE UNDER SUBPART F RELATING TO CERTAIN HYBRID TRANSACTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/13/99	64 FR 37727
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Valerie A. Mark
Phone: 202 622-3840

RIN: 1545–AW63

3051. RULES FOR SOURCING CERTAIN TRANSPORTATION INCOME, SPACE OR OCEAN ACTIVITY INCOME, AND RELATED FOREIGN BASE COMPANY SHIPPING INCOME

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia A. Bray
Phone: 202 622-3880

RIN: 1545–AX02

3052. GUARANTEED INVESTMENT CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/27/99	64 FR 46876
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rose M. Weber
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AX22

3053. CHANGES IN ENTITY CLASSIFICATION: SPECIAL RULE FOR CERTAIN FOREIGN ELIGIBLE ENTITIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	11/29/99	64 FR 66591
Public Hearing	01/31/00	
NPRM Comment Period End	02/28/00	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Aaron A. Farmer
Phone: 202 622-3860

RIN: 1545–AX39

3054. DEFINITION OF PRIVATE ACTIVITY BOND—REFUNDING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/94	59 FR 67658
NPRM Comment Period End	05/01/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bruce M. Serchuk
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AX55

3055. STOCK TRANSFER RULES: CARRYOVER OF EARNINGS AND TAXES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	11/15/00	65 FR 69138
Final Action	06/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

Agency Contact: Bethany Ingwalso
Phone: 202 622-3850

RIN: 1545–AX65

3056. EQUITY OPTIONS WITH FLEXIBLE TERMS

Priority: Substantive, Nonsignifica

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR
NPRM	01/18/01	66 FR
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesse

Government Levels Affected: No

Agency Contact: Pamela Lew
Phone: 202 622-3950
Fax: 202 622-5699

RIN: 1545–AX66

3057. ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND CERTAIN OTHER EXPENSES

Priority: Substantive, Nonsignifica

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR
NPRM	02/05/90	55 FR
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Agency Contact: David F. Bergk
Phone: 202 622-3850

RIN: 1545–AX72

3058. CLARIFICATION OF ENTIT CLASSIFICATION RULES REGA ENTITIES CLASSIFIED AS CORPORATIONS

Priority: Substantive, Nonsignifi

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FI
NPRM	01/12/01	66 F
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

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Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Camille B. Evans
Phone: 202 622-3860

RIN: 1545–AX75

3059. DEFINITION OF PASSIVE FOREIGN INVESTMENT COMPANY UNDER SECTION 1297

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Margaret A. Fung
Phone: 202 622-3840

RIN: 1545–AX78

3060. PROCUREMENT/PURCHASING CARD REPORTING

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Donna J. Welch
Phone: 202 622-4910
Fax: 202 927-9248

RIN: 1545–AX86

3061. APPLICATION OF SEPARATE FOREIGN TAX CREDIT LIMITATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/03/01	66 FR 319
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bethany Ingwalson
Phone: 202 622-3850

RIN: 1545–AX88

3062. CLARIFICATION OF FOREIGN-BASED COMPANY SALES INCOME RULES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Valerie A. Mark
Phone: 202 622-3840

RIN: 1545–AX91

3063. CAPITALIZATION OF INTEREST AND CARRYING CHARGES PROPERLY ALLOCABLE TO STRADDLES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4746
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Truchly
Phone: 202 622-3960

RIN: 1545–AX92

3064. HEDGING TRANSACTIONS UNDER SECTION 1221(A)(7) AND SECTION 446

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4736
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Elizabeth Handler
Phone: 202 622-3940

RIN: 1545–AY02

3065. GUIDANCE UNDER SECTION 894

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Karen Rennie Quarrie
Phone: 202 622-3880

RIN: 1545–AY03

3066. INVESTMENT TYPE PROPERTY (PREPAYMENT)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/25/99	64 FR 46320
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Johanna L. Som de Cerff
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AY12

3067. GUIDANCE UNDER SECTION 894 (TEMPORARY)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	02/27/01	66 FR 12445
Hearing	06/26/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Karen Rennie Quarrie
Phone: 202 622-3880

RIN: 1545–AY13

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3068. ACTIVE CONDUCT OF AN INSURANCE BUSINESS UNDER PFIC RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Mark R. Pollard
Phone: 202 622-3860

RIN: 1545–AY20

3069. DISALLOWANCE OF DEDUCTIONS AND CREDITS FOR FAILURE TO FILE TIMELY RETURN

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Nina E. Chowhdry
Phone: 202 622-3880

RIN: 1545–AY26

3070. SECTION 1503(D) REGULATION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Camille B. Evans
Phone: 202 622-3860

RIN: 1545–AY27

3071. WITHHOLDING TAX ON FOREIGN PARTNERS' SHARE OF EFFECTIVELY CONNECTED INCOME

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Cont t: Eliana D. Dolgoff
Phone: 202 622-3860

RIN: 1545–AY28

3072. TAXABLE YEARS OF CFCS AND FPHCS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Carl M. Cooper
Phone: 202 622-3840

RIN: 1545–AY30

3073. ALLOCATION OF INCOME AND DEDUCTIONS FROM INTANGIBLES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: John M. Breen
Phone: 202 874-1490

RIN: 1545–AY38

3074. SECTION 367(D) REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Eliana D. Dolgo
Phone: 202 622-3860

RIN: 1545–AY41

3075. SPECIAL RULES FOR S CORPORATIONS UNDER SECTIO 301.7701(B)-7

Priority: Substantive, Nonsignifica

CFR Citation: 26 CFR 301; 26 CF

Timetable: Next Action Undeterm

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: Undetermined

Agency Contact: David A. Juster
Phone: 202 622-3850

RIN: 1545–AY44

3076. GUIDANCE UNDER SUBPA RELATING TO PARTNERSHIPS

Priority: Substantive, Nonsignifica

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR
NPRM	09/20/00	65 FR 5
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governme Jurisdictions

Government Levels Affected: Non

Agency Contact: Valerie A. Mark
Phone: 202 622-3840

RIN: 1545–AY45

3077. ELECTRONIC FURNISHING PAYEE STATEMENTS

Priority: Substantive, Nonsignifican

CFR Citation: 26 CFR 1; 26 CFR 31

Timetable:

Action	Date	FR C
NPRM	02/14/01	66 FR 10
NPRM Comment Period End	07/06/01	66 FR 32
Public Hearing	07/25/01	66 FR 32
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Laura C. Nash
Phone: 202 622-3050

RIN: 1545–AY50

3078. PREVIOUSLY TAXED EARNINGS AND PROFITS UNDER SUBPART F

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Kelley M. Kogan
Phone: 202 622-3840

RIN: 1545–AY54

3079. GUIDANCE UNDER SECTION 1275(A)(1)(B)(II)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/12/01	66 FR 2852
Cancelled Public Hearing	05/23/01	66 FR 28407
Public Hearing	05/30/01	66 FR 2852

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patrick E. White
Phone: 202 622-3920

RIN: 1545–AY60

3080. GUIDANCE ON REPORTING OF DEPOSIT INTEREST PAID TO NONRESIDENT ALIENS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3925
Hearing	06/21/01	66 FR 3925
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kate Y. Hwa
Phone: 202 622-3840

RIN: 1545–AY62

3081. REQUIRED DISTRIBUTIONS FROM RETIREMENT PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 54

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3928

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cathy A. Vohs
Phone: 202 622-6090

RIN: 1545–AY69

3082. REQUIRED DISTRIBUTIONS FROM RETIREMENT PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 54

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3928

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cathy A. Vohs
Phone: 202 622-6090

RIN: 1545–AY70

3083. OBLIGATION OF STATES AND POLITICAL SUBDIVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4754

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Rose M. Weber
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AY71

3084. DISCLOSURE OF RETURNS AND RETURN INFORMATION BY OTHER AGENCIES (TEMPORARY)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
Temporary Regulation	08/31/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Julie C. Schwartz
Phone: 202 622-4570

RIN: 1545–AY78

3085. • CHARITABLE LEAD INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 2055; 26 USC 2522; 26 USC 170

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations conform the sections 170, 2055, and 2522 regulations to the decision in Estate of Boeshore v. Commissioner, T.C. 523 (1982) acq. in result, 1987-2 C.B. 1. The opinion found that section 20.2055-2(c)(2)(vi)(e) was invalid to the extent that it held that an estate tax charitable deduction was precluded because a private unitrust interest was payable from the trust before the commencement of the charitable unitrust interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-115781-01

Drafting attorney: Susan B. Hurwitz (202) 622-3090

Reviewing attorney: George Masnik (202) 622-3090

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CC:P&SI

Agency Contact: Susan B. Hurwitz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AY86

3086. • NET GIFT TREATMENT—SECTION 2519

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 25

Legal Deadline: None

Abstract: This regulation section is intended to cover the effect of gift tax recovered by the donor, pursuant to the right of recovery under section 2207A, on the amount of the gift under section 2519 (i.e., whether the transfer is a "net gift"). The section was reserved when the regulations under section 2519 were finalized, because of uncertainty regarding whether section 2207A shifts the liability for the gift tax to the beneficiaries of the transfer. After considering the issue in conjunction with several TAMS and PLRS, we have adopted a position that section 2207A does not shift the liability for the gift tax imposed on a section 2519 transfer.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-123345-01

Drafting attorney: DeAnn K. Malone (202) 622-7830

Reviewing attorney: Melissa Liquerman (202) 622-7076

CC:P&SI

Agency Contact: DeAnn K. Malone, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7830

RIN: 1545–AY91

3087. • SECTION 1441 PROPOSED REGULATION (PROMULGATES NOTICES 2000-4 AND 2000-11)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will promulgate Notices 2001-4 and 2001-11 into the section 1441 regulation. Generally, the Notices provide transitional relief with respect to the new withholding regime for qualified intermediaries.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: REG-125443-01

Drafting attorney: Laurie M. Hatten-Boyd (202) 622-3840

Reviewing attorney: Valerie Mark (202) 622-3840

CC:INTL

Agency Contact: Laurie M. Hatten-Boyd, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AY92

3088. • GUIDANCE UNDER IRC SECTION 4374

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4374

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project is intended to amend Treas Reg. section 46.4374-1(a), which deals with an excise tax imposed on foreign insurers or reinsurers. The existing regulation was published in 1970 and provides that the "tax shall be remitted by the person who makes the payment of the premium to a foreign insurer or reinsurer or to any nonresident agent, solicitor, or broker. For purposes of this paragraph, the person who makes payment means t resident person who actually transfe the money, check, or its equivalent t the foreign insurer or reinsurer (including transfers to any bank, trus fund, or similar recipient, designated by the foreign insurer or reinsurer), to any nonresident agent, solicitor, o broker." In 1976, I.R.C. section 4374 was amended to impose liability on "any person who makes, signs, issue or sells any of the documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued or sold." There have been cases recently where a foreign parent corporation, for examp has purchased from a foreign insurer policies covering risks, and for the benefit of, a U.S. subsidiary. The IRS often has no ability to collect the exc tax on such a policy from the foreign parent, and the U.S. subsidiary has relied on the existing regulation to argue that the IRS may not collect th tax from the subsidiary, because it di not actually pay the premium to the foreign insurer.

Timetable: Next Action Undetermine

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: REG-125450

Drafting attorney: Amanda A. Ehrlich (202) 622-3880

Reviewing attorney: W. Edward Williams (202) 622-3880

Treasury attorney: Michael Caballero (202) 622-0851

CC:INTL

Agency Contact: Amanda A. Ehrlich Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3880

RIN: 1545–AY93

3089. • DEFINITION OF AGENT FOR PURPOSES OF I.R.C. SECTIONS 6103(1) AND (M) AND SAFEGUARD CERTIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 U.S.C 6103

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This proposed rule relates the definition of agent for purposes o

I.R.C. sections 6103(l) and (m) and safeguard certifications.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal, Local

Additional Information: REG-120135-01

Drafting attorney: Helene R. Newsome (202) 622-4580

Reviewing attorney: David L. Fish (202) 622-4580

CC:P&A:D&PL

Agency Contact: Helene R. Newsome, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4580

RIN: 1545–AY94

3090. • TERMINATION OF QSUB ELECTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1361; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides revised examples under section 1.362-5(c)(3)relating to corporations terminating QSub elections.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-126859-01

Drafting attorney: Pietro Emile Canestrelli (202) 622-3484

Reviewing attorney: Jeanne Sullivan (202) 622-3070

CC:P&SI

Agency Contact: Pietro Emile Canestrelli, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3484

RIN: 1545–AY95

3091. • TITLE—ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This rule provides guidance with respect to methods of apportioning interest expense under section 864(e).

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-129447-01

Drafting attorney: Melissa D. Arndt (202) 622-3850

Reviewing attorney: Anne Devereaux (202) 622-3850

Treasury attorney: Patricia Brown (202) 622-1781

CC:INTL

Agency Contact: Melissa D. Arndt, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3850

RIN: 1545–BA02

3092. • CONSOLIDATED RETURNS; INVESTMENT ADJUSTMENTS INVOLVING PREFERRED STOCK

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendments to section 1.1502-32(c) of the consolidated return regulations dealing with the allocation of stock basis adjustments between common and preferred stock.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-141652-01

Drafting attorney: Thomas I. Russell (202) 622-7930

Reviewing attorney: Steve Hankin (202) 622-7930

CC:CORP

Agency Contact: Thomas I. Russell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7930

RIN: 1545–BA15

3093. • PROPOSED REGULATION FOR PROCUREMENT/PURCHASING CARD REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6041; 26 USC 3406; 26 USC 6724

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance on the rules relating to information reporting, backup withholding, and penalties for transactions with payments made with a procurement/purchasing card.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: REG-116641-01

Drafting attorney: Donna J. Welch (202) 622-4910

CC:P&A:APJP

Agency Contact: Donna J. Welch, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4910
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RIN: 1545–BA17

3094. • COUNTING 2100 NOTICES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 3406

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CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will amend the rule for determining the number of notices a payer received from the Internal Revenue Service for purposes of determining whether a payer must impose back up withholding pursuant to section 31.3406(d).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116644-01

Drafting attorney: Nancy L. Rose (202) 622-4910

CC:P&A:APJP

Agency Contact: Nancy L. Rose, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–BA18

3095. • CERTAIN PROPERTY TRANSFER TO REGULATED INVESTMENT COMPANIES (RICS) AND REAL ESTATE INVESTMENT TRUSTS (REITS)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 337; 26 USC 7805

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: These regulations implement provisions of the Tax Reform Act of 1986 relating to Certain Property Transfers to Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REITs).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: REG-142299-01

Drafting attorney: Lisa A. Fuller (202) 622-7750

Reviewing attorney: Mark S. Jennings (202) 622-7750

Treasury attorney: Audrey Nacamuli (202) 622-5721

CC:CORP

Agency Contact: Lisa A. Fuller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–BA21

3096. • JUDICIAL APPROVAL OF PRINCIPAL RESIDENCE SEIZURES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6334

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The purpose of this regulation is to describe the judicial procedures for approval of a principal residence seizure, pursuant to I.R.C. sections 6334(a)(13(B)(i) and 6334(e)(1).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-140376-01

Drafting attorney: Robin M. Ferguson (202) 622-3610

Reviewing attorney: Alan Levine (202 622-3610

CC:P&A:CB&S

Agency Contact: Robin M. Ferguson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3610

RIN: 1545–BA22

3097. • DEALINGS BETWEEN TAXPAYERS AND THEIR QBLIS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will implement the directives of IRC secti 6038C.

Timetable: Next Action Undetermine

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-130865-

Drafting attorney: Garrett D. Gregory (202) 622-3870

Reviewing attorney: Paul S. Epstein (202) 622-3870

CC:INTL

Agency Contact: Garrett D. Gregory, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–BA28

Department of the Treasury (TREAS)
Internal Revenue Service (IRS) **Completed Actio**

3098. FOREIGN GRANTOR TRUSTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8955	07/20/01	66 FR 37886

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Willard W. Yates
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AO75

3099. PASSIVE FOREIGN INVESTMENT COMPANIES—SPECIA RULES FOR FOREIGN BANKS AND SECURITIES DEALERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

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Completed:

Reason	Date	FR Cite
Withdrawn	09/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret A. Fung
Phone: 202 622-3840

RIN: 1545–AS46

3100. CIVIL CAUSE OF ACTION FOR CERTAIN UNLAWFUL COLLECTION ACTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin B. Connelly
Phone: 202 622-3630

RIN: 1545–AU68

3101. WITHDRAWAL OF NOTICE OF FEDERAL TAX LIEN

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8951	06/22/01	66 FR 33464

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin B. Connelly
Phone: 202 622-3630

RIN: 1545–AV00

3102. EIC ELIGIBILITY

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8953	06/25/01	66 FR 33636

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karin Loverud
Phone: 202 622-6060

RIN: 1545–AV61

3103. QUALIFIED ZONE ACADEMY BONDS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8903	09/26/00	65 FR 57732

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Timothy L. Jones
Phone: 202 622-3980

RIN: 1545–AV75

3104. SPECIAL RULES REGARDING THE SIMPLIFIED PRODUCTION AND RESALE METHODS WITH HISTORIC ABSORPTION RATIO ELECTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn	07/03/01	66 FR 35112

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cheryl L. Oseekey
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RIN: 1545–AW54

3105. QUALIFIED ZONE ACADEMY BONDS CREDIT RATE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8903	09/26/00	65 FR 57732

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Allan B. Seller
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RIN: 1545–AX03

3106. DEPOSIT OF EXCISE TAXES—REVISION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 40

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8963	08/09/01	66 FR 41775

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan Athy
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RIN: 1545–AX11

3107. GROUPING RULES FOR FOREIGN SALES CORPORATION TRANSFER PRICING

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8944	03/06/01	66 FR 13427

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Bello
Phone: 202 874-1490

RIN: 1545–AX41

3108. NOTIONAL PRINCIPAL CONTRACTS AND OTHER FINANCIAL PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without publication	08/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Handler
Phone: 202 622-3940

RIN: 1545–AX45

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Completed Actions

3109. DISCLOSURES OF RETURN INFORMATION TO OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE FOR CERTAIN STATISTICAL PURPOSES AND RELATED ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8958	07/31/01	66 FR 39437

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Jennifer S. McGinty
Phone: 202 622-4580

RIN: 1545–AX69

3110. AUTOMATIC EXTENSION FOR FORM 706

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 20

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8957	07/25/01	66 FR 38544

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Berman
Phone: 202 622-3090

RIN: 1545–AX98

3111. REGULATIONS GOVERNING PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 10

Completed:

Reason	Date	FR Cite
Public Hearing	05/02/01	66 FR 3277
Withdrawn	06/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brinton T. Warren
Phone: 202 622-4940

RIN: 1545–AY07

3112. CLASSIFICATION OF CERTAIN EMPLOYEE BENEFIT TRUSTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8962	08/09/01	66 FR 41778

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James A. Quinn
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RIN: 1545–AY09

3113. GUIDANCE UNDER SECTION 6302 REGARDING THE FEDERAL TAX DEPOSIT SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8952	06/26/01	66 FR 33830

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brinton T. Warren
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RIN: 1545–AY10

3114. BROKER'S COMMISSIONS AND SIMILAR FEES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn	09/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Rose M. Weber
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RIN: 1545–AY15

3115. INTEREST FREE ADJUSTMENTS UNDER SECTION 6205

Priority: Info./Admin./Other

CFR Citation: 26 CFR 31

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8959	08/01/01	66 FR 3963

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Lynne A. Camillo
Phone: 202 622-6040

RIN: 1545–AY21

3116. RECOGNITION OF GAIN ON CERTAIN TRANSFERS TO FOREIGN TRUSTS AND ESTATES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8956	07/20/01	66 FR 3789

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Rennie Quarri
Phone: 202 622-3880

RIN: 1545–AY25

3117. NONDISCRIMINATION REQUIREMENTS FOR CERTAIN DEFINED CONTRIBUTION RETIREMENT PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8954	06/29/01	66 FR 3453

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda S.F. Marshall
Phone: 202 622-6090

RIN: 1545–AY36

3118. REGULATIONS IMPLEMENTING SECTION 420(C)(3)(E)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

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Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8948	06/19/01	66 FR 32897

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vernon Carter
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RIN: 1545–AY43

3119. 6302 DE MINIMIS THRESHOLD

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8946	05/23/01	66 FR 28370

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brinton T. Warren
Phone: 202 622-4940

RIN: 1545–AY47

3120. TIME FOR FILING FORM 1139 BY A CONSOLIDATED GROUP

Priority: Info./Admin./Other

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8950	06/22/01	66 FR 33462

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher M. Bass
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RIN: 1545–AY58

3121. WITHDRAWAL OF SECTION 301.6656-1 AND SECTION 301.6656-2

Priority: Info./Admin./Other

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8947	06/15/01	66 FR 32541

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robin M. Tuczak
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RIN: 1545–AY79

3122. • SPECIAL AGGREGATE STOCK OWNERSHIP RULES UNDER 1.1502-34

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502; 26 USC 732

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations incorporate a technical correction that in substance, provides that the stock aggregation rules under section 1.1502-34 apply for purposes of section 732(f) of the Code.

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8949	06/19/01	66 FR 32901

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-109828-01

Drafting attorneys: Frances Kelly (202) 622-7770

David Kessler (202) 622-7770

Reviewing attorney: Edward S. Cohen (202) 622-7770

CC:CORP

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RIN: 1545–AY80

3123. • TAXABLE FUEL MEASUREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: Regulation will provide rules for measuring taxable fuel.

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8945	05/18/01	66 FR 27597

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-115344-01

Drafting attorney: Frank Boland (202) 622-3130

Reviewing attorney: Richard Kocak (202) 622-3130

Treasury attorney: John Parcell (202) 622-2578

CC:P&SI

Agency Contact: Frank K. Boland, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AY85

3124. • SECTION 355(E) TEMPORARY GUIDANCE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 355

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary guidance on section 355(e) of the Internal Revenue Code. Section 355(e) provides that a distributing corporation will recognize gain on the distribution of stock of a controlled corporation if 50 percent of the stock of the distributing corporation or controlled corporation is acquired pursuant to a plan that includes the distribution.

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8960	08/03/01	66 FR 40590

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-107566-00

Drafting attorney: Megan R. Fitzsimmons (202) 622-7790

Reviewing attorney: Stephen Fattman (202) 622-7530

Treasury attorney: Audrey Nacamuli (202) 622-5721

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RIN: 1545–BA01

3125. • MODIFICATION OF TAX SHELTER RULES II

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6011; 26 USC 6111; 26 USC 6112; 26 USC 7805

CFR Citation: 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: Guidance on the registration of corporate tax shelters under 6111(d), the filing by certain corporate tax shelters of a statement with their Federal corporate income tax returns under section 6011(a), and the maintenance of lists of investors in potentially abusive tax shelters under section 6112.

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8961	08/07/01	66 FR 41133

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103735-00; REG-103736-00 & REG-110311-98

Drafting attorney: Danielle M. Grimm (202) 622-3080

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RIN: 1545–BA04

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Department of the Treasury (TREAS)
Office of Thrift Supervision (OTS)

Prerule Sta

3126. • COMMUNITY REINVESTMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2901 et seq.

CFR Citation: 12 CFR 563e

Legal Deadline: None

Abstract: The OCC, Board, FDIC, and OTS have begun a review of the agencies' Community Reinvestment Act regulations. The agencies issued a joint ANPR seeking public comment on a wide range of questions as part of the review.

Timetable:

Action	Date	FR Cite
Joint ANPR	07/19/01	66 FR 37602
Joint ANPR Comment Period End	10/17/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1550–AB48

Department of the Treasury (TREAS)
Office of Thrift Supervision (OTS)

Proposed Rule Sta

3127. CAPITAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1835; 12 USC 1848; 12 USC 4808

CFR Citation: 12 CFR 567

Legal Deadline: None

Abstract: OTS currently has underway a number of regulatory amendments to its capital standards for savings associations. These amendments implement section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA). CDRIA requires the Federal banking agencies to make their capital rules and other rules more uniform.

The agencies have jointly issued a proposed rule that would treat recourse obligations and direct credit substitutes consistently and that would vary the risk-based capital requirement for positions in securitized asset transactions according to relative risk exposure; and a proposed rule that would amend regulatory capital standards concerning the treatment o certain residual interests in asset securitizations and other transfers of financial assets. These rules will be combined at the final rule stage.

In addition, the agencies issued an advance notice of proposed rulemaking developing a simplified capital adequacy framework for small, non-complex institutions. Based on this ANPR, the agencies plan to issue a proposed rule modifying the capital adequacy framework for domestic institutions that are not subject to the Basel Accord. Also, the agencies may issue an ANPR or proposed rule addressing the treatment of assets under management in asset securitizations. Finally, the agencies intend to finalize the proposed rule on risk-based capital standards for claims on securities firms.

Timetable:

Claims on Securities Firms
NPRM 12/06/00 (65 FR 76180)
NPRM Comment Period End 01/22/01
Final Rule 11/00/01
Managed Assets
ANPR or NPRM 01/00/02
Modified Domestic Capital Framework (Simplified Capital Adequacy Framework for Small, Non-Complex Institutions)
ANPRM 11/03/00 (65 FR 66193)
ANPRM Comment Period End 02/01/01
NPRM 03/00/02
Recourse Arrangements and Direct Credit Substitutes/Residuals in Securitizations
Recourse ANPRM 05/25/94 (59 FR 27116)
Recourse NPRM 05/25/94 (59 FR 27116)
Recourse NPRM 11/05/97 (62 FR 59944)
Recourse NPRM Correction 11/20/97 (62 FR 62234)
Recourse NPRM 03/08/00 (65 FR 12320)
Recourse NPRM Comment Period End 06/07/00
Residuals NPRM 09/27/00 (65 FR 57993)
Residuals NPRM Comment Period End 12/26/00
Recourse/Residuals Final Rule 11/00/01

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1550–AB11

3128. DIRECTORS AND OFFICERS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464

CFR Citation: 12 CFR 545; 12 CFR 563

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking to reorganize, revise and streamline its regulations on directors and officers. The rule will address indemnification, board composition requirements, compensation, employment contracts, extensions of credit to outsiders, conflicts of interest, and corporate opportunity.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Robyn Dennis, Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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RIN: 1550–AB19

3129. DUE-ON-SALE AND USURY PREEMPTION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1464; 12 USC 1701j-3; 12 USC 1735f-7a

CFR Citation: 12 CFR 590; 12 CFR 591

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking to convert into a "plain language" format 12 CFR parts 590 and 591, concerning preemption of state usury and due-on-sale laws.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

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RIN: 1550–AB25

3130. FAIR CREDIT REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1828; ...

CFR Citation: 12 CFR 571

Legal Deadline: Final, Statutory, May 12, 2000.

Abstract: OTS and the other Federal banking agencies are developing regulations implementing provisions of the Fair Credit Reporting Act. Subject to certain conditions, these regulations permit institutions to share "other information" with affiliates without becoming consumer reporting agencies (affiliate sharing). The proposed regulations specified that institutions must provide notice and an opportunity to opt-out to consumers before sharing "other information" with their affiliates.

The agencies have analyzed the comments received and are now in the process of developing a revised notice of proposed rulemaking.

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Timetable:

Action	Date	FR Cite
NPRM	10/20/00	65 FR 63120
NPRM Comment Period End	12/04/00	
NPRM Update	03/27/01	66 FR 16624
Second NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1550–AB33

3131. LENDING AND INVESTMENT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a

CFR Citation: 12 CFR 559; 12 CFR 560

Legal Deadline: None

Abstract: OTS is revising its lending regulations to give federal savings associations greater flexibility in making community-related investments.

Timetable:

Action	Date	FR Cite
ANPRM	04/05/00	65 FR 17811
ANPRM Comment Period End	07/05/00	
NPRM	11/01/01	66 FR 55131
NPRM Comment Period End	12/03/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: RIN 1550-AB40, Lending and Investment—Miscellaneous Changes was merged with this RIN.

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RIN: 1550–AB37

3132. • FIDUCIARY POWERS OF SAVINGS ASSOCIATIONS; RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464

CFR Citation: 12 CFR 550; 12 CFR 551

Legal Deadline: None

Abstract: OTS plans to issue a proposed rule amending 12 CFR 550, subpart E, to reflect current supervisory policy; amending part 550 to codify recent OTS interpretive letters; and adopting new recordkeeping and confirmation requirements for securities transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

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RIN: 1550–AB49

3133. • AUTHORITY FOR NONGRANDFATHERED SAVINGS A LOAN HOLDING COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 US 1462a; 12 USC 1463; 12 USC 1464; 1 USC 1467a; 12 USC 1468

CFR Citation: 12 CFR 584

Legal Deadline: None

Abstract: OTS plans to issue a proposed rule stating that the financi activities authorized for financial holding companies by the Gramm-Leach-Bliley Act are authorized for nongrandfathered savings and loan holding companies. The rule would describe how the conditions applied these activities by the Federal Reserv Board apply to such savings and loa holding companies, and outlines the process OTS will use to review activities complementary to financial activities.

Timetable:

Action	Date	FR Cit
NPRM	11/08/01	66 FR 564
NPRM Comment Period End	12/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1550–AB52

Department of the Treasury (TREAS)
Office of Thrift Supervision (OTS)

Final Rule Stage

3134. MUTUAL SAVINGS ASSOCIATIONS, MUTUAL HOLDING COMPANY REORGANIZATIONS, AND CONVERSIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 15 USC 78n; 15 USC 78w; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 2901; 15 USC 78c; 15 USC 78l; 15 USC 78m

CFR Citation: 12 CFR 563b; 12 CFR 575

Legal Deadline: None

Abstract: OTS has issued an interim final rule: 1) amending its regulations governing repurchases of stock of insured savings associations following a conversion; 2) implementing changes regarding dividend waivers for mutual holding companies; and 3) incorporating changes resulting from the Gramm-Leach-Bliley Act.

OTS has also issued a notice of proposed rulemaking that would implement a comprehensive strategy governing mutual institutions, mutual holding company reorganizations, and the mutual to stock conversion process.

OTS will publish a final rule combining these two rulemakings.

Timetable:

Action	Date	FR Cite
NPRM	07/12/00	65 FR 43092
Interim Final Rule	07/12/00	65 FR 43088
NPRM Comment Period End	11/09/00	65 FR 60123
Interim Final Rule Comment Period End	11/09/00	65 FR 60095
Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1550–AB24

3135. CAPITAL: QUALIFYING MORTGAGE LOAN, INTEREST RATE RISK COMPONENT, AND MISCELLANEOUS CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; ...

CFR Citation: 12 CFR 567

Legal Deadline: None

Abstract: OTS issued a proposed rule making miscellaneous changes to its capital regulations. The changes would eliminate unnecessary capital burdens and align OTS capital regulations more closely to those of the other banking agencies.

Timetable:

Action	Date	FR Cite
NPRM	03/15/01	66 FR 15049
NPRM Comment Period End	05/14/01	
Final Rule	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1550–AB45

Department of the Treasury (TREAS)
Office of Thrift Supervision (OTS)

Long-Term Actions

3136. • RESPONSIBLE ALTERNATIVE MORTGAGE LENDING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; ...

CFR Citation: 12 CFR 560

Legal Deadline: None

Abstract: OTS is reviewing its lending regulations affecting residential mortgage lending, including the rules implementing the Alternative Mortgage Transaction Parity Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Theresa A. Stark, Project Manager, Compliance Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7054

Paul Robin, Assistant Chief Counsel, Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6648

Koko Ives, Counsel (Banking and Finance), Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6661

RIN: 1550–AB51

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Department of the Treasury (TREAS)
Office of Thrift Supervision (OTS)

Completed Actions

3137. TYPES OF OFFICES

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 545

Completed:

Reason	Date	FR Cite
Withdrawn	08/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Bennett
Phone: 202 906-7409

Deborah S. Merkle
Phone: 202 906-5688

RIN: 1550–AB18

3138. NONDEPOSIT INVESTMENT PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 545; 12 CFR 563

Completed:

Reason	Date	FR Cite
Withdrawn	08/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff Lischer
Phone: 202 906-7037

RIN: 1550–AB22

3139. HOLDING COMPANY ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 584

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Osterloh
Phone: 202 906-6639

Donna Deale
Phone: 202 906-7488

Kevin A. Corcoran
Phone: 202 906-6962

RIN: 1550–AB29

3140. REMOVAL OF LIQUIDITY REQUIREMENT

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 506; 12 CFR 560; 12 CFR 563; 12 CFR 566; 12 CFR 584

Completed:

Reason	Date	FR Cite
Interim Final Rule	03/15/01	66 FR 15015
Interim Final Rule Comment Period End	05/14/01	
Final Rule	07/18/01	66 FR 37406
Final Rule Effective	07/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sally Watts
Phone: 202 906-7380

Josephine Battle
Phone: 202 906-6870

RIN: 1550–AB42

3141. • CONVERSION FROM STOCK FORM DEPOSITORY INSTITUTION TO FEDERAL STOCK ASSOCIATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a

CFR Citation: 12 CFR 552

Legal Deadline: None

Abstract: OTS amended its regulation on conversion from stock form depository institutions to federal stock saving associations. It published a direct final rule that clarified that the resulting federal stock savings association in such transactions succeeds to all the rights, property, and obligations of the converting institution.

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/08/01	66 FR 23153
NPRM	05/08/01	66 FR 23198
NPRM Comment Period End	06/07/01	
Direct Final Rule Comment Period End	06/07/01	
Direct Final Rule Effective	07/09/01	
Confirmation of Direct Final Rule Effective	07/18/01	66 FR 37407

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Aaron Kahn, Special Counsel, Business Transactions Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6263

Kevin A. Corcoran, Assistant Chief Counsel, Business Transactions, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6962

RIN: 1550–AB46

3142. • ASSESSMENTS AND FEES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1467; 12 USC 1467

CFR Citation: 12 CFR 502

Legal Deadline: None

Abstract: OTS amended its assessment rule to more accurately reflect the increased costs of supervising 3-, 4-, and 5-rated institutions.

Timetable:

Action	Date	FR Cite
NPRM	04/30/01	66 FR 2128
NPRM Comment Period End	05/30/01	
Final Rule	06/21/01	66 FR 3315
Final Rule Effective	07/23/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Osterloh, Assistant Chief Counsel, Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6639

William Brady, Director, Planning and Budget, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7408

RIN: 1550–AB47

3143. • STUDY OF BANKING REGULATIONS RE: THE ONLINE DELIVERY OF FINANCIAL SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4801 note

CFR Citation: 12 CFR 555

TREAS—OTS **Completed Actions**

Legal Deadline: Other, Statutory, November 12, 2001, Report to Congress.

Abstract: OTS is studying its regulations on the online delivery of financial services. It will report its findings and conclusions to Congress, together with recommendations for appropriate action to adapt existing requirements to online banking and lending.

Timetable:

Action	Date	FR Cite
Study of Regulations; Request for Comment	06/11/01	66 FR 31186
Comment Period End	08/10/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Jo Johnson, Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5739

Richard Bennett, Counsel (Banking and Finance), Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-6648

RIN: 1550–AB50

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Federal Register

Monday,
December 3, 2001

Part XVI

Department of Veterans Affairs

Semiannual Regulatory Agenda

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DEPARTMENT OF VETERANS AFFAIRS (VA)

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Veterans Affairs.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Department of Veterans Affairs (VA) will have under development or review during the 12-month period beginning October 2001. The purpose in publishing the Department's regulatory agenda is to allow all interested persons the opportunity to participate in VA's regulatory planning.

ADDRESSES: Interested persons are invited to comment on the entries listed in the agenda by contacting the individual agency contact listed for each entry or by writing to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Gloria Armstrong at (202) 273-8605.

SUPPLEMENTARY INFORMATION: This document is issued pursuant to Executive Order 12866 "Regulatory Planning and Review" (and implementing guidance) and the Regulatory Flexibility Act, which require that executive agencies semiannually publish in the **Federal Register** an agenda of regulations th VA will have under development or review. For this edition of the Department of Veterans Affairs regulatory agenda, the most importa significant regulatory actions are included in The Regulatory Plan, w appears in part II of this issue of the **Federal Register**. The Regulatory Pl entries are listed in the table of cont below and are denoted by a bracket bold reference, which directs the re to the appropriate sequence numbe part II.

Thomas O. Gessel,

Director, Office of Regulations Managem

Department of Veterans Affairs—Prerule Stage

Sequence Number	Title	Regula Identific Numb
3144	Medication Prescribing Authority	2900-A
3145	Mandatory Disclosure of Social Security Number	2900-A
3146	Standards for Collection, Compromise, Suspension, or Termination of Collection Effort; Regional Office Committee on Waiver and Compromises	2900-A

Department of Veterans Affairs—Proposed Rule Stage

Sequence Number	Title	Regula Identific Numb
3147	Medical Care and Treatment for Which VA Will Not Seek Reimbursement	2900-A
3148	Clothing Allowance	2900-A
3149	Medical Benefits Package; Copayments for Extended Care Services	2900-A
3150	Enrollment Priority Category Status Changes	2900-A
3151	Healthcare for Children Born With One or More Covered Birth Defects to Vietnam Veterans	2900-A
3152	Enrollment—Provision of Hospital and Outpatient Care to Veterans—Priority Categories 5, 6, and 7	2900-A
3153	Payment for Non-VA Medical Services and Inpatient Care Provided at Non-VA Facilities	2900-A
3154	Reasonable Charges for Medical Care or Services	2900-A
3155	Schedule for Rating Disabilities—The Orthopedic System	2900-A
3156	Schedule for Rating Disabilities—Neurological Conditions and Convulsive Disorders	2900-A
3157	Schedule for Rating Disabilities—Digestive System	2900-A
3158	Total Disability Evaluations Based on Inability of the Individual To Engage in Substantially Gainful Employment	2900-A
3159	Evidence on File at Date of Death	2900-A
3160	Ankylosis and Limitation of Motion of Digits of the Hands	2900-
3161	Dependents Education: Eligibility and Entitlement Standards	2900-A
3162	Schedule for Rating Disability: The Spine	2900-A
3163	Education Provisions of the Veterans Programs Enhancement Act of 1998	2900-A
3164	Evidence of Permanent and Total Disability	2900-A
3165	Schedule for Rating Disabilities: Global Assessment of Functioning Scale in the Evaluation of Mental Disorders	2900-A
3166	Benefit of the Doubt	2900-A
3167	Permanent Incapacity for Self-Support	2900-A
3168	Presumptive Service Connection for Hepatitis C Infection	2900-A
3169	Minimum Active Duty Requirement	2900-A
3170	State Department as Agent of Department of Veterans Affairs	2900-A
3171	Commencement of the Period of Payment	2900-A
3172	Service Connection and Chronic Disability	2900-A
3173	Time Limits, Extensions, and Computation of Time Limits	2900-A

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Department of Veterans Affairs—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3174	Finality of Decisions	2900-AK16
3175	Delegation of Authority To Issue Decisions on Benefits Claims	2900-AK19
3176	Individuals and Groups Considered To Have Performed Active Military, Naval, or Air Service	2900-AK20
3177	Psychosis	2900-AK21
3178	Change of Law-Effect on Benefits	2900-AK22
3179	Renouncement of Benefits	2900-AK23
3180	Testimony in Support of Benefit Claims	2900-AK24
3181	Acceptable Evidence of Marriage, Divorce, Birth, Age, Biological Relationship, Child's Relationship, and Death	2900-AK26
3182	Acceptable Evidence of Void and Annulled Marriages	2900-AK27
3183	Independent Medical Opinions	2900-AK31
3184	Acceptable Evidence of Termination of Marital Relationship or Conduct	2900-AK35
3185	Evidence From Foreign Countries	2900-AK37
3186	National Service Life Insurance—Plain English Revision	2900-AK43
3187	Acceptable Evidence of Unexplained Absence for 7 Years	2900-AK49
3188	Validity of Enlistments	2900-AK59
3189	Computation of Service	2900-AK60
3190	Diseases Specific to Radiation-Exposed Veterans **(Reg Plan Seq No. 112)**	2900-AK64
3191	Monetary Allowances for Certain Children of Vietnam Veterans; Identification of Covered Birth Defects	2900-AK67
3192	Acceptable Evidence of Change in Status or Number of Dependents	2900-AK70
3193	Loan Guaranty: Pre-Purchase Counseling Requirements	2900-AK76
3194	Additional Disability or Death Due to Hospital Care, Medical or Surgical Treatment, Examination, Training and Rehabilitation Services, or Compensated Work Therapy Program	2900-AK77
3195	Veterans and Dependents Education: Topping Up Tuition Assistance and Payment for Licensing and Certification Tests	2900-AK80
3196	Veterans Education: Additional Opportunity To Participate in the Montgomery GI Bill and Other Miscellaneous Issues	2900-AK81
3197	Presumption of Service Connection for Cirrhosis of the Liver in Former Prisoners of War	2900-AK83
3198	Vocational Training for Certain Children of Vietnam Veterans—Covered Birth Defects and Spina Bifida	2900-AK90
3199	Conditional Discharge	2900-AK93
3200	Time Limit for Request for DeNovo Review	2900-AK97
3201	Evidence Requirements for Service and Character of Discharge	2900-AL03
3202	Veterans Education: Streamlining Approval of Courses	2900-AL07
3203	Universal Product Numbers (UPNs)	2900-AJ45
3204	Construction and Architect-Engineer Contracts	2900-AJ56
3205	Department of Veterans Affairs Acquisition Regulations Plain Language Rewrite	2900-AK78
3206	Board of Veterans' Appeals: Rules of Practice—Appeal Withdrawal	2900-AK71
3207	Board of Veterans' Appeals: Speeding Appellate Review for Aging Veterans	2900-AL06
3208	Headstone and Marker Inscription Policy	2900-AH45
3209	State Cemetery Grants: Aid to States for Establishment, Expansion, and Improvement of Veterans Cemeteries	2900-AH46
3210	Eligibility for Burial of Dependent Adult Children of Eligible Veterans; and Eligibility for Burial of Certain Filipino Veterans	2900-AI95
3211	Use of the Secretary's Authority as Provided by 38 U.S.C. 2402(6)	2900-AJ48
3212	Audits of States, Local Governments, and Nonprofit Organizations; Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	2900-AJ62

References in boldface appear in the **Regulatory Plan** in part II of this issue of the **Federal Register**.

Department of Veterans Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3213	Provision of Drugs and Medicines Prescribed by Non-VA Physicians	2900-AJ24
3214	Advanced Health Care Planning	2900-AJ26
3215	Provision of Drugs and Medicines to Certain Veterans in State Nursing Homes	2900-AJ34
3216	Grants to States for Construction and Acquisition of State Home Facilities	2900-AJ43
3217	Per Diem for Adult Day Health Care of Veterans in State Homes	2900-AJ74
3218	Policy Regarding Participation in National Practitioner Data Bank	2900-AJ76
3219	Compensated Work Therapy/Transitional Residences Program	2900-AK01

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Department of Veterans Affairs—Final Rule Stage (Continued)

Sequence Number	Title	Regula Identifi Num
3220	Payment or Reimbursement for Emergency Treatment Furnished at Non-VA Facilities **(Reg Plan Seq No. 113)**	2900-A
3221	Reasonable Charges for Medical Care or Services	2900-A
3222	Copayments for Inpatient Hospital Care and Outpatient Medical Care	2900-A
3223	Reasonable Charges for Medical Care or Services	2900-A
3224	Copayments for Medications **(Reg Plan Seq No. 114)**	2900-A
3225	Civilian Health and Medical Program of Department of Veterans Affairs (CHAMPVA)	2900-A
3226	Reasonable Charges for Medical Care or Services	2900-A
3227	Schedule for Rating Disabilities—The Skin	2900-A
3228	Revised Definition of Net Value and Revised Criteria for Pre-Foreclosure Debt Waivers	2900-A
3229	Vision	2900-A
3230	Intervertebral Disc Syndrome	2900-
3231	Claims Based on Aggravation of Nonservice-Connected Disability	2900-
3232	Veterans Education: Reporting and Recordkeeping Requirements at Flight Schools	2900-A
3233	Exclusions From Income	2900-A
3234	Accelerated Benefits Option for Servicemembers' Group Life Insurance and Veterans' Group Life Insurance	2900-A
3235	Loan Guaranty: Advertising and Solicitation Disclosure Requirements	2900-A
3236	Post-Traumatic Stress Disorder Claims Based on Personal Assault	2900-A
3237	Veterans Vocational Rehabilitation and Education: Title Change	2900-A
3238	Filipino Veterans Benefit Improvements	2900-A
3239	Special Monthly Compensation for Women Veterans Who Lose a Breast as a Result of a Service-Connected Disability	2900-A
3240	Duty to Assist	2900-A
3241	Exclusion From Countable Income of Expenses Paid for Veteran's Last Illness Subsequent to Veteran's Death but Prior to Date of Death Pension Entitlement	2900-A
3242	Claims Based on Exposure to Ionizing Radiation	2900-A
3243	Recoupment of Nondisability Severance Pay From VA Compensation	2900-A
3244	Certification for Eligibility for Adaptive Equipment for Automobiles or Other Conveyances	2900-A
3245	Extension of the Presumptive Period for Compensation for Gulf War Veterans' Undiagnosed Illnesses	2900-A
3246	Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve	2900-A
3247	Increase in Rates Payable Under the Dependents' Educational Assistance Program	2900-A
3248	Increase in Rates Payable Under the Montgomery GI Bill—Active Duty	2900-A
3249	Increase in Rates Payable Under the Educational Assistance Test Program	2900-A
3250	Department of Veterans Affairs Acquisition Regulation—Simplified Acquisition Procedures for Health Care Resources	2900-
3251	Sealed Bidding and Competitive Proposals	2900-
3252	Veterans Affairs Acquisition Regulation: Revisions to VA Acquisition Regulations Parts 801 through 805	2900-A
3253	Board of Veterans Appeals—Rules of Practice—Attorney Fee Matters	2900-
3254	Delegations of Authority—Appeals Regulations and Rules of Practice	2900-A
3255	Notice of Appeal in Simultaneously Contested Claims	2900-A
3256	The Board of Veterans Appeal; Rules of Practice—Motion for Review of Decisions on Grounds of Clear and Unmistakable Error: Content of Record; Advancement on the Docket	2900-
3257	Appeal Regulations, Rules of Practice: Use of Supplemental Statement of the Case	2900-A
3258	Rules of Practice: Medical Opinions From the Veterans Health Administration	2900-A
3259	Appeals Regulations: Title for Members of the Board of Veterans Appeals	2900-A
3260	Board of Veterans Appeals: Rules of Practice—Effect of Procedural Defects in Motions for Revision of Decisions on Grounds of Clear and Unmistakable Error	2900-A
3261	Board of Veterans' Appeals: Obtaining Evidence and Curing Procedural Defects Without Remanding	2900-A
3262	Interment or Memorialization in VA National Cemeteries and Certain State Cemeteries—Federal or State Capital Crime	2900-A
3263	Delegation of Authority—Decisionmaking Regarding Discrimination	2900-A
3264	Nondiscrimination on the Basis of Race, Color, or National Origin; Handicap; and Age in Programs and Activities Receiving Federal Assistance	2900-A
3265	Release of Information From Department of Veterans Affairs Records	2900-A
3266	Recognition of Organizations and Accreditation of Representatives	2900-

References in boldface appear in the **Regulatory Plan** in part II of this issue of the **Federal Register**.

VA

Department of Veterans Affairs—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3267	Protection of Human Subjects	2900-AJ08
3268	Waivers	2900-AK29
3269	Loan Guaranty: Multifamily Transitional Housing for Homeless Veterans Program	2900-AK58
3270	Amendments to Training and Rehabilitation Programs	2900-AG00
3271	Loan Guaranty: Revision to VA Work Rules for Credit Scored Loans	2900-AJ91
3272	Loan Guaranty: Credit Standards Revision	2900-AJ92
3273	Governmentwide Debarment and Suspension (Nonprocurement) and Requirement for Drug-Free Workplace (Assistance)	2900-AK16
3274	Plain Language (Reader Focused Writing) Initiative; National Service Life Insurance (NSLI)	2900-AL09
3275	Appeals Regulations; Rules of Practice	2900-AE78
3276	Rules of Practice; Hearings	2900-AG07
3277	Rules of Practice: Medical Opinions; Appeal Processing and Submission of Additional Evidence	2900-AG90
3278	Operation of Child Care Centers at VA Facilities	2900-AD48

Department of Veterans Affairs—Completed Actions

Sequence Number	Title	Regulation Identification Number
3279	Delegation of Authority—Loan Guaranty for Multifamily Transitional Housing for Homeless Veterans	2900-AK51
3280	Provision of Hospital and Outpatient Care to Veterans	2900-AK53
3281	Medical Benefits Package	2900-AK55
3282	Loan Guaranty: Title Evidence Requirements and Occupancy Requirements for Conveyance of Properties to VA	2900-AE20
3283	Acceptance of Partial Payments; Indemnification of Default	2900-AE60
3284	Certification Evidence for Proof of Service	2900-AJ55
3285	Review of Benefit Claims Decisions	2900-AJ99
3286	Revised Definition of a Program of Education Under the Montgomery GI Bill—Active Duty and Other Miscellaneous Issues	2900-AK06
3287	Signature by Mark	2900-AK07
3288	Schedule for Rating Disabilities: Disabilities of the Liver	2900-AK12
3289	Written and Oral Information on Statements Affecting Entitlement to Benefits	2900-AK25
3290	Acceptable Evidence of Marriage	2900-AK30
3291	Acceptable Evidence of Divorce	2900-AK34
3292	Acceptable Evidence of Birth	2900-AK36
3293	Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve	2900-AK40
3294	Veterans Education: Increased Allowance for the Educational Test Program	2900-AK41
3295	Increase in Rates Payable Under the Montgomery GI Bill—Active Duty and Survivors' and Dependents' Educational Assistance	2900-AK44
3296	End of the Service Members Occupational Conversion and Training Program	2900-AK45
3297	Acceptable Evidence of Child's Relationship	2900-AK47
3298	Acceptable Evidence of Death	2900-AK48
3299	U.S. Flags for Burials of Certain Members of the Selected Reserve	2900-AK56
3300	Disease Associated With Exposure to Certain Herbicide Agents: Type 2 Diabetes	2900-AK63
3301	Veterans Benefits and Health Care Improvement Act of 2000	2900-AK68
3302	Delegation of Authority—Portfolio Loan Servicing Contractor	2900-AK72
3303	Veterans Education: Topping Up Tuition Assistance	2900-AK79
3304	Board of Veterans Appeals: Rules of Practice—Subpoenas	2900-AJ58
3305	Notification of Representatives in Connection With Motions for Revision of Decisions on Grounds of Clear and Unmistakable Error	2900-AJ75
3306	Rules of Practice; Jursidiction	2900-AJ97
3307	Board of Veterans Appeals: Rules of Practice—Time for Filing Substantive Appeal	2900-AK54

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Department of Veterans Affairs (VA) — **Prerule St**

VETERANS HEALTH ADMINISTRATION

3144. MEDICATION PRESCRIBING AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17; 38 CFR 17.33

Legal Deadline: None

Abstract: The Veterans Health Administration of the Department of Veterans Affairs is considering amending its medical regulations to specify those who are eligible to prescribe medications. The supplementary information portion of the document contains a preliminary list of those under consideration for prescribing medications. To help formulate a proposed rule regarding medication prescribing authority, an advance notice of proposed rulemaking solicits written comments and announces a public hearing.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Audrey Crenshew Drake, Program Director Nursing (118), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8424
Fax: 202 273-9066
Email: audrey.drake@mail.va

RIN: 2900–AK05

VETERANS BENEFITS ADMINISTRATION

3145. • MANDATORY DISCLOSURE OF SOCIAL SECURITY NUMBER

Priority: Info./Admin./Other

Legal Authority: 38 USC 1806; 38 USC 5101(c)

CFR Citation: 38 CFR 3.216

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to amend its adjudication regulation concerning the mandatory disclosure of social security numbers. The intended effect is to present the existing regulation in "plain language."

Timetable:

Action	Date	FR Cite
ANPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AK82

OFFICE OF FINANCIAL MANAGEMENT

3146. STANDARDS FOR COLLECT COMPROMISE, SUSPENSION, OR TERMINATION OF COLLECTION EFFORT; REGIONAL OFFICE COMMITTEE ON WAIVER AND COMPROMISES

Priority: Substantive, Nonsignifican

Legal Authority: 31 USC 3700 et se 38 USC 501; 38 USC 5302; 38 USC 5314; 38 USC 5315

CFR Citation: 31 CFR 900 to 904; 3 CFR 1.900 to 1.970

Legal Deadline: None

Abstract: The Department of Vetera Affairs (VA) proposes to revise its current regulations on debt collecti by eliminating some and cross-referencing the remainder to the rev DOJ/Treasury Governmentwide Fed Claims Collection Standards (31 CF parts 900 to 904). These regulations will also be updated to comply wit the Debt Collection Improvement A of 1996. In addition, VA also propo to amend regulations pertaining to administration of our Regional Offi Committees on Waivers and Compromises.

Timetable:

Action	Date	FR C
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

Agency Contact: Peter T. Mulhern, Office of Finance (047GC1), Depart of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 2042
Phone: 202 273-5570
TDD Phone: 202 273 6574

RIN: 2900–AK10

Department of Veterans Affairs (VA) Proposed Rule Stage

VETERANS HEALTH ADMINISTRATION

3147. MEDICAL CARE AND TREATMENT FOR WHICH VA WILL NOT SEEK REIMBURSEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1729

CFR Citation: 38 CFR 17.107

Legal Deadline: None

Abstract: This document proposes to amend VA's medical regulations to provide that, under specified conditions, VA will not seek reimbursement from health insurance carriers or from veterans in the form of copayments for care or services not adjudicated as service connected.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Howard, Senior Program Analyst (174), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8198
Fax: 202 273-4897
Email: nancy.howard@hq.med.va.gov

RIN: 2900–AJ20

3148. CLOTHING ALLOWANCE

Priority: Info./Admin./Other

Legal Authority: 38 USC 1162

CFR Citation: 38 CFR 3.810

Legal Deadline: None

Abstract: The regulatory action needs to be amended to contain specific language that submission of torn, worn, damaged clothing is not a specific condition for approving clothing allowances.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frederick Downs Jr., Chief, Consultant, Prosthetic and Sensory Aids Strategic Healthcare Group, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8515

RIN: 2900–AJ21

3149. MEDICAL BENEFITS PACKAGE; COPAYMENTS FOR EXTENDED CARE SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1710; PL 106-117

CFR Citation: 38 CFR 17.36; 38 CFR 17.38; 38 CFR 17.111

Legal Deadline: None

Abstract: This document proposes to amend VA's medical regulations by adding the following extended care services to the medical benefits package: Noninstitutional adult day health care, noninstitutional geriatric evaluation, and noninstitutional respite care. Also, we propose to amend VA's medical regulations to establish provisions regarding copayments for extended care services. These actions would implement provisions of the Veterans Millennium Health Care and Benefits Act.

Timetable:

Action	Date	FR Cite
NPRM	10/04/01	66 FR 50594
NPRM Comment Period End	12/03/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2900–AK32

3150. ENROLLMENT PRIORITY CATEGORY STATUS CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721; PL 106-117

CFR Citation: 38 CFR 17.36

Legal Deadline: None

Abstract: Pursuant to the Veteran's Health Care Eligibility Reform Act of 1996, VA implemented a national enrollment system to manage the delivery of VA hospital and outpatient care. Veterans are eligible to be enrolled based on the Secretary's determination concerning which of the seven priority categories of veterans to enroll. Section 112 of Public Law No. 106-117, the Veteran's Millennium Health Care and Benefits Act, amended the priority categories to include veterans awarded the Purple Heart in priority category three. Accordingly, we intend to change our medical regulations at 38 CFR 17.36 to reflect this statutory change. We further propose to amend VA's Disenrollment requirements set forth under 38 CFR 17.36(d)(4)(iii) to allow priority category 5 veterans enrolled in this category based on their annual income information to remain enrolled. Currently, under 38 CFR 17.36(d)(4)(iii), a veteran enrolled under paragraphs (d)(2) or (d)(3) will be disenrolled if a VA network or facility director, or the Chief Network Officer, determines that a veteran has been enrolled based on inclusion in priority category 5, the veteran was sent by mail a VA Form 10-1-EZ, and the veteran failed to return the completed form to the address on the return envelop within 60 days from receipt of the form. We propose to continue their enrollment but only after the veteran agrees to co-pay requirements set forth under 38 U.S.C. 1710(f) and 1710(g). We also propose to amend the enrollment application form to reflect these changes and to add to the form instructions, a consent to release information, a statement regarding Paperwork Reduction Act changes are necessary to reflect statutory requirements, and to provide information to the public.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roscoe G. Butler, Chief, Policy and Operations (10C3), Department of Veterans Affairs,

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RIN: 2900–AK38

3151. • HEALTHCARE FOR CHILDREN BORN WITH ONE OR MORE COVERED BIRTH DEFECTS TO VIETNAM VETERANS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 1721; PL 106-419

CFR Citation: 38 CFR 17.900 to 1905

Legal Deadline: None

Abstract: The document proposed to establish regulations regarding health care benefits for women Vietnam veterans' children with covered birth defects. It would revise the current regulations regarding health care for Vietnam veterans' children suffering from spina bifida to also encompass health care for women Vietnam veterans' children with certain other birth defects. This is necessary to provide health care for such children in accordance with recently enacted legislation (Public Law 106-419, November 1,2000).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2900–AK88

3152. • ENROLLMENT—PROVISION OF HOSPITAL AND OUTPATIENT CARE TO VETERANS—PRIORITY CATEGORIES 5, 6, AND 7

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1705; PL 104-262

CFR Citation: 38 CFR 17

Legal Deadline: None

Abstract: VA has established a national enrollment system to manage the delivery of health care services. Veterans are eligible to be enrolled based on seven categories of priority. This document proposes to establish subpriorities for priority categories 5, 6, and 7. The proposed changes are intended to provide an equitable system for further prioritizing the enrollment of veterans in these priority categories.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Amy Hertz, Office of Policy and Planning (105), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington,, DC 20420
Phone: 202 273-8932

RIN: 2900–AK92

3153. • PAYMENT FOR NON-VA MEDICAL SERVICES AND INPATIENT CARE PROVIDED AT NON-VA FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501

CFR Citation: 38 CFR 17

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs (VA) medical regulations to establish a payment methodology for inpatient care and outpatient medical services provided to eligible VA beneficiaries at non-VA facilities. It is proposed that when there is an amount already calculated under the Medicare Payment Systems for services, VA would pay the lesser of the actual billed charge, an amount negotiated with the provider or the provider's agent, or the calculated amount. It appears that the adoption of the proposal would help ensure that amounts paid for these services would better reflect the resource inputs used to furnish a service and better reflect the true value of services. Further, it is proposed that the regulations would continue to require that VA payment constitute payment in full. In our vi this is required by statute.

Timetable:

Action	Date	FR Ci
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rex Gilmore, Heal Administration Service (10C3), Department of Veterans Affairs, Veterans Health Administration, 81 Vermont Avenue NW, Washington, 20420
Phone: 202 273-8307

RIN: 2900–AK94

3154. • REASONABLE CHARGES MEDICAL CARE OR SERVICES

Priority: Substantive, Nonsignifican

Legal Authority: 38 USC 501; 38 U 1721; 38 USC 1729

CFR Citation: 38 CFR 17.101

Legal Deadline: None

Abstract: This document amends th Department of Veterans Affairs (VA medical regulations concerning "reasonable charges" for medical ca or services provided or furnished b VA to veterans for nonservice-connected disabilities. This docume amends the regulations to revised t charge structure and update other provisions for the purpose of provi more precise charges.

Timetable:

Action	Date	FR C
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

Agency Contact: David Cleaver, VI Revenue Office (174), Department o Veterans Affairs, Veterans Health Administration, 810 Vermont Aven NW, Washington, DC 20420
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RIN: 2900–AL06

VA

Proposed Rule Stage

VETERANS BENEFITS ADMINISTRATION

3155. SCHEDULE FOR RATING DISABILITIES—THE ORTHOPEDIC SYSTEM

Priority: Other Significant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the orthopedic system.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/90	55 FR 53315
ANPRM Comment Period End	02/26/91	
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam, Consultant, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AE91

3156. SCHEDULE FOR RATING DISABILITIES—NEUROLOGICAL CONDITIONS AND CONVULSIVE DISORDERS

Priority: Other Significant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.120; 38 CFR 4.121; 38 CFR 4.122; 38 CFR 4.123; 38 CFR 4.124; 38 CFR 4.124a

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the neurological system.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20169
ANPRM Comment Period End	07/01/91	
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam, Consultant, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AF23

3157. SCHEDULE FOR RATING DISABILITIES—DIGESTIVE SYSTEM

Priority: Other Significant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.114

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the digestive system.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20168
ANPRM Comment Period End	07/01/91	
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam, Consultant, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AF24

3158. TOTAL DISABILITY EVALUATIONS BASED ON INABILITY OF THE INDIVIDUAL TO ENGAGE IN SUBSTANTIALLY GAINFUL EMPLOYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 512(a); 38 USC 1110; 38 USC 1131; 38 USC 1155; 38 USC 1502; 38 USC 1521(a)

CFR Citation: 38 CFR 3.321; 38 CFR 3.340; 38 CFR 3.341; 38 CFR 3.342; 38 CFR 4.16; 38 CFR 4.17; 38 CFR 4.18

Legal Deadline: None

Abstract: This action will amend the regulations in part 3 of title 38, United States Code, and in the Schedule for Rating Disabilities in part 4 to provide clear and objective standards for determining whether a veteran is entitled to a total evaluation based on his or her inability to perform substantially gainful employment due to disability.

Timetable:

Action	Date	FR Cite
NPRM	10/01/01	66 FR 49886
NPRM Comment Period End	11/30/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beth McCoy, Consultant, Regulations Staff (211A), Department of Veterans Affairs, 575 N. Pennsylvania St., Indianapolis, IN 46204
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RIN: 2900–AH21

3159. EVIDENCE ON FILE AT DATE OF DEATH

Priority: Other Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.1000

Legal Deadline: None

Abstract: This action will clarify the definition of "medical evidence on file at time of death" (Hayes v. Brown).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beth McCoy, Consultant, Regulations Staff (211A), Department of Veterans Affairs, 575 N. Pennsylvania St., Indianapolis, IN 46204
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RIN: 2900–AH42

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3160. ANKYLOSIS AND LIMITATION OF MOTION OF DIGITS OF THE HANDS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71a

Legal Deadline: None

Abstract: This document revises the evaluation criteria for ankylosis and limitation of motion of the fingers to ensure that veterans diagnosed with these conditions receive consistent evaluations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam, Consultant, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AI44

3161. DEPENDENTS EDUCATION: ELIGIBILITY AND ENTITLEMENT STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 90-631, sec 2; 38 USC 3541; 38 USC 3562; 38 USC 3681; 38 USC 3686; 38 USC 3687; 38 USC 5304; PL 97-377, sec 156; 38 USC 501(a); 38 USC 3482; 38 USC 3501; 38 USC 3511; 38 USC 3512; 38 USC 3532; 38 USC 3533

CFR Citation: 38 CFR 3.503; 38 CFR 21.3042; 38 CFR 21.3043; 38 CFR 21.3044; 38 CFR 21.3045; 30 CFR 21.3046; 30 CFR 21.3047; 38 CFR 3.667; 38 CFR 3.707; 38 CFR 3.807; 38 CFR 21.3020; 38 CFR 21.3021; 38 CFR 21.3023; 38 CFR 21.3040; 38 CFR 21.3041; ...

Legal Deadline: None

Abstract: This document will amend Department of Veterans Affairs education regulations to provide a new interpretation of when the eligibility period ends for children eligible for Survivors' and Dependents' Educational Assistance. It will implement provisions of the Veterans Benefits and Health Care Improvement Act of 2000 that affect children's eligibility periods and the effective date of awards under Survivors' and Dependents' Educational Assistance. It will also implement recent opinions of the Court of Appeals for Veterans Claims that affect eligibility for Survivors' and Dependents' Educational Assistance. It will also make changes to clarify many of these regulations and other changes to make the regulations easier to use.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2900–AJ19

3162. SCHEDULE FOR RATING DISABILITY: THE SPINE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71a

Legal Deadline: None

Abstract: This amendment will contain additions, deletions, and revisions of terminology pertaining to spinal disabilities based on a systematic review of the medical criteria used to evaluate disabilities of the spine.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam, Consultant, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AJ60

3163. EDUCATION PROVISIONS OF THE VETERANS PROGRAMS ENHANCEMENT ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 16136; 38 USC 3034; 38 USC 3241; 38 USC 34 38 USC 3537; 38 USC 3677; 38 USC 3684; 38 USC 5101

CFR Citation: 38 CFR 21.4145; 38 C 21.4200; 38 CFR 21.4206; 38 CFR 21.4262

Legal Deadline: None

Abstract: This rule will bring VA's educational assistance regulations in agreement with the Veterans Progra Enhancement Act of 1998. This will include revising the calculation of t reporting fee paid to educational institutions; making advance payme to work-study students optional rat than mandatory; and revising the approval criteria for on-job training programs offered by the Federal Government or by State or local governments.

Timetable:

Action	Date	FR C
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2900–AJ68

3164. EVIDENCE OF PERMANENT AND TOTAL DISABILITY

Priority: Other Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.3(a)

Legal Deadline: None

Abstract: This amendment would allow VA to accept the following ty of evidence as establishing that a veteran is permanently and totally disabled, without need for medical evidence: (1) Status as a nursing ho patient, (2) SSA determination of t disability, and (3) attainment of age

VA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Beth McCoy, Consultant, Regulations Staff (211A), Department of Veterans Affairs, 575 N. Pennsylvania St., Indianapolis, IN 46204
Phone: 317 226-5209

RIN: 2900–AJ82

3165. SCHEDULE FOR RATING DISABILITIES: GLOBAL ASSESSMENT OF FUNCTIONING SCALE IN THE EVALUATION OF MENTAL DISORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 4.125

Legal Deadline: None

Abstract: To assure evaluation of mental disorders is based solely on rating schedule criteria.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam, Consultant, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AJ84

3166. BENEFIT OF THE DOUBT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 5107(b)

CFR Citation: 38 CFR 3.102

Legal Deadline: None

Abstract: This action proposes to amend 38 CFR part 3 by adding a new subpart D—Universal Adjudication Rules. This new subpart would consist of reorganized sections from existing subpart A. The first of these sections to be reorganized is the general concept of "benefit of the doubt." The intended effect of this amendment is to retain the existing provision but rewritten in a reorganized format using plain language principles and recognizing decisions of the U.S. Court of Appeals for Veterans Claims.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. White, Team Leader, Plain Language Regulations Project, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AJ93

3167. PERMANENT INCAPACITY FOR SELF-SUPPORT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 1115; 38 USC 1311; 38 USC 1313; 38 USC 1314; 38 USC 1521; 38 USC 1541; 38 USC 1542; PL 101-508; PL 102-568

CFR Citation: 38 CFR 3.356

Legal Deadline: None

Abstract: This action proposes to amend 38 CFR part 3 to conform it to the Presidential Memorandum of June 1, 1998, Plain Language in Government Writing, by revising provisions on helpless children in section 3.356 and by incorporating rules on helpless children in VA's Adjudication Procedures Manual, M21-I.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. White, Team Leader, Plain Language Regulations Project, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AJ95

3168. PRESUMPTIVE SERVICE CONNECTION FOR HEPATITIS C INFECTION

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.318

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs adjudication regulations to establish presumptive service connection for hepatitis C infection in veterans who were exposed to blood during combat who underwent certain treatment procedures during active duty service. The intended effect of this rule is to ensure that veterans who may have been exposed to the hepatitis C virus during active military service, because they underwent hemodialysis, tranfusion of blood or blood products before January 1, 1993, or solid organ transplant before January 1, 1993, will be service-connected for hepatitis C infection.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam, Consultant, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AJ96

3169. MINIMUM ACTIVE DUTY REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 5303A

CFR Citation: 38 CFR 3; 38 CFR 3.12a

Legal Deadline: None

Abstract: This document explains the minimum active-duty service requirement (MADSR) for entitlement to VA benefits in "plain language." It

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incorporates a provision from the adjudication procedures manual, M21-1, not currently addressed in the regulation, to allow for public comment. It also corrects in M21-1, the date of enactment of the law under which the MADSR was authorized. This does not affect entitlement or eligibility to VA benefits previously established under the manual provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AK02

3170. STATE DEPARTMENT AS AGENT OF DEPARTMENT OF VETERANS AFFAIRS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 5106

CFR Citation: 38 CFR 3; 38 CFR 3.108

Legal Deadline: None

Abstract: This document reorganizes and rewrites in "plain language" the regulation that identifies the State Department as an agent of the Department of Veterans Affairs for purposes of accepting, developing, and assisting with claims and evidence. It incorporates a provision in the adjudication procedures manual regarding services offered by the Department of State.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AK03

3171. COMMENCEMENT OF THE PERIOD OF PAYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 5111

CFR Citation: 38 CFR 3; 38 CFR 3.31

Legal Deadline: None

Abstract: This document explains in "plain language" when benefit payments begin for certain original, reopened, or increased awards. It also clarifies procedures to enhance consistency of application and proposes to remove two requirements from the adjudication procedures manual, M21-1, that are inconsistent with governing authority.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK09

3172. SERVICE CONNECTION AND CHRONIC DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1110; 38 USC 1131

CFR Citation: 38 CFR 3.303

Legal Deadline: None

Abstract: Title 38 Code of Federal Regulations section 3.303 concerns the basic principles of service connection. This includes provisions on chronic disabilities and continuity of symptomatology. Section 3.303 is being revised into Reader Focused Writing. In addition, VA plans to make substantive changes needed to implement the U.S. Court of Appeals for Veterans Claims' holdings in the Savage, McManawa and Hodges cases.

Timetable:

Action	Date	FR C
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Non

Agency Contact: Bill Russo, Attorn Advisor, Compensation and Pensio (211), Department of Veterans Affai Veterans Benefits Administration, 8 Vermont Avenue NW, Washington, 20420
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RIN: 2900–AK11

3173. TIME LIMITS, EXTENSIONS, COMPUTATION OF TIME LIMITS

Priority: Substantive, Nonsignificar

Legal Authority: 38 USC 5103; 38 7105(c)

CFR Citation: 38 CFR 3.109; 38 CF 3.110

Legal Deadline: None

Abstract: This provision explains "plain language" about time limits providing evidence to VA to comp claims, how those time limits are computed, and under what circumstances extensions to the ti limits may be allowed.

Timetable:

Action	Date	FR
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Nor

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211 Department of Veterans Affairs, Veterans Benefit Administration, 8 Vermont Avenue NW, Washingtor 20420
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RIN: 2900–AK17

VA

Proposed Rule Stage

3174. FINALITY OF DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 502; 38 USC 511; 38 USC 5104; 38 USC 5109A; 38 USC 5112(b)(6)

CFR Citation: 38 CFR 3.104

Legal Deadline: None

Abstract: This amendment informs claimants in "plain language" when a VA decision is final, how a decision by one VA office affects other VA offices, and under what circumstances a VA decision may be changed.

Timetable:

Action	Date	FR Cite
NPRM	10/23/01	66 FR 53565
NPRM Comment Period End	12/24/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AK18

3175. DELEGATION OF AUTHORITY TO ISSUE DECISIONS ON BENEFITS CLAIMS

Priority: Info./Admin./Other

Legal Authority: 38 USC 512

CFR Citation: 38 CFR 3.100

Legal Deadline: None

Abstract: This is a plain language restatement of the existing delegations of authority to issue decisions on benefit claims.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. White, Team Leader, Plain Language Regulations Project, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK19

3176. INDIVIDUALS AND GROUPS CONSIDERED TO HAVE PERFORMED ACTIVE MILITARY, NAVAL, OR AIR SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 101; 38 USC 102; 38 USC 107; 38 USC 501(a); 38 USC 1152; 38 USC 1504, 5303(c); PL 95-202; ...

CFR Citation: 38 CFR 3.7

Legal Deadline: None

Abstract: This amendment reorganizes the current regulation and rewrites it in "plain language." The regulation identifies civilian groups and individuals determined to have performed active service based on their service to U.S. Armed Forces. We propose to add three new groups, under the authority of Public Law No. 95-202, based on the recent decision of the Secretary of the Air Force that the service of these group members constitutes active military service.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AK20

3177. PSYCHOSIS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.384

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs adjudication regulations to define the term "psychosis." The term is used but not defined in certain statutes that provide presumptive service connection for compensation or health care purposes.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam, Consultant, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AK21

3178. CHANGE OF LAW-EFFECT ON BENEFITS

Priority: Info./Admin./Other

Legal Authority: 38 USC 186; 38 USC 5112(b)(6); 38 USC 5110(g)

CFR Citation: 38 CFR 3.114

Legal Deadline: None

Abstract: These amendments are plain language restatements of adjudication regulations dealing with the effective dates that must be assigned when entitlement or non-entitlement to benefits is based on a change of law or a change VA rules.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. White, Team Leader, Plain Language Regulations Project, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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Email: capbwhit@vba.va.gov

RIN: 2900–AK22

3179. RENOUNCEMENT OF BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5306

CFR Citation: 38 CFR 3.106

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Legal Deadline: None

Abstract: This revision explains in "plain language" who has the right to renounce benefits, how to renounce benefits, and what renouncement means to a claimant. It discusses effective dates for the termination of renounced benefits, as well as the right to reapply for benefits that have been renounced. A substantive change in the effective date of a renouncement is proposed to cover the renouncement of benefits when an award is already in suspense.

Timetable:

Action	Date	FR Cite
NPRM	09/24/01	66 FR 48845
NPRM Comment Period End	11/23/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AK23

3180. TESTIMONY IN SUPPORT OF BENEFIT CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5711(a)(3)

CFR Citation: 38 CFR 3.200

Legal Deadline: None

Abstract: This proposal is a rewrite of the current regulation concerning the requirements for submitting oral and written testimony. We also propose to incorporate two provisions currently found in the adjudication procedure manual. The changes will make the regulation easier to understand and give claimants more information about the requirements for submitting oral and written testimony.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AK24

3181. ACCEPTABLE EVIDENCE OF MARRIAGE, DIVORCE, BIRTH, AGE, BIOLOGICAL RELATIONSHIP, CHILD'S RELATIONSHIP, AND DEATH

Priority: Info./Admin./Other

Legal Authority: 38 USC 5124

CFR Citation: 38 CFR 3.204 to 3.206; 38 CFR 3.209 to 3.211

Legal Deadline: None

Abstract: This document amends the current regulations concerning evidence that is acceptable as proof of marriage, divorce, birth, age, biological relationship, child's relationship, and death. The intended effect of this amendment is to present the existing regulations in plain language.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AK26

3182. ACCEPTABLE EVIDENCE OF VOID AND ANNULLED MARRIAGES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 103

CFR Citation: 38 CFR 3.207

Legal Deadline: None

Abstract: This amendment explains in "plain language" what VA considers acceptable evidence of a void or annulled marriage.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Ave
20420
Phone: 202 273-7210

RIN: 2900–AK27

3183. INDEPENDENT MEDICAL OPINIONS

Priority: Info./Admin./Other

Legal Authority: 38 USC 5109; 38 U
5701(b)(1); 38 USC 52a(f)(3)

CFR Citation: 38 CFR 3.328

Legal Deadline: None

Abstract: This amendment is a plai
language restatement of the existing
regulation dealing with independen
medical opinions that may be requ
to resolve complex or controversial
medical issues that may arise in a c
for veterans' benefits.

Timetable:

Action	Date	FR C
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Non

Agency Contact: Robert M. White, Team Leader, Plain Language Regulations Project, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Aven
NW, Washington, DC 20420
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RIN: 2900–AK31

3184. ACCEPTABLE EVIDENCE O TERMINATION OF MARITAL RELATIONSHIP OR CONDUCT

Priority: Info./Admin./Other

Legal Authority: 38 USC 101(3); 3
USC 103(d); 38 USC 1311(e)(2)

CFR Citation: 38 CFR 3.215

Legal Deadline: None

Abstract: This a plain language restatement of the adjudication regulations that sets forth what VA

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accept as evidence that a relationship warranting an inference of remarriage has terminated.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AK35

3185. EVIDENCE FROM FOREIGN COUNTRIES

Priority: Info./Admin./Other

Legal Authority: 38 USC 5712

CFR Citation: 38 CFR 3.202

Legal Deadline: None

Abstract: This is a plain language restatement of the adjudication regulation dealing with the authentication requirements for evidence given under oath before an official in a foreign country.

Timetable:

Action	Date	FR Cite
NPRM	10/19/01	66 FR 53139
NPRM Comment Period End	12/18/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AK37

3186. NATIONAL SERVICE LIFE INSURANCE—PLAIN ENGLISH REVISION

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 38 USC 1901 to 1929; 38 USC 1981 to 1988

CFR Citation: 38 CFR 8.0; 38 CFR 8.1

Legal Deadline: None

Abstract: This document proposes to amend 38 CFR 8.0 and 8.1 by revising the text into a different format to promote better communication to policyholders and program administrators. This amendment is written in conjunction with VA's plain English (Reader Focused Writing) initiative.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Poole, Chief, Program Administration and Oversight Staff (Insurance Service), Department of Veterans Affairs, Veterans Benefits Administration, P.O. Box 8079, Philadelphia, PA 19101
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RIN: 2900–AK43

3187. ACCEPTABLE EVIDENCE OF UNEXPLAINED ABSENCE FOR 7 YEARS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 108

CFR Citation: 38 CFR 3.212

Legal Deadline: None

Abstract: This revision explains in plain language what evidence is acceptable for a finding of presumptive death. It incorporates a provision from the Adjudication Procedure Manual that explains what evidence of search for a missing person must show.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AK49

3188. VALIDITY OF ENLISTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 101(2)

CFR Citation: 38 CFR 3.14

Legal Deadline: None

Abstract: This revision explains in plain language what the Department of Veterans Affairs considers to be valid service.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AK59

3189. COMPUTATION OF SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 106(c); 38 USC 5303(a)

CFR Citation: 38 CFR 3.15

Legal Deadline: None

Abstract: This revision explains in plain language how the Department of Veterans Affairs computes the length of a period of service.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B),

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Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AK60

3190. DISEASES SPECIFIC TO RADIATION-EXPOSED VETERANS

Regulatory Plan: This entry is Seq. No. 112 in part II of this issue of the Federal Register.

RIN: 2900–AK64

3191. MONETARY ALLOWANCES FOR CERTAIN CHILDREN OF VIETNAM VETERANS; IDENTIFICATION OF COVERED BIRTH DEFECTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1805(b)(3); 38 USC 1812; 38 USC 1815; 38 USC 5110(n); 38 USC 5312(c)(1)

CFR Citation: 38 CFR 3.27; 38 CFR 3.29; 38 CFR 3.114; 38 CFR 3.216; 38 CFR 3.261

Legal Deadline: None

Abstract: Section 401 of the Veterans Benefits and Health Care Improvement Act of 2000, Public Law 106-419, amended chapter 18 of title 38 United States Code by adding subchapter II authorizing VA to provide certain benefits, including a monthly monetary allowance, to children born with certain birth defects who are the natural children of women veterans who served in the Republic of Vietnam during the Vietnam era. This document amends existing VA adjudication regulations and adds a new section 3.815 to title 38 Code of Federal Regulations to implement this new authority. Section 1823 of title 38 United States Code specifies that receipt of this allowance shall not affect the right of the child, or the right of any individual based on the child's relationship to that individual, to receive any other benefit to which the child, or that individual, may be entitled under any law administered by VA, nor will the allowance be considered income or resources in determining eligibility for, or the amount of, benefits under any Federal or federally assisted program. We propose to amend 38 CFR 3.27, 3.29, 3.31, 3.114, 3.216, 3.261 to 263, 3.272, and 3.275 to reflect this statutory provision as it applies to VA's income-based benefit programs. The statute states that the birth defects identified may not include: A familial disorder, a birth-related injury, or a fetal or neonatal infirmity with well-established causes. The regulation will provide non-exclusive lists of included and excluded conditions for benefits. It also provides criteria to determine which of four levels of monthly monetary payment will be assigned, based on an assessment of the day-to-day functioning of affected individuals or to the extent of disfigurement of the head, face, or neck due to one or more covered birth defects or associated disabilities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam, Consultant, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AK67

3192. ACCEPTABLE EVIDENCE OF CHANGE IN STATUS OR NUMBER OF DEPENDENTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)(1); 38 USC 1115; 38 USC 1310; 38 USC 1521; 38 USC 5124

CFR Citation: 38 CFR 3.213

Legal Deadline: None

Abstract: This revision explains in plain language what evidence is acceptable to VA for the purpose of increasing benefits by adding dependents or for decreasing or discontinuing benefits due to a reduction in dependents or a change of status.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. White, Team Leader, Plain Language Regulations Project, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK70

3193. LOAN GUARANTY: PRE-PURCHASE COUNSELING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 3203; 38 USC 3210; 38 USC 3220

CFR Citation: 38 CFR 36.4332

Legal Deadline: None

Abstract: The Department of Veterans Affairs is proposing to amend its loan guaranty regulations to require that all first-time homebuyers seeking to obtain VA guaranteed home loans complete 4 hours of homeowners' counseling.

Timetable:

Action	Date	FR Cite
NPRM	10/11/01	66 FR 51
NPRM Comment Period End	12/10/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2900–AK76

3194. ADDITIONAL DISABILITY OR DEATH DUE TO HOSPITAL CARE, MEDICAL OR SURGICAL TREATMENT, EXAMINATION, TRAINING AND REHABILITATION SERVICES, OR COMPENSATED WORK THERAPY PROGRAM

Priority: Other Significant

Legal Authority: 38 USC 1151

CFR Citation: 38 CFR 3.358; 38 CFR 3.800

VA

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Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend its adjudication regulations concerning awards of compensation or dependency and indemnity compensation for additional disability or death caused by VA hospital care, medical or surgical treatment, examination, training and rehabilitation services, or compensated work therapy (CWT) program.
Under the proposed amendment, benefits will be payable for additional disability or death caused by hospital care, medical or surgical treatment, or examination only if VA fault or "an event not reasonably foreseeable" proximately caused the disability or death. Benefits will also be payable for additional disability or death proximately caused by VA's provision of training and rehabilitation services or CWT program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beth McCoy, Consultant, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, Veterans Benefit Administration, 575 N Pennsylvania Street, Indianapolis, IN 46204
Phone: 317 226-5209

RIN: 2900–AK77

3195. VETERANS AND DEPENDENTS EDUCATION: TOPPING UP TUITION ASSISTANCE AND PAYMENT FOR LICENSING AND CERTIFICATION TESTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3014; 38 USC 3015; 38 USC 3032; 38 USC 3232; 38 USC 3452; 38 USC 3482; 38 USC 3501

CFR Citation: 38 CFR 21.4008 to 21.4009; 38 CFR 21.4146; 38 CFR 21.4150 to 21.4152; 38 CFR 21.4200; 38 CFR 21.4206; 38 CFR 21.4209 to 21.4212; 38 CFR 21.4216; 38 CFR 21.4230; 38 CFR 21.4234

Legal Deadline: None

Abstract: The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 contains a provision that permits a service member to receive Montgomery GI Bill—Active Duty benefits for the difference between the service member's tuition and the portion of the tuition paid under 10 U.S.C. 2007. Appropriate regulations will be added to implement this provision of law.
The Veterans Benefits and Health Care Improvement Act provides that veterans and eligible persons may receive educational assistance to cover the cost of the tests needed to obtain an occupational license or certification. This improved benefit is available under the Post-Vietnam Era Veterans Educational Assistance Program, the Montgomery GI Bill-Active Duty and the Survivors' and Dependents' Educational Assistance Program. Regulations are needed to allow VA to properly implement this new benefit.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK80

3196. VETERANS EDUCATION: ADDITIONAL OPPORTUNITY TO PARTICIPATE IN THE MONTGOMERY GI BILL AND OTHER MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3011 to 3012; 38 USC 3015; 38 USC 3018C; 38 USC 3080; 38 USC 16132

CFR Citation: 38 CFR 21.4138; 38 CFR 21.7020; 38 CFR 21.7042; 38 CFR 21.7136; 38 CFR 21.7540

Legal Deadline: None

Abstract: The Veterans Benefits and Health Care Improvement Act of 2000 affects the Montgomery GI Bill-Active Duty and the Montgomery GI Bill-Selected Reserve. These include providing an opportunity for some service members to participate in the Montgomery GI Bill-Active Duty; repeal of the requirement that only the initial period of active duty be considered in determining eligibility for the Montgomery GI Bill-Active Duty; increasing the Montgomery GI Bill-Active Duty for those who contribute additional money; and changing the rules for determining when benefits may be paid during the interval between terms. The regulations governing Montgomery GI Bill will be revised accordingly.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK81

3197. • PRESUMPTION OF SERVICE CONNECTION FOR CIRRHOSIS OF THE LIVER IN FORMER PRISONERS OF WAR

Priority: Other Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.309(c)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend its adjudication regulations concerning presumptive service connection for certain diseases.
Under the proposed amendment, VA will add cirrhosis of the liver to the list of diseases for which entitlement to service connection is presumed for former prisoners of war (POWs) interned or detained for at least 30 days. The intended effect is to make it easier for former POWs to obtain compensation benefits for cirrhosis based on scientific and medical research showing a higher risk of death

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from cirrhosis in former POWs than in the general population.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beth McCoy, Consultant, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, Veterans Benefit Administration, 575 N Pennsylvania Street, Indianapolis, IN 46204
Phone: 317 226-5209

RIN: 2900–AK83

3198. • VOCATIONAL TRAINING FOR CERTAIN CHILDREN OF VIETNAM VETERANS—COVERED BIRTH DEFECTS AND SPINA BIFIDA

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 101; 38 USC 501; 38 USC 512; 38 USC 5112; PL 106-419, sec 401

CFR Citation: 38 CFR 21.8010 - 21.8410

Legal Deadline: None

Abstract: This document proposes to establish regulations regarding provision of vocational training and rehabilitation for women Vietnam veterans' children with covered birth defects. It revises the current regulations regarding vocational training and rehabilitation for Vietnam veterans' children suffering from spina bifida to also encompass vocational training and rehabilitation for women Vietnam veterans' children with certain other birth defects.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Charles A Graffam, Veterans Claims Examiner (28), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7437

RIN: 2900–AK90

3199. • CONDITIONAL DISCHARGE

Priority: Info./Admin./Other

Legal Authority: 38 USC 101(18)

CFR Citation: 38 CFR 3.13; 38 CFR 3.2320

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to amend its adjudication regulation concerning what constitutes a conditional discharge from a period of active service. The intended effect is to present the existing regulation in "plain language."

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AK93

3200. • TIME LIMIT FOR REQUEST FOR DENOVO REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5109(a); 38 USC 7105(a)

CFR Citation: 38 CFR 3.2600

Legal Deadline: None

Abstract: We are proposing to amend our regulations concerning the time a claimant has in which to request a de novo review of their claim at the Veterans Service Center level. (This would reduce the time from the current 60 days to 15 days). We believe this amendment will reduce unnecessary delays in the appeals process and will not adversely affect claimants.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bill Russo, Attorney Advisor, Compensation and Pension (211), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK97

3201. • EVIDENCE REQUIREMENTS FOR SERVICE AND CHARACTER OF DISCHARGE

Priority: Info./Admin./Other

Legal Authority: 38 USC 101 and 1521(j)

CFR Citation: 38 CFR 3.203; 38 CFR 3.2405

Legal Deadline: None

Abstract: This document proposes to amend the regulation concerning evidence that is acceptable as proof o military service and character of discharge from military service. The intended effect of this amendment is to present the existing regulation in plain language.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW, Washington, D 20420
Phone: 202 273-7210

RIN: 2900–AL03

3202. • VETERANS EDUCATION: STREAMLINING APPROVAL OF COURSES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3890

CFR Citation: 38 CFR 21.4266

Legal Deadline: None

Abstract: The regulations governing approval of courses offered by

VA

Proposed Rule Stage

institutions of higher learning (IHL) with branches in more than one State requires the IHL to maintain administrative capability in each State in which it operates. The information that the IHL must submit to VA concerning veterans' enrollment must come from each State rather than from a central location. This regulation became effective before the advent of e-mail or telefacsimile machines. VA intends to revise the pertinent regulation to allow approval of courses for VA training even if such an IHL does not have administrative capability in each State in which it operates.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AL07

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3203. UNIVERSAL PRODUCT NUMBERS (UPNS)

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 811; 48 CFR 852

Legal Deadline: None

Abstract: This rulemaking action would provide new contract clauses whereby Department of Veterans Affairs contracting officers could require contractors to furnish products marked at the case, box, and unit of use levels with Universal Product Numbers (UPNs) for scanning using bar code readers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AJ45

3204. CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 801; 48 CFR 832; 48 CFR 836; 48 CFR 843; 48 CFR 846; 48 CFR 852

Legal Deadline: None

Abstract: This rule proposes to amend the Department of Veterans Affairs Acquisition Regulation (VAAR) to revise and update section numbers and titles, to make minor grammatical corrections and revisions, to delegate authority, and to update parts 836, Construction and Architect-Engineer Contracts, and 852, Solicitation Provisions and Contract Clauses, all to correspond to the Federal Acquisition Regulation (FAR). The rule would clarify how existing VAAR clauses relating to construction contracts are to be used, remove obsolete or duplicative materials, update the VAAR regarding certified cost or pricing data, and provide Agency procedures regarding disclosure of the Government cost estimate on construction contracts. The rule would also remove a "guarantee" clause from the VAAR and provide for VA contracting officers to use the FAR "warranty" clause for construction contracts.

Timetable:

Action	Date	FR Cite
NPRM	09/27/01	66 FR 49331
NPRM Comment Period End	11/26/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AJ56

3205. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATIONS PLAIN LANGUAGE REWRITE

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 48 USC 486(c)

CFR Citation: 38 CFR 8

Legal Deadline: None

Abstract: This rulemaking action would amend the Department of Veterans Affairs acquisition regulation to update position titles, to remove obsolete or duplicative material, to delegate authority, and to make plain language revisions to the text. In addition, the rule would update material to correspond to the requirements of the Federal Acquisition Regulation (FAR) and would provide agency procedures for compliance with FAR requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office

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RIN: 2900–AK78

BOARD OF VETERANS APPEALS

3206. BOARD OF VETERANS' APPEALS: RULES OF PRACTICE—APPEAL WITHDRAWAL

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7105(b)(2)

CFR Citation: 38 CFR 20.204

Legal Deadline: None

Abstract: The Board of Veterans' Appeals proposes removing a restriction in its Rules of Practice (Rule of Practice 204; 38 CFR 20.204) that bars an appellant's representative from withdrawing a Notice of Disagreement or a Substantive Appeal that the appellant filed personally without the appellant's written consent. VA believes that the restriction, adopted in the early 1960s, is an outdated and unnecessary intrusion into the relationship between appellants and their representatives, which creates needless delay through unnecessary procedural complexity.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AK71

3207. • BOARD OF VETERANS' APPEALS: SPEEDING APPELLATE REVIEW FOR AGING VETERANS

Priority: Other Significant

Legal Authority: 38 USC 501(a); 38 USC 7107

CFR Citation: 38 CFR 20.900(c)

Legal Deadline: None

Abstract: The Board of Veterans' Appeals may advance a case on it's docket for earlier consideration for "sufficient cause shown," 38 U.S.C. section 7107(a)(2). This regulation will expand the regulatory definition of "sufficient cause" in the Board's Rules of Practice to include advanced age. This will permit the Board, on motion, to expedite consideration of appeals from veterans and dependants, age 75 or more, who may be nearing the end of their life expectancy. There is now a sizable cohort of veterans of advanced age, particularly surviving combat veterans from World War II and the Korean War. No other alternatives are available. This amendment will not entail any risks or costs to the public or to the Government other than the costs normally associated with drafting, Agency review, and publication.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman, Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AL08

NATIONAL CEMETERY SYSTEM

3208. HEADSTONE AND MARKER INSCRIPTION POLICY

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 38 USC 2306

CFR Citation: 38 CFR 1.630; 38 CFR 1.632

Legal Deadline: None

Abstract: The proposed rule revises 38 CFR 1.630 to implement Department of Veterans Affairs (VA) regulations on its inscription policy for use on Government-provided headstones or markers. The amendment formalizes implementation of an all-inclusive inscription policy. This policy change provides for the payment at Government expense of text only, spa permitting, for optional inscriptions o all Government headstones or markers The rule will be published as a proposed rule in the Federal Register to provide information to the public c specific changes to VA's inscription policy for Government-furnished headstones or markers. A 60-day publ comment period will be provided. Th proposed rule will not have a significant economic impact on a substantial number of small entities and only individual VA beneficiaries could be directly affected.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Barber, Program Analyst (402B1), Department of Veterans Affairs, National Cemeter Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5183
Fax: 202 273-6697
Email: karen.barber@mail.va.gov

RIN: 2900–AH45

3209. STATE CEMETERY GRANTS: AID TO STATES FOR ESTABLISHMENT, EXPANSION, AN IMPROVEMENT OF VETERANS CEMETERIES

Priority: Other Significant

Legal Authority: 38 USC 2408

CFR Citation: 38 CFR 39.1; 38 CFR 39.2; 38 CFR 39.3; 38 CFR 39.7; 38 C 39.8; 38 CFR 39.9 (New)

Legal Deadline: None

Abstract: The proposed rule revises CFR part 39 to amend Department of Veterans Affairs (VA) regulations for the State Cemetery Grants Program t implement and update information o program requirements and the application process for participants. The amendment formalizes new standards and provides guidance on how States may obtain funding for grants to expand, establish, or impro State veterans cemeteries. The rule w be published as proposed in the Federal Register to provide informat to the public on how to apply for Federal funding for State veterans cemeteries. A 60-day public comme

period will be provided. It is subject to the requirements of the Administrative Procedures Act and E.O. 12866 because the rule is an interpretation of statute. The proposed rule will not have a significant economic impact on a substantial number of small entities; only those States that apply for funding may be direct beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Karen Barber, Program Analyst (402B1), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5183
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Email: karen.barber@mail.va.gov

RIN: 2900–AH46

3210. ELIGIBILITY FOR BURIAL OF DEPENDENT ADULT CHILDREN OF ELIGIBLE VETERANS; AND ELIGIBILITY FOR BURIAL OF CERTAIN FILIPINO VETERANS

Priority: Other Significant

Legal Authority: 38 USC 2402(5); PL 106-419

CFR Citation: 38 CFR 1.620(c)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend regulations to specify that the eligibility of veterans' adult children for burial in a national cemetery is only for those who have become permanently incapable of self support before attaining the age of 21 years due to a physical or mental disability. Current regulations do not clearly express this requirement. It also proposes to amend regulations to specify that the eligibility of certain Filipino veterans will be eligible for burial in a National Cemetery. Certain Filipino veterans of WWII, to include Commonwealth Army veterans and veterans of Recognized Guerilla Forces may be eligible if the veteran was a permanent resident of the U.S. and met other enabling conditions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Barber, Program Analyst (402B1), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5183
Fax: 202 273-6697
Email: karen.barber@mail.va.gov

RIN: 2900–AI95

3211. USE OF THE SECRETARY'S AUTHORITY AS PROVIDED BY 38 U.S.C. 2402(6)

Priority: Other Significant

Legal Authority: 38 USC 2402(6)

CFR Citation: 38 CFR 1.620(d)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is issuing a proposed rule to define individuals and groups of individuals, who are otherwise not eligible for burial in a VA national cemetery, that would be considered under the Secretary's authority in 38 U.S.C. 2402(6). These new regulations establish a consistent basis for VA to determine those individuals or groups of individuals that VA may consider for eligibility under 38 U.S.C. 2402(6).

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Barber, Program Analyst (402B1), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5183
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Email: karen.barber@mail.va.gov

RIN: 2900–AJ48

OFFICE OF POLICY AND PLANNING

3212. AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS; GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 75; 38 USC 501; PL 98-502

CFR Citation: 38 CFR 41; 38 CFR 49

Legal Deadline: None

Abstract: This document proposes to amend part 41 of VA's regulations to add new subparts to codify revised OMB Circular A-133. The Circular provides standards for consistency and uniformity among Federal agencies for the audits of States, local governments, and nonprofit organizations expending Federal awards. Further, this amendment proposes to add a new part 49 to VA's regulations to bring VA in step with other Federal agencies who have already adopted OMB Circular A-110 as a common rule. The Circular provides for uniform administrative requirements for Federal agencies with grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Judith Jamison, Office of Policy and Planning (008), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5117

RIN: 2900–AJ62

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Department of Veterans Affairs (VA) — Final Rule Stag

VETERANS HEALTH ADMINISTRATION

3213. PROVISION OF DRUGS AND MEDICINES PRESCRIBED BY NON-VA PHYSICIANS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.96

Legal Deadline: None

Abstract: This document amends the "Medical" regulations concerning the criteria for provision of drugs and medicines by non-VA physicians for certain veterans. It is our view that the statutory framework inherently requires that the drugs provided be suitable; i.e., FDA-approved, high quality, and best value. In this regard, we have established a list of suitable drugs and medicines in the VA national formulary. Also, we have established a mechanism for allowing the provision of drugs and medicines not listed in the formulary. These changes are needed to ensure that VA provides only those drugs and medicines intended to be provided under the statutory authority. Also, this document makes nonsubstantive changes for the purpose of avoiding unnecessary duplication.

Timetable:

Action	Date	FR Cite
Final Action	08/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff Ramirez, Pharmacy Service (119), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8428

RIN: 2900–AJ24

3214. ADVANCED HEALTH CARE PLANNING

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.32

Legal Deadline: None

Abstract: This document amends the VA medical regulations to codify VA policy regarding advance health care planning. The rule sets forth a mechanism for the use of written advance directives; i.e., a VA living will, a VA durable power of attorney for health care, and a State-authorized advance directive. The rule also sets forth a mechanism for honoring verbal or nonverbal instructions from a patient when the patient is admitted to care when critically ill and loss of capacity may be imminent and the patient is not physically able to sign an advance directive form or the appropriate form is not readily available. This is intended to help ensure that VA acts in compliance with patients' wishes concerning future health care.

Timetable:

Action	Date	FR Cite
NPRM	11/02/98	63 FR 58677
NPRM Comment Period End	01/04/99	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ellen Fox M.D., Director, National Center for Ethics (10AE), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-6926

RIN: 2900–AJ28

3215. PROVISION OF DRUGS AND MEDICINES TO CERTAIN VETERANS IN STATE NURSING HOMES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.96

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs medical regulations concerning the provision of drugs and medicines prescribed by non-VA physicians for certain veterans who are permanently housebound or in need of regular aid and attendance. The regulations are amended to allow prescriptions to be filled by non-VA pharmacies in State homes under contract with VA for filling prescriptions for patients in State homes. This is consistent with VA's special relationship with State homes. It will eliminate duplication in services and will help improve timeliness for filling prescriptions in State homes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/14/98	63 FR 3777
Interim Final Rule Effective	07/14/98	
Interim Final Rule Comment Period End	09/14/98	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeff Ramirez, Pharmacy Service (119), Department o Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8428

RIN: 2900–AJ34

3216. GRANTS TO STATES FOR CONSTRUCTION AND ACQUISITION OF STATE HOME FACILITIES

Priority: Other Significant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.216; 38 CFR 17.222

Legal Deadline: None

Abstract: This rule amends the Department of Veterans Affairs regulations concerning State homes. V provides funds to States for projects f the construction, acquisition, or renovation of State veterans nursing homes and State veterans domiciliari This rulemaking requests comments regarding what regulations should be established with respect to the priorities for awarding State home grants for construction, acquisition, o renovation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/26/01	66 FR 338
Interim Final Rule Comment Period End	08/27/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Frank Salvas, Geriactrics and Extended Care (114),

Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8536

RIN: 2900–AJ43

3217. PER DIEM FOR ADULT DAY HEALTH CARE OF VETERANS IN STATE HOMES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1741; 38 USC 1742; 38 USC 1743

CFR Citation: 38 CFR 51; 38 CFR 52; 38 CFR 58

Legal Deadline: None

Abstract: This document proposes to establish a new part 52 setting forth a mechanism for paying per diem to State homes providing adult day health care to eligible veterans. The intended effect of the proposed regulations is to ensure that veterans receive high quality care in State homes.

Timetable:

Action	Date	FR Cite
NPRM	06/28/00	65 FR 39835
NPRM Comment Period End	08/28/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: L. Nan Stout, Chief, State Home Per Diem Program (114), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8538
Email: nan.stout@mail.va.gov

RIN: 2900–AJ74

3218. POLICY REGARDING PARTICIPATION IN NATIONAL PRACTITIONER DATA BANK

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1110 to 11152

CFR Citation: 38 CFR 46

Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its regulations concerning the reporting of physicians, dentists, and other healthcare practitioners to the National Practitioner Data Bank (NPDB). These regulations concern malpractice payment reporting and clinical privileges actions reporting. These amendments appear to be necessary to make the reporting process more efficient and fair and to ensure that reporting is accomplished in accordance with the statutory framework.

Timetable:

Action	Date	FR Cite
NPRM	06/05/01	66 FR 30141
NPRM Comment Period End	08/06/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathryn W. Enchelmayer, Office of Quality and Performance (10Q), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8936

RIN: 2900–AJ76

3219. COMPENSATED WORK THERAPY/TRANSITIONAL RESIDENCES PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1772

CFR Citation: 38 CFR 17

Legal Deadline: None

Abstract: This rulemaking proposes to establish provisions regarding payment rates and length of stay for veterans residing in housing under VA's Compensation Work Therapy/Transitional Residences Program. These provisions are designed to ensure that veterans pay an equitable amount and stay only for the time necessary to meet the intended goals.

Timetable:

Action	Date	FR Cite
NPRM	03/06/01	66 FR 13461
NPRM Comment Period End	05/07/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Christine Woods, Program Specialist, Department of Veterans Affairs, Veterans Health Administration, HQ-Psychosocial Rehabilitation Services, Bldg. 148, Rm D133, VA Medical Center, Hampton, VA 23669
Phone: 757 722-9961
Fax: 757 728-3143

RIN: 2900–AK01

3220. PAYMENT OR REIMBURSEMENT FOR EMERGENCY TREATMENT FURNISHED AT NON-VA FACILITIES

Regulatory Plan: This entry is Seq. No. 113 in part II of this issue of the **Federal Register**.

RIN: 2900–AK08

3221. REASONABLE CHARGES FOR MEDICAL CARE OR SERVICES

Priority: Other Significant

Legal Authority: 38 USC 501; 38 USC 1721; 38 USC 1729

CFR Citation: 38 CFR 17.101

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs (VA) regulations concerning "reasonable charges" for medical care or services provided or furnished by VA to a veteran: For a non-service-connected disability for which the veteran is entitled to care (or the payment of expenses of care) under a health plan contract; for a non-service-connected disability incurred incident to the veteran's employment and covered under a worker's compensation law or plan that provides reimbursement or indemnification for such care and services; or for a non-service-connected disability incurred as a result of a motor vehicle accident in a State that requires automobile accident reparations insurance. This document also amends the regulations to update data bases and other provisions for the purpose of providing more precise charges.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/02/00	65 FR 65906
Interim Final Rule Comment Period End	01/02/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

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VA

Final Rule Stag

Government Levels Affected: None

Agency Contact: David Cleaver, VHA Revenue Office (174), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8210
Fax: 202 273-4897

RIN: 2900–AK39

3222. COPAYMENTS FOR INPATIENT HOSPITAL CARE AND OUTPATIENT MEDICAL CARE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1710; PL 106-117

CFR Citation: 38 CFR 17.108; 38 CFR 17.110

Legal Deadline: None

Abstract: This document proposes to amend VA's medical regulations to set forth a mechanism for determining copayments for inpatient hospital care, outpatient medical care. This document is necessary to implement provisions of the Veterans Millennium Health Care and Benefits Act and to set forth our statutory interpretations regarding application of the copayment requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Howard, Senior Program Analyst (174), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8198
Fax: 202 273-4897
Email: nancy.howard@hq.med.va.gov

RIN: 2900–AK50

3223. REASONABLE CHARGES FOR MEDICAL CARE OR SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721; 38 USC 1729

CFR Citation: 38 CFR 17.101

Legal Deadline: None

Abstract: This document amends VA's medical regulations concerning "reasonable charges" for medical care or services provided or furnished by VA to a veteran.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/08/01	66 FR 23326
Interim Final Rule Comment Period End	07/09/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Cleaver, VHA Revenue Office (174), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8210
Fax: 202 273-4897

RIN: 2900–AK73

3224. • COPAYMENTS FOR MEDICATIONS

Regulatory Plan: This entry is Seq. No. 114 in part II of this issue of the **Federal Register**.

RIN: 2900–AK85

3225. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF DEPARTMENT OF VETERANS AFFAIRS (CHAMPVA)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-398; PL 107-14; 38 USC 1713

CFR Citation: 38 CFR 17.271; 38 CFR 17.272; 38 CFR 17.274

Legal Deadline: Final, Statutory, October 1, 2001.

Abstract: This document implements provisions of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 and the Veterans' Survivor Benefits Improvement Act of 2001. These changes extend CHAMPVA eligibility to persons age 65 and over who would have otherwise lost their CHAMPVA eligibility due to attainment of entitlement to hospital insurance benefits under Medicare Part A. This rule also implements coverage of physical examinations required in connection with school enrollment for beneficiaries through age 17 and reduces the catastrophic cap for CHAMPVA dependents and survivors for each calendar year. These regulator changes implement the statutory provisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Susan K. Schmetzer Chief, Policy and Strategic Planning, Health Administration Center, Department of Veterans Affairs, 300 South Jackson Street, Denver, CO 802
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RIN: 2900–AK89

3226. • REASONABLE CHARGES FO MEDICAL CARE OR SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721; 38 USC 1729

CFR Citation: 38 CFR 17.101

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs (VA) medical regulations concerning "reasonable changes" for medical car or services provided or furnished by VA to veterans for nonservice-connected disabilities. This documen amends the regulations to update dat bases and other provisions for the purpose of providing more precise charges.

Timetable:

Action	Date	FR Cit
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Cleaver, VH Revenue Office (174), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenu NW, Washington, DC 20420
Phone: 202 273-8210
Fax: 202 273-4897

RIN: 2900–AL05

VA

Final Rule Stage

VETERANS BENEFITS ADMINISTRATION

3227. SCHEDULE FOR RATING DISABILITIES—THE SKIN

Priority: Other Significant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.118

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate skin conditions.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20171
ANPRM Comment Period End	07/01/91	
NPRM	01/19/93	58 FR 4969
NPRM Comment Period End	03/22/93	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam, Consultant, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AF00

3228. REVISED DEFINITION OF NET VALUE AND REVISED CRITERIA FOR PRE-FORECLOSURE DEBT WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 3720(a); 38 USC 3732(a)

CFR Citation: 38 CFR 36.4301; 38 CFR 36.4323

Legal Deadline: None

Abstract: The Department of Veterans Affairs is proposing to amend its loan guaranty regulations to revise the definition of property improvements for purposes of determining the net value of a foreclosed property and to clarify VA's position on pre-foreclosure debt waivers for liable veterans in cases involving transferee defaults. These changes will account for actual property appraisal procedures and will clarify Agency policy on pre-foreclosure debt waivers. Note: Because the original Notice of Proposed Rulemaking (NPRM) was published on September 22, 1993 (58 FR 49251), VA republished the NPRM to provide for a new notice and comment period before proceeding with a final rule.

Timetable:

Action	Date	FR Cite
NPRM	09/22/93	58 FR 49251
NPRM Comment Period End	10/22/93	
Second NPRM	08/01/00	65 FR 46882
Second NPRM Comment Period End	10/02/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Fyne, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7380

RIN: 2900–AG20

3229. VISION

Priority: Other Significant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.75

Legal Deadline: None

Abstract: This action will amend the vision portion of the rating schedule to provide current medical terminology, clarify ambiguous evaluation criteria, and add medical conditions not presently in the rating schedule.

Timetable:

Action	Date	FR Cite
NPRM	05/11/99	64 FR 25246
NPRM Comment Period End	07/12/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam, Consultant, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AH43

3230. INTERVERTEBRAL DISC SYNDROME

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: This action ensures that veterans diagnosed with intervertebral disc syndrome meet uniform criteria and receive consistent evaluations.

Timetable:

Action	Date	FR Cite
NPRM	02/24/97	62 FR 8204
NPRM Comment Period End	04/25/97	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam, Consultant, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AI22

3231. CLAIMS BASED ON AGGRAVATION OF NONSERVICE-CONNECTED DISABILITY

Priority: Other Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.310

Legal Deadline: None

Abstract: This document amends VA regulations concerning secondary service connection for certain disabilities. This amendment is necessary because of a recent decision by the U.S. Court of Veterans Appeals and will establish a new means by which veterans may be compensated for disabilities related to other service-connected conditions.

Timetable:

Action	Date	FR Cite
NPRM	06/04/97	62 FR 30547
NPRM Comment Period End	08/04/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

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Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beth McCoy, Consultant, Regulations Staff (211A), Department of Veterans Affairs, 575 N. Pennsylvania St., Indianapolis, IN 46204
Phone: 317 226-5209

RIN: 2900–AI42

3232. VETERANS EDUCATION: REPORTING AND RECORDKEEPING REQUIREMENTS AT FLIGHT SCHOOLS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16136; 38 USC 3002; 38 USC 3034; 38 USC 3202; 38 USC 3241; 38 USC 3452; 38 USC 3471; 38 USC 5101

CFR Citation: 38 CFR 21.4235; 38 CFR 21.4263

Legal Deadline: None

Abstract: Veterans are required by statute to apply for any benefit the Department of Veterans Affairs administers. This rule will describe the information to be included in an application for educational assistance for the pursuit of flight training. VA believes that, in order to comply with various statutory requirements connected with the educational programs VA administers, flight schools with courses approved for VA training will have to keep some records beyond those required by the Federal Aviation Administration. This rule will state those recordkeeping requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/03/00	65 FR 17477
NPRM Comment Period End	06/02/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AJ23

3233. EXCLUSIONS FROM INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 10602(c)

CFR Citation: 38 CFR 3.261; 38 CFR 3.262; 38 CFR 3.272

Legal Deadline: None

Abstract: To exclude from countable income for VA purposes amounts received under the Victims of Crime Act of 1984.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beth McCoy, Consultant, Regulations Staff (211A), Department of Veterans Affairs, 575 N. Pennsylvania St., Indianapolis, IN 46204
Phone: 317 226-5209

RIN: 2900–AJ52

3234. ACCELERATED BENEFITS OPTION FOR SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-368, sec 302

CFR Citation: 38 CFR 9.13

Legal Deadline: None

Abstract: Section 302 of the Veterans Program Enhancement Act of 1998 (Pub. L. 105-368) authorizes the payment of accelerated benefits in the Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs, effective February 9, 1999. This rule amends Department of Veterans Affairs (VA) regulations by providing an accelerated benefit option that will permit terminally ill members access to life insurance benefits before they die.

Timetable:

Action	Date	FR Cite
NPRM	07/20/00	65 FR 44999
NPRM Comment Period End	08/18/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Senior Attorney/Insurance Specialist, Insurance Program Administration & Oversight, Department of Veterans Affairs, P.O. Box 13399, Philadelphia, PA 19101
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RIN: 2900–AJ80

3235. LOAN GUARANTY: ADVERTISING AND SOLICITATION DISCLOSURE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 36.4227; 38 CFR 36.4365

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is proposing to change its regulations by prohibiting advertisements or solicitations from lenders that falsely state or imply that they were issued by or at the direction of VA or any other entity of the United States. This change would also provide that each written advertisement or solicitation from a private lender concerning VA-guaranteed loans include a statement indicating that the lender is a private lender and that the lender does not have an exclusive right to make loans guaranteed by VA. These provisions appear to be necessary to ensure that lenders do not provide misleading information.

Timetable:

Action	Date	FR Cite
NPRM	12/08/00	65 FR 7695
NPRM Comment Period End	02/06/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2900–AJ86

VA

Final Rule Stage

3236. POST-TRAUMATIC STRESS DISORDER CLAIMS BASED ON PERSONAL ASSAULT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1154

CFR Citation: 38 CFR 3.304

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs (VA) adjudication regulations on the proof of stressor in claims for service connection of post-traumatic stress disorder resulting from personal assault. It provides that alternative evidence other than the veteran's military records may constitute credible supporting evidence of the stressor. It also implements decisions by the U.S. Court of Appeals for Veterans Claims, which state that VA Adjudication Procedure Manual provisions on this issue are the equivalent of regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/16/00	65 FR 61132
NPRM Comment Period End	12/15/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Russo, Attorney-Advisor, Compensation and Pension (211), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK00

3237. VETERANS VOCATIONAL REHABILITATION AND EDUCATION: TITLE CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 512

CFR Citation: 38 CFR 21.50; 38 CFR 21.53; 38 CFR 21.60; 38 CFR 21.68; 38 CFR 21.4250; ...

Legal Deadline: None

Abstract: VA administers a vocational rehabilitation program that provides eligible veterans, with compensable service-connected disabilities, all service and assistance necessary to enable them to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment. Due to an increased emphasis on helping these veterans obtain and maintain suitable employment, VA has decided to change the title of those employees who deal principally with this program. All appropriate rules will be changed to show that these employees deal with vocational rehabilitation and employment.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Additional CFR Citations: 38 CFR 21.74; 38 CFR 21.98; 38 CFR 21.100; 38 CFR 21.155

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK46

3238. FILIPINO VETERANS BENEFIT IMPROVEMENTS

Priority: Other Significant

Legal Authority: 38 USC 107

CFR Citation: 38 CFR 3.8; 38 CFR 3.10; 38 CFR 3.1600

Legal Deadline: None

Abstract: This document proposes to amend Department of Veterans Affairs (VA) adjudication regulations to reflect changes made by the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 2001, which changed the rate of compensation payments to certain Filipino veterans residing in the U.S., and the Veterans Benefits and Health Care Improvement Act of 2000, which changed the amount of the burial benefit paid to the survivors of certain Filipino veterans who were residing in the U.S. at the time of their deaths.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Russo, Attorney-Advisor, Compensation and Pension (211), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK65

3239. SPECIAL MONTHLY COMPENSATION FOR WOMEN VETERANS WHO LOSE A BREAST AS A RESULT OF A SERVICE-CONNECTED DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1114(k); 38 USC 1155; PL 102-4

CFR Citation: 38 CFR 3.350; 38 CFR 4.116

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to amend its adjudication regulations to provide for payment of special monthly compensation for a woman veteran who loses one or both breasts as a result of service-connected disability. The intended effect of this amendment is to implement legislation authorizing VA to provide this benefit.

Timetable:

Action	Date	FR Cite
NPRM	07/20/01	66 FR 37940
NPRM Comment Period End	08/20/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam, Consultant, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK66

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3240. DUTY TO ASSIST

Priority: Other Significant

Legal Authority: 38 USC 5103; 38 USC 5108

CFR Citation: 38 CFR 3.102; 38 CFR 3.156; 38 CFR 3.159; 38 CFR 3.326

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations to implement the provisions of the Veterans Claims Assistance Act of 2000 (the VCAA), which was signed by the President on November 9, 2000. The intended effect of this regulation is to establish clear guidelines consistent with the intent of Congress regarding the timing and the scope of assistance VA will provide to a claimant who files a substantially complete application for VA benefits.

Timetable:

Action	Date	FR Cite
NPRM	04/04/01	66 FR 17834
NPRM Comment Period End	05/04/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beth McCoy, Consultant, Regulations Staff (211A), Department of Veterans Affairs, 575 N. Pennsylvania St., Indianapolis, IN 46204
Phone: 317 226-5209

RIN: 2900–AK69

3241. • EXCLUSION FROM COUNTABLE INCOME OF EXPENSES PAID FOR VETERAN'S LAST ILLNESS SUBSEQUENT TO VETERAN'S DEATH BUT PRIOR TO DATE OF DEATH PENSION ENTITLEMENT

Priority: Other Significant

Legal Authority: 38 USC 1503(a)(3)

CFR Citation: 38 CFR 3.272(h)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is amending its adjudication regulations governing exclusion of expenses of the veteran's last illness, burial, and just debts from countable income for death pension purposes. This amendment eliminates the prohibition against reducing countable income by the amount of these expenses that the surviving spouse paid after the date of death but prior to the date of his or her entitlement. In order to make the necessary changes, VA is removing the last sentence of 38 CFR 3.272(h), which currently provides that the amount of expenses of the veteran's last illness, burial, and just debts "paid subsequent to death but prior to date of entitlement are not deductible."

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beth McCoy, Consultant, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, Veterans Benefit Administration, 575 N Pennsylvania Street, Indianapolis, IN 46204
Phone: 317 226-5209

RIN: 2900–AK84

3242. • CLAIMS BASED ON EXPOSURE TO IONIZING RADIATION

Priority: Other Significant

Legal Authority: PL 98-542

CFR Citation: 38 CFR 3.311(b)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is amending its regulations governing the establishment of service connection for polycythemia vera due to radiation exposure in service. The amendment clarifies that although VA does not consider polycythemia vera to be a "radiogenic disease" under the regulations, a veteran is not precluded from claiming service connection for this condition on a direct-incurrence basis due to exposure to ionizing radiation in service. VA historically treated the list of radiogenic diseases in 38 CFR 3.311 as an exclusive list of generally denied service connection for any disease not on the list. However, the U.S. Court of Appeals for the Federal Circuit in Combee v. Brown, 34 F.3d 1039 (Fed. Cir. 1994), held that Public Law 98-542 did not authorize VA to establish entitlement to direct service connection under section 3.311. VA is showing polycythemia vera may be induced by exposure to ionizing radiation. VA wi obtain dose estimates, forward the claim for review by the Under Secreta for Benefits, and request an advisory medical opinion from the Under Secretary for Health under the provisions of section 3.311.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beth McCoy, Consultant, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affair Veterans Benefit Administration, 575 Pennsylvania Street, Indianapolis, IN 46204
Phone: 317 226-5209

RIN: 2900–AK87

3243. • RECOUPMENT OF NONDISABILITY SEVERANCE PAY FROM VA COMPENSATION

Priority: Other Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.700

Legal Deadline: None

Abstract: The Department of Veterans Affairs amends its adjudication regulation governing recoupment of military nondisability severance pay f service-connected disability compensation by deleting an erroneou statement that there is no prohibition against payment of disability compensation where the veterans received nondisability severance pay.

Timetable:

Action	Date	FR Cite
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Randy A. McKevitt, Consultant, C&P Service, Department Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK95

VA

Final Rule Stage

3244. • CERTIFICATION FOR ELIGIBILITY FOR ADAPTIVE EQUIPMENT FOR AUTOMOBILES OR OTHER CONVEYANCES

Priority: Other Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.808

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) amends it adjudication regulations concerning the criteria for certification for eligibility for financial assistance for adaptive equipment for automobiles or other conveyances by updating cross-references to pertinent medical regulations that have been recodified.

Timetable:

Action	Date	FR Cite
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2900–AK96

3245. • EXTENSION OF THE PRESUMPTIVE PERIOD FOR COMPENSATION FOR GULF WAR VETERANS' UNDIAGNOSED ILLNESSES

Priority: Other Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.317

Legal Deadline: None

Abstract: The Department of Veterans Affairs extends the period within which undiagnosed illnesses due to service in the Gulf War Theater of Operations must become manifest to a compensable degree in order for service connection to be established, to an ending date of December 31, 2006.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/01	66 FR 56614
Interim Final Rule Effective	11/09/01	
Interim Final Rule Comment Period End	01/08/02	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2900–AK98

3246. • INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL—SELECTED RESERVE

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16131

CFR Citation: 38 CFR 21.7636

Legal Deadline: None

Abstract: By statute, the monthly rates of basic educational assistance payable to reservists under the Montgomery GI Bill-Selected Reserve must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of educational assistance payable under the Montgomery GI Bill-Selected Reserve for fiscal year 2002 will be changed to show a 3.4 percent increase in these rates.

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK99

3247. • INCREASE IN RATES PAYABLE UNDER THE DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3532; 38 USC 3564; 38 USC 3687

CFR Citation: 38 CFR 21.3045; 38 CFR 21.3131; 38 CFR 21.3300; 38 CFR 21.3333

Legal Deadline: None

Abstract: By statute, the monthly rates of basic educational assistance payable under the Survivors' and Dependents' Educational Assistance Program must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of educational assistance payable under Survivors' and Dependents' Educational Assistance for fiscal year 2002 are changed to show a 3.4 percent increase in these rates.

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AL00

3248. • INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL—ACTIVE DUTY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3015

CFR Citation: 38 CFR 21.7136 to 21.7137

Legal Deadline: None

Abstract: By statute, the monthly rates of basic educational assistance payable to veterans under the Montgomery GI Bill-Active Duty must be adjusted each fiscal year. In accordance with statutory formula, the regulations governing rates

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of basic educational assistance payable under the Montgomery GI Bill-Active Duty for fiscal year 2002 will be changed to show a 3.4 percent increase.

Timetable:

Action	Date	FR Cite
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AL01

3249. • INCREASE IN RATES PAYABLE UNDER THE EDUCATIONAL ASSISTANCE TEST PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2143 to 2145

CFR Citation: 38 CFR 21.5820; 38 CFR 21.5822

Legal Deadline: None

Abstract: The law provides that rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program shall be adjusted annually by the Secretary of Defense based on the average actual cost of attendance at public institutions of higher education in the 12-month period since the rates were last adjusted. After consultation with the Department of Education, the Department of Defense has concluded that the rates for the 2001-02 academic year should be increased by 4.7 percent over the rates payable for the 2000-01 academic year. The regulations dealing with these rates will be amended accordingly.

Timetable:

Action	Date	FR Cite
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AL02

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3250. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—SIMPLIFIED ACQUISITION PROCEDURES FOR HEALTH CARE RESOURCES

Priority: Info./Admin./Other

Legal Authority: 38 USC 8153

CFR Citation: 48 CFR 801; 48 CFR 806; 48 CFR 812; 48 CFR 837; 48 CFR 852; 48 CFR 873

Legal Deadline: None

Abstract: VA withdrew the proposed rule concerning simplified acquisition procedures for health care resources published in the Federal Register on November 9, 1998 (63 FR 60256), and promulgated a new proposed rule concerning simplified acquisition procedures for health care resources. The new proposed rule document amends the Department of Veterans Affairs Acquisition Regulation (VAAR) to establish simplified procedures for the competitive acquisition of health care resources, consisting of commercial services or the use of medical equipment or space, pursuant to 38 U.S.C. 8151-8153. Public Law 104-262, the Veterans' Health Care Eligibility Reform Act of 1996, authorized VA to prescribe simplified procedures for the procurement of health care resources. The rule prescribes those procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/09/98	63 FR 60256
NPRM Comment Period End	01/08/99	
Second NPRM	06/07/01	66 FR 30659
Second NPRM Comment Period End	08/06/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AI71

3251. SEALED BIDDING AND COMPETITIVE PROPOSALS

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 806

Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its Acquisition Regulations. Section 806.401 is amended to remove material that conflicts with the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	03/11/98	63 FR 1186
NPRM Comment Period End	05/11/98	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 2900–AI99

VA

Final Rule Stage

3252. VETERANS AFFAIRS ACQUISITION REGULATION: REVISIONS TO VA ACQUISITION REGULATIONS PARTS 801 THROUGH 805

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 801 to 805; 48 CFR 842; 48 CFR 849; 48 CFR 852

Legal Deadline: None

Abstract: This rulemaking action would amend the Department of Veterans Affairs Acquisition Regulation to update position titles, to make minor grammatical corrections and revisions, to revise and update section numbers and titles and to relocate material to correspond to the Federal Acquisition Regulation, to remove obsolete or duplicative material, to make plain language revisions, and to delegate authority. In addition, the rule would update material regarding various internal VA administrative programs such as the VA's acquisition review, contracting officer's certification, and head of the contracting activity programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK75

BOARD OF VETERANS APPEALS

3253. BOARD OF VETERANS APPEALS—RULES OF PRACTICE—ATTORNEY FEE MATTERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5902; 38 USC 5904; 38 USC 5905

CFR Citation: 38 CFR 20.3; 38 CFR 20.609; 38 CFR 20.610

Legal Deadline: None

Abstract: The Board of Veterans Appeals is amending its rules of practice to end the practice of paying attorney fees from past-due benefits, establish safeguards in case of "disinterested third-party" payees who are individuals, and simplify certain notice procedures. These changes are necessary to permit VA to focus on activities more directly benefiting veterans and their families, i.e., deciding claims and coordinating benefit payments to veterans and their families, and to clarify the situations in which third parties may pay a claimants' legal fees.

Timetable:

Action	Date	FR Cite
NPRM	12/09/97	62 FR 64790
NPRM Comment Period End	02/09/98	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AI98

3254. DELEGATIONS OF AUTHORITY—APPEALS REGULATIONS AND RULES OF PRACTICE

Priority: Info./Admin./Other

Legal Authority: 38 USC 501(a); 38 USC 512; 38 USC 7101(a); 38 USC 7102; 38 USC 7104

CFR Citation: 38 CFR 19.2; 38 CFR 19.14; 38 CFR 20.102; 38 CFR 20.606(d)

Legal Deadline: None

Abstract: The Board of Veterans Appeals is amending its Appeals Regulation and Rules of Practice to update the delegations of authority to Members of the Board and to include the definition of "Chief Members" to whom some authority is delegated.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AJ66

3255. NOTICE OF APPEAL IN SIMULTANEOUSLY CONTESTED CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 19.192; 38 CFR 20.502

Legal Deadline: None

Abstract: The Board of Veterans Appeals is amending its Appeals Regulation and a Rule of Practice concerning simultaneously contested claims to make them more consistent with an authorizing statute and with each other. The statutory provision is currently implemented in two regulations. 38 U.S.C. 7105A(b) provides that when one contesting party files his or her "formal appeal" the "substance" of the formal appeal will be communicated to the other contesting parties who then have 30 days to file an answering brief or argument.

Timetable:

Action	Date	FR Cite
NPRM	10/01/99	64 FR 53302
NPRM Comment Period End	11/30/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AJ73

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3256. THE BOARD OF VETERANS APPEAL; RULES OF PRACTICE—MOTION FOR REVIEW OF DECISIONS ON GROUNDS OF CLEAR AND UNMISTAKABLE ERROR: CONTENT OF RECORD; ADVANCEMENT ON THE DOCKET

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7104(d); 38 USC 7111

CFR Citation: 38 CFR 20.1403; 38 CFR 20.1405(a); 38 CFR 20.1405(b)

Legal Deadline: None

Abstract: The Board of Veterans Appeals is amending its Rules of Practice at 38 CFR part 20 to add procedures which would (1) eliminate a provision relating to "constructive notice" as to the record to be reviewed in connection with challenges to Board decisions on the grounds of clear and unmistakable error (CUE) and (2) add a provision to provide for advancing CUE motions on the docket.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AJ85

3257. APPEAL REGULATIONS, RULES OF PRACTICE: USE OF SUPPLEMENTAL STATEMENT OF THE CASE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7105(d)

CFR Citation: 38 CFR 19.31; 38 CFR 20.302(c); 38 CFR 20.501(c)

Legal Deadline: None

Abstract: The Board of Veterans' Appeals is amending its appeals regulations and Rules of Practice to clarify that a "Supplemental Statement of the Case" (SSOC) is to be used only to inform an appellant of material changes in, or additions to, the information included in the Statement of the Case (SOC) or a prior SSOC. The prior rule permitted new issues to be added to the SOC, resulting in confusion for appellants, regional offices, and the Board as to what issues were actually on appeal. Since 1966, the manual provisions governing the regional office have prohibited using an SSOC to reply to new issues. This rule will conform the Board's rules with agency practice.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AK33

3258. RULES OF PRACTICE: MEDICAL OPINIONS FROM THE VETERANS HEALTH ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 5107(a)

CFR Citation: 38 CFR 20.901(a)

Legal Deadline: None

Abstract: The Board of Veterans' Appeals (Board) is amending its appeals regulations to clarify that it may obtain medical opinions from VA's Veterans Health Administration (VHA). The current rule, 38 CFR 20.901(a), makes an obsolete reference to the "Chief Medical Director," a title eliminated in 1992 and replaced by "Under Secretary for Health." The revised rule would clarify that the Board may obtain opinions from VHA, not from the individual who happens to be the Under Secretary for Health.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/23/01	66 FR 38158
Interim Final Rule Effective	07/23/01	
Interim Final Rule Comment Period End	09/21/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AK52

3259. APPEALS REGULATIONS: TITU FOR MEMBERS OF THE BOARD OF VETERANS APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 512; 38 USC 7101(a)

CFR Citation: 38 CFR 19.2

Legal Deadline: None

Abstract: The Board of Veterans' Appeals proposes to amend its appeal regulations to provide that a Member of the Board of Veterans' Appeals (Board) may also be known as a "Veteran Law Judge." This duplicates in proposed rule format, a final rule previously published in the Federal Register on September 14, 2000 (65 FI 55461). Individuals deciding appeals other parts of the Federal Governmen are typically known as "judges"; e.g., "administrative law judges" and "administrative judges." Giving Board Members the title of "veteran law judges" would provide a more accura title than "member" and would enhance confidence in the system through recognition that appeals are being adjudicated by legal professionals.

Timetable:

Action	Date	FR Cite
NPRM	03/06/01	66 FR 134
NPRM Comment Period End	05/07/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AK62

VA

Final Rule Stage

3260. BOARD OF VETERANS APPEALS: RULES OF PRACTICE—EFFECT OF PROCEDURAL DEFECTS IN MOTIONS FOR REVISION OF DECISIONS ON GROUNDS OF CLEAR AND UNMISTAKABLE ERROR

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7111; PL 105-111

CFR Citation: 38 CFR 20.1404(b); 38 CFR 20.1409(b)

Legal Deadline: None

Abstract: The Board of Veterans Appeals amends its Rules of Practice regulations to provide that, when a motion to revise a Board decision on the grounds of clear and unmistakable error fails to provide specific allegations of error, the Board will dismiss the motion without prejudice to refiling. This amendment is made necessary by a decision of the United States Court of Appeals for the Federal Circuit.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/10/01	66 FR 35902
Interim Final Rule Comment Period End	09/10/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AK74

3261. • BOARD OF VETERANS' APPEALS: OBTAINING EVIDENCE AND CURING PROCEDURAL DEFECTS WITHOUT REMANDING

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7102; 38 USC 7103(c); 38 USC 7104(a); 38 USC 7105(d); 38 USC 7109(c); ...

CFR Citation: 38 CFR 19.31; 38 CFR 20.903; 38 CFR 20.1304

Legal Deadline: None

Abstract: These proposed changes will permit the Board of Veterans' Appeals to obtain evidence, clarify the evidence, cure a procedural defect, or perform any other action essential for a proper appellate decision in any appeal properly before it without having to remand the appeal to the agency of original jurisdiction. This will also allow the Board to consider additional evidence without having to refer the evidence to the agency of original jurisdiction for initial consideration and without having to obtain the appellant's waiver. By reducing the number of appeals remanded, VA intends to shorten appeal processing time and to reduce the backlog of claims awaiting decision.

Timetable:

Action	Date	FR Cite
NPRM	08/06/01	66 FR 40942
NPRM Comment Period End	09/05/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AK91

NATIONAL CEMETERY SYSTEM

3262. INTERMENT OR MEMORIALIZATION IN VA NATIONAL CEMETERIES AND CERTAIN STATE CEMETERIES—FEDERAL OR STATE CAPITAL CRIME

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 2411; PL 105-116

CFR Citation: 38 CFR 1; 38 CFR 39

Legal Deadline: None

Abstract: Public Law No. 105-116, 111 Stat. 2381 (codified at 38 U.S.C. 2411), provides that, under certain circumstances, the remains of certain persons who committed Federal or State capital crimes may not be interred in a VA national cemetery and the memory of such persons may not be memorialized in a VA national cemetery. These statutory provisions also impose conditions on the receipt by a State of a VA grant to the State for veteran's cemetery regarding such interments or memorializations.

Timetable:

Action	Date	FR Cite
NPRM	07/21/00	65 FR 45332
NPRM Comment Period End	09/19/00	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Barber, Program Analyst (402B1), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 273-5183 Fax: 202 273-6697 Email: karen.barber@mail.va.gov

RIN: 2900–AJ77

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3263. DELEGATION OF AUTHORITY—DECISIONMAKING REGARDING DISCRIMINATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 553

CFR Citation: 38 CFR 2

Legal Deadline: None

Abstract: This document delegates to certain Department of Veterans Affairs officials authority to make final Agency decisions regarding the procedural acceptability of equal employment opportunity discrimination complaints. It also delegates authority to those officials to make final Agency decisions which determine whether a breach of an equal employment opportunity complaint settlement agreement has occurred.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James S. Jones, Deputy Assistant Secretary for Resolution Management (08), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420

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Phone: 202 501-2800
Email: jamess.jones@mail.va.gov

RIN: 2900–AJ63

3264. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, OR NATIONAL ORIGIN; HANDICAP; AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794; 42 USC 2000d-1; 42 USC 6101

CFR Citation: 38 CFR 18

Legal Deadline: None

Abstract: The Department of Justice, pursuant to Executive Order 12250, is requesting that Federal agencies with title VI, section 504, and Age Discrimination Act regulations jointly issue amendments to their regulations to incorporate the Civil Rights Restoration Act of 1987 revisions.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tyrone Eddins, External Affairs Manager, Office of Resolution Management (08), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 501-2801
Fax: 202 501-2885

RIN: 2900–AK13

OFFICE OF THE GENERAL COUNSEL

3265. RELEASE OF INFORMATION FROM DEPARTMENT OF VETERANS AFFAIRS RECORDS

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 38 USC 5701

CFR Citation: 38 CFR 1.500 to 1.584

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs regulations governing the confidentiality and release of VA records subject to the Privacy Act, 5 U.S.C. 552a, the Freedom of Information Act (FOIA), 5 U.S.C. 552, and the veterans' records confidentiality statute (section 5701), 38 U.S.C. 5701. The amendments will implement court decisions and executive branch guidance issued since the regulations were originally published. The amendment is part of the Administration's effort to simplify, clarify, and modernize Federal regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/10/98	63 FR 48455
NPRM Comment Period End	11/09/98	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lorraine M. Johnson, Deputy Assistant General Counsel (024A), Department of Veterans Affairs, Office of General Counsel, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-6381

RIN: 2900–AH98

3266. RECOGNITION OF ORGANIZATIONS AND ACCREDITATION OF REPRESENTATIVES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 38 USC 501(a); 38 USC 5901 to 5905

CFR Citation: 38 CFR 14.626 to 14.6

Legal Deadline: None

Abstract: The Department of Vetera Affairs proposes to revise and clarif existing procedures and requiremen regarding certification or recognitio service organizations and their representatives and other individual agents, and attorneys representing claimants for benefits administered VA. The revisions are designed to improve VA's ability to assure high quality representation of claimants.

Timetable:

Action	Date	FR C
NPRM	11/04/98	63 FR 59
NPRM Comment Period End	01/04/99	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Richard J. Hipolit Deputy Assistant General Counsel (022), Department of Veterans Affai Office of General Counsel, 810 Ver Avenue NW, Washington, DC 2042 Phone: 202 273-6329

RIN: 2900–AI93

Department of Veterans Affairs (VA) — Long-Term Acti

VETERANS HEALTH ADMINISTRATION

3267. PROTECTION OF HUMAN SUBJECTS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 16

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Judy Williams
Phone: 202 273-8284

RIN: 2900–AJ08

3268. WAIVERS

Priority: Substantive, Nonsignifican

CFR Citation: 38 CFR 17.105

Timetable:

Action	Date	FR C
NPRM	10/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Non

VA

Long-Term Actions

Agency Contact: Nancy Howard
Phone: 202 273-8198
Fax: 202 273-4897
Email: nancy.howard@hq.med.va.gov

RIN: 2900–AK29

3269. LOAN GUARANTY: MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17.1000 to 17.1020

Timetable:

Action	Date	FR Cite
NPRM	10/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Theresa Hayes
Phone: 202 273-8445

RIN: 2900–AK58

VETERANS BENEFITS ADMINISTRATION

3270. AMENDMENTS TO TRAINING AND REHABILITATION PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.40; 38 CFR 21.6420; 38 CFR 21.6501; 38 CFR 21.6503; 38 CFR 21.6505; 38 CFR 21.6507; 38 CFR 21.6523; 38 CFR 21.260; 38 CFR 21.6005; 38 CFR 21.6042; 38 CFR 21.6050; 38 CFR 21.6052; 38 CFR 21.6054; 38 CFR 21.6056; 38 CFR 21.6058; ...

Timetable:

Action	Date	FR Cite
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Graffam
Phone: 202 273-7410
TDD Phone: 202 275-5636

RIN: 2900–AG00

3271. LOAN GUARANTY: REVISION TO VA WORK RULES FOR CREDIT SCORED LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4346; 38 CFR 3702(c)(1)

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Fyne
Phone: 202 273-7380

RIN: 2900–AJ91

3272. LOAN GUARANTY: CREDIT STANDARDS REVISION

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4337

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Finneran
Phone: 202 273-7369
Fax: 202 273-3523
Email: lgyrfinn@vba.va.gov

RIN: 2900–AJ92

3273. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND REQUIREMENT FOR DRUG-FREE WORKPLACE (ASSISTANCE)

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 44; 38 CFR 48

Timetable:

Action	Date	FR Cite
NPRM	10/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Robert Finneran
Phone: 202 273-7369
Fax: 202 273-3523
Email: lgyrfinn@vba.va.gov

RIN: 2900–AK16

3274. • PLAIN LANGUAGE (READER FOCUSED WRITING) INITIATIVE; NATIONAL SERVICE LIFE INSURANCE (NSLI)

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1901 to 1929; 38 USC 1981 to 1988

CFR Citation: 38 CFR 8.3 to 8.11

Legal Deadline: None

Abstract: This rule will amend 38 CFR 8.3 through 8.32 by revising the text into a different format to promote better communication to policyholders and program administrators. This amendment is written in conjunction with VA's Plain Language (Reader Focused Writing) Initiative.

Timetable:

Action	Date	FR Cite
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Senior Attorney/Insurance Specialist, Insurance Program Administration & Oversight, Department of Veterans Affairs, P.O. Box 13399, Philadelphia, PA 19101
Phone: 215 842-2000
Fax: 215 381-3502
Email: issghosm@vba.va.gov

RIN: 2900–AL09

BOARD OF VETERANS APPEALS

3275. APPEALS REGULATIONS; RULES OF PRACTICE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 19.3 (Revision); 38 CFR 20.609 (Revision); 38 CFR 20.903 (Revision); 38 CFR 20.1000; 38 CFR 20.1001; 38 CFR 20.1002; 38 CFR 20.1100 (Revision); 38 CFR 19.10; 38 CFR 19.15 (Revision); 38 CFR 19.39; 38 CFR 20.3; 38 CFR 20.101 (Revision); 38 CFR 20.102 (Revision); 38 CFR 20.201 (Revision); 38 CFR 20.605 (Revision); ...

Timetable:

Action	Date	FR Cite
NPRM	02/03/92	57 FR 4131
NPRM Comment Period End	03/04/92	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AE78

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3276. RULES OF PRACTICE; HEARINGS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.702; 38 CFR 2.1; 38 CFR 19.75; 38 CFR 20.703; 38 CFR 20.704; 38 CFR 20.707; 38 CFR 20.711; 38 CFR 20.714; 38 CFR 20.716; 38 CFR 20.717; 38 CFR 20.1003

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AG07

3277. RULES OF PRACTICE: MEDICAL OPINIONS; APPEAL PROCESSING AND SUBMISSION OF ADDITIONAL EVIDENCE

Priority: Other Significant

CFR Citation: 38 CFR 19.36; 38 CFR 20.800; 38 CFR 20.801; 38 CFR 20.802; 38 CFR 20.901; 38 CFR 20.1304

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AG90

OFFICE OF THE ASSISTANT SECRETARY FOR ACQUISITION AN FACILITIES

3279. OPERATION OF CHILD CARE CENTERS AT VA FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17

Timetable:

Action	Date	FR Cit
NPRM	12/27/89	54 FR 530
NPRM Comment Period End	01/26/90	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Renee Bruce
Phone: 410 605-7388

RIN: 2900–AD48

Department of Veterans Affairs (VA) — Completed Actio

3279. DELEGATION OF AUTHORITY—LOAN GUARANTY FOR MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS

Priority: Info./Admin./Other

CFR Citation: 38 CFR 17.1000-1010

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Theresa Hayes
Phone: 202 273-8445

RIN: 2900–AK51

3280. PROVISION OF HOSPITAL AND OUTPATIENT CARE TO VETERANS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17.36

Completed:

Reason	Date	FR Cite
Withdrawn	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Walter Besecker
Phone: 202 273-8934

RIN: 2900–AK53

3281. MEDICAL BENEFITS PACKAGE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17.36; 38 CFR 17.38

Completed:

Reason	Date	FR Cite
Merged with 2900-AK32	06/26/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marsha Goodwin
Phone: 202 273-8540

RIN: 2900–AK55

3282. LOAN GUARANTY: TITLE EVIDENCE REQUIREMENTS AND OCCUPANCY REQUIREMENTS FOR CONVEYANCE OF PROPERTIES TO VA

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4320

Completed:

Reason	Date	FR Cite
Withdrawn	05/10/01	66 FR 23873

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Fyne
Phone: 202 273-7380

RIN: 2900–AE20

3283. ACCEPTANCE OF PARTIAL PAYMENTS; INDEMNIFICATION OF DEFAULT

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 4202; 38 CFR 4275; 38 CFR 4301; 38 CFR 4315; 38 CFR 4323

Completed:

Reason	Date	FR Cit
Withdrawn	05/10/01	66 FR 238

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Fyne
Phone: 202 273-7380

RIN: 2900–AE60

3284. CERTIFICATION EVIDENCE F PROOF OF SERVICE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.203

VA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	04/18/01	66 FR 19857

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Russo
Phone: 202 273-7211
Fax: 202 275-1728
Email: capbruss@vba.va.gov

RIN: 2900–AJ55

3285. REVIEW OF BENEFIT CLAIMS DECISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.105; 38 CFR 3.2100; 38 CFR 3.2600

Completed:

Reason	Date	FR Cite
Final Action	05/02/01	66 FR 21871
Final Action Effective	06/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Russo
Phone: 202 273-7211
Fax: 202 275-1728
Email: capbruss@vba.va.gov

RIN: 2900–AJ99

3286. REVISED DEFINITION OF A PROGRAM OF EDUCATION UNDER THE MONTGOMERY GI BILL—ACTIVE DUTY AND OTHER MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7020; 38 CFR 21.7050; 38 CFR 21.7131

Completed:

Reason	Date	FR Cite
Final Action	07/30/01	66 FR 39279

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling
Phone: 202 273-7187
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Email: edubsusl@vba.va.gov

RIN: 2900–AK06

3287. SIGNATURE BY MARK

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3; 38 CFR 3.113

Completed:

Reason	Date	FR Cite
Final Action	04/06/01	66 FR 18194

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Bisset
Phone: 202 273-7210

RIN: 2900–AK07

3288. SCHEDULE FOR RATING DISABILITIES: DISABILITIES OF THE LIVER

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 4.114

Completed:

Reason	Date	FR Cite
Final Action	05/31/01	66 FR 29486
Final Action Effective	07/02/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam
Phone: 202 273-7410

RIN: 2900–AK12

3289. WRITTEN AND ORAL INFORMATION ON STATEMENTS AFFECTING ENTITLEMENT TO BENEFITS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.103

Completed:

Reason	Date	FR Cite
NPRM	04/20/01	66 FR 20220
Final Action	11/09/01	66 FR 56613
Final Action Effective	12/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald England
Phone: 202 273-7211

RIN: 2900–AK25

3290. ACCEPTABLE EVIDENCE OF MARRIAGE

Priority: Info./Admin./Other

CFR Citation: 38 CFR 3.205

Completed:

Reason	Date	FR Cite
Merged With 2900-AK25	10/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Bisset
Phone: 202 273-7210

RIN: 2900–AK30

3291. ACCEPTABLE EVIDENCE OF DIVORCE

Priority: Info./Admin./Other

CFR Citation: 38 CFR 3.206

Completed:

Reason	Date	FR Cite
Merged With 2900-AK26	10/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Bisset
Phone: 202 273-7210

RIN: 2900–AK34

3292. ACCEPTABLE EVIDENCE OF BIRTH

Priority: Info./Admin./Other

CFR Citation: 38 CFR 3.209

Completed:

Reason	Date	FR Cite
Merged With 2900-AK26	10/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Bisset
Phone: 202 273-7210

RIN: 2900–AK36

3293. INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL—SELECTED RESERVE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7636

Completed:

Reason	Date	FR Cite
Final Action	07/26/01	66 FR 38936

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling
Phone: 202 273-7187
Fax: 202 275-2636
Email: edubsusl@vba.va.gov

RIN: 2900–AK40

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3294. VETERANS EDUCATION: INCREASED ALLOWANCE FOR THE EDUCATIONAL TEST PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.5820; 38 CFR 21.5822

Completed:

Reason	Date	FR Cite
Final Action	06/14/01	66 FR 32225

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling
Phone: 202 273-7187
Fax: 202 275-2636
Email: edubsusl@vba.va.gov

RIN: 2900–AK41

3295. INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL—ACTIVE DUTY AND SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137

Completed:

Reason	Date	FR Cite
Final Action	06/14/01	66 FR 32226

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling
Phone: 202 273-7187
Fax: 202 275-2636
Email: edubsusl@vba.va.gov

RIN: 2900–AK44

3296. END OF THE SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.4131; 38 CFR 21.4135; 38 CFR 21.4800; 38 CFR 21.4802; 38 CFR 21.4810; ...

Completed:

Reason	Date	FR Cite
Final Action	07/26/01	66 FR 38938

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling
Phone: 202 273-7187
Fax: 202 275-2636
Email: edubsusl@vba.va.gov

RIN: 2900–AK45

3297. ACCEPTABLE EVIDENCE OF CHILD'S RELATIONSHIP

Priority: Info./Admin./Other

CFR Citation: 38 CFR 3.210

Completed:

Reason	Date	FR Cite
Merged With 2900-AK26	10/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Bisset
Phone: 202 273-7210

RIN: 2900–AK47

3298. ACCEPTABLE EVIDENCE OF DEATH

Priority: Info./Admin./Other

CFR Citation: 38 CFR 3.211

Completed:

Reason	Date	FR Cite
Merged With 2900-AK26	10/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Bisset
Phone: 202 273-7210

RIN: 2900–AK48

3299. U.S. FLAGS FOR BURIALS OF CERTAIN MEMBERS OF THE SELECTED RESERVE

Priority: Other Significant

CFR Citation: 38 CFR 1.10

Completed:

Reason	Date	FR Cite
Final Action	05/16/01	66 FR 27598

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Fuller
Phone: 202 273-7598

RIN: 2900–AK56

3300. DISEASE ASSOCIATED WITH EXPOSURE TO CERTAIN HERBICIDE AGENTS: TYPE 2 DIABETES

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 38 CFR 3.309(e)

Completed:

Reason	Date	FR Cite
Final Action	05/08/01	66 FR 231
Final Action Effective	07/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Russo
Phone: 202 273-7211
Fax: 202 275-1728
Email: capbruss@vba.va.gov

RIN: 2900–AK63

3301. VETERANS BENEFITS AND HEALTH CARE IMPROVEMENT ACT OF 2000

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.6; 38 CFR 3.353; 38 CFR 3.557; 38 CFR 3.558; 3 CFR 3.1604

Completed:

Reason	Date	FR Cite
Final Action	09/21/01	66 FR 485
Final Action Effective	11/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert M. White
Phone: 202 273-7228
Fax: 202 275-4800
Email: capbwhit@vba.va.gov

RIN: 2900–AK68

3302. DELEGATION OF AUTHORITY-PORTFOLIO LOAN SERVICING CONTRACTOR

Priority: Info./Admin./Other

CFR Citation: 38 CFR 36.4342

Completed:

Reason	Date	FR Cite
Final Action	06/14/01	66 FR 322

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Finneran
Phone: 202 273-7369
Fax: 202 273-3523

VA

Completed Actions

Email: lgyrfinn@vba.va.gov

RIN: 2900–AK72

3303. VETERANS EDUCATION: TOPPING UP TUITION ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21

Completed:

Reason	Date	FR Cite
Merged With 2900-AK00	07/30/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling
Phone: 202 273-7187
Fax: 202 275-2636
Email: edubsusl@vba.va.gov

RIN: 2900–AK79

3304. BOARD OF VETERANS APPEALS: RULES OF PRACTICE—SUBPOENAS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.711

Completed:

Reason	Date	FR Cite
Final Action	09/28/01	66 FR 49538
Final Action Effective	10/29/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AJ58

3305. NOTIFICATION OF REPRESENTATIVES IN CONNECTION WITH MOTIONS FOR REVISION OF DECISIONS ON GROUNDS OF CLEAR AND UNMISTAKABLE ERROR

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.1405

Completed:

Reason	Date	FR Cite
Final Action	07/17/01	66 FR 31750

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AJ75

3306. RULES OF PRACTICE; JURSIDICTION

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.101; 38 CFR 20.203

Completed:

Reason	Date	FR Cite
NPRM	04/04/01	66 FR 17840
Final Action	10/22/01	66 FR 53339
Final Action Effective	11/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AJ97

3307. BOARD OF VETERANS APPEALS: RULES OF PRACTICE—TIME FOR FILING SUBSTANTIVE APPEAL

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.302(b); 38 CFR 30.304

Completed:

Reason	Date	FR Cite
Final Action	10/03/01	66 FR 50318

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AK54

[FR Doc. 01–25309 Filed 11–30–01; 8:45 am]
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Monday,
December 3, 2001

Part XVII

Agency for International Development

Semiannual Regulatory Agenda

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AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Ch. II

Federal Regulations; USAID Regulatory Agenda Semiannual Summary

AGENCY: U.S. Agency for International Development.

ACTION: Semiannual regulatory agenda.

SUMMARY: The U.S. Agency for International Development (USAID) is publishing this agenda as required by Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), and the Regulatory Flexibility Act. This agenda reports the status of those regulations currently under review and gives USAID's plan for the issuance of proposed regulations during the next 12 months. It is expected that the information provided in this agenda will enable the public to be more aware of and to participate more effectively in USAID's regulatory process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda or the review list in general, contact: Joanne M. Paskar, Chief, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Washington, DC 20523; Telephone (202) 712-1217, email jpaskar@usaid.gov.

Specific: For further information about any particular item on the agenda, contact the individual listed as the contact for that item.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of a agenda of regulations. The Regulatory Flexibility Act applies only to regulations for which a notice of proposed rulemaking was issued on or after September 19, 1980. USAID is required to publish an agenda listing al the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities." The Executive order became effective o September 30, 1993, and it is required that USAID publish a listing of all the regulations it expects to have under active consideration for proposal, or review during the coming one-year period.

Dated: August 30, 2001.

Roberto J. Miranda,

Director of Administrative Services.

Agency for International Development (AID) — Proposed Rule Stag

3308. USAID ACQUISITION REGULATION (AIDAR) UPDATE OF APPENDIX D AND APPENDIX J

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR ch 7, app D; 48 CFR ch 7, app J

Legal Deadline: None

Abstract: Revision of appendix D and appendix J of the AIDAR, regarding personal services contracts with U.S. citizens and cooperating country and third country nationals. The appendices will be consolidated, determination of pay and benefits for jobs will be revised, and editorial changes made.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Tom M. Henson, Senior Procurement Analyst, Agency for International Development, Room 7.08-106, Policy Division, Office of Procurement, 1300 Pennsylvania Avenue NW., Washington, DC 20523
Phone: 202 712-5448
Fax: 202 216-3136
Email: thenson@usaid.gov

RIN: 0412–AA43

3309. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION; REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 208; 22 CFR 210

Legal Deadline: None

Abstract: These regulations cover suspension and debarment under nonprocurement programs and drug-free workplace rules. Regulations are being rewritten in plain language and to eliminate certification requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Frances M. Maki, Senior Procurement Analyst, Agency for International Development, Room 7.08-094, M OP/P, 1300 Pennsylvania Avenue NW., Washington, DC 20523
Phone: 202 712-4978
Email: fmaki@usaid.gov

RIN: 0412–AA47

Agency for International Development (AID)

Final Rule Stage

3310. ADMINISTRATION OF GRANTS AND COOPERATIVE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 226

Legal Deadline: None

Abstract: This regulation will implement the Governmentwide uniform administrative requirements for grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations issued by the Office of Management and Budget.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/95	60 FR 3743
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Allen Eisenberg, Senior Policy Analyst, Agency for International Development, 1300 Pennsylvania Avenue NW., Washington, DC 20523
Phone: 202 712-0824
Email: aeisenberg@usaid.gov

RIN: 0412–AA21

3311. MISCELLANEOUS AMENDMENTS TO THE AIDAR (AIDAR NOTICE 98-2)

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR 712; 48 CFR 727; 48 CFR 742; 48 CFR 752; 48 CFR ch 7, app I

Legal Deadline: None

Abstract: The USAID Acquisition Regulation will be amended to clarify USAID policy on the use of Government facilities and personnel in commercial products, establish an Agency policy regarding contract clauses to clarify withholding requirements under IQC contracts, revise reporting requirements, and coordinate the Agency's academic publication policy with the FAR's Rights in Data coverage by removing it from appendix I into a new part 727. This new AIDAR part will also provide for contractual coverage of Rights in Data in USAID's contracts performed overseas and awarded to U.S. organizations, provide guidance on Rights in Data coverage for overseas contracts with non-U.S. entities, and provide an alternate paragraph to add to the applicable FAR clause to reserve USAID's right to restrict release of data when release may negatively impact the Government's development or diplomatic relationship with the cooperating countries.

Timetable:

Action	Date	FR Cite
NPRM	11/04/98	63 FR 59501
NPRM Comment Period End	01/04/99	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Diane M. Howard, Senior Procurement Analyst, Agency for International Development, Room 7.08-082U, M/OP/P, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-0206
Fax: 202 216-3395
Email: dhoward@usaid.gov

RIN: 0412–AA30

3312. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 22 CFR 209.1 to 209.13; 22 CFR 217.1 to 217.47; 22 CFR 218.01 to 218.39

Legal Deadline: None

Abstract: The Agency for International Development proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of "program or activity" and "program" into the Department's title VI, section 504, and Age Discrimination Act regulations. The Department's proposed regulation will be published as part of a joint Notice of Proposed Rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76459
NPRM Comment Period End	01/05/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Jessalyn L. Pendarvis, Director, Office of Equal Opportunity Programs, Agency for International Development, Room 2.09-77, 1300 Pennsylvania Avenue NW., Washington, DC 20523-2901
Phone: 202 712-1110
Fax: 202 216-3370
Email: jpendarvis@usaid.gov

RIN: 0412–AA45

3313. • ADDING VIETNAM AND CAMBODIA TO THE LIST OF COUNTRIES ELIGIBLE FOR USAID FINANCING

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 228

Legal Deadline: None

Abstract: Vietnam and Cambodia will be removed from the restricted countries list for source/origin/nationality purposes.

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Timetable:

Action	Date	FR Cite
Final Action	02/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Frances M. Maki, Senior Procurement Analyst, Agency for International Development, Room 7.08-094, M OP/P, 1300 Pennsylvania Avenue NW., Washington, DC 20523
Phone: 202 712-4978
Email: fmaki@usaid.gov

RIN: 0412–AA48

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December 3, 2001

Part XVIII

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities, which may be conducted by the Agency during the next 12 months. This regulatory agenda may be revised by the agency during the coming months as a result of action taken by the Board.

ADDRESSES: Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact James J. Raggio, General Counsel, (202) 272-5434 (voice) or (202) 272-5449 (TDD).

Lawrence W. Roffee,

Executive Director, Architectural and Transportation Barriers Compliance Board.

Architectural and Transportation Barriers Compliance Board (ATBCB)

Proposed Rule Stag

3314. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: OUTDOOR DEVELOPED AREAS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for outdoor developed areas.

Timetable:

Action	Date	FR Cite
Notice of Intent to Conduct Regulatory Negotiation	04/18/97	62 FR 19084
Establishment of Regulatory Negotiation Committee	06/04/97	62 FR 30546
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004-1111
Phone: 202 272-5451
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA22

Architectural and Transportation Barriers Compliance Board (ATBCB)

Final Rule Stag

3315. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: RECREATION FACILITIES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for recreational facilities.

Timetable:

Action	Date	FR Cite
Notice of Intent to Form Advisory Committee	02/03/93	58 FR 6949
Notice of Appointment of Advisory Committee Members	06/10/93	58 FR 32511
ANPRM	09/21/94	59 FR 48542
ANPRM Comment Period End	12/20/94	
NPRM	07/09/99	64 FR 37326
NPRM Comment Period End	12/08/99	
Availability of Draft Final Guidelines Summary	07/21/00	65 FR 45331
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004-1111
Phone: 202 272-5451
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA16

ATBCB **Final Rule Stage**

3316. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990; 29 USC 792, Rehabilitation Act

CFR Citation: 36 CFR 1191; 36 CFR 1190

Legal Deadline: None

Abstract: This regulation will revise and update the accessibility guidelines for the Americans with Disabilities Act (ADA) and the Architectural Barriers Act.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee	04/06/94	59 FR 16175
Establishment of Advisory Committee	09/14/94	59 FR 47165
NPRM	11/16/99	64 FR 62248
NPRM Comment Period End	03/15/00	
Notice Extending Comment Period	03/09/00	65 FR 12493
Extension Period End	05/15/00	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004-1111
Phone: 202 272-5451
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA20

Architectural and Transportation Barriers Compliance Board (ATBCB) **Long-Term Actions**

3317. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR TRANSPORTATION VEHICLES: PASSENGER VESSELS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1192.

Legal Deadline: None

Abstract: This regulation will amend the Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles to include additional requirements for ferries, excursion boats, and other passenger vessels.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee	03/30/98	63 FR 15175
Establishment of Advisory Committee	08/12/98	63 FR 43136
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004-1111
Phone: 202 272-5451
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA11

3318. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: PUBLIC RIGHTS-OF-WAY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act; 29 USC 792, Rehabilitation Act

CFR Citation: 36 CFR 1190; 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will amend the accessibility guidelines for the Americans with Disabilities Act and the Architectural Barriers Act to include requirements for public rights-of-way.

Timetable:

Action	Date	FR Cite
Notice of Intent to Form Advisory Committee	08/12/99	64 FR 43980
Notice of Appointment of Advisory Committee Members	10/20/99	64 FR 56482
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004-1111
Phone: 202 272-5451
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA26

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Part XIX

Commission on Civil Rights

Semiannual Regulatory Agenda

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COMMISSION ON CIVIL RIGHTS (CCR)

COMMISSION ON CIVIL RIGHTS

45 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: Commission on Civil Rights.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations the U.S. Commission on Civil Rights will have under development during the six-month period from October 31, 2001 through April 30, 2002. The purpose for publishing this agenda is to give notice of any regulatory activity by the Commission in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information on any items in the agenda, contact Michael L. Foreman, Acting Deputy General Counsel, U.S. Commission on Civil Rights, Room 620, 624 Ninth Street NW., Washington, DC 20425, (202) 376-8351.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866, "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of Executive Order 12866, and no regulatory impact analysis is required. The Commission has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public, nor will the regulations have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required.

Michael L. Foreman,

Acting Deputy General Counsel.

Commission on Civil Rights (CCR) — Long-Term Actions

3319. COMMISSION ON CIVIL RIGHTS-UPDATE AND REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1975 to 1975f; 5 USC 552(a); 5 USC 552(b)

CFR Citation: 45 CFR 701; 45 CFR 702; 45 CFR 703

Legal Deadline: None

Abstract: The regulation updates and revises most of the Commission's current regulations, specifically 45 CFR 701, 702, 703. 45 CFR 701 identifies the organization and functions of the Commission. 45 CFR 702 specifies the rules on hearings, reports, and meetings of the Commission. 45 CFR 703 identifies the operations and functions of the Commission's State Advisory Committees.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael L. Foreman, Acting Deputy General Counsel, Commission on Civil Rights, Room 632, 624 9th Street NW., Washington, DC 20425-0001
Phone: 202 376-8351

RIN: 3035–AA02

[FR Doc. 01–25310 Filed 11–30–01; 8:45 am]
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Monday,
December 3, 2001

Part XX

Corporation for National and Community Service

Semiannual Regulatory Agenda

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Chs. XII, XXV

Executive Order 12866 "Regulatory Planning and Review"

AGENCY: Corporation for National and Community Service.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Corporation will have under development, revision, or review during the next year. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to provide the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Corporation regulations or this semiannual agenda, contact Frank R. Trinity, Acting General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525, (202) 606-5000, ext. 290.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The Corporation for National and Community Service has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required under 5 U.S.C. 602.

Pursuant to OMB letter, dated January 26, 2001, at this time, there are no updates to the items listed in the April 2001 Unified Agenda due to the Corporation for National and Community Service not having an agency head appointed by President Bush.

Dated: September 14, 2001.

Wendy Zenker,

Chief Operating Officer.

Corporation for National and Community Service (CNCS) — Prerule Stage

3320. DISCRIMINATION COMPLAINT PROCEDURES FOR SERVICE MEMBERS, PARTICIPANTS, AND OTHER BENEFICIARIES

Priority: Other Significant

Legal Authority: 20 USC 1681 to 1687; 29 USC 794; 42 USC 2000d; 42 USC 5057; 42 USC 6101 et seq; 42 USC 12635

CFR Citation: 45 CFR 2504

Legal Deadline: None

Abstract: This regulation will identify the procedures used for processing complaints of discrimination based on race, color, national origin, sex, age, disability, religion, political affiliation, and other non-merit factors filed with the Corporation by service members, participants, and other beneficiaries under the Corporation's federally assisted or conducted programs.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity, Corporation for National and Community Service, Room 7100, 1201 New York Avenue NW, Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2796
Email: nvoss@cns.gov

RIN: 3045–AA24

Corporation for National and Community Service (CNCS) — Proposed Rule Stage

3321. AMERICORPS AND LEARN & SERVE GRANT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12651c

CFR Citation: 45 CFR 2510; 45 CFR 2513; 45 CFR 2515 to 2524; 45 CFR 2530 to 2533; 45 CFR 2540; 45 CFR 2550

Legal Deadline: None

Abstract: The Corporation for National and Community Service is revising its regulations governing AmeriCorps and Learn & Serve grants under the National and Community Service Act of 1990 to incorporate appropriate existing grant provisions into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Frank Robert Trinity, Associate General Counsel, Corporation for National and Community Service, 8th Floor, 1201 New York Avenue NW, Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2796
Email: ftrinity@cns.gov

RIN: 3045–AA23

3322. RETIRED AND SENIOR VOLUNTEER PROGRAM

Priority: Info./Admin./Other

Legal Authority: 42 USC 5001; 42 USC 12501 et seq

CFR Citation: 45 CFR 2553

CNCS **Proposed Rule Stage**

Legal Deadline: None

Abstract: The amendments are needed to clarify the intent of the regulations published on March 24, 1999, to modify language that was too restrictive.

Timetable:

Action	Date	FR Cite
NPRM	11/13/01	66 FR 56793
NPRM Comment Period End	01/14/02	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Peter Boyton, Program Officer, Corporation for National and Community Service, 1201 New York Avenue NW, Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2743
Email: pboyton@cns.gov

RIN: 3045–AA31

Corporation for National and Community Service (CNCS) — Final Rule Stage

3323. IMPLEMENTATION OF THE PRIVACY ACT OF 1974; AMENDMENT

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a; 42 USC 12501 et seq; 42 USC 4950 et seq

CFR Citation: 45 CFR 2508

Legal Deadline: None

Abstract: This action updates several minor changes to the Corporation for National Service's current Privacy Act regulation found at 45 CFR 2508. These amendments are in accordance with the Privacy Act found at 5 U.S.C. 552a.

Timetable:

Action	Date	FR Cite
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William L. Hudson Jr., Law Office Manager, General Counsel Office, Corporation for National and Community Service, Room 8200, 1201 New York Avenue NW, Washington, DC 20525
Phone: 202 606-5000
TDD Phone: 202 565-2799
Fax: 202 565-2796
Email: whudson@cns.gov

RIN: 3045–AA25

3324. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 45 CFR 1203; 45 CFR 1232

Legal Deadline: None

Abstract: The Corporation proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI) and section 504 of the Rehabilitation Act of 1972 (section 504). Together, these statutes prohibit discrimination on the basis of race, color, national origin, and disability in programs and activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRAA's definition of "program or activity" and "program" into the Corporation's title VI and section 504 regulations. The Corporation's proposed regulation will be published as part of a joint notice of proposed rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: The RIN 3045-AA29, published in the Federal Register at 65 FR 76460 and 76512, dated December 6, 2000, was incorrect and should have been 3045-AA27.

Agency Contact: Nancy B. Voss, Director, Equal Opportunity, Corporation for National and Community Service, Room 7100, 1201 New York Avenue NW, Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2796
Email: nvoss@cns.gov

RIN: 3045–AA27

Corporation for National and Community Service (CNCS) — Long-Term Actions

3325. CLAIMS COLLECTION

Priority: Info./Admin./Other

CFR Citation: 45 CFR 2506

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/28/99	64 FR 4315
Interim Final Rule Comment Period End	03/29/99	
Final Action	To Be Determined	

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Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Suzanne K. Dupre
Phone: 202 606-5000
Fax: 202 565-2796
Email: sdupre@cns.gov

RIN: 3045–AA20

3326. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 2542; 45 CFR 2545

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Suzanne K. Dupre
Phone: 202 606-5000
Fax: 202 565-2796
Email: sdupre@cns.gov

RIN: 3045–AA28

3327. SENIOR COMPANION PROGRAM

Priority: Info./Admin./Other

CFR Citation: 45 CFR 2551

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Peter Boyton
Phone: 202 606-5000
Fax: 202 565-2743
Email: pboyton@cns.gov

RIN: 3045–AA29

3328. FOSTER GRANDPARENT PROGRAM

Priority: Info./Admin./Other

CFR Citation: 45 CFR 2552

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Peter Boyton
Phone: 202 606-5000
Fax: 202 565-2743
Email: pboyton@cns.gov

RIN: 3045–AA30

[FR Doc. 01–23852 Filed 11–30–01; 8:45 am]
BILLING CODE 6050–28–S

Federal Register

Monday,
December 3, 2001

Part XXI

Court Services and Offender Supervision Agency for the District of Columbia

Semiannual Regulatory Agenda

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COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA (CSOSA)

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

28 CFR Ch. VIII

Semiannual Regulatory Agenda

AGENCY: Court Services and Offender Supervision Agency for the District of Columbia.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Court Services and Offender Supervision Agency for the District of Columbia (CSOSA) is publishing its first semiannual regulatory agenda pursuant to Executive Order 12866 (58 FR 51735) and the Regulatory Flexibility Act (5 U.S.C. chapter 6). The regulatory agenda lists all agency regulations that are scheduled for development during the next 12 months or that have been issued since the publication of the previous regulatory agenda.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Records Manager, Office of the General Counsel, CSOSA, Room 1253, 633 Indiana Avenue NW., Washington, DC 20004 (telephone: (202) 220-5359; e-mail: roy.nanovic@csosa.gov).

SUPPLEMENTARY INFORMATION: CSOSA was established within the Executive branch of the Federal Government by the National Capital Revitalization and Self-Government Improvement Act of 1997, Pub. L. 105-33, 111 Stat. 251, 712 (D.C. Code 24-1232, 24-1233). On August 5, 2000, CSOSA was certified by the Attorney General as an independent Federal agency. CSOSA has identified five regulations for inclusion in its initial submission to the regulatory agenda.

George E. Pruden II,
General Counsel.

Court Services and Offender Supervision Agency for the District of Columbia—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3329	Disclosure of Records	3225-AA01
3330	Federal Tort Claims Act Procedures	3225-AA02

Court Services and Offender Supervision Agency for the District of Columbia—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3331	Community Supervision: Administrative Sanctions Schedule	3225-AA00
3332	District of Columbia Sex Offender Registration	3225-AA03
3333	Collection and Use of DNA Information	3225-AA04

Court Services and Offender Supervision Agency for the District of Columbia (CSOSA)

Proposed Rule Stage

3329. • DISCLOSURE OF RECORDS

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a

CFR Citation: 28 CFR 802 (New)

Legal Deadline: None

Abstract: CSOSA proposes to adopt regulations on the disclosure of CSOSA or the District of Columbia Pretrial Services Agency (PSA) records. These regulations include procedures for processing requests for disclosure under the Freedom of Information Act, under the Privacy Act, and for production of records in response to a demand from a court or other noncongressional authority in connection with a proceeding to which CSOSA or PSA is not a party. The regulations also identify Privacy Act system of records exemptions for both CSOSA and PSA. These regulations are necessary in order to ensure that the public has appropriate access to information maintained by the CSOSA and PSA and that adequate safeguards are in place to protect the privacy rights of individuals.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	05/00/02	
Final Action Effective	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Records Manager, Court Services and Offender Supervision Agency for the District of Columbia, Room 1253, 633 Indiana Avenue NW., Washington, DC 20004
Phone: 202 220-5359
Email: roy.nanovic@csosa.gov

RIN: 3225–AA01

3330. • FEDERAL TORT CLAIMS ACT PROCEDURES

Priority: Other Significant

Legal Authority: PL 105-33; 28 CFR 14.11

CFR Citation: 28 CFR 801 (New)

Legal Deadline: None

CSOSA **Proposed Rule Stage**

Abstract: CSOSA proposes to adopt regulations to supplement Department of Justice regulations for processing administrative claims under the Federal Tort Claims Act (FTCA). These supplemental regulations state in plain language what members of the public need to do to file a claim for money damages under the FTCA with CSOSA or with the District of Columbia Pretrial Services Agency (PSA). These regulations are necessary to help ensure that persons who suffer proven monetary loss, personal injury, or wrongful death due to a negligent or otherwise wrongful act or omission of a CSOSA or PSA employee committed while acting within the scope of his or her employment will be properly compensated.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Records Manager, Court Services and Offender Supervision Agency for the District of Columbia, Room 1253, 633 Indiana Avenue NW., Washington, DC 20004
Phone: 202 220-5359
Email: roy.nanovic@csosa.gov

RIN: 3225–AA02

Court Services and Offender Supervision Agency for the District of Columbia (CSOSA) — Final Rule Stage

3331. • COMMUNITY SUPERVISION: ADMINISTRATIVE SANCTIONS SCHEDULE

Priority: Other Significant

Legal Authority: PL 105-33

CFR Citation: 28 CFR 810 (New)

Legal Deadline: None

Abstract: CSOSA issued interim regulations on administrative sanctions which may be imposed on offenders under CSOSA's supervision who violate the general or specific conditions of their release. The purpose of imposing sanctions is to enable CSOSA staff to respond as swiftly, certainly, and consistently as practicable to noncompliant behavior. Using sanctions will reduce the number of violation reports sent to the releasing authority (for example, the sentencing court or the United States Parole commission). CSOSA staff will be able to refer offenders back tot he releasing authority having demonstrated that CSOSA has exhausted the range of options at its disposal to change the offender's noncompliant behavior. The releasing authority may then concentrate on those referrals which fully merit scrutiny. The purpose of the regulations is to prevent crime, reduce recidivism, and support the fair administration of justice through the promotion of effective community supervision.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/20/01	66 FR 48336
Interim Final Rule Effective	09/20/01	
Interim Final Rule Comment Period End	11/19/01	
Final Action	04/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Records Manager, Court Services and Offender Supervision Agency for the District of Columbia, Room 1253, 633 Indiana Avenue NW., Washington, DC 20004
Phone: 202 220-5359
Email: roy.nanovic@csosa.gov

RIN: 3225–AA00

3332. • DISTRICT OF COLUMBIA SEX OFFENDER REGISTRATION

Priority: Other Significant

Legal Authority: PL 105-23; PL 106-113

CFR Citation: 28 CFR 811 (New)

Legal Deadline: None

Abstract: CSOSA intends to issue interim regulations for the registration of sex offenders in the District of Columbia. These regulations provide notice to sex offenders of their duties under the law and under the regulations of the Metropolitan Police Department of the District of Columbia to register with CSOSA. In most instances, sex offenders will receive notification that they are subject to registration when they are being sentenced by the Superior Court of the District of Columbia after being found guilty [or found not guilty by reason of insanity or adjudicated as a sexual psychopath) or when CSOSA becomes responsible for their supervision. In those cases where the offender has previously committed a registration offense and is not currently under supervision, the offender must contact CSOSA to register in order to avoid possible criminal penalty. These regulations are intended to provide for the protection of the public and to ensure that the District of Columbia may provide appropriate notification regarding the presence of sex offenders in the community.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/02	
Final Action	05/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Roy Nanovic, Records Manager, Court Services and Offender Supervision Agency for the District of Columbia, Room 1253, 633 Indiana Avenue NW., Washington, DC 20004
Phone: 202 220-5359
Email: roy.nanovic@csosa.gov

RIN: 3225–AA03

3333. • COLLECTION AND USE OF DNA INFORMATION

Priority: Other Significant

Legal Authority: PL 106-546

CFR Citation: 28 CFR 812 (New)

Legal Deadline: Final, Statutory, June 17, 2001.

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CSOSA **Final Rule Stage**

Abstract: CSOSA intends to adopt interim regulations on the collection and use of DNA information. DNA information is collected under CSOSA's supervision from individuals who have been convicted of specific offenses identified by District of Columbia statute. The DNA information becomes part of the combined DNA Index System (CODIS), a national database of DNA profiles from convicted offenders, unsolved crime scenes, and missing persons. The regulations specify that the DNA sample will be collected in accordance with FBI guidelines. The regulations also establish procedures for cooperating with the Federal Bureau of Prisons to ensure that unnecessary samples will not be collected; establish a standard for what constitutes an individual's refusal to cooperate in the collection of the sample; define what steps CSOSA deems to be reasonably necessary to take when an individual refuses to cooperate; and list in an appendix the offenses which qualify for DNA collection.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/02	
Final Action	04/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Records Manager, Court Services and Offender Supervision Agency for the District of Columbia, Room 1253, 633 Indiana Avenue NW., Washington, DC 20004
Phone: 202 220-5359
Email: roy.nanovic@csosa.gov

RIN: 3225–AA04

[FR Doc. 01–26031 Filed 11–30–01; 8:45 am]
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Part XXII

Environmental Protection Agency

Semiannual Regulatory Agenda

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ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY (EPA)

40 CFR Ch. I

FRL-7085-7

October 2001 Agenda of Regulatory and Deregulatory Actions

AGENCY: Environmental Protection Agency.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Environmental Protection Agency (EPA) publishes the Semiannual Agenda of Regulatory and Deregulatory Actions to update the public about:

- Regulations and major policies currently under development,
- Reviews of existing regulations and major policies, and
- Regulations and major policies completed or canceled since the last Agenda.

TO BE PLACED ON THE AGENDA MAILING LIST: If you would like to subscribe, please contact Janice Ndunguru (1806A), Environmental Protection Agency; 1200 Pennsylvania Avenue NW, Washington, DC 20460; by e-mail at ndunguru.janice@epa.gov; or by phone at (202) 564-6572.

FOR FURTHER INFORMATION CONTACT: If you have questions or comments about a particular action please get in touch with the agency contact listed for that action. If you have general questions about the Agenda or about EPA's decisionmaking process, please contact: Philip Schwartz (1806A), Environmental Protection Agency, 1200 Pennsylvania Avenue NW; Washington, DC 20460; phone: (202) 564-6564; e-mail: schwartz.philip@epa.gov. We welcome your suggestions on how we can make the Agenda more useful to you and easier to use.

SUPPLEMENTARY INFORMATION:

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a. What Principles and Objectives Guide EPA in Developing Regulations and Policies?
b. How Does EPA Develop Rules and Policies?
c. What Actions Are Included in the Agenda?
d. How Is the Agenda Organized?
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i. What Special Attention Do We Give to the Impacts of Rules on Small Entities?
j. Why Participate and How To Do It Most Effectively?

A. What Principles and Objectives Guide EPA in Developing Regulations and Policies?

The quality of the science, economic, and policy analysis that underlie EPA regulations is vital to the credibility of EPA decisions and ultimately our effectiveness in protecting human health and the environment. Additionally, continued testing and adoption of new environmental protection methods must be a central tenet in environmental problem solving. A well managed regulatory process and a strong commitment to innovative solutions will ensure that the significant environmental improvements that we all want to achieve are cost-effective, fair and fully protective.

Much of the success over the last 31 years and seven administrations in cleaning up the Nation's water, air, and land is attributable to the system of Federal and State regulation that has directed and coordinated private investment in pollution control and prevention. While regulation will remain an important tool to implement environmental policy, it is not the only one. Instead, EPA must increasingly act as an innovator, educator, and leader in administering a broad set of new tools — including new methods to design and administer regulations — that engage all segments of our society in responsive behaviors that protect the environment while promoting appropriate economic growth. For example, we have worked with businesses and community leaders to develop more than 40 voluntary partnership programs that help achieve environmental objectives with the greatest possible efficiency. For more information about these programs visit: www.epa.gov/partners.

EPA's regulatory process must ensure that the Nation's environmental protection system produces the best outcomes at an acceptable cost, where cost considerations are appropriate. Appropriate scientific, economic and policy analyses must be planned at early stages in the regulatory development process so that senior Agency decision makers understand the benefits and costs of policy options from which to choose. Additionally, it is important that we continue to apply new methods to protect the environment—by building flexibility into regulations up front, through non-regulatory approaches where effective, by creating strong partnerships with States, local governments, and businesses, and by vigorously using public outreach and involvement.

Several basic legal requirements we must follow when we issue a regulation are contained in the Administrative Procedure Act, the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act, the Unfunded Mandates Reform Act, the Paperwork Reduction Act, the National Technology Transfer and Advancement Act, and the Congressional Review Act. You can find information on many of these laws at http://www.law.cornell.edu/uscode/.

We also must meet a number of requirements contained in Executive Orders. Of particular significance for EPA rulemakings are Executive Orders 12866 (Regulatory Planning and Review), 13045 (Children's Health Protection), 13175 (Consultation and Coordination with Indian Tribal Governments), 13132 (Federalism), and 13211 (Energy). You can find information on these and other Executive orders at http://www.nara.gov/fedreg/eo.html.

B. How Does EPA Develop Rules and Policies?

In order to improve the regulatory process within EPA, we established a task force to examine the Agency's rulemaking process, and to recommend ways to improve the internal process and strengthen the supporting science and analysis. The task force concluded that the regulatory process is essentially sound but improvements should be made in several areas to more effectively carry out our mission including: better science and economic analyses; broader consideration of policy options; greater accountability; and better management of significant nonregulatory decisions. For a detailed discussion of these improvements, please see our Statement of Priorities in The Regulatory Plan,

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contained in part II of today's **Federal Register**.

C. What Actions Are Included in the Agenda?

EPA includes regulations and certain major policy documents in the Agenda. We generally do not include minor amendments or the following categories of actions in the Agenda:

- Under the Clean Air Act: Revisions to State Implementation Plans; Equivalent Methods for Ambient Air Quality Monitoring; Deletions from the New Source Performance Standards source categories list; Delegations of Authority to States; Area Designations for Air Quality Planning Purposes.
- Under the Federal Insecticide, Fungicide, and Rodenticide Act: Actions regarding pesticide tolerances and food additive regulations; decision documents defining and establishing registration standards; decision documents and termination decisions for the Special Review Registration process; and data call-in requests made under section 3(c)(2)(B).
- Under the Resource Conservation and Recovery Act: Authorization of State solid waste management plans; hazardous waste delisting petitions.
- Under the Clean Water Act: State Water Quality Standards; Deletions from the section 307(a) list of toxic pollutants; Suspensions of toxic testing requirements under the National Pollutant Discharge Elimination System (NPDES); Delegations of NPDES authority to States.
- Under the Safe Drinking Water Act: Actions on State underground injection control programs.

There is no legal significance to the omission of an item from the agenda.

D. How Is the Agenda Organized?

We have organized the agenda:

- First, by the law that would authorize a particular action;
- Second, by the current stage of development (proposal, final, etc.); and
- Third, by the section number of the statute which requires or authorizes the action.

The following 14 sections deal with 13 laws that EPA administers and a fourteenth broader section called "General" that includes cross-cutting actions, such as rules authorized by multiple statutes and general acquisition rules:

1. General
2. The Clean Air Act (CAA)
3. The Atomic Energy Act (AEA)
4. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
5. The Federal Food, Drug, and Cosmetic Act (FFDCA)
6. The Toxic Substances Control Act (TSCA)
7. The Emergency Planning and Community Right-to-Know Act (EPCRA)
8. Chemical Safety Information, Site Security and Fuels Regulatory Relief Act
9. The Resource Conservation and Recovery Act (RCRA)
10. The Oil Pollution Act (OPA)
11. The Comprehensive Environmental Response, Compensation, and Liability Act; Superfund (CERCLA)
12. The Clean Water Act (CWA)
13. The Safe Drinking Water Act (SDWA)
14. The Shore Protection Act (SPA)

In each of these 14 sections, there are up to 5 headings covering the following stages of rulemaking:

1. Prerulemakings - Prerulemaking actions are intended to determine whether EPA should initiate rulemaking. Prerulemakings may include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking (ANPRMs), significant studies or analyses of the possible need for regulatory action, announcement of reviews of existing regulations required under section 610 of the Regulatory Flexibility Act, requests for public comment on the need for regulatory action, or important preregulatory policy proposals.
2. Proposed Rules - This section includes EPA rulemaking actions that are within a year of proposal (publication of Notices of Proposed Rulemakings (NPRMs)).
3. Final Rules - This section includes rules that are within a year of final promulgation.
4. Long-Term Actions - This section includes rulemakings for which the next scheduled regulatory action is after September 2002.
5. Completed Actions - This section contains actions that have been promulgated and published in the **Federal Register** since publication of the April 2001 Agenda. It also includes actions that we are no longer considering or actions that have been merged into other actions. If an action appears in the completed section, it will not appear in future Agendas unless we decide to initiate action again, in which case it will appear as a new entry. EPA also announces the results of our Regulatory Flexibility Act section 610 reviews in this section of the Agenda.

E. What Information Is in Agenda Entries?

Agenda entries include the following information, where applicable:

Sequence Number: This indicates where the entry appears in the Agenda.

Title: Titles for new entries (those that haven't appeared in previous Agendas) are preceded by a bullet (•). The notation "Section 610 Review" follows the title if we are reviewing the rule as part of our periodic review of existing rules under section 610 of the Regulatory Flexibility Act (5 U.S.C. 610).

Priority: Entries are placed into one of five categories described below.

Economically Significant: As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. OMB reviews all economically significant rules under Executive Order 12866.

EPA is developing 25 rules that are expected to have annualized economic impacts of more than $100 million.

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Number	Rules that are expected to have annualized economic impacts over $100 million	RIN
1	National Primary Drinking Water Regulations: Radon	2040-AA94
2	National Primary Drinking Water Regulations: Groundwater Rule	2040-AA97
3	National Primary Drinking Water Regulations: Arsenic and Clarifications to Compliance and New Source Contaminant Monitoring	2040-AB75
4	Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2	2040-AB79
5	NPDES Permit Requirements for Municipal Sanitary Sewer Collection Systems, Municipal Satellite Collection Systems, and Sanitary Sewer Overflows	2040-AD02
6	NPDES Permit Regulation and Effluent Limitations Guidelines and Standards for Concentrated Animal Feeding Operations (CAFOs)	2040-AD19
7	National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment Rule	2040-AD37
8	National Primary Drinking Water Regulations: Stage 2 Disinfectants/Disinfection Byproducts Rule	2040-AD38
9	Effluent Guidelines and Standards for the Construction and Development Industry	2040-AD42
10	Minimizing Adverse Environmental Impact from Cooling Water Intake Structures at Existing Facilities Under Section 316(b) of the Clean Water Act, Phase 2	2040-AD62
11	Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities	2050-AB80
12	Standards for the Management of Coal Combustion Wastes Generated by Commercial Electric Power Producers	2050-AE81
13	Standards for the Management of Coal Combustion Wastes — Non-Power Producers and Minefilling	2050-AE83
14	NESHAP: Plywood and Composite Wood Products	2060-AG52
15	NESHAP: Reciprocating Internal Combustion Engine	2060-AG63
16	NESHAP: Combustion Turbine	2060-AG67
17	NESHAP: Industrial, Commercial and Institutional Boilers and Process Heaters	2060-AG69
18	NESHAP: Automobile and Light-Duty Truck Manufacturing (Surface Coating)	2060-AG99
19	Phase I Federal Implementation Plans (FIPs) To Reduce the Regional Transport of Ozone in the Eastern United States	2060-AH87
20	Control of Emissions from Nonroad Large Spark Ignition Engines, Recreational Engines (Marine and Land-based), and Highway Motorcycles	2060-AI11
21	Review of the National Ambient Air Quality Standards for Particulate Matter	2060-AI44
22	Rulemakings for the Purpose of Reducing Interstate Ozone Transport	2060-AJ20
23	Electric Utility Steam Generating Unit MACT Regulation	2060-AJ65
24	Groundwater and Pesticide Management Plan Rule	2060-AC46
25	Endocrine Disruptor Screening Program	2070-AD26

Other Significant: A rulemaking that is not economically significant but is considered significant by the agency. This category includes rules that are an EPA priority and rules that EPA anticipates will be reviewed by the Office of Management and Budget under Executive Order 12866 because they are likely to:

- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients; or
- Raise novel legal or policy issues.

Substantive, Nonsignificant: A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

Routine and Frequent: A rulemaking that is a specific case of a recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

Informational/Administrative/Other: A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Agenda to inform the public of the activity.

Also, if we believe that a rule may be "major" as defined in the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (SBREFA) (5 U.S.C. 801; Public Law 104-121) because it is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in this law, we indicate this under the "Priority" heading with the statement "Major under 5 U.S.C. 801."

Legal Authority: The sections of the United States Code (U.S.C.), Public Law (P.L.), Executive Order (E.O.), or common name of the law that authorizes the regulatory action.

CFR Citation: The sections of the Code of Federal Regulations that will be affected by the action.

Legal Deadline: An indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to a Notice of Proposed Rulemaking, a Final Action, or some other action.

Abstract: A brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, the alternatives that the agency is considering to address the problem; and the potential advantages and disadvantages of the action.

Timetable: The dates (and citations) that documents for this action were published in the **Federal Register** and, where possible, a projected date for the next step. Projected publication dates frequently change during the course of a rule development. The projections in the Agenda are our best estimates as of the date we submit the Agenda for publication. For some entries, the timetable indicates that the date of the next action is "to be determined."

Regulatory Flexibility Analysis Required: Indicates whether EPA has prepared or anticipates that it will be preparing a regulatory flexibility analysis under section 603 or 604 of the Regulatory Flexibility Act. Generally, such an analysis is required for proposed or final rules that EPA believes may have a significant economic impact on a substantial number of small entities.

Small Entities Affected: Indicates whether we expect the rule to have any effect on small entities.

Government Levels Affected: Indicates whether we expect the rule to have any effect on levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Federalism Implications: Indicates whether the action is expected to have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Unfunded Mandates: Section 202 of the Unfunded Mandates Reform Act requires an assessment of anticipated costs and benefits if a rule includes a mandate that may result in expenditures of more than $100 million in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. If we expect to exceed this $100 million threshold, we note it in this section.

Energy Impacts: Indicates whether the action is a significant energy action under Executive Order 13211.

Agency Contact: The name, address, phone number, and e-mail address, if available, of a person who is knowledgeable about the regulation.

SAN Number: A code number that EPA uses to identify and track rulemakings.

RIN: The Regulatory Identifier Number is used by OMB to identify and track rulemakings. The first four digits of the RIN stand for the EPA office with lead responsibility for developing the action.

F. What Additional Information Is in Regulatory Plan Entries?

Regulatory Plan entries contain all of the categories of information that are in Agenda entries and also include the following six types of information:

Statement of Need

Statement of the Legal Basis

Alternatives

Anticipated Costs and Benefits

Risks

G. What Tools Are Available To Help Quickly Identify Actions That Are of Interest to You?

The Regulatory Information Service Center (RISC), the Government Printing Office (GPO), and the EPA have created a number of aids to help you find actions that are of interest to you.

For Rules That Directly Affect a Particular Industry: See Appendix F "Environmental Protection Agency Subject Index to the Unified Agenda." If you have access to the Internet, you can use the EPA Regulatory Agenda search engine which is located in the Small Business Regulatory Library section of the EPA Web site at www.epa.gov/regagenda. Click on "Search Regulatory Action Database" and then "Access the Database". This tool can be used to search all Agenda entries by keyword and we invite everyone to use it. The GPO also has a search engine which is located at .

For Rules With Impacts on Small Businesses, Small Governments, and Small Organizations:

Go to Appendix B following this Agenda for the lists of the rules that we expect may have a significant impact on a substantial number of small entities. These lists are also available on the Internet. The small businesses list is at http://ciir.cs.umass.edu/ua/October2001/entities/sm__index-2.html. The small governments list is at http://ciir.cs.umass.edu/ua/October2001/entities/sm__index-3.html. And the small organizations list is at http://ciir.cs.umass.edu/ua/October2001/entities/sm__index-4.html.

For Rules That We Expect Will Have Some Impact on Some Small Entities but Less Than a Significant Impact on a Substantial Number of Them:

See Appendix C following this Agenda, "Index to Entries That May Affect Small Entities When a Regulatory Flexibility Analysis Is Not Required." This list is available on the Internet at http://ciir.cs.umass.edu/ua/October2001/entities/smgov-5.html.

For Rules With Impacts on State, Local, Tribal, or Federal Government, or Other Federal Agencies:

See Appendix D following this Agenda, "Index to Entries That May Affect Government Levels." This list is available on the Internet at http://ciir.cs.umass.edu/ua/October2001/entities/smgov-8.html.

H. How Can You Access Federal Register Documents and Interpretive Guidance via the Internet and via E-mail?

Like many organizations in the public and private sector, EPA is harnessing the power of the Internet to meet the needs of those we serve. The EPA Web site offers more than 100,000 files online. If you want to get automatic e-mails about areas of particular interest as they appear in the **Federal Register** (FR), we maintain 12 collections including: air; water; wastes and emergency response; pesticides; toxic substances; right-to-know and toxic release inventory; environmental impacts; endangered species; meetings; the Science Advisory Board; daily full-text notices with page numbers; and general information. For more information and to subscribe via our FR Web site, visit: http://www.epa.gov/fedrgstr/subscribe.htm. If you have e-mail without full Internet access, please send an e-mail to envsubset@epa.gov to request instructions for subscribing to the EPA **Federal Register** listservers.

Several Web sites allow access to the full text of **Federal Register** documents.

- The Government Printing Office site has a number of databases online including the Unified Agenda and the **Federal Register** going back to 1994. This site is the official source for the electronic **Federal Register**. It provides public access via telnet, Internet, and dial-up connection and is located at http://www.access.gpo.gov/su_docs/aces/aces140.html.
- EPA's site (http://www.epa.gov/fedrgstr/) has environmental rules issued by EPA and other Federal agencies dating back to October 1994 and lets you search by date, page citation or keyword. It includes links to the Regulatory Information Service Center and Government Printing Office sites. We also have a Regulatory Agenda search engine at: http://www.epa/regagenda. To use, first select "Search Regulatory Action

Database" and then select "Access the Database".

- The Regulatory Information Service Center of the General Services Administration maintains a site to help users who want to find information about Federal, State, and local regulations at http://www.reginfo.gov/. This site includes links to all agencies' regulatory agendas and regulatory plans going back to October 1995.

In the "Additional Information" section of many of the entries in this Agenda we include the Internet address for documents that we have already published as part of the rulemaking.

We have recently opened an Internet site through which you can access a collection of non-binding guidance materials issued by EPA Headquarters offices since January 1, 1999. The collection includes non-binding guidance documents which explain what must be done to meet environmental requirements or explain how EPA will exercise its discretion in implementing statutory or regulatory requirements. The collection is located at: http://www.epa.gov/guidance/

I. What Special Attention Do We Give to the Impacts of Rules on Small Entities?

For each of our rulemakings we consider whether there will be any adverse impact on any small entity. We attempt to fit the regulatory requirements, to the extent feasible and appropriate, to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulation. As required by the Regulatory Flexibility Act (RFA), for rules on which we expect there will be a significant impact on a substantial number of small entities, we convene a Small Business Advocacy Review Panel to consider the rulemaking. We also prepare regulatory flexibility analyses on these rules. See Appendix B at the end of the Agenda, "Index to Environmental Protection Agency Entries for which a Regulatory Flexiblity Analysis is Required" for a list of these rules. See Appendix C for a list of the rules that may affect small entities, but which will not have a significant impact on a substantial number of them.

As required by section 610 of the RFA, we review within 10 years of issuance all rules that were projected to have a significant economic impact on a substantial number of small entities. This year we have no rules scheduled for section 610 review.

J. Why Participate and How To Do It Most Effectively?

You may participate by contacting the expert responsible for developing a particular action. You may also participate by commenting on proposed rules that we publish in the **Federal Register**. Once we have proposed a rule, we will consider your comments and address them before issuing a final rule. To be most effective, comments should contain information and data that support your position, and you also should explain why we should incorporate your suggestion in the final rule. You can be particularly helpful and persuasive if you provide examples to illustrate your concerns and offer specific alternatives.

We believe that the best approach to making our rules more cost-effective and fairer includes having those of you who are stakeholders in a problem work with us in deciding on the solution. We urge you to participate with us in this process.

Dated: October 15, 2001.

Thomas J. Gibson,

Associate Administrator, Office of Policy, Economics, and Innovation.

GENERAL—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3334	SAN No. 4056 Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements	2020-AA39
3335	SAN No. 4191 Revision to EPAAR 1552.211-73, Level of Effort	2030-AA64
3336	SAN No. 4319 Revisions to Acquisition Regulation Concerning Conflict of Interest	2030-AA67
3337	SAN No. 3580 Incorporation of Class Deviations Into EPAAR	2030-AA37
3338	SAN No. 3876 Incrementally Funding Fixed Price Contracts	2030-AA50
3339	SAN No. 3817 Implementation of Changes to Governmentwide Debarment and Suspension Common Rule	2030-AA48
3340	SAN No. 3933 Environmental Impact Assessment of Nongovernmental Activities in Antarctica	2020-AA34
3341	SAN No. 4292 Proposed Revision to EPA's Implementing NEPA Regulations	2020-AA42
3342	SAN No. 4618 Revision of Procedural Rules for Hearings on Cancellations, Suspensions, Changes in Classifications, and Denials of Pesticide Registrations	2020-AA44
3343	SAN No. 3240 Public Information and Confidentiality Regulations	2025-AA02
3344	SAN No. 4463 Persistent, Bioaccumulative, and Toxic (PBT) Pollutants Strategy	2070-AD45
3345	SAN No. 4473 Regulatory Incentives for the National Environmental Achievement Track Program **(Reg Plan Seq No. 117)**	2090-AA13
3346	SAN No. 4536 Project XL Site Specific Rulemaking for NASA White Sands Test Facility Electronic Reporting in Las Cruces, New Mexico	2090-AA27
3347	SAN No. 4533 New Jersey Gold Track Project XL Rule	2090-AA28

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

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GENERAL—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3348	SAN No. 4187 EPAAR Coverage on Local Hiring and Training	2030-AA62
3349	SAN No. 4021 Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	2020-AA36
3350	SAN No. 4180 Rewriting of EPA Regulations Implementing the Freedom of Information Act	2025-AA04
3351	SAN No. 4270 Cross-Media Electronic Reporting (ER) and Recordkeeping Rule **(Reg Plan Seq No. 148)**	2025-AA07
3352	SAN No. 4185 Electronic Funds Transfer	2030-AA57
3353	SAN No. 4351 Notice to Proceed	2030-AA68
3354	SAN No. 4400 Administrative Corrections to EPAAR 1515, Contracting by Negotiation	2030-AA73

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

GENERAL—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3355	SAN No. 3807 Consolidation of Good Laboratory Practice Standards (GLPS) Regulations Currently Under TSCA and FIFRA Into One Rule	2020-AA26
3356	SAN No. 4572 Fellowship Grant Regulation Revision	2030-AA77
3357	SAN No. 4589 Empowerment Through Delegations of Authority and Miscellaneous Amendments	2030-AA78
3358	SAN No. 3671 Guidelines for Carcinogen Risk Assessment	2080-AA06
3359	SAN No. 4530 EPA Draft Agencywide Public Involvement Policy	2090-AA23

GENERAL—Completed Actions

Sequence Number	Title	Regulation Identification Number
3360	SAN No. 4226 Incorporating Informal Clauses (EP) Into the EPAAR	2030-AA66
3361	SAN No. 4533 New Jersey Gold Track Project XL Rule	2002-AA00

CLEAN AIR ACT (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3362	SAN No. 3263 Performance Warranty and Inspection/Maintenance Test Procedures	2060-AE20
3363	SAN No. 3262 Inspection/Maintenance Recall Requirements	2060-AE22
3364	SAN No. 3553 Implementation of Ozone and Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations **(Reg Plan Seq No. 119)**	2060-AF34
3365	SAN No. 3412 Operating Permits: Revisions (Part 70) **(Reg Plan Seq No. 120)**	2060-AF70
3366	SAN No. 3649 Amendments to Method 24 (Water-Based Coatings)	2060-AF72
3367	SAN No. 3820 NESHAP: Plywood and Composite Wood Products **(Reg Plan Seq No. 121)**	2060-AG52
3368	SAN No. 3969 NESHAP: Municipal Solid Waste Landfills	2060-AH13
3369	SAN No. 3917 Transportation Conformity Rule Amendment: Clarification of Trading Provisions	2060-AH31
3370	SAN No. 3910 Streamlined Evaporative Test Procedures	2060-AH34
3371	SAN No. 4045 Rulemaking To Modify the List of Source Categories From Which Fugitive Emissions Are Considered in Major Source Determinations	2060-AH58
3372	SAN No. 4111 NESHAP: Fumed Silica Production	2060-AH72
3373	SAN No. 4104 NESHAP: Hydrochloric Acid Production Industry	2060-AH75
3374	SAN No. 4107 NESHAP: Asphalt/Coal Tar Application on Metal Pipes	2060-AH78
3375	SAN No. 4113 NESHAP: Clay Minerals Processing	2060-AH79
3376	SAN No. 4098 NESHAP: Uranium Hexafluoride Production	2060-AH83
3377	SAN No. 4119 Performance Specification 16 - Specifications and Test Procedures for Predictive Emission Monitoring Systems in Stationary Sources	2060-AH84
3378	SAN No. 4003 Technical Change to Dose Methodology for 40 CFR 191, Subpart A	2060-AH90

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CLEAN AIR ACT (CAA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3379	SAN No. 4464 Rulemaking on Section 126 Petitions from New York and Connecticut Regarding Sources in Michigan	2060-AJ36
3380	SAN No. 4580 Withdrawal of Amendments for Testing and Monitoring Provisions to Parts 60, 61, and 63	2060-AJ85
3381	SAN No. 1002 NAAQS: Sulfur Dioxide (Response to Remand) **(Reg Plan Seq No. 118)**	2060-AA61
3382	SAN No. 3656 NESHAP: Reciprocating Internal Combustion Engine **(Reg Plan Seq No. 122)**	2060-AG63
3383	SAN No. 3657 NESHAP: Combustion Turbine **(Reg Plan Seq No. 123)**	2060-AG67
3384	SAN No. 3343 NESHAP: Iron Foundries and Steel Foundries	2060-AE43
3385	SAN No. 3452 National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing and Miscellaneous Coating Manufacturing	2060-AE82
3386	SAN No. 3449 NESHAP: Chlorine Production	2060-AE85
3387	SAN No. 3825 NESHAP: Miscellaneous Metal Parts and Products (Surface Coating)	2060-AG56
3388	SAN No. 3655 NESHAP: Asphalt Processing and Asphalt Roofing Manufacturing	2060-AG65
3389	SAN No. 3652 NESHAP: Refractory Products Manufacturing	2060-AG68
3390	SAN No. 3837 NESHAP: Industrial, Commercial and Institutional Boilers and Process Heaters **(Reg Plan Seq No. 124)**	2060-AG69
3391	SAN No. 3651 NESHAP: Lime Manufacturing	2060-AG72
3392	SAN No. 3902 NESHAP: Semiconductor Production	2060-AG93
3393	SAN No. 3906 NESHAP: Metal Can (Surface Coating) Industry	2060-AG96
3394	SAN No. 3909 NESHAP: Fabric Printing, Coating and Dyeing	2060-AG98
3395	SAN No. 3907 NESHAP: Surface Coating of Automobiles and Light-Duty Trucks **(Reg Plan Seq No. 125)**	2060-AG99
3396	SAN No. 3924 NESHAP: Primary Magnesium Refining	2060-AH03
3397	SAN No. 2841 NESHAP: Chromium Electroplating Amendment	2060-AH08
3398	SAN No. 3968 NESHAP: Site Remediation	2060-AH12
3399	SAN No. 3972 NESHAP: Rocket Engine Test Firing	2060-AH35
3400	SAN No. 3971 NESHAP: Organic Liquids Distribution (Non-Gasoline)	2060-AH41
3401	SAN No. 3939 NESHAP: Group I Polymers and Resins and Group IV Polymers and Resins-Amendments	2060-AH47
3402	SAN No. 3479 Amendments to Parts 51, 52, 63, 70 and 71 Regarding the Provisions for Determining Potential To Emit	2060-AI01
3403	SAN No. 4546 NESHAP: Publicly Owned Treatment Works (POTW)-Amendments II	2060-AJ66
3404	SAN No. 3824 Metal Furniture (Surface Coating) NESHAP	2060-AG55
3405	SAN No. 3826 Plastic Parts and Products (Surface Coating) NESHAP	2060-AG57
3406	SAN No. 3904 NESHAP: Wood Building Products (Surface Coating)	2060-AH02
3407	SAN No. 3139 Location of Selective Enforcement Audits of Foreign Manufactured Vehicles and Engines; Amendment	2060-AD90
3408	SAN No. 3979 Review of Federal Test Procedures for Emissions From Motor Vehicles; Test Procedure Adjustments to Fuel Economy and Emission Test Results	2060-AH38
3409	SAN No. 3673 Protection of Stratospheric Ozone: Reconsideration of Section 608 Sales Restriction	2060-AG20
3410	SAN No. 4542 Federal Implementation Plan (FIP) for the Billings/Laurel, Montana Sulfur Dioxide (SO2) Area	2008-AA00
3411	SAN No. 4487 Federal Implementation Plans for Indian Reservations in Idaho, Oregon and Washington	2012-AA01
3412	SAN No. 4511 Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7); Third Party Audit Provisions	2050-AE85
3413	SAN No. 4115 NESHAP: Chromium Electroplating Amendment	2060-AH69
3414	SAN No. 4154 Control of Emissions from Nonroad Large Spark Ignition Engines, Recreational Engines (Marine and Land-based), and Highway Motorcycles	2060-AI11
3415	SAN No. 4255 Review of the National Ambient Air Quality Standards for Particulate Matter **(Reg Plan Seq No. 126)**	2060-AI44
3416	SAN No. 4340 Transportation Conformity Amendments: Response to March 2, 1999, Court Decision **(Reg Plan Seq No. 127)**	2060-AI56
3417	SAN No. 4309 National VOC Emission Standards for Consumer Products; Proposed Amendments	2060-AI62
3418	SAN No. 4310 NESHAP for the Printing and Publishing Industry; Amendments	2060-AI66
3419	SAN No. 4325 NESHAP: Brick and Structural Clay Products Manufacturing	2060-AI67
3420	SAN No. 4343 NESHAP: Clay Ceramics Manufacturing	2060-AI68
3421	SAN No. 4144 NESHAP: Engine Test Cells/Stands	2060-AI74
3422	SAN No. 4306 Development of Reference Method for the Determination of Source Emissions of Filterable Fine Particulate Matter as PM2.5	2060-AI96
3423	SAN No. 4348 Inspection Maintenance Program Requirements for Federal Facilities; Amendment to the Final Rule	2060-AI97
3424	SAN No. 4393 Control of Methyl Tertiary Butyl Ether (MTBE)	2060-AJ00
3425	SAN No. 4380 NESHAP: Taconite Iron Ore Processing Industry	2060-AJ02

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CLEAN AIR ACT (CAA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3426	SAN No. 4390 Utility Sector New Source Review (NSR) Alternative Compliance Program	2060-AJ14
3427	SAN No. 4433 Interstate Ozone Transport: Response to Court Decisions on the NOx SIP Call, NOx SIP Call Technical Amendments, and Section 126 Rules	2060-AJ16
3428	SAN No. 4460 NESHAP for Friction Products Manufacturing	2060-AJ18
3429	SAN No. 4466 Rulemakings for the Purpose of Reducing Interstate Ozone Transport **(Reg Plan Seq No. 128)**	2060-AJ20
3430	SAN No. 4415 Petitions to Delist Source Categories from the Source Category List, Developed Pursuant to Section 112(c) of the Clean Air Act	2060-AJ23
3431	SAN No. 4421 Revising Regulations on Ambient Air Quality Monitoring	2060-AJ25
3432	SAN No. 4426 Clarification to Existing Part 63 NESHAP Delegations' Provisions-Work Practices	2060-AJ26
3433	SAN No. 4441 Federal Plan Requirements for Commercial and Industrial Solid Waste Incineration Units Constructed on or Before November 30, 1999	2060-AJ28
3434	SAN No. 4448 Revisions to Part 97 Federal NOx Budget Trading Program Allowance Allocation Method and Part 75 Output and Emissions Monitoring Provisions	2060-AJ30
3435	SAN No. 4457 NESHAP: Pesticides Active Ingredients—Amendments	2060-AJ34
3436	SAN No. 4479 NESHAP: Gasoline Distribution Facilities — Amendment	2060-AJ42
3437	SAN No. 4484 NESHAP: Amino/Phenolic Resins: Amendment	2060-AJ45
3438	SAN No. 4494 Indoor Air Toxics Strategy	2060-AJ49
3439	SAN No. 4495 Revisions to Regional Haze Rule to Incorporate Sulfur Dioxide Milestones and Backstop Emissions Trading Program for Nine Western States	2060-AJ50
3440	SAN No. 4524 NESHAP: Portland Cement Manufacturing Industry, Amendments to Rule to Implement Settlement Agreement	2060-AJ57
3441	SAN No. 4531 Evaluation of Updated Test Procedures for the Certification of Gasoline Deposit Control Additives	2060-AJ61
3442	SAN No. 4532 Motor Vehicle and Engine Compliance Program Fees for: Light-Duty Vehicles and Trucks; Heavy-Duty Vehicles and Engines; Nonroad Engines; and Motorcycles	2060-AJ62
3443	SAN No. 4571 Electric Utility Steam Generating Unit MACT Regulation **(Reg Plan Seq No. 129)**	2060-AJ65
3444	SAN No. 4555 Electric Arc Furnace NSPS Amendment	2060-AJ68
3445	SAN No. 4558 Transportation Conformity Rule Amendments: Minor Revision and Addition of Grace Period for Newly Designated Nonattainment Areas	2060-AJ70
3446	SAN No. 4570 Control of Air Pollution From Motor Vehicles and Engines: Alternative Low-Sulfur Highway Diesel Fuel Transition Program for Alaska	2060-AJ72
3447	SAN No. 4573 Non-Conformance Penalties for 2004 and Later Model Year Heavy-Duty Diesel Engines and Heavy-Duty Diesel Vehicles	2060-AJ73
3448	SAN No. 4574 Protection of Stratospheric Ozone: Assorted Amendments to the Phaseout of Class I Controlled Substances - Changes Under the Montreal Protocol	2060-AJ74
3449	SAN No. 4583 Modification of Federal On-board Diagnostic Regulations for 2004 Model Year Vehicles Below 14,000 Pounds	2060-AJ77
3450	SAN No. 4592 Regulation to Establish New Date for Receipt of Summer Grade RFG at Terminals	2060-AJ79
3451	SAN No. 4593 Relaxation of Summer Gasoline Volatility Standard for Denver/Boulder Area	2060-AJ80
3452	SAN No. 4594 Protection of Stratospheric Ozone: Allocation of Year 2002 Essential Use Allowances	2060-AJ81
3453	SAN No. 4547 Modification of Authority to Grant Alternative Method Approvals	2060-AJ83
3454	SAN No. 4584 Performance Specifications for Continuous Parameter Monitoring Systems	2060-AJ86
3455	SAN No. 4591 Benzene Waste Operations NESHAP; Amendments	2060-AJ87
3456	SAN No. 4605 Propsed Amendments to Performance Standards and Monitoring Requirements for Particulate Matter at Stationary Sources	2060-AJ88
3457	SAN No. 4626 Control of Emissions from Spark Ignition Marine Vessels and Highway Motorcycles	2060-AJ90

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

CLEAN AIR ACT (CAA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3458	SAN No. 3569 Source-Specific Federal Implementation Plan for Navajo Generating Station; Four Corners Power Plant	2009-AA01
3459	SAN No. 3259 New Source Review (NSR) Improvement **(Reg Plan Seq No. 139)**	2060-AE11
3460	SAN No. 3380 NSPS: Synthetic Organic Chemicals Manufacturing Industry - Wastewater (Final) & Amend. to Appendix C of Part 63 & Appendix J of Part 60	2060-AE94

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CLEAN AIR ACT (CAA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3461	SAN No. 3549 NESHAP: Petroleum Refineries; Catalytic Cracking Units, Catalytic Reforming Units and Sulfur Recovery Units	2060-AF28
3462	SAN No. 2915 Methods for Measurement of Visible Emissions—Addition of Methods 203A, 203B, and 203C to Appendix M of Part 51	2060-AF83
3463	SAN No. 3741 Service Information Regulation for Light-Duty Vehicles and Trucks.	2060-AG13
3464	SAN No. 3900 Addition of Method 207 to Appendix M of 40 CFR Part 51 Method for Measuring Isocyanates in Stationary Source Emissions	2060-AG88
3465	SAN No. 3970 NESHAP: Cellulose Production Manufacturing	2060-AH11
3466	SAN No. 3986 Consolidated Emissions Reporting Rule	2060-AH25
3467	SAN No. 4030 Expanded Definitions for Alternative-Fueled Vehicles and Engines Meeting Low-Emission Vehicle Exhaust Emission Standards	2060-AH52
3468	SAN No. 4022 NESHAP: Coke Ovens: Pushing, Quenching, and Battery Stacks	2060-AH55
3469	SAN No. 4120 Protection of Stratospheric Ozone: Allowance System for Controlling HCFC Production, Import & Export	2060-AH67
3470	SAN No. 4114 NESHAP: Polyvinyl Chloride and Copolymers Production	2060-AH82
3471	SAN No. 4096 Phase I Federal Implementation Plans (FIPs) To Reduce the Regional Transport of Ozone in the Eastern United States	2060-AH87
3472	SAN No. 4082 NESHAP: Wet-Formed Fiberglass Mat Production	2060-AH89
3473	SAN No. 4077 Protection of Stratospheric Ozone: Reconsideration on the 610 Nonessential Products Ban	2060-AH99
3474	SAN No. 4254 Revision to the Definition of Volatile Organic Compound (VOC) to Exclude Tertiary Butyl Acetate	2060-AI45
3475	SAN No. 3470 Requirements for Preparation, Adoption, and Submittal of State Implementation Plans (Guideline on Air Quality Models)	2060-AF01
3476	SAN No. 3340 NESHAP: Primary Copper Smelting	2060-AE46
3477	SAN No. 3346 NESHAP: Integrated Iron and Steel	2060-AE48
3478	SAN No. 3326 NESHAP: Reinforced Plastic Composites Production	2060-AE79
3479	SAN No. 3551 Amendments to General Provisions Subparts A and B for 40 CFR 63	2060-AF31
3480	SAN No. 3746 NESHAP: Paint Stripping Operations	2060-AG26
3481	SAN No. 3749 NESHAP: Tire Manufacturing	2060-AG29
3482	SAN No. 3823 NESHAP: Large Appliance (Surface Coating)	2060-AG54
3483	SAN No. 3905 NESHAP: Metal Coil (Surface Coating) Industry	2060-AG97
3484	SAN No. 3964 NESHAP: Leather Finishing Operations	2060-AH17
3485	SAN No. 2665 Importation of Nonconforming Vehicles; Amendments to Regulations	2060-AI03
3486	SAN No. 3556 Protection of Stratospheric Ozone: Supplemental Rule Regarding a Recycling Standard Under Section 608	2060-AF36
3487	SAN No. 3560 Protection of Stratospheric Ozone: Refrigerant Recycling Rule Amendment To Include Substitute Refrigerants	2060-AF37
3488	SAN No. 3827 Paper and Other Web Coating NESHAP	2060-AG58
3489	SAN No. 4315 Source-Specific Federal Implementation Plan for Navajo Generating Station; Navajo Nation	2009-AA00
3490	SAN No. 4105 NESHAP: Generic MACT for Carbon Black, Ethylene, Cynaide and Spandex	2060-AH68
3491	SAN No. 4316 NESHAP for Ethylene Oxide Commercial Sterilization Operations-Monitoring Amendments	2060-AI64
3492	SAN No. 4313 Petitions to Delist Hazardous Air Pollutants (e.g., MEK, EGBE, Methanol, and MIBK) from Section 112(b)(1) of the CAA	2060-AI72
3493	SAN No. 4273 Amend Subpart H and I, 40 CFR Part 61, for Emissions of Radionuclides Other Than Radon From DOE Facilities	2060-AI90
3494	SAN No. 4299 Revision to Method 24 for Electrical Insulating Varnishes	2060-AI94
3495	SAN No. 4449 NESHAP for Flexible Polyurethane Foam Fabrication Operations	2060-AJ19
3496	SAN No. 4428 Protection of Stratospheric Ozone: Phaseout of Chlorobromomethane (Halon 1011) Production and Consumption	2060-AJ27
3497	SAN No. 4442 NESHAP for Source Categories: Phosphoric Acid Manufacturing and Phosphate Fertilizers Production — Amendments	2060-AJ29
3498	SAN No. 4450 Guidelines for Best Available Retrofit Technology (BART)	2060-AJ31
3499	SAN No. 4478 Standards of Performance for New Stationary Sources: Municipal Solid Waste Landfills: Amendment	2060-AJ41
3500	SAN No. 4538 Revisions to the Part 97 Federal NOx Budget Trading Program, the Part 75 Emissions Monitoring Provisions, the Part 72 Permits Regulation Provisions, and the Part 78 Appeal Procedures	2060-AJ43
3501	SAN No. 4454 Federal Plan for Small Municipal Waste Combustion Units	2060-AJ46
3502	SAN No. 4491 Section 126 Rule Revision Correcting NOx Allowance Allocations for Certain Units in the Federal NOx Budget Trading Program	2060-AJ47

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CLEAN AIR ACT (CAA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3503	SAN No. 4507 Standards of Performance for New Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors Amendment of Startup, Shutdown, and Malfunction Provisions	2060-AJ52
3504	SAN No. 4508 Standards of Performance for New Stationary Sources: Volatile Organic Liquid Storage Vessels; Amendments	2060-AJ53
3505	SAN No. 4528 Modification of the Anti-Dumping Baseline Date Cut-Off Limit for Data Used in Development of an Individual Baseline	2060-AJ59
3506	SAN No. 4529 Change in the Definition of Major Source for Operating Permits	2060-AJ60
3507	SAN No. 4554 Control of Hazardous Air Pollutants From Mobile Sources; Correction	2060-AJ67
3508	SAN No. 4569 Control of Air Pollution from New Motor Vehicles; Second Amendment to the Tier 2/Gasoline Sulfur Regulations	2060-AJ71
3509	SAN No. 4604 Modification of the Anti-Dumping Baseline Date Cut-Off Limit for Data Used in Development of an Individual Baseline	2060-AJ82
3510	SAN No. 4548 Compilation of Source-Specific Alternative Methods Being Approved for Source-Category Wide Application	2060-AJ84
3511	SAN No. 4600 State and Federal Operating Permits Program: Removal of Amendments to Part 70 and Part 71 Compliance Certification Requirements	2060-AJ89
3512	SAN No. 4278 Project XL Site-Specific Rulemaking for Andersen Corporation's Facility in Bayport, Minnesota	2090-AA21

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

CLEAN AIR ACT (CAA)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3513	SAN No. 3922 Revised Permit Revision Procedures for the Federal Operating Permits Program	2060-AG92
3514	SAN No. 3958 Addition of Opacity Method to Appendix M of 40 CFR Part 51 (Method 203)	2060-AH23
3515	SAN No. 3975 Review of Minor New Sources and Modifications in Indian Country	2060-AH37
3516	SAN No. 4046 Federal Major New Source Review (NSR) Program for Nonattainment Areas	2060-AH53
3517	SAN No. 4070 General Conformity Regulations; Revisions	2060-AH93
3518	SAN No. 4247 Revisions to Air Pollution Emergency Episode Requirements (Subpart H, 40 CFR Part 51)	2060-AI47
3519	SAN No. 3638 Revision of EPA's Radiological Emergency Response Plan	2060-AI49
3520	SAN No. 4162 NESHAP: Oil and Natural Gas Production	2060-AI13
3521	SAN No. 2937 Field Citation Program	2020-AA32
3522	SAN No. 3751 NSPS and Emission Guidelines for Other Solid Waste Incinerators	2060-AG31
3523	SAN No. 3919 Prevention of Significant Deterioration of Air Quality: Permit Application Review Procedures for Non-Federal Class I Areas	2060-AH01
3524	SAN No. 3525 Protection of Stratospheric Ozone: Update of the Substitutes List Under the Significant New Alternatives Policy (SNAP) Program	2060-AG12
3525	SAN No. 4607 Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7); Availability of Information to the Public; Technical Amendment	2050-AE95
3526	SAN No. 4619 Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(3); Revisions to the List of Substances	2050-AE96
3527	SAN No. 4253 Protection of Stratospheric Ozone: Process for Exempting Quarantine and Preshipment Methyl Bromide and Trade Ban With Non-Parties to the Montreal Protocol	2060-AI42
3528	SAN No. 4266 Review National Ambient Air Quality Standards for Carbon Monoxide	2060-AI43
3529	SAN No. 4276 Revision to NOx SIP Call Emission Budgets for Connecticut, Massachusetts and Rhode Island	2060-AI60
3530	SAN No. 4383 Interstate Ozone Transport: Rulemaking on Section 126 Petitions from the District of Columbia, Delaware, Maryland, and New Jersey	2060-AI99
3531	SAN No. 4391 Rescinding Finding that Pre-existing PM10 Standards No Longer Applicable in Northern Ada County/Boise, Idaho	2060-AJ05
3532	SAN No. 4535 Protection of Stratospheric Ozone: Process for Exempting Critical and Emergency Uses of Methyl Bromide	2060-AJ63
3533	SAN No. 4585 Portland Cement Manufacturing Industry NESHAP: Amendment to Implement Court Remand	2060-AJ78
3534	SAN No. 4471 Project XL Site-Specific Rulemaking for Georgia-Pacific Corporation's Facility in Big Island, Virginia	2090-AA26

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CLEAN AIR ACT (CAA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3535	SAN No. 3568 Environmental Radiation Protection Standards for Yucca Mountain, Nevada	2060-AG14
3536	SAN No. 4123 NESHAP: Pulp and Paper Production; Amendments to the Promulgated Rule	2060-AH74
3537	SAN No. 3550 NESHAP: Manufacturing of Nutritional Yeast	2060-AF30
3538	SAN No. 3747 NESHAP: Boat Manufacturing	2060-AG27
3539	SAN No. 3903 NESHAP: Solvent Extraction for Vegetable Oil Production	2060-AH22
3540	SAN No. 4245 Consumer and Commercial Products: Flexible Package Printing Materials: Determination on Control Techniques Guidelines in Lieu of Regulation	2060-AI31
3541	SAN No. 4274 Identification of Additional Ozone Areas Attaining the 1-Hour Standard and to Which the 1-Hour Standard Is No Longer Applicable (7 Areas)	2060-AI57
3542	SAN No. 4346 NESHAP: Lightweight Aggregate Manufacturing	2060-AI75
3543	SAN No. 4358 Regulation of Fuels and Fuel Additives: Reformulated Gasoline Adjustment	2060-AI98
3544	SAN No. 4413 NESHAP: Aluminum Die Casting and Aluminum Foundries	2060-AJ09
3545	SAN No. 4417 Removal of Aluminum Die Casting and Aluminum Foundries From the Secondary Aluminum NESHAP and Applicability Stay for These Industries	2060-AJ11
3546	SAN No. 4410 Protection of Stratospheric Ozone Allocation of Essential-Use Allowances for Calendar Year 2001: Laboratory Essential Use Exemptions	2060-AJ15
3547	SAN No. 4458 NESHAP for Pharmaceuticals Production: Direct Final Amendments	2060-AJ17
3548	SAN No. 4492 Revision to Interim Approval Requirements	2060-AJ48
3549	SAN No. 4506 Standards of Performance for New Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors Amendment of Mass Burn Rotary Waterwall Definition	2060-AJ51
3550	SAN No. 4510 Control of Air Pollution from New Motor Vehicles Amendments to the Tier 2/Gasoline Sulfur Regulations	2060-AJ54
3551	SAN No. 4520 Petition by Colorado To Relax the Reid Vapor Pressure Standard for Gasoline for 2001	2060-AJ55
3552	SAN No. 4522 NESHAP: Amendments to Ferroalloys Production	2060-AJ56
3553	SAN No. 4544 NESHAP: Ferroalloy Production: Ferromanganese and Silicomanganese	2060-AJ64
3554	SAN No. 4557 Revision to the Requirements on Variability in the Composition of Additives Certified Under the Gasoline Deposit Control Program; Direct Final and Proposed Rules	2060-AJ69
3555	SAN No. 4564 Prohibitions on Gasoline Containing Lead or Lead Additives for Highway Use: Fuel Inlet Restrictor Exclusion for Motorcycles	2060-AJ76
3556	SAN No. 4517 Project XL Site-Specific Rulemaking for Weyerhaeuser Company Flint River Operations	2090-AA20

ATOMIC ENERGY ACT (AEA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3557	SAN No. 3602 Protective Action Guidance for Drinking Water	2060-AF39
3558	SAN No. 4054 Environmental Radiation Protection Standards for the Disposal of Low-Activity Mixed Radioactive Waste	2060-AH63
3559	SAN No. 4403 Revision of the 40 CFR Part 194 Waste Isolation Pilot Plant Compliance Criteria	2060-AJ07
3560	SAN No. 4582 Modification of 40 CFR Part 194, Appedix A, Waste Isolation Pilot Plant Certification	2060-AJ75

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3561	SAN No. 4610 Acceptability of Research Using Human Subjects **(Reg Plan Seq No. 115)**	2070-AD57

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3562	SAN No. 4143 Endocrine Disruptor Screening Program **(Reg Plan Seq No. 131)**	2070-AD26

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FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3563	SAN No. 4170 Procedures for the Pesticide Registration Review Program	2070-AD29
3564	SAN No. 4173 Data Requirements for Antimicrobial Pesticide Registration	2070-AD30
3565	SAN No. 4216 Pesticide Emergency Exemption Regulations **(Reg Plan Seq No. 132)**	2070-AD36
3566	SAN No. 4496 Data Requirement for Pesticide Registration; Environmental Fate and Ecological Effects	2070-AD47
3567	SAN No. 4596 Data Requirements; Biochemical and Microbial Pesticides	2070-AD51
3568	SAN No. 4609 Exemption of Medical Devices Treated with Antimicrobial Pesticides	2070-AD54
3569	SAN No. 4612 Plant Incorporated Protectants (PIPs); Exemption for PIPs That Act by Primarily Affecting the Plant **(Reg Plan Seq No. 133)**	2070-AD56

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3570	SAN No. 4602 Plant Incorporated Protectants (PIPs); Exemption for Those Based on Viral Coat Proteins **(Reg Plan Seq No. 143)**	2070-AD49
3571	SAN No. 3432 Pesticide Management and Disposal	2020-AA33
3572	SAN No. 2659 Pesticide Management and Disposal; Standards for Pesticide Containers and Containment	2070-AB95
3573	SAN No. 3222 Groundwater and Pesticide Management Plan Rule **(Reg Plan Seq No. 140)**	2070-AC46
3574	SAN No. 3731 WPS; Pesticide Worker Protection Standard; Glove Amendment	2070-AC93
3575	SAN No. 3892 Registration Requirements for Antimicrobial Pesticide Products; Labeling and Other Regulatory Changes	2070-AD14
3576	SAN No. 4611 Plant-Incorporated Protectants (PIPs); Exemption for Those Derived Through Genetic Engineering From Sexually Compatible Plants **(Reg Plan Seq No. 144)**	2070-AD55

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FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3577	SAN No. 4027 Pesticides; Tolerance Processing Fees	2070-AD23
3578	SAN No. 4175 Pesticide Tolerance Reassessment Program	2070-AD24
3579	SAN No. 2684 Plant Incorporated Protectants (Formerly Plant Pesticides) Rulemakings	2070-AC02
3580	SAN No. 2687 Data Requirements for Pesticide Registration; Toxicology, Exposure and Residue Chemistry	2070-AC12

TOXIC SUBSTANCES CONTROL ACT (TSCA)—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3581	SAN No. 4598 TSCA Policy Statement on Oversight of Transgenic Organisms (Including Plants)	2070-AD53

TOXIC SUBSTANCES CONTROL ACT (TSCA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3582	SAN No. 2563 Test Rule; ATSDR Substances	2070-AB79
3583	SAN No. 4174 TSCA Section 4 Enforceable Consent Agreement for Certain Oxygenated Fuel Additives	2070-AD28
3584	SAN No. 4395 Test Rule; Multi-Substance Rule for the Testing of Developmental and Reproductive Toxicity	2070-AD44
3585	SAN No. 1923 Follow-Up Rules on Existing Chemicals	2070-AA58
3588	SAN No. 4512 Significant New Use Rule; Selected Flame Retardant Chemical Substances for Use in Residential Upholstered Furniture	2070-AD48

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TOXIC SUBSTANCES CONTROL ACT (TSCA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3587	SAN No. 3557 Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling **(Reg Plan Seq No. 130)**	2070-AC83

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

TOXIC SUBSTANCES CONTROL ACT (TSCA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3588	SAN No. 3301 TSCA Inventory Update Rule Amendments **(Reg Plan Seq No. 141)**	2070-AC61
3589	SAN No. 3493 Test Rule; Generic Entry for ITC Related Testing Decisions	2070-AB94
3590	SAN No. 3487 Test Rule; Hazardous Air Pollutants (HAPs)	2070-AC76
3591	SAN No. 3990 Test Rule; Certain High Production Volume (HPV) Chemicals	2070-AD16
3592	SAN No. 4425 Test Rule; In Vitro Dermal Absorption Rate Testing of Certain Chemicals of Interest to the Occupational Safety and Health Administration	2070-AD42
3593	SAN No. 1976 Follow-Up Rules on Non-5(e) New Chemical Substances	2070-AA59
3594	SAN No. 3495 Significant New Use Rule (SNUR); Chemical-Specific SNURs To Extend Provisions of Section 5(e) Orders	2070-AB27
3595	SAN No. 4475 Significant New Use Rule; Certain Perfluoroalkyl Sulfonyl (Pfos) Containing Chemical Substances	2070-AD43
3596	SAN No. 2150 Polychlorinated Biphenyls (PCBs); Exemptions From the Prohibitions Against Manufacturing, Processing, and Distribution in Commerce	2070-AB20
3597	SAN No. 2779 Acrylamide; Prohibition on Manufacture, Importation, Distribution and Use of Acrylamide for Grouting	2070-AC17
3598	SAN No. 2178 TSCA Section 8(a) Preliminary Assessment Information Rules	2070-AB08
3599	SAN No. 1139 TSCA Section 8(d) Health and Safety Data Reporting Rules	2070-AB11
3600	SAN No. 4172 Lead; Notification Requirements for Lead-Based Paint Abatement Activities and Training	2070-AD31
3601	SAN No. 3508 Lead; Management and Disposal of Lead-Based Paint Debris	2070-AC72
3602	SAN No. 3118 TSCA Section 8(e) Policy; Notice of Clarification	2070-AC80
3603	SAN No. 4176 Chemical Right-to-Know Initiative; High Production Volume (HPV) Chemicals **(Reg Plan Seq No. 142)**	2070-AD25

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TOXIC SUBSTANCES CONTROL ACT (TSCA)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3604	SAN No. 2865 Voluntary Children's Chemical Evaluation Program (VCCEP)	2070-AC27
3605	SAN No. 3882 Test Rule; Certain Metals	2070-AD10
3606	SAN No. 3252 Lead; Regulatory Investigation Under the Toxic Substances Control Act (TSCA) To Reduce Lead (Pb) Consumption and Use	2070-AC21
3607	SAN No. 3528 Significant New Use Rule; Refractory Ceramic Fibers	2070-AC37
3608	SAN No. 3148 Asbestos Model Accreditation Plan Revisions	2070-AC51
3609	SAN No. 4179 Polychlorinated Biphenyls (PCBs); Use Authorizations	2070-AD27
3610	SAN No. 3559 Notice of TSCA Section 4 Reimbursement Period and TSCA Section 12(b) Export Notification Period Sunset Dates for TSCA Section 4 Substances	2070-AC84
3611	SAN No. 4376 Lead-Based Paint Activities; Training, Accreditation, and Certification Rule and Model State Plan Rule - Building and Structures	2070-AC64
3612	SAN No. 4597 Disposal of Polychlorinated Biphenyls: Implementation Issues	2070-AD52

TOXIC SUBSTANCES CONTROL ACT (TSCA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3613	SAN No. 4490 Toxic Substances Control Act Test Guidelines	2070-AD50

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EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3614	SAN No. 4015 TRI; Review of Chemicals on the Original TRI List	2025-AA03
3615	SAN No. 4265 TRI; Revisions to the Otherwise Use Activity Exemptions and the Coal Extraction Activities Exemption	2025-AA06
3616	SAN No. 4392 TRI: APA Petition-EPCRA 313 Definition of Overburden as It Relates to the Mining Industry	2025-AA08
3617	SAN No. 4595 Rulemaking To Change Toxics Release Inventory (TRI) Reporting Requirements From Standard Industrial Classification (SIC) Codes to North American Industrial Classification System	2025-AA10
3618	SAN No. 4616 Clarify TRI Reporting Obligations Under EPCRA Section 313 for the Metal Mining Activities of Extraction and Beneficiation	2025-AA11
3619	SAN No. 3215 Emergency Planning and Community Right-to-Know Act: Amendments and Streamlining Rule	2050-AE17
3620	SAN No. 3993 Modification of Threshold Planning Quantity for Isophorone Diisocyanate	2050-AE43

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3621	SAN No. 2425 TRI; Responses to Petitions Received To Add or Delete or Modify Chemical Listings on the Toxic Release Inventory	2025-AA00

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3622	SAN No. 3007 TRI; Chemical Expansion; Finalization of Deferred Chemicals	2025-AA01
3623	SAN No. 2847 TRI; Pollution Prevention Act Information Requirements	2025-AA09
3624	SAN No. 3994 Response to a Petition Requesting Deletion of Phosmet From the Extremely Hazardous Substances (EHS) List	2050-AE42

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3625	SAN No. 4094 Land Disposal Restrictions; Potential Revisions for Mercury Listed and Characteristic Wastes	2050-AE54

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3626	SAN No. 3989 Removal of Requirement To Use SW-846 Methods (Test Methods for Evaluating Solid Waste: Physical/Chemical Methods)	2050-AE41
3627	SAN No. 4028 Standardized Permit for RCRA Hazardous Waste Management Facilities	2050-AE44
3628	SAN No. 3333 NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors-Phase II Covering Boilers and Certain Industrial Furnaces	2050-AE01
3629	SAN No. 4084 Office of Solid Waste Burden Reduction Project **(Reg Plan Seq No. 134)**	2050-AE50
3630	SAN No. 4091 Modifications to RCRA Rules Associated With Solvent-Contaminated Shop Towels and Wipes	2050-AE51
3631	SAN No. 4092 Recycling of Cathode Ray Tubes (CRTs) and Mercury-Containing Equipment: Changes to Hazardous Waste Regulations **(Reg Plan Seq No. 135)**	2050-AE52
3632	SAN No. 4230 Revisions to Solid Waste Landfill Criteria—Leachate Recirculation on Alternative Liners	2050-AE67
3633	SAN No. 4419 Amendments to the Corrective Action Management Unit Rule	2050-AE77
3634	SAN No. 4411 Regulation of Oil Bearing Wastes From Petroleum Refineries Gasified To Produce Synthesis Gas	2050-AE78
3635	SAN No. 4501 Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures	2050-AE84
3636	SAN No. 4575 Municipal Solid Waste Landfill Location Restrictions for Airport Safety	2050-AE91

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RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3637	SAN No. 4586 Research, Development, and Demonstration Permits for Municipal Solid Waste Landfill	2050-AE92
3638	SAN No. 4606 Revisions for Transboundary Shipments of Hazardous Waste for Recovery Within the Organization for Economic Cooperation and Development	2050-AE93
3639	SAN No. 4534 Project XL Site-Specific Rulemaking for Anne Arundel County Millersville Landfill, Severn, Maryland	2090-AA25
3640	SAN No. 4608 Project XL Site-Specific Rulemaking for Implementing Waste Treatment Systems at Two Virginia Landfills	2090-AA30

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3641	SAN No. 3805 Paint Manufacturing Wastes Listing: Hazardous Waste Management System: Identification and Listing of Hazardous Waste	2050-AE32
3642	SAN No. 4083 Listing of Hazardous Waste; Inorganic Chemical Wastes; Land Disposal Restrictions for Newly Listed Wastes; CERCLA Hazardous Substances Reportable Quantities	2050-AE49
3643	SAN No. 3545 Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials	2050-AE23
3644	SAN No. 4208 Requirements for Zinc Fertilizer Made From Recycled Hazardous Secondary Materials **(Reg Plan Seq No. 145)**	2050-AE69
3645	SAN No. 4418 NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors	2050-AE79
3646	SAN No. 4566 NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors - Parallel Proposed Rule	2050-AE90
3647	SAN No. 4615 Definition of Solid Waste; Codification of Mineral Processing Vacature (Classification of Battery Recyclers v. EPA) and Discussion of Future Proposed Rulemaking	2050-AE94
3648	SAN No. 4439 Project XL — Ortho-McNeil Pilot Project Allowing On-Site Treatment of Low-Level Mixed Wastes Without RCRA Permit	2090-AA14
3649	SAN No. 4565 Project XL Site-Specific Rulemaking for the IBM Semiconductor Manufacturing Facility in Hopewell Junction, New York	2090-AA29

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3650	SAN No. 3856 Management of Cement Kiln Dust (CKD)	2050-AE34
3651	SAN No. 3189 Final Determination of the Applicability of the Toxicity Characteristic Rule to Petroleum Contaminated Media and Debris from Underground Storage Tanks	2050-AD69
3652	SAN No. 3066 Listing Determination of Wastes Generated During the Manufacture of Azo, Anthraquinone, and Triarylmethane Dyes and Pigments	2050-AD80
3653	SAN No. 2647 RCRA Subtitle C Financial Test Criteria (Revision)	2050-AC71
3654	SAN No. 3147 Hazardous Waste Manifest Regulation	2050-AE21
3655	SAN No. 4233 Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088) and Regulatory Classification of K088 Vitrification Units	2050-AE65
3656	SAN No. 4470 Standards for the Management of Coal Combustion Wastes Generated by Commercial Electric Power Producers	2050-AE81
3657	SAN No. 4469 Standards for the Management of Coal Combustion Wastes - Non-Power Producers and Minefilling	2050-AE83

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RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3658	SAN No. 3428 Hazardous Waste Management System: Slag Residues Derived From High Temperature Metals Recovery (HTMR) Treatment of KO61, KO62 and F0006 Wastes	2050-AE15
3659	SAN No. 3668 Hazardous Waste Identification; Recycled Used Oil Management Standards	2050-AE28
3660	SAN. No. 3888 Mercury-Containing and Rechargeable Battery Management Act; Codification of Waste Management Provisions	2050-AE39
3661	SAN No. 4017 Storage, Treatment, Transportation, and Disposal of Mixed Wastes; Final Rule	2050-AE45
3662	SAN No. 4088 Recycled Used Oil Containing PCBs	2050-AE47
3663	SAN No. 4090 RCRA Appendix VIII Streamlining	2050-AE55
3664	SAN No. 2390 Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities	2050-AB80
3665	SAN No. 3328 Hazardous Waste Identification Rule (HWIR): Identification and Listing of Hazardous Wastes	2050-AE07
3666	SAN No. 4093 Reinventing the Land Disposal Restrictions Program	2050-AE53
3667	SAN No. 4263 Temporary Suspension of Toxicity Characteristic Rule for Specific Lead-Based Paint Debris	2050-AE68
3668	SAN No. 4430 RCRA Controls for Wastewater Treatment Units	2050-AE82
3669	SAN No. 4525 Criteria for Classification of Solid Waste Disposal Facilities and Practices and Criteria for Municipal Solid Waste Landfills: Disposal of Residential Lead-Based Paint Waste	2050-AE86
3670	SAN No. 4552 NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors	2050-AE89
3671	SAN No. 4437 Project XL Site-Specific Rulemaking for the US Filter Recovery Services, Roseville, Minnesota, and Approved Generators and Transporters of USFRS XL Waste	2090-AA15
3672	SAN No. 4498 Project XL Site-Specific Rulemaking for Yolo County Landfill, Davis, Yolo County, California	2090-AA18
3673	SAN No. 4516 Project XL Notice of Proposed Rule for Autoliv Inc. Site-Specific Rulemaking	2090-AA19

OIL POLLUTION ACT (OPA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3674	SAN No. 2634 Oil Pollution Prevention Regulation: Revisions	2050-AC62

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3675	SAN No. 3423 Reportable Quantity Adjustments for Carbamates	2050-AE12
3676	SAN No. 3439 National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed and Final Rules	2050-AD75
3677	SAN No. 4177 Revise 40 CFR Part 35 Subpart O: Cooperative Agreements and Superfund State Contracts for Superfund Response Actions	2050-AE62

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3678	SAN No. 3929 Final Rule to Correct Typographical Errors and Remove Obsolete Language in 40 CFR Part 302 ..	2050-AE88

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3679	SAN No. 2394 Reporting Exemptions for Federally Permitted Releases of Hazardous Substances	2050-AB82
3680	SAN No. 3885 Streamlining the Preauthorization Mixed Funding for Application and Implementation of Claims Against Superfund	2050-AE38

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COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3681	SAN No. 4201 Criteria for the Designation of Hazardous Substances Under CERCLA Section 102(a)	2050-AE63

CLEAN WATER ACT (CWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3682	SAN No. 4280 Effluent Guidelines and Standards for the Construction and Development Industry **(Reg Plan Seq No. 137)**	2040-AD42
3683	SAN No. 4406 Effluent Guidelines and Standards for the Aquatic Animal Production Industry	2040-AD55
3684	SAN No. 4407 Effluent Guidelines and Standards for the Meat Products Point Source Category (Revisions)	2040-AD56
3685	SAN No. 4264 Water Quality Standards for Alabama—Phase II	2040-AD35
3686	SAN No. 4377 Test Procedures for the Analysis of Mercury Under the Clean Water Act (Method 245.7)	2040-AD52
3687	SAN No. 4474 Minimizing Adverse Environmental Impact From Cooling Water Intake Structures at Existing Facilities Under Section 316(b) of the Clean Water Act, Phase 2 **(Reg Plan Seq No. 138)**	2040-AD62
3688	SAN No. 3999 NPDES Permit Requirements for-Municipal Sanitary Sewer Collection Systems, Municipal Satellite Collection Systems, and Sanitary Sewer Overflows **(Reg Plan Seq No. 136)**	2040-AD02
3689	SAN No. 4332 Recognition Awards Under the Clean Water Act	2040-AD44
3690	SAN No. 4446 Ocean Discharges Criteria Revisions	2040-AD60
3691	SAN No. 4493 Clean Water State Revolving Fund Regulation Revisions Re: Use as Matching Funds	2040-AD68
3692	SAN No. 4540 Test Procedures: New and Updated Test Procedures for the Analysis of Pollutants Under the Clean Water Act and Safe Drinking Water Act	2040-AD71
3693	SAN No. 4541 Test Procedures for the Analysis of Mercury Under the Clean Water Act (Revisions to Method 1631)	2040-AD72
3694	SAN No. 4576 2002 Effluent Guidelines Plan	2040-AD78
3695	SAN No. 4526 Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan; Subpart J Product Schedule Listing Requirements	2050-AE87

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

CLEAN WATER ACT (CWA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3696	SAN No. 3833 Effluent Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category (Revisions)	2040-AC90
3697	SAN No. 4192 Effluent Guidelines and Standards for the Bleached Papergrade Kraft Subcategory of the Pulp, Paper, and Paperboard Category; Certification in Lieu of Monitoring for Chloroform	2040-AD23
3698	SAN No. 4168 Effluent Guidelines and Standards for the Coal Mining Point Source Category (Revisions)	2040-AD24
3699	SAN No. 3155 Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One	2040-AC95
3700	SAN No. 4047 Test Procedures for Analysis for Biological Contaminants Under Clean Water Act	2040-AD08
3701	SAN No. 4089 Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two	2040-AD12
3702	SAN No. 4409 Test Procedures: Clean Water Act and Safe Drinking Water Act Methods Update	2040-AD59
3703	SAN No. 3444 Minimizing Adverse Environmental Impact From Cooling Water Intake Structures at New Facilities Under Section 316(b) of the Clean Water Act, Phase 1	2040-AC34
3704	SAN No. 4617 Total Maximum Daily Load (TMDL) Program Regulations Revisions	2040-AD79
3705	SAN No. 3288 Comparison of Dredged Material to Reference Sediment	2040-AC14
3706	SAN No. 4375 Revision to Clean Water Act Regulatory Definition of "Fill Material"	2040-AD51
3707	SAN No. 3488 Round 2 Standards for the Use or Disposal of Sewage Sludge	2040-AC25
3708	SAN No. 4515 Procedures for Tribes to Obtain Approval for Treatment as a State To Receive Funding for the Beaches Program	2040-AD69
3709	SAN No. 4514 Rule To Revise and To Ratify or Withdraw Whole Effluent Toxicity Test Methods	2040-AD73

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CLEAN WATER ACT (CWA)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3710	SAN No. 2806 Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2	2040-AB79
3711	SAN No. 4050 Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II	2040-AD10
3712	SAN No. 4153 National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitations Guidelines and Standards for Concentrated Animal Feeding Operations (CAFOs)	2040-AD19
3713	SAN No. 4370 Effluent Guidelines and Standards for the Dissolving Kraft and Dissolving Sulfite Subcategories of the Pulp, Paper, and Paperboard Point Source Category (Phase III)	2040-AD49
3714	SAN No. 4408 Effluent Guidelines and Standards for the Industrial Container and Drum Cleaning Point Source Category.	2040-AD57
3715	SAN No. 3662 Water Quality Standards Regulation — Revision	2040-AC56
3716	SAN No. 4344 Water Quality Standards for Indian Country Waters	2040-AD46
3717	SAN No. 3702 Test Procedures for the Analysis of Trace Metals Under the Clean Water Act	2040-AC75
3718	SAN No. 3714 Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring	2040-AC92
3719	SAN No. 3713 Performance-Based Measurement System (PBMS) Procedures and Guidance for Clean Water Act Test Procedures	2040-AC93
3720	SAN No. 4049 Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act	2040-AD09
3721	SAN No. 4378 Revisions to Method Detection and Quantification for Use Under the Clean Water Act and Safe Drinking Water Act	2040-AD53
3722	SAN No. 4357 Uniform National Discharge Standards for Vessels of the Armed Forces - Phase II	2040-AD39
3723	SAN No. 4543 Minimizing Adverse Environmental Impact from Cooling Water Intake Structures at Existing Facilities Under Section 316(b) of the Clean Water Act, Phase 3	2040-AD70
3724	SAN No. 3663 Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution	2040-AC58
3725	SAN No. 3786 NPDES Streamlining Rule — Round III	2040-AC84
3726	SAN No. 2804 Clean Water Act Definition of Waters of the United States	2040-AB74

CLEAN WATER ACT (CWA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3727	SAN No. 4214 Test Procedures for the Analysis of E. Coli and Enterococci Under the Clean Water Act	2040-AD34
3728	SAN No. 3234 Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information	2040-AC26
3729	SAN No. 4581 Test Procedures for the Analysis of Mercury Under the Clean Water Act (Revisions to Method 1631)	2040-AD74
3730	SAN No. 4476 Pretreatment Program Reinvention Pilot Projects Under Project XL	2090-AA16

SAFE DRINKING WATER ACT (SDWA)—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3731	SAN No. 4447 Drinking Water: Regulatory Determinations Regarding Contaminants on the Drinking Water Contaminant Candidate List	2040-AD61
3732	SAN No. 4424 6-Year Review of Existing National Primary Drinking Water Regulations **(Reg Plan Seq No. 116)**	2040-AD67

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

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SAFE DRINKING WATER ACT (SDWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3733	SAN No. 4404 National Secondary Drinking Water Regulations (NSDWR): Methyl Tertiary Butyl Ether (MTBE) and Technical Corrections to the NSDWR	2040-AD54

SAFE DRINKING WATER ACT (SDWA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3734	SAN No. 2281 National Primary Drinking Water Regulations: Radon **(Reg Plan Seq No. 146)**	2040-AA94
3735	SAN No. 2807 National Primary Drinking Water Regulations: Arsenic and Clarifications to Compliance and New Source Contaminant Monitoring **(Reg Plan Seq No. 147)**	2040-AB75
3736	SAN No. 4147 National Primary Drinking Water Regulations: Long Term 1 Enhanced Surface Water Treatment Rule	2040-AD18
3737	SAN No. 4451 Underground Injection Control Class V Phase 2 Revisions	2040-AD63
3738	SAN No. 4561 Minor Revisions to the Public Notification Rule and the Consumer Confidence Report Rule	2040-AD77

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

SAFE DRINKING WATER ACT (SDWA)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3739	SAN No. 4212 Use of Screening Methods for Compliance Monitoring of Drinking Water Contaminants	2040-AD31
3740	SAN No. 2340 National Primary Drinking Water Regulations: Groundwater Rule	2040-AA97
3741	SAN No. 3238 National Primary Drinking Water Regulations: Aldicarb	2040-AC13
3742	SAN No. 4341 National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment Rule	2040-AD37
3743	SAN No. 4342 National Primary Drinking Water Regulations: Stage 2 Disinfectants/Disinfection Byproducts Rule	2040-AD38
3744	SAN No. 4369 Regulated Drinking Water Contaminant Occurrence Reporting	2040-AD48
3745	SAN No. 4236 Update of State Underground Injection Control Programs	2040-AD40

SAFE DRINKING WATER ACT (SDWA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3746	SAN No. 3176 National Primary Drinking Water Regulations: Sulfate	2040-AC07
3747	SAN No. 4146 National Primary Drinking Water Regulations: Filter Backwash Recycling Rule	2040-AD65
3748	SAN No. 4560 Unregulated Contaminant Monitoring Regulation for Public Water Systems; Amendment to the List 2 Rule and Partial Delay of Reporting of Monitoring Results	2040-AD75

SHORE PROTECTION ACT (SPA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3749	SAN No. 2820 Shore Protection Act, Section 4103(b) Regulations	2040-AB85

Environmental Protection Agency (EPA) **Proposed Rule Stage**

General

3334. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES IN PROCUREMENT UNDER ASSISTANCE AGREEMENTS

Priority: Other Significant

Legal Authority: PL 101-507; PL 102-389; PL 101-549 sec 1001; 42 USC 9605(f); PL 100-590; EO 12432; EO 12138; EO 11625

CFR Citation: 40 CFR 33

Legal Deadline: None

Abstract: The regulation will codify revisions to the Agency's program for the utilization of Small, Minority and Women's Business Enterprises in procurements under assistance agreements (i.e., grants and cooperative agreements awarded by EPA as well as grants and cooperative agreements awarded by other agencies under interagency agreements with EPA). The revisions are necessary to ensure consistency with the Supreme Court's decision in Adarand Constructors, Inc. v. Pena, 115 S.Ct. 2097 (1995), and were identified as part of the Clinton Administration's review of affirmative action programs. They include: (1) placing greater emphasis on requiring assistance agreement recipients to submit documentation supporting proposed fair share procurement objectives for Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) based on the availability of qualified MBEs and WBEs in the relevant geographic market; (2) authorizing or requiring recipients and their prime contractors to take reasonable race/gender-conscious measures (e.g., bidding credits) in the event that race/gender-neutral efforts prove inadequate to meet fair share objectives; and (3) administering statutory MBE/WBE objectives as a national goal, allowing smaller or larger fair share objectives for particular grants or cooperative agreements based on the availability standard.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
Final Action	12/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4056

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RIN: 2020–AA39

3335. REVISION TO EPAAR 1552.211-73, LEVEL OF EFFORT

Priority: Info./Admin./Other

Legal Authority: 5 USC 301 Sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1552

Legal Deadline: None

Abstract: This rule will revise EPAAR 1552.211-73, Level of Effort, to define more concisely the services being acquired, and to more accurately reflect the relationship between services provided and fee payments.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4191

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RIN: 2030–AA64

3336. REVISIONS TO ACQUISITION REGULATION CONCERNING CONFLICT OF INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The purpose of this rule is to revise the Agency's conflict of interest (COI) acquisition regulations. The specific revisions involve more stringent requirements for submission of relevant information from Agency contractors and potential contractors regarding their relationships with parent companies, affiliates, subsidiaries, and sister companies. Current Agency regulations do not require the submission of this level of information. Receipt and evaluation of this information is critical in order for the Agency to decide whether or not COI situations exist and how they are to be handled. This revised rule will also codify several COI clauses that have been developed since the issuance of the previous rule in 1994.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 4319

Sectors Affected: 5413 Architectural, Engineering and Related Services; 5416 Management, Scientific and Technical Consulting Services; 54162 Environmental Consulting Services; 5417 Scientific Research and Development Services; 562 Waste Management and Remediation Services

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EPA—General **Proposed Rule Stage**

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RIN: 2030–AA67

3337. INCORPORATION OF CLASS DEVIATIONS INTO EPAAR

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1537; 48 CFR 1552

Legal Deadline: None

Abstract: The Agency has approved a number of class deviations (e.g., changes to reporting requirements and monthly progress reports) to the EPAAR since its promulgation in April 1994. This proposed rule would incorporate most of the class deviations to the EPAAR.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3580

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RIN: 2030–AA37

3338. INCREMENTALLY FUNDING FIXED PRICE CONTRACTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1532

Legal Deadline: None

Abstract: This proposed rule will add subpart 1532.7, Contract Funding, to the Environmental Protection Agency's Acquisition Regulation (EPAAR). It also will revise part 1552 of the EPAAR to include a clause for incrementally funding fixed price contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3876

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RIN: 2030–AA50

3339. IMPLEMENTATION OF CHANGES TO GOVERNMENTWIDE DEBARMENT AND SUSPENSION COMMON RULE

Priority: Substantive, Nonsignificant

Legal Authority: EO 12549; EO 12689 and FASA

CFR Citation: 40 CFR 32

Legal Deadline: None

Abstract: Periodically OMB amends the Governmentwide common rule for suspension and debarment of contractors and assistance participants who threaten the integrity of Federal programs because of criminal misconduct or poor performance. All agencies must issue changes to their individual codified versions to conform to the common rule. Recently, the Interagency Suspension and Debarment Coordinating Committee prepared recommendations for comprehensive changes to the common rule to conform to changes made in the Federal Acquisition Regulation (FAR) as a result of the Federal Acquisition Streamlining Act (FASA). In addition, several other proposals to improve or change the rule were recommended by various agencies. In December 1996, OMB declined to implement the changes at that time due to differences with some agencies about some changes unrelated to those occasioned by FASA.

Among other things, FASA replaced the small purchase threshold ($25,000) with the simplified acquisition amount ($100,000). That change unintentionally exposed certain EPA programs to participation by contractors who may have been debarred for serious misconduct already. OMB has agreed to permit agencies to amend the coverage section of their individual agency rules to reduce or eliminate exposure to suspended or debarred persons.

EPA intends to issue a notice of proposed rulemaking to amend 40 CFR 32.110 to reduce EPA exposure to such consequences.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3817

This is an assistance-related statutory requirement. There is no paperwork burden associated with this action.

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RIN: 2030–AA48

3340. ENVIRONMENTAL IMPACT ASSESSMENT OF NONGOVERNMENTAL ACTIVITIES IN ANTARCTICA

Priority: Other Significant

Legal Authority: 16 USC 2401 et seq, as amended; 16 USC 2403(a); PL 104-227

CFR Citation: 40 CFR 8

Legal Deadline: Final, Statutory, October 2, 1998, The Interim Final Rule effective 7/14/98 through the year 2000-2001 austral summer.

EPA—General **Proposed Rule Stage**

Abstract: The purpose of this action is to develop regulations for: (1) the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Antarctic Treaty and (2) coordination of the review of information regarding environmental impact assessment received by the United States from other parties under the Protocol on Environmental Protection. The Office of Federal Activities (OECA/OFA) will use the decisionmaking process of the National Environmental Policy Act (NEPA) to analyze the environmental setting; the types of nongovernmental activities, including tourism, to be addressed by the regulations; their potential for impact; and the alternatives available under rulemaking for environmental impact assessments for nongovernmental activities. An interim final rule, 40 CFR part 8, promulgated April 30, 1997, and on July 15, 1998 extended through the 2000-2001 austral summer, will be replaced by a final rule. The interim final rule was effective immediately so that the U.S. could ratify the Protocol and implement its obligations under the Protocol as soon as it entered into force. These rules are being developed in coordination with other Federal agencies with specific interests in and expertise with Antarctica including the Department of State, National Science Foundation, National Oceanic and Atmospheric Administration, U.S. Coast Guard, Marine Mammal Commission, Department of Justice, and the Council on Environmental Quality.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/30/97	62 FR 23538
Extend Effectve Date Interim Rule	04/15/98	63 FR 18352
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: SAN No. 3933

Legal Description: The Interim Final Rule, effective 7/14/98, through the year 2000-2001 austral summer.,

Interim Final Rule-
http://www.epa.gov/fedrgstr/EPA-IMPACT/1997/April/Day-30/i11075.htm Extend Effectve Date-
http://www.epa.gov/fedrgstr/EPA-IMPACT/1998/April/Day-15/i10007.htm

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RIN: 2020–AA34

3341. PROPOSED REVISION TO EPA'S IMPLEMENTING NEPA REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321

CFR Citation: 40 CFR 6

Legal Deadline: None

Abstract: The proposed revision is necessary to clarify and update EPA's National Environmental Policy Act (NEPA) regulation. The revision would clarify Agency responsibilities for: Congressionally funded special appropriation projects and EPA-funded grant programs. The revision would clarify public involvement procedures and organization responsibilities. The proposal would revise the list of actions which are categorically excluded from analyses. The revision is also needed to incorporate a number of Executive orders and other cross-cutting requirements into the NEPA process.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4292

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RIN: 2020–AA42

3342. • REVISION OF PROCEDURAL RULES FOR HEARINGS ON CANCELLATIONS, SUSPENSIONS, CHANGES IN CLASSIFICATIONS, AND DENIALS OF PESTICIDE REGISTRATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136a(c)to 136a(d); 7 USC 136b(d)to 136b(f); 7 USC 136d(b)to 7 USC 136d(e); 7 USC 136w(a)

CFR Citation: 40 CFR 164 (Revision)

Legal Deadline: None

Abstract: EPA is preparing a comprehensive revision of the Rules of Practice governing the conduct of licensing adjudications under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The existing Rules of Practice were originally promulgated by EPA in 1973. In the subsequent 19 years, Congress has substantially amended FIFRA, creating a number of additional types of licensing adjudications which are not expressly provided for in the existing Rules of Practice. In order to include provisions tailored to these new types of proceedings, and to incorporate the standard practices which have evolved and the precedents which have been established since these rules were first promulgated, EPA intends to comprehensively revise the FIFRA Rules of Practice.

Timetable:

Action	Date	FR Cite
NPRM Rules of Practice Governing Pesticide Cancellation Hearings, Etc.	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

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EPA—General

Proposed Rule Stage

Government Levels Affected: None

Additional Information: SAN No. 4618

Sectors Affected: 111 Crop Production; 112 Animal Production; 32532 Pesticide and Other Agricultural Chemical Manufacturing

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RIN: 2020–AA44

3343. PUBLIC INFORMATION AND CONFIDENTIALITY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2005; 15 USC 2601 et seq; 21 USC 346; 33 USC 1251 et seq; 33 USC 1414; 42 USC 11001 et seq; 42 USC 300(f) et seq; 42 USC 4912; 42 USC 6901 et seq; 42 USC 7401 et seq; 42 USC 9601 et seq; 5 USC 552; 7 USC 136 et seq

CFR Citation: 40 CFR 2; 40 CFR 57; 40 CFR 122; 40 CFR 123; 40 CFR 145; 40 CFR 233; 40 CFR 260; 40 CFR 270; 40 CFR 271; 40 CFR 281; 40 CFR 350; 40 CFR 403; 40 CFR 85; 40 CFR 86

Legal Deadline: NPRM, Statutory, August 31, 2000, Proposed rule to eliminate the special treatment of CBI substantiations.

Abstract: EPA regulations at 40 CFR part 2, subpart B, provide procedures for handling and disclosing information claimed as confidential business information (CBI). Although the current regulations have succeeded in protecting CBI, changes in Agency workload, practice, and statutory authority have made it difficult to handle CBI activities as expeditiously as desired. EPA is examining its CBI regulations to determine what changes are needed to make the regulations as efficient and effective as possible. Provision 40 CFR 2.205(c), which automatically protects CBI substantiations claimed as confidential, is being examined individually and as part of the CBI regulations as a whole.

Timetable:

Action	Date	FR Cite
NPRM/CBI Regs Proposal to revise EPA's CBI regulations	11/23/94	59 FR 60446
Final/CBI Substant. Final rule to eliminate special treatment of substantiations	12/00/01	
NPRM/CBI Regs Proposal to revise CBI regs--40 CFR Part 2, Subpart B	To Be Determined	
Final Rule/CBI Regs Final rule revising CBI regs--40 CFR Part 2, Subpart B	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3240

Fomerly listed as RIN 2020-AA21.

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RIN: 2025–AA02

3344. PERSISTENT, BIOACCUMULATIVE, AND TOXIC (PBT) POLLUTANTS STRATEGY

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The U.S. Environmental Protection Agency (EPA) has developed National Action Plans under a national strategy to overcome the remaining challenges in addressing priority PBT pollutants. These pollutants pose risks because they are toxic, persist in ecosystems, and accumulate in fish and up the food chain. The PBT challenges remaining stem from the pollutants' ability to travel long distances, to transfer rather easily among air, water, and land, and to linger for generations. EPA is committing, through this strategy, to create an enduring cross-office system that will address the cross-media issues associated with priority PBT pollutants. This strategy fortifies existing EPA commitments related to priority PBTs, such as the 1997 Canada/U.S. Binational Toxics Strategy (BNS), the North American Agreement on Environmental Cooperation, and the recently released Clean Water Action Plan. EPA is forging a new approach to reduce risks from and exposures to priority PBT pollutants through increased coordination among EPA national and regional programs. This approach also requires the significant involvement of stakeholders, including international, State, local, and tribal organizations, the regulated community, environmental groups, and private citizens. EPA is carrying out this strategy through the implementation of National Action Plans for Priority PBT Pollutants. EPA is initially focusing action on 12 BNS Level 1 substances either individually or as categories and two major cross-cutting issues (monitoring and outreach/risk communication). The action plans will use the full range of its tools to prevent and reduce releases of these substances. These tools include international, voluntary, regulatory, programmatic, remedial, compliance monitoring and assistance, enforcement, research, and outreach tools. EPA will integrate and sequence actions within and across action plans, and will seek to leverage these actions on international and industry-sector bases. Beyond these first 12 substances EPA will identify additional PBTs for development of National Action Plans.

Timetable:

Action	Date	FR Cite
Notice Multimedia Strategy for PBTs	11/17/98	63 FR 63926
Notice Draft National Action Plan for Mercury	09/16/99	64 FR 50284
Notice Proposed National Action Plan for Alkyl-lead	08/25/00	65 FR 51823
Notice Proposed National Action Plan for Octachlorostyrene (OCS)	08/25/00	65 FR 51825

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Action	Date	FR Cite
Notice Draft Action Plan for Level 1 Pesticides	11/01/00	65 FR 65314
Notice Draft Action Plan for Hexachlorobezene (HCB)	12/08/00	65 FR 77026
Notice Draft Action Plan for Benzo(a)pyrene (B(a)P)	12/00/01	
Notice Final Action Plan for Mercury	12/00/01	
Notice Final Action Plan for Alkyl-lead	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4463

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RIN: 2070–AD45

3345. REGULATORY INCENTIVES FOR THE NATIONAL ENVIRONMENTAL ACHIEVEMENT TRACK PROGRAM

Regulatory Plan: This entry is Seq. No. 117 in part II of this issue of the **Federal Register**.

RIN: 2090–AA13

3346. PROJECT XL SITE SPECIFIC RULEMAKING FOR NASA WHITE SANDS TEST FACILITY ELECTRONIC REPORTING IN LAS CRUCES, NEW MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The purpose of the NASA WSTF Electronic Reporting site specific rule is to enable the NASA White Sands Test Facility to electronically submit compliance reports and permit information to the New Mexico Environmental Department (NMED) in lieu of submitting paper reports. The rule will set forth guidelines to ensure that the information submitted by NASA WSTF to NMED is accurate by outlining procedures for data authentication, use of electronic signature and encryption processes.

Timetable:

Action	Date	FR Cite
NPRM	10/31/01	66 FR 55050
NPRM Comment Period End	11/30/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4536

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RIN: 2090–AA27

3347. NEW JERSEY GOLD TRACK PROJECT XL RULE

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Gold Track Program is a crucial part of NJDEP's efforts to create a State-run tiered performance-based program. Currently, facilities may join NJDEP's Silver Track Program, which is a lower-level tier that provides recognition for commitments to a certain level of environmental enhancement. Gold Track expands upon these environmental commitments, and offers proportionally greater recognition, as well as actual federal regulatory flexibility to participating facilities. NJDEP is partnering with EPA in the Gold Track effort under the XL program, so as to be able to offer federal regulatory flexibility to Gold Track participants.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: SAN No. 4533

Was formerly RIN 2002-AA00.

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RIN: 2090–AA28

Environmental Protection Agency (EPA) **Final Rule Stage**

General

3348. EPAAR COVERAGE ON LOCAL HIRING AND TRAINING

Priority: Other Significant

Legal Authority: 5 USC 301 sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1526; 48 CFR 1552

Legal Deadline: None

Abstract: This rule will amend the EPA Acquisition Regulation (EPAAR) to include part 1526, Other Socioeconomic Programs, and to revise part 1552, Solicitation Provisions and Contract Clauses. The purpose is to provide an incentive for prime contractors to utilize local hiring and provide training to local hires in

EPA—General

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specific geographical locations where contractual requirements will be performed. This incentive will support economic development in areas where EPA contracts are performed.

Timetable:

Action	Date	FR Cite
NPRM	12/09/98	63 FR 67845
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action..

Additional Information: SAN No. 4187

NPRM-
http://www.epa.gov/fedrgstr/EPA-GENERAL/1998/December/Day-09/g32683.htm

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RIN: 2030–AA62

3349. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 28 CFR 42.101 to 42.112; 28 CFR 42.501 to 42.540; 28 CFR 42.700 to 42.736

Legal Deadline: None

Abstract: The Department of Justice proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of program or activity and program to title VI and added a definition of program or activity to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of program or activity and program into the Department's title VI, section 504, and Age Discrimination Act regulations. The Department's proposed regulation will be published as part of a joint Notice of Proposed Rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4021

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RIN: 2020–AA36

3350. REWRITING OF EPA REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 40 CFR 2

Legal Deadline: None

Abstract: This document proposes revisions to EPA's regulations under the Freedom of Information Act (FOIA). The FOIA regulations have been streamlined and written in plain English wherever possible. These revisions reflect the principles established by President Clinton and Attorney General Reno in their FOIA Policy Memoranda of October 4, 1993. They also reflect developments in the case law and include updated cost figures for calculating and charging fees. In addition, the proposed revisions include provisions implementing the Electronic Freedom of Information Act Amendments of 1996. These revisions will simplify and expedite responses to FOIA requests.

Timetable:

Action	Date	FR Cite
NPRM Revised Freedom of Information Act Regulations	04/12/00	65 FR 19703
Final Action Revised Freedom of Information Act Regulations	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Additional Information: SAN No. 4180

Fomerly listed as RIN 2020-AA40.

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RIN: 2025–AA04

3351. CROSS-MEDIA ELECTRONIC REPORTING (ER) AND RECORDKEEPING RULE

Regulatory Plan: This entry is Seq. No. 148 in part II of this issue of the **Federal Register**.

RIN: 2025–AA07

3352. ELECTRONIC FUNDS TRANSFER

Priority: Other Significant

Legal Authority: 5 USC 301 Sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1532.11

Legal Deadline: None

Abstract: This rule complies with the revised Federal Acquisition Regulations (FAR) coverage regarding implementation of the Debt Collection Improvement Act. Because the revised FAR offers choices in implementation, each agency must communicate with its

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vendor community its choices. This rule will let our vendor community know that EPA will require the use of FAR Clause 52.232-34, Payment by Electronic Funds Transfer (Non-CCR), as prescribed in FAR 32.1105(a)(2). Within the clause, under (c) the payment office shall be inserted as the prescribed designated office. Further inserted shall be that the required EFT information shall be provided no later than 15 days prior to submission of the first request for payment.

Timetable:

Action	Date	FR Cite
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4185

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RIN: 2030–AA57

3353. NOTICE TO PROCEED

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Environmental Protection Agency (EPA) is amending the EPA Acquisition Regulations (EPAAR) to include a clause concerning the issuance of warrants for on-scene coordinators. The intent is to allow program officials with remedial type requirements to receive on-scene coordinator warrants so that they can issue letter contracts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/01	66 FR 12897
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4351

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RIN: 2030–AA68

3354. ADMINISTRATIVE CORRECTIONS TO EPAAR 1515, CONTRACTING BY NEGOTIATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 301

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Administrative corrections will be made to EPAAR 1515 for clarification purposes.

Timetable:

Action	Date	FR Cite
Direct Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4400

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RIN: 2030–AA73

Environmental Protection Agency (EPA) **Long-Term Actions**

General

3355. CONSOLIDATION OF GOOD LABORATORY PRACTICE STANDARDS (GLPS) REGULATIONS CURRENTLY UNDER TSCA AND FIFRA INTO ONE RULE

Priority: Info./Admin./Other

Legal Authority: 15 USC 2601 et seq; 7 USC 136 et seq

CFR Citation: 40 CFR 160; 40 CFR 792

Legal Deadline: None

Abstract: On November 29, 1983, EPA published Good Laboratory Practice Standards (GLPS) regulations intended to help ensure data integrity for studies required to support marketing and research permits under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Toxic Substances Control Act (TSCA). These rules were last amended on August 17, 1989. GLPS data integrity measures can be applied to a wide variety of scientific studies. Although the TSCA and FIFRA GLPS contain identical provisions, they were published as separate rules to account for statutory and program differences between TSCA and FIFRA, such as differences in records retention requirements. EPA believes it will be able to address the differences between TSCA and FIFRA, such as differences in records retention requirements. EPA believes it will be able to address the differences of those programs without duplicating the entire GLP standard in two places.

This action is intended to consolidate EPA's GLPS into one rule. Program-specific requirements will be addressed in either separate sections of the consolidated rule, or in separate rules as is determined appropriate. This action is not intended to change the requirements, applicability, or

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enforceability of GLPS with respect to any statute.

EPA has received comments from stakeholders regarding the understandability of many aspects of the GLPS, and over the years has issued numerous clarifications. EPA believes that some clarifications, if included directly in the rule, would make the rule easier to understand and enhance compliance. Therefore, EPA intends to include such clarifications where appropriate in this rulemaking. Finally, in the interest of maintaining consistency between EPA's and Food and Drug Administration's regulations, EPA will determine any modifications that have occurred to the FDA GLP rule and consider incorporation of such changes into the EPA rule. This action will serve to reduce the total regulatory text in the Code of Federal Regulations by an estimated 10 pages, by consolidating 23 pages of text to approximately 13. In the process it will provide a generic GLP rule that may be used by other programs in the Agency.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3456
NPRM	12/29/99	64 FR 72972
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: SAN No. 3807

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RIN: 2020–AA26

3356. • FELLOWSHIP GRANT REGULATION REVISION

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 46

Legal Deadline: None

Abstract: The Fellowship Rule (part 46) establishes the requirements applicable to granting all EPA fellowships. It supplements 40 CFR part 30, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations." The rule requires submission of data to the Agency, however, a new ICR is not required. The rule is already cleared under current ICR approval.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4572

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RIN: 2030–AA77

3357. • EMPOWERMENT THROUGH DELEGATIONS OF AUTHORITY AND MISCELLANEOUS AMENDMENTS

Priority: Info./Admin./Other

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1501; 48 CFR 1502; 48 CFR 1515; 48 CFR 1517; 48 CFR 1536; 48 CFR 1552

Legal Deadline: None

Abstract: This action is being taken to redelegate select contracting authorities to a lower level. This will eliminate additional reviews and speed delivery of contracting actions to customers.

Timetable:

Action	Date	FR Cite
Final Action	11/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4589

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RIN: 2030–AA78

3358. GUIDELINES FOR CARCINOGEN RISK ASSESSMENT

Priority: Info./Admin./Other

Legal Authority: Not applicable

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Agency will use these guidelines to evaluate suspect carcinogens in line with the policies and procedures established in the statutes administered by the EPA. These guidelines revise and replace EPA Guidelines for Carcinogen Risk Assessment published at 51 FR 33992, September 24, 1986. These guidelines provide EPA staff and decision-makers with the directions and perspectives necessary to develop and use risk assessments. The guidelines also provide the general public with basic information about the Agency's approaches to risk assessment.

To develop guidelines the Agency must find a balance between consistency and innovation. Consistent risk assessments provide consistent bases to support regulatory decision-making. On the other hand, innovation is necessary so the Agency will base its decisions on current scientific thinking. In balancing these and other science policies, the Agency relies on input from the general scientific community through established scientific peer review processes. The guidelines incorporate basic principles and science policies based on evaluation of the currently available information. The revisions place increased emphasis on the role of carcinogenic mechanisms in risk assessment and clearer explication of underlying assumptions in risk assessment.

These guidelines will have minimal to no impact on small businesses or State, local, and tribal governments.

EPA—General

Long-Term Actions

Timetable:

Action	Date	FR Cite
Reproposed Guidelines	04/23/96	61 FR 17960
Implementation Policy	06/25/96	61 FR 32799
Final Guidelines	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3671

Agency Contact: William Wood, Environmental Protection Agency, Office of Research and Development, 8103, Washington, DC 20460
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RIN: 2080–AA06

3359. EPA DRAFT AGENCYWIDE PUBLIC INVOLVEMENT POLICY

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Environmental Protection Agency is revising its 1981 Public Participation Policy. The revised policy is being issued as the Draft 2000 Public Involvement Policy for 120-day public comment. The Draft Policy was updated to reflect changes over the past nineteen years such as additional Agency responsibilities, new regulations, expanded public involvement techniques, and the changed nature of public access due to the Internet. The Policy will provide guidance and direction to EPA officials on reasonable and effective means to involve the public in its regulatory and program decisions.

Timetable:

Action	Date	FR Cite
Draft Public Involvement Policy	12/28/00	65 FR 82335
Final Public Involvement Policy	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4530

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RIN: 2090–AA23

Environmental Protection Agency (EPA)

General

Completed Actions

3360. INCORPORATING INFORMAL CLAUSES (EP) INTO THE EPAAR

Priority: Info./Admin./Other

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	05/24/01	66 FR 28673

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2030–AA66

3361. NEW JERSEY GOLD TRACK PROJECT XL RULE

Timetable:

Action	Date	FR Cite
Transferred to RIN 2090-AA28	08/17/01	

RIN: 2002–AA00

Environmental Protection Agency (EPA)

Clean Air Act (CAA)

Proposed Rule Stage

3362. PERFORMANCE WARRANTY AND INSPECTION/MAINTENANCE TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7541; 42 USC 7601

CFR Citation: 40 CFR 51; 40 CFR 85

Legal Deadline: None

Abstract: This action establishes a new short test procedure for use in I/M programs required by the Clean Air Act Amendments of 1990. Vehicles that are tested and failed using this procedure and that meet eligibility requirements established by the act would be eligible for free warranty repair from the manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
Final Action	11/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local

Additional Information: SAN No. 3263

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RIN: 2060–AE20

3363. INSPECTION/MAINTENANCE RECALL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7511(a)(2)(b); 42 USC 7511(a)(2)(b)(2)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This action specifies requirements for enhanced I/M programs to establish a program to

ensure compliance with recall notices. This is pursuant to the Clean Air Act Amendments of 1990.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3262

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RIN: 2060–AE22

3364. IMPLEMENTATION OF OZONE AND PARTICULATE MATTER (PM) NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) AND REGIONAL HAZE REGULATIONS

Regulatory Plan: This entry is Seq. No. 119 in part II of this issue of the **Federal Register**.

RIN: 2060–AF34

3365. OPERATING PERMITS: REVISIONS (PART 70)

Regulatory Plan: This entry is Seq. No. 120 in part II of this issue of the **Federal Register**.

RIN: 2060–AF70

3366. AMENDMENTS TO METHOD 24 (WATER-BASED COATINGS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, June 15, 2001.

Abstract: The determination of volatile organic compounds (VOCs) content of a surface coating by reference Method 24 involves determination of its water content and calculation of its VOC content as the difference of the two measurements (volatile content minus water content). Method 24 is inherently less precise for water-based coatings than it is for solvent-based coatings and the imprecision increases as water content increases. This action will amend Method 24 by adding a direct measurement procedure for measuring VOC content of water-based coatings. This amendment will improve the precision of Method 24 for water-based coatings.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
Final Action	03/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3649

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RIN: 2060–AF72

3367. NESHAP: PLYWOOD AND COMPOSITE WOOD PRODUCTS

Regulatory Plan: This entry is Seq. No. 121 in part II of this issue of the **Federal Register**.

RIN: 2060–AG52

3368. NESHAP: MUNICIPAL SOLID WASTE LANDFILLS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants (HAP) by establishing maximum achievable control technology (MACT) for municipal solid waste landfills.

Timetable:

Action	Date	FR Cite
NPRM	11/07/00	65 FR 66672
Supplemental NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: SAN No. 3969

Sectors Affected: 562212 Solid Waste Landfill

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RIN: 2060–AH13

3369. TRANSPORTATION CONFORMITY RULE AMENDMENT: CLARIFICATION OF TRADING PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 to 7671 CAA sec 176(c)

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: The transportation conformity rule, promulgated in November 1993, ensures that transportation and air quality planning are consistent with Clean Air Act air quality standards. The Open Market Trading Guidance provides guidance to states for establishing a method to quantify emissions reductions (called discrete emissions reductions or DERs) that can be traded among parties and how such trading should occur. This action will amend the transportation conformity rule to clarify how emissions trading could be reconciled in the conformity process.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, Local

Additional Information: SAN No. 3917

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RIN: 2060–AH31

3370. STREAMLINED EVAPORATIVE TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521(m)

CFR Citation: 40 CFR 86 (Revision)

Legal Deadline: None

Abstract: This action will streamline the test procedure used to establish compliance with evaporative emission requirements for light duty vehicles and trucks. The current test procedure requires both two and three day diurnal emission tests, as well as running-loss testing. The revisions will delete the three day requirement and add flexibilities for running-loss compliance. This will enable manufacturers to save significant resources without any decrease in environmental benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3910

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RIN: 2060–AH34

3371. RULEMAKING TO MODIFY THE LIST OF SOURCE CATEGORIES FROM WHICH FUGITIVE EMISSIONS ARE CONSIDERED IN MAJOR SOURCE DETERMINATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7602 CAA sec 302(j)

CFR Citation: 40 CFR 51; 40 CFR 52; 40 CFR 70; 40 CFR 71

Legal Deadline: None

Abstract: This rulemaking will modify the list of source categories for which fugitive emissions are to be considered in major source determinations under the New Source Review (Prevention of Significant Deterioration and Nonattainment New Source Review) and title V programs. As provided by section 302(j) of the Act, EPA adopted rules on August 7, 1980 that require, for specific source categories, the inclusion of fugitive emissions when determining if a stationary source is a major source. In its 1980 rulemaking, EPA identified one such specific source category as those stationary source categories being regulated, as of August 7, 1980, under section 111 or 112 of the Clean Air Act. Moreover, EPA indicated that at the time of any future rulemaking proposing to regulate additional categories of sources under section 111 or 112, the EPA would conduct a parallel rulemaking under section 302(j) to determine whether fugitive emissions from sources within these source categories needed to be considered in determining whether the sources were major stationary sources. EPA did not conduct these parallel rulemakings as intended and is now conducting a rulemaking pursuant to section 302(j) to address the source categories which became subject to section 111 and 112 standards after August 7, 1980.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
Final Action	06/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local, Tribal

Federalism: Undetermined

Additional Information: SAN No. 4045

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RIN: 2060–AH58

3372. NESHAP: FUMED SILICA PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA Section 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Fumed silica is produced at four facilities is three states. There is no NSPS for the source category. Based on preliminary results of a screening study, the source category emits chlorine, HCl, and chlorinated organics.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local

Additional Information: SAN No. 4111

This action merged with SAN 4104, RIN 2060-AH75.

Sectors Affected: 325188 All Other Basic Inorganic Chemical Manufacturing

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RIN: 2060–AH72

3373. NESHAP: HYDROCHLORIC ACID PRODUCTION INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12291; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each

major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of the EPA. The EPA has determined that some hydrochloric acid plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) will be developed for the hydrochloric acid production industry.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4104

Sectors Affected: 325211 Plastics Material and Resin Manufacturing; 325199 All Other Basic Organic Chemical Manufacturing; 325181 Alkalies and Chlorine Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing

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RIN: 2060–AH75

3374. NESHAP: ASPHALT/COAL TAR APPLICATION ON METAL PIPES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: The Clean Air Act (CAA), as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emission standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the application of asphalt or coal tar to metal pipes may reasonably be anticipated to emit several of the 189 HAPs listed in section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the asphalt/coal tar application on metal pipes industry to promulgate emission standards.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4107

This action will be covered under Misc. Metal Parts & Products, SAN 3825, RIN 2060-AG56

Sectors Affected: 332812 Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers

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RIN: 2060–AH78

3375. NESHAP: CLAY MINERALS PROCESSING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: The Clean Air Act (CAA), as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emission standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the clay products manufacturing industry may reasonably be anticipated to emit several of the 189 HAPs listed in section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the clay products manufacturing industry to promulgate emission standards. EPA plans to propose four separate standards for the clay products manufacturing industry (see 64 FR 63028, 11/18/99). This action will propose and promulgate standards for the clay minerals processing portion of the industry.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4113

This source category will be addressed in SAN 4325, RIN 2060-AI67.

Sectors Affected: 327121 Brick and Structural Clay Tile Manufacturing; 327122 Ceramic Wall and Floor Tile Manufacturing; 327123 Other Structural Clay Product Manufacturing; 327124 Clay Refractory Manufacturing; 212324 Kaolin and Ball Clay Mining; 327992 Ground or Treated Mineral and Earth Manufacturing

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EPA—Clean Air Act (CAA) **Proposed Rule Stage**

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RIN: 2060–AH79

3376. NESHAP: URANIUM HEXAFLUORIDE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This project will develop national emissions standards for hazardous air pollutants (NESHAP) by establishing emissions limitations for hazardous air pollutants (HAP) which can be emitted by the two known sources in this category. The emissions limitations are to be based upon the application of the maximum achievable control technology (MACT). The purpose of the NESHAP is to reduce emissions of HAP to protect public health and the environment. The project will begin in 2000. Initially, information on the industry processes and emissions of HAP will be analyzed to identify available emissions control technologies. That work will be followed by the development, proposal and promulgation of NESHAP.

Timetable:

Action	Date	FR Cite
NPRM To Be Delisted	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4098

This source category will be delisted.

Sectors Affected: 331419 Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum)

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RIN: 2060–AH83

3377. PERFORMANCE SPECIFICATION 16 - SPECIFICATIONS AND TEST PROCEDURES FOR PREDICTIVE EMISSION MONITORING SYSTEMS IN STATIONARY SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7411 CAA sec 111

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, April 15, 2001.

Abstract: Performance Specification 16 is being proposed to provide performance criteria for predictive emission monitoring systems. Predictive systems represent a new technology that uses process information or parameters to predict pollutant emissions instead of directly measuring them. The Agency is allowing their use in recently-promulgated rules and they are being considered by a number of regulated facilities. The specification lists the requirements for acceptable systems that are met by passing tests that compare the monitoring system with standardized methods and audit gases to determine system accuracy and stability. Performance Specification 16 will primarily apply to facilities whose emissions can be predicted from process parameters such as combustion processes (including gas turbines and internal combustion engines).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4119

Sectors Affected: 33241 Power Boiler and Heat Exchanger Manufacturing; 333611 Turbine and Turbine Generator Set Unit Manufacturing; 333618 Other Engine Equipment Manufacturing; 336399 All Other Motor Vehicle Parts Manufacturing

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RIN: 2060–AH84

3378. TECHNICAL CHANGE TO DOSE METHODOLOGY FOR 40 CFR 191, SUBPART A

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2021 Atomic Energy Act of 1954; Reorganization Plan No. 3 of 1970; Nuclear Waste Policy Act of 1982

CFR Citation: 40 CFR 190(B); 40 CFR 191(A)

Legal Deadline: None

Abstract: The purpose of this action is to make a technical change to the dose methodology used in subpart A of 40 CFR 191, entitled Environmental Radiation Protection Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level Waste and Transuranic Waste The current methodology is outdated. The dose methodology used in the rule published on September 19, 1985, was based on the target organ approach recommended by the International Commission on Radiological Protection (ICRP) in Report No. 2. Since that time science has progressed and a new methodology based on an effective dose equivalent approach is currently being recommended by the ICRP in Report No. 26. This action would update the 40 CFR 191, subpart A dose limits published in 1985 from the target organ to the state-of-the-art effective dose equivalent system. There would be no change in the level of protection, just the scientific methodology for determining compliance with the levels of protection established in 1985.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	06/00/02	

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EPA—Clean Air Act (CAA) **Proposed Rule Stage**

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4003

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RIN: 2060–AH90

3379. RULEMAKING ON SECTION 126 PETITIONS FROM NEW YORK AND CONNECTICUT REGARDING SOURCES IN MICHIGAN

Priority: Routine and Frequent

Legal Authority: 42 USC 7426

CFR Citation: 40 CFR 52; 40 CFR 75; 40 CFR 97

Legal Deadline: None

Abstract: The EPA is proposing to revise the section 126 rule in light of the March 3, 2000 Court decision (Michigan v. EPA, No. 98-1497) on the NOx SIP Call. The court vacated, and remanded to EPA for further consideration, the inclusion of Georgia and Missouri in the NOx SIP Call in light of the Ozone Transport Assessment Group conclusions that emissions from coarse grid portions of States did not merit controls. The reasoning of the Court regarding the significance of NOx emissions from sources in Georgia and Missouri calls into question the inclusion of the coarse grid portion of Michigan in the NOx SIP Call. In a separate proposal on the NOx SIP Call, EPA is proposing to withdraw the NOx SIP Call requirements for the Michigan coarse grid area. The section 126 rule is based on many of the same analyses and information used for the NOx SIP call and covers part of Michigan. Thus, in light of the court ruling, EPA is proposing to withdraw its section 126 findings and control requirements under the 1-hour ozone standard with respect to sources located in the small part of the coarse grid portion of Michigan that is currently covered by the section 126 rule. The EPA has not identified any existing section 126 sources that would be affected by the proposal, however this proposal would eliminate findings and control requirements for new sources locating in the coarse grid. This proposal does not create any new requirements, thus there are no associated costs. The proposal does not raise any novel legal or policy issues. It is consistent with the Court ruling on the NOx SIP Call and EPA's new proposed action on the NOx SIP Call.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4464

Split from RIN 2060-AH88.

Sectors Affected: 221112 Fossil Fuel Electric Power Generation

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RIN: 2060–AJ36

3380. • WITHDRAWAL OF AMENDMENTS FOR TESTING AND MONITORING PROVISIONS TO PARTS 60, 61, AND 63

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7410 to 7412; 42 USC 7414; 42 USC 7416

CFR Citation: 40 CFR 60; 40 CFR 61; 40 CFR 63

Legal Deadline: None

Abstract: This rulemaking will amend the emission test methods and performance specifications in appendices A and B of part 60, appendix B of part 61, and appendix A of part 63 by revising the method format to conform with Environmental Monitoring Management Council (EMMC) guidelines. Conformance to the guidelines will promote consistency among inter-program methods. In addition, minor technical and printing errors in the methods will be corrected. Similar errors in various subparts of part 60 will also be corrected. Performance specification 15 is also being proposed in this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: SAN No. 4580

Split from RIN 2060-AG21.

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RIN: 2060–AJ85

3381. NAAQS: SULFUR DIOXIDE (RESPONSE TO REMAND)

Regulatory Plan: This entry is Seq. No. 118 in part II of this issue of the **Federal Register**.

RIN: 2060–AA61

3382. NESHAP: RECIPROCATING INTERNAL COMBUSTION ENGINE

Regulatory Plan: This entry is Seq. No. 122 in part II of this issue of the **Federal Register**.

RIN: 2060–AG63

3383. NESHAP: COMBUSTION TURBINE

Regulatory Plan: This entry is Seq. No. 123 in part II of this issue of the **Federal Register**.

RIN: 2060–AG67

3384. NESHAP: IRON FOUNDRIES AND STEEL FOUNDRIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

EPA—Clean Air Act (CAA)

Proposed Rule Stage

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000, See additional information.

Abstract: Iron foundries and steel foundries have been identified by the EPA as potentially significant sources of air emissions of manganese compounds, lead compounds, and other substances that are among the pollutants listed as hazardous air pollutants in section 112 of the Clean Air Act, as amended in November of 1990. As such, these industries may be source categories for which national emission standards may be warranted.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3343

EPA is required to promulgate standards for all of the source categories listed in accordance with section 112(e) by November 15, 2000.

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RIN: 2060–AE43

3385. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS: MISCELLANEOUS ORGANIC CHEMICAL MANUFACTURING AND MISCELLANEOUS COATING MANUFACTURING

Priority: Other Significant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: This regulation will cover organic chemical manufacturing processes not covered by the HON or other MACT standards. The regulation will control process vents (continuous and batch, including mixing operations), equipment leaks, storage tanks, wastewater, solvent recovery, and heat exchange systems.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3452

Sectors Affected: 325 Chemical Manufacturing

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RIN: 2060–AE82

3386. NESHAP: CHLORINE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The chlorine production source category includes facilities engaged in the production of chlorine and sodium hydroxide (caustic) by one of the following electrolytic processes: diaphragm cell, membrane cell, and mercury cell. Hazardous air pollutants emitted include chlorine, hydrogen chloride, and mercury. None of the facilities are major sources on their own. However, several are co-located with major sources (e.g., pulp and paper plants, polymer plants, synthetic organic chemical plants, etc.). Emissions of chlorine and hydrogen chloride are very minor and the Agency is evaluating whether regulation of these HAPs is warranted. Relative to mercury, which is among five pollutants listed for regulation under section 112(c)(6) due to their persistent and bioaccumulative effects, the Agency intends to subject to regulation under section 112(d)(2) all mercury cell facilities regardless of major source status.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3449

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RIN: 2060–AE85

3387. NESHAP: MISCELLANEOUS METAL PARTS AND PRODUCTS (SURFACE COATING)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: This regulation will control emissions of hazardous air pollutants (HAPs) from operations that apply surface coatings to metal parts and products. Although this rule would cover a wide variety of coating operations, it would not apply to specific coating operations for which regulations have been developed (e.g., plastic parts coating, can coating, large appliance coating, etc.). This regulation is required under section 112 of the Clean Air Act of 1990.

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EPA—Clean Air Act (CAA) — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Additional Information: SAN No. 3825

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RIN: 2060–AG56

3388. NESHAP: ASPHALT PROCESSING AND ASPHALT ROOFING MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: The CAA required EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the CAA and to establish and meet dates for promulgation of emissions standards for each of the listed categories of HAP emissions sources. The standards are to be technology-based and are to require the maximum degree of reduction determined to be achievable by the Administrator. The EPA has determined that the asphalt roofing and processing industry may be reasonably anticipated to emit one or more of the pollutants listed in section 112(b) of the CAA. As a consequence, the source category is included on the initial list of HAP-emitting categories scheduled for standards promulgation within ten years of enactment of the CAA Amendments of 1990. The purpose of this action is to pursue a regulatory development program such that emission standards may be proposed and promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Interim Final	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3655

Sectors Affected: 324122 Asphalt Shingle and Coating Materials Manufacturing

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RIN: 2060–AG66

3389. NESHAP: REFRACTORY PRODUCTS MANUFACTURING

Priority: Other Significant

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The proposed rulemaking will apply to existing and new refractory products manufacturing facilities. There are approximately 8 existing refractory products manufacturing facilities in the United States located at major source facilities. It is estimated that no new refractory products manufacturing facilities will be built at least for the next 3 years. The HAP that will be reduced by this proposed rule are polycyclic organic matter (POM), phenol, formaldehyde, methanol, and ethylene glycol. Implementation of the proposed rule would reduce emissions of air toxics by approximately 132 tons per year, a reduction of 46 percent from current levels. No significant adverse economic impact is expected to occur as a result of implementing this proposed rulemaking. The capital cost associated with the proposed rulemaking is approximately $3.5 million. The total annual cost of the proposed rulemaking is approximately $1.7 million.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3652

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RIN: 2060–AG68

3390. NESHAP: INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL BOILERS AND PROCESS HEATERS

Regulatory Plan: This entry is Seq. No. 124 in part II of this issue of the **Federal Register**.

RIN: 2060–AG69

3391. NESHAP: LIME MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; 44 USC 350 et seq; 5 USC 605

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Section 112 of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree

of emission reduction determined to be achievable by the Administrator of the EPA. The EPA has determined that some lime manufacturing plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) is being developed for the lime manufacturing industry.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 3651

Sectors Affected: 32741 Lime Manufacturing

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RIN: 2060–AG72

3392. NESHAP: SEMICONDUCTOR PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63 BBBBB

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This rule will establish a MACT (maximum available control technology) for semiconductor production facilities. There is currently one major source that would be affected by the NESHAP. This action will result in little or no additional emission reduction but will establish a Federal MACT level for large facilities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3902

Sectors Affected: 334413 Semiconductor and Related Device Manufacturing

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RIN: 2060–AG93

3393. NESHAP: METAL CAN (SURFACE COATING) INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants emitted by the metal can industry. The Agency will study what pollutants are emitted and evaluate the control techniques, including pollution prevention, that are used to reduce these emissions.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3906

Sectors Affected: 332431 Metal Can Manufacturing; 332812 Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers; 332115 Crown and Closure Manufacturing

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RIN: 2060–AG96

3394. NESHAP: FABRIC PRINTING, COATING AND DYEING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: This action will result in the reduction of hazardous air pollutants (HAP) emitted from fabric printing, coating, and dyeing. The Agency will identify and study the types and sources of HAP emissions from these processes, and evaluate pollution prevention and other control techniques which can reduce these emissions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3909

Sectors Affected: 3133 Textile and Fabric Finishing and Fabric Coating Mills; 3132 Fabric Mills; 3141 Textile Furnishings Mills; 3399 Other Miscellaneous Manufacturing

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EPA—Clean Air Act (CAA) **Proposed Rule Stage**

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RIN: 2060–AG98

3395. NESHAP: SURFACE COATING OF AUTOMOBILES AND LIGHT-DUTY TRUCKS

Regulatory Plan: This entry is Seq. No. 125 in part II of this issue of the **Federal Register**.

RIN: 2060–AG99

3396. NESHAP: PRIMARY MAGNESIUM REFINING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Section 112 of the Clean Air Act (Act), as amended November 1990, requires the EPA to regulate categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b). The EPA has determined that sources that manufacture primary magnesium may reasonably be anticipated to emit several of the 189 HAPs listed (including chlorine and hydrochloric acid) in quantities sufficient to designate them as a major source. As a consequence, primary magnesium refining is among the HAP emitting source categories selected for regulation and is in the group of categories for which final rules are scheduled to be promulgated by November 15, 2000 (58 FR 63941, December 3, 1993).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3924

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RIN: 2060–AH03

3397. NESHAP: CHROMIUM ELECTROPLATING AMENDMENT

Priority: Other Significant

Legal Authority: 42 USC 7412 CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Final standards under section 112(d) for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks (40 CFR 63, subpart N) were promulgated on January 25, 1995. Since promulgation, the Agency has determined that a class of chromium electroplating operations were inadvertently excluded from regulation. Specifically, the final standards do not apply to sources engaged in continuous chromium electroplating of steel sheet used to make cans and other containers. It is the Agency's intent to regulate all facilities engaged in chromium electroplating. Therefore, the Agency plans to amend the chromium electroplating rule to extend its applicability to continuous chromium electroplating operations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 2841

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RIN: 2060–AH08

3398. NESHAP: SITE REMEDIATION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 et seq; PL 101-549 104 Stat. 2399

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.
Final, Statutory, November 15, 2000.

Abstract: This rule will specify maximum achievable control technology for site remediation. Hazardous air pollutant emissions from treatment of contaminated soils and groundwater, and other operations will be considered in developing the rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: SAN No. 3968

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RIN: 2060–AH12

3399. NESHAP: ROCKET ENGINE TEST FIRING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: As required by section 112(c) of the Clean Air Act, the Environmental Protection Agency has developed a list of categories of sources of hazardous air pollutants (HAP's). The HAP's are

listed in section 112(b) of the Clean Air Act. The Rocket Engine Test Firing source category and the Engine Test Facilities source category are included on EPA's list of sources of HAP's. The Rocket Engine Test Firing source category includes facilities engaged in test firing of rocket engines using solid or liquid propellants. The Engine Test Facilities source category includes any facility engaged in the testing of stationary or mobile engines, including turbines and reciprocating engines.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3972

This source category is now covered under the Engine Test Cells/Stands, SAN 4144, RIN 2060-AI74.

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RIN: 2060–AH35

3400. NESHAP: ORGANIC LIQUIDS DISTRIBUTION (NON-GASOLINE)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants by establishing maximum achievable control technology (MACT) for facilities distributing organic liquids. MACT standards are under development to reduce the release of hazardous air pollutants (HAPs) from all industries to protect the public health and environment. This project should include but is not limited to those activities associated with the storage and distribution of organic liquids other than gasoline at sites that serve as distribution points from which organic liquids may be obtained for further use and processing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3971

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RIN: 2060–AH41

3401. NESHAP: GROUP I POLYMERS AND RESINS AND GROUP IV POLYMERS AND RESINS-AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.480 to 63.506 (Revision); 40 CFR 63.1310 to 63.1335 (Revision)

Legal Deadline: None

Abstract: During the development of the National Emission Standard for Hazardous Air Pollutants (NESHAP) for elastomers (Group I polymers and resins) and thermoplastics (Group IV polymers and resins) (RINs 2060-AD56 and 2060-AE37), many of the provisions contained in the Hazardous Organic NESHAP (HON) were referenced directly by these polymers and resins regulations due to similarities in processes, emission characteristics, and control technologies. On January 17, 1997, the EPA promulgated changes to the HON to remove ambiguity, to clearly convey EPA intent, and to make the rule easier to understand and implement in response to industry petitions. It is necessary to make parallel changes to the polymers and resins NESHAP; otherwise inconsistencies will exist for NESHAPs regulating similar source categories. An ANPRM was published in the Federal Register on 11/25/96 (61 FR 59849), to explain the nature of changes planned. Subsequently, six litigants have petitioned for review of the elastomers and thermoplastics regulations. Four companies have petitioned EPA to reconsider specific provisions in the thermoplastics regulation. Revisions will be proposed to parallel HON changes and to resolve petitioners' issues. There are no impacts anticipated for small businesses or State/local/tribal governments.

Timetable:

Action	Date	FR Cite
ANPRM Petitions for Jud. Rev-Dow,UCC,Exxon)	11/25/96	61 FR 59849
NPRM Petitions for Judicial Review-Prop. Amend.	03/09/99	64 FR 11559
DirectFinal Action Petition for Reconsid.-Equip Leaks	06/08/99	64 FR 30406
NPRM Petition for Recons. - Equip. Leaks	06/08/99	64 FR 30453
NPRM Petition for Recons. - Equip. Leaks	06/08/99	64 FR 60456
Final Action Petitions for Judicial Rev-Amendments	06/19/00	65 FR 38030
Direct Final Rule Stay	08/29/00	65 FR 52319
Direct Final Rule Withdrawal - Polymers and Resins	10/26/00	65 FR 64161
Final Rule Amend. Petition for Recons.-Cooling Towers	02/23/01	66 FR 11233
Final Rule Amend. Petition for Jud. Review-Tech. Corr.	07/16/01	66 FR 36924
Final-Amend. & Denial Petition for Reconsideration-Equip. Leaks	08/06/01	66 FR 40903
NPRM Petition for Reconsideration-Cooling Towers	01/00/02	

EPA—Clean Air Act (CAA) — Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3939

Sectors Affected: 325211 Plastics Material and Resin Manufacturing

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RIN: 2060–AH47

3402. AMENDMENTS TO PARTS 51, 52, 63, 70 AND 71 REGARDING THE PROVISIONS FOR DETERMINING POTENTIAL TO EMIT

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action proposes to amend regulations already established to implement the new Federal air toxics program under section 112, including the General Provisions, the Federal operating permit program under title V, and the major source preconstruction programs under parts C and D of title I.

The proposed rule will address issues related to the determination of a stationary source's potential to emit in response to three court decisions.

This action resulted from splitting of RINs 2060-AC98 and 2060-AC63.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3479

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RIN: 2060–AI01

3403. • NESHAP: PUBLICLY OWNED TREATMENT WORKS (POTW)-AMENDMENTS II

Priority: Other Significant

Legal Authority: 42 USC 7412(e)(5) CAAA sec 112(e)(5); 42 USC 7412(n)(3) CAAA sec 112(n)(3)

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action will amend the existing rule to implement a settlement agreement with the Pharmaceutical Research and Manufacturers of America regarding their petition for judicial review.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: SAN No. 4546

Split from RIN 2060-AF26.

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RIN: 2060–AJ66

3404. METAL FURNITURE (SURFACE COATING) NESHAP

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This regulation will apply to surface coating of metal furniture products and parts. This regulation will reduce nationwide emissions of HAPs from surface coating of metal furniture products and parts, which is required under section 112 of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3824

Sectors Affected: 332612 Wire Spring Manufacturing; 337215 Showcase, Partition, Shelving, and Locker Manufacturing; 337124 Metal Household Furniture Manufacturing; 33636 Motor Vehicle Fabric Accessories and Seat Manufacturing; 337215 Showcase, Partition, Shelving, and Locker Manufacturing; 337127 Institutional Furniture Manufacturing; 332116 Metal Stamping

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RIN: 2060–AG55

3405. PLASTIC PARTS AND PRODUCTS (SURFACE COATING) NESHAP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 et seq

EPA—Clean Air Act (CAA) **Proposed Rule Stage**

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action would address the hazardous air pollutants (HAP) emissions from the coating of plastic parts. Pollution prevention approaches will be considered.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3826

Sectors Affected: 337214 Nonwood Office Furniture Manufacturing; 32614 Polystyrene Foam Product Manufacturing; 32615 Urethane and Other Foam Product (except Polystyrene) Manufacturing; 326199 All Other Plastics Product Manufacturing; 333313 Office Machinery Manufacturing; 33422 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing; 336399 All Other Motor Vehicle Parts Manufacturing; 336999 All Other Transportation Equipment Manufacturing; 339111 Laboratory Apparatus and Furniture Manufacturing; 339112 Surgical and Medical Instrument Manufacturing; 33992 Sporting and Athletic Goods Manufacturing; 33995 Sign Manufacturing; 339999 All Other Miscellaneous Manufacturing

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RIN: 2060–AG57

3406. NESHAP: WOOD BUILDING PRODUCTS (SURFACE COATING)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants (HAP) emitted by the wood building product surface coating industry. The Agency will study the various HAP emitted by the industry and evaluate pollution prevention and control techniques which can reduce these emissions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3904

Sectors Affected: 321212 Softwood Veneer and Plywood Manufacturing; 321219 Reconstituted Wood Product Manufacturing; 321911 Wood Window and Door Manufacturing; 321918 Other Millwork (including Flooring); 321999 All Other Miscellaneous Wood Product Manufacturing; 321211 Hardwood Veneer and Plywood Manufacturing; 32199 All Other Wood Product Manufacturing

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RIN: 2060–AH02

3407. LOCATION OF SELECTIVE ENFORCEMENT AUDITS OF FOREIGN MANUFACTURED VEHICLES AND ENGINES; AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7525 CAA sec 206(b)

CFR Citation: 40 CFR 86G (Revision); 40 CFR 86K (Revision)

Legal Deadline: None

Abstract: This action would consider an amendment to the existing regulations to include ports of entry as a location for EPA selection of foreign produced vehicles and engines for SEA emissions testing at laboratories in the U.S. While the regulations do not specify EPA authority to conduct such port selections, the increased flexibility provided by port selections warrants amending the regulations. Presently, EPA must travel overseas to conduct SEA audits of foreign manufactured vehicles and engines, even though most manufacturers now have access to laboratory facilities in the U.S. The benefits include a reduction in Agency cost since fewer overseas trips would be necessary. Also, EPA would be able to conduct more audits of foreign manufactured vehicles and engines.

Separate from the provisions proposed in this NPRM for amendments to allow port selection for SEAs, EPA is also proposing to make two other amendments to 40 CFR part 86. The first would amend current Selective Enforcement Auditing regulations to change the minimum annual limit of Selective Enforcement Audits per manufacturer to two (2) per year. Currently, the minimum annual limit is one audit per manufacturer. Under the proposed amendments EPA would be able to perform a second audit on those manufacturers that might otherwise be limited to one audit.

The second additional proposed amendment to part 86 would delete from subparts A and E references to the Agency representation in certain types of administrative hearings. The two provisions state that the Office of General Counsel will represent the Agency in administrative procedures governing hearings on certification for light-duty vehicles, light-duty trucks, heavy-duty engines and motorcycles. The Agency is proposing to delete these two provisions in order to be consistent with other hearing procedures in part 86.

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EPA—Clean Air Act (CAA)

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3139

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RIN: 2060–AD90

3408. REVIEW OF FEDERAL TEST PROCEDURES FOR EMISSIONS FROM MOTOR VEHICLES; TEST PROCEDURE ADJUSTMENTS TO FUEL ECONOMY AND EMISSION TEST RESULTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549

CFR Citation: 40 CFR 600; 40 CFR 86

Legal Deadline: None

Abstract: This action considers potential adjustments to fuel economy and emission test results to compensate for test procedure changes previously adopted; it applies to light-duty vehicles and light-duty trucks. This aspect of the previous rulemaking (SAN 3323, RIN 2060-AE27) was deferred.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3979

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RIN: 2060–AH38

3409. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION OF SECTION 608 SALES RESTRICTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7671(g) CAA sec 608

CFR Citation: 40 CFR 82 subpart F

Legal Deadline: None

Abstract: The rule will include the reconsideration of the sales restriction as it relates to split systems. The Agency was petitioned to reconsider the part of the sales restriction that included the sale of pre-charged split systems. It restricted such sales to certified technicians. Since then, EPA stayed that portion of the sales restriction in response to the petition. This rule will include the determination of the Agency related to the reconsideration. It addresses environmental problems of ozone depletion resulting from emissions of chlorofluorocarbons, hydrochlorofluorocarbons, and other ozone-depleting substances. Through restricting sales of certain pre-charged items to persons certified as technicians, emissions to the atmosphere are decreased. The impact on small businesses and governments would be negligible, since persons can become certified if the EPA determination is a full restriction. Most businesses and governments will have at least one certified technician on board. This action has no impact on small business and State, local, and tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3673

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RIN: 2060–AG20

3410. FEDERAL IMPLEMENTATION PLAN (FIP) FOR THE BILLINGS/LAUREL, MONTANA SULFUR DIOXIDE (SO2) AREA

Priority: Other Significant

Legal Authority: 12 USC 1701 et seq

CFR Citation: 40 CFR 52

Legal Deadline: None

Abstract: The State of Montana submitted a sulfur dioxide (SO2) State Implementation Plan (SIP) for the Billings/Laurel, Montana area. On 7/28/99 we proposed to partially approve, conditionally approve and partially disapprove Montana's SO2 SIP for Billings/Laurel. EPA intends to propose a Federal Implementation Plan (FIP) to cover those parts of the State's plan we disapprove. EPA's FIP will assure that the Billings/Laurel area will attain and maintain the SO2 NAAQS.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 4542

Sectors Affected: 32411 Petroleum Refineries

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RIN: 2008–AA00

EPA—Clean Air Act (CAA)

Proposed Rule Stage

3411. FEDERAL IMPLEMENTATION PLANS FOR INDIAN RESERVATIONS IN IDAHO, OREGON AND WASHINGTON

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 49.121 to 49.139; 40 CFR 49.9861 to 49.17810

Legal Deadline: None

Abstract: This Federal Implementation Plan (FIP) proposes basic air rules to apply on Indian Reservations in Idaho, Oregon, and Washington. The rules provide some basic air quality protection similar to what the state implementation plans (SIPs) require for Idaho, Oregon, and Washington. These rules are needed to establish a level playing field and create basic federally enforceable rules under the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, Tribal

Additional Information: SAN No. 4487

EPA Region 10 would be responsible for implementing and enforcing these proposed rules. Tribes can choose to assist EPA or take over responsibility for their reservations, and EPA would provide funding to tribes through grants to support their efforts.

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RIN: 2012–AA01

3412. ACCIDENTAL RELEASE PREVENTION REQUIREMENTS: RISK MANAGEMENT PROGRAMS UNDER THE CLEAN AIR ACT, SECTION 112(R)(7); THIRD PARTY AUDIT PROVISIONS

Priority: Other Significant

Legal Authority: 42 U.S.C. 7412(r); 7601 (a)(1)

CFR Citation: 40 CFR 68

Legal Deadline: None

Abstract: This action establishes requirements, incentives, and procedures for third party audits of Risk Management Plans (RMPs) under 40 CFR part 68 that would reduce the need for, and thus the incidence of, government audits of RMPs submitted by facilities that volunteer for such an audit. In this context, a third party is someone not employed by either an RMP-regulated facility or a government agency responsible for implementing the RMP program (implementing agency).

In the preamble to the final Risk Management Program rule, EPA endorsed the concept of using third parties to assist in rule compliance and oversight (61 FR 31705), provided that any such proposal: not weaken the compliance responsibilities of facility owner/operators; offer cost savings and benefits to the industry, community, and implementing agencies that significantly exceed the cost of implementing the approach lead to a net increase in process safety, particularly for smaller, less technically sophisticated facilities; and promote cost-effective agency prioritization of oversight resources. However, no specific criteria or requirements were specified in the RMP rule to regulate the activities of facilities, implementing agencies, or third parties with respect to third party assistance.

A facility's participation in the third party audit program proposed by this action would be totally voluntary. For facilities who choose not to participate in the program, this action would have no effect. However if a facility participates, this regulation would establish the requirements and regulatory incentives for their participation. For participating sources, the action would offer the potential for reduced regulatory burden (while maintaining their compliance responsibilities), flexible auditing options, and other benefits, provided the source meets the applicable requirements described in the rule. This action also would specify the proposed qualification requirements for persons desiring to act as third party auditors.

EPA believes that this action would promote increased safety among facilities covered by the risk.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4511

Sectors Affected: 49312 Refrigerated Warehousing and Storage Facilities; 22132 Sewage Treatment Facilities; 22131 Water Supply and Irrigation Systems; 31161 Animal Slaughtering and Processing; 49311 General Warehousing and Storage Facilities; 42291 Farm Supplies Wholesalers; 42269 Other Chemical and Allied Products Wholesalers; 49313 Farm Product Warehousing and Storage Facilities; 32512 Industrial Gas Manufacturing; 11511 Support Activities for Crop Production

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RIN: 2050–AE85

3413. NESHAP: CHROMIUM ELECTROPLATING AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63 (Revision)

Legal Deadline: None

Abstract: Since the promulgation of the chromium electroplating NESHAP we have been informed of several sources that are experiencing difficulty in

complying with the concentration limit for new sources even though they have installed and operate composite mesh pad scrubber technology similar or identical to that used as the basis for the MACT emission limit. These sources operate new state-of-the-art plating tanks not encountered during rule development which feature enclosing hoods that completely cover the surface of the plating tank. This covered tank design allows for effective capture and ventilation at substantially lower exhaust air flow rates than otherwise encountered with more conventional exterior hooding. Although these sources exceed the new source standard concentration limit of 0.015 mg/dscm, actual mass rate emissions are more than 50 percent lower than would otherwise be achieved with more conventional hooding and higher ventilation rates. The chromium electroplating standard will be amended to include this alternative type of control system.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 4115

Sectors Affected: 332813 Electroplating, Plating, Polishing, Anodizing and Coloring

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RIN: 2060–AH69

3414. CONTROL OF EMISSIONS FROM NONROAD LARGE SPARK IGNITION ENGINES, RECREATIONAL ENGINES (MARINE AND LAND-BASED), AND HIGHWAY MOTORCYCLES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7401 to 7671(q)

CFR Citation: 40 CFR 94

Legal Deadline: NPRM, Judicial, September 29, 2000.
Final, Judicial, December 31, 2001.

Abstract: Emissions from large spark-ignition engines are currently unregulated. EPA and California Air Resources Board (CARB) are cooperating in an effort to set emission standards for these engines to substantially reduce their contribution to the emission inventory.

Timetable:

Action	Date	FR Cite
Proposed Finding	02/08/99	64 FR 6008
ANPRM Final Finding	12/07/00	65 FR 76790
NPRM	10/05/01	66 FR 51098
NPRM Comment Period End	12/19/01	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4154

Sectors Affected: 333924 Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing; 335312 Motor and Generator Manufacturing; 42183 Industrial Machinery and Equipment Wholesalers

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RIN: 2060–AI11

3415. REVIEW OF THE NATIONAL AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER

Regulatory Plan: This entry is Seq. No. 126 in part II of this issue of the **Federal Register**.

RIN: 2060–AI44

3416. TRANSPORTATION CONFORMITY AMENDMENTS: RESPONSE TO MARCH 2, 1999, COURT DECISION

Regulatory Plan: This entry is Seq. No. 127 in part II of this issue of the **Federal Register**.

RIN: 2060–AI56

3417. NATIONAL VOC EMISSION STANDARDS FOR CONSUMER PRODUCTS; PROPOSED AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: Amendments to the consumer products rule are being proposed to clarify and correct the rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4309

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RIN: 2060–AI62

EPA—Clean Air Act (CAA)

Proposed Rule Stage

3418. NESHAP FOR THE PRINTING AND PUBLISHING INDUSTRY; AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994.

Abstract: The amendments will clarify the rule and ensure it reflects the EPA's intent.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local

Additional Information: SAN No. 4310

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RIN: 2060–AI66

3419. NESHAP: BRICK AND STRUCTURAL CLAY PRODUCTS MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: The brick and structural clay products industry primarily includes facilities that manufacture brick, clay, pipe, roof tile, extruded floor and wall tile, and other extruded dimensional clay products from clay, shale, or a combination of the two. The manufacture of brick and structural clay products involves mining, raw material processing (crushing, grinding, and screening), mixing, forming, cutting or shaping, drying, and firing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4325

Sectors Affected: 327121 Brick and Structural Clay Tile Manufacturing; 327123 Other Structural Clay Product Manufacturing

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RIN: 2060–AI67

3420. NESHAP: CLAY CERAMICS MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Ceramics are defined as a class of inorganic, nonmetallic solids that are subject to high temperature in manufacture and/or use. The clay ceramics manufacturing source category includes facilities that manufacture traditional ceramics. Traditional ceramics include ceramic tile, dinnerware, sanitaryware, pottery, and porcelain. The primary raw material used in the manufacture of traditional ceramics is clay. The manufacture of clay ceramics involves raw material processing (crushing, grinding, and screening), mixing, forming, shaping, drying, glazing, and firing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4343

Title in April 2001 Agenda: NESHAP: Clay Ceramics Manufacturing

Sectors Affected: 327122 Ceramic Wall and Floor Tile Manufacturing; 327111 Vitreous China Plumbing Fixture and China and Earthenware Fittings and Bathroom Accessories Manufacturing

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RIN: 2060–AI68

3421. NESHAP: ENGINE TEST CELLS/STANDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: As required by section 112(c) of the Clean Air Act, the Environmental Protection Agency has developed a list of categories of sources of hazardous air pollutants (HAP's). The HAP's are listed in section 112(b) of the Clean Air Act. The Engine Test Facilities source category are included on EPA's list of sources of HAP's. The Engine Test Facilities source category includes any facility engaged in the testing of stationary or mobile engines, including turbines and reciprocating engines and rocket engines. Aircraft engine testing consists of facilities which perform testing on uninstalled aircraft engines. Non-aerospace engine test facilities consists of facilities which perform testing on uninstalled engines such as automotive engines, stationary turbines, IC engines, and diesel engines.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4144

This action will cover the rocket engine test firing source category RIN 2060-AH35

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RIN: 2060–AI74

3422. DEVELOPMENT OF REFERENCE METHOD FOR THE DETERMINATION OF SOURCE EMISSIONS OF FILTERABLE FINE PARTICULATE MATTER AS PM2.5

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51 app M

Legal Deadline: Final, Statutory, June 15, 2001.

Abstract: Under this action, EPA is initiating the publication of a reference test method that can be used to quantify that portion of particulate matter emissions that are solid at stack conditions and are equal to or less than 2.5 uM in aerodynamic diameter. This test method is to be used in conjunction with existing and future reference methods which are designed to quantify condensable particulate and particulate precursors. Condensable particulate is that portion of particulate matter emissions that are gaseous at stack conditions but which quickly condense to a solid form when released to the atmosphere. Particulate precursors are gaseous compounds which become solids as a result of chemical reactions in the atmosphere. This test method supports the amended National Ambient Air Quality Standard (NAAQS) for particulate matter which was promulgated on July 18, 1997. The NAAQS was revised by adding new standards for particulate of 2.5 uM aerodynamic diameter. An important foundation element of State efforts to attain the NAAQS will be the development of reliable inventories of baseline particulate and particulate precursor emissions. The emission inventories developed should be based upon credible source tests of individual facilities or emission factors developed from credible source tests. At the present time there is no reference test method available for quantifying the filterable particulate matter of 2.5 uM aerodynamic diameter from emission sources.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	11/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4306

Sectors Affected: 21231 Stone Mining and Quarrying; 221112 Fossil Fuel Electric Power Generation; 3212 Veneer, Plywood and Engineered Wood Product Manufacturing; 32411 Petroleum Refineries; 3251 Basic Chemical Manufacturing; 327 Nonmetallic Mineral Product Manufacturing; 3311 Iron and Steel Mills and Ferroalloy Manufacturing; 3313 Alumina and Aluminum Production and Processing; 3314 Nonferrous Metal (except Aluminum) Production and Processing; 3315 Foundries

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RIN: 2060–AI96

3423. INSPECTION MAINTENANCE PROGRAM REQUIREMENTS FOR FEDERAL FACILITIES; AMENDMENT TO THE FINAL RULE

Priority: Other Significant

Legal Authority: 23 USC 101; 42 USC 7401 et seq

CFR Citation: 40 CFR 51 (Revision); 40 CFR 93 (New)

Legal Deadline: None

Abstract: The Environmental Protection Agency (EPA) has had oversight and policy development authority for Inspection and Maintenance (I/M) programs since the passage of the Clean Air Act (CAA) in 1970. The 1977 amendments to the CAA mandated I/M for certain areas with long-term air quality problems and the 1990 amendments set forth standards for implementation of I/M programs. EPA used the statutory requirements of the Act, including I/M requirements for Federal facilities, to promulgate regulations which states would use in the development of their I/M State Implementation Plans (SIPs). Those rule requirements effectively gave States certain authorities over the Federal government. The Department of Justice has now ruled that Federal sovereign immunity was not fully waived under the CAA for those requirements and EPA should amend its rule to remove the requirement that States include those elements in their SIPs. EPA is proposing to: (1) Amend the Federal facilities I/M requirements by removing that section; (2) correct existing I/M SIP approval actions which include these elements; (3) establish new Federal facilities I/M program requirements which Federal facilities in I/M program areas must meet in order to comply with the Act; and (4) designate for each State which section of the Act Federal agencies must comply with based on how that State promulgated its I/M regulations. These changes will have minimal to no impact on the States as no new requirements are being created. The States are under no obligation, legal or otherwise, to modify existing SIPs meeting the previously applicable requirements as a result of this action, nor will emissions reduction credit be affected. However, the changes will clarify for affected Federal facilities what they must do to meet the CAA requirements by establishing new regulations per those requirements.

EPA—Clean Air Act (CAA)

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4348

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RIN: 2060–AI97

3424. CONTROL OF METHYL TERTIARY BUTYL ETHER (MTBE)

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: EPA is considering taking action to control the use of Methyl Tertiary Butyl Ether (MTBE), which is an organic compound that is primarily used as a fuel additive in gasoline. MTBE has been used to meet the oxygen requirement established by the Federal Reformulated Gasoline Program (RFG) established by the 1990 amendments to the Clean Air Act (CAA). Over 85 percent of reformulated gasoline contains MTBE. EPA is concerned that the widespread use of MTBE may have resulted in the contamination of groundwater and drinking water supplies, threatening their future use. While current detections levels are generally believed to be below levels that may cause public health concerns, low level MTBE contamination may render water unpotable due to offensive taste and odor. In November of 1998, EPA established a Blue Ribbon Panel to investigate air quality benefits and water quality concerns associated with oxygenates, including MTBE, in gasoline, and to provide independent advice and recommendations on ways to maintain air quality while protecting water quality. In September, 1999, the panel recommended that the use of MTBE be substantially reduced. EPA is now evaluating the Blue Ribbon Panel's recommendations, and has conducted a preliminary review of authorities available to address risks associated with MTBE. EPA intends to issue an advance notice of proposed rulemaking to inform the public of this preliminary inquiry, and to solicit public comment on possible regulatory action.

Timetable:

Action	Date	FR Cite
ANPRM	03/24/00	65 FR 16094
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: SAN No. 4393

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RIN: 2060–AJ00

3425. NESHAP: TACONITE IRON ORE PROCESSING INDUSTRY

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7412 CAA 112

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: The taconite iron ore processing source category is comprised of nine facilities operating in the United States. Seven facilities are located in Minnesota and two are located in Michigan. The expected sources of HAP emissions for this source category include: fossil fuel combustion sources, and possibly the handling and transfer of mined ore containing naturally occurring inorganic compounds. Anticipated HAP emissions released from these sources primarily include: formaldehyde, manganese, nickel, arsenic, and chromium. The quantities of HAP released are expected to exceed major source levels.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4380

There are nine taconite processing facilities in the U.S.; seven are located in Minnesota and two are located in Michigan. The MACT standard for this industry group will be shared between EPA and the State of Minnesota. State regulations currently in place include both air emissions limitations and prohibition of effluent discharge to Great Lakes waters, and both air and water monitoring requirements. Other existing Federal regulations may be affected under RCRA and TSCA.

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RIN: 2060–AJ02

3426. UTILITY SECTOR NEW SOURCE REVIEW (NSR) ALTERNATIVE COMPLIANCE PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7401 to 7671q

CFR Citation: 40 CFR 51; 40 CFR 52.21

Legal Deadline: None

Abstract: The New Source Review (NSR) Program is the principal means by which EPA assures that new pollution sources install reasonably effective air pollution controls before they are allowed to begin operation. EPA is currently involved in a comprehensive rulemaking (NSR Improvement, SAN 3259), intended to streamline the NSR program and reduce its administrative burden. This new

rulemaking is an outgrowth of that reform effort, and will provide industries with the flexibility to focus more on existing pollution sources, with the goal of achieving as good or better environmental results than could be achieved focusing strictly on new sources. The Utility Sector NSR Alternative Compliance Program is a proposed rulemaking that is an outgrowth of this action and will provide industries with the flexibility to focus more on existing pollution sources, with the goal of achieving as good or better environmental results than could be achieved focusing strictly on new sources. The Utility Sector NSR Alternative Compliance Program is a proposed rulemaking that is an outgrowth of this action and will provide industries with the flexibility to focus more on existing pollution sources, with the goal of achieving as good or better environmental results than could be achieved focusing strictly on new sources.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
Final Action	03/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4390

See also SAN 3259

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RIN: 2060–AJ14

3427. INTERSTATE OZONE TRANSPORT: RESPONSE TO COURT DECISIONS ON THE NOX SIP CALL, NOX SIP CALL TECHNICAL AMENDMENTS, AND SECTION 126 RULES

Priority: Other Significant

Legal Authority: 42 USC 7410(a)(2)(D); 7410(k)(5)

CFR Citation: 40 CFR 51 (Revision)

Legal Deadline: None

Abstract: On October 27, 1998 (63 FR 57355), EPA issued a rule to reduce smog in the eastern half of the country. The rule required 22 States and the District of Columbia to reduce emissions of nitrogen oxides (NOx), which reacts with other chemicals in the atmosphere to form smog. EPA required these reductions because pollution from each of these States was transported by the wind and significantly contributed to unhealthy air quality in downwind states. In response to litigation from several parties on the NOx SIP call, the United States Court of Appeals for the District of Columbia issued a decision on March 3, 2000 making it clear that EPA and States can and should move forward to implement this regional strategy. The ruling remanded certain relatively minor portions of the original rule back to the EPA. This rulemaking covers the portion of the rule associated with the remanded issues: certain cogeneration units, internal combustion engines, the partial State requirements for Georgia & Missouri and the exclusion of Wisconsin. In this rulemaking, EPA will consider the partial State issue for Alabama & Michigan and propose SIP submittal dates and compliance dates, as well. The D.C. Circuit Court also remanded, or remanded and vacated, the cogeneration unit issue in decisions on the NOx SIP Call Technical Amendments, and Section 126 Rule on June 8, 2001 and May 15, 2001, respectively. These remands will also be addressed in this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4433

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RIN: 2060–AJ16

3428. NESHAP FOR FRICTION PRODUCTS MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action will propose NESHAP for friction products manufacturing in order to comply with the Clean Air Act of 1990 (CAA). The friction products source category includes any facility that manufactures friction products such as brakes and clutches. The rule is expected to limit HAP emissions, including toluene, hexane, and 1,1,1 trichloroethane) from solvent mixing operations.

Timetable:

Action	Date	FR Cite
NPRM	10/04/01	66 FR 50768
NPRM Comment Period End	12/03/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4460

Sectors Affected: 3363 Motor Vehicle Parts Manufacturing; 3364 Aerospace Product and Parts Manufacturing; 3369 Other Transportation Equipment Manufacturing

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RIN: 2060–AJ18

EPA—Clean Air Act (CAA) Proposed Rule Stage

3429. RULEMAKINGS FOR THE PURPOSE OF REDUCING INTERSTATE OZONE TRANSPORT

Regulatory Plan: This entry is Seq. No. 128 in part II of this issue of the **Federal Register**.

RIN: 2060–AJ20

3430. PETITIONS TO DELIST SOURCE CATEGORIES FROM THE SOURCE CATEGORY LIST, DEVELOPED PURSUANT TO SECTION 112(C) OF THE CLEAN AIR ACT

Priority: Routine and Frequent

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, April 21, 2000.

Abstract: The EPA has received 1 petition to remove a SC (2-Piece Can Manufacturing) from the SC List developed pursuant to Section 112(c) of the Clean Air Act (CAA). The most current SC List was published on November 18, 1999 (64 FR 63025). Section 112(c)(9), which provides the legislative authority and guidelines for such actions, states that the Administrator may delete a SC from the list under Section 112(c), on petition of any person or on the Administrator's own motion, whenever the Administrator determines that no source in the category emits hazardous air pollutants (HAPs) in quantities which may cause a lifetime risk of cancer greater than 1 in one million to the individual in the population who is most exposed and that emissions from no source in the category exceed a level which is adequate to protect public health with an ample margin of safety and that no adverse environmental effect will result. As of August 30, 2001, 1 petition to delist a SC has been received. It contains information on HAP emissions, exposures, health effects, human risks, and potential ecological concerns as well as the petitioner's explanation why the 2-Piece Can Manufacturing should be removed from the SC List. The EPA will conduct a comprehensive review of the petition received then decide whether to grant or deny the petition. Section 112(c)(9) requires that within 12 months of receipt of a petition, the Administrator shall either grant or deny the petition by publishing a written explanation of the reasons for the Administrator's decision. We believe that petitions to delist source categories are non-significant actions because they do not meet any of the principles outlined in section A above.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4415

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RIN: 2060–AJ23

3431. REVISING REGULATIONS ON AMBIENT AIR QUALITY MONITORING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 58 (Revision); 40 CFR 53 (Revision); 40 CFR 50 (Revision)

Legal Deadline: None

Abstract: Air pollution control authorities use air quality data to determine compliance with the National Ambient Air Quality Standards and in subsequent work to develop air pollution mitigation strategies. The data come primarily from ambient air monitoring stations run by State and local agencies, although Federal, tribal, and industrial organizations also run stations. The design of the monitoring networks is regulated under 40 CFR 58. This rule was originally written in 1979 and several revisions have been made in the intervening years. Air pollution control authorities have improved their parts of the network in response to changes in air quality, advances in the understanding of the movements and health effects of air pollutants, and developments in air pollution measurement technology. EPA has also cooperated with air pollution control authorities to improve the networks, but we have not revised the applicable regulations comprehensively. The proposed revisions would remove real or perceived constraints on redeploying air monitoring stations; more accurately reflect the roles of EPA and other control authorities in designing, reviewing, and modifying networks; bring provisions related to quality assurance up to date; and recognize technological changes. The current regulations require states to develop plans to deploy air monitoring networks, but they do not emphasize administering the networks. States generally develop new plans only when new monitoring is needed, such as for a new NAAQS. The regulations should be revised to reflect the roles of EPA and the State and local agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 4421

Sectors Affected: 334519 Other Measuring and Controlling Device Manufacturing; 92411 Air and Water Resource and Solid Waste Management

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RIN: 2060–AJ25

3432. CLARIFICATION TO EXISTING PART 63 NESHAP DELEGATIONS' PROVISIONS-WORK PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

EPA—Clean Air Act (CAA) — Proposed Rule Stage

Abstract: 40 CFR part 63 contains OAR's air-toxics emissions regulations, often referred to as MACT rules or NESHAPS. We are revising some part 63 standards to reflect changes in delegation provisions. We are also revising some sections in the part 63 regulations to clarify what are standards and what are compliance assurance measures. The benefits of the changes will include clarifying what authorities in each standard can be delegated to State and local air pollution control agencies and meshing the standards with revisions previously made to other part 63 regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4426

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RIN: 2060–AJ26

3433. FEDERAL PLAN REQUIREMENTS FOR COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS CONSTRUCTED ON OR BEFORE NOVEMBER 30, 1999

Priority: Substantive, Nonsignificant

Legal Authority: 1990 Amendments to the Clean Air Act sections 111; 1990 Amendments to the Clean Air Act sections 129; 1990 Amendments to the Clean Air Act sections 301(a)(d)

CFR Citation: 40 CFR 62

Legal Deadline: None

Abstract: The Clean Air Act Amendments of 1990 directed the Environmental Protection Agency (EPA) to set emission guidelines for existing incinerators combusting commercial or industrial waste under sections 111 and 129. Final emission guidelines for Commercial and Industrial Solid Waste Incineration (CISWI) were published on December 1, 2000 (see 65 FR 75338). In accordance with section 129, any State with affected sources must submit a State plan by December 1, 2001 describing how the State will implement the emission guidelines for existing CISWI. Section 129 requires the Administrator to develop and implement a Federal plan for existing CISWI units located in any State which has not submitted an approvable plan within 2 years of promulgation of the emissions guidelines. In this CISWI Federal plan rulemaking, EPA becomes the implementing authority in those instances where the State has failed to submit a plan or a plan has not yet been approved. Therefore, consistent with section 129(b)(3) of the Act, EPA is proposing a plan that applies to CISWI in any State that has not submitted an approvable plan within the time allotted. This action makes no changes to the requirements in the rule, and is intended to fulfill EPA's duty under section 129(b)(3) to promulgate a Federal plan as a gap-filling measure until the State fulfills its statutory obligations. When the State submits an approvable State plan, the Federal plan will no longer apply to units in that State.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	01/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State

Additional Information: SAN No. 4441

Sectors Affected: 321 Wood Product Manufacturing; 325 Chemical Manufacturing

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RIN: 2060–AJ28

3434. REVISIONS TO PART 97 FEDERAL NOX BUDGET TRADING PROGRAM ALLOWANCE ALLOCATION METHOD AND PART 75 OUTPUT AND EMISSIONS MONITORING PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7403; 42 USC 7426; 42 USC 7601; 42 USC 7651 et seq

CFR Citation: 40 CFR 75 (Revision); 40 CFR 97 (Revision)

Legal Deadline: None

Abstract: This rulemaking package will propose two types of modifications to the Code of Federal Regulations: revisions to parts 72 and 75 related to the existing Acid Rain Program; and, revisions to part 75 and part 97 that are associated with the implementation of the Federal NOx Budget Trading Program.

The proposed revisions to parts 72 and 75 pertaining to the Acid Rain Program will improve the program's efficiency and effectiveness. These revisions include technical corrections and clarifications to the monitoring procedures that will improve quality of the SO2 and NOx emissions data. Some reporting requirements will be modified to broaden and improve electronic reporting provisions in order to reduce industry burden and facilitate better data management within the Agency.

In support of the Federal NOx Budget Trading Program, EPA will propose revisions to parts 72, 75, and 97. Parts 72 and 75 will be modified to introduce procedural requirements for the monitoring and reporting of output (i.e., electricity, steam, or heated water) for electric generating units. The proposed revisions to part 97 will satisfy a commitment the Agency made in the January 18, 2000 final section 126 rule to use output for updating NOx allowance allocations. Our analysis predicts that updating allocations based on output will reduce air pollution nationwide and will result in more efficient electricity generation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

EPA—Clean Air Act (CAA)

Proposed Rule Stage

Additional Information: SAN No. 4448

Sectors Affected: 221111 Hydroelectric Power Generation

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RIN: 2060–AJ30

3435. NESHAP: PESTICIDES ACTIVE INGREDIENTS—AMENDMENTS

Priority: Other Significant

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: On June 23, 1999, EPA promulgated the NESHAP for Pesticide Active Ingredient Production (Production of Agricultural Chemicals). Subsequently, a petition was filed on this rule, and EPA received the list of issues filed with the court. There are four separate, but related petitions. Major issues include applicability determination for creosote producers, control requirements for left-over vents, averaging period, and wastewater applicability cutoffs. This amendment will address these issues raised by creosote producers. The other issues will be addressed in a separate rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4457

Split from RIN 2060-AE84.

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RIN: 2060–AJ34

3436. NESHAP: GASOLINE DISTRIBUTION FACILITIES — AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401

CFR Citation: 40 CFR 63.425(e)

Legal Deadline: None

Abstract: This action will add a DOT test method as an alternative for measuring emissions from railcars. This method came to our attention subsequent to promulgation of the original rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4479

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RIN: 2060–AJ42

3437. NESHAP: AMINO/PHENOLIC RESINS: AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701 et seq

CFR Citation: 40 CFR 63 subpart 000

Legal Deadline: None

Abstract: The Amino and Phenolic Wood Adhesives Association (APWAA) has filed a petition for review of the final rule. APWAA has identified two areas of concern in their statement of issue. First of all APWAA claims that EPA was unjustified in going above the floor level of control to include equipment requirements equivalent to the Consolidated Air Rule (CAR) for new and existing sources. APWAA believes EPA should use the floor level of control for both new and existing sources. For existing sources there is no floor, and for new sources the floor level of control is equivalent to the requirements included in 40 CFR part 60 subpart VV. The second issue identified by APWAA is the way the requirements for non-reactor batch vents were calculated. The current rule has a 500 lbs per year applicability cutoff for non-reactor batch vents at the facility level. APWAA has stated that the cutoff should be applicable to individual vents instead of the entire facility.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4484

Sectors Affected: 325211 Plastics Material and Resin Manufacturing

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RIN: 2060–AJ45

3438. INDOOR AIR TOXICS STRATEGY

Priority: Info./Admin./Other

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Indoor Air Toxics Strategy is a plan to reduce risks from

toxic air pollutants indoors and is in response to the July 19, 1999 release of the National Air Toxics Program/Integrated Urban Air Toxics Strategy (64 FR 38706). The latter strategy recognized that, although exposures to air toxics indoors may be significant, the risks associated with indoor exposures are not as well characterized as those for exposures outdoors. The Indoor Air Toxics Strategy will present the results of a screening-level ranking and selection of key air toxics indoors, which was performed to help us prioritize our future efforts in this area, and will present a plan to work with outside stakeholders to further characterize and reduce risks from air toxics indoors. The Indoor Air Toxics Strategy will rely heavily on voluntary, non-regulatory efforts.

Timetable:

Action	Date	FR Cite
Draft Notice	01/00/02	
Final Notice	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4494

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RIN: 2060–AJ49

3439. REVISIONS TO REGIONAL HAZE RULE TO INCORPORATE SULFUR DIOXIDE MILESTONES AND BACKSTOP EMISSIONS TRADING PROGRAM FOR NINE WESTERN STATES

Priority: Other Significant

Legal Authority: 42 USC 7410; 42 USC 7414; 42 USC 7421; 42 USC 7470 to 7479; 42 USC 7491; 42 USC 7492; 42 USC 7601; 42 USC 7602

CFR Citation: 40 CFR 51.309

Legal Deadline: None

Abstract: This regulation is for an action anticipated by the regional haze rule that we published in July 1999. One portion of the regional haze rule was an optional visibility protection program for nine Western States. Part of this program for the West, a long-term program to reduce stationary source emissions of sulfur dioxide, was incomplete at the time of the 1999 rule. Accordingly, the rule required Western States to submit an "Annex" to an earlier report of the Grand Canyon Visibility Transport Commission. We required the Annex to contain sulfur dioxide milestones for the years 2003 to 2018, to establish a program to track emissions from stationary sources over this time period, and to provide the details of a market trading program that would be triggered if a milestone is exceeded. The Western Regional Air Partnership submitted the Annex on September 29, 2000. The purpose of this rulemaking is to determine whether the Annex meets the requirements of the regional haze rule and the Clean Air Act, and if it does, to amend the regional haze rule to incorporate its provisions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	01/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4495

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RIN: 2060–AJ50

3440. NESHAP: PORTLAND CEMENT MANUFACTURING INDUSTRY, AMENDMENTS TO RULE TO IMPLEMENT SETTLEMENT AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 63.1340 to 63.1359

Legal Deadline: None

Abstract: The Portland Cement Manufacturing Industry NESHAP was promulgated June 14, 1999. The rule is codified in 40 CFR 63, Subpart LLL. This rule is being revised to reflect a pending settlement agreement with the American Portland Cement Alliance. The rule changes will be minor, and mostly will help to clarify requirements, provide monitoring alternatives and/or remove minor monitoring requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 4524

Sectors Affected: 32731 Cement Manufacturing

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RIN: 2060–AJ57

3441. EVALUATION OF UPDATED TEST PROCEDURES FOR THE CERTIFICATION OF GASOLINE DEPOSIT CONTROL ADDITIVES

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: All gasoline must contain additives to control the formation of deposits in the fuel supply system and engine of motor vehicles. If uncontrolled, such deposits can result in a significant increase in motor vehicle emissions. This action will propose that updated test procedures be adopted for the certification of gasoline deposit control additives regarding

their ability to control fuel injector and intake valve deposits. The adoption of the updated procedures will ensure that the gasoline deposit control program continues to ensure an adequate level of deposit control, thereby preventing an increase in motor vehicle emissions. The updated test procedures require less time to perform and are less costly. Therefore, the adoption of the proposed procedures will reduce the burden on industry of complying with the gasoline deposit control program. The proposed action will not impact small businesses, or state, local, or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4531

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RIN: 2060–AJ61

3442. MOTOR VEHICLE AND ENGINE COMPLIANCE PROGRAM FEES FOR: LIGHT-DUTY VEHICLES AND TRUCKS; HEAVY-DUTY VEHICLES AND ENGINES; NONROAD ENGINES; AND MOTORCYCLES

Priority: Other Significant

Legal Authority: 42 USC 7552; 31 USC 9701; 42 USC 4370(c)

CFR Citation: 40 CFR 86 (Revision)

Legal Deadline: None

Abstract: Under the Motor Vehicle and Engine Compliance (MVECP) Fee Program user fees are collected for certification and compliance activities. Currently, user fees are required by manufacturers of light-duty vehicles, light-duty trucks, heavy-duty vehicles, heavy-duty engines and motorcycles. Through this Notice, EPA is proposing to update the current fee provisions for the existing industries and incorporate fees for nonroad manufacturers. In addition, the fee schedule will be updated to reflect costs in administering compliance activities for new regulations such as the "Tier 2" automobile standards and nonroad engine standards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4532

Sectors Affected: 333 Machinery Manufacturing; 3331 Agriculture, Construction, and Mining Machinery Manufacturing; 333111 Farm Machinery and Equipment Manufacturing; 333112 Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing; 33312 Construction Machinery Manufacturing; 333131 Mining Machinery and Equipment Manufacturing; 3336 Engine, Turbine, and Power Transmission Equipment Manufacturing; 33651 Railroad Rolling Stock Manufacturing; 3361 Motor Vehicle Manufacturing; 33611 Automobile and Light Duty Motor Vehicle Manufacturing; 336112 Light Truck and Utility Vehicle Manufacturing; 33612 Heavy Duty Truck Manufacturing; 336311 Carburetor, Piston, Piston Ring and Valve Manufacturing; 336412 Aircraft Engine and Engine Parts Manufacturing; 33661 Ship and Boat Building; 336991 Motorcycle, Bicycle and Parts Manufacturing; 333 Machinery Manufacturing; 33392 Material Handling Equipment Manufacturing; 333924 Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing; 33399 All Other General Purpose Machinery Manufacturing; 333991 Power-Driven Hand Tool Manufacturing

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RIN: 2060–AJ62

3443. • ELECTRIC UTILITY STEAM GENERATING UNIT MACT REGULATION

Regulatory Plan: This entry is Seq. No. 129 in part II of this issue of the Federal Register.

RIN: 2060–AJ65

3444. • ELECTRIC ARC FURNACE NSPS AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7411

CFR Citation: 40 CFR 60.270 to 60.276a

Legal Deadline: None

Abstract: Sources affected by the NSPS for electric arc furnaces (subparts AA, and AAa) have expressed concerns with the requirements in the NSPS to use a continuous opacity monitor (COM) to monitor opacity and report periods when the COM indicated greater than 3 percent opacity as periods of excess emissions, and have petitioned the EPA to reconsider the COM requirements. These concerns arise from recent information that indicate that COM readings may have an error of up to 4 percent, which in itself is greater than the 3 percent excess emissions threshold. The EPA is reconsidering the COM requirements, and may amend the NSPS to add alternative monitoring requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4555

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EPA—Clean Air Act (CAA) — Proposed Rule Stage

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RIN: 2060–AJ68

3445. • TRANSPORTATION CONFORMITY RULE AMENDMENTS: MINOR REVISION AND ADDITION OF GRACE PERIOD FOR NEWLY DESIGNATED NONATTAINMENT AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 to 7671q

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: This action is the result of a recent amendment to the Clean Air Act and a 1999 court decision on the same Act. It provides greater flexibility and more time for state and local governments to evaluate and ensure that their transportation plans will not worsen air quality conditions in areas where air quality standards have been established to protect public health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/05/01	66 FR 50954
NPRM Comment Period End	11/05/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4558

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RIN: 2060–AJ70

3446. • CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES AND ENGINES: ALTERNATIVE LOW-SULFUR HIGHWAY DIESEL FUEL TRANSITION PROGRAM FOR ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7545; 42 USC 7601(a); 42 USC 7625-1

CFR Citation: 40 CFR 69 and 80 (Revision)

Legal Deadline: None

Abstract: This action will carry out a flexibility provision for Alaska that was included in EPA's heavy-duty diesel rule, which was promulgated on January 18, 2001. That rule established more stringent national emission standards for heavy-duty highway vehicles and engines for the 2007 model year, and a technology-enabling sulfur limit of 15 ppm for highway diesel fuel beginning in 2006. In that rule, EPA recognized Alaska's unique geographical, meteorological, air quality, and economic factors and provided Alaska an opportunity to develop its own plan to transition to low-sulfur highway diesel fuel, as an alternative to the national transition program. Our goal in offering this flexibility is to transition Alaska into the low-sulfur fuel program in a manner that minimizes costs, while ensuring that the new vehicles and engines receive the low-sulfur fuel they need. As stated in the Federal Register notice for the diesel rule, if Alaska submits an alternative plan by April 1, 2002, and if EPA determines that it provides a reasonable alternative, EPA intends to initiate rulemaking and, within one year from the date of Alaska's submittal, promulgate a final rule to incorporate the alternative plan. A stakeholder process to develop options is already underway in Alaska, and the State informed EPA that it intends to submit an alternative transition plan in late 2001 or early 2002. This action will be in response to that anticipated submittal.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4570

Sectors Affected: 336112 Light Truck and Utility Vehicle Manufacturing

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RIN: 2060–AJ72

3447. • NON-CONFORMANCE PENALTIES FOR 2004 AND LATER MODEL YEAR HEAVY-DUTY DIESEL ENGINES AND HEAVY-DUTY DIESEL VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7525(g)

CFR Citation: 40 CFR 86.1105

Legal Deadline: None

Abstract: Section 206(g) of the Clean Air Act requires EPA to issue a certificate of conformity for heavy-duty engines or heavy-duty vehicles which exceed an applicable emission standard, but do not exceed an upper limit associated with that standard, if the manufacturer pays a non-conformance penalty (NCP) established by rulemaking. Three basic criteria are used to determine the eligibility of emission standards for NCPs. First, the emission standard in question must become more difficult to meet (e.g., through increased stringency). Second, substantial work must be required to meet the emission standard. Third, a technological laggard must be likely to develop. A technological laggard is defined as a manufacturer who cannot meet a particular emission standard due to technological difficulties, and, in the absence of NCPs, might be forced from the marketplace. This rule will propose that these criteria are fulfilled with respect to the 2004 model year non-methane hydrocarbon plus nitrogen oxide standard established in 1997 for heavy-duty diesel engines and heavy-duty diesel vehicles. The rule will propose specific NCPs available for manufacturers unable to comply with this standard.

EPA—Clean Air Act (CAA)

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4573

Sectors Affected: 33612 Heavy Duty Truck Manufacturing

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RIN: 2060–AJ73

3448. • PROTECTION OF STRATOSPHERIC OZONE: ASSORTED AMENDMENTS TO THE PHASEOUT OF CLASS I CONTROLLED SUBSTANCES - CHANGES UNDER THE MONTREAL PROTOCOL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7671 to 7671q

CFR Citation: 40 CFR 82.1 to 82.13

Legal Deadline: None

Abstract: The U.S. regulatory program is being amended to reflect changes in the international treaty, "The Montreal Protocol on Substances that Deplete the Ozone Layer." These amendments: (1) will change the amount of class I ozone-depleting substances that can be produced in the United States for export to developing countries, (2) will create procedures for the transfer of allowances and CFCs under the essential-use exemption for metered-dose inhalers, and (3) ban the trade of methyl bromide with countries that are not parties (not signatories) to the Montreal Protocol.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4574

Sectors Affected: 32519 Other Basic Organic Chemical Manufacturing; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 3254 Pharmaceutical and Medicine Manufacturing

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RIN: 2060–AJ74

3449. • MODIFICATION OF FEDERAL ON-BOARD DIAGNOSTIC REGULATIONS FOR 2004 MODEL YEAR VEHICLES BELOW 14,000 POUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701q

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This rule proposes revisions to the existing Light-Duty On-Board Diagnostic Requirements, including revisions that will: (1) require vehicle manufacturers to monitor the catalyst for NOx emission performance in addition to existing requirements to monitor NMHC performance, whichever is more stringent; (2) require monitoring of the evaporative emissions systems for the presence of 0.020" leaks or greater and allow for non-intrusive, engine-off methods to perform monitoring instead of the current requirements to monitor for the presence of a 0.040" leak or greater during vehicle operation; (3) allow the use of the Control Area Network (CAN) Protocol (SAE 15765-4) for OBD communications in addition to the other allowable SAE (J1850, J1939) and ISO (9141, 14230-4); (4) new software and hardware changes to aid in OBD-I/M program implementation including adding vehicle dentification number (VIN) to the generic datastream, confining the physical location of the data link connector, and allowing the use of the malfunction indicator lamp (MIL) and a special key sequence to indicate readiness; (5) add new generic data stream parameters to aid in the repair and diagnosis of vehicle malfunctions; (6) require manufacturers to record critical pieces of OBD information under the CAP 2000 In-Use Verification Program (IUVP); and (7) establish new OBD in-use performance demonstration standards used to determine appropriate frequency of monitoring in the real world; such in-use performance standards do not currently exist which places a greater burden on our in use program.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4583

Sectors Affected: 33611 Automobile and Light Duty Motor Vehicle Manufacturing

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RIN: 2060–AJ77

3450. • REGULATION TO ESTABLISH NEW DATE FOR RECEIPT OF SUMMER GRADE RFG AT TERMINALS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 80.78

Legal Deadline: None

Abstract: This rule will establish a new date of April 1 for receipt of summer grade reformulated gasoline at terminals. The rule is intended to alleviate gasoline supply shortfalls during the winter to summer transition period.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: SAN No. 4592

EPA—Clean Air Act (CAA) **Proposed Rule Stage**

Sectors Affected: 32411 Petroleum Refineries

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RIN: 2060–AJ79

3451. • RELAXATION OF SUMMER GASOLINE VOLATILITY STANDARD FOR DENVER/BOULDER AREA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7545; 42 USC 7601(a)

CFR Citation: 40 CFR 80.27(a)(2) (Revision)

Legal Deadline: None

Abstract: EPA is relaxing the summertime volatility standard (Reid Vapor Pressure - RVP) for conventional gasoline in the Denver/Boulder area from 7.8 pounds per square inch ("psi") to 9.0 psi. This action is consistent with, and a result of, the actions EPA is taking to redesignate the Denver/Boulder area to be in attainment with the one-hour ozone standard and to approve the maintenance plan for the Denver/Boulder area. It is also consistent with past waivers that EPA has granted to allow 9.0 psi RVP gasoline in the Denver/Boulder area since 1992. EPA does not believe that this action will cause environmental harm to the Denver/Boulder area, or that it will adversely impact small businesses or state and local governments. The area has been in compliance with the ozone standard since 1987.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4593

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RIN: 2060–AJ80

3452. • PROTECTION OF STRATOSPHERIC OZONE: ALLOCATION OF YEAR 2002 ESSENTIAL USE ALLOWANCES

Priority: Routine and Frequent

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671-7671q

CFR Citation: 40 CFR 82.4(t)(2)

Legal Deadline: None

Abstract: With this action EPA is allocating essential use exemptions to U.S. entities to produce and/or import class I ozone depleting substances for uses considered to be essential under the Montreal Protocol. These exemptions include the following: pharmaceutical grade CFCs for use in metered dose inhalers used in the treatment of asthma, methyl chloroform for use in the space shuttle and titan rockets, and class I substances for most laboratory and analytical uses.

Timetable:

Action	Date	FR Cite
NPRM	11/01/01	66 FR 55145
NPRM Comment Period End	12/03/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4594

Sectors Affected: 54171 Research and Development in the Physical Sciences and Engineering Sciences; 54162 Environmental Consulting Services; 6215 Medical and Diagnostic Laboratories; 3254 Pharmaceutical and Medicine Manufacturing; 33641 Aerospace Product and Parts Manufacturing

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RIN: 2060–AJ81

3453. • MODIFICATION OF AUTHORITY TO GRANT ALTERNATIVE METHOD APPROVALS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Currently, stationary source regulations cite specific test methods to demonstrate compliance. If a source locates a test method which will measure the regulated pollutant(s) with similar precision and accuracy to the method cited in the regulation, and would like to use the alternative method, the source must petition the EPA (along with data documenting the applicability of the alternative) to allow the alternative method. Each of these alternative method approvals by letter may currently only be granted to a specific source. Source category-wide approvals must be published for comment in the Federal Register. Due to budgetary and time constraints, the process constrains industry trade associations from developing and submitting alternative test methods. Therefore, the purpose of this rulemaking is to modify the regulations to allow source category-wide alternative method approvals to be issued by letter.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4547

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RIN: 2060–AJ83

EPA—Clean Air Act (CAA)

Proposed Rule Stage

3454. • PERFORMANCE SPECIFICATIONS FOR CONTINUOUS PARAMETER MONITORING SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 60 app B (New); 40 CFR 60 app F (Revision)

Legal Deadline: None

Abstract: This action proposes Performance Specification 17 (PS-17), Quality Assurance (QA) Procedure 4, and amendments to Appendix F, QA Procedure 1. Performance Specification 17 and QA Procedure 4 apply to continuous parameter monitoring systems (CPMS). Many of the rules promulgated under 40 CFR part 63 require owners and operators of affected emission units to install and operate CPMS to monitor various parameters, such as temperature, pressure, flow rate, and pH, associated with the operation and performance of emission control devices. However, few, if any, of those rules specify complete procedures for ensuring the quality of the data measured by CPMS. The proposed PS-17 establishes procedures and other requirements that will ensure that those CPMS are properly selected, installed, and placed into operation. The proposed QA Procedure 4 specifies procedures that will ensure that those CPMS provide quality data on an ongoing basis. Both PS-17 and QA Procedure 4 will help to ensure compliance with emission limitations established under 40 CFR part 63. Procedure 1 of Appendix F currently addresses QA procedures for continuous emission monitoring systems (CEMS) that measure a single pollutant. The proposed amendments to QA Procedure 1 broadens the procedure to address the unique requirements of CEMS that are used for monitoring multiple pollutants. Because several of the regulations promulgated under 40 CFR part 63 require multiple pollutant CEMS, these amendments are needed to ensure those CEMS are operated in a manner that ensures the quality of the emission data collected. This action is not expected to have any impacts on small entities or State, local, or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4584

Sectors Affected: 21 Mining; 22 Utilities; 31-33 Manufacturing; 486 Pipeline Transportation; 562212 Solid Waste Landfill; 562213 Solid Waste Combustors and Incinerators

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RIN: 2060–AJ86

3455. • BENZENE WASTE OPERATIONS NESHAP; AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 to 7626

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: This amendment will add a compliance option for tanks, making the Benzene Waste Operations NESHAP consistent with the RCRA CC rules. Hazardous waste treatment facilities have requested these amendments because they must comply with both rules. There will be no cost as a result of this action and there is no emission reduction. We expect no negative impacts on small businesses and State/local/tribal governments. Industry and government support this change.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4591

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing; 3311 Iron and Steel Mills and Ferroalloy Manufacturing; 562211 Hazardous Waste Treatment and Disposal

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RIN: 2060–AJ87

3456. • PROPSED AMENDMENTS TO PERFORMANCE STANDARDS AND MONITORING REQUIREMENTS FOR PARTICULATE MATTER AT STATIONARY SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 60 app B; 40 CFR 60 app F

Legal Deadline: None

Abstract: This action would repropose some monitoring specifications that were originally included in an OSWER proposal to regulate air emissions from hazardous waste combustors (as explained further below). It revises several standards and requirements related to continuous emission monitoring systems for particulate matter (PM). These include: specifications and test procedures known as Performance Specification 11 (PS-11), and quality assurance requirements known as "Procedure 2". The proposed revisions clarify and update performance standards and monitoring requirements for facilities required to install and use continuous monitoring equipment to measure particulate matter emissions from stacks and ducts. The action does not change any emission standards or add any additional recordkeeping requirements. This action is a supplement to actions by EPA's OSWER that included proposed regulations for hazardous waste combustors. The first action was published in the Federal Register on December 30, 1997 (62 FR 67788). Recent OAR field studies have revealed needed revisions to PS-11 and Procedure 2. In view of the significant amount of time that has passed since the last proposal was published (December 30, 1997) and the significant amount of knowledge we have recently gained from our field studies, we believe that a supplemental proposal and another opportunity for the public to comment on PS-11 and Procedure 2 are appropriate. The need to do this reproposal only recently became evident, and we apologize for the short

EPA—Clean Air Act (CAA) — **Proposed Rule Stage**

time between tiering and the expected proposal date.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4605

Sectors Affected: 221112 Fossil Fuel Electric Power Generation

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RIN: 2060–AJ88

3457. • CONTROL OF EMISSIONS FROM SPARK IGNITION MARINE VESSELS AND HIGHWAY MOTORCYCLES

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7401 to 7671(q)

CFR Citation: 40 CFR 94

Legal Deadline: None

Abstract: EPA is pursuing brand new evaporative controls on vessels powered up by spark ignition engines. EPA is also developing tighter standards for highway motorcycles.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4626

Split from RIN 2060-AI11.

Sectors Affected: 333924 Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing; 335312 Motor and Generator Manufacturing; 42183 Industrial Machinery and Equipment Wholesalers

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RIN: 2060–AJ90

Environmental Protection Agency (EPA) — **Final Rule Stage**

Clean Air Act (CAA)

3458. SOURCE-SPECIFIC FEDERAL IMPLEMENTATION PLAN FOR NAVAJO GENERATING STATION; FOUR CORNERS POWER PLANT

Priority: Other Significant

Legal Authority: 42 USC 1740

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA proposes to federalize standards from the Arizona and New Mexico State Implementation Plans (SIPS) applicable to the Four Corners Plant, respectively. Where necessary, EPA's proposed emission standards modify the standards extracted from the States' regulatory programs to ensure comprehensive emission control and Federal consistency.

Timetable:

Action	Date	FR Cite
NPRM	09/08/99	64 FR 48731
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: SAN No. 3569

NPRM-
http://www.epa.gov/fedrgstr/EPA-AIR/1999/September/Day-08/a23277.htm.; Formerly listed as RIN 2060-AF42,

NPRM-
http://www.epa.gov/fedrgstr/EPA-AIR/1999/September/Day-08/a23277.htm

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RIN: 2009–AA01

3459. NEW SOURCE REVIEW (NSR) IMPROVEMENT

Regulatory Plan: This entry is Seq. No. 139 in part II of this issue of the **Federal Register**.

RIN: 2060–AE11

3460. NSPS: SYNTHETIC ORGANIC CHEMICALS MANUFACTURING INDUSTRY - WASTEWATER (FINAL) & AMEND. TO APPENDIX C OF PART 63 & APPENDIX J OF PART 60

Priority: Other Significant

Legal Authority: CAAA

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This rule will develop a new source performance standard to control air emissions of volatile organic compounds from wastewater treatment operations of the synthetic chemical manufacturing industry.

Timetable:

Action	Date	FR Cite
NPRM	09/12/94	59 FR 46780
Supp NPRM-1st	10/11/95	60 FR 52889

EPA—Clean Air Act (CAA)

Final Rule Stage

Action	Date	FR Cite
Supp NPRM-2nd Appendix J to Part 60	12/09/98	63 FR 67988
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3380

Supp NPRM-2nd-http://www.epa.gov/fedrgstr/EPA-AIR/1998/December/Day-09/a28472a.htm

Sectors Affected: 3251 Basic Chemical Manufacturing

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RIN: 2060–AE94

3461. NESHAP: PETROLEUM REFINERIES; CATALYTIC CRACKING UNITS, CATALYTIC REFORMING UNITS AND SULFUR RECOVERY UNITS

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq; PL 101-549, 104 Stat. 2399

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires EPA to develop national emission standards for hazardous air pollutants (NESHAPs). EPA promulgated NESHAP rules for petroleum refineries on August 18, 1995 (RIN 2060-AD94). This action covers three process vents not covered under RIN 2060-AD94. These are the catalyst regeneration vents from fluid catalytic cracking units (FCCU) and catalytic reformers and the tail gas vents from sulfur recovery plants.

Timetable:

Action	Date	FR Cite
NPRM	09/11/98	63 FR 48889
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3549

NPRM-http://www.epa.gov/fedrgstr/EPA-AIR/1998/September/Day-11/a23508.htm

Sectors Affected: 32411 Petroleum Refineries

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RIN: 2060–AF28

3462. METHODS FOR MEASUREMENT OF VISIBLE EMISSIONS—ADDITION OF METHODS 203A, 203B, AND 203C TO APPENDIX M OF PART 51

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401(b)(1); 42 USC 7410; 42 USC 7470 to 7479; 42 USC 7501 to 7508; 42 USC 7601(a)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This rulemaking adds Test Methods 203A, 203B, and 203C to 40 CFR part 51, appendix M (entitled Example Test Methods for State Implementation Plans). These methods describe procedures for estimating the opacity of visible emissions. States have requested that EPA promulgate these methods so that they can use them in State Implementation Plans in enforcing visible emissions regulations from Stationary Sources.

Timetable:

Action	Date	FR Cite
NPRM	11/22/93	58 FR 61639
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 2915

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RIN: 2060–AF83

3463. SERVICE INFORMATION REGULATION FOR LIGHT-DUTY VEHICLES AND TRUCKS.

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521(m)

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This rule will require manufacturers of automobiles to provide necessary information needed to make use of emission control diagnostic systems as well as that needed to make emission-related diagnosis and repairs by any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines. This will allow independent service repair garages, individual owners, parts manufacturers, etc., to have access to emission control information to better service automobiles and ensure clean air compliance requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/08/01	66 FR 30830
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3741

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RIN: 2060–AG13

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3464. ADDITION OF METHOD 207 TO APPENDIX M OF 40 CFR PART 51 METHOD FOR MEASURING ISOCYANATES IN STATIONARY SOURCE EMISSIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: The Clean Air Act Amendments of 1990 listed certain isocyanate compounds as hazardous air pollutants (HAPs). The Agency does not have any published test methods that would measure air emissions of these isocyanate compounds from stationary sources. This action would add a validated test method to measure isocyanate emissions to appendix M of part 51. Test methods in part 51 can be adopted by any State for use in any regulation that requires the measurement of any of the isocyanate compounds on the HAP list. This action would not impose any new regulatory requirements that do not already exist. It should benefit State governments by providing them with a validated test procedure for measuring the emissions of isocyanate compounds.

Timetable:

Action	Date	FR Cite
NPRM	12/08/97	62 FR 64532
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3900

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RIN: 2060–AG88

3465. NESHAP: CELLULOSE PRODUCTION MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants (NESHAPs) by establishing maximum achievable control technology (MACT) for facilities manufacturing cellulose ether, carboxymethyl cellulose ether, methyl cellulose ether, cellulose food casing, cellulosic sponges, producing rayon, and producing cellophane. MACT standards are under development to reduce the release of hazardous air pollutants (HAP) from all industries to protect the public health and environment. Emissions of HAP from this industry have been associated with, but are not limited to, product washing operations, material storage tanks, and film drying.

Timetable:

Action	Date	FR Cite
NPRM	08/28/00	65 FR 52166
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3970

Project combined with SAN 3963

Sectors Affected: 325221 Cellulosic Organic Fiber Manufacturing; 326113 Unsupported Plastics Film and Sheet (except Packaging) Manufacturing

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RIN: 2060–AH11

3466. CONSOLIDATED EMISSIONS REPORTING RULE

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act sec 110(a)(2)(F)

CFR Citation: 40 CFR 51.321 to 51.323

Legal Deadline: None

Abstract: Three sections of the Clean Air Act and its amendments require State agencies to report emission estimates to EPA. Some of these sections contain obsolete wording, inconsistent instructions, and duplicate reporting requirements. This rule will consolidate the requirements into one area, eliminate obsolete wording, eliminate duplicate reporting requirements, and provide options for collecting and reporting data. There will be no impact on small businesses. State agencies will report point, area, and mobile source emissions statewide. State agencies will also report fine particulate matter and its precursors. The rule will provide for flexibility in collecting and reporting data.

Timetable:

Action	Date	FR Cite
NPRM	05/23/00	65 FR 33268
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3986

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RIN: 2060–AH25

3467. EXPANDED DEFINITIONS FOR ALTERNATIVE-FUELED VEHICLES AND ENGINES MEETING LOW-EMISSION VEHICLE EXHAUST EMISSION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2001; 15 USC 2002; 15 USC 2003; 15 USC 2005; 15 USC 2006; 15 USC 213; 42 USC 7521; 42 USC 7522; 42 USC 7524; 42 USC 7525; 42 USC 7541; 42 USC 7542; 42 USC 7549; 42 USC 7550; 42 USC 7552

CFR Citation: 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will ease the burden of certification for both Original Equipment Manufacturers (OEMs) and after-market conversion entities. This action will, for vehicles and engines meeting LEV emission standards, broaden the definition of the term dedicated fuel system, broaden the criteria for engine families, and provide

an exemption from certification fees. This action is not a deregulatory action. This action will provide another means for small business to remain active entities in supplying alternatively fueled vehicles to the market place. The above three changes are intended to reduce the cost of complying with the requirements of certification, and small business will benefit from these changes. This action will enhance the ability for the regulated industry to provide alternatively fueled vehicles to the consumer in support of the Executive Order 13031.

Timetable:

Action	Date	FR Cite
NPRM	07/20/98	63 FR 38767
Notice	05/14/99	64 FR 26410
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4030

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RIN: 2060–AH52

3468. NESHAP: COKE OVENS: PUSHING, QUENCHING, AND BATTERY STACKS

Priority: Other Significant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: There are currently 25 active domestic coke plants, 20 of which are furnace coke plants and 5 of which are foundry coke plants. Coke oven batteries used to produce metallurgical coke at these plants emit hazardous air pollutants (HAPs) such as coke oven emissions and polycyclic organic matter listed in section 112 of the Clean Air Act (CAA). This action will establish a National Emission Standard for Hazardous Air Pollutants (NESHAP) for three specific operations associated with coke ovens, namely pushing, quenching, and battery stacks.

Timetable:

Action	Date	FR Cite
NPRM	07/03/01	66 FR 35326
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4022

Sectors Affected: 324199 All Other Petroleum and Coal Products Manufacturing; 331111 Iron and Steel Mills

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RIN: 2060–AH55

3469. PROTECTION OF STRATOSPHERIC OZONE: ALLOWANCE SYSTEM FOR CONTROLLING HCFC PRODUCTION, IMPORT & EXPORT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 82.5(h); 40 CFR 82.6(h); 40 CFR 82.8; 40 CFR 82.4(n)-(s); 40 CFR 82.4(u)

Legal Deadline: None

Abstract: The Stratospheric Protection Division currently oversees an allowance allocation system for the class I ozone-depleting substances. An allowance allocation system for class II ozone-depleting substances or hydrochloroflurocarbons (HCFCs) had not been established prior to 1998 because consumption figures had hovered around 80% of the cap imposed by the Montreal Protocol in 1992. The HCFC consumption figures for 1999 indicate that the US is within 95% of the cap; the figures for 2000 were in the low 90s. Since the US is in danger of violating this cap if high HCFC consumption rates continue into 2001, the system for allocating allowances must be in place as soon as possible in order to control HCFC consumption for all four quarters of 2002.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/99	64 FR 16373
NPRM	07/20/01	66 FR 38064
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4120

Additional deadline: Montreal Protocol. The Protocol requires compliance with formulary caps of all Parties' consumption and production of HCFCs. The ANPRM and the NPRM are available on the Internet at: http://www.epa.gov/ozone/title6/phaseout/phaseout.html

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RIN: 2060–AH67

3470. NESHAP: POLYVINYL CHLORIDE AND COPOLYMERS PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the administrator of the EPA. The EPA has determined that some plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) is being developed for the polyvinyl chloride industry, to be promulgated by November 15, 2000.

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Timetable:

Action	Date	FR Cite
NPRM	12/08/00	65 FR 76958
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local

Additional Information: SAN No. 4114

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RIN: 2060–AH82

3471. PHASE I FEDERAL IMPLEMENTATION PLANS (FIPS) TO REDUCE THE REGIONAL TRANSPORT OF OZONE IN THE EASTERN UNITED STATES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 52; 40 CFR 97

Legal Deadline: NPRM, Statutory, EPA is required to promulgate FIPs by January 25.
NPRM, Statutory, 2003 unless States submit approvable plans.

Abstract: This action would promulgate Federal Implementation Plans (FIPs) which require nitrogen oxides (NOx) emissions decreases. The intended effect is to reduce the transport of ozone (smog) pollution and one of its main precursors — NOx — across State boundaries in the eastern half of the United States. On October 27, 1998, EPA published a final rule (the NOx SIP Call) which allowed States 12 months to develop, adopt, and submit revisions to their State Implementation Plans (SIPs) to address the transport problem. The Administrator is required to promulgate a FIP within 2 years of: (1) finding that a State has failed to make a required submittal or (2) finding that a submittal is not complete or (3) disapproving a SIP submittal. On June 22, 2000, the D.C. Court of Appeals assigned a new SIP submittal date of October 30, 2000. Eleven States (Virginia, West Virginia, Alabama, Kentucky, North Carolina, South Carolina, Tennessee, Illinois, Indiana, Michigan, and Ohio) and the District of Columbia had not submitted adequate SIPs, as announced in a findings rule published on December 26, 2000. EPA is continuing to work with these States to assist them in adopting State plans that meet the requirements of the NOx SIP Call; 4 States and D.C. recently submitted fully approvable plans. (Note: The FIPs discussed here will apply to all elements of the NOx SIP call that were not remanded to EPA by the court on March 3, 2000. The portions of the SIP call that were remanded to EPA will be covered under Phase 2 SIPs, and if necessary, separate FIP actions will be prepared for those.)

Timetable:

Action	Date	FR Cite
NPRM	10/21/98	63 FR 56393
Findings Rule	12/26/00	65 FR 81366
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: SAN No. 4096

NPRM-
http://www.epa.gov/fedrgstr/EPA-AIR/1998/October/Day-21/a26431.htm
Findings

Sectors Affected: 322122 Newsprint Mills; 322121 Paper (except Newsprint) Mills; 32213 Paperboard Mills; 32211 Pulp Mills; 325998 All Other Miscellaneous Chemical Product Manufacturing; 325131 Inorganic Dye and Pigment Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing; 325211 Plastics Material and Resin Manufacturing; 32511 Petrochemical Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing; 32512 Industrial Gas Manufacturing; 325199 All Other Basic Organic Chemical Manufacturing; 327211 Flat Glass Manufacturing; 327213 Glass Container Manufacturing; 327212 Other Pressed and Blown Glass and Glassware Manufacturing; 32731 Cement Manufacturing; 324199 All Other Petroleum and Coal Products Manufacturing; 331111 Iron and Steel Mills; 331221 Cold-Rolled Steel Shape Manufacturing; 33611 Automobile and Light Duty Motor Vehicle Manufacturing; 333618 Other Engine Equipment Manufacturing; 333415 Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing; 221122 Electric Power Distribution; 221112 Fossil Fuel Electric Power Generation; 221121 Electric Bulk Power Transmission and Control; 48621 Pipeline Transportation of Natural Gas; 221122 Electric Power Distribution; 221112 Fossil Fuel Electric Power Generation; 221121 Electric Bulk Power Transmission and Control; 22133 Steam and Air-Conditioning Supply

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RIN: 2060–AH87

3472. NESHAP: WET-FORMED FIBERGLASS MAT PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, April 1, 2001.

Abstract: The CAA required the EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the CAA and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emissions sources. The wet-formed fiberglass mat production industry is not included in

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the initial list of categories for standards development but information available to the Administrator suggests that the industry is a major source of HAP emissions and, as such, emission standards shall be developed for this industry. The standards are to be technology-based and are to require the maximum degree of reduction determined to be achievable by the Administrator. The EPA has determined that the wet-formed fiberglass mat production industry may be reasonably expected to emit one of the pollutants listed in section 112(b) of the CAA. The purpose of this action is to pursue a regulatory development program such that emission standards may be promulgated for this industry. Emission standards for this industry were proposed on May 26, 2000.

Timetable:

Action	Date	FR Cite
NPRM	05/26/00	65 FR 34278
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4082

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RIN: 2060–AH89

3473. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION ON THE 610 NONESSENTIAL PRODUCTS BAN

Priority: Other Significant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671-7671(q)

CFR Citation: 40 CFR 82(C)

Legal Deadline: None

Abstract: This action extends the current class I ban on the sale and distribution of nonessential uses of ozone-depleting substances where sufficient substitutes are already readily available. As part of the initial 1993 rulemaking, EPA banned the use of ozone-depleting substances in aerosols, pressurized dispensers, and foams where substitutes were available. Since that rulemaking was issued, the phaseout of production and consumption of class I substances has become effective and the Significant New Alternatives Policy (SNAP) Program under section 612 has been promulgated. The phaseout of newly manufactured class I substances and the identification of new acceptable substitutes for both class I and class II applications provide compelling reasons to reconsider the initial decisions regarding both product-specific exemptions and the decision to limit the ban's effect on major sectors that traditionally used ozone-depleting substances. Most domestic manufacturers have already incorporated the non-ozone-depleting substances in their products. The continued availability and use of ozone-depleting substances in parts and products manufactured abroad, which are sold or incorporated into larger products that are then sold into interstate commerce in the United States, negatively affects the competitiveness of domestic manufacturers who use substitute substances in their production. Therefore, it is appropriate to reconsider the applicability of the class I ban to both specific products and product categories. Amending these requirements would limit the potential use of ozone-depleting substances in applications where substitutes are available and thus, further protect the stratospheric ozone layer.

Timetable:

Action	Date	FR Cite
NPRM	06/14/99	64 FR 21772
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4077

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RIN: 2060–AH99

3474. REVISION TO THE DEFINITION OF VOLATILE ORGANIC COMPOUND (VOC) TO EXCLUDE TERTIARY BUTYL ACETATE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401-7671q

CFR Citation: 40 CFR 51.100(s)

Legal Deadline: None

Abstract: The definition of VOC is proposed to be revised to add tertiary butyl acetate to the list of negligibly reactive compounds. This is a deregulatory action that will remove tertiary butyl acetate from the necessity to be controlled as a VOC in SIPs for attaining the ozone standard. This is not expected to have a significant impact on small businesses or local governments.

Timetable:

Action	Date	FR Cite
NPRM	09/30/99	64 FR 52731
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4254

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RIN: 2060–AI45

3475. REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF STATE IMPLEMENTATION PLANS (GUIDELINE ON AIR QUALITY MODELS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410 CAAA sec 110(a)(2); CAAA sec 165(e); CAAA sec 172(a); CAAA sec 172(c); 42 USC

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7601 CAAA sec 301(a)(1); CAAA sec 320

CFR Citation: 40 CFR 51.112; 40 CFR 51.160; 40 CFR 51.166; 40 CFR 52.21

Legal Deadline: None

Abstract: This action proposes revisions to the Guideline on Air Quality Models, published as appendix W to 40 CFR part 51. Such models are used to predict ambient concentrations of pollutants for programs ranging from Prevention of Significant Deterioration (PSD) to State Implementation Plans (SIPs) for controlling air pollution sources. Appendix W to 40 CFR part 51 fulfills a Clean Air Act mandate for EPA to specify models for air management purposes. This proposed rulemaking enhances appendix W with new and/or improved techniques.

Timetable:

Action	Date	FR Cite
NPRM	04/21/00	65 FR 21505
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3470

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RIN: 2060–AF01

3476. NESHAP: PRIMARY COPPER SMELTING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The primary copper smelting industry is known to emit a number of the hazardous air pollutants listed in section 112 of the Clean Air Act. The industry is comprised of seven smelters located in four states. All have extensive control systems for oxides of sulfur and HAPs. However, fugitive emissions may cause several smelters to exceed major source levels.

Timetable:

Action	Date	FR Cite
NPRM	04/20/98	63 FR 19582
NPRM	06/26/00	65 FR 39326
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3340

NPRM-
http://www.epa.gov/fedrgstr/EPA-AIR/1998/April/Day-20/a10142.htm

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RIN: 2060–AE46

3477. NESHAP: INTEGRATED IRON AND STEEL

Priority: Other Significant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act, as amended November 1990, requires the EPA to regulate categories of major and area sources of hazardous air pollutants (HAP). The EPA has determined that integrated iron and steel mills emit several of the 188 HAP listed (including compounds of chromium, lead, manganese, toluene, and polycyclic organic matter) in quantities sufficient to designate them as major sources. As a consequence, integrated iron and steel facilities are among the HAP-emitting source categories selected for regulation.

Timetable:

Action	Date	FR Cite
NPRM	07/13/01	66 FR 36836
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3346

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RIN: 2060–AE48

3478. NESHAP: REINFORCED PLASTIC COMPOSITES PRODUCTION

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: Project is to develop a NESHAP for the source category which involves the manufacture of composite products involving thermoset resins and re-enforcements. Some of the specific products in the source category are tubs/showers, auto/truck parts, appliances, furniture, piping, construction materials, sporting goods using such materials, and intermediate compounds such as bulk molding compound and sheet molding compounds. The most common HAP in the resins used is styrene, which is present in polyester and vinylester resins as a monomer. Styrene is listed as a candidate urban area source HAP. So is methylene chloride, which is sometimes used for cleaning, and xylenes, which may appear in some mold release formulas. All HAP, except for methylene chloride, are also VOC's.

Timetable:

Action	Date	FR Cite
NPRM	08/02/01	66 FR 40324
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3326

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RIN: 2060–AE79

3479. AMENDMENTS TO GENERAL PROVISIONS SUBPARTS A AND B FOR 40 CFR 63

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA sec 112; PL 101-549

CFR Citation: 40 CFR 63.1-15; 40 CFR 63.50-56

Legal Deadline: None

Abstract: The General Provisions (subpart A) were promulgated on March 16, 1994 (59 FR 12408). The General Provisions create the technical and administrative framework and establish general procedures and criteria for implementing MACT standards. On May 16, 1994, six litigants filed petitions for EPA to review certain provisions of the General Provisions. Subpart B, the procedures for implementing section 112(j), was promulgated on May 26, 1994. In June, 1994 litigants filed petitions for EPA to review the promulgated procedures. As a result of the litigation, it is anticipated that a number of technical and administrative amendments to subpart A and B will be proposed.

Timetable:

Action	Date	FR Cite
NPRM	03/23/01	66 FR 16318
NPRM Comment Period End 60 day period	05/22/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 3551

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RIN: 2060–AF31

3480. NESHAP: PAINT STRIPPING OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The EPA has determined that paint stripping operations emit at least one of the HAP's listed in section 112(b) of the Clean Air Act. As a result, the source category was included on the initial list of HAP-emitting categories scheduled for promulgation within 10 years of enactment of the Act. There are several emission standards for other source categories (for example, aerospace manufacturing and wood furniture manufacturing) that already address emissions from paint stripping operations. We are currently in the process of determining if there are any other major sources of HAP emissions from paint stripping operations that are not already regulated. Furthermore, HAP emissions from paint stripping operations that are area sources will be regulated in the future as part of the urban air toxics strategy.

Timetable:

Action	Date	FR Cite
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3746

This action being addressed under SAN 3825, RIN 2060-AG56.

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RIN: 2060–AG26

3481. NESHAP: TIRE MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This is a 10-year MACT covering the HAP emissions from the manufacturing of Rubber tires. The emission sources associated with the rubber compound mixing (banbury); extruding calendaring; building; curing and finishing are covered in this MACT. Forty-one facilities have been initially identified. This includes approximately 35 facilities of at least 10 tpy and 26 facilities of at least 25 tpy. Emissions are primarily associated with rubber processing and the use of HAP-bearing solvent and cements. Several facilities have eliminated through substitution much of the HAP-bearing solvent and cements. However, evaluation of the MACT and separation of the rubber processing emissions from HAP-bearing solvents and cement will reduce the number of affected facilities to about 30. In addition, the tire cord coating operations will also be included. Typically these facilities are separate non-colocated operations. The major pollutant associated with tire cord is formaldehyde. There are approximately 12 affected major facilities.

Timetable:

Action	Date	FR Cite
NPRM	10/18/00	65 FR 62414
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3749

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EPA—Clean Air Act (CAA) **Final Rule Stage**

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RIN: 2060–AG29

3482. NESHAP: LARGE APPLIANCE (SURFACE COATING)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This regulation will apply to surface coating of large appliance products and parts. This regulation will reduce nationwide emissions of HAPs from surface coating of large appliances, a measure required by section 112 of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	12/22/00	65 FR 81133
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3823

Sectors Affected: 335222 Household Refrigerator and Home Freezer Manufacturing; 335221 Household Cooking Appliance Manufacturing; 335228 Other Major Household Appliance Manufacturing; 336391 Motor Vehicle Air-Conditioning Manufacturing; 333415 Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing; 333319 Other Commercial and Service Industry Machinery Manufacturing; 335212 Household Vacuum Cleaner Manufacturing; 333298 All Other Industrial Machinery Manufacturing; 335224 Household Laundry Equipment Manufacturing

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RIN: 2060–AG54

3483. NESHAP: METAL COIL (SURFACE COATING) INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants emitted by the metal coil surface coating industry. The Agency will study what pollutants are emitted and evaluate the control techniques, including pollution prevention, that are used to reduce these emissions. The Agency will also determine what, if any, impact the rule would have on small businesses.

Timetable:

Action	Date	FR Cite
NPRM	07/18/00	65 FR 44616
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3905

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RIN: 2060–AG97

3484. NESHAP: LEATHER FINISHING OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, May 1, 2001.

Abstract: Title III of the Clean Air Act requires EPA to develop air emission standards for facilities that emit any of the 189 hazardous air pollutants. This action will develop a MACT standard for sources involved in leather finishing operations. Facilities involved in these operations release over 1.7 million pounds of hazardous air pollutants per year. Regulation of these facilities will result in a reduction of the emissions of hazardous air pollutants, several of which are highly toxic.

Timetable:

Action	Date	FR Cite
NPRM	10/02/00	65 FR 58702
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3964

Sectors Affected: 31611 Leather and Hide Tanning and Finishing

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RIN: 2060–AH17

3485. IMPORTATION OF NONCONFORMING VEHICLES; AMENDMENTS TO REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7522 CAA sec 203; 42 USC 7525 CAA sec 206; 42 USC 7541 CAA sec 207; 42 USC 7542 CAA sec 208; 42 USC 7601 CAA sec 301; 42 USC 7522 CAA sec 203; 42 USC 7550 CAA sec 216; 42 USC 7601 CAA sec 301

EPA—Clean Air Act (CAA)

Final Rule Stage

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action will amend the regulations in 40 CFR part 85, subpart P to allow entry into the United States of vehicles which are originally sold in Canada and which are identical to their U.S. counterparts, without obtaining a certificate of conformity from EPA. This action is in response to a petition for review of import rules. The final rule also will address certain other issues in part 85, subpart P and subpart R, including: (1) formalizing a long-standing EPA policy regarding the importation of owned vehicles that are proven to be identical to a vehicle certified for sale in the United States (2) establishing new emission standards applicable to imported nonconforming vehicles; (3) clarifying the regulatory language that concerns exclusions and exemptions from meeting Federal emission requirements; and (4) providing several minor clarifications to the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/24/94	59 FR 13912
Supplemental NPRM	02/12/96	61 FR 5840
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 2665

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RIN: 2060–AI03

3486. PROTECTION OF STRATOSPHERIC OZONE: SUPPLEMENTAL RULE REGARDING A RECYCLING STANDARD UNDER SECTION 608

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq CAA sec 608

CFR Citation: 40 CFR 82 subpart F

Legal Deadline: None

Abstract: This rule will amend the recordkeeping aspects of the technician certification program, clarify aspects of a sales restriction, and adopt an updated version of ARI standard 740. The rule will also clarify the distinction between major and non-major repairs and amend several definitions, including small appliances. The rule also addresses the transfers of unreclaimed refrigerant between majority-owned and majority-controlled subsidiaries.

Timetable:

Action	Date	FR Cite
NPRM 1	02/29/96	61 FR 7858
NPRM	11/01/96	61 FR 56493
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local

Additional Information: SAN No. 3556

Additional SANs 3895, 3896. This rule will address a potential adoption of a more flexible method for cleaning refrigerants for refrigerant transferred between appliances with different ownership with a potential adoption of a 3rd party certification program for labs.

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RIN: 2060–AF36

3487. PROTECTION OF STRATOSPHERIC OZONE: REFRIGERANT RECYCLING RULE AMENDMENT TO INCLUDE SUBSTITUTE REFRIGERANTS

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq; 42 USC 7671(g) CAA sec 608

CFR Citation: 40 CFR 82(F)

Legal Deadline: None

Abstract: This action would facilitate fulfillment of the statutory mandate to apply the venting prohibition to substitute refrigerants. The action would provide regulations covering recovery/recycling equipment, recovery/recycling practices, and applicable certifications that would be required to accomplish compliance with the venting prohibition. Requirements would parallel those of the current section 608 regulations, expanding applicability, where appropriate, to substitute refrigerants.

Timetable:

Action	Date	FR Cite
NPRM	06/11/98	63 FR 32044
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Local

Additional Information: SAN No. 3560

NPRM-
http://www.epa.gov/fedrgstr/EPA-AIR/1998/June/Day-11/a15003.htm

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RIN: 2060–AF37

3488. PAPER AND OTHER WEB COATING NESHAP

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 59; 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action would result in the reduction of hazardous air pollutants (HAPs) emitted by the paper and other web coating industries. The Agency will study the various HAP and VOC pollutants emitted by the industry and will evaluate pollution prevention and control techniques which can reduce these emissions.

EPA—Clean Air Act (CAA)

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/13/00	65 FR 55332
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3827

Sectors Affected: 322211 Corrugated and Solid Fiber Box Manufacturing; 322212 Folding Paperboard Box Manufacturing; 322221 Coated and Laminated Packaging Paper and Plastics Film Manufacturing; 322222 Coated and Laminated Paper Manufacturing; 322223 Plastics, Foil, and Coated Paper Bag Manufacturing; 323111 Commercial Gravure Printing; 323116 Manifold Business Form Printing

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RIN: 2060–AG58

3489. SOURCE-SPECIFIC FEDERAL IMPLEMENTATION PLAN FOR NAVAJO GENERATING STATION; NAVAJO NATION

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 49 CFR 123

Legal Deadline: None

Abstract: EPA proposes to federalize standards from the Arizona and New Mexico State Implementation Plans (SIPS) applicable to the Navajo generating station. Where necessary, EPA's proposed emission standards modify the standards extracted from the States' regulatory programs to ensure comprehensive emission control and Federal consistency.

Timetable:

Action	Date	FR Cite
NPRM	09/08/99	64 FR 48725
Notice	01/26/00	65 FR 4244
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4315

Formerly listed as RIN 2060-AI79

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RIN: 2009–AA00

3490. NESHAP: GENERIC MACT FOR CARBON BLACK, ETHYLENE, CYNAIDE AND SPANDEX

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, May 1, 2001.

Abstract: Several of the source categories that are subject to MACT (maximum achievable control technology) standards contain only a few sources (e.g., less than five). For such categories, EPA plans to develop a generic MACT standard for these source categories. Given the relatively few affected sources caught by the generic standard, the overall cost and environmental effects of this action are expected to be small, nationally.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76408
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4105

Sectors Affected: 325182 Carbon Black Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing

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RIN: 2060–AH68

3491. NESHAP FOR ETHYLENE OXIDE COMMERCIAL STERILIZATION OPERATIONS-MONITORING AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The proposed amendments will correct technical problems associated with both the emission limits (because of safety issues) and the compliance testing and monitoring requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/06/01	66 FR 13464
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Additional Information: SAN No. 4316

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RIN: 2060–AI64

EPA—Clean Air Act (CAA) Final Rule Stage

3492. PETITIONS TO DELIST HAZARDOUS AIR POLLUTANTS (E.G., MEK, EGBE, METHANOL, AND MIBK) FROM SECTION 112(B)(1) OF THE CAA

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Section 112(b)(3)

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, February 28, 2000.

Abstract: The Agency has received 4 petitions to remove certain pollutants (i.e., methanol, methyl ethyl ketone, ethylene glycol butyl ether, and methyl isobutyl ketone) from the list of hazardous air pollutants (HAPs) under Section 112(b) of the Clean Air Act. The Agency must review the petitions and either grant or deny the petition within 18 months of the date the complete petition was received. If the Agency grants a petition, a notice of proposed rulemaking will be published in the Federal Register, allowing the opportunity for public comment. If the Agency denies a petition, a notice of denial will be published in the Federal Register providing an explanation for such denial. If the Agency grants a petition and ultimately removes the pollutant from the HAP list then sources emitting such pollutants would not be required to meet MACT emissions standards for the pollutant. If on the other hand, the Agency denies the petition, then MACT standards would be issued as currently planned under Section 112(c) and 112(d) of the Clean Air Act for sources emitting such pollutants. Depending on the 4 individual determinations, the Agency will issue separate notices for each.

Timetable:

Action	Date	FR Cite
Denial Notice: Methanol Petition -- Final Action	05/02/01	66 FR 21929
Final Actions on the Other 3 Petitions Are Expected by This Date	07/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4313

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RIN: 2060–AI72

3493. AMEND SUBPART H AND I, 40 CFR PART 61, FOR EMISSIONS OF RADIONUCLIDES OTHER THAN RADON FROM DOE FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA 112(g) (q); PL 95-95

CFR Citation: 40 CFR 61.93(a); 40 CFR 61.93(b)(2)(ii)

Legal Deadline: None

Abstract: Subparts H and I of 40 CFR part 61 establish limits, under the Clean Air Act, for radionuclide emissions (other than radon) from Department of Energy (DOE) and other non-DOE federal facilities. These Subparts require emission sampling, monitoring, and calculations to identify compliance with the standard. The current air sampling methodology required by the standards is embodied in ANSI-N13.1-1969, a consensus guidance document that is incorporated by reference in EPA's standards. That guidance was updated in 1999, and contains new technical recommendations (that differ from the 1969 version) for obtaining representative air samples. In this rule, EPA is updating subparts H and I to incorporate the new sampling guidance, ANSI-N13.1-1999, and require its use for new facilities and for those undergoing significant changes to ventilation systems. Existing facilities will be allowed to continue sampling in accordance with the current requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/09/00	65 FR 29934
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4273

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RIN: 2060–AI90

3494. REVISION TO METHOD 24 FOR ELECTRICAL INSULATING VARNISHES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7411; 42 USC 7414; 42 USC 7416; 42 USC 7601

CFR Citation: 40 CFR 60 (Revision)

Legal Deadline: None

Abstract: The purpose of this action is to revise Method 24 to allow the use of American Society for Testing and Materials' Method D6053-96 to measure the volatile organic content of electrical insulating varnishes. Method 24 as currently written is not applicable to these types of coatings. This action will ensure consistency in testing these coatings for determining compliance with current regulations. We do not anticipate any impact on small business or State/local/tribal governments.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4299

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RIN: 2060–AI94

3495. NESHAP FOR FLEXIBLE POLYURETHANE FOAM FABRICATION OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 7401 et seq

EPA—Clean Air Act (CAA)

Final Rule Stage

CFR Citation: 40 CFR 63 (Revision)

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act (CAA) requires development of emission standards for major sources emitting any of the hazardous air pollutants (HAP) listed in section 112(b) of the CAA. The EPA is proposing a rule to reduce emissions of toxic air pollutants from flexible polyurethane foam fabrication operations. Toxic air pollutants, or air toxics, are those pollutants known, or suspected, to cause cancer and other serious health problems. This proposal focuses on reducing air toxics emitted from two foam fabrication emission sources: 1) loop slitter adhesive use, which includes processes that use adhesives to bond foam to foam or to other substrates (i.e., cloth, foam, plastic, and other materials) using scorched or melted foam.

Timetable:

Action	Date	FR Cite
NPRM	08/08/01	66 FR 41718
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4449

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RIN: 2060–AJ19

3496. PROTECTION OF STRATOSPHERIC OZONE: PHASEOUT OF CHLOROBROMOMETHANE (HALON 1011) PRODUCTION AND CONSUMPTION

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: Final, Statutory, December 31, 2001, See additional information.

Abstract: EPA is amending its regulations for the production and import of ozone-depleting substances (ODSs). Through this action, EPA implements certain amendments made in 1999 (Beijing Amendments) to the Montreal Protocol (Protocol). This action implements the elements of the Beijing Amendments that add control measures for the chemical chlorobromomethane (CBM). Consistent with the Beijing Amendments, this action adds CBM to the list of substances addressed by production and consumption controls of both the Montreal Protocol and EPA's regulations under the Clean Air Act Amendments of 1990 (CAAA). The action creates a new group of class I substances, places CBM in this new group, and, consistent with the Beijing Amendments, designates the value of CBM's "ozone depleting potential" (ODP) as 0.12. This action establishes a phaseout of CBM production and import to be effective as of January 1, 2002. No allowances for production of CBM to meet "basic domestic needs" of Article 5 countries are provided in this action. Consistent with the Beijing Amendments, the action also bans trade in CBM with countries which are not parties to or in compliance with the Beijing Amendments. This action imposes recordkeeping and reporting requirements associated with production, import, export, destruction, transhipment, essential uses and feedstock uses of CBM, but these requirements would not become effective until EPA's information collection request has been finalized. The ban does not apply to CBM production for use as a feedstock or for destruction. The ban also does not apply to CBM imports for use as a feedstock or for destruction, or to CBM imports of transhipments and heels, as long as those imports are from countries that are a party to or in compliance with the Beijing Amendments.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4428

Statutory Legal Description: The Montreal Protocol as amended (1999) requires CBM to be phased out beginning 1/1/02. Therefore the U.S. intends to issue a direct final rule by 12/31/01.

Sectors Affected: 115114 Postharvest Crop Activities (except Cotton Ginning); 3112 Grain and Oilseed Milling; 322 Paper Manufacturing; 325 Chemical Manufacturing; 3333 Commercial and Service Industry Machinery Manufacturing

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RIN: 2060–AJ27

3497. NESHAP FOR SOURCE CATEGORIES: PHOSPHORIC ACID MANUFACTURING AND PHOSPHATE FERTILIZERS PRODUCTION — AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549 sec 112

CFR Citation: 40 CFR 63 subparts AA to BB

Legal Deadline: None

Abstract: The rules are being amended to resolve specific issues and questions raised after promulgation. The changes do not change the projections for environmental benefits, compliance costs, burden on industry, or the number of affected facilities. There are no impacts on small businesses, State, local, or tribal governments. These amendments do not raise any cross-media issues.

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

EPA—Clean Air Act (CAA)

Final Rule Stage

Additional Information: SAN No. 4442

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RIN: 2060–AJ29

3498. GUIDELINES FOR BEST AVAILABLE RETROFIT TECHNOLOGY (BART)

Priority: Other Significant

Legal Authority: 42 USC 7410; 42 USC 7414; 42 USC 7421; 42 USC 7470 to 7479; 42 USC 7491; 42 USC 7492; 42 USC 7601; 42 USC 7602

CFR Citation: 40 CFR 51.308(e)(1); 40 CFR 51 app Y (New)

Legal Deadline: None

Abstract: To meet the Clean Air Act's requirements, final regional haze regulations were published in the Federal Register on July 1, 1999 (64 FR 35714). These regulations include, in section 51.308(e), a requirement for best available retrofit technology (BART) for certain types of existing stationary sources of air pollutants. In the preamble to regional haze rule, we committed to issuing further guidelines to clarify the BART requirements. The purpose of this rulemaking is to provide those BART guidelines.

Timetable:

Action	Date	FR Cite
NPRM	07/20/01	66 FR 38108
Final Action	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4450

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RIN: 2060–AJ31

3499. STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES: MUNICIPAL SOLID WASTE LANDFILLS: AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7411; 42 USC 7414; 42 USC 7416; 42 USC 7429; 42 USC 7601

CFR Citation: 40 CFR 60.750; 40 CFR 60.751; 40 CFR 60.752(b)(2)(iii)(B); 40 CFR 60.752(b)(2)(iii)(C); 40 CFR 60.752(b)(2)(iii)(D); 40 CFR 60758

Legal Deadline: None

Abstract: This action will amend the existing regulation entitled Standards of Performance for New Stationary Sources: Municipal Solid Waste Landfills, subpart WWW of 40 CFR Part 60, promulgated on March 12, 1996. The amendment is being undertaken in response to requests to clarify our intent regarding what constitutes an adequate landfill gas treatment system. This action also clarifies our intent to exempt from control landfill gas that is treated/upgraded to pipeline quality natural gas. Furthermore, it clarifies who is responsible for control of untreated landfill gas that is sold. This action is necessary to clarify our intent regarding the issues discussed above. It will improve implementation and compliance with this regulation. There are no internal issues involved with the proposed amendment, and we anticipate no significant adverse reaction related to this action from regulators or environmentalists. Industry may comment on the landfill gas treatment language but in general supports the amendments.

Timetable:

Action	Date	FR Cite
Final Action NSPS: Municipal Solid Waste Landfills	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4478

Sectors Affected: 562212 Solid Waste Landfill

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RIN: 2060–AJ41

3500. REVISIONS TO THE PART 97 FEDERAL NOX BUDGET TRADING PROGRAM, THE PART 75 EMISSIONS MONITORING PROVISIONS, THE PART 72 PERMITS REGULATION PROVISIONS, AND THE PART 78 APPEAL PROCEDURES

Priority: Other Significant

Legal Authority: 42 USC 7601; 42 USC 7651 et seq; 42 USC 7401; 42 USC 7403:; 42 USC 7426

CFR Citation: 40 CFR 75 (Revision); 40 CFR 97 (Revision)

Legal Deadline: None

Abstract: The purpose of these proposed revisions is to modify existing procedures for monitoring and reporting NOx and SO2 emissions for sources affected by the Acid Rain Program, the Federal NOx Budget Trading Program, and the October 27, 1998 NOx SIP call. The proposed changes will: streamline part 75 by removing outdated provisions and give electricity generators added flexibility with the monitoring and reporting requirements; tighten the calibration error limit for some units to be more in line with industry's current accepted technical specifications; make technical corrections and changes necessary to correct printing, typographical, and grammatical errors in existing rules; and correct/clarify cross references between the subject Parts to ensure consistency among the rules.

Timetable:

Action	Date	FR Cite
NPRM	06/13/01	66 FR 31978
Final Action	12/00/01	

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EPA—Clean Air Act (CAA) — Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4538

Split from RIN 2060-AJ30.

Sectors Affected: 221111 Hydroelectric Power Generation

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RIN: 2060–AJ43

3501. FEDERAL PLAN FOR SMALL MUNICIPAL WASTE COMBUSTION UNITS

Priority: Substantive, Nonsignificant

Legal Authority: 1990 Amendments to the Clean Air Act; sections 111(d) 129 and 301(a)(d)

CFR Citation: 40 CFR 62 (New)

Legal Deadline: None

Abstract: The Clean Air Act Amendments of 1990 directed the EPA to set emission guidelines for existing municipal waste combustion units (MWCs) under sections 111 and 129. On 12/19/95, the EPA adopted emission guidelines for MWCs under the authority of sections 111(d) and 129 of the Clean Air Act. These emission guidelines covered all MWC units located at plants with an aggregate plant combustion capacity larger than 35 tons per day of municipal solid waste. Subsequent litigation cancelled the emission guidelines for small MWC units, but the Court directed EPA to adopt a new rule for small MWC units. This rule was adopted on December 6, 2000. This action is a follow-on activity to this rulemaking. In this proposed MWC Federal Plan for small units, EPA becomes the implementing authority in those instances where the state or local agency fails to submit a plan or a plan has not yet been approved. This action makes no changes to the rule and is intended to fulfill EPA's duty under pection 129(b)(3) to promulgate a Federal Plan as a gap-filling measure until the State fulfills its statutory obligations. When the State submits an approvable State plan, the Federal plan will no longer apply to units in the State.

Timetable:

Action	Date	FR Cite
NPRM	06/14/01	66 FR 32484
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: SAN No. 4454

About half the small municpal waste combustor owners are local governments.

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RIN: 2060–AJ46

3502. SECTION 126 RULE REVISION CORRECTING NOX ALLOWANCE ALLOCATIONS FOR CERTAIN UNITS IN THE FEDERAL NOX BUDGET TRADING PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7403; 42 USC 4726; 42 USC 7601

CFR Citation: 40 CFR 95.42(g)(2); 40 CFR 97.43(c)(9)(new); 40 CFR 97.43(a)

Legal Deadline: Final, Judicial, September 15, 2001, Deadline for signing of final rule under settlements of litigation.

Abstract: These rule revisions will correct NOx allowance allocations for certain units in the Federal NOx Budget Trading Program under section 126 of the Clean Air Act. Most of the corrections are under settlement agreements between EPA and owners of the units. The rule revisions also propose to authorize the Administrator to make similar corrections in the future by order, rather than by rule.

Timetable:

Action	Date	FR Cite
NPRM	12/21/00	65 FR 80398
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4491

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RIN: 2060–AJ47

3503. STANDARDS OF PERFORMANCE FOR NEW SOURCES AND EMISSION GUIDELINES FOR EXISTING SOURCES: LARGE MUNICIPAL WASTE COMBUSTORS AMENDMENT OF STARTUP, SHUTDOWN, AND MALFUNCTION PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7429

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This direct final action will amend the provisions limiting startup, shutdown, and malfunction to 3 hours per occurrence to provide more time for shutdown as a result of specific malfunctions (i.e., waterwall tube failure, grate failure, and combustion air fan failure). This is a narrow technical amendment responding to new information that came in after the original rule was promulgated.

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4507

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EPA—Clean Air Act (CAA)

Final Rule Stage

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RIN: 2060–AJ52

3504. STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES: VOLATILE ORGANIC LIQUID STORAGE VESSELS; AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7411; 42 USC 7414; 42 USC 7416; 42 USC 7601

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This direct final action revises existing standards for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) by amending the storage vessel volume applicability criteria and adding a vapor pressure applicability criterion. This is a narrow technical amendment responding to new information that came in after the original rule was promulgated.

Timetable:

Action	Date	FR Cite
Direct Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4508

Sectors Affected: 325 Chemical Manufacturing; 324 Petroleum and Coal Products Manufacturing; 42271 Petroleum Bulk Stations and Terminals

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RIN: 2060–AJ53

3505. MODIFICATION OF THE ANTI-DUMPING BASELINE DATE CUT-OFF LIMIT FOR DATA USED IN DEVELOPMENT OF AN INDIVIDUAL BASELINE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7521(l); 42 USC 7545; 42 USC 7601(a)

CFR Citation: 40 CFR 80.91(b)(1)(i); 40 CFR 80.93(a)

Legal Deadline: None

Abstract: The goal of the anti-dumping program is to maintain gasoline quality throughout the country. Without the program, as refiners produce cleaner, reformulated gasoline for certain localities under the Clean Air Act, they could take the chemicals removed and "dump" them into supplies of "ordinary" non-reformulated gasoline as a cost-saving measure. The anti-dumping program prohibits this. This rule amends the existing anti-dumping program to accommodate certain refiners with unusual data problems.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4528

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RIN: 2060–AJ59

3506. CHANGE IN THE DEFINITION OF MAJOR SOURCE FOR OPERATING PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 70.2

Legal Deadline: None

Abstract: This action would remove the requirement for sources to count fugitive emissions (such as equipment leaks) when determining major source status if they are in categories subject to standards under section 111 or 112 promulgated after August 7, 1980. Making this change removes impediments to full approval of permit programs in several States and facilitates compliance with a settlement agreement with environmental groups. This action was proposed in 1994 and reproposed in 1995, after which work was stopped due to other priorities. It is now being re-tiered because so much time has elapsed since proposal.

Timetable:

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44460
NPRM	08/31/95	60 FR 45529
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4529

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RIN: 2060–AJ60

3507. • CONTROL OF HAZARDOUS AIR POLLUTANTS FROM MOBILE SOURCES; CORRECTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7521(l); 42 USC 7545; 42 USC 7601(a)

CFR Citation: 40 CFR 80.81(a)(1)

Legal Deadline: None

Abstract: This rule corrects a final regulatory action which was published in the Federal Register on March 29, 2001 (66 FR 17230). The correction consists of restoring a paragraph that was inadvertently omitted when the final rule was published.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4554

EPA—Clean Air Act (CAA) — Final Rule Stage

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RIN: 2060–AJ67

3508. • CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES; SECOND AMENDMENT TO THE TIER 2/GASOLINE SULFUR REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7545; 42 USC 7601(a); 42 USC 7401 to 7521(l); 42 USC 7521(m) to 7671q

CFR Citation: 40 CFR 80; 40 CFR 86

Legal Deadline: None

Abstract: This direct final rule (and concurrent proposal) corrects, amends, and revises certain provisions of the Tier 2/Gasoline Sulfur regulations to assist regulated entities with program implementation and compliance. First, it makes minor corrections to clarify the regulations governing compliance with the gasoline sulfur standards. Second, with respect to the low sulfur gasoline program, it removes the anti-backsliding provision of the Geographic Phase-in Area (GPA) program by establishing a flat GPA gasoline standard of 150 ppm sulfur. Third, it amends certain provisions of the Averaging, Banking, and Trading (ABT) programs to assist domestic and foreign refiners and importers in generating sulfur credits and allotments. Fourth, it clarifies and amends certain downstream standards for parties in the gasoline distribution system to assist them with program compliance. Finally, today's action makes minor revisions to the regulations governing compliance with the vehicle standards.

Timetable:

Action	Date	FR Cite
Direct Final Rule and Concurrent NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4569

Sectors Affected: 336111 Automobile Manufacturing; 336112 Light Truck and Utility Vehicle Manufacturing

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RIN: 2060–AJ71

3509. • MODIFICATION OF THE ANTI-DUMPING BASELINE DATE CUT-OFF LIMIT FOR DATA USED IN DEVELOPMENT OF AN INDIVIDUAL BASELINE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7521(1); 42 USC 7545; 42 USC 7601(a)

CFR Citation: 40 CFR 80.91(b)(1)(i); 40 CFR 80.93(a)

Legal Deadline: None

Abstract: "Dumping" refers to the practice whereby refiners making clean fuels for certain markets (such as reformulated gasoline for clean-air purposes) take the pollutants removed from the clean fuels and "dump" them into other fuels they are producing for other markets. This, if allowed, would make those other fuels even dirtier than before, and so the Clean Air Act prohibits this practice. EPA has existing "anti-dumping" rules on the books that codify this Clean Air Act prohibition. This regulation is a minor technical amendment to those existing regulations. It would amend a portion of those regulations to allow the use of data collected after January 1, 1995 in the development of baselines, and it would establish a cut-off date of January 1, 2002 for the submission of all individual baselines under the anti-dumping program. This date is the same as that allowed for foreign refineries seeking a unique individual baseline under the anti-dumping program.)

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4604

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RIN: 2060–AJ82

3510. • COMPILATION OF SOURCE-SPECIFIC ALTERNATIVE METHODS BEING APPROVED FOR SOURCE-CATEGORY WIDE APPLICATION

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Sources have applied for approval of alternative test methods for use at their facility. The Agency has approved these methods and issued letters of approval to each requestor. The Agency has determined that these methods could be used at similar sources, thus giving those sources an alternative test method to the one cited in the regulation. This action seeks to publish these facility-specific approvals in order to provide other facilities within the source category the option of using the alternative method.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4548

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EPA—Clean Air Act (CAA) **Final Rule Stage**

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RIN: 2060–AJ84

3511. • STATE AND FEDERAL OPERATING PERMITS PROGRAM: REMOVAL OF AMENDMENTS TO PART 70 AND PART 71 COMPLIANCE CERTIFICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414a; 42 USC 7661 to 7661f

CFR Citation: 40 CFR 70; 40 CFR 71 (Revisions)

Legal Deadline: None

Abstract: Action is in response to the October 29, 1999, United States Circuit Court of Appeals decision to remand to EPA part of the October 22, 1997, Compliance Assurance Monitoring rulemaking that included revisions to parts 70 and 71 compliance certification requirements. The Court ruled that the compliance certification must address whether the affected facility has been in continuous or intermittent compliance.

Timetable:

Action	Date	FR Cite
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4600

Split from RIN 2060-AJ04

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RIN: 2060–AJ89

3512. PROJECT XL SITE-SPECIFIC RULEMAKING FOR ANDERSEN CORPORATION'S FACILITY IN BAYPORT, MINNESOTA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 740 to 7671q

CFR Citation: 40 CFR 52

Legal Deadline: None

Abstract: The proposed rule would implement a project under the Project XL program for the Andersen Corporation facility located in Bayport, Minnesota. The terms of the project are defined in a draft Final Project Agreement (FPA) which is being made available for public review and comment by the Federal Register notice. The proposed site-specific rule, applicable only to the Andersen Bayport facility, would facilitate implementation of the project. Through the notice, EPA solicits comment on the proposed rule, the draft FPA, and the project generally. The proposed site-specific rule is intended to provide regulatory changes under the Clean Air Act (CAA or the Act) to implement Andersen's XL project, which will result in superior environmental performance and, at the same time, provide Andersen with greater operational flexibility. The proposed site-specific rule would change some of the CAA requirements which apply to the Andersen Bayport facility for the Prevention of Significant Deterioration (PSD) program, in particular existing synthetic minor limits that apply to some VOC sources in the Bayport facility. Synthetic minor limits are operational and control limitations which serve to limit the net emissions increase associated with proposed new or modified units or systems to less than the applicable significance level and thereby keep them out of PSD review.

Timetable:

Action	Date	FR Cite
NPRM	04/19/99	64 FR 19097
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4278

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RIN: 2090–AA21

Environmental Protection Agency (EPA)
Clean Air Act (CAA) **Long-Term Actions**

3513. REVISED PERMIT REVISION PROCEDURES FOR THE FEDERAL OPERATING PERMITS PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7661(a)(d)(3)

CFR Citation: 40 CFR 71.7

Legal Deadline: None

Abstract: The proposed regulatory change would streamline permit revisions procedures for stationary air sources that are subject to the Federal operating permits program. The Agency does not anticipate any significant impact on small businesses and State/local/tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	03/00/04	
Final Action	03/00/05	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 3922

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RIN: 2060–AG92

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EPA—Clean Air Act (CAA) Long-Term Actions

3514. ADDITION OF OPACITY METHOD TO APPENDIX M OF 40 CFR PART 51 (METHOD 203)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: Final, Statutory, June 15, 2001.

Abstract: This rulemaking proposes to add a method, Method 203, for the measurement of opacity from stationary sources, to appendix M (Example Test Methods for State Implementation Plans) in 40 CFR part 51. This action provides States with an instrumental test method which can be used in determining, on a continuous basis, compliance with stationary source opacity emission limitations.

Timetable:

Action	Date	FR Cite
NPRM	10/07/92	57 FR 46114
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3958

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RIN: 2060–AH23

3515. REVIEW OF MINOR NEW SOURCES AND MODIFICATIONS IN INDIAN COUNTRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7410

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: As required by the Clean Air Act's New Source Review (NSR) provisions, the EPA is proposing Federal regulations governing preconstruction permitting of minor and major stationary sources of air pollution in Indian country. Pursuant to the Tribal Air Rule, eligible Indian tribes may receive EPA authorization to develop and implement such programs. The Federal NSR permitting programs would be effective throughout Indian country and would be implemented by EPA if eligible Indian tribes do not elect, or do not receive authorization, to manage such programs. The proposed Federal minor NSR rule would require sources in Indian country, with certain exceptions, to obtain a permit prior to construction if they are: (1) new minor sources, (2) existing minor sources undergoing modification, or (3) existing major sources undergoing minor modification. The proposed rule also would allow new or existing stationary sources to accept enforceable limits on their production capacity or hours of operation in order to be considered minor sources and avoid being subject to other Clean Air Act requirements such as the title V operating permit program. The proposed Federal major NSR rule would require sources in nonattainment areas in Indian country to obtain a permit prior to construction if they are: (1) new major sources, or (2) existing major sources undergoing major modification. These rules would not impose any mandates on tribal governments to implement NSR permitting programs. Tribal governments may be affected, however, insofar as they own or operate sources that must obtain a permit from the EPA under the final Federal permitting program regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	
Final Action	11/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, Tribal

Additional Information: SAN No. 3975

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RIN: 2060–AH37

3516. FEDERAL MAJOR NEW SOURCE REVIEW (NSR) PROGRAM FOR NONATTAINMENT AREAS

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 124; 40 CFR 51.165; 40 CFR 52.10; 40 CFR 52.24

Legal Deadline: None

Abstract: The Clean Air Act (Act) (title I, part D) requires that construction permit programs for new or modified major stationary sources of air pollution be established for areas not attaining the NAAQS. This action will add Federal rules at 40 CFR 52.10 for permitting the construction of new or modified major stationary sources in certain nonattainment areas where State, local, or tribal rules in whole or in part are not in place that meet the statutory permitting requirements. These rules will basically incorporate the requirements for State nonattainment NSR permit programs, codified at 40 CFR 51.165(a), with supplemental provisions added to make explicit the permit requirements of section 173 of the Act and certain long-standing policies regarding nonattainment NSR permitting. This action will also change 40 CFR 52.24 to specify that the requirements of 40 CFR 52.10 govern any permits issued in certain nonattainment areas where acceptable nonattainment NSR rules are not in place. Changes to 40 CFR part 124 will specify that the permit processing, public participation, and permit appeal requirements that otherwise apply to Federal PSD permitting will also apply, in most cases, to Federal nonattainment NSR permitting under 40 CFR 52.10.

Timetable:

Action	Date	FR Cite
NPRM	07/00/03	
Final Action	07/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Local, Tribal

Federalism: Undetermined

Additional Information: SAN No. 4046

EPA—Clean Air Act (CAA) **Long-Term Actions**

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RIN: 2060–AH53

3517. GENERAL CONFORMITY REGULATIONS; REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401-7671

CFR Citation: 40 CFR 51.850 to 51.860; 40 CFR 93.150 to 93.160

Legal Deadline: None

Abstract: Section 176(c) of the Clean Air Act prohibits Federal entities from taking actions which do not conform to the State implementation plan (SIP) for the attainment and maintenance of the national ambient air quality standards (NAAQS). In November 1993, EPA promulgated two sets of regulations to implement section 176(c). First, on November 24, EPA promulgated the Transportation Conformity Regulations to establish the criteria and procedures for determining that transportation plans, programs, and projects which are funded under title 23 U.S.C. or the Federal Transit Act conform with the SIP. Then, on November 30, EPA promulgated regulations, known as the General Conformity Regulations, to ensure that other Federal actions also conformed to the SIPs. Since 1993, EPA has amended the transportation conformity rule three times in response to stakeholders' requests. The EPA is working on a separate revision to address transportation conformity in transitional areas which will be final by December 1998. The EPA has not reviewed or revised the General Conformity Regulations since their 1993 promulgation. Several Federal agencies have identified concerns over the implementation of the General Conformity Regulations, including the requirements for areas designated nonattainment for the newly promulgated NAAQS. In conjunction with an ad hoc work group of representatives from several Federal agencies, EPA will review the implementation of the General Conformity Regulations. The EPA will then propose and promulgate any appropriate revision to those regulations.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Federalism: Undetermined

Additional Information: SAN No. 4070

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RIN: 2060–AH93

3518. REVISIONS TO AIR POLLUTION EMERGENCY EPISODE REQUIREMENTS (SUBPART H, 40 CFR PART 51)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410(a)(2)(G); 42 USC 7603

CFR Citation: 40 CFR 51 app L; 40 CFR 51.150 to 51.153

Legal Deadline: None

Abstract: 40 CFR part 51.150-51.153 require States to have contingency plans to prevent air pollution levels from reaching the significant harm level (SHL) for CO, O3, SO2, NOx, and PM. Appendix L provides example guidance to the States on appropriate courses of action to take at each episode stage (i.e., alert, warning, and emergency) to ensure the SHL is not reached. These requirements were developed in the 1970's, based on the NAAQS from that era. Since that time, ambient air quality levels have decreased nationwide. Today, many areas/sources that no longer need episode plans must still develop them. This rule would update and simplify the criteria used to determine which areas would require episode plans. Areas with no more than one exceedance of the Alert level over the past 5 years would not need to develop emergency episode plans. Sources with the potential to cause exceedances of the SHL due to a process/control equipment malfunction would need to develop source contingency plans to prevent (and to respond to) such malfunctions. Appendix L would also be revised to reflect the revised program requirements. The result will be a sensible, credible program replacing an outdated program.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4247

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RIN: 2060–AI47

3519. REVISION OF EPA'S RADIOLOGICAL EMERGENCY RESPONSE PLAN

Priority: Substantive, Nonsignificant

Legal Authority: EO 12777; PL 96-295 Sec 304

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The U.S. Environmental Protection Agency (EPA) Radiological Emergency Response Plan (RERP) establishes a framework for timely, coordinated EPA action to protect public health and safety and the environment in response to a peacetime radiological incident. The original EPA RERP was approved in 1986. This new revision updates authorities, responsibilities, capabilities, and procedures for implementing effective radiological emergency response actions by EPA Offices. The RERP presents the EPA organizational structure and concept of operations for responding to radiological incidents as a participant in a Federal multi-agency response using the Federal Radiological Emergency Response Plan (FRERP) and the Federal Response Plan (FRP), and

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the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This revision incorporates recent changes to the FRERP and NCP, and many other policy updates. In short, this revision ensures that EPA maintains a comprehensive strategy to provide organized, effective assistance to State and local governments in the event of a radiological emergency.

Timetable:

Action	Date	FR Cite
Final Plan	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3638

Was previously listed in the Regulatory Agenda as RIN 2060-AF85.

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RIN: 2060–AI49

3520. NESHAP: OIL AND NATURAL GAS PRODUCTION

Priority: Other Significant

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: On February 2, 1998, we proposed NESHAP for oil and gas production (major sources), oil and gas production (area sources), and natural gas transmission and storage in one package. On June 17, 1999, we promulgated NESHAP for oil and gas production (major sources) and natural gas transmission and storage. In this action, we will publish a supplemental proposal for the oil and gas production glycol dehydrators (area sources) and subsequently promulgate the proposal.

Timetable:

Action	Date	FR Cite
Supplemental NPRM	06/00/03	
Final Action	06/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 4162

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RIN: 2060–AI13

3521. FIELD CITATION PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7413(d) CAA sec 113(d)

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: The Clean Air Act Amendments give EPA the authority to issue on-the-spot field citations for minor violations of the Clean Air Act, with penalties of up to $5,000 per day of violation. Section 113(d) of the Act requires the field citation program to be implemented through regulations which provide the informal hearing procedures. These hearing procedures are not required to be as rigorous as those imposed by the Administrative Procedures Act (APA), but nevertheless must provide due process. Agency guidance providing appropriate penalties for specific minor violations will be prepared for EPA employees and made available to the regulated community. Training on the issuance of field citations will also be developed.

Timetable:

Action	Date	FR Cite
NPRM	05/03/94	59 FR 22776
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Federalism: Undetermined

Additional Information: SAN No. 2937

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RIN: 2020–AA32

3522. NSPS AND EMISSION GUIDELINES FOR OTHER SOLID WASTE INCINERATORS

Priority: Other Significant

Legal Authority: 42 USC 7509 CAA sec 129

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: Section 129 of the Clean Air Act of 1990 requires the Agency to promulgate New Source Performance Standards (NSPS) and Emission Guidelines (EG) for solid waste incinerators. Section 129 specifically required the Administrator to publish a schedule for regulating Other Solid Waste Incinerators (OSWI). A notice published on November 9, 2000 announced that the Administrator would promulgate OSWI standards by November 15, 2005. The notice also listed what classes of incinerators might be covered by the OSWI standards. Standards will be set for the following pollutants: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead cadmium, mercury, and dioxins and dibenzofurans.

Timetable:

Action	Date	FR Cite
ANPRM	11/09/00	65 FR 66850
NPRM	11/00/04	
Final Action	11/00/05	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: SAN No. 3751

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EPA—Clean Air Act (CAA) **Long-Term Actions**

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3523. PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY: PERMIT APPLICATION REVIEW PROCEDURES FOR NON-FEDERAL CLASS I AREAS

Priority: Other Significant

Legal Authority: 42 USC 7670-7479 CAA sec 160-169

CFR Citation: 40 CFR 51.166; 40 CFR 52.21

Legal Deadline: None

Abstract: Under the Clean Air Act's prevention of significant deterioration (PSD) program, a State or tribe may redesignate their lands as class I areas to provide enhanced protection for their air quality resources. This rule will clarify the PSD permit review procedures for new and modified major stationary sources near these non-Federal class I areas. EPA seeks to develop clarifying PSD permit application procedures that are effective, efficient, and equitable.

Timetable:

Action	Date	FR Cite
ANPRM	05/16/97	62 FR 27158
NPRM	10/00/03	
Final Action	10/00/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Additional Information: SAN No. 3919

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RIN: 2060–AH01

3524. PROTECTION OF STRATOSPHERIC OZONE: UPDATE OF THE SUBSTITUTES LIST UNDER THE SIGNIFICANT NEW ALTERNATIVES POLICY (SNAP) PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671(k) CAA sec 612

CFR Citation: 40 CFR 82; 40 CFR 9

Legal Deadline: None

Abstract: Section 612 of the Clean Air Act requires EPA to identify alternatives to Class I and II ozone depleting substances and to publish lists of acceptable and unacceptable substitutes. Producers of substitutes must notify EPA at least 90 days before alternatives are introduced into interstate commerce. Unlike acceptable alternatives (see Notices), substitutes which are deemed by EPA to be unacceptable or acceptable subject to use restrictions must go through notice and comment rulemaking. Substitute lists are updated intermittently depending on the volume of notifications.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/92	57 FR 1984
NPRM	05/12/93	58 FR 28094
Final Rule	03/18/94	59 FR 13044
Notice 1	08/26/94	59 FR 44240
NPRM 1	09/26/94	59 FR 49108
Notice 2	01/13/95	60 FR 3318
Final Rule 1	06/13/95	60 FR 31092
Notice 3	07/28/95	60 FR 38729
NPRM 2	10/02/95	60 FR 51383
Notice 4	02/08/96	61 FR 4736
NPRM 3	05/22/96	61 FR 25604
Final Rule 2	05/22/96	61 FR 25585
Notice 5	09/05/96	61 FR 47012
Final Rule 3	10/16/96	61 FR 54030
Notice 6	03/10/97	62 FR 10700
NPRM 4	05/21/97	62 FR 27874
Notice 7	06/03/97	62 FR 30275
NPRM 5	02/03/98	63 FR 5491
Notice 8	02/24/98	63 FR 9151
Notice 9	05/22/98	63 FR 28251
Interim Final Rule 7	01/26/99	64 FR 3861
Interim Final Rule 8	01/26/99	64 FR 3865
ANPRM 9	02/18/99	64 FR 8040
NPRM 6	02/18/99	64 FR 8038
Final Rule 5	04/28/99	64 FR 22961
Notice 10	06/08/99	64 FR 30410
Notice 11	12/06/99	64 FR 68039
Notice 12	04/11/00	65 FR 19327
Final Rule 6	04/26/00	65 FR 24387
Notice 13	06/19/00	65 FR 37900
NPRM 10	07/11/00	65 FR 42653

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3525

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3525. • ACCIDENTAL RELEASE PREVENTION REQUIREMENTS: RISK MANAGEMENT PROGRAMS UNDER THE CLEAN AIR ACT, SECTION 112(R)(7); AVAILABILITY OF INFORMATION TO THE PUBLIC; TECHNICAL AMENDMENT

Priority: Info./Admin./Other

Legal Authority: CAA 112(r)

CFR Citation: 40 CFR 68.210

Legal Deadline: None

Abstract: Section 112(r)(7) of the Clean Air Act (CAA) and its implementing regulations at 40 CFR Part 68 require certain stationary sources to report an Off-site Consequence Analysis (OCA), including a worst-case release scenario, in a Risk Management Plan (RMP) that is to be made available to the public. In response to concerns that posting OCA information on the Internet might increase the risk of terrorist and other criminal activities, on August 5, 1999 the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act was enacted. The Act requires the President to promulgate regulations governing the distribution of the OCA sections of RMPs that, in the opinion of the President, would minimize the likelihood of accidental releases and the risk of terrorist and other criminal activities associated with posting this information. The President delegated his rulemaking authority to the Attorney General and the Administrator of EPA, who jointly promulgated the required regulations at 40 CFR part 1400. The part 1400 regulations restrict the public's access to the OCA sections of RMPs in certain ways. As currently drafted, however, section 68.210(a) of part 68 states that RMPs are available to the public under CAA section 114, which makes information collected under the CAA, including RMPs in their entirety, available to the public, except for confidential business information. EPA is therefore revising 40 CFR section 68.210(a) to reflect the August 2000 rulemaking and the revision will state that OCA data is made available to the public under the provisions of 40 CFR part 1400.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4607

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RIN: 2050–AE95

3526. • ACCIDENTAL RELEASE PREVENTION REQUIREMENTS: RISK MANAGEMENT PROGRAMS UNDER THE CLEAN AIR ACT, SECTION 112(R)(3); REVISIONS TO THE LIST OF SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: CAA 112(r)

CFR Citation: 40 CFR 68.130

Legal Deadline: None

Abstract: The list of substances subject to the Chemical Accident Prevention requirements at 40 CFR part 68 was promulgated on January 31, 1994. The Clean Air Act states that the list may be revised from time to time by EPA's own motion or by petition and shall be reviewed at least every 5 years. Since the January 1994 final list rule, EPA has modified the listing for hydrochloric acid; deleted a category of explosive chemicals; exempted flammable substances in gasoline used as fuel and in naturally occurring hydrocarbon mixtures prior to initial processing; and excluded flammable substances used as a fuel or held for sale as a fuel at a retail facility. In fulfillment of the statute's five-year review requirement, EPA has conducted a thorough review of the list. Based on that review, EPA is proposing additions, deletions and modifications to the list of substances. Deletions are based on EPA's review of the chemical toxicity, physical property, production/use quantity and accident history of currently listed substances and new information or erroneous data that impacts the basis of the chemical's listing. Other toxic and flammable chemicals are proposed to be added because they meet the criteria for listing a toxic or flammable substance. In addition, EPA proposes to revise the reporting threshold and toxic endpoints of several toxic substances based on updated toxicity information. Facilities with more than the threshold quantity of a listed substance in a process are required to develop a Risk Management Program and submit a Risk Management Plan to EPA. The proposed changes to the list will ensure that facilities are properly managing risks of the most acutely toxic and flammable chemicals that could have an adverse impact on the facility and surrounding community in event of an accidental release.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4619

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

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RIN: 2050–AE96

3527. PROTECTION OF STRATOSPHERIC OZONE: PROCESS FOR EXEMPTING QUARANTINE AND PRESHIPMENT METHYL BROMIDE AND TRADE BAN WITH NON-PARTIES TO THE MONTREAL PROTOCOL

Priority: Other Significant

Legal Authority: 42 USC 7414; 42 USC 7671 to 7671(q)

CFR Citation: 40 CFR 82.1 to 82.13

Legal Deadline: None

Abstract: The Montreal Protocol exempts quarantine and preshipment from the methyl bromide production and import baseline; therefore, a regulation must be promulgated to allow for the exemption in EPA's current allowance system.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/01	66 FR 37752
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4253

OLD TITLE: Protection of Stratospheric Ozone: Process for Exempting Quarantine and Preshipment Methyl Bromide Used in the United States and Baseline Adjustments

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RIN: 2060–AI42

3528. REVIEW NATIONAL AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE

Priority: Other Significant

Legal Authority: Clean Air Act Title I

CFR Citation: 40 CFR 50

Legal Deadline: Final, Statutory, May 31, 2001, Clean Air Act requires reviews every five years.

Abstract: Review of the national ambient air quality standards (NAAQS) for carbon monoxide (CO) every 5 years is mandated by the Clean Air Act. This review assesses the available scientific data about the health and environmental effects of CO and translates the science into terms that can be used in making recommendations about whether or how the standards should be changed. The last review of the CO NAAQS was

completed in 1994 with a final decision that revisions were not appropriate at that time.

Timetable:

Action	Date	FR Cite
NPRM	05/00/03	
Final Action	05/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 4266

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RIN: 2060–AI43

3529. REVISION TO NOX SIP CALL EMISSION BUDGETS FOR CONNECTICUT, MASSACHUSETTS AND RHODE ISLAND

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410(a)(2)(D); 42 USC 7410(k)(5)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: On October 27, 1998, EPA published a final rule (the OTAG SIP Call) making a finding of significant contribution and assigning statewide NOx emission budgets to 22 States and the District of Columbia for purposes of reducing regional transport of ozone and its precursor, NOx. Subsequent to the promulgation of the SIP call, EPA and the States of Connecticut, Massachusetts and Rhode Island signed a memorandum of understanding that obligated EPA to propose to redistribute the budgets assigned to the three States in a different way. This action would carry out that obligation. This redistribution would not lead to an increase in the overall budget for the three States.

Timetable:

Action	Date	FR Cite
Direct Final Rule	09/15/99	64 FR 49987
Withdrawal of Direct Final Rule	11/01/99	64 FR 58792
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4276

Direct Final Action-
http://www.epa.gov/fedrgstr/EPA-AIR/1999/September/Day-15/a23914.htm

Withdrawal-
http://www.epa.gov/fedrgstr/EPA-AIR/1999/November/Day-01/a28519.htm

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RIN: 2060–AI80

3530. INTERSTATE OZONE TRANSPORT: RULEMAKING ON SECTION 126 PETITIONS FROM THE DISTRICT OF COLUMBIA, DELAWARE, MARYLAND, AND NEW JERSEY

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 7426

CFR Citation: 40 CFR 52; 40 CFR 97

Legal Deadline: Final, Statutory, December 14, 1999, The rulemaking includes action on 4 separate petitions. See Additional Information.

Abstract: In April through July 1999, 3 Northeastern States (New Jersey, Maryland, and Delaware) and the District of Columbia submitted individual petitions to EPA in accordance with section 126 of the Clean Air Act (CAA). Each petition specifically requests that EPA make a finding that nitrogen oxides (NOx) emissions from certain stationary sources in other States significantly contribute to ozone nonattainment and maintenance problems with respect to the 1-hour and 8-hour ozone standards in the petitioning State. If EPA makes such a finding of significant contribution, EPA is authorized to establish Federal emissions limits for the sources. The petitions rely on the analyses from EPA's NOx SIP call. The sources targeted by the petitions are large electricity generating units and large non-electricity generating units, as defined in EPA's NOx SIP call. The CAA requires EPA to take final action on the petitions within 60 days of receipt, but may extend the deadline for up to 6 additional months to allow for public process. The EPA took rulemaking action on similar petitions from 8 other northeastern States that were submitted in 1997.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 4383

There is a different statutory deadline associated with each petition based on the date of receipt by EPA: New Jersey - 12/14/99, Maryland - 01/01/00, Delaware - 02/10/00, District of Columbia - 03/07/00

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RIN: 2060–AI99

3531. RESCINDING FINDING THAT PRE-EXISTING PM10 STANDARDS NO LONGER APPLICABLE IN NORTHERN ADA COUNTY/BOISE, IDAHO

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 50.6(d); 40 CFR 52.676; 40 CFR 81.313

Legal Deadline: None

Abstract: The EPA had previously taken action to revoke the PM-10 national ambient air quality standards (NAAQS) for the Boise/Ada County area in anticipation that a revised PM-10 NAAQS would soon be in place. However, the DC Circuit court subsequently vacated the revised PM-10 NAAQS, the effectiveness of which served as the underlying basis for EPA's decision to revoke the pre-existing PM-10 NAAQS. Therefore, in order to protect public health in the Boise/Ada County area, EPA is proposing to reinstate the pre-existing PM-10 NAAQS. Without this action there would be no Federal PM-10 NAAQS applicable to this area. This action is tentatively subject to the terms of a settlement agreement that was signed by all parties in January 2001. A Federal Register notice of the proposed settlement requesting public comment was published January 30, 2001 in accordance with section 113(g) of the Act. Written comments on the proposed settlement agreement must be received by EPA (Mike Prosper) by March 1, 2001. Unless EPA or DOJ determine, following the comment period, that consent is inappropriate the settlement agreement will then be executed by the parties. This action will then be fully subject to the terms of the settlement agreement. No negative comments received. EPA/DOJ signed the settlement agreement and the State is in the process of carrying out its obligations under the settlement agreement.

Timetable:

Action	Date	FR Cite
NPRM	06/26/00	65 FR 39321
Notice Extension of Comment Period	07/26/00	65 FR 45953
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: SAN No. 4391

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RIN: 2060–AJ05

3532. PROTECTION OF STRATOSPHERIC OZONE: PROCESS FOR EXEMPTING CRITICAL AND EMERGENCY USES OF METHYL BROMIDE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7671c; PL 764

CFR Citation: 40 CFR 82

Legal Deadline: None

Abstract: With this action, EPA will revise the accelerated phaseout regulations that govern the production, import, export, transformation and destruction of substances that deplete the ozone layer. The amendments will incorporate exemptions permitted under the Montreal Protocol on Substances that Deplete the Ozone Layer and recent changes to the Clean Air Act. Specifically, the amendments will create a process to exempt production and consumption of quantities of methyl bromide for critical and emergency uses from the 2005 phaseout of methyl bromide. Because this is an exemption, the rule will confer a benefit on affected entities.

Timetable:

Action	Date	FR Cite
NPRM	01/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

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RIN: 2060–AJ63

3533. • PORTLAND CEMENT MANUFACTURING INDUSTRY NESHAP: AMENDMENT TO IMPLEMENT COURT REMAND

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 63.1340 to 63.1359 (Revision)

Legal Deadline: None

Abstract: The Portland Cement Manufacturing Industry NESHAP was promulgated June 14, 1999, and has been codified in 40 Code of Federal Regulations 63, Subpart LLL. The Sierra Club and the National Lime Association petitioned the court to review subpart LLL, while the American Portland Cement Alliance (APCA) opted to negotiate a settlement agreement. (Note that there is currently a separate rule under development to amend subpart LLL to implement the settlement agreement with the APCA — SAN 4524, RIN 2060-AJ57). On December 15, 2000, a panel of the D.C. Circuit issued its opinion in National Lime Assn. v. EPA. The Court remanded the three standards for which we established floors of no control (hydrogen chloride [HCl], total hydrocarbon (THC), and mercury (Hg)). The Court found that we committed error in not considering other means of control, in particular, control of HAPs in raw materials and in fossil fuels. The Court also remanded that we consider setting beyond-the-floor standards for HAP metals, for which particulate matter (PM) is a surrogate. This action will consist of amendments to respond to the court remand.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

EPA—Clean Air Act (CAA)

Long-Term Actions

Additional Information: SAN No. 4585

Sectors Affected: 32731 Cement Manufacturing

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RIN: 2060–AJ78

3534. PROJECT XL SITE-SPECIFIC RULEMAKING FOR GEORGIA-PACIFIC CORPORATION'S FACILITY IN BIG ISLAND, VIRGINIA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63 (Revision)

Legal Deadline: None

Abstract: Under the Project XL program, the EPA is supporting a project for the Georgia-Pacific Corporation facility located in Big Island, Virginia. The EPA is promulgating this rule, applicable only to the Georgia-Pacific Big Island facility, to help implement the project. Under the XL project, Georgia-Pacific will install and operate the first commercial scale black liquor gasification system in the United States. This system will provide superior air emissions reductions and energy benefits compared to use of conventional recovery technology for black liquor in the pulp and paper industry. However, since this will be the first commercial scale demonstration of this technology, there is some risk that the technology will take longer than planned to work properly or may not ever work properly. If either of these scenarios happens, Georgia-Pacific requires relief from otherwise applicable air emission standards to allow time for the new technology to achieve expected performance or, in the event of failure, to allow time for Georgia-Pacific to build conventional recovery technology that will meet applicable standards. Without this relief, Georgia-Pacific would not undertake commercialization of this promising technology. Therefore, this rule provides relief (in the form of limited duration compliance extensions)from otherwise applicable hazardous air pollutant emission standards, as needed during the conduct of the XL project. The specific standard amended by this rule is: Standards for Hazardous Air Pollutants From Chemical Recovery Combustion Sources at Kraft, Soda, Sulfate, and Stand-Alone Semichemical Pulp Mills.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4471

Formerly RIN 2060-AJ39.

Sectors Affected: 32211 Pulp Mills; 32211 Pulp Mills

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RIN: 2090–AA26

Environmental Protection Agency (EPA)

Clean Air Act (CAA)

Completed Actions

3535. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR YUCCA MOUNTAIN, NEVADA

Priority: Other Significant

CFR Citation: 40 CFR 197

Completed:

Reason	Date	FR Cite
Final Action	06/13/01	66 FR 32074

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 2060–AG14

3536. NESHAP: PULP AND PAPER PRODUCTION; AMENDMENTS TO THE PROMULGATED RULE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63.440 to 63.459 (Revision)

Completed:

Reason	Date	FR Cite
Technical Corrections	05/14/01	66 FR 24268

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AH74

3537. NESHAP: MANUFACTURING OF NUTRITIONAL YEAST

Priority: Other Significant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	05/21/01	66 FR 27876

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AF30

3538. NESHAP: BOAT MANUFACTURING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	08/22/01	66 FR 44218

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AG27

3539. NESHAP: SOLVENT EXTRACTION FOR VEGETABLE OIL PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	04/12/01	66 FR 19003

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AH22

3540. CONSUMER AND COMMERCIAL PRODUCTS: FLEXIBLE PACKAGE PRINTING MATERIALS: DETERMINATION ON CONTROL TECHNIQUES GUIDELINES IN LIEU OF REGULATION

Priority: Other Significant

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Withdrawn - Agency Plans No Further Action	09/24/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AI31

3541. IDENTIFICATION OF ADDITIONAL OZONE AREAS ATTAINING THE 1-HOUR STANDARD AND TO WHICH THE 1-HOUR STANDARD IS NO LONGER APPLICABLE (7 AREAS)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 81 (Revision)

Completed:

Reason	Date	FR Cite
Withdrawn - Agency Plans No Further Action	09/19/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AI57

3542. NESHAP: LIGHTWEIGHT AGGREGATE MANUFACTURING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Merged into RIN 2060-AI67, SAN No. 4325	09/28/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

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RIN: 2060–AI75

3543. REGULATION OF FUELS AND FUEL ADDITIVES: REFORMULATED GASOLINE ADJUSTMENT

Priority: Other Significant

CFR Citation: 40 CFR 80.45

Completed:

Reason	Date	FR Cite
Final Action	07/17/01	66 FR 37156

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AI98

3544. NESHAP: ALUMINUM DIE CASTING AND ALUMINUM FOUNDRIES

Priority: Other Significant

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Withdrawn - Agency Plans No Further Action	09/26/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AJ09

EPA—Clean Air Act (CAA)

Completed Actions

3545. REMOVAL OF ALUMINUM DIE CASTING AND ALUMINUM FOUNDRIES FROM THE SECONDARY ALUMINUM NESHAP AND APPLICABILITY STAY FOR THESE INDUSTRIES

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Withdrawn - Agency Plans No Further Action	10/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AJ11

3546. PROTECTION OF STRATOSPHERIC OZONE ALLOCATION OF ESSENTIAL-USE ALLOWANCES FOR CALENDAR YEAR 2001: LABORATORY ESSENTIAL USE EXEMPTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 82

Completed:

Reason	Date	FR Cite
Direct Final Rule 2001 De Minimis Exemption	03/13/01	66 FR 14760

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AJ15

3547. NESHAP FOR PHARMACEUTICALS PRODUCTION: DIRECT FINAL AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63 (Revision)

Completed:

Reason	Date	FR Cite
Direct Final Rule Amendments	08/02/01	66 FR 40121

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AJ17

3548. REVISION TO INTERIM APPROVAL REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 70

Completed:

Reason	Date	FR Cite
Final Action	05/15/01	66 FR 27008

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AJ48

3549. STANDARDS OF PERFORMANCE FOR NEW SOURCES AND EMISSION GUIDELINES FOR EXISTING SOURCES: LARGE MUNICIPAL WASTE COMBUSTORS AMENDMENT OF MASS BURN ROTARY WATERWALL DEFINITION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Direct Final Rule	07/12/01	66 FR 36473

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AJ51

3550. CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AMENDMENTS TO THE TIER 2/GASOLINE SULFUR REGULATIONS

Priority: Other Significant

CFR Citation: 40 CFR 80; 40 CFR 86

Completed:

Reason	Date	FR Cite
Direct Final Rule	04/13/01	66 FR 19296

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AJ54

3551. PETITION BY COLORADO TO RELAX THE REID VAPOR PRESSURE STANDARD FOR GASOLINE FOR 2001

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 80.27

Completed:

Reason	Date	FR Cite
Direct Final Rule	05/24/01	66 FR 28807

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

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RIN: 2060–AJ55

3552. NESHAP: AMENDMENTS TO FERROALLOYS PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Direct Final Rule	03/20/01	66 FR 16007

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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EPA—Clean Air Act (CAA) **Completed Actions**

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RIN: 2060–AJ56

3553. NESHAP: FERROALLOY PRODUCTION: FERROMANGANESE AND SILICOMANGANESE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Withdrawn - Agency Plans No Further Action	08/29/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

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RIN: 2060–AJ64

3554. • REVISION TO THE REQUIREMENTS ON VARIABILITY IN THE COMPOSITION OF ADDITIVES CERTIFIED UNDER THE GASOLINE DEPOSIT CONTROL PROGRAM; DIRECT FINAL AND PROPOSED RULES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7545; 42 USC 7601(a)

CFR Citation: 40 CFR 80

Legal Deadline: Other, Statutory, May 30, 2001, Settlement Agreement with American Chemistry Council in 8/2000 requires publication of NPRM "as expeditiously as practicable.

Abstract: Pursuant to a Settlement Agreement with the American Chemistry Council that became final in August, 2000, EPA is to publish a proposed rule making minor revisions to the regulations on the certification of detergent additives in gasoline. The Settlement Agreement requires that EPA publish a notice of proposed rulemaking "as expeditiously as practicable." Publication of this proposed rule would fulfill this requirement. We expect that the proposed changes will be uncontroversial. Consequently, a direct final rule would be published as part of this action containing the regulatory changes in the proposed rule. The regulatory changes in this action would address additive manufacturer concerns that compliance with the existing requirements would be burdensome and difficult, while maintaining the emissions control benefits of the gasoline deposit control program. This action would not result in an adverse impact on small businesses. There would be no impacts on State, local, or tribal governments. There are no cross-media issues.

Timetable:

Action	Date	FR Cite
Direct Final Rule	11/05/01	66 FR 55885

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4557

Action is consistent with Settlement Agreement signed with American Chemistry Council in January 2000, which became final in August, 2000 (no comments were received in the public notice and comment). ACC v. EPA, D.C. Cir. No. 94-1778 (consol).

Sectors Affected: 325998 All Other Miscellaneous Chemical Product Manufacturing

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RIN: 2060–AJ69

3555. • PROHIBITIONS ON GASOLINE CONTAINING LEAD OR LEAD ADDITIVES FOR HIGHWAY USE: FUEL INLET RESTRICTOR EXCLUSION FOR MOTORCYCLES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7545; 42 USC 7601(a)

CFR Citation: 40 CFR 80.24(b) (Revision)

Legal Deadline: None

Abstract: Honda has requested that motorcycles be exempt from the filler inlet restrictor requirement. The burden for motorcycle manufacturers and owners is significant, and much of the air quality benefits intended by vapor recover nozzles are not realized when used to refuel many motorcycles. The Clean Air Act and corresponding EPA regulation prohibits gasoline containing lead or lead additives (leaded gasoline) as a motor vehicle fuel after December 31, 1995. The regulation also requires filler inlet restrictors on motor vehicles equipped with an emission control device that will be impacted by the use of leaded gasoline, such as a catalytic converter. Beginning with the introduction of Stage I vapor recovery fueling systems in the early 1990s, and continuing with current Stage II vapor recovery systems, the filler inlet restrictor has also been used as a guide, a seat and a pressure contact point for some vapor recovery gasoline nozzle spouts. Consequently, EPA retained the requirement for the filler inlet restrictor after 1995. As a practical matter, filler inlet restrictors are not feasible for most motorcycle fuel tanks, especially the saddle type of tank, because of limited depth. Typically motorcycles are fueled while the operator observes the tank fuel level, similar to refueling a gas can. The filler inlet restrictor obstructs the view of the fuel level, and could contribute to fuel spillage. Further, the filler inlet restrictor requires the nozzle spout to be inserted deeper into the tank, potentially causing increased splash back. This was not much of an issue in the 1995 and earlier time frame, because only relatively few motorcycles were equipped with catalytic converters, and thus, only relatively few required filler inlet restrictors. However, a significant number of 2001 model year motorcycles have been equipped with catalytic converters.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/31/01	66 FR 54955

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4564

EPA—Clean Air Act (CAA)

Completed Actions

Sectors Affected: 33611 Automobile and Light Duty Motor Vehicle Manufacturing

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RIN: 2060–AJ76

3556. PROJECT XL SITE-SPECIFIC RULEMAKING FOR WEYERHAEUSER COMPANY FLINT RIVER OPERATIONS

Priority: Routine and Frequent

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	06/27/01	66 FR 34119

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2090–AA20

Environmental Protection Agency (EPA)

Atomic Energy Act (AEA)

Proposed Rule Stage

3557. PROTECTIVE ACTION GUIDANCE FOR DRINKING WATER

Priority: Other Significant

Legal Authority: 42 USC 2021(h) AEA of 1954 sec 274(h); Reorganization Plan No. 3 of 1970; PL 96-295 sec 304; EO 12241

CFR Citation: 41 CFR 351

Legal Deadline: None

Abstract: This action will result in Federal protective action guidance (PAG) for State and local officials to use in the event of a nuclear accident to protect the general public from the adverse health effects associated with the ingestion of drinking water that is contaminated with radioactive material. The PAG will be incorporated into the revision of the PAG manual. The draft guidance will be submitted to the PAG subcommittee of the Federal Radiological Preparedness Coordinating Committee (FRPCC) for review and comment. Members of the PAG subcommittee include representatives from DOE, DOD, FEMA, NRC, HHS, USDA, DOT, and the Conference of Radiation Control Program Directors (CRCPD). When a consensus among the representatives is reached, the guidance is recommended to the full FRPCC for endorsement. After that endorsement is obtained a notice of the availability of a revised EPA 400-R-92-001, Manual of Protective Action Guides and Protective Actions for Nuclear Incidents will be published in the Federal Register. This action is temporarily delayed until the FDA's revised PAGs for food can be evaluated.

Timetable:

Action	Date	FR Cite
Notice of Availability	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 3602

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RIN: 2060–AF39

3558. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR THE DISPOSAL OF LOW-ACTIVITY MIXED RADIOACTIVE WASTE

Priority: Other Significant

Legal Authority: 42 USC 2021 Atomic Energy Act of 1954; Reorganization Plan No. 3 of 1970; Nuclear Waste Policy Act of 1982

CFR Citation: 40 CFR 193

Legal Deadline: None

Abstract: This voluntary action will allow low-activity mixed radioactive wastes to be disposed in facilities that meet the design requirements for RCRA-C disposal cells. The wastes intended to be disposed of in these cells are mixed wastes, consisting of a chemically hazardous component and low levels of radioactivity. These wastes are anticipated to arise in the commercial sector from various sources. The rule is intended to increase disposal options for these wastes and offer a streamlined regulatory process which melds hazardous chemical protection and radioactivity protection requirements while protecting public health and safety. The rule does not mandate a disposal method, but rather permits an alternative to existing disposal methods. The U.S. Nuclear Regulatory Commission is anticipated to be the implementing Agency for the application of this rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4054

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RIN: 2060–AH63

3559. REVISION OF THE 40 CFR PART 194 WASTE ISOLATION PILOT PLANT COMPLIANCE CRITERIA

Priority: Substantive, Nonsignificant

Legal Authority: 106 Stat. 4777 as amended by the 1996 LWA Amendments; PL 102-579; PL 104-201; Waste Isolation Pilot Plant Land Withdrawal Act of 1992

EPA—Atomic Energy Act (AEA) **Proposed Rule Stage**

CFR Citation: 40 CFR 194.8(b)

Legal Deadline: None

Abstract: This rule would change some of the language in Section 194.8(b) of the Waste Isolation Pilot Plant (WIPP) Compliance Criteria without deleting any of the requirements for the Department of Energy's (DOE) compliance. Section 194.8(b) explains the process by which EPA inspects and approves waste characterization processes at DOE transuranic waste sites that send waste to the WIPP. The 194.8(b) process involves a public comment period. Most of the language in section 194.8(b) will be left intact. The most significant change would eliminate a statement that EPA will follow the 194.8(b) notice-and-comment process each time a previously approved site seeks to send a different waste stream to the WIPP. Other changes would correct certain terminology and clarify the important elements of our inspections. This rule would eliminate the ambiguity of the current language and replace it with: (1) a site can ship waste once EPA has approved it using a notice-and-comment process; (2) EPA will perform follow-up inspections under a separate authority that does not call for public comment; and (3) EPA can disallow shipment if an initial or follow-up inspection reveals significant compliance issues. The main purpose of this revision is to eliminate EPA's obligation to approve DOE sites on a waste stream by waste stream basis. Our understanding of DOE's operations has improved considerably since 194.8(b) went final in May 1998. We now recognize that approving sites by waste stream, using a comment period, is unnecessarily time-consuming for EPA staff, confusing for DOE, and generates almost no public comment. In addition, repetitive inspections at sites are expensive and provide little additional regulatory confidence. This rule will save money and will greatly improve the effectiveness of our interactions with DOE.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4403

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RIN: 2060–AJ07

3560. • MODIFICATION OF 40 CFR PART 194, APPEDIX A, WASTE ISOLATION PILOT PLANT CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-579, sec 8

CFR Citation: 40 CFR 194, app A

Legal Deadline: None

Abstract: This rule will modify the certification of the Waste Isolation Pilot Plant (WIPP) that EPA granted in May 1998 by replacing or deleting Condition 1 of the certification. Condition 1 requires the Department of Energy (DOE), which operates the WIPP, to employ a specific design for panel seals in the disposal system. DOE plans to propose a different design for EPA's consideration, and our preliminary review suggests that we will be able to accept the proposal. However, because this change constitutes a significant departure from the existing program, under section 194.4 of the WIPP Compliance Criteria (40 CFR 194) we must conduct a rulemaking to accept the change.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4582

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RIN: 2060–AJ75

Environmental Protection Agency (EPA) **Prerule Stage**

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3561. • ACCEPTABILITY OF RESEARCH USING HUMAN SUBJECTS

Regulatory Plan: This entry is Seq. No. 115 in part II of this issue of the **Federal Register**.

RIN: 2070–AD57

Environmental Protection Agency (EPA)
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Proposed Rule Stage

3562. ENDOCRINE DISRUPTOR SCREENING PROGRAM

Regulatory Plan: This entry is Seq. No. 131 in part II of this issue of the **Federal Register**.

RIN: 2070–AD26

3563. PROCEDURES FOR THE PESTICIDE REGISTRATION REVIEW PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(a)(g); 7 USC 136(w)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Agency will establish procedures to implement section 3(g) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) which provides for periodic review of pesticide registrations. The goal of these regulations is to review a pesticide's registration every 15 years.

Timetable:

Action	Date	FR Cite
ANPRM Pesticides-Procedural Regulations for Registration Review	04/26/00	65 FR 24586
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4170

Sectors Affected: 32519 Other Basic Organic Chemical Manufacturing; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 32551 Paint and Coating Manufacturing; 32561 Soap and Cleaning Compound Manufacturing

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RIN: 2070–AD29

3564. DATA REQUIREMENTS FOR ANTIMICROBIAL PESTICIDE REGISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136a; 7 USC 136c; 7 USC 136w

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: EPA will update and revise its pesticide data requirements for antimicrobial products. The data requirements specify the data that are required for EPA to evaluate the registrability of a pesticide product. The revisions will clarify all antimicrobial data requirements to reflect current practice.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4173

Sectors Affected: 32519 Other Basic Organic Chemical Manufacturing; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 32551 Paint and Coating Manufacturing; 32561 Soap and Cleaning Compound Manufacturing

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RIN: 2070–AD30

3565. PESTICIDE EMERGENCY EXEMPTION REGULATIONS

Regulatory Plan: This entry is Seq. No. 132 in part II of this issue of the **Federal Register**.

RIN: 2070–AD36

3566. DATA REQUIREMENT FOR PESTICIDE REGISTRATION; ENVIRONMENTAL FATE AND ECOLOGICAL EFFECTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(a) to 136(y)

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: EPA will update the data requirements specifically necessary for the Agency to evaluate the registrability of pesticide products. The revisions will clarify all data requirements to reflect current practice. Procedural and explanatory sections of the current regulations will be amended to make them consistent with the revised data requirements and new use indexing. EPA intends to accomplish this revision through a series of proposals, covering different data disciplines and product types. This proposal covers the data requirements for environmental fate and ecological effects for conventional pesticides.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4496

Split from RIN 2070-AC12.

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

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RIN: 2070–AD47

3567. • DATA REQUIREMENTS; BIOCHEMICAL AND MICROBIAL PESTICIDES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: EPA will update the data requirements necessary to register a biochemical or microbial pesticide product. The revisions will clarify all

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data requirements to reflect current regulatory and scientific standards. The data requirements will cover all scientific disciplines for biochemical and microbial pesticides, including chemistry and residue chemistry, toxicology and environmental fate and effects. The revision will not include plant incorporated protectants.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: SAN No. 4596

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

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RIN: 2070–AD51

3568. • EXEMPTION OF MEDICAL DEVICES TREATED WITH ANTIMICROBIAL PESTICIDES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136w

CFR Citation: 40 CFR 152.20

Legal Deadline: None

Abstract: This action will exempt from pesticide regulation medical devices treated with antimicrobial pesticides. EPA has determined that these treated medical devices are adequately regulated by the Food and Drug Administration. This action would eliminate dual regulation of these products by EPA and FDA. EPA would continue to regulate the antimicrobial pesticide used to treat the medical device.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4609

Sectors Affected: 32619 Other Plastics Product Manufacturing; 31499 All Other Textile Product Mills

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RIN: 2070–AD54

3569. • PLANT INCORPORATED PROTECTANTS (PIPS); EXEMPTION FOR PIPS THAT ACT BY PRIMARILY AFFECTING THE PLANT

Regulatory Plan: This entry is Seq. No. 133 in part II of this issue of the **Federal Register**.

RIN: 2070–AD56

Environmental Protection Agency (EPA) **Final Rule Stage**

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3570. • PLANT INCORPORATED PROTECTANTS (PIPS); EXEMPTION FOR THOSE BASED ON VIRAL COAT PROTEINS

Regulatory Plan: This entry is Seq. No. 143 in part II of this issue of the **Federal Register**.

RIN: 2070–AD49

3571. PESTICIDE MANAGEMENT AND DISPOSAL

Priority: Other Significant

Legal Authority: 7 USC 136 et seq

CFR Citation: 40 CFR 165

Legal Deadline: None

Abstract: This action develops procedures for mandatory and voluntary recall actions under section 19(b) of FIFRA and would establish criteria for acceptable storage and disposal plans which registrants may submit to this Agency to become eligible for reimbursement of storage costs. This action establishes procedures for indemnification of owners of suspended and canceled pesticides for disposal.

Timetable:

Action	Date	FR Cite
NPRM	05/05/93	58 FR 26856
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Additional Information: SAN No. 3432

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RIN: 2020–AA33

3572. PESTICIDE MANAGEMENT AND DISPOSAL; STANDARDS FOR PESTICIDE CONTAINERS AND CONTAINMENT

Priority: Other Significant

Legal Authority: 7 USC 136(q) FIFRA sec 19; 7 USC 136(a) FIFRA sec 3; 7 USC 136(w) FIFRA sec 25

CFR Citation: 40 CFR 156; 40 CFR 165

Legal Deadline: None

Abstract: FIFRA sec. 19 gives EPA authority to regulate the management of pesticides and their containers, including storage, transportation and disposal. As proposed, this rule would establish standards for removal of pesticides from containers and for rinsing containers; facilitate the safe use, refill, reuse, and disposal of

pesticide containers by establishing standards for container design, labeling and refilling; and establish requirements for containment of stationary bulk containers and for containment of pesticide dispensing areas.

Timetable:

Action	Date	FR Cite
NPRM (Container Design & Residue Removal & Bulk Containment)	02/11/94	59 FR 6712
Supplemental NPRM Extension of Comment Period	12/21/99	64 FR 71368
Supplemental NPRM Extension of Comment Period	02/24/00	65 FR 9234
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 2659

Supplemental NPRM-
http://www.epa.gov/fedrgstr/EPA-

PEST/1999/October/Day-21/p27397.htm

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing; 11511 Support Activities for Crop Production; 42291 Farm Supplies Wholesalers

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RIN: 2070–AB95

3573. GROUNDWATER AND PESTICIDE MANAGEMENT PLAN RULE

Regulatory Plan: This entry is Seq. No. 140 in part II of this issue of the **Federal Register**.

RIN: 2070–AC46

3574. WPS; PESTICIDE WORKER PROTECTION STANDARD; GLOVE AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(w)

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: This final rule would create greater flexibility in requirements of the 1992 Worker Protection Standard related to the use of gloves by workers and applicators.

Timetable:

Action	Date	FR Cite
NPRM Glove Requirement	09/09/97	62 FR 47544
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3731

NPRM-
http://www.epa.gov/fedrgstr/EPA-

PEST/1997/September/Day-09/p23833.htm

Sectors Affected: 111 Crop Production; 1114 Greenhouse, Nursery and Floriculture Production; 1131 Timber Tract Operations; 115 Support Activities for Agriculture and Forestry

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RIN: 2070–AC93

3575. REGISTRATION REQUIREMENTS FOR ANTIMICROBIAL PESTICIDE PRODUCTS; LABELING AND OTHER REGULATORY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(a)(h); 7 USC 136(w)

CFR Citation: 40 CFR 152; 40 CFR 156

Legal Deadline: Final, Statutory, September 15, 2000, The Final Rule is due 240 days after close of comment period.

Abstract: This regulation will specify antimicrobial registration reforms that will reduce to the extent possible the review time for antimicrobial pesticides. The regulation will clarify criteria for completeness of applications, and will specify or refer to a definition of the various classes of antimicrobial pesticide use patterns and the associated data and labeling requirements that would be consistent with the degree and type of risk presented by each class. In addition, the regulation will also include labeling standards for public health antimicrobial products. This regulation will also implement some general provisions of FIFRA pertaining to all pesticides, including labeling requirements. EPA intends to promulgate these last provisions separately from the antimicrobial portion of the proposal.

Timetable:

Action	Date	FR Cite
NPRM Reg. Require. for Anti Pest. Products/Other Pest Reg Changes	09/17/99	64 FR 50671
Notice Extends Comment Period to January 18, 2000	11/16/99	64 FR 62145
Final Action Labeling and other regulatory portions	01/00/02	
Final Action Antimicrobial procedural portion only.	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3892

Sectors Affected: 32519 Other Basic Organic Chemical Manufacturing; 32531 Fertilizer Manufacturing; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 32551 Paint and Coating Manufacturing; 32561 Soap and Cleaning Compound Manufacturing; 42269 Other Chemical and Allied Products Wholesalers; 42291 Farm Supplies Wholesalers

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RIN: 2070–AD14

3576. • PLANT-INCORPORATED PROTECTANTS (PIPS); EXEMPTION FOR THOSE DERIVED THROUGH GENETIC ENGINEERING FROM SEXUALLY COMPATIBLE PLANTS

Regulatory Plan: This entry is Seq. No. 144 in part II of this issue of the **Federal Register**.

RIN: 2070–AD55

Environmental Protection Agency (EPA) **Long-Term Actions**

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3577. PESTICIDES; TOLERANCE PROCESSING FEES

Priority: Other Significant

Legal Authority: 21 USC 346(a)

CFR Citation: 40 CFR 180.33

Legal Deadline: None

Abstract: In 1996, the Food Quality Protection Act amended the Federal Food, Drug, and Cosmetic Act to require EPA to charge tolerance fees that, in the aggregate, will cover all costs associated with processing tolerance actions, including filing a tolerance petition, and establishing, modifying, leaving in effect, or revoking a tolerance or tolerance exemption. Since 1983 (the last time a cost analysis was conducted), factors such as expanded data requirements, changes in risk assessment methods, improvements in data base management and tracking systems, and the increasing complexity of scientific review of petitions have resulted in costs substantially exceeding the fees currently charged. This rule will adjust the fee structure and fee amounts for tolerance actions. A Congressional provisions currently bars the Agency from finalizing this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM Pesticides-Tolerance Processing Fees	06/09/99	64 FR 31039
Supplemental NPRM Processing Fees for Inert Ingredients	07/24/00	65 FR 45569
Supplemental NPRM Reopening of Comment Period	08/31/00	65 FR 52979
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4027

NPRM-
http://www.epa.gov/fedrgstr/EPA-PEST/1999/June/Day-09/p14477.htm

Supplemental NPRM-
http://www.epa.gov/fedrgstr/EPA-PEST/2000/July/Day-24/p18646.htm

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

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RIN: 2070–AD23

3578. PESTICIDE TOLERANCE REASSESSMENT PROGRAM

Priority: Other Significant

Legal Authority: 21 USC 346(a)(q)

CFR Citation: 40 CFR 180

Legal Deadline: Other, Statutory, August 3, 2002, See additional information.

Abstract: EPA will reassess pesticide tolerances and exemptions for raw and processed foods established prior to August 3, 1996, to determine whether they meet the reasonable certainty of no harm standard of the Federal Food, Drug and Cosmetic Act (FFDCA). FFDCA sec. 408(q), as amended by the Food Quality Protection Act (FQPA). FQPA requires that EPA conduct this reassessment on a phased 10-year schedule. Based on its reassessment, EPA will take a series of regulatory actions to modify or revoke tolerances. Since such actions are issued on a chemical-by-chemical basis, this regulatory plan entry does not list the individual actions that are likely to occur under this program. For status information about the individual chemicals, go to http://www.epa.gov/pesticides.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4175

LEGAL DEADLINE CONT: EPA is required to complete reassessments on a phased schedule of: 33 percent by August 3; 1999; 66 percent by August 3; 2002; and 100 percent by August 3; 2006. The Agency will continue to access pesticide tolerances throughout year.

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

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RIN: 2070–AD24

3579. PLANT INCORPORATED PROTECTANTS (FORMERLY PLANT PESTICIDES) RULEMAKINGS

Priority: Other Significant

Legal Authority: 21 USC 346(a) et seq; 7 USC 136 et seq

CFR Citation: 40 CFR 152.20; 40 CFR 174

Legal Deadline: None

Abstract: Substances that plants produce to protect themselves against pests are pesticides under FIFRA if humans intend to use them to destroy, prevent, repel or mitigate any pest. The Agency designates these substances, along with the genetic material necessary to produce them, plant-pesticides. This rulemaking will change the name of these pesticides to plant-incorporated protectants and will clarify the relationship between plants and plant-incorporated protectants and exempt conventional breeding and establishes a new part in title 40 of the CFR, part 174, which consolidates regulations specific for plant-pesticides in one part of the CFR. The proposed consolidation is expected to benefit the public by providing greater focus, enhanced clarity and ease of use. These actions may reduce burden on both the regulated community and EPA.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60496
Supplemental NPRM	07/22/96	61 FR 37891
Supplemental NPRM	05/16/97	62 FR 27132
Supplemental NPRM Request for Comment on Alternate Name	04/23/99	64 FR 19958
Final Action Plant-Incorporated Protectants (PIPs) Under FIFRA	07/19/01	66 FR 37771
Supplemental NPRM Seeks Additional Comment on Other Exemptions	07/19/01	66 FR 37855
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: SAN No. 2684

The Agency has created a new Agenda entry for the action that is still pending.

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing; 111 Crop Production; 54171 Research and Development in the Physical Sciences and Engineering Sciences

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RIN: 2070–AC02

3580. DATA REQUIREMENTS FOR PESTICIDE REGISTRATION; TOXICOLOGY, EXPOSURE AND RESIDUE CHEMISTRY

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(a) to 136(y)

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: EPA will update the data requirements specifically necessary for the Agency to evaluate the registrability of pesticide products. The revisions will clarify all data requirements to reflect current practice. Procedural and explanatory sections of the current regulations will be amended to make them consistent with the revised data requirements and new use indexing. EPA intends to accomplish this revision through a series of proposals, covering different data disciplines and product types. This proposal is currently limited to product chemistry, and human health and exposure data requirements for conventional pesticides.

Timetable:

Action	Date	FR Cite
NPRM Product Chemistry and Human Health portions	02/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 2687

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

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RIN: 2070–AC12

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Environmental Protection Agency (EPA) **Prerule Stage**
Toxic Substances Control Act (TSCA)

3581. • TSCA POLICY STATEMENT ON OVERSIGHT OF TRANSGENIC ORGANISMS (INCLUDING PLANTS)

Priority: Other Significant

Legal Authority: 15 USC 2604

CFR Citation: 40 CFR 720

Legal Deadline: None

Abstract: As a follow-up to the final Biotechnology rule under the Toxic Substances Control Act (TSCA) EPA intends to address TSCA oversight of transgenic plants and other organisms. Recent information indicates that transgenic plants and other organisms are being developed for uses which appear ot be subject ot TSCA jurisdiction. For example, plants are being genetically modified to produce industrial grade, rather than food grade, oils. Many of these plant are subject to oversight by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture while being tested in the environment. Following APHIS approval of a petition for nonregulated status filed pursuant to APHIS' regulations implementing the Federal Plant Pest Act at 7 CFR part 340, however, these plants cease to be subject to regulation by USDA. Additionally, transgenic animals that are not under the jurisdiction of FDA appear to be subject to TSCA. Such animals may be genetically improved livestock for commercial purposes. The policy statement would address whether EPA should exercise jurisdiction under TSCA over such transgenic organisms prior to their commercial use.

Timetable:

Action	Date	FR Cite
Draft Policy	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: SAN No. 4598

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RIN: 2070–AD53

Environmental Protection Agency (EPA) **Proposed Rule Stage**
Toxic Substances Control Act (TSCA)

3582. TEST RULE; ATSDR SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4; 42 USC 9604(i) CERCLA 104(i); 42 USC 9601 CERCLA; 15 USC 2611 TSCA 12; 42 USC 7401 112(b)(4) CAA; 42 USC 7412(b)(4) and (b)(1) CAA; 42 USC 7403(d) CAA

CFR Citation: 40 CFR 790 to end

Legal Deadline: None

Abstract: EPA is proposing a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) requiring manufacturers and processors of certain chemicals to fulfill data needs identified by the Agency for Toxic Substances and Disease Registry (ATSDR), the National Toxicology Program (NTP), and EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 104(i).

Under CERCLA, ATSDR is to establish a list of priority hazardous substances found at superfund sites, develop toxicological profiles for the hazardous substances, identify priority data needs, and establish a research program obtaining the necessary data. This action is a component of ATSDR's research program. Data from this action would provide specific information about the substances for the public and scientific community. The information would be used in conducting comprehensive public health assessments of populations living near hazardous waste sites. Scientific data improves the quality of risk assessments used by EPA, other Federal agencies, and State and local governments. The risk assessments affect standards, guidelines, listing/delisting, and other decisions affecting public health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 2563

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

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RIN: 2070–AB79

3583. TSCA SECTION 4 ENFORCEABLE CONSENT AGREEMENT FOR CERTAIN OXYGENATED FUEL ADDITIVES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603; 15 USC 2611; 15 USC 2625

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: EPA's Office of Air and Radiation (OAR/EPA) in the administration of section 211 of the Clean Air Act (CAA), has requested that OPPT use its TSCA section 4 testing authority to obtain health effects data on a number of Oxygenated Fuel Additives (OFAs). These data are

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needed by EPA and others to increase understanding of the toxicity of these substances individually and in comparison to each other as well as to other OFAs such as methy t-butyl ether (MTBE).

Timetable:

Action	Date	FR Cite
Notice To Solicit Interested Parties	06/00/02	
Notice - ECA	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4174

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AD28

3584. TEST RULE; MULTI-SUBSTANCE RULE FOR THE TESTING OF DEVELOPMENTAL AND REPRODUCTIVE TOXICITY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603; 15 USC 2607(a); 15 USC 2611; 15 USC 2625

CFR Citation: 40 CFR 799; 40 CFR 704

Legal Deadline: None

Abstract: EPA is proposing a test rule under section 4 of the Toxic Substances Control Act (TSCA) that would require manufacturers, defined by statute to include importers, and processors of seven (7) substances to conduct testing for developmental and/or reproductive toxicity. This is a reproposal of a test rule announced March 4, 1991 (56 FR 9092).

Timetable:

Action	Date	FR Cite
NPRM	03/04/91	56 FR 9092
NPRM Reproposal	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4395

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

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RIN: 2070–AD44

3585. FOLLOW-UP RULES ON EXISTING CHEMICALS

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA 5; 15 USC 2607 TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721; 40 CFR 707; 40 CFR 710

Legal Deadline: None

Abstract: EPA has established a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support planned or ongoing risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 8 to require reporting of appropriate needed information by the manufacturers, importers and/or processors of these chemicals. Individual proposed or final rules will be published on at least the chemicals listed below.

Timetable:

Action	Date	FR Cite
NPRM 2,4-Pentanedione SNUR	09/27/89	54 FR 39548
NPRM Chloranil	05/12/93	58 FR 27980
NPRM Benzidine-based Chemical Substances	08/30/95	60 FR 45119
Final Action Benzidine-based Chemical Substances	10/07/96	61 FR 52287
NPRM Amendment to Benzidine-based Chemical Substances SNUR	12/00/01	
NPRM o-Tolidine & o-Dianisidine-based Dyes (Benzidine Congener Dyes)	12/00/01	
NPRM Heavy Metal-Based Pigments in Aerosol Spray Paints SNUR	12/00/01	
NPRM Certain Chemical Substances No Longer in Production SNUR	01/00/02	
NPRM Methylcyclopentane SNUR	01/00/02	
NPRM 2-Ethoxyethanol & 2-Methoxyethanol & 2-Methoxyethanol Acetate	01/00/02	
NPRM 2 ,4-Pentanedione SNUR (Reproposal)	03/00/02	
NPRM p-Aminophenol & Bromochloromethane 8(a) Chemical Specific Rule	04/00/02	
Final Action Amendment to Benzidine-based Chemical Substances SNUR	06/00/02	
Final Action Final Chloranil SNUR	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: SAN No. 1923

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AA58

3585. SIGNIFICANT NEW USE RULE; SELECTED FLAME RETARDANT CHEMICAL SUBSTANCES FOR USE IN RESIDENTIAL UPHOLSTERED FURNITURE

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA 5

CFR Citation: 40 CFR 704; 40 CFR 721; 40 CFR 707; 40 CFR 710

Legal Deadline: None

Abstract: EPA is proposing a significant new use rule (SNUR) under section 5 of the Toxic Substances Control Act (TSCA) covering certain flame retardant chemicals for use in residential upholstered furniture. The SNUR would require companies wanting to import or manufacture these chemicals for the significant new uses described in the proposed rule to submit a significant new use notice (SNUN) to the Agency at least 90 days prior to beginning those activities.

Timetable:

Action	Date	FR Cite
NPRM Flame Retardant Chemicals	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4512

Split from RIN 2070-AA58.

Sectors Affected: 325 Chemical Manufacturing; 313 Textile Mills; 337121 Upholstered Household Furniture Manufacturing

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RIN: 2070–AD48

3587. LEAD-BASED PAINT ACTIVITIES; TRAINING AND CERTIFICATION FOR RENOVATION AND REMODELING

Regulatory Plan: This entry is Seq. No. 130 in part II of this issue of the **Federal Register**.

RIN: 2070–AC83

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3588. TSCA INVENTORY UPDATE RULE AMENDMENTS

Regulatory Plan: This entry is Seq. No. 141 in part II of this issue of the **Federal Register**.

RIN: 2070–AC61

3589. TEST RULE; GENERIC ENTRY FOR ITC RELATED TESTING DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: EPA is requiring testing via rules, or will obtain testing through enforceable consent agreements (ECAs) or publish a notice which provides the reasons for not doing so for chemicals listed herein. These chemicals have been designated for priority testing consideration by the ITC or recommended for testing consideration (for which the 12-month statutory requirement does not apply). The list also includes chemicals or categories of chemicals which have been identified for testing consideration by other Federal or other EPA offices through EPA review processes.

Timetable:

Action	Date	FR Cite
ANPRM Aryl Phosphates (ITC List 2)	12/29/83	48 FR 57452
NPRM Aryl Phosphates (ITC List 2)	01/17/92	57 FR 2138
NPRM Brominated Flame Retardants	06/25/91	56 FR 29140
Final Action-ECA DiBasic Esters (CPSC)	08/05/99	64 FR 42692
Final Action-ECA 1,1,2-Trichloroethane (TCE)	06/15/00	65 FR 37550
Final Action-ECA Ethylene Dichloride (EDC)	12/00/01	
Final Action-ECA Maleic Anhydride	12/00/01	
Final Action-ECA Hydrogen Fluoride	02/00/02	
Final Action-ECA Phthalic Anhydride	04/00/02	
Final Action ITC Chemicals (ITC List 28)	06/00/02	
Final Action-ECA Aryl Phosphates (ITC List 2)	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3493

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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EPA—Toxic Substances Control Act (TSCA) **Final Rule Stage**

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RIN: 2070–AB94

3590. TEST RULE; HAZARDOUS AIR POLLUTANTS (HAPS)

Priority: Other Significant

Legal Authority: 15 USC 2603 TSCA 4; 42 USC 7412 CAA 112; 42 USC 7403 CAA 103; 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: EPA is proposing health effects testing under TSCA section 4 in support of programs and activities required under section 112 of the Clean Air Act (CAA), governing Hazardous Air Pollutants (HAPs). Section 112 of the CAA directs EPA to determine the risk to health and the environment remaining after application of technology-based emissions standards to major and area sources. Section 112 also sets forth a mechanism for revising and modifying the statutory list of 189 HAPs under section 112(b), and requirements for an accidental release control program. These data will also be important for the right-to-know program given the large release of these chemicals to the atmosphere. In order to implement these and other programs and requirements under section 112, EPA must identify the health and environment effects of potential concern from exposure to HAPs, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs. In addition, under section 103(d), EPA is required to conduct a research program on the short- and long-term effects of air pollutants on human health, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs.

Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 33178
Supplemental NPRM	12/24/97	62 FR 67466
Supplemental NPRM	04/21/98	63 FR 19694
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3487

Supplemental NPRM-
http://www.epa.gov/fedrgstr/EPA-TOX/1997/December/Day-24/t33451.htm

Supplemental NPRM-
http://www.epa.gov/fedrgstr/EPA-AIR/1998/April/Day-21/a10494.htm

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AC76

3591. TEST RULE; CERTAIN HIGH PRODUCTION VOLUME (HPV) CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603; 15 USC 2611 to 2612; 15 USC 2625 to 2626

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: This action is related to a challenge to industry on the eve of Earth Day, April 21, 1998, to come forward quickly with needed test data on high production volume (HPV) chemicals. This challenge encompasses approximately 2,800 chemicals which are manufactured (including imported) in the aggregate at more than 1 million pounds on an annual basis. The data needed on these chemicals are: acute toxicity, repeat dose toxicity, developmental and reproductive toxicity; mutagenicity ecotoxicity and environmental fate. This rule will require testing and recordkeeping requirements for certain chemicals for which industry does not voluntarily agree to provide testing in a timely manner. The action is part of the Chemical Right-to-Know Initiative, which is described in the Regulatory Plan. Industry has volunteered to conduct needed testing on over 2155 of these HPV chemicals. The first rule proposed testing for 37 unsponsored HPV chemicals with substantial worker exposure. The proposed rule was published in the Federal Register on December 26, 2000.

Timetable:

Action	Date	FR Cite
NPRM	12/26/00	65 FR 81658
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3990

See also the Regulatory Plan entry entitled Chemical Right-to-Know Initiative (RIN 2070-AD25; SAN 4176).

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AD16

3592. TEST RULE; IN VITRO DERMAL ABSORPTION RATE TESTING OF CERTAIN CHEMICALS OF INTEREST TO THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 700 to 799

Legal Deadline: None

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Abstract: EPA is requiring manufacturers (which is defined by statute to include importers) and processors of 38 chemical substances of interest to the Occupational Safety and Health Administration (OSHA) to conduct testing for in vitro dermal absorption rate testing. These chemicals, and others, were designated for in vitro dermal absorption rate testing in the 31st, 32nd, and 35th Reports of the TSCA section 4(e) Interagency Testing Committee (ITC) to the EPA. Each of the chemical substances included in this proposed rule is produced in an amount equal to or greater than one million pounds per year. In addition, each of the chemicals in this proposed rule was identified in the National Occupational Exposure Survey (NOES) has having a total potential worker exposure of greater than 1,000 workers. OSHA has indicated that it needs quantitative measures of dermal absorption rate in order to evaluate the potential hazard of these chemicals to workers.

Timetable:

Action	Date	FR Cite
NPRM OSHA Chemicals Dermal Testing (ITC List 31, 32 & 35)	06/09/99	64 FR 31074
Final Action OSHA Chemical Dermal Testing	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4425

Please note that this entry was previously identified under RIN 2070-AB07. TSCA requires EPA to publish the NPRM within one year of ITC designation.

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AD42

3593. FOLLOW-UP RULES ON NON-5(E) NEW CHEMICAL SUBSTANCES

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA sec 5

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA regulates the commercial development of new chemicals that have completed premanufacture notice (PMN) review. In a PMN review, the Agency assesses whether or not a chemical's manufacture, import, process, distribution, use, or disposal outside the activities described in the PMN may present an unreasonable risk. EPA will issue Significant New Use Rules (SNURs) requiring 90-day notification to EPA from any manufacturer, importer, or processor who would engage in activities that are designated as significant new uses. Under the Expedited Follow-up Rule (EFUR) which became effective on October 12, 1989, EPA will identify such new chemicals and publish them in a batch SNUR 3-4 times per year. Chemicals that were subject to a proposed SNUR before the effective date of the EFUR or do not qualify under the EFUR, may be regulated individually by notice and comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
NPRM Alkyl & Sulfonic Acid & Ammonium Salt (84-1056)	06/11/86	51 FR 21199
NPRM 1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)	12/08/87	52 FR 46496
NPRM Aluminum Cross-linked Sodium Carboxymethyl-cellulose	06/11/93	58 FR 32628
Final Action Alkyl & Sulfonic Acid & Ammonium Salt (84-1056)	12/00/01	
Final Action 1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)	12/00/01	
Final Action Aluminum Cross-linked Sodium Carboxymethyl-cellulose	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 1976

Sectors Affected: 324 Petroleum and Coal Products Manufacturing; 325 Chemical Manufacturing

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RIN: 2070–AA59

3594. SIGNIFICANT NEW USE RULE (SNUR); CHEMICAL-SPECIFIC SNURS TO EXTEND PROVISIONS OF SECTION 5(E) ORDERS

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA sec 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: When the Agency determines that uncontrolled manufacture, import, processing, distribution, use or disposal of a premanufacture notification (PMN) substance may present an unreasonable risk, it may issue a section 5(e) consent order to limit these activities. However, such orders apply only to the PMN submitter. Once the new substance is entered on the Toxic Substances Control Act (TSCA) chemical inventory, others can manufacture, import or process the substance without controls. Therefore, EPA extends the controls to apply to others by designating manufacture, import or processing of the substances for uses without the specified controls as significant new

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uses. Under the Expedited Follow-Up Rule, which became effective on October 10, 1989 (54 FR 31314), EPA routinely publishes batch SNURs containing routine section 5(e) and non-5(e) SNURs. However, certain activities, such as modifications, withdrawals, revocations, and SNURs upon which comments are received in the direct final publication process, are subject to notice and comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
NPRM Batch SNUR: 84-660/-704 & 84-105/-106/-107 & 85-433	05/27/93	58 FR 30744
NPRM Aromatic Amino Ether (P90-1840)	06/06/94	59 FR 29255
NPRM Alkenyl Ether of Alkanetriol Polymer (93-458)	12/19/94	59 FR 65289
NPRM Certain Chemical Substances (91-1299/95-1667 91-1298 91-1297	06/26/97	62 FR 34421
NPRM Certain Chemical Substances	09/09/98	63 FR 48157
Final Action Alkenyl Ether of Alkanetriol Polymer (93-458)	12/00/01	
Final Action Certain Chemical Substances	12/00/01	
Final Action Batch SNUR: 84-660/-704 & 84-105/-106/-107 & 85-433	01/00/02	
Final Action Aromatic Amino Ether (P90-1840)	01/00/02	
Final Action Certain Chemical Substances (91-1299/95-1667 91-1298 91-1297	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3495

Sectors Affected: 324 Petroleum and Coal Products Manufacturing; 325 Chemical Manufacturing

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RIN: 2070–AB27

3595. SIGNIFICANT NEW USE RULE; CERTAIN PERFLUOROALKYL SULFONYL (PFOS) CONTAINING CHEMICAL SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2604 TSCA 5

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA is proposing a significant new use rule (SNUR) under section 5 of the Toxic Substances Control Act (TSCA) covering certain perfluoroalkyl sulfonyl-containing chemical substances. This SNUR would require companies who wanted to manufacture or import these chemicals for the significant new uses described in the proposed rule to submit a Significant New Use Notice (SNUN) to the Agency at least 90 days prior to beginning those activities.

Timetable:

Action	Date	FR Cite
NPRM	10/18/00	65 FR 62319
Notice of Public Meeting on Proposed Rule	02/23/01	66 FR 11243
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4475

Sectors Affected: 325 Chemical Manufacturing

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RIN: 2070–AD43

3596. POLYCHLORINATED BIPHENYLS (PCBS); EXEMPTIONS FROM THE PROHIBITIONS AGAINST MANUFACTURING, PROCESSING, AND DISTRIBUTION IN COMMERCE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2605, TSCA sec 6(e)(3)(B)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA) provides that the Administrator may grant, by rule, exemptions from the prohibitions against manufacturing, processing and distribution in commerce of PCBs upon finding that (1) no unreasonable risk to health or the environment will occur, and (2) good faith efforts have been made by the petitioner to develop a substitute for PCB which does not pose an unreasonable risk of injury to health or the environment. In addition, the Interim Procedural Rules were amended to require certain petitioners to reapply for EPA approval to continue PCB activities previously approved by EPA.

Timetable:

Action	Date	FR Cite
NPRM (1) Group I	12/06/94	59 FR 62875
Final Action Group I	09/00/02	
NPRM (2) Group II	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: SAN No. 2150

Sectors Affected: 211 Oil and Gas Extraction; 2211 Electric Power Generation, Transmission and Distribution; 31-33 Manufacturing; 5133 Telecommunications; 6113 Colleges, Universities and Professional Schools; 622 Hospitals; 921 Executive, Legislative, Public Finance and General Government

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RIN: 2070–AB20

3597. ACRYLAMIDE; PROHIBITION ON MANUFACTURE, IMPORTATION, DISTRIBUTION AND USE OF ACRYLAMIDE FOR GROUTING

Priority: Other Significant

Legal Authority: 15 USC 2605 TSCA sec 6; 15 USC 2607 TSCA sec 8

CFR Citation: 40 CFR 764

Legal Deadline: None

Abstract: On October 2, 1991, EPA proposed a regulation of acrylamide and NMA grouts based on the unreasonable risk associated with their usage. EPA's rule would prohibit the manufacture, distribution in commerce, and use of acrylamide grout. In February 1996, EPA reopened the record for 30 days to take additional comments, specifically to seek data on the relative durability of acrylamide and NMA grouts. The Agency has reviewed the comments and expects to promulgate the final rule in the Summer of 2002.

Timetable:

Action	Date	FR Cite
NPRM	10/02/91	56 FR 49863
Notice Reopening Record for Comments on Durability of NMA	02/28/96	61 FR 7454
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 2779

Sectors Affected: 23491 Water, Sewer, and Pipeline Construction; 23491 Water, Sewer, and Pipeline Construction; 32519 Other Basic Organic Chemical Manufacturing; 32519 Other Basic Organic Chemical Manufacturing; 42269 Other Chemical and Allied Products Wholesalers; 22132 Sewage Treatment Facilities

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RIN: 2070–AC17

3598. TSCA SECTION 8(A) PRELIMINARY ASSESSMENT INFORMATION RULES

Priority: Routine and Frequent

Legal Authority: 15 USC 2607(a) TSCA sec 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and designated mixtures subject to the requirements of the Toxic Substances Control Act section 8(a) Preliminary Assessment Information Rule (40 CFR part 712). These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee. Manufacturers and importers are required to submit exposure-related data (EPA Form No. 7710-35) on the chemicals. These data will be used to monitor the levels of production, import and/or processing of these substances and the avenues of human and environmental exposure to these substances. These data will also support risk assessment and test rule decisions.

Timetable:

Action	Date	FR Cite
Final Action 37th ITC List	02/28/96	61 FR 7421
Final Action 38th ITC List	10/29/96	61 FR 55871
Final Action 38th ITC List - Stay	12/11/96	61 FR 65186
Final Action 38th ITC List - Stay/Technical Amendments	01/07/98	63 FR 684
Final Action 38th ITC List - Revocation	01/11/00	65 FR 1548
Final Action 39th ITC List	01/11/00	65 FR 1548
Final Action 41st ITC List	07/05/00	65 FR 41371
Final Action 42nd ITC List	07/24/00	65 FR 45535
Final Action 47th ITC List	07/26/01	66 FR 38955
Final Action 48th ITC List	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2178

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AB08

3599. TSCA SECTION 8(D) HEALTH AND SAFETY DATA REPORTING RULES

Priority: Routine and Frequent

Legal Authority: 15 USC 2607(d), TSCA sec 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None

Abstract: These rules require manufacturers, importers and processors to submit unpublished health and safety data on chemicals added to the requirements of the Toxic Substances Control Act section 8(d) Health and Safety Data Reporting Rule (40 CFR part 716). These chemicals

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have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee.

Timetable:

Action	Date	FR Cite
Final 38th ITC List	10/29/96	61 FR 55871
Final 38th ITC List - Stay	12/11/96	61 FR 65186
Final 38th ITC List - Stay/Technical Amendment	01/07/98	63 FR 684
Final Action 38th ITC List - Revocation	01/11/00	65 FR 1548
Final Action 39th, 41st and 42nd ITC List	02/00/02	
Final Action 47th ITC List	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 1139

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AB11

3600. LEAD; NOTIFICATION REQUIREMENTS FOR LEAD-BASED PAINT ABATEMENT ACTIVITIES AND TRAINING

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2682 TSCA 402; 15 USC 2687 TSCA 407; PL 102-550

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: EPA is issuing this rule under the authority of Section 407 of the Toxic Substances Control Act (TSCA) to establish notification procedures for lead abatement professionals (certified under 40 CFR 745.226) conducting lead-based paint activities, and training programs (accredited under 40 CFR 225) providing lead-based paint activities courses. Specifically, this rule seeks to establish procedures to notify the Agency prior to commencement of lead-based paint abatement activities as required by 40 CFR 745.227(e)(4). In addition, this rule seeks to establish provisions which would require training programs accredited under 40 CFR 745.225 to notify the Agency under the following conditions: 1) prior to providing lead-based paint activities, training , and 2) following completion of lead-based paint activities courses. These notification requirements are necessary to provide EPA compliance monitoring and enforcement personnel with information necessary to track compliance activity and to prioritize inspections. This rule supports 40 CFR part 745, subpart L to ensure that lead abatement professionals who inspect, assess and remove lead-based paint, dust or soil are well qualified, trained, and certified to conduct these activities.

Timetable:

Action	Date	FR Cite
NPRM	01/22/01	66 FR 7207
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4172

Sectors Affected: 611519 Other Technical and Trade Schools

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RIN: 2070–AD31

3601. LEAD; MANAGEMENT AND DISPOSAL OF LEAD-BASED PAINT DEBRIS

Priority: Other Significant

Legal Authority: 15 USC 2601 to 2671; 42 USC 6901 to 6992

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: Currently, waste derived from lead-based paint (LBP) abatements is managed under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. Other Federal agencies (Department of Housing and Urban Development, Department of Health and Human Services) and several States and advocacy groups have expressed concern that the costs associated with the disposal of large volume architectural components (e.g., doors and windows) may interfere with abatement activities. EPA's Office of Prevention, Pesticides and Toxic Substances and the Office of Solid Waste have initiated a joint rulemaking to address the disposal of these architectural components. This rulemaking would develop disposal standards for these components under the Toxic Substances Control Act (TSCA) title IV, (the definition of abatement under TSCA title IV, section 401(1)(B), includes disposal). The TSCA regulations would establish appropriate disposal standards for LBP architectural components and identify recycling and incineration activities that would be controlled or prohibited. To minimize duplication of waste management requirements, EPA is developing a companion RCRA rule to suspend temporarily hazardous waste management regulations applicable to lead-based paint debris which will be subject to the new TSCA standards.

Timetable:

Action	Date	FR Cite
NPRM TSCA Proposal	12/18/98	63 FR 70189
Extension of Comment Period	02/12/99	64 FR 7158
Extension of Comment Period	02/12/99	64 FR 7159
Final Action	08/00/02	

Regulatory Flexibility Analysis Required: No

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Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 3508

See also RCRA companion rule: Temporary Suspension of Toxicity Characteristic Rule for Specified Lead-Based Paint Debris (SAN 4263; RIN 2050-AE68),

NPRM- http://www.epa.gov/fedrgstr/EPA-TRI/1998/December/Day-18/tri33326.htm,

NPRM- http://www.epa.gov/fedrgstr/EPA-TRI/1998/December/Day-18/tri33326.htm

Sectors Affected: 233 Building, Developing and General Contracting; 23321 Single Family Housing Construction; 23332 Commercial and Institutional Building Construction; 23521 Painting and Wall Covering Contractors; 23542 Drywall, Plastering, Acoustical and Insulation Contractors; 23511 Plumbing, Heating and Air-Conditioning Contractors; 23594 Wrecking and Demolition Contractors; 23592 Glass and Glazing Contractors; 54138 Testing Laboratories; 562111 Solid Waste Collection

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RIN: 2070–AC72

3602. TSCA SECTION 8(E) POLICY; NOTICE OF CLARIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2607(e) TSCA sec 8(e)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The TSCA section 8(e) Notice of Clarification and Solicitation of Public Comment would amend certain aspects of the 1978 TSCA section 8(e) Statement of Interpretation and Enforcement Policy (1978 Policy Statement). The 1978 Policy Statement describes the types of information that EPA considers reportable under section 8(e), the substantial risk reporting provision of TSCA, and describes the procedures for reporting such information to EPA. This clarification effort derives from a review of the existing section 8(e) guidance done in the context of questions raised by companies considering participating in the section 8(e) Compliance Audit Program (CAP). As a result of this review, EPA determined that parts of the 1978 Policy Statement concerning the reportability of information on widespread and previously unsuspected distribution in environmental media and emergency incidents of environmental contamination needed some refinement. The subject Federal Register action solicited comment on refined reporting guidance concerning widespread and previously unsuspected distribution in environmental media and provides additional circumstances where information is not reportable because it is considered known to the Administrator. Finally, the notice solicited comments on changes to the section 8(e) reporting deadline and reaffirmed the standards for claims of confidentiality for information contained in a notice of substantial risk under section 8(e).

Timetable:

Action	Date	FR Cite
NPRM	07/13/93	58 FR 37735
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3118

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AC80

3603. CHEMICAL RIGHT-TO-KNOW INITIATIVE; HIGH PRODUCTION VOLUME (HPV) CHEMICALS

Regulatory Plan: This entry is Seq. No. 142 in part II of this issue of the **Federal Register**.

RIN: 2070–AD25

Environmental Protection Agency (EPA)
Toxic Substances Control Act (TSCA) **Long-Term Actions**

3604. VOLUNTARY CHILDREN'S CHEMICAL EVALUATION PROGRAM (VCCEP)

Priority: Other Significant

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12; 15 USC 2625 TSCA 26

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: EPA has held public meetings to involve stakeholders in the design and development of a voluntary program to evaluate commercial chemicals to which children may have a high likelihood of exposure. The purpose of the voluntary program is to obtain toxicity and exposure data needed to assess the risk of childhood exposure to commercial chemicals. EPA launched a pilot of this program on December 26, 2000. Manufacturers of 20 of the 23 pilot chemicals have volunteered to sponsor their chemicals in tier 1 in the pilot. If an adequate voluntary children's chemical

evaluation program fails to emerge from the stakeholder involvement process, EPA may proceed with development of a test rule under section 4 of the Toxic Substances Control Act (TSCA).

Timetable:

Action	Date	FR Cite
Notice Initiation of Stakeholder Process- Notice of Public Meetings	08/26/99	64 FR 46673
Notice Cancellation of Public Meeting	01/13/00	65 FR 2163
Notice Stakeholder Involvement Process - Notice of Public Meeting	03/29/00	65 FR 16590
Notice Voluntary Children's Chemical Evaluation Program - Pilot	12/26/00	65 FR 81700
Notice Phase I Report	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 2865

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AC27

3605. TEST RULE; CERTAIN METALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12; 15 USC 2625 TSCA 26; 42 USC 9604(i) CERCLA 104(i)

CFR Citation: 40 CFR 790 to end

Legal Deadline: None

Abstract: EPA is proposing a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) requiring manufacturers and processors of certain metals to fill data needs identified by the Agency for Toxic Substances and Disease Registry (ATSDR), the National Toxicology Program (NTP), and EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 104(I). Under CERCLA, ATSDR is to establish a list of priority hazardous substances found at superfund sites, develop toxicological profiles for the hazardous substances, identify priority data needs, and establish a research program obtaining the necessary data. This action is a component of ATSDR's research program. Data from this action would provide specific information about the substances for the public and scientific community. The information would be used in conducting comprehensive public health assessments of populations living near hazardous waste sites. Scientific data improves the quality of risk assessments used by EPA, other Federal agencies, and State and local governments. The risk assessments affect standards, guidelines, listing/delisting, and other decisions affecting public health and the environment. The metals are also hazardous air pollutants (HAPs) under the Clean Air Act (CAA) section 112. Data from this action would also be used to implement several provisions of section 112 of the CAA, including determining risks remaining after the application of technology based on standards under section 112(d) of the CAA, estimating the risks associated with accidental releases, and determining whether or not substances should be removed from the CAA section (b)(1) list of HAPs (delisting).

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3882

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AD10

3606. LEAD; REGULATORY INVESTIGATION UNDER THE TOXIC SUBSTANCES CONTROL ACT (TSCA) TO REDUCE LEAD (PB) CONSUMPTION AND USE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 2605 TSCA 6

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: This action initiates a regulatory investigation under the Toxic Substances Control Act (TSCA) section 6 to determine if uses of lead (Pb) present an unreasonable risk to human health and the environment. The investigation will involve examination of the potential sources of human or other exposure to lead throughout the life cycle. Based on information gathered EPA may propose TSCA section 6(a) rules to control existing or new uses of Pb which pose an unreasonable risk to human health or the environment, and to explore the desirability and feasibility of discouraging overall consumption of Pb in general.

Timetable:

Action	Date	FR Cite
ANPRM	05/13/91	56 FR 22096
NPRM Proposed Ban of Fishing Sinkers	03/09/94	59 FR 11122
Final Action Fishing Sinkers	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3252

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RIN: 2070–AC21

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EPA—Toxic Substances Control Act (TSCA) Long-Term Actions

3607. SIGNIFICANT NEW USE RULE; REFRACTORY CERAMIC FIBERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2604 TSCA 5; 15 USC 2605 TSCA 6

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 6 to require reporting by the manufacturers, importers and/or processors of these chemicals. Proposed rules may be published on at least the chemicals listed on the timetable below.

Timetable:

Action	Date	FR Cite
NPRM Refractory Ceramic Fiber	03/21/94	59 FR 13294
Final Action Refractory Ceramic Fiber	03/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3528

Sectors Affected: 327999 All Other Miscellaneous Nonmetallic Mineral Product Manufacturing

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RIN: 2070–AC37

3608. ASBESTOS MODEL ACCREDITATION PLAN REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2646 TSCA sec 206

CFR Citation: 40 CFR 763

Legal Deadline: Final, Statutory, November 28, 1992.

Abstract: The Asbestos School Hazard Abatement Reauthorization Act (ASHARA) amended TSCA to require that EPA revise its asbestos model accreditation plan (MAP) to extend training and accreditation requirements to include persons performing certain asbestos-related work in public or commercial buildings, to increase the minimum number of training hours required for accreditation purposes and to effect other changes necessary to implement the amendments.

Timetable:

Action	Date	FR Cite
Model Plan	05/13/92	57 FR 20438
Interim Final Rule	02/03/94	59 FR 5236
Final Action	05/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Local, Tribal

Federalism: Undetermined

Additional Information: SAN No. 3148

Sectors Affected: 611519 Other Technical and Trade Schools

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RIN: 2070–AC51

3609. POLYCHLORINATED BIPHENYLS (PCBS); USE AUTHORIZATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 2605(e) TSCA sec 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: The notice of proposed rulemaking that was published on December 6, 1994, covered the manufacture (including import), processing, distribution in commerce, export use, disposal, and marking of PCBs. On June 29, 1998, EPA issued a final rule involving the disposal related provisions. Other provisions, e.g., certain use authorizations and import provisions, were to be addressed in separate actions. This rulemaking addresses a use authorization for certain non-liquid PCB applications, which although currently in use have never been authorized under the PCB regulations at 40 CFR part 761.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/91	56 FR 26738
NPRM	12/06/94	59 FR 62788
Final Action 1 PCB Disposal Provisions	06/29/98	63 FR 35384
NPRM Notice of Data Availability, Reopening of Comment Period	12/10/99	64 FR 69358
NPRM Comment Period Extended	04/06/00	65 FR 18018
NPRM Use Authorizations	01/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4179

Sectors Affected: 2211 Electric Power Generation, Transmission and Distribution; 211 Oil and Gas Extraction; 31-33 Manufacturing; 5133 Telecommunications; 622 Hospitals; 6113 Colleges, Universities and Professional Schools; 921 Executive, Legislative, Public Finance and General Government

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RIN: 2070–AD27

3610. NOTICE OF TSCA SECTION 4 REIMBURSEMENT PERIOD AND TSCA SECTION 12(B) EXPORT NOTIFICATION PERIOD SUNSET DATES FOR TSCA SECTION 4 SUBSTANCES

Priority: Info./Admin./Other

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 707; 40 CFR 790; 40 CFR 791; 40 CFR 799

Legal Deadline: None

Abstract: EPA is developing a list of substances that are or have been subject to TSCA section 4 testing actions which required testing under rules or Enforceable Consent Orders. EPA will identify sunset, or termination dates that will identify: (1) the end of section 4 reporting requirements (40 CFR 790); (2) the end of the reimbursement period under which persons subject to test rules are subject to an obligation to reimburse test sponsors (40 CFR 791); and (3) the end of the period during which export notification requirements under TSCA section 12(b) are triggered.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Additional Information: SAN No. 3559

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AC84

3611. LEAD-BASED PAINT ACTIVITIES; TRAINING, ACCREDITATION, AND CERTIFICATION RULE AND MODEL STATE PLAN RULE - BUILDING AND STRUCTURES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 2603 TSCA Title IV; PL 102-550 sec 402; PL 102-550 sec 404

CFR Citation: 40 CFR 745

Legal Deadline: Final, Statutory, April 28, 1994.

Abstract: The Residential Lead-Based Paint Hazard Reduction Act of 1992 mandates EPA promulgate regulations governing lead-based paint (LBP) activities to ensure that individuals engaged in such activities are properly trained, that LBP training programs are accredited, and that contractors engaged in such activities are certified. In addition, EPA must promulgate a Model State program which may be adopted by any State which seeks to administer and enforce a State Program. EPA promulgated regulations for training and certification of training programs for LBP activities and child occupied facilities in 1996 (see 40 CFR 745). Regulations for LBP activities in public and commercial buildings and bridges and other structures are still under development.

Timetable:

Action	Date	FR Cite
NPRM (Buildings & Structures)	10/00/04	
Final Action (Buildings & Structures)	10/00/05	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Federalism: Undetermined

Additional Information: SAN No. 4376

Sectors Affected: 23411 Highway and Street Construction; 611519 Other Technical and Trade Schools

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RIN: 2070–AC64

3612. • DISPOSAL OF POLYCHLORINATED BIPHENYLS: IMPLEMENTATION ISSUES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 2607(TSCA Section 6)

CFR Citation: 40 CFR 761 (Revision)

Legal Deadline: None

Abstract: This proposed regulation will clarify and expand on implementation issues that have arisen as a result of the publication of the 1998 PCB Disposal Amendments (63 FR 35384). Topics will include but not be limited to, Use Authorizations, Natural Gas Pipelines,Testing and Analysis, Manifesting of PCB Waste, Publication Process for Validated Alternate Decontamination Solvents and PCB Analytical Methods and Storage of Dedicated PCB Equipment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

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Government Levels Affected: Federal, State, Local, Tribal

Federalism: Undetermined

Additional Information: SAN No. 4597

Sectors Affected: 92 Public Administration; 22 Utilities; 31-33 Manufacturing; 48-49 Transportation; 53 Real Estate and Rental and Leasing; 54 Professional, Scientific and Technical Services; 562 Waste Management and Remediation Services; 81 Other Services (except Public Administration)

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RIN: 2070–AD52

Environmental Protection Agency (EPA)
Toxic Substances Control Act (TSCA) **Completed Actions**

3613. • TOXIC SUBSTANCES CONTROL ACT TEST GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603; 15 USC 2611; 15 USC 2625

CFR Citation: 40 CFR 799.9630

Legal Deadline: None

Abstract: EPA has established a unified library for test guidelines issued by the Office of Prevention, Pesticides and Toxic Substances (OPPTS) for use in testing chemical substances to develop data for submission to EPA under the Toxic Substances Control Act (TSCA), the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). These test guidelines represent an Agency effort that began in 1991 to harmonize the test guidelines within OPPTS, as well as to harmonize the OPPTS test guidelines with those of the Organization for Economic Cooperation and Development (OECD). The process for developing and amending these test guidelines includes public participation and the extensive involvement of the scientific community, including peer review by the FIFRA Scientific Advisory Panel, the Agency's Science Advisory Board (SAB) and other expert scientific organizations. In order to ensure that there is an enforceable test standard for use in a test rule promulgated under section 4 of TSCA, EPA must promulgate the test guideline in the Code of Federal Regulations (CFR). The TSCA test guidelines are consistent with those established as part of the OPPTS harmonized effort, and codification of the guideline does does not by itself impose obligations on any person. Obligations are only imposed when the guideline is subsequently cross referenced in a specific test rule promulgated under section 4 of TSCA.

Timetable:

Action	Date	FR Cite
Final Rule TSCA Test Guidelines	12/15/00	65 FR 78746

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4490

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

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RIN: 2070–AD50

Environmental Protection Agency (EPA)
Emergency Planning and Community Right-to-Know Act (EPCRA) **Proposed Rule Stage**

3614. TRI; REVIEW OF CHEMICALS ON THE ORIGINAL TRI LIST

Priority: Other Significant

Legal Authority: 42 USC 1101 et seq

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: When TRI was established by Congress in 1986, the statutory language placed 309 chemicals and 20 categories of chemicals on the TRI list; that is referred to as the original TRI list. The chemicals on the original list were taken from two existing lists of toxic substances: the Maryland Chemical Inventory Report List of Toxic or Hazardous Substances, and the New Jersey Environmental Hazardous Substances list. This action constitutes the first systematic review of toxicology and environmental data for all the chemicals on the original TRI list to determine whether data for those chemicals conform with the statutory criteria for listing of chemicals on TRI. Chemicals for which data do not meet the statutory criteria will be delisted.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	
Final Action	09/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4015

Formerly listed as RIN 2070-AD18.

AFFECTED SECTORS: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169) Petroleum

Bulk Terminals and Plants (SIC code 5171); and Solvent Recovery Services (SIC code 7389).

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RIN: 2025–AA03

3615. TRI; REVISIONS TO THE OTHERWISE USE ACTIVITY EXEMPTIONS AND THE COAL EXTRACTION ACTIVITIES EXEMPTION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 11001 et seq

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The Toxics Release Inventory (TRI) requires reporting from facilities which manufacture or process at least 25,000 pounds of a listed chemical, or otherwise use 10,000 pounds of a listed chemical. In determining amounts of listed chemicals that are manufactured, processed or otherwise used, facilities may be entitled to consider specific exemptions from reporting. EPA is presently reviewing a group of these exemptions. The categories of exemptions presently being reconsidered by EPA are the structural component exemption, the routine janitorial and facility grounds maintenance exemption, the personal use exemption, and the motor vehicle maintenance exemption. Also known as the otherwise use exemptions because they are limited to otherwise use activities, these exemptions are expressly provided for at 40 CFR 372.38(c). EPA is also considering changes to the coal mining extraction activities exemption provided for at 40 CFR 372.38(g).

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Additional Information: SAN No. 4265

Formerly listed as RIN 2070-AD39.

By statute and regulation, this rule will affect SIC codes 20-39, 10 (except SIC codes 1011, 1081, 1094), 12 (except SIC code 1241), 4911, 4931, 4939, 4953, 5169, 5171, and 7389.

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RIN: 2025–AA06

3616. TRI: APA PETITION-EPCRA 313 DEFINITION OF OVERBURDEN AS IT RELATES TO THE MINING INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11001 et seq

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The regulatory definition for EPCRA section 313 defines overburden to mean any unconsolidated material that overlies a deposit of useful material or ores. It does not include any portion of ore or waste rock. Overburden generally lacks any recoverable materials and contains only trace amounts of EPCRA section 313 chemicals. Under section 313, all activities related to overburden are exempt from threshold determinations and release and other waste management calculations because overburden contains TRI chemicals in negligible amounts and reporting is unlikely to provide the public with valuable information. On December 22, 1998, the National Mining Association (NMA) petitioned EPA, pursuant to the Administrative Procedures Act (APA) to change the current EPCRA 313 definition of overburden to include both consolidated material and unconsolidated material. By making such a change, consolidated material that overlies an ore deposit would be eligible for the overburden exemption (i.e., overburden generally lacks any recoverable minerals and contains only trace amounts of EPCRA section 313 chemicals). NMA asserts that EPA's definition of overburden is inconsistent with that of industry. NMA considers overburden to be all material, both consolidated and unconsolidated, that overlies an ore deposit of useful material and must be removed to allow access to ore deposit.

Timetable:

Action	Date	FR Cite
Notice	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4392

Fomerly listed as RIN 2070-AD41.

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RIN: 2025–AA08

3617. • RULEMAKING TO CHANGE TOXICS RELEASE INVENTORY (TRI) REPORTING REQUIREMENTS FROM STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODES TO NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM

Priority: Info./Admin./Other

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The Office of Management and Budget (OMB) published a Federal

Register Notice of final decision (62 FR 68) to adopt the North American Industry Classification System (NAICS) for the United States. This rulemaking initates the conversion from TRI Reporting using Standard Industrial Classification (SIC) codes to TRI Reporting using NAICS codes. The TRI Program will convert to NAICS without producing any changes in the facilities that are now subject to TRI reporting. Therefore, there should be no increased burden resulting from this action.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4595

Sectors Affected: 212 Mining (except Oil and Gas); 221 Utilities; 562 Waste Management and Remediation Services; 422 Wholesale Trade, Nondurable Goods

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RIN: 2025–AA10

3618. • CLARIFY TRI REPORTING OBLIGATIONS UNDER EPCRA SECTION 313 FOR THE METAL MINING ACTIVITIES OF EXTRACTION AND BENEFICIATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 11001 et seq

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The Toxics Release Inventory (TRI) currently requires reporting from metal mining facilities if they manufacture or process 25,000 pounds or more of a listed chemical or otherwise use 10,000 pounds or more of a listed chemical. These mining facilities engage in the removal of naturally occurring materials from the earth. EPA had considered naturally occurring materials to be manufactured by natural processes. A recent court order set aside EPA's interpretation of manufacture stating that naturally occurring ores can not be manufactured within the meaning of EPCRA section 313. EPA is considering clarifying how the definitions of manufacturing and processing under EPCRA section 313 apply to the mining sector processes of extraction and beneficiation. In this rule, EPA is also planning to review the de minimis exemption. This action will not affect the coal extraction activities exemption.

Timetable:

Action	Date	FR Cite
NPRM	07/00/02	
Final Action	07/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 4616

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RIN: 2025–AA11

3619. EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT: AMENDMENTS AND STREAMLINING RULE

Priority: Other Significant

Legal Authority: 42 USC 11002; 42 USC 11004; 42 USC 11048; 42 USC 11021; 42 USC 11022

CFR Citation: 40 CFR 355; 40 CFR 370

Legal Deadline: None

Abstract: This rule will address the remaining issues from the proposed rule of June 8, 1998. (Reporting thresholds for gasoline and diesel fuel at retail gas stations were included in a separate final rule; 64 FR 7031, February 11, 1999.) A supplemental proposal will address reporting thresholds for chemicals that pose minimal risk. The final rule will address: reporting thresholds for rock salt, sand, gravel and other chemicals that pose minimal risk; plain language rewrite and may consider reporting thresholds for facilities with some similarities to gas stations (motor pools, marinas, etc.) and guidance on approaches to State flexibility.

Timetable:

Action	Date	FR Cite
NPRM	06/08/98	63 FR 31268
Supplemental NPRM	12/00/01	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 3215

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RIN: 2050–AE17

3620. MODIFICATION OF THRESHOLD PLANNING QUANTITY FOR ISOPHORONE DIISOCYANATE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11002; 42 USC 11004; 42 USC 11048

CFR Citation: 40 CFR 355

Legal Deadline: None

Abstract: On October 12, 1994 (59 FR 51816), EPA proposed to modify the listing of several chemicals on the extremely hazardous substances (EHS) list under the Emergency Planning and Community Right-to-Know Act. One petitioner requested the removal of isophorone diisocyanate (IPDI). EPA rejected the petitioner's request.

EPA—Emergency Planning and Community Right-to-Know Act (EPCRA) **Proposed Rule Stage**

However, in the review of the petition, EPA noticed that there was an error in the setting of the threshold planning quantity (TPQ) for IPDI, and proposed to correct the error in the October 12, 1994 notice of proposed rulemaking. The other modifications to the EHS list were made final on May 7, 1996; however, the TPQ for IPDI was not included in that final rule. The goal is to finalize the TPQ for IPDI.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3993

Sectors Affected: 325 Chemical Manufacturing

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RIN: 2050–AE43

Environmental Protection Agency (EPA) **Final Rule Stage**
Emergency Planning and Community Right-to-Know Act (EPCRA)

3621. TRI; RESPONSES TO PETITIONS RECEIVED TO ADD OR DELETE OR MODIFY CHEMICAL LISTINGS ON THE TOXIC RELEASE INVENTORY

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 11013 EPCRA 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: These actions grant or deny petitions received to add or delete or modify chemicals on the list of toxic chemicals under section 313 of the Emergency Planning and Community Right to Know Act (EPCRA) that are subject to reporting under the Toxic Chemical Release Reporting Rule. The actions cover individual chemicals or groups of chemicals for which petitions have been received.

Timetable:

Action	Date	FR Cite
Notice DBNPA (Request to Delete)	10/27/95	60 FR 54949
NPRM Chromite Ore from Transvaal Reg. of S.A.	02/23/99	64 FR 8775
NPRM Diisononyl phthalate (DINP) (Request to Add)	09/05/00	65 FR 53681
Final Action Chromite Ore from Transvaal Reg. of S.A.	05/11/01	66 FR 24066
Final Response DBNPA (Request to Delete)	01/00/02	
Response Chromium, Antimony, Titanite Petition	02/00/02	
Final Action Diidononyl phthalate (DINP), Request To Add	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Additional Information: SAN No. 2425

Fomerly listed as RIN 2070-AC00.

Statutory deadline: Within 180 days of receipt the Agency must either initiate rulemaking or explain why not in the Federal Register. Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

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RIN: 2025–AA00

Environmental Protection Agency (EPA) **Long-Term Actions**
Emergency Planning and Community Right-to-Know Act (EPCRA)

3622. TRI; CHEMICAL EXPANSION; FINALIZATION OF DEFERRED CHEMICALS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 11013 EPCRA 313; 42 USC 11023; 42 USC 11048; 42 USC 11076

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: On November 30, 1994, EPA added 286 chemicals and chemical categories to the EPCRA section 313 list, including 39 chemicals as part of two delineated categories. Each chemical and chemical category was found to meet the statutory criteria described in EPCRA section 313(d)(2)(A) to (C). At this time, EPA deferred final action on 40 chemicals and one chemical category until a later date. These were deferred because the comments received on them raised difficult technical or policy issues which required additional time to address. EPA chose not to delay final action on the 286 chemicals and chemical categories because of the additional time needed to address the

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issues surrounding the smaller group of 40 chemicals and one chemical category; rather, EPA believed it to be in the spirit of community right-to-know to proceed with the final rulemaking of the additional chemicals and chemical categories.

Timetable:

Action	Date	FR Cite
NPRM	01/12/94	59 FR 1788
Supplemental NPRM Deferred Chemicals	12/00/02	
Final Action Deferred Chemicals	12/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Additional Information: SAN No. 3007

Fomerly listed as RIN 2070-AC47.

Includes SIC codes: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

Sectors Affected: 42269 Other Chemical and Allied Products Wholesalers

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RIN: 2025–AA01

3623. TRI; POLLUTION PREVENTION ACT INFORMATION REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 11013 Pollution Prevention Act

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: Section 6607(b) of the Pollution Prevention Act of 1990 (PPA) (Pub. L. 101-508) requires the addition of several data elements to the Toxic Chemical Release Inventory (TRI) reporting requirements as promulgated under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (Pub. L. 99-499). Section 313 of EPCRA requires owners or operators of certain facilities that manufacture, process, or otherwise use listed toxic chemicals to annually report their releases of these chemicals to each environmental medium. The PPA mandates that section 313 covered facilities also report on source reduction and recycling activities relating to the toxic chemicals beginning with the 1991 reporting year. Since 1991 covered facilities have been providing this information to EPA in section 8, Source Reduction and Recycling Activities, of EPA Form R. On September 25, 1991 (56 FR 48475), EPA proposed regulations which would provide definitions and instructions for reporting the PPA data elements on the EPA Form R. In this action, EPA will amend certain aspects of the September 25, 1991, proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48475
Supplemental NPRM	To Be	Determined
Response	To Be	Determined
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Additional Information: SAN No. 2847

Fomerly listed as RIN 2070-AC24.

Affected Sectors Include: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

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RIN: 2025–AA09

3624. RESPONSE TO A PETITION REQUESTING DELETION OF PHOSMET FROM THE EXTREMELY HAZARDOUS SUBSTANCES (EHS) LIST

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11002; 42 USC 11004; 42 USC 11048

CFR Citation: 40 CFR 355

Legal Deadline: None

Abstract: EPA has received a petition to remove Phosmet from the extremely hazardous substance (EHS) list under the Emergency Planning and Community Right-to-Know Act (EPCRA). This rulemaking will address the petitioner's claims.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3994

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RIN: 2050–AE42

Environmental Protection Agency (EPA) **Prerule Stage**
Resource Conservation and Recovery Act (RCRA)

3625. LAND DISPOSAL RESTRICTIONS; POTENTIAL REVISIONS FOR MERCURY LISTED AND CHARACTERISTIC WASTES

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6924

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: In May 1999, EPA published an Advance Notice of Proposed Rulemaking that described the issues the Agency has with the current Land Disposal Restrictions (LDR) treatment standards for mercury bearing hazardous wastes. Based on the comments received on this ANPRM as well as other information the Agency has collected, we are now conducting a series of mercury treatability studies in conjunction with DOE. The data from these studies will be presented in a Notice of Availability (NODA). These data are from a number of treatment vendors, treating several different types of mercury wastes. In addition to examining TCLP data, we are also looking at alternative leaching methodologies and other factors which might affect long-term stability of the treated wasteforms.

Timetable:

Action	Date	FR Cite
ANPRM	05/28/99	64 FR 28949
NoDA	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4094

Sectors Affected: 325181 Alkalies and Chlorine Manufacturing; 3353 Electrical Equipment Manufacturing; 3254 Pharmaceutical and Medicine Manufacturing; 32551 Paint and Coating Manufacturing

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RIN: 2050–AE54

Environmental Protection Agency (EPA) **Proposed Rule Stage**
Resource Conservation and Recovery Act (RCRA)

3626. REMOVAL OF REQUIREMENT TO USE SW-846 METHODS (TEST METHODS FOR EVALUATING SOLID WASTE: PHYSICAL/CHEMICAL METHODS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921-6927; 42 USC 6930; 42 USC 6934-6939; 42 USC 6974; 42 USC 9601; 42 USC 9614(c)

CFR Citation: 40 CFR 258; 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270; 40 CFR 279

Legal Deadline: None

Abstract: EPA has been actively working to break down the barriers that the environmental monitoring community faces when trying to use new monitoring techniques. As a first step, EPA has accelerated its review process for new methods by eliminating several unnecessary internal review steps, and by streamlining the internal approval process for each new method. However, there are currently 32 citations in title 40 of the Code of Federal Regulations (CFR) where the use of SW-846 methods is required. As a second step for speeding up the approval process, EPA plans to remove the requirements to use SW-846 methods for other than method defined parameters (i.e., where the method defines the regulations, such as the Toxicity Characteristic Leaching Procedure) from 40 CFR. This will likely lead to an even more streamlined approval process since SW-846 will then be able to be handled strictly as guidance and not need the regulatory process for approval. This additional streamlining will permit new, more cost-effective methods to attain public and regulatory authority acceptance in much less time, allowing required monitoring to be done more cheaply, faster and, in some cases, more accurately.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 3989

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RIN: 2050–AE41

3627. STANDARDIZED PERMIT FOR RCRA HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912; 42 USC 6924; 42 USC 6925; 42 USC 6927; 42 USC 6939; 42 USC 6974

CFR Citation: 40 CFR 124; 40 CFR 267; 40 CFR 270

Legal Deadline: None

Abstract: EPA is considering creating a new type of general permit, called a standardized permit, for facilities that generate waste and routinely manage the waste on-site in tanks, containers, and containment buildings. Under the standardized permit, facility owners and operators would certify compliance with generic design and operating conditions set on a national basis. The permitting agency would review the certifications submitted by the facility owners and operators. The permitting agency would also be able to impose additional site-specific terms and conditions for corrective action or other purposes, as called for by RCRA. Ensuring compliance with the standardized permit's terms and conditions would occur during inspection of the facility after the permit has been issued. The standardized permit should streamline the permit process by allowing facilities

to obtain and modify permits more easily while maintaining the protectiveness currently existing in the individual RCRA permit process. This proposal also raises issues for public comment on how all facilities receiving RCRA permits can satisfy RCRA corrective action requirements under appropriate alternative state cleanup programs and on financial assurance issues.

Timetable:

Action	Date	FR Cite
NPRM	10/12/01	66 FR 52191
NPRM Comment Period End	12/11/01	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4028

Sectors Affected: 32411 Petroleum Refineries; 3251 Basic Chemical Manufacturing; 3252 Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing; 325211 Plastics Material and Resin Manufacturing; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 32551 Paint and Coating Manufacturing; 332813 Electroplating, Plating, Polishing, Anodizing and Coloring

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RIN: 2050–AE44

3628. NESHAPS: STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR HAZARDOUS WASTE COMBUSTORS-PHASE II COVERING BOILERS AND CERTAIN INDUSTRIAL FURNACES

Priority: Other Significant

Legal Authority: 42 USC 6924 RCRA sec 3004; 42 USC 6925 RCRA sec 3005; 42 USC 7412 CAA sec 112; 42 USC 7414 CAA sec 114

CFR Citation: 40 CFR 60; 40 CFR 63; 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270

Legal Deadline: NPRM, Judicial, May 15, 2002, Settlement agreement for boilers and other industrial furnaces. Seeking extension.

Abstract: Under the Clean Air Act (CAA), EPA is required to establish National Emission Standards for Hazardous Air Pollutants (NESHAPs) for most hazardous waste combustors (HWCs) (i.e., incinerators, cement kilns, boilers, and some types of smelting furnaces). In addition, under the Resource Conservation and Recovery Act (RCRA), EPA is required to establish standards for all HWCs as necessary to ensure protection of human health and the environment. EPA is concerned that its current RCRA standards for HWCs may not be adequately protective given that the standards do not take into account indirect pathways of exposure and that there have been advances both in risk assessment and control technologies since promulgation of the current standards. The Agency is in the process of developing a proposal to address boilers and possibly other industrial furnaces, which combust hazardous wastes.

Timetable:

Action	Date	FR Cite
NPRM Cement Kilns & Lightweight Aggregate Kilns & Incinerators	04/19/96	61 FR 17358
Final Action MACT Fasttrack	06/19/98	63 FR 33782
Final Action Cement Kilns & LWAKs & Incinerators (Final-Phase I)	09/30/99	64 FR 52828
NPRM Boilers & Other Industrial Furnaces (Phase II)	07/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 3333

For information on the Phase I portion of this effort, see SAN 4418, RIN 2050-AE79.

Sectors Affected: 2123 Non-Metallic Mineral Mining and Quarrying; 2211 Electric Power Generation, Transmission and Distribution; 22132 Sewage Treatment Facilities; 3241 Petroleum and Coal Products Manufacturing; 3271 Clay Product and Refractory Manufacturing; 3231 Printing and Related Support Activities; 3251 Basic Chemical Manufacturing; 3252 Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing; 3253 Pesticide, Fertilizer and Other Agricultural Chemical Manufacturing; 3254 Pharmaceutical and Medicine Manufacturing; 3255 Paint, Coating, Adhesive, and Sealant Manufacturing; 3259 Other Chemical Product Manufacturing; 3271 Clay Product and Refractory Manufacturing; 3273 Cement and Concrete Product Manufacturing; 3274 Lime, Gypsum and Gypsum Product Manufacturing; 3279 Other Nonmetallic Mineral Product Manufacturing; 3327 Machine Shops, Turned Product, and Screw, Nut and Bolt Manufacturing; 3328 Coating, Engraving, Heat Treating and Allied Activities; 3329 Other Fabricated Metal Product Manufacturing; 3332 Industrial Machinery Manufacturing; 3335 -; 3339 Other General Purpose Machinery Manufacturing; 3341 Computer and Peripheral Equipment Manufacturing; 3342 Communications Equipment Manufacturing; 3343 Audio and Video Equipment Manufacturing; 3344 Semiconductor and Other Electronic Component Manufacturing; 3361 Motor Vehicle Manufacturing; 3362 Motor Vehicle Body and Trailer Manufacturing; 3363 Motor Vehicle Parts Manufacturing; 4227 Petroleum and Petroleum Products Wholesalers; 45431 Fuel Dealers; 5622 Waste Treatment and Disposal; 5629 Remediation and Other Waste Management Services

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RIN: 2050–AE01

3629. OFFICE OF SOLID WASTE BURDEN REDUCTION PROJECT

Regulatory Plan: This entry is Seq. No. 134 in part II of this issue of the **Federal Register**.

RIN: 2050–AE50

3630. MODIFICATIONS TO RCRA RULES ASSOCIATED WITH SOLVENT-CONTAMINATED SHOP TOWELS AND WIPES

Priority: Other Significant

Legal Authority: 42 USC 6921

CFR Citation: 40 CFR 261

EPA—Resource Conservation and Recovery Act (RCRA) — Proposed Rule Stage

Legal Deadline: None

Abstract: This action would modify RCRA rules that impact the management of solvent-contaminated shop towels and wipes. Solvent-contaminated shop towels and wipes are used throughout industry for equipment cleaning and other related facility operations. The spent shop towels and wipes can be hazardous wastes when the solvent used is either a characteristic or listed solvent. An examination of industry use and management practices reveals that many facilities may use only small amounts of solvent on their disposable wipes, and use small numbers of wipes daily — suggesting that these materials may sometimes pose little or no risk to human health and the environment if disposed in municipal landfills. Similarly, situations exist where both disposable wipes and reusable shop towels are not being managed according to prescribed Federal and States' rules and policies. Problems with this issue have persisted since the late 1980s.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Additional Information: SAN No. 4091

Sectors Affected: 323 Printing and Related Support Activities; 325 Chemical Manufacturing; 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing; 336 Transportation Equipment Manufacturing; 337 Furniture and Related Product Manufacturing; 441 Motor Vehicle and Parts Dealers; 811 Repair and Maintenance; 812 Personal and Laundry Services

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RIN: 2050–AE51

3631. RECYCLING OF CATHODE RAY TUBES (CRTS) AND MERCURY-CONTAINING EQUIPMENT: CHANGES TO HAZARDOUS WASTE REGULATIONS

Regulatory Plan: This entry is Seq. No. 135 in part II of this issue of the **Federal Register**.

RIN: 2050–AE52

3632. REVISIONS TO SOLID WASTE LANDFILL CRITERIA—LEACHATE RECIRCULATION ON ALTERNATIVE LINERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6907; 42 USC 6912; 42 USC 6944; 42 USC 6949a

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: EPA plans to propose a rule to allow leachate recirculation over alternative liner systems which meet the performance standard specified by the municipal solid waste landfill (MSWLF) criteria. The performance determination would be made by the state director of an approved MSWLF program. EPA also plans to propose a new section to the MSWLF criteria which will allow the alternative of clean closure of landfills rather than require the installation of a landfill cap, which would allow the solid waste in the MSWLF to be totally removed from the site and be properly disposed of at another site. Finally, EPA plans to propose an additional factor to 258.54 for determining the frequency of ground water monitoring for the detection monitoring program specified in this subpart. The additional factor for consideration concerns liner performance where there is some direct system for determining liner performance. However, the minimum monitoring frequency would still be no less than once a year as stated in the existing regulation.

Timetable:

Action	Date	FR Cite
NODA Request for Information and Data	04/06/00	65 FR 18014
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 4230

Sectors Affected: 562 Waste Management and Remediation Services

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RIN: 2050–AE67

3633. AMENDMENTS TO THE CORRECTIVE ACTION MANAGEMENT UNIT RULE

Priority: Other Significant

Legal Authority: 42 USC 6901 et.seq.

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 271

Legal Deadline: NPRM, Judicial, August 7, 2000, Settlement agreement calls for proposal to be signed by 08/07/2000.
Final, Judicial, October 8, 2001, Settlement agreement calls for final to be signed by 10/8/2001.

Abstract: EPA has proposed and is proposing amendments seeking extension to the existing RCRA Corrective Action Management Unit (CAMU Regulation (at 40 CFR 264.552). CAMUs are used for managing remediation wastes onsite during the course of implementing corrective action or cleanup at a facility. CAMUs can promote cleanups by allowing a broader range of cleanup activities than are allowed under the other hazardous waste management regulations. Upon finalization, the amendments would add more detail to the treatment and technical standards for management of cleanup wastes in CAMUs.

Timetable:

Action	Date	FR Cite
NPRM	08/22/00	65 FR 51079
Supplemental NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

EPA—Resource Conservation and Recovery Act (RCRA) **Proposed Rule Stage**

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Additional Information: SAN No. 4419

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RIN: 2050–AE77

3634. REGULATION OF OIL BEARING WASTES FROM PETROLEUM REFINERIES GASIFIED TO PRODUCE SYNTHESIS GAS

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6923; 42 USC 6924; 42 USC 6925; 42 USC 6926; 42 USC 6927; 42 USC 6930; 42 USC 6934; 42 USC 6935; 42 USC 6937; 42 USC 6938; 42 USC 6939; ...

CFR Citation: 40 CFR 260; 40 CFR 261

Legal Deadline: None

Abstract: The U.S. Environmental Protection Agency (EPA) is planning to propose revisions to the RCRA solid waste regulations to exclude oil-bearing secondary materials, generated by the petroleum refining industry, from the definition of solid waste if the materials are destined to be processed in a gasification device manufacturing synthesis gas fuel. We are planning to propose this exclusion in order to clarify and simplify RCRA jurisdiction, and to be consistent with other comparable existing exclusions. In this notice, we are also soliciting comment on an option to extend the exclusion to organic containing secondary materials generated by industries (other than the petroleum refining industry).

Timetable:

Action	Date	FR Cite
NPRM	11/20/95	60 FR 57747
Interim Notice of Data Availability	04/08/97	62 FR 16747
Notice of Data Availability and Request for Comment	07/15/98	63 FR 38139
Final Action	08/06/98	63 FR 42110
Final Action Technical Amendments	10/09/98	63 FR 54356
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4411

This is an extension of a previous notice that contained the following RIN 2050-AD88.

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RIN: 2050–AE78

3635. REVISION OF WASTEWATER TREATMENT EXEMPTIONS FOR HAZARDOUS WASTE MIXTURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6912(a); 6921; 6922; 6924; 6926

CFR Citation: 40 CFR 261.3(a)(2)(iv)(A)-(E)(Revision)

Legal Deadline: None

Abstract: EPA is looking into proposing to add up to four solvents (benzene, 2-ethoxyethanol, 1,1,2-trichloroethane, and 2-nitropropane) to the hazardous waste exemptions for mixtures of spent solvents in wastewater treatment plants (headworks rule) at 40 CFR 261.3(a)(2)(iv)(A)-(B). Spent solvents are solvents that have been used and are no longer fit for use without being regenerated, reclaimed, or otherwise processed. In addition, EPA is considering proposing: (1) changes to implementation of rule from using mass balance only, to choice of using direct monitoring; (2) adding certain leachates to allowed categories of wastestreams; and (3) revising other provisions of rule, such as de minimis quantities and the definition of point of application of exemption.

Timetable:

Action	Date	FR Cite
NPRM - Revisions for Wastewater Treatment Exemptions	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4501

Sectors Affected: 31-33 Manufacturing; 562 Waste Management and Remediation Services

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RIN: 2050–AE84

3636. • MUNICIPAL SOLID WASTE LANDFILL LOCATION RESTRICTIONS FOR AIRPORT SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6902(a); 42 USC 6907; 42 USC 6912(a); 42 USC 6944; 42 USC 6945(c); 42 USC 6949(c)

CFR Citation: 40 CFR 258.10(e) and (f)

Legal Deadline: None

Abstract: The direct final rule would amend the municipal solid waste landfill (MSWLF) location restrictions for airport safety by adding location restrictions to conform with those contained in the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century. The rule would prohibit the construction or establishment of a new MSWLF within six miles of a public airport (1) that has received grants under the Airport and Airway Improvement Act of 1982, as amended, and (2) that is primarily designed for 60 passengers or less. MSWLFs in the State of Alaska are exempt. Because new MSWLFS are subject to the statutory location restrictions in addition to regulatory location restrictions currently in effect under 40 CFR 258.10, EPA is promulgating the rule amendment to prevent confusion regarding applicable location restrictions for MSWLFs for airport safety purposes, as well as to notify affected entities of these statutory restrictions. EPA is also proposing a parallel rule identical to this direct final action in order to

provide opportunity for comment on the rule, although we view the action as noncontroversial and do not anticipate any adverse comments. The regulated entities are expected to be: (1) Federal agencies and State, local, municipal and tribal governments constructing or establishing new MSWLFs within six miles of a public airport and (2) industries involved in constructing or establishing new landfills within six miles of a public airport.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4575

Sectors Affected: 23 Construction; 5622 Waste Treatment and Disposal; 56221 Waste Treatment and Disposal; 562212 Solid Waste Landfill

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RIN: 2050–AE91

3637. • RESEARCH, DEVELOPMENT, AND DEMONSTRATION PERMITS FOR MUNICIPAL SOLID WASTE LANDFILL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6907; 42 USC 6912; 42 USC 6944; 42 USC 6949a

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: EPA plans to issue a direct final rule adding a new section to the Criteria for Municipal Solid Waste Landfills (MSWLF) to allow states to issue research, development, and demonstration (RD&D) permits for landfill operations at variance with some parts of the criteria, as long as it is demonstrated that these operations will not result in an increased risk to human health and the environment. Waivers of location restrictions, groundwater monitoring, corrective action requirements, the financial assurance criteria, and explosive gases control would not be allowed by this action. EPA is considering this alternative to stimulate new technologies and alternatives in the landfilling of municipal solid waste.

Timetable:

Action	Date	FR Cite
NoDA Request for Information and Data	04/06/00	65 FR 18014
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: SAN No. 4588

Split from RIN 2050-AE67.

Sectors Affected: 562 Waste Management and Remediation Services

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RIN: 2050–AE92

3638. • REVISIONS FOR TRANSBOUNDARY SHIPMENTS OF HAZARDOUS WASTE FOR RECOVERY WITHIN THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6901 et seq

CFR Citation: 40 CFR 262 subpart H (Revision)

Legal Deadline: None

Abstract: The Agency is considering changing the existing regulation 40 CFR 262 subpart H, which regulates transboundary movement of hazardous waste within all countries that are members of the Organization for Economic Cooperation and Development (OECD). This regulation would be amended to comply with changes passed by the OECD Council. Existing waste lists may be restructured to comply with the new OECD waste lists. As such, previously existing waste lists may be renamed according to adopted OECD terminology. Shipments of small waste amounts destined for laboratory analysis may be exempted from filing certain paperwork requirements that are otherwise required. A certificate of recovery may be required upon final recovery of wastes and timeframes for recovery operations may be changed to reflect the decisions made by the OECD Council.

Timetable:

Action	Date	FR Cite
NPRM Revisions for Transboundary Shipments of Hazardous Waste	09/00/02	
Direct Final Rule Revisions for Transboundary Shipments of Hazardous Waste	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4606

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RIN: 2050–AE93

3639. PROJECT XL SITE-SPECIFIC RULEMAKING FOR ANNE ARUNDEL COUNTY MILLERSVILLE LANDFILL, SEVERN, MARYLAND

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6907; 42 USC 6912; 42 USC 6945; 42 USC 6949)

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: Anne Arundel County proposes to demonstrate that a

EPA—Resource Conservation and Recovery Act (RCRA) **Proposed Rule Stage**

bioreactor with an alternative liner system is as effective, or superior to a bioreactor with the standard composite liner currently allowed by regulations. The main goal of this project is to deliver superior environmental performance (SEP) by capturing the additional airspace gained by accelerated decomposition of the waste. This benefits the County and its citizens by prolonging the life of the landfill and thereby postponing the siting of new solid waste management facilities, with their attendant social impacts, environmental impacts, and economic costs. Environmental benefits of this project include: (1) reduced need for construction of new landfills and corresponding reduction (or elimination) of the land, air, and water impacts associated with landfill construction; (2) decreased concentration of most leachate constituents as cycling of leachate removes or reduces contaminants; (3) reduction in the amount of leachate requiring pretreatment; (4) reduction in the amount of leachate that the facility discharges to the local wastewater treatment plant, and subsequent discharge of effluent to the Patuxent River; and (5) reduction in post-closure care, maintenance and risk (bioreactor landfills minimize long-term environmental risk and liability due to the controlled settlement of the solid waste during landfill operation, low potential for leachate migration into the subsurface environment, and the recovery of landfill gas during operation).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 4534

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RIN: 2090–AA25

3640. • PROJECT XL SITE-SPECIFIC RULEMAKING FOR IMPLEMENTING WASTE TREATMENT SYSTEMS AT TWO VIRGINIA LANDFILLS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6907; 42 USC 6912; 42 USC 6945; 42 USC 6949

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: The Virginia Landfills XL project includes two solid waste municipal landfills (SWMLF) operated by subsidiaries of Waste Management Inc. (WMI): Maplewood Recycling and Waste Disposal Facility is located in Amelia County, Virginia, approximately 30 miles southwest of Richmond, and King George County Landfill and Recycling Center is located approximately 50 miles north-northeast of Richmond. Both landfills accept municipal solid waste and a small percentage of biodegradable products (e.g., construction debris). Through this XL project, the Maplewood and King George landfills propose to implement two variations of bioreactor landfill systems and compare the relative improvement in landfill performance at the two different bioreactor project sites. In a bioreactor landfill, controlled quantities of liquids are added and circulated through waste to accelerate the natural biodegradation rate of waste and therefore decrease the waste stabilization and composting time compared to a conventional landfill. The Maplewood bioreactor will recirculate liquids (primarily leachate) generated at the facility. The King George bioreactor will recirculate facility-generated leachate plus other liquids, such as non-hazardous liquid waste or storm water. These activities collectively should decrease emissions of landfill gas, accelerate waste decomposition, improve leachate quality, and increase the waste capacity of the existing landfills.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: SAN No. 4608

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RIN: 2090–AA30

Environmental Protection Agency (EPA) **Final Rule Stage**

Resource Conservation and Recovery Act (RCRA)

3641. PAINT MANUFACTURING WASTES LISTING: HAZARDOUS WASTE MANAGEMENT SYSTEM: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Priority: Other Significant

Legal Authority: 33 USC 1321; 33 USC 1361; 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6926; 42 USC 6938; 42 USC 9602; 42 USC 9603; 42 USC 9604

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302; 40 CFR 264; 40 CFR 265

Legal Deadline: NPRM, Judicial, January 28, 2001, Administrator signed proposal on 1/25/2001.
Final, Judicial, March 30, 2002.

Abstract: This action addresses the potential risks posed by wastes from the production of paints, and determines whether these wastes should be listed as hazardous under RCRA to control any potentially unacceptable risks. Any new wastes listed as hazardous will also be added to the CERCLA list of hazardous substances. This action will be

implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected. Specific wastes to be addressed are water/caustic cleaning wastes, solvent cleaning wastes, emission control dusts/sludges, wastewater treatment sludges, and off-spec product.

Timetable:

Action	Date	FR Cite
NPRM	02/13/01	66 FR 10060
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Additional Information: SAN No. 3805

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RIN: 2050–AE32

3642. LISTING OF HAZARDOUS WASTE; INORGANIC CHEMICAL WASTES; LAND DISPOSAL RESTRICTIONS FOR NEWLY LISTED WASTES; CERCLA HAZARDOUS SUBSTANCES REPORTABLE QUANTITIES

Priority: Other Significant

Legal Authority: 42 USC 6901 to 6992(k)

CFR Citation: 40 CFR 261; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, August 30, 2000, Administrator signed 8/30/00.
Final, Judicial, October 31, 2001.

Abstract: EPA, under an Environmental Defense Fund settlement agreement, proposed to amend the regulations for hazardous waste management under the Resource Conservation and Recovery Act (RCRA) to reduce hazards to human health and the environment for three wastes from the manufacturing of inorganic chemicals. EPA also proposed to add manganese to 40 CFR 261, Appendix VII and VIII; the 40 CFR 268 UTS table; and the F039 landfill leachate listing. Under the settlement agreement, EPA reviewed the wastes from 14 inorganic chemical manufacturing sectors including: sodium dichromate production, the dry process for manufacturing phosphoric acid, phosphorus trichloride production, phosphorus pentasulfide production, the production of sodium phosphate from wet process phosphoric acid, sodium chlorate production, antimony oxide production, cadmium pigments production, barium carbonate production, potassium dichromate production, phenyl mercuric acetate production, boric acid production, inorganic hydrogen cyanide production, and titanium dioxide production (except for chloride process waste solids). EPA published a proposal on September 14, 2000. The rule was proposed under the authority of section 3001(e)(2) of RCRA which directs EPA to make hazardous waste listing determinations for inorganic chemical manufacturing wastes. The FR notice proposes to list as hazardous three specific wastes under 40 CFR part 261: (1) baghouse filters from the production of antimony oxide; (2) slag from the production of antimony oxide that is disposed of or speculatively accumulated; and (3) nonwastewaters from the production of titanium dioxide by the chloride-ilmenite process. The remaining wastes evaluated in the rule were proposed to not be listed as hazardous wastes. EPA has evaluated public comments on the proposal and will issue a final rule. This action will include final Land Disposal Restrictions for the final listed wastes. Where possible, newly listed wastes will be given CERCLA Hazardous Substance Designation and Reportable Quantities assigned.

Timetable:

Action	Date	FR Cite
NPRM	09/14/00	65 FR 55684
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Additional Information: SAN No. 4083

Sectors Affected: 325188 All Other Basic Inorganic Chemical Manufacturing; 325131 Inorganic Dye and Pigment Manufacturing; 331419 Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum)

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RIN: 2050–AE49

3643. REVISIONS TO THE COMPREHENSIVE GUIDELINE FOR PROCUREMENT OF PRODUCTS CONTAINING RECOVERED MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6912(a) RCRA sec 6002(e)

CFR Citation: 40 CFR 247

Legal Deadline: None

Abstract: RCRA section 6002 and E.O. 13101 require EPA to prepare guidelines in the Federal Register which designate items that are or can be made with recovered materials and to issue recommendations for government procurement of these items. Once designated, procuring agencies are required to purchase these items with the highest percentage of recovered materials practicable. Government procurement of EPA-designated items containing recovered materials fosters markets for recovered materials and, thereby, closes the recycling loop. To date, EPA has designated 54 items under three Comprehensive Procurement Guidelines (CPG1, CPG2 and CPG3). EPA has also issued a Recovered Materials Advisory Notice (RMAN) with each CPG which provides recommendations on buying the designated items. The E.O. requires EPA to update the CPG every two years. The newest action issues final item designations in CPG4.

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Timetable:

Action	Date	FR Cite
Notice -- Paper Products Recovered Materials Advisory Notice	06/08/98	63 FR 31214
Notice -- Recovered Materials Advisory Notice I Update	06/08/98	63 FR 31217
NPRM (CPG3 and RMAN 3)	08/26/98	63 FR 45558
Notice of Availability of Final Document	01/19/00	65 FR 3082
Final Action (CPG3 and RMAN 3)	01/19/00	65 FR 3069
NPRM (CPG4 and RMAN 4)	08/28/01	66 FR 45256
Final Action (GPG4 and RMAN 4)	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Local

Additional Information: SAN No. 3545

NPRM-
http://www.epa.gov/fedrgstr/EPA-WASTE/1998/August/Day-26/f22793.htm

Sectors Affected: 92111 Executive Offices; 92119 All Other General Government

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RIN: 2050–AE23

3644. REQUIREMENTS FOR ZINC FERTILIZER MADE FROM RECYCLED HAZARDOUS SECONDARY MATERIALS

Regulatory Plan: This entry is Seq. No. 145 in part II of this issue of the **Federal Register**.

RIN: 2050–AE69

3645. NESHAPS: STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR HAZARDOUS WASTE COMBUSTORS

Priority: Other Significant

Legal Authority: 42 USC 6924 RCRA sec 3004; 42 USC 6925 RCRA sec 3005; 42 USC 7412 CAA sec 112; 42 USC 7414 CAA sec 114

CFR Citation: 40 CFR 60; 40 CFR 63; 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270

Legal Deadline: None

Abstract: Under the Clean Air Act (CAA), EPA is required to establish National Emission Standards for Hazardous Air Pollutants (NESHAPs) for most hazardous waste combustors (HWCs) (i.e., incinerators, cement kilns, boilers, and some types of recovery furnaces). In addition, under the Resource Conservation and Recovery Act (RCRA), EPA is required to establish standards for all HWCs as necessary to ensure protection of human health and the environment. Consequently, the Agency established in the HWC Maximum Achievable Control Technology (MACT) rule new emissions standards for cement kilns, lightweight aggregate kilns, and incinerators under CAA authority on September 30, 1999 (64 FR 52828). Following promulgation, issues were raised by the regulated community through informal comments and through litigation. In response, EPA proposed changes to and clarifications to certain provisions of the final Phase I rule. EPA is currently working on the final rule for these changes and clarifications.

Timetable:

Action	Date	FR Cite
NPRM Cement Kilns & Lightweight Aggregate Kilns & Incinerators	04/19/96	61 FR 17358
Final Action MACT Fasttrack	06/19/98	63 FR 33782
Final Action Cement Kilns & LWAKs & Incinerators (Final-Phase I)	09/30/99	64 FR 52828
NPRM Phase I Amendments	07/03/01	66 FR 35126
Final (Good Cause) Emergency Extension of Compliance Date	01/00/02	
Final Action Phase I Amendments	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4418

Split from RIN 2050-AE01. The Agency will develop a Technical Implementation Guidance on Phase I.

Sectors Affected: 2123 Non-Metallic Mineral Mining and Quarrying; 2211 Electric Power Generation, Transmission and Distribution; 22132 Sewage Treatment Facilities; 3241 Petroleum and Coal Products Manufacturing; 3271 Clay Product and Refractory Manufacturing; 3231 Printing and Related Support Activities; 3251 Basic Chemical Manufacturing; 3252 Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing; 3253 Pesticide, Fertilizer and Other Agricultural Chemical Manufacturing; 3254 Pharmaceutical and Medicine Manufacturing; 3255 Paint, Coating, Adhesive, and Sealant Manufacturing; 3259 Other Chemical Product Manufacturing; 3271 Clay Product and Refractory Manufacturing; 3273 Cement and Concrete Product Manufacturing; 3274 Lime, Gypsum and Gypsum Product Manufacturing; 3279 Other Nonmetallic Mineral Product Manufacturing; 3327 Machine Shops, Turned Product, and Screw, Nut and Bolt Manufacturing; 3328 Coating, Engraving, Heat Treating and Allied Activities; 3332 Industrial Machinery Manufacturing; 3335 -; 3339 Other General Purpose Machinery Manufacturing; 3341 Computer and Peripheral Equipment Manufacturing; 3342 Communications Equipment Manufacturing; 3343 Audio and Video Equipment Manufacturing; 3344 Semiconductor and Other Electronic Component Manufacturing; 3361 Motor Vehicle Manufacturing; 3362 Motor Vehicle Body and Trailer Manufacturing; 3363 Motor Vehicle Parts Manufacturing; 4227 Petroleum and Petroleum Products Wholesalers; 45431 Fuel Dealers; 5622 Waste Treatment and Disposal; 5629 Remediation and Other Waste Management Services

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RIN: 2050–AE79

EPA—Resource Conservation and Recovery Act (RCRA) **Final Rule Stage**

3646. • NESHAPS: STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR HAZARDOUS WASTE COMBUSTORS - PARALLEL PROPOSED RULE

Priority: Other Significant

Legal Authority: 42 USC 6924 RCRA sec 3004; 42 USC 6925 RCRA sec 3005; 42 USC 7412 CAA sec 112; 42 USC 7414 CAA sec 114

CFR Citation: 40 CFR 60; 40 CFR 63; 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270

Legal Deadline: None

Abstract: Under the Clean Air Act (CAA), EPA is required to establish National Emission Standards for Hazardous Air Pollutants (NESHAPs) for most hazardous waste combustors (HWCs) (i.e., incinerators, cement kilns, boilers, and some types of recovery furnaces). In addition, under the Resource Conservation and Recovery Act (RCRA), EPA is required to establish standards for all HWCs as necessary to ensure protection of human health and the environment. Consequently, the Agency established in the HWC Maximum Achievable Control Technology (MACT) rule new emissions standards for cement kilns, lightweight aggregate kilns, and incinerators under CAA authority on September 30, 1999 (64 FR 52828). Following promulgation, issues were raised by the regulated community through informal comments and through litigation. In response, the Agency published a direct final rule and a parallel proposal on changes to and clarifications to certain provisions of the final Phase I rule. The Agency partially withdrew a portion of the direct final rule. (See RIN 2050-AE89.) Issues pertaining to the withdrawal will be addressed during the development of a final rule.

Timetable:

Action	Date	FR Cite
NPRM Phase I Amendments	07/03/01	66 FR 35124
Interim Final Rule (See RIN 2050-AE79)	02/00/02	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4566

Split from RIN 2050-AE79.

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RIN: 2050–AE90

3647. • DEFINITION OF SOLID WASTE; CODIFICATION OF MINERAL PROCESSING VACATURE (CLASSIFICATION OF BATTERY RECYCLERS V. EPA) AND DISCUSSION OF FUTURE PROPOSED RULEMAKING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6903(27) RCRA Section 1004(27)

CFR Citation: 40 CFR 261.2(c)(3); 40 CFR 261.4(a)(17)

Legal Deadline: None

Abstract: Under the Resource Conservation and Recovery Act (RCRA) a material must first be a solid waste to be a hazardous waste. EPA's framework for determining whether a material is a solid waste is based on what the material is and how it is used. The 1998 Phase IV Land Disposal Restrictions (LDR) rule purported to expand EPA's jurisdiction over certain types of mineral processing hazardous secondary materials stored on the land prior to being reclaimed in production processes. The Association of Battery Recyclers v. U.S. EPA decision (208 F.3d 1047 (D.C. cir. 2000)) vacated a portion of the 1998 Phase IV LDR rule at 40 CFR 261.2(c)(3) and vacated the Phase IV LDR rule insofar as it provides for the use of the Toxicity Characteristic Leachating Procedure (TCLP) to determine whether manufactured gas plant waste exhibits the characteristic of toxicity. The intent of this rulemaking is to codify changes directed in the vacatures and make conforming changes to the regulations to ensure clarity. EPA will aslo discuss a future proposed rulemaking to modify the rules governing hazardous waste recycling (e.g., the definition of solid waste).

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4615

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RIN: 2050–AE94

3648. PROJECT XL — ORTHO-MCNEIL PILOT PROJECT ALLOWING ON-SITE TREATMENT OF LOW-LEVEL MIXED WASTES WITHOUT RCRA PERMIT

Priority: Info./Admin./Other

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6924(y); 42 USC 6938

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: This site-specific rulemaking would allow Ortho-McNeil Pharmaceutical to treat small volumes of low-level mixed wastes on-site using a bench-scale catalytic oxidizing treatment unit. This treatment effectively destroys the organic component of the wastestream, yielding a residual that is only a low-level radioactive waste.

Timetable:

Action	Date	FR Cite
NPRM	07/24/01	66 FR 38395
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4439

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RIN: 2090–AA14

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EPA—Resource Conservation and Recovery Act (RCRA) **Final Rule Stage**

0549. • PROJECT XL SITE-SPECIFIC RULEMAKING FOR THE IBM SEMICONDUCTOR MANUFACTURING FACILITY IN HOPEWELL JUNCTION, NEW YORK

Priority: Info./Admin./Other

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6924(y); 42 USC 6938

CFR Citation: 40 CFR 261.4(a)

Legal Deadline: None

Abstract: This rulemaking provides a site-specific exclusion from the regulatory definition of solid waste for certain wastewater treatment sludges (otherwise designated as Hazardous Waste No. F006) when they are used as ingredients in the production of cement. Without this exclusion, the sludges being legitimately recycled as substitutes for raw materials would remain subject to hazardous waste regulatory requirements, including the need for a storage permit by the cement manufacturer, which is a major disincentive to recycling the sludges in this manner. This XL project tests the presumption that these sludges can be safely recycled without regulatory oversight. Because this is a site-specific rulemaking, there will be no impact on small businesses, and there are no local tribal governments affected. The State regulatory agency has been involved in the project and approves of the rulemaking. The local governments and citizen groups have been involved in the project development and no opposition has been raised.

Timetable:

Action	Date	FR Cite
NPRM	06/06/01	66 FR 30349
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4565

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RIN: 2090–AA29

Environmental Protection Agency (EPA) **Long-Term Actions**
Resource Conservation and Recovery Act (RCRA)

3650. MANAGEMENT OF CEMENT KILN DUST (CKD)

Priority: Other Significant

Legal Authority: 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6921(a) RCRA sec 3001(a)

CFR Citation: 40 CFR 256; 40 CFR 259; 40 CFR 261; 40 CFR 264

Legal Deadline: None

Abstract: Cement kiln dust (CKD) is a high volume material byproduct of the cement manufacturing process. While it contains potentially hazardous constituents such as lead, cadmium and chromium, it has been exempted since November 1980 from hazardous waste regulation under RCRA subtitle C by the Bevill Amendment. This amendment modified section 3001 of RCRA to exempt certain special wastes until further studies could be completed and any applicable regulations were promulgated. In December 1993, EPA submitted a Report to Congress with its findings on the nature and management practices associated with CKD. This was followed in January 1995 by an EPA regulatory determination published in the Federal Register (60 FR 7366, 2/7/95), which concluded that additional control of CKD is warranted. In the regulatory determination EPA committed to develop regulations that would be tailored to protect human health and the environment while limiting burden on the regulated community. These tailored regulations would be developed under RCRA subtitle C and, if necessary, the Clean Air Act. As part of its regulatory development effort, EPA has initiated further studies and has held informal discussions with stakeholders. A proposed rule was issued (64 FR 45632, 8/20/99) which included a comprehensive set of standards for the management of CKD. EPA is currently making an assessment as to which regulatory approach it will like concerning CKD waste management.

Timetable:

Action	Date	FR Cite
NPRM	08/20/99	64 FR 45631
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Federalism: Undetermined

Additional Information: SAN No. 3856

NPRM-
http://www.epa.gov/fedrgstr/EPA-WASTE/1999/August/Day-20/f20546.htm

Sectors Affected: 32731 Cement Manufacturing

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RIN: 2050–AE34

3651. FINAL DETERMINATION OF THE APPLICABILITY OF THE TOXICITY CHARACTERISTIC RULE TO PETROLEUM CONTAMINATED MEDIA AND DEBRIS FROM UNDERGROUND STORAGE TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6921 RCRA sec 3001

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: In the final hazardous waste Toxicity Characteristic (TC) rule published in June 1990, EPA decided

to temporarily defer application of the TC rule to petroleum-contaminated media and debris, such as soils and groundwater, that result from underground storage tank (UST) corrective actions. This rule is part of the Agency's commitment to make a final determination regarding the UST temporary deferral. The temporary deferral was, in part, based on the Agency's concern that without such a deferral, UST cleanup procedures would be adversely affected, resulting in delays in remedial action and increases in remediation costs. Since this action is deregulatory, there are no adverse effects on small businesses, or on State, local, or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	02/12/93	58 FR 8504
Final Action	12/00/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 3189

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RIN: 2050–AD69

3652. LISTING DETERMINATION OF WASTES GENERATED DURING THE MANUFACTURE OF AZO, ANTHRAQUINONE, AND TRIARYLMETHANE DYES AND PIGMENTS

Priority: Other Significant

Legal Authority: 42 USC 6921 RCRA sec 3001; 42 USC 9602 Superfund (CERCLA) sec 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, See Additional Information Section. Final, Judicial, See Additional Information Section.

Abstract: This action addresses the potential human health and environmental risks posed by wastes from the manufacture of dyes and pigments, and determines whether these wastes should be listed as hazardous wastes under RCRA to control any potentially unacceptable risks. If listed under RCRA, these wastes would also be added to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and there may be some small business impacts. EPA proposed listing decisions for most wastes in 1994 (Dyes-I), and deferred decisions on several others. Two deferred waste streams (filter aids and triarylmethane sludges) are subject to separate deadlines for proposed and final action (Dyes II rulemaking). The Dyes II NPRM was published on July 23, 1999. The rules proposed in 1994 and 1999 were incomplete because they did not contain information claimed to be confidential by industry. Therefore, a NODA for each proposal will be necessary, when EPA is able to release an adequate record. The deadlines are based on recent settlement discussions with plaintiffs in EDF v. Browner, Civil Action No. 89-0598 D.D.C.

As part of the listing of dyes and pigments effort, EPA will also develop land disposal restrictions for these dyes and pigments.

Timetable:

Action	Date	FR Cite
NPRM Dyes I	12/22/94	59 FR 66072
NPRM Dyes II (deferred wastes)	07/23/99	64 FR 40192
NPRM Dyes I Land Disposal Restrictions	To Be	Determined
NoDA Dyes I Notice of Data Availability. See Additional Information.	To Be	Determined
NoDA Dyes II Notice of Data Availability. See Additional Information.	To Be	Determined
Final Action Dyes I. See Additional Information.	To Be	Determined
Final Action Dyes II (Deferred Wastes). See Additional Information.	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Tribal

Additional Information: SAN No. 3066

Judicial Deadlines: Dyes II (deferred wastes) NPRM: met deadline of 6/30/1999. Dyes I & II NODAs due by 67 days after the injunction is lifted from Magruder case. NPRM for LDRs due 3 months after NODAs are signed. Dyes I and II final rules due 13 months after NODAs are signed.

Sectors Affected: 325132 Organic Dye and Pigment Manufacturing

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RIN: 2050–AD80

3653. RCRA SUBTITLE C FINANCIAL TEST CRITERIA (REVISION)

Priority: Other Significant

Legal Authority: 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6924 RCRA sec 3004; 42 USC 6925 RCRA sec 3005; 42 USC 6926 RCRA sec 3006

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 280; 40 CFR 761

Legal Deadline: None

Abstract: The revised financial responsibility test is intended to improve the current test in predicting which firms will enter bankruptcy and not be able to cover their financial obligations for liability and closure costs of hazardous waste treatment, storage and disposal facilities. A bankrupt firm may be unable to afford the proper closure of a facility which would require the government to incur response costs at the facility. The rule would also qualify owners and operators of RCRA Treatment, Storage, and Disposal Facilities which must currently use more expensive ways, such as surety bonds or letters of credit, of demonstrating financial assurance, to use the less expensive corporate financial responsibility test for more of their obligations. The combined savings from screening out riskier firms and making the test more available to viable firms would be approximately $19 million annually in public and private costs. These regulatory amendments

would have no effect on local or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	07/01/91	56 FR 30201
NPRM	10/12/94	59 FR 51523
Notice of Data Availability	06/00/02	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Additional Information: SAN No. 2647

Sectors Affected: 323110 Commercial Lithographic Printing; 323114 Quick Printing; 325131 Inorganic Dye and Pigment Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing; 325998 All Other Miscellaneous Chemical Product Manufacturing; 331311 Alumina Refining; 325211 Plastics Material and Resin Manufacturing; 32551 Paint and Coating Manufacturing; 32511 Petrochemical Manufacturing; 32512 Industrial Gas Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing; 325193 Ethyl Alcohol Manufacturing; 325199 All Other Basic Organic Chemical Manufacturing; 325998 All Other Miscellaneous Chemical Product Manufacturing; 311942 Spice and Extract Manufacturing; 32411 Petroleum Refineries; 332813 Electroplating, Plating, Polishing, Anodizing and Coloring; 33271 Machine Shops; 33299 All Other Fabricated Metal Product Manufacturing; 333319 Other Commercial and Service Industry Machinery Manufacturing; 333999 All Other General Purpose Machinery Manufacturing; 336399 All Other Motor Vehicle Parts Manufacturing; 334 Computer and Electronic Product Manufacturing; 336 Transportation Equipment Manufacturing; 48422 Specialized Freight (except Used Goods) Trucking, Local; 56211 Waste Collection; 22111 Electric Power Generation; 221112 Fossil Fuel Electric Power Generation; 22132 Sewage Treatment Facilities; 56292 Materials Recovery Facilities; 42271 Petroleum Bulk Stations and Terminals; 45431 Fuel Dealers; 4411 Automobile Dealers; 4471 Gasoline Stations; 811111 General Automotive Repair

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RIN: 2050–AC71

3654. HAZARDOUS WASTE MANIFEST REGULATION

Priority: Other Significant

Legal Authority: 42 USC 6922 RCRA sec 3002; 42 USC 6923 RCRA sec 3003; 42 USC 6924 RCRA sec 3004; 42 USC 6926 RCRA sec 3006; PL 105-277, Title 17 Government Paper Elimination Act

CFR Citation: 40 CFR 260; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 271

Legal Deadline: None

Abstract: The Uniform Hazardous Waste Manifest (Form 8700-22) is a multi-copy form used to identify the quantity, composition, origin, routing, and destination of hazardous waste during its transportation. The manifest system's reliance on paper results in significant paperwork and cost burden to waste handlers and States who choose to collect manifest information. The Agency intends to pursue an optional approach to redesign the manifest system so that it utilizes automated technologies to increase access to manifest-related information, and to facilitate the manifest process, including the form's preparation, transmission, and recordkeeping, thereby lessening the total burden on waste handlers and States that choose to collect manifests. In addition, the Agency intends to standardize further the manifest form itself, by eliminating several optional data fields.

Timetable:

Action	Date	FR Cite
NPRM	05/22/01	66 FR 28239
Final Action - Modification of the Hazardous Waste Manifest System	04/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 3147

Sectors Affected: 5622 Waste Treatment and Disposal; 2111 Oil and Gas Extraction; 2122 Metal Ore Mining; 2211 Electric Power Generation, Transmission and Distribution; 3221 Pulp, Paper, and Paperboard Mills; 323 Printing and Related Support Activities; 325 Chemical Manufacturing; 326 Plastics and Rubber Products Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 482 Rail Transportation; 483 Water Transportation; 484 Truck Transportation; 5621 Waste Collection

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RIN: 2050–AE21

3655. LAND DISPOSAL RESTRICTIONS; TREATMENT STANDARDS FOR SPENT POTLINERS FROM PRIMARY ALUMINUM REDUCTION (K088) AND REGULATORY CLASSIFICATION OF K088 VITRIFICATION UNITS

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6924

CFR Citation: 40 CFR 268; 40 CFR 271

Legal Deadline: None

Abstract: On July 20, 2000, EPA proposed revised treatment standards for K088 wastes. Specifically, the Agency proposed to lower the cyanide treatment standard and reinstate a treatment standard for fluoride nonwastewaters based on a deionized water leach test. Comments to the proposed rule were significant and suggest that there are significant treatment issues yet to be resolved for K088 waste. The Agency needs to further assess the treatment universe for K088 and is considered extending the possible date of a final rule or to investigate other strategies both regulatory and non-regulatory to

facilitate recycling of spent aluminum potliners.

Timetable:

Action	Date	FR Cite
NPRM	07/12/00	65 FR 42937
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4233

Sectors Affected: 3334 Ventilation, Heating, Air-Conditioning and Commercial Refrigeration Equipment Manufacturing

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RIN: 2050–AE65

3656. STANDARDS FOR THE MANAGEMENT OF COAL COMBUSTION WASTES GENERATED BY COMMERCIAL ELECTRIC POWER PRODUCERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6907(a)(3); 42 USC 6944(a)

CFR Citation: 40 CFR 257

Legal Deadline: None

Abstract: This action is for the development of proposed RCRA subtitle D regulations for the management of coal combustion wastes in landfills and surface impoundments that are generated by producers of electric power, including electric utilities and independent power producers. On April 25, 2000 EPA issued a regulatory determination for fossil fuel combustion wastes (65 FR 32214, May 22, 2000). The purpose of the determination was to decide whether certain wastes from the combustion of fossil fuels (including coal, oil and natural gas) should remain exempt from subtitle C (management as hazardous waste) of the Resource Conservation and Recovery Act (RCRA) for the coal, oil and natural gas combustion wastes that were addressed. The Agency's decision was to retain the exemption from hazardous waste management for all of the fossil fuel combustion wastes. However, the Agency also determined and announced that waste management regulations under RCRA subtitle D (management as non-hazardous wastes) are appropriate for certain coal combustion wastes that are disposed in landfills and surface impoundments.

The utility industry has made significant improvements in its waste management practices over recent years, and most state regulatory programs are similarly improving. Nevertheless, public comments and other analyses have convinced the Agency that coal combustion wastes could pose risks to human health and the environment if they are not properly managed. There is sufficient evidence that adequate controls may not be in place. For example, while most states can now require newer waste management units to include liners and groundwater monitoring, 62 percent of existing utility surface impoundments do not have groundwater monitoring. In the Agency's view, this justifies the development of national regulations. We note, however, that some waste management units may not warrant liners and/or groundwater monitoring, depending on site-specific characteristics. The Agency is initiating this action to develop and issue appropriate waste management regulations under subtitle D of RCRA.

Timetable:

Action	Date	FR Cite
NPRM	03/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Federalism: Undetermined

Additional Information: SAN No. 4470

This rule may also impact federal, state, local or tribal governments that own coal-burning commercial electric power generating facilities.

Sectors Affected: 221112 Fossil Fuel Electric Power Generation

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RIN: 2050–AE81

3657. STANDARDS FOR THE MANAGEMENT OF COAL COMBUSTION WASTES - NON-POWER PRODUCERS AND MINEFILLING

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6907(a)(3); 42 USC 6944

CFR Citation: 40 CFR 257

Legal Deadline: None

Abstract: EPA is developing proposed regulations for the management of coal combustion wastes that are generated by non-electric utility coal burners and managed in landfills and surface impoundments, and for the practice of minefilling of coal combustion wastes. On April 25, 2000 EPA issued a regulatory determination for fossil fuel combustion wastes (65 FR 32214, May 22, 2000) to announce its decision that certain wastes from the combustion of fossil fuels (including coal, oil and natural gas) should remain exempt from subtitle C (management as hazardous waste) of RCRA. This regulatory determination also announced that regulations under RCRA subtitle D (management as non-hazardous wastes) are appropriate for management of certain coal combustion wastes that are disposed in landfills and surface impoundments. In addition, EPA stated its plan to consult with the U.S. Department of the Interior on appropriate measures under the Surface Mining Control and Reclamation Act (SMCRA) or RCRA or some combination of both, to address the disposal of coal combustion wastes when used for minefilling in surface or underground mines.

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EPA—Resource Conservation and Recovery Act (RCRA) **Long-Term Actions**

Although industry has made significant improvements in waste management practices over recent years, and most state regulatory programs are similarly improving, public comments and other analyses have convinced the Agency that coal combustion wastes could pose risks to human health and the environment, if they are not properly managed. There is sufficient evidence that adequate controls may not be in place. For example, while most States can now require newer waste management units to include liners and groundwater monitoring, less than about 50 percent of existing non-utility landfills are lined (these statistics exclude municipal solid waste landfills which are not the subject of this action). EPA acknowledges that some waste management units may not warrant liners and/or groundwater monitoring, depending on site-specific characteristics. The Agency also decided that the practice of minefilling coal combustion wastes could present a danger to human health and the environment under certain circumstances. Since there are few States that currently operate comprehensive programs that specifically address the unique circumstances of minefilling, the Agency believes national regulations under RCRA subtitle D and/or SMCRA may be appropriate.

Timetable:

Action	Date	FR Cite
NPRM	03/00/03	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Federalism: Undetermined

Additional Information: SAN No. 4469

This rule may also impact Federal, State, local or tribal governments that own/operate coal-burning facilities (excluding facilities that primarily generate electric power for sale) or coal mines that accept coal combustion wastes.

Sectors Affected: 311 Food Manufacturing; 313 Textile Mills; 337 Furniture and Related Product Manufacturing; 2121 Coal Mining; 322 Paper Manufacturing; 325 Chemical Manufacturing; 331 Primary Metal Manufacturing; 336 Transportation Equipment Manufacturing; 62 Health Care and Social Assistance; 22112 Electric Power Transmission, Control and Distribution

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RIN: 2050–AE83

Environmental Protection Agency (EPA) **Completed Actions**

Resource Conservation and Recovery Act (RCRA)

3658. HAZARDOUS WASTE MANAGEMENT SYSTEM: SLAG RESIDUES DERIVED FROM HIGH TEMPERATURE METALS RECOVERY (HTMR) TREATMENT OF KO61, KO62 AND F0006 WASTES

Priority: Other Significant

CFR Citation: 40 CFR 261; 40 CFR 266

Completed:

Reason	Date	FR Cite
Withdrawn - Agency Plans No Further Work	09/11/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Federalism: Undetermined

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RIN: 2050–AE15

3659. HAZARDOUS WASTE IDENTIFICATION; RECYCLED USED OIL MANAGEMENT STANDARDS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 279

Completed:

Reason	Date	FR Cite
Withdrawn - Agency Plans No Further Work	09/11/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Federalism: Undetermined

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RIN: 2050–AE28

3660. MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT; CODIFICATION OF WASTE MANAGEMENT PROVISIONS

Priority: Other Significant

CFR Citation: 40 CFR 271; 40 CFR 273

Completed:

Reason	Date	FR Cite
Withdrawn - Agency Plans No Further Work	09/11/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Federalism: Undetermined

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RIN: 2050–AE39

EPA—Resource Conservation and Recovery Act (RCRA) — Completed Actions

3661. STORAGE, TREATMENT, TRANSPORTATION, AND DISPOSAL OF MIXED WASTES; FINAL RULE

Priority: Other Significant

CFR Citation: 40 CFR 261.4; 40 CFR 262.34; 40 CFR 266

Completed:

Reason	Date	FR Cite
Final Action	05/16/01	66 FR 27217

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Tribal

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RIN: 2050–AE45

3662. RECYCLED USED OIL CONTAINING PCBS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 261; 40 CFR 279

Completed:

Reason	Date	FR Cite
Removal (of 3 Amendments)	07/14/98	63 FR 37780

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

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RIN: 2050–AE47

3663. RCRA APPENDIX VIII STREAMLINING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 261

Completed:

Reason	Date	FR Cite
Withdrawn - Agency Plans No Further Work	09/11/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

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RIN: 2050–AE55

3664. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 40 CFR 264; 40 CFR 270

Completed:

Reason	Date	FR Cite
Withdrawn - Agency Plans No Further Work	09/11/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

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RIN: 2050–AB80

3665. HAZARDOUS WASTE IDENTIFICATION RULE (HWIR): IDENTIFICATION AND LISTING OF HAZARDOUS WASTES

Priority: Other Significant

CFR Citation: 40 CFR 261

Completed:

Reason	Date	FR Cite
Final Action	05/16/01	66 FR 27266
Direct Final Rule	10/03/01	66 FR 50332

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

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RIN: 2050–AE07

3666. REINVENTING THE LAND DISPOSAL RESTRICTIONS PROGRAM

Priority: Other Significant

CFR Citation: 40 CFR 268

Completed:

Reason	Date	FR Cite
Withdrawn - Agency Plans No Further Work	09/11/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

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RIN: 2050–AE53

3667. TEMPORARY SUSPENSION OF TOXICITY CHARACTERISTIC RULE FOR SPECIFIC LEAD-BASED PAINT DEBRIS

Priority: Other Significant

CFR Citation: 40 CFR 261

Completed:

Reason	Date	FR Cite
Withdrawn - RCRA Temporary Suspension	10/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

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RIN: 2050–AE68

3668. RCRA CONTROLS FOR WASTEWATER TREATMENT UNITS

Priority: Other Significant

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265

Completed:

Reason	Date	FR Cite
Withdrawn - Agency Plans No Further Work	09/11/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

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RIN: 2050–AE82

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EPA—Resource Conservation and Recovery Act (RCRA) Completed Actions

3669. CRITERIA FOR CLASSIFICATION OF SOLID WASTE DISPOSAL FACILITIES AND PRACTICES AND CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS: DISPOSAL OF RESIDENTIAL LEAD-BASED PAINT WASTE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 257; 40 CFR 258

Completed:

Reason	Date	FR Cite
Direct Final Rule	10/23/01	66 FR 53535

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Federalism: Undetermined

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RIN: 2050–AE86

3670. • NESHAPS: STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR HAZARDOUS WASTE COMBUSTORS

Priority: Other Significant

Legal Authority: 42 USC 6924 RCRA sec 3004; 42 USC 6925 RCRA sec 3005; 42 USC 7412 CAA sec 112; 42 USC 7414 CAA sec 114

CFR Citation: 40 CFR 60; 40 CFR 63; 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270

Legal Deadline: None

Abstract: Under the Clean Air Act (CAA), EPA is required to establish National Emission Standards for Hazardous Air Pollutants (NESHAPs) for most hazardous waste combustors (HWCs) (i.e., incinerators, cement kilns, boilers, and some types of recovery furnaces). In addition, under the Resource Conservation and Recovery Act (RCRA), EPA is required to establish standards for all HWCs as necessary to ensure protection of human health and the environment. Consequently, the Agency established in the HWC Maximum Achievable Control Technology (MACT) rule new emissions standards for cement kilns, lightweight aggregate kilns, and incinerators under CAA authority on September 30, 1999 (64 FR 52828). Following promulgation, issues were raised by the regulated community through informal comments and through litigation. In response, this rule will promulgate changes to and clarifications to certain provisions of the final Phase I rule. The Agency issued a notice to withdraw a portion of the direct final rule, based on comments received..

Timetable:

Action	Date	FR Cite
Final Court-Ordered Vacature	05/14/01	66 FR 24270
Direct Final Rule - Phase I Amendments	07/03/01	66 FR 35087
Notice - Partial Withdrawal of Direct Final Rule	10/15/01	66 FR 52361

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4552

Split from RIN 2050-AE79.

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RIN: 2050–AE89

3671. PROJECT XL SITE-SPECIFIC RULEMAKING FOR THE US FILTER RECOVERY SERVICES, ROSEVILLE, MINNESOTA, AND APPROVED GENERATORS AND TRANSPORTERS OF USFRS XL WASTE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 260 to 265; 40 CFR 268; 40 CFR 270; 40 CFR 273; 40 CFR 279

Completed:

Reason	Date	FR Cite
Final Action	05/22/01	66 FR 28066

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

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RIN: 2090–AA15

3672. PROJECT XL SITE-SPECIFIC RULEMAKING FOR YOLO COUNTY LANDFILL, DAVIS, YOLO COUNTY, CALIFORNIA

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 258

Completed:

Reason	Date	FR Cite
NPRM	05/09/01	66 FR 23652
Final Action	08/13/01	66 FR 42441

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

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RIN: 2090–AA18

3673. PROJECT XL NOTICE OF PROPOSED RULE FOR AUTOLIV INC. SITE-SPECIFIC RULEMAKING

Priority: Info./Admin./Other

CFR Citation: 40 CFR 261

Completed:

Reason	Date	FR Cite
Final Action	05/09/01	66 FR 23617

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2090–AA19

Environmental Protection Agency (EPA)
Oil Pollution Act (OPA)

Final Rule Stage

3674. OIL POLLUTION PREVENTION REGULATION: REVISIONS

Priority: Other Significant

Legal Authority: 33 USC 1321 CWA sec 311(j)(1)(C)

CFR Citation: 40 CFR 112

Legal Deadline: None

Abstract: Following a major inland oil spill with substantial environmental impacts (i.e., Ashland Oil in Floreffe, PA, in January 1988), an interagency task force recommended steps to improve EPA's oil spill prevention program (40 CFR part 112). This program requires oil storage facilities to prevent and contain discharges that could reach waters of the United States. On October 22, 1991, the Agency proposed revisions to implement some of the task force recommendations and on February 17, 1993, the Agency proposed further clarifications and technical changes to the spill prevention regulations. On December 2, 1997, EPA supplemented the 1991 and 1993 proposed revisions with a proposal to reduce burdens associated with the oil spill prevention program by reducing the recordkeeping provisions or exempting some facilities from some recordkeeping requirements. This rule will take final action on the 1991, 1993, and 1997 proposals.

Timetable:

Action	Date	FR Cite
NPRM	10/22/91	56 FR 54612
NPRM	02/17/93	58 FR 8824
Supplemental NPRM	12/02/97	62 FR 63812
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 2634

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RIN: 2050–AC62

Environmental Protection Agency (EPA)
Comprehensive Environmental Response, Compensation and Liability Act

Proposed Rule Stage

3675. REPORTABLE QUANTITY ADJUSTMENTS FOR CARBAMATES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11004; 42 USC 9602(a)

CFR Citation: 40 CFR 302; 40 CFR 355

Legal Deadline: None

Abstract: EPA has listed carbamate waste streams as hazardous wastes under the Resource Conservation and Recovery Act (RCRA). RCRA listed wastes, by statute, automatically become hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and are assigned a one-pound statutory reportable quantity (RQ) unless EPA adjusts them. These substances also become subject to reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA) with a one-pound threshold. EPA, in this action, will propose RQ adjustments for the carbamates. Most RQ adjustments are expected to be greater than one pound. Raising the RQs for these substances would decrease the burden on (1) the regulated community for complying with the reporting requirements under CERCLA and EPCRA; (2) Federal, State, and local authorities for program implementation; and (3) Federal, State, or local authorities, if they release hazardous substances at the RQ level or greater.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3423

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RIN: 2050–AE12

3676. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES: PROPOSED AND FINAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9605 Superfund (CERCLA) sec 105

CFR Citation: 40 CFR 300.425

Legal Deadline: None

Abstract: This action will revise the sites included on the National Priorities List (NPL) of uncontrolled waste sites in the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substance releases and to delete sites that have been cleaned up.

Timetable:

Action	Date	FR Cite
NPRM 24	03/06/98	63 FR 11340
Final Action 20	03/06/98	63 FR 11332
NPRM 25	07/28/98	63 FR 40247
Final Action 21	07/28/98	63 FR 40182
Final Action (Tex-Tin Corp)	09/18/98	63 FR 49855
NPRM 26	09/29/98	63 FR 51882
Final Action 22	09/29/98	63 FR 51848
NPRM 27	01/19/99	64 FR 2950
Final Action 23	01/19/99	64 FR 2942
NPRM (Midnight Mine)	02/16/99	64 FR 7564
NPRM 28	04/23/99	64 FR 19968
NPRM (Almeda)	05/10/99	64 FR 24990
Final Action 24	05/10/99	64 FR 24949
NPRM 29	07/22/99	64 FR 39886
Final Action 25	07/22/99	64 FR 39878
NPRM 30	10/22/99	64 FR 56992
Final Action	10/22/99	64 FR 56966
NPRM 31	02/04/00	65 FR 5468
Final Action 26	02/04/00	65 FR 5435
NPRM 32	05/11/00	65 FR 30489
Final Action 28	05/11/00	65 FR 30482
NPRM 33	07/27/00	65 FR 46131
Final Action 29	07/27/00	65 FR 46096

EPA—Comprehensive Environmental Response, Compensation and Liability Act Proposed Rule Stage

Action	Date	FR Cite
NPRM Alabama/Malone	08/24/00	65 FR 51567
NPRM 34	12/01/00	65 FR 75215
Final Action 30	12/01/00	65 FR 75179
NPRM 35	01/11/01	66 FR 2380
NPRM 36	06/14/01	66 FR 32287
Final Action 31	06/14/01	66 FR 32235
NPRM 37	09/13/01	66 FR 47612
Final Action 32	09/13/01	66 FR 47583
NPRM Site No. Undetermined	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local

Additional Information: SAN No. 3439

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RIN: 2050–AD75

3677. REVISE 40 CFR PART 35 SUBPART O: COOPERATIVE AGREEMENTS AND SUPERFUND STATE CONTRACTS FOR SUPERFUND RESPONSE ACTIONS

Priority: Other Significant

Legal Authority: 42 USC 9601 to 9675

CFR Citation: 40 CFR 35 subpart O

Legal Deadline: None

Abstract: 40 CFR part 35 subpart O is the Superfund Administrative Regulation that governs awarding of Superfund cooperative agreements (CAs) to States, Indian tribes, and territories of the United States. Subpart O covers State-lead, site-specific cooperative agreements for non-time-critical removal, preremedial, remedial, and enforcement actions, and site-specific management assistance for federal-lead projects. Also covered by subpart O are non-site-specific Core Program and Voluntary Cleanup Program State infrastructure development, as well as Brownfields pilots, and Brownfields assessments. The requirements for Superfund State contracts, financial administration, property, procurement, reporting, recordkeeping, and closeout are provided in subpart O.

Subpart O was promulgated 6/5/1990, and became effective on 7/5/1990. Many changes in the Superfund program have occurred over the past almost ten years and these need to be reflected in subpart O. The six categories of CAs presently used in subpart O need greater flexibility to accommodate the new types of CAs that have developed. For example, the number of Block Funding Reform pilots, begun in 1997, to consolidate several of the cooperative agreements offered in subpart O, has grown to about 16 for fiscal year 2000, and have generated at least 60 approved deviation requests from subpart O and 40 CFR part 31. These pilot projects offer considerable administrative relief to States, tribes, and EPA by reducing reporting requirements, broadening scope changes without amendment, increasing the ability to move monies within and among CAs, and relaxing application requirements regarding site-specific identification of cooperative agreement funds to certain activities, while maintaining site-specific drawdown requirements needed for cost recovery and Superfund accounting. Subpart O also needs to be conformed with part 31 (Uniform Administrative Requirements for Grants and Cooperative Agreements).

EPA expects to institutionalize the combining of CA types, create more flexible reporting requirements, permit greater scope changes without amendment, provide more flexible money movement within and among CAs, and other policy advances in State/tribal/EPA interaction.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal, State, Local, Tribal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4177

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RIN: 2050–AE62

Environmental Protection Agency (EPA) Final Rule Stage

Comprehensive Environmental Response, Compensation and Liability Act

3678. • FINAL RULE TO CORRECT TYPOGRAPHICAL ERRORS AND REMOVE OBSOLETE LANGUAGE IN 40 CFR PART 302

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9602 to 9604; 33 USC 1231; 33 USC 1261

CFR Citation: 40 CFR 302 (Revision)

Legal Deadline: None

Abstract: EPA has reviewed the portions of the Code of Federal Regulations (CFR) related to the release reporting program under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Within these regulations, which appear in 40 CFR part 302, EPA has identified several categories of errors, including: (1) typographical errors in the table of CERCLA hazardous substances (Table 302.4 in 40 CFR 302.4); (2) definitions made legally obsolete because of

EPA—Comprehensive Environmental Response, Compensation and Liability Act **Final Rule Stage**

changes in CERCLA's statutory provisions; and (3) redundant or unnecessary information (particularly in the "Regulatory synonyms," "Statutory RQ," and "Final RQ Category" columns of Table 302.4) that could be removed from the CFR to reduce potential confusion.

Correcting the typographical errors, updating definitions, and removing redundant information in 40 CFR part 302 will not affect the scope of what is regulated or how it is regulated. For this reason, EPA is developing a final rule to make these minor corrections.

EPA does not anticipate any substantial impact on small businesses or State/tribal/local governments because the final rule will not introduce any new regulations or impose new burdens. The corrections included in this rulemaking will serve to reduce confusion among the regulated community and government authorities.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3929

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RIN: 2050–AE88

Environmental Protection Agency (EPA) **Long-Term Actions**

Comprehensive Environmental Response, Compensation and Liability Act

3679. REPORTING EXEMPTIONS FOR FEDERALLY PERMITTED RELEASES OF HAZARDOUS SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321; 33 USC 1361; 42 USC 9602; 42 USC 11004

CFR Citation: 40 CFR 117; 40 CFR 302; 40 CFR 355

Legal Deadline: None

Abstract: This action will clarify the definition of federally permitted release under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Federally permitted releases of hazardous substances are exempt from CERCLA reporting and liability, and from reporting under section 304 of the Emergency Planning and Community Right-to-Know Act.

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 27268
Supplemental Notice	07/11/89	54 FR 29306
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 2394

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RIN: 2050–AB82

3680. STREAMLINING THE PREAUTHORIZATION MIXED FUNDING FOR APPLICATION AND IMPLEMENTATION OF CLAIMS AGAINST SUPERFUND

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9601

CFR Citation: 40 CFR 307

Legal Deadline: None

Abstract: Current regulations at 40 CFR part 307 provide for the preauthorization of claims against the Superfund in instances where the Agency makes a determination that mixed funding is appropriate. This process has been labeled by many stakeholders as overly burdensome. The Agency has reviewed the current process in order to identify areas in which burdens may be lessened and requirements may be streamlined. As a result, the Agency is considering a proposal to amend the current regulation to: streamline the application process by eliminating duplicative information requirements; minimize the requirements related to management, oversight, and reporting of the cleanup, by removing the requirement to be guided by the Federal Acquisition Requirements, and replacing the requirement of maximum free and open competition with a bright-line standard; allow claimants to provide independent certification of claims and supporting documentation; streamline the actual payment process by taking advantage of the electronic funds transfer process; ensure that cost recovery concerns are addressed by requiring claimants, within a settlement document, to reimburse the Fund for costs not recovered (only in the event cost recovery is initiated), due to claimants' failure to provide adequate documentary support or upon a determination that response costs expended (and claimed) were not reasonable or not incurred consistent with the National Contingency Plan and ensure proper accounting by requiring offsets for funds owed to the Agency by claimants.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3885

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RIN: 2050–AE38

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EPA—Comprehensive Environmental Response, Compensation and Liability Act **Long-Term Actions**

3681. CRITERIA FOR THE DESIGNATION OF HAZARDOUS SUBSTANCES UNDER CERCLA SECTION 102(A)

Priority: Other Significant

Legal Authority: 42 USC 9602

CFR Citation: 40 CFR 302.4

Legal Deadline: None

Abstract: This action will address the development of evaluation criteria for the designation of substances as hazardous under CERCLA. It is necessary to develop evaluation criteria because the Agency has the authority under CERCLA 102(a) to designate substances as hazardous; however, the Agency does not have criteria to do so. To date the only substances designated as CERCLA hazardous substances are as a result of their appearance on other Acts' lists defined under CERCLA 101(14). Using CERCLA designation criteria the Agency may establish CERCLA hazardous substances independently from other Acts, in the interest of public health and the environment.

The purpose of this action is to have well thought-out criteria for designating hazardous substances that may be applied to individual substances for evaluation and decision as to whether or not the substance should be appropriately designated a CERCLA 102(a) hazardous substance. The Agency already has the authority to designate substances as hazardous; in this action, criteria will be developed to implement that authority.

Timetable:

Action	Date	FR Cite
ANPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4201

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RIN: 2050–AE63

Environmental Protection Agency (EPA) **Proposed Rule Stage**

Clean Water Act (CWA)

3682. EFFLUENT GUIDELINES AND STANDARDS FOR THE CONSTRUCTION AND DEVELOPMENT INDUSTRY

Regulatory Plan: This entry is Seq. No. 137 in part II of this issue of the **Federal Register**.

RIN: 2040–AD42

3683. EFFLUENT GUIDELINES AND STANDARDS FOR THE AQUATIC ANIMAL PRODUCTION INDUSTRY

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: CWA sec 301; CWA sec 304; CWA sec 306; CWA sec 307; CWA sec 308; CWA sec 318; CWA sec 402; CWA sec 501

CFR Citation: 40 CFR 451

Legal Deadline: NPRM, Judicial, June 30, 2002.
Final, Judicial, June 30, 2004.

Abstract: EPA is focusing new efforts to help reduce nutrient loadings from commercial agricultural and industrial operations nationwide. Currently, there are no Federal technology-based standards for aquatic animal production facilities, which are part of the aquaculture industry. This action is a new effort to develop pollutant controls in the form of nationally applicable discharge standards for commercial and public aquaculture operations. In assessments of surface water quality, States most frequently cite siltation, nutrients, and pathogens as the major cause of water quality impairment. With the growth of the aquaculture industry, and inconsistent state regulatory oversight, EPA will examine available technologies for the control of pollutants, primarily nutrients. This action was formerly titled Aquaculture.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
Final Action	06/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal, State, Tribal

Federalism: Undetermined

Additional Information: SAN No. 4406

Sectors Affected: 112519 Other Animal Aquaculture; 112512 Shellfish Farming; 112511 Finfish Farming and Fish Hatcheries

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RIN: 2040–AD55

3684. EFFLUENT GUIDELINES AND STANDARDS FOR THE MEAT PRODUCTS POINT SOURCE CATEGORY (REVISIONS)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311; 33 USC 1314; 33 USC 1316; 33 USC 1317; 33 USC 1318; 33 USC 1361

CFR Citation: 40 CFR 432 (Revision)

Legal Deadline: NPRM, Judicial, December 31, 2001.
Final, Judicial, December 31, 2003.

Abstract: The Agency is revising effluent limitations guidelines and standards for the Meat Products Point Source Category. The current regulations, at 40 CFR 432, are more than 20 years old and are limited to a few conventional pollutants. Recent concerns about nutrient discharges from these facilities might be resolved by additional effluent limitations. In particular, the current regulations do not address ammonia nitrogen for red meat slaughterhouses/packinghouses (subparts A to D). Nutrients are a

significant remaining water quality problem for impaired streams.

Revisions to the current regulations will also include effluent limitations for poultry processing, which is not currently covered by any effluent guideline.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	12/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4407

Sectors Affected: 311611 Animal (except Poultry) Slaughtering; 311612 Meat Processed from Carcasses; 311613 Rendering and Meat By-product Processing; 311615 Poultry Processing

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RIN: 2040–AD56

3685. WATER QUALITY STANDARDS FOR ALABAMA—PHASE II

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1313 CWA 303

CFR Citation: 40 CFR 131

Legal Deadline: NPRM, Judicial, January 15, 2002, Consent decree specifies that EPA will sign proposed Federal replacement standards by 1/15/02 unless EPA approves state use designations.
Final, Statutory, 90 Days after Proposal.

Abstract: Under the CWA, States have primary authority in developing water quality standards for waters within their jurisdiction. EPA maintains oversight authority in that States must submit their water quality standards to EPA for review and approval or disapproval. If a State's water quality standards are not consistent with the requirements of the CWA and its supporting regulations, and are subsequently disapproved by EPA, the State must revise the disapproved water quality standards, the CWA requires the EPA Administrator to promulgate Federal water quality standards to supersede those disapproved provisions in the states' water quality standards. EPA is developing a proposed rule to determine the appropriate use designations for seven waterbodies in Alabama that EPA disapproved in 1986 and 1991.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	06/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4264

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RIN: 2040–AD35

3686. TEST PROCEDURES FOR THE ANALYSIS OF MERCURY UNDER THE CLEAN WATER ACT (METHOD 245.7)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; 33 USC 1314(h); 33 USC 1361(a); PL 92-500 76 Stat. 816; PL 95-217 91 Stat. 1567; PL 100-4 100 Stat. 7

CFR Citation: 40 CFR 136.3(IB)

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve a new analytical test procedure (method) for the determination of mercury in the wastewater program as authorized under the Clean Water Act (CWA). This new test procedure is capable of measuring mercury at low parts-per-trillion (ppt; ng/L) concentrations and would be an alternative to the recently promulgated EPA Method 1631, which also determines mercury at low ppt concentrations. EPA Method 245.7 uses similar technology to EPA Method 1631 (cold vapor atomic fluorescence spectrometry), but it does not require the use of a gold trap. Laboratories claim that EPA Method 245.7 is a less burdensome and more cost-effective method than EPA Method 1631.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
Final Action	06/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4377

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RIN: 2040–AD52

3687. MINIMIZING ADVERSE ENVIRONMENTAL IMPACT FROM COOLING WATER INTAKE STRUCTURES AT EXISTING FACILITIES UNDER SECTION 316(B) OF THE CLEAN WATER ACT, PHASE 2

Regulatory Plan: This entry is Seq. No. 138 in part II of this issue of the **Federal Register**.

RIN: 2040–AD62

3688. NPDES PERMIT REQUIREMENTS FOR MUNICIPAL SANITARY SEWER COLLECTION SYSTEMS, MUNICIPAL SATELLITE COLLECTION SYSTEMS, AND SANITARY SEWER OVERFLOWS

Regulatory Plan: This entry is Seq. No. 136 in part II of this issue of the **Federal Register**.

RIN: 2040–AD02

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EPA—Clean Water Act (CWA) — Proposed Rule Stage

3689. RECOGNITION AWARDS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1361(a) and (e); CWA 501(a) and (e)

CFR Citation: 40 CFR 105 (New)

Legal Deadline: None

Abstract: The Environmental Protection Agency (EPA) is establishing a framework for the annual Clean Water Act (CWA) Recognition Awards known as the National Wastewater Management Excellence Awards Program. Section 501(e) of the CWA authorized the Administrator, on behalf of the U.S. Government, to recognize outstanding technological achievements or innovative processes, methods or devices in waste treatment and pollution abatement programs. The rule would establish regulations under which the recognition may be applied for and granted. The existing awards program recognizes innovative and outstanding achievements, processes, methods or devices in: Operations and Maintenance (O&M) of Publicly Owned Treatment Works (POTW); Biosolids Management (Biosolids); POTW Pretreatment Programs; Municipal and Industrial Storm Water (SW) Management; and Combined Sewer Overflows (CSO) Controls. These wastewater management programs can generally be characterized as waste treatment and/or pollution abatement programs. EPA may later establish, discontinue, combine or rename categories by notice published in the Federal Register. Though the Agency has conducted an awards program for many years, this rulemaking action clearly acknowledges the basis for the program. EPA is formalizing the CWA Recognition Awards program using a direct final rulemaking because the Agency does not expect adverse comments. Unless the Agency receives comments requiring a response during the public comment period associated with an identical companion proposed rule published elsewhere in the Federal Register on the same day, the formalized program would become effective without further notice.

Timetable:

Action	Date	FR Cite
NPRM - Companion of Direct Final Rule	01/00/02	
Direct Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4332

Note: This rule was formerly known as National Wastewater Management Excellence Awards Program.

Sectors Affected: 2213 Water, Sewage and Other Systems; 5622 Waste Treatment and Disposal

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RIN: 2040–AD44

3690. OCEAN DISCHARGES CRITERIA REVISIONS

Priority: Other Significant

Legal Authority: 33 USC 1343 et seq

CFR Citation: 40 CFR 125.121(a); 40 CFR 125.121(e); 40 CFR 125.122; 40 CFR 125.123; 40 CFR 125.124

Legal Deadline: None

Abstract: EPA is proposing to modify the existing regulations implementing the ocean protection provisions of section 403 of the Clean Water Act. A key element of the proposed rule would provide for establishment of baseline water quality standards for ocean waters beyond three miles offshore. These waters, designated "Healthy Ocean Waters," would be protected by both a narrative statement of desired quality and pollutant-specific numeric criteria. The proposed rule also would strengthen the requirements for a permit to discharge to any ocean waters, and would create a process for establishing Special Ocean Sites (SOSs), which are areas within ocean waters that are of outstanding value, where new and significantly expanded discharges would be prohibited. The proposed rule will enhance the protection of the ocean environment and meet the goals of the Executive order on Marine Protected Areas (E.O. 13158).

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	
Final Action	04/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Tribal

Additional Information: SAN No. 4446

Sectors Affected: 21111 Oil and Gas Extraction; 22132 Sewage Treatment Facilities; 221111 Hydroelectric Power Generation; 221112 Fossil Fuel Electric Power Generation; 42271 Petroleum Bulk Stations and Terminals; 325412 Pharmaceutical Preparation Manufacturing; 311711 Seafood Canning

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RIN: 2040–AD60

3691. CLEAN WATER STATE REVOLVING FUND REGULATION REVISIONS RE: USE AS MATCHING FUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1383(h)

CFR Citation: 40 CFR 35.3125(b)(1)

Legal Deadline: None

Abstract: This regulation will revise the Clean Water State Revolving Fund (CWSRF) Regulations to allow the use of loans from the non-Federal and non-State match share of CWSRF funds as a match for infrastructure grants. In 1990, EPA issued regulations implementing the CWSRF program, established as title VI of the Clean Water Act (CWA) in 1987. Section 603(h) of the CWA prohibits use of the CWSRF loan as matching funds with respect to the non-Federal share of the cost of a treatment works project for which a municipality or agency is receiving assistance from the Administrator under any other authority. In issuing its regulations at 40 CFR 35.3125(b)(1), EPA interpreted this prohibition broadly, applying the restriction to all treatment works construction. At that time, EPA

believed the replacement of the construction grants program authorized by title II of the CWA by the CWSRF would result in a significant decrease in the use of other Federal grant funds for treatment works construction. However, from FY 1995 onward, Congress has authorized and appropriated funds for infrastructure construction grants in various appropriations acts. There are currently over 700 projects totaling over $3.3 billion dollars. In several cases, EPA has been asked to allow CWSRF funds to be used as a match for these grants; but 40 CFR 35.3125(b)(1) prohibits such action. Upon reconsideration, EPA has decided its initial reading in 1990 was too broad, and the intent of Congress was only to prohibit use of CWSRF loans as a match for title II construction grants. This action will revise the regulations to allow a State, in its operation of the CWSRF, to permit a CWSRF loan for non-title II infrastructure construction grant projects to be used as a non-Federal match in certain circumstances. The prohibition on the use of CWSRF as a match for a title II construction grant will continue.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
Direct Final Rule With Companion NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4493

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RIN: 2040–AD68

3692. TEST PROCEDURES: NEW AND UPDATED TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT AND SAFE DRINKING WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; 33 USC 1314(h); CWA 304(h); 33 USC 1361(a); CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR parts 136 and 141 to approve new and updated EPA methods for wastewater, ambient water quality, and drinking water, including new and updated versions of methods from voluntary consensus standards bodies and other organizations. These methods are used to comply with monitoring requirements in the wastewater, ambient water quality and/or drinking water programs, as authorized under the Clean Water Act (CWA) and Safe Drinking Water Act. This regulation would propose new methods for metals such as Method 1638 (which utilizes ICP/MS), new methods for chemical pollutants (e.g., Method 245.7), and updated methods for chemical and biological pollutants (e.g., Methods 625 and 1625), including methods from voluntary consensus standards bodies (VCSBs), and from other external organizations. The new and updated methods include methods from organizations such as the American Society for Testing and Materials (ASTM), Standard Methods, Association of Official Analytical Methods-International, and U.S. Geological Survey.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
Final Action	06/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4540

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RIN: 2040–AD71

3693. TEST PROCEDURES FOR THE ANALYSIS OF MERCURY UNDER THE CLEAN WATER ACT (REVISIONS TO METHOD 1631)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h); CWA 304(h); 33 USC 1361(a); CWA 501(a)

CFR Citation: 40 CFR 136.3

Legal Deadline: NPRM, Judicial, September 30, 2001, Settlement agreement.
Final, Judicial, September 30, 2002, Settlement agreement.

Abstract: This proposal would amend EPA Method 1631 to add new requirements for clean techniques and quality control (QC) beyond those specified in EPA Method 1631 for the determination of mercury at water quality criteria levels. EPA Method 1631 was promulgated at 40 CFR 136 in June 1999. Later that year, the Alliance of Automobile Manufacturers, the Chemical Manufacturers Association, and the Utility Water Act Group (Petitioners) filed a petition for judicial review of the final rule. One of the issues in the petition related to the clean sampling techniques and QC requirements in the Method. As part of a Settlement Agreement in October 2000, EPA agreed to sign a Federal Register notice proposing additional clean techniques and QC requirements for Method 1631 by September 30, 2001, and to take final action by September 30, 2002.

Timetable:

Action	Date	FR Cite
Final Action Technical Correction	06/18/01	66 FR 32774
NPRM	10/09/01	66 FR 51518
NPRM Comment Period End	12/10/01	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4541

EPA—Clean Water Act (CWA) **Proposed Rule Stage**

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RIN: 2040–AD72

3694. • 2002 EFFLUENT GUIDELINES PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(m) CWA

CFR Citation: Not Yet Determined

Legal Deadline: Final, Judicial, August 28, 2002.

Abstract: The Effluent Guidelines Plan is published biennially as required by the Clean Water Act and a consent decree. The Plan is often called the 304(m) Plan, based on the relevant section in the Clean Water Act. The Plan discusses the status of ongoing rulemakings, development of additional rules, and preliminary studies. The Plan sets forth EPA's rationale for the selection of particular industries as candidates for new or revised effluent guidelines. The 2002 edition will include regulatory plans beyond those industries covered by the consent decree, and OW will use the 2002 Plan as a strategic opportunity to help design the future of the technology-based pollution control program for industrial sources.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
Final Action	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4576

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RIN: 2040–AD78

3695. REVISIONS TO THE NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN; SUBPART J PRODUCT SCHEDULE LISTING REQUIREMENTS

Priority: Other Significant

Legal Authority: 33 USC 1321(d)(2); CWA section 311(d)(2)

CFR Citation: 40 CFR 300

Legal Deadline: None

Abstract: This action will propose revisions to subpart J of the National Contingency Plan (NCP) (40 CFR part 300.900). Section 311(d)(2)(G) of the Clean Water Act requires that EPA prepare a schedule of dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out the NCP. Under subpart J, respondents wishing to add a product to the Product Schedule must submit technical product data specified in 40 CFR 300.915 to EPA. This rulemaking will propose revisions to subpart J to clarify and change protocols for effectiveness and toxicity testing. It will clarify EPA authority to remove products from the Product Schedule. These changes will help ensure protection of the environment when these products are used to clean up and mitigate oil spills into or upon navigable waters, adjoining shorelines, the waters of the contiguous zone, or which may affect natural resources belonging to or under the exclusive management authority of the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Additional Information: SAN No. 4526

Sectors Affected: 54 Professional, Scientific and Technical Services; 3259 Other Chemical Product Manufacturing; 325 Chemical Manufacturing; 3251 Basic Chemical Manufacturing

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RIN: 2050–AE87

Environmental Protection Agency (EPA) **Final Rule Stage**

Clean Water Act (CWA)

3696. EFFLUENT GUIDELINES AND STANDARDS FOR THE IRON AND STEEL MANUFACTURING POINT SOURCE CATEGORY (REVISIONS)

Priority: Other Significant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1362 CWA sec 501

CFR Citation: 40 CFR 420

Legal Deadline: NPRM, Judicial, October 31, 2000.
Final, Judicial, April 30, 2002.

Abstract: EPA is proposing to revise the effluent limitations guidelines and standards for the Iron and Steel Manufacturing Point Source Category to reflect significant industry changes related to consolidation and modernization within the U.S. steelmaking industry as well as advances in manufacturing technologies, in-process pollution prevention, water conservation practices, and end-of-pipe wastewater treatment.

EPA—Clean Water Act (CWA)

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/27/00	65 FR 81963
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local

Additional Information: SAN No. 3833

Sectors Affected: 331111 Iron and Steel Mills; 3312 Steel Product Manufacturing from Purchased Steel; 3328 Coating, Engraving, Heat Treating and Allied Activities; 324199 All Other Petroleum and Coal Products Manufacturing

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RIN: 2040–AC90

3697. EFFLUENT GUIDELINES AND STANDARDS FOR THE BLEACHED PAPERGRADE KRAFT SUBCATEGORY OF THE PULP, PAPER, AND PAPERBOARD CATEGORY; CERTIFICATION IN LIEU OF MONITORING FOR CHLOROFORM

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1342 CWA sec 402; 33 USC 1318 CWA sec 308; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: This action is a follow-on to the already-promulgated Pulp and Paper Cluster Rules covering the Bleached Papergrade Kraft Subcategory (Subpart B). EPA is considering allowing Subpart B mills to certify process changes (specifically, elimination of elemental chlorine and hypochlorite) and operating conditions in lieu of minimum monitoring to demonstrate compliance with the effluent limitations for chloroform.

Timetable:

Action	Date	FR Cite
NPRM	04/15/98	63 FR 18796
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local

Additional Information: SAN No. 4192

NPRM-
http://www.epa.gov/fedrgstr/EPA-WATER/1998/April/Day-15/w9615.htm

Sectors Affected: 3221 Pulp, Paper, and Paperboard Mills

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RIN: 2040–AD23

3698. EFFLUENT GUIDELINES AND STANDARDS FOR THE COAL MINING POINT SOURCE CATEGORY (REVISIONS)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 434

Legal Deadline: NPRM, Judicial, March 31, 2000.
Final, Judicial, December 31, 2001.

Abstract: Coal mining discharges are covered by existing effluent guidelines at 40 CFR part 434. This new regulatory action will revise the existing regulations to address two new subcategories: Coal Remining and Western Alkaline Coal Mining. The existing regulations do not cover remining operations, which, when appropriately planned and regulated, will improve effluent quality from abandoned mine lands while reclaiming them and prevent disturbance of unexploited lands. Advances in treatment technologies and Best Management Practices pertinent to coal mines in the arid West show promise of being more protective of water quality.

Timetable:

Action	Date	FR Cite
NPRM	04/11/00	65 FR 19440
Notice of Data Availability	07/30/01	66 FR 39300
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4168

Sectors Affected: 21211 Coal Mining

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RIN: 2040–AD24

3699. TEST PROCEDURES FOR THE ANALYSIS OF MISCELLANEOUS METALS, ANIONS, AND VOLATILE ORGANICS UNDER THE CLEAN WATER ACT, PHASE ONE

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve new procedures for the analysis of miscellaneous metals, anions, and volatile organics under the Clean Water Act (CWA). These methods are used for implementing water quality based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. This regulation would approve test procedures to be used in measuring this group of compounds under the NPDES Program unless the Regional Administrator approves an alternative procedure. EPA plans to segment the rulemaking into two phases to accommodate different amounts of data for the long list of compounds.

EPA—Clean Water Act (CWA)

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53988
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 3155

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RIN: 2040–AC95

3700. TEST PROCEDURES FOR ANALYSIS FOR BIOLOGICAL CONTAMINANTS UNDER CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361 CWA 501(a)

CFR Citation: 40 CFR 136; 40 CFR 141

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve EPA Method 1622 and to approve microbiological methods for monitoring ambient water for the detection of Cryptosporidium, Giardia, E. coli and Enterococci. in ambient waters by filtration of a 10-L sample in laboratory, separation of target organisms from other debris using immunomagnetic separation, and detection of the organisms using immunofluorescence assay and differential interference contrast microscopy and confirmation examination of the organisms using vital dye stains. This proposed regulation would approve test procedures to be available for use by testing laboratories.

Timetable:

Action	Date	FR Cite
NPRM	08/30/01	66 FR 45811
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4047

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RIN: 2040–AD08

3701. TEST PROCEDURES FOR THE ANALYSIS OF MISCELLANEOUS METALS, ANIONS, AND VOLATILE ORGANICS UNDER THE CLEAN WATER ACT, PHASE TWO

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve new procedures for the analysis of miscellaneous metals, anions, and volatile organics under the Clean Water Act (CWA). These methods are used for implementing water quality based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. This regulation would approve test procedures to be used in measuring this group of compounds under the NPDES unless the Regional Administrator approves an alternative procedure. This rulemaking would constitute the second of two segments of rulemaking initially proposed as one action.

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53988
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4089

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RIN: 2040–AD12

3702. TEST PROCEDURES: CLEAN WATER ACT AND SAFE DRINKING WATER ACT METHODS UPDATE

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; CWA 304(h); 33 USC 1314(h); CWA 501(a); 33 USC 1361(a); SDWA 1412; 42 USC 300 g-1; 42 USC 300f(1); SDWA 1401(a); SDWA 1445; SDWA 1450(a); 42 USC 300j-4; 42 USC 300j-9(a)

CFR Citation: 40 CFR 136; 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: This regulatory action would amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136, National Primary Drinking Water Regulations under 40 CFR part 141, and National Secondary Drinking Water Regulations under 40 CFR part 143 to approve updated versions of analytical test procedures (methods) from voluntary consensus standards bodies and other organizations. These methods are used to comply with monitoring requirements in the wastewater and drinking water programs, as authorized under the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA). This regulation would approve updated versions of methods for determination of chemical, radiological, and

microbiological pollutants in wastewater and drinking water. The updates are to methods from voluntary consensus standards bodies (the American Society for Testing and Materials and Standard Methods) and from the U.S. Geological Survey and the Department of Energy. Previously approved versions of the methods being updated remain approved. Because EPA received adverse comments on the direct final rule published on January 16, 2001, the Agency withdrew the direct final on May 15, 2001. EPA plans to issue a final rulemaking addressing the adverse comments by early 2002, based on a companion proposal to the direct final rule.

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/16/01	66 FR 3466
Notice of Withdrawal of Direct Final Rule	05/15/01	66 FR 26795
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4409

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RIN: 2040–AD59

3703. MINIMIZING ADVERSE ENVIRONMENTAL IMPACT FROM COOLING WATER INTAKE STRUCTURES AT NEW FACILITIES UNDER SECTION 316(B) OF THE CLEAN WATER ACT, PHASE 1

Priority: Other Significant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1316 CWA sec 306; 33 USC 1326 CWA sec 316; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 9; 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 125

Legal Deadline: NPRM, Judicial, July 20, 2000.
Final, Judicial, November 9, 2001.

Abstract: This rulemaking affects new facilities that use cooling water intake structures. Section 316(b) of the Clean Water Act provides that any standard established pursuant to section 301 or 306 of the Clean Water Act and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact associated with the impingement and entrainment of fish and other aquatic organisms by cooling water intake structures. Impingement refers to trapping fish and other aquatic life on intake screens or other devices where they may be injured or killed. Entrainment occurs when smaller aquatic organisms, eggs and larvae are drawn into a cooling system and then pumped back out, often with significant injury or mortality due to heat, physical stress or exposure to chemicals.

Timetable:

Action	Date	FR Cite
NPRM	08/10/00	65 FR 49059
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Local

Additional Information: SAN No. 3444

Sectors Affected: 61131 Colleges, Universities and Professional Schools; 336 Transportation Equipment Manufacturing; 21 Mining; 22111 Electric Power Generation; 22133 Steam and Air-Conditioning Supply; 311 Food Manufacturing; 3122 Tobacco Manufacturing; 313 Textile Mills; 321 Wood Product Manufacturing; 322 Paper Manufacturing; 324 Petroleum and Coal Products Manufacturing; 325 Chemical Manufacturing; 326 Plastics and Rubber Products Manufacturing; 327 Nonmetallic Mineral Product Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing; 335 Electrical Equipment, Appliance and Component Manufacturing

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RIN: 2040–AC34

3704. • TOTAL MAXIMUM DAILY LOAD (TMDL) PROGRAM REGULATIONS REVISIONS

Priority: Other Significant

Legal Authority: 33 USC 1313

CFR Citation: 40 CFR 9; 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 130

Legal Deadline: None

Abstract: On July 13, 2000, EPA published a final Total Maximum Daily Load (TMDL) Program Regulation (65 FR 23580). At that time, EPA expected this to become effective the end of October 2001 (30 days after the existing Congressional restriction on implementation). On August 9, 2001 (66 FR 41817), EPA published a proposed rule to establish April 30, 2003 as the effective date of the final TMDL rule. This will allow the Agency time to convene a consensus-building process to engage the full spectrum of affected parties in developing a successful TMDL program. The consensus-building process will consider new information, including the recent National Academy of Sciences report recommending changes to the TMDL program, in an effort to speed up the cleanup of the nation's waters by developing a workable program with broad stakeholder support.

Timetable:

Action	Date	FR Cite
NPRM	08/23/99	64 FR 46011
Final Rule	07/13/00	65 FR 43586
NPRM Delay of Effective Date	08/09/01	66 FR 41817
Delay of Final Rule Effective Date	10/18/01	66 FR 53044
NPRM	06/00/02	
Final Action	04/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Tribal

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EPA—Clean Water Act (CWA) **Final Rule Stage**

Additional Information: SAN No. 4145

Split from RIN 2040-AD22.

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RIN: 2040–AD79

3705. COMPARISON OF DREDGED MATERIAL TO REFERENCE SEDIMENT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1344 CWA sec 404

CFR Citation: 40 CFR 230

Legal Deadline: None

Abstract: This action would revise the testing provisions of the Clean Water Act section 404(b)(1) guidelines to provide for comparisons between dredged material proposed for discharge and reference sediment. Reference sediment would be defined as sediment that reflects conditions at the disposal site had no dredged material disposal ever occurred there. Because the disposal site itself is currently used as the point of comparison, this action would make a technical improvement in assessing cumulative impacts and help make dredged material testing under section 404 more consistent with that conducted for ocean disposal, which currently employs a reference sediment approach. This action is not expected to have a significant impact on State, local, or tribal governments or small business, as the action will be limited to Corps projects and permit applications for which dredged material testing is necessary, and because the effect of the action will be limited to changing the location of an otherwise collected sample.

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 419
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3288

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RIN: 2040–AC14

3706. REVISION TO CLEAN WATER ACT REGULATORY DEFINITION OF "FILL MATERIAL"

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1344

CFR Citation: 33 CFR 323.2(e); 40 CFR 232.2

Legal Deadline: None

Abstract: Section 404 of the Clean Water Act requires a permit from the US Army Corps of Engineers (Corps) for discharges of dredged or fill material to waters of the United States. The Environmental Protection Agency (EPA) and Corps regulations implementing section 404 currently contain differing definitions of the term fill material. In particular, the Corps regulations define fill material as being used for the primary purpose of replacing an aquatic area with dry land or changing the bottom elevation of a waterbody. In contrast, EPA's definition of fill material looks to whether the effect is to replace waters of the United States with dry land or change the bottom elevation of waterbodies, and does not contain a primary purpose test as found in the Corps regulations. In order to clarify what constitutes fill material for purposes of section 404 and provide improved regulatory certainty, the Corps and EPA are conducting notice and comment rulemaking to achieve greater consistency between the two agencies' definitions of fill material.

Timetable:

Action	Date	FR Cite
NPRM	04/20/00	65 FR 21292
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4375

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RIN: 2040–AD51

3707. ROUND 2 STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE SLUDGE

Priority: Other Significant

Legal Authority: 33 USC 1345 CWA sec 405; 33 USC 1361(a) CWA sec 501(a)

CFR Citation: 40 CFR 503 (Revisions)

Legal Deadline: NPRM, Judicial, December 15, 1999.
Final, Judicial, December 15, 2001.

Abstract: Section 405 of the Clean Water Act (CWA) requires EPA to promulgate regulations providing guidelines for the use and disposal of sewage sludge. The rules, among other things, are to identify uses for sewage sludge, including disposal, and concentrations of pollutants which interfere with such use or disposal. The statute establishes a schedule for EPA to identify and regulate toxic pollutants in sewage sludge in two rounds: first with respect to those toxic pollutants for which information is available and subsequently, with respect to those toxic pollutants in sewage sludge not regulated in the first round which may adversely affect public health and the environment. The regulations must specify management practices, including numeric limits, for each such pollutant, for each use or disposal practice. EPA published the first round of sewage sludge regulations, pursuant to a court ordered schedule, in February 1993 (58 FR 9247) and proposed round two regulations in December 1999. EPA's round two proposal identified dioxins, dibenzofurans and coplanar polychlorinated biphenyls as the additional toxic pollutants in sewage sludge to be regulated for sewage sludge that is to be applied to the land. The consent decree requires EPA to take final action on proposed round two regulations by December 15, 2001.

EPA—Clean Water Act (CWA) **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	12/23/99	64 FR 72045
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 3488

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RIN: 2040–AC25

3708. PROCEDURES FOR TRIBES TO OBTAIN APPROVAL FOR TREATMENT AS A STATE TO RECEIVE FUNDING FOR THE BEACHES PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 33 UCS 1375(a) et seq

CFR Citation: 40 CFR 35; 40 CFR 130

Legal Deadline: None

Abstract: This interim final rule would establish procedures under the Clean Water Act for EPA to treat Indian tribes in substantially the same manner in which it treats States for purposes of obtaining financial assistance.

As part of the Beaches Environmental Assessment and Coastal Health Act of 2000, EPA is authorized to award grants to develop and implement monitoring and notification programs for coastal or Great Lakes recreational waters. This rule will describe the requirements for Indian tribes to become eligible for grants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Additional Information: SAN No. 4515

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RIN: 2040–AD69

3709. RULE TO REVISE AND TO RATIFY OR WITHDRAW WHOLE EFFLUENT TOXICITY TEST METHODS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h); CWA 304(h); 33 USC 1361(a); CWA 501(a)

CFR Citation: 40 CFR 136.3

Legal Deadline: NPRM, Judicial, September 24, 2001, Settlement Agreement.
Final, Judicial, September 24, 2002, Settlement Agreement.

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 by revising several whole effluent toxicity (WET) test methods and by ratifying or withdrawing WET test methods listed in Table IA for use under the Clean Water Act. These methods were promulgated on October 16, 1995 (60 FR 53529). The proposed regulation is needed to satisfy the terms of two settlement agreements (entered into by EPA and Edison Electric Institute, et al., and Western Coalition of Arid States on July 24, 1998; and entered into by EPA and Lone Star Steel in January, 1997). This proposal will amend the 1995 rule by revising three WET method manuals, and by ratifying or withdrawing each of the WET test methods challenged in the settlement agreements from these three manuals. Specific revisions include: the requirement of blocking by parentage in Method 1002, the requirement for demonstration of valid concentration-response relationships, the inclusion of specific procedures to control pH drift, and the inclusion of procedures to reduce pathogenic interferences in Method 1000.

Timetable:

Action	Date	FR Cite
NPRM	09/28/01	66 FR 49794
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

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RIN: 2040–AD73

Environmental Protection Agency (EPA)
Clean Water Act (CWA) **Long-Term Actions**

3710. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY, PHASES 1 AND 2

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 413; 40 CFR 433; 40 CFR 438; 40 CFR 463; 40 CFR 464; 40 CFR 467; 40 CFR 471

Legal Deadline: NPRM, Judicial, October 31, 2000.
Final, Judicial, December 31, 2002.

Abstract: EPA is developing effluent limitations guidelines for facilities that generate wastewater while processing metal parts; metal products; and machinery, including manufacture, assembly, rebuilding, repair, and

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maintenance. In 1995 EPA proposed regulations for seven industrial groups: aircraft, aerospace, hardware, ordnance, stationary industrial equipment, mobile industrial equipment, and electronic equipment. EPA has consolidated this rulemaking with a second phase, whose scope would include additional industrial groups such as: bus and truck, household equipment, instruments, motor vehicles, office machines, precious metals and jewelry, railroads, job shops, printed circuit boards, and ships and boats. The deadlines and timetable apply to the consolidated Phase 1 and 2 rulemaking.

Timetable:

Action	Date	FR Cite
NPRM (Phase 1)	05/30/95	60 FR 28210
NPRM (Consolidated Phase 1 and 2)	01/03/01	66 FR 424
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local

Additional Information: SAN No. 2806

For more information on Metal Products and Machinery on the Internet, please visit:

http://www.epa.gov/ost/guide/mpm/index.html

Sectors Affected: 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing; 335 Electrical Equipment, Appliance and Component Manufacturing; 336 Transportation Equipment Manufacturing; 337 Furniture and Related Product Manufacturing; 339 Miscellaneous Manufacturing

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RIN: 2040–AB79

3711. EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY, PHASE II

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA 301; 33 USC 1314 CWA 304; 33 USC 1316 CWA 306; 33 USC 1317 CWA 307; 33 USC 1318 CWA 308; 33 USC 1318 CWA 402; 33 USC 1361 CWA 501

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: EPA will consider revising the technology-based effluent limitations guidelines and standards for 8 of the 12 subcategories for this industrial category: Unbleached Kraft Semi-Chemical; Mechanical Pulp; Non-Wood Chemical Pulp Secondary Fiber Deink; Secondary Fiber Non-Deink; Fine and Lightweight Papers from Purchased Pulp; and Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp. EPA proposed guidelines and standards for these subcategories as part of the Pulp and Paper Rules (also known as the Cluster Rules) in December 1993. The Agency intends to develop these revised effluent limitations in close coordination with the Office of Air Quality Planning and Standards.

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 66078
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local

Federalism: Undetermined

Additional Information: SAN No. 4050

Sectors Affected: 3221 Pulp, Paper, and Paperboard Mills

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RIN: 2040–AD10

3712. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT REGULATION AND EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOS)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 122.23; 40 CFR 412

Legal Deadline: NPRM, Judicial, December 15, 2000, Effluent guidelines and standards only.
Final, Judicial, December 15, 2002, Effluent guidelines and standards only.

Abstract: Feedlot operations are covered by existing effluent guidelines at 40 CFR 412 and concentrated animal feeding operations (CAFOs) are covered by permitting regulations at 40 CFR 122.23. This action will revise the existing effluent guidelines primarily to address swine, poultry, beef, and dairy cattle operations and will revise the NPDES regulation for concentrated animal feeding operations. The existing regulations, which require the largest confined animal feeding operations to achieve zero discharge of wastes to surface waters except for certain storm related discharges, have not been sufficient to resolve water quality impairment from feedlot operations. Feedlot operations are substantial contributors of nutrients in surface waters that have severe anoxia (low levels of dissolved oxygen) and problem algae blooms.

Timetable:

Action	Date	FR Cite
NPRM	01/12/01	66 FR 2959
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4153

EPA—Clean Water Act (CWA) **Long-Term Actions**

This rule was formerly know as Effluent Guidelines and Standards for Feedlots Point Source Category, and NPDES Regulation for Concentrated Animal Feeding Operations

Sectors Affected: 11221 Hog and Pig Farming; 11232 Broilers and Other Meat Type Chicken Production; 11231 Chicken Egg Production; 112112 Cattle Feedlots; 11212 Dairy Cattle and Milk Production; 11241 Sheep Farming; 11233 Turkey Production; 11292 Horse and Other Equine Production; 11239 Other Poultry Production

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RIN: 2040–AD19

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 66078
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4370

Sectors Affected: 3221 Pulp, Paper, and Paperboard Mills

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RIN: 2040–AD49

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 4408

Sectors Affected: 562998 All Other Miscellaneous Waste Management Services

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RIN: 2040–AD57

3713. EFFLUENT GUIDELINES AND STANDARDS FOR THE DISSOLVING KRAFT AND DISSOLVING SULFITE SUBCATEGORIES OF THE PULP, PAPER, AND PAPERBOARD POINT SOURCE CATEGORY (PHASE III)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311; 33 USC 1314; 33 USC 1316; 33 USC 1317; 33 USC 1318; 33 USC 1342; 33 USC 1361

CFR Citation: 40 CFR 430.10 to 430.18; 40 CFR 430.40 to 430.48

Legal Deadline: None

Abstract: On December 17, 1993, EPA proposed revised effluent limitations, guidelines and standards and best management practices regulations for the Dissolving Kraft and Dissolving Sulfite Subcategories of the Pulp, Paper, and Paperboard Point Source Category (40 CFR part 430). This action, which OW refers to as Phase III of the Cluster Rules, will respond to comments and reflect new data. There are five domestic mills in these two subcategories. The final rule is anticipated to set limits for adsorbable organic halides (AOX), chemical oxygen demand (COD), chloroform, dioxin, furan, and 12 specific chlorinated phenolics.

3714. EFFLUENT GUIDELINES AND STANDARDS FOR THE INDUSTRIAL CONTAINER AND DRUM CLEANING POINT SOURCE CATEGORY.

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Industrial facilities that clean out 55 gallon drums and other industrial sized containers are not currently subject to nationally applicable wastewater treatment standards. Many types of toxic and hazardous materials, including pesticides, solvents, and petrochemical products are transported in bulk via drums and containers. Most of these containers have a residue, or heel, present in the containers before they are cleaned. The accumulation of residue from large numbers of drums and containers may result in the discharge of pollutants to the Nation's waterways. This regulation is expected to cover those facilities that clean out drums and industrial sized containers as a business, and would generally not cover industrial facilities that clean out their own drums and containers used on site.

3715. WATER QUALITY STANDARDS REGULATION — REVISION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1313 CWA sec 303(c)

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: Water quality standards set by States and Indian tribes establish the water quality goals for surface waters of the U.S. and the means by which attainment of these goals will be measured and assured. They are the foundation for protecting water quality and related public health and welfare and the ecological health of the nation's waters. The Federal water quality standards regulation at 40 CFR Part 131 governs the development, review and revision of water quality standards under section 303(c) of the Clean Water Act by States and Indian Tribes, and the review and approval of water quality standards by EPA. Based upon the Federal, State, Tribal and local experience gained in the program over the last 20 years, EPA's proposed

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revisions to 40 CFR 131 are intended to strengthen the water quality standards regulation thus enhancing water quality management on a watershed basis, and focusing Federal, State and Tribal resources on the areas of greatest concern. Program areas identified for revision include mixing zone policies and procedures.

Timetable:

Action	Date	FR Cite
ANPRM	07/07/98	63 FR 36741
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 3662

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RIN: 2040–AC56

3716. WATER QUALITY STANDARDS FOR INDIAN COUNTRY WATERS

Priority: Other Significant

Legal Authority: 33 USC 1251 et seq

CFR Citation: 40 CFR 131; 40 CFR 121.17 (New); 40 CFR 122.4 (Amended); 40 CFR 123.1 (Amended); 40 CFR 131.4 (Amended); 40 CFR 131.40 (New); 40 CFR 230.10 (Amended); 40 CFR 233.1 (Amended); 40 CFR 233.51 (Amended)

Legal Deadline: Final, Statutory, 90 Days after Proposal.

Abstract: EPA is considering proposing a national rule containing core Federal water quality standards (WQS) to support tailored, site-specific decisions for certain waters in Indian country that do not have EPA-approved tribal standards. EPA is contemplating this rule as a first step towards ensuring that the core Clean Water Act (CWA) framework for protecting water quality is in place for all such waters. The core Federal water quality standards would establish: use designations consistent with CWA section 101(a) goals, cultural and traditional, and other uses; water quality criteria for protecting the designated uses; and an antidegradation policy designed to protect water quality. Such standards would provide a basis for EPA (in consultation with a tribe) to affect pollution discharges occurring upstream from tribal waters, provide a basis for including water quality based limitations or conditions in permits or certifications for discharges within Indian country; and provide the basis for establishing Total Maximum Daily Loads (TMDLs) for Indian country waters. A Federal promulgation would not prevent tribes from developing their own standards. The Office of Management and Budget reviewed the proposal and returned it to EPA on October 2, 2001, for further consideration and analysis. EPA is considering how to proceed.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Tribal

Additional Information: SAN No. 4344

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RIN: 2040–AD46

3717. TEST PROCEDURES FOR THE ANALYSIS OF TRACE METALS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve new EPA methods for the determination of trace metals at EPA's water quality criteria levels. These methods are necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act. Water quality-based permits are necessary when technology-based controls do not ensure that a particular water body would meet the State's designated water quality standard. Because the methods currently approved under 40 CFR part 136 were designed to support primarily technology-based permitting needs, and because these technology-based levels are as much as 280 times higher than water quality-based criteria for metals, approval of new EPA test procedures is necessary.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Federalism: Undetermined

Additional Information: SAN No. 3702

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RIN: 2040–AC75

3718. INCREASED METHOD FLEXIBILITY FOR TEST PROCEDURES APPROVED FOR CLEAN WATER ACT COMPLIANCE MONITORING

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304 (h); 33 USC 1361(a) CWA 501 (a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would highlight the flexibility already contained in the 600 and 1600 series of EPA Methods that are currently approved for Clean Water Act compliance monitoring under 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants. These methods typically contain a statement that, in recognition of advances that are occurring in analytical technology, and to allow the analyst to overcome sample matrix interferences, the analyst is permitted certain options to improve separations or lower the costs of measurements. These options include alternate extraction, concentration, cleanup procedures, and changes in columns and detectors. The methods further require the analyst to demonstrate that the method modifications will not adversely affect the quality of data by generating quality control results that meet the specifications contained in the method. Despite this stated flexibility, the Agency has found that many NPDES and pretreatment permitting authorities are not aware of this flexibility when issuing or enforcing NPDES and pretreatment permits. Therefore, this regulatory action will highlight the existing method flexibility and clarify EPA's position regarding its application. This action will also extend this flexibility to other methods currently approved under 40 CFR part 136. The purpose of extending this flexibility to other methods is to (1) increase consistency between methods, (2) provide for increased recognition of advances in analytical technology, and (3) reduce costs associated with analytical measurements.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 3714

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RIN: 2040–AC92

3719. PERFORMANCE-BASED MEASUREMENT SYSTEM (PBMS) PROCEDURES AND GUIDANCE FOR CLEAN WATER ACT TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would establish the use of performance-based measurement procedures and guidance for use in Clean Water Act compliance monitoring under 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants. The new procedures would include guidance concerning the format, content, quality assurance/quality control, and data validation requirements for use of test methods. This regulatory action would also describe increased program guidance in the form of a clearinghouse, technical bulletins, and/or guidance documents geared towards clarifying technical and policy issues associated with the use of test methods approved for use in the program.

Timetable:

Action	Date	FR Cite
NPRM	03/28/97	62 FR 14975
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 3713

NPRM-
http://www.epa.gov/fedrgstr/EPA-WATER/1997/March/Day-28/w7221.htm

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RIN: 2040–AC93

3720. TEST PROCEDURES FOR THE ANALYSIS OF CO-PLANAR AND MONO-ORTHO-SUBSTITUTED POLYCHLORINATED BIPHENYLS (PCBS) UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; CWA 304(h); 33 USC 1314(h); CWA 501(a); 33 USC 1361(a)

CFR Citation: 40 CFR 136; 40 CFR 503

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR parts 136 and 503 to approve EPA Method 1668 for the congener-specific determination of co-planar and mono-ortho-substituted polychlorinated biphenyls (PCBs) in effluent, ambient water, and sludge. This method is necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act. Water quality-based permits are necessary when technology-based controls do not ensure that a particular water body would meet the State's designated water quality standard. At present there is no EPA analytical method for determination of these PCBs at the levels of concern. Therefore, approval of a new EPA test procedure is necessary.

Timetable:

Action	Date	FR Cite
NPRM	05/00/03	
Final Action	05/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4049

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RIN: 2040–AD09

3721. REVISIONS TO METHOD DETECTION AND QUANTIFICATION FOR USE UNDER THE CLEAN WATER ACT AND SAFE DRINKING WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h); CWA 304(h); 33 USC 1361(a); CWA 501(a); 42 USC 300f; SDWA 1401

CFR Citation: 40 CFR 136(b)

Legal Deadline: NPRM, Judicial, February 28, 2003, Settlement Agreement.
Final, Judicial, September 30, 2004, Settlement Agreement.

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 related to the detection and quantification procedures currently used by EPA for analytes regulated in the wastewater program as authorized under the Clean Water Act (CWA) and in the drinking water program under the Safe Drinking Water Act (SDWA). The current method detection limit (MDL) procedure is set forth at 40 CFR part 136, appendix B. EPA has not promulgated a generic procedure for quantification but it uses the minimum level of quantitation (ML) in its wastewater program and the practical quantitation level (PQL) in its drinking water program. The ML is defined in analytical methods and is generally set at 3.18 times the MDL. The PQL is generally set at five to ten times the MDL. The Office of Water has been working to revise and refine these concepts in response to the need to regulate pollutants at low levels (often levels that are lower than measurement capabilities will allow) and to address other potential approaches to detection and quantification, including concepts being introduced by outside organizations such as voluntary consensus standards bodies (VCSBs). The rulemaking would also reevaluate the current MDL and quantification approaches and assess alternative approaches.

Timetable:

Action	Date	FR Cite
NPRM	02/00/03	
Final Action	09/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4378

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RIN: 2040–AD53

3722. UNIFORM NATIONAL DISCHARGE STANDARDS FOR VESSELS OF THE ARMED FORCES - PHASE II

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1322; 33 USC 1361

CFR Citation: 40 CFR 1700

Legal Deadline: Final, Statutory, May 10, 2001.

Abstract: This action is phase II of implementing regulations on Uniform National Discharge Standards for Vessels of the Armed Forces. In 1996 the Clean Water Act was amended to create section 312(n), Uniform National Discharge Standards for Vessels of the Armed Forces. Section 312(n) directs EPA and DOD to work together to provide Armed Forces vessels with a nationally uniform set of discharge standards, which preempt State discharge standards for these vessels. The purpose of the statute is to allow DOD to plan, design and build environmentally sound vessels, to encourage innovative pollution control technology, and to improve operational flexibility. EPA and DOD jointly promulgated Phase I of these regulations, 40 CFR part 1700, on May 10, 1999 (64 FR 25126). The Phase I rulemaking concluded that 25 discharges from Armed Forces vessels would require control devices. Some of these discharges have the potential to introduce oil or other organics into receiving waters (such as bilge water); some have the potential to introduce copper or other metals (such as fire main); and some have the potential to introduce nonindigenous invasive aquatic species (such as ballast water). Phase II will establish performance standards for control devices for these 25 discharges. Once DOD implements rules for achieving the standards set in phase II, covered discharges from Armed Forces vessels will be required to meet these standards, and will not be subject to discharge standards established by States.

Timetable:

Action	Date	FR Cite
NPRM	10/00/03	
Final Action	09/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Federalism: Undetermined

Additional Information: SAN No. 4357

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RIN: 2040–AD39

3723. MINIMIZING ADVERSE ENVIRONMENTAL IMPACT FROM COOLING WATER INTAKE STRUCTURES AT EXISTING FACILITIES UNDER SECTION 316(B) OF THE CLEAN WATER ACT, PHASE 3

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1316 CWA sec 306; 33 USC 1326 CWA sec 316; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 9; 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 125

Legal Deadline: NPRM, Judicial, June 15, 2003.

Final, Judicial, December 15, 2004.

Abstract: This rulemaking affects, at a minimum, existing facilities that use cooling water intake structures, and whose intake flow levels exceed a minimum threshold EPA will determine during this rulemaking. The affected facilities include: (1) electricity generating facilities not covered by Phase 2 regulations; (2) pulp and paper manufacturing facilities; (3) chemicals and allied products manufacturing facilities; (4) petroleum and coal products manufacturing facilities; and (5) primary metals manufacturing facilities. Section 316(b) of the Clean Water Act provides that any standard established pursuant to sections 301 or 306 of the Clean Water Act and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact. A primary purpose of this action is to minimize the impingement and entrainment of fish and other aquatic organisms by cooling water intake structures. Impingement refers to trapping fish and other aquatic life against cooling water intake structures. Entrainment occurs when aquatic organisms, eggs and larvae are drawn into the cooling system, through the heat exchanger, and then pumped back out with significant injury or mortality to the entrained organisms.

Timetable:

Action	Date	FR Cite
NPRM	06/00/03	
Final Action	12/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4543

Split from RIN 2040-AC34.

Sectors Affected: 326 Plastics and Rubber Products Manufacturing; 325 Chemical Manufacturing; 324 Petroleum and Coal Products Manufacturing; 322 Paper Manufacturing; 321 Wood Product Manufacturing; 313 Textile Mills; 3122 Tobacco Manufacturing; 311 Food Manufacturing; 22133 Steam and Air-Conditioning Supply; 21 Mining; 211111 Crude Petroleum and Natural Gas Extraction; 211112 Natural Gas Liquid Extraction; 22111 Electric Power Generation; 327 Nonmetallic Mineral Product Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing; 335 Electrical Equipment, Appliance and Component Manufacturing; 336 Transportation Equipment Manufacturing; 61131 Colleges, Universities and Professional Schools

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RIN: 2040–AD70

3724. STREAMLINING THE GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

Priority: Other Significant

Legal Authority: 33 USC 1314 CWA sec 304; 33 USC 1317 CWA sec 307; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 403

Legal Deadline: None

Abstract: The final rule will be promulgated as a program streamlining activity. The rule will revise certain provisions in the General Pretreatment Regulations (40 CFR part 403) that address restrictions on and oversight of industrial discharges into Publicly Owned Treatment Works (POTWs). The final rule will include exclusions or variable requirements for smaller facilities that contribute insignificant amounts of pollutants, clarify requirements for implementing Pretreatment Standards, and provide more flexible reporting, inspection and sampling requirements. The revisions should provide greater flexibility, reduce burden, and achieve improved environmental results at less cost for regulatory authorities and the regulated community.

Timetable:

Action	Date	FR Cite
NPRM	07/22/99	64 FR 39564
Final Action	12/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 3663

NPRM-
http://www.epa.gov/fedrgstr/EPA-WATER/1999/July/Day-22/w17773.htm

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RIN: 2040–AC58

3725. NPDES STREAMLINING RULE — ROUND III

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1312 CWA sec 302; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124

Legal Deadline: None

Abstract: EPA plans to issue several rulemaking packages to revise NPDES requirements in parts 122, 123, and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures. Revisions under consideration in this rule include adding additional permit modifications that can be considered minor modifications at 122.63, and changes to requirements concerning EPA's review of State permits. Other revisions may be considered as work on this rule progresses. This rulemaking is expected to affect entities which implement the NPDES program or are regulated by it. This includes

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EPA—Clean Water Act (CWA) **Long-Term Actions**

small businesses and State, tribal and local governments. Most of these effects are expected to be deregulatory or streamlining in nature.

Timetable:

Action	Date	FR Cite
NPRM	11/00/06	
Final Action	08/00/07	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 3786

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RIN: 2040–AC84

3726. CLEAN WATER ACT DEFINITION OF WATERS OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1361 CWA sec 501; 33 USC 1362 CWA sec 502

CFR Citation: 33 CFR 328.3(a); 40 CFR 110.1; 40 CFR 112.2; 40 CFR 116.3; 40 CFR 117.1; 40 CFR 122.2; 40 CFR 230.3(s); 40 CFR 232.2; 40 CFR 257.3-1(d); 40 CFR 300, app E; 40 CFR 401.11(l)

Legal Deadline: None

Abstract: This action involves joint rulemaking by EPA and the Department of the Army to amend the regulatory definition of waters of the United States. The proposal would clarify the jurisdictional status under the Clean Water Act (CWA) of so-called "isolated" intrastate waters and wetlands. The existing regulations contain language asserting jurisdiction over isolated intrastate waters, but that regulatory provision has been the subject of a January 9, 2001, U.S. Supreme Court opinion. Revision of the regulatory language is necessary to address the Court's decision, improve regulatory clarity, and provide more specificity regarding CWA jurisdiction. The rulemaking would clarify CWA jurisdiction for entities (e.g., industrial, commercial, governmental) that discharge pollutants, including dredged or fill material, to isolated intrastate surface waters or wetlands. Significant impacts on small entities or State/local/tribal governments are not anticipated, as the proposed regulatory revisions would be consistent with the Supreme Court ruling.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	
Final Action	12/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 2804

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RIN: 2040–AB74

Environmental Protection Agency (EPA) **Completed Actions**

Clean Water Act (CWA)

3727. TEST PROCEDURES FOR THE ANALYSIS OF E. COLI AND ENTEROCOCCI UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 136.3

Completed:

Reason	Date	FR Cite
Merged into RIN 2040-AD08, SAN No. 4047	07/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

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RIN: 2040–AD34

3728. REVISION OF NPDES INDUSTRIAL PERMIT APPLICATION REQUIREMENTS AND FORM 2C—WASTEWATER DISCHARGE INFORMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 122.21(e)

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Planned at This Time	10/01/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal, State, Local, Tribal

Federalism: Undetermined

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RIN: 2040–AC26

3729. • TEST PROCEDURES FOR THE ANALYSIS OF MERCURY UNDER THE CLEAN WATER ACT (REVISIONS TO METHOD 1631)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h); CWA 304(h); 33 USC 1361(a); CWA 501(a)

CFR Citation: 40 CFR 136.3

EPA—Clean Water Act (CWA)

Completed Actions

Legal Deadline: Final, Judicial, June 15, 2001, Direct Final.

Abstract: EPA plans to publish a correction notice on Method 1631 prior to proposal of the new clean techniques and QC requirements to clarify the use of field blank subtraction.

Timetable:

Action	Date	FR Cite
Technical Corrections	06/18/01	66 FR 32774
Merged into RIN 2040-AD72, SAN No. 4541	09/13/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4581

Merged into RIN 2040-AD72.

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RIN: 2040–AD74

3730. PRETREATMENT PROGRAM REINVENTION PILOT PROJECTS UNDER PROJECT XL

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 403

Completed:

Reason	Date	FR Cite
Final Action	10/03/01	66 FR 50334

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 2090–AA16

Environmental Protection Agency (EPA)

Safe Drinking Water Act (SDWA)

Prerule Stage

3731. DRINKING WATER: REGULATORY DETERMINATIONS REGARDING CONTAMINANTS ON THE DRINKING WATER CONTAMINANT CANDIDATE LIST

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f et seq; SDWA 1412(b)(1)(B)

CFR Citation: Not Yet Determined

Legal Deadline: Other, Statutory, August 6, 2001, Final Regulatory Determination.

Abstract: The 1996 amendments to the Safe Drinking Water Act (SDWA) requires EPA to publish a list of non-regulated contaminants every five years, which may warrant regulation due to their health effects and their potential for occurrence in public water systems (PWSs). The first list, called the Contaminant Candidate List (CCL), was published in the Federal Register on March 2, 1998 (63 FR 10274). When establishing the 1998 CCL, EPA divided the contaminants among three main categories: 1) contaminants which are priorities for additional research; 2) contaminants which need additional occurrence data; and 3) contaminants which are priorities for consideration for rulemaking. These contaminants are collectively referred to as the Regulatory Determination Priority contaminants. In addition to publishing the drinking water CCL, the SDWA also requires the Agency to select five or more contaminants from the CCL and determine, by August 2001, whether to regulate these contaminants with a National Primary Drinking Water Regulation (NPDWR). The Regulatory Determination Priority category is the list of contaminants from which the Agency will determine whether or not regulations are necessary. There are currently nine contaminants that have sufficient scientific information to make regulatory determinations: Acanthamoeba; Aldrin; Dieldrin; Hexachlorobutadiene; Manganese; Metribuzin Napthalene; Sodium; and Sulfate. In order make a decision whether or not to develop a NPDWR for a contaminant, the SDWA requires three statutory tests be met: (1) the contaminant may have an adverse effect on the health of persons; (2) the contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern; and (3) in the sole judgment of the Administrator, regulation of the contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems. Using these three statutory tests to make regulatory decisions, there are three possible outcomes: (1) regulate the contaminant with a NPDWR; (2) develop guidance (e.g., Health or Consumer Advisory); or (3) determine no regulatory action is necessary. Once a regulatory decision is made, the contaminant is removed from the CCL.

Timetable:

Action	Date	FR Cite
Notice of Preliminary Regulatory Determinations	12/00/01	
Notice of Final Regulatory Determinations	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4447

SDWA requires a final determination of whether or not NPDWR(s) are necessary for no less than 5 contaminants on the CCL.

Sectors Affected: 22131 Water Supply and Irrigation Systems

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EPA—Safe Drinking Water Act (SDWA) **Prerule Stage**

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RIN: 2040–AD61

3732. 6-YEAR REVIEW OF EXISTING NATIONAL PRIMARY DRINKING WATER REGULATIONS

Regulatory Plan: This entry is Seq. No. 116 in part II of this issue of the **Federal Register**.

RIN: 2040–AD67

Environmental Protection Agency (EPA) **Proposed Rule Stage**
Safe Drinking Water Act (SDWA)

3733. NATIONAL SECONDARY DRINKING WATER REGULATIONS (NSDWR): METHYL TERTIARY BUTYL ETHER (MTBE) AND TECHNICAL CORRECTIONS TO THE NSDWR

Priority: Other Significant

Legal Authority: 42 USC 300f et seq

CFR Citation: 40 CFR 143 (Revision)

Legal Deadline: None

Abstract: Methyl Tertiary Butyl Ether (MTBE) is a fuel additive used primarily to increase the oxygen content in gasoline. It has been used in increasing quantity in the 1990s to meet the requirements of the Federal Reformulated Gasoline (RFG) and Oxyfuels programs required by the Clean Air Act Amendments of 1990. Although the use of MTBE in gasoline has helped to reduce harmful air emissions, it is being detected in ground water and surface water throughout the country. In some instances the affected waters are drinking water sources. At relatively low levels, MTBE's taste and odor can make drinking water supplies unacceptable to consumers. In this action, EPA is proposing a secondary standard for MTBE, which would provide guidance for taste and odor acceptability and to protect the public welfare.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	
Final Action	08/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4404

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD54

Environmental Protection Agency (EPA) **Final Rule Stage**
Safe Drinking Water Act (SDWA)

3734. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADON

Regulatory Plan: This entry is Seq. No. 146 in part II of this issue of the **Federal Register**.

RIN: 2040–AA94

3735. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ARSENIC AND CLARIFICATIONS TO COMPLIANCE AND NEW SOURCE CONTAMINANT MONITORING

Regulatory Plan: This entry is Seq. No. 147 in part II of this issue of the **Federal Register**.

RIN: 2040–AB75

3736. NATIONAL PRIMARY DRINKING WATER REGULATIONS: LONG TERM 1 ENHANCED SURFACE WATER TREATMENT RULE

Priority: Other Significant

Legal Authority: SDWA 1412(b); SDWA 1445(a)(1)(A)

CFR Citation: 40 CFR 9 (Revision); 40 CFR 141; 40 CFR 142 (Revision)

Legal Deadline: Final, Statutory, November 30, 2000.

Abstract: The purposes of the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) are to improve control of microbial pathogens, specifically the protozoan Cryptosporidium, in drinking water and address risk trade-offs with disinfection by-products. The LT1ESWTR builds upon the framework established for systems serving a population of 10,000 or more in the Interim Enhanced Surface Water Treatment Rule (IESWTR). The LT1ESWTR applies to public water systems that use surface water or ground water under the direct influence of surface water and serve fewer than 10,000 persons and includes the following provisions: (1) 2-log removal of Cryptosporidium; (2) compliance with specific combined filter fluent turbidity requirements; (3) continuous turbidity monitoring for individual filters with follow-up activities based on monitoring results; (4) development of a disinfection profile unless applicability monitoring at a particular plant demonstrated TTHM and HAA5 levels less than 0.064 mg/L and 0.048 mg/L respectively; (5) development of a Giardia inactivation disinfection benchmark and consultation with the State before making a significant change in disinfection practices; (6) mandatory covers for all newly constructed finished water reservoirs; and (7) unfiltered system compliance with

EPA—Safe Drinking Water Act (SDWA) **Final Rule Stage**

updated watershed control requirements that add Cryptosporidium as a pathogen of concern.

Timetable:

Action	Date	FR Cite
NPRM	04/10/00	65 FR 19095
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4147

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD18

3737. UNDERGROUND INJECTION CONTROL CLASS V PHASE 2 REVISIONS

Priority: Info./Admin./Other

Legal Authority: 42 USC 300(h); Safe Drinking Water Act 1421-1425

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Judicial, April 30, 2001.
Final, Judicial, May 31, 2002.

Abstract: The Safe Drinking Water Act (SDWA) requires EPA to protect current and future underground sources of drinking water (USDWs) from the endangerment posed by Class V underground injection control (UIC) wells. Class V UIC wells are typically shallow waste disposal systems that are diverse in purpose, design, geographic distribution, the nature of the fluids injected, and endangerment potential. In accordance with the judicial deadlines in a consent agreement, EPA finalized specific regulations addressing two types of high risk UIC Class V injection wells (motor vehicle waste disposal wells and large-capacity cesspools) in December 1999. That regulatory action is informally referred to as the UIC Class V Phase 1 Rule. Also, in accordance with the consent agreement, EPA must evaluate all other Class V well types and determine if additional specific requirements are necessary to protect USDWs and if so, finalize the appropriate requirements. On May 7, 2001, EPA published a proposed determination that existing federal regulation of Class V well is adequate to protect drinking water supplies, and that additional federal UIC regulations are not needed at this time to prevent Class V wells from endangering underground sources of drinking water. EPA is currently evaluating the public comment received on the proposed determination and plans to publish a final determination by May 2002.

Timetable:

Action	Date	FR Cite
Notice of Proposed Determination	05/07/01	66 FR 22971
Final Action - Notice of Final Determination	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4451

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RIN: 2040–AD63

3738. • MINOR REVISIONS TO THE PUBLIC NOTIFICATION RULE AND THE CONSUMER CONFIDENCE REPORT RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f et seq

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: As part of a settlement agreement, EPA agreed to make specific changes to the health effects language, in the Public Notification and Consumer Confidence Report Rules, concerning di(2-ethylhexyl)adipate (DEHA) and di(2-ethylhexyl)phthalate (DEHP). With respect to DEHA, the proposed new wording would replace a reference to "general toxic effects" with specific toxic effects wording (i.e., weight loss and liver enlargement) and add the word "possible" to the reference to reproductive effects. With respect to DEHP, the proposed revision would add the word "well" in front of the phrase in excess of the MCL to describe when the health effects may be experienced. In addition, this proposal would include a negotiated paragraph on the proper use of the Agency's Integrated Risk Information System (IRIS). EPA is also making the following minor changes to the Consumer Confidence Report Rule: removing "leaching from wood preservatives" as a likely source for copper contamination; revising appendix A to move some disinfection byproducts contaminants from the "volatile organic contaminants" section to the "inorganic contaminants" section; and revising appendix A to change "chloride dioxide" to "chlorine dioxide."

Timetable:

Action	Date	FR Cite
NPRM	09/07/01	66 FR 46928
NPRM Comment Period End	10/09/01	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4561

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD77

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Environmental Protection Agency (EPA)
Safe Drinking Water Act (SDWA)

Long-Term Actions

3739. USE OF SCREENING METHODS FOR COMPLIANCE MONITORING OF DRINKING WATER CONTAMINANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f SDWA 1401; 42 USC 300g-1 SDWA 1412; 42 USC 300j-4 SDWA 1445

CFR Citation: 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: The 1996 Safe Drinking Water Act (SDWA) Amendments require EPA to review new analytical methods that may be used for regulated contaminants screening or analysis, including screening methods. After this review, EPA may approve such methods that are deemed more accurate or cost-effective than established reference methods for use in compliance monitoring or the monitoring of unregulated contaminants. In this advanced notice of proposed rulemaking, EPA announces its intention to integrate the use of screening methods in the overall scheme of drinking water compliance monitoring. Efforts will be made to keep the proposal consistent with the Office of Water plan for Performance Based Methods (PBMS). EPA will identify regulated contaminates, types of monitoring and specific areas within each monitoring framework which are amenable to the use of screening methods. A logical application of screening procedures would be in a tiered monitoring mode where Tier 1 (screening phase) would identify the principal problem areas while Tier 2 would use sampling and analysis to more carefully identify and quantify specific contaminants. EPA would identify specific screening methods which are available for use based on their performance characteristics, tolerance to sample interferences, validation for drinking water analysis and correlation of results with traditional instrumental methods. The use of screening methods is expected to make drinking water compliance monitoring cheaper and faster, and provide flexibility to the Public Water Systems in the choice of analytical methods. Laboratory acceptance limits and other method performance requirements that were specified under previous rules will not be changed in this rule making. The final action would only add new analytical methods and/or analytical approaches and would not withdraw or modify previously approved methods.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/02	
NPRM	07/00/03	
Final Action	07/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: SAN No. 4212

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD31

3740. NATIONAL PRIMARY DRINKING WATER REGULATIONS: GROUNDWATER RULE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 300f; SDWA 1412

CFR Citation: 40 CFR 141 400 to 406; 40 CFR 142 14 to 16 (revision)

Legal Deadline: Final, Statutory, May 2003.

Abstract: EPA has proposed a targeted risk-based regulatory strategy for all public water systems served by groundwater. The proposed requirements provide a meaningful opportunity to reduce public health risk associated with the consumption of waterborne pathogens from fecal contamination for a substantial number of people served by ground water sources. The proposed strategy addresses risks through a multiple-barrier approach that relies on five major components: periodic sanitary surveys of ground water systems requiring the evaluation of eight elements and the identification of significant deficiencies; hydrogeologic assessments to identify wells sensitive to fecal contamination; source water monitoring for systems drawing from sensitive wells without treatment or with other indications of risk; a requirement for correction of significant deficiencies and fecal contamination through the following actions: eliminate the source of contamination, correct the significant deficiency, provide an alternative source water, or provide a treatment which achieves at least 99.99 percent (4-log) inactivation or removal of viruses, and compliance monitoring to insure disinfection treatment is reliably operated where it is used.

Timetable:

Action	Date	FR Cite
NPRM	05/10/00	65 FR 30194
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: SAN No. 2340

Statutory deadline for final: After August 6, 1999 but before the Administrator promulgates a stage II rulemaking for disinfection and disinfection byproducts.

NPRM-
http://www.epa.gov/safewater/gwr.html

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AA97

3741. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ALDICARB

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300f et seq; SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: EPA promulgated MCLs for aldicarb, aldicarb sulfoxide, and aldicarb sulfone in the Phase II rulemaking in 1991 at levels of 0.003, 0.004, and 0.002 ug/l, respectively. In response to an administrative petition from the manufacturer Rhone-Poulenc, the Agency issued an administrative stay of the effective date. EPA will reexamine risk assessment and occurrence data on aldicarb and make a determination of what further action is appropriate.

Timetable:

Action	Date	FR Cite
NPRM	08/00/04	
Final Action	08/00/05	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Federalism: Undetermined

Additional Information: SAN No. 3238

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AC13

3742. NATIONAL PRIMARY DRINKING WATER REGULATIONS: LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 40 USC 300g-1(b); SDWA 1412(b); 42 USC 300f; 42 USC 300g-1; 42 USC 300g-2; 42 USC 300g-3; 42 USC 300g-4; 42 USC 300g-5; 42 USC 300g-6; 42 USC 300j-4; 42 USC 300j-9; 42 USC 300j-11

CFR Citation: 40 CFR 141 to 142; 40 CFR 9

Legal Deadline: None

Abstract: The Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) will control risk from microbial pathogens in drinking water. It is being developed simultaneously with the Stage 2 Disinfectants and Disinfection Byproducts Rule (DBPR) which will address risk caused by the use of disinfectants in drinking water. This rule could affect all public water systems that use surface water as a source. Promulgating the LT2ESWTR and the Stage 2 DBPR as a paired rulemaking is necessary to ensure that adequate protection from microbial risk is maintained while EPA manages risk from disinfection byproducts. In developing the LT2ESWTR, EPA will analyze a significant body of new survey data on microbial pathogens in source and finished waters, as well as data on parameters which could serve as indicators of microbial risk. This survey data, which was collected under the Information Collection Rule (ICR), Supplemental Surveys to the ICR, and additional research projects, will provide a substantially more comprehensive and complete picture of the occurrence of waterborne pathogens than was available previously. EPA will also use significant new data on the efficiency of treatment processes for the removal and inactivation of microorganisms, as well as new information on the pathogenicity of certain pathogens, to determine effective regulatory requirements for controlling microbial risk. On March 30, 1999 EPA established a committee of stakeholders under the Federal Advisory Committee Act (FACA) to assist in the development of these rules and an agreement in principle was signed in September 2000 outlining the proposed rule options.

Timetable:

Action	Date	FR Cite
Final Action	11/00/02	
NPRM	11/00/03	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: SAN No. 4341

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD37

3743. NATIONAL PRIMARY DRINKING WATER REGULATIONS: STAGE 2 DISINFECTANTS/DISINFECTION BYPRODUCTS RULE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 40 USC 300g-1(b); SDWA 1412(b); 42 USC 300f; 42 USC 300g-2; 42 USC 300g-3; 42 USC 300g-4; 42 USC 300g-5; 42 USC 300g-6; 42 USC 300j-4; 42 USC 300j-9; 42 USC 300j-11

CFR Citation: 40 CFR 141 to 142; 40 CFR 9

Legal Deadline: Final, Statutory, May 2003.

Abstract: This Regulation, along with a Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) that will be promulgated simultaneously, is

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intended to expand existing public health protections and address concerns about risk trade-offs between pathogens and disinfection byproducts. This rule could affect all public water systems that add a disinfectant to the drinking water during any part of the treatment process although the impacts may be limited to community water systems (CWSs) and non-transient non-community water systems (NTNCWSs). Promulgating the LT2ESWTR and the Stage 2 DBPR as a paired rulemaking is necessary to ensure that adequate protection from microbial risk is maintained while EPA manages risk from disinfection byproducts. In developing the Stage 2 DBPR, EPA will analyze a significant body of new survey data on source water quality parameters, treatment data and disinfection byproduct occurrence. This survey data, which was collected under the Information Collection Rule (ICR), Supplemental Surveys to the ICR, and additional research projects, will provide a substantially more comprehensive and complete picture of the occurrence of DBPs and microbiological pathogens than was available previously. EPA will also use new information on the health effects of exposure to DBPs to determine effective regulatory requirements for controlling risk. On March 30, 1999 EPA reconvened a committee of stakeholders under the Federal Advisory Committee Act (FACA) to assist in the development of these rules and an Agreement in Principle was signed in September 2000 outlining the proposed rule options.

Timetable:

Action	Date	FR Cite
NPRM	11/00/02	
Final Action	11/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: SAN No. 4342

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD38

3744. REGULATED DRINKING WATER CONTAMINANT OCCURRENCE REPORTING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300f

CFR Citation: 40 CFR 142.15

Legal Deadline: None

Abstract: The Office of Water will revise the National Primary Drinking Water Regulations to require public water systems and States to report regulated drinking water contaminant occurrence level data to EPA. At present, States only report violation data for the purpose of compliance tracking, as concentrations that exceed the Maximum Contaminant Level. The data will be compared to health effects levels and used to compare occurrence frequency with monitoring requirements. The results of these analyses may be used to modify existing regulations during the statutorily required 6-year regulatory review cycle.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	
Final Action	06/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Federalism: Undetermined

Additional Information: SAN No. 4369

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD48

3745. UPDATE OF STATE UNDERGROUND INJECTION CONTROL PROGRAMS

Priority: Info./Admin./Other

Legal Authority: 42 USC 300h-1; SDWA sec 1422; 42 USC 300h-4; SDWA sec 1425

CFR Citation: 40 CFR 147 (Revision)

Legal Deadline: None

Abstract: EPA provides a place in part 147 of its UIC regulations where all the State UIC programs are summarized. Included in this summarization are all the authorities and regulations used by the States to implement the UIC program, as well as all other documents that are relevant to the program. The primary reason for this is to provide one place where all the UIC programs nationwide are presented. A second reason, more importantly, is to allow EPA to incorporate by reference into the Code of Federal Regulations the State program authorities. Current citations to State regulations in 40 CFR part 147 are out of date for many States. This update is necessary to ensure that the CFR accurately reflects current approved State UIC programs and that elements of those programs are federally enforceable if necessary. EPA Regional Offices will be submitting State revision packages as they are completed. Part 147 will then be updated in several stages. This is the first stage. This effort should have no impact on the regulated community because we will merely be incorporating by reference elements of already effective State programs.

Timetable:

Action	Date	FR Cite
Direct Final Rule	09/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: SAN No. 4236

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EPA—Safe Drinking Water Act (SDWA) — Long-Term Actions

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RIN: 2040–AD40

Environmental Protection Agency (EPA) — Completed Actions
Safe Drinking Water Act (SDWA)

3746. NATIONAL PRIMARY DRINKING WATER REGULATIONS: SULFATE

Priority: Other Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Completed:

Reason	Date	FR Cite
Merged into RIN 2040-AD61, SAN No. 4447	09/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

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RIN: 2040–AC07

3747. NATIONAL PRIMARY DRINKING WATER REGULATIONS: FILTER BACKWASH RECYCLING RULE

Priority: Other Significant

CFR Citation: 40 CFR 141.76; 40 CFR 142.16

Completed:

Reason	Date	FR Cite
Final Action	06/08/01	66 FR 31086

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

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RIN: 2040–AD65

3748. • UNREGULATED CONTAMINANT MONITORING REGULATION FOR PUBLIC WATER SYSTEMS; AMENDMENT TO THE LIST 2 RULE AND PARTIAL DELAY OF REPORTING OF MONITORING RESULTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f et seq

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: Under the Safe Drinking Water Act (SDWA), EPA published Revisions to the Unregulated Contaminant Monitoring Regulation (UCMR) for public water systems on September 17, 1999, which included lists of contaminants for which monitoring was required or would be required in the future once analytic methods were established for them. The Agency supplemented these revisions to the UCMR on January 11, 2001, establishing analytical methods for contaminants and activating monitoring requirements for some of the contaminants on the UCMR lists. This regulation corrects the January 2001 UCMR to include that public water system laboratories that have been certified to use EPA Method 515.3 are automatically certified to use EPA Method 515.4 for unregulated contaminant monitoring analysis and delays requirements for electronic reporting of unregulated contaminant monitoring results until EPA's data system is able to accept data.

Timetable:

Action	Date	FR Cite
Direct Final Rule	09/04/01	66 FR 46221

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4560

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD75

Environmental Protection Agency (EPA) — Final Rule Stage
Shore Protection Act (SPA)

3749. SHORE PROTECTION ACT, SECTION 4103(B) REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2601 Shore Protection Act of 1988; PL 100-688 4103(b)

CFR Citation: 40 CFR 237

Legal Deadline: None

Abstract: This rule will implement the Shore Protection Act (SPA) and is designed to prevent the deposit of municipal and commercial waste into U.S. Coastal Waters. This rule establishes minimum waste handling practices for vessels and waste handling facilities involved in the transport of municipal or commercial wastes in the coastal waters of the United States. The rule may require certain vessels and waste handling facilities to develop an operation and maintenance manual that identifies procedures to prevent, report, and clean up deposits of waste into coastal waters. Local governments and businesses involved with the vessel transportation and shore side handling of these wastes would be affected by

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EPA—Shore Protection Act (SPA) **Final Rule Stage**

this rule. Currently no tribes are known to be involved in waste handling of this type; therefore none would be affected by this rule. In regards to small businesses, EPA has provided guidance on development of operation and maintenance manuals and encourages the use and documentation of existing industry practices that meet or exceed the EPA proposed minimum waste handling standards. All indications are that this regulation as proposed would have a minimal economic impact. This regulation will result in reduction of municipal and commercial wastes deposited in coastal waters.

Timetable:

Action	Date	FR Cite
NPRM	08/30/94	59 FR 44798
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: SAN No. 2820

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RIN: 2040–AB85

[FR Doc. 01–26705 Filed 11–30–01; 8:45 am]
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Federal Register

Monday,
December 3, 2001

Part XXIII

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or Commission) is publishing its semiannual regulatory agenda pursuant to Executive Order 12866, 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. chapter 6. The agenda lists all regulations that are scheduled for review or development during the next 12 months or that have been finalized since the publication of the last agenda.

FOR FURTHER INFORMATION CONTACT: David L. Frank, Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW, Washington, DC 20507; telephone (202) 663-4614.

SUPPLEMENTARY INFORMATION: The Commission has identified three items for inclusion in this regulatory agenda. For this edition of EEOC's regulatory agenda, the most important significant regulatory action is included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entry is listed in the table of contents below and is denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Signed in Washington, DC, this 13th day of September 2001.

For the Commission.

Cari M. Dominguez,
Chair.

Equal Employment Opportunity Commission—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3750	Federal Sector Equal Employment Opportunity **(Reg Plan Seq No. 149)**	3046-AA57

References in boldface appear in the **Regulatory Plan** in part II of this issue of the **Federal Register**.

Equal Employment Opportunity Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3751	Procedures—The Age Discrimination in Employment Act	3046-AA54
3752	Conforming Treatment of Federal Sector Administrative Judge Decisions	3046-AA71

Equal Employment Opportunity Commission (EEOC) — **Final Rule Stage**

3750. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

Regulatory Plan: This entry is Seq. No. 149 in part II of this issue of the **Federal Register**.

RIN: 3046–AA57

Equal Employment Opportunity Commission (EEOC) — **Long-Term Actions**

3751. PROCEDURES—THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 628, sec 115, Civil Rights Act of 1991

CFR Citation: 29 CFR 1626

Legal Deadline: None

Abstract: Section 115 of the Civil Rights Act of 1991 deleted references to the Portal to Portal Act from the private suit provisions of the Age Discrimination in Employment Act (ADEA) and replaced them with a requirement that suit be filed no later than 90 days after termination of proceedings or dismissal of a charge by EEOC. Accordingly, section 1626.7(a) is being deleted and section 1626.15(b) is being revised because they were both based upon the Portal to Portal Act. New sections are being added concerning termination of EEOC proceedings and the issuance of notices of the new 90-day limitation period.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

EEOC Long-Term Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW, Washington, DC 20507
Phone: 202 663-4669
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA54

3752. CONFORMING TREATMENT OF FEDERAL SECTOR ADMINISTRATIVE JUDGE DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 206(d), 633(a), 791, and 794a; 46 USC 2000e-16

CFR Citation: 29 CFR 1614.204

Legal Deadline: None

Abstract: We propose to conform the treatment of decisions by administrative judges on class complaints to the treatment of decisions by administrative judges on individual complaints; i.e., instead of issuing recommended decisions on reports of findings and recommendations, administrative judges will issue decisions that agencies can either fully implement or appeal.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW, Washington, DC 20507
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RIN: 3046–AA71

[FR Doc. 01–25311 Filed 11–30–01; 8:45 am]
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Federal Register

Monday,
December 3, 2001

Part XXIV

Federal Emergency Management Agency

Semiannual Regulatory Agenda

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Emergency Management Agency.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Emergency Management Agency (FEMA) publishes its semiannual regulatory agenda in April and October to inform interested parties of progress on FEMA regulations. The agenda lists regulations that will be under development or review during the period October 31, 2001 to April 30, 2002.

ADDRESSES: For information about specific regulations, please contact the person listed as the agency contact in the agenda.

FOR FURTHER INFORMATION CONTACT: For general information on FEMA's regulatory agenda, contact Michael S. Herman, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-4097, (Fax) (202) 646-4536 or e-mail: michael.herman@fema.gov.

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review" directs each executive agency to publish only such regulations as are required by law, are necessary to interpret the law, or are necessary by compelling public need. We and other Federal departments and agencies publish an agenda of regulations semiannually in order to give you adequate notice of agency rulemaking activities. We also publish a regulatory agenda of rules likely to be significant regulatory actions when that is appropriate.

To fulfill the requirements of Executive Order 12866, this agenda describes current and projected regulatory actions and rules that will be under review or development during the period October 31, 2001 to April 30, 2002. This agenda also contains information of regulations on which we completed action since the last FEMA semiannual agenda was published on May 14, 2001 at 66 FR 26288 to 26295.

We invite your comments on the agenda, including comments by State and local governments. Please submit any comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (Fax) (202) 646-4536 or e-mail: rules@fema.gov. Please refer to the title of the rule that you are inquiring about, or commenting on and to the rule's Regulation Identifier Number (RIN) found at the end of each agenda entry.

The agenda is not limited to significant regulatory actions and it contains information about FEMA regulations to be developed, reviewed, or published in the next 12 months, except for routine flood elevation determinations, listings of eligible communities under the National Flood Insurance Program, listings of suspended communities and similar designations under the National Flood Insurance Program, and FEMA organizational and management matters.

Dated: September 28, 2001.

Michael D. Brown,

General Counsel.

Federal Emergency Management Agency—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3753	Disaster Assistance; Federal Assistance to Individuals and Households	3067-AD25

Federal Emergency Management Agency—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3754	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	3067-AD14

FEMA

Federal Emergency Management Agency—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3755	Flood Mitigation Assistance Program	3067-AC45
3756	Criminal and Civil Penalties Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act	3067-AC61
3757	Disaster Assistance; Hazard Mitigation Grant Program	3067-AC69
3758	Production or Disclosure of Information	3067-AC75
3759	Taxpayer Identification Numbers	3067-AC76
3760	Debt Collection	3067-AC77
3761	Debt Collection	3067-AC84
3762	National Urban Search and Rescue Response System	3067-AC93
3763	Administration of Grants: Audits of States, Local Governments, and Nonprofit Organizations	3067-AC98
3764	National Flood Insurance Program; Insurance Coverage and Rates	3067-AD02
3765	Organizational Units, Functions and Delegations of Authority	3067-AD03
3766	Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	3067-AD07
3767	Governmentwide Debarment and Suspension (Nonprocurement)	3067-AD15
3768	National Flood Insurance Program (NFIP); Inspection of Insured Structures by Communities	3067-AD16
3769	National Flood Insurance Program (NFIP); Pilot Project-Public Entity Insurers	3067-AD17
3770	Changes to General Provisions and Communities Eligible for the Sale of Insurance That Include Future Conditions Flood Insurance Hazard Map Information on Flood Maps	3067-AD18
3771	Disaster Assistance; Public Assistance Program and Community Disaster Loan Program Statutory Changes	3067-AD20
3772	Assistance to Firefighters (FIRE) Grant Program	3067-AD21
3773	Hazard Mitigation Planning	3067-AD22
3774	Disaster Assistance Definitions; Statutory Change	3067-AD26
3775	National Flood Insurance Program (NFIP); Increased Rates for Flood Coverage for Pre-FIRM Properties in Coastal Areas	3067-AD27

Federal Emergency Management Agency—Completed Actions

Sequence Number	Title	Regulation Identification Number
3776	Fee for Services To Support FEMA's Offsite Radiological Emergency Preparedness Program	3067-AC87
3777	Supplemental Property Acquisition and Elevation Assistance	3067-AD06
3778	Disaster Assistance; Debris Removal	3067-AD08
3779	National Flood Insurance Program; Letter of Map Revision Based on Fill Requests	3067-AD13
3780	National Flood Insurance Program (NFIP); Clarification of Map Amendment Determinations	3067-AD19
3781	National Flood Insurance Administration; Assistance to Private Sector Property Insurers	3067-AD23
3782	Fire Management Assistance Program	3067-AD24

Federal Emergency Management Agency (FEMA) — Proposed Rule Stage

3753. • DISASTER ASSISTANCE; FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 5174; 42 USC 5178; PL 106-390 sec 206

CFR Citation: 44 CFR 206

Legal Deadline: Final, Statutory, May 1, 2002.

Abstract: This rule would implement subsection 206(a) of the Disaster Mitigation Act of 2000, that amends section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and changes the title of the provision from "Temporary Housing Assistance" to "Federal Assistance to Individuals and Households." In addition, subsection 206(c) of the Disaster Mitigation Act of 2000 repeals section 411 of the Stafford Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Lumumba Yancey, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472

FEMA — **Proposed Rule Stage**

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RIN: 3067–AD25

Federal Emergency Management Agency (FEMA) — **Final Rule Stage**

3754. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 44 CFR 7; 44 CFR 16

Legal Deadline: None

Abstract: This rule would amend FEMA's regulations implementing title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1972, and the Age Discrimination Act of 1975. Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. Publication of this rule would explicitly incorporate the Civil Rights Restoration Act definitions of "program or activity" and "program."

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Pauline C. Campbell, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4122
Email: pauline.campbell@fema.gov

RIN: 3067–AD14

Federal Emergency Management Agency (FEMA) — **Long-Term Actions**

3755. FLOOD MITIGATION ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4104c; 42 USC 4104d

CFR Citation: 44 CFR 78

Legal Deadline: None

Abstract: This interim final rule implements sections 553 and 554 of the National Flood Insurance Reform Act of 1994, to provide grants under the National Flood Mitigation Fund to States and communities for planning assistance and for mitigation projects that reduce the risk of flood damages to structures covered under contracts for flood insurance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/97	62 FR 13346
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Gil Jamieson, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4090

RIN: 3067–AC45

3756. CRIMINAL AND CIVIL PENALTIES UNDER THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5157(d); PL 101-410; 28 USC 2461; PL 104-134, sec 31001(s)

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule would increase the maximum civil penalty under the Robert T. Stafford Disaster Relief and Emergency Assistance Act from $5,000 to $5,500.

Timetable:

Action	Date	FR Cite
NPRM	02/10/97	62 FR 5957
NPRM Comment Period End	04/11/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robin Maresco, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-4287
Email: robin.maresco@fema.gov

RIN: 3067–AC61

3757. DISASTER ASSISTANCE; HAZARD MITIGATION GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule would revise the categories of projects eligible for funding under the Hazard Mitigation Grant Program. It emphasizes nonstructural flood mitigation measures to reduce the number of floodprone structures and clarifies that major structural flood control projects will not be considered for funding under the grant program.

Timetable:

Action	Date	FR Cite
NPRM	05/01/98	63 FR 24143
NPRM Comment Period End	07/01/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

FEMA

Long-Term Actions

Agency Contact: Robert F. Shea, Federal Emergency Management Agency, Room 840, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3619
Fax: 202 646-3104
Email: robert.shea@fema.gov

RIN: 3067–AC69

3758. PRODUCTION OR DISCLOSURE OF INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-231

CFR Citation: 44 CFR 5

Legal Deadline: None

Abstract: This rule would give the public access to Government information and records maintained in an electronic format: 1) provide for expedited processing of certain requests; 2) establish an "electronic reading room;" 3) require edited material to be estimated or indicated in an agency's delay in processing requests; and 4) require FEMA to make an agency reference guide available on the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
NPRM	08/28/98	63 FR 45982
NPRM Comment Period End	10/27/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eileen Leshan, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
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Email: eileen.leshan@fema.gov

RIN: 3067–AC75

3759. TAXPAYER IDENTIFICATION NUMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7701(c)

CFR Citation: 44 CFR 6

Legal Deadline: None

Abstract: This rule would implement the Debt Collection Improvement Act requirement that any person doing business with a Federal agency must provide the agency with the person's taxpayer identification number.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robin Maresco, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
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Email: robin.maresco@fema.gov

RIN: 3067–AC76

3760. DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720A

CFR Citation: 44 CFR 11

Legal Deadline: None

Abstract: Under this rule, FEMA will refer delinquent debts owed to this Agency to the Department of the Treasury for collection under the Governmentwide Treasury Offset Program and for tax-refund offsets at the same time. FEMA amends its regulations to allow administrative offset against delinquent debtor States and units of general local government. FEMA also amends its regulations to change the method for calculating interest, penalty and administrative charges assessed on delinquent debts and to make States and units of general local government subject to such changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/98	63 FR 1063
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Robin Maresco, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
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Email: robin.maresco@fema.gov

RIN: 3067–AC77

3761. DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720A

CFR Citation: 44 CFR 11

Legal Deadline: None

Abstract: This rule would implement policies used by FEMA to collect debts under the Debt Collection Act of 1982, including measures to collect and to compromise or terminate collection action.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robin Maresco, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-4287
Email: robin.maresco@fema.gov

RIN: 3067–AC84

3762. NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 208

Legal Deadline: None

Abstract: This rule would prescribe policies and procedures pertaining to FEMA's National Urban Search and Rescue Response System.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: Dave Webb, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3456
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RIN: 3067–AC93

3763. ADMINISTRATION OF GRANTS: AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7501

CFR Citation: 44 CFR 14

Legal Deadline: None

Abstract: This rule implements the Single Audit Act of 1984, as amended, on an agencywide basis within FEMA. It requires recipients of financial assistance from FEMA to comply with OMB Circular A-133, which sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and nonprofit organizations expending Federal awards.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard L. Skinner, Deputy Inspector General, Federal Emergency Management Agency, Washington, DC 20472
Phone: 202 646-3910
Fax: 202 646-3298
Email: rick.skinner@fema.gov

RIN: 3067–AC98

3764. NATIONAL FLOOD INSURANCE PROGRAM; INSURANCE COVERAGE AND RATES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: This rule would apply full-risk premium rates under the NFIP to structures that have suffered multiple flood losses and whose owners decline an offer of funding to eliminate or reduce future flood damage.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42632
NPRM Comment Period End	09/07/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Howard Leikin, Deputy Administrator, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-2784
Email: howard.leikin@fema.gov

RIN: 3067–AD02

3765. ORGANIZATIONAL UNITS, FUNCTIONS AND DELEGATIONS OF AUTHORITY

Priority: Info./Admin./Other

Legal Authority: Reorganization Plan No. 3 of 1978

CFR Citation: 44 CFR 2

Legal Deadline: None

Abstract: This rule revises 44 CFR part 2 to reflect changes in FEMA's organizational structure, functions of new directorates and offices, and delegations of authority.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael S. Herman, Legislative and Regulatory Counsel, Federal Emergency Management Agency, Room 840, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4097
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Email: michael.herman@fema.gov

RIN: 3067–AD03

3766. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: PL 105-277

CFR Citation: 44 CFR 13

Legal Deadline: None

Abstract: This interim final rule presents an interim final revision to the agencies' codification of OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations." It provides uniform administrative requirements for all grants and cooperative agreements to institutions of higher education, hospitals, and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles P. McNulty, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-2976
Email: charles.mcnulty@fema.gov

RIN: 3067–AD07

3767. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355; 31 USC 6101 note

CFR Citation: 44 CFR 17; 44 CFR 20

Legal Deadline: None

Abstract: This common rule would make changes to the existing Governmentwide nonprocurement common rule for debarment and suspension, and the Governmentwide rule implementing the Drug-Free Workplace Act of 1988.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles P. McNulty, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
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Email: charles.mcnulty@fema.gov

RIN: 3067–AD15

3768. NATIONAL FLOOD INSURANCE PROGRAM (NFIP); INSPECTION OF INSURED STRUCTURES BY COMMUNITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 59; 44 CFR 61

Legal Deadline: None

Abstract: This rule would amend FEMA regulations to clarify that areas of Monroe County, Florida that

incorporate on or after January 1, 1999 and become eligible for the sale of flood insurance must participate in the inspection procedure to help the communities of Monroe County and the Village of Islamorda verify that structures comply with the community's floodplain management ordinance, and to ensure that property owners pay flood insurance premiums to the NFIP commensurate with their flood risk.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Don Beaton, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3442
Fax: 202 646-4327
Email: donald.beaton@fema.gov

Lois Forster, Mitigation Directorate, Federal Emergency Management Agency
Phone: 202 646-2720
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Email: lois.forster@fema.gov

RIN: 3067–AD16

3769. NATIONAL FLOOD INSURANCE PROGRAM (NFIP); PILOT PROJECT-PUBLIC ENTITY INSURERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 4001

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: This rule would launch a three-year pilot project that would permit intergovernmental risk-sharing pools sponsored by State municipal leagues to sell flood insurance to public entities under the National Flood Insurance Program's Write Your Own effort. We would limit the participants in this pilot effort to three such insurers that would be able to provide flood insurance only to pubic entities for their buildings.

Timetable:

Action	Date	FR Cite
NPRM	05/08/01	66 FR 23206
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Edward T. Pasterick, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
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Email: edward.pasterick@fema.gov

RIN: 3067–AD17

3770. CHANGES TO GENERAL PROVISIONS AND COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE THAT INCLUDE FUTURE CONDITIONS FLOOD INSURANCE HAZARD MAP INFORMATION ON FLOOD MAPS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 59; 44 CFR 64

Legal Deadline: None

Abstract: This rule revises the National Flood Insurance Program regulations to: 1) include the definitions for future conditions hydrology and for the flood plains that may be shown on Flood Insurance Rate Maps (FIRMS) for informational purposes at the request of the community to reflect future conditions hydrology; and 2) establish the zone symbol to be used to identify future conditions flood hazard areas on FIRMs.

Timetable:

Action	Date	FR Cite
NPRM	06/14/01	66 FR 32293
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Matthew B. Miller, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3461
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RIN: 3067–AD18

3771. DISASTER ASSISTANCE; PUBLIC ASSISTANCE PROGRAM AND COMMUNITY DISASTER LOAN PROGRAM STATUTORY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule amends FEMA's regulations for the Public Assistance Program and the Community Disaster Loan Program to reflect statutory changes to these programs. Specifically the rule: 1) changes the Federal contribution for Large in Lieu Contributions also known as "alternate projects;" 2) adds irrigation districts to the list of eligible private nonprofit (PNP) facilities; 3) institutes a loan requirement for certain non-critical PNP facilities; and 4) limits Community Disaster Loans to $5 million and requires that loan applicants not be in arrears on any previous loan.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/04/01	66 FR 22443
Interim Final Rule Comment Period End	07/03/01	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Margaret Earman, Response and Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4172
Email: margie.earman@fema.gov

RIN: 3067–AD20

3772. ASSISTANCE TO FIREFIGHTERS (FIRE) GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2201 et seq

CFR Citation: 44 CFR 152

Legal Deadline: None

Abstract: This interim final rule will provide guidance on a new program to make grants directly to fire departments of a State for the purpose of enhancing their ability to protect the health and safety of the public, as well as that of the fire fighting personnel facing fire

FEMA — Long-Term Actions

and fire-related hazards. The grants will be awarded on a competitive basis, based on demonstrated financial need for and maximum benefit to be derived from the grant funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/21/01	66 FR 15968
Interim Final Rule Effective	03/21/01	
Interim Final Rule Comment Period End	05/21/01	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Brian Cowan, Office of Strategic Initiatives, Federal Emergency Management Agency, Room 304, 500 C Street SW., Washington, DC 20472
Phone: 202 646-2821
Email: brian.cowan@fema.gov

RIN: 3067–AD21

3773. HAZARD MITIGATION PLANNING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This regulation would implement the new hazard mitigation planning requirements of section 322 of the Stafford Act, as it was amended by the Disaster Mitigation Act of 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Robert F. Shea, Federal Emergency Management Agency, Room 840, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3619
Fax: 202 646-3104
Email: robert.shea@fema.gov

RIN: 3067–AD22

3774. • DISASTER ASSISTANCE DEFINITIONS; STATUTORY CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 to 5204(c)

CFR Citation: 44 CFR 206.2

Legal Deadline: None

Abstract: This rule would amend the definitions of "State," "United States," and "Local Government," as set forth in the Code of Federal Regulations, to coincide with those definitions established by the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Michael S. Herman, Legislative and Regulatory Counsel, Federal Emergency Management Agency, Room 840, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4097
Fax: 202 646-4536
Email: michael.herman@fema.gov

RIN: 3067–AD26

3775. • NATIONAL FLOOD INSURANCE PROGRAM (NFIP); INCREASED RATES FOR FLOOD COVERAGE FOR PRE-FIRM PROPERTIES IN COASTAL AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: This rule would increase the amount of premium policy holders pay for flood insurance coverage under the NFIP for "pre-FIRM" buildings in coastal areas subject to high velocity waters, such as storm surges and wind driven waves ("V" zones).

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Thomas Hayes, Federal Emergency Management Agency, Federal Insurance and Mitigation Administration, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3419
Fax: 202 646-7970
Email: thomas.hayes@fema.gov

Michael S. Herman, Legislative and Regulatory Counsel, Federal Emergency Management Agency, Room 840, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4097
Fax: 202 646-4536
Email: michael.herman@fema.gov

RIN: 3067–AD27

Federal Emergency Management Agency (FEMA) — Completed Actions

3776. FEE FOR SERVICES TO SUPPORT FEMA'S OFFSITE RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 354

Completed:

Reason	Date	FR Cite
Final Rule	06/15/01	66 FR 32575

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vanessa E. Quinn
Phone: 202 646-3664
Email: vanessa.quinn@fema.gov

RIN: 3067–AC87

FEMA

Completed Actions

3777. SUPPLEMENTAL PROPERTY ACQUISITION AND ELEVATION ASSISTANCE

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 44 CFR 209

Completed:

Reason	Date	FR Cite
Final Action	06/15/01	66 FR 32666

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert F. Shea
Phone: 202 646-3619
Fax: 202 646-3104
Email: robert.shea@fema.gov

RIN: 3067–AD06

3778. DISASTER ASSISTANCE; DEBRIS REMOVAL

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 206

Completed:

Reason	Date	FR Cite
Final Action	06/26/01	66 FR 33906

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Melissa M. Howard
Phone: 202 646-4240
Email: melissa.howard@fema.gov

RIN: 3067–AD08

3779. NATIONAL FLOOD INSURANCE PROGRAM; LETTER OF MAP REVISION BASED ON FILL REQUESTS

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 65

Completed:

Reason	Date	FR Cite
Final Action	05/04/01	66 FR 22438

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Matthew B. Miller
Phone: 202 646-3461
Email: matt.miller@fema.gov

RIN: 3067–AD13

3780. NATIONAL FLOOD INSURANCE PROGRAM (NFIP); CLARIFICATION OF MAP AMENDMENT DETERMINATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 70

Completed:

Reason	Date	FR Cite
Final Rule	06/26/01	66 FR 33897

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Matthew B. Miller
Phone: 202 646-3461
Email: matt.miller@fema.gov

RIN: 3067–AD19

3781. NATIONAL FLOOD INSURANCE ADMINISTRATION; ASSISTANCE TO PRIVATE SECTOR PROPERTY INSURERS

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 62

Completed:

Reason	Date	FR Cite
NPRM	05/10/01	66 FR 23874
Final Rule	08/06/01	66 FR 40916

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edward L. Connor
Phone: 202 646-3443
Fax: 202 646-3445
Email: edward.connor@fema.gov

RIN: 3067–AD23

3782. • FIRE MANAGEMENT ASSISTANCE PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 5187; PL 106-390 sec 303

CFR Citation: 44 CFR 204

Legal Deadline: Final, Statutory, October 30, 2001.

Abstract: This rule would implement section 420 of the Stafford Act, as amended by the Disaster Mitigation Act of 2000, and would provide overall program guidance on the operation and administration of the Fire Management Assistance Grant Program.

Timetable:

Action	Date	FR Cite
NPRM	08/01/01	66 FR 39715
NPRM Comment Period End	09/17/01	
Final Rule	11/14/01	66 FR 57342

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Michael S. Herman, Legislative and Regulatory Counsel, Federal Emergency Management Agency, Room 840, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4097
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Email: michael.herman@fema.gov

RIN: 3067–AD24

[FR Doc. 01–25312 Filed 11–30–01; 8:45 am]

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Monday,
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Part XXV

Federal Mediation and Conciliation Service

Semiannual Regulatory Agenda

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS)

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Ch. XII

Semiannual Regulatory Agenda

AGENCY: Federal Mediation and Conciliation Service (FMCS).

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Federal Mediation and Conciliation Service's (FMCS) regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that FMCS expects to have under development or review during the next 12 months. The effect of this agenda is to advise the public of FMCS' current and future regulatory activities.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Karen D. Kline, Acting General Counsel, Office of the General Counsel, Federal Mediation and Conciliation Service, at (202) 606-5444. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 98-354, has a similar agenda requirement (5 U.S.C. 602). Under the law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

Dated: September 10, 2001.

Karen D. Kline,

Acting General Counsel, FMCS.

Federal Mediation and Conciliation Service (FMCS) — Proposed Rule Stage

3783. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION NONPROCUREMENT: GOVERNMENTWIDE REQUIREMENT FOR DRUG FREE WORK PLACE

Priority: Substantive, Nonsignificant

Legal Authority: EO 12549 (3 CFR 1986 Comp, p 189); EO 12698 (3 CFR 1989 Comp, p 235); sec 2455, PL 103-355, 108 Stat 3327 (31 USC 6101 note); 29 USC 175a; 41 USC 701 et seq

CFR Citation: 29 CFR 1471 and 1472

Legal Deadline: None

Abstract: This regulation is part of a common rule conforming the FMCS Debarment and Suspension for Nonprocurements to changes in the FAR. It also makes the Drug-Free Workplace Requirements for Financial Assistance a separate part and conforms it with changes in the FAR.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen D. Kline, Acting General Counsel, Federal Mediation and Conciliation Service, 2100 K Street NW, Washington, DC 20427-0001
Phone: 202 606-5488

RIN: 3076–AA08

Federal Mediation and Conciliation Service (FMCS) — Final Rule Stage

3784. PUBLIC INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552 et seq

CFR Citation: 29 CFR 1401 (Revision)

Legal Deadline: None

Abstract: The proposed revision to FMCS' Public Information regulations is intended to incorporate the recent amendments to the Freedom of Information Act into FMCS' portion of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/03/99	64 FR 59697
NPRM Comment Period End	01/03/00	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen D. Kline, Acting General Counsel, Federal Mediation and Conciliation Service, 2100 K Street NW, Washington, DC 20427-0001
Phone: 202 606-5488

RIN: 3076–AA06

Federal Mediation and Conciliation Service (FMCS) **Long-Term Actions**

3785. ARBITRATIONS UNDER THE AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT

Priority: Other Significant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
ANPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Karen D. Kline

Phone: 202 606-5488

RIN: 3076–AA07

[FR Doc. 01–23853 Filed 11–30–01; 8:45 am]

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Part XXVI

General Services Administration

Semiannual Regulatory Agenda

GENERAL SERVICES ADMINISTRATION (GSA)

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 101, 102, 105, 300, 301, 302, 303, and 304

48 CFR Ch. 5

October 2001 Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: General Services Administration (GSA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those that were completed since April 2001. This agenda was developed under the guidelines in an Office of Management and Budget memorandum, dated July 10, 2001. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. GSA also invites interested persons to recommend existing significant regulations for review to determine whether they should be modified or eliminated.

FOR FURTHER INFORMATION CONTACT: Rodney P. Lantier, Acquisition Policy Division, (202) 501-2647.

SUPPLEMENTARY INFORMATION:

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. GSA's Statement of Regulatory Priorities is included in part II.

Dated: October 1, 2001.

G. Martin Wagner,

Associate Administrator, Office of Governmentwide Policy.

General Services Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3786	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	3090-AE32
3787	Discrimination Prohibited on the Basis of Age	3090-AH46
3788	Nondiscrimination in Programs Receiving Federal Financial Assistance	3090-AH47
3789	Telecommunications Management	3090-AG03
3790	General Services Administration Acquisition Regulation; Acquisition of Leasehold Interests in Real Property; Historic Preference	3090-AH01
3791	Sale of Personal Property	3090-AH10
3792	Disposition of Seized and Forfeited, Voluntarily Abandoned, and Unclaimed Personal Property	3090-AH11
3793	Mail Management	3090-AH13
3794	Disposition of Personal Property With Special Handling Requirements	3090-AH21
3795	Personal Property Management	3090-AH31
3796	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	3090-AH35

General Services Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3797	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	3090-AH33
3798	Federal Travel Regulation (FTR), Chapter 304 Payment of Travel Expenses From a Non-Federal Source	3090-AE19
3799	Annual Real Property Inventories	3090-AG55
3800	FTR Interim Rule 7—Income Tax Reimbursement Allowance (ITRA)	3090-AG99
3801	GSAR; Tax Adjustment	3090-AH03
3802	Clarification of HUBZone	3090-AH17
3803	Donation of Surplus Personal Property	3090-AH20
3804	GSAR; Identification of Energy-Efficient Office Equipment and Supplies Containing Recovered Materials or Other Environmental Attributes	3090-AH25
3805	GSAR; Guidance on Electronic Funds Transfer	3090-AH30
3806	Real Property Policies Update	3090-AH45
3807	Federal Travel Regulation (FTR); Maximum Per Diem Rates	3090-AH51
3808	Pricing Policy for Occupancy in GSA Space	3090-AG33

GSA

General Services Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3809	GSA Privacy Act	3090-AH05
3810	Nondiscrimination Based on Sex in All Programs and Activities Receiving Federal Surplus Property	3090-AH48
3811	Title IX of the Education Amendments Act	3090-AH49
3812	Prohibited Purchases of Property Sold by GSA	3090-AH50
3813	Internet GOV Domain	3090-AH41

General Services Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
3814	Federal Records Management Program, Interagency Reports Management Program, and Standard and Optional Forms Management Program	3090-AG02
3815	Federal Advisory Committee Management	3090-AG49
3816	FTR Amendment (Unassigned); Relocation Allowances	3090-AG93
3817	Replacement of Personal Property Pursuant to the Exchange/Sale Authority	3090-AH23
3818	Federal Travel Regulation; Relocation Income Tax (RIT) Allowance Tax Tables	3090-AH40
3819	Transportation Management and Transportation Payment and Audit	3090-AH43
3820	Federal Travel Regulation (FTR); Maximum Per Diem Rates	3090-AH44

General Services Administration (GSA) — Proposed Rule Stage

OFFICE OF CIVIL RIGHTS

3786. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 41 CFR 101-8.3; 41 CFR 102-7

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-8.3 in plain language and moves it into the Federal Management Regulation at 102-7. The revised regulation updates coverage for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: James M. Taylor, Director, Office of Civil Rights, General Services Administration, Washington, DC 20405
Phone: 202 501-3852
Fax: 202 219-3369

RIN: 3090–AE32

3787. • DISCRIMINATION PROHIBITED ON THE BASIS OF AGE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6101 et seq

CFR Citation: 41 CFR 101-8.7

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-8.7 in plain language and moves it into the Federal Management Regulation. The rule enforces the Age Discrimination Act of 1975, which prohibits discrimination based on age in programs or activities receiving Federal financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James M. Taylor, Director, Office of Civil Rights, General Services Administration, Washington, DC 20405
Phone: 202 501-3852
Fax: 202 219-3369

RIN: 3090–AH46

3788. • NONDISCRIMINATION IN PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 476; 42 2000d-1; 20 USC 1681

CFR Citation: 41 CFR 101-6; 41 CFR 102-4

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-6.2 in plain language and moves it into the Federal Management Regulation at 102-4. The rule enforces

GSA — Proposed Rule Stage

title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination based on race, color, or national origin in programs or activities receiving Federal financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James M. Taylor, Director, Office of Civil Rights, General Services Administration, Washington, DC 20405
Phone: 202 501-3852
Fax: 202 219-3369

RIN: 3090–AH47

OFFICE OF GOVERNMENTWIDE POLICY

3789. TELECOMMUNICATIONS MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 40 USC 1424(b)

CFR Citation: 41 CFR 101-35; 41 CFR 102-172

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-35 to update GSA's telecommunications management policy and moves it into the Federal Management Regulation at 102-172. The regulation is being rewritten in a plain language, question and answer format to make it easier to use and understand.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 41003
Interim Final Rule Effective	08/08/96	
Interim Final Rule Comment Period End	10/07/96	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: James Cademartori, Configuration Manager, Federal Telecommunications Service, General Services Administration, 7980 Boeing Court, Third Floor, Vienna, VA 22182-3988
Phone: 703 760-7545
Email: james.cademartori@gsa.gov

RIN: 3090–AG03

3790. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY; HISTORIC PREFERENCE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking updates GSAR clause 552.270-4, Historic Preference, that is used in the acquisition of leasehold interests. E.O. 13006 requires that Federal agencies give first consideration to historic properties within historic districts. If no such property is suitable, then Federal agencies shall consider other developed or undeveloped sites within historic districts. Federal agencies shall then consider historic properties outside of historic districts, if no suitable site within a district exists. As a result of the requirements of the E.O., 552.270-4 will be revised to establish the order of precedence.

Timetable:

Action	Date	FR Cite
NPRM	06/30/99	64 FR 35122
NPRM Comment Period End	08/30/99	
Second NPRM	10/19/01	66 FR 53193
NPRM Comment Period End	12/18/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael E. Hopkins, Regulatory Secretariat (MVPS), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7312
Fax: 202 501-4067
Email: michael.hopkins@gsa.gov

RIN: 3090–AH01

3791. SALE OF PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-45; 41 CFR 102-38

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-45 to streamline sales requirements and moves it into the Federal Management Regulation at 41 CFR 102-38. The regulation is being rewritten in a plain language, question and answer format to make it easier to use and understand.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Peter Zuidema, Acting Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3846
Fax: 202 501-6742
Email: peter.zuidema@gsa.gov

RIN: 3090–AH10

3792. DISPOSITION OF SEIZED AND FORFEITED, VOLUNTARILY ABANDONED, AND UNCLAIMED PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 484(m)

CFR Citation: 41 CFR 101-48; 41 CFR 102-41

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-48 and moves it into the Federal Management Regulation at 102-41. The regulation is being rewritten in a plain language, question and answer format to make the regulation easier to use and understand.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

GSA

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Peter Zuidema, Acting Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3846
Fax: 202 501-6742
Email: peter.zuidema@gsa.gov

RIN: 3090–AH11

3793. MAIL MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 44 USC 2904; PL 94-575, sec 2

CFR Citation: 41 CFR 101-9; 41 CFR 102-192

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-9 and moves it into the Federal Management Regulation at 102-192. The regulation, rewritten in plain language, requires agencies to submit data annually to GSA on their volumes of mail and to prepare and submit annual cost control plans to GSA. These data and reports will be used to help agencies develop performance measures. Also, in accordance with E.O. 12977, this rule extends the requirement to maintain agency-level mail security plans to the facility level.

Timetable:

Action	Date	FR Cite
NPRM	05/29/01	66 FR 29067
NPRM Comment Period End	07/30/01	
NPRM Comment Period Extended	07/31/01	66 FR 39473
NPRM Comment Period End	09/28/01	
Second NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Henry Maury, General Services Administration, Office of Transportation and Personal Property (MT), Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7928
Email: henry.maury@gsa.gov

RIN: 3090–AH13

3794. DISPOSITION OF PERSONAL PROPERTY WITH SPECIAL HANDLING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-42; 41 CFR 102-40

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-42 and moves it into the Federal Management Regulation at 102-40. The regulation revises use, handling, and disposal requirements for special categories of personal property. The rule is being rewritten in plain language in a question and answer format.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Peter Zuidema, Acting Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3846
Fax: 202 501-6742
Email: peter.zuidema@gsa.gov

RIN: 3090–AH21

3795. PERSONAL PROPERTY MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 481; 40 USC 483 to 487

CFR Citation: 41 CFR 102-35

Legal Deadline: None

Abstract: This rulemaking provides a general outline of the policies governing the management of Federal personal property and summarizes the processes provided for in FMR parts 102-36 through 102-42.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Peter Zuidema, Acting Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3846
Fax: 202 501-6742
Email: peter.zuidema@gsa.gov

RIN: 3090–AH31

3796. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Other Significant

Legal Authority: EO 12549 (2/18/86); 41 USC 701 et seq.; 40 USC 486(c)

CFR Citation: 41 CFR 105

Legal Deadline: None

Abstract: Rewrites current rule into plain language question and answer format and clarifies ambiguities in existing rules.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Donald J. Suda, Special Assistant, Office of Acquisition Policy (MV), General Services Administration, Washington, DC 20405
Phone: 202 501-4770
Email: donald.suda@gsa.gov

RIN: 3090–AH35

General Services Administration (GSA) — **Final Rule Stage**

OFFICE OF CIVIL RIGHTS

3797. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 41 CFR 101-6; 41 CFR 101-8

Legal Deadline: None

Abstract: This rulemaking proposes to amend the FPMR to implement title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. GSA's proposed rulemaking was published as part of a joint notice of proposed rulemaking involving up to 24 agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: James M. Taylor, Director, Office of Civil Rights, General Services Administration, Washington, DC 20405
Phone: 202 501-3852
Fax: 202 219-3369

RIN: 3090–AH33

OFFICE OF GOVERNMENTWIDE POLICY

3798. FEDERAL TRAVEL REGULATION (FTR), CHAPTER 304 PAYMENT OF TRAVEL EXPENSES FROM A NON-FEDERAL SOURCE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; 31 USC 1353; 40 USC 486(c)

CFR Citation: 41 CFR 301-1; 41 CFR 304-1

Legal Deadline: None

Abstract: This amendment finalizes the interim rule governing the acceptance of payment for travel, subsistence, and related expenses from a non-Federal source. This rule supersedes Interim Rule 4, published at 57 FR 53283, November 9, 1992, with request for comments. The economic impact of this amendment is favorable on all Federal agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/30/89	
Interim Final Rule	12/28/89	54 FR 53321
Interim Final Rule 3 Effective	03/06/91	
Interim Final Rule 3	03/08/91	56 FR 9878
Interim Final Rule 3 Comment Period End	05/07/91	
Interim Final Rule 4	11/09/92	57 FR 53283
Interim Final Rule 4 Effective	12/09/92	
Interim Final Rule 4 Comment Period End	01/08/93	
NPRM	05/04/01	66 FR 22491
NPRM Comment Period End	07/03/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AE19

3799. ANNUAL REAL PROPERTY INVENTORIES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-3; 41 CFR 102-84

Legal Deadline: None

Abstract: This rulemaking revises FPMR part 101-3 and moves it into the Federal Management Regulation at 102-84. The revised regulation is being rewritten in a plain language, question and answer format and will enable Federal agencies to more effectively manage their inventory of real property assets.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/02/01	66 FR 55593
Interim Final Rule Effective	11/02/01	
Interim Final Rule Comment Period End	01/02/02	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stanley C. Langfeld, Director, Real Property Policy Division (MPR), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-1737

RIN: 3090–AG55

3800. FTR INTERIM RULE 7—INCOME TAX REIMBURSEMENT ALLOWANCE (ITRA)

Priority: Other Significant

Legal Authority: 5 USC 5707

CFR Citation: 41 CFR 301-11

Legal Deadline: None

Abstract: This rulemaking amended the FTR to add authority to implement sections of the Travel and Transportation Reform Act of 1998, which authorize Federal agencies to reimburse Federal, State, and local income taxes incurred as a result of long-term official travel. It also allows for the reimbursement of penalty and interest payments due to incorrect withholdings by the employee's agency for tax years 1993 and 1994.

GSA — Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	01/01/93	
Interim Final Rule	06/18/99	64 FR 32812
Interim Final Rule Comment Period End	08/17/99	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AG99

3801. GSAR; TAX ADJUSTMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking establishes a provision at GSAR 552.270-74, Tax Adjustment. The provision outlines the methodology for calculating real estate taxes for use in solicitations for offers for acquisition of leasehold interests in real property.

Timetable:

Action	Date	FR Cite
NPRM	05/25/00	65 FR 33799
NPRM Comment Period End	07/24/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael E. Hopkins, Regulatory Secretariat (MVPS), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7312
Fax: 202 501-4067
Email: michael.hopkins@gsa.gov

RIN: 3090–AH03

3802. CLARIFICATION OF HUBZONE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 519; 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking will clarify how the HUBZone program applies to acquiring leasehold interests in real property.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael E. Hopkins, Regulatory Secretariat (MVPS), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7312
Fax: 202 501-4067
Email: michael.hopkins@gsa.gov

RIN: 3090–AH17

3803. DONATION OF SURPLUS PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-44; 41 CFR 102-37

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-44 in plain language and moves it into the Federal Management Regulation at 102-37.

Timetable:

Action	Date	FR Cite
NPRM	04/13/00	65 FR 20014
NPRM Comment Period End	06/12/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Peter Zuidema, Acting Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3846
Fax: 202 501-6742
Email: peter.zuidema@gsa.gov

RIN: 3090–AH20

3804. GSAR; IDENTIFICATION OF ENERGY-EFFICIENT OFFICE EQUIPMENT AND SUPPLIES CONTAINING RECOVERED MATERIALS OR OTHER ENVIRONMENTAL ATTRIBUTES

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 538; 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking would amend the GSAR for consistency with the proposed FAR revision of energy conservation regulations and President Clinton's issuance of E.O. 13123 on efficient energy management.

Timetable:

Action	Date	FR Cite
NPRM	07/18/00	65 FR 44508
NPRM Comment Period End	09/16/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael E. Hopkins, Regulatory Secretariat (MVPS), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7312
Fax: 202 501-4067
Email: michael.hopkins@gsa.gov

RIN: 3090–AH25

3805. GSAR; GUIDANCE ON ELECTRONIC FUNDS TRANSFER

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 532; 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking establishes procedures for implementing the Debt

GSA — Final Rule Stage

Collection Improvement Act of 1996 in accordance with Department of Treasury rules at 31 CFR part 208 and OMB Prompt Payment Act rules at 5 CFR 1315. To comply with these rules, GSA must collect specific vendor information. 5 CFR 1315.9(b) requires a proper invoice to include the Taxpayer Identification Number (TIN) and banking information for electronic funds transfer, unless agency procedures provide otherwise. GSA will require the TIN on each invoice but will enter banking information on the GSA Form 300 in lieu of requiring it on the invoice.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael E. Hopkins, Regulatory Secretariat (MVPS), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7312
Fax: 202 501-4067
Email: michael.hopkins@gsa.gov

RIN: 3090–AH30

3806. • REAL PROPERTY POLICIES UPDATE

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 102-71 to 41 CFR 102-82

Legal Deadline: None

Abstract: Final Rule FMR parts 102-71 to 102-82 was published in the Federal Register on January 18, 2001, and was effective on January 18, 2001. The completion of that regulatory action initiates the start of a new initiative entitled "Real Property Policies Update." The goal of this new initiative is to amend FMR parts 102-71 to 102-82 to reflect updated policies, such as location policy, outleasing policy, historic preservation/E.O. 13006 policy, and security policy.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AH51

PUBLIC BUILDINGS SERVICE

3808. PRICING POLICY FOR OCCUPANCY IN GSA SPACE

Priority: Other Significant

Legal Authority: Sec 210(j), Fed Prop and Admin Services Act of 1949, as amended (40 USC 490(j))

CFR Citation: 41 CFR 102-85

Legal Deadline: None

Abstract: The General Services Administration (GSA) is revising the Federal Property Management Regulations (FPMR) by moving coverage of GSA's Rent Program into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR is written in plain language to provide agencies with updated regulatory material that is easy to read and understand. This interim rule establishes the pricing policy guidance for Occupancy Agreements between GSA and the customer agencies. It also governs intra-governmental pricing of space and services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/08/01	66 FR 23169
Interim Final Rule Effective	05/08/01	
Interim Final Rule Comment Period End	07/09/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Ronald Edward Kendall, Director, Policy and Analysis, Portfolio Management (PT), General

3807. • FEDERAL TRAVEL REGULATION (FTR); MAXIMUM PER DIEM RATES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5707

CFR Citation: 41 CFR 300; 41 CFR 301

Legal Deadline: None

Abstract: Section 5702 of title 5, United States Code, provides for the Administrator of General Services to prescribe a maximum per diem allowance for travel within the continental United States. Analysis of data from the most recent subsistence cost surveys reveals that the current listing of specific per diem rates contained in a final rule appearing in part II of the Federal Register of Friday, August 31, 2001 (66 FR 46070), should be updated to add new entries and revise previous entries.
This amendment is not subject to the rulemaking requirements contained in section 553 of the Administrative Procedures Act (5 U.S.C. 551 to 559), since it involves matters related solely to agency management or personnel. GSA, therefore, did not request public comments on this rule. GSA will, however, send a copy of the amendment to Federal employee unions for review and will reconcile any comments received before issuing the final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/02	
Interim Final Rule Effective	05/00/02	
Final Action	02/00/03	
Final Action Effective	02/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stanley C. Langfeld, Director, Real Property Policy Division (MPR), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-1737

RIN: 3090–AH45

GSA — Final Rule Stage

Services Administration, Washington, DC 20405 | Phone: 202 501-4940 | Fax: 202 219-1966
RIN: 3090–AG33

General Services Administration (GSA) — Long-Term Actions

OFFICE OF THE CHIEF PEOPLE OFFICER

3809. GSA PRIVACY ACT

Priority: Substantive, Nonsignificant
Legal Authority: 40 USC 486(c)
CFR Citation: 41 CFR 105
Legal Deadline: None

Abstract: This rulemaking updates GSA's privacy policy and procedures and provides current organizational citations, privacy-related responsibilities, and the names and addresses of persons to contact concerning the GSA Privacy Act Program and systems of records.

Timetable:

Action	Date	FR Cite
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Jinaita Kanarchuk, General Services Administration, Information Management Division (CAI), Office of the Chief People Officer, Washington, DC 20405
Phone: 202 501-1452
Email: jinaita.kanarchuk@gsa.gov
RIN: 3090–AH05

OFFICE OF CIVIL RIGHTS

3810. • NONDISCRIMINATION BASED ON SEX IN ALL PROGRAMS AND ACTIVITIES RECEIVING FEDERAL SURPLUS PROPERTY

Priority: Substantive, Nonsignificant
Legal Authority: 40 USC 476
CFR Citation: 41 CFR 101-6.2
Legal Deadline: None

Abstract: The Office of Civil Rights has no implementing regulation for this provision at this time. However, the statute states that this provision shall be enforced through agency provisions and rules similar to those under title VI.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: James M. Taylor, Director, Office of Civil Rights, General Services Administration, Washington, DC 20405
Phone: 202 501-3852
Fax: 202 219-3369
RIN: 3090–AH48

3811. • TITLE IX OF THE EDUCATION AMENDMENTS ACT

Priority: Substantive, Nonsignificant
Legal Authority: Not Yet Determined
CFR Citation: 41 CFR 101-4.100 et seq
Legal Deadline: None

Abstract: Final common rule was published August 2000. Needs to be rewritten in plain language, then published for comment, then published in final. (Needs Department of Justice approval.)

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: James M. Taylor, Director, Office of Civil Rights, General Services Administration, Washington, DC 20405
Phone: 202 501-3852
Fax: 202 219-3369
RIN: 3090–AH49

OFFICE OF GENERAL COUNSEL

3812. • PROHIBITED PURCHASES OF PROPERTY SOLD BY GSA

Priority: Info./Admin./Other
Legal Authority: 5 USC 7301; 5 CFR 2635.105; 5 CFR 2635.702; 5 CFR 2635.703
CFR Citation: 5 CFR 2635.105; 5 CFR 2635.702; 5 CFR 2635.703
Legal Deadline: None

Abstract: Under the current regulation at 5 CFR 6701.103, GSA employees (and their spouses and minor children) are prohibited from purchasing for themselves or others any personal or real property being sold by GSA. This regulation supplemented the prohibition on the use of public office for private gain at 5 CFR 2635.702 and the prohibition on the use of nonpublic information at 5 CFR 2635.703. GSA believes that the current prohibition at section 6701.103 for all GSA employees, their spouses, and minor children is unnecessarily broad and that the prohibition should be extended only to those employees where the possibility of using public office or nonpublic information for private gain exists or where the possibility of the appearance of a conflict of interest occurs. For that reason, GSA is retaining but liberalizing this provision, so as to allow the purchase by GSA employees of property sold by GSA, except for those GSA employees who personally and substantially participate in, or have official responsibility for, the sale of real and personal property.

Timetable: Next Action Undetermined
Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Eugenia Ellison, Associate General Counsel, General Law Division Office of General Counsel, General Services Administration, Washington, DC 20405
Phone: 202 501-0765

GSA — Long-Term Actions

Fax: 202 501-6347

RIN: 3090–AH50

OFFICE OF GOVERNMENTWIDE POLICY

3813. • INTERNET GOV DOMAIN

Priority: Substantive, Nonsignificant

Legal Authority: sec 205, Federal Property and Admin Services Act of 1949 (40 USC 486(c))

CFR Citation: 41 CFR 102-173

Legal Deadline: None

Abstract: The General Service Administration (GSA) is adding coverage on the Internet GOV Domain to the Federal Management Regulation (FMR). This interim rule establishes a new FMR part covering the Internet GOV Domain. This interim rule provides mainly a framework for future Internet GOV Domain policy, but it also establishes policy on naming conventions for U.S. Government registration of domain names, located in subpart B of the new part.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Marion A. Royal, Policy Advisor, General Services Administration, Washington, DC 20405
Phone: 202 208-4643
Fax: 202 501-6455
Email: marion.royal@gsa.gov

RIN: 3090–AH41

General Services Administration (GSA) — Completed Actions

3814. FEDERAL RECORDS MANAGEMENT PROGRAM, INTERAGENCY REPORTS MANAGEMENT PROGRAM, AND STANDARD AND OPTIONAL FORMS MANAGEMENT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-11; 41 CFR 102-193; 41 CFR 102-194; 41 CFR 102-195

Completed:

Reason	Date	FR Cite
Final Action	09/20/01	66 FR 48357
Final Action Effective	10/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: R. Stewart Randall
Phone: 202 501-4469
Fax: 202 219-0987
Email: stewart.randall@gsa.gov

RIN: 3090–AG02

3815. FEDERAL ADVISORY COMMITTEE MANAGEMENT

Priority: Other Significant

CFR Citation: 41 CFR 101-6; 41 CFR 102-3

Completed:

Reason	Date	FR Cite
Final Action	07/19/01	66 FR 37728
Final Action Effective	08/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Charles F. Howton
Phone: 202 273-3561
Email: charles.howton@gsa.gov

RIN: 3090–AG49

3816. FTR AMENDMENT (UNASSIGNED); RELOCATION ALLOWANCES

Priority: Other Significant

CFR Citation: 41 CFR 302

Completed:

Reason	Date	FR Cite
Final Action	11/20/01	66 FR 58194
Final Action Effective	02/19/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AG93

3817. REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-46; 41 CFR 102-39

Completed:

Reason	Date	FR Cite
Final Action	09/21/01	66 FR 48614
Final Action Effective	09/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Peter Zuidema
Phone: 202 501-3846
Fax: 202 501-6742
Email: peter.zuidema@gsa.gov

RIN: 3090–AH23

3818. • FEDERAL TRAVEL REGULATION; RELOCATION INCOME TAX (RIT) ALLOWANCE TAX TABLES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5738; 20 USC 905(a); EO 11609; 36 FR 13747; 3 CFR, 1971-1975 Comp., p. 586

CFR Citation: 41 CFR 302

Legal Deadline: None

Abstract: The Federal, State, and Puerto Rico tax tables for calculating the relocation income tax (RIT) allowance must be updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/01	66 FR 23177
Final Action	05/08/01	66 FR 23177

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349

Email: bill.rivers@gsa.gov

RIN: 3090–AH40

3819. • TRANSPORTATION MANAGEMENT AND TRANSPORTATION PAYMENT AND AUDIT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 102-117.90; 41 CFR 102-118.40; 41 CFR 102-118.95; 41 CFR 102-118.115; 41 CFR 102-118.175

Legal Deadline: None

Abstract: The General Services Administration (GSA) is extending the retirement date of Optional Forms 1103, U.S. Government Bill of Lading (GBL), and 1203, U.S. Government Bill of Lading-Privately Owned Personal Property (PPGBL), until March 31, 2002. A GSA review indicated that instead of transitioning to standard business practices, agencies were creating a new form to replace the GBL. Extending the retirement date for 6 months will give agencies more time to enhance electronic transportation systems currently in place and transition to the use of commercial practices.

Timetable:

Action	Date	FR Cite
Final Action Effective	09/21/01	
Final Action	09/24/01	66 FR 48812

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Elizabeth Allison, Program Analyst, General Services Administration, Washington, DC 20405
Phone: 202 219-1729
Fax: 202 501-6742
Email: elizabeth.allison@gsa.gov

RIN: 3090–AH43

3820. • FEDERAL TRAVEL REGULATION (FTR); MAXIMUM PER DIEM RATES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5707

CFR Citation: 41 CFR 300; 41 CFR 301

Legal Deadline: None

Abstract: This rulemaking revises the Federal Travel Regulation (FTR) by updating the maximum per diem allowances for locations within the continental United States to adequately reflect the cost of lodging in those areas.

Timetable:

Action	Date	FR Cite
Final Action	08/31/01	66 FR 46070
Final Action Effective	10/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AH44

[FR Doc. 01–26032 Filed 11–30–01; 8:45 am]

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Federal Register

Monday,
December 3, 2001

Part XXVII

Morris K. Udall Foundation-U.S. Institute for Environmental Conflict Resolution

Semiannual Regulatory Agenda

MORRIS K. UDALL FOUNDATION-U.S. INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION (MKU-USIECR)

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

The United States Institute for Environmental Conflict Resolution

36 CFR Ch. XVI

Semiannual Regulatory Agenda

AGENCY: Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (including the United States Institute for Environmental Conflict Resolution).

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for development during the next 12 months. It is issued pursuant to Executive Order 12866 and the Regulatory Flexibility Act.

FOR FURTHER INFORMATION CONTACT: Ellen K. Wheeler, General Counsel, Morris K. Udall Foundation, 110 S. Church Avenue, Suite 3350, Tucson, AZ 85701; Telephone (520) 670-5299; Fax (520) 670-5530.

SUPPLEMENTARY INFORMATION: With this publication, the Foundation satisfies the requirement of Executive Order 12866 that it publish an agenda of rules that it expects to issue. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) also requires publication of an agenda identifying rules that will have significant economic effect on a substantial number of small entities; the Foundation certifies that this proposed rule will not have a significant impact on small entities.

Dated: August 24, 2001.

Ellen K. Wheeler,

General Counsel.

Morris K. Udall Foundation-U.S. Institute for Environmental Conflict Resolution (MKU-USIECR) — Long-Term Actions

3821. CONFIDENTIALITY IN DISPUTE RESOLUTION PROCEEDINGS

Priority: Info./Admin./Other

Legal Authority: 5 USC 571 et seq; 20 USC 5601 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This rule implements section 574 of title 5, United States Code, and provides that communications prepared for a dispute resolution proceeding in which the U.S. Institute for Environmental Conflict Resolution is involved as a third-party neutral will be confidential, except in certain specified circumstances.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ellen K. Wheeler, General Counsel, Deputy Executive Director, Morris K. Udall Foundation-U.S. Institute for Environmental Conflict Resolution, Suite 3350, 110 South Church Avenue, Tucson, AZ 85701
Phone: 520 670-5299
Fax: 520 670-5530
Email: wheeler@udall.gov

RIN: 3320–AA01

Morris K. Udall Foundation-U.S. Institute for Environmental Conflict Resolution (MKU-USIECR) — Completed Actions

3822. PRIVACY ACT IMPLEMENTATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 5 USC 552a; 20 USC 5601 et seq

CFR Citation: 36 CFR 1600

Legal Deadline: None

Abstract: This regulation implements the Privacy Act of 1974, 5 U.S.C. 552a, by establishing procedures by which individuals may determine if a system of records maintained by the Morris K. Udall Foundation, including the U.S. Institute for Environmental Conflict Resolution, contains records pertaining to them, and procedures for access to such records to review, amend, or correct them.

Timetable:

Action	Date	FR Cite
NPRM	09/26/00	65 FR 57773
NPRM Comment Period End	10/26/00	
Final Action	03/15/01	66 FR 15033

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ellen K. Wheeler, General Counsel, Deputy Executive Director, Morris K. Udall Foundation-U.S. Institute for Environmental Conflict Resolution, Suite 3350, 110 South Church Avenue, Tucson, AZ 85701
Phone: 520 670-5299
Fax: 520 670-5530
Email: wheeler@udall.gov

RIN: 3320–AA00

3823. FREEDOM OF INFORMATION ACT IMPLEMENTATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 20 USC 5601 et seq

CFR Citation: 36 CFR 1600

Legal Deadline: None

MKU-USIECR **Completed Actions**

Abstract: This regulation implements the Freedom of Information Act, 5 U.S.C. 552, and prescribes rules governing the availability to the public of documents and records of the Morris K. Udall Foundation, including the U.S. Institute for Environmental Conflict Resolution.

Timetable:

Action	Date	FR Cite
NPRM	09/26/00	65 FR 57773
NPRM Comment Period End	10/26/00	
Final Action	03/15/01	66 FR 15033

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ellen K. Wheeler, General Counsel, Deputy Executive Director, Morris K. Udall Foundation-U.S. Institute for Environmental Conflict Resolution, Suite 3350, 110 South Church Avenue, Tucson, AZ 85701
Phone: 520 670-5299
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RIN: 3320–AA02

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Federal Register

Monday,
December 3, 2001

Part XXVIII

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: NASA's regulatory agenda describes those regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of the knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported. This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. NASA's Statement of Regulatory Priorities is included in part II.

ADDRESSES: Director, Management Assessment Division (Code JM), Office of Management Systems, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Nanette Jennings, (202) 358-0819.

SUPPLEMENTARY INFORMATION: OMB guidelines dated July 10, 2001, "October 2001 Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions" require a regulatory agenda of those regulations under development and review to be published in the **Federal Register** each April and October.

Dated: September 13, 2001.

John D. Werner,

Director, Management Assessment Division.

National Aeronautics and Space Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3824	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	2700-AC43
3825	NASA Grant and Cooperative Agreement Handbook—Rewrite of Section D—Cooperative Agreements With Commercial Firms and Implementation of Section 319 of Public Law 106-391, Buy American Encouragement	2700-AC44
3826	Research Misconduct	2700-AC50

National Aeronautics and Space Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3827	Cross-Waiver of Liability	2700-AB51
3828	Meritorious Claims Arising From the Conduct of NASA Functions Under 42 U.S.C. 2473(c)(13)	2700-AC35
3829	NASA Standards of Conduct	2700-AC37
3830	Code of Conduct for International Space Station Crew	2700-AC40
3831	Supplemental Standards of Ethical Conduct for Employees of the National Aeronautics and Space Administration	2700-AC45
3832	Boards and Committees	2700-AC46
3833	Inventions and Contributions	2700-AC47
3834	Patents and Other Intellectual Property Rights	2700-AC48

National Aeronautics and Space Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3835	Tracking and Data Relay Satellite System; Use and Reimbursement Policy for Non-U.S. Government Users	2700-AA29
3836	Miscellaneous Administrative Changes to the NASA Federal Acquisition Regulation Supplement (NFS)	2700-AC33
3837	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	2700-AC41
3838	National Environmental Policy Act Implementing Procedures	2700-AC49

National Aeronautics and Space Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
3839	Use of Small Self-Contained Payload	2700-AC39
3840	NASA Grant and Cooperative Agreement Handbook—Miscellaneous Changes	2700-AC51

National Aeronautics and Space Administration (NASA)

Proposed Rule Stage

3824. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 701 et seq; 42 USC 2473c; 31 USC 6101 note

CFR Citation: 14 CFR 1265

Legal Deadline: None

Abstract: NASA is participating in a proposed common rule that proposes substantive changes and amendments to the Governmentwide nonprocurement common rule for debarment and suspension and the Governmentwide rule implementing the Drug-Free Workplace Act of 1988. The purpose of these proposed changes are as follows:

1. Resolve unnecessary technical differences between the procurement and nonprocurement debarment rules;

2. Make improvements to the existing common rule consistent with the purpose of the suspension and debarment system;

3. Revise the current approach to the style and format to use plain language; and

4. Move the drug-free workplace requirements currently in subpart F of the Debarment and Suspension Nonprocurement Common Rule to a new section.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Diane S. Thompson, National Aeronautics and Space Administration, NASA Headquarters (Code HC), 300 E Street SW, Washington, DC 20546
Phone: 202 358-0514
Fax: 202 358-3220
Email: dthompso@hq.nasa.gov

RIN: 2700–AC43

3825. NASA GRANT AND COOPERATIVE AGREEMENT HANDBOOK—REWRITE OF SECTION D—COOPERATIVE AGREEMENTS WITH COMMERCIAL FIRMS AND IMPLEMENTATION OF SECTION 319 OF PUBLIC LAW 106-391, BUY AMERICAN ENCOURAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 6301-6308

CFR Citation: 14 CFR 1260 and 1274

Legal Deadline: None

Abstract: NASA's Grant and Cooperative Agreement Handbook will be revised to clarify and provide additional guidance on the award and administration of cooperative agreements with commercial firms. This includes incorporating appropriate guidance on risk-centered approaches to acquisitions under cooperative agreements.

Timetable:

Action	Date	FR Cite
NPRM	10/29/01	66 FR 54468
NPRM Comment Period End	12/28/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Eugene Johnson, Procurement Analyst, National Aeronautics and Space Administration, NASA Headquarters (Code HC), 300 E Street SW, Washington, DC 20546
Phone: 202 358-4703
Fax: 202 358-3220
Email: ejohnson@hq.nasa.gov

RIN: 2700–AC44

3826. • RESEARCH MISCONDUCT

Priority: Other Significant

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1275

Legal Deadline: None

Abstract: The proposed rule implements the "Federal Policy on Research Misconduct," issued by the Office of Science and Technology Policy in the Federal Register (FR) on December 6, 2000 (65 FR 76260). The proposed rule sets out the definition of research misconduct and the procedures for determining whether research misconduct has occurred and for recommending administrative action by NASA pursuant to applicable laws.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mayra N. Montrose, National Aeronautics and Space Administration, Office of the NASA Chief Scientist, Code AS, 300 E Street, SW, Washington, DC 20744
Phone: 202 358-1492
Email: mmontros@mail.hq.nasa.gov

RIN: 2700–AC50

National Aeronautics and Space Administration (NASA)

Final Rule Stage

3827. CROSS-WAIVER OF LIABILITY

Priority: Info./Admin./Other

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1266

Legal Deadline: None

Abstract: This provides technical amendments to implement the cross-waiver of liability provision of the intergovernmental agreement of the International Space Station and to refine and clarify contractual cross-waivers in NASA agreements involving launch services.

Timetable:

Action	Date	FR Cite
Final Action	05/00/02	

NASA — Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Mirmina, Attorney Advisor, National Aeronautics and Space Administration, NASA Headquarters (Code GS), 300 E Street SW, Washington, DC 20546
Phone: 202 358-0729
Fax: 202 358-4355
Email: smirmina@mail.hq.nasa.gov

RIN: 2700–AB51

3828. MERITORIOUS CLAIMS ARISING FROM THE CONDUCT OF NASA FUNCTIONS UNDER 42 U.S.C. 2473(C)(13)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2473; 31 USC 3104

CFR Citation: 14 CFR 1267

Legal Deadline: None

Abstract: This rule would establish NASA policies and procedures for meritorious claims, other than Federal Tort Claims Act claims or claims otherwise covered under 14 CFR part 1261, arising from the conduct of NASA functions and pursuant to 203(c)(13) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(c)(13)).

Timetable:

Action	Date	FR Cite
NPRM	12/21/99	64 FR 71339
NPRM Comment Period End	02/22/00	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bernard J. Roan, Senior Attorney, National Aeronautics and Space Administration, Office of Associate General Counsel (Contracts), 300 E Street SW, Washington, DC 20546
Phone: 202 358-2072

RIN: 2700–AC35

3829. NASA STANDARDS OF CONDUCT

Priority: Info./Admin./Other

Legal Authority: 42 USC 2473(c)(1), 5 USC appendix (Ethics in Government Act of 1978, as amended); 5 USC 7301; 18 USC 208; 5 CFR part 2640

CFR Citation: 14 CFR 1207.102; 5 CFR 6901

Legal Deadline: None

Abstract: Changes in references that are obsolete because of superseding Office of Government Ethics regulations and internal Agency reorganization.

Deletion of section to conform with superseding regulation (5 CFR 2640); revision of remainder to reflect organization changes.

This action is not required by action or court order. The changes are being made to rescind or amend NASA regulations that have already been published, pursuant to 42 U.S.C. 2473(c)(1).

Because the Agency is conforming with Office of Government Ethics regulations (5 CFR 2640), there are no alternatives to revision.

Timetable:

Action	Date	FR Cite
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Laurie P. Rafferty, Attorney, National Aeronautics and Space Administration, Office of the General Counsel, Code GG, 300 E Street SW, Washington, DC 20546
Phone: 202 358-2028
Fax: 202 358-4355
Email: lraffert@hq.nasa.gov

RIN: 2700–AC37

3830. CODE OF CONDUCT FOR INTERNATIONAL SPACE STATION CREW

Priority: Other Significant

Legal Authority: 42 USC 2455, 2473, 2475; 18 USC 799

CFR Citation: 14 CFR 1214, subpart 1214.4

Legal Deadline: None

Abstract: NASA is amending 14 CFR part 1214 by adding subpart 1214.4 to implement certain provisions of the International Space Station Intergovernmental Agreement regarding crew members' observance of a Code of Conduct.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/01/00	
Interim Final Rule	12/21/00	65 FR 80302
Final Rule	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. Jason Steptoe, Associate General Counsel, National Aeronautics and Space Administration, Office of General Counsel (Code GS), 300 E Street SW, Washington, DC 20546
Phone: 202 358-2432

RIN: 2700–AC40

3831. • SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 7301; 5 USC app (Ethics in Government Act of 1978); 42 USC 2473(c)(1); EO 12674, as modified by EO 12731; 5 CFR 2635.105, 2635.403(a), 2635.802(a), 2635.803

CFR Citation: 5 CFR 6901; 14 CFR 1207

Legal Deadline: None

Abstract: The National Aeronautics and Space Administration, with the concurrence of the Office of Government Ethics, is amending its supplemental standards of ethical conduct to revise the designations of officials authorized to perform ethics related-functions and move those designations from 5 CFR part 6901 to 14 CFR part 1207, subpart A.

Timetable:

Action	Date	FR Cite
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Laurie P. Rafferty, Attorney, National Aeronautics and Space Administration, Office of the General Counsel, Code GG, 300 E Street SW, Washington, DC 20546
Phone: 202 358-2028
Fax: 202 358-4355

NASA — **Final Rule Stage**

Email: lraffert@hq.nasa.gov

RIN: 2700–AC45

3832. • BOARDS AND COMMITTEES

Priority: Info./Admin./Other

Legal Authority: 42 USC 2457f and 2458; secs 305 and 306 of the National Aeronautics and Space Act of 1958, as amended

CFR Citation: 14 CFR 1209

Legal Deadline: None

Abstract: NASA is amending 14 CFR part 1209 to provide for a change in responsibilities and an organizational change. Moves responsibility from Code I (External Relations) to Code R (Aerospace Technology).

Timetable:

Action	Date	FR Cite
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Paul A. Curto, Senior Technologist, National Aeronautics and Space Administration, NASA Headquarters, Code RI, Washington, DC 20546
Phone: 202 358-2279
Fax: 202 358-3197
Email: pcurto@hq.nasa.gov

RIN: 2700–AC46

3833. • INVENTIONS AND CONTRIBUTIONS

Priority: Info./Admin./Other

Legal Authority: 42 USC 2458, sec 306 of the National Aeronautics and Space Act of 1958; 15 USC 3710b(1), sec 12 of the Federal Technology Transfer Act of 1986

CFR Citation: 14 CFR 1240

Legal Deadline: None

Abstract: NASA is amending 14 CFR part 1240 to provide definitions (including a software definition), add a new category of initial awards for release of software, provide initial awards for the issuance of patents based upon continuation-in-part and divisional patent applications, increase the amount of certain awards and change delegations of authority from the NASA Administrator.

Award amounts have not been changed since 1985, and this updates to current day dollars. This includes significant increases in initial awards for technical briefs from $150 to $350, multiple author software and patents from $250 to $500, and single author software and patents from $500 to $1,000. Any award of an amount less than $2,000 no longer requires the Administrator's signature.

Timetable:

Action	Date	FR Cite
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Paul A. Curto, Senior Technologist, National Aeronautics and Space Administration, NASA Headquarters, Code RI, Washington, DC 20546
Phone: 202 358-2279
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Email: pcurto@hq.nasa.gov

RIN: 2700–AC47

3834. • PATENTS AND OTHER INTELLECTUAL PROPERTY RIGHTS

Priority: Info./Admin./Other

Legal Authority: 42 USC 2457 and 2458; 35 USC 202 and 203; 37 CFR 401.6

CFR Citation: 14 CFR 1245

Legal Deadline: None

Abstract: NASA will be proposing to amend 14 CFR part 1245 to designate the Armed Services Board of Contract Appeals to conduct fact finding in march-in proceedings. NASA no longer has a Board of Contract Appeals, so designating another Board is necessary.

Timetable:

Action	Date	FR Cite
Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Paul A. Curto, Senior Technologist, National Aeronautics and Space Administration, NASA Headquarters, Code RI, Washington, DC 20546
Phone: 202 358-2279
Fax: 202 358-3197
Email: pcurto@hq.nasa.gov

RIN: 2700–AC48

National Aeronautics and Space Administration (NASA) — **Long-Term Actions**

3835. TRACKING AND DATA RELAY SATELLITE SYSTEM; USE AND REIMBURSEMENT POLICY FOR NON-U.S. GOVERNMENT USERS

Priority: Info./Admin./Other

CFR Citation: 14 CFR 1215

Timetable:

Action	Date	FR Cite
Final Action for CY 1993 Rate Change	05/15/92	57 FR 20746
Final Action for CY 1994 Rate Change	09/28/93	58 FR 50515
Final Action for CY 1995 Rate Change	10/31/94	59 FR 54385
Final Action for CY 1997 Rate Change	05/15/95	60 FR 25843
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph LaCurto
Phone: 202 358-2764

RIN: 2700–AA29

3836. MISCELLANEOUS ADMINISTRATIVE CHANGES TO THE NASA FEDERAL ACQUISITION REGULATION SUPPLEMENT (NFS)

Priority: Info./Admin./Other

CFR Citation: 48 CFR 1801 to 1872

NASA — Long-Term Actions

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Celeste M. Dalton
Phone: 202 358-1645
Email: cdalton@hq.nasa.gov

RIN: 2700–AC33

3837. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 1250; 14 CFR 1251; 14 CFR 1252

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: George E. Reese
Phone: 202 358-2167
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Email: greese@hq.nasa.gov

RIN: 2700–AC41

3838. • NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4332(2)

CFR Citation: 14 CFR 1216.3

Legal Deadline: None

Abstract: NASA will be revising its procedures for implementing the National Environmental Policy Act of 1969, as amended, and its procedures under Executive Order 12114, Environmental Effects Abroad of Major Federal Actions.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ann Hooker, National Aeronautics and Space Administration, Office of Management Systems, Environmental Management Division, Code JE, 300 E Street SW, Washington, DC 20744
Phone: 202 358-0007
Email: ahooker@hq.nasa.gov

RIN: 2700–AC49

National Aeronautics and Space Administration (NASA) — Completed Actions

3839. USE OF SMALL SELF-CONTAINED PAYLOAD

Priority: Other Significant

CFR Citation: 14 CFR 1214.9

Completed:

Reason	Date	FR Cite
Final Rule	07/18/01	66 FR 37410
Comment Period End	08/17/01	
Final Rule Effective	09/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lynda J. Cywanowicz
Phone: 202 358-1673
Email: lcynanow@mail.hq.nasa.gov

RIN: 2700–AC39

3840. • NASA GRANT AND COOPERATIVE AGREEMENT HANDBOOK—MISCELLANEOUS CHANGES

Priority: Info./Admin./Other

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1260; 14 CFR 1274

Legal Deadline: None

Abstract: The Grant and Cooperative Agreement Handbook will be amended as necessary to reflect administrative and editorial changes to clarify internal procedures and amplify Governmentwide regulations for awarding and administering grants and cooperative agreements.

Timetable:

Action	Date	FR Cite
Final Action	10/26/01	66 FR 54120

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Eugene Johnson, Procurement Analyst, National Aeronautics and Space Administration, NASA Headquarters (Code HC), 300 E Street SW, Washington, DC 20546
Phone: 202 358-4703
Fax: 202 358-3220
Email: ejohnson@hq.nasa.gov

RIN: 2700–AC51

[FR Doc. 01–23854 Filed 11–30–01; 8:45 am]
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Monday,
December 3, 2001

Part XXIX

National Archives and Records Administration

Semiannual Regulatory Agenda

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: National Archives and Records Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since April 2001. This agenda was developed under the guidelines in OMB's Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions, dated July 10, 2001. NARA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA's regulatory plans and to participate in the rulemaking process. Some of the regulations listed in the agenda are considered significant under Executive Order 12866 "Regulatory Planning and Review."

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. NARA's Statement of Regulatory Priorities is included in part II.

FOR FURTHER INFORMATION CONTACT: Nancy Allard, Regulatory Contact, Policy and Communications Staff, (301) 713-7360, ext. 226.

Dated: September 13, 2001.

John W. Carlin,

Archivist of the United States.

National Archives and Records Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3841	Records Management; Electronic Text Documents	3095-AB05

National Archives and Records Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3842	National Historical Publications and Records Commission Grant Regulations	3095-AA93
3843	Research Room Procedures	3095-AB01
3844	Expanding Transfer Options for Electronic Records	3095-AB03
3845	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	3095-AB04
3846	Micrographic Records Management	3095-AB06
3847	Nixon Presidential Materials; Reproduction	3095-AB07
3848	NARA Facilities; Addresses and Hours	3095-AB08
3849	Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964	3095-AB09
3850	Revision of NARA Research Room Procedures	3095-AB10
3851	Restrictions on the Use of Records	3095-AB11
3852	NARA Official Seals	3095-AB12

National Archives and Records Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3853	Debt Collection	3095-AA77
3854	Presidential Library Facilities	3095-AA82
3855	Implementation of OMB Circular A-110, Section 36	3095-AA96
3856	Privacy Act	3095-AA99
3857	Records Disposition	3095-AB02

NARA

National Archives and Records Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3858	Limitations on Testimony by NARA Employees	3095-AA75

National Archives and Records Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
3859	Creation and Maintenance of Federal Records	3095-AA61

National Archives and Records Administration (NARA) — Prerule Stage

3841. RECORDS MANAGEMENT; ELECTRONIC TEXT DOCUMENTS

Priority: Other Significant

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1234

Legal Deadline: None

Abstract: NARA will seek Federal agency and public comment concerning the management, scheduling and preservation of text documents created in electronic form.

Timetable:

Action	Date	FR Cite
ANPRM	10/10/01	66 FR 45140
ANPRM Comment Period End	01/08/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740-6001
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Email: nancy.allard@nara.gov

RIN: 3095–AB05

National Archives and Records Administration (NARA) — Proposed Rule Stage

3842. NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION GRANT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2504

CFR Citation: 36 CFR 1206

Legal Deadline: None

Abstract: NARA intends to rewrite the regulations into plain language and to make other updates and clarifications.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Federalism: Undetermined

Agency Contact: Nancy Copp, Management and Program Analyst, National Archives and Records Administration, Room 111, NHPRC, 700 Pennsylvania Avenue NW., Washington, DC 20408-0001
Phone: 202 501-5603
Fax: 202 501-5601
Email: nancy.copp@.nara.gov

RIN: 3095–AA93

3843. RESEARCH ROOM PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2101 to 2118

CFR Citation: 36 CFR 1254.6

Legal Deadline: None

Abstract: NARA proposes to amend its regulations on use of NARA research rooms to add to policy on use of public access personal computers (workstations) in the research rooms. We are also clarifying that, in research rooms where the plastic researcher identification card is also used with the facility's security system, we will issue a plastic card to researchers who have a paper card from another NARA facility. This proposed rule will affect researchers who use NARA research facilities nationwide.

Timetable:

Action	Date	FR Cite
NPRM	09/07/01	66 FR 46752
NPRM Comment Period End	11/06/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360

NARA — Proposed Rule Stage

Email: nancy.allard@nara.gov
RIN: 3095–AB01

3844. EXPANDING TRANSFER OPTIONS FOR ELECTRONIC RECORDS

Priority: Other Significant

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1228.270

Legal Deadline: None

Abstract: For agencies transferring electronic records to the National Archives of the United States, this rule would add certain magnetic tape cartridges with a storage capacity of up to 40GB to the list of acceptable transfer media. In addition, media-less transfer using File Transfer Protocol and the Internet will be added as an acceptable transfer mechanism.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@nara.gov

RIN: 3095–AB03

3845. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Other Significant

Legal Authority: 44 USC 2104(a); EO 12549; EO 12698; 31 USC 6101 note

CFR Citation: 36 CFR 1209; 36 CFR 1211

Legal Deadline: None

Abstract: This rule will modify the Governmentwide nonprocurement common rule for debarment and suspension and the Governmentwide rule implementing the Drug-Free Workplace Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@nara.gov

RIN: 3095–AB04

3846. • MICROGRAPHIC RECORDS MANAGEMENT

Priority: Other Significant

Legal Authority: 44 USC 2907; 44 USC 3302; 44 USC 3312

CFR Citation: 36 CFR 1230

Legal Deadline: None

Abstract: This rulemaking updates the micrographic industry standards incorporated by reference and rewrites the regulation in plain language.

Timetable:

Action	Date	FR Cite
NPRM	09/11/01	66 FR 47125
NPRM Comment Period End	11/13/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@nara.gov

RIN: 3095–AB06

3847. • NIXON PRESIDENTIAL MATERIALS; REPRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2111 Note

CFR Citation: 36 CFR 1275

Legal Deadline: None

Abstract: NARA is updating regulations affecting research use of the Nixon Presidential Materials in NARA custody to reflect a change in the 1996 Nixon Tapes Settlement Agreement. Beginning April 20, 2001, NARA may make available for sale and copying all tape recordings of conversations from the Nixon Presidency that have been released.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@nara.gov

RIN: 3095–AB07

3848. • NARA FACILITIES; ADDRESSES AND HOURS

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1253

Legal Deadline: None

Abstract: NARA is updating addresses and hours of operations for its nationwide facilites.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kimberly Richardson, Policy Specialist, National Archives and Records Administration, 4100, 8601 Adelphi Road, College Park, MD
Phone: 301 713-7360
Fax: 301 713-7270
Email: kimberly.richardson@nara.gov

RIN: 3095–AB08

NARA

Proposed Rule Stage

3849. • NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

Legal Authority: 44 USC 2104(a); 42 USC 2000d to 2000d-7; E0 12250

CFR Citation: 36 CFR 1213

Legal Deadline: None

Abstract: NARA is adopting Governmentwide regulations on nondiscrimination on the grounds of race, color, or national origin in any program or activity receiving Federal financial assistance from NARA. These regulations will affect the National Historical Publications and Records Commission grant program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Federalism: Undetermined

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@nara.gov

RIN: 3095–AB09

3850. • REVISION OF NARA RESEARCH ROOM PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1254

Legal Deadline: None

Abstract: NARA is updating and revising in plain language its regulations concerning use of records and donated historical materials in NARA research rooms.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Davis Heaps, Policy Specialist, National Archives and Records Administration, 4100, 8601 Adelphi Road, College Park, MD
Phone: 301 713-7360
Fax: 301 713-7270
Email: jennifer.heaps@nara.gov

RIN: 3095–AB10

3851. • RESTRICTIONS ON THE USE OF RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2101 to 2118; 22 USC 1461(b)

CFR Citation: 36 CFR 1256

Legal Deadline: None

Abstract: NARA is updating and rewriting in plain language its regulations on statutory and other restrictions on access to archival records and donated historical materials transferred to the National Archives of the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Davis Heaps, Policy Specialist, National Archives and Records Administration, 4100, 8601 Adelphi Road, College Park, MD
Phone: 301 713-7360
Fax: 301 713-7270
Email: jennifer.heaps@nara.gov

RIN: 3095–AB11

3852. • NARA OFFICIAL SEALS

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(e); 44 USC 2116(b); 44 USC 2302

CFR Citation: 36 CFR 1200

Legal Deadline: None

Abstract: NARA is reviewing its regulation on its official seals and how they may be used. The regulations will be rewritten in plain language.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Kimberly Richardson, Policy Specialist, National Archives and Records Administration, Room 4100, 8601 Adelphi Road, College Park, MD 20602-6001
Phone: 301 713-7360
Fax: 301 713-7270
Email: kimberly.richardson@nara.gov

RIN: 3095–AB12

National Archives and Records Administration (NARA)

Final Rule Stage

3853. DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5514; 31 USC 3701 to 3719

CFR Citation: 36 CFR 1201

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures for implementing the Debt Collection Improvement Act of 1996. It provides for the collection, compromise, or termination of debts owed to the United States and NARA by adopting the Federal Claims Collection Standards promulgated by the Department of the Treasury and Department of Justice.

NARA — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	
Interim Final Rule Effective	02/00/02	
Interim Final Rule Comment Period End	03/00/02	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: Merged with 3095-AA76, Collection of Debts Owed to the United States by NARA Employees

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, Room 3110, NGC, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
Fax: 301 713-6040
Email: christopher.runkel@nara.gov

RIN: 3095–AA77

3854. PRESIDENTIAL LIBRARY FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2112

CFR Citation: 36 CFR 1281

Legal Deadline: None

Abstract: NARA is issuing regulations relating to the acceptance of a Presidential library facility by the Archivist of the United States from a non-Federal group or institution. The regulations will address requirements in the Presidential Libraries Act of 1986 for architectural and design standards, certifications, and reporting to Congress.

Timetable:

Action	Date	FR Cite
NPRM	08/25/98	63 FR 45203
NPRM Comment Period End	10/26/98	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@nara.gov

RIN: 3095–AA82

3855. IMPLEMENTATION OF OMB CIRCULAR A-110, SECTION 36

Priority: Other Significant

Legal Authority: 5 USC 301

CFR Citation: 36 CFR 1210

Legal Deadline: None

Abstract: This rule will incorporate the provisions of OMB Circular A-110, section 36, regarding the availability of data produced under an award through the Freedom of Information Act (FOIA) into our NHPRC grants administration regulation at 36 CFR part 1210.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/00	65 FR 14406
Interim Final Rule Comment Period End	05/15/00	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Federal

Federalism: Undetermined

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@nara.gov

RIN: 3095–AA96

3856. PRIVACY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 5 USC 552a

CFR Citation: 36 CFR 1202

Legal Deadline: None

Abstract: NARA is revising its Privacy Act regulations to put them in plain language. No substantive changes will be made.

Timetable:

Action	Date	FR Cite
NPRM	06/05/01	66 FR 30134
NPRM Comment Period End	08/06/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@nara.gov

RIN: 3095–AA99

3857. RECORDS DISPOSITION

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC ch 5; 44 USC ch 21; 44 USC ch 29; 44 USC ch 33

CFR Citation: 36 CFR 1228.32; 36 CFR 1228.42; 36 CFR 1228.50; 36 CFR 1228.106; 36 CFR 1232.20; 36 CFR 1232.32; 36 CFR 1220; 36 CFR 1228; 36 CFR 1232; 36 CFR 1234; 36 CFR 1236

Legal Deadline: None

Abstract: This rule will update the procedures for Federal agencies' submission of printed or published records schedules to NARA; modify the applicability of new General Records Schedule items to records previously scheduled by individual agencies, and make corrections to cross-references.

Timetable:

Changes in Disposition Procedures
NPRM 07/17/01 (66 FR 37202)
NPRM Comment Period End 09/17/01
Final Action 12/00/01
Final Action Effective 01/00/02

Technical Corrections
Final Action 05/16/01 (66 FR 27026)
Final Action Effective 06/15/01

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@nara.gov

RIN: 3095–AB02

National Archives and Records Administration (NARA) — **Long-Term Actions**

3858. LIMITATIONS ON TESTIMONY BY NARA EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 44 USC 2104; 44 USC 2108; 44 USC 2109; 44 USC 2112; 44 USC 2201 to 2207

CFR Citation: 36 CFR 1201; 36 CFR 1250; 36 CFR 1254

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures with respect to testimony by NARA staff and/or production of information and records in legal proceedings not involving the United States or NARA as a named party.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, Room 3110, NGC, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
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Email: christopher.runkel@.nara.gov

RIN: 3095–AA75

National Archives and Records Administration (NARA) — **Completed Actions**

3859. CREATION AND MAINTENANCE OF FEDERAL RECORDS

Priority: Other Significant

CFR Citation: 36 CFR 1222

Completed:

Reason	Date	FR Cite
Withdrawn	08/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard
Phone: 301 713-7360
Email: nancy.allard@nara.gov

RIN: 3095–AA61

[FR Doc. 01–23855 Filed 11–30–01; 8:45 am]
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December 3, 2001

Part XXX

National Foundation on the Arts and the Humanities

Institute of Museum and Library Services
Semiannual Regulatory Agenda

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

45 CFR Ch. XI

Semiannual Regulatory Agenda

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to Executive Order 12866 and the Regulatory Planning and Review Act, the Institute of Museum and Library Services publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, 1100 Pennsylvania Avenue NW., Washington, DC 20506, Email nweiss@imls.gov or call (202) 606-5414.

Nancy E. Weiss,

General Counsel.

Institute of Museum and Library Services (IMLS) — Proposed Rule Stage

3860. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Priority: Substantive, Nonsignificant

Legal Authority: EO 12866

CFR Citation: 45 CFR 1185; 45 CFR 1186

Legal Deadline: None

Abstract: The proposed rule simplifies the language of the current Governmentwide debarment and suspension (nonprocurement) regulations; clarifies the scope of debarment and suspension coverage and reporting requirements, and separates out the rules concerning maintenance of a drug-free workplace.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, Suite 802, 1100 Pennsylvania Avenue NW., Washington, DC 20506
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TDD Phone: 202 606-8636
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Email: nweiss@imls.gov

RIN: 3137–AA14

Institute of Museum and Library Services (IMLS) — Final Rule Stage

3861. IMPLEMENTATION OF TITLE IX OF THE EDUCATION ACT AMENDMENTS OF 1972

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1681 to 1683; 20 USC 1685 to 1686

CFR Citation: 45 CFR 1182

Legal Deadline: None

Abstract: Regulations will implement title IX of the Education Act Amendments of 1972, which ensure equality on the basis of sex in education programs and activities receiving Federal financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	10/29/99	64 FR 58567
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Additional Information: Previously reported as completed in the October 2000 edition.

Agency Contact: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, Suite 802, 1100 Pennsylvania Avenue NW., Washington, DC 20506
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RIN: 3137–AA10

3862. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR AND NATIONAL ORIGIN IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000d to 2000d-7

CFR Citation: 45 CFR 1110.1 to 1110.13

Legal Deadline: None

Abstract: The Institute of Museum and Library Services proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI). This statute prohibits discrimination on the basis of race, color and national origin in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of "program or activity" and "program" into the Institute's title VI regulations. The Institute's proposed regulation will be published as part of a joint Notice of Proposed Rulemaking involving up to 24 Federal agencies.

IMLS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, Suite 802, 1100 Pennsylvania Avenue NW., Washington, DC 20506
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TDD Phone: 202 606-8636
Fax: 202 606-1077
Email: nweiss@imls.gov

RIN: 3137–AA13

Institute of Museum and Library Services (IMLS) **Long-Term Actions**

3863. NATIONAL LEADERSHIP DEMONSTRATION GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 262, Museum and Library Services Act

CFR Citation: 45 CFR 1180

Legal Deadline: None

Abstract: Regulations will be published to provide guidelines on IMLS National Demonstration Leadership Grants to enhance quality of library services nationwide and to provide coordination between museums and libraries.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, Suite 802, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 606-5414
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Fax: 202 606-1077
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RIN: 3137–AA08

3864. IMPLEMENTATION OF THE ELECTRONIC FREEDOM OF INFORMATION ACT AMENDMENTS OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 45 CFR 1100.5

Legal Deadline: None

Abstract: Regulations will implement the Electronic Freedom of Information Act Amendments of 1996, which facilitate public requests for information.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, Suite 802, 1100 Pennsylvania Avenue NW., Washington, DC 20506
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Email: nweiss@imls.gov

RIN: 3137–AA12

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Monday,
December 3, 2001

Part XXXI

National Foundation on the Arts and the Humanities

National Endowment for the Arts
Semiannual Regulatory Agenda

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Ch. XI

Semiannual Regulatory Agenda

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605) and Executive Order 12866, the National Endowment for the Arts publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Karen Elias, Deputy General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 682-5418.

Karen Elias,

Deputy General Counsel.

National Endowment for the Arts (NEA) — Final Rule Stage

3865. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794; 42 USC 2000d-7; 41 USC 6101; EO 12250

CFR Citation: 45 CFR ch XI

Legal Deadline: None

Abstract: The National Endowment for the Arts proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of "program or activity" and "program" into the Arts Endowment's title VI, section 504, and Age Discrimination Act regulations. The Arts Endowment's proposed regulation will be published as part of the Department of Justice's joint notice of proposed rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Karen Elias, Deputy General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 682-5418
Fax: 202 682-5572
Email: eliask@arts.endow.gov

RIN: 3135–AA17

National Endowment for the Arts (NEA) — Long-Term Actions

3866. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES; EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1140

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Karen Elias
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RIN: 3135–AA10

3867. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority: Other Significant

CFR Citation: 45 CFR 1155

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Hope O'Keeffe
Phone: 202 682-5418
Fax: 202 682-5572
Email: okeeffeh@arts.endow.gov

RIN: 3135–AA15

3868. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1154

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

NEA

Long-Term Actions

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Karen Elias
Phone: 202 682-5418
Fax: 202 682-5572
Email: eliask@arts.endow.gov

RIN: 3135–AA18

3869. GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1155

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Karen Elias
Phone: 202 682-5418
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RIN: 3135–AA19

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Part XXXII

National Foundation on the Arts and the Humanities

National Endowment for the Humanities
Semiannual Regulatory Agenda

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NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, and Executive Order 12866, "Regulatory Planning and Review," dated September 30, 1993, the National Endowment for the Humanities is required to publish in April and October of each year, an agenda of proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Laura S. Nelson, Acting General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506; (202) 606-8322.

Lynne A. Munson,

Deputy Chairman, National Endowment for the Humanities.

National Endowment for the Humanities (NEH) — Final Rule Stage

3870. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000d to 2000d-7; 29 USC 794

CFR Citation: 45 CFR 1110; 45 CFR 1170

Legal Deadline: None

Abstract: The National Endowment for the Humanities (NEH) proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI) and Section 504 of the Rehabilitation Act of 1972 (section 504). Together, these statutes prohibit discrimination on the basis of race, color, national origin, and disability in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of "program or activity" and "program" into the NEH's title VI and section 504 regulations. The NEH's proposed regulations will be published as part of a joint Department of Justice Notice of Proposed Rulemaking.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Laura S. Nelson, Acting General Counsel, National Endowment for the Humanities, Room 530, 1100 Pennsylvania Avenue NW., Washington, DC 20506
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Email: lnelson@neh.gov

RIN: 3136–AA24

National Endowment for the Humanities (NEH) — Long-Term Actions

3871. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1110; 45 CFR 1173

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Laura S. Nelson
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA11

3872. IMPLEMENTATION OF TITLE IX OF THE EDUCATION ACT AMENDMENTS OF 1972

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1171

Timetable:

Action	Date	FR Cite
NPRM	10/29/99	64 FR 58568
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura S. Nelson
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA14

3873. PRIVACY ACT REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1115

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Laura S. Nelson
Phone: 202 606-8322

TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA18

3874. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 8501

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura S. Nelson
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA21

3875. STANDARDS OF CONDUCT OF EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1105

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura S. Nelson
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA22

3876. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Priority: Info./Admin./Other

Legal Authority: EO 12549 (3 CFR 1986, comp. p. 189); EO 12698 (3 CFR 1989, comp. p. 235); PL 103-355, sec 2455; 108 Stat 3327 (31 USC 6101 note); 20 USC 959(a)(1)

CFR Citation: 45 CFR 1169

Legal Deadline: None

Abstract: This part adopts a Governmentwide system of debarment and suspension for NEH nonprocurement activities. It also provides for reciprocal exclusion of persons who have been excluded under the Federal Acquisition Regulation, and provides for the consolidated listing of all persons who are excluded, or disqualified by statute, executive order, or other legal authority.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura S. Nelson, Acting General Counsel, National Endowment for the Humanities, Room 530, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA25

3877. • GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Info./Admin./Other

Legal Authority: 41 USC 701 et seq; 20 USC 959(a)(1)

CFR Citation: 45 CFR 1173

Legal Deadline: None

Abstract: This part carries out the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq., as amended) that applies to grants. It also applies the provisions of the Act to cooperative agreements and other financial assistance awards, as a matter of Federal Government policy.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura S. Nelson, Acting General Counsel, National Endowment for the Humanities, Room 530, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA26

[FR Doc. 01–28101 Filed 11–30–01; 8:45 am]

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Part XXXIII

National Science Foundation

Semiannual Regulatory Agenda

NATIONAL SCIENCE FOUNDATION (NSF)

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Regulatory Agenda

AGENCY: National Science Foundation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Science Foundation is publishing its October 2001 regulatory agenda pursuant to Executive Order 12866, "Regulatory Planning and Review" (3 CFR 1993 Comp., p. 638); the Regulatory Flexibility Act (5 U.S.C. 601-612); and the Office of Management and Budget Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions (July 10, 2001).

FOR FURTHER INFORMATION CONTACT: For further information on a particular item, call or write the individual identified as agency contact. General comments or inquiries about this agenda may be directed to Joan Ahl, Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 292-8060.

Dated: September 17, 2001.

Lawrence Rudolph,

General Counsel.

National Science Foundation (NSF) — Proposed Rule Stage

3878. • RESEARCH MISCONDUCT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1861 et seq

CFR Citation: 45 CFR 689

Legal Deadline: None

Abstract: Revision to existing misconduct in science and engineering regulations in 45 CFR part 689 to implement OSTP's Federal Policy on Research Misconduct.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Anita Eisenstadt, Assistant General Counsel, National Science Foundation, Room 1265, Office of the General Counsel, 4201 Wilson Boulevard, Arlington, VA 22230
Phone: 703 292-8060
Fax: 703 292-9041
Email: aeisenst@nsf.gov

RIN: 3145–AA39

National Science Foundation (NSF) — Final Rule Stage

3879. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1681 to 1683; 20 USC 1685 to 1688

CFR Citation: 45 CFR 618

Legal Deadline: None

Abstract: The National Science Foundation proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definitions of "program or activity" and "program" into the Department's title VI, section 504, and Age Discrimination Act regulations. The Foundation's proposed regulation will be published as part of a joint notice of proposed rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	11/00/01	
Final Action Effective	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Bijan Gilanshah, Assistant General Counsel, National Science Foundation, Room 1265, 4201 Wilson Boulevard, Arlington, VA 22230
Phone: 703 292-8060
Fax: 703 292-9041
Email: bgilansh@nsf.gov

RIN: 3145–AA38

National Science Foundation (NSF) **Completed Actions**

3880. ENFORCEMENT AND HEARING PROCEDURES; TOURISM GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 673

Completed:

Reason	Date	FR Cite
Final Rule	08/13/01	66 FR 42451

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anita Eisenstadt
Phone: 703 292-8060
Fax: 703 292-9041
Email: aeisenst@nsf.gov

RIN: 3145–AA36

[FR Doc. 01–23857 Filed 11–30–01; 8:45 am]
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Part XXXIV

Office of Federal Housing Enterprise Oversight

Semiannual Regulatory Agenda

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO)

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

12 CFR Ch. XVII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of Federal Housing Enterprise Oversight.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication of a semiannual agenda of regulations.

FOR FURTHER INFORMATION CONTACT: Alfred M. Pollard, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552, (202) 414-3788.

Dated: August 15, 2001.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

Office of Federal Housing Enterprise Oversight (OFHEO) — Proposed Rule Stage

3881. MINIMUM CAPITAL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4612

CFR Citation: 12 CFR 1750

Legal Deadline: None

Abstract: OFHEO is proposing an amendment that will update the minimum capital regulation to accommodate changes in Generally Accepted Accounting Principles, clarify reporting requirements, and make supervisory monitoring of capital more transparent.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dorothy J. Acosta, Deputy General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3748

RIN: 2550–AA18

3882. CORPORATE GOVERNANCE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4513; 12 USC 4631; 12 USC 4632

CFR Citation: 12 CFR 1710

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) is responsible for ensuring the safety and soundness of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (Enterprises). In furtherance of that responsibility, OFHEO is proposing a regulation to set forth minimum requirements with respect to corporate governance practices and procedures of the Enterprises.

Timetable:

Action	Date	FR Cite
NPRM	04/10/01	66 FR 18709
NPRM Withdrawn	04/20/01	66 FR 20217
NPRM	09/12/01	66 FR 47557
NPRM Comment Period End	11/13/01	
NPRM Comment Period Extended	12/13/01	66 FR 56619

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Alfred M. Pollard, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3788
Email: apollard@ofheo.gov

RIN: 2550–AA20

3883. • FLOOD INSURANCE

Priority: Info./Admin./Other

Legal Authority: 12 USC 4521(a)(4); 42 USC 4001 note; 28 USC 2461 note; 42 USC 4012a(f)(3), (4), (8), (10); 12 USC 4513; 12 USC 4536(a)

CFR Citation: 12 CFR 1773

Legal Deadline: None

Abstract: OFHEO is proposing to codify the authority and responsibility of OFHEO to oversee and enforce the statutory requirements affecting the operations of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under the National Flood Insurance Reform Act of 1994, and to effect congressionally mandated adjustments to the civil money penalties applicable to violations of that law.

Timetable:

Action	Date	FR Cite
NPRM	09/12/01	66 FR 47563
NPRM Comment Period End	10/12/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Alfred M. Pollard, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3788
Email: apollard@ofheo.gov

RIN: 2550–AA21

3884. • SAFETY AND SOUNDNESS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4513(a); 12 USC 4513(b)(1) to (b)(5); 12 USC 4517(a); 12 USC 4521(a)(2) to (a)(3); 12 USC 4631; 12 USC 4632; 12 USC 4636

CFR Citation: 12 CFR 1720

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) is proposing a regulation to increase transparency and public awareness of the supervisory standards that OFHEO applies in overseeing the safety and soundness of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. Two policy guidances are attached to the proposed rule—one sets forth minimum

OFHEO — **Proposed Rule Stage**

safety and soundness requirements, and the other sets forth standards for financial information systems.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Alfred M. Pollard, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3788
Email: apollard@ofheo.gov

RIN: 2550–AA22

3885. • RISK-BASED CAPITAL

Priority: Other Significant

Legal Authority: 12 USC 4513; 12 USC 4514; 12 USC 4611; 12 USC 4612; 12 USC 4614

CFR Citation: 12 CFR 1750

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight is proposing to amend appendix A to subpart B of 12 CFR part 1750 "Risk-Based Capital" to modify provisions relating to counterparty haircuts, modeling of multifamily loans, and refunding and to make several technical adjustments and enhancements. These amendments are intended to refine the stress test model to tie capital more closely to risk.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dorothy J. Acosta, Deputy General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3748

RIN: 2550–AA23

Office of Federal Housing Enterprise Oversight (OFHEO) — **Final Rule Stage**

3886. PROMPT SUPERVISORY RESPONSE AND PROMPT CORRECTIVE ACTION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1452(b)(2); 12 USC 1456(c); 12 USC 1718(c)(2); 12 USC 1723a(k); 12 USC 4513(a),(b); 12 USC 4514; 12 USC 4517; 12 USC 4611 to 4619; 12 USC 4622 to 4623; 12 USC 4631; 12 USC 4635; ...

CFR Citation: 12 CFR 1777

Legal Deadline: None

Abstract: The proposed regulation will implement 12 U.S.C. 4611-4619 and 4622-4623, requiring classification of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (the Enterprises) according to their capital ratios, with mandatory action to be taken if classified as less than 'adequately capitalized.' Certain other actions may also be required under the proposed regulation whenever specified developments occur that warrant special supervisory review by OFHEO.

Timetable:

Action	Date	FR Cite
NPRM	04/10/01	66 FR 18702
NPRM Comment Period End	07/09/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Alfred M. Pollard, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3788
Email: apollard@ofheo.gov

RIN: 2550–AA12

Office of Federal Housing Enterprise Oversight (OFHEO) — **Long-Term Actions**

3887. RISK-BASED CAPITAL

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 12 USC 4513; 12 USC 4514; 12 USC 4611 to 4612; 12 USC 4614; 12 USC 4618

CFR Citation: 12 CFR 1750

Legal Deadline: Final, Statutory, December 1, 1994.

Abstract: The final regulation specifies the risk-based capital stress test that is used to determine the amount of capital the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (the Enterprises) must each hold to maintain positive capital throughout a 10-year period of economic stress. The results of the risk-based capital stress test will be used to determine each Enterprise's risk-based capital requirements and, along with the minimum capital requirement, to determine each Enterprise's capital classification for purposes of possible supervisory action.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/95	60 FR 7468
ANPRM Comment Period End	05/09/95	
NPRM	06/11/96	61 FR 29592
NPRM Comment Period Extended	08/19/96	61 FR 42824
Second NPRM	04/13/99	64 FR 18083
Second NPRM Comment Period Extended	06/14/99	64 FR 31756
Availability of Supplemental Information	06/18/99	64 FR 32828

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OFHEO — Long-Term Actions

Second NPRM Comment Period Extended	10/19/99	64 FR 56274
Solicitation of Reply Comments	03/13/00	65 FR 13251
Final Rule	09/13/01	66 FR 47730
Final Rule Effective	09/13/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dorothy J. Acosta, Deputy General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3748

RIN: 2550–AA02

3888. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

Priority: Info./Admin./Other

Legal Authority: 29 USC 794

CFR Citation: 12 CFR 1706

Legal Deadline: None

Abstract: The proposed regulation will implement section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of disability in programs or activities conducted by OFHEO.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Isabella W. Sammons, Associate General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3790

RIN: 2550–AA11

Office of Federal Housing Enterprise Oversight (OFHEO) — Completed Actions

3889. EXECUTIVE COMPENSATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1452(h)(2); 12 USC 1723a(d)(3)(B); 12 USC 4501(6); 12 USC 4502(3),(7); 12 USC 4513 to 4514; 12 USC 4517 to 4518(a); 12 USC 4631 to 4632; 12 USC 4636; 12 USC 4641; ...

CFR Citation: 12 CFR 1770

Legal Deadline: None

Abstract: This regulation clarifies the procedures OFHEO uses in overseeing compensation provided by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (the Enterprises) to their executive officers. It largely formalizes processes currently used by OFHEO in performing its executive compensation oversight responsibilities by requiring the timely submission of relevant information by the Enterprises.

Timetable:

Action	Date	FR Cite
NPRM	12/27/00	65 FR 81771
NPRM Comment Period End	03/27/01	
Final Action	09/12/01	66 FR 47550
Final Action Effective	10/29/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Christine C. Dion, Associate General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3838

RIN: 2550–AA13

[FR Doc. 01–23858 Filed 11–30–01; 8:45 am]
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December 3, 2001

Part XXXV

Office of Government Ethics

Semiannual Regulatory Agenda

OFFICE OF GOVERNMENT ETHICS (OGE)

OFFICE OF GOVERNMENT ETHICS

5 CFR Ch. XVI

Semiannual Regulatory Agenda, October 2001

AGENCY: Office of Government Ethics.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Government Ethics (OGE) substantive and procedural regulations are scheduled for development or review during the period from October 1, 2001 through September 30, 2002. This agenda fulfills OGE's responsibility to publish a semiannual regulatory agenda under Executive Order 12866.

Regulatory Planning and Review, and has been prepared in accordance with guidance received from the Office of Management and Budget. None of the OGE regulations in this agenda will have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. chapter 6. In addition, none of the listed OGE regulatory actions is procurement-related. Furthermore, the Office of Government Ethics' rulemakings are not included in the Regulatory Plan that is published each fall.

This publication in the **Federal Register** does not impose a binding obligation on the Office of Government Ethics with respect to any particular item on its agenda. The dates shown for the future steps of each action are estimates and not commitments to act by the date shown. Moreover, other OGE regulatory actions, in addition to the entries listed, are not precluded.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917; Telephone: (202) 208-8000, ext. 1110; TDD: (202) 208-8025; Fax: (202) 208-8037.

Approved: September 21, 2001.

Amy L. Comstock,

Director, Office of Government Ethics.

Office of Government Ethics—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3890	Office of Government Ethics Gift Acceptance Authority and Organizational Update	3209-AA21
3891	Privacy Act Rules of the Office of Government Ethics	3209-AA18
3892	Testimony by OGE Employees and Production of Official Records in Legal Proceedings	3209-AA23
3893	Interpretation of 18 U.S.C. 209, the Constraint Against Private Supplementation of Salaries of Executive Branch Officials and Employees	3209-AA12

Office of Government Ethics—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3894	Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture	3209-AA00
3895	Standards of Ethical Conduct for Employees of the Executive Branch	3209-AA04
3896	Limitations on Outside Earned Income, Employment and Affiliations for Certain Noncareer Employees	3209-AA13
3897	Executive Agency Ethics Training Programs	3209-AA07
3898	Interpretation, Exemptions, and Waiver Guidance Concerning 18 U.S.C. 208 (Acts Affecting a Personal Financial Interest)	3209-AA09
3899	Post-Employment Conflict of Interest Restrictions	3209-AA14

Office of Government Ethics—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3900	Executive Agency Supplemental Standards of Ethical Conduct Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA15

Office of Government Ethics (OGE) **Proposed Rule Stage**

3890. OFFICE OF GOVERNMENT ETHICS GIFT ACCEPTANCE AUTHORITY AND ORGANIZATIONAL UPDATE

Priority: Other Significant

Legal Authority: 5 USC app, Ethics in Government Act of 1978

CFR Citation: 5 CFR 2600

Legal Deadline: None

Abstract: This regulation will implement the agency gift acceptance authority of the Office of Government Ethics as set forth in the 1996 OGE Authorization Act. In addition, various provisions of OGE's part 2600 organization and functions regulation will be updated to reflect changes in OGE's organizational structure. This regulation will be written in "plain language."

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
NPRM Comment Period End	07/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James P. O'Sullivan, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA21

3891. PRIVACY ACT RULES OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Other Significant

Legal Authority: 5 USC 552a; 5 USC app, Ethics in Government Act of 1978

CFR Citation: 5 CFR 2606 (New)

Legal Deadline: None

Abstract: This proposed rule would establish for the Office of Government Ethics (OGE) regulatory procedures to implement the Privacy Act of 1974, including requests for access and amendment and appeals, and would reference certain OGE systems of records (which will also be updated and revised).

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Elaine Newton, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA18

3892. TESTIMONY BY OGE EMPLOYEES AND PRODUCTION OF OFFICIAL RECORDS IN LEGAL PROCEEDINGS

Priority: Other Significant

Legal Authority: 5 USC app, Ethics in Government Act of 1978

CFR Citation: 5 CFR 2608 (New)

Legal Deadline: None

Abstract: This proposed rule would set forth proposed OGE procedures for responding to subpoenas and other requests and demands for testimony by OGE employees and documentary production relating to official OGE information and records (Touhy regulations).

Timetable:

Action	Date	FR Cite
NPRM	09/24/01	66 FR 48824
NPRM Comment Period End	11/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA23

3893. INTERPRETATION OF 18 U.S.C. 209, THE CONSTRAINT AGAINST PRIVATE SUPPLEMENTATION OF SALARIES OF EXECUTIVE BRANCH OFFICIALS AND EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app, Ethics in Government Act of 1978; EO 12674; EO 12731; 18 USC 209

CFR Citation: 5 CFR 2639 (New)

Legal Deadline: None

Abstract: Proposed regulation to interpret section 209 of title 18, U.S. Code, prohibiting the private supplementation of the Government salary of executive branch officers and employees. This regulation is being written in "plain language."

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Andrew Falcon, Associate General Counsel, Office of Government Ethics, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA12

Office of Government Ethics (OGE) — **Final Rule Stage**

3894. EXECUTIVE BRANCH FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731; 26 USC 1043; 28 USC 2461 note; PL 101-410; PL 104-134, sec 31001

CFR Citation: 5 CFR 2634

Legal Deadline: None

Abstract: Regulation revising the executive branch public and confidential financial disclosure report systems for high-level officials and certain mid-level employees, respectively, in light of the changes to the Ethics in Government Act effected by the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. These disclosure provisions apply to public reports filed since January 1, 1991. Subpart I of the regulation, effective October 5, 1992, superseded prior executive branchwide and agency-specific regulations and established a revised system of confidential reporting, modeled generally on the public reporting system, for executive branch agency mid-level employees with sensitive duties and special Government employees. This regulation also has a subpart dealing with certificates of divestiture.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43359
Interim Final Rule	04/07/92	57 FR 11800
Correction	05/22/92	57 FR 21854
Correction	12/31/92	57 FR 62605
Revised Interim Final Rule	07/21/93	58 FR 38911
Proposed Amendment to Interim Final Rule	09/01/93	58 FR 46096
Technical Amendments to Interim Final Rule	11/30/93	58 FR 63023
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Proposed Amendments-Certificates of No New Interests for Confidential Filers	01/15/97	62 FR 2048
Final Amendment-Certificates of No New Interests for Confidential Filers	06/24/97	62 FR 33972
Updating Amendment to Part 2634	09/17/97	62 FR 48746
Clarifying Amendment to Section 2634.906	03/31/98	63 FR 15273
Minor Amdt. to Part 2634 (Transfer of Inactive in Lieu of Honoraria Charitable Paymts. Reporting)	08/12/98	63 FR 43067
Paperwork Revisions to Appendixes A, B, and C	11/02/98	63 FR 58619
Technical Amendments to Part 2634	12/18/98	63 FR 69991
Technical Corrections to Part 2634	01/14/99	64 FR 2421
Proposed Gifts Reporting Waiver Amendments	05/13/99	64 FR 25849
Inflation Adjustments to Civil Monetary Penalties as Reflected in Part 2634	08/30/99	64 FR 47095
Final Gifts Reporting Waiver Amendments	09/14/99	64 FR 49639
Technical Amendments to Categories of Value Reporting and Gifts/ Reimbursements Thresholds	11/20/00	65 FR 69655
Final Rule Amendment to Confer Additional Agency Confidential Report Filing Extension Authority	11/05/01	66 FR 55871
Final Rule Amendment to Clarify OGE Intent on Sole & Exclusive Agency Authority Conferred Under Reg.	03/00/02	
Proposed Certificates of Divestiture Revisions (Subpart J)	07/00/02	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA00

3895. STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

Priority: Other Significant

Legal Authority: 5 USC 7301; 5 USC 7351; 5 USC 7353; 5 USC app, Ethics in Government Act of 1978; EO 12674; EO 12731

CFR Citation: 5 CFR 2635

Legal Deadline: None

Abstract: Regulation implementing certain provisions of E.O. 12674 on Principles of Ethical Conduct, as modified by E.O. 12731, and the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Effective February 3, 1993, this ethical conduct standards regulation generally superseded executive branch employee conduct and gifts rules, as well as pertinent portions of agency-specific conduct regulations issued under prior E.O. 11222. For certain existing agency regulatory standards setting forth financial interest prohibitions and prior approval for outside employment/activities, an extended grace period was in effect until November 1, 1996, or until individual concerned agencies issued supplemental regulations, with Office of Government Ethics concurrence.

Timetable:

Action	Date	FR Cite
NPRM	07/23/91	56 FR 33778
NPRM Comment Period End	09/20/91	
Final Overall Regulation on Standards of Ethical Conduct	08/07/92	57 FR 35006
Correction	10/27/92	57 FR 48557
Correction	11/04/92	57 FR 52583
5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/94	59 FR 4779
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/95	60 FR 6390
NPRM on Widely Attended Gatherings	06/15/95	60 FR 31415
Minor Correction to One Citation	10/03/95	60 FR 51667
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	12/27/95	60 FR 66857
Further Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	08/07/96	61 FR 40950

OGE

Final Rule Stage

Action	Date	FR Cite
Final Rule on Widely Attended Gatherings	08/20/96	61 FR 42965
Correction to Final Rule on Widely Attended Gatherings	09/16/96	61 FR 48733
Interim Rule on Gifts From Political Organizations	09/27/96	61 FR 50689
Final Rule on Gifts From Political Organizations	03/17/97	62 FR 12531
Updating Amendments to Part 2635	09/17/97	62 FR 48746
Proposed Amendments Re: Gifts (Subpart B)	08/04/98	63 FR 41476
Further Minor Proposed Amendments to Part 2635 / Seeking Employment and Outside Activities	08/26/98	63 FR 45415
Amendments to Subpart B Gifts From Outside Sources	12/18/98	63 FR 69992
Technical Corrections to Part 2635	01/14/99	64 FR 2421
Final Amendments to Part 2635 / Seeking Employment and Outside Activities	03/17/99	64 FR 13663
Interim Rule on Travel Expenses for Certain Unofficial Teaching, Speaking and Writing	09/05/00	65 FR 53650
Correction	09/12/00	65 FR 55076
Final Technical Amendment to Nonsponsor Widely Attended Gathering Gift Dollar Ceiling	11/20/00	65 FR 69655
Final Rule on Travel Expenses for Certain Unofficial Teaching, Speaking and Writing	11/00/01	
Final Rule Amendment to Clarify OGE Intent on Sole & Exclusive Agency Authority Conferred Under Reg.	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA04

3896. LIMITATIONS ON OUTSIDE EARNED INCOME, EMPLOYMENT AND AFFILIATIONS FOR CERTAIN NONCAREER EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app, Ethics in Government Act of 1978; EO 12674; EO 12731; 28 USC 2461 note; PL 101-410; PL 104-134, sec 31001

CFR Citation: 5 CFR 2636

Legal Deadline: None

Abstract: The regulation had, in pertinent part, implemented, effective January 1, 1991, the prohibition on honoraria (now declared unconstitutional by the courts as to most rank and file executive branch employees and hence determined to be eviscerated as to all other Federal employees by the Office of Legal Counsel of the Justice Department). In addition, the regulation continues to implement the limitation on outside employment as provided in the 1989 Ethics Reform Act revisions to the Ethics in Government Act, as amended. The regulation has now been amended in light of the above-noted litigation and other pertinent developments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/17/91	56 FR 1721
Deferral of Effective Date of 5 CFR 2636.205	05/10/91	56 FR 21589
Additional Deferral of Effective Date of 5 CFR 2636.205	10/11/91	56 FR 51319
Revision of Honorarium Definition in 5 CFR 2636.203(a)	01/08/92	57 FR 601
Further Deferral of Effective Date of 5 CFR 2636.205	02/14/92	57 FR 5369
Technical Correction to Interim Final Rule	12/30/93	58 FR 69176
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Removal of Subpart B of Part 2636	08/12/98	63 FR 43067
Technical Corrections to Part 2635	01/14/99	64 FR 2421
Inflation Adjustment to Civil Monetary Penalty As Reflected in Part 2636	08/30/99	64 FR 47095
Final Rule Amendment to Clarify OGE Intent on Sole & Exclusive Agency Authority Conferred Under Reg.	03/00/02	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA13

3897. EXECUTIVE AGENCY ETHICS TRAINING PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC app, Ethics in Government Act of 1978; EO 12674; EO 12731

CFR Citation: 5 CFR 2638.701 to 2638.704

Legal Deadline: None

Abstract: Regulation specifying the responsibilities of executive branch agencies and their designated agency ethics officials to develop and implement orientation and annual ethics training courses and to distribute appropriate guidance materials to their employees under section 301(b) and (c) of E.O. 12674, as modified by E.O. 12731. The Office of Government Ethics is rewriting the entire training regulation in "plain language."

Timetable:

Action	Date	FR Cite
NPRM	09/18/90	55 FR 38335
NPRM Comment Period End	11/17/90	
Final Rule on Executive Agency Ethics Training Programs	04/07/92	57 FR 11886
Correction	04/27/92	57 FR 15219
Amendment	12/10/92	57 FR 58399
Correction	12/28/92	57 FR 61612

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Final Rule Stage

Action	Date	FR Cite
Interim Amendments to Liberalize Certain Training Requirements	03/16/94	59 FR 12145
Interim Final Rule Comment Period End	05/16/94	
Interim Amendments to Refine Certain Training Requirements	03/12/97	62 FR 11307
Correction to Interim Training Reg. Amendments	03/19/97	62 FR 13213
Correction to Interim Training Reg. Amendments	03/27/97	62 FR 14737
Interim Amendments to Refine Certain Training Requirements Comment Period End	04/11/97	62 FR 11307
Most Interim Amendments to Refine Certain Training Requirements Effective	06/10/97	62 FR 13213
Interim Amendment to Rewrite Regulation in "Plain Language" and Restructure Its Provisions	02/14/00	65 FR 7275
Final Amendment to Rewrite Regulation in "Plain Language" and Restructure Its Provisions	02/00/02	
Final Rule Amendment to Clarify OGE Intent on Sole & Exclusive Agency Authority Conferred Under Reg.	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA07

3898. INTERPRETATION, EXEMPTIONS, AND WAIVER GUIDANCE CONCERNING 18 U.S.C. 208 (ACTS AFFECTING A PERSONAL FINANCIAL INTEREST)

Priority: Other Significant

Legal Authority: 5 USC app, Ethics in Government Act of 1978; EO 12674; EO 12731; 18 USC 208

CFR Citation: 5 CFR 2640

Legal Deadline: None

Abstract: This regulation interprets section 208(a) of title 18, U.S. Code, which prohibits officers and employees of the executive branch from officially participating personally and substantially in a particular matter in which there is a personal financial interest or a financial interest of a related person or organization (absent a waiver or exemption under 18 U.S.C. 208(b)). It also lists and describes interests considered too remote or too inconsequential to affect the integrity of the services of executive branch officers or employees, in accordance with 18 U.S.C. 208(b)(2). Such interests are exempt from the restrictions of 18 U.S.C. 208(a), generally requiring disqualification. The regulation also provides guidance to executive branch agencies as to the kinds of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from an employee and which, therefore, may be waived from the general rule of disqualification under 18 U.S.C. 208(a), pursuant to 18 U.S.C. 208(b)(1). In addition, guidance is provided concerning the issuance of waivers to special Government employee advisory committee members, pursuant to 18 U.S.C. 208(b)(3). A separate interim final rule, published in 1995 exempting certain financial interests arising from Federal Government executive branch employment as well as from Social Security or veterans' benefits from the general prohibition in section 208(a), was incorporated in the overall final rule. A set of additional exemptions is now under consideration.

Timetable:

Action	Date	FR Cite
Govt. Interests and Social Security and Veterans' Benefits Exemptions Interim Final Rule	08/28/95	60 FR 44706
Overall NPRM	09/11/95	60 FR 47208
Overall NPRM Comment Period End	11/13/95	
Overall Final Rule	12/18/96	61 FR 66830
Correction	01/09/97	62 FR 1361
Overall Final Rule Effective	01/17/97	
Correction	04/29/97	62 FR 23127
Interim Census Exemption Amendment	03/29/00	65 FR 16511
Final Census Exemption Amendment	08/04/00	65 FR 47830
Proposed Additional Exemption Amendments	09/06/00	65 FR 53942
Proposed Amendments Comment Period End	12/05/00	
Final Additional Exemption Amendments	12/00/01	
Final Rule Amendment to Clarify OGE Intent on Sole & Exclusive Agency Authority Conferred Under Reg.	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA09

3899. POST-EMPLOYMENT CONFLICT OF INTEREST RESTRICTIONS

Priority: Other Significant

Legal Authority: 5 USC app, Ethics in Government Act of 1978; EO 12674; EO 12731; 18 USC 207

CFR Citation: 5 CFR 2641; 5 CFR 2637 (Continuation)

Legal Deadline: None

Abstract: Interpretive regulation giving guidance for the executive branch on the various substantive restrictions of the current version of the post-Government employment conflict of interest statute 18 U.S.C. 207, which became effective January 1, 1991, pursuant to title I of the Ethics Reform

OGE **Final Rule Stage**

Act of 1989 (Pub. L. 101-194), as amended. Parts of the regulation, dealing with procedures for waivers by the Office of Government Ethics of certain senior official constraints (based on executive agency hardship), designated senior employees, and separate agency designations, have already been published in the Federal Register; such designations are periodically updated by the Office of Government Ethics. The Office of Government Ethics also has continued to publish in the CFR the interpretive regulation, 5 CFR part 2637 (but now without the no-longer-effective former Senior Employee and old agency component designation listings), under the lifetime bar of the prior version of the post-employment law which still applies to executive branch employees who left the Government before January 1, 1991. Once a complete current post-employment law final regulation is published, the old part 2637 regulation will be removed from the CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule for One-Year Restriction of Section 207(c)	02/01/91	56 FR 3951
Designation of Senior Employees and Separate Agency Components	01/28/92	57 FR 3115
Designation of Additional Separate Agency Component	04/07/92	57 FR 11673
Amendment to Prior Post-Employment Regulation (Part 2637)	12/31/92	57 FR 62467
Amendment to Interim Final Rule (Part 2641)	06/21/93	58 FR 33755
Technical Amendment to Authority Citation of 5 CFR Part 2637	12/30/93	58 FR 69176
Technical Amendments to Interim Final Rule	07/07/94	59 FR 34755
Exempted Senior Employee and Agency Separate Component Designation Update	05/16/97	62 FR 26915
Correction: Post-Employment Reg. Update	06/11/97	62 FR 31865
Agency Separate Component Designation Update	02/05/99	64 FR 5709
Agency Separate Component Designation Update Final Rule	12/00/01	
Final Rule Amendment to Clarify OGE Intent on Sole & Exclusive Agency Authority Conferred Under Reg.	03/00/02	
Overall NPRM	03/00/02	
Overall NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA14

Office of Government Ethics (OGE) **Long-Term Actions**

3900. EXECUTIVE AGENCY SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT REGULATIONS ISSUED JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7301; 5 USC app, Ethics in Government Act of 1978; EO 12674; EO 12731; 5 CFR 2635.105

CFR Citation: 5 CFR 2635; 5 CFR ch XXI et seq

Legal Deadline: None

Abstract: The supplemental executive agency standards of ethical conduct regulations, once issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, supplement for each individual agency concerned the OGE executive branch standards of ethical conduct, as codified at 5 CFR part 2635. The supplemental regulations, as they are issued in accordance with sections 201(a) and 301(a) of E.O. 12674, as modified by E.O. 12731, set forth those agency-specific provisions under applicable law and regulation, such as regulatory restrictions on holding certain financial interests, designation of subunits and prior approval for outside employment, which are needed for certain agencies to round out the executive branchwide ethical standards for their employees.

Timetable:

Action	Date	FR Cite
FTC Employees (5 CFR Ch. XLVII) Interim Final Rule	05/27/93	58 FR 30695
OPIC Employees (5 CFR Ch. XXXIII) Interim Final Rule	06/17/93	58 FR 33319
Treasury Employees (5 CFR Ch. XXI) NPRM	08/03/93	58 FR 41193
ICC Employees (5 CFR Ch. XL) Final Rule	08/06/93	58 FR 41989
PRC Employees (5 CFR Ch. XLVI) Final Rule	08/12/93	58 FR 42839
DoD Employees (5 CFR Ch. XXVI) Interim Final Rule	09/10/93	58 FR 47619
CFTC Employees (5 CFR Ch. XLI) Final Rule	10/12/93	58 FR 52637
IAF Employees (5 CFR Ch. LXIII) Final Rule	01/27/94	59 FR 3771
5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/94	59 FR 4779
NRC Employees (5 CFR Ch. XLVIII) Final Rule	04/13/94	59 FR 17457
FDIC Employees (5 CFR Ch. XXII) NPRM	07/12/94	59 FR 35480
NASA Employees (5 CFR Ch. LIX)	09/26/94	59 FR 49335
FRTIB Employees (5 CFR Ch. LXXIV)	10/06/94	59 FR 50816

OGE

Long-Term Actions

Action	Date	FR Cite
Education Employees (5 CFR Ch. LIII)	01/30/95	60 FR 5816
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/95	60 FR 6390
OMB Employees (5 CFR Ch. LXXVII) Final Rule	03/07/95	60 FR 12396
USPS Employees (5 CFR Ch. LX)	03/27/95	60 FR 15700
Eximbank Employees (5 CFR Ch. LII)	04/07/95	60 FR 17625
FDIC Employees (5 CFR Ch. XXII)	04/25/95	60 FR 20171
Treasury Employees (5 CFR Ch. XXI) Final Rule	05/05/95	60 FR 22249
FCSIC Employees (5 CFR Ch. XXX)	06/12/95	60 FR 30773
FCA Employees (5 CFR Ch. XXXI)	06/12/95	60 FR 30778
HUD Employees (5 CFR Ch. LXV)	06/30/95	60 FR 34420
OPIC Employees (5 CFR Ch. XXXIII) Final Rule	07/21/95	60 FR 37555
USPS Employees (5 CFR Ch. LX) Final Rule	09/11/95	60 FR 47240
FCA Employees (5 CFR Ch. XXXI) Final Rule	09/13/95	60 FR 47453
OGE Concurrence in FCA Employees (5 CFR Ch. XXXI) Final Rule	12/06/95	60 FR 62319
BGFRS Employees (5 CFR Ch. LVIII)	12/19/95	60 FR 65249
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	12/27/95	60 FR 66857
FCSIC Employees (5 CFR Ch. XXX) Final Rule	02/06/96	61 FR 4349
EEOC Employees (5 CFR Ch. LXII)	02/26/96	61 FR 7065
TVA Employees (15 CFR Ch. LXIX)	05/06/96	61 FR 20117
DOE Employees (5 CFR Ch. XXIII)	07/05/96	61 FR 35085
FDIC Employees (5 CFR Ch. XXII) Amendment	07/09/96	61 FR 35915
HUD Employees (5 CFR Ch. LXV)	07/09/96	61 FR 36246
OPM Employees (5 CFR Ch. XXXV)	07/16/96	61 FR 36993
HHS Employees (5 CFR Ch. XLV)	07/30/96	61 FR 39756
FMSHRC Employees (5 CFR Ch. LXXIV)	07/31/96	61 FR 39869
DOT Employees (5 CFR Ch. L)	07/31/96	61 FR 39901
EPA Employees (5 CFR Ch. LIV)	08/02/96	61 FR 40500
NARA Employees (5 CFR Ch. LXVI)	08/05/96	61 FR 40505
Further Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	08/07/96	61 FR 40950
FERC Employees (5 CFR Ch. XXIV)	08/23/96	61 FR 43411
BGFRS Employees (5 CFR Ch. LVIII) Final Rule	10/16/96	61 FR 53827
FCC Employees (5 CFR Ch. XXIX)	10/31/96	61 FR 56109
GSA Employees (5 CFR Ch. LVII)	11/01/96	61 FR 56399
DOL Employees (5 CFR Ch. XLII)	11/06/96	61 FR 57281
DOJ Employees (5 CFR Ch. XXVIII)	11/25/96	61 FR 59811
NSF Employees (5 CFR Ch. XLIII)	11/25/96	61 FR 59815
CPSC Employees (5 CFR Ch. LXXI)	12/13/96	61 FR 65457
FDIC Employees (5 CFR Ch. XXII) Amendment	01/27/97	62 FR 3771
NLRB Employees (5 CFR Ch. LXI)	02/12/97	62 FR 6445
DOJ Employees (5 CFR Ch. XXVIII) Final Rule	05/02/97	62 FR 23941
DOJ Employees (5 CFR Ch. XXVIII) Final Rule Correction	06/11/97	62 FR 31865
OPM Employees (5 CFR Ch. XXXV) Interim Rule Correction	06/17/97	62 FR 32859
EEOC Employees (5 CFR Ch. LXII) Final Rule	07/08/97	62 FR 36447
OPM Employees (5 CFR Ch. XXXV) Final Rule	08/11/97	62 FR 42897
DOI Employees (5 CFR Ch. XXV)	10/16/97	62 FR 53713
DOI Employees (5 CFR Ch. XXV) Interim Final Rule Correction	04/15/98	63 FR 18501
DOI Employees (5 CFR Ch. XXV) Interim Final Rule Correction	04/24/98	63 FR 20447
DOI Employees (5 CFR Ch. XXV) Final Rule	06/24/98	63 FR 34258
FTC Employees (5 CFR Ch. XLVII) Final Rule Amendments	08/12/98	63 FR 43069
DOL Employees (5 CFR Ch. XLII) Final Rule	12/30/99	64 FR 73852
USDA Employees (5 CFR Ch. LXXIII) Interim Final Rule	03/24/00	65 FR 15825
USDA Employees (5 CFR Ch. LXXIII) Interim Final Rule Correction	04/20/00	65 FR 21239
USDA Employees (5 CFR Ch. LXXIII) Final Rule	10/02/00	65 FR 58635
Treasury Employees (5 CFR Ch. XXI) Final Rule Amendments	02/01/01	66 FR 8505
Final Action	12/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA15

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Federal Register

Monday,
December 3, 2001

Part XXXVI

Office of Management and Budget

Semiannual Regulatory Agenda

OFFICE OF MANAGEMENT AND BUDGET (OMB)

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III and 48 CFR Ch. 01

Federal Regulations; OMB Circulars, OFPP Policy Letters, and CASB Cost Accounting Standards Included in the Semiannual Agenda of Federal Activities

AGENCY: Office of Management and Budget.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities for OMB Circulars, Office of Federal Procurement Policy (OFPP) Policy Letters, and Cost Accounting Standards Board (CASB) Cost Accounting Standards.

OMB Circulars and OFPP Policy Letters are published in accordance with OMB's internal procedures for implementing Executive Order 12866 (October 4, 1993, 58 FR 51735). OMB Policy guidelines are issued under authority derived from several sources including: subtitles I, II, and V of title 31, United States Code; Executive Order 11541; and other specific authority as cited. OMB Circulars and OFPP Policy Letters communicate guidance, and instructions of a continuing nature to executive branch agencies. As such, most OMB Circulars and OFPP Policy Letters are not regulations. Nonetheless, because these issuances are typically of public interest, they are generally published in the **Federal Register** in both proposed (for public comment) and final stages. For this reason, they are presented below in the standard format of "prerule," "proposed rule," and "final rule" stages.

CASB Cost Accounting Standards are issued under authority derived from 41 U.S.C. 422. Cost Accounting Standards are rules governing the measurement, assignment, and allocation of costs to contracts with the United States Government.

For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President's budget and legislative programs and directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact Cynthia A. Christian, (202) 395-3060, at the above address.

Dated: October 4, 2001.

Cynthia A. Christian,

Deputy Assistant Director for Administration.

Office of Management and Budget—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3901	Revision of OMB Circular A-127 To Implement the Federal Financial Management Improvement Act (FFMIA) and To Reflect Updated Financial Management Policies	0348-AB46
3902	Federal Participation in the Development and Use of Volunteer Consensus Standards and in Conformity Assessment Activities (OMB Circular A-119)	0348-AB53
3903	Accounting for the Cost of Post-Retirement Benefit Plans (Health Care)	0348-AB54
3904	Policies on Management of Federal Information Resources (OMB Circular A-130)	0348-AB55

Office of Management and Budget—Completed Actions

Sequence Number	Title	Regulation Identification Number
3905	Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Federal Agencies	0348-AB52

Office of Management and Budget (OMB) — **Proposed Rule Stage**

3901. REVISION OF OMB CIRCULAR A-127 TO IMPLEMENT THE FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT (FFMIA) AND TO REFLECT UPDATED FINANCIAL MANAGEMENT POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, Chief Financial Officer's Act of 1990; PL 104-208, Federal Financial Management Improvement Act of 1996; 31 USC 3111

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Federal Financial Management Improvement Act (FFMIA) of 1996 requires that financial management systems at each Federal agency covered by the CFOs Act, substantially comply with Federal financial management systems requirements, applicable Federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level. The revisions are to incorporate this and other policy updates since the 1993 issuance of the last revision to A-127.

OMB **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
Proposed Revision	12/00/01	
Final Revision	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Federalism: Undetermined

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RIN: 0348–AB46

3902. FEDERAL PARTICIPATION IN THE DEVELOPMENT AND USE OF VOLUNTEER CONSENSUS STANDARDS AND IN CONFORMITY ASSESSMENT ACTIVITIES (OMB CIRCULAR A-119)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1111; PL 104-113

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: OMB Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards," contains reporting requirements regarding agency use of government-unique standards and voluntary consensus standards along with agency participation in voluntary consensus standards bodies. The Circular instructs agencies to use voluntary consensus standards in lieu of government-unique standards in their procurement and regulatory activities, except where inconsistent with law or otherwise impractical. Language in A-119 calls on OMB to review the Circular for effectiveness three years from the date of issuance (February 1998).

Timetable:

Action	Date	FR Cite
Proposed Revision	12/00/01	
Final Revision	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kamela White, Policy Analyst, Office of Management and Budget
Phone: 202 395-3630
Fax: 202 395-5167
Email: kgwhite@omb.eop.gov

RIN: 0348–AB53

3903. ACCOUNTING FOR THE COST OF POST-RETIREMENT BENEFIT PLANS (HEALTH CARE)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 422

CFR Citation: 48 CFR 99

Legal Deadline: None

Abstract: The cost accounting standards board is proposing a new standard that provides criteria for measuring the costs of post-retirement benefit plans, assigning the measured costs to cost accounting periods, and allocating the assigned costs to segments of an organization.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/00	65 FR 59504
ANPRM Comment Period End	12/19/00	
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Richard C. Loeb, Executive Secretary, Cost Accounting Standards Board, Office of Management and Budget, Room 9013, NEOB, 725 17th Street NW., Washington, DC 20503
Phone: 202 395-4550
Fax: 202 395-5105

RIN: 0348–AB54

3904. POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (OMB CIRCULAR A-130)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: OMB Circular A-130 establishes policy for the management of Federal information resources, and includes procedural and analytic guidelines for implementing aspects of these policies as appendices. OMB is reviewing the Circular for consistency with the Government Information Security Reform Act, and revising sections on Information Policy and Privacy.

Timetable:

Action	Date	FR Cite
Proposed Revision	06/00/02	
Final Revision	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tony Frater, Policy Analyst, Office of Management and Budget, Room 10236, NEOB, 725 17th Street NW., Washington, DC 20503
Phone: 202 395-3785
Fax: 202 395-5167
Email: afrater@omb.eop.gov

RIN: 0348–AB55

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Office of Management and Budget (OMB) **Completed Actions**

3905. GUIDELINES FOR ENSURING AND MAXIMIZING THE QUALITY, OBJECTIVITY, UTILITY AND INTEGRITY OF INFORMATION DISSEMINATED BY FEDERAL AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-554, Treasury/General Government Appropriations Act of 2001

CFR Citation: None

Legal Deadline: Final, Statutory, September 30, 2001.

Abstract: OMB's appropriation language for FY 2001 requires OMB to issue policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, utility and integrity of information (including statistical information) disseminated by the Federal government in fulfillment of the Paperwork Reduction Act.

Timetable:

Action	Date	FR Cite
Proposed Action	06/28/01	66 FR 34489
Final Action with Request for Comment	09/28/01	66 FR 49718

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Brooke J. Dickson, Policy Analyst, Office of Management and Budget, Room 10236, New Executive Office Building, Washington, DC 20503
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Email: informationquality@omb.eop.gov

RIN: 0348–AB52

[FR Doc. 01–26033 Filed 11–30–01; 8:45 am]
BILLING CODE 3110–01–S

Federal Register

Monday,
December 3, 2001

Part XXXVII

Office of Personnel Management

Semiannual Regulatory Agenda

OFFICE OF PERSONNEL MANAGEMENT (OPM)

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Personnel Management (OPM) regulations are scheduled for development or review from October 1, 2001 through September 30, 2002. This agenda carries out OPM's responsibilities to publish a semiannual agenda under E.O. 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. chapter 6). This publication in the **Federal Register** does not impose a binding obligation on the Office of Personnel Management with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded.

FOR FURTHER INFORMATION CONTACT: Jacquline D. Carter, (202) 606-1973.

SUPPLEMENTARY INFORMATION: For this edition of OPM's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

Office of Personnel Management—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3906	Availability of Official Information	3206-AG92
3907	Privacy Procedures for Personnel Records	3206-AJ37

Office of Personnel Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3908	Excepted Service-Schedule A Authority for Nontemporary Part-Time or Intermittent Positions	3206-AJ06
3909	Excepted Service - Schedule A Authority for Chinese, Japanese, and Hindu Interpreters	3206-AJ43
3910	Employment in the Excepted Service	3206-AH83
3911	Clarification of Hiring Authorities	3206-AI46
3912	Amendment to Selective Service Registration Requirements	3206-AI52
3913	Recruitment and Selection Through Competitive Examination	3206-AJ52
3914	Other Than Full-Time Employment (Part-Time, Seasonal, Intermittent)	3206-AI22
3915	Order of Release From Competitive Level	3206-AI96
3916	Re-Employment Rights	3206-AI19
3917	Training	3206-AJ19
3918	Classification Appeals of General Schedule Employees	3206-AH38
3919	Official Duty Station Determinations for Pay Purposes	3206-AH84
3920	Prevailing Rate Systems; Definition of San Joaquin County, California to a Nonappropriated Fund Wage Area	3206-AJ35
3921	Job Grading Reviews and Appeals of Federal Wage System Employees	3206-AI14
3922	Pay for Administrative Appeals Judge Positions	3206-AJ44
3923	Reemployment of Military and Civilian Retirees To Meet Exceptional Employment Needs	3206-AI32
3924	Cost-of-Living Allowances (Nonforeign Areas); Revised COLA Regulations Pursuant to Settlement of Litigation	3206-AJ27
3925	Miscellaneous Leave Regulations	3206-AI44
3926	Retirement; Credit for Military Service	3206-AG58
3927	Retirement; Service Credit	3206-AH37
3928	Retirement; Debt Collection	3206-AE72
3929	Retirement; Court Orders Awarding Survivor Annuities; Correcting or Supplementing the First Order Dividing Marital Property	3206-AG28
3930	Retirement; FERS Elections of Coverage	3206-AG96
3931	Federal Employees' Health Benefits Program: Continuing FEHB Coverage Into Retirement	3206-AI62
3932	Implementation of the Administrative Simplification Provisions of the Health Insurance Portability and Accountability Act of 1996 for the Federal Employees' Health Benefits Program	3206-AJ45
3933	Debarments and Suspensions of Health Care Providers From the Federal Employees' Health Benefits Program	3206-AD76
3934	Financial Sanctions of Health Care Providers in the Federal Employees' Health Benefits Program	3206-AJ42
3935	Governmentwide Debarment and Suspension (Nonprocurement)	3206-AJ31
3936	Federal Employees' Group Life Insurance Federal Acquisition Regulation	3206-AI65
3937	Federal Employees' Health Benefits Acquisition Regulation: Large Provider Agreements, Subcontracts, and Miscellaneous Changes	3206-AJ20

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Office of Personnel Management—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3938	Implementation of Additional Cost Principles in the Federal Employees' Health Benefits Program	3206-AJ10

Office of Personnel Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3939	Excepted Service Promotion and Internal Placement	3206-AI51
3940	Excepted Service; Career and Career-Conditional Employment	3206-AJ28
3941	Time-in-Grade Restrictions	3206-AG06
3942	Promotion and Internal Placement; Accelerated Qualifications	3206-AG19
3943	Federal Employment Priority Consideration for the District of Columbia Employees	3206-AI28
3944	Reasonable Accommodation Language for Vacancy Announcements	3206-AJ11
3945	Placement Assistance and Reduction in Force	3206-AJ18
3946	Career Transition Assistance for Surplus and Displaced Federal Employees	3206-AJ32
3947	Reduction in Force Retreat Rights	3206-AJ14
3948	Locality-Based Comparability Payments	3206-AI81
3949	Holidays and Premium Pay	3206-AH86
3950	Prevailing Rate Systems; Change in the Survey Cycle for the Pennington South Dakota Nonappropriated Fund Wage Area	3206-AJ30
3951	Miscellaneous Changes in Pay and Leave Regulations	3206-AJ41
3952	Basic Pay for Employees of Temporary Organizations	3206-AJ47
3953	Grade and Pay Retention	3206-AI88
3954	Firefighter Pay	3206-AI50
3955	Pay Administration; Availability Pay for Criminal Investigators	3206-AJ49
3956	Repeal of Dual Compensation Reduction for Military Retirees	3206-AI92
3957	Retention Allowances **(Reg Plan Seq No. 150)**	3206-AJ48
3958	Voluntary Separation Incentive Repayment Waivers	3206-AG20
3959	Cost-of-Living Allowances (Nonforeign Areas); Interim COLA Rate Increases Pursuant to Settlement of Litigation	3206-AJ26
3960	Cost-of-Living Allowances (Nonforeign Areas);Commissary/Exchange Rates; Survey Frequency; Gradual Reductions	3206-AJ40
3961	Absence and Leave: Use of Restored Annual Leave	3206-AJ51
3962	Retirement Coverage for the District of Columbia Financial Control Board Employees	3206-AG78
3963	Retirement; Coverage-Nonappropriated Fund Instrumentalities	3206-AH57
3964	Coverage for Certain Employees of the District of Columbia	3206-AI02
3965	Retirement, Health, and Life Insurance Coverage for Certain Employees of the District of Columbia Under the District of Columbia Courts and Justice Technical Corrections Act of 1998	3206-AI55
3966	Law Enforcement Officer and Firefighter Retirement	3206-AJ39
3967	Retirement; State Income Tax Withholding Instrumentalities	3206-AH62
3968	Correction of Retirement Coverage Errors Under the Federal Erroneous Retirement Coverage Correction Act	3206-AJ36
3969	Retirement; General Administration	3206-AI83
3970	Retirement; FERS Basic Annuity	3206-AE73
3971	Federal Employees' Group Life Insurance Program: Miscellaneous Changes and Clarifications and Plain Language Rewrite	3206-AG63
3972	Federal Employees' Group Life Insurance: Premium Changes and Change in Time Frames for Electing Insurance	3206-AJ46
3973	Implementation of Premium Conversion for Executive Branch Federal Employees Participating in the Federal Employees' Health Benefits (FEHB) Program	3206-AJ17
3974	Federal Employees Health Benefits Children's Equity	3206-AJ34
3975	Suspension of Enrollment in the Federal Employees' Health Benefits Program to Enroll in the TRICARE	3206-AJ36

References in boldface appear in the **Regulatory Plan** in part II of this issue of the **Federal Register**.

Office of Personnel Management—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3976	Probation on Initial Appointment to a Competitive Position	3206-AI47

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Office of Personnel Management—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3977	Merit Promotion and Internal Placement	3206-AI20
3978	Reemployment Priority List	3206-AI34
3979	Performance Management Reform Initiatives	3206-AF57
3980	Superior Qualifications Appointments	3206-AI00
3981	Personnel Security and Related Programs	3206-AC21
3982	Investigations	3206-AB92
3983	Federal Employees' Health Benefits Program: Payment of Premiums for Periods of Leave Without Pay or Insufficient Pay	3206-AG66
3984	Federal Employees' Health Benefits Program: Effective Dates	3206-AI37

Office of Personnel Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
3985	Career and Career-Conditional Appointment Under Special Authorities	3206-AG90
3986	Noncompetitive Appointments of Corporation for National and Community Service Employees	3206-AH48
3987	Noncompetitive Appointment of Former Peace Corps and Vista Volunteers	3206-AI18
3988	Interagency Placement Program	3206-AI24
3989	Repayment of Student Loans	3206-AJ33
3990	Pretax Allotments for Health Insurance Premiums	3206-AJ16
3991	Pay Administration Under the Fair Labor Standards Act (FLSA)	3206-AI15
3992	Recruitment and Relocation Bonuses and Retention Allowances	3206-AJ08
3993	Cost-of-Living Allowances (Nonforeign Areas); Guam and the Commonwealth of the Northern Mariana Islands	3206-AJ15
3994	Retirement; Law Enforcement Officers and Firefighters	3206-AI41
3995	Federal Employees' Group Life Insurance Program: Life Insurance Improvements	3206-AI64
3996	Federal Employees' Health Benefits Acquisition Regulation	3206-AJ25

Office of Personnel Management (OPM) **Prerule Stage**

3906. AVAILABILITY OF OFFICIAL INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552, Freedom of Information Act

CFR Citation: 5 CFR 294

Legal Deadline: None

Abstract: The proposed rulemaking will make minor changes to subparts A, B, C, D, E, F and G of 5 CFR 294, Availability of Official Information. The rulemaking will provide additional information on the definition of terms used in the search and review process, update office addresses, use plain language and clarify that any written request that meets the specified marking and content requirements will be recognized as an official FOIA request. These changes are designed to benefit the public by providing updated information on where to direct FOIA requests, and improve the wording of the regulation to fully and accurately meet the provisions of the FOIA. There will be no significant change to the existing operational procedures in place at OPM.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Beth Smith-Toomey, Office of the Chief Information Officer, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-7900
Phone: 202 606-8358
Fax: 202 418-3251
Email: mbtoomey@opm.gov

RIN: 3206–AG92

3907. • PRIVACY PROCEDURES FOR PERSONNEL RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552a

CFR Citation: 5 CFR 297

Legal Deadline: None

Abstract: The proposed rulemaking will make minor changes to subparts A, B, C, D, E, F and G of 5 CFR 294, Privacy Procedures for Personnel Records. The rulemaking will provide additional information on the definition of terms used in the search and review process, update office addresses, use plain language and clarify that any written request that meets the specified marking and content requirements will be recognized as an official Privacy Act request. These changes are designed to

OPM — **Prerule Stage**

benefit the public by providing updated information on where to direct Privacy Act requests, and improve the wording of the regulation to fully and accurately meet the provisions of the Privacy Act. There will be no significant change to the existing operational procedures in place at OPM.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Beth Smith-Toomey, Office of the Chief Information Officer, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-7900
Phone: 202 606-8358
Fax: 202 418-3251
Email: mbtoomey@opm.gov

RIN: 3206–AJ37

Office of Personnel Management (OPM) — **Proposed Rule Stage**

3908. EXCEPTED SERVICE-SCHEDULE A AUTHORITY FOR NONTEMPORARY PART-TIME OR INTERMITTENT POSITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3307

CFR Citation: 5 CFR 213

Legal Deadline: None

Abstract: The Office of Personnel Management proposes to revoke the Schedule A excepted Service appointing authority for nontemporary part-time or intermittent positions for which total annual compensation does not exceed 40 percent of GS-3, step 1, because the conditions justifying the original exception no longer exist.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Reid, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AJ06

3909. • EXCEPTED SERVICE - SCHEDULE A AUTHORITY FOR CHINESE, JAPANESE, AND HINDU INTERPRETERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301

CFR Citation: 5 CFR 213

Legal Deadline: None

Abstract: The Office of Personnel Management proposes to revoke the Schedule A excepted service appointing authority for "Chinese, Japanese and Hindu Interprreters because the conditions justifying the original exception no longer exist.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Reid, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AJ43

3910. EMPLOYMENT IN THE EXCEPTED SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 8151; EO 10577

CFR Citation: 5 CFR 302

Legal Deadline: None

Abstract: The revised regulations will make it easier for agencies to understand how to run the excepted service employment system, so they can create better and more efficient employment procedures.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0390

RIN: 3206–AH83

3911. CLARIFICATION OF HIRING AUTHORITIES

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 330; 5 CFR 332; 5 CFR 333; 5 CFR 337

Legal Deadline: None

Abstract: Makes a number of required perfecting changes to existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Raleigh M. Neville, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI46

3912. AMENDMENT TO SELECTIVE SERVICE REGISTRATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3328

CFR Citation: 5 CFR 300

OPM

Proposed Rule Stage

Legal Deadline: None

Abstract: Delegates to agencies' determination whether a Federal job applicant's failure to register with the Selective Service was knowing and willful. This change is authorized by an amendment to 5 U.S.C. 3328.

Timetable:

Action	Date	FR Cite
NPRM	03/29/99	64 FR 14842
NPRM Comment Period End	04/28/99	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Reid, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AI52

3913. • RECRUITMENT AND SELECTION THROUGH COMPETITIVE EXAMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 332

Legal Deadline: None

Abstract: OPM is issuing an interim regulation to allow agencies to decide how candidates are referred for competitive appointment when agencies fill multiple vacancies simultaneously. We are codifying a long-standing practice (5 U.S.C. 3301 and 3302) of providing agencies with the option of either certifying a candidate for only one vacancy at a time, or certifying a candidate simultaneously for all vacancies for which that candidate expresses an interest, is eligible, and is within reach.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Suzy Barker, Director, Examination and Qualification Policy Division, Office of Personnel Management, Employment Service, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0390
Email: smbarker@opm.gov

RIN: 3206–AJ52

3914. OTHER THAN FULL-TIME EMPLOYMENT (PART-TIME, SEASONAL, INTERMITTENT)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301

CFR Citation: 5 CFR 340; 5 CFR 110

Legal Deadline: None

Abstract: Grants agencies and employees more flexibility by clarifying agency authority to schedule part-time employees on a pay period, rather than weekly, basis; defines job sharing; modifies seasonal employment.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Tyrrell, Employment Service, Staffing Policy Division, Office of Personnel Management, 9th Floor, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI22

3915. ORDER OF RELEASE FROM COMPETITIVE LEVEL

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3502; 5 USC 3503

CFR Citation: 5 CFR 351

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing retention regulations covering the order in which agencies release competing employees from their competitive levels in a reduction in force.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas A. Glennon, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI96

3916. RE-EMPLOYMENT RIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3582; 5 USC 3301; PL 103-296

CFR Citation: 5 CFR 352

Legal Deadline: None

Abstract: Updates provisions to conform to law allowing employees assigned to international organizations under certain conditions to maintain FERS and FICA retirement coverage; current regulations only mention CSRS retirement.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice Reid, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AI19

3917. TRAINING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 4118

CFR Citation: 5 CFR 410

Legal Deadline: None

Abstract: Since the December 1996 publication of the final rules on training, subsections 5 CFR 410.309 (continued service agreements) and 5 CFR 410.404 (expenses of training and meetings) have caused confusion in agencies, the agencies have asked for clearer regulations. 5 CFR 410.309, as written, omits allowance for agency heads to delegate authority to define requirements for continued service. It also omits circumstances when the requirement for continued service can be waived, which has caused confusion

OPM **Proposed Rule Stage**

for agencies in developing their continued service agreements. Amending 5 CFR 410.309 returns to regulation, language removed in 1996 that has had the unintended effect of limiting agency head authority in the area of continued service agreements for training. With increasing interest in academic education and service agreements, agencies have expressed concern about their legal authority with regard to theses agreements.

As written, 5 CFR 410.404 does not sufficiently clarify distinctions between training and meetings. 5 U.S.C. 4109 provides agencies authority to pay the expenses of training. 5 U.S.C. 4110 provides them authority to pay the expenses of meetings. However, 5 CFR 410.404 blurs the distinctions between these two; amending it would make clear the distinctions, and clarify conditions under which a meeting may be considered training.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LaVeen Ponds, Office of Workforce Relations, Office of Personnel Management, Office of Human Resource Development, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1394
Email: lmponds@opm.gov

RIN: 3206–AJ19

3918. CLASSIFICATION APPEALS OF GENERAL SCHEDULE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5112

CFR Citation: 5 CFR 511, subpart A; 5 CFR 511, subpart F; 5 CFR 511, subpart G

Legal Deadline: None

Abstract: The position classification appeals regulations require updating to reflect current organizational nomenclature following a reorganization within OPM.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Melissa Drummond, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2530
Fax: 202 606-2663
Email: madrummo@opm.gov

RIN: 3206–AH38

3919. OFFICIAL DUTY STATION DETERMINATIONS FOR PAY PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5305; 5 USC 5304; 5 USC 5941; EO 10000; PL 101-509, sec 404

CFR Citation: 5 CFR 530; 5 CFR 531; 5 CFR 591

Legal Deadline: None

Abstract: These proposed regulations would clarify the location-based pay entitlements of Federal employees who are detailed or temporarily assigned to work at a new location, including telework situations. Location-based pay entitlements include locality payments, special salary rates, and nonforeign area cost-of-living allowances.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/09/97	62 FR 25423
Interim Final Rule Comment Period End	07/08/97	
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeanne D. Jacobson, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AH84

3920. • PREVAILING RATE SYSTEMS; DEFINITION OF SAN JOAQUIN COUNTY, CALIFORNIA TO A NONAPPROPRIATED FUND WAGE AREA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: Because of the construction of a new Army and Air Force Exchange service distribution depot at the Sharpe Army Depot in San Joaquin County, California, the Office of Personnel Management will establish a new nonappropriated fund Federal Wage System wage area for San Joaquin County. Pay for Federal blue-collar workers who are paid from nonappropriated funds in the new San Joaquin wage area will be based on local wage surveys ordered to begin in February of each year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chenty I. Carpenter, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-4264
Email: cicorrea@opm.gov

RIN: 3206–AJ35

3921. JOB GRADING REVIEWS AND APPEALS OF FEDERAL WAGE SYSTEM EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5346

CFR Citation: 5 CFR 532, subpart G

Legal Deadline: None

Abstract: The job grading reviews and appeals regulations require updating to reflect current organizational nomenclature following a reorganization within OPM.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

OPM

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Melissa Drummond, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2530
Fax: 202 606-2663
Email: madrummo@opm.gov

RIN: 3206–AI14

3922. • PAY FOR ADMINISTRATIVE APPEALS JUDGE POSITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5372b

CFR Citation: 5 CFR 534, subpart F

Legal Deadline: None

Abstract: These interim regulations implement a new pay system for administrative appeals judge positions. The administrative appeals judge pay system was recently authorized to cover positions that are not classifiable above GS-15 and for which the duties primarily involve reviewing decisions of administrative law judges. OPM is issuing interim regulations to ensure that agencies implement and administer the new administrative appeals judge pay system in a consistent and equitable manner.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeanne D. Jacobson, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AJ44

3923. REEMPLOYMENT OF MILITARY AND CIVILIAN RETIREES TO MEET EXCEPTIONAL EMPLOYMENT NEEDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8344; 5 USC 8468

CFR Citation: 5 CFR 553

Legal Deadline: None

Abstract: Establishes new criteria for granting exceptions for key positions in temporary organizations established by law or Executive order. This rule will also expand and clarify the criteria used in exercising this authority.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Larry Lorenz, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AI32

3924. COST-OF-LIVING ALLOWANCES (NONFOREIGN AREAS); REVISED COLA REGULATIONS PURSUANT TO SETTLEMENT OF LITIGATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: As a result of a court-approved settlement of Caraballo, et al. v. United States, No. 1997-0027 (D.V.I.), the Office of Personnel Management will publish revised regulations, pursuant to the terms of the settlement, to implement changes in the methodology used to compute nonforeign area cost-of-living allowances.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Chenty Carpenter, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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Email: cola@opm.gov

RIN: 3206–AJ27

3925. MISCELLANEOUS LEAVE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6311

CFR Citation: 5 CFR 630

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing miscellaneous changes in the leave regulations in 5 CFR part 630. The proposed changes will include clarifying provisions on the Federal leave sharing program, home leave, transfer of leave from the U.S. Postal Service, and leave entitlements for employees under 90-day appointments or under part-time or intermittent work schedules. The proposed regulations also will include changes to comply with new legislation requiring lump-sum payment for annual leave for employees transferring from a Department of Defense base that is closing.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Herzberg, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AI44

3926. RETIREMENT; CREDIT FOR MILITARY SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); 38 USC 4331

OPM — **Proposed Rule Stage**

CFR Citation: 5 CFR 8347(a); 5 CFR 8461(g); 5 CFR 842.306; 5 CFR 842.307

Legal Deadline: None

Abstract: These regulations implement changes in the treatment of certain military service under CSRS and FERS required under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher H. Ziebarth, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AG58

3927. RETIREMENT; SERVICE CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, subpart C

Legal Deadline: None

Abstract: These regulations would provide that no retirement credit could be granted for periods of service for which retirement deductions were refunded and not repaid even when the refund was paid based on an erroneous separation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AH37

3928. RETIREMENT; DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 835(e)

Legal Deadline: None

Abstract: These regulations will amend the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) regulations by consolidating and updating existing regulations in three different subparts of the CSRS regulations and 5 CFR 845 in the FERS regulations to eliminate duplication of the provisions governing debt collection. This item is for subpart E of the new part 835, which will address collections of Government claims from payments made by OPM.

Timetable:

Action	Date	FR Cite
NPRM	10/05/92	57 FR 45753
Second NPRM	12/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AE72

3929. RETIREMENT; COURT ORDERS AWARDING SURVIVOR ANNUITIES; CORRECTING OR SUPPLEMENTING THE FIRST ORDER DIVIDING MARITAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 838

Legal Deadline: None

Abstract: These regulations would establish standards for determining which supplemental or correcting court orders are not "modifications" and the procedures applicable to such orders. They also provide for the continuation of the former spouse's survivor coverage and the reduction in the retiree's annuity until the State court decides the extent of the former spouse's rights to retirement benefits.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
Final Action	08/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Panagakos, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AG28

3930. RETIREMENT; FERS ELECTIONS OF COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); PL 99-335, sec 301(d)(3)

CFR Citation: 5 CFR 846

Legal Deadline: None

Abstract: These regulations implement title III of the Federal Employees Retirement System (FERS) Act of 1986, as amended, dealing with the election of FERS coverage by employees under the Civil Service Retirement System and certain other employees. The regulations contain regulatory and interpretative rules concerning employees' eligibility to elect FERS coverage, procedures for electing FERS coverage, and basic benefits based on the service for employees who elect FERS coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/87	52 FR 19235
Interim Final Rule	09/13/93	58 FR 47821
Interim Final Rule	06/18/98	63 FR 33231
NPRM	12/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AG96

OPM

Proposed Rule Stage

3931. FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM: CONTINUING FEHB COVERAGE INTO RETIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: This proposed regulation would increase OPM's ability to waive requirements for continuing health benefits coverage into retirement when it is to the advantage of the Government to do so.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Myers, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004

RIN: 3206–AI62

3932. • IMPLEMENTATION OF THE ADMINISTRATIVE SIMPLIFICATION PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 FOR THE FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-191

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: The administrative simplification provisions on the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires covered entities (providers, health plans and clearinghouses) to ensure the privacy of individually identifiable personal health information. The Federal Employees' Health Benefits (FEHB) Program has been deemed a health plan, and as such must comply with the security, privacy, and transaction standards that are part of the administrative simplification provisions of HIPAA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Abby L. Block, Assistant Director, Office of Insurance Programs, Office of Personnel Management, Retirement and Insurance Group Room 3425, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0770

RIN: 3206–AJ45

3933. DEBARMENTS AND SUSPENSIONS OF HEALTH CARE PROVIDERS FROM THE FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8902a

CFR Citation: 5 CFR 890, subpart J

Legal Deadline: None

Abstract: These regulations will implement section 2 of Public Law 105-266, which amends 5 U.S.C. section 8902a authorizing OPM to debar health care providers who have committed certain types of legal offenses or program-related violations from participation in the Federal Employees' Health Benefits Program (FEHBP), and to levy monetary penalties and assessments against individuals who have improperly obtained payments of FEHBP funds. This legislation removes unnecessary administrative constraints on the agency, provides more flexible and less time consuming procedures, and will improve OPM's administration of sanctions against unfit health care providers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/89	54 FR 43939
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: J. David Cope, Debarring Official, Office of the Inspector General, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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Fax: 202 606-2153
Email: jdcope@opm.gov

RIN: 3206–AJ42

3934. • FINANCIAL SANCTIONS OF HEALTH CARE PROVIDERS IN THE FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8902a

CFR Citation: 5 CFR 890, subpart J

Legal Deadline: None

Abstract: These regulations will implement the financial sanctions provisions of the Federal Employees' Health Care Protection Act of 1998 (Pub. L. 105-266). In cases where a health care provider had knowingly: (1) submitted false, fraudulent, or misleading claims; (2) failed to provide claims-related information requested by OPM or a FEHBP carrier; or (3) submitted claims while debarred, the statute authorizes OPM to effectuate civil monetary penalties of not more than $10,000 per item or service involved and to assess damages of not more than twice the amount claimed for each item or service. These financial sanctions may be imposed in addition to suspension or debarment; the other forms of sanctions authorized by the statute. The regulatory provisions for suspension and debarment are being implemented in an earlier amendment to 5 CFR 890, subpart J.

Timetable:

Action	Date	FR Cite
NPRM	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: J. David Cope, Debarring Official, Office of the Inspector General, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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Fax: 202 606-2153
Email: jdcope@opm.gov

RIN: 3206–AJ42

3935. • GOVERMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Priority: Substantive, Nonsignificant

Legal Authority: EO 12549

OPM

Proposed Rule Stage

CFR Citation: 5 CFR 970

Legal Deadline: None

Abstract: This is the OPM portion of the OMB-sponsored Governmentwide common rule revision.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: J. David Cope, Debarring Official, Office of the Inspector General, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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Fax: 202 606-2153
Email: jdcope@opm.gov

RIN: 3206–AJ31

3936. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE FEDERAL ACQUISITION REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8716; 40 USC 486(C)

CFR Citation: 48 CFR 1.301

Legal Deadline: None

Abstract: This proposed regulation would revise the existing Federal Employees' Group Life Insurance Federal Acquisition Regulation (LIFAR) by updating and revising policy regulation with respect to the acquisition and administration of life insurance contract(s) for Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Anne Easton, Retirement and Insurance Services, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: aseaston@opm.gov

RIN: 3206–AI65

3937. FEDERAL EMPLOYEES' HEALTH BENEFITS ACQUISITION REGULATION: LARGE PROVIDER AGREEMENTS, SUBCONTRACTS, AND MISCELLANEOUS CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913; 40 USC 486(c); 48 CFR 1.301

CFR Citation: 48 CFR 1602; 48 CFR 1604; 48 CFR 1615

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is proposing a new policy that establishes notification and information requirements, including audit, for Federal Employees' Health Benefits (FEHB) experience-rated carrier large provider agreements. The proposed regulation also revises the threshold for advance approval of carrier subcontracts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mike Kazynski, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: mwkaszyn@opm.gov

RIN: 3206–AJ20

3938. IMPLEMENTATION OF ADDITIONAL COST PRINCIPLES IN THE FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913; 40 USC 486(c); 48 CFR 1.301

CFR Citation: 48 CFR 1630; 48 CFR 1631; 48 CFR 1652

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing a regulation that would inform experience-rated carriers in the Federal Employees' Health Benefits Program how it intends to implement additional cost principles.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Anne Easton, Retirement and Insurance Services, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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Email: aseaston@opm.gov

RIN: 3206–AJ10

Office of Personnel Management (OPM) — **Final Rule Stage**

3939. EXCEPTED SERVICE PROMOTION AND INTERNAL PLACEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; PL 105-339

CFR Citation: 5 CFR 213; 5 CFR 335

Legal Deadline: None

Abstract: The Office of Personnel Management will issue final regulations implementing the provisions of the Veterans Employment Opportunities Act of 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/03/98	63 FR 66705
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Raleigh M. Neville, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI51

3940. EXCEPTED SERVICE; CAREER AND CAREER-CONDITIONAL EMPLOYMENT

Priority: Other Significant

Legal Authority: EO 13162

CFR Citation: 5 CFR 213; 5 CFR 315

Legal Deadline: None

Abstract: These regulations implement Executive Order 13162, which establishes the Federal Career Intern Program. This program will be used to attract exceptional men and women to the Federal workforce who have diverse professional experiences, academic training, or competencies and prepare them for careers in analyzing and implementing public programs.

This regulation supports the Administration's effort to recruit the highest caliber people to the Federal Government, develop their professional abilities, and retain them in Federal departments and agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/14/00	65 FR 78077
Interim Final Rule Effective	12/14/00	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AJ28

3941. TIME-IN-GRADE RESTRICTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Eliminates requirement that employees serve one year in-grade to be eligible for promotion above the GS-5 level. This is separate from the qualifications requirement for one year's experience at the next lowest grade or equivalent for promotion.

Timetable:

Action	Date	FR Cite
NPRM	06/15/94	59 FR 30717
NPRM Comment Period End	01/10/95	60 FR 2546
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0390

RIN: 3206–AG06

3942. PROMOTION AND INTERNAL PLACEMENT; ACCELERATED QUALIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 3304

CFR Citation: 5 CFR 316; 5 CFR 335; 5 CFR 338

Legal Deadline: None

Abstract: OPM will issue final regulations on Accelerated Qualifications only to authorize agencies to establish intensive training programs for acquiring qualifications at an accelerated rate.

Timetable:

Action	Date	FR Cite
NPRM	02/20/96	61 FR 6324
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AG19

3943. FEDERAL EMPLOYMENT PRIORITY CONSIDERATION FOR THE DISTRICT OF COLUMBIA EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-33

CFR Citation: 5 CFR 330

Legal Deadline: None

Abstract: Requires agencies to accord priority consideration to displaced District of Columbia, Department of Corrections employees separated as a result of the closure of the Lorton Correctional complex.

Timetable:

Action	Date	FR Cite
NPRM	08/04/98	63 FR 41387
Interim Final Rule	01/22/01	66 FR 6427
Interim Final Rule Effective	01/22/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI28

OPM **Final Rule Stage**

3944. REASONABLE ACCOMMODATION LANGUAGE FOR VACANCY ANNOUNCEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3304(f); 5 USC 3327; ...

CFR Citation: 5 CFR 302; 5 CFR 317; 5 CFR 330; 5 CFR 333; 5 CFR 335

Legal Deadline: None

Abstract: The Office of Personnel Management is publishing interim regulations requiring a reasonable accommodation statement in agency vacancy announcements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Watson, Employment Service, Examining and Qualification Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023
Email: lmwatson@opm.gov

RIN: 3206–AJ11

3945. PLACEMENT ASSISTANCE AND REDUCTION IN FORCE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3502

CFR Citation: 5 CFR 330; 5 CFR 351

Legal Deadline: None

Abstract: Interim regulations that delete references to the repealed Job Training Partnership Act and replace it with references to the new Workforce Investment Act of 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/29/00	65 FR 64133
Interim Final Rule Effective	11/27/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pam Galemore, Employment Service, Office of Personnel Management, Workforce Restructuring Policy Division, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AJ18

3946. • CAREER TRANSITION ASSISTANCE FOR SURPLUS AND DISPLACED FEDERAL EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 8337(h); 5 USC 8457(b); EO 10577; 3 CFR 1954-58, Comp, p. 218

CFR Citation: 5 CFR 330, subpart F; 5 CFR 330, subpart G

Legal Deadline: Final, Statutory, September 30, 2001, Career Transition Programs.

Abstract: To make permanent, the current career transition programs assisting Federal employees displaced from their jobs by downsizing. The regulations remove the September 30, 2001 sunset date and reporting requirements for these programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/04/01	66 FR 29895
Interim Final Rule Effective	06/04/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AJ32

3947. REDUCTION IN FORCE RETREAT RIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3502; 5 USC 3503

CFR Citation: 5 CFR 351

Legal Deadline: None

Abstract: Interim regulations that clarify a released employee's right to retreat to another position in a reduction in force.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/20/00	65 FR 62991
Interim Final Rule Effective	10/20/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas A. Glennon, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AJ14

3948. LOCALITY-BASED COMPARABILITY PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5304

CFR Citation: 5 CFR 531, subpart F

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing final regulations to clarify and redefine the limitations on locality rates of pay for categories of non-General Schedule employees approved by the President's Pay Agent to receive locality pay. This change was prompted by a recent Executive order that delegated the President's authority to determine such limitations to the President's Pay Agent. The final regulations will ensure that all employees receiving locality pay are treated consistently.

Timetable:

Action	Date	FR Cite
NPRM	03/24/00	65 FR 15875
NPRM Comment Period End	05/23/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeanne D. Jacobson, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
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Fax: 202 606-0824

OPM — Final Rule Stage

Email: payleave@opm.gov
RIN: 3206–AI81

3949. HOLIDAYS AND PREMIUM PAY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5548; 5 USC 6133; 29 USC 204(f)

CFR Citation: 5 CFR 532; 5 CFR 550; 5 CFR 551; 5 CFR 610

Legal Deadline: None

Abstract: These final regulations implement changes in law that provide (1) authority for compensatory time off for prevailing rate (wage) employees in lieu of overtime pay and (2) agency flexibility in determining the "in lieu of" holiday for employees on compressed work schedules when the actual holiday for the employee is on a nonworkday. A current regulation is also corrected to comply with a provision of law authorizing use of alternative work schedules for civilian nonappropriated fund employees of the armed services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/23/97	62 FR 28305
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3206–AH86

3950. • PREVAILING RATE SYSTEMS; CHANGE IN THE SURVEY CYCLE FOR THE PENNINGTON SOUTH DAKOTA NONAPPROPRIATED FUND WAGE AREA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: To improve administration of local wage surveys for nonappropriated fund Federal blue-collar workers in Pennington County, South Dakota, the Office of Personnel Management will change the dates of annual local wage surveys in the Pennington, SD, nonappropriated fund Federal Wage System area from January to June.

Timetable:

Action	Date	FR Cite
NPRM	12/19/00	65 FR 79320
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Chenty I. Carpenter, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AJ30

3951. • MISCELLANEOUS CHANGES IN PAY AND LEAVE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5307; 5 USC 5514; 5 USC 5527; 5 USC 5334; 5 USC 5338; 5 USC 5542(c); 5 USC 5548; 5 USC 6311; 5 USC 4301 et seq; Sec 4(f) of the Fair Labor Standards Act of 1939 as amended

CFR Citation: 5 CFR 353; 5 CFR 531; 5 CFR 550; 5 CFR 551; 5 CFR 630

Legal Deadline: None

Abstract: These interim regulations will correct or clarify several provisions dealing with the pay and leave of Federal employees. The changes are needed to make regulations consistent with law and current practice and to eliminate unnecessary agency reports to OPM. Questions and comments from users of the regulations prompted the changes. The interim regulations will assist agencies in administering pay and leave programs in a consistent manner and in accordance with applicable law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bryce Baker, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AJ41

3952. • BASIC PAY FOR EMPLOYEES OF TEMPORARY ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3161(d)

CFR Citation: 5 CFR 534

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim regulations on setting the rate of basic pay for employees of temporary organizations, as defined in 5 U.S.C. 3161(a).

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bryce Baker, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AJ47

3953. GRADE AND PAY RETENTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5361; 5 USC 5366

CFR Citation: 5 CFR 536

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing final regulations giving agencies discretionary authority to grant pay retention to certain employees moving to positions under pay systems other than the General Schedule or the Federal Wage System.

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This new flexibility will allow agencies to prevent eligible employees from suffering a reduction in pay that would otherwise result from a management action.

Timetable:

Action	Date	FR Cite
NPRM	05/25/00	65 FR 33785
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Herzberg, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AI88

3954. FIREFIGHTER PAY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5545b

CFR Citation: 5 CFR 410; 5 CFR 550; 5 CFR 551; 5 CFR 591; 5 CFR 630; 5 CFR 870

Legal Deadline: None

Abstract: These final regulations implement a 1998 law that changed the pay computation rules for GS-081 firefighters with regular tours of duty averaging at least 53 hours per week.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/23/98	63 FR 64589
Interim Final Rule Comment Period End	01/22/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Herzberg, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AI50

3955. • PAY ADMINISTRATION; AVAILABILITY PAY FOR CRIMINAL INVESTIGATORS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5545(h); 5 USC 5548

CFR Citation: 5 CFR 550

Legal Deadline: None

Abstract: These final regulations will clarify a number of issues relating to the administration of availability pay, a form of premium pay for criminal investigators who are required to work, or be available to work, substantial amounts of unscheduled overtime duty based on the needs of the employing agency.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/23/94	59 FR 66149
Second Interim Final Rule	01/29/99	64 FR 4517
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kevin Kitchelt, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AJ49

3956. REPEAL OF DUAL COMPENSATION REDUCTION FOR MILITARY RETIREES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8344; 5 USC 8468

CFR Citation: 5 CFR 553

Legal Deadline: None

Abstract: The Office of Personnel Management is publishing final regulations to implement the repeal of reduction in military retired or retainer pay required of some military retirees in civilian positions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/12/00	65 FR 19643
Interim Final Rule Effective	04/12/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Larry Lorenz, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AI92

3957. • RETENTION ALLOWANCES

Regulatory Plan: This entry is Seq. No. 150 in part II of this issue of the **Federal Register**.

RIN: 3206–AJ48

3958. VOLUNTARY SEPARATION INCENTIVE REPAYMENT WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-226

CFR Citation: 5 CFR 576

Legal Deadline: None

Abstract: Public Law 103-226 authorized OPM to waive repayment of a voluntary separation incentive payment under certain circumstances if a former employee, who accepted the incentive payment, is reemployed by an executive agency of the United States within five years of separation. Later Public Laws, written for specific agencies, usually contain a waiver of repayment provision.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/94	59 FR 55808
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Gray, Employee Service, Office of Personnel Management, Staffing Restructuring Policy Division, 1900 E Street NW., Wasington, DC 20415
Phone: 202 606-0960

RIN: 3206–AG20

3959. COST-OF-LIVING ALLOWANCES (NONFOREIGN AREAS); INTERIM COLA RATE INCREASES PURSUANT TO SETTLEMENT OF LITIGATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

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CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: As a result of the court-approved settlement of Caraballo, et al. v. United States, No. 1997-0027 (D.V.I.), the Office of Personnel Management (OPM) published regulations to increase on an interim basis the cost-of-living allowance (COLA) rate paid to certain Federal employees in Hawaii County, HI; Kauai County, HI; Maui County, HI; Puerto Rico; and the U.S. Virgin Islands. The increase became effective on the first day of the first pay period beginning on or after October 1, 2000. OPM will adopt the interim regulations as final in a future rulemaking.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/03/00	65 FR 58901
Interim Final Rule Effective	10/01/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: RIN 3206-AJ15 was withdrawn and merged with this RIN 3206-AJ26.

Agency Contact: Chenty Carpenter, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AJ26

3960. • COST-OF-LIVING ALLOWANCES (NONFOREIGN AREAS);COMMISSARY/EXCHANGE RATES; SURVEY FREQUENCY; GRADUAL REDUCTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is issuing regulations to implement recent amendments to Executive Order 10000 regarding nonforeign area cost-of-living allowances (COLAs). There regulations eliminate the separate COLA rate paid to Federal employees with commissary and exchange privileges; allow OPM to conduct COLA surveys less frequently; and permit OPM to reduce COLA rates gradually regardless of the cause of the reduction. These changes will accomplish several of the provisions agreed upon under a recent settlement of litigation concerning nonforeign area COLAs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3206–AJ40

3961. • ABSENCE AND LEAVE: USE OF RESTORED ANNUAL LEAVE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6311

CFR Citation: 5 CFR 630

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim regulations to aid agencies and employees responding to the "National Emergency by Reason of Certain Terrorist Attacks" on the World Trade Center and the Pentagon.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/02/01	66 FR 55557
Interim Final Rule Effective	11/02/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Herzberg, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AJ51

3962. RETIREMENT COVERAGE FOR THE DISTRICT OF COLUMBIA FINANCIAL CONTROL BOARD EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-8

CFR Citation: 5 CFR 831; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the District of Columbia Financial Responsibility and Management Assistance Act of 1995. They establish standards by which some former Federal employees may carry civil service retirement coverage to employment with the District of Columbia Financial Control Board.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/15/96	61 FR 58457
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3206–AG78

3963. RETIREMENT; COVERAGE-NONAPPROPRIATED FUND INSTRUMENTALITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 841 to 844; 5 CFR 847

Legal Deadline: Final, Statutory, August 9, 1996.

Abstract: These regulations implement the provisions of Public Law 104-106,

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which allows certain employees, who have been employed by non-appropriated fund instrumentalities under the jurisdiction of the armed forces, to obtain retirement credit under limited circumstances.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/09/96	61 FR 41714
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AH57

3964. COVERAGE FOR CERTAIN EMPLOYEES OF THE DISTRICT OF COLUMBIA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8361(g); PL 105-33, sec 11202(f), 11232(e), 11246(b); PL 106-522, sec 145

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 842; 5 CFR 846; 5 CFR 870; 5 CFR 890

Legal Deadline: None

Abstract: These regulations implement provisions of the National Capital Revitalization and Self-Government Improvement Act of 1997, which requires that nonjudicial employees of the District of Columbia Courts, and under certain conditions, the District of Columbia Corrections Trustee and the District of Columbia Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee and their respective employees be considered Federal employees for purposes of Federal retirement, health, and life insurance coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/97	62 FR 50995
Interim Final Rule Comment Period End	12/01/97	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Girouard, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AI02

3965. RETIREMENT, HEALTH, AND LIFE INSURANCE COVERAGE FOR CERTAIN EMPLOYEES OF THE DISTRICT OF COLUMBIA UNDER THE DISTRICT OF COLUMBIA COURTS AND JUSTICE TECHNICAL CORRECTIONS ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-274

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 842; 5 CFR 846; 5 CFR 870; 5 CFR 890

Legal Deadline: None

Abstract: These interim regulations implement the District of Columbia Courts and Justice Technical Corrections Act of 1998. The effect of these regulations is to extend Federal retirement, health insurance, and life insurance coverage to employees of the Public Defender Service of the District of Columbia under section 7 of the Act, and to exclude certain former employees of the District of Columbia, who are hired by the Department of Justice or by the Court Services and Offender Supervision Agency, from Federal retirement coverage if they elect, under section 3 of the Act, to continue their coverage under a retirement system for employees of the District of Columbia.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/99	64 FR 15286
Interim Final Rule Comment Period End	06/29/99	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Girouard, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AI55.

3966. • LAW ENFORCEMENT OFFICER AND FIREFIGHTER RETIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831; 5 CFR 842

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim rules that permit certain police officers with the Metropolitan Washington Airports Authority to elect coverage under the special retirement provisions for law enforcement officers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/25/01	66 FR 38523
Interim Final Rule Effective	07/25/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance, Office of Personnel Management, Retirement Policy Center, 1900 E Street NW, Washington, DC 20415-0001
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Email: combox@opm.gov

RIN: 3206–AJ39

3967. RETIREMENT; STATE INCOME TAX WITHHOLDING INSTRUMENTALITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8345; 5 USC 8347; 5 USC 8461; 5 USC 8469

CFR Citation: 5 CFR 831, subpart S; 5 CFR 841, subpart J

Legal Deadline: None

Abstract: These regulations modify existing regulations to reflect changes designed to expand and streamline the process of withholding State income tax from CSRS and FERS annuities.

Timetable:

Action	Date	FR Cite
NPRM	06/23/99	64 FR 33429
Final Action	12/00/01	

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
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RIN: 3206–AH62

3960. CORRECTION OF RETIREMENT COVERAGE ERRORS UNDER THE FEDERAL ERRONEOUS RETIREMENT COVERAGE CORRECTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-265

CFR Citation: 5 CFR 839

Legal Deadline: None

Abstract: The Office of Personnel Management is amending its regulations to include new rules for correcting certain retirement coverage errors. We are amending the regulations to implement the provisions of the Federal Erroneous Retirement Coverage Corrections Act (the FERCCA), title II of Public Law 106-265. The regulations will allow agencies to correct affected coverage errors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/19/01	66 FR 15605
Interim Final Rule Effective	03/19/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AJ38

3969. RETIREMENT; GENERAL ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 841

Legal Deadline: None

Abstract: These regulations would allow an agency to retain the individual retirement record when an employee transfers within the same agency even though the employee would be serviced by another intra-agency payroll.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/20/00	65 FR 21119
Interim Final Rule Effective	04/20/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Panagakos, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AI83

3970. RETIREMENT; FERS BASIC ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 842, subparts B to G

Legal Deadline: None

Abstract: These final regulations will amend FERS Basic Annuity regulations governing Eligibility (subpart B), Credit for Service (subpart C), Computations (subpart F), and Alternative Forms of Annuity (subpart G). These regulations have been published at various times in interim final form, and have been affected by statutory changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/87	52 FR 2061
Interim Final Rule	01/16/87	52 FR 2067
Interim Final Rule	02/11/87	52 FR 4473
Interim Final Rule	02/11/87	52 FR 4479
Interim Final Rule	05/14/87	52 FR 18193
Interim Final Rule	04/08/88	53 FR 11635
Interim Final Rule	02/09/90	55 FR 4598
Final Rule	12/27/90	55 FR 53136
Interim Final Rule	02/19/91	56 FR 6549
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Panagakos, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AE73

3971. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM: MISCELLANEOUS CHANGES AND CLARIFICATIONS AND PLAIN LANGUAGE REWRITE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: These regulations include changes to FEGLI regulations that clarify procedures for signing and witnessing designations of beneficiary, accepting designations of beneficiary by facsimile, accepting DNA evidence to establish paternity, etc. We are also rewriting part 870 under the plain language initiative.

Timetable:

Action	Date	FR Cite
NPRM	10/27/00	65 FR 64530
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: RIN 3206-AI64 was withdawn and merged with this RIN.

Agency Contact: Karen Leibach, Retirement and Insurance Service, Office of Insurance Programs, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AG63

3972. • FEDERAL EMPLOYEES' GROUP LIFE INSURANCE: PREMIUM CHANGES AND CHANGE IN TIME FRAMES FOR ELECTING INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8716; PL 106-398

CFR Citation: 5 CFR 870

Legal Deadline: None

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Abstract: Public Law 105-311 allowed retiring employees to elect to continue their option B and/or option C coverage on an unreduced basis. Since this means that more people over age 65 will have these coverages and will continue to pay premiums, the previous age band structure (with the top age band being 60 and over) needed to be expanded. OPM previously added additional age bands to option C; we now need to expand these further and to add age bands to option B. In addition, the actuaries have determined that changes in mortality rates warrant further changes to the FEGLI premiums. We are also changing the time frame for electing optional insurance when an employee is first eligible from 31 days to 60 days and adding information relating to Basic insurance for certain Department of Defense employees under Public Law 106-398.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/02	
Final Action	07/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Office of Insurance Programs, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AJ46

3973. IMPLEMENTATION OF PREMIUM CONVERSION FOR EXECUTIVE BRANCH FEDERAL EMPLOYEES PARTICIPATING IN THE FEDERAL EMPLOYEES' HEALTH BENEFITS (FEHB) PROGRAM

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 26 USC 125

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: At the President's direction, the Office of Personnel Management (OPM) issued regulations under the Federal Employees' Health Benefits (FEHB) Program to enable employees of all executive branch agencies to pay their share of FEHB premiums with pre-tax dollars in accordance with section 125 of the Internal Revenue Code. OPM simultaneously amended salary allotment regulations at 5 CFR 550, because employees participating in premium conversion must allot a portion of salary to their employing agency that agencies then use to pay the employee share of FEHB premiums. The regulations establish the basic rules under which premium conversion will operate beginning in October 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/00	65 FR 44644
Interim Final Rule Effective	09/18/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Abby L. Block, Assistant Director, Office of Insurance Programs, Office of Personnel Management, Retirement and Insurance Group Room 3425, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0770

RIN: 3206–AJ17

3974. • FEDERAL EMPLOYEES HEALTH BENEFITS CHILDREN'S EQUITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-394

CFR Citation: 5 CFR 890; 5 CFR 892

Legal Deadline: None

Abstract: Public Law 106-394 requires mandatory self and family coverage for FEHB-eligible employees who do not comply with a court or administrative order to provide health benefits for their children. This regulation requires that employees subject to such an order be enrolled in self and family coverage in a plan that provides full benefits to his/her child(ren) in the area where they live or provide documentation to his/her employing office that he/she has other health coverage for the children. If the employee does not enroll in an appropriate health plan or provide documentation of other coverage for the children, the employing office will enroll the employee for self and family coverage in the option of the Blue Cross and Blue Shield Service Benefit Plan that provides the lower level of coverage. This type of mandatory coverage has been in effect for several years in the private sector. This regulation defines how this requirement will be implemented in the Federal Employees' Health Benefits Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Office of Insurance Programs, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AJ34

3975. • SUSPENSION OF ENROLLMENT IN THE FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM TO ENROLL IN THE TRICARE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: The National Defense Authorization Act for 2001 (Act) contains provisions that extend Tricare pharmacy coverage to Uniformed Services Medicare eligible retirees, spouses, and survivors effective April 1, 2001. This will allow Uniformed Services beneficiaries to get prescriptions through Tricare's retail, mail order, or military treatment facility pharmacies. The Act also allows these beneficiaries to regain eligibility for Tricare medical benefits effective October 1, 2001. Some enrollees in the FEHB Program served in the Uniformed Services prior to their civilian employment with the Federal Government. In certain cases, having served in both the Uniformed Services and as a civilian Federal employee entitles an individual to retirement benefits under both the Uniform Services and the civil service retirement systems. The purpose of this proposed regulation is to allow FEHB Program annuitants to suspend their enrollment so they can use their Tricare

OPM — Final Rule Stage

benefits instead of their FEHB benefits. This regulation will also allow these individuals to voluntarily reenroll in the FEHB Program during the next Open Season if they no longer want to solely use the Tricare program to meet their health care needs. If an eligible individual is involuntarily disenrolled from the Tricare program, this proposed regulation would give the individual the right to immediately reenroll in the FEHB Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/26/01	66 FR 49081
Interim Final Rule Effective	09/26/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael W. Kaszynski, Retirement and Insurance Services, Office of Personnel Management, Insurance Policy and Information Division, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633
Email: mwkaszyn@opm.gov

RIN: 3206–AJ36

Office of Personnel Management (OPM) — Long-Term Actions

3976. PROBATION ON INITIAL APPOINTMENT TO A COMPETITIVE POSITION

Priority: Other Significant

Legal Authority: 5 USC 3321

CFR Citation: 5 CFR 315, subpart H

Legal Deadline: None

Abstract: This regulation will permit agencies to use a competitive service probationary period of up to three years, when the work of the position cannot be properly evaluated in only one year. It will also establish one year as the minimum probationary period.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda Watson, Employment Service, Examining and Qualification Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023
Email: lmwatson@opm.gov

RIN: 3206–AI47

3977. MERIT PROMOTION AND INTERNAL PLACEMENT

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 316; 5 CFR 335

Legal Deadline: None

Abstract: In an effort to streamline selection procedures and provide agencies with greater flexibility, the Office of Personnel Management (OPM) is proposing to revise the regulations covering merit promotion and internal placement. These regulations will provide a framework within which agencies may develop merit-based programs for internal selections.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI20

3978. REEMPLOYMENT PRIORITY LIST

Priority: Other Significant

Legal Authority: 5 USC 1315; 5 USC 8151

CFR Citation: 5 CFR 330, subpart B

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing regulations covering the operation and administration of the Reemployment Priority List (RPL). The RPL provides competitive service employees, separated by reduction in force, with the first opportunity for reemployment in their former agency over candidates who do not work for the agency. The RPL also provides the same priority to former employees who were separated or downgraded because of a compensable injury or disability and have fully recovered more than one year after compensation began. These proposed regulations would update RPL procedures in order to assist agencies in providing displaced employees with maximum reemployment opportunities.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI34

3979. PERFORMANCE MANAGEMENT REFORM INITIATIVES

Priority: Other Significant

Legal Authority: 5 USC 43; 5 USC 45

CFR Citation: 5 CFR 430; 5 CFR 451

Legal Deadline: None

Abstract: Regulatory changes to comply with a legislative initiative focused on aligning employee performance with organizational goals and maintaining individual accountability.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Colchao, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Performance Compensation and Systems Design, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2720
Email: bwcolcha@opm.gov

RIN: 3206–AF57

3980. SUPERIOR QUALIFICATIONS APPOINTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5333

CFR Citation: 5 CFR 531

Legal Deadline: None

Abstract: Revises regulations concerning the appointment of superior candidates above the minimum rate of pay for General Schedule positions. Clarifies and modifies what agencies should consider when making these superior qualifications appointments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0390

RIN: 3206–AI00

3981. PERSONNEL SECURITY AND RELATED PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7312; 50 USC 403; EO 10450; EO 10577

CFR Citation: 5 CFR 732

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, they will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we see no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Interim Final Rule	09/16/94	59 FR 47527
Interim Final Rule Effective Date	10/17/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-4000
Phone: 202 606-1042

RIN: 3206–AC21

3982. INVESTIGATIONS

Priority: Other Significant

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 5 CFR 736

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, they will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we foresee no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Begin Review	10/01/93	
Interim Final Rule	09/16/94	59 FR 47527
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-4000
Phone: 202 606-1042

RIN: 3206–AB92

3983. FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM: PAYMENT OF PREMIUMS FOR PERIODS OF LEAVE WITHOUT PAY OR INSUFFICIENT PAY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations that establish a requirement that Federal agencies counsel employees entering nonpay status, or whose pay is insufficient to cover their FEHB premium payments, of the options of continuing or terminating their FEHB coverage, and if continuing, of paying premiums directly on a current basis or incurring a debt to be withheld from future salary. These regulations are intended to ensure employees are fully aware of these alternatives. We have received comments on the interim rules, which are under review.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/96	61 FR 37807
Second Interim Final Rule	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Barbara Meyers, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, 1900 E Street NW, Washington, DC 20415
Phone: 202 632-9677

RIN: 3206–AG66

3984. FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM: EFFECTIVE DATES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

OPM — Long-Term Actions

Abstract: This proposed regulation would adopt January 1 as the effective date for all open season enrollment changes and new enrollment in the Federal Employees' Health Benefits Program.

Timetable:

Action	Date	FR Cite
NPRM	08/31/98	63 FR 46180
NPRM Comment Period End	09/30/98	
Final Action	01/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Myers, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004

RIN: 3206–AI37

Office of Personnel Management (OPM) — Completed Actions

3985. CAREER AND CAREER-CONDITIONAL APPOINTMENT UNDER SPECIAL AUTHORITIES

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 315

Completed:

Reason	Date	FR Cite
Withdrawn	09/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice Reid
Phone: 202 606-0830

RIN: 3206–AG90

3986. NONCOMPETITIVE APPOINTMENTS OF CORPORATION FOR NATIONAL AND COMMUNITY SERVICE EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 315; 5 CFR 316

Completed:

Reason	Date	FR Cite
Withdrawn	09/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice Reid
Phone: 202 606-0830

RIN: 3206–AH48

3987. NONCOMPETITIVE APPOINTMENT OF FORMER PEACE CORPS AND VISTA VOLUNTEERS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 315

Completed:

Reason	Date	FR Cite
Withdrawn	09/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice Reid
Phone: 202 606-0830

RIN: 3206–AG18

3988. INTERAGENCY PLACEMENT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 330; 5 CFR 351; 5 CFR 332

Completed:

Reason	Date	FR Cite
Final Action	06/04/01	66 FR 29895
Final Action Effective	06/04/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman
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RIN: 3206–AI24

3989. REPAYMENT OF STUDENT LOANS

Priority: Other Significant

CFR Citation: 5 CFR 537

Completed:

Reason	Date	FR Cite
Final Action	07/31/01	66 FR 39405
Final Action Effective	08/30/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mike Mahoney
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AJ33

3990. PRETAX ALLOTMENTS FOR HEALTH INSURANCE PREMIUMS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 550, subpart C

Completed:

Reason	Date	FR Cite
Final Action	09/26/01	66 FR 49085
Final Action Effective	10/26/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bryce Baker
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AJ16

3991. PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT (FLSA)

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 551, subpart A; 5 CFR 551, subpart B; 5 CFR 551, subpart C

Completed:

Reason	Date	FR Cite
Withdrawn	09/06/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Melissa Drummond
Phone: 202 606-2530
Fax: 202 606-2663
Email: madrummo@opm.gov

RIN: 3206–AI15

3992. RECRUITMENT AND RELOCATION BONUSES AND RETENTION ALLOWANCES

Priority: Other Significant

CFR Citation: 5 CFR 575

OPM

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	07/20/01	66 FR 37883
Final Action Effective	07/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeanne D. Jacobson
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AJ08

3993. COST-OF-LIVING ALLOWANCES (NONFOREIGN AREAS); GUAM AND THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 591

Completed:

Reason	Date	FR Cite
Merged With 3206-AJ26	09/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chenty Carpenter
Phone: 202 606-2838
Fax: 202 606-4264
Email: cola@opm.gov

RIN: 3206–AJ15

3994. RETIREMENT; LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 831, subpart I; 5 CFR 842, subpart H

Completed:

Reason	Date	FR Cite
Withdrawn	09/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patrick Jennings
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Email: combox@opm.gov

RIN: 3206–AI41

3995. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM: LIFE INSURANCE IMPROVEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 870

Completed:

Reason	Date	FR Cite
Withdrawn	09/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Leibach
Phone: 202 606-0004
Email: kjleibac@opm.gov

RIN: 3206–AI64

3996. FEDERAL EMPLOYEES' HEALTH BENEFITS ACQUISITION REGULATION

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 1601; 5 CFR 1652

Completed:

Reason	Date	FR Cite
Withdrawn	09/02/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne Easton
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RIN: 3206–AJ25

[FR Doc. 01–28070 Filed 11–30–01; 8:45 am]
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Federal Register

Monday,
December 3, 2001

Part XXXVIII

Peace Corps

Semiannual Regulatory Agenda

PEACE CORPS (PEACE)

PEACE CORPS

22 CFR Ch. III

Regulatory Agenda

AGENCY: Peace Corps.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations the Peace Corps will have under development during the 6-month period from October 1, 2001, through March 31, 2002. The purpose of publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Peace Corps' regulations or this semiannual agenda, contact Suzanne B. Glasow, Acting General Counsel, Peace Corps, 1111 20th Street NW., Washington, DC 20526, (202) 692-2150.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601-612, executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year. The regulations being considered by the Peace Corps are not "significant" rules within the meaning of Executive Order 12866, and no regulatory impact analysis is required. In addition, the Peace Corps has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required. The Agency has also determined that the regulations will not impose compliance costs or reporting burdens on the public.

Dated: September 17, 2001.

Michael Kole,

Director, Office of Administrative Services, Peace Corps

Peace Corps (PEACE) — Proposed Rule Stage

3997. SUPPLEMENTAL STANDARDS OF CONDUCT FOR PEACE CORPS EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: EO 12674; 5 CFR 2635.105

CFR Citation: 22 CFR 307; 5 CFR 67 (New)

Legal Deadline: None

Abstract: The Peace Corps is removing part 307 from the Code of Federal Regulations. Part 307 provides the standards of conduct applicable to Peace Corps employees. Peace Corps employees are already subject to the Governmentwide regulations on employee standards of conduct, and the Peace Corps is considering the appropriate action to take in regard to its supplemental standards of conduct.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Suzanne B. Glasow, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA09

3998. RESPONSIBILITIES AND ETHICAL STANDARDS FOR PEACE CORPS EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 7301; 5 USC app Ethics in Government Act of 1978; EO 12674; 5 CFR 2635.105; 5 CFR 2635.403; 5 CFR 2635.803

CFR Citation: 22 CFR 307

Legal Deadline: None

Abstract: The Peace Corps is removing part 307 from the Code of Federal Regulations. Part 307 provides the standards of conduct applicable to Peace Corps employees. Peace Corps employees are already subject to the Governmentwide regulations on employee standards of conduct, and the Peace Corps is considering the appropriate action to take in regard to its own supplemental standards of conduct.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Suzanne B. Glasow, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA12

3999. INSPECTION AND COPYING OF RECORDS: RULES FOR COMPLIANCE WITH FREEDOM OF INFORMATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 22 USC 2503(b); EO 12137

CFR Citation: 22 CFR 303

Legal Deadline: None

Abstract: The Peace Corps is revising its Freedom of Information Act (FOIA) regulation to implement the 1996 revisions to FOIA and to include Office of Inspector General provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Suzanne B. Glasow, Acting General Counsel, Peace Corps,

PEACE — **Proposed Rule Stage**

Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
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RIN: 0420–AA14

4000. IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552a; 22 USC 2503(b); EO 12137

CFR Citation: 22 CFR 308

Legal Deadline: None

Abstract: The Peace Corps is revising its Privacy Act regulation to be consistent with revisions to its systems of records and to delete unnecessary and outdated provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Suzanne B. Glasow, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA15

4001. ORGANIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 22 USC 2503(b); EO 12137

CFR Citation: 22 CFR 302

Legal Deadline: None

Abstract: The Peace Corps is removing this rule from the Code of Federal Regulations because it is outdated and unnecessary. Information on Peace Corps' organization is routinely updated and published in the Federal Register's "United States Government Manual."

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Suzanne B. Glasow, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
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RIN: 0420–AA16

4002. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant

Legal Authority: sec 2455, PL 103-355, 108 Stat 3327; EO 12549, 3 CFR 1986 Comp, p 189; EO 12698, 3 CFR 1989 Comp, p 235

CFR Citation: 22 CFR 310

Legal Deadline: None

Abstract: The Peace Corps intends to publish proposed revisions to its Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) rule in 22 CFR part 310 in conjunction with other participating agencies. Under the proposed rule, Peace Corps' debarment and suspension provisions would remain in part 310 and would set out procedures to be used by the Peace Corps when it has evidence that a recipient of Peace Corps funds pursuant to a nonprocurement agreement, such as grant or cooperative agreement, has committed fraud, embezzlement, forgery, or a variety of other serious offenses.

The rule's drug-free workplace provisions would be moved to a new rule, part 312, and would include requirements, prohibitions, and procedures regarding the unlawful manufacturing, distribution, dispensing, possession, or use of a controlled substance by a grantee of the Peace Corps in conducting any activity under a Peace Corps grant.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne B. Glasow, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA17

Peace Corps (PEACE) — **Long-Term Actions**

4003. HANDICAPPED DISCRIMINATION PROHIBITION AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 22 CFR 313

Legal Deadline: None

Abstract: The regulation implements section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination on the basis of handicap in programs or activities conducted by executive agencies or the Postal Service.

Timetable:

Action	Date	FR Cite
NPRM	10/08/91	56 FR 50684
NPRM Comment Period End	12/09/91	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Suzanne B. Glasow, Acting General Counsel, Peace Corps,

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PEACE — Long-Term Actions

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Phone: 202 692-2150
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RIN: 0420–AA03

4004. ELIGIBILITY AND STANDARDS FOR PEACE CORPS VOLUNTEER SERVICE RE: PROCEDURES—APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 75 Stat 612, secs 4(b), 5(a), and 22; 22 USC 2504; EO 12137, May 16, 1979; International Security & Development Coop. Act of 1981, sec 601; 95 Stat 1519 and 1540

CFR Citation: 22 CFR 305

Legal Deadline: None

Abstract: The Peace Corps is reviewing its Eligibility and Standards for Peace Corps Service, specifically with regard to establishing and publishing an appeals procedure for administrative and medical deselection. 42 U.S.C. 5057(c)(1), as amended, no longer provides authority for the listed agenda item. Therefore, 42 U.S.C. 5057, as above, shall be deleted from future printings of the Unified Agenda.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: RFA: N

Agency Contact: Suzanne B. Glasow, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA10

4005. VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Priority: Info./Admin./Other

Legal Authority: 22 USC 2503; 5 USC 553 and 554

CFR Citation: 22 CFR 306; 45 CFR 1225

Legal Deadline: None

Abstract: The Peace Corps is promulgating its own regulations regarding the Volunteer Discrimination Complaint Procedure to replace the current cross-reference to ACTION's regulations applicable to Peace Corps volunteers, which appear in 45 CFR part 1225.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: RFA: N

Agency Contact: Suzanne B. Glasow, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA11

[FR Doc. 01–23859 Filed 11–30–01; 8:45 am]
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Federal Register

Monday,
December 3, 2001

Part XXXIX

Pension Benefit Guaranty Corporation

Semiannual Regulatory Agenda

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation (PBGC).

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that PBGC expects to have under development or review during the next 12 months. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESSES: Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, (202) 326-4024. (For TTY/TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to (202) 326-4024.) For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 98-354, 5 U.S.C. 601, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. For this edition of the Pension Benefit Guaranty Corporation's regulatory agenda, the most important significant regulatory action is included in the Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Dated: September 17, 2001.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

Pension Benefit Guaranty Corporation—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4006	Filing Rules	1212-AA89
4007	Rules for Administrative Review of Agency Decisions	1212-AA97
4008	Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets **(Reg Plan Seq No. 151)**	1212-AA55

References in boldface appear in the **Regulatory Plan** in part II of this issue of the **Federal Register**.

Pension Benefit Guaranty Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4009	Assessment Of and Relief From Penalties	1212-AA95
4010	Payment of Benefits in PBGC-Trusteed Plans	1212-AA35

Pension Benefit Guaranty Corporation—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4011	Cash Balance Plans With Variable Indices	1212-AA96

Pension Benefit Guaranty Corporation—Completed Actions

Sequence Number	Title	Regulation Identification Number
4012	Payment of Premiums	1212-AA58
4013	Calculation and Payment of Unfunded Nonguaranteed Benefits	1212-AA54
4014	Miscellaneous Statutory Amendments	1212-AA79

PBGC

Pension Benefit Guaranty Corporation—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4015	Treatment of Substantial Cessation of Operations	1212-AA84
4016	Premium Self-Audit	1212-AA93

Pension Benefit Guaranty Corporation (PBGC) — Proposed Rule Stage

4006. FILING RULES

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1301 et seq

CFR Citation: 29 CFR 4000

Legal Deadline: None

Abstract: The PBGC's rules governing the date of filing vary, depending on the regulation involved and the method of filing used (e.g., mail postmarked by the United States Postal Service, metered mail, commercial delivery service, facsimile). The PBGC intends to clarify and simplify its filing rules and to provide greater flexibility in methods of filing (including by electronic means).

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas H. Gabriel, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA89

4007. • RULES FOR ADMINISTRATIVE REVIEW OF AGENCY DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3)

CFR Citation: 29 CFR 4003

Legal Deadline: None

Abstract: The PBGC plans to clarify and simplify the rules governing its administrative review process. As part of this rulemaking, the PBGC intends to rewrite its administrative review regulation in plain language and to explore ways to make its procedures more efficient.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	
NPRM Comment Period End	11/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas H. Gabriel, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA97

4008. ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS; VALUATION OF BENEFITS AND ASSETS

Regulatory Plan: This entry is Seq. No. 151 in part II of this issue of the **Federal Register**.

RIN: 1212–AA55

Pension Benefit Guaranty Corporation (PBGC) — Final Rule Stage

4009. ASSESSMENT OF AND RELIEF FROM PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2461 note; 29 USC 1302(b)(3); 29 USC 1303(a); 29 USC 1306; 29 USC 1307; 29 USC 1371

CFR Citation: 29 CFR 4003; 29 CFR 4007; 29 CFR 4071

Legal Deadline: None

Abstract: The PBGC has issued a number of policy statements about penalties over the last few years. For the convenience of the public, the PBGC proposes to replace those policy statements with an updated and expanded set of penalty policies codified in its regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/12/01	66 FR 2856
NPRM Comment Period End	03/13/01	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA95

PBGC — Final Rule Stage

4010. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322; 29 USC 1342

CFR Citation: 29 CFR 4022

Legal Deadline: None

Abstract: When the PBGC assumes trusteeship of a terminated pension plan pursuant to sections 4041 and 4042 of ERISA, it pays benefits to participants pursuant to plan provisions and section 4022 of ERISA. This regulation will fill gaps in the rules and otherwise clarify matters that had been handled on a case-by-case basis in the past.

Timetable:

Action	Date	FR Cite
NPRM	12/26/00	65 FR 81456
NPRM Comment Period End	02/26/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4024
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA35

Pension Benefit Guaranty Corporation (PBGC) — Long-Term Actions

4011. CASH BALANCE PLANS WITH VARIABLE INDICES

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
Request for Comments	06/06/00	65 FR 41610
Comment Period End	09/22/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Catherine B. Klion
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA96

Pension Benefit Guaranty Corporation (PBGC) — Completed Actions

4012. PAYMENT OF PREMIUMS

Priority: Other Significant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1306; 29 USC 1307

CFR Citation: 29 CFR 4006; 29 CFR 4007

Legal Deadline: None

Abstract: The PBGC is withdrawing this proposed regulation because it is out of date. If PBGC decides to change the premium regulations, it will initiate a new rulemaking action.

Timetable:

Action	Date	FR Cite
NPRM	04/10/92	57 FR 12666
NPRM Comment Period End	05/26/92	
NPRM Comment Period Extended to 11/16/92	09/17/92	57 FR 42910
Final Action Extending Premium Due Dates	12/14/98	63 FR 68684
Final Action Extending Premium Due Dates Effective	02/12/99	
Final Action Amending Participant Definition and Making Other Simplifying Changes	12/01/00	65 FR 75160
Final Action Amending Participant Definition and Making Other Simplifying Changes Effective	01/01/01	
Withdrawn	10/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA58

4013. CALCULATION AND PAYMENT OF UNFUNDED NONGUARANTEED BENEFITS

Priority: Other Significant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322(c)

CFR Citation: 29 CFR 4022 subpart C

Legal Deadline: None

Abstract: The PBGC is withdrawing this project because it is reevaluating whether a regulation is needed.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RFA: N

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4020
TDD Phone: 800 877-8339

PBGC

Completed Actions

Fax: 202 326-4112

RIN: 1212–AA54

4014. MISCELLANEOUS STATUTORY AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1301 et seq

CFR Citation: 29 CFR 4000 et seq

Legal Deadline: None

Abstract: The PBGC is withdrawing this as a separate project because it intends to incorporate in other substantive rulemaking any regulatory changes that are necessary to reflect statutory changes.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas H. Gabriel, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA79

4015. TREATMENT OF SUBSTANTIAL CESSATION OF OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1362; 29 USC 1363; 29 USC 1364; 29 USC 1365

CFR Citation: 29 CFR 4062

Legal Deadline: None

Abstract: The PBGC is withdrawing this project because it is reevaluating whether a regulation is needed.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA84

4016. PREMIUM SELF-AUDIT

Priority: Substantive; Nonsignificant

Legal Authority: 29 USC 1302; 29 USC 1307

CFR Citation: 29 CFR 4007

Legal Deadline: None

Abstract: The PBGC is withdrawing this project because practitioners have advised the PBGC that there is no longer a need for a premium self-audit program.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA93

[FR Doc. 01–23860 Filed 11–30–01; 8:45 am]
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Monday,
December 3, 2001

Part XL

Presidio Trust

Semiannual Regulatory Agenda

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PRESIDIO TRUST (PRESIDIO)

PRESIDIO TRUST

36 CFR Ch. X

Semiannual Agenda of Regulations Pursuant to Executive Order 12866

AGENCY: The Presidio Trust.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Presidio Trust (Trust) is a wholly owned Government corporation created by Congress pursuant to title I of the Omnibus Parks and Public Lands Act of 1996, Public Law 104-333, 110 Stat. 4097. The Trust is charged with managing a portion of the former U.S. Army base known as The Presidio of San Francisco, located in San Francisco, California.

This regulatory agenda describes the regulations that the Trust will be proposing, developing, and reviewing between October 1, 2001, and March 31, 2002. This information is published in order to notify the public of the Trust's regulatory activities so that interested persons may participate in the Trust's rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information about the Trust's regulatory agenda or rulemaking process, contact Karen A. Cook, General Counsel, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129-0052; telephone: 415-561-5300.

SUPPLEMENTARY INFORMATION: Pursuant to Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies must publish a semiannual regulatory agenda in the **Federal Register** in April and October of each year.

The Trust has determined and certifies pursuant to the Regulatory Flexibility Act, 5 U.S.C. section 601 *et seq.*, that the regulations under consideration will not have a significant economic effect on a substantial number of small entities nor will they impose compliance costs or reporting burdens on the public. Accordingly, no regulatory flexibility analysis is required under 5 U.S.C. 602.

Dated: September 17, 2001.

Karen A. Cook,

General Counsel.

Presidio Trust (PRESIDIO) — Long-Term Actions

4017. INTERIM MANAGEMENT OF THE PRESIDIO

Priority: Other Significant

Legal Authority: PL 104-333, sec 101 to 106

CFR Citation: 36 CFR 1001; 36 CFR 1002; 36 CFR 1004; 36 CFR 1005

Legal Deadline: None

Abstract: This interim final rule governs the use and management of the area administered by the Presidio Trust. The rule is derived from the National Park Service's (NPS) regulations for managing conduct at the Presidio during the four years when the Presidio was under the NPS's jurisdiction. These regulations cover public use and recreational activities; the protection of natural, cultural, and archeological resources; vehicle and traffic safety; and commercial and private operations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/30/98	63 FR 35694
Interim Final Rule Comment Period End	08/31/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven Carp, Legal Analyst, Presidio Trust, P.O. Box 29052, 34 Graham Street, San Francisco, CA 94129-0052
Phone: 415 561-5300
Email: scarp@presidiotrust.gov

RIN: 3212–AA00

4018. MANAGEMENT OF THE PRESIDIO

Priority: Other Significant

Legal Authority: PL 104-333, sec 101 to 106; 5 USC 552; 5 USC 552a; 28 USC 2672

CFR Citation: 36 CFR 1001 to 1009

Legal Deadline: None

Abstract: This proposed rule, published in the Federal Register on September 18, 1998, at 63 FR 50024, revises and expands upon the interim final rule adopted when the Presidio was transferred from the National Park Service to the Presidio Trust (Trust). The interim final rule was published on June 30, 1998, and can be found at 63 FR 35694. These proposed rules cover general provisions (part 1001); public use and recreational activities and protection of natural, cultural, and archeological resources (part 1002); vehicle and traffic safety (part 1003); and commercial operations (part 1004) and have been revised to be consistent with existing regulations, conform with laws in neighboring jurisdictions, and simplify the language and organization of the regulations. The remaining proposed regulations address rights-of-way (part 1005); Presidio Trust symbols (part 1006); requests under the Freedom of Information and Privacy Acts (parts 1007 and 1008); and administrative claims under the Federal Tort Claims Act (part 1009).

By notice published on January 19, 1999, in the Federal Register at 64 FR 2870, the Trust held in abeyance until further notice a portion of the proposed rules: 36 CFR 1001, 1002, 1003, 1004, and 1006. Any future action on these rules will be noticed in the Federal Register and subject to additional public comment. In the interim, the Trust's final interim regulations at 36 CFR 1001, 1002, 1004, and 1005 remain in effect. The public comment period for proposed rule 36 CFR 1005 closed on January 8, 1999. Public comment on the remaining proposed rules, 36 CFR 1007, 1008, and 1009, closed on November 17, 1998, and the Trust issued final regulations on December 30, 1998, effective January 29, 1999. These regulations can be found at 63 FR 71771.

Timetable:

FOIA; Privacy Act; Federal Tort Claims Act
- NPRM 09/18/98 (63 FR 50024)
- NPRM Comment Period End 11/17/98 (63 FR 50024)
- Final Action 12/30/98 (63 FR 71771)
- Final Action Effective 01/29/99 (63 FR 71771)

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PRESIDIO **Long-Term Actions**

General; Resource Protection; Traffic Safety; Comm. Operations
NPRM 09/18/98 (63 FR 50024)
NPRM Comment Period End 11/17/98 (63 FR 50024)
Comment Period Extended to 01/08/99 (63 FR 64023)
Partial Abeyance of Proposed Rule 01/19/99 (64 FR 2870)
Further Action To Be Determined

Rights-of-Way
NPRM 09/18/98 (63 FR 50024)
NPRM Comment Period End 11/17/98 (63 FR 50024)
Comment Period Extended to 01/08/99 (63 FR 64023)
Final Action To Be Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven Carp, Legal Analyst, Presidio Trust, P.O. Box 29052, 34 Graham Street, San Francisco, CA 94129-0052
Phone: 415 561-5300
Email: scarp@presidiotrust.gov

RIN: 3212–AA01

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Federal Register

Monday,
December 3, 2001

Part XLI

Railroad Retirement Board

Semiannual Regulatory Agenda

RAILROAD RETIREMENT BOARD (RRB)

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next 12 months and regulations that are scheduled to be reviewed in that period.

ADDRESSES: 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Senior Attorney, Bureau of Law, Railroad Retirement Board, (312) 751-4945, FAX (312) 751-7102, TDD (312) 751-4701.

SUPPLEMENTARY INFORMATION: Regulations that are routine in nature or pertain solely to internal agency management have not been included in the agenda.

Dated: August 24, 2001.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

Railroad Retirement Board—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4019	Requests for Reconsideration and Appeals Within the Board	3220-AB03
4020	Designation of Central and Field Organization	3220-AB35
4021	Application for Annuity or Lump Sum	3220-AB46
4022	Assessment or Waiver of Interest, Penalties, and Administrative Costs With Respect to Collection of Certain Debts	3220-AB48

Railroad Retirement Board—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4023	Freedom of Information Act Requests	3220-AB47
4024	Appendix 1 to Part 220—Listing of Impairments	3220-AB51

Railroad Retirement Board—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4025	Reduction and Non-Payment of Annuities by Reason of Work	3220-AA61
4026	Voluntary Quit	3220-AA75
4027	Determining Disability	3220-AA99
4028	Creditable Railroad Compensation	3220-AB23
4029	Determining Disability	3220-AB50

Railroad Retirement Board—Completed Actions

Sequence Number	Title	Regulation Identification Number
4030	Application for Annuity or Lump Sum	3220-AB45
4031	Use of the Seal of the Railroad Retirement Board	3220-AB49

Railroad Retirement Board (RRB)

Proposed Rule Stage

4019. REQUESTS FOR RECONSIDERATION AND APPEALS WITHIN THE BOARD

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f(b)(5); 45 USC 231g; 45 USC 355

CFR Citation: 20 CFR 260; 20 CFR 320

Legal Deadline: None

Abstract: The RRB is amending its regulations to provide for its field offices to make timeliness determinations on requests for reconsideration of decisions of the RRB's various adjudicating units.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB03

4020. DESIGNATION OF CENTRAL AND FIELD ORGANIZATION

Priority: Info./Admin./Other

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 200

Legal Deadline: None

Abstract: The Board proposes to amend its regulations, which describe its organization and general course of operations to reflect recent reorganizations.

Timetable:

Action	Date	FR Cite
NPRM	09/05/01	66 FR 46408
NPRM Comment Period End	11/05/01	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB35

4021. APPLICATION FOR ANNUITY OR LUMP SUM

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231d; 45 USC 231f

CFR Citation: 20 CFR 217.9; 20 CFR 217.30

Legal Deadline: None

Abstract: The Railroad Retirement Board amends sections 217.9 and 217.30 of its regulations to accept a spouse annuity application, when filed simultaneously with the railroad employee's application for a disability annuity, to be filed more than three months in advance of the earliest annuity beginning date.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB46

4022. ASSESSMENT OR WAIVER OF INTEREST, PENALTIES, AND ADMINISTRATIVE COSTS WITH RESPECT TO COLLECTION OF CERTAIN DEBTS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362; 31 USC 3717

CFR Citation: 20 CFR 200.7

Legal Deadline: None

Abstract: The Railroad Retirement Board amends its regulations to permit waiver of interest, penalties, and administrative costs in cases where a debt is being recovered by setoff from current annuities if the debt was not caused by fraud. This amendment will conform the regulation to current agency practice.

Timetable:

Action	Date	FR Cite
NPRM	09/05/01	66 FR 46408
NPRM Comment Period End	11/05/01	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB48

Railroad Retirement Board (RRB)

Final Rule Stage

4023. FREEDOM OF INFORMATION ACT REQUESTS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362; 5 USC 552

CFR Citation: 20 CFR 200.4

Legal Deadline: None

Abstract: The Railroad Retirement Board amends 20 CFR 200.4 to direct all Freedom of Information Act requests to the Board's General Counsel, and to extend the time within which responses may be made from 10 to 20 working days as provided by the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/01	

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RRB — Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB47

4024. • APPENDIX 1 TO PART 220—LISTING OF IMPAIRMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231a; 45 USC 231f

CFR Citation: 20 CFR 220.110; 20 CFR 220, app. 1

Legal Deadline: None

Abstract: The Railroad Retirement Board amends 20 CFR 220.110 and app. 1—Listing of Impairments, to conform the medical criteria that apply to disability determinations to the medical criteria in the Social Security Administration's regulations (20 CFR 404, subpart P, app. 1).

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB51

Railroad Retirement Board (RRB) — Long-Term Actions

4025. REDUCTION AND NON-PAYMENT OF ANNUITIES BY REASON OF WORK

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 230

Legal Deadline: None

Abstract: The Railroad Retirement Board amends 20 CFR part 230 to explain how annuity deductions on account of work are assessed in accordance with current law.

Timetable:

Action	Date	FR Cite
NPRM	08/16/95	60 FR 42482
NPRM Comment Period End	09/25/95	60 FR 43999
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA61

4026. VOLUNTARY QUIT

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 328

Legal Deadline: None

Abstract: A new part 328 is added to explain when unemployment insurance benefits are not payable because the employee voluntarily left employment.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA75

4027. DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231a; 45 USC 231f

CFR Citation: 20 CFR 220.114

Legal Deadline: None

Abstract: Section 114 of part 220 is being amended to expand the Board's description of the manner in which symptoms, including pain, are evaluated for purposes of determining disability.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47122
NPRM Comment Period End	11/13/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA99

4028. CREDITABLE RAILROAD COMPENSATION

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 211.3

Legal Deadline: None

Abstract: The RRB amends its regulations regarding the creditability of pay for time lost to prohibit the crediting of pay for time lost beyond the date of a judgment or settlement, or in the absence of a judgment or settlement, beyond the date of payment. The Labor Member of the RRB dissents from this proposal and recommends allowing the crediting of pay for time lost in these circumstances when the

accompanying railroad retirement taxes are paid on the compensation.

Timetable:

Action	Date	FR Cite
NPRM	12/04/97	62 FR 61488
NPRM Comment Period End	02/02/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB23

4029. • DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231a; 45 USC 231f

CFR Citation: 20 CFR 220.143; 20 CFR 220.170

Legal Deadline: None

Abstract: The Railroad Retirement Board amends 20 CFR sections 220.143 and 220.170 to index the amount of earnings used to determine if an individual is engaged in substantial gainful activity (SGA) to any increase in the social security national average wage index, and to increase (from $200 to $530) the minimum amount of monthly earnings to count during a trial work period, and then to index that amount to the social security national average wage index.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB50

Railroad Retirement Board (RRB) — Completed Actions

4030. APPLICATION FOR ANNUITY OR LUMP SUM

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 217.8

Completed:

Reason	Date	FR Cite
Final Action	05/17/01	66 FR 27554
Final Action Effective	05/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB45

4031. USE OF THE SEAL OF THE RAILROAD RETIREMENT BOARD

Priority: Info./Admin./Other

CFR Citation: 20 CFR 369

Completed:

Reason	Date	FR Cite
Final Action	05/31/01	66 FR 29475
Final Action Effective	05/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB49

[FR Doc. 01–23861 Filed 11–30–01; 8:45 am]
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Federal Register

Monday,
December 3, 2001

Part XLII

Selective Service System

Semiannual Regulatory Agenda

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SELECTIVE SERVICE SYSTEM (SSS)

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 U.S.C. App. 451 *et seq.*). This information will allow the public to participate in the System's decisionmaking at an early stage.

FOR FURTHER INFORMATION CONTACT: Rudy G. Sanchez, Jr., Office of the General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, Virginia 22209-2425; Telephone (703) 605-4012.

SUPPLEMENTARY INFORMATION: The agenda is published in accordance with the requirements of Executive Order 12866. Selective Service regulations appear in 32 CFR chapter XVI.

Dated: August 24, 2001.

Alfred Rascon,

Director of Selective Service System.

Selective Service System (SSS) — **Long-Term Actions**

4032. SELECTIVE SERVICE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 451 et seq, Military Selective Service Act

CFR Citation: 32 CFR ch XVI

Legal Deadline: None

Abstract: Various sections of 32 CFR chapter XVI will be revised to increase clarity of expression or change procedures for registrant processing.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Rudy G. Sanchez Jr., Paralegal Specialist, Selective Service System, 5th Floor, Office of General Counsel, 1515 Wilson Boulevard, Arlington, VA 22209-2425
Phone: 703 605-4012
Fax: 703 605-4006
Email: rsanchez@sss.gov

RIN: 3240–AA01

[FR Doc. 01–23862 Filed 11–30–01; 8:45 am]

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Federal Register

Monday,
December 3, 2001

Part XLIII

Small Business Administration

Semiannual Regulatory Agenda

SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Regulatory Agenda

AGENCY: Small Business Administration (SBA).

ACTION: Semiannual regulatory agenda.

SUMMARY: The entries below represent SBA's 45th semiannual regulatory agenda (agenda). SBA drafted the agenda to meet both the criteria and the spirit of the regulatory review process. SBA publishes this agenda pursuant to Executive Order 12866 and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, SBA encourages the public to contact the individual agency official referenced in each entry. For information concerning SBA's overall Regulatory Review and Development Program or general semiannual agenda questions, contact Martin S. Conrey, Attorney Advisor, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 619-0638.

SUPPLEMENTARY INFORMATION: SBA's semiannual regulatory agenda is designed to increase public knowledge of SBA's anticipated regulatory activities. Publication may encourage increased public participation in the regulatory review and development process.

SBA's agenda is divided into three parts. Part I, Proposed Rules, includes those rules that are likely to be proposed during the next 12 months. Part II, Final Rules, includes proposed rules that will probably be finalized during the agenda period. Part III, Completed Actions, includes regulations completed or withdrawn and any reviews completed since the preceding agenda.

Publication of the agenda does not impose any binding obligation on SBA with regard to any specific item. Further, regulatory actions not listed in the agenda are not precluded. SBA regulations are developed in a manner that promotes economic growth without imposing unnecessary regulatory burdens on the public.

For this edition of SBA's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Dated: August 28, 2001.

Hector V. Barreto,

Administrator.

Small Business Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4033	Surety Bond Guarantee	3245-AE13
4034	Development Company Loan (504) Program Changes	3245-AE41

Small Business Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4035	Supplemental Standards of Ethical Conduct for Employees of the Small Business Administration	3245-AC96
4036	Record Disclosure and Privacy Regulations	3245-AE03
4037	Small Business Development Centers (SBDC) Program Revisions	3245-AE05
4038	Small Business Lending Companies Regulations **(Reg Plan Seq No. 152)**	3245-AE14
4039	Small Business Size Standards; Electric Services	3245-AE18
4040	8(a) Business Development/Program Improvement and Technical Amendments	3245-AE38
4041	SDB Certification and Eligibility—Program Improvement and Technical Amendments	3245-AE47
4042	Size Standards: Inflation Adjustment	3245-AE56
4043	Size Standards: Subcontracting Size Standards	3245-AE57
4044	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	3245-AE61
4045	The Women-Owned Small Business Federal Contract Assistance Program **(Reg Plan Seq No. 153)**	3245-AE65
4046	HUBZone Empowerment Contracting Program **(Reg Plan Seq No. 154)**	3245-AE66
4047	Small Business Investment Companies—Civil Penalties for Late Submission of Required Reports	3245-AE69
4048	Small Business Investment Companies—Amendment Under the Small Business Reauthorization Act of 2000	3245-AE70
4049	Rules of Procedure Governing Cases Before the Office of Hearings and Appeals—Revisions	3245-AE71
4050	Small Business Size Regulations; Small Business Innovation Research Program	3245-AE76
4051	Small Business Size Standards; Testing Laboratories	3245-AE78
4052	SBIC—Maximum Leverage Eligibility	3245-AE79
4053	Small Business Size Standards; Information Technology Value Added Resellers	3245-AE80
4054	Small Business Size Standards; Surety Bond Guarantee Program	3245-AE81

References in boldface appear in the **Regulatory Plan** in part II of this issue of the **Federal Register**.

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Small Business Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4055	Size Standards for Compliance With Programs of Other Agencies	3245-AE42
4056	Pre-Disaster Mitigation Loan Program Amendments	3245-AE44
4057	Administrative Wage Garnishment and Administrative Offset	3245-AE50
4058	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs or Activities Receiving Federal Financial Assistance	3245-AE59
4059	7(a) and Certified Development Company (504) Loan Programs—2000 Reauthorization Act Amendments	3245-AE68

Small Business Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
4060	Amendment to SBA's Regulations Regarding Debt Collection Through Offset	3245-AD90
4061	PLP Lenders' Responsibilities for Servicing and Liquidating Loans	3245-AE09
4062	Servicing of Guaranteed Loans	3245-AE10
4063	Small Business Size Standards; Net Income Computation for the Small Business Investment and Certified Development Companies and Agriculture Size Standard	3245-AE29
4064	New Markets Venture Capital Program	3245-AE40
4065	Military Reservist Economic Injury Disaster Loan Program	3245-AE45
4066	Microloan Program—Changes Required by the 1997 Reauthorization Act	3245-AE51
4067	PRIME Act Grants	3245-AE52
4068	Microloan Program 2000 Amendments	3245-AE73
4069	Surety Bond Guarantee Program—2000 Amendments	3245-AE74

Small Business Administration (SBA) — Prerule Stage

4033. SURETY BOND GUARANTEE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC app 3; 15 USC 687b; 15 USC 694b; PL 105-135; 15 USC 687c; 15 USC 694a

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: SBA is considering revising program regulations to include policy and procedural modifications. Planned regulatory changes would pertain to both the Prior Approval and the Preferred Surety Bond programs.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Moffitt, AA/Office of Surety Guarantees, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6540

RIN: 3245–AE13

4034. DEVELOPMENT COMPANY LOAN (504) PROGRAM CHANGES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 695

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: The Office of Financial Assistance proposes to publish an Advanced Notice of Proposed Rulemaking to solicit opinions regarding our intention to propose a regulation to consider 504 program changes including a better definition of "local economic development," and the organizational and program requirements Certified Development Companies (CDCs) must satisfy in order to be in compliance with this concept, and whether CDCs should be allowed to establish entities to participate as 7(a) lenders. As part of the regulation, for-profit CDCs' organizational requirements will be dealt with specifically to ensure that they are in compliance with the Congressional intent for the program.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Gail Hepler, Chief, 504 Branch, Small Business Administration, Room 804, 409 Third Street SW, Washington, DC 20416
Phone: 202 653-7530

RIN: 3245–AE41

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Small Business Administration (SBA) — **Proposed Rule Stage**

4035. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE SMALL BUSINESS ADMINISTRATION

Priority: Other Significant

Legal Authority: 15 USC 684; 15 USC 637(a)(18); 15 USC 637(a)(19); EO 12674

CFR Citation: 5 CFR 5400

Legal Deadline: None

Abstract: The SBA and the Office of Government Ethics (OGE) are jointly issuing this rule, which is designed to establish uniform standards of ethical conduct for the officers and employees of the SBA. The rule will be published at 5 CFR XLIV and will supplement the Standards of Ethical Conduct for Employees of the executive branch issued by the OGE (57 FR 35006; August 7, 1992). The rule is necessary to supplement the standards issued by OGE because it addresses ethical issues that are unique to SBA.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robinson S. Nunn, Chief Counsel for Ethics, Small Business Administration, 409 Third Street SW, 7th Floor, Washington, DC 20416
Phone: 202 205-6642

RIN: 3245–AC96

4036. RECORD DISCLOSURE AND PRIVACY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-231; 5 USC 552; 5 USC 552a

CFR Citation: 13 CFR 102

Legal Deadline: None

Abstract: This proposed regulation will amend 13 CFR 102, subpart A, governing disclosure of information, to implement statutory changes. Additionally, amendments to subpart B "The Privacy Act" (PA) would add new routine disclosures, correct the term "system of records," require identification of requesters, clarify when lack of social security number can cause benefit denial, and provide for one free copy of an official personnel file.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Lisa Babcock, Chief, Freedom of Information Act Office, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 401-8200

RIN: 3245–AE03

4037. SMALL BUSINESS DEVELOPMENT CENTERS (SBDC) PROGRAM REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 648

CFR Citation: 13 CFR 130

Legal Deadline: None

Abstract: SBA is revising its SBDC regulations to reflect statutory and other changes.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Johnnie L. Albertson, AA/SBDCs, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6766

RIN: 3245–AE05

4038. SMALL BUSINESS LENDING COMPANIES REGULATIONS

Regulatory Plan: This entry is Seq. No. 152 in part II of this issue of the **Federal Register**.

RIN: 3245–AE14

4039. SMALL BUSINESS SIZE STANDARDS; ELECTRIC SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121.201

Legal Deadline: None

Abstract: This rule will revise the size standard for Electrical Services (Standard Industrial Classification 4911). The current size standard is 4 million megawatt hours. In response to the emerging deregulation of the electric utilities industry, the SBA is reviewing its 4 million megawatt hours size standard for NAICS codes 221111-221122. It is also reviewing related size standards provisions that may affect the requirements placed on small businesses competing to sell electricity to the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE18

4040. 8(A) BUSINESS DEVELOPMENT/PROGRAM IMPROVEMENT AND TECHNICAL AMENDMENTS

Priority: Other Significant

Legal Authority: 15 USC 631

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This rule will make technical corrections and clarifying amendments to the 8(a) regulations. The amendments will clarify, and in some cases modify, certain requirements and procedures. For example, the rules governing the mentor/protege program will be clarified. Part 124 will also be amended to include certain new policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

SBA

Proposed Rule Stage

Agency Contact: Delorice Price Ford, AA/Minority Enterprise Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-7340

RIN: 3245–AE38

4041. SDB CERTIFICATION AND ELIGIBILITY—PROGRAM IMPROVEMENT AND TECHNICAL AMENDMENTS

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661; PL 100-656, sec 1207; PL 101-37; PL 101-574; 42 USC 9815

CFR Citation: 13 CFR 124; 13 CFR 134

Legal Deadline: None

Abstract: Program improvements and technical amendments to clarify regulations governing the SDB program. The proposed changes clarify requirements, enhance customer service, and correct omissions. For example: A procedure for recertifying eligible firms is established; circumstances under which SBA may reevaluate determinations made by Private Certifiers is broadened; provisions are made to prevent loss of SDB certification by a subcontractor following award of a contract; and stipulations are made requiring contracting officers to forward protests to SBA for determination of merit.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Linda Williams, (A)AA/SDBCE, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 401-1126
Fax: 202 205-7259

RIN: 3245–AE47

4042. SIZE STANDARDS: INFLATION ADJUSTMENT

Priority: Other Significant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This proposed rule will adjust SBA's receipt-based size standards for inflation since the last time they were adjusted in 1994.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE56

4043. SIZE STANDARDS: SUBCONTRACTING SIZE STANDARDS

Priority: Other Significant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule proposes to revise the size standards applicable to subcontractors to Federal prime contractors.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE57

4044. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant

Legal Authority: EO 12549 (3 CFR, 1986 Comp., p. 189); EO 11738 (3 CFR, 1973 Comp., p. 799); EO 12689 (3 CFR, 1989 Comp., p. 235); Drug Free Workplace Act of 1988, sec 5151 to 5160; PL 100-690, title V, subtitle D; 41 USC 701 et seq; 15 USC 634(b)(6); 5 USC 301 et seq; 15 USC 631 et seq; PL 103-355, sec 2455, 108 Stat. 3327 (31 USC 6160 note)

CFR Citation: 13 CFR 145

Legal Deadline: None

Abstract: This part proposes optional lower tier suspension and debarment coverage by including paragraph (d) in section 145.220 for all contracts that equal or exceed the $25,000 award threshold under SBA nonprocurement transactions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael Campilongo, Attorney Advisor, Small Business Administration, 409 Third Street, SW, Washington, DC 20416
Phone: 202 205-6879

RIN: 3245–AE61

4045. • THE WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT ASSISTANCE PROGRAM

Regulatory Plan: This entry is Seq. No. 153 in part II of this issue of the **Federal Register**.

RIN: 3245–AE65

SBA — Proposed Rule Stage

4046. • HUBZONE EMPOWERMENT CONTRACTING PROGRAM

Regulatory Plan: This entry is Seq. No. 154 in part II of this issue of the **Federal Register**.

RIN: 3245–AE66

4047. • SMALL BUSINESS INVESTMENT COMPANIES—CIVIL PENALTIES FOR LATE SUBMISSION OF REQUIRED REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 681 et seq; 15 USC 683; 15 USC 687(c); 15 USC 687b; 15 USC 687d; 15 USC 687g; 15 USC 687m; 15 USC 662

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule will provide for the imposition of civil penalties on small business investment companies that fail to file required reports by the applicable due date.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry Haskins, Acting Associate Administrator for Investment, Small Business Administration, 409 Third Street SW, Suite 6300, Washington, DC 20416
Phone: 202 205-6694
Fax: 202 205-6959

RIN: 3245–AE69

4048. • SMALL BUSINESS INVESTMENT COMPANIES—AMENDMENT UNDER THE SMALL BUSINESS REAUTHORIZATION ACT OF 2000

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 681 et seq; 15 USC 683; 15 USC 687(c); 15 USC 687b; 15 USC 687d; 15 USC 687g; 15 USC 687m

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: The Small Business Reauthorization Act of 2000 made a number of changes to the Small Business Investment Act of 1958, as amended. For the Small Business Investment Companies (SBIC) Program, the changes include provisions effecting the definitions of "small business concern" and "long-term financing", the timing of permitted tax distributions by SBICs, and the establishment of subsidy fees to be paid by SBICs. This rule incorporates these changes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry Haskins, Acting Associate Administrator for Investment, Small Business Administration, 409 Third Street SW, Suite 6300, Washington, DC 20416
Phone: 202 205-6694
Fax: 202 205-6959

RIN: 3245–AE70

4049. • RULES OF PROCEDURE GOVERNING CASES BEFORE THE OFFICE OF HEARINGS AND APPEALS—REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 15 USC 632; 15 USC 634(b)(6); 15 USC 637(a)

CFR Citation: 13 CFR 134

Legal Deadline: None

Abstract: This rule amends the regulations governing proceedings before SBA's Office of Hearings and Appeals (OHA) to change and clarify procedures to make them easier to use and more efficient, codify OHA case law pertaining to its own procedures, and conform regulations to longstanding practice, In addition, the rule conforms OHA's regulations to reflect the North American Industry Classification System (NAICS), which has replaced the Standard Industrial Code (SIC) system.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gloria Blazsik, Acting Assistant Administor for Hearings and Appeals, Small Business Administration, 409 Third Street, SW, Suite 5900, Washington, DC 20416
Phone: 202 401-8200

RIN: 3245–AE71

4050. • SMALL BUSINESS SIZE REGULATIONS; SMALL BUSINESS INNOVATION RESEARCH PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule will allow wholly owned subsidiaries to be eligible for Small Business Innovation Research funding agreements. Current regulations limit the eligibility of the program to businesses owned by individuals.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE76

4051. • SMALL BUSINESS SIZE STANDARDS; TESTING LABORATORIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule will revise the size standard for the Testing Laboratories industry. Changes in the composition of the industry indicate a higher size standard than $5 million is warranted to define which businesses are small businesses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business

SBA — **Proposed Rule Stage**

Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE78

4052. • SBIC—MAXIMUM LEVERAGE ELIGIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 662; 15 USC 681 et seq; 15 USC 683; 15 USC 687(c); 15 USC 687b; 15 USC 687d; 15 USC 687g; 15 USC 687m

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule will implement a provision of the New Markets Venture Capital Program Act of 2000 that allows small business investment companies to be eligible for additional Government leverage based on their investments in low-income areas.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry Haskins, Acting Associate Administrator for Investment, Small Business Administration, 409 Third Street SW, Suite 6300, Washington, DC 20416
Phone: 202 205-6694
Fax: 202 205-6959

RIN: 3245–AE79

4053. • SMALL BUSINESS SIZE STANDARDS; INFORMATION TECHNOLOGY VALUE ADDED RESELLERS

Priority: Other Significant

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule establishes a size standard for Information Technology (IT) Value Added Resellers. Current regulations apply the same eligibility requirements on these types of businesses as for dealers and nonmanufacturers. To establish more appropriate eligibility requirements to IT Value Added Resellers, a new industry category and size standard are established.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE80

4054. • SMALL BUSINESS SIZE STANDARDS; SURETY BOND GUARANTEE PROGRAM

Priority: Other Significant

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule will revise the size standard applicable to construction and service companies seeking assistance under SBA's Surety Bond Guarantee Program. Changes in the program and economic trends support an increase to the current $5 million size standard.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE81

Small Business Administration (SBA) — **Final Rule Stage**

4055. SIZE STANDARDS FOR COMPLIANCE WITH PROGRAMS OF OTHER AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-135, sec 601 et seq, 111 Stat. 2592; 15 USC 632(a); 15 USC 644(c); PL 102-486, 106 Stat. 2776, 3133; 15 USC 634(b)(6); 15 USC 637(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This revision requires an agency to consult in writing with SBA before proposing small business size standards for use in its program. It removes the requirement that the agency have the SBA Administrator's approval for the contemplated size standards prior to the proposed rule. Rather, the agency must seek the SBA Administrator's approval only before it adopts size standards in a final rule.

Timetable:

Action	Date	FR Cite
NPRM	01/26/00	65 FR 4176
NPRM Comment Period End	03/27/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Jordan, Program Analyst, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6093
Fax: 202 205-6390

RIN: 3245–AE42

4056. PRE-DISASTER MITIGATION LOAN PROGRAM AMENDMENTS

Priority: Other Significant

Legal Authority: PL 106-24

CFR Citation: 13 CFR 123.400 et seq

Legal Deadline: None

Abstract: Necessary amendments to Pre-Disaster Mitigation Loan Program to permit implementation of the program. Amendments will clarify and add to

SBA — Final Rule Stage

existing regulations in areas of eligibility and process.

Timetable:

Action	Date	FR Cite
NPRM	06/14/00	65 FR 37307
NPRM Comment Period End	07/14/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James E. Rivera, Deputy Associate Administrator for Disaster Assistance, Small Business Administration, Suite 6050, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6750
Fax: 202 205-7728
Email: james.rivera@sba.gov

RIN: 3245–AE44

4057. ADMINISTRATIVE WAGE GARNISHMENT AND ADMINISTRATIVE OFFSET

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 15 USC 632; 15 USC 634(b)(6); 15 USC 637(a); 31 USC 3711; 31 USC 3720; 31 USC 3716

CFR Citation: 13 CFR 134; 13 CFR 140

Legal Deadline: None

Abstract: SBA is issuing a rule adopting administrative wage garnishment and administrative offset regulations to implement the Debt Collection Improvement Act of 1996. The rule would allow SBA to garnish the wages of a person indebted to the United States for any non-tax debt without first obtaining a judgment. The debtor generally would be entitled to a hearing before a Judge assigned to SBA's Office of Hearings and Appeals. The proposed rule would also include administrative offset and other remedies to comply with Treasury directives.

Timetable:

Action	Date	FR Cite
NPRM	06/27/00	65 FR 39567
NPRM Comment Period End	08/28/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Arnold Rosenthal, Assistant Administrator for Portfolio Management, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6481

RIN: 3245–AE50

4058. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 13 CFR 112; 13 CFR 113; 13 CFR 117

Legal Deadline: None

Abstract: The Department of Justice proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972, (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition "program or activity" to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of "program or activity" and "program" into the Department's title VI, section 504, and Age Discrimination Act regulations. The Department's proposed regulation will be published as part of a joint notice of proposed rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/06/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Mary Ann E Fresco, Deputy Assistant Administrator, EEO, Small Business Administration, 409 Third Street, Washington, DC 20416
Phone: 202 205-7148

RIN: 3245–AE59

4059. • 7(A) AND CERTIFIED DEVELOPMENT COMPANY (504) LOAN PROGRAMS—2000 REAUTHORIZATION ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 687(c); 15 USC 695; 15 USC 696; 15 USC 697a; 15 USC 697b; 15 USC 697c; PL 106-554

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: The proposed rule revises part 120 of SBA regulations to implement various changes in 7(a) Business Loan Program enacted by The Small Business Reauthorization Act of 2000 (Act). These changes include: (1) increasing the maximum guaranty percentage to 85 percent for a loan of $150,000 or less; (2) applying a 75 percent guaranty for a loan of more than $150,000; (3) increasing the maximum amount that SBA can guarantee to a single borrower from $750,000 to $1 million; (4) instituting a maximum limit on the gross loan amount of $2 million; (5) imposing a new prepayment penalty on borrowers for certain SBA guaranteed loans; (6) simplifying the calculation of the guaranty fee payable by a participating lender; (7) imposing a restriction on a borrower in the 7(a) business loan program to lease out a portion of a building constructed with the proceeds of a guaranteed loan; (8) eliminating the requirement that export working capital loans be fully disbursed before being sold in the secondary market; (9) adding women-owned business development to the public policy goals of the Certified Development Company (CDC) Program; (10) increasing the maximum amount the SBA may guarantee to a single small business concern under the CDC Program from $750,000 to $1 million and from $1 million to $1.3 million for CDC loans meeting the statutory public policy goals; and (11) making the Premier

SBA **Final Rule Stage**

Certified Lenders Program (PCLP) a permanent, not a pilot, SBA Program.

Timetable:

Action	Date	FR Cite
Direct Final Rule	11/14/01	66 FR 56985
Comment Period End	12/14/01	
Direct Final Rule Effective	12/31/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Palsgrove Butler, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AE68

Small Business Administration (SBA) **Completed Actions**

4060. AMENDMENT TO SBA'S REGULATIONS REGARDING DEBT COLLECTION THROUGH OFFSET

Priority: Info./Admin./Other

Legal Authority: 31 USC 3711; 31 USC 3720A; 5 USC 5514; 31 USC 3716; 15 USC 634(b)(6)

CFR Citation: 13 CFR 140

Legal Deadline: None

Abstract: SBA intends to amend its regulations to include references to administrative offset and other remedies that the Treasury Department may use on behalf of SBA to collect debt pursuant to the Debt Collection Improvement Act of 1996. Publication of this regulatory change is required to comply with Treasury directive.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3454
NPRM Comment Period End	02/22/99	
Merged With RIN 3245-AE50	08/02/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Arnold Rosenthal, Assistant Administrator for Portfolio Management, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6481

RIN: 3245–AD90

4061. PLP LENDERS' RESPONSIBILITIES FOR SERVICING AND LIQUIDATING LOANS

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 634(b)(7)

CFR Citation: 13 CFR 120.453

Legal Deadline: None

Abstract: SBA is amending 13 CFR to provide Preferred Lender's Program (PLP) lenders guidance on submitting liquidation plans.

Timetable:

Action	Date	FR Cite
Withdrawn	08/02/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Palsgrove Butler, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AE09

4062. SERVICING OF GUARANTEED LOANS

Priority: Other Significant

Legal Authority: 15 USC 634(b); 15 USC 634(b)(7)

CFR Citation: 13 CFR 120.512

Legal Deadline: None

Abstract: SBA is amending 13 CFR 120.512 to generally require a lender, after SBA honors its guarantee, to service and liquidate the loan and continue to hold the loan instruments unless SBA indicates otherwise. SBA is also amending this regulation for other technical changes.

Timetable:

Action	Date	FR Cite
Withdrawn	07/31/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Palsgrove Butler, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AE10

4063. SMALL BUSINESS SIZE STANDARDS; NET INCOME COMPUTATION FOR THE SMALL BUSINESS INVESTMENT AND CERTIFIED DEVELOPMENT COMPANIES AND AGRICULTURE SIZE STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-9

CFR Citation: 13 CFR 121.301(c)(1)

Legal Deadline: None

Abstract: This rule will incorporate two statutory changes. First, it will revise the method of computing net income to determine the eligibility of non-taxpaying small businesses for the Small Business Investment Company and Certified Development Company Programs. Second, it will adopt a size standard of $750,000 for agriculture industries.

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/07/01	66 FR 30646
Correction	06/14/01	66 FR 32416

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE29

SBA — Completed Actions

4064. NEW MARKETS VENTURE CAPITAL PROGRAM

Priority: Other Significant

Legal Authority: 15 USC 689 to 689q

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: The New Markets Venture Capital (NMVC) program helps spur economic development in some of America's under-invested communities through a public-private partnership encouraging venture capital investing and intensive technical assistance to small businesses in low- and moderate-income areas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/22/01	66 FR 7218
Final Rule--Delay of Effective Date	02/20/01	66 FR 10811
Interim Final Rule Effective	02/21/01	
Interim Final Rule Comment Period End	03/23/01	
NPRM-Proposed Withdrawal of Interim Final Rule	04/23/01	66 FR 20531
Final Rule-Delay of Effective Date of Interim Final Rule	04/23/01	66 FR 20530
NPRM Comment Period End	05/04/01	
Final Action	05/23/01	66 FR 28601

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Austin J. Belton, Director, Office of New Markets Venture Capital, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-7027

RIN: 3245–AE40

4065. MILITARY RESERVIST ECONOMIC INJURY DISASTER LOAN PROGRAM

Priority: Other Significant

Legal Authority: PL 106-50

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: This regulation implements new Military Reservist Economic Injury Loan Program mandated by Public Law 106-50. This program assists small businesses suffering economic injury as a result of the call up to active military duty of an essential employee of the small business during a period of military conflict. The regulation covers program eligibility and process.

Timetable:

Action	Date	FR Cite
NPRM	07/13/00	65 FR 43261
NPRM Comment Period End	08/14/00	
Final Action	07/25/01	66 FR 38528

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James E. Rivera, Deputy Associate Administrator for Disaster Assistance, Small Business Administration, Suite 6050, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6750
Fax: 202 205-7728
Email: james.rivera@sba.gov

RIN: 3245–AE45

4066. MICROLOAN PROGRAM—CHANGES REQUIRED BY THE 1997 REAUTHORIZATION ACT

Priority: Other Significant

Legal Authority: 15 USC 636(m)(202); PL 105-135

CFR Citation: 13 CFR 120.700

Legal Deadline: None

Abstract: SBA implemented changes in the microloan program required by the Small Business Reauthorization Act of 1997. This rule (1) terminates the designation of the microloan program as a "demonstration," (2) allows a nonprofit child care business to qualify for the microloan program, (3) authorizes a microloan intermediary to use up to 25 percent of grant funds for technical assistance to prospective microloan borrowers, and (4) establishes procedures for SBA to revoke or suspend a microloan intermediary or microloan non-lending technical assistance provider and gives the OHA authority to hear such appeals.

Timetable:

Action	Date	FR Cite
NPRM	08/11/99	64 FR 43636
NPRM Comment Period End	09/10/99	
Final Action	09/11/01	66 FR 47072

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Jane Palsgrove Butler, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AE51

4067. PRIME ACT GRANTS

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); PL 106-102

CFR Citation: 13 CFR 119

Legal Deadline: None

Abstract: The regulations add a new part 119 to set up the Program for Investment in Microentrepreneurs Act (PRIME or the Act). The regulations set forth the Act's grant requirements for qualified Microenterprise Development Organizations (MDOs) to: (1) Train and provide technical assistance to disadvantaged microentrepreneurs; (2) build MDOs' capacity to give disadvantaged microentrepreneurs such training and technical assistance; (3) research and develop best practices for training and technical assistance; and (4) perform such other activities as the Administrator or designee determines are consistent with the Act. SBA will award a minimum of 75 percent of available funds to MDOs to use for training and technical assistance to disadvantaged microentrepreneurs. At a minimum, another 15 percent will be used to build MDOs' capacity to give more training and technical assistance. SBA will use the remaining funds to make grants for research and development on best practices or other purposes to improve MDOs' services to PRIME's ultimate beneficiaries - disadvantaged microentrepreneurs.

Timetable:

Action	Date	FR Cite
NPRM	10/10/00	65 FR 60256
NPRM Comment Period End	11/09/00	
Final Action	05/29/01	66 FR 29010

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Jane Palsgrove Butler, Associate Administrator for Financial Assistance, Small Business

Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AE52

4068. • MICROLOAN PROGRAM 2000 AMENDMENTS

Priority: Other Significant

Legal Authority: PL 106-554; 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h); 15 USC 696(3); 15 USC 697(a)(2)

CFR Citation: 13 CFR 120.700

Legal Deadline: None

Abstract: PL 106-554 makes several changes to SBA's microloan program, increasing in several places the dollar amounts used to define aspects of the program. For example, the maximum microloan amount is $20,000 (formerly $15,000) unless the borrower demonstrates that it is unable to obtain credit elsewhere. Similarly, an intermediary may not make a loan of more than $35,000 (formerly $25,000), and no borrower may owe an intermediary more than $35,000 (formerly $25,000) at any one time. Also, the number of non-lender technical assistance grants increased from $125,000 to $200,000. In addition, the 2000 Reauthorization Act amendments changed the definitions for a Microloan (a loan of not more than $35,000/formerly $25,000) and Specialized Intermediary (portfolio of microloans averaging $10,000/formerly $7,500).

Timetable:

Action	Date	FR Cite
Direct Final Rule	09/14/01	66 FR 47877

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jody Raskind, Chief, Office of Microenterprise Development, Small Business Administration, 409 Third Street, SW, Washington, DC 20416
Phone: 202 205-6497

RIN: 3245–AE73

4069. • SURETY BOND GUARANTEE PROGRAM—2000 AMENDMENTS

Priority: Other Significant

Legal Authority: 5 USC app 3; 15 USC 687b; 15 USC 687c; 15 USC 694a; 15 USC 694b note; PL 106-554, 114 Stat. 2763A-653

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: SBA revised the Surety Bond Guarantee Program rules to conform them to two recently enacted statutory changes. First, the law increases the eligible contract amount from $1.25 million to $2 million. Second, the law extended the authorization period of the Pilot Preferred Surety Bond (PSB) Program from September 30, 2000 to September 30, 2003.

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/08/01	66 FR 30803

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert J. Moffitt, AA/Office of Surety Guarantees, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6540

RIN: 3245–AE74

[FR Doc. 01–23863 Filed 11–30–01; 8:45 am]
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Federal Register

Monday,
December 3, 2001

Part XLIV

Social Security Administration

Semiannual Regulatory Agenda

SOCIAL SECURITY ADMINISTRATION (SSA)

SOCIAL SECURITY ADMINISTRATION

Office of the Commissioner

20 CFR Ch. III

Semiannual Unified Regulatory Agenda

AGENCY: Social Security Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: Executive Order 12866, entitled Regulatory Planning and Review, issued September 30, 1993, and the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) require each Federal agency to publish semiannually a brief description of all regulatory actions then under development or review, expected to be under development or review for the next 12 months, or completed since the previous publication of the agenda. Our last agenda of regulations was published May 14, 2001.

FOR FURTHER INFORMATION CONTACT: For further information about a specific regulatory action, contact the person identified as the agency contact for that action. Comments or inquiries of a general nature should be directed to Georgia E. Myers, Regulations Officer, Social Security Administration, L2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235-6401; Telephone (410) 965-3632 or TTY (410) 966-5609.

SUPPLEMENTARY INFORMATION: The Social Security Administration (SSA) has responsibility for the retirement, survivors, and disability insurance programs under title II of the Social Security Act (the Act) and the Supplemental Security Income (SSI) program under title XVI of the Act. We are not a regulatory agency. Our regulations generally do not impose burdens on the private sector or on State, local or tribal governments. Our regulations document the rules under which we make eligibility determinations and set forth both the responsibilities of the Agency towards the public and beneficiaries' rights and responsibilities under the programs we administer.

Our regulatory efforts can be placed into one of the following three categories: (1) legislative implementation; (2) program improvements to provide better service to SSA customers; and (3) improvements or clarifications to provide effective stewardship of SSA programs.

We continue to seek legislative improvements for the programs we administer. However, because of the complexity of our programs, statutory language is rarely detailed enough to govern the actions of agency adjudicative decisionmakers. Supporting regulations are often required. In some instances, Congress directs SSA to issue implementing regulations. For other legislative provisions, SSA regulations provide program information to applicants for benefits, current beneficiaries and their legal counsels.

Included in our Agenda are items that will amend our regulations to provide more choices for people with disabilities who seek Return-to-Work services so that they may become self-sufficient. These regulations are required by provisions of "The Ticket to Work and Work Incentives Improvement Act of 1999," (Pub. L. 106-170), which was signed by former President Clinton on December 17, 1999. Among the provisions requiring regulations are provisions that will establish the Ticket to Work and Self-Sufficiency program in SSA, suspend continuing disability reviews based on work activity, and expedite reinstatement of disability benefits terminated due to work activity.

An area in which we are working hard to deliver high quality service is our disability determination process. Several of our agenda items support improvements to disability program administration. We have tested a prototype involving a combination of modifications to the disability determination process. The regulation will incorporate a series of changes that improve the initial disability determination process. This Agenda includes a regulation to allow phased-in implementation of these features.

The Agenda also contains updates to many of the medical listings to reflect advances in medical knowledge, treatment and methods of evaluation.

SSA is committed to enhancing the service that we provide to our customers by reducing the time it takes them to receive a hearing and a decision. We believe that the Hearings Process Improvement (HPI) Initiative will enhance the timeliness of decisions and improve customer service by effectively utilizing the staffing resources that are dedicated to this goal. The HPI Initiative is part of SSA's overall plan for managing the disability process. One important HPI initiative listed in the Agenda, Prehearing and Posthearing Conference, is expected to improve the hearings process by standardizing and increasing the efficiency of our procedures for holding prehearing and posthearing conferences. Another important HPI initiative listed in the Agenda, Expansion of the Use of Video Teleconference Technology in Hearings before Administrative Law Judges (ALJs) of the Social Security Administration, is expected to improve customer service by providing faster access to a hearing before an ALJ. It removes the need for the claimant (and representative, if any) and the ALJ to be physically present at the same location.

Effective stewardship of SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. A proposed regulation will make improvements to the representative payment procedures needed to assure program integrity.

We have also included in this agenda, a regulation that provides SSA with an additional tool to strengthen the integrity of the Social Security and SSI programs. A proposed regulation that implements a provision of the Foster Care Independence Act of 1999 authorizing SSA to obtain information from financial institutions in order to determine initial or continuing eligibility for SSI benefits.

We continue to work diligently to improve our program benefit regulations and to develop partnerships with large segments of the community of stakeholders interested in Social Security programs. The remaining of our Unified Agenda items reflect such improvements and clarifications.

For this edition of the Social Security Administration's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

SSA

The October 2001 regulatory agenda for the Social Security Administration follows.

Dated: October 3, 2001.
Georgia E. Myers,
SSA Regulations Officer.

Social Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4070	OASDI and SSI for the Aged, Blind, and Disabled; Fees for Representation of Parties Under Title II and Title XVI of the Social Security Act (296P)	0960-AD23
4071	Revised Medical Criteria for Evaluating Hematologic Disorders and Malignant Neoplastic Diseases (399P)	0960-AD67
4072	Revised Medical Criteria for Determination of Disability, Endocrine System (436P)	0960-AD78
4073	Modification of Private Printing and Prescribed Applications and Other Forms (530P)	0960-AE15
4074	Privacy and Disclosure of Official Records and Information (711P) **(Reg Plan Seq No. 155)**	0960-AE88
4075	Administrative Wage Garnishment (To Repay a Debt Owed to the Social Security Administration) (724P) **(Reg Plan Seq No. 156)**	0960-AE92
4076	$30 Private Insurance (794P)	0960-AF25
4077	Revised Medical Criteria for Evaluation Digestive System Disorders (800P)	0960-AF28
4078	Revised Medical Criteria for Evaluating Skin Disorders (801P)	0960-AF29
4079	Revised Medical Criteria for Evaluating Genitourinary Disorders (802P)	0960-AF30
4080	Multiple Body Systems Listings (803P)	0960-AF32
4081	Revised Medical Criberia for Evaluating Immune Systems (804P)	0960-AF33
4082	Revised Medical Criteria for Evaluating Special Senses (805P)	0960-AF34
4083	Revised Medical Criteria for Evaluating Neurological Disorders (806P)	0960-AF35
4084	Clarification of Rules Involving RFC Assessments; Clarification of Use of Vocational Experts & Other Sources of the Sequential Evaluation Process; Incorporation of "Special Profile" Into Regs (808P)	0960-AF37
4085	Filing Claims Under the Federal Tort Claims Act and the Military Personnel and Civilian Employees Claims Act (785P)	0960-AF39
4086	Access to Information Held by Financial Institutions (815P) **(Reg Plan Seq No. 157)**	0960-AF43
4087	Revisions to the Medical-Vocational Guidelines (823P)	0960-AF47
4088	Revised Medical Criteria for Determination of Disability, Cardiovascular System and Related Criteria (826P)	0960-AF48
4089	Representative Payment Under Title II and XVI of the Social Security Act (827P)	0960-AF49
4090	Removal of Clothing from the Definition of Income and From the Definition of In-Kind Support and Maintenance Under the Supplemental Security Income Program (834P)	0960-AF50
4091	Exclusion of One Automobile From Resources (835P)	0960-AF51
4092	Exclusion of Household Goods and Personal Effects Under the Supplemental Security Income (SSI) Program (837P)	0960-AF55
4093	Determining Disability for an Individual with Drug Addiction or Alcoholism (851P)	0960-AF57
4094	Revised Medical Criteria for Evaluating Respiratory Medical Disorders (859P)	0960-AF58
4095	Special Benefits for Certain World War II Veterans (880P)	0960-AF61
4096	Technical Amendments to Annual Earnings Test (866P)	0960-AF62
4097	Federal Old-Age, Survivors, Disability and Supplemental Security Income; De Novo Review at all Levels of Appeal (888P)	0960-AF63
4098	Revising the Rules on Work Experience as a Vocational Factor (875P)	0960-AF64
4099	Compensation for Qualified Organizations Serving as a Representative Payee (846P) **(Reg Plan Seq No. 158)**	0960-AF66
4100	Revised Medical Criteria for Determination of Disability, Growth Impairments (444P)	0960-AF67
4101	Revised Medical Criteria for Evaluating Mental Disorders (886P)	0960-AF69

References in boldface appear in the **Regulatory Plan** in part II of this issue of the **Federal Register**.

Social Security Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4102	Old-Age, Survivors, and Disability Insurance Benefits; Replacing Social Security Number Cards (543F)	0960-AE18
4103	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) (554F)	0960-AE27

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Social Security Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
4104	OASDI and SSI; Expansion of the Use of Video Teleconference Technology in Hearings Before Administrative Law Judges of the Social Security Administration (737F) **(Reg Plan Seq No. 159)**	0960-AE97
4105	Revised Medical Criteria for Determination of Disability, Appendix 1 to Subpart P—Listing of Impairments (740F)	0960-AE99
4106	Ticket to Work and Self-Sufficiency Program (Ticket to Work and Work Incentives Improvement Act of 1999) (767F) **(Reg Plan Seq No. 160)**	0960-AF11
4107	Cost of Living Increases in Primary Insurance Amounts (759F)	0960-AF14
4108	Administrative Review Process; Prehearing and Posthearing Conferences (778F)	0960-AF17
4109	Administrative Procedures for Imposing Penalties for False or Misleading Statements (784F) **(Reg Plan Seq No. 161)**	0960-AF20
4110	Credit Bureau Reporting and Administrative Offset for SSI Overpayments (795F)	0960-AF31
4111	Implementing the Redesigned Disability Process (816F) **(Reg Plan Seq No. 162)**	0960-AF44
4112	Filing of Applications and Related Forms (797F)	0960-AF52
4113	Collection of Supplemental Security Income Overpayments from Title VIII Benefits (819F)	0960-AF53
4114	Supplemental Security Income for the Aged, Blind and Disabled; Student Child Earned Income Exclusion (865F)	0960-AF60

References in boldface appear in the **Regulatory Plan** in part II of this issue of the **Federal Register**.

Social Security Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4115	Computation of SSI Benefits for the First Three Months of Payment (476P)	0960-AD93
4116	Definition of "Largest Benefit Amount" for Simultaneous Entitlement to Child's Benefits (481P)	0960-AD95
4117	Repeal of Facility of Payment Provision (508P)	0960-AE02
4118	Administrative Review Process; Administrative Res Judicata and Related Rules (526P)	0960-AE11
4119	OASDI; Nonpayment of Benefits to Incarcerated Individuals and Individuals Confined in Criminal Cases, Pursuant to Conviction or by Court Order Based on Findings of Insanity (531P)	0960-AE16
4120	Supplemental Security Income; Plans for Achieving Self-Support (506P)	0960-AE17
4121	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, Other Nonprofit Organizations, and Commercial Organizations (547F)	0960-AE25
4122	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and Indian Tribal Governments (555F)	0960-AE28
4123	Restrictions on Lobbying in Connection with the Award of Grants, Contracts, and Cooperative Agreements (556F)	0960-AE29
4124	Elimination of Rounding Distortion in the Calculation of the Contribution and Benefit Base and Earnings Test Exempt Amounts (512F)	0960-AE40
4125	Supplemental Standards for Ethical Conduct for Employees of the Social Security Administration (601P)	0960-AE48
4126	Deeming of Income From an Ineligible Spouse to an Eligible Individual and an Eligible Child (606P)	0960-AE50
4127	Dedicated Accounts and Installment Payments for Certain Past Due SSI Benefits (622F)	0960-AE59
4128	Effectuation of Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975 in Programs Receiving Financial Assistance by SSA (617P)	0960-AE63
4129	Enforcement of Nondiscrimination in Social Security Programs or Activities (661P)	0960-AE78
4130	Technical Changes to Title XVI (664F)	0960-AE79
4131	Federal Salary Offset (Withholding a Portion of a Federal Employee's Salary To Collect a Delinquent Debt Owed to the Social Security Administration) (721P)	0960-AE89
4132	Private Collection Agencies (Using Private Collection Agencies to Help SSA Collect Delinquent Title II and Title XVI Debts Owed by Former Beneficiaries) (722P)	0960-AE90
4133	Charging Interest (Charging Interest on Delinquent Debts) (723P)	0960-AE91
4134	Work Activity Standard as a Basis for Review of an Individual's Disabled Status (Ticket to Work and Work Incentives Improvement Act of 1999) (725P)	0960-AE93
4135	Assignment of Social Security Administration Numbers (SSN) for Nonwork Purposes (751P)	0960-AF05
4136	Change in Retirement Age (775F)	0960-AF16
4137	Medical Equivalence for Adults and Children (787P)	0960-AF19
4138	Expedited Reinstatement of Disability Benefits (Ticket to Work and Work Incentives Improvement Act) (790P)	0960-AF21
4139	SSI Trusts and Transfers of Resources (791I)	0960-AF22
4140	Social Security Coverage of Employment for Residents of the Northern Mariana Islands, American Samoa, and Guam (792P)	0960-AF23
4141	Effects of Being Considered a Child (793P)	0960-AF24
4142	Wage Reports and Pension Information (809P)	0960-AF38

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Social Security Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4143	Disability Insurance Program Demonstration Project Authority (Ticket to Work and Work Incentives Improvement Act of 1999) (789P)	0960-AF41
4144	Exclusion of Representatives and Health Care Providers Convicted of Violations from Participation in Social Security Disability Programs (820F)	0960-AF46
4145	Non-Payment of Monthly Social Security Benefits to Aliens Residing in the United States Who Are Not Lawfully Present (849P)	0960-AF56
4146	Revising the Rules on the Steps for Evaluating Disability (894P)	0960-AF65
4147	Program: Cooperative Agreements for Benefits Planning, Assistance, and Outreach Projects (844P)	0960-AF68

Social Security Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
4148	Musculoskeletal System and Related Criteria (143F)	0960-AB01
4149	Election of Benefits Based on Age by Disabled Widow, Widower, and Surviving Divorced Spouse Beneficiaries (343P)	0960-AD56
4150	Federal Old-Age, Survivors, and Disability Insurance; Determining Disability and Blindness; Revision to Medical-Vocational Guidelines (599F)	0960-AE42
4151	Coverage of Employees of State and Local Governments; Office of Management and Budget (OMB) Control Number (280F)	0960-AE69
4152	Title XVI, Cross-Program Recovery (746F)	0960-AF13
4153	Federal Old-Age, Survivors and Disability Insurance; Supplemental Security Income; Determining Disability and Blindness; Revisions to the Growth Impairment Listings (758P)	0960-AF16
4154	Extension of Expiration Dates for Several Body System Listings (857F)	0960-AF59

Social Security Administration (SSA)

Proposed Rule Stage

4070. OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; FEES FOR REPRESENTATION OF PARTIES UNDER TITLE II AND TITLE XVI OF THE SOCIAL SECURITY ACT (296P)

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-508, sec 5106; PL 103-296, sec 321(f)3 to (f)5; PL 106-170, sec 406

CFR Citation: 20 CFR 404.1703; 20 CFR 416.1525; 20 CFR 404.1713; 20 CFR 404.1720; 20 CFR 404.1715 to 404.1717; 20 CFR 404.1725; 20 CFR 416.1503; 20 CFR 416.1513; 20 CFR 416.1520; 20 CFR 416.1515 to 416.1517

Legal Deadline: None

Abstract: We propose to amend the regulations to provide rules about authorization, direct payment, and administrative review of fees for representation based on fee agreements between claimants and their representatives; revise our rules about authorization, direct payment and administrative review of fees for representation based on fee petitions; and provide rules about assessment on attorneys who receive direct payment of authorized fees from withheld title II past-due benefits. The proposed rules reflect provisions of section 406 of the Ticket to Work and Work Incentives Improvement Act of 1999, Public Law 106-170; sections 321(f)(3) to (f)(5) of the Social Security Independence and Program Improvements Act of 1994, Public Law 103-296; and section 5106 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0960–AD23

4071. REVISED MEDICAL CRITERIA FOR EVALUATING HEMATOLOGIC DISORDERS AND MALIGNANT NEOPLASTIC DISEASES (399P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 7.00 and 107.00 (hemic and lymphatic system), and 13.00 and 113.00 (malignant neoplastic diseases) of appendix 1 to subpart P of part 404 of our regulations (404.1501 through 404.1599) describe those impairments that are considered severe enough to prevent a person from doing any gainful activity, or for a child

claiming SSI payments under title XVI, that causes marked and severe functional limitations. We are proposing revisions to these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment. The Supplemental Security Income Program incorporates and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance Program.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0960–AD67

4072. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, ENDOCRINE SYSTEM (436P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 9.00 and 109.00 of appendix 1 to subpart P of part 404 of our regulations (404.1501 through 404.1599) describe those impairments that are considered severe enough to prevent a person from doing any gainful activity, or in the case of a child claiming SSA payments under title XVI, that cause marked and severe functional limitations. We are proposing to revise the criteria in these sections to reflect advances in medical knowledge, treatment, and methods of evaluating endocrine impairments. The Supplemental Security Income Program incorporates and uses the same medical criteria as the Old-Age, Survivors and Disability Insurance Program.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0960–AD78

4073. MODIFICATION OF PRIVATE PRINTING AND PRESCRIBED APPLICATIONS AND OTHER FORMS (530P)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-296, sec 312

CFR Citation: 20 CFR 422.527

Legal Deadline: None

Abstract: This regulation will implement section 312 of Public Law 103-296, which expands prohibitions on the use of certain letters and symbols and also the reproduction for a fee of forms and publications of SSA and HHS.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AE15

4074. PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION (711P)

Regulatory Plan: This entry is Seq. No. 155 in part II of this issue of the **Federal Register**.

RIN: 0960–AE88

4075. ADMINISTRATIVE WAGE GARNISHMENT (TO REPAY A DEBT OWED TO THE SOCIAL SECURITY ADMINISTRATION) (724P)

Regulatory Plan: This entry is Seq. No. 156 in part II of this issue of the **Federal Register**.

RIN: 0960–AE92

4076. $30 PRIVATE INSURANCE (794P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1382(e)

CFR Citation: 20 CFR 416.201; 20 CFR 416.211; 20 CFR 416.212; 20 CFR 416.414; 20 CFR 416.571; 20 CFR 416.1149; 20 CFR 416.1165; 20 CFR 416.1167; 20 CFR 416.1202

Legal Deadline: None

Abstract: These proposed rules make technical and conforming updates to title XVI based on section 5522(c) of the Balanced Budget Act of 1997 (Pub. L. 105-33). Section 5522(c) eliminated obsolete terminology in section 1611(e)(1) of the SSACT that specified particular kinds of medical facilities where the $30 reduced benefit rate could apply. Section 5522(c) also amended section 1611(e)(1)(G) of the SSACT to extend applicability of temporary institutionalization benefits to children who enter private medical treatment facilities and who otherwise would be subject to a reduced benefit because of private insurance coverage.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 0960–AF25

4077. REVISED MEDICAL CRITERIA FOR EVALUATION DIGESTIVE SYSTEM DISORDERS (800P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404, subpart P, app 1

Legal Deadline: None

Abstract: We are proposing to revise the criteria in the Listing of Impairments (the Listings) that we use to evaluate claims involving digestive impairments. We apply these criteria at step three of our sequential evaluation processes to adults and children who claim Social Security or Supplemental Security Income (SSI) benefits based on disability under title II and title XVI of the Social Security Act (the Act). The proposed revisions reflect advances in medical knowledge, treatment, and methods of evaluating digestive impairments. We also propose to remove listings that are redundant and serve only to refer to other listings.

SSA has determined administrative costs to be negligible (i.e., less than $2 million and 25 workyears). We also estimate a reduction in OASDI benefit payments and Federal SSI payments for fiscal years 2003 through 2012.

Timetable:

Action	Date	FR Cite
NPRM	11/14/01	66 FR 57009
NPRM Comment Period End	01/14/02	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0960–AF28

4078. REVISED MEDICAL CRITERIA FOR EVALUATING SKIN DISORDERS (801P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404, subpart P, app 1

Legal Deadline: None

Abstract: We are proposing to revise the criteria in the Listing of Impairments (the Listings) we use for evaluating skin disorders in adults and to introduce corresponding medical criteria for evaluating skin disorders in children. We are proposing revisions to the skin listings to ensure that the medical evaluation criteria are up-to-date and consistent and that the latest advances in medical knowledge and treatment are included.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0960–AF29

4079. REVISED MEDICAL CRITERIA FOR EVALUATING GENITOURINARY DISORDERS (802P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404, subpart P, app 1

Legal Deadline: None

Abstract: We propose to revise the criteria in the Listing of Impairments (the Listings) that we use to evaluate genito-urinary impairments. We apply these criteria at step three of our sequential evaluation processes for adults and children who claim Social Security or Supplemental Security Income benefits based on disability under title II and title XVI of the Social Security Act. The revisions reflect advances in medical knowledge, treatment, and methods of evaluating digestgenito-urinary impairments.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Harry J. Short Jr., Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AF30

4080. MULTIPLE BODY SYSTEMS LISTINGS (803P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404

Legal Deadline: None

Abstract: We propose to revise the criteria in the Listing of Impairments (the Listings) for evaluating Multiple Body Systems.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Victoria Dorf, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AF32

4081. REVISED MEDICAL CRIBERIA FOR EVALUATING IMMUNE SYSTEMS (804P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404

Legal Deadline: None

Abstract: We propose to revise the criteria in the Listing of Impairments (the Listings) for evaluating the Immune System.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Victoria Dorf, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AF33

4082. REVISED MEDICAL CRITERIA FOR EVALUATING SPECIAL SENSES (805P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404, subpart P, app 1

Legal Deadline: None

Abstract: We propose to revise the criteria in the Listing of Impairments (the Listings) for Special Senses.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cheryl A. Williams, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AF34

4083. REVISED MEDICAL CRITERIA FOR EVALUATING NEUROLOGICAL DISORDERS (806P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404, subpart P, app 1

Legal Deadline: None

Abstract: We propose to revise the criteria in the Listing of Impairments (the listings) that we use to evaluate claims involving neurological disorders at the third step of our sequential evaluation processes for adults and children under title II and title XVI of the Social Security Act (the Act). The proposed revisions reflect advances in medical knowledge, treatment, and methods of evaluating neurological disorders.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Fran O. Thomas, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AF35

4084. CLARIFICATION OF RULES INVOLVING RFC ASSESSMENTS; CLARIFICATION OF USE OF VOCATIONAL EXPERTS & OTHER SOURCES OF THE SEQUENTIAL EVALUATION PROCESS; INCORPORATION OF "SPECIAL PROFILE" INTO REGS (808P)

Priority: Substantive, Nonsignificant

Legal Authority: 442 usc 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 416(i); 42 USC 421(a); 42 USC 421(i); 42 USC 422(c); 42 USC 423; 42 USC 4225; 42 USC 902(a)(5); 42 USC 1382; 42 USC 1382c; 42 USC 1382h; 42 USC 1383(a); 42 USC 1383(c); 42 USC 1383(d)(l); 42 USC 1383b

CFR Citation: 20 CFR 404.1501; 20 CFR 404.1505; 20 CFR 404.1512; 20 CFR 404.1520; 20 CFR 404.1545; 20 CFR 404.1546; 20 CFR 404.1560; 20 CFR 404.1561; 20 CFR 404.1563; 20 CFR 404.1569a; 20 CFR 404.1594

Legal Deadline: None

Abstract: We propose changing several sections of our rules to clarify how we make determinations and decisions at steps 4 and 5 of the sequential evaluation process. Among other things, the proposed rules would clarify (1) the responsibility that claimants have to provide evidence of their disability (including evidence related to their residual functional capacity, and (2) that SSA may use a vocational expert to help determine whet6her a claimant is able to do his or her past relevant work at step 4 of the sequential evaluation process.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AF37

4085. FILING CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT AND THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES CLAIMS ACT (785P)

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2672; 31 USC 3721

CFR Citation: 20 CFR 429.101 to 429.110; 20 CFR 429.201 to 429.211

Legal Deadline: None

Abstract: We propose to establish a new subpart B in part 429 that would prescribe the procedures SSA follows when claims are filed by employees against SSA for personal property damage or loss incident to their service with SSA. We also propose to make corrections and clarifications to our current procedures and practices on claims against the government for damage to or loss of property or personal injury or death that is caused by the negligent or wrongful act or omission of an SSA employee.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

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RIN: 0960–AF39

4086. ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS (815P)

Regulatory Plan: This entry is Seq. No. 157 in part II of this issue of the **Federal Register**.

RIN: 0960–AF43

4087. REVISIONS TO THE MEDICAL-VOCATIONAL GUIDELINES (823P)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 404, subpart P, app 2

Legal Deadline: None

Abstract: This rule will make several clarifications to our medical-vocational guidelines. First, for individuals whose previous semiskilled or skilled work does not allow him or her to transfer skills to other semiskilled or skilled work within his or her residual functional capacity (RFC), we will treat the past work experience as if it were unskilled. It will also clarify which medical-vocational rules apply to individuals who are illiterate or unable to communicate in English. These rules will not result in any additional administrative costs or savings.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0960–AF47

4088. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, CARDIOVASCULAR SYSTEM AND RELATED CRITERIA (826P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Listings 4.00 and 104.00 of appendix 1 to the disability regulation at 20 CFR 404.1501 through 404.1599 describe those cardiovascular impairments that are considered severe enough to prevent a person from doing any gainful activity or, for a child claiming SSI payments under title XVI, that causes marked and severe functional limitations. Comprehensive revisions to these listings are being made to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The SSI program incorporates by reference and uses the same medical criteria as the old-age, survivors, and disability insurance program.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

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Cynthia Pullen-Carroll, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AF48

4089. REPRESENTATIVE PAYMENT UNDER TITLE II AND XVI OF THE SOCIAL SECURITY ACT (827P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 902(a)(5); 42 USC 405 note; 42 USC 421 note; 42 USC 1383(a)(2); 42 USC 1383(d)(1); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 405(k); 42 USC 421

CFR Citation: 20 CFR 404.902; 20 CFR 404.2011; 20 CFR 404.2021; 20 CFR 404.2022; 20 CFR 404.2024; 20 CFR 404.2025; 20 CFR 404.2030; 20 CFR 404.2040a; 20 CFR 404.2041; 20 CFR

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404.2050; 20 CFR 404.2065; 20 CFR 416.611; 20 CFR 416.621; 20 CFR 416.622; 20 CFR 416.624; 20 CFR 416.625; 20 CFR 416.630; 20 CFR 416.640a; 20 CFR 416.641; 20 CFR 416.650; 20 CFR 416.665; 20 CFR 416.1402

Legal Deadline: None

Abstract: Effective stewardship of SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. Congress determined that improvements to the representative payment procedures were needed to assure program integrity. These regulations are required to further our program integrity efforts.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Betsy Byrd, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Phone: 410 966-4163

RIN: 0960–AF49

4090. • REMOVAL OF CLOTHING FROM THE DEFINITION OF INCOME AND FROM THE DEFINITION OF IN-KIND SUPPORT AND MAINTENANCE UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM (834P)

Priority: Substantive, Nonsignificant

Legal Authority: Sec 1612 of the Social Security Act

CFR Citation: 20 CFR 416.1102 to 416.1104; 20 CFR 416.1121; 20 CFR 416.1124; 20 CFR 416.1130; 20 CFR 416.1133; 20 CFR 416.1140; 20 CFR 416.1142; 20 CFR 416.1144 to 416.1145; 20 CFR 416.1147 to 416.1149; 20 CFR 416.1157

Legal Deadline: None

Abstract: We propose to change the SSI rules to remove clothing from the definition of income and from the definition of in-kind support and maintenance. As a result, we generally will not count gifts of clothing as income when we decide whether a person can receive SSI benefits or when we compute the amount of benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Harry J. Short Jr., Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-7713

RIN: 0960–AF50

4091. • EXCLUSION OF ONE AUTOMOBILE FROM RESOURCES (835P)

Priority: Substantive, Nonsignificant

Legal Authority: Sec 1613(a)(2)(A) of the Social Security Act

CFR Citation: 20 CFR 416.1210; 20 CFR 416.1218

Legal Deadline: None

Abstract: We propose to simplify our rules on how we exclude an automobile in determining the resources of an SSI applicant or recipient. Specifically, we propose to exclude one automobile from resources if it is used for transportation, without consideration of its value.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Harry J. Short Jr., Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-7713

RIN: 0960–AF51

4092. • EXCLUSION OF HOUSEHOLD GOODS AND PERSONAL EFFECTS UNDER THE SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM (837P)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: Sec 1613(a)(2)(A) of the Social Security Act

CFR Citation: 20 CFR 416.1210; 20 CFR 416.1216

Legal Deadline: None

Abstract: We propose to change our resource counting rules in the SSI program by eliminating the dollar value limit for the exclusion of household goods and personal effects. As a result, we would not count household goods and personal effects as resources when we decide whether a person can receive SSI benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Harry J. Short Jr., Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-7713

RIN: 0960–AF55

4093. • DETERMINING DISABILITY FOR AN INDIVIDUAL WITH DRUG ADDICTION OR ALCOHOLISM (851P)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: PL 104-121, sec 105; PL 105-33, sec 5525; PL 106-170, sec 401

CFR Citation: 20 CFR 404.315; 20 CFR 404.316; 20 CFR 404.321; 20 CFR 404.332; 20 CFR 404.335; 20 CFR 404.337; 20 CFR 404.350; 20 CFR 404.352; 20 CFR 404.402; 20 CFR 404.470; 20 CFR 404.480; 20 CFR 404.902; 20 CFR 404.1535 to 404.1541; 20 CFR 1500, app 1; 20 CFR 416.202;

20 CFR 416.213; 20 CFR 416.262; 20 CFR 416.265; 20 CFR 416.535; 20 CFR 416.542; 20 CFR 416.554; 20 CFR 416.558; 20 CFR 416.601; 20 CFR 416.610; 20 CFR 416.935 to 416.941; 20 CFR 416.1123; 20 CFR 416.1326; 20 CFR 416.1331; 20 CFR 416.1335; 20 CFR 416.1402; 20 CFR 416.1725

Legal Deadline: None

Abstract: We propose to revise our regulations that address drug addiction and alcoholism (DAA) under title II and XVI of the Social Security Act. The proposed rules reflect provisions of section 105 of the Contract with America Advancement Act of 1996, Public Law 104-121; section 5525 of the Balanced Budget Act of 1997, Public Law 105-33; and section 401 of the Ticket to Work and Work Incentives Improvement Act of 1999, Public Law 106-170.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Deborah Barnes, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235
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Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF57

4094. • REVISED MEDICAL CRITERIA FOR EVALUATING RESPIRATORY MEDICAL DISORDERS (859P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: This proposed regulation will update the Respiratory Medical Listings.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Carolyn Kiefer, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Cynthia Pullen-Carroll, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-3691

RIN: 0960–AF58

4095. • SPECIAL BENEFITS FOR CERTAIN WORLD WAR II VETERANS (880P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 405(a); 42 USC 405(j); 42 USC 405(k); 42 USC 902(a)(5); 42 USC 1001 to 1013; 42 USC 1102; 42 USC 1104; 42 USC 1106

CFR Citation: 20 CFR 404.2022; 20 CFR 404.2024; 20 CFR 408.101 (New); 20 CFR 408.105 (New); 20 CFR 408.110 (New); 20 CFR 408.120 (New); 20 CFR 408.201 (New); 20 CFR 408.202 (New); 20 CFR 408.204 (New); 20 CFR 408.206 (New); 20 CFR 408.208 (New); 20 CFR 408.210 (New); 20 CFR 408.212 (New); 20 CFR 408.214 (New); 20 CFR 408.216 (New); 20 CFR 408.218 (New); 20 CFR 408.220 (New); 20 CFR 408.222 (New); 20 CFR 408.224 (New); 20 CFR 408.226 (New); 20 CFR 408.228 (New); 20 CFR 408.230 (New); 20 CFR 408.232 (New); 20 CFR 408.234 (New); 20 CFR 408.301 (New); 20 CFR 408.305 (New); 20 CFR 408.310 (New); 20 CFR 408.315 (New); 20 CFR 408.320 (New); 20 CFR 408.325 (New); 20 CFR 408.330 (New); 20 CFR 408.340 (New); 20 CFR 408.345 (New); 20 CFR 408.351 (New); 20 CFR 408.355 (New); 20 CFR 408.360 (New); 20 CFR 408.401 (New); 20 CFR 408.402 (New); 20 CFR 408.403 (New); 20 CFR 408.404 (New); 20 CFR 408.405 (New); 20 CFR 408.406 (New); 20 CFR 408.410 (New); 20 CFR 408.412 (New); 20 CFR 408.413 (New); 20 CFR 408.420 (New); 20 CFR 408.425 (New); 20 CFR 408.430 (New); 20 CFR 408.432 (New); 20 CFR 408.435 (New); 20 CFR 408.437 (New); 20 CFR 408.501 (New); 20 CFR 408.505 (New); 20 CFR 408.510 (New); 20 CFR 408.515 (New); 20 CFR 408.601 (New); 20 CFR 408.610 (New); 20 CFR 408.615 (New); 20 CFR 408.620 (New); 20 CFR 408.621 (New); 20 CFR 408.622 (New); 20 CFR 408.624 (New); 20 CFR 408.625 (New); 20 CFR 408.635 (New); 20 CFR 408.640 (New); 20 CFR 408.641 (New); 20 CFR 408.645 (New); 20 CFR 408.650 (New); 20 CFR 408.655 (New); 20 CFR 408.660 (New); 20 CFR 408.665 (New)

Legal Deadline: None

Abstract: We propose to add to Chapter 20 of the CFR new subparts in a new part 408 that would set forth our rules applicable to claims for special veterans benefits (SVB) under title VIII of the Social Security Act. The title VIII program provides monthly benefits to certain WW II veterans who were previously eligible for supplemental security income payments under title XVI of the Act and reside outside the United States. These initial subparts would establish the legal basis for the title VIII program as well as codify the title VIII rules on qualification filing applications, evaluating evidence, computing and paying benefits, and representative payment. We will be proposing additional subparts dealing with other aspects of the title VIII at a later date.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of International Programs, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Phone: 410 966-9822

RIN: 0960–AF61

4096. • TECHNICAL AMENDMENTS TO ANNUAL EARNINGS TEST (866P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403; 42 USC 403(a); 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 425; 42 USC 428(a) to 428(e); 42 USC 902(a)(5); PL 106-182

CFR Citation: 20 CFR 404.415; 20 CFR 404.416

Legal Deadline: None

Abstract: The Senior Citizen's Freedom to Work Act of 2000, enacted on April 7, 2000, eliminates the annual earnings test for beneficiaries, starting from the month in which they reach full retirement age.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF62

4097. • FEDERAL OLD-AGE, SURVIVORS, DISABILITY AND SUPPLEMENTAL SECURITY INCOME; DE NOVO REVIEW AT ALL LEVELS OF APPEAL (888P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 401(j); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 421; 42 USC 425; 42 USC 902(a)(5); 42 USC 1383; 42 USC 1383(b)

CFR Citation: 20 CFR 404.900; 20 CFR 404.913; 20 CFR 404.946; 20 CFR 404.970; 20 CFR 416.1400; 20 CFR 416.1413; 20 CFR 416.1446; 20 CFR 416.1470

Legal Deadline: None

Abstract: The current regulations are silent on SSA's practice of reviewing the entire record upon a claimant's request for appeal. SSA will review those parts of the decision that the claimant believes are wrong and will look at any new facts presented. SSA may also review those parts of the decision that the claimant believes are correct and may make them unfavorable or less favorable to the claimant. SSA revised many of its notices in 1990 to inform the public about its de novo review as a result of the decision in Powell v. Heckler, 789 F2d (3rd Cir. 1986).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Cheryl A. Williams, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-4163

RIN: 0960–AF63

4098. • REVISING THE RULES ON WORK EXPERIENCE AS A VOCATIONAL FACTOR (875P)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 416(i); 42 USC 421(a); 42 USC 421(i); 42 USC 422(c); 42 USC 423; 42 USC 425; 42 USC 902(a)(5); 42 USC 1382; 42 USC 1382c; 42 USC 1382h; 42 USC 1383(a); 42 USC 1383(c); 42 USC 1383(d)(1); 42 USC 1383b

CFR Citation: 20 CFR 404.1520; 20 CFR 404.1560; 20 CFR 404.1565; 20 CFR 404.1594(b)(4)(iii); 20 CFR 416.920; 20 CFR 416.960; 20 CFR 416.965; 20 CFR 416.994(b)(l)(iv)(c)

Legal Deadline: None

Abstract: We propose to change some of the rules we use to decide whether an individual is "disabled." These rules govern how we look at an individual's past work history. Currently, we consider work performed in the last 15 years to be relevant when we decide whether an individual is "disabled." We propose to change our rules so that we only look at work performed in the last five years.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cheryl A. Williams, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-4163

RIN: 0960–AF64

4099. • COMPENSATION FOR QUALIFIED ORGANIZATIONS SERVING AS A REPRESENTATIVE PAYEE (846P)

Regulatory Plan: This entry is Seq. No. 158 in part II of this issue of the **Federal Register**.

RIN: 0960–AF66

4100. • REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, GROWTH IMPAIRMENTS (444P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404 subpart P, app 1; 20 CFR 416 subpart I

Legal Deadline: None

Abstract: Section 100.00 of part B of appendix 1 to subpart P of part 404 of the Disability Regulations describes growth impairments considered severe enough to cause marked and severe functional limitations in a child under age 18. We are proposing revisions to the growth impairment listings. The revisions contained in these regulations reflect advances in medical knowledge, treatment, and methods of evaluating growth impairments. The Supplemental Security Income program incorporates and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

SSA **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: This regulation is cross-referenced with 0960-AD80.

Agency Contact: Regina Connell, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Phone: 410 965-7183

RIN: 0960–AF67

4101. • REVISED MEDICAL CRITERIA FOR EVALUATING MENTAL DISORDERS (886P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: We proposed to revise the criteria in the Listing of Impairments (the Listing) that we use to evaluate claims for disability benefits where the individual is alleging a mental impairment. The Listing describes, for each of the major body systems, impairments that are considered severe enough to prevent a person from doing any gainful activity. Our proposed revisions will reflect advances in medical knowledge, treatment, and methods of evaluating mental impairments in both adults and children.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Deborah Barnes, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235
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Phone: 410 965-7713

RIN: 0960–AF69

Social Security Administration (SSA) **Final Rule Stage**

4102. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS; REPLACING SOCIAL SECURITY NUMBER CARDS (543F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 422.103

Legal Deadline: None

Abstract: These final rules will support the process for replacing Social Security number cards when we receive a request by telephone. We tested replacing the card based on information furnished by telephone, without requiring additional documentation. SSA is now evaluating the results of that test.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/22/95	60 FR 32444
Interim Final Rule Comment Period End	08/21/95	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-3298

RIN: 0960–AE18

4103. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS) (554F)

Priority: Info./Admin./Other

Legal Authority: 41 USC 403(11); 41 USC 701 et seq; 42 USC 902(a)(5)

CFR Citation: 20 CFR 436.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 76 into a new SSA regulation at 20 CFR part 436 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Hora, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-7183

RIN: 0960–AE27

4104. OASDI AND SSI; EXPANSION OF THE USE OF VIDEO TELECONFERENCE TECHNOLOGY IN HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES OF THE SOCIAL SECURITY ADMINISTRATION (737F)

Regulatory Plan: This entry is Seq. No. 159 in part II of this issue of the **Federal Register**.

RIN: 0960–AE97

SSA — Final Rule Stage

4105. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, APPENDIX 1 TO SUBPART P—LISTING OF IMPAIRMENTS (740F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404 subpart P, app 1

Legal Deadline: None

Abstract: These regulations will make a certain number of discrete technical revisions to the Listing of Impairments, appendix 1 to subpart P, of part 404 of our regulations. We are making these changes in order to reflect advances in medical practices, to clarify certain listing criteria, to remove a few rarely-used listings, and to add new listings to address current medical practices such as organ transplantation. Also we will remove some technical references, which have become obsolete, and reword some listings to update medical terminology. We use these listings to adjudicate claims for disability under titles II and XVI of the Social Security Act when we evaluate claims of individuals at step three of our sequential evaluation process.

Timetable:

Action	Date	FR Cite
NPRM	02/11/00	65 FR 6929
NPRM Comment Period End	04/11/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Carolyn Kiefer, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AE99

4106. TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM (TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999) (767F)

Regulatory Plan: This entry is Seq. No. 160 in part II of this issue of the **Federal Register**.

RIN: 0960–AF11

4107. COST OF LIVING INCREASES IN PRIMARY INSURANCE AMOUNTS (759F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402(a); 42 USC 405(a); 42 USC 415; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.273 to 404.275

Legal Deadline: None

Abstract: This final rule revises our rules dealing with automatic cost-of-living increases to primary insurance amounts under title II of the Social Security Act. The revisions eliminate the restriction that we could only grant cost-of-living increases based on rises in the Consumer Price Index (CPI) or the Average Wage Index (AWI) if either the CPI or AWI increased by 3 percent or more during the prescribed measuring period. The 3 percent restriction was removed by legislation enacted in 1986. These regulations codify statutory provisions enacted in 1986.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeff Kunkel, Actuary, Social Security Administration, Office of the Actuary, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Phone: 410 966-4163

RIN: 0960–AF14

4108. ADMINISTRATIVE REVIEW PROCESS; PREHEARING AND POSTHEARING CONFERENCES (778F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.961; 20 CFR 416.1461

Legal Deadline: None

Abstract: These final rules will amend our regulations that authorize an administrative law judge (ALJ) to hold a prehearing or posthearing conference to specify that certain attorney advisors in our Office of Hearings and Appeals (OHA) may hold formal prehearing or posthearing conferences when requested by an ALJ. We will also amend these regulations to include procedures to govern the informal developmental conferences that we may hold with claimants or their representatives.

Timetable:

Action	Date	FR Cite
NPRM	06/22/00	65 FR 38796
NPRM Comment Period End	08/21/00	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF17

4109. ADMINISTRATIVE PROCEDURES FOR IMPOSING PENALTIES FOR FALSE OR MISLEADING STATEMENTS (784F)

Regulatory Plan: This entry is Seq. No. 161 in part II of this issue of the **Federal Register**.

RIN: 0960–AF20

4110. CREDIT BUREAU REPORTING AND ADMINISTRATIVE OFFSET FOR SSI OVERPAYMENTS (795F)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3711(f); 31 USC 3716; Sec 1631(b) of the Social Security Act

SSA

Final Rule Stage

CFR Citation: 20 CFR 416.590; 20 CFR 416.1403; 20 CFR 422.301; 20 CFR 422.305

Legal Deadline: None

Abstract: We propose to modify our regulations dealing with the recovery of SSI overpayments to reflect statutory authority for SSA to selectively refer information about SSI overpayments to consumer reporting agencies and to recover SSI overpayments through administrative offset by the Department of Treasury against other Federal payments to which the overpaid individual may be entitled. These collection practices would be limited to overpayments made to a person after he or she attained age 18 and would be used after the individual ceases to be an SSI beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	10/23/00	65 FR 63221
NPRM Comment Period End	12/22/00	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia Hora, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AF31

4111. IMPLEMENTING THE REDESIGNED DISABILITY PROCESS (816F)

Regulatory Plan: This entry is Seq. No. 162 in part II of this issue of the **Federal Register**.

RIN: 0960–AF44

4112. • FILING OF APPLICATIONS AND RELATED FORMS (797F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402(i); 42 USC 402(j); 42 USC 402(o); 42 USC 402(p); 42 USC 402(r); 42 USC 405; 42 USC 416(i)(2); 42 USC 423(b); 42 USC 428(a); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.610; 20 CFR 404.611; 20 CFR 422.505

Legal Deadline: None

Abstract: We will include language that explains the Internet applications completed on SSA's website and submitted to SSA are prescribed applications for filing for social security benefits. We plan to incorporate an explanation that once SSA has an approved electronic signature method in place, the signature method will be included as part of the Internet application process and will be required for the applications.

Timetable:

Action	Date	FR Cite
NPRM	08/17/01	66 FR 43136
NPRM Comment Period End	10/16/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lola Doyle, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Phone: 410 966-9822

RIN: 0960–AF52

4113. • COLLECTION OF SUPPLEMENTAL SECURITY INCOME OVERPAYMENTS FROM TITLE VIII BENEFITS (819F)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 902; 42 USC 1320b-17; 42 USC 1382(b)

CFR Citation: 20 CFR 416.570; 20 CFR 416.572

Legal Deadline: None

Abstract: We plan to modify our rules for dealing with the recovery of Supplemental Security Income (SSI) benefit overpayments under title XVI of the Social Security Act (the Act). The final rules would implement statutory authority for SSA to recover SSI overpayments by adjusting the amount of special veterans benefits payable under title VIII of the Act. (Title VIII provides monthly benefits to certain World War II veterans residing outside the United States.) This collection practice would be used when the overpaid individual is no longer eligible for SSI cash benefits. Also, the amount of the SSI overpayment recoverable in a month would be limited to 10 percent of the benefit payable in a month under title VIII unless a different rate of collection is requested and approved or the overpaid person (or that person's spouse) willfully misrepresented or concealed information in connection with the overpayment. In cases of misrepresentation or concealment, the entire title VIII benefit would be subject to adjustment to recover the overpayment.

Timetable:

Action	Date	FR Cite
NPRM	07/26/01	66 FR 38963
NPRM Comment Period End	09/24/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0960–AF53

4114. • SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED; STUDENT CHILD EARNED INCOME EXCLUSION (865F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1381a; 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382c(f); 42 USC 1382j; 42 USC 1383

CFR Citation: 20 CFR 416.1161

Legal Deadline: None

Abstract: The monthly and yearly SSI student earned income exclusion (SEIE) amounts were increased for eligible

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children based on final rules published December 29, 2000. Those final rules should have made the same increase for ineligible children for purposes of deeming calculations, but it was inadvertently not included. Under SSA's longstanding rules, the same SEIE amounts have applied to the income of both eligible and ineligible children. These rules will apply the same increase made in the SEIE to ineligible children as for eligible children.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0960–AF60

Social Security Administration (SSA) — Long-Term Actions

4115. COMPUTATION OF SSI BENEFITS FOR THE FIRST THREE MONTHS OF PAYMENT (476P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1382(c)

CFR Citation: 20 CFR 416.420

Legal Deadline: None

Abstract: SSI eligibility and payment are calculated by taking into account income received by the applicant/recipient. Two calculations must be made for each month. The first is the eligibility computation and is based on the current (payment) month's income. The second is the payment computation, which, under retrospective monthly accounting, is based (usually) on the income of a prior month called the budget month. Generally the budget month is 2 months prior to the payment month. The transitional computation for the first 3 months of SSI payment is an exception to the general rule described above. While the eligibility computation continues to apply to the current month's income, the budget month on which each of the first 3 months' payments is based is the first month of eligibility or reeligibility. This policy was intended to facilitate the transition into the 2 month retrospective accounting cycle and to avoid penalizing the recipient for income received prior to initial SSI eligibility. However, the policy also has the effect of counting income which is only received in one month more than one time. In Jones v. Shalala, the Ninth Circuit Court of Appeals ruled that SSA's transitional computation for the first 3 months of eligibility is not permissible because it will result in the triple counting of nonrecurring income received only in the first month of eligibility. The proposed policy addresses the triple counting of nonrecurring income.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Fran O. Thomas, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AD93

4116. DEFINITION OF "LARGEST BENEFIT AMOUNT" FOR SIMULTANEOUS ENTITLEMENT TO CHILD'S BENEFITS (481P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 422(b); 42 USC 423; 42 USC 424a; 42 USC 428(a) to 428(e); 42 USC 902(a)(5); 42 USC 403; 42 USC 403(a); 42 USC 403(b); 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 416

CFR Citation: 20 CFR 404.304; 20 CFR 404.353b; 20 CFR 404.407d

Legal Deadline: None

Abstract: Section 202(k)(2)(A) of the Act (42 U.S.C. 402(k)(2)(A)) contains the statutory requirements for determining the earnings record on which SSA will pay a person, who is simultaneously entitled to child's insurance benefits on the earnings records of more than one worker. Generally, the child's benefits will be paid on the earnings record that yields the highest primary insurance amount (PIA). However, under certain circumstances, the child's benefits will be paid on the earnings record that yields a lower PIA if that record produces the "largest benefit" to which the child could be entitled under section 202(d) without the application of the reduction under the "family maximum" provisions. In implementing section 202(k)(2)(A), SSA has determined the "largest benefit" under section 202(k)(2)(A) by comparing the original benefit amount (i.e., 50 percent of the PIA of a living worker and 75 percent of the PIA of a deceased worker) calculated on the dependent and/or survivor claim of the child on the earnings record of each worker without applying any reductions or deductions. The United States District Court for the Northern District of Alabama in Agee v. Sullivan rejected this interpretation and held that SSA must compare the amounts payable to the child under each earnings record after considering all applicable deductions and reductions other than the reduction under the family maximum provisions. Legal support for both interpretations can be found in the statutory language and legislative history of section 202(k)(2)(A) of the Act. We have found current regulations implementing section 202(k)(2)(A) to be ambiguous. We propose to amend these regulations to reflect the longstanding SSA interpretation, rather than the interpretation adopted by the District Court in the Agee decision.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0960–AD95

4117. REPEAL OF FACILITY OF PAYMENT PROVISION (508P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 403

CFR Citation: 20 CFR 404.402(b); 20 CFR 404.458

Legal Deadline: None

Abstract: This regulation will reflect section 309 of Public Law 103-296 that repeals the facility of payment provision under which Social Security benefits, subject to the family maximum, would not be redistributed in certain cases, and provides that the reduction for the family maximum will be made prior to a temporary suspension for work when the nonworking auxiliary resides in a separate household from the working auxiliary.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Fran O. Thomas, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-9822

RIN: 0960–AE02

4118. ADMINISTRATIVE REVIEW PROCESS; ADMINISTRATIVE RES JUDICATA AND RELATED RULES (526P)

Priority: Other Significant

Legal Authority: 42 USC 405(a); 42 USC 405(b); 42 USC 902(a)(5); 42 USC 1383(c); 42 USC 1383(d)

CFR Citation: 20 CFR 404.903a (New); 20 CFR 416.1467; 20 CFR 404.903b (New); 20 CFR 404.950; 20 CFR 404.957; 20 CFR 404.967; 20 CFR 416.1403a (New); 20 CFR 416.1403b (New); 20 CFR 416.1450; 20 CFR 416.1457

Legal Deadline: None

Abstract: These proposed changes will amend our regulations governing the administrative review process for the Social Security and Supplemental Security Income (SSI) programs to update our procedures and to reflect and implement sections 205(b)(3)(A) and 1631(c)(1)(B)(i) of the Act, as added by section 5107 of Public Law 101-508. Section 5107 specifies certain cases in which our policy on administrative res judicata may not be applied to deny a claimant's subsequent application for benefits under the Social Security or SSI Program. In general, section 5107 provides that an individual's failure to timely request review of an adverse determination (initial or reconsidered) under the Social Security or SSI Program may not be used by us as a basis for a denial of the claimant's subsequent application for benefits under the same program, if the failure to request review was due to certain circumstances specified in the statute.

We are also proposing to amend our regulations to expand and clarify our policy on administrative res judicata and on collateral estoppel.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0960–AE11

4119. OASDI; NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES, PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY (531P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402(x); 42 USC 405; 42 USC 902

CFR Citation: 20 CFR 404.468

Legal Deadline: None

Abstract: The regulation will implement section 4 of Public Law 103-387 and section 402(b) and (d) of Public Law 106-170, which modify and expand the prisoner nonpayment provisions.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Fran O. Thomas, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AE16

4120. SUPPLEMENTAL SECURITY INCOME; PLANS FOR ACHIEVING SELF-SUPPORT (506P)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-296, sec 203; 42 USC 1383b(d)

CFR Citation: 20 CFR 416.1180; 20 CFR 416.1181; 20 CFR 416.1182; 20 CFR 416.1224; 20 CFR 416.1225; 20 CFR 416.1226

Legal Deadline: None

Abstract: These proposed regulations will revise our rules on plans to achieve self-support (PASS) to take into account the time period an individual

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will need for completion of his or her PASS and other factors determined to be appropriate.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Fran O. Thomas, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AE17

4121. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, OTHER NONPROFIT ORGANIZATIONS, AND COMMERCIAL ORGANIZATIONS (547F)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7505; 41 USC 403(11); 42 USC 902(a)(5)

CFR Citation: 20 CFR 435.000

Legal Deadline: None

Abstract: This final rule will create a new part in the Code of Federal Regulations. The new part will provide standards in the administration of grants and agreements with institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations.

The Social Security Independence and Program Improvements Act of 1994, enacted August 15, 1994, established SSA as an independent agency separate from the Department of Health and Human Services (HHS), effective March 31, 1995. To implement its own set of grants regulations, SSA proposes to codify almost verbatim the text of the Office of Management and Budget (OMB) Circular Number A-110 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations." These regulations will establish SSA grants regulations, separate from the HHS regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/27/00	65 FR 24767
NPRM Comment Period End	06/26/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0960–AE25

4122. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS AND INDIAN TRIBAL GOVERNMENTS (555F)

Priority: Info./Admin./Other

Legal Authority: 41 USC 403(ii); 42 USC 902(a)(5)

CFR Citation: 20 CFR 437.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 92 into a new SSA regulation at 20 CFR part 437 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

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Phone: 410 965-7183

RIN: 0960–AE28

4123. RESTRICTIONS ON LOBBYING IN CONNECTION WITH THE AWARD OF GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS (556F)

Priority: Info./Admin./Other

Legal Authority: 31 USC 1352; 42 USC 902(a)(5)

CFR Citation: 20 CFR 438.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 93 into a new SSA regulation at 20 CFR part 438 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Hora, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AE29

4124. ELIMINATION OF ROUNDING DISTORTION IN THE CALCULATION OF THE CONTRIBUTION AND BENEFIT BASE AND EARNINGS TEST EXEMPT AMOUNTS (512F)

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This final rule reflects changes required by Public Law 103-296. Section 321(g) of this legislation designated 1994 as the base year to be used in calculating the OASDI contribution and benefit base for years after 1994.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0960–AE40

4125. SUPPLEMENTAL STANDARDS FOR ETHICAL CONDUCT FOR EMPLOYEES OF THE SOCIAL SECURITY ADMINISTRATION (601P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC APP (Ethics in Government Act of 1978); 5 USC 7301; 5 USC 7353

CFR Citation: 5 CFR ch LXXXI (New)

Legal Deadline: None

Abstract: The Social Security Administration (SSA), with the concurrence of the Office of Government Ethics (OGE), proposes to issue regulations for officers and employees of SSA that supplement the OGE Standards of Ethical Conduct for Employees of the Executive Branch, which became effective February 3, 1993. The proposed rule specifies procedural and substantive requirements that are necessary to address ethical issues unique to SSA. There were no alternatives considered for these proposed rules. Any costs or savings will be insignificant.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 0960–AE48

4126. DEEMING OF INCOME FROM AN INELIGIBLE SPOUSE TO AN ELIGIBLE INDIVIDUAL AND AN ELIGIBLE CHILD (606P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1381a; 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382c(f); 42 USC 1382j; 42 USC 1383

CFR Citation: 20 CFR 416.1160; 20 CFR 416.1165; 20 CFR 416.1166

Legal Deadline: None

Abstract: This rule would revise the method used under the SSI program to determine income for a child who lives with both parents where one parent is ineligible for SSI because of income deemed from an ineligible spouse. Instead of deeming any excess income from the ineligible spouse to the child, referred to as "pass-through deeming," we would deem income to the child using the method we use where neither parent files for SSI. Under current rules, "pass-through" deeming has had the unintended effect of deeming more income than would have been deemed if the regular rules for deeming from ineligible parents who do not file for SSI are used.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Harry J. Short Jr., Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AE50

4127. DEDICATED ACCOUNTS AND INSTALLMENT PAYMENTS FOR CERTAIN PAST DUE SSI BENEFITS (622F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1381; 42 USC 1381a; 42 USC 1382(c); 42 USC 1382(e); 42 USC 1383(a) to 1383(d); 42 USC 1383(g)

CFR Citation: 20 CFR 416.545; 20 CFR 416.546; 20 CFR 416.640; 20 CFR 416.1210; 20 CFR 11247

Legal Deadline: Final, Statutory, November 22, 1996.
Legal Deadline was met with the publication of the Interim Final Rules on 12/20/1996.

Abstract: These regulations reflect amendments to the Social Security Act made by sections 213 and 221 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 213 requires the establishment of acoounts in financial institutions for the payment of past-due SSI benefits after reimbursement to a State for Interim Assistance Reimbursement exceeding 6 months' benefits to representative payees on behalf of children under age 18. These accounts will be dedicated for certain purposes by restrictions on the use of such past-due benefits.

Section 221 requires past-due SSI benefits after reimbursement to a State for Interim Assistance Reimbursement which equals or exceeds 12 months' benefits to be paid in installments, with certain exceptions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/20/96	61 FR 67203
Interim Final Rule Comment Period End	02/18/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AE59

4128. EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, THE REHABILITATION ACT OF 1973, AND THE AGE DISCRIMINATION ACT OF 1975 IN PROGRAMS RECEIVING FINANCIAL ASSISTANCE BY SSA (617P)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1405; 29 USC 794; 42 USC 290dd-2; 42 USC 902(a)(5); 42 USC 2000d-1; 42 USC 6101

CFR Citation: 20 CFR 431

Legal Deadline: None

Abstract: Prior to March 31, 1995, SSA was an operating component of HHS and the general regulatory authority for SSA programs and administration was vested in the Secretary of Health and Human Services (the Secretary) based on section 1102 of the Social Security Act (the Act) (42 U.S.C. 1302). The SSIPIA established SSA as an independent agency in the Executive Branch of the Federal Government effective March 31, 1995, and vested

general regulatory authority in the Commissioner of Social Security (the Commissioner). Under section 106(b) of SSIPIA, HHS regulations in effect immediately prior to March 31, 1995, which relate to functions now vested in the Commissioner by reason of SSA's independence, continue to apply to SSA until such time as they are modified, suspended, terminated or repealed by the Commissioner. SSA is promulgating regulations at 20 CFR part 431, which are based in large measure upon the HHS regulations at 45 CFR parts 80, 81, 84, 85, 90, and 91. These SSA regulations reflect changes necessary to adapt the HHS regulations to SSA procedures. Upon SSA's rules becoming final regulations, the HHS regulations will cease to have application to SSA in accordance with section 106(b) of SSIPIA.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0960–AE63

4129. ENFORCEMENT OF NONDISCRIMINATION IN SOCIAL SECURITY PROGRAMS OR ACTIVITIES (661P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1302; PL 103-296

CFR Citation: 20 CFR 431.100; 20 CFR 431.215; 20 CFR 431.220; 20 CFR 431.225; 20 CFR 431.230; 20 CFR 431.235; 20 CFR 431.240; 20 CFR 431.105; 20 CFR 431.110; 20 CFR 431.115; 20 CFR 431.120; 20 CFR 431.125; 20 CFR 431.130; 20 CFR 431.135; 20 CFR 431.140; 20 CFR 431.145; 20 CFR 431.150; 20 CFR 431.160; 20 CFR 431.200; 20 CFR 431.205; 20 CFR 431.210

Legal Deadline: None

Abstract: These proposed regulations are intended to ensure that individuals are not subjected to discrimination on the basis of disability, race, color, national origin, sex, age, or religion in any program or activity conducted by SSA.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AE78

4130. TECHNICAL CHANGES TO TITLE XVI (664F)

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1805(d)

CFR Citation: 20 CFR 416.1236; 20 CFR 416, subpart K, app

Legal Deadline: None

Abstract: We are amending the SSI regulations by making technical changes to our rules on income and resources. These technical changes update lists of exclusions from income and resources under the SSI program that are based on statutes other than the Social Security Act and make additional technical changes.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0960–AE79

4131. FEDERAL SALARY OFFSET (WITHHOLDING A PORTION OF A FEDERAL EMPLOYEE'S SALARY TO COLLECT A DELINQUENT DEBT OWED TO THE SOCIAL SECURITY ADMINISTRATION) (721P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 902; 42 USC 1383; 5 USC 5514

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: This initiative would enable the Social Security Administration (SSA) to collect from Federal salaries qualifying, delinquent title II and title XVI overpayment debts owed by former beneficiaries who are currently Federal employees. The debt collection would be accomplished by the partial reduction of the employee's disposable salary.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

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RIN: 0960–AE89

SSA — Long-Term Actions

4132. PRIVATE COLLECTION AGENCIES (USING PRIVATE COLLECTION AGENCIES TO HELP SSA COLLECT DELINQUENT TITLE II AND TITLE XVI DEBTS OWED BY FORMER BENEFICIARIES) (722P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 902; 42 USC 1383(b); 31 USC 3718

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: This initiative would enable the Social Security Administration (SSA) to refer delinquent title II and title XVI overpayment debts owed by former beneficiaries to private collection agencies for further debt collection efforts.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Edward Johns, Financial Management Analyst, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401 Phone: 410 965-0392

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RIN: 0960–AE90

4133. CHARGING INTEREST (CHARGING INTEREST ON DELINQUENT DEBTS) (723P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 902; 42 USC 1383(b); 31 USC 3717

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: Under this initiative, the Social Security Administration (SSA) would charge interest, administrative costs of collection and penalties on qualifying, delinquent title II debts and title XVI overpayment debts owed by former beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 0960–AE91

4134. WORK ACTIVITY STANDARD AS A BASIS FOR REVIEW OF AN INDIVIDUAL'S DISABLED STATUS (TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999) (725P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 421

CFR Citation: 20 CFR 404.1590

Legal Deadline: NPRM, Statutory, January 1, 2002, Section 111 of Public Law 106-170, effective January 1, 2002.

Abstract: One of SSA's most important initiatives is to assure that Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) beneficiaries with disabilities who want to work have the opportunity to do so. Individuals with disabilities face multiple barriers in attempting to return to work. Section 111 of Public Law 106-170 provides a new statutory work incentive by eliminating the scheduling of continuing disability medical reviews solely because of an SSDI beneficiary's work activity, once the beneficiary has been entitled to SSDI benefits for 24 months. (Such beneficiaries will continue to be subject to regularly scheduled continuing disability reviews, work investigations, and benefit termination due to earnings from work activity at the level of substantial gainful activity.)

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Baumel, Social Insurance Specialist, Social Security Administration, Office of Employment Support programs, 6401 Security Boulevard, Baltimore, MD 21235-6401 Phone: 410 965-9834

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401 Phone: 410 965-1769

RIN: 0960–AE93

4135. ASSIGNMENT OF SOCIAL SECURITY ADMINISTRATION NUMBERS (SSN) FOR NONWORK PURPOSES (751P)

Priority: Other Significant

Legal Authority: 42 USC 405; 42 USC 432; 42 USC 902(a)(5); 42 USC 1320b-1; 42 USC 1320b-13

CFR Citation: 20 CFR 422.104

Legal Deadline: None

Abstract: SSA published an advanced notice of proposed rulemaking regarding when we will assign an SSN to an alien who is legally in the United States (U.S.) but not under authority of law permitting him or her to work in the U.S. We are considering a proposal to assign an SSN to an alien who is legally in the U.S. but does not have authorization to work only if there is a Federal statute or regulation that requires the alien to furnish an SSN to receive a federally-funded benefit or service. Under such a proposal, we would no longer assign an SSN to an alien if the alien's sole reason for applying for the SSN is to satisfy a State or local statute or regulation that requires an individual to furnish an SSN in order to receive a benefit or service. The intent of such a proposed change would be to reduce the possibility of fraud through misuse of SSNs. We are still evaluating the public comments received.

SSA — Long-Term Actions

Timetable:

Action	Date	FR Cite
ANPRM	10/12/99	64 FR 55217
ANPRM Comment Period End	12/13/99	
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Arthur LaVeck, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5665

Fran O. Thomas, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-9822

RIN: 0960–AF05

4136. CHANGE IN RETIREMENT AGE (775F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403; 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 415; 42 USC 416; 42 USC 422(b); 42 USC 423; 42 USC 424a; 42 USC 425; 42 USC 428(a) to 428(e); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.201; 20 CFR 404.277; 20 CFR 404.304; 20 CFR 404.310; 20 CFR 404.311; 20 CFR 404.312; 20 CFR 404.313; 20 CFR 404.317; 20 CFR 404.335; 20 CFR 404.336; 20 CFR 404.337; 20 CFR 404.338; 20 CFR 404.352; 20 CFR 404.409; 20 CFR 404.410; 20 CFR 404.411; 20 CFR 404.412; 20 CFR 404.413; 20 CFR 404.421; 20 CFR 404.621; 20 CFR 404.623; 20 CFR 404.762

Legal Deadline: None

Abstract: These final rules amend our regulations to reflect section 201 of Public Law 98-21, the Social Security amendments of 1983. Section 201 increases the retirement age for unreduced old-age, wife or husband and widow or widower benefits from age 65 to 67.

These regulations conform SSA policy to match Federal laws, and therefore, there are no costs attributable to these regulatory changes.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Hilton, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-2468

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF16

4137. MEDICAL EQUIVALENCE FOR ADULTS AND CHILDREN (787P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.1526; 20 CFR 404.1529; 20 CFR 416.926; 20 CFR 416.929

Legal Deadline: None

Abstract: This notice of proposed rulemaking will clarify that a determination of medical equivalence will consider the medical severity of the individual's impairment, based on all relevant evidence in the case record. These rules will clarify our medical equivalence policy in light of the decision in Hickman v. Apfel, 187 F.3d 683 (7th Cir. 1999).

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jane Deweib, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-9878

Cheryl A. Williams, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-4163

RIN: 0960–AF19

4138. EXPEDITED REINSTATEMENT OF DISABILITY BENEFITS (TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT) (790P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 423; 42 USC 1383

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, January 1, 2001, Section 112 of Public Law 106-170, effective January 1, 2001.

Abstract: Individuals with disabilities face multiple barriers in attempting to return to work. Section 112 of Public Law 106-170 provides a new statutory work incentive by providing for expedited reinstatement of SSDI and SSI benefits terminated due to work activity, when the former beneficiary requests reinstatement within 60 months because his or her disability prevents work activity. Section 112 also provides for payment of provisional benefits up to six months until SSA makes a determination on the requester's entitlement to reinstated benefits.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Baumel, Social Insurance Specialist, Social Security Administration, Office of Employment Support programs, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-9834

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF21

4139. SSI TRUSTS AND TRANSFERS OF RESOURCES (791I)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1382a(a); 42 USC 1382b(c)(e); 42 USC 1382b(e); PL 106-169, sec 205; PL 106-169, sec 206

CFR Citation: 20 CFR 416

Legal Deadline: None

Abstract: These interim final rules amend our regulations to reflect sections 205 and 206 of Public Law 106-169, the Foster Care Independence Act of 1999. Section 205 generally provides for counting certain trusts as resources in the SSI program. Section 206 generally provides for a period of ineligibility for SSI benefits as a result of transferring resources for less than fair market value.

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Kenneth A. Brown, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-9772

Harry J. Short Jr., Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-7713

RIN: 0960–AF22

4140. SOCIAL SECURITY COVERAGE OF EMPLOYMENT FOR RESIDENTS OF THE NORTHERN MARIANA ISLANDS, AMERICAN SAMOA, AND GUAM (792P)

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 404.1004(8); 20 CFR 404.1004(9); 20 CFR 404.1022(a); 20 CFR 404.1022(c)

Legal Deadline: None

Abstract: These proposed rules will amend our regulations to include the Commonwealth of the Northern Mariana Islands in the definition of United States under title II. These revisions will also include coverage of employment for workers in the Commonwealth of the Northern Mariana Islands as well as workers in American Samoa or Guam.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dianne Freelump, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-9812

Cynthia Pullen-Carroll, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-3691

RIN: 0960–AF23

4141. EFFECTS OF BEING CONSIDERED A CHILD (793P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 1382c(f)(1)

CFR Citation: 20 CFR 416.1851

Legal Deadline: None

Abstract: These proposed rules will restore nationwide uniformity on deeming of income and resources from a stepparent to an SSI eligible child. This action is being taken as a result of the decision in Florez on behalf of Wallace v. Callahan 156F.3d 438 (2d. Cir. 1998). A stepparent's income and resources will not be deemed to a child when the natural parent does not live in the same household as the stepparent and the child.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Karen E. Kerwath, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-9835

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF24

4142. WAGE REPORTS AND PENSION INFORMATION (809P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 432; 42 USC 902(a)(5)

CFR Citation: 20 CFR 422.114

Legal Deadline: None

Abstract: The Social Security Administration (SSA) proposes to amend its rules on processing reports of wages submitted annually by employers. We propose to amend this rule to reflect the threshold now in use for accepting wage reports with unidentified or incorrectly identified wage items.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF38

4143. DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY (TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999) (789P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 434

CFR Citation: 20 CFR 404.1599

Legal Deadline: None

SSA — Long-Term Actions

Abstract: One of SSA's most important initiatives is to assure that Social Security Disability Insurance (SSDI) beneficiaries with disabilities who want to work have the opportunity to do so. Section 301 of Public Law 106-170 provides the Commissioner of Social Security the authority to develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of various alternative methods of treating the work activity of individuals entitled to disability insurance benefits.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: John Kearney, Social Insurance Specialist, Social Security Administration, Office of Policy, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-6386

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF41

4144. EXCLUSION OF REPRESENTATIVES AND HEALTH CARE PROVIDERS CONVICTED OF VIOLATIONS FROM PARTICIPATION IN SOCIAL SECURITY DISABILITY PROGRAMS (820F)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-169, sec 208; 42 USC 1136b-6

CFR Citation: 20 CFR 498.100; 20 CFR 498.105; 20 CFR 498.108; 20 CFR 498.109; 20 CFR 498.110; 20 CFR 498.129; 20 CFR 498.201; 20 CFR 498.202; 20 CFR 498.215

Legal Deadline: None

Abstract: This final rule would bar representatives and health care providers from participating in the Social Security disability programs if they are determined to have committed fraud. The bar would be 5 years, 10 years, and permanent exclusion for the first, second, and third offenses respectively.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Harry J. Short Jr., Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-7713

RIN: 0960–AF46

4145. • NON-PAYMENT OF MONTHLY SOCIAL SECURITY BENEFITS TO ALIENS RESIDING IN THE UNITED STATES WHO ARE NOT LAWFULLY PRESENT (849P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 8 USC 1611; 8 USC 1641; 42 USC 402(y)

CFR Citation: 20 CFR 404.401; 20 CFR 404.460; 20 CFR 404.481 (New); 20 CFR 404.482 (New); 20 CFR 404.483 (New); 20 CFR 404.485 (New); 20 CFR 404.486 (New); 20 CFR 404.487 (New); 20 CFR 404.488; 20 CFR 404.489 (New); 20 CFR 404.490 (New)

Legal Deadline: None

Abstract: We propose to add rules to require evidence in our records of United States citizenship, status as a United States national or, in the case of an alien lawful presence in the United States in order for an individual to receive benefits under title II of the Social Security Act while in the United States. Any costs associated with this proposed regulation are attributable to the legislation and not the regulation itself.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Cynthia Pullen-Carroll, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-3691

RIN: 0960–AF56

4146. • REVISING THE RULES ON THE STEPS FOR EVALUATING DISABILITY (894P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: None

Legal Deadline: None

Abstract: We are proposing combining steps 4 and 5 of the sequential evaluation process for evaluating disability into one step. Instead of having separate steps for determining whether a claimant can do any past relevant work and other work, we would have one step where we determine if a claimant can do any SGA at all. This would simplify the evaluation process and save time and resources.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Cheryl A. Williams, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-4163

RIN: 0960–AF65

4147. • PROGRAM: COOPERATIVE AGREEMENTS FOR BENEFITS PLANNING, ASSISTANCE, AND OUTREACH PROJECTS (844P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

SSA — Long-Term Actions

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This Notice of Proposed Rulemaking would implement subtitle C "Work Incentives Planning, Assistance, and Outreach" of the Ticket to Work and Self-Sufficiency Program (Ticket to Work and Work Incentives Improvement Act of 1999). These proposed rules would establish a corps of work incentives specialists and State grants for a full range of Planning and Assistance services.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF68

Social Security Administration (SSA) — Completed Actions

4148. MUSCULOSKELETAL SYSTEM AND RELATED CRITERIA (143F)

Priority: Other Significant

CFR Citation: 20 CFR 404.1500, app 1

Completed:

Reason	Date	FR Cite
Final Action	11/19/01	66 FR 58009

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Victoria Dorf
Phone: 410 965-9245

Suzanne DiMarino
Phone: 410 965-1769

RIN: 0960–AB01

4149. ELECTION OF BENEFITS BASED ON AGE BY DISABLED WIDOW, WIDOWER, AND SURVIVING DIVORCED SPOUSE BENEFICIARIES (343P)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 404.335; 20 CFR 404.336; 20 CFR 404.337

Completed:

Reason	Date	FR Cite
Merged With 0960-AF16	10/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Fran O. Thomas
Phone: 410 966-9822

RIN: 0960–AD56

4150. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; DETERMINING DISABILITY AND BLINDNESS; REVISION TO MEDICAL-VOCATIONAL GUIDELINES (599F)

Priority: Other Significant

CFR Citation: 20 CFR 404.1500, app 2

Completed:

Reason	Date	FR Cite
Final Action	08/28/01	66 FR 45162
Final Action Effective	09/28/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cheryl A. Williams
Phone: 410 966-4163

RIN: 0960–AE42

4151. COVERAGE OF EMPLOYEES OF STATE AND LOCAL GOVERNMENTS; OFFICE OF MANAGEMENT AND BUDGET (OMB) CONTROL NUMBER (280F)

Priority: Info./Admin./Other

CFR Citation: 20 CFR 404.1215; 20 CFR 404.1242; 20 CFR 404.1243; 20 CFR 404.1247; 20 CFR 404.1249; 20 CFR 404.1251; 20 CFR 404.1265; 20 CFR 404.1203; 20 CFR 404.1204; 20 CFR 404.1214; 20 CFR 404.1216; 20 CFR 404.1220; 20 CFR 404.1225; 20 CFR 404.1237; 20 CFR 404.1239; 20 CFR 404.1242; 20 CFR 404.1243; 20 CFR 404.1247; 20 CFR 404.1249; 20 CFR 404.1251; 20 CFR 404.1265; 20 CFR 404.1271; 20 CFR 404.1272; 20 CFR 404.1292

Completed:

Reason	Date	FR Cite
Final Action	05/25/01	66 FR 28835
Final Action Effective	05/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine
Phone: 410 966-0020

RIN: 0960–AE69

4152. TITLE XVI, CROSS-PROGRAM RECOVERY (746F)

Priority: Other Significant

CFR Citation: 20 CFR 404.401; 20 CFR 416.558; 20 CFR 416.570; 20 CFR 416.572

Completed:

Reason	Date	FR Cite
Final Action	07/26/01	66 FR 38902
Final Action Effective	08/27/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edward Johns
Phone: 410 965-0392

Robert J. Augustine
Phone: 410 966-0020

RIN: 0960–AF13

4153. FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE; SUPPLEMENTAL SECURITY INCOME; DETERMINING DISABILITY AND BLINDNESS; REVISIONS TO THE GROWTH IMPAIRMENT LISTINGS (758P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 20 CFR 404.1505; 20 CFR 404.1520; 20 CFR 404.1525; 20 CFR 404.1526; 20 CFR 416.905; 20 CFR 416.906; 20 CFR 416.920; 20 CFR

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416.924; 20 CFR 416.925; 20 CFR 416.926; 20 CFR 416.926a

Completed:

Reason	Date	FR Cite
Merged With 0960-AF67	09/14/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Regina Connell
Phone: 410 965-1891

Suzanne DiMarino
Phone: 410 965-1769

RIN: 0960–AF18

4154. • EXTENSION OF EXPIRATION DATES FOR SEVERAL BODY SYSTEM LISTINGS (857F)

Priority: Other Significant

Legal Authority: 42 USC 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 416(i); 42 USC 421(a); 42 USC 421(i); 42 USC 422(c); 42 USC 423; 42 USC 425; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: This regualtion extends all medical listings except for the Respiratory Listing.

Timetable:

Action	Date	FR Cite
Final Action	06/28/01	66 FR 34361
Final Action Effective	06/28/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Deborah Barnes, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-4171

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of International Programs, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-0020

RIN: 0960–AF59

[FR Doc. 01–26034 Filed 11–30–01; 8:45 am]
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Federal Register

Monday,
December 3, 2001

Part XLV

Tennessee Valley Authority

Semiannual Regulatory Agenda

TENNESSEE VALLEY AUTHORITY (TVA)

TENNESSEE VALLEY AUTHORITY

18 CFR Ch. XIII

Regulatory Agenda

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Semiannual regulatory agenda.

SUMMARY: As a nonregulatory agency, TVA originates few regulations. TVA has submitted a proposed regulation which would revise the requirements applicable to the construction and maintenance of obstructions in the Tennessee River system and codify policies related to management of shoreline land under the jurisdiction of TVA. TVA, with other Federal agencies, has submitted proposed regulations implementing title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975 related to the definitions of "program or activity" or "program." TVA will submit a final regulation amending TVA's rules regarding restrictions on lobbying to make inflation adjustments for the range of civil monetary penalties. TVA is therefore publishing a regulatory agenda in voluntary compliance with Executive Order 12866.

FOR FURTHER INFORMATION CONTACT:

For further information, please contact the persons listed.

Maureen H. Dunn,

General Counsel.

Tennessee Valley Authority—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4155	Nondiscrimination in Federally Assisted Programs of TVA— Effectuation of Title VI of the Civil Rights Act of 1964	3316-AA20
4156	New Restrictions on Lobbying	3316-AA22

Tennessee Valley Authority—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4157	Approval of Construction and Regulation of Structures in the Tennessee River System and Shoreline Management	3316-AA19

Tennessee Valley Authority (TVA) — Final Rule Stage

4155. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF TVA— EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 18 CFR 1302; 18 CFR 1307; 18 CFR 1309

Legal Deadline: None

Abstract: The Department of Justice proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1973 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of "program or activity" and "program" into the Department's title VI, section 504, and Age Discrimination Act regulations. The Department's proposed regulation will be published as part of a joint Notice of Proposed Rulemaking involving up to 24 Federal agencies, including TVA.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Franklin E. Alford, Manager, Supplier and Diverse Business Relations, Tennessee Valley Authority, 1101 Market Street, WR3J, Chattanooga, TN 37402
Phone: 423 751-7203

RIN: 3316–AA20

4156. • NEW RESTRICTIONS ON LOBBYING

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-410, sec 4, as amended by PL 104-134

CFR Citation: 18 CFR 1315.400(a), (b), and (e)

Legal Deadline: None

Abstract: This action amends the Tennessee Valley Authority's rules regarding restrictions on lobbying to make inflation adjustments in the range

TVA **Final Rule Stage**

of civil monetary penalties it may assess against persons who violate those rules.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Clifford L. Beach Jr., Attorney, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, TN 37902-1401
Phone: 865 632-4146
Fax: 865 632-2422
Email: clbeach@tva.gov

RIN: 3316–AA22

Tennessee Valley Authority (TVA) **Long-Term Actions**

4157. APPROVAL OF CONSTRUCTION AND REGULATION OF STRUCTURES IN THE TENNESSEE RIVER SYSTEM AND SHORELINE MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 831 to 831dd

CFR Citation: 18 CFR 1304 (Revision)

Legal Deadline: None

Abstract: This action revises the requirements applicable to construction and maintenance of obstructions in the Tennessee River System to better describe the types of facilities that would be considered for approval. It also would codify policies related to management of certain shoreline lands under the jurisdiction, custody, and control of TVA.

Timetable:

Action	Date	FR Cite
NPRM	09/20/00	65 FR 56821
NPRM Comment Period End	11/20/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Robert L. Curtis, Specialist-Land Policy, Resource Stewardship, Tennessee Valley Authority, P.O. Box 1589, 17 Ridgeway Road, Norris, TN 37828
Phone: 865 632-1552

RIN: 3316–AA19

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December 3, 2001

Part XLVI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Federal Acquisition Regulation; Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in compliance with Executive Order 12866 "Regulatory Planning and Review." This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The Federal Acquisition Regulation (FAR) Secretariat has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Duarte, FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of changes published in the **Federal Register** and produced electronically as Federal Acquisition Circulars (FACs).

The electronic version of the FAR, including changes, can be accessed on the FAR web site at http://www.arnet.gov/FAR.

Dated: September 14, 2001.

Al Matera,

Director, Acquisition Policy Division.

DOD/GSA/NASA(FAR)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4158	FAR Case 99-303, Task Order and Delivery Order Contracts	9000-AI72
4159	FAR Case 99-605, Subcontracts (Labor Standards)	9000-AI96
4160	FAR Case 98-018, Trademarks for Government Products	9000-AI98
4161	FAR Case 2000-608; New Consolidated Form for Selection of Architect-Engineer Contractors	9000-AJ15
4162	FAR Case 2000-011, Revisions to Provisions/Clauses to Accommodated Sealed Bidding and Simplified Procedures in Commercial Item Acquisitions	9000-AJ18
4163	FAR Case 2000-406, Definition of "Claim" and Terms Relating to Termination	9000-AJ19

DOD/GSA/NASA(FAR)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4164	FAR Case 89-093, Implementation of the Anti-Lobbying Statute	9000-AD76
4165	FAR Case 94-753, Travel Costs	9000-AG27
4166	FAR Case 95-013, Government Property	9000-AH60
4167	FAR Case 97-032, Relocation Costs	9000-AH96
4168	FAR Case 2000-302,Veterans Entrepreneurship and Small Business Development Act of 1999	9000-AI93
4169	FAR Case 2000-308, Prompt Payment Under Cost-Reimbursement Contracts for Services	9000-AJ17

DOD/GSA/NASA(FAR)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4170	FAR Case 91-078, Small Business Subcontracting Reporting	9000-AG04
4171	FAR Case 97-304, Electronic Commerce in Federal Procurement	9000-AI10
4172	FAR Case 99-010, Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings	9000-AI40
4173	FAR Case 98-024, Procurement Integrity Rewrite	9000-AI51
4174	FAR Case 99-022, Discussion Requirements	9000-AI68
4175	FAR Case 99-025, Cost Accounting Standards Administration	9000-AI70

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DOD/GSA/NASA(FAR)—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4176	FAR Case 99-011, Energy Efficiency of Supplies and Services	9000-AI71
4177	FAR Case 2000-604, North American Industry Classification System (NAICS)	9000-AI75
4178	FAR Case 2000-402, Definitions for "Contract Action" and "Contracting Action"	9000-AI76
4179	FAR Case 2000-404, Definitions for Classified Acquisitions	9000-AI81
4180	FAR Case 99-017, JWOD Subcontract Preference Under Service Contracts	9000-AI82
4181	FAR Case 2000-403, Definitions for Sealed Bid and Negotiated Procurements	9000-AI84
4182	FAR Case 99-026, Final Contract Voucher Submission	9000-AI86
4183	FAR Case 99-023, Prompt Payment and the Recovery of Overpayment	9000-AI89
4184	FAR Case 99-616, Balance of Payments Program	9000-AI90
4185	FAR Case 2000-401, Definitions of "Applied Research" and "Development"	9000-AI91
4186	FAR Case 2000-007, Financing Policies	9000-AI92
4187	FAR Case 2000-304, Electronic Signatures	9000-AI94
4188	FAR Case 99-612, Application of Labor Clauses	9000-AI95
4189	FAR Case 99-024, Preference for U.S.-Flag Vessels	9000-AI97
4190	FAR Case 99-400, Geographic Use of the Term "United States"	9000-AI99
4191	FAR Case 99-614, Federal Supply Schedule Order Disputes and Incidental Items	9000-AJ01
4192	FAR Case 2000-013, Contract Types for Commercial Item Acquisitions	9000-AJ03
4193	FAR Case 2000-008, Acquisition of Helium	9000-AJ09
4194	FAR Case 2001-014, Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings—Revocation	9000-AJ10
4195	FAR Case 2000-609, Contractor Personnel in the Procurement of Information Technology Services	9000-AJ11
4196	FAR Case 2000-307, Preference for Performance-Based Contracting	9000-AJ12
4197	FAR Case 2001-017, Executive Order 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts	9000-AJ13
4198	FAR Case 2001-016, E.O. 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects	9000-AJ14
4199	FAR Case 2001-005, Notification of Overpayment, Contract Financing Payments	9000-AJ20
4200	FAR Case 98-020, Hazardous Material Safety Data	9000-AJ21

DOD/GSA/NASA(FAR)—Completed Actions

Sequence Number	Title	Regulation Identification Number
4201	FAR Case 98-614, Veterans' Employment	9000-AI46
4202	FAR Case 97-613, Application of the Davis-Bacon Act to Construction Contracts With Options To Extend the Term of the Contract	9000-AI47
4203	FAR Case 2000-303, Acquisition of Commercial Items	9000-AI88
4204	FAR Case 2000-014, Signing and Retention of High-Technology Workers	9000-AJ00
4205	FAR Case 2001-001, Very Small Business Pilot Program	9000-AJ16

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Proposed Rule Stage

4158. FAR CASE 99-303, TASK ORDER AND DELIVERY ORDER CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 16

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement portions of section 804 of the National Defense Authorization Act for FY 2000, Public Law 106-65. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	08/23/01	66 FR 44518

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Action	Date	FR Cite
NPRM Comment Period End	10/22/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI72

4159. • FAR CASE 99-605, SUBCONTRACTS (LABOR STANDARDS)

Priority: Economically Significant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 22; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify that the clause entitled "Subcontracts (Labor Standards)" flows down only to subcontracts for construction with the United States and that the clause entitled "Contract Work Hours and Safety Standards Act-Overtime Compensation" does not flow down unless included in the contract. This regulatory action was not subject to Office of Management and Budget review of Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI96

4160. • FAR CASE 98-018, TRADEMARKS FOR GOVERNMENT PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(a); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 27; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to provide guidance on the use of names, symbols, and logos that describe Government products, services, systems, and programs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804

Timetable:

Action	Date	FR Cite
NPRM	08/09/01	66 FR 42102
NPRM Comment Period End	10/09/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI98

4161. • FAR CASE 2000-608; NEW CONSOLIDATED FORM FOR SELECTION OF ARCHITECT-ENGINEER CONTRACTORS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 36

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to replace Standard Forms 254 and 255 with proposed Standard Form 330, Architect-Engineer Qualification. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	10/19/01	66 FR 53314
NPRM Comment Period End	12/18/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AJ15

4162. • FAR CASE 2000-011, REVISIONS TO PROVISIONS/CLAUSES TO ACCOMMODATED SEALED BIDDING AND SIMPLIFIED PROCEDURES IN COMMERCIAL ITEM ACQUISITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to update FAR provisions relating to Instructions to Offerors-Commercial Items and

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Offeror Representations and Certifications-Commercial Items, to accommodate sealed bidding and simplified acquisitions. This regulatory action is not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	08/22/01	66 FR 44288
NPRM Comment Period End	10/22/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AJ18

4163. • FAR CASE 2000-406, DEFINITION OF "CLAIM" AND TERMS RELATING TO TERMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 17; 48 CFR 33; 48 CFR 49; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify and move the definitions of "claim" and certain terms relating to termination to part 2 of the FAR. This regulatory action was not subject to Office of Management and Budget review under Executive 12866, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	08/15/01	66 FR 42922
NPRM Comment Period End	10/15/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AJ19

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Final Rule Stage

4164. FAR CASE 89-093, IMPLEMENTATION OF THE ANTI-LOBBYING STATUTE

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-121, sec 319

CFR Citation: 48 CFR 3; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement section 319 of Public Law 101-121, which added a new section 1352 to title 31 U.S.C. entitled "Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions." Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, or cooperative agreement, in excess of $100,000, or a loan or Federal commitment to insure or guarantee a loan, in excess of $150,000, must disclose lobbying with other than appropriated funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/90	55 FR 3190
Interim Final Rule Comment Period End	04/02/90	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AD76

4165. FAR CASE 94-753, TRAVEL COSTS

Priority: Other Significant

Legal Authority: PL 103-355

CFR Citation: 48 CFR 31.205-46

Legal Deadline: Final, Statutory, October 1, 1995, The Federal Acquisition Streamlining Act eliminated the statutory requirement to the travel cost principle concerning the Federal Travel Regulations. No regulatory implementation was required.

Abstract: This rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103-355 (the Act). The Federal Acquisition Regulatory Council is considering

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amending the Federal Acquisition Regulation (FAR) as a result of changes to 41 U.S.C. 22 by section 2191 of the Act. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	12/14/94	59 FR 64542
NPRM Comment Period End	02/13/95	
NPRM	05/20/99	64 FR 27654
NPRM Comment Period End	07/19/99	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AG27

4166. FAR CASE 95-013, GOVERNMENT PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45; 48 CFR 52

Legal Deadline: None

Abstract: The rule amends the Federal Acquisition Regulation (FAR) to simplify procedures, reduce recordkeeping, and eliminate requirements related to the management and disposition of Government property in the possession of contractors. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	06/02/97	62 FR 30186
NPRM Comment Period End	08/15/97	
NPRM	01/10/00	65 FR 1438
NPRM Comment Period End	03/10/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AH60

4167. FAR CASE 97-032, RELOCATION COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to remove the ceilings imposed on certain types of relocation costs; to permit reimbursement of relocation costs on an appropriate lump-sum basis; and to make allowable payments for spouse employment assistance and payments for increase employee income and social security taxes incident to allowable reimbursed relocation. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	05/25/99	64 FR 28330
NPRM Comment Period End	07/26/99	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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RIN: 9000–AH96

4168. FAR CASE 2000-302,VETERANS ENTREPRENEURSHIP AND SMALL BUSINESS DEVELOPMENT ACT OF 1999

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c); PL 106-50

CFR Citation: 48 CFR 2; 48 CFR 4; 48 CFR 5; 48 CFR 7; 48 CFR 19; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement section 803 of the Small Business Reauthorization Act of 2000, part of the Consolidated Appropriations Act 2001 (Pub. L. 106-554). The Act established new assistance programs for veterans and service-disabled veterans who own and operate small businesses. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/11/00	65 FR 60542
Interim Final Rule Effective	10/11/00	
Interim Final Rule Comment Period End	12/11/00	
Interim Final Rule	10/22/01	66 FR 53492
Interim Final Rule Effective	10/22/01	
Interim Final Rule Comment Period End	12/21/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI93

4169. • FAR CASE 2000-308, PROMPT PAYMENT UNDER COST-REIMBURSEMENT CONTRACTS FOR SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to require agencies to pay an interest penalty whenever they make an interim payment under a cost-reimbursement contract for services more than 30 days after the agency receives a proper invoice from the contractor. This regulatory action is not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/22/01	66 FR 53485
Interim Final Rule Effective	10/22/01	
Interim Final Rule Comment Period End	12/21/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AJ17

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Long-Term Actions

4170. FAR CASE 91-078, SMALL BUSINESS SUBCONTRACTING REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 53.219

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend FAR 53.219 to authorize the addition of a column to the Standard Form 295, Summary Subcontract Report, to report the number of subcontracts awarded to small business concerns, small disadvantaged business concerns, and women-owned small business enterprises. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49037
NPRM Comment Period End	11/25/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AG04

4171. FAR CASE 97-304, ELECTRONIC COMMERCE IN FEDERAL PROCUREMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, sec 850

CFR Citation: 48 CFR 2; 48 CFR 4; 48 CFR 5; 48 CFR 12; 48 CFR 13; 48 CFR 14; 48 CFR 19; 48 CFR 22; 48 CFR 34; 48 CFR 35; 48 CFR 36

Legal Deadline: Final, Statutory, May 16, 1998.

Abstract: This rule amends the Federal Acquisition Regulation to implement section 850 of the National Defense Act for FY 1998 (Pub. L. 105-85) to eliminate the preference for electronic commerce within Federal Acquisition Computer Network. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/98	63 FR 58590
Interim Final Rule Effective	10/30/98	
Interim Final Rule Comment Period End	12/29/98	
NPRM	08/21/00	65 FR 50872
NPRM Comment Period End	10/20/00	
Interim Final Rule	05/16/01	66 FR 27407

Action	Date	FR Cite
Interim Final Rule	07/16/01	
Comment Period End		

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI10

4172. FAR CASE 99-010, CONTRACTOR RESPONSIBILITY, LABOR RELATIONS COSTS, AND COSTS RELATING TO LEGAL AND OTHER PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9.104-1; 48 CFR 14.404-2; 48 CFR 15.503; 48 CFR 31.205-21; 48 CFR 31.205-47; 48 CFR 52.209-5; 48 CFR 52.212-3

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify coverage and give examples of suitable contractor responsibility considerations. The rule also makes unallowable the costs of attempting to influence employee decisions regarding unionization. In addition, the rule makes unallowable those legal expenses related to defense of judicial or administrative proceedings brought by the Federal Government when a contractor is found to have violated a law or regulation, or the proceeding is settled by consent or compromise, except to the extent specifically provided as part of the settlement agreement. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37360
NPRM Comment Period End	11/08/99	
NPRM	06/30/00	65 FR 40830
NPRM Comment Period End	08/29/00	
Final Rule	12/20/00	65 FR 80256
Final Rule Effective	01/19/01	
Interim Final Rule (Stay of Final Rule)	04/03/01	66 FR 17754
Interim Final Rule Effective	04/03/01	
Interim Final Rule Comment Period End	06/04/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI40

4173. FAR CASE 98-024, PROCUREMENT INTEGRITY REWRITE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 3; 48 CFR 4; 48 CFR 9; 48 CFR 15; 48 CFR 52; ...

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to rewrite in plain language and clarify guidance regarding procurement integrity in A-76 procurements. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C 804.

Timetable:

Action	Date	FR Cite
NPRM	03/29/00	65 FR 16758
NPRM Comment Period End	05/30/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI61

4174. FAR CASE 99-022, DISCUSSION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify the scope of discussions in competitive negotiated acquisitions. This regulatory action is not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	04/03/00	65 FR 17582
NPRM Comment Period End	06/02/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI68

4175. FAR CASE 99-025, COST ACCOUNTING STANDARDS ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to delineate the process for determining and resolving the cost impact on contracts and subcontracts when a contractor makes a compliant change to a cost accounting practice or follows a noncompliant practice. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	04/18/00	65 FR 20854
NPRM Comment Period End	06/19/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI70

4176. FAR CASE 99-011, ENERGY EFFICIENCY OF SUPPLIES AND SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 11; 48 CFR 15; 48 CFR 23; 48 CFR 42

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13123 of June 3, 1999, Greening the Government through Efficient Energy Management. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	05/10/00	65 FR 30310
NPRM Comment Period End	07/10/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI71

4177. FAR CASE 2000-604, NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5; 48 CFR 19; 48 CFR 23; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to convert size standards and other programs in the FAR based on the Standard Industrial Classification (SIC) system to the North American Industry Classification System (NAICS). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/26/00	65 FR 46055
Interim Final Rule Comment Period End	09/25/00	
Interim Final Rule Effective	10/01/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI75

4178. FAR CASE 2000-402, DEFINITIONS FOR "CONTRACT ACTION" AND "CONTRACTING ACTION"

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 1; 48 CFR 5; 48 CFR 8; 48 CFR 17; 48 CFR 19; 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to provide for consistent use of the term "contract action." This case is one of a series of cases that implement the White House memorandum, Plain Language in Government Writing, dated June 1, 1999. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	05/31/00	65 FR 34894

Action	Date	FR Cite
NPRM Comment Period End	07/31/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI76

4179. FAR CASE 2000-404, DEFINITIONS FOR CLASSIFIED ACQUISITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 4; 48 CFR 14; 48 CFR 32

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to provide consistent definitions for classified acquisitions. This case is one of a series of cases in response to the White House memorandum, Plain Language in Government Writing, dated June 1, 1999. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866 and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/28/00	65 FR 46558
NPRM Comment Period End	09/26/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI81

4180. FAR CASE 99-017, JWOD SUBCONTRACT PREFERENCE UNDER SERVICE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 8; 48 CFR 44; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement changes relating to preferences for award of subcontracts under service contracts to nonprofit workshops designated by the Committee for Purchase From People Who Are Blind or Severely Disabled (Javits-Wagner-O'Day (JWOD) (41 U.S.C. 48)). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866 and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/03/00	65 FR 41266
NPRM Comment Period End	09/01/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI82

4181. FAR CASE 2000-403, DEFINITIONS FOR SEALED BID AND NEGOTIATED PROCUREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 3; 48 CFR 14; 48 CFR 15; 48 CFR 28; 48 CFR 35; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to provide consistent definitions for sealed bids and negotiated procurements. This case is one of a series of cases in response to the White House memorandum, Plain Language in Government Writing, dated June 1, 1999. This regulatory action is not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/11/00	65 FR 42852
NPRM Comment Period End	09/11/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI84

4182. FAR CASE 99-026, FINAL CONTRACT VOUCHER SUBMISSION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 42; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to explicitly state the right of the

contracting officer to unilaterally determine the final contract payment amount when the contractor does not submit the final invoice or voucher within the time specified in the contract. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/27/00	65 FR 46332
NPRM Comment Period End	09/25/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI86

4183. FAR CASE 99-023, PROMPT PAYMENT AND THE RECOVERY OF OVERPAYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486 (c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to reflect changes made to the Office of Management and Budget prompt payment regulations; simplify and clarify the prompt payment coverage currently in the FAR; require the contractor to notify the contracting officer if the contractor becomes aware of an overpayment; and write all new and revised text using plain language in accordance with the White House memorandum, Plain Language in Government Writing, dated June 1, 1998. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	08/28/00	65 FR 52243
NPRM Comment Period End	10/27/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI89

4184. FAR CASE 99-616, BALANCE OF PAYMENTS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 13; 48 CFR 25; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to remove subpart 25.3, Balance of Payments Program, and makes conforming changes to FAR parts 13 and 52. This regulatory action is not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/11/00	65 FR 54936
NPRM Comment Period End	11/13/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI89

4185. FAR CASE 2000-401, DEFINITIONS OF "APPLIED RESEARCH" AND "DEVELOPMENT"

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 31; 48 CFR 35

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to move the definitions of "Applied Research" and "Development" from separate areas of the FAR into the same FAR section pertaining to definitions. This regulatory action is not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/11/00	65 FR 54940
NPRM Comment Period End	11/13/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI91

4186. FAR CASE 2000-007, FINANCING POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to permit the use of performance-based payments type of financing on fixed-price contracts prior to definitization and to establish a standard time period of 30 days that contractors have to pay their vendors after the contractors have billed the Government for incurred vendor costs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804

Timetable:

Action	Date	FR Cite
NPRM	09/18/00	65 FR 56454
NPRM Comment Period End	11/17/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI92

4187. FAR CASE 2000-304, ELECTRONIC SIGNATURES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 4

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify and encourage the use of electronic signatures in Federal procurement. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804

Timetable:

Action	Date	FR Cite
NPRM	11/01/00	65 FR 65698
NPRM Comment Period End	01/02/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI94

4188. FAR CASE 99-612, APPLICATION OF LABOR CLAUSES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) by amending the clause, Terms and Conditions-Simplified Acquisitions (Other Than Commercial Items), to include the Prohibition of Segregated Facilities clause and to clarify the application of labor clauses below the simplified acquisition threshold and to amend the Equal Opportunity clause to incorporate the exception for work performed outside the United States. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	10/26/00	65 FR 64298
NPRM Comment Period End	12/26/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI95

4189. FAR CASE 99-024, PREFERENCE FOR U.S.-FLAG VESSELS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 12; 48 CFR 32; 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) regarding the applicability of statutory requirements for use of U.S.-flag vessels in the transportation of supplies by sea. The FAR presently waives these requirements for subcontracts for the acquisition of commercial items. The rule requires the use of U.S.-flag vessels under certain subcontracts for commercial items. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804

Timetable:

Action	Date	FR Cite
NPRM	11/07/00	65 FR 66920
NPRM Comment Period End	01/08/01	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI97

4190. • FAR CASE 99-400, GEOGRAPHIC USE OF THE TERM "UNITED STATES"

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 3; 48 CFR 4; 48 CFR 5; 48 CFR 6; 48 CFR 8; 48 CFR 9; 48 CFR 14; 48 CFR 19; 48 CFR 22; 48 CFR 23; 48 CFR 25; 48 CFR 26; 48 CFR 28; 48 CFR 29; 48 CFR 31; 48 CFR 35; 48 CFR 36; 48 CFR 42; 48 CFR 47; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to review and clarify the use of the term "United States" in the FAR. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/27/01	66 FR 39230
NPRM Comment Period End	09/25/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI99

4191. FAR CASE 99-614, FEDERAL SUPPLY SCHEDULE ORDER DISPUTES AND INCIDENTAL ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 8; 48 CFR 51

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to add policies on disputes and incidental items under Federal Supply Schedule contracts and to remove the requirement to notify the General Services Administration when a schedule contractor refuses to honor an order placed by a Government contractor. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	12/29/00	65 FR 79702
NPRM Comment Period End	02/20/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AJ01

4192. FAR CASE 2000-013, CONTRACT TYPES FOR COMMERCIAL ITEM ACQUISITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 12; 48 CFR 16

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to provide clarification on what contract types are authorized for commercial item acquisitions. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	12/29/00	65 FR 83292
NPRM Comment Period End	02/27/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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RIN: 9000–AJ03

4193. FAR CASE 2000-008, ACQUISITION OF HELIUM

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 8; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation to implement the Helium Privatization Act of 1996 (Pub. L. 104-273) and associated changes to the U.S. Department of the Interior's regulations regarding its helium program. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	01/11/01	66 FR 2752

FAR — Long-Term Actions

Action	Date	FR Cite
NPRM Comment Period End	03/12/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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RIN: 9000–AJ09

4194. FAR CASE 2001-014, CONTRACTOR RESPONSIBILITY, LABOR RELATIONS COSTS, AND COSTS RELATING TO LEGAL AND OTHER PROCEEDINGS—REVOCATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 14; 48 CFR 15; 48 CFR 31; 48 CFR 52

Legal Deadline: None

Abstract: The Federal Acquisition Regulations Council (FAR Council) published in the Federal Register at 65 FR 80255, December 20, 2000, a final rule addressing contractor responsibility and costs incurred in legal and other proceedings. The FAR Council is reconsidering its position and requests public comments on this proposed rule revoking the December 20, 2000, final rule. In an interim FAR rule (under FAR Case 1999-010, Contractor Responsibility, Labor Relations Cost, and Costs Relating to Legal and Other Proceedings, that is being published today) the FAR Council is staying the final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/03/01	66 FR 17758
NPRM Comment Period End	05/04/01	
NPRM Comment Period End	07/06/01	66 FR 23134
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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RIN: 9000–AJ10

4195. • FAR CASE 2000-609, CONTRACTOR PERSONNEL IN THE PROCUREMENT OF INFORMATION TECHNOLOGY SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 39

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement section 813 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106-398). The Act requires that the FAR be amended to address the use, in the procurement of information technology services, of requirements regarding the experience and education of contractor personnel. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/02/01	66 FR 22084
Interim Final Rule Comment Period End	07/02/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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RIN: 9000–AJ11

4196. • FAR CASE 2000-307, PREFERENCE FOR PERFORMANCE-BASED CONTRACTING

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 37

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement section 821 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. The FAR rule explicitly establishes a preference for performance-based contracting when acquiring services. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/02/01	66 FR 22802
Interim Final Rule Effective	05/02/01	
Interim Final Rule Comment Period End	07/02/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405

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RIN: 9000–AJ12

4197. • FAR CASE 2001-017, EXECUTIVE ORDER 13204, REVOCATION OF EXECUTIVE ORDER ON NONDISPLACEMENT OF QUALIFIED WORKERS UNDER CERTAIN CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 17; 48 CFR 22; 48 CFR 36

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement Executive Order (EO) 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts, signed by the President on February 17, 2001. This regulatory action was not subject to Office of Management and Budget Review under Executive 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/01	66 FR 27416
Interim Final Rule Effective	05/16/01	
Interim Final Rule Comment Period End	07/16/01	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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RIN: 9000–AJ13

4198. • FAR CASE 2001-016, E.O. 13202, PRESERVATION OF OPEN COMPETITION AND GOVERNMENT NEUTRALITY TOWARDS GOVERNMENT CONTRACTORS' LABOR RELATIONS ON FEDERAL AND FEDERALLY FUNDED CONSTRUCTION PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 17; 48 CFR 22; 48 CFR 36

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement Executive Order (EO) 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects, which prohibits including requirements for affiliation with a labor organization as a condition for awards of any contract or subcontract for construction or construction management services. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/01	66 FR 27414
Interim Final Rule Effective	05/16/01	
Interim Final Rule Comment Period End	07/16/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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RIN: 9000–AJ14

4199. • FAR CASE 2001-005, NOTIFICATION OF OVERPAYMENT, CONTRACT FINANCING PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to require the contractor to notify the contracting officer if the Government overpays the contractor when making a contract financing payment. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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RIN: 9000–AJ20

4200. • FAR CASE 98-020, HAZARDOUS MATERIAL SAFETY DATA

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 23; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to revise the language that provides policies and procedures for contractor submission of Material Safety Data Sheets (MSDSs). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866,

FAR — Long-Term Actions

dated September 30, 1993, and is not a major rule under 5 U.S.C. 804. RIN 9000-AI87 was withdrawn in the April 2001 Unified Agenda, published in the Federal Register on May 14, 2001.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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RIN: 9000–AJ21

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

4201. FAR CASE 98-614, VETERANS' EMPLOYMENT

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 12; 48 CFR 13; 48 CFR 22; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	10/22/01	66 FR 53487

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
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RIN: 9000–AI46

4202. FAR CASE 97-613, APPLICATION OF THE DAVIS-BACON ACT TO CONSTRUCTION CONTRACTS WITH OPTIONS TO EXTEND THE TERM OF THE CONTRACT

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1; 48 CFR 22; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	10/22/01	66 FR 53479

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
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RIN: 9000–AI47

4203. FAR CASE 2000-303, ACQUISITION OF COMMERCIAL ITEMS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 2; 48 CFR 12; 48 CFR 46; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	10/22/01	66 FR 53483

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
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RIN: 9000–AI88

4204. FAR CASE 2000-014, SIGNING AND RETENTION OF HIGH-TECHNOLOGY WORKERS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 31

Completed:

Reason	Date	FR Cite
Withdrawn	08/03/01	66 FR 40838

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
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RIN: 9000–AJ00

4205. • FAR CASE 2001-001, VERY SMALL BUSINESS PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) by extending, for 3 additional years, the Very Small Business Pilot Program until September 30, 2003. This rule implements section 503(c) of the Small Business Reauthorization Act of 2000 (part of Public Law 106-554). This regulatory action is not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	10/22/01	66 FR 53500
Final Action Effective	12/21/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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RIN: 9000–AJ16

[FR Doc. 01–23856 Filed 11–30–01; 8:45 am]

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Federal Register

Monday,
December 3, 2001

Part XLVII

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

COMMODITY FUTURES TRADING COMMISSION (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year. This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Commission's Statement of Regulatory Priorities is included in part II. The Commission welcomes comments from small entities and others on the agenda.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Webster Black, Special Assistant to the Executive Director, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418-5130, bblack@cftc.gov.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda that shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable about the items listed in paragraph (1). 5 U.S.C. 602(a).

The Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year, irrespective of their potential impact on small entities.[1] In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda." Pursuant to the request of Andrew H. Card, Jr., Assistant to the President and Chief of Staff, in his January 20, 2001 memorandum, the Commission has decided that it will issue no final or proposed rules not mandated by Congress until an agency head appointed by the President after noon on January 20, 2001 reviews and approves the regulatory action, or until further guidance is received from the Administration.

The Commission's October 2001 regulatory flexibility agenda is set forth below.

Issued in Washington, DC, on August 30, 2001 by the Commission.

Jean A. Webb,

Secretary of the Commission.

Commodity Futures Trading Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4206	Denomination of Customer Funds and Location of Depositories	3038-AB31
4207	Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers	3038-AB64
4208	Regulation of Hybrid Instruments	3038-AB69
4209	Use of Broker-Dealers, Depository Institutions, and Farm Crediting System Institutions as Intermediaries on Derivatives Transaction Execution Facilities	3038-AB70
4210	Margin Requirements for Security Futures Products	3038-AB71
4211	Authority To Modify Security Futures Product Listing Standards	3038-AB73
4212	Compliance Date for Security Futures Products To Be Cleared by a Clearing Agency That Has Linked and Coordinated Clearing With Other Clearing Agencies	3038-AB74
4213	Offering and Selling Security Futures Products Traded on Foreign Boards of Trade to United States Persons	3038-AB75
4214	Avoidance of Duplicative or Conflicting Regulations Applicable to Dual Registrants	3038-AB76
4215	Requirements for Foreign Stock Index Contracts To Qualify as Non-Narrow-Based Indices	3038-AB78
4216	Special Procedures To Encourage and Facilitate Bona Fide Hedging by Agricultural Producers	3038-AB79
4217	Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission, 17 CFR Part 140	3038-AB85

[1] The Commission published its definition of small entity to be used in connection with rulemaking proceedings on April 30, 1982 (47 FR 18618). Pursuant to that definition, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. See 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic impact on a substantial number of small entities. Accordingly, the listing of a rule in this regulatory flexibility agenda should not, in any event, be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda which includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and meaningful opportunity to participate in and comment on the formulation of new or revised regulations. In addition to publishing the regulatory flexibility agenda, the Commission also makes available to the public, on a monthly basis, a calendar and, on a weekly basis posts an advisory on its website (http://www.cftc.gov) which lists rules that the Commission is considering or will consider in the near future.

CFTC

Commodity Futures Trading Commission—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
4218	Cash Settlement and Regulatory Halts Required for Security Futures Products	3038-AB86

Commodity Futures Trading Commission—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4219	Performance Disclosures for Commodity Trading Advisors and Commodity Pool Operators	3038-AB39
4220	Registration Exemptions Pertaining to the Offer and Sale of Foreign Futures and Foreign Options Contracts to Customers Located in the United States	3038-AB45
4221	Prohibition Against Dual Trading	3038-AB83
4222	Listing Standards and Conditions for Trading Security Futures Products	3038-AB87

Commodity Futures Trading Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4223	Public Reporting by Operators of Certain Large Commodity Pools—Regulations 4.7, 4.12, and 4.27	3038-AB40
4224	Trade Options on Enumerated Agricultural Commodities	3038-AB61
4225	Exemption From Compliance With the Listing Standards for Security Futures Products	3038-AB72

Commodity Futures Trading Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
4226	Segregated Account; Daily Computation and Record	3038-AB52
4227	New Regulatory Framework for Trading Facilities	3038-AB63
4228	Rules Relating to Intermediaries of Commodity Interest Transactions	3038-AB65
4229	A New Regulatory Framework for Clearing Organizations	3038-AB66
4230	Opting Out of Segregation by Eligible Contract Participants in Connection with Derivatives Transaction Execution Facility Transactions	3038-AB67
4231	CFTC Conformance with Title V Privacy Provisions of the Gramm-Leach-Bliley Act for Federal Functional Regulators	3038-AB68
4232	Method for Determining Market Capitalization and Dollar Value of Average Daily Trading Volume; Application of the Definition of Narrow-Based Security Index	3038-AB77
4233	Procedures for Exempting Brokers or Dealers From the Commodity Exchange Act	3038-AB81
4234	Procedures for Notice-Designation as a Contract Market in Security Futures Products and Exemptions from the Commodity Exchange Act	3038-AB82
4235	Notice Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Brokers or Dealers	3038-AB84

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Commodity Futures Trading Commission (CFTC) — **Proposed Rule Stage**

4206. DENOMINATION OF CUSTOMER FUNDS AND LOCATION OF DEPOSITORIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1a; 7 USC 2; 7 USC 5; 7 USC 6a to 6d; 7 USC 6f to 6g; 7 USC 12a; 7 USC 19

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is proposing rules requesting public comment on how to address the risks relating to holding segregated funds offshore or in foreign currencies.

Timetable:

Action	Date	FR Cite
Concept Release	12/30/97	62 FR 67841
NPRM	01/00/02	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Helene D. Schroeder, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581
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RIN: 3038–AB31

4207. MINIMUM FINANCIAL REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6f

CFR Citation: 17 CFR 1.17

Legal Deadline: None

Abstract: The Commission is requesting public comment on proposed amendments to Rule 1.17 that would adopt a risk-based capital requirement for futures commission merchants.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas J. Smith, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1121 21st Street NW., Washington, DC 20581
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RIN: 3038–AB64

4208. REGULATION OF HYBRID INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat. 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is required, after consulting with and obtaining the concurrence of the Board of Governors of the Federal Reserve System, to prescribe regulations to govern hybrid instruments if it determines that it is in the public interest and consistent with the Commodity Exchange Act, and the product is not predominantly a banking product under the test enumerated in title IV of the Commodity Futures Modernization Act of 2000.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Elizabeth L.R. Fox, Acting Deputy General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
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RIN: 3038–AB69

4209. USE OF BROKER-DEALERS, DEPOSITORY INSTITUTIONS, AND FARM CREDITING SYSTEM INSTITUTIONS AS INTERMEDIARIES ON DERIVATIVES TRANSACTION EXECUTION FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat. 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is required to coordinate with the Securities and Exchange Commission, the Secretary of the Treasury and Federal banking regulators (including the Farm Credit Administration) in adopting rules and taking any other appropriate action to implement the provisions of the Commodity Futures Modernization Act of 2000 relating to the use of broker-dealers, depository institutions, and farm credit system institutions as intermediaries on derivatives transaction execution facilities.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth L.R. Fox, Acting Deputy General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
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RIN: 3038–AB70

4210. MARGIN REQUIREMENTS FOR SECURITY FUTURES PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat. 2763

CFR Citation: 17 CFR 41.43 to 41.48

Legal Deadline: None

Abstract: The Board of Governors of the Federal Reserve System on March 6, 2001 delegated its authority to have the Commission and the Securities and Exchange Commission, within a reasonable period of time after delegation, jointly prescribe regulations to establish margin requirements,

including the establishment of levels of margin, for security futures products.

Timetable:

Action	Date	FR Cite
NPRM	10/04/01	66 FR 50719
NPRM Comment Period Extended to 12/05/2001	11/02/01	66 FR 55608
Correction	11/13/01	66 FR 56902
Final Action	02/00/02	
Final Action Effective	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Elizabeth L.R. Fox, Acting Deputy General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
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RIN: 3038–AB71

4211. AUTHORITY TO MODIFY SECURITY FUTURES PRODUCT LISTING STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2(a)(1)(D)(v)(I)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission and the Securities and Exchange Commission may adopt rules to jointly modify security futures product listing standards requiring that any security underlying the security future, including each component security of a narrow-based security index, be registered pursuant to section 12 of the Securities Exchange Act of 1934, and that the security futures be based upon common stock and such other equity securities as both agencies jointly determine appropriate.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB74

4212. COMPLIANCE DATE FOR SECURITY FUTURES PRODUCTS TO BE CLEARED BY A CLEARING AGENCY THAT HAS LINKED AND COORDINATED CLEARING WITH OTHER CLEARING AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat. 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission and the Securities and Exchange Commission are required to jointly publish in the Federal Register a notice of the compliance date for requiring security futures products to be cleared by a clearing agency that has in place provisions for linked and coordinated clearing with other clearing agencies that clear security futures products to be purchased on one market and offset on another market that trades such product within 165 days of the compliance date.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth L.R. Fox, Acting Deputy General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
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RIN: 3038–AB73

4213. OFFERING AND SELLING SECURITY FUTURES PRODUCTS TRADED ON FOREIGN BOARDS OF TRADE TO UNITED STATES PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat. 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission and the Securities and Exchange Commission are required to jointly issue rules, regulations, or orders as are necessary and appropriate to permit the offer and sale of security futures products traded on or subject to the rules of a foreign board of trade to United States persons.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth L.R. Fox, Acting Deputy General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
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RIN: 3038–AB75

4214. AVOIDANCE OF DUPLICATIVE OR CONFLICTING REGULATIONS APPLICABLE TO DUAL REGISTRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat. 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission, in consultation with the Securities and Exchange Commission, is required to issue rules, regulations, or orders as are necessary to avoid duplicative or conflicting regulations applicable to dual registrants involving security futures products.

Timetable:

Action	Date	FR Cite
NPRM	10/04/01	66 FR 50785
NPRM Comment Period Extended to 12/05/2001	11/02/01	66 FR 55608
Final Action	02/00/02	
Final Action Effective	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth L.R. Fox, Acting Deputy General Counsel,

CFTC — Proposed Rule Stage

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RIN: 3038–AB76

4215. REQUIREMENTS FOR FOREIGN STOCK INDEX CONTRACTS TO QUALIFY AS NON-NARROW-BASED INDICES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat. 2763

CFR Citation: Not Yet Determined

Legal Deadline: Other, Statutory, December 21, 2001, Prior to 12/21/2001.
Within one year after the date of enactment of the Commodity Futures Modernization Act of 2000.

Abstract: Prior to December 21, 2001, the Commission and the Securities and Exchange Commission are required to jointly adopt rules and regulations that set forth the requirements for foreign stock index contracts to qualify as non-narrow-based indices.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth L.R. Fox, Acting Deputy General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
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RIN: 3038–AB78

4216. SPECIAL PROCEDURES TO ENCOURAGE AND FACILITATE BONA FIDE HEDGING BY AGRICULTURAL PRODUCERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat. 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is required to consider issuing rules or orders which prescribe procedures for contract markets to provide orderly delivery and increased ease for domestic agricultural producers to hedge price risk.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth L.R. Fox, Acting Deputy General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
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RIN: 3038–AB79

4217. • REGULATION CONCERNING CONDUCT OF MEMBERS AND EMPLOYEES AND FORMER MEMBERS AND EMPLOYEES OF THE COMMISSION, 17 CFR PART 140

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 4a(f); 7 USC 4a(j); 7 USC 12a(5); 7 USC 13

CFR Citation: 17 CFR 140.735

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's standards of conduct relating to business transactions and interests.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Susan Nathan, Assistant General Counsel, Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
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RIN: 3038–AB85

4218. • CASH SETTLEMENT AND REGULATORY HALTS REQUIRED FOR SECURITY FUTURES PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2(a)(1)(D)(i)

CFR Citation: 17 CFR 41.25

Legal Deadline: None

Abstract: The Commission and the Securities and Exchange Commission are required to jointly publish in the Federal Register requirements for listing standards for security futures products relating to the cash settlement of contracts and regulatory trading halts.

Timetable:

Action	Date	FR Cite
NPRM	08/30/01	66 FR 45903
NPRM Comment Period End	10/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038–AB86

Commodity Futures Trading Commission (CFTC) — Final Rule Stage

4219. PERFORMANCE DISCLOSURES FOR COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6n; 7 USC 6o; 7 USC 12a

CFR Citation: 17 CFR 4.25; 17 CFR 4.35

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission is proposing amendments to the requirements concerning the presentation of rate of return data by commodity trading advisors and commodity pool operators. The Commission's proposed rules address computational and disclosure matters relating to participating in commodity trading advisor programs on a partially-funded basis.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/98	63 FR 33297
ANPRM Comment Period End	09/16/98	
NPRM	08/02/99	64 FR 41843
NPRM Comment Period End	10/01/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB39

4220. REGISTRATION EXEMPTIONS PERTAINING TO THE OFFER AND SALE OF FOREIGN FUTURES AND FOREIGN OPTIONS CONTRACTS TO CUSTOMERS LOCATED IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2(a)(1)(A); 7 USC 6(b); 7 USC 6c

CFR Citation: 17 CFR 30.1; 17 CFR 30.4; 17 CFR 30.10

Legal Deadline: None

Abstract: The Commission proposes to codify some of the interpretations and positions that its staff has taken regarding registration requirements under Part 30 of the Commission's rules, which governs, generally, the solicitation and sale of foreign futures and foreign options contracts to customers located in the United States. The Commission proposes to modify Rule 30.4(a) by clarifying that foreign futures and options brokers, including those with U.S. bank branches, are not required to register as futures commission merchants (FCMs) pursuant to Rule 30.4, or seek Rule 30.10 relief, if they fall generally into the following categories: (1) those that carry customer omnibus accounts for U.S. FCMs; (2) those that carry U.S. affiliate accounts that are proprietary to the foreign futures and options broker; and (3) those that carry U.S. accounts that are proprietary to a U.S. FCM. In addition, proposed Rule 30.10(a) will specify representations that must be made by a foreign futures and options broker that has U.S. bank branches in order to obtain a Rule 30.10 comparability exemption or to come within the registration exception of Rule 30.4.

Timetable:

Action	Date	FR Cite
NPRM	08/26/99	64 FR 46613
NPRM Comment Period End	10/25/99	
Final Action	03/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038–AB45

4221. PROHIBITION AGAINST DUAL TRADING

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat. 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is required to issue regulations to prohibit dual trading in security futures products on contract markets and derivatives transaction execution facilities.

Timetable:

Action	Date	FR Cite
NPRM	07/11/01	66 FR 36218
NPRM Comment End	08/10/01	
Final Action	12/00/01	
Final Action Effective	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB83

4222. • LISTING STANDARDS AND CONDITIONS FOR TRADING SECURITY FUTURES PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2(a)(1)(D)(i)

CFR Citation: 17 CFR 41.21 to 41.25

Legal Deadline: None

Abstract: The Commission is required to publish in the Federal Register requirements and certifications for listing standards for security futures products.

Timetable:

Action	Date	FR Cite
NPRM	07/20/01	66 FR 37932
NPRM Comment Period End	08/20/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The July 20, 2001 NPRM (66 FR 37932) was published with an erroneous RIN, 3038-AB73.

Agency Contact: Richard A. Shilts, Acting Director, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre,

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CFTC — **Final Rule Stage**

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RIN: 3038–AB87

Commodity Futures Trading Commission (CFTC) — **Long-Term Actions**

4223. PUBLIC REPORTING BY OPERATORS OF CERTAIN LARGE COMMODITY POOLS—REGULATIONS 4.7, 4.12, AND 4.27

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 4.7; 17 CFR 4.12; 17 CFR 4.27 (Proposed)

Timetable:

Action	Date	FR Cite
NPRM	04/17/00	65 FR 20395
NPRM Comment Period End	06/16/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038–AB40

4224. TRADE OPTIONS ON ENUMERATED AGRICULTURAL COMMODITIES

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 32.13

Timetable:

Action	Date	FR Cite
NPRM	12/13/00	65 FR 77838
NPRM Comment Period End	12/28/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB61

4225. EXEMPTION FROM COMPLIANCE WITH THE LISTING STANDARDS FOR SECURITY FUTURES PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
NPRM	12/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth L.R. Fox
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RIN: 3038–AB72

Commodity Futures Trading Commission (CFTC) — **Completed Actions**

4226. SEGREGATED ACCOUNT; DAILY COMPUTATION AND RECORD

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 1.32

Completed:

Reason	Date	FR Cite
Final Action	08/07/01	66 FR 41131
Final Action Effective	08/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas J. Smith
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RIN: 3038–AB52

4227. NEW REGULATORY FRAMEWORK FOR TRADING FACILITIES

Priority: Other Significant

CFR Citation: 17 CFR 1; 17 CFR 5; 17 CFR 15; 17 CFR 20; 17 CFR 36; 17 CFR 37; 17 CFR 38; 17 CFR 40; 17 CFR 41; 17 CFR 100; 17 CFR 170; 17 CFR 180; ...

Completed:

Reason	Date	FR Cite
Final Action	08/10/01	66 FR 42256
Final Action Effective	10/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB63

4228. RULES RELATING TO INTERMEDIARIES OF COMMODITY INTEREST TRANSACTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 1.3; 17 CFR 1.10; 17 CFR 1.17; 17 CFR 1.33; 17 CFR 1.46; 17 CFR 1.52; 17 CFR 1.55; 17 CFR 3.1; 17 CFR 3,10; 17 CFR 3.21; 17 CFR 3.31; 17 CFR 3.32; 17 CFR 3.34; 17 CFR 3, app A; 17 CFR 3, app B; 17 CFR 4.10;

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Completed Actions

17 CFR 4.24; 17 CFR 4.32; 17 CFR 4.34; 17 CFR 140.91; 17 CFR 155.2; 17 CFR 155.3; 17 CFR 155.4; 17 CFR 155.5; 17 CFR 155.6; 17 CFR 166.5

Completed:

Reason	Date	FR Cite
NPRM	08/28/01	66 FR 45221
Final Action	10/23/01	66 FR 53510
Final Action Effective	10/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence B. Patent
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RIN: 3038–AB65

4229. A NEW REGULATORY FRAMEWORK FOR CLEARING ORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 39

Completed:

Reason	Date	FR Cite
NPRM	05/14/01	66 FR 24308
Final Action	08/29/01	66 FR 45604
Final Action Effective	10/29/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois J. Gregory
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RIN: 3038–AB66

4230. OPTING OUT OF SEGREGATION BY ELIGIBLE CONTRACT PARTICIPANTS IN CONNECTION WITH DERIVATIVES TRANSACTION EXECUTION FACILITY TRANSACTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 1.3(gg); 17 CFR 1.3(uu); 17 CFR 1.12; 17 CFR 1.17; 17 CFR 1.37; 17 CFR 1.68; 17 CFR 190.01(bb)

Completed:

Reason	Date	FR Cite
Final Action	04/25/01	66 FR 20740
Final Action Effective	06/19/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael A. Piracci
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RIN: 3038–AB67

4231. CFTC CONFORMANCE WITH TITLE V PRIVACY PROVISIONS OF THE GRAMM-LEACH-BLILEY ACT FOR FEDERAL FUNCTIONAL REGULATORS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 160

Completed:

Reason	Date	FR Cite
Final Action	04/27/01	66 FR 21236
Final Action Effective	06/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth L.R. Fox
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RIN: 3038–AB68

4232. METHOD FOR DETERMINING MARKET CAPITALIZATION AND DOLLAR VALUE OF AVERAGE DAILY TRADING VOLUME; APPLICATION OF THE DEFINITION OF NARROW-BASED SECURITY INDEX

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 41.1; 17 CFR 41.2; 17 CFR 41.10 to 41.14

Completed:

Reason	Date	FR Cite
NPRM	05/17/01	66 FR 27559
Final Action Effective	08/21/01	
Final Action	08/23/01	66 FR 44489

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth L.R. Fox
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RIN: 3038–AB77

4233. PROCEDURES FOR EXEMPTING BROKERS OR DEALERS FROM THE COMMODITY EXCHANGE ACT

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 41; 17 CFR 140

Completed:

Reason	Date	FR Cite
NPRM	04/19/01	66 FR 20118
Final Action	08/17/01	66 FR 43083
Final Action Effective	10/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB81

4234. PROCEDURES FOR NOTICE-DESIGNATION AS A CONTRACT MARKET IN SECURITY FUTURES PRODUCTS AND EXEMPTIONS FROM THE COMMODITY EXCHANGE ACT

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 41; 17 CFR 140

Completed:

Reason	Date	FR Cite
NPRM	05/31/01	66 FR 29517
Final Action Effective	08/21/01	
Final Action	08/27/01	66 FR 44960

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB82

4235. • NOTICE REGISTRATION AS A FUTURES COMMISSION MERCHANT OR INTRODUCING BROKER FOR CERTAIN SECURITIES BROKERS OR DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat. 2763

CFR Citation: 17 CFR 3.10; 17 CFR 170.15

Legal Deadline: None

Abstract: Registered securities broker/dealers that, among other things, limit their involvement with commodity futures contracts to security futures products, may notice register as a futures commission merchant or introducing broker. Such notice-registered futures commission

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Completed Actions

merchants are not required to become members of the National Futures Association.

Timetable:

Action	Date	FR Cite
NPRM	05/17/01	66 FR 27476
NPRM Comment Extended	06/22/01	66 FR 33494
NPRM Comment End	07/11/01	
Final Action	08/17/01	66 FR 43080
Correction	09/10/01	66 FR 47059
Final Action Effective	09/17/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara S. Gold, Assistant Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
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RIN: 3038–AB84

[FR Doc. 01–23866 Filed 11–30–01; 8:45 am]

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Federal Register

Monday,
December 3, 2001

Part XLVIII

Consumer Product Safety Commission

Semiannual Regulatory Agenda

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CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: In this document, the Commission publishes its semiannual regulatory flexibility agenda. In addition, this document includes an agenda of regulatory actions the Commission expects to be under development or review by the agency during the next year. This document meets the requirements of the Regulatory Flexibility Act and Executive Order 12866.

DATES: The Commission welcomes comments on each subject area of the agenda, particularly from small entities. Written comments concerning the agenda should be received in the Office of the Secretary by December 31, 2001.

ADDRESSES: Comments on the regulatory flexibility agenda should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207-0001; telephone (301) 504-0800, or delivered to the Office of the Secretary, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814-4423. Comments should be captioned "Regulatory Flexibility Agenda." Comments may also be filed by telefacsimile to (301) 504-0127, or by e-mail to cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Stephen Lemberg, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207-0001, telephone (301) 504-0980, ext. 2218. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the RFA (5 U.S.C. 602) requires each agency to publish twice each year a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated that is likely to have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the nature of the rule, and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking.

The regulatory flexibility agenda is also required to contain the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification, or by inclusion in publications likely to be obtained by such entities.

Additionally, Executive Order 12866 requires each agency to publish twice each year a regulatory agenda of regulations under development or review during the next year, and states that such an agenda may be combined with the agenda published in accordance with the RFA. The regulatory flexibility agenda published below lists the regulatory activities expected to be under development or review during the next 12 months. This agenda also includes regulatory activities that have been completed by the Commission prior to publication. It includes all such activities, whether or not they may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity, and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, DC 20207-0001.

For this edition of the Commission's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Dated: September 14, 2001.

Todd Stevenson,

Acting Secretary, Consumer Product Safety Commission.

Consumer Product Safety Commission—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4236	Petition HP 93-1 Requesting Development of a Rule To Ban Certain Backyard Playsets	3041-AB47
4237	Petition FP 99-1 Requesting Labeling Rule for Polyurethane Foam in Upholstered Furniture	3041-AB81
4238	Petition HP 00-2 Requesting a Rule Declaring Natural Rubber Latex a Strong Sensitizer	3041-AB88
4239	Petition CP 00-1 Requesting Performance Requirements for Non-Wood Baseball Bats	3041-AB90
4240	Petition HP 00-4 Requesting a Rule Banning Baby Bath Seats	3041-AB93
4241	Petition HP 01-1 Requesting Development of Performance Standard for Bicycle Handlebars	3041-AB94
4242	Petition HP 01-02 Requesting Exemption for Model Rocket Propellant Devices Used With Ground Vehicles	3041-AB95
4243	Proposed Ban of Candles with Lead-Containing Wicks and Wicks Sold for Candle-Making that Contain Lead	3041-AB96
4244	Petition CP 01-01 Requesting Rule Requiring Product Registration Cards for Products Intended for Children	3041-AB98

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Consumer Product Safety Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4245	Flammability Standard for Upholstered Furniture **(Reg Plan Seq No. 163)**	3041-AB35
4246	Baby Walkers	3041-AB40
4247	Petitions FP 00-1, FP 00-2, FP 00-3, and FP 00-4 Requesting Requirements for Flammability of Mattresses	3041-AB89
4248	Portable Bed Rails	3041-AB91

References in boldface appear in the **Regulatory Plan** in part II of this issue of the **Federal Register**.

Consumer Product Safety Commission—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4249	Amendment of Safety Regulations for Cribs	3041-AB67

Consumer Product Safety Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4250	Amendment of the Standard for the Flammability of Clothing Textiles	3041-AB68
4251	Petition HP 99-1 for a Ban of Polyvinyl Chloride in Toys and Other Products Intended for Children 5 Years of Age and Under	3041-AB79
4252	Petition HP 01-03 Requesting a Ban on Use of Chromated-Cooper-Arsenate (CCA) Treated Wood in Playground Equipment	3041-AB97

Consumer Product Safety Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
4253	Requirements for Child-Resistant Packaging of Household Products Containing Petroleum Distillates or Other Hydrocarbons	3041-AB57
4254	Petition HP 00-3 Requesting a Ban of Candle Wicks Containing Lead and Candles With Such Wicks	3041-AB87
4255	Requirement for Special Packaging of Oral Prescription Drugs That Are Granted Over-The-Counter Status by the Food and Drug Administration	3041-AB92
4256	Petition PP 00-1 Requesting Partial Exemption From Special Packaging Requirements for Lidoderm	3041-AB99

Consumer Product Safety Commission (CPSC) — Prerule Stage

4236. PETITION HP 99-1 REQUESTING DEVELOPMENT OF A RULE TO BAN CERTAIN BACKYARD PLAYSETS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from the New York City Department of Consumer Affairs requests the Commission to develop a rule to ban certain backyard playsets. The petition asserts that backyard playsets present unreasonable risks of injury to children if they do not meet the requirements of a voluntary standard for home playground equipment published by the American Society for Testing and Materials (ASTM); are not accompanied with adequate information about ground surfacing; or lack specific features described in the petition. On May 21, 1996, the Commission denied those parts of the petition requesting issuance of a rule to ban any backyard playset that does not conform to all requirements of the ASTM voluntary standard; that has an accessible height that exceeds six feet above protective surfacing; that does not have adequate fall zones under climbing structures; or that does not provide adequate space between any item of swinging equipment and any other item of swinging or stationary equipment. The

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Commission deferred a decision on those parts of the petition requesting a rule to ban backyard playsets that are not accompanied with instructions to use and maintain specified ground surfacing; that do not have handrails on all platforms that are 30 inches or higher above protective surfacing; that have swing seats made of wood, metal, plastic, or other hard material capable of inflicting serious injury to the head; that have free-swinging ropes; and that are unanchored playsets with swings. The staff will transmit additional information to the Commission concerning revisions of the voluntary standard, conformance to the voluntary standard, and injury data. The Commission will then decide whether to grant, deny, or continue to defer the remaining requests in the petition.

Timetable:

Action	Date	FR Cite
Partial Denial of Petition	05/21/96	
Revisions to Voluntary Standard Completed	07/10/98	
Staff Began Monitoring Conformance to Voluntary Standard	08/10/99	
Staff Completed Monitoring Conformance	08/31/00	
Staff Completed Injury Study	02/28/01	
Staff Sends Additional Information to Commission	12/00/01	
Commission Decision	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Scott Heh, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0494
Email: sheh@cpsc.gov

RIN: 3041–AB47

4237. PETITION FP 99-1 REQUESTING LABELING RULE FOR POLYURETHANE FOAM IN UPHOLSTERED FURNITURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 1191, Flammable Fabrics Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from the National Association of State Fire Marshals (NASFM) requests that the Commission require labels under the Flammable Fabrics Act warning that polyurethane foam in upholstered furniture poses a fire hazard. NASFM asserts that polyurethane foam in upholstered furniture poses an unreasonable risk of fire because once ignited it burns rapidly and emits toxic gases. NASFM asks the Commission to require that upholstered furniture manufacturers and retailers provide flammability warnings to the public. On April 6, 1999, the Commission published a Federal Register notice to solicit public comments on the petition.

The Commission has another ongoing rulemaking proceeding related to the risk of fire associated with upholstered furniture (RIN 3041-AB35) that may bear on the disposition of this petition. In 1994, CPSC published an ANPRM announcing the agency's intent to consider a possible rule or other alternatives to address the risk of upholstered furniture fires ignited by small open-flame sources, e.g., lighters, matches and candles. Such a rule could affect fabrics or other furniture components, including filling materials such as polyurethane foam. The Commission staff is evaluating the technical issues raised in the polyurethane foam petition as part of the larger regulatory development effort. The Commission's consideration of the petition will, therefore, be incorporated into the decision on how to proceed on the small open-flame matter.

Timetable:

Action	Date	FR Cite
Notice	04/06/99	64 FR 16711
Comment Period End	06/07/99	
Staff Sent Briefing Package to Commission	11/01/01	
Commission Decision	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Dale R. Ray, Project Manager, Directorate for Economic Analysis, Consumer Product Safety Commission, Washington, DC 20207
Phone: 301 504-0962
Email: dray@cpsc.gov

RIN: 3041–AB81

4238. PETITION HP 00-2 REQUESTING A RULE DECLARING NATURAL RUBBER LATEX A STRONG SENSITIZER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from Debi Adkins, Editor, Latex Allergy News, requests that the Commission issue a rule declaring that natural rubber latex (NRL) and products containing NRL are strong sensitizers under the Federal Hazardous Substances Act (FHSA) and requiring labeling. NRL is in such consumer products as gloves, adhesives, shoes, balloons, pacifiers, and carpet backing, as well as many medical products. The petitioner states that a portion of the population has developed an allergy to latex that can be debilitating, even causing death. On March 21, 2000, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested persons. On May 24, 2000, at the request of several persons, the Commission published a notice extending the original due date for comments of May 22, 2000 for 30 days to June 21, 2000. Eighty-four comments were received. The staff will prepare a briefing package for consideration by the Commission.

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Timetable:

Action	Date	FR Cite
Petition Docketed	03/02/00	
Notice	03/21/00	65 FR 15133
Comment Period End	05/22/00	
Comment Period Extended	05/24/00	65 FR 33525
Comment Period End	06/21/00	
Staff Sends Briefing Package to Commission	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Suzanne Barone Ph.D., Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207
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RIN: 3041–AB88

4239. PETITION CP 00-1 REQUESTING PERFORMANCE REQUIREMENTS FOR NON-WOOD BASEBALL BATS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553(e), Administrative Prodcedure Act; 15 USC 2051, Consumer Product Safety Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission has received correspondence from J.W. MacKay, Jr. requesting that the Commission issue a rule requiring that all non-wood baseball bats perform like wood bats. He states that such bats have a faster bat swing speed, a larger "sweet spot," and lower balance point than wood bats. These high performance bats, he asserts, allow the ball to achieve a faster exit velocity so that the pitcher does not have time to react if a ball is batted at him. The petitioner asserts that non-wood bats (primarily made of aluminum and composite materials) have become increasingly dangerous. For these reasons, the petitioner argues, such non-wood bats present an unreasonable risk of injury. The Commission docketed his request as a petition under the Consumer Product Safety Act and published a notice in the Federal Register on June 15, 2000 to solicit comments on the petition from interested persons. The staff will prepare a briefing package for the Commission to consider.

Timetable:

Action	Date	FR Cite
Petition Docketed	05/24/00	
Notice	06/15/00	65 FR 37525
Comment Period End	08/14/00	
Staff Sends Briefing Package to Commission	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Erlinda M. Edwards, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
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RIN: 3041–AB90

4240. PETITION HP 00-4 REQUESTING A RULE BANNING BABY BATH SEATS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from the Consumer Federation of America and other consumer groups, docketed on August 4, 2000, requests that the Commission ban baby bath seats and bath rings. These are consumer products used to hold an infant in a bathtub while the child is being bathed. The petitioners assert that bath seats pose an unreasonable risk of injury, primarily because they create a false sense of security that the child is safe in the bathtub. They assert that 66 incidents of drowning and 37 reports of near drowning involving baby bath seats have been identified. On August 22, 2000, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested persons. The staff briefed the Commission on May 23, 2001. On May 30, 2001, the Commission granted the petition and voted to issue an advance notice of proposed rulemaking (ANPR).

Timetable:

Action	Date	FR Cite
Petition Docketed	08/04/00	
Notice	08/22/00	65 FR 50968
Comment Period End	10/23/00	
Staff Sends Briefing Package to Commission	03/30/01	
Commission Decision	05/30/01	
ANPRM	08/01/01	66 FR 39692
ANPRM Comment Period End	10/01/01	
Staff Sends Briefing Package to Commission	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Patricia L. Hackett, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0494
Email: phackett@cpsc.gov

RIN: 3041–AB93

4241. PETITION HP 01-1 REQUESTING DEVELOPMENT OF PERFORMANCE STANDARD FOR BICYCLE HANDLEBARS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from Flaura Koplin Winston, MD. Ph.D., Director, Trauma Link: The Interdisciplinary Pediatric Injury Control Research Center, Children's Hospital of Philadelphia, requests that the Commission develop a performance standard for bicycle handlebars regarding energy dissipation and distribution during impact. The request was docketed as a petition on January 23, 2001. A notice requesting comment on the petition was published in the Federal Register on February 14, 2001. The initial comment period closed on April 16, 2001. The comment period was extended to May 16, 2001.

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Timetable:

Action	Date	FR Cite
Petition Docketed	01/23/01	
Notice	02/14/01	66 FR 10273
Comment Period End	04/16/01	
Notice	04/16/01	66 FR 19429
Comment Period End	05/16/01	
Staff Sends Briefing Package to Commission	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Barbara J. Jacobson, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, DC 20207
Phone: 301 504-0477
Email: bjacobson@cpsc.gov

RIN: 3041–AB94

4242. PETITION HP 01-02 REQUESTING EXEMPTION FOR MODEL ROCKET PROPELLANT DEVICES USED WITH GROUND VEHICLES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from Centuri Corporation requests that the Commission issue a rule exempting certain model rocket propellant devices to be used for model rocket ground vehicles. The petitioner requests that the Commission extend the existing exemption for motors used for flying model rockets to motors used for certain model rocket cars that travel on a tethered line along the ground. The request was docketed as a petition on February 14, 2001. A notice requesting comment on the petition was published in the Federal Register on March 8, 2001. The comment period closed on May 7, 2001. On November 1, 2001, the Commission granted the petition in part as to small rockets, and denied it in part.

Timetable:

Action	Date	FR Cite
Petition Docketed	02/14/01	
Notice	03/08/01	66 FR 13914
Comment Period End	05/07/01	
Staff Sent Briefing Package to Commission	09/28/01	
Commission Decision	11/01/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Terrance R. Karels, Project Manager, Consumer Product Safety Commission, Directorate for Economic Analysis, Washington, DC 20207
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RIN: 3041–AB95

4243. • PROPOSED BAN OF CANDLES WITH LEAD-CONTAINING WICKS AND WICKS SOLD FOR CANDLE-MAKING THAT CONTAIN LEAD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: An advance notice of proposed rulemaking (ANPR), published in the Federal Register on February 20, 2001, requested comments on a rulemaking proceeding that could result in a mandatory rule addressing the use of lead in candle wicks. The Commission voted to publish the ANPR and proceed with rulemaking after considering the staff's analysis of the available data on lead-cored candle wicks as well as information provided by the petitioners Public Citizen, National Apartment Association, and National Multi Housing Council. The staff recommended that the Commission proceed with rulemaking to ban metal-cored wicks containing more than 0.06 percent lead by weight in the metal. The staff is addressing public comments received in response to the ANPR and is preparing a briefing package for Commission consideration.

Timetable:

Action	Date	FR Cite
ANPRM	02/20/01	66 FR 10863
ANPRM Comment Period End	04/23/01	
Staff Sends Briefing Package to Commission	11/00/01	
Commission Decision	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Kristina Hatlelid, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207
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RIN: 3041–AB96

4244. • PETITION CP 01-01 REQUESTING RULE REQUIRING PRODUCT REGISTRATION CARDS FOR PRODUCTS INTENDED FOR CHILDREN

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 2065(b), Consumer Product Safety Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from the Consumer Federation of America requests that the Commission issue a rule requiring product registration cards with every product intended for children. The petitioner asks for a rule that would "require manufacturers (or distributors, retailers, or importers) of products intended for children provide along with every product a Consumer Safety Registration Card that allows the purchaser to register information, through the mail or electronically." This would enable a manufacturer to contact the purchaser if the product were recalled or otherwise presented a safety hazard. On August 1, 2001, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested persons. The staff will prepare a briefing package for consideration by the Commission.

Timetable:

Action	Date	FR Cite
Petition Docketed	07/10/01	

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Action	Date	FR Cite
Notice	08/01/01	66 FR 39737
Comment Period End	10/01/01	
Staff Sends Briefing Package to the Commission	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: ' Marc Schoem, Director, Consumer Product Safety Commission, Recall and Compliance Division, Office of Compliance
Phone: 301 504-0408
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RIN: 3041–AB98

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Proposed Rule Stage

4245. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

Regulatory Plan: This entry is Seq. No. 163 in part II of this issue of the **Federal Register**.

RIN: 3041–AB35

4246. BABY WALKERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1261, Federal Hazardous Substances Act; 15 USC 1262, Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: On August 2, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding that may result in the issuance of mandatory design or performance requirements for baby walkers. A baby walker is a device that supports a child so that the child can use his or her feet to move about before or while learning to walk. Typically, a baby walker consists of a fabric seat that has leg openings and is mounted to a rigid plastic deck. The deck is attached to a base that is mounted on wheels to allow mobility. In 1994, an estimated 25,500 children younger than 15 months of age were treated in hospital emergency rooms for injuries associated with baby walkers. The majority of these injuries resulted from falls down stairs. Among the options under consideration by the Commission are mandatory performance or design requirements to reduce risks of injury associated with baby walkers, particularly those resulting to children from falls down stairs.

In response to the Commission's work in this area, the industry published revisions to the voluntary standard for baby walkers in 1997 to address the hazard of falling down stairs. The American Society for Testing and Materials (ASTM) standard contains performance requirements to address risks of injury to children from falls down stairs associated with baby walkers. In 1999, baby walker injuries had dropped to 8,800. The staff is currently assessing the extent of industry conformance with that voluntary standard, designated "Standard Consumer Safety Specification for Infant Walkers," SF 977-97, published by ASTM. The staff will send that information to the Commission together with options for Commission action, including withdrawal of the ANPRM or further regulatory proceedings.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 39309
ANPRM Comment Period End	10/03/94	
Staff Provided Technical Recommendations to Revise Voluntary Standard	12/16/94	
Revised Voluntary Standard Approved	10/01/96	
Voluntary Certification Program Began	06/30/97	
Staff Completed Monitoring Conformance to Revised Voluntary Standard	05/31/00	
Staff Completed Special Study of Injury Data	09/29/00	
Staff Completed Testing of New Walker Designs	05/01/01	
Staff Sends Briefing Package to Commission	01/00/02	
Commission Decision	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Barbara J. Jacobson, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, DC 20207
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RIN: 3041–AB40

4247. PETITIONS FP 00-1, FP 00-2, FP 00-3, AND FP 00-4 REQUESTING REQUIREMENTS FOR FLAMMABILITY OF MATTRESSES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 1191, Flammable Fabrics Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission has received correspondence from Whitney A. Davis, Director of the Children's Coalition for Fire-Safe Mattresses, requesting that the Commission take various actions concerning mattress flammability. The Commission has docketed as petitions his requests for rules requiring: (1) an open-flame standard similar to the full-scale test set forth in California Technical Bulletin 129; (2) an open flame standard similar to the component test set forth in British Standard 5852; (3) a warning label for flammable mattresses; and (4) a permanent mattress identification tag attached to the inner spring of the mattress. The petitioner focuses primarily on the role polyurethane foam plays in mattress fires. He notes that the Commission's existing mattress flammability standard only addresses cigarette ignition; yet childplay with open-flame sources causes nearly two-thirds of mattress fires. He argues that with polyurethane foam mattresses, fires have become increasingly more

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deadly than with cotton-batting mattresses due to increased smoke generation, heat production and flame spread. With regard to labels, he notes that polyurethane foam manufacturers provide warnings to mattress manufacturers, but these warnings are not passed on to the consumer. With regard to an identification tag, the petitioner argues that such a tag would help to identify mattresses involved in fires because often only the inner spring unit remains after a mattress fire. The Commission has docketed these petitions under provisions of the Flammable Fabrics Act. The Commission voted to grant petitions FP 00-1 and FP 00-2, and deny petitions FP 00-3 and FP 00-4.

Timetable:

Action	Date	FR Cite
Petitions Docketed	05/22/00	
Notice	06/12/00	65 FR 36890
Comment Period End	08/11/00	
Staff Sent Briefing Package to Commission	08/16/01	
Commission Decision	10/02/01	
ANPRM	10/11/01	66 FR 51866
ANPRM Comment Period End	12/10/01	
Staff Sends Briefing Package to Commission	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Margaret L. Neily, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
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RIN: 3041–AB89

4248. PORTABLE BED RAILS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is considering whether certain portable bed rails present an unreasonable risk of injury that should be regulated. A portable bed rail is a device intended to be installed on an adult bed to prevent a child from falling out of the bed. Such bed rails may be constructed in a manner that children can become entrapped between the portable bed rail and the bed. This entrapment can result in serious injury or death. On October 30, 2001, the Commission decided to continue the rulemaking by issuing an NPRM.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	06/28/00	
Commission Decision	09/21/00	
ANPRM	10/03/00	65 FR 58968
ANPRM Comment Period End	12/04/00	
Staff Sends Briefing Package to Commission	10/01/01	
Commission Decision	10/30/01	
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Patricia L. Hackett, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
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Email: phackett@cpsc.gov

RIN: 3041–AB91

Consumer Product Safety Commission (CPSC) — Final Rule Stage

4249. AMENDMENT OF SAFETY REGULATIONS FOR CRIBS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553, Administrative Procedure Act; 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: 16 CFR 1508; 16 CFR 1509

Legal Deadline: None

Abstract: On December 16, 1996, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding that may result in amendment of the safety regulations for full-size and non-full-size cribs, 16 CFR parts 1508 and 1509. Among the regulatory alternatives under consideration is amendment of the regulations to add tests to assure that slats will not disengage from the side panels of cribs. The Commission began this proceeding after considering information about incidents in which crib slats disengaged from the side panels of cribs, creating a risk that children may become entrapped between the remaining slats or fall out of the crib. At the urging of CPSC staff, in April 1999, the voluntary standard for cribs designated, "Specification for Full Size Baby Cribs (ASTM F1169-99)," and published by the American Society for Testing and Materials (ASTM) was revised to include performance requirements for crib slats. The Commission will consider written comments received in response to the ANPRM, and assess conformance with the voluntary standard before deciding whether to continue the proceeding by publication of a notice of proposed rulemaking (NPRM), or terminate further proceedings in reliance on the voluntary standard.

Timetable:

Action	Date	FR Cite
Staff Recommended Revisions to Voluntary Standard	09/30/96	
ANPRM	12/16/96	61 FR 65996
ANPRM Comment Period End	02/14/97	
Revisions to Voluntary Standard Approved	04/10/99	
Voluntary Certification Program Begins	03/01/00	
Staff Began Monitoring Conformance to Revised Voluntary Standard	03/27/01	
Staff Completes Monitoring Conformance	12/00/01	

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Action	Date	FR Cite
Staff Sends Briefing Package to Commission	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Patricia Hackett, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
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RIN: 3041–AB67

Consumer Product Safety Commission (CPSC) **Long-Term Actions**

4250. AMENDMENT OF THE STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1191, Flammable Fabrics Act

CFR Citation: 16 CFR 1610

Legal Deadline: None

Abstract: The Standard for the Flammability of Clothing Textiles prohibits the manufacture, importation, or sale of clothing, and fabrics and related materials intended for use in clothing, which are dangerously flammable because of rapid and intense burning. The standard prescribes the apparatus, procedure, and criteria to be used for testing to determine compliance with that standard. The standard was made mandatory by the Flammable Fabrics Act of 1953 (Pub. L. 83-88, 67 Stat. 111; June 30, 1953). Some of the equipment and procedures specified by the standard, particularly those for laundering and cleaning of test specimens, have become obsolete, unavailable, or unrepresentative of current practices. The staff is preparing a briefing package describing modifications of the standard that may be needed to assure that the test in the standard is conducted with equipment and procedures representative of conditions to which garments currently are exposed. After consideration of the briefing package, the Commission will decide whether to begin a proceeding for amendment of the standard.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	To Be	Determined
Commission Decision	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Margaret L. Neily, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
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RIN: 3041–AB68

4251. PETITION HP 99-1 FOR A BAN OF POLYVINYL CHLORIDE IN TOYS AND OTHER PRODUCTS INTENDED FOR CHILDREN 5 YEARS OF AGE AND UNDER

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1261 to 1278, Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: The National Environmental Trust and 11 other organizations petitioned the Commission to ban polyvinyl chloride (PVC) in toys and other articles intended for the use of children 5 years and under, based upon concerns they have about the potential for health risks from phthalates (especially diisononyl phthalate (DINP)), lead, and cadmium that can be in PVC. A Federal Register notice was issued on December 22, 1998, requesting comment on the petition. Comments were received.

The Commission established a Chronic Hazard Advisory Panel (CHAP) of independent scientists to study issues related to the chronic toxicity and risk, including the risk of cancer, associated with exposure to DINP in children's PVC products. The CHAP submitted its report to the Commission on June 15, 2001. The Commission has begun an extensive exposure study to obtain a broader range of data from which to better define the amount of time children mouth products that could contain phthalates. The observation phase is complete and data is being analyzed. Following completion of this work, the staff will send a briefing package to the Commission recommending that the Commission grant, deny, or defer the petition.

Timetable:

Action	Date	FR Cite
Notice Advising of Receipt of Petition	12/22/98	63 FR 70756
Initiated Formation of CHAP	02/16/99	
Comment Period End	02/22/99	
Awarded Contract for Child Observation Study	09/30/99	
First Meeting of CHAP	05/10/00	
Second Meeting of CHAP	06/20/00	
Third Meeting of CHAP	09/12/00	
CHAP Sent Report to Commission	06/15/01	
Staff Sends Briefing Package to Commission	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 3041–AB79

CPSC — Long-Term Actions

4252. • PETITION HP 01-03 REQUESTING A BAN ON USE OF CHROMATED-COOPER-ARSENATE (CCA) TREATED WOOD IN PLAYGROUND EQUIPMENT

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1262, Federal Hazardous Substance Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from the Environmental Working Group and Healthy Building Network, docketed June 20, 2001, requests that the Commission enact an immediate ban on the use of chromated copper arsenate (CCA) treated wood in playground equipment. This treatment is used as a pesticide in the wood. The petitioners assert that a ban is necessary because recent research has shown that arsenic is more carcinogenic than was previously recognized, and is present at significant concentrations on CCA treated wood and in underlying soil. They further assert that the health risks posed by this wood are greater than was previously recognized, and that past risk assessments were incomplete. On July 13, 2001, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested persons. This is a 60-day comment period that will end on September 11, 2001. The petitioners also requested that the Commission review the safety of CCA treated wood for general use. Such a review would not require rulemaking to implement, therefore, the request was not docketed.

Timetable:

Action	Date	FR Cite
Petition Docketed	06/20/01	
Notice	07/13/01	66 FR 36756
Comment Period End	09/11/01	
Staff Sends Briefing Package to Commission	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 3041–AB97

Consumer Product Safety Commission (CPSC) — Completed Actions

4253. REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF HOUSEHOLD PRODUCTS CONTAINING PETROLEUM DISTILLATES OR OTHER HYDROCARBONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1471, Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14(a)

Legal Deadline: None

Abstract: Some household products containing 10 percent or more by weight of petroleum distillates are subject to requirements for child-resistant packaging by regulations issued under the Poison Prevention Packaging Act and codified at 16 CFR 1700.14(a). These products include liquid furniture polish (section 1700.14(a)(2)), lighter fluid (section 1700.14(a)(7)), and prepackaged solvents for paint (section 1700.14(a)(15)). However, many other household products containing petroleum distillates or other hydrocarbons are not required to be in child-resistant packaging. On February 26, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) to initiate a proceeding that may result in mandatory requirements for child-resistant packaging of household products containing petroleum distillates or other hydrocarbons. Following consideration of the comments, the Commission proposed requirements for child-resistant packaging of additional household products containing petroleum distillates or other hydrocarbons. The notice of proposed rulemaking (NPRM) was published on January 3, 2000, and the comment period ended March 20, 2000. Seven comments were received. The Commission also requested that additional information about cosmetics that contain mineral oil be obtained. The staff purchased additional information on mineral oil-based cosmetic poisonings from the American Association of Poison Control Centers. The public comment period on the staff analysis of this data closed on June 11, 2001. The staff evaluated comments and prepared a briefing package for Commission consideration. On October 16, 2001, the Commission decided to issue a final rule.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/97	62 FR 8659
Extension of ANPRM Comment Period	04/28/97	62 FR 22897
ANPRM Comment Period End	05/12/97	62 FR 8659
Comment Period End	07/11/97	62 FR 22897
Reopening of ANPRM Comment Period	07/21/97	62 FR 38948
NPRM	01/03/00	65 FR 93
NPRM Comment Period End	03/20/00	
Staff Purchased Additional Poisoning Data on Cosmetics	04/04/00	
Notice	04/11/01	66 FR 18738
Comment Period Extended	05/04/01	66 FR 22491
Comment Period End	06/11/01	
Staff Sent Briefing Package to Commission	09/14/01	
Commission Decision	10/16/01	
Final Rule	10/25/01	66 FR 53951
Final Rule Effective	10/25/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3041–AB57

4254. PETITION HP 00-3 REQUESTING A BAN OF CANDLE WICKS CONTAINING LEAD AND CANDLES WITH SUCH WICKS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: None

Legal Deadline: None

Abstract: Separate petitions were received from Public Citizen and jointly from the National Apartment Association and the National Multi-Housing Council to ban candle wicks that contain lead and to ban candles with such wicks. The petitioners claimed that burning candles with such wicks produces hazardous combustion products containing lead. On April 2, 2000, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested parties. The comment period closed June 12, 2000. Over 140 comments were received. The staff sent a briefing package to the Commission on December 15, 2000, recommending that the Commission publish an advance notice of proposed rulemaking (ANPR) to ban metal-cored wicks containing more than 0.06% lead by weight. The staff briefed the Commission on January 30, 2001. On February 13, 2001 the Commission granted the petitions and voted to issue an ANPR.

Timetable:

Action	Date	FR Cite
Petition Docketed	03/17/00	
Notice	04/12/00	65 FR 19742
Comment Period End	06/12/00	
Commission Voted to Grant Petition and Issue ANPR	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3041–AB87

4255. REQUIREMENT FOR SPECIAL PACKAGING OF ORAL PRESCRIPTION DRUGS THAT ARE GRANTED OVER-THE-COUNTER STATUS BY THE FOOD AND DRUG ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1471, Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14(a)(30); 16 CFR 1702.16

Legal Deadline: None

Abstract: On June 23, 2000, the Commission directed the CPSC staff to draft a notice of proposed rulemaking (NPR) to require that the child-resistant packaging requirements for oral prescription drugs continue when the active chemicals are granted over-the-counter (OTC) status by the Food and Drug Administration (FDA). The current regulations under the Poison Prevention Packaging Act (PPPA) require child-resistant packaging of most oral prescription drugs. However, when the FDA allows an oral prescription drug to be sold OTC, child-resistant packaging of that drug is no longer required. When the Commission finds that a particular switched OTC drug requires child-resistant packaging because it may cause serious injury or serious illness, it must issue an individual rule, which may not take effect for several years after the switch.

On August 30, 2000, the Commission issued a proposed rule that would automatically require drugs that have been switched after the effective date of the rule to be in child-resistant packaging. Under the proposed rule, drugs switched by FDA from prescription to OTC before the effective date of the rule would not automatically have to be in child-resistant packaging. This proposed rule provides that those companies that believe their drug product does not need to be in child-resistant packaging can provide information to the Commission, as they do currently under the PPPA oral prescription drug rule, to demonstrate either: (1) that the drug product will not injure children if it is marketed in non-child-resistant packaging, or (2) that child-resistant packaging is not technically feasible, practicable, or appropriate for the oral drug when marketed as an OTC product. If the Commission agrees, it will by rule exempt the drug product from the PPPA requirements. The Federal Register notice also proposes to revoke 16 CFR 1702.16(b) to allow petitions for exemptions from child-resistant packaging requirements to be submitted and considered by the Commission before the new drug applications (NDA) are approved by the FDA. This would decrease the potential financial and regulatory burdens to the drug company associated with a post-marketing package change.

The Commission considered written comments received in response to the NPR and voted to issue a final rule.

Timetable:

Action	Date	FR Cite
Staff Briefing of Commission on Whether to Issue an NPRM	06/07/00	
Commission Decision to Prepare a Draft NPRM	06/23/00	
NPRM	08/30/00	65 FR 52678
NPRM Comment Period End	11/13/00	
Staff Sends Briefing Package to Commission	07/03/01	
Final Rule	08/02/01	66 FR 40111
Final Rule Effective	01/29/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3041–AB92

4256. • PETITION PP 00-1 REQUESTING PARTIAL EXEMPTION FROM SPECIAL PACKAGING REQUIREMENTS FOR LIDODERM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1471, Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14(a)(23)

Legal Deadline: None

Abstract: On October 5, 2000 the Commission docketed a petition from Endo Pharmaceuticals requesting a partial exemption from special packaging for Lidoderm patches on the ground that it was too costly to provide child-resistant ("CR") packaging for

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CPSC **Completed Actions**

Lidoderm patches. Lidoderm is an orphan prescription drug used for post herpetic neuralgia. Under the Poison Prevention Packaging Act, CR packaging is required for products with more than 5 mg of lidocaine. Therefore, because each patch contains 700 mg of lidocaine, Lidoderm must be sold in CR packaging. On August 7, 2001, the Commission voted unanimously to deny the petition and instead issued a conditional stay of enforcement that will adequately protect children.

Timetable:

Action	Date	FR Cite
Petition Docketed	10/05/00	
Staff Sent Briefing Package to Commission	05/16/01	
Commission Denied Petition and Granted Stay of Enforcement	08/07/01	
Notice	08/30/01	66 FR 45841

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3041–AB99

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Part XLIX

Farm Credit Administration

Semiannual Regulatory Agenda

FARM CREDIT ADMINISTRATION (FCA)

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Farm Credit Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Farm Credit Administration (FCA), as an independent regulatory agency, in compliance with Executive Order 12866, sets forth the following agenda of regulations, which it will have under development and review during the period of October 2001 through April 2002.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. FCA regulations, which apply to Farm Credit banks and associations, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

The FCA, as an independent regulatory agency, is exempt from certain provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including the FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of Executive Order 12866.

Dated: September 17, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

Farm Credit Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4257	Loan Policies and Operations (Distressed Loan Restructuring)	3052-AB69
4258	Organization (Reorganization Authorities for System Institutions)	3052-AB86
4259	Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations and Funding Operations (OFIs—Lending)	3052-AB96
4260	Loan Policies and Operations (Loans to Designated Parties)	3052-AB98
4261	Electronic Commerce	3052-AC02
4262	Loan Policies and Operations (Effective Interest Rate Disclosure)	3052-AC04
4263	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Capital Adequacy)	3052-AC05

Farm Credit Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4264	Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Loan Purchases and Sales)	3052-AB93

Farm Credit Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4265	Organization and Functions (FCA Organization)	3052-AB82
4266	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Investments in Rural America)	3052-AB92
4267	Eligibility and Scope of Financing; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions (Credit and Related Services)	3052-AC06

Farm Credit Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
4268	Federal Agricultural Mortgage Corporation Risk-Based Capital Regulation	3052-AB56
4269	Eligibility and Scope of Financing	3052-AB90
4270	Organization; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Stock Issuance)	3052-AB91

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Farm Credit Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4271	Disclosure to Shareholders (Annual Report)	3052-AB94
4272	Organization (Stockholder Vote on Like-Lending Authority)	3052-AC00
4273	Organization; General Provisions; Disclosure to Shareholders	3052-AC03

Farm Credit Administration (FCA)

Proposed Rule Stage

4257. LOAN POLICIES AND OPERATIONS (DISTRESSED LOAN RESTRUCTURING)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2011; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: This rulemaking would clarify the borrower rights regulations and remove unnecessary burdens.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AB69

4258. ORGANIZATION (REORGANIZATION AUTHORITIES FOR SYSTEM INSTITUTIONS)

Priority: Other Significant

Legal Authority: 12 USC 2011; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; 12 USC 2279aa5(e); 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2209

CFR Citation: 12 CFR 611; 12 CFR 614

Legal Deadline: None

Abstract: This rulemaking would establish regulations under which a bank or large association within the System can terminate its charter as provided Act.

Timetable:

Action	Date	FR Cite
NPRM	11/05/99	64 FR 60370
NPRM Comment Period End	02/03/00	
Supplemental NPRM	02/03/00	65 FR 5286
Comment Period End	03/06/00	
Second NPRM	08/20/01	66 FR 43536
Second NPRM Comment Period End	10/19/01	
Final Rule	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AB86

4259. LOAN POLICIES AND OPERATIONS; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS AND FUNDING OPERATIONS (OFIS—LENDING)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2011; 12 USC 2013 to 2015; 12 USC 2017 to 2020; 12 USC 2071; 12 USC 2073 to 2076; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2097; 12 USC 2121; 12 USC 2122; 12 USC 2124; 12 USC 2128; 12 USC 2129; 12 USC 2131; 12 USC 2132; 12 USC 2141; 12 USC 2146; 12 USC 2149; 12 USC 2154; 12 USC 2154a; 12 USC 2160; 12 USC 2183; 12 USC 2184; 12 USC 2199; ...

CFR Citation: 12 CFR 614; 12 CFR 615

Legal Deadline: None

Abstract: The regulation would consider modifications, remove impediments and address alternatives for OFIs and other entities to obtain System funding.

Timetable:

Action	Date	FR Cite
ANPRM	04/20/00	65 FR 21151
ANPRM Comment Period End	06/19/00	
Comment Period Extended	06/26/00	65 FR 39319
Public Meeting	07/05/01	66 FR 35428
Public Meeting	07/19/01	66 FR 37681
NPRM	04/00/02	

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FCA — Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3052–AB96

4260. LOAN POLICIES AND OPERATIONS (LOANS TO DESIGNATED PARTIES)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2011; 12 USC 2013 to 2015; 12 USC 2017; ...

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: This regulation would provide Farm Credit System institutions greater flexibility concerning the approval of insider loans and loans to other designated parties such as Farm Credit Administration and Farm Credit System Insurance Corporation employees.

Timetable:

Action	Date	FR Cite
NPRM	03/17/00	65 FR 14491
NPRM Comment Period End	04/17/00	
Second NPRM	09/18/01	66 FR 48098
Second NPRM Comment Period End	10/18/01	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AB98

4261. ELECTRONIC COMMERCE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2243; 5 USC 301; 12 USC 2252; 12 USC 2254; 12 USC 2279aa-11

CFR Citation: 12 CFR 609; 12 CFR 620

Legal Deadline: None

Abstract: This regulation would amend existing and consider adopting new regulations so that electronic commerce in the System is not hindered. The project will review consumer protection, corporate restructuring, and disclosures to shareholders regulations to address such areas as the "Electronic Signatures Act" and the Government Paperwork Elimination Act.

Timetable:

Action	Date	FR Cite
NPRM	10/22/01	66 FR 53348
NPRM Comment Period End	11/21/01	
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulations and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AC02

4262. • LOAN POLICIES AND OPERATIONS (EFFECTIVE INTEREST RATE DISCLOSURE)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2011; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; ...

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: This rulemaking would clarify and provide guidance for implementing the effective interest rate disclosure requirements of the statute.

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AC04

FCA

Proposed Rule Stage

4263. • FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (CAPITAL ADEQUACY)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2018 to 2020; 12 USC 2073 to 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2146; 12 USC 2154; 12 USC 2154a; 12 USC 2160; 12 USC 2202b; 12 USC 2211; 12 USC 2243; 12 USC 2252; 12 USC 2278b; 12 USC 2278b-6; ...

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: This rulemaking would clarify certain requirements; modify the risk-based capital requirements for asset securitizations and equities; propose a leverage ratio for Farm Credit associations, and other miscellaneous issues.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3052–AC05

Farm Credit Administration (FCA)

Final Rule Stage

4264. LOAN POLICIES AND OPERATIONS; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (LOAN PURCHASES AND SALES)

Priority: Other Significant

Legal Authority: 12 USC 2279a-2; 12 USC 2279b; 12 USC 2279c-1; 12 USC 2279f; 12 USC 2279f-1; 12 USC 2279aa; 12 USC 2279aa-5; 42 USC 4012a; 42 USC 4104a; 42 USC 4104b; 42 USC 4106; 42 USC 4128; 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2097; 12 USC 2121; 12 USC 2122; 12 USC 2124; 12 USC 2128; 12 USC 2129; 12 USC 2131; 12 USC 2141; 12 USC 2149; 12 USC 2183; 12 USC 2184; 12 USC 2199; 12 USC 2201; 12 USC 2202; 12 USC 2202a; 12 USC 2202c; 12 USC 2202d; 12 USC 2202e; 12 USC 2206; 12 USC 2206a; 12 USC 2207; 12 USC 2211; 12 USC 2212; 12 USC 2213; 12 USC 2214; 12 USC 2219a; 12 USC 2219b; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a; ...

CFR Citation: 12 CFR 614; 12 CFR 615

Legal Deadline: None

Abstract: This regulation would remove regulatory restrictions on the System's ability to purchase interests in eligible loans and make other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	07/26/00	65 FR 45931
NPRM Comment Period End	09/25/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENTS: reg-comm@fca.gov

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RIN: 3052–AB93

Farm Credit Administration (FCA)

Long-Term Actions

4265. ORGANIZATION AND FUNCTIONS (FCA ORGANIZATION)

Priority: Info./Admin./Other

CFR Citation: 12 CFR 600

Timetable:

Action	Date	FR Cite
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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FCA — Long-Term Actions

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RIN: 3052–AB82

4266. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (INVESTMENTS IN RURAL AMERICA)

Priority: Other Significant

CFR Citation: 12 CFR 615

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3052–AB92

4267. • ELIGIBILITY AND SCOPE OF FINANCING; LOAN POLICIES AND OPERATIONS; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; GENERAL PROVISIONS (CREDIT AND RELATED SERVICES)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2017 to 2019; 12 USC 2073; 12 USC 2075; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2129; 12 USC 2143; 12 USC 2206a; 12 USC 2211 to 2213; 12 USC 2243; 12 USC 2252

CFR Citation: 12 CFR 613 to 615; 12 CFR 618

Legal Deadline: None

Abstract: This rulemaking would amend various regulations to incorporate interpretive guidance and remove unnecessary burden.

Timetable:

Action	Date	FR Cite
NPRM	11/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

AGENCY WEBSITE: www.fca.gov

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REGULATION COMMENTS: reg-comm@fca.gov

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RIN: 3052–AC06

Farm Credit Administration (FCA) — Completed Actions

4268. FEDERAL AGRICULTURAL MORTGAGE CORPORATION RISK-BASED CAPITAL REGULATION

Priority: Other Significant

CFR Citation: 12 CFR 650

Completed:

Reason	Date	FR Cite
Final Rule	04/12/01	66 FR 19048
Final Rule Effective	05/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Clinefelter
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RIN: 3052–AB56

4269. ELIGIBILITY AND SCOPE OF FINANCING

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 613

Completed:

Reason	Date	FR Cite
Direct Final Rule	05/24/01	66 FR 28641
Final Rule Effective	07/16/01	66 FR 36908

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard A. Katz
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RIN: 3052–AB90

4270. ORGANIZATION; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (STOCK ISSUANCE)

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 611; 12 CFR 615

Completed:

Reason	Date	FR Cite
Final Rule	03/28/01	66 FR 16841
Final Rule Effective	05/14/01	66 FR 26785

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dale L. Aultman
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RIN: 3052–AB91

4271. DISCLOSURE TO SHAREHOLDERS (ANNUAL REPORT)

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 620

Completed:

Reason	Date	FR Cite
Final Rule	03/12/01	66 FR 14299
Final Rule Effective	04/27/01	66 FR 21064

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Edward Donnelly
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TDD Phone: 703 883-4444

FCA

Completed Actions

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RIN: 3052–AB94

4272. ORGANIZATION (STOCKHOLDER VOTE ON LIKE-LENDING AUTHORITY)

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 611

Completed:

Reason	Date	FR Cite
Withdrawn	10/11/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eric Howard
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RIN: 3052–AC00

4273. ORGANIZATION; GENERAL PROVISIONS; DISCLOSURE TO SHAREHOLDERS

Priority: Other Significant

CFR Citation: 12 CFR 611; 12 CFR 618; 12 CFR 620

Completed:

Reason	Date	FR Cite
Withdrawn	10/11/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: S. Robert Coleman
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RIN: 3052–AC03

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Farm Credit System Insurance Corporation

Semiannual Regulatory Agenda

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FARM CREDIT SYSTEM INSURANCE CORPORATION (FCSIC)

FARM CREDIT SYSTEM INSURANCE CORPORATION

12 CFR Ch. XIV

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: In response to Executive Order 12866, the Farm Credit System Insurance Corporation (Corporation) will have no regulations under development and review during the period of October 2001 through April 2002.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Technical Editor, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. Corporation regulations, which apply to Farm Credit banks and associations, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

The Corporation, as an independent regulatory agency, is not subject to all of the provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including the Corporation in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of the Executive Order 12866.

Dated: September 17, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit System Insurance Corporation Board.

Farm Credit System Insurance Corporation—Completed Actions

Sequence Number	Title	Regulation Identification Number
4274	Rules of Practice and Procedure; Rule Adjusting Civil Money Penalties for Inflation	3055-AA07

Farm Credit System Insurance Corporation (FCSIC) **Completed Actions**

4274. • RULES OF PRACTICE AND PROCEDURE; RULE ADJUSTING CIVIL MONEY PENALTIES FOR INFLATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2277a-7(10); 12 USC 2277a-14(c) and (d); 28 USC 2461 note

CFR Citation: 12 CFR 1411.1

Legal Deadline: None

Abstract: This rule implements a statutorily mandated inflation adjustment to civil money penalties.

Timetable:

Action	Date	FR Cite
Final Rule	08/22/01	66 FR 44027
Final Rule Effective	08/22/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3055–AA07

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December 3, 2001

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Federal Communications Commission

Semiannual Regulatory Agenda

FEDERAL COMMUNICATIONS COMMISSION (FCC)

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions — October 2001

AGENCY: Federal Communications Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Twice a year, in April and October, the Commission publishes in the **Federal Register** a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. *See* 5 U.S.C. 602. The Unified Agenda also provides the Code of Federal Regulations citations and legal authorities that govern these proceedings.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Helen G. Hillegass, Attorney Advisor, Office of Communications Business Opportunities, or Maura McGowan, Telecommunications Specialist, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, (202) 418-0990.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in its rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared a list of important proceedings now in progress. The General Services Administration publishes the Unified Agenda in the **Federal Register** in April and October of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

Docket Number — assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry concerning the matter under consideration. The Commission has used docket numbers since January 1, 1978. Docket numbers consist of the last two digits of the calendar year in which the docket was established plus a sequential number that begins at 1 with the first docket initiated during a calendar year (*e.g.*, Docket No. 96-1 or Docket No. 99-1). The abbreviation for the responsible bureau usually precedes the docket number, as in "MM Docket No. 96-222," which indicates that the responsible bureau is the Mass Media Bureau. A docket number consisting of only five digits (*e.g.*, Docket No. 29622) indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI) — issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM) — issued by the Commission when it is proposing a specific change to Commission rules and regulations. Before any changes are actually made, interested parties may submit written comments on the proposed revisions.

Further Notice of Proposed Rulemaking (FNPRM) —issued by the Commission when additional comment in the proceeding is sought.

Memorandum Opinion and Order (MO&O) — issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or address a petition for reconsideration of a decision.

Rulemaking (RM) Number — assigned to a proceeding after the appropriate bureau or office has reviewed a petition for rulemaking, but before the Commission has taken action on the petition.

Report and Order (R&O) — issued by the Commission to state a new or amended rule or state that the Commission rules and regulations will not be revised.

Magalie Roman Salas,

Secretary, Federal Communications Commission.

CABLE SERVICES BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4275	Cable Television Rate Regulation	3060-AF41
4276	Cable Television Rate Regulation: Cost of Service	3060-AF48
4277	Customer Service Standards	3060-AF69
4278	Cable Home Wiring	3060-AG02
4279	Closed Captioning	3060-AG26
4280	Cable Act Reform	3060-AG27
4281	Competitive Availability of Navigation Devices	3060-AG28
4282	Pole Attachment Provisions	3060-AG71
4283	Digital Must Carry	3060-AG91
4284	Horizontal Ownership Limits	3060-AH09
4285	Application of Network Nonduplication, Syndicated Exclusivity, and Sports Blackout Rules to Satellite Retransmission - SHVIA	3060-AH35
4286	Retransmission Consent Issues - SHVIA	3060-AH36
4287	Satellite Broadcasting Signal Carriage Requirements	3060-AH45

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COMMON CARRIER BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4288	Administration of the North American Numbering Plan	3060-AF50
4289	Use of N11 Codes and Other Abbreviated Dialing Arrangements	3060-AF51
4290	Implementation of the Universal Service Portions of the 1996 Telecommunications Act	3060-AF85
4291	Toll-Free Service Access Codes	3060-AG11
4292	Implementation of Section 273 of the Telecommunications Act of 1996	3060-AG36
4293	Implementation of Non-Accounting Safeguards, Sec. 271 & 272 of Communications Act of 1996 & Regulatory Treatment of LEC Provisions of Interexchange Svcs: Orig. in LEC Local Exch. Area	3060-AG37
4294	Policies and Rules Governing Interstate Pay-Per-Call and Other Information Services Pursuant to the Telecommunications Act of 1996	3060-AG42
4295	Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information	3060-AG43
4296	Implementation of the Subscriber Selection Changes Provision of the Telecommunications Act of 1996	3060-AG46
4297	Implementation of Section 402(b)(1)(a) of the Telecommunications Act of 1996; LEC Tariff Streamlining Provisions	3060-AG47
4298	Access Charge Reform	3060-AG49
4299	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	3060-AG50
4300	Enhanced 911 Services for Wireline	3060-AG60
4301	Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services	3060-AG72
4302	Detariffing of Competitive Local Exchange Carriers' Interstate Exchange Access Services	3060-AG73
4303	In the Matter of the Telecommunications Relay Services, the Americans With Disabilities Act of 1990, and the Telecommunications Act of 1996	3060-AG75
4304	In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities	3060-AG76
4305	1998 Biennial Regulatory Review — Review of Accounting and Cost Allocation Requirements	3060-AG98
4306	1998 Biennial Regulatory Review — Review of ARMIS Reporting Requirements	3060-AG99
4307	Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, Operator Services, and Directory Assistance	3060-AH00
4308	Access Charge Reform for Rate-of-Return Local Exchange Carriers	3060-AH01
4309	Deployment of Wireline Services Offering Advanced Telecommunications Capability	3060-AH03
4310	Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers	3060-AH18
4311	1998 Biennial Regulatory Review — Review of Depreciation Requirements for Incumbent Local Exchange Carriers	3060-AH20
4312	Comprehensive Review of Accounting Requirements and ARMIS Reporting Requirements, Phase 1	3060-AH43
4313	Local Telephone Networks That LECs Must Make Available to Competitors	3060-AH44
4314	2000 Biennial Regulatory Review — Telecommunications Service Quality Reporting Requirements	3060-AH72
4315	Access Charge Reform and Universal Service Reform	3060-AH74
4316	2000 Biennial Regulatory Review — Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers; Phase 2 and Phase 3	3060-AH76
4317	Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers; Phase 1	3060-AH77
4318	Streamlining Procedures for Common Carrier Transfers of Control	3060-AH79
4319	Numbering Resource Optimization	3060-AH80

COMMON CARRIER BUREAU—Completed Actions

Sequence Number	Title	Regulation Identification Number
4320	Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, As Amended	3060-AG45
4321	Administration of the North American Numbering Plan, Carrier Identification Codes	3060-AG61
4322	1998 Biennial Regulatory Review — Review of Customer Premises Equipment and Enhanced Services Unbundling Rules in the Interexchange, Exchange Access and Local Exchange Markets	3060-AH73

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CONSUMER INFORMATION BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4323	Implementation of Section 255 and Section 251(a)(2) of the Telecommunications Act of 1996; Access to Telecommunications Services Equipment and Customer Premise Equipment for Persons With Disabilities	3060-AG58

CONSUMER INFORMATION BUREAU—Completed Actions

Sequence Number	Title	Regulation Identification Number
4324	Internet Telephony Report	3060-AH56

ENFORCEMENT BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4325	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System	3060-AF21

ENFORCEMENT BUREAU—Completed Actions

Sequence Number	Title	Regulation Identification Number
4326	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers	3060-AG65

OFFICE OF ENGINEERING AND TECHNOLOGY—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4327	Wind Profiler Radar Systems	3060-AF45
4328	Millimeter Wave Spectrum Allocation	3060-AF61
4329	MSS Spectrum Allocation	3060-AF75
4330	Unlicensed National Information Infrastructure at 5 GHz	3060-AG19
4331	Allocation of 455-456 MHz and 459-460 MHz	3060-AG89
4332	Dedicated Short Range Communications of Intelligent Transportation Services	3060-AG94
4333	Regulations for RF Lighting Devices	3060-AG95
4334	Equipment Authorization Streamline II/Mutual Recognition Agreements and the GMPCS MOU	3060-AG96
4335	Uniden Scanners/Cellular Radio Signals	3060-AG97
4336	Industry Coordination Committee System for Broadcast Digital Television Service	3060-AH13
4337	3650-3700 Government Transfer Band	3060-AH14
4338	Certification of Equipment in the 24.05-24.25 GHz Band at Field Strengths Up to 2500 mV/m	3060-AH16
4339	Fixed Satellite Service and Terrestrial System in the Ku-Band	3060-AH17
4340	Spread Spectrum Devices	3060-AH25
4341	Wireless Medical Telemetry Service	3060-AH27
4342	Establishment of an Improved Model for Predicting the Broadcast Television Field Strength Received at Individual Locations	3060-AH37
4343	Conducted Emission Limits	3060-AH46
4344	Revision of the Rules Regarding Ultra-Wideband Transmission	3060-AH47
4345	Software Defined Radio Authorization	3060-AH64
4346	New Advanced Wireless Services	3060-AH65
4347	Reallocation of 27 MHz Spectrum	3060-AH66
4348	Revisions to Broadcast Auxiliary Service Rules	3060-AH78

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OFFICE OF ENGINEERING AND TECHNOLOGY—Completed Actions

Sequence Number	Title	Regulation Identification Number
4349	Radionavigation Service at 31.8-32.2 GHz	3060-AH15
4350	Closed Captioning for DTV Receivers	3060-AH24
4351	50-71 GHz Realignment	3060-AH26

OFFICE OF GENERAL COUNSEL—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4352	Amendment of the Ex Parte Rules in Joint Board Proceedings	3060-AH02
4353	Amendment of Section 1.1204 of the Commission's Ex Parte Rules	3060-AH58

INTERNATIONAL BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4354	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures; IB Docket No. 95-117	3060-AD70
4355	Satellite Communications — NGSO Mobile Satellite Service; CC Docket No. 92-166	3060-AF42
4356	Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the L-Band; IB Docket No. 96-132	3060-AF89
4357	Preemption of Local Zoning Regulation of Satellite Earth Stations; IB Docket No. 95-59	3060-AF92
4358	Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band; IB Docket No. 95-91; GEN Docket No. 90-357	3060-AF93
4359	Redesignation of the 27.5-29.5 GHz Frequency Band; CC Docket No. 92-297	3060-AF94
4360	Amendment of Policy To Allow Non-U.S. Licensed Space Stations To Provide Service in the United States; IB Docket No. 96-111; CC Docket No. 93-23	3060-AG31
4361	Streamlining Regulations Related to International Common Carriers; IB Docket No. 98-118	3060-AG84
4362	Redesignation 17.7-19.7 GHz Band, Blanket Licensing Sat Earth Stations 17.7-20.2 GHz & 27.5-30 GHz & Allocation 17.3-17.8 & 24.75-25.25 GHz Band for Broadcast Satellite Service Use; IB Doc No. 98-172	3060-AH21
4363	Allocate & Designate: Spec for Fixed-Sat Srv (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHz Bands). Allocate: Fixed & Mobile 40.5-42.5 GHz; Wireless 46.9-47 GHz; Gov Oper 37-38 & 40-40.5 GHz; IB Doc No. 97-95	3060-AH23
4364	Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band; IB Docket No. 99-81	3060-AH28
4365	Policies for the Direct Broadcast Satellite Service; IB Docket No. 98-21	3060-AH29
4366	1998 Biennial Regulatory Review — Review of Accounts Settlement in Maritime Mobile &Maritime Mobile-Satellite Radio Services and Withdrawal of the Commission as Accounting Authority; IB Doc No. 98-96	3060-AH30
4367	Amendment to Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems; IB Docket No. 95-41	3060-AH48
4368	Global Mobile Personal Communications by Satellite; IB Docket No. 99-67	3060-AH49
4369	Consideration of Applications Under the Cable Landing License Act; IB Docket No. 00-106	3060-AH50
4370	Direct Broadcast Public Interest Obligations; MM Docket No. 93-25	3060-AH59
4371	Streamlining Earth Station Licensing Rules; IB Docket No. 00-248	3060-AH60
4372	2000 Biennial Review — Amendment of Parts 43 and 63 of the Commission's Rules; IB Docket No. 00-231	3060-AH62
4373	Licensing and Coordination of Earth Stations in the Fixed-Satellite Services; IB Docket No. 00-203	3060-AH63

INTERNATIONAL BUREAU—Completed Actions

Sequence Number	Title	Regulation Identification Number
4374	2000 Biennial Regulatory Review — Policy and Rules Concerning the International, Interexchange Marketplace; IB Docket No. 00-202	3060-AH61

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MASS MEDIA BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4375	Transfer of Control of Non-Stock Entities (MM Docket No. 89-77)	3060-AE31
4376	Filing of Television Network Affiliation Contracts (MM Docket No. 95-40)	3060-AF80
4377	Rules Governing Broadcast Television Advertising (MM Docket No. 95-90)	3060-AF81
4378	Minor Modifications of Broadcast Licenses Without Prior Construction Permit (MM Docket No. 96-58)	3060-AG30
4379	Newspaper/Broadcast Cross-Ownership (MM Docket No. 96-197)	3060-AG53
4380	Review of Technical Rules in Parts 73 and 74 (MM Docket No. 98-93)	3060-AG81
4381	Digital Audio Broadcasting Systems (MM Docket No. 99-325)	3060-AH40
4382	Dual Network Rule (MM Docket No. 00-108)	3060-AH51
4383	Experimental Broadcast Station Multiple Ownership Rule (MM Docket No. 00-105)	3060-AH52
4384	Ancillary or Supplemental Use of DTV Capacity by Non-Commercial Licensees (MM Docket No. 98-203)	3060-AH53
4385	Periodic Review of Rules and Policies Affecting the Conversion to DTV (MM Docket No. 00-39)	3060-AH54
4386	Children's TV, Obligations of Digital TV Broadcasters (MM Docket No. 00-167)	3060-AH68
4387	Extension of Filing Requirements for Children's TV Programming Report (MM Docket No. 00-44)	3060-AH69
4388	Radio Market Definitions (MM Docket No. 00-244)	3060-AH70
4389	Enhanced and Standardized Disclosure (MM Docket No. 00-168)	3060-AH71

MASS MEDIA BUREAU—Completed Actions

Sequence Number	Title	Regulation Identification Number
4390	Establishment of a Class A Television Service (MM Docket Nos. 00-10, 99-292)	3060-AH39

OFFICE OF MANAGING DIRECTOR—Completed Actions

Sequence Number	Title	Regulation Identification Number
4391	Assessment and Collection of Regulatory Fees for FY 2001	3060-AH67

WIRELESS TELECOMMUNICATIONS BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4392	Amendment of the Commission's Rules Concerning Maritime Communications	3060-AF14
4393	Refarming	3060-AF35
4394	Future Development of 800 MHz SMR; Competitive Bidding Wide Area	3060-AF47
4395	Resale and Roaming Obligations Pertaining to Commercial Mobile Radio Services	3060-AF58
4396	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; Narrowband PCS Competitive Bidding Rules	3060-AF99
4397	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; 218-219 MHz Competitive Bidding Rules	3060-AG00
4398	39 GHz Channel Plan	3060-AG16
4399	Implementation of 309(j) of the Communications Act, Amendment of Parts 20 and 24 of the Commission's Rules - Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap	3060-AG21
4400	Revision of the Rules To Ensure Compatibility With 911 Emergency Calling Systems	3060-AG34
4401	In the Matter of the Communications Assistance for Law Enforcement Act	3060-AG74
4402	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements	3060-AG85
4403	Multiple Access Systems	3060-AG86
4404	Amendment of Part I of the Commission's Rules — Competitive Bidding Procedures	3060-AG87
4405	Amendment of Part 90 of the Rules To Adopt Regulations for Automatic Vehicle Monitoring Systems	3060-AH12
4406	Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules	3060-AH32
4407	Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended	3060-AH33
4408	1998 Biennial Regulatory Review — Spectrum Aggregation Limits for Wireless Telecommunications Carriers	3060-AH34

FCC

WIRELESS TELECOMMUNICATIONS BUREAU—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4409	Amendment to Parts 1, 2, 87 and 101 of the Rules to License Fixed Services at 24 GHz	3060-AH41
4410	Part 101 — Terrestrial Microwave Fixed Radio Services	3060-AH42
4411	Amendment of Parts 13 and 80 Governing Maritime Communications	3060-AH55
4412	Amendment of the Rules Regarding Installment Payment Financing for Personal Communications Services Licensees	3060-AH57
4413	Transfer of the 3650 Through 3700 MHz Band and the 4.9 GHz Band From Federal Government Use	3060-AH75
4414	2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services	3060-AH81
4415	In the Matter of Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets	3060-AH82
4416	In the Matter of Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services	3060-AH83
4417	Amendment of Part 90 for Licensing Low Power Operations in 450-470 MHz Band	3060-AH84

WIRELESS TELECOMMUNICATIONS BUREAU—Completed Actions

Sequence Number	Title	Regulation Identification Number
4418	Rulemaking To Amend Part 1 and Part 21 To Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service	3060-AF26
4419	Calling Party Pays Service Offering in the Commercial Mobile Radio Services	3060-AH31

Federal Communications Commission (FCC)
Cable Services Bureau

Long-Term Actions

4275. CABLE TELEVISION RATE REGULATION

Priority: Other Significant

Legal Authority: 47 USC 154; 47 USC 543

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: The Commission has adopted rate regulations to implement Section 623 of the 1992 Cable Act to ensure that cable subscribers nationwide enjoy the rates that would be charged by cable systems operating in a competitive environment. Reconsideration was requested. The 14th Order on Reconsideration addresses petitions on issues governing regulated services by cable systems.

Timetable:

Action	Date	FR Cite
NPRM	01/04/93	58 FR 48
R&O and FNPRM	05/21/93	58 FR 29736
MO&O and FNPRM	08/18/93	58 FR 43816
3rd R&O	11/30/93	58 FR 63087
Order on Recon, 4th R&O, and 5th NPRM	04/15/94	59 FR 17943
3rd Order on Recon	04/15/94	59 FR 17961
5th Order on Recon and FNPRM	10/13/94	59 FR 51869
4th Order on Recon	10/21/94	59 FR 53113
6th Order on Recon, 5th R&O, and 7th NPRM	12/06/94	59 FR 62614
7th Order on Recon	01/25/95	60 FR 4863
9th Order on Recon	02/27/95	60 FR 10512
8th Order on Recon	03/17/95	60 FR 14373
6th R&O and 11th Order on Recon	07/12/95	60 FR 35854
13th Order on Recon	10/05/95	60 FR 52106
12th Order on Recon	10/26/95	60 FR 54815
10th Order on Recon	04/08/96	61 FR 15388
Order on Recon of the 1st R&O and Further NPRM	04/15/96	61 FR 16447
MO&O	02/12/97	62 FR 6491
Report on Cable Industry Prices	02/24/97	62 FR 8245
R&O	03/31/97	62 FR 15118
14th Order on Recon	10/15/97	62 FR 53572
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

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RIN: 3060–AF41

4276. CABLE TELEVISION RATE REGULATION: COST OF SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 543

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: The Commission has established rules pursuant to which cable operators may set rates for regulated cable service in accordance with traditional cost-of-service principles, as modified to take account of unique characteristics of the cable industry. These rules are the subject of pending petitions for reconsideration. In addition, the Commission is considering comments received in response to a Further Notice of

Proposed Rulemaking concerning the rate of return that should be applied in cost-of-service cases.

Timetable:

Action	Date	FR Cite
NPRM	07/30/93	58 FR 40762
R&O	04/15/94	59 FR 17975
2nd NPRM	04/15/94	59 FR 18066
MO&O	10/14/94	59 FR 52087
2nd R&O/1st Order on Recon/FNPRM	03/08/96	61 FR 9361
Correction in FR	03/22/96	61 FR 11749
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

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RIN: 3060–AF48

4277. CUSTOMER SERVICE STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i) to 154(j); 47 USC 303; 47 USC 552

CFR Citation: 47 CFR 76

Legal Deadline: NPRM, Statutory, April 3, 1993.

Abstract: The Commission has adopted customer service standards for cable operators nationwide to implement the provisions of the Cable Act of 1992. Such standards shall include, at a minimum, cable systems office hours, telephone availability, installations, outages, service calls, and communication between the cable operator and subscriber, including billing and refunds.

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61038
R&O	04/19/93	58 FR 21107
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

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RIN: 3060–AF69

4278. CABLE HOME WIRING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 544(i)

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: On October 6, 1997, the FCC adopted a Report and Order and Second Notice of Proposed Rulemaking (FCC 97-7360) that amends its cable inside wiring rules to enhance competition in the video distribution marketplace. The Second FNPRM seeks comment on, among other things, whether there are circumstances where the FCC should adopt restrictions on exclusive contracts in order to further promote competition in the multiple dwelling unit marketplace. A Petition for Review was filed in the U.S. Circuit Court of Appeals for the 8th Circuit on November 24, 1997. The FCC has received petitions for reconsideration and has requested the 8th Circuit to hold the pending court case in abeyance until the Commission takes action on the pending petitions. The Court granted the Commission's request.

Timetable:

Action	Date	FR Cite
NPRM	11/17/92	57 FR 54209
R&O	03/02/93	58 FR 11970
NPRM	02/01/96	61 FR 3657
1st Order on Recon & FNPRM	02/16/96	61 FR 6210
FNRPM	09/03/97	62 FR 46453
R&O and 2d FNPRM	11/14/97	62 FR 60165
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG02

4279. CLOSED CAPTIONING

Priority: Other Significant

Legal Authority: 47 USC 613

CFR Citation: 47 CFR 79.1; 47 CFR 79.2

Legal Deadline: None

Abstract: The FCC adopted regulations to ensure that video programming is accessible to persons with hearing disabilities through closed captioning. The rules were adopted in August 1997 and modified in response to petitions for reconsideration in September 1998. In April 2000, the FCC adopted rules to ensure the accessibility of televised emergency information to persons with hearing disabilities through closed captioning or another method of visual presentation.

Timetable:

Action	Date	FR Cite
NOI	12/15/95	60 FR 65052
Order	01/29/96	61 FR 2781
Order	03/12/96	61 FR 9963
Report	08/14/96	61 FR 42249
NPRM	02/03/97	62 FR 4959
Order	03/24/97	62 FR 13853
R&O	09/16/97	62 FR 48487
FNRPM	01/21/98	63 FR 3070
Order	10/20/98	63 FR 55959
Order	06/23/99	64 FR 33424
2nd R&O	05/09/00	65 FR 26757
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Additional Bureau: Consumer Information

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RIN: 3060–AG26

4280. CABLE ACT REFORM

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 522; 47 USC 543; 47 USC 544; 47 USC 548; 47 USC 552

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: This proceeding implements the cable reform section of the Telecommunications Act of 1996. It addresses several issues, including the cable rate complaint process, effective competition and subscriber notifications.

Timetable:

Action	Date	FR Cite
Order & NPRM	04/30/96	61 FR 19013
Report & Order	07/02/99	64 FR 35948
Correction	08/06/99	64 FR 42855
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

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RIN: 3060–AG27

4281. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 549

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: The Commission has adopted rules to address the mandate expressed in section 629 of the Communications Act to ensure the commercial availability of "navigation devices," the equipment used to access video programming and other services from multichannel video programming systems. Petitions for reconsideration were resolved in a recent order. The Commission also issued a Further Notice of Proposed Rulemaking and Declaratory Ruling. The Further Notice sought comment as to the effectiveness of the Commission's rules for achieving the commercial availability of navigation devices. Accompanying the Further Notice was a Declaratory Ruling which found that technology licenses requiring copy protection measures to be located within a navigation host device are consistent with the Commission's navigation devices rules.

Timetable:

Action	Date	FR Cite
NPRM	03/05/97	62 FR 10011
R&O	07/15/98	63 FR 38089
Order on Reconsideration	06/02/99	64 FR 29599
FNPRM & Declaratory Ruling	09/28/00	65 FR 58255
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG28

4282. POLE ATTACHMENT PROVISIONS

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 224; 47 USC 303; 47 USC 403

CFR Citation: 47 CFR 1.1401 to 1.1418

Legal Deadline: Final, Statutory, February 8, 1998.

Abstract: The Commission established rules relating to pole attachments. The Telecommunications Act of 1996 required that within two years the Commission prescribe regulations governing the charges for pole attachments for telecommunications attachers. These regulations are to be used by cable operators and telecommunications carriers to provide telecommunications services when the utility and attaching entity parties fail to resolve a dispute over such charges. The Report and Order released in 1998, prescribed regulations to govern these charges.

The 11th Circuit Court of Appeals released a decision in April of 2000 which challenged the Commission's authority over some aspects of the pole attachment rules. The Commission has filed a Petition for Rehearing. The case is now pending before the United States Supreme Court.

Separately, in April 2000, the Commission released a Report and Order addressing issues related to the formula used to calculate just and reasonable rates that utilities charge for pole attachments. Petitions for reconsideration of both the 1998 and 2000 orders were resolved by Order released in May 2001, excluding the issues currently before the United States Supreme Court.

Timetable:

Action	Date	FR Cite
NPRM	08/18/97	62 FR 43963
R&O	03/12/98	63 FR 12013
R&O	05/17/00	65 FR 31270
Erratum	05/31/00	65 FR 34820
Reconsideration Order	06/29/01	66 FR 34569
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 3060–AG71

4283. DIGITAL MUST CARRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 534

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: Section 614(b)(4)(B) of the Communications Act requires that, at the time the Commission prescribes standards for advanced television, it should "initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of those broadcast signals

of local commercial television stations which have been changed to conform with such modified standards." In August of 1998, the FCC issued a Notice of Proposed Rulemaking seeking comments on the requirements of that section. In June 2000, based on responses to the Notice of Proposed Rulemaking, the Commission clarified that DTV-only television stations, in the context of auctioning analog channels 59-69, will ultimately have must carry rights. In January of 2001, the Commission issued a First Report and Order and Further Notice of Proposed Rulemaking resolving a number of technical and legal issues, including clarification that digital-only TV stations are entitled to mandatory carriage.

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 42330
MO&O and FNPRM	07/12/00	65 FR 42879
FNPRM	03/26/01	66 FR 16523
First R&O	03/26/01	66 FR 16533
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AG91

4284. HORIZONTAL OWNERSHIP LIMITS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 533

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: Section 613 of the Communications Act requires the Commission to "prescribe rules and regulations establishing reasonable limits on the number of cable subscribers a person is authorized to reach through cable systems owned by such person, or in which such person has an attributable interest." On October 8, 1999, the Commission issued a Third Report and Order, FCC 99-289, in this matter. The Commission revised the horizontal ownership rules as follows: (1) all multichannel video subscribers will be counted when calculating the 30 percent ownership limit; (2) actual subscriber numbers, rather than potential subscriber numbers, will be used for calculating an owner's share; and (3) the minority exception which allowed a 35 percent ownership limit for minority-owned entities under certain circumstances was eliminated. On March 2, 2001, the District of Columbia Circuit Court reversed and remanded the cable subscriber limits. Pursuant to the court's remand, the Commission is reexamining its rules.

Timetable:

Action	Date	FR Cite
Second MO&O on Recon and FNPRM	07/14/98	63 FR 37790
Third R&O	12/01/99	64 FR 67198
O on Recon	03/08/00	65 FR 12135
MO&O	06/08/00	65 FR 36382
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH09

4285. APPLICATION OF NETWORK NONDUPLICATION, SYNDICATED EXCLUSIVITY, AND SPORTS BLACKOUT RULES TO SATELLITE RETRANSMISSION - SHVIA

Priority: Other Significant

Legal Authority: 47 USC 339

CFR Citation: 47 CFR 73; 47 CFR 76

Legal Deadline: None

Abstract: The FCC proposed rules on its implementation of certain aspects of the Satellite Home Viewer Improvement Act of 1999. In October of 2000, the FCC issued an order adopting rules that apply the current cable rules for network non-duplication, syndicated program exclusivity and sports blackout to satellite carriers.

Timetable:

Action	Date	FR Cite
NPRM	02/02/00	65 FR 4927
Report and Order	11/14/00	65 FR 68082
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH35

4286. RETRANSMISSION CONSENT ISSUES - SHVIA

Priority: Other Significant

Legal Authority: 47 USC 325

CFR Citation: 47 CFR 76.64(m); 47 CFR 76.65

Legal Deadline: None

Abstract: The Satellite Home Viewer Improvement Act of 1999 (SHVIA) requires broadcasters, until the year 2006, to negotiate in good faith with satellite carriers and other multichannel video programming distributors (MVPDs) with respect to their transmission of the broadcasters' signals, and prohibits broadcasters from entering into exclusive retransmission agreements.

The First Report and Order (Order) determined that the statute does not intend to subject retransmission consent negotiation to detailed substantive oversight by the Commission. Instead, the Order concludes that Congress intended that the Commission follow established precedent, particularly in the field of labor law, in implementing the good faith retransmission consent negotiation requirement. Consistent with this conclusion, the Order adopts a two-part test for good faith. The first part of the test consists of a brief, objective list of negotiation standards. The second part of the good faith test is based on a totality of the circumstances standard. Under this standard, an MVPD may present facts to the Commission which, even though they do not allege a violation of the specific standards enumerated above, given the totality of

FCC—Cable Services Bureau **Long-Term Actions**

the circumstances constitute a failure to negotiate in good faith. The Commission's rules regarding the good faith negotiation requirement sunset on January 1, 2006. An MVPD believing itself to be aggrieved may file a complaint with the Commission.

Timetable:

Action	Date	FR Cite
NPRM	12/29/99	64 FR 72985
1st R&O	03/23/00	65 FR 23805
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH36

4287. SATELLITE BROADCASTING SIGNAL CARRIAGE REQUIREMENTS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 338; 47 USC 534; 47 USC 535

CFR Citation: 47 CFR 76

Legal Deadline: Final, Statutory, November 29, 2000.

Abstract: The Satellite Home Viewer Improvement Act of 1999 (SHVIA) requires satellite carriers, by January 1, 2002, to carry upon request all local broadcast stations' signals. These signals must be carried in all local markets in which the satellite carriers carry at least one broadcast station signal, assuming this signal is licensed pursuant to section 122 of the Copyright Act. The SHVIA requires the Commission to issue rules implementing the Act's mandatory carriage requirements within one year of the SHVIA's enactment. On November 29, 2000 the Commission adopted a Report and Order that places satellite carriers on equal footing with cable operators with respect to the availability of programming. The applicable statutory provisions are found in section 1008 of the SHVIA and codified at section 338 of the Communications Act.

Timetable:

Action	Date	FR Cite
NPRM	06/30/00	65 FR 40564
NPRM Comment Period End	08/04/00	
Report and Order	01/23/01	66 FR 7410
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH45

Federal Communications Commission (FCC)
Common Carrier Bureau **Long-Term Actions**

4288. ADMINISTRATION OF THE NORTH AMERICAN NUMBERING PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 3 to 4; 47 USC 151; 47 USC 152 to 155; 47 USC 154(i); 47 USC 201 to 205; 47 USC 207 to 209; 47 USC 218; 47 USC 225 to 227; 47 USC 251 to 252; 47 USC 271; 47 USC 332; 47 USC 403

CFR Citation: 47 CFR 52.1 to 52.99; 47 CFR 151; 47 CFR 154; 47 CFR 201 to 205; 47 CFR 403

Legal Deadline: None

Abstract: The Report and Order lays the foundation for the fair and effective administration of numbering in the United States. The Report and Order establishes a model for administration of numbering resources in a competitive environment. In this model, the FCC will set broad policy objectives, be the final arbiter of domestic numbering disputes and work closely with other member countries of the North American Numbering Plan (NANP), the States, industry and consumers to ensure fair and effective number administration. The Report and Order creates the North American Number Council (NANC) under the Federal Advisory Committee Act. In the Third Report and Order, released on October 9, 1997, the Commission affirmed the NANC's selection of Lockheed Martin IMS as the new NANP administrator. The NANP administrator is a nongovernmental entity that is not aligned with any particular telecommunications industry segment, and upon selection and following a transition period, assumed Bellcore's current NANP administrator functions and the central office code administration functions currently handled by the dominant local exchange carrier in each area code. The rules were expanded to accommodate the requirements of the Telecommunications Act of 1996. See FCC 96-337, released August 8, 1996.

Timetable:

Action	Date	FR Cite
NOI	11/10/92	57 FR 53462
NPRM	05/10/94	59 FR 24103
R&O	07/28/95	60 FR 58737
2d R&O	09/06/96	61 FR 47284
3rd R&O	10/23/97	62 FR 55179
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3060–AF50

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4289. USE OF N11 CODES AND OTHER ABBREVIATED DIALING ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201 to 205; 47 USC 251(e)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: In 1992, the FCC released a Notice of Proposed Rulemaking in CC Docket 92-105 proposing that local exchange carriers (LECs) be required to make N11 codes available for access to information service providers. In this proposal, LECs could establish any reasonable assignment criteria for such allocation, including "first come, first served." The FCC's General Counsel released a letter indicating it found no regulatory or legal obstacles to assignment of N11 codes for information services. On February 19, 1997, the FCC released a First Report and Order and Further Notice of Proposed Rulemaking in that Docket (FCC 97-51) which allows incumbent LECs, in addition to the States and Bell Communications Research (Bellcore), to continue to perform the N11 code administration functions that they performed at the time of enactment of the 1996 Act amendments to the 1934 Act, until further FCC action. The FCC concluded that: (1) 311 should be assigned as a national number for access to non-emergency police calls; (2) 711 should be assigned as a national number for access to telecommunications relay services (TRS); (3) all providers of telephone exchange service must be able to have their customers call 611 and 811 to reach their repair and business service offices; and (4) a LEC may not itself offer enhanced services using a 411 code or any other N11 code, unless that LEC offers access to the code on a reasonable nondiscriminatory basis to competing enhanced service providers in the local service area for which it is using the code to facilitate distribution of their enhanced services. In the FNPRM, the FCC asked for comment on: (1) the technical feasibility of implementing 711 for TRS access; (2) the possibility of developing an N11 gateway offering access to multiple TRS providers; (3) whether with such access, TRS calls would still be answered within mandatory minimum answer times; (4) whether such a gateway would be consistent with section 255; (5) whether other important disability services could be accessed thereby; (6) the possibility of providing both voice and text TRS services through the same abbreviated TRS code; (7) the proprietary nature of N11 codes; and (8) an FCC proposal to transfer administration of N11 codes at the local level from incumbent LECs to the North American Numbering Plan (NANP) administrator. Petitions for reconsideration or clarification on the order have been filed. Comments and replies were filed on March 31 and April 30, 1997, respectively. On June 16, 1999, the Commission released a Public Notice announcing that it would hold a public forum on September 8, 1999, on 711 access to TRS. The goal of the forum was to identify steps that must be taken to implement 711 access to TRS as well as obstacles to implementation and how those obstacles could be resolved.

On August 9, 2000, the Commission released a Second Report and Order (FCC 00-257) that addresses issues related to the deployment of 711 for access to TRS. The Commission required a nationwide rollout of 711 access to TRS and established an implementation framework. On July 31, 2000, the Commission released a Third Report and Order (FCC 00-256) that granted the petition of the United Way of America, and others, for nationwide assignment of the 211 abbreviated dialing code for access to community information and referral services. The Commission also granted the petition of the U.S. Department of Transportation for nationwide assignment of the 511 abbreviated dialing code for access to travel and traffic information. The Commission further addressed issues raised in petitions for reconsideration of the N11 First Report and Order and resolved outstanding issues from the N11 Further Notice of Proposed Rulemaking.

On August 29, 2000, the Commission released a Fourth Report and Order and Third Notice of Proposed Rulemaking in CC Docket 92-105 and a Notice of Proposed Rulemaking in WT Docket 00-110 (FCC 00-327) to implement the Wireless Communications and Public Safety Act of 1999. The Commission designated 911 as the universal emergency number and sought comment on appropriate transition periods and how the Commission should facilitate States' efforts to deploy comprehensive emergency communications systems.

Timetable:

Action	Date	FR Cite
NPRM	05/29/92	57 FR 22681
First R&O	02/26/97	62 FR 8633
FNPRM	02/26/97	62 FR 8671
Second R&O	09/11/00	65 FR 54799
Fourth R&O and Third NPRM	09/19/00	65 FR 56751
Third R&O	02/09/01	66 FR 9674
Second NPRM	04/05/01	66 FR 18059
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Additional Bureau: Consumer Information

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RIN: 3060–AF51

4290. IMPLEMENTATION OF THE UNIVERSAL SERVICE PORTIONS OF THE 1996 TELECOMMUNICATIONS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151 et seq

CFR Citation: 47 CFR 54

Legal Deadline: NPRM, Statutory, March 8, 1996.
Other, Statutory, November 8, 1996, Recommended decision.
Final, Statutory, May 8, 1997, Federal-State Joint Board R&O released May 8, 1997.

Abstract: As required by the Telecommunications Act of 1996, the Commission sought comment on proposals for reforming universal service. On November 8, 1996, the Federal-State Joint Board on Universal Service issued a recommended decision on changes to the universal service support mechanisms. In addition, on January 10, 1997, the Commission issued an NPRM and NOI on changes to the Board of Directors of the National Exchange Carrier Association (NECA), regarding the administration of universal service. On May 8, 1997, the Commission, at the direction of Congress, released its order implementing the universal service

portions of the 1996 Act. On December 30, 1997, the Commission issued the 4th Order on Reconsideration which made changes and clarifications to the May 8 Order. On June 22, 1998, the Commission issued the 5th Order on Reconsideration which revised the collection levels for the schools and libraries support mechanism through June 30, 1999, and revised the collection levels for the rural health care support mechanism through December 31, 1998. The 5th Order on Reconsideration also revised the priority with which schools and libraries and rural health care providers will receive support. On October 28, 1998, the Commission issued the 5th Report and Order, in which it adopted the model platform for its forward-looking economic cost methodology, which will be used to determine support for non-rural carriers beginning July 1, 1999. On November 21, 1998, the Commission issued the 8th Order on Reconsideration in which it consolidated the administration of universal service into a single entity known as the Universal Service Administrative Company or USAC. On November 25, 1998, the Federal-State Joint Board on Universal Service issued its Second Recommended Decision in which the Joint Board made certain recommendations to the Commission regarding the high cost support mechanism.

On May 28, 1999, the Commission issued the 13th Order on Reconsideration in which it adopted the principles of a Federal high-cost support mechanism that conformed to the Second Recommended Decision and in which it sought further comment on specific elements of the support methodology. In the 13th Order on Reconsideration, the Commission also decided to implement the new high-cost support mechanism on January 1, 2000 instead of July 1, 1999, as previously planned. On May 28, 1999, the Commission also issued a Further Notice of Proposed Rulemaking in which it sought comment on proposed input values to be used in the forward-looking model to determine non-rural LECs' cost of providing supported services in high cost areas. On August 5, 1999, the Commission adopted a Further Notice of Proposed Rulemaking in which it sought comment to ascertain the availability of, and to understand the possible impediments to, deployment and subscribership in unserved and underserved areas of the Nation, including tribal lands and other insular areas.

On November 1, 1999, the Commission issued the Fourteenth Order on Reconsideration, in which it eliminated the requirement that only carriers that have been certified as eligible telecommunications carriers may receive credit against their universal service contributions for providing telecommunications services to rural health care providers at the lower urban rates. On November 1, 1999, the Commission also issued the Fifteenth Order on Reconsideration, in which it authorized support for any commercially available telecommunications service regardless of the bandwidth, and simplified the method for determining how much support a rural health care provider can receive. On November 2, 1999, the Commission issued the Ninth Report and Order and Eighteenth Order on Reconsideration in which it adopted a new forward-looking high-cost support mechanism that will enable States to ensure the reasonable comparability of non-rural carriers' intrastate rates. On November 2, 1999, the Commission also issued the Tenth Report and Order in which it completed the selection of a cost model to estimate forward-looking cost by adopting input values for the previously adopted cost model.

On June 30, 2000, the Commission issued the Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, in response to the Further Notice of Proposed Rulemaking it adopted on August 5, 1999. In the Twelfth Report and Order, the Commission adopted measures to promote telecommunications subscribership and infrastructure deployment within American Indian and Alaska Native tribal communities.

On October 12, 2000, the Commission released a Further Notice of Proposed Rulemaking and Order to seek comment on proposals to modify the Commission's rules relating to contributions to the Federal universal service support mechanisms. On January 12, 2001, the Commission released a Further Notice of Proposed Rulemaking seeking comment on the Recommended Decision of the Federal-State Joint Board on Universal Service (Joint Board) regarding a plan for reforming the universal service support mechanism for rural carriers. The Joint Board sent to the Commission the Rural Task Force Recommendation as a good foundation for implementing rural high-cost reform. The Rural Task Force recommends the use of a modified version of the current high-cost loop support mechanism based on carriers' embedded costs.

On May 23, 2001, the Commission released the Fourteenth Report and Order, Twenty-Second Order on Reconsideration and Further Notice of Proposed Rulemaking. In the Fourteenth Report and Order, the Commission adopted a five-year plan that makes modifications to the high-cost loop support mechanism for rural carriers. These modifications were based on the recommendation of the Joint Board and will provide predictable levels of support so that rural carriers can continue to provide affordable service in rural America, while ensuring that consumers in all areas of the nation, including rural areas, have access to affordable and quality telecommunications services.

Timetable:

Action	Date	FR Cite
Recommended Decision Federal-State Joint Board, Universal Service	11/08/96	61 FR 63778
1st R&O	05/08/97	62 FR 32862
2nd R&O	05/08/97	62 FR 32862
Order on Recon	07/10/97	62 FR 40742
R&O and 2nd Order on Recon	07/18/97	62 FR 41294
2nd R&O, and FNPRM	08/15/97	62 FR 47404
3rd R&O	10/14/97	62 FR 56118
2nd Order on Recon	11/26/97	62 FR 65036
4th Order on Recon	12/30/97	62 FR 2093
5th Order on Recon	06/22/98	63 FR 43088
5th R&O	10/28/98	63 FR 63993
8th Order on Recon	11/21/98	
2nd Recommended Decision	11/25/98	63 FR 67837
13th Order on Recon	06/09/99	64 FR 30917
FNPRM	06/14/99	64 FR 31780
FNPRM	09/30/99	64 FR 52738
14th Order on Recon	11/16/99	64 FR 62120
15th Order on Recon	11/30/99	64 FR 66778
10th R&O	12/01/99	64 FR 67372
9th R&O and 18th Order on Recon	12/01/99	64 FR 67416
19th Order on Recon	12/30/99	64 FR 73427
20th Order on Recon	05/08/00	65 FR 26513
Public Notice	07/18/00	65 FR 44507
12th R&O, MO&O and FNPRM	08/04/00	65 FR 47883
FNPRM and Order	11/09/00	65 FR 67322
FNPRM	01/26/01	66 FR 7867

Action	Date	FR Cite
14th R&O and FNPRM	05/23/01	66 FR 30080
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

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RIN: 3060–AF85

4291. TOLL-FREE SERVICE ACCESS CODES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201 et seq; 47 USC 251(e)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This proceeding assures that toll-free numbers are allocated on an efficient, fair, and orderly basis.

Timetable:

Action	Date	FR Cite
NPRM	10/05/95	60 FR 57157
Second R&O	04/25/97	62 FR 20126
Third R&O	10/09/97	62 FR 55179
Fourth R&O and MO&O	03/30/98	63 FR 16440
Fifth R&O	07/05/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AG11

4292. IMPLEMENTATION OF SECTION 273 OF THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 153; 47 USC 154; 47 USC 157; 47 USC 201 to 209; 47 USC 218; 47 USC 251; 47 USC 273; 47 USC 403

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This rulemaking implements provisions of the Telecommunications Act of 1996 relating to the manufacturing of telecommunications equipment and customer premises equipment by the Bell Operating Companies and their affiliates.

Timetable:

Action	Date	FR Cite
NPRM	01/24/97	62 FR 3638
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AG36

4293. IMPLEMENTATION OF NON-ACCOUNTING SAFEGUARDS, SEC. 271 & 272 OF COMMUNICATIONS ACT OF 1996 & REGULATORY TREATMENT OF LEC PROVISIONS OF INTEREXCHANGE SVCS. ORIG. IN LEC LOCAL EXCH. AREA

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 201 to 205; 47 USC 215; 47 USC 218; 47 USC 220; 47 USC 271; 47 USC 272; 47 USC 303(r)

CFR Citation: 47 CFR 1.720; 47 CFR 1.721; 47 CFR 1.735; 47 CFR 61.41; 47 CFR 61.58; 47 CFR 63.71; 47 CFR 64.702

Legal Deadline: None

Abstract: On December 24, 1996, the Commission adopted the Non-Accounting Safeguards Order in its proceeding implementing the non-accounting safeguards provision of the Communications Act of 1934, as amended by the Telecommunications Act of 1996. These provisions prescribe the manner in which the Bell Operating Companies (BOCs) may enter certain markets, including the provisions of in-region interLATA services. On October 1, 1999, the Commission denied several petitions for reconsideration of its initial Order and, on its own motion, clarified certain language in the Order relating to so-called "teaming arrangements." Certain BOCs subsequently appealed specific aspects of the Order to the U.S. Circuit Court for the District of Columbia. On October 27, 2000, the Court granted the Commission's motion for a voluntary remand, and remanded the matter to the Commission. On November 8, 2000, the Commission sought further comment on the specific issues raised by the appeal. On April 11, 2001, the Commission released an Order on Remand, in which it examined the scope of the term "InterLATA Services" as it relates to Section 271 of the Act.

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39392
First R&O	01/21/97	62 FR 2927
FNPRM	01/21/97	62 FR 2991
Second Order on Recon	07/07/97	62 FR 36216
Order	04/06/98	63 FR 16696
Second R&O	04/24/98	63 FR 20326
Erratum	06/25/98	63 FR 34603
Third O on Recon	10/01/99	64 FR 61527
Public Notice	11/08/00	
Order on Remand	04/27/01	66 FR 36205
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AG37

4294. POLICIES AND RULES GOVERNING INTERSTATE PAY-PER-CALL AND OTHER INFORMATION SERVICES PURSUANT TO THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 228

CFR Citation: 47 CFR 64.1501; 47 CFR 64.1504; 47 CFR 64.1510

Legal Deadline: None

Abstract: The Commission has received comments on proposed rules designed to implement the 1996 Telecommunications Act with respect

to information services to prevent abusive and deceptive practices by entities that might try to circumvent the statutory requirements. The proposed rules address generally the use of dialing sequences other than the 900 service access code to provide information services.

Timetable:

Action	Date	FR Cite
NPRM	06/20/96	61 FR 31481
NPRM Comment Period End	09/16/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG42

4295. TELECOMMUNICATIONS CARRIERS' USE OF CUSTOMER PROPRIETARY NETWORK INFORMATION AND OTHER CUSTOMER INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 222; 47 USC 275; 47 USC 303(r)

CFR Citation: 47 CFR 64.2001; 47 CFR 64.2003; 47 CFR 64.2005; 47 CFR 64.2007; 47 CFR 64.2009

Legal Deadline: None

Abstract: The Commission adopted rules implementing the new statutory framework governing carrier use and disclosure of customer proprietary network information (CPNI) created by section 222 of the Communications Act of 1934, as amended. CPNI includes, among other things, to whom, where, and when a customer places a call, as well as the types of service offerings to which the customer subscribes and the extent to which the service is used.

Timetable:

Action	Date	FR Cite
NPRM	05/28/96	61 FR 26483
Public Notice	02/25/97	62 FR 8414
2d R&O and FNPRM	04/24/98	63 FR 20364
Order on Reconsideration	10/01/99	64 FR 53242
Final Rule, Announcement of Effective Date	01/26/01	66 FR 7865

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG43

4296. IMPLEMENTATION OF THE SUBSCRIBER SELECTION CHANGES PROVISION OF THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 201; 47 USC 258

CFR Citation: 47 CFR 64.1100; 47 CFR 64.1150; 47 CFR 64.1160; 47 CFR 64.1170; 47 CFR 64.1180; 47 CFR 64.1190

Legal Deadline: None

Abstract: In December 1998, the Commission established new rules and policies implementing section 258 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, which makes it unlawful for any telecommunications carrier to "submit or execute a change in a subscriber's selection of a provider of telecommunications exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe." The rules provide, among other things, that any telecommunications carrier that violates such verification procedures and that collects charges for telephone exchange service or telephone toll service from a subscriber, shall be liable to the carrier previously selected by the subscriber in an amount equal to all charges paid by the subscriber after such violation. In the FNPRM, we sought comment on several proposals to further strengthen our slamming rules. In April 2000, the Commission modified the slamming liability rules by giving victims of slamming adequate redress, ensuring that carriers that slam do not profit from their fraud, and allowing states to act as the primary administrator of slamming complaints.

In July 2000, the Commission took further action to improve the existing carrier change process for both consumers and carriers, protect the right of consumers to exercise choice among carriers, and ensure that consumers' choices are honored. In December 2000, the Commission adopted a Biennial Review FNPRM seeking comment on proposals to amend the slamming rules to lighten administrative burdens associated with selling or transferring customer bases by eliminating the need to obtain a waiver, while continuing to protect consumers. In February 2001, the Commission adopted an order modifying and clarifying certain aspects of the reporting and registration requirements it had adopted in July 2000. In May 2001, the Commission adopted streamlined procedures for the carrier-to-carrier sale or transfer of customer bases, as proposed in the Biennial Review FNPRM.

Timetable:

Action	Date	FR Cite
MO&O on Recon and FNPRM	08/14/97	62 FR 43493
FNPRM Comment Period End	09/30/97	
Second Report & Order and Second FNPRM	02/16/99	64 FR 7745
First O on Recon	04/13/00	65 FR 47678
Third Report & Order and Second O on Recon	11/08/00	65 FR 66934
Third FNPRM	01/29/01	66 FR 8093
Order	03/01/01	66 FR 12877
First Report & Order and Fourth Report & Order	05/05/01	66 FR 30334

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG46

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4297. IMPLEMENTATION OF SECTION 402(B)(1)(A) OF THE TELECOMMUNICATIONS ACT OF 1996; LEC TARIFF STREAMLINING PROVISIONS

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154

CFR Citation: 47 CFR 1.773(a); 47 CFR 61.58

Legal Deadline: Final, Statutory, February 8, 1997, The Act of 1996 provides that streamlining provisions apply to any charge, classification, regulation, or practice filed on or after one year after date of enactment of the Act (i.e., 2/8/97).

Abstract: In this Report and Order, the FCC adopted rules to implement the specific streamlining requirements of the Telecommunications Act of 1996. Petitions for reconsideration were filed.

Timetable:

Action	Date	FR Cite
NPRM	09/24/96	61 FR 49987
NPRM Comment Period End	10/24/96	
R&O	02/07/97	62 FR 5757
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG47

4298. ACCESS CHARGE REFORM

Priority: Economically Significant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 201 to 205; 47 USC 403; 47 USC 553

CFR Citation: 47 CFR 61.41 to 61.49; 47 CFR 69

Legal Deadline: None

Abstract: On December 24, 1996, the Commission initiated a rulemaking to revise its access charge rules to make them compatible with a competitive market envisioned by the Telecommunications Act of 1996. On May 7, 1997, the Commission adopted revised access charge rate structure rules and adjusted the price cap productivity factor. The Commission also adopted a market-based approach to reducing overall access charge levels and moving such levels toward forward-looking economic costs. The Commission adopted a Further Notice of Proposed Rulemaking seeking comment on proposals to allow presubscribed interexchange carrier charges on special access lines and to adjust the allocation of General Support Facilities costs recovered through interstate access charges.

On July 10, 1997, on its own motion, and on October 9, 1997, in response to reconsideration petitions, the Commission revised or clarified certain parts of the rules adopted in the May 1997 Access Charge Reform Order. On November 26, 1997, the Commission adopted rules requiring price cap carriers to adjust the allocation of General Support Facilities costs and to reduce their price cap indices to ensure that regulated access rates do not recover those costs which are related to nonregulated services. Reconsideration petitions filed in response to the Access Charge Reform Order, if not yet addressed, will be addressed in future reconsideration orders. On May 27, 1999, the Commission initiated a further rulemaking, seeking comment on how to adjust interstate access charges in conjunction with the removal from access charges of implicit universal service support for non-rural local exchange carriers. On August 5, 1999, the Commission adopted rules implementing the market-based approach to access charge reform, pursuant to which incumbent price cap local exchange carriers receive progressively greater pricing flexibility as competition develops. The Commission also initiated a Further Notice of Proposed Rulemaking, seeking comment on additional pricing flexibility, proposed changes to the rate structure for local switching and tandem-switched transport, and the need to constrain access charges imposed by competitive local exchange carriers. Reconsideration petitions filed in response to the November 1997 General Support Facilities Order will be addressed in a future reconsideration order. On May 31, 2000, the Commission adopted an industry proposal establishing a 5-year plan for price cap local exchange carriers and resolving many outstanding issues concerning interstate access charges and interstate universal service. On April 27, 2001, the Commission revised its tariff rules to establish benchmark access rates for competitive local exchange carriers, whereby access rates at or below the benchmark will be presumed just and reasonable and may be imposed by tariff, and access rates above the benchmark will be mandatorily detariffed. The Commission adopted a rural exemption to this benchmark scheme, recognizing that a higher level of access charges is justified for certain carriers serving rural areas. On May 21, 2001, the Commission determined that price cap local exchange carriers should not be permitted to assess prescribed interexchange carrier charges on special access lines.

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 4670
FNPRM	06/06/97	62 FR 31040
R&O	06/11/97	62 FR 31868
Second Report & Order	06/11/97	62 FR 31939
Order on Reconsideration	07/29/97	62 FR 40460
Second Order on Reconsideration	10/29/97	62 FR 56121
Third Report & Order	12/15/97	62 FR 65619
Public Notice	10/09/98	63 FR 54430
Third Order on Reconsideration	10/15/98	63 FR 55334
Fourth Report & Order and FNPRM	06/09/99	64 FR 30949
Fifth Report & Order and FNPRM	09/22/99	64 FR 51258
NPRM	10/04/99	64 FR 53648
Sixth Report & Order	06/21/00	65 FR 38684
Public Notice	06/26/00	65 FR 39335
Seventh Report & Order and FNPRM	05/21/01	66 FR 27892
Order	07/20/01	66 FR 37943
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AG49

4299. IMPLEMENTATION OF THE LOCAL COMPETITION PROVISIONS OF THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151 to 155; 47 USC 157; 47 USC 201 to 205; 47 USC 207 to 209; 47 USC 218

CFR Citation: 47 CFR 51; 47 CFR 52

Legal Deadline: Final, Statutory, August 8, 1996.

Abstract: The Second Report and Order and Memorandum Opinion and Order implemented the dialing parity, nondiscriminatory access, network disclosure, and number administration provisions of the Telecommunications Act of 1996. The Order also denied the Petition for Expedited Declaratory Ruling on the area code relief plan for Dallas and Houston filed with the FCC by the Texas Public Utilities Commission on May 9, 1996. Finally, this Order addressed petitions for clarification or reconsideration in the matters of proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech and the Administration of the North American Numbering Plan. On July 19, 1999, the Commission released an order denying the petition for reconsideration of the Local Competition Second Report and Order and Memorandum Opinion and Order filed by Beehive Telephone Company, Inc., Local Competition Second Report and Order, First Order on Reconsideration, CC Docket No. 96-98, FCC 99-170, 1999 WL 507245 (1999). On August 17, 1999, Beehive filed a Notice of Appeal of this order with the U.S. Court of Appeals for the D.C. Circuit. On May 18, 2000, the Court affirmed the Commission's decision without a published opinion. On June 30, 2000, Beehive filed a Petition for Rehearing with the Court. That petition was denied on July 18, 2000.

On September 9, 1999, the Commission released the Second Order on Reconsideration of the Local Competition Second Report and Order, FCC 99-227, resolving petitions for reconsideration of rules adopted in the Local Competition Second Report and Order to implement the requirement of Section 251(b)(3), 47 U.S.C. Section 251(b)(3), that LECs provide non-discriminatory access to directory assistance, directory listing and operator services. At the same time the Commission released a Notice of Proposed Rulemaking (NPRM), FCC 99-227, seeking comment on issues related to developments in, and the convergence of, directory publishing and directory assistance. On October 21, 1999, the Commission released the Third Order on Reconsideration of the Local Competition Second Report and Order, FCC 99-243, resolving the petitions for reconsideration regarding numbering administration under section 251(e)(1) of the Act, 47 U.S.C. section 251(e)(1). Other petitions for reconsideration or clarification of the Local Competition Second Report and Order and Memorandum Opinion and Order regarding dialing parity under section 251(b)(3) of the Act, 47 U.S.C. section 251(b)(3), and network disclosure under section 251(c)(1) of the Act, 47 U.S.C. section 251(c)(1), are currently pending before the Commission. On January 23, 2001, the Commission released a First Report and Order, FCC 01-27, resolving issues raised in the September 9th NPRM, and concluding, among other things, that competing Directory Assistance (DA) providers that are certified as CLECs, are agents of CLECs, or that offer call completion services provide telephone exchange or telephone toll service, and thus are entitled to nondiscriminatory access to LEC local DA databases.

Timetable:

Action	Date	FR Cite
NPRM	04/25/96	61 FR 18311
NPRM Comment Period End	06/03/96	
Order	09/06/96	61 FR 47284
NPRM	09/27/99	64 FR 51949
Second Order on Recon	09/27/99	64 FR 51910
Third Order on Recon	11/18/99	64 FR 62983
First Report & Order	02/21/01	66 FR 10965
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

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RIN: 3060–AG50

4300. ENHANCED 911 SERVICES FOR WIRELINE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201; 47 USC 222; 47 USC 251

CFR Citation: 47 CFR 64.706; 47 CFR 64.708; 47 CFR 68.2; 47 CFR 68.3; 47 CFR 68.3(a); 47 CFR 68.228; 47 CFR 68.308; 47 CFR 68.310

Legal Deadline: None

Abstract: The rules generally will assist State governments in drafting legislation that will ensure that multi-line telephone systems are compatible with the enhanced 911 network.

Timetable:

Action	Date	FR Cite
NPRM	10/11/94	59 FR 54878
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 3060–AG60

4301. COMPUTER III FURTHER REMAND PROCEEDINGS: BELL OPERATING COMPANY PROVISION OF ENHANCED SERVICES

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 160; 47 USC 161; 47 USC 202 to 205; 47 USC 251; 47 USC 271; 47 USC 272; 47 USC 274 to 276

CFR Citation: 47 CFR 51; 47 CFR 53; 47 CFR 64

Legal Deadline: None

Abstract: On January 30, 1998, the FCC released a Further Notice of Proposed Rulemaking (FNRPM) proposing to streamline the safeguards under which the Bell Operating Companies (BOCs) provide information (or enhanced) services, such as voice mail and electronic messaging. The FCC sought

comment on tentative conclusions relating to nonstructural safeguards, Comparably Efficient Interconnection (CEI) plans, and network information disclosure rules, among other things. Finally, the FNPRM sought to build a record on which to respond to a partial remand of certain orders by the Court of Appeals for the Ninth Circuit. On February 25, 1999, the Commission adopted a Report and Order which streamlined the Commission's CEI and network information disclosure rules. Although the BOCs must continue to comply with their CEI obligations, they are no longer required to obtain pre-approval of their CEI plans and amendments from the Commission before initiating or altering an intra-LATA information service. Instead, the Commission requires the BOCs to post their CEI plans on their publicly accessible Internet sites, and to notify the Common Carrier Bureau upon such posting. The Commission removed the network information disclosure rules set forth in the Computer II and Computer III proceedings, with the narrow exception of the Computer II rules that require carriers to disclose changes that could affect how customer premises equipment (CPE) is attached to the network. On March 7, 2001, the FCC released a Public Notice requesting further comment on the outstanding issues discussed in its January 30, 1998 FNPRM.

Timetable:

Action	Date	FR Cite
FNPRM	02/26/98	63 FR 9749
R&O	03/24/99	64 FR 14141
Public Notice	03/15/01	66 FR 15064
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AG72

4302. DETARIFFING OF COMPETITIVE LOCAL EXCHANGE CARRIERS' INTERSTATE EXCHANGE ACCESS SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151 to 154; 47 USC 160

CFR Citation: 47 CFR 61.26

Legal Deadline: None

Abstract: In an Order released on April 27, 2001, the Commission addressed a number of interrelated issues concerning charges for interstate switched access services provided by competitive local exchange carriers (CLECs) and the obligations of interexchange carriers to exchange access traffic with CLECs. The Order seeks to ensure that CLEC access charges are just and reasonable, to reduce regulatory arbitrage opportunities, and to avoid disrupting the development of competition in the local telecommunications market.

In an attached Further Notice of Proposed Rulemaking, the Commission sought comment on whether tariffed CLEC-provided access service for toll free, or "8YY," numbers should be afforded different treatment than CLEC tariffed switched access traffic generally.

Timetable:

Action	Date	FR Cite
NPRM	07/17/97	62 FR 38244
FNPRM	09/22/99	64 FR 51280
Public Notice	06/26/00	65 FR 39335
Order	05/21/01	66 FR 27892
FNPRM	05/21/01	66 FR 27927
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AG73

4303. IN THE MATTER OF THE TELECOMMUNICATIONS RELAY SERVICES, THE AMERICANS WITH DISABILITIES ACT OF 1990, AND THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 225

CFR Citation: 47 CFR 64.604

Legal Deadline: None

Abstract: This item will address the requirement that telecommunications relay services be capable of handling any type of call normally provided by common carriers, including coin-sent paid calls. On April 5, 2001, the Commission published a Second FNPRM seeking comment on the coin sent-paid issue. This Second FNPRM suspended the enforcement of section 64.604(a)(3) of our rules until final rules in this proceeding are adopted and published in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	12/04/90	55 FR 50037
R&O and Request for Comments	08/01/91	56 FR 36729
O on Recon, Second R&O and FNPRM	03/03/93	58 FR 12175
MO&O	11/28/95	60 FR 58626
Order	08/23/00	
Second FNPRM	04/05/01	66 FR 18059
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Additional Bureau: Consumer Information

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RIN: 3060–AG75

4304. IN THE MATTER OF TELECOMMUNICATIONS RELAY SERVICES AND SPEECH-TO-SPEECH SERVICES FOR INDIVIDUALS WITH HEARING AND SPEECH DISABILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 225; 47 USC 255; 47 USC 610

CFR Citation: 47 CFR 64.601; 47 CFR 64.603; 47 CFR 64.604; 47 CFR 64.605

Legal Deadline: None

Abstract: In the Report and Order, released on March 6, 2000, the FCC adopted additional rules to increase the availability and usefulness of the telecommunications system for Americans with hearing and speech disabilities. Specifically, the FCC required that speech to speech and Spanish language relay services be provided. The FCC also encouraged the provision of video relay interpreting service by making it eligible for reimbursement from the telecommunications relay service (TRS) fund. In addition, the FCC revised its minimum standards in accordance with the statutory mandate that TRS must be "functionally equivalent" to voice telecommunications service to the extent possible. Among other things, these rules will improve the speed at which calls are answered and conversations relayed.

In the Further Notice of Proposed Rulemaking (FNPRM), the FCC asked for comment on how to further improve TRS. Specifically, the FNPRM asked what changes are necessary to increase public awareness of TRS among all callers, not just those with disabilities, including how a national awareness education campaign can be established; and whether other technologies, services, and features should be made available to TRS users.

In the Order on Reconsideration released on June 5, 2000, the FCC, on its own motion, amended the effective date by which parties must comply with most of the amended rules adopted in the Report and Order. The Order on Reconsideration also established a fixed date for the annual submission of complaint log summaries by States and TRS providers to the FCC by July 1 of each year. The FCC also more rigorously conformed the text of the rules concerning the submission of contact information and the treatment of emergency calls to the precise language in the Report and Order. Moreover, the FCC clarified the requirement regarding the transfer of customer profile information between outgoing and incoming TRS providers, and clarified the review process and possible disposition of informal complaints under our amended TRS rules. In addition, the Order on Reconsideration changed the nomenclature in our rules from "video relay interpreting" to "video relay services." Finally, the Order on Reconsideration corrected various typographical errors.

Timetable:

Action	Date	FR Cite
NPRM	05/20/98	63 FR 32798
NPRM Comment Period End	09/14/98	
O on Recon	06/21/00	65 FR 38432
Report and Order	06/21/00	65 FR 38432
FNPRM	06/21/00	65 FR 38490
Public Notice	07/19/01	66 FR 37631
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: Additional Bureau: Consumer Information

Agency Contact: Marilyn Jones, Attorney, Federal Communications Commission, Common Carrier Bureau, 445 12th Street, SW., Washington, DC 20554
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RIN: 3060–AG76

4305. 1998 BIENNIAL REGULATORY REVIEW — REVIEW OF ACCOUNTING AND COST ALLOCATION REQUIREMENTS

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 161; 47 USC 220

CFR Citation: 47 CFR 32.11; 47 CFR 32.16; 47 CFR 32.2000(b); 47 CFR 32.2114; 47 CFR 32.2115; 47 CFR 32.2116; 47 CFR 32.5280; 47 CFR 32.6114; 47 CFR 32.6115; 47 CFR 32.6116; 47 CFR 64.903; 47 CFR 64.904

Legal Deadline: None

Abstract: This Report and Order modifies the FCC's cost allocation and accounting rules as part of the biennial regulatory review process. Specifically, it (1) raises the threshold significantly for Class A accountings, thus allowing mid-sized carriers currently required to use Class A accounts to use the more streamlined Class B accounts; (2) establishes less burdensome cost allocation manual (CAM) procedures for the mid-sized incumbent local exchange carriers (LECs) and reduces the frequency with which independent audits of the cost allocations are required; and (3) makes several changes to the uniform system of accounts to reduce accounting requirements and to eliminate or consolidate accounts.

Timetable:

Action	Date	FR Cite
NPRM	06/17/98	63 FR 45208
NPRM Comment Period End	09/04/98	
Report & Order	06/30/99	64 FR 50002
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Timothy Peterson, Federal Communications Commission, Common Carrier Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-1575

RIN: 3060–AG98

4306. 1998 BIENNIAL REGULATORY REVIEW — REVIEW OF ARMIS REPORTING REQUIREMENTS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 161; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 215; 47 USC 218; 47 USC 219; 47 USC 220; 47 USC 403

CFR Citation: 47 CFR 43.21

Legal Deadline: None

Abstract: This Report and Order reduces reporting requirements for incumbent local exchange carriers with annual operating revenues in excess of the annual indexed revenue threshold. These modifications are designed to minimize the reporting burden on carriers, improve the quality and use of the reported financial and operating data, and reduce the costs of collection, verification, and distribution of the data.

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 44220
NPRM Comment Period End	09/04/98	
Report & Order	06/30/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mika Savir, Attorney, Federal Communications Commission, Common Carrier Bureau, 445 12th Street, SW., Washington, DC 20554
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RIN: 3060–AG99

4307. PERFORMANCE MEASUREMENTS AND REPORTING REQUIREMENTS FOR OPERATIONS SUPPORT SYSTEMS, INTERCONNECTION, OPERATOR SERVICES, AND DIRECTORY ASSISTANCE

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 251; 47 USC 303

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: On April 17, 1998, the FCC released an NPRM seeking comment on a set of model performance measurements and reporting requirements for operations support systems, interconnection, and access to operator services and to directory assistance.

Timetable:

Action	Date	FR Cite
NPRM	04/17/98	63 FR 27021

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AH00

4308. ACCESS CHARGE REFORM FOR RATE-OF-RETURN LOCAL EXCHANGE CARRIERS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553; 47 USC 151; 47 USC 152; 47 USC 153; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 251; 47 USC 254(g); 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 36.111; 47 CFR 36.372; 47 CFR 61.1; 47 CFR 69.2; 47 CFR 69.4; 47 CFR 69.110; 47 CFR 69.112; 47 CFR 69.120; 47 CFR 69.125; 47 CFR 69.153(c); 47 CFR 69.307(c)

Legal Deadline: None

Abstract: In order to make the access charge rules compatible with a competitive marketplace as envisioned by the Telecommunications Act of 1996, the FCC on May 26, 1998, initiated a rulemaking to revise interstate access charge rules applicable to incumbent local exchange carriers subject to rate-of-return regulation. The NPRM proposes to permit rate-of-return LECs to adjust their subscriber line charge ceilings on non-primary residential and multi-line business lines to the level necessary to recover their average per-line interstate-allocated common line costs, subject to an inflation-adjusted $9.00 ceiling. The NPRM also proposes to permit rate-of-return LECs to recover common line revenues through a presubscribed interexchange carrier charge. The NPRM also proposes that per-minute residual carrier common line and residual transport interconnection charges will be eliminated as the presubscribed interexchange carrier charge ceilings increase. The NPRM seeks comment on proposals to allow presubscribed interexchange carrier charges on special access lines and to adjust the allocation of General Support Facilities costs recovered through interstate access charges to ensure that regulated access rates do not recover costs related to nonregulated services. The NPRM proposes that rate-of-return local exchange carriers recover marketing costs allocated to the interstate jurisdiction from end users on a per-line basis. In addition, to establish a new switched access rate element to accommodate a new service offering, the streamlined petition provisions of section 69.4(g) are proposed.

Timetable:

Action	Date	FR Cite
NPRM	07/20/98	63 FR 38774

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

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RIN: 3060–AH01

4309. DEPLOYMENT OF WIRELINE SERVICES OFFERING ADVANCED TELECOMMUNICATIONS CAPABILITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 153; 47 USC 154; 47 USC 157; 47 USC 160; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 251; 47 USC 252; 47 USC 253; 47 USC 254; 47 USC 256; 47 USC 271; 47 USC 303(r)

CFR Citation: 47 CFR 51.5; 47 CFR 51.230; 47 CFR 51.231; 47 CFR 51.232; 47 CFR 51.233; 47 CFR 51.319; 47 CFR 51.321; 47 CFR 51.323; 47 CFR 51.605; 47 CFR 51.607

Legal Deadline: None

Abstract: On March 31, 1999, the Commission released a First Report and Order and Further Notice of Proposed Rulemaking (NPRM) (Advanced Services Order), in CC Docket No. 98-147, adopting several measures to enable competitive providers of advanced services such as high-speed Internet access, to deploy new technologies on a faster, more cost-effective basis to consumers. This order is intended to create marketplace conditions conducive to the nationwide deployment of advanced telecommunications services consistent with the goals of section 706 of the Telecommunications Act of 1996. Because the Commission concluded that the record does not sufficiently address long-term spectrum compatibility issues, the Commission adopted a companion Further NPRM

that seeks comment on issues related to developing long-term standards and practices for spectrum compatibility and management. In the Further NPRM, the Commission also tentatively concludes that it is technically feasible for two different telecommunications carriers sharing a single line to provide traditional voice service and advanced services. The Further Notice seeks comment on the operational, pricing, legal and policy ramifications of mandating such line sharing at the Federal level.

On November 9, 1999, the Commission released a Second Report and Order (Advanced Services Resale Order) in CC Docket No. 98-147, which addressed whether the discounted resale obligation of section 251(c)(4) applies to incumbent Local Exchange Carrier (LEC) provision of advanced services without regard to their classification as telephone exchange or exchange access. The Commission determined that analysis of section 251(c)(4) requires a fact-specific evaluation of the features and characteristics of a particular transaction, and concluded that advanced services sold at retail by incumbent LECs to residential and business end-users are subject to the section 251(c)(4) discounted resale obligation, without regard to their classification as telephone exchange service or exchange access service. The Commission, however, reached a different result as to advanced services sold to Internet Service Providers for inclusion in a high-speed Internet service offering, concluding that these advanced services are inherently different from advanced services made available directly to business and residential end-users, and as such, are not subject to the discounted resale obligations of section 251(c)(4).

On December 9, 1999, the Commission released a Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98 (Line Sharing Order). In the Line Sharing Order, the Commission adopted measures to promote the availability of competitive broadband Digital Subscriber Line (DSL) services, especially to residential and small business customers. The Third R&O amends the Commission's network unbundling rules to require incumbent LECs to provide unbundled access to a new network element, the high frequency portion of the local loop. This will enable competitive LECs to compete with incumbent LECs to provide DSL services through telephone lines that the competitive LECs can share with incumbent LECs. In addition, the Line Sharing Order adopts spectrum management policies and rules to facilitate the competitive deployment of advanced services. These rules will significantly benefit the rapid and efficient deployment of DSL technologies.

On January 19, 2001, the Commission issued an Order on Reconsideration and a Further Notice of Proposed Rulemaking in which the Commission reinforced its line sharing rules to promote availability of unbundled access to the high frequency portion of the loop. It also addressed issues in a variety of petitions for clarification and/or reconsideration filed in response to the Line Sharing Order.

Timetable:

Action	Date	FR Cite
NPRM	08/24/98	63 FR 45140
Order	08/24/98	63 FR 45133
R&O and Further NPRM	04/30/99	64 FR 23229
Third R&O	01/10/00	65 FR 1331
Second R&O	02/11/00	65 FR 6912
Reconsideration Order and Further NPRM	02/06/01	66 FR 9035
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH03

4310. PRESCRIBING THE AUTHORIZED RATE OF RETURN FOR INTERSTATE SERVICES OF LOCAL EXCHANGE CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201(b); 47 USC 202 to 205; 47 USC 218 to 220; 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 65.301

Legal Deadline: None

Abstract: This Notice initiates a proceeding to represcribe the authorized rate of return for interstate access services provided by ILECs. It marks the first prescription proceeding since we revised the rules governing procedures and methodologies for prescribing and enforcing the rate of return for ILECs not subject to price cap regulation, and the first prescription proceeding since the Commission adopted its price cap rules for local exchange carriers. In this Notice, we seek comment on the methods by which we could calculate the ILECs' cost of capital. In the Notice, we propose corrections to errors in the codified formulas for the cost of debt and cost of preferred stock and seek comment on whether this proceeding warrants a change in the low-end formula adjustment for local exchange carriers subject to price caps.

Timetable:

Action	Date	FR Cite
NPRM	10/05/98	63 FR 55988
NPRM Comment Period End	04/08/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3060–AH18

4311. 1998 BIENNIAL REGULATORY REVIEW — REVIEW OF DEPRECIATION REQUIREMENTS FOR INCUMBENT LOCAL EXCHANGE CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 161; 47 USC 201 to 205; 47 USC 215; 47 USC 218; 47 USC 220(h); 47 USC 403

CFR Citation: 47 CFR 32.2000; 47 CFR 43.43

Legal Deadline: None

Abstract: In the Report and Order we streamline further our depreciation prescription process by permitting summary filings and eliminating the prescription of depreciation rates for incumbent local exchange carriers, provided that the carrier uses

depreciation factors that are within the ranges adopted by the Commission; expanding the prescribed range for the digital switching plant account; and eliminating theoretical reserve studies for mid-sized carriers. We also set forth conditions pursuant to which a waiver from the Commission's depreciation prescription process may be appropriate. In the Memorandum Opinion and Order, we deny United States Telephone Association's petition for forbearance of our depreciation prescription process. We find that the petition did not meet the three-prong forbearance test under section 10 of the Act (47 U.S.C. section 160).

In the Second Report and Order, we declined to adopt a proposal to relieve carriers of our depreciation requirements where carriers elect an above-the-line accounting treatment of the regulatory-to-financial book differential.

Timetable:

Action	Date	FR Cite
NPRM	10/14/98	63 FR 56900
NPRM Comment Period End	12/08/98	
FNPRM	04/03/00	65 FR 19725
R&O and MO&O	04/10/00	65 FR 18926
Second Report and Order	02/09/01	66 FR 9681

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3060–AH20

4312. COMPREHENSIVE REVIEW OF ACCOUNTING REQUIREMENTS AND ARMIS REPORTING REQUIREMENTS, PHASE 1

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 161; 47 USC 220

CFR Citation: 47 CFR 32.13; 47 CFR 32.25; 47 CFR 32.27; 47 CFR 32.903; 47 CFR 32.904; 47 CFR 32.2002; 47 CFR 32.2003; 47 CFR 32.5999

Legal Deadline: None

Abstract: This Report and Order streamlines the FCC's accounting and reporting requirements by (1) eliminating the USOA expense matrix; (2) reducing audit burdens on incumbent local exchange carriers; (3) adopting a de minimis exception to the affiliate transactions rules; (4) eliminating other accounting requirements; and (5) streamlining reporting requirements in the ARMIS 43-02 USOA Report.

Timetable:

Action	Date	FR Cite
NPRM	07/14/99	64 FR 44877
NPRM Comment Period End	09/09/99	
Report and Order	03/28/00	65 FR 16328

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3060–AH43

4313. LOCAL TELEPHONE NETWORKS THAT LECS MUST MAKE AVAILABLE TO COMPETITORS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 251

CFR Citation: 47 CFR 51 (Revision)

Legal Deadline: None

Abstract: This revises the rules applicable to incumbent local exchange carriers (LECs) to permit competitive carriers to access portions of the incumbent LECs' networks on an unbundled basis. Unbundling allows competitors to lease portions of the incumbent LECs' network to provide telecommunications services. These rule changes are intended to remove uncertainty regarding the incumbent LECs' unbundling obligations under the Telecommunications Act of 1996 and are expected to accelerate the development of local exchange competition.

On April 10, 2001, the Commission issued a Public Notice seeking comment on a Joint Petition filed by BellSouth, SBC, and Verizon asking the Commission to find that high-capacity loops and dedicated transport should not be subject to mandatory unbundling. The Commission issued Public Notices on April 23, 2001 and May 14, 2001 seeking additional comment.

Timetable:

Action	Date	FR Cite
Second Further NPRM	04/26/99	64 FR 20238
Fourth Further NPRM	01/14/00	65 FR 2367
Second Errata Third R&O and Fourth Further NPRM	01/18/00	65 FR 2542
Supplemental Order	01/18/00	65 FR 2542
Errata Third R&O and Fourth Further NPRM	01/18/00	65 FR 2542
Third R&O	01/18/00	65 FR 2542
Correction	04/11/00	65 FR 19334
Supplemental Order Clarification	06/20/00	65 FR 38214
Public Notice	02/01/01	66 FR 8555
Public Notice	03/05/01	66 FR 18279
Public Notice	04/10/01	
Public Notice	04/23/01	
Public Notice	05/14/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

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RIN: 3060–AH44

4314. 2000 BIENNIAL REGULATORY REVIEW — TELECOMMUNICATIONS SERVICE QUALITY REPORTING REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 201(b); 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 32; 47 CFR 32.11; 47 CFR 32.1220(h); 47 CFR 32.2311(f); 47 CFR 32.2003(b); 47 CFR 32.5280(c); 47 CFR 32.27(c); 47 CFR 64.903(a)

Legal Deadline: None

Abstract: This NPRM proposes to eliminate our current service quality

reports (ARMIS Report 43-05 and 43-06) and replace them with a more consumer-oriented report. The NPRM proposes to reduce the reporting categories from more than 30 to 6, and addresses the needs of carriers, consumers, state public utility commissions, and other interested parties.

Timetable:

Action	Date	FR Cite
NPRM	12/04/00	65 FR 75657
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AH72

4315. ACCESS CHARGE REFORM AND UNIVERSAL SERVICE REFORM

Priority: Economically Significant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 201 to 205; 47 USC 254; 47 USC 403

CFR Citation: 47 CFR 36; 47 CFR 54; 47 CFR 61; 47 CFR 64

Legal Deadline: None

Abstract: On January 25, 2001, the Commission published a Notice of Proposed Rulemaking (NPRM) seeking comment on a proposal filed by a Multi-Association Group (MAG). The MAG plan sets forth an interstate access reform and universal service support proposal for incumbent local exchange carriers subject to rate-of-return regulation (rate-of-return or non-price cap carriers). Among other things, the MAG plan proposes to reform the interstate access charge structure for non-price cap carriers, to establish explicit interstate access universal service support for non-price cap carriers that will be sustainable in an increasingly competitive marketplace, and to establish a new form of incentive regulation. The Notice asks whether the Commission should adopt the MAG plan in its entirety, as proposed by the MAG, or adopt or incorporate specific aspects of the MAG plan into other pending Commission proceedings. Comments on the Notice were received on February 26, 2001, and replied on March 12. The Commission's Order released May 23, 2001 adopting the Rural Task Force plan disposed of certain aspects of the MAG plan. A Further NPRM, published at the same time, sought comment on the receipt of high cost universal service support in competitive study areas.

Timetable:

Action	Date	FR Cite
NPRM	01/25/01	66 FR 7725
Report and Order	06/29/01	66 FR 34581
Further NPRM	06/29/01	66 FR 34603
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Scher, Attorney, Federal Communications Commission, Common Carrier Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-7400

RIN: 3060–AH74

4316. 2000 BIENNIAL REGULATORY REVIEW — COMPREHENSIVE REVIEW OF THE ACCOUNTING REQUIREMENTS AND ARMIS REPORTING REQUIREMENTS FOR INCUMBENT LOCAL EXCHANGE CARRIERS; PHASE 2 AND PHASE 3

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 161; 47 USC 201(b); 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 32.1 et seq

Legal Deadline: None

Abstract: This NPRM seeks comment on various measures to streamline existing accounting and ARMIS reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/13/00	65 FR 67675
NPRM Comment Period End	03/14/01	
Public Notice	06/26/01	66 FR 33938
Public Notice Comment Period End	07/26/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Timothy Peterson, Federal Communications Commission, Common Carrier Bureau, 445 12th Street, SW., Washington, DC 20554
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RIN: 3060–AH76

4317. COMPREHENSIVE REVIEW OF THE ACCOUNTING REQUIREMENTS AND ARMIS REPORTING REQUIREMENTS FOR INCUMBENT LOCAL EXCHANGE CARRIERS; PHASE 1

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 to 205; 47 USC 215; 47 USC 218 to 220

CFR Citation: 47 CFR 32.13; 47 CFR 32.25; 47 CFR 32.27; 47 CFR 32.2002; 47 CFR 32.2003; 47 CFR 32.5999; 47 CFR 64.903; 47 CFR 64.904

Legal Deadline: None

Abstract: This Report and Order eliminates the expense matrix filing requirement in Section 32.5999(f) of the Commission's rules, 47 CFR Section 32.5999(f), and eliminates or streamlines several other accounting requirements. In addition, this Report and Order eliminates several tables and reporting items from our ARMIS report 43-02.

Timetable:

Action	Date	FR Cite
NPRM	08/18/99	64 FR 44877
Report and Order	10/02/00	65 FR 58661
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3060–AH77

4318. • STREAMLINING PROCEDURES FOR COMMON CARRIER TRANSFERS OF CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 152; 47 USC 154(i); 47 USC 154(j); 47 USC 201; 47 USC 214; 47 USC 303(r)

CFR Citation: 47 CFR 63.01; 47 CFR 63.51; 47 CFR 63.52

Legal Deadline: None

Abstract: On July 20, 2001, the Commission adopted a Notice of Proposed Rulemaking in CC Docket No. 01-150 (FCC 01-205) (Merger Streamlining NPRM). The Commission proposes to streamline application procedures under 47 USC 214 for common carrier authorizations to acquire domestic transmission lines through acquisitions of corporate control. The Commission requests comments on the criteria it should adopt for deciding which applications would require little scrutiny to determine that they would serve the public interests.

Timetable:

Action	Date	FR Cite
NPRM	08/09/01	66 FR 41823

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH79

4319. • NUMBERING RESOURCE OPTIMIZATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 et seq.; 47 USC 251(e)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: In 1999, the Commission released the Numbering Resource Optimization Notice of Proposed Rulemaking (Notice) in CC Docket 99-200. The Notice examined and sought comment on several administrative and technical measures aimed at improving the efficiency with which telecommunications numbering resources are used and allocated. It incorporated input from the North American Numbering Council (NANC), a federal advisory committee, which advises the Commission on issues related to number administration.

In the Numbering Resource Optimization First Report and Order and Further Notice of Proposed Rulemaking (NRO First Report and Order), released on March 31, 2000, the Commission adopted a mandatory utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and incentives to use numbers efficiently. In addition, the Commission adopted a single system for allocating numbers in blocks of one thousand, rather than ten thousand, wherever possible, and established a plan for national rollout of thousands-block number pooling. The Commission also adopted numbering resource reclamation requirements to ensure that unused numbers are returned to the North American Numbering Plan (NANP) inventory for assignment to other carriers. Also, to encourage better management of numbering resources, carriers are required, to the extent possible, to first assign numbering resources within thousands blocks (a form of sequential numbering).

In the NRO Second Report and Order, the Commission adopted a measure that requires all carriers to use at least 60% of their numbering resources before they may get additional numbers in a particular area. That 60% utilization threshold increases to 75% over the next three years. The Commission also established a five-year term for the national Pooling Administrator and an auditing program to verify carrier compliance with the Commission's rules. Furthermore, the Commission addressed several issues raised in the Notice, concerning area code relief. Specifically, the Commission declined to amend the existing federal rules for area code relief or specify any new federal guidelines for the implementation of area code relief. The Commission also declined to state a preference for either all-services overlays or geographic splits as a method of area code relief. Regarding mandatory nationwide ten-digit dialing, the Commission declined to adopt this measure at the present time. Furthermore, the Commission declined to mandate nationwide expansion of the "D digit" (the "N" of an NXX or central office code) to include 0 or 1, or to grant state commissions the authority to implement the expansion of the D digit as a numbering resource optimization measure at the present time.

The measures adopted in the NRO orders will allow the Commission to monitor more closely the way numbering resources are used within the NANP, and will promote more efficient allocation and use of NANP resources by tying a carrier's ability to obtain numbering resources more closely to its actual need for numbers to serve its customers. These measures are designed to create national standards to optimize the use of numbering resources by: (1) minimizing the negative impact on consumers of premature area code exhausts; (2) ensuring sufficient access to numbering resources for all service providers to enter into or to compete in telecommunications markets; (3) avoiding premature exhaust of the NANP; (4) extending the life of the NANP; (5) imposing the least societal cost possible, and ensure competitive neutrality, while obtaining the highest benefit; (6) ensuring that no class of carrier or consumer is unduly favored or disfavored by the Commission's optimization efforts; and (7) minimizing the incentives for carriers to build and carry excessively large inventories of numbers.

Timetable:

Action	Date	FR Cite
NPRM	06/17/99	64 FR 32471
R&O and Further NPRM	06/16/00	65 FR 37703
Second R&O and Second Further NPRM	02/08/01	66 FR 9528

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

FCC—Common Carrier Bureau — **Long-Term Actions**

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 3060–AH80

Federal Communications Commission (FCC)
Common Carrier Bureau — **Completed Actions**

4320. POLICY AND RULES CONCERNING THE INTERSTATE, INTEREXCHANGE MARKETPLACE; IMPLEMENTATION OF SECTION 254(G) OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 to 205; 47 USC 214(e); 47 USC 215; 47 USC 218; 47 USC 220

CFR Citation: 47 CFR 61; 47 CFR 64.702(e)

Legal Deadline: None

Abstract: On March 25, 1996, the Commission released an NPRM seeking comment on its proposal that nondominant interexchange carriers should no longer file tariffs. On October 29, 1996, the Commission adopted the Second Report and Order in which it determined that the statutory forbearance criteria in section 10 of the Communications Act were met for complete detariffing of the interstate, domestic, interexchange services offered by nondominant interexchange carriers. The Commission determined that such carriers would no longer be allowed to file tariffs pursuant to section 203 of the Communications Act for such services, with limited exceptions. The Commission maintained the tariffing requirement for the international portion of bundled domestic and international service offerings. It further required nondominant interexchange carriers to: (1) file an annual certification stating that they are in compliance with the requirements of section 254(g); (2) maintain supporting documentation on the rates, terms, and conditions of their interstate, domestic, interexchange services that they could submit to the Commission within ten business days upon request; and (3) make publicly available information concerning current rates, terms, and conditions for all of their interstate, domestic interexchange services. Several parties appealed, requesting a stay of the Second Report and Order pending review by the D.C. Circuit. On February 13, 1997, the D.C. Circuit granted certain motions, including a motion for a stay of the Commission's detariffing order. The result was that nondominant interexchange carriers were required to file tariffs for their interstate, domestic, interexchange service. On August 20, 1997, the Commission released an Order on Reconsideration in which it modified the Second Report and Order by: (1) adopting permissive detariffing for interstate, domestic, interexchange direct-dial services to which end users obtain access by dialing an access code; (2) adopting permissive detariffing for the first 45 days of service to new customers that contact the local exchange carrier to choose their primary interexchange carrier; and (3) eliminating the requirement that nondominant interexchange carriers make publicly available information concerning current rates and terms for most interstate, domestic interexchange services.

In the Second Order on Reconsideration, the Commission considered again whether nondominant interexchange carriers (IXCs) should be required to make available to the public information concerning the rates, terms and conditions for all their interstate, domestic, interexchange services. Like other common carriers, IXCs historically have been required to file tariffs with the appropriate regulatory body (this Commission, in the case of interstate services) establishing the rates, terms, and conditions of service. The tariff does not simply serve as a public source of such information; under the judicially created "filed-rate" doctrine, the tariffed rate for a service is the only lawful rate that the carrier may charge for that service. Even if a carrier intentionally misrepresents its rate and a customer relies on the misrepresentation, the carrier cannot be held to the promised rate if it conflicts with the tariffed rate. When a single carrier dominated the interstate interexchange market, tariffing was an effective tool for ensuring compliance with various common carrier requirements, including rules that require nondiscrimination among customers.

On April 28, 2000, the Court of Appeals upheld the Commission's orders requiring detariffing of domestic, interexchange services and lifted the stay on May 1, 2000. The Common Carrier Bureau issued a Public Notice on May 9, 2000 requesting comment on the nine-month transition plan set out in the Second Report and Order. The Bureau requested comment on (1) whether permissive detariffing should be permitted during all or part of the nine-month transition period for bundled domestic and international service offerings; (2) how quickly the IXCs can come into full compliance with the Web posting requirement; and (3) whether any other modifications should be made to the transition plan. Comments were filed on May 31, 2000, and reply comments were filed on June 9, 2000.

By Public Notice dated November 6, 2000, the Common Carrier Bureau extended the transition period until April 30, 2001, for mass market consumer services only. On November 17, 2000, the Common Carrier Bureau issued an Order that addressed the comments filed in response to the May 9, 2000 Public Notice. Specifically, the bureau addressed issues relating to the transition period, public disclosure, and certification requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14717
R&O	08/16/96	61 FR 42558
2nd R&O	11/22/96	61 FR 59340
Order on Reconsideration	11/04/97	62 FR 59583
Second Order on Reconsideration	04/22/99	64 FR 19722
Public Notice	05/09/00	
Public Notice	11/06/00	
Order	11/17/00	

Action	Date	FR Cite
Public Notice	02/05/01	
Public Notice	02/21/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG45

4321. ADMINISTRATION OF THE NORTH AMERICAN NUMBERING PLAN, CARRIER IDENTIFICATION CODES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201 to 205; 47 USC 251(e)

CFR Citation: None

Legal Deadline: None

Abstract: In 1994, the FCC released a Notice of Proposed Rulemaking (NPRM) in CC Docket No. 92-237 addressing various issues relating to NANP administration, including carrier identification codes (CICs). On April 30, 1996, the FCC issued a Public Notice to refresh the record in this Docket. On April 11, 1997, the FCC released a Second Report and Order affirming its tentative conclusion in the NPRM of the industry's plan to convert 3-digit Feature Group D (FGD) Carrier Identification Codes (CICs) to 4-digit. On October 9, 1997, the FCC released the CICs' Further Notice of Proposed Rulemaking seeking comments on the definition of "entity" used to determine who may receive a CIC, and on CIC conservation issues. On October 22, 1997, the Commission released CIC's Order on Reconsideration, Order on Application For Review, and Second FNPRM. The Order on Application For Review denied VarTec Telecom Inc.'s Application for Review of the Common Carrier Bureau's (CCB's) decision to deny VarTec's Motion for Stay of the CIC's Second Report and Order. The Second Further Notice of Proposed Rulemaking tentatively concludes that eventually all Local Exchange Carriers (LEC) end offices should be required to provide equal access. In December 1997 and January 1998, the CCB's Network Service Division released five Orders addressing petitions for waiver filed by small LECs, requesting extension of the January 1, 1998 deadline for conversion of switches to 4-digit. On January 28, 1998, the Network Services Division released an Order addressing a petition filed by a LEC seeking a waiver of 5-digit CIC dialing during the permissive dialing period. The last waiver of the permissive dialing period, where users could use either 5 or 7 digit carrier access code dialing, ended successfully on December 31, 1999. Several petitions were received in the first half of calendar year 2000 that may require the issuance of a Public Notice to refresh the record of the FNPRM.

Timetable:

Action	Date	FR Cite
Second R&O	04/18/97	62 FR 19056
FNPRM	10/22/97	62 FR 54817
Order on Recon	10/28/97	62 FR 55762

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG61

4322. 1998 BIENNIAL REGULATORY REVIEW — REVIEW OF CUSTOMER PREMISES EQUIPMENT AND ENHANCED SERVICES UNBUNDLING RULES IN THE INTEREXCHANGE, EXCHANGE ACCESS AND LOCAL EXCHANGE MARKETS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 160; 47 USC 161; 47 USC 201 to 205; 47 USC 215; 47 USC 218; 47 USC 220

CFR Citation: 47 CFR 64.702(e)

Legal Deadline: None

Abstract: This Further Notice of Proposed Rulemaking examined the need for certain restrictions on a common carrier's ability to bundle customer premises equipment (CPE) enhanced services and regulated telecommunications services.

On March 30, 2001, the Commission released a Report and Order eliminating the Computer II restriction on the ability of all common carriers, both dominant and non-dominant, to offer consumers bundled packages of telecommunications services and CPE. The Commission found that consumers can benefit significantly by relying on the competitive markets that exist for the components contained in a bundle, and that carriers in all markets demonstrated a desire to compete for customers through bundled services offerings. Although the local exchange market is not substantially competitive and there are some risks associated with allowing incumbent local exchange carriers (LECs) to bundle CPE with local service, the Commission found that is appropriate to grant incumbent LECs the same relief for CPE bundling as it granted to nondominant carriers. The Commission based this finding on the 1996 Act's elimination of barriers to entry into the local market, increasing competition for local exchange service, and the increased subscribership and other benefits associated with cellular service that occurred after the Commission removed CPE bundling restrictions for that service in 1992.

For enhanced services, the Commission did not eliminate the Computer II bundling requirement that facilities-based carriers offer the underlying transmission service used to provide an enhanced service separately and on non-discriminatory terms. It clarified, however, that this requirement does not prohibit carriers from offering a package of enhanced services and telecommunications service at a single price as long as they make the transmission service component separately available. As a result of this finding, internet service providers and other enhanced service providers will continue to have access to the critical input that they need from incumbent LECs and other carriers to compete in the enhanced services market.

Timetable:

Action	Date	FR Cite
NPRM	10/23/98	63 FR 56892
R&O	04/16/01	66 FR 19398

Regulatory Flexibility Analysis Required: Yes

FCC—Common Carrier Bureau — **Completed Actions**

Small Entities Affected: Businesses
Government Levels Affected: None
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RIN: 3060–AH73

Federal Communications Commission (FCC) — **Long-Term Actions**
Consumer Information Bureau

4323. IMPLEMENTATION OF SECTION 255 AND SECTION 251(A)(2) OF THE TELECOMMUNICATIONS ACT OF 1996; ACCESS TO TELECOMMUNICATIONS SERVICES EQUIPMENT AND CUSTOMER PREMISE EQUIPMENT FOR PERSONS WITH DISABILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
Legal Authority: 47 USC 255
CFR Citation: 47 CFR 6; 47 CFR 7
Legal Deadline: None
Abstract: This proceeding is initiated to implement the provisions of sections 251(a)(2) and 255 of the Communications Act and related sections of the Telecommunications Act of 1996 regarding the accessibility of telecommunications equipment and services to persons with disabilities.

Timetable:

Action	Date	FR Cite
NOI	09/26/96	61 FR 50465
NPRM	05/22/98	63 FR 28456
NPRM Comment Period End	08/14/98	
Report & Order	11/19/99	64 FR 63235
Further NOI	11/19/99	64 FR 63277
Further NOI Comment Period End	12/14/99	
Public Notice	07/13/00	65 FR 43372
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes
Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations
Government Levels Affected: State, Local, Federal
Additional Information: Additional Bureau: Common Carrier
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RIN: 3060–AG58

Federal Communications Commission (FCC) — **Completed Actions**
Consumer Information Bureau

4324. INTERNET TELEPHONY REPORT

Timetable:

Action	Date	FR Cite
Duplicate of RIN 3060-AG58	09/17/01	

RIN: 3060–AH56

Federal Communications Commission (FCC) — **Long-Term Actions**
Enforcement Bureau

4325. IN THE MATTER OF AMENDMENT OF PART 73, SUBPART G, OF THE COMMISSION'S RULES REGARDING THE EMERGENCY ALERT SYSTEM

Priority: Substantive, Nonsignificant
Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 544; 47 USC 606
CFR Citation: 47 CFR 11; 47 CFR 73; 47 CFR 76
Legal Deadline: None
Abstract: The Commission adopted new rules to replace the old Emergency Broadcast System (EBS) with a new Emergency Alert System (EAS), in order to alert the public in the event of a national emergency. The Report and Order requires broadcast stations and cable TV systems to participate in the EAS and streamlines operational procedures for system participants. The new rules prescribe how existing communications services such as broadcasting, cable, and other public service providers will function under the technical standards and operational procedures of the new system. It also removed the old part of the Commission's rules concerning EBS in its entirety and incorporated the new EAS rules in a new part of the Code of Federal Regulations.

The Commission issued a Further Notice of Proposed Rulemaking (NPRM) seeking comments regarding whether the Multipoint Distribution Service (MDS), Satellite Master Antenna TV (SMATV) system, and Video Dial Tone should also be required to participate

FCC—Enforcement Bureau — Long-Term Actions

in EAS. It also sought comments on several cable issues such as whether a defined class of small cable systems should be exempted from participation in EAS, and how the Commission should define small cable systems. The Commission subsequently adopted a Second Report and Order to (1) modify EAS as it applied to cable systems; (2) address whether other video providers should be required to participate in the system; and (3) adopt rules to address issues of concern to persons with hearing disabilities.

In response to concerns that voluntary EAS activations could interrupt the transmission of emergency programming by local broadcast stations, the Commission issued a Second Further NPRM requesting comment on whether it should adopt rules to prohibit cable systems from transmitting EAS alerts for state or local emergencies during the broadcast of emergency programming by a broadcast station. In the Third Report and Order, the Commission amended its rules to permit cable systems and broadcast systems to enter into voluntary agreements regarding the transmission of local emergency information. The Commission, however, declined to adopt rules requiring cable systems to prevent the interruption of local broadcast station emergency programming. In April 2000, the Commission issued an order in which it deleted obsolete rules or rules that were no longer needed.

In March 2001, the Commission issued an NPRM proposing various revisions to the EAS rules and seeking comment on requests for rule changes filed by the National Weather Service and the Society of Broadcast Engineers.

Timetable:

Action	Date	FR Cite
NPRM	10/09/91	
NPRM/FNPRM	09/17/92	57 FR 53874
R&O	12/28/94	59 FR 67090
FNPRM	12/28/94	59 FR 67104
MO&O	11/06/95	60 FR 55996
Second FNPRM	03/04/98	63 FR 15806
Second R&O	09/24/98	63 FR 29660
Third R&O	02/08/99	64 FR 5950
Order	04/24/00	65 FR 21657
NPRM	03/20/01	66 FR 16897

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

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RIN: 3060–AF21

Federal Communications Commission (FCC)
Enforcement Bureau — Completed Actions

4326. AMENDMENT OF RULES GOVERNING PROCEDURES TO BE FOLLOWED WHEN FORMAL COMPLAINTS ARE FILED AGAINST COMMON CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201; 47 USC 208; 47 USC 260; 47 USC 271; 47 USC 274; 47 USC 275

CFR Citation: 47 CFR 0.291; 47 CFR 1.47; 47 CFR 1.720 to 1.736

Legal Deadline: None

Abstract: In this final proceeding the FCC revised and clarified the procedural rules governing the filing of formal complaints with the FCC. We further responded to and denied petitions for reconsideration, challenging the new procedures. See Order on Reconsideration, 16 FCC Rcd 5681 released March 7, 2001. The objective of the Order focused on promoting settlement efforts, enhancing the contents of pleadings, and streamlining complaint procedures generally. The rule amendments (1) require parties to engage in certain pre-filing activities, including settlement discussions and information exchange; (2) created an additional recipient for service of process of formal complaints on carriers; (3) improved the format and content of pleadings; and (4) streamlined the discovery process. In July, the FCC released an announcement indicating the effective date for the rules as July 5, 2001.

Timetable:

Action	Date	FR Cite
NPRM	12/26/96	61 FR 67978
Report & Order	01/07/98	63 FR 990
Second Report & Order	08/04/98	63 FR 41433
Order on Reconsideration	03/27/01	66 FR 16611
Final Rule, Announcement of Effective Date	07/05/01	66 FR 35387

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

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RIN: 3060–AG65

Federal Communications Commission (FCC)
Office of Engineering and Technology

Long-Term Actions

4327. WIND PROFILER RADAR SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Amendment of section 2.106 of the Commission's Rules to allocate spectrum for Wind Profiler Systems. Allocation of this spectrum for wind profilers will facilitate the automated collection of weather information, including data on severe storms that threaten life or property that is not obtainable in any other manner.

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	58 FR 19644

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: ET Docket No. 93-59

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RIN: 3060–AF45

4328. MILLIMETER WAVE SPECTRUM ALLOCATION

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 4; 47 USC 154; 47 USC 154(i); 47 USC 302; 47 USC 303; 47 USC 303(r); 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 15; 47 CFR 21

Legal Deadline: None

Abstract: The millimeter wave spectrum allocation proceeding began in October 1994 with the adoption of the first Notice of Proposed Rulemaking (NPRM). The purpose of the proceeding was to open the radio frequency spectrum above 40 GHz for commercial development. Millimeter wave technology is expected to support many short-range applications that require very high bandwidth, such as educational and medical applications, wireless access to libraries or other information databases, and automotive vehicle radar systems for collision avoidance. The Commission has allocated this spectrum for licensed services and unlicensed uses. The Third Report and Order adopted rules that will encourage the commercial development and use of millimeter wave frequencies above 40 GHz, and adopted rules to establish a spectrum etiquette for unlicensed operation in the 59-64 GHz band.

A Public Notice was issued to solicit comments from interested parties regarding harmonizing U.S. and European spectrum allocations above 40 GHz.

Timetable:

Action	Date	FR Cite
NPRM	11/08/94	59 FR 61304
Public Notice	06/23/95	60 FR 35166
2nd NPRM	03/29/96	61 FR 14041
1st R&O	04/02/96	61 FR 14500
Comment Period End	05/28/96	
Reply Comments	06/27/96	
2nd R&O	08/02/97	62 FR 43116
MO&O	08/27/97	62 FR 45330
4th NPRM	08/27/97	62 FR 45380
Public Notice on Recon	10/02/97	62 FR 51661
3rd R&O	08/07/98	63 FR 42276
3rd MO&O	06/21/00	65 FR 38431

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 94-124; Additional Bureaus: Wireless Telecommunications.

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RIN: 3060–AF61

4329. MSS SPECTRUM ALLOCATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 304

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: The Second Report and Order finalized the reallocation of the 1990-2025 MHz band from Broadcast Auxiliary Service, including the Cable Television Relay Service and the Local Television Transmission Service, licensees to the new Mobile-Satellite Service (MSS), and established rules for the relocation of incumbent licensees from the 1990-2110 MHz band as well as incumbent Fixed Service (FS) microwave licensees from the 2165-2200 MHz bands, in cases where sharing between MSS and FS is not possible. The Second Memorandum Opinion and Order confirmed the Commission's decision to require new MSS licensees to bear the cost of relocating incumbent licensees in these bands.

Timetable:

Action	Date	FR Cite
NPRM	01/31/95	60 FR 11644
Order	03/08/95	60 FR 13687
1st R&O	04/22/97	62 FR 19509
R&O and FNPRM	04/22/97	62 FR 19538
MO&O	12/17/98	63 FR 69606
2nd R&O and 2nd MO&O	08/07/00	65 FR 48174

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Docket No. 95-18

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RIN: 3060–AF75

4330. UNLICENSED NATIONAL INFORMATION INFRASTRUCTURE AT 5 GHZ

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 15

Legal Deadline: None

Abstract: The MO&O amends the rules to permit fixed, point to point unlicensed National Information Infrastructure (U-NII) devices in the 5.725-5.285 GHz band to operate with one-watt maximum transmitter output power and directional antennas of up to 23 db:gain. It clarifies the rules regarding unwanted emissions and specifies these limits in terms of absolute radiated power levels. These actions will add to the flexibility and capability of U-NII operations without causing an increase in harmful interference to incumbent operations sharing the same spectrum.

Timetable:

Action	Date	FR Cite
NPRM	05/06/96	61 FR 24749
R&O	01/31/97	62 FR 4649
Public Notice	03/17/97	62 FR 12641
MO&O	07/31/98	63 FR 40831
Petition for Reconsideration	09/18/98	63 FR 49913

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: RM-8468 and RM-8653; ET Docket No. 96-102

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RIN: 3060–AG19

4331. ALLOCATION OF 455-456 MHZ AND 459-460 MHZ

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 25

Legal Deadline: None

Abstract: The FCC proposes to amend its rules to allocate the 455-456 MHz and 459-460 MHz bands to the Mobile Satellite Services (Earth-to-Space) (MSS Uplinks) on a primary basis for non-voice, non-geostationary satellite services (NVNG MSS).

Timetable:

Action	Date	FR Cite
NPRM	10/31/97	62 FR 58932
NPRM Comment Period End	11/30/97	
Reply Comment Period End	12/15/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: ET Docket No. 97-214

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RIN: 3060–AG89

4332. DEDICATED SHORT RANGE COMMUNICATIONS OF INTELLIGENT TRANSPORTATION SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 157; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 90

Legal Deadline: None

Abstract: The FCC proposes to allocate 75 megahertz of spectrum for use by Dedicated Short Range Communications (DSRC) of Intelligent Transportation Systems (ITS). DSRC systems are being designed that require a short range, wireless link to transfer information between vehicles and roadside systems. ITS services are expected to improve traveler safety, decrease traffic congestion, and facilitate reduction of air pollution and conservation of fossil fuels. This action furthers the goal of the U.S. Congress, the Department of Transportation, and the ITS industry to improve the efficiency of the Nation's transportation infrastructure and facilitate the growth of the ITS industry.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 35558
NPRM Comment Period End	09/14/98	
Reply Comment Period End	10/31/98	
R&O	11/26/99	64 FR 66405
Petition for Reconsideration	02/16/00	65 FR 7873

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: ET Docket No. 98-95

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RIN: 3060–AG94

4333. REGULATIONS FOR RF LIGHTING DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 18

Legal Deadline: None

Abstract: The FCC proposed to update the regulations for RF lighting devices. This action was taken in response to new developments in RF lighting technology. Recent developments and advances in microwave RF lighting technology offer potential economic and environmental benefits for consumers and industry. The current FCC rules do not easily accommodate these advancements, and thus hinder the further development and implementation of these promising new products.

Timetable:

Action	Date	FR Cite
ANPRM	04/24/98	63 FR 20362
First Report & Order	07/12/99	64 FR 37417

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

FCC—Office of Engineering and Technology

Long-Term Actions

Government Levels Affected: None

Additional Information: ET Docket No. 98-42

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RIN: 3060–AG95

4334. EQUIPMENT AUTHORIZATION STREAMLINE II/MUTUAL RECOGNITION AGREEMENTS AND THE GMPCS MOU

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 25; 47 CFR 68

Legal Deadline: None

Abstract: The Commission proposes to amend the rules to provide the option of private sector approval of equipment that currently requires an approval by the Commission. It also proposes rule changes to implement a mutual recognition agreement (MRA) for product approvals with the European Community (EC) and to allow for similar agreements with other foreign trade parties. These actions are intended to eliminate the need for manufacturers to wait for approval from the FCC before marketing equipment in the United States, thereby reducing the time needed to bring a product to market.

Timetable:

Action	Date	FR Cite
NPRM	06/10/98	63 FR 31685
R&O	02/02/99	64 FR 4984
Petition for Reconsideration	04/01/99	64 FR 15755
MO&O	05/18/01	66 FR 27600

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: GEN Docket No. 98-68

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RIN: 3060–AG96

4335. UNIDEN SCANNERS/CELLULAR RADIO SIGNALS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 15

Legal Deadline: None

Abstract: The FCC proposes to amend the rules to further prevent scanning receivers from receiving radio telephone calls.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/98	63 FR 31684
Report & Order	04/27/99	64 FR 22559
Petition for Reconsideration	08/10/99	64 FR 43383
MO&O	06/15/01	66 FR 32580

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-76

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RIN: 3060–AG97

4336. INDUSTRY COORDINATION COMMITTEE SYSTEM FOR BROADCAST DIGITAL TELEVISION SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 307; 47 USC 336

CFR Citation: 47 CFR 73; 47 CFR 74

Legal Deadline: None

Abstract: We seek comment on the establishment of an industry coordination committee to assist the Commission in the implementation of digital television (DTV) service. This committee system would evaluate proposed changes to the DTV Table of Allotments and perform other related functions.

Timetable:

Action	Date	FR Cite
NPRM	02/09/99	64 FR 6296
NPRM Comment Period End	03/29/99	
Reply Comment Period End	04/28/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Docket No. 99-34

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RIN: 3060–AH13

4337. 3650-3700 GOVERNMENT TRANSFER BAND

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 157(a); 47 USC 303(c); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r)

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: The First Report and Order allocated 50 MHz of spectrum on the 3650-3700 MHz band to the fixed and mobile (base stations) terrestrial services on a primary basis. It also ensures the continuity of fixed satellite service (FSS) operations and permits new FSS operations to help alleviate congestion in the adjacent 3700-4200 MHz FSS band.

The Second Notice of Proposed Rule Making proposes to establish licensing and service rules for the assignment of fixed and mobile services licenses in the 3650-3700 MHz band. It also seeks comments on whether technical requirements or other reasons justify licensing the 3650-3700 MHz and the 4940-4990 MHz band at the same time.

FCC—Office of Engineering and Technology **Long-Term Actions**

Timetable:

Action	Date	FR Cite
NPRM	01/14/99	64 FR 2462
NPRM Comment Period End	03/01/99	
1st R&O	11/17/00	65 FR 69454
2nd NPRM	11/17/00	65 FR 69612
Petition for Reconsideration	03/28/01	66 FR 16940

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-237

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RIN: 3060–AH14

4338. CERTIFICATION OF EQUIPMENT IN THE 24.05-24.25 GHZ BAND AT FIELD STRENGTHS UP TO 2500 MV/M

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: The Commission proposes to amend part 15 of its rules to allow the operation of fixed point-to-point transmitters in the 24.05-24.25 GHz band at field strength of up to 2500 mV/m.

Timetable:

Action	Date	FR Cite
NPRM	09/21/98	63 FR 50185
NPRM Comment Period End	01/04/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-156

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RIN: 3060–AH16

4339. FIXED SATELLITE SERVICE AND TERRESTRIAL SYSTEM IN THE KU-BAND

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 157; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 25

Legal Deadline: None

Abstract: The Report and Order in this proceeding permits non-geostationary satellite orbit (NGSO) fixed-satellite service (FSS) providers to operate in certain segments of the Ku-band, and it adopted rules and policies to govern such operations. NGSO FSS can provide a variety of new services to the public, such as high speed Internet access, plus other types of high speed data, video and telephony services. NGSO FSS can bring advanced services to rural areas. We also conclude that a new terrestrial fixed Multichannel Video Distribution and Data Service can share the 12.2-12.7 GHz band with satellite operations without causing harmful interference.

Timetable:

Action	Date	FR Cite
NPRM	01/12/99	64 FR 1786
Order	02/16/99	64 FR 7577
Public Notice	12/15/99	64 FR 70028
FNPRM	01/24/01	66 FR 7607
R&O	02/16/01	66 FR 10601
Petitions for Reconsideration	04/09/01	66 FR 18474

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-206

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RIN: 3060–AH17

4340. SPREAD SPECTRUM DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: The Commission amended part 15 of the rules regarding the operation of non-licensed spread spectrum systems. The Commission revised the rules for frequency hopping systems operating in the 2.4 GHz band (2400-2483.5 MHz) to allow for hopping channels up to 5 MHz wide. This action was taken to facilitate the continued development of spread spectrum technology, particularly for high data rate wireless applications, such as wireless computer local area networks and wireless cable modems.

Timetable:

Action	Date	FR Cite
NPRM	07/20/99	64 FR 38877
NPRM Comment Period End	11/02/99	
R&O	09/25/00	65 FR 57557
Petition for Reconsideration	11/08/00	65 FR 67009
Order	06/12/01	66 FR 31556
FNPRM	06/12/01	66 FR 31585

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: ET Docket No. 99-231

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RIN: 3060–AH25

4341. WIRELESS MEDICAL TELEMETRY SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304

CFR Citation: 47 CFR 2; 47 CFR 15; 47 CFR 90; 47 CFR 95

Legal Deadline: None

FCC—Office of Engineering and Technology

Long-Term Actions

Abstract: The Commission amended parts 2 and 95 of the rules to allocate spectrum and to establish rules for a Wireless Medical Telemetry Service. This action will allow potentially life critical medical telemetry equipment, which currently operates on a secondary basis, unprotected from interference, to operate on a blanket licensed, interference protected basis.

Timetable:

Action	Date	FR Cite
NPRM	08/02/99	64 FR 41891
NPRM Comment Period End	10/18/99	
R&O	07/17/00	65 FR 43995

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: ET Docket No. 99-255

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RIN: 3060–AH27

4342. ESTABLISHMENT OF AN IMPROVED MODEL FOR PREDICTING THE BROADCAST TELEVISION FIELD STRENGTH RECEIVED AT INDIVIDUAL LOCATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 334; 47 USC 336

CFR Citation: 47 CFR 73

Legal Deadline: Final, Statutory, May 29, 2000.

Abstract: The Commission adopted a prediction model for determining presumptively the ability of individual locations to receive over the air television stations. This model will be a useful means for establishing the eligibility of individual households to receive the signals of television broadcast network stations through satellite carriers. The Commission is complying with the new statutory requirements set forth in the Satellite Home Viewer Improvement Act of 1999.

Timetable:

Action	Date	FR Cite
NPRM	02/02/00	65 FR 4923
NPRM Comment Period End	03/07/00	
R&O	06/09/00	65 FR 36639
Petition for Reconsideration	07/31/00	65 FR 46713

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: ET Docket No. 00-11

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RIN: 3060–AH37

4343. CONDUCTED EMISSION LIMITS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307; 47 USC 544A

CFR Citation: 47 CFR 15; 47 CFR 18

Legal Deadline: None

Abstract: The Commission proposes to revise the limits on the amount of radio frequency energy that is permitted to be conducted onto the AC power lines. The purpose of these limits is to protect radio services operating below 30 MHz from interference. The devices regulated are personal computers, TV and FM receivers, RF lighting devices, microwave ovens, induction cooking ranges, and ultrasonic equipment.

Timetable:

Action	Date	FR Cite
NPRM	11/16/99	64 FR 62159
NPRM Comment Period End	02/29/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Docket No. 98-80

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RIN: 3060–AH46

4344. REVISION OF THE RULES REGARDING ULTRA-WIDEBAND TRANSMISSION

Priority: Economically Significant

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307; 47 USC 544A

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: The Commission proposed regulations that would permit the operation of ultra-wideband radio systems on an unlicensed basis under the Commission's rules.

Timetable:

Action	Date	FR Cite
NPRM	06/14/00	65 FR 37332
NPRM Comment Period End	10/12/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Docket No. 98-153

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RIN: 3060–AH47

4345. SOFTWARE DEFINED RADIO AUTHORIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 155; 47 USC 225; 47 USC 303(r); 47 USC 309

CFR Citation: 47 CFR 1; 47 CFR 2

Legal Deadline: None

Abstract: The NPRM proposes to streamline the equipment authorization procedures for software defined radios. We propose to define software defined

radios as a new class of equipment with equipment authorization rules that reflect the additional flexibility incorporated into such radios. The frequency and technology agility of software defined radios could increase the use of presently underutilized frequency bands.

Timetable:

Action	Date	FR Cite
NPRM	01/03/01	66 FR 341
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 00-47

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RIN: 3060–AH64

4346. NEW ADVANCED WIRELESS SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 157(a); 47 USC 303(c); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r)

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: This proceeding explores the possible uses of frequency bands below 3 GHz to support the introduction of new advanced wireless services, including third generations as well as future generations of wireless systems. Advanced wireless systems could provide for a wide range of voice data and broadband services over a variety of mobile and fixed networks.

Timetable:

Action	Date	FR Cite
NPRM	01/23/01	66 FR 7438
NPRM Comment Period End	03/09/01	
Final Report	04/11/01	66 FR 18740
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 00-258

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RIN: 3060–AH65

4347. REALLOCATION OF 27 MHZ SPECTRUM

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303(a); 47 USC 336

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: The NPRM proposes to reallocate a total of 27 MHz of spectrum, transferred from Federal Government use, for non-Government services pursuant to the Omnibus Budget Act of 1977. The transfer of these bands to non-Government use should enable the development of new technologies and services, provide additional spectrum relief for congested private land mobile frequencies, and fulfill our obligation as mandated by Congress to assign this spectrum for non-Government use.

Timetable:

Action	Date	FR Cite
NPRM	01/23/01	66 FR 7443
NPRM Comment Period End	03/26/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: ET Docket No. 00-221

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RIN: 3060–AH66

4348. • REVISIONS TO BROADCAST AUXILIARY SERVICE RULES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 302; 47 USC 303(f); 47 USC 303(r); 47 USC 332; 47 USC 337

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 73; 47 CFR 74; 47 CFR 78

Legal Deadline: None

Abstract: The Notice of Proposed Rule Making conducts an extensive review of the Broadcast Auxiliary Services (BAS) rules and proposes changes to create a more efficient BAS that can readily adapt to regulatory and technological changes. The Commission examines the relationship between BAS, the Cable Television Relay Service (CARS), and the Fixed Microwave Television Service. The Commission also examines the use of wireless assist video devices (WAVDs) on unused television channels.

Timetable:

Action	Date	FR Cite
NPRM	05/24/01	66 FR 28686
NPRM Comment Period End	07/23/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: ET Docket No. 01-75

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RIN: 3060–AH78

Federal Communications Commission (FCC)
Office of Engineering and Technology
Completed Actions

4349. RADIONAVIGATION SERVICE AT 31.8-32.2 GHZ

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 87

Legal Deadline: None

Abstract: The Commission amended parts 2 and 87 of the Commission's rules in order to delete the unused non-Government radionavigation service allocation at 31.8-32.3 GHz and to also remove this frequency segment from the list of available frequencies set forth in the rules for the Aviation Services. This action will obviate concerns for interference to the reception of deep space radio communications in the band 31.8-32.3 GHz from co-channel, non-Federal Government radionavigation transmissions that could otherwise occur in the future.

Timetable:

Action	Date	FR Cite
NPRM	11/30/98	63 FR 65726
NPRM Comment Period End	01/04/99	
R&O	10/10/00	65 FR 60108

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: ET Docket No. 98-197

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RIN: 3060–AH15

4350. CLOSED CAPTIONING FOR DTV RECEIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 303(u); 47 USC 330(b)

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: The Commission amended part 15 of the rules to adopt technical standards for the display of closed captions on digital television (DTV) receivers. We also require the inclusion of closed captioning decoder circuitry in DTV receivers. The requirements will help ensure access to digital programming for people with disabilities. This action is taken to fulfill the Commission's obligations contained in the Television Decoder Circuitry Act of 1990.

Timetable:

Action	Date	FR Cite
NPRM	08/02/99	64 FR 41897
NPRM Comment Period End	11/15/99	
R&O	09/29/00	65 FR 58467

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: ET Docket No. 99-254

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RIN: 3060–AH24

4351. 50-71 GHZ REALIGNMENT

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 307

CFR Citation: 47 CFR 2.106

Legal Deadline: None

Abstract: The Report and Order in this proceeding realigned allocations in the 50.2-50.4 GHz and 51.4-71 GHz frequency bands. The realignment of allocations will meet current demands for spectrum in this frequency range and is consistent with the international allocation changes the United States sought and obtained at the 1997 World Radiocommunication Conference.

Timetable:

Action	Date	FR Cite
NPRM	08/11/99	64 FR 43643
NPRM Comment Period End	09/22/99	
R&O	01/23/01	66 FR 7402

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: ET Docket No. 99-261

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RIN: 3060–AH26

Federal Communications Commission (FCC)
Office of General Counsel
Long-Term Actions

4352. AMENDMENT OF THE EX PARTE RULES IN JOINT BOARD PROCEEDINGS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 1.1206

Legal Deadline: None

Abstract: The FCC proposes to amend its ex parte rules to facilitate communications by the states in Joint Board proceedings and proceedings before the FCC involving a recommendation from a Joint Board.

Timetable:

Action	Date	FR Cite
NPRM	07/15/98	63 FR 38142
NPRM Comment Period End	08/31/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

FCC—Office of General Counsel **Long-Term Actions**

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RIN: 3060–AH02

4353. AMENDMENT OF SECTION 1.1204 OF THE COMMISSION'S EX PARTE RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 309

CFR Citation: 47 CFR 1.1204

Legal Deadline: None

Abstract: The Commission proposes to amend its regulations specifying presentations that are treated as exempt under the ex parte rules. Under the current rule, presentations to or from the Department of Justice and the Federal Trade Commission regarding telecommunications competition matters are treated as exempt. The item would expand the scope of the exemption to include the Competition Directorate of the European Commission and other international and foreign bodies with analogous functions. The item would clarify that the term "telecommunications competition matters" in the existing rules was intended to be construed broadly and was not limited to common carriers.

Timetable:

Action	Date	FR Cite
NPRM	12/26/00	65 FR 81474
NPRM Comment Period End	02/09/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3060–AH58

Federal Communications Commission (FCC)
International Bureau **Long-Term Actions**

4354. STREAMLINING THE COMMISSION'S RULES AND REGULATIONS FOR SATELLITE APPLICATION AND LICENSING PROCEDURES; IB DOCKET NO. 95-117

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 4; 47 USC 154; 47 USC 303; 47 USC 554; 47 USC 701 to 744

CFR Citation: 47 CFR 25

Legal Deadline: None

Abstract: On February 10, 1997, the FCC adopted rules and policies that streamlined the application and licensing requirements of part 25 of its rules, which deals with communication satellites and earth stations. The streamlined rules waived the construction permit requirement for satellite space stations; changed the license term for temporary fixed earth stations; and adjusted or changed the rules concerning minor modifications and basic requirements for satellite service applications. The streamlined rules also resulted in the creation of a new application form, FCC Form 312. Form 312 eliminated from the International Bureau's use the FCC Form 493, FCC Form 430, FCC Form 702, and FCC Form 704. Petitions for Reconsideration were filed in this matter. In March 1997 the Commission released a Public Notice concerning these petitions, which are presently pending before the International Bureau.

Timetable:

Action	Date	FR Cite
NPRM	09/09/95	60 FR 46252
R&O, Recon Pending	02/10/97	62 FR 5924
Public Notice/Petitions for Recon	03/26/97	62 FR 14430

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 3060–AD70

4355. SATELLITE COMMUNICATIONS — NGSO MOBILE SATELLITE SERVICE; CC DOCKET NO. 92-166

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 301; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 25; 47 CFR 93

Legal Deadline: None

Abstract: The Commission adopted rules in 1994 for a voice-and-data mobile satellite service (MSS) in the 1610-1626.5 MHz and 2483.5-2500 MHz frequency bands. Licenses have been issued for five systems. The Commission issued a decision in a 1996 ruling on Petitions for Reconsideration of the Report and Order making some changes in the rules. Several petitions for further reconsideration are still pending.

Timetable:

Action	Date	FR Cite
NPRM	03/14/94	59 FR 11746
NPRM Comment Period End	06/04/94	
R&O	10/21/94	59 FR 53294
Begin Review	12/01/94	
First Recon Order	03/12/96	61 FR 9944

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: CC Docket No. 92-166

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RIN: 3060–AF42

4356. ESTABLISHING RULES AND POLICIES FOR THE USE OF SPECTRUM FOR MOBILE SATELLITE SERVICE IN THE L-BAND; IB DOCKET NO. 96-132

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 316; 47 USC 403

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission seeks to develop a record and to solicit comments on the proposed policies. The proposed policies are designed to ensure that sufficient spectrum is available to operate a viable and independent U.S.-licensed mobile satellite service system in the L-band. The proposed policies, to the extent possible, also seek to make any additional spectrum coordinated internationally available for mobile satellite service systems. The proposed policies impose no additional burdens. In order to be effective, these rules must apply to all licenses and thus there is no significant alternative.

Timetable:

Action	Date	FR Cite
NPRM	06/18/96	61 FR 40772
NPRM Comment Period End	09/23/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3060–AF89

4357. PREEMPTION OF LOCAL ZONING REGULATION OF SATELLITE EARTH STATIONS; IB DOCKET NO. 95-59

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 165(j); 47 USC 303(r)

CFR Citation: 47 CFR 1.4000; 47 CFR 25.104

Legal Deadline: None

Abstract: The Commission adopted rules in March and August of 1996 to preempt regulations that restricted the installation and use of certain over-the-air reception devices. Staff work on the reconsideration of the March 1996 Report and Order is assigned to the International Bureau; work on the September 1996 Report and Order is assigned to the Cable Services Bureau.

Timetable:

Action	Date	FR Cite
NPRM	05/15/95	60 FR 28077
NPRM Comment Period End	08/15/95	
FNPRM	03/15/96	61 FR 10710
R&O	03/18/96	61 FR 10896
R&O	09/04/96	61 FR 46559

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

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RIN: 3060–AF92

4358. ESTABLISHMENT OF RULES AND POLICIES FOR THE DIGITAL AUDIO RADIO SATELLITE SERVICE IN THE 2310-2360 MHZ FREQUENCY BAND; IB DOCKET NO. 95-91; GEN DOCKET NO. 90-357

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 151(i); 47 USC 154(j); 47 USC 157; 47 USC 309(j)

CFR Citation: 47 CFR 25.144

Legal Deadline: None

Abstract: The Commission is proposing rules to govern satellite digital audio radio services. Previously, the Office of Engineering and Technology allocated the spectrum on which the activities herein of the International Bureau are based. Since the spectrum allocation is completed, the Office of Engineering and Technology has no further role. See 62 FR 11083 and 62 FR 24073.

Timetable:

Action	Date	FR Cite
NPRM	06/15/95	60 FR 35166
R&O	03/11/97	62 FR 11083
FNPRM	04/18/97	62 FR 19095

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AF93

4359. REDESIGNATION OF THE 27.5-29.5 GHZ FREQUENCY BAND; CC DOCKET NO. 92-297

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 301; 47 USC 302

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 21; 47 CFR 25

Legal Deadline: None

Abstract: The Commission adopted a band plan which designates band

segments in the 27.5-30.0 GHz frequency band for several types of wireless systems. This decision clears the way for licensing local multipoint distribution service (LMDS) providers, fixed satellite service (FSS) systems, and feeder links for certain mobile satellite service systems. The commercialization of this spectrum enables consumers to receive emerging domestic and global technology via multiple service providers. In October 1997, the Commission adopted a Third Report and Order which promulgated licensing qualification requirements and service rules for FSS systems in the Ka-band.

Timetable:

Action	Date	FR Cite
NPRM	07/13/95	60 FR 43740
NPRM Comment Period End	09/07/95	
R&O	08/28/96	61 FR 44177
3rd R&O	11/18/97	62 FR 61488
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: CC Docket No. 92-297

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RIN: 3060–AF94

4360. AMENDMENT OF POLICY TO ALLOW NON-U.S. LICENSED SPACE STATIONS TO PROVIDE SERVICE IN THE UNITED STATES; IB DOCKET NO. 96-111; CC DOCKET NO. 93-23

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 303; 47 USC 308

CFR Citation: 47 CFR 25.113; 47 CFR 25.115; 47 CFR 25.130; 47 CFR 25.131; 47 CFR 25.137

Legal Deadline: None

Abstract: The FCC adopted a Report and Order establishing a public interest framework for evaluating requests by non-U.S. satellites to serve the U.S. market. The Order implements the World Trade Organization (WTO) Agreement under which the United States committed to allow foreign suppliers to provide basic telecommunications services, including satellite services in the United States. The FCC adopted a presumption in favor of entry for non-U.S. satellites licensed in WTO member countries providing WTO-covered services. The FCC adopted an effective competitive opportunities (ECO-SAT) test for non-U.S. satellites licensed in non-WTO countries providing WTO-covered services, as well as for any commercial non-U.S. satellite providing services for which the United States did not make market commitments in the WTO Agreement. The FCC also established entry requirements for intergovernmental satellite organizations and their affiliates. In addition, the FCC adopted other public interest standards regarding spectrum availability and eligibility and operating requirements, as well as establishing access and filing procedures.

Timetable:

Action	Date	FR Cite
NPRM	05/14/96	61 FR 32398
NPRM Comment Period End	08/16/96	
FNPRM	07/29/97	62 FR 40494
R&O	12/04/97	62 FR 64167
Public Notice	01/05/98	63 FR 227
Public Notice on Petitions for Recon	01/30/98	63 FR 4640
First Order on Recon	11/15/99	64 FR 61791
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3060–AG31

4361. STREAMLINING REGULATIONS RELATED TO INTERNATIONAL COMMON CARRIERS; IB DOCKET NO. 98-118

Priority: Other Significant

Legal Authority: 47 USC 34 to 39; 47 USC 151; 47 USC 154(j); 47 USC 203(r); 47 USC 214; 47 USC 307; 47 USC 309; 47 USC 310

CFR Citation: 47 CFR 1; 47 CFR 43; 47 CFR 63; 47 CFR 64

Legal Deadline: None

Abstract: The Commission received Petitions for Reconsideration of its rules applicable to international common carriers. The Commission has eliminated the requirement for prior approval of pro forma assignments and transfers of control. The Commission reduced the waiting period for granting new streamlined applications from 35 to 14 days. It also expanded the class of applications eligible for streamlined processing. The Commission will review the petitions and determine whether it should revise its rules.

Timetable:

Action	Date	FR Cite
NPRM	07/24/98	63 FR 39793
NPRM Comment Period End	08/24/98	
Report and Order	04/10/99	64 FR 19057
Notice of Petitions for Reconsideration	06/03/99	64 FR 31222
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

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RIN: 3060–AG84

4362. REDESIGNATION 17.7-19.7 GHZ BAND, BLANKET LICENSING SAT EARTH STATIONS 17.7-20.2 GHZ & 27.5-30 GHZ & ALLOCATION 17.3-17.8 & 24.75-25.25 GHZ BAND FOR BROADCAST SATELLITE SERVICE USE; IB DOC NO. 98-172

Priority: Economically Significant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 301; 47 USC 303

CFR Citation: 47 CFR 25.115; 47 CFR 25.138; 47 CFR 25.208

Legal Deadline: None

Abstract: This item addresses how the 17.7-19.7 GHz band is to be shared among various services, including the Fixed Satellite Service, the Fixed Services, and the Broadcast Satellite Service. The item also addresses the blanket licensing of Fixed Satellite Service Earth Stations in the Ka-band. Finally, it addresses a new allocation for the Broadcast Satellite Service.

Timetable:

Action	Date	FR Cite
NPRM	10/08/98	63 FR 54100
NPRM Comment Period	12/07/98	63 FR 62258
Report and Order	09/07/00	65 FR 54155
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

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RIN: 3060–AH21

4363. ALLOCATE & DESIGNATE: SPEC FOR FIXED-SAT SRV (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHZ BANDS). ALLOCATE: FIXED & MOBILE 40.5-42.5 GHZ; WIRELESS 46.9-47 GHZ; GOV OPER 37-38 & 40-40.5 GHZ; IB DOC NO. 97-95

Priority: Economically Significant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303(e); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r); 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 2.106; 47 CFR 25.202; 47 CFR 25.208

Legal Deadline: None

Abstract: This item adopts a plan for non-government operations in the 36.0 - 51.4 GHz portion of the V-band, establishing priorities for different services in different parts of this band.

Timetable:

Action	Date	FR Cite
NPRM	04/04/97	62 FR 16129
Report & Order	01/15/99	64 FR 2585
Correction	02/08/99	64 FR 6138
Correction	02/10/99	64 FR 6565
Notice of Petition for Reconsideration	03/22/99	64 FR 13796
Order on Reconsideration	12/01/99	
Further NPRM	07/05/01	66 FR 35399
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal

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RIN: 3060–AH23

4364. ESTABLISHMENT OF POLICIES AND SERVICE RULES FOR THE MOBILE SATELLITE SERVICE IN THE 2 GHZ BAND; IB DOCKET NO. 99-81

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 310; 47 USC 319

CFR Citation: 47 CFR 25.114; 47 CFR 25.115; 47 CFR 25.121; 47 CFR 25.133; 47 CFR 25.136; 47 CFR 25.137; 47 CFR 25.143; 47 CFR 25.201; 47 CFR 25.202; 47 CFR 25.203; 47 CFR 25.279

Legal Deadline: None

Abstract: The Commission amended the regulations covering the 1.6/2.4 GHz Mobile Satellite Service (MSS) to incorporate the rules for the 2 GHz MSS. The actions establish the band arrangement and service rules and policies for the 2 GHz MSS. The effect of amending the 1.6/2.4 GHz MSS rules to include 2 GHz MSS is to simplify and harmonize the rules for the types of satellite services.

Timetable:

Action	Date	FR Cite
NPRM	04/07/99	64 FR 16880
NPRM Comment Period End	07/26/99	
Report and Order	10/04/00	65 FR 59140
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3060–AH28

4365. POLICIES FOR THE DIRECT BROADCAST SATELLITE SERVICE; IB DOCKET NO. 98-21

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 25

Legal Deadline: None

Abstract: This proceeding streamlines and simplifies the Commission's rules governing direct broadcast satellite (DBS) service. It also harmonizes the rules for DBS with those of other satellite services.

Timetable:

Action	Date	FR Cite
NPRM	03/06/98	63 FR 11202
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

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Government Levels Affected: Undetermined

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RIN: 3060–AH29

4366. 1998 BIENNIAL REGULATORY REVIEW — REVIEW OF ACCOUNTS SETTLEMENT IN MARITIME MOBILE &MARITIME MOBILE-SATELLITE RADIO SERVICES AND WITHDRAWAL OF THE COMMISSION AS ACCOUNTING AUTHORITY; IB DOC NO. 98-96

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 154 (j); 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 303(r)

CFR Citation: 47 CFR 3.10(e)

Legal Deadline: None

Abstract: The FCC has decided to withdraw from acting as an accounting authority for the settlement of accounts in the maritime mobile and maritime mobile-satellite (ship-to-shore) radio services, and to rely solely upon the various privately owned accounting authorities the FCC has authorized. In that connection the FCC amended section 3.10(e) of its rules to specify that private accounting authorities must serve the public non-discriminatorily. (action 7-13-99) The Commission is gathering comment to develop a plan to ensure a smooth transition to private accounting authorities.

Timetable:

Action	Date	FR Cite
NPRM	07/24/98	63 FR 39800
Report & Order	07/28/99	64 FR 40774
Further NPRM	07/28/99	64 FR 40808
Comment Period Extended	09/03/99	64 FR 48337

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3060–AH30

4367. AMENDMENT TO REGULATORY POLICIES GOVERNING DOMESTIC FIXED SATELLITES AND SEPARATE INTERNATIONAL SATELLITE SYSTEMS; IB DOCKET NO. 95-41

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 721(c)

CFR Citation: 47 CFR 25.110; 47 CFR 25.113; 47 CFR 25.114; 47 CFR 25.115; 47 CFR 25.117; 47 CFR 25.130; 47 CFR 25.131; 47 CFR 25.140; 47 CFR 25.202; 47 CFR 25.210; 47 CFR 25.211; 47 CFR 25.276

Legal Deadline: None

Abstract: The Commission adopted rules in January, 1996 eliminating regulatory distinctions between U.S. domestic satellite systems and U.S. international separate satellite systems. Petitions for partial reconsideration are being addressed by the International Bureau.

Timetable:

Action	Date	FR Cite
NPRM	05/10/95	60 FR 24817
R&O	03/12/96	61 FR 9946

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH48

4368. GLOBAL MOBILE PERSONAL COMMUNICATIONS BY SATELLITE; IB DOCKET NO. 99-67

Priority: Economically Significant

Legal Authority: 47 USC 4(i); 47 USC 7(a); 47 USC 303(c); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r); 47 USC 307; 47 USC 309; 47 USC 310

CFR Citation: 47 CFR 25.200; 47 CFR 25.213; 47 CFR 25.215; 47 CFR 216; 47 CFR 2.1204

Legal Deadline: None

Abstract: The FCC has proposed to adopt rules to facilitate transnational use of mobile terminals used for 2-way voice communication via satellite systems with global or international coverage. In the same NPRM the FCC proposed to adopt limits on out-of-band emissions from some global mobile personal communications by satellite terminals in order to protect reception of aeronautical satellite radionavigation signals in the 1559-1610 MHz band. The FCC also asked for comment on the advisability of adopting rules requiring providers of mobile telecommunication service via satellite to provide 911 emergency-calling features.

Timetable:

Action	Date	FR Cite
NPRM	04/06/99	64 FR 16687
NPRM Comment Period End	05/18/99	
Public Notice	01/17/01	66 FR 3960

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH49

4369. CONSIDERATION OF APPLICATIONS UNDER THE CABLE LANDING LICENSE ACT; IB DOCKET NO. 00-106

Priority: Substantive, Nonsignificant

Legal Authority: 3 USC 301; 47 USC 34 to 39; 47 USC 151; 47 USC 154(i); 47 USC 154(s); 47 USC 201 to 255; 47 USC 303(r)

CFR Citation: 47 CFR 1.767

Legal Deadline: None

Abstract: This item proposes to establish streamlined rules for the processing of applications for submarine cable landing licenses. The FCC proposes three streamlining

options: (1) a demonstration that the route on which the proposed cable would operate is or will become competitive; (2) a demonstration of sufficient independence of control of the proposed cable from control of existing capacity on the route; or (3) the existence of certain pro-competitive arrangements.

Timetable:

Action	Date	FR Cite
NPRM	07/06/00	65 FR 41613
NPRM Comment Period End	09/20/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AH50

4370. DIRECT BROADCAST PUBLIC INTEREST OBLIGATIONS; MM DOCKET NO. 93-25

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 335

CFR Citation: 47 CFR 25; 47 CFR 100

Legal Deadline: None

Abstract: The Commission adopted rules in 1998 that implement Section 25 of the Cable Television Consumer Protection and Competition Act of 1992, as codified at Section 335 of the Communications Act of 1934. Section 335 directs the Commission to impose certain public interest obligations on direct broadcast satellite providers. Several petitions for reconsideration are pending.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 12917
Report and Order	02/08/99	64 FR 52399

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AH59

4371. STREAMLINING EARTH STATION LICENSING RULES; IB DOCKET NO. 00-248

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 701 to 744

CFR Citation: 47 CFR 23; 47 CFR 25

Legal Deadline: None

Abstract: The Commission has found several cases in which modifying or eliminating rules could facilitate licensing of earth stations, thereby expediting the provision of useful satellite services to the public, without unreasonably increasing the risk of harmful interference to existing earth station or space station operators, or terrestrial wireless operators in shared frequency bands.

Specifically, this NPRM considers the following rule revisions: (1) codifying streamlined procedures for case-by-case examination of earth stations using "non-routine" antennas, non-routine power levels, or both; (2) relaxing some current requirements, such as increasing power and power density limits, and allowing some temporary fixed earth stations to begin operation sooner than is now permitted; (3) streamlining the very small aperture terminal (VSAT) rules, and revising the Commission's power level rules to provide for various types of VSAT multiple access methods; (4) adopting a simplified license application form for "routine" earth stations; and (5) other miscellaneous rule revisions. The Commission also invites comment on extending these proposed rules to the Ka-band.

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1283
NPRM Comment Period End	05/07/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AH60

4372. 2000 BIENNIAL REVIEW — AMENDMENT OF PARTS 43 AND 63 OF THE COMMISSION'S RULES; IB DOCKET NO. 00-231

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 161; 47 USC 214; 47 USC 218; 47 USC 219; 47 USC 220; 47 USC 403

CFR Citation: 47 CFR 43.81; 47 CFR 63.10; 47 CFR 63.18; 47 CFR 63.19; 47 CFR 63.20; 47 CFR 63.22; 47 CFR 63.24

Legal Deadline: None

Abstract: This proceeding was initiated to propose further streamlining measures for international telecommunications services. The NPRM proposes amending the procedures for filing pro forma assignments and transfers of control of Section 214 international authorizations, eliminating the benchmark settlement rate condition, and modifying the rules requiring dominant international carriers to seek prior approval to discontinue service. The NPRM will clarify rules and eliminate others no longer needed.

Timetable:

Action	Date	FR Cite
NPRM	12/20/00	65 FR 79795

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH62

FCC—International Bureau — Long-Term Actions

4373. LICENSING AND COORDINATION OF EARTH STATIONS IN THE FIXED-SATELLITE SERVICES; IB DOCKET NO. 00-203

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 332; 47 USC 701 to 744

CFR Citation: 47 CFR 25; 47 CFR 101

Legal Deadline: None

Abstract: The Second Report and Order and/or Memorandum Opinion and Order will address the proposals for fixed-satellite service (FSS) partial-band licensing, loading standards for FSS earth stations, and coordination criteria between FSS earth stations and terrestrial fixed stations. The item will also consider an industry proposal for either "blanket licensing" or other expedited licensing procedures for FSS earth stations in the portion of the Ka-band that is shared with the terrestrial fixed service.

Timetable:

Action	Date	FR Cite
NPRM	11/24/00	65 FR 70541
First R&O	06/12/01	66 FR 31557
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AH63

Federal Communications Commission (FCC)
International Bureau — Completed Actions

4374. 2000 BIENNIAL REGULATORY REVIEW — POLICY AND RULES CONCERNING THE INTERNATIONAL, INTEREXCHANGE MARKETPLACE; IB DOCKET NO. 00-202

Priority: Economically Significant

Legal Authority: 47 USC 151 to 154; 47 USC 160; 47 USC 161; 47 USC 201 to 205; 47 USC 211; 47 USC 218; 47 USC 220; 47 USC 226; 47 USC 303(g); 47 USC 303(r); 47 USC 332

CFR Citation: 47 CFR 20; 47 CFR 42; 47 CFR 61; 47 CFR 63; 47 CFR 64

Legal Deadline: None

Abstract: The Commission initiated a proceeding to determine whether to detariff interexchange services. The Commission proposed to reduce further, as part of its Biennial Regulatory Review under Section 11 of the Communications Act, the regulatory burdens imposed on non-dominant carriers' provision of international interexchange services. The Commission issued final rules in this proceeding which appeared in the Federal Register on March 28, 2001. See 66 FR 16874.

Timetable:

Action	Date	FR Cite
NPRM	11/03/00	65 FR 66215
Report and Order	03/28/01	66 FR 16874

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH61

Federal Communications Commission (FCC)
Mass Media Bureau — Long-Term Actions

4375. TRANSFER OF CONTROL OF NON-STOCK ENTITIES (MM DOCKET NO. 89-77)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The Commission will consider proposals concerning the treatment of corporations and other organizational structures that are not traditional commercial corporations.

Timetable:

Action	Date	FR Cite
NOI	03/16/89	54 FR 15957
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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RIN: 3060–AE31

4376. FILING OF TELEVISION NETWORK AFFILIATION CONTRACTS (MM DOCKET NO. 95-40)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 73.3613(a)

Legal Deadline: None

Abstract: This proceeding considers changes to the requirement that stations

file their network affiliation agreements with the Commission.

Timetable:

Action	Date	FR Cite
NPRM	04/19/95	60 FR 19564

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3060–AF80

4377. RULES GOVERNING BROADCAST TELEVISION ADVERTISING (MM DOCKET NO. 95-90)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 301; 47 USC 303(r); 47 USC 313; 47 USC 314

CFR Citation: 47 CFR 73.658(h); 47 CFR 73.658(i)

Legal Deadline: None

Abstract: This proceeding considers changes to two rules regulating broadcast television advertising. The first advertising rule prohibits a broadcast television network from influencing or controlling the rates its affiliates set for the sale of their non-network advertising time. The second advertising rule prohibits a broadcast television network from representing any of its affiliates in the sale of non-network advertising time.

Timetable:

Action	Date	FR Cite
NPRM	07/05/95	60 FR 34959

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG53

4378. MINOR MODIFICATIONS OF BROADCAST LICENSES WITHOUT PRIOR CONSTRUCTION PERMIT (MM DOCKET NO. 96-58)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 155(c)(1); 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: This proceeding will implement the Commission's new authority to eliminate the present requirement for a construction permit for a broadcast station in certain instances where the changed facilities would not have an adverse impact on other broadcast facilities. In these instances, licensees or permittees will be able to initiate the change without prior authority and file a license application to cover the change afterwards.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15439
R&O	09/30/97	62 FR 51052

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG30

4379. NEWSPAPER/BROADCAST CROSS-OWNERSHIP (MM DOCKET NO. 96-197)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: On October 1, 1996, the Commission released a Notice of Inquiry seeking comment on the possible revision of its standards for waiver of the newspaper/broadcast cross-ownership rule (section 73.3555(d)) with respect to newspaper/radio combinations. The Notice solicits comment on whether the Commission should adopt objective criteria for evaluating such waiver requests and, if so, what those criteria should be.

Timetable:

Action	Date	FR Cite
NOI	10/15/96	61 FR 53694

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG53

4380. REVIEW OF TECHNICAL RULES IN PARTS 73 AND 74 (MM DOCKET NO. 98-93)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 307; 47 USC 319

CFR Citation: 47 CFR 73; 47 CFR 74

Legal Deadline: None

Abstract: The Second Report and Order in this radio technical streamlining proceeding continues the Commission's efforts to make the broadcast application process simpler, faster, and more efficient. In the Second Report and Order, the Commission amended the separation requirements for short-spaced FM stations, section 73.215(e), to afford second- and third-adjacent channel stations minimum relief of six kilometers from the full spacing requirements of section 73.207. The order also expands the types of facility changes covered by expedited one-step licensing procedures and provides additional technical flexibility to FM stations licensed to Puerto Rico and the U.S. Virgin Islands. The order also

relaxes noncommercial educational FM second adjacent channel standard and establishes a noncommercial educational FM community coverage standard. Finally, the item creates a new commercial FM class, class C-zero, and a mechanism to reclassify class C stations that do not meet the new class minimum antenna height where there is a competing demand for spectrum.

Timetable:

Action	Date	FR Cite
NPRM	06/22/98	63 FR 33892
Report & Order	04/21/99	64 FR 19498
Second Report & Order	12/20/00	65 FR 79773

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AG81

4381. DIGITAL AUDIO BROADCASTING SYSTEMS (MM DOCKET NO. 99-325)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The rulemaking proceeding was initiated to obtain comments concerning the Commission's proposals to foster the development and implementation of terrestrial digital audio broadcasting (DAB). In the NPRM, the Commission (1) reaffirms its commitment to providing radio broadcasters with the opportunity to take advantage of DAB technology; (2) identifies Commission public policy objectives for the introduction of DAB service; (3) proposes criteria for the evaluation of DAB models and systems; (4) evaluates IBOC and new-spectrum DAB models; (5) inquires as to the need for a mandatory DAB transmission standard; and (6) considers certain DAB system testing, evaluation and standard selection issues.

Timetable:

Action	Date	FR Cite
NPRM	11/09/99	64 FR 61054

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH40

4382. DUAL NETWORK RULE (MM DOCKET NO. 00-108)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 152(a); 47 USC 154(i); 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 310

CFR Citation: 47 CFR 73.658(g)

Legal Deadline: None

Abstract: The Report and Order amends the Commission's "dual network" rule. That rule effectively prevented mergers among the four major television broadcast networks or between one of the four major networks (NBC, CBS, ABC, and Fox) and the UPN and/or the WB television networks. The action taken eliminates that portion of the rule that effectively prevents mergers between a major television network and the UPN and/or WB television networks.

Timetable:

Action	Date	FR Cite
NPRM	07/05/00	65 FR 41393
R&O	06/14/01	66 FR 32242

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH51

4383. EXPERIMENTAL BROADCAST STATION MULTIPLE OWNERSHIP RULE (MM DOCKET NO. 00-105)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 152(a); 47 USC 154(i); 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 310

CFR Citation: 47 CFR 74.134

Legal Deadline: None

Abstract: The Report and Order eliminates the Commission rule that prohibited a broadcast licensee from having more than one experimental radio station license without first making a showing that its program of research requires a licensing of two or more separate stations. The rule was eliminated because other Commission rules prohibit the harms this rule was meant to address. Additionally, elimination of the rule would allow licensees to devote their resources to research more efficiently during the operation of experimental broadcast stations.

Timetable:

Action	Date	FR Cite
NPRM	07/05/00	65 FR 41401
R&O	04/10/01	66 FR 18570

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH52

4384. ANCILLARY OR SUPPLEMENTAL USE OF DTV CAPACITY BY NON-COMMERCIAL LICENSEES (MM DOCKET NO. 98-203)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 4(i); 47 USC 4(j); 47 USC 303(r); 47 USC 307; 47 USC 309; 47 USC 336

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: On November 23, 1998, the Commission issued a Notice of

Proposed Rulemaking (NPRM) in MM Docket No. 98-203 in response to a Petition for Reconsideration of the Fifth Report and Order in the digital television (DTV) proceeding that was filed by the Association of America's Public Television Stations and the Public Broadcasting Service. The NPRM seeks comment on whether, and under what conditions, noncommercial educational (NCE) television licensees should be permitted to offer ancillary or supplementary services, including subscription television, on a remunerative basis. In particular, the NPRM seeks comment on whether and how the Commission should amend section 73.621 of the Commission's rules, which requires NCE stations to provide a noncommercial service that "primarily" serves the educational needs of the community. The NPRM also seeks comment on how the advertising ban set forth in section 399B of the Communications Act implicates the provision of remunerative services by public DTV stations. The NPRM tentatively concludes that, while section 399B continues to apply to all video broadcast programming streams provided by public DTV stations, it does not apply to any subscription services they provide on their DTV channels, since such services do not constitute "broadcasting." In addition, the NPRM seeks comment on the extent to which section 399B applies to other, non-subscription ancillary or supplementary services carried by an NCE station. Finally, the NPRM seeks comment on whether NCE licensees should be exempt from DTV fees under section 366 of the Communications Act when they offer ancillary or supplementary services as a source of funding for their mission related activities.

Timetable:

Action	Date	FR Cite
NPRM	12/14/98	63 FR 68722

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AH53

4385. PERIODIC REVIEW OF RULES AND POLICIES AFFECTING THE CONVERSION TO DTV (MM DOCKET NO. 00-39)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 4(i); 47 USC 4(j); 47 USC 303(r); 47 USC 307; 47 USC 309; 47 USC 336

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: On January 18, 2001, the Commission adopted a Report and Order and Further Notice of Proposed Rule Making (FCC 01-24), in which it took a number of actions concerning the transition to digital television. In the Report and Order it imposed a channel election requirement, requiring commercial television stations with two in-core channels (i.e., channels 2-51) to elect their post-transition digital channel by December 31, 2003. This will allow the Commission to more quickly identify channels available to accommodate Digital Television (DTV) licensees with out-of-core transition channels and new entrants. (Questions concerning the priority as to channel assignment - e.g., should stations that must move to a new channel have the highest priority and get the first selection of channels that are returned - and processing issues, as well as the question of whether any channels should be placed off-limits for use by DTV licensees were left to future rulemaking proceedings.)

Additionally, while full replication by DTV licensees of the National Television Systems Committee (NTSC) service area remains an important Commission objective, the Commission did not impose a full replication DTV requirement. Instead, it determined that, after December 31, 2004, whatever portion of a commercial broadcaster's NTSC Grade B contour is not replicated with its digital television signal will simply cease to be protected in the DTV Table of Allotments. This was intended to provide broadcasters with the incentive to continue service to most of their current viewers without the need for a Commission rule. The Commission did, however, impose an enhanced service obligation that will require licensees to encompass their communities of license with a stronger signal than that with which they had, or will have, to commence DTV operations. The Commission also discussed and resolved DTV application cut-off procedures, how it will resolve any mutual exclusivities that arise, and a host of technical issues. Importantly, the Commission determined that at this time there is no persuasive information to indicate that there is any deficiency in the 8-Vestigial Side Band (8-VSB) modulation system of the DTV transmission standard that would cause it to revisit its decision to deny Sinclair Broadcasting Group, Inc.'s, petition and add Coded Orthogonal Frequency Division Multiplex to the current 8-VSB DTV standard, or to grant Univision Communications Inc.'s Petition for Expedited Rule Making to that same effect. The Commission also declined to adopt technical performance standards for DTV receivers.

Timetable:

Action	Date	FR Cite
NPRM	03/23/00	65 FR 15600
Report & Order	02/13/01	66 FR 9973

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AH54

4386. CHILDREN'S TV, OBLIGATIONS OF DIGITAL TV BROADCASTERS (MM DOCKET NO. 00-167)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303; 47 USC 307; 47 USC 336(d)

CFR Citation: 47 CFR 73.670; 47 CFR 73.671; 47 CFR 73.673

Legal Deadline: None

Abstract: This item seeks comment on a range of issues related to application of our existing children's programming rules to digital broadcasting. The NPRM focuses primarily on two areas: the

obligation of commercial television broadcast licensees to provide educational and informational programming for children and the requirement that television broadcast licensees limit the amount of advertising in children's programs.

In addition, this document seeks comment on how to address the issue of the airing in programs viewed by children promotions that may be inappropriate for children to watch. Although this document seeks comment largely on challenges unique to the digital area, it also discusses several issues that apply equally to analog and digital broadcasting.

Timetable:

Action	Date	FR Cite
NPRM	11/08/00	65 FR 66951

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH68

4387. EXTENSION OF FILING REQUIREMENTS FOR CHILDREN'S TV PROGRAMMING REPORT (MM DOCKET NO. 00-44)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303; 47 USC 308

CFR Citation: 47 CFR 73.3526

Legal Deadline: None

Abstract: This document seeks comment on the tentative conclusion that broadcasters who maintain Internet websites should be required to post their completed quarterly Children's Television Programming Reports (FCC Form 398) on these sites. The FCC Form 398 is required to be filed by commercial television broadcast stations each quarter. This form is used to provide information on the efforts of commercial television stations to provide children's educational and informational programs aired to meet its obligation under the Children's Television Act of 1990. Although the Children's Television Programming Reports are available in a central location on the FCC's website, members of the public may look first to their local broadcast station for information about programming at the station, making station website posting useful.

Timetable:

Action	Date	FR Cite
NPRM	05/04/00	65 FR 25895
R&O	11/09/00	65 FR 67283
Further NPRM	11/09/00	65 FR 67331

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH69

4388. RADIO MARKET DEFINITIONS (MM DOCKET NO. 00-244)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 202(h); 47 USC 303; 47 USC 307

CFR Citation: 47 CFR 73.3555

Legal Deadline: None

Abstract: As a result of finding in its Biennial Review Report (65 FR 43333; July 13, 2000) that the Commission's methods for defining radio markets and counting both the number of stations in a radio market and counting the number of stations an entity owns in such a market may be having results that frustrate the structure of the Telecommunications Act of 1996, the Commission issued a Notice of Proposed Rule Making in MM Docket No. 00-244. That Notice, which was adopted December 6, 2000, sought comment on alternative methods for defining radio markets, including using Arbitron or other commercially defined market definitions in place of the Commission's current "contour overlap" method. It also sought comment on alternative methods for determining the number of stations in a radio market and for counting the number of stations a party owns in that market.

Timetable:

Action	Date	FR Cite
NPRM	12/28/00	65 FR 82305

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH70

4389. ENHANCED AND STANDARDIZED DISCLOSURE (MM DOCKET NO. 00-168)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 336

CFR Citation: 47 CFR 73.3526

Legal Deadline: None

Abstract: This item concerns rules and policies on how commercial television broadcast station licensees provide public interest information to the public. This document proposes amendments to the public inspection file rules that would standardize the format used for providing public interest information to the public and make information contained in public inspection files available on the Internet. The intended effect of this action is to propose rules that would make information regarding how television broadcast stations meet their fundamental public interest obligation to serve the needs and interests of their communities of license easier to understand or more accessible to the public.

Timetable:

Action	Date	FR Cite
NPRM	11/19/00	65 FR 62683

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

FCC—Mass Media Bureau **Long-Term Actions**

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Federal Communications Commission (FCC) **Completed Actions**
Mass Media Bureau

4390. ESTABLISHMENT OF A CLASS A TELEVISION SERVICE (MM DOCKET NOS. 00-10, 99-292)

Priority: Other Significant

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 307; 47 USC 336(f)

CFR Citation: 47 CFR 73; 47 CFR 74

Legal Deadline: NPRM, Statutory, 120 days from enactment of CBPA.

Abstract: On March 28, 2000, the Commission adopted a Report and Order in this proceeding. This Report and Order implemented the Community Broadcasters Protection Act of 1999, which directed the Commission to establish a Class A television service to provide a measure of primary status to certain low-power television stations. This Report and Order addresses a wide range of issues related to the implementation of the statute, including the protected service area of Class A stations, Class A interference protection requirements vis-a-vis other TV stations, eligibility criteria for Class A status, common ownership restrictions applicable to Class A stations, the treatment of modification applications filed by Class A licensees, and general operating requirements. On April 5, 2001, the Commission adopted a Memorandum Opinion and Order to dispose of petitions for reconsideration. On reconsideration, the Commission makes changes to some of the Commission's rules and provides clarification for other rules.

Timetable:

Action	Date	FR Cite
NPRM	01/20/00	65 FR 3188
R&O	05/10/00	65 FR 29985
MO&O	05/01/01	66 FR 21681

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH39

Federal Communications Commission (FCC) **Completed Actions**
Office of Managing Director

4391. ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 2001

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 159

CFR Citation: 47 CFR 1.1151 et seq

Legal Deadline: None

Abstract: Section 9 of the Communications Act of 1934, as amended, 47 USC 159, requires the FCC to recover the costs of its activities by assessing and collecting annual regulatory fees from beneficiaries of the activities. The FCC issued a Notice of Proposed Rulemaking for FY 2001 on March 29, 2001 and addressed the comments that were received in its FY 2001 Report and Order, released on July 2, 2001, implementing the FY 2001 Regulatory Fee Schedule.

Timetable:

Action	Date	FR Cite
NPRM	04/16/01	66 FR 19681
R&O	07/11/01	66 FR 36177

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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RIN: 3060–AH67

Federal Communications Commission (FCC) **Long-Term Actions**
Wireless Telecommunications Bureau

4392. AMENDMENT OF THE COMMISSION'S RULES CONCERNING MARITIME COMMUNICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 80

Legal Deadline: None

Abstract: Amendment of the Maritime Radio Service Rules to encourage growth and improve the regulatory structure in VHF maritime communications.

Timetable:

Action	Date	FR Cite
NOI/NPRM	11/05/92	57 FR 57717
First R&O	04/26/95	60 FR 34198
FNPRM	04/26/95	60 FR 35507
Second FNPRM	06/17/97	62 FR 37533
Second R&O	06/17/97	62 FR 40281
Third R&O and MO&O	07/06/98	63 FR 40059

MO&O	04/26/99	64 FR 26885
Third NPRM	12/08/00	65 FR 76966
Fourth R&O	12/13/00	65 FR 77821

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PR Docket No. 92-257.

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RIN: 3060–AF14

4393. REFARMING

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: Replacement of part 90 by part 88 to revise private land mobile services and modify policies governing these services.

Timetable:

Action	Date	FR Cite
NPRM	11/16/92	57 FR 54034
R&O	07/19/95	60 FR 37152
MO&O	01/15/97	62 FR 2027
Second R&O	04/17/97	62 FR 18834
NPRM	11/27/98	63 FR 65568
Second MO&O	07/06/99	64 FR 36258
Third MO&O	09/16/99	64 FR 50257
Fourth MO&O	09/17/99	64 FR 50466
Fifth MO&O	02/05/01	66 FR 8899
Sixth MO&O	06/18/01	66 FR 32778

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: PR Docket No. 92-235

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RIN: 3060–AF35

4394. FUTURE DEVELOPMENT OF 800 MHZ SMR; COMPETITIVE BIDDING WIDE AREA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 153; 47 USC 154(i); 47 USC 303; 47 USC 309(j); 47 USC 332

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: This proceeding adopts service rules and competitive bidding rules for 800 MHz SMR spectrum. It also proposes licensing rules and auction procedures for lower 80 SMR and general category channels.

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 33062
FNPRM	10/20/94	59 FR 6011
Eighth R&O	02/16/96	61 FR 6138
First R&O	02/16/96	61 FR 6212
Second FNPRM	02/16/96	61 FR 6212
Second R&O	06/23/97	62 FR 41190
MO&O	06/23/97	62 FR 41225
MO&O on Recon	10/08/99	64 FR 71042
Second MO&O on Recon	07/14/00	65 FR 43716

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: PR Docket No. 93-144; GEN Docket No. 93-252; PP Docket No. 93-253

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RIN: 3060–AF47

4395. RESALE AND ROAMING OBLIGATIONS PERTAINING TO COMMERCIAL MOBILE RADIO SERVICES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: PL 103-66, sec 6002, Omnibus Budget Reconciliation Act of 1993

CFR Citation: 47 CFR 20; 47 CFR 22

Legal Deadline: None

Abstract: On an interim basis, the First Report and Order extends to broadband PCS and covered SMR providers the cellular rule that prohibits restricting resale of communications services. The new rules sunset five years after the last group of initial licensees for currently allocated broadband PCS spectrum is awarded. The rules also eliminate all exceptions to the rule that allowed cellular licensees to restrict resale by competing with fully operational cellular licensees in the same geographic market. The Commission successfully adopted a Second Report and Order and Third Notice of Proposed Rulemaking in this proceeding. The Second Report and Order extends the Commission's cellular rules on manual roaming by any individual whose handset is capable of accessing the network of a cellular, broadband PCS, or covered SMR provider. The Third NPRM, among other things, sought comment on whether the Commission should adopt rules requiring cellular, broadband PCS, and covered SMR providers to provide automatic roaming in their coverage areas, and whether both automatic and manual roaming requirements should sunset five years after the initial grant of PCS licenses. The Third MO&O generally affirmed the Commission's earlier decision to extend the cellular resale rule to include certain PCS and SMR providers and to sunset the rule until November 24, 2002. However, it modified the prior decision by removing customer premise equipment (CPE) and CPE in bundled packages from the scope of the resale rule, by revising the scope of the resale rule to exclude all C, D, E, and F block PCS licensees that do not own and control and are not controlled by cellular or A or B block licensees, and by exempting from the rule all SMR and other CMRS providers that do not utilize in-network switching facilities.

FCC—Wireless Telecommunications Bureau

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	07/13/94	59 FR 35664
NOI	07/13/94	59 FR 35664
NPRM Comment Period End	09/29/94	
NPRM	04/04/95	60 FR 20949
NPRM Comment Period End	07/14/95	
First R&O	07/12/96	61 FR 36399
Second R&O and Third NPRM	08/15/96	61 FR 44026
MO&O and O on Recon	11/09/99	64 FR 61022

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Jane Phillips, Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
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RIN: 3060–AF58

4396. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; NARROWBAND PCS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 24

Legal Deadline: None

Abstract: Report and Order and FNPRM to modify the competitive bidding rules for participation by designated entities in narrowband PCS.

Timetable:

Action	Date	FR Cite
3rd MO&O	08/16/94	59 FR 44058
R&O	04/23/97	62 FR 27507
FNPRM	04/23/97	62 FR 27569
2nd R&O	06/06/00	65 FR 35843
2nd FNPRM	06/06/00	65 FR 35875
3rd R&O and Order on Reconsideration	06/04/01	66 FR 29911

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: GEN Docket No. 90-314; ET Docket No. 92-100; PP Docket No. 93-253

Agency Contact: Gary Oshinsky, Attorney Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
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RIN: 3060–AF99

4397. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; 218-219 MHZ COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 95

Legal Deadline: None

Abstract: Tenth Report and Order modifies the competitive bidding rules for the upcoming auction of 218-219 MHz: (1) eliminates bidding credits available to women- and minority-owned 218-219 MHz applicants; (2) extends two levels of bidding credits to small businesses based on a two-tiered small business definition; (3) clarifies the attribution rules for affiliates of 218-219 MHz applicants; and (4) increases the amount of the upfront payments required to participate in the 218-219 MHz auction.

Timetable:

Action	Date	FR Cite
R&O	04/25/94	59 FR 24947
FNPRM	08/06/96	61 FR 49103
R&O	11/15/96	61 FR 60198
FNPRM	09/30/98	63 FR 52215
MO&O	10/08/98	63 FR 54073
R&O and MO&O	11/03/99	64 FR 59656
Order on Reconsideration	12/29/99	64 FR 72956
2nd Order on Reconsideration	02/07/01	66 FR 9212

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: WT Docket No. 98-169

Agency Contact: Andrea Kelly, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-0660
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RIN: 3060–AG00

4398. 39 GHZ CHANNEL PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 524

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 101

Legal Deadline: None

Abstract: This proceeding amends the FCC's rules to facilitate more effective use of the 39 GHz band.

Timetable:

Action	Date	FR Cite
NPRM	01/26/96	61 FR 2465
NPRM Comment Period End	02/12/96	
Order	02/22/96	61 FR 6809
Reply Comments	02/27/96	
Order	05/01/96	61 FR 19236
2d NPRM	01/21/98	63 FR 3075
R&O	02/06/98	63 FR 6079
MO&O	08/23/99	64 FR 45891

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 95-183, RM-8553; PP Docket No. 93-253

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RIN: 3060–AG16

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FCC—Wireless Telecommunications Bureau — Long-Term Actions

4399. IMPLEMENTATION OF 309(J) OF THE COMMUNICATIONS ACT, AMENDMENT OF PARTS 20 AND 24 OF THE COMMISSION'S RULES - BROADBAND PCS COMPETITIVE BIDDING AND THE COMMERCIAL MOBILE RADIO SERVICE SPECTRUM CAP

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303(r); 47 USC 309(j); 47 USC 332

CFR Citation: 47 CFR 24

Legal Deadline: None

Abstract: NPRM to modify the competitive bidding rules for the Broadband PCS F Block. Report and Order, adopted 6/21/96, modified the PCS/cellular rule and the cellular spectrum cap.

Timetable:

Action	Date	FR Cite
O on Recon of 5th MO&O and D, E, & F R&O	11/15/00	65 FR 68927

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PP Docket No. 93-253

Agency Contact: Audrey Bashkin, Staff Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
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RIN: 3060–AG21

4400. REVISION OF THE RULES TO ENSURE COMPATIBILITY WITH 911 EMERGENCY CALLING SYSTEMS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 47 USC 134(i); 47 USC 151; 47 USC 201; 47 USC 208; 47 USC 215; 47 USC 303; 47 USC 309

CFR Citation: 47 CFR 20

Legal Deadline: None

Abstract: In a series of orders in several related proceedings issued since 1996, the Federal Communications Commission has taken action to improve the quality and reliability of 911 emergency services for wireless phone users. Rules have been adopted governing the availability of basic 911 services and the implementation of enhanced 911 (E911) for wireless services. Most recently, the Commission issued a Further Notice of Proposed Rulemaking regarding call back capability of 911-only wireless phones.

Timetable:

Action	Date	FR Cite
R&O	07/26/96	61 FR 40348
FNPRM	07/26/96	61 FR 40374
MO&O	01/16/98	63 FR 2631
Second Report & Order	05/28/99	64 FR 34564
Third R&O	11/04/99	64 FR 60126
Second MO&O	12/29/99	64 FR 72951
Fourth Report & Order, Third NPRM, and NPRM	09/19/00	65 FR 56752
Fourth MO&O	10/02/00	65 FR 58657
FNPRM	06/13/01	66 FR 31878

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: CC Docket No. 94-102; CC Docket No. 96-115; CC Docket No. 92-105; WT Docket No. 00-110

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RIN: 3060–AG34

4401. IN THE MATTER OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 47 USC 229; 47 USC 1001 to 1008

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: All of the decisions in this proceeding thus far are aimed at implementation of provisions of the Communications Assistance for Law Enforcement Act.

Timetable:

Action	Date	FR Cite
NPRM	10/10/97	62 FR 63302
Order	01/13/98	63 FR 1943
FNPRM	11/16/98	63 FR 63639
Report & Order	01/29/99	64 FR 51462
Order	03/29/99	64 FR 14834
Second Report & Order	09/23/99	64 FR 51462
Third Report & Order	09/24/99	64 FR 51710
O on Recon	09/28/99	64 FR 52244
Policy Statement	10/12/99	64 FR 55164
Second O on Recon	05/04/01	66 FR 22446

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: CC Docket No. 97-213

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RIN: 3060–AG74

4402. DEVELOPMENT OF OPERATIONAL, TECHNICAL, AND SPECTRUM REQUIREMENTS FOR PUBLIC SAFETY COMMUNICATIONS REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 160; 47 USC 201; 47 USC 202; 47 USC 303; 47 USC 337(a); 47 USC 403

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: This item takes steps toward developing a flexible regulatory framework to meet vital current and future public safety communications needs.

Timetable:

Action	Date	FR Cite
NPRM	10/09/97	62 FR 60199
Second NPRM	11/07/97	62 FR 60199
First R&O	08/06/98	63 FR 58645
Third NPRM	08/06/98	63 FR 58685
MO&O	04/26/99	64 FR 60123
Second R&O	08/08/00	65 FR 48393
Fourth NPRM	08/25/00	65 FR 51788
Second MO&O	09/05/00	65 FR 53641
Third R&O	11/07/00	65 FR 66644
Third MO&O	11/07/00	65 FR 66644
Fourth R&O	02/16/01	66 FR 10632
Fifth NPRM	02/16/01	66 FR 10660

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: WT Docket No. 96-86

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RIN: 3060–AG85

4403. MULTIPLE ACCESS SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 101

Legal Deadline: None

Abstract: This proceeding amended the FCC's rules regarding multiple address systems (MAS) in the microwave service. It streamlined regulations and established a framework for MAS spectrum that provides opportunities for continued development of competitive service offerings by allowing a variety of services.

Timetable:

Action	Date	FR Cite
NPRM	01/19/97	62 FR 11407
Order	09/17/98	63 FR 53350
FNPRM	05/18/99	64 FR 38617
R&O	04/03/00	65 FR 17445
MO&O	07/03/01	66 FR 35107

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: WT Docket No. 97-81

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RIN: 3060–AG86

4404. AMENDMENT OF PART I OF THE COMMISSION'S RULES — COMPETITIVE BIDDING PROCEDURES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 202; 47 USC 303; 47 USC 309(j)

CFR Citation: 47 CFR 1; 47 CFR 21; 47 CFR 24; 47 CFR 27; 47 CFR 90; 47 CFR 95

Legal Deadline: None

Abstract: This proceeding proposes to amend and modify the competitive bidding rules for all auctionable services.

Timetable:

Action	Date	FR Cite
NPRM	03/21/97	62 FR 13570
NPRM Comment Period End	04/16/97	
2nd FNPRM	01/07/98	63 FR 770
3rd R&O	01/15/98	63 FR 2315
5th R&O, O on Recon	08/29/00	65 FR 52323
4th FNPRM	08/29/00	65 FR 52401

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: WT Docket No. 97-82

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RIN: 3060–AG87

4405. AMENDMENT OF PART 90 OF THE RULES TO ADOPT REGULATIONS FOR AUTOMATIC VEHICLE MONITORING SYSTEMS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 251; 47 USC 252; 47 USC 303; 47 USC 309; 47 USC 332

CFR Citation: 47 CFR 1; 47 CFR 90

Legal Deadline: None

Abstract: This Second Report and Order adopts rules and procedures governing competitive bidding for multilateration Location and Monitoring Service (LMS) frequencies.

Timetable:

Action	Date	FR Cite
NPRM	10/06/97	62 FR 52078
NPRM Comment Period End	11/20/97	
Second R&O	07/30/98	63 FR 40659

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The NPRM sought comment on the LMS auction following the general competitive bidding procedures of Part 1, Subpart Q; the establishment of a small business definition for LMS; whether small business provisions are sufficient to promote participation by businesses owned by minorities, women or rural telephone companies; partitioning and disaggregation.

PR Docket No. 93-61

Agency Contact: Ken Burnley, Staff Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554

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RIN: 3060–AH12

4406. SERVICE RULES FOR THE 746-764 AND 776-794 MHZ BANDS, AND REVISIONS TO PART 27 OF THE COMMISSION'S RULES

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 1; 47 USC 4(i); 47 USC 7; 47 USC 10; 47 USC 201; 47 USC 202; 47 USC 208; 47 USC 214; 47 USC 301; 47 USC 303; 47 USC 307; 47 USC 308; 47 USC 309(j); 47 USC 309(k); 47 USC 310; 47 USC 311; 47 USC 315; 47 USC 317; 47 USC 324; 47 USC 331; 47 USC 332; 47 USC 336

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Report and Order in this proceeding adopts service rules for licensing and auction of commercial services in spectrum in the 700 MHz band to be vacated by UHF television licensees.

Timetable:

Action	Date	FR Cite
NPRM	07/07/99	64 FR 36686
R&O	01/20/00	65 FR 3139
Second R&O	04/04/00	65 FR 17594
MO&O and FNPRM	07/12/00	65 FR 42879
Second MO&O	02/06/01	66 FR 9035
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: WT Docket No. 99-168; CS Docket No. 98-120; MM Docket No. 00-39

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RIN: 3060–AH32

4407. IMPLEMENTATION OF SECTIONS 309(J) AND 337 OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 1; 47 CFR 22; 47 CFR 24; 47 CFR 26; 47 CFR 27; 47 CFR 73; 47 CFR 74; 47 CFR 80; 47 CFR 87

Legal Deadline: None

Abstract: This NPRM commences a proceeding to implement 309(j) and 337 of the Communications Act, as amended by the Balanced Budget Act of 1997, which was signed into law on 8/5/97. This notice seeks comment on changes to the Commission's rules and policies to implement the revised auction authority.

Timetable:

Action	Date	FR Cite
NPRM	05/03/99	64 FR 23571
R&O	01/02/01	66 FR 33
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: WT Docket No. 99-87

Agency Contact: Gary D. Michaels, Chief, Legal Branch, Auctions and Industry Analysis Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
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RIN: 3060–AH33

4408. 1998 BIENNIAL REGULATORY REVIEW — SPECTRUM AGGREGATION LIMITS FOR WIRELESS TELECOMMUNICATIONS CARRIERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 161; 47 USC 332

CFR Citation: 20 CFR 20; 22 CFR 942

Legal Deadline: None

Abstract: The Commission is re-evaluating whether it should retain, modify, or repeal the spectrum aggregation limits and the cellular cross-interest rule in light of changes occurring in the wireless telecommunications market.

Timetable:

Action	Date	FR Cite
NPRM	12/10/98	63 FR 70727
R&O	10/07/99	64 FR 54564
MO&O on Recon	11/08/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: WT Docket No. 98-205

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RIN: 3060–AH34

4409. AMENDMENT TO PARTS 1, 2, 87 AND 101 OF THE RULES TO LICENSE FIXED SERVICES AT 24 GHZ

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 309(j)

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 101

Legal Deadline: None

Abstract: This NPRM proposes licensing and service rules to govern the 24 GHz band generally.

Timetable:

Action	Date	FR Cite
NPRM	12/20/99	64 FR 71088
R&O	08/05/00	65 FR 59350
Order	06/01/01	66 FR 29722
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: WT Docket No. 99-327

FCC—Wireless Telecommunications Bureau

Long-Term Actions

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RIN: 3060–AH41

4410. PART 101 — TERRESTRIAL MICROWAVE FIXED RADIO SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 101

Legal Deadline: None

Abstract: Proceeding to streamline the Commission's rules, expedite processing of authorizations for terrestrial microwave fixed radio services and clarify rules concerning the terrestrial microwave fixed radio services.

Timetable:

Action	Date	FR Cite
NPRM	01/11/95	60 FR 2722
R&O	05/28/96	61 FR 26670
Order	03/05/98	63 FR 10778
Final Action Correction	03/24/98	63 FR 14039
NPRM	06/20/00	65 FR 38333
MO&O	06/20/00	65 FR 38324

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: WT Docket No. 94-148 (closed); WT Docket No. 00-19

Agency Contact: Michael Pollak, Electronics Engineer, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
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RIN: 3060–AH42

4411. AMENDMENT OF PARTS 13 AND 80 GOVERNING MARITIME COMMUNICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 13; 47 CFR 80

Legal Deadline: None

Abstract: This matter concerns the amendment of the rules governing maritime communications in order to consolidate, revise and streamline the regulations as well as address new international requirements and improve the operational ability of all users of marine radios.

Timetable:

Action	Date	FR Cite
NPRM	03/24/00	65 FR 21694

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: WT Docket No. 00-48

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RIN: 3060–AH55

4412. AMENDMENT OF THE RULES REGARDING INSTALLMENT PAYMENT FINANCING FOR PERSONAL COMMUNICATIONS SERVICES LICENSEES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 301 to 303; 47 USC 309; 47 USC 332

CFR Citation: 47 CFR 1; 47 CFR 24

Legal Deadline: None

Abstract: This proceeding proposes resumption of installment payments for broadband Personal Communications Services (PCS), e.g., for C and F Block, with payment deadline to be reinstated as of March 31, 1998. The proposal contemplates, inter alia, changes to the FCC's C Block rules to govern re-auction of surrendered spectrum in the C Block. The proposal was released on October 16, 1997, and published in the Federal Register.

Timetable:

Action	Date	FR Cite
2nd R&O	10/24/97	62 FR 55348
FNPRM	10/24/97	62 FR 55375
O on Recon of 2nd R&O	04/08/98	63 FR 17111
4th R&O	09/23/98	63 FR 50791
2nd O on Recon of 2nd R&O	05/18/99	64 FR 26887
Recon of 4th R&O	03/16/00	65 FR 14213
FNPRM	06/13/00	65 FR 37092
6th R&O and O on Recon	09/05/00	65 FR 53620
O on Recon	02/12/01	66 FR 9773

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The Order on Reconsideration published in the Federal Register in April 1998 addresses 37 petitions, 17 oppositions, 16 replies to opposition, and 38 ex parte filings.

Additional RIN 3060-AG88.

WT Docket No. 97-82

Agency Contact: Audrey Bashkin, Staff Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
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RIN: 3060–AH57

4413. TRANSFER OF THE 3650 THROUGH 3700 MHZ BAND AND THE 4.9 GHZ BAND FROM FEDERAL GOVERNMENT USE

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 157; 47 USC 303; 47 USC 307; 47 USC 332

CFR Citation: 47 CFR 2.106; 47 CFR 25.202; 47 CFR 27.1; 47 CFR 27.4; 47 CFR 27.5; 47 CFR 27.14; 47 CFR 27.50; 47 CFR 27.53; 47 CFR 27.55; 47 CFR 27.57; 47 CFR 27.58; 47 CFR 27.61; ...

Legal Deadline: None

Abstract: This proceeding is intended to establish licensing and service rules for frequencies in the 3650 to 3700 MHz band, transferred from government use.

Timetable:

Action	Date	FR Cite
NPRM	03/16/00	65 FR 14230
First R&O and Second NPRM	11/17/00	65 FR 69612
Petition for Reconsideration	03/28/01	66 FR 16940
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: WT Docket No. 00-32; ET Docket No. 98-237

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RIN: 3060–AH75

4414. • 2000 BIENNIAL REGULATORY REVIEW SPECTRUM AGGREGATION LIMITS FOR COMMERCIAL MOBILE RADIO SERVICES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 161; 47 USC 303(g); 47 USC 303(r)

CFR Citation: 47 CFR 20.6; 47 CFR 22.942

Legal Deadline: None

Abstract: The Commission has opened a proceeding to reexamine the need for Commercial Mobile Radio Services spectrum aggregation limits.

Timetable:

Action	Date	FR Cite
NPRM	01/23/01	66 FR 9798
NPRM Comment Period End	05/14/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: WT Docket No. 01-14

Agency Contact: John Branscome, Staff Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-8205
Fax: 202 418-7447
Email: jbransco@fcc.gov

RIN: 3060–AH81

4415. • IN THE MATTER OF PROMOTING EFFICIENT USE OF SPECTRUM THROUGH ELIMINATION OF BARRIERS TO THE DEVELOPMENT OF SECONDARY MARKETS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 157; 47 USC 160; 47 USC 201; 47 USC 202; 47 USC 208; 47 USC 214; 47 USC 301; 47 USC 303; 47 USC 308; 47 USC 309; 47 USC 310

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission has opened a proceeding to examine actions it may take to remove unnecessary regulatory barriers to the development of more robust secondary markets in radio spectrum usage rights.

Timetable:

Action	Date	FR Cite
NPRM	12/26/00	65 FR 81475
NPRM Comment Period End	01/29/01	66 FR 8149
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: WT Docket No. 00-230

Agency Contact: Paul Murray, Staff Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
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Fax: 202 418-7447
Email: pmurray@fcc.gov

RIN: 3060–AH82

4416. • IN THE MATTER OF AUTOMATIC AND MANUAL ROAMING OBLIGATIONS PERTAINING TO COMMERCIAL MOBILE RADIO SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 152(n); 47 USC 154(i); 47 USC 154(j); 47 USC 201(b); 47 USC 251(a); 47 USC 253; 47 USC 303(r); 47 USC 332(c)(1)(B); 47 USC 309

CFR Citation: 4 CFR 20.12

Legal Deadline: None

Abstract: This rulemaking considers whether the Commission should adopt an automatic roaming rule for Commercial Mobile Radio Services and sunset the current manual roaming requirement.

Timetable:

Action	Date	FR Cite
NPRM	11/01/00	65 FR 69891
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: WT Docket No. 00-193

Agency Contact: Linda Chang, Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-1339
Fax: 202 418-7447
Email: lchang@fcc.gov

RIN: 3060–AH83

4417. • AMENDMENT OF PART 90 FOR LICENSING LOW POWER OPERATIONS IN 450-470 MHZ BAND

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 1; 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 332

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: The proposed amendments facilitate the viability of low power operations in the private land mobile radio 450-470 MHz Band.

FCC—Wireless Telecommunications Bureau

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	07/24/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: WT Docket No. 01-146

Agency Contact: Guy N. Benson, Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-0680
Email: gbenson@fcc.gov

RIN: 3060–AH84

Federal Communications Commission (FCC)
Wireless Telecommunications Bureau

Completed Actions

4418. RULEMAKING TO AMEND PART 1 AND PART 21 TO REDESIGNATE THE 27.5-29.5 GHZ BAND AND TO ESTABLISH RULES AND POLICIES FOR LOCAL MULTI-POINT DISTRIBUTION SERVICE

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 553

CFR Citation: 47 CFR 21; 47 CFR 25; 47 CFR 101

Legal Deadline: None

Abstract: The goal of this proceeding, a Third Order on Reconsideration, is to pave the way for the auctioning and licensing of the Local Multipoint Distribution Service (LMDS), a fixed broadband point-to-point wireless service that has significant potential in offering a broad range of one-way and two-way voice-video and data service capabilities, and a substantial amount of capacity that is larger than is currently available in wireless services. This Order was adopted and released on February 11, 1998. The Fourth Report and Order adopted partitioning and disaggregation rules for LMDS.

Timetable:

Action	Date	FR Cite
NPRM	01/28/93	58 FR 6400
NPRM Comment Period End	04/15/93	
Third NPRM	08/23/95	60 FR 43740
First R&O & Fourth NPRM	07/29/96	61 FR 39425
Fifth NPRM	04/07/97	62 FR 16514
Second R&O	04/29/97	62 FR 23148
Order on Recon	05/23/97	62 FR 28373
Second Order on Recon	09/17/97	62 FR 48787
Third Order on Recon	02/25/98	63 FR 9443
Fourth R&O	05/13/98	63 FR 26502
Sixth NPRM	12/21/99	64 FR 71373
Third R&O and MO&O on Recon	07/06/00	65 FR 41603

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: WTB Docket No. 92-297.

Agency Contact: Peter Wolfe, Attorney Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-1310
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Phone: 202 418-1310
Fax: 202 418-7247

RIN: 3060–AF26

4419. CALLING PARTY PAYS SERVICE OFFERING IN THE COMMERCIAL MOBILE RADIO SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 157; 47 USC 201; 47 USC 202; 47 USC 303(r); 47 USC 332

CFR Citation: 47 CFR 20

Legal Deadline: None

Abstract: The NPRM proposed a uniform system to notify consumers that they are placing a call to a wireless phone subscriber who has elected to have the caller pay for the airtime and other charges associated with the call. The proceeding was terminated in 2001 by Memorandum Opinion and Order and Order Terminating the Proceeding.

Timetable:

Action	Date	FR Cite
NPRM	07/16/99	64 FR 38313
NPRM Comment Period End	10/18/99	
MO&O and O Terminating Proceeding	05/04/01	66 FR 22448

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: WT Docket No. 97-207

Agency Contact: Joseph Levin, Senior Economist, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
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RIN: 3060–AH31

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Federal Register

Monday,
December 3, 2001

Part LII

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is hereby publishing items for the October 2001 Unified Agenda of Regulatory and Deregulatory Actions. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. Unless otherwise noted, the address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

A number of the actions identified in this agenda have been developed to implement provision of the Gramm-Leach-Bliley Act, or to implement other recent statutory mandates. Many of the FDIC's regulatory actions are coordinated with other Federal regulators of financial institutions, primarily the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRS), and the Office of Thrift Supervision (OTS). In some cases, the FDIC also coordinates with the National Credit Union Administration (NCUA).

Interested persons may petition the FDIC for the issuance, amendment, or repeal of any regulation by submitting a written petition to the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Federal Deposit Insurance Corporation—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4420	12 CFR 327 Assessments—Assessment Base	3064-AB46
4421	12 CFR 345 Community Reinvestment Act Regulations **(Section 610 Review)**	3064-AC50

Federal Deposit Insurance Corporation—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4422	12 CFR 360 Receivership Rules	3064-AB92
4423	12 CFR 366 Contractor Conflict of Interest	3064-AC29
4424	12 CFR 334 Fair Credit Reporting Act Regulations	3064-AC35
4425	12 CFR 313 Procedures for the Collection of Corporate Debt by Administrative Offset	3064-AC40
4426	Brokers and Dealers	3064-AC42
4427	12 CFR 330 Deposit Insurance Coverage	3064-AC43
4428	12 CFR 325 Simplified Capital Framework for Noncomplex Financial Institutions	3064-AC44
4429	12 CFR 303 Filing Procedures and Delegations of Authority	3064-AC51

Federal Deposit Insurance Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4430	12 CFR 325 Capital Maintenance—Recourse Arrangements and Direct Credit Substitutes	3064-AB31
4431	12 CFR 342 Qualification Requirements for the Recommendation or Sale of Certain Securities	3064-AB85
4432	12 CFR 325 Risk-Based Capital Standards: Claims on Securities Firms	3064-AC17
4433	12 CFR 325 Capital; Leverage and Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Residual Interests in Asset Securitizations or Other Transfers of Financial Assets	3064-AC34
4434	12 CFR 369 Prohibition Against Use of Interstate Branches Primarily For Deposit Production	3064-AC36
4435	12 CFR 325 Risk-Based Capital Guidelines: Market Risk Measure; Securities Borrowing Transactions	3064-AC46
4436	12 CFR 325 Capital; Leverage and Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance; Nonfinancial Equity Investments	3064-AC47

FDIC

Federal Deposit Insurance Corporation—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4437	12 CFR 308 Censure, Suspension, and Debarment of Independent Public Accountants	3064-AA64
4438	12 CFR 325 Capital Maintenance—Collateralized Transactions	3064-AB76
4439	12 CFR 307 Notification of Assumption of Deposits and Change of Insured Status	3064-AB88
4440	12 CFR 328 Advertisement of Membership	3064-AB99

Federal Deposit Insurance Corporation—Completed Actions

Sequence Number	Title	Regulation Identification Number
4441	12 CFR 303 Deposit Insurance Engaged in the Business of Receiving Deposits	3064-AC49

Federal Deposit Insurance Corporation (FDIC) — Prerule Stage

4420. ASSESSMENTS—ASSESSMENT BASE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1441; 12 USC 1817 to 1819

CFR Citation: 12 CFR 327

Legal Deadline: None

Abstract: In 1994, the FDIC sought comment on a proposal to revise the assessment base used by insured institutions to determine the premium paid for deposit insurance. That initiative did not lead to a proposed rule. Instead, the FDIC plans to revisit the issue with a new ANPRM on alternative options for the deposit component of the assessment base and on options regarding the float deduction and use of average daily deposit balances.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/94	59 FR 50710
ANPRM Comment Period End	02/02/95	
Second ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steve Wagoner, Senior Assessment Specialist, Division of Finance, Federal Deposit Insurance Corporation
Phone: 202 416-7152

RIN: 3064–AB46

4421. • COMMUNITY REINVESTMENT ACT REGULATIONS (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2901

CFR Citation: 12 CFR 345

Legal Deadline: None

Abstract: This notice, sponsored jointly by the OCC, the FRS, the FDIC and OTS, advises the public that the Agencies are seeking comment on a wide range of questions relating to Community Reinvestment Act (CRA) regulations and solicits suggestions about ways to improve existing CRA regulations.

Timetable:

Action	Date	FR Cite
ANPRM	07/19/01	66 FR 37602
ANPRM Comment Period End	10/17/01	
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Deanna Caldwell, Senior Policy Analyst, Division of Compliance and Consumer Affairs, Federal Deposit Insurance Corporation
Phone: 202 942-3366

RIN: 3064–AC50

Federal Deposit Insurance Corporation (FDIC) — Proposed Rule Stage

4422. RECEIVERSHIP RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819 to 1821

CFR Citation: 12 CFR 360

Legal Deadline: None

Abstract: This rulemaking establishes uniform rules governing the payment and priority of postinsolvency interest payments from all receiverships administered by the FDIC and makes other technical and clarifying changes to part 360.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

FDIC

Proposed Rule Stage

Agency Contact: Mitchell Glassman, Director, Division of Resolutions and Receiverships, Federal Deposit Insurance Corporation
Phone: 202 898-6525

RIN: 3064–AB92

4423. CONTRACTOR CONFLICT OF INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; 12 USC 1822(f)(3); 12 USC 1822(f)(4)

CFR Citation: 12 CFR 366

Legal Deadline: None

Abstract: This rulemaking clarifies that part 366 does not pertain to FDIC contractors who intend to purchase assets from the FDIC. Conflicts of interest regarding contractors who intend to purchase assets from the FDIC will be covered by an FDIC circular regarding the sale of assets to restricted contractors.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Donald Rosholt, Senior Ethics Program Specialist, Office of the Executive Secretary, Federal Deposit Insurance Corporation
Phone: 202 898-7287

RIN: 3064–AC29

4424. FAIR CREDIT REPORTING ACT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1681s; 12 USC 1819(a)(Tenth)

CFR Citation: 12 CFR 334

Legal Deadline: None

Abstract: Section 506 of the Gramm-Leach-Bliley Act requires bank regulators and FTC to publish FCRA regulations to implement the Fair Credit Reporting Act. Due to comments received from a joint notice of proposed rulemaking, dated October 20, 2000, it is anticipated that the agencies will issue a new proposed rulemaking for public comment.

Timetable:

Action	Date	FR Cite
NPRM	10/20/00	65 FR 63120
NPRM Comment Period End	12/04/00	
Second NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deanna Caldwell, Senior Policy Analyst, Division of Compliance and Consumer Affairs, Federal Deposit Insurance Corporation
Phone: 202 942-3366

RIN: 3064–AC35

4425. PROCEDURES FOR THE COLLECTION OF CORPORATE DEBT BY ADMINISTRATIVE OFFSET

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819(a); 5 USC 5514; 31 USC 3711; 31 USC 3716

CFR Citation: 12 CFR 313

Legal Deadline: None

Abstract: This rulemaking establishes procedures for the collection of debts owed the FDIC. The rulemaking also implements the Debt Collection Improvement Act of 1996, which requires agencies to promulgate regulations on this subject. The regulation sets forth the procedures the FDIC would follow in collecting debts through salary offset, administrative offset, and tax refund offset.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Manuel Palau, Counsel, Legal Division, Federal Deposit Insurance Corporation
Phone: 202 898-8829

RIN: 3064–AC40

4426. BROKERS AND DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78a

CFR Citation: Not Yet Determined

Legal Deadline: Final, Statutory, May 12, 2001.

Abstract: This rulemaking implements section 204 of the Gramm-Leach-Bliley Act (GLBA), which requires the Federal banking agencies to establish recordkeeping requirements for banks relying on any of the broker-dealer exemptions listed in sections 201 and 202 of GLBA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Keith Ligon, Chief, Policy Unit, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 898-3618

RIN: 3064–AC42

4427. DEPOSIT INSURANCE COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1813(l)

CFR Citation: 12 CFR 330

Legal Deadline: None

Abstract: This rulemaking establishes a uniform and streamlined appeals process for deposit insurance claims.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Richard Osterman, Assistant General Counsel, Legal Division, Federal Deposit Insurance Corporation
Phone: 202 736-0617

RIN: 3064–AC43

4428. SIMPLIFIED CAPITAL FRAMEWORK FOR NONCOMPLEX FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a)

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This notice, sponsored jointly by the OCC, the FRS, the FDIC and OTS, advises the public that the Agencies are considering developing a regulatory capital framework tailored to the size, structure, complexity, and risk profile of domestic, noncomplex financial institutions. The Agencies are

FDIC **Proposed Rule Stage**

seeking comment on possible regulatory capital frameworks that may ease the burden on these financial institutions, such as a simplified risk-based or a modified leverage ratio framework.

Timetable:

Action	Date	FR Cite
ANPRM	11/03/00	65 FR 66193
ANPRM Comment Period End	02/01/01	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Keith Ligon, Chief, Policy Unit, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 898-3618

RIN: 3064–AC44

4429. • FILING PROCEDURES AND DELEGATIONS OF AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 378

CFR Citation: 12 CFR 303

Legal Deadline: None

Abstract: This rulemaking eliminates the existing requirement that the FDIC's Board act on merger applications involving a combined market share above 35 percent; it also reflects certain required Gramm-Leach-Bliley changes and revisions to enforcement delegations as well as technical amendments to part 303.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Rae-Ann Miller, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 898-8523

RIN: 3064–AC51

Federal Deposit Insurance Corporation (FDIC) **Final Rule Stage**

4430. CAPITAL MAINTENANCE—RECOURSE ARRANGEMENTS AND DIRECT CREDIT SUBSTITUTES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1816; 12 USC 1818(a); 12 USC 1819(Tenth); 12 USC 1828(d); 12 USC 1831o; 12 USC 3907; 12 USC 3909; 12 USC 1815(b); 12 USC 1818(b); 12 USC 1818(c); 12 USC 1818(t); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1835; 12 USC 4808; 12 USC 1828(c); PL 102-233; 105 Stat 1761; 105 Stat 1789; 105 Stat 1790; 105 Stat 2236

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: The interagency rulemaking revises risk-based capital standards by addressing the regulatory capital treatment of recourse obligations and direct credit substitutes that expose banks, bank holding companies, and thrifts to credit risk. The revision treats recourse obligations and direct credit substitutes more consistently than under the agencies' current risk-based capital standards. In addition, the revision allows the agencies to use credit ratings and certain alternative approaches to match the risk-based capital requirement more closely to a banking organization's relative risk of loss in asset securitizations. The rulemaking also requires the sponsor of a revolving credit securitization that involves an early amortization feature to hold capital against the amount of assets under management; i.e., the off balance sheet securitized receivables. The rulemaking is intended to result in more consistent treatment of recourse obligations and similar transactions among the agencies, more consistent risk-based capital treatment for certain types of transactions involving similar risk, and capital requirements that more closely reflect a banking organization's relative exposure to credit risk. This rulemaking and the rulemaking on residual interests (see 3064-AC34) are interrelated in that both address the regulatory capital treatment for residual interests in securitizations and other financial asset transfers. The agencies participating in these two rulemakings are ensuring that the treatment of residual interests will be consistent and may issue a single combined final rule rather than separate final rules.

Timetable:

Credit Ratings
ANPRM 05/25/94 (59 FR 27116)
Recourse/Direct Credit Substitutes
NPRM 05/25/94 (59 FR 27116)
Second NPRM 03/08/00 (65 FR 12320)
Second NPRM Comment Period End 06/07/00
Synthesis of Credit Ratings/Recourse/Direct Credit Substitutes
NPRM 11/05/97 (62 FR 59944)
Final Action 12/00/01

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert F. Storch, Chief, Accounting Section, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 898-8906

RIN: 3064–AB31

4431. QUALIFICATION REQUIREMENTS FOR THE RECOMMENDATION OR SALE OF CERTAIN SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818; 12 USC 1831

CFR Citation: 12 CFR 342

Legal Deadline: Final, Statutory, May 12, 2001, recordkeeping requirement.

Abstract: This proposal, sponsored jointly by the OCC, the FRS, and the FDIC, would establish qualifications for banks that sell certain securities to their customers without having to register as a broker under the Securities Exchange Act. FDIC staff are contemplating a recommendation to rescind this proposal and replace it with a second NPRM to exempt banks from registering with the NASD/SEC as securities brokers or dealers in the event that they qualify under any of the exemption criteria in Gramm-Leach-Bliley Act sections 201 or 202 (see NPRM described at 3064-AC42).

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68824

FDIC

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	02/28/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Keith Ligon, Chief, Policy Unit, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 898-3618

RIN: 3064–AB85

4432. RISK-BASED CAPITAL STANDARDS: CLAIMS ON SECURITIES FIRMS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1831o; 12 USC 1835; 12 USC 1815(b); 12 USC 1816; 12 USC 1818(a) to 1818(c); 12 USC 1818(t); 12 USC 1819 (Tenth); 12 USC 1828(c)

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, the FDIC and OTS (the Agencies), and amends their respective risk-based capital standards for banks, bank holding companies, and savings associations with regard to the risk-weighting of claims on, and claims guaranteed by, qualifying securities firms. The rule reduces the risk weight applied to claims on, and claims guaranteed by, qualifying securities firms incorporated in countries that are members of the Organization for Economic Cooperation and Development (OECD) from 100 percent to 20 percent under the Agencies' risk-based capital rules.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76180
NPRM Comment Period End	01/22/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 898-8904

RIN: 3064–AC17

4433. CAPITAL; LEVERAGE AND RISK-BASED CAPITAL GUIDELINES; CAPITAL ADEQUACY GUIDELINES; CAPITAL MAINTENANCE: RESIDUAL INTERESTS IN ASSET SECURITIZATIONS OR OTHER TRANSFERS OF FINANCIAL ASSETS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1815(b); 12 USC 1816; 12 USC 1818(a) to 1818(c); 12 USC 1818(t); 12 USC 1819(Tenth); 12 USC 1828(c); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1831o; 12 USC 1835; 12 USC 3907; 12 USC 3909; 12 USC 4808; PL 102-233; 105 Stat 1761; 105 Stat 1789

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This interagency rulemaking amends capital rules to restrict excessive concentrations in residual interests by limiting the amount that are included in Tier 1 capital for both leverage and risk-based capital purposes. Residual interests in excess of this limitation would be deducted from Tier 1 capital. The rulemaking also requires that risk-based capital be held in an amount equal to the amount of residual interests that are within this limitation. This rulemaking and the rulemaking on recourse and direct credit substitutes (see 3064-AB31) are interrelated in that both address the regulatory capital treatment for residual interests in securitizations and other financial asset transfers. The agencies participating in these two rulemakings are ensuring that the treatment of residual interests will be consistent and may issue a single combined final rule rather than separate final rules.

Timetable:

Action	Date	FR Cite
NPRM	09/27/00	65 FR 57993
NPRM Comment Period End	12/26/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Keith Ligon, Chief, Policy Unit, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 898-3618

RIN: 3064–AC34

4434. PROHIBITION AGAINST USE OF INTERSTATE BRANCHES PRIMARILY FOR DEPOSIT PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819(Tenth); 12 USC 1835a

CFR Citation: 12 CFR 369

Legal Deadline: None

Abstract: The rulemaking implements section 106 of the Gramm-Leach-Bliley Act, which amends the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, to provide that any branch of a bank controlled by an out-of-state bank holding company is considered to be an interstate branch for purposes of Riegle-Neal.

Timetable:

Action	Date	FR Cite
NPRM	04/09/01	66 FR 18411
NPRM Comment Period End	06/08/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marc J. Goldstrom, Counsel, Legal Division, Federal Deposit Insurance Corporation
Phone: 202 898-8807

RIN: 3064–AC36

4435. RISK-BASED CAPITAL GUIDELINES: MARKET RISK MEASURE; SECURITIES BORROWING TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1815(b); 12 USC 1816; 12 USC 1818(a) to 1818(c); 12 USC 1818(t); 12 USC 1819(Tenth); 12 USC 1828(c); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1831o; PL 102-233; 105 Stat 1761; 105 Stat 1789; 105 Stat 1790; PL 102-242; 105 Stat 2236; 105 Stat 2355; 105 Stat 2386

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking sponsored jointly by the OCC, the FRS and the FDIC, amends their market risk rules to revise the capital treatment for cash

FDIC — Final Rule Stage

collateral that is posted in connection with certain securities borrowing transactions. The effect of the rule is to more appropriately align the capital requirements for these transactions with the risk involved and to provide a capital treatment for U.S. banking organizations that is more in line with the capital treatment applied to their domestic and foreign competitors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/05/00	65 FR 75856
Interim Final Rule Effective	01/04/01	
Interim Final Rule Comment Period End	01/19/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 898-8904

RIN: 3064–AC46

4436. CAPITAL; LEVERAGE AND RISK-BASED CAPITAL GUIDELINES; CAPITAL ADEQUACY GUIDELINES; CAPITAL MAINTENANCE; NONFINANCIAL EQUITY INVESTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1815(b); 12 USC 1816; 12 USC 1818(a) to 1818(c); 12 USC 1818(t); 12 USC 1819(Tenth); 12 USC 1828(c); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1831o; 12 USC 1835; 12 USC 3907; 12 USC 3909; 12 USC 4808; PL 102-233; 105 Stat 1761; 105 Stat 1789; PL 102-242; 105 Stat 2236

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking, sponsored jointly by the OCC, the FRS and the FDIC, amends respective risk-based and leverage capital standards for banks and bank holding companies with respect to the capital treatment of nonfinancial equity investments. The rule would deduct from Tier 1 capital certain percentages of the adjusted carrying value of all nonfinancial equity investments.

Timetable:

Action	Date	FR Cite
NPRM	02/14/01	66 FR 10212
NPRM Comment Period End	04/16/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 898-8904

RIN: 3064–AC47

Federal Deposit Insurance Corporation (FDIC) — Long-Term Actions

4437. CENSURE, SUSPENSION, AND DEBARMENT OF INDEPENDENT PUBLIC ACCOUNTANTS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 308

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Doris L. Marsh
Phone: 202 898-8905

RIN: 3064–AA64

4438. CAPITAL MAINTENANCE—COLLATERALIZED TRANSACTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 325

Timetable:

Action	Date	FR Cite
NPRM	08/16/96	61 FR 42565
NPRM Comment Period End	10/15/96	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer
Phone: 202 898-8904

RIN: 3064–AB78

4439. NOTIFICATION OF ASSUMPTION OF DEPOSITS AND CHANGE OF INSURED STATUS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 307

Timetable:

Action	Date	FR Cite
NPRM	05/14/97	62 FR 26431
NPRM Comment Period End	07/14/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Rodney D. Ray
Phone: 202 898-3556

RIN: 3064–AB88

4440. ADVERTISEMENT OF MEMBERSHIP

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 328

Timetable:

Action	Date	FR Cite
NPRM	02/11/97	62 FR 6142
NPRM Comment Period End	04/14/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marc J. Goldstrom
Phone: 202 898-8807

RIN: 3064–AB99

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Federal Deposit Insurance Corporation (FDIC) **Completed Actions**

4441. • DEPOSIT INSURANCE ENGAGED IN THE BUSINESS OF RECEIVING DEPOSITS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815 to 1818; 12 USC 1819 (Seventh and Tenth); 12 USC 1820; 12 USC 1823; 12 USC 1828; 12 USC 1831a; 12 USC 1831e; 12 USC 1831o; 12 USC 1831p-1; 12 USC 1835a; 12 USC 3104; 12 USC 3105; 12 USC 3108; 12 USC 3207; 15 USC 1601 to 1607

CFR Citation: 12 CFR 303

Legal Deadline: None

Abstract: This rulemaking replaces FDIC's General Counsel Opinion No. 12 with a regulation. The purpose of promulgating a regulation would be to clarify the requirement that an insured depository institution be "engaged in the business of receiving deposits other than trust funds."

Timetable:

Action	Date	FR Cite
NPRM	04/19/01	66 FR 20102
NPRM Comment Period End	07/18/01	
Final Action	10/30/01	66 FR 54645
Final Action Effective	11/29/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Christopher L. Hencke, Counsel, Legal Division, Federal Deposit Insurance Corporation
Phone: 202 898-8839

RIN: 3064–AC49

[FR Doc. 01–23871 Filed 11–30–01; 8:45 am]
BILLING CODE 6714–01–S

Federal Register

Monday,
December 3, 2001

Part LIII

Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with guidance issued by the Office of Management and Budget (OMB), the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. Of the 8 rulemakings listed, 5 are current or projected rulemakings, and 3 are completed actions.

DATES: The dates provided represent goals, not commitments, and may be revised due to shifts in workload, changes in priorities, or extensive public comments. See the various dates listed for each specific rulemaking.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Person listed for each specific rulemaking.

David P. Boergers,

Secretary.

Federal Energy Regulatory Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4442	Standards of Conduct for Transmission Providers	1902-AC07

Federal Energy Regulatory Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4443	Treatment of Responses to FERC Form No. 580 Interrogatories	1902-AB57
4444	Electronic Filing of FERC Form Nos. 423, 714 and 715	1902-AB93
4445	Electronic Service of Documents	1902-AC08
4446	Electronic Filing of Documents	1902-AC09

Federal Energy Regulatory Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
4447	Revised Filing Requirements Under Part 33 of the Commission's Regulations	1902-AB73
4448	Electronic Filing	1902-AB89
4449	Revision of Annual Charges Assessed to Public Utilities	1902-AB92

Federal Energy Regulatory Commission (FERC) **Proposed Rule Stage**

4442. • STANDARDS OF CONDUCT FOR TRANSMISSION PROVIDERS

Priority: Other Significant

Legal Authority: 15 USC 717 to 717w; 15 USC 3301 to 3423; 16 USC 791 to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 37; 18 CFR 161; 18 CFR 250; 18 CFR 358

Legal Deadline: None

Abstract: The Commission is considering whether to promulgate new standards of conduct regulations that would apply uniformly to natural gas pipelines and public utilities that are currently subject to the gas standards of conduct of 18 CFR part 161 and the electric standards of conduct at 18 CFR part 37. (Docket No. RM01-10-000.)

Timetable:

Action	Date	FR Cite
NPRM	10/05/01	66 FR 50919
NPRM Comment Period End	12/20/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Demetra E. Anas, Attorney, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-0178
Fax: 202 208-0057

RIN: 1902–AC07

4443. TREATMENT OF RESPONSES TO FERC FORM NO. 580 INTERROGATORIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 to 305; 5 USC 551 to 557; 15 USC 79; 16 USC 791a to 828c; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 141; 18 CFR 388

Legal Deadline: None

Abstract: The Commission proposes to: codify an existing requirement for certain public utilities to file responses to FERC Form No. 580 interrogatories; provide for the filing of both hard copy and electronic copy; and provide that responses will not qualify for claims of privilege. (Docket No. RM94-5-000.)

Timetable:

Action	Date	FR Cite
NPRM	12/01/93	58 FR 63312
NPRM Comment Period End	03/04/94	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Cohen, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-0321

RIN: 1902–AB57

4444. ELECTRONIC FILING OF FERC FORM NOS. 423, 714 AND 715

Priority: Info./Admin./Other

Legal Authority: 15 USC 79; 16 USC 791a to 828c; 16 USC 2601 to 2545; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 141.51; 18 CFR 141.61; 18 CFR 141.300; 18 CFR 385.2011

Legal Deadline: None

Abstract: The Commission proposes to amend its regulations to provide for the conversion from paper to electronic filing of FERC Forms Nos. 423 (Monthly Report of Cost and Quality of Fuels for Electric Plants), 714 (Annual Electric Control and Planning Area Report) and 715 (Annual Transmission Planning and Evaluation Report). (Docket No. RM00-1-000.)

Timetable:

Action	Date	FR Cite
NPRM	11/04/99	64 FR 60140
NPRM Comment Period End	12/06/99	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia Morris, Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-6990

RIN: 1902–AB93

4445. • ELECTRONIC SERVICE OF DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is considering whether to amend its regulations to provide for electronic service of Commission issuances. This would provide participants in Commission proceedings with faster, more efficient notice of orders and other documents. (Docket No. RM01-11-000.)

Timetable:

Action	Date	FR Cite
Notice of Inquiry	10/04/01	66 FR 50591
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wilbur Miller, General Attorney, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-0953
Email: wilbur.miller@ferc.fed.us

RIN: 1902–AC08

4446. • ELECTRONIC FILING OF DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717z; 15 USC 3301 to 3432; 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352; 49 USC 60502; 49 USC app 1 to 85 (1988)

CFR Citation: 18 CFR 385

Legal Deadline: None

Abstract: The Commission has issued a rulemaking to begin implementing electronic filing of documents via the Internet, in lieu of paper filings. At this time, only specified categories of documents are being accepted, but these categories will be expanded gradually over time, in some cases by further rulemakings. Ultimately, paper filings by regulated entities will be eliminated, with limited exceptions. (Docket No. RM00-12-000.)

Timetable:

Action	Date	FR Cite
Final Rule	09/21/00	65 FR 57088
Final Rule Effective	11/01/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Wilbur Miller, General Attorney, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-0953
Email: wilbur.miller@ferc.fed.us

RIN: 1902–AC09

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Federal Energy Regulatory Commission (FERC) — **Completed Actions**

4447. REVISED FILING REQUIREMENTS UNDER PART 33 OF THE COMMISSION'S REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 18 CFR 33

Completed:

Reason	Date	FR Cite
Order on Rehearing	03/23/01	66 FR 16121

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Julia A. Lake
Phone: 202 208-2019

RIN: 1902–AB73

4448. ELECTRONIC FILING

Priority: Other Significant

CFR Citation: 18 CFR 385

Completed:

Reason	Date	FR Cite
Notice of Electronic Filing Demonstrations	10/27/00	65 FR 64437
Final Rule Effective	11/01/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Wilbur Miller
Phone: 202 208-0953
Email: wilbur.miller@ferc.fed.us

RIN: 1902–AB89

4449. REVISION OF ANNUAL CHARGES ASSESSED TO PUBLIC UTILITIES

Priority: Info./Admin./Other

CFR Citation: 18 CFR 382.102; 18 CFR 382.201

Completed:

Reason	Date	FR Cite
Order Denying Rehearing	03/21/01	66 FR 15793

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Herman Dalgetty
Phone: 202 219-2918

RIN: 1902–AB92

[FR Doc. 01–25317 Filed 11–30–01; 8:45 am]
BILLING CODE 6717–01–S

Federal Register

Monday,
December 3, 2001

Part LIV

Federal Housing Finance Board

Semiannual Regulatory Agenda

FEDERAL HOUSING FINANCE BOARD (FHFB)

FEDERAL HOUSING FINANCE BOARD

12 CFR Ch. IX

Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Federal Housing Finance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Housing Finance Board (Finance Board) hereby publishes items for the Unified Agenda of Federal Regulatory and Deregulatory Actions, as required by section 4 of Executive Order 12866. These items reflect the status of the regulatory agenda of the Finance Board as of September 6, 2001. The Finance Board is an independent agency in the executive branch of the Government that is charged by statute with supervising and regulating the Nation's Federal Home Loan Bank (Bank) System and the Financing Corporation (FICO). The Bank System comprises 12 regional Federal Home Loan Banks that are each owned by their member financial institutions and that provide wholesale credit to members and certain nonmembers to be used for mortgage lending and related community lending activities. The Bank System also includes the Office of Finance, which issues Bank System consolidated obligations. FICO is a corporate entity separate from the Bank System that oversees outstanding debt issued to assist in resolving the savings and loan crisis of the 1980s. The Finance Board has an ongoing need to adopt various regulations dealing with the agency's internal administration and with Bank System and FICO issues.

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Finance Board's Statement of Regulatory Priorities is included in part II.

ADDRESSES: Secretary to the Board, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2837.

FOR FURTHER INFORMATION CONTACT: Mary H. Gottlieb, Office of General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2826; e-mail: gottliebm@fhfb.gov.

By the Federal Housing Finance Board.

James L. Bothwell,

Managing Director.

Federal Housing Finance Board—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4450	Multiple Bank Membership	3069-AB09

Federal Housing Finance Board—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4451	Federal Home Loan Bank Securities Offerings	3069-AB08
4452	Amendment of Housing Associate Regulation	3069-AB13

Federal Housing Finance Board—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4453	Rules of Practice and Procedures	3069-AB03
4454	Amendments to Privacy Act Regulation	3069-AB07
4455	Definition of "Non-Mortgage Assets"	3069-AB10
4456	Unsecured Credit Limits	3069-AB11
4457	Technical Corrections Related to Regulatory Reorganization	3069-AB12

Federal Housing Finance Board—Completed Actions

Sequence Number	Title	Regulation Identification Number
4458	Amendment of Community Investment Cash Advance Regulation	3069-AA99
4459	Affordable Housing Program Amendments	3069-AB04
4460	Maintenance of Effort-Minimum Number of Annual Bank Board of Directors Meetings	3069-AB05
4461	Capital Requirements for Federal Home Loan Banks	3069-AB06

Federal Housing Finance Board (FHFB) — Prerule Stage

4450. MULTIPLE BANK MEMBERSHIP

Priority: Other Significant

Legal Authority: 12 USC 1422b(a); 12 USC 1424

CFR Citation: 12 CFR 925

Legal Deadline: None

Abstract: The Finance Board has solicited comments on whether a financial institution doing business in more than one Bank district may hold simultaneous memberships in two or more Banks.

Timetable:

Action	Date	FR Cite
Multiple Bank Membership Solicitation of Comments	10/03/01	66 FR 50366
Solicitation of Comments Period End	01/02/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580
Email: likes@fhfb.gov

RIN: 3069–AB09

Federal Housing Finance Board (FHFB) — Proposed Rule Stage

4451. FEDERAL HOME LOAN BANK SECURITIES OFFERINGS

Priority: Other Significant

Legal Authority: 12 USC 1422a(a)(3)(A); 12 USC 1422b(a)(1)

CFR Citation: 12 CFR 990

Legal Deadline: None

Abstract: The Finance Board intends to issue a proposed rule to amend its regulations to set forth the process and manner by which a Bank may offer capital stock in a general solicitation to its members. The rule will establish filing, content and distribution requirements for such general solicitations, and will require disclosure to be consistent with corresponding requirements contained in the Securities and Exchange Commission's Regulations S-K (specific narrative requirements) and S-X (accounting and financial statement requirements).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eric E. Berg, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589
Fax: 202 408-2580
Email: berge@fhfb.gov

RIN: 3069–AB08

4452. • AMENDMENT OF HOUSING ASSOCIATE REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1430b

CFR Citation: 12 CFR 926

Legal Deadline: None

Abstract: The Finance Board is considering amending its regulations governing the Bank to which a Native American housing authority may apply for housing associate status.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580
Email: likes@fhfb.gov

RIN: 3069–AB13

Federal Housing Finance Board (FHFB) — Final Rule Stage

4453. RULES OF PRACTICE AND PROCEDURES

Priority: Other Significant

Legal Authority: 12 USC 1422b(a)(1); 12 USC 1422b(a)(5); 12 USC 4631(c); 12 USC 4631(f); 12 USC 1818(b)6 to 7; 12 USC 1422b(a)(2)

CFR Citation: 12 CFR 907; 12 CFR 908

Legal Deadline: None

Abstract: The Finance Board published proposed Rules of Practice and Procedure to implement enforcement powers conferred on the agency by the Federal Home Loan Bank System Modernization Act of 1999.

Timetable:

Action	Date	FR Cite
NPRM	12/18/00	65 FR 78994
NPRM Comment Period End	01/17/01	
Final Action	12/00/01	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charlotte A. Reid, Special Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2510
Fax: 202 408-2580

FHFB — Final Rule Stage

Email: reidc@fhfb.gov
RIN: 3069–AB03

4454. AMENDMENTS TO PRIVACY ACT REGULATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a

CFR Citation: 12 CFR 913

Legal Deadline: None

Abstract: The Finance Board intends to issue an interim final rule to revise its Privacy Act regulation to reflect an agency reorganization.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	
Interim Final Rule Effective	12/00/01	
Interim Final Rule Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice A. Kaye, Attorney Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2505
Fax: 202 408-2580
Email: kayej@fhfb.gov

RIN: 3069–AB07

4455. DEFINITION OF "NON-MORTGAGE ASSETS"

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422b(a); 12 USC 1426(a)

CFR Citation: 12 CFR 966.3

Legal Deadline: None

Abstract: The Finance Board intends to publish an interim final rule to redefine "non-mortgage assets" for purposes of calculating the appropriate assets-to-capital leverage limit that applies to each Bank, pending the Bank's compliance with the new capital regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	
Interim Final Rule Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eric M. Raudenbush, Senior Attorney-Adviser, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2932
Fax: 202 408-2580
Email: raudenbushe@fhfb.gov

RIN: 3069–AB10

4456. UNSECURED CREDIT LIMITS

Priority: Other Significant

Legal Authority: 12 USC 1422b(a), 12 USC 1422(a)(3); 12 USC 1426; 12 USC 1440

CFR Citation: 12 CFR 932.9

Legal Deadline: None

Abstract: The Finance Board issued a proposed rule to amend the unsecured credit provisions of the captial rule to increase the limit on a Bank's unsecured credit exposure to government-sponsored enterprises. Based in part on the comments received, the Finance Board determined that broader changes to the rule may be needed and a subsequent proposal was issued.

Timetable:

Action	Date	FR Cite
NPRM	03/07/01	66 FR 13688
NPRM Comment Period End	04/23/01	
NPRM	08/08/01	66 FR 41474
NPRM Comment Period End	09/07/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas E. Joseph, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2512
Fax: 202 408-2580
Email: josepht@fhfb.gov

RIN: 3069–AB11

4457. TECHNICAL CORRECTIONS RELATED TO REGULATORY REORGANIZATION

Priority: Info./Admin./Other

Legal Authority: 12 USC 1422b(a)

CFR Citation: 12 CFR ch IX

Legal Deadline: None

Abstract: In 2000, the Finance Board issued a final rule to reorganize and renumber its regulations. Because of the complexity of this rulemaking, several technical mistakes were made and several needed changes were overlooked. The Finance Board intends to issue an interim final rule to make any necessary technical corrections arising from the reorganization.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	
Interim Final Rule Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eric M. Raudenbush, Senior Attorney-Adviser, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2932
Fax: 202 408-2580
Email: raudenbushe@fhfb.gov

RIN: 3069–AB12

Federal Housing Finance Board (FHFB)

Completed Actions

4458. AMENDMENT OF COMMUNITY INVESTMENT CASH ADVANCE REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422b(a)(1); 12 USC 1430

CFR Citation: 12 CFR 952

Legal Deadline: None

Abstract: The Finance Board has adopted a final rule amending the Community Investment Cash Advance (CICA) regulation to make certain technical revisions clarifying CICA program requirements and improving the operation of CICA programs.

Timetable:

Action	Date	FR Cite
NPRM	07/13/01	66 FR 36715
NPRM Comment Period End	08/13/01	
Final Action	10/03/01	66 FR 50293
Final Action Effective	11/02/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
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Email: likes@fhfb.gov

RIN: 3069–AA99

4459. AFFORDABLE HOUSING PROGRAM AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1430(j)

CFR Citation: 12 CFR 951

Legal Deadline: None

Abstract: The Finance Board has adopted a final rule amending the Affordable Housing Program (AHP) regulation to make certain changes to improve the operation and effectiveness of the AHP.

Timetable:

Action	Date	FR Cite
NPRM	05/10/01	66 FR 23864
NPRM Comment Period End	06/11/01	
Final Action	10/03/01	66 FR 50296
Final Action Effective	11/02/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
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Email: likes@fhfb.gov

RIN: 3069–AB05

4460. MAINTENANCE OF EFFORT-MINIMUM NUMBER OF ANNUAL BANK BOARD OF DIRECTORS MEETINGS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422b(a); 12 USC 1427

CFR Citation: 12 CFR 918

Legal Deadline: None

Abstract: The Finance Board has adopted an interim final rule that would amend its regulation on meetings of Bank boards of directors to reduce the required minimum number of in-person board of directors meetings that a Bank must hold annually to six meetings.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/14/01	66 FR 24263
Interim Final Rule Effective	05/14/01	
Interim Final Rule Comment Period End	06/13/01	
Final Action	10/31/01	66 FR 54916
Final Action Effective	11/30/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580
Email: likes@fhfb.gov

RIN: 3069–AB05

4461. CAPITAL REQUIREMENTS FOR FEDERAL HOME LOAN BANKS

Priority: Other Significant

Legal Authority: 12 USC 1426; 12 USC 1422b(a); 12 USC 1422a(a)(3); 12 USC 1440; 12 USC 1443; 12 USC 1446

CFR Citation: 12 CFR 925; 12 CFR 930; 12 CFR 931; 12 CFR 932; 12 CFR 933

Legal Deadline: None

Abstract: On December 20, 2000, the Finance Board adopted regulations implementing a new capital structure for the Banks as required by the Federal Home Loan Bank System Modernization Act of 1999. To help assure smooth implementation of the new capital structure, the Finance Board issued an Advance Notice of Proposed Rulemaking (ANPR) to seek information as to whether recent actions by other regulatory bodies, changes in the economy, or issues not previously identified by the Banks may require additions or amendments to the capital regulations. The ANPR was followed by an NPRM and final rule setting forth additional conforming amendments and clarifications.

Timetable:

Action	Date	FR Cite
ANPRM	03/09/01	66 FR 14093
ANPRM Comment Period End	04/09/01	
NPRM	08/08/01	66 FR 41462
NPRM Comment Period End	09/07/01	
Final Action	10/24/01	66 FR 54097
Final Action Effective	11/26/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas E. Joseph, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2512
Fax: 202 408-2580
Email: josepht@fhfb.gov

RIN: 3069–AB06

[FR Doc. 01–23872 Filed 11–30–01; 8:45 am]
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Federal Register

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December 3, 2001

Part LV

Federal Maritime Commission

Semiannual Regulatory Agenda

FEDERAL MARITIME COMMISSION (FMC)

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Regulatory Plan and Unified Agenda

AGENCY: Federal Maritime Commission.

ACTION: Regulatory plan and semiannual regulatory agenda.

SUMMARY: Pursuant to section 4(b) of Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission anticipates having under consideration, during the period from October 1, 2001, to September 30, 2002, actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 4(b) of Executive Order 12866 also requires agencies to publish a regulatory agenda. The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The following is the Commission's unified regulatory agenda. The agenda does not necessarily include all petitions for rulemakings that are under staff review.

In addition, the Commission maintains a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda. This will be made available to the public, including the press and interested persons.

The Commission currently has no actions under consideration that constitute "significant regulatory actions" under the definition in Executive Order 12866. This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Federal Maritime Commission's Statement of Regulatory Priorities is included in part II.

Bryant L. VanBrakle,

Secretary.

Federal Maritime Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4462	Content of Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984 (Docket No. 99-13)	3072-AC11
4463	Impact of Government Paperwork Elimination Act and Electronic Signatures in Global and National Commerce Act (Docket No. 01-08)	3072-AC17

Federal Maritime Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4464	Coloading Practices and Possible Section 16 Exemption for Coloading (Docket Nos. 93-22 and 94-26)	3072-AB75
4465	Financial Responsibility Requirements for Nonperformance of Transportation and Inquiry Into Alternative Forms (Docket No. 94-06; Further Notice of Proposed Rulemaking)	3072-AB80
4466	Port Restrictions and Requirements in the United States/Japan Trade (Docket No. 96-20)	3072-AB97

Federal Maritime Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
4467	Public Access Charges to Carrier Automated Tariffs and Tariff Systems Under the Ocean Shipping Reform Act of 1998 (Docket No. 00-07)	3072-AC14
4468	Alternative Dispute Resolution (Docket No. 01-05)	3072-AC18

Federal Maritime Commission (FMC) — **Proposed Rule Stage**

4462. CONTENT OF OCEAN COMMON CARRIER AND MARINE TERMINAL OPERATOR AGREEMENTS SUBJECT TO THE SHIPPING ACT OF 1984 (DOCKET NO. 99-13)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC app 1701 et seq; PL 105-258

CFR Citation: 46 CFR 535

Legal Deadline: None

Abstract: The FMC is issuing this inquiry to solicit comments concerning the appropriate content of agreements filed with the Commission pursuant to the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998. The comments received will assist the Commission in preparing a proposal to update or refine the existing content standards.

Timetable:

Action	Date	FR Cite
Notice of Inquiry	06/03/99	64 FR 42057
Inquiry Comment Period End	10/04/99	
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Trade Analysis, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573
Phone: 202 523-5796
Fax: 202 523-4372
Email: austins@fmc.gov

RIN: 3072–AC11

4463. • IMPACT OF GOVERNMENT PAPERWORK ELIMINATION ACT AND ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT (DOCKET NO. 01-08)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-277, Government Paperwork Elimination Act; PL 106-229, Electronic Signatures in Global and National Commerce Act

CFR Citation: 46 CFR 500 et seq

Legal Deadline: Final, Statutory, October 21, 2003.

Abstract: The Federal Maritime Commission is issuing this inquiry to solicit information and comments concerning the impact of the Government Paperwork Elimination Act and the Electronic Signatures in Global and National Commerce Act on all sectors of the U.S. ocean shipping industry. These comments will assist the Commission as it analyzes the use and acceptance of documents in electronic form, as well as other means of engaging in electronic transactions. The Commission, via a rulemaking, plans to provide individuals or entities with the option to submit information or transact business with the Commission electronically, where practicable, and to maintain records electronically when practicable.

Timetable:

Action	Date	FR Cite
Notice of Inquiry	07/18/01	66 FR 37468
Comments Due	08/17/01	
Comment Period Extended to 09/17/2001	08/17/01	66 FR 43261
NPRM	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Florence A. Carr, Deputy Executive Director, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573
Phone: 202 523-5800
Fax: 202 523-5827
Email: florence@fmc.gov

RIN: 3072–AC17

Federal Maritime Commission (FMC) — **Long-Term Actions**

4464. COLOADING PRACTICES AND POSSIBLE SECTION 16 EXEMPTION FOR COLOADING (DOCKET NOS. 93-22 AND 94-26)

Priority: Substantive, Nonsignificant

CFR Citation: 46 CFR 520.11

Timetable:

Action	Date	FR Cite
NPRM	11/24/93	58 FR 62077
NPRM Comment Period End	03/11/94	59 FR 5974
Notice of Inquiry (Docket No. 94-26)	11/09/94	59 FR 55826
Comment Period End for NOI (Docket No. 94-26)	12/27/94	
NOI Comment Period Extended to 01/23/95	12/28/94	59 FR 66880
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David R. Miles
Phone: 202 523-5740
Fax: 202 523-5738
Email: davidm@fmc.gov

RIN: 3072–AB75

4465. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR NONPERFORMANCE OF TRANSPORTATION AND INQUIRY INTO ALTERNATIVE FORMS (DOCKET NO. 94-06; FURTHER NOTICE OF PROPOSED RULEMAKING)

Priority: Other Significant

CFR Citation: 46 CFR 540.5; 46 CFR 540.9

Timetable:

Action	Date	FR Cite
NPRM	03/31/94	59 FR 15149
NPRM Comment Period End	05/02/94	
Comment Period Extended to	06/10/94	59 FR 23182
Comment Period Extended to	06/24/94	59 FR 30567
Notice of Inquiry (Docket No. 94-21)	10/14/94	59 FR 52133
Clarification of Notice of Inquiry	11/02/94	59 FR 54878
Comment Period End for Notice of Inquiry	11/28/94	59 FR 52133
Further NPRM (Docket No. 94-06)	06/26/96	61 FR 33059
Discontinuance of Proceeding for Docket No. 94-21	07/03/96	61 FR 39940

FMC — Long-Term Actions

Action	Date	FR Cite
Further NPRM Comment Period End	08/26/96	61 FR 33059
Comment Period Extended to	09/25/96	61 FR 43209
Comment Period Extended to	10/15/96	61 FR 50265
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sandra L. Kusumoto
Phone: 202 523-5787
Email: sandrak@fmc.gov

RIN: 3072–AB80

4466. PORT RESTRICTIONS AND REQUIREMENTS IN THE UNITED STATES/JAPAN TRADE (DOCKET NO. 96-20)

Priority: Other Significant

CFR Citation: 46 CFR 551

Timetable:

Action	Date	FR Cite
NPRM	11/13/96	61 FR 58160
Comment Period Extended to 01/20/97	12/27/96	61 FR 68200
NPRM Comment Period End	01/13/97	
Final Rule - Report Due 08/26/1999 and Every 180 Days Thereafter	03/04/97	62 FR 9696
Final Rule Effective	04/14/97	
Status Reports and Comments Due 08/05/97	04/16/97	62 FR 18433
Amendment to Final Rule	04/16/97	62 FR 18532
Final Rule Effectiveness Extended to 09/04/97	04/16/97	62 FR 18533
Status Reports and Comments Due 07/01/97	04/16/97	62 FR 18533
Amendment to Final Rule - Denial of Petition	10/20/97	62 FR 54396
Final Rule Effectiveness Suspended 11/13/97	11/19/97	62 FR 61648
Final Rule Removed	06/07/99	64 FR 30245
Final Rule Removed Effective	06/07/99	
Requirement for Reporting Revised	08/15/01	66 FR 42859
Report Due 11/07/2001 and Every 180 Days Thereafter	08/15/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David R. Miles
Phone: 202 523-5740
Fax: 202 523-5738
Email: davidm@fmc.gov

RIN: 3072–AB97

Federal Maritime Commission (FMC) — Completed Actions

4467. PUBLIC ACCESS CHARGES TO CARRIER AUTOMATED TARIFFS AND TARIFF SYSTEMS UNDER THE OCEAN SHIPPING REFORM ACT OF 1998 (DOCKET NO. 00-07)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-258; 46 USC app 1707(a)(2)

CFR Citation: 46 CFR 520

Legal Deadline: None

Abstract: The FMC is concerned that certain tariff access charges and minimum monthly subscription requirements may limit the public's ability to access the automated tariffs and tariff systems of common carriers, contrary to the requirements of the Ocean Shipping Reform Act of 1998. Therefore, it is seeking public comments to address the reasonableness of tariff access charges.

Timetable:

Action	Date	FR Cite
ANPRM	05/16/00	65 FR 31130
ANPRM Comment Period End	06/15/00	
Circular Letter Issued	10/06/00	
Proceeding Discontinued	07/18/01	66 FR 37442

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Trade Analysis, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573
Phone: 202 523-5796
Fax: 202 523-4372
Email: austins@fmc.gov

RIN: 3072–AC14

4468. • ALTERNATIVE DISPUTE RESOLUTION (DOCKET NO. 01-05)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 5 USC 551 to 553; 5 USC 556(c); 5 USC 559; 5 USC 561 to 569; 5 USC 571 to 584, Administrative Dispute Resolution Act; 5 USC 591 to 596; 12 USC 1141j(a); ...

CFR Citation: 46 CFR 502.61; 46 CFR 502.62; 46 CFR 502.91; 46 CFR 502.94; 46 CFR 502.301; 46 CFR 502.401 to 502.411

Legal Deadline: None

Abstract: The Federal Maritime Commission issued new regulations implementing the Administrative Dispute Resolution Act. The new regulations expand the Commission's Alternative Dispute Resolution (ADR) services, addressing guidelines and procedures for arbitration and providing for mediation and other ADR services. This rule replaces current subpart U, Conciliation Service, with a new subpart U, Alternative Dispute Resolution, that contains a new Commission ADR policy and provisions for various means of ADR. The rule also revises certain other regulations to conform to the Commission's new ADR policy.

Timetable:

Action	Date	FR Cite
NPRM	05/21/01	66 FR 27921
NPRM Comment Period End	06/20/01	
Final Action	08/20/01	66 FR 43511
Final Action Effective	08/20/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

FMC **Completed Actions**

Agency Contact: Ronald D. Murphy, Specialist, Federal Maritime Commission
Commission Dispute Resolution Phone: 202 523-5787

Email: adr@fmc.gov

RIN: 3072–AC18

[FR Doc. 01–25318 Filed 11–30–01; 8:45 am]
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December 3, 2001

Part LVI

Federal Reserve System

Semiannual Regulatory Agenda

FEDERAL RESERVE SYSTEM (FRS)

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period October 1, 2001, through April 1, 2002. The next agenda will be published in April 2002.

DATES: Comments about the form or content of the agenda may be submitted any time during the next 6 months.

ADDRESSES: Comments should be addressed to Jennifer J. Johnson, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its October 2001 agenda as part of the October 2001 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda also identifies rules the Board has selected for review under section 610(c) of the Regulatory Flexibility Act, and public comment is invited on those entries. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next 6 months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further. Matters begun and completed between issues of the agenda have not been included.

A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous agenda and which the Board has not completed.

Margaret McCloskey Shanks,
Assistant Secretary of the Board.

Federal Reserve System—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4469	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System	7100-AC73
4470	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control	7100-AC78
4471	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control(Docket Number: R-1084)	7100-AC80
4472	Regulation: T — Credit by Brokers and Dealers; Regulation: U — Credit by Banks; and Regulation: X — Borrowers of Securities Credit (Docket Number: R-0995)	7100-AC45
4473	Regulation: Y — Bank Holding Companies and Change in Bank Control	7100-AC66
4474	Regulation: BB — Community Reinvestment (Docket Number: R-1112) **(Section 610 Review)**	7100-AC87
4475	Regulation: DD — Truth in Savings Act **(Section 610 Review)**	7100-AC86

Federal Reserve System—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4476	Regulation: B — Equal Credit Opportunity (Docket Number: R-1008) **(Section 610 Review)**	7100-AC54
4477	Regulation: B — Equal Credit Opportunity; and Regulation: Z — Truth in Lending (Docket Numbers: R-1040 and R-1043)	7100-AC46
4478	Regulation: C — Home Mortgage Disclosure (Docket Number: R-1001)	7100-AC51
4479	Regulation: E — Electronic Fund Transfers (Docket Numbers: R-0919 and R-1041)	7100-AC06
4480	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-1064)	7100-AC69
4481	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-1099)	7100-AC84
4482	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1055)	7100-AB77
4483	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-0930)	7100-AC13
4484	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1087)	7100-AC75

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Federal Reserve System—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
4485	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1085)	7100-AC76
4486	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1080)	7100-AC77
4487	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1097)	7100-AC65
4488	Regulation: K — International Banking Operations (Docket Number: R-0994)	7100-AC47
4489	Regulation: M — Consumer Leasing (Docket Number: R-1042)	7100-AC53
4490	Regulation: V — Fair Credit Reporting (Docket Number: R-1082)	7100-AC68
4491	Regulation: W — Transactions Between Banks and Their Affiliates (Docket Number: R-1103)	7100-AC63
4492	Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1091)	7100-AC79
4493	Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1094)	7100-AC81
4494	Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1092)	7100-AC82
4495	Regulation: Z — Truth in Lending (Docket Number: R-1090)	7100-AC83
4496	Regulation: DD — Truth in Savings (Docket Number: R-1044)	7100-AC34
4497	Misc. Interpretations: Application of Sections 23A and 23B of the Federal Reserve Act to Derivative Transactions with Affiliates and Intraday Extensions of Credit to Affiliates (Docket Number: R-1104)	7100-AC85

Federal Reserve System—Completed Actions

Sequence Number	Title	Regulation Identification Number
4498	Regulation: D — Reserve Requirements of Depository Institutions (Docket Number: R-0956)	7100-AC11
4499	Regulation: E — Electronic Fund Transfer (Docket Number: R-1077)	7100-AC67
4500	Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1060)	7100-AC71

Federal Reserve System (FRS)

Proposed Rule Stage

4469. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1828(t)

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: Section 204 of the Gramm-Leach-Bliley Act added a new subsection (t) to section 18 of the Federal Deposit Insurance Act requiring the Board, in consultation with the Securities and Exchange Commission, to establish recordkeeping requirements for state member banks and branches and agencies of foreign banks that rely on the exceptions from the definition of broker or dealer provided in section 3(a)(4) or (5) of the Securities Exchange Act of 1934. The Board anticipates issuing for public comment a rule that would implement these recordkeeping requirements. It is not anticipated that the proposal would have a significant economic impact on a substantial number of small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board will consider requesting comment by	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Kieran Fallon, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-5270

RIN: 7100–AC73

4470. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 24a; 12 USC 36; 12 USC 92a; 12 USC 93a; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; ...

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: The Board will consider issuing for public comment proposed amendments to Regulations H and Y that will take into account the implications of the Gramm-Leach-Bliley Act (GLB Act) relating to the ability of state member banks to control

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operations subsidiaries. The proposed amendments will also include a series of technical changes to Regulation Y necessitated by the GLB Act, as well as a general reorganization of Regulation Y. The proposal should not have a substantive economic impact on small entities, as its substantive portions are expected to liberalize the Board's present rules.

Timetable:

Action	Date	FR Cite
Board will consider requesting comment by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew S. Baer, Counsel, Federal Reserve System, Legal Division
Phone: 202 452-2246

RIN: 7100–AC78

4471. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL(DOCKET NUMBER: R-1084)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 36; 12 USC 92(a); 12 USC 93(a); 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; 12 USC 1818; ...

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: In November 2000, the Board issued for public comment an advance notice of proposed rulemaking on the possible development of a simplified capital framework for non-complex banking organizations (65 FR 66193, November 3, 2000). The options outlined in the proposal include a simplified risk-based framework, a leverage ratio-only approach, or a modified leverage ratio approach. Such a framework could relieve the regulatory burden associated with the existing capital rules for many non-complex domestic banking institutions. The main objective of this proposal is to obtain preliminary views from the industry and the public regarding such a framework. Following review of the public comments, the Board will decide whether to move forward with a more detailed proposal.

Timetable:

Action	Date	FR Cite
Board requested comment	11/03/00	65 FR 66193
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: David Adkins, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-5259

RIN: 7100–AC80

4472. REGULATION: T — CREDIT BY BROKERS AND DEALERS; REGULATION: U — CREDIT BY BANKS; AND REGULATION: X — BORROWERS OF SECURITIES CREDIT (DOCKET NUMBER: R-0995)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78G, Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220; 12 CFR 221; 12 CFR 224

Legal Deadline: None

Abstract: As part of the regular review of its regulations and in accordance with requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, and section 610(c) of the Regulatory Flexibility Act of 1994, the Board is conducting a review of its margin regulations. In order to complete this review, the Board approved issuing for public comment an advance notice of proposed rulemaking in December 1997 (63 FR 2840, January 16, 1998). The advance notice highlights issues raised by interested persons in response to previous requests for comment that had not been addressed by the Board in the course of its periodic review. It also provides an opportunity to further harmonize the treatment of bank and nonbank lenders under the revised Regulation U adopted by the Board at the same time as the advance notice. The advance notice also invites comment on all areas of the regulations. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	01/16/98	63 FR 2840
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Scott J. Holz, Counsel, Federal Reserve System, Legal Division
Phone: 202 452-2966

RIN: 7100–AC45

4473. REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1844(b)

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: Title I of the Gramm-Leach-Bliley Act (GLB Act) makes a number of miscellaneous amendments to sections 3, 4, and 5 of the Bank Holding Company Act of 1956 (BHC Act) and adds a new section 10A to the BHC Act. These amendments, among other things, prohibit the Board from determining that new activities are closely related to banking under section 4(c)(8) of the BHC Act; streamline the Board's reporting, examination, and other supervisory authority over bank holding companies and their subsidiaries; reduce the restrictions applicable to companies that control "nonbank banks" that are exempt from the nonbanking restrictions of the BHC Act under section 4(f) of that Act; and repeal the savings bank life insurance provisions currently set forth in section 3(g) of the BHC Act.

The Board will consider issuing for public comment amendments to Regulation Y to implement the provisions of the GLB Act affecting the BHC Act that are not addressed in proposed rules described elsewhere in the Board's agenda. It is not anticipated that the proposals will have a significant economic impact on a substantial number of small entities subject to the Board's regulation.

FRS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Board will consider requesting comment by	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kieran Fallon, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-5270

RIN: 7100–AC66

4474. • REGULATION: BB — COMMUNITY REINVESTMENT (DOCKET NUMBER: R-1112) (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2901

CFR Citation: 12 CFR 228

Legal Deadline: None

Abstract: In 1995, the Board issued Regulation BB which implements the Community Reinvestment Act (CRA). Substantially similar regulations were issued by the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS). The regulations' goal was to achieve more objective performance-based CRA examinations and to minimize burden. At the time these regulations were issued, the agencies committed to conducting a 2002 comprehensive review of the regulations' effectiveness in achieving this goal.

In July 2001, the Board, the OCC, FDIC, and OTS issued an advance notice of proposed rulemaking (ANPR) (66 FR 37602, July 19, 2001). The notice identifies key issues in addition to requesting comment generally on potential revisions to the regulation. The Board is also reviewing the regulation in accordance with requirements of section 610(c) of the Regulatory Flexibility Act of 1994.

The first issue presented in the ANPR is whether any change to the regulations is necessary and warranted, in light of the burden that change would entail. Other issues include: the effectiveness of the evaluation methods set forth in the regulations; the effectiveness of the requirement that large financial institutions collect and report data on small business, small farm, and community development lending; and whether the regulations have provided a reasonable and sufficient standard for designating the communities within which a financial institution's activities will be evaluated during a CRA examination.

It is not anticipated that any rule proposed for public comment would have a significant economic impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	07/19/01	66 FR 37602
Further Board action by	04/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kathleen Ryan, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AC87

4475. • REGULATION: DD — TRUTH IN SAVINGS ACT (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4301

CFR Citation: 12 CFR 230

Legal Deadline: None

Abstract: Regulation DD, which implements the Truth in Savings Act, requires that depository institutions uniformly disclose to customers information about the terms and conditions on which interest is paid and fees are assessed on deposit accounts.

The Board has targeted for review Regulation DD to update the regulation and to comply with provisions of section 610(c) of the Regulatory Flexibility Act of 1994. The review is expected to commence with publication of an advance notice of proposed rulemaking in 2002 and be completed in that same year.

Timetable:

Action	Date	FR Cite
Board will consider requesting comment by	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Aherns, Senior Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AC86

Federal Reserve System (FRS)

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4476. REGULATION: B — EQUAL CREDIT OPPORTUNITY (DOCKET NUMBER: R-1008) (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1691

CFR Citation: 12 CFR 202

Legal Deadline: None

Abstract: In 1998, Regulation B, which implements the Equal Credit Opportunity Act (ECOA), was targeted for a review to update the regulation. The ECOA makes it unlawful for creditors to discriminate against an applicant, in any aspect of a credit transaction, on the basis of race, color, religion, national origin, gender, marital status, age, and other specified bases.

In March 1998, the Board issued for public comment an advance notice of proposed rulemaking for Regulation B that identified specific issues, in addition to requesting comment on revisions to the regulation (63 FR 12326, March 12, 1998).

In August 1999, following review of the public comments on the advance

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notice, the Board issued for public comment a proposed rule amending Regulation B (64 FR 44582, August 16, 1999). Major revisions in the proposed rule include removing the general prohibition against obtaining information about applicant characteristics such as national origin or gender, although such information still generally may not be considered in extending credit; adding a disclosure requirement for creditors that voluntarily collect data on applicant characteristics; requiring creditors to retain certain records for preapproved credit solicitations; and extending the record retention period for most business credit applications.

Based on the regulatory flexibility analysis, it is not expected that the proposal will have a significant impact on small entities. Although there would be a new disclosure requirement for creditors that voluntarily request information about applicant characteristics, a model form is proposed to ease compliance. Also, there is a new requirement to retain certain records for preapproved credit solicitations. For business reasons, many institutions already retain some of the preapproved credit solicitation information being sought. In addition, compliance burdens should be minimized by the fact that creditors may use a variety of methods, such as electronic storage, to retain records. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment on advance notice	03/12/98	63 FR 12326
Board requested comment on proposed rule	08/16/99	64 FR 44582
Further Board action by	06/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Natalie E. Taylor, Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC54

4477. REGULATION: B — EQUAL CREDIT OPPORTUNITY; AND REGULATION: Z — TRUTH IN LENDING (DOCKET NUMBERS: R-1040 AND R-1043)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1601 et seq; 12 USC 4301 et seq

CFR Citation: 12 CFR 202; 12 CFR 213; 12 CFR 226; 12 CFR 230

Legal Deadline: None

Abstract: In March 1998 and September 1999, the Board issued for public comment proposed rules to permit the electronic delivery of Regulation B and Regulation Z disclosures, if the consumer agrees (63 FR 14548, March 25, 1998, and 64 FR 46988, September 14, 1999). The Board also issued similar proposed rules under other consumer financial services laws administered by the Board.

On June 30, 2000, the President signed into law the Electronic Signatures in Global and National Commerce Act (E-Sign Act), which became effective October 1, 2000. The E-Sign Act generally provides that records and signatures may not be denied legal effect solely because they are in electronic form.

The E-Sign Act incorporated some elements of the Board's regulatory proposals governing electronic disclosures. Some provisions in the Board's proposals, however, are modified or preempted by the Act, while other provisions, which are designed to ensure effective delivery of electronic disclosures, were not addressed by the E-Signature Act but are consistent with that Act and could be issued as final rules.

In March 2001, following review of the public comments, the Board issued interim final rules on the electronic delivery of disclosures. Under the interim final rules, consistent with the requirements of the E-Sign Act, creditors generally must obtain consumers' affirmative consent to provide disclosures electronically (66 FR 17329, March 30, 2001, and 66 FR 17779, April 4, 2001). There are exceptions for disclosures not deemed to relate to "transactions," such as disclosures in advertising. The interim final rules also establish uniform requirements for the timing and delivery of electronic disclosures. Disclosures may be sent by e-mail to an electronic address designated by the consumer, or they may be made available at another location, such as an Internet web site. If disclosures are not sent by e-mail, consumers must receive a notice alerting them to the availability of the disclosures. Disclosures posted on a web site must be available for at least 90 days to allow consumers adequate time to access and retain the information. Creditors must make a good faith attempt to redeliver e-disclosures that are returned undelivered.

The March 2001 rulemakings were published as interim final rules to allow interested persons to present new information or views not considered in previous rulemakings. The rules are not expected to have a significant economic impact on a substantial number of small business entities. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board issued proposed rules	03/25/98	63 FR 14548
Board issued revised proposed rules	09/14/99	64 FR 46988
Board issued interim final rule (Regulation Z)	03/30/01	66 FR 17329
Board issued interim final rule (Regulation B)	04/04/01	66 FR 17779
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Natalie E. Taylor, Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC46

4478. REGULATION: C — HOME MORTGAGE DISCLOSURE (DOCKET NUMBER: R-1001)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2801

CFR Citation: 12 CFR 203

Legal Deadline: None

Abstract: In 1998, Regulation C, which implements the Home Mortgage Disclosure Act (HMDA) was targeted for review to update the regulation. HMDA requires most mortgage lenders

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located in metropolitan areas to report annually to Federal agencies and disclose to the public information about their home purchase and home improvement lending activities. In March 1998, the Board issued an advance notice of proposed rulemaking for Regulation C (63 FR 12329, March 12, 1998). The notice identified several specific issues in addition to requesting comment generally on potential revisions to the regulation.

In December 2000, based on the comments and the Board's own analysis, the Board issued for public comment a proposed rule amending Regulation C (65 FR 78656, December 15, 2000). These amendments would (1) simplify the definition of a "refinancing;" (2) require lenders to report requests for preapprovals; (3) simplify the definition of a reportable home improvement loan; (4) require lenders to report home equity lines of credit; (5) require lenders to report the annual percentage rate on loans, and whether a loan is subject to the Home Ownership and Equity Protection Act, and whether a loan is for manufactured housing; and (6) make other changes to Regulation C.

It is not anticipated that the proposed rule would have a significant economic impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment on advance notice	03/12/98	63 FR 12329
Board requested comment on proposed rule	12/15/00	65 FR 78656
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kathleen Ryan, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC51

4479. REGULATION: E — ELECTRONIC FUND TRANSFERS (DOCKET NUMBERS: R-0919 AND R-1041)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693 et seq

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: In March 1998 and September 1999, the Board issued for public comment proposed rules and an interim rule under Regulation E to permit the electronic delivery of disclosures, if the consumer agrees (Docket Number: R-1002; 63 FR 14528, March 25, 1998 (interim rule), and Docket Number: R-1041; 64 FR 49699, September 14, 1999). The Board also issued similar proposed rules under other consumer financial services laws administered by the Board.

On June 30, 2000, the President signed into law the Electronic Signatures in Global and National Commerce Act (E-Sign Act), which became effective October 1, 2000. The E-Sign Act generally provides that records and signatures may not be denied legal effect solely because they are in electronic form.

The E-Sign Act incorporates some elements of the Board's regulatory proposal governing electronic disclosure. Some provisions in the Board's proposal, however, are modified or preempted by the Act, while other provisions, which are designed to ensure effective delivery of electronic disclosures, were not addressed by the E-Sign Act but are consistent with the Act and could be issued as final rules.

In March 2001, the Board issued an interim final rule on the electronic delivery of disclosures. Under the interim final rule, consistent with the requirements of the E-Sign Act, financial institutions generally must obtain consumers' affirmative consent to provide disclosures electronically (66 FR 17786, April 4, 2001). There are exceptions for disclosures not deemed to relate to "transactions," such as disclosure in advertising. The interim final rule also establishes uniform requirements for the timing and delivery of electronic disclosures. Disclosures may be sent by e-mail to an electronic address designated by the consumer, or they may be made available at another location, such as an Internet web site. If disclosures are not sent by e-mail, consumers must receive a notice alerting them to the availability of the disclosures. Disclosures posted on a web site must be available for at least 90 days to allow consumers adequate time to access and retain the information. Institutions must make a good faith attempt to redeliver e-disclosures that are returned undelivered. Under the March 2001 interim final rule, the March 1998 interim rule is withdrawn.

The March 2001 rulemaking was published as an interim final rule to allow interested persons to present new information or views not considered in previous rulemakings. The rule is not expected to have a significant economic impact on a substantial number of small business entities. Following review of the public comments, the Board is expected to take further action.

A May 1996 Regulation E proposal to permit financial institutions to provide disclosures electronically also included proposed amendments imposing modified requirements on stored-value products in systems that track individual transactions, cards, or consumers and providing an exemption for cards on which a maximum value of $100 can be stored (Docket Number: R-0919; 61 FR 19696, May 2, 1996); the latter proposal remains pending.

Timetable:

Action	Date	FR Cite
Board issued proposed rule on coverage of stored-value products	05/02/96	61 FR 19696
Board issued interim rule permitting electronic delivery of disclosures	03/25/98	63 FR 14528
Board issued proposed rule imposing additional requirements re: electronic delivery of disclosures	09/14/99	64 FR 49699
Board issued interim final rules	04/04/01	66 FR 17786
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John C. Wood, Counsel, Federal Reserve System, Division of Consumer and Community Affairs

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Phone: 202 452-2412

RIN: 7100–AC06

4480. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-1064)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 335; 12 USC 1835a

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: In March 2000, the Board approved an interim rule with request for public comment amending Regulation H to implement section 121 of the Gramm-Leach-Bliley Act for state member banks (65 FR 14810, March 20, 2000). Section 121 in part authorizes state member banks to control, or hold an interest in, financial subsidiaries so as to conduct certain activities that are financial in nature or incidental to a financial activity. In August 2001, following review of the public comments, the Board adopted the final rule substantially as proposed (66 FR 42929, August 16, 2001).

The Board will also consider issuing for public comment a proposed rule in place of an existing Miscellaneous Interpretation (12 CFR 250.141) relating to member bank purchases of stock in operations subsidiaries to update its provisions and conform to section 121. A proposal to amend section 208.7 of Regulation H (deposit production offices) to conform its definitional provisions to section 106 of the Gramm-Leach-Bliley Act in conjunction with parallel activities by the other banking agencies has been issued for public comment and appears elsewhere in the agenda (Docket Number: R-1099; RIN 7100-AC84).

It is not anticipated that the proposals will have a significant economic impact on a substantial number of small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board requested comment on interim rule	03/20/00	65 FR 14810
Board adopted interim rule	08/16/01	66 FR 42929
Board will consider requesting comment on replacement rule for Miscellaneous Interpretation by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael J. O'Rourke, Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3288

RIN: 7100–AC69

4481. • REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-1099)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1835a

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: In April 2001, the Board, along with the other banking agencies, issued for public comment a proposed rule that would amend uniform regulations implementing section 109 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act) to effectuate the amendment of section 109 contained in section 106 of the Gramm-Leach-Bliley Act (66 FR 18411, April 9, 2001). Section 109 prohibits a bank from establishing or acquiring a branch or branches outside of its home state for the purpose of deposit production. Additionally, section 109 contains guidelines for determining whether a bank is reasonably helping to meet the credit needs of communities served by an out-of-state branch or branches. Section 106 expanded the coverage of section 109 of the Interstate Act to include any branch of a bank controlled by an out-of-state bank holding company. The proposed rule amends the regulatory deposit production prohibition to include any bank or branch controlled by an out-of-state bank holding company, including a bank consisting only of a main office.

It is not anticipated that the rule will have a significant economic impact on a substantial number of small entities subject to the regulation. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	04/09/01	66 FR 18411
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael J. O'Rourke, Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3288

RIN: 7100–AC84

4482. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1055)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831i; ...

CFR Citation: 12 CFR 208 app A; 12 CFR 225 app A

Legal Deadline: None

Abstract: In November 1997, the Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision ("the agencies") issued for public comment proposals to use credit ratings from nationally recognized statistical rating organizations to determine the capital treatment for recourse obligations, direct credit substitutes, and senior asset-backed securities (62 FR 59944, November 5, 1997). In February 2000, based on the public comments, the Board and the other agencies issued for further comment a proposal to clarify and revise the regulatory capital treatment of securitized transactions (65 FR 12320, March 8, 2000). The proposal would treat recourse obligations and direct credit substitutes more consistently than the agencies' current risk-based capital standards.

Small entities would be affected by the proposals only to the extent that they

engage in extending recourse arrangements and direct credit substitutes or purchasing asset-backed securities. It is not expected that the proposals will have a significant economic impact on small institutions. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	11/05/97	62 FR 59944
Board requested additional comment	03/08/00	65 FR 12320
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas R. Boemio, Senior Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2982

RIN: 7100–AB77

4483. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0930)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831(o); 12 USC 1831p-1; 12 USC 3105; ...

CFR Citation: 12 CFR 208 app A

Legal Deadline: None

Abstract: In August 1996, the Board issued for public comment a proposal to revise the risk-based capital treatment for certain collateralized transactions (61 FR 42565, August 16, 1996). Under the Board's existing risk-based capital treatment, the portion of a transaction that is supported by qualifying collateral (that is, cash or OECD government securities) is risk-weighted at 20 percent. Transactions that are fully supported by collateral with a positive margin may be eligible for a zero percent risk weight. Generally, the proposal would permit a portion of a transaction that is fully supported with a positive margin of collateral to be eligible for a zero percent risk weight. The portion that is to be continuously collateralized must be identified by the parties.

This proposal was developed on an interagency basis and, if adopted, would eliminate one of the substantive differences among the agencies with regard to the risk-based capital treatment for collateralized transactions. It would implement part of the Riegle Community Development and Regulatory Improvement Act of 1994, which requires the agencies to make uniform regulations and guidelines implementing common supervisory policies. The effect of the proposal would be to allow institutions to hold less capital for certain collateralized transactions. It is not expected to have a significant economic impact on a substantial number of small entities.

Following review of the public comments and development of an interagency final rule, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	08/16/96	61 FR 42565
Further Board action by	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Connolly, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3621

RIN: 7100–AC13

4484. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1087)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 36; 12 USC 92a; 12 USC 93a; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1818(o); 12 USC 1831i; 12 USC 1831p-1; 12 USC 1843(c)(8); ...

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: In December 2000, the Board issued for public comment proposed amendments to Regulations H and Y that would effectively reduce the capital requirement for certain securities borrowing transactions (65 FR 75856, December 5, 2000). The proposed amendments would recognize the historically low risk of these transactions and bring the capital requirements for U.S. banking organizations into better alignment with the capital requirements of other U.S. and non-U.S. regulators of financial institutions. The proposed amendments would have little or no effect on small banking organizations subject to the Board's regulation, as securities borrowing activities are concentrated in a relatively small number of very large banking organizations. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	12/05/00	65 FR 75856
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Adkins, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-5259

RIN: 7100–AC75

4485. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1085)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 36; 12 USC 92a; 12 USC 93a; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1818(o); 12 USC 1831i; 12 USC 1831p-1; 12 USC 1843(c)(8); ...

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CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: In December 2000, the Board issued for public comment proposed amendments to the Board's regulatory capital guidelines for banks and bank holding companies that would apply a 20 percent risk weight to claims on, and claims guaranteed by, qualifying securities firms (65 FR 76180, December 6, 2000). The proposed rule is consistent with an amendment to the Basel Accord adopted by the Basel Committee on Banking Supervision in April 1998. It would reduce the risk weight from 100 percent to 20 percent applied to claims on, and claims guaranteed by, certain securities firms incorporated in countries that are members of the Organization for Economic Cooperation and Development, subject to certain prudential requirements. It is not anticipated that the proposal will have a significant economic impact on a substantial number of small institutions. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested public comment	12/06/00	65 FR 76180
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Connolly, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3621

RIN: 7100–AC76

4486. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1080)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 36; 12 USC 92a; 12 USC 93a; 12 USC 248(a); 12 USC 248(c); 15 USC 78b; 15 USC 781(b); 15 USC 781(g); 15 USC 781(i); 31 USC 5318; 42 USC 4012a; 42 USC 4104a; ...

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: In September 2000, the Board issued for public comment proposed amendments to Regulations H and Y to amend the Tier 1 leverage and risk-based capital guidelines for residual interests for all state member banks and bank holding companies (65 FR 57993, September 27, 2000). The proposal would better align the capital requirements with the risks associated with such assets. It is not expected that the amendments would have a significant economic impact on a substantial number of small institutions. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	09/27/00	65 FR 57993
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Arleen Lustig, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2987

RIN: 7100–AC77

4487. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1097)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1844(b); 12 USC 329; 12 USC 1843(k)(7); 12 USC 3906 to 3909

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: In March 2000, the Board issued for public comment proposed amendments to its capital guidelines for bank holding companies (Docket Number: R-1067) to address the appropriate regulatory capital treatment for merchant banking investments and investments in nonfinancial companies made under section 4(c)(6) or 4(c)(7) of the Bank Holding Company Act, section 211.5(b)(1)(iii) of the Board's Regulation K, section 302(b) of the Small Business Investment Act of 1958, or section 24 of the Federal Deposit Insurance Act. Following review of the comments on the proposal, and after consulting with the Treasury Department and the other federal banking agencies, the Board, jointly with the OCC and FDIC, in February 2001, requested public comment on a revised capital proposal (66 FR 10212, February 14, 2001). The revised proposal would apply a series of marginal capital charges on covered equity investments that increase with the level of a banking organization's overall exposure to equity investments relative to the organization's Tier 1 capital. The proposal would apply to merchant banking investments held by financial holding companies as well as investments in nonfinancial companies by banks and bank holding companies under other authorities.

The Board requested public comment on the potential impact of the capital proposal on small entities and will carefully consider the economic impact of any further actions on small entities subject to the Board's regulation. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested comment on proposed rules	03/28/00	65 FR 16460
Board requested comment on new capital proposal	02/14/01	66 FR 10212
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kieran Fallon, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-5270

RIN: 7100–AC65

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4488. REGULATION: K — INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0994)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 221 et seq; 12 USC 248(i); 12 USC 248(k); 12 USC 1818; 12 USC 1835a; 12 USC 1841 et seq; 12 USC 3101 et seq; 12 USC 3109 et seq

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: In December 1997, consistent with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, the International Banking Act of 1978, and section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, the Board reviewed and proposed for public comment a number of changes to Regulation K, which governs international banking operations (62 FR 68424, December 31, 1997). Subpart A of Regulation K governs the foreign investments and activities of all member banks. The proposed amendments include streamlined foreign branching procedures for U.S. banking organizations, authorization of expanded activities in foreign branches of U.S. banks, and expansion of the authority of U.S. banking organizations to engage in equity dealing and underwriting and to make venture capital investments outside the United States. Subpart B of Regulation K governs the U.S. activities of foreign banking organizations. The proposed amendments include revisions aimed at streamlining the applications procedures applicable to foreign banks seeking to expand operations in the United States, changes to provisions regarding the qualification of certain foreign banking organizations for exemption from the nonbanking prohibitions of section 4 of the Bank Holding Company Act, and implementation of provisions of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 that affect foreign banks. In addition, a number of technical and clarifying amendments to subparts A and B, as well as to subpart C which governs export trading companies, and certain amendments to the Board's Rules Regarding Delegation of Authority have been proposed. Aspects of the proposed rule are being considered in light of the enactment of the Gramm-Leach-Bliley Act.

The proposed amendments are not expected to have a significant economic impact on a substantial number of small entities. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	12/31/97	62 FR 68424
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathleen M. O'Day, Associate General Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3786

RIN: 7100–AC47

4489. REGULATION: M — CONSUMER LEASING (DOCKET NUMBER: R-1042)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1667

CFR Citation: 12 CFR 213

Legal Deadline: None

Abstract: In March 1998 and September 1999, the Board issued for public comment proposed rules under Regulation M, which implements the Consumer Leasing Act, to permit the electronic delivery of disclosures, if the consumer agrees (63 FR 14538, March 25, 1998 and 64 FR 49713, September 14, 1999). The Board also issued similar proposed rules under other consumer financial services regulations administered by the Board.

On June 30, 2000, the President signed into law The Electronic Signatures in Global and National Commerce Act (E-Sign Act), which became effective October 1, 2000. The E-Sign Act generally provides that records and signatures may not be denied legal effect solely because they are in electronic form.

The E-Sign Act incorporated some elements of the Board's regulatory proposal governing electronic disclosures. Some provisions in the Board's proposal, however, are modified or preempted by the Act, while other provisions, which are designed to ensure effective delivery of electronic disclosures, were not addressed by the E-Sign Act but are consistent with that Act and could be issued as final rules.

In March 2001, following review of the public comments, the Board issued an interim final rule on the electronic delivery of disclosures. Under the interim final rule, consistent with the requirements of the E-Sign Act, lessors generally must obtain consumers' affirmative consent to provide disclosures electronically (66 FR 17322, March 30, 2001). There are exceptions for disclosures not deemed to relate to "transactions," such as disclosures in advertising. The interim final rule also establishes uniform requirements for the timing and delivery of electronic disclosures. Disclosures may be sent by e-mail to an electronic address designated by the consumer, or they may be made available at another location, such as an Internet web site. If disclosures are not sent by e-mail, consumers must receive a notice alerting them to the availability of the disclosures. Disclosures posted on the web site must be available for at least 90 days to allow consumers adequate time to access and retain the information. Lessors must make a good faith attempt to redeliver e-disclosures that are returned undelivered.

The March 2001 rulemaking was published as an interim final rule to allow interested persons to present new information or views not considered in previous rulemakings. The rule is not expected to have a significant economic impact on a substantial number of small business entities. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board issued proposed rule	03/25/98	63 FR 14538
Board issued revised proposed rule	09/14/99	64 FR 49713
Board issued interim final rule	03/30/01	66 FR 17322
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jane Ahrens, Senior Counsel, Federal Reserve System, Division of Consumer and Community Affairs

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Phone: 202 452-2412
RIN: 7100–AC53

4490. REGULATION: V — FAIR CREDIT REPORTING (DOCKET NUMBER: R-1082)

Priority: Substantive, Nonsignificant
Legal Authority: 15 USC 1681 et seq
CFR Citation: 12 CFR 222
Legal Deadline: None

Abstract: In 1996, the Congress amended the Fair Credit Reporting Act (FCRA) as part of the Consumer Credit Reporting Reform Act. The amendments prohibited the federal regulatory agencies from issuing implementing regulations. In November 1999, the Congress once again amended the FCRA as part of the Gramm-Leach-Bliley Act. The amendments lifted the prohibition and directed the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision to issue implementing regulations jointly.

In October 2000, the agencies issued an initial set of proposed regulations for public comment (65 FR 63120, October 20, 2000). The proposal is not expected to have a significant economic impact on a substantial number of small entities. Following review of the public comments, the agencies will take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	10/20/00	65 FR 63120
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Stein, Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AC68

4491. REGULATION: W — TRANSACTIONS BETWEEN BANKS AND THEIR AFFILIATES (DOCKET NUMBER: R-1103)

Priority: Substantive, Nonsignificant
Legal Authority: 12 USC 371c; 12 USC 371c-1
CFR Citation: 12 CFR 223
Legal Deadline: None

Abstract: In May 2001, in response to passage of the Gramm-Leach-Bliley Act, the Board issued for public comment a new regulation (Regulation W) to implement sections 23A and 23B of the Federal Reserve Act (66 FR 24186, May 11, 2001). Sections 23A and 23B regulate transactions between insured depository institutions and their affiliates. The proposed regulation codifies existing interpretations and asks for comment on new interpretations and exemptions. The proposal also requests comment on the treatment of derivatives and intra-day credit exposures between insured depository institutions and their affiliates. While it is not expected that the proposal will have a significant economic impact on a substantial number of small institutions subject to the Board's regulation, the Board has specifically requested comment on the likely burden the rule will impose. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	05/11/01	66 FR 24186
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Pamela G. Nardolilli, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3289

RIN: 7100–AC63

4492. REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1091)

Priority: Substantive, Nonsignificant
Legal Authority: 12 USC 1843
CFR Citation: 12 CFR 225.86
Legal Deadline: None

Abstract: In January 2001, the Board issued for public comment a proposed rule amending Regulation Y that would define real estate brokerage and real estate management activities as financial in nature or incidental to a financial activity and therefore permissible for financial holding companies under the Board's Regulation Y (66 FR 307, January 3, 2001). The proposal would facilitate the creation of diversified financial companies that can offer "one-stop shopping" to consumers contemplating the purchase or management of real estate. The proposal is not expected to have a significant economic impact on a substantial number of small business entities. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	01/03/01	66 FR 307
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark E. Van Der Weide, Counsel, Federal Reserve System, Legal Division
Phone: 202 452-2263

RIN: 7100–AC79

4493. REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1094)

Priority: Substantive, Nonsignificant
Legal Authority: 12 USC 1843
CFR Citation: 12 CFR 225.86(e)
Legal Deadline: None

Abstract: In December 2000, the Board, jointly with the Department of the Treasury, issued interim rules with request for public comment that implement section 4(k)(5) of the Bank Holding Company Act and section 5136A(b)(3) of the Revised Statutes, which were added by the Gramm-Leach-Bliley Act (66 FR 257, January 3, 2001). The interim rules find three general types of activities to be financial in nature or incidental to a financial activity, and create a mechanism by which financial holding companies, financial subsidiaries of national banks, or others may request that the Board or the Secretary of the Treasury, respectively, define particular activities within one of the three categories. Such activities would

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therefore be permissible for financial holding companies and financial subsidiaries of national banks. The rules are not expected to have a significant economic impact on a substantial number of small entities. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	01/03/01	66 FR 257
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew S. Baer, Counsel, Federal Reserve System, Legal Division
Phone: 202 452-2246

RIN: 7100–AC81

4494. REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1092)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1843(k)

CFR Citation: 12 CFR 225.28; 12 CFR 225.89

Legal Deadline: None

Abstract: In December 2000, the Board issued for public comment a proposed rule that would allow all bank holding companies to conduct a greater amount of nonfinancial data processing than previously authorized (65 FR 80384, December 21, 2000). The proposed rule also would allow financial holding companies, as a complementary activity, to own companies engaged in certain data processing-related activities, such as data storage and Internet and portal hosting. The Board anticipates that the proposal would allow bank holding companies to provide a wider range of financial products and services to customers and would not have a significant economic impact on a substantial number of small entities. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	12/21/00	65 FR 80384
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Adrianne G. Threatt, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3554

RIN: 7100–AC82

4495. REGULATION: Z — TRUTH IN LENDING (DOCKET NUMBER: R-1090)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1601 et seq

CFR Citation: 12 CFR 226

Legal Deadline: None

Abstract: In December 2000, the Board issued for public comment proposed amendments to the provisions of Regulation Z that implement the Home Ownership and Equity Protection Act (HOEPA) (65 FR 81438, December 26, 2000). HOEPA was enacted in response to evidence of abusive lending practices in the home-equity lending market. The amendments would (1) broaden the scope of mortgage loans subject to HOEPA; (2) prohibit certain acts and practices in connection with home-secured loans, including rules to restrict creditors from engaging in repeated refinancings of their own HOEPA loans over a short period of time; (3) strengthen HOEPA's prohibition against extending credit without regard to consumers' repayment ability; and (4) enhance disclosures for HOEPA-covered loans that consumers receive before closing. The proposed rule is expected to benefit the public by furthering HOEPA's protections against abusive lending practices. It is not expected to have a significant economic impact on a substantial number of small business entities. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	12/26/00	65 FR 81438
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Ahrens, Senior Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC83

4496. REGULATION: DD — TRUTH IN SAVINGS (DOCKET NUMBER: R-1044)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4301 et seq

CFR Citation: 12 CFR 230

Legal Deadline: None

Abstract: In March 1998 and September 1999, the Board issued for public comment proposed rules and an interim rule under Regulation DD, which implements the Truth in Savings Act (TISA), to permit the electronic delivery of disclosures, if the consumer agrees (63 FR 14533, March 25, 1998, and 64 FR 49740, September 14, 1999). The interim rule permits the electronic delivery of TISA disclosures provided on periodic statements. The Board also issued similar proposed rules under other consumer financial services laws administered by the Board.

On June 30, 2000, the President signed into law the Electronic Signatures in Global and National Commerce Act (E-Sign Act), which became effective October 1, 2000. The E-Sign Act generally provides that records and signatures may not be denied legal effect solely because they are in electronic form.

The E-Sign Act incorporated some elements of the Board's regulatory proposal governing electronic disclosures. Some provisions in the Board's proposal, however, are modified or preempted by the Act, while other provisions, which are designed to ensure effective delivery of electronic disclosures, were not addressed by the E-Sign Act but are consistent with that Act and could be issued as final rules.

In March 2001, following review of the public comments, the Board issued an interim final rule on the electronic delivery of disclosures. Under the interim final rule, consistent with the requirements of the E-Sign Act, depository institutions generally must obtain consumers' affirmative consent to provide disclosures electronically (66

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FR 17795, April 4, 2001). There are exceptions for disclosures not deemed to relate to "transactions," such as disclosures in advertising. The interim final rule also establishes uniform requirements for the timing and delivery of electronic disclosures. Disclosures may be sent by e-mail to an electronic address designated by the consumer, or they may be made available at another location, such as an Internet web site. If disclosures are not sent by e-mail, consumers must receive a notice alerting them to the availability of the disclosures. Disclosures posted on a web site must be available for at least 90 days to allow consumers adequate time to access and retain the information. Institutions must make a good faith attempt to redeliver e-disclosures that are returned undelivered. Under the interim final rule, the interim rule permitting electronic delivery of Regulation DD disclosures on periodic statements is withdrawn.

The March 2001 rulemaking was published as an interim final rule to allow interested persons to present new information or views not considered in previous rulemakings. The rule is not expected to have a significant economic impact on a substantial number of small business entities. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board issued proposed rule	03/25/98	63 FR 14533
Board issued revised proposed rule and interim rule	09/14/99	64 FR 49740
Board issued interim final rule	04/04/01	66 FR 17795
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Ahrens, Senior Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC34

4497. • MISC. INTERPRETATIONS: APPLICATION OF SECTIONS 23A AND 23B OF THE FEDERAL RESERVE ACT TO DERIVATIVE TRANSACTIONS WITH AFFILIATES AND INTRADAY EXTENSIONS OF CREDIT TO AFFILIATES (DOCKET NUMBER: R-1104)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 371c(f); 12 USC 371c-1(e)

CFR Citation: 12 CFR 250.247

Legal Deadline: None

Abstract: The Gramm-Leach-Bliley Act (GLB Act) required the Board to adopt, by May 12, 2001, final rules under section 23A to address credit exposures arising out of derivative transactions between insured depository institutions and their affiliates and intraday extensions of credit by insured depository institutions to their affiliates as covered transactions. In May 2001, the Board adopted interim final rules pursuant to the amendments to section 23A contained in the GLB Act and requested public comment on the rules (66 FR 24229, May 11, 2001).

The interim rule (1) requires that an institution establish and maintain policies and procedures reasonably designed to manage the credit exposure arising from the institution's derivative transactions with affiliates and (2) clarifies that institution-affiliate derivative transactions are subject to the market terms requirement of section 23B. The policies and procedures must at a minimum provide for monitoring and controlling the credit exposure arising from the institution's derivative transactions with each affiliate and all affiliates in the aggregate, and ensure that the institution's derivative transactions with affiliates comply with section 23B. The intraday credit rule also requires insured depository institutions to have policies and procedures in place and clarifies that the transactions are subject to section 23B.

While the proposal is not expected to have a significant economic impact on small institutions, the Board has specifically requested comment on the likely burden the rule will impose. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	05/11/01	66 FR 24229
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark E. Van Der Weide, Counsel, Federal Reserve System, Legal Division
Phone: 202 452-2263

RIN: 7100–AC85

Federal Reserve System (FRS) — Completed Actions

4498. REGULATION: D — RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (DOCKET NUMBER: R-0056)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 611; 12 USC 3105; 12 USC 248(a); 12 USC 248(c); 12 USC 371a; 12 USC 461; 12 USC 601

CFR Citation: 12 CFR 204

Legal Deadline: None

Abstract: In December 1996, the Board issued for public comment a proposed rule that would revise and clarify the definition of "savings deposit" consistent with comments received in connection with the Board's June 1996 proposal to simplify Regulation D. The proposal would also make conforming changes to the definition of "transaction account" (61 FR 96054, December 31, 1996). No substantive change in the regulation is intended. It is not expected that the proposal will have a significant adverse impact upon a substantial number of small entities. Further action on this proposal is not expected during the next six months.

FRS

Completed Actions

Timetable:

Action	Date	FR Cite
Board requested comment	12/31/96	61 FR 69054
Further Board action not expected during the next six months	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Heatherun Allison, Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3565

RIN: 7100–AC11

4499. REGULATION: E — ELECTRONIC FUND TRANSFER (DOCKET NUMBER: R-1077)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693 et seq

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: In November 1999, the Congress amended the Electronic Funds Transfer Act as a part of the Gramm-Leach-Bliley Act (GLB Act). The purpose of the amendments is to require disclosure of automatic transfer machine (ATM) fees imposed by ATM operators on consumers who hold accounts at other financial institutions.

In July 2000, the Board issued for public comment proposed amendments to Regulation E to implement the statutory provisions of the GLB Act (65 FR 44481, July 18, 2000).

In March 2001, following review of the public comments, the Board adopted a final rule, substantially as proposed, requiring disclosure of ATM fees, (66 FR 13409, March 6, 2001). The final rule is not expected to have a significant economic impact on small entities.

Timetable:

Action	Date	FR Cite
Board requested comment	07/18/00	65 FR 44481
Board adopted proposal	03/06/01	66 FR 13409

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John C. Wood, Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC67

4500. REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1060)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1972

CFR Citation: 12 CFR 225.7

Legal Deadline: None

Abstract: In February 2000, the Board issued for public comment a proposed exception to the anti-tying restrictions of section 106 of the Bank Holding Company Act Amendments of 1970 and the Board's Regulation Y (65 FR 6924, February 11, 2000). The proposed amendment would establish a "safe harbor" permitting a bank to offer a credit card that can be used to make purchases from a retailer affiliated with the bank. It is expected that the proposed rule would benefit the public by providing consumers with alternative sources of consumer credit, and is not expected to have a significant economic impact on a substantial number of small business entities. Further action on the proposal is not expected during the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	02/11/00	65 FR 6924
Further Board action not expected during next six months	09/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew S. Baer, Counsel, Federal Reserve System, Legal Division
Phone: 202 452-2246

RIN: 7100–AC71

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Monday,
December 3, 2001

Part LVII

Federal Trade Commission

Semiannual Regulatory Agenda

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FEDERAL TRADE COMMISSION (FTC)

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), and the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, title II of Pub. L. 104-121, 110 Stat. 847. The Commission's agenda follows guidelines and procedures issued July 10, 2001, by the Office of Management and Budget in accordance with the provisions of Executive Order No. 12866, "Regulatory Planning and Review" of September 30, 1993. 58 FR 51735 (October 4, 1993). This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Federal Trade Commission's Statement of Regulatory Priorities is included in part II.

The Commission has responded to the optional information requirement to identify rulemakings that are likely to have some impact on small entities but are not subject to the requirements of the RFA. The current rulemakings that are likely to have some impact on small entities include: (1) the Smokeless Tobacco Rules, 16 CFR part 307; (2) the Pay-Per-Call Rule, 16 CFR part 308; (3) the Franchise and Business Opportunities Rule, 16 CFR part 436; (4) Children's Online Privacy Protection Rule, 16 CFR part 312; (5) the Funeral Rule, 16 CFR part 453; (6) the Trade Regulation Rule on Ophthalmic Practice Rules, 16 CFR part 456; (7) the Rule on Labeling and Advertising of Home Insulation, 16 CFR part 460; and (8) the rulemaking begun pursuant to title V section 501(b) of the Gramm-Leach-Bliley Act: Privacy of Consumer Information — Security, to establish security standards to safeguard customer information that will be codified in 16 CFR part 314.

In addition, the agency has responded to the optional information requirement that corresponds to the requirements of Executive Order 13132, "Federalism" of August 4, 1999. 64 FR 43255 (Aug. 10, 1999). The Commission believes that none of the rules in this agenda has "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and the responsibilities among the various levels of government" within the meaning of E.O. 13132. The Commission continues to work closely with the States and other governmental units in its rulemaking process, which explicitly considers the effect of the agency's rules on these governmental entities.

In addition, the agency has responded to the optional information requirement that corresponds to the requirements of Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use" of May 18, 2001. 66 FR 28355 (May 22, 2001). The Commission believes that none of the rules in this agenda meets this E.O.'s criteria requiring preparation of a Statement of Energy Effects.

The agency also is conducting reviews of the Pay-Per-Call Rule as provided in the Rule and of the Telemarketing Sales Rule as required by the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 USC 6101-6108. Most of the other reviews listed in the following agenda are being conducted as part of the Commission's plan to review and seek information about all of its regulations and guides, including their costs and benefits, and regulatory and economic impact every ten years. These reviews incorporate and expand upon the review required by the Regulatory Flexibility Act and regulatory reform initiatives directing agencies to conduct a review of all regulations and eliminate or revise those that are outdated or otherwise in need of reform.

Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff, based upon information now available. Each projected date of action reflects an assessment by the FTC staff of the likelihood that the specified event will occur during the coming year. No final determination by the staff or the Commission respecting the need for, or the substance of, a trade regulation rule or any other procedural option should be inferred from the notation of projected events in this agenda. In most instances, the dates of future events are listed by month, not by a specific day. The acquisition of new information, changes of circumstances, or changes in the law may alter this information.

FOR FURTHER INFORMATION CONTACT: For information about specific regulatory actions listed in the agenda, contact the contact person listed for each particular proceeding. Comments or inquiries of a general nature about the agenda should be directed to Sandra M. Vidas, attorney, telephone: (202) 326-2456; e-mail: svidas@ftc.gov; or G. Richard Gold, attorney, telephone: (202) 326-3355; e-mail: rgold@ftc.gov, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

By direction of the Commission.
Donald S. Clark,
Secretary.

Federal Trade Commission—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4501	Regulatory Review	3084-AA47
4502	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986	3084-AA48
4503	Trade Regulation Rule on Ophthalmic Practice Rules	3084-AA80
4504	Trade Regulation Rule on Funeral Industry Practices	3084-AA82
4505	Telemarketing Sales Rule	3084-AA86

FTC

Federal Trade Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4506	Premerger Notification Rules and Report Form	3084-AA23
4507	Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation	3084-AA60
4508	Trade Regulation Rule on Franchising and Business Opportunity Ventures	3084-AA63
4509	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992	3084-AA76
4510	Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products	3084-AA81
4511	Privacy of Consumer Information—Security	3084-AA87
4512	Children's Online Privacy Protection Rule	3084-AA88

Federal Trade Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4513	Amended Federal Deposit Insurance Corporation Improvement Act	3084-AA44

Federal Trade Commission (FTC)

Prerule Stage

4501. REGULATORY REVIEW

Priority: Other Significant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 1 et seq

Legal Deadline: None

Abstract: The Commission is continuing its review of current rules and guides to identify any that should be modified or rescinded. In January of each year, the Commission announces the rules and guides to be reviewed in that year. For example, on January 19, 2000, the Commission published a notice in the Federal Register listing the rules and guides to be reviewed during 2000 and the staff contact person for information about each review. 65 FR 2912. The Commission is currently devoting significant resources to both rulemakings required by statute and completing rule and guide reviews previously announced. See 65 FR 73531. Accordingly, the Commission did not issue a separate notice for 2001. The Commission will continue to consider ways to streamline and improve the review program. Early next year, the Commission plans to announce the rules and guides it will review in 2002. No determination about whether to modify or rescind a rule, regulation, guide or interpretation or any other procedural option should be inferred from the Commission's decision to publish a request for comments. In certain instances, the reviews may also address other specific matters or issues, such as proposed amendments.

Timetable:

Action	Date	FR Cite
Notice of Rules and Guides to Review in 2000	01/19/00	65 FR 2912
Notice of Rules and Guides to Review in 2002	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Neil Blickman, Attorney, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580
Phone: 202 326-3038
Email: nblickman@ftc.gov

RIN: 3084–AA47

4502. REGULATIONS UNDER THE COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 4401

CFR Citation: 16 CFR 307

Legal Deadline: None

Abstract: The Comprehensive Smokeless Tobacco Health Education Act of 1986 requires health warnings on all packages and advertising for smokeless tobacco. The Act directs the Commission to issue implementing Rules governing the format and display of the warnings. On November 4, 1986, the Commission issued its Rules setting out the provisions for the size, color, typeface, and rotation of the statutory warnings. In FY 2000, the Commission undertook a periodic review of the Rules. The purpose of the review was to determine whether the Rules continue to effectively meet the goals of the Act and to seek information concerning the Rules or economic impact of the Rules in order to decide whether it should be amended. Staff plans to forward its recommendations to the Commission shortly.

Timetable:

Action	Date	FR Cite
Recommendation to the Commission Regarding ANPRM (Regulatory Review)	01/27/00	
ANPRM (Regulatory Review)	03/07/00	65 FR 11944
Comment Period End (Regulatory Review)	04/24/00	
Comment Period Extended (Regulatory Review)	05/08/00	65 FR 26534

Action	Date	FR Cite
Extended Comment Period End (Regulatory Review)	07/21/00	
Reopening and Extension of Comment Period	10/13/00	65 FR 60899
Extended Comment Period End	10/16/00	
Recommendation to Commission (Regulatory Review)	11/00/01	
Commission Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA48

4503. TRADE REGULATION RULE ON OPHTHALMIC PRACTICE RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 456

Legal Deadline: None

Abstract: The Trade Regulation Rule on Ophthalmic Practice Rules, also known as the Prescription Release Rule, provides that an optometrist or ophthalmologist must give the patient, at no extra cost, a copy of the eyeglass prescription immediately after the examination is completed. The Rule also prohibits optometrists and ophthalmologists from conditioning the availability of an eye examination, as defined by the Rule, on a requirement that the patient agrees to purchase ophthalmic goods from the optometrist or ophthalmologist, and from placing on the prescription, or delivering to the patient, certain disclaimers or waivers of liability. The Rule does not require an optometrist or ophthalmologist to release a contact lens prescription to a patient after an eye exam. As part of its systematic review of all Commission rules and guides, the Commission has requested comments on the economic impact of, and the continuing need for, this Rule, possible conflict between the Rule and State, local, or other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. Staff is preparing a memorandum to the Commission summarizing the comments received and making recommendations as to whether the Commission should retain the Rule or initiate a rulemaking to revise or repeal it.

Timetable:

Action	Date	FR Cite
Request for Comments	04/03/97	62 FR 15865
Notice of Comment Period Extension	05/29/97	62 FR 29088
Comment Period End	06/02/97	
Comment Period End	09/02/97	
Recommendation to Commission	02/00/02	
Commission Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA80

4504. TRADE REGULATION RULE ON FUNERAL INDUSTRY PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 45; 15 USC 46(g); 15 USC 57(a)

CFR Citation: 16 CFR 453

Legal Deadline: None

Abstract: The Funeral Industry Practices Rule (Funeral Rule or Rule), which became effective in 1984, requires sellers of funeral goods and services to give price lists to consumers who visit a funeral home, and to disclose price and other information to callers who request it over the telephone. The Rule enables consumers to select and purchase only the goods and services they want, and requires funeral providers to seek authority before performing some services such as embalming. The Rule also requires funeral providers to make disclosures regarding any required purchases and prohibits misrepresentations regarding requirements and other aspects of funeral goods and services. In its 1994 review of the Rule, the Commission determined to retain the Rule and amended it to prohibit funeral providers from charging a "casket handling fee" in addition to any non-declinable basic-services fee and deleted certain affirmative telephone disclosure requirements. The Commission responded to requests to address emerging issues in the funeral industry by beginning a review of the Rule in 1998. The Commission previously had scheduled a review of the Rule in 1999,under its ten-year schedule for reviewing all Commission rules and guides. The Commission published a notice soliciting public comment in May 1999. In response to requests of industry members and consumer groups, the Commission extended the comment period. Commission staff conducted a public workshop conference on November 18, 1999, to discuss and explore openly issues raised in written comments. Staff is evaluating the comments and preparing a recommendation to the Commission.

Timetable:

Action	Date	FR Cite
Recommendation to Commission Regarding Initial Notice for Comment	04/17/99	
Initial Notice for Public Comment	05/05/99	64 FR 24249
Close of Comment Period (Extended)	08/11/99	64 FR 35965
Public Workshop	11/18/99	64 FR 56717
Recommendation to Commission	02/00/02	
Commission Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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4505. TELEMARKETING SALES RULE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 6101 to 6108

CFR Citation: 16 CFR 310

FTC — Prerule Stage

Legal Deadline: Other, Statutory, December 31, 2000, Rule Review and Report to Congress.

Abstract: In 1995, the Commission issued the Telemarketing Sales Rule (Rule), 16 CFR part 310, under the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 USC 6101-6108. The Rule requires telemarketers to disclose information; prohibits misrepresentations; limits the times telemarketers may call consumers; prohibits calls to a consumer who has asked not to be called again; and sets payment restrictions for the sale of certain goods and services.

As required by the Act, the Commission is reviewing the Rule to evaluate the Rule's operation and report to Congress. The Commission has issued a request for public comment on the Rule, its overall costs, benefits and its regulatory and economic impact since its adoption in 1995. The Commission also held a public forum on January 11, 2000, addressing the operation of the Rule's "do-not-call" provision. Another public forum to discuss other provisions of the Rule was held on July 27-28, 2000. Public forums provide the Commission staff and interested parties an opportunity to discuss these issues and any other topics that emerge from the public comments.

Staff plans to complete its review and forward its recommendations to the Commission this fall.

Timetable:

Action	Date	FR Cite
Announcement of Public Forum re: "Do-Not-Call" Provision	11/24/99	64 FR 66124
Public Forum re "Do-Not-Call" Provision	01/11/00	
Request for Comments	02/28/00	65 FR 10428
End Comment Period	04/27/00	
Extension of Comment Period	05/05/00	65 FR 26161
End Extended Comment Period	05/30/00	
Public Forum	07/27/00	
Public Forum	07/28/00	
Recommendation to Commission	11/00/01	
Commission Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA86

Federal Trade Commission (FTC) — Proposed Rule Stage

4506. PREMERGER NOTIFICATION RULES AND REPORT FORM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801 to 803

Legal Deadline: None

Abstract: The Premerger Notification Rules (Rules) and the Antitrust Improvements Act Notification and Report Form (HSR Form) were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. These Rules are continually reviewed in order to improve the program's effectiveness and reduce the paperwork burden on the business community. The Commission proposed modifications to the HSR Form on June 14, 1994. 59 FR 30545.

The Commission has issued Interim Rules based on comments received in response to this Notice, as well as on some changes in HSR reporting requirements necessitated by the recent amendments to Section 7(A) of the Clayton Act. The President signed the statutory amendments into law on December 21, 2000. Both the statutory amendments and the interim rules became effective on February 1, 2001. The Commission also published a notice of proposed rulemaking (NPRM) updating examples in several rules and revising others. The comment period for the interim rules and the NPRM ended on March 19, 2001. In addition, changes requiring the use of the North American Industrial Classification System (NAICS) to replace the Standard Industrial Classification (SIC) codes in completing items 5-8 on the HSR Form were made effective July 1, 2001. Staff expects to propose additional changes by the winter.

Timetable:

Action	Date	FR Cite
NPRM (Rule Changes)	02/01/01	66 FR 8722
Interim Rule I (Statutory Changes)	02/01/01	66 FR 8679
Interim Rule II (Rules of Practice)	02/01/01	66 FR 8720
Comment Period End (Interim and Proposed Rules)	03/19/01	
NPRM (Change from SIC to NAICS)	05/09/01	66 FR 23561
Effective Date (Change from SIC to NAICS)	07/01/01	
NPRM (Additional Rule Changes)	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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FTC

Proposed Rule Stage

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4507. TRADE REGULATION RULE CONCERNING THE LABELING AND ADVERTISING OF HOME INSULATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 460

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation (Rule) became effective on September 29, 1980. The Rule is designed to assist consumers in evaluating and comparing the thermal performance characteristics of competing home insulation products. Specifically, the Rule requires manufacturers of home insulation products to provide information about the product's degree of resistance to the flow of heat (R-Value). The Rule also establishes uniform standards for testing, information disclosure, and substantiation of product performance claims. As part of its systematic review of all Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for this Rule, possible conflicts between the Rule and state, local and other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. The Commission is considering the comments received in two parts. In part I, the Commission reviewed comments that addressed the current benefits, burdens, and need for the Rule, and determined to retain the Rule. The Commission also adopted nonsubstantive amendments that: (1) allow the optional use of the additional R-Value test procedure; and (2) require use in the future of revised, current versions of other test procedures cited in the Rule. In part II, the Commission is considering the comments recommending that the Commission adopt substantive revisions to the Rule. In response to the comments received, the Commission issued an advance notice of proposed rulemaking (ANPRM) seeking comment on whether it should initiate a rulemaking proceeding to amend the Rule. In the ANPRM, the Commission proposed amendments to recognize technological advances in R-Value testing and specimen preparation procedures, and to clarify and streamline the Rule's requirements. The comment period on the ANPRM ended on November 15, 1999. Based on the ANPRM record, the Commission will determine whether to initiate a rulemaking proceeding.

Timetable:

Action	Date	FR Cite
Request for Comments	04/06/95	60 FR 17492
Commission Action/Part I	03/28/96	61 FR 13659
Commission Action/ANPRM	09/01/99	64 FR 48023
Comment Period End	11/15/99	
Recommendation to Commission	02/00/02	
Commission Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA60

4508. TRADE REGULATION RULE ON FRANCHISING AND BUSINESS OPPORTUNITY VENTURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 to 58

CFR Citation: 16 CFR 436

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule on Franchising and Business Opportunity Ventures (Franchise Rule) became effective on October 21, 1979. The Rule is designed to reduce deceptive and unfair practices in the sale of franchises and business opportunities by requiring the pre-sale disclosure of material information about the franchise. For example, the Rule requires franchisors to disclose their business background and litigation history, as well as the number of failed and terminated franchise units. The Rule also requires the disclosure of material terms of the franchise relationship, such as recurring fees and termination and renewal rights. The Rule further requires the franchisor to provide an audited financial statement for the past three fiscal years. Finally, the Rule requires any franchisor who makes earnings representations to provide the prospective franchisee with an earnings claims document that substantiates those claims. On February 28, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) contemplating amendments that would address any new technologies and market practices and at the same time, reduce any unnecessary regulatory burden. Specifically, the Commission requested comments on whether to revise the Rule to more closely align Federal and State disclosure requirements governing franchise sales, and to address changes in the marketing of franchises, such as the sale of franchises internationally and through the Internet. Six public workshops were held in five cities during 1997 to promote discussions about the issues; allow the public to make statements on the record; and assist Commission staff in drafting a proposed amended Rule. The Commission extended the comment period to December 31, 1997. On October 22, 1999, the Commission published a notice of proposed rulemaking (NPRM) with a text of the revised Rule. Comments were accepted until December 21, 1999, and rebuttal comments were accepted until January 31, 2000. Commission staff is now analyzing the comments and will prepare a staff report.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/97	62 FR 9115
Comment Period End	12/31/97	62 FR 28822
Recommendation to Commission	03/26/99	
NPRM	10/22/99	64 FR 57293
NPRM Comment Period End	12/21/99	
NPRM Rebuttal Comment Period End	01/31/00	
Staff Report	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

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FTC

Proposed Rule Stage

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RIN: 3084–AA63

4509. TRADE REGULATION RULE PURSUANT TO THE TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT OF 1992

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 5701 et seq; 15 USC 5714(1)

CFR Citation: 16 CFR 308

Legal Deadline: None

Abstract: Congress enacted the Telephone Disclosure and Dispute Resolution Act of 1992 (TDDRA) to curtail certain unfair and deceptive practices perpetrated by some pay-per-call businesses, and to encourage the growth of the legitimate pay-per-call industry. TDDRA mandated that the FTC promulgate a rule to curb these practices; the Pay-Per-Call or 900-Number Rule (Rule) became effective on November 1, 1993. TDDRA granted the Commission limited jurisdiction over common carriers for purposes of the Rule. The Rule requires that advertisements for 900-numbers contain certain disclosures; requires that anyone who calls a 900-number service be given the opportunity to hang up at the conclusion of the preamble without incurring any charge for the call; and establishes procedures for resolving billing disputes for 900-number calls and other telephone-billed purchases. The Rule itself required the Commission to initiate a review of the Rule prior to November 1997. As part of this review, the Commission published a notice in the Federal Register on March 12, 1997, requesting comments on, among other things, the economic impact of and the continuing need for the Rule, and the effect on the Rule of any technological or industry changes. The Commission also sought comments, pursuant to authority granted under the Telecommunications Act of 1996, on whether to expand the Rule to govern other similar audio information and entertainment services. Staff held a workshop on June 19-20, 1997, during which members of the industry discussed issues raised in the comments, including billing and collection issues and possible ways to expand the definition of "pay-per-call services." Many commenters reported that the Rule has been successful in reducing the abuses that led to the passage of TDDRA. Despite the success of the Rule in correcting the abuses in the 900-number industry, complaints about other types of audiotext services (accessed via dialing patterns other than 900 numbers) are being reported. The majority of complaints now involve 800 numbers, international numbers, or other dialing patterns that do not use the 900-number prefix. Many consumer and law enforcement agencies also have been receiving complaints from consumers who have discovered unexplained charges (in some cases, recurring charges) on their telephone bills for services that were never authorized, ordered, received, or used, a practice known as "cramming." On October 30, 1998, the Commission published an NPRM that would expand the definition of "pay-per-call" services beyond 900 numbers and that would implement measures to combat telephone bill cramming. The proposed revisions would: (1) require the express authorization of the person to be billed for the purchase of any "telephone-billed purchases" that cannot be blocked by 900-number blocking; (2) prohibit vendors from billing consumers for monthly or other recurring charges for pay-per-call services unless the vendor had entered into a "presubscription agreement" with the person to be billed and had sent the consumer a written copy of the agreement; and (3) give consumers legal recourse to dispute unauthorized charges crammed on phone bills and have those charges removed. The comment period was extended to March 10, 1999, and the workshop-conference was held on May 20-21, 1999. At the workshop, participants discussed issues raised by the comments, such as the meaning of "express authorization" and the requirements for a presubscription agreement. Staff plans to forward a recommendation to the Commission early next year.

Timetable:

Action	Date	FR Cite
Request for Comments	03/12/97	62 FR 11749
Comment Period End	05/12/97	
Public Workshop	06/19/97	
Public Workshop	06/20/97	
Recommendation to Commission	09/08/98	
NPRM	10/30/98	63 FR 58523
Comment Period Extended	01/04/99	64 FR 61
Comment Period End	01/08/99	
Public Workshop-Conference	02/25/99	
Extended Comment Period End	03/10/99	
Public Workshop-Conference Date Rescheduled	05/20/99	
Recommendation to Commission	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA78

4510. TRADE REGULATION RULE CONCERNING POWER OUTPUT CLAIMS FOR AMPLIFIERS UTILIZED IN HOME ENTERTAINMENT PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 432

Legal Deadline: None

Abstract: The Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products (Amplifier Rule or Rule) was promulgated in 1974 to assist consumers in purchasing power amplification equipment for home entertainment purposes by standardizing the measurement and disclosure of various performance characteristics of the equipment. The Amplifier Rule establishes uniform test standards and disclosures so that consumers can make more meaningful comparisons of performance attributes. The Rule makes it an unfair or deceptive act or practice for manufacturers and sellers of sound power amplification equipment for home entertainment purposes to fail to

disclose certain performance information in connection with direct or indirect representations of power output, power band, frequency or distortion characteristics. The Rule also sets out standard test conditions for performing the measurements that support the required performance disclosures. Further, the Rule prohibits representations of performance characteristics if they are not obtainable when the equipment is operated by the consumer in the usual and ordinary manner without the use of extraneous aids.

To determine whether changes in technology that occurred since the Rule was issued necessitated any Rule revisions, the Commission requested comments on the Rule. Among other things, the Commission asked about the economic impact of, and the continuing need for, this Rule; and any possible conflict between the Rule and State, local and other Federal laws. Based upon the regulatory review, the Commission determined that the Rule applies to self-powered speakers for use with home computers and home sound systems but that the Rule should not be extended to automobile sound systems. The Commission also determined to issue an ANPRM seeking comment on whether it should amend the Rule. Based on the ANPRM record, the Commission issued an NPRM to seek public comment on whether the Commission should amend the Rule to reduce the preconditioning power output requirement from one-third of rated power to a lower figure; exempt sellers who make power output claims in media advertising from the requirement to disclose total rated harmonic distortion and the associated power bandwidth and impedance ratings; and clarify the manner in which the Rule's testing procedures apply to self-powered subwoofer-satellite combination speaker systems. Based on the NPRM record, the Commission amended the Rule as proposed in the NPRM. At the same time, the Commission issued a supplemental notice of proposed rulemaking (SNPRM) to seek public comment on proposed testing procedures for "home theater" receivers with five or more channels. The comment period for the SNPRM ended on March 30, 2001. Staff plans to forward its recommendation to the Commission this fall and anticipates Commission action before the end of the calendar year.

Timetable:

Action	Date	FR Cite
Request for Comments	04/07/97	62 FR 16500
Comment Period End	06/06/97	
ANPRM	07/09/98	63 FR 37238
Final Rule (Nonsubstantive Technical Changes)	07/09/98	63 FR 37234
Comment Period End	09/08/98	
NPRM	07/19/99	64 FR 38610
Comment Period End	10/15/99	64 FR 51087
SNPRM	12/22/00	65 FR 80798
Commission Action (Final Rule)	12/22/00	65 FR 81232
Comment Period End	02/23/01	
Reopen Comment Period	03/01/01	66 FR 12915
Comment Period End	03/30/01	
Recommendation to Commission	11/00/01	
Commmission Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3084–AA81

4511. PRIVACY OF CONSUMER INFORMATION—SECURITY

Priority: Other Significant

Legal Authority: PL 106-102, sec 501(b)

CFR Citation: 16 CFR 314

Legal Deadline: None

Abstract: On November 12, 1999, the Gramm-Leach-Bliley Act (G-L-B) was enacted. The Act repealed the key provision of the Glass-Steagall Act, that among other things, required the separation of banking, insurance, and securities institutions. Subtitle A (Disclosure of Nonpublic Person Information) of Title V (Privacy) limits the ability of the newly-authorized financial institutions to disclose nonpublic personal information about consumers to nonaffiliated third parties, and requires them to disclose to consumers their privacy policies and practices respecting information shared with both affiliates and nonaffiliated third parties. The Commission issued the statutorily mandated Rule on the Privacy of Consumer Financial Information (Privacy Rule), 16 CFR part 313, on May 12, 2000. The Privacy Rule took effect on November 13, 2000, and full compliance was required on or before July 1, 2001.

In addition to the Privacy Rule, Section 501 of Subtitle A requires the agencies to establish appropriate standards for financial institutions to safeguard nonpublic personal information. In particular, section 501(b) of the Act requires the Commission to "establish appropriate standards for the financial institutions [subject to its jurisdiction] relating to administrative, technical, and physical safeguards." Section 501(b) sets out the objectives of these standards: (1) to insure the security and confidentiality of customer records and information; (2) to protect against any anticipated threats or hazards to the security or integrity of such records; and (3) to protect against unauthorized access to or use of such records of information which could result in substantial harm or inconvenience to any customer. On September 7, 2000, the Commission issued an advance notice of proposed rulemaking (ANPRM) and a request for comments reopening its Safeguards Rule (to be codified at part 314). On August 7, 2001, the Commission published an NPRM. This comment period ended on October 9, 2001. Staff plans to forward its recommendation to the Commission early next year.

Timetable:

Action	Date	FR Cite
ANPRM and Request for Comments	09/07/00	65 FR 54186
Extension of Comment Period	10/06/00	65 FR 59766
Comment Period End	10/10/00	
Extended Comment Period End	10/24/00	
Commission Action	07/30/01	
NPRM	08/07/01	66 FR 41162
NPRM Comment Period End	10/09/01	
Recommendation to Commission	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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FTC — Proposed Rule Stage

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RIN: 3084–AA87

4512. • CHILDREN'S ONLINE PRIVACY PROTECTION RULE

Priority: Other Significant

Legal Authority: 15 USC 6501 et seq

CFR Citation: 16 CFR 312

Legal Deadline: None

Abstract: As part of the effort to protect children's online privacy, Congress enacted the Children's Online Privacy Act of 1998, 15 USC 6501 et seq. (COPPA), to prohibit unfair or deceptive acts or practices in connection with the collection, use, or disclosure of personally identifiable information from children on the Internet. On October 20, 1999, the Commission issued its final Rule implementing COPPA, which became effective on April 21, 2000. See 16 CFR Part 312. The Rule imposes certain requirements on operators of websites or online services directed to children under thirteen years of age, or other websites or online services that have actual knowledge that they have collected information from a child under thirteen years of age. Among other things, the Rule requires that website operators obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children under thirteen years of age.

The Rule provides that, "[a]ny method to obtain verifiable parental consent must be reasonably calculated, in light of available technology, to ensure that the person providing consent is the child's parent." 16 CFR 312.5(b)(1). In order to allow time for reliable electronic methods of verification to become widely available and affordable, the Rule sets forth a sliding scale approach for obtaining verifiable parental consent, which depends upon the reason the personal information is collected. The sliding scale was set to expire on April 21, 2002, at which time website operators must obtain verifiable parental consent using the more reliable methods set out by the Rule for all uses of personal information. 16 CFR 312.5(b)(2).

At the time it issued the final Rule, the Commission anticipated that the sliding scale was necessary only in the short term because the more reliable methods of obtaining verifiable parental consent would soon be widely available and affordable. At the present time, however, it appears that the expected progress in available technology has not occurred. The Commission therefore proposes to amend the Rule to extend the sliding scale mechanism for an additional two years to April 21, 2004. The Commission requests comment on the proposed extension and several questions concerning the current and anticipated availability and affordability of secure electronic mechanisms or infomediary services for obtaining parental consent.

Timetable:

Action	Date	FR Cite
NPRM	10/31/01	66 FR 54963
NPRM Comment Period End	11/30/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA88

Federal Trade Commission (FTC) — Long-Term Actions

4513. AMENDED FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

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RIN: 3084–AA44

[FR Doc. 01–23874 Filed 11–30–01; 8:45 am]
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Federal Register

Monday,
December 3, 2001

Part LVIII

National Credit Union Administration

Semiannual Regulatory Agenda

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Regulatory Agenda

AGENCY: National Credit Union Administration (NCUA).

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to its ongoing policy of reviewing regulations, NCUA is publishing a list of current and projected rulemakings, reviews of existing regulations, and completed actions as of September 13, 2001, to be included in the Unified Agenda of Federal Regulatory and Deregulatory Actions.

DATES: This information is current as of September 13, 2001.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

FOR FURTHER INFORMATION CONTACT: For each regulation listed, the person(s) named in the listing, at the above address, unless otherwise noted, or listed telephone number.

SUPPLEMENTARY INFORMATION: The purpose of this agenda is to enable credit unions and the public to follow regulatory development and review at NCUA, and participate in that process more effectively. Entries for the agenda appear in one of five possible categories: prerule stage; proposed rule stage; final rule stage; long-term actions; or completed actions.

The agenda is published pursuant to NCUA Interpretive Ruling and Policy Statement Number 87-2, "Developing and Reviewing Government Regulations," 54 FR 35231, (September 18, 1987), which sets out NCUA's policy and procedures for developing and reviewing its regulations. NCUA's policy is to ensure that its regulations impose only minimum required burdens on credit unions, consumers, and the public; are appropriate for the size of the financial institutions it regulates; are issued only after full public participation; and are clear and understandable. Further, NCUA undertakes to review all regulations every three years to clarify and simplify existing regulations and eliminate redundant and unnecessary provisions.

Executive Order 12866, signed by President Clinton on September 30, 1993, requires independent executive agencies such as NCUA to publish a regulatory agenda.

Approved by the NCUA Board on September 18, 2001.

Becky Baker,
Secretary of the Board.

National Credit Union Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4514	Investment and Deposit Activities	3133-AC49

National Credit Union Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4515	Corporate Credit Unions	3133-AC28
4516	Requirements for Insurance	3133-AC33
4517	Credit Practices	3133-AC34
4518	Requirements for Insurance	3133-AC46
4519	Eligible Obligations — Conflict of Interest Provision	3133-AC51
4520	Reimbursement, Insurance, and Indemnification of Officials and Employees	3133-AC54
4521	Consumer Protections for Federally Insured Credit Unions Sale of Nondeposit Investments	3133-AC56

National Credit Union Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4522	Regulatory Flexibility and Exemption Program	3133-AC38
4523	OMB Control Numbers	3133-AC52
4524	Definitions and Technical Amendments	3133-AC53
4525	Truth in Savings	3133-AC57
4526	Nondiscrimination in Federally Assisted Programs	3133-AC59

NCUA

National Credit Union Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
4527	Incidental Powers	3133-AC07
4528	Records Preservation Program and Record Retention Appendix	3133-AC41
4529	Credit Practices	3133-AC43
4530	Prepayment Fees to Federal Home Loan Bank	3133-AC44
4531	Credit Union Service Organizations (CUSOs)	3133-AC45
4532	Community Development Revolving Loan Program for Credit Unions	3133-AC47
4533	Interpretive Ruling and Policy Statement (IRPS-01-2) Central Liquidity Facility Advance Policy	3133-AC48
4534	Requirements for Insurance (Subpart B)	3133-AC55
4535	Nondiscrimination in Advertising	3133-AC58

National Credit Union Administration (NCUA) — Prerule Stage

4514. INVESTMENT AND DEPOSIT ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1757(7); 12 USC 1757(8); 12 USC 1757(15)

CFR Citation: 12 CFR 703

Legal Deadline: None

Abstract: The advanced notice of proposed rulemaking intends to solicit comments on how to update and clarify NCUA's investment and deposit activities rules.

Timetable:

Action	Date	FR Cite
ANPRM	10/26/01	66 FR 54168
ANPRM Comment Period End	01/24/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank S. Kressman, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6558
Fax: 703 518-6569
Email: fkressman@ncua.gov

RIN: 3133–AC49

National Credit Union Administration (NCUA) — Proposed Rule Stage

4515. CORPORATE CREDIT UNIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1762; 12 USC 1766(a); 12 USC 1781; 12 USC 1789

CFR Citation: 12 CFR 704

Legal Deadline: None

Abstract: NCUA requests public comment on revisions to the rule governing corporate credit unions. As part of its regulatory review process, NCUA has identified provisions for further clarification or revision. Comments on these issues will assist NCUA in its regulatory review process.

Timetable:

Action	Date	FR Cite
ANPRM	07/26/99	64 FR 40787
ANPRM Comment Period End	11/26/99	
ANPRM	11/22/00	65 FR 70319
ANPRM Comment Period End	02/20/01	
NPRM	09/21/01	66 FR 48742
NPRM Comment Period End	12/20/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: maryr@ncua.gov

RIN: 3133–AC28

4516. REQUIREMENTS FOR INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1756 to 1757; 12 USC 1757A; 12 USC 1766; 12 USC 1785; 12 USC 1781

CFR Citation: 12 CFR 741

Legal Deadline: None

Abstract: NCUA is soliciting public comment on whether NCUA should adopt a regulation that would restrict the insurance coverage for State-chartered credit unions that open branches outside the United States.

Timetable:

Action	Date	FR Cite
ANPRM	09/14/00	65 FR 55464
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

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NCUA

Proposed Rule Stage

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Michael J. McKenna, Senior Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6562
Email: mmckenna@ncua.gov

RIN: 3133–AC33

4517. CREDIT PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 57a; 15 USC 1681b

CFR Citation: 12 CFR 706

Legal Deadline: None

Abstract: NCUA issued a proposed regulation under the Fair Credit Reporting Act that addresses the sharing of opt-out information between Federal credit unions and their affiliates. NCUA intends to issued a second proposal for comment.

Timetable:

Action	Date	FR Cite
NPRM	10/26/00	65 FR 64168
NPRM Comment Period End	12/26/00	
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chrisanthy J. Loizos, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6567
Fax: 703 518-6569
Email: cloizos@ncua.gov

RIN: 3133–AC34

4518. REQUIREMENTS FOR INSURANCE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1781 to 1790

CFR Citation: 12 CFR 741

Legal Deadline: None

Abstract: Currently, only credit unions with over $50,000,000 in assets file quarterly call reports. NCUA is considering moving to a risk-based, flexible schedule examination program. This proposal requests comment on whether, as a condition of implementation of that program, all credit unions should file quarterly call reports.

Timetable:

Action	Date	FR Cite
NPRM	08/03/01	66 FR 40642
NPRM Comment Period End	11/01/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: maryr@ncua.gov

RIN: 3133–AC46

4519. ELIGIBLE OBLIGATIONS — CONFLICT OF INTEREST PROVISION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a

CFR Citation: 12 CFR 701.23

Legal Deadline: None

Abstract: Section 701.23 sets forth the requirements for purchasing, selling, and pledging eligible obligations (loans) by Federal credit unions. NCUA plans to propose a conflict of interest provision for this section, similar to section 701.21(c)(8)(i) of the lending rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Regina M. Metz, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6540
Email: rmetz@ncua.gov

RIN: 3133–AC51

4520. REIMBURSEMENT, INSURANCE, AND INDEMNIFICATION OF OFFICIALS AND EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 12 CFR 701.33

Legal Deadline: None

Abstract: Revise regulation to clarify, streamline and update to include recent interpretations.

Timetable:

Action	Date	FR Cite
NPRM	08/03/01	66 FR 40641
NPRM Comment Period End	10/03/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dianne M. Salva, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: dsalva@ncua.gov

RIN: 3133–AC54

4521. • CONSUMER PROTECTIONS FOR FEDERALLY INSURED CREDIT UNIONS SALE OF NONDEPOSIT INVESTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: NCUA is proposing regulations to ensure that the sale to members of all nondeposit investments through various types of arrangements is done in a safe and sound manner.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, Office of General Counsel,

NCUA — Proposed Rule Stage

National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: maryr@ncua.gov

RIN: 3133–AC56

National Credit Union Administration (NCUA) — Final Rule Stage

4522. REGULATORY FLEXIBILITY AND EXEMPTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1757; 12 USC 1756; 12 USC 1766

CFR Citation: 12 CFR 742

Legal Deadline: None

Abstract: NCUA solicited public comment on whether NCUA should adopt a regulation that would permit well capitalized credit unions to be exempt from certain NCUA regulations, in whole or in part.

Timetable:

Action	Date	FR Cite
ANPRM	03/22/00	65 FR 15275
ANPRM Comment Period End	05/22/00	
NPRM	03/15/01	66 FR 15055
NPRM Comment Period End	05/14/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Senior Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6562
Email: mmckenna@ncua.gov

RIN: 3133–AC38

4523. OMB CONTROL NUMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1766(a); 5 USC 3507(f)

CFR Citation: 12 CFR 795

Legal Deadline: None

Abstract: NCUA plans to update the display table that lists the current OMB control numbers and the 12 CFR part or section where each number is described or identified.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Regina M. Metz, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6540
Email: rmetz@ncua.gov

RIN: 3133–AC52

4524. DEFINITIONS AND TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752; 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761; 12 USC 1766 to 1767; ...

CFR Citation: 12 CFR 700; 12 CFR 701; 12 CFR 712; 12 CFR 723; 12 CFR 725; ...

Legal Deadline: None

Abstract: NCUA plans to amend various rules to make technical corrections and revise certain definitions.

Timetable:

Action	Date	FR Cite
NPRM	06/21/01	66 FR 33211
NPRM Comment Period End	08/20/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Regina M. Metz, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6540
Email: rmetz@ncua.gov

RIN: 3133–AC53

4525. • TRUTH IN SAVINGS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4311

CFR Citation: 12 CFR 707

Legal Deadline: Other, Statutory, November 6, 2001, Interim Final Rule. Mandated by Truth in Savings Act.

Abstract: NCUA is amending its Truth in Savings rule in compliance with the Truth in Savings Act which requires NCUA to amend its rule in conformity with changes made by the Federal Reserve Board to its Regulation DD.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank S. Kressman, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6558
Fax: 703 518-6569
Email: fkressman@ncua.gov

RIN: 3133–AC57

4526. • NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 2000d et seq; 29 USC 793; 42 USC 6101 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The purpose of this rule is to implement Federal statutes that prohibit credit unions that receive Federal financial assistance from discrimination on certain bases.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	
Final Action Effective	01/00/02	

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NCUA — Final Rule Stage

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None

Agency Contact: Paul M. Peterson, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6555
Fax: 703 518-6569
Email: ppeterson@ncua.gov

RIN: 3133–AC59

National Credit Union Administration (NCUA) — Completed Actions

4527. INCIDENTAL POWERS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1757(16); 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 721

Legal Deadline: None

Abstract: The NCUA revised this part to categorize activities deemed to be within the incidental powers of a Federal credit union.

Timetable:

Action	Date	FR Cite
ANPRM	11/26/99	64 FR 66413
NPRM	11/24/00	65 FR 70526
Final Action	08/06/01	66 FR 40845
Final Action Effective	09/05/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Senior Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6562
Email: mmckenna@ncua.gov

RIN: 3133–AC07

4528. RECORDS PRESERVATION PROGRAM AND RECORD RETENTION APPENDIX

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1766

CFR Citation: 12 CFR 749

Legal Deadline: None

Abstract: Review and update provisions regarding record retention requirements and electronic storage.

Timetable:

Action	Date	FR Cite
NPRM	02/23/01	66 FR 11239
NPRM Comment Period End	04/24/01	
Final Action	08/03/01	66 FR 40579
Final Action Effective	09/04/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dianne M. Salva, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: dsalva@ncua.gov

RIN: 3133–AC41

4529. CREDIT PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 57a; 15 USC 1681b

CFR Citation: 12 CFR 706

Legal Deadline: None

Abstract: NCUA has postponed its consideration of a broad advance notice of proposed rulemaking regarding the Fair Credit Reporting Act (FCRA) until NCUA and the bank regulatory agencies complete their FCRA opt-out notice rulemaking.

Timetable:

Action	Date	FR Cite
Withdrawn	07/31/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Chrisanthy J. Loizos, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6567
Fax: 703 518-6569
Email: cloizos@ncua.gov

RIN: 3133–AC43

4530. PREPAYMENT FEES TO FEDERAL HOME LOAN BANK

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1787

CFR Citation: 12 CFR 709

Legal Deadline: None

Abstract: NCUA adopted a rule clarifying that as conservator or liquidating agent of a federally insured credit union, the NCUA Board will honor a claim for prepayment fees by a Federal Home Loan Bank under certain circumstances.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/23/01	66 FR 11229
Interim Final Rule Comment Period End	04/24/01	
Final Action	08/03/01	66 FR 40574
Final Action Effective	09/04/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Chrisanthy J. Loizos, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6567
Fax: 703 518-6569
Email: cloizos@ncua.gov

RIN: 3133–AC44

4531. CREDIT UNION SERVICE ORGANIZATIONS (CUSOS)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1756; 12 USC 1757(5)(D) and (7)(I); 12 USC 1766; 12 USC 1782; 12 USC 1784; ...

CFR Citation: 12 CFR 712

Legal Deadline: None

Abstract: The final rule clarifies that the list of permissible activities in the CUSO rule is intended to establish broad categories of permissible activities and that the listings under these categories are illustrative not exhaustive. The final rule also adds a federally chartered corporation to the list of permissible structures for a CUSO.

NCUA

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	02/22/01	66 FR 11125
NPRM Comment Period End	04/23/01	
Final Action	08/03/01	66 FR 40575
Final Action Effective	09/04/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: maryr@ncua.gov

RIN: 3133–AC45

4532. COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM FOR CREDIT UNIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1772C-1; 42 USC 9822

CFR Citation: 12 CFR 705

Legal Deadline: None

Abstract: The NCUA revised its regulations pertaining to the Community Development Revolving Loan Program for Credit Unions (CDRLP) to make more flexible the manner in which NCUA may deliver technical assistance to participating credit unions. This revision reflects the board authority granted to NCUA by the Federal Credit Union Act (Act) in this context.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/21/00	65 FR 80298
Interim Final Rule Comment Period End	02/20/01	
Final Action	04/26/01	66 FR 20901
Final Action Effective	04/26/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank S. Kressman, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6558
Fax: 703 518-6569
Email: fkressman@ncua.gov

RIN: 3133–AC47

4533. INTERPRETIVE RULING AND POLICY STATEMENT (IRPS-01-2) CENTRAL LIQUIDITY FACILITY ADVANCE POLICY

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1795 to 1795F

CFR Citation: 12 CFR 725

Legal Deadline: None

Abstract: The policy statement is intended to clarify the role of the Central Liquidity Facility (CLF) and the circumstances when the CLF will approve a regulator or agent member's request for a CLF advance.

Timetable:

Action	Date	FR Cite
NPRM	10/25/00	65 FR 63892
NPRM Comment Period End	01/23/01	
Final Action	04/26/01	66 FR 21019
Final Action Effective	05/29/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank S. Kressman, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6558
Fax: 703 518-6569
Email: fkressman@ncua.gov

RIN: 3133–AC48

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Part LIX

National Indian Gaming Commission

Semiannual Regulatory Agenda

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NATIONAL INDIAN GAMING COMMISSION (NIGC)

NATIONAL INDIAN GAMING COMMISSION

25 CFR Ch. III

Semiannual Regulatory Agenda

AGENCY: National Indian Gaming Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Indian Gaming Commission today is publishing an agenda of its open and anticipated rulemaking actions. The agenda is a general announcement to the public intended to provide notice of rulemaking actions in which the public may wish to participate. In the future, the Commission intends to issue Notices of Proposed Rulemaking, Advance Notices of Proposed Rulemaking, or Final Rules for the following: rules concerning technical amendments to the Minimum Internal Control Standards; rules establishing a process for the assessment, notification, and collection of debts owed the NIGC; rules revising tribal background investigation submission requirements and timing; rules concerning the classification, review, and approval of games and devices used in tribal gaming; rules concerning environment, public health and safety; rules concerning hearings and appeals procedures; rules concerning enforcement; rules concerning definitions; rules revising the scope and review of management contracts; rules concerning net gaming revenue; rules concerning administrative fees; rules revising Freedom of Information Act procedures; rules revising Privacy Act procedures; rules concerning gaming facility licensing standards; rules concerning practice before the Commission; and rules implementing the National Environmental Policy Act (NEPA). The Commission invites questions and public comment on individual agenda items.

FOR FURTHER INFORMATION CONTACT: Cynthia S. Omberg, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005, (202) 632-7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 605, executive agencies are required to publish semiannual regulatory agendas in the **Federal Register** in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E.O. 12866, and no Regulatory Impact Analysis is required. The Commission also has determined, under the Regulatory Flexibility Act, that most of the regulations under consideration will not have a significant economic impact on a substantial number of small entities. For these regulations, no Regulatory Flexibility Analysis is required. The Commission has not yet determined whether the rules implementing the National Environmental Policy Act, the Privacy Act, or gaming facility licensing require a Regulatory Flexibility Analysis. Most of the proposed rules are not covered under section 202 of the Unfunded Mandates Reform Act (Pub. L. 104-4), as they are not Federal mandates that may result in an expenditure of $100 million or more in any one year by State, local, or tribal governments, in the aggregate, or the private sector. The Commission has not yet determined whether the Environment and Public Health and Safety rule or Privacy Act procedures require a statement in accordance with the Unfunded Mandates Reform Act. Finally, most of the Commission's proposed rules are not considered major under 5 U.S.C. 801 enacted by Public Law 104-121 and, therefore, are not subject to section 801's 60-day deferral requirement. The Commission has not yet determined whether the technical amendments to the Minimum Internal Control Standards or the Privacy Act procedures are a major rule.

For this edition of the Commission's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Montie R. Deer,

Chairman, National Indian Gaming Commission.

National Indian Gaming Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4536	Definitions: Electronic or Electromechanical Facsimile **(Reg Plan Seq No. 164)**	3141-AA10
4537	Tribal Background Investigation Submission Requirements and Timing	3141-AA15
4538	Environment and Public Health and Safety **(Reg Plan Seq No. 165)**	3141-AA17
4539	Technical Amendments to the Minimum Internal Control Standards **(Reg Plan Seq No. 166)**	3141-AA24
4540	Debt Collection	3141-AA25

References in boldface appear in the **Regulatory Plan** in part II of this issue of the **Federal Register**.

National Indian Gaming Commission—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4541	Game Classification **(Reg Plan Seq No. 167)**	3141-AA12

References in boldface appear in the **Regulatory Plan** in part II of this issue of the **Federal Register**.

NIGC

National Indian Gaming Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4542	Practice Before the Commission	3141-AA07
4543	Hearings and Appeals Procedure	3141-AA08
4544	Enforcement	3141-AA09
4545	Management Contracts	3141-AA13
4546	Net Gaming Revenue	3141-AA14
4547	Administrative Fees	3141-AA16
4548	Freedom of Information Act Procedures (Amendments)	3141-AA21
4549	Gaming Facility Licensing Standards	3141-AA23
4550	National Environmental Policy Act (NEPA) Implementing Regulations	3141-AA26

National Indian Gaming Commission (NIGC) — Proposed Rule Stage

4536. DEFINITIONS: ELECTRONIC OR ELECTROMECHANICAL FACSIMILE

Regulatory Plan: This entry is Seq. No. 164 in part II of this issue of the **Federal Register**.

RIN: 3141–AA10

4537. TRIBAL BACKGROUND INVESTIGATION SUBMISSION REQUIREMENTS AND TIMING

Priority: Other Significant

Legal Authority: 25 USC 2706(b)(3)

CFR Citation: 25 CFR 556; 25 CFR 558

Legal Deadline: None

Abstract: This rule revises timing and submission requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman, Deputy General Counsel, National Indian Gaming Commission, Suite 9100, 1441 L Street NW., Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA15

4538. ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

Regulatory Plan: This entry is Seq. No. 165 in part II of this issue of the **Federal Register**.

RIN: 3141–AA17

4539. TECHNICAL AMENDMENTS TO THE MINIMUM INTERNAL CONTROL STANDARDS

Regulatory Plan: This entry is Seq. No. 166 in part II of this issue of the **Federal Register**.

RIN: 3141–AA24

4540. DEBT COLLECTION

Priority: Other Significant

Legal Authority: 31 USC 3716; 25 USC 2713(a)(1)

CFR Citation: 25 CFR 580

Legal Deadline: None

Abstract: This regulation will establish a process for the assessment, notification, and collection of debts owed the National Indian Gaming Commission.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Agency Contact: Cynthia S. Omberg, Attorney, National Indian Gaming Commission, Suite 9100, 1441 L Street NW., Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066
Email: cynthia_omberg@nigc.doi.gov

RIN: 3141–AA25

National Indian Gaming Commission (NIGC) — Final Rule Stage

4541. GAME CLASSIFICATION

Regulatory Plan: This entry is Seq. No. 167 in part II of this issue of the **Federal Register**.

RIN: 3141–AA12

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National Indian Gaming Commission (NIGC) — Long-Term Actions

4542. PRACTICE BEFORE THE COMMISSION

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

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RIN: 3141–AA07

4543. HEARINGS AND APPEALS PROCEDURE

Priority: Other Significant

CFR Citation: 25 CFR 522 to 524; 25 CFR 533; 25 CFR 535; 25 CFR 539; 25 CFR 573; 25 CFR 575; 25 CFR 577

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
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RIN: 3141–AA08

4544. ENFORCEMENT

Priority: Other Significant

CFR Citation: 25 CFR 573

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
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RIN: 3141–AA09

4545. MANAGEMENT CONTRACTS

Priority: Other Significant

CFR Citation: 25 CFR 531; 25 CFR 533; 25 CFR 536

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
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RIN: 3141–AA13

4546. NET GAMING REVENUE

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 571; 25 CFR 573

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
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RIN: 3141–AA14

4547. ADMINISTRATIVE FEES

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 514

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
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RIN: 3141–AA16

4548. FREEDOM OF INFORMATION ACT PROCEDURES (AMENDMENTS)

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 517.3; 25 CFR 517.6; 25 CFR 517.8

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3141–AA21

4549. GAMING FACILITY LICENSING STANDARDS

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 522.4(b)(6); 25 CFR 522.6(b)

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
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RIN: 3141–AA23

4550. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) IMPLEMENTING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Tribal

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RIN: 3141–AA26

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Monday,
December 3, 2001

Part LX

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

NUCLEAR REGULATORY COMMISSION (NRC)

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual regulatory agenda in accordance with Public Law 96-354, "The Regulatory Flexibility Act," and Executive Order 12866, "Regulatory Planning and Review." The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on May 14, 2001 (66 FR 26602).

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Comments may also be hand delivered to the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda.

The agenda and any comments received on any rule listed in the agenda are available for public inspection and copying for a fee at the Nuclear Regulatory Commission's Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1F21, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-415-7163 (e-mail: mtl@nrc.gov). Persons outside the Washington, DC, metropolitan area may call, toll-free: 1-800-368-5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: The information contained in this semiannual publication is updated to reflect any action that has occurred on rules since publication of the last NRC semiannual agenda on May 14, 2001 (66 FR 26602). Within each group, the rules are ordered according to the Regulation Identifier Number (RIN).

The information in this agenda has been updated through September 14, 2001. The date for the next scheduled action under the heading "Timetable" is the date the rule is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. The agenda is intended to provide the public early notice and opportunity to participate in the NRC rulemaking process. However, the NRC may consider or act on any rulemaking even though it is not included in the agenda.

The NRC agenda lists all open rulemaking actions. Five rules affect small entities, one of which may potentially have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act.

Dated at Rockville, Maryland, this 14th day of September 2001.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services Office of Administration.

Nuclear Regulatory Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4551	Availability of Official Records	3150-AC07
4552	Lessons Learned From Design Certification	3150-AG24
4553	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste	3150-AG41
4554	Release of Part of a Reactor Facility or Site for Unrestricted Use Before Receiving Approval of the License Termination Plan	3150-AG56
4555	Industry Codes and Standards; Amended Requirements	3150-AG61
4556	Reduction in the Scope of Random Fitness-for-Duty Testing Requirements for Nuclear Power Reactor Licensees	3150-AG62
4557	Re-evaluation of Power Reactor Physical Protection Regulations and Position on a Definition of Radiological Sabotage	3150-AG63
4558	Transfers of Source Material From Licensees to Exempt Persons	3150-AG64
4559	Compatibility with IAEA Transportation Safety Standards	3150-AG71
4560	List of Approved Spent Fuel Storage Casks: Standardized Advanced NUHOMS-24PT1 Addition	3150-AG74
4561	Debt Collection Procedures	3150-AG80
4562	Notification Requirement	3150-AG81
4563	Submission of Financial Information for Applications to Renew or Extend the Term of an Operating License for Power Reactors	3150-AG84
4564	Financial Assurance Amendments for Materials Licenses	3150-AG85
4565	Incorporation by Reference of ASME BPV and OM Code Cases	3150-AG86

NRC

Nuclear Regulatory Commission—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4566	Fitness for Duty Programs	3150-AF12
4567	Submission of Documents Electronically; Minor Corrections	3150-AF61
4568	Medical Uses of Byproduct Material	3150-AF74
4569	Disposal of High-Level Radioactive Waste in a Proposed Geologic Repository at Yucca Mountain, Nevada	3150-AG04
4570	Decommissioning Trust Provisions	3150-AG52
4571	Nondiscrimination on the Basis of Race, Color, National Origin; Basis of Handicap; Basis of Age in Programs or Activities Receiving Federal Financial Assistance	3150-AG65
4572	Organization Change and Transfer of Function	3150-AG79

Nuclear Regulatory Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4573	Update Fuel Performance Considerations and Other Fuel Cycle Issues	3150-AA31
4574	Disposal by Release Into Sanitary Sewerage	3150-AE90
4575	Geological and Seismological Characteristics of Spent Fuel Storage Systems	3150-AG16
4576	Revision of the Skin Dose Limit	3150-AG25
4577	Risk-Informing Special Treatment Requirements	3150-AG42
4578	Integrated Rulemaking for Decommissioning Nuclear Power Reactors	3150-AG47
4579	Performance-Based, Risk-Informed Fire Protection	3150-AG48
4580	Changes to Adjudicatory Process	3150-AG49
4581	Material Control and Accounting	3150-AG69
4582	Standards for Combustible Gas Control System in Light-Water-Cooled Power Reactors	3150-AG76

Nuclear Regulatory Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
4583	Storage of Greater Than Class C Waste	3150-AG33
4584	120-Month ISI/IST Update Requirement	3150-AG39
4585	Use of Simulators in Operator Licensing and Conforming Changes	3150-AG40
4586	Licensing Proceedings for the Receipt of High-Level Radioactive Waste at a Geologic Repository: Licensing Support Network, Design Standards for Participating Websites	3150-AG44
4587	Revision of Fee Schedules; Fee Recovery, FY 2001	3150-AG73
4588	List of Approved Spent Fuel Storage Casks: Standardized NUHOMS-24P and -52B Revision, Amendment 3	3150-AG75
4589	List of Approved Spent Fuel Storage Casks: NAC-UMS Universal Storage System, Amendment 2	3150-AG77
4590	Charges for Reproducing Records	3150-AG78
4591	List of Approved Spent Fuel Storage Casks: Westinghouse MC-10 Termination	3150-AG82
4592	List of Approved Spent Fuel Storage Casks: NAC-MPC Revision, Amendment 1	3150-AG83

Nuclear Regulatory Commission (NRC) — Proposed Rule Stage

4551. AVAILABILITY OF OFFICIAL RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The proposed amendment would conform the Commission's regulations pertaining to the availability of official records to existing case law and agency practice. The amendment would address the circumstances under which proprietary, personal privacy or other confidential information submitted to the NRC by applicants, licensees, or others may be returned upon request. The rule would reaffirm that 10 CFR 2.790(c) provides submitters of information a qualified right to have their information returned upon request. This amendment would inform the public of four additional circumstances where information would not be returned to the applicant,

that is, (1) when submitted to an advisory committee governed by the Federal Advisory Committee Act; (2) when captured by a Freedom of Information Act request; (3) when publicly relied upon or revealed by the Commission in an open Commission meeting under the government in the Sunshine Act; and (4) when obtained during the course of an investigation conducted by the NRC Office of Investigations. The proposed amendment would also clarify requirements on submittals to the NRC for identification of confidential information sought to be withheld from public disclosure. Further, the proposed amendment would address the NRC's procedures for handling copyrighted information, including reproduction and distribution according to normal agency practice.

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61013
NPRM Comment Period End	03/08/93	
NPRM	10/17/01	66 FR 52721
NPRM Comment Period End	12/31/01	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine M. Holzle, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555-0001
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RIN: 3150–AC07

4552. LESSONS LEARNED FROM DESIGN CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 52

Legal Deadline: None

Abstract: The final rule will amend the Commission's regulations by revising the regulatory infrastructure to prepare for future applications. The final rule will involve changes to licensing procedures and will require combined license applicants and holders to create, maintain, update, and use a PRA for the life of the facility. The final rule subsumes the rulemaking, "Standardized Plant Designs, Early Review of Sites Suitability Issues; Clarifying Amendments" (RIN AE25), that would remove redundant appendices M, N, O, and Q from part 50. These appendices are being removed because they became obsolete when part 52 was created. The part 52 rulemaking plan (SECY-98-282) was approved by the Commission on January 14, 1999.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry N. Wilson, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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RIN: 3150–AG24

4553. ADVANCE NOTIFICATION TO NATIVE AMERICAN TRIBES OF TRANSPORTATION OF CERTAIN TYPES OF NUCLEAR WASTE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 71; 10 CFR 73

Legal Deadline: None

Abstract: The NRC has issued an advance notice of proposed rulemaking (ANPRM) to invite early input from affected parties and the public on the issues associated with the advance notification of Indian tribes of spent fuel shipments. The Department of Energy (DOE) has indicated that it intends to comply with NRC's physical protection requirements for shipments under the Nuclear Waste Policy Act; however, its current practices conflict with NRC regulations. For example, DOE already has asked for and will continue to ask for exemptions from the shipment itinerary information requirements of foreign research reactor fuel. DOE, as a courtesy, provides Indian tribes with notification of spent fuel shipments. NRC's current regulations do not address notification of Indian tribes. DOE has also developed a satellite tracking system to monitor the status of spent fuel shipments at all times. Distribution of this information to parties other than governors' designees is not compatible with NRC regulations. A rulemaking plan was approved by the Commission on February 2, 2001.

Timetable:

Action	Date	FR Cite
ANPRM	12/21/99	64 FR 71331
ANPRM Comment Period End	07/05/00	65 FR 18010
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roger W. Broseus, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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RIN: 3150–AG41

4554. RELEASE OF PART OF A REACTOR FACILITY OR SITE FOR UNRESTRICTED USE BEFORE RECEIVING APPROVAL OF THE LICENSE TERMINATION PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2; 10 CFR 20; 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by adding a new section that would identify the criteria and regulatory framework that a licensee would use to request NRC approval for a partial site release. The rulemaking would provide additional assurance that residual radioactivity would meet the radiological criteria for license termination, even if parts of the site were released before a licensee submits its license termination plans. The rulemaking would clarify that the radiological criteria for unrestricted use apply to a partial site release. The rulemaking would not provide for a partial site release under restricted conditions. Also, the rulemaking would provide for a Subpart 2 hearing if a license amendment involving a partial site release is challenged.

The rulemaking would fill a gap identified during the NRC's

consideration of a technical specification amendment request for the Oyster Creek Nuclear Generating Station to remove a restriction on the sale or lease of property within the exclusion area. During the Oyster Creek review, the NRC staff concluded that it is possible for a reactor licensee to sell land that would reduce the size of its site before the license termination criteria would specifically apply to the release of the property. If the sale does not involve the transfer of licensed material, it would not require NRC approval under current regulations. Currently, the NRC must consider changes to the site boundary of a reactor site on a case-by-case basis to ensure adequate protection of the public and the environment. Because several reactor licensees have expressed interest in selling parts of the sites before they receive approval of their license termination plans, the NRC staff believes the issues should be resolved generically by rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	09/04/01	66 FR 46230
NPRM Comment Period End	11/19/01	
Final Rule	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: W. Mike Ripley, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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RIN: 3150–AG56

4555. INDUSTRY CODES AND STANDARDS; AMENDED REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to incorporate by reference the following: (1) the 1997 Addenda, 1998 Edition, 1999 Addenda, and 2000 Addenda of Division 1 rules of Section III, "Rules for Construction of Nuclear Power Plant Components," of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME B&PV Code); (2) the 1997 Addenda, 1998 Edition, 1999 Addenda, and 2000 Addenda of Division 1 rules of Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," of the ASME B&PV Code; and (3) the 1997 Addenda, 1998 Edition, 1999 Addenda, and 2000 Addenda of the ASME Code for Operation and Maintenance of Nuclear Power Plants. This rule also withdraws a supplemental proposed rule that would have eliminated the requirement for licensees to update their ISI and IST programs every 120 months to the latest ASME Code edition and addenda incorporated by reference in the regulations (120-Month ISI/IST Update Requirement (AG39)).

Timetable:

Action	Date	FR Cite
NPRM	08/03/01	66 FR 40626
NPRM Comment Period End	10/17/01	
Final Rule	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen A. Tingen, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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RIN: 3150–AG61

4556. REDUCTION IN THE SCOPE OF RANDOM FITNESS-FOR-DUTY TESTING REQUIREMENTS FOR NUCLEAR POWER REACTOR LICENSEES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 26

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require random drug and alcohol testing of only those persons with unescorted access to vital areas, and eliminate random testing of employees who must physically report to the Technical Support Center or Emergency Operations Facility during an emergency. However, personnel with unescorted access to the protected area would continue to be covered by 10 CFR 26.24(a)(1) for pre-access fitness-for-duty testing and by 10 CFR 26.24(a)(3) for "for-cause" fitness-for-duty testing.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG62

4557. RE-EVALUATION OF POWER REACTOR PHYSICAL PROTECTION REGULATIONS AND POSITION ON A DEFINITION OF RADIOLOGICAL SABOTAGE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require power reactor licensees to conduct drills and exercises to evaluate their protective strategy against a simulated design basis threat (DBT) of radiological sabotage. The proposed rulemaking would also include risk insights, supporting guidance documents and be more performance based.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Rule	11/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard P. Rosano, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001

NRC — Proposed Rule Stage

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RIN: 3150–AG63

4558. TRANSFERS OF SOURCE MATERIAL FROM LICENSEES TO EXEMPT PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 40

Legal Deadline: None

Abstract: The proposed rule would require NRC approval for transfers of unimportant quantities of source material (less than 0.05 percent by weight) to persons exempt from licensing requirements. The objective of this proposed action is to ensure that the regulations regarding transfers of materials containing low concentrations of source material are adequate to protect public health and safety.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Clark Prichard, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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RIN: 3150–AG64

4559. COMPATIBILITY WITH IAEA TRANSPORTATION SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 71

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations on packaging and transporting radioactive material to make them compatible with the International Atomic Energy Agency (IAEA) standards and to codify other applicable requirements. These changes would be compatible with TS-R-1, the latest revision of the IAEA transportation standards. This rulemaking would also address the unintended economic impact of NRC's emergency final rule entitled "Fissile Material Shipments and Exemptions" - (February 10, 1997; 62 FR 5907) and a petition for rulemaking submitted by International Energy Consultants, Inc. (PRM-71-12)(February 19, 1998; 63 FR 8362).

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Naiem S. Tanious, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
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RIN: 3150–AG71

4560. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: STANDARDIZED ADVANCED NUHOMS-24PT1 ADDITION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by adding the Standardized Advanced NUHOMS Storage System cask design to the list of approved spent fuel storage casks. The proposed rule would add a cask system that has improved shielding and the ability to withstand a higher seismic response spectra than the Standardized NUHOMS Storage System which is already on the list of approved casks.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gordon Gundersen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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RIN: 3150–AG74

4561. • DEBT COLLECTION PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 15

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning the procedures that the NRC uses to collect its debts that are owed to it. The proposed amendment would conform NRC regulations to the amended procedures presented in the Federal Claims Collection Standards issued by the Department of the Treasury and the Department of Justice, and the legislative changes enacted in the Debt Collection Improvement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	10/05/01	66 FR 50860
NPRM Comment Period End	12/19/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Leah Tremper, Nuclear Regulatory Commission, Office of the Chief Financial Officer, Washington, DC 20555-0001
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RIN: 3150–AG80

4562. • NOTIFICATION REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by requiring a licensee to notify the NRC and an identified exposed individual

after the licensee becomes aware that the individual received or is estimated to have received a dose exceeding 50mSv (5 rem) from a released patient who had been administered radioactive material.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Rule	10/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Betty Ann Torres, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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RIN: 3150–AG81

4563. • SUBMISSION OF FINANCIAL INFORMATION FOR APPLICATIONS TO RENEW OR EXTEND THE TERM OF AN OPERATING LICENSE FOR POWER REACTORS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning financial qualifications for entities other than electric utilities seeking renewal of nuclear power plant operating licenses. The Commission's regulations currently require the submission of financial qualifications information for applicants for initial operating licenses and renewal of operating licenses, except for applicants for and holders of operating licenses for nuclear power plants that are electric utilities. Thus, applicants for renewal of nuclear power plant operating licenses under 10 CFR part 54 that are entities other than electric utilities must submit financial qualifications information as part of their renewal application. However, section 54.29 does not contain a requirement for an NRC finding of financial qualification for entities other than electric utilities seeking renewal of their operating license.

The NRC has received requests for license renewals and has granted two renewed licenses to electric utilities. However, because of ongoing deregulation in the electricity sector of the economy, new entities other than electric utilities are expected to be formed that will hold operating licenses for nuclear power plants. Some of these entities may decide to extend the life of their nuclear power plants through the license renewal process and, under the current regulations, would be required to submit financial qualifications information under section 50.33(f). However, a finding of financial qualification need not be made under section 54.29 to issue the renewed license. Therefore, the Commission needs to address and resolve by appropriate rulemaking the matter of financial qualifications for entities other than electric utilities seeking renewal of nuclear power plant operating licenses. The staff intends to develop a rule that would modify the requirement in the last sentence of section 50.33(f)(2) with respect to entities other than electric utilities seeking renewal of operating licenses for nuclear power plants, and provide the bases for the NRC's not making a financial qualifications finding for these entities in connection with renewal of such entities' nuclear power plant operating licenses in the Statement of Consideration for the rule. The rule would continue the existing requirement in section 50.33(f) with respect to non-power reactors. Furthermore, the rule would not affect submission of financial qualifications information and the need for a finding of financial qualifications with respect to transfers of nuclear power plant operating licenses.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
Final Rule	01/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG84

4564. • FINANCIAL ASSURANCE AMENDMENTS FOR MATERIALS LICENSES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 70

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's financial assurance regulations for materials licenses. The amendment would maintain adequate assurance of decommissioning funding.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
Final Rule	04/00/03	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Clark Prichard, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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RIN: 3150–AG85

4565. • INCORPORATION BY REFERENCE OF ASME BPV AND OM CODE CASES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to incorporate by reference the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel (BPV) Code Cases and Operation and Maintenance (OM) Code Cases pertaining to inservice inspection, operational maintenance, and design, fabrication, and materials which the NRC has reviewed and found to be acceptable for use. Language would be added to section 50.55a incorporating by reference three NRC-developed regulatory guides which address NRC review and approval of ASME-

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published code cases. This action would give NRC-approved code cases the same legal status as the corresponding requirements in the ASME BPV and OM Codes which have already been incorporated by reference in section 50.55a.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry S. Tovmassian, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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Email: hst@nrc.gov

RIN: 3150–AG86

Nuclear Regulatory Commission (NRC) — Final Rule Stage

4566. FITNESS FOR DUTY PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 26

Legal Deadline: None

Abstract: The final rule will amend the Commission's regulations to ensure compatibility with the Department of Health and Human Services guidelines, reduce unnecessary regulatory burden in some areas, clarify the Commission's original intent of the rule, and improve overall program effectiveness and efficiency. These revised requirements will reduce the industrywide annual cost for all licensees to comply with part 26 by approximately $15 million. The rulemaking will address the Regulatory Review Group items on audit frequency and annual submittal of data. The rulemaking will also address the petition for rulemaking submitted by the Virginia Electric and Power Company (VEPCO) (PRM-26-1).

Timetable:

Action	Date	FR Cite
NPRM	05/09/96	61 FR 21105
NPRM Comment Period End	08/07/96	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Garmon West Jr., Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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Email: vld@nrc.gov

RIN: 3150–AF12

4567. SUBMISSION OF DOCUMENTS ELECTRONICALLY; MINOR CORRECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2; 10 CFR 61; 10 CFR 62; 10 CFR 70; 10 CFR 71; 10 CFR 72; 10 CFR 73; 10 CFR 32; 10 CFR 34; 10 CFR 40; 10 CFR 50; 10 CFR 51; 10 CFR 52; 10 CFR 55; 10 CFR 60; 10 CFR 4; 10 CFR 9; 10 CFR 21; 10 CFR 20; 10 CFR 15; 10 CFR 19; 10 CFR 25; 10 CFR 30; 10 CFR 26; 10 CFR 31; 10 CFR 74; 10 CFR 75; 10 CFR 76; 10 CFR 81; 10 CFR 95; 10 CFR 110; 10 CFR 140; 10 CFR 150

Legal Deadline: None

Abstract: The direct final rule will permit voluntary electronic submission of documents and provide procedures for submitting documents electronically. Amending the regulations to permit electronic submission will facilitate the electronic capture of externally generated documents into the Agency-wide Documents Access and Management System (ADAMS). The rulemaking will address and improve the document control and records management issues that are of concern to the NRC, its applicants, licensees, and members of the public by improving the process of communication, dissemination, and storage of records. In addition, the rulemaking will incorporate minor corrections to the current regulations regarding the submission of documents to the NRC, for example, organizational, name, and phone number changes. This rulemaking is consistent with existing legislative and regulatory initiatives, such as the Paperwork Reduction Act of 1995, Office of Management and Budget Circular A-130 (Revised February 8, 1996), and the Government Paperwork Reduction Elimination Act of 1998, to reduce the information collection burden on the public and to make information more readily accessible to the public.

Timetable:

Action	Date	FR Cite
Direct Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: Michael D. Collins, Nuclear Regulatory Commission, Office of the Chief Information Officer, Washington, DC 20555-0001
Phone: 301 415-2488
Email: mdc1@nrc.gov

RIN: 3150–AF61

4568. MEDICAL USES OF BYPRODUCT MATERIAL

Priority: Other Significant

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

Abstract: The final rule will amend the Commission's regulations to reflect a more risk-based approach to the regulation of the medical uses of byproduct material. Performance-oriented requirements will allow licensees the flexibility to develop procedures appropriate to their uses of byproduct material. The revision will address training and experience requirements for authorized users, Radiation Safety Officers, authorized nuclear pharmacists, and authorized

medical physicists. This rulemaking includes development of associated guidance. This rule also addresses a petition for rulemaking submitted by the University of Cincinnati (PRM-20-24).

Timetable:

Action	Date	FR Cite
ANPRM	08/06/97	62 FR 42219
ANPRM Comment Period End	03/01/98	
NPRM	08/13/98	63 FR 43516
NPRM Comment Period End	12/16/98	63 FR 64829
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roger W. Broseus, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-7608
Email: rwb@nrc.gov

RIN: 3150–AF74

4569. DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE IN A PROPOSED GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 063

Legal Deadline: Other, Statutory, Energy Policy Act of 1992.

Abstract: The final rule will establish regulations as directed by statute (Energy Policy Act of 1992) for the disposal of high-level waste at Yucca Mountain. The final rule will provide specific criteria applicable to Yucca Mountain and state that the more generic requirements in the existing part 60 do not apply and cannot be the subject of litigation in any NRC licensing proceeding for Yucca Mountain. The rule will also address a petition for rulemaking submitted by the States of Nevada and Minnesota (PRM-60-2/2A).

Timetable:

Action	Date	FR Cite
NPRM	02/22/99	64 FR 8640
NPRM Comment Period End	06/30/99	64 FR 24092
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tim McCartin, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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Clark Prichard, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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Email: cwp@nrc.gov

RIN: 3150–AG04

4570. DECOMMISSIONING TRUST PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The rule would amend the Commission's regulations to ensure that decommissioning trust agreements are in a form acceptable to the NRC to increase assurance that decommissioning funds will be available for their intended purpose, especially in light of economic deregulation and restructuring of the electric utility industry. Based on past experience with the NRC approval of the transfer of the operating licenses of the Three Mile Island Unit 1 and Pilgrim Nuclear Power Stations, the staff believes that this rulemaking would expedite similar transfers in the future. The staff also intends to develop guidance by revising Regulatory Guide 1.159, "Assuring the Availability of Funds for Decommissioning Nuclear Reactors," that will specify more fully the provisions of the decommissioning trust agreements.

Timetable:

Action	Date	FR Cite
NPRM	05/30/01	66 FR 29244
NPRM Comment Period End	08/13/01	
Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brian J. Richter, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-1978
Email: bjr@nrc.gov

RIN: 3150–AG52

4571. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN; BASIS OF HANDICAP; BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 4

Legal Deadline: None

Abstract: The rule would incorporate the Civil Rights Restoration Act's definitions of "program or activity" and "program" into Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1972, and the Age Discrimination Act of 1975, and would promote consistent and adequate enforcement of these statutes.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	01/00/02	
Final Action Effective	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marva C. Gary, Nuclear Regulatory Commission, Office of Small Business and Civil Rights, Washington, DC 20555-0001
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Email: mcg@nrc.gov

RIN: 3150–AG65

4572. • ORGANIZATION CHANGE AND TRANSFER OF FUNCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 1; 10 CFR 34; 10 CFR 73

Legal Deadline: None

Abstract: The final rule will amend the Commission's regulations to reflect the

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abolishment of the Office for Analysis and Evaluation of Operational Data (AEOD); the transfer of certain functions from AEOD to Incident Response Operations; and a correction of the telephone number for the NRC Operations Center. In addition, several other administrative amendments will be included in this final rule.

Timetable:

Action	Date	FR Cite
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carrie Brown, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555
Phone: 301 415-8092
Email: cxb@nrc.gov

RIN: 3150–AG79

Nuclear Regulatory Commission (NRC) — Long-Term Actions

4573. UPDATE FUEL PERFORMANCE CONSIDERATIONS AND OTHER FUEL CYCLE ISSUES

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 51

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	
Second NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald P. Cleary
Phone: 301 415-3903
Email: dpc@nrc.gov

RIN: 3150–AA31

4574. DISPOSAL BY RELEASE INTO SANITARY SEWERAGE

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 20

Timetable:

Action	Date	FR Cite
ANPRM	02/25/94	59 FR 9146
ANPRM Comment Period End	05/26/94	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lydia Chang
Phone: 301 415-6319
Email: lwc1@nrc.gov

RIN: 3150–AE90

4575. GEOLOGICAL AND SEISMOLOGICAL CHARACTERISTICS OF SPENT FUEL STORAGE SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 072

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Keith McDaniel
Phone: 301 415-5252
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RIN: 3150–AG16

4576. REVISION OF THE SKIN DOSE LIMIT

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 20

Timetable:

Action	Date	FR Cite
NPRM	07/12/01	66 FR 36502
NPRM Comment Period End	09/25/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alan K. Rocklein
Phone: 301 415-3883
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RIN: 3150–AG25

4577. RISK-INFORMING SPECIAL TREATMENT REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 21; 10 CFR 50;; 10 CFR 54; 10 CFR 100

Timetable:

Action	Date	FR Cite
ANPRM	03/03/00	65 FR 11488
ANPRM Comment Period End	05/17/00	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tim Reed
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RIN: 3150–AG42

4578. INTEGRATED RULEMAKING FOR DECOMMISSIONING NUCLEAR POWER REACTORS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 50

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Huffman
Phone: 301 415-1141
Email: wch@nrc.gov

RIN: 3150–AG47

4579. PERFORMANCE-BASED, RISK-INFORMED FIRE PROTECTION

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 50

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edward A. Connell
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RIN: 3150–AG48

NRC — Long-Term Actions

4580. CHANGES TO ADJUDICATORY PROCESS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 1; 10 CFR 2; 10 CFR 50; 10 CFR 51; 10 CFR 52; 10 CFR 54; 10 CFR 60; 10 CFR 70;; 10 CFR 73; 10 CFR 75; 10 CFR 76; 10 CFR 110

Timetable:

Action	Date	FR Cite
NPRM	04/16/01	66 FR 19610
NPRM Comment Period End	09/14/01	66 FR 27045
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Geary S. Mizuno
Phone: 301 415-1639
Email: gsm@nrc.gov

RIN: 3150–AG49

4581. MATERIAL CONTROL AND ACCOUNTING

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 51; 10 CFR 61; 10 CFR 70; 10 CFR 72; 10 CFR 73; 10 CFR 74; 10 CFR 75; 10 CFR 76; 10 CFR 150

Timetable:

Action	Date	FR Cite
NPRM	05/30/01	66 FR 29251
NPRM Comment Period End	08/13/01	
Final Rule	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Merri Horn
Phone: 301 415-8126
Email: mlh1@nrc.gov

RIN: 3150–AG69

4582. • STANDARDS FOR COMBUSTIBLE GAS CONTROL SYSTEM IN LIGHT-WATER-COOLED POWER REACTORS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to improve safety by better focusing on the risk-significant challenges from combustible gases; ensure combustible gas control during all risk-significant events; and eliminate those aspects of current requirements that provide no safety benefit. A staff requirement memorandum dated January 19, 2001, directed the staff to proceed expeditiously with rulemakings on the risk-informed alternative of section 50.44, including completion of outstanding technical work (e.g., development of combustible gas source terms) and necessary regulatory analyses. Also, this rulemaking addresses the petition for rulemaking submitted by Bob Christie (PRM-50-68).

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anthony W. Markley, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3165
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RIN: 3150–AG76

Nuclear Regulatory Commission (NRC) — Completed Actions

4583. STORAGE OF GREATER THAN CLASS C WASTE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The final rule will amend the Commission's regulations to include storage of Greater than Class C (GTCC) waste, that is, waste that exceeds the concentration limits of radionuclides established for Class C waste in 10 CFR 61.55(a)(2)(iv). It is anticipated that the decommissioning activities at nuclear power plants will generate relatively small volumes of GTCC waste. However, because there are currently no disposal options for GTCC waste, utilities must store these wastes under their part 50 licenses pending development of a disposal facility. The Department of Energy has the responsibility for developing a national strategy for disposal of GTCC waste. Based on current plans, this disposal capability will not likely be available for many years. This rulemaking will allow independent spent fuel storage installations to store GTCC waste similarly to spent fuel and facilitate the likely eventual transfer to a permanent geologic repository. This rulemaking will also respond to a petition for rulemaking submitted by the Portland General Electric Company (PRM-72-2).

Timetable:

Action	Date	FR Cite
NPRM	06/16/00	65 FR 37712
NPRM Comment Period End	08/30/00	
Final Rule	10/11/01	66 FR 51823
Final Rule Effective	11/13/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6196
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RIN: 3150–AG33

4584. 120-MONTH ISI/IST UPDATE REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: This rule would amend the Commission's regulations to require nuclear power plant licensees to update their inservice inspection and inservice testing programs every 120 months to comply with the version of the ASME code incorporated by reference into the

regulations and in effect 12 months preceding the start of a new 120-month interval. The Commission disapproved this proposed rulemaking in a Staff Requirements Memorandum dated April 13, 2000. This rulemaking was withdrawn in a proposed rule published on August 3, 2001 (66 FR 40626)(Industry Codes and Standards; Amended Requirements (AG61)).

Timetable:

Action	Date	FR Cite
Withdrawn	08/03/01	66 FR 40626

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Scarbrough, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-2794
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RIN: 3150–AG39

4585. USE OF SIMULATORS IN OPERATOR LICENSING AND CONFORMING CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 55

Legal Deadline: None

Abstract: The final rule will amend the Commission's regulations to promote more effective plant operating experience for initial license applicants through improved on-the-job training by allowing use of the simulation facility in lieu of the actual plant to satisfy the license eligibility requirement for performance of control manipulations that affect reactivity or power level. The rulemaking will also facilitate the adaptation of existing simulator support and requalification training programs to the 1998 revision of the national standard (ANSI/ANS-3.5) to eliminate recurring outdated, duplicate, and inefficient simulator performance testing and reporting requirements. This rulemaking will bring the NRC's current regulations up to date with evolutionary changes in simulation technology, training, and examination programs. This rulemaking will directly reduce unnecessary regulatory burden by eliminating the current requirement for submittal of certification and performance test reports on a quadrennial basis.

Timetable:

Action	Date	FR Cite
NPRM	07/03/00	65 FR 41021
NPRM Comment Period End	09/18/00	
Final Action	10/17/01	66 FR 52657
Final Action Effective	11/16/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Clare Goodman, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-1047
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RIN: 3150–AG40

4586. LICENSING PROCEEDINGS FOR THE RECEIPT OF HIGH-LEVEL RADIOACTIVE WASTE AT A GEOLOGIC REPOSITORY: LICENSING SUPPORT NETWORK, DESIGN STANDARDS FOR PARTICIPATING WEBSITES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Legal Deadline: None

Abstract: The final rule amends the Commission's Rules of Practice applicable to the use of the Licensing Support Network (LSN) for the licensing proceeding on the disposal of high-level waste at a geologic repository. The final rule establishes the basic data structure and transfer standards (design standards) that LSN participant Websites must use to make documentary material available. The final rule also clarifies the authority of the LSN Administrator to establish guidance for LSN participants on how best to meet the design standards and to review participant designs for compliance with the standards. Finally, the rule clarifies the timing of participant compliance certifications.

Timetable:

Action	Date	FR Cite
Final Rule	05/31/01	66 FR 29453
Final Rule Effective	07/02/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Francis X. Cameron, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555-0001
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RIN: 3150–AG44

4587. REVISION OF FEE SCHEDULES; FEE RECOVERY, FY 2001

Priority: Economically Significant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 170; 10 CFR 171

Legal Deadline: None

Abstract: The final rule amends the licensing, inspection, and annual fees charged to NRC licensees and applicants for an NRC license. The amendments are necessary to recover 98 percent of the NRC's budget authority for Fiscal Year 2001, less the amount appropriated from the Nuclear Waste Fund and the General Fund. The Omnibus Budget Reconciliation Act of 1990, as amended, requires that the NRC accomplish the 98-percent recovery for FY 2001 through the assessment of fees. The dollar amount to be recovered for FY 2001 is approximately $453.3 million. The act requires that the fees for FY 2001 must be collected by September 30, 2001.

Timetable:

Action	Date	FR Cite
Final Rule	06/14/01	66 FR 32452
Final Rule Effective	08/13/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Glenda C. Jackson, Nuclear Regulatory Commission, Office of the Chief Financial Officer, Washington, DC 20555-0001
Phone: 301 415-6057
Email: gcj@nrc.gov

RIN: 3150–AG73

4588. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: STANDARDIZED NUHOMS-24P AND -52B REVISION, AMENDMENT 3

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

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CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to revise the Certificate of Compliance No. 1004 for the Standardized NUHOMS-24P and -52B cask system. This rule modifies the Standardized NUHOMS-24P and -52B cask system to add the -61BT dry storage canister which is the storage portion of a dual purpose cask design intended to both store and transport spent fuel.

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/29/01	66 FR 34523
Final Rule Effective	09/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gordon Gundersen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6195
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RIN: 3150–AG75

4589. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: NAC-UMS UNIVERSAL STORAGE SYSTEM, AMENDMENT 2

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The direct final rule will amend the Commission's regulations to revise the Certificate of Compliance No. 1015 for the NAC-UMS Universal Storage System. The change will modify the NAC-UMS Universal Storage System to add miscellaneous spent fuel related components to the approved contents list for the NAC-UMS Universal Storage system and change the required actions in response to a failure of the cask heat removal system.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/16/01	66 FR 52486
Direct Final Rule Effective	12/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jayne M. McCausland, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6219
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RIN: 3150–AG77

4590. • CHARGES FOR REPRODUCING RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 9

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to permit NRC's contractor to increase the charges for copying publicly available documents at the NRC's Public Document Room. In addition, the amendments provide for electronic copying to CD-ROM.

Timetable:

Action	Date	FR Cite
Final Rule	05/07/01	66 FR 22907
Final Rule Effective	06/06/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas E. Smith, Nuclear Regulatory Commission, Office of the Chief Information Officer, Washington, DC 20555-0001
Phone: 301 415-7204
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RIN: 3150–AG78

4591. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: WESTINGHOUSE MC-10 TERMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The direct final rule amends the Commission's regulations to delete Certificate of Compliance No. 1001 for the Westinghouse MC-10 cask system from the approved listing. This change was requested by the Westinghouse Government Environmental Services Company.

Timetable:

Action	Date	FR Cite
Direct Final Rule	08/21/01	66 FR 43761
Direct Final Rule Effective	11/05/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jayne M. McCausland, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6219
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RIN: 3150–AG82

4592. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: NAC-MPC REVISION, AMENDMENT 1

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The direct final rule amends the Commission's regulations to revise the Certificate of Compliance No. 1025 for the NAC-MPC cask system. This change modifies the NAC-MPC cask system design to permit a license to use an alternate fuel basket design with enlarged fuel tubes in corner locations; increase the operational time limits provided in the Technical Specifications for canister loading, closure, and transfer when canister heat loads are lower than design basis heat loads; revise the canister surface contamination limits in Technical Specifications to maintain worker dose as low as is reasonably achievable; and revise some drawings to reflect changes identified during cask and component fabrication under a general license.

Timetable:

Action	Date	FR Cite
Direct Final Rule	08/30/01	66 FR 45749
Direct Final Rule Effective	11/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jayne M. McCausland, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001

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NRC — Completed Actions

Phone: 301 415-6219

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RIN: 3150–AG83

[FR Doc. 01–23875 Filed 11–30–01; 8:45 am]

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Part LXI

Securities and Exchange Commission

Semiannual Regulatory Agenda

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SECURITIES AND EXCHANGE COMMISSION (SEC)

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33-8022, 34-44909, 35-27450, 39-2394, IC-25204, IA-1989, File No. S7-19-01]

Regulatory Flexibility Agenda

AGENCY: Securities and Exchange Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Securities and Exchange Commission is publishing an agenda of its rulemaking actions, pursuant to the Regulatory Flexibility Act. Information in the agenda was accurate on September 27, 2001, the date on which the Commission's staff completed compilation of the data. To the extent possible, rulemaking actions by the Commission since that date have been reflected in the agenda. The Commission invites questions and public comment on the agenda and on the individual agenda entries. The Commission provides notice under section 610 of the Regulatory Flexibility Act, which requires a review of certain rules and public notice of the intent to perform those reviews, at the end of the calendar year in a separate **Federal Register** publication.

DATES: Public comments are due by December 31, 2001.

ADDRESSES: Persons wishing to submit written comments should file three copies of their comments with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549-0609. All submissions should refer to File No. S7-19-01 and will be available for public inspection and copying at the Commission's Public Reference Room, Room 1026, at the same address. Interested persons may also submit comments electronically at the following e-mail address: rule-comments@sec.gov. We will post electronically submitted comment letters on the Commission's web site www.sec.gov.

FOR FURTHER INFORMATION CONTACT: David R. Fredrickson or Constancio B. Cater, Office of the General Counsel; 202-942-0890.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (Pub. L. No. 96-354, 94 Stat. 1164) (September 19, 1980) requires each Federal agency, during April and October of each year, to publish in the **Federal Register** an agenda identifying rules which the agency expects to propose or adopt that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602(a)). The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda and that an agency is not required to consider or act on any matter that is included in the agenda (5 U.S.C. 602(d)). The agenda includes new entries, entries carried over from previous publications, and rulemaking actions that have been completed (or withdrawn) since publication of the last agenda.

The RFA also requires agencies to review rules that have a significant economic impact on a substantial number of small entities within 10 years and to provide public notice of the intent to perform those reviews (5 U.S.C. 610(a)). The Commission provides that notice annually by separate publication in the **Federal Register** at the end of the calendar year. In addition, the notice of rules that the Commission is reviewing in 2001 is published on the Commission's web site www.sec.gov/smbus.

The following abbreviations for the acts administered by the Commission are used in the agenda:

"Securities Act" - Securities Act of 1933

"Exchange Act" - Securities Exchange Act of 1934

"PUHCA" - Public Utility Holding Company Act of 1935

"Investment Company Act" - Investment Company Act of 1940

"Investment Advisers Act" - Investment Advisers Act of 1940

The Commission's regulatory flexibility agenda is set forth below. The Commission invites public comment on the agenda and on the individual agenda entries.

Dated: October 5, 2001.
By the Commission.
Margaret H. McFarland,
Deputy Secretary.

DIVISION OF CORPORATION FINANCE—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4593	Industry Guide 3—Statistical Disclosure by Bank Holding Companies	3235-AI10
4594	Asset-Backed Securities Disclosure	3235-AF74
4595	Streamlining Rule 144	3235-AH13
4596	Mandated EDGAR Filing for Forms 3, 4, 5, and 144	3235-AI26
4597	Revision of Multijurisdictional Disclosure System	3235-AH99
4598	Mandated EDGAR Filing for Foreign Issuers	3235-AI08
4599	Updating the Regulation A Offering Circular	3235-AH87
4600	Financial Reporting and Blank Check Companies	3235-AH88
4601	Lock-Up Agreements	3235-AI09
4602	Securities Act Communications Reform	3235-AI11
4603	Defining "Qualified Purchasers"	3235-AI25

SEC

DIVISION OF CORPORATION FINANCE—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4604	Disclosure of Equity Compensation Plan Information	3235-AI01
4605	Addressing Abuses of Form S-8 by Companies Using Consultants To Raise Capital	3235-AG94
4606	Revisions to Rules Governing Options Disclosure Document	3235-AH31

DIVISION OF INVESTMENT MANAGEMENT—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4607	Books and Records To Be Maintained by Investment Advisers	3235-AH24
4608	Custody or Possession of Funds or Securities of Clients	3235-AH26
4609	Principal Transactions With Investment Advisory Clients	3235-AH34
4610	Exemption for Investment Advisors Operating Through the Internet	3235-AI15
4611	Certain Thrift Institutions Deemed Not To Be Investment Advisers	3235-AI16
4612	Advisor Transaction Rule Amendments	3235-AI28
4613	Exemption From Registration for Certain Commodity Pool Operators	3235-AI29
4614	Shareholder Report and Financial Statement Revisions	3235-AG64
4615	Proposed Amendments in Investment Company Advertising Rules	3235-AH19
4616	Exemption for Investments in Affiliated Money Market Funds	3235-AI30
4617	Deposits of Securities in Securities Depositories	3235-AG71
4618	Exemption From Shareholder Approval for Certain Subadvisory Contacts	3235-AH80
4619	Mergers of Certain Affiliated Investment Companies	3235-AH81
4620	Amendments to Form N-SAR, Semiannual Report of Registered Investment Companies	3235-AF93
4621	Amendments to the Cash Solicitation Rule	3235-AH33
4622	Rulemaking for EDGAR System	3235-AI18
4623	PUHCA: Exemption for Certain Acquisitions of Foreign Utility Companies; Subsidiaries Authorized To Perform Services or Construction or To Sell Goods	3235-AF78
4624	Regional Transmission Organizations and Independent Transmission Companies	3235-AI27

DIVISION OF INVESTMENT MANAGEMENT—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4625	Political Contributions by Certain Investment Advisers	3235-AH72
4626	Certain Broker-Dealers Not Deemed To Be Investment Advisers	3235-AH78
4627	Amendments to Form ADV	3235-AI17
4628	Exemption for the Acquisition of Securities During the Existence of an Underwriting or Selling Syndicate	3235-AH57
4629	Insurance Products: New Form N-6 for Registration of Separate Accounts Offering Variable Life Insurance Contracts	3235-AG37

DIVISION OF INVESTMENT MANAGEMENT—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4630	Exemption From Section 101(c)(1) of the Electronic Signatures in Global and National Commerce Act for Registered Investment Companies	3235-AH93
4631	Insurance Products: Equity Index Insurance Products Concept Release	3235-AH23

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DIVISION OF INVESTMENT MANAGEMENT—Completed Actions

Sequence Number	Title	Regulation Identification Number
4632	Electronic Recordkeeping Rules	3235-AI14
4633	Exemption for Subsidiaries Organized To Finance Operations of Domestic or Foreign Companies; Certain Prima Facie Investment Companies	3235-AE95
4634	Treatment of Repurchase Agreements and Refunded Securities as an Acquisition of the Underlying Securities	3235-AH56
4635	Electronic Recordkeeping by Investment Companies and Investment Advisers	3235-AI05
4636	Electronic Recordkeeping By Public Utility Holding Companies	3235-AI12

DIVISION OF MARKET REGULATION—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4637	Amendments to the Penny Stock Rules in Light of the Electronic Signatures in Global and National Commerce Act	3235-AI02

DIVISION OF MARKET REGULATION—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4638	Net Capital Rule: Customer Protection Rule	3235-AH05
4639	Risk Assessment Recordkeeping and Reporting Requirement	3235-AH06
4640	Exemption of Certain Foreign Brokers and Dealers	3235-AH17
4641	Untimely Announcement of Record Dates	3235-AH38
4642	Cash Settlement and Regulatory Halt Requirements for Security Future Products	3235-AI24
4643	Amendments to Rules 15c3-3, 17a-3, 17a-4, 17a-5, 17a-7, 17a-11, and 17a-13 To Recognize Security Futures Products	3235-AI32
4644	Customer Margin Rules Relating to Security Futures	3235-AI22
4645	Purchases of Certain Equity Securities by the Issuers and Others	3235-AH37
4646	Concept Release: Short Sales	3235-AH84

DIVISION OF MARKET REGULATION—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4647	Market Risk Haircuts for Instruments Subject to Interest Rate Risk	3235-AG18
4648	Proposed Amendments to Transfer Agent Rules	3235-AG24
4649	Tender and Reorganization Agents	3235-AH53
4650	Net Capital Requirements for Brokers or Dealers—Definition of the Term Nationally Recognized Statistical Rating Organization	3235-AH28
4651	Publication or Submission of Quotations Without Specified Information	3235-AH40
4652	Processing Requirements for Cancelled Securities Certificates	3235-AH54

DIVISION OF MARKET REGULATION—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4653	Request for Comments on the Effects of Decimal Trading in Sub-Pennies	3235-AI23
4654	Exemption From Exchange Act Section 11(d)(1) for Securities of Foreign Issuers Sold on an Installment Basis	3235-AH58
4655	Definition of Terms in and Specific Exemptions for Banks, Savings Associations, and Savings Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities and Exchange Act of 1934	3235-AI19

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DIVISION OF MARKET REGULATION—Completed Actions

Sequence Number	Title	Regulation Identification Number
4656	Net Capital Requirements for Brokers or Dealers	3235-AD79
4657	Amendments to Rules 17a-3 and 17a-4 Under the Securities Exchange Act of 1934	3235-AH04
4658	Registration of Broker-Dealers Pursuant to Section 15(b)(1) of the Securities Exchange Act of 1934	3235-AI21
4659	Electronic Submission of Securities Transaction Information by Exchange Members, Brokers, and Dealers	3235-AH69
4660	Exemption of the Securities of the Republic of Portugal Under the Securities Exchange Act of 1934 for Purposes of Trading Futures Contracts on Those Securities	3235-AH76
4661	Proposed Rule Changes of "Self-Regulatory Organizations"	3235-AI06
4662	Methods of Determining Market Capitalization and Dollar Value of Average Daily Trading Volume; Application of the Definition of Narrow Based Security Index	3235-AI13
4663	Registration of National Securities Exchange Pursuant to 6(g) of the Securities Exchange Act of 1934 and Changes of National Securities Exchange and Limited Purpose National Securities Association	3235-AI20
4664	Large Trader Reporting System	3235-AE42
4665	Net Capital Rule Concept Release	3235-AH29
4666	Recordkeeping Requirements for Transfer Agents	3235-AH74
4667	Amendments to Rule 15b9-1—Exemption for Certain Exchange Members	3235-AI03

OFFICES AND OTHER PROGRAMS—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4668	Management Reports on Internal Controls	3235-AH97
4669	Proposal to Amendment Disclosure Requirements Related to Derivative Financial Instruments and Derivative Commodity Instruments	3235-AH98

OFFICES AND OTHER PROGRAMS—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4670	Supplemental Financial Information	3235-AH86

OFFICES AND OTHER PROGRAMS—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4671	International Accounting Standards	3235-AH65

OFFICES AND OTHER PROGRAMS—Completed Actions

Sequence Number	Title	Regulation Identification Number
4672	Bookkeeping Services Provided by Auditors to Audit Clients in Emergency or Other Unusual Situations	3235-AI31

Securities and Exchange Commission (SEC)
Division of Corporation Finance

Proposed Rule Stage

4593. INDUSTRY GUIDE 3—STATISTICAL DISCLOSURE BY BANK HOLDING COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 77a et seq; 5 USC 78a et seq

CFR Citation: 17 CFR 229; 17 CFR 231; 17 CFR 241

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments to Securities Act Industry Guide 3 and Exchange Act Industry Guide 3, Statistical Disclosure by Banking Holding Companies, to update them and apply them more broadly to registrants engaging in lending, investing, or deposit-taking activities, rather than just to banks and bank holding companies. The revisions also would likely take into account changes in financial reporting rules and the increasingly diverse lending and investing activities that expose registrants to credit risk.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Carol Stacey, Securities and Exchange Commission, Division of Corporation Finance
Phone: 202 942-2960

RIN: 3235–AI10

4594. ASSET-BACKED SECURITIES DISCLOSURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77e; 15 USC 78o; 15 USC 78w; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n

CFR Citation: 17 CFR 229; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The Division of Corporation Finance is considering whether to recommend to the Commission amendments to revise rules and forms, which would specify disclosure requirements for asset-backed securities transactions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth M. Murphy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AF74

4595. STREAMLINING RULE 144

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.144

Legal Deadline: None

Abstract: The Commission proposed revisions to Rule 144, Rule 145, and Form 144 to make the rules and form easier to understand and apply. The Division is considering recommending that the Commission repropose amendments that would, among other things, add a bright line test to the Rule 144 definition of affiliate, increase the Form 144 filing thresholds, and codify certain interpretive positions.

Timetable:

Action	Date	FR Cite
NPRM	02/20/97	62 FR 9246
NPRM Comment Period End	04/29/97	
Second NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Raymond A. Be, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AH13

4596. • MANDATED EDGAR FILING FOR FORMS 3, 4, 5, AND 144

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq.; 15 USC 79a et seq.; 15 USC 80a-1 et seq.

CFR Citation: 17 CFR 230; 17 CFR 232; 17 CFR 239

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments that would require persons to file electronically on EDGAR their Forms 3, 4, 5, and 144. This would make the information more readily available to the investing public.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Mark W. Green, Senior Special Counsel, Securities and Exchange Commission, Washington, DC 20549
Phone: 202 942-1940
Fax: 202 942-9624

RIN: 3235–AI26

4597. REVISION OF MULTIJURISDICTIONAL DISCLOSURE SYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 78aaa et seq

CFR Citation: 17 CFR 230; 17 CFR 239; 17 CFR 240

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose revisions to the Multijurisidictional Disclosure System for Canadian registrants that would integrate them into the Commission's foreign issuer disclosure system in a manner more consistent with all other foreign registrants. The proposals would limit the scope of the MJDS, including the number of companies eligible to use the system and the circumstances under which they may use it, while preserving MJDS filer's ability to make offerings in the United States using Canadian offering documents and without review by Commission staff.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

SEC—Division of Corporation Finance

Proposed Rule Stage

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Mary Cascio, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street NW, Washington, DC 20549
Phone: 202 942-2990
Fax: 202 942-9624

RIN: 3235–AH99

4598. MANDATED EDGAR FILING FOR FOREIGN ISSUERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 232

Legal Deadline: None

Abstract: The Commission proposed amendments that would require foreign issuers to file electronically on EDGAR their Securities Act and Exchange Act registration statements and their Exchange Act reports and other documents. Thus far, foreign issuers have only voluntarily filed their securities documents on EDGAR. By extending mandated EDGAR filing rules to foreign issuers, we hope to achieve the same efficiencies in information dissemination sought when we adopted the mandated EDGAR filing regime for domestic issuers in 1993.

Timetable:

Action	Date	FR Cite
NPRM	10/04/01	66 FR 50744
NPRM Comment Period End	12/03/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Elliot Staffin, Securities and Exchange Commission, Division of Corporation Finance
Phone: 202 942-2990

RIN: 3235–AI08

4599. UPDATING THE REGULATION A OFFERING CIRCULAR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 239.0

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments to the Model A offering circular in the Regulation A offering statement to conform it to a State registration statement format.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard K. Wulff, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AH87

4600. FINANCIAL REPORTING AND BLANK CHECK COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a et seq

CFR Citation: 17 CFR 249.308

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments to Form 8-K that would remove the grace period for filing financial statements in a blank check company merger.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard K. Wulff, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AH88

4601. LOCK-UP AGREEMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 230; 17 CFR 240

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose a new rule under the Securities Act to clarify how to register securities that acquiring companies issue to certain target security holders who enter into lock-up agreements in connection with acquisition transactions. We also would propose corresponding exemptions from certain Exchange Act rules to allow for the execution of lock-up agreements without violation of the applicable rules.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Pamela Carmody, Securities and Exchange Commission, Division of Corporation Finance
Phone: 202 942-2920

RIN: 3235–AI09

4602. SECURITIES ACT COMMUNICATIONS REFORM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 77a et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose modifications to the Securities Act restrictions on communications by issuers and underwriters around the time of a registered offering. The Division is focusing on the section 5 restrictions on pre-filing offers and free writing and the Securities Act rules that permit limited types of communication during those periods. In addition, the Division is examining the requirements for delivery of final prospectuses.

SEC—Division of Corporation Finance — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Anita Klien, Securities and Exchange Commission, Division of Corporation Finance
Phone: 202 942-2980

RIN: 3235–AI11

4603. • DEFINING "QUALIFIED PURCHASERS"

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 U.S.C. 78r

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission provide a definition of "qualified purchaser" to fully implement the "covered securities" portion of Section 18 of the Securities Act of 1933

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marva Simpson, Special Counsel, Securities and Exchange Commission, Washington, DC 20549
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AI25

Securities and Exchange Commission (SEC)
Division of Corporation Finance — **Final Rule Stage**

4604. DISCLOSURE OF EQUITY COMPENSATION PLAN INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 240.14a-101; 17 CFR 229.202; 17 CFR 228.202

Legal Deadline: None

Abstract: The Commission has proposed amendments to Regulations S-K and S-B, Regulations 14A and 14C, and Forms 10K and 10KSB that will require annual disclosure of the total number of securities authorized for issuance under a registrant's employee stock plans, whether or not approved by shareholders, and certain related information.

Timetable:

Action	Date	FR Cite
NPRM	02/01/01	66 FR 8732
NPRM Comment Period End	04/02/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Borges, Office of Rulemaking, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900

RIN: 3235–AI01

4605. ADDRESSING ABUSES OF FORM S-8 BY COMPANIES USING CONSULTANTS TO RAISE CAPITAL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77f; 15 USC 78w; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o

CFR Citation: 17 CFR 239.16b; 17 CFR 228.402; 17 CFR 229.402; 17 CFR 230.101; 17 CFR 230.405; 17 CFR 239.13

Legal Deadline: None

Abstract: The Commission proposed additional amendments to Form S-8 requirements to further deter the misuse of that form. The proposals would add a timeliness requirement for filings under the Exchange Act in order to use the form. In addition, a company formed by merger of a non-public company into an Exchange Act reporting company with only nominal assets at the time of merger would have to wait until it had filed an Exchange Act annual report containing audited financial statements reflecting the merger before it could use Form S-8. The Commission also extended the comment period on the proposal in Release No. 33-7506 to require disclosure in Part II of Form S-8 of the names of consultants who will receive securities, the number of securities to be issued to each of them, and the specific services that each will provide.

Timetable:

Action	Date	FR Cite
NPRM	02/25/98	63 FR 9648
NPRM Comment Period End	04/27/98	
Final Rule	03/08/99	64 FR 11103
Second NPRM	03/08/99	64 FR 11118
Final Rule Effective	04/07/99	
Second NPRM Comment Period End	05/07/99	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Anne M. Krauskopf, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900

RIN: 3235–AG94

4606. REVISIONS TO RULES GOVERNING OPTIONS DISCLOSURE DOCUMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.135b

Legal Deadline: None

Abstract: The Commission proposed amendments to provide that an options disclosure document prepared in accordance with Rule 9b-1 under the Exchange Act is not a prospectus and accordingly will not be subject to civil liability under section 12(a)(2) of the Securities Act.

SEC—Division of Corporation Finance

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 36136
NPRM Comment Period End	07/31/98	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Raymond A. Be, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AH31

Securities and Exchange Commission (SEC)
Division of Investment Management

Proposed Rule Stage

4607. BOOKS AND RECORDS TO BE MAINTAINED BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-4; 15 USC 80b-6(4); 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.204-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending that the Commission update the books and records requirements for investment advisers.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Don L. Evans, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0719

RIN: 3235–AH24

4608. CUSTODY OR POSSESSION OF FUNDS OR SECURITIES OF CLIENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-6; 15 USC 80b-4; 15 USC 80b-11

CFR Citation: 17 CFR 275.206(4)-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending a proposal to the Commission to revise the custody rule under the Investment Advisers Act of 1940.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Jennifer Sawin, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0719

RIN: 3235–AH26

4609. PRINCIPAL TRANSACTIONS WITH INVESTMENT ADVISORY CLIENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-6a

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering recommending that the Commission revise the conditions under which investment advisers may enter into principal transactions with their clients.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Jennifer L. Sawin, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0719

RIN: 3235–AH34

4610. EXEMPTION FOR INVESTMENT ADVISORS OPERATING THROUGH THE INTERNET

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-3a(c)

CFR Citation: 17 CFR 275.203A-2

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering recommending a proposal to the Commission to permit certain investment advisers operating through the internet to register with the Commission.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Jennifer Sawin, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0719

RIN: 3235–AI15

4611. CERTAIN THRIFT INSTITUTIONS DEEMED NOT TO BE INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-2(a)(11)(F)

CFR Citation: 17 CFR 275

Legal Deadline: None

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SEC—Division of Investment Management **Proposed Rule Stage**

Abstract: The staff of the Division of Investment Management is considering recommending a proposal to the Commission to except from the definition of investment adviser thrift institutions providing investment advice to certain clients.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Jennifer L. Sawin, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0719

RIN: 3235–AI16

4612. • ADVISOR TRANSACTION RULE AMENDMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-10(f); 15 USC 80-17(b); 15 USC 80a-17(d); 15 USC 80a-30(a); 15 USC 80a 37(a)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose new rules and rule amendments to expand the circumstances under which a registered investment company may engage in transaction and joint enterprises with certain affiliated persons and affiliated persons of affiliated persons of the investment company

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William C. Middlebrooks, Jr., Attorney, Office of Regulatory Policy, Securities and Exchange Commission, Stop 0506, 450 5th Street NW, Washington, DC 20549
Phone: 202 942-0690

RIN: 3235–AI28

4613. • EXEMPTION FROM REGISTRATION FOR CERTAIN COMMODITY POOL OPERATORS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 80b-6a

CFR Citation: 17 CFR 275.203(b)(6)-1 (New)

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending that the Commission propose a rule exempting certain commodity pool operators from investment adviser registration and addressing issues related to the Commodity Futures Modernization Act amendments to the Investment Advisers Act

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel Seth Kahl, Attorney, Securities and Exchange Commission
Phone: 202 942-0716

RIN: 3235–AI29

4614. SHAREHOLDER REPORT AND FINANCIAL STATEMENT REVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77f; 15 USC 77j; 15 USC 80a-29

CFR Citation: 17 CFR 210; 17 CFR 270.30d-1

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose revisions to improve investment company shareholder reports, including enhancing disclosure of fee information and revising the portfolio holdings disclosure requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Peter Hong, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG64

4615. PROPOSED AMENDMENTS IN INVESTMENT COMPANY ADVERTISING RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77e; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 80a-8; 15 USC 80a-22; 15 USC 80a-24(g); 15 USC 80a-29; 15 USC 80a-37; 15 USC 77g

CFR Citation: 17 CFR 230.482; 17 CFR 230.134

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose to amend Rule 482, to permit advertisements that are not subject to restrictions limiting the content to information "the substance of which" is in a fund's prospectus. The Division is also considering whether to recommend that the Commission propose to amend Rule 134 to rescind provisions of Rule 134 that apply only to investment companies.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kimberly Browning, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AH19

SEC—Division of Investment Management — Proposed Rule Stage

4615. • EXEMPTION FOR INVESTMENTS IN AFFILIATED MONEY MARKET FUNDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-12(d)(1)(j)

CFR Citation: 17 CFR 12d1-1

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering recommending to the Commission a new rule to allow investment companies regulated as money market funds in excess of limits on those investments under the Investment Company Act of 1940.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Penelope W. Saltzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AI30

4617. DEPOSITS OF SECURITIES IN SECURITIES DEPOSITORIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-06(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-4

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments to rule 17f-4, which governs the use of securities depositories for custody of the assets of management investment companies. The amendments would, among other things, update and simplify the rule's compliance requirements to reflect changes in commercial law, expand the types of entities that may be used as securities depositories, and permit investment company officers to authorize depository arrangements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hugh P. Lutz, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG71

4618. EXEMPTION FROM SHAREHOLDER APPROVAL FOR CERTAIN SUBADVISORY CONTACTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending to the Commission amendments to rules and to allow certain types of funds or their investment advisers to enter into subadvisory agreements for investment management services without obtaining shareholder approval.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam B. Glazer, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH80

4619. MERGERS OF CERTAIN AFFILIATED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(a); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17a-8

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending to the Commission that it amend Rule 17a-8 under the Investment Company Act, which exempts from the prohibitions of section 17(a) mergers and other combinations of certain affiliated investment companies. The amendments would expand the rule to make it available in a broader range of circumstances and would alter the conditions required for reliance on the rule.

Timetable:

Action	Date	FR Cite
NPRM	11/15/01	66 FR 57602
NPRM Comment Period End	01/16/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hester M. Peirce, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH81

4620. AMENDMENTS TO FORM N-SAR, SEMIANNUAL REPORT OF REGISTERED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 249.330; 17 CFR 274.101

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission amend Form N-SAR, the semiannual report for registered investment companies, to update the items of the form.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carolyn A. Miller, Office of Financial Analysis, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0510

RIN: 3235–AF93

4621. AMENDMENTS TO THE CASH SOLICITATION RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-4; 15 USC 80b-6; 15 USC 80-11(a)

CFR Citation: 17 CFR 275.206(4)-3

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend revisions to the cash solicitation rule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Jennifer L. Sawin, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0719

RIN: 3235–AH33

4622. RULEMAKING FOR EDGAR SYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 78ll; 15 USC 77sss; 15 USC 79c; 15 USC 79e; 15 USC 79f; 15 USC 79g; 15 USC 79j; 15 USC 79l; 15 USC 79m; 15 USC 79n; 15 USC 79q; 15 USC 79t; 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-30; 15 USC 80a-37

CFR Citation: 17 CFR 232.101 to 601

Legal Deadline: None

Abstract: In connection with the ongoing modernization of the Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system, the staff is considering recommending that the Commission propose amendments to existing rules and forms to make technical and clarifying corrections and to expand the categories of mandatory electronic filings to include investment company exemptive applications and certain other investment company filings.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Shaswat K. Das, Senior Counsel, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0650

RIN: 3235–AI18

4623. PUHCA: EXEMPTION FOR CERTAIN ACQUISITIONS OF FOREIGN UTILITY COMPANIES; SUBSIDIARIES AUTHORIZED TO PERFORM SERVICES OR CONSTRUCTION OR TO SELL GOODS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79e; 15 USC 79f(b); 15 USC 79i(c)(3); 15 USC 79t; 15 USC 79z-5a; 15 USC 79z-5b; 15 USC 79; 15 USC 79j; 15 USC 79l; 15 USC 79m; 15 USC 79n; 15 USC 79o

CFR Citation: 17 CFR 250.55 (New); 17 CFR 250.87 (Revision); 17 CFR 259.5s (Revision); 17 CFR 259.207 (Revision)

Legal Deadline: None

Abstract: Proposed rule 55 is intended to provide a safe harbor for those acquisitions of one or more foreign utility companies by a registered holding company that meet specified criteria. Proposed rule 56, previously considered in RIN 3235-AF79, clarifies that a subsidiary of a registered holding company that is engaged exclusively in the business of owning an interest in one or more foreign utility companies will be deemed a foreign utility company. The proposed amendment to rule 87 would require registered holding companies to obtain Commission approval of intrasystem agreements involving foreign utility companies and exempt wholesale generators.

Timetable:

Action	Date	FR Cite
NPRM	03/15/93	58 FR 13719
NPRM Comment Period End	04/14/93	
Second NPRM	02/07/01	66 FR 9247
Second NPRM Comment Period End	04/09/01	
Next Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Related to RIN 3235-AF79

Agency Contact: Alberto Zapata, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0545

RIN: 3235–AF78

4624. • REGIONAL TRANSMISSION ORGANIZATIONS AND INDEPENDENT TRANSMISSION COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79c

CFR Citation: 17 CFR 250.18; 17 CFR 250.40; 17 CFR 250.44; 17 CFR 250.6

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering recommending a proposal to the Commission to deem an "independent transmission company" as defined by the rule not to be a "subsidiary," "company" or "affiliate" of a registered holding company. The rule is intended to facilitate the Federal Energy Regulatory Commission's Order No. 2000, Regional Transmission Organizations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Victoria J. Adraktas, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission

SEC—Division of Investment Management **Proposed Rule Stage**

Phone: 202 942-0545
RIN: 3235–AI27

Securities and Exchange Commission (SEC)
Division of Investment Management **Final Rule Stage**

4625. POLITICAL CONTRIBUTIONS BY CERTAIN INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 206(4); 15 USC 211(a); 15 USC 204

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: The Commission has proposed new Rule 206(4)-5, which would prohibit an investment adviser from providing advisory services for compensation to a Government client for 2 years after the adviser or any of its partners, executive officers, or solicitors makes a contribution to certain elected officials or candidates.

The Commission also has proposed rule amendments that would require a registered adviser that has Government clients to maintain certain records of the political contributions made by the adviser or any of its partners, executive officers, or solicitors.

Timetable:

Action	Date	FR Cite
NPRM	08/10/99	64 FR 43556
NPRM Comment Period End	11/01/99	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marilyn Barker, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0719

RIN: 3235–AH72

4626. CERTAIN BROKER-DEALERS NOT DEEMED TO BE INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-2(a)(11)(F)

CFR Citation: 17 CFR 275.202(a)(11)-1

Legal Deadline: None

Abstract: The Commission has proposed new Rule 202(a)(11)-1, which would exempt from the definition of investment adviser those broker-dealers offering nondiscretionary, full-service brokerage programs so long as the investment advice provided is solely incidental to the brokerage services and other conditions are satisfied.

Timetable:

Action	Date	FR Cite
NPRM	11/10/99	64 FR 61226
NPRM Comment Period End	01/14/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Jennifer L. Sawin, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0719

RIN: 3235–AH78

4627. AMENDMENTS TO FORM ADV

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-4, 80b-6(4), 80bll(a), 80b-3(c)(1); 15 USC 77s(a); 15 USC 78(a), 78bbb(e)(2); 15 USC 77sss(a); 15 USC 78(s)-37(a)

CFR Citation: 17 CFR 275.204-2; 17 CFR 275.204-3; 17 CFR 275.206(4)-4; 17 CFR 279.1

Legal Deadline: None

Abstract: Last year, the Commission proposed amendments to Form ADV and related rules to create an electronic filing system for investment advisers and to improve the quality of information that advisers must provide to clients and prospective clients. The proposed amendments to Form ADV and the final amendments to Part 1 of Form ADV were published under RIN 3235-AD21. The Commission deferred adoption of the final amendments to Part 2 of Form ADV, however. Final action on amendments to Part 2 of the Form ADV (and related rules), if approved by the Commission, will be published under the new RIN.

Timetable:

Action	Date	FR Cite
NPRM	04/05/00	65 FR 20524
NPRM Comment Period End	06/13/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Marticha L. Cary, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, Room 5013, 450 5th Street NW, Washington, DC 20549
Phone: 202 942-0719
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RIN: 3235–AI17

4628. EXEMPTION FOR THE ACQUISITION OF SECURITIES DURING THE EXISTENCE OF AN UNDERWRITING OR SELLING SYNDICATE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-10(f); 15 USC 80a-30(a); 15 USC 80a-37(a); 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.10f-3

Legal Deadline: None

Abstract: The Commission proposed amendments to rule 10f-3 under the Investment Company Act (i) to permit investment companies to purchase Government securities during the existence of an underwriting or selling

SEC—Division of Investment Management — **Final Rule Stage**

syndicate in which an affiliate is participating and (ii) for purposes of calculating the rule's percentage limit, to require aggregation of the purchase made by an investment company in reliance on the rule with purchases by any other investment company advised by the investment company's investment adviser and any other account over which the adviser exercises control.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76189
NPRM Comment Period End	02/15/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hester M. Peirce, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH57

4629. INSURANCE PRODUCTS: NEW FORM N-6 FOR REGISTRATION OF SEPARATE ACCOUNTS OFFERING VARIABLE LIFE INSURANCE CONTRACTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission proposed a new Form N-6 to be used for separate accounts offering variable life insurance contracts to register under both the Investment Company Act and the Securities Act. Currently, most insurance company separate accounts are organized as unit investment trusts (UITs) and register their interests on Form S-6. Form S-6 was developed for UITs generally, and not specifically for insurance company separate accounts that offer interests in variable life insurance contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/23/98	63 FR 13988
NPRM Comment Period End	07/01/98	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: William J. Kotapish, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0670

RIN: 3235–AG37

Securities and Exchange Commission (SEC)
Division of Investment Management — **Long-Term Actions**

4630. EXEMPTION FROM SECTION 101(C)(1) OF THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT FOR REGISTERED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77s(a)

CFR Citation: 17 CFR 230.160; 17 CFR 231; 17 CFR 271

Legal Deadline: Other, Statutory, July 28, 2000, section 104(d)(2) of the Electronic Signatures Act in Global and National Commerce Act (PL 106-229).

Abstract: The Commission adopted interim final rule 160 under the Securities Act of 1933 to exempt from the consumer consent requirements of the Electronic Signatures in Global and National Commerce Act prospectuses of registered investment companies that are used for the sole purpose of permitting supplemental sales literature to be provided to prospective investors. Parts 231 and 271 of title 17 were amended by adding Release Nos. 33-7877 and IC-24582 to the list of interpretative releases.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/02/00	65 FR 47281
Interim Final Rule Comment Period End	09/01/00	
Interim Final Rule Effective	10/01/00	
Next Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul Cellupica, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AH93

4631. INSURANCE PRODUCTS: EQUITY INDEX INSURANCE PRODUCTS CONCEPT RELEASE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.151

Legal Deadline: None

Abstract: The Commission issued a release requesting public comment on the structure of equity index insurance products, the manner in which they are marketed, and any other matters the Commission should consider in addressing Federal securities law issues raised by equity index insurance products.

Timetable:

Action	Date	FR Cite
ANPRM	08/27/97	62 FR 45359
ANPRM Comment Period End	11/20/97	
NPRM	11/21/97	62 FR 62273
NPRM Comment Period End	01/05/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: William J. Kotapish, Division of Investment Management, Securities and Exchange Commission

SEC—Division of Investment Management **Long-Term Actions**

Phone: 202 942-0670
RIN: 3235–AH23

Securities and Exchange Commission (SEC)
Division of Investment Management **Completed Actions**

4632. ELECTRONIC RECORDKEEPING RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a; 15 USC 80b; 15 USC 79; 15 USC 78a

CFR Citation: 17 CFR 270.31a-2; 17 CFR 275.204-2; 17 CFR 257.1; 17 CFR 240.17a-4; 17 CFR 240.17a-3; 17 CFR 240.17Aa-7

Legal Deadline: Other, Statutory, March 1, 2001, Under the Electronic Signatures in Global and National Commerce Act of 2000, an agency can announce, propose, or initiate rulemaking with respect to its recordkeeping provisions by March 1, 2001.

Abstract: Under the Federal securities laws, regulated entities, including registered broker-dealers, transfer agents, investment companies, and investment advisers, and public utility holding companies, must keep certain records of their activities. The Commission currently allows these entities to keep certain records electronically, subject to standards designed to protect investors' interests, the financial stability of regulated entities, and generally to further the purposes of the Federal securities laws. The Electronic Signatures in Global and National Commerce Act of 2000 ("ESign") is intended to remove unnecessary impediments to the use of electronic records in commerce, while preserving the ability of agencies like the Commission to reconcile ESign's policy with the statutes they administer. The Commission issued interpretative guidance and adopted rules consistent with ESign. The rules include RINs 3235-AI05, 3235-AI12, and 3235-AH74.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/01	66 FR 13273
Merged With SEC E-Sign Rules	05/31/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: This action has been jointly prepared by the staffs from the Divisions of Investment Management, and Market Regulation and Corporation Finance

Agency Contact: Martha Bronaugh Peterson, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

Randall W. Roy, Division of Market Regulation, Securities and Exchange Commission
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Mark Borges, Office of Rulemaking, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900

RIN: 3235–AI14

4633. EXEMPTION FOR SUBSIDIARIES ORGANIZED TO FINANCE OPERATIONS OF DOMESTIC OR FOREIGN COMPANIES; CERTAIN PRIMA FACIE INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a); 15 USC 77s; 15 USC 78w

CFR Citation: 17 CFR 270.3a-5; 17 CFR 270.3a-1; 17 CFR 230.489; 17 CFR 239.43

Legal Deadline: None

Abstract: The Division is withdrawing this item from the Unified Agenda because the Division does not expect to consider the item within the next 12 months; but, the Division may reconsider the item further at some subsequent point.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Penelope W. Saltzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AE95

4634. TREATMENT OF REPURCHASE AGREEMENTS AND REFUNDED SECURITIES AS AN ACQUISITION OF THE UNDERLYING SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.2a-7; 17 CFR 270.12d3-1

Legal Deadline: None

Abstract: The Commission adopted a new rule 5b-3 to permit investment companies to "look through" specific repurchase agreements to the securities that collateralize them for the purposes of section 5(b)(1) and 12(d)(3) of the Investment Company Act and to "look through" specific pre-refunded bonds to escrowed securities for the purposes of section 5(b)(1) of the Act. The Commission also adopted conforming amendments to rule 2a-7 and rule 12d3-1.

Timetable:

Action	Date	FR Cite
NPRM	09/29/99	64 FR 52476
NPRM Comment Period End	11/23/99	
Final Action	07/11/01	66 FR 36156
Final Action Effective	08/15/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Hugh P. Lutz, Office of Regulatory Policy, Division of

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SEC—Division of Investment Management **Completed Actions**

Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH56

4635. ELECTRONIC RECORDKEEPING BY INVESTMENT COMPANIES AND INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-30, 80a-37(a), 80b-4, 80b-6(4)

CFR Citation: 17 CFR 270.31a2; 17 CFR 275.204-2

Legal Deadline: Other, Statutory, March 1, 2001, The Electronic Signatures in Global and National Commerce Act established a deadline of June 1, 2001, for action by agencies under the Act's rulemaking provisions.

Abstract: The Commission adopted amendments to rule 31a-2 under the Investment Company Act of 1940 and rule 204-2 under the Investment Adviser Act of 1940 to expand the circumstances under which registered investment companies and registered investment advisers may maintain required records in an electronic format.

Timetable:

Action	Date	FR Cite
NPRM	03/19/01	66 FR 15369
NPRM Comment Period End	04/19/01	
Final Action	05/30/01	66 FR 29224
Final Action Effective	05/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William C. Middlebrooks, Jr., Attorney, Office of Regulatory Policy, Securities and Exchange Commission, Stop 0506, 450 5th Street NW, Washington, DC 20549
Phone: 202 942-0690

RIN: 3235–AI05

4636. ELECTRONIC RECORDKEEPING BY PUBLIC UTILITY HOLDING COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79o; 15 USC 79t

CFR Citation: 17 CFR 257.1

Legal Deadline: Other, Statutory, March 1, 2001, Under the Electronic Signatures in Global and National Commerce Act of 2000, an agency can announce, propose, or initiate rulemaking with respect to its recordkeeping provisions by March 1, 2001.

Abstract: The Commission adopted revised and updated the recordkeeping requirements for Public Utility Holding Companies to include the usage of electronic media.

Timetable:

Action	Date	FR Cite
NPRM	03/23/01	66 FR 16158
NPRM Comment Period End	04/23/01	
Final Action	05/31/01	66 FR 29471
Final Action Effective	05/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Victoria J. Adraktas, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0545

RIN: 3235–AI12

Securities and Exchange Commission (SEC)
Division of Market Regulation **Prerule Stage**

4637. AMENDMENTS TO THE PENNY STOCK RULES IN LIGHT OF THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c(h); 15 USC 78o(g)

CFR Citation: 17 CFR 240.15g-2(c); 17 CFR 240.15g-9(e)

Legal Deadline: None

Abstract: The Division is considering recommending to the Commission proposed rules 15g-2(c) and 15(g)-9(e) under the Exchange Act that would provide that if a broker-dealer accepts a customer's electronic signature instead of a manual signature, the broker-dealer must wait at least 2 business days after receiving the electronically signed document to effect a penny stock transaction for its customer. In addition, a broker-dealer accepting an electronically transmitted penny stock agreement would be required to wait at least 2 business days after receiving the agreement to execute a penny stock transaction for a customer.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Norman Reed, Securities and Exchange Commission, Division of Market Regulation
Phone: 202 942-7901

RIN: 3235–AI02

Securities and Exchange Commission (SEC)
Division of Market Regulation

Proposed Rule Stage

4638. NET CAPITAL RULE: CUSTOMER PROTECTION RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78h; 15 USC 78g

CFR Citation: 12 CFR 220; 17 CFR 240.3a12-11; 17 CFR 240.15c2-5; 17 CFR 240.15c3-1; 17 CFR 240.15c3-3

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments to Rules 3a12-11, 15c2-5, 15c3-1, and 15c3-3 under the Exchange Act reflecting changes to section 8 of the Act and to Regulation T under the Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

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RIN: 3235–AH05

4639. RISK ASSESSMENT RECORDKEEPING AND REPORTING REQUIREMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a(h)

CFR Citation: 17 CFR 240.17h-1T; 17 CFR 240.17h-2T

Legal Deadline: None

Abstract: The Risk Assessment Recordkeeping and Reporting Requirements, which became effective September 30, 1992, following notice and comment, were adopted as temporary rules pursuant to the Market Reform Act of 1990. These rules contain recordkeeping and reporting requirements with regard to material associated persons of broker-dealers. The Commission plans to propose final rules replacing the temporary rules during 2001.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

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RIN: 3235–AH06

4640. EXEMPTION OF CERTAIN FOREIGN BROKERS AND DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c; 15 USC 78j; 15 USC 78o; 15 USC 78q; 15 USC 78u

CFR Citation: 17 CFR 240.15a-6

Legal Deadline: None

Abstract: Exchange Act Rule 15a-6, which was adopted to exempt conditionally foreign broker-dealers from registration in response to the internationalization of the securities markets, is premised in large part on the willingness of U.S. broker-dealers to take responsibility for resulting trades. The Commission is considering revising the rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kenneth M. Rosen, Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH17

4641. UNTIMELY ANNOUNCEMENT OF RECORD DATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78j; 15 USC 78w

CFR Citation: 17 CFR 240.10b-17

Legal Deadline: None

Abstract: Pursuant to a petition of the NASD, the staff is considering recommending that the Commission consider amending Exchange Act Rule 10b-17 to clarify that it applies to distributions made to holders of direct participation program interests.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: James A. Brigagliano, Assistant Director, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0772

RIN: 3235–AH38

4642. • CASH SETTLEMENT AND REGULATORY HALT REQUIREMENTS FOR SECURITY FUTURE PRODUCTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78f; 15 USC 78 0-3; 15 USC 78s; 15 USC 78w; 15 USC 78mm

CFR Citation: 17 CFR 240.6h-1

Legal Deadline: None

Abstract: Proposed Rule 6h-1 would require national securities exchange and national securities associations trading securities futures product to establish (1) settlement prices for each cash-settled security futures product that fairly reflects the opening price of the underlying security or securities, and (2) a halt in trading in any security futures product when a regulatory halt is instituted by the national securities exchange or national securities association listing the security or

securities underlying the security futures product.

Timetable:

Action	Date	FR Cite
NPRM	08/30/01	66 FR 45904
NPRM Comment Period End	10/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Terri Lee Evans, Securities and Exchange Commission, Division of Market Regulation
Phone: 202 942-4162

RIN: 3235–AI24

4643. • AMENDMENTS TO RULES 15C3-3, 17A-3, 17A-4, 17A-5, 17A-7, 17A-11, AND 17A-13 TO RECOGNIZE SECURITY FUTURES PRODUCTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78(c)(b), 78(c)(3), 78q(a), 78w(a)

CFR Citation: 17 CFR 240.15c3-3; 17 CFR 240.17a-3 - 240.17a-5; 17 CFR 240.17a-7; 17 CFR 240.17a-11; 17 CFR 240.17a-13

Legal Deadline: Final, Statutory, December 21, 2001, The Commodity Futures Modernization Act of 2000.

Abstract: These amendments are designed to eliminate duplicative or conflicting regulations applicable to firms that are fully-registered with the CFTC as a FCM and fully registered with the SEC as a broker-dealer relating to the treatment of customer funds, securities of property, maintenance of books and records, financial reporting or other financial responsibility rules involving security futures products ("SFP"), as directed by the Commodity Futures Modernization Act of 2000. The amendments are also designed to eliminate certain conflicting or duplicative recordkeeping, reporting, telegraphic notice, and quarterly count requirements involving SFPs for firms that are "notice" registered with the SEC under the section 15(b)(11)(A) of the Exchange Act. These amendments were developed in consultation with the CFTC.

Timetable:

Action	Date	FR Cite
NPRM	10/04/01	66 FR 50786
NPRM Comment Period End	11/05/01	
Comment Period Extended to 12/05/2001	11/02/01	66 FR 55608

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bonnie Lynn Gauch, Securities and Exchange Commission, Division of Market Regulation, Washington, DC
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RIN: 3235–AI32

4644. • CUSTOMER MARGIN RULES RELATING TO SECURITY FUTURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78g(c)

CFR Citation: 17 CFR 242.400 - 242.404

Legal Deadline: None

Abstract: Proposed rules 400 through 404 will establish initial and maintenance customer margin requirements imposed by brokers, dealers, and members of national security exchanges for security products.

Timetable:

Action	Date	FR Cite
NPRM	10/04/01	66 FR 50720
NPRM Comment Period End	11/05/01	
Comment Period Extended to 12/05/2001	11/02/01	66 FR 55608

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lisa N. Jones, Securities and Exchange Commission, Division of Market Regulation, Washington, DC
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Jennifer Colihan, Securities and Exchange Commission, Division of Market Regulation, Washington, DC
Phone: 202 942-0735

RIN: 3235–AI22

4645. PURCHASES OF CERTAIN EQUITY SECURITIES BY THE ISSUERS AND OTHERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78i(a)(6); 15 USC 78j(b); 15 USC 78m(e); 15 USC 78o(c); 15 USC 78w(a)

CFR Citation: 17 CFR 240.10b-18

Legal Deadline: None

Abstract: The Commission is considering proposing to simplify and update Rule 10b-18's provisions in light of market development since the Rule's adoption. Rule 10b-18 provides a safe harbor from liability under the anti-manipulation provisions of sections 9(a)(2) and 10(b) of the Exchange Act, and Rule 10b-5 thereunder, for issuer purchases of its common stock made in compliance with Rule 10b-18's manner, timing, price, and volume conditions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3235–AH37

4646. CONCEPT RELEASE: SHORT SALES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78j(a); 15 USC 78w

CFR Citation: 17 CFR 240.10a-1

Legal Deadline: None

Abstract: As part of its comprehensive review of Exchange Act Rule 10a-1, the short sale rule, the Commission published a concept release soliciting public comment on, among other things: Lifting the limits on short sales of exchange listed securities under advancing market conditions; providing

SEC—Division of Market Regulation **Proposed Rule Stage**

an exception for actively traded securities; focusing short sale restrictions on certain market events and trading strategies; removing short sale restrictions on hedging transactions; revising short sale regulation in response to certain market developments; revising the definition of "short sale"; extending short sale regulation to non-exchange listed securities; and eliminating short sale regulation altogether.

Timetable:

Action	Date	FR Cite
ANPRM	10/28/99	64 FR 57996
ANPRM Comment Period End	12/28/99	
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3235–AH84

Securities and Exchange Commission (SEC) **Final Rule Stage**
Division of Market Regulation

4647. MARKET RISK HAIRCUTS FOR INSTRUMENTS SUBJECT TO INTEREST RATE RISK

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: As part of its comprehensive review of Exchange Act Rule 15c3-1, the net capital rule, the Commission proposed for comment an amendment to the net capital rule revising the percentage deductions from net worth, or haircuts, applicable to interest rate products when calculating net capital. Under the proposal, haircuts on Government securities, investment grade corporate securities, certain mortgage-backed securities, interest rate swaps, and other interest rate-related derivative instruments would be determined by treating these instruments as part of a single portfolio.

Timetable:

Action	Date	FR Cite
ANPRM	05/10/93	58 FR 27486
ANPRM Comment Period End	12/12/93	
NPRM	12/30/97	62 FR 67996
Extension of Comment Period to	03/06/98	63 FR 11173
NPRM Comment Period End	03/30/98	
Interim Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Thomas K. McGowan, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AG18

4648. PROPOSED AMENDMENTS TO TRANSFER AGENT RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 78ll(d); 15 USC 79q; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11

CFR Citation: 17 CFR 240.17Ad-2(a); 17 CFR 240.17Ad-2(c); 17 CFR 240.17Ad-2(e)(1); 17 CFR 240.17Ad-2(e)(2); 17 CFR 240.17Ad-10; 17 CFR 240.17Ad-12

Legal Deadline: None

Abstract: The Commission has proposed amendments to certain transfer agent rules regarding turnaround time, recordkeeping, and safekeeping of funds. The proposed amendments to the transfer agent rules are designed to minimize disruptions, particularly in the National Clearance and Settlement System for securities, that may be caused by poor turnaround performance, substandard or inaccurate recordkeeping practices, and inadequate safekeeping procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/08/94	59 FR 63662
NPRM Comment Period End	02/06/95	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jerry Carpenter, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AG24

4649. TENDER AND REORGANIZATION AGENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78k-1(a)(1)(B); 15 USC 78n(d)(4); 15 USC 78o(c)(3); 15 USC 78o(c)(6); 15 USC 78q-1(a); 15 USC 78q-1(d)(1); 15 USC 78w(a)

CFR Citation: 17 CFR 240.17Ad-14

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 17Ad-14 under the Securities Exchange Act of 1934. The amendments require the establishment of book-entry accounts in connection with reorganization events and would provide securities depositories with three business days after the expiration of a tender offer, exchange offer, or reorganization event in which to deliver physical securities certificates to the agents.

SEC—Division of Market Regulation **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	09/04/98	63 FR 47209
NPRM Comment Period End	11/03/98	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael Rae, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH53

4650. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS—DEFINITION OF THE TERM NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c; 15 USC 78o; 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission issued a release proposing amendments to the net capital rule that would define the term Nationally Recognized Statistical Rating Organization (NRSRO) for purposes of the net capital rule and set forth the process for applying for NRSRO designation.

Timetable:

Action	Date	FR Cite
NPRM	12/30/97	62 FR 68018
NPRM Comment Period End	03/02/98	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This proposal was based in part on comments received in response to a concept release (RIN 3235-AG41; 59 FR 46314), which is now combined in this rulemaking.

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RIN: 3235–AH28

4651. PUBLICATION OR SUBMISSION OF QUOTATIONS WITHOUT SPECIFIED INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78j(b); 15 USC 78o(q); 15 USC 78q(a); 15 USC 78w(a)

CFR Citation: 17 CFR 240.15c2-11

Legal Deadline: None

Abstract: As part of its efforts to respond to fraud and manipulation in the microcap securities market, the Division submitted for Commission consideration final amendments to Rule 15c2-11. These amendments would limit the Rule's piggyback provision and increase public availability of issuer information. The amendments would modestly expand the information review requirements for non-reporting issuers and the documentation required for significant relationships between the broker-dealer and the issuer of the security to be quoted. Finally the amendments would exclude from the rule securities of larger, more liquid issuers.

Timetable:

Action	Date	FR Cite
NPRM	02/25/98	63 FR 9661
NPRM Comment Period End	04/27/98	
Second NPRM	03/08/99	64 FR 11124
Second NPRM Comment Period End	04/07/99	
Second NPRM Comment Period Extended to	04/14/99	64 FR 18393
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

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RIN: 3235–AH40

4652. PROCESSING REQUIREMENTS FOR CANCELLED SECURITIES CERTIFICATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78q-1

CFR Citation: 17 CFR 240.17Ad-19

Legal Deadline: None

Abstract: The Commission proposed Rule 17Ad-19 to establish regulations for the destruction of cancelled securities certificates and to require each transfer agent to establish written procedures for the storage and destruction of cancelled securities certificates.

Timetable:

Action	Date	FR Cite
NPRM	10/06/00	65 FR 59766
NPRM Comment Period End	12/05/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

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RIN: 3235–AH54

Securities and Exchange Commission (SEC)
Division of Market Regulation

Long-Term Actions

4653. • REQUEST FOR COMMENTS ON THE EFFECTS OF DECIMAL TRADING IN SUB-PENNIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission published a Concept Release soliciting public comment on the impact on fair and orderly markets and investor protection of trading and potentially quoting securities in an increment of less than a penny. In particular, the Commission seeks comment on the effects of subpenny prices on market transparency and the operation and effectiveness of Commission and SRO rules that are dependent on trading or quoting price differentials.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3235–AI23

4654. EXEMPTION FROM EXCHANGE ACT SECTION 11(D)(1) FOR SECURITIES OF FOREIGN ISSUERS SOLD ON AN INSTALLMENT BASIS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a et seq; 15 USC 78c; 15 USC 78k; 15 USC 78w; 15 USC 78jj

CFR Citation: 17 CFR 240.11d1-3

Legal Deadline: None

Abstract: The Commission is withdrawing a proposal that would set forth a uniform set of conditions that, if met, would provide an automatic exemption from section 11(d)(1) of the Securities Exchange Act for international offerings of foreign issuers done on an installment basis.

Timetable:

Action	Date	FR Cite
NPRM	02/00/03	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia Albrecht, Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH58

4655. DEFINITION OF TERMS IN AND SPECIFIC EXEMPTIONS FOR BANKS, SAVINGS ASSOCIATIONS, AND SAVINGS BANKS UNDER SECTIONS 3(A)(4) AND 3(A)(5) OF THE SECURITIES AND EXCHANGE ACT OF 1934

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-102

CFR Citation: 17 CFR 240.3a4-2; 17 CFR 240.3a4-3; 17 CFR 240.3a-51; 17 CFR 240.3b-17; 17 CFR 240.3b-18; 17 CFR 200.30-3; 17 CFR 240.3a4-4 - 3a4.6; 17 CFR 240.15a-7 - 15a-9; ...

Legal Deadline: Other, Statutory, May 12, 2001, Title II of the Gramm-Leach-Bliley Act required banks to shift certain securities activities to registered broker-dealers by May 12, 2001.

Abstract: The Commission issued guidance to the meaning of terms added to the Securities Exchange Act of 1934 by the Gramm-Leach-Bliley Act of 1999. The Commission extended the implementation date for the guidance until May 12, 2002.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/18/01	66 FR 27760
Interim Final Rule Comment Period End	07/17/01	
Interim Final Rule Extended	07/24/01	66 FR 38370
Comment Period Extended	07/24/01	66 FR 38370
Comment Period End	09/04/01	
Next Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3235–AI19

Securities and Exchange Commission (SEC)
Division of Market Regulation

Completed Actions

4656. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Division of Market Regulation has withdrawn this submission which had proposed amendments to Exchange Act Rule 15c3-1, the net capital rule.

Timetable:

Action	Date	FR Cite
NPRM	12/02/92	57 FR 57027
Interim Final Rule	12/02/92	57 FR 56973
NPRM Comment Period End	02/05/93	
Withdrawn	10/01/01	

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SEC—Division of Market Regulation — Completed Actions

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Thomas K. McGowan, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AD79

4657. AMENDMENTS TO RULES 17A-3 AND 17A-4 UNDER THE SECURITIES EXCHANGE ACT OF 1934

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 15 USC 77c; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; ...

CFR Citation: 17 CFR 240 (Revision)

Legal Deadline: None

Abstract: The Commission reproposed for comment amendments to the broker-dealer books and records rules which are designed to clarify and expand recordkeeping requirements with respect to purchase and sale documents, customer records, associated person records, customer complaints, and certain other matters.

Timetable:

Action	Date	FR Cite
NPRM	10/28/96	61 FR 55593
NPRM Comment Period End	03/31/97	
Second NPRM	10/09/98	63 FR 54404
Second NPRM Comment Period End	11/09/98	
Final Action	11/02/01	66 FR 55818
Final Action Effective	05/02/03	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Thomas K. McGowan, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4886
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Email: mcgowant@sec.gov

RIN: 3235–AH04

4658. • REGISTRATION OF BROKER-DEALERS PURSUANT TO SECTION 15(B)(1) OF THE SECURITIES EXCHANGE ACT OF 1934

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o(a), 78o(h), 78q, 78o-4(a)(2), 78o-5(a)(2), 78w(a)

CFR Citation: 17 CFR 240.15a-10, 240.15b2-2, 15b11.1, 248.2; 17 CFR 248.3, 249.501b

Legal Deadline: None

Abstract: The Commission adopted Rules 15a-10 and 15b11-1 under the Exchange Act, Form BD-N, and amendments to Rule 15b2-2 under the Exchange Act to establish the procedure for notice and registration of broker-dealers to trade security futures products. In addition, the Commission amended Regulation S-P to make it consistent with recent amendments to the Commodity Exchange Act.

Timetable:

Action	Date	FR Cite
NPRM	06/26/01	66 FR 34042
NPRM Comment Period End	07/26/01	
Final Action	08/27/01	66 FR 45138
Final Action Effective	08/27/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Theodore R. Lazo, Securities and Exchange Commission, Division of Market Regulation
Phone: 202 942-0745
Fax: 202 942-9695
Email: lazot@sec.gov

RIN: 3235–AI21

4659. ELECTRONIC SUBMISSION OF SECURITIES TRANSACTION INFORMATION BY EXCHANGE MEMBERS, BROKERS, AND DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78a; 15 USC 78q; 15 USC 78c; 15 USC 78j; 15 USC 78w; 15 USC 78mm

CFR Citation: 17 CFR 240.17a-25

Legal Deadline: None

Abstract: The Securities and Exchange Commission adopted Rule 17a-25, which would require registered broker-dealers to submit securities transaction information in an electronic format when requested by the Commission staff for enforcement and other regulatory purposes. The rule improves the Commission's capacity to use electronic submissions of transaction information to analyze transactions by entities that trade through multiple accounts maintained at multiple broker-dealers.

Timetable:

Action	Date	FR Cite
NPRM	05/08/00	65 FR 26534
NPRM Comment Period End	06/07/00	
Final Action	07/09/01	66 FR 35836
Final Action Effective (General)	08/06/01	
Final Action Effective (Section 240.17a-25(b))	01/07/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Anitra Cassas, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0089
Fax: 202 942-9695
Email: cassasa@sec.gov

RIN: 3235–AH69

4660. EXEMPTION OF THE SECURITIES OF THE REPUBLIC OF PORTUGAL UNDER THE SECURITIES EXCHANGE ACT OF 1934 FOR PURPOSES OF TRADING FUTURES CONTRACTS ON THOSE SECURITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77z-2; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; 15 USC 78j-1; 15 USC 78k; 15 USC 78k-1; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78u-5; 15 USC 78w; 15 USC 78x; 15 USC 78ll(d); 15 USC 78mm; 15 USC 79q; 15 USC 79t; 15 USC 80a-20; 15

USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11; 15 USC 78a et seq; 15 USC 18c(a)(12); 15 USC 78w(a)

CFR Citation: 17 CFR 240.3a12-8

Legal Deadline: None

Abstract: The Commission is withdrawing its proposal to amend Rule 3a12-8 that would designate debt obligations issued by the Republic of Portugal as "exempted securities" for the purpose of marketing and trading futures contracts on those securities in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/29/99	64 FR 41056
NPRM Comment Period End	08/30/99	
Withdrawn	10/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: Statutory basis for Rule 3a12-8 in particular: 15 USC 78a et seq, particularly sections 3(a)(12) and 23(a), 15 USC 78c(a)(12) and 78w(a).

Agency Contact: Nancy Sanow, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH76

4661. PROPOSED RULE CHANGES OF "SELF-REGULATORY ORGANIZATIONS"

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c;; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s;; 15 USC 77z-2; 15 USC 77z-3; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78a; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; 15 USC 78j-1; 15 USC 78d; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78u-5; 15 USC 78w; 15 USC 78x; 15 USC 78dd; 15 USC 79q; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11

CFR Citation: 17 CFR 240.19b-6; 17 CFR 249.818; 17 CFR 249.820

Legal Deadline: None

Abstract: The Securities and Exchange Commission is proposing to adopt Rule 19b-6 to streamline the self-regulatory organization rule filing process. Proposed Rule 19b-6 would (1) require the Commission to publish proposed self-regulatory organization rules within a set time period after the proposed rules are filed with the Commission and (2) permit a greater number of self-regulatory organization rules to become effective upon filing.

Timetable:

Action	Date	FR Cite
NPRM	02/05/01	66 FR 8912
NPRM Comment Period End	04/06/01	
Withdrawn	10/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Florence Harmon, Securities and Exchange Commission, Division of Market Regulation
Phone: 202 942-0163

RIN: 3235–AI06

4662. METHODS OF DETERMINING MARKET CAPITALIZATION AND DOLLAR VALUE OF AVERAGE DAILY TRADING VOLUME; APPLICATION OF THE DEFINITION OF NARROW BASED SECURITY INDEX

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78c

CFR Citation: 17 CFR 240.3a55-1; 17 CFR 240.3a55-2; 17 CFR 240.3a55-3

Legal Deadline: None

Abstract: Rule 3a55-1 provides methods of calculating market capitalization and dollar value of average daily trading volume for purposes of determining whether a securities index is narrow-based pursuant to the definition in the Commodity Futures Modernization Act of 2000. Rule 3a55-2 excludes from the definition of a narrow-based index certain securities indexes that have traded on futures markets for less than 30 days. Rule 3a55-3 provides that when a future on a security index is traded on or subject to the rules of a foreign board of trade, it will not be considered a narrow-based security index if a future on that same index were traded on a designated contract market or registered derivative transaction execution facility.

Timetable:

Action	Date	FR Cite
NPRM	05/17/01	66 FR 27560
NPRM Comment Period End	06/18/01	
Final Action Effective	08/21/01	
Final Action	08/23/01	66 FR 44490

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sapna C. Patel, Office of Market Supervision, Securities and Exchange Commission
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RIN: 3235–AI13

4663. • REGISTRATION OF NATIONAL SECURITIES EXCHANGE PURSUANT TO 6(G) OF THE SECURITIES EXCHANGE ACT OF 1934 AND CHANGES OF NATIONAL SECURITIES EXCHANGE AND LIMITED PURPOSE NATIONAL SECURITIES ASSOCIATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 6(g); 15 USC 19(b)

CFR Citation: 17 CFR 202.3; 17 CFR 240.6a-2 - 6a-4; 17 CFR 240.19b-4; 19b-7; 17 CFR 249.10; 17 CFR 249.819; 17 CFR 249.822; ...

Legal Deadline: None

Abstract: New Rule 6a-4 directs entities wishing to become national securities exchanges pursuant to Section 6(g) of the Exchange Act to register with the SEC on Form 1-N. New Rule 19b-7 directs the Section 6(g) exchanges as well as limited purpose national securities associations to file proposed rule changes with the SEC on Form 19b-7. Minor changes were made to other SEC rules to accommodate these new substantive rules.

Timetable:

Action	Date	FR Cite
NPRM	05/15/01	66 FR 26978
NPRM Comment Period End	06/14/01	

SEC—Division of Market Regulation — Completed Actions

Action	Date	FR Cite
Final Action	08/20/01	66 FR 43721
Final Action Effective	08/20/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael James Gaw, Securities and Exchange Commission, Division of Market Regulation
Phone: 202 942-0158

RIN: 3235–AI20

4664. LARGE TRADER REPORTING SYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c to 77d; 15 USC 79q; 15 USC 79t; 15 USC 80a-29; 15 USC 80a-37; 15 USC 77s; 15 USC 77ttt; 15 USC 78c to 78d; 15 USC 78i to 78j; 15 USC 78l to 78p; 15 USC 78s; 15 USC 78w; 15 USC 78x

CFR Citation: 17 CFR 240.13h-1

Legal Deadline: None

Abstract: The Commission has withdrawn Exchange Act Rule 13h-1 in light of the adoption of Rule 17a-25 in Exchange Act Rel. No. 44494 (June 29, 2001).

Timetable:

Action	Date	FR Cite
NPRM	02/17/94	59 FR 7917
NPRM Comment Period End	04/18/94	
Withdrawn	10/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Alton Harvey, Division of Market Regulation, Office of Market Supervision, Securities and Exchange Commission
Phone: 202 942-4167
Fax: 202 942-9697
Email: harveya@sec.gov

RIN: 3235–AE42

4665. NET CAPITAL RULE CONCEPT RELEASE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Division of Market Regulation is withdrawing this concept release which had solicited comments on how the net capital rule could have been modified.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/97	62 FR 68011
Extension of Comment Period to	03/06/98	63 FR 11173
ANPRM Comment Period End	03/30/98	
Withdrawn	10/01/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas K. McGowan, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH29

4666. RECORDKEEPING REQUIREMENTS FOR TRANSFER AGENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78q-1(a)(2); 15 USC 78q-1(d)

CFR Citation: 17 CFR 240.17Ad-7(f)

Legal Deadline: None

Abstract: The Commission adopted amendments to Rule 17Ad-7 under the Securities Exchange Act of 1934 to allow registered transfer agents to use microfiche and electronic storage media to maintain the records that they are required to retain.

Timetable:

Action	Date	FR Cite
NPRM	06/02/99	64 FR 29608
NPRM Comment Period End	07/02/99	
Final Action	05/01/01	66 FR 21648
Final Action Effective	05/31/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Karasik, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH74

4667. AMENDMENTS TO RULE 15B9-1—EXEMPTION FOR CERTAIN EXCHANGE MEMBERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(a); 15 USC 78o(b); 15 USC 78o-4(a)(2); 15 USC 78o-5(a)(2); 15 USC 78w(a)

CFR Citation: 15 CFR 240.15b9-1(b)

Legal Deadline: None

Abstract: The Commission is withdrawing its proposal to amend Rule 15b9-1 under the Exchange Act, which provides broker-dealers with a conditional exemption from National Securities Association membership, because of the implementation of SRO rules requiring Series 7 exams for PHLX proprietary traders and requiring appropriateness assessments, risk disclosures and certain margin limitations for day traders.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Brian R. Baysinger, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AI03

Securities and Exchange Commission (SEC) **Proposed Rule Stage**
Offices and Other Programs

4668. MANAGEMENT REPORTS ON INTERNAL CONTROLS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 79a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 210; 17 CFR 229

Legal Deadline: None

Abstract: The Office of the Chief Accountant is considering recommending that the Commission publish a release proposing that certain documents filed with the Commission contain a statement of management's responsibilities for the preparation of financial statements in accordance with generally accepted accounting principles and for a system of internal controls for the registrants financial reporting processes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John W. Albert, Associate Chief Accountant, Securities and Exchange Commission
Phone: 202 942-4400
Fax: 202 942-9656

RIN: 3235–AH97

4669. PROPOSAL TO AMENDMENT DISCLOSURE REQUIREMENTS RELATED TO DERIVATIVE FINANCIAL INSTRUMENTS AND DERIVATIVE COMMODITY INSTRUMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 79a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 210; 17 CFR 228; 17 CFR 229

Legal Deadline: None

Abstract: The Office of the Chief Accountant is considering recommending that the Commission publish a release proposing amendments that would conform the Commission's disclosure requirements with Financial Accounting Standards No.133.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jenifer Minke-Girard, Assistant Chief Accountant, Securities and Exchange Commission
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RIN: 3235–AH98

Securities and Exchange Commission (SEC) **Final Rule Stage**
Offices and Other Programs

4670. SUPPLEMENTAL FINANCIAL INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 79a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 210; 17 CFR 229

Legal Deadline: None

Abstract: The Commission has proposed amendments to reposition within its regulation the requirement for certain registrants to disclose changes in their valuation and loss accrual accounts and to clarify the type of information to be disclosed. The Commission also is proposing amendments to its rules to require disclosure of information concerning tangible and intangible assets and related accumulated depreciation, depletion, and amortization.

Timetable:

Action	Date	FR Cite
NPRM	01/31/00	65 FR 4585
NPRM Comment Period End	04/17/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John W. Albert, Associate Chief Accountant, Securities and Exchange Commission
Phone: 202 942-4400
Fax: 202 942-9656

RIN: 3235–AH86

Securities and Exchange Commission (SEC) **Long-Term Actions**
Offices and Other Programs

4671. INTERNATIONAL ACCOUNTING STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 210; 17 CFR 249.220f

Legal Deadline: None

Abstract: The Commission is reviewing comments received in response to a concept release on whether the Commission should recognize accounting standards promulgated by the International Accounting Standards Committee for purposes of cross-border offerings and listings by foreign companies. The staff is considering drafting appropriate rule proposals and recommendations to the Commission.

Timetable:

Action	Date	FR Cite
ANPRM	02/23/00	65 FR 8896
ANPRM Comment Period End	05/23/00	
NPRM	To Be Determined	

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SEC—Offices and Other Programs **Long-Term Actions**

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Susan Koski-Grafer, Securities and Exchange Commission

Phone: 202 942-4400

RIN: 3235–AH65

Securities and Exchange Commission (SEC)
Offices and Other Programs **Completed Actions**

4672. • BOOKKEEPING SERVICES PROVIDED BY AUDITORS TO AUDIT CLIENTS IN EMERGENCY OR OTHER UNUSUAL SITUATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a; 15 USC 78a; 15 USC 79a; 15 USC 80a-1

CFR Citation: 17 CFR 210

Legal Deadline: None

Abstract: This release expresses the view of the Commission that auditors of the financial statements of Commission registrants may provide certain bookkeeping services to those audit clients directly affected by the events of September 11, 2001.

Timetable:

Action	Date	FR Cite
Final Action	09/14/01	66 FR 48335

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Morissey, Office of the Chief Accountant, Securities and Exchange Commission, 450 5th Street NW, Washington, DC 20549-1103
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RIN: 3235–AI31

[FR Doc. 01–26035 Filed 11–30–01; 8:45 am]
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Federal Register

Monday,
December 3, 2001

Part LXII

Surface Transportation Board

Semiannual Regulatory Agenda

SURFACE TRANSPORTATION BOARD (STB)

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Ch. X

[STB Ex Parte No. 536 (Sub-No. 11)]

Semiannual Regulatory Agenda

AGENCY: Surface Transportation Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Surface Transportation Board (Board or STB), in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of: (1) current and projected rulemakings; and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule, including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that, during the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda, which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

Accordingly, a list of proceedings appears below containing information about subject areas in which the Board is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda represents the Board's best estimate of rules that will be considered over the next 12 months. However, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Board is publishing its October 2001 regulatory flexibility agenda as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Unified Agenda is coordinated by the Office of Management and Budget (OMB), pursuant to Executive Order 12866. The Board is participating in the program voluntarily to assist OMB.

Decided: September 7, 2001.
By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,
Secretary.

Surface Transportation Board—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4673	Safe Implementation of Board-Approved Transactions, STB Ex Parte No. 574	2140-AA50
4674	Modification of the Carload Waybill Sample Reporting Procedures, STB Ex Parte No. 385 (Sub-No. 5)	2140-AA57
4675	Consolidated Railroad Reporting, STB Ex Parte No. 634	2140-AA58

Surface Transportation Board—Completed Actions

Sequence Number	Title	Regulation Identification Number
4676	Major Rail Consolidation Procedures, STB Ex Parte No. 582 (Sub-No. 1)	2140-AA56

Surface Transportation Board (STB) — **Long-Term Actions**

4673. SAFE IMPLEMENTATION OF BOARD-APPROVED TRANSACTIONS, STB EX PARTE NO. 574

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 5 USC 559; 49 USC 721; 49 USC 10901; 49 USC 10902; 49 USC 11323; 49 USC 11324; 49 USC 11325; 42 USC 4332

CFR Citation: 49 CFR 244; 49 CFR 1106

Legal Deadline: None

Abstract: The Surface Transportation Board and the Federal Railroad Administration (FRA) have proposed complementary regulations establishing procedures for the development and implementation of safety integration

STB — Long-Term Actions

plans (SIPs) by railroads proposing to engage in certain merger, consolidation, or acquisition of control transactions with another railroad. Under the proposed rules, railroads seeking to consummate a Board-covered transaction would be required to file a written document with the FRA and the Board explaining how each step in implementing a contemplated transaction would be performed safely.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/97	62 FR 64193
ANPRM Comment Period End	02/19/98	
NPRM	12/31/98	63 FR 72225
NPRM Comment Period End	03/01/99	
Internal Review of Comments	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2140–AA50

4674. MODIFICATION OF THE CARLOAD WAYBILL SAMPLE REPORTING PROCEDURES, STB EX PARTE NO. 385 (SUB-NO. 5)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 49 USC 721; 49 USC 10707; 49 USC 11144; 49 USC 11145

CFR Citation: 49 CFR 1244

Legal Deadline: None

Abstract: The Surface Transportation Board solicits comments on modifying the Waybill Sample reporting regulations to require all railroads to identify international rail traffic moving from or through the United States and to report such traffic in the Waybill Sample as if the traffic had terminated at the United States border. The intent of this proposal is to ensure that the Waybill Sample reflects a representative sample of all railroad traffic moving on the U.S. rail system.

Timetable:

Action	Date	FR Cite
NPRM	09/08/00	65 FR 54471
NPRM Comment Period End	10/12/00	
Internal Review of Comments	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Jeff Warren, Transportation Industry Analyst, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423
Phone: 202 565-1533
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RIN: 2140–AA57

4675. CONSOLIDATED RAILROAD REPORTING, STB EX PARTE NO. 634

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 49 USC 721(b); 49 USC 10704(a)(3)

CFR Citation: 49 CFR 1201; 49 CFR 1241 to 1248

Legal Deadline: None

Abstract: The Surface Transportation Board proposes, consistent with Financial Accounting Standards Board Statement No. 94, to require consolidated reporting by commonly controlled U.S. railroads and their U.S. railroad-related affiliates.

Timetable:

Action	Date	FR Cite
NPRM	09/25/00	65 FR 57650
NPRM Comment Period End	10/25/00	
Internal Review of Comments	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul A. Aguiar, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001
Phone: 202 565-1527
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Fax: 202 565-9000
Email: aguiarp@stb.dot.gov

RIN: 2140–AA58

Surface Transportation Board (STB) — Completed Actions

4676. MAJOR RAIL CONSOLIDATION PROCEDURES, STB EX PARTE NO. 582 (SUB-NO. 1)

Priority: Other Significant

Legal Authority: 49 USC 721; 49 USC 11323 to 11325

CFR Citation: 49 CFR 1180

Legal Deadline: None

Abstract: The Surface Transportation Board adopted final regulations governing proposals for major railroad consolidations. These new rules increase the amount of information that the consolidating carriers must provide to the public to permit interested persons to participate in the process. The new rules also require the consolidating carriers to demonstrate that a proposed transaction would be in the public interest, by requiring them, among other things, to demonstrate that the transaction would enhance competition where necessary to offset negative effects of the merger, such as competitive harm or service disruption.

Timetable:

Action	Date	FR Cite
ANPRM	03/31/00	65 FR 18021
ANPRM Comment Period End	06/05/00	
NPRM	10/03/00	65 FR 58974
NPRM Comment Period End	01/11/01	
Final Rule	06/15/01	66 FR 32582
Final Rule Effective	07/11/01	

Regulatory Flexibility Analysis Required: No

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STB — Completed Actions

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Julia Farr, Chief Counsel, Office of Proceedings, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001
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Email: farrj@stb.dot.gov

RIN: 2140–AA56

[FR Doc. 01–23876 Filed 11–30–01; 8:45 am]

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A. INDEX TO ENTRIES THAT AGENCIES HAVE DESIGNATED FOR SECTION 610 REVIEW

Section 610(a) of the Regulatory Flexibility Act (5 U.S.C. 601) requires each agency to have a plan for the periodic review of its rules that have significant economic impact on a substantial number of small entities. Each agency must publish annually in the **Federal Register** a list of the rules that it plans to review in the next year. Some agencies use The Regulatory Plan and the Unified Agenda to fulfill this requirement. Those agencies indicate such entries by appending "(Section 610 Review)" to the titles. Some agencies have also indicated completions of section 610 reviews or rulemaking actions resulting from completed section 610 reviews.

The following index lists the regulatory actions for which agencies included this designation. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda in part II of this issue.

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	USDA
13	Elimination of Chilling Time and Temperature Requirements for Ready-To-Cook Poultry **(Section 610 Review)**
249	Plant Pest Regulations; Update of Current Provisions **(Section 610 Review)**
254	Bees, Beekeeping Byproducts, and Beekeeping Equipment **(Section 610 Review)**
255	Veterinary Diagnostic User Fees—5-Year Plan for Fees **(Section 610 Review)**
256	Nursery Stock Regulations **(Section 610 Review)**
259	Standards for Permanent, Privately Owned Horse Quarantine Facilities **(Section 610 Review)**
263	Animal Welfare; Inspection, Licensing, and Procurement of Animals **(Section 610 Review)**
272	Black Stem Rust; Addition of Rust-Resistant Varieties **(Section 610 Review)**
273	Importation of Certain Embryos and Animal Semen **(Section 610 Review)**
279	Exportation of Livestock **(Section 610 Review)**
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19	Reauthorization of the Elementary and Secondary Education Act of 1965 **(Section 610 Review)**
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1081	Investigational Use New Animal Drug Regulations **(Section 610 Review)**
1103	Part 600-Biological Products: General **(Completion of a Section 610 Review)**
1170	End Stage Renal Disease (ESRD) Conditions for Coverage (CMS-3818-P) **(Section 610 Review)**
	DOJ
77	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities **(Section 610 Review)**
78	Nondiscrimination on the Basis of Disability in State and Local Government Services **(Section 610 Review)**
1903	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
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2033	Bonding Rules Under the Employee Retirement Income Security Act of 1974 **(Section 610 Review)**
2034	Requests for Enforcement Pursuant to Section 502(b)(2) **(Section 610 Review)**
2035	Civil Penalties Under ERISA Section 502(c)(2) **(Section 610 Review)**
2036	Procedures for the Assessment of Civil Penalties Under ERISA Section 502(c)(2) **(Section 610 Review)**
2093	Occupational Exposure to Ethylene Oxide **(Section 610 Review)**
2095	Grain Handling Facilities **(Section 610 Review)**
2099	Excavations **(Section 610 Review)**
2100	Presence Sensing Device Initiation of Mechanical Power Presses **(Section 610 Review)**
	DOT
105	Hours of Service of Drivers; Driver Rest and Sleep for Safe Operations **(Rulemaking Resulting From a Section 610 Review)**
2213	Procedures for Transportation Workplace Drug and Alcohol Testing Programs; Technical Amendments **(Completion of a Section 610 Review)**
2277	Barges Carrying Bulk Liquid Hazardous Material (USCG-1999-5117) **(Section 610 Review)**
2338	Certification Procedures for Products and Parts **(Section 610 Review)**
2460	Transportation of Household Goods; Consumer Protection Regulations **(Rulemaking Resulting From a Section 610 Review)**
	FDIC
4421	Community Reinvestment Act Regulations **(Section 610 Review)**
	FRS
4474	Regulation: BB — Community Reinvestment (Docket Number: R-1112) **(Section 610 Review)**
4475	Regulation: DD — Truth in Savings Act **(Section 610 Review)**

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Seq. No.	Title
4476	Regulation: B — Equal Credit Opportunity (Docket Number: R-1008) **(Section 610 Review)**

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B. INDEX TO ENTRIES FOR WHICH A REGULATORY FLEXIBILITY ANALYSIS IS REQUIRED

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for The Regulatory Plan and the Unified Agenda

The following index lists the regulatory actions in this publication for which agencies believe that the Act may require a Regulatory Flexibility Analysis because the rule is likely to have such effects on small businesses, small governmental jurisdictions, or small organizations. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda in part II of this issue.

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Seq. No.	Title
	USDA
1	Establishing a Lamb Promotion, Research, and Information Order (LS-01-12)
3	Foot-and-Mouth Disease; Payment of Indemnity
4	Chronic Wasting Disease in Elk; Interstate Movement Restrictions and Payment of Indemnity
5	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the WIC Food Packages
9	Poultry Inspection: Revision of Finished Product Standards With Respect to Ingesta
11	Egg and Egg Products Inspection Regulations
14	Emergency Regulations To Prevent Meat Food and Meat Products That May Contain the BSE Agent From Entering Commerce
171	Livestock Mandatory Reporting Program—Lamb Amendment (LS-01-08)
182	Fresh Russet Potato Diversion Program, 2000 Crop (FV-01-80-01)
187	Discontinue the Official Grading of Imported Beef, Lamb, Veal, and Calf Carcasses Under the Authority of the Agricultural Marketing Act of 1946
194	Honey Research, Promotion, and Consumer Information Order
256	Nursery Stock Regulations **(Section 610 Review)**
259	Standards for Permanent, Privately Owned Horse Quarantine Facilities **(Section 610 Review)**
264	Importation of Unmanufactured Wood Articles From Mexico
272	Black Stem Rust; Addition of Rust-Resistant Varieties **(Section 610 Review)**
280	Mexican Hass Avocado Import Program
281	Karnal Bunt
286	Noxious Weeds; Restrictions on Interstate Movement
299	Guaranteed Single-Family Housing
304	National Flood Insurance Regulations
305	Denying Credit to Applicants Delinquent on Any Federal Debt
395	Ante-Mortem and Post-Mortem Inspection of Livestock and Poultry
396	Requirements for Disposition and Disposal of Inspected Raw Meat and Poultry Products
397	Performance Standards for Ready-To-Eat Meat and Poultry Products
399	Nutrition Labeling of Ground or Chopped Meat and Poultry Products and Single-Ingredient Products
412	Export Sales Reporting Requirement
440	Business and Industry Guaranteed Loan Program—Financing Cooperative Stock
447	Affirmative Fair Housing Marketing Plan
448	Business and Industry Direct Loan Program
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536	Administration of State Log Exports Ban
550	National Voluntary Laboratory Accreditation Program
552	Fishery Management Plan for Tilefish
554	Amendments to the Observer Program - Amendment 47 to the FMP for BSAI Groundfish and Amendment 47 to the FMP for GOA Groundfish
557	Establish Central Registry for Limited Access System Permits
560	Regulatory Amendment To Require Mandatory Observer Coverage in the At-Sea Processing Sector of the Whiting Fishery
562	Adjustment of Management Program: Bottomfish Fisheries in the Hawaiian Islands
564	Regulatory Amendment To Fund Purchase of Limited Entry Trawl Permits To Reduce Excess Capacity in Pacific Coast Groundfish Fleet
566	Regulatory Amendment To Allocate Lingcod and Bocaccio Rockfish Between Commercial and Recreational Groundfish Fisheries
567	Fishery Management Plan for Calico Scallop Fishery in the South Atlantic Region (FMP)
570	Regulatory Amendment To Reinstate 6000 Pound Trip Limit of Halibut in Area Northeast of the Bering Sea
572	Fishery Management Plan Amendment To Revise CDQ Regulations
574	Enhanced Measures To Mitigate Seabird Bycatch in the Alaska Longline Fisheries
575	Alaska Groundfish Fishery Management Plan Amendment To Revise Improved Retention/Improved Utilization Program
578	Amendment 53 to the Groundfish Fisheries of the Gulf of Alaska Fishery Management Plan

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582	Adjustment of Management Program: Bottomfish Fisheries in the Western Pacific
585	Amendment 18 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico
596	Fishery Management Plan for Sargassum Habitat of the South Atlantic (FMP)
599	Amendment 11 to Fishery Management Plan for Shrimp Fishery of Gulf of Mexico (FMP)
602	Amendments to FMPs for Gulf of Mexico Reef Fish and Gulf of Mexico and South Atlantic Coastal Migratory Pelagic Resources To Limit Entry Into Gulf of Mexico Recreational-for-Hire Fisheries
603	Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic, Caribbean, and Gulf of Mexico (FMP)
609	Regulatory Amendment Under the Fishery Management Plan for Gulf of Mexico Reef Fish (FMP) To Establish a Red Snapper Stock Rebuilding Plan and To Set Red Snapper Overfishing Targets and Thresholds
617	American Lobster Fishery; Revisions to Lobster Trap Limits, Conservation Equivalancy in New Hampshire Waters, and Clarification of Lobster Management Boundaries per Addendum 1
619	Fishing Capacity Reduction Program for the Crab Species Covered by the Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs
635	Sea Turtle Monitoring and Conservation Measures for Non-shrimp Fisheries
641	Sea Turtle Conservation Regulations; Shrimp Fishery
645	Endangered and Threatened Species; Take of Four Threatened Evolutionarily Significant Units of West Coast Salmon
652	Adjustment of the Management Program for Precious Corals Fisheries in the Western Pacific
654	Regulatory Amendment To Prohibit Fishing by Vessels Over 50 Feet From Fishing for Pelagic Management Unit Species Within 50 Nautical Miles of American Samoa
658	Revisions to Recordkeeping and Reporting Requirements for 2001
659	Regulatory Amendment to Modify the Management Program for the Western Pacific Pelagic Fisheries to Mitigate the Take of Seabirds
666	Implementation of the Shark Finning Prohibition Act
703	Multispecies Community Development Quota Program Bycatch Accounting
713	Amendment of Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238
719	Florida Keys National Marine Sanctuary; Tortugas Ecological Reserve
725	Amendment to Portions of Individual Fishing Quota Program Regulations
726	Amendment 14 to the Pacific Coast Groundfish Fishery Management Plan
727	Amendment 14 to the Pacific Coast Salmon Plan
728	Regulatory Amendment To Implement a Limited Access Program That Requires Species Endorsements To Participate in Fisheries Targeting Certain Groundfish Species
730	Amendments to Alaska Groundfish and Crab FMPs To Revise the License Limitation Program
732	BSAI FMP Amendment 66 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area
735	Regulatory Amendment To Redefine Vessel Length Overall
736	Regulatory Amendment To Implement an At-Sea Observer Program on Limited Entry and Open Access Catcher Vessels in the Pacific Coast Groundfish Fishery
739	Annual Specifications for Fishing Year 2001 for Atlantic Herring
742	Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries for Fishing Year 2001
749	2001-2002 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
750	Specifications for Fishing Year 2001 for the Spiny Dogfish Fishery
788	Mandatory Reimbursement Rules for Relocation of Federal Spectrum
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836	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)
841	DLA Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns
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924	Alternative Fueled Vehicle Acquisition Requirements for Private and Local Government Fleets

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25	Modifications to Standards for Privacy of Individually Identifiable Health Information
29	Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Dietary Ingredients and Dietary Supplements
30	Control of Salmonella Enteritidis in Shell Eggs During Production and Retail
32	Bar Code Label Requirements for Human Drug Products
33	Labeling for Human Prescription Drugs; Revised Format
35	Food Labeling: Trans Fatty Acids in Nutrition Labeling, Nutrient Content Claims, and Health Claims
36	CGMPs for Blood and Blood Components: Notification of Consignees and Transfusion Recipients Receiving Blood and Blood Components at Increased Risk of Transmitting HCV (Lookback)
37	Marking Requirements for and Prohibitions on the Reimportation of Imported Food Products That Have Been Refused Admission into the United States
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55	Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2003 (CMS-1204-P)
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1079	Medical Foods
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1096	Premarket Notice Concerning Bioengineered Foods
1099	Chronic Wasting Disease: Control of Food Products and Cosmetics Derived from Exposed Animal Populations
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1128	Public Health Services Policies on Research Misconduct
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1134	End Stage Renal Disease Bad Debt Payment (CMS-1126-P)
1136	Medical Devices Coverage Decisions Related to Health Care Technology (CMS-3059-P)
1163	Hospital Conditions of Participation: Quality Assessment and Performance Improvements (CMS-3050-F)
1166	Modifications to Managed Care Rules Based on Payment Provisions in BIPA and Technical Corrections (CMS-1181-F)
1168	Revision of Medicare/Medicaid Hospital Conditions of Participation (CMS-3745-F)
1170	End Stage Renal Disease (ESRD) Conditions for Coverage (CMS-3818-P) **(Section 610 Review)**
1174	Update of Ratesetting Methodology, Payment Rates and the List of Covered Surgical Procedures for Ambulatory Surgical Centers (CMS-1885-FC)
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1176	Surety Bond Requirements for Comprehensive Outpatient Rehabilitation Facilities, Rehabilitation Agencies (CMS-6005-P)
1191	Supplier Standards for Home Oxygen, Therapeutic Shoes, Home Nutrition Therapy, and Consignment Closets (CMS-6010-P)
1208	Portability in the Group Health Insurance Market—Shared HHS Provisions (CMS-2048-F)
1219	Liability for Third Parties To Pay for Services (CMS-2080-P)
1221	Revisions to Conditions for Coverage for Ambulatory Surgical Centers (CMS-3887-P)
1225	Provisions of the Balanced Budget and Refinement Act of 1999; Hospital Inpatient Payments and Rates and Costs of Graduate Medical Education (CMS-1131-F)
1228	Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities-Update (CMS-1163-F)
1231	Prospective Payment System for Hospital Outpatient Services for Calendar Year 2002 (CMS-1159-F)
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4356	Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the L-Band; IB Docket No. 96-132
4357	Preemption of Local Zoning Regulation of Satellite Earth Stations; IB Docket No. 95-59
4358	Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band; IB Docket No. 95-91; GEN Docket No. 90-357
4359	Redesignation of the 27.5-29.5 GHz Frequency Band; CC Docket No. 92-297
4360	Amendment of Policy To Allow Non-U.S. Licensed Space Stations To Provide Service in the United States; IB Docket No. 96-111; CC Docket No. 93-23
4362	Redesignation 17.7-19.7 GHz Band, Blanket Licensing Sat Earth Stations 17.7-20.2 GHz & 27.5-30 GHz & Allocation 17.3-17.8 & 24.75-25.25 GHz Band for Broadcast Satellite Service Use; IB Doc No. 98-172
4363	Allocate & Designate: Spec for Fixed-Sat Srv (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHz Bands). Allocate: Fixed & Mobile 40.5-42.5 GHz; Wireless 46.9-47 GHz; Gov Oper 37-38 & 40-40.5 GHz; IB Doc No. 97-95
4364	Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band; IB Docket No. 99-81
4365	Policies for the Direct Broadcast Satellite Service; IB Docket No. 98-21
4366	1998 Biennial Regulatory Review — Review of Accounts Settlement in Maritime Mobile &Maritime Mobile-Satellite Radio Services and Withdrawal of the Commission as Accounting Authority; IB Doc No. 98-96
4367	Amendment to Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems; IB Docket No. 95-41
4368	Global Mobile Personal Communications by Satellite; IB Docket No. 99-67
4369	Consideration of Applications Under the Cable Landing License Act; IB Docket No. 00-106
4370	Direct Broadcast Public Interest Obligations; MM Docket No. 93-25
4372	2000 Biennial Review — Amendment of Parts 43 and 63 of the Commission's Rules; IB Docket No. 00-231
4373	Licensing and Coordination of Earth Stations in the Fixed-Satellite Services; IB Docket No. 00-203
4374	2000 Biennial Regulatory Review — Policy and Rules Concerning the International, Interexchange Marketplace; IB Docket No. 00-202
4375	Transfer of Control of Non-Stock Entities (MM Docket No. 89-77)
4376	Filing of Television Network Affiliation Contracts (MM Docket No. 95-40)
4377	Rules Governing Broadcast Television Advertising (MM Docket No. 95-90)
4378	Minor Modifications of Broadcast Licenses Without Prior Construction Permit (MM Docket No. 96-58)
4379	Newspaper/Broadcast Cross-Ownership (MM Docket No. 96-197)
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4385	Periodic Review of Rules and Policies Affecting the Conversion to DTV (MM Docket No. 00-39)
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4396	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; Narrowband PCS Competitive Bidding Rules
4397	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; 218-219 MHz Competitive Bidding Rules
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4403	Multiple Access Systems
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4406	Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules
4407	Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended
4408	1998 Biennial Regulatory Review — Spectrum Aggregation Limits for Wireless Telecommunications Carriers

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4411	Amendment of Parts 13 and 80 Governing Maritime Communications
4412	Amendment of the Rules Regarding Installment Payment Financing for Personal Communications Services Licensees
4413	Transfer of the 3650 Through 3700 MHz Band and the 4.9 GHz Band From Federal Government Use
4414	2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services
4415	In the Matter of Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets
4416	In the Matter of Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services
4417	Amendment of Part 90 for Licensing Low Power Operations in 450-470 MHz Band
4418	Rulemaking To Amend Part 1 and Part 21 To Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service
4419	Calling Party Pays Service Offering in the Commercial Mobile Radio Services
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4474	Regulation: BB — Community Reinvestment (Docket Number: R-1112) **(Section 610 Review)**
4475	Regulation: DD — Truth in Savings Act **(Section 610 Review)**
4476	Regulation: B — Equal Credit Opportunity (Docket Number: R-1008) **(Section 610 Review)**
4478	Regulation: C — Home Mortgage Disclosure (Docket Number: R-1001)
4487	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1097)
4491	Regulation: W — Transactions Between Banks and Their Affiliates (Docket Number: R-1103)
4494	Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1092)
4495	Regulation: Z — Truth in Lending (Docket Number: R-1090)
4497	Misc. Interpretations: Application of Sections 23A and 23B of the Federal Reserve Act to Derivative Transactions with Affiliates and Intraday Extensions of Credit to Affiliates (Docket Number: R-1104)
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4654	Exemption From Exchange Act Section 11(d)(1) for Securities of Foreign Issuers Sold on an Installment Basis
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190	National Organic Program: Add Standards for the Organic Certification of Wild Captured Aquatic Animals (TM-01-08)
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581	Implementation of Western Pacific Coral Reef Ecosystem Fishery Management Plan (FMP)
582	Adjustment of Management Program: Bottomfish Fisheries in the Western Pacific
645	Endangered and Threatened Species; Take of Four Threatened Evolutionarily Significant Units of West Coast Salmon
713	Amendment of Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238
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1170	End Stage Renal Disease (ESRD) Conditions for Coverage (CMS-3818-P) **(Section 610 Review)**
1175	Medical Child Support and Health Insurance Coverage of Dependent Children (CMS-2081-P)
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1227	Medicaid Management Information System Revised Definition of "Mechanized Claims Processing and Information Retrieval System" (CMS-2123-IFC)
1243	Standards for Electronic Transactions-Elimination of NDC Coding Standards (CMS-0006-P)
1259	Grants for State and Community Programs on Aging, Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians and Native Hawaiians
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1687	Adding the Fallon Paiute-Shoshone Indian Reservation and Colony to the Listing of Courts of Indian Offenses
1770	Surface Management (Locatable Minerals)
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1991	Violent Crime and Drug Emergency Areas
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2039	Definition of Collective Bargaining Agreement (ERISA Section 3(40))
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4326	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers
4333	Regulations for RF Lighting Devices
4337	3650-3700 Government Transfer Band
4347	Reallocation of 27 MHz Spectrum
4357	Preemption of Local Zoning Regulation of Satellite Earth Stations; IB Docket No. 95-59
4362	Redesignation 17.7-19.7 GHz Band, Blanket Licensing Sat Earth Stations 17.7-20.2 GHz & 27.5-30 GHz & Allocation 17.3-17.8 & 24.75-25.25 GHz Band for Broadcast Satellite Service Use; IB Doc No. 98-172
4384	Future Development of 800 MHz SMR; Competitive Bidding Wide Area
4400	Revision of the Rules To Ensure Compatibility With 911 Emergency Calling Systems
4402	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements
4407	Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended
4409	Amendment to Parts 1, 2, 87 and 101 of the Rules to License Fixed Services at 24 GHz
4413	Transfer of the 3650 Through 3700 MHz Band and the 4.9 GHz Band From Federal Government Use
4418	Rulemaking To Amend Part 1 and Part 21 To Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service
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304	National Flood Insurance Regulations
305	Denying Credit to Applicants Delinquent on Any Federal Debt
440	Business and Industry Guaranteed Loan Program—Financing Cooperative Stock
448	Business and Industry Direct Loan Program
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552	Fishery Management Plan for Tilefish
658	Revisions to Recordkeeping and Reporting Requirements for 2001
703	Multispecies Community Development Quota Program Bycatch Accounting
727	Amendment 14 to the Pacific Coast Salmon Plan
750	Specifications for Fishing Year 2001 for the Spiny Dogfish Fishery
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832	National Security Education Program (NSEP) Grants to Institutions of Higher Education (DoD Instruction 1025.5)
836	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)
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54	Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities-Update for FY 2003 (CMS-1202-P)
995	Standards for Privacy of Individually Indentifiable Health Information
1128	Public Health Services Policies on Research Misconduct
1129	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers
1168	Revision of Medicare/Medicaid Hospital Conditions of Participation (CMS-3745-F)
1170	End Stage Renal Disease (ESRD) Conditions for Coverage (CMS-3818-P) **(Section 610 Review)**
1188	Surety Bond Requirements for Home Health Agencies (HHAS) (CMS-6001-P)
1198	Improvements to the Medicare+Choice Appeals and Grievance Procedures (CMS-4024-F)
1225	Provisions of the Balanced Budget and Refinement Act of 1999; Hospital Inpatient Payments and Rates and Costs of Graduate Medical Education (CMS-1131-F)
1228	Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities-Update (CMS-1163-F)
1234	Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2002 (CMS-1169-F)
1236	Replacement of Reasonable Charge Methodology by Fee Schedules for Parenteral and Enteral Nutrients, Equipment, and Supplies (CMS-1010-F)
1243	Standards for Electronic Transactions-Elimination of NDC Coding Standards (CMS-0006-P)
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1753	Location Recording, and Maintenance of Mining Claims and Sites
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77	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities **(Section 610 Review)**
1654	Fees for Participation in Dedicated Commuter Lanes at Selected Ports of Entry; Collection of Fees Under the Dedicated Commuter Lane Program
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1987	Foreign Agents Registration Act; Regulations Revised and Clarified To Reflect Changes in the Law

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81	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)
87	Rulemaking Relating to Notice Requirements for Continuation of Health Care Coverage
2039	Definition of Collective Bargaining Agreement (ERISA Section 3(40))
2044	Requirement To Furnish Plan Documents Upon Request by the Secretary of Labor
2045	Civil Penalty for Failure To Furnish Certain Plan Documents
2046	Electronic Disclosure of Employee Benefit Plan Information
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3315	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Recreation Facilities
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130	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling
147	National Primary Drinking Water Regulations: Arsenic and Clarifications to Compliance and New Source Contaminant Monitoring
3657	Standards for the Management of Coal Combustion Wastes - Non-Power Producers and Minefilling
3740	National Primary Drinking Water Regulations: Groundwater Rule
3742	National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment Rule
	IMLS
3851	Implementation of Title IX of the Education Act Amendments of 1972
	NEA
3867	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities—Implementation of Title IX of the Education Amendments of 1972
	FAR
4164	FAR Case 89-093, Implementation of the Anti-Lobbying Statute
4170	FAR Case 91-078, Small Business Subcontracting Reporting
	FCC
4300	Enhanced 911 Services for Wireline
4319	Numbering Resource Optimization
4323	Implementation of Section 255 and Section 251(a)(2) of the Telecommunications Act of 1996; Access to Telecommunications Services Equipment and Customer Premise Equipment for Persons With Disabilities
4325	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System
4326	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers
4333	Regulations for RF Lighting Devices
4340	Spread Spectrum Devices
4341	Wireless Medical Telemetry Service
4350	Closed Captioning for DTV Receivers
4357	Preemption of Local Zoning Regulation of Satellite Earth Stations; IB Docket No. 95-59
4362	Redesignation 17.7-19.7 GHz Band, Blanket Licensing Sat Earth Stations 17.7-20.2 GHz & 27.5-30 GHz & Allocation 17.3-17.8 & 24.75-25.25 GHz Band for Broadcast Satellite Service Use; IB Doc No. 98-172
4363	Allocate & Designate: Spec for Fixed-Sat Srv (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHz Bands). Allocate: Fixed & Mobile 40.5-42.5 GHz; Wireless 46.9-47 GHz; Gov Oper 37-38 & 40-40.5 GHz; IB Doc No. 97-95
4375	Transfer of Control of Non-Stock Entities (MM Docket No. 89-77)
4391	Assessment and Collection of Regulatory Fees for FY 2001
4400	Revision of the Rules To Ensure Compatibility With 911 Emergency Calling Systems
4409	Amendment to Parts 1, 2, 87 and 101 of the Rules to License Fixed Services at 24 GHz
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4561	Debt Collection Procedures
4562	Notification Requirement
4564	Financial Assurance Amendments for Materials Licenses
4567	Submission of Documents Electronically; Minor Corrections
4587	Revision of Fee Schedules; Fee Recovery, FY 2001

C. INDEX TO ENTRIES THAT MAY AFFECT SMALL ENTITIES WHEN A REGULATORY FLEXIBILITY ANALYSIS IS NOT REQUIRED

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for The Regulatory Plan and the Unified Agenda. Some agencies have chosen to identify additional regulatory actions that may have some impact on small entities even though a Regulatory Flexibility Analysis may not be required.

The following index lists the regulatory actions in this publication for which agencies have chosen to indicate that some impact on small entities is likely even though a Regulatory Flexibility Analysis may not be required. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda in part II of this issue.

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2	Hass Avocado Promotion, Research, and Information Order (FV-01-705)
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188	Revision of Regulations Governing the Inspection and Grading Service of Manufactured or Processed Dairy Products (DA-00-08)
193	Olive Oil Promotion, Research, and Information Order
196	Revision of User Fees for 2001 Crop Cotton Classification Services to Growers (CN-00-010)
269	Importation Prohibitions Because of Bovine Spongiform Encephalopathy
284	Requiring Treatment of Solid Wood Packing Material From China
287	Citrus Canker; Payments for Commercial Citrus Tree Replacement and Lost Production Income
324	Exceptions to Geographic Areas for Official Agencies Under the USGSA
328	Swine Packer Marketing Contracts
330	Livestock Purchase or Sale: Prohibit Non-Reporting of Price
332	Fees for Commodity and Rice Inspection Services
333	Fees for Official Inspection and Official Weighing Services
343	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts
349	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula
375	Reform of Regulations on Imported Meat and Poultry Products
398	Reworking of Meat and Poultry Carcasses Accidentally Contaminated During Evisceration
406	Elimination of Requirements for Partial Quality Control Programs; Certification of Scales
408	Program To Assist U.S. Producers in Developing Domestic Markets for Value-Added Wheat Gluten and Wheat Starch Products
420	Sale and Disposal of National Forest System Timber; Timber Export and Substitution Restrictions
449	Rural and Rural Area Under the Rural Community Advancement Program
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477	Agriculture Acquisition Regulation (AGAR); Contractor Employment of Migrant and Seasonal Agricultural Workers
478	Agriculture Acquisition Regulation: Amendment to Part 442, Contract Administration
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511	Export Administration Regulations: Support Documentation
548	Definition Harmonization
553	Amendment 4 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands
573	Amendment 10 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP)
579	Framework Regulatory Amendment for the Atlantic Highly Migratory Species (HMS) Fisheries
583	Atlantic Highly Migratory Species Fisheries; Management of the Atlantic Blue Marlin and White Marlin Recreational Fisheries
586	Amendment 7 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico
587	Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan
591	Regulatory Amendment To Prevent or Mitigate the Take of Sea Turtles in the Western Pacific Pelagic Fisheries
592	Amendment 9 to the Fishery Management Plan Amendment for the Pelagic Fisheries of the Western Pacific Region
594	Regulatory Amendment Modifying the Gulf of Mexico BRD Protocol Under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP)
595	Regulatory Amendment Modifying the South Atlantic BRD Testing and Certification Protocol
597	Amendment 3 to the Fishery Management Plan for the Golden Crab Fishery Off the Southern Atlantic States (FMP)
600	Amendment 14 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan
610	Amendment 13 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region

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626	Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches at Vandenberg Air Force Base, CA
629	Amendment 2 to the Fishery Management Plan for the Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands
656	Prohibit Use of Set Net Gear To Harvest Groundfish in Certain Portions of the Exclusive Economic Zone Waters Seaward of California
660	2001 Quotas for Purse Seine Fisheries in the Eastern Pacific
661	Pacific Coast Groundfish Fishery; Announcement of the 2002 Groundfish Fishery Specifications and Management Measures
663	Harvesting Restrictions for the Dolphin and Wahoo Fishery in the Atlantic Exclusive Economic Zone (EEZ)
671	Announcement of the Optimum Yield and Harvest Limit for Pacific Mackerel
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684	Pacific Offshore Cetacean Take Reduction Plan
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721	Revisions to Anchoring Prohibitions in Flower Garden Banks National Marine Sanctuary
737	Atlantic Highly Migratory Species; Spotter Aircraft
748	Regulating Bycatch in the Purse Seine Fishery and Establishing a Vessel Register in the Eastern Pacific Ocean
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764	Regulatory Amendment Under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) Regarding Use of Powerheads
766	Sea Turtle Conservation Regulations; Fisheries Activities
777	List of Fisheries for 2001
787	Improvement of Technical Management of Internet Names and Addresses
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820	Amendment to Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements

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859	Preference for Local 8(a) Contractors—Base Closure or Realignment (DFARS Case 2001-D007)
864	Domestic Source Restriction—Ball and Roller Bearings and Vessel Propellers (DFARS Case 2000-D301)
876	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)
878	Veterans Employment Emphasis (DFARS Case 97-D314)

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46	Revisions to Transaction and Code Set Standards for Electronic Transactions (CMS-0005-P)
47	Organ Procurement Organization Condition for Coverage (CMS-3064-IFC)
48	Home Health Prospective Payment System Refinements (CMS-1161-P)
49	Medicaid Managed Care (CMS-2104-F)
51	Home Health Prospective Payment System Rate Update For FY 2003 (CMS-1198-NC)
52	Requirements for Paid Feeding Assistants in Long-Term Care Facilities (CMS-2131-P)
56	Hospital Inpatient Rehabilitation Prospective Payment System for FY 2003 (CMS-1205-P)
58	Initiative to Endorse Prescription Drug Discount Programs (CMS-4027-P)
1003	Amendments to Quality Assurance and Administrative Provision for Approval of Respiratory Protective Devices
1010	Requirements for Medical Gas Containers and Closure Systems
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1057	Supplements and Other Changes to Approved New Animal Drug Applications
1070	Availability for Public Disclosure and Submission to FDA for Public Disclosure of Certain Data and Information Related to Gene Therapy or Xenotransplantation
1075	Revocation of Conditions for Marketing Digoxin Products for Oral Use
1081	Investigational Use New Animal Drug Regulations **(Section 610 Review)**
1082	Suitability Determination for Donors of Human Cellular and Tissue-Based Products
1135	Fire Safety Requirements for RNHCI, ASC, Hospices, PACE, Hospitals, and Long-Term Care Facilities and ICFs for the Mentally Retarded (CMS-3047-P)
1144	Qualification Requirements for Directors of Laboratories Performing High Complexity Testing (CMS-2094-P)
1160	Medicare Program; Coverage and Administrative Policies for Clinical Diagnostic Laboratory Tests (CMS-3250-F)
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D. INDEX TO ENTRIES THAT MAY AFFECT GOVERNMENT LEVELS

Executive Order 12866 entitled "Regulatory Planning and Review" (October 4, 1993; 58 FR 51735) and the Unfunded Mandates Reform Act of 1995 (P.L. 104-4) direct agencies to assess the effects of Federal regulations on State, local, and tribal governments. In addition, Executive Order 12875 entitled "Enhancing the Intergovernmental Partnership" (October 26, 1993; 58 FR 58093) directs agencies to reduce the imposition of unfunded mandates upon State, local, and tribal governments. In keeping with these efforts, agencies include in their submissions for The Regulatory Plan and the Unified Agenda information on whether their regulatory actions have an effect on various levels of government.

The following index lists the regulatory actions in this publication that agencies believe may have effects on State, local, tribal, or Federal levels of government. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda in part II of this issue.

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E. INDEX TO ENTRIES THAT MAY HAVE FEDERALISM IMPLICATIONS

Executive Order 13132 entitled "Federalism" (August 4, 1999, 64 FR 43255) directs agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have "federalism implications." This term refers to actions "that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." As part of this effort, agencies, other than independent regulatory agencies include in their submissions for the Unified Agenda information on whether their regulatory actions have federalism implications

The following index lists the regulatory actions in this publication that agencies believe may have federalism implications. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to the Unified Agenda in part II of this issue.

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To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

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Tuesday, December 4, 2001

Presidential Documents

Title 3—

The President

Proclamation 7507 of November 29, 2001

National Diabetes Month, 2001

By the President of the United States of America

A Proclamation

During the past century, we have made significant progress in our fight against disease. Through public health campaigns and aggressive research, we have eliminated polio in the United States, reduced the harm of influenza outbreaks, and developed revolutionary new medications that provide relief and healing from many chronic and acute illnesses. However, effective treatments and cures to numerous other illnesses remain elusive and demand our continued attention and resources. One of the most prevalent and difficult of these is diabetes, which currently afflicts more than 16 million Americans.

Diabetes can cause blindness, renal disease, severe nerve damage, heart disease, strokes, and even death. This year approximately 800,000 men, women, and children in the United States will develop diabetes, and health officials estimate that it will be a contributing factor in almost 200,000 deaths. The total economic cost for providing medical treatment for diabetes patients and for disability and deaths related to the disease is approximately $100 billion a year. More troubling are statistics indicating that more than 5 million Americans are unaware of their diabetic condition, seriously jeopardizing their long-term health and well-being. An additional 10 million citizens are at high-risk of developing type 2 diabetes due largely to physical inactivity, obesity, and poor diet.

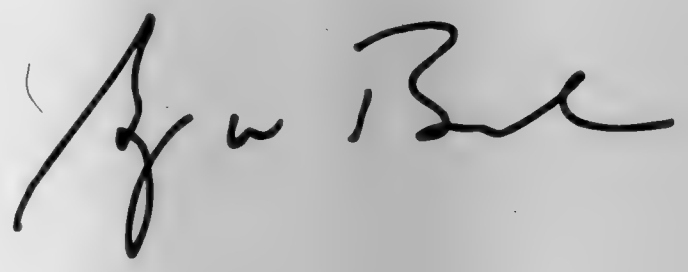
Recent scientific findings demonstrate that modest, consistent exercise and a healthy diet can curtail the risk of type 2 diabetes in individuals by nearly 60 percent. This information provides great hope in our efforts to reduce the incidence of diabetes and creates a renewed sense of urgency to ensure that all Americans are aware of practical steps that can be taken to reduce their risk for diabetes.

My Administration is strongly committed to fighting diabetes both by working in cooperation with dedicated staff and volunteers of private organizations to develop strong public education programs and by increased Federal funding for medical research. The Centers for Disease Control and Prevention and the National Institutes of Health (NIH) have established the National Diabetes Education Program (NDEP) to help familiarize Americans with the risks of diabetes and what can be done to minimize its complications. The NDEP will also offer practical information about preventing the cardiovascular complications of diabetes through the campaign, "Be Smart About Your Heart: The ABCs of Diabetes." Medical research is providing exciting advances in our prevention and treatment strategies for diabetes, and my fiscal year 2002 budget reflects a significant increase in funding to continue the valuable diabetes research programs at the NIH.

I am confident that our Nation's health care professionals, nurses, scientists, educators, and volunteers will continue to provide quality care to those who currently suffer from diabetes, and, through their work, we will one day find a cure for this terrible disease. On the observance of National Diabetes Month, we honor those who are working diligently to advance our knowledge and understanding of diabetes. We also recognize the value of educating ourselves about health risks and the importance of healthy lifestyle habits.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2001 as National Diabetes Month. I call on all Americans to increase their awareness of the risk factors and symptoms related to diabetes and to observe this month with appropriate activities and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of November, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 01–30145
Filed 12–3–01; 8:45 am]
Billing code 3195–01–P

VOL 66 ISS 233 DE 4 2001 UMI

Presidential Documents

Proclamation 7508 of November 29, 2001

National Hospice Month, 2001

By the President of the United States of America

A Proclamation

Each year, approximately 700,000 terminally ill patients and their families rely on the invaluable end-of-life care provided by the 3,100 hospice programs located in the United States. Hospice care allows a terminally ill individual to receive professional medical services, pain management therapy, and emotional and spiritual support, without having to enter a hospital. This focus on the patient's quality of life during his or her last illness can make the best of the most challenging of situations.

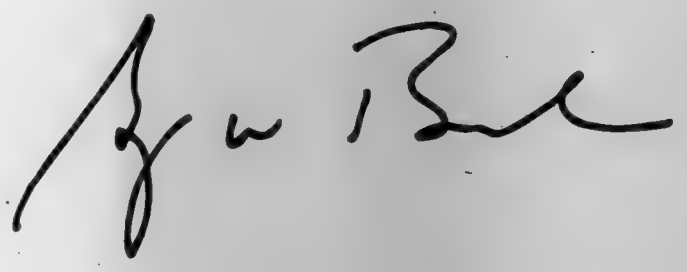
Hospices create a compassionate atmosphere where patients will be able to die with dignity, preferably in their home environment, surrounded and supported by loved ones, familiar friends, and committed caregivers. Professional and compassionate hospice staff and volunteers, including physicians, nurses, social workers, therapists, and clergy, provide comprehensive care and attend to the particular needs and wishes of each patient. Family members and friends also receive counseling and bereavement care that help them cope with the impending loss of their loved one.

Individuals and groups in the private and public sectors are working together to strengthen and expand hospice programs and to promote their services as a positive alternative for terminally ill patients. Today, hospice care is a full partner in our Nation's health care system, furthering our efforts to provide medical services in more compassionate and cost-effective ways. More important, providing high-quality hospice care reaffirms our belief in the essential dignity of every person, regardless of age, health, or social status, and that every stage of human life deserves to be treated with the utmost respect and care. My Administration remains committed to supporting health care programs like hospice that encourage quality medical care and frequent doctor-patient interaction.

With the observance of National Hospice Month, we recognize those who serve in our Nation's hospices, often as caregivers in the homes of hospice patients. Caring for a terminally ill patient can be emotionally painful, physically exhausting, and financially difficult. I call on all Americans to honor the professionals and volunteers who dedicate their lives to aiding the terminally ill through hospices. And we should use this observance as an opportunity to encourage and help those who take on the challenge of caring for a terminally ill patient in their home or in a hospice facility.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2001 as National Hospice Month. I encourage Americans to increase their awareness of the importance and availability of hospice service and to observe this month with appropriate activities and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of November, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 01–30146
Filed 12–03–01; 8:45 am]
Billing code 3195–01–P

VOL 66 ISS 233 DEC 4 2001 UMI

Presidential Documents

Proclamation 7509 of November 29, 2001

National Drunk and Drugged Driving Prevention Month, 2001

By the President of the United States of America

A Proclamation

Each December we turn our attention to the problem of drunk driving by observing National Drunk and Drugged Driving Prevention Month. Though the holidays bring joy in celebrations with family and friends, they also bring a tragic increase in the incidence of impaired driving. This season, I ask each American to avoid driving while they are under the influence of alcohol or drugs, to help stop others from driving in an impaired condition, and to increase community awareness about these issues.

Despite many efforts by States, communities, and citizen groups to stop drunk and drugged driving, many Americans mistakenly continue to view impaired driving as acceptable conduct. After years of gradual improvement, fatalities in alcohol-related crashes rose by 4 percent from 1999 to 2000. The National Highway Traffic Safety Administration estimates that last year alcohol was involved in 40 percent of fatal crashes and in 8 percent of all crashes.

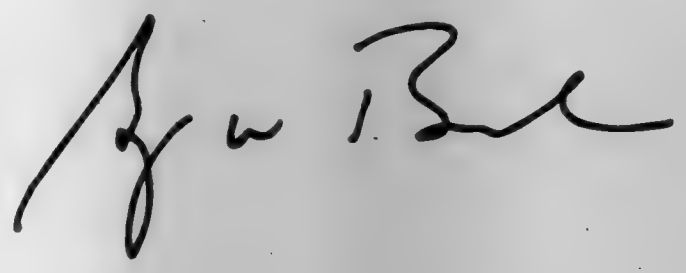
Every person should reaffirm his or her personal responsibility to drive free of the influence of alcohol or drugs and to prevent others from driving under the influence of them. We must promote practices such as designating a sober driver, stopping impaired family members and friends from getting behind the wheel, reporting impaired drivers to law enforcement officials, and teaching our young people safe, alcohol- and drug-free driving behavior.

We should also promote coordinated public policies and citizen campaigns against drunk and drugged driving in our communities. One example is the Department of Transportation's *You Drink & Drive, You Lose* campaign. This national coalition of community and law enforcement organizations will increase public awareness of the hazards of impaired driving. Their message warns of the criminal penalties for impaired driving, including imprisonment and the loss of license, vehicle, time from work, and money in fines and court costs.

As we celebrate the joyous holiday season, we can help save lives by preventing impaired driving. In order to ensure the safety of our roads for all travelers, we must continue to fight drunk and drugged driving throughout the year.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 2001 as National Drunk and Drugged Driving Prevention Month. I call upon State and community leaders to join the National Holiday Lifesavers Mobilization, sponsored by the You Drink & Drive, You Lose campaign, on December 21–23, 2001. I also urge all Americans to remember the hazards of impaired driving and to become involved in fighting this dangerous problem.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of November, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 01–30147
Filed 12–3–01; 8:45 am]
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VOL 66 ISS 233 DEC 4 2001 UMI

Rules and Regulations

Federal Register
Vol. 66, No. 233
Tuesday, December 4, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–062–1]

Change in Disease Status of the Czech Republic Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations by adding the Czech Republic to the list of regions where bovine spongiform encephalopathy exists because the disease has been detected in native-born animals in that region. The Czech Republic is currently listed among the regions that present an undue risk of introducing bovine spongiform encephalopathy into the United States. Therefore, the effect of this action is a continued restriction on the importation of ruminants that have been in the Czech Republic and meat, meat products, and certain other products of ruminants that have been in the Czech Republic. This action is necessary in order to update the disease status of the Czech Republic regarding bovine spongiform encephalopathy.

DATES: This interim rule was effective June 8, 2001. We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by February 4, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–062–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–062–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01–062–1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Malloy, Senior Staff Veterinarian, National Center for Import and Export, Products Program, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231; (301) 734–3277.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR parts 93, 94, 95, and 96 (referred to below as the regulations) govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases, including bovine spongiform encephalopathy (BSE). BSE is a neurological disease of cattle and is not known to exist in the United States.

It appears that BSE is primarily spread through the use of ruminant feed containing protein and other products from ruminants infected with BSE. Therefore, BSE could become established in the United States if materials carrying the BSE agent, such as certain meat, animal products, and animal byproducts from ruminants, are imported into the United States and are fed to ruminants in the United States. BSE could also become established in the United States if ruminants with BSE are imported into the United States.

Sections 94.18, 95.4, and 96.2 of the regulations prohibit or restrict the importation of certain meat and other animal products and byproducts from ruminants that have been in regions in which BSE exists or in which there is an undue risk of introducing BSE into the United States. In § 94.18, paragraph (a)(1) lists the regions in which BSE exists. Paragraph (a)(2) lists the regions that present an undue risk of introducing BSE into the United States because their import requirements are less restrictive than those that would be acceptable for import into the United States and/or because the regions have inadequate surveillance. Paragraph (b) of § 94.18 prohibits the importation of fresh, frozen, and chilled meat, meat products, and most other edible products of ruminants that have been in any region listed in paragraph (a)(1) or (a)(2). Paragraph (c) of § 94.18 restricts the importation of gelatin derived from ruminants that have been in any of these regions. Section 95.4 prohibits or restricts the importation of certain byproducts from ruminants that have been in any of those regions, and § 96.2 prohibits the importation of casings, except stomach casings, from ruminants that have been in any of these regions. Additionally, the regulations in 9 CFR part 93 pertaining to the importation of live animals provide that the Animal and Plant Health Inspection Service may deny the importation of ruminants from regions where a communicable disease such as BSE exists and from regions that present risks of introducing communicable diseases into the United States (see § 93.404(a)(3)).

Currently, the Czech Republic is among the regions listed in § 94.18(a)(2), which are regions that present an undue risk of introducing BSE into the United States. However, on June 8, 2001, a case of BSE was confirmed in a native-born animal in the Czech Republic. Therefore, in order to update the disease status of this region regarding BSE, we are amending the regulations by removing the Czech Republic from the list in § 94.18(a)(2) of regions that present an undue risk of introducing BSE into the United States and adding the Czech Republic to the list in § 94.18(a)(1) of regions where BSE is known to exist. The effect of this action is a continued restriction on the

importation of ruminants that have been in the Czech Republic and on the importation of meat, meat products, and certain other products and byproducts of ruminants that have been in the Czech Republic. We are making these amendments effective retroactively to June 8, 2001, which is the date that BSE was confirmed in a native-born animal in that region.

Emergency Action

This rulemaking is necessary on an emergency basis to update the disease status of the Czech Republic regarding BSE. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required under Executive Order 12866.

We are amending the regulations by adding the Czech Republic to the list of regions where BSE exists because the disease has been detected in native-born animals in that region. The Czech Republic is currently listed among the regions that present an undue risk of introducing BSE into the United States. Regardless of which of the two lists a region is on, the same restrictions apply to the importation of ruminants and meat, meat products, and most other products and byproducts of ruminants that have been in the region. Therefore, this action, which is necessary in order to update the disease status of the Czech Republic regarding BSE, will not result in any change in the restrictions that apply to the importation of ruminants and meat, meat products, and certain other products and byproducts of ruminants that have been in the Czech Republic.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has retroactive effect to June 8, 2001; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT- AND -MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

§ 94.18 [Amended]

2. Section 94.18 is amended as follows:

a. In paragraph (a)(1), by adding, in alphabetical order, the words "the Czech Republic,".

b. In paragraph (a)(2), by removing the words "the Czech Republic,".

Done in Washington, DC, this 28th day of November 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30001 Filed 12–3–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 5

[Docket No. 01–21]

RIN 1557–AB92

Operating Subsidiaries of Federal Branches and Agencies

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Final rule; correction.

SUMMARY: This document makes corrections to typographical errors in the final rule that the OCC published in the **Federal Register** on September 26, 2001 (66 FR 49093). The final rule provides that a Federal branch or agency may establish, acquire, or maintain an operating subsidiary in generally the same manner that a national bank may acquire or establish an operating subsidiary.

EFFECTIVE DATE: October 26, 2001.

FOR FURTHER INFORMATION CONTACT: Martha Clarke, Counsel, Legislative and Regulatory Activities Division, 202–874–5090.

SUPPLEMENTARY INFORMATION: In rule FR Doc. 01–24005 published on September 26, 2001, (66 FR 49093) make the following corrections:

1. On page 49097, in the second column, in amendatory instruction 1, the authority citation for part 5 is corrected to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 24a, 24(Seventh), 93a, and 3101 *et seq.*

§ 5.34 [Corrected]

2. On page 49097, in the third column, in §5.34(d)(2), in the fourth line, remove the word "by".

3. On page 49097, in the third column, in § 5.34(d)(3)(ii), remove the word "AGENCY:" and add, in its place, "agency".

Dated: November 26, 2001.

Julie L. Williams,

First Senior Deputy Comptroller and Chief Counsel, Comptroller of the Currency.

[FR Doc. 01–29898 Filed 12–3–01; 8:45 am]

BILLING CODE 4810–33–F

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–38–AD; Amendment 39–12529; AD 2001–24–12]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) 250–C20 Series Turboshaft and 250–B17 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment supersedes an emergency airworthiness directive (AD) that was sent previously to all known U.S. owners and operators of Rolls-Royce Corporation (formerly Allison Engine Company) models 250–C20, –C20B, –C20F, –C20R, –C20R/1, –C20R/2, –C20S, and –C20W turboshaft engines, and 250–B17, –B17C, –B17D, –B17E, –B17F, –B17F/1, and –B17F/2 turboprop engines by individual letters. That action required replacement of any helical torquemeter gearshaft assembly with 100 hours or less time-since-new (TSN) with a serviceable helical torquemeter gearshaft assembly, before further flight. That amendment was prompted by a report of uncontained release of power turbine blades and disk fragments caused by engine overspeed, resulting in an uncommanded engine shutdown, engine fire, and damage to the aircraft. This amendment requires the same replacement, and adds engine model –250–C20J to the applicability section of this AD. The actions specified by this AD are intended to prevent uncontained release of power turbine blades and disk fragments caused by engine overspeed, resulting in an uncommanded engine shutdown, engine fire, and damage to the aircraft.

DATES: Effective December 19, 2001.

Comments for inclusion in the Rules Docket must be received on or before February 4, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–38–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: "*9-ane-adcomment@faa.gov*". Comments sent via the Internet must contain the docket number in the subject line.

FOR FURTHER INFORMATION CONTACT: John Tallarovic, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone (847) 294–8180, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: On October 3, 2001, the Federal Aviation Administration (FAA) issued Emergency Airworthiness Directive (AD) 2001–20–51, applicable to Rolls-Royce Corporation (formerly Allison Engine Company) models 250–C20, –C20B, –C20F, –C20R, –C20R/1, –C20R/2, –C20S, and –C20W turboshaft engines, and 250–B17, –B17C, –B17D, –B17E, –B17F, –B17F/1, and –B17F/2 turboprop engines, which requires replacement of any helical torquemeter gearshaft assembly with 100 hours or less time-since-new (TSN) with a serviceable helical torquemeter gearshaft assembly, before further flight. That action was prompted by a report of uncontained release of power turbine blades and disk fragments caused by engine overspeed, resulting in an uncommanded engine shutdown, engine fire, and damage to the aircraft. This condition, if not corrected, could result in uncontained release of power turbine blades and disk fragments caused by engine overspeed, resulting in an uncommanded engine shutdown, engine fire, and damage to the aircraft. Since that Emergency AD was issued, it has been found that engine model 250–C20J was inadvertantly omitted from emergency AD 2001–20–51, and is added to the applicability section of this AD.

FAA's Determination of an Unsafe Condition and Required Actions

Since the unsafe condition described is likely to exist or develop on other engines of the same type design, the FAA issued emergency AD 2001–20–51 to prevent uncontained release of power turbine blades and disk fragments caused by engine overspeed, resulting in an uncommanded engine shutdown, engine fire, and damage to the aircraft. This AD requires replacement of any helical torquemeter gearshaft assembly with 100 hours or less time-since-new (TSN) with a serviceable helical torquemeter gearshaft assembly, before further flight.

Immediate Adoption of This AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunuty for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NE–38." The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to

correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–12 Rolls-Royce Corporation (formerly Allison Engine Company): Amendment 39–12529. Docket No. 2001–NE–38–AD.

Applicability

This airworthiness directive (AD) is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) models 250–C20, –C20B, –C20F, –C20J, –C20R, –C20R/1, –C20R/2, –C20S, and –C20W turboshaft engines, and 250–B17, –B17C, –B17D, –B17E, –B17F, –B17F/1, and –B17F/2 turboprop engines. These engines are used on, but not limited to Aerospatiale AS355; Agusta A109; A109A, A109C; Bell 206B, 206L, 206LT; Enstrom TH28; McDonnell Douglas 500C, 500D, 500E, 520N; Rogerson-Hiller FH1100; Schweizer TH330; Soloy Conversions Bell 47/47G, Hiller UH–12; American Jet Industries/Cessna 402, 414; and ASTA/GAF Nomad N–22 aircraft.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent uncontained release of power turbine blades and disk fragments caused by engine overspeed, resulting in an uncommanded engine shutdown, engine fire, and damage to the aircraft, do the following:

(a) Before further flight, remove helical torquemeter gearshaft assemblies part numbers (P/N's) 23035299 and 23038191 that have accumulated 100 hours or less time-since-new (TSN). Replace with a serviceable helical torquemeter gearshaft assembly.

(b) After the receipt of this AD, do not install any helical torquemeter gearshaft assembly P/N 23035299 or 23038191 that has accumulated 100 hours or less TSN.

Definition

(c) For the purposes of this AD, the following helical torquemeter gearshaft assemblies are considered serviceable parts:

(1) P/N's 23035299 and 23038191 that have greater than 100 hours TSN.

(2) An assembly with a P/N other than P/N's 23035299 and 23038191.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office. Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago Aircraft Certification Office.

Special Flight Permits

(e) Special flight permits may be issued in accordance with 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be done.

Effective Date of This AD

(f) This amendment becomes effective December 19, 2001.

Issued in Burlington, Massachusetts, on November 27, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–29950 Filed 12–3–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 556 and 558

New Animal Drugs for Use in Animal Feeds; Diclazuril

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Schering-Plough Animal Health Corp. The NADA provides for use of the approved diclazuril Type A medicated article to make Type B and Type C medicated feeds used for prevention of coccidiosis in growing turkeys. Also, tolerances for diclazuril residues in turkey liver, muscle, and skin with adherent fat are being established.

DATES: This rule is effective December 4, 2001.

FOR FURTHER INFORMATION CONTACT: Janis R. Messenheimer, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7578.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., 1095 Morris Ave., P.O. Box 3182, Union, NJ 07083, filed a supplement to NADA 140–951 that provides for use of CLINACOX (0.2 percent diclazuril) Type A medicated article to make Type B and Type C medicated turkey feeds used for the prevention of coccidiosis caused by *Eimeria adenoeides*, *E. gallopavonis*, and *E. meleagrimitis*. The NADA is approved as of September 21, 2001, and the regulations are being amended in §§ 556.175 and 558.198 (21 CFR 556.175 and 558.198) to reflect the approval. In addition, § 556.175 is being redesignated as § 556.185 to place it in alphabetical order in 21 CFR part 556. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of each application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval qualifies for 3 years of marketing exclusivity beginning September 21, 2001, because the application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the application and conducted or sponsored by the applicant.

The agency has carefully considered the potential environmental impact of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. FDA's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 556

Animal drugs, Food.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

§ 556.175 [Redesignated as § 556.185]

2. Section 556.175 is redesignated as § 556.185 and is amended by revising paragraph (b)(1) and by adding paragraph (b)(2) to read as follows:

§ 556.185 Diclazuril.

* * * * *

(b) *Tolerances*—(1) *Chickens*—(i) *Liver.* The tolerance for parent diclazuril (the marker residue) is 3 parts per million (ppm).

(ii) *Muscle.* The tolerance for parent diclazuril (the marker residue) is 0.5 ppm.

(iii) *Skin/fat.* The tolerance for parent diclazuril (the marker residue) is 1 ppm.

(2) *Turkeys*—(i) *Liver.* The tolerance for parent diclazuril (the marker residue) is 3 ppm.

(ii) *Muscle.* The tolerance for parent diclazuril (the marker residue) is 0.5 ppm.

(iii) *Skin/fat.* The tolerance for parent diclazuril (the marker residue) is 1 ppm.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

4. Section 558.198 is amended in paragraph (b) by removing "556.175" and by adding in its place "556.185"; and in paragraph (d)(1) by adding a heading and by revising the introductory text, and by adding paragraph (d)(2) to read as follows:

§ 558.198 Diclazuril.

* * * * *

(d) *Conditions of use*—(1) *Chickens.* For chickens it is used as follows:

* * * * *

(2) *Turkeys.* For turkeys it is used as follows:

Diclazuril grams/ton	Combination grams/ton	Indications for use	Limitations	Sponsor
(i) 0.91 (1 ppm)		Growing turkeys: For the prevention of coccidiosis caused by *E. adenoeides*, *E. gallopavonis* and *E. meleagrimitis*..	Feed continuously as the sole ration. Do not feed to breeding turkeys. Not for use in hens producing eggs for human consumption..	000061
(ii) [Reserved]				

Dated: November 9, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–29983 Filed 12–3–01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

[SPATS No. UT–037–FOR]

Utah Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving a proposed amendment to the Utah regulatory program (hereafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or "the Act"). Utah proposed changes to definitions and engineering and hydrology provisions in its rules about subsidence control plans, subsidence control, and water replacement. Utah intended to revise its program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: December 4, 2001.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Chief, Denver Field Division; telephone: (303) 844–1424; e-mail address: jfulton@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Utah Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, " * * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Utah

program on January 21, 1981. You can find background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program in the January 21, 1981, **Federal Register** (46 FR 5899). You also can find later actions concerning Utah's program and program amendments 30 CFR 944.15 and 944.30.

II. Submission of the Proposed Amendment

By letter dated March 20, 1998 (administrative record number UT–1103), Utah sent to us an amendment to its program (SPATS No. UT–037–FOR, administrative record number 1105) under SMCRA (30 U.S.C. 1201 *et seq.*). Utah sent the amendment in response to a June 5, 1996, letter (administrative record number UT–1083) that we sent to the State in accordance with 30 CFR 732.17(c).

Changes to the Utah Administrative Rules (Utah Admin. R.) that the State proposed included: Adding definitions for "material damage," "non-commercial building," "occupied residential dwelling and structures related thereto," "replacement of water supply," and "State-appropriated water supply" at Utah Admin R. 645–100–200; adding requirements at Utah Admin. R. 645–301–525.100 through –525.130 for pre-subsidence surveys; removing existing requirements for subsidence control plans at Utah Admin. R. 645–301–525 through –525.170; recodifying rules at Utah Admin. R. 645–301–525.200 through –525.240 pertaining to protected areas; removing existing requirements for subsidence control at Utah Admin. R. 645–301–525.200 through –525.232; adding requirements at Utah Admin. R. 645–301–525.300 through –525.490 for subsidence control and subsidence control plans; adding requirements for subsidence damage repair at Utah Admin. R. 645–301–525.500 through –525.530; adding a rebuttable presumption of causation by subsidence at Utah Admin. R. 645–301–525.540 through –525.545; adding provisions at Utah Admin. R. 645–301–525.550 for adjusting bond amounts for subsidence damage; recodifying rules at Utah Admin. R. 645–301–525.600 and 645–301–525.700 that require compliance with approved subsidence control plans and public notice of proposed mining, respectively; removing existing provisions for surveys of renewable resource lands at Utah Admin. R. 645–301–724.600; adding a provision at Utah Admin. R. 645–301–728.350 for finding whether underground coal mining and reclamation activities might contaminate, diminish or interrupt State-appropriated water; and adding a requirement at Utah Admin. R. 645–301–731.530 for replacing State-appropriated water supplies that are contaminated, diminished, or interrupted by underground coal mining activities.

We announced receipt of the proposed amendment in the April 8, 1998, **Federal Register** (63 FR 17138). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (administrative record number UT–1108). We did not hold a public hearing or meeting because nobody requested one. The public comment period ended on May 8, 1998. We received comments from two law firms on behalf of a special service district, a water conservancy district, an irrigation company, and a water users association. We also received comments from a mining association, the State Historic Preservation Officer, and two Federal agencies.

During our review of the amendment, we identified a concern relating to Utah's use of the undefined term "underground mining activities" at proposed Utah Admin. R. 645–301–731.530, which is entitled "State-appropriated water supply." We discussed our concern with Utah in telephone conversations on April 29 and May 11, 1998 (administrative record numbers UT–1111 and UT–1113, respectively).

Utah formally responded in a letter dated May 13, 1998, that its use of the undefined term was an oversight (administrative record number UT–1115). In the same letter, the State committed to replacing the undefined term "underground mining activities" with its defined term "underground coal mining and reclamation activities" in its rules, though its May 13 letter was sufficient to revise the proposed amendment. Based on Utah's response, we decided that reopening the comment period was not necessary and continued our review of the amendment. Utah promulgated a rule that includes the defined term on September 30, 1998 (Utah Division of Administrative Rules (DAR) file number 21334).

We completed our review of the amendment and the comments we received and identified five topics of concern. Two of those topics involved pre-subsidence surveys and contents of subsidence control plans. They appeared to require changes in Utah's proposed rules. The remaining three topics required additional clarification from Utah on the scope of the terms "State-appropriated water" and "State-appropriated water supply," the scope of water replacement with respect to "developed" water supplies, and of the proposed definition of "replacement of water supply." We notified Utah of our concerns in a letter dated October 1, 1998 (administrative record number UT–1125).

In a letter dated July 8, 1999 (administrative record number UT–1131), Utah notified us that the Huntington-Cleveland Irrigation Company filed a civil action in the State's Seventh Judicial District Court challenging the proposed water replacement rules included in this amendment. At Utah's request, we suspended our review of the amendment while the State addressed the legal and technical issues involved in that litigation.

On December 22, 1999, we suspended certain Federal regulations pertaining to subsidence in relation to underground mining as a result of the April 27, 1999, decision of the U.S. Court of Appeals for the District of Columbia in *National Mining Association v. Babbitt*, 173 F.3d 906 (1999). We suspended the part of 30 CFR 784.20(a)(3) that required a pre-subsidence survey of certain structures within an angle of draw unless the permit applicant was denied access to do such a survey by the structure owner(s). We also suspended 30 CFR 817.121(c)(4) (i) through (iv) in their entirety. Those regulations established an angle of draw and created a rebuttable presumption that subsidence damage to structures protected under section 2504 of the Energy Policy Act of 1992 (Pub.L. 102–486, 106 Stat. 2776; hereafter "EPAct"), and section 720 of SMCRA (as revised by EPAct) within an area defined by an angle of draw was caused by the underground mining operation. We notified Utah of the suspension by electronic mail on December 22, 1999, and included the December 22, 1999, **Federal Register** notice of that suspension with our message (64 FR 71652; administrative record number 1132).

In a letter dated September 1, 2000 (administrative record number UT–1144), Utah asked us to resume our review of the amendment, noting that litigation of the proposed water replacement rules would continue. The State also committed to respond to our October 1, 1998, issue letter.

Utah responded to our October 1, 1998, letter with a letter dated October 31, 2000 (administrative record number 1145). The State revised two proposed rules in its amendment and provided additional clarification on three topics. However, the State's response showed

that it did not revise its proposed amendment in light of our December 22, 1999, suspension of 30 CFR 784.20(a)(3) and 817.121(c)(4) (i) through (iv). We discussed this with Utah in a telephone conversation on November 8, 2000 (administrative record number 1146), at which time the State agreed to consider whether it would revise its amendment in light of our suspension of those Federal regulations. A follow-up telephone conversation of November 21, 2000 (administrative record number UT–1148), confirmed that Utah wanted us to review the amendment as originally submitted on March 20, 1998, corrected on May 13, 1998, and addressed in its October 31, 2000, response to our issue letter without further revisions related to our suspension of the Federal regulations.

We announced receipt of revisions to the amendment in the February 20, 2001, **Federal Register** (66 FR 10866; administrative record number UT–1157). In the same document, we reopened the public comment period for 15 days to provide for review of the changes and additional information Utah included in its October 31, 2000, response letter. The extended comment period closed on March 7, 2001.

III. Director's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 731.17. We are approving the amendment as described below.

A. Minor Revisions to Utah's Administrative Rules

Utah proposed minor recodification changes to the following previously approved rules (with the counterpart Federal regulations shown in parentheses):

Utah Admin. R. 645–301–525.240 through –525.270, areas protected from underground mining and subsidence, recodified as 645–301–525.200 through –525.240 (30 CFR 817.121(d) through (g));

Utah Admin. R. 645–301–525.220, compliance with approved subsidence control plan, recodified as 645–301–525.600 (30 CFR 817.121(a)(3)(b)); and

Utah Admin. R. 645–301–525.300, public notice of proposed mining, recodified as 645–301–525.700 (30 CFR 817.122).

Because these changes are minor and non-substantive in nature, we find that they will not make Utah's rules less effective than the corresponding Federal regulations.

B. Revisions to Utah's Administrative Rules That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations

Utah proposed revisions to the following rules containing language that is the same as, or similar to, the corresponding Federal regulations (which are listed in parentheses):

Utah Admin. R. 645–100–200, addition of new definitions of "material damage" and "occupied residential dwelling and structures related thereto" (30 CFR 701.5);

Utah Admin. R. 645–301–525.300 through –525.313, addition of new subsidence control provisions for preventing or minimizing damage, replacing existing Utah Admin. R. 645–301–525.200 and –525.210, which are removed (30 CFR 817.121(a)(1) through (a)(3));

Utah Admin. R. 645–301–525.410, new requirement for a description in the subsidence control plan of the coal removal method, replacing the existing provision at Utah Admin. R. 645–301–525.110, which is removed (30 CFR 784.20(b)(1));

Utah Admin. R. 645–301–525.420, new requirement for a map to be in the subsidence control plan showing underground workings where planned subsidence is expected and identifying areas where subsidence will be minimized and where subsidence-related damage will be minimized and corrected (30 CFR 784.20(b)(2));

Utah Admin. R. 645–301–525.430, new requirement for a description to be in the subsidence control plan of physical conditions affecting subsidence, replacing existing Utah Admin. R. 645–301–525.120, which is removed (30 CFR 784.20(b)(3));

Utah Admin. R. 645–301–525.440, new requirement for a description to be in the subsidence control plan of subsidence monitoring to be done, replacing existing Utah Admin. R. 645–301–525.140, which is removed (30 CFR 784.20(b)(4));

Utah Admin. R. 645–301–525.450 through –525.460, new requirement for a description to be in the subsidence control plan of subsidence control measures, replacing existing Utah Admin. R. 645–301–525.130 through –525.134 and Utah Admin. R. 645–301–525.150, which are removed (30 CFR 784.29(b)(5) through (b)(6));

Utah Admin. R. 645–301–525.470, new requirement for a description to be in the subsidence control plan of methods to minimize damage from planned subsidence (30 CFR 784.20(b)(7));

Utah Admin. R. 645–301–525.500, new section heading added for repair of damage, replacing the existing introductory statement at Utah Admin. R. 645–301–525.230, which is removed (30 CFR 817.121(c));

Utah Admin. R. 645–301–525.510, new rule requiring repair of subsidence damage to surface lands, replacing existing Utah Admin. R. 645–301–525.231, which is removed (30 CFR 817.121(c)(1));

Utah Admin. R. 645–301–525.520, new rule requiring repair of, or compensation for, subsidence damage to non-commercial buildings and related structures, replacing, in part, existing Utah Admin. R. 645–301–525.232, which is removed (30 CFR 817.121(c)(2)); and

Utah Admin. R. 645–301–525.545, new provision added for information to be considered in determining the cause of damage (30 CFR 817.121(c)(4)(v)).

Because these rules contain language that has the same meaning as the corresponding Federal regulations, we find that they are no less effective than the Federal regulations. We also find that they satisfy item numbers B.2 and B.4 in their entirety, and C.3, D.2, and D.3 in part, of our June 5, 1996, 30 CFR part 732 letter.

C. Revisions to Utah's Rules That Are Not the Same as the Corresponding Provisions of the Federal Regulations

1. Utah Admin. R. 645–100–200, Definition of "Non-commercial Building"

Utah proposed to add the definition of "non-commercial building" at Utah Admin. R. 645–100–200 as follows:

> Non-commercial Building means any building, other than an occupied residential dwelling, that, at the time the subsidence occurs, is used on a regular or temporary basis as a public building or community or institutional building as those terms are defined at R645–100–200. Any building used only for commercial agricultural, industrial, retail or other commercial enterprises is excluded.

Utah's proposed definition and the Federal definition of "non-commercial building" reference definitions of the terms "community or institutional building" and "public building." The definition of "public building" at Utah Admin. R. 645–100–200 is virtually identical to the Federal definition of "public building" at 30 CFR 761.5. Utah's definition of "community or institutional building" at Utah Admin. R. 645–100–200 differs slightly from the Federal definition of that term. Utah's version includes the phrase "* * * functions including, but not limited to * * *" in the second clause of the sentence in which building functions

are described. By including this phrase, Utah's definition includes community or institutional buildings within the scope of non-commercial buildings if they function as educational, cultural, historic, religious, scientific, correctional, mental-health or physical-health care facilities and those serving other unnamed functions as well. Structures included in the Federal definition of "community or institutional buildings" are limited to those serving the functions specifically listed.

The effect of this difference is to extend the protections against material damage caused by subsidence provided by Utah Admin. R. 645–301–525.100 through –525.700 to potentially more structures than encompassed by the Federal definition. Essentially, under Utah's proposed definition: More buildings may be subject to pre-subsidence surveys; permittees may be required to prevent or minimize subsidence-related damage to more buildings; subsidence control plans may have to describe methods to be used to minimize damage to more buildings from planned subsidence; and more buildings may be subject to provisions for repair or compensation for subsidence-related damage.

We note that part of the Federal regulation at 30 CFR 784.20(a)(3) concerning pre-subsidence surveys is suspended and that 30 CFR 817.121(c)(4)(i) through (iv) concerning the rebuttable presumption of causation by subsidence are suspended in their entirety. In part, Utah's proposed definition invokes subsidence protections in its rules the Federal counterparts to which are among the suspended regulations. That does not, however, make Utah's proposed definition inconsistent with SMCRA or less effective than the Federal regulations. Section 505(b) of SMCRA specifically states "Any provision of any State law or regulation in effect on the date of enactment of this Act, or which may become effective thereafter, which provides for the control and regulation of surface mining and reclamation operations for which no provision is contained in this Act shall not be construed to be inconsistent with this Act." This final rule describes the details of the suspended Federal regulations and its effect on Utah's proposed rules in greater detail in our findings concerning the State's proposed pre-subsidence survey rules, subsidence control plan contents, and the rebuttable presumption at parts III.C.6, III.C. 7, and III.C.9, respectively.

Based on the reasoning we described above, Utah's proposed definition of "non-commercial building" is no less effective than the counterpart Federal definition and is not inconsistent with SMCRA. It also satisfies item B.3 of our June 5, 1996, 30 CFR part 732 letter.

2. Utah Admin. R. 645–100–200, Definition of "State-Appropriated Water Supply"

Utah proposed the definition of "State-appropriated water supply" at Utah Admin. R. 645–100–200 as follows:

> State Appropriated Water Supply" means State-created water rights which are recognized under the provisions of the Utah Code.

The terms "State-appropriated water supply" and "drinking, domestic or residential water supply" are different terms used in Utah's proposed rules and the Federal regulations, respectively, in the same context. Utah refers to "State-appropriated water supply" in its permit application rules for subsidence control plans and for probable hydrologic consequences determinations related to underground coal mining and reclamation activities at Utah Admin. R. 645–301–525 and 645–301–728.350. Utah also uses the term in its water replacement performance standard for underground mining activities at Utah Admin. R. 645–301–731.530. The Federal regulations use the term "drinking, domestic or residential water supply" in the permit application regulations for probable hydrologic consequence determinations related to underground mining activities and for subsidence control plans at 30 CFR 784.14(e)(3)(iv) and 784.20(a). They also use this term in the underground mining performance standards for water replacement at 30 CFR 817.41(j).

Utah's proposed definition of "State-appropriated water supply" is based on its use of the term "State-appropriated water" at Utah Code Annotated (UCA) 40–10–18(15)(c). As written in that section of the Code,

> Subject to the provisions of Section 40–10–29, the permittee shall promptly replace any State-appropriated water in existence prior to the application for a surface coal mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations.

The Federal counterpart statutory provision is found at section 720(a)(2) of SMCRA, as amended by the Energy Policy Act of 1992. It provides for replacement of "any drinking, domestic, or residential water supply from a well or spring" rather than "any State-appropriated water."

In a January 29, 1997, letter clarifying the proposed use of the term "State-appropriated water" at UCA 40–10–18(15)(c) in amendment UT–035-FOR (administrative record number UT–1094), the State noted that it conferred and agreed with Utah water users and coal operators on use of that term. Utah wrote:

> It appears to DOGM that the "subject to" clause in the proposed bill more logically should be read as a deliberate cross-reference to subsection 1 of Utah Code 40–10–29, which subsection states:
>
> "(1) Nothing in this chapter shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, his interest in water resources affected by a surface coal mining operation."
>
> *Id.* In other words, the water users want the "subject to" clause because they want to make absolutely clear that the new water replacement provisions in the Utah Coal Program supplement, rather than replace, any other common law or statutory remedies otherwise available to them. Stated otherwise, the water users are happy to get a new SMCRA-inspired statutory remedy for water replacement, but they do not want to give up other water resource protection remedies, if any, which they may already have under applicable water law. [Utah] does not think Congress intended to deprive water users of other existing remedies. Therefore, the "subject to" clause clearly does not make the Utah proposal less stringent than Section 720(a) of SMCRA.

The SMCRA counterpart to UCA 40–10–29(1) is found at section 717(a).

Utah further explained that existing statutes at Title 73 of the Utah Code Annotated govern all waters of the State. Utah wrote:

> Under Utah water law, a person or entity cannot be a "legitimate" water user if he/she/it is using water that has not been appropriated by the State. The deliberately broad phrase "any state-appropriated water" covers the "* * * universe of legal Utah water uses by the universe of legal water users."

Utah asserted that use of "State-appropriated water" in its statute, therefore, provided broader water replacement protection than the Federal provision for underground mining activities which is limited to "drinking, domestic or residential water supply" from a well or spring. For example, Utah noted that State-appropriated agricultural irrigation and industrial water must be replaced under its provision. We agreed with Utah and approved the State's use of "State-appropriated water" at UCA 40–10–18(15)(c) as no less stringent than section 720(a)(2) of SMCRA (62 FR 41845, August 4, 1997; finding number 7).

We received public comments on amendment UT–037–FOR that questioned the scope of Utah's proposed water replacement provisions (administrative record number UT–1112). One commenter specifically wrote that

> Utah Code Ann. § 40–10–18 is not limited to water "supply" but all state-appropriated water. Also, many water rights in Utah, including those in coal mining areas, predate statehood and thus are not state-created, but are recognized by Utah law.

The comment raised a question concerning the State's January 29, 1997, clarification that "State-appropriated water" covers all legal uses of water in Utah. It also prompted the need for clarification of Utah's proposed definition of "State-appropriated water supply" in this amendment.

We have previously said that section 717(a) of SMCRA requires deference to State water law on questions of water allocation and use (*See* 60 FR 16722, 16733; March 31, 1995). Utah's definition of "State-appropriated water supply" defers to existing State law in its recognition of State-created water rights. In its October 31, 2000, letter, Utah explained that, under UCA 73–3–5, the State can recognize water claims established by diversion ("diligence rights") before statehood and before the State Engineer's office was established. As a result, the scope of "State-appropriated water" includes territorial water rights (Utah provided this explanation in response to a question we asked in our October 1, 1998, letter that was prompted by a public comment. *See* Part IV.1 of this final rule for that discussion of "pre-statehood" water rights). Utah asserts that "State-appropriated water supply" includes all legal water uses and that all legal uses of water in Utah must be appropriated by the State under provisions of the Utah Code. The term therefore includes water from wells and springs and any appurtenant delivery systems providing water for direct human consumption or household use as does the Federal definition of "drinking, domestic or residential water supply." It also extends protection to other water uses not included in the Federal definition of the term "drinking, domestic or residential water supply," such as water used only for agricultural or industrial needs.

Based on the State's explanation that the term "State-appropriated water supply" encompasses the "universe of legal water uses by the universe of legal water users" in Utah, we find Utah's proposed definition of "State-appropriated water supply" at Utah Admin. R. 645–100–200 to be no less effective than the Federal definition of "drinking, domestic or residential water supply" at 30 CFR 701.5. It also satisfies item B.1 of our June 5, 1996, 30 CFR part 732 letter.

3. Utah Admin. R. 645–100–200, Definition of "Replacement of Water Supply"

Utah proposed the definition of "replacement of water supply" at Utah Admin. R. 645–100–200 as follows:

> "Replacement of Water Supply" means, with respect to State-appropriated water supplies contaminated, diminished, or interrupted by coal mining and reclamation operations, provision of water supply on both a temporary and permanent basis equivalent to premining quantity and quality. Replacement includes provision of an equivalent water delivery system and payment of operation and maintenance costs in excess of customary and reasonable delivery costs for premining water supplies.
>
> (a) Upon agreement by the permittee and the water supply owner, the obligation to pay such operation and maintenance costs may be satisfied by a one-time payment in an amount which covers the present worth of the increased annual operation and maintenance costs for a period agreed to by the permittee and the water supply owner.
>
> (b) If the affected water supply was not needed for the land use in existence at the time of loss, contamination, or diminution, and if the supply is not needed to achieve the postmining land use, replacement requirements may be satisfied by demonstrating that a suitable alternative water source is available and could feasibly be developed. If the latter approach is selected, written concurrence must be obtained from the water supply owner.

Under Utah's proposed definition, those water supplies subject to being replaced are State-appropriated water supplies contaminated, diminished, or interrupted by coal mining and reclamation operations. The Federal definition is similar but differs by extending replacement protection to "protected water supplies" that are adversely affected by "coal mining operations."

As explained in the previous finding at Part III.C.2 of this final rule, the State's proposed definition of "State-appropriated water supply" at Utah Admin. R. 645–100–200 includes the same water supplies that are included under the Federal counterpart definition of "drinking, domestic or residential water supply" at 30 CFR 701.5. In addition, as Utah explained in its January 29, 1997, clarification (administrative record number UT–1094), the State's term includes other water supplies such as water for agricultural and industrial needs. The term "protected water supplies" used in the Federal definition of "replacement of water supply" is not defined. However, the performance standard for water replacement at 30 CFR 817.41(j) identifies water supplies to be replaced as "* * * any drinking, domestic or residential water supply that is contaminated, diminished, or interrupted by underground mining activities * * *." Such water supplies are included in Utah's definition of "State-appropriated water supply" as supported by the underlying definition of "State-appropriated water" in UCA 40–10–18(15)(c). In its January 29, 1997, clarification, the State further explained that "State-appropriated water" includes all legal water uses in Utah.

Utah's proposed definition of "replacement of water supply" requires replacement of an adversely affected "State-appropriated water supply," which, in turn, is based on the term "State-appropriated water" as used at UCA 40–10–18(15)(c). That statutory provision addresses replacement of water adversely affected by *underground* coal mining operations. Utah clarified the scope of the term "State-appropriated water" in its January 29, 1997, letter as covering all legitimate water uses, including State-appropriated agricultural irrigation and industrial water. However, defining "replacement of water supply" in terms of "State-appropriated water supply" appeared to establish the scope of "replacement of water supply" in terms of underground coal mining operations only. As we explained in the preamble to the final rule approving the Federal counterpart definition of "replacement of water supply" (60 FR 16722, 16726; March 31, 1995), the Federal definition applies to underground *and* surface coal mining operations that affect water supplies. Our explanation added that the final rule is intended to apply to replacement of water supply under sections 717(b) and 720(a)(2) of SMCRA, which are the Federal counterparts to UCA 40–10–29(2) and 40–10–18(15)(c), respectively. Reference to "protected water supplies" in the Federal definition of "replacement of water supply" is broad enough to include water adversely affected by surface and underground operations.

In our October 1, 1998, letter (administrative record number UT–1125), we asked Utah to clarify its proposed definition of "replacement of water supply." We specifically asked Utah to clarify whether its term, as proposed to require replacement of adversely affected State-appropriated water supplies, requires replacement of water adversely affected by surface *and* underground coal mining operations

under UCA 40–10–18(15)(c) and 40–10–29(2).

Utah responded to our request for clarification in its October 31, 2000, letter (administrative record number UT–1145). In its response, Utah wrote:

> The provisions for the replacement of water supplies that are made under the definition of "Replacement of Water Supply" at R645–100–200 are made for water supplies that are contaminated, diminished, or interrupted by coal mining and reclamation operations (emphasis added) which is a defined term also located at R645–100–200. Thus, the replacement of water supply(ies) as contemplated under the definition by the same name does include the replacement of water supplies affected by both surface and underground mining.

Utah's use of the term "coal mining and reclamation operations" in its proposed definition of "replacement of water supply" differs from the Federal term's definition but is consistent with it because it includes the same mining activities and effects, including "activities conducted on the surface of lands in connection with a surface coal mine * * *."

We received public comments concerning the scope of Utah's proposed water replacement rules in amendment UT–037–FOR (administrative record number UT–1112). Several comments suggested expanding Utah's water replacement provisions and are addressed under Part IV of this final rule.

In responses to comments the State received during its rulemaking process, Utah explained that it intends to require replacement of "developed" water supplies through its proposed water replacement rules (administrative record number UT–1119). That interpretation of the State's proposed rules does not appear to be consistent with its January 29, 1997, letter clarifying use of the underlying term "State-appropriated water" at UCA 40–10–18(15)(c). As asserted in that letter, any State-appropriated water covers the universe of legal Utah water uses by the universe of legal water users. Depending on what Utah considers "developed" water supplies to be, we believed some waters covered by the term "State-appropriated water" in the Utah Code might not be included in the proposed definition of "State-appropriated water supply" or covered by various rules incorporating that term throughout the proposed amendment.

In our October 1, 1998, letter, we asked Utah to describe what constitutes a "developed" water supply in its interpretation of its proposed rules. We also asked Utah to clarify how its interpretation is consistent with its interpretation of the term "State-appropriated water" at UCA 40–10–18(15)(c). Utah responded to our request for clarification in its October 31, 2000, letter by stating, "The Division interprets that a "State-Appropriated Water Supply" includes the drinking, domestic, and residential water supplies of a water user."

As we explained above and in our finding for the proposed definition of "replacement of water supply," the State's proposed definition of "State-appropriated water supply" at Utah Admin. R. 645–100–200 includes the same water supplies included under the Federal definition of "drinking, domestic or residential water supply" at 30 CFR 701.5. Utah also explained in its January 29, 1997, clarification that its term includes other water supplies such as those supplying water for agricultural or industrial needs. The scope of water supply replacement under Utah's proposed definition of "replacement of water supply" is potentially broader than that provided by the Federal definition of "replacement of water supply" by virtue of the State's use of the term "State-appropriated water supplies" to identify water supplies subject to being replaced if contaminated, diminished, or interrupted by "coal mining and reclamation operations."

For these reasons, we find Utah's proposed definition of "replacement of water supply" is no less effective than the Federal definition. It also satisfies item B.5 of our June 5, 1996, 30 CFR part 732 letter.

4. Utah Admin. R. R645–301–525.100 through –525.130, Pre-subsidence Surveys

Utah proposed to delete the introductory statement at Utah Admin. R. 645–301–525 as well as its existing survey provisions at Utah Admin. R. 645–301–525.100 and 645–301–724.600. The State proposes to replace those rules with new rules introducing the subsidence control plan provisions in general and the pre-subsidence survey provisions at Utah Admin. R. 645–301–525 through –525.130.

In proposed section R645–301–525.100, Utah introduces the subsections on subsidence control plans and pre-subsidence survey requirements as pertaining to "underground coal mining and reclamation activities." Use of that term is consistent with Utah's definition of the same term at R645–100–200. Though the Federal regulation at 30 CFR 784.20 does not contain a similar qualifying statement, part 784 of the 30 CFR regulations is entitled, "UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN" and includes section 784.20.

Utah's proposed section R645–301–525.110 differs from the Federal counterpart regulation at 30 CFR 784.20(a)(1) in two ways. First, it refers to a larger map scale required, if necessary, by the "Division" as compared to "the regulatory authority" in the Federal regulations. Second, it requires such maps to show the location and type of "State-appropriated water" compared to the Federal term, "drinking, domestic, and residential water supplies." The Division [of Oil, Gas and Mining] is the regulatory authority in Utah. As we explained in our finding for Utah's proposed definition of "State-appropriated water supply" at Part III.C.2 of this final rule, the State's use of this term is based its use of the term "State-appropriated water" in the statutory provision for water replacement at Utah Code Annotated 40–10–18(15)(c). We approved Utah's use of "State-appropriated water" in the Utah Code as no less stringent than the term "drinking, domestic, or residential water supply" at section 720(a)(2) of SMCRA in the August 4, 1997, final rule **Federal Register** (62 FR 4185).

The requirement at proposed Utah Admin. R. 645–301–525.120 for a narrative indicating if subsidence could materially damage or diminish the value or use of structures or renewable resource lands or adversely affect water supplies differs from the counterpart Federal regulation at 30 CFR 784.20(a)(2) only in Utah's use of the term "State-appropriated water supplies." As explained above, we find this term to be no less effective than the counterpart Federal term "drinking, domestic or residential water supplies."

Proposed Utah Admin. R. 645–301–525.130 requires a survey of the quantity and quality of all "State-appropriated water supplies" within the permit and adjacent areas that could be contaminated, diminished, or interrupted by subsidence. The counterpart Federal regulation also requires such a survey, but of the quantity and quality of "drinking, domestic, or residential water supplies." As explained above, we find this term to be no less effective than the Federal term "drinking, domestic or residential water supplies."

This same proposed rule also requires a permittee to give written notification to property owners who deny access to conduct surveys of buildings, dwellings, other structures, and water supplies of the effect denial will have as "described

in R645–301–525.543." Utah's original amendment contained a reference to Utah Admin. R. 645–301–525. In our October 1, 1998, letter (administrative record number UT–1125), we notified Utah of our concern that its reference should be more specific to ensure that applicants provide sufficient notice to owners that there will be no presumption of causation by subsidence if the owners deny applicants access to perform pre-subsidence surveys. Utah responded in its October 31, 2000, letter (administrative record number UT–1145) by changing the reference to cite Utah Admin. R. 645–301–525.543. The referenced rule provides that a rebuttable presumption does not exist if the permittee is denied access to conduct a pre-subsidence survey. Under proposed Utah Admin. R. 645–301–525.541, if material damage occurs to any noncommercial building, occupied residential dwelling, or related structure as a result of earth movement within the angle of draw from the outer boundary of underground mine workings to the land surface, a rebuttable presumption exists that the permittee caused the damage. Though the presumption can be rebutted, if it is not, the permittee must repair or compensate property owners for such damage under proposed Utah Admin. R. 645–301–525.520. Utah committed to promulgating the change proposed in its October 31, 2000, letter in its formal rulemaking process.

Proposed Utah Admin. R. 645–301–525.130 also requires permittees to give copies of the pre-subsidence survey and any technical assessment or engineering evaluation to the property owner and the "Division." The Federal regulation at 30 CFR 784.20(a)(3) requires copies to be given to the property owner and the "regulatory authority," which is the Division in Utah's case.

We note that the State based proposed Utah Admin. R. 6445–301–525.130 on the Federal regulation at 30 CFR 784.10(a)(3), part of which we suspended after our initial review of Utah's amendment. The last sentence of 30 CFR 784.20(a)(3) states "* * * the requirements to perform a survey of the condition of all noncommercial buildings or occupied residential dwellings and structures related thereto, that may be materially damaged or for which the reasonably foreseeable use may be diminished by subsidence, within the areas encompasses by the applicable angle of draw is suspended per court order."

In its April 27, 1999, decision in *National Mining Association* v. *Babbitt*, 173 F.3d 906 (1999), the United States Court of Appeals for the District of Columbia vacated certain parts of the Federal subsidence regulations that were among those published on March 31, 1995, under SMCRA and section 2504 of the Energy Policy Act of 1992 ("EPAct;" Pub. L. 102–486, 106 Stat.2776 (1992)). EPAct added a new section 720 to SMCRA. Section 720 requires underground mine operators to repair or to compensate for material damage to residential structures and noncommercial buildings, and to replace drinking, domestic, or residential water supplies adversely affected by underground mining. The Federal regulation at 30 CFR 817.121(c)(4)(i) through (iv) provided that, if damage to any non-commercial building or occupied residential dwelling or related structures occurred as a result of earth movement in an area determined by projecting a specific angle of draw from the outer-most boundary of any underground mine workings to the surface of the land, a rebuttable presumption would exist that the permittee caused the damage. The presumption typically would have applied to a 30-degree angle of draw. The Court of Appeals vacated 30 CFR 817.121(c)(4)(i) through (iv) in their entirety. As we explained in the December 22, 1999, **Federal Register** (64 FR 71652), "* * * the Court rejected the Secretary's contention that the angle of draw concept was reasonably based on technical and scientific assessments and that it logically connected the surface area that could be damaged from earth movement to the underground mining operation. The angle of draw provided the basis for establishing the surface area within which the rebuttable presumption would apply * * *." The Court held that the angle of draw was irrationally broad and that the scientific facts presented did not support the logical inference that damage to the surface area would be caused by earth movement from underground mining within the area.

Based on the conclusion that there was no scientific or technical basis provided for establishing a rational connection between the angle of draw and surface area damage, the Court further concluded that the rebuttable presumption failed. Essentially, the Court found that "* * * for the presumption to be permissible, the facts would have to demonstrate that the earth movement from the underground mining operation 'more likely than not' caused the damage at the surface * * *." We suspended 30 CFR 817.121(c)(4)(i) through (iv) in the December 22, 1999, final rule to comply with the Court's decision.

The Court also vacated the part of 30 CFR 784.20(a)(3) that required a specific structural condition survey of all EPAct-protected structures located within an area defined by an angle of draw. As we explained in the December 22, 1999, final rule:

> * * * the Court clearly upheld the Secretary's authority to require a pre-subsidence structural condition survey of all EPAct-protected structures. The Court accepted the Secretary's explanation that this specific structural condition survey was necessary, among other requirements, in order to determine whether a subsidence control plan would be required for the mining operation. However, because of the Court's ruling on the "angle of draw" regulation discussed above, it vacated the requirement for a specific structural condition survey because it was tied directly to the area defined by the "angle of draw."

So, in the December 22, 1999, **Federal Register** (*Id.*), we suspended the part of 30 CFR 784.20(a)(3) that required a specific structural condition survey of all structures protected by EPAct. The rest of that regulation remains in force to the extent that it applies to the EPAct-protected water supplies survey and any technical assessments or related engineering evaluations.

Utah declined to revise its amendment in light of the suspended Federal regulations (administrative record number UT–1148). The fact that we suspended the part of 30 CFR 784.20(a)(3) requiring a pre-subsidence structural condition survey of EPAct-protected structures within the area defined by an angle of draw does not preclude Utah from having that provision in its rules. In addition, Utah's proposal to include such a provision in its rules does not make Utah's proposed rule less effective than the Federal regulations or less stringent than SMCRA. Section 505(b) of SMCRA provides that "Any provision of any State law or regulation in effect on the date of enactment of this Act, or which may become effective thereafter, which provides for the control and regulation of surface mining and reclamation operations for which no provision is contained in this Act shall not be construed to be inconsistent with this Act." The State promulgated proposed Utah Admin. R. 645–301–525.130 on March 15, 1998. In addition, this proposed rule provides for the control and regulation of surface mining and reclamation operations in accordance with section 505(b) of SMCRA. 0

Therefore, based on the reasoning presented above, we find proposed Utah Admin. R. 645–301–525 through –525.120 are no less effective than the counterpart Federal regulations, and proposed Utah Admin. R. 645–301–525.130 is not inconsistent with SMCRA

or the Federal regulations. The State's proposal to remove existing provisions at Utah Admin. R. 645–301–525 through –525.100 and at 645–301–724.600 is appropriate in light of the new provisions it is adding.

5. Utah Admin. R. 645–301–525.400, –525.480, and –525.490, Subsidence Control Plan Contents

Utah proposes to add new provisions at Utah Admin. R. 645–301–525.400 through –525.490 describing information that must be included in subsidence control plans. It also proposes to remove existing provisions for subsidence control plans at Utah Admin. R. 645–301–525.110 through –525.170.

Proposed R645–301–525.400, which describes the conditions under which a pre-subsidence survey is to be conducted and what it information it must contain, differs somewhat from the Federal counterpart regulation at 30 CFR 784.20(b). Utah's rule refers to surveys conducted under "R645–301–525.100" where the Federal regulation refers to surveys conducted "under paragraph (a) of this section." The Federal reference is to 30 CFR 784.20(a), which introduces the pre-subsidence survey requirements of subsections (a)(1) through (a)(3). Referenced R645–301–525.100, as also proposed in this amendment, is Utah's counterpart to 30 CFR 784.20(a). Proposed R645–301–525.400 also refers to surveying for the existence of "State-appropriated water supplies" and the need for a permit application to include a subsidence control plan if a survey shows such water supplies exist or could be adversely affected by subsidence. As we explained previously in this final rule, we find the State's term "State-appropriated water supply" to be no less effective than the Federal term "drinking, domestic, or residential water supply." Additionally, references in proposed R645–301–525.400 to the "Division" are analogous to the counterpart Federal regulation's references to the "regulatory authority" because the Division is the regulatory authority in Utah.

Proposed Utah Admin. R. 645–301–525.480 requires subsidence control plans to include a description of measures to be taken "in accordance with R645–301–731.530 and R645–301–525.500 to replace adversely affected State-appropriated water supplies or to mitigate or remedy any subsidence-related material damage to the land and protected structures * * *." The counterpart Federal regulation at 30 CFR 784.20(b)(8) requires a description of measures taken to replace "protected water supplies" and to mitigate or remedy subsidence damage to land and protected structures in accordance with "* * * §§ 817.41(j) and 817.121(c) of this chapter * * *." Referenced Utah Admin. R. 645–301–731.530 and 645–301–525.500 in Utah's proposed rule are the State's counterparts to OSM's performance standards for water replacement and surface damage repair at 30 CFR 817.41(j) and 817.121(c), respectively. We explained previously in our finding at Part III.C.3 of this final rule that, while the Federal regulations do not define "protected water supplies," 30 CFR 817.41(j) clearly identifies a protected water supply subject to replacement as a "drinking, domestic, or residential water supply." We also previously found that the State's term "State-appropriated water supply" is no less effective than the Federal term "drinking, domestic, or residential water supply."

Proposed Utah Admin. R. 645–301–525.490 requires subsidence control plans to include other information specified by the "Division" as needed to show the operation will be conducted according to R645–301–525.200, –525.300, –525.500, and –525.6500. In comparison, the counterpart Federal regulation at 30 CFR 784.20(b)(9) refers to the "regulatory authority" and to "* * * § 817.121 of this chapter." As we noted above, the Division is the regulatory authority in Utah.

In the original amendment, proposed Utah Admin. R. 645–301–525.490 only referred to Utah Admin. R. 645–301–525.300. That referenced rule includes the State's performance standards for preventing or minimizing subsidence-related damage under Utah Admin. R. 645–301–525.310 through –525.313. Referenced counterpart 30 CFR 817.121 includes a much wider range of provisions that an operation must be conducted under. Because the State's original reference was less inclusive than the referenced counterpart Federal regulation, we found originally proposed Utah Admin. R. 645–525–301.490 did not ensure that the Division will be provided with sufficient information to determine that an operation will be conducted in accordance with all applicable provisions for subsidence control. We notified Utah of our concern in our October 1, 1998, letter (administrative record number UT–1125), and advised the State that its proposed rule should include a more inclusive reference. In its October 31, 2000, response (administrative record number UT–1145), the State revised proposed Utah Admin. R. 645–301–525.490 to include references to Utah Admin. R. 645–301–525.200, –525.500, and –525.600 in addition to the original reference to –525.300. These referenced rules contain provisions analogous to those included under 30 CFR 817.121. Utah committed to promulgating this change in its formal rulemaking process.

We note that the State based proposed Utah Admin. R. 645–301–525.400, –525.480, and –525.490 on the need for a subsidence control plan when indicated by the pre-subsidence survey conducted under Utah Admin. R. 645–301–525.130. That latter rule, in turn, is based on the Federal counterpart regulation at 30 CFR 784.20(a)(3), which is suspended in part. The fact that we suspended the part of 30 CFR 784.20(a)(3) requiring a pre-subsidence structural condition survey of EPAct-protected structures within the area defined by an angle of draw does not preclude Utah from having that provision, and other provisions based on it, in its rules. As we explained previously, Utah's proposal to include provisions in its rules that are not found in SMCRA or the Federal regulations does not make Utah's proposed rules less effective than the Federal regulations or less stringent than SMCRA if those State provisions are in effect and control and regulate surface mining and reclamation operations in accordance with section 505(b) of SMCRA.

Based on these reasons, we find proposed Utah Admin. R. 645–301–525.400, –525.480, and –525.490 are no less effective than the counterpart Federal regulations and are not inconsistent with SMCRA. The State's proposal to remove existing provisions at Utah Admin. R. 645–301–525.110 through –525.170 is appropriate in light of the new provisions being added.

6. Utah Admin. R. 645–301–525.530, Repair or Compensation for Damage to Other Structures

Proposed Utah Admin. R. 645–301–525.530 requires repair of, or compensation for, subsidence-caused damage to structures or facilities not protected by Utah Admin. R. 645–301–525.520. The Federal counterpart regulation at 30 CFR 817.121(c)(3) provides that the permittee "* * * must, to the extent required under applicable provisions of State law, * * *" correct material subsidence damage caused to any structures or facilities not protected "* * * by paragraph (c)(2) of this section * * *" by repairing damage or compensating owners for the decreased value resulting from subsidence. Utah's proposed rule does not require permittees to correct damage or compensate owners "to the

extent required under applicable provisions of State law" but says they "* * * shall either correct material damage from subsidence caused to any structures or facilities not protected by paragraph 525.520 * * *" by repairing such damage or by compensating owners for the resulting decreased value.

Utah's proposed rule extends replacement or compensation protection to structures and facilities not provided such protections under Utah Admin. R. 645–301–525.520, which is based on UCA 40–10–18(15)(b)(i). Those sections of Utah's rules and its Code, respectively, provide for repair of damage to occupied residential dwellings and related structures or noncommercial buildings caused by underground coal mining after October 24, 1992. However, they do not extend such protections to other structures damaged by subsidence as provided in proposed Utah Admin. R. 645–301–525.530. By not including a phrase corresponding to the phrase "to the extent required under applicable provisions of State law" in the counterpart Federal regulation, proposed Utah Admin. R. 645–301–525.530 *is* Utah's legal requirement that a permittee repair or compensate for subsidence-caused material damage to structures not protected by UCA 40–10–18(15)(b)(i) or Utah Admin. R. 645–301–525.520. As a result, there is no need to qualify the remedies available to owners of structures or facilities by the extent to which they are otherwise required under applicable provisions of State law.

Other differences between the wording in the proposed State rule and the counterpart Federal regulation do not make Utah's proposed rule less effective. Further, the State's reference to "525.520" in its proposed rule refers to Utah Admin. R. 645–301–525.520, which is Utah's counterpart to referenced "paragraph (c)(2) of this section," or 30 CFR 817.121(c)(2), in the corresponding Federal regulation.

For these reasons, we find proposed Utah Admin. R. 645–301–525.530 is no less effective than the counterpart Federal regulation. It also satisfies item D.3 of our June 5, 1996, 30 CFR Part 732 letter.

7. Utah Admin. R. 645–301–525.540 Through –525.544, Rebuttable Presumption of Causation by Subsidence

Proposed Utah Admin. R. 645–301–525.540 through –525.544 introduce and establish a rebuttable presumption that damage sustained by certain structures was caused by mining. Proposed Utah Admin. R. 645–301–525.541 provides that, if damage occurs to any non-commercial building or occupied residential dwelling or structure related thereto as a result of subsidence in an area determined by an angle of draw from the outermost boundary of any underground workings to the land surface, there is a rebuttable presumption that the permittee caused the damage. The angle of draw normally is 30 degrees from the vertical but may be different if amended by the Division on a mine-specific basis under proposed Utah Admin. R. 645–301–525.542. Proposed Utah Admin. R. 645–301–525.543 provides for no presumption where a landowner denies a permittee access to perform a pre-subsidence survey. Finally, proposed Utah Admin. R. 645–301–525.544 provides that the presumption will be rebutted if damage predated mining, was caused by something other than subsidence, or occurred outside the surface area in which mining actually caused subsidence.

The State based its proposed rules at Utah Admin. R. 645–301–525.540 through –525.544 on the counterpart Federal regulations at 30 CFR 817.121(c)(4)(i) through (iv), which are suspended in their entirety. The fact that we suspended the Federal provisions for a rebuttable presumption of causation by subsidence at 30 CFR 817.121(c)(4)(i) through (iv) does not preclude Utah from having those provisions in its rules. In addition, Utah's proposal to include such provisions in its rules does not make Utah's proposed rules less effective than the Federal regulations or less stringent than SMCRA. Again, Utah's proposal to include provisions in its rules that are not found in SMCRA or the Federal regulations does not make Utah's proposed rules less effective than the Federal regulations or less stringent than SMCRA if those State provisions are in effect and control and regulate surface mining and reclamation operations in accordance with section 505(b) of SMCRA.

Based on this reasoning, we find proposed Utah Admin. R. 645–301–525.540, –525.541, –525.542, –525.543, and –525.544 are no less effective than the counterpart Federal regulations and are not inconsistent with SMCRA.

8. Utah Admin. R. R645–301–525.550, Adjustment of Bond Amount for Subsidence Damage

Proposed Utah Admin. R. 645–301–525.550 adds provisions for adjusting bond amounts when protected land, structures, or facilities are materially damaged by subsidence or when protected water supplies are contaminated, diminished, or interrupted. Utah's proposed rule references land, structures, or facilities protected under Utah Admin. R. 645–301–525.500 through –525.530. Those referenced proposed rules address protected surface lands, non-commercial buildings, dwellings, and related structures, and other structures or facilities. Parts III.B and III.C.6 of this final rule contain our findings that those rules are no less effective than the Federal regulations. The Federal counterpart to Utah Admin. R. 645–301–525.550 is 30 CFR 817.121(c)(5). It provides for adjusting bond amounts as a result of subsidence damage to the same buildings, dwellings, structures and facilities but refers to lands, buildings, structures and facilities protected under "* * * paragraphs (c)(1) through (c)(3) of this section * * *." Those referenced paragraphs are found at 30 CFR 817.121(c)(1) through (c)(3), which correspond to referenced Utah Admin. R. 645–301–525.500 through –525.530.

Utah's proposed rule also provides for adjusting bond amounts when subsidence contaminates, diminishes, or interrupts water supplies protected under proposed Utah Admin. R. 645–301–731.530. As noted in previous findings in this final rule, Utah identifies protected water supplies as "State-appropriated water supplies." The Federal regulation at 30 CFR 817.121(c)(5) similarly provides for bond adjustments when "* * * water supplies protected under §§ 817.41(j) * * *" are adversely affected by subsidence. Section 817.41(j) is the Federal counterpart to Utah Admin. R. 645–301–731.530 and identifies a protected water supply as a "drinking, domestic, or residential water supply." As we explained previously, Utah's term "State-appropriated water supply" is no less effective than the Federal term "drinking, domestic, or residential water supply."

References to the "Division" in Utah's proposed rule are analogous to the Federal regulation's reference to the "regulatory authority" because the Division is the regulatory authority in Utah.

For the reasons explained above, we find proposed Utah Admin. R. 645–301–525.550 is no less effective than the Federal regulation at 30 CFR 817.121(c)(5). The State's proposed rule also satisfies item D.5 of our June 5, 1996, 30 CFR Part 732 letter.

9. Utah Admin. R. 645–301–728.340 and 728.350, Probable Hydrologic Consequences (PHC) Determination

Proposed Utah Admin. R. 645–301–728.350 requires probable hydrologic consequences determinations to find whether underground coal mining and reclamation activities conducted after October 24, 1992, will adversely affect State-appropriated water that exists in the proposed permit or adjacent areas at the time a permit application is submitted, and that is used for legitimate purposes in those areas.

The proposed rule differs from the Federal counterpart regulation at 30 CFR 784.14(e)(3)(iv) in Utah's use of the term "State-appropriated water," reference to use of that water for "legitimate purposes," and reference to "underground coal mining and reclamation activities." Utah hydrology rules at Utah Admin. R. 645–301–700 establish requirements for information that must be included in applications for surface *and* underground coal mining. Because proposed Utah Admin. R. 645–301–728.350 pertains to a finding that must be included in PHC determinations specific to underground mines, the reference to "underground coal mining and reclamation activities" clearly identifies it as such. Similarly, adding a semi-colon at the end of the preceding subsection at Utah Admin. R. 645–301–728.340 and the word "OR" following it distinguishes proposed Utah Admin. R. 645–301–728.350 from subsection –728.340 as a finding that must be made for underground coal mining and reclamation activities as opposed to surface coal mining and reclamation activities. Utah's term "underground coal mining and reclamation activities" includes a reference to "coal mining and reclamation activities" as both are defined at Utah Admin. R. 645–100–200. The former term is the State's counterpart to the "underground mining activities" referred to in the counterpart Federal regulations at 30 CFR 784.14(e)(3)(iv), which are defined at 30 CFR 701.5.

The term "State-appropriated water" and reference to use of that water for "legitimate purposes" in proposed Utah Admin. R. 645–301–728.350 are not inconsistent with the Federal regulations. As noted in previous findings for this amendment, Utah's statutory provision for water replacement at Utah Code Annotated (UCA) 40–10–18(15)(c) is based on the term "State-appropriated water." As used in this proposed rule and UCA 40–10–18(15)(c) and clarified by Utah in its January 29, 1997, letter (administrative record number UT–1094), "State-appropriated water" provides broader water replacement protection than is provided under the corresponding term "drinking, domestic, or residential water supply" used in the Federal regulation for PHC findings at § 784.14(e)(3)(iv) and protected under section 720(a)(2) of SMCRA. Utah's proposed qualification that the water in existence at the time a permit application is submitted be used for "legitimate purposes" refers back to its term "State-appropriated water." To paraphrase Utah's clarification about the term "State-appropriated water" in its January 29, 1997, letter, the only *legitimate* use of water in Utah is the use of water appropriated by the State. Moreover, the criterion for legitimate water use proposed at Utah Admin. R. 645–301–728.350 for underground mining is consistent with the requirement that PHC determinations include findings on the impacts of surface coal mining and reclamation activities on the source(s) of water used for domestic, agricultural, industrial, or *other legitimate purpose* at Utah Admin. R. 645–301–728–340 and counterpart 30 CFR 780.21(f)(3)(iii) (emphasis added).

Based on the reasons explained above, proposed Utah Admin. R. 645–301–728.350 and the proposed revision to Utah Admin. R. 645–301–728.340 are not inconsistent with, and are no less effective than, the Federal regulation at 30 CFR 784.14(e)(3)(iv). The proposed rules also satisfy item C.1 of our June 5, 1996, 30 CFR part 732 letter.

10. Utah Admin. R. R645–301–731.530, Hydrology: Operation Plan: State-Appropriated Water Supply

Proposed Utah Admin. R. 645–301–731.530 requires a permittee to replace any State-appropriated water supply that is contaminated, diminished, or interrupted by underground coal mining and reclamation activities conducted after October 24, 1992, if the affected water supply existed before the Division received the permit application for the activities causing the adverse effects. It also requires use of baseline hydrologic and geologic information required in Utah Admin. R. 645–301–700 to determine mining impacts on the water supply. Utah's proposed rule differs from the counterpart Federal regulation at 30 CFR 817.41(j) in its use of the terms "State-appropriated water supply," "underground coal mining and reclamation activities," and "Division" and by referring to Utah Admin. R. 645–301–700. The corresponding terms in the Federal regulation are "drinking, domestic or residential water supply," "underground mining activities," and "regulatory authority." Also, the Federal regulation refers to baseline hydrologic information required in 30 CFR 780.21 and 784.14 and geologic information required in sections 780.21 and 784.22.

In Part IV.A of this final rule, we describe in detail commenters' concern for the scope of Utah's proposed water replacement rules and their suggestion for expanding the State's water replacement provisions (administrative record number UT–1112). As we explained above and in previous findings in this final rule, the State's proposed definition of "State-appropriated water supply" at Utah Admin. R. 645–100–200 includes those water supplies included under the Federal definition of "drinking, domestic or residential water supply" at 30 CFR 701.5. Utah explained in its January 29, 1997, clarification that its term includes other water supplies such as wells and springs that supply water for agricultural, commercial or industrial needs. Therefore, the scope of water supply replacement under Utah's proposed rule is potentially broader than that provided under the Federal definition of "replacement of water supply" by virtue of the State's use of its defined terms "State-appropriated water supplies" and "replacement of water supply" in describing those water supplies subject to replacement if contaminated, diminished, or interrupted by underground coal mining and reclamation activities.

Utah's original (March 20, 1998) submittal of this amendment required prompt replacement of water adversely affected by "underground mining activities." While that term appears to be identical to that in the counterpart Federal regulation, it is undefined in Utah's rules and statute. In telephone conversations on April 29 and May 11, 1998, we advised Utah that use of its defined term "underground coal mining and reclamation activities" would be more appropriate (administrative record numbers UT–1111 and UT–1113, respectively). The State responded with a letter dated May 13, 1998 (administrative record number UT–1115), in which it agreed to change "underground mining activities" to "underground coal mining and reclamation activities" through formal rulemaking. Utah promulgated the corrected rule that includes the term "underground coal mining and reclamation activities" on September 30, 1998 (DAR file number 21334), which is among those we are approving in this final rule. As defined at Utah Admin. R. 645–100–200, "underground coal mining and reclamation activities" is the State's counterpart to the Federal

term "underground mining activities" as defined at 30 CFR 701.5.

As noted previously, the Division is the regulatory authority in Utah.

Based on the reasons explained above, we find proposed Utah Admin. R. 645–301–731.530 is no less effective than the counterpart Federal regulation. It also satisfies item D.1 of our June 5, 1996, 30 CFR part 732 letter.

IV. Summary and Disposition of Comments

Following are summaries of all written comments on the proposed amendment that we received and our responses to those comments.

A. Public Comments

We asked for public comments on the proposed amendment as originally submitted (administrative record number UT–1106) and as revised in Utah's October 31, 2000, letter (administrative record number UT–1156). We received six comment letters, two of which attached comments from four water user groups.

The Utah Mining Association (UMA) responded in a May 5, 1998, letter, by expressing its support for the proposed amendment and urging us to approve it (administrative record number UT–1114). UMA noted that it was actively involved in developing the State legislation that enabled the rule changes. It explained how it worked with the State Engineer to ensure protection of water rights throughout the legislative process and with water users in Utah's coal regions to develop legislative language.

We also received comments submitted by two law firms on behalf of a special service district, a water conservancy district, an irrigation company, and a water users association (hereafter, collectively the "water users") (administrative record number UT–1112). These commenters represent water users in a predominant coal mining region of Utah. The remaining discussions under Part IV.A of this final rule describe the water users' comments and our responses.

A number of water user comments proposed changes to rules that are not the subject of amendment UT–037–FOR. Those comments addressed alternative water source information for surface coal mining and reclamation activities, PHC findings and requirements concerning acid- or toxic-forming materials, discharges into underground mines, and gravity discharges. While these comments pertain to water-related issues, we find that the rules and changes they suggested do not apply to this rulemaking. However, we forwarded these comments to the State for its consideration.

1. Replacement of Water Supply; State-Appropriated Water Supply; and Water Supply

One comment described Utah's proposed definition of "replacement of water supply" at Utah Admin. R. 645–100–200 as applicable only to surface mining operations. The comment based this conclusion on Utah's reference to State-appropriated water supplies adversely affected by "coal mining and reclamation operations." It assumed that this term in Utah Admin. R. 645–100–200 is less inclusive than the term "coal mining operations" in the Federal definition of "replacement of water supply" at 30 CFR 701.5.

As defined at Utah Admin. R. 645–100–200, "coal mining and reclamation operations" includes activities conducted on the surface of lands in connection with a surface coal mine and surface coal mining and reclamation operations, as well as surface impacts incident to an underground coal mine. The phrase "surface impacts incident to an underground coal mine," also is defined at Utah Admin. R. 645–100–200 and means all operations involved in or related to underground coal mining and reclamation activities. It includes activities conducted on the land surface, that alter or disturb the land surface, or that disturb the surface, air, or water resources of the area.

The Federal counterpart to Utah's term "coal mining and reclamation operations" is "surface coal mining operations" and is defined at section 701(28) of SMCRA. "Surface coal mining operations" includes the scope of activities included in the term "coal mining operations" as defined at 30 CFR 705.5 and 706.3, and included in the Federal definition of "replacement of water supply." It also includes activities conducted on the surface of lands in connection with a surface coal mine as well as to surface operations and surface impacts incident to an underground coal mine. Also, as we explained in our finding at Part III.C.3. of this final rule, Utah clarified in its October 31, 2000, letter (administrative record number UT–1145) that its proposed definition of "replacement of water supply" provides for the replacement of water supplies adversely affected by "coal mining and reclamation operations." The latter term is defined in Utah's rules to include surface and underground mining. For these reasons, we found Utah's definition of "replacement of water supply" to be no less effective than the Federal counterpart definition at 30 CFR 701.5.

Other comments suggested removing the word "supply" from Utah's definitions of "replacement of water supply" and "State-appropriated water supply," and from references to water supply throughout Utah's proposed amendment. In some cases, comments suggested replacing the word "supply" or "supplies" with "source" or "sources" or to add the term "water sources." While the preamble to the final rule approving the Federal definition of "replacement of water supply" indicates that circumstances could require replacement of a water source (*See* 60 FR 16722, 16733, March 31, 1995), sections 717(b) and 720(a)(2) of SMCRA and the Federal regulations use the terms "supply" and "supplies." The standard we use for review of Utah's program is that it must be no less effective than the Federal regulations and no less stringent than SMCRA. We cannot require Utah's provisions to be more stringent than SMCRA or more effective than the Federal regulations. Utah's use of the terms "supply" and "supplies" in its proposed rules is consistent with use of those terms in SMCRA and the Federal regulations. We therefore find the State's proposed rules are no less stringent than SMCRA and no less effective than the counterpart Federal regulations without the suggested changes.

Another comment suggested replacing the term "water supply owner" in Utah's proposed definition of "replacement of water supply" with "water rights holder."

Utah's use of the term "water supply owner" is consistent with use of the identical term in the counterpart Federal definition of "replacement of water supply" at 30 CFR 701.5. The State's proposed definition therefore is no less effective than the counterpart Federal definition in this regard as well without the suggested change.

One comment also maintained that UCA 40–10–18 is not limited to water "supply" but pertains to all State-appropriated water. It also stressed that many water rights in Utah pre-date statehood and thus are not State-created, but are recognized by Utah law. Sections of the State's rules to which this comment applied include: Utah Admin. R. 645–100–200, definitions; 645–301–525.120 and 525.130, pre-subsidence survey; 645–301–525.400 and 525.480, subsidence control plan contents; 645–301–525.550, adjustment of bond amount for subsidence damage; 645–301–728.350, PHC determinations for underground coal mining and reclamation activities; and 645–301–731.530, replacement of State-appropriated water supply.

In our October 1, 1998, letter to Utah (administrative record number UT–1125), we asked the State to further clarify its interpretation of the term "State-appropriated water" to address the question of whether there are legal uses of water in Utah that fall outside the scope of "State-appropriated water." We also asked Utah to clarify its interpretation of the proposed definition of "State-appropriated water supply" to address the assertion that legal water rights exist in the State that are recognized by Utah law but are not created by the State.

Utah responded to our request for clarification in a letter dated October 31, 2000 (administrative record number UT–1145). In its response, Utah said it has a process under Utah Code Annotated Section 73–5–13 [which it included in its letter] to recognize water claims established by diversion ("diligence rights") before the State Engineer's office was established and before Utah became a State. Utah's response concluded that "State-appropriated water" therefore includes territorial water rights. UCA 73–5–13 is entitled, "Claim to surface or underground water not otherwise represented—Information required—Corrections—Filing—Investigation—Publication—Judicial action to determine validity—Rules." Subsection (1)(a) provides that:

> All claimants to the right to the use of water, including both surface and underground, whose rights are not represented by certificates of appropriation issued by the state engineer, by applications filed with the state engineer, by court decrees, or by notice of claim filed pursuant to law, shall submit the claim to the state engineer.

Subsection (2) describes the information that each claim must include, and subsection (4) requires that:

> Upon submission by a claimant of a claim that is acceptably complete under Subsection (2) and the deposit of money by a claimant with the state engineer sufficient to pay the expenses of conducting a field investigation and publishing a notice of the claim, the state engineer shall (i) file the claim; (ii) endorse the date of its receipt; (iii) assign the claim a water right number; and (iv) publish a notice of the claim following the same procedures as provided in Section 73–3–6.

Subsection (4)(c) provides that "The acceptance of any claim filed under this section by the state engineer may not be considered to be an adjudication by the state engineer of the validity of the claimed water right." At the same time, however, the report of the State Engineer's investigation of the claim is "* * * admissible in any administrative or judicial proceeding on the validity of the claim * * * " under subsection (5)(b)(ii).

Our finding at Part III.C.2. of this final rule describes Utah's clarification of its term "State-appropriated water" at UCA 40–10–18(15)(c). We found the definition of this term to be no less effective than the counterpart Federal term "drinking, domestic, or residential water supply." That Federal term is based on the wording of section 720(a)(2) of SMCRA as amended by EPAct and requires replacement of water supplies adversely affected by underground mining coal mining operations. Our findings at Parts III.C.2, 3, 4, 5, 9 and 10 of this final rule also explain why we find Utah's definitions and rules as proposed with the terms water "supply" or "supplies" to be no less effective than the Federal regulations. As we further explained at Part III.C.2 of this final rule, and is found at UCA 40–10–29(1), this provision supplements, but does not otherwise affect in any way, anyone's right to protect or enforce his or her interest in water resources affected by a coal mining operation.

In addition, Utah's rules contain other provisions to ensure protection of surface and ground water beyond the protections afforded by this amendment. Utah Admin. R. 645–301–728 addresses determinations of the probable hydrologic consequences of mining on surface and groundwater in proposed permit and adjacent areas. As required by Utah Admin. R. 645–301–729, for each permit application, the State develops a cumulative hydrologic impact assessment (CHIAs) of probable impacts of mining and reclamation on surface and ground water systems in the cumulative impact area. A CHIA also determines if proposed mining and reclamation is designed to prevent material damage to the hydrologic balance outside the permit area. Performance standards at Utah Admin. R. 645–301–750 *et seq.* require all coal mining and reclamation operations to be conducted to minimize disturbance to the hydrologic balance in the permit and adjacent areas. They also require those operations to prevent material damage to the hydrologic balance outside the permit area and to support approved postmining land uses.

One comment suggested rewording Utah's definition of "replacement of water supply" to require payment of actual delivery costs instead of costs in excess of customary and reasonable delivery costs for premining water supplies. As proposed in Utah's definition, such payment pertains to operation and maintenance costs in excess of customary and reasonable costs of premining water supply delivery. We considered payment of costs in the preamble to the final rule approving the Federal definition of "replacement of water supply" at 30 CFR 701.5 (60 FR 16722, 16726, March 31, 1995). In that discussion, we noted that payment of costs for replacement water supply operation and maintenance in excess of premining costs would ensure a water supply user or owner is made whole upon installation of the replacement supply by not passing-on to the user any additional costs beyond those that were customary and reasonable for the premining supply. The final Federal definition provides for payment of costs in excess of customary and reasonable delivery costs for premining supplies. Utah's proposed definition is no less effective than the Federal definition because it contains the same provision for payment of costs without the change suggested in the comment. As explained previously, the standard we use for review of Utah's program is that it must be no less effective than the Federal regulations and no less stringent than SMCRA. We cannot require Utah's provisions to be more stringent than SMCRA or more effective than the Federal regulations.

In another comment, water users suggested removing paragraph (b) from Utah's proposed definition of "replacement of water supply" at Utah Admin. R. 645–100–200. Paragraph (b) provides that demonstrating that a suitable alternative water source is available and could feasibly be developed will satisfy replacement requirements if the affected supply was not needed for the existing land use when it was lost, contaminated, or diminished, and if it is not needed to achieve the post mine land use. If this approach is selected, written concurrence from the supply owner must be obtained. The commenter maintained that no statutory provision excuses a permittee from the requirement to replace adversely affected State-appropriated water.

We considered similar comments in our preamble discussion of the Federal definition of "replacement of water supply" in the March 31, 1995, final rule (*Id.*, at 16727). We adopted the Federal definition, including the alternative water source demonstration, to give the water supply owner the option of foregoing installation of a delivery system in circumstances in which the system was not wanted or needed. We reasoned that the provision still would require all coal mining operations to be conducted to ensure water sources remain to support existing

and proposed land use by requiring the permittee to demonstrate water availability equal to premining quality and quantity. Only a water delivery system that would not be used for the postmining land use, and that was not needed for the premining land use, may be waived. We concluded that this provision ensures compliance with EPAct and section 717 of SMCRA in all essential respects, while avoiding unneeded expense. The same reasoning applies to Utah's proposed definition of "replacement of water supply." Based on this reasoning, we believe Utah's proposed definition is no less effective than the counterpart Federal definition at 30 CFR 701.5 without the suggested change. Further, we cannot require Utah's provisions to be more stringent than SMCRA or more effective than the Federal regulations.

2. Suggested Additional Definitions and Rebuttable Presumptions

Four comments submitted by water users suggested that Utah should define a number of terms and create additional rebuttable presumptions to provide more protection to water rights holders. The terms included: "Promptly," as used to describe replacement of State-appropriated water at UCA 40–10–18(15)(c) and proposed Utah Admin. R. 645–301–731.530; and "contamination of water," "diminution of water," and "interruption of water" as used to describe water subject to replacement at UCA 40–10–18(15)(c) and included in several rules in this amendment. The comments also suggested that these additional definitions should include rebuttable presumptions of contamination, diminution, and interruption, respectively.

The Federal counterpart to UCA 40–10–18(15(c) is section 720(a)(2) of SMCRA, as amended by EPAct. SMCRA does not define the terms "promptly," "contamination of water," "diminution of water," or "interruption of water" as used in that section. We previously found UCA 40–10–18(15)(c) to be no less stringent than 720(a)(2) of SMCRA and approved it on that basis (62 FR 41845, August 4, 1997). In our discussion of comments in the preamble to the March 31, 1995, final rule, however, we decided that providing guidance on the issue of timing water supply replacement would promote consistent implementation of replacement requirements (*Id.*, at 16727). Guidance on "prompt" replacement, in particular, is provided in that discussion, and we intend it to help regulatory authorities decide if water supplies have been "promptly" replaced. We explained in our finding at Part III.C.3 of this final rule that we found Utah's definition of "replacement of water supply" to be no less effective than the counterpart Federal definition at 30 CFR 701.5 as proposed by the State.

SMCRA and the Federal regulations do not require presumptions of water contamination, diminution, or interruption. In the preamble to the final rule approving the Federal regulation at 30 CFR 817.121(c)(4) that established the rebuttable presumption that subsidence damaged noncommercial buildings, dwellings, and related structures, we considered comments suggesting a presumption of subsidence causation for damage to water supplies (*Id.*, at 16741; **Note:** This pre-dated our suspension of 30 CFR 817.121(c)(4)(i) through (iv) on December 22, 1999). We did not establish a presumption for water supply damage because we believe determining the cause(s) of water supply damage does not lend itself to such a presumption. We based our conclusion, in part, on our belief that determining the cause of damage to a water supply from springs and wells can be much more complex than determining the cause of damage to surface lands and structures because the cause(s) of water supply damage can involve a potentially greater variety of geological and hydrological formations and dynamics. At the same time, we also concluded that a water supply owner's ability to have an adversely affected water supply replaced will not be inhibited by the absence of a presumption that subsidence damaged the supply. In Utah's case, if the Division ultimately proves that a water supply has been adversely affected by an underground mining operation, the permittee must promptly replace the affected supply. Consequently, we believe Utah's definition of "replacement of water supply" is no less effective than the counterpart Federal definition without the suggested presumptions.

3. Pre-Subsidence Survey

In another comment, water users suggested adding a sentence concerning map requirements in pre-subsidence surveys to the end of the proposed paragraph at Utah Admin. R. 645–301–525.110. The suggestion would require permittees to file such maps with the State Engineer, the local conservancy district, the largest water right holder in the drainage, and the County office(s) where the permit area is located in addition to including it in the permit application. In Part III.C.4 of this final rule, we found Utah Admin. R. 645–301–525.110 is no less effective than the counterpart Federal regulation at 30 CFR 784.20(a)(1) without the provision for map submittal with a permit application as suggested by the comment. This comment would add requirements to Utah's proposed rule that go beyond the scope of the counterpart Federal regulation. As explained previously, we cannot require Utah's rules to be more effective than the Federal regulations.

In addition, however, existing State rules already require maps to be available to the public in their requirements for public participation and notice. Utah Admin. R. 645–300–121 provides for public notice of the Division's receipt of an application (including maps) in local newspapers, for making the application available for public inspection and copying at county courthouses, and notifying local governmental agencies, including planning agencies, water treatment authorities and water companies where they can inspect the complete application. Utah Admin. R. 645–300–122 provides for public comments and objections related to a permit application. Utah Admin. R. 645–300–123 provides for informal public conferences about permit applications. All permit applications (including maps) on file with the Division will be made available for public inspection and copying at reasonable times as provided by Utah Admin. R. 645–300–124.

Another comment suggested adding a statement to proposed Utah Admin. R. 645–301–525.130 requiring the [permit] applicant to consult water rights holder(s), land owner(s), and the State Engineer to determine that all springs and water sources have been properly identified, monitored, and addressed in the pre-subsidence survey. Utah's approved regulatory requirements for public participation and notice are described in the preceding paragraph's response to a similar comment. Further, the State's rules at Utah Admin. R. 645–301–700 *et seq.* require permit applications to include descriptions of existing hydrologic resources, including baseline information about surface and groundwater. We believe Utah Admin. R. 645–301–525.130 is not inconsistent with SMCRA and the Federal regulations as the State proposed it without the suggested additional statement.

4. Subsidence Control

Two water user comments suggested removing the phrase "and economically" from Utah Admin. R. 645–301–525.311 and –525.312, which require measures to respectively prevent

and minimize material damage to protected structures caused by subsidence to the extent technologically and economically feasible. We considered economic feasibility in our discussion of comments in the March 31, 1995, final rule adopting the Federal subsidence control regulations (*Id.*, at 16734). Recognizing that some material damage to protected structures from subsidence is possible, we required that such damage must be repaired. At the same time, we did not intend to discourage use of planned and controlled subsidence mining methods or to require underground mining methods not normally associated with such operations. We did, however, intend to require reasonable measures to be taken on the surface to protect occupied residential dwellings and related structures and non-commercial buildings from material damage. In that context, we reasoned that, by requiring measures to minimize subsidence damage to non-commercial buildings and occupied residential dwellings and related structures only when technologically and economically feasible, we mitigated any potential for unreasonably expensive minimization measures by providing that the requirement does not apply if the permittee demonstrates that minimization would cost more than repair. The same rationale applies to Utah Admin. R. 645–301–525.300 through –525.313. We believe the proposed rule is no less effective than the counterpart Federal regulations without the suggested change.

One water user comment suggested adding a new provision at Utah Admin. R. 645–301–525.312.3. The suggested provision would require written consent of all holders of State-appropriated water with a source in, adjacent to, or down drainage from the permit area as a second prerequisite for waiving measures to minimize material damage to protected structures to the extent technologically and economically feasible. We cannot require Utah to make this suggested change because it goes beyond the scope of the State's proposed rules and the Federal regulations by requiring water holders' consent in connection with the potentially unrelated issue of structural damage.

5. Subsidence Control Plan Contents

One comment suggested changes to proposed Utah Admin. R. 645–301–525.400 that would add requirements for concurrence by the State Engineer on the results of pre-subsidence surveys and with determinations by the Division that structures, renewable resource lands, or water supplies will be adversely affected by subsidence. The same comment suggested replacing references to water "supplies" with water "sources." We previously explained in this final rule that Utah's use of the terms water "supply" or "supplies" is consistent with use of the same terms in the Federal regulations and SMCRA. We also previously explained that we cannot require Utah to include provisions in its rules that are more stringent than SMCRA or more effective than the counterpart Federal regulations. Additionally, in its January 29, 1997, clarification for statutory amendment UT–035–FOR (administrative record number UT–1094) Utah recognized the State Engineer's existing authority under State water law. For these reasons, we believe Utah Admin. R. 645–301–525.400 is no less effective than the Federal counterpart regulation at 30 CFR 784.20(b) without the suggested change.

One water user comment suggested adding a statement at the end of proposed Utah Admin. R. 645–301–525.420 that would require a separate plan, as part of the subsidence control plan, to replace any State-appropriated water that could be adversely affected by subsidence. Neither SMCRA nor the Federal regulations require a separate plan for this purpose so we cannot require Utah's rules to do so. Moreover, upon approval of this amendment, Utah will have measures in place to begin corrective action when water is adversely affected. They include: the second part of Utah Admin. R. 645–301–525.420, which refers to measures described in Utah Admin. R. 645–301–525.440, –525.450, and –525.470 that will be taken, when applicable, to correct subsidence-related material damage; and Utah Admin. R. 645–301–731.530, which requires replacement of certain adversely affected water supplies, using the baseline hydrologic and geologic information required in Utah Admin. R. 645–301–700 to determine the impact(s) of mining on water supplies. We believe Utah Admin. R. 645–301–525.420 is no less effective than counterpart 30 CFR 784.20(b)(2) without requiring a "plan within a plan" to replace water adversely affected by subsidence.

6. Repair of Damage to Surface Lands

In another comment, water users suggested removing the phrase "technologically and economically feasible" from proposed Utah Admin. R. 645–301–525.510, which concerns repair of damage to surface lands. The same reasoning we described in our response to water users' comments under the *Subsidence Control* topic in Part IV.A.4 above applies to this comment as well. We believe Utah's proposed rule has the same meaning as the counterpart Federal regulation without the suggested change.

7. Adjustment of Bond Amount for Subsidence Damage

In one comment, water users suggested changes to Utah Admin. R. 645–301–525.550, which provides for adjusting bond amounts for subsidence damage. The suggested changes would replace the term water "supply" with water "source," remove the reference to Utah Admin. R. 645–301–731.530, and require the permittee to pay the water right holder for all damages caused by adverse effects on water or a water source if replacement does not occur within 30 days after the water or source is materially damaged. Our responses to other comments above concerning the term "water supply" explained that Utah's use of that term in its rules is consistent with the wording of the Federal regulations and SMCRA.

With respect to removing the reference to Utah Admin. R. 645–301–731.530, that rule is Utah's performance standard for water replacement. As referenced, it identifies those protected water supplies subject to replacement if adversely affected by subsidence. Such adverse effects invoke the requirement in proposed Utah Admin. R. 645–301–525.550 to adjust bond amounts sufficient to ensure replacement of water supplies if, and until, they are to be replaced. Removing the reference would render Utah Admin. R. 645–301–525.550 less effective than the counterpart Federal regulation at 30 CFR 817.121(c)(5), which similarly references the Federal performance standard for water replacement at 30 CFR 817.41(j).

The comment's suggestion to require payment of damages if replacement does not occur within 30 days after water is adversely affected is beyond the scope of payment of operation and maintenance costs provided under the State and Federal definitions of "replacement of water supply." At the same time, however, we note that the citizen suit provisions of section 520(e) of SMCRA provide that nothing (in that section) shall restrict any right which any person may have under any statute or common law to seek enforcement of any of the provisions of SMCRA and the regulations or to seek any other relief. Utah's counterpart to section 520 of SMCRA is found at UCA 40–10–21(5).

Based on the explanations given above, we believe proposed Utah

Admin. R. 645–301–525.550 is no less effective than counterpart 30 CFR 817.121(c)(5) without the suggested changes.

8. Public Notice of Proposed Mining and PHC Determinations for Surface Mines

Two water user comments suggested significant changes to two sections of Utah's rules that the State made only minor changes to in this amendment. One comment suggested changing Utah Admin. R. 645–301–525.700, which provides for public notice of proposed mining. This amendment only proposes to recodify Utah Admin. R. 645–301–525.700 in view of the new rules being added to the same subsection. The comment's suggested change would require a mine operator to mail written notification of proposed mining to all holders of State-appropriated water rights in or adjacent to the permit area at least one year prior to mining. That notification would identify where the operator's subsidence control and water replacement plans may be examined. This suggested change is beyond the scope of Utah's proposed rulemaking because it does not address Utah's proposed change. In addition, we explained previously in Part IV.A.3 of this final rule that Utah's rules already provide for public notice and review of permit applications. Those applications would include plans for subsidence control and water replacement. Utah Admin. R. 645–300–121 provides for public notice of the Division's receipt of an application in local newspapers, for making the application available for public inspection and copying at county courthouses, and notifying local governmental agencies, including planning agencies, water treatment authorities and water companies where they can inspect the complete application. Further, all permit applications on file with the Division will be made available for public inspection and copying at reasonable times as provided by Utah Admin. R. 645–300–124.

The other comment suggested changing Utah Admin. R. 645–301–728.340, which addresses findings to be included in PHC determinations for surface coal mining and reclamation activities. Utah Admin. R. 645–301–728.340 is revised in this amendment only by the addition of a semi-colon and the word "OR" at the end of the paragraph to distinguish it from the new PHC findings requirement being added for underground mining at Utah Admin. R. 645–301–728.350. The comment's suggested change would require PHC findings to determine whether *surface* mining and reclamation activities conducted after October 24, 1992, would contaminate, diminish, or interrupt and underground or surface source of State-appropriated water (emphasis added). Also, it would delete the qualifying statement that such water be located within the permit or adjacent areas and be used for domestic, agricultural, industrial or other legitimate purpose. This comment does not address Utah's proposed change and is beyond the scope of the State's amendment. Nevertheless, we note that the suggested change to Utah Admin. R. 645–301–728.340 strives for consistency between that provision and the provision that follows at proposed Utah Admin. R. 645–301–728.350 for underground coal mining and reclamation activities. It is important to note that the underlying authority for proposed Utah Admin. R. 645–301–728.350 is UCA 40–10–18(15)(c), which in turn is based on section 720(a)(2) of SMCRA. Those statutory provisions require replacement of water supplies adversely affected by *underground* coal mining operations and do not affect existing water replacement requirements applicable to *surface* mining in the Federal regulations or in Utah's rules.

Though both comments are beyond the scope of this amendment, we forwarded them to the State for its consideration.

9. PHC Determinations for Underground Mines

One comment suggested rewording Utah Admin. R. 645–301–728.350, which addresses findings to be included in PHC determinations for underground coal mining and reclamation activities. The comment would change the phrase "* * * may result in contamination, diminution, and interruption * * *," which describes adverse effects of underground mining, to read, "may contaminate, diminish, and interrupt." It also suggested adding the term "water sources" after the term "State-appropriated water" and removing the qualifying statement that water be used for legitimate purposes within the permit or adjacent areas.

As proposed with the phrase "* * * may result in contamination, diminution, or interruption * * *," Utah Admin. R. 645–301–728.350 provides for PHC findings as to whether underground coal mining and reclamation activities may adversely affect State-appropriated water supplies directly or indirectly. The water users' suggested language potentially could limit PHC findings to findings only of direct adverse effects of underground mining and reclamation activities. That, in turn, would render Utah Admin. R. 645–301–728.350 potentially less effective than the counterpart Federal regulation at 30 CFR 784.14(e)(3)(iv).

Utah's qualifying statement "* * * and used for legitimate purposes" * * *" at Utah Admin. R. 645–301–728.350 describing existing water use is supported by a clarification the State provided for Utah Code amendment UT–035-FOR in its January 29, 1997, letter (administrative record number UT–1094). We discussed Utah's characterization of legitimate water use in the context of PHC findings at Utah Admin. R. 645–301–728.350 in our finding at Part III.C.9 of this final rule. Further, in the same finding, we explained how Utah's qualifying statement for legitimate use is consistent with the similar provision at Utah Admin. R. 645–301–728.340 for surface coal mining and reclamation activities. Additionally, our finding at Part III.C.2 of this final rule discusses Utah's clarification of the term "State-appropriated water," including its reference to legitimate water use. Our previous responses to other comments concerning the term "water source" in Part IV.A of this final rule explain that Utah's use of "State-appropriated water" in its rules is no less effective than the Federal regulations and is no less stringent than SMCRA.

In the same comment, water users also maintained that there is no basis for Utah Admin. R. 645–301–728.350 to qualify that water subject to the PHC finding must have been used in the permit or adjacent areas. We considered the scope of "the permit and adjacent areas" in our discussion of comments in the March 31, 1995, final rule adopting the counterpart Federal regulation at 30 CFR 784.14(e)(3)(iv) (*Id.*, at 16729). In that discussion, we explained that "adjacent area" includes all areas outside the permit area where resources, including wells or springs, could reasonably be expected to be adversely impacted by the proposed mining operation, including probable impacts from underground workings. The same rationale applies to the provisions of Utah Admin. R. 645–301–728.350.

We therefore conclude that Utah Admin. R. 645–301–728.350 is no less effective than the counterpart Federal regulation at 30 CFR 784.14(e)(3)(iv) as proposed with its reference to State-appropriated water, its description of PHC findings of adverse effects, and its inclusion of the provision that existing water be used for legitimate purposes.

B. Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested

comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Utah program. We asked for comments on the amendment as Utah originally submitted it and as revised in the State's October 31, 2000, letter (administrative record numbers UT–1106 and UT–1156, respectively).

U.S. Department of the Interior, Fish and Wildlife Service (USFWS)

The Utah Field Office of USFWS responded to our request for comments on the original amendment in a letter dated April 21, 1998 (administrative record number UT–1110). USFWS supported the proposed amendment, noting how subsidence and water loss can impact hydrologic systems and wildlife that depend on them. Additionally, USFWS observed that the amendment appears to strengthen requirements for controlling and mitigating subsidence damage and determining and correcting water supply losses.

U.S. Department of Agriculture, Forest Service (USFS)

An office of the Manti-LaSal National Forest submitted comments on the original amendment on behalf of the USFS after the close of the first comment period (administrative record number UT–1116). Discussion of those comments and our responses follow.

1. Replacement of Water Supply

One USFS comment proposed changes to Utah's definition of "replacement of water supply" at Utah Admin. R. 645–100–200. It suggested changing the last sentence of paragraph (a) of the definition to require agreement to a one-time payment of increased operation and maintenance costs by the landowner or surface management agency in addition to the permittee and the water supply owner. The comment also suggested adding another part to the definition to read:

> If the water supply or portion of the water supply is needed for the land use in existence at the time of loss, contamination, or diminution, or postmining land use, replacement requirements must meet such needs and be agreed to by the land owner or land management agency.

Both parts of this comment addressed concerns of the landowner and surface management agency for perpetuating water sources needed to sustain land uses and ecosystems. We agree that involving the landowner or surface management agency in determining water replacement needs is a prudent approach to resource management. However, imposing that as a requirement in Utah's rules is beyond the scope of the Federal water replacement regulations. It also could create conflict if the land owner and surface management agency are not the water supply owner(s) and if their consent is not a condition of land or water supply ownership or land management required under other State law.

With respect to the suggested additional part of the definition, we cannot require Utah's rules to be more effective than the Federal regulations or more stringent than SMCRA. Utah's proposed definition already provides that water replacement support existing land uses and postmining land use, as demonstrated by its provision of waivers only for replacement of adversely affected supplies not needed for the existing or postmining land uses. Further, as noted above in our response to the first part of this comment, requiring landowner or surface management agency consent could create conflict if not required by other provisions of State law. We believe Utah's definition is no less effective than the counterpart Federal definition at 30 CFR 701.5 without the suggested additional language.

2. Subsidence Control Plans and Pre-Subsidence Surveys

Another USFS comment suggested that the part of Utah Admin. R. 645–301–525 which addresses subsidence control plans require pre-subsidence surveys of all renewable resource lands, structures, and water sources within a subsidence area whether or not the permittee determines they will be adversely affected by subsidence. The comment also asserted that limiting surveys to State-appropriated waters will generate insufficient baseline data to determine the causes and effects of subsidence because they will overlook other protected water resources.

We believe Utah's proposed rules adequately provide for pre-subsidence surveys of structures, renewable resource lands and water supplies. Proposed Utah Admin. R. 645–301–525.100 specifically requires pre-subsidence surveys in each application for underground coal mining and reclamation activities. Whether adverse effects on structures, renewable resources or State-appropriated water resulting from subsidence are expected to occur or not is the basis for determining if the subsidence control plan must include the additional information described in Utah Admin. R. 645–301–525.410 through –525.490. As provided in Utah Admin. R. 645–301–525.400, that additional information will not be required in the subsidence control plan if the survey conducted under R645–301–525.100 shows, and the Division agrees, that: No structures, State-appropriated water supplies, or renewable resource lands exist; or, that no material damage to lands or structures, or no reduction in their value or use, and no adverse effects on water supplies, would occur as a result of subsidence. Proposed Utah Admin. R. 645–301–525 through –525.120 provide the same scope of pre-subsidence surveys as required by the counterpart Federal regulations at 30 CFR 784.20(a)(1) through (a)(2). Further, proposed Utah Admin. R. 645–301–525.130 provides for pre-subsidence structural surveys within an applicable angle of draw when that part of the corresponding Federal regulation at 30 CFR 784.20(a)(3) is suspended. We explained in our findings in Parts III.C.4 and III.C.5 of this final rule that partial suspension of 30 CFR 784.20(a)(3) does not make Utah's proposed provisions for pre-subsidence surveys of EPAct protected structures and subsidence control plan content inconsistent with SMCRA.

We also believe Utah's proposed rules adequately cover protected water supplies. As explained in our findings at Part III.C.3 and III.C.10 of this final rule and in our responses to other public comments in Part IV.A, Utah's water replacement provisions are based on its use of the term "State-appropriated water" at UCA 40–10–18(15)(c). Based on clarification provided by the State, that term expands Utah's protection and replacement provisions beyond the drinking, domestic, and residential water supplies from wells or springs included under the Federal regulations and SMCRA. Further, Utah's rules require baseline hydrologic data in addition to the pre-subsidence survey requirements proposed in this amendment. Provisions at Utah Admin. R. 645–301–700 *et seq.* list information required in permit applications to characterize hydrologic resources, identify potential impacts of mining on those resources, and to minimize disturbance of such resources located in proposed permit and adjacent areas.

Another USFS comment suggested that Utah Admin. R. 645–301–724.600 should not be removed as proposed in this amendment. This existing rule requires a survey to determine if aquifers and recharge areas would be materially damaged or diminished by subsidence, if it occurred, from underground mining. The comment stressed the importance of aquifers and recharge areas to surface water. It also

stressed the need to inventory water resources other than those appropriated by the State and to address them in the subsidence control plan to ensure protection of hydrologic systems. Proposed Utah Admin. R. 645–301–525.110, which replaces Utah Admin. R. 645–301–724.600, provides for pre-subsidence surveys to determine whether subsidence, if it occurred, would adversely affect structures, renewable resource lands and State-appropriated water. As defined at Utah Admin. R. 645–100–200, "renewable resource lands" includes aquifers, aquifer recharge areas, and other underground waters. SMCRA (as amended by EPAct) and the implementing Federal regulations extend replacement protection to drinking, domestic and residential water supplies from wells or springs. We explained previously in this final rule that Utah's protection of "State-appropriated water supplies" is no less effective than the Federal regulation and no less stringent than SMCRA because it extends protection to a wider range of water supplies. Utah clarified in its October 31, 2000, letter (administrative record number UT–1145) that, because it has a process under UCA 73–5–13 to recognize water claims established by diversion ("diligence rights") before the State Engineer's office was established and before Utah became a State, "State-appropriated water" also includes territorial water rights. Our response to the preceding comment also showed that Utah requires baseline data for other water resources under Utah Admin. R. 645–301–700 *et seq.* As a result, we believe the State's proposed removal of existing Utah Admin. R. 645–301–724.600 is appropriate in light of the rules it proposed to add at Utah Admin. R. 645–301–525 through –525.130.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written agreement from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the changes Utah proposed in amendment UT–037–FOR pertain to air or water quality standards. As a result, we did not request EPA's concurrence.

Nevertheless, we provided copies of the original and revised amendments to EPA for review under 30 CFR 732.17(h)(11)(i) and asked if it had any comments (administrative record numbers UT–1106 and UT–1156). We did not receive any comments from EPA.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. In letters dated March 25, 1998, and April 6, 1998, we requested comments from the SHPO and the ACHP, respectively, on the original amendment (administrative record number UT–1106). We asked for comments on the revised amendment from the SHPO and the ACHP in letters dated January 11, 2001, (administrative record number UT–1156). We received one response from the SHPO in a letter dated April 7, 1998 (administrative record number UT–1109). In that letter, the SHPO concurred with the determination we made under the 36 CFR 800 regulations that the proposed amendment will have no effect on properties listed, or eligible for listing, on the National Register of Historic Places. We did not receive comments from the ACHP.

V. Director's Decision

Based on the above findings, we approve Utah's proposed amendment as submitted on March 20, 1998, corrected on May 13, 1998, and revised on October 31, 2000.

We approve, as discussed in Part III.A: Utah Admin. R. 645–301–525.200 through 525.240, recodified rules pertaining to protected areas; Utah Admin. R. 645–301–525.600, recodified rule pertaining to compliance with the approved subsidence control plan; and Utah Admin. R. 645–301–525.700, recodified rule pertaining to public notice of proposed mining; in Part III.B: Utah Admin. R. 645–100–200, definitions of "material damage" and "occupied residential dwelling and structures related thereto;" Utah Admin. R. 645–301–525.300 through –525.313, subsidence control measures to prevent or minimize damage, replacing existing Utah Admin. R. 645–301–525.200 and –525.210, which are removed; Utah Admin. R. 645–301–525.410, description in the subsidence control plan of coal removal method(s), replacing existing Utah Admin. R. 645–301–525.110, which is removed; Utah Admin. R. 645–301–525.420, requirement for a map to be in the subsidence control plan showing underground workings where planned subsidence is suspected, areas where subsidence will be minimized, and areas where subsidence-related damage will be minimized and corrected; Utah Admin. R. 645–301–525.430, description in the subsidence control plan of physical conditions affecting subsidence, replacing existing Utah Admin. R. 645–301–525.120, which is removed; Utah Admin. R. 645–301–525.440, requirement for a description in the subsidence control plan of subsidence monitoring to be done, replacing existing Utah Admin. R. 645–301–525.140, which is removed; Utah Admin. R. 645–301–525.450 through –525.460, description in the subsidence control plan of subsidence control measures, replacing existing Utah Admin. R. 645–301–525.130 through –525.134 and Utah Admin. R. 645–301–525.150, which are removed; Utah Admin. R. 645–301–525.470, description in the subsidence control plan of methods to minimize damage from planned subsidence; Utah Admin. R. 645–301–525.500, heading "Repair of damage," replacing existing introductory statement at Utah Admin. R. 645–301–525.230, which is removed; Utah Admin. R. 645–301–525.510, requirement to repair damage to surface lands, replacing existing Utah Admin. R. 645–301–525.231, which is removed; Utah Admin. R. 645–301–525.520, requirement to repair, or compensate for, damage to non-commercial buildings and dwellings and related structures, replacing, in part, existing Utah Admin. R. 645–301–525.232, which is removed; and Utah Admin. R. 645–301–525.545, information to be considered in determination the cause of damage; in Part III.C.1: Utah Admin. R. 645–100–200, definition of "non-commercial building;" in Part III.C.2: Utah Admin. R. 645–100–200, definition of "State-appropriated water supply;" in Part III.C.3: Utah Admin. R. 645–100–200, definition of "replacement of water supply;" in Part III.C.4: Utah Admin. R. 645–301–525 through 645–301–525.130, subsidence control plans, pre-subsidence surveys, replacing existing Utah Admin. R. 645–301–724.600, which is removed; in Part III.C.5: Utah Admin. R. 645–300–525.400, –525.480, and –525.490, subsidence control plan contents, replacing existing Utah Admin. R. 645–301–525 through –525.170, which are removed; in Part III.C.6: Utah Admin. R. 645–301–525.530, repair or compensation for damage to other structures; in Part III.C.7: Utah Admin. R. 645–301–525.540, rebuttable presumption of causation by subsidence; Utah Admin. R. 645–301–525.541, rebuttable presumption of causation for damage within angle of draw; and Utah Admin. R. 645–301–

525.542, approval of site-specific angle of draw; in Part III.C.8: Utah Admin. R. 645–301–525.550, adjustment of bond amount for subsidence damage; in Part III.C.9: Utah Admin. R. 645–301–728.340 and 728.350, probable hydrologic consequences determination for underground mining effects; and in Part III.C.10: Utah Admin. R. 645–301–731.530, replacement of State-appropriated water supply.

We approve these rules as Utah proposed them with the provision that the State fully promulgate them in a form identical to the rules submitted to, and reviewed by, OSM and the public. To implement this decision, we are amending the Federal regulations at 30 CFR part 944, which codify decisions concerning the Utah program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 405(d) of SMCRA requires that the State have a program that is in compliance with the procedures, guidelines, and requirements established under the Act. Making this regulation effectively will expedite that process. Further, SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988—Civil Justice Reform

The Department of the Interior conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittals are consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211, which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866, and because it is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based on counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect on a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. The Department relied on the data and assumptions for the counterpart Federal regulations in making the determination as to whether this rule would have a significant economic impact.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This determination is based on the fact that the State submittal, which is the subject of this rule, is based on counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on any local, State, or Tribal governments or private entities.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 18, 2001.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 944 is amended as set forth below:

PART 944—UTAH

1. The authority citation for part 944 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 944.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 944.15 Approval of Utah regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * * * *		
March 20, 1998	December 4, 2001	Definitions of "material damage," "non-commercial building," "occupied residential dwelling and structures related thereto," "replacement of water supply," and "State-appropriated water supply" at Utah Admin. R. 645–100–200; 645–301–525 through 525.170; 645–301–525.200 through 525.240; 645–301–525.300 through 525.313; 645–301–525.400 through 525.490; 645–301–525.500 through 525.550; 545–301–525.600; 645–301–525.700; 645–301–724.600; 645–301–728.340; 645–301– 728.350; and 645–301–731.530.

[FR Doc. 01–29982 Filed 12–3–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–048]

RIN 2115–AE47

Drawbridge Operation Regulations: Harlem River, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operating regulations which govern the Metro North (Park Avenue) Bridge, at mile 2.1, across the Harlem River at New York City, New York. This final rule will allow the bridge owner to require a four-hour advance notice for bridge openings, from 10 a.m. to 5 p.m., daily. This action is expected to meet the present needs of navigation.

DATES: This rule is effective January 3, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–01–048) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Arca, Project Officer, First Coast Guard District, (212) 668–7165.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On September 13, 2001, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Harlem River, New York, in the **Federal Register** (66 FR 47601). We received no comment letters in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The Metro North (Park Avenue) Bridge, at mile 2.1, across the Harlem River, has a vertical clearance of 25 feet at mean high water and 30 feet at mean low water. The existing drawbridge operation regulations listed at 33 CFR 117.789(e) require the bridge to open on signal, from 10 a.m. to 5 p.m., except as provided in paragraph (b).

The owner of the bridge, Metro North, requested a change to the operating regulations to allow the bridge to open on signal, from 10 a.m. to 5 p.m., after a four-hour advance notice is given.

Metro North advised the Coast Guard that all the bridge openings during the last five years were for either vessel traffic employed in the construction of the Oak Point Link railroad Bridge located upstream or Metro North test openings at the bridge. The large construction barges, with equipment such as cranes on board, generally require a bridge opening.

The vessels that frequently use this waterway on a regular basis fit under the bridges without requiring bridge openings, with the exception of the Spuyten Duyvil railroad bridge, which has only 5 feet of vertical clearance at mean high water. All the upstream bridges, with the exception of the Spuyten Duyvil railroad bridge, presently require a four-hour advance notice for bridge openings, from 10 a.m. to 5 p.m., daily.

The existing drawbridge operation regulations are consistent with regard to the four-hour advance notice requirement, from 10 a.m. to 5 p.m., daily.

In addition, all the bridges, except Spuyten Duyvil, have similar or greater vertical clearances at mean high water (MHW) and at mean low water (MLW). The clearances for the bridges on the Harlem River are as follows.

Bridge name	Mile	MHW & MLW	
Metro North (Park Ave)	2.1	25	30
Madison Avenue	2.3	25	29
145 Street	2.8	25	30
Macombs Dam	3.2	27	32
207 Street	6.0	26	30
Broadway	5.8	24	29
Spuyten Duyvil	7.9	5	9

As a result of all the above information the Coast Guard believes that it is reasonable to allow the Metro North (Park Avenue) railroad bridge to open on signal, from 10 a.m. to 5 p.m., after a four-hour advance notice is given, except as provided in paragraph (b).

Discussion of Comments and Changes

The Coast Guard received no comment letters. No changes will be made to this final rule.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT)

(44 FR 11040; February 26, 1979). This conclusion is based on the fact that the bridge will continue to open for vessel traffic after the advance notice is given.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) we considered whether this rule would have a significant economic impact on a substantial number of small entities. "Small entities" comprises small businesses, not-for profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that the bridge will open on signal after the advance notice is given.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this final rule.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.789 is amended by revising paragraph (e) to read as follows:

§ 117.789 Harlem River

* * * * *

(e) The draw of the Metro North (Park Avenue) Bridge, mile 2.1, shall open on signal, except as provided in paragraph (b) of this section, from 10 a.m. to 5 p.m., if at least a four-hour advance notice is given by calling the number posted at the bridge.

* * * * *

Dated: November 26, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–30022 Filed 12–3–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

CGD08–98–020

RIN 2115–AE47

Drawbridge Operation Regulations: Missouri River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the regulations governing the operation of the drawbridges across the Missouri River in the States of Missouri, Iowa, Kansas, and Nebraska. The revisions will enable the Coast Guard to coordinate drawbridge operation schedules for these bridges during the winter season with the Army Corps of Engineers' (ACOE) dates of closure and opening of the commercial navigation season on the Missouri River.

DATES: This final rule is effective January 3, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD8–98–020 and are available for inspection or copying at Coast Guard District Eight Bridge Branch, 1222 Spruce Street, Suite 2.107f, St. Louis, MO 63103–2832, between 8 a.m. and 4 p.m. Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, 1222 Spruce

Street, St. Louis, MO 63103–2832, at (314) 539–3900, extension 378.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On August 28, 1998, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations for the Missouri River in the **Federal Register** (63 FR 45980). No negative comments were received on the proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

In order to accommodate vessels during the winter season's low-water period, the Missouri River drawbridge operation regulations contained in 33 CFR 117.411(a) and 117.687(a) require that drawbridges on this waterway shall open on signal; except that from 16 December through the last day of February, the draws shall open on signal if at least 24 hours notice is given. Additionally, 33 CFR 117.691 requires that the draw of the Illinois Central Gulf Railroad Bridge located on the Missouri River shall open on signal; except that, from 1 December through the last day of February, the draw shall open on signal if at least 24 hours notice is given. These regulations reflect the actual dates that the ACOE had manipulated the water level on the Missouri River; however, during the past ten years, the ACOE has adopted a more flexible water-management regime. The change implemented by this final rule will bring the drawbridge operating regulations in synch with the commercial navigation season. This will be accomplished by tying the drawbridge on-demand-opening requirement to the ACOE's closure and opening of the commercial navigation season on the Missouri River.

Discussion of Comments and Changes

No negative comments were received during the comment period for the Notice of Proposed Rulemaking. The rule will align the drawbridge regulations with the commercial navigation season and allow bridge owners to more efficiently manage their operations at the beginning and end of the commercial navigation season.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of the Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. There are no small entities involved in this rulemaking.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Any individual that qualifies, or believes he or she qualifies, as a small entity, and requires assistance with the provisions of this rule, may contact Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District Bridge Branch, (314) 539–3900, extension 378.

Collection of Information

This final rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A final rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this final rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under Figure 2–1, paragraph 32(e) of Commandant Instruction M16475.1 (series), this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have significant effect on the human environment. This rule merely alters the time frame when the drawbridges on the Missouri River are required to open on demand. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; CFR 1.05–1(g); section 117.255 also issued under the authority of Public Law 102–587, 106 Stat. 5039.

2. Section 117.411(a) is revised to read as follows:

§ 117.411 Missouri River.

(a) The draws of the bridges across the Missouri River from the mouth to Sioux City, Iowa, shall open on signal; except during the winter season between the date of closure and date of opening of the commercial navigation season as published by the Army Corps of Engineers, the draw need not open unless at least 24 hours advance notice is given.

* * * * *

3. Section 117.687(a) is revised to read as follows:

§ 117.687 Missouri River.

(a) The draws of the bridges across the Missouri River from the mouth to St. Joseph shall open on signal; except during the winter season between the date of closure and date of opening of the commercial navigation season as published by the Army Corps of Engineers, the draw need not open unless at least 24 hours advance notice is given.

* * * * *

4. Section 117.691 is revised to read as follows:

§ 117.691 Missouri River.

The draw of the Illinois Central Gulf Railroad Bridge, mile 618.3, at Omaha, shall open on signal; except during the winter season between the date of closure and date of opening of the commercial navigation season as published by the Army Corps of Engineers, the draw need not open unless at least 24 hours advance notice is given.

Dated: October 31 2001.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–30018 Filed 12–3–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–144]

RIN 2115–AE47

Drawbridge Operation Regulations: Back River, ME

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the drawbridge operating regulations governing the operation of the Maine Department of Transportation (MDOT) highway bridge, at mile 4.6, between Hodgdon and Barter's Island at Boothbay, Maine. This temporary change to the drawbridge operation regulations allows the bridge to remain in the closed position from December 15, 2001 through April 15, 2002. This action is necessary to facilitate structural repairs at the bridge.

DATES: This rule is effective December 15, 2001 through April 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–01–144) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On September 11, 2001, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Back River, Maine, in the **Federal Register** (66 FR 47121). We received no comment letters in response to the notice of proposed rulemaking. No public hearing was requested and none was held. Pursuant to 5 U.S.C. 553, good cause exists for making this regulation effective in less than 30 days after publication in the **Federal Register**. The local fishermen haul their equipment in November and do not transit this bridge during the winter months. The bridge has not had any requests to open during the last three years December through April. Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest since immediate action is needed to perform this necessary bridge maintenance during the winter months when the bridge normally does not receive requests to open.

Background and Purpose

The MDOT, highway bridge, at mile 4.6, across the Back River has a vertical clearance of 6 feet at mean high water and 15 feet at mean low water. The existing regulations are listed at 33 CFR 117.523.

The bridge owner, MDOT, asked the Coast Guard to temporarily change the drawbridge operation regulations to facilitate structural repairs at the bridge. This temporary rule will allow the bridge owner to keep the bridge in the closed position from December 15, 2001 through April 15, 2002. The bridge operates on a twenty-four hours advance notice from November 1 through May 31, normally. The local fishermen haul out their equipment during the month of November, after which, the bridge historically receives few requests to open. The number of bridge openings from December through April in past years have been relatively low. The bridge opening log data for December through April for the past three years is as follows:

	1998	1999	2000
December	4	0	0
January	0	0	0
February	0	0	0
March	0	0	0
April	0	0	0

The Coast Guard believes this rulemaking is reasonable based upon the relatively low number of bridge opening requests during past years December through April and the fact that this work is necessary maintenance required to assure continued uninterrupted operation of the bridge.

Discussion of Comments and Changes

The Coast Guard received no comment letters. No changes will be made to this final rule.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). This conclusion is based on the fact that there have been few requests to open the bridge historically, during the time period that the bridge will be closed.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) we considered whether this rule would have a significant economic impact on a substantial number of small entities. "Small entities" comprises small businesses, not-for profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that there have been few requests to open the bridge during the time period the bridge will be closed.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this final rule.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

§ 117.523 [Suspended]

2. From December 15, 2001 through April 15, 2002, § 117.523 is suspended.

3. From December 15, 2001 through April 15, 2002, § 117.T524 is temporarily added to read as follows:

§ 117.T524 Back River.

The Maine Department of Transportation highway bridge, mile 4.6, between Hodgdon and Barter's Island at Boothbay, need not open for the passage of vessel traffic.

Dated: November 26, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–30019 Filed 12–3–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–212]

Drawbridge Operation Regulations: Hackensack River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Witt-Penn (Route 7) Bridge, mile 3.1, across the Hackensack River at Jersey City, New Jersey. This temporary deviation will allow the bridge to remain in the closed position from 9 a.m. on December 4, 2001 through 6 a.m. on December 7, 2001. This temporary deviation is necessary to facilitate maintenance repairs at the bridge.

DATES: This deviation is effective from December 4, 2001 through December 7, 2001.

FOR FURTHER INFORMATION CONTACT: Joseph Schmied, Project Officer, First Coast Guard District, at (212) 668–7195.

SUPPLEMENTARY INFORMATION: The Witt-Penn (Route 7) Bridge has a vertical clearance in the closed position of 35 feet at mean high water and 40 feet at mean low water. The existing regulations require the draw to open on signal at all times.

The bridge owner, New Jersey Department of Transportation, has requested a temporary deviation from the drawbridge operating regulations to facilitate scheduled maintenance, the replacement of the bridge power and communications cable at the bridge. The nature of the required maintenance repairs will require the bridge to be closed to navigation during the implementation of this work.

This deviation to the operating regulations will allow the bridge to remain in the closed position from 9 a.m. on December 4, 2001 through 6 a.m. on December 7, 2001.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: November 26, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–30020 Filed 12–3–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–213]

Drawbridge Operation Regulations: Mianus River, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Metro North Bridge, mile 1.0, across the Mianus River at Greenwich, Connecticut. This temporary deviation will allow the bridge to remain in the closed position during three periods: November 26, through December 6, 2001; December 10, through December 21, 2001; and January 7, 2002 through January 16, 2002. This temporary deviation is necessary to facilitate structural repairs at the bridge.

DATES: This deviation is effective from November 26, 2001 through January 16, 2002.

FOR FURTHER INFORMATION CONTACT: Joseph Schmied, Project Officer, First Coast Guard District, at (212) 668–7195.

SUPPLEMENTARY INFORMATION: The Metro North Bridge has a vertical clearance in the closed position of 20 feet at mean high water and 27 feet at mean low water. The existing regulations are listed at 33 CFR 117.209.

The bridge owner, Metro North Railroad, has requested a temporary deviation from the drawbridge operating regulations to facilitate necessary structural maintenance at the bridge. The nature of the required structural repairs will require the bridge to be closed to navigation during the implementation of this work.

This deviation to the operating regulations will allow the bridge to remain in the closed position from 6 a.m. on November 26, 2001 through 7 p.m. on December 6, 2001; from 6 a.m. on December 10, 2001 through 7 p.m. on December 21, 2001; and from 6 a.m. on January 7, 2002 through 7 p.m. on January 16, 2002.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: November 26, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–30021 Filed 12–3–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP TAMPA–01–108]

RIN 2115–AA97

Security Zones; Crystal River, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary fixed security zones around the Florida Power Crystal River nuclear power plant located at the end of the Florida Power Corporation Channel, Crystal River, Florida. The security zones are needed for national security reasons to protect the public and the power plant from potential subversive acts. Entry into the zones is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida, or his designated representative.

DATES: This regulation is effective from 6 p.m. (EST) on November 21, 2001 until 6 p.m. (EDT) on June 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP Tampa–01–108] and are available for inspection or copying at Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida 33606–3598 between 7:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT David G. McClellan, Coast Guard Marine Safety Office Tampa, at (813) 228–2189 extension 102.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM and delaying the rule's effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners announcing the creation of this rule and place Coast Guard or other law enforcement vessels in the vicinity of these zones to advise mariners of the restriction.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York City and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Florida Power Crystal River power plant. This power plant provides critical energy to the Tampa area and contains extremely hazardous materials. The security zone for the Florida Power Corporation Channel encompasses the waters within the following points: 28° 56.87′ N, 082° 45.17′ W (Northwest corner), 28° 57.37′ N, 082° 41.92′ W (Northeast corner), 28° 56.81′ N, 082° 45.17′ W (Southwest corner), and 28°

57.32′ N, 082° 41.92′ W (Southeast corner). The security zone for the Demory Gap Channel encompasses the waters within the following points: 28° 57.61′ N, 082° 43.42′ W (Northwest corner), 28° 57.53′ N, 082° 41.88′ W (Northeast corner), 28° 57.60′ N, 082° 43.42′ W (Southwest corner), 28° 57.51′ N, 082° 41.88′ W (Southeast corner). Entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida or his designated representative.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979) because we have determined that only a small number of recreational fishermen will be affected by this regulation and there are ample areas nearby to fish that are not covered by this regulation. Moreover, vessels may be allowed to enter the zones on a case-by-case basis with the authorization of the Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because we have determined that only a small number of recreational fishermen will be affected by this regulation and there are ample areas nearby to fish that are not covered by this regulation. Moreover, small entities may be allowed to enter these zones on a case by case basis with the authorization of the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

A rule has implication for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationships between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or use. We have determined that it is not a "significant energy action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 6.04–11, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–108 is added to read as follows:

§ 165.T07–108 Security Zones; Crystal River, Florida.

(a) *Regulated area.* The Coast Guard is establishing temporary fixed security zones around the Florida Power Crystal River nuclear power plant located at the end of the Florida Power Corporation Channel, Crystal River, Florida. The security zone for the Florida Power Corporation Channel encompasses the waters within the following points: 28° 56.87′ N, 082° 45.17′ W (Northwest corner), 28° 57.37′ N, 082° 41.92′ W (Northeast corner), 28° 56.81′ N, 082° 45.17′ W (Southwest corner), and 28° 57.32′ N, 082° 41.92′ W (Southeast corner). The security zone for the Demory Gap Channel encompasses the waters within the following points: 28° 57.61′ N, 082° 43.42′ W (Northwest corner), 28° 57.53′ N, 082° 41.88′ W (Northeast corner), 28° 57.60′ N, 082° 43.42′ W (Southwest corner), 28° 57.51′ N, 082° 41.88′ W (Southeast corner).

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port or his designated representative. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (157.1 MHz).

(c) *Authority.* The authority for this section is 33 U.S.C. 1226; 49 CFR 1.46.

(d) *Dates.* This section is effective at 6 p.m. (EST) on November 21, 2001 and will remain in effect until 6 p.m. (EDT) on June 15, 2002.

Dated: November 20, 2001.

A.L. Thompson, Jr.,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 01–30023 Filed 12–3–01; 8:45 am]

BILLING CODE 4910–15–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM2001–7]

Disruption or Suspension of Postal or Other Transportation or Communications Services

AGENCY: Copyright Office.

ACTION: Interim regulations; Request for comments.

SUMMARY: The Copyright Office is adopting interim regulations to address the effect of a general disruption or suspension of postal or other transportation or communications services on the Office's receipt of deposits, applications, fees, or any other materials, and the assignment of a date of receipt to such materials. When the Register of Copyrights has published a determination that there has been a general disruption or suspension of such services, persons who have sent materials to the Office and believe the Office's receipt of those materials has been delayed may submit evidence that the materials would have been received in the Office by a particular date but for the disruption or suspension. The Office may assign, as the date of receipt, the date on which the materials would have been received but for the disruption or suspension.

DATES: The effective date of the interim regulations is December 4, 2001. Comments should be submitted no later than January 3, 2002.

ADDRESSES: An original and 10 copies of comments and reply comments should be mailed to: Office of the General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024–0400. If delivered by hand, copies should be brought to: Office of the Copyright General Counsel, Room LM–403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Patricia Sinn, Senior Attorney, Office of the General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024–0400. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: Section 709 of title 17, United States Code provides that:

> In any case in which the Register of Copyrights determines, on the basis of such evidence as the Register may by regulation require, that a deposit, application, fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated, shall be considered timely.

In cases of disruptions or suspensions of postal, transportation or communications services, section 709 permits the Register to assign, as the date of receipt for deposits, applications, fees and other materials submitted to the Office, the date on which the materials would have been received but for the disruption or suspension, so long as the Office has actually received the material within one month after the disruption or suspension has ended.

The Office has not promulgated any regulations relating to determination of the appropriate date of receipt of materials when a general disruption or suspension of postal or other transportation or communications services has taken place. Until now, the Office has perceived no need for such regulations. However, recent events have, unfortunately, demonstrated that such regulations are necessary. Concerns about anthrax in United States Postal Service facilities in the District of Columbia have caused severe disruptions of postal service to the Office since October 17.

Today the Register of Copyrights is publishing a separate notice declaring that commencing on October 18, there has been a general disruption of postal services to the Library of Congress. The Library continues to experience disruptions in its postal service. The Register shall publish another notice when she determines that the disruption of services has ceased.

The Office has already received one request to assign a date of receipt for a copyright registration application that was delayed due to the disruption of postal services, and it is anticipated that additional requests will be made. In order expeditiously to permit the application of section 709 to materials submitted during the current period of disruption of services, the Office is announcing interim regulations to govern such requests and the Office's determination of the date of receipt.

Assigning a date of receipt based on the date materials would have been received but for the disruption is important in a number of contexts. The effective date of registration of a copyright is the date the application, fees and deposit are received by the Copyright Office. 17 U.S.C. 410(d). That date can affect the copyright owner's rights and remedies, such as eligibility for statutory damages and attorney's fees. *See* 17 U.S.C. 412 (statutory damages and attorney's fees available only for works with effective date of registration prior to commencement of infringement or, for published works, within three months of first publication of the work). The date of recordation of a document can be crucial in determining priorities among conflicting transfers. *See* 17 U.S.C. 205, 37 CFR 201.9(c) (date of recordation is the date when all elements required for recordation, including the prescribed fee, have been received in the Copyright

Office). The date of recordation of a notice of termination of a grant of a transfer or license can be crucial in determining whether the termination is effective. *See* 17 U.S.C. 304(c)(4)(b) (notice of termination must be recorded in the Copyright Office before the effective date of termination), 37 CFR 201.10((f)(3) (date of recordation of notice of termination is the date when all of the elements required for recordation have been received in the Copyright Office).

Under section 201.8(a) of the interim regulations, when the Register determines that there has been a general disruption or suspension of postal or other transportation or communications services that has delayed the receipt by the Copyright Office of deposits, applications, fees, or any other materials, the Register shall publish an announcement to that effect. When the state of disruption or suspension of such services has ceased, the Register shall publish an announcement to that effect.

Section 201.8(b) provides that persons who have submitted material to the Office, the receipt of which has been delayed due to the suspension or disruption of services, may request that the Register assign, as the date of receipt of the material, the date on which the Register determines the material would have been received but for the disruption or suspension of services. Section 201.8(f) states where such requests should be sent.

Section 201.8(c) sets forth when a request may be submitted. Requests pertaining to applications for copyright registration must be made no later than one year after the claimant has received a certificate of registration. Such requests ordinarily will not be permitted until after the claimant has received a certificate of registration. Exceptions are made for cases in which the Office is communicating with a claimant about the application for other reasons, or other cases in which the Register finds there is good cause to consider a request prior to issuance of the certificate. In general, permitting the submission of requests prior to issuance of the certificate would impose unacceptable burdens on the Office due to difficulties in locating the particular pending applications to which the requests pertain. But when the Office has already communicated with the claimant in connection with an application, and the claimant is responding to the communication from the Office, the claimant may submit the request because there should be no difficulty in locating the application which is the subject of the communication.

Requests relating to transfers of copyright or other documents submitted for recordation must also be made no later than one year after the person seeking recordation has received a certificate of recordation, but there is no requirement to wait until after the certificate has issued. In fact, because it is easier for the Documents Recordation Section of the Cataloging Division to correct the date of recordation prior to recording the document, persons seeking adjustment of the date of receipt of a document submitted for recordation are encouraged to submit requests as soon as possible.

Requests pertaining to any other material submitted to the Copyright Office must be made no later than one year after the date the material is received by the Office.

Section 201.8(d) provides that when a certificate of registration or a certificate of recordation has already been issued, the original certificate must be returned to the Office along with the request. If the request is granted, the Office will issue a new certificate with the revised effective date of registration or date of recordation. If the request is not granted, the original certificate will be returned.

Section 201.8(e) provides that as evidence that the material would have been received on that date, the person making the request must submit a receipt from the United States Postal Service or a delivery service such as, or comparable to, United Parcel Service, Federal Express, or Airborne Express, indicating how and when the material was received by the Postal Service or delivery service, and indicating sufficient information to determine when the Postal Service or delivery service would have delivered the material to the Copyright Office but for the disruption or suspension of services. The Office will also accept other documentary evidence that it considers equivalent to such receipts, and it will accept sworn statements from persons with personal knowledge of the facts relating to the attempt to deliver the material to the Office.

Section 201.8(f) provides for certain presumptions as to when material deposited with the United States Postal Service or a delivery service would have been received but for the disruption or suspension of services.

Effective Date

Because of the unanticipated nature of the recent disruption in services and the necessity of providing a mechanism that will immediately permit the Copyright Office to adjust the date of receipt of materials in appropriate circumstances due to that disruption, the Register finds that there is good cause for the interim regulations to take effect immediately.

Request for Comments

The Office solicits comments from the public on these interim regulations. Comments are due 30 days from the date these regulations are published. The Office will consider these comments in preparing final regulations.

The Office also solicits comments concerning a related issue. The Office was closed for business from October 18 through October 24, 2001, because of concerns about possible anthrax contamination in the Library of Congress. During this period, the Office could not receive any applications, fees, deposits or other materials, whether by mail, courier or any other means of delivery. Because the Office's inability to receive materials during this time period was due to the closure of the Library of Congress, and not due to a general disruption or suspension of postal or other transportation or communications services, it does not appear that section 709 provides any authority for the Register to assign a date of receipt during that period for any materials that would have been received by the Office on a day during that period but for the closure of the Library. Thus, a person who attempted to deliver an application for copyright registration to the Office in person on October 22 would not be able to seek an effective date of registration of October 22, because the Office was not open on that date.

Section 410(c) of 17 U.S.C. provides that "[t]he effective date of a copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration, have all been received in the Copyright Office." (Emphasis added). The only exception to the requirement that the effective date of registration be the date of actual receipt is set forth in section 709, which does not address the unanticipated closure of the Office.

Moreover, a person who deposited an application addressed to the Office with an overnight delivery service on October 17, with an expected date of receipt in the Office of October 18, would not be able to seek an effective date of registration on October 18 because section 709 only permits the Register to assign as a date of receipt the date on which the material "would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other

transportation or communications services." (Emphasis added.) In this case, the reason the Office did not receive the application on October 18 was not a general disruption or suspension of postal or other transportation or communications services; it was the closure of the building that houses the Office. Thus, the earliest date of receipt that the Office could assign to the application would be October 25, the next date on which the Office was open.

The Office would like to be able to offer relief to persons who were unable to deliver materials to the Office due to unanticipated closure of the Office during normal business hours, but we are aware of no authority that permits us to grant such relief. We welcome any comments providing citations to and analysis of authority that would permit the Office to issue regulations governing such a situation notwithstanding the express language of 17 U.S.C. 410(c).

List of Subjects in 37 CFR Part 201

Communications, Copyright, Postal service.

Interim Regulations

In consideration of the foregoing, the Register of Copyrights amends part 201 of 37 CFR on an interim basis as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Section 201.8 is added to read as follows:

§ 201.8 Disruption of postal or other transportation or communication services.

(a) For purposes of 17 U.S.C. 709, when the Register has determined that there is or has been a general disruption or suspension of postal or other transportation or communications services that has delayed the receipt by the Copyright Office of deposits, applications, fees, or any other materials, the Register shall publish an announcement of that determination, stating the date on which the disruption or suspension commenced. The announcement may, if appropriate, limit the means of delivery that are subject to relief pursuant to section 709. Following the cessation of the disruption or suspension of services, the Register shall publish an announcement stating the date on which the disruption or suspension has terminated.

(b) At the request of any person who provides satisfactory evidence that he or she has attempted to deliver a deposit, application, fee or other material to the Copyright Office but that receipt by the Copyright Office was delayed due to a general disruption or suspension of postal or other transportation or communications services, the Register shall assign, as the date of receipt of the deposit, application, fee or other material, the date on which the Register determines the material would have been received but for the disruption or suspension of services, if the deposit, application, fee or other material was actually received in the Copyright Office within one month after the disruption or suspension of services has terminated.

(c) *Timing.* The request shall be made:

(1) With respect to an application for copyright registration, no earlier than the date on which the claimant receives the certificate of registration and no later than one year after the date on which the claimant receives the certificate of registration; provided, however, that a request may be made prior to receipt of a certificate of registration—

(i) If the Copyright Office has communicated with the claimant relating to the application and the claimant makes the request as part of a response to the communication from the Office; or

(ii) If the Register determines that good cause exists to entertain a request prior to the issuance of a certificate of registration;

(2) With respect to a transfer of copyright ownership or other document submitted for recordation pursuant to 17 U.S.C. 205, no later than one year after the date on which the person submitting the transfer or document receives the certificate of recordation;

(3) With respect to any other material, no later than one year after the date on which the material was actually received in the Copyright Office.

(d) In cases in which a certificate or registration or a certificate of recordation has already been issued, the original certificate must be returned to the Copyright Office along with the request.

(e) For purposes of paragraph (b) of this section, satisfactory evidence shall consist of:

(1) A receipt from the United States Postal Service indicating the date on which the United States Postal Service received material for delivery to the Copyright Office by means of first class mail, Priority Mail or Express Mail;

(2) A receipt from a delivery service such as, or comparable to, United Parcel Service, Federal Express, or Airborne Express, indicating the date on which the delivery service received material for delivery to the Copyright Office and

(i) The date on which delivery was to be made to the Copyright Office, or

(ii) The period of time (e.g., overnight, or 2 days) from receipt by the delivery service to the date on which delivery was to be made to the Copyright Office;

(3) Other documentary evidence which the Register deems equivalent to the evidence set forth in paragraphs (e)(1) and (2) of this section; or

(4) A sworn statement from a person with actual knowledge of the facts relating to the attempt to deliver the material to the Copyright Office, setting forth with particularity facts which satisfy the Register that in the absence of the general disruption or suspension of postal or other transportation or communications services, the material would have been received by the Copyright Office by a particular date.

(f) For purposes of paragraph (b) of this section, the Register shall presume that but for the general disruption or suspension of postal or other transportation or communications services,

(i) Materials deposited with the United States Postal Service for delivery by means of first class mail would have been received in the Copyright Office seven days after deposit with the United States Postal Service;

(ii) Materials deposited with the United States Postal Service for delivery by means of Priority mail would have been received in the Copyright Office three days after deposit with the United States Postal Service;

(iii) Materials deposited with the United States Postal Service for delivery by means of Express mail would have been received in the Copyright Office one day after deposit with the United States Postal Service;

(iv) Materials deposited with a delivery service such as, or comparable to, United Parcel Service, Federal Express, or Airborne Express, would have been received in the Copyright Office on the date indicated on the receipt from the delivery service.

(g) Requests pursuant to paragraph (b) of this section shall be addressed to: Chief, Copyright Office Receiving & Processing Division, Copyright Office, and if delivered by hand they should be brought to the Copyright Office Public Information Office, Library of Congress, James Madison Memorial Building, Room 401, First and Independence Avenue, SE., Washington, DC. If mailed, the request should be addressed to Chief, Receiving & Processing Division, P.O. Box 71380, Washington, DC 20024–1380.

Dated: November 26, 2001.
Marybeth Peters,
Register of Copyrights.
Approved by:
James H. Billington,
Librarian of Congress.
[FR Doc. 01–30013 Filed 12–3–01; 8:45 am]
BILLING CODE 1410–36–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[HIO62–OPP; FRL–7111–5]

Clean Air Act Full Approval of the Operating Permits Program; State of Hawaii

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the State of Hawaii's operating permits program. Hawaii's program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. On December 1, 1994 EPA granted interim approval to the Hawaii operating permits program. Hawaii revised its program to satisfy the conditions of the interim approval, and EPA proposed full approval in the **Federal Register** on October 15, 2001. EPA did not receive any comments on the proposed action, so this action promulgates final full approval of the State of Hawaii's operating permits program.

EFFECTIVE DATE: This rule is effective on November 30, 2001.

ADDRESSES: Copies of the Hawaii submittal and other supporting information used in developing this final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California, and Oahu: Clean Air Branch, Department of Health, 919 Ala Moana Blvd., Room 203, Honolulu.

FOR FURTHER INFORMATION CONTACT: Robert Baker, EPA Region IX, at (415) 972–3979 (*Baker.Robert@epa.gov*).

SUPPLEMENTARY INFORMATION: This section contains additional information about our final rulemaking, organized as follows:

I. Background on the Hawaii operating permits program.
II. Comments received by EPA on our proposed rulemaking and EPA's responses.
III. EPA's final action.
IV. Effective date of EPA's full approval of the Hawaii operating permits program.

I. Background on the [District/State] Operating Permits Program

The Clean Air Act (CAA) Amendments of 1990 required all state and local permitting authorities to develop operating permits programs that meet certain federal criteria. The State of Hawaii's operating permits program was submitted in response to this directive. Because the State's program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on December 1, 1994 (59 FR 61549). The interim approval notice described the conditions that had to be met in order for the State program to receive full approval.

After Hawaii revised its program to address the conditions of the interim approval, EPA promulgated a proposal to approve Hawaii's Title V operating permits program on October 15, 2001 (66 FR 52368).

II. Comments Received by EPA on Our Proposed Rulemaking and EPA's Responses

EPA did not receive any comments on the proposed action, so this action promulgates final full approval of the State of Hawaii's operating permits program.

III. EPA's Final Action

EPA is granting full approval to the operating permits program submitted by the State of Hawaii based on the revisions submitted on September 21, 2001, which satisfactorily address the program deficiencies identified in EPA's July 26, 1994 interim approval (see 59 FR 37957). In addition, the State has made other changes to its operating permit program that are unrelated to the changes made to correct interim approval deficiencies. EPA is not taking any action on these additional program changes in this notice. EPA will evaluate the additional program changes and will take appropriate action at a later date.

IV. Effective Date of EPA's Full Approval of the Hawaii Operating Permits Program

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the State's program effective on November 30, 2001. In relevant part, section 553(d) provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except— * * * (3) as otherwise provided by the agency for good cause found and published with the rule. Good cause may be supported by an agency determination that a delay in the effective date is "impracticable, unnecessary, or contrary to the public interest." EPA believes that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. The interim approved program expires on December 1, 2001. In the absence of this approved program taking effect on November 30, the federal program would automatically take effect and would remain in place until the effective date of the fully-approved state/district program. EPA believes it is in the public interest for sources, the public and the State to avoid any gap in coverage of the State program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because the State of Hawaii has been administering the Title V permit program for seven years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially but did not fully meet the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state approved program and the federal program. Finally, sources are already complying with all of the newly approved requirements as a matter of state law. Thus, there is little or no additional burden with complying with these requirements under the federally approved program.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not

contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR Part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. Section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 27, 2001.

Wayne Nastri,

Regional Administrator, Region 9.

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding paragraph (b) under Hawaii to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Hawaii

* * * * *

(b) Revisions were submitted on September 21, 2001. The rule amendments contained in the September 21, 2001 submittal adequately addressed the conditions of the interim approval effective on December 1, 1994. The Department of Health, State of Hawaii, is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–29959 Filed 12–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[IL; FRL–7112–1]

Clean Air Act Final Full Approval of the Operating Permits Program; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action to fully approve the Illinois Clean Air Act Permit Program (CAAPP), 415 ILCS 5/39.5, submitted by Illinois pursuant to subchapter V of the Clean Air Act, which requires states to develop and submit to EPA for approval, programs for issuing operating permits to all major stationary sources and to certain other sources.

DATES: The effective date of this action is November 30, 2001.

ADDRESSES: Copies of the state's submittal and other supporting information used in developing the full approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR–18J, Chicago, Illinois, 60604. Please contact Steve Marquardt at (312) 353–3214 to arrange a time if inspection of the submittal is desired.

FOR FURTHER INFORMATION CONTACT: Steve Marquardt, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois, 60604, Telephone Number: (312) 353–3214, E-Mail Address: marquardt.steve@epa.gov.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is being addressed in this document?
What is involved in this final action?
What is the scope of EPA's full approval?

What Is Being Addressed in This Document?

As required under Subchapter V, generally known as title V, of the Clean Air Act ("the Act"), as amended (1990), EPA has promulgated regulations which define the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, or withdraw approval of the state programs (see 57 FR 32250 (July 21, 1992)). These regulations are codified at 40 Code of Federal Regulations (CFR) part 70. Pursuant to title V, and EPA's implementing regulations, states developed and submitted to EPA programs for issuing operating permits to all major stationary sources and to certain other sources. Where a program substantially, but not fully, met the requirements of part 70, EPA granted the program interim approval. If EPA has not fully approved a state's operating permit program by the expiration of its interim approval period, a federal program under 40 CFR part 71 will automatically take effect in that state.

EPA promulgated final interim approval of the Illinois title V program on March 7, 1995 (60 FR 12478), and the program became effective on that date.

Illinois submitted amendments to its title V program for approval on May 31, 2001. Illinois intended the amendments to correct the four interim approval issues identified in the March 7, 1995 interim approval action. EPA proposed full approval of the Illinois title V program on October 22, 2001 (66 FR 53370), based on the resolution of the four identified interim approval issues.

In the October 22, 2001 notice, the EPA stated that Illinois needed to make two form clarifications as well as send a letter regarding its understanding of its ability to use the State's enhanced NSR provision at 415 ILCS 5/39.5(13)(c)(v). Illinois sent a letter dated November 9, 2001, to address the clarifications and changes requested in the proposed full approval.

The first form change dealt with identifying specific requirements applicable to insignificant emission units (IEUs). EPA stated that, prior to receiving full approval, Illinois must clarify that applicants must include in their applications all information on IEUs necessary to determine applicability of and compliance with specific requirements. Illinois has added text to the instructions of its application form 297–CAAPP to clarify that sources must provide information regarding specific applicable requirements which apply to IEUs, and compliance of the IEUs with those specific applicable requirements.

The second form change and additional statements dealt with Illinois' enhanced NSR provision at 415 ILCS 5/39.5(13)(c)(v). The EPA stated that, to assure that Illinois will not use this provision, Illinois will amend the State's administrative amendment application form, 273–CAAPP, to delete the category that enables a source to take advantage of incorporation of a construction permit through administrative amendment procedures. Illinois has deleted from application form 273–CAAPP the statement regarding the ability to incorporate a construction permit into the title V permit through the administrative amendment procedures. Additionally, in the November 9 letter submitted by Illinois, the State expressed that it would not use this option until the proper procedures are in place. Specifically, Illinois stated, "the Illinois EPA understands that in order to use the enhanced NSR process, as described in 40 CFR 70.7(d)(1)(v), we must develop and obtain USEPA approval for program regulations which are substantially equivalent to the procedural requirements of 40 CFR 70.7 and 70.8 and compliance requirements substantially equivalent to those contained in 40 CFR 70.6." These form changes and clarifications provide adequate responses to the issues raised in the October 22, 2001 proposed full approval.

What Is Involved in This Final Action?

The EPA is granting full approval of the Illinois title V operating permits program based on the revisions submitted on May 31, 2001 and the previously mentioned November 9, 2001 letter. These revisions and clarifications satisfactorily address the four program deficiencies identified in EPA's March 7, 1995, interim approval rulemaking and the clarifications required in the proposed full approval.

What Is the Scope of EPA's Full Approval?

In its program submission, Illinois did not assert jurisdiction over Indian country. To date, no tribal government in Illinois has applied to EPA for approval to administer a title V program in Indian country within the state. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

Citizen Comment Letter on Illinois' Title V Program

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

One citizen group commented on what it believes to be deficiencies with respect to the Illinois title V program. As stated in the **Federal Register** notice published on October 22, 2001 (66 FR 53370), proposing to fully approve Illinois' operating permit program, EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 1, 2001 to timely public comments on programs that have obtained interim approval, and by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we

determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. In addition, we will publish a notice of availability in the **Federal Register** notifying the public that we have responded in writing to these comments and how the public may obtain a copy of our response. EPA Region 5 will also post its response letters on the Internet at *http://yosemite.epa.gov/r5/ardcorre.nsf/Title+V+Program+Comments*. EPA Region 5 includes the states of Michigan, Minnesota, Illinois, Indiana, Ohio, and Wisconsin. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

Administrative Requirements

A. What Are the Administrative Requirements for This Action?

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have federalism implications because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the state and the federal government established in the Act.

This final approval is also not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272 note, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing state operating permit programs submitted pursuant to title V of the Act, EPA will approve state programs provided that they meet the requirements of the Act and EPA's regulations codified at 40 CFR part 70. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a state operating permit program for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a state program that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective November 30, 2001.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act.)

B. What Is the Effective Date of EPA's Full Approval of Illinois' Title V Program?

EPA's approval of Illinois' title V program is effective on November 30, 2001. Pursuant to section 502(h) of the Act, the effective date of a permitting program approved under title V is the date of approval by the Administrator or her delegatee. Furthermore, the good cause exception under the Administrative Procedure Act (APA) allows EPA to make the full approval of the state's program immediately effective. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except— * * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. § 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. The EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take

effect before December 1, 2001. The EPA's interim approval of Illinois' program expires on December 1, 2001. In the absence of this full approval of Illinois' amended program taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Illinois and would remain in place until the effective date of the fully-approved state program. The EPA believes it is in the public interest for sources, the public and Illinois to avoid any gap in coverage of the state program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because Illinois has been administering the title V permit program under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

C. What Is the Scope of EPA's Full Approval?

In its program submission, Illinois did not assert jurisdiction over Indian country. To date, no tribal government in Illinois has applied to EPA for approval to administer a title V program in Indian country within the state. The EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may seek approval from EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. The EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. The EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. The EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 27, 2001.

David A. Ullrich,

Deputy Regional Administrator, Region V.

40 CFR part 70 is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended by adding paragraph (b) to the entry for Illinois to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Illinois

* * * * *

(b) The Illinois Environmental Protection Agency: program revisions submitted on May 31, 2001; submittal adequately addressed the conditions of the interim approval which expires on December 1, 2001. Illinois is hereby granted final full approval effective November 30, 2001.

* * * * *

[FR Doc. 01–29960 Filed 12–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[MI; FRL–7111–6]

Clean Air Act Final Full Approval Of Operating Permit Program; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action to fully approve the operating permit program submitted by the state of Michigan. Michigan submitted its operating permit program pursuant to subchapter V of the Clean Air Act (Act), which requires that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authority's jurisdiction.

EFFECTIVE DATE: November 30, 2001.

ADDRESSES: Copies of the state's submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604. Please contact the person listed below to arrange a time to inspect the submittal.

FOR FURTHER INFORMATION CONTACT: Beth Valenziano, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604, (312) 886–2703, *valenziano.beth@epa.gov.*

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is being addressed in this document?
What is involved in this final action?

What Is Being Addressed in This Document?

As required under Subchapter V of the Act, EPA has promulgated regulations that define the minimum elements of an approvable state operating permit program and the corresponding standards and procedures by which EPA will approve, oversee, or withdraw approval of state operating permit programs (see 57 FR 32250 (July 21, 1992)). These regulations are codified at 40 Code of Federal Regulations (CFR) part 70. Pursuant to Subchapter V, generally known as title V, states and local permitting authorities developed, and submitted to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The EPA's program review occurs under section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA granted the program interim approval. If EPA has not fully approved a state operating permit program by the expiration of its interim approval period, EPA must establish and implement a federal operating permit program under 40 CFR part 71.

The Michigan Department of Environmental Quality (MDEQ) submitted the state's title V operating permit program for approval on May 16, 1995, with supplements submitted on July 20, 1995, October 6, 1995, November 7, 1995, and January 8, 1996. The EPA promulgated interim approval of the Michigan title V program on January 10, 1997 (62 FR 1387), finding that Michigan's program substantially, but not fully, met the requirements of title V and part 70 and identifying certain deficiencies that Michigan would need to correct. The interim approved program became effective on February 10, 1997. Subsequently, EPA extended Michigan's title V interim approval period on several occasions, most recently to December 1, 2001 (65

FR 32036). On June 18, 1997, EPA granted Michigan source category limited interim approval, approving Michigan's 4-year initial permit issuance schedule (62 FR 34010). Source category limited interim approval allows EPA to approve an initial state permit issuance schedule up to 2 years past the 3-year phase in period required by 40 CFR 70.4(b)(11)(ii).

The MDEQ submitted revisions to its title V program for EPA approval on June 1, 2001, and submitted a supplemental package on September 20, 2001. The submittals included corrections to the deficiencies identified in the January 10, 1997 interim approval action, and also included additional program revisions and updates. Based on the interim approval corrections contained in the submittals, EPA proposed full approval for the Michigan title V program on October 30, 2001 (66 FR 54737). The EPA did not receive any public comments on the proposal. The EPA is taking final action to grant full approval to the Michigan title V program.

What Is Involved in This Final Action?

The EPA is granting full approval of the operating permit program submitted by Michigan based on the interim approval corrections submitted on June 1, 2001, and the supplemental package submitted on September 20, 2001. These revisions satisfactorily address the program deficiencies identified in EPA's January 10, 1997 interim approval rulemaking.

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group. In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs. In turn, EPA would respond to the public's allegations within specified time periods, if the comments were made within 90 days of publication of the **Federal Register** notice.

The EPA received two timely comment letters pertaining to the Michigan title V program. As stated in the **Federal Register** notice published on October 30, 2001 proposing to fully approve Michigan's operating permit program, EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 1, 2001 to timely public comments on Michigan's program and other programs that have obtained interim approval, and by April 1, 2002 to timely comments on fully approved programs. Consistent with these time frames, EPA also will publish a notice of deficiency (NOD) if EPA determines that a deficiency exists, or will notify the commenter in writing to explain the reasons for not making a finding of deficiency. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that EPA has identified through its program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies. EPA Region 5 will post its response letters on the Internet at *http://yosemite.epa.gov/r5/ardcorre.nsf/Title+V+Program+Comments*. EPA Region 5 includes the states of Michigan, Minnesota, Illinois, Indiana, Ohio, and Wisconsin. EPA will also publish a national notice of availability in the **Federal Register** notifying the public that EPA has responded in writing to the commenters and explaining how the public may obtain a copy of EPA's responses.

Administrative Requirements

A. What Are the Administrative Requirements for This Action?

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have federalism implications because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the state and the federal government established in the Act.

This final approval is also not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272 note, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing state operating permit programs submitted pursuant to title V of the Act, EPA will approve state programs provided that they meet the requirements of the Act and EPA's regulations codified at 40 CFR part 70. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a state operating permit program for failure to

use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a state program that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective November 30, 2001.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act.)

B. What Is the Effective Date of EPA's Full Approval of Michigan's Title V Program?

The EPA's approval of Michigan's title V program is effective on November 30, 2001. Pursuant to section 502(h) of the Act, the effective date of a permitting program approved under title V is the date of approval by the Administrator or her delegatee. Furthermore, the good cause exception under the Administrative Procedure Act (APA) allows EPA to make the full approval of the state's program immediately effective. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. The EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. The EPA's interim approval of Michigan's prior program expires on December 1, 2001. In the absence of this full approval of Michigan's amended program taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Michigan and would remain in place until the effective date of the fully-approved state program. The EPA believes it is in the public interest for sources, the public and Michigan to avoid any gap in coverage of the state program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because MDEQ has been administering the title V permit program for nearly five years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

C. What Is the Scope of EPA's Full Approval?

In Michigan's final interim approval (62 FR 1387, January 10, 1997), EPA did not approve the state's program in Indian country. Similarly, this final full approval, which only addresses the state's interim approval corrections, also does not approve Michigan's operating permit program in Indian country. To date, no tribal government in Michigan has applied to EPA for approval to administer a title V program in Indian country within the state. The EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may seek approval from EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. The EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. The EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. The EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

List of Subjects in Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 27, 2001.

Thomas V. Skinner,

Regional Administrator, Region V.

40 CFR part 70 is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended by adding paragraph (a)(3) to the entry for Michigan to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Michigan

(a) * * *

(3) Department of Environmental Quality: interim approval corrections submitted on June 1, 2001 and September 20, 2001; submittals adequately address the conditions of the interim approval which expires on December 1, 2001. Based on these corrections, Michigan is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–29965 Filed 12–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[WI; FRL–7111–6]

Clean Air Act Final Full Approval of Operating Permit Program; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: The EPA is taking final action to fully approve the operating permit program submitted by the state of Wisconsin. Wisconsin submitted its operating permit program pursuant to subchapter V of the Clean Air Act (Act), which requires that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authority's jurisdiction.

EFFECTIVE DATE: November 30, 2001.

ADDRESSES: Copies of the state's submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR–18J, Chicago, Illinois, 60604. Please contact Beth Valenziano at (312) 886–2703, or Susan Siepkowski at (312) 353–2654 to arrange a time to inspect the submittal.

FOR FURTHER INFORMATION CONTACT: Beth Valenziano or Susan Siepkowski, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois, 60604, Telephone Numbers: (312) 886–2703, and (312) 353–2654, respectively, E-Mail Addresses: *valenziano.beth@epa.gov*, and *siepkowski.susan@epa.gov*.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is being addressed in this document?
What is involved in this final action?

I. What Is Being Addressed in This Document?

As required under Subchapter V of the Act, EPA has promulgated regulations that define the minimum elements of an approvable state operating permit program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of state operating permit programs (see 57 FR 32250 (July 21, 1992)). These regulations are codified at 40 Code of Federal Regulations (CFR) part 70. Pursuant to Subchapter V, generally known as title V, states and local permitting authorities developed, and submitted to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The EPA's program review occurs under section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, met the requirements of part 70, EPA granted the program interim approval. If EPA has not fully approved a program by the expiration of its interim approval period, EPA must establish and implement a federal Operating permit program under 40 CFR part 71.

The state of Wisconsin submitted its title V operating permits program for approval on January 27, 1994. The EPA promulgated interim approval of the Wisconsin title V program on March 6, 1995 (60 FR 12128), finding that Wisconsin's program substantially, but not fully, met the requirements of title V and part 70 and identifying certain deficiencies that Wisconsin would need to correct. The interim approved program became effective on April 5, 1995. Subsequently, EPA extended Wisconsin's title V interim approval period on several occasions, most recently to December 1, 2001 (65 FR 32036).

Wisconsin submitted revisions to its title V program for EPA approval on March 28, 2001, and submitted supplemental packages on September 5, 2001 and September 17, 2001. The submittals included corrections to the deficiencies identified in the March 6, 1995 interim approval action and also included additional program revisions and updates. Based on the interim approval corrections contained in the submittals, EPA proposed full approval for the Wisconsin title V program on October 30, 2001 (66 FR 54734). The EPA received no public comments on the proposal. The EPA is taking final action to grant full approval to the Wisconsin title V program.

What Is Involved in This Final Action?

The EPA is granting full approval of the operating permit program submitted by Wisconsin based on the interim approval corrections submitted on March 28, 2001, and supplemental packages submitted September 5, 2001 and September 17, 2001. These revisions satisfactorily address the program deficiencies identified in EPA's March 6, 1995 interim approval rulemaking.

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permit programs until December 1, 2001 (65 FR 32035). The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group. In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs. In turn, EPA would respond to the public's allegations within specified time periods, if the comments were made within 90 days of publication of the **Federal Register** notice.

The EPA received one timely comment letter pertaining to the Wisconsin title V program. As stated in the **Federal Register** notice published on October 30, 2001 proposing to fully approve Wisconsin's operating permit program, EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 1, 2001 to timely public comments on Wisconsin's program and other programs that have obtained interim approval, and by April 1, 2002 to timely comments on fully approved programs. Consistent with these time frames, EPA also will publish a notice of deficiency (NOD) if EPA determines that a deficiency exists, or will notify the commenter in writing to explain the reasons for not making a finding of deficiency. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that EPA has identified through its program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies. EPA Region 5 will post its response letters on the Internet at http://yosemite.epa.gov/r5/ardcorre.nsf/Title+V+Program+Comments. EPA Region 5 includes the states of Michigan, Minnesota, Illinois, Indiana, Ohio, and Wisconsin. EPA will also publish a national notice of availability in the **Federal Register** notifying the public that EPA has responded in writing to the commenters and explaining how the public may obtain a copy of EPA's responses.

Administrative Requirements

A. What Are the Administrative Requirements for This Action?

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601

et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have federalism implications because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the state and the federal government established in the Act.

This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272 note, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing state operating permit programs submitted pursuant to title V of the Act, EPA will approve state programs provided that they meet the requirements of the Act and EPA's regulations codified at 40 CFR part 70. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a state operating permit program for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a state program that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective November 30, 2001.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act.)

B. What Is the Effective Date of EPA's Full Approval of Wisconsin's Title V Program?

The EPA's approval of Wisconsin's title V program is effective on November 30, 2001. Pursuant to section 502(h) of the Act, the effective date of a permitting program approved under title V is the date of approval by the Administrator or her delegatee. Furthermore, the good cause exception under the Administrative Procedure Act (APA) allows EPA to make the full approval of the state's program immediately effective. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except— * * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. § 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. The EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. The EPA's interim approval of Wisconsin's prior program expires on December 1, 2001. In the absence of this full approval of Wisconsin's amended program taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Wisconsin and would remain in place until the effective date of the fully-approved state program. The EPA believes it is in the public interest for sources, the public and Wisconsin to avoid any gap in coverage of the state program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because WDNR has been administering the title V permit program for over five years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

C. What Is the Scope of EPA's Full Approval?

In Wisconsin's final interim approval (60 FR 12128, March 6, 1995), EPA did not approve the state's program in Indian country. Similarly, this final full approval, which only addresses the state's interim approval corrections, also does not approve Wisconsin's operating permit program in Indian country. To date, no tribal government in Wisconsin has applied to EPA for approval to administer a title V program in Indian country within the state. The EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may seek approval from EPA to implement a title V program on Indian reservations and in

non-reservation areas over which the tribe has jurisdiction. The EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. The EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. The EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

List of Subjects in Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 27, 2001.

Thomas V. Skinner,

Regional Administrator, Region V.

40 CFR part 70 is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended by revising the entry for Wisconsin to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Wisconsin

(a)(1) Department of Natural Resources: Submitted on January 27, 1994; interim approval effective on April 5, 1995; interim approval expires December 1, 2001.

(2) Department of Natural Resources: Interim approval corrections submitted on March 28, 2001, September 5, 2001, and September 17, 2001; submittals adequately address the conditions of the interim approval which expires on December 1, 2001. Based on these corrections, Wisconsin is hereby granted final full approval effective on November 30, 2001.

(b) [Reserved]

* * * * *

[FR Doc. 01–29964 Filed 12–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[DC–T5–2001–01a; FRL–7112–3]

Clean Air Act Full Approval of Operating Permit Program; District of Columbia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; final full approval.

SUMMARY: EPA is taking final action to grant full approval of the District of Columbia's (the District's) operating permit program. The District's operating permit program was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that required each State to develop, and submit to EPA, a program for issuing operating permits to all major stationary sources and to certain other sources within the State's jurisdiction. The EPA granted final interim approval of the District of Columbia's operating permit program on August 7, 1995. The District amended its operating permit program to address deficiencies identified in the interim approval action and this final rule approves those amendments. The EPA proposed full approval of the District of Columbia's operating permit program in the **Federal Register** on October 16, 2001. This final rulemaking action summarizes the adverse comments submitted on the October 16, 2001 proposal, provides EPA's responses, and promulgates final full approval of the District of Columbia's operating permit program.

DATES: This rule is effective on November 30, 2001.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Paresh R. Pandya, Permits and Technical Assessment Branch at (215) 814–2167 or by e-mail at *pandya.perry@.epa.gov.*

SUPPLEMENTARY INFORMATION: On May 21, 2001, August 30, 2001, and September 26, 2001, the District of Columbia submitted amendments to its operating permit program. These amendments are the subject of this document and this section provides additional information on the amendments by addressing the following questions:

What is the District's operating permit program?
Why is EPA taking this action?
What were the concerns raised by the commenters?
What action is being taken by EPA?
What is the effective date of EPA's full approval of the District's operating permit program?
What is the scope of EPA's full approval?

What Is the District's Operating Permit Program?

The Clean Air Act (CAA or the Act) Amendments of 1990 required all States (including the District) to develop operating permit programs that meet certain federal criteria. When implementing the operating permit programs, the States require certain sources of air pollution to obtain permits that contain all of their applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of its applicable CAA requirements into a Federally enforceable document. By consolidating all of the applicable requirements for a given air pollution source into an operating permit, the source, the public, and the State environmental agency can more easily understand what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in the EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of "major" sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter (PM10); those that emit 10 tons per year of any single hazardous air pollutant (HAP) specifically listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the national ambient air quality standards (NAAQS) for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification.

Why Is EPA Taking This Action?

Where a title V operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40

CFR part 70, EPA granted interim approval contingent upon the State revising its program to correct the deficiencies. Because the District's operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval of the District's program in a rulemaking published on August 7, 1995 (60 FR 40101). The interim approval notice described the conditions that had to be met in order for the District's operating permit program to receive full approval. On May 21, 2001,August 30, 2001, and September 26, 2001, the District of Columbia submitted amendments to its operating permit program to EPA to address its outstanding interim approval deficiencies.

The District fulfilled the conditions of the interim approval and EPA published a direct final rule on October 16, 2001 (66 FR 52538) granting full approval of the District of Columbia's operating permit program. However, in a letter dated November 15, 2001, EarthJustice submitted adverse comments on behalf of the District of Columbia Chapter of the Sierra Club in response to the companion proposal notice that was also published on October 16, 2001 (66 FR 52561). The October 16, 2001 direct final rule has, therefore, been withdrawn.

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice. That notice was published in the **Federal Register** on December 11, 2000 (65 FR 77376).

The EarthJustice Legal Defense Fund commented on what they believe to be deficiencies with respect to the District of Columbia's title V program. As stated in the **Federal Register** notice published on October 16, 2001 (66 FR 52538) proposing to fully approve the District of Columbia's operating permit program, EPA takes no action on those comments in this final rule. Rather, EPA expects to respond by December 14, 2001 to timely public comments on programs that have obtained interim approval. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter, in writing, to explain our reasons for not making a finding of deficiency. In addition, we will publish a notice of availability in the **Federal Register** notifying the public that we have responded, in writing, to these comments and how the public may obtain a copy of our response. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight. Furthermore, in the future, EPA may issue an additional NOD if we or a citizen identifies other deficiencies.

What Were the Concerns Raised by the Commenters?

As previously stated, EPA received one comment letter during the public comment period. EarthJustice provided comments on behalf of the District of Columbia Chapter of the Sierra Club in a letter dated November 15, 2001. In its November 15, 2001 letter, EarthJustice incorporated, by reference, prior comments it had provided to EPA pursuant to other actions taken by the Agency regarding the District of Columbia's operating permit program. Those comments incorporated a letter dated March 12, 2001commenting in response to the **Federal Register** notice published by EPA on December 11, 2000 (65 FR 77376). A copy of this letter is included in the docket of this final rulemaking maintained at the EPA Region III office. The following summarizes the comments raised in EarthJustice's November 15, 2001 letter and provides EPA's responses.

Comment: The commenter indicates that EPA cannot grant full approval of the District of Columbia title V operating permit program unless the program fully complies with all requirements of title V and EPA's implementing rules, and without first requiring the District to address all alleged deficiencies identified by EarthJustice in its prior comment letters.

Response: EPA is aware that comments have been made regarding alleged deficiencies other than those listed in the District of Columbia's August 7, 1995 final interim approval (60 FR 40101) and March 21, 1995 proposed interim approval (60 FR 14921). EPA agrees that these allegations must be addressed through appropriate actions by both the District and EPA. For the reasons discussed below, however, we disagree that newly alleged or other identified deficiencies prohibit EPA from granting full approval of the District of Columbia's operating permit program at this time.

In 1990, Congress amended the Act, 42 U.S.C. subsections 7401 to 7671q, by adding title V, 42 U.S.C. subsections 7661 to 7661f, which requires certain air pollutant emitting facilities, including "major source[s]" and "affected source[s]," to obtain and comply with operating permits. *See* 42 U.S.C. subsection 7661a(a). Title V is intended to be administered by local, state or interstate air pollution control agencies, through permitting programs that have been approved by EPA. *See* 42 U.S.C. subsection 7661a(a). EPA is charged with overseeing the State's efforts to implement an approved program, including reviewing proposed permits and objecting to improper permits. *See* 42 U.S.C. subsections 7661a(i) and 7661d(b). Accordingly, title V of the CAA provides a framework for the development, submission and approval of State operating permit programs. Following the development and submission of a State program, the Act provides two different approval options that EPA may utilize in acting on State submittals. *See* 42 U.S.C. subsection 7661a(d) and (g). Pursuant to section 502(d), EPA "may approve a program to the extent that the program meets the requirements of the Act * * *" EPA may act on such program submittals by approving or disapproving, in whole or in part, the State program. An alternative option for acting on State programs is provided by the interim approval provision of section 502(g). This section states: "If a program * * * substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval." This provision provides EPA with the authority to act on State programs that substantially, but do not fully, meet the requirements of title V and part 70. Only those program submittals that meet the requirements of eleven key program areas are eligible to receive interim approval. *See* 40 CFR subsection 70.4(d)(3)(i)–(xi). Finally, section 502(g) directs EPA to "specify the changes that must be made before the program can receive full approval." 42 U.S.C. subsection 7661a(g); 40 CFR subsection 70.4(e)(3). This explicit directive encompasses another, implicit one: Once a State corrects the specified deficiencies then it will be eligible for full program approval. EPA believes this is so even if deficiencies have been identified sometime after final interim approval, either because the deficiencies arose after EPA granted interim approval or, if the deficiencies existed at that time, EPA failed to identify them as

such in proposing to grant interim approval.

Thus, an apparent tension exists between these two statutory provisions. Standing alone, section 502(d) appears to prevent EPA from granting a State operating permit program full approval until the State has corrected all deficiencies in its program no matter how insignificant, and without consideration as to when such deficiency was identified. Alternatively, section 502(g) appears to require that EPA grant a State program full approval if the State has corrected those issues that the EPA identified in the final interim approval. The central question, therefore, is whether the District of Columbia, by virtue of correcting the deficiencies identified in the final interim approval, is eligible at this time for full approval, or whether the District must also correct any newly alleged or recently identified deficiencies as a prerequisite to receiving full program approval.

According to settled principles of statutory construction, statutory provisions should be interpreted so that they are consistent with one another. *See Citizens to Save Spencer County v. EPA*, 600 F.2d 844, 870 (D.C. Cir. 1979). Where an agency encounters inconsistent statutory provisions, it must give maximum possible effect to all of the provisions, while remaining within the bounds of its statutory authority. *Id.* at 870–71. Whenever possible, the agency's interpretation should not render any of the provisions null or void. *Id.* Courts have recognized that agencies are often delegated the responsibility to interpret ambiguous statutory terms in such a fashion. *See* Chevron U.S.A, Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 845 (1984). Harmonious construction is not always possible, however, and furthermore should not be sought if it requires distorting the language in a fashion never envisioned by Congress. *Citizens to Save Spencer County*, 600 F.2d at 870.

In this situation, in order to give effect to the principles embodied in title V of the CAA that major stationary sources of air pollution be required to have an operating permit that conforms to certain statutory and regulatory requirements, and that operating permit programs be administered and enforced by State permitting authorities, the appropriate and more cohesive reading of the statute recognizes EPA's authority to grant the District full approval in this situation while working simultaneously with the District, in its oversight capacity, on any additional problems that have been or may be identified. To conclude otherwise would disrupt the current administration of the State program and cause further delay in the District of Columbia's ability to issue operating permits to major stationary sources. A smooth transition from interim approval to full approval is in the best interest of the public and the regulated community and best reconciles the statutory directives of title V of the CAA.

Furthermore, requiring the District to fix all of the deficiencies that have been alleged or formally identified in the past year in order to receive full approval runs counter to the established regulatory process that is already in place to deal with newly identified program deficiencies. Section 502(i)(4) of the Act and 40 CFR subsections 70.4(i) and 70.10 provides EPA with the authority to issue NODs whenever EPA makes a determination that a permitting authority is not adequately administering or enforcing an approved part 70 program, or that the State's permit program is inadequate in any other way. Consistent with these provisions, any NOD issued by EPA will specify a reasonable time-frame for the permitting authority to correct the identified deficiency. The interim approval status of the District of Columbia's title V operating permit program expires on December 1, 2001. This deadline would not provide adequate time for the District to correct any newly identified issues prior to the expiration of interim approval. Allowing the District of Columbia's program to expire because of issues alleged as recently as March 2001 and November 2001 will cause disruption and further delay in the issuance of permits to major stationary sources in the District. As explained previously, we do not believe that title V of the Act requires such a result. Rather, the appropriate mechanism for dealing with additional deficiencies that are identified sometime after a program received interim approval but prior to being granted full approval is the notice of program deficiency or administration deficiency as discussed herein. It should be noted that notices of deficiency (NODs) may also be issued by EPA after a program has been granted full approval. Following the defined process for the identification of deficiencies and the issuance of NODs will provide the District of Columbia an adequate amount of time after such findings to implement any necessary changes without unduly disrupting the entire State operating permit program. As a result, addressing any newly identified problems separately from the full approval process will not cause these issues to go unaddressed. To the contrary, if EPA determines that any of the alleged deficiencies in the District of Columbia's program are well-founded, it will issue a NOD and place the District on notice that it must promptly correct the non-interim approval deficiencies within a specified time period or face CAA sanctions and withdrawal of program approval. At this time, EPA is still evaluating some of the deficiencies alleged by the commenter and others and will, in the very near future, respond to those allegations in a separate action. The comments EPA received from EarthJustice on March 12, 2001 will be considered when taking that separate action. EPA may issue NODs for any other deficiencies identified through EPA's oversight of the District's operating permits program at any time.

Therefore, EPA disagrees with the commenter that EPA must consider all alleged deficiencies prior to granting full approval of the District of Columbia's operating permit program. The proper administrative procedures have been followed to allow interested parties an opportunity to identify any concerns they may have with the various aspects of the District's title V operating permit program. EPA will address those concerns in the context of the relevant rulemaking or administrative actions, including this final rule granting full approval of the District of Columbia's operating permit program; the proposed rulemaking action approving any revisions to the District of Columbia's program; and as part of the process of responding to public comments pursuant to the December 11, 2000 notice (65 FR 77376).

Comment: The commenter indicates that EPA cannot grant full approval of the District of Columbia's title V operating permit program because the program excludes changes reviewed under minor new source review from the definition of Title I modifications.

Response: EPA, in its proposed interim approval, indicated that a revision of the 20 DCMR 399.1 Definition of Title I Modification or modification under any provision of Title I of the Act to include changes reviewed under minor new source review would be required only if EPA established such a change in definition through rulemaking. Because EPA has yet to revise the definition of a "Title I modification" to include changes subject to minor new source review, the District's current regulations remain consistent with 40 CFR part 70. Although EPA believes that the better

interpretation of "Title I modifications" is to include changes reviewed under a minor source preconstruction review program, EPA does not believe it is appropriate to require the District to change the definition until EPA completes its rulemaking on this provision.

Should EPA revise this definition in the future, the District will be required to revise its regulations as appropriate. As stated in EPA's proposed interim approval (March 21, 1995, 60 FR 14921), EPA did not identify the District's definition of "Title I modification or modification under any provision of Title I of the Act" as necessary grounds for either interim approval or disapproval. Accordingly, EPA has not identified the District's definition of this term to be a program deficiency.

Comment: The commenter stated that the District of Columbia's regulation 20 DCMR 302.4(e)(1) only required that a request for coverage under a general permit "provide any additional information the general permit specifies."

Response: The quoted provision is only a portion of 20 DCMR 302.4(e)(1). Section 302.4(e)(1) also provides, among other things, that "a request for coverage under a general permit shall provide information sufficient to demonstrate that the source is in compliance with the general permit." Title 20 DCMR 302.4(e), read in its entirety, satisfies 40 CFR 70.6(d)(2) requiring that the request for coverage under a general permit include all information necessary to assure compliance with the general permit. 20 DCMR 302.4(e) therefore corrects the interim approval deficiency.

Comment: The commenter asserts that although the District revised 20 DCMR 303.3(a) regarding the applicability of public participation and EPA review to the entire draft renewal permit (including those portions which are incorporated by reference), the revised provision does not require that public participation and EPA and affected state review will extend to anything other than the provisions being revised.

Response: 20 DCMR 303.3(a) clearly states that "applications for permit renewal shall be subject to the *same procedural requirements*, including those for public participation, affected State comment, and Administrator's review, *that apply to initial permit issuance* under section 303.1." Section 303.3(a) further provides that an application for permit renewal may address only those portions of the permit that require revision, supplementing, or deletion, *incorporating the remaining permit terms by reference from the previous permit*. Because the "remaining permit terms" are to be incorporated by reference, they become a part of the permit renewal which is subject to the same procedural requirements that apply to initial permit issuance. Therefore, public participation and EPA and affected State review will apply to the entire renewal permit, including those portions which are incorporated by reference. This is consistent with 40 CFR 70.7(c)(1)(i).

Comment: The commenter indicates that the District's addition of 20 DCMR 303.5(d)(1)(E) is inadequate to correct the significant permit modification interim approval deficiency. 20 DCMR 303.5(d)(1)(E) requires that significant modification procedures shall be used for applications requesting permit modifications that do not qualify as administrative permit amendments under 303.4(a) or minor permit modifications under 303.5(b). The commenter states that 303.5(d)(1)(A), (B), (C), (D) and (E) are not listed in the alternative, and therefore permittees may argue that significant modification procedures are required only where all of the conditions in 303.5(d)(1)(A) through (E) are met.

Response: EPA interprets 20 DCMR 303.5(d)(1)(A), (B), (C), (D) and (E) as independent provisions such that if any one of the requirements in those provisions are met, the significant permit modification procedures would have to be followed. EPA similarly interprets the minor permit modification procedures provisions in the Federal regulation at 40 CFR 70.7(e)(2)(i)(A). EPA reads 40 CFR 70.7(e)(2)(i)(A)(1), (2), (3), (4), (5) and (6) as independent provisions even though the word "and" appears between 70.7(e)(2)(i)(A)(5) and (6). Therefore, EPA believes that the District of Columbia has corrected the interim approval issue relating to significant permit modification procedures.

Comment: The commenter indicates that the District's changes to its public notice requirements are deficient as the District had already issued all 35 title V permits within its jurisdiction. The commenter also asserts that the District's revised public notice rule is still deficient because it does not require notice "by other means if necessary to assure adequate notice to the affected public."

Response: During the permit issuance process, adequate procedures for public notice were followed by the District, including offering an opportunity for public comment and a hearing on the draft permits. Notice was given in the District of Columbia Register, and public hearings were held on each draft title V permit. There is no outstanding action on any of the issued title V permits. Although the District did not have the requirement to provide for sending notice to persons on a mailing list (including those people who request in writing to be on the list), this has been corrected with the revision of the public participation procedures of 20 DCMR subsection 303.10(a). During the process of issuing the 35 title V permits within the District, no one from the public requested to be on a mailing list. The revisions to 20 DCMR subsection 303.10(a) require notice of all future title V permit renewals and significant permit modifications to be sent to those individuals who are now on the District's mailing list. Moreover, the District has added information to its website, located at www.environ.state.dc.us which provides members of the public with an opportunity to have their name added to the District's title V permitting mailing list. Through these actions, the District has adequately addressed the deficiency identified in EPA's proposed interim approval.

With regard to the comment that the District's revised public notice rule is still deficient because it does not require notice "by other means if necessary to assure adequate notice to the affected public", the District, in fact, does provide notice by other means as it has established online information on dates of public hearings, title V permits, contact phone numbers, etc. Furthermore, the District of Columbia made amendments to its regulations to address interim approval issues identified by EPA. In the proposed and final actions granting interim approval of the District of Columbia's program (March 21, 1995, 60 FR 14921 and August 7, 1995, 60 FR 40101, respectively), EPA fulfilled its obligation under section 502(g) of the CAA by specifying the changes the District of Columbia must make to its program in order to receive full approval. 42 U.S.C. subsection 7661a(g); 40 CFR subsection 70.4(e)(3). EPA directed the District to amend 20 DCMR 303.10(a) to require that notice be sent to persons on a mailing list (including those people who request in writing to be on the list). As instructed by EPA, the District amended 20 DCMR 303.10(a) to include this requirement. Therefore, the District has met its statutory obligation under section 502(g) of the CAA to make changes to its operating permit program as specified by EPA and, consequently, its program may now receive full approval.

EPA did not identify any concerns with respect to requiring that the

District also modify 20 DCMR 303.10(a) to include a requirement for notice "by other means if necessary to assure adequate notice to the affected public". Therefore, in its November 15, 2001 comment letter, EarthJustice is expressing a concern with the District's public notice rule that was not identified by EPA or any other interested party prior to EPA's interim approval in 1995. As discussed previously, the District's receipt of full approval of its operating permit program is contingent upon it successfully correcting its regulations as directed by EPA in the March 21, 1995 and August 7, 1995 notices granting interim approval and not the correction of all deficiencies alleged or identified after interim approval was granted. Because the scope of today's action is limited to the District's correction of its interim approval deficiencies, this comment is not germane and EPA does not address it here.

EPA, however, will carefully consider EarthJustice's concerns regarding the impact of 20 DCMR 303.10(a) on the District's operating permit program and determine whether or not a NOD is warranted. Any such NOD will be issued in an action separate from this full approval.

Comment: The commenter indicates that the District's regulations provide for use of the incorrect value for the Consumer Price Index (CPI) in 20 DCMR 305.2(b) to calculate annual permit fees.

Response: In fact, this is not the case. As stated in 20 DCMR 305.2(a) "The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all urban consumers published by the Department of Labor, as of the close of the twelve (12) month period ending on August 31st of each calendar year." Then 20 DCMR 305.2(b) goes on to say "The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for the calendar year 1989 shall be used. The Consumer Price Index for all urban consumers for the month of August 1989 is one hundred twenty-four and six tenths (124.6)." The statements made in these regulations are correct. The commenter's assertion that "Section 305.2(b) continues to show 124.6 as the *base year index* for calculating fee increases' is incorrect. Although, 305.2(b) states that the August 1989 CPI is 124.6, this provision requires that the calendar year 1989 CPI shall be used as the base year index. As required by 20 DCMR 305.2(a), the District adjusts the annual fee based on the CPI-Urban Index that represents the 12-month average from September through August of the previous year. The District uses the same presumptive minimum fee that is computed by EPA each year. The commenter's remarks may have been relevant several years ago, however, it is highly improbable that a permittee would go back 12 years to adjust the CPI, when in practice, each title V source in the District is provided the updated adjusted annual fee calculation each year by the District's Air Quality Division. With this clarification, the District of Columbia's program is consistent with 40 CFR 70.9(b)(2)(iv).

Comment: The commenter states that the District of Columbia's Corporation Counsel did not cite to legislative authority that the Mayor can create a right of action in court and that the power to confer judicial jurisdiction and create judicial causes of action is traditionally reserved to the legislature (here either the Counsel or Congress).

Response: In the interim approval, EPA had requested that Corporation Counsel revise its opinion to reference existing provisions in District of Columbia law which satisfy the requirements of 40 CFR 70.11(a)(1) and (2), or establish authorities to restrain or enjoin immediately permit violators presenting substantial endangerment, and to seek injunctive relief for program and permit violations without the need for prior revocation of the permit. The District satisfied this requirement by citing to numerous provisions to establish such authority under its regulations. The District's legislative authority for these actions already existed in section 4(b) of the District of Columbia's Air Pollution Control Act enacted by Congress on July 30, 1968 (P.L. 90–440) which provides that "[f]or the purpose of carrying out his duties under this act, the Commissioner [now the Mayor] may * * * (2) issue such orders as may be necessary to enforce the regulations prescribed by the Counsel under this Act and enforce such orders by all appropriate administrative and judicial proceedings, including injunctive relief; (3) hold hearings relating to the administration of this Act;* * * and (6) take any other actions which may be necessary to carry out his duties under this Act". After Congress granted the District limited home rule by enacting the District of Columbia Home Rule Act on December 24, 1973 (Pub. L. 93–198), the enactments of Congress remained in force until amended by the Council. The Council of the District of Columbia subsequently re-enacted the same provision in D.C. Law 5–165, effective March 15, 1985, among other things, to amend it to reflect that the Mayor now serves as the chief executive officer. This authority is sufficient to meet the requirements of 70.11(a)(1) and (2).

Comment: The commenter states that criminal offenses and fines can only be set by the legislature and that Corporation Counsel has not cited any legislative authority for seeking criminal fines for violations of the District's operating permit program. The commenter also references Corporation Counsel's statement that 20 DCMR section 105.2 does not provide the Mayor with authority for criminal enforcement of the Air Pollution Control Act to support a proposition that the District lacks the criminal authority.

Response: The District, in Corporation Counsel's amended opinion, cited numerous provisions to establish such authority under the District's regulations. In addition, the authority to seek criminal fines already existed in D.C. Law 5–165, section 3, which enacted the first 9 chapters of Title 20 of the District of Columbia Municipal Regulations as the Air Quality subtitle. The provisions in sections 105.1 and 105.2 (subsequently renumbered 105.5) establish criminal penalties for air quality violations. Section 105.1 of D.C. Law 5–165 provides, in pertinent part, that each person who fails to comply with any of the provisions of this subtitle shall be punished by a fine not to exceed ten thousand dollars or imprisonment not to exceed ninety days, or both. Section 105.5 of D.C. Law 5–165 provides, in pertinent part, that each day of violation shall constitute a separate offence and the penalties described shall be applicable to each separate offense.

EPA believes that the commenter incorrectly concludes that Corporation Counsel's statement that 20 DCMR Section 105.2 does not provide the Mayor with authority for criminal enforcement of the Air Pollution Control Act is supportive of its (the commenter's) proposition that the District lacks the criminal authority. Corporation Counsel was noting that 105.2 is the incorrect provision to reference for the criminal authority and that Sections 105.1 and 105.5 are the correct provisions that established such authority. The District of Columbia has resolved the interim approval issue regarding criminal enforcement.

Comment: The commenter states that the District has not:

(a) Demonstrated that title V fees are adequate to cover compliance and enforcement activities;

(b) Shown how they will monitor and track source compliance;

(c) Committed to submission of annual enforcement reports;

(d) Reviewed self-monitoring reports; and

(e) Shown how it will follow up on violations.

Response: With regard to (a), the District has documented to EPA that time spent on title V activities by clerical staff, engineers and supervisors (in both the Engineering & Planning Branch (EPB) and the Compliance & Enforcement Branch (CEB)) are being tracked and accounted for appropriately as title V fees. In addition, the District's title V account shows a surplus, which demonstrates that title V fees are more than adequate to cover compliance and enforcement activities. Section IV of the District's original title V program submittal (dated January 13, 1994), states that "District law provides authority for the Administrator of the Environmental Regulation Administration to assess and collect annual permit fees (or the equivalent amount of fees over some other period of time) from sources within the District which are subject to the requirements of title V of the CAA and 40 CFR part 70, in an amount sufficient to cover all reasonable direct and indirect costs required to develop, administer, and enforce the District's title V program." The District authority's is provided in 20 DCMR Sections 302.1(h) and 305.

With regard to (b), the District has committed to monitor and track source compliance through the "Air Quality Inspection/Compliance Monitoring Plan" which it has submitted to EPA. The most recent plan submitted to EPA is dated October 1, 2001. The plan identifies inspection objectives and targets title V air pollution sources for inspection, and sets out criteria for determining which minor sources within the District will be inspected.

With regard to (c), the submission of annual enforcement reports, the commenter asserts that the requirement is not satisfied merely by submission of information to the Aerometric Information Retrieval System/AIRS Facility Subsystem (AIRS/AFS). In addition to AIRS/AFS, the District submits enforcement reports to EPA on a semi-annual and annual basis. These reports were submitted in April 2001 and October 2001. The report entitled, "Compliance and Enforcement Activities and Accomplishments—Year End 2001 Report" contains information on High Priority Violators, as well as the dates that inspections were conducted at all title V sources in the District. In addition, the District participates in quarterly enforcement program reviews with EPA.

With regard to (d), the review of self-monitoring reports, in the "Air Quality Inspection/Compliance Monitoring Plan", the District has committed to review title V self certifications, semi-annual monitoring and periodic monitoring reports, and any other reports required by the permit.

In response to item (e), in a section of the "Air Quality Inspection/Compliance Monitoring Plan" entitled "Compliance Monitoring Evaluation—Section 5.3," the District demonstrates how it will follow-up on violations. That section of the plan describes three compliance categories used by the District. This is taken from EPA's Clean Air Act Stationary Source Compliance Monitoring Strategy. In addition, another report entitled "Compliance and Enforcement Activities and Accomplishments—Year End 2001 Report" contains information on new "High Priority Violators".

The commenter's statement that the "above-referenced requirements are not satisfied merely by citing existing EPA/DC agreements under other programs." is incorrect. Title 40 CFR 70.4(b)(5) provides that the submission should contain "a complete description of the State's compliance tracking and enforcement program *or reference to any agreement the State has with EPA that provides this information.*" Therefore, the above plans and reports are sufficient to demonstrate that compliance and enforcement activities are being properly tracked and reported to EPA.

What Action Is Being Taken by EPA?

Based upon our analysis of the comments received, EPA has determined that the concerns raised regarding the interim approval deficiencies do not constitute deficiencies in the District of Columbia's operating permit program. The District has satisfactorily addressed the 29 program deficiencies identified by EPA in its final interim approval of the District's operating permit program on August 7, 1995. The operating permit program amendments submitted by the District of Columbia on May 21, 2001, August 30, 2001, and September 26, 2001, considered together with that portion of the District of Columbia's operating permit program that was earlier approved on an interim basis, fully satisfies the minimum requirements of 40 CFR part 70 and the Clean Air Act.

Therefore, EPA is granting final full approval of the District of Columbia's title V operating permit program.

What Is the Effective Date of EPA's Full Approval of the District of Columbia Title V Operating Permit Program?

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the District of Columbia's program effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule" (5 U.S.C. 553(d)(3)). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. EPA's interim approval of the District of Columbia's prior program expires on December 1, 2001. In the absence of this full approval of the District of Columbia's amended program taking effect on November 30, 2001, the Federal program under 40 CFR part 71 would automatically take effect in the District of Columbia and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public and the District of Columbia to avoid any gap in coverage of the State program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because the District of Columbia has been administering the title V permit program for six years under an interim approval.

What Is the Scope of EPA's Full Approval?

In its program submission, the District of Columbia did not assert jurisdiction over Indian country. To date, no tribal government in the District of Columbia has applied to EPA for approval to administer a title V program in Indian country within the District of Columbia. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of Federal operating permits in Indian country. EPA's authority to issue permits in Indian country was

challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action granting final full approval of the District of Columbia's title V operating permit program may not be challenged later in proceedings to enforce its requirements. (*See* Section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Administrative practice and procedure, Air pollution control, Environmental protection, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 28, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

Appendix A of part 70 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended by adding paragraph (b) to the entry for the District of Columbia to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

District of Columbia

* * * * *

(b) The District of Columbia Department of Health submitted operating permit program amendments on May 21, 2001, August 30, 2001, and September 26, 2001. The rule amendments contained in the May 21, 2001, August 30, 2001, and September 26, 2001 submittals adequately addressed the conditions of the interim approval effective on September 6, 1995. The District of Columbia is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–29967 Filed 12–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[VA–T5–2001–01a; FRL–7112–5]

Clean Air Act Full Approval of Operating Permit Program; Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; final full approval.

SUMMARY: EPA is taking final action to grant full approval of the Commonwealth of Virginia's operating permit program. The Commonwealth's operating permit program was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that required each States to develop, and submit to EPA, a programs for issuing operating permits to all major stationary sources and to certain other sources within the State's jurisdiction. The EPA granted final interim approval of Virginia's operating permit program on June 10, 1997, as corrected on March 19, 1998. The Commonwealth of Virginia amended its operating permit program to address the deficiencies identified in the interim approval, and this final rulemaking action approves those amendments. The EPA proposed full approval of Virginia's operating permit program in the **Federal Register** on October 10, 2001. This final rulemaking summarizes the adverse comments EPA received on the October 19, 2001 proposal, provides EPA's responses, and promulgates final full approval of the Commonwealth of Virginia's operating permit program.

DATES: This rule is effective on November 30, 2001.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: David Campbell, Permits and Technical Assessment Branch at (215) 814–2196 or by e-mail at *campbell.dave@.epa.gov*.

SUPPLEMENTARY INFORMATION: On November 20, 2000, the Commonwealth of Virginia submitted amendments to its State operating permit program. These amendments are the subject of this document, and this section provides additional information on the amendments by addressing the following questions:

What is the State operating permit program?
Why is EPA taking this action?
What were the concerns raised by the commenters?
What action is being taken by EPA?
What is the effective date of EPA's full approval of the Virginia operating permit program?
What is the scope of EPA's full approval?

What is the State Operating Permit Program?

The Clean Air Act (CAA) Amendments of 1990 required all States to develop operating permit programs that meet certain federal criteria. When implementing the operating permit programs, the States require certain sources of air pollution to obtain permits that contain all of their applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of its applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a given air pollution source into an operating permit, the source, the public, and the State environmental agency can more easily understand what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in the EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of "major" sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter (PM10); those that emit 10 tons per year of any single hazardous air pollutant (HAP) specifically listed under the CAA; or those that emit or have the potential to emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the national ambient air quality standards (NAAQS) for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in the counties and cities in northern Virginia that are part of the Metropolitan Washington, DC serious ozone nonattainment area, major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

Why Is EPA Taking This Action?

Where a title V operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 CFR part 70, EPA granted interim approval contingent upon the State revising its program to correct the deficiencies. Because the Virginia operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval of Virginia's program in a rulemaking published on June 10, 1997, as corrected on March 19, 1998 (62 FR 31516 and 63 FR 13346, respectively). The interim approval notice described the conditions that had to be met in order for the Virginia operating permit program to receive full approval. Interim approval of Virginia's operating permit program expires on December 1, 2001.

EPA tentatively concluded that the Commonwealth of Virginia fulfilled the conditions of the interim approval. Consequently, EPA published a direct final rule on October 10, 2001 (66 FR 51581) granting full approval of Virginia's operating permit program. However, adverse comments were received in response to the companion proposal notice that was also published on October 10, 2001 (66 FR 51620). The direct final rule was withdrawn on November 21, 2001 (66 FR 58400). In today's notice, EPA is responding to comments and taking final action on the companion proposal.

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice. That notice was published on December 11, 2000 (65 FR 77376).

In response to the December 11, 2000 notice, several citizens commented on what they believe to be deficiencies with respect to the Virginia title V program. As stated in the **Federal Register** notice published on October 10, 2001 (66 FR 51620) proposing to fully approve Virginia's operating

permit program, EPA takes no action on those comments in this final rulemaking action. Rather, EPA expects to respond by December 14, 2001 to timely public comments on programs that have obtained interim approval. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter, in writing, to explain our reasons for not making a finding of deficiency. In addition, we will publish a notice of availability in the **Federal Register** notifying the public that we have responded, in writing, to these comments and how the public may obtain a copy of our response. A NOD will not necessarily be limited to deficiencies identified by citizens, and may include any deficiencies that we have identified through our program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies. The process for issuance of NODs is discussed in greater detail below.

What Were the Concerns Raised by the Commenters?

EPA received two comment letters during the public comment period. The Virginia Manufacturers Association provided a letter dated November 9, 2001 stating its support of EPA's action to grant full approval of Virginia's operating permit program. Since this letter did not raise any concerns with the proposed action, no response is necessary. EarthJustice provided comments on behalf of the Virginia Chapter of the Sierra Club dated November 9, 2001. In its November 9, 2001 letter, EarthJustice incorporated, by reference, its prior comments submitted to EPA pursuant to other actions taken by the Agency regarding Virginia's operating permit program. Those comments were submitted in letters as follows: (a) Letter of March 12, 2001 commenting in response to EPA's December 11, 2000 **Federal Register** notice (65 FR 77376) which announced a 90-day comment period for the public to identify deficiencies in State and Local agency operating permits programs; and (b) Letter of November 2, 2001 regarding EPA's October 3, 2001 notice of proposed rulemaking approving revisions to the Virginia title V program (66 FR 50375).

Copies of each of these letters are included in the docket file maintained at the EPA Region III office. The following is a discussion of the issues raised in EarthJustice's November 9, 2001 letter and EPA's responses.

Comment: The commenter indicates that EPA cannot grant full approval of the Virginia title V operating permit program without first addressing all alleged deficiencies identified by EarthJustice in its prior comment letters.

Response: EPA is aware that comments have been made regarding alleged deficiencies other than those listed in Virginia's June 10, 1997 interim approval. EPA agrees that these allegations must be addressed through appropriate actions by EPA and/or the Commonwealth of Virginia. For the reasons discussed below, however, we disagree that newly alleged or formally identified deficiencies prohibit EPA from granting full approval of Virginia's operating permit program at this time.

In 1990, Congress amended the Clean Air Act, 42 U.S.C. 7401 to 7671q, by adding title V, 42 U.S.C. subsections 7661 to 7661f, which requires certain air pollutant emitting facilities, including "major source[s]" and "affected source[s]," to obtain and comply with operating permits. *See* 42 U.S.C. subsection 7661a(a). Title V is intended to be administered by local, state or interstate air pollution control agencies, through permitting programs that have been approved by EPA. *See* 42 U.S.C. subsection 7661a(a). EPA is charged with overseeing the State's efforts to implement an approved program, including reviewing proposed permits and objecting to improper permits. *See* 42 U.S.C. subsections 7661a(i) and 7661d(b). Accordingly, title V of the CAA provides a framework for the development, submission and approval of State operating permit programs. Following the development and submission of a State program, the Act provides two different approval options that EPA may utilize in acting on State submittals. See 42 U.S.C. subsection 7661a(d) and (g). Pursuant to section 502(d), EPA "may approve a program to the extent that the program meets the requirements of the Act * * *" EPA may act on such program submittals by approving or disapproving, in whole or in part, the State program. An alternative option for acting on State programs is provided by the interim approval provision of section 502(g). This section states: "If a program * * * substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval." This provision provides EPA with the authority to act on State programs that substantially, but do not fully, meet the requirements of title V and part 70. Only those program submittals that meet the requirements of eleven key program areas are eligible to receive interim approval. *See* 40 CFR subsection 70.4(d)(3)(i)–(xi). Finally, section 502(g) directs EPA to "specify the changes that must be made before the program can receive full approval." 42 U.S.C. subsection 7661a(g); 40 CFR subsection 70.4(e)(3). This explicit directive encompasses another, implicit one: Once a State corrects the specified deficiencies then it will be eligible for full program approval. EPA believes this is so even if deficiencies have been identified sometime after final interim approval, either because the deficiencies arose after EPA granted interim approval or, if the deficiencies existed at that time, EPA failed to identify them as such in proposing to grant interim approval.

Thus, an apparent tension exists between these two statutory provisions. Standing alone, section 502(d) appears to prevent EPA from granting a State operating permit program full approval until the State has corrected all deficiencies in its program no matter how insignificant, and without consideration as to when such deficiency was identified. Alternatively, section 502(g) appears to require that EPA grant a State program full approval if the State has corrected those issues that the EPA identified in the final interim approval. The central question, therefore, is whether Virginia, by virtue of correcting the deficiencies identified in the final interim approval, is eligible at this time for full approval, or whether Virginia must also addresses any newly alleged or recently identified deficiencies as a prerequisite to receiving full program approval.

According to settled principles of statutory construction, statutory provisions should be interpreted so that they are consistent with one another. *See Citizens to Save Spencer County* v. *EPA*, 600 F.2d 844, 870 (D.C. Cir. 1979). Where an agency encounters inconsistent statutory provisions, it must give maximum possible effect to all of the provisions, while remaining within the bounds of its statutory authority. *Id.* at 870–71. Whenever possible, the agency's interpretation should not render any of the provisions null or void. *Id.* Courts have recognized that agencies are often delegated the responsibility to interpret ambiguous statutory terms in such a fashion. *See Chevron U.S.A, Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 845 (1984). Harmonious construction is not always possible, however, and furthermore should not be sought if it requires distorting the language in a fashion never imagined by Congress. *Citizens to Save Spencer County*, 600 F.2d at 870.

In this situation, in order to give effect to the principles embodied in title V of

the CAA that major stationary sources of air pollution be required to have an operating permit that conforms to certain statutory and regulatory requirements, and that operating permit programs be administered and enforced by State permitting authorities, the appropriate and more cohesive reading of the statute recognizes EPA's authority to grant Virginia full approval in this situation while working simultaneously with the State, in its oversight capacity, on any additional problems that have been or may be identified. To conclude otherwise would disrupt the current administration of the State program and cause further delay in Virginia's ability to issue operating permits to major stationary sources. A smooth transition from interim approval to full approval is in the best interest of the public and the regulated community and best reconciles the statutory directives of title V of the CAA.

Furthermore, requiring the Commonwealth of Virginia to fix all of the deficiencies that have been alleged or formally identified in the past year in order to receive full approval runs counter to the established regulatory process that is already in place to deal with newly identified program deficiencies. Section 502(i)(4) of the Act and 40 CFR subsections 70.4(i) and 70.10 provides EPA with the authority to issue NODs whenever EPA makes a determination that a permitting authority is not adequately administering or enforcing an approved part 70 program, or that the State's permit program is inadequate in any other way. Consistent with these provisions, any NOD issued by EPA will specify a reasonable time-frame for the permitting authority to correct the identified deficiency. The interim approval status of Virginia's title V operating permit program expires on December 1, 2001. This deadline would not provide adequate time for the Commonwealth to correct any newly identified issues prior to the expiration of interim approval. Allowing the Commonwealth's program to expire because of issues alleged as recently as March 2001 and November 2001 will cause disruption and further delay in the issuance of permits to major stationary sources in Virginia. As explained above, we do not believe that title V of the CAA requires such a result. Rather, the appropriate mechanism for dealing with additional deficiencies that are identified sometime after a program received interim approval but prior to being granted full approval is the notice of program deficiency or administration deficiency as discussed herein. It should be noted that NODs may also be issued by EPA after a program has been granted full approval. Following the defined process for the identification of program issues and the issuance of NODs will provide the Commonwealth an adequate amount of time after such findings to implement any necessary changes without unduly disrupting the entire State operating permit program. As a result, addressing any newly identified problems separately from the full approval process will not cause these issues to go unaddressed. To the contrary, if EPA determines that any of the alleged deficiencies in Virginia's program are well-founded, it will issue a NOD and place Virginia on notice that it must promptly correct the non-interim approval deficiencies within a specified time period or face CAA sanctions and withdrawal of program approval. At this time, EPA is still evaluating the deficiencies alleged by the commenter and others and will, in the very near future, respond to those allegations in a separate action. The comments EPA received from EarthJustice on March 12, 2001 mentioned above will be considered as part of that separate action.

Virginia also made revisions to its operating permit program since its program received interim approval in 1997. The revisions were not intended to address any of the identified interim approval deficiencies. Rather, the intent of these discretionary program changes was to improve implementation of the existing program. In a rulemaking action separate from this action granting full approval, EPA, in accordance with 40 CFR subsection 70.4(i), proposed approval of those revisions on October 3, 2001 (66 FR 50375). The EPA disagrees with the commenter's assertion that the amendments Virginia made to its program to address the identified interim approval deficiencies are inextricable from the program revisions that are the subject of the October 3, 2001 notice. The approval of the discretionary program revisions is not necessary in order for Virginia to adequately address its interim approval deficiencies, nor must they be approved prior to Virginia receiving full approval. The EPA will proceed with the appropriate administrative process to respond to any comments received pursuant to the October 3, 2001 proposed rulemaking action on the discretionary program revisions. The comments received from EarthJustice on November 2, 2001 will be considered as when taking that separate action.

Therefore, EPA disagrees with the commenter that EPA must consider all program revisions and alleged deficiencies prior to granting full approval of Virginia's operating permit program. The proper administrative procedures have been followed to allow interested parties an opportunity to identify any concerns they may have with the various aspects of Virginia's title V operating permit program. The EPA will address those concerns in the context of the relevant rulemaking or administrative actions, including this final rule granting full approval of Virginia operating permit program; the proposed rulemaking action approving revisions to Virginia's program; and, the process of responding to public comments pursuant to the December 11, 2000 notice (65 FR 77376).

Comment: EarthJustice believes Virginia's insignificant activity provisions for emergency generators are not consistent with title V of the CAA. Specifically, the commenter believes that the potential emissions generated by the types of internal combustion powered generators as defined under 9 VAC 5–80–720 C 4 should not be eligible to be classified as insignificant activities. Further, the commenter contends that Virginia's regulations would allow these types of units to emit pollutants at levels that would trigger title V requirements and still be classified as insignificant activities because there are no explicit restrictions on hours of operation or emissions for these units.

Response: With regard to the emergency generators that are central to EarthJustice's comment, EPA disagrees that emergency generators of the size and fuel-use capability as specified by 9 VAC 5–80–720 C 4 have the potential for significant emissions. First, the regulations specify that in order to be eligible for classification as insignificant activities these types of emergency generators may only be used when power is unavailable from the utility. If the facility in question is not served by a utility, the generators would not qualify as "emergency" generators because they would be the principal means by which the facility generated electricity. The EPA interprets 9 VAC 5–80–720 C 4 as excluding generators at facilities not served by a utility. Further, EPA is unaware of any facility in Virginia that is currently required to obtain a title V operating permit that is not served by a utility and the likelihood of such a title V source in the future is negligible. Second, it is unlikely for facilities that are provided power from a utility to need to use their emergency generators in excess of 500 hours in any given year. In support of its guidance document entitled, "Calculating Potential to Emit (PTE) for

Emergency Generators" (September 6, 1995 memorandum from John S. Seitz, Director, EPA Office of Air Quality Standards and Planning to Directors, EPA Regional Air Divisions), EPA determined that an emergency generator would likely operate 500 hours per year or less under worst case conditions. Therefore, the emergency generators specified by Virginia's regulations would only be in operation for a short time each year and the real potential for significant emissions is minimal. Finally, an analysis of the potential emissions from emergency generators of the size and fuel-type defined by 9 VAC 5080–720 C 4 indicates that if any of these generators were to operate 500 hours in a particular year, the worst case potential emissions from any of the classes of emergency generators would be six tons of nitrogen oxides per year. For these reasons, EPA believes the classification of emergency generators as defined in 9 VAC 5–80–720 C 4 as insignificant activities is appropriate and consistent with title V and part 70. As will be discussed in greater detail, the construction of Virginia's insignificant activities regulations provides additional assurances that emergency generators will not be incorrectly classified as insignificant activities and that all necessary and relevant operational and emissions data will be provided by applicants in order to determine if these types of sources have any title V requirements.

The purpose of insignificant activities lists and designation of units as insignificant activities is to enable permit applicants to streamline their applications by allowing them to exclude certain information and emissions data for individual emission units when such information or data is not needed to determine whether applicable requirements may apply to that unit or whether the source is a "major source" according to title V and part 70. The identification of a particular unit as an insignificant activity in no way relieves any applicable requirement that may apply to that unit. The EPA disagrees with the commenter's assertion that Virginia's permit program would allow certain insignificant activities to operate in excess of levels that would trigger title V requirements or "major source" requirements. While Virginia's operating permit program allows certain activities to be classified as insignificant, it does not allow these emission units to circumvent any applicable requirements of title V. Virginia's program also provides safeguards to prevent the mis-classification of units as insignificant and the omission of relevant emission data from title V permit applications.

Virginia's operating permit program regulations address insignificant activities in three ways. Virginia's regulations, at 9 VAC 5–80–720 A, provide a specific list of activities for which the permit applicant does not have to include information regarding these emission units in its title V permit application, including emission levels. Virginia's program, at 9 VAC 5–80–720 B, also allows permit applicants to identify emission units which fall below certain emission thresholds as insignificant activities, but does not require specific emission data for each of these units in the application. Finally, under 9 VAC 5–80–720 C, emission units may be listed in the application as insignificant activities if they fall below certain size or production rates for specific categories of units. Pursuant to 9 VAC 5–80–90 D and 9 VAC 5–80–440 D, the permit application must indicate the size or production rate of each unit that is being classified as an insignificant activity. The emergency generators that are the subject of the commenter's concern fall into this last general category.

Virginia's operating permit program regulations at 9 VAC 5–80–90 D and 9 VAC 5–80-440 D require that applicants must include any emissions data or other relevant information that is necessary to determine applicability of title V or of any other applicable requirements. As part of this full approval action, EPA is approving amendments to Virginia's regulations that clarify that permit applicants are obligated to provide this type of information for all emission units, including those that may be classified as insignificant activities. Therefore, even if a specific unit may be classified as an insignificant activity pursuant to 9 VAC 5–80–720, the applicant must provide emissions data or other information if the omission of such information would interfere with determining whether that unit has applicable requirements that must be reflected in a title V permit. Virginia also amended its regulations to require explicitly that all applicable requirements for all emission units, including those for insignificant activities must be contained in the title V permit. These amendments were made to address interim approval issues and are more fully discussed in the October 10, 2001 (66 FR 51581) direct final rulemaking notice.

Virginia's insignificant activity regulations significantly minimize the potential for inappropriate use of the insignificant activities list and the other mechanisms for identifying insignificant activities as provided in 9 VAC 5–80–720, including those for emergency generators. The purpose of the title V permit application is to provide all of the information necessary to develop a title V permit that contains all of a given source's applicable requirements. Virginia's regulations with regard to insignificant activities provide that all information necessary to determine applicable requirements for inclusion in title V permits must be provided by the applicant even if a given unit can be identified as an insignificant activity. Therefore, the various mechanisms to identify insignificant activities may be used by the applicant at their discretion with assumed liability for failure to provide complete and accurate information to Virginia. Pursuant to 9 VAC 5–80–80 G and 9 VAC 5–20–230, all applicants must certify, subject to civil and criminal penalty, that all information contained in its application is complete, accurate and true.

Comment: EarthJustice asserts that the identified interim approval issue regarding malfunction as an affirmative defense in Virginia's title V operating permit program has not been fully corrected. The commenter also believes Virginia's malfunction provisions at 9 VAC 5–20–180 are not consistent with title V of the CAA. Specifically, EarthJustice contends that title V sources may claim an affirmative defense for malfunctions to a degree far broader than provided under title V and 40 CFR subsection 70.6(g).

Response: Virginia's title V operating permit program regulations establish the permissible scope of claims for affirmative defense for noncompliance with title V permits due to emergencies at 9 VAC 5–80–250 and 9 VAC 5–80–650. (Virginia uses the term "malfunction" instead of "emergency", however, the term as defined at 9 VAC 5–80–60 C and 5–80–370 is consistent with EPA's definition of "emergency'.) The commenter has not asserted that the provisions of 9 VAC 5–80–250 and 5–80–650 are inconsistent with title V or 40 CFR subsection 70.6(g). Virginia made amendments to these sections of its regulations to address interim approval issues. In the proposed and final actions granting interim approval of Virginia's program (March 18, 1997, 62 FR 12778 and June 10, 1997, 62 FR 31516, respectively), EPA fulfilled its obligation under section 502(g) of the CAA by specifying the changes Virginia must make to its program in order to receive full approval. 42 U.S.C. subsection 7661a(g); 40 CFR subsection 70.4(e)(3). EPA directed Virginia to

amend 9 VAC 5–80–250 B 4 and 9 VAC 5–80 650 to require permittees to properly report malfunctions of any duration in order for those malfunctions to be eligible for consideration as an affirmative defense. Previously, these regulations did not require permittees to report malfunctions of less than one hour, yet allowed for an affirmative defense for these unreported malfunctions. As instructed by EPA, Virginia amended 9 VAC 5–80–250 B 4 and 9 VAC 5–80–650 to require the reporting of malfunctions of any duration. These amendments are more fully discussed in the October 10, 2001 (66 FR 51581) direct final rulemaking notice granting full approval of Virginia's program. Therefore, Virginia has met its statutory obligation under section 502(g) of the CAA to make changes to its operating permit program as specified by EPA and, consequently, its program may now receive full approval.

EarthJustice's main concern regards Virginia's malfunction provisions as they exist outside of the operating permit program regulations. The malfunction defenses provided by 9 VAC 5–20–180 are codified as part of the general provisions of Virginia's air pollution control regulations. In its proposed and final rulemaking granting interim approval of Virginia's program, EPA did not identify any concerns with these provisions of Virginia's regulations, nor did it instruct Virginia to make any corrections to 9 VAC 5–20–180. Likewise, the malfunction provisions of 9 VAC 5–20–180 were not discussed in the October 10, 2001 proposed rulemaking action regarding full approval of Virginia's operating permit program. Therefore, in its November 9, 2001 comment letter, EarthJustice is expressing a concern with Virginia's operating permit program that has heretofore not been identified by EPA or any other interested party. As discussed more fully above, Virginia's receipt of full approval of its operating permit program is contingent upon it successfully correcting its regulations as directed by EPA in the March 18, 1997 and June 10, 1997 notices granting interim approval and not the correction of all deficiencies alleged or identified after interim approval was granted.

The EPA will carefully consider EarthJustice's concerns regarding the impact of 9 VAC 5–20–180 on Virginia's operating permit program and determine whether a notice of deficiency is warranted. Any such notice of deficiency will be issued in an action separate from this full approval.

Comment: EarthJustice has expressed concern with the discussion of Virginia's Voluntary Environmental Assessment Privilege Law ("Privilege Law"), Va. Code Sec. 10.1–1198, and Immunity Against Administrative or Civil Penalties for Voluntarily Disclosed Violation Law ("Immunity Law"), Va. Code Sec. 10.1–1199 as contained in the October 10, 2001 notice. The commenter is not satisfied with EPA's conclusion that these laws do not preclude Virginia from enforcing its operating permit program in a manner consistent with the CAA. EarthJustice further argues that the Virginia Attorney General's interpretation of these laws that supports EPA's conclusion are not binding on the courts of Virginia. EarthJustice suggests that the most appropriate remedies are for Virginia to either repeal the laws in their entirety or amend them to expressly exclude the title V program from their scope.

The EPA disagrees with the commenter's assertion that the Agency's and Virginia Office of Attorney General's interpretation of the existing Privilege and Immunity Laws may apply to Virginia's operating permit program. To the contrary, the commenter has not demonstrated that these laws pose any threat to the enforcement of title V operating permits in Virginia. EarthJustice has not identified a single instance where any source has successfully asserted protection under these laws from the enforcement of their title V operating permits by EPA, the Commonwealth of Virginia, or the public, in manner that is inconsistent with the CAA. As to the relevance of the Virginia Office of Attorney General's opinion on this matter, section 502(d) of the CAA requires as part of any approvable title V operating permit program a legal opinion from the State Attorney General, or equivalent, indicating that the State can enforce its operating permit program in a manner consistent with federal law. 42 U.S.C. subsection 7661a(d); 40 CFR subsection 70.4(b)(3). The EPA relies on the Attorney General's interpretation of the law, although the Agency recognizes it is always theoretically possible for developing case law to eventually overrule certain, or even all, of the opinions expressed by the Attorney General.

In this instance, the Virginia Office of Attorney General provided EPA legal opinions on December 29, 1997 and January 12, 1998 that state that the Commonwealth's Privilege Law does not extend to information required by federal law and that the Immunity Law does not apply to federally authorized programs such as the title V operating permit program. In absence of any rulings by the Virginia courts that further illuminate the application of these laws, EPA maintains its conclusion that the Commonwealth of Virginia's Privilege and Immunity Laws do not apply to enforcement of Virginia's operating permit program, and any permits issued pursuant to that program. Should the Virginia courts come to interpret these laws in the future in a manner that conflicts with the CAA, EPA will consider the full effect of those rulings and determine the most appropriate response, including the possible issuance of a NOD. Any such NOD will be issued in an action separate from this full approval.

What Action Is Being Taken by EPA?

Based on analysis of the comments received, EPA has determined that the concerns raised do not constitute deficiencies in the Virginia operating permit program. The Commonwealth of Virginia has satisfactorily addressed the six program deficiencies identified when EPA granted final interim approval of its operating permit program on June 10, 1997, as corrected on March 19, 1998. The operating permit program amendments submitted by Virginia on November 20, 2000 considered together with that portion of Virginia's operating permit program that was earlier approved on an interim basis fully satisfy the minimum requirements of 40 CFR part 70 and the Clean Air Act. Therefore, EPA is granting final full approval of the Commonwealth of Virginia's title V operating permit program.

What Is the Effective Date of EPA's Full Approval of the Virginia Title V Operating Permit Program?

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the Virginia's program effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. § 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before

December 1, 2001. EPA's interim approval of Virginia's prior program expires on December 1, 2001. In the absence of this full approval of Virginia's amended program taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Virginia and would remain in place until the effective date of the fully approved state program. EPA believes it is in the public interest for sources, the public and the Commonwealth of Virginia to avoid any gap in coverage of the State program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because Virginia has been administering the title V permit program for four years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

What Is the Scope of EPA's Full Approval?

In its program submission, Virginia did not assert jurisdiction over Indian country. To date, no tribal government in Virginia has applied to EPA for approval to administer a title V program in Indian country within the Commonwealth. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action granting final full approval of Virginia's title V operating permit program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Administrative practice and procedure, Air pollution control, Environmental protection, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 27, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

Appendix A of part 70 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended by revising paragraph (b) in the entry for Virginia to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Virginia

(b) The Virginia Department of Environmental Quality submitted operating permit program amendments on November 20, 2000. The rule revisions contained in the November 20, 2000 submittal adequately addressed the conditions of the interim approval effective on March 12, 1998. The Commonwealth is hereby granted final full approval effective on November 30, 2001.

[FR Doc. 01–29961 Filed 12–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–7111–7]

Clean Air Act Final Full Approval of the Operating Permits Program; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the operating permits program submitted by the State of Minnesota. Minnesota submitted its operating permits program in response to the directive in the 1990 Clean Air Act Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authority's jurisdiction.

EFFECTIVE DATE: The effective date of this action is November 30, 2001.

ADDRESSES: Copies of the state's submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR–18J, Chicago, Illinois 60604. Please contact Robert Miller at (312) 353–0396 to arrange a time if inspection of the submittal is desired.

FOR FURTHER INFORMATION CONTACT: Rachel Rineheart, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 886–7017, E-Mail Address: rineheart.rachel@epa.gov.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is being addressed in this document?
What is involved in this final action?

What Is Being Addressed in This Document?

As required under Subchapter V of the Clean Air Act ("the Act"), EPA has promulgated regulations which define the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of state operating permits programs (see 57 FR 32250 (July 21, 1992)). These regulations are codified at 40 Code of Federal Regulations (CFR) part 70. Pursuant to Subchapter V, generally known as title V, states developed, and submitted to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The EPA's program review occurs under section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, met the requirements of part 70, EPA granted the program interim approval. If EPA has not fully approved a program by the expiration of an interim program, it must establish and implement a federal program.

The Minnesota Pollution Control Agency (MPCA) submitted its title V operating permits program (title V program) for approval on November 15, 1993. EPA promulgated interim approval of the Minnesota title V program on June 16, 1995 (60 FR 31637), and the program became effective on July 16, 1995. Subsequently, EPA extended Minnesota's title V interim approval period on several occasions, most recently to December 1, 2001 (65 FR 32036).

MPCA submitted amendments to its title V program for our approval on June 9, 2000, July 21, 2000, and June 12, 2001. Minnesota intended these amendments to correct interim approval issues identified in the June 16, 1995, action. Based on this submittal, EPA proposed full approval for the Minnesota title V program on October 30, 2001 (66 FR 54739). EPA did not receive any adverse public comment(s) on the proposal; therefore, EPA is taking final action to give full approval to the Minnesota title V program.

What Is Involved in This Final Action?

The EPA is granting full approval of the operating permits program submitted by MPCA based on the interim approval corrections submitted on June 9, 2000, July 21, 2000, and June 12, 2001. These revisions satisfactorily address the program deficiencies identified in EPA's June 16, 1995, interim approval rulemaking.

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group. In settling the litigation, EPA agreed to publish a notice in the **Federal Register**, so that the public would have the opportunity to identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs. In turn, EPA would respond to the public's allegations within specified time periods, if the comments were made within 90 days of publication of the **Federal Register** notice.

The EPA received one timely comment letter pertaining to the Minnesota title V program. As stated in the **Federal Register** notice published on October 30, 2001 proposing to fully approve Minnesota's operating permit program, EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 1, 2001 to timely public comments on programs that have obtained interim approval, and by April 1, 2002 to timely comments on fully approved programs. The EPA will publish a notice of deficiency (NOD) if EPA determines that a deficiency exists, or will notify the commenter in writing to explain the reasons for not making a finding of deficiency. EPA Region 5 will also post its response letters on the Internet at http://yosemite.epa.gov/r5/ardcorre.nsf/title+V+Program+Comments. EPA Region 5 includes the states of Michigan, Minnesota, Illinois, Indiana, Ohio, and Wisconsin. The EPA will also

be posting all response letters on the national EPA website, and the Agency will publish a **Federal Register** notice of the availability of those response letters.

Administrative Requirements

A. What Are the Administrative Requirements for This Action?

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have federalism implications because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the state and the federal government established in the Act.

This final approval is also not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272 note, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing state operating permit programs submitted pursuant to title V of the Act, EPA will approve state programs provided that they meet the requirements of the Act and EPA's regulations codified at 40 CFR part 70. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a state operating permit program for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a state program that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective November 30, 2001.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act.)

B. What Is the Effective Date of EPA's Full Approval of Minnesota's Title V Program?

EPA's approval of Minnesota's title V program is effective on November 30, 2001. Pursuant to section 502(h) of the Act, the effective date of a permitting program approved under title V is the date of approval by the Administrator or her delegatee. Furthermore, the good cause exception under the Administrative Procedure Act (APA) allows EPA to make the full approval of the state's program immediately effective. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. § 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. The EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. The EPA's interim approval of Minnesota's prior program expires on December 1, 2001. In the absence of this full approval of Minnesota's amended program taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Minnesota and would remain in place until the effective date of the fully-approved state program. The EPA believes it is in the public interest for sources, the public and Minnesota to avoid any gap in coverage of the state program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because MPCA has been administering the title

V permit program for more than six years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

C. What Is the Scope of EPA's Full Approval?

In its program submission, Minnesota did not assert jurisdiction over Indian country. To date, no tribal government in Minnesota has applied to EPA for approval to administer a title V program in Indian country within the state. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

List of Subjects in Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 27, 2001.

Thomas V. Skinner,

Regional Administrator, Region V.

40 CFR part 70 is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended by revising the entry for Minnesota to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Minnesota

(a) The Minnesota Pollution Control Agency: submitted on November 15, 1993; interim approval effective on July 16, 1995; interim approval expires December 1, 2001.

(b) The Minnesota Pollution Control Agency: Program revisions submitted on June 9, 2000, July 21, 2000, June 12, 2001; Rule revisions contained in the submittals adequately addressed the conditions of the interim approval which expires on December 1, 2001. Minnesota is hereby granted final full approval effective November 30, 2001.

(c) [Reserved]

* * * * *

[FR Doc. 01–29963 Filed 12–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[IN003; FRL–7111–9]

Clean Air Act Final Full Approval of the Operating Permits Program; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the operating permits program submitted by the State of Indiana. Indiana submitted its operating permits program in response to the directive in the 1990 Clean Air Act Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authority's jurisdiction.

EFFECTIVE DATE: The effective date of this action is November 30, 2001.

ADDRESSES: Copies of the state's submittal and other supporting information used in developing the proposed approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR–18J, Chicago, Illinois 60604. Please contact Sam Portanova at (312) 886–3189 to arrange a time if inspection of the submittal is desired.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 886–3189, E-Mail Address: *portanova.sam@epa.gov.*

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is being addressed in this document?
Response to comments.
What is involved in this final action?

What Is Being Addressed in This Document?

As required under Subchapter V of the Clean Air Act ("the Act"), as amended (1990), EPA has promulgated regulations which define the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of state operating permits programs (see 57 FR 32250 (July 21, 1992)). These regulations are codified at 40 Code of Federal Regulations (CFR) part 70. Pursuant to Subchapter V, generally known as title V, states developed, and submitted to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The EPA's program review occurs under section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA granted the program interim approval. If EPA has not fully approved a program by the expiration of an interim program, it must establish and implement a federal program.

The Indiana Department of Environmental Management (IDEM) submitted its title V operating permits program (title V program) for approval on August 10, 1994. EPA promulgated interim approval of the Indiana title V program on November 14, 1995 (60 FR 57188), and the program became effective on December 14, 1995. Subsequently, EPA extended Indiana's title V interim approval period on several occasions, most recently to December 1, 2001 (65 FR 32036).

IDEM submitted amendments to its title V program for our approval on May 22, 1996. Indiana intended these amendments to correct interim approval issues identified in the November 14, 1995, action. Based on this submittal, EPA proposed full approval for the Indiana title V program on July 30, 2001 (66 FR 39293). EPA received one adverse public comment on the proposal. After carefully reviewing and considering the issues raised by the commenter, EPA is taking final action to give full approval to the Indiana title V program.

Response to Comments

The comment that EPA received in response to our July 30, 2001, proposal

objects to granting full approval to the Indiana title V program. The commenter states that public comments on deficiencies in the Indiana title V program remain unaddressed. In addition, he notes that changes to the Indiana program adopted since the November 14, 1995, interim approval also remain unaddressed. He believes that these issues result in a program that is insufficient and demonstrate that Indiana is "unwilling or unable to produce a minimally acceptable 40 CFR part 70 Operating Permits Program that meets the standard of full approval."

EPA is aware that issues other than those listed in the November 14, 1995, interim approval exist in the Indiana program and that the Indiana regulations have undergone changes since 1995 that have not been submitted to EPA for approval. EPA agrees that these issues must be addressed and that the state must submit all changes made since 1995 for EPA review and approval. For the reasons discussed below, however, we disagree that newly identified deficiencies prohibit us from granting Indiana full program approval at this time.

In 1990, Congress amended the Act, 42 U.S.C. 7401 to 7671q, by adding title V, 42 U.S.C. 7661 to 7661f, which requires certain air pollutant emitting facilities, including "major source[s]" and "affected source[s]," to obtain and comply with operating permits. *See* 42 U.S.C. 7661a(a). Title V is intended to be administered by local, state or interstate air pollution control agencies, through permitting programs that have been approved by EPA. *See* 42 U.S.C. 7661a(a). EPA is charged with overseeing the state's efforts to implement an approved program, including reviewing proposed permits and vetoing improper permits. *See* 42 U.S.C. 7661a(i) and 7661d(b). Accordingly, title V of the Act provides a framework for the development, submission and approval of state operating permit programs. Following the development and submission of a state program, the Act provides two different approval options that EPA may use in acting on state submittals. *See* 42 U.S.C. 7661a(d) and (g). Pursuant to section 502(d), EPA "may approve a program to the extent that the program meets the requirements of the Act * * *" EPA may act on such program submittals by approving or disapproving, in whole or in part, the state program. An alternative option for acting on state programs is provided by the interim approval provision of section 502(g). This section states: "If a program * * * substantially meets the requirements of this title, but is not fully approval, the Administrator may by rule grant the program interim approval." This provision provides EPA with the authority to act on state programs that substantially, but do not fully, meet the requirements of title V and part 70. Only those program submittals that meet the requirements of eleven key program areas are eligible to receive interim approval. *See* 40 CFR 70.4(d)(3)(i)–(xi). Finally, section 502(g) directs EPA to "specify the changes that must be made before the program can receive full approval." 42 U.S.C. 7661a(g); 40 CFR 70.4(e)(3). This explicit directive encompasses another, implicit one: Once a state corrects the specified deficiencies then it will be eligible for full program approval. EPA believes this is so even if deficiencies have been identified sometime after final interim approval, either because the deficiencies arose after EPA granted interim approval or, if the deficiencies existed at that time, EPA failed to identify them as such in proposing to grant interim approval.

Thus, an apparent tension exists between these two statutory provisions. Standing alone, section 502(d) appears to prevent EPA from granting a state operating permit program full approval until the state has corrected all deficiencies in its program no matter how insignificant, and without consideration as to when such deficiency was identified. Alternatively, section 502(g) appears to require that EPA grant a state program full approval if the state has corrected those issues that the EPA identified in the final interim approval. The central question, therefore, is whether Indiana by virtue of correcting the deficiencies identified in the final interim approval is eligible at this time for full approval, or whether Indiana must also correct any new or recently identified deficiencies as a prerequisite to receiving full program approval.

According to settled principles of statutory construction, statutory provisions should be interpreted so that they are consistent with one another. *See Citizens to Save Spencer County* v. *EPA*, 600 F.2d 844, 870 (D.C. Cir. 1979). Where an agency encounters inconsistent statutory provisions, it must give maximum possible effect to all of the provisions, while remaining within the bounds of its statutory authority. *Id.* at 870–71. Whenever possible, the agency's interpretation should not render any of the provisions null or void. *Id.* Courts have recognized that agencies are often delegated the responsibility to interpret ambiguous statutory terms in such a fashion. *See Chevron U.S.A, Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 845 (1984). Harmonious construction is not always possible, however, and furthermore should not be sought if it requires distorting the language in a fashion never imagined by Congress. *Citizens to Save Spencer County*, 600 F.2d at 870. Furthermore, as discussed more fully below, section 502 of the Act and 40 CFR 70.10 provide a mechanism for identifying problems in programs which states must correct to retain operating permit programs.

In this situation, in order to give effect to the principles embodied in title V that major stationary sources of air pollution must have an operating permit that conforms to certain statutory and regulatory requirements, and that state permitting authorities administer and enforce the operating permit programs, the appropriate and more cohesive reading of the statute recognizes EPA's authority to grant Indiana full approval in this situation while working simultaneously with the state, in EPA's oversight capacity, on any additional problems that were recently identified. To conclude otherwise would disrupt the current administration of the state program and cause further delay in Indiana's ability to issue operating permits to major stationary sources. A smooth transition from interim approval to full approval is in the best interest of the public and the regulated community and best reconciles the statutory directives of title V.

Furthermore, requiring the state to fix all of the deficiencies that have been identified in the past year to receive full approval runs counter to the established regulatory process, mentioned above, that is already in place to deal with newly identified program deficiencies. Section 502(i)(4) of the Act and 40 CFR 70.4(i) and 70.10 provide EPA with the authority to issue notices of deficiency ("NOD") whenever EPA makes a determination that a permitting authority is not adequately administering or enforcing a part 70 program, or that the state's permit program is inadequate in any other way. Consistent with these provisions, EPA will specify in a NOD a reasonable time frame for the permitting authority to correct the identified deficiency.

The Indiana title V interim approval expires on December 1, 2001. This deadline does not provide adequate time for the state to correct newly identified issues prior to the expiration of interim approval. Allowing the state's program to expire because of issues identified as recently as March 2001 will cause disruption and further delay in the issuance of permits to major stationary sources in Indiana. As

explained above, we do not believe that title V requires such a result. Rather, the appropriate mechanism for dealing with additional deficiencies that are identified sometime after a program received interim approval but prior to being granted full approval is the notice of program deficiency or administration deficiency as discussed herein. This process provides the state an adequate amount of time after such findings to implement any necessary changes without unduly disrupting the entire state operating permit program. As a result, addressing newly identified problems separately from the full approval process will not cause these issues to go unaddressed. To the contrary, EPA has notified Indiana that it must promptly correct the non-interim approval deficiencies within a specified time period or face sanctions and disapproval of its program. EPA identified non-interim approval deficiencies to Indiana in 2000. In response, Indiana began the process of revising its administrative code. Indiana worked with EPA throughout this rule adoption process to assure that all program deficiencies identified by EPA and by citizen groups are addressed by the revisions. Indiana's Air Pollution Control Board adopted the necessary title V rule revisions on October 3, 2001. These regulatory revisions still must undergo administrative review, and will not become effective until early 2002.

Because the regulatory revisions will not become effective by December 1, 2001, EPA will issue a NOD for these regulatory deficiencies in the Indiana program on that date. EPA recognizes that Indiana has almost completed the regulatory process to make the necessary revisions, and expects that the state will satisfy the conditions of the NOD by the end of February 2002. Furthermore, at the time that Indiana submits regulatory revisions to correct this NOD, the state must also submit for review and approval all changes that it has made to its title V program since we granted interim approval. Under that review, EPA will disapprove and issue NODs for any program revisions that are inconsistent with part 70.

What Is Involved in This Final Action?

The EPA is granting full approval of the operating permits program submitted by IDEM based on the interim approval corrections submitted on May 22, 1996. These revisions satisfactorily address the program deficiencies identified in EPA's November 14, 1995, interim approval rulemaking.

To date, no tribal government in Indiana has applied to EPA for approval to administer a title V program in Indian country within the state. The EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may seek approval from EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. The EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. The EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. The EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

Two citizens groups commented on what they believe to be deficiencies with respect to the Indiana title V program. As stated in the **Federal Register** notice published on July 30, 2001 proposing to fully approve Indiana's operating permit program, EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 1, 2001 to timely public comments on Indiana's program and other programs that have obtained interim approval, and by April 1, 2002 to timely comments on fully approved programs. Consistent with these time frames, EPA also will publish a notice of deficiency (NOD) if EPA determines that a deficiency exists, or will notify the commenter in writing to explain the reasons for not making a finding of deficiency. EPA Region 5 will also post its response letters on the Internet at *http://yosemite.epa.gov/r5/ardcorre.nsf/Title+V+Program+Comments*. EPA Region 5 includes the states of Michigan, Minnesota, Illinois, Indiana, Ohio, and Wisconsin. The EPA will also be posting all response letters on the national EPA website, and the Agency will publish a **Federal Register** notice of the availability of those response letters. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

Administrative Requirements

A. What Are the Administrative Requirements for This Action?

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have federalism implications because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in

Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the state and the federal government established in the Act.

This final approval is also not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272 note, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing state operating permit programs submitted pursuant to title V of the Act, EPA will approve state programs provided that they meet the requirements of the Act and EPA's regulations codified at 40 CFR part 70. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a state operating permit program for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a state program that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective November 30, 2001.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act.)

B. What Is the Effective Date of EPA's Full Approval of Indiana's Title V Program?

EPA's approval of Indiana's Title V program is effective on November 30, 2001. Pursuant to section 502(h) of the Act, the effective date of a permitting program approved under Title V is the date of approval by the Administrator or her delegatee. Furthermore, the good cause exception under the Administrative Procedure Act (APA) allows EPA to make the full approval of the state's program immediately effective. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. The EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. The EPA's interim approval of Indiana's prior program expires on December 1, 2001. In the absence of this full approval of Indiana's amended program taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Indiana and would remain in place until the effective date of the fully-approved state program. The EPA believes it is in the public interest for sources, the public and Indiana to avoid any gap in coverage of the state program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because IDEM has been administering the title V permit program for six years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

List of Subjects in Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 27, 2001.

Thomas V. Skinner,

Regional Administrator, Region V.

40 CFR part 70 is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended by adding paragraph (b) to the entry for Indiana to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Indiana

* * * * *

(b) The Indiana Department of Environmental Management: Program revisions submitted on May 22, 1996; submittal adequately addressed the conditions of the interim approval which expires on December 1, 2001. Indiana is hereby granted final full approval effective November 30, 2001.

* * * * *

[FR Doc. 01–29962 Filed 12–3–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–7112–4]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Amendment

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA, also the Agency or we in this preamble) today is granting a petition to modify an exclusion (or delisting) from the lists of hazardous waste previously granted to Geological Reclamation Operations and Waste Systems, Inc. (GROWS). This action responds to a petition for amendment submitted by GROWS to increase the maximum annual volume of waste covered by its current exclusion.

After careful analysis, we have concluded the petitioned waste does not present an unacceptable risk when disposed of in a Subtitle D (nonhazardous waste) landfill. This exclusion applies to wastewater treatment sludge filter cake generated by GROWS at its facility in Morrisville, Pennsylvania. Accordingly, this final amendment conditionally excludes a specific yearly volume of the petitioned waste from the requirements of the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when the petitioned waste is disposed of in a Subtitle D landfill which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste.

EFFECTIVE DATE: December 4, 2001.

ADDRESSES: The RCRA regulatory docket for this final amendment is located at the offices of U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA, 19103–2029, and is available for you to view from 8:30 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays. Please call David M. Friedman at (215) 814–3395 for appointments. The public may copy material from the regulatory docket at $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For information concerning this document, please contact David M. Friedman at the address above or at (215) 814–3395.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Overview Information
  A. What action is EPA finalizing?
  B. Why is EPA approving this petition for amendment?
  C. What are the limits of this exclusion?
  D. How will GROWS manage the waste under this exclusion?
  E. When is the final amendment effective?
  F. How does this action affect States?
II. Background
  A. What is a delisting petition?
  B. What regulations allow hazardous waste generators to delist waste?
  C. What information must the generator supply?
III. EPA's Evaluation of the Waste Data
  A. What waste is the subject of this amendment?
  B. How much waste did GROWS propose to delist?
  C. How did GROWS sample and analyze the waste in its petition?
IV. Public Comments on the Proposed Amendment
V. Administrative Assessments

I. Overview Information

A. What Action Is EPA Finalizing?

After evaluating GROWS' petition, we proposed to amend the current GROWS' delisting to increase the maximum annual waste volume covered by its exclusion from 1000 cubic yards to 2000 cubic yards. *See* 66 FR 38969, July 26, 2001. EPA is finalizing:

(1) The decision to grant GROWS' petition to increase the maximum annual waste volume covered by its exclusion from 1000 cubic yards to 2000 cubic yards, subject to certain conditions; and

(2) The decision to use the Delisting Risk Assessment Software, which includes the EPACMPT fate and transport model, to evaluate the potential impact of the petitioned waste on human health and the environment. We used this model to predict the concentration of hazardous constituents released from the petitioned waste, once it is disposed of in a Subtitle D landfill.

B. Why Is EPA Approving This Petition for Amendment?

GROWS petitioned EPA to exclude the increased volume of its wastewater treatment sludge filter cake because it does not believe, even at the increased volume, that the petitioned waste meets the criteria for which it was listed.

GROWS also believes that the waste does not contain any other constituents that would render it hazardous. Review of this petition included consideration of the original listing criteria, as well as factors (including additional constituents) other than those for which the waste was listed, as required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. *See*, section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(a)(1) and (2).

For reasons stated in both the proposed amendment and this document, we believe that GROWS' wastewater treatment sludge filter cake should continue to be excluded from hazardous waste control at the increased volume. Therefore, we are granting the final amendment to GROWS, located in Morrisville, Pennsylvania, for its wastewater treatment sludge filter cake, generated at a maximum annual volume of 2000 cubic yards.

C. What Are the Limits of This Exclusion?

This amended exclusion applies to the waste described in the petition only if the requirements described in Table 1 of Appendix IX to part 261 of Title 40 of the Code of Federal Regulations are satisfied. The maximum annual volume of the wastewater treatment sludge filter cake is 2000 cubic yards.

D. How Will GROWS Manage the Waste Under This Exclusion?

The wastewater treatment sludge filter cake is currently being disposed of in a Subtitle D landfill under the provisions of the existing exclusion. This final amendment will allow GROWS to dispose of the specified increased volume of waste in a similar manner.

E. When Is the Final Amendment Effective?

This rule is effective December 4, 2001. HSWA amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. For these same reasons, this rule can become effective immediately (that is, upon publication in the **Federal Register**) under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

F. How Does This Action Affect States?

Because EPA is issuing today's exclusion under the Federal RCRA delisting program, only States subject to Federal RCRA delisting provisions would be directly affected. This would exclude two categories of States: States having a dual system that includes Federal RCRA requirements and their own requirements, and States who have received EPA's authorization to make their own delisting decisions. We describe these two situations below.

We allow states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under Section 3009 of RCRA. These more stringent requirements may include a

provision that prohibits a Federally issued exclusion from taking effect in the State, or that prohibits a Federally issued exclusion from taking effect in the State until the State approves the exclusion through a separate State administrative action. Because a dual system (that is, both Federal and State programs) may regulate a petitioner's waste, we urge petitioners to contact the applicable State regulatory authorities or agencies to establish the status of their waste under that State's program.

We have also authorized some States (for example, Delaware and Pennsylvania) to administer a delisting program in place of the Federal program; that is, to make State delisting decisions. Therefore, this exclusion does not necessarily apply within those authorized States. If GROWS transports the petitioned waste to, or manages the waste in, any State with delisting authorization, GROWS must obtain delisting approval from that State before it can manage the waste as nonhazardous in that State.

Today, we are finalizing GROWS' petition for amendment, even though the GROWS' facility is located in a State which has recently been granted authorization for the delisting program, and with the knowledge that the amended exclusion is not automatically effective in a State authorized by EPA to make delisting decisions. Nevertheless, we take this action for the following reasons.

GROWS was granted its current Federal delisting exclusion on August 20, 1991 (56 FR 41286). For reasons described elsewhere in this preamble, on June 12, 2000, GROWS petitioned EPA for an amendment to this exclusion. This petition was received prior to November 27, 2000, the effective date of Pennsylvania's delisting authorization. Upon receiving the GROWS' petition, we began our evaluation of it in consultation with the Pennsylvania Department of Environmental Protection.

The evaluation of this petition was performed using a significant improvement to the methodology previously used by EPA to evaluate risk, as described in detail in the July 26, 2001 proposed amendment (66 FR 38969). The process of amendment also provides an opportunity to update other conditions of the current exclusion.

In order for this amendment to be effective in an authorized State, that State must adopt this amendment through its State administrative process.

II. Background

A. What Is a Delisting Petition?

A delisting petition is a formal request from a generator to EPA or another agency with jurisdiction to exclude from the lists of hazardous waste regulated by RCRA, a waste that the generator believes should not be considered hazardous.

B. What Regulations Allow Hazardous Waste Generators to Delist Waste?

Under 40 CFR 260.20 and 260.22, a generator may petition EPA to remove its waste from hazardous waste control by excluding it from the lists of hazardous wastes contained in 40 CFR 261.31, 261.32 and 261.33. Specifically, 40 CFR 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 268 and 273 of Title 40 of the Code of Federal Regulations. 40 CFR 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. A generator can petition EPA for an amendment to an existing exclusion under these same provisions of the Code of Federal Regulations.

C. What Information Must the Generator Supply?

A petitioner must provide sufficient information to allow EPA to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine that the waste is not hazardous for any other reason.

III. EPA's Evaluation of the Waste Data

A. What Waste Is the Subject of This Amendment?

GROWS operates a commercial landfill and wastewater treatment plant in Morrisville, Pennsylvania. On November 13, 1986, GROWS petitioned EPA under the provisions in 40 CFR 260.20 and 260.22 to exclude from hazardous waste regulation a wastewater treatment sludge filter cake derived from the treatment of landfill leachate. This leachate originates, in part, from its closed landfill containing a mixture of solid wastes and hazardous wastes. The wastewater treatment plant also treats non-hazardous leachate from non-hazardous waste landfills.

A full description of these wastes and the Agency's evaluation of the 1986 GROWS' petition are contained in the "Proposed Rule and Request for Comments" published in the **Federal Register** on September 17, 1990 (55 FR 38090).

After evaluating public comment on the proposed rule, we published a final decision in the **Federal Register** on August 20, 1991 (56 FR 41286), to exclude GROWS' wastewater treatment sludge filter cake derived from the treatment of EPA Hazardous Waste No. F039 (multi-source leachate) from the list of hazardous wastes found in 40 CFR 261.31.

EPA's final decision in 1991 was conditioned on the volume of waste identified in the 1986 GROWS' petition. Specifically, the exclusion granted by EPA is limited to a maximum annual volume of 1000 cubic yards. Any additional waste volume in excess of this limit generated by GROWS in a calendar year had to be managed as hazardous waste.

B. How Much Waste Did GROWS Propose To Delist?

As a result of an increase in wastewater treatment sludge filter cake production associated with an increase in the efficiency of the wastewater treatment operation, GROWS petitioned EPA on June 12, 2000, for an amendment to its August 20, 1991 final exclusion. In its petition, GROWS requested an increase in the maximum annual waste volume that is covered by its exclusion from 1000 cubic yards to 2000 cubic yards.

C. How Did GROWS Sample and Analyze the Waste in Its Petition?

The exclusion which we granted to GROWS on August 20, 1991, is a conditional exclusion. In order for its exclusion to remain effective, GROWS must verify that its waste meets prescribed delisting levels.

To support its petition for amendment, GROWS submitted its verification testing results from the past two years to EPA. This submission consisted of the results of twenty-seven (27) analyses conducted on samples collected for the time period from December 15, 1997, until December 10, 1999.

The verification testing program prescribed by EPA in the August 20, 1991 exclusion requires GROWS to analyze metal constituents using the Toxicity Characteristic Leaching Procedure (TCLP), cyanide using a distilled water leaching procedure, and organics using total constituent analysis.

In addition to the two most recent years of verification testing results mentioned above, we also requested that GROWS submit the results of total constituent analyses for a minimum of four samples for the inorganic

constituents. This was necessary because both total constituent analysis data and leachate data are now used in assessing the potential risk from disposal of a petitioned waste, and there is no reliable way to estimate actual total constituent concentrations of the inorganic constituents from leachate data.

Because the verification testing program specified by the current exclusion for GROWS does not require TCLP testing for organic constituents, we evaluated this request for an amendment by calculating theoretical maximum leachate concentrations for the organic constituents by applying the most conservative assumption. The procedure for determining the theoretical maximum leachate concentrations from total constituent analysis concentrations is described in the proposed amendment. *See* 66 FR 38969, July 26, 2001.

IV. Public Comments on the Proposed Amendment

We received no public comments on the GROWS' proposed amendment.

V. Administrative Assessments

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a rule of general applicability and therefore is not a "regulatory action" subject to review by the Office of Management and Budget. Because this action is a rule of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because the rule will affect only one facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA, or communities of Indian tribal governments, as specified in Executive Order 13175 (65 FR 67249, November 6, 2000). For the same reason, this rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq. as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties (5 U.S.C. 804(3)). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: November 26, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

For the reasons set forth in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

Appendix IX of Part 261—[Amended]

2. In Table 1 of Appendix IX of Part 261, the entry for "Geological Reclamation Operations and Waste Systems, Inc., Morrisville, PA" is revised to read as follows:

Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
Geological Reclamation Operations and Waste Systems, Inc.	Morrisville, Pennsylvania.	Wastewater treatment sludge filter cake from the treatment of EPA Hazardous Waste No. F039, generated at a maximum annual rate of 2000 cubic yards, after December 4, 2001, and disposed of in a Subtitle D landfill. The exclusion covers the filter cake resulting from the treatment of hazardous waste leachate derived from only "old" GROWS and non-hazardous leachate derived from only non-hazardous waste sources. The exclusion does not address the waste disposed of in the "old" GROWS' Landfill or the grit generated during the removal of heavy solids from the landfill leachate. To ensure that hazardous constituents are not present in the filter cake at levels of regulatory concern, GROWS must implement a testing program for the petitioned waste. This testing program must meet the conditions listed below in order for the exclusion to be valid: (1) *Testing:* Sample collection and analyses, including quality control (QC) procedures, must be performed according to SW–846 methodologies. (A) *Sample Collection:* Each batch of waste generated over a four-week period must be collected in containers with a maximum capacity of 20-cubic yards. At the end of the four-week period, each container must be divided into four quadrants and a single, full-depth core sample shall be collected from each quadrant. All of the full-depth core samples then must be composited under laboratory conditions to produce one representative composite sample for the four-week period. (B) *Sample Analysis:* Each four-week composite sample must be analyzed for all of the constituents listed in Condition (3). The analytical data, including quality control information, must be submitted to The Waste and Chemicals Management Division, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, and the Pennsylvania Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Rachel Carson State Office Building, 400 Market Street, 14th Floor, Harrisburg, PA 17105. Data from the annual verification testing must be compiled and submitted to EPA and the Pennsylvania Department of Environmental Protection within sixty (60) days from the end of the calendar year. All data must be accompanied by a signed copy of the statement set forth in 40 CFR 260.22(i)(12) to certify to the truth and accuracy of the data submitted. Records of operating conditions and analytical data must be compiled, summarized, and maintained on-site for a minimum of three years and must be furnished upon request by any employee or representative of EPA or the Pennsylvania Department of Environmental Protection, and made available for inspection. (2) *Waste Holding:* The dewatered filter cake must be stored as hazardous until the verification analyses are completed. If the four-week composite sample does not exceed any of the delisting levels set forth in Condition (3), the filter cake waste corresponding to this sample may be managed and disposed of in accordance with all applicable solid waste regulations. If the four-week composite sample exceeds any of the delisting levels set forth in Condition (3), the filter cake waste generated during the time period corresponding to the four-week composite sample must be retreated until it meets these levels (analyses must be repeated) or managed and disposed of in accordance with Subtitle C of RCRA. Filter cake which is generated but for which analyses are not complete or valid must be managed and disposed of in accordance with Subtitle C of RCRA, until valid analyses demonstrate that the waste meets the delisting levels. (3) *Delisting Levels:* If the concentrations in the four-week composite sample of the filter cake waste for any of the hazardous constituents listed below exceed their respective maximum allowable concentrations (mg/l or mg/kg) also listed below, the four-week batch of failing filter cake waste must either be retreated until it meets these levels or managed and disposed of in accordance with Subtitle C of RCRA. GROWS has the option of determining whether the filter cake waste exceeds the maximum allowable concentrations for the organic constituents by either performing the analysis on a TCLP leachate of the waste or performing total constituent analysis on the waste, and then comparing the results to the corresponding maximum allowable concentration level.

(A) Inorganics	Maximum Allowable Leachate Conc. (mg/l)
Constituent:	
Arsenic	3.00e-01
Barium	2.34e+01
Cadmium	1.80e-01
Chromium	5.00e+00
Lead	5.00e+00
Mercury	7.70e-02
Nickel	9.05e+00
Selenium	6.97e-01
Silver	1.23e+00
Cyanide	4.33e+00
Cyanide extractions must be conducted using distilled water in place of the leaching media specified in the TCLP procedure.	

(B) Organics	Maximum allowable leachate conc. (mg/l)	Maximum allowable total conc. (mg/kg)
Constituent:		
Acetone	2.28e+01	4.56e+02
Acetonitrile	3.92e+00	7.84e+01
Acetophenone	2.28e+01	4.56e+02
Acrolein	1.53e+03	3.06e+04
Acrylonitrile	7.80e-03	1.56e-01
Aldrin	5.81e-06	1.16e-04
Aniline	7.39e-01	1.48e+01
Anthracene	8.00e+00	1.60e+02
Benz(a)anthracene	1.93e-04	3.86e-03
Benzene	1.45e-01	2.90e+00
Benzo(a)pyrene	1.18e-05	2.35e-04
Benzo(b)fluoranthene	1.07e-04	2.14e-03
Benzo(k)fluoranthene	1.49e-03	2.98e-02
Bis(2-chloroethyl)ether	3.19e-02	6.38e-01
Bis(2-ethylhexyl)phthalate	8.96e-02	1.79e+00
Bromodichloromethane	6.80e-02	1.36e+00
Bromoform (Tribromomethane)	5.33e-01	1.07e+01
Butyl-4,6-dinitrophenol, 2-sec-(Dinoseb)	2.28e-01	4.56e+00
Butylbenzylphthalate	9.29e+00	1.86e+02
Carbon disulfide	2.28e+01	4.56e+02
Carbon tetrachloride	4.50e-02	9.00e-01
Chlordane	5.11e-04	1.02e-02
Chloro-3-methylphenol 4-	2.97e+02	5.94e+03
Chloroaniline, p-	9.14e-01	1.83e+01
Chlorobenzene	6.08e+00	1.22e+02
Chlorobenzilate	4.85e-02	9.70e-01
Chlorodibromomethane	5.02e-02	1.00e+00
Chloroform	7.79e-02	1.56e+00
Chlorophenol, 2-	1.14e+00	2.28e+01
Chrysene	2.04e-02	4.08e-01
Cresol	1.14e+00	2.28e+01
DDD	5.83e-04	1.17e-02
DDE	1.37e-04	2.74e-03
DDT	2.57e-04	5.14e-03
Dibenz(a,h)anthracene	5.59e-06	1.12e-04
Dibromo-3-chloropropane, 1,2-	3.51e-03	7.02e-02
Dichlorobenzene 1,3-	9.35e+00	1.87e+02
Dichlorobenzene, 1,2-	1.25e+01	2.50e+02
Dichlorobenzene, 1,4-	1.39e-01	2.78e+00
Dichlorobenzidine, 3,3'-	9.36e-03	1.87e-01
Dichlorodifluoromethane	4.57e+01	9.14e+02
Dichloroethane, 1,1-	1.20e+00	2.40e+01
Dichloroethane, 1,2-	2.57e-03	5.14e-02
Dichloroethylene, 1,1-	7.02e-03	1.40e-01
Dichloroethylene, trans-1,2-	4.57e+00	9.14e+01
Dichlorophenol, 2,4-	6.85e-01	1.37e+01
Dichlorophenoxyacetic acid, 2,4-(2,4-D)	2.28e+00	4.56e+01
Dichloropropane, 1,2-	1.14e-01	2.28e+00
Dichloropropene, 1,3-	2.34e-02	4.68e-01
Dieldrin	6.23e+01	1.25e+03
Diethyl phthalate	2.21e+02	4.42e+03
Dimethoate	6.01e+01	1.20e+03

(B) Organics	Maximum allowable leachate conc. (mg/l)	Maximum allowable total conc. (mg/kg)
Dimethyl phthalate	1.20e+02	2.40e+03
Dimethylbenz(a)anthracene, 7,12-	1.55e-06	3.10e-05
Dimethylphenol, 2,4-	4.57e+00	9.14e+01
Di-n-butyl phthalate	5.29e+00	1.06e+02
Dinitrobenzene, 1,3-	2.28e-02	4.56e-01
Dinitromethylphenol, 4,6-,2-	2.16e-02	4.32e-01
Dinitrophenol, 2,4-	4.57e-01	9.14e+00
Dinitrotoluene, 2,6-	6.54e-03	1.31e-01
Di-n-octyl phthalate	1.12e-02	2.24e-01
Dioxane, 1,4-	3.83e-01	7.66e+00
Diphenylamine	3.76e+00	7.52e+01
Disulfoton	3.80e+02	7.60e+03
Endosulfan	1.37e+00	2.74e+01
Endrin	2.00e-02	4.00e-01
Ethylbenzene	1.66e+01	3.32e+02
Ethylene Dibromide	4.13e-03	8.26e-02
Fluoranthene	5.16e-01	1.03e+01
Fluorene	1.78e+00	3.56e+01
Heptachlor	8.00e-03	1.60e-01
Heptachlor epoxide	8.00e-03	1.60e-01
Hexachloro-1,3-butadiene	9.61e-03	1.92e-01
Hexachlorobenzene	9.67e-05	1.93e-03
Hexachlorocyclohexane, gamma-(Lindane)	4.00e-01	8.00e+00
Hexachlorocyclopentadiene	1.66e+04	3.32e+05
Hexachloroethane	1.76e-01	3.52e+00
Hexachlorophene	3.13e-04	6.26e-03
Indeno(1,2,3-cd) pyrene	6.04e-05	1.21e-03
Isobutyl alcohol	6.85e+01	1.37e+03
Isophorone	4.44e+00	8.88e+01
Methacrylonitrile	2.28e-02	4.56e-01
Methoxychlor	1.00e+01	2.00e+02
Methyl bromide (Bromomethane)	1.28e+02	2.56e+03
Methyl chloride (Chloromethane)	1.80e-01	3.60e+00
Methyl ethyl ketone	1.37e+02	2.74e+03
Methyl isobutyl ketone	1.83e+01	3.66e+02
Methyl methacrylate	1.03e+03	2.06e+04
Methyl parathion	1.27e+02	2.54e+03
Methylene chloride	2.88e-01	5.76e+00
Naphthalene	1.50e+00	3.00e+01
Nitrobenzene	1.14e-01	2.28e+00
Nitrosodiethylamine	2.81e-05	5.62e-04
Nitrosodimethylamine	8.26e-05	1.65e-03
Nitrosodi-n-butylamine	7.80e-04	1.56e-02
N-Nitrosodi-n-propylamine	6.02e-04	1.20e-02
N-Nitrosodiphenylamine	8.60e-01	1.72e+01
N-Nitrosopyrrolidine	2.01e-03	4.02e-02
Pentachlorobenzene	1.15e-02	2.30e-01
Pentachloronitrobenzene (PCNB)	5.00e-03	1.00e-01
Pentachlorophenol	4.10e-03	8.20e-02
Phenanthrene	2.09e-01	4.18e+00
Phenol	1.37e+02	2.74e+03
Polychlorinated biphenyls	3.00e-05	6.00e-04
Pronamide	1.71e+01	3.42e+02
Pyrene	3.96e-01	7.92e+00
Pyridine	2.28e-01	4.56e+00
Styrene	6.08e+00	1.22e+02
Tetrachlorobenzene, 1,2,4,5-	9.43e-03	1.89e-01
Tetrachloroethane, 1,1,2,2-	4.39e-01	8.78e+00
Tetrachloroethylene	8.55e-02	1.71e+00
Tetrachlorophenol, 2,3,4,6-	1.81e+00	3.62e+01
Tetraethyl dithiopyrophosphate (Sulfotep)	3.01e+05	6.02e+06
Toluene	4.57e+01	9.14e+02
Toxaphene	5.00e-01	1.00e+01
Trichlorobenzene, 1,2,4-	7.24e-01	1.45e+01
Trichloroethane, 1,1,1-	7.60e+00	1.52e+02
Trichloroethane, 1,1,2-	7.80e-02	1.56e+00
Trichloroethylene	3.04e-01	6.08e+00
Trichlorofluoromethane	6.85e+01	1.37e+03
Trichlorophenol, 2,4,5-	9.16e+00	1.83e+02
Trichlorophenol, 2,4,6-	2.76e-01	5.52e+00
Trichlorophenoxyacetic acid, 2,4,5-(245–T)	2.28e+00	4.56e+01
Trichlorophenoxypropionic acid, 2,4,5-(Silvex)	1.00e+00	2.00e+01

(B) Organics	Maximum allowable leachate conc. (mg/l)	Maximum allowable total conc. (mg/kg)
Trichloropropane, 1,2,3-	7.69e-04	1.54e-02
Trinitrobenzene, sym-	6.49e+00	1.30e+02
Vinyl chloride	2.34e-03	4.68e-02
Xylenes (total)	3.20e+02	6.40e+03

(4) *Changes in Operating Conditions:* If GROWS significantly changes the treatment process or the chemicals used in the treatment process, GROWS may not manage the treatment sludge filter cake generated from the new process under this exclusion until it has met the following conditions: (a) GROWS must demonstrate that the waste meets the delisting levels set forth in Paragraph 3; (b) it must demonstrate that no new hazardous constituents listed in Appendix VIII of Part 261 have been introduced into the manufacturing or treatment process: and (c) it must obtain prior written approval from EPA and the Pennsylvania Department of Environmental Protection to manage the waste under this exclusion.

(5) *Reopener:*

(a) If GROWS discovers that a condition at the facility or an assumption related to the disposal of the excluded waste that was modeled or predicted in the petition does not occur as modeled or predicted, then GROWS must report any information relevant to that condition, in writing, to the Regional Administrator or his delegate and to the Pennsylvania Department of Environmental Protection within 10 days of discovering that condition.

(b) Upon receiving information described in paragraph (a) of this section, regardless of its source, the Regional Administrator or his delegate and the Pennsylvania Department of Environmental Protection will determine whether the reported condition requires further action. Further action may include repealing the exclusion, modifying the exclusion, or other appropriate response necessary to protect human health and the environment.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1001

RIN 0991–AB05

Medicare and State Health Care Programs: Fraud and Abuse; Ambulance Replenishing Safe Harbor Under the Anti-Kickback Statute

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Final rule.

SUMMARY: This final rule sets forth a safe harbor, as authorized under section 14 of the Medicare and Medicaid Patient and Program Protection Act of 1987, to protect certain arrangements involving hospitals or other receiving facilities that replenish drugs and medical supplies used by ambulance providers (or first responders) when transporting patients to the hospitals or receiving facilities.

EFFECTIVE DATE: These regulations are effective on January 3, 2002.

FOR FURTHER INFORMATION CONTACT: Vicki L. Robinson, Senior Counsel, Office of Counsel to the Inspector General, (202) 619–0335.

SUPPLEMENTARY INFORMATION:

Overview—Establishing a New Safe Harbor for Ambulance Restocking Arrangements

This final regulation establishes safe harbor protection for ambulance restocking arrangements.[1] Ambulance restocking is the practice, commonplace in many parts of the country, of hospitals or other receiving facilities restocking ambulance providers[2] with drugs or supplies used during the transport of a patient to the hospital or receiving facility. (For simplicity, we sometimes use the shorthand "hospital" or "receiving hospital" in this preamble; such terminology is intended to include other types of receiving facilities, such as urgent care or community health care clinics that provide emergency care services). Restocking enables the ambulance to depart the hospital ready for the next emergency call, fully stocked with current medications, sanitary linens, and a full complement of appropriate medications and supplies, and helps ensure that supplies, such as intravenous tubing and catheters, are compatible with equipment used in local emergency rooms so as to expedite the transfer of critically ill or injured patients to emergency room systems. *Bona fide* restocking arrangements serve a significant public interest and are consistent with Federal policy established over the past 25 years.[3]

Set forth below is a brief background discussion addressing the anti-kickback statute and the proposed safe harbor for ambulance restocking; a summary of the provisions being adopted into the final regulations; and a review of the public

[1] Because these arrangements are commonly known as "restocking," we use that term in this preamble. As further discussed below, the regulations use the word "replenish" to make clear that the safe harbor only applies to the gifting or transfer of drugs and supplies that replace comparable drugs and supplies administered by the ambulance provider (or first responder) to a patient before the patient is delivered to the receiving facility. The rule is not applicable to any arrangements for the general stocking of the inventories of ambulance providers. Depending on the circumstances, such arrangements may fit into other safe harbors, such as the group purchasing organization safe harbor at § 1001.952(j) or the discount safe harbor at § 1001.952(h) of this part.

[2] In this preamble and regulations text, unless otherwise specified, the term "ambulance provider" compasses both independent ambulance suppliers and hospital-based providers, including "under arrangements" providers.

[3] *See, e.g.*, Emergency Medical Services Systems Act of 1973, Public Law 93–154 (providing Federal funding for the development of regional Emergency Medical Services (EMS) systems at the State, regional, and local levels, and defining "emergency medical services system" as "a system which provides for the arrangement of personnel, facilities and equipment for the effective and coordinated delivery in an appropriate geographical area of health care services under emergency conditions * * * and which is administered by a public or nonprofit private entity which has the authority and the resources to provide effective administration of the system."); Highway Safety Act of 1966, Public Law 89–594 (establishing an EMS program in the Department of Transportation); Emergency Medical Services for Children Program, under the Public Health Act, Public Law 98–555 (providing funds for enhancing pediatric EMS); and Trauma Care Systems Planning and Development Act of 1990, Public Law 101–590.

comments received and our responses to those concerns.

I. Background

A. Ambulance Restocking and the Anti-Kickback Statute

Section 1128B(b) of the Social Security Act (the Act) (42 U.S.C. 1320a–7b(b)) provides criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit or receive remuneration (i.e., anything of value, in cash or in kind) in order to induce the referral of business reimbursable by a Federal health care program. Violations of the statute may also result in civil money penalties under section 1128A(a)(7) of the Act or program exclusion under section 1128(a)(7) of the Act. The statute has been in existence since 1977 and applies broadly to all kinds of health care providers and suppliers. Payments tied to referrals corrupt the health care system, increasing the risks of overutilization of items and services, increased costs to the Federal health care programs, inappropriate steering of patients, and unfair competition. Ambulance restocking arrangements technically implicate the anti-kickback statute because the receiving hospital gives something of value (e.g., drugs or medical supplies) to a potential source of Federal health care program business, i.e., ambulance providers who deliver patients.

Notwithstanding the *potential* for a violation, the OIG believes that the vast majority of ambulance restocking arrangements are lawful under the anti-kickback statute. We fully recognize the importance of ambulances being restocked and ready for emergency use at all times. Properly structured restocking arrangements contribute to this laudable goal without significant risk of fraud or abuse.

B. OIG Advisory Opinions

The OIG was first asked to address an ambulance restocking arrangement in 1997 when two hospitals submitted a request for an advisory opinion under section 1128D of the Act. As required by the statute, the OIG responded to the request, even though the subject matter was not of significant concern to the OIG. As with all determinations under the anti-kickback statute, our review turned on the specific facts and circumstances of the arrangement as presented by the requesting hospitals. The request presented an unusual set of facts under which an unscrupulous party *could* potentially use an ambulance restocking arrangement for an unlawful purpose, namely the steering of patients to a particular hospital in exchange for remuneration. The OIG opined that the facts of the particular arrangement—as presented by the hospitals—would be likely to involve prohibited remuneration.[4] By law, the opinion applied only to the hospitals that requested it.

Subsequently, the OIG issued several favorable advisory opinions approving restocking arrangements that it believed to be much more representative of typical restocking arrangements.[5] Most recently, in December 2000, the OIG issued a favorable advisory opinion approving a hospital's proposal to restock only volunteer ambulance companies that do not charge anyone for their services.

C. The Proposed Safe Harbor

On May 22, 2000, we published a notice of proposed rulemaking to promulgate safe harbor regulations for ambulance restocking arrangements (65 FR 32060). In the notice of proposed rulemaking, we proposed protecting two categories of ambulance restocking arrangements: (1) Arrangements under which the ambulance provider pays a receiving facility fair market value for restocked drugs or supplies; and (2) arrangements under which the ambulance service provider receives contemporaneous restocking of drugs or medical supplies used during emergency transport of a patient to the receiving facility, even if the restocking is without charge or at reduced prices. The proposed rule was designed to protect restocking for emergency transports only.

Proposed § 1001.952(v)(2), the fair market value category, was designed to protect restocking arrangements where an ambulance provider pays the receiving facility fair market value, based on an arms-length transaction, for restocked drugs or supplies (including linens) used in connection with the transport of an emergency patient. Under the proposal, payment need not be made at the same time as the restocking, provided commercially reasonable and appropriate payment arrangements are made in advance.

Proposed § 1001.952(v)(3) was designed to protect remuneration in the form of restocking of drugs or medical supplies (including linens) used during an emergency transport of a patient to the receiving facility, even if the restocking is for free or reduced prices. Under the proposed rule, the restocking arrangements would have to be implemented on a community-wide basis with some involvement of an oversight entity. The proposed safe harbor would not protect unilateral referral arrangements that were not open to all hospitals and ambulance companies in the service area.

Most commenters supported a new safe harbor, but many objected to certain aspects of the proposed rule. Some found the rule too narrow or burdensome, while others found the provisions of the proposed regulations ambiguous or impracticable. Of particular concern to many commenters were the proposed safe harbor conditions relating to monitoring by an oversight entity, written memorialization of the arrangement, and billing for restocked drugs and supplies. We have eliminated or substantially revised these conditions, as described in greater detail in section II. below.

II. Summary of the Final Rule

As with the proposed rule, the goal of this final rule is safe harbor protection for the vast majority of ambulance restocking arrangements that further the important mission of insuring that pre-hospital emergency medical services (EMS) are timely, effective and efficient.

A. Major Changes

We have modified the proposed rule in a number of areas in response to public comments. Among the substantial changes and clarifications being made in the final regulations are:

- Eliminating the oversight entity condition in favor of a public operation and disclosure condition;
- Clarifying that no complicated written contracts or agreements are required and providing a short sample disclosure notice;
- Conforming the billing conditions to existing Federal health care program payment and coverage rules and regulations;
- Expanding the safe harbor to include restocking for non-emergency runs so long as the ambulance is also used for emergency runs;
- Allowing hospitals to limit the scope of protected restocking to all non-profit ambulance providers or all ambulance providers that do not charge for their services;
- Simplifying the documentation conditions so that only one party to the restocking arrangement is required to document the restocking;
- Adding specific safe harbor protection for Government-mandated ambulance restocking; and

[4] OIG Advisory Opinion 97–6 (October 8, 1997).

[5] OIG Advisory Opinion 98–7 (June 11, 1998); OIG Advisory Opinion 98–13 (September 30, 1998); OIG Advisory Opinion 98–14 (October 28, 1998); and OIG Advisory Opinion 00–09 (December 8, 2000).

• Including restocking of drugs or supplies initially administered to the patient by a first responder at the scene of the illness or injury.

B. Final Safe Harbor Conditions

The final safe harbor regulations establish broad protection for most existing ambulance restocking arrangements, while precluding protection for any abusive arrangements that use targeted or selective restocking for the purpose of inducing or rewarding referrals. The final regulations address three categories of restocking: (1) General restocking (whether for free or for a charge), (2) fair market value restocking, and (3) Government-mandated restocking. Parties need only satisfy the conditions applicable to any *one* of these categories. Parties who are unsure whether their restocking is at fair market value or is mandated by a Government authority may look to the general restocking category.

The final regulations provide that "remuneration" under the anti-kickback statute does not include any gift or transfer of drugs or medical supplies (including linens) by a hospital or other receiving facility to an ambulance provider for the purpose of replenishing comparable drugs or medical supplies (including linens) used by the ambulance provider (or a first responder) in connection with the transport of a patient by ambulance to the hospital or receiving facility if all applicable safe harbor conditions are satisfied.

The regulations are divided into two parts. First, there are four conditions, codified at § 1001.952(v)(2), that apply to all three of the restocking categories being protected by the safe harbor. Second, there are specific conditions codified at § 1001.952(v)(3) for each of the three categories being set forth (general restocking, fair market value restocking, and Government mandated restocking). To qualify for safe harbor protection, a restocking arrangement must meet all of the conditions in the first part and all of the conditions relevant to *one* category in the second part.

1. Conditions Applicable to All Safe Harbor Restocking Arrangements

The four conditions applicable to all safe harbor restocking arrangements are:

(a) *Appropriate billing of Federal health care programs.* The final rule conditions safe harbor protection on Federal health care program billing for restocked drugs and medical supplies that is consistent with all applicable program payment and coverage rules and regulations. The ambulance provider and the hospital may not both bill for the same restocked drug or supply. For purposes of this safe harbor, billing includes submitting claims for bad debt. Compliance with the requirement that billing be appropriate will be determined separately for receiving facilities and ambulance providers. For example, if a hospital improperly bills for restocked supplies, the ambulance provider who received the supplies may still be protected, so long as the provider has not done anything to impede the hospital's compliance with the billing rules.

(b) *Documentation requirements.* We have simplified the documentation requirements. Under the final rule, either the hospital or the ambulance provider may generate the necessary documentation, so long as the other party receives and maintains a copy of it for 5 years. This 5-year period is consistent with the recordkeeping requirements of the Centers for Medicare and Medicaid Services' (CMS)[6] hospital conditions of participation. The pre-hospital care report typically prepared by the ambulance service provider (sometimes called the trip sheet, patient care report or patient encounter report) will be sufficient to satisfy this requirement if (i) the report identifies the drugs and supplies used on the patient and subsequently restocked and (ii) a copy of the report is filed with the receiving facility within a reasonable amount of time. For arrangements that include restocking of linens, an exchange of linens will be presumed to occur with each run, absent documentation to the contrary. The pre-hospital care report or other documentation may be prepared and filed with the other party in hard copy or electronically.

(c) *No ties to referrals.* In the light of the easing of the billing conditions, we are adding a safeguard similar to one found in other safe harbors that prohibits any restocking arrangement that is conditioned on, or otherwise takes into account, the volume or value of any referrals or other business generated between the parties for which payment may be made in whole or in part by a Federal health care program (other than the delivery to the receiving facility of the particular patient for whom the drugs and medical supplies are restocked).

(d) *Compliance with all other applicable laws.* We have retained the proposed condition that the receiving facility and the ambulance provider must comply with all Federal, State and local laws regulating ambulance services, including, but not limited to, emergency services, and the provision of drugs and medical supplies, including, but not limited to, laws relating to the handling of controlled substances.

2. Safe Harbor Conditions Applicable to the Specific Categories of Safe Harbor Protection

The safe harbor conditions applicable to the three specific categories of safe harbor protection are summarized as follows:

(a) *General restocking.* This safe harbor for general restocking is available for free restocking arrangements, as well as arrangements under which the ambulance provider pays some amount for the restocked drugs and supplies (whether or not the amount is fair market value). (Any payment for drugs must comply with applicable Federal, State and local laws.) Two specific conditions apply to the general restocking category. First, the receiving facility must restock medical supplies or drugs on an equal basis for ambulance providers in one or more of three categories: (i) All ambulance providers; (ii) all non-profit and governmental providers; or (iii) all non-charging providers (typically volunteers and municipal providers). A receiving facility can offer restocking to more than one category, and can offer a different restocking program to each category that it restocks, so long as the restocking is uniform within each category. The final regulations make clear that safe harbor protection does not require each hospital and receiving facility in the service area to offer restocking, nor all ambulance providers to accept it.

Second, the restocking must be conducted publicly. As detailed in the regulations text, a restocking arrangement will be considered to be conducted publicly if: (i) The arrangement is memorialized in a conspicuously posted writing that outlines the terms of the restocking program and copies are available publicly (a sample disclosure form is included in the regulations); *or* (ii) The restocking program operates in accordance with a plan or protocol of general application promulgated by an EMS council or comparable organization. For purposes of safe harbor compliance, the writing need not disclose confidential proprietary or financial information.

(b) *Fair market value restocking.* This category protects restocking arrangements where an ambulance provider pays the receiving facility fair

[6] Until June 2001, CMS was known as the Health Care Financing Administration.

market value, based on an arms-length transaction, for restocked medical supplies (including linens). For consistency with the Prescription Drug Marketing Act,[7] and some State laws, the final regulations do not include the resale of drugs in this category. (Restocking of drugs may be covered under other safe harbor categories.) This safe harbor category has two conditions: (i) The restocking must be at fair market value, and (ii) payment arrangements must be commercially reasonable and made in advance. For reasons discussed in greater detail in the responses to comments in section III. of this preamble, we are not including any special accommodation related to the Non-Profit Institutions Act, 15 U.S.C. 13(c), exception to the Robinson-Patman Act.[8]

(c) *Government-mandated restocking.* This final safe harbor protects restocking of drugs and supplies undertaken in accordance with a State or local statute, ordinance, regulations or binding protocol that requires hospitals or receiving facilities in the area subject to such requirement to restock ambulances that deliver patients to the hospital with drugs or medical supplies that are used during the transport of that patient.

C. Safe Harbor Compliance Is Voluntary

As with all safe harbors, compliance with these new safe harbors is *voluntary*. While the vast majority of ambulance restocking arrangements should fit in this new safe harbor, failure to fit does not mean that an arrangement is illegal under the anti-kickback statute. Rather, it simply means that the legality of the arrangement must be evaluated on a case-by-case basis. If no purpose of the arrangement is to induce or reward the generation of Federal health care program business, there would be no violation of the statute. The obligation of parties to comply with the anti-kickback statute pre-dates this safe harbor rulemaking, and arrangements that were lawful before the rulemaking will continue to be lawful, whether or not they meet the safe harbor requirements. The safe harbor does not require the restructuring of any arrangements, although parties may choose to restructure to take advantage of the safe harbor protection. Parties who are unsure whether their existing or proposed arrangements fit in a safe harbor or would be subject to OIG sanctions may apply for an advisory opinion under section 1128D of the Act. The procedures for applying for an advisory opinion are set forth at 42 CFR part 1008 and on the OIG Web site at *http://www.dhhs.gov/progorg/oig/advopn/index.htm*.

[7] Public Law 100–293, April 22, 1998, 102 Stat. 95.

[8] 15 U.S.C. 13(a)–(f).

III. Public Comments and Responses

In response to our proposed rulemaking, the OIG received a total of 46 timely-filed comments from a cross-section of ambulance providers, hospitals, local and regional emergency medical boards, professional associations and other interested parties. Set forth below is a summary of the issues raised by the commenters and our responses to those specific concerns.

A. General Comments

The vast majority of the public comments supported promulgation of a safe harbor for ambulance restocking, although many commenters took issue with one or more specific aspects of the proposal.

Comment: Several commenters believed that the OIG advisory opinions on ambulance restocking under the anti-kickback statute, especially the first one issued in 1997, have had a chilling effect on ambulance restocking arrangements.

Response: While this comment reflects a common perception in the industry, we have learned that a major source of the reluctance of many hospitals to enter into, or continue, restocking programs is financial. In other words, their willingness to participate in restocking arrangements is directly related to their ability to be reimbursed by Medicare or other insurers for costly supplies and drugs provided without charge to local ambulance services. Many of these drugs and supplies are increasingly becoming the standard of care for pre-hospital services. In many cases, financially strapped hospitals are unwilling to continue to subsidize the emergency medical system in the absence of definitive assurance that they will be adequately reimbursed for drugs and supplies used during ambulance transports. Some hospitals have used the unfavorable 1997 advisory opinion as a pretext for justifying decisions to terminate, or decline to participate in, restocking arrangements in order to blunt negative publicity and adverse local community reaction.

Comment: A number of commenters misread the proposed regulations as an effort by the OIG to dictate Medicare payment policy.

Response: The OIG does not set Medicare payment and coverage policy. As stated in the proposed rule, we express no view in these regulations as to the appropriate Federal health care program payment or coverage policy for drugs and supplies used during ambulance transports. Those determinations are properly made by the relevant Federal program. In crafting safeguards to include in safe harbor regulations, we considered the ways in which a particular payment policy or practice may affect the risk of patient or program abuse.

Comment: An ambulance provider with a limited budget, and in an area with a low call volume, explained that it could not maintain an Advanced Life Support level of service, because it was unable to restock drugs from a local hospital. According to the commenter, their costs of purchasing expensive drugs in small quantities makes such drugs prohibitively expensive. In addition, the commenter observed that many small providers do not have the facilities to maintain proper environmental conditions for larger supplies of these types of drugs.

Response: Nothing in these regulations prohibits hospitals from restocking ambulances with drugs or prohibits ambulance providers from taking advantage of (i) volume discounts obtained by hospitals (to the extent otherwise permitted under Federal, State and local law) or (ii) any hospital facility for storing such drugs.

Comment: Several commenters indicated that in some parts of the country, local and State governments have imposed mandatory requirements relating to the restocking of ambulances that deliver patients to hospitals. These commenters requested an additional category of safe harbor protection to address arrangements controlled by State or local government requirements.

Response: Nothing in the safe harbor regulations precludes State and local governments from regulating ambulance restocking. If the State or local law or regulation is duly promulgated, and the restocking arrangement is conducted in accordance with its mandate, the OIG sees little risk under the anti-kickback statute, which requires a showing of unlawful intent. Accordingly, we are including an additional safe harbor category for Government-mandated restocking, and have adapted language suggested by a major trade association. We note that nothing in State or local government laws or regulations mandating ambulance restocking affects the reimbursement rules under Medicare or other Federal health care programs.

Comment: Some commenters questioned whether ambulance

restocking arrangements raise kickback concerns at all. Specifically, with respect to patient steering risks, one commenter explained that conscious patients select their own destination, and unconscious or unstable patients are taken to the nearest facility. Other commenters expressed the view that instances of fraud in ambulance restocking arrangements would be isolated.

Response: We agree that fraud and abuse are likely to be uncommon in *bona fide* ambulance restocking arrangements. Nonetheless, in crafting safe harbors, we must be mindful not only of the benefits of the practices we seek to protect, but also the potential abuses. With ambulance restocking, the risks are low but not absent.

Comment: Several commenters requested clarification of the term "emergency patient" as used in the proposed safe harbor. These commenters inquired whether this term referred to the patient's actual condition or to the manner by which the ambulance is summoned. One commenter suggested that an emergency patient be defined as a patient delivered to a *bona fide* emergency department for medical or traumatic care.

Response: Because we are expanding the safe harbor to cover non-emergency transports, we do not believe any regulatory definition of the term "emergency patient " is required. However, we are adding a definition of "emergency ambulance service" for purposes of identifying those ambulances and ambulance providers that provide emergency transports and are thus eligible for safe harbor-protected restocking. For purposes of these final regulations, we are defining an "emergency ambulance service" as one that results from a call through 9–1–1 or other emergency access number or a call from another acute care facility unable to provide the higher level care required by the patient and available at the receiving facility.

Comment: Paragraph (v)(1) of the proposed regulations indicated that remuneration "* * * does not include any gift or transfer of drugs or medical supplies (including linens) * * *" A commenter found the use of the word "gift" in this phrase confusing, since the safe harbor protects what is essentially an equal or equivalent exchange (i.e., what was used is restocked) and not the gifting of additional goods.

Response: The commenter is correct that the safe harbor is not designed to protect remuneration in the form of additional goods or services beyond the restocking of drugs or medical supplies (including linens) used on particular patients transported to the receiving facility. It does, however, protect restocking in the form of a gift, i.e., restocking bestowed voluntarily and without compensation.

Comment: A large self-insured manufacturing company that maintains its own private ambulance service to transport ill or injured employees to its preferred provider hospitals expressed concern about the impact of the proposed rule on its restocking arrangement. According to the commenter, the company negotiates preferred provider plans with hospitals in accordance with which the hospitals restock the ambulances at the hospitals' expense. No employees transported by the company's ambulance service are covered by Medicare or Medicaid, but the company is concerned that the safe harbor would affect restocking practices at the hospital.

Response: Because the company's ambulance service transports only private pay patients, nothing in this rule will directly affect the commenter's restocking arrangements. Short of making clear in this preamble discussion that the arrangement described in the comment need not be modified to comply with these rules, we know of no way of preventing the collateral impact anticipated by the company in particular cases.

B. General Restocking

1. Non-Emergency Transports

Comment: A number of commenters urged the OIG to expand the proposed safe harbor to cover the restocking of drugs and medical supplies for non-emergency transports. Given that ambulances that provide non-emergency transports are frequently on call for emergencies, commenters noted that it would be contrary to the public health and safety goals of restocking to bar restocking of an ambulance that arrives at a hospital with a non-emergency patient. One commenter recommended that we expand the safe harbor to apply to all patients brought to the hospital or, in the alternative, to all patients brought to the emergency room.

Response: In general, the scope of replenishing needed after a non-emergency transport is likely to be minimal, since relatively few drugs or supplies are typically administered to non-emergency patients during a transport. Nevertheless, to further the goal of protecting restocking arrangements that ensure that ambulances are stocked and ready to respond to emergencies at all times, we are expanding the safe harbor to cover the restocking of drugs and supplies used on both emergency and non-emergency transports, provided that the ambulance that is restocked is used with some degree of regularity to respond to emergency calls (i.e., calls from 9–1–1 or another emergency access number). We do not intend to protect restocking of ambulances that are not used with some degree of regularity for emergencies. The fact that such restocking is outside the scope of this rulemaking does not mean that such restocking is illegal. Whether arrangements for restocking of non-emergency ambulances violate the anti-kickback statute must be determined on a case-by-case basis. Parties to such arrangements may request an OIG advisory opinion.

In order to create a bright line rule that is simple to apply, this expansion requires a measure for determining when an ambulance is used for emergency calls with sufficient regularity to qualify for replenishing under the safe harbor. The new regulations provide that an ambulance will satisfy this standard if the ambulance is used to respond to emergencies an *average* of three times per week measured over *any* reasonable time period. This test does *not* mean that the ambulance must actually make three emergency runs every week. Rather, over a reasonable period of time, the ambulance must be used an *average* of three times per week. Thus, for example, if an ambulance is used 12 times during a month, the test will be met. Similarly, the test will be met if the ambulance is used for emergency runs 156 times in a year, even if there are some weeks in which the ambulance receives no emergency calls. In essence, the three runs test is designed to differentiate between ambulances that are reasonably likely to be called out for an emergency transport, and thus have a compelling need to be restocked by a receiving facility after a non-emergency run, and those that are not.

Restocking arrangements for ambulances or ambulance providers that only provide routine, non-emergency services, or that do not meet the three runs test described above, must be evaluated under the anti-kickback statute on a case-by-case basis. Finally, nothing in these regulations will require restocking of non-emergency transports or the expansion of existing restocking programs to cover non-emergency transports.

2. Uniform Restocking

Comment: The proposed rule conditioned safe harbor protection on a receiving hospital's provision of restocked drugs and supplies on an

equal basis to all ambulance providers that deliver patients to the hospital. This condition was intended to insure that the safe harbor did not protect selective or targeted arrangements that are not *bona fide* restocking for the purpose of enhancing the delivery of EMS. Commenters argued that the safe harbor should protect receiving facilities that opt to restock only certain categories of ambulance providers. For example, some wanted to restock only volunteer ambulance providers or only ambulance providers that do not charge patients or insurers. Tax-exempt hospitals commented that requiring them to restock for-profit ambulance providers could jeopardize their tax-exempt status. Other commenters wanted to offer different restocking programs to different types of ambulance providers, such as offering full restocking to non-charging volunteer companies and more limited restocking to companies that charge for services.

Response: Having reviewed the comments, we have concluded that an appropriate safe harbor can be structured that would afford hospitals greater flexibility in crafting restocking programs, while preserving the principle that protected restocking programs should not be unilateral arrangements for the benefit of selected providers. (Of course, unilateral arrangements in remote service areas where there is only one receiving facility or one ambulance service provider are protected if they meet all the safe harbor conditions.) The final regulations protect restocking of: (i) All ambulance providers; (ii) all non-profit and governmental ambulance providers; or (iii) all ambulance providers that do not charge patients or insurers (typically volunteers and municipal providers). A hospital can offer restocking to more than one category and can offer a different restocking program to each category that it restocks, so long as the restocking is uniform within each category (i.e., non-charging providers may be offered a larger scope of restocked items than charging providers). Limiting the scope of free restocking to providers within these categories represents a reasonable distinction that will ensure that arrangements qualifying for safe harbor protection will not be related to the volume or value of referrals or other business generated for the hospitals. This modification accommodates hospitals' legitimate interests in containing the cost of their restocking programs. (The issue of the effect, if any, of a restocking arrangement on a hospital's tax exempt status would be a matter for the Internal Revenue Service.)

Comment: A commenter expressed concern that the "all ambulances" condition in the proposed rule would not permit facilities to restock only small, low volume volunteer companies without charge or at below cost. The commenter explained that, in their region, hospitals could not afford to restock large, high volume commercial ambulance companies for free.

Response: We have revised the safe harbor to permit hospitals to restock volunteer companies only. To qualify for safe harbor protection, the hospital must restock all volunteer companies uniformly. The safe harbor does not protect differential restocking based on the volume of transports, although offering free or discounted restocking only to low volume companies would not necessarily violate the anti-kickback statute.

Comment: Several commenters requested clarification as to whether all ambulance providers and receiving facilities in a service area would be required to participate in a restocking arrangement in order for the arrangement to qualify for safe harbor protection.

Response: All ambulance providers in a service area are *not* required to participate in order for an arrangement to fit in the safe harbor. Under the proposed rule, we did not intend to require all ambulance providers and receiving facilities in a service area actually to participate in a restocking arrangement in order for the arrangement to qualify for safe harbor protection. We did intend to require that a protected restocking arrangement be open to the voluntary participation of all ambulance providers and receiving facilities in a service area. The final regulations—including the new public operation and disclosure condition—generally reflect this intent. We have made exceptions for arrangements that limit the scope of restocking to the particular subcategories of ambulance providers described in the preceding response or that limit the scope to emergency transports. These limitations are a reasonable means of constraining the costs of restocking and are not related to the actual or potential volume or value of referrals or other business generated between the parties that is payable by a Federal health care program.

3. Billing

Comment: Some commenters objected to the proposed billing conditions. While designed to limit safe harbor protection to those arrangements that posed no risk of double payments or "double dipping," the conditions were misconstrued by many commenters as prohibiting legitimate billing practices under Medicare payment rules, or as barring all billing by both the hospitals and the ambulance providers for the restocked drugs and supplies. Some commenters wondered why a safe harbor under the anti-kickback statute would need to take into account the question of billing at all. Commenters recommended that the conditions on billing in the proposed safe harbor be removed or altered to provide only that any billing for restocked items must be consistent with applicable Federal reimbursement provisions.

A commenter explained that ambulance providers in its State are not allowed to purchase or bill for drugs. The drugs used in the field are purchased and owned by the hospitals and restocked locally through a system of State-approved protocols. The commenter believed the following language would better accomplish the safe harbor objectives, while still allowing one party to bill for drugs: "Under no circumstances may the ambulance provider and the receiving facility both bill for the actual drug or supply. Restocked drugs or supplies may only be billed to any Federal health care program by either the ambulance provider or the receiving facility." Several other commenters suggested similar language.

Response: We agree with the commenters that a safe harbor regulation is not a tool for setting program payment and coverage policy and doing so was not our intent. The billing conditions we proposed were designed to ensure that the safe harbor would not protect arrangements that could result in Medicare paying twice for the same drugs and supplies (i.e., situations in which both the ambulance company and the hospital bill for the same drug or supply), or in the ambulance services provider receiving a double benefit by billing Medicare for drugs and supplies for which it obtained free replacements (double-dipping). In both circumstances, ambulance restocking arrangements have the potential to increase costs to Medicare and other Federal health care programs. In the interest of simplification, we are adopting the commenters' suggestion and modifying the billing conditions to require that any billing of the Federal health care programs comport with applicable payment and coverage rules and regulations. Under applicable Medicare rules, a particular drug or supply administered to a patient in a pre-hospital setting will be covered

under either the ambulance or the outpatient hospital benefit, depending on the circumstances (e.g., whether the ambulance transport is provided "under arrangements" with the hospital); thus, the ambulance provider and the hospital may not both bill for the same drug or supply.[9]

Comment: Commenters raised a number of issues related to reimbursement for restocked drugs or supplies in particular circumstances. For example, a commenter explained that several volunteer rescue squads in its region do not bill any Federal health care programs. The commenter believes the proposed rule, as written, did not consider how a hospital would be reimbursed for drugs and supplies used by a volunteer service when an emergency patient is not admitted to the hospital. Some commenters questioned how ambulance providers would be reimbursed for new lifesaving drugs that could not have been included in the base rate payable to ambulance providers because the drugs did not exist, or were not used in a pre-hospital setting, when the base rates were set. Several commenters asked that we create a separate safe harbor to cover restocking arrangements that deal with specific drugs or devices that are administered at the order of a physician at the receiving hospital or centralized medical control. A commenter observed that unless private ambulance companies recover costs for expensive new medications, they will likely cease providing emergency services, thus shifting the entire responsibility onto the local governments to provide emergency medical care.

Response: The question of reimbursement in the circumstances described by the commenters is outside the scope of the OIG's regulatory authority and should be directed to CMS or the relevant fiscal intermediary or carrier. We included a condition in the proposed safe harbor that would have denied safe harbor protection for arrangements under which ambulance providers billed separately (i.e., in addition to the base rate payment) for restocked drugs and supplies. The condition would not have barred the restocking of any particular drugs or supplies. However, we have removed the former billing condition and replaced it in the final regulations with one that requires appropriate billing of the Federal health care programs, as determined by CMS or other relevant payment agency. Restocking of lifesaving drugs will be protected so long as the safe harbor conditions are met. None of the safe harbor conditions strikes us as imposing any particular burden on restocking of lifesaving drugs. Given this, we see no need for the additional safe harbor suggested by the commenters.

Comment: Several commenters observed that hospitals are unwilling to absorb the cost of emergency medications and supplies provided for free or below fair market values.

Response: Nothing in these regulations requires hospitals to provide ambulances with free or below cost medications or supplies for emergency services. Our interest in developing the safe harbor provisions is in insuring that the anti-kickback statute does not chill *bona fide* hospital restocking arrangements by hospitals that wish to provide them. To the extent that reimbursement policies may adversely impact the delivery of EMS, those concerns should be addressed to CMS.

Comment: A commenter asked about the intended impact of these safe harbor regulations on current and future arrangements involving hospitals that have negotiated prospective payment arrangements that may incorporate medication charges or EMS providers that have negotiated fee structures that bundle such charges in one overall set of base-rate and mileage charges. The commenter pointed out that CMS's negotiated rulemaking process for EMS rate setting may alter these arrangements as new rates, including bundled charges, are phased in.

Response: These rules should have no impact on the arrangements described by the commenter. Nothing in these rules alters or changes any billing practice or arrangement.

4. Documentation

Comment: Several commenters raised concerns about the documentation requirement in the proposed safe harbor. Commenters believed that requiring both the hospital and the ambulance provider to document the restocking was unnecessary and duplicative. The commenters generally suggested that existing patient care reports (sometimes known as trip sheets or patient encounter reports) already maintained for other purposes, such as ensuring continuity of care and billing, should be sufficient. Commenters explained that in a busy emergency room, it would be difficult to maintain multiple logs for multiple ambulance providers for both supplies and medications. Several commenters noted that maintaining a record of every restocked item in a large urban EMS system with a large volume of patients would create large amounts of paperwork, consume limited resources, and slow down the response time of ambulances. Alternatively, some commenters suggested that parties could agree that either the hospital or the ambulance provider, but not both, should bear the responsibility for record keeping.

Response: We have modified the documentation requirement to permit either party to maintain records of the restocked drugs and medical supplies, so long as the other party receives and maintains a copy of the records. (In the alternative, both the hospital and the ambulance provider can maintain separate records of the restocking, in which case they need not file copies of their respective documentation with the other party.) Patient care reports, trip sheets, patient encounter reports, and the like (collectively being referred to as pre-hospital care reports in the final regulations) are sufficient to meet this requirement if they document the restocked drugs and medical supplies and are filed with the receiving facility within a reasonable time, in hard copy or electronically. It is our understanding that the preparation of a pre-hospital care report is the standard of care for transferring a patient to a receiving facility and is required by law in many States. However, parties may decide individually or between themselves to document the restocking using other kinds of paper or electronic records. In the case of first responder restocking, we are requiring that the restocked drugs and medical supplies be documented in the pre-hospital care report prepared by the transporting ambulance provider *or* in records maintained by the hospital and shared with the transporting provider.

Comment: One commenter favored the proposed documentation requirement in most situations, but suggested that this requirement might be rethought for linen exchanges and other routinely used items. In the commenter's view, the requirement that hospitals and ambulance providers keep records pertaining to routine items, like linens, is unduly burdensome. The commenter argued that there is little risk to the programs from a one-for-one exchange of soiled linen for clean linen, and that these exchanges are so prevalent throughout the industry that record keeping would be required on

[9] Nothing in this preamble or these safe harbor regulations should be construed as approving or establishing any particular billing or payment practice. Questions regarding Medicare billing should be addressed to CMS or the appropriate fiscal intermediary or carrier. Questions regarding Medicaid billing should be addressed to the State Medicaid agency. Questions regarding billing in other Federal health care programs should be addressed to the relevant agency.

virtually every transport for many ambulance providers.

Response: We agree that providers need not document the exchange of linens. If they are part of a restocking arrangement, linens will be presumed to have been exchanged on a one-for-one basis. The commenter did not identify, and it would not be feasible to enumerate in these regulations, other supplies that may be so routinely used as to warrant a comparable presumption. We think parties will be able to devise simple means of documenting such routine restocking.

Comment: One commenter requested guidance on the length of time providers need to maintain records of restocked drugs and supplies.

Response: As indicated above, we have simplified the documentation requirements. Under the final regulations, either the hospital or the ambulance provider may generate the necessary documentation, so long as the other party receives and maintains a copy of it for 5 years, a period consistent with the CMS's hospital conditions of participation recordkeeping requirements.

5. Writing Requirement

Comment: Some commenters objected to the proposed condition requiring the restocking arrangement to be memorialized in writing. The proposed rule required that the ambulance restocking arrangement be memorialized in writing, *either* (i) in a plan or protocol of general application *or* (ii) in a written contract between the parties. Some commenters misread this condition as requiring providers to enter into written contracts or agreements. In addition, we have heard, anecdotally, that some industry consultants and counselors have been advising ambulance providers and hospitals that the proposed rule required the creation of lengthy and detailed contracts.

Response: As is typical of most safe harbor regulations, the proposed rule required that the protected ambulance restocking arrangement be memorialized in writing. Under the proposal, the writing could be *either* a plan or protocol of general application *or* a written contract or agreement between the parties. Under the final rule, no particular form of writing is mandated. Indeed, the writing can take the form of a simple disclosure statement. A sample disclosure statement is being included as an appendix to part 1001, subpart C of the regulations. This sample is intended for guidance purposes only. Parties are free to use other formats or to substitute written contracts or protocols. No public disclosure of confidential proprietary or financial information is required.

We believe that virtually all existing restocking arrangements are already being conducted in accordance with some form of written description of the arrangement. So long as the written description is conspicuously posted and publicly available and describes (i) The category, or categories, of ambulance provider that qualifies for restocking; (ii) the drugs or medical supplies included in the restocking program for each category; and (iii) the procedures for documenting the restocking, no new paperwork is required to qualify for safe harbor protection.

6. Publicly-Conducted restocking

Comment: Many commenters objected to the "oversight entity" condition included in the proposed rule. Among other things, commenters argued that mandating a regional oversight body would unduly burden local communities by requiring the creation of a significant infrastructure and layers of bureaucracy. Some commenters expressed concern that the proposed rule was unclear as to the scope of the oversight entities' responsibilities and that such a requirement could lead to logistical problems for entities that would have to develop, review and monitor contracts for all regional providers. In some places, this would entail oversight of more than 80 receiving facilities. A hospital association expressed concern that the term "oversight" could imply a regulatory, rather than strictly an oversight, role. Some commenters thought the proposed rule tasked oversight entities with responsibility for monitoring contractual arrangements over which they might have little control. Some commenters noted that coordinated EMS councils do not exist in all parts of the country, and, where they do operate, it would often not be realistic to expect them to oversee the restocking programs of many different hospitals and ambulance providers. Other commenters found the language regarding the composition of the oversight entity confusing and questioned whether particular parties, such as labor unions, could be participants in the oversight entities.

Response: We originally proposed protecting ambulance restocking arrangements that were part of a comprehensive and coordinated EMS delivery system to ensure that the safe harbor would protect *bona fide* restocking arrangements and not selective arrangements used to attract or reward referrals. To effectuate this requirement, we proposed that restocking arrangements be implemented with the participation of, and monitored by, a regional EMS council or comparable entity.

While we had intended the oversight entity condition to be broad and flexible in accordance with local conditions, encompassing a broad array of entities of various composition that were representative of their service areas, the comments made clear that many in the industry found the requirement burdensome. Accordingly, we have eliminated the oversight entity condition, and in its place we have substituted three flexible safe harbor conditions that we believe will provide sufficiently comparable protection from a safe harbor perspective. These include conditions that: (i) Require a publicly conducted restocking arrangement, (ii) require uniformity in the restocking arrangement, and (iii) prohibit restocking that takes into account the volume or value of referrals (other than the referral of the particular patient to whom the restocked drugs and medical supplies were furnished). These new requirements should effectively exclude improperly selective or preferential arrangements from safe harbor protection, while protecting those arrangements that are truly intended to promote the safe, efficient and effective delivery of pre-hospital EMS.

Comment: One commenter noted that requiring restocking arrangements to be part of a comprehensive regional EMS delivery plan was an important way to guarantee compliance on the part of providers.

Response: Participation in a comprehensive regional EMS delivery system is an effective means of ensuring that ambulance restocking arrangements further the public interest in timely, effective and efficient EMS and are not improperly targeted at high referrers. Under the final rule, restocking arrangements that are conducted in accordance with a protocol or plan established by an EMS council or comparable body will satisfy the public operation and disclosure requirements of the safe harbor and will likely satisfy the other safe harbor requirements as well.

Comment: One commenter suggested that, as an alternative to the oversight entity condition, the OIG require hospitals (i) to have written policies, approved by the governing board, stating that their restocking program is open to all emergency ambulance providers; and (ii) to develop an internal system to confirm and verify this arrangement.

Response: We have essentially adopted this commenter's views in the

final rule, although hospitals may limit the scope of their restocking programs to certain subcategories of ambulance providers. We are not requiring governing board approval or the development of internal compliance systems as part of this safe harbor regulation, but note that such practices may be prudent as part of the hospital's overall anti-fraud and abuse compliance program and necessary to ensure proper billing of the Federal health care programs.

Comment: One commenter urged that the proposed safe harbor conditions, especially the oversight entity condition, be eased for restocking arrangements in rural or isolated areas since ambulance providers in these areas have, in effect, no choice of where to deliver a patient.

Response: We believe the final rule, as modified, accommodates the special circumstances of rural and isolated areas. As stated above, we are no longer requiring establishment of an oversight entity. We believe the remaining safe harbor conditions are reasonable and impose few, if any, additional burdens on providers.

7. First responders

Comment: A commenter requested safe harbor protection for restocking for first responders. The commenter described the following situation:

> A search and rescue company delivers a patient to an ambulance that transports the patient to the hospital. The search and rescue company is restocked for supplies used on the patient by the ambulance transport provider, which, in turn, is restocked by the hospital. The hospital charges the patient for the restocked supplies.

Response: The final regulations protect hospital restocking of first responders as described by the commenter, provided the safe harbor conditions are satisfied. Specifically, the safe harbor accommodates those arrangements in which a 9–1–1 (or comparable emergency access number) first responder—including, but not limited to, a fire department, paramedic service or search and rescue squad—administers drugs or supplies to the patient, but does not transport the patient to the receiving facility. In these circumstances, the transporting ambulance provider may restock the first responder and then, in turn, be restocked by the hospital. Any billing by the hospital, the ambulance provider, or the first responder would be subject to the applicable Federal health care program payment and coverage rules and regulations. This safe harbor only addresses restocking by hospitals. Restocking of first responders by ambulance transport providers (independent of any hospital restocking) was outside the scope of the proposed rulemaking and is not addressed in these final regulations. Such arrangements must be analyzed on a case-by-case basis for compliance with the anti-kickback statute. Parties may seek an OIG advisory opinion about such arrangements.[10]

C. Fair Market Value Restocking

Comment: Several commenters raised concerns about the fair market value safe harbor's application to the transfer of drugs. As these commenters explained, many hospitals participating in EMS systems historically have "owned" the medication and supplies used by the ambulances on emergency transports without passing title to the ambulance provider. In many cases, the drugs are controlled substances under State laws and cannot be the property of a fire department or ambulance company. The commenters asserted that if title does not pass to the ambulance provider, then the hospital does not provide anything of value when it replaces the drugs on the ambulance. In addition, several commenters questioned how prescription drugs could be *sold* to ambulance providers by hospitals. One commenter stated that the Prescription Drug Marketing Act of 1987 (21 U.S.C. 353(c)) specifically forbids hospitals from re-selling prescription drugs, except under narrow circumstances.

Response: We agree that the fair market value safe harbor category should be restricted to the resale of supplies and non-prescription drugs (which are included as "supplies" under Medicare's ambulance payment system). Nothing in these regulations should be construed as permitting any action in contravention of applicable Federal, State, or local laws governing the purchase and administration of controlled substances and prescription medications. Whether the transfer of drugs that cannot be owned by an ambulance provider, and that remain the property of the hospital when placed on an ambulance in accordance with State or local law, is remuneration to the ambulance provider that administers the drugs in the field turns, in the first instance, on whether the drugs are covered under Medicare's ambulance benefit or under the outpatient hospital benefit in the particular circumstances. As noted above, questions regarding appropriate coverage and payment under Medicare should be directed to CMS.

Comment: A commenter expressed concern that the fair market value safe harbor would make it impossible for a hospital to provide the goods on a *pro bono* basis to a small volunteer ambulance service. The commenter believed the proposed safe harbor required facilities either to charge volunteer companies the same rates they charge commercial or municipal services or to charge no one.

Response: The commenter misread the proposed safe harbor. Nothing in these regulations precludes *bona fide* charitable contributions by hospitals to volunteer ambulance services. The fair market value safe harbor at § 1001.952(v)(3)(ii) does not require that a receiving facility charge all ambulance providers the same prices. Rather, the safe harbor protects those arrangements that are at fair market value. Arrangements that are not at fair market value, such as free or deeply discounted restocking to volunteer companies or others, may be protected instead under the general restocking safe harbor at § 1001.952(v)(3)(i).

Comment: One commenter was concerned that market power disparity among receiving facilities could affect the fair market value prices ambulance companies pay, in turn creating an incentive for ambulance providers to take patients to larger hospital systems in a position to negotiate volume discounts for their drugs and supplies and pass those discounts on to ambulance companies. The commenter suggested that the OIG add provisions to guard against this risk.

Response: In applying the fair market value condition, fair market value should be measured in terms of prices the ambulance provider would pay for like supplies if it purchased them in an arms-length transaction from a seller (other than a receiving facility) for whom the ambulance provider is not a potential referral source. In many situations, fair market value will be a range of prices, not a single price. (Restocking at prices that are below fair market value is not protected by this safe harbor category, although the restocking may be protected by one of the other restocking safe harbor categories.) We recognize that there may be a potential inducement when the fair market value charged is at the low end of the range of fair market value prices. However, nothing in the anti-kickback statute prohibits legitimate price competition.

Comment: Some commenters questioned the reference in the

[10] The procedures for applying for an advisory opinion are set forth at 42 CFR part 1008 and on the OIG Web site at *http://www.dhhs.gov/progorg/oig/advopn/index.htm.*

proposed fair market value safe harbor to the Non-Profit Institutions Act (NPIA), 15 U.S.C. 13(c). The proposed safe harbor would have protected certain sales of supplies at cost by non-profit hospitals to non-profit ambulance providers if the sales were designed to take advantage of the NPIA exception to the Robinson-Patman Act.[11] One commenter indicated that the proposed language did not appear to address the situation of a non-profit hospital reselling supplies to a "for profit" ambulance provider. Another commenter asserted that absent definitive guidance from the Federal Trade Commission (FTC) that reselling supplies to an ambulance provider would fit within 15 U.S.C. 13(c), hospitals would be wary about complying with the safe harbor condition.

Response: We have reconsidered the need for the language referencing the NPIA in the fair market value safe harbor. Given the substantial easing of the conditions applicable to the general restocking safe harbor category, we believe that the final regulations provide adequate and easily achievable protection for all legitimate restocking, whether at fair market value prices, below fair market value prices or without charge. To the extent it may be unclear whether a particular resale of supplies is at fair market value, we do not believe it will pose any undue burden on non-profit hospitals to seek shelter under the general restocking safe harbor category, which offers protection to restocking without regard to what price, if any, the hospital charges for the restocked drugs or supplies. The question whether particular restocking arrangements undertaken by non-profit hospitals run afoul of the Robinson-Patman Act or qualify for the NPIA exception is an FTC concern outside the scope of our regulatory authority.

IV. Meeting the Criteria for Establishing New Safe Harbors

Section 205 of the Health Insurance Portability and Accountability Act, Public Law 104–191, established certain criteria that the Secretary may consider when modifying or establishing safe harbors to the anti-kickback statute. We have considered the criteria establishing in our notice of intent to develop regulations (61 FR 69061; December 31, 1996) in developing this final rule, and we believe, for the reasons described above, that these final safe harbor regulations for certain ambulance restocking arrangements is likely to: (1) Increase, or have no effect on, access for needy patients to health care services; (2) increase the quality of health care services for needy patients; (3) have little, or no effect on, the cost of Federal health care programs; (4) have little, or no effect on, competition; and (5) increase, or have no effect on, the quantity of services provided in underserved areas. We further believe that this safe harbor contains safeguards that limit the potential for overutilization and assure that patients retain their freedom of choice of service providers.

V. Regulatory Impact Statement

We have examined the impacts of this rule as required by Executive Order 12866, the Unfunded Mandates Act of 1995, and the Regulatory Flexibility Act (RFA) (Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any given year). Since this regulation will not have a significant effect on program expenditures and as there is no additional substantive costs to implement the resulting provision, we do not consider this to be a major rule. The provisions in this rule are designed to permit individuals and entities to engage freely in competitive business practices and arrangements; health care providers and others may voluntarily seek to comply with these safe harbor provisions so that they have the assurance that their that business practices are not subject to any enforcement actions under the anti-kickback statute.

Additionally, in accordance with the Unfunded Mandates Reform Act of 1995, we believe that there are no significant costs associated with these safe harbor guidelines that would impose any mandates on State, local or tribal governments, or the private sector that will result in an expenditure of $110 million or more, adjusted for inflation, in any given year. Further, in reviewing this rule under the threshold criteria of Executive Order 13132, Federalism, we have determined that this rule will not significantly affect the rights, roles and responsibilities of States, and that a full analysis under these Acts are not necessary.

Further, in accordance with the Regulatory Flexibility Act (RFA) of 1980, and SBREFA of 1996, which amended the RFA, we are required to determine if this rule will have a significant economic effect on a substantial number of small entities and, if so, to identify regulatory options that could lessen the impact. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and Government agencies. Most hospitals (and most other providers) are small entities, either by nonprofit status or by having revenues of $5 million to $25 million or less annually. For purposes of the RFA, most ambulance companies are considered to be small entities. Individuals and States are not included in the definition of a small entity. In addition, section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural providers. This analysis must conform to the provisions of section 603 of the RFA.

While these safe harbor provisions may have an impact on small entities and rural providers, we believe that the aggregate economic impact of this rulemaking will be minimal, since it is the nature of the conduct and not the size of the entity that will result in a violation of the anti-kickback statute. Since the vast majority of individuals and entities potentially affected by these regulations do not engage in prohibited arrangements, schemes or practices in violation of the law, we are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this rule does not have a significant impact on a substantial number of small entities, or a significant impact on the operations of a substantial number of small rural providers.

The Office of Management and Budget has reviewed this rule in accordance with Executive Order 12866.

Paperwork Reduction Act

In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA) of 1995, we are required to solicit public comments, and receive final OMB approval, on any information collection requirements set forth in rulemaking. While compliance with the provisions in this safe harbor rule would be voluntary, §§ 1001.952(v)(2) and (v)(3) include information collection activities that would require approval by OMB. As such, we are required to solicit public comments under section 3506(c)(2)(A) of the PRA on these information collection activities.

[11] 15 U.S.C. 13(a)–(f).

Title: Ambulance Replenishing Safe Harbor Under the Anti-Kickback Statute.

Summary of the collection of information: While complying with safe harbor provisions under the anti-kickback statute is voluntary, to qualify an ambulance restocking arrangement for safe harbor protection, parties must satisfy the following recordkeeping and disclosure requirements set forth in the regulations:

- The ambulance provider or the receiving facility must maintain for five years records documenting the replenished drugs and medical supplies, provide copies of such records to the other party within a reasonable period of time (unless the other party is separately maintaining records), and make the records available to the Secretary promptly upon request. These records may be in the form of pre-hospital patient care reports already in use for other purposes. *See* § 1001.952(v)(2)(ii)(A).
- Except for government-mandated or fair market value restocking, protected restocking arrangements must be conducted in an open and public manner. This condition may be achieved by posting a written disclosure notice at the receiving facility (with copies available to the public upon request) or by operating in accordance with a plan or protocol of general application promulgated by an EMS Council or comparable entity (with copies available to the public upon request). *See* § 1001.952(v)(3)(i)(B).

We have attempted to reduce any paperwork burden associated with compliance with these safe harbor regulations by permitting parties to utilize documentation produced or developed for other business purposes wherever possible, and we believe that most, if not all, of these recordkeeping requirements will be satisfied using such documentation. With respect to keeping and maintaining documentation of the restocking, most pre-hospital care reports (sometimes known as trip sheets or patient encounter reports) already maintained for other purposes, such as ensuring continuity of care and billing, will suffice. It is our understanding that the preparation of a pre-hospital care reports is the standard of care for transferring a patient to a receiving facility and is required by law in many States. However, parties may decide individually or between themselves to document restocking using other kinds of paper or electronic records. The five year record retention period is consistent with CMS's hospital conditions of participation.

With respect to the disclosure requirement, a written disclosure notice can take any reasonable form, and we anticipate that most parties engaged in ambulance restocking arrangements will have pre-existing materials that can be used for this purpose. For those who need or choose to produce a written disclosure notice, we have provided a short, sample disclosure form in these regulations. EMS Council plans and protocols are likely to be existing documents used to promote comprehensive and coordinated emergency medical services in local communities. These regulations do not require any drafting of new plans or protocols. Nothing in these regulations requires parties to draft or enter into contracts or written agreements. We expect that these regulations will result in few public requests for copies of disclosure notices or plans or protocols.

Brief description of the need for, and proposed use of, the information. The documentation and disclosure requirements set forth in these safe harbor regulations are necessary (i) to ensure that protected ambulance restocking arrangements pose a minimal risk of fraud or abuse and (ii) to enable parties to demonstrate—and the Government to verify where necessary—whether all safe harbor conditions are met.

Description of likely respondents and proposed frequency of response to the information collection request. The respondents for the collection of information described in these regulations are hospitals, other receiving facilities, and ambulance providers that participate in ambulance restocking arrangements and that want safe harbor protection under the anti-kickback statute. We believe that a significant number of hospitals, receiving facilities, and ambulance providers are engaged in, or desire to engage in, ambulance restocking arrangements and that many will want safe harbor protection. We do not anticipate any response that exceeds routine business practice.

Estimated burden that shall result from the collection of information. We are assigning only one burden hour to this collection, because we believe that compliance can be achieved with existing documents produced in the course of routine business practice.

In accordance with the PRA requirements, we are inviting comments on (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the estimate of the burden of the collection of information; (3) ways to enhance the quality, utility and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on parties, including through the use of automated collection techniques or other forms of information technology. As part of the OMB approval for the collection of information contained in this rule, we are soliciting public comments, thereby initiating the normal PRA clearance.

Comments on these information collection activities should be sent to the following address within 60 days following the **Federal Register** publication of this final rule:

OIG Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, 725 17th Street NW., Washington, DC 20053, FAX: (202) 395–6974.

List of Subjects in 42 CFR Part 1001

Administrative practice and procedure, Fraud, Grant programs—health, Health facilities, Health professions, Maternal and child health, Medicaid, Medicare.

Accordingly, 42 CFR part 1001 is amended as set forth below:

PART 1001—[AMENDED]

1. The authority citation for part 1001 continues to read as follows:

Authority: 42 U.S.C. 1302, 1320a-7, 1320a-7b, 1395u(h), 1395u(j), 1395u(k), 1395y(d), 1395y(e), 1395cc(b)(2)(D), (E) and (F), and 1395hh; and sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note).

2. Section 1001.952 is amended by republishing the text and by adding a new paragraph (v) to read as follows:

§ 1001.952 Exceptions.

The following payment practices shall not be treated as a criminal offense under section 1128B of the Act and shall not serve as the basis for an exclusion:

* * * * *

(v) *Ambulance replenishing.* (1) As used in section 1128B of the Act, "remuneration" does not include any gift or transfer of drugs or medical supplies (including linens) by a hospital or other receiving facility to an ambulance provider for the purpose of replenishing comparable drugs or medical supplies (including linens) used by the ambulance provider (or a first responder) in connection with the transport of a patient by ambulance to the hospital or other receiving facility if all of the standards in paragraph (v)(2) of this section are satisfied *and* all of the applicable standards in *either* paragraph (v)(3)(i), (v)(3)(ii) or (v)(3)(iii) of this section are satisfied. However, to qualify

under paragraph (v), the ambulance that is replenished must be used to provide emergency ambulance services an average of three times per week, as measured over a reasonable period of time. Drugs and medical supplies (including linens) initially used by a first responder and replenished at the scene of the illness or injury by the ambulance provider that transports the patient to the hospital or other receiving facility will be deemed to have been used by the ambulance provider.

(2) To qualify under paragraph (v) of this section, the ambulance replenishing arrangement must satisfy *all* of the following four conditions—

(i)(A) Under no circumstances may the ambulance provider (or first responder) and the receiving facility both bill for the same replenished drug or supply. Replenished drugs or supplies may only be billed (including claiming bad debt) to a Federal health care program by either the ambulance provider (or first responder) or the receiving facility.

(B) All billing or claims submission by the receiving facility, ambulance provider or first responder for replenished drugs and medical supplies used in connection with the transport of a Federal health care program beneficiary must comply with all applicable Federal health care program payment and coverage rules and regulations.

(C) Compliance with paragraph (v)(2)(i)(B) of this section will be determined separately for the receiving facility and the ambulance provider (and first responder, if any), so long as the receiving facility, ambulance provider (or first responder) refrains from doing anything that would impede the other party or parties from meeting their obligations under paragraph (v)(2)(i)(B).

(ii) (A) The receiving facility or ambulance provider, or both, must

(*1*) Maintain records of the replenished drugs and medical supplies and the patient transport to which the replenished drugs and medical supplies related;

(*2*) Provide a copy of such records to the other party within a reasonable time (unless the other party is separately maintaining records of the replenished drugs and medical supplies); and

(*3*) Make those records available to the Secretary promptly upon request.

(B) A pre-hospital care report (including, but not limited to, a trip sheet, patient care report or patient encounter report) prepared by the ambulance provider and filed with the receiving facility will meet the requirements of paragraph (v)(2)(ii)(A) of this section, provided that it documents the specific type and amount of medical supplies and drugs used on the patient and subsequently replenished.

(C) For purposes of paragraph (v)(2)(ii) of this section, documentation may be maintained and, if required, filed with the other party in hard copy or electronically. If a replenishing arrangement includes linens, documentation need not be maintained for their exchange. If documentation is not maintained for the exchange of linens, the receiving facility will be presumed to have provided an exchange of comparable clean linens for soiled linens for each ambulance transport of a patient to the receiving facility. Records required under paragraph (v)(2)(ii)(A) of this section must be maintained for 5 years.

(iii) The replenishing arrangement must not take into account the volume or value of any referrals or business otherwise generated between the parties for which payment may be made in whole or in part under any Federal health care program (other than the referral of the particular patient to whom the replenished drugs and medical supplies were furnished).

(iv) The receiving facility and the ambulance provider otherwise comply with all Federal, State, and local laws regulating ambulance services, including, but not limited to, emergency services, and the provision of drugs and medical supplies, including, but not limited to, laws relating to the handling of controlled substances.

(3) To qualify under paragraph (v) of this section, the arrangement must satisfy *all* of the standards in *one* of the following three categories:

(i) *General replenishing.* (A) The receiving facility must replenish medical supplies or drugs on an equal basis for all ambulance providers that bring patients to the receiving facility in any one of the categories described in paragraph (v)(3)(i)(A)(*1*), (*2*), or (*3*) of this section. A receiving facility may offer replenishing to one or more of the categories and may offer different replenishing arrangements to different categories, so long as the replenishing is conducted uniformly within each category. For example, a receiving facility may offer to replenish a broader array of drugs or supplies for ambulance providers that do no not charge for their services than for ambulance providers that charge for their services. Within each category, the receiving facility may limit its replenishing arrangements to the replenishing of emergency ambulance transports only. A receiving facility may offer replenishing to one or more of the categories—

(*1*) All ambulance providers that do not bill any patient or insurer (including Federal health care programs) for ambulance services, regardless of the payor or the patient's ability to pay (i.e., ambulance providers, such as volunteer companies, that provide ambulance services without charge to any person or entity);

(*2*) All not-for-profit and State or local government ambulance service providers (including, but not limited to, municipal and volunteer ambulance services providers); or

(*3*) All ambulance service providers.

(B)(*1*) The replenishing arrangement must be conducted in an open and public manner. A replenishing arrangement will be considered to be conducted in an open and public manner if one of the following two conditions are satisfied:

(*i*) A written disclosure of the replenishing program is posted conspicuously in the receiving facility's emergency room or other location where the ambulance providers deliver patients and copies are made available upon request to ambulance providers, Government representatives, and members of the public (subject to reasonable photocopying charges). The written disclosure can take any reasonable form and should include the category of ambulance service providers that qualifies for replenishment; the drugs or medical supplies included in the replenishment program; and the procedures for documenting the replenishment. A sample disclosure form is included in Appendix A to subpart C of this part for illustrative purposes only. No written contracts between the parties are required for purposes of paragraph (v)(3)(i)(B)(*1*)(*i*) of this section; or

(*ii*) The replenishment arrangement operates in accordance with a plan or protocol of general application promulgated by an Emergency Medical Services (EMS) Council or comparable entity, agency or organization, provided a copy of the plan or protocol is available upon request to ambulance providers, Government representatives and members of the public (subject to reasonable photocopying charges). While parties are encouraged to participate in collaborative, comprehensive, community-wide EMS systems to improve the delivery of EMS in their local communities, nothing in this paragraph shall be construed as requiring the involvement of such organizations or the development or implementation of ambulance

replenishment plans or protocols by such organizations.

(*2*) Nothing in this paragraph (v)(3)(i) shall be construed as requiring disclosure of confidential proprietary or financial information related to the replenishing arrangement (including, but not limited to, information about cost, pricing or the volume of replenished drugs or supplies) to ambulance providers or members of the general public.

(ii) *Fair market value replenishing.* (A) Except as otherwise provided in paragraph (v)(3)(ii)(B) of this section, the ambulance provider must pay the receiving facility fair market value, based on an arms-length transaction, for replenished medical supplies; and

(B) If payment is not made at the same time as the replenishing of the medical supplies, the receiving facility and the ambulance provider must make commercially reasonable payment arrangements in advance.

(iii) *Government mandated replenishing.* The replenishing arrangement is undertaken in accordance with a State or local statute, ordinance, regulation or binding protocol that requires hospitals or receiving facilities in the area subject to such requirement to replenish ambulances that deliver patients to the hospital with drugs or medical supplies (including linens) that are used during the transport of that patient.

(4) For purposes of paragraph (v) of this section—

(i) A *receiving facility* is a hospital or other facility that provides emergency medical services.

(ii) An *ambulance provider* is a provider or supplier of ambulance transport services that provides emergency ambulance services. The term does not include a provider of ambulance transport services that provides only non-emergency transport services.

(iii) A *first responder* includes, but is not limited to, a fire department, paramedic service or search and rescue squad that responds to an emergency call (through 9–1–1 or other emergency access number) and treats the patient, but does not transport the patient to the hospital or other receiving facility. 47

(iv) An *emergency ambulance service* is a transport by ambulance initiated as a result of a call through 9–1–1 or other emergency access number or a call from another acute care facility unable to provide the higher level care required by the patient and available at the receiving facility.

(v) *Medical supplies* includes linens, unless otherwise provided.

3. A new appendix A is added to subpart C to read as follows:

Appendix A to Subpart C of Part 1001

The following is a sample written disclosure for purposes of satisfying the requirements of § 1001.952(v)(3)(i)(B)(*1*)(*i*) of this part. This form is for illustrative purposes only; parties may, but are not required to, adapt this sample written disclosure form.

Notice of Ambulance Restocking Program

Hospital X offers the following ambulance restocking program:

1. We will restock all ambulance providers (other than ambulance providers that do not provide emergency services) that bring patients to Hospital X [or to a subpart of Hospital X, such as the emergency room] in the following category or categories: [insert description of category of ambulances to be restocked, i.e., all ambulance providers, all ambulance providers that do not charge patients or insurers for their services, or all nonprofit and Government ambulance providers]. [Optional: We only offer restocking of emergency transports.]

2. The restocking will include the following drugs and medical supplies, and linens, used for patient prior to delivery of the patient to Hospital X: [insert description of drugs and medical supplies, and linens to be restocked].

3. The ambulance providers [will/will not] be required to pay for the restocked drugs and medical supplies, and linens.

4. The restocked drugs and medical supplies, and linens, must be documented as follows: [insert description consistent with the documentation requirements described in § 1001.952(v). By way of example only, documentation may be by a patient care report filed with the receiving facility within 24 hours of delivery of the patient that records the name of the patient, the date of the transport, and the relevant drugs and medical supplies.]

5. This restocking program does not apply to the restocking of ambulances that only provide non-emergency services or to the general stocking of an ambulance provider's inventory.

6. To ensure that Hospital X does not bill any Federal health care program for restocked drugs or supplies for which a participating ambulance provider bills or is eligible to bill, all participating ambulance providers must notify Hospital X if they intend to submit claims for restocked drugs or supplies to any Federal health care program. Participating ambulance providers must agree to work with Hospital X to ensure that only one party bills for a particular restocked drug or supply.

7. All participants in this ambulance restocking arrangement that bill Federal health care programs for restocked drugs or supplies must comply with all applicable Federal program billing and claims filing rules and regulations.

8. For further information about our restocking program or to obtain a copy of this notice, please contact [name] at [telephone number].

Dated: _____

/s/ _____

Appropriate officer or official

Dated: July 12, 2001.

Michael F. Mangano,

Acting Inspector General.

Approved:

Tommy G. Thompson,

Secretary.

[FR Doc. 01–29875 Filed 12–3–01; 8:45 am]

BILLING CODE 4150–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 76

[FCC 01–345]

Implementation of Interim Filing Procedures for Certain Commission Filings

AGENCY: Federal Communications Commission.

ACTION: Temporary procedural requirements.

SUMMARY: In this document, the Commission amends its procedures on an emergency, interim basis to require the filing or refiling of certain documents electronically (*i.e.*, by facsimile or e-mail), by overnight delivery, or by hand delivery to the Commission's Capitol Heights, Maryland location. Due to recent events in Washington, DC, resulting in the unforeseeable and understandable disruption of regular mail delivery and of the processing of other deliveries, the Commission is unable to confirm receipt of certain Commission filings that may affect processing of applications and other urgent agency business. The intended effect of this action is to continue the timely processing of applications and other urgent agency business.

EFFECTIVE DATE: December 4, 2001.

FOR FURTHER INFORMATION CONTACT: Magalie Roman Salas at 202–418–0303.

SUPPLEMENTARY INFORMATION: This *Order*, adopted November 21, 2001, and released November 29, 2001, will be available for public inspection during regular business hours at the FCC Reference Information Center, Room CY–A257, at the Federal Communications Commission, 445 12th St., SW., Washington, DC 20554. The complete text is available through the Commission's duplicating contractor: Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail at qualexint@aol.com.

Synopsis of Order

1. Effective upon publication of this *Order* in the **Federal Register** and until further notice, the following types of pleadings shall be filed with the Commission electronically, by overnight delivery service, or by hand delivery: (i) petitions to deny filed pursuant to section 309 of the Communications Act of 1934, as amended (Act); (ii) petitions for reconsideration filed pursuant to section 405 of the Act; (iii) applications for review filed pursuant to section 5(c)(4) of the Act; (iv) informal requests for Commission action involving pending applications filed pursuant to § 1.41 of the Commission's rules; (v) petitions to amend the TV and FM Broadcast Table of Allotments and responsive pleadings; and, (vi) comments or oppositions to open video system certification made pursuant to § 76.1502 (e)(1) of the Commission's rules. The types of pleadings described in (i) through (vi) are referred to in this document as "Covered Pleadings." The filing requirement described in this paragraph shall not apply to requests for review of decisions issued by the Universal Service Administrative Company (USAC) filed pursuant to §§ 54.719–54.725 of the Commission's rules, or any petitions for reconsideration or applications for review arising from such proceedings. As noted, these emergency procedures are adopted on a temporary basis only, and will be discontinued when normal U.S. Mail delivery resumes.

2. In order to assist the Commission in determining whether Covered Pleadings were filed during the period of interrupted processing, parties that have filed or will file Covered Pleadings from October 1, 2001 through and including the effective date of this *Order* are required to resubmit such pleadings electronically prior to 12:00 midnight Eastern Time on the seventh calendar day following the effective date of this *Order*, by hand delivery at the Capitol Heights, Maryland location, prior to 9:00 PM Eastern Time on the seventh calendar day following the effective date of this *Order*, or by overnight delivery service other than U.S. Postal Service Express and Priority Mail to the Commission's headquarters, prior to 5:30 PM Eastern Time on the seventh calendar day following the effective date of this *Order*. Three exceptions to these requirements are specified in paragraph 4. All refilings pursuant to this paragraph shall be accompanied by a signed affidavit or a declaration pursuant to Commission rule § 1.16 stating that the previously filed pleading was timely filed in accordance with Commission rules, the date the pleading was originally sent to the Commission, and by what means. Covered Pleadings submitted up to 7 calendar days following the effective date of this *Order* in a manner not consistent with its terms must be refiled in the same manner as Covered Pleadings filed before the effective date. Covered Pleadings filed in accordance with this paragraph will be treated as timely filed as of the date the pleading was originally sent to the Commission, but the time for any responsive pleading will be tied to the time of resubmission to the extent Commission rules set response periods based on the date of filing.

3. There are three exceptions to the filing requirements stated in paragraph 3. The first exception to the refiling requirement is for Covered Pleadings that were previously filed electronically in accordance with our rules. The second exception is for Covered Pleadings that were hand delivered to the Commission's headquarters at 445 12th Street, SW., Washington, DC, between October 1 and October 19, 2001, or to our Capitol Heights location in accordance with the public notices issued on October 17 and October 18, 2001. *See Public Notice*, "FCC Announces Change in Filing Location for Paper Documents," DA 01–2436 (October 17, 2001); *Public Notice*, "FCC Announces Changes In Filing Procedures," DA 01–2430 (October 17, 2001; *Public Notice*, "Clarification on FCC's Announced Changes in Filing Procedures," DA 01–2451 (October 18, 2001). The third exception is for Covered Pleadings delivered to the Commission by overnight delivery services other than U.S. Postal Service Express and Priority Mail. Covered Pleadings falling within one of the three exceptions specified in this paragraph and pleadings not falling in the categories specified in paragraph 2 need not be resubmitted.

4. If filed electronically by e-mail, pleadings shall be filed at the following e-mail addresses depending on the Bureau or Office handling the matter:

Mass Media	MMBSecretary@fcc.gov
Wireless	WTBSecretary@fcc.gov
Common Carrier	CCBSecretary@fcc.gov
Cable Services ..	CSBSecretary@fcc.gov
International	IBSecretary@fcc.gov
Enforcement	EBSecretary@fcc.gov
Other	OtherSecretary@fcc.gov.

For security purposes, we recommend that documents filed via electronic mail be converted to PDF format. The Commission will automatically reply to all incoming e-mails to confirm receipt. If filed by facsimile, pleadings shall be faxed to 202–418–0187. The fax transmission should include a cover sheet listing contact name, phone number, and, if available, an e-mail address.

5. If filed by hand delivery, documents shall be delivered to 9300 East Hampton Drive, Capitol Heights, Maryland 20743 pursuant to the terms of our earlier October 17 and October 18, 2001 public notices. As stated in those public notices, all hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

6. If filed by overnight delivery service other than U.S. Postal Service Express and Priority Mail, filings must be received at the Commission's headquarters at 445 12th Street, SW., Washington, DC 20024. As noted in the October 17 and October 18, 2001 public notices, the Commission will divert those deliveries to the Capitol Heights facility. Documents filed under seal pursuant to § 0.457 or § 0.459 of the Commission's rules should be submitted by hand delivery or overnight delivery service to ensure confidential treatment under those rules.

7. Until further notice, parties filing Covered Pleadings electronically (either via electronic mail or facsimile) in accordance with the procedures set forth herein will not be required to file a paper original with the Office of the Secretary or the Capitol Heights, Maryland facility as described in our earlier October 17 and October 18, 2001 public notices.

8. Copies of all filings made pursuant to this *Order* should be provided to the Commission's duplicating contractor, Qualex International via e-mail at qualexint@aol.com. Copies of all filings and resubmitted filings must be served on parties to the extent service of such pleadings is required by Commission rules.

9. Failure to submit or resubmit pleadings in the manner set out by this *Order* will result in the waiver of any rights to have such pleading considered by the Commission if the Commission's decisional staff does not have the relevant pleadings before it at the time of its decision. Parties may file petitions for reconsideration regarding any decision made.

10. Accordingly, *It Is Ordered* that, pursuant to the authority of section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i), the Commission ADOPTS the procedural requirements set forth in this *Order* and SUSPENDS any contrary requirements.

11. *It Is Further Ordered* that the Secretary is delegated authority to rule on requests for extensions of time based

on operational problems associated with the Commission's electronic filing equipment.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30028 Filed 12–3–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF90

Endangered and Threatened Wildlife and Plants; Final Rule To List the Mississippi Gopher Frog Distinct Population Segment of Dusky Gopher Frog as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the Fish and Wildlife Service, determine the Mississippi gopher frog (*Rana capito sevosa*) distinct population segment of the gopher frog (*Rana capito*) as an endangered species under the authority of the Endangered Species Act of 1973, as amended (Act). Historically, the Mississippi gopher frog distinct population segment is believed to have occurred in at least nine counties or parishes across Louisiana, Mississippi, and Alabama, ranging from east of the Mississippi River in Louisiana to the Mobile River delta in Alabama. Today, it is known from only one site in Harrison County, Mississippi. The greatest threat to this last surviving population is the low number of adult frogs in the population and their vulnerability to environmental stressors, both natural and human-induced. Human-induced threats are a result of habitat destruction and degradation in the area adjacent to the frog's only known breeding site. Habitat changes are occurring due to construction associated with a proposed housing development and the construction and expansion of two highways. This action extends the Act's protection to the Mississippi gopher frog distinct population segment.

DATES: This rule is effective January 3, 2002.

ADDRESSES: The complete file for this rule is available for inspection by appointment during normal business hours at the Mississippi Field Office, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Jackson, Mississippi 39213.

FOR FURTHER INFORMATION CONTACT: Ms. Linda LaClaire at the above address, telephone 601/321–1126, or facsimile 601/965–4340.

SUPPLEMENTARY INFORMATION:

Background

The gopher frog (*Rana capito*) is a member of the large cosmopolitan family, Ranidae ("true frogs"). The genus *Rana* is the only North American representative of this family. We define the Mississippi gopher frog distinct population segment as those populations of gopher frogs in the lower coastal plain ranging from the Mississippi River in Louisiana to the Mobile River delta of Alabama. Goin and Netting (1940) originally described frogs from this geographic range as a distinct species of gopher frog, *Rana sevosa*. The taxonomic history of gopher frogs is complex (summary in Altig and Lohoefener 1983). Subsequent to the original description by Goin and Netting, frogs of this population segment were considered subspecies of *Rana capito* (gopher frog) (*R. c. sevosa*, common name dusky gopher frog) (Wright and Wright 1942) and later subspecies of *R. areolata* (crayfish frog) (*R. a. sevosa*) (Viosca 1949, Neill 1957). In 1991, Collins challenged the taxonomic arrangement that lumped crayfish frogs and gopher frogs together as one species and recommended their separation based on biogeographical grounds. This arrangement was followed by Conant and Collins (1991), who again recognized the name *R. c. sevosa*.

Young and Crother (2001) conducted the first comprehensive biochemical analysis of the relationships between gopher frogs and crayfish frogs and among subspecies of gopher frogs. They used allozyme electrophoresis (an assay (examination) of gene products) to examine allelic (genetic) differences between and among populations. Allozyme data have been used extensively to investigate the evolution of genetic relationships among related species. Young and Crother (2001) analyzed tissue from gopher frogs across the range of the species including populations in Mississippi, Alabama, Georgia, Florida, and North Carolina, and from crayfish frogs from Arkansas, Kansas, and Missouri. They found strong support for the species designations *R. areolata* (crayfish frogs) and *R. capito* (gopher frogs). In addition, they found that the population of gopher frogs from Harrison County, Mississippi, showed a fixed difference at a single locus (site for a specific gene on a chromosome) from all other gopher frogs east of the Mobile River drainage in Alabama. This difference is considered by many taxonomists that support the phylogenetic (evolutionary) species concept to be significant enough to warrant elevation of the frog to its own species (Young and Crother 2001). No other specific taxonomic divisions were determined among the remaining populations of gopher frogs sampled. Since Harrison County is within the range of the original specimens used to describe *R. sevosa*, Young and Crother recommended the resurrection of *R. sevosa* as a distinct species.

Young and Crother's recommendation and their supporting data were published relatively recently (May 2001). Given the varied and confusing history surrounding *sevosa*, it is unclear if the suggested taxonomy will be accepted by the herpetological scientific community. Young and Crother (2001) alluded to potential debates about this designation in their paper when they stated: "It might be suggested that we have comfortably separated *R. areolata* from *R. capito* with three mutually exclusive differences but have not demonstrated the same for *R. capito* and *R. sevosa* with one fixed difference." In any case, our analysis of the five listing factors would be the same whether the Mississippi gopher frog is considered a distinct population segment or a unique species. We will continue to use the common name "Mississippi gopher frog" to avoid confusion with other populations of gopher frogs further east. The Mississippi gopher frog distinct population segment will be defined as all gopher frogs west of Mobile Bay, following the range description of Goin and Netting (1940). The scientific name, *Rana capito sevosa*, will be used to represent this distribution of frogs. If the name *Rana sevosa* is ultimately accepted by the herpetological scientific community, we will revise our List of Endangered and Threatened Wildlife and Plants to reflect this change in nomenclature (scientific name).

The Mississippi gopher frog has a stubby appearance due to its short, plump body, comparatively large head, and relatively short legs (Conant and Collins 1991). The coloration of its back is dark and varies in individual frogs. It ranges from an almost uniform black to a pattern of reddish brown or dark brown spots on a ground color of gray or brown (Goin and Netting 1940). Warts densely cover the back. The belly is thickly covered with dark spots and dusky markings from chin to mid-body (Goin and Netting 1940, Conant and Collins 1991). Males are distinguished

from females by their smaller size, enlarged thumbs, and paired vocal sacs on either side of the throat (Godley 1992). Richter (1998) reported mean snout-vent lengths from three years of data. They ranged from 63.2 to 70.2 millimeters (mm) (2.5 to 2.8 inches (in)) for males and 78.0 to 82.7 mm (3.1 to 3.3 in) for females in the extant population. Mississippi gopher frog tadpoles are presently indistinguishable in the field from those of leopard frogs and other gopher frogs (Altig *et al.* 2001).

Mississippi gopher frog habitat includes both upland sandy habitats historically forested with longleaf pine and isolated temporary wetland breeding sites embedded within the forested landscape. Frequent fires are necessary to maintain the open canopy and ground cover vegetation of their aquatic and terrestrial habitat.

Adult and subadult Mississippi gopher frogs spend the majority of their lives underground. They use active and abandoned gopher tortoise (*Gopherus polyphemus*) burrows, abandoned mammal burrows, and holes in and under old stumps as refugia (Allen 1932; LaClaire, pers. obs. 1996; Richter *et al.* 2001). Gopher tortoise burrows likely represented preferred underground habitats. In Florida, Godley (1992) reported that the closely related Florida gopher frog was known only from sites that supported gopher tortoises. The remaining Mississippi gopher frog population occurs in an area presently lacking gopher tortoises, most likely as a result of habitat degradation. An abandoned tortoise burrow occurs approximately 0.8 kilometers (km) (0.5 miles (mi)) from the breeding pond, and an active burrow was found within 1.6 km (1 mi) of the site in 1992 (T. Mann, Mississippi Department of Wildlife, Fisheries and Parks, pers. comm. 1999).

The Mississippi gopher frog breeding site is an isolated pond (not connected to any other water body) that dries completely on a cyclic basis. Faulkner (unpub. data 2000) recently conducted hydrologic research at the site. He described the pond as a depressional feature on a topographic high. The dominant source of water to the pond is rainfall within a small, localized watershed that extends 61 to 122 meters (m) (200 to 400 feet (ft)) from the pond's center. Substantial winter rains are needed to ensure that the pond fills sufficiently to allow hatching, development, and metamorphosis (change to adults) of larvae. The timing and frequency of rainfall are critical to the successful reproduction and recruitment of Mississippi gopher frogs.

The single remaining breeding pond known for the Mississippi gopher frog is located in Harrison County, Mississippi. Adult frogs move to this wetland breeding site during heavy rain events, usually from January to late March (Richter and Seigel 1998b). The breeding pond is approximately 1.5 hectares (3.8 acres) when filled. It attains a maximum depth of 1.1 m (3.6 ft). The pond is hard-bottomed, has an open canopy, and contains emergent and submergent vegetation. Female Mississippi gopher frogs attach their eggs to the rigid vertical stems of emergent vegetation (Young 1997, Richter and Seigel 1998a, 1998b). The pond typically dries in early to mid-summer, but on occasion has remained wet until early fall (G. Johnson, U.S. Forest Service, pers. comm. 1993; Young 1997; Richter and Seigel 1998b). As many as 21 amphibian species (17 frogs and 4 salamanders) are known to utilize the site (R. Seigel, unpub. data 2001). Bailey (1990), Palis (1998), and Greenberg (2001) found similar habitat attributes in breeding ponds of the closely related gopher frogs in Alabama and Florida.

Adult Mississippi gopher frogs leave the pond site after breeding during major rainfall events. Adults of both sexes use specific migratory corridors when exiting the breeding pond (Richter and Seigel 1998b). Movements away from the pond are slightly east of due north. Richter *et al.* (2001) tracked a total of 13 frogs using radio transmitters. The farthest movement recorded was 268 m (879 ft) by a frog tracked for 88 days from its exit of the breeding site. In Florida, gopher frogs have been found 2 km (1.2 mi) from their breeding sites (Carr 1940, Franz *et al.* 1988). It is unclear if the distances recorded for the Mississippi gopher frogs were typical as the tracking periods represented only a fraction of their yearly life cycle. Movements corresponded with major rain events. However, dry conditions prevailed during most of the two study periods. In fact, the frogs in Richter and Seigel's study moved during only one 24-hour period, which was associated with a rain event.

Amphibians need to maintain moist skin for respiration (breathing) and osmoregulation (controlling the amounts of water and salts in their bodies) (Duellman and Trueb 1986). Since they disperse from their aquatic breeding sites to the uplands where they live as adults, desiccation (drying out) can be a limiting factor in their movements. Thus, it is important that areas connecting their wetland and terrestrial habitats are protected in order to provide cover and appropriate moisture regimes during their migration. This may be especially important for juveniles as they move out of the breeding pond for the first time (A. Braswell, North Carolina State Museum of Natural Sciences, pers. comm. 2000).

It is likely that, given appropriate habitat, Mississippi gopher frogs are long-lived. The longevity record for a captive close relative, the Carolina gopher frog (*R. capito capito*), is 9 years, 1 month (Snider and Bowler 1992). However, overall low rates of recapture at the extant breeding pond suggest low adult survival in the Mississippi gopher frog population (Richter 1998).

Historical records for the Mississippi gopher frog exist for two or possibly three parishes in Louisiana, six counties in Mississippi, and one county in Alabama. Researchers conducting numerous surveys have been unable to document the continuing existence of the Mississippi gopher frog in Louisiana (Seigel and Doody 1992, Thomas 1996) or in Alabama (Bailey 1992, 1994). The last observation of a gopher frog in Louisiana was in 1967 (G. Lester, Louisiana Natural Heritage Program, pers. comm. 1991). In Alabama, it was last seen in 1922 (Bailey 1994).

Historical records for the Mississippi gopher frog are limited. We have compiled 35 historical records—1 in Alabama, 14 in Louisiana, and 20 in Mississippi. Historical records are defined as those localities where gopher frogs were found prior to 1990. No new localities for the frog have been found since 1988. Localities are sites identified from specimens captured or heard calling during sampling of potential breeding sites or by surveying highway crossings when individuals were on their way to or from breeding sites. Of the 35 historical records, 24 provided data that were used to approximate the location of the original site.

Habitat degradation is the primary factor in the loss of gopher frog populations in Alabama, Louisiana, and Mississippi. Bailey (1994) visited the historical Alabama locality in 1993. The habitat had been developed as a residential area, and was no longer suitable for the gopher frog. Seigel and Doody (1992) and Thomas (1996) surveyed historical sites in Louisiana and searched for other potential sites that might be occupied by gopher frogs. They also found that longleaf pine forests in Louisiana had been severely degraded. The historical breeding and upland habitats had changed as a result of urbanization and conversion of forest to pine plantation. For example, they found three historical breeding sites that had been extensively altered. One had been converted into a permanent pond

in a residential backyard. Two other ponds had been extensively altered by bedding, clearing, and nutrient loading during conversion of the surrounding habitat to pine plantation. Both survey efforts by Seigel and Doody (1992) and Thomas (1996) were unsuccessful to find any Mississippi gopher frogs in Louisiana.

Crawford (1988) surveyed 42 ponds in 6 Mississippi counties in 1987 and 1988. He attempted to relocate all of the State's historical localities for the gopher frog. He found that habitat in the vicinity of historical localities had been altered by conversion of natural forest to agriculture and pine plantations. Urbanization was a factor in the loss of at least three breeding ponds. The character of relocated historical breeding ponds had been changed from open-canopy, temporary ponds with clear water and hard bottoms to muddy, more permanent ponds with a closed canopy (G. Johnson, pers. comm. 1999). No appropriate habitat for the Mississippi gopher frog could be found near any of the localities (G. Johnson, pers. comm. 1999). Crawford (1988) also used aerial maps to identify potential breeding sites. In many cases, ponds identified on these maps no longer existed due to land use changes. However, he was able to verify the presence of the species at four new sites in Harrison County, Mississippi. At three of these four sites, only one individual was observed. Kuss (1988) surveyed 60 ponds in southern Mississippi for the flatwoods salamander (*Ambystoma cingulatum*). He did not encounter any gopher frogs during the surveys. Subsequent to these studies, surveys have documented the continued existence of only one population in Mississippi. This population breeds at a pond located in the DeSoto National Forest in Harrison County. Surveyors working in Mississippi during the 1990s have been unable to find the species at any other sites (R. Jones, Mississippi Department of Wildlife, Fisheries and Parks, pers. comm. 1998; G. Johnson, pers. comm. 1999). Although Allen (1932) found gopher frogs to be common in the coastal counties of Mississippi earlier in the century, today R. Seigel (Southeastern Louisiana University, pers. comm. 2001) estimates the extant Mississippi gopher frog population to be only 100 adult frogs at a single site.

The extensive habitat alteration found during surveys of historical gopher frog localities in Alabama, Louisiana, and Mississippi resulted from the loss of virtually all of the natural longleaf pine forest in these States. Presettlement longleaf pine forests were the dominant forest type of the southeastern coastal plain. Today, less than 2 percent of these forests remain (Ware *et al.* 1993). Second growth longleaf pine forests in the vicinity of historical Mississippi gopher frog breeding sites were clearcut extensively in the mid-1950s and then again in the 1980s and 1990s. Longleaf pine forest habitat was replaced with dense pine plantations, agriculture, and urban areas. Habitat degradation has occurred as a result of alterations in the soil horizon (layering of different soil types), forest litter, herbaceous community, and occurrence of downed trees and stumps that Mississippi gopher frogs use as refugia. Fire suppression has further degraded the habitat. The hydrology of many isolated temporary wetlands, required as breeding sites for the Mississippi gopher frog, has been altered. In addition, these same factors have resulted in the decline of the gopher tortoise, whose burrows are most likely the preferred habitat for adult gopher frogs. As a result of these habitat changes, both the uplands and the pond basins previously occupied by the Mississippi gopher frog have become unsuitable.

Distinct Vertebrate Population Segment

The biological evidence supports recognition of the Mississippi gopher frog as a distinct vertebrate population segment for purposes of listing, as defined in our February 7, 1996, Policy Regarding the Recognition of Distinct Vertebrate Population Segments (61 FR 4722). The definition of "species" in section 3(16) of the Act includes "any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." For a population to be listed under the Act as a distinct vertebrate population segment, three elements are considered—(1) The discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (i.e., is the population segment endangered or threatened?).

Habitat of the lower Gulf Coastal Plain from the Mississippi River to the Mobile River delta contains the westernmost population of gopher frogs. This population segment is discrete because it is geographically segregated from other gopher frogs by a large gap (approximately 200 km (125 mi)) of unoccupied habitat and the Mobile River delta. Consequently, this population does not mix with other gopher frogs.

Young and Crother (2001) presented data that the Mississippi gopher frog distinct population segment is biologically and ecologically significant due to genetic characteristics different from the species as a whole (see discussion in "Background" section). They analyzed tissue from gopher frogs across the range of the species, including populations in Mississippi, Alabama, Georgia, Florida, and North Carolina, and found that the population of gopher frogs from Harrison County, Mississippi, showed a fixed difference at a single locus (site for a specific gene on a chromosome) from all other gopher frogs east of the Mobile River drainage in Alabama. This difference is considered by many taxonomists to be significant enough to warrant elevation of the frog to its own species (Young and Crother 2001).

Previous Federal Action

In our December 30, 1982, Notice of Review, we designated the dusky gopher frog (designation *Rana areolata sevosa*) as a category 2 candidate and solicited status information (47 FR 58454). Category 2 candidates were those taxa for which we had information indicating that proposing to list as endangered or threatened was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not currently available to support a proposed rule. In our September 18, 1985 (50 FR 37958), and January 6, 1989 (54 FR 554), Notices of Review, we retained the dusky gopher frog in category 2. We identified the dusky gopher frog as a category 1 candidate species in our November 21, 1991 (56 FR 58804), and November 15, 1994 (59 FR 58982), Notices of Review. Category 1 taxa were those taxa for which we had sufficient information on biological vulnerability and threats on file to support issuance of proposed listing rules. Beginning with our February 28, 1996, Notice of Review (61 FR 7596), we discontinued the designation of multiple categories of candidates, and we now consider only taxa that meet the definition of former category 1 taxa as candidates for listing. At that time, we removed *Rana areolata sevosa* from candidate status based on the need for additional information to support a listing proposal. We then completed an analysis of newly available information from recent studies and determined that listing the Mississippi gopher frog distinct population segment was warranted. We elevated the Mississippi gopher frog to candidate status in our October 25, 1999, Notice of Review (64 FR 57534).

We published the proposed rule to list the Mississippi gopher frog in the **Federal Register** on May 23, 2000 (65 FR 33283). This final rule is made in accordance with a judicially approved settlement agreement, which requires us to submit a final listing decision to the **Federal Register** by November 28, 2001.

We have been coordinating with our partners, the U.S. Forest Service, Mississippi Department of Wildlife, Fisheries and Parks, and Dr. Rich Seigel of Southeastern Louisiana University, on Mississippi gopher frog surveys and monitoring for the past 10 years. During the past 2 years, we and our partners have increased conservation efforts at the remaining breeding pond and adjacent areas on the DeSoto National Forest. These efforts have included attempting to alter two existing ponds to create potential breeding sites for the Mississippi gopher frog; developing a strategy to construct new breeding ponds; and responding to the ongoing drought by transporting water overland to the known breeding pond (with the assistance of the Mississippi National Guard) and digging two wells adjacent to the pond. A Memorandum of Understanding has been drafted between the partners for conservation of this species and is currently under review by the parties.

Summary of Comments and Recommendations

In the May 23, 2000, proposed rule and associated notifications, we requested that all interested parties submit factual reports or information that might contribute to the development of this final rule. The comment period for the proposed rule was open from May 23 through July 24, 2000. We contacted appropriate Federal and State agencies, county governments, scientific organizations, and other interested parties and requested that they comment. We published a legal notice in the *Clarion Ledger* on June 2, 2000, and another in the *Sun Herald* on June 3, 2000, announcing the proposal and inviting comment. We received 18 comment letters. Twelve of these supported, 3 opposed, and 3 were neutral on the proposed listing action. The breakdown of the comments included 2 from Federal agencies, 2 from State agencies, and 14 from individuals or groups. The Mississippi Department of Wildlife, Fisheries and Parks and the Louisiana Department of Wildlife and Fisheries supported the protection of the Mississippi gopher frog distinct population segment under the Act. One request was made for a public hearing, however the request was later withdrawn.

We updated the final rule to reflect comments and information we received during the comment period. We address opposing comments and other substantive comments concerning the rule below. Comments of a similar nature or point are grouped together (referred to as "Issues" for the purpose of this summary) below, along with our response to each.

Issue 1: The proposed listing rule was not based on the best scientific and commercial data available, as required by section 4(b)(1) of the Act. The Service used too many documents that were not published papers in peer-reviewed journals in writing the rule.

Response: We thoroughly reviewed all available scientific and commercial data in preparing the proposed rule. We sought and reviewed historic and recent publications and unpublished reports concerning the Mississippi gopher frog and other gopher frog species, as well as literature documenting the decline of the longleaf pine ecosystem in general. We considered all types of available information in making a listing determination. This included reliable unpublished reports, non-literature documentation, and personal communications with experts. The public reviewed the proposed rule, which also was peer reviewed according to our policy (see "Peer Review" section). In the process of updating the proposed rule, some citations have changed due to the publication in peer-reviewed journals of some data originally cited as personal communications, unpublished manuscripts, or theses. We used our best professional judgment and based our decision on the best scientific and commercial data available, as required by section 4(b)(1) of the Act.

Issue 2: The Service does not have sufficient scientific information to conclude that the Mississippi gopher frog is a distinct species or a distinct population segment. As a result, the evaluation of the five factors is insufficient to support the listing of the frog.

Response: We analyzed the Mississippi gopher frog in relation to the three elements necessary for a population to be listed under the Act as a distinct vertebrate population segment—discreteness, significance, and population segment conservation status (see "Distinct Vertebrate Population Segment" section). The commenters did not provide any data to support their assertions. The best available scientific evidence supports the designation of the Mississippi gopher frog as a distinct vertebrate population segment.

Issue 3: The scientific data may provide support that the Mississippi gopher frog is a distinct population segment. However, since there is only one extant population, this population cannot be considered the same as populations, now extinct, which once occurred within the described range of *Rana sevosa* (west of Mobile Bay).

Response: In the original description of *Rana sevosa*, Goin and Netting (1940) restricted this species to the area of the Gulf coast from Louisiana to west of Mobile Bay, Alabama. They considered Mobile Bay a biogeographic barrier. At that time, gopher frogs were not known from other areas of eastern Alabama or the Florida panhandle. Gopher frogs were later discovered in these areas and subsequent authors extended the range of what was then described as the subspecies *R. capito sevosa* into eastern Alabama and the panhandle of Florida. The range extension was based on similarities in size and coloration of frogs across this area. However, no empirical data exist to support this designation (P. Moler, Florida Fish and Wildlife Conservation Commission, pers. comm. 2000). Young and Crother (2001) recently completed genetic analyses of gopher frogs from Mississippi, eastern Alabama, and the panhandle of Florida. Their results, showing differences between Alabama and Florida panhandle populations and the Mississippi gopher frog, provide evidence that gopher frogs differ on either side of Mobile Bay. Since the Mississippi gopher frog occurs within the original geographic area described by Goin and Netting for *Rana sevosa*, we will regard all populations historically distributed within that original area as part of the Mississippi gopher frog distinct population segment until such time as data dictate otherwise.

Issue 4: The Service should conduct more research before a listing decision is made.

Response: We have conducted and supported research on the Mississippi gopher frog for the past 10 years. We have learned much about the species during this period. Although there are still aspects of this species' life history which are not known, the information standard in section 4(b)(1) of the Act does not require us to possess detailed or extensive information about the general biology of the species or to make an actual determination of the causes for the species' status to make a listing determination. We have made the decision that the Mississippi gopher frog is in danger of extinction using the best available scientific and commercial information as required by the Act's information standard. We evaluated all

information with regard to its applicability to determination of species status using the five factors described under section 4(a)(1).

Issue 5: The Service should conduct more surveys before a listing decision is made. The Service may have missed populations of the Mississippi gopher frog due to the ongoing drought.

Response: Surveys for Mississippi gopher frogs have been ongoing since the late 1980s (see "Background" section). Most of the available habitat has been degraded or destroyed at historical sites. The drought has made sampling difficult; however, at most sites surveyed, poor habitat quality was the limiting factor, not lack of water. We used our best professional judgement and based our determination on the best scientific and commercial data available, as required by section 4(b)(1) of the Act.

Issue 6: Service suggestions that forest management activities have caused population declines in the Mississippi gopher frog are inappropriate.

Response: The best available information on the effects of timber management on the Mississippi gopher frog, cited in the "Background" and "Summary of Factors Affecting the Species" sections, indicates that habitat alteration, including loss of ground cover vegetation, destruction of subterranean refugia and alteration of hydrology at previously occupied sites, has been a causative factor in the decline of gopher frogs throughout the range of *Rana capito sevosa*. The manner, timing, and extent of silvicultural activities all dictate what effects they may have on the Mississippi gopher frog and its habitat. Timber management that avoids adverse effects to important habitat characteristics is compatible with maintenance of the Mississippi gopher frog, as evidenced by its continued occurrence on the DeSoto National Forest.

Peer Review

In accordance with our July 1, 1994 (59 FR 34270), Interagency Cooperative Policy on Peer Review, we requested the expert opinions of three independent specialists regarding pertinent scientific or commercial data and assumptions relating to supportive biological and ecological information in the proposed rule. The purpose of such review is to ensure that the listing decision is based on scientifically sound data, assumptions, and analyses, including input of appropriate experts and specialists.

We requested three individuals who possess expertise on gopher frog natural history and ecology to review the proposed rule and provide any relevant scientific data relating to taxonomy, distribution, or to the supporting biological data used in our analyses of the listing factors. All expressed their belief that the data supported protection of the Mississippi gopher frog distinct population segment under the Act. We have incorporated their comments into the final rule, as appropriate, and briefly summarized their observations below.

All three reviewers strongly supported the listing of the Mississippi gopher frog as endangered. One reviewer provided his assessment of the available taxonomic data for the Mississippi gopher frog. He agreed with our determination of the geographic range of the Mississippi gopher frog distinct population segment. The second reviewer provided comments on our analysis of Mississippi gopher frog telemetry data. He believed that the cessation of movement in frogs followed to the proximity of the clearcut could have been explained by several factors other than the habitat changes on the site. He suggested that the location where they stopped could have been the burrow where they normally resided; that the lack of rainfall may have affected their movements; and that the timeframe the frogs were tracked was too short to accurately determine the length of their movements. The third reviewer commented that emigrating juveniles are more subject to predation or dessication than adults as they move out of the pond. As a result, he believed that good quality terrestrial habitat close to the breeding pond, including cover objects, may be especially important for metamorphs.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, we have determined that the Mississippi gopher frog distinct population segment should be classified as an endangered species. We followed the procedures found at section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) issued to implement the listing provisions of the Act. We may determine a species to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Mississippi gopher frog distinct population segment (*Rana capito sevosa* Goin and Netting 1940) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The range of the Mississippi gopher frog has been reduced as a result of habitat destruction and modification (see "Background" section). Longleaf pine forested habitat has been reduced to less than 2 percent of its original distribution. Historically, the Mississippi gopher frog distinct population segment occurred in at least nine counties or parishes in the States of Alabama, Mississippi, and Louisiana. Today, it is known from only one site in Harrison County, Mississippi. Potentially available habitat continues to be degraded due to the accelerated rate of residential and commercial development in Harrison County.

The private property 200 m (656 ft) immediately north of the only known Mississippi gopher frog breeding site is slated for residential and commercial development, including a 20,000-unit retirement community (L. Lewis, Brown and Mitchell, Inc., pers. comm. 1999). This site was clearcut and prepared in 1994 prior to acquisition by the development company. Potential habitat for the Mississippi gopher frog was considerably degraded as a result. Richter (1998) reported that the majority of gopher frogs leaving the breeding pond moved in a northerly direction towards this private property. Three frogs, tracked using transmitters, were observed at the fence line delineating the DeSoto National Forest property boundary from the property (Richter *et al.* 2001). It seems likely that Mississippi gopher frogs may have occurred on this site in the very recent past. We are currently working with the developers of the site on a plan to restore and protect habitat in a "no development zone" on the property. Nevertheless, the large scale of development in the vicinity of the remaining habitat for the Mississippi gopher frog, including both ongoing and planned highway expansion, will fragment the remaining longleaf pine habitat (see "Factor E"). Urbanization will expand along these highway corridors and further reduce available habitat for the frog.

The remaining breeding pond for the Mississippi gopher frog is located in the DeSoto National Forest. Silviculture, including timber sales with associated clearcutting and replanting, is currently the primary activity in this area. Incompatible timber management could alter the suitability of the Mississippi gopher frog's remaining habitat (see "Background" section). The private property north of the breeding pond

(described above) was previously owned by a timber company. The negative effects of the clearcutting and site-preparation activities included the destruction of all burrows and stump holes that could have been used by migrating or resident frogs. During bedding, the soil structure and below-ground structure (burrows, stump holes) were destroyed as hummocks with deep furrows on either side were created on which to replant trees. In addition, all overstory was removed from the site. The immediate result of this activity was creation of an area that would represent a desert to moisture-requiring frogs. Although at least three frogs moved to the vicinity of this site, it is not known what effect the altered landscape may have had on their movements. The effects of the timber harvest and replanting on the Mississippi gopher frog population are unknown. The frogs may or may not have used the site prior to the timbering activities. However, the resultant changes in habitat have made the site currently unsuitable for them.

Several recent studies (National Council on Air and Stream Improvement, Inc. (NCASI), unpub. data 1999, Baughman 2000, Russell 2000) have demonstrated that management of industrial forest lands can be compatible with maintaining a diverse amphibian community. However, rare amphibians which are endemic to the longleaf pine ecosystem, such as gopher frogs (LaClaire 1997), are not a typical component of this amphibian community on industrial forest lands. For example, a recent survey of ephemeral ponds on intensively managed forest lands found gopher frogs in only 17 of 444 ponds (4 percent) surveyed in Alabama, Florida, and Georgia (NCASI, unpub. data 1999). The loss of essential upland and wetland habitat features is most likely responsible for the absence of these species. Habitat alterations resulting from historical land use practices, including fire suppression (see "Factor E"), removal of downed logs and other coarse woody debris, and short rotation times, may offer a partial explanation for the loss of these habitat features (Baughman 2000, Russell 2000).

Historical gopher frog breeding sites have been degraded and destroyed by roads that pass through or are adjacent to ponds. Erosion of unpaved roads adjacent to breeding sites may result in an influx of sediment from surrounding uplands during rainstorms. Runoff from paved roads may include petrochemicals or other substances toxic to frogs. The hydroperiod (period during which a wetland holds water) of the ponds can be negatively affected by increased input of water to the sites or by the road acting as a dam, both of which would create a more permanent pond. In addition, heavily traveled roads pose a threat to migrating frogs.

The open canopy and flat, unforested bottom of the Mississippi gopher frog breeding pond represent an alluring site for dumping unwanted trash and riding off-road vehicles (ORV). Many temporary ponds throughout the southeast have been degraded as a result of garbage dumping (LaClaire, pers. obs. 1994). ORVs can cause direct mortality of gopher frog tadpoles and adults (J. Jensen, Georgia Department of Natural Resources, pers. comm. 1996) as well as alter the quality of a breeding site. ORVs alter the contours of the pond floor, eliminate herbaceous vegetation, and can alter the hydrology of the site (LaClaire, pers. obs. 1995). Loss of herbaceous vegetation caused by ORVs could also discourage gopher frog reproduction, since egg masses are attached to stems of herbaceous vegetation (Young 1997; Richter and Seigel 1998a, 1998b). ORV tracks have been documented within the Mississippi gopher frog breeding site (G. Johnson, pers. comm. 1994). In 1994, an area of the DeSoto National Forest within 2.4 km (1.5 mi) of the existing breeding pond was temporarily closed due to accumulation of trash, soil erosion, and water quality degradation caused by ORVs, damage to endangered and sensitive plants and animals, and other vandalism (K. Godwin, U.S. Forest Service, pers. comm. 1994). ORV use on the DeSoto National Forest will likely increase in the vicinity of the pond when the proposed housing development is completed adjacent to the site.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Direct take of Mississippi gopher frogs for commercial, recreational, scientific, or educational purposes is not currently a threat. However, large numbers of other species of frogs are nationally and internationally traded for resale in pet stores and for food. Listing the Mississippi gopher frog may make it more attractive to collectors through recognition of its rarity. In addition, the life history and ecology of Mississippi gopher frogs make them vulnerable to collecting, as well as vandalism. Only one breeding pond remains for this frog. At predictable times of the year, all breeding adults congregate at this site to breed. A single act of collecting or vandalism could destroy the population.

C. Disease or Predation

Disease is not known to be a factor in the decline of the Mississippi gopher frog. However, during monitoring of our efforts to alter a nearby pond and create a new gopher frog breeding site, a fungal disease was observed in leopard frog tadpoles. Subsequent to this discovery, tadpole populations were monitored more closely and 100 percent mortality of these leopard frog tadpoles was observed. A sample of diseased tadpoles was sent to the U.S. Geological Survey's National Fish Wildlife Health Center in Madison, Wisconsin. The fungus has not yet been identified and the mode of transmission is unknown. However, this yeast-like fungus has been implicated in five die-offs at sites nationwide and has affected six species of ranid (frogs of the genus *Rana*) tadpoles (D. Green, National Wildlife Health Center, Madison, Wisconsin, pers. comm. 2001). Biosecurity measures, such as sterilizing boots and equipment, have been implemented at the existing Mississippi gopher frog breeding pond as a precaution against disease transmission. An unrelated chytrid fungus has been implicated in the decline of amphibians in the western United States, including the endangered Wyoming toad (M. Jennings, U.S. Fish and Wildlife Service, pers. comm. 2001).

Predation may be a threat. Survivorship from the egg stage to metamorphosis is typically low for ranid frogs and was estimated by Richter (1998) to be 4.91 percent for Mississippi gopher frogs. Additional predation, beyond the norm, could result in complete reproductive failure. Richter and Seigel (1998a) reported that approximately 44 percent of all eggs at the existing breeding site were lost in 1997 prior to hatching. An undetermined amount of the egg mortality was due to predation by caddisfly larvae (Order Trichoptera, Family Phryganeidae) on the egg masses. Richter (2000) observed no larval caddisflies at the Mississippi gopher frog breeding site in 1996, but caddisflies infested 100 percent of Mississippi gopher frog egg masses in 1997 and 1998. He found that two larval caddisflies in laboratory test chambers could consume between 11 and 24 developing embryos of leopard frogs (another ranid species; gopher frog embryos were not used due to their rarity). The effect of caddisfly predation on the Mississippi gopher frog population is unknown. However, any increases in mortality resulting from predation are a cause for concern in such an extremely small and isolated population.

Predation from fish probably contributed to the loss of historic populations. Temporary ponds altered to form more permanent bodies of water and stocked with fish are no longer suitable breeding sites. Fish may have also entered breeding sites through the connection of drainage ditches and firebreaks to pond basins. The Mississippi gopher frog is adapted to temporary wetlands, and its larvae cannot survive the heavy predation of bass and sunfish commonly used to stock ponds. One historical location in Louisiana was destroyed in part because it has become a permanent pond inhabited by fish (Thomas 1996). In Mississippi, a calling male was discovered in 1987 at a site that has since been converted to a fish pond (T. Mann, pers. comm. 1998). No gopher frogs have been reported subsequently at this site, which is no longer considered suitable breeding habitat.

D. The Inadequacy of Existing Regulatory Mechanisms

Louisiana has no protective legislation for the Mississippi gopher frog. Alabama protects all gopher frogs as nongame species (J. Woehr, Alabama Department of Conservation and Natural Resources, pers. comm. 1994). The Mississippi gopher frog is listed as endangered in Mississippi (Mississippi Department of Wildlife, Fisheries and Parks 1992), and both Mississippi and Alabama provide protection against collecting of the species. However, this legislation does nothing to alleviate the habitat loss that has caused the decline of the species. The only known breeding site for the Mississippi gopher frog is on U.S. Forest Service land in Mississippi. As a result, there has been a concerted effort to encourage the U.S. Forest Service to manage the site for the frog. Although the U.S. Forest Service has an obligation under the National Forest Managment Act, to ensure their land management activities protect fish and wildlife, forest management is often limited by existing funding. Other avenues of funding become available to the U.S. Forest Service once a species is federally listed.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Fire is needed to maintain the natural longleaf pine community. Ecologists consider fire suppression a primary reason for the degradation of the remaining longleaf pine acreage in the southeast (Noss 1988, Ware *et al.* 1993). Fire suppression has reduced the quality of terrestrial and aquatic habitat for the Mississippi gopher frog. Canopy closure from fire suppression alters the forest floor vegetation and threatens the open, herbaceous character typical of gopher frog breeding ponds (Kirkman 1995, LaClaire 1995). In addition, fire causes the release of nutrients bound in plant material. This release of nutrients results in a flush of primary productivity that is important to the herbivorous gopher frog tadpoles. Fire suppression has probably negatively impacted all of the historical Mississippi gopher frog sites. At this time, fire is the only known management tool that will maintain the existing breeding pond as suitable habitat.

Between 1991 and 2001, the U.S. Forest Service has conducted periodic growing-season burns of the forest compartment surrounding the Mississippi gopher frog breeding pond and of the pond basin itself. These burns improved habitat conditions, but the frequency and extent of burning needs to be improved. Appropriate burning regimes must be maintained to prevent woody encroachment and to enhance herbaceous growth. Residential and commercial development and road construction in the vicinity of the breeding pond will create increased concerns about, and likely reduce the use of, fire as a management tool. The fire management officer on the DeSoto National Forest estimates that, due primarily to smoke management concerns, that development in the area will cause a 20 percent reduction in the amount of days that the U.S. Forest Service will have the opportunity to burn Mississippi gopher frog habitat (J. Boykin, U.S. Forest Service, pers. comm. 2001).

Habitat fragmentation of the longleaf pine ecosystem, resulting from habitat conversion, threatens the survival of the single remaining Mississippi gopher frog population. Studies have shown that the loss of small, fragmented populations is common, and recolonization is critical for their regional survival (Fahrig and Merriam 1994, Burkey 1995). As patches of available habitat become separated beyond the dispersal range of a species, populations are more sensitive to genetic, demographic, and environmental variability and may be unable to recover (Gilpin 1987, Sjogren 1991, Blaustein *et al.* 1994). This scenario describes threats to the Mississippi gopher frog. Five historical Mississippi gopher frog localities exist within a 19.2 km (12 mi) radius of the remaining site. Highways have fragmented this area and contributed to habitat degradation. The most recent records of frogs at these locales was in the late 1980s. The planned construction of highways within 5 km (3.1 mi) both to the north and east of the existing Mississippi gopher frog pond will further isolate the remaining population from other potentially restorable habitat in the DeSoto National Forest. The Biloxi River and additional residential development bound the habitat to the west and south.

Low reproductive potential may also present a threat to the Mississippi gopher frog's continued existence. Studies at the Mississippi breeding site suggest that female Mississippi gopher frogs may not breed until 2 to 3 years of age and may breed only in alternate years and/or have only a single lifetime breeding event (Richter and Seigel 1998b). In addition, survival of juvenile frogs is thought to be extremely low (Richter and Seigel 1998b).

Annual variability in rainfall influences how frequently and how long a pond is appropriate breeding habitat. Reliance on specific weather conditions results in unpredictable breeding events and reduces the likelihood that recruitment will occur every year. No larvae survived to metamorphosis in 3 out of 6 years of the reproductive study of the extant Mississippi gopher frog population (summarized in Richter and Seigel 1998b). In addition, study results indicate that only 1 year out of 6 resulted in the explosive numbers (2,488) of juveniles typical of temporary pond breeding amphibians.

The Mississippi gopher frog population is highly susceptible to genetic isolation, inbreeding, and random demographic events as a result of having only one known breeding site. Long-lasting droughts or frequent floods may negatively affect the population. Although these are natural processes, other threats, such as habitat fragmentation, habitat degradation, and low reproductive potential, may cause the population to decline to the point that it cannot recover.

Pesticides and herbicides pose a threat to amphibians such as the Mississippi gopher frog, because their permeable eggs and skin readily absorb substances from the surrounding aquatic or terrestrial environment (Duellman and Trueb 1986). Aquatic frog larvae are likely more vulnerable than adults to chemical changes in their environment. Negative effects of commonly used pesticides and herbicides on amphibian larvae include delayed metamorphosis, paralysis, reduced growth rates, and mortality (Bishop 1992, Berrill *et al.* 1997, Bridges 1999). Sublethal levels of chemical contamination can alter juvenile recruitment in amphibian populations (Bridges and Semlitsch 2000). Adult gopher frogs are

predaceous and could be affected by pesticides accumulated in their invertebrate prey. Herbicides may alter the density and species composition of vegetation surrounding a breeding site and reduce the number of potential sites for egg deposition, larval development, or shelter for migrating frogs.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Mississippi gopher frog distinct population segment as endangered. The Act defines an endangered species as one that is in danger of extinction throughout all or a significant portion of its range. A threatened species is one that is likely to become an endangered species in the foreseeable future throughout all or a significant portion of its range. As discussed under Factor A, in spite of extensive surveys throughout the known range of the Mississippi gopher frog, only one population of approximately 100 adult frogs is known to exist. Natural processes, such as genetic isolation, inbreeding, droughts, and floods, pose ongoing threats to this population. Further, residential and commercial development in conjunction with new and expanding highways will increase habitat fragmentation and the likelihood of fire suppression. Both habitat fragmentation and fire suppression pose threats to the frog's remaining habitat. For these reasons, we find that the Mississippi gopher frog distinct population segment is in danger of extinction throughout all or a significant portion of its range and, therefore, endangered status is appropriate.

Critical Habitat

Critical habitat is defined in section 3, paragraph 5(A), of the Act as: (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. In the proposed rule, we indicated we would make a final critical habitat determination with the final listing determination for the Mississippi gopher frog. However, our budget for listing and critical habitat activities is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. Listing the Mississippi gopher frog without designation of critical habitat will allow us to concentrate our limited resources on other listing actions that must be addressed, while allowing us to invoke the protections needed for the conservation of this species without further delay. This is consistent with section 4(b)(6)(C)(i) of the Act, which states that final listing decisions may be issued without critical habitat designation when it is essential that such determinations be promptly published. We will prepare a critical habitat determination for the Mississippi gopher frog in the future at such time as our available resources and priorities allow.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us.

The Mississippi gopher frog occurs in the DeSoto National Forest, Federal land administered by the U.S. Forest Service. The U.S. Forest Service will be required to evaluate whether their activities have the potential to adversely affect the Mississippi gopher frog. Their activities that could adversely affect the frog include, but are not limited to, forest management and road construction. Other Federal agencies that may be involved in authorizing, funding, or carrying out activities that may affect the Mississippi gopher frog include the U.S. Army Corps of Engineers, due to their regulation of discharges of dredged or fill material into wetlands under section 404 of the Clean Water Act; the Federal Energy Regulatory Commission, due to their oversight of gas pipeline and powerline rights-of-way; and the Federal Highway Administration, if Federal funds are involved in road construction. However, we have resolved nearly all section 7 consultations so that species are protected and project objectives are met.

We have been working with the U.S. Forest Service since 1988 to protect the last remaining population of the Mississippi gopher frog. We have advised the U.S. Forest Service on protection and management needs for this species. We have supported research on the ecology and life history of this population by projects funded through our cooperative agreement with the State of Mississippi under section 6 of the Act. In addition, we have collaborated with the U.S. Forest Service and the Mississippi Department of Wildlife, Fisheries and Parks on the plans to move gopher tortoises to the existing breeding site to provide additional subterranean refugia via the tortoise's burrows and to create new breeding ponds for the frog. We have drafted a Memorandum of Understanding with our partners and this document is currently under review by all the parties.

Section 9 of the Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of

the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import, export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered wildlife species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to our agents and agents of State conservation agencies.

It is our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify, to the maximum extent practicable at the time a species is listed, those activities that are or are not likely to constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effects of the listing on proposed and ongoing activities within a species' range.

We believe, based on the best available information, that the following activities are unlikely to result in a violation of section 9 for the Mississippi gopher frog:

(1) Possession of legally acquired Mississippi gopher frogs;

(2) Lawful hunting activities;

(3) Lawful burning of habitat where the Mississippi gopher frog is known to occur, including winter burning;

(4) Federally approved projects that involve activities such as discharge of fill material, draining, ditching, bedding, diversion or alteration of surface or ground water flow into or out of a wetland (i.e., due to roads, impoundments, discharge pipes, etc.), when the activity is conducted in accordance with any reasonable and prudent measures given by us in accordance with section 7 of the Act; and,

(5) Conversion of longleaf pine habitat where the Mississippi gopher frog does not occur.

We believe the following activities could potentially result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Unauthorized killing, collecting, handling, or harassing of individual Mississippi gopher frogs, including unauthorized use of off-road vehicles in the wetland basins of known breeding sites of the species.

(2) Possessing, selling, transporting, or shipping illegally taken Mississippi gopher frogs;

(3) Unauthorized destruction or alteration of the hydrology of the frog's wetland breeding sites. These actions would include activities that alter the localized watershed that supplies water to the ponds or alter the water-holding capacity at existing breeding sites. Unauthorized actions that could alter the hydrology of breeding sites would include discharge of fill material, draining, ditching, bedding, clear-cutting within the wetland, diversion or alteration of surface or ground water flow into or out of a wetland (i.e., due to roads, impoundments, discharge pipes, etc.), and unauthorized use of vehicles within the wetland; and,

(4) Discharge or dumping of toxic chemicals, silt, or other pollutants (i.e., sewage, oil, pesticides, and gasoline) into isolated wetlands or upland habitats supporting the species. This includes any application of terrestrial or aquatic pesticide that results in the mortality of adult frogs or tadpoles, regardless if the pesticide was applied in accordance with the labeling instructions. This includes drift from aerial applications and runoff from surface applications.

We will review other activities not identified above on a case-by-case basis to determine whether they may be likely to result in a violation of section 9 of the Act. We do not consider these lists to be exhaustive and provide them as information to the public. You should direct questions regarding whether specific activities may constitute a violation of section 9 to the Field Supervisor of our Mississippi Field Office (see **ADDRESSES** section).

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22. For endangered species, you may obtain permits for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. You may request copies of the regulations regarding listed wildlife from, and address questions about prohibitions and permits to, the U.S. Fish and Wildlife Service, 1875 Century Blvd., Suite 200, Atlanta, Georgia 30345, or telephone 404/679–4176; facsimile 404/679–7081.

National Environmental Policy Act

We have determined that we do not need to prepare an environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. For additional information concerning permit and associated requirements for endangered species, see 50 CFR 17.22.

References Cited

You may request a list of all references cited in this document, as well as others, from the Mississippi Field Office (see **ADDRESSES** section).

Author

The primary author of this proposed rule is Linda V. LaClaire, Mississippi Field Office (*see* **ADDRESSES** section) (601/321–1126).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under AMPHIBIANS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
•	•	•	•	•	•		•
AMPHIBIANS							
•	•	•	•	•	•		•
Frog, Mississippi gopher.	*Rana capitol sevosa*	U.S.A. (AL, FL, LA, MS).	Wherever found west of Mobile and Tombigbee Rivers in Al, MS, and LA.	E	718	NA	NA
•	•	•	•	•	•		•

Dated: November 26, 2001.

Marshall P. Jones, Jr.,

Acting Director, Fish and Wildlife Service.

[FR Doc. 01–29923 Filed 12–3–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 112801A]

Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: General category closure.

SUMMARY: NMFS has determined that the 2001 fishing year Atlantic bluefin tuna (BFT) General category quota will be attained by November 30, 2001. Therefore, the General category fishery will be closed effective 11:30 p.m. on November 30, 2001. This action is being taken to prevent overharvest of the total adjusted General category quota of 919.7 metric tons (mt).

DATES: Effective 11:30 p.m. local time on November 30, 2001, through May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Brad McHale or Pat Scida, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories. The General category landings quota, including time-period subquotas and the New York Bight set-aside, are specified annually as required under § 635.27 (a)(1). The 2001 fishing year General category quota and effort control specifications were issued on July 13, 2001 (66 FR 37421, July 18, 2001).

General Category Closure

NMFS is required, under § 635.28 (a)(1), to file with the Office of the Federal Register for publication notification of closure when a BFT quota is reached, or is projected to be reached. On and after the effective date and time of such closure notification, for the remainder of the fishing year or for a specified period as indicated in the notification, fishing for, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period or until such date as specified in the notification.

The adjusted 2001 fishing year BFT quota specifications issued pursuant to § 635.27 set a total adjusted General category quota of 919.7 mt, including the New York bight set-aside, of large medium and giant BFT to be harvested from the regulatory area during the 2001 fishing year. Based on reported landings and effort, NMFS projects that this quota will be reached by November 30, 2001. Therefore, fishing for, retaining, possessing, or landing large medium or giant BFT intended for sale by persons aboard vessels in the General or Charter/Headboat categories must cease at 11:30 p.m. local time November 30, 2001. The intent of this closure is to prevent overharvest of the quota established for the General category.

General category permit holders may tag and release BFT while the General category is closed, subject to the requirements of the tag-and-release program at § 635.26. Vessels permitted in the Charter/Headboat category may continue to fish for and retain BFT under the Angling category regulations. The current Angling category daily retention limit, effective from November 1, 2001 through May 31, 2002 is one large school or small medium BFT (measuring from 47 to less than 73 inches (from 69 to less than 119 cm) curved fork length) (66 FR 31844, June 13, 2001). In addition, Angling and Charter/Headboat category vessels may retain one large medium or giant "trophy" BFT, measuring 73 inches (185 cm) or greater, per fishing year (June 1 through May 31).

Classification

This action is taken under § 635.28 (a) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: November 28, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–29981 Filed 11–29–01; 4:00 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010208032–1109–02; I.D. 112601D]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Commercial Quota Harvested for New York

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota harvest; closure.

SUMMARY: NMFS announces that the Atlantic bluefish commercial quota available to the State of New York has been harvested. Vessels issued a commercial Federal fisheries permit for the Atlantic bluefish fishery may not land Atlantic bluefish in New York for the remainder of calendar year 2001, unless additional quota becomes available through a transfer. Regulations governing the Atlantic bluefish fishery require publication of this notification to advise the State of New York that the quota has been harvested and to advise Federal vessel permit holders and Federal dealer permit holders that no commercial quota is available for landing Atlantic bluefish in New York.

DATES: Effective 0001 hours, December 3, 2001, through 2400 hours, December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Allison Ferreira, Fishery Management Specialist, (978) 281–9103.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic bluefish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.160.

The initial total commercial quota for Atlantic bluefish for the 2001 calendar year was set equal to 9,583,010 lb (4,348,008 kg)(66 FR 23625, May 9, 2001). The percent allocated to vessels landing Atlantic bluefish in New York is 10.3851 percent, or 995,204 lb (451,544 kg). This quota was subsequently increased on November 15, 2001, (66 FR 57398) to 1,095,204 lb (496,784 kg) as the result of a 100,000 lb (45,360 kg) transfer of bluefish quota from the Commonwealth of Virginia.

Section 648.161 (b) requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor state commercial quotas and to determine when a state's commercial quota is harvested. The Regional Administrator is further required to publish a notification in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing Atlantic bluefish in that state. The Regional Administrator has determined, based upon dealer reports and other available information, that the State of New York has attained its quota for 2001.

The regulations at § 648.4 (b) provide that Federal permit holders agree as a condition of the permit not to land Atlantic bluefish in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, December 3, 2001, further landings of Atlantic bluefish in New York by vessels holding Atlantic bluefish commercial Federal fisheries permits are prohibited for the remainder of the 2001 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, December 3, 2001, federally permitted dealers are also advised that they may not purchase Atlantic bluefish from federally permitted vessels that land in New York for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 28, 2001.

Jonathan M. Kurland,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–29980 Filed 11–29–01; 4:00 pm]

BILLING CODE 3510–22–S

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Proposed Rules

Federal Register
Vol. 66, No. 233
Tuesday, December 4, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 352

[Docket No. 00–086–1]

Untreated Oranges, Tangerines, and Grapefruit from Mexico Transiting the United States to Foreign Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow untreated oranges, tangerines, and grapefruit from Mexico to be moved overland by truck or rail to Corpus Christi and Houston, TX, for export to another country by water. We are proposing this action in response to requests by the port authorities of Corpus Christi and Houston, TX. We are also proposing to require that untreated oranges, tangerines, and grapefruit moving from Mexico through Brownsville, Corpus Christi, Galveston, or Houston, TX, for export by water to another country be shipped in sealed, refrigerated containers. We are proposing this action to provide additional protection against the possible introduction of fruit flies via untreated oranges, tangerines, and grapefruit from Mexico that transit the United States.

DATES: We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by February 4, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 00–086–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 00–086–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 00–086–1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Sponaugle, Senior Staff Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236; (301) 734–8295.

SUPPLEMENTARY INFORMATION:

Background

The plant quarantine safeguard regulations in 7 CFR part 352 relieve restrictions for certain products or articles that are classified as prohibited or restricted products or articles under our other regulations in title 7. Such articles include fruits and vegetables that are moved into the United States for: (1) A temporary stay where unloading or landing is not intended, (2) unloading or landing for transshipment and exportation, (3) unloading or landing for transportation and exportation, or (4) unloading and entry at a port other than the port of first arrival. Fruits and vegetables that are moved into the United States under these circumstances are subject to inspection and must be handled in accordance with conditions assigned under the safeguard regulations to prevent the introduction and dissemination of plant pests.

Authorized Ports

The regulations in § 352.30 address the movement into or through the United States of untreated oranges, tangerines, and grapefruit from Mexico that transit the United States en route to foreign countries.

The regulations currently allow untreated oranges, tangerines, and grapefruit from Mexico to enter the United States at the ports of Nogales, AZ, or Brownsville, Eagle Pass, El Paso, Hidalgo, or Laredo, TX. The fruit may then be moved, under certain conditions, by truck or railcar to seaports at Brownsville and Galveston, TX, for export by water to another country.

The port authorities of Corpus Christi and Houston, TX, have requested that those ports be added to regulations as ports eligible to export untreated Mexican oranges, tangerines, and grapefruit by water.

The port of Corpus Christi is located midway between the ports of Brownsville and Galveston along the Texas coast. Corpus Christi is the fifth largest U.S. port in terms of trade volume (*i.e.*, 86.8 million short tons of commodities in 1997). The port of Corpus Christi has 295,500 square feet of covered dockside storage and a 100,000-square-foot refrigerated facility. This new facility includes refrigerator and freezer rooms, a treatment facility, and rail and truck docks that are temperature-controlled.

The port of Houston is located on Galveston Bay, approximately 50 miles northwest of the port of Galveston. Houston is the largest U.S. port in terms of trade volume (*i.e.*, approximately 175 million short tons of commodities in 2000). The port of Houston has 128,400 square feet of covered dockside storage, 672,000 square feet of warehouse storage, and a 200,000-square-foot waterfront refrigerated facility. The waterfront refrigerated facility has refrigerator and freezer rooms, a treatment facility, humidity-controlled storage, and enclosed truck and rail bays.

We have considered these requests and have concluded that the risk posed by allowing untreated oranges, tangerines, and grapefruit to transit the United States for export at the ports of Corpus Christi and Houston, TX, would be no different than the risk currently posed by in-transit shipments of untreated oranges, tangerines, and grapefruit moved from Mexico to Brownsville and Galveston, TX, for export. Based on this finding, we are

proposing to amend the regulations to allow untreated oranges, tangerines, and grapefruit from Mexico to be moved overland by truck or rail to Corpus Christi and Houston, TX, for export to another country by water.

Pest Safeguards for Trucks and Railcars

The regulations currently allow untreated oranges, tangerines, and grapefruit from Mexico to be moved in trucks to a location shipside, or to approved refrigerated storage pending lading aboard ship, in Brownsville or Galveston, TX. Trucks may also be used to move untreated oranges, tangerines, and grapefruit alongside refrigerator cars or aircraft at approved ports of entry listed in § 352.30(b)(2) for movement to a foreign country. Trucks must be of the van-type and must be kept closed from the time they enter into the United States until unloading is to commence. Alternatively, the regulations provide that loads of untreated oranges, tangerines, and grapefruit on trucks may be covered with a tarpaulin that is tightly tied down and that may not be removed or loosened from time of entry into the United States until unloading is to commence.

We believe the regulations pertaining to trucks, as described above, do not provide adequate protection against the introduction of fruit flies into the United States, given that fruit flies are known to exist in some areas in Mexico where oranges, tangerines, and grapefruit are grown, and given that there are citrus-producing areas within the areas that untreated oranges, tangerines, and grapefruit from Mexico may transit while en route to a port of export. We are proposing to revise those regulations to require that untreated oranges, tangerines, and grapefruit being moved by truck from Mexico must be enclosed in sealed, refrigerated containers of the type commonly used by the maritime or commercial trucking industry. This requirement would help to reduce the risk that fruit flies could be introduced into the United States via in-transit shipments of untreated Mexican oranges, tangerines, and grapefruit.

We are also proposing to amend the regulations in § 352.30(b)(4) to reflect the proposed addition of Corpus Christi and Houston, TX, as ports approved to handle untreated oranges, tangerines, and grapefruit from Mexico. The regulations currently provide that shipments of such fruit may be entered at Nogales, AZ, only for direct rail routing to El Paso, TX, after which they may traverse only the territory bounded on the west by a line drawn from El Paso, TX, to Salt Lake City, UT, and then to Portland, OR, and on the east by a line drawn from Brownsville, TX, through Galveston, TX, and Kinder, LA, to Memphis, TN, and then to Louisville, KY, and due east from Louisville. This area includes railroad routes from Brownsville to Galveston, TX, and routes running directly northward from Galveston. We are proposing to amend the regulations to make it clear that the routing of such shipments may also include railroad routes from Brownsville to Corpus Christi and Houston, TX, and routes running directly northward from Houston.

Miscellaneous

We are also proposing to update the regulations in § 352.30(e) to reflect recent changes to the regulations in § 319.56–2(h). The regulations in § 352.30(e) currently state that oranges, tangerines, and grapefruit that are moving in transit to foreign countries may be imported into the United States from certain municipalities in Sonora, Mexico, that are listed in § 319.56–2(h) of the regulations. Such importations must be in accordance with applicable conditions in §§ 319.56 through 319.56–8 of the regulations.

The regulations in § 319.56–2(h) list areas in Mexico that are free of certain fruit flies. Currently, those areas include municipalities in the States of Baja California Sur and Chihuahua in addition to Sonora. When these additional States were added to § 319.56–2(h), their addition should have been reflected in § 352.30(e), but that did not occur. Therefore, we are proposing to remove the reference to the State of Sonora from the regulations in § 352.30(e) in order to make it clear that oranges, tangerines, and grapefruit that are moving in transit to foreign countries may be imported into the United States from any municipality in Mexico that is listed in § 319.56–2(h) of the regulations.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the economic effects of this proposed rule on small entities. Based on the information we have, there is no basis to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of injurious plant pests.

The current regulations allow, among other things, untreated oranges, tangerines, and grapefruit from Mexico to enter the United States at six specified land border ports along the U.S.-Mexican border and to be moved overland by truck to maritime ports in Brownsville and Galveston, TX, for ocean export to third countries.

APHIS has received requests from the port authorities of Corpus Christi and Houston to add the maritime ports of Corpus Christi and Houston, TX, to the list of maritime ports authorized to receive untreated oranges, tangerines, and grapefruit from Mexico that have been trucked from land border ports along the U.S.-Mexican border for ocean export to third countries.

Between 1994 and 1999, the volume of in-transit shipments of untreated Mexican citrus was equivalent to a small percentage of the total volume of Mexican citrus entering into U.S. commerce (see Table 1).

TABLE 1.—U.S. IMPORTS OF FRESH CITRUS FROM MEXICO 1994–1999

Year	Mexican citrus entering U.S. commerce		Mexican citrus in-transit through the United States
	Value (in U.S. dollars)	Quantity (in kilograms)	Quantity (in kilograms)
1994	34,160,043	125,057,000	308,698 (0.25% of imports)
1995	34,874,375	148,652,000	435,021 (0.29% of imports)
1996	38,268,862	140,822,000	1,417,929 (1.01% of imports)
1997	42,790,699	164,587,000	45,951 (0.03% of imports)
1998	42,553,048	171,630,000	510,450 (0.30% of imports)
1999	84,408,899	211,197,000	519,878 (0.25% of imports)

The availability of two additional maritime ports in Texas could become an accommodating factor for Mexico's in-transit trade with third countries, since, on average, more than 90 percent of untreated Mexican citrus transiting through the United States between 1995 and 1999 entered the country through a Texas maritime, air, or land port (see table 2).

TABLE 2.—FRESH UNTREATED MEXICAN CITRUS IN TRANSIT THROUGH THE UNITED STATES

Year	Mexican citrus in transit entering a Texas port (in kilograms)	Mexican citrus in transit entering other ports (in kilograms)
1994	282,021 (91%).	26,677
1995	390,713 (90%).	44,308
1996	1,290,013 (91%).	127,916
1997	45,951 (100%).	0
1998	483,032 (95%).	27,418
1999	413,229 (80%).	106,649

This proposed rule would benefit exporters and shippers in the area around the ports of Corpus Christi and Houston, TX, and may provide the local populations with additional income opportunities, the amount of which would depend on the volume of the in-transit untreated Mexican oranges, tangerines, and grapefruit exported from the ports of Corpus Christi and Houston, TX. Mexican exporters and foreign importers of the untreated oranges, tangerines, and grapefruit may benefit from the availability of additional ports that could handle their shipments.

This proposed rule would also require that untreated oranges, tangerines, and grapefruit from Mexico that are moving through Brownsville, Corpus Christi, Galveston, or Houston, TX, for export by water to another country be shipped in sealed, refrigerated containers. We do not expect that this proposed requirement would have any significant effects on exporters or shippers of citrus fruit from Mexico because untreated citrus intended for export to another country is almost always shipped from Mexico in refrigerated containers in order to ensure that the quality of fruit is maintained during land transit and movement by sea to a foreign destination.

Movement from Mexico to the fruits' final destination in a foreign country can take several days, and sometimes more than a week, depending on the destination. Since this proposed change reflects current standard industry shipping practices, APHIS does not believe that any entities would be adversely affected by the proposed requirement. Nonetheless, we invite interested persons to submit information regarding the potential economic effects of this proposed requirement.

Economic Effects on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small entities. Small entities at the ports of Corpus Christi and Houston, TX, would be affected by the proposed rule to the extent that they would benefit from handling in-transit shipments of untreated oranges, tangerines, and grapefruit arriving at their port. However, neither the number of firms that may be affected nor the proportion that can be considered small is known. Net benefits to U.S. firms overall are expected to be minimal because it is unlikely that the availability of Corpus Christi and Houston, TX, as export ports for untreated Mexican citrus would significantly affect the volume of in-transit oranges, tangerines, and grapefruit from Mexico moving through the United States.

Summary

This proposed rule would benefit the Mexican exporters and the foreign importers of untreated oranges, tangerines, and grapefruit, as well as the ports of Corpus Christi and Houston, TX, which could handle in-transit shipments of Mexican oranges, tangerines, and grapefruit. It is likely that small entities at the ports of Corpus Christi and Houston, TX, may share in these benefits, but their number and the extent to which they may benefit are not known. Overall, U.S. firms would benefit to the extent that the trade is not simply a diversion from one maritime port to another, but rather that additional in-transit trade in untreated Mexican oranges, tangerines, and grapefruit occurs.

This proposed rule contains no new information collection or recordkeeping requirements (see "Paperwork Reduction Act" below).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 352

Customs duties and inspection, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we propose to amend 7 CFR part 352 as follows:

PART 352—PLANT QUARANTINE SAFEGUARD REGULATIONS

1. The authority citation for part 352 would continue to read as follows:

Authority: 7 U.S.C. 2260, 7711–7714, 7731, and 7734; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

2. Section 352.30 would be amended as follows:

a. By revising paragraphs (b)(3)(iii) and (b)(4)(i).

b. In paragraph (c)(1), by removing the words "or Galveston" and adding in their place the words "Corpus Christi, Galveston, or Houston".

c. By revising paragraph (c)(3).

d. By revising paragraph (e).

§ 352.30 Administrative instructions: Certain oranges, tangerines, and grapefruit from Mexico.

* * * * *

(b) * * *

(3) * * *

(iii) *Trucks.* Trucks may be used to haul such fruit from Mexico to shipside, or to approved refrigerated storage pending lading aboard ship, in Brownsville, Corpus Christi, Galveston, or Houston, TX, or alongside refrigerator cars or aircraft at the ports named in paragraph (b)(2) of this section for movement to a foreign country. The fruit hauled in such trucks must be enclosed in sealed, refrigerated containers of the type commonly used by the maritime or commercial trucking industry.

(4) *Bonded rail movement*—(i) *Routing.* Shipments of such fruit may move by direct route, in Customs bond and under Customs seal, without diversion or change of Customs entry en route, from the port of entry to the port of exit en route to Canada or to an approved North Atlantic port in the United States for export to another foreign country, as follows: The fruit may be entered at Nogales, AZ, only for direct rail routing to El Paso, TX, after which it shall traverse only the territory bounded on the west by a line drawn from El Paso, TX, to Salt Lake City, UT, and then to Portland, OR, and on the east by a line drawn from Brownsville, TX, through Galveston, TX, and Kinder, LA, to Memphis, TN, and then to Louisville, KY, and direct northward routes therefrom. Such fruit may also enter the United States from Mexico at any port listed in paragraph (b)(2) of this section for direct eastward rail movement in Customs bond and under Customs seal, without diversion en route, for reentry into Mexico.

* * * * *

(c) * * *

(3) *Exportation from Brownsville, Corpus Christi, Galveston, or Houston by water.* (i) Such fruit laden in refrigerated holds for export from Brownsville, Corpus Christi, Galveston, or Houston, TX, must be stowed in closed compartments if the ship is to call at other Gulf or South Atlantic ports in the United States. The compartments are not to be opened while the ship is in such other Gulf or South Atlantic ports.

(ii) Such fruit for export from Brownsville, Corpus Christi, Galveston, or Houston, if not laden in refrigerated holds, must be stowed in closed compartments separate from other cargoes. Bulkheads of such compartments shall be kept closed. The hatches of compartments containing such fruit shall be closed and the tarpaulin battened down and sealed with Plant Protection and Quarantine Programs seals. The seals must remain unbroken while the ship is in any Gulf or South Atlantic port in the United States or its waters. Vents and ventilators leading to compartments in which the fruit is stowed must be screened with fine mesh screening. Advance notice of arrival of ships carrying untreated Mexican oranges, tangerines, or grapefruit shall be given to the inspector at such Gulf or South Atlantic port of call.

* * * * *

(e) *Untreated fruit from certain municipalities in Mexico.* Oranges, tangerines, and grapefruit in transit to foreign countries may be imported from certain municipalities in Mexico listed in § 319.56–2(h) of this chapter in accordance with the applicable conditions in §§ 319.56 through 319.56–8 of this chapter.

* * * * *

Done in Washington, DC, this 28th day of November, 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30000 Filed 12–3–01; 8:45 am]

BILLING CODE 3410–34–U

FEDERAL HOUSING FINANCE BOARD

12 CFR Chapter IX

[No. 2001–27]

RIN 3069–AB09

Multiple Federal Home Loan Bank Memberships

AGENCY: Federal Housing Finance Board.

ACTION: Solicitation of comments; extension of public comment period.

SUMMARY: On October 3, 2001, the Federal Housing Finance Board (Finance Board) published a solicitation of comments in the **Federal Register** (66 FR 50366 (October 3, 2001)) on the implications for the Federal Home Loan Bank System (FHLBank System) raised by the structural changes that have been occurring in its membership base. The solicitation was prompted by the submission of several petitions, each requesting that the Finance Board permit a single depository institution to become a member of two Federal Home Loan Banks concurrently. The petitions also raised a number of other broad issues affecting the FHLBank System.

The Finance Board has received a number of requests for an extension of the January 2, 2002 deadline for written comments on the solicitation. In order to provide interested parties ample opportunity to comment, the Finance Board is extending the comment period for the solicitation from January 2, 2002 to March 4, 2002.

DATES: The comment period on the solicitation is extended to March 4, 2002.

ADDRESSES: Comments should be mailed to: Elaine L. Baker, Secretary to the Board, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, or to *bakere@fhfb.gov*. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: James L. Bothwell, Managing Director, (202) 408–2821; Scott L. Smith, Acting Director, (202) 408–2991, Office of Policy, Research and Analysis; Arnold Intrater, Acting General Counsel, (202) 408–2536, Neil R. Crowley, Deputy General Counsel, (202) 408–2990, or Sharon B. Like, Senior Attorney-Advisor, (202) 408–2930, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

Dated: November 20, 2001.

By the Board of Director of the Federal Housing Finance Board.

J. Timothy O'Neill,

Chairman.

[FR Doc. 01–29978 Filed 12–3–01; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–04–AD]

RIN 2120–AA64

Airworthiness Directives; CFE Company Model CFE738–1–1B Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to CFE Company Model CFE738–1–1B turbofan engines. This proposal would require replacing the high pressure turbine (HPT) stage 1 aft cooling plate and HPT stage 2 disk at or before they reach new reduced life cycle limits. This proposal is prompted by analysis of the existing life cycle limits by the engine manufacturer. The actions specified by the proposed AD are intended to prevent failure of the HPT stage 1 aft cooling plate and HPT stage 2 disk, which could result in an uncontained engine failure and damage to the airplane.

DATES: Comments must be received by January 18, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No.2001–NE–04–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *"9-ane-adcomment@faa.gov"*. Comments sent via the Internet must contain the docket number in the subject line.

FOR FURTHER INFORMATION CONTACT: Keith Mead, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7744, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NE–04–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–04–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

CFE Company, the manufacturer of the CFE738–1–1B turbofan engine, recently notified the FAA that it has updated its life limits for critical rotating parts based on data developed since the original certification of the engine. Based on that new data, the manufacture has reduced the predicted safe life limit of the HPT stage 1 aft cooling plates and the HPT stage 2 disks to below previously published values. There have not been any part failures reported, and no parts in the field currently exceed the new reduced limits. This condition, if not corrected, could result in failure of the HPT stage 1 aft cooling plate and HPT stage 2 disk due to exceeding the life limit.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other CFE Company model CFE738–1–1B turbofan engines of the same type design, the proposed AD would require replacing HPT stage 1 aft cooling plates, part number (P/N) 6083T38P07 before accumulating 3,500 cycles-since-new (CSN) and HPT stage 2 disks P/N's 6083T92P06, 6083T92P07, 6083T92P08, 6083T92P10, and 6083T92P11 before accumulating 2,700 CSN.

Economic Analysis

There are approximately 331 CFE Company model CFE738–1–1B turbofan engines of the affected design in the worldwide fleet. The FAA estimates that 247 engines installed on airplanes of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately 450 work hours per engine to accomplish the proposed actions (225 work hours to replace the HPT stage 1 aft cooling plate and 225 work hours to replace the HPT stage 2 disk), and that the average labor rate is $60 per work hour. Required parts would cost approximately $32,170 per engine ($11,775 for the HPT stage 1 aft cooling plate and $20,395 for the HPT stage 2 disk). Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $14,614,990.

Regulatory Impact

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

CFE Company: Docket No. 2001–NE–04–AD.

Applicability

This airworthiness directive (AD) is applicable to CFE Company model CFE738–1–1B turbofan engines with high pressure turbine (HPT) stage 1 aft cooling plates, part number (P/N) 6083T38P07, and HPT stage 2 disks, P/N's 6083T92P06, 6083T92P07, 6083T92P08, 6083T92P10, and 6083T92P11, installed. These engines are installed on, but not limited to Dassault-Breguet Falcon 2000 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent failure of the HPT stage 1 aft cooling plate and HPT stage 2 disk due to exceeding the life limit, do the following:

(a) Replace the HPT stage 1 aft cooling plate at or before the cooling plate accumulates 3,500 cycles-since-new (CSN).

(b) Replace HPT stage 2 disks, P/N's 6083T92P06, 6083T92P07, 6083T92P08, 6083T92P10, and 6083T92P11; at or before the disk accumulates 2,700 CSN.

(c) After the effective date of this AD, do not install any HPT stage 1 aft cooling plate, P/N 6038T38P07, that exceeds 3,500 CSN.

(d) After the effective date of this AD, do not install any HPT stage 2 disk, P/N 6083T92P06, 6083T92P07, 6083T92P08, 6083T92P10, or 6083T92P11, that exceeds 2,700 CSN.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

(f) Special flight permits may be issued in accordance 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on November 27, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–29947 Filed 12–3–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–36–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc. Tay Model 650–15 and 651–54 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to Rolls-Royce plc. Tay Model 650–15 and 651–54 turbofan engines. This proposal would require revisions to the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness (ICA) in the Time Limits Section of the Engine Manual for Rolls-Royce plc. Tay model 650–15 and 651–54 series turbofan engines to include required enhanced inspection of selected critical life-limited parts at each piece-part exposure. An FAA study of in-service events involving uncontained failures of critical rotating engine parts has indicated the need for mandatory inspections. The mandatory inspections are needed to identify those critical rotating parts with conditions, which if allowed to continue in service, could result in uncontained failures. The actions specified by this proposed AD are intended to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: Comments must be received by February 4, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No.2001–NE–36–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line.

FOR FURTHER INFORMATION CONTACT: Keith Mead, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7744, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to

Docket Number 2001–NE–36–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–36–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

A recent FAA study analyzing 15 years of accident data for transport category airplanes identified several failure mode root causes that can result in serious safety hazards to transport category airplanes. This study identified uncontained failure of critical life-limited rotating engine parts as the leading engine-related safety hazard to airplanes. Uncontained engine failures have resulted from undetected cracks in rotating parts that initiated and propagated to failure. Cracks can originate from causes such as unintended excessive stress from the original design, or they may initiate from stresses induced from material flaws, handling, or damage from machining operations. The failure of rotating parts can present a significant safety hazard to the airplanes by release of high energy fragments that could injure passengers or crew by penetration of the cabin, damage flight control surfaces, sever flammable fluid lines, or otherwise compromise the airworthiness of the airplane.

Accordingly, the certifying authority responsible for the state of design for these engines, with FAA concurrence, has developed an intervention strategy to significantly reduce uncontained engine failures. This intervention strategy was developed after consultation with industry and will be used as a model for future initiatives. This intervention strategy is to conduct enhanced, nondestructive inspections of rotating parts which could most likely result in a safety hazard to the airplane in the event of a part fracture. The need for additional rule making is also being considered by the FAA. Future ADs may be issued introducing additional intervention strategies to further reduce or eliminate uncontained engine failures.

Properly focused enhanced inspections require identification of the parts whose failure presents the highest safety hazard to the airplane, identifying the most critical features to inspect on these parts, and utilizing inspection procedures and techniques that improve crack detection. The certifying authority, with close cooperation of the engine manufacturer, has completed a detailed analysis that identifies the most safety significant parts and features, and the most appropriate inspection methods.

Critical life-limited high energy rotating parts are currently subject to some form of recommended crack inspection when exposed during engine maintenance or disassembly. As a result of this AD, the inspections currently recommended by the manufacturer will become mandatory for those parts listed in the compliance section. Furthermore, the FAA intends that additional mandatory enhanced inspections resulting from this AD serve as an adjunct to the existing inspections. The FAA has determined that the enhanced inspections will significantly improve the probability of crack detection while the parts are disassembled during maintenance. All mandatory inspections must be conducted in accordance with detailed inspection procedures prescribed in the manufacturer's Engine Manual.

Additionally, this AD allows for air carriers operating under the provisions of 14 CFR part 121 with an FAA-approved continuous airworthiness maintenance program, and entities with whom those air carriers make arrangements to perform this maintenance, to verify performance of the enhanced inspections by retaining the maintenance records that include the inspections resulting from this AD, provided that the records include the date and signature of the person performing the maintenance action. These records must be retained with the maintenance records of the part, engine module, or engine until the task is repeated. This will establish a method of record preservation and retrieval typical to those in existing continuous airworthiness maintenance programs. Instructions must be included in an air carrier's maintenance manual providing procedures on how this record preservation and retrieval system will be implemented and integrated into the air carrier's record keeping system.

For engines or engine modules that are approved for return to service by an authorized FAA-certificated entity and that are acquired by an operator after the effective date of this AD, the mandatory enhanced inspections need not be done until the next piece-part opportunity. For example, there is no need for an operator to disassemble to piece-part level an engine or module returned to service by an FAA-certificated facility simply because that engine or module was previously operated by an entity not required to comply with this AD. Furthermore, the FAA intends for operators to perform the enhanced inspections of these parts at the next piece-part opportunity following the initial acquisition, installation, and removal of the part following the effective date of this AD. For piece parts that have not been approved for return to service prior to the effective date of this AD. the FAA does intend that the mandatory enhanced inspections required by this AD be performed before such parts are approved for return to service. Piece parts that have been approved for return to service prior to the effective date of this AD may be installed; however, enhanced inspection will be required at the next piece-part opportunity.

This proposal would require, within the next 30 days after the effective date of this AD, revisions to the Airworthiness Limitations Section (ALS) and Maintenance Scheduling Section (MSS) of the Instructions for Continued Airworthiness (ICA) (chapter 05–20–01–800–001) of the Engine Manuals, as follows:

Rolls Royce plc. Tay model 650–15, and 651–54 series turbofan engines, respectively, and, for air carriers, the approved continuous airworthiness maintenance program. Rolls Royce plc., the manufacturer of Rolls Royce plc. Tay model 650–15, and 651–54 turbofan engines, used on 14 CFR part 25 airplanes, has provided the certifying authority, responsible for the state of design of these aircraft engines with a detailed proposal, with FAA concurrence, that identifies and prioritizes the critical life-limited rotating engine parts with the highest potential to hazard the airplane in the event of failure, along with instructions for enhanced, focused inspection methods. The enhanced inspections resulting from this AD will be conducted at piece-part opportunity, as defined below in the compliance section, rather than at specific time inspection intervals.

Proposed Requirements of This AD

Since an unsafe condition has been identified that is likely to exist or develop on other Rolls-Royce plc. Tay Model 650–15 and 651–54 turbofan engines of the same type design that are used on Boeing 727 and Fokker 100 airplanes registered in the United States, the proposed AD would require revisions to the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness (ICA) in the Time Limits Manual of the Engine Manual for Rolls-Royce plc. Tay model 650–15, and 651–54 series turbofan engines to include

required enhanced inspection of selected critical life-limited parts at each piece-part exposure.

Economic Analysis

There are approximately 700 engines of the affected design in the worldwide fleet. The FAA estimates that 448 engines installed on aircraft of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately twenty work hours per engine to accomplish the proposed inspections , and that the average labor rate is $60 per work hour. Since this is an added inspection requirement, included as part of the normal maintenance cycle, no additional part costs are involved. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $537,600.

Regulatory Impact

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Rolls-Royce. plc.: Docket No. 2001–NE–36–AD:

Applicability

This airworthiness directive (AD) is applicable to Rolls-Royce plc. Tay Model 650–15 and 651–54 turbofan engines. These engines are installed on, but not limited to Boeing 727 and Fokker 100 airplanes.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done. To prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane, accomplish the following:

(a) Within the next 30 days after the effective date of this AD, revise the Airworthiness Limitations Section (ALS) and Maintenance Scheduling Section (MSS) of the Instructions for Continued Airworthiness (ICA) in the Time Limits Manuals publication number (P/N) T–TAY–3RR, and T–TAY–5RR of the Engine Manuals, P/N E–TAY–3RR, and E–TAY–5RR as applicable, and for air carrier operations revise the approved continuous airworthiness maintenance program, by adding the following: "GROUP A PARTS MANDATORY INSPECTION TASK 05–20–01–800–001

(1) General: A full inspection of Group A Parts must be effected whenever the following conditions are satisfied.

(i) When the component has been completely disassembled to piece-part level in accordance with the appropriate disassembly procedures contained in the Engine Manual.

and

(ii) The part has accumulated in excess of 100 flight cycles in service or since the last piece-part inspection.

or

(iii) The component removal was for damage or a cause directly related to its removal.

(2) Mandatory inspections for individual Group A Parts are specified below: For time limits manual T–211(524)–7RR (reference engine manual M–211(524)–7RR) only, insert the following Table:

Part nomenclature	Part No.	Inspected per overhaul manual task
Low Pressure Compressor Rotor Disc	All	72–31–11–200–000
I. P. Compressor Rotor—Stage 1 Disc	All	72–33–31–200—000
I. P. Compressor Rotor—Stage 2 Disc	All	72–33–32–200–000
I. P. Compressor Rotor—Stage 3 Disk	All	72–33–33–200–000
L. P. and I. P. Compressor Drive Shaft	All	72–33–40–200–000
H. P. Compressor Rear Drive Shaft	All	72–37–31–200–000
L. P. Compressor Rotor Drive Shaft	All	72–37–32–200–002
H. P. Compressor Stage 1 Rotor Disc	All	72–37–33–200–001
H. P. compressor Stages 2 and 3 Rotor Discs	All	72–37–33–200–002
H. P. Compressor Stages 4, 5, 6, and 7 Rotor Discs	All	72–37–34–200–000
H. P. Compressor Stages 8, 9, 10, and 11 Rotor Discs	All	72–37–35–200–000/–001
H. P. Stage 12 Rotor Disc	All	72–37–36–200–001
H. P. Turbine Shaft	All	72–41–31–200–000
H. P. Stage 1 Rotor Disc	All	72–41–32–200–000
H. P. Turbine Stage 2 Rotor Disc	All	72–41–33–200–001
L. P. Turbine Shaft	All	72–52–21–200–003
L. P. Turbine Stage 1 Rotor Disc	All	72–52–22–200–000
L. P. Turbine Stage 2 Rotor Disc	All	72–52–23–200–000
L. P. Turbine Stage 3 Rotor Disc	All	72–52–24–200–000"

(b) Except as provided in paragraph (c) of this AD, and notwithstanding contrary provisions in § 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these mandatory inspections shall be performed only in accordance with the TLM and applicable Engine Manual.

Alternative Method of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Engine Certification Office. Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector (PMI), who may add comments and then send it to the Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The records of the mandatory inspections required as a result of revising the TLM and the applicable Engine Manual and the air carrier's continuous airworthiness maintenance program as provided by paragraph (a) of this AD shall be maintained by FAA-certificated air carriers which have an approved continuous airworthiness maintenance program in accordance with the record keeping system currently specified in their manual required by § 121.369 of the Federal Aviation Regulations (14 CFR 121.369); or, in lieu of the record showing the current status of each mandatory inspection required by § 121.380(a)(2)(vi) of the Federal Aviation Regulations (14 CFR 121.380(a)(2)(vi)), certificated air carriers may establish an approved alternate system of record retention that provides a method for preservation and retrieval of the maintenance records that include the inspections resulting from this AD, and include the policy and procedures for implementing this alternate method in the air carrier's maintenance manual required by § 121.369 (c) of the Federal Aviation Regulations (14 CFR 121.369 (c)); however, the alternate system must be accepted by the appropriate PMI and require the maintenance records be maintained either indefinitely or until the work is repeated.

Note 3: These record keeping requirements apply only to the records used to document the mandatory inspections required as a result of revising the ALS and the MSS of the Instructions for Continued Airworthiness in the Time Limits Manual (Chapter 05–10–00) of the Engine Manuals as provided in paragraph (a) of this AD, and do not alter or amend the record keeping requirements for any other AD or regulatory requirement.

Issued in Burlington, Massachusetts, on November 27, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–29949 Filed 12–3–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 112701A]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a special 2-day Council meeting on December 19-20, 2001, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Wednesday and Thursday, December 19 and 20, 2001. The meeting will begin at 9:00 a.m. on both days.

ADDRESSES: The meeting will be held at the Sheraton Ferncroft Hotel, 50 Ferncroft Road, Danvers, MA 01923; telephone (978) 777-2500. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465-0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465-0492.

SUPPLEMENTARY INFORMATION:

Wednesday, December 19, 2001

Following introductions, the Council will discuss, with the intent to approve, skate species overfishing definition alternatives. Once approved, the definitions will be included in the Draft Environmental Impact Statement and public hearing document to be developed for the Northeast Skate Complex Fishery Management Plan (FMP). A Groundfish Committee Report will follow, during which the Council intends to approve the Draft Supplemental Environmental Impact Statement (DSEIS) for Framework Adjustment 36 to the Northeast Multispecies FMP for submission to NMFS for review by the Secretary of Commerce. The draft document will include a range of alternatives for meeting the goals of Amendment 7 to the Northeast Multispecies FMP. The Council will select alternatives and possibly identify a preferred alternative to be included in the Framework 36 DSEIS. Actions proposed are intended to reduce Gulf of Maine cod fishing mortality and discards as well as reduce fishing mortality on Georges Bank cod. Some alternatives may also reduce fishing mortality on other stocks and may affect the recreational sector. Measures include, but are not limited to the following: gear modifications, mesh size changes, closed area modifications, changes to the days-at-sea clock, days-at-sea reductions, alternative trip limits, a cod minimum size increase, limitations in the number of allowed gillnets, night closures, and changes to the blocks of time out of the fishery. Other issues that may be included in the framework are an extension or change to the Western Gulf of Maine Closed Area; tuna purse seine access to groundfish closed areas; a controlled access program for Closed Area II to harvest yellowtail flounder; an increase in the Cultivator Shoals whiting fishery trip limit; and a change in the area authorized for the northern shrimp fishery. There will be a 45-day comment period on the Framework 36 DSEIS document, as cleared by NOAA and the Environmental Protection Agency. The comment period will begin the day of publication of the Notice of Availability for the DSEIS in the **Federal Register**. Final decisions on the Framework 36 action and the FSEIS will be made at the March, 2002 Council meeting. Public comments on the framework action will be accepted at this meeting. The Council may also request that NMFS take interim action to extend the Western Gulf of Maine Closure and/or other measures necessary to protect groundfish stocks while Framework 36 measures are developed. Discussion of groundfish issues will continue through the afternoon session on December 19, 2001.

Thursday, December 20, 2001

The meeting will reconvene with a brief open session followed by a closed session of the Council to discuss internal administrative matters. Prior to meeting adjournment, there will be another brief open session to review the proceedings of the closed meeting. Any outstanding business will be addressed following this agenda item.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those

issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

The New England Council will consider public comments at a minimum of two Council meetings before making recommendations to the National Marine Fisheries Service Regional Administrator on any framework adjustment to a fishery management plan. If the Regional Administrator concurs with the adjustment proposed by the Council, the Regional Administrator may publish the action either as proposed or final regulations in the **Federal Register**. Documents pertaining to framework adjustments are available for public review 7 days prior to a final vote by the Council.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: November 28, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–29995 Filed 12–03–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 233
Tuesday, December 4, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Members of Performance Review Boards

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice announces the appointment of members of the Performance Review Boards (PRBs) for the U.S. Department of Agriculture (USDA). The USDA PRBs provide fair and impartial review of Senior Executive Service (SES) performance appraisals and make recommendations to the Secretary of Agriculture, regarding final performance ratings, performance awards, pay adjustments, recertification and Presidential Rank Awards for SES members.

EFFECTIVE DATE: On publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Barbara Holland, Office of Human Resources Management, Executive Resources and Services Division, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC 20250, (202) 720–6047.

SUPPLEMENTARY INFORMATION: The publication of PRB membership is required by Section 4314(c)(4) of Title 5, U.S.C. The following membership list represents the USDA PRB's.

Food Safety/Marketing & Regulatory Programs

Elsa Murano, Chairperson
Bill Hawks, MRP
Margaret Glavin, FSIS
Bobby Acord, APHIS
Kenneth Clayton, AMS
David Shipman, GIPSA
Ruthie Jackson, FNS
Alberta Frost, FNS
John Golden, OGC

Research, Education & Economics

Joseph Jen, Chairperson
R. Ron Bosecker, NASS
Floyd Horn, ARS
Susan Offutt, ERS
Colien Hefferan, CSREES
Frances Zorn, FNS

Office of the Secretary

James Moseley, Chairperson
Dale Moore, OSEC
Larry Wachs, OBPA
David Winningham, Civil Rights
J. Michael Kelly, OGC
Patricia Healy, OCFO
Alternate: Priscilla Carey, OO

Natural Resources & Environment

Patricia Healy, OCFOv
Mark Rey, Chairperson
Ira Hobbs, OCIO
Besty Kuhn, ERS
Roger Conway, OCE
Alternates: Hubert Hamer, NASS, Priscilla Carey, OO

Food Nutrition & Consumer Services; Rural Development; and, Farm & Foreign Agricultural Services

Eric Bost, Chairperson
Michael Neruda, RD
Hunt Shipman, F&FAS
Christine Pytel, NRCS
Ira Hobbs, OCIO
Ronald Hill, OGC
Judith Riggins, FSIS
Alternate: Kyle Jane Coulter, CSREES

Staff Offices & Administration

Lou Gallegos, Chairperson
Edward McPherson, OCFO
Elsa Murano, FSIS
J. Michael Kelly, OGC
Keith Collins, OCE
Ira Hobbs, OCIO
Stephen Dewhurst, OBPA
Clyde Thompson, FS

Dated: November 26, 2001.

Ann M. Veneman,

Secretary of Agriculture.

[FR Doc. 01–29998 Filed 12–3–01; 8:45 am]
BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–106–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection that is used to evaluate the plant pest risk posed by the introduction of certain genetically engineered organisms and products.

DATES: We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by February 4, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–106–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–106–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01–106–1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for the introduction of genetically engineered organisms and products which are plant pests or which there is reason to believe are plant pests, contact Ms. Shirley Ingebritsen, Regulatory Analyst,

Regulatory Coordination Staff, PPQ, APHIS, 4700 River Road Unit 141, Riverdale, MD 20737-1236; (301) 734–5874. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason To Believe Are Plant Pests.

OMB Number: 0579–0085.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture is responsible for, among other things, preventing the introduction or spread of plant pests into or through the United States.

As part of that responsibility, APHIS regulates the introduction (importation, interstate movement, and release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests.

In administering the regulations, the Biotechnology Permits Branch of Plant Protection and Quarantine, APHIS, collects certain information through its permitting and notification processes. The information enables us to evaluate the plant pest risk posed by the introduction of certain genetically engineered organisms and products.

The information we seek with our notification and permit processes includes, among other things, a complete description of the organism or product, the safeguards that will be used in preventing escape, the destination or field test locations, and field test results that describe any unusual or harmful occurrences.

Without the information we obtain through our notification and permit application processes, we would be unable to evaluate the plant pest risk posed by the introduction of certain genetically engineered organisms and products. Therefore, collecting the information is vital to preventing the introduction or spread of harmful plant pests into or through the United States.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 3.18565 hours per response.

Respondents: U.S. importers and shippers of genetically engineered organisms and products and agricultural companies that produce or test genetically engineered organisms or products or that engage in product research and development.

Estimated annual number of respondents: 239.

Estimated annual number of responses per respondent: 13.1841.

Estimated annual number of responses: 3,151.

Estimated total annual burden on respondents: 10,038 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 28th day of November, 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30002 Filed 12–3–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

[01–04–A]

Opportunity for Designation in the Des Moines (IA), Georgia, Cedar Rapids (IA), Montana, Oregon, and Lake Village (IN) Areas, and Request for Comments on the Official Agencies Serving These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end in June 2002. GIPSA is asking persons interested in providing official services in the areas served by these agencies to submit an application for designation. GIPSA is also asking for comments on the services provided by these currently designated agencies:

Central Iowa Grain Inspection Service, Inc. (Central Iowa); Georgia Department of Agriculture (Georgia); Mid-Iowa Grain Inspection, Inc. (Mid-Iowa); Montana Department of Agriculture (Montana); Oregon Department of Agriculture (Oregon); and Schneider Inspection Service, Inc. (Schneider).

DATES: Applications and comments must be postmarked or sent by telecopier (FAX) on or before January 2, 2002.

ADDRESSES: Submit applications and comments to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647-S, 1400 Independence Avenue, SW, Washington, DC 20250–3604; FAX 202–690–2755. If an application is submitted by FAX, GIPSA reserves the right to request an original application. All applications and comments will be made available for public inspection at Room 1647-S, 1400 Independence Avenue, SW, during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202–720–8525, e-mail janhart@gipsadc.usda.gov.

SUPPLEMENTARY INFORMATION: This Action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this Action.

Section 7(f)(1) of the United States Grain Standards Act, as amended (Act),

authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act.

1. Current Designations being Announced for Renewal.

Official agency	Main office	Designation start	Designation end
Central Iowa	Des Moines, IA	09/01/1999	06/30/2002
Georgia	Atlanta, GA	08/01/1999	06/30/2002
Mid-Iowa	Cedar Rapids, IA	10/01/1999	06/30/2002
Montana	Helena., MT	09/01/1999	06/30/2002
Oregon	Salem, OR	10/01/1999	06/30/2002
Schneider	Lake Village, IN	08/01/1999	06/30/2002

a. Pursuant to section 7(f)(2) of the Act, the following geographic area, in the State of Iowa, is assigned to Central Iowa.

Bounded on the North by U.S. Route 30 east to N44; N44 south to E53; E53 east to U.S. Route 30; U.S. Route 30 east to the Boone County line; the western Boone County line north to E18; E18 east to U.S. Route 169; U.S. Route 169 north to the Boone County line; the northern Boone County line; the western Hamilton County line north to U.S. Route 20; U.S. Route 20 east to R38; R38 north to the Hamilton County line; the northern Hamilton County line east to Interstate 35; Interstate 35 northeast to C55; C55 east to S41; S41 north to State Route 3; State Route 3 east to U.S. Route 65; U.S. Route 65 north to C25; C25 east to S56; S56 north to C23; C23 east to T47; T47 south to C33; C33 east to T64; T64 north to B60; B60 east to U.S. Route 218; U.S. Route 218 north to Chickasaw County; the western Chickasaw County line; and the western and northern Howard County lines.

Bounded on the East by the eastern Howard and Chickasaw County lines; the eastern and southern Bremer County lines; V49 south to State Route 297; State Route 297 south to D38; D38 west to State Route 21; State Route 21 south to State Route 8; State Route 8 west to U.S. Route 63; U.S. Route 63 south to Interstate 80; Interstate 80 east to the Poweshiek County line; the eastern Poweshiek, Mahaska, Monroe, and Appanoose County lines;

Bounded on the South by the southern Appanoose, Wayne, Decatur, Ringgold, and Taylor County lines;

Bounded on the West by the western Taylor County line; the southern Montgomery County line west to State Route 48; State Route 48 north to M47; M47 north to the Montgomery County line; the northern Montgomery County line; the western Cass and Audubon County lines; the northern Audubon County line east to U.S. Route 71; U.S. Route 71 north to U.S. Route 30.

The following grain elevators, located outside of the above contiguous geographic area, are part of this geographic area assignment: North Central Farm Service, Chapin, Franklin County; and Farmer's Coop Society, Rockwell, Cerro Gordo County (located inside D.R. Schaal Agency's area).

Central Iowa's assigned geographic area does not include the following grain elevators inside Central Iowa's area which have been and will continue to be serviced by the following official agencies:

1. A.V. Tischer and Son, Inc.: West Central Coop, Boxholm, Boone County; and

2. Omaha Grain Inspection Service, Inc.: Hancock Elevator, Elliot, Montgomery County; and Hancock Elevator (two elevators), Griswold, Cass County.

b. Pursuant to section 7(f)(2) of the Act, the following geographic area, the entire State of Georgia, except those export port locations within the State which are serviced by GIPSA, is assigned to this official agency.

c. Pursuant to section 7(f)(2) of the Act, the following geographic area, in the State of Iowa, is assigned to Mid-Iowa.

Bounded on the North by the northern Winneshiek and Allamakee County lines;

Bounded on the East by the eastern Allamakee County line; the eastern and southern Clayton County lines; the eastern Buchanan County line; the northern and eastern Jones County lines; the eastern Cedar County line south to State Route 130;

Bounded on the South by State Route 130 west to State Route 38; State Route 38 south to Interstate 80; Interstate 80 west to U.S. Route 63; and

Bounded on the West by U.S. Route 63 north to State Route 8; State Route 8 east to State Route 21; State Route 21 north to D38; D38 east to State Route 297; State Route 297 north to V49; V49 north to Bremer County; the southern Bremer County line; the western Fayette and Winneshiek County lines.

d. Pursuant to section 7(f)(2) of the Act, the following geographic area, the entire State of Montana, is assigned to Montana.

e. Pursuant to section 7(f)(2) of the Act, the following geographic area, the entire State of Oregon, except those export port locations within the State which are serviced by GIPSA, is assigned to this official agency.

f. Pursuant to section 7(f)(2) of the Act, the following geographic area, in the States of Illinois, Indiana, and Michigan, is assigned to Schneider.

In Illinois and Indiana:

Bounded on the North by the northern Will County line from Interstate 57 east to the Illinois-Indiana State line; the Illinois-Indiana State line north to the northern Lake County line; the northern Lake, Porter, Laporte, St. Joseph, and Elkhart County lines;

Bounded on the East by the eastern and southern Elkhart County lines; the eastern Marshall County line;

Bounded on the South by the southern Marshall and Starke County lines; the eastern Jasper County line south-southwest to U.S. Route 24; U.S. Route 24 west to Indiana State Route 55; Indiana State Route 55 south to the Newton County line; the southern Newton County line west to U.S. Route 41; U.S. Route 41 north to U.S. Route 24; U.S. Route 24 west to the Indiana-Illinois State line; and

Bounded on the West by Indiana-Illinois State line north to Kankakee County; the southern Kankakee County line west to U.S. Route 52; U.S. Route 52 north to Interstate 57; Interstate 57 north to the northern Will County line.

Berrien, Cass, and St. Joseph Counties, Michigan.

The following grain elevators, located outside of the above contiguous geographic area, are part of this geographic area assignment: Cargill, Inc., and Farmers Grain, both in Winamac, Pulaski County, Indiana

(located inside Titus Grain Inspection, Inc.'s, area).

Schneider's assigned geographic area does not include the export port locations inside Schneider's area which are serviced by GIPSA.

2. *Opportunity for designation.* Interested persons, including Central Iowa, Georgia, Mid-Iowa, Montana, Oregon, and Schneider, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic areas is for the period beginning July 1, 2002, and ending June 30, 2005. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

3. *Request for Comments.* GIPSA also is publishing this notice to provide interested persons the opportunity to present comments on the Central Iowa, Georgia, Mid-Iowa, Montana, Oregon, and Schneider official agencies. Commenters are encouraged to submit pertinent data concerning these official agencies including information on the timeliness, cost, quality, and scope of services provided. All comments must be submitted to the Compliance Division at the above address.

Applications, comments, and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: November 21, 2001.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 01–30003 Filed 12–3–01; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

[01–02–S]

Designation for the Circleville (OH), Farwell (TX), and Hoagland (IN) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: GIPSA announces designation of the following organizations to provide official services under the United States Grain Standards Act, as amended (Act): Columbus Grain Inspection, Inc. (Columbus); Farwell Grain Inspection, Inc. (Farwell); and Northeast Indiana Grain Inspection, Inc. (Northeast Indiana)

EFFECTIVE DATES: February 1, 2002.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, S.W., Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202–720–8525, e-mail *janhart@gipsadc.usda.gov.*

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the June 1, 2001, **Federal Register** (66 FR 29765), GIPSA asked persons interested in providing official services in the geographic areas assigned to the official agencies named above to submit an application for designation. Applications were due by June 30, 2001.

Columbus, Farwell, and Northeast Indiana were the sole applicants for designation to provide official services in the entire area currently assigned to them, so GIPSA did not ask for additional comments on them.

GIPSA evaluated all available information regarding the designation criteria in section 7(f)(l)(A) of the Act and, according to section 7(f)(l)(B), determined that Columbus, Farwell, and Northeast Indiana are able to provide official services in the geographic areas specified in the June 1, 2001, **Federal Register**, for which they applied. Subsequently, Columbus applied for additional territory in Ohio, and was granted designation for the area specified in the October 1, 2001, **Federal Register** (66 FR 49915.) Interested persons may obtain official services by calling the telephone numbers listed below.

Official agency	Headquarters location and telephone	Designation start-end
Farwell	Farwell, TX 806–481–9052 Additional Service Location: Casa Grande, AZ.	2/01/2002–12/31/2004
Columbus	Circleville, OH 740–474–3519 Additional Service Location: Bucyrus, OH.	2/01/2002–12/31/2004
Northeast Indiana	Hoagland, IN 219–639–6390	2/01/2002–12/31/2004

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: November 21, 2001.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 01–30004 Filed 12–3–01; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF COMMERCE

Office of Inspector General; Performance Review Board Membership

The following individuals are eligible to serve on the Performance Review Board (PRB) in accordance with the Department of Commerce Senior Executive Service Performance Appraisal System and the Office of Inspector General's PRB Charter:

Edward L. Blansitt, Deputy Inspector General

Elizabeth T. Barlow, Counsel to the Inspector General

Jill A. Gross, Assistant Inspector General for Inspections & Evaluations

Judith J. Gordon, Assistant Inspector General for Systems Evaluation

Debbie Cureton, Assistant Inspector General for Auditing, National Science Foundation

Peter McClintock, Deputy Inspector General, Small Business Administration

James Ebbitt, Deputy Inspector General, U.S. Agency for International Development

Denise A. Yaag,

Executive Secretary, Performance Review Board, Office of Inspector General.

[FR Doc. 01–29941 Filed 12–3–01; 8:45 am]

BILLING CODE 3910–55–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils From the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 4, 2001.

FOR FURTHER INFORMATION CONTACT: Paul Stolz, Michele Mire, or Crystal Crittenden, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4474, (202) 482–4711, or (202) 482–0989 respectively.

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245-day time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On January 31, 2001, the Department published a notice of initiation of administrative review of the antidumping duty order on certain cased pencils from the People's Republic of China, covering the period December 1, 1999 through November 30, 2000. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 66 FR 8378. The preliminary results are currently due no later than December 1, 2001.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. Therefore, the Department is extending the time limit for completion of the preliminary results by 30 days until no later than December 31, 2001. See Decision Memorandum from Holly A. Kuga to Bernard T. Carreau, dated concurrently with this notice, which is on file in the Central Records Unit, Room B–099 of the Department's main building. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: November 28, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 01–30016 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A 427–009]

Industrial Nitrocellulose From France: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of antidumping duty administrative review.

SUMMARY: On October 1, 2001, the Department of Commerce initiated an administrative review of the antidumping duty order on industrial nitrocellulose from France. The review covers one manufacturer/exporter, Bergerac, N.C. The period of review is August 1, 2000, through July 31, 2001. We are rescinding this review after receiving a timely withdrawal from the parties requesting this review.

EFFECTIVE DATE: December 4, 2001.

FOR FURTHER INFORMATION CONTACT: Dunyako Ahmadu or Richard Rimlinger, AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0198 or (202) 482–4477, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions in effect as of January 1, 1995, the effective date of the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations at 19 CFR part 351 (2001).

Background

On August 31, 2001, Bergerac, N.C. (Bergerac), SNPE North America, Inc. (SNPE), and Tevco, Inc. (Tevco), requested that the Department conduct an administrative review of Bergerac's shipments of industrial nitrocellulose from France for the period August 1, 2000, through July 31, 2001. On October 1, 2001, the Department published in the **Federal Register** a notice of initiation of this administrative review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part* (66 FR 49924).

On October 15, 2001, Bergerac, SNPE, and Tevco withdrew their request for a review and asked the Department to rescind the administrative review.

Rescission of Reviews

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review if a party that requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Because Bergerac, SNPE, and Tevco submitted their request for rescission within the 90-day time limit and there were no requests for a review from other interested parties, we are rescinding this review. As such, we will issue appropriate appraisement instructions directly to the Customs Service.

This notice is in accordance with section 777(i) of the Act and 19 CFR 351.213(d)(4).

Dated: November 28, 2001.

Richard W. Moreland,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–30017 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Overseas Trade Mission

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce invites U.S. companies to participate in the below listed overseas trade missions. For a more complete description of each trade mission, obtain a copy of the mission statement from the Project Officer indicated for each mission below. Recruitment and selection of private sector participants for these missions will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions dated March 3, 1997.

Assistant Secretarial Business Development Mission

Gaborone, Botswana; Capetown, Johannesburg and Durban, South Africa.
February 7–15, 2002.
Recruitment closes on December 21, 2001.
For Further information contact: Caroline McCall, U.S. Commercial Service.
Telephone (202) 482–2499; or email *Caroline.McCall@mail.doc.gov.*

Home Renovation Matchmaker

Toronto and Montreal, Canada.
March 18–22, 2002.
Recruitment closes February 8, 2002.
For further information contact: Monica McFarlane, U.S. Department of Commerce.
Telephone (202) 482–3364; or email *Monica.McFarlane@mail.doc.gov.*

Information Technologies Matchmaker

Toronto and Montreal, Canada.
May 6–9, 2002.
Recruitment closes on March 29, 2002.
For further information contact: Bill Kutson, U.S. Department of Commerce.
Telephone: (202) 482–2839; or email *William.Kutson@mail.doc.gov.*

Benelux Environmental Technologies Trade Mission

The Hague, Netherlands, and Brussels, Belgium.
March 4–8, 2001.
Recruitment closes on January 18, 2001.
For further information contact: David Fiscus, U.S. Commercial Service.
Telephone (202) 482–1599; or email *David.Fiscus@mail.doc.gov.*

Benelux Information and Communications Technology Trade Mission

Amsterdam, Netherlands, and Brussels, Belgium.
May 13–17, 2001.
Recruitment closes on April 10, 2002.
For further information contact: David Fiscus, U.S. Commercial Service.
Telephone (202) 482–1599; or email *David.Fiscus@mail.doc.gov.*

Medical Device Trade Mission

Beijing, Chengdu, and Hong Kong, China.
September 15–24, 2002.
Recruitment closes on July 12, 2002.
For further information contact: Lisa Huot, U.S. Department of Commerce.
Telephone (202) 482–2796; or email: *lisa_hout@ita.doc.gov.*

FOR FURTHER INFORMATION CONTACT: Thomas Nisbet, U.S. Department of Commerce. Telephone 202–482–5657, or e-Mail *Tom_Nisbet@ita.doc.gov.*

Dated: November 28, 2001.

Thomas H. Nisbet,

Director, Promotion Planning and Support, Office of Export Assistance and Business Outreach.

[FR Doc. 01–30015 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.000817236–1268–03; I.D. 100401C]

General Grant Administration Terms and Conditions of the Coastal Ocean Program: Announcement of Opportunity

AGENCY: Center for Sponsored Coastal Ocean Research/Coastal Ocean Program (CSCOR/COP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice for financial assistance and funding opportunity for project grants and cooperative agreements.

SUMMARY: It is the intent of NOAA/NOS/CSCOR/COP to provide direct financial assistance in the form of discretionary research grants and cooperative agreements under its program for the management of coastal ecosystems. This document describes the general grant administration terms and conditions of the CSCOR/COP program for fiscal year 2002. Additionally, this document solicits proposals under program elements, (b) Cumulative Coastal Impacts and (d) Synthesis and Ecological Forecasting, described in this notice. It is the CSCOR/COP's intent to also issue supplemental Announcements of Opportunities (AOs) to request proposals on specific projects throughout the year on an as-needed basis. Any future AOs will be issued through the **Federal Register**. Information regarding these announcements will be made available on the CSCOR/COP Internet Site and CSCOR/COP's e-mail list. These announcements will provide specific program descriptions.

CSCOR/COP supports research on critical issues that exist in the Nation's estuaries, coastal waters, and the Great Lakes and translates research findings into accessible information for coastal managers, planners, lawmakers, and the public. CSCOR/COP's projects are multi-disciplinary, large in scale, and long in duration (usually 3 to 5 years.) Projects covering more than 1 year will usually be funded on an annual basis.

DATES: Effective December 4, 2001. Proposals for multiple stressors projects will be due by 3 p.m. e.s.t. on February 19, 2002. Proposals for synthesis projects will be due by 3 p.m. e.s.t. on March 5, 2002. The deadline for receipt of proposals is firm. Note that late-arriving applications provided to a delivery service, on or before the day prior to the closing date, with delivery guaranteed before 3 p.m. e.s.t. on the closing date, will be accepted for review if the applicant can document that the application was provided to the delivery service with delivery to the address listed below (see **ADDRESSES**) guaranteed prior to the specified closing date and time; and in any event, the proposals are received in the COP office no later than 2 business days following the closing date.

ADDRESSES: Center for Sponsored Coastal Ocean Research/Coastal Ocean Program, National Oceanic and Atmospheric Administration, 1305 East West Highway, Room 8243, Silver Spring, MD 20910–3281. Proposals for synthesis should be mailed to the address above, attn. SYNTHESIS. Proposals for multiple stressor studies should be mailed to the address above, ATTN: MULTISTRESS.

FOR FURTHER INFORMATION CONTACT: *Technical information for synthesis proposals*: Elizabeth Turner, (603) 862–4680, e-mail: Elizabeth.Turner@noaa.gov.

Technical information for cumulative stressors: Kenric Osgood, (301) 713–3338/x163, e-mail: Kenric.Osgood@noaa.gov.

Business Management Information: Leslie McDonald, CSCOR/COP Grants Administrator,(301)713–3338/x155, e-mail Leslie.McDonald@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

NOAA and COP Standard Form Applications with instructions are accessible on the COP Internet site (http://www.cop.noaa.gov) under the COP Grants Support Section, Part D, Application Forms for Initial Proposal Submission. Forms may be viewed, and in most cases, filled in by computer. All forms must be printed, completed, and mailed to CSCOR/COP with original signatures. Blue ink for original signatures is recommended but not required. If you are unable to access this information, you may call CSCOR/COP at 301–713–3338 to leave a mailing request.

General information about the COP's projects and publications is also available on the CSCOR/COP Internet Site. For information concerning the NOAA Coastal Ocean Program Decision Analysis Series reports, see: http://www.cop.noaa.gov/pubs/das.html.

Background

Program Description

NOAA's CSCOR/COP provides predictive capability for managing coastal ecosystems through sponsorship of research. CSCOR/COP seeks to deliver the highest quality science in a timely manner for important coastal decisions. It supports research on critical issues that exist in the Nation's estuaries, coastal waters, and Great Lakes and translates its findings into accessible information for coastal managers, planners, lawmakers, and the public. The COP also supports educational activities at the graduate and undergraduate level to facilitate the development of qualified professionals in the fields of coastal science, management, and policy.

Benefits of the CSCOR/COP

Continued population pressures on the Nation's coastal areas and ongoing changes in the environment will continue to stress our coastal waters, bays, estuaries, and the Great Lakes. CSCOR/COP has focused on developing information for longer range United States management and policy at large and complex scales. CSCOR/COP research will help the United States respond to the major challenges of the next century and to balance the needs of economic growth with those of conserving the environment and its coastal resources.

Program Elements

The CSCOR/COP Program Elements are listed here. Funding for some programs may be limited to ongoing projects. Prospective applicants are urged to check the CSCOR/COP Internet Site listed earlier under **SUPPLEMENTARY INFORMATION**: Electronic Access, and future **Federal Register** notices for other possible funding announcements in Program Elements (b) and (c), listed below in this document, that may appear at later dates.

(a) *Coastal Ecosystem Oceanography.* CSCOR/COP supports the conservation and management of marine ecosystems through sponsorship of improved ecological and oceanographic predictions for resource management. Studies focus on (1) understanding critical processes that control the abundance, distribution, and replenishment of fishery resources; (2) determining critical habitat processes that influence fishery ecosystems; and (3) quantifying ecosystem species interactions to develop models that can be used in management decisions. Current efforts support studies dealing with Bering Sea pollock, cod and haddock on Georges Bank, and salmon in the Pacific Northwest.

(b) *Cumulative Coastal Impacts.* CSCOR/COP sponsors a series of regional watershed projects on the causes and impacts of multiple stresses on coastal ecosystems. Studies focus on (l) developing indicators of stress; (2) predicting impacts of multiple stressors (3) valuing natural resources in ecological and economical terms; and (4) predicting the outcomes of management strategies. Current efforts are located in Chesapeake Bay, Florida Bay and the Keys, the Great Lakes, coastal areas of South Carolina and the Pacific Northwest, and coral reefs in Florida and Hawaii.

At this time, proposals are requested describing comprehensive studies of up to 5 years in duration to investigate the impacts of multiple stresses in estuarine, coastal, or Great Lakes ecosystems. The CSCOR/COP anticipates supporting an integrated multi-investigator, interdisciplinary project that will develop capabilities for understanding, predicting, and managing the effects of multiple stressors in coastal systems. A separate announcement of availability of funding for proposals in coral reef research (under CSCOR/COP's Coral Reef Regional Ecosystem Study program) may be released later this year.

Many of the estuaries, bays, and large lakes of the United States suffer the impacts of multiple anthropogenic stressors. The most pervasive stressors being nutrient enrichment (leading to eutrophication), habitat modification (including benthic, water column, and watershed changes), resource exploitation, invasive species, and toxic contamination. In addition to anthropogenic impacts, short-term and mesoscale environmental variability also impact coastal ecosystems. Traditional management approaches have largely targeted single sources of stress (e.g., nitrogen, phosphorus, toxic compounds, habitat modification, invasive species, etc.). Scientists and resource managers are becoming increasingly aware that management practices must address the interaction of multiple stressors, and must be integrated over the entire ecosystem (i.e., from watershed to receiving water bodies).

Research Objectives

The objectives that should be addressed in projects proposed under this Program Element are: (1) quantification of the effects of eutrophication in concert with other anthropogenic and natural stressors; (2) identification of indicators of cumulative stress at individual, population, and ecosystem levels; (3) evaluation of the effectiveness of potential mitigation strategies, and (4) Extension of the approaches, results, models and techniques developed in this project to other coastal ecosystems.

Desirable research programs will: (1) conduct integrated studies of the effects of multiple stressors on ecological processes within a system; (2) examine the role of land use and watershed loadings of these stressors; (3) model the ecological effects of natural and/or anthropogenic stresses from the organismal to ecosystem level; and (4) conduct an economic evaluation of present and proposed management practices to mitigate coastal environmental stress.

Prospective applicants should refer to Part I, Requirements for Proposal Submission, which appear later in this notice.

(c) *Harmful Algal Blooms (HABs) and Hypoxia.* The CSCOR/COP sponsors studies on the ecology and oceanography of harmful algal blooms (HABs), focusing on identifying and modeling linkages between the physiology, ecology, behavior and toxicity of HABs and local/regional circulation patterns and water quality. Results from these studies will improve the general knowledge of problematic species in the U.S. coastal waters and provide a foundation for development of regional HAB forecasting capabilities.

The latter eventually providing a means to assess the effectiveness of prevention, control, and mitigation strategies developed in the programs. Current regional efforts are located in the Gulf of Maine, eastern Long Island, the coastal regions of the mid-Atlantic States, and the western coast of Florida.

Eutrophication and resulting hypoxia have become common problems affecting living marine resources and recreational uses of coastal waters. The CSCOR/COP supports research examining the influences of nutrient loading, physical forcing, climate change, and extent of hypoxic conditions (i.e., the "dead zone") on the ecosystem and fisheries of the northern Gulf of Mexico.

Pending congressional appropriations, separate program announcements for research opportunities in the ecology and oceanography of harmful algal blooms, and the monitoring HABs and HAB event response may be issued later this year.

(d) *Synthesis and Ecological Forecasting.* The CSCOR/COP is committed to providing decision makers with high quality scientific information and predictive tools in formats appropriate to promoting near-term improvements in coastal ecosystem management. This announcement solicits proposals for projects of 1 to 2 years in duration to produce comprehensive syntheses of coastal ecosystem research with the overall goal of developing ecological forecasting capabilities.

The CSCOR/COP and other Federal agencies continue to support multi-disciplinary coastal ecosystem studies to improve our understanding of the physical, biological, and chemical processes in these complex systems. In general, these types of large scale projects have been committed to producing data and information products such as technical reports, peer-reviewed publications, data bases, and numerical and conceptual models. However, the delivery of comprehensive information products and technologies to the appropriate management community for application to specific coastal management issues remains the challenge to scientific programs that have been largely focused on research.

The next step in ecosystem research is the development of ecological forecasts, i.e., the capability to predict the effects and interactions of environmental variability and anthropogenic stressors on coastal ecosystems, and the impacts of management actions on ecosystems and coastal economies.

This announcement requests proposals for projects concentrating exclusively on the synthesis of results and information generated by coastal ecosystem studies that have concluded, or are near completion. The overall goal should be to advance and/or develop predictive capabilities, i.e., ecological forecasts.

The accurate prediction of ecosystem parameters or conditions will facilitate improved resource management decisions. Some examples of forecasting needs include: predictive models of impacts of multiple stressors on coastal systems, fisheries, and economies; onset, duration, and impacts of hypoxic and/or anoxic conditions; vulnerability to, and impacts of invasive species on, specific ecosystems; occurrence and impacts of emerging finfish, shellfish, and aquatic plant diseases.

For the purpose of this announcement, coastal ecosystem studies are defined as multi-disciplinary, multi-year research programs that have examined the effects of multiple anthropogenic stressors and/or natural variability and events on coastal ecosystems. The COP is especially interested in syntheses of coastal ecosystem studies that consider one or more of the following study components: coastal stressors and impacts (including land use and watershed loadings to receiving water body); coastal processes and their influences on regional or national marine resources; environmental valuation; economic impact analysis; and risk assessment: Comparative analyses among different coastal systems will be considered, as well as detailed syntheses that are more regionally based. All proposed comparative analyses, syntheses, and forecasts must have clear application to one or more coastal resource management issues, and be tractable within the time and budget proposed.

Some examples of synthesis products and ecological forecasts are: case studies of regions with explicit applications to important management issues; applications of ecosystem models to management-generated questions; risk analysis of management scenarios; and region-specific management recommendations based on study results. Active transfer of technology to managers involving specialized workshops, alternative media, or other approaches will also be considered.

Proposals should provide detailed descriptions of the management issue(s) to be addressed, the target audience or users of the synthesis, results and information to be integrated, approaches to synthesis, specific information products, and predictive/forecasting capability to be developed. Proposals must describe research results to be used and how that information will be accessed. Synthesis could include the identification of and justification for appropriate variables that need to be included in long-term monitoring for the purposes of ecological forecasting. Where appropriate, letters indicating access to data, results, and information not yet in the public domain and generated by investigators not named in the proposal should be addended. Explicit identification of the end user group(s) is required. Active participation of one or more members of the management (or other user community) is also required; either as a co-investigator or official collaborator.

The funding associated with this announcement is intended to support higher order synthesis activities, not basic data interpretation, or sample collection and analysis. It is assumed that the subject ecosystem study has been completed or is very near completion, and that basic results and conclusions have been documented and/or published. No field work, monitoring, laboratory analyses, or other new data acquisition will be considered.

Part I: Schedule and Proposal Submission

The guidelines for proposal preparation provided here are mandatory for all proposals submitted to CSCOR/COP in response to this, and all AOs. Proposals received after the published deadline or proposals that deviate from the prescribed format will be returned to the sender without further consideration. This announcement and additional background information are available on the COP Internet Site listed earlier under **SUPPLEMENTARY INFORMATION**: Electronic Access.

Proposals should describe activities for the full project period, as specified in the Program Element description. Proposals should be written to allow adequate review of the details of such things as identification of the issue or problem, scientific objectives, methodology and approaches to synthesis, description of information products and applications, and integration and/or applications to other projects or programs. Upon conclusion of external peer and panel merit review, meritorious proposals will be recommended for funding.

Full Proposals

Letters of intent and/or partial proposals are not requested under this notice. Applications submitted in response to this announcement require an unbound original proposal and 19

copies at time of submission. This includes color or high-resolution graphics, unusually-sized materials (not 8.5 inches x 11 inches, or 21.6 cm x 28 cm), or otherwise unusual materials submitted as part of the proposal. For color graphics, submit either color originals or color copies. The stated requirements for the number of original proposal copies provide for a timely review process because of the large number of technical reviewers. Facsimile transmissions and electronic mail submission of full proposals will not be accepted.

The project description section should not exceed 20 pages. Page limits are inclusive of figures and other visual materials, but exclusive of references and milestone chart (as specified in Required Elements). The type must be a clear and readily legible 12-point size with no more than 6 lines in a vertical space of 1 inch. Margins at the top, bottom, and each side of all pages should be a minimum of 1 inch (2.5 cm).

Required Elements

All recipients are to follow closely the instructions and requirements in the preparation of the standard NOAA Application Forms and Kit requirements listed in Part II: General Grant Terms and Conditions, paragraph (9) of this document. Each proposal must also include the following ten elements:

(1) *Standard Form 424.* At time of proposal submission, all applicants shall submit the Standard Form, SF-424 (Rev 7–97), "Application for Federal Assistance," to indicate the total amount of funding proposed for the whole project period. This form is to be the cover page for the original proposal and all requested copies. Multi-institutional proposals must include signed SF–424 forms from all institutions requesting funding.

(2) *Title page.* The title page identifies the project's title starting with the appropriate acronym (SYNTHESIS or MULTSTRESS, for the two programs solicited in this announcement) a short title (<50 characters), the proposed project period, and the lead principal investigator's name, affiliation, complete address, phone, FAX, and E-mail information. The requested funding for each fiscal year should be included on the title page. The title page should be signed by the lead principal investigator. Multi-investigator proposals must include the names and affiliations of each investigator on the title page. Multi-institution proposals must also identify the lead investigator from each institution and the requested funding for each fiscal year for each institution on the title page, but no signatures are needed on the title page from the additional institutions. Lead investigator and separate budget information is not needed on the title page for institutions that are proposed to received funds through a subcontract to the lead institution.

(3) *One-page abstract/project summary.* The Project Summary (Abstract) Form, which is to be submitted at time of application, shall include an introduction of the problem, rationale, scientific objectives and/or hypotheses to be tested, and a brief summary of work to be completed. The prescribed COP format for the Project Summary Form can be found on the CSCOR/COP Internet site under the Grants Support Section.

The summary should appear on a separate page, headed with the proposal title, institution(s), principal investigator(s), total proposed cost, and project period, and should be written in the third person. The summary is used to help compare proposals quickly and allows the applicants to summarize these key points in their own words.

(4) *Statement of work/project description.* The project description section should not exceed 20 pages. The page limit is inclusive of figures and other visual materials, but exclusive of references and milestone chart (as described here). Project management should be clearly defined with descriptions of the responsibilities and contributions of each principal investigator (if more than one). It is important to provide a full scientific justification for the proposed research and approach; do not simply reiterate justifications presented in this document. This section should include the following:

(a) The objectives for the period of proposed work and the expected results and significance.

(b) The relation to the present state of knowledge in the field and relation to previous work and work in progress by the proposing principal investigator(s);

(c) A discussion of how the proposed project lends value to CSCOR/COP Program Element objectives;

(d) Specific plans for making information products available to the scientific and coastal management communities;

(e) A clear statement describing project management and identification of the contributions and responsibilities of each investigator within a team (if more than one principal investigator;

(f) Potential coordination with other investigators or stakeholders;

(g) Intent to adhere to NOAA's specific requirements that environmental data be submitted to the National Oceanographic Data Center.

(5) *References cited.* Reference information is required. Each reference must include the names of all authors in the same sequence in which they appear in the publication, the article title, volume number, page numbers, and year of publication. While there is no established page limitation, this section should include bibliographic citations only and should not be used to provide parenthetical information outside of the 20-page project description.

(6) *Milestone chart.* Time lines of major tasks covering the duration of the proposed project.

(7) *Budget.* At the time of original application, all proposers are required to submit a COP Summary Proposal Budget Form for each fiscal year increment (i.e., 2002, 2003, etc.). Multi-institution proposals must include budget forms from each institution. This is in lieu of the Standard Form 424A, "Budget Information (Non-Construction)."

Use of the COP Summary Proposal Budget form will provide for a detailed annual budget and the level of detail required by the COP program staff to evaluate the effort to be invested by investigators and staff on a specific project. This form can be found on the COP Internet Site under Grants Support, Section D; or may be requested by contacting the COP Grants Office listed earlier in this document under **FOR FURTHER INFORMATION CONTACT.**

All applicants shall include a budget justification that supports all proposed budget object class categories. The COP will review the proposed budgets to determine the necessity and adequacy of proposed costs for accomplishing the objectives of the proposed grant. The SF–424A, Budget Information (Non-Construction) Form, is not required for proposal submission and shall be requested from only those applicants subsequently recommended for funding after the competitive review process has been completed.

(8) *Biographical sketch.* All principal and co-investigators must provide two-page summaries that include the following:

(a) A listing of professional and academic essentials and mailing address;

(b) A list of up to five publications most closely related to the proposed project and five other significant publications. Additional lists of publications, lectures, etc., should not be included;

(c) A list of all persons (including their organizational affiliation) in alphabetical order who have

collaborated on a project or publication within the last 48 months, including collaborators on the proposal and persons listed in the publications. If there are no collaborators, this should be so indicated;

(d) A list of persons (including their organizational affiliation) with whom the individual has had an association as thesis advisor or postdoctoral scholar sponsor;

(e) A list of the names and institutions of the individual's own graduate and postgraduate advisors.

The material presented in (c, d, and e) is used to assist in identifying potential conflicts or bias in the selection of reviewers.

(9) *Current and pending support.* Describe all current and pending support for all principal and co-investigators, including subsequent funding in the case of continuing grants. All current support from whatever source (e.g., Federal, state or local government agencies, private foundations, industrial or other commercial organizations) must be listed. The proposed project and all other projects or activities requiring a portion of time of the principal investigator and co-investigators should be included, even if they receive no salary support from the project(s). The total award amount for the entire award period covered (including indirect costs) should be shown as well as the number of person-months per year to be devoted to the project, regardless of source of support.

(10) *Proposal format and assembly.* Clamp the original proposal in the upper left-hand corner, but leave it unbound. Use 1-inch (2.5-cm) margins at the top, bottom, left and right of each page. Use a clear and easily legible type face in standard 12-point size with no more than six lines in a vertical space of 1 inch. Print on one side of each page only. Proposals that deviate from the prescribed format will be returned to the sender without further consideration.

Part II: General Grant Terms and Conditions

(1) *Program Authority(s).* 16 U.S.C 1456c, 33 U.S.C 1121 et seq.; 33 U.S.C 883a et seq.; 33 U.S.C 1442; and Pub. L. 105-383.

(2) *Catalog of Federal Domestic Assistance (CFDA):* 11.478 Coastal Ocean Program.

(3) *Funding Availability.* On average, annual funding for each Announcement of Opportunity is approximately $1,000,000. Each CSCOR/COP project generally consists of several coordinated investigations with separate awards, ranging from $5,000 to $500,000. Actual funding levels will depend upon the final budget appropriations for the fiscal year. Future individual AOs will be released with specific applicable dollar amounts. It is anticipated that two to three synthesis proposals will be funded at approximately $700,000 per year for up to 2 years, and one to two multiple stressor projects will be funded at approximately $1,000,000 per year for up to 5 years.

The financial history of CSCOR/COP grants, interagency agreements, and intra-NOAA funding transfers is as follows: FY97 $10.00 million; FY98 $8.5 million; FY99 $8.5 million, FY00 $15 million, and FY01 $15.5 million. Publication of this notice does not obligate Commerce/NOAA to any specific award or to obligate any part of the entire amount of funds available. Recipients and subrecipients are subject to all Federal laws and agency policies, regulations, and procedures applicable to Federal financial assistance awards.

If an application for a financial assistance award is selected for funding, CSCOR/COP has no obligation to provide any additional prospective funding in connection with that award in subsequent years.

(4) *Matching Requirements.* None.

(5) *Type of Funding Instrument.* They are project grants and cooperative agreements, interagency agreements and transfers, and intra-NOAA funding transfers.

In an effort to maximize the use of limited resources, applications from non-Federal, non-NOAA Federal and NOAA applicants will be competed against each other. Research proposals selected for funding from non-Federal researchers will be funded through a project grant or cooperative agreement under the terms of this notice. Research proposals selected for funding from non-NOAA Federal applicants will be funded through an interagency transfer, provided legal authority exists for the Federal applicant to receive funds from another agency. PLEASE NOTE: Before non-NOAA Federal applicants may be funded, they must demonstrate that they have legal authority to receive funds from another Federal agency in excess of their appropriation. Because this announcement is not proposing to procure goods or services from the applicants, the Economy Act (31 U.S.C. Section 1535) is not an appropriate basis. Support may be solely through COP or partnered with other Federal offices and agencies.

(6) *Eligibility Criteria.* CSCOR/COP funding opportunities are open to all interested, qualified, non-Federal, and Federal researchers. Eligible applicants are institutions of higher education, other non-profits, state, local, and Indian Tribal Governments, and Federal agencies. Researchers must be affiliated with a not-for-profit institution, and proposals must be submitted through a not-for-profit institution. Non-Federal researchers should comply with their institutional requirements for proposal submission.

Non-NOAA Federal applicants will be required to submit certifications or documentation showing that they have specific legal authority to receive funds from the Department of Commerce (DOC) for this research. Foreign researchers must subcontract with United States proposers. Non-Federal researchers affiliated with NOAA-University Joint Institutes should comply with joint institutional requirements; they will be funded through grants either to their institutions or to joint institutes.

Proposals deemed acceptable from Federal researchers will be funded through a mechanism other than a grant or cooperative agreement, where legal authority allows for such funding. DOC requirements will prevail if there is a conflict between DOC requirements and institutional requirements.

(7) *Award Period.* Typically, CSCOR/COP's projects average 1 to 5 years in length. Projects covering more than 1 year will typically be funded on an annual basis. Projects submitted under Program Element (b) can be up to 5 years in duration; projects submitted under Program Element (d) should be 1 to 2 years in duration.

(8) *Application Forms.* When applying for financial assistance under a published AO, applicants will be able to obtain both the standard NOAA application forms and COP-specific application forms at the COP Internet Site. Forms may be viewed and, in most cases, filled in by computer. All forms must be printed, completed, and mailed to CSCOR/COP with original signatures. Blue ink is suggested, but not required. If you are unable to access this information, you may also call (301)713–3338 to leave a mail request. At time of submission, the applicant will follow the proposal requirements presented in the funding announcement.

At time of original application for financial assistance, all proposers are required to submit the Standard Form 424 (Rev July 1997), "Application for Federal Assistance" and a COP Summary Proposal Budget Form for each fiscal year increment in lieu of the Standard Form 424A (Rev July 1997), "Budget Information for Non-Construction Programs." Applicants shall also include a budget narrative/

justification that supports all proposed budget categories. The SF–424A shall be requested only from those recipients subsequently recommended for award.

Multi-institution proposals must include COP Summary Proposal Budget Forms from each institution. Applications not adhering to these stated guidelines will be returned to the applicant without further review.

In addition, other forms required as part of a complete application package from only those recipients subsequently recommended for award include: the Standard Form 424–B, "Assurances for Non-Construction Programs"; the CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying"; the CD–512, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" (this certification is to remain with the recipient and is not forwarded to the Grants Officer); and the SF–LLL,"Disclosure of Lobbying Activities" (if applicable).

(9) *Project Funding Priorities.* Priority considerations will be given to proposals that promote balanced coverage of the science objective stated in this and later AOs; avoid duplication of completed or ongoing work, and increase geographic diversity. Additional and/or other priorities may be detailed in other CSCOR/COP AOs.

(10) *Evaluation Criteria.* Unless otherwise stated in an individual funding announcement, the following criteria and evaluation weightings will be used for evaluating both solicited and unsolicited proposals:

(a) Scientific Merit (20 percent). Intrinsic scientific value of the proposed work and the likelihood that it will lead to fundamental advancements, new discoveries or will have substantial impact on progress in that field;

(b) Research Performance Competence (20 percent). Capability of the investigator and collaborators to complete the proposed work as evidenced by past research accomplishments, previous cooperative work, timely communication, and the sharing of findings, data, and other research products;

(c) Relevance (20 percent). Likelihood that the research will make substantial contributions or develop products leading to improved management of coastal resources;

(d) Technical Approach (20 percent). Presence of focused science objectives and completeness and efficiency of the strategy for making measurements and observations in support of the objectives. The approach is sound and logically planned throughout the cycle of the proposed work;

(e) Linkages (10 percent). Adequacy of connections to existing or planned studies, or demonstrated cooperative arrangements to provide or use data or other research results to achieve the objectives.

(f) Costs (10 percent): Adequacy of the proposed resources to accomplish the proposed work, and the appropriateness of the requested funding with respect to the total available funds.

(11) *Selection Procedures.* All proposals will be evaluated and scored individually in accordance with the assigned weights of the above evaluation criteria by independent peer mail review and/or by independent peer panel review. Both Federal and non-Federal experts in the field may be used in this process. The peer mail reviewers will be several individuals with expertise in the subjects addressed by particular proposals. Each mail reviewer will see only certain individual proposals within his or her area of expertise, and score them individually on a scale of one to five, where scores represent respectively: Excellent (1), Very Good (2), Good (3), Fair (4), and Poor (5).

The peer panel will comprise 6 to 12 individuals, with each individual having expertise in a separate area, so that the panel as a whole, covers a range of scientific expertise. The panel will have access to all mail reviews of proposals, and will use the mail reviews in discussion and evaluation of the entire slate of proposals. No consensus advice will be given by the independent peer mail review or the review panel.

The program officer(s) will neither vote or score proposals as part of the independent peer panel nor participate in discussion of the merits of the proposal. Those proposals receiving an average panel score of "Fair" or "Poor" will not be given further consideration, and proposers will be notified of non-selection.

For the proposals rated by the panel as either "Excellent," "Very Good," or "Good", the program officers will (a) select the proposals to be recommended for funding by applying the project funding priorities listed earlier in this section, paragraph (9) *Project Funding Priorities*; and specific objectives published in the AO; (b) determine the total duration of funding for each proposal; and (c) determine the amount of funds available for each proposal. As a result of consideration of the project funding priorities, awards may not necessarily be made in rank order. Recommendations for funding are then forwarded to the selecting official, the Director of CSCOR/COP.

Investigators may be asked to modify objectives, work plans or budgets, and provide supplemental information required by the agency prior to the award. When a decision has been made (whether an award or declination), verbatim anonymous copies of reviews and summaries of review panel deliberations, if any, will be made available to the proposer. Declined applications will be held in the CSCOR/COP for the required five years in accordance with the current retention requirements, and then destroyed.

(12) *Award Conditions.* Institutions accepting awards agree to meet programmatic award conditions as specified by NOAA and CSCOR/COP. Those conditions include:

(a) Submission of annual progress reports, comprehensive final reports, and semi-annual financial reports as outlined on the CSCOR/COP Internet Site.

(b) All environmental data and associated metadata furnished in electronic format to the National Oceanographic Data Center (NODC). Refer to (13) Other Requirements, paragraph (c), Data Archiving, referenced later in this document.

(c) All mathematical model code, parameters, and guidelines developed as a result of a CSCOR/COP award must be made available in electronic format to the CSCOR/COP Program Manager. Refer to (13) Other Requirements, paragraph (c), Data Archiving, referenced later in this document.

(d) Copies of all technical reports and publications resulting from a CSCOR/COP award will be forwarded to the CSCOR/COP.

(13) *Other Requirements.* (a) The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** (66 FR 49917–49922, Volume 190, October 1, 2001) are applicable to this solicitation.

(b) Intergovernmental Review. Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs." It has been determined that this notice is not significant for purposes of E.O. 12866. Because notice and comment are not required under 5 U.S.C. 553, or any other law, for this notice relating to public property, loans, grants benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared for this notice, 5 U.S.C. 603(a). It has been determined that this notice does not contain policies with

Federalism implications as that term is defined in E.O. 13132.

(c) Data Archiving. Any data collected in projects supported by CSCOR/COP must be delivered to a National Data Center (NDC), such as the National Oceanographic Data Center (NODC), in an electronic format to be determined by the institution, the NODC, and Program Officer. It is the responsibility of the institution for the delivery of these data; the DOC will not provide additional support for delivery beyond the award. Additionally, all biological cultures established, molecular probes developed, genetic sequences identified, mathematical models constructed, or other resulting information products established through support provided by CSCOR/COP must be made available to the general research community at no or modest handling charge (to be determined by the institution, Program Officer, and DOC). For more details, refer to CSCOR/COP data policy posted at the COP home page.

(d) Please note that NOAA is developing a policy on internal overhead charges, NOAA scientists considering submission of proposals should contact the appropriate CSCOR/COP Program Manager for the latest information.

(e) This notification involves collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, and SF–LLL have been approved by the Office of Management and Budget (OMB) under control numbers 0348–0043, 0348–0044, 0348–0040 and 0348–0046.

The following requirements have been approved by OMB under control number 0648-0384; a Summary Proposal Budget Form (30 minutes per response), a Project Summary Form (30 minutes per response), a standardized format for the Annual Performance Report (5 hours per response), a standardized format for the Final Report (10 hours per response), and the submission of up to 20 copies of proposals (10 minutes per response). The response estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Leslie.McDonald@noaa.gov. Copies of these forms and formats can be found on the COP home page under Grants Support sections, Parts D and F.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Dated: November 28, 2001.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 01–29996 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–JS–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Indonesia

November 27, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Indonesia and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC), a Memorandum of Understanding (MOU) dated November 1, 1996 between the Governments of the United States and Indonesia, and an exchange of notes dated December 10, 1997 and January 9, 1998.

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). Accordingly, certain previously restrained categories have been modified or eliminated and certain limits have been revised. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits. Certain limits have been reduced for carryforward that was applied to the 2001 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 27, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; the Uruguay Round Agreement on Textiles and Clothing (ATC); a Memorandum of Understanding dated November 1, 1996 between the Governments of the United States and Indonesia, and an exchange of notes dated December 10, 1997 and January 9, 1998, you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Indonesia and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Levels in Group I	
200	1,198,235 kilograms.
219	13,310,481 square meters.
225	9,320,789 square meters.
300/301	5,696,039 kilograms.

Category	Twelve-month restraint limit
313–O [1]	24,151,725 square meters.
314–O [2]	84,331,784 square meters.
315–O [3]	38,318,793 square meters.
317–O [4]/617/326–O [5]	37,010,430 square meters of which not more than 5,173,219 square meters shall be in Category 326–O.
331pt./631pt. [6]	1,316,862 dozen pairs.
334/335	311,446 dozen.
336/636	822,942 dozen.
338/339	1,591,012 dozen.
340/640	1,959,373 dozen.
341	1,245,778 dozen.
342/642	489,843 dozen.
345	569,777 dozen.
347/348	2,155,312 dozen.
351/651	636,796 dozen.
359–C/659–C [7]	1,967,722 kilograms.
359–S/659–S [8]	2,071,285 kilograms.
360	1,743,836 numbers.
361	1,743,836 numbers.
369–S [9]	1,271,446 kilograms.
433	11,504 dozen.
443	85,344 numbers.
445/446	60,769 dozen.
447	18,139 dozen.
448	21,019 dozen.
604–A [10]	935,466 kilograms.
611–O [11]	6,201,444 square meters.
613/614/615	35,108,300 square meters.
618–O [12]	8,285,146 square meters.
619/620	12,148,120 square meters.
625/626/627/628/629–O [13]	39,183,798 square meters.
634/635	391,875 dozen.
638/639	2,037,751 dozen.
641	2,987,463 dozen.
643	460,861 numbers.
644	610,342 numbers.
645/646	1,088,538 dozen.
647/648	4,271,956 dozen.
Group II 201, 218, 220, 224, 226, 227, 237, 239pt. [14], 332, 333, 352, 359–O [15], 362, 363, 369–O [16], 400, 410, 414, 434, 435, 436, 438, 440, 442, 444, 459pt. [17], 469pt. [18], 603, 604–O [19], 624, 633, 652, 659–O [20], 666pt. [21], 845, 846 and 852, as a group	108,765,392 square meters equivalent.
Subgroup in Group II 400, 410, 414, 434, 435, 436, 438, 440, 442, 444, 459pt. and 469pt., as a group	3,012,212 square meters equivalent.
In Group II subgroup 435	50,253 dozen.

[1] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[2] Category 314–O: all HTS numbers except 5209.51.6015.

[3] Category 315–O: all HTS numbers except 5208.52.4055.

[4] Category 317–O: all HTS numbers except 5208.59.2085.

[5] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

[6] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[7] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[8] Category 359–S: only HTS numbers 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020; Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[9] Category 369–S: only HTS number 6307.10.2005.

[10] Category 604–A: only HTS number 5509.32.0000.

[11] Category 611–O: all HTS numbers except 5516.14.0005, 5516.14.0025 and 5516.14.0085.

[12] Category 618–O: all HTS numbers except 5408.24.9010 and 5408.24.9040.

[13] Category 625/626/627/628; Category 629–O: all HTS numbers except 5408.34.9085 and 5516.24.0085.

[14] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[15] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 (Category 359–C); 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020 (Category 359–S); 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545 (Category 359pt.).

[16] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302,51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9905, 6307.90.9982, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505 (Category 369pt.).

[17] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[18] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[19] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A).

[20] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010, 6211.12.1020 (Category 659–S); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540 (Category 659pt.).

[21] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9984, 9404.90.8522 and 9404.90.9522.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated November 15, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be filled, such products shall no longer be charged to any limit.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–29905 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits and Guaranteed Access Levels for Certain Cotton, Wool, Man-Made Fiber and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Jamaica

November 27, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits and guaranteed access levels.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits and Guaranteed Access Levels (GALs) for textile products, produced or manufactured in Jamaica and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

These specific limits and guaranteed access levels do not apply to goods that qualify for quota-free entry under the Trade and Development Act of 2000.

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). Accordingly, a previously restrained category has been modified and its limit has been revised. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits and guaranteed access levels for the period January 1, 2002 through December 31, 2002.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the 2002 CORRELATION will be published in the **Federal Register** at a later date.

Requirements for participation in the Special Access Program are available in **Federal Register** notice 63 FR 16474, published on April 3, 1998.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 27, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Jamaica and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
331pt./631pt. [1]	1,000,691 dozen pairs.
338/339/638/639	1,975,563 dozen.
340/640	923,825 dozen of which not more than 781,698 dozen shall be in shirts made from fabrics with two or more colors in the warp and/or the filling in Categories 340–Y/640–Y [2].
341/641	1,160,041 dozen.
345/845	286,245 dozen.
347/348/647/648	2,132,374 dozen.
352/652	3,186,167 dozen.
445/446	56,829 dozen.

[1] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[2] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated November 28, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Also pursuant to the ATC; and under the terms of the Special Access Program, as set forth in 63 FR 16474 (April 3, 1998), you are directed to establish guaranteed access levels for properly certified cotton, wool, man-made fiber and other vegetable fiber textile products in the following categories which are assembled in Jamaica from fabric formed and cut in the United States and re-exported to the United States from Jamaica during the twelve-month period which begins on January 1, 2002 and extends through December 31, 2002:

Category	Guaranteed access Level
331pt./631pt. [1]	1,320,000 dozen pairs.
336/636	125,000 dozen.
338/339/638/639	1,500,000 dozen.
340/640	300,000 dozen.

Category	Guaranteed access Level
341/641	375,000 dozen.
342/642	200,000 dozen.
345/845	50,000 dozen.
347/348/647/648.	2,000,000 dozen.
352/652	10,500,000 dozen.
447	30,000 dozen.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification in accordance with the provisions of the certification requirements established in the directive of February 19, 1987 (52 FR 6049) shall be denied entry unless the Government of Jamaica authorizes the entry and any charges to the appropriate specific limits. Any shipment which is declared for entry under the Special Access Program but found not to qualify shall be denied entry into the United States.

These specific limits and guaranteed access levels do not apply to goods that qualify for quota-free entry under the Trade and Development Act of 2000.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be filled, such products shall no longer be charged to any limit.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of U.S.C.553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–29906 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Macau

November 27, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Macau and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). Accordingly, certain previously restrained categories have been modified or eliminated and certain limits have been revised. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 27, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Macau and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Levels in Group I	
219	3,840,716 square meters.
225	13,442,505 square meters.
313	9,601,789 square meters.
314	1,600,298 square meters.
315	4,800,895 square meters.
317	9,601,789 square meters.
326	3,840,716 square meters.
333/334/335	423,328 dozen of which not more than 224,519 dozen shall be in Categories 333/335.
336	95,844 dozen.
338	559,450 dozen.
339	2,343,330 dozen.
340	529,518 dozen.
341	341,528 dozen.
342	154,504 dozen.
345	94,477 dozen.
347/348	1,316,314 dozen.
351	123,535 dozen.
359–C/659–C [1]	618,026 kilograms.
359–V [2]	206,010 kilograms.
611	3,840,716 square meters.
625/626/627/628/629	9,601,789 square meters.
633/634/635	920,252 dozen.
638/639	2,844,327 dozen.
640	203,753 dozen.
641	244,823 dozen.
642	199,713 dozen.
645/646	477,618 dozen.
647/648	963,498 dozen.
659–S [3]	206,010 kilograms.

Category	Twelve-month restraint limit
Group II 400–414, 433–438, 440–448, 459pt.[4] and 469pt.[5], as a group	1,631,924 square meters equivalent.
Sublevel in Group II 445/446	88,038 dozen.

[1] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[2] Category 359–V: only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[3] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010, and 6211.12.1020.

[4] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[5] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated November 15, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be filled, such products shall no longer be charged to any limit.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–29907 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Former Yugoslav Republic of Macedonia

November 27, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Bilateral Textile Agreement of November 7, 1997, as amended and extended by exchange of notes on June 22, 2000 and July 5, 2000, between the Governments of the United States and the Former Yugoslav Republic of Macedonia establishes limits for certain wool textile products, produced or manufactured in the Former Yugoslav Republic of Macedonia and exported during the period January 1, 2002 through December 31, 2002.

These limits do not apply to goods entered under the Outward Processing Program, as defined in the notice and letter to the Commissioner of Customs published in the **Federal Register** on December 14, 1999 (see 64 FR 69746).

Any shipment for entry under the Outward Processing Program which is not accompanied by valid certification in accordance with the provisions established in the notice and letter to the Commissioner of Customs, published in the **Federal Register** on December 14, 1999 (see 64 FR 69744), shall be denied entry. However, the Government of Macedonia may authorize the entry and charges to the appropriate specific limits by the issuance of a valid visa. Also see 63 FR 17156, published on April 8, 1998.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

These limits may be revised if the Former Yugoslav Republic of Macedonia becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to the Former Yugoslav Republic of Macedonia.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 27, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Bilateral Textile Agreement of November 7, 1997, as amended and extended by exchange of notes on June 22, 2000 and July 5, 2000, between the Governments of the United States and the Former Yugoslav Republic of Macedonia, you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in the following categories, produced or manufactured in the Former Yugoslav Republic of Macedonia and exported during the period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month limit
433	22,298 dozen.
434	11,149 dozen.
435	30,432 dozen.
443	187,531 numbers.
448	66,894 dozen.

The limits set forth above are subject to adjustment pursuant to the current bilateral

agreement between the Governments of the United States and the Former Yugoslav Republic of Macedonia.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated October 27, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

These limits do not apply to goods entered under the Outward Processing Program, as defined in the letter to the Commissioner of Customs, dated December 8, 1999 (see 64 FR 69746).

Any shipment for entry under the Outward Processing Program which is not accompanied by a valid certification in accordance with the provisions established in the letter to the Commissioner of Customs, dated December 9, 1999 (see 64 FR 69744), shall be denied entry. However, the Government of Macedonia may authorize the entry and charges to the appropriate specific limits by the issuance of a valid visa. Also see directive dated April 2, 1998, (63 FR 17156). Any shipment which is declared for entry under the Outward Processing Program but found not to qualify shall be denied entry into the United States.

These limits may be revised if the Former Yugoslav Republic of Macedonia becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to the Former Yugoslav Republic of Macedonia.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[Doc.01–29911 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in Malaysia

November 27, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Malaysia and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). Accordingly, certain previously restrained categories have been modified or eliminated and certain limits have been revised. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 27, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel in the following categories, produced or manufactured in Malaysia and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following limits:

Category	Twelve-month restraint limit
Fabric Group 218–220, 225–227, 313–326, 611–O [1], 613/614/615/617, 619 and 620, as a group	176,479,316 square meters equivalent.
Sublevels within the group	
218	10,125,516 square meters.
219	49,052,499 square meters.
220	49,052,499 square meters.
225	49,052,499 square meters.
226	49,052,499 square meters.
227	49,052,499 square meters.
313	58,502,980 square meters.
314	70,383,508 square meters.
315	49,052,499 square meters.
317	49,052,499 square meters.
326	9,485,648 square meters.
611–O	5,691,389 square meters.
613/614/615/617	56,306,809 square meters.
619	7,588,519 square meters.
620	9,485,648 square meters.
Other specific limits	
200	426,987 kilograms.
237	574,510 dozen.
300/301	4,528,684 kilograms.
331pt./631pt. [2]	796,687 dozen pairs.
333/334/335	356,472 dozen of which not more than 213,946 dozen shall be in Category 333.
336/636	692,296 dozen.
338/339	1,716,366 dozen.
340/640	1,999,232 dozen.
341/641	2,591,080 dozen of which not more than 924,369 dozen shall be in Category 341.
342/642	618,698 dozen.
345	237,988 dozen.
347/348	727,399 dozen.

Category	Twelve-month restraint limit
351/651	385,097 dozen.
363	6,032,871 numbers.
435	16,418 dozen.
438–W[3]	13,436 dozen.
442	20,008 dozen.
445/446	31,758 dozen.
604	1,985,726 kilograms.
634/635	1,209,334 dozen.
638/639	712,387 dozen.
645/646	544,876 dozen.
647/648	2,564,131 dozen of which not more than 1,794,889 dozen shall be in Category 647–K[4] and not more than 1,794,889 dozen shall be in Category 648–K[5]
Group II 201, 224, 239pt[6], 332, 352, 359pt.[7], 360–362, 369pt.[8], 400–414, 433, 434, 436, 438–O[9], 440, 443, 444, 447, 448, 459pt.[10], 469pt.[11], 603, 618, 624–629, 633, 643, 644, 652, 659pt.[12], 666pt.[13], 845, 846 and 852, as a group	26,226,560 square meters equivalent.

[1] Category 611–O: all HTS numbers except 5516.14.0005, 5516.14.0025 and 5516.14.0085.

[2] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[3] Category 438–W: only HTS numbers 6104.21.0060, 6104.23.0020, 6104.29.2051, 6106.20.1010, 6106.20.1020, 6106.90.1010, 6106.90.1020, 6106.90.2520, 6106.90.3020, 6109.90.1540, 6109.90.8020, 6110.10.2080, 6110.30.1560, 6110.90.9074 and 6114.10.0040.

[4] Category 647–K: only HTS numbers 6103.23.0040, 6103.23.0045, 6103.29.1020, 6103.29.1030, 6103.43.1520, 6103.43.1540, 6103.43.1550, 6103.43.1570, 6103.49.1020, 6103.49.1060, 6103.49.8014, 6112.12.0050, 6112.19.1050, 6112.20..1060 and 6113.00.9044.

[5] Category 648–K: only HTS numbers 6104.23.0032, 6104.23.0034, 6104.29.1030, 6104.29.1040, 6104.29.2038, 6104.63.2006, 6104.63.2011, 6104.63.2026, 6104.63.2028, 6104.63.2030, 6104.63.2060, 6104.69.2030, 6104.69.2060, 6104.69.8026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.9052 and 6117.90.9070.

[6] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[7] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[8] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302.51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9905, 6307.90.9982, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505.

[9] Category 438–O: only HTS numbers 6103.21.0050, 6103.23.0025, 6105.20.1000, 6105.90.1000, 6105.90.8020, 6109.90.1520, 6110.10.2070, 6110.30.1550, 6110.90.9072, 6114.10.0020 and 6117.90.9025.

[10] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

[11] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[12] Category 659pt.: all HTS numbers except 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540.

[13] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9984, 9404.90.8522 and 9404.90.9522.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see the November 15, 2000 directive) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be filled, such products shall no longer be charged to any limit.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–29908 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

November 27, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in the Philippines and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). Accordingly, certain previously restrained categories have been modified and their limits have been revised. Certain other previously

restrained categories have been eliminated. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the availability of the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 27, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel in the following categories, produced or manufactured in the Philippines and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Levels in Group I	
237	2,536,947 dozen.
331pt./631pt. [1]	2,258,500 dozen pairs.
333/334	397,417 dozen of which not more than 57,054 dozen shall be in Category 333.
335	258,679 dozen.
336	941,351 dozen.
338/339	2,804,331 dozen.
340/640	1,245,287 dozen.
341/641	1,123,714 dozen.
342/642	814,222 dozen.
345	242,473 dozen.
347/348	2,852,582 dozen.
351/651	888,070 dozen.
352/652	3,487,683 dozen.
359–C/659–C [2]	1,206,576 kilograms.
361	2,711,415 numbers.
369–S [3]	614,610 kilograms.
433	3,572 dozen.
443	43,189 numbers.
445/446	29,499 dozen.
447	8,201 dozen.
611	8,137,171 square meters.
633	52,464 dozen.
634	650,938 dozen.
635	392,295 dozen.
636	2,453,219 dozen.
638/639	2,880,811 dozen.
643	1,253,149 numbers.
645/646	1,016,713 dozen.
647/648	1,721,220 dozen.
659–H [4]	2,021,422 kilograms.
Group II	
200–220, 224–227, 300–326, 332, 359pt. [5], 360, 362, 363, 369pt. [6], 400–414, 434–438, 442, 444, 448, 459pt. [7], 469pt. [8], 603, 604, 613–620, 624–629, 644, 659–O [9], 666pt. [10], 845, 846 and 852, as a group.	191,448,987 square meters equivalent.
Sublevel in Group II	
604	2,874,614 kilograms.

[1] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[5] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[6] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302.51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9905, 6307.90.9982, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505.

[7] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

[8] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[9] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540 (Category 659pt.).

[10] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9984, 9404.90.8522 and 9404.90.9522.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC, administrative arrangements notified to the Textiles Monitoring Body and a Memorandum of Understanding dated August 19, 1998 between the Governments of the United States and the Republic of the Philippines.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated November 14, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be

filled, such products shall no longer be charged to any limit.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–29909 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Romania

November 27, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Romania and exported during the period January 1, 2002 through December 31, 2002 are based on the limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

These limits do not apply to goods entered under the Outward Processing Program, as defined in the notice and letter to the Commissioner of Customs published in the **Federal Register** on December 14, 1999 (see 64 FR 69746).

Any shipment for entry under the Outward Processing Program which is not accompanied by valid certification in accordance with the provisions established in the notice and letter to the Commissioner of Customs, published in the **Federal Register** on December 14, 1999 (see 64 FR 69744), shall be denied entry. However, the Government of Romania may authorize the entry and charges to the appropriate specific limits by the issuance of a valid visa. Also see 49 FR 493, as amended, published on January 4, 1984.

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). Accordingly, certain previously restrained categories have been modified and their limits have been revised, and a previously restrained category has been eliminated. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 27, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textiles and textile products in the following categories, produced or manufactured in Romania and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month limit
313	2,899,725 square meters.
314	2,174,794 square meters.
315	5,233,646 square meters.
333	207,232 dozen.
334	501,022 dozen.
335	257,485 dozen.
338/339	1,133,143 dozen.
340	494,611 dozen.
341	200,862 dozen.
347/348	884,405 dozen.
352	315,275 dozen.
359pt.[1]	1,130,885 kilograms.
360	2,922,519 numbers.
361	1,948,347 numbers.
369pt.[2]	428,581 kilograms.
410	183,962 square meters.
433/434	10,189 dozen.
435	10,658 dozen.
442	12,343 dozen.
443	95,220 numbers.
444	44,888 numbers.
447/448	24,754 dozen.
604	1,756,083 kilograms.
638/639	1,103,357 dozen.
640	151,748 dozen.
647/648	261,947 dozen.
666pt.[3]	199,327 kilograms.

[1] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[2] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302.51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9905, 6307.90.9982, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505.

[3] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9984, 9404.90.8522 and 9404.90.9522.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated December 5, 2000) to the extent of any unfilled balances. In the event

the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

These limits do not apply to goods entered under the Outward Processing Program, as defined in the letter to the Commissioner of Customs, dated December 8, 1999 (see 64 FR 69746).

Any shipment for entry under the Outward Processing Program which is not accompanied by a valid certification in accordance with the provisions established in the letter to the Commissioner of Customs, dated December 9, 1999 (see 64 FR 69744), shall be denied entry. However, the Government of Romania may authorize the entry and charges to the appropriate specific limits by the issuance of a valid visa. Also see directive dated December 29, 1983, as amended, (49 FR 493). Any shipment which is declared for entry under the Outward Processing Program but found not to qualify shall be denied entry into the United States.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be filled, such products shall no longer be charged to any limit.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–29910 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

November 27, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Singapore and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). Accordingly, a previously restrained category has been eliminated and certain categories have been modified and their limits have been revised. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the availability of the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 27, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Singapore and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
237	356,306 dozen.
239pt. [1]	243,980 kilograms.
331pt. [2]	83,227 dozen pairs.
334	89,829 dozen.
335	270,206 dozen.
338/339	1,867,662 dozen of which not more than 1,091,479 dozen shall be in Category 338 and not more than 1,213,589 dozen shall be in Category 339.
340	1,307,086 dozen.
341	328,668 dozen.
342	202,256 dozen.
347/348	1,264,512 dozen of which not more than 790,318 dozen shall be in Category 347 and not more than 614,694 dozen shall be in Category 348.
435	7,350 dozen.
604	1,131,213 kilograms.
631pt. [3]	503,927 dozen pairs.
634	348,950 dozen.
635	350,954 dozen.
638	1,259,602 dozen.
639	4,015,193 dozen.
640	278,659 dozen.
641	454,523 dozen.
642	472,478 dozen.
645/646	193,191 dozen.
647	799,624 dozen.
648	1,650,312 dozen.

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[3] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated October 27, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on

January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be filled, such products shall no longer be charged to any limit.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–29912 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Sri Lanka

November 27, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Sri Lanka and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). Accordingly, certain previously restrained categories have been eliminated and certain limits have been revised. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the availability of the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 27, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Sri Lanka and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
237	457,490 dozen.
314	6,829,666 square meters.
331/631pt. [1]	1,007,287 dozen pairs.
333/633	86,117 dozen.
334/634	1,009,168 dozen.
335	440,061 dozen.
336/636	590,238 dozen.
338/339	2,018,339 dozen.
340/640	1,719,189 dozen.
341/641	2,829,885 dozen of which not more than 1,886,590 dozen shall be in Category 341 and not more than 1,886,590 dozen shall be in Category 641.
342/642	1,035,042 dozen.
345/845	271,807 dozen.
347/348	1,523,067 dozen.
351/651	521,763 dozen.
352/652	2,152,891 dozen.
359–C/659–C [2]	2,072,836 kilograms.
360	2,276,556 numbers
363	19,510,581 numbers.
369–S [3]	1,220,666 kilograms.
434	7,817 dozen.
435	16,751 dozen.
440	11,167 dozen.
611	8,916,511 square meters.
635	592,048 dozen.
638/639	1,438,000 dozen.
644	807,334 numbers.
645/646	322,933 dozen.
647/648	1,731,454 dozen.

[1] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 369–S: only HTS number 6307.10.2005.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated November 13, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be

filled, such products shall no longer be charged to any limit.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–29913 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Thailand

November 27, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Thailand and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). Accordingly, certain previously restrained categories have been modified or eliminated and certain limits have been revised. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 27, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended, and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Thailand and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002.

Category	Twelve-month restraint limit
Level not in a Group	
239pt.[1]	2,596,494 kilograms.
Levels in Group I	
200	1,694,632 kilograms.
218	25,667,876 square meters.
219	9,038,048 square meters.
300	6,778,536 kilograms.
301–P[2]	6,778,536 kilograms.
301–O[3]	1,355,710 kilograms.
313–O[4]	31,633,166 square meters.
314–O[5]	72,304,377 square meters.
315–O[6]	45,190,235 square meters.
317–O/326–O[7]	18,971,298 square meters.
363	29,373,653 numbers.
369–S[8]	451,902 kilograms.
604	1,057,298 kilograms of which not more than 677,853 kilograms shall be in Category 604–A[9].
611–O[10]	13,807,176 square meters.
613/614/615	68,296,669 square meters of which not more than 39,767,408 square meters shall be in Categories 613/615 and not more than 39,767,408 square meters shall be in Category 614.
617	24,662,685 square meters.
619	10,167,802 square meters.
620	10,167,802 square meters.
625/626/627/628/629	19,919,861 square meters of which not more than 15,816,582 square meters shall be in Category 625.
Group II	
237, 331pt.[11], 332–348, 351, 352, 359pt.[12], 433–438, 440, 442–448, 459pt.[13], 631pt.[14] 633–648, 651, 652, 659–H[15], 659pt.[16], 845, 846 and 852, as a group	387,228,301 square meters equivalent.
Sublevels in Group II	
331pt./631pt.	742,838 dozen pairs.
334/634	881,210 dozen.
335/635	683,151 dozen.
336/636	451,902 dozen.
338/339	2,427,341 dozen.
340	406,713 dozen.
341/641	960,293 dozen.
342/642	836,020 dozen.
345	429,308 dozen.
347/348	1,153,345 dozen.
351/651	338,926 dozen.
659–H	1,807,218 kilograms.
433	10,253 dozen.
434	12,657 dozen.
435	57,512 dozen.
438	18,984 dozen.
442	22,046 dozen.
638/639	2,860,795 dozen.
640	745,637 dozen.
645/646	451,902 dozen.
647/648	1,608,772 dozen.

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 301–P: only HTS numbers 5206.21.0000, 5206.22.0000, 5206.23.0000, 5206.24.0000, 5206.25.0000, 5206.41.0000, 5206.42.0000, 5206.43.0000, 5206.44.0000 and 5206.45.0000.

[3] Category 301–O: only HTS numbers 5205.21.0020, 5205.21.0090, 5205.22.0020, 5205.22.0090, 5205.23.0020, 5205.23.0090, 5205.24.0020, 5205.24.0090, 5205.26.0020, 5205.26.0090, 5205.27.0020, 5205.27.0090, 5205.28.0020, 5205.28.0090, 5205.41.0020, 5205.41.0090, 5205.42.0020, 5205.42.0090, 5205.43.0020, 5205.43.0090, 5205.44.0020, 5205.44.0090, 5205.46.0020, 5205.46.0090, 5205.47.0020, 5205.47.0090, 5205.48.0020 and 5205.48.0090.

[4] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[5] Category 314–O: all HTS numbers except 5209.51.6015.

[6] Category 315–O: all HTS numbers except 5208.52.4055.

[7] Category 317–O: all HTS numbers except 5208.59.2085; Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

[8] Category 369–S: only HTS number 6307.10.2005.

[9] Category 604–A: only HTS number 5509.32.0000.

[10] Category 611–O: all HTS numbers except 5516.14.0005, 5516.14.0025 and 5516.14.0085.

[11] Categories 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[12] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[13] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[14] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[15] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[16] Category 659pt.: all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directives dated October 27, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be filled, such products shall no longer be charged to any limit.

The conversion factors for Category 659–H and merged Categories 638/639 are 11.5 and 12.96, respectively.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–29914 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

November 27, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota reopenings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Turkey and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). Accordingly, a certain previously restrained category has been eliminated. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 27, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Turkey and exported during the period January 1, 2002 through December 31, 2002, in excess of the following levels of restraint:

Category	Restraint limit
Fabric Group 219, 313–O[1], 314–O[2], 315–O[3], 317–O[4], 326–O[5], 617, 625/626/627/628/629, as a group	250,805,808 square meters of which not more than 57,314,241 square meters shall be in Category 219; not more than 70,050,738 square meters shall be in Category 313–O; not more than 40,756,793 square meters shall be in Category 314–O; not more than 54,766,944 square meters shall be in Category 315–O; not more than 57,314,241 square meters shall be in Category 317–O; not more than 6,368,247 square meters shall be in Category 326–O, and not more than 38,209,497 square meters shall be in Category 617.
Sublevel in Fabric Group 625/626/627/628/629	25,800,964 square meters of which not more than 10,320,384 square meters shall be in Category 625; not more than 10,320,384 square meters shall be in Category 626; not more than 10,320,384 square meters shall be in Category 627; not more than 10,320,384 square meters shall be in Category 628; and not more than 10,320,384 square meters shall be in Category 629.
Limits not in a group	
200	2,418,310 kilograms.
300/301	11,774,577 kilograms.
335	508,390 dozen.
336/636	1,197,541 dozen.
338/339/638/639	7,456,388 dozen of which not more than 6,710,750 dozen shall be in Categories 338–S/339–S/638–S/639–S[6].
340/640	1,993,889 dozen of which not more than 567,087 dozen shall be in Categories 340–Y/640–Y[7].
341/641	1,969,058 dozen of which not more than 689,171 dozen shall be in Categories 341–Y/641–Y[8].
342/642	1,333,112 dozen.
347/348	7,253,032 dozen of which not more than 2,522,919 dozen shall be in Categories 347–T/348–T[9].
351/651	1,208,839 dozen.
352/652	4,136,198 dozen.
361	2,541,952 numbers.
369–S[10]	2,627,894 kilograms.
410/624	1,173,610 square meters of which not more than 821,528 square meters shall be in Category 410.
448	40,270 dozen.
604	3,033,361 kilograms.
611	75,885,184 square meters.

[1] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[2] Category 314–O: all HTS numbers except 5209.51.6015.

[3] Category 315–O: all HTS numbers except 5208.52.4055.

[4] Category 317–O: all HTS numbers except 5208.59.2085.

[5] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

[6] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

[7] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[8] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054; Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

[9] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2006, 6104.62.2011, 6104.62.2026, 6104.62.2028, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9060, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[10] Category 369–S: only HTS number 6307.10.2005.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated October 27, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be filled, such products shall no longer be charged to any limit.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–29915 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in the United Arab Emirates

November 27, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in the United Arab Emirates and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). Accordingly, a certain previously restrained category has been eliminated and certain limits have been revised. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits for the 2002 period. The 2002 levels for Categories 315 and 361 are zero.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notices 65 FR 82328, published on December 28, 2000). Information regarding the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 27, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textiles and textile products in the following categories, produced or manufactured in the United Arab Emirates and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002 in excess of the following levels of restraint:

Category	Twelve-month restraint limit
219	1,836,053 square meters.
226/313	3,139,695 square meters.
315	–0–
317	50,649,664 square meters.
326	2,963,877 square meters.
334/634	374,182 dozen.
335/635	241,044 dozen.
336/636	324,290 dozen.
338/339	925,479 dozen of which not more than 616,985 dozen shall be in Categories 338–S/339–S [1].
340/640	573,747 dozen.
341/641	502,404 dozen.
342/642	399,131 dozen.
347/348	687,499 dozen of which not more than 343,749 dozen shall be in Categories 347–T/348–T [2].
351/651	286,874 dozen.
352	528,847 dozen.
361	–0–
363	9,879,589 numbers.
369–O [3]	120,706 kilograms.
369–S [4]	137,525 kilograms.
638/639	374,182 dozen.
647/648	536,329 dozen.

[1] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020.

[2] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2006, 6104.62.2011, 6104.62.2026, 6104.62.2028, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9060, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[3] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302,51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9905, 6307.90.9982, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505 (Category 369pt.).

[4] Category 369–S: only HTS number 6307.10.2005.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated November 2, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be

filled, such products shall no longer be charged to any limit.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–29916 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in the Republic of Uruguay

November 27, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Uruguay and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 27, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in the following categories, produced or manufactured in Uruguay and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
334	227,875 dozen.
335	196,167 dozen.
410	3,106,344 square meters of which not more than 1,775,056 square meters shall be in Category 410–A [1] and not more than 2,859,807 square meters shall be in Category 410–B [2].
433	18,549 dozen.
434	27,672 dozen.
435	55,886 dozen.
442	39,534 dozen.

[1] Category 410–A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[2] Category 410–B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.2030, 5112.11.2060, 5112.19.9010, 5112.19.9020, 5112.19.9030, 5112.19.9040, 5112.19.9050, 5112.19.9060, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated November 2, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–29917 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Manual for Courts-Martial; Proposed Amendments

AGENCY: Joint Service Committee on Military Justice (JSC), DoD.

ACTION: Notice of summary of public comment received regarding proposed amendments to the Manual for Courts-Martial, United States (2000 ed.).

SUMMARY: The JSC is forwarding final proposed amendments to the Manual for Courts-Martial, United States (2000 ed.) (MCM) to the Department of Defense. The proposed changes, resulting from the JSC's 2001 annual review of the MCM, concern the rules of procedure applicable in trials by courts-martial. The proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, "Preparation and Processing of Legislation, Executive Orders, Proclamations, and Reports and

Comments Thereon," May 21, 1964, and do not constitute the official position of the Department of Defense, the Military Departments, or any other government agency.

ADDRESSES: Comments and materials received from the public are available for inspection or copying at the Headquarters, U.S. Marine Corps, Military Law Branch, 2 Navy Annex, Washington, DC 20380–1775, between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Major D.T. Brannon, USMCR, Executive Secretary, Joint Service Committee on Military Justice, Headquarters, U.S. Marine Corps (JAM), 2 Navy Annex, Washington, DC 20380–1775, (703) 614–4250, (703) 614–5775 fax.

SUPPLEMENTARY INFORMATION:

Background

On June 6, 2001, the JSC published a Notice of Proposed Amendments to the Manual for Courts-Martial and a Notice of Public Meeting to receive comment on its 2001 draft annual review of the Manual for Courts-Martial. On 19 July 2001, the public meeting was held. Three individuals attended and two provided oral comment. The JSC received two letters commenting on the proposed amendments.

Purpose

The proposed changes concern the rules of procedure applicable in trials by courts-martial. More specifically, the proposed changes: Incorporate the JSC's role in the Preamble of the MCM: require that matters in aggravation be alleged in the specification; clarify the 100-mile rule; recommend that the staff judge advocate include the Article 32 investigating officer's recommendations in the pretrial advice to the convening authority; acknowledge that the speedy trial rules apply at a rehearing; consider the accused's periods of unauthorized absence as excludable delay; clarify the military judge's responsibility to control courtroom spectators and the accused's right to a public trial; clarify when evidence of an accused's impaired mental state may be admissible; clarify assessment of sentence on rehearing; conform the Military Rules of Evidence to the 1 December 2000 amendments to the Federal Rules of Evidence; amend the Punitive Articles to clarify the two distinct categories of carnal knowledge and sodomy in cases involving children; require that the materiality of false testimony, in a perjury prosecution be submitted to the members for decision; and clarify the reckless endangerment Article to make the sample specification consistent with the elements.

Discussion of Comments and Changes

In response to the request for public comment the JSC received written comment from one individual and oral written comment on behalf of one organization. The JSC considered the combined public comments and is satisfied that the proposed amendments are appropriate to implement without additional modification except as indicated herein. The JSC will forward the public comments and the proposed amendments, as modified, to the Department of Defense.

The written comments from the individual recommended a technical correction to the proposed changes and propose additional changes to the MCM. In proposed Mil.R.Evid. 803(6), the writer recommended correcting the typographical error of "area" to "are" in the third sentence. The writer also suggested four substantive modifications to proposed Mil.R.Evid. 902(11):

1. Certification should not be limited to "domestic" records due to the worldwide operation of the U.S. Armed Forces.
2. The declaration should be sworn.
3. The declaration should include a form affidavit.
4. The declaration should have more definitive guidelines on the timeliness of production to opposing counsel.

The writer also proposed that the MCM be amended to require that members be instructed on the legal effect of Article 58b, UCMJ, and the statutory provisions for dropping officers from the rolls. Finally, the writer proposed amending R.C.M. 1001(c)(1)(B) to allow the accused to present evidence on the effect of a punitive discharge on military retirement pay and benefits if the accused is retirement eligible or within 2 years of being retirement eligible at the time of referral of charges. *See United States* v. *Luster*, 55 M.J. 67 (2001).

The JSC has considered these comments and adopts the technical correction changing the word "area" to "are" in the third sentence to its proposed amendment to Mil.R.Evid. 803(6). The JSC declined to modify its proposed amendment to Mil.R.Evid. 902(11) because the JSC's proposal was designed to conform the Military Rules of Evidence to the Federal Rules of Evidence and keep military practice in line with Federal practice to the extent practicable, as required by Article 36, Uniform Code of Military Justice. The JSC declined the writer's invitation to amend the MCM to require the mandatory instruction and to amend R.C.M. 1001 (c)(1)(B) as those recommendations were outside the scope of the public comment.

The oral and written comment provided by the organization mirrored those submitted during the JSC 2000 Annual Review and invitation for public comment. The organization believes the rulemaking process is inadequate. Specifically, the organization suggests that the JSC's invitation for public proposals may discourage participation due to is admonition that "[i]ncomplete submissions may not be considered." The organization also asserts that DOD's proposal to publish DOD Directive 5500.17 (1996 ed.) as an appendix to the MCM does not reflect current JSC practice and conflicts with the version published in the CFR. The organization recommends updating DOD Directive 5500.17 (1996 ed.) and publishing it in the MCM and CFR. Additionally, the organization asserts that the Notice of Proposed Changes as published in the **Federal Register** is inadequate because it fails to provide an adequate discussion of the rationale behind the proposal and the anticipated effect of the change. The organization submitted additional comments regarding the proposed substantive changes as follows:

a. R.C.M. 405(g)(1)(A)—Revisit the rationale for the 100-mile rule and reconsider the regulations pertaining to the "reasonable availability" of military attorneys as individual military counsel (IMC).

b. R.C.M. 707(b)(3)(D)—On sentence rehearings, allow assembly of the court or reception of evidence to serve as events that stop the speedy trial clock instead of the proposed Art. 39(a) session.

c. R.C.M. 916(k)(2)—Change the wording of the proposal stating that evidence of partial mental responsibility is admissible whenever relevant to an issue before the court.

d. R.C.M. 1107(e)(1)(B)(4)—Prohibit the convening authority (CA) from reassessing a sentence where part of the findings have been set aside by an appellate court because the CA is not the appropriate official to determine and impose a sentence.

e. ¶ 57(c)(2)(B)—Review other offenses which contain elements, such as "materiality" of a statement under Art. 131, to determine if the rationale is applicable to other elements of the offenses. In light of *United States* v. *New*, 55 M.J. 95 (2001), consider whether a regulatory clarification regarding "lawfulness" of an order as an

element of offenses Art. 90, 91 and 92 is appropriate.

The JSC has considered these comments and has determined that the rulemaking process is adequate, satisfies statutory requirements, and does not discourage public participation. Encouraging commentators to submit specific, detailed recommendations assists the JSC better understand the scope and purpose of submitted recommendations. Pragmatically, vague, or inartfully worded recommendations might not be addressed within the time available for review and might therefore be unnecessarily delayed. Recommendations for matters that are outside the scope of the issues submitted for public comment may not meet the requirements of DOD Directive 5500.17 (1996 ed.) for JSC consideration. While it is not the intent of the JSC to discourage comment, the invitation for public comment does properly encourage relevant and focused input to the matters proposed for change.

The JSC declined the organization's invitation to change its proposed amendments.

a. The JSC determined that the 100-mile rule is an appropriate factor to be considered when determining the availability of witnesses for Article 32 pre-trial investigations.

b. The JSC determined that an Article 39(a) session is an appropriate means of stopping the speedy trial clock at a rehearing on sentencing.

c. The JSC determined that R.C.M. 916(k)(2) provides the military judge the appropriate authority to determine whether the evidence shows a lack of mental responsibility so as to warrant a specific instruction on the issue.

d. The JSC determined that the reassessment of a sentence is an appropriate quasi-judicial function of the convening authority who is limited to a sentence no more severe than originally adjudged and whose actions are reviewable by the service Judge Advocate General or the service courts of criminal appeals with Article 66, UCMJ authority.

e. The JSC determined that the organization's final recommendation is outside the scope of the invited public comment. The organization's final proposal regarding the question of whether other offenses have elements solely determined by a military judge instead of the fact finder will be considered within the normal course of JSC annual review process under DOD Directive 5500.17 (1996 ed.).

Proposed Amendments After Consideration of Public Comment Received

The proposed amendments to the Manual for Court-Martial are as follows:

Amend paragraph 4 of the Preamble by adding a new third subparagraph to read as follows:

"The Department of Defense Joint Service Committee (JSC) on Military Justice reviews the Manual for Courts-Martial and proposes amendments to the Department of Defense for consideration by the President on an annual basis. In conducting its annual review, the JSC is guided by DoD Directive 5500.17, "The Roles and Responsibilities of the Joint Service Committee (JSC) on Military Justice," a copy of which is included in this Manual as Appendix 26. DoD Directive 5500.17 includes provisions allowing public participation in the annual review process."

Amend R.C.M. 307(c)(3) to read as follows:

"*Specification.* A specification is a plain, concise, and definite statement of the essential facts constituting the offense charged. A specification is sufficient if it alleges every element of the charged offense expressly or by necessary implication. Except for aggravating factors under R.C.M 1003(d) and R.C.M. 1004, facts that increase the maximum authorized punishment must be alleged in order to permit the possible increased punishment. No particular format is required."

Amend subparagraph (ix) of the Discussion accompanying R.C.M. 307(c) to read as follows:

"(ix) *Matters in aggravation.* Matters in aggravation that do not increase the maximum authorized punishment ordinarily should not be alleged in the specification. Prior convictions need not be alleged in the specification to permit increased punishment. Aggravating factors in capital cases should not be alleged in the specification. Notice of such factors is normally provided in accordance with R.C.M. 1004(b)(1)."

Amend the analysis accompanying R.C.M. 307(c)(3) by inserting the following at the end thereof:

"*200 Amendment:* The Rule was amended by modifying language in the Discussion at (H)(ix), and pulling it into the text of the Rule, to emphasize that facts that increase maximum authorized punishments must be alleged and proven beyond a reasonable doubt. *Jones v. United States*, 526 U.S. 227 (1999). *See also Apprendi v. New Jersey*, 530 U.S. 466 (2000). R.C.M 1003(d) prior convictions and R.C.M 1004 capital aggravating factors were excluded because the rule in *Apprendi* exempts prior convictions and distinguishes capital sentencing schemes. R.C.M. 1004 capital aggravating factors were also excluded to avoid complication Part IV of the Manual and because R.C.M. 1004 already establishes a separate scheme for satisfying an accused's Constitutional rights in this area. *See Walton v. Arizona*, 497 U.S. 639 (1990) (capital aggravating factors are not separate penalties or offenses but are standards to guide the making of the choice between the alternative verdicts of death and life imprisonment)."

Insert the following discussion to accompany R.C.M. 405(g)(1)(A):

"A witness located beyond the 100-mile limit is not *per se* unavailable. To determine if a witness beyond 100 miles is reasonably available, the significance of the witness' live testimony must be balanced against the relative difficulty and expense of obtaining the witness' presence at the hearing."

Amend the analysis accompanying R.C.M. 405(g)(1) by inserting the following before the Discussion of subsection (2):

"*2000 Amendment:* The discussion to subsection (g)(1)(A) is new. It was added in light of the decision in *United States v. Marie*, 43 M.J. 35 (1995) that a witness beyond 100 miles from the site of the investigation is not *per se* unavailable."

Amend the second paragraph of the Discussion accompanying R.C.M. 406(b) to read as follows:

"The advice need not set forth the underlying analysis or rationale for its conclusions. Ordinarily, the charge sheet, forwarding letterr, and endorsements, and report of investigation are forwarded with the pretrial advice. In addition, the pretrial advice should include when appropriate: A brief summary of the evidence; discussion of significant aggravating, extenuating, or mitigating factors; any recommendations for disposition of the case by commanders or others who have forwarded the charges; and the recommendation of the Article 32 investigating officer. However, there is no legal requirement to include such information, and failure to do so is not error."

Amend the analysis accompanying R.C.M. 406(b) by inserting the following at the end thereof:

"*200 Amendment:* The Dicussion to R.C.M. 406(b) was amended to add as additional, non-binding guidance that the SJA should include the recommendation of the Article 32 investigating officer."

Amend R.C.M. 707(b)(3)(D) to read as follows:

"*Rehearings.* If a rehearing is ordered or authorized by an appellate court, a new 120-day time period under this rule shall begin on the date that the responsible convening authority receives the record of trial and the opinion authorizing or directing a rehearing. An accused is brought to trial within the meaning of this rule at the time of arraignment under R.C.M. 904 or, if arraignment is not required (such as in the case of a sentence-only rehearing), at the time of the first session under R.C.M. 803."

Amend the analysis accompanying R.C.M. 707(b) by inserting the following before the Discussion of subsection (c):

"*200 Amendment:* Subsection (3)(D) was amended in light of *United States* v. *Becker*, 53 M.J. 229 (2000, to clarify that the 120-day time period applies to sentence-only rehearings. The amendment also designates the first session under R.C.M. 803 as the point where an accused is brought to trial in a sentence-only rehearing."

Amend R.C.M. 707(c) to read as follows:

"(c) *Excludable delay.* All periods of time during which appellate courts have issued stays in the proceedings, or the accussed is absent without authority, or the accused is

hospitalized due to incompetence, or is otherwise in the custody of the Attorney General, shall be excluded when determining whether the period in subsection (a) of this rule has run. All other pretrial delays approved by a military judge or the convening authority shall be similarly excluded."

Delete the Discussion accompanying R.C.M. 707(c).

Amend the analysis accompanying R.C.M. 707(c) by inserting the following before the Discussion of subsection (d):

"*200 Amendment:* Subsection (c) was amended to treat periods of the accused's unauthorized absence as excludable delay for purposes of speedy trial. *See United States* v. *Dies*, 45 M.J. 376 (1966). THe Discussion was deleted as superfluous."

Amend R.C.M. 707(d) to read as follows:

"(d) *Remedy.* A failure to comply with this rule will result in dismissal of the affected charges, or, in a sentence-only rehearing, sentence relief as appropriate.

(1) *Dismissal.* Dismissal will be with or without prejudice to the government's right to reinstitute court-martial proceedings against the accused for the same offense at a later date. The charges must be dismissed with prejudice where the accused has been deprived of his or her constitutional right to a speedy trial. In determining whether to dismiss charges with or without prejudice, the court shall consider, among others, each of the following factors: The seriousness of the offense; the facts and circumstances of the case that lead to dismissal; the impact of a reprosecution on the administration of justice; and any prejudice to the accused resulting from the denial of a speedy trial.

(2) *Sentence relief.* In determining whether or how much sentence relief is appropriate, the military judge shall consider, among others, each of the following factors: The length of the delay, the reasons for the delay, the accused's demand for speedy trial, and any prejudice to the accused from the delay. Any sentence relief granted will be applied against the sentence approved by the convening authority."

Insert the following Discussion accompanying R.C.M. 707(d):

"*See* subsection (c)(1) and the accompanying Discussion concerning reasons for delay and procedures for parties to request delay."

Amend the analysis accompanying R.C.M. 707(d) by inserting the following before the Discussion of subsection (e):

"*200 Amendment:* Subsection (d) was amended in light of *United States* v. *Becker*, 53 M.J. 229 (2000), to provide for sentence relief as a sanction for violation of the 120-day rule in sentence-only rehearings. The amendment sets forth factors for the court to consider to determine whether or to what extent sentence relief is appropriate and provides for the sentence credit to be applied to the sentence approved by the convening authority."

Amend R.C.M. 806(b) to read as follows:

"(b) *Control of spectators and closure.*

(1) *Control of spectators.* In order to maintain the dignity and decorum of the proceedings or for other good cause, the military judge may reasonably limit the number of spectators in, and the means of access to, the courtroom, and exclude specific persons from the courtroom. When excluding specific persons, the military judge must make findings on the record establishing the reason for the exclusion, the basis for the military judge's belief that exclusion is necessary, and that the exclusion is as narrowly tailored as possible.

(2) *Closure.* Courts-martial shall be open to the public unless (1) there is a substantial probability that an overriding interest will be prejudiced if the proceedings remain open; (2) closure is no broader than necessary to protect the overriding interest; (3) reasonable aalternatives to closure were considered and found inadequate; and (4) the military judge makes case-specific findings on the record justifying closure."

The following Discussion is added to R.C.M. 806(b)(1):

"The military judge must ensure that the dignity and decorum of the proceedings are maintained and that the other rights and interests of the parties and society are protected. Public access to a session may be limited, specific persons excluded from the courtroom, and, under unusual circumstances, a session may be closed.

Exclusion of specific persons, if unreasonable under the circumstances, may violate the accused's right to a public trial, even though other spectators remain. Whenever specific persons or some members of the public are excluded, exclusion must be limited in time and scope to the minimum extent necessary to achieve the purpose for which it is ordered. Prevention of overcrowding or noise may justify limiting access to the courtroom. Disruptive or distracting appearance or conduct may justify excluding specific persons. Specific persons may be excluded when necessary to protect witnesses from harm or intimidation. Access may be reduced when no other means is available to relieve a witness' inability to testify due to embarrassment or extreme nervousness. Witnesses will ordinarily be excluded from the courtroom so that they cannot hear the testimony of other witnesses. *See* Mil.R.Evid. 615."

The following Discussion is added to R.C.M. 806(b)(2):

"The military judge is responsible for protecting both the accused's right to, and the public's interest in, a public trial. A court-martial session is "closed" when no member of the public is permitted to attend. A court-martial is not "closed" merely because the exclusion of certain individuals results in there being no spectators present, so long as the exclusion is not so broad as to effectively bar everyone who might attend the sessions and is there for a proper purpose.

A session may be closed over the objection of the accused or the public upon meeting the Constitutional standard set forth in this Rule. *See also* Mil.R.Evid. 412(c), 505(i), and 513(e)(2).

The accused may waive his right to a public trial. The fact that the prosecution and defense jointly seek to have a session closed does not, however, automatically justify closure, for the public has a right in attending courts-martial. Opening trials to public scrutiny reduces the chance of arbitrary and capricious decisions and enhances public confidence in the court-martial process.

The most likely reason for a defense request to close court-martial proceedings is to minimize the potentially adverse effect of publicity on the trial. For example, a pretrial Article 39(a) hearing at which the admissibility of a confession will be litigated may, under some circumstances, be closed, in accordance with this Rule, in order to prevent disclosure to the public (and hence to potential members) of the very evidence that my be excluded. When such publicity may be a problem, a session should be closed only as a last resort.

There are alternative means of protecting the proceedings from harmful effects of publicity, including a thorough *voir dire* (*see* R.C.M. 912), and, if necessary, a continuance to allow the harmful effects of publicity to dissipate (*see* R.C.M. 906(b)(1)). Alternatives that may occasionally be appropriate and are usually preferable to closing a session include: directing members not to read, listen to, or watch any accounts concerning the case; issuing a protective order (*see* R.C.M. 806(d)); selecting members from recent arrivals in the command, or from outside the immediate area (*see* R.C.M. 503(a)(3)); changing the place of trial (*see* R.C.M. 906(b)(11)); or sequestering the members."

Amend the analysis accompanying R.C.M. 806(b) by inserting the following before the Discussion of subsection (c):

"*200 Amendment:* Subsection (b) was divided to separate the provisions addressing control of spectators and closure and to clarity that exclusion of specific individuals is not a closure. The rules for control of spectators now is subsection (b)(1) were amended to require the military judge to articulate certain findings on the record prior to excluding specific spectators. *See United States* v. *Short*, 41 M.J. 42 (1994). The rules on closure now in subsection (b)(2) and the Discussion were amended in light of military case law that has applied the Supreme Court's Constitutional test for closure to courts-martial. *See ABC, Inc. v. Powell*, 47 M.J. 363 (1997); *United States* v. *Hershey*, 20 M.J. 433 (C.M.A. 1985); *United States* v. *Grunden*, 2 M.J. 116 (C.M.A. 1977)."

Amend the Discussion accompanying R.C.M. 916(k)(1) to read as follows:

"*See* R.C.M. 706 concerning sanity inquiries; R.C.M. 909 concerning the capacity of the accused to stand trial; and R.C.M. 1102A concerning any post-trial hearing for an accused found not guilty only by reason of lack of mental responsibility."

Amend the analysis accompanying R.C.M. 916(k)(1) by inserting the following before the Discussion of subsection (2):

"*200 Amendment:* The Discussion to R.C.M. 916(k)(1) was amended to add a cross-reference to R.C.M. 1102A."

Amend R.C.M. 916(k)(2) to read as follows:

"(2) *Partial mental responsibility.* A mental condition not amounting to a lack of mental responsibility under subsection (k)(1) of this rule is not a affirmative defense."

Insert the following discussion to accompany R.C.M. 916(k)(2):

"Discussion. Evidence of a mental condition not amount to a lack of mental responsibility may be admissible as to

whether the accused entertained a state of mind necessary to be proven as an element of the offense. The defense must notify the trial counsel before the beginning of trial on the merits if the defense intends to introduce expert testimony as to the accused's mental condition. *See* R.C.M. 701(b)(2)."

Amend the analysis accompanying R.C.M. 916(k) (2) by inserting the following before the Discussion of subsection (3):

"*200 Amendment:* Subsection (k)(2) was modified to clarify that evidence of an accused's impaired mental state may be admissible. *See United States* v. *Schap*, 49 M.J. 317, 322 (1998); *United States* v. *Berrie*, 33 M.J. 337 (C.M.A. 1991); *Ellis* v. *Jacob*, 26 M.J. 90 (C.M.A. 1988)."

Amend R.C.M. 1103(f)(2) to read as follows:

"(2) Direct a rehearing as to any offense of which the accused was found guilty if the finding is supported by the summary of the evidence contained in the record, provided that the convening authority may not approve any sentence imposed at such a rehearing more severe than or in excess of that adjudged by the earlier court-martial."

Amend the analysis accompanying R.C.M. 1103(f) by inserting the following before the Discussion of subsection (g):

"*200 Amendment:* Subsection (f)(2) was amended to reflect amendments to Article 63, UCMJ, in the National Defense Authorization Act for Fiscal Year 1993, Pub.L.No. 102–484, 106 Stat. 2315, 2506 (1992). The revisions provide that subsection (f)(2) sentencing limitations are properly applicable only to the sentence that may be approved by the convening authority following a rehearing. Subsection (f)(2) as revised does not limit the maximum sentence that may be adjudged at the rehearing. *See United States* v. *Gibson*, 43 M.J. 343, 346 n.3 (1995); *United States* v. *Lawson*, 34 M.J. 38 (CMA. 1992) Cox, J., concurring); *United States* v. *Greaves*, 48 M.J. 885 (A.F.Ct.Crim.App. 1998), *rev. denied*, 51 M.J. 365 (1999)."

Insert the following new subsection (iv) after R.C.M. 1107(3)(1)(B)(iii) to read as follows:

"(iv) *Sentence reassessment.* If a superior authority has approved some of the findings of guilty and has authorized a rehearing as to other offenses and the sentence, the convening authority may, unless otherwise directed, reassess the sentence based on the approved findings of guilty and dismiss the remaining charges. Reassessment is appropriate only where the convening authority determines that the accused's sentence would have been at least of a certain magnitude had the prejudicial error not been committed and the reassessed sentence is appropriate in relation to the affirmed findings of guilty."

Amend the Discussion to R.C.M. 1107(e)(1)(B)(iii) to read as follows:

"A sentence rehearing, rather than a reassessment, may be more appropriate in cases where a significant part of the government's case has been dismissed. The convening authority may not take any actions inconsistent with directives of superior competent authority. Where that directive is unclear, appropriate clarification should be sought from the authority issuing the original directive. "

Amend the analysis accompanying R.C.M. 1107(e)(1) by inserting the following before the Discussion of subsection (2):

"*200 Amendment:* The Discussion to R.C.M. 1107(e)(1)(B)(iii) was moved to new subsection (1)(B)(iv) to expressly recognize that, in cases where a superior authority has approved some findings of guilty and has authorized a rehearing as to other offenses, the convening authority may, unless otherwise directed, reassess a sentence based on approved findings of guilty under the criteria established by *United States* v. *Sales*, 22 M.J. 305 (C.M.A. 1986), and dismiss the remaining charges. *See United Stats* v. *Harris*, 53 M.J. 86 (2000). The power of convening authorities to reassess had been expressly authorized in paragraph 92*a* of MCM, 1969. The authorizing language was moved to the Discussion following R.C.M. 1107(e)(1)(B)(iii) in MCM, 1984. The Discussion was amended to advise practitioners to apply the criteria for sentence reassessment established by *United States* v. *Sales*, 22 M.J. 305 (C.M.A. 1986). *See also United States* v. *Harris*, 53 MJ. 86 (2000); *United States* v. *Eversole*, 53 M.J. 132 (2000). The Discussion was further amended to encourage practitioners to seek clarification from superior authority where the directive to the convening authority is unclear."

Amend R.C.M. 1108(b) to read as follows:

"(b) *Who may suspend and remit.* The convening authority may, after approving the sentence, suspend the execution of all or any part of the sentence of a court-martial, except for a sentence of death. The general court-martial convening authority over the accused at the time of the court-martial may, when taking the action under R.C.M. 1112(f), suspend or remit any part of the sentence. The Secretary concerned and, when designated by the Secretary concerned, any Under Secretary, Assistant Secretary, Judge Advocate General, or commanding officer may suspend or remit any part or amount of the unexecuted part of any sentence other than a sentence approved by the President or a sentence of confinement for life without eligibility for parole that has been ordered executed. The Secretary concerned may, however, suspend or remit the unexecuted part of a sentence of confinement for life without eligibility for parole only after the service of a period of confinement of not less than 20 years. The commander of the accused who has the authority to convene a court-martial of the kind which adjudged the sentence may suspend or remit any part of amount of the unexecuted part of any sentence by summary court-martial or of any sentence by special court-martial which does not include a bad-conduct discharge regardless of whether the person acting has previously approved the sentence. The "unexecuted part of any sentence" includes that part which has been approved and ordered executed but which has not actually been carried out."

Amend the analysis accompanying R.C.M. 1108 by inserting the following at the end thereof:

"*200 Amendment:* Subsection (b) was amended to conform to the limitations on Secretarial authority to grant clemency for military prisoners serving a sentence of confinement for life without eligibility for parole contained in section 553 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106–398, 114 Stat. 1654, Oct 30, 2000."

Amend R.C.M. 1305(c) to read as follows:

"(c) *Authentication.* The summary court-martial shall authenticate the record by signing the original record of trial."

Amend the analysis accompanying R.C.M. 1305(c) by inserting the following prior to the Discussion of subsection (d):

"*200 Amendment:* This subsection was amended to require that summary courts-martial authenticate the original record of trial, as is currently the procedure for special and general courts-martial."

Amend R.C.M. 1306(b)(1) to read as follows:

"(1) *Who shall act.* Except as provided herein, the convening authority shall take action in accordance with R.C.M. 1107. The convening authority shall not take action before the period prescribed in R.C.M. 1105(c)(2) has expired, unless the right to submit matters has been waived under R.C.M. 1105(d)."

Amend the analysis accompanying R.C.M. 1306(b) by inserting the following prior to the discussion of subsection (c):

"*200 Amendment:* The cross-reference to subsection R.C.M. 1105(c)(3) is amended to R.C.M. 1105(c)(2) to conform to the 1987 Change 3 amendment that re-designated R.C.M. 1105(c)(3) as R.C.M. 1105(c)(2)."

Amend Mil.R.Evid. 103(a0(2) to read as follows:

"(2) *Offer of proof.* In case the ruling is one excluding evidence, the substance of the evidence was made known to the military judge by offer or was apparent from the context within which questions were asked. Once the military judge makes a definitive ruling on the record admitting or excluding evidence, either at or before trial, a party need not renew an objection or offer of proof to preserve a claim of error for appeal. The standard provided in this subdivision does not apply to errors involving requirements imposed by the Constitution of the United States as applied to members of the armed forces except insofar as the error arises under these rules and this subdivision provides a standard that is more advantageous to the accused than the constitutional standard."

Amend the analysis accompanying Mil.R.Evid. 103(a) by inserting the following prior to the Discussion of subsection (b):

"*200 Amendment:* Subdivision (a)(2) was modified based on the amendment to Fed.R.Evid. 103(a)(2), effective 1 December 2000, and is virtually identical to its Federal Rule counterpart. It is intended to provide that where an advance ruling is definitive, a party need not renew an objection or offer of proof at trial, otherwise renewal is required."

Amend Mil.R.Evid. 404(a) to read as follows:

"(a) *Character evidence generally.* Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except:

(1) *Character of accused.* Evidence of a pertinent trait of character offered by an accused, or by the prosecution to rebut the

same, or if evidence of a pertinent trait of character of the alleged victim of the crime is offered by an accused and admitted under Mil.R.Evid. 404(a)(2), evidence of the same trait of character, if relevant, or the accused offered by the prosecution;

(2) *Character of alleged victim.* Evidence of a pertinent trait of character of the alleged victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the alleged victim offered by the prosecution in a homicide or assault case to rebut evidence that the alleged victim was an aggressor;

(3) *Character of witness.* Evidence of the character of a witness, as provided in Mil.R.Evid. 607, 608, and 609."

Amend the analysis accompanying Mil.R.Evid. 404(a) by inserting the following prior to the Discussion of subsection (b):

"*200 Amendment:* Subdivision (a) was modified based on the amendment to Fed.R.Evid. 404(a), effective 1 December 2000, and is virtually identical to its Federal Rule counterpart. It is intended to provide a more balanced presentation of character evidence when an accused attacks the victim's character. The accused opens the door to an attack on the same trait of his own character when he attacks an alleged victim's character, giving the members an opportunity to consider relevant evidence about the accused's propensity to act in a certain manner. The words "if relevant" are added to subdivision (a)(1) to clarify that evidence of an accused's character under this rule must meet the requirements of Mil.R.Evid. 401 and Mil.R.Evid. 403. The drafters believe this addition addresses the unique use of character evidence in courts-martial. The amendment does not permit proof of the accused's character when the accused attacks the alleged victim's character as a witness under Rule 608 or 609, nor does it affect the standards for proof of character by evidence of other sexual behavior or sexual offenses under Rules 412–415."

Amend Mil.R.Evid. 701 to read as follows:

"If the witness if not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness, (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) not based in scientific, technical, or other specialized knowledge within the scope of Rule 702."

Amend the analysis accompanying Mil.R.Evid. 701 by inserting the following at the end thereof:

"200 *Amendment:* Rule 701 was modified based on the amendment to Fed.R.Evid. 701, effective 1 December 2000, and is taken from the Federal Rule without change. It prevents parties from proferring an expert as a lay witness in an attempt to evade the gatekeeper and reliability requirements of Rule 702 by providing that testimony cannot qualify under Rule 701 if it is based on "scientific, technical or other special knowledge with the scope of Rule 702.""

Amend Mil.R.Evid. 702 to read as follows:

"If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case."

amend the analysis accompanying Mil.R.Evid. 702 by inserting the following at the end thereof:

"*200 Amendment:* Rule 702 was modified based on the amendment to Fed.R.Evid. 702, effective 1 December 2000, and is taken from the Federal Rule without change. It provides guidance for courts and parties as to the factors to consider in determining whether an expert's testimony is reliable in light of *Daubert* v. *Merrell Dow Pharmaceuticals, Inc.* 509 U.S. 579 (1993) and *Kumho Tire Co.* v. *Carmichael,* 526 U.S. 137 (1999) (holding that gatekeeper function applies to all expert testimony, not just testimony based on science)."

Amend Mil.R.Evid. 703 to read as follows:

"The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert, at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence in order for the opinion or inference to be admitted. Facts or data that are otherwise inadmissible shall not be disclosed to the members by the proponent of the opinion or inference unless the military judge determines that their probative value in assisting the members to evaluate the expert's opinion substantially outweighs their prejudicial effect."

Amend the analysis accompanying Mil.R.Evid. 703 by inserting the following at the end thereof:

"*200 Amendment:* Rule 703 was modified based on the amendment to Fed.R.Evid. 703, effective 1 December 2000, and is virtually identical to its Federal Rule counterpart. It limits the disclosure to the members of inadmissible information that is used as the basis of an expert's opinion. *Compare* Mil.R.Evid. 705."

Amend Mil.R.Evid. 803(6) to read as follows:

"*Records of regularly conducted activity.* A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, or by certification that complies with Mil.R.Evid. 902(11) or any other statute permitting certification in a criminal proceeding in a court of the United States, unless the source of the information or the method or circumstances of preparation indicate a lack of trust worthiness. The term "business" as used in this paragraph includes the armed forces, a business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit. Among those memoranda, reports, records, or data compilations normally admissible pursuant to this paragraph are enlistment papers, physical examination papers, outline-figure and fingerprint cards, forensic laboratory reports, chain of custody documents, morning reports and other personnel accountability documents, service records, officer and enlisted qualification records, logs, unit personnel diaries, individual equipment records, daily strength records of prisoners, and rosters of prisoners."

Amend the analysis accompanying Mil.R.Evid. 803(6) by inserting the following prior to the Discussion of subsection (7):

"*200 Amendment:* Rule 803(6) was modified based on the amendment to Fed.R.Evid. 803(6), effective 1 December 2000. It permits a foundation for business records to be made through certification to save the parties the expense and inconvenience or producing live witnesses for what is often perfunctory testimony. The Rule incorporates federal statutes that allow certification in a criminal proceeding in a court of the United States. (*See, E.g.,* 18 U.S.C. Section 3505, Foreign records of regularly conducted activity.) The Rule does not include foreign records of regularly conducted business activity in civil cases as provided in its Federal Rule counterpart. This Rule works together with Mil.R.Evid. 902(11)."

Insert Mil.R.Evid. 902(11) to read as follows:

"(11) *Certified domestic records of regularly conducted activity.* The original or a duplicate of a domestic record of regularly conducted activity that would be admissible under Mil.R.Evid. 803(6) if accompanied by a written declaration of its custodian or other qualified person, in a manner complying with any Act of Congress or rule prescribed by the Supreme Court pursuant to statutory authority, certifying that the record:

(A) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;

(B) was kept in the course of the regularly conducted activity; and

(C) was made by the regularly conducted activity as a regular practice.

A party intending to offer a record into evidence under this paragraph must provide written notice of that intention to all adverse parties, and must make the record and declaration available for inspection sufficiently in advance of their offer into evidence to provide an adverse party with a fair opportunity to challenge them."

Insert the following new analysis accompanying Mil.R.Evid. 902(11) after the Discussion of subsection (10):

"*200 Amendment:* Rule 902(11) was modified based on the amendment to Fed.R.Evid. 902(11), effective 1 December 2000, and is taken from Federal Rule without change. It provides for self-authentication of domestic business records and sets forth procedures for preparing a declaration of a custodian or other qualified witness that will

establish a sufficient foundation for the admissibility of domestic business records. This Rule works together with Mil.R.Evid. 803(6)."

The amendment to the Federal Rules of Evidence, effective in United States District Courts, 1 December 2000, creating Rule 901(12) is not adopted.

Amend the analysis accompanying Nil.R.Evid. 1102 by inserting the following at the end thereof:

"*200 Amendment:* The amendment to the Federal Rules of Evidence, effective in United States District Courts, 1 December 2000, creating Rule 902(12) is not adopted. Federal Rules 301, 302, and 415, were not adopted because they were applicable only to civil proceedings."

Amend Part IV, para. 45(b)(2) by deleting para. 45(b)(2)(C) and inserting the following after para. 45(b)(2)(b):

"(Note: Add one of the following elements)

(c) That at the time of the sexual intercourse the person was under the age of 12.

(d) That at the time of the sexual intercourse the person had attained the age of 12 but was under the age of 16."

Amend the analysis accompanying Part IV, para. 45(b) by inserting the following prior to the Discussion of subsection (c):

"b. *Elements.*

200 Amendment: Paragraph 45(b)(2) was amended to add two distinct elements of age based upon the 1994 amendment to paragraph 45(e). *See also* concurrent change to R.C.M. 307(c)(3) and accompanying analysis."

Amend Part IV, para. 45(f) to read as follows:

"f. *Sample specifications.*

(1) *Rape.*

In that _____(personal jurisdiction data), did (at/on board—location) (subject-matter jurisdiction data, if required), on or about ___20__, rape _____, (a person under the age of 12) (a person who had attained the age of 12 but was under the age of 16).

(2) *Carnal Knowledge.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about ____ 20__, commit the offense of carnal knowledge with _____, (a person under the age of 12) (a person who attained the age of 12 but was under the age of 16)."

Amend the analysis accompanying Part IV, para. 45(f) by inserting the following at the end of subsection (e):

"*200 Amendment:* Paragraph 45(f)(2) was amended to aid practitioners in charging the two distinct categories of carnal knowledge created in 1994. For the same reason paragraph 45(f)(1) was amended to allow for contingencies of proof because carnal knowledge is a lesser-included offense of rape if properly pleaded. *See also* concurrent change to R.C.M. 307(c)(3) and accompanying analysis."

Amend part IV, para. 51(b) to read as follows:

"(1) That the accused engaged in unnatural carnal copulation with a certain other person or with an animal.

(Note: Add any of the following as applicable)

(2) That the act was done with a child under the age of 12.

(3) That the act was done with a child who had attained the age of 12 but was under the age of 16.

(4) That the act was done by force and without the consent of the other person."

Amend the analysis accompanying Part IV, para. 51(b) by inserting the following prior to the Discussion of subsection (c):

"b. *Elements.*

200 Amendment. Paragraph 51(b) was amended by adding two factors pertaining to age based upon the 1994 amendment to paragraph 51(e) that created two distinct categories of sodomy involving a child. *See also* concurrent change to R.C.M. 307(c)(3) and accompanying analysis."

Amend Part IV, para. 51(f) to read as follows:

"f. *Sample specification.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required, on or about ____20__, commit sodomy with _____, (a child under the age of 12) (a child who had attained the age of 12 but was under the age of 16) (by force and without the consent of the said_____)."

Amend the analysis accompanying Part IV, para. 51(f) by inserting the following at the end of subsection (e):

"*200 Amendment:* Paragraph 51(f) was amended to aid practitioners in charging the two distinct categories of sodomy involving a child created in 1994. *See also* concurrent change to R.C.M. 307(c)(3) and accompany8ing analysis."

Amend Part IV, para. 57(c) (2) (B) to read as follows:

"(b) *Material matter.* The false testimony must be with respect to a material matter, but that matter need not be the main issue in the case. Thus, perjury may be committed by giving false testimony with respect to the credibility of a material witness or in an affidavit in support of a request for a continuance, as well as by giving false testimony with respect to a fact which a legitimate inference may be drawn as to the existence or nonexistence of a fact in issue."

Amend the analysis accompanying Part IV, para 57(c) (2) (B) by inserting the following before the Discussion of subsection (d):

"*200 Amendment:* Subsection (2)(b) was amended to comply with *United States* v. *Gaudin*, 515 U.S. 506 (1995), which held that when materiality is a statutory element of an offense, it must be submitted to the jury for decision. Materiality cannot be removed from the members' consideration by an interlocutory ruling that a statement is material. *See also Gaudin* at 521 ("It is commonplace for the same mixed question of law and fact to be assigned to the court for one purpose, and to the jury for another."); and at 517 ("The prosecution's failure to provide minimal evidence of any other element, of course raises a question of 'law' that warrants dismissal.")."

Amend Part IV, para. 100a(c)(1) to read as follows:

"(1) *In general.* This offense is intended to prohibit and therefore deter reckless or wanton conduct that wrongfully creates a substantial risk of death or grievous bodily harm to others."

Amend Part IV, para. 100a(f) to read as follows:

"f. *Sample specification.*

In that _____(personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about ____ 20 __, wrongfully and (recklessly) (wantonly) engage in conduct, to wit: (describe conduct), conduct likely to cause death or grievous bodily harm to _____."

Amend the analysis accompanying Part IV, para. 100a by inserting the following at the end thereof:

"*200 Amendment:* The sample specification was amended to add the word "wantonly" to make the sample specification consistent with the elements. The phrase "serious bodily harm" has been changed to read "grievous bodily harm" in the sample specification to parallel the language in the elements. Similarly, in the *Explanation*, the phrase "serious injury" was modified to read "grievous bodily harm." The format of the sample specification was also modified to follow the format of other sample specification in the MCM."

Insert DoD Directive 5500.17, "The Roles and Responsibilities of the Joint Service Committee (JSC) on Military Justice" as Appendix 26.

Dated: November 28, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–29922 Filed 12–3–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend and delete systems of records.

SUMMARY: The Department of the Army is proposing to consolidate two existing Privacy Act systems of records its inventory of systems of records subject to the Privacy Act of 1974. The records systems are A0600 ARPC, Career Management Files of Dual Component Personnel and A0600–8–104g TAPC, Career Management Individual Files. As a result of the consolidation, A0600 ARPC will be deleted.

DATES: This proposed action will be effective without further notice on January 3, 2002, unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: November 28, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletion

A0600 ARPC

SYSTEM NAME:

Career Management Files of Dual Component Personnel (December 23, 1997, 62 FR 67055).

REASON:

Records are now being maintained under the Department of the Army system of records notice A0600–8–104g TAPC, entitled 'Career Management Individual and Dual Component Personnel Files'.

AMENDMENT
A0600–8–104g TAPC

SYSTEM NAME:

Career Management Individual Files (March 23, 1999, 64 FR 13972).

CHANGES:

* * * * *

SYSTEM NAME:

Add to entry 'Dual Component Personnel Files'.

SYSTEM LOCATION:

Add a new address to entry 'Dual Component Personnel files are located at the U.S. Army Reserve Personnel Command, 1 Reserve Way, St. Louis, MO 63132–5200."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add a new paragraph 'Any reserve or warrant officer on active duty as a regular Army enlisted; any reserve officer on active duty as a regular Army warrant officer. All reserve officers, warrant officers, and enlisted members."

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to beginning of paragraph 'Name, rank, Social Security Number, basic entry date, promotion eligibility date to the beginning of paragraph'. Add 'academic reports; qualification records' after efficiency reports. Add 'mandatory removal date'' after development actions. Add 'general orders concerning'' after classification data. Add 'records and reports' after similar documents.

* * * * *

PURPOSE(S):

Add to entry 'when they will be considered for promotion; military education that needs to be completed for eligibility' after Army career in first sentence. Add to end of entry 'Specific only to Dual Component Members: To make determinations if officer should be removed for substandard performance of duty; to advise of eligibility for retirement as either an officer of enlisted person and to apprise individuals of changes in the reserve program affecting them.'

* * * * *

SAFEGUARDS:

Delete entry and replace with 'Records are restricted to officially designated individuals in the performance of their assigned duties. Automated data are stored in vaults in secure buildings.'

* * * * *

RECORD SOURCE CATEGORIES:

Add to entry 'Army records, reports' after individual.

* * * * *

A0600–8–104g TAPC

SYSTEM NAME:

Career Management Individual and Dual Component Personnel Files.

SYSTEM LOCATION:

U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0474. Decentralized segments exist at the General Officer Management Office, Judge Advocate General's Office, the Chief of Chaplains Office, and the Medical Service Corps. Official mailing addresses may be obtained from U.S. Total Army Personnel Command.

Dual Component Personnel files are located at the U.S. Army Reserve Personnel Command, 1 Reserve Way, St. Louis, MO 63132–5200.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active Army members in enlisted grades E–5 through E–9, all warrant and commission officers.

Any reserve or warrant officer on active duty as a regular Army enlisted; any reserve officer on active duty as a regular Army warrant officer. All reserve officers, warrant officers, and enlisted members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, rank, Social Security Number, basic entry date, promotion eligibility date; orders; record briefs; statements of preference; school credit papers; transcripts; details; career personnel actions; correspondence from individual concerned; original copy of efficiency report; academic reports; qualification records; appeal actions; assignment memoranda and requests for orders; memoranda concerning professional development actions; mandatory removal date; classification data; general orders concerning service awards; service agreements; variable incentive pay data; memoranda of interviews; assignment applications; resumes of qualifications, personal background and experience supporting service member's desires, nominative action by career managers; academic reports; copies of admonition/reprimands imposed under Article 15, UCMJ, letters of appreciation/commendation/recommendation; reports/letters from accredited educational and training organizations; and similar documents, records and reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 600–39, Dual Component Personnel Management Program; Army Regulation 600–8–104, Military Personnel Information Management/Records; and E.O. 9397 (SSN).

PURPOSE(S):

To manage member's Army career, when they will be considered for promotion; military education that needs to be completed for eligibility, including assignments, counseling, and monitoring professional development.

Specific only to Dual Component members: To make determinations if officer should be removed for substandard performance of duty; to advise of eligibility for retirement as either an officer of enlisted person and to apprise individuals of changes in the reserve program affecting them.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on magnetic tapes and electronic storage media.

RETRIEVABILITY:

By individual's surname and/or Social Security Number.

SAFEGUARDS:

Records are restricted to officially designated individuals in the performance of their assigned duties. Automated data are stored in vaults in secure buildings.

RETENTION AND DISPOSAL:

Career branch individual files disposition pending until National Archives and Records Administration is approved, treat as permanent.

Reserve officer career management files are forwarded with the individual's personnel file when transferred to Army Reserve, entry to active duty National Guard, Standby or Retired Reserve, however, upon final separation the records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0474.

Commander, U.S. Army Reserve Personnel Command, 1 Reserve Way, St. Louis, MO 63132–5200 for Dual Component individuals.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the following:

For information concerning general officers: General Officer Management Office, 200 Army Pentagon, ATTN: Chief of Staff, Washington, DC 20310–0200.

For information concerning chaplains: Chief of Chaplains, 200 Army Pentagon, Room 1E417, Washington, DC 20310–0200.

For information concerning officers of The Judge Advocate General Corps: The Judge Advocate General, 200 Army Pentagon, Washington, DC 20310–0200.

For information pertaining to all other soldiers: Commander, U.S. Total Army Personnel, 200 Stovall Street, Alexandria, VA 22332–0474. Individuals should designate Officer or Enlisted status.

For information concerning dual component personnel: Commander, U.S. Army Reserve Personnel Command, 1 Reserve Way, St. Louis, MO 63132–5200.

Individual should provide the full name, Social Security Number, service identification number, military occupational specialty, military status, current home address and telephone number, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the following:

For information concerning general officers: General Officer Management Office, 200 Army Pentagon, ATTN: Chief of Staff, Washington, DC 20310–0200.

For information concerning chaplains: Chief of Chaplains, 200 Army Pentagon, Room 1E417, Washington, DC 20310–0200.

For information concerning officers of The Judge Advocate General Corps: The Judge Advocate General, 200 Army Pentagon, Washington, DC 20310–0200.

For information pertaining to all other soldiers: Commander, U.S. Total Army Personnel, 200 Stovall Street, Alexandria, VA 22332–0474. Individuals should designate Officer or Enlisted status.

For information concerning dual component personnel: Commander, U.S. Army Reserve Personnel Command, 1 Reserve Way, St. Louis, MO 63132–5200

Individual should provide the full name, Social Security Number, service identification number, military occupational specialty, military status, current home address and telephone number, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; Army records; reports; enlistment, appointment, or commission related forms pertaining to the service member having a current active duty status; academic, training, and qualifications records acquired incident to military service; correspondence, forms, documents and other related papers originating in or collected by the military department for management purposes.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–29920 Filed 12–3–01; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend Systems of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on January 3, 2002 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: November 28, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0601–141 DASG

SYSTEM NAME:

Army Medical Procurement Applicant Files (December 23, 1997, 62 FR 67055).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Applications for Appointment to Army Medical Department'.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Potential healthcare professional applicants, to include civilian, active duty and reserve duty personnel, applying for appointment in the U.S. Army and the U.S. Army Reserve with or without concurrent call to active duty.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Health Care Recruiter interview, resume, Curriculum Vitae, autobiography, letters of recommendation, selection/non-selection letters, Special Orders, correspondence to, from, and about applicant; Selection Board/Committee results, Statement of Interests, Objectives and Motivation, Letter of Appointment, service agreement, Application for Appointment, oath of office, professional degrees, license certifications, quality assurance documents, prior service records, physical examination, National Practitioner, and birth certificate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3013, Secretary of the Army; Army Regulation 601–100, Appointment of Commissioned and Warrant Officers in the Regular Army; and E.O. 9397 (SSN).'

PURPOSE(S):

Delete entry and replace with 'To evaluate and applicant's acceptability and potential for appointment in the U.S. Army Reserve of the Army Medical Department; to evaluate qualifications for assignment to various career areas; to determine educational and experience background for award of constructive service credit; to determine dates of service and seniority to document service agreement with the U.S. Army; to provide, statistical information for effective management of the Army Medical Department Recruiting Program.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records of selected applicants are held for 1 year before being destroyed by shredding; those for applicants not selected are held 1 year and then destroyed.'

* * * * *

A0601–141 DASG

SYSTEM NAME:

Applications for Appointment to Army Medical Department.

SYSTEM LOCATION:

Primary location: Commander, U.S. Army Recruiting Command, Health Services Directorate, Fort Knox, KY 40121–2726.

SECONDARY LOCATIONS:

Army Medical Department Health Care Recruiting Teams/Stations. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Potential healthcare professional applicants, to include civilian, active duty and reserve duty personnel, applying for appointment in the U.S. Army and the U.S. Army Reserve with or without concurrent call to active duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Health Care Recruiter interview, resume, Curriculum Vitae, autobiography, letters of recommendation, selection/non-selection letters, Special Orders, correspondence to, from, and about applicant; Selection Board/Committee results, Statement of Interests, Objectives and Motivation, Letter of Appointment, service agreement, Application for Appointment, oath of office, professional degrees, license certifications, quality assurance documents, prior service records, physical examination, National Practitioner, and birth certificate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 601–100, Appointment of Commissioned and Warrant Officers in the Regular Army; and E.O. 9397 (SSN).

PURPOSE(S):

To evaluate and applicant's acceptability and potential for appointment in the U.S. Army Reserve of the Army Medical Department; to evaluate qualifications for assignment to various career areas; to determine educational and experience background for award of constructive service credit; to determine dates of service and seniority to document service agreement with the U.S. Army; to provide, statistical information for effective management of the Army Medical Department Recruiting Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By applicant's name.

SAFEGUARDS:

Records are restricted to designated officials having a need-to-know in the performance of official duties.

RETENTION AND DISPOSAL:

Records of selected applicants are held for 1 year before being destroyed by shredding; those for applicants not selected are held 1 year and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Recruiting Command, Health Services Directorate, Fort Knox, KY 40121–2726.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Commander, U.S. Army Recruiting Command, Health Services Directorate, Fort Knox, KY 40121–2726.

For verification purposes, the individual should provide full names, Social Security Number, sufficient details to permit locating pertinent records, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this

record system should address written inquiries to the Commander, U.S. Army Recruiting Command, Health Services Directorate, Fort Knox, KY 40121–2726.

For verification purposes, the individual should provide full name, Social Security Number, sufficient details to permit locating pertinent records, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; academic transcripts; faculty evaluations; employer evaluations; military supervisor evaluations; American Testing Program; Educational Testing Service; selection board/committee records; prior military service records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. 01–29921 Filed 12–3–01; 8:45 am]

BILLING CODE 3001–08–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 4, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: November 28, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Student Financial Assistance

Type of Review: Extension.

Title: Student Assistance General Provisions—Subpart I—Immigration Status Confirmation.

Frequency: On Occasion.

Affected Public: Individuals or households; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 7,310.

Burden Hours: 23,209.

Abstract: Collection of this information, used for immigration status confirmation, reduces the potential of fraud and abuse caused by ineligible aliens receiving Federally subsidized student finanicial assistance under Title IV of the Higher Education Act (HEA) of 1965, as amended. The respondent population is comprised of 7,310 postsecondary institutions who participate in administration of the Title IV, HEA programs.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address *Joe.Schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–29928 Filed 12–03–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 4, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by

office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: November 28, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.

Title: An Assessment of the Rehabilitation Services Administration (RSA) Pre-Service Training Program.

Frequency: One Time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 2,878.

Burden Hours: 885.

Abstract: The study assesses the impact of RSA's Pre-Service Training Program on the supply of qualified Rehabilitation Counselors needed by state agencies and identifies possible policy options. The study will administer surveys to state vocational rehabilitation agency personnel including Human Resource Development coordinators, supervisors, and counselors, and university-based training programs and former students who received grants from RSA.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at (202) 708–5359 or via her internet address *Jackie.Montague@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–29929 Filed 12–03–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.250C]

Vocational Rehabilitation Service Projects for American Indians With Disabilities; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: To provide vocational rehabilitation services to American Indians with disabilities who reside on or near Federal or State reservations, consistent with their individual strengths, resources, priorities, concerns, abilities, capabilities, and informed choices, so that they may prepare for and engage in gainful employment, including self-employment, telecommuting, or business ownership.

Eligible Applicants: Applications may be submitted only by the governing bodies of Indian tribes (and consortia of those governing bodies) located on Federal or State reservations.

Applications Available: December 14, 2001.

Deadline for Transmittal of Applications: June 17, 2002.

Estimated Available Funds: $1,900,000.

The Administration has requested $25,998,000 for this program for FY 2002. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process before the end of the fiscal year, if Congress appropriates funds for this program.

Estimated Range of Awards: $300,000–$400,000.

Estimated Average Size of Awards: $350,000.

Estimated Number of Awards: 5–6.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 80, 81, and 82; and (b) The regulations for this program in 34 CFR part 371.

Priorities: We give preference to applications that meet the following competitive priorities.

Competitive Preference Priority 1—Continuation of Previously Funded Tribal Programs

Under section 121(b)(4) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 741), we give preference to applications that meet the following competitive priority (*see* 34 CFR 75.105(b)(2)(iv)).

In making new awards under this program, we give priority consideration to applications for the continuation of tribal programs that have been funded under this program.

Under 34 CFR 75.105(c)(2)(i) we award an additional 10 points to an application that meets this competitive priority. These points are in addition to any points the application earns under the selection criteria.

Competitive Preference Priority 2—Employing and Advancing in Employment Qualified Individuals With Disabilities

We give preference to applications that meet the competitive preference priority in the notice of final competitive preference for this program, published in the **Federal Register** on November 22, 2000 (65 FR 70408).

Under 34 CFR 75.105(c)(2)(i) we award up to an additional 10 points to an application, depending on the extent to which the application includes effective strategies for employing and advancing in employment qualified individuals with disabilities as project employees in projects awarded under this program. In determining the effectiveness of those strategies, we will consider the applicant's prior success, as described in the application, in employing and advancing in employment qualified individuals with disabilities. These points are in addition to any points the application earns under the selection criteria.

Selection Criteria: In evaluating an application for a new grant under this competition, we use selection criteria chosen from the general selection criteria in 34 CFR 75.210 of EDGAR. The selection criteria to be used for this competition will be provided in the application package for this competition.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its web site: *http://www.ed.gov/pubs/edpubs.html*

Or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.250C.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8207. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Pamela Martin or Suzanne Tillman, U.S. Department of Education, 400 Maryland Avenue, SW., room 3314, Switzer Building, Washington, DC 20202–2650. Telephone: for Pamela Martin (202) 205–8494; for Suzanne Tillman (202) 205–8303. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 29 U.S.C. 773(b).

Dated: November 29, 2001.

Robert H. Pasternack,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 01–30026 Filed 12–3–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–3013–001 and ER01–889–009]

California Independent System Operator Corporation; Notice of Filing

November 27, 2001.

Take notice that on November 21, 2001, the California Independent System Operator Corporation (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Compliance filing in the above-captioned proceedings.

Copies of the filing were served upon the individuals listed on the service lists in Docket Nos. ER01–3013 and ER01–889.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 12, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–29973 Filed 12–3–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–27–000]

LG&E Power Inc., American Power, Incorporated, and Progress Ventures, Inc.; Notice of Filing

November 21, 2001.

Take notice that on November 19, 2001, LG&E Power Inc., American Power, Incorporated and Progress Ventures, Inc., (collectively, the Applicants) filed an application pursuant to section 203 of the Federal Power Act for authorization for LG&E Power Inc."s and American Power, Incorporated's (collectively, the Sellers) sale to Progress Ventures, Inc. (the Buyer) of certain jurisdictional facilities associated with Sellers' sale to Buyer of the limited liability company membership interests of LG&E Power Monroe LLC.

The Applicant states that copies of this application were served on the Georgia Public Service Commission, North Carolina Utilities Commission, South Carolina Public Service Commission and the Florida Public Service Commission.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before January 18, 2002. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29972 Filed 12–3–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–460–001]

Total Peaking Services, LLC; Notice of Compliance Filing

November 28, 2001.

Take notice that on November 21, 2001, Total Peaking Services, L.L.C. submitted revised tariff sheets in response to the Commission's June 4, 2001 Order on Order No. 637 Compliance Filing: The June 4 Order held that Total Peaking was in compliance with Order No. 637 and required Total Peaking to file actual tariff sheets in place of the *pro forma* sheets previously submitted. The tariff sheets submitted in response to the Commission's Order are as follows:

Revised Sheet No. 65
Revised Sheet No. 67
Revised Sheet No. 82
Revised Sheet No. 86
Revised Sheet No. 97
Revised Sheet No. 98

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29977 Filed 12–3–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR02–5–000]

Transok, LLC; Notice of Petition for Rate Approval

November 28, 2001.

Take notice that on November 15, 2001, Transok, LLC (Transok) submitted for filing a revised fuel factor for its Palo Duro System for Fuel Year 2002 as calculated under the terms of Transok's filed fuel tracker. Transok seeks an effective date of January 1, 2002.

Transok states that it is serving notice of the filing and the revised fuel percentage on all current shippers and on the Oklahoma Corporation Commission.

Pursuant to section 284.123(b)(2), if the Commission does not act within 150 days of the filing date, these rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for providing similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford interested parties an opportunity for written comments and for the oral presentations of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All motions must be filed with the Secretary of the Commission on or before December 14, 2001. This petition for rate approval is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29976 Filed 12–3–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–1520–004, et al.]

CP&L Holdings, Inc., et al.; Electric Rate and Corporate Regulation Filings

November 27, 2001.

Take notice that the following filings have been made with the Commission:

1. CP&L Holdings, Inc., et al.

[Docket Nos. ER00–1520–004, ER01–2966–000 and ER01–2966–002]

Take notice that on November 20, 2001, Progress Energy, Inc. (Progress Energy), on behalf of Carolina Power & Light Company (CP&L) and Florida Power Corporation (FPC), tendered for filing a revised rate schedule sheet (Revised Sheet) from Progress Energy's First Revised Rate Schedule FERC No. 1—System Integration Agreement (SIA) between CP&L and FPC in compliance with the Commission's Order issued in these dockets on November 7, 2001.

Progress Energy respectfully requests that the Revised Sheet become effective August 24, 2001.

Copies of the filing were served upon the Commission's official service list and the North Carolina Utilities Commission, the South Carolina Public Service Commission and the Florida Public Service Commission.

Comment date: December 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. American Electric Power Service Corporation

[Docket No. ER01–2163–002]

Take notice that on November 20, 2001, American Electric Power Service Corporation tendered for filing with the Federal Energy Regulatory Commission (Commission) a refund report in compliance with the Commission's July 26, 2001 Order, 96 FERC ¶ 61,136.

Comment date: December 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Tenaska Georgia Partners, L.P.

[Docket No. ER01–2728–001]

Take notice that on November 21, 2001, Tenaska Georgia Partners, L.P. (Tenaska Georgia) tendered for filing a Refund Report detailing the calculation of the refunds provided by Tenaska Georgia to Exelon Power Team, formerly known as PECO Energy Company (Exelon), on October 26, 2001, for revenues collected under a Power Purchase Agreement between Tenaska Georgia and Exelon dated August 24,

1999, for the period the rate was charged Exelon without Commission authorization.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Avista Corporation

[Docket No. ER02–376–000]

Take notice that on November 20, 2001, Avista Corporation (Avista) tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to 18 CFR 36.13, an executed Revised Generation Interconnection Agreement between Avista and Plummer Forest Products.

On August 28, 2001 in Docket No. ER01–2512–000, the Commission accepted for filing an interconnection agreement between Avista and Plummer Forest Products to become effective on April 30, 2001. Subsequently, Plummer Forest Products replaced its diesel generators with wood-fired steam generators. The revisions to the IA submitted in this filing consist of revisions to Exhibit J, the description of generation facilities to conform the change in facilities.

Avista is requesting an effective date of August 27, 2001.

Comment date: December 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. American Electric Power Service Corporation

[Docket No. ER02–377–000]

Take notice that on November 20, 2001, American Electric Power Service Corporation tendered for filing an executed Letter Agreement between Indiana Michigan Power Company and Indeck-Niles, LLC.

AEP requests an effective date of January 19, 2002.

Copies of Indiana Michigan Power Company's filing have been served upon the Indiana Utility Regulatory Commission and Michigan Public Service Commission.

Comment date: December 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. American Electric Power Service Corporation

[Docket No. ER02–378–000]

Take notice that on November 20, 2001, the American Electric Power Service Corporation (AEPSC) tendered for filing an executed Interconnection Agreement between Central Power and Light Company and BP Chemical Inc. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Second Revised Volume No. 6, effective June 15, 2000.

AEP requests an effective date of January 19, 2002.

Copies of this filing has been served upon BP Chemical Inc. and the Public Utility Commission of Texas.

Comment date: December 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Western Resources, Inc.

[Docket No. ER02–379–000]

Take notice that on November 20, 2001, Western Resources, Inc.'s (WR's) filed a Notice of Termination of its Market Based Rate Tariff Agreement with the Allegheny Energy Service Corporation, American Electric Power Service Corp., Arizona Public Service Company, Coral Power L.L.C., Engage Energy US, L.P., Otter Tail Power Company, Rainbow Energy Marketing Corporation, and The Board of Municipal Utilities of Sikeston, Missouri.

WR requests that the termination be made effective on November 19, 2001.

Notice of the proposed termination has been served upon Allegheny Energy Service Corporation, American Electric Power Service Corp., Arizona Public Service Company, Coral Power L.L.C., Engage Energy US, L.P., Otter Tail Power Company, Rainbow Energy Marketing Corporation, and The Board of Municipal Utilities of Sikeston, Missouri, and the Kansas Corporation Commission.

Comment date: December 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Tucson Electric Power Company

[Docket No. ER02–380–000]

Take notice that on November 20, 2001, Tucson Electric Power Company (Tucson) tendered for filing one (1) Umbrella Service Agreement (for short-term firm service) and one (1) Service Agreement (for non-firm service) pursuant to Part II of Tucson's Open Access Transmission Tariff, which was filed in Docket No. ER01–208–000.

The details of the service agreements are as follows:

Umbrella Agreement for Short-Term Firm Point-to-Point Transmission Service dated as of September 4, 2001 by and between Tucson Electric Power Company and BP Energy Company—FERC Electric Tariff Vol. No. 2, Service Agreement No. 189. No service has commenced at this time.

Form of Service Agreement for Non-Firm Point-to Point Transmission Service dated as of September 4, 2001 by and between Tucson Electric Power Company BP Energy Company—FERC Electric Tariff Vol. No. 2, Service Agreement No. 190. No service has commenced at this time.

Tucson requests an effective date of November 1, 2001

Comment date: December 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Southwestern Electric Power Company

[Docket No. ER02–381–000]

Take notice that on November 20, 2001, Southwestern Electric Power Company (SWEPCO) filed a Restated and Amended Power Supply Agreement (Restated Agreement) between SWEPCO and Northeast Texas Electric Cooperative, Inc. (NTEC). The Restated Agreement supersedes in its entirety the Restated and Amended Power Supply Agreement, dated June 30, 1997, as amended, between SWEPCO and NTEC.

SWEPCO seeks an effective date of June 15, 2000.

Copies of the filing have been served on NTEC and on the Public Utility Commission of Texas.

Comment date: December 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Tampa Electric Company

[Docket No. ER02–382–000]

Take notice that on November 21, 2001, Tampa Electric Company (Tampa Electric) filed a notice of cancellation of its service agreements with Enron Power Marketing, Inc. (Enron) for firm point-to-point transmission service and non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff.

Tampa Electric proposes that the cancellation be made effective on November 21, 2001.

Copies of the filing have been served on Enron and the Florida Public Service Commission.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Louisville Gas And Electric Company

[Docket No. ER02–383–000]

Take notice that on November 21, 2001, EL Paso Merchant Energy L.P. (previously known as Sonat Power Marketing, L.P.) filed a termination notice for generation sales service with Louisville Gas and Electric Company. The terminated services are FERC Electric Tariff Original Volume 1 for Generation Sales Service Agreement 601

accepted by the Commission in Docket ER98–1689–000 on January 9, 1998.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Avista Corp.

[Docket No. ER02–384–000]

Take notice that on November 21, 2001, Avista Corporation (AVA) tendered for filing with the Federal Energy Regulatory Commission (Commission) executed Service Agreements for Short-Term Firm and Non-Firm and Point-To-Point Transmission Service under AVA's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8 with Allegheny Energy Supply Company, LLC.

AVA requests the Service Agreements be given an effective date of June 26, 2001.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Allegheny Energy Service Corporation, on Behalf of The Potomac Edison Company dba Allegheny Power

[Docket No. ER02–385–000]

Take notice that on November 21, 2001, Allegheny Energy Service Corporation on behalf of The Potomac Edison Company, dba Allegheny Power (Allegheny Power), filed FERC Electric Tariff, Original Volume No. 7 (Rate Schedule) with Allegheny Energy Supply Company, LLC for wholesale sales of power. Allegheny Power has requested a waiver of notice to make the Rate Schedule effective on January 1, 2002.

Copies of the filing have been provided to the customer and to the Maryland Public Service Commission.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Wisconsin Electric Power Company

[Docket No. ER02–386–000]

Take notice that on November 21, 2001, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with PSEG Energy Resources & Trade LLC.

Wisconsin Electric respectfully requests an effective date of November 9, 2001 to allow for economic transactions.

Copies of the filing have been served on PSEG Energy Resources & Trade LLC, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Xcel Energy Services Inc.

[Docket No. ER02–387–000]

Take notice that on November 21, 2001, Xcel Energy Services Inc. (XES), on behalf of Southwestern Public Service Company (Southwestern), submitted for filing a Transaction Agreement between Southwestern and Oklahoma Gas and Electric Company.

XES requests that this agreement become effective on January 1, 2002.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. HC Power Marketing LLC

[Docket No. ER02–388–000]

Take notice that on November 21, 2001, HC Power Marketing LLC (Seller) petitioned the Commission for an order: (1) Accepting Seller's proposed FERC rate schedule for market-based rates; (2) granting waiver of certain requirements under Subparts B and C of Part 35 of the regulations; (3) granting the blanket approvals normally accorded sellers permitted to sell at market-based rates; and (4) granting waiver of the 60-day notice period.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Commonwealth Edison Company

[Docket No. ER02–389–000]

Take notice that on November 21, 2001, Commonwealth Edison Company (ComEd) filed an executed interconnection agreement with Indeck-Rockford II, L.L.C. enabling a new generation project near Rockford, Illinois to connect to ComEd's transmission system.

ComEd requests an effective date of November 22, 2001 for this agreement.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Commonwealth Edison Company

[Docket No. ER02–390–000]

Take notice that on November 21, 2001, Commonwealth Edison Company (ComEd) filed an executed interconnection agreement with Titan Land Development Company, L.L.C. enabling a new generation project near Pontiac, Illinois to connect to ComEd's transmission system.

ComEd requests an effective date of November 22, 2001 for this agreement.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Commonwealth Edison Company

[Docket No. ER02–391–000]

Take notice that on November 21, 2001, Commonwealth Edison Company (ComEd) filed an executed interconnection agreement with Indeck-Bourbonnaise, L.L.C. enabling a new generation project near Bourbonnaise, Illinois to connect to ComEd's transmission system.

ComEd requests an effective date of November 22, 2001 for this agreement.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Commonwealth Edison Company

[Docket No. ER02–392–000]

Take notice that on November 21, 2001, Commonwealth Edison Company (ComEd) filed an executed interconnection agreement with Kendall New Century Development, L.L.C. enabling a new generation project near Yorkville, Illinois to connect to ComEd's transmission system.

ComEd requests an effective date of November 22, 2001 for this agreement.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. New England Power Company

[Docket No. ER02–393–000]

Take notice that on November 21, 2001, New England Power Company (NEP) submitted for filing Original Service Agreement No. 208 for Network Integration Transmission Service under NEP's Open Access Transmission Tariff, FERC Electric Tariff, Second Revised Volume No. 9 between NEP and Public Service Company of New Hampshire (PSNH).

NEP states that a copy of this filing has been served upon PSNH and regulators in the State of New Hampshire.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. International Transmission Company

[Docket No. ER02–394–000]

Take notice that on November 21, 2001, International Transmission Company filed an amendment to the joint open access transmission tariff.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Wisconsin Electric Power Company

[Docket No. ER02–395–000]

Take notice that on November 21, 2001, Wisconsin Electric Power Company (Wisconsin Electric) tendered

for filing pursuant to section 35.12 of the Commission's regulations, 18 CFR 35.12, a Dynamic Scheduling Service Agreement between Wisconsin Electric and WPS Energy Services, Inc. (WPS Energy) for the provision of dynamic scheduling service to WPS Energy beginning October 15, 2001.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Wisconsin Electric Power Company

[Docket No. ER02–396–000]

Take notice that on November 21, 2001, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing pursuant to section 35.13 of the Commission's regulations, 18 CFR 35.13, a Control Area Operations Coordination Agreement between Wisconsin Electric and Wisconsin Power & Light Company.

Wisconsin Electric requests that the agreement be made effective on January 1, 2001.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29940 Filed 12–3–01; 8:45 am]

BILLING CODE 5717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–32–000, et al.]

Entergy Nuclear Vermont Yankee, LLC, et al.; Electric Rate and Corporate Regulation Filings

November 26, 2001.

Take notice that the following filings have been made with the Commission:

1. Entergy Nuclear Vermont Yankee, LLC

[Docket No. EG02–32–000]

Take notice that on November 20, 2001, Entergy Nuclear Vermont Yankee, LLC, 440 Hamilton Avenue, White Plains, NY 10601, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations. The applicant is a limited liability company that will engage directly or indirectly and exclusively in the business of owning and/or operating eligible facilities in the United States and selling electric energy at wholesale. The applicant proposes to own the Vermont Yankee Nuclear Power Station, and certain ancillary facilities necessary for the purpose of being exclusively engaged in generating electricity and selling it at wholesale, located in Vernon and Brattleboro, Vermont. All electric energy sold by the applicant will be sold exclusively at wholesale. The applicant seeks a determination of its exempt wholesale generator status.

Comment date: December 17, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Dominion Equipment III, Inc.

[Docket No. EG02–33–000]

Take notice that on November 21, 2001, Dominion Equipment III, Inc. (DEQ) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

DEQ, a Delaware corporation, is a wholly owned subsidiary of Dominion Energy, Inc., a Virginia corporation, which in turn is a wholly owned subsidiary of Dominion Resources, Inc., also a Virginia corporation. DEQ will be exclusively engaged in the business of owning, operating and selling electricity exclusively at wholesale from an approximately 1180 MW electric generating facility located in Morrisville, Pennsylvania. The facility will be interconnected with PECO transmission facilities under the operational control of PJM.

Comment date: December 17, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Fairless Energy, LLC

[Docket No. EG02–34–000]

Take notice that on November 21, 2001, Fairless Energy, LLC (Fairless) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Fairless, a Delaware limited liability company, is a wholly owned subsidiary of Dominion Fairless Hills, Inc. (DFH), a Delaware corporation. DFH is a wholly owned subsidiary of Dominion Energy, Inc., a Virginia corporation, which in turn is a wholly owned subsidiary of Dominion Resources, Inc., also a Virginia corporation. Fairless will be exclusively engaged in the business of leasing, operating and selling electricity exclusively at wholesale from an approximately 1180 MW electric generating facility located in Bucks County, Pennsylvania. The facility will be interconnected with transmission facilities under the operational control of PJM Interconnection, L.L.C.

Comment date: December 17, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Dynegy Power Marketing, Inc.

[Docket No. ER01–1718–002]

Take notice that on November 21, 2001, Dynegy Power Marketing, Inc., acting as agent for Cabrillo Power I LLC, El Segundo Power, LLC and Long Beach Generation LLC, tendered for filing with the Federal Energy Regulatory Commission (Commission) a long-term agreement for power sales to the California Department of Water Resources pursuant to the Commission's Letter Order issued on June 13, 2001 in the above-referenced proceeding, and Order No. 614.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Dynegy Power Marketing, Inc., Illinova Energy Partners, Inc., Dynegy Power Services, Inc., Illinois Power Company, El Segundo Power, LLC, Long Beach Generation LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, Rockingham Power, LLC, Rocky Road Power, LLC, Dynegy Midwest Generation, Inc., Calcasieu Power, LLC, Dynegy Danskammer, L.L.C., Dynegy Roseton, L.L.C., Heard County Power, L.L.C., Riverside Generating Company, L.L.C., and Nicor Energy, LLC.

[Docket Nos. ER99–4160–002, ER94–1475–020, ER94–1612–025, ER99–3322–001, ER98–1127–004, ER98–1796–003, ER99–1115–004, ER99–1116–001, ER99–1567–001, ER99–2157–001, ER00–1895–001, ER00–1049–002, ER01–140–001, ER01–141–001, ER01–943–001, ER01–1044–001, and ER01–1169–001]

Take notice that on November 16, 2001, Dynegy Inc. (Dynegy), on behalf of the above-noted entities (Dynegy Affiliates), filed a notification of change in status (Notice) with the Commission in connection with the pending merger between Dynegy and Enron Corp. (Enron). The Notice provides that each of the Dynegy Affiliates will treat Portland General Electric Company as an affiliate during the pending merger.

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Colton Power L.P.

[Docket Nos. ER01–2644–002 and ER01–3056–002]

Take notice that on November 19, 2001, Colton Power L.P. (Applicant) tendered for filing an amended market-based rate schedule under section 205 of the Federal Power Act, in order to comply with the Federal Energy Regulatory Commission's Letter Order issued on November 16, 2001 in Docket Nos. ER01–2644–000, ER01–2644–001, and ER01–3056–000.

Comment date: December 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. SeTrans RTO

[Docket Nos. RT01–100–000, RT01–77–000 and RT01–75–000]

Take notice that on November 20, 2001, the City of Tallahassee, Dalton Utilities, Entergy Services, Inc., acting as agent for Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc. and Entergy New Orleans, Inc., Georgia Transmission Corporation, JEA (formerly, Jacksonville Electric Authority), MEAG Power, South Carolina Public Service Authority, South Mississippi Electric Power Association, and Southern Company Services, Inc., acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company, submitted a Supplemental Status Report for the Regional Transmission Organization known as SeTrans. The purpose of the filing is multifold. First, it informs the Commission that the Entergy Companies have joined in the effort to develop the SeTrans RTO. Second, the SeTrans Sponsors are submitting the governance and scope elements of the SeTrans RTO model. Third, the SeTrans Sponsors are notifying the Commission of, and inviting the Commission to send representatives to, a meeting that will be held in Atlanta, Georgia on January 14–15, 2002, to form a Stakeholder Advisory Committee to assist in the development of SeTrans.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–29939 Filed 12–3–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6132–006]

Facilitators Improving Salmonid Habitat (FISH); Notice of Extension of Time to Comment on Environmental Assessment

November 28, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, the Office of Energy Projects has reviewed the application dated July 11, 2001, requesting the Commission's approval to surrender the Exemption from licensing and removal of a dam at the John C. Jones Project, located on the Marsh Stream, a tributary of the Penobscot River, near the towns of Winterport and Frankfort, in Waldo County, Maine, and has prepared an Environmental Assessment (EA) for the proposed and alternative actions. A notice issued October 5, 2001, established November 5, 2001, as the deadline for comments on the EA.

In response to our notice, several requests were made to extend our November 5, 2001, comment deadline by six months to prepare and present new information on recreational, public safety and environmental concerns and projected reduction of property values. The parties cite the need to gather additional information, which should be adequately done in 60 days; this is in addition to the several months that have passed since the August 7, 2001, application public notice issuance date. Accordingly, we are granting an extension of 60 days from the date of this notice to file additional information on our EA

Comments should be addressed to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix "John C. Jones Project No. 6132–006" to the first page of your comments. All timely filed comments will be considered in the Commission order addressing the proposed surrender of exemption and dam removal. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

For further information, please contact Jack Hannula at (202) 219–0116.

David P. Boergers,

Secretary.

[FR Doc. 01–29974 Filed 12–3–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

November 28, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 12100–000.

c. *Date filed:* July 31, 2001.

d. *Applicant:* Mark R. Frederick.

e. *Name of Project:* Rollins Diversion Dam Project.

f. *Location:* On Bear River and Bear River Canal, in Placer and Nevada Counties, California. The dam is owned by the Nevada Irrigation District and the Bear River Canal is owned by Pacific Gas and Electric Company.

g. *Filed Pursuant:* To Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Mark R. Frederick, 17825 Crother Hills Road, Meadow Vista, CA 95722, (530) 887–1984.

i. *FERC Contact* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Copies of this filing are on file with the Commission and are available for p;ublic inspection. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. Please include the project number (P–12100–000) on any comments or motions filed.

The Commission's rules of practice and procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) A proposed intake, (2) a proposed powerhouse containing one generating unit having an installed capacity of 900 kW, (3) a 80-foot-long, 12kV transmission line, and (4) appurtenant facilities.

The project would have an annual generation of 6.2 GWh that would be sold to a local utility.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–29975 Filed 12–3–01; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 18, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Omar C. Wilhelms, Janice R. Wilhelms and Delores J. Meiners, all of Shannon, Illinois, as a group to retain voting shares of Shannon Bancorp, Inc., Shannon, Illinois, and thereby indirectly retain voting shares of First State Bank Shannon-Polo, Shannon, Illinois.

Board of Governors of the Federal Reserve System, November 28, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–29957 Filed 12–3–01; 8:45 am]

BILLING CODE 5210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 28, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. C&S Bancorporation, Savannah, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens & Southern Bank, Savannah, Georgia (in organization).

Board of Governors of the Federal Reserve System, November 28, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–29955 Filed 12–3–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 18, 2001.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Landesbank Baden-Wurttemberg, and Sparkassenverband Baden-Wurttemberg, both of State of Baden-Wurttemberg, Germany; to acquire 50.6 percent of the voting shares of Baden-Wurttembergische Bank AG, State of Baden-Wurttemberg, Germany, and indirectly acquire BW Capital Markets, Inc., New York, New York, and thereby engage in extending credit and servicing loans, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, November 28, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–29956 Filed 12–3–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10 a.m., Friday, December 7, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Discussion Agenda:

1. Proposed amendments to Regulation Z (Truth in Lending) addressing concerns related to

potentially abusive practices in home mortgage lending. (Proposed earlier for public comment, Docket No. R–1090)

2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $6 per cassette by calling 202–452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 for a recorded announcement of this meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement. (The Web site also includes procedural and other information about the open meeting.)

Dated: November 29, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–30092 Filed 11–30–01; 12:26 pm]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: At approximately 10:45 a.m., Friday, December 7, 2001, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: November 29, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–30093 Filed 11–30–01; 12:26 pm]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12 p.m., Monday, December 10, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: November 30, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–30094 Filed 11–30–01; 12:26 pm]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0197]

Submission for OMB Review; Comment Request Entitled GSAR Provision 552.237–70, Qualifications of Offerors

AGENCY: General Services Administration, GSA.

ACTION: Notice of a request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration (GSA) has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning the Qualifications of Offerors under the Service Contracting.

Public comments are particularly invited on: Whether the information collection generated by the General Services Administration Regulation (GSAR) Provision, Qualifications of Offerors, is necessary, to determine an offeror is responsible to work under a GSA contract and to properly determine an offeror's competency in performing comparable building service contracts; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology. A request for public comments was published at 66 FR 43870, August 21, 2001. No comments were received.

DATES: Comments may be submitted on or before January 3, 2002.

FOR FURTHER INFORMATION CONTACT: Julia Wise, Acquisition Policy Division, GSA (202) 208–1168.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration (GSA) has various mission responsibilities related to the acquisition and provision of service contracts. These mission responsibilities generate requirements that are realized through the solicitation and award of contracts for building services. Individual solicitations and resulting contracts may impose unique information collection and reporting requirements on contractors not required by regulation, but necessary to evaluate particular program accomplishments and measure success in meeting program objectives.

B. Annual Reporting Burden.

Respondents: 6,722.
Annual Responses: 6,722.
Burden Hours: 6,722.
Obtaining Copies of Proposals: A copy of this proposal may be obtained from the General Services Administration, Acquisition Policy Division (MVP), 1800 F street, NW., Room 4035, Washington, DC 20405, or be telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0197, Qualifications of Offerors, in all correspondence.

Dated: November 20, 2001.

Gloria M. Sochon,

Acting Director, Acquisition Policy Division.

[FR Doc. 01–29919 Filed 12–3–01; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

Federal Supply Service; Standard Tender of Service

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of issuance of the GSA Standard Tender of Service.

The General Services Administration (GSA) is reissuing the GSA Standard Tender of Service (STOS) that establishes a uniform basis for buying freight transportation. The Standard Tender of Service (STOS) was published in the **Federal Register** for comment on August 31, 2001 (66 FR 46124). Comments were due by October 30, 2001, but none were received. The STOS will be reissued as it was published in 66 FR 46124 and can be accessed at *http://www.kc.gsa.gov/fsstt/FRT/stos.htm*. The reissued STOS will effectively cancel the current STOS and all its supplements.

EFFECTIVE DATE: December 4, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Hoffman, Transportation Programs Branch, by phone at 703–305–7969 or by e-mail at *richard.hoffman@gsa.gov*.

Dated: November 27, 2001.

Tauna T. Delmonico,

Director, Travel and Transportation Management Division.

[FR Doc. 01–29918 Filed 12–3–01; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–07–02]

Agency Forms Undergoing Paperwork Reduction Act Review; Correction

A notice announcing a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The State and Local Area Integrated Telephone Survey (SLAITS) was published in the **Federal Register** on November 27, 2001, (66 FR 59254). This notice is corrected as follows:

On page 59254, in the first column, the last paragraph, the OMB number should be changed from 0920–0416 to 0920–0406.

All other information and requirements of the November 27, 2001, notice remain the same.

Dated: November 28, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–29952 Filed 12–3–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Federal advisory committee meeting.

Name: National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect (NTFFASFAE).

Times and Dates: 8:30 a.m.–5 p.m., December 10, 2001; 8:30 a.m.–3 p.m., December 11, 2001.

Place: Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC 20024–2197, telephone 202/484–1000, fax 202/646–4456.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 65 people.

Purpose: The Secretary is authorized by the Public Health Service Act, section 399G, (42 U.S.C. section 280f, as added by Public Law 105–392) to establish a National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect to: (1) Foster coordination among all governmental agencies, academic bodies and community groups that conduct or support Fetal Alcohol Syndrome (FAS) and Fetal Alcohol Effect (FAE) research, programs and surveillance; and (2) to otherwise meet the general needs of populations actually or potentially impacted by FAS and FAE.

Matters to be Discussed: The Task Force will convene to discuss updates presented by CDC and other Federal agencies regarding new activities in FAS and FAE. Additional agenda items include: a joint session with the Interagency Coordinating Committee on Fetal Alcohol Syndrome, HHS; working group updates; discussion of future topics, and scheduling the next meeting.

Agenda items are subject to change as priorities dictate.

Due to programmatic issues that had to be resolved, the **Federal Register** notice is being published less than fifteen days before the date of the meeting.

Contact Person for More Information: R. Louise Floyd, DSN, RN, Executive Secretary, NTFFASFAE, National Center for Environmental Health, CDC, 4700 Buford Highway, NE., (F–49), Atlanta, Georgia 30333, telephone 770/488–7372, fax: 770/488–7361.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the CDC and ATSDR.

Dated: November 28, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–29953 Filed 12–3–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Infectious Diseases: Meeting Cancelled

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting cancelled.

Name: Board of Scientific Counselors, National Center for Infectious Diseases (NCID).

Time and Date: 8:30 a.m.–3:30 p.m., December 6, 2001.

Place: CDC, Auditorium B, Building 1, Clifton Road, Atlanta, Georgia 30333.

Status: Meeting Cancelled.

Federal Register *Citation of Previous Announcement:* [**Federal Register:** November 26, 2001 (Volume 66, Number 227)] [Notices] [Page 59022–59023] [DOCID:fr26no01–52]

Contact Person for More Information: Diane S. Holley, Office of the Director, NCID, CDC, Mailstop C–19, 1600 Clifton Road, NE, Atlanta, Georgia 30333, email *dsy1@cdc.gov;* telephone 404/639–0078.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: November 28, 2001.

Joseph Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–29946 Filed 12–3–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Interagency Committee on Smoking and Health: Meeting Cancelled

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub L. 92–463), the National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP) of the Centers for Disease Control and Prevention (CDC) announces the following: Meeting Cancelled.

Name: Interagency Committee on Smoking and Health.

Date and Time: 9 a.m.–5 p.m., December 13, 2001.

Place: Room 800, Hubert H. Humphrey Building, 200 Independence Avenue, SW., 6th Floor, Washington, DC 20201.

Federal Register *Citation of Previous Announcement:* **Federal Register:** November 26, 2001 (Volume 66, Number 227)] [Notices] [Page 59023] [DOCID:fr26no01–53]

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of committee members may be obtained from the Internet *www.cdc.gov/tobacco* in mid-January 2002, or from Ms. Monica L. Swann, Interagency Committee on Smoking and Health, Office on Smoking and Health, NCCDPHP, CDC, 200 Independence Avenue, SW., Room 317B, Washington, DC, 20201, telephone (202) 205–8500.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: November 28, 2001.

Joseph Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–29954 Filed 12–3–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Application Requirements for the Low Income Home Energy Assistance Program (LIHEAP) Model Plan.

OMB No.: 0970–0075.

Description: The LIHEAP statute requires that States, including the District of Columbia, Tribes, tribal organizations and territories applying for LIHEAP block grant funds must submit an annual application (Model Plan) that meets the LIHEAP statutory and regulatory requirements prior to receiving Federal funds. The 1994 reauthorization of the LIHEAP statute, the Human Service Amendments of 1994 (Pub. L. 103–252), requires that an annual application be submitted. A detailed application must be submitted every 3 years. Abbreviated applications may be submitted in alternate years. There have been minor changes in the Model Plan for clarity. There have been no substantive changes.

Respondents: State, Local or Tribal Governments.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Detailed Model Plan	65	1	3	65
Abbreviated Model Plan	115	1	.33	38
Estimated Total Annual Burden Hours:				103

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following : Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: November 27, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–29993 Filed 12–3–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Division of Extramural Research and Training; Submission for OMB Review; Comment Request; Hazardous Waste Worker Training

Summary

Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Environmental Health Sciences (NIEHS), the National

Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on June 20, 2001, pages 33104–33105, and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Hazardous Waste Worker Training—42 CFR part 65.

Type of Information Collection Request: Revision of OMB No. 0925–0348, expiration date January 31, 2002.

Need of Use of Information Collection: This request for OMB review and approval of the information collection is required by regulation 42 CFR part 65(a)(6).

The National Institute of Environmental Health Sciences (NIEHS) has been given major responsibility for initiating a worker safety and health training program under section 126 of the Superfund Amendments and Reauthorization Act of 1986 (SARA) for hazardous waste workers and emergency responders. A network of non-profit organizations that are committed to protecting workers and their communities by delivering high-quality, peer-reviewed safety and health curricula to target populations of hazardous waste workers and emergency responders has been developed. In 13 years (FY 1987–2000), the NIEHS Worker Training program has successfully supported 20 primary grantees that have trained nearly 1 million workers across the country and presented over 54,000 classroom and hands-on training courses, which have accounted for nearly 16 million contact hours of actual training. Generally, the grant will initially be for 1 year, and subsequent continuation awards are also for one year at a time. Grantees must submit a separate application to have the support continued for each subsequent year. Grantees are to provide information in accordance with S65.4(a), (b), (c), and 65.6(b) on the nature, duration, and purpose of the training, selection criteria for trainees' qualifications and competency of the project director and staff, cooperative agreements in the case of joint applications, the adequacy of training plans and resources, including budget and curriculum, and response to meeting training criteria in OSHA's Hazardous Waste Operations and Emergency Response Regulations (29 CFR 1910.120). As a cooperative agreement, there are additional requirements for the progress report section of the application. Grantees are to provide their information in hard copy as well as enter information into the WETP Grantee Data Management System. The information collected is used by the Director through officers, employees, experts, and consultants to evaluate applications based on technical merit to determine whether to make awards.

Frequency of Response: Semi-annually.

Affected Public: Not-for-profit institutions.

Type of Respondents: Grantees.

The annual reporting burden is as follows:

Estimated Number of Respondents: 18.

Estimated Number of Responses Per Responsent: 2.

Average Burden Hours Per Response: 10.

Estimated Total Annual Burden Hours Requested: 360.

The annualized costs to respondents are estimated at: $9,180. There are no Capital Costs, Operating Costs and/or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Joseph T. Hughes, Jr., Director, Worker Education and Training Program, Division of Extramural Research and Training, NIEHS, P.O. Box 12233, Research Triangle Park, NC 27709 or call non-toll-free number (919) 541–0217 or E-mail your request, including your address to wetp@niehs.nih.gov.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

Dated: November 11, 2001.

Francine Little,

NIEHS Associate Director for Management.

[FR Doc. 01–29937 Filed 12–3–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel.

Date: December 4, 2001.

Time: 3 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John E. Richters, PhD, Scientific Review Administrator, National Institute of Nursing Research, National Institutes of Health, Natcher Building, Room 3AN32, Bethesda, MD 20892, (301) 594–5971, *jrichters@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: November 27, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–29935 Filed 12–3–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel.

Date: December 11, 2001.

Time: 11:30 a.m. to 12:15 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John E. Richters, PhD, Scientific Review Administrator, National Institute of Nursing Research, National Institutes of Health, Natcher Building, Room 3AN32, Bethesda, MD 20892, (301) 594–5971, *jrichters@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: November 27, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–29936 Filed 12–3–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel. Special Emphasis Panel—Site Visit Newark New Jersey.

Date: December 5–7, 2001.

Time: December 5, 2001, 7 am to 9:30 pm.

Agenda: To review and evaluate grant applications.

Place: Marriott Newark Airport, Newark International Airport, Newark, NJ 07114.

Time: December 6, 2001, 9 am to 6 pm.

Agenda: To review and evaluate grant applications.

Place: Marriott Newark Airport, Newark International Airport, Newark, NJ 07114.

Time: December 7, 2001, 8 am to 12 pm.

Agenda: To review and evaluate grant applications.

Place: Marriott Newark Airport, Newark International Airport, Newark, NJ 07114.

Contact Person: Merlyn M Rodrigues, MD, PhD, Medical Officer/SRA, National Library of Medicine, Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20894.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: November 27, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–29934 Filed 12–3–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant Of Exclusive License: Prophylactic and/or Therapeutic Vaccines Against HIV and HCV

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of a limited field of use exclusive worldwide license to practice the inventions embodied in U.S. Patent Application Serial Number 08/375,100, filed January 19, 1995, entitled "Peptomers with Enhanced Immunogenicity" now United States Patent Number 5,750,332 issued May 12, 1998 and U.S. Patent Application Serial Number 07/283,849 filed December 13, 1988, entitled "Synthesis of Chloroacetyl and Bromoacetyl Modified Peptides for the Preparation of Synthetic Peptide Polymers, Conjugated Peptides and Cyclic Peptides' and now U.S. Patent Number 5,066,716 issued on November 18, 1991 to AriaVax, Inc. of Bethesda, Maryland, U.S.A. The United States as represented by the Department of Health and Human Services is an assignee of these patent rights.

DATE: Only written comments and/or applications for a license which are received by NIH on or before February 4, 2002 will be considered.

ADDRESSES: Requests for a copy of these patent applications, inquiries, comments, and other materials relating to the contemplated license should be directed to: Carol A. Salata, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 496–7735 ext 232; Facsimile: (301) 402–0220; E-mail: salatac@od.nih.gov.

SUPPLEMENTARY INFORMATION: The patent application 08/375,100 describes the production of peptide multimers which maintain the conformation of the native proteins from which they are derived which are useful as therapeutic agents or immunogens and patent application 07/283,849 describes a method used to incorporate bromoacetyl and chloroacetyl moieties on amino groups of synthetic peptides. This synthetic method can be used to prepare synthetic

peptide polymers, conjugated peptides and cyclic peptides.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. It is anticipated that this license may be limited to the field of use as prophylactic and/or therapeutic vaccines against HIV and HCV. AriaVax, Inc. will use the technology of the inventions named above to develop formulations that will elicit antibodies that block infection. This prospective exclusive license may be granted unless within 60 days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: November 26, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–29938 Filed 12–3–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Emergency Exemption Issuance

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Issuance of Permit.

SUMMARY: The Hawk Creek Wildlife Center, Inc., has been authorized, via permit number PRT–TE050080–0, by the U.S. Fish and Wildlife Service's (Service) Region 5 to transfer and possess one specific female ocelot, Felis pardalis.

FOR FURTHER INFORMATION CONTACT: Diane Lynch, Regional Endangered Species Permits Coordinator, at 413–253–8628.

SUPPLEMENTARY INFORMATION: The 30-day public comment period required by the Endangered Species Act (Act) of 1973, as amended, was waived in accordance with section 10(c) of the Act. The Service determined that due to the current facility's loss of its U.S. Department of Agriculture license, the need to immediately find new locations for the animals being held there, the relatively small timeframe an animal can be human imprinted, and the age (8 weeks old) of this animal, there was no reasonable alternative available to the applicant. This ocelot is captive bred and captive born. It will be used for educational purposes and will not be used for propagation. This animal is scheduled to be transferred to Hawk Creek Wildlife Center, Inc., by November 20, 2001.

Dated: November 21, 2001.

Richard O. Bennett,

Acting Regional Director.

[FR Doc. 01–29945 Filed 12–3–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Coyote Springs Investments Multiple Species Habitat Conservation Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act, this notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare an Environmental Impact Statement (EIS) regarding the proposed Coyote Springs Investments Multiple Species Habitat Conservation Plan (MSHCP) and issuance of an incidental take permit (Permit) to take endangered and threatened species in accordance with section 10(a) of the Endangered Species Act of 1973, as amended (Act). The Permit applicant is Coyote Springs Investments (Applicant). The application is related to potential development activities in Southern Lincoln County. The Applicants intend to request a Permit for federally listed threatened or endangered species as well as Evaluation List species. Evaluation List species include species that have been petitioned for listing; state listed species; species that have been nominated for inclusion by technical specialists; and other species of concern that co-occur with federally listed species. The species list is being refined as a part of the scoping process. In accordance with the Act, the Applicant will prepare a Habitat Conservation Plan (Plan), for, among other things, minimizing and mitigating any such take which could occur incidental to the proposed Permit activities.

The Service is furnishing this notice in order to: (1) Advise other Federal and State agencies, affected tribes, and the public of our intentions; (2) to announce the initiation of a 60-day public scoping period and (3) to obtain suggestions and information on the scope of issues to be included in the EIS.

DATES: Written comments from all interested parties must be received on or before February 4, 2002. Public scoping meetings will be held in Las Vegas, Nevada on December 11, 2001 at Texas Station Hotel, 2101 Texas Star Lane from 7 to 9 p.m. and in Alamo, Nevada on December 12, 2001 at the Alamo Annex, 100 South First West Street, from 7 to 9 p.m.

ADDRESSES: Comments and requests for information should be sent to Robert D. Williams, Field Supervisor, U.S. Fish and Wildlife Service, 1340 Financial Boulevard, Suite 234, Reno, Nevada 89502, telephone 775–861–6300, facsimile 775–861–6301. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

SUPPLEMENTARY INFORMATION: The proposed project area generally includes portions of Coyote Springs Valley in both Clark and Lincoln Counties, and consists of roughly 42,800 acres of fee and leased land located in portions of Townships 11, 12 and 13 South and Ranges 63 & 64 East. The project site occupies most of the eastern portion of Coyote Springs Valley straddling both the Pahranagat Wash and the Kane Springs Wash. It is bordered by the Delamar Mountains to the north, the Meadow Valley Mountains to the east, SR 168 and the Arrow Canyon Range to the south, and US 93 to the west.

Some of the Applicant's future activities have the potential to impact species subject to protection under the Act. Section 10(a)(1)(B) permits non-Federal land owners to take endangered and threatened species, provided the take is incidental to otherwise lawful activities and will not appreciably reduce the likelihood for the survival and recovery of the species in the wild, among other permit issuance criteria. An applicant for a Permit under section 10 of the Act must prepare and submit to the Service for approval a Plan containing, among other things, a strategy for minimizing and mitigating all take associated with the proposed activities to the maximum extent practicable. The applicant must also ensure that adequate funding for the Plan will be provided.

The Applicant have initiated discussions with the Service regarding

the possibility of a Permit and associated MSHCP for their activities on lands to be covered by a Permit. General activities proposed for Permit coverage include residential and commercial development, construction, and maintenance activities.

The Service will conduct an environmental review of the Plan and prepare an EIS. The environmental review will analyze the proposal as well as a full range of reasonable alternatives and the associated impacts of each. The Service is currently in the process of developing alternatives for analysis.

Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to the Permit request are addressed and that all significant issues are identified. Comments or questions concerning this proposed action and the EIS should be directed to the Service (see **ADDRESSES**).

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969 as amended (42 U.S.C. 4321 et seq.) and its implementing regulations (40 CFR parts 1500 through 1508) and other appropriate Federal laws and regulations, policies, and procedures of the Service for compliance with those regulations. It is estimated that the draft EIS will be available for public review during the third quarter of 2002.

Dated: November 28, 2001.

John Engbring,

Acting Deputy Manager, California/Nevada Operations Office.

[FR Doc. 01–30025 Filed 12–3–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Exchange of Lands on South Fox Island, MI

AGENCY: Fish and Wildlife Service, Interior, lead; National Park Service, Interior, cooperating; Michigan Department of Natural Resources, cooperating.

ACTION: Notice of intent.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (FWS) and the National Park Service (NPS) will discontinue all activities associated with developing an environmental impact statement (EIS) for a proposed exchange of lands on South Fox Island, Leelanau County, MI.

FOR FURTHER INFORMATION CONTACT: For the various agencies, the contacts are: Mr. Craig Czarnecki, U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Road, Suite 101, East Lansing, MI 48823, telephone: (517) 351–8470, facsimile: (517) 351–1443; or Ms. Elyse LaForest, National Park Service, 15 State Street, Boston, MA 02109, telephone: (617) 223–5190, facsimile: (617) 223–5164; Mr. Doug Erickson, Michigan Department of Natural Resources, Wildlife Division, P.O. Box 30444, Lansing, MI 48909–7944; telephone: (517) 335–4316, facsimile: (517) 373–6705.

SUPPLEMENTARY INFORMATION: The actions that were being evaluated by this EIS were: (1) The approval by FWS of the exchange of 313 acres, acquired by the State with Federal Aid in Wildlife Restoration assistance, for lands with equal monetary and wildlife restoration values; (2) the approval by the NPS for the State to exchange 105 acres with NPS interest for private lands with equal or greater monetary and recreational value; and (3) the related exchange of 220 acres of unencumbered State-owned land for fee title and easements for private lands of equal value. We published a notice of intent to prepare the EIS in the May 16, 2001, **Federal Register** (66 FR 27154). That notice included further information on this proposed exchange of lands.

The FWS and NPS have received a written request from the Michigan Department of Natural Resources (DNR) to permanently discontinue efforts on development of the EIS to analyze the proposed exchange of land on South Fox Island, Leelanau County, MI, about 30 miles west northwest of Charlevoix, in Lake Michigan. Since the actions being considered were commenced at the request of the Michigan DNR, the FWS and NPS will honor the request to discontinue efforts on preparing the EIS as of this publication date. Any proposed exchange of land with FWS or NPS interest on South Fox Island is formally discontinued. Any future consideration of a similar land exchange would be a new action requiring the initiation of a new NEPA evaluation and appropriate compliance review. The Michigan DNR is presently considering a new proposal for a land trade of 218 acres of land that has no Federal interest. Such a proposal would not require Federal approval and would therefore not be subject to NEPA compliance.

November 28, 2001.

Marvin E. Moriarty,

Acting Regional Director, Region 3, Fort Snelling, MN.

[FR Doc. 01–29951 Filed 12–3–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; certification by designated school official.

The Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on July 27, 2001 at 66 FR 39205, allowing for a 60-day public comment period. No comments were received by the Immigration and Naturalization Service during that period. The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until January 3, 2002. This process is conducted in accordance with 5 CFR part 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725—17th Street, NW., Suite 10235, Washington, DC 20503; 202–395–7316. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Robert B. Briggs, Department Clearance Officer, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530. Comments may also be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of currently approved information collection.

(2) *Title of the Form/Collection:* Certification by Designated School Official.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–538. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary Individuals or Households. This form is used to collect information from nonimmigrant students applying for an extension for the length of time of their legal status in the United States as a nonimmigrant student while transferring from one school to another and permission to accept or continue employment.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 165,000 responses at 4 minutes (.066) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 10,890 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4304, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: November 29, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–30014 Filed 12–3–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 16, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 693–4158 or E-mail *Howze-Marlene@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics (BLS).

Title: Report on Employment, Payroll, and Hours.

OMB Number: 1220–0011.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local or Tribal Government.

Number of Respondents: 373,500.

Number of Annual Responses: 4,482,000.

Estimated Time Per Response and Total Burden Hours:

CURRENT DESIGN REPORTING BURDEN

Form	Number of respondents	Frequency	Annual responses	Estimated response time	Annual burden hours
BLS–790 A—Mining	2,000	12	24,000	7	2,800
BLS–790 B—Construction	19,700	12	236,400	7	27,580
BLS–790 BM—Interstate Construction	400	12	4,800	15	1,200
BLS–790 C—Manufacturing	32,700	12	392,400	7	45,780
BLS–790 H—T.P.U.	18,000	12	216,000	7	25,200
BLS–790 H—Wholesale Trade	19,800	12	237,600	7	27,720
BLS–790 E—Retail Trade	69,000	12	828,000	7	96,600
BLS–790 H—Fire	25,900	12	310,800	7	36,260
BLS–790 H—Services, non-education	74,300	12	891,600	7	104,020
BLS–790 S—Services, education	300	12	3,600	7	420
BLS–790 G—Federal Government	10,300	12	123,600	5	10,300
BLS–790 G—State Gov., non-education	7,200	12	86,400	5	7,200
BLS–790 GS—State Gov., education	1,000	12	12,000	5	1,000
BLS–790 G—Local Government	12,100	12	145,200	5	12,100
BLS–790 GS—Local Gov., education	7,800	12	93,600	5	7,800
BLS–790 F1, F2, F3*	18,800	12	225,600	7	26,320
Total	319,300	.....	3,831,600	.....	432,300

PROBABILITY DESIGN REPORTING BURDEN

Form	Number of respondents	Frequency	Annual responses	Estimated response time	Annual burden hours
BLS–790 A—Mining	1,600	12	19,200	7	2,240
BLS–790 B—Construction	14,100	12	169,200	7	19,740
BLS–790 BM—Interstate Construction	0	12	0	15	0
BLS–790 C—Manufacturing	24,800	12	297,600	7	34,720
BLS–790 H—T.P.U.	0	12	0	7	0
BLS–790 H—Wholesale Trade	11,000	12	132,000	7	15,400
BLS–790 E—Retail Trade	0	12	0	7	0
BLS–790 H—Fire	0	12	0	7	0
BLS–790 H—Services, non-education	0	12	0	7	0
BLS–790 S—Services, education	0	12	0	7	0
BLS–790 G—Federal Government	0	12	0	5	0
BLS–790 G—State Gov., non-education	0	12	0	5	0
BLS–790 GS—State Gov., education	0	12	0	5	0
BLS–790 G—Local Government	0	12	0	5	0
BLS–790 GS—Local Gov., education	0	12	0	5	0
BLS–790 F1, F2, F3*	2,700	12	32,400	7	3,780
Total	54,200		650,400		78,880

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Current Employment Statistics (CES) program provides current monthly statistics on employment, hours, and earnings, by industry. The estimates produced from the data collected on the BLS–790 forms are fundamental inputs in the economic decision process at all levels of government, private enterprise, and organized labor.

The CES program is currently undergoing a sample redesign to transition from a quota-based to a probability sample. As industries are converted to the probability design, the number of establishments collected for the current design will be reduced.

Ira L. Mills,

DOL Clearance Officer.

[FR Doc. 01–29990 Filed 12–3–01; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 19, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King on (202) 693–4129 or by E-mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: Lauren Wittenberg, OMB Desk Officer for Department of labor, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
* Enhance the quality, utility, and clarity of the information to be collected; and
* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Office of the Solicitor (SOL).

Type of Review: Extension of a currently approved collection.

Title: Equal Access to Justice Act.

OMB Number: 1225–0013.

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local, or Tribal Government.

Type of Response: Application for benefits.

Number of Respondents: 10.

Number of Annual Responses: 10.

Estimated Time Per Response: 5 hours.

Total Burden Hours: 50.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $20.

Description: The Equal Access to Justice Act provides for payment of fees and expenses to eligible parties who have prevailed against the Department in certain administrative proceedings. In order to obtain an award, the statute and associated regulations (29 CFR part 126) require the filing of an application.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–29991 Filed 12–3–01; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 15, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable

supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Hawze at ((202) 219–8904 or email *Howze-Marlene@dol.gov).*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for PWBA, Office of Management and budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Prohibited Transaction Exemption 86–128.

OMB Number: 1210–0059.

Affected Public: Business or other for-profit, Individuals or households, and Not-for-profit institutions.

Frequency: Annually.

Number of Respondents: 22,974.

Number of Annual Responses: 542,813.

Estimated time Per Response: Average of 15 minutes to 1 hour.

Total Burden Hours: 98,158.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $187,606.

Description: PTE 86–128 permits persons who serve as fiduciaries for employee benefit plans to effect or execute securities transactions on behalf of employee benefit plans. The information collection requirements incorporated within the class exemption are designed as appropriate safeguards to ensure the protection of the plan assets involved in the transactions, that except for the class exemption, would not be permitted. These safeguards rely on the prior authorization and monitoring of the broker-fiduciary's activities by a second plan fiduciary that is independent of the first.

Without the relief provided by this class exemption, broker-fiduciaries who provide research and investment management services to accounts for which they effect transactions for the purchase and sale of securities, may be barred by the Employee Retirement Income Security Act from providing these combined services to employee benefit plans.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Delinquent Filer Voluntary Compliance Program.

OMB Number: 1210–0089.

Affected Public: Business or other for-profit, Individuals or households; and not-for-profit institutions.

Frequency: On occasion.

Number of Respondents: 3,100.

Number of Annual Responses: 3,100.

Estimated Time Per Response: 31 minutes.

Total Burden Hours: 109.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services: $74,384.50.

Description: The DFVC Program is intended to encourage, using reduced civil penalties, delinquent plan administrators to comply with their annual reporting obligations under Title I of the Employee Retirement Income Security Act of 1974. Delinquent plan administrators are those who fail to file timely annual reports for plan years beginning on or after January 1, 1988. Eligible plan administrators may avail themselves of the DFVC Program by complying with the filing requirements and paying the specified civil penalties set out in the Notice.

The information collection requirement included in the DFVC Program requires providing data necessary to identify the plan along with the penalty payment. This data is the only means by which each penalty payment is associated with the relevant plan. If the Department were unable to determine readily whether a penalty had already been paid as a result of a late filing, an additional penalty might be assessed when it was determined that the filing was received after the deadline.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–29992 Filed 12–3–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0061(2002)]

Cotton Dust Standard (29 CFR 1910.1043); Extension of the Office of Management and Budget's (OMB) Approval of the Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comment.

SUMMARY: OSHA requests comment concerning its proposal to decrease the existing burden-hour estimates for, and to extend OMB approval of, the collection-of-information requirements specified by the Cotton Dust Standard (29 CFR 1910.1043).[1] This standard protects employees from occupational exposures to cotton dust; cotton-dust exposure causes pulmonary disease (*e.g.*, byssinosis) that may result in death and serious illness.

DATES: Submit written comments on or before February 4, 2002.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0061(2001), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Policy, OSHA, U.S. Department of Labor, Room N–3641, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2444. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified by the Cotton Dust Standard is available for inspection and copying in the Docket Office, or by requesting a copy from Todd Owen at

[1] Based on its assessment of the paperwork requirements contained in this standard, the Agency estimates that the total burden hours decreased compared to its previous burden-hour estimate. Under this notice, OSHA is *not* proposing to revise these paperwork requirements in any substantive manner, only to decrease the burden hours imposed by the existing paperwork requirements.

(202) 693–2444. For electronic copies of the ICR contact OSHA on the Internet at *http://www.osha.gov/comp-links.html*, and select "Information Collection Requests."

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct. The Occupational Safety and Health Act of the 1970 (the "Act") authorizes information collection by employers as necessary or appropriate for enforcement of the Act, or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The major information-collection requirements in the Cotton Dust Standard (§ 1910.1043; the "Standard") specify that employers must: Perform exposure monitoring, including initial, periodic, and additional monitoring; notify each employee in writing of their monitoring results within 20 days after receiving these results; establish a written compliance program; implement a respiratory-protection program in accordance with § 1910.134 (OSHA's Respiratory Protection Standard); and develop a written program of work practices to minimize cotton-dust exposure.

Other paperwork provisions of the Standard require employers to provide employees with medical examinations, including initial examinations for new employees and periodic examinations for other employees exposed to cotton dust under specific conditions. As part of the medical-surveillance program, employers must give written information to the examining physicians, and obtain from these physicians a written opinion regarding the employees' medical results and exposure limitations.

Additional collection-of-information requirements mandate that employers provide training to employees prior to their initial job assignment, at least annually thereafter, if a change occurs in an employee's job assignment or work process, or if an employee indicates a need for retraining. Employers must also post a copy of the Standard and its appendices in a public location at the workplace, and make copies available to employees. On request, the employer must provide OSHA compliance officers and the National Institute for Occupational Safety and Health (NIOSH) with the training material required by this provision. Moreover, employers are to post warning signs in each work area if the concentration of cotton dust is above the permissible exposure limit.

The Standard also specifies that employers must establish and maintain exposure-monitoring and medical-surveillance records for each employee covered by these requirements. In addition, they must make any record required by the Standard available to OSHA compliance officers and NIOSH for examination and copying, and provide exposure-monitoring and medical-surveillance records to employees and their designated representatives. Finally, employers who cease to do business within the period specified for retaining exposure-monitoring and medical-surveillance records, and who have no successor employer, must transmit these records to NIOSH. Employers who remain in business for the entire retention period must, before disposing of these records, notify NIOSH of the impending disposal and transfer the records to NIOSH if it requests the records within three months of being so notified.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

III. Proposed Action

OSHA is proposing to decrease the existing burden-hour estimate for, and to extend OMB approval of, the collection-of-information requirements specified by the Standard. The Agency proposes to reduce the current burden-hour estimate from 75,696 hours to 74,172 hours, a total reduction of 1,524 hours. Although OSHA has added burden hours for employee training, these additional burden hours are offset by a substantial decrease in the estimated number of employees exposed to cotton dust. In addition, the Agency notes that total capital costs determined in this ICR, compared to the previous ICR, rose from $6,059,756 to $6,526,314; this additional cost resulted principally from an increase in the cost of administering a medical examination from $130 to $150. OSHA will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of this information-collection requirements.

Type of Review: Extension of currently approved information-collection requirements.

Title: Cotton Dust Standard (29 CFR 1910.1043).

OMB Control No.: 1218–0061.

Affected Public: Business or other for-profit; Federal government; State, local, or tribal governments.

No. of Respondents: 570.

Frequency of Response: On occasion; semi-annually; annually.

Average Time per Response: Response times vary from five minutes to maintain a required record to two hours to conduct exposure monitoring.

Estimates Total Burden Hours: 74,172.

Estimated Cost (Operation and Maintenance): $6,526,314.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC, on November 29, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–30006 Filed 12–3–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0184(2002)]

4,4′-Methylenedianiline Standard for General Industry (29 CFR 1910.1050); Extension of the Office of Management and Budget's (OMB) Approval for Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comment.

SUMMARY: OSHA solicits comments concerning its proposal to increase the existing burden-hour estimates for, and to extend OMB approval of, the information-collection requirements of the 4,4′-Methylenedianiline (MDA) Standard for General Industry (29 CFR 1910.1050).[1] This standard protects employees from adverse health effects that may result from occupational to MDA, including cancer and liver disease.

DATES: Submit written comments on or before February 4, 2002.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0184(2002), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Todd R. Owen, Directorate of Policy, OSHA, U.S. Department of Labor, Room N–3641, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2444. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified in the MDA Standard for General Industry is available for inspection and copying in the Docket Office, or by requesting a copy from Todd Owen at (202) 693–2444. For electronic copies of the ICR, contact OSHA on the Internet at *http://www.osha.gov/comp-links.html*, and select "Information Collection Requests."

SUPPLEMENTARY INFORMATION:

[1] Based on its assessment of the paperwork requirements contained in this standard, the Agency estimates that the total burden hours increased compared to its previous burden-hour estimate. Under this notice, OSHA is *not* proposing to revise these paperwork requirements in any substantive manner, only to increase the burden hours imposed by the existing paperwork requirements.

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collections instruments are clearly understandable, and OSHA's estimate of the information-collection burden is correct. The Occupational Safety and Health Act of 1970 (the "Act" authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The information-collection requirements specified in the MDA Standard for General Industry (the "Standard") protect employees from the adverse health effects that may result from their exposure to MDA, including cancer, and liver and skin disease. The major information-collection requirements of the Standard specify that employers perform initial, periodic, and additional exposure monitoring; within 15 days after receiving exposure-monitoring results, notify each employee in writing of their results, either individually or by posting; and routinely inspect the hands, face, and forearms of each employee potentially exposed to MDA for signs of dermal exposure to MDA. Employers must also establish written compliance program and develop a written emergency plan for any workplace that could have an emergency (*i.e.*, an unexpected and potentially hazardous release of MDA).

Employers are to label any material or products containing MDA, including containers used to store MDA-contaminated protective clothing and equipment. They also must inform personnel who launder MDA-contaminated clothing of the requirement to prevent release of MDA, while personnel who launder or clean MDA-contaminated protective clothing or equipment must receive information about the potentially harmful effects of MDA. In addition, employers are to post warning signs at entrances or accessways to regulated areas, as well as train employees exposed to MDA at the time of their initial assignment, and at least annually thereafter. Employers also must provide employees with information and training at the time of their initial assignment to a work area containing MDA, and at least annually thereafter. On request, employers are to make the written training materials available to employees, and information and training materials available to OSHA compliance officers and NIOSH representatives.

Other paperwork requirements of the Standard require employers to provide employees with medical examinations, including initial, periodic, emergency, and follow-up examinations. As part of the medical-surveillance program, employers must ensure that the examining physician receives specific written information, and that they obtain from the physician a written opinion regarding the employee's medical results and exposure limitations.

The Standard also requires employers to establish and maintain exposure-monitoring and medical-surveillance records for each employee who is subject to these respective requirements, make any record required by the Standard available to OSHA compliance officers and the National Institute for Occupational Safety and Health (NIOSH) for examination and copying, and provide exposure-monitoring and medical-surveillance records to employees and their designated representatives. Finally, employers who cease to do business within the period specified for retaining exposure-monitoring and medical-surveillance records, and who have no successor employer; must notify NIOSH at least 90 days before disposing of the records; they must transmit these records to NIOSH if so requested.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and transmission techniques.

III. Proposed Actions

OSHA is proposing to increase the existing burden-hour estimate, and to

extend OMB approval of, the collection-of-information requirements specified by the Standard. The Agency proposes to increase the total burden-hour estimate from 320 hours to 689 hours, an increase of 369 hours. The additional burden hours result in large part from an increase in the number of employees who receive initial and periodic medical examinations. Also, capital costs rise from $19,720 to $50,550 because the number of required exposure-monitoring samples increased from 44 to 51, while the cost of analyzing a sample increase from $90 to $100; moreover, the total number of medical examinations rise from 117 to 330, while the cost of administering a medical examination increase from $130 to $150. OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information-collection requirements contained in the Standard.

Type of Review: Extension of currently approved information-collection requirements.

Title: MDA Standard for General Industry (29 CFR 1910.1050).

OMB Number: 1218–0184.

Affected Public: Business or other for-profit; Federal government; State, local, or tribal governments.

Number of Respondents: 15.

Frequency of Recordkeeping: On occasion; quarterly; semi-annually; annually.

Average Time per Response: Varies from five minutes to provide information to the examining physician to two hours to conduct exposure-monitoring.

Estimated Total Burden Hours: 689 hours.

Estimated Cost (Operation and Maintenance): $50,550.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3–2000 (62 FR 50017).

Signed at Washington, DC, on November 29, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–30007 Filed 12–3–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0183(2002)]

4′,4′-Methylenedianiline Standard for Construction (29 CFR 1926.60); Extension of the Office of Management and Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA) Labor.

ACTION: Request for comments.

SUMMARY: OSHA solicits comments concerning its proposal to increase the existing burden hours estimates for, and to extend OMB approval of, the information-collection requirements of the 4′,4′-Methylenedianiline (MDA) Standard Construction (29 CFR 1926.60).[1] This standard protects employees from the adverse health effects that may result from occupational exposure to MDA, including cancer, and liver and skin disease.

DATES: Submit written comments on or before February 4, 2002.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0183(2002), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Todd R. Owen, Directorate of Policy, OSHA, U.S. Department of Labor, Room N–3641, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2444. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified in the standard is available for inspection and copying in the Docket Office, or by requesting a copy from Todd Owen at (202) 693–2444. For electronic copies of the ICR contact OSHA on the Internet at *http://www.osha.gov/comp-links.html,* and select "Information Collection Requests."

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are clearly understandable, and OSHA's estimate of the information-collection burden is correct. The Occupational Safety and Health Act of 1970 (the "Act") authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The information-collection requirements specified in the 4′,4′-Methylenedianiline Standard for Construction (the "MDA Standard") protect employees from the adverse health effects that may result from their exposure to MDA, including cancer, and liver and skin disease. The major paperwork requirements specify that employers must perform initial, periodic, and additional exposure monitoring; within 15 days after receiving exposure-monitoring results, notify each employee in writing of their results; and routinely inspect the hands, face, and forearms of each employees potentially exposed to MDA for signs of dermal exposure to MDA. Employers must also: Establish a written compliance program; institute a respiratory-protective program in accordance with 29 CFR 1910.134 (OSHA's Respiratory Protection Standard); and develop a written emergency plan for any construction operation that could have an emergency (i.e., an unexpected and potentially hazard release of MDA).

Employers are to label any material or products containing MDA, including containers used to store MDA-contaminated protective clothing and equipment. They also must inform personnel who launder MDA-contaminated clothing of the requirement to prevent release of MDA, while personnel who launder or clean MDA-contaminated protective clothing or equipment must receive information about the potentially harmful effects of MDA. In addition, employers are to post warning signs at entrances or accessways to regulated areas, as well as

[1] Based on its assessment of the paperwork requirements contained in this standard, the Agency estimates that the total burden hours increased compared to its previous burden-hour estimate. Under this notice, OSHA is *not* proposing to revise these paperwork requirements in any substantive manner, only to increase the burden hours imposed by the existing paperwork requirements.

train employees exposed to MDA at the time of their initial assignment, and at least annually thereafter.

Other paperwork provisions of the MDA Standard require employers to provide employees with medical examinations, including initial, periodic, emergency and follow-up examinations. As part of the medical-surveillance program, employers must ensure that the examining physician receives specific written information, and that they obtain from the physician a written opinion regarding the employee's medical results and exposure limitations.

The MDA Standard also specifies that employers are to establish and maintain exposure-monitoring and medical-surveillance records for each employee who is subject to these respective requirements, make any required record available to OSHA compliance officers and the National Institute for Occupational Safety and Health (NIOSH) for examination and copying, and provide exposure-monitoring and medical-surveillance records to employees and their designated representatives. Finally, employers who cease to do business within the period specified for retaining exposure-monitoring and medical-surveillance records, and who have no successor employer, must notify NIOSH at least 90 days before disposing of the records and transmit the records to NIOSH if so requested.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

III. Proposed Actions

OSHA is proposing to increase the existing burden-hour estimate for, and to extend OMB approval of, the collection-of-information requirements specified by the MDA Standard. The Agency proposes to increase the total burden-hour estimate from 1,523 hours to 1,609 hours, an increase of 86 hours. The additional burden hours result in large part from an increase in the number of employers who develop and maintain objective data, or historical monitoring data, for exempted operations. Also, capital costs rose from $74,000 to $80,400 because the cost of analyzing an exposure-monitoring sample increased from $90 to $100, while the cost of administering a medical examination rose from $130 to $150. OSHA will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of this information-collection requirements.

Type of Review: Extension of currently approved information-collection requirements.

Title: MDA Standard for Construction (29 CFR 1926.60).

OMB Number: 1218–0183.

Affected Public: Business or other for-profit; Federal government, State, local, and tribal governments.

Number of Respondents: 66.

Frequency of Recordkeeping: On occasion; semi-annually; annually.

Average Time per Response: Varies from five minutes to provide information to the examining physician to two hours of perform exposure monitoring.

Estimated Total Burden Hours: 1,609.

Estimated Cost (Operation and Maintenance): $80,400.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3–2000 (62 FR 50017).

Signed at Washington, DC, on November 29, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–30008 Filed 12–3–01; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[01–153]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). This information collection provides information on Goddard Space Flight Center Visitor Center volunteers.

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Ms Darlene Ahalt, Goddard Space Flight Center, Greenbelt, MD 20771.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: Application for Volunteer Program.

OMB Number: 2700–0057.

Type of review: Extension.

Need and Uses: The application is used to collect information on persons applying to be a Goddard Space Flight Center Visitor Center Volunteer.

Affected Public: Individuals or households; Business or other-for-profit; Not-for-profit institutions; Farms; Federal Government; State, Local or Tribal Government.

Number of Respondents: 40.

Responses Per Respondent: 1.

Annual Responses: 30.

Hours Per Request: Approximately ½ hour.

Annual Burden Hours: 20.

Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 01–29944 Filed 12–3–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Institute of Museum and Library Services

Agency Information Collections Activities; Submission for OMB Review, Comment Request; User Need Assessment in Digitization

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Notice of requests for new information collection approval.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has

been submitted to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). Currently, the Institute of Museum and Library Services is soliciting comment concerning extending collection entitled, Technology Survey for Libraries and Museums. A copy of this proposed form, with applicable supporting documentation, may be obtained by calling the Institute of Museum and Library Services, Director of Public and Legislative Affairs, Mamie Bittner at (202) 606–8339. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–8636.

DATES: Comments must be received by January 3, 2002. The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: Send comments to: Mamie Bittner, Director of Legislative and Public Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Ave., NW, Room 510, Washington, DC 20506.

SUPPLEMENTARY INFORMATION:

I. Background

P.L. 104–208 enacted on September 30, 1996 contains the former Museum Services Act and the Library Services and Technology Act, a reauthorization P.L. 104–208 authorizes the Director of the Institute of Museum and Library Services to make grants to improve museum and library service throughout the United States.

Agency: Institute of Museum and Library Services.

Title: Technology Survey for Libraries and Museums.

OMB Number: None.

Agency Number: 3137.

Frequency: One-time.

Affected Public: IMLS Grantees.

Number of Respondents: 342.

Estimated Time Per Respondent: Varies.

Total Burden Hours: 116.

Total Annualized capital/startup costs: 0.

Total Annual Costs: $53,545.

Contact: Comments should be sent to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316.

Mamie Bittner,

Director Public and Legislative Affairs.

[FR Doc. 01–29933 Filed 12–3–01; 8:45 am]

BILLING CODE 7036–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND PLACE: 9:30 a.m., Tuesday, December 11, 2001.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The two items are Open to the Public.

MATTERS TO BE CONSIDERED:

7413—Railroad Special Investigation Report—Maryland Transit Administration Light Rail Vehicle Accidents at the Baltimore-Washington International Airport Transit Station near Baltimore, Maryland, February 13 and August 15, 2000.

7415—Highway Accident Report—Collison of CSX Freight Train and Murray County School District School Bus at Railroad/Highway Grade Crossing in Conasauga, Tennessee, on March 28, 2000.

News Media Contact: Telephone: (202) 314–6100.

Individuals requesting specific accommodations should contact Ms. Carolyn Dargan at (202) 314–6305 by Friday, December 7, 2001.

FOR MORE INFORMATION CONTACT: Vicky D O'Onofrio, (202) 314–6410.

Dated: November 30, 2001.

Vicky D' Onofrio,

Federal Register Liaison Officer.

[FR Doc. 01–30178 Filed 11–30–01; 2:57 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–220 and 50–410 License Nos. DPR–63 and NPF–69]

Niagara Mohawk Power Corporation, et al., (Nine Mile Point Nuclear Station, Unit Nos. 1 and 2); Supplemental Order Regarding Approval of Transfer of Licenses and Approving Conforming Amendment

I

Niagara Mohawk Power Corporation (NMPC) is the exclusive owner and operator of Nine Mile Point Nuclear Station, Unit 1 (NMP–1), and in regard thereto, holds Facility Operating License No. DPR–63. NMPC is also part-owner and exclusive operator of Nine Mile Point Nuclear Station, Unit No. 2 (NMP–2), and in connection therewith, is a holder of Facility Operating License No. NPF–69. The other co-owners of NMP–2 and holders of the license are New York State Electric & Gas Corporation (NYSEG), Rochester Gas and Electric Corporation (RG&E), Central Hudson Gas & Electric Corporation (CHGEC), and Long Island Lighting Company (LILCO, which is doing business as Long Island Power Authority). NMP–1 and NMP–2 (the facilities) are located at the licensees' site in Oswego County, New York.

II

By application dated February 1, 2001, Constellation Nuclear, LLC, on behalf of its indirect subsidiary Nine Mile Point Nuclear Station, LLC (NMP LLC), and NMPC, NYSEG, RG&E, and CHGEC requested the consent of the U.S. Nuclear Regulatory Commission (NRC or Commission) to a proposed direct transfer of the licenses for NMP–1 and NMP–2, to the extent held by the foregoing applicants, to NMP LLC. The application was supplemented by submittals from Constellation Nuclear, LLC, dated March 1, March 16, March 29, April 5, April 27, May 30, and June 7, 2001 (collectively herein referred to as the Application). The Application also requested the approval of conforming license amendments to reflect the direct transfer of the licenses. The Application further requested consent to certain indirect transfers of the licenses, to the extent such would occur following the direct transfers resulting from (1) a planned realignment or restructuring of the Constellation Energy Group (CEG), Inc., of which NMP LLC is a part, and the establishment of a new intermediate parent company of NMP LLC referred to as New Controlled, and (2) the

acquisition by Virgo Holdings, Inc. (Virgo), an indirect subsidiary of The Goldman Sachs Group, Inc., of an equity interest in NMP LLC and up to a 17.5% voting interest in New Controlled, coupled with the distribution of the remaining voting shares of New Controlled, all of which would be held by CEG, Inc., up to the time of distribution, to the existing public shareholders of CEG, Inc., leaving Virgo with the largest single voting interest in NMP LLC's ultimate parent company.

The Application provided that in connection with the direct transfers, NMP LLC would assume title to NMP–1 following approval of the proposed license transfers, and would assume the 82% ownership interest in NMP–2 currently held by NMPC (owner of a 41% interest), NYSEG (18% interest), RG&E (14% interest) and CHGEC (9% interest). LILCO is not involved in the direct transfer of NMP–2 and, therefore, will remain a licensee with respect to its 18% ownership interest. In addition, NMP LLC would become responsible for the operation of both NMP–1 and NMP–2. The Application stated that NMP LLC would also assume the decommissioning responsibility of the current owners of NMP–1 and NMP–2 transferring their interests in the facilities to NMP LLC. NMP LLC would provide decommissioning funding assurance through the use of decommissioning trusts coupled with parent company guarantees.

The Application proposed conforming license amendments that would replace references to NMPC, NYSEG, RG&E, and CHGEC in the licenses with references to NMP LLC, as appropriate, and make other administrative changes to reflect the proposed direct transfer.

The Commission published a notice of the request for approval and an opportunity for a hearing in the **Federal Register** on April 2, 2001 (66 FR 17584). The Commission received no comments or requests for hearing pursuant to the notice. The NRC staff approved the proposed direct and indirect license transfers by an Order dated June 22, 2001. That Order, which contained several conditions of approval, was based in part on the premise that the NMPC, RG&E, CHGEC and NYSEG interests would be transferred concurrently.

By a submittal dated September 10, 2001, Constellation Nuclear, LLC, NMPC, CHGEC and RG&E stated that due to certain delays in receiving other necessary regulatory approvals, their interests in the NMP–1 and NMP–2 licenses may need to be transferred to NMP LLC prior to any transfer of NYSEG's interest in NMP–2. The September 10, 2001, submittal was supplemented by a letter dated September 26, 2001, from Constellation Nuclear, LLC, and NMPC, and a letter dated September 28, 2001, from J.E. Silberg, counsel to Constellation Nuclear, LLC. These letters are collectively referred to as the Supplemental Application. The Supplemental Application requested NRC consent to the direct transfer approved by the June 22, 2001, Order occurring in two phases, *i.e.*, the NMPC, CHGEC, and RG&E transfers would occur first, followed by the NYSEG transfer.

The Supplemental Application also requested approval of a conforming license amendment for NMP–2 to reflect the first phase of a two-phase direct transfer of the interests in NMP–2. The amendment would delete references to NMPC, CHGEC, and RG&E to reflect the transfer of their interests to NMP LLC, but leave NYSEG on the license.

Approval of the two-phase completion of the previously approved direct transfers involving NMP–2 and corresponding conforming license amendment to reflect the completion of the first phase was requested pursuant to 10 CFR 50.80 and 50.90. The NRC staff determined that the Supplemental Application relates only to schedular matters and did not involve any material changes to the underlying basis for the transfer approval Order dated June 22, 2001. Therefore, the Supplemental Application was within the scope of the April 2, 2001, **Federal Register** notice cited above and did not require renoticing or a new opportunity for a hearing.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. After reviewing the information submitted in the Supplemental Application and other information before the Commission, the NRC staff has determined that its previous findings set forth in the Order dated June 22, 2001, remain valid notwithstanding that the transfers may occur in two phases, namely, NMP LLC is qualified to hold the licenses for NMP–1 and NMP–2 to the same extent the licenses are now held by NMPC, CHGEC, RG&E and NYSEG, and that the transfer of the licenses, as previously described herein, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions described herein. The NRC staff has further found that the Supplemental Application for the proposed license amendment to reflect the first phase of a potential two-phase transfer complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR chapter I; the facility will operate in conformity with the Supplemental Application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed license amendment will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied. These findings are supported by a safety evaluation dated October 30, 2001.

III

Accordingly, pursuant to sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §§ 2201(b), 2201(i), and 2234, and 10 CFR 50.80, *it is hereby ordered* that the direct NMP–2 license transfer previously approved by the June 22, 2001, Order, from NMPC, CHGEC, RG&E and NYSEG, to NMP LLC may occur in two phases, as described above, subject to the following conditions:

(1) NMP LLC shall, prior to the completion of each direct transfer, have provided to the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that NMP LLC has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(2) On the closing date(s) of the transfer of the NMPC, RG&E, CHGEC, and NYSEG interests in NMP–1 and NMP–2 to it, NMP LLC shall: (1) Obtain from the transferors then transferring their interests all of their accumulated decommissioning trust funds for NMP–1 and NMP–2, respectively, and (2) receive [a] parent company guarantee[s] pursuant to 10 CFR 50.75(e)(1)(iii)(B) (to be updated annually) in a form acceptable to the NRC and in [an] amount[s] which, when combined with the decommissioning trust funds for NMP–1 and NMP–2 that have been transferred, equals or exceeds the total amounts for NMP LLC's then resulting total ownership share of NMP–1 and

NMP–2, respectively, pursuant to 10 CFR 50.75(b) and (c).

(3) The master decommissioning trust agreement for NMP–1 and NMP–2, at the time any subject direct transfer is effected and thereafter, is subject to the following:

a. The decommissioning trust agreement must be in a form acceptable to the NRC.

b. With respect to the decommissioning trust funds, investments in the securities or other obligations of CEG Inc., New Controlled, or their affiliates, successors, or assigns, are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.

c. The decommissioning trust agreement must provide that no disbursements or payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the NRC 30 days prior written notice of the payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the Director of the Office of Nuclear Reactor Regulation.

d. The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

e. The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(4) NMP LLC shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the Application, the requirements of the June 22, 2001, Order (amended by this Order herein), and the related safety evaluation.

(5) At the time any subject direct transfer is effected, NMP LLC shall enter or shall have entered into an intercompany credit agreement with Constellation Energy Group (CEG), Inc., or New Controlled, whichever entity is the ultimate parent of NMP LLC at that time, in the form and on the terms represented in the Application. Should New Controlled become the ultimate parent of NMP LLC following the direct transfer of the licenses to NMP LLC, NMP LLC shall enter or shall have entered into a substantially identical intercompany credit agreement with New Controlled at the time New Controlled becomes the ultimate parent; in such case, any existing intercompany credit agreement with CEG, Inc. may be canceled once the intercompany credit agreement with New Controlled is established. Except as otherwise provided above, NMP LLC shall take no action to void, cancel, or modify any intercompany credit agreement referenced above, without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

(6) NMPC shall inform the Director of the Office of Nuclear Reactor Regulation of the date(s) of the closing of the direct transfers no later than two business days prior to such respective date(s). If all of the direct and indirect transfers of the licenses approved by the June 22, 2001, Order, as supplemented by this Order are not completed by June 30, 2002, this Order and the June 22, 2001, Order shall become null and void with respect to those transfers not so completed, provided, however, upon written application and for good cause shown, such date may in writing be extended.

It is further ordered that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Supplemental Order, to conform the operating license for NMP–2 to reflect the subject first phase of the direct license transfers, is approved. If NMPC, RG&E, and CHGEC transfer their interests in NMP–2 to NMP LLC and NYSEG does not concurrently transfer its interest in NMP–2, the amendment shall be issued and made effective at the time NMPC, RG&E, and CHGEC transfer their interests in NMP–2 to NMP LLC.

It is further ordered that, to the extent any of the conditions of the June 22, 2001, Order, and conditions contained in the conforming license amendments approved by that Order, are inconsistent with the conditions contained in this Supplemental Order and conditions contained in the amendment approved by this Supplemental Order, all such inconsistent conditions of the June 22, 2001, Order, and all such inconsistent conditions contained in the conforming license amendments approved by that Order, are hereby modified to be consistent with the conditions contained in this Supplemental Order and conditions contained in the license amendment approved by this Supplemental Order. License amendments for NMP–1 and NMP–2, as approved by the June 22, 2001, Order, and as modified herein, or the license amendment as approved by this Supplemental Order, shall be issued as appropriate and made effective at the time the corresponding license transfers occur.

This Supplemental Order is effective upon issuance.

For further details with respect to this Supplemental Order, see the Supplemental Application transmitted by letters dated September 10, 26, and 28, 2001, the associated supplemental safety evaluation dated October 30, 2001, and the Order and its associated safety evaluation both dated June 22, 2001. All of these documents are available for public inspection at the Commission's Public Document Room at One White Flint North, 11555 Rockville Pike (first floor), Rockville, MD, and are accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site *http://www.nrc.gov*.

Dated at Rockville, Maryland, this 30th day of October, 2001.

For the Nuclear Regulatory Commission

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 01–29970 Filed 12–3–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–354]

PSEG Nuclear LLC; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of PSEG Nuclear LLC (the licensee) to withdraw its November 29, 2000, application as supplemented August 10, 2001, for proposed amendment to Facility Operating License No. NPF–57 for the Hope Creek Generating Station (HCGS), located in Salem County, New Jersey.

The proposed amendment would have modified the HCGS technical specifications to reflect the enabling of the Oscillation Power Range Monitor (OPRM) reactor protection system (RPS) trip function. The OPRM is designed to detect the onset of reactor core power oscillations resulting from thermal-hydraulic instability and suppress them by initiating a reactor scram via the RPS trip logic.

The Commission had previously issued a Notice of Consideration of

Issuance of Amendment published in the **Federal Register** on December 27, 2000 (65 FR 81930). However, by letter dated October 19, 2001, the licensee withdrew the proposed change. The withdrawal request was based on the extended time period General Electric Company (GE) is projecting to resolve a defect that was reported to the Commission pursuant to part 21 of Title 10 of the Code of Federal Regulations (10 CFR part 21). The defect pertains to GE's OPRM setpoint methodology as detailed in letters from GE to the Commission dated June 29 and August 31, 2001. The defect could result in non-conservative OPRM trip setpoints. The OPRM is currently installed at HCGS with the RPS trip function disabled.

For further details with respect to this action, see the application for amendment dated November 29, 2000, as supplemented August 10, 2001, and the licensee's letter dated October 19, 2001, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room (PDR) Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 28th day of November 2001.

For the Nuclear Regulatory Commission.

Richard B. Ennis,

Project Manager, Section 2, Project Directorate I, Divisionof Licensing Project Management Office of Nuclear Reactor Regualtion.

[FR Doc. 01–29971 Filed 12–3–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–7002]

Portsmouth Gaseous Diffusion Plant United States Enrichment Corporation; Notice of Consideration of Request for Temporary Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of request for temporary exemption.

SUMMARY: The Nuclear Regulatory Commission (Commission) is considering the issuance of a temporary exemption from the requirement to perform an emergency preparedness (EP) exercise every 2 years for the Portsmouth Gaseous Diffusion Plant operated by the United States Enrichment Corporation (USEC). The request for temporary exemption is necessary because USEC had to postpone the required scheduled EP exercise because of the terrorist attacks on the United States, lack of availability of Federal agencies, and the current heightened alert status of the plant. USEC expects to conduct the EP exercise by April 30, 2002. The NRC has prepared an environmental assessment with a finding of no significant impact on the request.

FOR FURTHER INFORMATION CONTACT: Dan E. Martin, Project Manager, Special Projects Branch, Division of Fuel Cycle and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 415–7254, *e-mail dem1@nrc.gov*.

SUPPLEMENTARY INFORMATION: The Commission is considering the issuance of a temporary exemption from the requirement to perform an emergency preparedness exercise every 2 years, pursuant to 10 CFR part 76, for the Portsmouth Gaseous Diffusion Plant (PORTS), operated by USEC. The facility is authorized to use Special Nuclear Material (SNM) in the enrichment of natural uranium to prepare low-enriched uranium to be used by others in the fabrication of nuclear fuel pellets and fuel assemblies and operates near Piketon, Ohio.

The PORTS facility was scheduled to conduct an EP exercise on September 12, 2001. This exercise was postponed because of the terrorist attacks on the United States that occurred on September 11, 2001. Because of the ongoing high alert status of the plant, and the need to coordinate with several offsite agencies and groups, the PORTS EP exercise will not be performed this calendar year. USEC expects to conduct the exercise no later than April 30, 2002.

The last EP exercise conducted at the PORTS facility was held on September 14, 1999. USEC's Emergency Plan, in accordance with 10 CFR 76.91(l), requires that plant personnel plan and conduct biennial EP exercises. Because the next exercise will not be conducted during calendar year 2001, USEC has requested a temporary exemption from the requirement to conduct biennial EP exercises. The NRC staff has prepared an environmental assessment of the proposed action and reached a finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant temporary schedular relief from the requirement pursuant to 10 CFR 76.91(l) to perform a biennial EP exercise during calendar year 2001. The proposed action would allow USEC to conduct the PORTS 2001 biennial exercise as late as April 30, 2002. The proposed action is in accordance with USEC's request for exemption dated October 4, 2001.

Need for the Proposed Action

The proposed action is necessary to support a request to USEC by the United States Department of Energy (DOE) that the EP exercise scheduled for September 12, 2001, be postponed until calendar year 2002. Furthermore, because of the heightened state of security alert that the plant is under and the unavailability of some participants, USEC has determined that it would not be prudent to hold the 2001 biennial EP exercise during calendar year 2001. Allowing the delay would avoid overlap with the current state of high alert and allow fuller participation by other agencies and groups.

Environmental Impacts of the Proposed Action

The proposed action would not materially affect the emergency response capabilities of the PORTS facility. The last EP exercise was conducted on September 14, 1999, and there were no issues identified which required immediate corrective action. NRC reviews and inspections since the 1999 exercise have not identified a decline in the effectiveness of USEC's emergency response capability. The postponement should have no impact on the effectiveness of USEC's emergency response capability. The proposed action will not increase the probability or consequences of accidents, no changes are being made in the amounts or types of any effluents that could be released offsite, and there is no increase in individual or cumulative radiation exposure. Accordingly, the Commission concludes that there are no significant radiological impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluents and has no other

environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no discernible environmental impact associated with the proposed action, any alternatives with equal or lesser impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the proposed action would result in no change in environmental impacts and would result in hardship to USEC, DOE, and perhaps other participants. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The proposed action does not involve the use of any resources beyond those already necessary to conduct the EP exercise during 2001, and would merely delay the exercise.

Agencies and Persons Consulted

In accordance with its stated policy, the NRC staff consulted with State of Ohio official, Carol O'Claire, Supervisor, Radiological Branch, Ohio Emergency Management Agency, and U.S. Department of Energy official Randall M. DeVault, Group Leader, Transition and Technology Group, Office of Nuclear Fuel Security and Uranium Technology, regarding the environmental impact of the proposed action. No objections were received.

Consultations with the U.S. Fish and Wildlife Service and the State Historic Preservation Officer were not performed because of the lack of any conceivable impact to fish and wildlife or historic assets.

Finding of No Significant Impact

Based on the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

List of Preparers

This document was prepared by Dan E. Martin, Project Manager, Special Projects Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards. Mr. Martin is the Project Manager for the Portsmouth Gaseous Diffusion Plant.

For further details with respect to the proposed action, see the USEC letter request dated October 4, 2001, available for public inspection at the Commission's Public Document Room at One White Flint North, 11555 Rockville Pike, Rockville, MD, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web Site (*http://www.nrc.gov*).

Dated at Rockville, Maryland, this 26th day of November, 2001.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Chief, Special Projects Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–29969 Filed 12–3–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice; Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of December 3, 10, 17, 24, 31, 2001, January 7, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of December 3, 2001

Monday, December 3, 2001

2 p.m.—Briefing on Status of Steam Generator Action Plan (Public Meeting) (Contact: Maitri Banerjee, 301–415–2277).

Wednesday, December 5, 2001

1:25 p.m.—Affirmation Session (Public Meeting) (if needed).

1:30 p.m.—Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: John Larkins, 301–415–7360).

Week of December 10, 2001—Tentative

There are no meetings scheduled for the Week of December 10, 2001.

Week of December 17, 2001—Tentative

There are no meetings scheduled for the Week of December 17, 2001.

Week of December 24, 2001—Tentative

There are no meetings scheduled for the Week of December 24, 2001.

Week of December 31, 2001—Tentative

There are no meetings scheduled for the Week of December 31, 2001.

Week of January 7, 2001—Tentative

Wednesday, January 9, 2002

9:30 a.m.—Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting) (Contact: John Larkins, 301–415–7360).

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: November 29, 2001.

Sandra M. Joosten,

Executive Assistant, Office of the Secretary.

[FR Doc. 01–30091 Filed 11–30–01;12:25 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued revisions of two guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 2 of Regulatory Guide 1.142, "Safety-Related Concrete Structures for Nuclear Power Plants (Other than Reactor Vessels and Containments," provides guidance on methods acceptable to the NRC staff for complying with the NRC's regulations on the design, evaluation, and quality assurance of safety-related nuclear concrete structures, excluding concrete reactor vessels and concrete containments.

Revision 2 of Regulatory Guide 1.143, "Design Guidance for Radioactive Waste Management Systems, Structures, and Components Installed in Light-Water-

Cooled Nuclear Power Plants," provides guidance on methods acceptable to the NRC staff for complying with the NRC's regulations on the design, construction, installation, and testing the structures, systems, and components of radioactive waste management facilities in light-water-cooled nuclear power plants.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Specific questions on the guides should be directed to Mr. H.L. Graves at (301) 415–5880, email *HLG1@NRC.GOV*.

Regulatory guides are available for inspection or downloading at the NRC's web site at <*WWW.NRC.GOV*> under Regulatory Guides and in NRC's Electronic Reading Room (ADAMS System) at the same site. Single copies of regulatory guides may be obtained free of charge by writing the Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to (301) 415–2289, or by email to <*DISTRIBUTION@NRC.GOV*>. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 21st day of November, 2001.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman,

Deputy Director, Office of Nuclear Regulatory Research.

[FR Doc. 01–29968 Filed 12–3–01; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

SES Performance Review Board

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the OPM Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Mark Reinhold, Office of Human Resources and EEO, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, (202) 606–1882.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and considers recommendations to the appointing authority regarding the performance of the senior executive.

Office of Personnel Management.

Kay Coles James,

Director.

The following have been designated as regular members of the Performance Review Board of the Office of Personnel Management:

Paul T. Conway, Chief of Staff—Chair
Steven R. Cohen, Senior Advisor to the Director Richard A. Ferris, Associate Director, Investigations Service William E. Flynn, Associate Director, Retirement and Insurance Service
John C. Gartland, Director, Office of Congressional Relations Teresa M. Jenkins, Director, Office of Workforce Relations Mark A. Robbins, General Counsel Ronald P. Sanders, Chief of Human Resources, Internal Revenue Service

[FR Doc. 01–29984 Filed 12–3–01; 8:45 am]

BILLING CODE 6325–45–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27459]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

November 28, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 24, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After December 24, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

KeySpan Corporation (70–9987)

KeySpan Corporation ("KeySpan"), a registered holding company, One MetroTech Center, Brooklyn, New York 11202, has filed an application-declaration under sections 6(a), 7, 9(a), 10 and 13(b) of the Act and rules 43, 45, 90 and 91 under the Act.

KeySpan requests authority to establish a subsidiary captive insurance company, ("Captive"), to engage in reinsuring certain levels of predictable risk for KeySpan and its associate companies. KeySpan requests authority to form and capitalize Captive. KeySpan will be the sole shareholder upon purchase of all shares of common stock for $100. The aggregate amount of the initial insurance premiums required by Captive is $36 million. Funding of the premiums to Captive will be as follows: The first $18 million will be paid in cash from the participating KeySpan system companies based on their allocated share and the remaining $18 million will be in the form of KeySpan common stock issued to Captive. All funds will be depositd with the Captive's bank in Vermont and will be invested in securities that are exempt by rule 40 under the Act.

Captive will provide three types of insurance coverage for KeySpan: Automobile liability, workers' compensation and general liability insurance to affiliates. It will also provide, under an Owner's Controlled Insurance Program, general liability and worker's compensation insurance to its unaffiliated principal contractor for the duration of any projects involving KeySpan system companies. These projects will only involve gas main construction and maintenance for system companies.

Captive will be a direct, wholly owned subsidiary of KeySpan and will be authorized to operate as an insurance

company in Vermont. Captive will assume the risk.

PECO Energy Company and PECO Energy Transition Trust (70–10003)

PECO Energy Company ("PECO"), a utility subsidiary of Exelon Corporation ("Exelon"), 10 South Dearborn Street, 37th Floor, Chicago, Illinois 60603, a registered holding company, and PECO Energy Transition Trust ("PETT"), a special purpose subsidiary of Exelon (collectively, "Declarants"), have filed a declaration under section 13(b) of the Act and rules 87, 90, 91 and 54 under the Act.

In Commission orders dated November 2, 2000 (Holding Co. Act Release No. 27266), and December 8, 2000 (Holding Co. Act Release No. 27296) (collectively, the "Prior Orders"), the Commission approved PECO's refinancing of up to the full amount of outstanding transition bonds due March 1, 2004, and September 1, 2007, with refunding transition bonds having a final maturity not later than March 1, 2011.[1] On March 1, 2001, PETT refinanced approximately $805 million of the prior transition bonds through the issuance of Series 2001–A Transition Bonds.[2]

In Amendment No. 5 to the Form U–1 in File No. 70–9693, Exelon sought approval under section 13(b) of the Act for PECO to provide certain servicing functions to PETT at a price not restricted to cost. Exelon states that it will withdraw that request from File No. 70–9693 and instead Declarants are making the same request in the Form U–1 filed in the current matter.

Under the terms of PECO's settlement of its 1998 restructuring proceeding and the final order of the Pennsylvania Public Utility Commission ("Pennsylvania Commission") approving the settlement, issued on May 14, 1998, PECO is permitted to recover $5.26 billion in stranded costs over a twelve year period beginning on January 1, 1999. PECO's stranded costs are collected through a non-bypassable transition charge which must be paid by all of PECO's transmission and distribution customers, regardless of whether the customers continue to purchase their electric capacity or energy from PECO. Utilities are authorized to securitize the right to recover all or a portion of these non-bypassable transition charges through the issuance of "transition bonds." This right is known as "Intangible Transition Property."

As permitted under Pennsylvania law, certain portions of the May 14, 1998, Pennsylvania Commission order were designated a Qualified Rate Order ("QRO") authorizing PECO to securitize up to $4 billion of its recoverable costs through the issuance of transition bonds. On March 16, 2000, the Pennsylvania Commission issued a second QRO authorizing PECO to securitize an additional $1 billion. In order to accomplish the approved securitization transactions, PECO created PETT as an independent special purpose entity. PETT is a statutory business trust formed on June 23, 1998, under a trust agreement between PECO, as grantor, First Union Trust Company, N.A., as issuer trustee, and two beneficiary trustees appointed by PECO. PETT was organized for the special purpose of purchasing from PECO the Intangible Transition Property, issuing transition bonds, pledging its interest in the Intangible Transition Property and other collateral to a bond trustee to secure the transition bonds and performing activities that are necessary and suitable to accomplish these purposes including collecting the specific part of Intangible Transition Property used to pay the bonds, *i.e.*, "Intangible Transition Charges" collected from PECO customers.

As part of the transactions relating to the currently Outstanding Transition Bonds, PECO and PETT entered into an Amended and Restated Master Servicing Agreement, dated March 25, 1999, as amended May 2, 2000, and March 1, 2001 (the "Servicing Agreement"), under which PECO, as servicer, manages and administers the ITP sold to PETT and collects the Intangible Transition Charges on behalf of PETT.[3]

To help ensure the necessary legal separation for purposes of isolating PETT from PECO for bankruptcy purposes, the rating agencies desire that any servicing arrangement to be at a market price so that a successor entity could assume the duties in the event of the bankruptcy of PECO without interruption or an increase in fees. Accordingly, the Servicing Agreement has provided for at market pricing and will continue to do so while any transition bonds remain outstanding. PECO and PETT seek approval under section 13(b) of the Act and rules 87, 90 and to continues this practice during the period and transition bonds remain outstanding and the Servicing Agreement remains in place.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–29985 Filed 12–3–01; 8:45 am]

BILLING CODE 8010–01–P

[1] As of June 30, 2000, there was $1.132 billion outstanding in these transition bonds outstanding.

[2] Further details regarding PETT's obligations and outstanding transition bonds (the "Outstanding Transition Bonds") aty September 30, 2001,a re set forth in PETT's Quarterly Report on Form 10–Q for the quarer ended September 30, 2001 in File No. 333–58055.

[3] The Servicing Agreement is incorporated by reference to Exhibits 10.3 and 10.4 to PETT's Form S–3 Regulation Statement in File No. 333–51740.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45110; File No. SR–Amex–2001–90]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Establishing New Exchange Fees Based on the Number of Order Cancellations Routed Through the Amex Order File

November 27, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4[2] thereunder, notice is hereby given that on October 23, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On November 21, 2001, the Amex submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to establish a new fee based upon the number of order

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Claire P. McGrath, Vice President & Deputy General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated November 20, 2001 ("Amendment No. 1"). In Amendment No. 1, the Amex amended note 5 to Section VI, Options Order Cancellation Fee of the Amex Fee Schedule, to clarify that the fee will be assessed when the total number of orders an executing clearing member cancels through the Amex Order File ("AOF") in a particular month exceeds the total number of orders that the member executes through the AOF in that same month. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that period to commence on November 20, 2001, the date the Amex filed Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

cancellations that are routed through the AOF.

The text of the proposed rule change, as amended, is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposed to establish a fee on the cancellation of orders. The Exchange represents that the fee is necessary given the often disproportionate number of order cancellations received relative to order executions and the increased costs associated with the practice of immediately following an order routed through exchange systems with a cancel request for that order. The Exchange asserts that these order cancellations utilize system capacity and may require manual processing by specialist unit personnel, which may unnecessarily distract specialist staff from other responsibilities. The Exchange represents that cancellations often come in large numbers, which create backlogs in the AOF, increase Exchange costs, adversely impact public customers, their clearing firms, and specialists, and result in less-than-timely executions of customer orders. The Exchange asserts that the large volume of order cancellations requires an increase in Exchange spending on systems and related hardware used to process increased message traffic.

Pursuant to the proposed fee, the executing Clearing Member would be charged $1.00 for every order that it cancels through the AOF in any month when the total number of orders cancelled through the AOF exceeds the total number of orders that same firm executed through AOF in that same month.[4] This fee will not apply to executing Clearing Members that cancel fewer than 500 orders through AOF in a given month. The Exchange will begin billing the cancellation fee after November 1, 2001.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act,[5] in general, and section 6(b)(4) of the Act,[6] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other changes among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change, as amended, has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[7] and subparagraph (f)(2) of Rule 19b–4[8] thereunder, because it establishes or changes a due, fee, or other charge.[9] At any time within 60 days of November 21, 2001, the Commission may summarily abrogate such proposed rule change, as amended, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex.

All submissions should refer to File No. SR–Amex–2001–90 and should be submitted by December 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–29986 Filed 12–3–01; 8:45 am]

BILLING CODE 8010–01–M

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[4] Telephone conversation between Claire P. McGrath, Vice President & Deputy General Counsel, Amex, and Frank N. Genco, Attorney Advisor, Division, Commission, on November 16, 2001.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] The Exchange's proposed rule change is similar to a fee instituted by the Chicago Board Options Exchange, Inc., which became immediately effective on July 27, 2001. *See* Securities Exchange Act Release No. 44607 (July 27, 2001), 66 FR 40757 (August 3, 2001).

[10] *See* 15 U.S.C. 78(b)(3)(C).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45106; File No. SR–Amex–2001–97]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC, To Allow for $0.50 Strike Price Intervals for Options Based on the iShares 100 Index Fund

November 27, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 8, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On November 9, 2001, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Jeffrey Burns, Assistant General Counsel, Legal & Regulatory Department, Amex, to

Continued

publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to allow for one-half point ($0.50) strike price intervals for options based on the iShares 100 Index Fund ("OEF").

The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to establish one-half point ($0.50) strike price intervals for options on OEF,[4] an exchange-traded fund ("ETF") that represents ownership in an open-end management company established to hold a portfolio of stocks replicating the S&P 100 Index ("Index"). OEF holds substantially all of the securities of the Index in approximately the same proportions as reflected in the Index. Currently, OEF options and OEF are listed and traded on the Chicago Board Options Exchange, Inc. ("CBOE"); however, the Amex expects in the near future to also list and trade these products.

The Exchange will list options on OEF pursuant to the criteria set forth in *Interpretation .06* to Amex Rule 915.[5] However, the Amex believes that it is appropriate to amend its existing strike price intervals for ETFs[6] to permit the strike price interval for options on OEF to be set at $0.50.[7] Currently, options on ETFs at the Amex have strike price intervals of one point ($1.00). The CBOE, however, recently received approval from the Commission to introduce $0.50 strike price intervals on OEF, and accordingly, introduced the $0.50 strike price interval on or about January 31, 2001.[8]

The Amex believes that trading options contracts on OEF with one-half point fixed strike prices will benefit investors by providing greater strike price choices and fostering competition between the options exchanges.[9] The Exchange further asserts that it is appropriate to list options on the OEF with half-point strike prices to ensure that products traded on the Amex remain competitive.[10]

Although the Exchange recognizes that adding additional strike prices on OEF options for trading under the proposed rule change may result in a slight increase in message traffic, the Exchange represents that it has the necessary systems capacity to support any additional strike prices on OEF options that may be added under the proposed rule.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with section 6(b) of the Act[11] in general, and furthers the objectives of section 6(b)(5) of the Act[12] in particular, in that it will permit trading in options based on OEF pursuant to strike intervals designed to promote just and equitable principles of trade, and thereby will provide investors with the ability to invest in options based on an additional Amex product.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A)[13] of the Act and Rule 19b–4(f)(6)[14] thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6) may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange seeks to have the proposed rule change become operative immediately as of November 7, 2001 so that the proposed $0.50 strike price intervals may be implemented immediately.

The Commission believes that it is consistent with the protection of investors and the public interest that the proposed rule change, as amended, become operative immediately as of November 7, 2001.[16] At any time within

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Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated November 9, 2001 ("Amendment No. 1"). Amendment No. 1 clarified that the proposed rule change applies only to the strike prices of the iShares S&P 100 Index Fund and that the Exchange would be able to support a change in strike prices even though such a change would result in a slight increase in message traffic.

[4] Telephone conversation between Jeffrey Burns, Assistant Counsel, Amex, and Steven Johnston, Special Counsel, Division, Commission, on November 26, 2001 (clarifying that Amex will file a separate proposed rule change and obtain approval before either: (1) Establishing any new strike price interval on an exchange-traded fund and other than OEF; or (2) establishing any new strike price interval on the OEF other than the $0.50 interval that is the subject of SR–Amex–2001–97) ("Telephone Conversation").

[5] Amex Rule 915 describes the criteria for underlying securities. Specifically, Commentary .04 under Amex Rule 915 indicates which securities are deemed appropriate for options trading.

[6] The Exchange received approval to trade options on ETFs on July 1, 1998. *See* Securities Exchange Act Release No. 40157 (July 1, 1998) 63 FR 37426 (July 10, 1998) (Order Approving File No. SR–Amex–96–44). As noted in the Exchange's filing and the Commission's approval order, strike price intervals for both 100– and 1000–share contracts are set to bracket the ETF share at one-point intervals up to a share price of $200.

[7] Telephone Conversation.

[8] *See* Securities Exchange Act Release No. 43969 (February 15, 2001) 66 FR 11311 (February 23, 2001) (*Notice of Filing and Immediate Effectiveness of File No. SR–CBOE–01–02*).

[9] Telephone Conversation.

[10] *Id.*

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 40.19b–4(f)(6).

[15] Under Rule 19b–4(f)(6)(iii), the Exchange must give written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the rule change, or such shorter time as designated by the Commission. As required, the Exchange has provided the Commission with written notice of its intent to file the proposed rule change.

[16] For purposes only of accelerating the operative date of this proposal, the Commission has

60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[17]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–Amex–2001–97 and should be submitted by December 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–29988 Filed 12–3–01; 8:45 am]

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considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] For purposes of calculating the 60-day abrogation date, the Commission considers the 60-day period to have commenced on November 9, 2001, the date the Amex filed Amendment No. 1.

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45103; File No. SR–CBOE–00–42]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Eliminating the Obligation of Designated Primary Market-Makers To Accord Priority to Non-Public Customer Orders

November 26, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 29, 2000, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend CBOE Rule 8.85 (DPM Obligations) regarding obligations of Designated Primary Market-Makers ("DPMs") such that when a DPM represents an order as agent, the DPM is required to accord priority only to those orders of public customers over the DPM's principal transactions. The text of the proposed rule change is below. Additions are in italics.

RULE 8.85. (a) No change.

(b) Agency Transactions. Each DPM shall fulfill all of the obligations of a Floor Broker (to the extent that the DPM acts as a Floor Broker) and of an Order Book Official under the Rules, and shall satisfy each of the following requirements, in respect of each of the securities allocated to the DPM:

* * * * *

(iii) accord priority to any *public customer* order which the DPM represents as agent over the DPM's principal transactions, unless the customer who placed the order has consented to not being accorded such priority;

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CBOE proposes to amend CBOE Rule 8.85 regarding a DPM's obligation to represent orders. Currently, CBOE Rule 8.85(b)(iii) requires a DPM to accord priority to any order which the DPM represents as agent over the DPM's principal transactions, unless the customer who placed the order has consented to not being accorded such priority. The CBOE proposes to amend CBOE Rule 8.85(b)(iii) to require DPMs to accord priority only to public customer orders.[3]

In the last few years, a number of systemic changes have occurred in the Exchange marketplace that have caused an increasing number of orders to be left for representation by DPMs. Changing economics have caused a decline in the number of independent floor brokers on the Exchange who formerly represented many orders in trading crowds. At the same time, the Exchange converted its equity option trading crowds that had been traditional competing market-maker trading crowds. As a result of these occurrences, a large percentage of all order that are traded in a particular trading crowd are first routed to the crowd Public Automated Routing ("PAR") terminal. Because DPMs must be present at all times in their particular trading location and because there is generally not an independent crowd

[3] According to the CBOE, it proposes to use its Retail Automatic Execution System (RAES) Rule 6.8 to define those orders to which its DPMs must give priority. Currently, CBOE Rule 6.8(b)(ii) defines orders that are not eligible for execution in RAES as those in which a member, non-member participant in a joint venture with a member or any non-member broker-dealer has an interest. Accordingly, the CBOE proposes to exclude these orders from a DPM's obligation to accord priority. Telephone call among Steve Youhn, CBOE, Kelly Riley, Senior Special Counsel, Division of Market Regulation, Commission, and Jennifer Lewis, Attorney, Division of Market Regulation, Commission, on November 21, 2001.

broker in any particular location, it has fallen to the DPM to staff the PAR terminals and to represent the orders routed to the PAR terminal. Generally, the DPM does not charge for this brokerage service and thus, receives no direct benefit from performing this function. The CBOE does not believe it is appropriate or even preferable for the marketplace for the DPM to be denied the opportunity to compete to trade against so many orders merely because it is performing a service that benefits the Exchange generally.

The CBOE believes that without the proposed amendment, it will become increasingly difficult for DPMs to compete against non-DPMs in the trading crowd. As the percentage of orders routed to the PAR terminal grows, the incentives to assume the affirmative obligations and expenses in managing a DPM operation decrease. The Exchange believes that the proposed rule change is justified in light of the particular responsibilities, burdens, and costs borne by DPMs compared to other market participants. DPMs have more market making responsibilities than non-DPMs, higher capital requirements, and other unique costs, including costs associated with staffing the brokerage function, the quote updating functions, and marketing functions.

The Exchange offers the following example to help illustrate the nature of the concern. Assume a particular DPM has an order for a broker-dealer that has been routed to the crowd PAR terminal. The broker-dealer is seeking to buy 30 contracts of XYZ at a limit of $3 at a time when the market is 3 (bid)—3¼ 4 (offer). Now, assume a broker-dealer walks into the crowd to sell 100 contracts of XYZ at $3. The DPM may represent the broker-dealer order and compete against other non-DPMs to trade against that 100 contract order. The DPM, however, must accord priority to that broker-dealer order and cannot compete to trade against that order. If the broker-dealer order and the other market-makers determine to trade all of the 100 contracts, the DPM will have no change to participate in the trade. If the DPM did not have to accord priority to the broker-dealer order, the DPM would be able to compete equally with the other market participants and assert is participation right if the trade occurred at the DPM's previously established principal bid or offer.

The Exchange believes that the proposal will require DPMs to accord priority to those orders for public customers that they represent as agent over the DPM's principal transactions. Moreover, in accordance with the proposed rule change, the CBOE represents that DPMs will have the option to trade other non-public customer orders that they represent ahead of their own interest in a particular trade.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with, and furthers the objectives of, section 6(b) of the Act,[4] in general, and furthers the objectives of section 6(b)(5) of the Act,[5] in particular, because it is designated to remove impediments to a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–00–42 and should be submitted by December 26, 2001.

For the Commission, by the Division of Makert Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–29931 Filed 12–3–01; 8:45 am]

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[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45097; File No. SR–NYSE–2001–44]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend NYSE Rule 407 ("Transactions—Employees of Members, Member Organizations and the Exchange")

November 21, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 22, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 407 ("Transactions—Employees of Members, Member Organizations and the Exchange") and incorporate and amend an existing written interpretation into the rule in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

order to require that associated persons obtain their employers' written approval prior to entering into private securities transactions. In addition, the Exchange proposes to define the terms "securities or commodities account," "private securities transactions" and "other financial institutions."

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Rule 407(b) requires that members, allied members and employees to obtain the prior written consent of their employers in order to open and maintain a securities or commodities account at another broker-dealer, investment adviser, bank or other financial institution. Further, employers of such associated persons must receive duplicate confirmations and statements of such accounts. In this regard, the Exchange believes that NYSE Rule 407 helps members and member organizations maintain the integrity of their information barriers and employee trading policies and assists members and member organizations in monitoring employee trading for possible insider trading violations and manipulative and deceptive devices.

An existing interpretation of NYSE Rule 407 in the *NYSE Interpretation Handbook* requires that members, allied members and employees associated with members or member organizations notify their employers of any private securities transactions, where such securities transactions are typically negotiated directly with an issuer and not through an account with a broker-dealer or bank.

The Exchange proposes to amend NYSE Rule 407 and incorporate and amend the interpretation noted above into the rule to require that associated persons of members or member organizations obtain their employers' written approval (rather than notification) prior to entering into private securities transactions. The Exchange also proposes that associated persons effecting private securities transactions shall arrange for duplicate confirmations and statement (or their equivalents) to be sent to another person designated by their member or member organization under NYSE Rule 342(b)(1) ("Offices—Approval, Supervision and Control") to periodically review such transactions.

In addition, the Exchange proposes to define the terms "securities or commodities account," "private securities transactions" and "other financial institution." The Exchange proposes that the term "securities or commodities account" shall include limited or general partnership interests in investment partnerships.

The Exchange proposes that the term "private securities transactions" shall include all transactions in the securities of issuing entities that are not public, whether or not such transactions are negotiated directly with the issuer. It shall include, but not be limited to, interests in oil and gas ventures, real estate syndications, participations in tax shelters and in other investment vehicles, and shares issued prior to a public distribution by such issuing entities.

The Exchange proposes that the term "other financial institution" shall include, but is not limited to, insurance companies, trust companies, credit unions and investment companies.

In addition, the Exchange proposes to amend NYSE Rule 407 to provide the Exchange with the general authority to waive any of the requirements of the rule upon written request of a member or member organization that has the obligation to approve the account and where good cause is shown. For example, a member or member organization that is required to approve an account of an employee associated with such member or member organization may not wish to receive duplicate confirmations and statements because such employee does not have the direct or indirect power to make any investment decisions at another member or member organizations.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[3] which provides, among other things, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade.

[3] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–2001–44 and should be submitted by December 26, 2001.

For the Commission, by the Division of Market Regulations, pursuant to the delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–29930 Filed 12–3–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45112; File No. SR–NYSE–2001–47]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc. To Implement Three CRD Processing Fees and a One-Time System Transition Fee in Connection with the Administration of Forms U–4 and U–5

November 28, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 6, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange"), filed with the Securities and Exchange Commission ("Commission"), the proposed rule change as described in Items I, II, and III below, which items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change implements three Web CRD processing fees and a one-time System Transition Fee charged to NYSE members and member organizations who are not members of the National Association of Securities Dealers, Inc. ("NASD") in connection with the administration and processing of Forms U–4 or U–5 through the Web CRD system.

II Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below, The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Prior to November 13, 2000, Exchange members and member organizations who were not members of NASD were required to manually file Form U–4[3] and Form U–5[4] with the Exchange's Qualifications and Registrations Department. These members and member organizations primarily conduct business on the Floor of the Exchange and are not required to be registered with NASD.

Effective November 13, 2000, Exchange members and member organizations who are not members of the NASD are required to submit (in connection with NYSE Rules 345.12 and .18) Forms U–4 and U–5 through NASD Regulation, Inc.'s ("NASDR") Web CRD system ("Web CRD"). The filings are processed electronically through the Internet. Specific details regarding the filing procedures associated with this transition were published in NYSE Information Memo Number 00–25[5] dated October 13, 2000. Including associated persons of NYSE-only members and member organizations in Web CRD enables the Exchange to more efficiently perform its regulatory responsibilities for all members and member organizations and ultimately enhances investor protection.

The proposed rule change implements three processing fees and a one-time system transition fee imposed upon NYSE-only members and member organizations resulting from the Exchange's directive that registration filing be submitted to Web CRD. Members and member organizations will be instructed to pay the CRD processing fees directly to NASDR through Web CRD. NASDR will collect the appropriate fees directly to NASDR through Web CRD. NASDR will collect the appropriate processing fees at the time the NYSE member or member organization effects a registration transaction through Web CRD.

The three processing fees are the same as those charged dual NYSE/NASD registrants, and are as follows:

First, the proposed rule change implements an $85 CRD Processing Fee charged for all Initial, Transfer, and Re-license Form U–4 filings. This fee, combined with current, corresponding NYSE fees, will bring the total amount paid to NASDR for Initial Individual Registration to $150 ($65 NYSE Standard Application Fee + $85 CRD Processing Fee). The total amount paid for Transfer and Re-licensing will amount to $128 ($43 NYSE Standard Application Fee + $85 CRD Processing Fee). The NYSE Application Fees of $65 (for Initial Individual Registration) and $43 (for Transfers and for Re-licensing) will be passed on to the NYSE by NASDR.[6] This is the same process and fee structure that already applies to dual NASD/NYSE members and member organizations filing through Web CRD.

Second, the proposed rule change implements a $95-CRD Disclosure Processing Fee charged in connection with Forms U–4 and U–5 for all filings with new or amended disclosure information. (There is no corresponding NYSE fee.)

Thirdly, the proposed rule change implements an annual $30 CRD System Processing Fee. Therefore, the total annual processing/maintenance cost per registered person will be $82, which includes the current $52 NYSE annual maintenance fee that will be passed on to the NYSE.[7]

In addition to the fees outlined above, sole NYSE members and member organizations will be required to pay a one-time System Transition Fee of $115 per registered person as of December 31, 2001, payable January, 2002.[8]

2. Statutory Basis

The statutory basis for the proposed rule change in section 6(b)(4) of the Act[9] that permits the rules of an

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[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1)

[2] 17 CFR 240.19b–4.

[3] Uniform Application for Securities Industry Registration or Transfer.

[4] Uniform Termination Notice for Securities Industry Registration.

[5] A follow-up Information Memo will be issued to reaffirm the registration filing process for NYSE-only members and member organizations and to update the fee schedule. The NYSE submitted a draft Information Memorandum and Fee Schedule that reflected such registration process and updated fee schedule. E-mail dated November 21, 2001 from Mary Anne Furlong, Director, Rule and Interpretive Standards, NYSE, to John Riedel, Attorney Adviser, Division of Market Regulation ("Division"), to Commission.

[6] These fees offset the costs to the NYSE for the review and processing of all applications. Telephone call between Mary Anne Furlong, Director, Rule and Interpretive Standards, NYSE, and John Riedel, Attorney Adviser, Division, Commission, dated November 20, 2001.

[7] This is an annual maintenance fee to cover costs associated with the registration program. Telephone call between Mary Anne Furlong, Director, Rule and Interpretive Standards, NYSE, Elizabeth Badaway, Accountant, Division, Commission, and Terri Evans, Assistant Director, Division, Commission, dated November 26, 2001.

[8] This is a fee payable to the NASD to cover special arrangements for NYSE-only members filing through Web CRD. Telephone call between Mary Anne Furlong, Division, Commission, and Terri Evans, Assistant Director, Division, Commission, dated November 26, 2001.

[9] 15 U.S.C. 78(f)(b)(4).

exchange to provide for the equitable allocation of reasonable dues, fees and other charges among the members, issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act [10] and subparagraph (f) of Rule 19b–4 thereunder.[11] Accordingly, the proposed rule change has become effective upon filing. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of NYSE. All submissions should refer to the File Number SR–NYSE–2001–47 and should be submitted by December 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–29987 Filed 12–3–01; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f).

[12] 17 CFR 200.3–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45105; File No. SR–PCX–2001–44]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to Registered Representative Fees

November 26, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 6, 2001, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the PCX. On November 20, 2001, the PCX submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 to the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Charges by increasing its Registered Representative Fee. The text of the proposed rule change is available at the Office of the Secretary, PCX, and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Michael D. Pierson, Vice President, Regulatory Policy, PCX, to John S. Polise, Senior Special Counsel, Division of Market Regulation, Commission, dated November 19, 2001 ("Amendment No. 1"). In Amendment No. 1, the PCX made a correction to its proposal to reflect that the fee increase is from $45 to $50.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Bais for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently charges a $45 annual fee for new applications, maintenance and transfer of registration status for each Registered Representative and each Registered Options Principal whose firm is a member firm of the Exchange.[4] The Exchange is now proposing to increase this fee to $50.[5] The Exchange believes this fee change is warranted based upon the Exchange's increased costs relating to its regulatory oversight and enforcement program. The Exchange notes that initial, transfer, and maintenance Registered Representative registration fees traditionally have been billed and collected by the NASD. Under the proposal, the NASD will continue to bill for and collect these fees.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[6] of the Act, in general, and Section 6(b)(4),[7] in particular, in that it provides for the equitable allocation of reasonable dues,

[4] The PCX's increase in this fee to $45 became effective in July 2001. *See* Securities Exchange Act Release No. 44571 (July 18, 2001), 66 FR 38774 (July 25, 2001) (Notice of filing and Immediate Effectiveness of SR–PCX–2001–21).

[5] The Exchange notes that two other exchanges have recently increased their registration fees, annual fees and transfer fees for Registered Representatives and Registered Options Principals. *See* Securities Exchange Act Release No. 44947 (October 17, 2001), 66 FR 53822 (October 24, 2001) (Notice of Filing and Immediate Effectiveness of SR–Phlx–2001–90); and Securities Exchange Act Release No. 44597 (July 26, 2001), 66 FR 40302 (August 2, 2001) (Notice of Filing and Immediate Effectiveness of SR–CBOE–2001–37).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

fees and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)[8] of the Act and subparagraph (f)(2) of Rule 19b–4[9] thereunder because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2001–44 and should be submitted by December 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–29932 Filed 12–3–01; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that period to commence on November 6, 2001, the date the PCX filed the proposed rule change. *See* 15 U.S.C. 78s(b)(3)(C).

[11] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

President's Commission To Strengthen Social Security; Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Announcement of meeting.

DATE: December 11, 2001 10 a.m.–6 p.m.

ADDRESS: Washington, DC—Venue to be determined. Due to unforeseen circumstances the venue has not been identified to date. This information will be published in the **Federal Register** and posted at *www.CSSS.gov* as soon as it is available.

SUPPLEMENTARY INFORMATION:

Type of meeting: The meeting will be open to the public between 10 a.m. and 6 p.m., with a break for lunch between 12:30 p.m. and 1:30 p.m.

Purpose: This is the seventh deliberative meeting of the Commission. No public testimony will be heard at this meeting. However, interested parties are invited to attend the meeting.

Agenda: The Commission will meet commencing Tuesday, December 11, at 10 a.m. and ending at 6 p.m., with a break for lunch between 12:30 p.m. and 1:30 p.m. The Commission will be discussing its draft Final Report.

Records are being kept of all Commission proceedings that are subject to public release under the Federal Advisory Committee Act and are available for public inspection at the Commission's office at the address below. Documents such as meeting announcements, agendas, transcripts, and Commission reports will be available on the Commission's web page. Anyone requiring information regarding the Commission should contact Commission staff by:

- Internet at *http://www.CSSS.gov*, email to *comments@CSSS.gov;*
- Mail addressed to President's Commission to Strengthen Social Security, 734 Jackson Place, NW, Washington, DC, 20503;
- Telephone at (202) 343–1255.

Dated: November 27, 2001.

Michael A. Anzick,

Designated Federal Officer.

[FR Doc. 01–30027 Filed 12–3–01; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF STATE

[Public Notice #3829]

Advisory Committee on Labor Diplomacy; Notice of Meeting

The Advisory Committee on Labor Diplomacy (ACLD) will hold a meeting from 9 a.m. to 1 p.m. on December 19, 2001, in room 1105, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520. Committee Chairman Thomas Donahue, former President of the AFL–CIO, will chair the meeting.

The ACLD is comprised of prominent persons with expertise in the area of international labor policy and labor diplomacy. The ACLD advises the Secretary of State and the President on the resources and policies necessary to implement labor diplomacy programs efficiently, effectively and in a manner that ensures U.S. leadership before the international community in promoting the objectives and ideals of U.S. labor policies in the 21st century. The ACLD makes recommendations on how to strengthen the Department of State's ability to respond to the many challenges facing the United States and the federal government in international labor matters. These challenges include the protection of worker rights, the elimination of exploitative child labor, and the prevention of abusive working conditions.

The agenda for the December 19 meeting includes discussion of the interagency process on international labor policy formulation.

Members of the public are welcome to attend the meeting as seating capacity allows. As access to the Department of State is controlled, persons wishing to attend the meeting must be pre-cleared by calling or faxing the following information, by open of business December 18, to Eric Barboriak at (202) 647–3664 or fax (202) 647–0431 or email barboriakem@state.gov: name; company or organization affiliation (if any); date of birth; and social security number. Pre-cleared persons should use the C Street entrance to the State Department and have a driver's license with photo, a passport, a U.S.

Government ID or other valid photo identification.

Members of the public may, if they wish, submit a brief statement to the Committee in writing. Those wishing further information should contact Mr. Barboriak at the phone and fax numbers provided above.

Dated: November 28, 2001.

Michael E. Parmly,

Acting Assistant Secretary, Bureau of Democracy, Human Rights and Labor, Department of State.

[FR Doc. 01–30009 Filed 12–3–01; 8:45 am]

BILLING CODE 4710–18–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC–13)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of a partially opened meeting.

SUMMARY: The Industry Sector Advisory Committee on Services (ISAC–13) will hold a meeting on December 12, 2001, from 9 a.m. to 12 noon. The meeting will opened to the public from 9 a.m. to 9:45 a.m. and close to the public from 9:45 a.m. to 12 noon.

DATES: The meeting is scheduled for December 12, 2001, unless otherwise notified.

ADDRESSES: The meeting will be held in Conference Room 6057, of the Department of Commerce, located at 14th and Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jennifer Moll (principal contact), at (202) 482–1316, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 or myself on (202) 395–6120.

SUPPLEMENTARY INFORMATION: During the opened portion of the meeting the agenda topics to be addressed will be:

- National Trade Estimate Report on Foreign Trade Barriers.
- Chile Free Trade Agreement Negotiations Overview.
- General Agreement on Trade in Services (GATS) December Session.

Elizabeth A. Gianini,

Acting Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 01–30024 Filed 12–3–01; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–239]

WTO Dispute Settlement Proceeding Brought by Brazil Regarding Antidumping Duties Imposed by the United States on Silicon Metal From Brazil

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; correction.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of a correction to the notice published in the **Federal Register** on November 21, 2001, 66FR 58546, titled "WTO Dispute Settlement Proceeding Brought by Brazil Regarding Antidumping Duties Imposed by the United States on Silicon Metal from Brazil." In the section of that notice titled "Major Issues Raised by Brazil," the second sentence of the first paragraph should read, "However, section 351.106(c) of the DOC's regulation, 19 CFR 351.106(c), applies a 0.5 percent *de minimis* standard in the case of reviews."

FOR FURTHER INFORMATION CONTACT: Katherine J. Mueller, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395–0317.

A. Jane Bradley,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 01–29989 Filed 12–3–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–11066]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before February 4, 2002.

FOR FURTHER INFORMATION CONTACT: Edmund T. Sommer, Jr., Maritime Administration, MAR 221, 400 Seventh Street, SW., Washington, DC 20590. Telephone: 202–366–5181, or FAX: 202–366–7485. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Application for Designation of Vessels as American Great Lakes Vessels.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0521.

Form Numbers: None.

Expiration Date of Approval: June 30, 2002.

Summary of Collection of Information: In accordance with Public Law 101–624, the Secretary of Transportation issued requirements for the submission of applications for designation of vessels as American Great Lakes Vessels. Owners who wish to have this designation must certify that their vessel(s) meets certain criteria established in 46 CFR part 380.

Need and Use of the Information: Application is mandated by statute to establish that a vessel meets statutory criteria for obtaining the benefit of eligibility to carry preference cargoes.

Description of Respondents: Shipowners of merchant vessels.

Annual Responses: One response

Annual Burden: 1.25 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be submitted by electronic means via the Internet at *http://dmses.dot.gov/submit*. Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT, Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at http://dms.dot.gov.

By order of the Maritime Administrator.

Dated: November 29, 2001.

Joel C. Richard,

Secretary.

[FR Doc. 01–29994 Filed 12–3–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2001–10288; Notice 2]

Cooper Tire & Rubber Company; Grant of Application for Decision That Noncompliance Is Inconsequential to Motor Vehicle Safety

Cooper Tire & Rubber Company (Cooper) has determined that certain Mastercraft, Roadmaster, Starfire and Futura brand tires in the P225/60R15 size do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New Pneumatic Tires." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Cooper and Pep Boys, the brand name owner for the Futura tires produced by Cooper, have petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and have filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports."

Notice of receipt of the application was published on August 14, 2001, with a 30-day comment period (66 FR 42705). NHTSA received no comments on this application.

FMVSS No. 109 requires that each tire have permanently molded into or onto both sidewalls the actual number of plies in the sidewall, and the actual number of plies in the tread area if different (S4.3 (e)). The Tupelo, Mississippi, tire manufacturing facility had nine (9) molds involved in tire production during the thirteenth through sixteenth production weeks of 2001, in which the number of polyester tread plies was incorrectly stated. According to Cooper, the subject tires were molded "TREAD 2 PLY STEEL + 1 PLY POLYESTER, SIDEWALL 2 PLY POLYESTER." The correct molding to match the actual tire construction should have been "TREAD 2 PLY STEEL + 2 PLY POLYESTER, SIDEWALL 2 PLY POLYESTER.

The incorrect number of polyester tread plies was removed from the molds by buffing and the correct number of polyester tread plies inserted; however, prior to the molds being correctly stamped, 503 tires, of which 40 were Futura tires owned by Pep Boys, were inadvertently shipped marked as having only one polyester tread ply.

Cooper stated that the incorrect number of polyester tread plies on each tire does not present a safety-related defect. The involved tires, in fact, have two polyester tread plies instead of one and they comply with all other requirements of 49 CFR 571.109.

The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act of November 2000 required, among other things, that the agency initiate rulemaking to improve tire label information. In response to section 11 of the TREAD Act, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 1, 2000 (65 FR 75222). The agency received more than 20 comments addressing the ANPRM, which sought comments on the tire labeling information required by 49 CFR sections 571.109 and 571.119, part 567, part 574, and part 575. Most of the comments were from motor vehicle and tire manufacturers, although several private citizens and consumer interest organizations responded to the ANPRM. With regard to the tire construction labeling requirements of FMVSS 109, S4.3 (d) and (e), most commenters indicated that the information was of little value to consumers. However, the tire construction information is valuable to the tire retreading, repair, and recycling industries, according to several trade groups representing tire manufacturing. The International Tire and Rubber Association, Inc., (ITRA) indicated that the tire construction information is used by tire technicians to determine the steel content of a tire and to select proper retread, repair, and recycling procedures.

In addition to the written comments solicited by the tire labeling ANPRM, the agency conducted a series of focus groups, as required by TREAD, to examine consumer perceptions and understanding of tire labeling. Few of the focus group participants had knowledge of the information molded into the tire sidewall with the exception of the tire brand name, tire size, and tire pressure.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we believe that few consumers are influenced by the tire construction information (number of plies and cord material in the sidewall and tread plies) molded into the tire sidewall when making a motor vehicle or tire purchase decision. However, the tire repair, retread, and recycling industries do use the tire construction information, according to comments from industry associations, and the agency will consider this during development of the tire labeling rulemaking.

The agency believes that the best measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The safety of people working in the tire retread, repair, and recycling industries must also be considered.

Although tire construction affects tire strength and durability, neither the agency nor the tire industry provides information relating the strength and durability of a tire to the number and types of plies in the tread and sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as the load capacity, tread wear, temperature, and traction when assessing performance capabilities of various tires.

In the agency's judgment, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety. The agency believes the safety of the users of these tires will not be adversely affected by the noncompliance because most consumers do not base tire purchases or vehicle operation parameters on tire construction information. Additionally, the tire construction is more robust than the label indicates (2 polyester tread plies instead of 1). The agency has reached the conclusion that the noncompliance will not have an adverse effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries, according to ITRA. In this case, the steel used in the construction of the tires is properly labeled.

In consideration of the foregoing, NHTSA has decided that the burden of persuasion has been met and that the noncompliance is inconsequential to motor vehicle safety. Accordingly, the applications from Cooper and Pep Boys are granted and the applicants are exempted from providing the notification of the noncompliance that would be required by 49 U.S.C. 30118, and from remedying the noncompliance, as would be required by 49 U.S.C. 30120.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: November 29, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–30010 Filed 12–3–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2001–8925, Notice 2]

Mazda Motors Corporation, Grant of Application for Decision That a Noncompliance Is Inconsequential to Motor Vehicle Safety

Mazda Motors Corporation has determined that all Mazda MPV minivans produced beginning with the 1989 model year through 2001 models manufactured prior to October 6, 2000, and all 1979 through 1993 Mazda B-Series pickup trucks do not meet the labeling requirements of paragraph S5.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 120, "Tire Selection and Rims for Motor Vehicles Other than Passenger Cars." This includes approximately 1,449,000 vehicles. Pursuant to 49 U.S.C. 30118(d) and 30120(h), Mazda petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports."

Notice of receipt of the application was published on March 2, 2001, with a 30-day comment period (66 FR 13126). NHTSA received no comments on this application.

The noncompliance with paragraph S5.3 of FMVSS 120 relates to vehicle labeling. The vehicles are all equipped with both certification labels required by 49 CFR part 567 and tire information labels as specified in paragraph S5.3 (b) of FMVSS 120. However the tire information labels do not include the appropriate gross vehicle weight rating (GVWR) and the gross axle weight ratings (GAWR) as required.

Mazda supported its application for inconsequential noncompliance by stating that, in all cases, the part 567 certification labels including the GVWR and GAWR information are located on the driver's door latch post (B-pillar) and the tire information labels are located on the driver's door edge. Both labels are visible simultaneously when the door is open. According to Mazda, the GVWR and GAWR information is also included in the owner's manual for all the subject vehicles beginning with the 1988 model year. Mazda believes that this noncompliance presents no risk to motor vehicle safety and therefore seeks exemption from the notification and remedy requirements. Mazda further stated that it is not aware of any problems or owner complaints resulting from the absence of the GVWR and the GAWR data on the tire information label.

The agency believes the true measure of inconsequentiality with respect to the noncompliance with FMVSS No. 120, paragraph S5.3, is whether the GVWR and GAWR information for these vehicles is readily available to consumers. Mazda affixed both a tire information label and a vehicle certification label to these vehicles. One of the reasons that FMVSS No. 120 requires that both labels include the GVWR and GAWR information is the fact that the labels need not be located close to one another. According to Mazda, the vehicle certification label, including the GVWR and GAWR for the vehicle, and the tire information label, are close to one another on these vehicles. Since both labels can be seen when the driver's door is open, it is less likely that consumers would be unaware of the GVWR and GAWR information.

In consideration of the foregoing, NHTSA has decided that Mazda has met its burden of persuasion that the noncompliance with FMVSS No. 120, paragraph S5.3, is inconsequential to motor vehicle safety. Accordingly, Mazda's application is granted and the company is exempted from providing the notification of the noncompliance that would be required by 49 U.S.C. 30118, and from remedying the noncompliance, as would be required by 49 U.S.C. 30120. In addition, for the reasons explained above, NHTSA plans to propose amending its standard to permit required information to appear on either the tire label or the certification label. (49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: November 29, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–30011 Filed 12–3–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 27, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before January 3, 2002, to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0046.

Form Number: ATF F 27–G (5520.3).

Recordkeeping Requirement ID Number: ATF REC 5520/2.

Type of Review: Extension.

Title: Applications—Volatile Fruit-Flavor Concentrate Plants.

Description: Persons who wish to establish premises to manufacture volatile fruit-flavor concentrates must file an application. ATF uses the application to identify persons and premises that manufacture volatile fruit-flavor concentrates. Volatile fruit-flavor concentrates contain alcohol and have a potential to be used for beverage purposes on which tax is imposed.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 20.

Estimated Burden Hours Per Respondents: 2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 40 hours.

OMB Number: 1512–0565.

Form Number: ATF F 8620.5.

Type of Review: Extension.

Title: Personnel Security Request.

Description: ATF Form 8620.5 will be used as an internal use form to preliminarily screen individuals having a need for access to ATF facilities, data, or information. Information on this form will be used to conduct criminal records searches, security index inquiries, credit histories, and NCIC queries.

Respondents: Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 83 hours.

Clearance Officer: Frank Bowers, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New

Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 01–29942 Filed 12–3–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 26, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before January 3, 2002, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1476.

Regulation Project Number: INTL–3–95 Final.

Type of Review: Extension.

Title: Source of Income From Sales of Inventory and Natural Resources Produced in One Jurisdiction and Sold in Another Jurisdiction.

Description: The information requested is necessary for the Service to audit taxpayers' returns to ensure taxpayers have properly determined the source of income from sales of inventory produced in one country and sold in another.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 425.

Estimated Burden Hours Per Respondent: 2 hours, 36 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1,125 hours.

OMB Number: 1545–1594.

Regulation Project Number: REG–251520–96 Final.

Type of Review: Extension.

Title: Classification of Certain Transactions Involving Computer Programs.

Description: The information requested in regulation Section 1.861–18(k) is necessary for the Commissioner to determine whether a taxpayer properly is requesting to change its method of accounting.

Respondents: Business of other for-profit.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

OMB Number: 1545–1631.

Regulation Project Number: REG–209619–93 NPRM.

Type of Review: Extension.

Title: Escrow Funds and Other Similar Funds.

Description: Section 468B(g) requires that income earned on escrow accounts, settlement funds, and similar funds be subject to current taxation. This section authorizes the Secretary to issue regulations providing for the current taxation of these accounts and funds as grantor trusts or otherwise. The proposed regulations would amend the final regulations qualified settlement funds (QFSs) and would provide new rules for qualified escrows and qualified trusts used in deferred section 1031 exchanges; pre-closing escrows; contingent at-closing escrows; and disputed ownership funds.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 9,300.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 4,650 hours.

Clearance Officer: George Freeland, Internal Revenue Service, Room 5577, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–29943 Filed 12–3–01; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 66, No. 233

Tuesday, December 4, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94–102; FCC 01–293]

Wireless E911 Service, Petition of City of Richardson, TX

Correction

Rule document 01–27605 was inadvertently published in the Proposed Rule section in the issue of Friday, November 2, 2001, appearing on page 55618. It should have appeared in the Rules and Regulations section.

[FR Doc. C1–27605 Filed 11–30–01; 8:45 am]

BILLING CODE 1505–01–D

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Federal Register

Tuesday,
December 4, 2001

Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 107, 171, et al.
Hazardous Materials: Requirements for Cargo Tanks; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173, 177, 178, and 180

[Docket No. RSPA–98–3554 (HM–213)]

RIN 2137–AC90

Hazardous Materials: Requirements for Cargo Tanks

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: RSPA is proposing a number of revisions to the Hazardous Materials Regulations to update and clarify the regulations on the construction and maintenance of cargo tank motor vehicles. This proposed rule also addresses three National Transportation Safety Board (NTSB) recommendations and several petitions for rulemaking. By updating and clarifying the regulations, addressing the NTSB recommendations, and responding to petitions for rulemaking, these revisions should increase the safety of cargo tanks transporting hazardous materials, provide greater flexibility in design and construction of cargo tanks, and reduce operating burdens for owners, operators, and manufacturers of cargo tank motor vehicles.

DATES: Comments must be received by February 4, 2002. To the extent possible, we will consider comments received after this date in making our decision on a final rule.

ADDRESSES: Address comments to the Dockets Management System, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590–0001. Commenters should identify the docket number [RSPA–98–3554 (HM–213)] and submit two copies. If you wish to receive confirmation of receipt of your written comments, include a self-addressed, stamped postcard. You may also submit comments to the docket electronically by accessing the Dockets Management System website at "*http://dms.dot.gov.*" Click on "Help & Information" to obtain instructions for filing the document electronically.

The Dockets Management System is located on the Plaza level of the Nassif Building at the Department of Transportation at the above address. You may view public dockets between the hours of 9 a.m. and 5 p.m. EST, Monday through Friday, except Federal holidays. Internet users may review all comments received by the U.S. Department of Transportation by accessing the Dockets Management System website at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Michael Johnsen, Office of Hazardous Materials Standards, RSPA, telephone (202) 366–8553; Mr. Philip Olson, Office of Hazardous Materials Technology, RSPA, telephone (202) 366–4545; or Mr. Danny Shelton, Office of Enforcement and Program Delivery, Hazardous Materials Division, Federal Motor Carrier Safety Administration (FMCSA), telephone (202) 366–6121.

SUPPLEMENTARY INFORMATION: All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket room indicated in the **ADDRESSES** section. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, RSPA will also continue to file, in the docket, relevant information that becomes available after the close of the comment period. Interested persons should periodically examine the docket for new material. Comments should include any relevant data or referenced factual information. In addition, RSPA asks that commenters provide justification for any suggested changes to this NPRM.

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I. Background

On June 12, 1989, the Research and Special Programs Administration (RSPA; we) published a final rule in the **Federal Register** (Docket HM–183, 183A; 54 FR 24982) that revised the Hazardous Materials Regulations (HMR; 49 CFR Parts 171 through 180) pertaining to cargo tank motor vehicles. We further revised the regulations each year from 1990 through 1995 under dockets HM–183, HM–183A, and HM–183C. Several of these dockets made significant changes to the cargo tank regulations to improve safety; other revisions corrected mistakes and made minor changes. Dockets HM–183 and 183A established the DOT 400 series cargo tank specifications, as well as certification requirements for cargo tank manufacturers. Docket HM–183C contained a number of miscellaneous items that clarified and relaxed certain requirements for the manufacture, qualification, and maintenance of cargo tank motor vehicles.

Under 49 CFR 1.73(d), the Federal Motor Carrier Safety Administration (FMCSA) is delegated authority to enforce the HMR, with particular emphasis on highway transportation, including regulations for construction and maintenance of cargo tank motor vehicles (CTMVs). FMCSA and RSPA work closely with the regulated industry through educational assistance activities and FMCSA's compliance and enforcement program. During these activities, we identified several areas in the current regulations that need updating or clarification. In addition, we received requests for clarification of the regulations and petitions for rulemaking. The National Transportation Safety Board (NTSB) has also made several safety recommendations concerning cargo tanks. In this NPRM, we are proposing revisions that would apply to all cargo tanks and revisions that would apply to certain specification cargo tanks or cargo tanks used to transport certain ladings.

II. Proposed Revisions Applicable to All Cargo Tanks

A. Definitions

General. Under Docket HM–183, we adopted a number of definitions for DOT 400-series specification CTMVs. The definitions apply to all specification CTMVs used to transport

hazardous materials. Thus, in this NPRM we are proposing to combine the definitions currently in § 178.345–1(c) with the definitions in § 173.320(a) and make them applicable to all specification CTMVs.

Minimum thickness. We propose to add in § 178.320 a definition for "minimum thickness" to clarify how the minimum head and shell thickness for specification cargo tanks must be determined. The proposal defines "minimum thickness" to mean the least of: (1) The thickness required by the tables in the original specification; (2) the thickness required to satisfy the structural integrity and accident damage requirements; or (3) the thickness required to satisfy the requirements of the American Society of Mechanical Engineers (ASME) Code, if applicable. This proposal should eliminate confusion as to whether the minimum thickness tables in § 180.407(i) are the governing factor in determining minimum thickness. It is possible that the minimum thickness value prescribed by the ASME Code or the structural integrity requirements may be greater than that required by the minimum thickness tables. For example, an MC 307 cargo tank was manufactured using 10-gauge (0.1345 inches) steel. Upon conducting a thickness test, an inspection/testing facility measured the thickness of the tank at 0.12 inches, which is lower than the 0.1345 inches specified in Table I of § 180.407(i)(5) for 10-gauge steel. However, the MC 307 cargo tank was only required to be manufactured using 12-gauge steel (0.1046 inches) as specified in Part 178. Therefore, the thickness of this tank is above the minimum thickness (0.1046 inches) prescribed for this cargo tank and the cargo tank is suitable for continued service.

Maximum allowable working pressure. Currently, the HMR require a cargo tank's maximum allowable work pressure (MAWP) to be determined based on the lading that will be transported in the cargo tank or the maximum pressure in the tank during loading or unloading. The Truck Trailer Manufacturers Association (TTMA) submitted a petition for rulemaking (P–1272) suggesting that a cargo tank's MAWP should be dependent on the physical characteristics of the cargo tank rather than the lading carried in the cargo tank or the method of loading or unloading the cargo tank. In its petition, TTMA notes that a cargo tank manufacturer will not always know the characteristics of the lading that will be transported in the cargo tank and that a manufacturer will not always know the pressure at which the tank will be loaded or unloaded.

In its petition, TTMA also asserts that the current regulations have resulted in confusion in the regulated industry as to whether the static head of lading should be included in the MAWP. TTMA notes that § 178.345–1(k) defines MAWP as the largest of: (1) The pressure prescribed for the lading in part 173; (2) the vapor pressure of the most volatile lading at 115°F plus the maximum static pressure exerted by the lading at the maximum lading density plus any pressure exerted by a gas padding; or (3) the maximum pressure in the cargo tank during loading or unloading. TTMA states that it is not clear if the static head is included in the lading pressure prescribed in Part 173 or the loading/unloading pressure.

We agree with TTMA that there should be no ambiguity in the HMR as to the meaning of MAWP. We also agree that the MAWP should be based on the cargo tank's physical characteristics, but we believe MAWP should also be linked to the requirements of § 173.33 for use by shippers and carriers. The proper matching of the maximum lading pressure conditions defined in § 173.33(c) with the MAWP of a cargo tank by shippers and carriers is critical to providing safety in cargo tank operations. The maximum lading pressure addresses many factors critical to matching a lading to a cargo tank MAWP, including the static head (pressure) generated by a specific lading or the maximum pressure in a tank during loading or unloading. For example, § 173.33(c)(iv) requires the sum of the vapor pressure of the lading at 115°F, plus the tank static head exerted by the lading, plus any pressure exerted by a gas padding, including air, in the tank to be less than or equal to the MAWP of the cargo tank. The pressure defined by this summation is the pressure exerted at the bottom of the tank. When a cargo tank is inverted in a rollover, this pressure is applied to the pressure relief devices installed on the cargo tank. Particularly for large diameter tanks and high-density ladings, this resultant pressure could be sufficient to open the cargo tank's pressure relief devices and drain the contents of the tank, even if the tank were undamaged. Thus, it is critical for shippers and carriers to determine that the MAWP of a cargo tank is greater than or equal to maximum lading pressure derived from the conditions specified in § 173.33. Similarly, cargo tank manufacturers should be familiar with the requirements of § 173.33 in order to provide a cargo tank with an MAWP sufficient to meet the needs of shippers and carriers. To strengthen the linkage between § 173.33 and cargo tank MAWP, we are proposing to revise the definition for MAWP to require the MAWP to be greater than or equal to the maximum lading pressure condition prescribed in § 173.33 for each material.

Corroded/abraded. Although it is used throughout § 180.407, the term "corroded or abraded" is not currently defined in the HMR. As a result, there have been many different interpretations concerning the type and extent of corrosion or abrasion that requires thickness testing. Some cargo tank inspection and test facilities perform thickness tests on cargo tanks that do not require such a test; other facilities fail to test cargo tanks that should be thickness tested. External corrosion on cargo tanks is a common occurrence during winter in many geographical areas. Rocks and other debris can chip paint on cargo tanks, causing surface oxidation and rust. Road salt accelerates corrosion. The new definition specifies that "corroded or abraded" means a reduction in the material thickness of the cargo tank that is visible to the naked eye.

Corrosive to the tank/valve. We also propose to revise the definition of "corrosive to the tank/valve" because of the many requests for clarification that we have received. The regulations require additional and more frequent inspections (internal inspection, thickness testing, upper coupler removal and inspection) for CTMVs transporting a lading that may adversely affect tanks or valves, causing leaks and other safety hazards. The current definition of "corrosive to the tank/valve" includes those ladings that meet the corrosivity requirements in § 173.136 for the material of construction of a cargo tank/valve (6.25 mm per year), and other lading where experience shows corrosion exists. The reference to § 173.136 (definition of a Class 8 material) in the current definition has caused confusion. We did not intend that lading designated as "corrosive to the tank/valve" would be limited to Class 8 materials or to materials that cause corrosion at a rate of 6.25 mm or more per year. Our intent was to include any lading, not just those classed as Class 8 materials, that corrodes a tank or valve.

The proposed change to the definition of "corrosive to the tank/valve" specifies that test data and experience must be used to determine if a specific lading is corrosive to the cargo tank wall or valve. The removal of the reference to § 173.136 is intended to clarify that "corrosive to the tank/valve" is not limited to materials with a corrosion

rate of 6.25 mm or more per year. Under this proposal, any test data or experience that indicates any amount of corrosion is sufficient to meet the definition. We welcome comments on any existing sources of corrosion data.

B. Marking of Emergency Shutoff Devices

On May 12, 1993, in Rockville, Maryland, gasoline overflowed from an underground storage tank while it was being filled from an MC 306 CTMV. The gasoline ignited, causing a fire that spread to an adjacent building. The first firefighters on the scene stopped the flow of gasoline by closing the gate valves in a manifold at the rear of the cargo tank. The first responders were unaware of the on-truck remotely actuated means for closing the cargo tank's internal valve. A hazardous materials officer arrived at the scene and activated the on-truck remote shutoff device; however, the inability of the first responders to locate the shutoff device resulted in a risk that could have been avoided. As a result of its investigation of this incident, the NTSB recommended that RSPA require existing and new cargo tank motor vehicles with on-truck remote control mechanisms for internal shutoff valves to be marked for emergency use on all cargo tanks authorized for the transportation of hazardous materials (NTSB # H–93–34).

In response to this recommendation, we are proposing to amend the HMR to require all manually activated on-truck remote shutoff devices for closure of the internal valve to be marked "Emergency Shutoff." The requirement would be effective two years after the publication date of a final rule.

C. Recertification to Original Specification

There appears to be confusion in the regulated industry as to whether cargo tanks that have been modified for specialized or non-hazardous materials service may be re-certified for hazardous materials service. In this NPRM, we propose to allow for the re-certification of a cargo tank to its original specification, provided specific requirements are met. These requirements include documentation to verify that the cargo tank was originally manufactured to a DOT specification, verification by a Registered Inspector that the cargo tank is in compliance with the requirements of the specification, and certification that the cargo tank successfully passed all required tests and inspections. In addition, any repairs performed on MC 306, MC 307, or MC 312 cargo tanks after June 30, 1992, will have to have been performed in accordance with requirements in § 180.413.

An example of a cargo tank that may be recertified to its original specification is an MC 306 cargo tank where its internal self-closing stop valve was removed so that the tank could be used to transport asphalt. As proposed in this NPRM, the cargo tank may be re-certified to its original specification provided an internal shutoff valve is reinstalled, the CTMV meets all other requirements of the specification, and the cargo tank motor vehicle has successfully passed the inspections and tests required in § 180.407(c).

D. Cargo Tank Qualification and Maintenance

We are proposing a number of clarifications to the requirements in Part 180 for cargo tank qualification and maintenance to eliminate confusion. For example, we are proposing to clarify the tests and inspections that must be performed when a cargo tank shows evidence of dents, corroded or abraded areas, or leakage; has sustained damage to an extent that may adversely affect its lading retention capability; or has any other condition that could render it unsafe for the transportation of hazardous materials.

In addition, consistent with an NTSB recommendation (H–95–14), we are proposing to require thickness testing of ring stiffeners and appurtenances on cargo tanks that are constructed of mild steel, high-strength, low-alloy steel, or aluminum, when the ring stiffeners and appurtenances are installed in a manner that precludes an external visual inspection. NTSB investigated two catastrophic cargo tank failures, one that occurred on March 9, 1983, in Beaumont, Texas, and the other on January 6, 1994, in Deltona, Florida. As a result of its investigations, NTSB determined that thickness testing of the cargo tanks' ring stiffeners might have detected the corrosion that caused the failures.

Further, we are proposing to clarify the HMR requirements for repair, modification, stretching, or rebarrelling of cargo tanks. Currently, facilities are allowed to repair, modify, stretch, or rebarrel a non-ASME Code stamped cargo tank provided the facility has an ASME Certificate of Authorization for use of the "U" stamp. Full compliance with the National Board Inspection Code (NBIC) is not currently required when working on non-ASME Code stamped cargo tanks if the facility has a "U" stamp.

In this NPRM, we are proposing to require facilities to perform repairs, modifications, stretching, or rebarrelling of cargo tanks in conformance with the NBIC. Prior to 1995, the NBIC was only applicable to tanks with an MAWP of 15 psig or greater. However, in 1995 the applicability of the NBIC was extended to all pressure vessels. While the ASME Code is applicable to new construction only, the NBIC sets forth procedures for repairing or modifying pressure vessels. Adopting the NBIC requirements in the HMR for all cargo tank repairs, modifications, stretching, and rebarrelling will provide clarity, consistency, and a greater level of safety. However, we are not proposing to adopt NBIC requirements for certification by an Authorized Inspector, completion of the R–1 form, and stamping tanks with the "R" stamp for non-ASME cargo tanks at this time due to cost considerations and concern about the availability of Authorized Inspectors.

Because persons have suffered severe injuries or died while performing repairs to cargo tanks that were not properly cleaned and purged, we are also proposing to clarify and emphasize that the entire CTMV, including void spaces, piping, and vapor recovery systems, be cleaned and purged before doing repairs, modifications, stretchings, rebarrellings, or mountings that involve welding on cargo tanks that transport toxic or flammable lading. We also propose to clarify that modification, stretching, or rebarrelling must be inspected and certified by a Design Certifying Engineer (DCE). The current requirement for a DCE to approve modifications has caused confusion about the level of participation required from the DCE: In addition, we propose to revise specification plate requirements to reflect the modification, stretching, or rebarrelling of a cargo tank. We are proposing to require a supplemental specification plate to be installed adjacent to the original specification plate. Changes to the original specification plate would not be allowed. This proposal addresses TTMA's petition (P–1388) requesting that we require a supplemental plate for changes. However, we are not proposing to adopt TTMA's request to allow the original cargo tank manufacturer to replace the original specification plate if the cargo tank is altered. We believe that the information on the original specification plate should be permanent and not altered, even if the work is done by the original manufacturer.

III. Revisions Applicable to DOT 400-Series Cargo Tanks

We are proposing several revisions to the specifications applicable to the DOT

400-series cargo tanks. These proposals include revisions to: (1) Structural integrity requirements; (2) manhole marking requirements; (3) road clearance allowances; (4) bottom accident protection; (5) specification plate marking; (6) leak testing alternatives; and (7) weld joints. In addition to these changes, which are described below, we are also proposing revisions to the DOT 400-series specifications to make the requirements easier to understand and follow.

A. Structural Integrity Requirements

The HMR currently do not include structural support members in the structural integrity requirements for lightweight attachments welded to DOT 400-series CTMVs. In this NPRM, we are proposing to correct this omission by adding structural support members to the list of attachments to which the structural integrity requirements apply for new construction of DOT–400 series CTMVs.

B. Manhole Marking

Currently, the HMR require manhole covers to be permanently marked with the manufacturer's name, the test pressure, and a certification that the manhole cover meets HMR requirements. This marking enables cargo tank owners, Registered Inspectors, and enforcement personnel to verify that the manhole conforms to applicable regulatory requirements. In this NPRM, we are proposing to specify that manhole assemblies be marked on the outside, where they can be seen without opening the manhole cover or fill opening, thereby enabling persons to see the marking without being exposed to hazardous materials inside the cargo tank. We are proposing that this requirement become effective one year after the effective date of a final rule. The revised marking requirements would apply to newly manufactured cargo tanks and cargo tanks that have their manhole assemblies replaced.

C. Road Clearance

The current HMR requirement for minimum allowable road clearance for DOT 400-series CTMV components or protection devices located between two adjacent axles is at least one-half inch for each foot separating the axles and in no case less than 12 inches. In a petition for rulemaking (P–1325), TTMA requests that we lower the minimum road clearance requirement to permit greater flexibility in the design of landing gear, tire carriers, cabinets, and other components near axles. TTMA suggests that such a revision would permit lowering the center of gravity for some CTMVs, which would improve dynamic stability. TTMA states that it is aware of no situations in which a landing gear failure has punctured a cargo tank.

We agree with TTMA that reducing the center of gravity for CTMVs would be beneficial. Thus, in this NPRM, we are proposing to revise the requirements for minimum road clearance for landing gear within 10 feet of an axle to be no less than 10 inches. We propose to maintain the current clearance requirements for the middle area between axles. The proposed revision would allow landing gear to be lowered by two inches, but would not compromise clearances in the area of a CTMV most vulnerable to contact with the ground—that is, the area midway between a tractor's rear axle and the CTMV rear suspension.

D. MAWP Specification Plate Marking

Current regulations for DOT 406, DOT 407, and DOT 412 cargo tanks require the maximum loading and unloading pressure to be marked on the cargo tank's specification plate. In a petition for rulemaking (P–1212), TTMA asks us to eliminate this marking requirement. TTMA notes that the volume change of liquids transported in DOT 406, DOT 407, and DOT 412 cargo tanks is small and that the maximum loading and unloading rate is calculated in the design of the cargo tank and identified on the specification plate. We agree that the maximum loading and unloading pressure marking is unnecessary because the maximum loading/unloading pressure is reflected in the MAWP. Therefore we are proposing to eliminate it. However, in no situation can the actual pressure in the tank exceed the MAWP.

E. Leak Testing Using EPA Method 27

Currently, the HMR permit cargo tanks equipped with vapor collection equipment to be leak tested in accordance with the Environmental Protection Agency (EPA) "Method 27—Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test" as set forth in Appendix A to 40 CFR part 60. We propose to clarify the parameters for testing cargo tanks that are used to transport petroleum distillate fuels and are equipped with vapor recovery equipment. EPA regulations at 40 CFR 63.425(e) require cargo tanks equipped with vapor collection systems that are used to transport petroleum distillate fuels to pass an annual certification test for vapor tightness. This annual certification test includes both the Method 27 test for vapor tightness of a cargo tank and a pressure test of the tank's internal vapor valve. The revision proposed in this NPRM specifies that cargo tanks equipped with vapor collection equipment that are used to transport petroleum distillate fuels may be tested in accordance with 40 CFR 63.425(e) instead of the annual leakage test required under § 180.407 of the HMR. In addition, we are proposing that, if the EPA annual certification test in 40 CFR 63.425(e) is used to satisfy the annual leak test requirement, the Method 27 test must be conducted using air. Performing the test using liquid, an alternative allowed by EPA, may mask leakage below the liquid level at the pressure level specified for the test. The EPA Method 27 air test should detect even small leaks in a cargo tank. Therefore, we propose to prohibit use of alternative procedures in section 6 of Method 27 that allow the use of water.

We are also proposing a special marking to designate cargo tanks that have been tested in conformance with EPA's annual certification test for cargo tanks equipped with vapor recovery equipment and used to transport petroleum distillate fuels. The proposed marking is "K–EPA27." The marking would replace the "K" marking on a cargo tank if the EPA vapor tightness test methods and procedures as set forth in 40 CFR 63.425(e) are used in place of the leak test. If a cargo tank is tested using both the leak test specified in the HMR and the vapor tightness tests specified in the EPA regulations, it would be marked with both "K" and "K–EPA27". This proposal establishes a national, uniform marking requirement for cargo tanks tested for vapor tightness in accordance with EPA regulations instead of, or in addition to, the leak test procedures specified in the HMR. This new marking would be applied to cargo tanks that are tested for vapor tightness under EPA procedures beginning one year after the effective date of the final rule.

F. Weld Joints on DOT 407 Cargo Tanks

In a petition (P–1333), TTMA requests that we adopt a weld joint efficiency of 0.85 for head seams in bulkheads on DOT 407 cargo tanks. Based on review of the TTMA petition and additional information, we are proposing in this NPRM that the strength of a weld seam in a bulkhead without radiographic examination of the weld must be 0.85 of the strength of the bulkhead. The welded seam must be a full penetration butt weld, no more than one seam may be used per bulkhead, and the welded seam must be completed before forming the dish radius and knuckle radius.

In its petition, TTMA also requested that we permit spot radiographic examination of weld joints every six months as an alternative to the periodic test. We do not agree with TTMA. Instead, we are proposing that two test specimens of the same material and thickness and joined by the same welding procedure as those to be used in manufacturing the bulkhead must be tested to failure in tension. The ratio of the actual tensile stress to the actual tensile strength of the adjacent material of both samples must be greater than 0.85. The test specimens may represent all the tanks that are manufactured in the same facility within six months after the tests are completed.

IV. Revisions Applicable to MC 331 and MC 338 Cargo Tanks

We are proposing several revisions to the HMR specifications applicable to MC 331 and MC 338 cargo tanks. The proposals include: (1) Revisions to make the specifications consistent with the DOT 400-series cargo tank specification requirements; (2) retrofit requirements for cargo tanks not currently equipped with remote shutoff devices; (3) a new requirement for thermal activation devices on MC 338 CTMVs; (4) revisions to the internal inspection requirements; and (5) revisions to leakage test requirements for cargo tanks in anhydrous ammonia service. In addition to these changes, which are described below, we are also proposing revisions to the MC 331 and MC 338 specifications to make the requirements easier to understand and follow.

A. Consistency With DOT 400-Series Specification

We are proposing a number of changes to the MC 331 and MC 338 specifications to make them consistent with specifications applicable to DOT 400-series CTMVs. The DOT 400-series cargo tank specifications are more contemporary regulations that reflect current industry practices. In addition, the DOT 400-series specifications are performance standards, and, thus, provide greater flexibility to cargo tank designers and manufacturers to meet the DOT requirements. As proposed in this NPRM, we are not imposing additional requirements for MC 331 and MC 338 CTMVs; rather we are increasing flexibility in meeting the requirements by proposing performance standards and additional alternatives.

Under Docket HM–183C (60 FR 17398), we modified the structural integrity requirements for MC 331 and MC 338 CTMVs to conform with the DOT 400-series specification requirements. At that time, however, the related requirements for attachments were not changed. Thus, we propose to make requirements for the design, construction, and installation of attachments, appurtenances, structural support members, or accident protection devices on MC 331 and MC 338 CTMVs consistent with the requirements for DOT 400-series CTMVs. Similarly, we are proposing to revise long-standing requirements for rear-end protection devices on MC 331 and MC 338 CTMVs to authorize the DOT 400-series rear-end protection provisions as an alternative to the current requirements for both MC 331 and MC 338 CTMVs.

We are also proposing changes to the MC 331 and MC 338 specifications for cargo tank support and anchoring for consistency with the DOT 400-series requirements. When the structural integrity requirements for the MC 331 and MC 338 CTMVs were modified under HM–183, the closely related requirements for support and anchoring were not changed. This was an inadvertent error that we now propose to correct. This would apply to newly constructed MC 331 and MC 338 CTMVs.

We propose to require essential information marked on MC 331 and MC 338 CTMV metal specification plates to be consistent with requirements for DOT 400-series CTMVs. Thus, in addition to the information already required, the specification plate would be marked with the cargo tank test pressure; the CTMV certification date if different from the cargo tank certification date; the cargo tank certification date; the shell material specification number; the head material specification number; the maximum design density of lading; the weld material; the minimum thickness of the cargo tank shell; tank maximum allowable working pressure; cargo tank design temperature; cargo tank manufacturer; cargo tank manufacture date; maximum weight of lading; minimum thickness—head; and exposed surface area. The requirement for Vehicle manufacturer's serial number would be removed. MC 331 cargo tanks would be required to add the information concerning linings and heating systems while MC 338 cargo tanks would be required to include information specific to this series. This requirement would apply to new construction and changes on these CTMVs.

In addition, for MC 331 CTMVs, we propose to require certificates for a CTMV that is manufactured in two or more stages. Each manufacturer who performs a manufacturing function on the incomplete CTMV must provide the succeeding manufacturer with a certificate that states the function that was performed and must also provide certificates received from previous manufacturers, Registered Inspectors, and Design Certifying Engineers. Further, we propose to clarify the roles of the original manufacturer of a cargo tank and the assembler of a CTMV in documenting on the certificate those areas of the specification that are not met or specification shortages, including valves, piping, fittings, and the like. The person who installs the components that bring the tank into full compliance with the specification would be required to stamp the certification date on the specification plate and issue a Certificate of Compliance.

B. Remote Shutoffs

On December 28, 1988, in Ashland, Virginia, a pipe fitting on an MC 331 cargo tank transporting sulfur dioxide failed during a delivery operation. The driver of the CTMV suffered a fatal injury while attempting to close the cargo tank's internal valve. The CTMV was not equipped with a remote mechanical means to close the internal valve. As a result of its investigation, NTSB recommended that RSPA require MC 330, MC 331, and MC 338 CTMVs to be equipped with on-truck remote mechanical means to close the internal valve (NTSB # H–90–91).

In a final rule published November 3, 1994 (HM–183C; 50 FR 55162), we adopted a requirement for MC 331 and MC 338 CTMVs constructed after January 1, 1995, to be equipped with on-truck remote shutoff devices. For CTMVs constructed prior to January 1, 1995, we required each MC 330 and MC 331 CTMV used to transport flammable gas; flammable liquid; hydrogen chloride, refrigerated liquid; or anhydrous ammonia, and each MC 338 CTMV used to transport flammable ladings to be retrofitted with an on-truck remote shutoff device.

In this NPRM, we are proposing to require all MC 330, MC 331, and MC 338 CTMVs to be retrofitted with an on-truck remote mechanical shutoff device that meets the requirements for the applicable specification. The retrofit must be accomplished within three years from the effective date of a final rule. Under this proposal, CTMVs used to transport only argon, carbon dioxide, helium, krypton, neon, nitrogen, or xenon are excepted from the requirement for on-truck remote shutoffs.

We are also proposing to require MC 338 CTMVs to be equipped with a means of thermal activation for closing the internal self-closing stop valve. On

June 4, 1998 (63 FR 30572), RSPA established a negotiated rulemaking committee under Docket RSPA–97–2718 (HM 225A). During the negotiated rulemaking process, the committee discussed the safety benefits of fusible elements, which provide a heat-activated means for closing a valve. Fusible elements melt when subjected to sufficiently high temperatures, thereby closing the valve to which they are affixed. The HMR currently require installation of on-truck remote closures with a means of thermal activation on MC 331 cargo tanks. Consistent with the committee's recommendation, we are proposing that internal self-closing stop valves be equipped with a means of thermal activation on all MC 338 cargo tanks. This requirement would not apply to tanks transporting only argon, carbon dioxide, helium, krypton, neon, nitrogen, or xenon.

C. Inlet and Outlet Fittings on MC 331 Cargo Tanks

Currently, § 178.337–9 of the HMR requires the use of malleable metals for the construction of valves and fittings on MC 331 cargo tanks. The National Propane Gas Association (NPGA) petitioned for a change to § 178.337–9 to require liquid filling and vapor equalization fittings on MC 331 cargo tanks to be constructed of malleable steel or ductile iron only (P–0935). In its petition, NPGA stated that this change would help to prevent the occurrence of piping failures when fittings made of soft metals, such as brass or copper, are struck by an outside force. We agree. Accordingly, we are proposing to require new or replacement primary valves and fittings used in liquid filling or vapor equalization on MC 331 cargo tanks to be constructed of malleable steel or ductile iron. This proposal is consistent with the National Fire Protection Association (NFPA) Standard 58 and is currently the standard industry practice.

D. Internal Visual Inspections of Insulated Tanks

Currently, the HMR provide an exception for insulated MC 330 and MC 331 cargo tanks from the requirement to undergo an internal visual inspection in conjunction with the annual external visual inspection. The exception was included in the HMR to facilitate inspection of insulated MC 330 and MC 331 cargo tanks that did not have manholes or inspection openings, making it impossible to enter the cargo tank to perform an internal visual inspection. Because insulation precludes a visual inspection of the exterior of the cargo tank, and there is no means to inspect the interior of the tank, it was decided that the only way to verify the structural integrity of the cargo tank was to subject it to a hydrostatic or pneumatic pressure test at one-year intervals.

The exception applies to insulated MC 330 and MC 331 cargo tanks, irrespective of whether the cargo tank is equipped with a manhole or inspection opening. However, many of these cargo tanks are, in fact, equipped with manholes or inspection openings. We believe that operators should be permitted the option of verifying the structural integrity of these cargo tanks with an internal visual inspection rather than a more costly pressure test. Therefore, we are proposing to permit the owner of an insulated cargo tank that is equipped with manholes or inspection openings to perform either an internal visual inspection in conjunction with the external visual inspection or a hydrostatic or pneumatic pressure-test of the cargo tank. As appropriate, these tanks would continue to be required to undergo a complete internal visual inspection and pressure test at the intervals specified in § 180.407(c).

E. Leakage Tests for Cargo Tanks in Anhydrous Ammonia Service

The HMR currently require cargo tanks to be leak tested at no less than 80 percent of the tank design pressure or MAWP. The regulations include an exception for MC 330 and MC 331 cargo tanks in liquefied petroleum gas (LPG) service that permits them to be leakage tested at not less than 414 kPa (60 psig). This exception was adopted (Docket HM–183, 183A; 56 FR 27872; June 17, 1991) because normal operating pressure for cargo tanks in LPG service varies with ambient temperature; thus, a cargo tank in LPG service would have to be leakage tested under conditions simulating the highest ambient temperature to which it will be subjected to assure that it is not operated at pressures exceeding leakage test pressure.

The Fertilizer Institute (TFI) filed a petition (P–1255) requesting that we allow anhydrous ammonia cargo tanks to be included in this exception. TFI states that, because changes in ambient temperatures result in substantial changes in the normal operating pressure for cargo tanks in anhydrous ammonia service, a cargo tank in anhydrous ammonia service would need to be leakage tested on the hottest day of each year to ensure that it is not operated at pressures exceeding the leakage test pressure. TFI stated that this causes "extreme hardship" for companies transporting anhydrous ammonia in cargo tanks. TFI further stated that anhydrous ammonia is a compressed gas with properties that are similar to those of LPG.

RSPA recognized the difficulty described by TFI and, on August 23, 1996, granted an exemption, DOT E–11551, to allow cargo tanks in anhydrous ammonia service to be leakage tested at a lower pressure. However, due to differences in the vapor pressures of LPG and anhydrous ammonia, the exemption permits leakage testing of cargo tanks in dedicated anhydrous ammonia service at not less than 483 kPa (70 psig), rather than 414 kPa (60 psig) as is currently permitted for LPG. We are proposing to incorporate the provisions of DOT E–11551 into the HMR.

In its petition for rulemaking, TFI also requests that we amend the HMR to decrease the frequency of leakage testing to every two years, instead of annually, for cargo tanks in dedicated anhydrous ammonia service. TFI correctly observes that cargo tanks in chlorine service are only required to be leakage tested every two years and that one reason given by RSPA for extending this retest period to two years was that chlorine emits an odor that permits easy detection of a leak. TFI notes that anhydrous ammonia also has an easily detectable odor. However, the primary reason for a two-year leak test interval for cargo tanks in chlorine service is that these tanks are subjected to very stringent construction standards. The detectability of leakage due to an odor was a minor consideration. Therefore, RSPA is not proposing to adopt this portion of the TFI petition.

V. Petitions for Rulemaking and Other Recommendations

We have a number of petitions for rulemaking requesting changes to the CTMV requirements. Most of the requested changes are proposed in this NPRM. A brief summary of these petitions follows:

P-Number	Section	Request
0935	178.337–9	Require liquid filling and vapor equalization fittings on MC 331 cargo tanks be made of malleable steel or ductile iron only. Filed by NPGA. RSPA agrees.

P-Number	Section	Request
1199	180.407	Allow an external heating system on a CTMV to be pressure tested at its MAWP. Filed by NTTC. RSPA agrees.
1212	178.345–17	Remove requirement to mark the maximum loading and unloading pressures on a cargo tank's specification plate. Filed by TTMA. RSPA agrees.
1255	180.407	Extend frequency of leakage test for MC 330 and MC 331 CTMVs in anhydrous ammonia service from one to two years. Filed by TFI. RSPA partially agrees.
1262	180.407	Allow testing of heating systems on CTMV at the heating system design pressure instead of 1.5 times the heating systems design pressure. Filed by TTMA. RSPA agrees.
1272	178.320	Revise definition of "MAWP". Filed by TTMA. RSPA partially disagrees.
1292	180.407	Allow pressure and leakage test to be performed by a manufacturer or repairer. Filed by TTMA. RSPA agrees.
1300	180.407	Revise minimum thickness requirements for MC 300 series CTMVs. Filed by TTMA. RSPA agrees.
1322	180.413	Clarify requirements for certification of cargo tank mounting by a DCE and supervision of the mounting by a Registered Inspector. Filed by TTMA. RSPA agrees.
1325	178.345–8	Revise minimum road clearance requirements for DOT 400-series CTMVs. Filed by TTMA. RSPA agrees.
1333	178.347–1	Allow weld seam joint efficiency of 0.85 for head seams in bulkheads on DOT 407 CTMVs . Filed by TTMA. RSPA agrees.
1343	180.415	Require the requalification date marking on a CTMV to be the date the test or inspection expires instead of the date the test or inspection was last performed. Filed by NTTC. RSPA agrees.
1388	180.413	Require attachment of a supplemental specification plate that reflects changes during modification, stretching or rebarreling of a CTMV. Filed by TTMA. RSPA partially agrees.
1410	171.1	Incorporate by reference latest editions of certain TTMA industry documents. Filed by TTMA. RSPA agrees.

National Transportation Safety Board (NTSB) Recommendations

H–90–91 Require controls for internal shut-off valves for the discharge system to be installed at remote locations on all newly constructed and currently authorized DOT specification cargo tanks that are used for the transportation of any HM. See § 180.405.

H–93–94 Require remote control mechanisms for internal shutoff valves to be marked for emergency use on all cargo tanks authorized for the transportation of HM. See § 172.328.

H–95–14 Revise inspection/testing requirements for all cargo tanks constructed of mild and high-strength, low-alloy steel that are used to transport HM to require at least once each year or immediately when visual inspections indicate corrosion, measurement of the thickness of appurtenances (including ring stiffeners) that form air cavities adjacent to external cargo tank sheet material when the cargo tank sheet material cannot be visually inspected. If the thickness of the appurtenance material has corroded to a predetermined percentage of its manufactured thickness, require that access to the tank sheet material within the air cavity be made and that the thickness of the tank sheet material to be measured. See § 180.407.

VI. Section-by-Section Review

Part 107

We propose to revise the title of Subpart F to clarify that the registration requirements apply to cargo tank facilities that test, inspect, and repair cargo tanks, and to manufacturers, assemblers, and Design Certifying Engineers.

Section 107.502. We propose to revise the definition of "assembly" to include the installation of linings or coatings to the inside wall of a cargo tank wall and the installation of equipment or components during the manufacturing process that are necessary to conform to the specification requirements. This proposal is meant to clarify that the term "assembler" is not limited to a person who mounts cargo tanks on motor vehicle suspension parts, but also includes a person who installs equipment or components during the manufacturing process.

Section 107.503. We propose to require information on the registration statement for cargo tank manufacturing, assembling, and repair facilities to indicate whether a facility is conducting tests and inspections at a location other than the address listed in the registration form. The purpose of this proposal is to identify registered facilities that are using mobile inspection/testing equipment.

Part 171

Section 171.7. We propose to revise this section to incorporate the June 1, 1998 edition of Truck Trailer Manufacturers Association (TTMA) RP No. 61–98 "Performance of Manhole and/or Fill Opening Assemblies on MC 306, DOT 406, Non-ASME MC 312 and Non-ASME DOT 412 Cargo Tanks;" the July 1, 1997 edition of TTMA RP No. 81–97 "Performance of Spring Loaded Pressure Relief Valves on MC 306, MC 307, MC 312, DOT 406, DOT 407, and DOT 412 Tanks;" and the June 1, 1998 edition of TTMA TB No. 107, "Procedure for Testing In-Service Unmarked, and/or Uncertified MC 306 and Non-ASME MC 312 Type Cargo Tank Manhole Covers." This proposal responds to a petition from TTMA (P–1410). In addition, we are proposing to incorporate by reference the American Petroleum Institute Recommended Practice 1604 "Closure of Underground Petroleum Storage Tanks," Third Edition, dated March 1996.

Section 171.8. We propose to revise the definitions of "Design Certifying Engineer (DCE)" and "Registered Inspector (RI)" to permit an individual who does not meet the educational requirements in the definitions to be recognized as a DCE or RI if the person was performing those functions for three years prior to September 1, 1991, and meets all other qualifications. In addition, we are proposing to eliminate a requirement for an individual to have registered with the DOT before December 31, 1995. The regulations currently permit an individual who does not meet the educational requirements to be recognized as a DCE or RI if the individual had at least three years of experience in performing the function of a DCE or RI, prior to September 1, 1991, and if the individual

registered with the Department before December 31, 1995.

We are also proposing to change the definition of "Cargo tank" to include intermediate bulk containers (IBCs) in the list of specifications under which cargo tanks are not manufactured. In addition, we propose to revise the definition of "Maximum Allowable Working Pressure" to include a new section reference.

Part 172

Section 172.101. We propose to modify the Hazardous Materials Table by adding a new Special Provision 144 in Column (7) for the following proper shipping names: Diesel fuel; Fuel, aviation, turbine engine; Fuel oil (no. 1, 2, 4, 5, or 6); Gas oil or Diesel fuel or Heating oil, light; Gasohol; Gasoline; Hydrocarbons, liquid, n.o.s.; Kerosene; Petroleum crude oil; Petroleum distillates, n.o.s. or Petroleum products, n.o.s; and Petroleum oil. Special Provision 139 clarifies that underground storage tanks (USTs) may be shipped as unregulated materials if they meet the definition of "empty" in § 173.29 or if they are cleaned, purged, or made inert in accordance with the American Petroleum Institute Standard 1604 for USTs.

Section 172.102. We propose to revise paragraph (c)(1) to add Special Provision 144 concerning the transportation of empty USTs, as detailed above.

Section 172.328. We are proposing to add a new paragraph (d) to require all manually activated on-vehicle remote shutoff devices for closure of a cargo tank's internal shutoff valve to be marked "Emergency Shutoff." This requirement would become effective two years after the effective date of a final rule published in the **Federal Register**.

Part 173

Section 173.33. We propose to re-designate the minimum design requirements for cargo tanks used to transport Packing Group I and II liquid ladings in current paragraph (g) as new paragraph (c)(6) and to redesignate paragraph (h) as paragraph (g). Paragraph headings would be added for paragraphs (f) and (g).

Section 173.150. We propose to remove the references to §§ 173.21, 173.24, 173.24a, and173.24b in paragraph (f)(3)(viii). Current paragraph (f)(3)(vii) requires compliance with Subpart B of part 173, so these references are redundant.

We also propose to revise paragraph (f)(3) by adding a new paragraph (ix) to clarify that hazardous materials (HM) training requirements apply to persons involved with the transportation of a combustible liquid in a bulk package or a combustible liquid that is also a hazardous substance, a hazardous waste, or a marine pollutant. In 1992, RSPA reviewed the costs and safety benefits of the training requirement (Docket HM–126F; 57 FR 20952) and found HM training to be justified. However, the training requirement was inadvertently omitted from this section.

Part 177

Section 177.834. We propose to revise paragraph (j) of this section to specify that all manhole closures must be closed and secured on cargo tanks containing hazardous materials or residues of hazardous materials. Cargo tanks that are cleaned and purged may have open manhole closures.

Part 178

Section 178.320. We are proposing to revise paragraph (a) to add definitions applicable to cargo tanks that are currently in § 178.345–1(c). In addition, we propose to revise and move the definition of maximum allowable working pressure (MAWP) from § 178.345–1(k) to paragraph (a). Finally, we are proposing to replace the term "stop-valve" with "stop valve" in paragraph (a) each place it appears.

We propose to revise paragraph (b) to state specifically that accident damage protection devices must be certified by a DCE. FMCSA has found that there is a misunderstanding among assemblers installing cargo tanks onto a motor vehicle chassis as to whether the rear-end protection devices must be certified by a DCE. Because rear-end protection devices are required by the specification to meet specific structural integrity requirements, the design of these devices must be certified by a DCE.

In addition, paragraph (d) would be added to clarify that "minimum thickness" is the greatest of: (1) The value specified in the special provisions of the Hazardous Materials Table; (2) the value calculated or specified in the applicable section; or (3) the value specified in the tables in § 180.407.

Section 178.337–3. We propose to revise paragraph (g) to add structural support members to the list of attachments to which this paragraph applies. In addition, the proposed revision: (1) Groups all requirements for mounting pads in § 178.337–3(g)(2); (2) deletes an unnecessary requirement that mounting pads be the same material as the cargo tank and, instead, allows the pad material to be selected by the DCE; (3) achieves conformity with relevant requirements for DOT 400-series cargo tanks in § 178.345–3; and (4) eliminates the exception for a small gap in the continuous weld around mounting pads while permitting continued use of weep holes or telltale holes as currently allowed.

Section 178.337–8. We are proposing to revise paragraph (a)(5)(iii) to remove an expired compliance date.

Section 178.337–9. In paragraph (b)(2), we propose a revision to require the use of malleable steel or ductile iron in the construction of inlet and outlet fittings on MC 331 cargo tanks.

For clarity, we are proposing to move paragraph (b)(5), which addresses requirements for grouping piping and fittings, to § 178.337–10 as new paragraph (e). This would consolidate all of the requirements for accident damage protection.

Section 178.337–10. We are proposing to revise the section heading from "Protection of fittings" to "Accident damage protection." In addition, we are proposing to re-designate chlorine tank requirements in current paragraph (c) as paragraph (d) and to re-designate the rear-end protection requirements in current paragraph (d) as paragraph (c). Proposed redesignated paragraph (c) would be revised to incorporate the requirements for MC 338 cargo tanks and authorize the DOT 400 series rear-end protection provisions as an alternative to existing requirements for MC 331 cargo tank motor vehicles.

We also propose to re-designate § 178.337–9(b)(5) as new § 178.337–10(e) and to move requirements concerning shear sections in current § 178.337–12 to new § 178.337–10(f).

Section 178.337–12. This section currently prescribes requirements for shear sections located adjacent to and outboard of internal valves or excess flow valves. This section would be removed and reserved and the current requirements would be designated as new paragraph (f) in § 178.337–10, thereby consolidating all accident damage protection requirements in one section.

Section 178.337–13. We propose to revise this section for consistency with the DOT 400-series requirements for cargo tank support and anchoring. When the structural integrity requirements for MC 331 cargo tank motor vehicles were modified under HM–183 (54 FR 24982), the closely-related requirements for support and anchoring were not changed. Therefore, we are now proposing changes to the requirements for support and anchoring. In addition, we propose to relax a requirement that mounting pads be the same material as the cargo tank material

of construction by allowing the pad material to be selected by the DCE.

Section 178.337–17. We propose to revise paragraph (a) to require essential information marked on MC 331 CTMV metal identification plates to be consistent with the requirements for DOT 400-series CTMVs so that this essential information is readily available to operators and enforcement officials. This requirement would become effective one year from the date of publication of a final rule in the **Federal Register** and would be applicable to new construction only. Metal identification plates for MC 331 CTMVs certified after the effective date of the final rule would be marked with the following information:

(1) DOT-specification number MC 331;

(2) Original test date (Orig. Test Date) month and year;

(3) MAWP in psig;

(4) Cargo tank test pressure (Test P), in psig;

(5) Cargo tank design temperature (Design Temp. Range)__°F to__°F;

(6) Cargo tank motor vehicle manufacturer (CTMV mfr.);

(7) Cargo tank motor vehicle certification date (CTMV cert. date), if different from the cargo tank certification date;

(8) Cargo tank manufacturer (CT Mfr.);

(9) Cargo tank manufacture date (CT date Mfr.);

(10) Cargo tank certification date (CT cert. date);

(11) Material specification number—shell (Shell matl, yyy***), where "yyy" is replaced by the alloy designation and "***" is replaced by the alloy type;

(12) Material specification number—heads (Head matl, yyy***), where "yyy" is replaced by the alloy designation and "***" is replaced by the alloy type.

Note— When the shell and head materials are the same thickness, they may be combined (Shell & head matl, yyy***);

(13) Maximum weight of lading (Max. Payload) in pounds;

(14) Exposed surface area in feet;

(15) Nominal capacity (Water Cap.), in pounds;

(16) Maximum design density of lading (Max. lading density), in pounds per gallon;

(17) Weld material (Weld matl.);

(18) Minimum Thickness—shell (Min. Shell-thick), in inches. When minimum shell thicknesses are not the same for different areas, show (top ____, side ____, bottom ____, in inches). Parenthetical abbreviations noted above would be permitted;

(19) Manufactured Thickness—shell (Mfg. Shell-thick), in inches. When manufactured shell thicknesses are not the same for different areas, show (top ____, side , bottom ____, in inches). Parenthetical abbreviations noted above would be permitted;

(20) Minimum Thickness—head (Min. Head-thick), in inches;

(21) Manufactured Thickness—head (Mfg. Head-thick), in inches;

(22) Lining Material (Lining), if applicable;

(23) Heating system design pressure (Heating sys. press.) in psig, if applicable;

(24) Heating system design temperature (Heating sys. temp.) in °F, if applicable;

Section 178.337–18. We propose to re-designate paragraphs (a)(3) and (a)(4) as (a)(5) and (a)(6), respectively. We propose to add new paragraphs (a)(3) and (a)(4) detailing requirements for certifying cargo tanks manufactured in stages by two or more manufacturers.

Section 178.338–2. We propose to revise paragraph (c) to except certain steel alloys from impact test requirements for consistency with exceptions allowed in the ASME Code. Section 178.338–1(c) states that each tank must be designed and constructed to the ASME Code. Therefore, because the HMR specify that these tanks should be constructed of materials authorized by the ASME Code, exceptions in the ASME Code from impact testing for certain steel alloys should also be recognized in the HMR.

Section 178.338–3. We propose to revise paragraph (g) to add structural support members to the list of attachments to which this paragraph applies. The proposed revision also incorporates more flexible, performance language consistent with structural integrity requirements permitted for DOT 400-series CTMVs.

Section 178.338–10. We are proposing to revise the section heading to read "Accident damage protection" instead of "Collision damage protection." In addition, we are proposing to revise paragraph (c) to authorize the DOT 400-series cargo tank rear-end protection provisions as an alternative to existing requirements for MC 338 cargo tank motor vehicles.

Section 178.338–11. We propose to revise paragraph (c) to require internal self-closing stop valves to be equipped with a means of thermal activation. In addition, we are revising paragraph (c) for clarity.

Section 178.338–13. When the structural integrity requirements for MC 338 cargo tank motor vehicles were modified under HM–183 to conform with structural integrity requirements of the DOT 400-series, the closely-related requirements for supports and anchoring were not changed. Therefore, we are proposing changes to the requirements for support and anchoring. In addition, we are proposing to modify an unnecessary requirement that mounting pads be the same material as the cargo tank to allow the pad material to be selected by the Design Certifying Engineer.

We are proposing to delete current paragraph (a) and re-designate current paragraphs (b) and (c) as paragraphs (a) and (b), respectively. References to "Appendix G" in each of these paragraphs would be revised to read: "(* * * Appendix G of Section VIII, Division 1 of the ASME Code)." In addition, a new paragraph (c) would be added to require the use of mounting pads that conform to the requirements of § 178.338–3(g) when welding a structural support member or accident damage protection device directly to the cargo tank wall.

Section 178.338–18. We propose to revise paragraph (a) to require information on MC 338 CTMV metal identification plates to be consistent with the requirements for DOT 400-series CTMVs. This requirement would become effective one year from the date of publication of a final rule in the **Federal Register** and would be applicable to new construction only. Metal identification plates for new MC 338 CTMVs would be marked with the following information:

(1) DOT-specification number MC 338 (MC 338);

(2) Original test date (Orig. Test Date) month and year;

(3) Tank MAWP in psig;

(4) Cargo tank test pressure (Test P), in psig;

(5) Cargo tank design temperature (Design Temp. Range)__°F to__°F;

(6) Cargo tank motor vehicle manufacturer (CTMV mfr.);

(7) Cargo tank motor vehicle certification date (CTMV cert. date), if different from the cargo tank certification date;

(8) Cargo tank manufacturer (CT Mfr.);

(9) Cargo tank manufacture date (CT date Mfr.);

(10) Cargo tank certification date (CT cert. date);

(11) Material specification number—shell (Shell matl, yyy***), where "yyy" is replaced by the alloy designation and "***" is replaced by the alloy type;

(12) Material specification number—heads (Head matl, yyy***), where "yyy" is replaced by the alloy designation and "***" is replaced by the alloy type.

Note— When the shell and head materials are the same thickness, they

may be combined (Shell & head matl, yyy***);

(13) Maximum weight of lading (Max. Payload) in pounds;

(14) Exposed surface area in feet;

(15) Nominal capacity (Water Cap.), in pounds net at 60 °F., with the tank at its coldest operating temperature, after deduction for the volume above the inlet to the pressure relief device or pressure control valve, structural members, baffles, piping, and other appurtenances inside the tank;

(16) Maximum design density of lading (Max. lading density), in pounds per gallons;

(17) Weld material (Weld matl.);

(18) Minimum Thickness—shell (Min. Shell-thick), in inches. When minimum shell thicknesses are not the same for different areas, show (top __, side __, bottom __, in inches). Parenthetical abbreviations noted above would be permitted;

(19) Manufactured Thickness—shell (Mfg. Shell-thick), in inches. When manufactured shell thicknesses are not the same for different areas, show (top __, side __, bottom __, in inches). Parenthetical abbreviations noted above would be permitted;

(20) Minimum Thickness—head (Min. Head-thick), in inches;

(21) Manufactured Thickness—head (Mfg. Head-thick), in inches;

(22) Lining Material (Lining), if applicable;

(23) "Insulation for Oxygen Service" or "Not Authorized for Oxygen Service," as appropriate;

(24) Marked rated holding time for at least one cryogenic liquid, in hours, and the name of that cryogenic liquid (MRHT__ hrs, name of cryogenic liquid). MRHT markings for additional cryogenic liquids may be displayed on or adjacent to the specification plate.

Section 178.345–1. For consistency, we propose to revise paragraph (c) by removing the definitions and placing them in alphabetical order in § 178.320(a). In addition, we propose to remove paragraph (k) and move the definition of "maximum allowable working pressure" to § 178.320(a).

Section 178.345–2. We propose to revise paragraph (b) to address the requirements for minimum thickness as specified in 178.320(d).

Section 178.345–3. We are proposing to revise paragraph (b) by adding a new paragraph (b)(3) to require that all cargo tank designers, manufacturers, owners, and users must consider all conditions specified in § 173.33(c) when matching the performance characteristic of the cargo tank to the characteristics of the lading being transported.

We are proposing to revise paragraph (f) to add requirements for structural support members. In addition, in paragraph (f)(3), the references to paragraphs (g)(1) and (g)(2) would be corrected to read (f)(1) and (f)(2). We are also revising paragraph (f) for clarity and consistency.

Section 178.345–5. We propose to revise paragraph (e) to specify that manhole markings must be placed on the outside of the manhole assembly where they can be seen without opening the manhole cover or fill opening.

Section 178.345–8. We propose to revise paragraph (a)(5) to specify minimum road clearance requirements for landing gear within 10 feet of an axle. In response to a 1996 petition (P–1325) from the Truck Trailer Manufacturing Association (TTMA), we are proposing a minimum road clearance requirement of 10 inches. TTMA suggests this height to allow for clearance when a CTMV wheel may drop over a curb or for crossing over rises, such as a railroad crossing. We agree that this clearance is necessary to prevent scraping or damaging the CTMV when encountering these situations.

In paragraph (d), we propose a revision to clarify that manufacturers must comply with applicable requirements in the Federal Motor Carrier Safety Regulations at 49 CFR 393.86 and with paragraph (b) of this section.

Section 178.345–10. In paragraph (a), we propose to add a sentence to clarify that pressure relief vents are not required to conform to the ASME Code. The requirement for a cargo tank to be "constructed in accordance with the ASME Code" or "constructed and certified in conformance with the ASME Code" applies to the construction of the cargo tank walls and closure devices. Certification to the ASME Code may be done without the installation of pressure relief devices. Sections 178.345–10, 178.346–3, 178.347–4, and 178.348–4 set forth requirements for pressure relief systems for DOT 400-series cargo tanks. These requirements are different from and supersede the ASME Code venting requirements.

Section 178.345–13. In § 178.345–13, we propose to correct references to read §§ 178.346–5, 178.347–5, and 178.348–5 respectively. These section numbers were previously changed, and this NPRM proposes to update appropriate reference citations.

Section 178.345–14. We propose to revise paragraph (b)(1) to require that the words "See variable specification plate" be added to the name plate on cargo tanks built to more than one specification. This requirement is consistent with industry practice and the proposed wording in § 180.413(d)(3)(vi).

We also propose to revise paragraphs (c)(6) and (c)(7) to eliminate the maximum loading and unloading pressure marking requirement from the specification plate.

Section 178.346–1. In paragraph (d)(6), the reference "§ 178.345–10" would be corrected to read "§ 178.346–3"; and in paragraph (d)(7) the reference "§ 178.345–13 would be corrected to read "§ 178.346–5."

Section 178.346–2. We propose to revise the text and table titles to be consistent with the minimum thickness requirements in § 178.320(d).

Section 178.346–5. We propose to revise paragraph (c) to clarify the parameters for testing cargo tanks that are used to transport petroleum distillate fuels and are equipped with vapor recovery equipment. These cargo tanks may be tested in accordance with EPA's annual certification test requirements as set forth in 40 CFR 63.425(e). To satisfy the leakage test requirements, however, we are proposing that the Method 27 test must be performed using air and not liquid.

Section 178.347–1. We propose a minor editorial correction in paragraph (c) to change the word "accordance" to "conformance." We propose to add paragraph (d)(9) to provide for a weld joint efficiency of 0.85 for head seams in bulkheads on DOT 407 CTMVs.

We propose in paragraph (d)(5) to change the reference to "§§ 178.345–5 and 178.347–5," to read "§ 178.347–3." In addition, in paragraph (d)(6) the reference to "§ 178.345–10," and the reference in paragraph (d)(7) to "§ 178.345–13," would be changed to read "§ 178.347–4" and "§ 178.347–5," respectively.

Section 178.347–2. We propose to revise paragraph (a) and the table titles to be consistent with the minimum thickness requirements in § 178.320(d).

Section 178.348–1. We propose to remove the reference to "§ 178.348–5," in paragraph (e)(2)(v). We also propose to change the reference to "§ 178.348–10," in paragraph (e)(2)(vi), to read "§ 178.348–4." In addition, we propose to change the second reference to "§ 178.348–13," in paragraph (e)(2)(vii), to read "§ 178.348–5."

Section 178.348–2. We propose to revise paragraph (a) and the table titles for consistency with the minimum thickness requirements in § 178.320(d).

Part 180

Section 180.403. We propose to define the term "corroded or abraded" to mean any visible reduction in the material thickness of the cargo tank wall or valve

due to pitting, flaking, gouging, or chemical reaction to the material surface. In addition, we propose to modify the definition for "corrosive to the tank or valve" to mean that the lading has been shown through experience or test data to reduce the thickness of the tank wall or valve.

Section 180.405. We propose to modify paragraph (b) to allow a cargo tank motor vehicle that was originally built to a standard authorized by an exemption to be marked and certified to the applicable MC 306, MC 307, MC 312, MC 331, or MC 338 specification after August 31, 1995. Currently, paragraphs (d), (e), and (f) outline steps that must be taken prior to this certification. Although the cargo tanks should have been marked and certified before August 31, 1995, FMCSA and RSPA believe there may be a number of cargo tanks in operation that have not been certified to the appropriate specification. The practice of certifying these cargo tanks to the applicable MC 300-series specification was previously authorized. Continuing to permit these tanks to be marked and certified would not decrease the current level of safety. This proposal would not authorize these tanks to be used in DOT-specification service, after the expiration of the exemption under which they were manufactured, unless the necessary changes have been made and the tank is certified.

Also, we propose to add paragraph (b)(2)(iv) to require any repairs performed on MC 306, MC 307, or MC 312 cargo tanks after June 30, 1992 to have been conducted in accordance with § 180.413.

We propose to remove paragraph (g)(3). The period for retrofitting manholes has expired and the regulation is obsolete.

We propose to revise paragraph (k) to require MC 300-series cargo tanks that have a pressure relief system set at 3 psig and that have no MAWP or design pressure marked on the specification plate, or an MAWP or design pressure of less than 3 psig marked on the specification plate, to be re-marked with an MAWP or design pressure of not greater than 3 psig. This provision is currently allowed, but not required.

We propose to revise paragraph (l)(2)(iii), which prescribes the load that a rear-end tank protection device or rear bumper is required to withstand, to be consistent with the requirements for rear-end protection devices in § 178.345–8(d)(3). Currently, the rear-end protection device or rear bumper is required to withstand a 2 "g" load uniformly distributed and applied horizontally (parallel to the ground) from any direction at an angle not exceeding 30 degrees to the longitudinal axis of the vehicle. As proposed, the rear bumper or rear-end protection device would be required to withstand the horizontal load at an angle not exceeding 10 degrees to the longitudinal axis of the vehicle. This proposal would make the angle of load application consistent with the rear-end damage protection devices installed on new DOT 400-series CTMVs, as revised on November 3, 1994 (Docket HM–183C; 59 FR 55167).

We also propose to add a new paragraph (o) to require MC 330, MC 331, and MC 338 cargo tanks that are not equipped with on-truck remote shutoff devices to be retrofitted with on-truck remote shutoff devices that meet the requirements of the applicable specification. In this NPRM, we are proposing a three-year retrofit program for existing cargo tanks not equipped with an on-truck remote shutoff feature.

Section 180.407. We propose to revise paragraph (a)(2) to remove the phrase "or during loading or unloading" to limit the maximum pressure in the tank to the MAWP, except when the tank is undergoing a pressure test only.

We propose to revise paragraphs (b)(1) and (b)(2) to clarify the tests and inspections that must be conducted when a cargo tank shows evidence of dents, corroded or abraded areas, leakage, has sustained damage to an extent that may adversely affect its lading retention capabilities, or any other condition that might render it unsafe for transportation in hazardous materials service.

In addition, paragraph (b)(4) would be removed because the inspection and testing requirements for cargo tanks that have been modified from their original design specifications are currently outlined in § 180.413 and are redundant in this section.

We are proposing to revise paragraph (d)(1) to correct references for hydrostatic and pneumatic testing of cargo tanks where the visual inspection is precluded because the cargo tank is lined, coated, or designed so as to prevent access for internal inspection.

In response to NTSB recommendation H–95–14, we are also proposing to revise paragraph (d)(4) to require thickness testing of ring stiffeners and appurtenances on cargo tanks constructed of mild steel or high-strength, low-alloy steel and aluminum that are installed in a manner that precludes an external visual inspection of the cargo tank.

We propose to revise paragraph (g) to replace the term "re-closing pressure relief valve" with "self-closing pressure relief valve." This change would clarify that loading and unloading vents that open and close mechanically during loading and unloading operations are not subject to the bench testing requirements. As proposed, the revision would specify that self-closing pressure relief devices, such as normal vents (1 psig vents) installed on MC 306 and DOT 406 cargo tanks, must be removed from the cargo tank for inspection and testing or replaced in conjunction with the pressure test. In addition, paragraph (g)(1)(v) would be removed because the 5-year phase in period has expired.

In paragraph (g)(4), we propose to reduce the test pressure for cargo tank heating systems as requested in petitions (P–1199) and (P–1262) from NTTC and TTMA, respectively. NTTC members who own and operate DOT-specification CTMVs with external heating systems have found that these systems cannot withstand 1.5 times the design pressure as currently specified in paragraph (g)(4). The most vulnerable parts of the typical external heating system are the flexible connectors (rubber or elastomerics) that are used to interconnect heat exchanger panels. Because these heating systems are covered with insulation, a failure can cause expensive, time-consuming repairs. Evidently, before the adoption of Part 180 periodic testing, system designers made no provision for testing at 1.5 times operational conditions, a level that is routinely recognized in the design of conventional piping systems. For these reasons, NTTC and TTMA asked RSPA to reduce the test pressure to the maximum operating pressure of each system.

We propose to revise paragraph (h)(1) to require internal and external self-closing stop valves to be tested during the leak test, adjacent tanks in a multi-compartment CTMV to be separately tested, and cargo tanks in liquefied compressed gas service to be externally inspected for leaks during leakage tests by a means other than using a pressure gauge.

We propose to add paragraph (h)(1)(iv) to require MC 330 or MC 331 cargo tanks in dedicated service for anhydrous ammonia to be leakage tested at not less than 483 kPa (70 psig). In addition, we propose to add paragraph (h)(1)(v) to require non-specification cargo tanks subject to testing under § 173.8(d)(6) to be leak tested at a pressure of 16.5 kPa (2.4 psig). Section 173.8 requires non-specification cargo tanks authorized by that section to be tested and inspected in the same manner as required for an MC 306 CTMV. Many non-specification cargo tanks are not marked with a MAWP or

design pressure. This requirement would ensure that these cargo tanks are leakage tested in the same manner as MC 306 CTMVs.

We propose to revise paragraph (h)(2) to clarify the parameters for testing cargo tanks used to transport petroleum distillate fuels that are equipped with vapor recovery systems. These cargo tanks may be tested in accordance with EPA's annual certification test requirements as set forth in 40 CFR 63.425(e). To satisfy the leakage test requirements, however, we are proposing that the Method 27 test must be performed using air and not liquid. Under this proposal, the hydrostatic test alternative included in Method 27 may not be used to satisfy the leakage test requirements. We believe that the pneumatic test is a better test method for detecting leaks.

We propose to revise paragraph (i) and the titles of the tables in § 180.407(i)(5) by adding wording that is consistent with the proposed minimum thickness requirements in § 178.320(d).

Also, we propose to revise paragraph (i)(6) to change the wording "maximum lading density" to "maximum weight of lading or reduced maximum working pressure, or combinations thereof", and to make other relevant editorial revisions. Currently, if a cargo tank does not meet the minimum thickness required to satisfy the structural integrity requirements, the existing provisions allow for a downgrade of the maximum lading density, but do not recognize other factors directly related to the stress levels experienced by the cargo tank. This change is consistent with cargo tank design practices that evaluate both the weight of lading carried by the cargo tank and the pressure on the cargo tank wall as determining factors for minimum in-service thickness. The proposed change also responds to a petition (P–1300) from TTMA.

Section 180.409. We propose to revise paragraph (a) to add a reference to the definition of Registered Inspector in § 171.8. to clarify that a person must meet the minimum qualifications set forth in the definition in order to be qualified to perform tests and inspections required by § 180.407(c). This proposed change is based on a petition (P–1292) from TTMA.

Section 180.413. We propose to revise paragraph (a) requirements for performing repairs, modifications, stretching, rebarrelling, or remounting a cargo tank. Specifically, we propose to explicitly state that a facility repairing any specification cargo tanks must adhere to the quality control procedures (e.g. welder qualifications and approved welding procedures) in the National Board Inspection Code (NBIC) except requirements for inspection by an Authorized Inspector, preparation of an R–1 Form, or stamping of the "R" stamp on the cargo tank. This was our intent in 1989 when, under Docket HM–183, we changed the regulations to require that repair facilities hold either a valid National Board Certificate of Authorization for use of the National Board "R" stamp or a valid ASME Certificate of Authorization for use of the ASME "U" stamp. FMCSA has discovered numerous instances where, although a facility holds a valid "U" or "R" stamp, the quality control procedures used to obtain the stamp were not utilized during the repair. One example is the use of "lap patches" which are prohibited under the NBIC. This revision will prohibit this and other un-safe practices being discovered during repairs of non-ASME stamped cargo tanks. In addition, the registration and cleaning and purging requirements would be moved from paragraphs (b)(4) and (d)(8) to paragraph (a)(2). In addition, we propose to revise paragraph (c) for clarity.

In paragraph (d), we propose to revise the requirements for stretching, modifying, or rebarrelling a cargo tank to clarify the intent of the regulation. Specifically, we propose to eliminate the need for testing in accordance with § 180.407, which is currently required by § 180.413(d)(4)(iv). Testing the adequacy of welded modifications, stretchings, or rebarrellings would be accomplished by testing specified in paragraph (d)(3)(iv) of this section (formerly § 180.413(d)(10)). In paragraph (d), RSPA also proposes to clarify that a modification, stretching, or rebarrelling must be certified by a DCE.

In paragraph (d)(4)(v), we propose to require a supplemental specification plate to be installed adjacent to the original specification plate. This proposed change eliminates the provision that currently allows changes to the original specification plate. In addition, paragraph (d)(4), in its entirety, would be re-designated as paragraph (d)(3). The provisions of paragraph (d)(5) would be re-worded and moved to (d)(4).

We are proposing to move the provisions contained in paragraphs (d)(6) and (7) to a new paragraph (e) to eliminate confusion about what is required when a cargo tank is re-mounted onto a new chassis. New paragraph (e) is based on a petition (P–1322) from TTMA and would clarify requirements for certification of mounting by a DCE and supervision of the mounting by a Registered Inspector. Current paragraph (e) would be re-designated as paragraph (f).

Section 180.415. We propose to revise paragraph (b)(3)(vi) to require a special marking, "K-EPA27," on cargo tanks that have been tested in accordance with EPA requirements for testing cargo tank vapor tightness. Under this proposal, this marking would replace the "K" marking if EPA's annual certification test, as set forth in 40 CFR 63.425(e), is used instead of the leakage test in § 180.407(h)(1), or would be in addition to the "K" marking if the cargo tank undergoes both the leakage test and the EPA annual certification test. This proposal would provide a nationally uniform marking for cargo tanks that pass the annual certification test in accordance with EPA requirements.

In addition, after October 1, 2001, RSPA proposes to change the date that is marked on the tank from the date the test or inspection was last performed to the date the test or inspection expires, preceded by the letter "N." This responds to petition P–1343 submitted by NTTC. RSPA agrees with the request that by indicating when the test or inspection expires, and subsequently when the test or inspection is next due, owners, operators, and inspectors will be able to more easily determine if the cargo tank is meeting the requirements.

Section 180.417. We propose to require additional information to be provided on inspection and test reports to enable owners and operators of cargo tanks to more effectively review the results of the test or inspection. The information required by the revised paragraph (b)(1) would provide important information about the cargo tank and its service that may affect the type and method of test to be performed. This information would be supplied by the cargo tank owner or carrier to the re-qualification or maintenance facility.

The specific information, proposed in paragraph (b)(2), is information that the inspection or testing facility would provide to the cargo tank owner or carrier and concerns the compliance status of the cargo tank. The information is currently available to the inspection or testing facility but is not usually given to the cargo tank owner. Current paragraph (b)(2) would be re-designated as paragraph (b)(3).

We propose to revise paragraph (d) to clarify what documents must accompany the cargo tank when ownership changes. Currently, §§ 180.413(e) and 180.417(d) require the seller to provide copies of certain documents and records to the buyer, upon the sale of a cargo tank. The proposed change would consolidate these requirements into one section.

VI. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. RSPA has prepared a preliminary Regulatory Evaluation assessing potential costs, benefits and savings of the proposed changes. The Regulatory Evaluation is available for review in the public docket on the DOT Docket Management System website, *http://dms.dot.gov*. RSPA considered three alternatives: (1) Taking no regulatory action; (2) clarifying and updating the regulations, responding to several petitions for rulemaking, and addressing three NTSB recommendations; and (3) responding to NTSB recommendations only. RSPA chose Alternative 2 because it would increase safety, reduce compliance costs, and provide greater flexibility in design and construction of cargo tanks.

We estimate the total annual cost savings to the industry resulting from implementation of the proposals in this NPRM would be $3,521,600. At the same time the industry would incur increased costs of compliance totaling $2,199,167 the first year and $1,449,270 each following year. The overall net benefits would be $1,222,433 the first year and $2,072,330 each subsequent year.

Increasing clarity and thereby understanding of the regulations, facilitates compliance, and reduces risks to the public and environment. While some proposals in this Notice would result in costs and safety benefits, others would result in savings while not sacrificing safety. Overall, the estimated savings of these proposals are greater than the estimated costs. The proposals with the most associated costs are proposals based on safety concerns and NTSB recommendations, which are based on events that occurred in serious accidents. These proposals would increase safety for people and property.

In this Notice, RSPA invites comments on the costs and savings associated with each of the proposed changes.

B. Executive Order 13132

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This proposed rule would preempt state, local, and Indian tribe requirements but does not propose any regulation that has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous materials transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125(b)) that preempts state, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(1) The designation, description, and classification of hazardous materials;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(5) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This proposed rule addresses covered subject item (5) above and would preempt state, local, and Indian tribe requirements not meeting the "substantively the same" standard.

Federal hazardous materials transportation law provides at § 5125(b)(2) that, if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA proposes that the effective date of federal preemption be 90 days from publication of a final rule in this matter in the **Federal Register**.

C. Executive Order 13175

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this proposed rule does not have tribal implications, does not impose substantial direct compliance costs, and is required by statute, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires each agency to analyze proposed regulations and assess their impact on small businesses and other small entities to determine whether the proposed rule is expected to have a significant impact on a substantial number of small entities. Based on the assessment in this preliminary regulatory evaluation, and information generally available on the number and size of potentially affected entities, we find that:

- All small entities that engage in the manufacture, operation, testing or inspection of certain DOT specification cargo tank motor vehicles would be subject to some or all of the proposed rules;
- In each instance where regulatory proposals would require a new or increased cost to a regulated party, the cost is a modest $100 or less per cargo tank;
- Small entities would also be able to take advantage of the relaxations in the proposed rule, resulting in a net reduction of regulatory costs.

RSPA estimates that most of the approximately 3,700 interstate and 5,500 intrastate motor carriers that would be subject to the requirements of this rule are small businesses. There are also approximately 7,000 cargo tank inspection/testing facilities subject to the requirements that are estimated to be small businesses. We estimate that operators of existing fleets of cargo tank motor vehicles would incur costs of approximately $75 per year for each of the approximately 5,000 affected series 307, 312, 407 and 412 cargo tank motor vehicles in corrosive material service, and $100 every two years for thickness testing of appurtenances on the estimated 15,000 cargo tanks in that same series. In neither case is the additional cost likely to have a significant economic impact on the operator's net income or ability to remain competitive.

In the case of manufacturers/assemblers of series 406, 407 and 412 cargo tank motor vehicles, the proposed changes involve a new requirement for the application of mounting pads that is estimated to increase their cost to manufacture/assemble each cargo tank motor vehicle by $100. We expect that cost will be passed through to the person purchasing the cargo tank. Also, since the cost is modest, we do not anticipate a decreased carrier demand for cargo tanks.

Although there are still other provisions in this rule that would present an added cost to these small

businesses, there are also safety benefits that have the potential to save money and protect the viability of small businesses by lowering the risk of a catastrophic accident. Most of the provisions of the rule are directed toward individual cargo tanks. Since small businesses operate fewer cargo tanks, most of the cost of this proposed rule would affect larger businesses. The proposed rule includes several provisions that would provide savings to small businesses by allowing experienced Registered Inspectors and Design Certifying Engineers to continue to perform functions for which they were previously qualified, allowing recertification of certain cargo tanks to their original specification, and relaxing requirements for leakage testing of cargo tanks in anhydrous ammonia service that are operated almost exclusively by entities that are small businesses (including small farms).

In addition to the above compliance costs, a number of proposed relaxations would allow for a potential net reduction in regulatory costs. For example, owners of cargo tanks would be able to re-certify their cargo tanks to the original specification. Manufacturers of MC 338 cargo tanks would be able to take advantage of the relaxation of mounting requirements, which will save engineering and construction costs. Likewise, the revisions for bottom damage protection devices would create further possible reductions in compliance costs. These and other relaxations offset the additional requirements, while maintaining current safety standards.

In consideration of the above, while the proposed rule would apply to a substantial number of small entities, I certify that the economic impact on those small entities would not be significant.

E. Paperwork Reduction Act

RSPA has a current information collection approval under OMB No. 2137–0014, Cargo Tank Specification Requirements, with 130,861 burden hours and $1,734,350 annual costs. RSPA believes that this proposed rule may result in decreased annual burden hours and costs. If these proposals are finalized, the current approval would be required to be revised and resubmitted to OMB for extension and re-approval.

Section 1320.8(d), Title 5, Code of Federal Regulations requires that RSPA provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collection that RSPA may submit to OMB for extension and re-approval based on the requirements in this proposed rule. RSPA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in this proposed rule since the information collection was last approved. RSPA estimates that the total information collection and recordkeeping burden as proposed in this rule would be revised as follows:

OMB No: 2137–0014.
Number of Respondents: 41,366.
Total Annual Responses: 132,600.
Total Annual Burden Hours: 102,021.
Total Annual Burden Cost: $4,088,350.
One Time Start Up Cost: $1,595,000.

RSPA specifically requests comments on the information collection and recordkeeping burdens associated with developing, implementing, and maintaining these requirements for approval under this proposed rule.

Requests for a copy of the information collection should be directed to Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone (202) 366–8553.

Written comments should be addressed to the Dockets Unit as identified in the **ADDRESSES** section of this rulemaking. Comments should be received prior to the close of comment period identified in the **DATES** section of this rulemaking. Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it displays a valid OMB control number. If these proposed requirements are adopted in a final rule, RSPA will submit the revised information collection and recordkeeping requirements to the Office of Management and Budget for approval.

F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

G. Unfunded Mandates Reform Act

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either state, local, or Tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

H. Environmental Assessment

RPSA has performed an Environmental Assessment and has determined this proposed rule does not have any significant negative impacts to the environment and may result in a small net benefit from the proposal to allow the recertification of cargo tanks that allows older cargo tanks to be used rather than discarded. Therefore, we find that there are no significant environmental impacts associated with this proposed rule.

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, we propose to amend 49 CFR Chapter I as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; Sec. 212–213, Pub. L. 104–121, 110 Stat. 857; 49 CFR 1.45, 1.53.

2. The title of Subpart F would be revised to read as follows:

Subpart F—Registration of Cargo Tank and Cargo Tank Motor Vehicle Manufacturers, Assemblers, Repairers, Inspectors, Testers, and Design Certifying Engineers

3. In § 107.502, paragraph (a)(1) would be revised to read as follows:

§ 107.502 General registration requirements.

(a) * * *

(1) *Assembly* means the performance of any of the following functions when the function does not involve welding on the cargo tank wall:

(i) The mounting of one or more tanks or cargo tanks on a motor vehicle or to a motor vehicle suspension component;

(ii) The installation of equipment or components necessary to meet the specification requirements prior to the certification of the cargo tank motor vehicle; or

(iii) The installation of linings, coatings, or other materials to the inside of a cargo tank wall.

* * * * *

4. In § 107.503, paragraphs (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7) would be redesignated as paragraphs (a)(4), (a)(5), (a)(6), (a)(7), and (a)(8) respectively, and new paragraph (a)(3) would be added to read as follows:

§ 107.503 Registration statement.

(a) * * *

(3) A statement indicating whether the facility uses mobile testing/inspection equipment to perform inspections, tests, or repairs at a location other than the address listed in paragraph (a)(2) of this section;

* * * * *

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

5. The authority citation for part 171 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

6. In § 171.1, in the paragraph (a)(3) table, a new entry for "American Petroleum Institute" would be added in appropriate alphabetical order and under "Truck Trailer Manufacturers Association," the entries "TTMA RP No. 81" and "TTMA RP No. 61–94" would be removed, the entry "TTMA TB No. 107" would be revised, and two new entries would be added in appropriate alpha-numeric order, to read as follows:

§ 171.7 Reference material.

(a) Matter incorporated by reference * * *

* * * * *

(3) Table of material incorporated by reference. * * *

Source and name of material	49 CFR reference
* * * * *	
American Petroleum Institute 1220 L Street, NW, Washington, D.C. 20005–4070:	
API Recommended Practice 1604 Closures of Underground Petroleum Storage Tanks, 3rd Edition, March 1996"	171.201
* * * * *	
Truck Trailer Manufacturers Association * * *	
TTMA RP No. 61–98, Performance of Manhole and/or Fill Opening Assemblies on MC 306, DOT 406, Non-ASME MC 312 and Non-ASME DOT 412 Cargo Tanks, June 1, 1998	180.405
TTMA RP No. 81–97, Performance of Spring Loaded Pressure Relief Valves on MC 306, MC 307, MC 312, DOT 406, DOT 407, and DOT 412 Tanks, July 1, 1997 Edition	178.345–10
TTMA TB No. 107, Procedure for Testing In-Service, Unmarked, and/or Uncertified MC 306 and Non-ASME MC 312 Type Cargo Tank Manhole Covers, June 1, 1998 Edition	180.405
* * * * *	

* * * * *

7. In § 171.8, the definitions for "Cargo tank," "Design Certifying Engineer," "MAWP," and "Registered Inspector" would be revised to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Cargo tank means a bulk packaging that:

(1) Is a tank intended primarily for the carriage of liquids or gases and includes appurtenances, reinforcements, fittings, and closures (for the definition of a tank, see § 178.320, § 178.337–1, or § 178.338–1 of this subchapter, as applicable);

(2) Is permanently attached to or forms a part of a motor vehicle, or is not permanently attached to a motor vehicle but which, by reason of its size, construction or attachment to a motor vehicle is loaded or unloaded without being removed from the motor vehicle; and

(3) Is not fabricated under a specification for cylinders, intermediate bulk containers, multi-unit tank car tanks, portable tanks, or tank cars.

* * * * *

Design Certifying Engineer means a person registered with the Department in accordance with subpart F of part 107 of this chapter who has the knowledge and ability to perform stress analysis of pressure vessels and otherwise determine whether a cargo tank design and construction meets the applicable DOT specification. In addition, Design Certifying Engineer means a person who meets, at a minimum, any one of the following:

(1) Has an engineering degree and one year of work experience in cargo tank structural or mechanical design;

(2) Is currently registered as a professional engineer by appropriate authority of a state of the United States or a province of Canada; or

(3) Has at least three years' experience in performing the duties of a Design Certifying Engineer prior to September 1, 1991.

* * * * *

MAWP means maximum allowable working pressure. For DOT specification cargo tanks used to transport liquid hazardous materials, see § 178.320(c) of this subchapter.

* * * * *

Registered Inspector means a person registered with the Department in accordance with Subpart F of part 107

of this chapter who has the knowledge and ability to determine whether a cargo tank conforms to the applicable DOT specification. In addition, Registered Inspector means a person who meets, at a minimum, any one of the following:

(1) Has an engineering degree and one year of work experience;

(2) Has an associate degree in engineering and two years of work experience;

(3) Has a high school diploma (or General Equivalency Diploma) and three years of work experience; or

(4) Has at least three years' experience performing the duties of a Registered Inspector prior to September 1, 1991.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

8. The authority citation for part 172 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

9. In the § 172.101 Hazardous Materials Table, the following entries would be revised to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

§ 172.101—HAZARDOUS MATERIALS TABLE

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quality limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
D	Diesel fuel	3	NA1993	III	None	144, B1, IB3, T4, TP1, TP29.	150	203	242	60 L	220 L	A	
I	Diesel fuel	3	UN1202	III	3	144, B1, IB3, T2, TP1.	150	203	242	60 L	220 L	A	
	Fuel, aviation, turbine engine	3	UN1863	I	3	144, T11, TP1, TP8.	150	201	243	1 L	30 L	E	
				II	3	144, IB2, T4, TP1, TP8.	150	202	242	5 L	60 L	B	
				III	3	144, B1, IB3, T2, TP1.	150	203	242	60L	220 L	A	
D	Fuel oil (*No. 1, 2, 4, 5, or 6*)	3	NA 1993	III	3	144, B1, IB3 T4, TP1, TP29.	150	203	242	60 L	220 L	A	
	Gas oil	3	UN1202	III	3	144, B1, IB3, T2, TP1.	150	203	242	60 L	220 L	A	
D	Gasohol *gasoline mixed with ethyl alcohol, with not more than 20 percent alcohol.*	3	NA1203	II	3	144	150	202	242	5L	60 L	E	
	Gasoline	3	UN1203	II	3	144, B33, IB2, T4, TP1.	150	202	242	5 L	60 L	E	
	Hydrocarbons, liquid, n.o.s	3	UN3295	I	3	144, T11, TP1, TP8.	150	201	243	1 L	30 L	E	
		3	UN3295	II	3	144, IB2, T7, TP1, TP8, TP28.	150	202	242	5 L	60 L	B	
		3	UN3295	III	3	144, B1, IB3, T4, TP1, TP29.	150	203	242	60 L	220 L	A	
	Kerosene	3	UN1223	III	3	144, B1, IB3, T2, TP2.	150	203	242	60 L	220 L	A	
	Petroleum crude oil	3	UN1267	I	3	144, T11, TP1, TP8	None	201	243	1 L	30 L	E	

	Petroleum crude oil	3	UN1267	I	3	144, T11, TP1, TP8.	None	201	243	1 L	30 L	E
				II	3	144, IB2 T4, TP1, TP8.	150,	202	242	5 L	60 L	B
				II	3	144, B1, IB3, T2, TP1.	150	203	242	60 L	220 L	A
	Petroleum distillates, n.o.s. *or* Petroleum products, n.o.s.	3	UN1268	I	3	144, T11, TP1, TP8.	150	201	243	1 L	30 L	E
				II	3	144, IB2, T7, TP1, TP8, TP28.	150	202	242	5 L	60 L	B
				III	3	144, B1, IB3, T4, TP1, TP29.	150	203	242	60 L	220 L	A
D	Petroleum oil	3	NA1270	I	3	144, T11, TP1, TP9.	None	201	243	1 L	30 L	E
				II	3	144, IB2, T7, TP1, TP8, TP28.	150	202	242	5,L	60 L	B
				III	3	144, B1, IB3, T4, TP1, TP29.	150	203	242	60 L	202 L	A

10. In § 172.102, in paragraph (c)(1), special provision 144 would be added in numerical order to read as follow:

§ 172.102 Special provisions.

* * * * *

(c) * * *

(1) * * *

Code/Special Provisions

* * * * *

144 If transported as a residue in an underground storage tank (UST), as defined in 40 CFR 280.12, that has been cleaned and purged or rendered inert according to the American Petroleum Institute (API) Standard 1604, then the tank and this material are not subject to any other requirements of this subchapter. However, sediments remaining in the tank that meet the definition for a hazardous material are subject to the applicable regulations of this subchapter.

* * * * *

11. In § 172.328, a new paragraph (d) would be added to read as follows:

§ 172.328 Cargo tanks.

* * * * *

(d) After [Two Years From Effective Date of Final Rule], each on-vehicle manually-activated remote shutoff device for closure of the internal self-closing stop valve must be identified by marking "Emergency Shutoff" in letters at least 1.5 inches in height, in a color that contrasts with its background, and located in an area immediately adjacent to the means of closure.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

12. The authority citation for part 173 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

13. In § 173.33, current paragraphs (g) and (h) would be redesignated as paragraphs (c)(6) and (g), respectively, and paragraph headings for current paragraph (f) and redesignated paragraph (g) would be added to read as follows:

§ 173.33 Hazardous materials in cargo tanks motor vehicles.

* * * * *

(f) *Substitute packagings.* * * *

(g) *Remote control of self-closing top valves—MC 330, MC 331 and MC 338 cargo tanks.* * * *.

14. In § 173.150, paragraphs (f)(3)(vii) and (f)(3)(viii) would be revised and paragraph (f)(3)(ix) would be added to read as follows:

§ 173.150 Exceptions for Class 3 (flammable) and combustible liquids.

* * * * *

(f) * * *

(3) * * *

(vii) Packaging requirements of subpart B of this part and, in addition, non-bulk packagings must conform to the requirements of § 173.203;

(viii) The requirements of §§ 173.1, 174.1, 177.804, 177.817, and 177.834 of this subchapter, except § 177.834 (i)(3); and

(ix) The training requirements of subpart H of part 172 of this subchapter.

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

15. The authority citation for part 177 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

16. In § 177.834, paragraph (j) introductory text would be revised to read as follows:

§ 177.834 General requirements.

* * * * *

(j) *Manholes and valves closed.* Except for a cargo tank conforming to § 173.29(b)(2) of this subchapter, a person may not drive a cargo tank motor vehicle containing a hazardous material regardless of quantity unless:

* * * * *

PART 178—SPECIFICATIONS FOR PACKAGINGS

17. The authority citation for part 178 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

18. In § 178.320, paragraphs (a) and (b)(1) would be revised and paragraph (d) would be added to read as follows:

§ 178.320 General requirements applicable to all DOT specification cargo tank motor vehicles.

(a) *Definitions.* For the purpose of this subchapter:

Appurtenance means any attachment to a cargo tank that has no lading retention or containment function and provides no structural support to the cargo tank.

Baffle means a non-liquid-tight transverse partition device that deflects, checks or regulates fluid motion in a tank.

Bulkhead means a liquid-tight transverse closure at the ends of or between cargo tanks.

Cargo tank means a bulk packaging that:

(1) Is a tank intended primarily for the carriage of liquids or gases and includes appurtenances, reinforcements, fittings and closures (for *tank*, see § 178.345–1(c), § 178.337–1, or § 178.338–1, as applicable);

(2) Is permanently attached to or forms a part of a motor vehicle, or is not permanently attached to a motor vehicle but that, by reason of its size, construction or attachment to a motor vehicle is loaded or unloaded without being removed from the motor vehicle; and

(3) Is not fabricated under a specification for cylinders, intermediate bulk containers, multi-unit tank car tanks, portable tanks, or tank cars.

Cargo tank motor vehicle means a motor vehicle with one or more cargo tanks permanently attached to or forming an integral part of the motor vehicle.

Cargo tank wall means those parts of the cargo tank that make up the primary lading retention structure, including shell, bulkheads, and fittings and that, when closed as for transportation of lading, yield the minimum volume of the cargo tank assembly.

Charging line means a hose, tube, pipe, or a similar device used to pressurize a tank with material other than the lading.

Companion flange means one of two mating flanges where the flange faces are in contact or separated only by a thin leak-sealing gasket and are secured to one another by bolts or clamps.

Connecting structure means the structure joining two cargo tanks.

Constructed and certified in accordance with the ASME Code means a cargo tank is constructed and stamped in accordance with the ASME Code, and is inspected and certified by an Authorized Inspector.

Constructed in accordance with the ASME Code means a cargo tank is constructed in accordance with the ASME Code with authorized exceptions (see §§ 178.346, 178.347, and 178.348) and is inspected and certified by a Registered Inspector.

Design type means one or more cargo tanks that are made—

(1) To the same specification;

(2) By the same manufacturer;

(3) To the same engineering drawings and calculations, except for minor variations in piping that do not affect the lading retention capability of the cargo tank;

(4) Of the same materials of construction;

(5) To the same cross-sectional dimensions;

(6) To a length varying by no more than 5 percent;

(7) With the volume varying by no more than 5 percent (due to a change in length only); and

(8) For the purposes of § 178.338 only, with the same insulation system.

External self-closing stop valve means a self-closing stop valve designed so that

the self-stored energy source is located outside the cargo tank and the welded flange.

Extreme dynamic loading means the maximum loading a cargo tank motor vehicle may experience during its expected life, excluding accident loadings resulting from an accident, such as overturn or collision.

Flange means the structural ring for guiding or attachment of a pipe or fitting with another flange (companion flange), pipe, fitting, or other attachment.

Inspection pressure means the pressure used to determine leak tightness of the cargo tank when testing with pneumatic pressure.

Internal self-closing stop valve means a self-closing stop valve designed so that the self-stored energy source is located inside the cargo tank or cargo tank sump, or within the welded flange, and the valve seat is located within the cargo tank or within one inch of the external face of the welded flange or sump of the cargo tank.

Lading means the hazardous material contained in a cargo tank.

Loading/unloading connection means the fitting in the loading/unloading line farthest from the loading/unloading outlet to which the loading/unloading hose, pipe, or device is attached.

Loading/unloading outlet means a cargo tank outlet used for normal loading/unloading operations.

Loading/unloading stop valve means the stop valve farthest from the cargo tank loading/unloading outlet to which the loading/unloading connection is attached.

Manufacturer means any person engaged in the manufacture of a DOT specification cargo tank, cargo tank motor vehicle, or cargo tank equipment that forms part of the cargo tank wall. This term includes attaching a cargo tank to a motor vehicle or to a motor vehicle suspension component that involves welding on the cargo tank wall. A *manufacturer* must register in accordance with subpart F of Part 107 of this chapter.

MAWP means the maximum pressure allowed at the top of the tank in its normal operating position. The *MAWP* must be calculated as prescribed in Section VIII (Division 1) of the ASME Code (see § 171.7 of this subchapter). In use, the MAWP must be greater than or equal to the maximum lading pressure conditions prescribed in § 173.33 of this subchapter for each material transported.

Maximum lading pressure. See § 173.33(c) of this subchapter.

Minimum thickness. See paragraph (d) of this section.

Multi-specification cargo tank motor vehicle means a cargo tank motor vehicle equipped with two or more cargo tanks fabricated to more than one cargo tank specification.

Normal operating loading means the loading a cargo tank motor vehicle may be expected to experience routinely in operation.

Nozzle means a subassembly consisting of a pipe or tubular section with or without a welded or forged flange on one end.

Outlet means any opening in the shell or head of a cargo tank, (including the means for attaching a closure), except that the following are not *outlets*: a threaded opening securely closed during transportation with a threaded plug or a threaded cap, a flanged opening securely closed during transportation with a bolted or welded blank flange, a manhole, a gauging device, a thermometer well, or a pressure relief device.

Outlet stop valve means the stop valve at a cargo tank loading or unloading outlet.

Pipe coupling means a fitting with internal threads on both ends.

Rear bumper means the structure designed to prevent a vehicle or object from under-riding the rear of another motor vehicle. See § 393.86 of this title.

Rear-end tank protection device means the structure designed to protect a cargo tank and any lading retention piping or devices in case of a rear end collision.

Sacrificial device means an element, such as a shear section, designed to fail under a load in order to prevent damage to any lading retention part or device. The device must break under strain at no more than 70 percent of the strength of the weakest piping element between the cargo tank and the sacrificial device. Operation of the *sacrificial device* must leave the remaining piping and its attachment to the cargo tank intact and capable of retaining lading.

Self-closing stop valve means a stop valve held in the closed position by means of self-stored energy, that opens only by application of an external force and that closes when the external force is removed.

Shear section means a sacrificial device fabricated in such a manner as to abruptly reduce the wall thickness of the adjacent piping or valve material by at least 30 percent.

Shell means the circumferential portion of a cargo tank defined by the basic design radius or radii excluding the bulkheads.

Stop valve means a valve that stops the flow of lading.

Sump means a protrusion from the bottom of a cargo tank shell designed to facilitate complete loading and unloading of lading.

Tank means a container, consisting of a shell and heads, that forms a pressure tight vessel having openings designed to accept pressure tight fittings or closures, but excludes any appurtenances, reinforcements, fittings, or closures.

Test pressure means the pressure to which a tank is subjected to determine pressure integrity.

Toughness of material means the capability of a material to absorb energy represented by the area under a stress strain curve (indicating the energy absorbed per unit volume of the material) up to the point of rupture.

Vacuum cargo tank means a cargo tank that is loaded by reducing the pressure in the cargo tank to below atmospheric pressure.

Variable specification cargo tank means a cargo tank that is constructed in accordance with one specification, but that may be altered to meet another specification by changing relief device, closures, lading discharge devices, and other lading retention devices.

Void means the space between tank heads or bulkheads and a connecting structure.

Welded flange means a flange attached to the tank by a weld joining the tank shell to the cylindrical outer surface of the flange, or by a fillet weld joining the tank shell to a flange shaped to fit the shell contour.

(b) * * * (1) Each cargo tank or cargo tank motor vehicle design type and each accident damage protection device design must be certified to be in conformance with the specification requirements by a Design Certifying Engineer who is registered in accordance with Subpart F of part 107 of this chapter.

* * * * * *

(d) *Shell and head thickness.* The minimum required shell and head thickness for a cargo tank is specific to the hazardous material transported and is the least of the following:

(1) The minimum thickness for a specific hazardous material as required by the special provisions specified in column 7 in the § 172.101 Hazardous Materials Table and the requirements of Part 173 of this subchapter as specified in column 8c in the same table;

(2) The thickness as calculated or specified in the applicable specification; or

(3) For MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, or MC 312 cargo tanks, the in-service minimum thickness

prescribed in Tables I and II of § 180.407(i)(5) of this subchapter, for the minimum thickness specified by Tables I and II of the applicable specification(s).

19–20. In § 178.337–3, paragraph (g) would be revised to read as follows:

§ 178.337–3 Structural integrity.

* * * * *

(g) The design, construction, and installation of an attachment, appurtenance to the cargo tank, structural support member between the cargo tank and the vehicle or suspension component, or accident protection device must conform to the following requirements:

(1) Structural members, the suspension sub-frame, accident protection structures, and external circumferential reinforcement devices must be used as sites for attachment of appurtenances and other accessories to the cargo tank, when practicable.

(2) A lightweight attachment to the cargo tank wall such as a conduit clip, brake line clip, skirting structure, lamp mounting bracket, or placard holder must be of a construction having lesser strength than the cargo tank wall materials and may not be more than 72 percent of the thickness of the material to which it is attached. The lightweight attachment may be secured directly to the cargo tank wall if the device is designed and installed in such a manner that, if damaged, it will not affect the lading retention integrity of the tank. A lightweight attachment must be secured to the cargo tank shell or head by a continuous weld or in such a manner as to preclude formation of pockets which may become sites for corrosion. Attachments meeting the requirements of this paragraph (g)(2) are not authorized for cargo tanks constructed under part UHT, Section VIII (Division 1) of the ASME Code (see § 171.7 of this subchapter).

(3) Except as prescribed in paragraphs (g)(1) and (g)(2) of this section, the welding of any appurtenance, accident protection device, or structural support member to the cargo tank wall must be made by attachment of a mounting pad so that there will be no adverse effect upon the lading retention integrity of the cargo tank if any force less than that prescribed in paragraph (b)(1) of this section is applied from any direction. The thickness of the mounting pad may not be less than that of the shell wall or head wall to which it is attached, and not more than 1.5 times the shell or head thickness. However, a pad with a minimum thickness of 0.25 inch may be used when the shell or head thickness is over 0.25 inch. If weep holes or tell-tale holes are used, the pad must be drilled or punched at the lowest point before it is welded to the tank. Each pad must—

(i) Be fabricated from material determined to be suitable for welding to both the cargo tank material and the material of the appurtenance or structural support member; a Design Certifying Engineer must make this determination considering chemical and physical properties of the materials and must specify filler material conforming to the requirements of Section VIII (Division 1) of the ASME Code (see § 171.7 of this subchapter).

(ii) Be preformed to an inside radius no greater than the outside radius of the cargo tank at the attachment location.

(iii) Extend at least 2 inches in each direction from any point of attachment of an appurtenance or structural support member. This dimension may be measured from the center of the attached structural member.

(iv) Have rounded corners, or otherwise be shaped in a manner to minimize stress concentrations on the shell or head.

(v) Be attached by continuous fillet welding. Any fillet weld discontinuity may only be for the purpose of preventing an intersection between the fillet weld and a tank or jacket seam weld.

21. In § 178.337–8, paragraph (a)(5)(iii) would be revised to read as follows:

§ 178.337–8 Openings, inlets, and outlets.

(a) * * *

(5) * * *

(iii) A cargo tank motor vehicle used to transport refrigerated liquids such as argon, carbon dioxide, helium, krypton, neon, nitrogen, and xenon, or mixtures thereof.

* * * * *

22. In § 178.337–9, (b)(2) would be revised and paragraph (b)(5) would be removed and reserved, to read as follows:

§ 178.337–9 Pressure relief devices, piping, valves, hoses, and fittings.

* * * * *

(b) * * *

(2) Pipe joints must be threaded, welded, or flanged. If threaded pipe is used, the pipe and fittings must be Schedule 80 weight or heavier. Malleable steel or ductile iron must be used in the construction of primary valves and fittings used in liquid filling or vapor equalization. Where copper tubing is permitted, joints must be brazed or be of equally strong metal union type. The melting point of the brazing material may not be lower than 538°C (1000°F). The method of joining tubing may not reduce the strength of the tubing.

* * * * *

23. In § 178.337–10, the section heading and paragraphs (c) and (d) would be revised, and paragraphs (e) and (f) would be added, to read as follows:

§ 178.337–10 Accident damage protection.

* * * * *

(c) *Rear-end protection.* Rear-end protection devices must:

(1) Consist of at least one rear bumper designed to protect the cargo tank and piping in the event of a rear end collision. The bumper design must transmit the force of the collision directly to the chassis of the vehicle. The rear bumper and its attachments to the chassis must be designed to withstand a load equal to twice the weight of the loaded cargo tank and attachments, using a safety factor of four based on the tensile strength of the materials used, with such load being applied horizontally and parallel to the major axis of the cargo tank, or within 30 horizontal degrees thereof, The rear bumper dimensions must meet the requirements of § 393.86 of this title and extend vertically to a height adequate to protect all valves and fittings located at the rear of the cargo tank from damage that could result in loss of lading; or

(2) Conform to the requirements of § 178.345–8.

(d) *Chlorine tanks.* A chlorine tank must be equipped with a protective housing and a manway cover to permit the use of standard emergency kits for controlling leaks in fittings on the dome cover plate. The housing and manway cover must conform to the Chlorine Institute's Standards for Housing and Manway Covers for Steel Cargo Tanks, Dwg. 137–3 (see § 171.7 of this subchapter).

(e) *Piping and fittings.* Piping and fittings must be grouped in the smallest practicable space and protected from damage as required in this section.

(f) *Shear section.* Shear sections or sacrificial devices are required on the following attachments:

(1) A section that will break under undue strain must be provided adjacent to or outboard of each valve specified in § 178.337–8(a)(3) and (4).

(2) Internal self-closing stop valves, excess flow valves and check valves must be protected by a shear section or other sacrificial device. The sacrificial device must be located in the piping system outboard of the stop valve and within the accident damage protection to prevent any accidental loss of lading. The device must break at no more than

70 percent of the load that would be required to cause the failure of the protected lading retention device, part or cargo tank wall. The failure of the sacrificial device must leave the protected lading retention device and its attachment to the cargo tank wall intact and capable of retaining product.

§ 178.337–12 [Removed and Reserved]

24. Section 178.337–12 would be removed and reserved.

25. Section 178.337–13 would be revised to read as follows:

§ 178.337–13 Supporting and anchoring.

(a) A cargo tank that is not permanently attached to or integral with a vehicle chassis must be secured by the use of restraining devices designed to prevent relative motion between the cargo tank and the vehicle chassis when the vehicle is in operation. Such restraining devices must be readily accessible for inspection and maintenance.

(b) On a cargo tank motor vehicle designed and constructed so that the cargo tank constitutes in whole or in part the structural member used in place of a motor vehicle frame, the cargo tank must be supported by external cradles. A cargo tank mounted on a motor vehicle frame must be supported by external cradles or longitudinal members. Where used, the cradles must subtend at least 120 degrees of the shell circumference.

(c) The design calculations of the support elements must satisfy the requirements of § 178.337–3, (a), (b), (c), and (d).

(d) Where any cargo tank support is attached to any part of a cargo tank head, the stresses imposed upon the head must be provided for as required in paragraph (b) of this section.

(e) After [Effective Date of Final Rule], no cargo tank structural support member or rear-end protection device may be welded directly to the cargo tank wall. Mounting pads must be used and conform to the requirements of § 178.337–3(g).

26. In § 178.337–17, paragraph (a) would be revised to read as follows:

§ 178.337–17 Marking.

(a) *Metal identification plate.* Each cargo tank certified after [Effective Date of Final Rule] must have a corrosion resistant metal plate permanently attached to the cargo tank by brazing, welding, or other suitable means on the left side near the front, in a place accessible for inspection. It must be maintained in a legible condition. Each insulated cargo tank must have an additional plate, as described, attached to the jacket in the location specified. If the plate is attached directly to the cargo tank wall by welding it must be welded thereto before the cargo tank is postweld heat treated. The plate must be legibly marked by stamping, embossing, or other means of forming letters into the metal of the plate, with the following information, in addition to that required by the ASME Code, in characters at least 3/16 inch high (parenthetical abbreviations may be used):

(1) DOT-specification number MC 331 (DOT MC 331);

(2) Original test date (Orig. Test Date) month and year;

(3) MAWP in psig;

(4) Cargo tank test pressure (Test P), in psig;

(5) Cargo tank design temperature (Design Temp. Range) __°F to __°F;

(6) Cargo tank motor vehicle manufacturer (CTMV mfr.);

(7) Cargo tank motor vehicle certification date (CTMV cert. date), if different from the cargo tank certification date;

(8) Cargo tank manufacturer (CT Mfr.);

(9) Cargo tank manufacture date (CT date Mfr.);

(10) Cargo tank certification date (CT cert. date);

(11) Material specification number—shell (Shell matl, yyy***), where "yyy" is replaced by the alloy designation and "***" is replaced by the alloy type;

(12) Material specification number—heads (Head matl, yyy***), where "yyy" is replaced by the alloy designation and "***" is replaced by the alloy type.

Note—When the shell and head materials are the same thickness, they may be combined (Shell & head matl, yyy***);

(13) Maximum weight of lading (Max. Payload) in pounds;

(14) Exposed surface area in feet;

(15) Nominal capacity (Water Cap.), in pounds;

(16) Maximum design density of lading (Max. lading density), in pounds per gallon;

(17) Weld material (Weld matl.);

(18) Minimum Thickness—shell (Min. Shell-thick), in inches. When minimum shell thicknesses are not the same for different areas, show (top __, side __, bottom __, in inches). Parenthetical abbreviations noted in this paragraph (a) are permitted;

(19) Manufactured Thickness—shell (Mfg. Shell-thick), in inches. When manufactured shell thicknesses are not the same for different areas, show (top __, side __, bottom __, in inches). Parenthetical abbreviations noted in this paragraph (a) are permitted;

(20) Minimum Thickness—head (Min. Head-thick), in inches;

(21) Manufactured Thickness—head (Mfg. Head-thick), in inches;

(22) Lining Material (Lining), if applicable;

(23) Heating system design pressure (Heating sys. press.) in psig, if applicable;

(24) Heating system design temperature (Heating sys. temp.) in °F, if applicable.

Note 1 to Paragraph (a): *See* § 173.315(a) of this chapter regarding water capacity.

Note 2 to Paragraph (a): When the shell and head materials are the same thickness, they may be combined (Shell & head matl, yyy***).

* * * * *

27. In § 178.337–18, paragraphs (a)(3) and (a)(4) would be redesignated as paragraphs (a)(5) and (a)(6) respectively, and new paragraphs (a)(3) and (a)(4) would be added to read as follows:

§ 178.337–18 Certification.

(a) * * *

(3) When a cargo tank motor vehicle is manufactured in two or more stages, each manufacturer who performs a manufacturing function or portion thereof on the incomplete cargo tank motor vehicle must provide to the succeeding manufacturer, at or before the time of delivery, a certificate that states the function performed by the manufacturer, including any certificates received from previous manufacturers, Registered Inspectors, and Design Certifying Engineers.

(4) *Specification shortages.* When a cargo tank motor vehicle is manufactured in two or more stages, the manufacturer of the cargo tank must attach the name plate and specification plate as required by § 178.337–17(a) and (b) without the original date of certification stamped on the specification plate. The manufacturer must list the specification requirements that are not completed on the manufacturer's Certificate of Compliance. When the cargo tank motor vehicle is brought into full compliance with the applicable specification, the Registered Inspector must stamp the date of certification on the specification plate and issue a Certificate of Compliance to the owner of the cargo tank motor vehicle. The Certificate of Compliance must list the actions taken to bring the cargo tank motor vehicle into full compliance. In addition, the certificate must include the date of certification and the person (manufacturer, carrier or repair organization) accomplishing compliance.

* * * * *

28. In § 178.338–2, paragraph (c) would be revised to read as follows:

§ 178.338–2 Material.

* * * * *

(c) Impact tests are required on all tank materials, except materials that are excepted from impact testing by the ASME Code, and must be performed using the procedure prescribed in Section VIII (Division 1) of the ASME Code (see § 171.7 of this subchapter).

* * * * *

29. In § 178.338–3, paragraph (g) would be revised to read as follows:

§ 178.338–3 Structural integrity.

* * * * *

(g) The design, construction and installation of an attachment, appurtenance to the cargo tank or structural support member between the cargo tank and the vehicle or suspension component or accident protection device must conform to the following requirements:

(1) Structural members, the suspension subframe, accident protection structures and external circumferential reinforcement devices must be used as sites for attachment of appurtenances and other accessories to the cargo tank, when practicable.

(2) A lightweight attachment to the cargo tank wall such as a conduit clip, brakeline clip, skirting structure, lamp mounting bracket, or placard holder must be of a construction having lesser strength than the cargo tank wall materials and may not be more than 72 percent of the thickness of the material to which it is attached. The lightweight attachment may be secured directly to the cargo tank wall if the device is designed and installed in such a manner that, if damaged, it will not affect the lading retention integrity of the tank. A lightweight attachment must be secured to the cargo tank shell or head by a continuous weld or in such a manner as to preclude formation of pockets that may become sites for corrosion. Attachments meeting the requirements of this paragraph (g)(2) are not authorized for cargo tanks constructed under part UHT, Section VIII (Division 1) of the ASME Code (*see* § 171.7 of this subchapter).

(3) Except as prescribed in paragraphs (g)(1) and (g)(2) of this section, the welding of any appurtenance or structural support member to the cargo tank wall must be made by attachment of a mounting pad so that there will be no adverse effect upon the lading retention integrity of the cargo tank if any force less than that prescribed in paragraph (b)(1) of this section is applied from any direction. The thickness of the mounting pad may not be less than that of the shell or head to which it is attached, and not more than 1.5 times the shell or head thickness. However, a pad with a minimum thickness of 0.187 inch may be used when the shell or head thickness is over 0.187 inch. If weep holes or tell-tale holes are used, the pad must be drilled or punched at the lowest point before it is welded to the tank. Each pad must:

(i) Be fabricated from material determined to be suitable for welding to both the cargo tank material and the material of the appurtenance or structural support member; a Design Certifying Engineer must make this determination considering chemical and physical properties of the materials and must specify filler material conforming to the requirements of Section VIII (Division 1) of the ASME Code (*see* § 171.7 of this subchapter).

(ii) Be preformed to an inside radius no greater than the outside radius of the cargo tank at the attachment location.

(iii) Extend at least 2 inches in each direction from any point of attachment of an appurtenance or structural support member. This dimension may be measured from the center of the attached structural member.

(iv) Have rounded corners, or otherwise be shaped in a manner to minimize stress concentrations on the shell or head.

(v) Be attached by continuous fillet welding. Any fillet weld discontinuity may only be for the purpose of preventing an intersection between the fillet weld and a tank or jacket seam weld.

30. In § 178.338–10, the section heading and paragraph (c) would be revised to read as follows:

§ 178.338–10 Accident damage protection.

* * * * *

(c) *Rear-end protection.* Rear-end protections devices must:

(1) Consist of at least one rear bumper designed to protect the cargo tank and piping in the event of a rear-end collision. The rear-end tank protection device design must transmit the force of the collision directly to the chassis of the vehicle. The rear-end tank protection device and its attachments to the chassis must be designed to withstand a load equal to twice the weight of the loaded cargo tank and attachments, using a safety factor of four based on the tensile strength of the materials used, with such load being applied horizontally and parallel to the major axis of the cargo tank, or within 30 horizontal degrees thereof. The rear-end tank protection device dimensions must meet the requirements of § 393.86 of this title and extend vertically to a height adequate to protect all valves and fittings located at the rear of the cargo tank from damage that could result in loss of lading; or

(2) Conform to the requirements of § 178.345–8.

* * * * *

31. In § 178.338–11, paragraph (c) would be revised to read as follows:

§ 178.338–11 Discharge control devices.

* * * * *

(c) Except for a cargo tank that is used to transport argon, carbon dioxide, helium, krypton, neon, nitrogen, xenon, or mixtures thereof, each liquid filling and liquid discharge line must be provided with an on-vehicle remotely controlled self-closing shutoff valve.

(1) If pressure from a reservoir or from an engine-driven pump or compressor is used to open this valve, the control must be of fail-safe design and spring-biased to stop the admission of such pressure into the cargo tank. If the jacket is not evacuated, the seat of the valve must be inside the tank, in the opening nozzle or flange, or in a companion flange bolted to the nozzle. If the jacket is evacuated, the remotely controlled valve must be located as close to the tank as practicable.

(2) Each remotely controlled shut off valve must be provided with on-vehicle remote means of automatic closure, both mechanical and thermal. One means may be used to close more than one remotely controlled valve. Cable linkage between closures and remote operators must be corrosion resistant and effective in all types of environment and weather. The thermal means must consist of fusible elements actuated at a temperature not exceeding 121°C (250° F), or equivalent devices. The loading/unloading connection area is where hoses are connected to the permanent metal piping. The number and location of remote operators and thermal devices shall be as follows:

(i) On a cargo tank motor vehicle over 3,500 gallons water capacity, remote means of automatic closure must be installed at the ends of the cargo tank in at least two diagonally opposite locations. If the loading/unloading connection at the cargo tank is not in the general vicinity of one of these locations, at least one additional thermal device must be installed so that heat from a fire in the loading/unloading connection area will activate the emergency control system.

(ii) On a cargo tank motor vehicle of 3,500 gallons water capacity or less, at least one remote means of automatic closure must be installed on the end of the cargo tank farthest away from the

loading/unloading connection area. At least one thermal device must be installed so that heat from a fire in the loading/unloading connection area will activate the emergency control system.

32. Section 178.338–13 would be revised to read as follows:

§ 178.338–13 Supporting and anchoring.

(a) On a cargo tank motor vehicle designed and constructed so that the cargo tank constitutes in whole or in part the structural member used in place of a motor vehicle frame, the cargo tank or the jacket must be supported by external cradles or by load rings. For a cargo tank mounted on a motor vehicle frame, the tank or jacket must be supported by external cradles, load rings, or longitudinal members. If cradles are used, they must subtend at least 120 degrees of the cargo tank circumference. The design calculations for the supports and load-bearing tank or jacket, and the support attachments must include beam stress, shear stress, torsion stress, bending moment, and acceleration stress for the loaded vehicle as a unit, using a safety factor of four, based on the tensile strength of the material, and static loading that uses the weight of the cargo tank and its attachments when filled to the design weight of the lading (see Appendix G of Section VIII, Division 1 of the ASME Code), multiplied by the following specified factors in paragraphs (a)(1) and (2) of this section. The effects of fatigue must also be considered in the calculations. Minimum static loadings must be as follows:

(1) For a vacuum-insulated cargo tank—

(i) Vertically downward of 2;
(ii) Vertically upward of 2;
(iii) Longitudinally of 2; and
(iv) Laterally of 2.

(2) For any other insulated cargo tank—

(i) Vertically downward of 3;
(ii) Vertically upward of 2;
(iii) Longitudinally of 2; and
(iv) Laterally of 2.

(b) When a loaded tank is supported within the vacuum jacket by structural members, the design calculations for the tank and its structural members must be based on a safety factor of four and the tensile strength of the material at ambient temperature. The enhanced tensile strength of the material at actual operating temperature may be substituted for the tensile strength at ambient temperature to the extent recognized in the ASME Code for static loadings. Static loadings must take into consideration the weight of the tank and the structural members when the tank is filled to the design weight of lading (see Appendix G of Section VIII, Division 1 of the ASME Code), multiplied by the factors specified in paragraphs (b)(1) through (4) of this section. When load rings in the jacket are used for supporting the tank, they must be designed to carry the fully loaded tank at the following specified factors in paragraphs (b)(1) through (4) of this section for static loadings, and external pressure. Minimum static loadings must be as follows:

(1) Vertically downward of 2;
(2) Vertically upward of 1½;
(3) Longitudinally of 1½; and
(4) Laterally of 1½.

(c) No cargo tank structural support member or rear-end protection device may be welded directly to the cargo tank wall. Mounting pads must conform to the requirements of § 178.338–3(g).

33. In § 178.338–18, paragraph (a) would be revised to read as follows:

§ 178.338–18 Marking.

(a) *Metal identification plate.* Each cargo tank certified after [Effective Date of Final Rule] must have a corrosion-resistant metal plate permanently attached to the cargo tank by brazing, welding, or other suitable means on the left side near the front, in a place accessible for inspection. It must be maintained in a legible condition. Each insulated cargo tank must have an additional plate, as described, attached to the jacket in the location specified. If the plate is attached directly to the cargo tank wall by welding, it must be welded thereto before the cargo tank is postweld heat treated. The plate must be legibly marked by stamping, embossing, or other means of forming letters into the metal of the plate, with the following information (all parenthetical abbreviations noted in this paragraph (a) may be used), in addition to that required by Section VIII (Division 1) of the ASME Code (see § 171.7 of this subchapter), in characters at least 3/16 inch high:

(1) DOT-specification number MC 338 (DOT MC 338);
(2) Original test date (Orig. Test Date) month and year;
(3) Tank MAWP in psig;
(4) Cargo tank test pressure (Test P), in psig;
(5) Cargo tank design temperature (Design Temp. Range)__°F to__°F;
(6) Cargo tank motor vehicle manufacturer (CTMV mfr.);
(7) Cargo tank motor vehicle certification date (CTMV cert. date), if different from the cargo tank certification date;
(8) Cargo tank manufacturer (CT Mfr.);
(9) Cargo tank manufacture date (CT date Mfr.);
(10) Cargo tank certification date (CT cert. date);
(11) Material specification number—shell (Shell matl, yyy***), where "yyy" is replaced by the alloy designation and "***" is replaced by the alloy type;
(12) Material specification number—heads (Head matl, yyy***), where "yyy" is replaced by the alloy designation and "***" is replaced by the alloy type;
(13) Maximum weight of lading (Max. Payload) in pounds;
(14) Exposed surface area in feet;
(15) Nominal capacity (Water Cap.), in pounds net at 60 °F., with the tank at its coldest operating temperature, after deduction for the volume above the inlet to the pressure relief device or pressure control valve, structural members, baffles, piping, and other appurtenances inside the tank;
(16) Maximum design density of lading (Max. lading density), in pounds per gallons;
(17) Weld material (Weld matl.);
(18) Minimum Thickness—shell (Min. Shell-thick), in inches. When minimum shell thicknesses are not the same for different areas, show (top __, side __, bottom __, in inches);
(19) Manufactured Thickness—shell (Mfg. Shell-thick), in inches. When manufactured shell thicknesses are not the same for different areas, show (top __, side __, bottom __, in inches);
(20) Minimum Thickness—head (Min. Head-thick), in inches;
(21) Manufactured Thickness—head (Mfg. Head-thick), in inches;
(22) Lining Material (Lining), if applicable;
(23) "Insulation for Oxygen Service" or "Not Authorized for Oxygen Service," as appropriate;
(24) Marked rated holding time for at least one cryogenic liquid, in hours, and the name of that cryogenic liquid (MRHT__ hrs, name of cryogenic liquid). MRHT markings for additional cryogenic liquids may be displayed on or adjacent to the specification plate.

Note 1 to Paragraph (a): When the shell and head materials are the same thickness, they may be combined (Shell & head matl, yyy***).

* * * * *

34. In § 178.345–1, paragraph (c) would be revised and paragraph (k) would be removed to read as follows:

§ 178.345–1 General requirements.

* * * * *

(c) *Definitions.* See § 178.320(a) for the definition of certain terms used in §§ 178.345, 178.346, 178.347 and 178.348.

* * * * *

35–36. In § 178.345–2, paragraph (b) would be revised to read as follows:

§ 178.345–2 Material and material thickness.

* * * * *

(b) *Minimum thickness.* The minimum thickness for the shell and heads (or baffles and bulkheads when used as tank reinforcement) must be no less than that determined under criteria for minimum thickness specified in § 178.320(d).

* * * * *

37. In § 178.345–3, paragraph (b)(3) would be added and paragraph (f) would be revised to read as follows:

§ 178.345–3 Structural integrity.

* * * * *

(b) * * *

(3) Cargo tank designers, manufacturers, owners, and users must consider all of the conditions specified in § 173.33(c) of this subchapter when matching a cargo tank's performance characteristic to the characteristic of each lading transported.

* * * * *

(f) The design, construction, and installation of an attachment, appurtenance to a cargo tank, structural support member between the cargo tank and the vehicle or suspension component must conform to the following requirements:

(1) Structural members, the suspension sub-frame, accident protection structures and external circumferential reinforcement devices must be used as sites for attachment of appurtenances and other accessories to the cargo tank, when practicable.

(2) A lightweight attachment to a cargo tank wall such as a conduit clip, brake line clip, skirting structure, lamp mounting bracket, or placard holder must be of a construction having lesser strength than the cargo tank wall materials and may not be more than 72 percent of the thickness of the material to which it is attached. The lightweight attachment may be secured directly to the cargo tank wall if the device is designed and installed in such a manner that, if damaged, it will not affect the lading retention integrity of the tank. A lightweight attachment must be secured to the cargo tank shell or head by continuous weld or in such a manner as to preclude formation of pockets which may become sites for corrosion.

(3) Except as prescribed in paragraphs (f)(1) and (f)(2) of this section, the welding of any appurtenance or structural support member to the cargo tank wall must be made by attachment of a mounting pad so that there will be no adverse effect upon the lading retention integrity of the cargo tank if any force less than that prescribed in paragraph (b)(1) of this section is applied from any direction. The thickness of the mounting pad may not be less than that of the shell or head to which it is attached, and not more than 1.5 times the shell or head thickness. However, a pad with a minimum thickness of 0.187 inch may be used when the shell or head thickness is over 0.187 inch. If weep holes or tell-tale holes are used, the pad must be drilled or punched at the lowest point before it is welded to the tank. Each pad must:

(i) Be fabricated from material determined to be suitable for welding to both the cargo tank material and the material of the appurtenance or structural support member; a Design Certifying Engineer must make this determination considering chemical and physical properties of the materials and must specify filler material conforming to the requirements of Section VIII (Division 1) of the ASME Code (*see* § 171.7 of this subchapter).

(ii) Be preformed to an inside radius no greater than the outside radius of the cargo tank at the attachment location.

(iii) Extend at least 2 inches in each direction from any point of attachment of an appurtenance or structural support member. This dimension may be measured from the center of the structural member attached.

(iv) Have rounded corners, or otherwise be shaped in a manner to minimize stress concentrations on the shell or head.

(v) Be attached by continuous fillet welding. Any fillet weld discontinuity may only be for the purpose of preventing an intersection between the fillet weld and the tank or jacket seam weld.

38. In § 178.345–5, paragraph (e) introductory text would be revised to read as follows:

§ 178.345–5 Manhole assemblies.

* * * * *

(e) On cargo tank motor vehicles manufactured after [One Year From Effective Date of Final Rule], each manhole assembly must be permanently marked on the outside by stamping or other means in a ready visible location, with:

* * * * *

39. In § 178.345–8, paragraphs (a)(5) and (d) introductory text would be revised to read as follows:

§ 178.345–8 Accident damage protection.

(a) * * *

(5) *Minimum road clearance.* The minimum road clearance of any cargo tank motor vehicle component or protection device located between any two adjacent axles on a vehicle or vehicle combination must be at least one-half inch for each foot separating the component or device from the nearest axle of the adjacent pair, but in no case less than twelve (12) inches, except that the minimum road clearance for landing gear within ten (10) feet of an axle must be no less than ten (10) inches.

* * * * *

(d) *Rear-end protection.* Each cargo tank motor vehicle must be provided with a rear-end tank protection device to protect the cargo tank and piping in the event of a rear-end collision and reduce the likelihood of damage that could result in the loss of lading. Nothing in this paragraph relieves the manufacturer of responsibility for complying with the requirements of § 393.86 of this title and, if applicable, paragraph (b) of this section. The rear-end tank protection device must conform to the following requirements:

* * * * *

40. In § 178.345–10, paragraph (a) and the last sentence in paragraph (b)(3)(i) would be revised to read as follows:

§ 178.345–10 Pressure relief.

(a) Each cargo tank must be equipped to relieve pressure and vacuum conditions in conformance with this section and the applicable individual specification. The pressure and vacuum relief system must be designed to operate and have sufficient capacity to prevent cargo tank rupture or collapse due to over-pressurization or vacuum resulting from loading, unloading, or from heating and cooling of lading. Pressure relief systems are not required to conform to the ASME Code.

(b) * * *

(3) * * *

(i) * * *. An acceptable method is outlined in TTMA RP No. 81–97 "Performance of Spring Loaded Pressure Relief Valves on MC 306, MC 307, MC 312, DOT 406, DOT 407, and DOT 412 Tanks" (*see* § 171.7 of this subchapter).

* * * * *

41. In § 178.345–13, paragraph (a) would be revised to read as follows:

§ 178.345–13 Pressure and leakage tests.

(a) Each cargo tank must be pressure and leakage tested in accordance with this section and § 178.346–5, § 178.347–5, or § 178.348–5.

* * * * *

42. In § 178.345–14, paragraphs (b)(1), (c)(6) and (c)(7) would be revised to read as follows:

§ 178.345–14 Marking.

* * * * *

(b) * * *

(1) DOT-specification number DOT XXX (DOT XXX) where "XXX" is replaced with the applicable specification number. For cargo tanks having a variable specification plate, the DOT-specification number is replaced with the words "See variable specification plate."

* * * * *

(c) * * *

(6) Maximum loading rate in gallons per minute (Max. load rate, G.P.M.).

(7) Maximum unloading rate in gallons per minute (Max. unload rate, GPM).

* * * * *

§ 178.346–1 [Amended]

43. In § 178.346–1, the following changes would be made:

a. In paragraph (d)(6), the reference to "§ 178.345–10" would be revised to read "§ 178.346–3".

b. In paragraph (d)(7), the reference to "§ 178.345–13" would be revised to read "§ 178.346–5".

44. In § 178.346–2, the introductory text and the titles to Table I and Table II would be revised to read as follows:

§ 178.346–2 Material and thickness of material.

The type and thickness of material for DOT 406 specification cargo tanks must conform to § 178.345–2, but in no case may the thickness be less than that determined by the minimum thickness requirements in § 178.320(d). The following Tables I and II identify the specified minimum thickness values to be employed in that determination:

Table I.—Specified Minimum Thickness of Heads (or Bulkheads and Baffles When Used as Tank Reinforcement) Using Mild Steel (MS), High Strength Low Alloy Steel (HSLA), Austenitic Stainless Steel (SS), or Aluminum (AL)—Expressed in Decimals of an Inch After Forming

* * * * *

Table II.—Specified Minimum Thickness of Shell Using Mild Steel (MS), High Strength Low Alloy Steel (HSLA), Austenitic Stainless Steel (SS), or Aluminum (AL)—Expressed in Decimals of an Inch After Forming [1]

* * * * *

45. In § 178.346–5, paragraph (c) would be revised to read as follows:

§ 178.346–5 Pressure and leakage tests.

* * * * *

(c) *Leakage test.* A cargo tank used to transport a petroleum distillate fuel that is equipped with vapor recovery equipment may be leakage tested in accordance with 40 CFR 63.425(e). To satisfy the leakage test requirements of this paragraph (c), the test specified in 40 CFR 63.425(e)(1) must be conducted using air. The hydrostatic test alternative permitted under Appendix A to 40 CFR part 60 ("Method 27—Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test") may not be used to satisfy the leakage test requirements of this paragraph (c). A cargo tank tested in accordance with 40 CFR 63.425(e) must be marked as specified in § 180.415 of this subchapter.

46. In § 178.347–1, the following changes would be made:

a. Paragraph (c) would be revised.

b. In paragraph (d)(5), the reference to "§§ 178.345–5 and 178.347–5" would be revised to read "§ 178.347–3".

c. In paragraph (d)(6), the reference to "§ 178.345–10" would be revised to read "§ 178.347–4".

d. In paragraph (d)(7), the reference to "§ 178.345–13" would be revised to read "§ 178.347–5".

e. Paragraph (d)(9) would be added.

The addition and revision would read as follows:

§ 178.347–1 General requirements.

* * * * *

(c) Any cargo tank built to this specification with a MAWP greater than 35 psig and each tank designed to be loaded by vacuum must be "constructed and certified in conformance with the ASME Code". The external design pressure for a cargo tank loaded by vacuum must be at least 15 psig.

(d) * * *

(9) The strength of a weld seam in a bulkhead that has not been radiographically examined shall be 0.85 of the strength of the bulkhead under the following conditions:

(i) The welded seam must be a full penetration butt weld.

(ii) No more than one seam may be used per bulkhead.

(iii) The welded seam must be completed before forming the dish radius and knuckle radius.

(iv) Compliance test: Two test specimens of materials representative of those to be used in the manufacture of a cargo tank bulkhead must be tested to failure in tension. The test specimen must be of the same thickness and joined by the same welding procedure. The test specimens may represent all the tanks that are made in the same facility within 6 months after the tests are completed. Before welding, the fit-up of the joints on the test specimens must represent production conditions that would result in the least joint strength. Evidence of joint fit-up and test results must be retained at the manufacturers' facility for at least 5 years.

(v) Acceptance criteria: The ratio of the actual tensile stress at failure to the actual tensile strength of the adjacent material of all samples of a test lot must be greater than 0.85.

47–48. In § 178.347–2, paragraph (a) introductory text and the titles to Table I and Table II would be revised to read as follows:

§ 178.347–2 Material and thickness of material.

(a) The type and thickness of material for DOT 407 specification cargo tanks must conform to § 178.345–2, but in no case may the thickness be less than that determined by the minimum thickness requirements in § 178.320(d). The following Tables I and II identify the specified minimum thickness values to be employed in that the determination:

Table I.—Specified Minimum Thickness of Heads (or Bulkheads and Baffles When Used as Tank Reinforcement) Using Mild Steel (MS), High Strength Low Alloy Steel (HSLA), Austenitic Stainless Steel (SS), or Aluminum (AL)—Expressed in Decimals of an Inch After Forming

* * * * *

Table II.—Specified Minimum Thickness of Shell Using Mild Steel (MS), High Strength Low Alloy Steel (HSLA), Austenitic Stainless Steel (SS), or Aluminum (AL)—Expressed in Decimals of an Inch After Forming

* * * * *

§ 178.348–1 [Amended]

49. In § 178.348–1, the following changes would be made:

a. In paragraph (e)(2)(v), the reference to "§§ 178.345–5 and 178.348–5" would be revised to read "§ 178.345–5".

b. In paragraph (e)(2)(vi), the reference to " 178.345–10" would be revised to read "§ 178.348–4".

c. In paragraph (e)(2)(vii), the reference to "§ 178.345–13" would be revised to read "§ 178.348–5".

50. In § 178.348–2, paragraph (a) introductory text and the titles to Table I and Table II would be revised to read as follows:

§ 178.348–2 Material and thickness of material.

(a) The type and thickness of material for DOT 412 specification cargo tanks must conform to § 178.345–2, but in no case may the thickness be less than that determined by the minimum thickness requirements in § 178.320(d). The following Tables I and II identify the

[1] Maximum distance between bulkheads, baffles, or ring stiffeners shall not exceed 60 inches.

"Specified Minimum Thickness" values to be employed in that determination:

Table I.—Specified Minimum Thickness of Heads (or Bulkheads and Baffles When Used as Tank Reinforcement) Using Mild Steel (MS), High Strength Low Alloy Steel (HSLA), Austenitic Stainless Steel (SS), or Aluminum (AL)—Expressed in Decimals of an Inch After Forming

* * * * *

Table II.—Specified Minimum Thickness of Shell Using Mild Steel (MS), High Strength Low Alloy Steel (HSLA), Austenitic Stainless Steel (SS), or Aluminum (AL)—Expressed in Decimals of an Inch After Forming

* * * * *

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS.

51. The authority citation for part 180 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

52. In § 180.403, the definition for "Corrosive to the tank/valve" would be removed and new definitions for "Corroded or abraded" and "Corrosive to the tank or valve" would be added in the appropriate alphabetical order to read as follows:

§ 180.403 Definitions.

* * * * *

Corroded or *abraded* means any visible reduction in the material thickness of the cargo tank wall or valve due to pitting, flaking, gouging, or chemical reaction to the material surface.

Corrosive to the tank or valve means that the lading has been shown through experience or test data to reduce the thickness of the material of construction of the tank wall or valve.

* * * * *

53. In § 180.405 paragraph (g)(3) would be removed and reserved, paragraphs (b), (k), and (l)(2)(iii) would be revised, and a new paragraph (o) would be added, to read as follows:

§ 180.405 Qualification of cargo tanks.

* * * * *

(b) *Cargo tank specifications.* (1) To qualify as an authorized packaging, each cargo tank must conform to this subpart, the applicable requirements specified in part 173 of this subchapter for the specific lading, and where a DOT specification cargo tank is required, an applicable specification in effect on the date initial construction began: MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, MC 312, MC 330, MC 331, MC 338, DOT 406, DOT 407, or DOT 412 (§§ 178.337, 178.338, 178.345, 178.346, 178.347 and 178.348 of this subchapter). However, except as provided in paragraphs (b)(2), (d), (e), (f)(5), and (f)(6) of this section, no cargo tank may be marked or certified after August 31, 1995, to the applicable MC 306, MC 307, MC 312, MC 331, or MC 338 specification in effect on December 30, 1990.

(2) *Exception.* A cargo tank originally manufactured to the MC 306, MC 307, or MC 312 specification that has not been stretched, rebarrelled, or modified may be re-certified to the original specification provided:

(i) Sufficient records are available verifying the cargo tank was originally manufactured to the specification;

(ii) A Registered Inspector verifies the cargo tank conforms to all applicable requirements of the specification;

(iii) The cargo tank meets all applicable tests and inspections required by § 180.407(c);

(iv) Any repairs performed on the cargo tank after June 30, 1992, were conducted in accordance with § 180.413; and

(v) The cargo tank is re-certified to the original specification in accordance with the reporting and record retention provisions of § 180.417. The certification documents required by § 180.417(a)(3) must include both the date the cargo tank was originally certified to the specification, and the date it was re-certified. The specification plate on the cargo tank or cargo tank motor vehicle must display the date the cargo tank was originally certified to the specification.

* * * * *

(k) *DOT specification cargo tank with no marked design pressure or a marked design pressure of less than 3 psig.* The owner of an MC 300, MC 301, MC 302, MC 303, MC 305, MC 306, or MC 312 cargo tank with a pressure relief system set at 3 psig, must mark or remark the cargo tank with an MAWP or design pressure of not greater than 3 psig.

(l) * * *

(2) * * *

(iii) The structure of the bumper must be designed in accordance with § 178.345–8(d)(3) of this subchapter.

* * * * *

(o) *On-truck remote control of self-closing stop valves—MC 330, MC 331, and MC 338.* On or before [Three years From Effective Date of Final Rule]—

(1) Each owner of an MC 330 or MC 331 cargo tank motor vehicle marked or certified before January 1, 1995, must equip the cargo tank with an on-vehicle remote means of closure of the internal self-closing stop valve in conformance with § 178.337–11(a)(2) of this subchapter. This requirement does not apply to cargo tanks used only for carbon dioxide and marked "For carbon dioxide only" or intended for use in chlorine service only.

(2) Each owner of an MC 338 cargo tank motor vehicle marked or certified before January 1, 1995, must equip each remotely controlled shutoff valve with an on-vehicle remote means of automatic closure in conformance with § 178.338–11(c) of this subchapter. This requirement does not apply to cargo tanks used for the transportation of argon, carbon dioxide, helium, krypton, neon, nitrogen, or xenon, or mixtures thereof.

54–55. In § 180.407, the following changes would be made:

a. Paragraphs (b)(4) and (g)(1)(v) would be removed and reserved;

b. Paragraphs (d)(4), (d)(5), and (d)(6) would be redesignated as paragraphs (d)(5), (d)(6), and (d)(7), respectively;

c. Paragraphs (a)(2), (b)(1), (b)(2), (d)(1), (g)(1)(ii) introductory text, (g)(1)(ii)(A), (g)(4), (h)(1) introductory text, (i)(5) introductory text and titles and column headings to Tables I and II, and (i)(6) would be revised;

d. Paragraph (h)(1)(i) would be amended by removing "; or" and adding a period in their place; and

e. New paragraphs (d) introductory text, (d)(4), (h) introductory text, (h)(1)(iv), and (h)(1)(v) would be added.

The additions and revisions would read as follows:

§ 180.407 Requirements for test and inspection of specification cargo tanks.

(a) * * *

(2) Except during a pressure test, a cargo tank may not be subjected to a pressure greater than its design pressure or MAWP.

* * * * *

(b) * * *

(1) The cargo tank shows evidence of dents, cuts, gouges, corroded or abraded areas, leakage, or any other condition that might render it unsafe for hazardous materials service. At a minimum, any area of a cargo tank showing evidence of dents, cuts, digs, gouges, or corroded or abraded areas must be thickness tested in accordance with the procedures set forth in paragraphs (i)(2), (i)(3), (i)(5), and (i)(6) of this section and evaluated in accordance with the criteria prescribed in § 180.411. Any signs of leakage must be repaired in accordance with § 180.413.

(2) The cargo tank has sustained damage to an extent that may adversely

affect its lading retention capability. A damaged cargo tank must be pressure tested in accordance with the procedures set forth in paragraph (g) of this section.

* * * * *

(d) *External visual inspection and testing.* The following applies to the external visual inspection and testing of cargo tanks:

(1) Where insulation precludes a complete external visual inspection as required by paragraphs (d)(2) through (d)(6) of this section, the cargo tank also must be given an internal visual inspection in accordance with paragraph (e) of this section. If internal visual inspection is precluded because the cargo tank is lined, coated, or designed so as to prevent access for internal inspection, the tank must be hydrostatically or pneumatically tested in accordance with paragraph (g)(1)(iv) of this section.

* * * * *

(4) Ring stiffeners or other appurtenances, installed on cargo tanks constructed of mild steel or high-strength, low-alloy steel, that create air cavities adjacent to the tank shell that do not allow for external visual inspection must be thickness tested in accordance with paragraphs (i)(2) and (i)(3) of this section, at least once every 2 years. At least four symmetrically distributed readings must be taken to establish an average thickness for the ring stiffener or appurtenance. If any thickness reading is less than the average thickness by more than 10%, thickness testing in accordance with paragraphs (i)(2) and (i)(3) of this section must be conducted from the inside of the cargo tank on the area of the tank wall covered by the appurtenance or ring stiffener.

* * * * *

(g) * * *

(1) * * *

(ii) All self-closing pressure relief valves (normal vents and emergency relief vents) must be:

(A) Removed from the cargo tank for inspection and testing. Each self-closing pressure relief valve must open at the required set pressure and seat to a leak-tight condition at 90 percent of the set-to-discharge pressure or the pressure prescribed for the applicable cargo tank specification; or

* * * * *

(4) All pressure bearing portions of a cargo tank heating system employing a medium such as, but not limited to, steam or hot water for heating the lading must be hydrostatically pressure tested at least once every 5 years. The test pressure must be at least the maximum system design operating pressure and must be maintained for five minutes. A heating system employing flues for heating the lading must be tested to ensure against lading leakage into the flues or into the atmosphere.

* * * * *

(h) *Leakage test.* The following requirements apply to cargo tanks requiring a leakage test:

(1) Each cargo tank must be tested for leaks in accordance with paragraph (c) of this section. The leakage test must include testing product piping with all valves and accessories in place and operative, except that any venting devices set to discharge at less than the leakage test pressure must be removed or rendered inoperative during the test. All internal or external self-closing stop valves must be tested for leak tightness. Each cargo tank of a multi-cargo tank motor vehicle must be tested with adjacent cargo tanks empty and at atmospheric pressure. Test pressure must be maintained for at least 5 minutes. Cargo tanks in liquefied compressed gas service must be externally inspected for leaks during the leakage test. Suitable safeguards must be provided to protect personnel should a failure occur. Cargo tanks may be leakage tested with hazardous materials contained in the cargo tank during the test. Leakage test pressure must be no less than 80% of the tank design pressure or MAWP, whichever is marked on the certification or specification plate except as follows:

* * * * *

(iv) An MC 330 or MC 331 cargo tank in dedicated service for anhydrous ammonia may be leakage tested at not less than 483 kPa (70 psig).

(v) A non-specification cargo tank required by § 173.8(d) of this subchapter to be leakage tested, must be leakage tested at not less than 16.6 kPa (2.4 psig), or as specified in paragraph (h)(2) of this section.

(2) Cargo tanks used to transport petroleum distillate fuels that are equipped with vapor collection equipment may be leak tested in accordance with the Environmental Protection Agency's "Method 27—Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test," as set forth in Appendix A to 40 CFR Part 60. Test methods and procedures and maximum allowable pressure and vacuum changes are in 40 CFR 63.425(e)(1). The hydrostatic test alternative, using liquid in Environmental Protection Agency's "Method 27—Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test," may not be used to satisfy the leak testing requirements of this paragraph (h). The test must be conducted using air. Cargo tanks tested using the Environmental Protection Agency's "Method 27—Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test," test must be marked in accordance with § 180.415.

* * * * *

(i) * * *

(5) Minimum thicknesses for MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, and MC 312 cargo tanks are determined based on the definition of minimum thickness found in § 178.320(a) of this subchapter. The following Tables I and II identify the "In-Service Minimum Thickness" values to be employed in this determination. The column headed "Minimum Manufactured Thickness" tabulates the minimum values required for new construction as set forth in §§ 178.346–2, 178.347–2, and 178.348–2 of this subchapter. In-Service Minimum Thicknesses are based on 90 percent of the minimum value required for new construction, rounded to three places. Tables I and II follow:

TABLE I.—IN-SERVICE MINIMUM THICKNESS FOR MC 300, MC 303, MC 304, MC 306, MC 307, MC 310, MC 311, AND MC 312 SPECIFICATION CARGO TANK CONSTRUCTED OF STEEL AND STEEL ALLOYS

Minimum manufactured thickness (US gauge or inches)	Nominal decimal equivalent for reference (inches)	In-service minimum thickness (inches)

* * * * *

TABLE II.—IN-SERVICE MINIMUM THICKNESS FOR MC 301, MC 302, MC 304, MC 305, MC 306, MC 307, MC 311, AND MC 312 SPECIFICATION CARGO TANKS CONSTRUCTED OF ALUMINUM AND ALUMINUM ALLOYS

	Minimum manufactured thickness (inches)	In-service minimum thickness (inches)

* * * * *

(6) An owner of a cargo tank that no longer conforms to the minimum thickness prescribed for the design as manufactured may use the cargo tank to transport authorized materials at reduced maximum weight of lading or reduced maximum working pressure, or combinations thereof, provided the following conditions are met:

(i) A Design Certifying Engineer must certify that the cargo tank design and thickness are appropriate for the reduced loading conditions by issuance of a revised manufacturer's certificate, and

(ii) The cargo tank motor vehicle's nameplate must reflect the revised service limits.

* * * * *

56. In § 180.409, paragraphs (a)(1) and (a)(2) would be revised and paragraph (a)(3) would be added to read as follows:

§ 180.409 Minimum qualifications for inspectors and testers.

(a) * * *

(1) Be registered with the Associate Administrator for Hazard Materials Safety in accordance with part 107, subpart F of this chapter;

(2) Be familiar with DOT-specification cargo tanks and trained and experienced in use of the inspection and testing equipment needed; and

(3) Have the training and experience required to meet the definition of "Registered Inspector" in § 171.8 of this subchapter.

* * * * *

57. Section 180.413 would be revised to read as follows:

§ 180.413 Repair, modification, stretching, rebarrelling, or mounting of specification cargo tanks.

(a) *General.* Any repair, modification, stretching, rebarrelling, or mounting of a cargo tank must be performed in conformance with the requirements of this section.

(1) Except as otherwise provided in this section, each repair, modification, stretching, or rebarrelling of a specification cargo tank must be performed by a repair facility holding a valid National Board Certificate of Authorization for use of the National Board "R" stamp and must be made in accordance with the edition of the National Board Inspection Code in effect at the time the work is performed.

(i) Repairs, modifications, stretchings, and rebarrellings performed on non-ASME stamped specification cargo tanks may be performed by:

(A) A cargo tank manufacturer holding a valid ASME Certificate of Authorization for the use of the ASME "U" stamp using the quality control procedures used to obtain the Certificate of Authorization; or

(B) A repair facility holding a valid National Board Certificate of Authorization for use of the National Board "R" stamp using the quality control procedures used to obtain the Certificate of Authorization.

(ii) A repair, modification, stretching, or rebarrelling of a non-ASME stamped cargo tank may be done without certification by an Authorized Inspector, completion of the R–1 form, or being stamped with the "R" stamp.

(2) Prior to each repair, modification, stretching, rebarrelling, or mounting, the cargo tank motor vehicle must be emptied of any hazardous material lading. In addition, cargo tank motor vehicles used to transport flammable or toxic lading must be cleaned and purged, including void spaces between double bulkheads, piping and vapor recovery systems.

(3) Each person performing a repair, modification, stretching, rebarrelling or mounting of a DOT specification cargo tank must be registered in accordance with Subpart F of part 107 of this chapter.

(b) *Repair.* The suitability of each repair affecting the structural integrity or lading retention capability of the cargo tank must be determined by the testing required either in the applicable manufacturing specification or in § 180.407(g)(1)(iv). Each repair of a cargo tank involving welding on the shell or head must be certified by a Registered Inspector. The following provisions apply to specific cargo tank repairs:

(1) DOT 406, DOT 407, and DOT 412 cargo tanks must be repaired in accordance with the specification requirements in effect at the time of repair;

(2) MC 300, MC 301, MC 302, MC 303, MC 305, and MC 306 cargo tanks must be repaired in accordance with either the most recent revision of the original specification or with the DOT 406 specification in effect at the time of repair;

(3) MC 304 and MC 307 cargo tanks must be repaired in accordance with either the most recent revision of the original specification or with the DOT 407 specification in effect at the time of repair;

(4) MC 310, MC 311, and MC 312 cargo tanks must be repaired in accordance with either the most recent revision of the original specification or with the DOT 412 specification in effect at the time of repair;

(5) MC 338 cargo tanks must be repaired in accordance with the specification requirements in effect at the time of repair; and

(6) MC 330 and MC 331 cargo tanks must be repaired in accordance with the repair procedures described in CGA Technical Bulletin TB–2 and the National Board Inspection Code (see § 171.1 of this subchapter). Each cargo tank having cracks or other defects requiring welded repairs must meet all inspection, test, and heat treatment requirements in § 178.337–16 of this subchapter in effect at the time of the repair, except that postweld heat treatment after minor weld repairs is not required. When a repair is made of defects revealed by the wet fluorescent magnetic particle inspection, including those repaired by grinding, the affected area of the cargo tank must again be examined by the wet fluorescent magnetic particle method after hydrostatic testing to assure that all defects have been removed.

(c) *Maintenance or replacement of piping, valves, hoses, or fittings.* After each repair, maintenance or replacement of a pipe, valve, hose, or fitting on a cargo tank, that component must be installed in accordance with the provisions of the applicable specification before the cargo tank is returned to service.

(1) After maintenance or replacement that does not involve welding on the cargo tank wall, the repaired or replaced piping, valve, or fitting must be tested for leaks. This requirement is met when the piping, valve, hose or fitting is tested after installation at not less than 80 percent of the design pressure marked on the cargo tank. A hose may

be tested before or after installation on the cargo tank.

(2) After repair or replacement of piping, valves, or fittings that involves welding on the cargo tank wall, the cargo tank must be pressure tested in accordance with the applicable manufacturing specification or § 180.407(g)(1)(iv). In addition, the affected piping, valve, or fitting must be tested in accordance with paragraph (c)(1) of this section.

(d) *Modification, stretching, or rebarrelling.* Modification, stretching or rebarrelling of a cargo tank motor vehicle must conform to the following provisions:

(1) The design of the modified, stretched, or rebarrelled cargo tank motor vehicle must be certified in writing by a Design Certifying Engineer as meeting the structural integrity and accident damage protection requirements of the applicable specification.

(2) Except as provided in paragraph (d)(2)(v) of this section, all new material and equipment affected by modification, stretching, or rebarrelling must meet the requirements of the specification in effect at the time such work is performed, and all applicable structural integrity requirements (§ 178.337–3, 178.338–3, or § 178.345–3 of this subchapter). The work must conform to the requirements of the applicable specification as follows:

(i) For specification MC 300, MC 301, MC 302, MC 303, MC 305 and MC 306 cargo tanks, the provisions of either specification MC 306 or DOT 406 until August 31, 1995 and, thereafter to specification DOT 406 only;

(ii) For specification MC 304 and MC 307 cargo tanks, the provisions of either specification MC 307 or DOT 407 until August 31, 1995 and, thereafter to specification DOT 407 only;

(iii) For specification MC 310, MC 311, and MC 312 cargo tanks, the provisions of either specification MC 312 or DOT 412 until August 31, 1995 and, thereafter to specification DOT 412 only;

(iv) For specification MC 330 cargo tanks, the provisions of specification MC 331; and

(v) For specification MC 338 cargo tanks, the provisions of specification MC 338. However, structural modifications to MC 338 cargo tanks authorized under § 180.405(d) may conform to applicable provisions of the ASME Code instead of specification MC 338, provided the structural integrity of the modified cargo tank is at least equivalent to that of the original cargo tank.

(3) The person performing the modification, stretching, or rebarrelling must:

(i) Have knowledge of the original design concept, particularly with respect to structural design analysis, material and welding procedures.

(ii) Assure compliance of the rebuilt cargo tank's structural integrity, venting, and accident damage protection with the applicable specification requirements.

(iii) Assure compliance with all applicable Federal Motor Carrier Safety Regulations for all newly installed safety equipment.

(iv) Assure the suitability of each modification, stretching and rebarrelling that affects the lading retention capability of the cargo tank by performing the tests required in the applicable specification or § 180.407(g)(1)(iv).

(v) Any modification that changes information displayed on the specification plate requires the installation of a supplemental specification plate, nameplate, or both containing the information that reflects the cargo tank as modified, stretched or rebarrelled. The plate must include the name of the person or facility doing the work, DOT registration number, date work is completed, retest information, and any other information that differs from the original plate. The supplemental plates must be installed immediately adjacent to the existing plate or plates.

(vi) On a variable specification cargo tank, install a supplemental or new variable specification plate, and replace the specification listed on the original specification plate with the words "see variable specification plate."

(4) A Registered Inspector must certify that the modified, stretched, or rebarrelled cargo tank conforms to the requirements of this section and the applicable specification by issuing a supplemental certificate of compliance. The registration number of the Registered Inspector must be entered on the certificate.

(e) *Mounting of cargo tanks.* Mounting a cargo tank on a cargo tank motor vehicle must be:

(1) Performed as required by paragraph (d)(2) of this section and certified by a Design Certifying Engineer if the mounting of a cargo tank on a cargo tank motor vehicle involves welding on the cargo tank head or shell or any change or modification of the methods of attachment; or

(2) In accordance with the original specification or the specification in effect at the time of the mounting, and performed under the supervision of a Registered Inspector if the mounting of a cargo tank on a cargo tank motor vehicle does not involve welding on the cargo tank head or shell or a change or modification of the methods of attachment.

(f) *Records.* Each owner of a cargo tank motor vehicle must retain at the owner's principal place of business all records of repair, modification, stretching, or rebarrelling, including notation of any tests conducted to verify the suitability of the repair, modification, stretching, or rebarrelling made to each cargo tank during the time the cargo tank motor vehicle is in service and for one year thereafter. Copies of these records must be retained by a motor carrier, if not the owner of the cargo tank motor vehicle, at its principal place of business during the period the cargo tank motor vehicle is in the carrier's service.

58. In § 180.415, paragraphs (b) would be revised to read as follows:

§ 180.415 Test and inspection markings.

* * * * *

(b) Each cargo tank must be durably and legibly marked, in English, with the date (month and year) and the type of test or inspection performed, subject to the following provisions:

(1) The date must be readily identifiable with the applicable test or inspection.

(2) The markings must be in letters and numbers at least 32 mm (1.25 inches) high, near the specification plate or anywhere on the front head.

(3) The type of test or inspection may be abbreviated as follows:

(i) V for external visual inspection and test;

(ii) I for internal visual inspection;

(iii) P for pressure test;

(iv) L for lining inspection;

(v) T for thickness test;

(vi) K for leakage test for a cargo tank tested under § 180.407, except § 180.407(h)(2); and

(vii) K–EPA27 for a cargo tank tested under § 180.407(h)(2) after [One Year From Publication Date of Final Rule].

(4) For cargo tanks marked after October 1, 2001, the date marked must be the date the required test or inspection expires, preceded by the letter "N." Cargo tanks marked in accordance with this section before October 1, 2001, are not required to be remarked to show the date of the next test.

Examples to Paragraph (b): The markings "10–99 P, V, L" represent that in October 1999, a cargo tank passed the prescribed pressure test, external visual inspection and test, and the lining inspection. The markings "2–00 K–EPA" represent that in February

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2000, a cargo tank passed the leakage test under § 180.407(h)(2). The markings "2–00 K, K–EPA" represent that in February 2000, a cargo tank passed the leakage test under both § 180.407(h)(1) and under EPA Method 27 under § 180.407(h)(2). For a cargo tank marked after October 1, 2000, the markings "N11–02 V, L" represent that an external visual inspection and test, and a lining test expire November 2002.

* * * * *

59. In § 180.417, paragraphs (b) and (d) would be revised to read as follows:

§ 180.417 Reporting and record retention requirements.

* * * * *

(b) *Test or inspection reporting.* Each person performing a test or inspection as specified in § 180.407 must prepare a written report, in English, in accordance with this paragraph (b).

(1) Each test or inspection report must include the following information:

(i) Owner's and manufacturer's unique serial number for the cargo tank;

(ii) Name of cargo tank manufacturer;

(iii) Cargo tank DOT or MC specification number;

(iv) MAWP of the cargo tank;

(v) Minimum thickness of the cargo tank shell and heads;

(vi) Indication of whether the cargo tank is lined, insulated, or both; and

(vii) Indication of special service of the cargo tank (e.g., transports material corrosive to the tank, dedicated service, etc.).

(2) Each test or inspection report must include the following specific information as appropriate for each individual type of test or inspection:

(i) Type of test or inspection performed;

(ii) Date of test or inspection (month and year);

(iii) Listing of all items tested or inspected, including information about pressure relief devices that are removed, inspected and tested or replaced, when applicable (type of device, set to discharge pressure, pressure at which device opened, pressure at which device re-seated, and a statement of disposition of the device (e.g., reinstalled, repaired, or replaced)); information regarding the inspection of upper coupler assemblies, when applicable (visually examined in place, or removed for examination); and, information regarding leakage and pressure testing, when applicable (pneumatic or hydrostatic testing method, identification of the fluid used for the test, test pressure, and holding time of test);

(iv) Location of defects found and method of repair;

(v) ASME or National Board number of person performing repairs, if applicable;

(vi) Name and address of person performing test;

(vii) Registration number of the facility or person performing the test;

(viii) Continued qualification statement, such as "cargo tank meets the requirements of the DOT-specification identified on this report" or "cargo tank fails to meet the requirements of the DOT-specification identified on this report";

(ix) DOT registration number of the registered inspector; and

(x) Dated signature of the registered inspector and the cargo tank owner.

(3) The owner and the motor carrier, if not the owner, must each retain a copy of the test and inspection reports until the next test or inspection of the same type is successfully completed. This requirement does not apply to a motor carrier leasing a cargo tank for fewer than 30 days.

* * * * *

(d) *Supplying certificates and reports.* Each person offering a DOT-specification cargo tank for sale or lease must provide the purchaser or lessee a copy of the cargo tank certificate of compliance, records of repair, modification, stretching, or rebarrelling; and the most recent inspection and test reports made under this section. Copies of such reports must be provided to the lessee if the cargo tank is leased for more than 30 days.

Issued in Washington, DC, on November 5, 2001, under authority delegated in 49 CFR Part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

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Part III

Department of Health and Human Services

Administration for Children and Families

Family Violence Prevention and Services Program; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS 02–01]

Family Violence Prevention and Services Program

AGENCY: Office of Community Services, Administration for Children and Families, (ACF), Department of Health and Human Services.

ACTION: Notice of the availability of funding to States and Native American Tribes, Alaskan Villages, and Tribal organizations for family violence prevention and services.

SUMMARY: This announcement supersedes Program Instruction No. OCS 97–06, published May 16, 1997 in the **Federal Register** [62 FR 27045]. This announcement governs the proposed award of formula grants under the Family Violence Prevention and Services Act to States (including Territories and Insular Areas) and Native American Tribes, Alaskan Villages, and Tribal organizations. The purpose of these grants is to assist States and Tribes in establishing, maintaining, and expanding programs and projects to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents.

This announcement sets forth the application requirements, the application process, and other administrative and fiscal requirements for grants, awarded in fiscal year (FY) 2002.

DATES: Applications for FY 2002 States, Native American Tribes, Alaskan Villages, and Tribal Organizations grant awards meeting the criteria specified in this instruction should be received no later than January 7, 2002.

ADDRESSES: Applications should be sent to Office of Community Services, Administration for Children and Families, Attn: Dr. James Gray, 5th Floor, West Wing, 370 L'Enfant Promenade, SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: William D. Riley (202) 401–5529, James W. Gray (202) 401–5705, or Sunni L. Knight (202) 401–5319.

Part I. Reducing Family and Intimate Violence Through Coordinated Prevention and Services Strategies

The Importance of Coordination of Services

Family and intimate violence has serious and far reaching consequences for individuals, families, and communities. Estimates from the National Crime Victimization Survey (NCVS) indicate that in 1998 about 1 million violent crimes were committed against persons by their current or former spouses, boyfriends, or girlfriends. Such crimes termed *intimate partner violence*, are committed primarily against women. About 85% of victimizations by intimate partners in 1998, were against women. It is important to note that regardless of the demographic characteristics considered, women experienced intimate partner violence at higher rates than men between 1993 and 1998 (Bureau of Justice Statistics, 2000).

The impacts of family and intimate violence include physical injury and death of primary or secondary victims, psychological trauma, isolation from family and friends, harm to children witnessing or experiencing violence in homes in which the violence occurs, increased fear, reduced mobility and employability, homelessness, substance abuse, and a host of other health and related mental health consequences.

It is estimated that between 12 percent and 35 percent of women visiting emergency rooms with injuries are there because of battering. Estimates of the number of women who are homeless because of battering range from 27 percent to 41 percent to 63 percent of all homeless women. The significant correlation between domestic violence and child abuse, and the use of welfare by battered women as an "economic escape route" also suggest the need to coordinate domestic violence intervention activities with those addressing child abuse and welfare reform activities at the Federal, State and local levels.

When programs that seek to address these issues operate independently of each other, a fragmented, and consequently less effective, service delivery and prevention system may be the result. Coordination and collaboration among the police, prosecutors, the courts, victim services providers, child welfare and family preservation services, and medical and mental health service providers is needed to provide more responsive and effective services to victims of domestic violence and their families. It is essential that all interested parties are involved in the design and improvement of intervention and prevention activities.

To help bring about a more effective response to the problem of domestic violence, the Department of Health and Human Services (HHS) urges State agencies and Native American Tribes receiving funds under this grant announcement to coordinate activities funded under this grant with other new and existing resources for the prevention of family and intimate violence and related issues.

Part II. Programmatic and Funding Information

A. Background

Title III of the Child Abuse Amendments of 1984 (Pub. L. 98–457, 42 U.S.C. 10401, *et seq.*) is entitled the "Family Violence Prevention and Services Act" (the Act). The Act was first implemented in FY 1986, reauthorized and amended in 1992 by Public Law 102–295, in 1994 by Pub. L. 103–322, the Violent Crime Control and Law Enforcement Act, and in 1996 by Pub. L. 104–235, the "Child Abuse Prevention and Treatment Act (CAPTA) of 1996". The Act was most recently amended by the "Victims of Trafficking and Violence Protection Act" (Pub. L. 106–386, 10/28/2000).

The Act was most recently amended by the "Victims of Trafficking and Violence Protection Act of 2000" (Pub. L. 106–386, 10/28/00).

The purpose of this legislation is to assist States and Native American Tribes, Alaskan Villages and Tribal organizations in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents.

During FY 2001, 230 grants were made to States and Native American Tribes. The Department also made 53 family violence prevention grant awards to nonprofit State domestic violence coalitions.

In addition, the Department supports the National Resource Center for Domestic Violence (NRC) and four Special Issue Resource Centers (SIRCs). The SIRCs are: the Battered Women's Justice Project; the Resource Center on Child Custody and Protection; Sacred Circle Resource Center for the Elimination of Domestic Violence Against Native Women; and the Health Resource Center on Domestic Violence. The purpose of the NRC and the SIRCs is to provide resource information, training, and technical assistance to

Federal, State, and Native American agencies, local domestic violence prevention programs, and other professionals who provide services to victims of domestic violence.

In February, 1996, the Department funded the National Domestic Violence Hotline to ensure that every woman has access to information and emergency assistance wherever and whenever she needs it. The National Domestic Violence Hotline is a 24-hour, toll-free service which provides crisis assistance, counseling, and local shelter referrals to women across the country. Hotline counselors also are available for non-English speaking persons and for people who are hearing-impaired. The hotline number is 1–800–799-SAFE; the TDD number for the hearing impaired is 1–800–787–3224. As of June 30, 2001, the National Domestic Violence Hotline has answered over 500,000 calls.

B. Funds Available

Of the total appropriation for the Family Violence Prevention and Services Act (FVPSA) Program for FY 2002, the Department of Health and Human Services will allocate 70 percent to the designated State agencies administering Family Violence Prevention and Services programs. We will allocate 10 percent to the Tribes, Alaskan Villages and Tribal organizations for the establishment and operation of shelters, safe houses, and the provision of related services. Additionally, in a separate program announcement, we will allocate 10 percent to the State Domestic Violence Coalitions to continue their work within the domestic violence community by providing coordination, public information and education, technical assistance and training, and advocacy services with local domestic violence programs and encouraging appropriate responses to domestic violence within the States.

Five percent of the FY 2002 appropriation will be available to continue the support for the National Resource Center and the four Special Issue Resource Centers. The remaining 5 percent of the FY 2002 family violence prevention and services funding will be used to support training and technical assistance, collaborative projects with advocacy organizations and service providers, data collection efforts, public education activities, research and other demonstration activities at the national level.

C. State Allocation

The Secretary is required to make available not less than 70 percent of amounts appropriated under section 310(a) of the Act, 42 U.S.C. 104, for grants to States and not less than 10% of amounts appropriated under section 310(a) for grants to Native American Tribes and Tribal organizations.

Family Violence grants to the States, the District of Columbia, and the Commonwealth of Puerto Rico are based on a population formula. Each State shall be allotted $600,000 with the remaining funds allotted to each State in an amount that bears the same ratio to the remaining funds as the population of the State has to the population of all States.

For the purpose of computing allotments, the statute provides that Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands will each receive grants of not less than one-eighth of 1% percent of the amounts appropriated.

D. Native American Tribal Allocations

Of the funds available for FY 2002, the Department of Health and Human Services will allocate ten percent for grants to Native American Tribes. Native American Tribes and Tribal organizations are eligible for funding under this program if they meet the definition of such entities as found in the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450 b, and are able to demonstrate their capacity to carry out a family violence prevention and services program.

Any Native American Tribe that believes it meets the eligibility criteria and should be included in the list of eligible tribes should provide supportive documentation in its application and a request for inclusion. (See Native American Tribal Application Requirements in Part V.)

In computing Native American Tribal allocations, we will use the latest available population figures from the Census Bureau. Where Census Bureau data are unavailable, we will use figures from the BIA Indian Population and Labor Force Report.

Because section 304 of the Act specifies a minimum base amount for State allocations, we have set a base amount for Native American Tribal allocations. Since FY 1986, we have found, in practice, that the establishment of a base amount has facilitated our efforts to make a fair and equitable distribution of limited grant funds.

Due to the expanded interest in the prevention of family violence and in the provision of services to victims of family violence and their dependents, we have received an increasing number of Tribal applications over the past several years. In order to ensure the continuance of an equitable distribution of family violence prevention and services funding in response to the increased number of Tribes that apply, we have changed the funding formula for the allocation of family violence funds.

Native American Tribes which meet the application requirements and whose reservation and surrounding Tribal Trust Lands population is:

Category No.	Tribal population	Will receive a base amount of
1	1–1,500	$2,000
2	1,501–3,000	3,500
3	3,001–4,000	4,500
4	4,001–5,000	5,500
5	5,001–6,000	6,500
6	6,001–7,000	7,500
7	7,001–8,000	8,500
8	8,001–9,000	9,500
9	9,001–10,000	10,500
10	10,001–12,000	13,000
11	12,001–14,000	15,000
12	14,001–16,000	17,000
13	16,001–18,000	19,000
14	18,001–20,000	21,000
15	20,001–22,000	23,000
16	22,001–24,000	25,000
17	24,001–26,000	27,000
18	26,001–28,000	29,000
19	28,001–30,000	31,000
20	30,001–32,000	33,000
21	32,001–34,000	35,000
22	34,001–36,000	37,000
23	36,001–38,000	39,000
24	38,001–40,000	41,000
25	40,001–42,000	43,000
26	42,001–44,000	45,000
27	44,001–46,000	47,000
28	46,001–48,000	49,000
29	48,001–50,000	51,000
30	50,001–100,000	125,000
31	100,001–150,000	175,000
32	150,001 and over	225,000

Once the base amounts have been distributed to the Tribes that have applied for family violence funding, the ratio of the Tribe's base amount to the total base amount of all the applicant Tribes is then considered in allocating the remainder of the funds. With the distribution of a proportional amount plus a base amount to the Tribes we have accounted for the variance in actual population and scope of the family violence programs. As in previous years, Tribes are encouraged to apply as consortia for the family violence funding.

Part III. General Grant Requirements Applicable to States and Native-American Tribes

A. Definitions

States and Native American Tribes should use the following definitions in

carrying out their programs. The definitions are found in section 309 of the Act, 42 U.S.C. 10408.

(1) *Family violence:* Any act or threatened act of violence, including any forceful detention of an individual, which (a) results or threatens to result in physical injury and (b) is committed by a person against another individual (including an elderly person) to whom such person is or was related by blood or marriage or otherwise legally related or with whom such person is or was lawfully residing.

(2) *Shelter:* The provision of temporary refuge and related assistance in compliance with applicable State law and regulation governing the provision, on a regular basis, of shelter, safe homes, meals, and related assistance to victims of family violence and their dependents.

(3) *Related assistance:* The provision of direct assistance to victims of family violence and their dependents for the purpose of preventing further violence, helping such victims to gain access to civil and criminal courts and other community services, facilitating the efforts of such victims to make decisions concerning their lives in the interest of safety, and assisting such victims in healing from the effects of the violence. Related assistance includes:

(a) Prevention services such as outreach and prevention services for victims and their children, employment training, parenting and other educational services for victims and their children, preventive health services within domestic violence programs (including nutrition, disease prevention, exercise, and prevention of substance abuse), domestic violence prevention programs for school age children, family violence public awareness campaigns, and violence prevention counseling services to abusers.

(b) Counseling with respect to family violence, counseling or other supportive services by peers individually or in groups, and referral to community social services;

(c) Transportation and technical assistance with respect to obtaining financial assistance under Federal and State programs, and referrals for appropriate health-care services (including alcohol and drug abuse treatment), but does not include reimbursement for any health-care services;

(d) Legal advocacy to provide victims with information and assistance through the civil and criminal courts, and legal assistance; or

(e) Children's counseling and support services, and child care services for children who are victims of family violence or the dependents of such victims.

B. Expenditure Periods

The FVPSA funds may be used for expenditures obligated on and after October 1 of each fiscal year for which they are granted, and will be available for expenditure through September 30 of the fiscal year, i.e., FY 2002 funds may be used for expenditures incurred from October 1, 2001 through September 30, 2002. Recipients must liquidate all obligations incurred under the award by September 30, 2003.

The family violence prevention funds alotted to Native American Tribes, Alaskan Villages, and Tribal organizations may be used on and after July 1 of each fiscal year for which they are granted, and will be available through June 30 of the following fiscal year, i.e., FY 2002 funds may be used for expenditures from July 1, 2002 through June 30, 2003. Recipients must liquidate all allegations incurred under the award by June 30, 2004.

Reallotted funds, if any, are available for expenditure until the end of the fiscal year following the fiscal year that the funds became available for reallotment. FY 2002 grant funds which are made available to the States through reallotment, under section 304(d), 42 U.S.C. 10403(d), must be expended by the State no later than September 30, 2003.

C. Reporting Requirements: State, Tribe, and Tribal Organizations Performance Report

States, Native American Tribes, Alaskan Villages, and Tribal organizations are required to file a performance report with the Department describing the activities carried out, and including an assessment of the effectiveness of those activities in achieving the purposes of the grant. A section of the performance report must be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of such services. State, Native American Tribes, Alaskan Villages, and Tribal organizations grantees should compile performance reports into a comprehensive consolidated comprehensive report for submission.

The Performance Report should include examples of success stories about the services which were provided and the positive impact on the lives of children and families and should include the following information: an explanation of the activities carried out, including an assessment of the major activities supported by the family violence funds; what specific priorities within the State.

Tribe, or Tribal organization were assessed; what special emphases were placed on these activities, e.g., a focus on under-served populations; and a description of the specific services and facilities that your agency funded, contracted with, or otherwise used in the implementation of your program (e.g., shelters, safehouse, related assistance, programs for batterers).

Performance reports for the States are due on an annual basis at the end of the calendar year (December 31). Performance reports for Tribes and Tribal organizations are due on an annual basis on September 30 of each year.

The statute also requires the Department to suspend funding for an approved State appiication if any applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this announcement.

D. Reporting Requirements; Departmental Grants Mangement Reports

All State grantees are reminded that the annual Program Reports and annual Financial Status Reports (Standard Form 269) are due 90 days after the end of each Federal fiscal year, i.e., reports are due on December 31 of each year. All Tribal and Native Alaskan program reports and annual financial status reports are due 90 days after the end of the expenditure period for Tribes, Alaskan Villages, and Tribal organizations, i.e., September 30 of each year.

Program reports are to be sent to: Office of Community Services, Administration for Children and Families, Attention: William D. Riley, 370 L'Enfant Promenade, SW., 5th Floor West, Washington, DC 20447.

Financial Reports are to be sent to: Office of Mandatory Grants, Administration for Children and Families, Attention: Joseph Lonergan, 370 L'Enfant Promenade, SW., 4th Floor, Washington, DC 20447.

E. Required Certifications

All applications must submit or comply with the required certifications found at the list of Attachments as follows:

Anti-Lobbying Certification and Disclosure Form must be signed and submitted with the application: If applicable, a standard Form LLL, which discloses lobbying payments must be signed and submitted.

Certification Regarding Drug-Free Workplace Requirements and the Certification Regarding Debarment: The signature on the application by the chief program official attests to the applicants intent to comply with the Drug-Free Workplace requirements and compliance with the Debarment Certification. The Drug-Free Workplace and Debarment certification do not have to be returned with the application.

Certification Regarding Environmental Tobacco Smoke: The signature on the application by the chief program official attests to the applicant's intent to comply with the requirements of the Pro-Children Act of 1994 (Act). The applicant further agrees that it will require the language of this certification be included in any sub-awards which contain provisions for children's services and that all grantees shall certify accordingly.

Part IV. Application Requirements for States

A. Eligibility: States

"States" as defined in section 309(6) of the Act, 42 U.S.C. 10408, are eligible to apply for funds. The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands.

In the past, Guam, the Virgin Islands and the Commonwealth of the Northern Mariana Islands have applied for funds as a part of their consolidated grant under the Social Services Block grant (the Republic of Palau has applied for funds through the Community Services Block Grant). These jurisdictions need not submit an application under this program announcement if they choose to have their allotment included as part of a consolidated grant application.

B. Approval/Disapproval of a State's Application

The Secretary will approve any application that meets the requirements of the Act and this announcement and will not disapprove any such application except after reasonable notice of the Secretary's intention to disapprove has been provided to the applicant and after a 6-month period providing an opportunity for applicant to correct any deficiencies.

The notice of intention to disapprove will be provided to the applicant within 45 days of the date of the application.

C. Content of the State Application

The State's application must be signed by the Chief Executive Officer of the State or the Chief Program Official designated as responsible for the administration of the Act. (All section references cited hereinafter refer to the Act.)

All Applications Must Contain the Following Information or Documents

(1) The name of the State agency, the name of the Chief Program Official designated as responsible for the administration of family violence programs and activities funded under this Act, the coordination of related programs within the State, and the name of a contact person if different from the Chief Program Official (section 303)(a)(2)(D), 42 U.S.C. 10402 (a)(2)(D).

(2) A plan describing in detail how the needs of underserved populations will be met, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation (section 303(a)(2)(C), 42 U.S.C. 10402(a)(2)(C).

(a) Identify the underserved populations that are being targeted for outreach and services;

(b) In meeting the needs of the underserved population, describe the domestic violence training that will be provided to the individuals who will do the outreach and intervention to these populations. Describe the specific service environment, e.g., new shelters, services for the battered elderly, women of color, etc.; and

(c) Describe the public information component of the State's outreach program; describe the elements of your program that will be used to explain domestic violence, the most effective and safe ways to seek help, identify available that will be resources, etc.

(3) Provide a complete description of the process and procedures used to involve State domestic violence coalitions and other knowledgeable individuals and interested organization to assure an equitable distribution of grants and grant funds within the State and between rural and urban areas in the State (sections 303(a)(2)(C)) and 311(a)(5)).

(4) Provide a complete description of the process and procedures implemented that allow for the participation of the State domestic violence coalition in planning and monitoring the distribution of grant funds and determining whether a grantee is in compliance with section 303(a)(2)(A), 303(a)(3) and 311(a)(5).

(5) Provide a copy of the procedures developed and implemented that assure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services by any program assisted under the Act (section 303(a)(2)(E)).

(6) Include a description of how the State plans to use the grant funds, a description of the target population, the number of shelters to be funded, the services the state will provide, and the expected results from the use of the grant funds (section 303(a)(4)).

(7) Provide a copy of the law or procedures that the State has implemented for the eviction of an abusive spouse from a shared household (section 303)(a)(2)(F)).

All Applications Must Contain the Following Assurances

(a) That grant funds under the Act will be distributed to local public agencies and nonprofit private organizations (including religious and charitable organizations and voluntary associations) for programs and projects within the State to prevent incidents of family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents in order to prevent future violent incidents (section 303(a)(2)(A)).

(b) That not less than 70 percent of the funds distributed shall be used for immediate shelter and related assistance to the victims of family violence and their dependents and not less than 25 percent of the funds distributed shall be used to provide related assistance (section 303(f)).

(c) That not more than 5 percent of the funds will be used for State administrative costs (section 303(a)(2)(B)(i)).

(d) That, in distributing the funds, the States will give special emphasis to the support of community-based projects of demonstrated effectiveness carried out by non-profit private organizations, particularly those projects the primary purpose of which is to operate shelters for victims of family violence and their dependents and those which provide counseling, advocacy, and self-help services to victims and their children (section 303(a)(2)(B)(ii)).

(e) That grants funded by the States will meet the matching requirements in section 303(e), i.e., not less than 20 percent of the total funds provided for a project under the FVPSA with respect to an existing program, and with respect to an entity intending to operate a new program under this title, not less than 35 percent. The local share will be cash or in kind; and the local share will not include any Federal funds provided under any authority other than the FVPSA (section 303(e)).

(f) That grant funds made available under this program by the State will not be used as direct payment to any victim

or dependent of a victim of family violence (section 303(c)).

(g) That no income eligibility standard will be imposed on individuals receiving assistance or services supported with funds appropriated to carry out the Act (section 303(d)).

(h) That the address or location of any shelter-facility assisted under the Act will not be made public, except with the written authorization of the person or persons responsible for the operation of such shelter (section 303(a)(2)(E)).

(i) That programs or activities funded in programs or activities funded in whole or in part under the Act will prohibit discrimination on the basis of age, handicap, sex, race, color, national origin or religion (section 307).

(j) That funds made available under the Act be used to supplement and not supplant other Federal, State, and local public funds expended to provide services and activities that promote the purposes of the Act.

(k) That States will comply with the applicable Departmental recordkeeping and reporting requirements and general requirements for the administration of grants under 45 CFR Parts 74 and 92.

Part V. Application Requirements for Native America Tribes and Tribal Organizations

A. Eligibility: Native American Tribes and Tribal Organizations

As described above, Native American Tribes and Tribal organizations are eligible for funding under this program if they meet the definition of such entities as found the Indian Self-Determination and Education Assistance Act and are able to demonstrate their capacity to carry out a family violence prevention and services program.

As in previous years, Native American Tribes may apply singularly or as a consortium. In addition, a non-profit private organization, approved by a Native American Tribe for the operation of a family violence shelter or program on a reservation is eligible for funding.

B. Approval/Disapproval of a Native American Tribes Application

The Secretary will approve any application that meets the requirements of the Act and this announcement, and will not disapprove an application unless the Native American Tribe or Tribal organization has been given reasonable notice of the Department's intention to disapprove and an opportunity to correct any deficiencies.

C. Native American Tribe/Tribal Organization Application Content Requirements

The application from the Native American Tribe, Tribal organization, or nonprofit private organization approved by an eligible Native American Tribe, must be signed by the Chief Executive Officer of the Native American Tribe or Tribal organization.

All Applications Must Contain the Following Information/Documents

(1) The name of the organization or agency and the Chief Program Official designated as responsible for administering funds under the Act, and the name, telephone number, and fax number, if available, of a contact person in the designated organization or agency.

(2) A copy of a current resolution stating that the designated organization or agency has the authority to submit an application on behalf of the Native American individuals in the Tribe(s) and to administer programs and activities funded under this program (section 303(b)(2)).

(3) A description of the procedures designed to involve knowledgeable individuals and interested organizations in providing services under the Act (section 303(b)(2)). For example, knowledgeable individuals and interested organizations may include: Tribal officials or social services staff involved in child abuse or family violence prevention, Tribal law enforcement officials, representatives of State coalitions against domestic violence, and operators of family violence shelters and service programs.

(4) A description of the Tribe's operation of and/or capacity to carry out a family violence prevention and services program (section 303 (b)(2)). This might be demonstrated in ways such as the following:

(a) The current operation of a shelter, safehouse, or family violence prevention program;

(b) The establishment of joint or collaborative service agreements with a local public agency or a private non-profit agency for the operation of family violence prevention activities or services; or

(c) The operation of social services programs as evidenced by receipt of "638" contracts with the Bureau of Indian Affairs (BIA); Title II Indian Child Welfare grants from the BIA; Child Welfare Services grants under Title IV–B of the Social Security Act; or Family Preservation and Family Support grants under title IV–B of the Social Security Act.

(5) A description of the services to be provided, how the Native American Tribe or Tribal organization plans to use the grant funds to provide the direct services, to whom the services will be provided, and the expected results of the services (section 303 (b)(2)).

(6) Documentation that procedures have been developed and implemented that assure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services by any program assisted under the Act (section 303(a)(2)(E)).

(7) The EIN number of the Native American tribe, Tribal organization, or non-profit organization submitting the application.

Each Application Must Contain the Following Assurances

(a) That not less than 70 percent of the funds shall be used for immediate shelter and related assistance for victims of family violence and their dependents and not less than 25% of the funds distributed shall be used to provided related assistance (section 303(f)).

(b) That grant funds made available under the Act will not be used as direct payment to any victim or dependent of a victim of family violence (section 303(c)).

(c) That the address or location of any shelter or facility assisted under the Act will not be made public, except with the written authorization of the person or persons responsible for the operations of such shelter (section 303(a)(2)(E)).

(d) That law or procedure has been implemented for the eviction of an abusing spouse from a shared household (section 303(a)(2)(F)).

(e) That all programs or activities funded in whole or in part under the Act will prohibit discrimination on the bases of age, handicap, sex, race, color, national origin, or religion.

(f) That applicant will comply with the applicable Departmental recordkeeping and reporting requirements and general requirements for the administration of grants under 45 CFR Parts 74 and 92.

Part VI. Other Information

A. Notification Under Executive Order 12372

For States, this program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," for State plan consolidation and implication only—45 CFR 100.12. The review and comment provisions of the Executive Order and Part 100 do not apply. Federally-recognized Native American Tribes are exempt from all provisions and requirements of E.O. 12372.

B. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the application requirements contained in this instruction have been approved by the Office of Management and Budget under control number 0970–0062.

C. Certifications

Applicants must comply with the required certifications found at Attachments A, B, C, and D as follows:

1. The Anti-Lobbying Certification and Disclosure Form: Pursuant to 45 C, **Federal Register** Part 92, the certification must be signed and submitted with the application. If applicable, a Standard Form LLL, which discloses lobbying payments must be signed and submitted.

2. Certification Regarding Debarment: The signature on the application by a coalition official responsible for the administration of the program attests to the applicant's intent to comply with the Debarment Certification. The Debarment Certification does not have to be returned with the application.

3. Certification Regarding Environmental Tobacco Smoke: The signature on the application by a coalition official certifies that the applicant will comply with the requirements of the Pro-Children Act of 1994 (Act). The applicant further agrees that it will require the language of this certification be included in any standards which contain provisions for children's Services and that all grantees shall certify accordingly.

4. Certification Regarding Drug-Free Workplace Requirements: The signature on the application by a coalition official attests to the applicant's intent to comply with the Drug-Free Workplace requirements.

(Catalog of Federal Domestic Assistance number 93.671, Family Violence Prevention and Services)

Dated: November 27, 2001.

Robert Mott,

Deputy Director, Office of Community Services.

List of Attachments

Attachment A—Certification Regarding Lobbying

Attachment B—Certification Regarding Debarment

Attachment C—Certification Regarding Environmental Tobacco Smoke

Attachment D—Certification Regarding Drug-Free Workplace

Attachment A

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** ☐ a. bid/offer/application b. initial award c. post-award	**3. Report Type:** ☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	**5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:** **Congressional District**, *if known*:	
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____	
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $	
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

BILLING CODE 4184-01-C

INSTRUCTIONS FOR COMPLETION OF SF–LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP–DE–90–001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348–0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Administration for Children and Families

U.S. Department of Health and Human Services

Certification Regarding Debarment, Suspension and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this

proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Attachment C

Certification Regarding Environmental Tobacco Smoke

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Attachment D

Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful

manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[FR Doc. 01–29835 Filed 12–3–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS 02–02]

Family Violence Prevention and Services Program

AGENCY: Office of Community Services (OCS), Administration for Children and Family (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of the availability of funds to State domestic violence coalitions for grants to carry out family violence intervention and prevention activities.

SUMMARY: This notice governs the proposed award of fiscal year (FY) 2002 formula grants under the Family Violence Prevention and Services Act (FVPSA) to private non-profit State domestic violence coalitions. The purpose of these grants is to assist in the conduct of activities to promote domestic violence intervention and prevention and to increase public awareness of domestic violence issues.

This notice sets forth the application requirements, the application process, and other administrative and fiscal requirements for grants in FY 2002.

DATES: Applications for FY 2002 State Domestic Violence Coalition grant awards meeting the criteria specified in this instruction must be received no later than January 7, 2002.

ADDRESSES: Applications should be sent to Department of Health and Human Services, Office of Community Services, Administration for Children and Families, Attention: Catherine L. Beck, Fifth Floor—West Wing, 370 L'Enfant Promenade, SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Williams D. Riley (202) 401–5529, Catherine L. Beck (202) 401–9352, or Sunni Knight (202) 401–5319.

Introduction

This notice for family violence prevention and services grants to State domestic violence coalitions serves two purposes. The first is to confirm a Federal commitment to reducing family and intimate partner violence and to urge States, localities, cities, and the private sector to become involved in State and local planning efforts leading to the development of a more comprehensive and integrated service delivery approach to services for victims of domestic violence (part I).

The second purpose is to provide information on application requirements for FY 2002 grants to State domestic violence coalitions. These funds will support planning and coordination efforts, intervention and prevention activities, and efforts to increase the public awareness of domestic violence issues and services for battered women and their children (Part II).

Part I. Reducing Family and Intimate Partner Violence Through Coordinated Prevention and Services Strategies

1. The Importance of Coordination of Services

The impacts of family and intimate violence include physical and psychological trauma, isolation from family and friends, harm to children witnessing or experiencing violence in homes in which the violence occurs, increased fear, reduced mobility and employability, homelessness, substance abuse, and a host of other health and related mental health consequences.

It is estimated that between 12 percent and 35 percent of women visiting emergency rooms with injuries are there because of battering. Estimates of the number of women who are homeless because of battering range from 27 percent to 41 percent, to 63

percent of all homeless women. The significant correlation between domestic violence and child abuse, and the use of welfare by battered women as an "economic escape route" also suggest the need to coordinate domestic violence intervention activities with those addressing child abuse and welfare reform activities at the Federal, States and local levels.

When programs that seek to address these issues operate independently of each other, a fragmented, and consequently less effective, prevention and service delivery system is the result. Coordination and collaboration among the police, prosecutors, the courts, victim services providers, child welfare and family preservation services, and medical and mental health service providers is needed to provide more responsive and effective services to victims of domestic violence and their families. It is essential that all interested parties be involved in the design and improvement of intervention and prevention activities.

2. Suggestions for Developing New or Strengthening On-Going Coordination Efforts

A. Family violence programs need to focus on providing increased services in existing and underserved locations; develop innovative and comprehensive service and prevention programs to train health care providers to identify and refer victims of violence to appropriate services. Programs should also seek to provide culturally appropriate services for underserved populations, such as ethnic minority populations, rural communities, people with disabilities, and others.

Many ethnic minority and rural communities do not have services to address domestic violence. We know that American Indian and Alaska Natives suffer higher rates of domestic violence than the majority of American women. American Indian women are at particularly high risk of homicide, including domestic violence homicide (College of Emergency Physicians, 1995). Seventeen percent of Native American/Alaskan women have been stalked compared to 8.1 percent of all women (Department of Justice, 1997).

B. There is a constant imperative to demonstrate innovative and comprehensive ways to deliver services, conduct prevention activities, and provide access to help for survivors, their families and perpetrators. Programs need to make services more comprehensive to support survivors and their families beyond immediate crisis needs. Services for this purpose may include transitional housing assistance; long term support of survivors; child care; job skills training; mental health and substance abuse services to survivors and perpetrators; integration with adult and child protective services; safe enforcement of child support for TANF and non-TANF families.

C. Family violence programs may also develop integrated educational program and services that focus on violent adolescent relationships for adolescents who experience, perpetrate or witness domestic violence. Studies on the prevention of domestic abuse and violence in interpersonal relationships suggest that youth education may represent an effective community action to reduce the incidence of violence in adolescent relationships.

D. Through shelters and home visitation programs, family violence programs can create new services to address the needs of children who witness violence against women. Witnessing violence as a child is an important risk factor for being a victim or perpetrator of violence against women later in life. Developing innovative strategies for identifying and treating child witnesses is an under-explored potential avenue for preventing violence.

E. Perpetrators of domestic violence often have multiple problems that cannot be dealt with separately. Consequently, services for perpetrators could be made more effective by better integrating them with other relevant services; e.g., substance abuse, mental health, aging, and criminal justice services.

Part II. State Coalition Grant Requirements

This section includes application requirements for family violence prevention and services grants for State domestic violence coalitions and is organized as follows:

Application Requirements:

A. Legislative Authority
B. Background
C. Eligibility
D. Funds Available
E. Expenditure Period
F. Reporting Requirements
A. Application Requirements
B. Paperwork Reduction Act
C. Executive Order 12372
D. Certifications

A. Legislative Authority

Title III of the Child Abuse Amendments of 1984, (Pub. L. 98–457, 42 U. S. C. 10401, *et seq.*) is entitled the FamilyViolence Prevention and Services Act (the Act). The Act was first implemented in FY 1986, was reauthorized and amended in 1992 by Public Law 102–295, and was amended and reauthorized for fiscal years 1996 through 2000 by Public Law 103–322, the Violence Crime Control and Law Enforcement Act of 1994 and by Public Law 104–235, the "Child Abuse Prevention and Treatment Act Amendment of 1996". The Act was most recently amended by the "Victims of Trafficking and Violence Protection Act" (Pub. L. 106–386, 10/28/2000).

B. Background

Section 311 of the Act, 42 U.S.C. 10410, requires the Secretary to award grants to statewide private non-profit State domestic violence coalitions to conduct activities to promote domestic violence intervention and prevention.

C. Eligibility

To be eligible for grants under this program announcement, an organization shall be a statewide private non-profit domestic violence coalition meeting the following criteria:

(1) The membership of the coalition includes representatives from a majority of the programs for victims of domestic violence operating within the State (a State domestic violence coalition may include representatives of Indian Tribes and Tribal organizations as defined in the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450b);

(2) The Board membership of the coalition is representative of such programs;

(3) The purpose of the coalition is to provide services, community education, and technical assistance to domestic violence programs in order to establish and maintain shelter and related services for victims of domestic violence and their children; and

(4) In the application submitted by the coalition for the grant, the coalition provides assurances satisfactory to the Secretary that the coalition:

(A) has actively sought and encouraged the participation of law enforcement agencies and other legal or judicial entities in the preparation of the application; and

(B) will actively seek and encourage the participation of such entities in the activities carried out with the grant.

D. Funds Available

The Department will make ten percent of the Family Violence Prevention and Services Act (FVPSA) appropriation available for grants to State domestic violence coalitions. One grant each will be available for the State domestic violence coalitions of the 50 states, the Commonwealth of Puerto

Rico, and the District of Columbia. The Coalitions of the U. S. Territories (Guam, U. S. Virgin Islands, Northern Mariana Islands, American Samoa, and Trust Territory of the Pacific Islands) are also eligible for domestic violence coalition grant awards.

E. Expenditure Period

The FVPSA funds may be used for expenditures obligated on and after October 1 of each fiscal year for which they are granted and will be available for expenditure through September 30 of the fiscal year, i.e., FY 2002 funds must be obligated by September 30, 2002. Recipients must liquidate all obligations incurred under the award by September 30, 2003.

F. Reporting Requirements

1. The State domestic violence coalition grantee must submit an annual report of activities describing the coordination, training and technical assistance, needs assessment, and comprehensive planning activities carried out; the public information and education services provided; the activities conducted in conjunction with judicial and law enforcement agencies; the actions conducted in conjunction with other agencies such as the state child welfare agency; and any other activities undertaken under this grant award. The annual report also must provide an assessment of the effectiveness of the grant-supported activities.

The annual report is due 90 days after the end of the fiscal year, in which the grant is awarded (December 29). The final program report is due 90 days after the end of the expenditure period, (December 29). Program Reports are to be sent to: Office of Community Services, Administration for Children and Families, Attn: William D. Riley, 370 L'Enfant Promenade, SW., 5th Floor West, Washington, DC 20447.

2. The State domestic violence coalition grantees must also submit an annual financial report, Standard form 269 (SF–269). A financial report is due 90 days after the end of the fiscal year in which the grant is awarded. A final financial report is due 90 days after the end of the expenditure period. Financial reports are to be sent to: Office of Mandatory Grants, Administration for Children and Families, 370 L'Enfant Promenade, SW., Attention: Joseph Lonergan, 4th Floor, Washington, DC 20447.

G. Application Requirements

The State domestic violence coalition application must be signed by the Executive Director of the Coalition or the official designated as responsible for the administration of the grant. The application must contain the following information (consistent with the requirements of the Family Violence Prevention and Services Act):

1. A description of the process and anticipated outcomes of utilizing these federal funds to work with local domestic violence programs and providers of direct services to encourage appropriate responses to domestic violence within the State, including:

(a) Training and technical assistance for local programs and professionals working with victims of domestic violence;

(b) Planning and conducting State needs assessments and planning for comprehensive services;

(c) Serving as an information clearinghouse and resource center for the State; and

(d) Collaborating with other governmental systems that affect battered women (section 311(a) (1), 42 U.S.C. 10410(a)(1)).

2. A description of the public education campaign regarding domestic violence to be conducted by the coalition through the use of public service announcements and informative materials that are designed for print media; billboards; public transit advertising; electronic broadcast media; and other forms of information dissemination that inform the public about domestic violence, including information aimed at underserved racial, ethnic or language-minority populations (section 311 (a) (4), 42 U.S.C. 10410(a)(4)).

3. The anticipated outcomes and a description of planned grant activities to be conducted in conjunction with judicial and law enforcement agencies concerning appropriate responses to domestic violence cases and an examination of issues including the:

(a) Inappropriateness of mutual protection orders;

(b) Prohibition of mediation when domestic violence is involved;

(c) Use of mandatory arrests of accused offenders;

(d) Discouragement of dual arrests;

(e) Adoption of aggressive and vertical prosecution policies and procedures;

(f) Use of mandatory requirements for pre-sentence investigations;

(g) Length of time taken to prosecute cases or reach plea agreements;

(h) Use of plea agreements;

(i) Consistency of sentencing, including comparisons of domestic violence crimes with other violent crimes;

(j) Restitution to victims;

(k) Use of training and technical assistance to law enforcement and other criminal justice professionals;

(l) Reporting practices of, and the significance to be accorded to, prior convictions (both felony and misdemeanor) and protection orders;

(m) Use of interstate extradition in cases of domestic violence crimes;

(n) The use of statewide and regional planning; and

(o) Any other matters the State Domestic Violence Coalition believes merits investigation (section 311 (a) (2), 42 U.S.C. 10401 (a) (2)).

4. The anticipated outcomes and a description of planned grant activities to be conducted in conjunction with family law judges, criminal court judges, child protective services agencies, child welfare agencies, family preservation and support service agencies, and children's advocates to develop appropriate responses to child custody and visitation issues in domestic violence cases and in cases where domestic violence and child abuse are both present, including the:

(a) Inappropriateness of mutual protection orders;

(b) Prohibition of mediation when domestic violence is involved;

(c) Inappropriateness use of marital or conjoint counseling in domestic violence cases;

(d) Use of training and technical assistance for Family Law Judges, Criminal Court Judges, and court personnel;

(e) The presumption of custody to domestic violence victims;

(f) Use of comprehensive protection orders to grant fullest protection possible to victims of domestic violence, including temporary custody support and maintenance;

(g) Development of Child Protective Services of supportive responses that enable victims to protect their children;

(h) Implementation of supervised visitations or denial of visitation to protect against danger to victims or their children; and

(i) The possibility of permitting domestic violence victims to remove children from the State when the safety of the children or the victim is at risk (section 311(a)(3), 42 U.S.C. 10410(a)(3)).

5. The anticipated outcomes and a description of other activities in support of the general purpose of furthering domestic violence intervention and prevention.

6. The following documentation will certify the status of the domestic violence coalition and must be included in the grant application:

(a) A description of the procedures developed between the State domestic

violence agency and the Statewide coalition that allow for implementation of the following cooperative activities:

(i) The applicant coalition's participation in the planning and monitoring of the distribution of grants and grant funds provided in the State, under section 303(a) of the Act (section 311(a)(5), 42 U.S.C. 10410(a)(5)).

(ii) The participation of the State domestic violence coalition in compliance activities regarding the State's family violence prevention and services program grantees as required by section 303(a)(3) of the Act.

(b) Unless already on file at HHS, a copy of a currently valid 501(c)(3) certification letter from the Internal Revenue Service stating private non-profit status; or a copy of the applicant's listing in the Internal Revenue's Services (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code;

(c) A copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled;

(d) A current list of the organizations operating programs for victims of domestic violence programs in the State and the applicant coalition's current membership list by organization;

(e) A list of the applicant coalition's current Board of Directors, with each individual's organizational affiliation and the Chairperson identified;

(f) A copy of the resume of any coalition or contractual staff to be supported by funds from this grant and/or a statement of requirements for staff or consultants to be hired under this grant; and

(g) A budget narrative which clearly describes the planned expenditure of funds under this grant.

7. Required Documentation and Assurances (included in the application as an appendix).

(a) The applicant coalition must provide documentation in the form of support letters, memoranda of agreement, or jointly signed statements, that the coalition:

(i) Has actively sought and encouraged the participation of law enforcement agencies and other legal or judicial organizations in the preparation of the grant application (section 311(b)(4)(A), 42 U.S.C. 10410(b)(4)(A)); and

(ii) Will actively seek and encourage the participation of such organizations in grant funded activities (section 311(b)(4)(B), 42 U.S.C. 10410(b)(4)(B)).

(b) The applicant coalition must provide a signed statement that the coalition will not use grant funds, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar legal document by any Federal, State or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress, or any State or local legislative body, or State proposals by initiative petition, except that the representatives of the State Domestic Violence Coalition may testify or make other appropriate communications:

(i) when formally requested to do so by a legislative body, a committee, or a member of such organization (section 311(d)(1), 42 U.S.C. 10410(d)(1)); or

(ii) in connection with legislation or appropriations directly affecting the activities of the State domestic violence coalition or any member of the coalition (section 311(d)(2), 42 U.S.C. 10410(d)(2)).

(c) The applicant coalition must provide a signed statement that the State domestic violence coalition will prohibit discrimination on the basis of age, handicap, sex, race, color, national origin or religion, in accordance with Section 307 of the Act, 42 U.S.C. 10406.

D. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (the Act), Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting of record-keeping requirement inherent in a proposed or final rule, or program announcement. This program announcement contains information collection requirements in sections (F) and (G) of Part II which require that certain information must be provided in annual reports, fiscal reports, and as part of a grantee's application. We estimate that all of the information requirements for this program will take each grantee approximately 6 hours to complete. As there are 57 projected grantees, the total number of hours annually will be 342.

Organizations and individuals desiring to submit comments on the information collection requirement should direct them to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 308), Washington, DC 20503, Attention: Desk Officer for the Administration for Children and Families.

In accordance with the Act, the application requirements contained in this notice have been approved by OMB under control number 0970–0062.

I. Notification Under Executive Order 12372

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs" for State plan consolidation and simplification only—45 CFR 100.12. The review and comment provisions of the Executive Order and Part 100 do not apply.

J. Certifications

Applicants must comply with the required certifications found at Attachments A, B, C, and D as follows:

1. *The Anti-Lobbying Certification and Disclosure Form* must be signed and submitted with the application. If applicable, a Standard Form LLL, which discloses lobbying payments must be signed and submitted.

2. *Certification Regarding Debarment:* The signature on the application by a coalition official responsible for the administration of the program attests to the applicant's intent to comply with the Debarment Certification. The Debarment Certification does not have to be returned with the application.

3. *Certification Regarding Environmental Tobacco Smoke:* The signature on the application by a coalition official certifies that the applicant will comply with the requirements of the Pro-Children Act of 1994 (Act). The applicant further agrees that it will require the language of this certification be included in any standards which contain provisions for children's Services and that all grantees shall certify accordingly.

4. *Certification Regarding Drug-Free Workplace Requirements:* The signature on the application by a coalition official attests to the applicant's intent to comply with the Drug-Free Workplace requirements.

(Catalog of Federal Domestic Assistance Number 93.591,Family Violence Prevention and Services: Grants to State Domestic Violence Coalitions)

Dated: November 26, 2001.

Robert Mott,

Deputy Director, Office of Community Services.

List of Attachments

Attachment A—Certification Regarding Lobbying
Attachment B—Certification Regarding Debarment
Attachment C—Certification Regarding Environmental Tobacco Smoke
Attachment D—Certification Regarding Drug-Free Workplace

Attachment A

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

BILLING CODE 4184-01-P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	**Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

BILLING CODE 4184-01-C

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP–DE–90–001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348–0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Attachment B

Administration for Children and Families

U.S. Department of Health and Human Services

Certification Regarding Debarment, Suspension and other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency

may terminate this transaction for cause or default.

* * * * *

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Attachment C

Certification Regarding Environmental Tobacco Smoke

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and

submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Attachment D

Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central pint is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW., Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the Attachment D workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the

Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant: Place of Performance (Street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[FR Doc. 01–29834 Filed 12–3–01; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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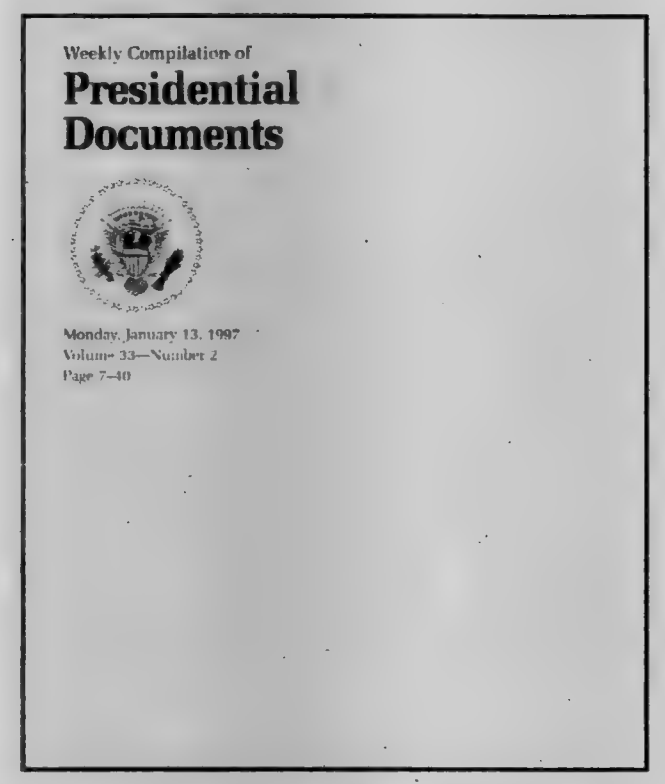

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Presidential Documents

Title 3—

The President

Proclamation 7510 of November 30, 2001

World Aids Day, 2001

By the President of the United States of America

A Proclamation

This year marks the 20th year that the world has been fighting the disease that we now know as Acquired Immunodeficiency Syndrome (AIDS). AIDS has inflicted a terrible toll upon the world, taking millions of lives and causing untold grief to the families and friends of its victims. An estimated 40 million people worldwide are living with the Human Immunodeficiency Virus (HIV), which causes AIDS; and more than 8,000 people across the globe die from AIDS every day. Sadly, since its inception, AIDS has claimed the lives of more than 22 million individuals.

This year's World AIDS Day theme is "I Care . . . Do You? Youth and AIDS in the 21st Century." The goal underscoring this year's theme is ensuring greater education and involvement of young people in preventing HIV/AIDS. And it seeks to stress that every individual has both the responsibility and the opportunity to help prevent the spread of HIV/AIDS and to assist those suffering from the disease.

In many countries, including the United States, young people and adolescents are at a higher risk for contracting HIV infection. We know from epidemiological data that young people under the age of 25 comprise half of all new HIV infections worldwide. This sobering reality is a clarion call to public health networks around the world to redouble their efforts in providing information to young people about preventing HIV/AIDS, and most importantly, about abstinence and how it can help to prevent the spread of this disease.

The AIDS epidemic has had a devastating impact on diverse communities, and disadvantaged youth have borne the brunt of this devastation. Impoverished conditions and depressed economic circumstances tend to accompany an increased presence of HIV in these communities. We must develop and implement better ways to communicate to youth about abstinence and other effective measures that will help them to avoid the disease and to envision a future filled with possibility.

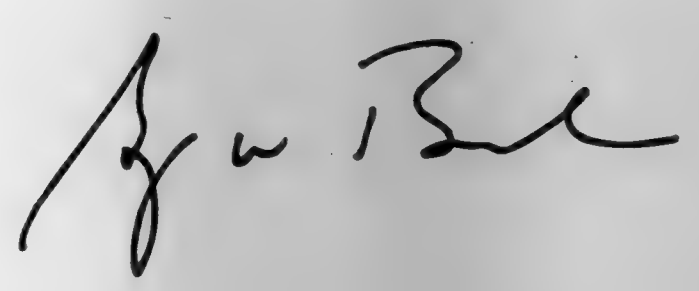
We must also continue our efforts to develop a vaccine that will protect individuals from becoming infected with HIV. Our children deserve to live in a world free from the fear of HIV/AIDS, and the United States will not weaken in its resolve to lead the world towards that goal.

As we enter the third decade of the AIDS pandemic, our hearts go out to those who have been afflicted with or affected by this deadly disease. We resolve to stand together as a Nation and with the world to fight AIDS on all fronts. We resolve to provide the resources necessary to combat HIV/AIDS. And we resolve to ensure that those suffering with HIV/AIDS receive effective care and treatment, compassionate understanding, and encouraging hope.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 1, 2001, as World AIDS Day. I invite the Governors of the States and the Commonwealth of Puerto Rico, officials of the other territories subject to the jurisdiction

of the United States, and the American people to join me in reaffirming our commitment to combat HIV/AIDS. I encourage every American to participate in appropriate commemorative programs and ceremonies in workplaces, houses of worship, and other community centers to reach out and protect and educate our children, and to help comfort all people who are living with HIV and AIDS.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of November, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 01–30279
Filed 12–4–01; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 66, No. 234
Wednesday, December 5, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 00–088–2]

Karnal Bunt; Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations by adding new areas to the list of areas regulated because of Karnal bunt, a fungal disease of wheat, due to the detection during the 2000 harvest of bunted kernels in grain grown in these areas. We are also removing certain fields from regulation because wheat is no longer grown in those fields or because fields previously classified as regulated areas have produced grain that has tested negative for Karnal bunt. These actions will help prevent the spread of Karnal bunt into noninfested areas of the United States and remove from regulation certain fields where restrictions no longer appear to be warranted.

EFFECTIVE DATE: December 5, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Vedpal S. Malik, National Karnal Bunt Coordinator, PPQ, APHIS, USDA, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–6774.

SUPPLEMENTARY INFORMATION:

Background

Karnal bunt is a fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum X Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores, primarily through the planting of infected seed. Some countries in the international wheat market regulate Karnal bunt as a fungal disease requiring quarantine; therefore, without measures taken by the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), to prevent its spread, the presence of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets.

The regulations regarding Karnal bunt are set forth in 7 CFR 301.89–1 through 301.89–16 (referred to below as the regulations).

On April 20, 2001, we published in the **Federal Register** (66 FR 20204–20208, Docket No. 00–088–1) a proposal to amend the regulations by adding new areas to the list of areas regulated because of Karnal bunt due to the detection during the 2000 harvest of bunted kernels in grain grown in those areas. We also proposed to remove fields from regulation because wheat is no longer grown in those fields or because the fields, which were previously classified as regulated areas because they were planted with seed that was suspected to be contaminated with Karnal bunt, have now produced grain that has tested negative for Karnal bunt.

We solicited comments concerning our proposal for 60 days ending June 19, 2001. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change. However, since the publication of the proposed rule, we have published two interim rules adding regulated areas in Texas. Specifically, in an interim rule effective on June 8, 2001, and published on June 14, 2001, (66 FR 32209–32210, Docket No. 01–058–1), we added Throckmorton and Young Counties, TX, to the list of regulated areas in § 301.89–3(f) and solicited comments on that action for 60 days ending on August 13, 2001. Subsequently, we published a second interim rule, effective on July 13, 2001, and published on July 19, 2001 (66 FR 37575–37576, Docket No. 01–063–1), that added Archer and Baylor Counties, TX, to that list, and solicited comments on that action for 60 days ending on September 17, 2001. The addition of those four counties to the list of regulated areas is reflected in § 301.89–3(f) in this rule.

Effective Date

This is a substantive rule that, in part, relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553(d)(1), the provisions of this rule that relieve restrictions may be made effective less than 30 days after publication in the **Federal Register**. This rule removes certain fields in Arizona and New Mexico from the list of areas regulated because of Karnal bunt either because wheat is no longer grown in those fields or because grain from those fields has tested negative for Karnal bunt. This action will eliminate restrictions on the movement of wheat and other regulated articles from these fields.

This rule also adds certain fields in Arizona to the list of regulated areas due to the detection of Karnal bunt. This action is necessary to help prevent the spread of the disease to noninfested areas in the United States. Consequently, we find good cause under 5 U.S.C. 553(d)(3) to make these restrictions effective less than 30 days after publication in the **Federal Register**.

Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

Upon the initial detection of Karnal bunt in Arizona in March of 1996, a Federal quarantine and emergency actions were imposed to prevent the interstate spread of the disease to other wheat producing areas in the United States. The quarantine has remained in effect, although it has since been modified in terms of its physical boundaries and restrictions on the production and movement of regulated articles.

Effects on Deregulated Areas

This final rule will remove from regulation 9 fields in Arizona and 16 fields in New Mexico, reducing the size of the regulated area in both States. The fields that are being removed by this rule cover about 290 acres in Arizona and 530 acres in New Mexico.

We estimate that one wheat producer in Arizona and six wheat producers in New Mexico will be affected by that aspect of this rule. Under the regulations, wheat, durum wheat, and triticale may only be moved from regulated areas to nonregulated areas if it tests negative for bunted kernels. Additionally, commercial wheat seed may not be moved from regulated to nonregulated areas. Producers whose fields are removed from regulation will benefit because they will be able to move wheat and other regulated articles from these fields without restriction.

These benefits, however, are likely to be minimal. Considering that the testing of grain for Karnal bunt is already a free service for all producers in regulated areas, the elimination of testing requirements removes an inconvenience only, not a financial burden. Further, little or no commercial wheat seed is, or is expected to be, grown in the affected fields.

Similarly, this aspect of the rule will not serve to significantly reduce the need for equipment cleaning by producers or by custom combine harvesters who routinely move their machines into and out of regulated areas to harvest wheat for multiple producers. In the past, there has been little need for such cleaning because crops harvested in the affected fields have not produced bunted kernels, and equipment must be cleaned only if it has been used to harvest host crops that test positive for Karnal bunt.

One field in Arizona will be removed from regulation because it is currently being used for the construction of houses. In this case, no wheat producers or custom harvesters will be affected because the field is not being used for agricultural purposes.

Effects on Regulated Areas

The new areas being added to the regulated area in Arizona cover about 23,100 acres and contain approximately 600 fields. We estimate that about 15 wheat producers and 6 custom combine harvesters will be affected by this aspect of the rule. However, the effect on each is not likely to be significant. As previously stated, the required grain testing is performed free of charge for producers in regulated areas. Also, little or no commercial wheat seed is, or is expected to be, grown in the affected fields. Finally, mechanized harvesting equipment does not have to be cleaned and disinfected prior to movement from a regulated area unless it has been used to harvest crops that test positive for Karnal bunt.

Overall, the regulated agricultural acreage in Arizona will increase by about 22,810 acres to approximately 281,000 acres. In New Mexico, regulated agricultural acreage will decrease by approximately 530 acres to about 3,300 acres.

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small businesses; organizations, and governmental jurisdictions. In this case, entities that will be most affected by this rule are wheat producers and custom combine harvesters. The size of these entities is unknown. It is reasonable to assume, however, that most are small in size according to the U.S. Small Business Administration's (SBA) criteria. This assumption is based on composite data for providers of the same and similar services. For example, in 1997, of the 6,135 wheat and other farms in Arizona, 89 percent had annual sales of less than $0.5 million, the SBA's threshold for a small wheat farm. Similarly, in 1997, there were 366 U.S. firms involved in mechanical harvesting and related activities, including combining of crops. Of these firms, 93 percent had less than $5.0 million in annual sales, which is the SBA's threshold for a small entity for businesses of that type.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform.

This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

2. In § 301.89–3, paragraph (f) is revised to read as follows:

§ 301.89–3 Regulated areas.

* * * * *

(f) The following areas or fields are designated as regulated areas (maps of the regulated areas may be obtained by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road Unit 134, Riverdale, MD 20737–1236):

Arizona

La Paz County. (1) Beginning at the southeast corner of sec. 33, T. 5 N., R. 21 W.; then west to the Colorado River; then north along the Colorado River to the west edge of sec. 26, T. 6 N., R. 22 W.; then north to the northwest corner of sec. 26, T. 6 N., R. 22 W.; then east to the northeast corner of sec. 27, T. 6 N., R. 21 W.; then south to the southeast corner of sec. 10, T. 5 N., R. 21 W.; then west to the southwest corner of sec. 10, T. 5 N, R. 21 W.; then south to the point of beginning.

(2) Beginning at the southeast corner of sec. 6, T. 7 N., R. 20 W.; then west to the southeast corner of sec. 35, T. 7 N., R. 21 W.; then south to the southeast corner of sec. 2, T. 6 N., R. 21 W; then west to the southeast corner of sec. 3, T. 6 N., R. 21 W.; then south to the southeast corner of sec. 15, T. 6 N., R. 21 W.; then west to the southwest corner of sec. 13, T. 6 N., R. 22 W., then north to the northwest corner of sec. 25, T. 7 N., R. 22 W.; then east to the southwest corner of sec. 19, T. 7 N., R. 21 W.; then north to the Colorado River; then northeast along the Colorado River to the north edge of sec. 32, T. 8 N., R. 21 W.; then east to the northeast corner of sec. 31, T. 8 N., R. 20 W.; then south to the point of beginning.

Maricopa County. (1) Beginning at the southeast corner of sec. 12, T. 6 S., R. 6 W.; then west to the southwest corner of sec. 7, T. 6 S., R. 6 W.; then north to the northwest corner of sec. 7, T. 6 S., R. 6 W.; then west to the southwest corner of sec. 2, T. 6 S., R. 7 W.; then north to the northwest corner of sec. 14, T. 5 S., R. 7 W.; then east to the northeast corner of sec. 18, T. 5 S., R. 6 W.; then south to the southeast corner of sec. 19, T. 5 S., R. 6 W.; then east to the northeast corner of sec. 25, T. 5 S., R. 6 W.; then south to the point of beginning.

(2) Beginning at the southeast corner of sec. 34, T. 1 N., R. 2 W.; then west to the northeast corner of sec. 5, T. 1 S., R. 2 W.; then south to the southeast corner of sec. 8, T. 1 S., R. 2 W.; then west to the southeast corner of sec. 11, T. 1 S., R. 4 W.; then south to the southeast corner of sec. 14, T. 1 S, R. 4 W.; then west to the southwest corner of sec. 14, T. 1 S., R. 5 W.; then north to the northwest corner of sec. 14, T. 1 N., R. 5 W.; then east to the northwest corner of sec. 17, T. 1 N., R. 2 W.; then north to the northwest corner of sec. 8, T. 1 N., R. 2 W.; then east to the northeast corner of sec. 10, T. 1 N., R. 2 W.; then south to the point of beginning.

(3) Beginning at the southeast corner of sec. 28, T. 1 S., R. 2 E.; then west to the southwest corner of sec. 30, T. 1 S., R. 2 E.; then north to the southwest corner of sec. 18, T. 1 S., R. 2 E.; then west to the southwest corner of sec. 14, T. 1 S., R. 1 E.; then north to the southwest corner of sec. 2, T. 1 S., R. 1 E.; then west to the southwest corner of sec. 4, T. 1 S., R. 1 E.; then north to the northwest corner of sec. 4, T. 1 S., R. 1 E.; then west to the southwest corner of sec. 36, T. 1 N., R. 2 W.; then north to the southwest corner of sec. 25, T. 2 N., R. 2 W.; then west to the southwest corner of sec. 27, T. 2 N., R. 2 W.; then north to the northwest corner of sec. 3, T. 3 N., R. 2 W.; then east to the northeast corner of sec. 1, T. 3 N., R. 1 W.; then south to the northwest corner of sec. 19, T. 3 N., R. 1 E.; then east to the northeast corner of sec. 23, T. 3 N., R. 1 E.; then south to the southeast corner of sec. 35, T. 3 N., R. 1 E.; then east to the northeast corner of sec. 1, T. 2 N., R. 1 E.; then south to the northwest corner of sec. 18, T. 1 N., R. 2 E.; then east to the northeast corner of sec. 13, T. 1 N., R. 2 E.; then south to the southeast corner of sec. 12, T. 1 S., R. 2 E.; then west to the southeast corner of sec. 9, T. 1 S., R. 2 E.; then south to the point of beginning.

(4) Beginning at the southeast corner of sec. 34, T. 2 N., R. 5 E.; then west to the southwest corner of sec. 31, T. 2 N., R. 5 E.; then north to the northwest corner of sec. 7, T. 2 N., R. 5 E.; then east to the northeast corner of sec. 10, T. 2 N., R. 5 E.; then south to the point of beginning.

(5) Beginning at the intersection of the Maricopa/Pinal County line and the southwest corner of sec. 31, T. 2 S., R. 5 E.; then north to the northwest corner of sec. 31, T. 2 S., R. 5 E.; then west to the southwest corner of sec. 25, T. 2 S., R. 4 E.; then north to the southwest corner of sec. 13, T. 2 S., R. 4 E.; then west to the southwest corner of sec. 15, T. 2 S., R. 4 E; then north to the northwest corner of sec. 3, T. 2 S., R. 4 E.; then east to the southwest corner of sec. 35, T. 1 S., R. 4 E.; then north to the northwest corner of sec. 35, T. 1 S., R. 4 E.; then east to the northwest corner of sec. 34, T. 1 S., R. 5 E.; then north to the northwest corner of sec. 22, T. 1 S., R. 5 E.; then east to the northwest corner of sec. 20, T. 1 S., R. 6 E.; then north to the northwest corner of sec. 8, T. 1 S., R. 6 E.; then east to the northeast corner of sec. 7, T. 1 S., R. 7 E.; then south to the southeast corner of sec. 31, T. 1 S., R. 7 E.; then east to the northeast corner of sec. 5, T. 2 S., R. 7 E.; then south to the southeast corner of sec. 5, T. 2 S., R. 7 E.; then east to the Maricopa/Pinal County line; then south and west along the Maricopa/Pinal County line to the point of beginning.

(6) The following individual fields in Maricopa County are regulated areas:

301060505, 301060506, 301060601, 301060602, 301060603 301060604, 301102505, 301102506, 303111502, 303111503, 304031904, 304031906, 304073004, 304073005, 304073010, 304081410, 304081413, 304081415, 304081417, 304081505, 304081506, 304082202, 304082302, 304082303, 304082607, 304082703, 306013222, 306013231, 306020404, 306020501, 306020601, 306020623, 316123301, 316123302, 316123303, 316131901, 316131904, 316132302, 316132604,

Pinal County. (1) Beginning at the intersection of the Maricopa/Pinal County line and the northwest corner of sec. 7, T. 2 S., R. 8 E.; then east to the northeast corner of sec. 8, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 8, T. 2 S., R. 8 E.; then east to the northeast corner of sec. 16, T. 2 S., R. 8 E., then south to the southeast corner of sec. 28, T. 2 S., R. 8 E.; then west to the southeast corner of sec. 29, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 32, T. 2 S., R. 8 E.; then west to the Maricopa/Pinal County line; then north along the Maricopa/Pinal County line to the point of beginning.

(2) Beginning at the point of intersection of the Maricopa/Pinal County line and the northeast corner of sec. 5, T. 3 S., R. 6 E.; then south to the southeast corner of sec. 32, T. 3 S., R. 6 E.; then west to the southwest corner of sec. 34, T. 3 S., R. 5 E.; then north to the southwest corner of sec. 3, T. 3 S., R. 5 E.; then west to the southwest corner of sec. 6, T. 3 S., R. 5 E.; then north to the Maricopa/Pinal County line; then east along the Maricopa/Pinal County line to the point of beginning.

(3) Beginning at the southeast corner of sec. 5, T. 6 S., R. 4 E.; then west to the southwest corner of sec. 5, T. 6 S., R. 3 E.; then north to the southwest corner of sec. 28, T. 5 S., R. 3 E.; then west to the southwest corner of sec. 25, T. 5 S., R. 2 E.; then north to the southwest corner of sec. 24, T. 5 S., R. 2 E.; then west to the southwest corner of sec 23, T. 5 S., R. 2 E.; then north to the northwest corner of sec. 35, T. 4 S., R. 2 E.; then east to the northwest corner of sec. 36, T. 4 S., R. 2 E.; then north to the northwest corner of sec. 25, T. 4 S., R. 2 E.; then east to the northwest corner of sec. 29, T. 4 S., R. 3 E.; then north to the northwest corner of sec. 20, T. 4 S.,R. 3 E.; then east to the northeast corner of sec. 21, T. 4 S., R. 4 E.; then south to the northeast corner of sec. 4, T. 5 S., R. 4 E.; then east to the northeast corner of sec. 3, T. 5 S., R. 4 E., then south to the southeast corner of sec. 22, T. 5 S., R. 4 E.; then west to the southeast corner of sec. 21, T. 5 S., R. 4 E.; then south to the point of beginning.

(4) The following individual fields in Pinal County are regulated areas:

307012207, 308102604, 308102605, 309021801, 309021804, 309021812, 309031304, 309033507, 309042544, 309042545, 309042601, 309042607, 309042619, 309042620, 309042621, 309050104, 309050109, 309050122, 309050207, 309050209,

Yuma County. The following individual fields in Yuma County are regulated areas: 321011103, 321033501, 321033502, 321033503, 321033516, 321033517, 321033518, 321033519, 321040405, 321040911, 321040912, 321040915, 321040917, 321040918, 321040921, 321040922, 321041908, 321041919, 323030401, 323030402, 323030403, 323030404, 323030405, 323030406, 323030501, 323030502, 323030512, 323030513, 323030514, 323030515, 323030521.

California

Imperial County. Beginning at the intersection of the Riverside/Imperial County line and the California/Arizona State line; then west to the northwest corner of sec. 1, T. 9 S., R. 21 E.; then south to the California/Arizona State line; then east and north along the State line to the point of beginning.

Riverside County. Beginning at the intersection of the Riverside/Imperial County line and the California/Arizona State line; then west to the southwest corner of sec. 31, T. 8 S., R. 22 E.; then north to the northwest corner of sec. 30, T. 7 S., R. 22 E.; then north and northeast along the Palo Verde Valley agriculture area to the California/Arizona State line; then south along the State line to the point of beginning.

New Mexico

Dona Ana County. The following individual fields in Dona Ana County are regulated areas: 113040501, 113040502, 113040506, 113040507, 113040508, 113040602, 113040702, 113040902, 113042601, 113042707, 113042708, 113043401, 113043407, 113050201, 113050202, 113050301, 113060702, 113060703, 113060801, 113060809, 113060901, 113060902, 113070702, 113072701, 113072702, 113072703, 113072704, 113072705, 113072706, 113173103, 113210401, 113210402, 113210403, 113210406, 113210407, 113210808, 113212103, 113212802, 113212806, 113241601, 113242708,

Hildalgo County. The following individual fields in Hidalgo County are regulated areas: 123272403, 123353001.

Luna County. The following individual fields in Luna County are regulated areas: 129011301, 129012201, 129013003, 129013006, 129060901, 129060902, 129062001, 129062802, 129232801, 129232805, 129232806, 129300506, 129301104, 129301701, 129301801, 129302702, 129303302, 129440601, 129440602, 129440701, 129440708, 129441701,

Sierra County. The following individual fields in Sierra County are regulated areas: 151013401, 151441201, 151441202, 151441306, 151442201, 151442601, 151442602, 151442603, 151442604, 151442605, 151442606, 151442607, 151442608, 151442609, 151442610, 151442611, 151442612, 151442613, 151442614, 151442701, 151443501, 151443502, 151443503, 151443601, 151443602, 151443603, 151443604, 151453001, 151453101, 151453102, 151453103, 151453104, 151453106.

Texas

Archer County. The entire county.

Baylor County. The entire county.

El Paso County. The following individual fields in El Paso County are regulated areas: 441141301, 441142301, 441142302, 441142303, 441142304, 441142305, 441142306, 441142307, 441142401, 441142402, 441142403, 441142404, 441241301, 441241302, 441252801, 441252803, 441252804, 441252901, 441253201, 441253302, 441253401.

Hudspeth County. The following individual fields in Hudspeth County are regulated areas: 429050701, 429050702, 429070101, 429070102.

McCulloch County. Beginning at the McCulloch/San Saba County line and the line of latitude 31.232299 N.; then west along the line of latitude 31.232299 N. to the line of longitude –99.13473 W.; then north along the line of longitude –99.13473 W. to the line of latitude 31.31004 N.; then east along the line of latitude 31.31004 N. to the line of longitude –99.11427 W.; then north along the line of longitude –99.11427 W. to the line of latitude 31.283487 N.; then east along the line of latitude 31.283487 N. to the McCulloch/San Saba County line; then south to the point of beginning.

San Saba County. (1) Beginning at the San Saba/Mills County line and the line of longitude –98.5851 W.; then south along the line of longitude –98.5851 W to the line of latitude 31.167959 N.; then west along the line of latitude 31.167959 N. to the line of longitude –98.903233 W.; then north along the line of longitude –98.903233 W. to the line of latitude 31.310819 N.; then east along the line of latitude 31.310819 N. to the San Saba/Mills County line; then south along the San Saba/Mills County line to the point of beginning.

(2) Beginning at the San Saba/McCulloch County line and the line of latitude 31.283487 N.; then east along the line of latitude 31.283487 N. to the line of longitude –99.063487 W.; then south along the line of longitude –99.063487 W. to the line of latitude 31.232299 N.; then west along the line of latitude 31.232299 N. to the San Saba/McCulloch County line; then north along the San Saba/McCulloch County line to the point of beginning.

Throckmorton County. The entire county.

Young County. The entire county.

Done in Washington, DC, this 29th day of November 2001 .

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30105 Filed 12–4–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–349–AD; Amendment 39–12526; AD 2001–23–51]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4–600, B4–600R, and F4–600R (Collectively Called A300–600) Series Airplanes; and Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 2001–23–51 that was sent previously to all known U.S. owners and operators of certain Airbus Model A300 B4–600, B4–600R, and F4–600R (collectively called A300–600) series airplanes; and Model A310 series airplanes by individual notices. This AD requires a one-time detailed visual inspection to detect repairs and alterations to, and damage of the vertical stabilizer attachment fittings, including the main attachment lugs and the transverse (side) load fittings; and the rudder hinge fittings, hinge arms, and support fittings for all rudder hinges, and rudder actuator support fittings; and repair, if necessary. This AD also requires that operators report results of inspection findings to the FAA. This action is prompted by an airplane accident shortly after takeoff from John F. Kennedy International Airport, Jamaica, New York. The actions specified by this AD are intended to prevent failure of the vertical stabilizer-to-fuselage attachment fittings or transverse (side) load fittings, or rudder-to-vertical stabilizer attachment fittings, which could result in loss of the vertical stabilizer and/or rudder and consequent loss of control of the airplane.

DATES: Effective December 10, 2001, to all persons except those persons to whom it was made immediately effective by emergency AD 2001–23–51, issued on November 16, 2001, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before January 4, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–

349–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–349–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

Information pertaining to this AD may be examined at the FAA, Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Henry Offermann, Aerospace Engineer; Airframe and Cabin Safety Branch, ANM–115, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2676; fax (425) 227–1100.

SUPPLEMENTARY INFORMATION: On November 16, 2001, the FAA issued emergency AD 2001–23–51, which is applicable to certain Airbus Model A300 B4–600, B4–600R, and F4–600R (collectively called A300–600) series airplanes; and Model A310 series airplanes airplanes.

Background

On November 12, 2001, an Airbus Model A300 B4–605R airplane was involved in an accident shortly after takeoff from John F. Kennedy International Airport, Jamaica, New York. The cause of the accident is under investigation by the National Transportation Safety Board (NTSB). Although the NTSB has not determined the cause of the accident, it has determined that the vertical stabilizer departed the airplane. In addition, the rudder was found separated from the vertical stabilizer.

The vertical stabilizer on Airbus Model A300–600 series airplanes with Airbus Modification 4886 is manufactured of advanced composite materials. The vertical stabilizer on Airbus Model A310 series airplanes with the same modification is manufactured of the same materials. Failure of the vertical stabilizer-to-fuselage attachment fittings, transverse (side) load fittings, or rudder-to-vertical stabilizer attachment fittings, if not corrected, could result in loss of the vertical stabilizer and/or rudder and consequent loss of control of the airplane.

The FAA considers that, before structural failure, it may be possible to detect indications of possible failure modes that could result in separation of the vertical stabilizer from the airplane. These indications include edge delaminations, cracked paint, surface distortions, other surface damage, and failure of the transverse (side) load fittings. Similarly, indications of failure of the rudder assembly, which could lead to failure of the vertical stabilizer, may also be detectable with such an inspection. Although neither the FAA nor the NTSB have reached conclusions with respect to these possible failures on the accident airplane, we consider it prudent to require an inspection of these structures to identify any such indication that may exist.

These airplane models are manufactured in France and are type-certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. The FAA has coordinated this action with the Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, and the DGAC has taken similar action.

Explanation of the Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the FAA issued emergency AD 2001–23–51 to prevent failure of the vertical stabilizer-to-fuselage attachment fittings or transverse (side) load fittings, or rudder-to-vertical stabilizer attachment fittings, which could result in loss of the vertical stabilizer and/or rudder and consequent loss of control of the airplane. The AD requires a one-time detailed visual inspection to detect repairs and alterations to, and damage of the vertical stabilizer attachment fittings, including the main attachment lugs and the transverse (side) load fittings; and the rudder hinge fittings, hinge arms, and support fittings for all rudder hinges, and rudder actuator support fittings; and repair, if necessary. Damage of the metallic areas includes pulled or loose fasteners, wear areas, distorted flanges, cracks, and corrosion. Damage of the composite areas includes delamination; distorted surfaces that may indicate delamination; cracks in the paint surface; evidence of moisture damage; and cracked, splitting, or frayed fibers. This AD also requires that operators report results of inspection findings to the FAA.

Interim Action

This is considered to be interim action. The inspection report that is required by this AD will enable the FAA, DGAC, and manufacturer to obtain better insight into the potential unsafe condition, and eventually to develop final action to address it, if necessary. If final action is identified, the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on November 16, 2001, to all known U.S. owners and operators of certain Airbus Model A300 B4–600, B4–600R, and F4–600R (collectively called A300–600) series airplanes; and Model A310 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that

summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–349–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

AD 2001–23–51 Airbus Industrie: Amendment 39–12526. Docket 2001–NM–349–AD.

Applicability: Model A300 B4–600, B4–600R, and F4–600R (collectively called A300–600) series airplanes; and Model A310 series airplanes; certificated in any category; having a vertical stabilizer made of composite material (reference Airbus Modification 4886).

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished within the last 6 months.

To prevent failure of the vertical stabilizer-to-fuselage attachment fittings or transverse (side) load fittings, or rudder-to-vertical stabilizer attachment fittings, which could result in loss of the vertical stabilizer and/or rudder and consequent loss of control of the airplane, accomplish the following:

Compliance Time

(a) Within 15 days after the effective date of this AD, do the inspections specified in paragraphs (b) and (c) of this AD.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Inspection and Corrective Actions

(b) Perform a one-time detailed visual inspection to detect repairs and alterations to, and damage of the vertical stabilizer attachment fittings, including the main attachment lugs and the transverse (side) load fittings. Any alteration made to the composite structures, either during production or post-production, is considered areas of primary concern. Gain access to the vertical stabilizer attachment fittings by removing external fairings and internal access covers and inspect both sides of affected attachment fittings. Damage of the metallic areas includes pulled or loose fasteners, wear areas, distorted flanges, cracks, and corrosion. Damage of the composite areas includes delamination; distorted surfaces that may indicate delamination; cracks or abrading in the paint surface; surface damage; evidence of moisture damage; and cracked, splitting, or frayed fibers.

(1) If any damage is found to the vertical stabilizer attachment fittings, including the main attachment lugs and the transverse (side) load fittings, before further flight, repair per a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(2) If any repair or alteration to the attachment lug areas of the vertical stabilizer has been accomplished previously, before further flight, the repair or alteration must be approved by the Manager, International Branch, ANM–116.

(c) Perform a one-time detailed visual inspection to detect damage of the rudder hinge fittings, hinge arms, and support fittings for all rudder hinges, and rudder actuator support fittings. Damage of the metallic areas includes pulled or loose fasteners, wear areas, distorted flanges, cracks, and corrosion. Damage of the composite areas includes delamination; distorted surfaces that may indicate delamination; cracks or abrading in the paint surface; surface damage; evidence of moisture damage; and cracked, splitting, or frayed fibers. If any damage is found, before further flight, repair per the manufacturer's structural repair manual, or per a method approved by the Manager, International Branch, ANM–116.

Report

(d) Submit a report of inspection findings (both positive and negative) to the Manager, International Branch, ANM–116; fax (425) 227–1149; at the applicable time specified in paragraph (d)(1) or (d)(2) of this AD. The report must include the inspection results, a description of any repair, alteration, or discrepancy found, including digital photographs of the damaged area, the airplane serial number, and the number of flight cycles and flight hours on the airplane. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the inspection is accomplished after the effective date of this AD: Submit the report within 5 days after performing the inspection required by paragraph (a) of this AD.

(2) For airplanes on which the inspection has been accomplished prior to the effective date of this AD: Submit the report within 5 days after the effective date of this AD.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Effective Date

(g) This amendment becomes effective on December 10, 2001, to all persons except those persons to whom it was made immediately effective by emergency AD 2001–23–51, issued on November 16, 2001, which contained the requirements of this amendment.

Issued in Renton, Washington, oh November 26, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30082 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–345–AD; Amendment 39–12553; AD 2001–25–01]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8–33, –43, –51, –52, –53, and –55 Series Airplanes; Model DC–8F–54, and –55 Series Airplanes; and Model DC–8–61, –61F, –62, –62F, –63, –63F, –71, –71F, –72, –72F, –73, and –73F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8–33, –43, –51, –52, –53, and –55 series airplanes; Model DC–8F–54, and –55 series airplanes; and Model DC–8–61, –61F, –62, –62F, –63, –63F, –71, –71F, –72, –72F, –73, and –73F series airplanes. This action requires repetitive inspections of the electrical connectors of the explosive cartridge wiring of the engine fire extinguisher containers to verify if the identification number labels are installed and legible; repetitive electrical tests of all explosive cartridge wiring of the engine fire extinguisher containers to verify proper installation and function; and corrective actions, if necessary. This action is necessary to detect and correct cross-wired electrical connectors of the fire extinguishing system, which could release fire extinguishing agent into the incorrect engine nacelle in the event of an engine fire.

DATES: Effective December 20, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 20, 2001.

Comments for inclusion in the Rules Docket must be received on or before February 4, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–345–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–345–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Bond, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5253; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA has received reports of electrical connectors of the engine fire extinguishing agent containers being cross-wired on certain McDonnell Douglas DC–8 series airplanes. The fire extinguishing system on these airplanes consists of independent left- and right-wing fixed fire extinguisher installations. Each wing installation includes two containers with two fire extinguishing agent deployment lines per container. Either container of a wing installation may be discharged into either engine nacelle of the same wing. In one incident, six of eight electrical connectors of the explosive cartridges were found installed on the incorrect cartridge/discharge valve. These reported incidents were caused by unclear maintenance instructions and an inadequate wire harness design that does not prevent cross-connecting the electrical connectors. Cross-wired electrical connectors of the fire extinguishing system, if not corrected, could release fire extinguishing agent into the incorrect engine nacelle in the event of an engine fire.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin DC8–26A046, dated November 7, 2001. The service bulletin describes procedures for repetitive inspections of the electrical connectors of the explosive cartridge wiring of the fire extinguisher containers to verify if the identification number labels are installed and legible; and installation of a label or replacement of the label with a new label, if necessary. The service bulletin also describes procedures for repetitive electrical tests of the explosive cartridge wiring of the fire extinguisher container to verify proper installation and function, and for troubleshooting and repairing the wiring of the Firex Discharge system, if necessary.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model DC–8–33, –43, –51, –52, –53, and –55 series airplanes; Model DC–8F–54, and –55 series airplanes; and Model DC–8–61, –61F, –62, –62F, –63, –63F, –71, –71F, –72, –72F, –73, and –73F series airplanes of the same type design, this AD is being issued to detect and correct cross-wired electrical connectors of the fire extinguishing system, which could release fire extinguishing agent into the incorrect engine nacelle in the event of an engine fire. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin recommends accomplishing the inspection within two days (from the issue date of the service bulletin), the FAA has determined that a compliance time of 30 days will not adversely affect safety, and will allow the inspections and tests to be performed at a base during regularly scheduled maintenance where special equipment and trained maintenance personnel will be available if necessary. In addition, there has only been one reported engine fire in the entire DC–8 worldwide fleet in the last five years. Therefore, we find that a compliance time of 30 days is warranted.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–345–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–25–01 McDonnell Douglas: Amendment 39–12553. Docket 2001–NM–345–AD.

Applicability: Model DC–8–33, –43, –51, –52, –53, and –55 series airplanes; Model DC–8F–54, and –55 series airplanes; and Model DC–8–61, –61F, –62, –62F, –63, –63F, –71, –71F, –72, –72F, –73, and –73F series airplanes; certificated in any category; as listed in Boeing Alert Service Bulletin DC8–26A046, dated November 7, 2001.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cross-wired electrical connectors of the fire extinguishing system, which could release fire extinguishing agent into the incorrect engine nacelle in the event of an engine fire, accomplish the following:

Repetitive Inspections and Tests, and Corrective Action(s), if Necessary

(a) Within 30 days after the effective date of this AD, do the action(s) specified in paragraphs (a)(1) and (a)(2) of this AD per Boeing Alert Service Bulletin DC8–26A046, dated November 7, 2001.

(1) Do an inspection of the electrical connectors of the explosive cartridge wiring of the engine fire extinguisher containers to verify if the identification number labels are installed and legible. If any identification number label is missing or is not legible, before further flight, install a label or replace the label with a new label, as applicable. Repeat the inspection after each maintenance action for the Firex Discharge system.

(2) Do an electrical test of all explosive cartridge wiring of the engine fire extinguisher containers to verify proper installation and function, using the cockpit warning lamps. If the lamp fails to illuminate, before further flight, troubleshoot and repair the wiring of the Firex Discharge system. Repeat the test after each maintenance action for the Firex Discharge system.

Note 2: Inspections, tests, and corrective actions, if necessary, done per Boeing BOECOM M–7200–01–02632, dated November 5, 2001, before the effective date of this AD, are considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin DC8–26A046, dated November 7, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on December 20, 2001.

Issued in Renton, Washington, on November 29, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30084 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–327–AD; Amendment 39–12527; AD 2001–24–10]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Fokker Model F.28 Mark 0100 series airplanes. This action requires repetitive inspections of certain main landing gear (MLG) main fittings to detect forging defects, and rework of the main fittings if necessary. This action is necessary to detect forging defects of the MLG main fittings, which could lead to cracking and result in significant structural damage to the airplane and possible injury to the occupants.

DATES: Effective December 20, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 20, 2001.

Comments for inclusion in the Rules Docket must be received on or before January 4, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–327–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via the Internet must contain "Docket No. 2001–NM–327–AD" in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority—The Netherlands (CAA–NL), which is the airworthiness authority for the Netherlands, notified the FAA that an unsafe condition may exist on certain Fokker Model F.28 Mark 0100 series airplanes. The CAA–NL advises that, upon touchdown, a main landing gear (MLG) main fitting failed, causing the lower part of the main fitting to break off, including the MLG sliding member, wheels, and brakes. Subsequent inspection revealed a crack, located 5 centimeters outboard from the inboard face of the upstop damper abutment, which measured 12 millimeters in length and 2.5 millimeters in depth. In that same area, an operator found 3 more MLG main fittings with an indication of an eddy current defect. In several other cases, the crack was determined to be due to a forging defect. This condition, if not corrected, could lead to cracking and result in significant structural damage to the airplane and possible injury to the occupants.

Explanation of Relevant Service Information

Messier-Dowty Limited has issued Messier-Dowty Service Bulletin No. F100–32–101, including Appendices A and B, dated October 25, 2001, which describes procedures for two inspections of the MLG fittings for cracking and rework of the MLG main fittings within certain areas.

Service Bulletin No. F100–32–101 refers to Messier-Dowty Service Bulletin No. F100–32–100, Revision 1, dated June 19, 2001, and Fokker Service Bulletin SBF100–32–131, dated October 25, 2001, as additional sources of service information for the inspections and rework actions.

The CAA–NL classified Messier-Dowty Service Bulletin No. F100–32–100 as mandatory and issued Dutch airworthiness directive BLA 2001–080, dated June 29, 2001, for a one-time eddy current inspection and rework actions to assure the continued airworthiness of these airplanes in the Netherlands.

FAA's Determination

Although the previously referenced Dutch airworthiness directive specifies

a one-time eddy current inspection on MLG main fittings and rework actions per Messier-Dowty Service Bulletin No. F100–32–100, the FAA has determined that the initial and repetitive inspections required by paragraph (a) of this AD and the rework actions, if necessary, required by paragraph (b) of this AD must be made per Messier-Dowty Service Bulletin No. F100–32–101. This determination was made because the manufacturer informed the FAA that findings made after the issuance of Service Bulletin F100–32–100 indicate the need for additional eddy current inspections of the MLG main fittings. Findings also reveal that detection of closed forging folds might not be possible and that the forging folds would open when the main fittings are subjected to certain landing load levels. Because some detectable indications could be missed during the initial inspection, repetitive inspections are required to identify all detectable forging fold defects. To address these findings, Messier-Dowty has issued Service Bulletin No. F100–32–101 to specify additional inspections to safeguard the structural integrity of the MLG. As a result, the inspections required by paragraph (a) of this AD must be done per Service Bulletin No. F100–32–101 instead of Service Bulletin No. F100–032–100.

FAA's Conclusions

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA–NL has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA–NL, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to detect forging defects of the MLG, and rework of the MLG main fittings if necessary. This AD requires initial and repetitive eddy current inspections of certain MLG main fittings to detect forging defects, and rework of the main fittings if necessary. This AD also would require that operators report all findings of the eddy current inspections to Fokker Services B.V. This AD requires accomplishment of the actions per Messier-Dowty Service Bulletin No. F100–32–101, as described previously, except as discussed below.

Differences Between Dutch Airworthiness Directive and This AD

Operators should note that, as described earlier, Dutch airworthiness directive BLA 2001–080 specifies only a one-time eddy current inspection of the MLG main fittings and rework actions per Messier-Dowty Service Bulletin No. F100–32–100, or a later revision approved by the CAA–NL. However, this AD requires an initial eddy current inspection and repetitive inspections, and rework of the MLG main fittings if necessary, per Messier-Dowty Service Bulletin No. F100–32–101. The CAA–NL has notified the FAA that it will issue a new Dutch airworthiness directive to mandate the inspections, and rework if necessary, specified by Service Bulletin No. F100–32–101. However, operators should note that this AD differs from Dutch airworthiness directive BLA 2001–080 in that it would require continuing the inspections until a final terminating action is identified.

Operators also should note that a later revision of a service bulletin may not be referenced in an AD because the use of the phrase "or a later revision" would violate Office of the Federal Register regulations regarding the approval of materials that are incorporated by reference.

Differences Between the Service Information and This AD

Operators should note the following differences between Service Bulletin No. F100–32–101 and this AD:

- Although the referenced service bulletin specifies only two eddy current inspections, this AD requires an initial inspection and repetitive inspections until a final terminating action is identified. The FAA point outs that the exclusion of continued inspections after only two inspections relies on a damage tolerance approach. This approach leads the manufacturer to the conclusion that the crack growth is of a magnitude that would not lead to failure prior to overhaul. However, we do not agree with such a conclusion as there are a number of unknown variables associated with detecting and anticipating the effects of forging fold defects. For this reason, we have determined that requiring only two inspections would not adequately address the identified unsafe condition and that continued inspections until accomplishment of a terminating action are necessary to ensure the continued airworthiness of the fleet.
- Although the referenced service bulletin specifies that the parts manufacturer may be contacted for disposition of certain discrepancies, this AD would require the repair of those conditions to be accomplished in accordanee with a method approved by either the FAA, or CAA–NL (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this AD, a repair approved by either the FAA or CAA–NL (or its delegated agent) would be acceptable for compliance with this AD.
- The referenced service bulletin specifies that, after accomplishing the actions specified in that service bulletin, rework of the MLG main fittings is to be accomplished per a new service bulletin, Messier-Dowty Service Bulletin F100–32–102. However, because the new service bulletin has not been issued yet, this AD cannot specify that service bulletin. The new service bulletin is expected to include procedures that would terminate the need for the inspections required by this AD.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing rework procedures that will positively address the unsafe condition addressed by this AD. Once this procedure is developed, approved, and available, the FAA may consider additional rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before

the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–327–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–10 Fokker Services B.V.: Amendment 39–12527. Docket 2001–NM–327–AD.

Applicability: Model F.28 Mark 0100 series airplanes, certificated in any category, equipped with Messier-Dowty main landing gear units having part numbers (P/N) 201072011, 201072012, 201072013, 201072014, 201072015, or 201072016, that include main fitting subassemblies having P/Ns 201072283, 201072284, or 201251258 (main fittings having P/Ns 201072383, 201072384, or 201072389).

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

Note 2: This AD references Messier-Dowty Service Bulletin No. F100–32–101, including Appendices A and B, dated October 25, 2001, which is not referenced in Dutch airworthiness directive BLA 2001–080, dated June 29, 2001. In addition, this AD specifies additional inspections that are beyond those included in the service bulletin. Where there are differences between the AD and the service information, the AD prevails.

To detect forging defects of the main landing gear (MLG), which could lead to cracking and result in significant structural damage to the airplane and possible injury to the occupants, accomplish the following:

Initial and Repetitive Inspections

(a) Before the accumulation of 1,000 total landings on a new MLG, or within 30 days after the effective date of this AD, whichever occurs later: Do an initial eddy current inspection on all MLG main fittings to detect forging defects per Messier-Dowty Service Bulletin No. F100–32–101, including Appendices A and B, dated October 25, 2001. After accomplishment of the initial inspection, repeat the inspection thereafter at intervals not to exceed 500 landings or 6 months, whichever occurs first, per the service bulletin.

Rework

(b) After any inspection required by paragraph (a) of this AD, before further flight, accomplish the applicable actions required by paragraph (b)(1) or (b)(2) of this AD.

(1) If any cracking is found within the limits specified in Messier-Dowty Service Bulletin No. F100–32–101, including Appendices A and B, dated October 25, 2001: Rework the MLG main fitting per the service bulletin.

(2) If any cracking is found that exceeds the limits specified in Messier-Dowty Service Bulletin No. F100–32–101, including Appendices A and B, dated October 25, 2001: Rework the MLG main fitting per a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Civil Aviation Authority " The Netherlands (CAA–NL) (or its delegated agent).

Exception to Service Information

(c) During any action required by this AD, if the service bulletin specifies to contact Messier-Dowty for an appropriate action: Before further flight, repair per a method approved by the Manager, International Branch, ANM–116; or the CAA–NL (or its delegated agent).

Reporting Requirement

(d) Within 7 days after accomplishing any inspection required by paragraph (a) of this AD: Submit a report of the inspection findings (positive and negative) to Fokker Services B.V, Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, fax number 31 (0) 252 627211. The report must include MLG crack indication, part number, serial number, crack depth and length, and a description of any rework of the MLG main fittings accomplished. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Spares

(e) As of the effective date of this AD, no person shall install on any airplane, an MLG main fitting or main fitting subassembly having a part number specified in Paragraph 1.A of the "Effectivity" in Messier-Dowty

Service Bulletin No. F100–32–101, including Appendices A and B, dated October 25, 2001, unless the MLG fitting has been inspected, and the rework actions accomplished if necessary, per the service bulletin.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(h) Except for the actions required by paragraphs (b)(2) and (c) of this AD, the actions shall be done in accordance with Messier-Dowty Service Bulletin No. F100–32–101, including Appendices A and B, dated October 25, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Dutch airworthiness directive BLA 2001–080, dated June 29, 2001.

Effective Date

(i) This amendment becomes effective on December 20, 2001.

Issued in Renton, Washington, on November 26, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30081 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 381

[Docket No. RM02–6–000]

Annual Update of Filing Fees

November 29, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; annual update of Commission filing fees.

SUMMARY: In accordance with 18 CFR 381.104, the Commission issues this update of its filing fees. This notice provides the yearly update using data in the Commission's Management, Administrative, and Payroll System to calculate the new fees. The purpose of updating is to adjust the fees on the basis of the Commission's costs for Fiscal Year 2000.

EFFECTIVE DATE: January 4, 2002.

FOR FURTHER INFORMATION CONTACT: Troy Cole, Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street, NE., Room 42–66, Washington, DC 20426, 202–219–2970.

SUPPLEMENTARY INFORMATION:

Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be accessed using the CIPS link or the Energy Information Online icon. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS on the Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208–2222 (E

Mail to *WebMaster@ferc.fed.us*) or the Public Reference at (202) 208–1371 (E-Mail to *public.referenceroom@ferc.fed.us*).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

The Federal Energy Regulatory Commission (Commission) is issuing this notice to update filing fees that the Commission assesses for specific services and benefits provided to identifiable beneficiaries. Pursuant to 18 CFR 381.104, the Commission is establishing updated fees on the basis of the Commission's Fiscal Year 2000 costs. The adjusted fees announced in this notice are effective January 4, 2002. The Commission has determined with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this final rule is not a major rule within the meaning of section 251 of Subtitle E of Small Business Regulatory Enforcement Fairness Act 5 U.S.C. 804(2). The Commission is submitting this final rule to both houses of the United States Congress and to the Comptroller General of the United States.

The new fee schedule is as follows:

Fees Applicable to the Natural Gas Policy Act	
1. Petitions for rate approval pursuant to 18 CFR 284.123(b)(2). (18 CFR 381.403)	$8,230
Fees Applicable to General Activities	
1. Petition for issuance of a declaratory order (except under Part I of the Federal Power Act). (18 CFR 381.302(a))	16,530
2. Review of a Department of Energy remedial order:	

Amount in controversy	
$0–9,999. (18 CFR 381.303(b))	100
10,000–29,999. (18 CFR 381.303(b))	600
30,000 or more. (18 CFR 381.303(a))	24,140
3. Review of a Department of Energy denial of adjustment:	
Amount in controversy	
$0–9,999. (18 CFR 381.304(b))	100
10,000–29,999. (18 CFR 381.304(b))	600
30,000 or more. (18 CFR 381.304(a))	12,650
4. Written legal interpretations by the Office of General Counsel. (18 CFR 381.305(a))	4,740
Fees Applicable to Natural Gas Pipelines	
1. Pipeline certificate applications pursuant to 18 CFR 284.224. (18 CFR 381.207(b))	[1] 1,000
Fees Applicable to Cogenerators and Small Power Producers	
1. Certification of qualifying status as a small power production facility. (18 CFR 381.505(a))	14,220
2. Certification of qualifying status as a cogeneration facility. (18 CFR 381.505(a))	16,090
3. Applications for exempt wholesale generator status. (18 CFR 381.801)	970

[1] This fee has not been changed.

List of Subjects in 18 CFR Part 381

Electric power plants, Electric utilities, Natural gas, Reporting and recordkeeping requirements.

Thomas R. Herlihy,

Executive Director and Chief Financial Officer.

In consideration of the foregoing, the Commission amends Part 381, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

PART 381—FEES

1. The authority citation for Part 381 continues to read as follows:

Authority: 15 U.S.C. 717–717w; 16 U.S.C. 791–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

§ 381.302 [Amended]

2. In § 381.302, paragraph (a) is amended by removing "$ 15,760" and adding "$ 16,530" in its place.

§ 381.303 [Amended]

3. In 381.303, paragraph (a) is amended by removing "$ 23,010" and adding "$ 24,140" in its place.

§ 381.304 [Amended]

4. In § 381.304, paragraph (a) is amended by removing "$ 12,060" and adding "$ 12,650" in its place.

§ 381.305 [Amended]

5. In § 381.305, paragraph (a) is amended by removing "$ 4,520" and adding "$ 4,740" in its place.

§ 381.403 [Amended]

6. Section 381.403 is amended by removing "$ 7,840" and adding "$ 8,230" in its place.

§ 381.505 [Amended]

7. In § 381.505, paragraph (a) is amended by removing "$ 13,550" and adding "$ 14,220" in its place and by removing "$ 15,340" and adding "$ 16,090" in its place.

§ 381.801 [Amended]

8. Section 381.801 is amended by removing "$ 1,310" and adding "$ 970" in its place.

[FR Doc. 01–30125 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor's Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's address for Merial Ltd.

DATES: This rule is effective December 5, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Merial Ltd., 2100 Ronson Rd., Iselin, NJ 08830–3077, has informed FDA of a change of sponsor's address to 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by revising the entry for "Merial Ltd." and in the table in paragraph (c)(2) by revising the entry for "050604" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
Merial Ltd., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640..	050604

(2) * * * .

Drug labeler code	Firm name and address
050604	Merial Ltd., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640.

Dated: November 15, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–30038 Filed 12–4–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Ivermectin Pour-On

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Virbac AH, Inc. The ANADA provides for topical use of ivermectin on cattle for treatment and control of various species of external and internal parasites.

DATES: This rule is effective December 5, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209, e-mail: lluther@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Virbac AH, Inc., 3200 Meacham Blvd., Ft. Worth, TX 76137, filed ANADA 200–318 for VIRBAMEC (ivermectin) Pour-On. The ANADA provides for topical use of 0.5 percent ivermectin solution on cattle for the treatment and control of various species of gastrointestinal nematodes, lungworms, grubs, horn flies, lice, and mites. Virbac's VIRBAMEC Pour-On is approved as a generic copy of Merial Ltd.'s IVOMEC Pour-On for Cattle, approved under NADA 140–841. The ANADA 200–318 is approved as of September 21, 2001, and the regulations in 21 CFR 524.1193 are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, Virbac AH, Inc., has not been previously listed in the animal drug regulations as a sponsor of an approved application. At this time, 21 CFR 510.600(c) is being amended to add entries for the firm.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding an entry for "Virbac AH, Inc." and in the table in paragraph (c)(2) by numerically adding an entry for "051311" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
Virbac AH, Inc., 3200 Meacham Blvd., Ft. Worth, TX 76137	051311

(2) * * *

Drug labeler code	Firm name and address
051311	Virbac AH, Inc., 3200 Meacham Blvd., Ft. Worth, TX 76137

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 524.1193 [Amended]

4. Section 524.1193 *Ivermectin pour-on* is amended in paragraph (b) by adding "051311," after "051259," and in paragraph (e)(2) by removing "Damalina" and by adding in its place "Damalinia".

Dated: November 9, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–30037 Filed 12–4–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Carprofen

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc. The supplemental NADA provides for a once daily, 2-milligram per pound (mg/lb) dosage of carprofen, by oral caplet, for the relief of pain and inflammation associated with osteoarthritis in dogs.

DATES: This rule is effective December 5, 2001.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7540.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017–5755, filed a supplement to approved NADA 141–053 that provides for veterinary prescription use of RIMADYL (carprofen) Caplets for the relief of pain and inflammation associated with osteoarthritis in dogs. The supplemental NADA provides for a once daily, 2-mg/lb dosage for the oral caplet dosage form. The supplemental application is approved as of September 27, 2001, and the regulations are amended in 21 CFR 520.309 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval for non-food-producing animals qualifies for 3 years of marketing exclusivity beginning September 27, 2001, because the application contains substantial evidence of effectiveness of the drug involved or any studies of animal safety required for approval of the application and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.309 is amended in paragraph (a) by adding "(mg)" after "milligrams"; and by revising paragraph (d) to read as follows:

§ 520.309 Carprofen.

* * * * *

(d) *Conditions of use in dogs*—(1) *Amount*—(i) *Caplet.* 2 mg per pound (/lb) of body weight once daily or 1 mg/lb twice daily.

(ii) *Chewable tablet.* 1 mg/lb twice daily.

(2) *Indications for use.* For the relief of pain and inflammation associated with osteoarthritis in dogs.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: November 9, 2001.
Stephen F. Sundlof,
Director, Center for Veterinary Medicine.
[FR Doc. 01–30039 Filed 12–4–01; 8:45 am]
BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Ivermectin Liquid

AGENCY: Food and Drug Administration, HHS.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by First Priority, Inc. The ANADA provides for oral use of ivermectin solution in horses for the treatment and control of various species of internal and cutaneous parasites.

DATES: This rule is effective December 5, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: First Priority, Inc., 1585 Todd Farm Dr., Elgin, IL 60123, filed ANADA 200–321 for PRIMECTIN™ (ivermectin) Equine Oral Liquid. The application provides for oral use of a 1.0 percent ivermectin solution in horses for the treatment and control of various species of gastrointestinal nematodes, lungworms, stomach bots, and cutaneous larvae and microfilariae. First Priority's PRIMECTIN™ Equine Oral Liquid is approved as a generic copy of Merial Ltd.'s EQVALAN® (ivermectin) Oral Liquid for Horses, approved under NADA 140–439. ANADA 200–321 is approved as of September 7, 2001, and 21 CFR 520.1195 is amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1195 is amended in paragraph (b) by adding "058829," after "051259"; by revising the heading of paragraph (c) and paragraph (c)(1); in paragraph (c)(2) by removing "It is used in horses"; and in paragraph (c)(3) by removing the first sentence to read as follows:

§ 520.1195 Ivermectin liquid.

* * * * *

(c) *Conditions of use in horses*—(1) *Amount.* 200 micrograms per kilogram of body weight as a single dose by stomach tube or as an oral drench.

Dated: November 9, 2001.
Stephen F. Sundlof,
Director, Center for Veterinary Medicine.
[FR Doc. 01–30076 Filed 12–4–01; 8:45 am]
BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AZ060–OPP; FRL–7112–8]

Clean Air Act Full Approval of the Operating Permits Program for the Pinal County Air Quality Control District, AZ

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the Pinal County Air Quality Control District (Pinal or District) operating permits program. The Pinal program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. On October 30, 1996, EPA granted interim approval to Pinal's operating permits program. The District revised its program to satisfy the conditions of the interim approval, and EPA proposed full approval in the **Federal Register** on September 20, 2001, contingent upon Pinal submitting the rules to EPA as a revision to its part 70 program. Pinal County did so, and EPA did not receive any comments on the proposed action. This action promulgates final full approval of the Pinal operating permits program.

EFFECTIVE DATE: This rule is effective on November 30, 2001.

ADDRESSES: Copies of Pinal's submittal and other supporting information used in developing this final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105. You may also see copies of the submitted title V program at the following location: Pinal County Air Quality Control District, Building F, 31 North Pinal Street, Florence, Arizona 85232.

FOR FURTHER INFORMATION CONTACT: Emmanuelle Rapicavoli, EPA Region 9, at (415) 972–3969 or rapicavoli.emmanuelle@epa.gov.

SUPPLEMENTARY INFORMATION: This section contains additional information about our final rulemaking, organized as follows:

I. Background on the Pinal County Air Quality Control District operating permits program
II. EPA's Final Action
III. Effective date of EPA's full approval of the Pinal County Air Quality Control District operating permits program

I. Background on the Pinal County Air Quality Control District Operating Permits Program

The Clean Air Act (CAA) Amendments of 1990 required all state and local permitting authorities to develop operating permits programs that meet certain federal criteria. Pinal's operating permits program was submitted in response to this directive. Because the District program

substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on October 30, 1996. See 61 FR 55910. The interim approval notice described the conditions that had to be met in order for the District program to receive full approval.

After Pinal revised its program to address the conditions of the interim approval, EPA promulgated a proposal to approve the District's title V operating permits program on September 20, 2001, contingent upon Pinal submitting the rules that were adopted on September 5, 2001, as a revision to its part 70 program. See 66 FR 48402.

II. EPA's Final Action

EPA is granting full approval to the operating permits program submitted by the Pinal County Air Quality Control District based on the revisions adopted on September 5, 2001, and submitted to EPA on September 18, 2001, which satisfactorily address the program deficiencies identified in EPA's October 30, 1996 interim approval (61 FR 55910). In addition, EPA is approving, as a title V operating permits program revision, additional changes to Pinal's rules. The deficiency corrections and the additional program revisions are described in detail in the September 20, 2001 proposal and its accompanying technical support document. See 66 FR 48402.

The rules for which we are granting final approval are listed below.

Rule No.	Rule title	Adoption date	Submittal date
PCR 1–3–140 (79)	Definitions (definition of stationary source only)	9/5/01	9/18/01
PCR 3–1–040	Applicability and Classes of Permits	9/5/01	9/18/01
PCR 3–1–045	Transition from Installation and Operating Permit Program	9/5/01	9/18/01
PCR 3–1–050	Permit Application Requirements	9/5/01	9/18/01
PCR 3–1–081	Permit Conditions	9/5/01	9/18/01
PCR 3–4–420	Standards of Conditional Orders	9/5/01	9/18/01
PCR 3–5–490	Application for Coverage under a General Permit	9/5/01	9/18/01
PCR 3–5–550	Revocations of Authority to Operate under a General Permit	9/5/01	9/18/01

In its program submission, Pinal County did not assert jurisdiction over Indian country. To date, no tribal government in Pinal County has applied to EPA for approval to administer a title V program in Indian country within the County. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

III. Effective Date of EPA's Full Approval of the Pinal County Air Quality Control District Operating Permits Program

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the District's program effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. EPA's interim approval of Pinal County's program expires on December 1, 2001. In the absence of this full approval of Pinal County's amended program taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Pinal County and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public and Pinal County to avoid any gap in coverage of the state program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because Pinal County has been administering the title V permit program for 5 years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as

specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 27, 2001.

Wayne Nastri,

Regional Administrator, Region 9.

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding paragraph (d)(3) under Arizona to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Arizona

* * * * *

(d) * * *

(3) revisions submitted on September 18, 2001. Full approval is effective on November 30, 2001.

* * * * *

[FR Doc. 01–30100 Filed 12–4–01; 8:45 am]

BILLING CODE 5560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NJ002; FRL–7113–1]

Clean Air Act Final Full Approval of Operating Permit Program; New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is promulgating final full approval of the operating permit program submitted by the State of New Jersey in accordance with Title V of the Clean Air Act (the Act) and its implementing regulations. This approved program allows New Jersey to issue federally enforceable operating permits to all major stationary sources and to certain other sources within the State's jurisdiction.

EFFECTIVE DATE: November 30, 2001.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor, New York, New York 10007–1866.

FOR FURTHER INFORMATION CONTACT: Steven C. Riva, Chief, Permitting Section, Air Programs Branch, at the above EPA office in New York or at telephone number (212) 637–4074.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

1. What is the operating permits program?
2. What is being addressed in this document?
3. What are the program changes that EPA is approving?
4. What is involved in this final action?
5. What is the effective date of EPA's final full approval of the New Jersey title V program?

1. What Is the Operating Permits Program?

Title V of the Clean Air Act (CAA) and its implementing regulations at 40 CFR part 70 (part 70) direct all states to develop and implement operating permit programs that meet certain criteria. Operating permit programs are intended to consolidate into single

federally enforceable documents all CAA requirements that apply to individual sources. This consolidation of all of the applicable requirements for a source enables the source, the public, and permitting authorities to more easily determine what CAA requirements apply and whether the source is complying with them. Sources required to obtain operating permits include "major" sources of air pollution and certain other sources specified in CAA section 501 and in EPA's regulations at 40 CFR 70.3.

The EPA reviews state programs pursuant to title V of the CAA and part 70, which outline the criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval which would be effective for two years. If a state does not have in place a fully approved program by the time the interim approval expires, the federal operating permit program under 40 CFR part 71 (part 71) will be implemented. Due to unexpected circumstances that affected states' timeliness in developing fully approvable programs, EPA extended the effective date of all interim approvals until December 1, 2001. For any state that has not received full approval from EPA by December 1, 2001, its interim approval will then expire and be immediately replaced by the federal part 71 program. All sources subject to the federal program that do not have final part 70 permits already issued to them by the state are then required to submit a part 71 permit application and the appropriate fees within one year to their respective EPA Regional offices under part 71.

2. What Is Being Addressed in This Document?

New Jersey's first version of its operating permit program substantially, but not fully, met the requirements of part 70; therefore, EPA granted the program interim approval on May 16, 1996, which became effective on June 17, 1996 (61 FR 24715). EPA identified four issues that needed correction before New Jersey would be eligible for full approval. New Jersey submitted a corrected program to EPA on May 31, 2001, which addressed each of the four deficiencies.

On October 25, 2001, EPA proposed full approval of New Jersey's title V operating permit program and provided the public a period of 30 days to submit comments on EPA's proposed action (66 FR 53969). During the 30-day comment period, EPA received no comments on the proposed full approval. However, EPA finds it appropriate to clarify a statement made in the "Nonmajor Sources Section" of the proposal. Where it was stated that "[a]n exemption not only relieves the subject sources from the permitting requirement; it also relieves them from the substantive requirements," EPA did not mean to imply that an exemption from the permitting requirement would also exempt the subject source for substantive requirements in the standard. The subject nonmajor source must check the individual standards to determine if requirements other than the need to obtain a part 70 permit apply to it. This document finalizes EPA's action on the proposal.

3. What Are the Program Changes That EPA Is Approving?

The details on the program changes can be found in EPA's proposed action which was published in the October 25, 2001 issue of the **Federal Register** (see 66 FR 53969). In summary, EPA approves the following changes to the New Jersey Operating Permit Rule that became effective on August 2, 1999:

(1) N.J.A.C. 7:27–22.20(b)(7);

(2) N.J.A.C. 7:27–22.29(a) and 22.29(e); and

(3) N.J.A.C. 7:27–22.1.

4. What Is Involved in This Final Action?

The State of New Jersey has fulfilled the conditions of the interim approval granted on May 16, 1996. EPA is therefore taking final action to fully approve New Jersey's operating permit program. EPA is also taking final action to approve other program changes made by the State since the interim approval was granted as identified in the October 25, 2001 issue of the **Federal Register** notice (see 66 FR 53969). This final full approval has no expiration date. However, the State may revise its operating permit program as appropriate in the future by following the procedures stipulated in 40 CFR 70.4(i). EPA may also exercise its oversight authorities under section 502(i) of the Act to require changes to the State's program consistent with the procedure stipulated in 40 CFR 70.10.

In its program submittal, New Jersey did not assert jurisdiction over Indian country. To date, no tribal government in New Jersey has applied to EPA for approval to administer a title V program in Indian country within the State. On February 12, 1998, EPA promulgated regulations (40 CFR part 49) under which eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA has promulgated regulations (40 CFR part 71) governing the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

5. What Is the Effective Date of EPA's Final Full Approval of the New Jersey Title V Program?

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the State's program effective on November 30, 2001. In relevant part, section 553(d) provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." Good cause may be supported by an agency determination that a delay in the effective date is "impracticable, unnecessary, or contrary to the public interest." APA section 553(b)(3)(B). EPA believes that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. EPA's interim approval of New Jersey's program expires on December 1, 2001. In the absence of this full approval taking effect on November 30, 2001, the federal part 71 program would automatically take effect in New Jersey and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public and the State to avoid any gap in coverage of the State program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because New Jersey has been administering the title V permit program for five years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially but did not fully meet the part 70 requirements, to the fully approved program is relatively minor, in

particular if compared to the changes between a state-approved program and the federal program. Finally, sources are already complying with many of the newly approved requirements as a matter of state law. Thus, there is little or no additional burden with complying with these requirements under the federally approved State program.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program , to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control; Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 28, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

For reasons set out in the preamble, chapter I, of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended by adding paragraph (c) to the entry for New Jersey to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permit Programs

* * * * *

New Jersey

* * * * *

(c) The New Jersey Department of Environmental Protection submitted program revisions on September 17, 1999 and May 31, 2001. The rule revisions contained in the September 17, 1999 and May 31, 2001 submittals adequately addressed the conditions of the interim approval effective on June 17, 1996, and which would expire on December 1, 2001. The State is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–30096 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[OK–FRL–7113–7]

Clean Air Act Full Approval of Operating Permits Program; State of Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: The EPA is promulgating full approval of the Operating Permit

Program of the State of Oklahoma. Oklahoma's Operating Permit Program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that States develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the States' jurisdiction. The EPA granted interim approval to Oklahoma's Operating Permit Program on February 5, 1996 (61 FR 4220). Oklahoma revised its program to satisfy the conditions of the interim approval, and EPA proposed full approval in the **Federal Register** on October 16, 2001.

EFFECTIVE DATE: November 30, 2001.

ADDRESSES: Copies of the State's submittal and other supporting documentation relevant to this action are available for inspection during normal business hours at the U.S. EPA, Region 6, Air Permitting Section (6PD–R), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, and the Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73102. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Stanton, Regional Title V Air Operating Permits Projects Manager, Air Permitting Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, at (214) 665–8377.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the Operating Permit Program?
Why is EPA Taking this Action?
What is Involved in this Final Action?
What is the Effective Date of EPA's Full Approval of the Oklahoma Title V program?
What is the Scope of EPA's Full Approval?

What Is the Operating Permit Program?

The CAA Amendments of 1990 required all States to develop Operating Permit Programs that met certain Federal criteria. In implementing the Operating Permit Programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the Operating Permit Program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility into a single document, the source, the public, and the regulators can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds (VOCs), carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter; those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as serious, major sources include those with the potential of emitting 50 tons per year or more of VOCs.

Why Is EPA Taking This Action?

Where an Operating Permit Program substantially, but not fully met the criteria outlined in the implementing regulations codified at 40 CFR part 70, EPA granted interim approval contingent on the State revising its program to correct the deficiencies. Because Oklahoma's Operating Permit Program substantially, but not fully met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on February 5, 1996 (61 FR 4220). Interim approval of Oklahoma's program expires on December 1, 2001.

What Is Involved in This Final Action?

The Oklahoma Department of Environmental Quality (ODEQ) has fulfilled the conditions of interim approval granted on February 5, 1996. On October 16, 2001, EPA published a document in the **Federal Register** (66 FR 52562) proposing full approval of Oklahoma's title V Operating Permits Program, and proposing approval of certain other program revisions. The EPA received comments from one person during the comment period that ran from October 16, 2001, until November 15, 2001. Two of the comments agreed with EPA that the deficiencies for the first, second, and fourth conditions (transition schedule for permit issuance, major source definition, and permit language content) for full approval have been corrected. The remainder of the comments disagreed with EPA's position, and are set forth below.

1. Oklahoma Administrative Code/ Tracking Part 70 Language

The first adverse comment was a general comment that Oklahoma should amend its operating permits regulations so that the language tracks the language in 40 CFR part 70. The commenter contends that Oklahoma's regulations must track the language of 40 CFR part 70 to retain the effect and intent of the Clean Air Act. Otherwise, according to the commenter, EPA is put in the position of trying to renegotiate the Clean Air Act.

EPA does not concur with the comment. Part 70 provides for the establishment of a comprehensive State air quality permitting program consistent with the requirements of title V of the Clean Air Act. 40 CFR 70.1(a). The state's program does not have to exactly track the language in part 70, but it must be consistent with it. 40 CFR 70.1(c). This allows for flexibility by the State to adopt the regulations to fit its needs while maintaining national consistency. The EPA has determined that Oklahoma's program is consistent with part 70 with the exception of the minor issues outlined in the Notice of Deficiency located elsewhere in this **Federal Register**.

2. Insignificant Activities List

The second adverse comment questioned why the insignificant activities definition in Oklahoma's rule and the approved list of insignificant activities in Appendix I of Subchapter 8 remain as a part of the Oklahoma Administrative Code if the EPA is not approving the list. The commenter questioned whether EPA has the authority to approve the list and whether the regulation tracks the language of 40 CFR part 70.

The authority to approve an insignificant activities list is found at 40 CFR 70.5(c), which states that "the Administrator may approve as a part of the State program a list of insignificant activities and emissions levels which need not be included in permit applications." As EPA stated in the **Federal Register** when it granted final interim approval to Oklahoma, "even though insignificant activities are not a required element of a part 70 program, a State that opts to establish such activities must nevertheless meet certain requirements, including prior approval

by EPA." 61 FR 4220, 4221. As EPA stated when it proposed granting full approval, the emission levels in the definition are consistent with the levels in other approved State Operating Permit Programs. Even though EPA did not approve the list of insignificant activities, the list remains a part of Oklahoma's regulations as a matter of state law. However, it is not part of Oklahoma's approved title V program. Therefore, EPA does not concur with this comment.

3. Judicial Review

The third adverse comment involved what the commenter characterized as the "judicial review" process, but was not related to the deficiency as outlined by EPA when we granted Oklahoma interim approval. The comment dealt with whether certain construction permits are classified as a Tier II or Tier III permit and how this affects "judicial review." If a permit is characterized as Tier II, the commenter claims that "judicial review" is avoided because of the lack of an administrative hearing. If it is classified as a Tier III permit and a hearing is held, the commenter contends that certain regulations governing administrative hearings such as employment of the administrative law judge, declaratory ruling procedures, restricting attendance at administrative hearings in appropriate cases, and burden of proof restrict judicial review.

EPA does not agree with this comment. Judicial review in this instance refers to the ability of an individual to appeal a decision from an administrative agency to state court, not how (or whether) the state conducts an administrative hearing. Thus, the comments are not related to judicial review but instead are related to the Tier II and Tier III permit process as outlined in Oklahoma Administrative Code (OAC) Title 252, Chapter 4. The EPA is not approving this entire Chapter as a part of this action. As previously stated, EPA is not approving any provision of Subchapter 8 which relates to construction permits, or any other provision contained in the submittal which does not pertain to Title V. 66 FR at 52564. The EPA found only one issue with judicial review as it relates to the state's Operating Permit program (no judicial review for persons who made oral comments), and that deficiency has been corrected. The EPA does not believe that these comments are relevant to any interim approval issue or to the action that EPA is taking today.

4. Enhanced New Source Review (NSR) Procedures

The fourth adverse comment states that by not defining the term "Enhanced New Source Review (NSR) procedures", Oklahoma has effectively avoided the NSR procedures in the Clean Air Act. The commenter believes that permits which should have been subject to 40 CFR part 70 will be shielded from the NSR procedures. The commenter feels that the state should use the exact language of 40 CFR part 70 in regards to "Enhanced NSR procedures" and that Oklahoma is allowed to approve permits without using NSR procedures.

The commenter appears to believe that because Oklahoma used the undefined term "enhanced NSR procedures" in the Title V context, certain sources that would have otherwise been subject to NSR procedures will no longer be subject to those procedures. However, this is not the case. The title V program and the NSR program have different procedures and requirements. As noted in the October 16, 2001 proposed full approval, Oklahoma has deleted the term "enhanced NSR procedures" from its regulations and has instead made the commitments detailed in the proposal and discussed in paragraph 6. Thus, we will describe the issue in more general terms. Under certain conditions, a state may allow the incorporation into a part 70 permit, the requirements from preconstruction review permits authorized under an EPA-approved program through the use of the administrative permit amendment process. As provided in 70.7(d)(1)(v), the EPA approved NSR permitting program must meet procedural requirements substantially equivalent to the requirements of part 70 that would be applicable to the change if the change were subject to review as a permit modification. Thus, the procedures required by 40 CFR 70.7(d)(1)(v) for use of the administrative amendment process are in addition to the Clean Air Act's New Source Review requirements and do not abrogate those requirements. These procedures are not related to the installation of pollution controls as stated by the commenter. The EPA does not concur with these comments.

5. Options To Address Use of Administrative Amendment Process To Incorporate Requirements From Preconstruction Permits Into the Title V Permit

In the **Federal Register**, EPA stated that it had given Oklahoma four options to address outstanding issues from the sixth and seventh interim approval deficiencies. These options included Oklahoma either including provisions in the title V permit that meet the requirements of 40 CFR 70.7 and 70.8 (the option ultimately chosen by Oklahoma) or amending the regulation to track the language in 40 CFR 70.7(d)(1)(v). The commenter contends that the regulation should be amended so that the language tracks the language in part 70. Otherwise, according to the commenter, it opens the door to renegotiate the language of the Clean Air Act.

As set forth in response to the first comment, a State does not have to use the exact language of part 70 when promulgating its operating permits program. Therefore, we do not agree with this comment.

6. Permit Language

As stated in the **Federal Register**, EPA and Oklahoma agreed on nine conditions it would include in its permits to implement its desire to use the administrative amendment process to incorporate requirements from preconstruction permits into a title V permit. 66 FR at 52564. The commenter had several objections to these provisions. Three of these comments related to the 30 day public notice and comment period, contending that 30 days is insufficient to analyze the permit and that the public will not have another 30 day comment period when the construction permit is incorporated in the title V permit. However, this permit condition is consistent with the federal requirements outlined in 40 CFR 70.7(h)(4) which requires the permitting authority to provide at least 30 days for public comment.

The commenter also objected to the requirement that the public notice state that EPA review, EPA objection, and petitions to EPA will not be available when the preconstruction requirements are incorporated into a title V permit. However, EPA review, EPA objection, and the EPA petition process is available during the construction permit process. The purpose of requiring this language in the public notice is to put the public on notice that the time to object to the permit is during the construction permit process, not when it is incorporated into the title V permit. This procedure is authorized by 40 CFR 70.7(d)(1)(v), and thus we do not agree with this comment.

Two comments related to the criteria for determining what States are affected (*i.e.*, affected states). The federal definition of "affected states" is found at 40 CFR 70.2. Oklahoma's definition (OAC 252:100–8–2) is consistent with the federal definition.

The commenter states that EPA review, objections, and petitions should be posted on the ODEQ and EPA web sites. There is no legal requirement to post EPA review, objections, or petitions on Oklahoma's or EPA's website. However, EPA does post title V petitions and its response to the petition on a website. These documents can be found at http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitiondb.htm.

Finally, the commenter asserts that the language of 40 CFR 70.7(f) and (g) should be a part of the Oklahoma Administrative Code (OAC) and not be modified by OAC 252:100–8–7.3(a), (b), and (c). The language of 40 CFR 70.7(f) and (g) is not modified by OAC 252:100–8–7.3(a), (b), and (c). The citations to the Oklahoma Administrative Code are to the procedures for reopening permits that EPA has approved as meeting the part 70 requirements. They do not modify 40 CFR 70.7(f) and (g). If EPA reopens a permit for cause, it will use the procedures in 40 CFR 70.7(f) and (g).

7. Approval by the Governor

There were two comments relating to the Governor's approval of Oklahoma's proposed revisions to OAC 252:100–8–8, which corrected the deficiencies relating to permit review by EPA and affected states. EPA noted that the Governor must approve this regulation before it becomes effective. The commenter was concerned that the Governor would not approve these revisions. However, the Governor has approved these revisions, and Oklahoma submitted these revisions to EPA by letter dated October 19, 2001.

8. Program Deficiencies

The commenter also asserted that the issues identified as additional program deficiencies were not minor and that they should be corrected prior to full approval. The EPA stated in the October 16, 2001 notice that it would publish a notice of deficiency concerning revisions Oklahoma made to its Operating Permits Program that did not meet the requirements of part 70. These deficiencies relate to public participation, Tier I air quality applications, definitions, permit content, administrative permit amendments, minor permit modification procedures, and permit review by EPA and affected States.[1] These deficiencies were identified in a June 12, 2001 letter to Oklahoma.

[1] The deficiencies relating to permit review by EPA and affected states has been corrected. See Item 7 above.

However, for the reasons discussed below, we disagree that these deficiencies prohibit us from granting Oklahoma full program approval at this time.

In 1990, Congress amended the CAA, 42 U.S.C. 7401 *et seq.*, by adding title V, 42 U.S.C. 7661 to 7661f, which requires certain air pollutant emitting facilities, including "major source[s]" and "affected source[s]," to obtain and comply with operating permits. *See* 42 U.S.C. 7661a(a). Title V is intended to be administered by local, state or interstate air pollution control agencies, through permitting programs that have been approved by EPA. *See* 42 U.S.C. 7661a(a). EPA is charged with overseeing the State's efforts to implement an approved program, including reviewing proposed permits and vetoing improper permits. *See* 42 U.S.C. 7661a(i) and 7661d(b). Accordingly, title V of the CAA provides a framework for the development, submission and approval of state operating permit programs. Following the development and submission of a state program, the CAA provides two different approval options that EPA may utilize in acting on state submittals. *See* 42 U.S.C. 7661a(d) and (g). Pursuant to section 502(d), EPA "may approve a program to the extent that the program meets the requirements of the Act * * *". EPA may act on such program submittals by approving or disapproving, in whole or in part, the state program. An alternative option for acting on state programs is provided by the interim approval provision of section 502(g). This section states: "[i]f a program * * * substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval." This provision provides EPA with the authority to act on State programs that substantially, but do not fully, meet the requirements of title V and part 70. Only those program submittals that meet the requirements of eleven key program areas are eligible to receive interim approval. *See* 40 CFR 70.4(d)(3)(i)–(xi). Finally, section 502(g) directs EPA to "specify the changes that must be made before the program can receive full approval." 42 U.S.C. 7661a(g); 40 CFR 70.4(e)(3). This explicit directive encompasses another, implicit one: once a state corrects the specified deficiencies, then it will be eligible for full program approval. EPA believes this is so even if deficiencies have been identified sometime after final interim approval, either because the deficiencies arose after EPA granted interim approval or, if the deficiencies existed at that time, EPA failed to identify them as such in proposing to grant interim approval.

Thus, an apparent tension exists between these two statutory provisions. Standing alone, section 502(d) appears to prevent EPA from granting a state operating permit program full approval until the state has corrected all deficiencies in its program no matter how insignificant, and without consideration as to when such deficiency was identified. Alternatively, section 502(g) appears to require that EPA grant a state program full approval if the state has corrected those issues that the EPA identified in the final interim approval. The central question, therefore, is whether by virtue of correcting the deficiencies identified in the final interim approval Oklahoma is eligible at this time for full approval or whether Oklahoma must also correct any new or recently identified deficiencies as a prerequisite to receiving full program approval.

According to settled principles of statutory construction, statutory provisions should be interpreted so that they are consistent with one another. *See Citizens to Save Spencer County* v. *EPA*, 600 F.2d 844, 870 (D.C. Cir. 1979). Where an agency encounters inconsistent statutory provisions, it must give maximum possible effect to all of the provisions, while remaining within the bounds of its statutory authority. *Id.* at 870–71. Whenever possible, the agency's interpretation should not render any of the provisions null or void *Id.* Courts have recognized that agencies are often delegated the responsibility to interpret ambiguous statutory terms in such a fashion. *See Chevron U.S.A, Inc.* v. *Natural Resources Defense Council*, Inc., 467 U.S. 837, 845 (1984). Harmonious construction is not always possible, however, and furthermore should not be sought if it requires distorting the language in a fashion never imagined by Congress. *Citizens to Save Spencer County*, 600 F.2d at 870.

In this situation, in order to give effect to the principles embodied in title V that major stationary sources of air pollution be required to have an operating permit that conforms to certain statutory and regulatory requirements, and that operating permit programs be administered and enforced by state permitting authorities, the appropriate and more cohesive reading of the statute recognizes EPA's authority to grant Oklahoma full approval in this situation while working simultaneously with the state, in its oversight capacity, on any additional problems that were recently identified. To conclude

otherwise would disrupt the current administration of the state program and cause further delay in Oklahoma's ability to issue operating permits to major stationary sources. A smooth transition from interim approval to full approval is in the best interest of the public and the regulated community and best reconciles the statutory directives of title V.

Furthermore, requiring the State to fix all of the deficiencies that were identified in the June 12, 2001 letter to receive full approval runs counter to the established regulatory process that is already in place to deal with newly identified program deficiencies. Section 502(i)(4) of the CAA and 40 CFR 70.4(i) and 70.10 provides EPA with the authority to issue notices of deficiency ("NOD") whenever EPA makes a determination that a permitting authority is not adequately administering or enforcing a part 70 program, or that the State's permit program is inadequate in any other way. The Oklahoma title V interim approval expires on December 1, 2001. This deadline does not provide adequate time for the State to correct newly identified issues prior to the expiration of interim approval. Allowing the State's program to expire because of issues identified as recently as June 12, 2001 would cause disruption and further delay in the issuance of permits to major stationary sources in Oklahoma. As explained above, we do not believe that title V requires such a result. Rather, the appropriate mechanism for dealing with additional deficiencies that are identified sometime after a program received interim approval, but prior to being granted full approval is a NOD as discussed above. This process provides the State an adequate amount of time after such findings to implement any necessary changes without unduly disrupting the entire state operating permit program. As a result, addressing newly identified problems separately from the full approval process will not cause these issues to go unaddressed. Therefore, the deficiencies EPA identified are not a barrier to granting full approval to States.

9. Comments on Pre-Construction Permit

The commenter also made several comments regarding a preconstruction permit. Since these comments do not pertain to the action proposed in the **Federal Register** notice or to Oklahoma's Operating Permits Program, EPA is not providing a response.

What Is the Effective Date of EPA's Full Approval of the Oklahoma Title V Program?

The EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the State's program effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Good cause may be supported by an agency determination that a delay in the effective date is "impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(3)(B). The EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. The EPA's interim approval of Oklahoma's program expires on December 1, 2001. In the absence of the full approval of Oklahoma's program taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Oklahoma and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public, and the State of Oklahoma to avoid any gap in coverage of the State program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because Oklahoma has been administering the title V permit program for over five years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program, which substantially but not fully met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-approved program and the Federal program.

What Is the Scope of EPA's Full Approval?

In its program submission, Oklahoma did not assert jurisdiction over Indian country. To date, no tribal government in Oklahoma has applied to EPA for approval to administer a title V program in Indian country within the state. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). The

rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated November 29, 2001.

Lawrence E. Starfield,

Acting Deputy Regional Administrator, Region 6.

For the reasons set out in the preamble, Appendix A of part 70 is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended under the entry for Oklahoma by adding paragraph (b) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Oklahoma

* * * * *

(b) The Oklahoma Department of Environmental Quality submitted program revisions on July 27, 1998. The rule revisions adequately addressed the conditions of the interim approval effective on March 6, 1996, and which will expire on December 1, 2001. The State is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–30149 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AZ062–OPP; FRL–7113–4]

Clean Air Act Full Approval of the Operating Permits Program; Arizona Department of Environmental Quality, Maricopa County Environmental Services Department, Pima County Department of Environmental Quality, AZ

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the operating permits programs submitted by the State of Arizona (collectively "the Arizona programs") on behalf of the Arizona Department of Environmental Quality ("ADEQ" or "State"), Maricopa County Environmental Services Department ("MCESD" or "Maricopa"), and Pima County Department of Environmental Quality, Arizona ("PDEQ" or "Pima"). The Arizona programs were submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. On October 30, 1996, EPA granted interim approval to the ADEQ, MCESD and PDEQ operating permits programs. These agencies revised their programs to satisfy the conditions of the interim approval, and EPA proposed full approval of the ADEQ, MCESD, and PDEQ programs in the **Federal Register** on October 2, 2001, October 18, 2001, and September 10, 2001, respectively. EPA received three comments on our proposed full approval of the ADEQ program and one comment on the Maricopa program. EPA's responses are included in Section II of this action.

This action promulgates final full approval of the ADEQ, MCESD and PDEQ operating permits programs.

EFFECTIVE DATE: This rule is effective on November 30, 2001.

ADDRESSES: Copies of the ADEQ, MCESD, and PDEQ submittals and other supporting information used in developing this final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105. You may also see copies of the submitted title V programs for each of the respective agencies at the following locations:

(1) ADEQ—Arizona Department of Environmental Quality, 3033 North central Avenue, Phoenix, Arizona 85012–2809.
(2) MCESD—Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, Arizona 85004.
(3) PDEQ—Pima County Department of Environmental Quality, 130 West Congress Street, Tucson, Arizona 85701

FOR FURTHER INFORMATION CONTACT: Emmanuelle Rapicavoli, EPA Region 9, at 415–972–3969 or rapicavoli.emmanuelle@epa.gov.

SUPPLEMENTARY INFORMATION: This section contains additional information about our final rulemaking, organized as follows:

I. Background on the ADEQ, MCESD, and PDEQ Operating permits programS
II. Comments received by EPA on our proposed rulemaking and EPA's responses
III. EPA's final action.

I. Background on the ADEQ, MCESD, and PDEQ Operating Permits Programs

The Clean Air Act (CAA) Amendments of 1990 required all state and local permitting authorities to develop operating permits programs that meet certain federal criteria. The ADEQ, MCESD, and PDEQ operating permits programs were submitted in response to this directive. Because the Arizona programs substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the programs in a rulemaking published on October 30, 1996. See 61 FR 55910. The interim approval notice described the conditions that had to be met in order for the Arizona programs to receive full approval.

The State, Maricopa and Pima revised their title V programs to address the conditions of the interim approval. EPA promulgated proposals to approve the ADEQ, MCESD, and PDEQ programs on October 2, 2001 (66 FR 50136), October 18, 2001 (66 FR 52882), and September 10, 2001 (66 FR 46972), respectively.

II. Comments Received by EPA on Our Proposed Rulemaking and EPA's Responses

EPA received three comment letters on our proposed full approval of the ADEQ program and one comment letter on the Maricopa program. With one exception, all of the comment letters focused exclusively on the need to revise the major source definition in Part 70. EPA published a final rule addressing this issue on November 27, 2001 and therefore EPA is not responding to those comments. EPA's response to the remaining comments on the ADEQ program, submitted by The Arizona Center for Law in the Public Interest (ACLPI), is set out below.

1. Excess Emissions Provision

ACLPI objects to language in R18–2–310 that establishes an affirmative defense for violations occurring during startup and shutdown. EPA has proposed to approve the removal of R18–2–310 from the title V program:

In addition to proposing to approve the rules listed in Table 1, EPA is also proposing to approve the removal of R18–2–310, Excess Emissions, from the State's title V program.

See 66 FR 50138, October 2, 2001. Therefore, EPA construes ACLPI's comment as supporting its proposed action.

2. Reference Test Methods and Credible Evidence

ACLPI contends that ADEQ's title V permits routinely require only specific test methods and do not allow for additional credible evidence to be presented to prove, or disprove, an alleged violation. They state that the State's operating permit program does not appear to include EPA's credible evidence rule. ACLPI concludes that, before Arizona's title V program is fully approved, ADEQ must make the necessary changes to include the Credible Evidence Rule.

EPA agrees with the commenter's point that state implementation plans and permits should not bar the use of credible evidence for determining whether a source is in compliance. We disagree, however, with the commenter's suggestion that a permit condition that requires a source to monitor in accordance with a specific method bars the use of additional credible evidence in determining compliance.

The preamble to EPA's Credible Evidence Revisions states that the "regulation merely removes [from 40 CFR parts 51, 52, 60 and 61] what some have construed to be a regulatory bar to the admission of non-reference test data to prove a violation of an emission standard." See 62 FR 8315, February 24, 1997. One aspect of EPA's review of title V programs and permits includes a determination that no bars to enforcement are included. For example, EPA would consider language such as "compliance shall be determined by test method X" as problematic. Contrary to ACLPI's position, neither the CAA nor EPA's regulations require part 70 programs or permits to include specific references to credible evidence. The presumption is that, absent language precluding its use, credible evidence can be used. ACLPI argues, for example, that the North Star Steel draft permit requires that the permittee shall perform initial and annual performance tests to determine opacity using EPA Method 9. ACLPI suggests that this condition bars the use of credible evidence to prove or disprove an alleged violation. EPA disagrees. Permits must impose monitoring requirements on sources and, in order to be effective, must specify the type of monitoring a source must undertake. See 40 CFR 70.6(a)(3). The language in the draft North Star Steel permit does not bar the use of other credible evidence. It merely sets out the source's monitoring obligations.EPA understands that ADEQ shares our interpretation.

3. Arizona's Confidentiality Provision

ACLPI commented that Arizona's operating permits program is not approvable because it does not adequately satisfy federal standards and that A.R.S. 49–432 must be amended to accommodate the public's right to have access to information. The opportunity for public comment on EPA's proposed action to grant full approval of the ADEQ program was limited to the issue of whether ADEQ corrected the items EPA had identified as program deficiencies during the interim approval process. Thus, EPA's proposal to grant full approval did not include ADEQ's confidentiality provisions, which EPA had previously approved as part of ADEQ's program. See 61 FR 55915, October 30, 1996. The comment is therefore beyond the scope of this rulemaking. However, EPA will be responding to this same comment, which was also raised by ACLPI during the 90-day public comment period, under separate cover by December 14, 2001.

4. Definition of Major Source

ACLPI comments that EPA cannot lawfully approve Arizona's major source definition unless EPA completes the rulemaking process that will change the definition in part 70. EPA agrees with ACLPI and in fact took that position in the notice proposing full approval of ADEQ's program. We stated that our full approval of the ADEQ program was contingent on EPA finalizing changes to the major source definition that would result in ADEQ's major source definition being consistent with part 70. See 66 FR 50138, October 2, 2001. EPA finalized these changes in a rule signed by the Administrator on November 19, 2001, and published in the **Federal**

Register on November 27, 2001 (See 66 FR 59161).

5. Fugitive Emissions From Agricultural Equipment

ACLPI states that there is no legitimate reason to exclude agricultural equipment from regulation under title V and therefore, EPA cannot fully approve Arizona's title V program until A.R.S. § 49–426(B) is amended to require that agricultural sources count fugitive emissions.

Arizona's program does not exclude agricultural equipment from regulation under title V. As noted in EPA's notice granting interim approval of ADEQ's title V program, the Arizona Attorney General submitted an opinion that the legislature in no way sought to exempt any major sources when it granted an exemption to agricultural equipment used in normal farm operations. The opinion went on to state that this was clarified by AAC R18–2–302(c)(3), which provides that agricultural equipment used in normal farm operations does not include equipment that requires a permit under title V or is subject to a standard under 40 CFR parts 60 or 61. EPA deferred to that opinion, but noted that if there is a successful legal challenge to the ADEQ's regulation, we would revisit this portion of the program approval. See 61 FR 55915, October 30, 1996.

Part 70 currently requires that fugitive emissions generated by sources that are subject to a standard promulgated under section 111 or 112 of the Clean Air Act must be included when determining whether a source is major. Sources are also required to count all fugitive emissions of hazardous air pollutants. Under part 70, fugitive emissions from any agricultural equipment regulated by such standards or that emits hazardous air pollutants must count towards the major source threshold. ADEQ's rules are consistent with this approach.

After carefully reviewing and considering the issues raised by the commenter, EPA is taking final action to give full approval to the Arizona operating permits program.

III. EPA's Final Action

A. Full Approval of Operating Permit Programs

EPA is granting full approval to the operating permits programs submitted by ADEQ, MCESD, and, Pima based on the revisions submitted for ADEQ on August 11, 1998, May 9, 2001, and September 7, 2001, for MCESD on September 7, 2001, and for PDEQ on May 28, 1998 and November 9, 2001, which satisfactorily address the program deficiencies identified in EPA's October 30, 1996 interim approval (61 FR 55910). EPA is also approving, as title V operating permits program revisions, additional changes made to the Arizona programs. These deficiency corrections and additional program revisions are described in detail in the **Federal Register** notices proposing full approval of the Arizona programs and their accompanying technical support documents.

In our proposed approvals of the Arizona programs, we noted that ADEQ, MCESD, and PDEQ had revised their major source definition in anticipation of EPA finalizing a previously proposed change (59 FR 44460; August 29, 1994) to the major source definition in part 70. Paragraph (c) of Arizona programs' definition of major source lists source categories that must count fugitives. Subparagraph (xxvii) has been modified to read: "All other stationary source categories regulated by a standard promulgated as of August 7, 1980 under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category." Emphasis added. The addition of this 1980 cutoff date restricts the types of sources that are required to count fugitives towards the major source threshold. At the time of our proposed full approvals this change was inconsistent with part 70. Because EPA's proposed revision to the major source definition would incorporate the 1980 cutoff date we proposed to approve the ADEQ, MCESD, and PDEQ definition of major source contingent on EPA finalizing our proposed change to part 70.

On November 19, 2001, the Administrator signed a rulemaking package that finalized EPA's change to paragraph (2)(xvii) of the part 70 definition of major source. The revised paragraph now reads, "(xvii) Any other stationary source category, which as of August 7, 1980 is being regulated by a standard promulgated under section 111 or 112 of the Act." This change means that part 70 no longer requires states to provide that sources in categories subject to standards under sections 111 or 112 promulgated after August 7, 1980 must include fugitive emissions in determining major source status under section 302 or part D of title I of the Clean Air Act. As a consequence of this change to part 70, the definition of major source in the Arizona programs is no longer inconsistent with part 70 and is now fully approvable.

In addition to the above described change, EPA has deleted the phrase "but only with respect to those air pollutants that have been regulated for that category" from paragraph (c)(xvii) of the part 70 definition of major source. EPA proposed to delete this phrase in its 1995 supplemental proposal to revise part 70. See 60 FR 45530, August 31, 1995. States, including the Arizona agencies, must revise their part 70 programs accordingly, and submit the revision to EPA within 12 months of the date of publication of the final rule. If a state can demonstrate that additional legal authority is needed, the deadline for submittal of a revised program can be extended to 24 months after EPA's rule is published.

For more details on these changes to the part 70 major source definition, please see the notice signed by the Administrator on November 19, 2001 and published in the **Federal Register** on November 27, 2001 (See 66 FR 59161). Interested parties can download the final rule from EPA's website on the Internet under recent actions at the following address: *http//www.epa.gov/ttn.oarpg/ramain.html*.

The rules for which we are granting full approval are listed in the tables below.

TABLE 1.—ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

Rule No.	Rule title and specific sections being approved	Effective	Submitted
R18–2–101 (61)	Definitions—definition of "Major source" only	6/4/98	8/11/98
R18–2–304	Permit application processing procedures	12/20/99	5/9/01
R18–2–306	Permit contents	6/4/98	8/11/98
R18–2–320	Significant Permit Revisions	12/20/99	5/9/01
R18–2–331	Material Permit Conditions	6/4/98	8/11/98

In addition to proposing to approving the rules listed in Table 1, EPA is also removing R18–2–310, Excess Emissions, from the State's title V program.

TABLE 2.—MARICOPA COUNTY ENVIRONMENTAL SERVICES DEPARTMENT

Rule No.	Rule title and specific sections proposed for approval	Adopted	Submitted
Regulation I, Rule 100	General Provisions and Definitions • The following provisions from §200, Definitions: §200.26 "Building, Structure, Facility, or Installation" §200.58 "Insignificant Activity" §200.60 "Major Source" §200.107 "Trade Secret" §200.108 "Trivial Activity" • §402, Confidentiality of Information • §500 Monitoring of Records	8/22/01	9/7/01
Regulation I, Rule 130	Emergency Provisions	7/26/00	9/7/01
Regulation II, Rule 200	Permit Requirements • §308—Standards for Applications • §312—Transition from Installation and Operating Permit Program to Unitary Permit Program	8/22/01	9/7/01
Regulation II, Rule 210	Title V Permit Provisions • §301.4(h) • §302.1(j) • §302.1(n) • §404—Administrative Permit Amendments • §405.1 • §408—Public Participation	2/7/01	9/7/01
Appendix D	List of Insignificant Activities	8/22/01	9/7/01
Appendix E	List of Trivial Activities	8/22/01	9/7/01

TABLE 3.—PIMA DEPARTMENT OF ENVIRONMENTAL QUALITY

Rule No.	Rule title and specific sections being approved	Adopted	Submitted
17.04.340.A. (122)	Words, phrases, and terms—definition of "Major source" only	9/11/01	11/9/01
17.04.340.A. (109)	Words, phrases, and terms—definition of "Insignificant activity" only	4/7/98	5/28/98
17.12.150	Transition from installation and operating permit program to unitary permit program.	9/11/01	11/9/01
17.12.160	Permit application processing procedures	4/7/98	5/28/98
17.12.180	Permit contents	4/7/98	5/28/98
17.12.345	Public notification	4/7/98	5/28/98

B. Effective Date of Full Approval

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the Arizona programs effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the Arizona programs to take effect before December 1, 2001. EPA's interim approval of the Arizona programs expires on December 1, 2001. In the absence of this full approval of Arizona's amended programs taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Arizona and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public, ADEQ, MCESD, and PCDEQ to avoid any gap in coverage of the Arizona program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because ADEQ, MCESD, and PCDEQ have been administering the title V permit program for 5 years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

C. Scope of the Full Approval

In their program submissions, neither ADEQ, Maricopa County nor Pima Country asserted jurisdiction over Indian country. To date, no tribal government in Arizona has applied to EPA for approval to administer a title V program in Indian country within the state. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

D. Public Comment Letters

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently

challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

Two groups submitted comments on what they believe to be deficiencies with respect to the Arizona, Maricopa County and Pima County Title V programs. As stated in the **Federal Register** notice published on October 2, 2001 (66 FR 50136), October 18, 2001 (66 FR 52882), and September 10, 2001 (66 FR 46972) proposing to fully approve Arizona, Maricopa County and Pima County operating permit programs respectively, EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 14, 2001 to timely public comments on programs that have obtained interim approval, and by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. In addition, we will publish a notice of availability in the **Federal Register** notifying the public that we have responded in writing to these comments and how the public may obtain a copy of our response. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program , to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 28, 2001.

Wayne Nastri,

Regional Administrator, Region 9.

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by revising paragraphs (a) and (b), and adding paragraph (c)(3) under Arizona to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Arizona

(a) Arizona Department of Environmental Quality:

(1) Submitted on November 15, 1993 and amended on March 14, 1994; May 17, 1994; March 20, 1995; May 4, 1995; July 22, 1996; and August 12, 1996; interim approval effective on November 29, 1996; interim approval expires December 1, 2001.

(2) Revisions submitted on August 11, 1998, May 9, 2001 and September 7, 2001. Full approval is effective on November 30, 2001.

(b) Maricopa County Environmental Services Department:

(1) Submitted on November 15, 1993 and amended on December 15, 1993; January 13, 1994; March 9, 1994; and March 21, 1995; July 22, 1996; and August 12, 1996; interim approval effective on November 29, 1996; interim approval expires December 1, 2001.

(2) Revisions submitted on September 7, 2001. Full approval is effective on November 30, 2001.

(c) * * *

(3) Revisions submitted on May 30, 1998 and November 9, 2001. Full approval is effective on November 30, 2001.

* * * * *

[FR Doc. 01–30148 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NY002; FRL–7113–3]

Clean Air Act Final Full Approval of Operating Permit Program; State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is promulgating final full approval of the operating permit program submitted by the State of New York in accordance with Title V of the Clean Air Act (the Act) and its implementing regulations codified. This approved program allows New York to issue federally enforceable operating permits to all major stationary sources and to certain other sources within the State's jurisdiction. However, because certain of the regulations are emergency rules that will expire on December 21, 2001, unless extended, EPA is approving this program only until the expiration date of the emergency rules. EPA has proposed approval of permanent rules that are substantively the same as the emergency rules and the State expects to submit those rules in final adopted form shortly. Once these rules become effective, EPA will promulgate another final program approval to replace this action. In the interim, the emergency rules will still be in effect and, therefore, New York will still have a fully approved program. If EPA has not approved the State's revised permanent rules before the emergency rules expire, New York's title V permit program will expire and the federal program will automatically apply. If New York's emergency rules expire as discussed above and a federal program under part 71 takes effect in the state, EPA will provide notice to the public within two weeks of the effective date of the federal program in a subsequent **Federal Register** document. Because EPA received adverse comments on the proposed action published in the October 25, 2001 **Federal Register** (66 FR 53966), this action responds to those comments.

EFFECTIVE DATE: November 30, 2001.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing this final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor, New York, New York 10007–1866.

FOR FURTHER INFORMATION CONTACT: Steven C. Riva, Chief, Permitting Section, Air Programs Branch, at the above EPA office in New York or at telephone number (212) 637–4074.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

1. What is the operating permit program?
2. What is being addressed in this document?
3. What were the concerns raised by the commenters?
4. What is the public's role in identifying program deficiencies?
5. What are the program changes that EPA is approving?
6. What is involved in this final action?
7. What is the scope of EPA's full approval?
8. What is the effective date of EPA's final full approval of the State of New York title V program?

1. What Is the Operating Permit Program?

Title V of the Clean Air Act (the Act) and its implementing regulations at 40 CFR part 70 (part 70) direct all states to develop and implement operating permit programs that meet certain criteria. Operating permit programs are intended to consolidate into single federally enforceable documents all requirements of the Act that apply to individual sources. This consolidation of all of the applicable requirements for a source enables the source, the public, and permitting authorities to more easily determine what requirements of the Act apply and whether the source is complying with them. Sources required to obtain operating permits include "major" sources of air pollution and certain other sources specified in section 501 of the Act and in EPA's regulations at 40 CFR 70.3.

The EPA reviews state programs pursuant to title V of the Act and part 70, which outline the criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval which would be effective for two years. If a state does not have in place a fully approved program by the time the interim approval expires, the federal operating permit program under 40 CFR part 71 (part 71) will automatically take effect. Due to unexpected circumstances that affected states' timeliness in developing fully approvable programs, EPA extended the effective date of all interim approvals until December 1, 2001. For any state that has not received full approval from EPA by December 1, 2001, its interim approval will then expire and be immediately replaced by the federal part 71 program. All sources subject to the federal program that do not have final part 70 permits already issued to them by the state will be required to submit a part 71 permit application and the appropriate fees within one year to their respective EPA Regional offices under part 71.

2. What Is Being Addressed in This Document?

New York State's first version of its operating permit program substantially, but not fully, met the requirements of part 70; therefore, EPA granted interim program approval on November 7, 1996, which became effective on December 9, 1996 (61 FR 57589). In the interim approval rulemaking EPA identified eight issues that needed correction before New York would be eligible for final full approval. New York State submitted a corrected program to EPA

on June 8, 1998, which addressed three of the deficiencies. The State submitted a second corrected program to EPA on October 5, 2001, which addressed three additional deficiencies. The latter three corrections were submitted in final form as emergency rules, which will expire on December 21, 2001, unless extended. At the same time, New York submitted proposed permanent rules (which were identical to the emergency rules) which will replace the emergency rules, and which the State is currently in the process of adopting. The State will submit the permanent rules shortly after the completion of the State's public comment process, and before the expiration of the emergency rules.

As discussed in the proposed approval notice (66 FR 53966), EPA no longer considers the remaining two issues to be deficiencies. First, because New York State affords more time than part 70 requires for citizens to file a petition for judicial review, this issue is not considered to be a program deficiency. The second issue related to the definition of "major source." EPA recently promulgated regulations revising the definition of major source, which is now consistent with the definition included in the New York State operating permit program. As such, there is no longer a program deficiency with respect to this definition.

On October 25, 2001, EPA proposed full approval of New York State's title V operating permit program and provided the public a period of 30 days to submit comments on EPA's proposed action (66 FR 53966). The proposed approval concerned the three permanent rules submitted on June 8, 1998 (effective on June 26, 1998) as well as the emergency and draft permanent rules submitted on October 5, 2001. During the 30-day comment period, EPA received one comment letter dated November 23, 2001, from the New York Public Interest Research Group (NYPIRG). The comments contained in that letter are addressed below.

3. What Were the Concerns Raised by the Commenters?

On November 23, 2001, we received a comment letter from NYPIRG on the proposed full approval of the New York program. In this notice, we are only addressing the comments which relate to our determination that New York has corrected the interim approval deficiencies in its title V program. Most of the comments submitted by NYPIRG are outside the scope of this action because they do not address the interim approval deficiencies and the subsequent correction of these deficiencies. Some of these issues have been raised previously by NYPIRG, either in its April 13, 1999 petition on the New York State Title V program, in subsequent facility specific petitions, or in its March 11, 2001 letter submitted in response to EPA's December 2000 notice.

Of the remaining comments, four are new allegations of deficiencies in the New York State Title V program. That is, these allegations were not submitted in response to EPA's December 2000 notice that alerted the public to identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in state operating permit programs. These four comments are also outside of the scope of the eight issues identified by EPA in the November 7, 1996 **Federal Register** notice granting interim program approval to New York State. Nonetheless, EPA will investigate these allegations to ascertain whether they constitute a deficiency in the New York State's Title V program, and EPA will respond appropriately.

In its comment letter, NYPIRG challenged our ability to proceed with full approval of New York's program when, according to the comment, the program does not clearly conform to the requirements of part 70.

EPA is aware that issues other than those listed in the November 7, 1996, interim approval may exist in the New York program. EPA agrees that these issues must be addressed. For the reasons discussed below, however, we disagree that newly identified deficiencies that may exist prohibit us from granting New York full program approval at this time.

In 1990, Congress amended the Clean Air Act, 42 U.S.C. 7401 to 7671q ("CAA" or "Act"), by adding title V, 42 U.S.C. 7661 to 7661f, which requires certain air pollutant emitting facilities, including "major source[s]" and "affected source[s]," to obtain and comply with operating permits. *See* 42 U.S.C. 7661a(a). Title V is intended to be administered by local, state or interstate air pollution control agencies, through permitting programs that have been approved by EPA. *See* 42 U.S.C. 7661a(a). EPA is charged with overseeing the State's efforts to implement an approved program, including reviewing proposed permits and vetoing improper permits. *See* 42 U.S.C. §§ 7661a(i) and 7661d(b). Accordingly, Title V of the CAA provides a framework for the development, submission and approval of state operating permit programs. Following the development and submission of a state program, the Act provides two different approval options that EPA may utilize in acting on state submittals. *See* 42 U.S.C. 7661a(d) and (g). Pursuant to section 502(d), EPA "may approve a program to the extent that the program meets the requirements of the Act * * *" EPA may act on such program submittals by approving or disapproving, in whole or in part, the state program. An alternate option for acting on state programs is provided by the interim approval provision of section 502(g). This section states: "If a program * * * substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval." This provision provides EPA with the authority to act on State programs that substantially, but do not fully, meet the requirements of Title V and part 70. Only those program submittals that meet the requirements of eleven key program areas are eligible to receive interim approval. *See* 40 CFR 70.4(d)(3)(i)–(xi). Finally, section 502(g) directs EPA to "specify the changes that must be made before the program can receive full approval." 42 U.S.C. 7661a(g); 40 CFR 70.4(e)(3). This explicit directive encompasses another, implicit one: Once a state corrects the specified deficiencies then it will be eligible for full program approval. EPA believes this is so even if deficiencies have been identified sometime after final interim approval, either because the deficiencies arose after EPA granted interim approval or, if the deficiencies existed at that time, EPA failed to identify them as such in proposing to grant interim approval.

Thus, an apparent tension exists between these two statutory provisions. Standing alone, section 502(d) appears to prevent EPA from granting a state operating permit program full approval until the state has corrected all deficiencies in its program no matter how insignificant, and without consideration as to when such deficiency was identified. Alternately, section 502(g) appears to require that EPA grant a state program full approval if the state has corrected those issues that the EPA identified in the final interim approval. The central question, therefore, is whether New York by virtue of correcting the deficiencies identified in the final interim approval is eligible at this time for full approval, or whether New York must also correct any new or recently identified deficiencies that may exist as a prerequisite to receiving full program approval.

According to settled principles of statutory construction, statutory provisions should be interpreted so that they are consistent with one another.

See Citizens to Save Spencer County v. *EPA*, 600 F.2d 844, 870 (D.C. Cir. 1979). Where an agency encounters inconsistent statutory provisions, it must give maximum possible effect to all of the provisions, while remaining within the bounds of its statutory authority. *Id.* at 870–71. Whenever possible, the agency's interpretation should not render any of the provisions null or void. *Id.* Courts have recognized that agencies are often delegated the responsibility to interpret ambiguous statutory terms in such a fashion. *See Chevron U.S.A, Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 845 (1984). Harmonious construction is not always possible, however, and furthermore should not be sought if it requires distorting the language in a fashion never imagined by Congress. Citizens to Save Spencer County, 600 F.2d at 870.

In this situation, in order to give effect to the principles embodied in Title V that major stationary sources of air pollution be required to have an operating permit that conforms to certain statutory and regulatory requirements, and that operating permit programs be administered and enforced by state permitting authorities, the appropriate and more cohesive reading of the statute recognizes EPA's authority to grant New York full approval in this situation while working simultaneously with the state, in its oversight capacity, on any additional problems that were recently identified. To conclude otherwise would disrupt the current administration of the state program and cause further delay in the state's ability to issue operating permits to major stationary sources. A smooth transition from interim approval to full approval is in the best interest of the public and the regulated community and best reconciles the statutory directives of Title V.

Furthermore, requiring the State to fix all of the deficiencies that may exist and that have been recently identified prior to receiving full approval runs counter to the established regulatory process that is already in place to deal with newly identified program deficiencies. Section 502(i)(4) of the Act and 40 CFR 70.4(i) and 70.10 provide EPA with the authority to issue notices of deficiency ("NOD") whenever EPA makes a determination that a permitting authority is not adequately administering or enforcing a part 70 program, or that the State's permit program is inadequate in any other way. Consistent with these provisions, in its NOD EPA will specify a reasonable time frame for the permitting authority to correct the identified deficiency. The New York Title V interim approval expires on December 1, 2001. This deadline does not provide adequate time for the State to correct newly identified issues that may exist prior to the expiration of interim approval. Allowing the State's program to expire because of issues identified as recently as March 2001 will cause disruption and further delay in the issuance of permits to major stationary sources in New York. As explained above, we do not believe that Title V requires such a result. Rather, the appropriate mechanism for dealing with additional deficiencies that are identified sometime after a program received interim approval but prior to being granted full approval is the notice of program deficiency or administration deficiency as discussed herein. This process provides the State an adequate amount of time after such findings to implement any necessary changes without unduly disrupting the entire state operating permit program. As a result, addressing newly identified problems separately from the full approval process will not cause these issues to go unaddressed. Moreover, proceeding in this manner allows for a more rational and orderly method for addressing new issues as they arise.

In addition, NYPIRG submitted one comment that directly relates to New York's full program approval process. This comment relates to the definition of "major source." NYPIRG commented that EPA can only grant full approval if a program complies with part 70 as it exists on the date of full program approval. That is, approval cannot be based on a determination that a program complies with proposed regulations. EPA agrees. The decision to grant full approval is based on the fact that the definition of major source in New York State's program is now consistent with the definition in part 70. In EPA's proposed approval of the New York State program, it was noted that the agency had proposed revisions to part 70 relative to the major source definition that, when finalized, would be consistent with the definition in New York's rules. New York's definition of major source, which lists source categories that must include fugitive emissions in determining major source status reads, in part: "All other source categories regulated by a standard under Sections 111, for which EPA has completed a rulemaking proceeding under 302(j) of the Act or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category as of the effective date of this Part." On November 27, 2001, the Agency published in the **Federal Register** a rule that finalized EPA's change to paragraph (2)(xvii) of the part 70 definition of major source. See 66 FR 59161, November 27, 2001. The revised paragraph now reads, "(xvii) Any other stationary source category, which as of August 7, 1980 is being regulated by a standard promulgated under section 111 or 112 of the Act." This change means that part 70 no longer requires states to provide that sources in categories subject to standards under sections 111 or 112 promulgated after August 7, 1980 must include fugitive emissions in determining major source status under section 302 or part D of title I of the Act. The definition of major source in the New York program is now consistent with part 70. Although the New York definition is different than the EPA definition, the State's definition covers at least the same source categories as part 70 (as revised) and, therefore, it is now fully approvable.

In addition to the above described change, EPA has deleted the phrase "but only with respect to those air pollutants that have been regulated for that category" from paragraph (c)(xvii) of the part 70 definition of major source. EPA proposed to delete this phrase in its 1995 supplemental proposal to revise part 70. See 60 FR 45530, August 31, 1995. States, including New York, must revise their part 70 programs accordingly, and submit the revision to EPA within 12 months of the date of publication of the final rule. If a state can demonstrate that additional legal authority is needed, the deadline for submittal of a revised program can be extended to 24 months after EPA's rule is published.

4. What Is the Public's Role in Identifying Program Deficiencies?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permit programs until December 1, 2001. (65 FR 32035). The action was subsequently challenged by the Sierra Club and NYPIRG. In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice. EPA published that notice on December 11, 2000. (65 FR 77276).

Several citizens commented on what they believe to be deficiencies with respect to the New York State Title V

program. As stated in the **Federal Register** notice published on October 25, 2001 proposing to fully approve New York State's operating permit program, EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 14, 2001, to timely public comments on programs that had obtained interim approval, and by April 1, 2002, to timely comments on fully approved programs. EPA will publish a notice of deficiency (NOD) when it is determined that a deficiency exists, or EPA will notify the commenter in writing to explain the agency's reasons for not making a finding of deficiency. In addition, EPA will publish a notice of availability in the **Federal Register** notifying the public that the agency has responded in writing to these comments and how the public may obtain a copy of such a response. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that EPA has identified through its program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

5. What Are the Program Changes That EPA Is Approving?

The details on the program changes can be found in EPA's proposed action which was published in the October 25, 2001 issue of the **Federal Register** (see 66 FR 53966). In summary, EPA approves the three rule revisions that became effective on June 26, 1998, and the three other rule revisions that were promulgated pursuant to emergency rulemaking on September 21, 2001.

6. What Is Involved in This Final Action?

The State of New York has adequately fulfilled the conditions of the interim approval promulgated on November 7, 1996. EPA is therefore taking final action to fully approve New York State's operating permit program as revised by the three permanent rules submitted on June 8, 1998 and the three emergency rules submitted on October 5, 2000. However, as previously discussed, since the emergency rules expire on December 21, 2001, unless extended, this final full approval will expire if EPA has not approved the State's revised permanent rules before the emergency rules expire. New York State has commenced a separate rulemaking proposal (that is, the "normal" rulemaking process utilized in the State of New York, including the opportunity for public participation), containing the identical regulatory changes. The permanent rules will replace the "emergency" rules once the rulemaking proposal is finalized. Today's approval, however, is contingent upon the final permanent rules being substantively the same as the draft rules on which EPA proposed this action and which were the same as the emergency rules that are already in effect. Once these permanent rules become effective, EPA will promulgate another final program approval to replace this action. In the interim, the emergency rules will still be in effect and, therefore, New York will still have a fully approved program. If the State of New York fails to adopt rules that are effective before expiration of the emergency rules, then the New York State operating permit program will expire and the federal part 71 program will automatically take effect. As previously discussed, if necessary, EPA will publish a notice in the **Federal Register** within two weeks of the effective date of the federal program.

New York State may revise its operating permit program as appropriate in the future by following the procedures stipulated in 40 CFR 70.4(i). EPA may also exercise its oversight authorities under section 502(i) of the Act to require changes to the State's program consistent with the procedure stipulated in 40 CFR 70.10.

7. What Is the Scope of EPA's Full Approval?

In its program submittal, New York State did not assert jurisdiction over Indian country. To date, no tribal government in New York has applied to EPA for approval to administer a title V program in Indian country within the State. On February 12, 1998, EPA promulgated regulations (40 CFR part 49) under which eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA has promulgated regulations (40 CFR part 71) governing the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

8. What Is the Effective Date of EPA's Final Full Approval of the State of New York Title V Program?

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the State's program effective on November 30, 2001. In relevant part, section 553(d) provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." Good cause may be supported by an agency determination that a delay in the effective date is "impracticable, unnecessary, or contrary to the public interest." APA section 553(b)(3)(B). EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001: EPA's interim approval of New York State's program expires on December 1, 2001. In the absence of this full approval taking effect on November 30, the federal part 71 program would automatically take effect in New York State and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public and the State to avoid any gap in coverage of the State program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because New York has been administering the title V permit program for five years under an interim approval. Through this action, EPA is approving revisions to the existing and currently operational program. The change from the interim approved program which substantially but did not fully meet the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-approved program and the federal program. Finally, sources are already complying with many of the newly approved requirements as a matter of state law. Thus, there is little or no additional burden with complying with these requirements under the federally approved State program.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and

Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 29, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

For reasons set out in the preamble, Appendix A of part 70 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended by adding paragraph (c) in the entry for New York to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permit Programs

* * * * *

New York

* * * * *

(c) The New York State Department of Environmental Conservation submitted program revisions on June 8, 1998 and October 5, 2001. The rule revisions contained in the June 8, 1998 and October 5, 2001 submittals adequately addressed the conditions of the interim approval effective on December 9, 1996, and which would expire on December 1, 2001. The October 5, 2001 submission consists of rules adopted pursuant to New York's emergency rulemaking procedures. The State is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–30144 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–7113–9]

Clean Air Act Full Approval of Operating Permits Program in Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the operating permits program submitted by the State of Alaska. Alaska's operating permits program was submitted in response to the directive in the 1990 Clean Air Act Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authority's jurisdiction.

DATES: Effective November 30, 2001.

ADDRESSES: Copies of the State of Alaska's submittal and other supporting

information used in developing this final, full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Denise Baker, EPA, Region 10, Office of Air Quality (OAQ–107), 1200 6th Avenue, Seattle, WA 98101, (206) 553–8087.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act (CAA) Amendments of 1990 require all state and local permitting authorities to develop operating permits programs that meet certain Federal criteria. The State of Alaska submitted a program in response to this directive. EPA granted interim approval to Alaska's air operating permits program on December 5, 1996, (61 FR 64463). The interim approval notice identified 19 remaining conditions that Alaska must meet in order to receive full approval of its Title V operating permits program.

After Alaska revised its operating permits program to address the conditions of the interim approval, EPA promulgated a proposal to approve Alaska's Title V operating permits program on July 26, 2001, (66 FR 38966). At the same time, because EPA viewed the proposal as a noncontroversial action and did not anticipate adverse public comment on the proposal, EPA also published a direct final rule approving the Alaska operating permits program (66 FR 38940). EPA received one adverse public comment on the proposal. Therefore, EPA removed the direct final approval on September 20, 2001, (66 FR 48357). After carefully reviewing and considering the issues raised by the commenter, EPA is taking final action to give full approval to the Alaska operating permits program.

II. What Is the Effective Date of EPA's Full Approval of Alaska's Title V Program?

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the state's program effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except— * * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. EPA's interim approval of Alaska's prior program expires on December 1, 2001. In the absence of this full approval of Alaska's amended program taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Alaska and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public and the State of Alaska to avoid any gap in coverage of the state program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because Alaska has been administering the Title V permit program for nearly five years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

III. Response to Comments

EPA received one comment letter in response to our July 26, 2001, (66 FR 38966) proposed approval notice for the Alaska Title V operating permits program. The commenter stated that EPA should withhold approval of Alaska's program until two issues were resolved. First, the commenter stated that "Alaska's plan is not yet in compliance with the federal Clean Air Act and its implementing regulations (40 CFR part 70)." The commenter argued that Alaska had failed to meet several Title V requirements, including the requirement to include monitoring, recordkeeping and reporting sufficient to assure compliance with and enforcement of each applicable requirement. Second, the commenter stated that "there is an ongoing review of Alaska's entire Title V program that will not be completed until December 1, 2001." The comments provided to EPA in response to our July 26, 2001, (66 FR 38966) proposed approval notice for Alaska were made by the same party and raised issues that had previously been discussed in the commenter's letter submitted on March 12, 2001, in response to 65 FR 77376 (December 11, 2000).

A. Response to Issue #1—Assertion That Alaska Is Not Yet in Compliance With Certain Requirements of the Title V Program

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs, including Alaska, until December 1, 2001 (65 FR 32035). The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs that had received interim or full approval. This notice was published on December 11, 2000 (65 FR 77376). In the notice, EPA committed to respond to the merits of any such claims of deficiency on or before December 1, 2001, for those states, such as Alaska, that have received interim approval and on or before April 1, 2002, for states that have received full approval.

As noted above, one citizen organization commented on what it believes to be deficiencies with respect to the Alaska Title V program. EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 14, 2001, to timely public comments on programs that have obtained interim approval, and by April 1, 2002, to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. In addition, we will publish a notice of availability in the **Federal Register** notifying the public that we have responded in writing to these comments and how the public may obtain a copy of our response. A NOD will not necessarily be limited to deficiencies identified by citizens, and may include any deficiencies that we have identified through our program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

For the reasons described below, EPA is not in the context of this action responding to the comments submitted after the December 11, 2000, notice that identify potential new deficiencies.

B. Response to Issue #2—Ongoing Review

The commenter referred to the ongoing review of Alaska's Title V program, and took the position that EPA should not grant full approval to Alaska's program until that review is completed. In support of this, the commenter asserted that the subject matter of the ongoing review, namely, the adequacy of the Alaska Title V program, is essentially the same as the subject matter of the proposal to fully approve the Alaska program. The commenter stated that EPA must base its decision of whether to grant full approval on the adequacy of the Alaska program as it currently exists, not as it existed at the time of interim approval. The commenter further stated that EPA must take into account any deficiency existing in the Alaska program, regardless of whether it had been identified in the granting of interim approval. According to the commenter, any other position would eviscerate EPA's oversight responsibilities.

For the reasons discussed below, we disagree that any deficiencies that may be identified following interim approval would prohibit us from granting Alaska full program approval at this time.

In 1990, Congress amended the Clean Air Act, 42 U.S.C. 7401 to 7671q ("CAA" or "Act"), by adding Title V, 42 U.S.C. 7661 to 7661f, which requires certain air pollutant emitting facilities, including "major source[s]" and "affected source[s]," to obtain and comply with operating permits. *See* 42 U.S.C. 7661a(a). Title V is intended to be administered by local, state or interstate air pollution control agencies, through permitting programs that have been approved by EPA. *See* 42 U.S.C. 7661a(a). EPA is charged with overseeing the State's efforts to implement an approved program, including reviewing proposed permits and vetoing improper permits. *See* 42 U.S.C. 7661a(i) and 7661d(b). Accordingly, Title V of the CAA provides a framework for the development, submission and approval of state operating permits programs. Following the development and submission of a state program, the Act provides two different approval options that EPA may utilize in acting on state submittals. *See* 42 U.S.C. 7661a(d) and (g). Pursuant to section 502(d), EPA "may approve a program to the extent that the program meets the requirements of the Act * * *" EPA may act on such program submittals by approving or disapproving, in whole or in part, the state program. An alternative option for acting on state programs is provided by the interim approval provision of section 502(g). This section states: "If a program * * * substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval." This provision provides EPA with the authority to act on State programs that substantially, but do not fully, meet the requirements of Title V and part 70. Only those program submittals that meet the requirements of eleven key program areas are eligible to receive interim approval. *See* 40 CFR 70.4(d)(3)(i)–(xi). Finally, section 502(g) directs EPA to "specify the changes that must be made before the program can receive full approval." 42 U.S.C. 7661a(g); 40 CFR 70.4(e)(3). This explicit directive encompasses another, implicit one: Once a state corrects the specified deficiencies then it will be eligible for full program approval. EPA believes this is so even if deficiencies have been identified sometime after final interim approval, either because the deficiencies arose after EPA granted interim approval or, if the deficiencies existed at that time, EPA failed to identify them as such in proposing to grant interim approval.

Thus, an apparent tension exists between these two statutory provisions. Standing alone, section 502(d) appears to prevent EPA from granting a state operating permits program full approval until the state has corrected all deficiencies in its program no matter how insignificant, and without consideration as to when such deficiency was identified. Alternatively, section 502(g) appears to require that EPA grant a state program full approval if the state has corrected those issues that the EPA identified in the final interim approval. The central question, therefore, is whether Alaska, by virtue of correcting the deficiencies identified in the final interim approval, is eligible at this time for full approval, or whether Alaska must also correct any new or recently identified deficiencies that may exist, as a prerequisite to receiving full program approval.

According to settled principles of statutory construction, statutory provisions should be interpreted so that they are consistent with one another. *See Citizens to Save Spencer County* v. *EPA*, 600 F.2d 844, 870 (D.C. Cir. 1979). Where an agency encounters inconsistent statutory provisions, it must give maximum possible effect to all of the provisions, while remaining within the bounds of its statutory authority. *Id.* at 870–71. Whenever possible, the agency's interpretation should not render any of the provisions null or void. *Id.* Courts have recognized that agencies are often delegated the responsibility to interpret ambiguous statutory terms in such a fashion. *See Chevron U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 845 (1984). Harmonious construction is not always possible, however, and furthermore should not be sought if it requires distorting the language in a fashion never imagined by Congress. *Citizens to Save Spencer County*, 600 F.2d at 870.

In this situation, in order to give effect to the principles embodied in Title V that major stationary sources of air pollution be required to have an operating permit that conforms to certain statutory and regulatory requirements, and that operating permits programs be administered and enforced by state permitting authorities, the appropriate and more cohesive reading of the statute recognizes EPA's authority to grant Alaska full approval in this situation while working simultaneously with the state, in its oversight capacity, on any additional issues that were recently identified. To conclude otherwise would disrupt the current administration of the state program, by causing the program to transfer to administration by EPA, and would cause further delay in Alaska's ability to issue operating permits to major stationary sources. A smooth transition from interim approval to full approval is in the best interest of the public and the regulated community and best reconciles the statutory directives of Title V.

Furthermore, requiring the State to address the deficiencies, if there are any, that have been identified in the past year to receive full approval runs counter to the established regulatory process that is already in place to deal with newly identified program deficiencies. Section 502(i)(4) of the Act and 40 CFR 70.4(i) and 70.10 provides EPA with the authority to issue notices of deficiency ("NOD") whenever EPA makes a determination that a permitting authority is not adequately administering or enforcing a part 70 program, or that the State's permit program is inadequate in any other way. Consistent with these provisions, in its NOD EPA will specify a reasonable time frame for the permitting authority to correct any identified deficiency. The Alaska Title V interim approval expires on December 1, 2001. This deadline does not provide adequate time for the State to correct newly identified issues

prior to the expiration of interim approval. Allowing the State's program to expire because of issues identified as recently as March 2001, will cause disruption and further delay in the issuance of permits to major stationary sources in Alaska. As explained, Title V does not require such a result. Rather, the appropriate mechanism for dealing with additional deficiencies that are identified sometime after a program received interim approval but prior to being granted full approval is the notice of program deficiency or administration deficiency as discussed herein. This process provides the State an adequate amount of time after such findings to implement any necessary changes without disrupting the continuity of the state operating permits program. Addressing newly identified issues on a separate track from the granting of full approval still ensures that these issues will be addressed in due course. Rather than undermining EPA's oversight authority as the commenter suggests, proceeding in this manner allows for a more rational and orderly method for addressing new issues as they arise.

At this time, EPA has identified one concern regarding the Alaska Title V program for which it has asked the State for an immediate response. This concern relates to the rate of Title V permit issuance by Alaska. In response to EPA's request, Alaska has provided EPA with a commitment letter that includes a timeline and milestones for issuance of remaining permits. Specifically, the State has committed to issuing all outstanding Alaska Title V air operating permits on or before December 1, 2003. EPA is satisfied that this timeline for issuance of remaining permits represents reasonable progress towards issuance of all permits. Accordingly, EPA is not issuing a notice of deficiency because the State's commitment that future permits will be issued consistent with state and federal requirements addresses EPA's concern. However, it will be important to ensure that the State actually meets this commitment. EPA will monitor the State's efforts over the next two years to ensure the State is proceeding on a pace to meet the commitment and that the commitment is ultimately met.

IV. What Is the Scope of EPA's Full Approval?

In its program submission, Alaska did not assert jurisdiction over Indian country. To date, no tribal government in Alaska has applied to EPA for approval to administer a title V program in Indian country within the state. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

V. Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permits programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permits program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permits program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it

is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 29, 2001.

L. John Iani,

Regional Administrator, Region 10.

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In appendix A to part 70, the entry for Alaska is amended by revising paragraph (a) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Alaska

(a) Alaska Department of Environmental Conservation: submitted on May 31, 1995, as supplemented by submittals on August 16, 1995, February 6, 1996, February 27, 1996, July 5, 1996, August 2, 1996, and October 17, 1996; interim approval effective on December 5, 1996; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–30143 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NV 063–P170; FRL–7113–8]

Clean Air Act Full Approval of Title V Operating Permits Programs; Clark County Department of Air Quality Management, Washoe County District Health Department, and Nevada Division of Environmental Protection, Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the operating permits program of the Clark County Department of Air Quality Management ("Clark County"), the Washoe County District Health Department ("Washoe County"), and the Nevada Division of Environmental Protection ("NDEP"). These three programs were submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to Clark County's operating permits program on July 13, 1995, to Washoe County's program on January 5, 1995, and to NDEP's program on December 12, 1995. All three permitting agencies revised their programs to satisfy the conditions of interim approval, and EPA proposed full approval in the **Federal Register** on October 10, 2001. EPA received comments on our proposed approval of Clark County's program from Mr. Robert Hall of the Nevada Environmental Coalition, and on our proposed approval of NDEP's program from NDEP. After carefully reviewing and considering the issues raised by the commenters, EPA is taking final action to give full approval to the Clark County and NDEP operating permits programs. EPA received no comments on our proposed approval of the Washoe County program and we are also granting full approval to that program in today's action.

EFFECTIVE DATE: This rule is effective on November 30, 2001.

ADDRESSES: Copies of the three program submittals and other supporting information used in developing this final full approval, including the two comment letters on our proposed approval, are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: David Albright, EPA Region 9, at 415–972–3971 or at albright.david@epa.gov.

SUPPLEMENTARY INFORMATION: This section contains additional information about our final rulemaking, organized as follows:

I. Background on the Clark County, Washoe County, and NDEP operating permits programs
II. Comments received by EPA on our proposed rulemaking and EPA's responses
III. EPA's final action
A. Full Approval of the Clark County, Washoe County, and NDEP Operating Permit Programs
B. Effective date of EPA's full approval
C. The scope of EPA's full approval
D. Citizen comment letters

I. Background on the Clark County, Washoe County, and NDEP Operating Permits Programs

The Clean Air Act (CAA) Amendments of 1990 required all state and local permitting authorities to develop operating permits programs that meet certain federal criteria. Clark County, Washoe County, and NDEP submitted their operating permits programs in response to this directive. Because the Clark County, Washoe County, and NDEP programs substantially, but not fully, met the requirements of part 70, EPA granted interim approval to each program in three separate rulemakings, published on July 13, 1995 (60 FR 36070), January 5, 1995 (60 FR 1741), and December 12, 1995 (60 FR 63631), respectively. Each interim approval notice described the conditions that had to be met in order for the programs to receive full approval.

After Clark County, Washoe County, and NDEP revised their programs to address the conditions of interim approval, EPA proposed to approve all three title V operating permits programs on October 10, 2001 (66 FR 51620).

II. Comments Received by EPA on Our Proposed Rulemaking and EPA's Responses

EPA received two comment letters during the public comment period. Mr. Robert Hall, Nevada Environmental Coalition, submitted a letter on November 9, 2001 commenting on our proposed approval of the Clark County program and NDEP submitted a letter on November 9, 2001 commenting on our proposed approval of the Nevada program. Copies of these letters are

included in the docket for this rulemaking maintained at the EPA Region 9 office.

A. Letter From Mr. Robert Hall, Nevada Environmental Coalition (NEC) Dated November 9, 2001

Mr. Hall, president of the NEC, raised numerous issues in his comment letter with respect to DAQM's implementation of the Clean Air Act. EPA responds below to those comments that are germane to EPA's proposal on October 10, 2001, to approve the Clark County DAQM operating permits program based upon the specific revisions made to the Clark County program addressing their interim approval deficiencies. However, many of Mr. Hall's comments relate to non-title V air permitting issues or to title V program issues that were not the subject of EPA's proposed action. Both categories of comments are beyond the scope of EPA's proposed action, which pertained specifically to whether Clark County had corrected the issues identified as deficiencies when EPA granted the program interim approval. In this notice, EPA is not responding to comments submitted by Mr. Hall that are beyond the scope of our present rulemaking. Nevertheless, many of the concerns raised by Mr. Hall are similar to issues that he raised in his comment letter submitted in response to EPA's 90-day public comment period that provided members of the public an opportunity to identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs. (65 FR 77376, December 11, 2000) The 90-day comment period was made available as part of EPA's settlement of a lawsuit over EPA's extension of all title V operating permits program interim approvals. As described in section III.D of this notice, EPA expects to respond in writing to Mr. Hall's earlier comments by December 14, 2001.

Set out below are the relevant issues raised by Mr. Hall in his comment letter and EPA's responses to the issues.

1. Program Submittal by the Clark County Department of Air Quality Management

Mr. Hall argues that because the title V program interim approval was originally granted to the Clark County Health District and revisions to the interim approved program were submitted by the Health District, EPA cannot grant full approval of the title V program to the Clark County Department of Air Quality Management. Mr. Hall contends that the Clark County program submittal is legally insufficient unless the revised program is re-written and re-submitted in the name of the Clark County Department of Air Quality Management.

As EPA noted in our proposed approval of the Clark County title V program (66 FR 51620, October 10, 2001), on August 7, 2001, the Governor of Nevada officially transferred responsibility for air quality management in Clark County from the County's Health District to the newly created Department of Air Quality Management, overseen by the Board of County Commissioners of Clark County. In a letter dated June 21, 2001 to the Clark County Commission, Governor Guinn designates "the Board of County Commissioners as the regulatory, enforcement and permitting authority for implementing applicable provisions of the federal Clean Air Act, any amendments to that Act, and any regulations adopted pursuant to that Act within Clark County." The change is essentially a shift in the organizational location of the County's air quality management program and all rules, regulations, and policies of the Health District that comprise Clark County's title V operating permits program were carried over to the new Department, pursuant to the Governor's designation.

In addition, the revised Clark County title V operating permits program was submitted by Allen Biaggi, Administrator of the Nevada Division of Environmental Protection, on behalf of Nevada Governor Kenny C. Guinn, as his appointed designee. Thus, the commenter's suggestion that the revised Clark County program submittal was made by an entity lacking the necessary legal authority under part 70 is clearly not the case. Moreover, DAQM has assured EPA that it assumes all air quality management commitments made by the County's Health District. For these reasons, EPA believes it is appropriate that full title V program approval is granted to the Clark County Department of Air Quality Management.

2. Clark County Regulations Are Not SIP-Approved

Mr. Hall also comments that the applicant submitted, as part of its revised title V operating permits program, local regulations that are not approved into the Nevada State Implementation Plan (SIP), and that the submittal should have contained only rules that are SIP-approved. The commenter also claims that the applicant does not identify the versions (by date of adoption) of the rules submitted.

The rules revised by Clark County to address interim approval deficiencies are Sections 0 ("Definitions") and 19 ("Part 70 Operating Permits"). Mr. Hall is correct that neither of these two rules are currently SIP-approved. However, Mr. Hall is mistaken in his belief that the rules constituting an agency's title V operating permits program need to be approved into the SIP. The establishment of operating permits programs is separate and distinct from the state implementation plan process. The statutory requirements for operating permit programs are contained in title V of the CAA (42 U.S.C. 7661–7661f), whereas the statutory requirements for state implementation plans are contained in title I of the Act (42 U.S.C. 7410). Nothing in the Act requires the local regulations relied upon by agencies for establishing permitting programs under title V of the Act to be incorporated into the state implementation plans required under title I of the Act.

Further, EPA's regulations implementing title V, which are codified at 40 CFR part 70, require that submitted operating permits programs include identification of "the specific statutes, administrative regulations, and, where appropriate, judicial decisions that demonstrate adequate authority" to carry out all aspects of the program, and that the statutes and regulations cited "shall be in the form of lawfully adopted State statutes and regulations. * * *" (*See* 40 CFR 70.4). While these statutes and regulations clearly need to be consistent with the requirements of title V and 40 CFR part 70, they do not need to be part of the State's implementation plan. EPA has determined that the revisions Clark County made to Sections 0 and 19 are consistent with the requirements of part 70, which makes the revisions approvable as part of Clark County's title V operating permits program.

As for Mr. Hall's assertion that the revised Clark County submittal does not identify the versions of the rules upon which it is based, EPA disagrees. The revised Clark County program submittal clearly identifies the versions of Sections 0 and 19 (the two regulations revised specifically to address interim approval deficiencies) as being those adopted by Clark County on May 24, 2001.

3. Clark County's Definitions Rule

Mr. Hall further comments that Clark County's revised title V program submittal contains a revision to a regulation (Clark County Section 0—Definitions) that was recently vacated by the 9th Circuit Court of Appeals. The commenter claims that since the date of EPA's proposed approval of the Clark County title V program (October 10,

2001) is well after the date of the court's decision to vacate EPA's approval of Clark County's Section 0 (August 29, 2001), EPA has erred in its proposal to grant full approval to the Clark County program, which relies, in part, on this vacated rule section.

The commenter is correct that EPA's final rulemaking approving Clark County Section 0 ("Definitions") and other rules into the Clark County portion of the Nevada SIP was recently vacated by the court. Mr. Hall is also correct that the revised Clark County operating permits program relies, in part, on the definitions in Section 0. However, the commenter is incorrect in his evaluation of the impact of the court's action relative to the County's title V program. While the court did vacate EPA's approval of Section 0 into the SIP, this action does not vacate Section 0 as a valid Clark County regulation. Section 0 remains valid and legally enforceable by Clark County. As noted in our response to issue 2 above, EPA regulations require that the rules comprising programs submitted for approval under part 70 must be enforceable by the State (or local entity), not EPA, and must meet the requirements of part 70. The Clark County title V program was granted only interim approval, in part, because the definition of "applicable requirement" in Section 0 did not match the definition in 40 CFR 70.3. EPA is now granting full approval to the revised Clark County operating permits program because all of its interim approval deficiencies have been fixed, including Clark County's modification of the definition of "applicable requirement" in Section 0. Since Clark County's revised definition of applicable requirement is consistent with part 70 and is contained in a rule (Section 0) that is valid and legally enforceable by Clark County, EPA believes that this interim program deficiency previously identified by the Agency has been fully resolved.

4. EPA Unlawfully Extended Interim Approval

The commenter also cites his belief that the requirements of the CAA and 40 CFR part 70 were not met when EPA extended interim approval of the Clark County title V operating permits program more than two years beyond the August 14, 1995 initial interim approval date. Mr. Hall further claims that EPA is required to implement a federal permitting program in Clark County and to impose sanctions as set forth in 40 CFR 70.10.

On August 29, 1997, EPA published a final rule in the **Federal Register** extending interim approval of operating permits programs nationwide to October 1, 1998 (62 FR 45732). In further rulemakings, EPA extended interim approvals again, ultimately promulgating a final rule on May 22, 2000 extending all operating permits program interim approvals up to December 1, 2001 (65 FR 32035). Section 307(b)(1) of the CAA requires in pertinent part that "[a]ny petition for review under this subsection shall be filed within sixty days from the date notice of such promulgation, approval, or action appears in the **Federal Register**.* * *" The sixty day window for filing challenges to the current interim approval extension closed on July 21, 2000. Clearly, Mr. Hall's current claim that EPA unlawfully extended interim approval of the Clark County operating permits program and his request that EPA impose a federal part 71 program and sanctions against Clark County is not within the statutorily-mandated timeframe for such appeals.

Moreover, a timely challenge to EPA's subsequent extension of all operating permits program interim approvals was brought in the Court of Appeals for the D.C. Circuit against EPA, and a settlement agreement resolving this challenge was entered November 21, 2000, in *Sierra Club and the New York Public Interest Research Group* v *EPA*. A component of that settlement agreement was that EPA would amend 40 CFR part 70 to clarify that all existing interim approved programs expire on December 1, 2001 and cannot be extended. EPA is, therefore, acting in accordance with existing regulations in granting final title V operating permits program approval to Clark County, effective November 30, 2001, based on Clark County's revisions to their program which adequately addressed all interim approval deficiencies.

After carefully reviewing and considering the issues raised by Mr. Hall, EPA is taking final action to give full approval to the Clark County operating permits program.

B. Letter From Colleen Cripps, Bureau of Air Quality, NDEP Dated November 9, 2001

NDEP submitted a letter commenting on EPA's October 10, 2001 notice, in which the Agency proposed to take no action on four rule changes made by the State that were not required as conditions for receiving full program approval. Specifically, EPA proposed to take no action on the State's changes to Nevada Administrative Code (NAC) sections 445B.094, 445B.187, 445B.290, and 445B.294 because EPA deemed these changes to be unapprovable.

In its letter, NDEP requested that EPA reconsider approval of sections 445B.094 and 445B.290 in our final rulemaking. As noted in the technical support document (TSD) for our proposed action, EPA was concerned that NAC section 445B.094 (the definition of "major source") did not provide a major source threshold for PM_{10} sources in attainment areas nor in PM_{10} nonattainment areas that are not classified as "serious" because of an exclusion in section 445B.094. NDEP clarified in their comments that the exclusion in section 445B.094 applies only to particulate matter greater than 10 microns in size. Thus, there is no exclusion for PM_{10}, which is particulate matter less than 10 microns in size. EPA's concern about NAC section 445B.290 ("Class I–B application for Class I operating permit; filing requirement") was that it appeared to not require certain nonmajor affected sources to apply for a Class I permit. NDEP's comments clarified that when section 445B.290 is read together with the "Class I source" definition at NAC 445B.036, there is a clear requirement that all affected sources apply for and obtain Class I operating permits.

EPA agrees with NDEP that the revisions to NAC sections 445B.094 and 445B.290 are consistent with the requirements of part 70 and today's action grants approval to these two additional changes as part of our full approval of the NDEP operating permits program.

III. EPA's Final Action

A. Full Approval of the Clark County, Washoe County, and NDEP Operating Permit Programs

EPA is granting full approval to the operating permits programs submitted by Clark County, Washoe County, and NDEP based on the revisions submitted on June 1, 2001, May 8, 2001, and May 30, 2001, respectively. The revisions submitted by the three agencies satisfactorily address the program deficiencies identified in EPA's interim approvals published on July 13, 1995 for Clark County (60 FR 36070), January 5, 1995 for Washoe County (60 FR 1741), and December 12, 1995 for NDEP (60 FR 63631).

In addition, EPA is approving, as a revision to NDEP's title V program, several additional rule changes made by the State, including the revisions described in section II.B above to sections 445B.094 (definition of major source) and 445B.290 (class I operating permit filing requirement) upon which EPA had proposed to take no action. As discussed in greater detail in the

proposal, EPA also approves a revision to NAC section 445B.138, the definition of potential to emit ("PTE"), based on NDEP's representations that it will implement the PTE definition in a manner that is consistent with judicial decisions and EPA policies. In the future, if NDEP does not implement the PTE definition consistent with our guidance, and/or has not established a sufficient compliance incentive absent federal and citizen's enforceability, EPA could find that the State has failed to administer or enforce its program and may take action as authorized by 40 CFR 70.10(b). Finally, EPA also finalizes the other rule revisions listed in Table 1 of EPA's October 10, 2001 proposed rulemaking.

B. Effective Date of Full Approval

EPA is using the good cause exception under the Administrative Procedures Act (APA) to make the full approval of the Clark County, Washoe County, and NDEP programs effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—. . . (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. EPA's interim approval of the Clark County, Washoe County, and NDEP programs expires on December 1, 2001. In the absence of this full approval of the amended programs taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect statewide in Nevada and would remain in place until the effective date of fully-approved programs. EPA believes it is in the public interest for sources, the public and the State and local permitting authorities to avoid any gap in coverage of the part 70 program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because Clark County, Washoe County, and NDEP have been administering title V permit programs for 6 years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational programs. The change from the interim approved programs which substantially met the part 70 requirements, to the fully approved programs is relatively minor, in particular if compared to the changes between state and locally-established and administered programs and the federal program.

C. The Scope of EPA's Full Approval

In their program submissions, Clark County, Washoe County, and NDEP did not assert jurisdiction over Indian country. To date, no tribal government in Nevada has applied to EPA for approval to administer a title V program in Indian country within the state. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

D. Citizen Comment Letters

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

Two individuals commented on what they believe to be deficiencies with respect to the Clark County title V program. As stated in the **Federal Register** notice published on October 10, 2001 (66 FR 51620) proposing to fully approve Clark County's operating permits program, EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 14, 2001 to timely public comments on programs that have obtained interim approval, and by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. In addition, we will publish a notice of availability in the **Federal Register** notifying the public that we have responded in writing to these comments and how the public may obtain a copy of our response. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national

government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program , to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 29, 2001.

Laura Yoshii,

Acting Regional Administrator, Region 9.

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

2. Appendix A to part 70 is amended by revising paragraphs (a) (b), and (c) under Nevada to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Nevada

* * * * *

(a) Nevada Division of Environmental Protection:

(1) Submitted on February 8, 1995; interim approval effective on January 11, 1996; interim approval expires December 1, 2001.

(2) Revisions submitted on May 30, 2001. Full approval is effective on November 30, 2001.

(b) Washoe County District Health Department:

(1) Submitted on November 18, 1993; interim approval effective on March 6, 1995; interim approval expires December 1, 2001.

(2) Revisions submitted on May 8, 2001. Full approval is effective on November 30, 2001.

(c) Clark County Department of Air Quality Management:

(1) Submitted on January 12, 1994 and amended on July 18 and September 21, 1994; interim approval effective on August 14, 1995; interim approval expires on December 1, 2001.

(2) Revisions submitted on June 1, 2001. Full approval is effective on November 30, 2001.

* * * * *

[FR Doc. 01–30097 Filed 12–4–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300734A; FRL–6804–4]

RIN 2070–AB78

4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one [Metribuzin], Dichlobenil, Diphenylamine, Sulprofos, Pendimethalin, and Terbacil; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule establishes, modifies, and revokes specific tolerances for residues of the herbicides dichlobenil, metribuzin, pendimethalin, and terbacil; the plant growth regulator diphenylamine, and the insecticide sulprofos. EPA is revoking certain tolerances because EPA has canceled the food uses associated with them. The regulatory actions proposed in this final rule are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2002 to reassess 66% of the tolerances in existence on August 2, 1996, or about 6,400 tolerances. This final rule revokes 29 tolerances, but only one tolerance reassessment (sulprofos) is counted here toward the August, 2002 review deadline. The tolerances associated with the other 28 revocations were reassessed and counted previously through the Reregistration Eligibility Decision (RED) process.

DATES: This regulation is effective March 5, 2002. Objections and requests for hearings, identified by docket control number OPP–300734A, must be

received by EPA on or before February 4, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit IV. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300734A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 308-8037; and e-mail address: nevola.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300734A. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background

A. What Action is the Agency Taking?

This final rule establishes, modifies, and revokes the tolerances for residues of 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one, metribuzin, dichlobenil, diphenylamine, sulprofos, pendimethalin, and terbacil in or on certain specified commodities.

The tolerances revoked by this rule are no longer necessary to cover residues of the relevant pesticides in or on domestically treated commodities or commodities treated outside but imported into the United States. These pesticides are no longer used on those specified commodities within the United States, and no one commented that there was a need for EPA to retain the tolerances to cover residues in or on imported foods. EPA has historically expressed a concern that retention of tolerances that are not necessary to cover residues in or on legally treated foods could potentially encourage misuse of pesticides within the United States. Thus, it is EPA's policy to issue a final rule revoking those tolerances for residues of pesticide chemicals for which there are no active registrations under FIFRA, unless any person commenting on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

Today's final rule does not revoke or modify those tolerances for which EPA received comments demonstrating a need for the tolerance to remain as currently expressed. Generally, EPA will proceed with the revocation or modification of these tolerances on the grounds discussed above only if: (i) Prior to EPA's issuance of a section 408(f) order requesting additional data or issuance of a section 408(d) or (e) order revoking the tolerances on other grounds, commenters retract the comment identifying a need for the tolerance to be retained, (ii) EPA independently verifies that the tolerance is no longer needed or should be otherwise modified, or (iii) the tolerance is not supported by data that demonstrate that the tolerance meets the requirements under FQPA.

In the **Federal Register** of October 16, 1998 (63 FR 55565) (FRL–6035–7), EPA issued a proposed rule to establish, revise, or revoke the tolerances listed in this final rule. EPA proposed revocations pertaining to pesticides whose registrations were canceled because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily canceled all registered uses associated with the tolerance revocations for these pesticides. Also, the October 16, 1998 proposal invited public comment for consideration and for support of tolerance retention under FFDCA standards.

The following comments were received by the Agency in response to the document published on October 16, 1998:

1. *Diphenylamine.* A comment was received from the European Union (EU) that expressed concern with EPA's proposed actions to establish 0.01 ppm (the limit of detection) for residues of diphenylamine in milk, meat, fat, and meat byproducts (excluding liver) of cattle, goats, horses, and sheep. The EU believed that EPA's evaluation appeared to consider the limit of detection as the only acceptable limit for all the commodities listed. The EU argued that an accurate study of animal metabolism has not been carried out by EPA before taking such action.

Also, the EU wrote that the European Community did an evaluation which led

to different proposed Maximum Residue Limits (MRLs) for diphenylamine about two years prior to the proposed rule. In addition, the EU believed that a clear import tolerance and pesticide policy had not been established by the Agency.

Agency response. A Reregistration Eligibility Decision (RED) for diphenylamine was approved on September 30, 1997. Through the RED process, EPA determined that the tolerances recommended in the RED document met the safety standards under FQPA. In particular, adequate data indicate that tolerances for residues in milk and meat could be increased from the current level of 0.0 ppm and established as separate tolerances set at 0.01 ppm. Both a 1996 study on edible tissues and milk from lactating dairy cows, and a 1996 study on milk and tissues from lactating goats are cited in the bibliography of the RED regarding tolerance recommendations for milk and meat, fat, and meat byproducts (excluding liver) of cattle, goats, horses, and sheep. The Agency believes that these data sufficiently support EPA's finding.

When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs, although EPA may establish a tolerance that is different. In this case, differences between Codex and U.S. tolerances on milk and meat at 0.01 ppm is justified by data. Further, no diphenylamine Codex MRLs are listed for milk or meat in the Food and Agriculture Organization of the United Nations Statistical (FAOSTAT) database for pesticide residues in food, as of the last update on September 2, 1999. Also, no diphenylamine MRLs are listed for milk or meat in the EU MRLs listed in EU's Food Safety database for pesticide residues, as of the last update on March 12, 2001.

Since the time when the EU comment on import tolerances was received, EPA published in the **Federal Register** on June 1, 2000 (65 FR 35069) (FRL–6559–3) an import tolerance guidance entitled "Pesticides; Guidance on Pesticide Imporf Tolerances and Residue Data for Imported Food: Request for Comment." in this document. EPA solicited comments on the approach reflected in the guidance on how to obtain an import tolerance, both for establishing new import tolerances and for modifying or maintaining existing U. S. tolerances for import purposes when U.S. uses or registrations are canceled.

Therefore, EPA is establishing tolerances in 40 CFR 180.190 for diphenylamine at 0.01 ppm for milk, meat, fat, and meat byproducts, except liver of cattle, goats, horses, and sheep. Also, EPA is establishing separate tolerances at 0.1 ppm for liver of cattle, goats, horses, and sheep. In addition, EPA is establishing a tolerance at 30 ppm for "apple, wet pomace" because data from an adequate apple processing study indicate that it is needed. EPA is changing the name of the commodity tolerance "apple, preharvest or postharvest, including wraps" in 40 CFR 180.190 to "apple from preharvest or postharvest use, including use of impregnated wraps" to conform to current Agency practice.

2. *Terbacil.* Comment from DuPont Agricultural Products. A comment was received by the Agency from DuPont Agricultural Products agreeing with the proposed reassessment action for terbacil and the EPA Terbacil RED that the tolerance definition listed under 40 CFR 180.209(a) and (b) should be identical for all commodities, and all tolerances should be listed under one section. However, DuPont requested that the terbacil tolerance expression should be further simplified by including only the parent and metabolite A. DuPont claimed that analysis of all three minor metabolites for each commodity is not needed to assure compliance with the label directions since metabolites B and C are rarely detected. DuPont declared that the existing tolerance levels for terbacil are adequate to assure compliance with label directions, but that it would be appropriate to include the more conservative, higher levels as proposed in the October 16, 1998 document for those crops other than alfalfa forage and hay.

Agency response. The Agency believes the tolerances for terbacil must include all the metabolites. A tolerance is the maximum pesticide chemical residue allowable in or on a food from the use of a pesticide registered under FIFRA. The term "pesticide chemical residue" is defined under section 201(q)(2) of the FFDCA as "a pesticide chemical or any other substance that is present on or in the commodity or food primarily as a result of the metabolism or other degradation of a pesticide chemical."

EPA has determined that the pesticide chemical residues in the tolerance expression for terbacil are the parent and its metabolites, labelled A, B, and C. The metabolites were included in the terbacil risk assessment as residues of toxic concern (i.e., all four chemicals contribute to the risk) and therefore, all four should be regulated in the tolerance expression. DuPont's comments regarding compliance with label directions do not offer any reason why metabolites B and C should not be regulated as pesticide chemical residues of toxic concern. The reason for the tolerance is to limit the risk, not merely to ensure compliance with label directions, even though such compliance may be an important factor in limiting the risk. The Agency will maintain the proposed tolerance expression for terbacil.

Therefore, the tolerance expressions are unified to include terbacil (3-tert-butyl-5-chloro-6-methyluracil) and its metabolites [3-tert-butyl-5-chloro-6-hydroxymethyluracil], [6-chloro-2,3-dihydro-7-hydroxymethyl 3,3-dimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], and [6-chloro-2,3-dihydro-3,3,7-trimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], calculated as terbacil. In accordance, 40 CFR 180.209, paragraphs (a)(1) and (a)(2) are combined. To reflect the combined limit of detection for terbacil and its three regulated metabolites, EPA is increasing the tolerances for (i) peaches from 0.1 to 0.2 ppm and revising the name to "peach," (ii) blueberries from 0.1 to 0.2 ppm and revising the name to "blueberry," and (iii) caneberries (blackberries, boysenberries, dewberries, loganberries, raspberries, and youngberries) from 0.1 to 0.2 ppm and revising the name to "caneberry." Based upon available residue data, the Agency is increasing tolerances for (i) apples from 0.1 to 0.3 ppm and revising the name to "apple," (ii) asparagus from 0.2 to 0.4 ppm, and (iii) sugarcane from 0.1 to 0.4 ppm.

Also, available data support the establishment of lower alfalfa tolerances. Therefore, EPA is decreasing the tolerances for "alfalfa, forage" from 5.0 to 1.0 ppm, and "alfalfa, hay" from 5.0 to 2.0 ppm. The Agency has determined that once these tolerances on alfalfa are decreased, the tolerances for residues of terbacil and its metabolites on all animal commodities could be revoked because there is no reasonable expectation of finite residues in animal commodities 40 CFR 180.6(a)(3). Therefore, EPA is revoking the tolerances in 40 CFR 180.209 for residues of terbacil and its metabolites in or on cattle, fat; cattle, mbyp: cattle, meat; goats, fat; goats, mbyp; goats, meat; hogs, fat; hogs, mbyp; hogs, meat; horses, fat; horses, mbyp; horses, meat; milk, fat; sheep, fat; sheep, mbyp; and sheep, meat.

In addition, EPA is revoking the tolerances for residues of terbacil and its metabolites in or on pears; pecans; sainfoin, forage; and sainfoin hay in 40 CFR 180.209 because no registered uses exist.

Note, a tolerance for citrus fruits appeared in the table under 180.209 in the rule of October 16, 1998 (63 FR 55565) because it existed at that time.

However, that citrus fruits tolerance had been previously proposed for revocation on February 5, 1998 (63 FR 5907) (FRL–5743–9) and was later revoked in a final rule published on October 26, 1998 (63 FR 57067) (FRL–6035–6).

EPA is changing the name of the commodity tolerances "mint hay (peppermint and spearmint)" given on one line in 40 CFR 180.209 by listing the two tolerances on separate lines and revising their names to "peppermint, tops" and "spearmint, tops" to conform to current Agency practice. EPA is also revising the name "strawberries" to "strawberry."

No comments were received by the Agency concerning the following:

3. *Metribuzin.* In the codification section of the proposed rule (October 16, 1998, 63 FR 55565), EPA inadvertently listed the tolerance for metribuzin on lentil in error as 0.5 instead of the correct level of 0.05 ppm. That tolerance change was an unintended typographical error. No change concerning the lentil tolerance level was proposed for metribuzin. The name change from lentils (dried) to lentil was proposed as one of the "other terminology changes." Therefore, EPA is changing the tolerance name to "lentil," but the tolerance level will remain at 0.05 ppm.

In the proposed rule of October 16, 1998, the tolerance for sugarcane molasses in 40 CFR 180.332 was noted to be listed incorrectly as 0.3 ppm, and was proposed to be revised to reflect the correct tolerance of 2 ppm (August 24, 1978, 43 FR 35915), along with a terminology revision to "sugarcane, molasses." A final rule on May 24, 2000 (65 FR 33691) (FRL–6043–1) transferred the tolerance for sugarcane molasses at 2.0 ppm from 185.250 to 180.332(a), increased the existing tolerance in 40 CFR 180.332(a) for sugarcane molasses from 0.3 ppm to 2.0 ppm, and removed the duplicate entry for sugarcane molassses at 2.0 ppm created by the transfer. Therefore, no further action in this rule is required to implement the metribuzin RED regarding sugarcane molasses.

The metribuzin RED, approved on May 20, 1997, stated that the tolerance for sweet corn should be revoked because there were no registered uses. However, a registered use for sweet corn was approved in August, 1997. Therefore, the tolerance for corn, fresh (inc. sweet K + CWHR) is not revoked. EPA is revoking the tolerance in 40 CFR 180.332 for residues of metribuzin and its metabolites in or on lentils, vine hay because it is no longer considered a significant livestock feed commodity; therefore a tolerance is not necessary.

In 40 CFR 180.332, EPA is establishing tolerances for both barley, hay and wheat, hay at 7 parts per million (ppm). EPA is increasing tolerances for asparagus from 0.05 to 0.1 ppm and for soybeans from 0.1 to 0.3 ppm, and is revising the name from "soybeans " to "soybean, seed." The tolerance for peas, vine hay is increased from 0.05 to 4 ppm, and the named is revised to " pea, field, hay."

Other terminology changes are given in the regulatory text as follows: "Alfalfa, green " to "alfalfa, forage;" "barley, milled fractions (except flour)" to "barley, pearled barley;" "carrots " to "carrot;" "cattle, mbyp" to "cattle, meat byproducts;" "corn, fodder" to "corn, field, stover" and "corn, sweet, stover;" "corn, forage" to "corn, field, forage" and "corn, sweet, forage;" "corn, fresh (inc. sweet K+CWHR)" to "corn, sweet, kernel plus cob with husks removed;" "corn, grain (inc. popcorn)" to "corn, field, grain " and "corn, pop, grain;" "eggs" to "egg;" "goats, fat;" to "goat, fat;" " goats, mbyp;" to "goat, meat byproducts;" "goats, meat;" to "goat, meat;" "grass" to "grass, forage;" "hogs, fat;" to "hog, fat;" "hogs, mbyp;" to "hog, meat byproducts;" "hogs, meat;" to "hog, meat;" "horses, fat;" to "horse, fat;" "horses, mbyp;" to "horse, meat byproducts;" "horses, meat;" to "horse, meat;" "peas" to "pea, succulent;" "peas (dried)" to "pea, dry, seed;" "peas, forage" to "pea, field, vines;" "potatoes, processed (inc. potato chips)" to "potato, processed potato waste " and "potato, chips;" "poultry, mbyp;" to "poultry, meat byproducts;" "sainfoin" to "sainfoin, forage;" "sheep, mbyp;" to "sheep, meat byproducts;" "soybeans, forage" to "soybean, forage;" "soybeans, hay" to "soybean, hay;" "sugarcane molasses" to "sugarcane, molasses;" "tomatoes" to "tomato;" and "wheat, milled fractions (except flour)" to "wheat, bran;" "wheat, middlings;" "wheat, shorts;" and "wheat, germ."

4. *Dichlobenil.* In 40 CFR 180.231, the metabolite 2,6-Dichlorobenzamide (BAM) is added to the tolerance expression of dichlobenil (2,6-dichlorobenzonitrile) and the metabolite 2,6-dichlorobenzoic acid (2,6-DCBA) is deleted from the tolerance expression. Based upon the available residue data and to reflect the combined residues of dichlobenil and BAM, tolerances for apples and pears are increased from 0.15 to 0.5 ppm, and tolerances for blackberries, cranberries, and raspberries are decreased from 0.15 to 0.10 ppm.

EPA is revoking the tolerances for residues of dichlobenil and its metabolite in or on almond hulls; avocados; citrus; figs; and mangoes in 40 CFR 180.231 because no registered uses exist. The Agency is revoking the tolerance for nuts in 40 CFR 180.231 and is establishing a tolerance for filbert at 0.1 ppm as a separate tolerance because no other tree nut uses are being supported by the registrant.

Terminology changes are given in the regulatory text as follows: "Apples" to "apple," "blackberries" to "blackberry," "blueberries" to "blueberry," "cranberries" to "cranberry," "grapes" to "grape," "pears" to " pear," "raspberries" to "raspberry" and "stone fruits" to "fruit, stone, group."

5. *Pendimethalin.* In 40 CFR 180.361, EPA is establishing a tolerance at 0.1 ppm for rice, straw; and is increasing the tolerance on rice grain from 0.05 to 0.1 ppm based on available field trial data and to reflect the analytical method's limit of quantitation for the combined residues of pendimethalin and its regulated metabolite. EPA also combines the tolerance for garlic, listed under § 180.361(c) "Tolerances with regional registrations," with § 180.361(a), which lists tolerances for registrations without regional restriction, since EPA has data that support a national registration and tolerance for garlic at the same level (0.1 ppm).

EPA is revoking the tolerance in 40 CFR 180.361 for residues of pendimethalin and its metabolite in or on peanut, forage because it is no longer considered a significant livestock feed commodity; therefore a tolerance is not necessary.

Terminology changes are given in the regulatory text as follows: "beans, lima (dry, snap)" to "bean, lima, seed" and "bean, lima, succulent;" "beans, forage" to "bean, forage " "beans, hay" to "bean, hay;" "corn, fodder" to "corn, field, stover" and "corn, sweet, stover;" "corn, forage" to "corn, field, forage" and "corn, sweet, forage;" "corn, grain" to "corn, field, grain" and "corn, pop, grain;" "corn, fresh (including sweet, K+CWHR)" to "corn, sweet, kernel plus cob with husks removed;" "cottonseed" to "cotton, undelinted seed;" "onions, dry bulb" to "onion, dry bulb;" "peanuts" to "peanut;" "peas (except field peas)" to "pea, succulent;" "potatoes" to "potato;" "sorghum, fodder" to "sorghum, grain, stover;" "sorghum, grain" to "sorghum, grain, grain;" "soybeans " to "soybean, seed;" "soybeans, forage" to "soybean, forage;" "soybeans, hay" to "soybean, hay;" and "sunflower, seeds" to "sunflower, seed."

6. *Sulprofos.* EPA is revoking the tolerance in 40 CFR 180.542 for residues of sulprofos and its cholinesterase-inhibiting metabolites in cottonseed oil

because no registered use exists. In the proposed rule, the cottonseed oil tolerance was listed in 40 CFR 185.3000 (63 FR 55565); however, that tolerance was moved into 40 CFR 180.542 and § 185.3000 was removed (65 FR 33703, May 24, 2000) (FRL–6041–9).

B. What is the Agency's Authority for Taking this Action?

EPA has issued Reregistration Eligibility Decisions (REDs) for the active ingredients listed in this final rule with the exception of sulprofos. During the reregistration process, EPA approved the registrant's request for voluntary cancellation of sulprofos registrations (61 FR 65218, December 11, 1996) (FRL–5573–6). No active registrations exist for sulprofos.

EPA may issue a regulation establishing, modifying, or revoking a tolerance under FFDCA section 408(e). EPA is establishing, modifying, and revoking tolerances to implement the tolerance recommendations made during the reregistration process. As part of the reregistration process, EPA is required to determine whether each of the amended tolerances meets the safety standards under the Food Quality Protection Act (FQPA). The safety finding determination is found in detail in each RED for the active ingredient. RED recommendations, such as establishing or modifying tolerances, require assessment under the FQPA standard of "reasonable certainty of no harm." However, tolerance revocations recommended in those REDs because there are no registered uses may be revoked in this document without such assessment, because the tolerances are no longer necessary. REDs propose certain tolerance actions to be implemented to meet safety findings and change commodity names and groupings in accordance with new EPA policy. Printed copies of the REDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242-2419, telephone 1-800-490-9198; fax 513-489-8695 and from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone 1-800-553-6847 or 703-605-6000. Electronic copies of the RED are available on the internet at http://www.epa.gov/pesticides/reregistration/status.htm.

It is EPA's general practice to revoke tolerances for residues of pesticide active ingredients on crop uses for which FIFRA registrations no longer exist. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as "import tolerances," are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

C. When Do These Actions Become Effective?

These actions become effective 90 days following publication of this final rule in the **Federal Register**. EPA has delayed the effectiveness of these revocations for 90 days following publication of this final rule to ensure that all affected parties receive notice of EPA's actions. Consequently, the effective date is March 5, 2002. For this final rule, tolerances that were revoked because registered uses did not exist concerned uses which have been canceled for more than a year. Therefore, commodities containing these pesticide residues should have cleared the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this final rule, and that are in the channels of trade following the tolerance revocation or modification, shall be subject to FFDCA section 408(1)(5), as established by the FQPA. Under this section, any residue of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that, (i) the residue is present as the result of an application or use of the pesticide at a time nd in a manner that was lawful under FIFRA, and (ii) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from a tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

D. What is the Contribution to Tolerance Reassessment?

By law, EPA is required to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996, by August 2002. EPA is also required to assess the remaining tolerances by August, 2006. As of November 27, 2001, EPA has reassessed over 3,830 tolerances. In this document, EPA revokes 29 tolerances of which 28 were previously counted as reassessed via the RED process. Therefore, one tolerance revocation is counted here as a tolerance reassessment toward the August, 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

III. Are There Any International Trade Issues Raised by this Final Action?

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain in a **Federal Register** document the reasons for departing from the Codex level. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs. The U.S. EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL–6559–3). This guidance will be made available to interested persons. Electronic copies are available on the internet at http://www.epa.gov/. On the Home Page select "Laws and Regulations," then select "Regulations and Proposed Rules" and then look up the entry for this document under **Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

IV. Objections and Hearing Requests

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–300734A in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 4, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the

grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Objection/hearing fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit IV.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–300734A, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

V. Regulatory Assessment Requirements

This final rule establishes, modifies, and revokes tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions; i.e., establishment and modification of a tolerance, and tolerance revocation for which extraordinary circumstances do not exist, from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account these analyses, and available information concerning the pesticides listed in this rule, I certify that this action will not have a significant economic impact on a substantial number of small entities. Specifically, as per the 1997 notice, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with canceled pesticides. Furthermore, the Agency knows of no extraordinary circumstances that exist as to the present establishments, modifications, or revocations that would change EPA's previous analyses.

In addition, the Agency has determined that this action will not have a substantial direct effect on States,

on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175 requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VI. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection. Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 20, 2001.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180— [AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.190 is amended by revising paragraph (a) to read as follows:

§ 180.190 Diphenylamine; tolerances for residues.

(a) *General.* Tolerances for residues of the plant regulator diphenylamine are established in or on the following commodities:

Commodity	Parts per million
Apple, wet pomace	30.0
Apple from preharvest or postharvest use, including use of impregnated wraps	10.0
Cattle, fat	0.01
Cattle, liver	0.1
Cattle, meat byproducts, except liver	0.01
Cattle, meat	0.01
Goat, fat	0.01
Goat, liver	0.1
Goat, meat byproducts, except liver	0.01
Goat, meat	0.01
Horse, fat	0.01
Horse, liver	0.1
Horse, meat byproducts, except liver	0.01
Horse, meat	0.01
Milk	0.01
Sheep, fat	0.01
Sheep, liver	0.1
Sheep, meat byproducts, except liver	0.01
Sheep, meat	0.01

* * * * *

3. Section 180.209 is amended by revising paragraph (a) to read as follows:

§ 180.209 Terbacil; tolerances for residues.

(a) *General.* Tolerances are established for combined residues of the herbicide terbacil (3-tert-butyl-5-chloro-6-methyluracil) and its metabolites [3-tert-butyl-5-chloro-6-hydroxymethyluracil], [6-chloro-2,3-dihydro-7-hydroxymethyl 3,3-dimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], and [6-chloro-2,3-dihydro-3,3,7-trimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], calculated as terbacil, in or on raw agricultural commodities as follows:

Commodity	Parts per million
Alfalfa, forage	1.0
Alfalfa, hay	2.0
Apple	0.3
Asparagus	0.4
Blueberry	0.2
Caneberry	0.2
Peach	0.2
Peppermint, tops	2.0
Spearmint, tops	2.0
Strawberry	0.1
Sugarcane	0.4

* * * * *

4. Section 180.231 is amended by revising paragraph (a) to read as follows:

§ 180.231 Dichlobenil; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the herbicide dichlobenil (2,6-dichlorobenzonitrile) and its metabolite 2,6-dichlorobenzamide in or on the following raw agricultural commodities:

Commodity	Parts per million
Apple	0.5
Blackberry	0.1
Blueberry	0.15
Cranberry	0.1
Filbert	0.1
Fruit, stone, group	0.15
Grape	0.15
Pear	0.5
Raspberry	0.1

* * * * *

5. Section 180.332 is amended by revising the table under paragraph (a) to read as follows:

§ 180.332 Metribuzin; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Alfalfa, forage	2.0
Alfalfa, hay	7.0

Commodity	Parts per million
Asparagus	0.1
Barley, grain	0.75
Barley, hay	7.0
Barley, pearled barley	3.0
Barley, straw	1.0
Carrot	0.3
Cattle, fat	0.7
Cattle, meat	0.7
Cattle, meat byproducts	0.7
Corn, field, forage	0.1
Corn, field, grain	0.05
Corn, field, stover	0.1
Corn, pop, grain	0.05
Corn, sweet, forage	0.1
Corn, sweet, kernel plus cob with husks removed	0.05
Corn, sweet, stover	0.1
Egg	0.01
Goat, fat	0.7
Goat, meat	0.7
Goat, meat byproducts	0.7
Grass, forage	2.0
Grass, hay	7.0
Hog, fat	0.7
Hog, meat	0.7
Hog, meat byproducts	0.7
Horse, fat	0.7
Horse, meat	0.7
Horse, meat byproducts	0.7
Lentil	0.05
Milk	0.05
Pea, dry, seed	0.05
Pea, field, hay	4.0
Pea, field, vines	0.5
Pea, succulent	0.1
Potato	0.6
Potato, chips	3.0
Potato, processed potato waste	3.0
Potato waste, processed (dried)	3.0
Poultry, fat	0.7
Poultry, meat	0.7
Poultry, meat byproducts	0.7
Sainfoin, forage	2.0
Sainfoin, hay	7.0
Sheep, fat	0.7
Sheep, meat	0.7
Sheep, meat byproducts	0.7
Soybean, seed	0.3
Soybean, forage	4.0
Soybean, hay	4.0
Sugarcane	0.1
Sugarcane, molasses	2.0
Tomato	0.1
Wheat, bran	3.0
Wheat, forage	2.0
Wheat, germ	3.0
Wheat, grain	0.75
Wheat, hay	7.0
Wheat, middlings	3.0
Wheat, shorts	3.0
Wheat, straw	1.0

* * * * *

6. Section 180.361 is amended by alphabetically adding the commodity "garlic" in paragraph (c) to the table in paragraph (a), by revising paragraph (a), and removing the remaining text from paragraph (c) and reserving it to read as follows:

§ 180.361 Pendimethalin; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Bean, lima, seed	0.1
Bean, lima, succulent	0.1
Bean, forage	0.1
Bean, hay	0.1
Corn, field, forage	0.1
Corn, field, grain	0.1
Corn, field, stover	0.1
Corn, pop, grain	0.1
Corn, sweet, forage	0.1
Corn, sweet, kernel plus cob with husks removed	0.1
Corn, sweet, stover	0.1
Cotton, undelinted seed	0.1
Garlic	0.1
Onion, dry bulb	0.1
Pea, succulent	0.1
Peanut	0.1
Peanut, hay	0.1
Potato	0.1
Rice, grain	0.1
Rice, straw	0.1
Sorghum, forage	0.1
Sorghum, grain, grain	0.1
Sorghum, grain, stover	0.1
Soybean, forage	0.1
Soybean, hay	0.1
Soybean, seed	0.1
Sugarcane	0.1
Sunflower, seed	0.1

* * * * *

(c) *Tolerances with regional registrations.* [Reserved]

* * * * *

§ 180.542 [Removed]

7. Section 180.542 is removed.

[FR Doc. 01–30103 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2734; MM Docket No. 01–178; RM–10195]

Radio Broadcasting Services; Wadley, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making*, 66 FR 42622 (August 14, 2001), this document allots Channel 227A to Wadley, Georgia, and provides Wadley with its first local aural transmission service. The coordinates for Channel 227A at Wadley are 32–52–00 North Latitude and 82–24–15 West Longitude.

DATES: Effective January 7, 2002.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–178, adopted November 14, 2001, and released November 23, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 44512th Street, SW, Room CY–A257, Washington, DC, 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202 863–2893. facsimile 202 863–2898, or via e-mail *qualexint@aol.com*.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Wadley, Channel 227A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–30088 Filed 12–4–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 001226367–0367–01; I.D. 111901C]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Adjustment for Dover Sole in the Limited Entry Trawl Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS announces a 1,000 lb (454 kg)/trip limit of Dover sole in the limited entry trawl fishery coastwide for the month of December. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP) and its implementing regulations, is within the 2001 optimum yield (OY) for Dover sole and is intended to allow landings of Dover sole caught incidentally in other flatfish fisheries.

DATES: Changes to management measures are effective 0001 hours local time December 1, 2001, unless modified, superseded, or rescinded through the effective dates of the 2002 specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the **Federal Register**. Comments on this rule will be accepted through December 20, 2001.

ADDRESSES: Submit comments to D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070; or to Rod McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier or Jamie Goen, Northwest Region, NMFS, 206–526–6140.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the internet at the website of the Office of the Federal Register: *http://www.access.gpo.gov/su-docs/aces/aces140.html*.

The Pacific Coast Groundfish FMP and its implementing regulations at 50 CFR part 660, subpart G, regulate fishing for over 80 species of groundfish off the coasts of Washington, Oregon, and California. Annual groundfish specifications and management measures are initially developed by the Pacific Fishery Management Council (Council) and are implemented by NMFS. The specifications and management measures for the current fishing year (January 1 through December 31, 2001) were published at 66 FR 2338, January 11, 2001, as amended at 66 FR 10208 (February 14, 2001), at 66 FR 18409 (April 9, 2001), at 66 FR 22467 (May 4, 2001), at 66 FR 28676 (May 24, 2001), at 66 FR 35388 (July 5, 2001), at 66 FR 38162 (July 23, 2001), at 66 FR 50851 (October 5, 2001), at 66 FR 54721 (October 30, 2001), and at 66 FR 55599 (November 2, 2001).

Among the more than 80 species managed under the FMP are Dover sole, thornyheads, sablefish, and flatfish (flatfish is used in this document to mean all flatfish listed at 50 CFR 660.302, except Dover sole). In the trawl fishery, Dover sole is targeted along with thornyheads and sablefish. Because these species are targeted together with trawl gear, they are managed as part of a multi-species complex consisting of Dover sole, thornyheads (shortspine and longspine), and sablefish, known as the DTS complex. In addition to the directed fishery for the DTS complex, Dover sole is also caught incidentally in other flatfish trawl fisheries on the continental shelf and slope.

Through August 2001, the best available information from PacFIN indicated that the DTS complex was approaching the commercial landed catch OY for 3 of 4 species, Dover sole (92 percent), trawl-caught sablefish (89 percent) and shortspine thornyhead (79.7 percent). Based on recommendations from the Council's September meeting, NMFS closed the limited entry trawl directed fishery for the DTS complex, including Dover sole, from October 2, 2001, through the effective date for the 2002 specifications and management measures in order to avoid exceeding the target landed catch OY of Dover sole, sablefish and shortspine thornyhead (66 FR 50851, October 5, 2001). However, other flatfish trawl fisheries, such as Petrale sole and arrowtooth flounder, have remained open since September. Thus, while it has been illegal to land Dover sole and any DTS complex species caught with trawl gear since October 2, 2001, Dover sole is still caught as bycatch in the other flatfish fisheries that have remained open and is assumed to be discarded. This discard is accounted for in calculating total catch by applying a discard rate recommended by the Council based on a trawl logbook analysis of the incidental catch of Dover sole in other flatfish fisheries.

PacFIN data have been updated since the September Council meeting. The best available information indicates that 93 percent of the Dover sole allocation had been taken through October 31, 2001, leaving 515 mt of the Dover sole OY available for harvest. In order to account for the Dover sole caught incidentally in the winter flatfish fisheries, the Council recommended at its October 29 through November 2, 2001, meeting in Millbrae, CA, to allow a 1,000 lb (454 kg)/trip limit of Dover sole in December for the limited entry trawl fleet. This action would allow vessels to retain Dover sole that would otherwise have been incidentally harvested and discarded. Allowing the incidental retention of Dover sole in the flatfish fisheries is not expected to increase incidental interception of sablefish and shortspine thornyhead because flatfish trawling requires different fishing techniques and occurs in different fishing grounds than in the directed DTS trawl fisheries. Taking into account the number of vessels and trips per vessel by other flatfish fisheries over the past 3 years during the month of December, opening up this trip limit for incidentally caught Dover sole is expected to add another 200 to 300 mt to the landed catch OY, well within the approximately 500 mt of remaining OY.

NMFS Actions

NMFS concurs with the Council's recommendation and hereby announces a trip limit for the limited entry trawl fishery coastwide of 1,000 lb (454 kg)/trip of Dover sole from December 1, 2001, through the effective date of the 2002 specifications and management measures for the Pacific Coast groundfish fishery. This trip limit is intended to allow for Dover sole caught incidentally in other flatfish trawl fisheries.

Accordingly, at 66 FR 2338, January 11, 2001, as subsequently amended, in Section IV, under B. Limited Entry Fishery, Table 3 is revised to read as follows:

IV. NMFS Actions

B. Limited Entry Fishery

* * * * *

Table 3. 2001 Trip Limits 1/ and Gear Requirements 2/ for Limited Entry Trawl Gear
Read Section IV.A. NMFS Actions before using this table.

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	Minor slope rockfish						
2	North	1,500 lb/ 2 months			2,000 lb/ 2 months	Closed Starting Oct	
3	South	14,000 lb/ 2 months					
4	Splitnose - South	8,500 lb/ 2 months	14,000 lb/ 2 months		25,000 lb/ 2 months		
5	Pacific ocean perch#	1,500 lb/month	2,500 lb/month		3,500 lb/month	Closed Starting Oct	
6	DTS complex - North						
7	Sablefish	5,000 lb/ 2 months	14,000 lb/ 2 months			Closed Starting Oct	
8	Longspine thornyhead	6,000 lb/ 2 months	6,000 lb/ 2 months				
9	Shortspine thornyhead	1,500 lb/ 2 months	1,500 lb/ 2 months				
10	Dover sole	65,000 lb/ 2 months	20,000 lb/ 2 months	15,000 lb/ 2 months	7,500 lb/month	Closed Oct-Nov	1,000 lb/trip
11	DTS complex - South						
12	Sablefish	8,000 lb/ 2 months	11,000 lb/ 2 months			Closed Starting Oct	
13	Longspine thornyhead	6,000 lb/ 2 months	6,000 lb/ 2 months				
14	Shortspine thornyhead	1,500 lb/ 2 months	1,500 lb/ 2 months				
15	Dover sole	35,000 lb/ 2 months		30,000 lb/ 2 months	15,000 lb/month	Closed Oct-Nov	1,000 lb/trip
16	Flatfish - North						
17	Arrowtooth flounder	20,000 lb/trip	*Small footrope* 50,000 lb/mo, of which no more than 15,000 lb may be petrale sole and 10,000 lb may be arrowtooth. *Large footrope* arrowtooth, 15,000 lb/trip for May and 5,000 lb/trip for June, petrale sole prohibited; rex included in all other flatfish; all other flatfish 1,000 lb/trip.	*Small footrope* 45,000 lb/mo, of which no more than 15,000 lb may be petrale sole, arrowtooth 7,500 lb/trip not to exceed 30,000 lb/mo *Large footrope* arrowtooth 5,000 lb/trip not to exceed 30,000 lb/mo, petrale sole 100 lb/trip, rex included in all other flatfish, all other flatfish 1,000 lb/trip	Small and large footrope 5,000 lb/trip, not to exceed 30,000 lb/mo	
18	Rex Sole	No Limit				No Limit	
19	Petrale Sole	No Restriction				*Small footrope* 45,000 lb/mo of which no more than 15,000 lb may be petrale sole *Large footrope* all other flatfish 1,000 lb/trip, of which no more than 100 lb/trip may be petrale sole	*Small and large footrope* 30,000 lb/mo
20	All other flatfish 3	*Small footrope*: no limit; *Large footrope* 1,000 lb/trip					*Small footrope* 30,000 lb/mo. *Large footrope* 1,000 lb/trip
21	Flatfish - South						
22	Arrowtooth flounder	20,000 lb/trip	*Small footrope*: no limit; *Large footrope*: 5,000 lb/trip			*Small and large footrope*: 5,000 lb/trip, not to exceed 30,000 lb/mo	
23	Rex Sole	No Limit					
24	Petrale Sole	No Restriction	*Small footrope*: no limit; *Large footrope*: included in "all other flatfish"			*Small footrope* 45,000 lb/mo of which no more than 15,000 lb may be petrale sole *Large footrope* all other flatfish 1,000 lb/trip, of which no more than 100 lb/trip may be petrale sole	*Small and large footrope* 30,000 lb/mo
25	All other flatfish 3	*Small footrope*: no limit; *Large footrope*: 1,000 lb/trip					*Small footrope* 30,000 lb/mo; *Large footrope* 1,000 lb/trip
26	Whiting shoreside 4	20,000 lb/trip	Primary Season				20,000 lb/trip
27	Use of small footrope bottom trawl 5 or midwater trawl required for landing all of the following species:						
28	Minor shelf rockfish						
29	North	300 lb/month	1,000 lb/month			300 lb/month	
30	South	300 lb/month	1,000 lb/month			300 lb/month	
31	Canary rockfish	100 lb/month	300 lb/month			Closed Starting Oct	
32	Widow rockfish						
33	mid-water trawl	20,000 lb/ 2 months	10,000 lb/ 2 months	Jul-Oct, in trips where 10,000 lb or more of whiting are landed, 2,000 lb/mo, with a combined widow/yellowtail limit of 500 lb/trip; otherwise 1,000 lb/mo			25,000 lb/ 2 months
34	small footrope trawl	1,000 lb/month					
35	Yellowtail - North 6						
36	mid-water trawl	30,000 lb/ 2 months	15,000 lb/ 2 months	Jul-Oct, trips where 10,000 lb or more of whiting are landed, 3,000 lb/mo with combined widow/yellowtail limit of 500 lb/trip, otherwise 1,500 lb/mo			15,000 lb/ 2 months
37	small footrope trawl	Without flatfish, 1,500 lb/mo. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder, not to exceed 2,500 lb/trip and 30,000 lb/ 2 months	Without flatfish, 1,500 lb/mo. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder, not to exceed 7,500 lb/trip and not to exceed 15,000 lb/ 2 months				
38	Bocaccio - South 6	300 lb/month	500 lb/month			Closed Starting Oct	
39	Chilipepper - South 6						
40	mid-water trawl	25,000 lb/ 2 months					
41	small footrope trawl	7,500 lb/ 2 months					5,000 lb/ 2 months
42	Cowcod	Retention is Prohibited					
43	Minor nearshore rockfish						
44	North	200 lb/month					
45	South	200 lb/month					
46	Lingcod 7	No retention	400 lb/month			500 lb/month	Closed Starting Nov

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. to the U.S.-Canada border. "South" means 40°10' N. lat. To the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.
2/ Gear requirements and prohibitions are explained at paragraph IV.A.(14)
3/ "Other" flatfish means all flatfish at 50 CFR 660.302 except those in this Table 3 with a trip limit.
4/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. See IV.B.(3)(c). The 20,000 lb/trip limit applies before and after the primary season.
5/ Small footrope trawl means a bottom trawl net with a footrope no larger than 8 inches (20 cm) in diameter.
Midwater gear also may be used; the footrope must be bare. See paragraph IV.A. (14)
6/ Yellowtail rockfish and POP in the south, and bocaccio, and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area (Table 2).
7/ The size limit for lingcod is 24 inches (61 cm) total length.

* * * * *

Classification

This action is authorized by the regulations implementing the FMP and the annual specifications and management measures published at 66 FR 2338 (January 11, 2001), as amended at 66 FR 10208 (February 14, 2001), at 66 FR 18409 (April 9, 2001), at 66 FR 22467 (May 4, 2001), at 66 FR 28676 (May 24, 2001), at 66 FR 35388 (July 5, 2001), and 66 FR 38162 (July 23, 2001), at 66 FR 50851 (October 5, 2001), at 66 FR 54721 (October 30, 2001), and at 66 FR 55599 (November 2, 2001), and are based on the most recent data available.

The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and comment on this action pursuant to 5 U.S.C. 553(b)(B), as providing prior notice and opportunity for comment would be impracticable. It would be impracticable because the trip limit allowance is only effective for approximately the last 30 days of the fishing year. Dover sole is below its target landed catch OY for the 2001 fishing year, and any delay in action would not provide enough time for the fisheries to have access to the remaining Dover sole OY. Thus, any delay in action would unnecessarily restrict commercial fishers and impede NMFS's responsibility under the FMP to manage groundfish fisheries to achieve OY.

For these reasons, good cause also exists to waive the 30–day delay in effectiveness requirement of 5 U.S.C. 553 (d)(3).

This action is taken under the authority of 50 CFR 660.323 (b)(1) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 30, 2001.

Jonathan M. Kurland,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–30112 Filed 11–30–01; 4:02 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 234
Wednesday, December 5, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–107151–00]

RIN 1545–AX99

Constructive Transfers and Transfers of Property to a Third Party on Behalf of a Spouse; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the tax treatment of certain redemptions, during marriage or incident to divorce, of stock owned by a spouse or former spouse.

DATES: The public hearing originally scheduled for Friday, December 14, 2001, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Guy R. Traynor, Regulations Unit, Associate Chief Counsel, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Friday, August 3, 2001, (66 FR 40659) announced that a public hearing was scheduled for December 14, 2001, at 10 a.m., in the auditorium of the Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20408. The subject of the public hearing is proposed regulations under section 1041 of the Internal Revenue Code. The public comment period for these proposed regulations expired on November 23, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of November 29, 2001, no one has requested to speak. Therefore, the public hearing scheduled for December 14, 2001, is cancelled.

Guy R. Traynor,

Federal Register Certifying Officer, Regulations Unit, Associate Chief Counsel (Income Tax & Accounting).

[FR Doc. 01–30030 Filed 12–4–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF EDUCATION

34 CFR Chapter VI

Student Financial Assistance

AGENCY: Department of Education.

ACTION: Notice of intention to establish negotiated rulemaking committees on issues for programs authorized under Title IV of the Higher Education Act of 1965, as amended.

SUMMARY: We announce our intention to establish two negotiated rulemaking committees to prepare proposed regulations under Title IV of the Higher Education Act of 1965, as amended (HEA). Each committee will include representatives with interests that are significantly affected by the subject matter of the proposed regulations. We also announce a meeting to discuss the agenda and the procedures for the negotiated rulemaking sessions. We request nominations for members who represent individuals and organizations of key stakeholder constituencies that are involved in the student financial assistance programs authorized under Title IV of the HEA to serve on these committees.

DATES: We must receive your nominations for membership on the committees on or before December 19, 2001. We will hold a public meeting on December 14, 2001, at the Department of Education in Washington, DC for interested parties to discuss the agenda and the procedures for the negotiated rulemaking sessions.

ADDRESSES: Please send your nominations to Rose Fletcher, U.S. Department of Education, 1990 K Street, NW., Room 8061, Washington, DC 20006, or fax to Rose Fletcher at (202) 502–7873. You may also email your nominations to: *Rose.Fletcher@ed.gov.*

The meeting on December 14, 2001 will be held at the GSA Auditorium, Regional Office Building #3, 7th and D Street, SW., Washington, DC from 9:00 am to 12:00 pm. Anyone interested in attending the meeting should contact Rose Fletcher at (202) 502–7812.

FOR FURTHER INFORMATION CONTACT: For information about the meetings and the nomination submission process: Rose Fletcher, U.S. Department of Education, 1990 K Street, NW., Room 8061, Washington, DC 20006. Telephone: (202) 502–7812.

For information about negotiated rulemaking: Carney McCullough, U.S. Department of Education, 1990 K Street, NW., Room 8071, Washington, DC 20006. Telephone (202) 502–7639.

If you use a telecommunications device for the deaf (TDD) you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person for information about the meetings listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.*, interpreting service, assistive listening device, or materials in alternative format), notify the contact person for information about the meeting listed in this notice in advance of the scheduled meeting date. Although we will attempt to meet a request we receive, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Regulatory Issues

We intend to act on regulatory proposals to streamline the current Federal student financial assistance program regulations while maintaining or improving program integrity. Many of these proposals were submitted by individuals and organizations in response to a request for such recommendations from the affected public made on May 24, 2001 by Representative Howard P. "Buck" McKeon and Representative Patsy Mink, the Chairman and Ranking Member of the Subcommittee on 21st Century Competitiveness of the Education and the Workforce Committee of the U.S. House of Representatives. The Subcommittee received over 3,000

responses on the regulations between May and the end of July 2001. Those proposals that would not in fact require statutory amendments have been provided to the Department for consideration.

In acting on these proposals and minor changes from the Department, we intend to advance the Administration's management reform priorities by taking steps that will provide immediate, concrete and measurable results in the near term. In reforming the Federal Government, President Bush has called for an "active, but limited" role for the Federal Government that empowers citizens to make decisions, ensures results through accountability, and promotes innovation through competition. To advance these goals, we intend to place priority on changes that will reduce the expense and difficulty of complying with the current Federal student financial assistance regulations, reduce the operating costs of administering the programs through greater use of e-commerce, simplify processes and improve service, and effect other changes that will improve program management and the integrity of the student financial assistance programs.

Structure of the Committees

We anticipate having two negotiating committees. The ultimate goal of negotiated rulemaking is to reach a consensus on proposed regulations through discussion and negotiation among interested and affected parties, including the Department of Education. With this in mind, we will conduct these negotiations within a structure that is designed to meet this goal fairly and efficiently. One negotiating committee will focus on student loan issues while the other will focus on other program issues. Our goal is to establish committees that are large enough to allow significantly affected parties to be represented while keeping the committees' size manageable.

Nominations of individuals from coalitions of individuals and organizations representing the constituencies identified below are strongly encouraged. Moreover, the Department encourages nominations of individuals who are actively involved in administering the Federal student financial assistance programs or whose interests are significantly affected by the regulations. The committees may also create subgroups on particular topics that would involve additional individuals who are not members of the committees. Individuals who are not selected as members of the committees will be able to attend the meetings, have access to the individuals representing their constituency, and will also be able to participate in informal working groups on various issues between the meetings. The meetings will be open to the public.

The Department has identified the constituencies listed below as having interests that are significantly affected by the subject matter of the negotiated rulemakings. The Department anticipates that individuals representing each of these constituencies will participate as members of one or both of the negotiated rulemaking committees. These constituencies are:

- Students.
- Legal assistance organizations that represent students
- Financial aid administrators at institutions of higher education.
- Business officers and bursars at institutions of higher education and institutional servicers (including collection agencies).
- Institutions of higher education eligible to receive Federal assistance under Title III, Parts A and B and Title V of the HEA, which includes Historically Black Colleges and Universities, Hispanic-Serving Institutions, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, and other institutions with a substantial enrollment of needy students as defined in Title III.
- Two-year public institutions of higher education.
- Four-year public institutions of higher education.
- Private, non-profit institutions of higher education.
- Private, for-profit institutions of higher education.
- Guaranty agencies and guaranty agency servicers (including collection agencies).
- Lenders, secondary markets, and loan servicers.

While an individual selected to represent a constituency may be a representative of a group, institution, or industry participant, the individual will be expected to represent the interests of the entire constituency on the committee and to confer with other individuals and representatives of groups within that constituency.

Nominations should include:

- The name of the nominee and a description of the interests that he or she represents.
- Evidence of support from individuals or groups of the constituency that he or she will represent.
- The nominee's commitment that he or she will actively participate in good faith in the development of the proposed regulations.

Schedule for Negotiations

We will hold a total of three meetings of each committee, all of which will be held at the Department of Education in Washington, DC. The following is the tentative schedule for negotiations for the committees. This schedule is subject to change.

Meeting 1: Week of January 14, 2002
Meeting 2: Week of March 4, 2002
Meeting 3: Week of April 22, 2002

The committee will use electronic mail to exchange documents and discuss proposals between meetings.

The schedule outlined above is expected to allow sufficient time for us to provide the public with a 60-day comment period for the proposed regulations, as well as to provide sufficient time to address any issues raised in the comment period, while meeting the November 1 statutory deadline for publishing student financial assistance regulations.

Electronic Access to This Document

You may view this document, in Text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister*.

To use the PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office toll free at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: *http://www.access.gpo.gov/nara/index.html*.

Program Authority: 20 U.S.C. 1098a.

Dated: December 3, 2001.

Rod Paige,

Secretary of Education.

[FR Doc. 01–30260 Filed 12–4–01; 8:45 am]

BILLING CODE 4000–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 0134–1134; FRL–7112–9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri for the Doe Run primary lead smelters in Herculaneum and Glover, Missouri (Doe Run-Herculaneum and Doe Run-Glover). The SIP submitted by the state satisfies the applicable requirements under the Clean Air Act (CAA) and demonstrates attainment of the National Ambient Air Quality Standards (NAAQS) for lead for the Doe Run-Herculaneum area. Approval of this revision will ensure that the Federally approved requirements are current and consistent with state regulations and requirements. The revision for Doe Run-Glover merely reflects a change in ownership of the smelter. If EPA receives adverse comments, the comments will be addressed in the subsequent final rule.

DATES: Comments must be received on or before January 4, 2002.

ADDRESSES: Written comments should be mailed to James F. Hirtz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. Interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: James Hirtz at (913) 551–7472, or E-Mail him at hirtz.james@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever, "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

Background and Submittal Information

What is a SIP?
What is the background for Doe Run-Herculaneum?
What is the Federal Approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is being addressed in this document?

EPA's Proposed Actions

Have the requirements for approval of a SIP revision been met under section 172 of the CAA?
What actions are we proposing today?

Background and Submittal Information

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally enforceable SIP. Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Background for Doe Run-Herculaneum?

On June 3, 1986, EPA issued a call for a revision to the Missouri SIP in response to violations of the NAAQS for lead in the vicinity of the Doe Run primary lead smelter in Herculaneum, Missouri. Doe Run-Herculaneum is the largest primary lead smelter in the United States with a production capacity of 250,000 tons of refined lead per year. The NAAQS for lead is 1.5 micrograms (μg) of lead per cubic meter (m^3) of air averaged over a calendar quarter. The state submitted a SIP revision on September 6, 1990, and EPA granted limited approval for Missouri's 1990 SIP revision on March 6, 1992 (57 FR 8076), pending submission of a supplemental SIP revision meeting the applicable requirements (Part D of Title I of the CAA as amended in 1990).

A revised SIP meeting the part D requirements was subsequently submitted in 1994. The plan established June 30, 1995, as the date by which the Herculaneum area was to have attained compliance with the lead standard. However, the plan did not result in attainment of the standard, and observed lead concentrations in the Herculaneum area continued to show violations of the standard. Therefore, on August 15, 1997, after taking and responding to public comments, EPA published a document in the **Federal Register** finding that the Herculaneum nonattainment area had failed to attain the lead standard by the June 30, 1995, deadline (62 FR 43647).

On January 10, 2001, Missouri submitted a revised SIP to EPA for the Doe Run-Herculaneum area. The SIP revision was found complete on January 12, 2001. The SIP establishes August 14, 2002, as the attainment date for the area and satisfies the part D requirements of the CAA. The revised plan also contains a control strategy to address the violations of the NAAQS which occurred after implementation of the control measures in the 1995 SIP revision. EPA believes that the dispersion and receptor modeling demonstrate that the selected control measures will result in attainment of the NAAQS for lead.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

Doe Run-Herculaneum

1. Control Strategy

As required by 40 CFR part 51, subpart N, each SIP must contain legally enforceable compliance schedules and provide for compliance as soon as practicable. The Doe Run-Herculaneum SIP calls for full implementation of the control strategy by July 31, 2002. Implementation of the control strategy will result in approximately a 99 percent reduction in fugitive lead emissions from sources that are modeled as contributing significantly to nonattainment in the Herculaneum area.

The SIP contains two regulatory documents: (1) A Missouri Department of Natural Resources (MDNR) lead rule, (10 CSR 10–6.120) adopted by Missouri Air Conservation Commission (MACC) on December 7, 2000, containing emission limits and a Work Practice Manual which specifies operating procedures for specific plant processes at the Doe Run-Herculaneum facility; and (2) an executed Consent Judgment between the state of Missouri, Missouri Department of Natural Resources (MDNR), and MACC with Doe Run-Herculaneum. This judgment sets forth the administrative requirements for the implementation of the control measures at the Doe Run-Herculaneum facility. The plan includes contingency measures to be implemented within 6 months following a violation of the lead standard, after the attainment date of August 14, 2002. The reader is referred to the EPA prepared technical support document for a more complete discussion of the specific control measures to be implemented in the SIP.

2. Attainment Demonstration

Section 192(a) of the CAA requires that SIPs must provide for attainment of the lead NAAQS as expeditiously as practicable but no later than five years from the date of an area's nonattainment designation. This five-year period also applies as the new attainment date following a finding of failure to attain the lead NAAQS. (See sections 179(d)(3), 172(a)(d), and 192(a).) MDNR submitted a revised SIP that met the part D requirements in 1994, and which established June 30, 1995, as the new attainment date for the Herculaneum area. Violations of the NAAQS for lead were still observed and EPA published a notice in the **Federal Register** on August 15, 1997, finding that the Herculaneum area failed to attain the lead standard. The determination became effective on September 14, 1997. The SIP submitted established an attainment date of August 14, 2002, which is within the statutory five-year period. EPA has determined that the state's attainment date is as expeditious as practicable.

In support of the revision to the Doe Run-Herculaneum lead SIP, a dispersion and receptor modeling methodology was developed to predict ambient lead concentrations. The dispersion model that was chosen was the steady state EPA Gaussian plume Industrial Source Complex Short-Term model (ISCST3, version 99155). The receptor modeling that was chosen was Chemical Mass Balance (CMB) receptor model version 7. The CMB model was used to qualititavely evaluate the dispersion model to increase confidence in the modeling results and the control strategy.

The 2000 SIP revision emission inventory relies heavily on source testing and the utilization of the CMB receptor model to provide probable source contribution estimates (SCE) for the major source categories. These categories were defined by common chemistry of the source's particulate emissions. The model is a "best fit" statistical model that estimates the most probable source contribution by comparing the finger prints, or characteristics, of the emission sources with the measured ambient values.

Actual value dispersion modeling was conducted in order to (1) determine the model's ability to replicate actual lead concentrations monitored during the study, and thereby serve as a basis for developing future control strategies, and (2) provide a set of SCEs for reconciliation with those obtained from the CMB receptor model. The actual value modeling was conducted with the actual emission rates, stack parameters, and local meteorological data collected during the study period. The background value of 0.13 $\mu g/m^3$ was added to the predicted air dispersion concentrations. The maximum predicted concentration by the ISCST3 model, including background, is 1.456 $\mu g/m^3$, which is below the NAAQS for lead at 1.5 $\mu g/m^3$.

3. Emission Inventory and Air Quality Data

Section 172(c)(3) of the CAA requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area.

Development of a comprehensive and accurate emissions inventory was necessary to support modeling and control strategy efforts. An hourly emissions inventory was developed in order to provide input to the ISCST3 dispersion model. These rates were estimated using equations developed from source testing at the facility or from published emission factors.

Speciated emissions data was necessary to provide input to the CMB receptor model. Where possible, these data were obtained during source sampling efforts to identify fugitive emission sources located at the facility. IN other cases, it was obtained from grab samples collected at various locations within the facility or from representative sources.

The state submittal provides a historical summary of the air quality from 1982 through the second calendar quarter of 2000. The average quarterly ambient lead concentrations at several monitors continue to remain above the NAAQS. The reader is referred to the EPA prepared technical support document for a summary of ambient monitoring data collected for the Doe-Run Herculaneum site.

4. Reasonably Available Control Measures (RACM) Including Reasonable Available Control Technology (RACT)

The submittal must contain provisions to assure that RACM (including RACT) are implemented (see section 172(c)(1) of the CAA). (See 57 FR 13498 and 57 FR 13560 dated April 1, 1992, for EPA's interpretation of the RACM and RACT requirements.) Section 172(c)(1) of the CAA requires the implementation of all RACM which include emissions reduction through the adoption of RACT as expeditiously as practicable for all areas in nonattainment to attain the national primary ambient air quality standard. EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available to demonstrate attainment for the area. EPA believes that measures which do not advance the date for attainment need not be implemented.

In the previous SIP (1993), Doe Run-Herculaneum prepared a RACT/RACM evaluation, and the plant has not changed significantly nor is it expected to significantly increase its emissions through production increases. All RACT/RACM measures were implemented as part of the previous SIP. In addition, the requirements under 40 CFR part 63, subpart TTT, the Federal Maximum Achievable Control Technology (MACT) Standards for Primary Lead Smelters, now apply for Doe Run-Herculaneum. This MACT required the preparation and use of a

standard operating procedures manual for all baghouses used to control process, process fugitive, or fugitive dust emission sources for lead. We note that Missouri is currently in the process of addressing a number of issues relating to the delivery of lead concentrate to the Doe Run-Herculaneum facility for processing, and is considering measures to decrease or eliminate lead fugitive emissions from truck hauling. Missouri has analyzed the air quality impact of the delivery system (primarily involving the transport and unloading of concentrate from trucks) and has determined that the air quality impacts of fugitive emissions from this process are minimal. Missouri also reran the attainment demonstration modeling to determine the impact, if any, due to the contribution of fugitive emissions from the truck hauling operation. Missouri concluded that the air quality impact was insignificant, and did not impact the attainment demonstration. Missouri continues to address other environmental concerns relating to truck hauling, primarily relating to soil contamination. However, based on the state's conclusions that the air quality impacts are negligible, and therefore further air pollution controls would not expedite attainment, EPA does not believe that further consideration of the emissions associated with truck hauling is necessary for purposes of the CAA requirements regarding RACT/RACM. In light of the above MACT requirements as well as enforceable limitations for fugitive emissions and the installation of process controls imposed by the state rule and Consent Judgement referenced previously, it would be unnecessary for EPA to have Doe Run-Herculaneum reevaluated RACT/RACM requirements. An assessment of these control measures with dispersion and receptor modeling indicate no additional measures will expedite attainment.

5. Reasonable Further Progress (RFP)

Section 172(c)(2) of the CAA requires that the SIP must provide for RFP as defined in section 171(1) of the CAA. Section 171(1) defines RFP as annual incremental reductions in emissions of the relevant air pollutants as are required by Part D, or may reasonably be required by EPA to ensure attainment of the applicable NAAQS by the applicable date. Part D does not further require specific RFP measures for lead.

Doe Run-Herculaneum has demonstrated RFP as required by section 172(c)(2) of the CAA. For example, Doe Run-Herculaneum is under a compliance schedule, required by regulation and by the Consent Judgement, for implementing (1) installation of emission control equipment; (2) enclosure and ventilation projects to reduce lead emissions; (3) process throughput restrictions and hours of operation limitation; (4) work practice standards; and (5) contingency measures. EPA does not believe that additional incremental reductions are needed to meet the RFP requirement, since all controls to reduce lead emissions are to be implemented within the year, and must be fully implemented by July 31, 2002. The Work Practice Manual establishes process limits and control requirements for the plant and provides a guide to plant operators on how to minimize emissions from certain plant operations. This manual was incorporated into the lead rule (10 CSR 10–6.120), and adopted by the MACC on December 7, 2000, with the effective date of the rule being March 30, 2001.

6. New Source Review (NSR)

Part D of Title I of the CAA requires that the submittal include a permit program for the construction and operation of new and modified major stationary sources. Missouri rule 10 CSSR 10–6.020 identifies the current specific descriptions of the lead nonattainment areas in Missouri, including the area in which the Doe Run facility is located. Rule 10 CSR 10–6.020 is utilized in conjunction with Missouri rule 10 CSR 10–6.060 which requires a permit for construction of, or major modification to, an installation with potential to annually emit one hundred (100) tons or more of a nonattainment pollutant, or a permit for a modification at a major source with potential to annually emit one thousand two hundred (1,200) pounds of lead. These rules have previously been approve by EPA as part of the SIP.

7. Contingency Measures

Pursuant to section 172(c)(9) of the CAA, contingency measures have been prepared that can be implemented if EPA determines that the nonattainment area has failed to make reasonable further progress or fails to attain the NAAQS by the statutory deadline.

The state submission specifies an attainment date for the Herculaneum area of August 14, 2002, as set in the state SIP. If the area has a violation of the NAAQS during this quarter (July 1 to September 30, 2002), or any quarter thereafter, the contingency controls will be implemented after Doe Run-Herculaneum is notified by EPA and/or MDNR. Contingency measures which include enclosures and installing additional process controls will be implemented within 6 months following the calendar quarter in which the violation occurred.

In the event there is a second violation of the quarterly lead standard of 1.5 μ/m^3, after implementation of the initial contingency measures, Doe Run-Herculaneum has also agreed to curtail production utilizing one of three emission and/or production curtailing methods: Method (1), reduce main non-stack emissions by 20 percent; Method (2), limit production to 50,000 short tons/quarter of refined lead produced; and, Method (3), adopt Method 1 and limit production of refined lead production based upon the following formula:

$P = 50{,}000 + (500 \times (1 - A/E) \times 100)$

P = refined lead production in short tons/quarter

A = The aggregate actual quarterly emissions from all fugitive and stack lead emission sources at the facility in tons; except from the main stack (30001)

E = the aggregate estimated quarterly emissions from all fugitive and stack lead emission sources at the facility in tons; except from the main stack (30001); where A/E can't be less than .8 or more than 1.0.

Doe Run-Herculaneum will also maintain current bids on the materials necessary to implement each contingency measure. Doe Run-Herculaneum also may substitute any such controls if Doe Run-Herculaneum can demonstrate to MDNR and EPA that the alternative control measures would equal or exceed controls in the current SIP. Changes to these contingency measures would require a public hearing at the state level, and EPA approval as a formal SIP revision. These measures will help ensure compliance with the lead NAAQS and meet the requirements of section 172(c)(9) of the CAA.

8. Enforceability

All measures and other elements in the SIP must be enforceable by the state and EPA (see sections 172(c)(6), and 110(a)(2)(A) of the CAA, and 57 FR 13556). The state submittal includes a Consent Judgement and the lead rule (10 CSR 10–6.120). The lead rule also incorporates a Work Practice Manual, which specifies operating procedures for specific plant processes.

The state submittal includes a Consent Judgment entered into by the state and the Company which contains all of the control and contingency measures with enforceable dates for implementation. Control measures employed by Doe Run-Herculaneum

involve engineering modifications to the facility which include: Enclosure projects, improved ventilation systems being routed to stacks, improved material handling conveyors, and installation of air pollution control equipment (baghouses). The Company expects to spend approximately $8,500,000 on these projects to control and reduce fugitive air emissions of lead that are affecting the ambient air standard for lead in the Herculaneum area. These control measures will be implemented by July 31, 2002.

Doe Run-Glover

The Missouri SIP submission contains a state rule and a Consent Decree which pertain to the Doe Run Company's Glover lead smelter in Iron County, Missouri. Until 1998, this facility was owned by the ASARCO Company. Due to the change in ownership, the state found it necessary to revise a state rule and the Consent Decree which referred to the facility by ownership name.

The state rule, 10 CSR 10–6.120, "Restriction of Emissions of Lead From Specific Lead Smelter-Refinery Installations," was revised in paragraph (2)(A) to change the owner name from ASARCO to Doe Run Company. No other revisions pertaining to this facility were made in this rule revision. This revision was adopted by the Missouri Air Conservation Commission on December 7, 2000, and became effective in the state on March 30, 2001.

There was also a SIP-approved Consent Decree for this facility with ASARCO. This Consent Decree was also revised to reflect the change in ownership and to update certain provisions. These changes included: (1) Recognizing that the required capital improvements made by ASARCO had indeed already been made; (2) adding language that will terminate the Consent Decree upon redesignation of the Glover area attainment with the understanding that a new enforceable agreement will be in place at that time to ensure continued operation of the controls. This is acceptable to EPA since a maintenance plan would be required prior to any redesignation of the area to attainment, and the maintenance plan would contain all requirements, including enforceable requirements of any document which replaces the Consent Decree, which are necessary to ensure continued attainment of the area for the lead NAAQS; and (3) provision was added which allows the Consent Decree to be modified if both parties agree, or if there is a change in ownership. These provisions were added to avoid having to go back to court to amend the Consent Decree.

EPA's Proposed Actions

Have the Requirements for Approval of a SIP Revision Been Met Under Section 172 of the CAA?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations and part D and is consistent with the guidance set forth in the "State Implementation Plans for Lead Nonattainment Areas; Addendum to the General Preamble for the Implementation of the Clean Air Act Amendments of 1990" (58 FR 67748).

What Actions Are We Proposing Today?

EPA is proposing to find that the Doe Run-Herculaneum nonattainment area SIP submitted by Missouri on January 10, 2001, meets the requirements of section 110, and part D of the CAA and 40 CFR part 51. EPA is also proposing to approve the SIP submission which relates to the Doe Run-Glover facility which is described above.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 23, 2001.

Nat Scurry,

Acting Regional Administration, Region 7.

[FR Doc. 01–30102 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2753, MM Docket No. 01–325, RM–10136]

Television Broadcast Service; Green Bay, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Green Bay 44, L.L.C., an applicant for a construction permit for a new television station operating on channel 44 at Green Bay, Wisconsin, requesting the substitution of Channel 50 for channel 44 at Green Bay. TV channel 50 can be allotted to Green Bay, Wisconsin, with a plus offset consistent with the criteria set forth in the Commission's Public Notice, released on November 22, 1999, DA 99–2605. The coordinates for channel 50+ at Green Bay are North Latitude 44–30–48 and West Longitude 88–00–24. However, since the community Green Bay is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government must be obtained for this proposal. Pursuant to the provisions outlined in the Commission's Public Notice, we will not accept competing expressions of interest in the use of television channel 50+ at Green Bay.

DATES: Comments must be filed on or before January 21, 2002, and reply comments on or before February 5, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Andrew S. Kersting, Fletcher, Heald & Hildreth, 11th Floor, 1300 North 17th Street, Arlington, Virginia 22209–3801 (Counsel for Green Bay 44, L.L.C.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–325, adopted November 29, 2001, and released November 30, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com*.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Wisconsin is amended by removing TV Channel 44 and adding TV Channel 50+ at Green Bay.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–30036 Filed 12–4–01; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 66, No. 234
Wednesday, December 5, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–097–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of regulations governing the importation of fruits and vegetables.

DATES: We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by February 4, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–097–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–097–1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01–097–1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: For information on regulations governing the importation of fruits and vegetables, contact Ms. Cynthia Stahl, Program Analyst, Port Operations, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236; (301) 734–5281. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Importation of Fruits and Vegetables.

OMB Number: 0579–0136.

Type of Request: Extension of approval of an information collection.

Abstract: The United States Department of Agriculture (USDA) is responsible for, among other things, the control and eradication of plant pests. The Plant Protection Act authorizes the Department to carry out this mission.

The Plant Protection and Quarantine (PPQ) program of USDA's Animal and Plant Health Inspection Service (APHIS) is responsible for implementing the regulations that carry out the intent of the Act.

Under the regulations in 7 CFR 319.56 through 319.56–8, a number of fruits and vegetables may be imported into the United States, under specified conditions, from certain parts of the world. These fruits and vegetables include cole and mustard crops from Ecuador, El Salvador, Nicaragua, and Peru; rhubarb from Guatemala; parsley from Israel and Nicaragua; salicornia from Mexico; mint and rosemary from Nicaragua; Swiss chard from Peru; Belgian endive, chicory, and endive from Panama; pineapple from South Africa; cantaloupe, honeydew melon, and watermelon from Brazil and Venezuela; and peppers from Spain.

Before entering the United States, all of these fruits and vegetables are subject to inspection and disinfection at their port of first arrival to ensure that no plant pests are inadvertently brought into the United States. These precautions, along with other requirements, ensure that these items can be imported into the United States with minimal risk of introducing exotic plant pests such as fruit flies.

Allowing these fruits and vegetables to be imported requires the use of certain information collection activities, including the completion of import permits, phytosanitary inspection certificates, and fruit fly monitoring records.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.73227 hours per response.

Respondents: U.S. importers of fruits and vegetables and plant health officials of exporting countries.

Estimated annual number of respondents: 822.

Estimated annual number of responses per respondent: 2.2311.

Estimated annual number of responses: 1,834.

Estimated total annual burden on respondents: 1,343 hours. (Due to

averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 29th day of November 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30107 Filed 12–4–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–104–1]

Notice of Request for Reinstatement of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of an information collection in support of activities to prevent the introduction and spread of diseases and parasites harmful to honeybees.

DATES: We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by February 4, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–104–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–104–1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01–104–1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: For information regarding exotic bee diseases and parasites, honeybees, and honeybee semen, contact Ms. Anissa Craghead, Regulatory Coordination Specialist, Regulatory Coordination Staff, PPQ, APHIS, 4700 River Road Unit 141, Riverdale, MD 20737, (301) 734–5311. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Exotic Bee Diseases and Parasites; Honeybees and Honeybee Semen.

OMB Number: 0579–0072.

Type of Request: Reinstatement of an information collection.

Abstract: The United States Department of Agriculture is responsible for preventing the introduction and spread of diseases and parasites harmful to honeybees, the introduction of genetically undesirable germ plasm of honeybees, and the introduction and spread of undesirable species or subspecies of honeybees.

The introduction and establishment of new honeybee diseases, parasites, and undesirable honeybee strains into the United States could cause multimillion dollar losses to American agriculture. Diseases or parasites can weaken or kill honeybees, causing substantial reductions in the production of honey and other honeybee products, as well as a reduction in pollination activity. Pollination is necessary for the production of many important crops, including forage, fruits, vegetables, and vegetable oils.

To protect the health of the U.S. honeybee population, we engage in a number of information collection activities designed to allow us to determine whether shipments of honeybees, honeybee semen, or bee-related items (such as beekeeping equipment) represent a possible risk of introducing exotic bee diseases, parasites, or undesirable honeybee strains into the United States.

Our primary means of obtaining this vital information is requiring importers to apply to us for an import permit. The permit application provides us with information such as the amount of bee semen to be imported and the species or subspecies of honeybee from which the semen was collected; the country or locality of origin; and the intended port of entry in the United States.

We also require importers and shippers to adhere to a number of marking and shipping requirements that enable us to easily identify and process shipments of honeybees, honeybee semen, and other restricted articles when they arrive at U.S. ports of entry.

These information-gathering procedures help us prevent the entry of shipments that pose a potential health risk to the U.S. honeybee population.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 4.0625 hours per response.

Respondents: Importers and shippers of honeybees, honeybee semen, and other regulated articles.

Estimated annual number of respondents: 13.

Estimated annual number of responses per respondent: 1.23.

Estimated annual number of responses: 16.

Estimated total annual burden on respondents: 65 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual

number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 29th day of November 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30109 Filed 12–4–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–039–2]

Availability of an Environmental Assessment and Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to a demonstration project to eradicate and prevent the spread of the aquatic weed giant salvinia in the Toledo Bend Reservoir and surrounding areas in Louisiana and eastern Texas. The environmental assessment provides a basis for our conclusion that the implementation of the demonstration project will not have a significant impact on the quality of the human environment. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect theses documents are requested to call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Alan V. Tasker, National Weed Program Coordinator, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–5225.

SUPPLEMENTARY INFORMATION:

Background

Giant salvinia (*Salvinia molesta*) is a free-floating aquatic fern, native to South America, with a tremendous growth rate and the potential to significantly affect water-reliant agricultural industries, recreation, and the ecology of freshwater habitats throughout much of the United States.

The Animal and Plant Health Inspection Service (APHIS) listed giant salvinia as a noxious weed in 1983. Under APHIS' regulations, no person may move giant salvinia into or through the United States, or interstate, unless he or she obtains a permit for the movement from APHIS.

In the past several years, giant salvinia has been detected in the United States, mostly in association with the nursery trade in aquatic plants. Generally, detections have been in small, confined sites and are currently contained or have been eradicated. Such detections have occurred in Alabama, Arizona, Florida, Hawaii, Indiana, Louisiana, Maryland, Missouri, North Carolina, South Carolina, Texas, and Virginia. Of more serious and immediate concern is the current infestation in the Toledo Bend Reservoir and the surrounding areas in Louisiana and eastern Texas. The Toledo Bend Reservoir infestation is a major one in a large body of water.

Because current efforts to eradicate giant salvinia in the Toledo Bend Reservoir and the surrounding areas in Louisiana and eastern Texas have been unsuccessful, APHIS has evaluated additional control methods available to help eradicate this noxious weed. These control methods include:

- An integrated control approach utilizing herbicides and mechanical, biological, and regulatory controls.
- A biological control program that requires no herbicide application.

On July 24, 2001, we published in the **Federal Register** (66 FR 38414–38415, Docket No. 01–039–1) a notice in which we announced the availability, for public review and comment, of an environmental assessment that examines the potential environmental effects of the giant salvinia control methods described above on the Toledo Bend Reservoir and surrounding areas in Louisiana and eastern Texas. We solicited comments on the environmental assessment for 30 days ending on August 23, 2001. We received no comments by that date.

In this document, we are advising the public of APHIS' record of decision and finding of no significant impact regarding the use of the methods described above to control giant salvinia in the Toledo Bend Reservoir and surrounding areas in Louisiana and eastern Texas. This decision, which is based on the findings of the environmental assessment, will allow APHIS to begin giant salvinia control activities in the Toledo Bend Reservoir and surrounding areas.

The environmental assessment and finding of no significant impact may be viewed on the Internet at http://www.aphis.usda.gov/ppd/es/ppqdocs.html. You may request paper copies of the environmental assessment and finding of no significant impact by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the environmental assessment when requesting copies. The environmental assessment and finding of no significant impact are also available for review in our reading room (information on the location and hours of the reading room is listed under the heading **ADDRESSES** at the beginning of this notice).

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 29th day of November 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30106 Filed 12–4–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–099–1]

Draft Guidelines on Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Summary Update Reports (PSUs) (VICH Topic GL29) and Pharmacovigilance of Veterinary Medicinal Products: Controlled List of Terms (VICH Topic GL30)

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: The International Cooperation on Harmonization of Technical Requirements for the Registration of Veterinary Medicinal Products (VICH) has developed two draft guidelines titled "Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Summary Update Reports (PSUs)" and "Pharmacovigilance of Veterinary Medicinal Products: Controlled List of Terms." These draft guidelines provide, respectively, recommendations for the management of the detection and investigation of the clinical effects of marketed veterinary medicinal products and the terminology used to describe veterinary medicinal products, animals, clinical signs, and associated body systems and organs in adverse event reports. Because the draft guidelines apply to pharmacovigilance and adverse event reporting on veterinary vaccines regulated by the Animal and Plant Health Inspection Service under the Virus-Serum-Toxin Act, we are requesting comments on the scope of each guideline and its provisions so that we may include any relevant public input on the drafts in the Agency's comments to the VICH Steering Committee.

DATES: We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by February 4, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–099–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–099–1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01–099–1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

You may request copies of the draft guidelines "Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Update Summary Reports (PSUs)" and "Pharmacovigilance of Veterinary Medicinal Products: Controlled List of Terms" by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Dr. Albert P. Morgan, Center for Veterinary Biologics-Licensing and Policy Development, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; (301) 734–8245.

SUPPLEMENTARY INFORMATION: The International Cooperation on Harmonization of Technical Requirements for the Registration of Veterinary Medicinal Products (VICH) is a unique project conducted under the auspices of the Office International des Epizooties that brings together the regulatory authorities of the European Union, Japan, and the United States and representatives from the animal health industry in the three regions. The purpose of VICH is to harmonize technical requirements for veterinary products (both drugs and biologics). Regulatory authorities and industry experts from Australia and New Zealand participate in an observer capacity. The World Federation of the Animal Health Industry (COMISA, the Confederation Mondiale de L'Industrie de la Sante Animale) provides the secretarial and administrative support for VICH activities.

The United States Government is represented in VICH by the Food and Drug Administration (FDA) and the Animal and Plant Health Inspection Service (APHIS). The FDA provides expertise on veterinary drugs, while APHIS fills a corresponding role for veterinary biological products. As VICH members, APHIS and FDA participate in efforts to enhance harmonization and have expressed their commitment to seeking scientifically based harmonized technical requirements for the development of veterinary drugs and biological products. One of the goals of harmonization is to identify and reduce the differences in technical requirements for veterinary drugs and biologics among regulatory agencies in different countries.

Two draft guidelines have been made available by the VICH Steering Committee for comments by interested parties. The first draft guideline, "Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Summary Update Reports (PSUs)" (VICH Topic GL29), is intended to provide general recommendations for the management of the detection and investigation of the clinical effects of marketed veterinary medicinal products. Because the draft guideline applies to some veterinary biological products regulated by APHIS under the Virus-Serum-Toxin Act—particularly with regard to adverse event reporting—we are requesting comments on its provisions so that we may include any relevant public input on the draft in the Agency's comments to the VICH Steering Committee.

The second draft guideline, "Pharmacovigilance of Veterinary Medicinal Products: Controlled List of Terms" (VICH Topic GL30), is intended to provide a controlled list of terminology for describing clinical signs and associated body systems and organs for reporting an adverse event associated with the use of veterinary medicinal products. Again, because the draft guideline applies to some veterinary biological products regulated by APHIS under the Virus-Serum-Toxin Act—particularly with regard to ensuring that consistent terminology is used to describe an adverse event associated with the use of a veterinary medicinal product—we are requesting comments on its provisions so that we may include any relevant public input on the draft in the Agency's comments to the VICH Steering Committee.

The two draft guidelines reflect, respectively, current APHIS thinking on the management of PSUs and the appropriate terminology for use in describing an adverse event concerning the use of veterinary biological products. In accordance with the VICH process, once a final draft of each document has been approved, the guideline will be recommended for adoption by the regulatory bodies of the European Union, Japan, and the United States. As with all VICH documents, each final guideline will not create or confer any rights for or on any person and will not operate to bind APHIS or the public. Further, the VICH guidelines specifically provide for the use of alternative approaches if those approaches satisfy applicable regulatory requirements.

Ultimately, APHIS intends to consider the VICH Steering Committee's final guidelines for use by U.S. veterinary biologics licensees, permittees, and applicants. In addition, we may consider the use of each final guideline as the basis for proposed amendments to

the regulations in 9 CFR chapter I, subchapter E (Viruses, Serums, Toxins, and Analogous Products: Organisms and Vectors). Because we anticipate that applicable provisions of the final versions of "Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Summary Update Reports (PSUs)" and "Pharmacovigilance of Veterinary Medicinal Products: Controlled List of Terms" may be introduced into APHIS' veterinary biologics regulatory program in the future, we encourage your comments on the draft guidelines.

Authority: 21 U.S.C. 151 *et seq.*

Done in Washington, DC, this 29th day of November 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30108 Filed 12–4–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers To Be Used for Publication of Legal Notice of Appealable Decisions and Corrections for the Southern Region; Alabama, Kentucky, Georgia, Tennessee, Florida, Louisiana, Mississippi, Virginia, West Virginia, Arkansas, Oklahoma, North Carolina, South Carolina, Texas, Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice and correction.

SUMMARY: Deciding Officers in the Southern Region will publish notice of decisions subject to administrative appeal under 36 CFR part 217 in the legal notice section of the newspapers listed in the Supplementary Information section of this notice. As provided in 36 CFR part 217.5(d), the public shall be advised through **Federal Register** notice, of the principal newspaper to be utilized for publishing legal notice of decisions. Newspaper publication of notice of decisions is in addition to direct notice of decisions to those known to be interested in or affected by a specific decision. The Responsible Official under 36 CFR part 215 gave annual notice in the **Federal Register** published on May 9, 2001, of principal newspapers to be utilized for publishing notice of proposed actions and of decisions subject to appeal under 36 CFR part 215. The list of newspapers to be used for 215 notice and decision is corrected.

DATES: Use of these newspapers for purposes of publishing legal notice of decisions subject to appeal under 36 CFR part 217 and the use of the corrected newspaper listed under 36 CFR part 215 shall begin on or after the date of this publication.

FOR FURTHER INFORMATION CONTACT: Norm Heintz, Acting Regional Appeals Coordinator, Southern Region, Planning, 1720 Peachtree Road, NW., Atlanta, Georgia 30309, Phone: 404–347–5235.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Southern Region will give legal notice of decisions subject to appeal under 36 CFR part 217 in the following newspapers which are listed by Forest Service Administrative unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the principal newspaper that will be utilized for publishing the legal notice of decisions. Additional newspapers listed for a particular unit are those newspapers the Deciding Officer expects to use for purposes of providing additional notice. The timeframe for appeal shall be based on the date of publication of the legal notice of the decision in the principal newspaper. The following newspapers will be used to provide notice.

Southern Region

Regional Forester Decisions

Affecting National Forest System lands in more than one state of the 14 states of the Southern Region and the Commonwealth of Puerto Rico *Atlanta Journal*, published daily in Atlanta, GA.

Affecting National Forest System lands in only one state of the 14 states of the Southern Region and the Commonwealth of Puerto Rico or only one Ranger District will appear in the principal newspaper elected by the National Forest of that state or Ranger District.

National Forests in Alabama, Alabama

Forest Supervisor Decisions

Montgomery Advertiser, published daily in Montgomery, AL

District Ranger Decisions

Bankhead Ranger District: Northwest Alabamian, published weekly (Wednesday & Saturday) in Haleyville, AL
Conecuh Ranger District: The Andalusia Star News, published daily (Tuesday through Saturday) in Andalusia, AL
Oakmulgee Ranger District: The Tuscaloosa News, published daily in Tuscaloosa, AL
Shoal Creek Ranger District: The Anniston Star, published daily in Anniston, AL
Talladega Ranger District: The Daily Home, published daily in Talladega, AL
Tuskegee Ranger District: Tuskegee News, published weekly (Thursday) in Tuskegee, AL

Caribbean National Forest, Puerto Rico

Forest Supervisor Decisions

El Nuevo Dia, published daily in Spanish in San Juan, PR
San Juan Star, published daily in English in San Juan, PR

Chattahoochee-Oconee National Forest, Georgia

Forest Supervisor Decisions

The Times, published daily in Gainesville, GA

District Ranger Decisions

Armuchee Ranger District: Walker County Messenger, published bi-weekly (Wednesday & Friday) in LaFayette, GA
Toccoa Ranger District: The News Observer published bi-weekly (Tuesday & Friday) in Blue Ridge, GA
Brasstown Ranger District: North Georgia News, published weekly (Wednesday) in Blairsville, GA
Tallulah Ranger District: Clayton Tribune, published weekly (Thursday) in Clayton, GA
Chattooga Ranger District:
Northeast Georgian, published twice weekly (Tuesday & Friday) in Cornelia, GA
Chieftain & Toccoa Record, published twice weekly (Tuesday & Friday) in Toccoa, GA
White County News Telegraph, published weekly (Thursday) in Cleveland, GA
The Dahlonega Nuggett, published weekly (Thursday) in Dahlonega, GA
Cohutta Ranger District: Chatsworth Times, published weekly (Wednesday) in Chatsworth, GA
Oconee Ranger District: Eatonton Messenger, published weekly (Thursday) in Eatonton, GA

Cherokee National Forest, Tennessee

Forest Supervisor Decisions

Knoxville News Sentinel, published daily in Knoxville, TN (covering McMinn, Monroe, and Polk Counties)
Johnson City Press, published daily in Johnson City, TN (covering Carter, Cocke, Greene, Johnson, Sullivan, Unicoi and Washington Counties)

District Ranger Decisions

Ocoee-Hiwassee Ranger District: Polk County News, published weekly (Wednesday) in Benton, TN
Tellico-Hiwassee Ranger District: Monroe County Advocate, published tri-weekly (Wednesday, Friday and Sunday) in Sweetwater, TN
Nolichucky-Unaka Ranger District: Johnson City Press, published daily in Johnson City, TN
Watauga Ranger District: Johnson City Press, published daily in Johnson City, TN

Daniel Boone National Forest, Kentucky

Forest Supervisor Decisions

Lexington Herald-Leader, published daily in Lexington, KY

District Ranger Decisions

Morehead Ranger District: Morehead News, published bi-weekly (Tuesday and Friday) in Morehead, KY
Stanton Ranger District: The Clay City Times, published bi-weekly (Thursday) in Stanton, KY
London Ranger District: The Sentinel-Echo, published tri-weekly (Monday, Wednesday, and Friday) in London, KY
Somerset Ranger District: Commonwealth-Journal, published daily (Sunday through Friday) in Somerset, KY
Stearns Ranger District: McCreary County Record, published weekly (Tuesday) in Whitley City, KY
Redbird Ranger District: Manchester Enterprise, published weekly (Thursday) in Manchester, KY

National Forests in Florida, Florida

Forest Supervisor Decisions

The Tallahassee Democrat, published daily in Tallahassee, FL

District Ranger Decisions:

Apalachicola Ranger District: The Liberty Journal, published weekly (Wednesday) in Bristol, FL
Lake George Ranger District: The Ocala Star Banner, published daily in Ocala, FL
Osceola Ranger District: The Lake City Reporter, published daily (Monday-Saturday) in Lake City, FL
Seminole Ranger District: The Daily Commercial, published daily in Leesburg, FL
Wakulla Ranger District: The Tallahassee Democrat, published daily in Tallahassee, FL

Francis Marion & Sumter National Forest, South Carolina

Forest Supervisor Decisions

The State, published daily in Columbia, SC

District Ranger Decisions

Enoree Ranger District: Newberry Observer, published tri-weekly (Monday, Wednesday, and Friday) Newberry, SC
Andrew Pickens Ranger District: The Daily Journal, published daily in Seneca, SC
Long Cane Ranger District: The Augusta Chronicle, published daily in Augusta, GA
Wambaw Ranger District: Post and Courier, published daily in Charleston, SC
Witherbee Ranger District: Post and Courier, published daily in Charleston, SC

George Washington and Jefferson National Forests, Virginia and West Virginia

Forest Supervisor Decisions

Roanoke Times, published daily in Roanoke, VA

District Ranger Decisions

Lee Ranger District: Shenandoah Valley Herald, published weekly (Wednesday) in Woodstock, VA
Warm Springs Ranger District: The Recorder, published weekly (Thursday) in Monterey, VA
James River Ranger District: Virginian Review, published daily (except Sunday) in Covington, VA
Deerfield Ranger District: Daily News Leader, published daily in Staunton, VA
Dry River Ranger District: Daily News Record, published daily (except Sunday) in Harrisonburg, VA
New River Ranger District: Roanoke Times, published daily in Roanoke, VA
Glenwood/Pedlar Ranger District: Roanoke Times, published daily in Roanoke, VA
New Castle Ranger District: Roanoke Times, published daily in Roanoke, VA
Mount Rogers National Recreation Area: Briston Herald Courier, published daily in Briston, VA
Clinch Ranger District: Kingsport-Times News, published daily in Kingsport, TN

Kisatchie National Forest, Louisiana

Forest Supervisor Decisions

The Town Talk, published daily in Alexandria, LA

District Ranger Decisions

Caney Ranger District:
Minden Press Herald, published daily in Minden, LA
Homer Guardian Journal, published weekly (Wednesday) in Homer, LA
Catahoula Ranger District: The Town Talk, published daily in Alexandria, LA
Calcasieu Ranger District: The Town Talk, published daily in Alexandria, LA
Kisatchie Ranger District: Natchitoches Times, published daily (Tuesday-Friday and on Sunday) in Natchitoches, LA
Winn Ranger District: Winn Parish Enterprise, published weekly (Wednesday) in Winnfield, LA

Land Between the Lakes National Recreation Area, Kentucky and Tennessee

Area Supervisor Decisions

The Paducah Sun, published daily in Paducah, KY

National Forests in Mississippi, Mississippi

Forrest Supervisor Decisions:

Clarion-Ledger, published daily in Jackson, MS

District Ranger Decisions

Bienville Ranger District: Clarion-Ledger, published daily in Jackson, MS
Chickasawhay Ranger District: Clarion-Ledger, published daily in Jackson, MS
Delta Ranger District: Clarion-Ledger, published daily in Jackson, MS
De Soto Ranger District: Clarion-Ledger, published daily in Jackson, MS
Holly Springs Ranger District: Clarion-Ledger, published daily in Jackson, MS
Homochitto Ranger District: Clarion-Ledger, published daily in Jackson, MS
Tombigbee Ranger District: Clarion-Ledger, published daily in Jackson, MS

National Forests in North Carolina, North Carolina

Forest Supervisor Decisions

The Asheville Citizen-Times, published daily in Asheville, NC

District Ranger Decisions:

Appalachian Ranger District: The Asheville Citizen-Times, published daily in Asheville, NC
Cheoah Ranger District: Graham Star, published weekly (Thursday) in Robbinsville, NC
Croatan Ranger District: The Sun Journal, published weekly (Sunday through Friday) in New Bern, NC
Grandfather Ranger District: McDowell News, published daily in Marion, NC
Highlands Ranger District: The Highlander, published weekly (mid May–mid Nov Tues & Fri; mid Nov–mid May Tues only) in Highland, NC
Pisgah Ranger District: The Asheville Citizen-Times, published daily in Asheville, NC
Tusquitee Ranger District: Cherokee Scout, published weekly (Wednesday) in Murphy, NC
Uwharrie Ranger Distict: Montgomery Herald, published weekly (Wednesday) in Troy, NC
Wayah Ranger District: The Franklin Press, published bi-weekly (Wednesday and Friday) in Franklin, NC

Ouachita National Forest, Arkansas and Oklahoma

Forest Supervisor Decisions

Arkansas Democrat-Gazette, published daily in Little Rock, AR

District Ranger Decisions

Caddo Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Fourche Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Jessieville/Winona Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Mena/Oden Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Poteau/Cold Springs Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Womble Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR
Choctaw Ranger District: Tulsa World, published daily in Tulsa, OK
Kiamichi Ranger District: Tulsa World, published daily in Tulsa, OK
Tiak Ranger District: Tulsa World, published daily in Tulsa, OK

Ozark-St. Francis National Forest, Arkansas

Forest Supervisor Decisions

The Courier, published daily (Tuesday through Sunday) in Russellville, AR

District Ranger Decisions

Sylamore Ranger District: Stone County Leader, published weekly (Tuesday) in Mountain View, AR
Buffalo Ranger District: Newton County Times, published weekly in Jasper, AR
Bayou Ranger District: The Courier, published daily (Tuesday through Sunday) in Russellville, AR
Pleasant Hill Ranger District: Johnson County Graphic, published weekly (Wednesday) in Clarksville, AR

Boston Mountain Ranger District: Southwest Times Record, published daily in Fort Smith, AR
Magazine Ranger District: Southwest Times Record, published daily in Fort Smith, AR
St. Francis Ranger District: The Daily World, published daily (Sunday through Friday) in Helena, AR

National Forests and Grasslands in Texas, Texas

Forest Supervisor Decisions

The Lufkin Daily News, published daily in Lufkin, TX

District Ranger Decisions

Angelina National Forest: The Lufkin Daily News, published daily in Lufkin, TX
Davy Crockett National Forest: The Lufkin Daily News, published daily in Lufkin, TX
Sabine National Forest: The Lufkin Daily News, published daily in Lufkin, TX
Sam Houston National Forest: The Courier, published daily in Conroe, TX
Caddo & LBJ National Grasslands: Denton Record-Chronicle, published daily in Denton, TX

The Responsible Official under 36 CFR part 215 gave annual notice in the **Federal Register** published on May 9, 2001, of principal newspapers to be utilized for publishing notices of proposed actions and of decisions subject to appeal under 36 CFR 215. The list of newspapers to be used for 215 notice and decision is corrected as follows:

National Forests in Alabama, Alabama

District Ranger Decisions:

Bankhead Ranger District:
Correct:
Northwest Alabamian, published weekly (Wednesday & Saturday) in Haleyville, AL

Cherokee National Forest, Tennessee

District Ranger Decisions

Tellico-Hiwassee Ranger District:
Correct:
Monroe County Advocate, published tri-weekly (Wednesday, Friday, and Sunday) in Sweetwater, TN

Dated: November 28, 2001.

David G. Holland,

Deputy Regional Forester.

[FR Doc. 01–30077 Filed 12–4–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No.1202]

Grant of Authority for Subzone Status, United Chemi-Con, Inc. (Aluminum Electrolytic Capacitors), Lansing, North Carolina

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ". . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board (the Board) to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Piedmont Triad Partnership, grantee of Foreign-Trade Zone 230 (Greensboro, North Carolina), has made application for authority to establish special-purpose subzone status at the aluminum electrolytic capacitor manufacturing plant of United Chemi-Con, Inc., located in Lansing, North Carolina (FTZ Docket 25–2001, filed 6–18–2001);

Whereas, notice inviting public comment was given in the **Federal Register** (66 FR 33948, 6–26–2001); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the aluminum electrolytic capacitor manufacturing plant of United Chemi-Con, Inc., located in Lansing, North Carolina (Subzone 230A), at the location described in the application, subject to the FTZ Act and the Board's regulations, including section 400.28.

Signed at Washington, DC, this 21st day of November 2001.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 01–30171 Filed 12–4–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–866]

Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final determination of sales at less than fair value.

EFFECTIVE DATE: December 5, 2001.

SUMMARY: We published in the **Federal Register** our final determination for the investigation of certain folding gift boxes from the People's Republic of China on November 20, 2001. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Certain Folding Gift Boxes from the People's Republic of China*, 66 FR 50408 (November 20, 2001). We are amending our final determination to correct ministerial errors discovered by Red Point Paper Products, Ltd.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or George Callen, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0410 or (202) 482–0180, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Tariff Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to 19 CFR part 351 (2000).

Background

On November 13, 2001, the Department determined that certain folding gift boxes from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Certain Folding Gift Boxes from the People's Republic of China*, 66 FR 50408 (November 20, 2001) (*Final Determination*). On November 19, 2001, respondent Red Point Paper Products Ltd. (Red Point) timely filed an

allegation that the Department had made two ministerial errors in its final determination.

Red Point's submission alleges the following errors: (1) The Department inadvertently used the value of labor for 1998 rather than 1999 as published on the Department's web site, and (2) the Department inadvertently deducted movement expenses incurred by Red Point's unaffiliated customer from the export price.

On November 26, 2001, Harvard Folding Box Company and Field Container Company, LP (collectively, the petitioners), submitted comments rebutting Red Point's ministerial-error allegations. The petitioners argue that Red Point's allegations are untimely arguments for methodological changes rather than ministerial-error allegations. With regard to labor valuation, the petitioners argue that Red Point's allegation is an untimely argument as to which surrogate value the Department should use to value labor inputs. With regard to movement expenses, the petitioners contend that the Department used the same methodology in the *Final Determination* as it used in the *Preliminary Determination* and that Red Point did not comment upon the Department's deduction of these movement expenses in its case brief. The petitioners contend that Red Point is asking the Department, under the guise of correcting a ministerial error, to change a clearly articulated methodology and argue that the Department should not do so because the alleged errors were methodological choices, not ministerial errors.

No other party alleged that there were ministerial errors in the *Final Determination* or commented about Red Point's allegations.

Scope of the Investigation

The products covered by this investigation are certain folding gift boxes. Certain folding gift boxes are a type of folding or knock-down carton manufactured from paper or paperboard. Certain folding gift boxes are produced from a variety of recycled and virgin paper or paperboard materials, including, but not limited to, clay-coated paper or paperboard and kraft (bleached or unbleached) paper or paperboard. The scope of the investigation excludes gift boxes manufactured from paper or paperboard of a thickness of more than 0.8 millimeters, corrugated paperboard, or paper mache. The scope of the investigation also excludes those gift boxes for which no side of the box, when assembled, is at least nine inches in length.

Certain folding gift boxes are typically decorated with a holiday motif using various processes, including printing, embossing, debossing, and foil stamping, but may also be plain white or printed with a single color. The subject merchandise includes certain folding gift boxes, with or without handles, whether finished or unfinished, and whether in one-piece or multi-piece configuration. One-piece gift boxes are die-cut or otherwise formed so that the top, bottom, and sides form a single, contiguous unit. Two-piece gift boxes are those with a folded bottom and a folded top as separate pieces. Certain folding gift boxes are generally packaged in shrink-wrap, cellophane, or other packaging materials, in single or multi-box packs for sale to the retail customer. The scope of the investigation excludes folding gift boxes that have a retailer's name, logo, trademark or similar company information printed prominently on the box's top exterior (such folding gift boxes are often known as "not-for-resale" gift boxes or "give-away" gift boxes and may be provided by department and specialty stores at no charge to their retail customers). The scope of the investigation also excludes folding gift boxes where both the outside of the box is a single color and the box is not packaged in shrink-wrap, cellophane, other resin-based packaging films, or paperboard.

Imports of the subject merchandise are currently classified under *Harmonized Tariff Schedule of the United States* (HTSUS) subheadings 4819.20.00.40 and 4819.50.40.60. These subheadings also cover products that are outside the scope of this investigation. Furthermore, although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Ministerial Error

The Department's regulations define a ministerial error as one involving "addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication or the like, and any other similar type of unintentional error which the Secretary considers ministerial." See 19 CFR 351.224(f).

After reviewing Red Point's allegations we have determined, in accordance with 19 CFR 351.224, that the *Final Determination* includes ministerial errors. We agree with Red Point that we should not have deducted the movement expenses incurred by Red Point's unaffiliated customer. These expenses, which include international freight, marine insurance, U.S. inland freight, U.S. brokerage & handling expenses, and U.S. Customs duties, were incurred by Lindy Bowman, not Red Point. See Red Point verification report dated September 13, 2001, at page 7 and Lindy Bowman verification report dated September 17, 2001, at page 4. We should have only deducted those movement expenses incurred by Red Point, not those incurred by its U.S. customer. Contrary to the petitioners' assertion, this constitutes an unintentional error on our part. Accordingly, we have corrected this ministerial error.

We also agree with Red Point that we inadvertently used the labor value for 1998 in the *Final Determination*. The labor value for 1999 to which Red Point refers was published on the Department's website in September 2001 and, therefore, was available for our use in the *Final Determination*. See *http://ia.ita.doc.gov/wages/*. Furthermore, we disagree with the petitioners' characterization that Red Point's allegation is an untimely argument as to which surrogate value the Department should use for labor. The Department develops the surrogate value for the applicable labor calculations; it is not submitted by interested parties (as are most surrogate values). Finally, the revised labor rate corresponds more closely in time with the period of investigation than the surrogate value we used in the *Preliminary Determination*. Thus, we should have used the revised surrogate value for labor in the *Final Determination*. Our use of the same labor rate we used in the *Preliminary Determination* was unintentional. Accordingly, we have corrected this ministerial error.

Amended Final Determination

In accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of certain folding gift boxes from the People's Republic of China. For this amended final determination, we did not deduct the aforementioned movement expenses incurred by Lindy Bowman from the U.S. price and we have used the revised surrogate value for labor. The revised final weighted-average dumping margins for Red Point is 8.90 percent. The weighted-average dumping margins for all other companies remain unchanged.

Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Tariff Act, we are directing the United States Customs

Service (Customs) to continue suspending liquidation on all imports of the subject merchandise from the People's Republic of China. Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which normal value exceeds the export price as indicated in the chart above. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission of our amended final determination.

This determination is issued and published in accordance with section 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: November 29, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–30169 Filed 12–4–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–807]

Certain Steel Concrete Reinforcing Bars from Turkey; Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 5, 2001.

SUMMARY: The Department of Commerce is extending the time limit for completion of the preliminary results of the administrative review of the antidumping duty order on certain steel concrete reinforcing bars from Turkey. The period of review is April 1, 2000, through March 31, 2001.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Elizabeth Eastwood at (202) 482–0656 or (202) 482–3874, respectively, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2001).

SUPPLEMENTARY INFORMATION: On May 23, 2001, the Department published a notice of initiation of administrative review of the antidumping duty order on certain steel concrete reinforcing bars from Turkey. The period of review is April 1, 2000, through March 31, 2001. The review covers three producers/exporters of the subject merchandise to the United States.

Pursuant to section 751(a)(3)(A) of the Act, the Department shall make a preliminary determination in an administrative review of an antidumping order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides, however, that the Department may extend the 245-day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period. Because it is not practicable to complete this administrative review within the time limit mandated by section 751(a)(3)(A) of the Act, the Department is extending the time limit for completion of the preliminary results. This review involves a number of complicated issues including high inflation in Turkey during the period of review. Because we need additional time for our analysis, we have extended the deadline until April 30, 2002.

This extension is in accordance with section 751(a)(3)(A) of the Act (19 U.S.C. 1675(a)(3)(A)) and 19 CFR 351.213(h)(2).

Dated: November 29, 2001.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–30168 Filed 12–4–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Connecticut, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street NW., Washington, DC.

Docket Number: 01–017. *Applicant:* University of Connecticut, Storrs, CT 06269–3136. *Instrument:* Electron Microscope, Model JEM–2010. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 66 FR 55913, November 5, 2001. *Order Date:* December 8, 2001.

Docket Number: 01–019. *Applicant:* University of California, Berkeley, CA 94720. *Instrument:* Electron Microscope, Model CM200 FEG. *Manufacturer:* FEI Company, The Netherlands. *Intended Use:* See notice at 66 FR 55913, November 5, 2001. *Order Date:* May 23, 2001.

Docket Number: 01–021. *Applicant:* Baylor College of Medicine, Houston, TX 77030. *Instrument:* Electron Microscope, Model JEM–2010F and Accessories. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 66 FR 55914, November 5, 2001. *Order Date:* September 20, 2001.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01–30170 Filed 12–4–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Deep Seabed Mining: Proposed Extension and Revision of Exploration License

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Receipt of Application to Extend Deep Seabed Mining Exploration License USA–1 and Revise Exploration Plan.

SUMMARY: On September 20, 2001, Ocean Minerals Company (OMCO) submitted to the National Oceanic and Atmospheric Administration (NOAA) an application for a five-year extension of Deep Seabed Mining Exploration License USA–1, pursuant to sections 105(c)(2) and 107(a) of the Deep Seabed Hard Mineral Resources (DSHMRA, 30 U.S.C. 1401 *et seq.*) and 15 CFR 970.515. OMCO has also proposed related exploration plan revisions.

NOAA has determined that this proposal constitutes an application for a major but not a significant revision to the exploration plan and to the terms, conditions, and restrictions (TCRs) of the license under 15 CFR 970.513, and is commencing public review procedures as prescribed in 15 CFR 970.514(b). Pursuant to the DSHMRA and 15 CFR part 970, on August 29, 1984, NOAA issued a license to OMCO to engage in deep seabed mining exploration in the Clarion-Clipperton Fracture Zone area of the Northeastern Equatorial Pacific Ocean. Since that time, the licensee, subject to the TCRs of the license and the regulatory requirements, has diligently pursued the activities approved in the exploration plan of the license, directed toward application for a commercial permit.

In 1991, NOAA approved a revision to the exploration plan for USA–I and extended the original license for an additional five years. This exploration plan is a two-phased plan. During Phase I, OMCO's activities are designed to monitor legal, technical and political developments pertaining to deep seabed mining; analyze environmental and nodule resource data; and, reevaluate the potential for commercial mining. During Phase II OMCO's activities are directed toward survey operations, upgrading the exploration ship and equipment, and delineation of the ore body.

OMCO is applying for a five-year extension of the license based on significantly changed market conditions, pursuant to 15 CFR 970.515. Section 107(a) of the DSHMRA provides that the Administration shall extend a license, on terms consistent with the Act and NOAA's regulations, if the licensee has complied with the license and associated exploration plan. Section 105(c)(2) of the DSHMRA authorizes NOAA to approve a license revision upon a finding that the revision will comply with the requirements of the Act and implementing regulations. A revision to the exploration plan is being requested to reflect accomplishment of objectives in Phase I of OMCO's current plan. For example, the substantial amounts of data received as a result of the exchange of exploration data between consortia during settlement of overlapping sites is sufficient to determine if and at which locations attractive mine sites occur in USA–I. This allows survey operations and upgrading of the mine ship and equipment to be delayed until Phase II when detailed ore body delineation occurs in conjunctions with the initiation of scale-up pilot plant operations.

This revision requests an extension of the term of the license until 2005 and proposes to extend Phase I for five years and to delay the initiation of the survey operations, ore body delineation and upgrade ship and equipment activities of Phase II. During the five-year extension. OMCO will monitor domestic and international activities in the scientific, engineering, and financial fields that are important to the future development of ocean mining. This will help to maintain industry viability and provide information necessary to assess the timeliness for inauguration of Phase II. OMCO will also continue to monitor new environmental studies and data collection.

Subject to 15 CFR 971.802, interested persons will be permitted to examine the application for extension at the below listed address.

DATES: Individuals or organizations wishing to submit comments on the application should do so by February 4, 2002.

ADDRESSES: Comments should be made to John King, Acting Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, tel. 301–713–3155 extension 195, e-mail *john.king@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Joseph Flanagan, Coastal Programs Division (NORM/3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, tel. (301) 713–3155, x201, e-mail *joseph.flanagan@noaa.gov*.

Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration.

Dated: November 28, 2001.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce.

[FR Doc. 01–30150 Filed 12–4–01; 8:45 am]

BILLING CODE 3510–08–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Hong Kong

November 29, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Hong Kong and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). Accordingly, certain previously restrained categories have been modified or eliminated and certain limits have been revised. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits. These limits have been increased, variously, for adjustments permitted under the flexibility provisions of the ATC.

A description of the textile and apparel categories in terms of HTS

numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the 2002 CORRELATION will be published in the Federal Register.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Hong Kong and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I	
200–220, 224–227, 300–326, 360–363, 369(1)[1], 369pt.[2], 400–414, 469pt.[3], 603, 604, 611–620, 624–629 and 666pt.[4], as a group.	172,957,184 square meters equivalent.
Sublevels in Group I	
219	49,169,630 square meters.
218/225/317/326	81,007,688 square meters of which not more than 4,461,587 square meters shall be in Category 218(1)[5] (yarn dyed fabric other than denim and jacquard).
611	7,752,255 square meters.
617	4,891,128 square meters.
Group I subgroup	
200, 226/313, 314, 315, 369(1) and 604, as a group.	132,355,033 square meters equivalent.
Within Group I subgroup	
200	423,920 kilograms.
226/313	88,199,757 square meters.
314	23,786,416 square meters
315	11,760,084 square meters.
369(1) (shoptowels)	966,440 kilograms.
604	290,994 kilograms.
Group II	
237, 239pt.[6], 332–348, 351, 352, 359(1)[7], 359(2)[8], 359pt.[9], 433–438, 440–448, 459pt.[10], 633–648, 651, 652, 659(1)[11], 659(2)[12], 659pt.[13], and 443/444/643/644(1), as a group.	894,539,952 square meters equivalent.
Sublevels in Group II	
237	1,421,853 dozen.
331pt.[14]	1,596,885 dozen pairs.
333/334	335,135 dozen.
335	355,572 dozen.
338/339[15] (shirts and blouses other than tank tops and tops, knit).	3,022,255 dozen.
338/339(1)[16] (tank tops and knit tops).	2,270,635 dozen.
340	2,894,127 dozen.
345	509,794 dozen.
347/348	7,007,815 dozen of which not more than 6,917,815 dozen shall be in Categories 347–W/348–W[17]; and not more than 5,242,583 dozen shall be in Category 348–W.
352	8,363,147 dozen.
359(1) (coveralls, overalls and jumpsuits).	712,967 kilograms.
359(2) (vests)	1,485,971 kilograms.
433	11,176 dozen.
434	11,996 dozen.
435	79,563 dozen.
436	103,627 dozen.
438	851,068 dozen.
442	99,127 dozen.
443	65,381 numbers.
444	44,887 numbers.
445/446	1,406,700 dozen.
447/448	70,743 dozen.
631pt.[18]	145,526 dozen pairs.
633/634/635	1,503,252 dozen of which not more than 562,250 dozen shall be in Categories 633/634; and not more than 1,154,327 dozen shall be in Category 635.
638/639	5,073,739 dozen.
641	876,720 dozen.
644	53,524 numbers.
645/646	1,390,617 dozen.
647	656,465 dozen.
648	1,249,850 dozen of which not more than 1,235,060 dozen shall be in Category 648–W[19]
652	5,737,511 dozen.
659(1) (coveralls, overalls and jumpsuits).	788,016 kilograms.
659(2) (swimsuits)	333,759 kilograms.
443/444/643/644(1) (made-to-measure suits).	62,109 numbers.
Group II subgroup	
336, 341, 342, 351, 636, 640, 642 and 651, as a group.	165,774,989 square meters equivalent.
Within Group II subgroup	
336	274,617 dozen.
341	2,929,522 dozen.
342	623,158 dozen.
351	1,237,298 dozen.
636	369,586 dozen.
640	1,110,296 dozen.
642	293,909 dozen.
651	400,253 dozen.
Group III–only 852	10,686,085 square meters equivalent.
Limits not in a group	
845(1)[20] (sweaters made in Hong Kong).	1,136,476 dozen.
845(2)[21] (sweaters assembled in Hong Kong from knit-to-shape components, knit elsewhere).	2,720,291 dozen.
846(1)[22] (sweaters made in Hong Kong).	183,779 dozen.
846(2)[23] (sweaters assembled in Hong Kong from knit-to-shape components, knit elsewhere).	442,838 dozen.

[1] Category 369(1): only HTS number 6307.10.2005.

[2] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302.51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9905, 6307.90.9982, 6406.10.7700, 9404.90.1000, 9404.90.8040, 9404.90.9505 and HTS number in 369(1).

[3] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[4] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9984, 9404.90.8522 and 9404.90.9522.

[5] Category 218(1): all HTS numbers except 5209.42.0060, 5209.42.0080, 5211.42.0060, 5211.42.0080, 5514.32.0015 and 5516.43.0015.

[6] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[7] Category 359(1): only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.

[8] Category 359(2): only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[9] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060, 6505.90.2545 and HTS numbers in 359(1) and 359(2).

[10] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

[11] Category 659(1): only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[12] Category 659(2): only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[13] Category 659pt.: all HTS numbers except 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510, 6406.99.1540 and HTS numbers in 659(1) and 659(2).

[14] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[15] Categories 338/339: all HTS numbers except 6109.10.0018, 6109.10.0023, 6109.10.0060, 6109.10.0065, 6114.20.0005 and 6114.20.0010.

[16] Category 338/339(1): only HTS numbers 6109.10.0018, 6109.10.0023, 6109.10.0060, 6109.10.0065, 6114.20.0005 and 6114.20.0010.

[17] Category 347–W: only HTS numbers 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–W: only HTS numbers 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[18] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[19] Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.6030, 6204.69.9030, 6210.50.5035, 6211.20.1555, 6211.20.6820, 6211.43.0040 and 6217.90.9060.

[20] Category 845(1): only HTS numbers 6103.29.2074, 6104.29.2079, 6110.90.9024, 6110.90.9042 and 6117.90.9015.

[21] Category 845(2): only HTS numbers 6103.29.2070, 6104.29.2077, 6110.90.9022 and 6110.90.9040.

[22] Category 846(1): only HTS numbers 6103.29.2068, 6104.29.2075, 6110.90.9020 and 6110.90.9038.

[23] Category 846(2): only HTS numbers 6103.29.2066, 6104.29.2073, 6110.90.9018 and 6110.90.9036.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated November 28, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be filled, such products shall no longer be charged to any limit.

The conversion factors for merged Categories 333/334, 633/634/635 and 638/639 are 33, 33.90 and 13, respectively. The conversion factor for Category 239pt. is 8.79.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–30045 Filed 12–4–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

November 29, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 5, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 335 is being increased for special swing from Group II, reducing the limit for Group II to account for the special swing being applied to Category 335.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also

see 65 FR 69742, published on November 20, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 14, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man–made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on December 5, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Level in Group I	
335	161,362 dozen.
Group II	
200–227, 300–326, 332, 359–O [2], 360, 362, 363, 369–O [3], 400–414, 434–438, 440, 442, 444, 448, 459pt. [4], 464, 469pt. [5], 600–607, 613–629, 644, 659–O [6], 666, 669–O [7], 670–O [8], 831, 833–838, 840–846, 850–858 and 859pt. [9], as a group.	253,535,513 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); and 6406.99.1550 (359pt.).

[3] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700 (Category 369pt.).

[4] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[5] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[6] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6406.99.1510 and 6406.99.1540 (Category 659pt.).

[7] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040 (Category 669pt.).

[8] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670–L).

[9] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–30046 Filed 12–4–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Poland

November 29, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Poland and exported during the period January 1, 2002 through December 31, 2002 are based on the limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limits for the 2002 period.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Poland and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
335	292,701 dozen.
338/339	3,152,180 dozen.
410	2,876,059 square meters.
433	20,310 dozen.
434	11,078 dozen.
435	14,496 dozen.
443	241,589 numbers.
611	9,009,609 square meters.
645/646	461,570 dozen.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated October 26, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–30047 Filed 12–4–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Wool Textile Products Produced or Manufactured in the Slovak Republic

November 29, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in the Slovak Republic and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the availability of the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in the following categories, produced or manufactured in the Slovak Republic and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002 in excess of the following limits:

Category	Twelve-month restraint limit
410	444,338 square meters.
433	12,410 dozen.
435	18,745 dozen.
443	103,679 numbers.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated October 27, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–30048 Filed 12–4–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

November 29, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 5, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryforward, special shift and the partial undoing of special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also

see 66 FR 11003, published on February 21, 2001.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 15, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on December 5, 2001, you are directed to adjust the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement:

Category	Twelve-month limit [1]
Group I	
200–224, 225/317/326, 226, 227, 229, 300/301/607, 313–315, 360–363, 369–L/670–L/870 [2], 369–S [3], 369–O [4], 400–414, 464–469, 600–606, 611, 613/614/615/617, 618, 619/620, 621, 623, 624, 625/626/627/628/629, 665, 666, 669–P [5], 669–T [6], 669–O [7], 670–H [8] and 670–O [9], as a group.	637,647,295 square meters equivalent.
Sublevels in Group I	
225/317/326	44,029,602 square meters.
619/620	16,298,603 square meters.
625/626/627/628/629	21,206,333 square meters.
Group II	
237, 239, 330–332, 333/334/335, 336, 338/339, 340–345, 347/348, 349, 350/650, 351, 352/652, 353, 354, 359–C/659–C [10], 359–H/659–H [11], 359–O [12], 431–444, 445/446, 447/448, 459, 630–632, 633/634/635, 636, 638/639, 640, 641–644, 645/646, 647/648, 649, 651, 653, 654, 659–S [13], 659–O [14], 831–844 and 846–859, as a group	748,129,292 square meters equivalent.
Sublevels in Group II	
331	452,617 dozen pairs.
338/339	1,048,319 dozen.
345	138,156 dozen.
347/348	1,368,978 dozen of which not more than 1,164,527 dozen shall be in Categories 347–W/348–W [15]
435	27,683 dozen.
438	30,823 dozen.
445/446	147,084 dozen.
631	5,615,350 dozen pairs.
647/648	5,602,291 dozen of which not more than 5,339,114 dozen shall be in Categories 647–W/648–W [16].
Within Group II Subgroup	
351	333,765 dozen.
447/448	22,728 dozen.
651	526,834 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 870; Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091 and 6307.90.9905; Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 369–O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091, 6307.90.9905 (Category 369–L); and 6307.10.2005 (Category 369–S).

[5] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[6] Category 669–T: only HTS numbers 6306.12.0000, 6306.19.0010 and 6306.22.9030.

[7] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 6306.12.0000, 6306.19.0010 and 6306.22.9030 (Category 669–T).

[8] Category 670–H: only HTS numbers 4202.22.4030 and 4202.22.8050.

[9] Category 670–O: all HTS numbers except 4202.22.4030, 4202.22.8050 (Category 670–H); 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670–L).

[10] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[11] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[12] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 (Category 359–C); 6505.90.1540 and 6505.90.2060 (Category 359–H).

[13] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[14] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[15] Category 347–W: only HTS numbers 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–W: only HTS numbers 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[16] Category 647–W: only HTS numbers 6203.23.0060, 6203.23.0070, 6203.29.2030, 6203.29.2035, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.43.4030, 6203.43.4040, 6203.49.1500, 6203.49.2015, 6203.49.2030, 6203.49.2045, 6203.49.2060, 6203.49.8030, 6210.40.5030, 6211.20.1525, 6211.20.3820 and 6211.33.0030; Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.6030, 6204.69.9030, 6210.50.5035, 6211.20.1555, 6211.20.6820, 6211.43.0040 and 6217.90.9060.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–30049 Filed 12–4–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Wool Textile Products Produced or Manufactured in Ukraine

November 29, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Bilateral Textile Agreement of July 22, 1998, as amended and extended by exchange of notes on September 19, 2000 and January 15, 2001, between the Governments of the United States and Ukraine establishes limits for certain wool textile products, produced or manufactured in Ukraine and exported during the period beginning on January 1, 2002 and extending through December 31, 2002.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

These limits may be revised if Ukraine becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Ukraine.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the availability of the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Bilateral Textile Agreement of July 22, 1998, as amended and extended by exchange of notes on September 19, 2000 and January 15, 2001, between the Governments of the United States and Ukraine, you are directed to prohibit, effective on January 1, 2001, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in the following categories, produced or manufactured in Ukraine and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month limit
435	97,527 dozen.
442	16,236 dozen.
444	70,359 numbers.
448	70,359 dozen.

The limits set forth above are subject to adjustment pursuant to the current bilateral agreement between the Governments of the United States and Ukraine.

These limits may be revised if Ukraine becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Ukraine.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated January 30, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

FR Doc. 01–30050 Filed 12–4–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Export Visa Requirements for Textiles and Textile Products Integrated into GATT 1994 in the Third Stage

November 29, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a Directive to the Commissioner of Customs amending export visa requirements.

EFFECTIVE DATE: January 1, 2002

FOR FURTHER INFORMATION CONTACT: Lori Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION: The World Trade Organization (WTO) Agreement on Textiles and Clothing provides for the staged integration of textiles and textile products into the General Agreement on Tariffs and Trade (GATT) 1994. The third stage of the integration will take place on January 1, 2002. The products to be integrated on January 1, 2002 were announced on April 26, 1995 (see 60 FR 21075, published on May 1, 1995).

This directive does not affect textile visas that may be required under the African Growth and Opportunity Act (AGOA).

The United States will not maintain visa requirements on textiles and textile products integrated on January 1, 2002 that are produced or manufactured in a WTO Member country. In the letter

published below, the Chairman of CITA directs the Commissioner of Customs to eliminate existing visa requirements for textiles and textile products integrated on January 1, 2002 and exported on or after that date, produced or manufactured in a WTO Member country. Existing visa requirements will be maintained for goods exported prior to January 1, 2002 and for goods that are not produced or manufactured in a WTO Member country.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the availability of the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 2001.

Commissioner of Customs
Department of the Treasury, Washington, DC 20229

Dear Commissioner: Pursuant to Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the World Trade Organization (WTO) Agreement on Textiles and Clothing, you are directed to amend the current visa requirements for certain textiles and textile products produced or manufactured in WTO Member countries and exported on or after January 1, 2002.

Effective on January 1, 2002, for goods exported on and after that date, export visas will not be required for textiles and textile products produced or manufactured in a WTO Member country and integrated into the General Agreement on Tariffs and Trade (GATT) 1994 on January 1, 2002.

The following entire textile categories will be integrated on January 1, 2002: 222, 223, 350, 431, 464, 600, 606, 607, 621, 622, 649, 650, 670, 800, 810, 831, 833, 834, 835, 836, 838, 840, 842, 843, 844, 847, 850, 851, 858, 870, and 871.

The following partial textile categories will be integrated on January 1, 2002: 331, 359, 369, 459, 469, 631, 659, 666, 669, and 859. A complete list of products in the partially integrated categories is attached to this letter. This listing is based on the 2001 Harmonized Tariff Schedule of the United States.

Export visas will continue to be required for non-integrated products, for products integrated on January 1, 2002 produced or manufactured in a country that is not a Member of the World Trade Organization, and for products integrated on January 1, 2002 that were exported prior to that date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Part Categories in Stage 3

Category	HTS (2001)
331	6116101720
331	6116104810
331	6116105510
331	6116107510
331	6116926410
331	6116926420
331	6116926430
331	6116926440
331	6116927450
331	6116927460
331	6116927470
331	6116928800
331	6116929400
331	6116999510
359	6115198010
359	6117106010
359	6117209010
359	6203221000
359	6204221000
359	6212900010
359	6214900010
359	6505901525
359	6505901540
359	6505902060
359	6505902545
369	4202124000
369	4202128020
369	4202128060
369	4202224020
369	4202224500
369	4202228030
369	4202324000
369	4202329530
369	4202921500
369	4202923016
369	4202926091
369	5805003000
369	5807100510
369	5807900510
369	6301300010
369	6301300020
369	6302511000
369	6302512000
369	6302513000
369	6302514000
369	6302600010
369	6302600030
369	6302910005
369	6302910025
369	6302910045
369	6302910050
369	6302910060
369	6303110000
369	6303910010
369	6303910020
369	6304910020
369	6304920000
369	6305200000
369	6306110000
369	6307101020
369	6307101090
369	6307903010
369	6307904010
369	6307905010
369	6307908910
369	6307908945
369	6307909905
369	6307909982
369	9404901000
369	9404908040
369	9404909505
459	6115198020
459	6117101000
459	6117102010
459	6117209020
459	6212900020
459	6214200000
469	6304193040
469	6304910050
469	6304991500
469	6304996010
469	6308000010
631	6116101730
631	6116104820
631	6116105520
631	6116107520
631	6116938800
631	6116939400
631	6116994800
631	6116995400
631	6116999530
659	6115110010
659	6115122000
659	6117102030
659	6117209030
659	6212900030
659	6214300000
659	6214400000
666	5805004010
666	6301100000
666	6301400010
666	6301400020
666	6301900010
666	6302530010
666	6302530020
666	6302530030
666	6302931000
666	6302932000
666	6303120000
666	6303190010
666	6303921000
666	6303922010
666	6303922020
666	6303990010
666	6304112000
666	6304191500
666	6304192000
666	6304910040
666	6304930000
666	6304996020
666	6307909984
666	9404908522
666	9404909522
669	5807100520
669	5807900520
669	5810929030
669	6305320010
669	6305320020
669	6305330010
669	6305330020
669	6305390000
669	6306120000
669	6306190010
669	6306229030
669	6307903020
669	6307904020
669	6307905020
669	6308000020
859	6115198040
859	6117106020
859	6212105030
859	6212109040
859	6212200030
859	6212300030

Category	HTS (2001)
859	6212900090
859	6214102000
859	6214900090

[FR Doc.01–30051 Filed 12–4–01; 8:45 am]
BILLING CODE 3510–DR–S

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC01–561–001 FERC Form 561]

Information Collection Submitted for Review and Request for Comments

November 29, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of submission for review by the Office of Management and Budget (OMB) and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of Section 3507 of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of May 8, 2001 (66 FR. 23240). The Commission has noted this fact in its submission to OMB.

DATES: Comments regarding this collection of information are best assured of having their full effect if received on or before January 4, 2002.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission, Desk Officer, 725 17th Street, NW., Washington, DC 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Mr. Michael Miller, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202)208–1415, by fax at (202)273–0873, and by e-mail: mike.miller@fer.fed.us.

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC Form 561 "Annual Report of Interlocking Positions".

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* OMB No. 1902–0099. The Commission is now requesting that OMB approve a three-year extension of the current expiration date, with no changes to the existing collection. This is a mandatory information collection requirement.

4. *Necessity of Collection of Information:* Submission of the information is necessary to fulfill the requirements of Section 305 of the Federal Power Act (FPA), as amended by Title II, Section 211 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Submission of FERC Form 561 satisfies the FPA section 305(b) and (c) annual reporting requirements for public utility officers and directors to report officer and director positions they hold with financial institutions, insurance companies, utility equipment providers, utility fuel providers, and a utility's top twenty customers of electric energy. FPA Section 305(c)(3)(A) defines the public utilities who are required to file. FPA section 305(c)(2) requires that the filed information be made available to the public. FPA Section 305(c)(1) requires an annual filing deadline of April 30th. The necessary filing information, the required filers, the requirement to make the information available to the public and the filing deadline are all mandated by the FPA. The Commission is not empowered to amend or waive these statutory requirements. Requirements the Commission has the authority to amend, such as format of the filing itself and the number of required copies are found at 18 46.1 and 131.31.

The Commission has used the information filed in FERC Form 561 for the identification of: (1) Possible interlocking positions where the relationship is employed for the director's own benefit or profit, or for the benefit or profit of any other person or persons and to the detriment of the utility's, or the public interest; (2) the possible existence of control over a large number and geographically widespread public utilities by a small group of individuals; (3) the lack of arm's length dealings between public utilities and organizations furnishing financial services to consumers; and (4) the evasion by means of common control of competition resulting in higher costs and poorer services to consumers.

6. *Estimated Burden:* 400 total burden hours, 1,600 respondents, 1 response annually, .25 hours per response (average).

7. *Estimated Cost Burden to Respondents:* 400 hours ÷ 2,080 hours per year × $117,041 per year = $22,507, average cost per respondent = $14.

Statutory Authority: Sections 211 of the Public Utility Regulatory Policies Act of 1978 (PURPA) (16 U.S.C. 825d as amended and 16 U.S.C. 2601) and Section 305 of the Federal Power Act (16 U.S.C. 825d).

David P. Boergers,

Secretary.

[FR Doc. 01–30117 Filed 12–4–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–033]

ANR Pipeline Company; Notice of Negotiated Rate

November 29, 2001.

Take notice that on November 26, 2001, ANR Pipeline Company (ANR) tendered for filing three negotiated rate agreements between ANR and Chevron U.S.A. Inc. (Chevron) and three negotiate rate agreements between ANR and BHP Billiton Petroleum (Deepwater) Inc. (BHP) pursuant to ANR's Rate Schedules PTS–2, ITS, and ITS (Liquifiables). ANR tenders these agreements pursuant to its authority to enter into negotiated rate agreements. ANR requests that the Commission accept and approve the agreements to be effective December 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for

assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–30126 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–25–000; Docket No. CP02–29–000; Docket No. CP02–30–000]

Copiah County Storage Company; Notice of Application

November 29, 2001.

Take notice that on November 14, 2001, Copiah County Storage Company (Copiah), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in the captioned docket an application for a certificate of public convenience and necessity and related authorizations pursuant to section 7 of the Natural Gas Act, as amended, and the Commission's Rules and Regulations thereunder. Copiah requests authorization for the following:

(i) A certificate of public convenience and necessity pursuant to subpart A of part 157 authorizing Copiah to construct, own, operate, and maintain natural gas storage facilities capable of delivering 300,000 dekatherms per day, consisting of a storage cavern and other associated and appurtenant facilities;

(ii) A blanket construction certificate pursuant to subpart F of part 157 to permit Copiah to construct, acquire and operate additional facilities following construction of the facilities for which authorization under subpart A of part 157 is sought;

(iii) Authorization to provide storage services at market based rates; and

(iv) A blanket certificate pursuant to subpart G of part 284 authorizing Copiah to provide storage and hub services on behalf of others, and approval of the FERC Gas Tariff contained in Exhibit P, pursuant to which Copiah will provide such services consistent with Order Nos. 636 and 637, *et seq.*,

all as more thoroughly described in the application on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (please call (202)208–2222 for assistance).

Copiah further requests that the Commission grant waivers of the following: (i) The requirement pursuant to § 284.7(e) that rates must be designed using a straight-fixed variable rate design methodology; (ii) the requirement pursuant to § 157.6(b)(8) to provide cost of service information necessary for determination of rate treatment; (iii) the requirement pursuant to § 157.14 to include in the application Exhibits K, L, N, and O; (iv) the accounting and reporting requirements under parts 201 and 260.2; (v) the requirement pursuant to § 157.14(a)(10) to provide total gas supply information; and (vi) all other regulations to the extent such waivers may be necessary in order to grant each of the authorizations requested in this application.

Copiah asks the Commission to issue a preliminary determination on non-environmental issues by February 20, 2002, and a final certificate order by July 24, 2002, so that Copiah will be able to commence storage service in February 2004 in order to provide its customers with storage services at the end of the 2003–2004 heating season.

The name, address, and telephone number of the person to whom correspondence and communications concerning this Application should be addressed is: Steven E. Tillman, Director of Regulatory Affairs, Copiah County Storage Company, P.O. Box 1642, Houston, Texas 77251–1642, Phone: (713) 627–5113, Fax: (713) 627–5947.

Copiah proposes to build and operate a natural gas storage facility, the Copiah Storage Project, in Copiah County, Mississippi, collectively referred to as the "Copiah Storage Project." In this application, Copiah requests authorization to develop the first of two possible caverns on the Copiah site. The proposed project will include the installation of approximately 13,350 horsepower of compression, development of an underground storage cavern, and as many as five common well sites.

The compressor site will provide compression for injection and withdrawal of natural gas to and from storage. The site of the compressor has been proposed to be as close to the cavern and fresh water/brine disposal wells as practical given the existing topography of the site. The compressor building will house three 4,450 HP turbocharged gas engine-driven Ariel reciprocating compressors along with ancillary support and control equipment, to provide a total of approximately 13,350 HP of compression.

The cavern will be created by solution mining using groundwater and will extend approximately 5,500 feet below the ground surface. The cavern that Copiah is seeking authorization to develop in this application, the Primary Cavern, will have an initial working storage capacity of approximately 3.3 billion cubic feet (Bcf), with approximately 300,000 Dekatherms per day (Dth/d) of deliverability capability and approximately 150,000 Dth/d of injection capability. Although Copiah is currently only seeking approval for development of one cavern at this time, Copiah identifies two cavern site locations in its application to allow for an alternative site in the event irreversible drilling problems are encountered at the primary site either due to geology or other complications.

The project also will include a series of wells, piping, valves, instruments, and controls to operate the solution mining and brine disposal activities associated with development of the gas storage cavern. Each well site will contain brine injection and/or freshwater withdrawal wells, along with associated ancillary facilities and service roadways.

The Copiah Storage Project has been designed as a natural gas storage and ultimately a hub services facility for injection, storage, and withdrawal of natural gas. Copiah's request for authorization is based on anticipated demand for its storage and hub services as well as market studies that project substantial growth in natural gas demand in the markets served by Copiah's customers. Due to Copiah's analysis of current and expected growth in demand for storage and hub services in the Gulf Coast region, Copiah anticipates that the Copiah Storage Project will become subscribed as capacity becomes available for service. Copiah states that the interest of the market in these services is reflected in the results of the Copiah open season during which Copiah received non-binding nominations from five potential customers for a total of approximately 6.5 Bcf of natural gas storage. The potential customers indicated an interest in signing contracts with an initial contract term of 5–10 years at the time that the Copiah facilities are close to being placed into service.

Copiah proposes to provide firm and interruptible services, which will enhance shipper options for the transportation and storage of natural gas. Copiah further proposes and requests Commission authorization to charge market-based rates for such services, which Copiah avers is appropriate as demonstrated by the

market power study included with the application.

Copiah has identified a pipeline lateral and a meter station that will be owned by a company other than Copiah and constructed in association with the Copiah Storage Project. Texas Eastern will construct, own and maintain an approximately 1.5 miles of 24-inch diameter pipeline lateral connecting Texas Eastern's 30-inch Line 14 in Copiah County, Mississippi to the Copiah Storage Project. In addition, Texas Eastern will construct, own and maintain a bi-directional meter station within the Copiah Storage Project property at a location directly adjacent to the compressor site at the terminus of the interconnection between the Copiah Storage Project and Texas Eastern's proposed 1.5-mile pipeline lateral. Texas Eastern is responsible for all appropriate federal and state filings and permits required for construction and operation of the proposed meter station and pipeline lateral. Texas Eastern has indicated to Copiah that the Texas Eastern meter station and lateral will be constructed pursuant to its blanket authority granted by the Commission in Docket No. CP82–535. Neither Texas Eastern nor Copiah are requesting authority to construct these facilities in the instant Copiah application.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before December 19, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–30113 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 184–065 California]

El Dorado Irrigation District; Notice of Public Meeting

November 29, 2001.

The Federal Energy Regulatory Commission (Commission) is reviewing the application for a new license for the El Dorado Project (FERC No. 184), which was filed on February 22, 2000. The El Dorado Project, licensed to the El Dorado Irrigation District (EID), is located on the South Fork American River, in El Dorado, Alpine, and Amador Counties, California. The project occupies lands of the Eldorado National Forest.

The EID, several state and federal agencies, and several non-governmental agencies have agreed to ask the Commission for time to work collaboratively with a facilitator to resolve certain issues relevant to this proceeding. The purpose of this meeting is to discuss the interests of the parties. We invite the participation of all interested governmental agencies, non-governmental organizations, and the general public in this meeting.

The meeting will be held on Monday, December 10 and Tuesday, December 11, 2001, from 9am until 4pm in the Sacramento Marriott, located at 11211 Point East Drive, Rancho Cordova, California.

For further information, please contact Elizabeth Molloy at (202) 208–0771 or John Mudre at (202) 219–1208.

David P. Boergers,

Secretary.

[FR Doc. 01–30119 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–31–000]

Iroquois Gas Transmission System, L.P.; Notice of Application

November 29, 2001.

Take notice that on November 20, 2001, Iroquois Gas Transmission System, L.P. (Iroquois), One Corporate Drive, Suite 600, Shelton, Connecticut 06484, filed an application in the above-referenced docket number pursuant to Section 7(c) of the Natural Gas Act and Parts 157 of the Commission's Rules and Regulations, for a certificate of public convenience and necessity authorizing Iroquois to construct and operate its Brookfield Expansion Project (Brookfield Project). The application is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (please call (202) 208–2222 for assistance).

In order to implement the Brookfield Project, Iroquois requests authorization to construct and operate a new compressor unit, with 10,000 (nominal) horsepower, at a proposed compressor station to be located in Brookfield, Connecticut. Iroquois has conducted non-binding open seasons for additional firm transportation capacity on its system. In addition, from September 5, 2001 through September 19, 2001, Iroquois solicited its existing customers for permanently released capacity that could be used by the expansion shippers. Because no shipper released capacity, Iroquois has executed Precedent Agreements with Astoria Energy Company, L.P. (Astoria Energy) and PPL EnergyPlus, LLC (PPL Energy) for firm transportation service commencing September 1, 2003. The proposed facilities are designed to provide up to 60,000 dekatherms per day of firm transportation capacity to Astoria Energy and up to 25,000 dekatherms per day of firm transportation capacity to PPL Energy. SCS Energy, LLC (SCS), an affiliate of Astoria Energy, is developing a 1,000 MW electric generation facility in Astoria, Queens, New York with a proposed in-service date of November 1, 2003. PPL Energy is a marketing company seeking firm natural gas service to South Commack, New York.

Iroquois states that the construction and operation of the Brookfield Project will have minimal impact on landowners and the environment. Iroquois indicates that minimal tree clearing will take place at the compressor station site, which will provide an additional barrier to minimize potential visual and/or noise impacts of the new compressor unit.

The total cost of the Brookfield Project is estimated to be approximately $24,637,000. Iroquois proposes to charge its Part 284 open-access RTS rates for the new service and to roll the costs of the project into its first Section 4 rate proceeding which becomes effective after the in-service date of the proposed facilities.

Any questions regarding the application be directed to Jeffrey A. Bruner, Vice President, General Counsel and Secretary for Iroquois, One Corporate Drive, Suite 600, Shelton, Connecticut 06484, at (203) 925–7200, or Donald F. Sanata, Jr., attorney for Iroquois, Troutman Saunders, LLP, 401 Ninth Street, NW., Suite 1000, Washington, DC 20004, at (202) 274–2815.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before December 20, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–30114 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–157–006]

Kern River Gas Transmission Company; Notice of Compliance Filing

November 29, 2001.

Take notice that on November 16, 2001, Kern River Gas Transmission Company submitted a clarification in compliance with the Commission's letter order dated November 7, 2001 in this docket number.

Kern River states that it has served a copy of this filing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–30127 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–55–000]

KO Transmission Company; Notice of Tariff Filing

November 29, 2001.

Take notice that on November 23, 2001, KO Transmission Company (KOT) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Eleventh Revised Sheet No. 10, bearing a proposed effective date of December 1, 2001.

KO Transmission states that the purpose of the filing is to revise its fuel retainage percentage consistent with section 24 of the General Terms and Conditions of its Tariff. According to KOT, Columbia Gas Transmission Corporation (Columbia) operates and maintains a portion of KOT facilities pursuant to the Operating Agreement referenced in its Tariff at Original Sheet No. 7. Pursuant to that Operating Agreement, Columbia retains certain volumes associated with gas transported on behalf of KOT. On March 5, 2001, Columbia notified KOT that under terms of the Operating Agreement, KOT will be subject to a 1.39% retainage. By its October 31, 2001 report to the Commission, in Docket No. RP01–262–002, Columbia has notified the Commission of its intention to reduce its transportation retainage adjustment from 2.776% to 2.447%. Accordingly, KOT seeks to track this decrease in its fuel retainage, pursuant to GT&C section 24 of its Tariff. KOT thus files for a 1.07% fuel retainage effective December 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–30130 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–399–007]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

November 29, 2001.

Take notice that on November 26, 2001, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the tariff sheets listed on Appendix A to its filing.

National Fuel states that the purpose of the instant filing is to comply with the Commission's order issued October 26, 2001, in Docket No. RP00–399–000, et al., (the October 26 Order) and Order No. 637. The October 26 Order directed National Fuel to file actual tariff sheets implementing (1) the Commission's current rebuttable presumption policy along with a procedure for processing requests to retain discounts within two hours of submission of a request, (2) Rate Schedule IAS's rate for the Transportation Balancing Fee's negative imbalances, and (3) storage and transportation settlement period equality.

National Fuel states that copies of this filing were served upon its customers, interested state commissions and the parties on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–30128 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–246–003]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

November 29, 2001.

Take notice that on November 21, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, First Revised Sheet No. 20C and First Revised Sheet No. 199D, to be effective January 1, 2002.

Natural states that the purpose of this filing is to comply with the Commission's "Order Granting Rehearing" issued in Docket No. RP01–246–000 on October 26, 2001.

Natural states that copies of the filing have been mailed to all parties set out on the Commission's official service list in Docket No. RP01–246–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–30129 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER98–1643–004, ER97–2904–004, ER98–4643–002, ER98–13–015, ER94–24–035, ER98–3934–008, ER00–2395–001, ER00–2535–001, ER01–1166–002, and ER00–3776–001]

Portland General Electric Company, Lake Benton Power Partners, LLC, Storm Lake Power Partners I, LLC, Enron Energy Services, Inc., Enron Power Marketing, Inc., Clinton Energy Management Services, Inc., Enron Energy Marketing Corp., the New Power Company, Enron Sandhill Limited Partnership, Green Power Partners I LLC; Notice of Filing

November 29, 2001.

Take notice that on November 16, 2001, Portland General Electric Company (PGE) on behalf of itself and the above-noted PGE affiliates (PGE Affiliates) filed a notice of status change with the Federal Energy Regulatory Commission (Commission) in connection with the pending merger between Enron Corp. and Dynegy Inc. (Dynegy). The Notice provides that each of the PGE Affiliates will treat Illinois Power Company, an affiliate of Dynegy as an affiliate under its FERC market rate tariff.

Copies of the filing were served upon all parties on the official service lists in these proceedings.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 10, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30118 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2955–002]

PSEG Energy Resources & Trade LLC; Notice of Filing

November 29, 2001.

Take notice that on November 19, 2001, PSEG Energy Resources & Trade LLC (PSEG) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Cover Page to the Service Agreement covering the sale of capacity and energy to MEICO Inc. (MEICO) pursuant to the PSEG Wholesale Power Market-Base Sales Tariff now on file with the Commission (Docket No. ER99–3151–000, approved on October 1, 1999). This Cover Page replaces the cover page that was filed on September 14, 2001.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 10, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30116 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–311–000]

Southern Indiana Gas and Electric Company; Notice of Filing

November 29, 2001.

Take notice that on November 16, 2001, Southern Indiana Gas and Electric Company (SIGECO) tendered for filing with the Federal Energy Regulatory Commission (Commission) a copy of the Agreement for Firm Point-to-Point Transmission Service which was inadvertently left out of the Agreements that were filed by SIGECO on November 12, 2001.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 10, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30115 Filed 12–4–01; 8:45 am]

BILLING CODE 6716–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR02–4–000]

Transok, LLC; Notice of Petition for Rate Approval

November 29, 2001.

Take notice that on November 15, 2001, Transok, LLC (Transok) submitted for filing a revised fuel factor for its Oklahoma Transmission System for Fuel Year 2002 as calculated under the terms of Transok's filed fuel tracker. Transok seeks an effective date of January 1, 2002.

Transok states that it is serving notice of the filing and the revised fuel percentage on all current shippers and on the Oklahoma Corporation Commission.

Pursuant to section 284.123(b)(2), if the Commission does not act within 150 days of the filing date, this rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for providing similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford interested parties an opportunity for written comments and for the oral presentations of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All motions must be filed with the Secretary of the Commission on or before December 14, 2001. This petition for rate approval is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–30124 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–29–000, et al.]

Allegheny Energy Supply Company, LLC, et al.; Electric Rate and Corporate Regulation Filings

November 28, 2001.

Take notice that the following filings have been made with the Commission:

1. Allegheny Energy Supply Company, LLC, and Allegheny Energy Global Markets, LLC New Allegheny Energy Supply Company

[Docket No. EC02–29–000]

Take notice that on November 21, 2001, Allegheny Energy Supply Company, LLC (AE Supply), Allegheny Energy Global Markets, LLC (Global Markets), and New Allegheny Energy Supply Company (New AE Supply) filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization of an intra-corporate reorganization whereby the membership interests in Global Markets will be transferred to AE Supply, its parent, or New AE Supply in a merger transaction. New AE Supply will be organized as a Maryland company. Also on November 26, 2001, AE Supply filed original executed affidavits to the above-mentioned filing.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Conectiv Bethlehem, Inc.

[Docket No. EG01–278–000]

Take notice that on November 21, 2001, Conectiv Bethlehem, Inc. (CBI) filed, pursuant to section 365.8 of the Commission's regulations, Notice of Intent to No Longer Maintain Exempt Wholesale Generator Status.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. PJM Interconnection, L.L.C.

[Docket No. ER01–3014–001]

Take notice that on November 23, 2001, PJM Interconnection, L.L.C. (PJM), submitted a compliance filing pursuant to PJM Interconnection, L.L.C. 97 FERC ¶61,068 (2001) to provide additional information regarding the ownership of the generating facility located in Rock Springs Maryland.

Copies of this compliance filing were served upon all persons designated on the official service list compiled by the Secretary in Docket No. ER01–3014.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER01–3142–000]

Take notice that on November 26, 2001, Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing

proposed revisions to the Midwest ISO Open Access Transmission Tariff (OATT), FERC Electric Tariff, First Revised Volume No. 1. In its filing, the Midwest ISO requested to withdraw incentive portions of Attachments N and N–1, which were previously submitted on October 15, 2001 in this proceeding.

The Midwest ISO has electronically served copies of its filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at www.midwestiso.org under the heading "Filings to FERC" for other interested parties in this matter.

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Pool

[Docket No. ER02–02–001]

Take notice that on November 23, 2001, the New England Power Pool (NEPOOL) Participants Committee submitted a report of compliance in response to requirements of the Commission's unpublished letter order issued October 25, 2001 in Docket No. ER02–02–000.

The NEPOOL Participants Committee states that copies of these materials were sent to all persons identified on the service list in the captioned proceeding, as well as the Participants which were accepted for, or terminated from, membership in NEPOOL by the October 25 letter order.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Xcel Energy Services, Inc.

[Docket No. ER02–8–001]

Take notice that on November 23, 2001, Xcel Energy Services, Inc. (XES), on behalf of Public Service Company of Colorado (Public Service), submitted an Order 614 compliant version of a Second Amendment to the Power Purchase Agreement between Public Service Company of Colorado and Holy Cross Energy.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Florida Power Corporation

[Docket No. ER02–187–001]

Take notice that on November 23, 2001, Florida Power Corporation (FPC) filed a revised Service Agreement with The City of Homestead under FPC's Cost-Based Rates Tariff (CR–1), FERC Electric Tariff No. 9.

FPC is requesting an effective date of October 2, 2001 for this revised Agreement.

A copy of this filing was served upon the Florida Public Service Commission and the North Carolina Utilities Commission.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. MidAmerican Energy Company

[Docket No. ER02–397–000]

Take notice that on November 23, 2001, MidAmerican Energy Company (MidAmerican), 401 Douglas Street, Sioux City, Iowa 51102, filed with the Federal Energy Regulatory Commission (Commission) Revised Rate Schedule 72, Western Area Power Administration, Pick-Sloan Missouri Basin Program, Contract for Firm Transmission Service from Iowa Public Service Company (n/k/a MidAmerican Energy Company), dated January 18, 1989, modified by way of Revised Exhibit "A."

MidAmerican requests an effective date of September 1, 2001 for the Agreement.

MidAmerican has served a copy of the filing on Western Area Power Administration, the Iowa Utilities Board, the Illinois Commerce Commission, and the South Dakota Public Utilities Commission.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Illinois Power Company

[Docket No. ER02–398–000]

Take notice that on November 23, 2001, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 65251–2200, filed an Interconnection and Operating Agreement entered into with Aquila Piatt County Power, LLC (Aquila) and subject to Illinois Power's Open Access Transmission Tariff.

Illinois Power requests an effective date of November 13, 2001 for the Interconnection Agreement and seeks a waiver of the Commission's notice requirement. Illinois Power has served a copy of the filing on Aquila.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Illinois Power Company

[Docket No. ER02–399–000]

Take notice that on November 23, 2001, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 65251–2200, filed with the Commission an Emergency Energy Tariff (Tariff). Illinois Power states that it will offer emergency energy under the Tariff for the purpose of complying with its obligations under Guide No. 5B of the Mid-America Interconnected Network, Inc. (MAIN).

Illinois Power requests an effective date of February 2, 2001 for the Emergency Energy Tariff.

Illinois Power states that a copy of this filing has been mailed to each MAIN member currently participating in the Callable Reserves Emergency Energy Procedure under MAIN Guide No. 5B.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Carolina Power & Light Company

[Docket No. ER02–400–000]

Take notice that on November 23, 2001, Carolina Power & Light Company (CP&L) tendered for filing an executed Service Agreement between CP&L and the following eligible buyer, Exelon Generation Company, LLC. Service to this eligible buyer will be in accordance with the terms and conditions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 5.

CP&L requests an effective date of November 1, 2001 for this Service Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Xcel Energy Services Inc.

[Docket No. ER02–401–000]

Take notice that on November 23, 2001, Northern States Power Company and Northern States Power Company (Wisconsin) (jointly NSP), wholly-owned utility operating company subsidiaries of Xcel Energy Inc., tendered for filing a Short-Term Firm Point-to-Point Transmission Service Agreement between NSP and enXco. NSP proposes the Agreement be included in the Xcel Energy Operating Companies FERC Joint Open Access Transmission Tariff, First Revised Volume No. 1, as Service Agreement 194-NSP, pursuant to Order No. 614.

NSP requests that the Commission accept the agreement effective November 1, 2001.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Xcel Energy Services, Inc.; Northern States Power Company

[Docket No. ER02–402–000]

Take notice that on November 23, 2001, Xcel Energy Services, Inc. (XES), on behalf of Northern States Power Company (NSP) submitted for filing with the Federal Energy Regulatory Commission (Commission) Supplement No. 6 to the Transmission Services Agreement dated September 20, 1977, as amended between NSP and the State of South Dakota.

NSP requests the letter agreements be accepted for filing effective September 1, 2001.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–30052 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6132–006]

Facilitators Improving Salmonid Habitat (FISH); Notice of Extension of Time to Comment on Environmental Assessment

November 29, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, the Office of Energy Projects has reviewed the application dated July 11, 2001, requesting the Commission's approval to surrender the Exemption from licensing and removal of a dam at the John C. Jones Project, located on the Marsh Stream, a tributary of the Penobscot River, near the towns of Winterport and Frankfort, in Waldo County, Maine, and has prepared an Environmental Assessment (EA) for the proposed and alternative actions. A notice issued October 5, 2001, established November 5, 2001, as the deadline for comments on the EA.

In response to our notice, several requests were made to extend our November 5, 2001, comment deadline by six months to prepare and present new information on recreational, public safety and environmental concerns and projected reduction of property values. The parties cite the need to gather additional information, which should be adequately done in 60 days; this is in addition to the several months that have passed since the August 7, 2001, application public notice issuance date. Accordingly, we are granting an extension of 60 days from the date of this notice to file additional information on our EA.

Comments should be addressed to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426. Please affix "John C. Jones Project No. 6132–006" to the first page of your comments. All timely filed comments will be considered in the Commission order addressing the proposed surrender of exemption and dam removal. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

For further information, please contact Jack Hannula at (202) 219–0116.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30121 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11428–000 Michigan]

City of St. Louis, Michigan; Notice of Availability of Final Environmental Assessment

November 29, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for license for the Municipal Dam Hydroelectric Project, located on the Pine River in Gratiot County, Michigan, and has prepared a Final Environmental Assessment (FEA) for the project.

The FEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the FEA is on file with the Commission and is available for public inspection. The FEA may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link—select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

For further information, contact Susan O'Brien at (202) 219–2840.

David P. Boergers,

Secretary.

[FR Doc. 01–30123 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

November 29, 2001.

Take notice that the following application has been filed with the

Commission and is available for public inspection:

a. Application Type: Transfer of License.

b. Project No: 3820–007.

c. Date Filed: November 16, 2001.

d. Applicants: General Electric Company (Transferor) and Southern New Hampshire Hydro-Electric Development Corp (Transferee).

e. Name and Location of Project: The Somersworth Hydroelectric Project is located on the Salmon Falls River in Stafford County, New Hampshire and York County, Maine.

f. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. Applicant Contacts: Mr. Mark E. Beliveau, Esquire, Sanders & McDermott, P.L.L.C., 234 Lafayette Road, Hampton, NH 03843–5070 (603) 926–8926/(fax) 603–926–0564, *mbeliveau@samlaw.com* (General Electric Company); John N. Webster, President, Southern New Hampshire Hydro-Electric Development Corp, 293 Main Street, P.O. Box 178, South Berwick, ME 03908, (207) 384–5334.

h. FERC Contact: Any questions on this notice should be addressed to Mr. Lynn R. Miles at (202) 219–2671.

i. Deadline for filing comments and or motions: January 7, 2002.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Please include the project number (P–3820–007) on any comments or motions filed.

j. Description of Proposal: Applicants propose a transfer of the license for 3820–000 from General Electric Company to Southern New Hampshire Hydro-Electric Development Corp. Substitution of Southern New Hampshire Hydro-Electric Development Corp for General Electric Company as licensee for this project is being sought in connection with Southern New Hampshire Hydro-Electric Development Corp's intended acquisition of project resources from General Electric Company.

k. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. An additional copy must be sent to the Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–30120 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10455–021]

JDJ Energy Company; Notice of Extension of Deadline for Filing Comments and or Motions on Notice of Application for Amendment of License

November 29, 2001.

Take notice that the deadline for filing comments, motions to intervene, or protests on the notice of application to amend the license for the River Mountain Pumped Storage Hydroelectric Project (Project No. 10455–021), issued November 27, 2001, is extended to December 31, 2001.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30122 Filed 12–4–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7112–7]

Announcement of a Federal Operating Permits Program Consistent With 40 CFR Part 71; Maryland; Delegation of the Title V Permitting Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Informational notice.

SUMMARY: The purpose of this notice is to announce that on December 1, 2001, a Federal operating permits program consistent with the requirements of the Clean Air Act (the Act) and the applicable Federal regulations will be effective in the State of Maryland. Furthermore, effective December 1, 2001, EPA is granting the Maryland Department of the Environment's (MDE's) request for full delegation of authority to implement and enforce the Act's Federal operating permits program. Under this delegation, EPA retains its authority to object to the issuance of any permit, act upon petitions submitted by the public, and collect fees from all owners or operators of sources subject to the permitting program if it is demonstrated that MDE is not adequately implementing the program in accordance with the Delegation of Authority Agreement, the applicable Federal regulations, and/or the Act. The procedures for full delegation are specified in a Delegation of Authority Agreement between EPA Region III and MDE signed and dated on November 27, 2001.

EFFECTIVE DATES: The Federal operating permits program, 40 CFR part 71, will be effective in the State of Maryland on December 1, 2001. The effective date for the Delegation of Authority Agreement between EPA and MDE is December 1, 2001.

ADDRESSES: Copies of the letter that requests delegation of the federal operating permits program and the Delegation of Authority Agreement between EPA and MDE are available for public inspection at EPA's Region III Office, 1650 Arch Street, Philadelphia, PA 19103 and MDE, 2500 Broening Highway, Baltimore, MD 21224. Effective December 1, 2001, all notifications, requests, applications, reports and other correspondence required under 40 CFR part 71 for all Part 71 sources, shall be submitted to MDE's Air Quality Permits Program at the following address:

MDE Office—Air Quality Permits Program, Air and Radiation Management, Maryland Department of the Environment, 2500 Broening Highway, Baltimore, MD 21224. Attn: Permits Program Chief.

All reports, notifications, requests, petitions pursuant to the Federal permitting program, 40 CFR part 71, and the Delegation of Authority Agreement from all part 71 sources or the public should be submitted to EPA at the following address:

EPA Office: Permit and Technical Assessment Branch (3AP11), Air Protection Division, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. Attn: Chief, Permit and Technical Assessment Branch.

FOR FURTHER INFORMATION CONTACT: Helene Drago, Permit and Technical Assessment Section (3AP11), Air Protection Division, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, Telephone: 215–814–5796, email: *drago.helene@epa.gov*.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that on December 1, 2001, the Federal operating permits program consistent with the requirements of Title V of the Clean Air Act (the Act) as set forth under 40 CFR part 71 (part 71 program) will be effective in the State of Maryland. Furthermore, effective December 1, 2001, EPA is granting the Maryland Department of the Environment's (MDE's) request for full delegation of authority to implement and enforce the part 71 Federal operating permits program. Under this delegation, EPA retains its authority to (1) object to the issuance of any part 71 permit, (2) act upon petitions submitted by the public, and (3) collect fees from all owners or operators of sources subject to 40 CFR part 71 if it is demonstrated that MDE is not adequately implementing the part 71 program in accordance with the Delegation of Authority Agreement, 40 CFR part 71, and/or the Act. The procedures for full delegation are specified in a Delegation of Authority Agreement between EPA Region III and MDE signed and dated on November 27, 2001.

On October 30, 1995 (60 FR 55231), the EPA published a proposed rule to grant interim approval of Maryland's operating permits program, submitted to EPA pursuant to Title V of the Act and 40 CFR part 70 (part 70 program). On July 3, 1996 (61 FR 34733), EPA published a final rule granting interim approval of Maryland's part 70 operating permits program. Please see these proposed and final rules for a full explanation of the reasons why Maryland did not receive full approval of its part 70 program. Under the Act, Maryland had two years after receiving interim approval in which to correct the identified deficiencies of its part 70 program. In recognition of States' efforts to implement the Title V permitting program and EPA's own efforts to revise its implementing regulations, EPA granted several extensions to the interim approval period. A lawsuit was filed against EPA on June 21, 2000 by the EarthJustice Legal Defense Fund on behalf of the Sierra Club and the New York Public Interest Research Group, regarding these extensions. In settlement of that litigation, EPA entered into a settlement agreement which provides that no further extensions of the interim approval period will be granted for any part 70 operating permit programs, including the State of Maryland's, beyond December 1, 2001. MDE will not be able to address all interim approval deficiencies by December 1, 2001. In particular, Maryland will not have enacted legislation to provide, unambiguously, standing for judicial review of its permits consistent with section 502(b)(6) of the Act and 40 CFR 70.4(b)(3)(x) and which meets the minimum threshold requirements of Article III of the U.S. Constitution for organizations and individuals. Therefore, on December 1, 2001, Maryland will lose its interim approval status of its part 70 permitting program. Pursuant to the Act, Maryland will be required to implement a part 71 Federal operating permit program effective December 1, 2001.

The Act and its implementing regulations under the part 71 authorize EPA to delegate authority to any state agency that submits adequate regulatory procedures for implementation and enforcement of the part 71 operating permits program. On September 24, 2001, MDE requested full delegation of authority to implement and enforce the federal operating permits program consistent with the requirements of Title V of the Act and part 71. MDE provided all necessary documentation that the State of Maryland has adequate authority and adequate resources to implement and enforce the part 71 Federal permitting program.

Pursuant to 40 CFR 71.10(b), EPA hereby notifies the public that effective December 1, 2001, it has granted MDE's request and is fully delegating the authority to implement and enforce the Federal operating permits program as set forth under 40 CFR part 71. Under this delegation, MDE has authority to implement and enforce the Federal operating permits program consistent with the requirements of Title V as set forth under the part 71 program. As previously stated, EPA retains its authority to (1) object to the issuance of any part 71 permit, (2) act upon petitions submitted by the public and (3) collect fees from all owners or operators of part 71 sources if it is demonstrated that MDE is not adequately implementing the part 71 program in accordance with the Delegation of Authority Agreement, part 71, and/or the Act. The full delegation is set forth in a Delegation of Authority Agreement between EPA Region III and MDE signed and dated on November 27, 2001. If, at any time, EPA determines that MDE is not or cannot adequately implement or enforce the requirements of part 71, this delegation may be revoked, in whole or in part, pursuant to 40 CFR 71.10(c).

Dated: November 27, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–30101 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34203K; FRL–6811–4]

Chlorpyrifos; Receipt of Requests for End-Use Product Cancellations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Companies that hold the pesticide registrations of end-use pesticide products containing chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-

trichloro-2-pyridinyl)phosphorothioate] have asked EPA to cancel their registrations. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is announcing the Agency's receipt of these requests from the registrants. These requests for voluntary cancellation are the result of a Memorandum of Agreement signed by EPA and the basic manufacturers of the active ingredient chlorpyrifos on June 7, 2000. Registrants identified in this notice requesting voluntary cancellation are in large part the customer of these basic manufacturers. Given the potential risks, both dietary and non-dietary, that chlorpyrifos use poses, to children, EPA intends to grant the requested cancellations. EPA also plans to issue a cancellation order for the canceled registrations at the close of the comment period for this announcement. Upon the issuance of the cancellation order, any distribution, sale, or use of these chlorpyrifos products will only be permitted if such distribution, sale, or use is consistent with the terms of that order.

DATES: Comments, identified by docket control number OPP–34203K, must be received on or before January 4, 2002. Comments on the requested registration cancellations must be submitted to the address provided below and identified by docket control number OPP–34203K.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34203K in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Tom Myers, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone number: 703–308–8589; fax number: 703–308–8041; e-mail address: myers.tom@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use chlorpyrifos products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**--Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access information about the risk assessment for chlorpyrifos, go to the Home Page for the Office of Pesticide Programs or go directly http://www.epa.gov/pesticides/op/chlorpyrifos.htm.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34203K. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34203K in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34203K. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Receipt of Requests to Cancel Registrations

A. Background

In a memorandum of agreement ("Agreement") effective June 7, 2000, EPA and the basic manufacturers of the active ingredient chlorpyrifos agreed to several voluntary measures that will reduce the potential exposure to children associated with chlorpyrifos containing products. EPA initiated the negotiations with registrants after finding chlorpyrifos, as currently registered, was an exposure risk especially to children. As a result of the Agreement, registrants that hold the pesticide registrations of end-use products containing chlorpyrifos (who are in large part the customer of these basic manufacturers) have asked EPA to cancel their registrations for these products. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is announcing the Agency's receipt of these cancellation requests from the registrants.

In the **Federal Register** of September 20, 2000 (65 FR 56886) (FRL–6743–7), EPA published a notice of the Agency's receipt of amendments and cancellations for manufacturing use products and associated end-use products for signatories of the Memorandum of Agreement signed on June 7, 2000, and subsequent ancillary agreements. These requests were submitted as a result of the Memorandum of Agreement that was signed on June 7, 2000, between EPA and the basic manufacturers of chlorpyrifos. A copy of the Memorandum of Agreement that was signed on June 7, 2000, is located in OPP docket control number 34203D.

B. Requests for Voluntary Cancellation of End-Use Products

Pursuant to the Agreement and FIFRA section 6(f)(1)(A), several registrants have submitted requests for voluntary cancellation of registrations for their end-use products. The registrations for which cancellations were requested are identified in the following Table.

TABLE — END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS

Company	Reg. No.	Product
Dragon Chemical Corporation	16–101	Dursban 1/2 Granular Insecticide
	16–123	Dragon Home Pest Control
	16–139	Dragon Home Pest Killer
	16–146	Dragon Termite and Soil Insect Killer
	16–163	Dragon Crawling Insect Killer
	16–172	Dragon Dursban 1% Granular Insecticide
The Scotts Company	239–2423	Ortho Lawn Insect Spray
	239–2490	Ortho Home Pest Insect Control
	239–2513	Ortho-Klor Soil Insect and Termite Killer
	239–2517	Ortho-Klor Indoor & Outdoor Insect Killer
	239–2520	Ortho Mole Cricket Bait Formula II
	239–2521	Ortho Mole Cricket Bait Formula III
	239–2570	Ortho-Klor 1% Dursban Lawn & Soil Granules
	239–2633	Ortho Dursban Lawn Insect Formula II
	239–2635	Ortho Multipurpose Borer & Insect Spray
Amvac Chemical Corporation	5481–68	Alco Chlorpyrifos 1E Emulsifiable Insecticide
	5481–121	Chlorpyrifos Granules 1
	5481–216	Dursban-DDVP 2.50 Pest Control
	5481–217	Dursban-DDVP 1.25
	5481–221	Dursban 2E Insecticide
	5481–222	Bilco Dursban 4E Insecticide
	5481–240	Alco Bug Spray Flea, Ant and Roach Killer

TABLE — END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS—Continued

Company	Reg. No.	Product
Contact Industries, a Division of Safeguard Chemical Corporation	10806–52	Contact Roach & Ant Killer II
	10806–99	Contact Ant and Roach Killer IV
	10806–100	Contact Ant and Roach Killer XV
	10806–101	Contact Liquid Ant & Roach Killer V
	10806–102	Contact Roach and Ant Killer XVI
Amrep, Incorporated	10807–116	Misty Ant, Roach, & Spider Residual Insecticide with Dursban
	10807–187	Misty Aqueous Residual Spray
Drexel Chemical Company	19713–229	Drexel Chlorpyrifos 0.5G
	19713–341	Leisur and Lawn Insect Control

Under section 6(f)(1)(A) of FIFRA, registrants may request at any time, that EPA cancel any of their pesticide registrations. Section 6(f)(1)(B) of FIFRA requires that EPA provide a 30–day period in which the public may comment before the Agency may act on the request for voluntary cancellation. Given the potential risks, both dietary and non-dietary, that chlorpyrifos use poses, to children, EPA intends to grant the requested cancellations at the close of the comment period for this announcement.

III. Proposed Existing Stocks Provisions

The registrants have requested voluntary cancellation of the chlorpyrifos registrations identified in the Table. Pursuant to section 6(f) of FIFRA, EPA intends to grant the requests for voluntary cancellations. For purposes of the cancellation order that the Agency intends to issue at the close of the comment period for this announcement, the term "existing stocks" will be defined pursuant to EPA's existing stocks policy at June 26, 1991 (56 FR 29362) (FRL–3846–4) as those stocks of a registered pesticide product, which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation. Any distribution, sale, or use of existing stocks after the effective date of the cancellation order that the Agency intends to issue that is not consistent with the terms of that order will be considered a violation of section 12(a)(2)(K) and/or 12(a)(1)(A) of FIFRA.

1. *Distribution or sale by registrants*—i. *Restricted use and package size limitations.* Except for the purposes of returns for relabeling consistent with the June 7, 2000, Memorandum of Agreement, shipping for export consistent with the requirements of section 17 of FIFRA, or proper disposal:

(a) The distribution or sale by registrants of existing stocks of any EC formulation product listed in the Table will not be lawful under FIFRA, as of the date of publication of the cancellation order in the **Federal Register**, unless the product is labeled as restricted use.

(b) The distribution or sale by registrants of existing stocks of any product listed in the Table (other than containerized baits in child resistant packaging (CRP)) that is not an EC, will not be lawful under FIFRA as of the date of the cancellation notice, unless the product is either labeled for restricted use or packaged in containers no smaller than 15 gallons of a liquid formulation or 25 pounds of a dry formulation.

ii. *Prohibited uses.* Except for the purposes of returns for relabeling consistent with the June 7, 2000 Memorandum of Agreement, shipping for export consistent with the requirements of section 17 of FIFRA, or proper disposal, the distribution or sale of existing stocks by registrants of any product identified in the Table that bears instructions for any of the following uses will not be lawful under FIFRA as of the date of publication of the cancellation order in the **Federal Register**:

(a) Termite control, unless the product bears directions for use of a maximum 0.5% active ingredient (a.i.) chlorpyrifos end-use dilution.

(b) Post-construction termite control, except for spot and local termite treatment, provided the label of the product states that the product may not be used for spot and local treatment after December 31, 2002.

(c) Indoor residential except for containerized baits in CRP.

(d) Indoor non-residential except for containerized baits in CRP and products with formulations other than EC that bear labeling solely for one or more of the following uses: Warehouses, ship holds, railroad boxcars, industrial plants, manufacturing plants, food processing plants, or processed wood products treated during the manufacturing process at the manufacturing site or at the mill.

(e) Outdoor residential except for products bearing labeling solely for one or more of the following public health uses: Individual fire ant mound treatment by licensed applicators or mosquito control by public health Agencies.

(f) Outdoor non-residential, non-agricultural except for products that bear labeling solely for one or more of the following uses: Golf courses, road medians, and industrial plant sites, provided the maximum label application rate does not exceed 1 lb a.i./per acre; mosquito control for public health purposes by public health Agencies; individual fire ant mound treatment for public health purposes by licensed applicators; and fence posts, utility poles, railroad ties, landscape timbers, logs, pallets, wooden containers, poles, posts, processed wood products, manhole covers, and underground utility cable and conduits.

2. *Retail and other distribution or sale.* The retail sale of existing stocks of products listed in the Table bearing instructions for the prohibited uses set forth above in Units III.1.(ii) (a)-(f) of this document will not be lawful under FIFRA after December 31, 2001. Except as otherwise provided in this order, any other distribution or sale (for example, return to the manufacturer for relabeling) is permitted until stocks are exhausted.

3. *Final distribution, sale and use date for pre-construction termite control.* The distribution, sale or use of any product listed in the Table bearing instructions for pre-construction termiticide use will not be lawful under FIFRA after December 31, 2005, unless prior to that date, EPA has issued a written determination that such use may continue consistent with the requirements of FIFRA.

4. *Use of existing stocks.* Except for products bearing those uses identified above in Unit III.3. of this document, EPA intends to permit the use of existing stocks of products listed in the Table until such stocks are exhausted, provided such use is in accordance with the existing labeling of that product.

List of Subjects

Environmental protection, Memorandum of Agreement, Pesticides and pests.

Dated: November 20, 2001.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–29779 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

November 20, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 4, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to *jboley@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0262.

Title: Section 90.179, Shared Use of Radio Stations.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, state, local or tribal government.

Number of Respondents: 41,000.

Estimated Time Per Response: .75 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 30,750 hours.

Total Annual Cost: N/A.

Needs and Uses: The Commission has been directed by the United States Congress, in the Balanced Budget Act of 1997, to dedicate 2.4 megahertz of electromagnetic spectrum in the 746–806 MHz band for public safety services. The *First Report and Order* and *Third Notice of Proposed Rulemaking* in WT Docket No. 96–86 amended service rules to allow entities applying to the Commission for license to share the radio station on a non-profit cost sharing basis. Section 90.179 requires that Part 90 licensees that share use of their private land mobile radio facility on a non-profit, cost-shared basis keep a written sharing agreement as part of the station records. Regardless of the method of sharing, an up-to-date list of persons who are sharing the station and the basis of their eligibility under Part 90 must be maintained. This requirement is necessary to identify users of the systems should interference problems develop. This information is used by the Commission to investigate interference complaints and resolve interference and operational complaints that may occur among the users.

OMB Control No.: 3060–0986.

Title: Federal-State Joint Board on Universal Service—Plan for Reforming the Rural Universal Service Support Mechanism, CC Docket No. 96–45.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, state, local or tribal government.

Number of Respondents: 1,300 respondents; 5,770 responses.

Estimated Time Per Response: .81 hours per response (avg.).

Frequency of Response: On occasion, quarterly, annual, and one-time reporting requirements; third party disclosure requirement.

Total Annual Burden: 5,770 hours.

Total Annual Cost: N/A.

Needs and Uses: On May 23, 2001, the Commission adopted rules for determining high-cost universal service support for rural telephone companies for the next five years based upon proposals made by the Rural Task Force. The Commission also addressed certain proposals made by the Multi-Association Group (MAG) for reforming universal services applicable to rural carriers. The information will be used to determine whether and to what extent rural telecommunications carriers providing the data are eligible to receive universal service support.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30087 Filed 12–4–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), propose to extend, without

revision, the following currently approved information collections: Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) and Report of Assets and Liabilities of Non–U.S. Branches that are Managed or Controlled by a U.S. Branch or Agency of a Foreign Bank (FFIEC 002s). The Board, which collects and processes these reports for the three agencies, is publishing this notice on behalf of the agencies. At the end of the comment period, the comments and recommendations received will be analyzed to determine whether the FFIEC should modify the reports. The Board will then submit the reports to OMB for review and approval.

DATES: Comments must be submitted on or before February 4, 2002.

ADDRESSES: Interested parties are invited to submit written comments to the agency listed below. All comments, which should refer to the OMB control number, will be shared among the agencies.Written comments should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, submitted by electronic mail to regs.comments&federalreserve.gov, or delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M–P–500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.12 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the FFIEC 002 and FFIEC 002s reporting forms may be obtained at the FFIEC's web site (www.ffiec.gov). Additional information or a copy of the reporting forms may also be requested from Mary M. West, Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. Telecommunications Device for the Deaf (TDD) users may contact Capria Mitchell (202) 872–4984, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Proposal to extend, without revision, the following currently approved collections of information:

1. Report Title: Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.
Form Number: FFIEC 002.
OMB Number: 7100–0032.
Frequency of Response: Quarterly.
Affected Public: U.S. branches and agencies of foreign banks.
Estimated Number of Respondents: 354.
Estimated Total Annual Responses: 1,416.
Estimated Time per Response: 22.50 burden hours.
Estimated Total Annual Burden: 31,860 burden hours.

General Description of Report

This information collection is mandatory: 12 U.S.C. 3105(b)(2), 1817(a)(1) and (3), and 3102(b). Except for select sensitive items, this information collection is not given confidential treatment (5 U.S.C. 552(b)(8)). Small businesses (that is, small U.S. branches and agencies of foreign banks) are affected.

Abstract

On a quarterly basis, all U.S. branches and agencies of foreign banks (U.S. branches) are required to file a detailed schedule on their assets and liabilities in the form of a condition report and a variety of supporting schedules. This information is used to fulfill the supervisory and regulatory requirements of the International Banking Act of 1978. The data are also used to augment the bank credit, loan, and deposit information needed for monetary policy and other public policy purposes. The Federal Reserve System collects and processes this report on behalf of all three agencies.

2. Report Title: Report of Assets and Liabilities of a Non–U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non–U.S.) Bank.
Form Number: FFIEC 002s.
OMB Number: 7100–0273.
Frequency of Response: Quarterly.
Affected Public: U.S. branches and agencies of foreign banks.
Estimated Number of Respondents: 114.
Estimated Total Annual Responses: 456.
Estimated Time per Response: 6 burden hours.
Estimated Total Annual Burden: 2,736 burden hours.

General Description of Report

This information collection is mandatory: 12 U.S.C. 3105(b)(2), 1817(a)(1) and (3), and 3102(b) and is given confidential treatment (5 U.S.C. 552(b)(8)). Small businesses (that is, small U.S. branches and agencies of foreign banks) are affected.

Abstract

On a quarterly basis, all U.S. branches and agencies of foreign banks are required to file detailed schedules on their assets and liabilities in the form FFIEC 002. The FFIEC 002s is a separate supplement to the FFIEC 002 that collects information on assets and liabilities of any non–U.S. branch that is "managed or controlled" by a U.S. branch or agency of the foreign bank. Managed or controlled means that a majority of the responsibility for business decisions, including but not limited to decisions with regard to lending or asset management or funding or liability management, or the responsibility for recordkeeping in respect of assets or liabilities for that foreign branch resides at the U.S. branch or agency. A separate FFIEC 002s must be completed for each managed or controlled non–U.S. branch. The FFIEC 002s must be filed quarterly along with the U.S. branch's or agency's FFIEC 002.

The data are used: (1) to monitor deposit and credit transactions of U.S. residents; (2) for monitoring the impact of policy changes; (3) for analyzing structural issues concerning foreign bank activity in U.S. markets; (4) for understanding flows of banking funds and indebtedness of developing countries in connection with data collected by the International Monetary Fund (IMF) and the Bank for International Settlements (BIS) that are used in economic analysis; and (5) to provide information to assist in the supervision of U.S. offices of foreign banks, which often are managed jointly with these branches.

Request for Comment

Comments submitted in response to this Notice will be shared among the agencies and will be summarized or included in the Board's request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden as well as other relevant aspects of the information collection requests. Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Board of Governors of the Federal Reserve System, November 29, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–30043 Filed 12–4–01; 8:45 am]

BILLING CODE 3510–22–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 19, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Merrill G. Norton, and Suellyn Norton, both of Danville, Illinois; to retain voting shares of Vermilion Bancorp, Inc., Danville, Illinois, and thereby indirectly retain voting shares of American Savings Bank of Danville, Danville, Illinois.

Board of Governors of the Federal Reserve System, November 29, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–30044 Filed 12–4–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Populations—Working Group on Quality.

Time and Date: 1:30 p.m.–4:30 p.m, December 12, 2001.

Place: Room 705A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The purpose of the meeting is to hear testimony on public and private sector data collection and reporting activities in the area of patient safety. The presenters will be asked to address limitations in the current data infrastructure for identifying and reporting on medical errors and other safety-related measures of the quality of health care in the U.S.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card will need to have the guard call for an escort to the meeting.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of Committee members may be obtained from Stanley Edinger Ph.D., Lead Staff Person for the HCVHS Subcommittee on Special Populations, Working Group on Quality, Agency for Healthcare Research and Quality, 6011 East Jefferson Street, Suite 200, #106, Rockville, MD 20852, telephone (301) 594–1598; or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS website: *http://aspe.os.dhhs.gov/ncvhs*, where an agenda for the meeting will be posted when available.

Dated: November 27, 2001.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 01–30151 Filed 12–4–01; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Standards and Security.

Time and Date: 9 a.m. to 5 p.m., December 13, 2001, 8:30 a.m. to 3 p.m., December 14, 2001.

Place: Hubert H. Humphrey Building, Room 705A, 200 Independence Avenue, SW., Washington, DC.

Status: Open.

Purpose: On the first day, the Subcommittee will focus on the patient medical record initiative. The Subcommittee will participate in a question and answer session with Standards Developing Organizations working in the area of message formats, and will discuss the letter conveying recommendations on this topic to the Secretary. The topic for the second day will be Health Insurance Portability and Accountability Act of 1996 (HIPAA) administrative simplification standards. The Subcommittee will hear testimony on industry readiness, and will discuss the 2001 report to Congress on the status of HIPAA administrative simplification implementation.

Notice: In the interest of security, HHS has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Persons without a government identification card may need to have the guard call for an escort to the meeting.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from J. Michael Fitzmaurice, Ph.D., Senior Science Advisor for Information Technology, Agency for Health Care Research and Quality, 2101 East Jefferson Street, #600, Rockville, MD 20852, phone: (301) 594–3938; or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS web site: *http://www.ncvhs.hhs.gov/* where an agenda for the meeting will be posted when available.

Dated: November 27, 2001.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 01–30152 Filed 12–4–01; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–176]

Notice of the Revised Priority List of Hazardous Substances That Will Be the Subject of Toxicological Profiles; Correction

A notice announcing the availability of the Revised CERCLA Priority List of 275 Hazardous Substances based on the most recent information available to ATSDR and EPA was published in the **Federal Register** on October 25, 2001, (66 FR 54014). This notice is corrected as follows:

On page 54014, in the third column, under the heading of:

ADDRESSES, the website for the 2001 Priority List of Hazardous Substances should read: *http://www.atsdr.cdc.gov/clist.html.* On page 54015, in the first column, also under the heading of:

ADDRESSES, the website for the CEP Report should read: *http://www.atsdr.cdc.gov/cep.html.*

All other information and requirements of the October 25, 2001, notice remain the same.

Dated: November 29, 2001.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 01–30078 Filed 12–4–01; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY–08–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: Evaluating Toolbox Training Safety Program for Construction and Mining—NEW—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC) proposes to evaluate the effectiveness of various educational approaches utilizing "toolbox" safety training materials targeted to construction and mining industries. The mission of the National Institute for Occupational Safety and Health is to promote safety and health at work for all people through research and prevention.

In comparison to other industries, construction and mining, workers continue to have the highest rates of occupational fatalities and injuries. The Bureau of Labor Statistics estimated for 1999 that while the construction industry comprises only 6% of the workforce, they account for 20% of the fatal occupational injuries across all industry types (BLS, 1999). Similarly, though the mining industry comprises less than .5% of the workforce, this industry reflects 2% of all fatal occupational injuries (BLS, 1999).

Research on the effectiveness of safety and health training programs has revealed that training can lead to increases in worker knowledge and awareness of workplace safety practices. However, fewer evaluations of safety training effectiveness have investigated the relationship between various instructional approaches and the actual transfer of safety training information into workplace practices. Preliminary input from employees, managers, and union leaders representing construction and mining concerns revealed a desire in these industries for affordable safety training materials that can be effectively administered in short sessions on the job. Representatives from these industries reported that safety training sessions need to establish a closer connection between the safety recommendations and the background experiences and knowledge of the workers.

An instructional approach that may address these needs is often called "toolbox" or "tailgate" training. This type of training is characterized by brief (15 minute) workplace safety lessons. Despite the popularity of toolbox safety talks, research is needed to identify the most effective format for this medium. NIOSH will investigate the impact of using a narrative, case-study instructional approach versus a more typical, didactic learn the facts' approach. Comparative analyses will examine differences in knowledge gain, safety attitudes and beliefs, and workplace behaviors. Findings from this research will help identify the conditions critical to effective toolbox safety training for mining and construction. The materials developed and evaluated during this study will be made available to the public at the conclusion of the evaluation.

Construction and mining companies who participate in the study will be randomly assigned to receive eight weekly toolbox safety training sessions that use either a case-study narrative or conventional instructional approach. The training sessions are designed to last fifteen minutes. The impact of these materials will be evaluated through the examination of changes in employee knowledge gains, attitudes toward safety practices, and the use of safety behaviors prior to and following their participation in the safety training program. Trainers will complete brief response cards each week. A sample of trainers will participate in structured interviews.

Findings of the study will be reported to participants and in the literature. The total annual burden for this data collection is 363 hours.

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
Worker Knowledge-Attitude Survey (Before Training)	640	1	15/60
Worker Knowledge-Attitude Survey (After Training)	640	1	15/60

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
Instructor Feedback Cards	64	8	5/60

Dated: November 28, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–30041 Filed 12–4–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–85]

Notice of Submission of Proposed Information Collection to OMB; Section 5(h) Homeownership Program for Public Housing: Submission of Plan and Reporting

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 4, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2577–0201) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice Also List the Following Information

Title of Proposal: Section 5(h) Homeownership Program for Public Housing: Submission of Plan and Reporting.

OMB Approval Number: 2577–0201.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: Public Housing Agencies (PHAs) are required to submit to HUD a plan to sell public housing to residents. PHAs consult with residents in developing the plan. Residents who desire to purchase under the homeownership plan submit an application to the PHA. PHAs prepare the detailed plan including description of the property, terms and conditions of sales to the residents, budget estimate, counseling, training and technical assistance provided.

Respondents: Individuals or households, Not-for-profit institutions, State, Local or Tribal Government.

Frequency of Submission: Annually.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	73		1		74		5,421

Total Estimated Burden Hours: 5,421.

Status: Reinstatement, without change.

Authority: Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: November 27, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–30034 Filed 12–4–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–86]

Notice of Submission of Proposed Information Collection to OMB; Reporting Requirements for the Auction of Section 221(g)(4) Multifamily Mortgages

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 4, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0460) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, and extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Reporting Requirements for the Auction of Section 221(g)(4) Multifamily Mortgages.

OMB Approval Number: 2502–0460.

Form Numbers: HUD–93487, HUD–93487–A

Description of the Need for the Information and its Proposed use: HUD collects information from assigning mortgages on form HUD–93487, "Project Summary Data Sheet", and makes the information available to bidders participating in the auction of Section 221(g)(4) mortgages. Mortgagees the purchase the montages will submit form HUD–93487–A, "Billing for Section 221(g)(4) Monthly Interest Enhancement Payments;", in order to obtain their monthly interest enhancement payments.

Respondents: Business or other for profit

Frequency of Submission: Other 93487–A—When a mortgagee makes an election to assign a 221(g)(4) mortgage.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	153		1.2		0.6		104

Total Estimated Burden Hours: 104.

Status: Reinstatement, without change.

Authority: Sec. 3057 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: November 28, 2001.

Wayne Eddins,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–30035 Filed 12–4–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4401–C–06]

Statutorily Mandated Designation of Difficult Development Areas and Qualified Census Tracts for Section 42 of the Internal Revenue Code of 1986; Correction

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice; correction.

SUMMARY: This notice corrects the designation of 2002 Qualified Census Tracts for Guam, published in the **Federal Register** on September 11, 2001.

FOR FURTHER INFORMATION CONTACT: For questions on how areas are designated and on geographic definitions: Steven Ehrlich, Economist, Division of Economic Development and Public Finance, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0426, e-mail *Steven_R._Ehrlich@hud.gov*. For specific legal questions pertaining to section 42 and this notice: Harold J. Gross, Senior Tax Attorney, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–3260, e-mail *JERRY_GROSS@hud.gov*. For questions about the "HUBZones" program: Michael P. McHale, Assistant Administrator for Procurement Policy, Office of Government Contracting, Suite 8800, Small Business Administration, 409 Third Street, SW, Washington, DC 20416, telephone (202) 205–6731, fax (202) 205–7324, e-mail *michael.mchale@sba.gov*. A text telephone is available for persons with hearing or speech impairments at (202) 708–9300. (These are not toll-free telephone numbers.) Additional copies of this notice are available through HUD User at (800) 245–2691 for a small fee to cover duplication and mailing costs.

Copies Available Electronically: This notice and additional information about Difficult Development Areas and Qualified Census Tracts are available electronically on the Internet (World Wide Web) at *http://www.huduser.org/datasets/qct.html*.

SUPPLEMENTARY INFORMATION: On September 11, 2001 (66 FR 47266), the Department published a list of Statutorily Mandated Difficult Development Areas (DDAs) and Qualified Census Tracts (QCTs) for Section 42 of the Internal Revenue Code of 1986. Designations were made for all U.S. states and territories. An error affecting the Guam QCT designations was recently found. Five additional census tracts in Guam should have been designated as QCTs. No QCTs outside of Guam were affected by the error. No DDAs were affected by the error.

Accordingly, FR Doc 01–22566, a notice published in the **Federal Register** on September 11, 2001 (66 FR 47266), is corrected as follows:

On page 47370, the table under Nonmetropolitan Part of State: Guam, the entries are corrected to read as follows:

	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Guam	9502.00	9512.00	9513.00	9526.00	9530.00	9539.98	9548.00	9555.00

Dated: November 21, 2001.

Lawrence L. Thompson,

General Deputy, Assistant Secretary for Policy Development and Research.

[FR Doc. 01–30031 Filed 12–4–01; 8:45 am]

BILLING CODE 4210–62–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4710–C–04]

Public Housing Assessment System (PHAS) Financial Condition and Physical Condition Interim Scoring Notices Correction; Location for Submission of Public Comments

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice; correction.

SUMMARY: On November 26, 2001, HUD published two notices that advised of interim scoring processes under HUD's Public Housing Assessment System (PHAS) for the PHAS Physical Condition Indicator and for the PHAS Financial Condition Indicator. The notices also solicited public comment but omitted the location where public comments could be submitted. This notice provides that information.

FOR FURTHER INFORMATION CONTACT: For further information contact the Real Estate Assessment Center (REAC), Attention: Wanda Funk, U.S. Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington, DC 20024, telephone REAC's Customer Service Center at (888) 245–4860 (this is a toll free number) or the Office of Public and Indian Housing, Attention: Judy Wojciechowski, Director of PHAS Operations, U.S. Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington, DC 20024, telephone (202) 708–4932 extension 3464. Persons with hearing or speech impairments may access these telephone numbers via TTY by calling the Federal Information Relay Service at (800) 877–8339. Additional information is available from the REAC web site at *http://www.hud.gov/reac/.*

SUPPLEMENTARY INFORMATION: On November 26, 2001, HUD published two notices that advised of interim scoring processes under HUD's Public Housing Assessment System (PHAS) for the PHAS Physical Condition Indicator (66 FR 59084) and for the PHAS Financial Condition Indicator (66 FR 59126). A third notice, the introductory notice to the two interim scoring processes (66 FR 59080) provided background information on the PHAS and also the basis for proposing interim scoring processes. All three notices solicited public comment but inadvertently omitted the location where public comments could be sent.

This notice published today provides that information. The address for submitted public comments on these notices is as follows:

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

Dated: November 29, 2001.

Aaron Santa Anna,

Assistant General Counsel for Regulations.

[FR Doc. 01–30032 Filed 12–4–01; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 USC 1531 *et seq.*).

Permit No. TE–049668

Applicant: California Department of Fish and Game, Bishop, California.

The applicant requests a permit to take (capture, collect, sacrifice, and remove genetic samples) the Owens tui chub (*Gila bicolor snyderi*) in conjunction with physiological investigations in Inyo, Mono, and Madera Counties, California for the purpose of enhancing its survival.

Permit No. TE–050122

Applicant: California Department of Fish and Game, Bishop, California.

The applicant requests a permit to take (capture, mark with radio collars, tag, translocate, and collect biological samples) the bighorn sheep (*Ovis canadensis*) in conjunction with ecological research in Inyo and Mono Counties, California for the purpose of enhancing its survival.

Permit No. TE–802450

Applicant: Arthur E. Davenport, El Cajon, California.

The permittee requests a permit amendment to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) and take (capture and tag) the San Bernardino kangaroo rat (*Dipodomys merriami parvus*) in conjunction with demographic studies on the San Diego National Wildlife Refuge, California for the purpose of enhancing their survival.

Permit No. TE–840622

Applicant: Coralie Hull Cobb, San Diego, California.

The permittee requests a permit amendment to take (harass by survey, collect, and sacrifice) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), vernal pool tadpole shrimp (*Lepidurus packardi*), and Riverside fairy shrimp (*Streptocephalus wootoni*) throughout each species' range in conjunction with surveys for the purpose of enhancing their survival.

DATES: Written comments on these permit applications must be received on or before January 4, 2002.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species, Ecological Services, Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: November 19, 2001.

Rowan W. Gould,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 01–30042 Filed 12–4–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. TE–814933

Applicant: Texas Parks & Wildlife Department, Austin, Texas.

Applicant requests a permit to collect plant materials for research and recovery purposes from the following plant species within Texas: Ashy dogweed (Thymophylla tephroleuca), Black lace cactus (Echinocereus reichenbachii var. albertii), Bunched cory cactus (Coryphantha ramillosa), American chaffseed (Schwalbea americana), Chisos Mountains hedgehog cactus (Echinocereus chisoensis var. chisoensis), Davis'green pitaya (Echinocereus viridiflorus var. davisii), Hinckley Oak (Quercus hinckleyi), Johnston's frankenia (Frankenia johnstonii), Large-fruited sand-verbena (Abronia macrocarpa), Little Aguja pondweed (Potamogeton clystocarpus), Navasota ladies' tresses (Spiranthes parksii), Nellie cory cactus (Coryphantha minima), Pima pineapple cactus (Coryphantha scheeri var. robustispina), Slender rush-pea (Hoffmannseggia tenella), Sneed pincushion cactus (Coryphantha sneedii var. sneedii), South Texas ambrosia (Ambrosia cheiranthifolia), Star cactus (Astrophytum asterias), Terlingua Creek cat's eye (Cryptantha crassipes), Texas trailing phlox (Phlox nivalis ssp. Texensis), Texas ayenia (Ayenia limitaris), Texas poppy-mallow (Callirhoe scabriuscula), Texas prairie dawn-flower (Hymenoxys texana), Texas snowbells (Styrax texana), Tobusch fishhook cactus (Ancistrocactus tobuschii), Walker's manioc (Manihot walkerae), White bladderpod (Lesquerella pallida), and Zapata bladderpod (Lesquerella thamnophila). Applicant also requests authorization to conduct presence/absence surveys for the Ocelot (Felis pardalis), Southwestern willow flycatcher (Empidonax traillii extimus), Red-cockaded woodpecker (Picoides borealis), Northern aplomado falcon (Falco femoralis septentrionalis), Whooping Crane (Grus americana) and Interior least tern (Sterna antillarum) within Texas.

Permit No. TE–049001

Applicant: Plateau Integrated Land and Wildlife Management, Dripping Springs, Texas.

Applicant requests a permit to conduct presence/absence surveys and nest monitoring for the Golden-cheeked warbler (Dendroica chrysoparia) and Black-capped vireo (Viero atricapillus) within Texas.

Permit No. TE–050021

Applicant: Greg Clark, Chandler, Arizona.

Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the Cactus Ferruginous Pygmy Owl (Glaucidium brasilianum) in Pima County, Arizona.

Permit No. TE–050241

Applicant: Carothers Environmental, LLC, Sedona, Arizona.

Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: Cactus ferruginous pygmy-owl (Glaucidium brasilianum cactorum), Southwestern willow flycatcher (Empidonax traillii extimus), Hualapai Mexican Vole (Microtus mexicanus hualpaiensis), Humpback chub (Gila cypha), Razorback sucker (Xyrauchen texanus), and Kanab ambersnail (Oxyloma haydeni kanabensis) within Arizona, New Mexico, Oklahoma and Texas.

DATES: Written comments on these permit applications must be received on or before January 4, 2002.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103; (505) 248–6649; Fax (505) 248–6788. Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, Albuquerque, New Mexico, at the above address. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Susan MacMullin,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 01–30053 Filed 12–4–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Karner Blue Butterfly (*Lycaeides melissa samuelis*) Technical/Agency Draft Recovery Plan for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces availability for public review of a technical/agency draft recovery plan for the endangered Karner blue butterfly (*Lycaeides melissa samuelis*). The Karner blue butterfly is known to presently occur in seven states: Minnesota, Wisconsin, Michigan, Indiana, New Hampshire, New York, and Ohio, where it was recently reintroduced. The Service solicits review and comments from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before April 4, 2002 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Field Supervisor of the Green Bay Ecological Services Field Office, U.S. Fish and Wildlife Service, 1015 Challenger Court, Green Bay, Wisconsin 54311 or by accessing the website: *http//midwest.fws.gov/endangered*. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received will be available, by appointment, for public inspection during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Carnes, (at the above address) Telephone: (920) 465–7415. TTY users may contact Ms. Carnes through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for reclassification and delisting, and an estimate of time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et. seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and opportunity for public review and comment to be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The document submitted for review is the Karner Blue Butterfly (*Lycaeides melissa samuelis*) Technical/Agency Draft Recovery Plan. Historically, the butterfly occurred in 12 states and the Province of Ontario. Its current range has been reduced to seven states: Minnesota, Wisconsin, Michigan, Indiana, New Hampshire, New York, and Ohio, where it was recently reintroduced. Three of these states (Ohio, New Hampshire, and Minnesota) have only one extant Karner blue butterfly population. Wisconsin and Michigan support the majority of populations throughout the range.

The Karner blue butterfly was listed as endangered on January 21, 1992. The butterfly depends on savanna and barrens habitats that support wild lupine (*Lupinus perennis*), the only plant Karner blue larvae (or caterpillars) are known to feed on. Threats to the butterfly include continued loss and alteration of habitat due to commercial, residential, and agricultural development, fragmentation, and degradation through succession. Today, the butterfly inhabits remnant savanna and barrens habitats, as well as other more disturbed habitat sites including younger forest stands, military bases, utility and roadway rights-of-way, and airports.

The primary objective of the draft recovery plan is to restore and protect an adequate number of Karner blue butterfly populations throughout its range to ensure long-term viability of the species in the wild. The plan proposes a total of 13 recovery units throughout a six state recovery area (Minnesota, Wisconsin, Michigan, Indiana, New York, and New Hampshire). In order to reclassify the butterfly from endangered to threatened status, the plan proposes the establishment of at least 28 metapopulations within the recovery units. In order to remove the butterfly from the Federal list of "Threatened and Endangered Species," the plan recommends a minimum of 29 metapopulations be established throughout the recovery units.

The draft recovery plan presents a blueprint for action by Federal and state agencies, as well as other organizations, and private landowners interested in helping in the recovery of this endangered species. Recovery actions include restoration and protection of Karner blue butterfly habitat, population monitoring, continued refinement of habitat management guidelines, research to guide habitat management and captive propagation efforts, and education and outreach efforts. Working with Federal, state and private landowners on a voluntary basis will be necessary to reduce the threats, and conserve, protect, and manage key habitat areas for the Karner blue butterfly.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified will be considered prior to approval of the plan. Comments should be sent to the Field Supervisor, Ecological Services Field Office, at the above address.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: November 9, 2001

T.J. Miller,

Acting Assistant Regional Director, Ecological Services.

[FR Doc. 01–30079 Filed 12–4–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–027–1220–DG; G 2–0019]

Steens Mountain Advisory Council; Meetings

AGENCY: Bureau of Land Management (BLM), Burns District, Interior.

ACTION: Meetings notice for the Steens Mountain Advisory Council.

SUMMARY: The Steens Mountain Advisory Council (SMAC) will meet at the Bureau of Land Management (BLM), Burns District Office, 28910 Hwy 20 West, Hines, Oregon 97738, on December 17 and 18, 2001; January 24 and 25, 2002; February 28 and March 1, 2002; April 4 and 5, 2002; June 13 and 14, 2002; October 21 and 22, 2002; and December 2 and 3, 2002; and will meet in Frenchglen, Oregon 97736 on August 15 and 16, 2002. All meeting sessions will begin the first day at 8 a.m., local time, and will end at 5 p.m., local time. The second day of each session will begin at 8 a.m., local time, and will end at approximately 3 p.m., local time. The April 4 and 5, 2002; June 13 and 14, 2002; and August 15 and 16, 2002, meeting sessions will consist of meetings on April 4, June 13, and August 15, followed by tours of the Steens Mountain Cooperative Management and Protection Area (CMPA) on April 5, June 14, and August 16, 2002, weather dependent. Topics to be discussed by the SMAC at the December 17 and 18, 2001, meeting include selection of a chairperson; facilitation needs; Subbasins, Analysis of the Management Situation, Interim Management Policy, and Special Recreation Permit Policy review; Federal Advisory Committee Act; cooperative agreements/incentives; winter recreation; signs; and other matters as may reasonably come before the SMAC. Future meetings will cover categories such as education; transportation; recreation/public use; special designated areas; cultural resources; watersheds; projects; wildlife; partnerships/programs; volunteer-based information; adaptive management; planning process; science committee/consultants; and socioeconomics. All meetings and tours are open to the public in their entirety. Information to be distributed to the SMAC is requested 10 days prior to the start of each SMAC meeting. Public comment is scheduled for 11 a.m. to 11:30 a.m., local time, the first day of each meeting session. The amount of time scheduled for public presentations and meeting times may be extended when the authorized

representative considers it necessary to accommodate all who seek to be heard regarding matters on the agenda.

The SMAC was appointed by the Secretary of the Interior on August 14, 2001, pursuant to the Steens Mountain Cooperative Management and Protection Act of 2000 (Act). The SMAC's purpose is to provide representative counsel and advice to the BLM regarding (1) new and unique approaches to management of the land within the bounds of the Steens Mountain CMPA, (2) cooperative programs and incentives for landscape management that meet human needs, maintain and improve the ecological and economic integrity of the area, and (3) preparation and implementation of a management plan for the Steens CMPA.

Under the Federal Advisory Committee Act management regulations (41 CFR 102–3.15(b)), in exceptional circumstances an agency may give less than 15 days notice of committee meeting notices published in the **Federal Register**. In this case, this notice is being published less than 15 days prior to the meeting due to the urgent need to meet legislative deadlines to complete the Steens CMPA management plan and to avoid additional delays.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the SMAC may be obtained from Rhonda Karges, Management Support Specialist, Burns District Office, 28910 Hwy 20 West, Hines, Oregon 97738, (541) 573–4433, or *Rhonda_Karges@or.blm.gov* or from the following Web site *http://www.or.blm.gov/Steens.*

Dated: October 25, 2001.

Thomas H. Dyer,

Burns District Manager.

[FR Doc. 01–30278 Filed 12–4–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Office of Planning and Performance Management; Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Department of the Interior.

ACTION: Notice of new information collection survey.

SUMMARY: To comply with the requirements of the Paper Reduction Act (PRA) of 1995, we are submitting to OMB for review and approval an information collection request (ICR) for the Department of the Interior (DOI) to conduct voluntary customer satisfaction surveys to gather input and feedback from the public. The ICR is entitled "DOI Programmatic Clearance for Customer Satisfaction Surveys." We are also soliciting comments from the public on this ICR.

DATES: Please submit written comments by January 4, 2002.

ADDRESSES: You may submit comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1040–NEW), 725 17th Street, NW., Washington, DC 20503. Mail or handcarry a copy of your comments to the Department of the Interior; Office of Planning and Performance Management; Mail Stop 5258–MIB; 1849 C Street, NW., Washington, DC 20240. If you wish to email comments, the email address is: *Norma_Campbell@os.doi.gov*. Reference "DOI Programmatic Clearance for Customer Satisfaction Surveys" in your email subject line. Include your name and return address in your email message and mark your message for return receipt.

FOR FURTHER INFORMATION CONTACT: Norma Campbell, Office of Planning and Performance Management, telephone (202) 208–1818. You also may contact this office to obtain at no cost a copy of the collection of information that will be submitted to OMB.

SUPPLEMENTARY INFORMATION:

Title: DOI Programmatic Clearance for Customer Satisfaction Surveys.

OMB Control Number: 1040–NEW.

Abstract: The mission of DOI is to protect and provide access to our Nation's natural and cultural heritage and honor our trust responsibilities to Indian Tribes and our commitments to island communities. DOI's Strategic Plan Overview (FY 2000–2005) lays out five goals as a framework for this work: (1) Protect the environment and preserve our Nation's natural and cultural resources; (2) provide recreation for America; (3) manage natural resources for a healthy environment and our strong economy; (4) provide science for a changing world; and (5) meet our trust responsibilities to Indian Tribes and our commitments to island communities. Each bureau' s plan also contains goals requiring collaboration with the public—our partners and customers. Part of this communication occurs through occasional surveys of the different users and stakeholders of DOI's products and services.

In the spirit of the PRA, DOI is consolidating its ICRs related to customer surveys for all participating offices and bureaus into one programmatic ICR. This single ICR will ease the public burden by submitting a generic format and set of standards that all customer survey-related collections would follow in DOI. Because the participating bureaus and offices have differing customer and stakeholder groups, there will not be one "boiler-plate" approach to customer research. The ICR will describe those differences, where apparent. Although, where applicable, similar questions will be asked in the surveys of the bureaus and offices to allow better benchmarking throughout DOI.

Background

The Government Performance and Results Act (GPRA) of 1993 (Pub.L. No. 103–62) sets out to "improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction" (Section 2.b.3). In order to fulfill this responsibility, DOI's bureaus and offices must collect data from their respective user groups to (1) better understand the needs and desires of the public and (2) respond to those needs and desires accordingly.

This course of action is fortified by Executive Order (E.O.) 12862 (September 11, 1993) aimed at "ensuring the Federal Government provides the highest quality service possible to the American people." The E.O. discusses surveys as a means for determining the kinds and qualities of service desired by the Federal Government's customers and for determining satisfaction levels for existing service. These voluntary customer surveys will be used to ascertain customer satisfaction with DOI's bureaus and offices in terms of services and products. Previous customer surveys have provided useful information to DOI's bureaus and offices for assessing how well we deliver our services and products, making improvements, and reporting on annual performance goals as set out in GPRA-related documents. The results are used internally, and summaries are provided to OMB on an annual basis and are used to satisfy the requirements and spirit of E.O. 12862.

Furthermore, E.O. 12862 requires agencies to provide a "means to address customer complaints." To that end, bureaus and offices may use customer comment cards as an opportunity for customers to provide feedback to the agencies on the service they have received.

More recently, President Bush's Management Agenda for 2001 calls for citizen-centered government. The

Secretary of the Interior's August 3, 2001 memorandum, "Management Excellence and Citizen-Centered Service," directs bureaus and offices to focus on citizen-centered governance. The proposed OMB Guideline for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies would require agencies to submit annual reports "detailing the number and nature of complaints received by the agency regarding agency compliance with these OMB guidelines." Comment cards and other survey methods facilitated by this programmatic clearance would provide valuable information to assist DOI's bureaus and offices in following the Administration's guidance.

In addition to GPRA and E.O. 12862, the statutes, regulations, and Secretarial Orders that created each of the bureaus and offices further enhance the need to engage the public and deliver quality products and services to our customers.

The participating DOI bureaus and offices anticipate performing their customer surveys under one ICR. Under this proposal, DOI would request that OMB review the procedures and question areas for these surveys as a program, rather than reviewing each survey individually. Under the procedures proposed here, DOI would conduct the necessary quality control (through a "secondary office of control" within DOI), including assurances that the individual survey comports with the guidelines in this proposed programmatic ICR, and submit the particular survey instruments and methodologies for expedited review to OMB.

Participating Bureaus and Offices

The proposed ICR covers most of the organizational agencies in DOI. However, the National Park Service, which has one of the most mature customer survey programs in the Federal Government, will continue under its own separate clearance given the complexity and specificity of its program. The participating bureaus and offices covered under the proposed ICR include:

- Bureau of Indian Affairs
- Bureau of Land Management (BLM)
- Bureau of Reclamation
- US Fish & Wildlife Service
- Office of Insular Affairs
- Minerals Management Service
- Office of the Secretary
- Office of Surface Mining
- US Geological Survey (USGS)

Current Actions

The request to OMB will be for a 3-year clearance to conduct customer satisfaction surveys in the participating DOI bureaus and offices. USGS and BLM, who have developed customer research programs, are currently operating under 3-year programmatic clearances. Other participating bureaus and offices have handled their ICRs on a case-by-case basis.

For example, under existing approvals, USGS in 2000 surveyed users of the on-line National Atlas, State and Federal land managing and natural resource agencies, customers of Eros Data Center (digital data and maps), and customers of Earth Science Information Centers (topographic maps, USGS publications). Over the last 3 years, BLM has surveyed users of recreation areas, grazing permittees, oil and gas permittees, stakeholders and partners, and public room users, as well as conducted focus groups with various customer groups. These collections occur through one of six methodologies: (1) Intercept (a customer interacting in person with one conducting the survey); (2) telephone interviews; (3) mail surveys; (4) web-based surveys; (5) focus groups; and (6) voluntary use of comment cards.

Examples of previously conducted customer surveys are available upon request. Our planned activities in the next 3 fiscal years reflect our increased emphasis on and expansion of these activities throughout DOI.

Methodology

In all customer research, the goal of DOI is to employ the best statistical models that, in turn, will lead to the best data from which sound management decisions can be made. Therefore, an 80 percent response rate has been set for all customer surveys, with a 70 percent response rate as base threshold.

Different user and stakeholder groups function and interact with the respective bureaus and offices in different ways. In order to meet the response rate goal, six different methodologies will be available for use. The methodology will be chosen based on achieving statistical accuracy while keeping the cost as low as possible. The six methodologies that DOI's bureaus and offices will employ are: (1) Intercept, (2) telephone interviews, (3) mail surveys, (4) web-based surveys, (5) focus groups, and (6) comment cards. In all cases, the goal is to achieve the 95 percent confidence level with a sampling error no greater than ±5 percent. The total number of respondents sought for each survey will be based on achieving this level. In most cases, the respondent base will be pulled from a randomized sample of the user population, and where necessary, a stratified sample will be used to achieve accurate statistical measures at the appropriate National, State, or regional level. In some cases where the user population is small, the entire population will need to be surveyed.

Intercept: In a face-to-face situation, the survey instrument is provided to a respondent who completes it while on site and then returns it. The survey proctor is prepared to answer any questions the respondent may have about how to fill out the instrument but does not interfere or influence how the respondents answer the questions. This methodology provides the highest response rate—typically between 80–85 percent.

Telephone: Using existing databases, an interviewer will contact customers who have had a specific experience with the agency. The interviewer will dial back until the customer has been reached. Once contacted, the survey respondent is given a brief introduction to the survey, including its importance and use. The interviewer will then expeditiously move through the survey questions. When this methodology is employed, the typical response rate is between 70 and 85 percent, depending on the customer group.

Mail: Using existing lists of customer addresses, a three contact-approach based on Dillman's "Tailored Design Method" will be employed. The first contact is a cover letter explaining that a survey is coming to them and why it is important to the agency. The second contact will be the survey instrument itself along with a postage-paid addressed envelope to return the survey. The third contact will be a reminder postcard sent 10 days after the survey was sent. Finally, the respondents will receive a letter thanking them for the willingness to participate in the survey and reminding them to return it if they have not already done so. At each juncture, the respondents will be given multiple ways to contact someone with questions regarding the survey (including phone, FAX, web, and email). If the survey has been lost, the respondent can request that another be sent to them. Electronic mail is sometimes used instead of postal mail to communicate with customers. Although this is a cost-effective mode to survey a large group of people, it does not usually generate the best response rate. Telephone calls to non-respondents can be used to increase response rates.

Web-based: For products or services that are provided through electronic means, whether e-commerce or web-based information, a web or email survey may be most appropriate. During

the course of their web interaction, users can volunteer to add their name to a list of future surveys. From this list, a respondent pool will be selected in accordance with the sampling procedures outlined above. An email will be sent to them explaining the need and importance of the survey with a web link to the survey. Within 5 days, a follow-up email will be sent to the respondents reminding them to complete the survey. Finally, the respondents will receive an email thanking them for the willingness to participate in the survey and reminding them to complete it if they have not already. The respondent will always have the option to submit the survey in paper form, should they elect to do so.

Focus Groups: Some data and information are best collected through more subjective, conversational means. A focus group is an informal, small-group discussion designed to obtain in-depth qualitative information. Individuals are specifically invited to participate in the discussion, whether in person or through technologically enhanced means (i.e., video conferencing, on-line sessions). Participants are encouraged to talk with each other about their experiences, preferences, needs, observations, or perceptions. A moderator whose role is to foster interaction leads the conversation. The moderator makes sure that all participants are encouraged to contribute and that no individual dominates the conversation. Furthermore, the moderator manages the discussion to make sure it does not stray too far from the topic of interest. Focus groups are most useful in an exploratory stage or when the bureaus and offices want to develop a deeper understanding of a program or service.

Using the best in focus group research practices, groups will be constructed to include a cross-section of a given customer group. The questions and additional probes used during the focus groups will be consistent with the "guideline menu" discussed below.

Comment Cards: As discussed in the Background section above, agencies have been instructed to provide a means to address customer complaints. To facilitate this, comment cards may be employed. Comment cards, when provided to a customer at the time a product or service is provided, offer an excellent means to give the bureaus and offices feedback. A comment card should have a limited number of questions and an opportunity to comment. These comment cards provide managers and service providers with direct, specific, and timely information from their customers about new service problems as they crop up, or extraordinary performance, that could not be obtained through any other means.

Electronic users may be offered the opportunity to complete a comment card via a "pop-up" window (or other web-enabled means that may be available). The "pop-up" window will not appear for every user; rather, the users will be randomly selected to receive the survey. This practice is widely used in private industry. In other instances, the electronic user may be offered the option to self-select in answering the electronic comment card.

Whether using paper or electronic comment cards, the intent is to provide a feedback mechanism. The data are not intended to be statistically significant. Although questions may include numeric scales. those data should be considered only in an anecdotal fashion and not reported as a significant measure.

Remuneration/Incentives: A great deal of the literature related to customer satisfaction research recommends that incentives, monetary and non-monetary, be used to increase response rates (see D. Dillman publications, specifically Mail and Internet Surveys, 2000). Although bureaus and offices acting in wholly a regulatory role would not seek to provide remuneration to their permittees, bureaus and offices that operate in a more service-related mode may find incentives to be both helpful and appropriate. Therefore, DOI proposes to handle remuneration/incentives on a case-by-case basis as part of the expedited OMB review (i.e., the 10-day expedited OMB review). An agency may propose non-monetary incentives; such as a discount at an on-site book store, a small souvenir, or complimentary access to a facility/site.

Topic Areas: The participating bureaus and offices propose to survey customers in the following general categories:

- Authorized public land uses (i.e., rights-of-way, land management transactions, mining, recreation, oil and gas, grazing, wildlife photographers, hunters, and fishers)
- Coal operators
- Contractors/venders
- Disabled persons and groups representing disabled persons
- Educators/researchers
- Environmental groups
- Governments representatives (State, local, and foreign)
- Grant recipients
- Indian Tribes/Alaskan Natives/Native Americans
- Industry groups (i.e., mining, oil and gas)
- Insular governments
- Interested publics/special interest groups (i.e., Friends groups for wildlife refuges)
- Law enforcement authorities, custom brokers, and brokers' associations
- Local communities
- Private and public land stakeholders (i.e., hunting, fishing, farming, banking, legal, real estate representatives, and land trust operators)
- Public information center users
- Scientific data users and technical assistance recipients
- State wildlife agencies' representatives
- Taxidermists and falconers
- Technical training recipients
- Trade organizations
- Utilities' representatives
- Visitors/Recreation
- Volunteers (past, present, prospective)
- Zoo, aquarium, and botanical garden stakeholders

There are 11 topic areas that the participating bureaus and offices are proposing to voluntarily obtain information from their customers and stakeholders. No one survey will cover all the topic areas; rather, this serves as a "guideline menu" from which the agencies would develop their questions. Example(s) of the types of questions that would be asked under each topic are provided. Under the proposed ICR, the agencies could use these specific questions or develop questions that fit within the generally understood confines of the topic area. Questions may be asked in languages other than English, i.e., Spanish, where appropriate.

The surveys could be designed using one of two generally accepted modes: (a) A statement for which the respondent uses a scaled answer (i.e., strongly agree, strongly disagree, not applicable, etc., based on a Lichert Scale) or (b) a question that asks for a specific response (i.e., yes/no, demographics, open-ended improvement question, etc.). For questions that use the Lichert scale and a preset list of options, the data will be reported in a numeric fashion, including average response and percent favorable. Open-ended questions will be subjected to a content analysis and be reported on accordingly.

1. Communication/information/education:

a. Providing consistent and timely information to the public.

b. Where did you obtain your information about this site?

c. Making it easy for people to find out about proposed changes.

d. Educating people about particular processes.
e. Providing accurate, detailed and affordable maps and brochures.
f. Providing useful web site, signs, publications, and exhibits.
g. Charging an appropriate fee for the information/material provided.
h. The information provided was effective and helpful.
i. Providing quality web-based information.
j. Engaging the public in the planning process.
2. Disability accessibility:
a. Do you or does someone in your party have a disability?
b. If yes, how well does the agency make buildings, facilities, and trails accessible to people with disabilities?
c. Accessibility to the programs and activities that address my needs.
3. Facilities:
a. Maintaining roads and trails.
b. Maintaining a clean recreation site.
c. Providing entrance/directional signs to sites and facilities.
d. Providing a facility that is conducive to meeting specific user needs.
4. Management practices:
a. Responding to issues and problems in a timely manner.
b. Providing access to a supervisor to resolve the problem.
c. Understanding my needs.
d. If you could make one improvement to XXX service, what would it be?
5. Resource management:
a. Providing reasonable access to resources.
b. The extent to which the natural and cultural resources are protected.
c. Getting public input when identifying critical areas for conservation.
d. Preserving water resources and habitat for fish, wildlife, and plants.
6. Rules, regulations, policies:
a. Ensuring public awareness of rules and regulations.
b. Ensuring fair and consistent policies for all users.
c. The rules, regulations, and policies are clear and in plain language.
d. Providing adequate protest and appeal policies to resolve issues and disputes.
e. Adequately enforcing rules and regulations for all users.
7. Service delivery:
a. Providing a single point of contact.
b. The staff I interacted with were courteous and friendly.
c. The staff I interacted with were knowledgeable about the rules and regulations.
d. The staff I interacted with were able to answer my questions about natural, historic, and cultural resources.
e. The staff listened to and considered my ideas.
f. The training I received provided the information I needed.
g. The response was timely.
8.Technical assistance:
a. Provides unbiased scientific and technical.support products and services.
b. Reflects reasonable pricing.
c. Quality of the execution of the analysis and interpretation.
d. Considered alternative interpretations.
e. Provides useful information.
9. Program-specific: These questions will reflect the specific details of a program that pertain to their customer respondents. The questions will be developed to address very specific and/or technical issues related to the program. The questions will be geared toward gaining a better understanding about how to provide specific products and services as well as the priority the public would give to specific program objectives; they will not ask the respondents for their opinions about policies.
10. Overall satisfaction:
a. Everything considered, how would you rate your overall satisfaction with the delivery of XXX program or service?
b. Values my relationship as a customer.
c. I will contact or visit again for information or services.
d. I trust XXX agency to do a good job performing XXX mission.
11. General demographics:
a. What is your zip code?
b. How many times have you used this service in the previous 12 months?
c. How many people are in your group?
d. What activities did you participate in?
e. As part of your recreation in this site/area, approximately how much money did you spend in the local community/area (e.g. lodging, equipment, food, fuel, maps/books, tours, guides)?
f. What was your total household income (before taxes) in 2000 (less than $20,000; $20,000 to $39,999; $40,000 to $59,999; $60,000 to $79,999; $80,000 to $99,999; $100,000 to $119,999; $120,000 or more)?
g. What is the highest level of education you have completed (some high school or less; high school graduate or GED; business school, trade school, or some college; college graduate; some graduate school; masters, Ph.D., or professional degree)?
h. What is the primary language spoken at home? (i.e., English, Spanish)
i. In what ethnic group would you place yourself (Hispanic/Latino or non-Hispanic/Latino)?
j. In what race would you place yourself (American Indian, Eskimo, Aleut; Asian or Pacific Islander; Black or African America; White; Native Hawaiian)? Select one or more.

Uses of Data: Chiefly, these data are being collected to improve the service and products that the participating bureaus and offices provide to the public. Managers and program specialists use these data to identify:

- Service needs of customers
- Strengths and weaknesses of services
- Ideas or suggestions for improvement of services from our customers
- Barriers to achieving customer service standards
- Changes to customer service standards
- Baselines to measure change in improving service delivery over time
- Improving public trust in government

They also use this information to support all aspects of planning, from buildings, roads, and interpretive exhibits, to technical systems. In conducting their management, planning, and monitoring activities, managers also use the information to effectively allocate their limited personnel and financial resources to the highest priority elements.

While the information will not be used for regulatory development, DOI anticipates that the information obtained could lead to reallocation of resources, revisions in certain agency processes and policies, and development of guidance related to the agency's customer services. Ultimately, these changes should result in improvement in services DOI provides to the public and, in turn, the public perception of DOI.

In fulfilling the requirements of GPRA, DOI and all of its bureaus and offices have created a Strategic Plan in coordination with their respective publics. GPRA requires DOI to annually report on its progress toward achieving the goals outlined in the Annual Performance Plan. Some of the data collected may be used as the basis or in support of specific performance measures.

Frequency: The frequency varies by survey.

Estimated Number and Description of Respondents: See attached "Table: Customer Types by Participating Bureau/Office" for list of respondents. This table shows the likely groups that would be surveyed by each bureau and office but is not intended to limit the bureaus and offices to such groups.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: We estimate that there are approximately 120,000 respondents submitting 120,000 responses (surveys and comment cards) annually. The average public reporting burden for a customer survey is estimated to be 15 minutes per respondent. For comment cards, the average public reporting burden is estimated to be 3 minutes per response. Given these estimates, DOI anticipates a budget of 18,000 hours per year for these proposed collections. We estimate, base on a $15 per hour valuation of volunteer time and the projected budget hours, an approximate aggregate cost to respondents of $270,000. Burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information, including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for purposes of collecting, validating, verifying, processing, maintaining, disclosing, and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting or otherwise disclosing information. Please comment on the accuracy of our estimates and how DOI's bureaus and offices could minimize the burden of the collection information, including the use of automated techniques.

Estimated Annual Reporting and Recordkeeping "Non-Hour cost" Burden: We have identified no "non-hour costs" burdens.

Public Disclosure Statement: The PRA provides that a Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology. Furthermore, we are interested in your comments regarding the need for and appropriateness of remuneration/incentives, or other suggestions you may have to increase response rates.

To comply with the public consultation process, on August 8, 2001, we published a **Federal Register** Notice (66 FR 41600) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. No public comments were received.

If you wish to comment in response to this notice, send your comments directly to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by January 4, 2002.

Public Comment Policy: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you, as a commenter, wish us to withhold your name and/or address, you must state this prominently as the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives of organizations or businesses, available for public inspection in their entirety.

DOI Information Collection Contact: Office of Planning and Performance Management (202) 208–1818.

Dated: November 13, 2001.

Norma J. Campbell,

Director, Office of Planning and Performance Management.

TABLE.—CUSTOMER TYPE BY PARTICIPATING BUREAU/OFFICE

	Description	BIA	BLM	BOR	FWS	Insular Aff	MMS	OAPM	OEP	OSM	USGS
Authorized public land uses	ROW; Land Mgmt transactions, min.	x	.....	.....	.....	.....	.....	.....	.....	.....	.....
Coal operators		.....	.....	.....	.....	.....	.....	.....	.....	x	.....
Contractors/vendors	Concessionaires	x	.....	.....	x	.....	.....	x	.....	.....	.....
Disabilities		.....	x	.....	x	.....	.....	.....	.....	.....	.....
Environmental groups		.....	x	.....	x	.....	x	.....	.....	.....	x
Governments	State, local, foreign	x	x	x	x	.....	x	.....	.....	.....	x
Grant recipients		.....	.....	.....	.....	.....	.....	x	.....	.....	.....
Indian Tribes/Alaskan villages.		x	.....	.....	x	.....	.....	.....	.....	x	x
Industry groups		.....	x	x	x	.....	x	x	.....	.....	x
Insular governments		.....	.....	.....	.....	x	.....	.....	.....	.....	.....
Interested publics	Community and specific-interest groups.	.....	.....	x	x	.....	x	.....	.....	x	x
Law Enforcement	Forensics, importers/exporters.	.....	.....	.....	x	.....	.....	.....	.....	.....	.....
Mining companies		.....	.....	.....	.....	.....	.....	.....	.....	.....	x
Public information centers		.....	x	.....	x	.....	.....	.....	.....	.....	.....
Scientific data users	GIS	.....	.....	.....	x	.....	.....	.....	.....	.....	.....
State governments		x	x	x	x	.....	x	.....	.....	x	x
State wildlife agencies	State biologists	x	.....	.....	x	.....	.....	.....	.....	.....	.....
Universities/Educators		.....	.....	x	x	.....	x	x	x	.....	.....

TABLE.—CUSTOMER TYPE BY PARTICIPATING BUREAU/OFFICE—Continued

	Description	BIA	BLM	BOR	FWS	Insular Aff	MMS	OAPM	OEP	OSM	USGS
Utilities		.....	.....	x	.....	.....	.....	.....	.....	.....	.....
Visitors/Recreation	Visitors to federal land, bird watcher.	.....	x	x	x	.....	.....	.....	.....	.....	.....

[FR Doc. 01–30029 Filed 12–4–01; 8:45 am]
BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

American River Pump Station Project, Placer County, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of extension of time for review of draft environmental impact statement/environmental impact report (EIS/EIR).

SUMMARY: The Bureau of Reclamation (Reclamation) is extending the public review period for the Draft EIS/EIR for the PCWA American River Pump Station Project to December 13, 2001. The notice of availability for the Draft EIS/EIR was published in the **Federal Register** on September 13, 2001 (66 FR 47685–47686). The public review period was originally to end on November 13, 2001.

DATES: Public comments on the Draft EIS/EIR should be submitted on or before December 13, 2001.

ADDRESSES: Written comments on the Draft EIS/EIR should be addressed to Ms. Carol Brown, Surface Water Resources, Inc., 2031 Howe Avenue, Suite 110, Sacramento, California 95825. Requests for a printed copy of the Draft Programmatic EIS/EIR should also be addressed to Ms. Carol Brown.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Mr. Roderick Hall, Reclamation, at (916) 989–7279, TDD (916) 980–7285, or e-mail *rhall@mp.usbr.gov;* or Mr. Brent Smith, PCWA, at (530) 823–4889, or e-mail at *bsmith@pcwa.net.*

Dated: November 16, 2001.

Frank Michny,

Regional Environmental Officer.

[FR Doc. 01–30095 Filed 12–4–01; 8:45 am]
BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–267 and 268 (Review) (Remand)]

Top-of-Stove Stainless Steel Cooking Ware From Korea and Taiwan; Notice and Scheduling of Remand Proceedings

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The U.S. International Trade Commission (the Commission) hereby gives notice of the court-ordered remand of its final antidumping investigation in Top-of-Stove Stainless Steel Cooking Ware from Korea and Taiwan No. 731–TA–267 and 268 (Review).

EFFECTIVE DATE: November 29, 2001.

FOR FURTHER INFORMATION CONTACT: George Deyman, Office of Investigations, telephone 202–205–3197 or Laurent de Winter, Office of General Counsel, telephone 202–708–5452, U.S. International Trade Commission. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION

Reopening of the Record

For purposes of its determination on remand, the Commission is reopening the record in this investigation for the limited purpose of (1) seeking basic information regarding subject product from Taiwan and (2) seeking to cure the possible inclusion of non-subject products in official import data. The Commission will provide the parties an opportunity to file comments on any new information received pertaining to these subjects. A schedule for the submission of such comments will be published shortly.

Participation in the Proceedings

Only those persons who were interested parties to the original administrative proceedings (i.e., persons listed on the Commission Secretary's service list) may participate in these remand proceedings.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Information obtained during the remand investigation will be released to parties under the administrative protective order ("APO") in effect in the original investigation. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make business proprietary information gathered in the final investigation and this remand investigation available to additional authorized applicants, that are not covered under the original APO, provided that the application is made not later than seven (7) days after publication of the Commission's notice of reopening the record on remand in the **Federal Register**. Applications must be filed for persons on the Judicial Protective Order in the related CIT case, but not covered under the original APO. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO in this remand investigation.

Authority: This action is taken under the authority of the Tariff Act of 1930, title VII.

Issued: November 29, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–30075 Filed 12–4–01; 8:45 am]
BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, notice is hereby given that on November 14, 2001, a proposed consent decree in the case captioned *Dow Chemical Co., et al.* v. *Acme Wrecking Co., Inc., et al.*, Civil Action Nos. C–1–97–0307, C–1–97–0308, and C–1–01–439 (S.D. Ohio), was lodged with the United States District Court for the Southern District of Ohio. The proposed

de minimis consent decree relates to the Skinner Landfill Superfund Site ("Site") in West Chester, Ohio. The proposed consent decree would resolve civil claims of the United States for response actions and for the recovery of response costs at the Site under Sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9606, 9607(a), against Sealy, Inc., and Sealy Mattress Co. (collectively "Sealy"), Acme Wrecking Co., Inc. ("Acme Wrecking"), and the David Hirschberg Co. ("Hirschberg"). Under the proposed consent decree: (1) Sealy would pay the United States $23,695, and would pay the parties that are performing the work at the Site (the "Skinner Landfill Site Group") $94,780; (2) Acme Wrecking would pay the United States $14,000 and would pay the Skinner Landfill Site Group $56,000; and (3) Hirschberg would pay the United States $3,800, and would pay the Skinner Landfill Site Group $15,200.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resource Division, Department of Justice, Washington, D.C. 20530, and should refer to *Dow Chemical Co. et al.* v. *Acme Wrecking Co., Inc. et al.*, Civil Action Nos. C–1–97–0308, and C–1–01–439 (S.D. Ohio), and DOJ Reference No. 90–11–3–1620/2.

The proposed consent decree may be examined at: (1) the Office of the United States Attorney for the Southern District of Ohio, 220 U.S.P.O. & Courthouse, 100 E. 5th St., Cincinnati, OH 45202; and (2) the United States Environment Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. Copies of the proposed consent decrees may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044. In requesting copies, please refer to the above-referenced case and DOJ Reference Number and enclose a check for $10.50 (42 pages at 25 cents per page reproduction cost) made payable to the Consent Decree Library.

William D. Brighton,

Assistant Section Chief, Environment Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–30156 Filed 12–4–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Department of Justice policy codified at 28 CFR 50.7 and Section 122 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622, 42 U.S.C. 9622, notice is hereby given that on November 14, 2001, two proposed consent decrees in *United States* v. *American Allied Additives, Inc., et al.*, No. 00–01014, were lodged with the United States District Court for the Northern District of Ohio. The proposed consent decrees would settle the United States' claims against defendants Richard Henry and Rauh Rubber, Inc. under CERCLA §§ 106 and 107, 42 U.S.C. 9606 and 9607, in connection with the American Allied Additives Superfund Site ("Site") in Cleveland, Ohio. The proposed consent decree with Mr. Henry would also resolve his counterclaim against the United States for attorney fees and other expenses pursuant to 5 U.S.C. 504.

The U.S. Environmental Protection Agency ("EPA") incurred unreimbursed costs of approximately $148,000 in responding to the release or threatened release of hazardous substances at the Site. Mr. Henry and Rauh Rubber, Inc. are liable for response costs at the Site as generators of waste disposed there and are subject to civil penalties for noncompliance with a Unilateral Administrative Order issued by EPA for the performance of an emergency removal at the site.

Under the proposed consent decrees, Mr. Henry agrees to pay a total of $2,500 ($500 for the claim under CERCLA Section 106, and $2,000 for the claim under CERCLA Section 107), and Rauh Rubber, Inc. agrees to pay a total of $10,000 ($3,000 for the claim under CERCLA Section 106, and $7,000 for the claim under CERCLA Section 107). Payment is due within thirty (30) days of entry of the respective consent decree. Mr. Henry also agrees to dismiss with prejudice his counterclaim against the United States. Further, Mr. Henry and Rauh Rubber, Inc. will receive a covenant not to sue and contribution protèction for Site response costs, as well as a covenant not to sue for civil penalties for the violations alleged in the complaint.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments related to the proposed consent decrees. Comments may be submitted on one or both consent decrees. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530, and should refer to *United States* v. *American Allied Additives, Inc., et al.*, Civil Action No. 00–01014; D.J. Ref. No. 90–11–2–1318.

The consent decrees may be examined at the Office of the United States Attorney, 1800 Bank One Center, 600 Superior Avenue, Cleveland, Ohio 44114, and at the U.S. Environmental Protection Agency, Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the consent decrees may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044. In requesting a copy, please enclose a check in the amount of $5.00 for one consent decree (20 pages at 25 cents per page reproduction cost), or $10.00 for both consent decrees (40 pages at 25 cents per page reproduction cost).

William Brighton,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–30155 Filed 12–4–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Oil Pollution Act of 1990

In accordance with Departmental policy, notice is hereby given that a proposed Consent Decree in *United States* v. *Equilon Pipeline Company, LLC, et al.*, ("Settling Defendants"), Civil Action No. H– 01 3171, was lodged on September 17, 2001, with the United States District Court for the Southern District of Texas.

In this action the United States and the State of Texas, pursuant to Section 1002 of the Oil Pollution Act of 1990, ("OPA"), 33 U.S.C. 2702, seek natural resource damages, including assessment costs, arising out of the discharge of oil and gasoline into the navigable waters of the United States and the State of Texas in the vicinity of the San Jacinto River on or about October 20, 1994.

The proposed Consent Decree provides for the Defendant's purchase of about 100 acres of replacement property and payment of $250,000, to be used to construct estuarine and freshwater habitat. That payment will also produce about $30,000 for management by the

Trustees of a mixed forest habitat preservation site to be acquired by the Defendants.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, P.O. Box 7611, United States Department of Justice, Washington, D.C. 20044–7611, and should refer to *United States* v. *Equilon Pipeline Company, LLC, et al.*, DOJ Ref. 90–5–1–1–4376/1.

The proposed Consent Decree may be examined at the office of the United States Attorney, Southern District of Texas, 911 Travis Street, Suite 1500, Houston, Texas 77208. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, United States Department of Justice, Washington, D.C. 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $6.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Tom Mariani,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–30157 Filed 12–4–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Gallo Glass Company*, Civil Action No. C 01 3350 JL, (N.D. Cal.), was lodged with the United States District Court for the Northern District of California on November 8, 2001. This proposed Consent Decree concerns a complaint filed by the United States against Gallo Glass Company and Jack Neal and Son, Inc., pursuant to sections 301(a) and 404 of the Clean Water Act, 33 U.S.C. 1311(a) and 1344 and imposes civil penalties against the Defendants for the excavation and deep ripping of 260 acres of wetlands and depositing fill material into approximately 12.5 acres of drainage, swales, and creeks in wetlands adjacent to Washoe Creek, a tributary to the Laguna de Santa Rosa Creek and Russian River, located on Stoney Point, near Cotati, Sonoma County, California. Defendants also cleared vegetation, woody debris, and placed large boulders/rip-rap on approximately 1000 linear feet of Porter Creek in Twin Valley, near Windsor, in Sonoma County.

The proposed Consent Decree requires the payment of civil penalties in the amount of $95,000 and prohibits the discharge of pollutants into the waters of the United States. In addition to the civil penalty, the Consent Decree requires Defendants, at their own expense and subject to approval by the Corps, to provide compensatory mitigation for the filled drainage, swales and creeks in accordance with the approved Mitigation Plan.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to Charles O'Connor, United States Attorney's Office, 450 Golden Gate Ave., 16th Floor, San Francisco, CA 94102 and refer to *United States* v. *Gallo Glass Co.*

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Northern District of California, 450 Golden Gate Ave., 16th Floor, San Francisco, CA 94102.

Stephen Samuels,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 01–30154 Filed 12–4–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree

Notice is hereby given that a proposed Consent Decree with C & A Diary in *United States* v. *Calvin and Annette VanDerVeen*, No. 00–1159–KI, was lodged on November 15, 2001, with the United States District Court for the District of Oregon.

The proposed Consent Decree would resolve a lawsuit filed by the United States against Defendants in the United States District Court for the District of Oregon on August 22, 2000. The complaint alleged that Defendants had discharged manure from the C & A Dairy, in McMinnville, Oregon, into a creek on at least four occasions between March 1998 and April 2000, in violation of sections 309(b) and (d) of the Clean Water Act, 33 U.S.C. 1319(b) & (d); the complaint also alleged that Defendants had failed to comply with a 1998 EPA administrative order to cease discharging and to prepare a corrective action plan. The proposed Consent Decree provides for the payment of a $1,000 civil penalty and contains a prohibition against future discharges.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Calvin and Annette VanDerVeen*, DOJ Ref. #90–5–1–1–06963.

The proposed Consent Decree may be examined at the office of the United States Attorney, 1000 SW. 3rd Avenue, Suite 600, U.S. Courthouse, Portland, Oregon 97204; the Region 10 office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101. A copy of the consent decree can be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy refer to the referenced case and enclose a check in the amount of $3.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Robert Maher,

Assistant Section Chief, Environmental Enforcement Section.

[FR Doc. 01–30153 Filed 12–4–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 251–2001]

Privacy Act of 1974; Notice of the Removal of a System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Office of Intelligence Policy and Review (OIPR), Department of Justice is removing a published Privacy Act system of records entitled "Domestic Security/Terrorism Investigations Records System (JUSTICE/OIPR–004)." This system notice was last published in the **Federal Register** on January 26, 1984 (49 CFR 3285).

JUSTICE/OIPR–004 is being removed because the records are not (nor have they ever been) retrieved by individual names or other personal identifiers. The records were filed and retrieved by entity/organization. Accordingly, there is no statutory requirement to publish a system notice, and the Domestic Security/Terrorism Investigations Records System notice is removed from the Department's compilation of Privacy Act systems. The Domestic Security/Terrorism Investigation function was transferred from OIPR to the Criminal

Division in 1995. The OIPR's remaining records have been sent to the National Archives and Records Administration.

Dated: November 13, 2001.

Janis A. Sposato,

Acting Assistant Attorney General for Administration.

[FR Doc. 01–30158 Filed 12–4–01; 8:45 am]

BILLING CODE 4410–AW–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States et al. v. Waste Management, Inc. et al.; Joint Motion To Modify Final Judgment

Notice is hereby given that a Joint Motion to Modify the Final Judgment was filed with the United States District Court for the Eastern District of New York in United States et al. v. Waste Management, Inc. et al., Civil No. 98 CV 7168 on October 23, 2001. The Complaint alleged that Waste Management's proposed acquisition Eastern Environmental Services, Inc. would violate Section 7 of the Clayton Act, 15 U.S.C. 18, by substantially lessening competition in waste collection and/or disposal in nine markets around the country. The Final Judgment in the case required, among other things, that Waste Management divest Eastern's Kelly Run landfill located in Elizabeth, Pennsylvania.

A Competitive Impact Statement filed by the United States describes the Complaint, the Final Judgment, the industry, and remedies to be implemented by Waste Management. The Joint Motion to Modify the Final Judgment seeks an Order from the Court that Waste Management shall have no obligation under the Final Judgment to divest the Kelly Run landfill. Copies of the Complaint, Hold Separate Stipulation and Order, Final Judgment, Competitive Impact Statement, and the Joint Motion to Modify the Final Judgment are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW, Washington, DC, and at the office of the Clerk of the United States District Court for the Eastern District of New York, Brooklyn, New York. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Public comment is invited within the statutory 60-day comment period. Such comments and response thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW, Suite 3000, Washington, DC 20530 (telephone: 202–307–0924).

Constance K. Robinson,

Director of Operations, and Merger Enforcement.

[FR Doc. 01–30159 Filed 12–4–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Frame Relay Forum

Notice is hereby given that, on October 5, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The Frame Relay Forum has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 3Com Corporation, San Jose, CA; Avantel S.A., Cuajimalpa, Distrito Federal, Mexico; BRECIS Communications, San Jose, CA; Cabletron Systems, Rochester, NH; Caspian Systems, San Jose, CA; C–Dot, New Delhi, India; Comnet Iletism Hizmetleri, Istanbul, Turkey; Crosskeys Systems Corporation, Kanata, Ontario, Canada; CS Telecom, Fontenay aux Roses, France; Develcon Electronics, Toronto, Ontario, Canada; EICON Technology, Montreal, Quebec, Canada; ENERGIS Communications, Ltd., London, United Kingdom; Ennovate Networks, Boxboro, MA; Expand Networks, Langhorne, PA; Fujitsu Nexion, Acton, MA; GN Nettest, Markham, Ontario, Canada; Hypercom, Inc., Phoenix, AZ; IIR Limited, London, United Kingdom; InComA, Ltd., Moscow, Russia; Infinitec Communications, Tulsa, OK; Institut ERIS, Massy, France; Intertek Testing Services, Lexington, KY; JTEC PTY Ltd., Meadowbank, NSW, Australia; Krawutschke Consulting and Management, Durmersheim, Germany; Motorola, Mississuaga, Ontario, CANADA; NetPlane, Dedham, MA; NetScout, Westford, MA; Next Level Communications, Rohnert Park, CA; Northgate-Cyberzone, Manila, Philippines; Norweb Telecon, Manchester, United Kingdom; Omnico, Fort Lauderdale, FL; Science Dynamics Corporation, Cherry Hill, NJ; Siemens AG, Munich, Germany; Sitara Networks, Waltham, MA; Spider Software Limited, Edinburgh, United Kingdom; Sync Research, Irvine, CA; Trillium Digital Systems, Inc., Los Angeles, CA; TTC, Germantown, MD; University of Hawaii, Honolulu, HI; and Verizon Communications, Boston, MA have been dropped as parties to this ventrue. The following members have been involved in acquisitions: Clarent Corporation, Redwood City, CA acquired ACT Networks, Brossard, Quebec, Canada; Global One, Paris, France acquire France Telecom, Issy des Meaux, France; Equant, Reston, VA acquired Global One, Reston, VA; and Qwest Communications International, Denver, CO acquired US West, Denver, CO. The following members have changed their names: Fluke Corporation, Everett, WA to Fluke Networks, Inc., Everett, WA; and H3 Comm. Consultancy, Felixstowe, United Kingdom to Accent-on-Networks, Felixstowe, United Kingdom.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and The Frame Relay Forum intends to file additional written notification disclosing all changes in membership.

On April 10, 1992, The Frame Relay Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 2, 1992 (57 FR 29537).

The last notification was filed with the Department on April 27, 2000. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 9, 2000 (65 FR 48736).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–30160 Filed 12–4–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on October 11, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), IMS Global Learning Consortium, Inc. has filed written notifications

simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Advanced Distributed Learning Co-Laboratories, Alexandria, VA; British Educational Communications and Technology Agency (Becta), Coventry, England, United Kingdom; Can Studios Ltd., Sheffield, England, United Kingdom; Docent, Inc., Mountain View, CA; Epic Group Plc, Brighton, England, United Kingdom; Learning Objects Networks, Inc., Waitsfield, VT; University of Wisconsin System, Madison, WI; NYUOnline, Inc., New York, NY; and Scottish Ufl Ltd., Glasgow, Scotland, United Kingdom have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global Learning Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On April 7, 2000, IMS Global Learning Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on July 18, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 15, 2001 (66 FR 42877).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–30164 Filed 12–4–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—New Productivity Initiative, Inc.

Notice is hereby given that, on October 4, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), New Productivity Initiative, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Platform Computing, Inc., Markham, Ontario, CANADA; and Hewlett-Packard, Palo Alto, CA. The nature and objectives of the venture are (a) to promote the development and adoption of open, accessible specifications and standards relating to Distributed Resource Management (DRM) tools ("Specifications"); (b) to promote such specifications and solutions worldwide to ensure the ability for application developers to create soft- and hard-real-time applications for such technologies; to provide for testing and conformity assessment of implementations in order to ensure compliance with Specifications; (c) to create and own distinctive trademarks; (d) to operate a branding program based upon distinctive trademarks to create high customer awareness of, demand for, and confidence in products designed in compliance with Specifications; and (e) to undertake such other activities as may from time to time be appropriate to further the purposes and achieve the goals set forth above.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–30161 Filed 12–4–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum ("PERF")

Notice is hereby given that, on November 5, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Petroleum Environmental Research Forum ("PERF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Petrobras/Cenpes, Rio de Janeiro, BRAZIL has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Petroleum Environmental Research Forum ("PERF") intends to file additional written notification disclosing all changes in membership.

On February 10, 1986, Petroleum Environmental Research Forum ("PERF") filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 14, 1986 (51 FR 8903).

The last notification was filed with the Department on March 20, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 23, 2001 (66 FR 28547).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–30162 Filed 12–4–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—VSI Alliance

Notice is hereby given that, on October 12, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), VSI Alliance has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Cogency Semiconductor, Toronto, Ontario, Canada; Elixent Limited, Bristol, Avon, England, United Kingdom; FZI—Forschungszentrum Informatik an der Universitat, Karlshruhe, Germany; HGS Engineering, Inc., Sunnyvale, CA; Sammy Makar (individual member), Fremont, CA; Monterey Design Systems, Sunnyvale, CA; Semifore Technologies, Irvine, CA; SIPAC, Toejon, Republic of Korea; and Vector 12 Corporation, Richmond, British Columbia, Canada have been added as parties to this venture. Also, Aristo Technology, Cupertino, CA; Element 14, Inc., Cambridge, England, United Kingdom; EnThink, Inc., Santa Clara, CA; Fincitec Oy, Oulu, Finland; Schlumberger Technologies, Inc., San

Jose, CA; Simutech, San Jose, CA; and Universite Pierre et Marie Curie (UPMC), Paris, France have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and VSI Alliance intends to file additional written notification disclosing all changes in membership.

On November 29, 1996, VSI Alliance filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 4, 1997 (62 FR 9812).

The last notification was filed with the Department on July 5, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on July 30, 2001 (66 FR 39337).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–30165 Filed 12–4–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Portland Cement Association

Notice is hereby given that, on October 16, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, CSR Rinker Materials, West Palm Beach, FL has changed its name to Rinker Materials Corporation; Blue Circle Canada, Detroit, MI has changed its name to St. Marys Cement (U.S.); Blue Circle Canada, Toronto, Ontario, Canada has changed its name to St. Marys Cement (Canada); Lafarge Corporation, Herndon, VA has changed its name to Lafarge North America Inc.; and Rio Grande Portland Cement, Albuquerque, NM has changed its name to GCC Rio Grande. Also, Blue Circle, Marietta, GA is no longer a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PCA intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act of February 5, 1985 (50 FR 5015).

The last notification was filed with the Department on July 25, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on September 25, 2001 (66 FR 49044).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–30163 Filed 12–4–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Zyvex Corporation—Advanced Technology Program, National Institute of Standards and Technology ("Zyvex Corporation")

Notice is hereby given that, on October 15, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Zyvex Corporation—Advanced Technology Program, National Institute of Standards and Technology ("Zyvex Corporation") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of involving the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Zyvex Corporation, Richardson, TX; and Standard MEMS, Inc., Burlington, MA. The nature and objectives of the venture are to develop and demonstrate low-cost, computer controlled, microscale components, with extension of this technology to nanoscale assemblers for the commercialization of nanotechnology.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–30166 Filed 12–4–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Parole Commission

Public Announcement; Sunshine Act Meeting; Pursuant to The Government in the Sunshine Act (Public Law 94–409) (5 U.S.C. Section 552b)

AGENCY HOLDING MEETING: Parole Commission, Department of Justice.

DATE AND TIME: 10:30 a.m., Thursday, December 6, 2001.

PLACE: U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815.

STATUS: Closed—Meeting.

MATTERS CONSIDERED: The following matter will be considered during the closed portion of the Commission's Business Meeting:

Appeals to the Commissibn involving approximately two cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.27. These cases were originally heard by an examiner panel wherein inmates of the Federal prisons have applied for parole and are contesting revocation of parole or mandatory release.

AGENCY CONTACT: Sam Robertson, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: November 30, 2001.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 01–30236 Filed 12–3–01; 10:57 am]

BILLING CODE 4410–31–M

DEPARTMENT OF JUSTICE

Parole Commission

Public Announcement; Sunshine Act Meeting; Pursuant to The Government in the Sunshine Act (Pub. L. 94–409) (5 U.S.C. Section 552b).

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

TIME AND DATE: 9:30 a.m., Thursday, December 6, 2001.

PLACE: 5550 Friendship Blvd., Fourth Floor, Chevy Chase, MD 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on

the agenda for the open Parole Commission meeting:

1. Approval of minutes of Previous Commission Meeting.

2. Reports from the Chairman, Commissioners, Legal, Chief of Staff, Case Operations, and Administrative Sections.

3. Approval of policy to apply 28 CFR § 2.100 to combine initial hearings for DC prisoners with dispositional revocation hearings.

AGENCY CONTACT: Sam Robertson, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: November 30, 2001.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 01–30242 Filed 12–3–01; 11:12 am]

BILLING CODE 4410–31–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,593 and NAFTA–04454]

Innovative Home Products, Inc. Birmingham, Michigan; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Innovative Home Products, Inc., Birmingham, Michigan. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–38,593 and NAFTA–04454; Innovative Home Products, Inc., Birmingham, Michigan, (November 27, 2001)

Signed at Washington, DC this 27th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–30070 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of November, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,242; Osram Sylvania Products, Inc., Glass Technologies Div., Wellsboro, PA

TA–W–39,609; Valeo Engine Cooling, Inc., Jamestown, NY

TA–W–39,711; L & N Metallurgical Products Co., Ellwood City, PA

TA–W–39,762; Edinboro Molding, Inc., Edinboro, PA

TA–W–40,179; Ruppe Hosiery, Inc., Kings Mountain, NC

TA–W–40,113; Kings Mountain Hosiery Mill, Inc., Kings Mountain, NC

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–40,055; GFC Fabricating, LLC, Berwick, PA

TA–W–39,273; United States Steel LLC, Fairless Hills, PA

All workers of United States Steel LLC, Fairless Hills, PA engaged in employment related to the production of tin mill products are denied.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,071; H.H. Fessler Knitting Co., Crown-Globe Div., Shoemakersville, PA: April 6, 2000.

TA–W–39,633; Gamco Manufacturing Co., Inc., Jamestown, TN: June 29, 2000.

TA–W–39,902; Suncook Trim Corp., Allenstown, NH: August 16, 2000.

TA–W–40,203; Hamrick's, Inc., St. Matthews Plant, St. Matthews, SC: September 27, 2000.

TA–W–40,231; Weiser Lock, Tucson, AZ: December 29, 2001.

TA–W–40,189; Philadelphia Glass Bending Co., Philadelphia, PA: September 10, 2001

TA–W–39,788; Lancer Partnership, Ltd., Screw Machine Department, San Antonio, TX: July 31, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of November, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–05183; Cognis Corp., Lock Haven, PA
NAFTA–TAA–05448; Kings Mountain Hosiery Mills, Inc., Kings Mountain, NC
NAFTA–TAA–05102; General Mills, Carlisle, PA
NAFTA–TAA–05316; GFC Fabricating, LLC, Berwick, PA
NAFTA–TAA–05202; General Cable Corp., Montoursville, PA
NAFTA–TAA–05229; Edinboro Molding, Inc., Edinboro, PA
NAFTA–TAA–05161; Greenbrier Leasing Corp., Gunderson, Inc., Lake Oswego, OR
NAFTA–TAA–05106; L.E. Smith Glass Co., Mount Pleasant, PA
NAFTA–TAA–04684; Crane Pumps and Systems, Piqua, OH
NAFTA–TAA–05158; Valeo Engine Cooling, Inc., Jamestown, NY
NAFTA–TAA–04750; H.H. Fessler Knitting Co., Crown-Globe Div., Shoemakersville, PA

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–05296; Parker Hannifin Corp., Integrated Hydraulics Div., Lincolnshire, IL: August 17, 2000.
NAFTA–TAA–04840; Osram Sylvania Products, Inc., Glass Technologies Div., Wellsboro, PA: May 1, 2000.
NAFTA–TAA–05057; Gamco Manufacturing Co., Inc., Jamestown, TN: July 9, 2000.
NAFTA–TAA–05447; VF Imagewear (West), Inc., Mathiston, MS: October 16, 2000.
NAFTA–TAA–04636; Freightliner LLC, Truck Manufacturing Plant, Portland, OR: March 9, 2000.
NAFTA–TAA–05383; Hamrick's, Inc., St. Matthews Plant, St. Matthews, SC: September 27, 2000.
NAFTA–TAA–05329; Emerson Process Management, Regulator Div., McKinney, TX: September 11, 2000.
NAFTA–TAA–05442; Weiser Lock, Tucson, AZ: December 29, 2001.

I hereby certify that the aforementioned determinations were issued during the month of November, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 26, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–30055 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,029]

Atofina Chemicals, Inc. Including Contract Workers of Washore Mechanical and Blessing Electric, Portland, Oregon; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 19, 2001, applicable to workers of Atofina Chemicals, Inc., Portland, Oregon. The notice was published in the **Federal Register** on July 5, 2001 (66 FR 35463).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Information provided by the State and the company shows that employees of Washore Mechanical and Blessing Electric were employed by Atofina Chemicals, Inc. to repair chlorine and chlorate cells, perform pipe maintenance and installation duties and maintain and install high voltage electric systems necessary to produce chloralkali chemicals at the Portland, Oregon location of the subject firm.

Worker separations occurred at Washore Mechanical and Blessing Electric as a result of worker separations at Atofina Chemicals, Inc., Portland, Oregon.

Based on these findings, the Department is amending the certification to include workers of Washore Mechanical and Blessing Electric employed at Atofina Chemicals, Inc., Portland, Oregon.

The intent of the Department's certification is to include all workers of Atofina Chemicals, Inc., Portland, Oregon who were adversely affected by increased imports.

The amended notice applicable to TA–W–39–029 is hereby issued as follows:

All workers of Atofina Chemicals, Inc., Portland, Oregon and all workers of Washore Mechanical and Blessing Electric, Portland, Oregon engaged in activities related to the production of chloralkali chemicals at Atofina Chemicals, Inc., Portland, Oregon, who became totally or partially separated from employment on or after April 4, 2000, through June 19, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 13th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–30061 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,900]

Borg Warner Air/Fluid Systems Corporation, Water Quality Valley, MS; Notice of Negative Determination on Reconsideration

On October 29, 2001, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice will soon be published in the **Federal Register**.

The Department initially denied TAA to workers of Borg Warner Air/Fluid Systems Corporation, Water Valley, Mississippi based on criterion (2) of the group eligibility requirements of section 222 of the Trade Act of 1974, as amended, not being met. The workers at the subject firm were engaged in employment related to the production of transmission control solenoids, transmission control modules, throttle bodies, and air suspension control solenoids.

The petitioner indicated that the Department of Labor reviewed the wrong sales and production period. The petitioner also indicated that the layoffs pertaining to the original investigation were the direct result of anticipated reduced orders from the subject firm's major customer. The petitioner further indicated that increased imports of automobiles reduced the demand for the customers' products and in turn the customer reduced their purchases from the subject plant.

The Department, upon the request of the petitioner, acquired additional subject plant sales and production data for an additional portion of the relevant period. That data were not available during the initial investigation. The additional data obtained from the

company depict increases in plant sales and production.

The petitioner's statement regarding reduced orders by their major customer is not relevant unless declines in sales and production occur during the period of the investigation. Since plant sales and production increased during the scope of the initial investigation, criterion 2 of the group eligibility requirement was not met. If these conditions changed since the initial decision, the petitioners are encouraged to reapply for TAA group eligibility.

The petitioner's statements that increased import competition of automobiles may have impacted the customer of the subject firm is not a relevant factor to the petition that was filed on behalf of workers producing components for automobiles at the subject plant. The products imported must be like and directly competitive with those products produced at the subject firm to meet the "contributed importantly" criterion.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Borg Warner Air/Fluid Systems Corporation, Water Valley, Mississippi.

Signed at Washington, DC this 13th day of November 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–30065 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,326]

Chiquola Fabrics, LLC, Kingsport, Tennessee; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 29, 2001 in response to a petition filed by a company official on the same date on behalf of workers at Chiquola Fabrics, LLC, Kingsport, Tennessee. Chiquola Fabrics, LLC purchased JPS Converter and Industrial Corporation, Borden Plant, Kingsport, Tennessee, whose workers were certified eligible to apply for Trade Adjustment Assistance (TA–W36,891). That certification has been amended to encompass workers at the same facility employed by Chiquola Fabrics, LLC, Kingsport, Tennessee.

The petitioner in this case has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 26th day of November, 2001.

Edward A. Tomchick,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–30071 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,068]

Elizabeth Webbing, Inc., Central Falls, Rhode Island; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of August 1, 2001, the workers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, petition TA–W–39,068. The denial notice was signed on June 25, 2001 and published in the **Federal Register** on July 11, 2001 (66 FR 36329).

The Department has reviewed the request for reconsideration and has determined that further survey of major declining customers of the subject firm would be appropriate.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC this 13th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–30058 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,666]

International Wire Insulated, Elkmont Extrusion, Elkmont, Alabama; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 23, 2001 in response to a petition filed by a company official on behalf of workers at International Wire Insulated, Elkmont Extrusion, Elkmont, Alabama.

This case is being terminated upon the petitioner's request to withdraw the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 27th day of November 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–30072 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,560]

ISB Fashion, Inc., New York, New York; Amended Certification Regarded Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on August 29, 2001, applicable to workers of ISB Fashion, Inc., New York, New York. The notice was published in the **Federal Register** on September 11, 2001 (66 FR 47241).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of women's dresses. Findings show that the Department incorrectly set the worker certification impact date at June 21, 2001. The impact date should be June 21, 2000, one year prior to the date of the petition.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–39,560 is hereby issued as follows:

All workers of ISB Fashion, Inc., New York, New York who became totally or partially separated from employment on or after June 21, 2000, through August 29, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 5th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–30060 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,056]

Joint Venture Tool and Mold, LLC Saegertown, Pennsylvania; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 17, 2001, in response to a company petition which was filed by the company on behalf of workers at Joint Venture Tool and Mold, Inc., Saegertown, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 26th day of November, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–30073 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,891]

JPS Converter and Industrial Corp., a Subsidiary of JPS Textile, Inc., Borden Plant, Now Known as Chiquola Fabrics, LLC, Kingsport, Tennessee; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 28, 1999, applicable to workers of JPS Converter and Industrial Corp., a Subsidiary of JPS Textile Group, Inc., Borden Plant, Kingsport, Tennessee. The notice was published in the **Federal Register** on December 2, 1999 (64 FR 67594).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of cotton and some cotton/polyester blend fabrics, primarily for book bindings.

The company reports that in August, 1999, Chiquola Fabrics, LLC purchased the Borden Plant, Kingsport, Tennessee of JPS Converter and Industrial Corp. and is now known as Chiquola Fabrics, LLC.

Information also shows that workers separated from employment at the subject firm, had their wages reported under a separate unemployment insurance (UI) tax account for Chiquola Fabrics, LLC.

Accordingly, the Department is amending the certification determination to properly reflect this matter.

The intent of the Department's certification is to include all workers of JPS Converter and Industrial Corp., a Subsidiary of JPS Textile Group, Inc., Borden Plant, now known as Chiquola Fabrics, LLC who were adversely affected by increased imports.

The amended notice applicable to TA–W–36,891 is hereby issued as follows:

All workers of JPS Converter and Industrial Corp., a Subsidiary of JPS Textile Group, Inc., Borden Plant, now known as Chiquola Fabrics, LLC, Kingsport, Tennessee who become totally or partially separated from employment on or after September 22, 1998, through October 28, 2001, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 26th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–30069 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,450]

Northwestern Steel and Wire Company Sterling, Illinois; Notice of Revised Determination on Reconsideration

On September 26, 2001, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on November 9, 2001 (66 FR 56713).

The Department initially denied TAA to workers of Northwestern Steel and Wire Company, Sterling, Illinois, producing structural steel and steel rod because the "contributes importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met.

On reconsideration, the Department conducted further survey analysis of major customers of Northwestern Steel and Wire Company, Sterling, Illinois. The survey revealed that various customers increased their reliance on imported structural steel and wire rod during the relevant period.

All workers at Northwestern Steel were previously certified eligible to apply for TAA, TA–W–35, 174, which expired December 1, 2000.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with structural steel and wire rod, contributed importantly to the declines in sales or production and to the total or partial separation of workers of Northwestern Steel and Wire Company, Sterling, Illinois. In accordance with the provisions of the Act, I make the following certification:

All workers of Northwestern Steel and Wire Company, Sterling, Illinois, who became totally or partially separated from employment on or after December 2, 2000, through two years from date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 26th day of November 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–30068 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,424]

Outboard Marine Corp. (OMC), The Ralph Evinrude Test Center, Stuart, Florida; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 18, 2001 in response to a worker petition which was filed on behalf of workers at Outboard Marine

Corp. (OMC), The Ralph Evinrude Test Center, Stuart, Florida.

An active certification covering the petitioning group of workers is already in effect (TA–W–38,565, as amended). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 16th day of November, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–30057 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,565 and TA–W–38,565A]

Outboard Marine Corp. (OMC), Waukegan, Illinois, Outboard Marine Corp. (OMC), The Ralph Evinrude Test Center, Stuart, Florida; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on April 30, 2001, applicable to workers of Outboard Marine Corp. (OMC), Waukegan, Illinois. The notice was published in the **Federal Register** on May 18, 2001 (66 FR 27690).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of marine products, primarily outboard motors and parts.

New information shows that worker separations occurred at The Ralph Evinrude Test Center, Stuart, Florida facility of Outboard Marine Corp. (OMC). Workers of Stuart, Florida provided research, development and quality control support services to Outboard Marine Corp.'s production facilities, including Waukegan, Illinois.

Accordingly, the Department is amending the certification to include the workers of The Ralph Evinrude Test Center, Stuart, Florida facility of Outboard Marine Corp. (OMC).

The intent of the Department's certification is to include all workers of Outboard Marine Corp. (OMC), Waukegan, Illinois who were adversely affected by increased imports.

The amended notice applicable to TA–W–38,565 is hereby issued as follows:

All workers of Outboard Marine Corp. (OMC), Waukegan, Illinois (TA–W–38,565) and outboard Marine Corp. (OMC), The Ralph Evinrude Test Center, Stuart Florida (TA–W–38,565A), who became totally or partially separated from employment on or after January 5, 2000, through April 30, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 16th day of November, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–30059 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,416 and TA–W–39,416C]

Pillowtech Corporation, Fieldcrest Cannon—Plant 4, Kannapolis, North Carolina, and Fieldcrest Cannon—Eagle & Phenix, Columbus, Georgia; Notice of Revised Determination on Reconsideration

By letter of October 8, 2001, the company requested administrative reconsideration of the Department's denial of eligibility to apply for trade adjustment assistance applicable to workers and former workers of Pillowtex Corporation, Fieldcrest Cannon—Plant 4, Kannapolis, North Carolina (TA–W–39, 416) and Pillowtex Corporation, Fieldcrest Cannon—Eagle & Phenix, Columbus, Georgia (TA–W–39, 416C).

The initial investigations resulted in negative determinations issued on August 14, 2001, and published in the **Federal Register** on August 23, 2001 (66 FR 44379). The investigation findings for Pillowtex Corporation, Fieldcrest Cannon—Plant 4, Kannapolis, North Carolina (TA–W–39, 416) and Pillowtex Corporation, Fieldcrest Cannon—Eagle & Phenix, Columbus, Georgia (TA–W–39, 416C) showed that increased imports did not contribute importantly to worker separations at the respective plants.

The company in their request for reconsideration provided additional documentation pertaining to the product produced at Fieldcrest Cannon-Plant 4. The new data supplied by the company indicated that the company increased their reliance on imported sheeting fabric during the relevant period, contributing to the layoffs at the subject plant.

The company also provided clarification concerning the yarn produced at the Fieldcrest Cannon—Eagle and Phenix plant. The initial decision was based on the subject plant producing yarn. The new information provided by the company shows that the yarn produced at the subject facility was further processed into terry bath towels, hand towels and washcloths at the subject plant and then sold to outside sources. A sister facility (Pillowtex Corporation, Fieldcrest Cannon—Plant 1, Kannapolis, North Carolina (TA–W–39, 416B) producing the same products (terry bath towels, hand towels and washcloths) was certified on August 14, 2001. The certification was based on aggregate U.S. imports of terry cloth towels and washcloths increasing significantly during the relevant period, combined with the import to shipment ratio exceeding 170 percent.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with sheeting fabric and terry cloth towels and washcloths, respectively contributed importantly to the declines in sales or production and to the total or partial separation of workers of Pillowtex Corporation, Fieldcrest Cannon—Plant 4, Kannapolis, North Carolina (TA–W–39, 416) and Pillowtex Corporation, Fieldcrest Cannon—Eagle & Phenix, Columbus, Georgia (TA–W–39, 416C). In accordance with the provisions of the Act, I make the following certification:

All workers of Pillowtex Corporation, Fieldcrest Cannon—Plant 4, Kannapolis, North Carolina (TA–W–39, 416) and Pillowtex Corporation, Fieldcrest Cannon—Eagle & Phenix, Columbus, Georgia (TA–W–39, 416C), who became totally or partially separated from employment on or after August 14, 2000, through two years from the date of this certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 13th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–30067 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,694]

Thrall Car, Thrall Car North American Rail, Chicago Heights, Illinois; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Thrall Car, Thrall Car North American Rail, Chicago Heights, Illinois. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–38,694; Thrall Car, Thrall Car North American Rail, Chicago Heights, Illinois (November 13, 2001)

Signed at Washington, DC this 26th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–30056 Filed 12–04–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39, 383]

Tridelta Industries, Inc. Mentor, Ohio; Notice of Revised Determination on Reconsideration

By letter of July 19, 2001, the company requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on June 8, 2001, based on the finding that imports of pneumatic controls did not contribute importantly to worker separations at the Mentor plant. The denial notice was published in the **Federal Register** on June 27, 2001 (66 FR 34254).

To support the request for reconsideration, the company official provide additional information, which was not provided during the initial investigation. The official indicated that the company that acquired the subject plant began importing pneumatic controls shortly before the investigation was instituted and continued to increase their imports of pneumatic controls to compensate for the pneumatic controls once produced at the subject plant.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Tridelta Industries, Inc., Mentor, Ohio, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Tridelta Industries, Inc., Mentor, Ohio, who became totally or partially separated from employment on or after May 18, 2000 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 5th day of November 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–30066 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04275]

Autoliv, ASP, Inc. Cushion Manufacturing Facility Including Leased Workers of Adecco, Ogden, Utah; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance on March 8, 2001, applicable to workers of Autoliv, ASP, Inc., Cushion Manufacturing Facility, Ogden, Utah. The Notice was published in the **Federal Register** on April 5, 2001 (66 FR 18119).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Information provided by the State and the company shows that leased employees of Adecco were employed at Autoliv, ASP, Inc., Cushion Manufacturing Facility to produce cushions for airbags at the Ogden Utah location of the subject firm.

Workers separations occurred at Adecco as a result of worker separations at Autoliv, ASP, Inc., Cushion Manufacturing Facility, Ogden, Utah.

Based on these findings, the Department is amending the certification to include workers of Adecco employed at Autoliv, ASP, Inc., Cushion Manufacturing Facility, Ogden, Utah.

The intent of the Department's certification is to include all workers of Autoliv, ASP, Inc., Cushion Manufacturing Facility, Ogden, Utah adversely affected by a shift in production of airbag cushions to Mexico.

The amended notice applicable to NAFTA—4275 is hereby issued as follows:

All workers of Autoliv, ASP, Inc., Cushion Manufacturing Facility, Ogden, Utah including leased workers of Adecco, Ogden, Utah engaged in the production of cushions for airbags at Autoliv, ASP, Inc., Cushion Manufacturing Facility, Ogden, Utah, who became totally or partially separated from employment on or after November 6, 1999, through March 8, 2003, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 5th day of November, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–30063 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4550]

Freightliner LLC, Mt. Holly Manufacturing, Mt. Holly, North Carolina; Notice of Revised Determination on Reconsideration

By application of May 31, 2001, the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW), UAW Region 8 and Local Union 5285, requested administrative reconsideration of the Departments denial Regarding Eligibility to Apply for North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA), applicable to workers and former workers of the subject firm. The denial notice was issued on April 13, 2001 and published in the **Federal Register** on May 2, 2001 (66 FR 22007).

The workers produced medium and heavy duty trucks. The workers were denied NAFTA–TAA on the basis that there was no shift in production (except for a temporary shift) to Mexico or Canada, nor did imports from Canada or Mexico contribute importantly to workers' separations.

The union provided additional information indicating that a shift in plant production occurred during the relevant period. Information provided by the company verified that there was a shift in business class truck production (cargo and cab-in-white for extended and crew cab) to Mexico during the relevant period. The shift in production to Mexico was the primary factor contributing to the layoffs at the subject plant. The workers were separately identifiable.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that there was a shift in production from the workers' firm to Mexico of articles like or directly competitive with those produced by the subject firm. In accordance with the provisions of the Trade Act, I make the following certification:

All workers of Freightliner LLC, Mt. Holly Truck Manufacturing Plant, Mt. Holly, North Carolina, engaged in activities related to the production of business class trucks (cargo and cab-in-white for extended and crew cab), who became totally or partially separated from employment on or after October 10, 1999, through two years from the date of certification, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 13th day of November 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–30062 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4523]

York International Corporation Portland, Oregon; Notice of Negative Determination Regarding Application for Reconsideration

By application dated June 26, 2001, the Sheet Metal Workers' International Association, Local Union No. 16, requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on June 7, 2001, and was published in the **Federal Register** on June 27, 2001 (66 FR 34257).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or the law justified reconsideration of the decision.

The denial of NAFTA–TAA for workers engaged in activities related to the production of custom air handling systems at York International Corporation, Portland, Oregon, was based on the finding that criteria (3) and (4) of the group eligibility requirements of paragraph (a)(1) of section 250 of the Trade Act, as amended, were not met. There were no company imports of custom air handling systems from Mexico or Canada, nor did York International Corporation shift production from Portland, Oregon to Mexico or Canada. Major customers did not reduce their purchases from the subject firm.

The petitioner alleges that competitors of the subject plant import products like and directly with what the subject plant produced from Canada and Mexico. The Department normally analyzes the impact of imports on the subject firm workers through a survey of declining customers to examine if the firm's domestic customers switched purchases from the subject firm in favor of foreign produced products during the relevant period. There were no subject firm customers' sales declines during the relevant period. Therefore, any imports from Canada or Mexico are not a major contributing factor to the worker separations at the subject plant.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 6th day of November 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–30064 Filed 12–4–01; 8:45 am]

BILLING CODE 4510–30–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 2001–7A]

Disruption or Suspension of Postal or Other Transportation or Communications Services

AGENCY: Copyright Office, Library of Congress.

ACTION: Determination of general disruption of postal services.

SUMMARY: Pursuant to newly promulgated 37 CFR 201.8, the Register of Copyrights announces her determination that there has been a general disruption or suspension of postal services that has delayed the receipt by the Copyright Office of deposits, applications, fees, and other materials submitted to the Office by means of the United States Postal Service.

DATES: The disruption of postal services commenced on October 18, 2001 and continues to the present.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Patricia Sinn, Seniof Attorney, Office of the General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024–0400. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: On December 4, 2001, the Copyright Office published in the **Federal Register** an interim regulation, to be codified at 37 CFR 201.8, addressing general disruptions or suspensions of postal or other transportation or communications services. The regulation implements 17 U.S.C. 709 and governs the circumstances under which the Register may assign, as the date of receipt for deposits, applications, fees and other materials submitted to the Office, the date on which the materials would have been received but for a general disruption or suspension of postal or other transportation or communications services.

The Register now publishes her determination that commencing on October 18, 2001, there has been a general disruption of postal services that has affected the delivery of deposits,

applications, fees and other materials submitted to the Office. Persons who believe that they have been adversely affected by the disruption of postal services should comply with the provisions of 37 CFR 201.8.

When the disruption of postal services has ended, the Register shall publish a determination to that effect.

In the meantime, persons desiring to ensure prompt receipt of materials by the Copyright Office are encouraged to use alternative means such as delivery by private carriers or personal delivery rather than the United States Postal Service.

Dated: December 3, 2001.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 01–30290 Filed 12–4–01; 8:45 am]

BILLING CODE 1410–30–P

MEDICARE PAYMENT ADVISORY COMMISSION

Commission Meeting

AGENCY: Medicare Payment Advisory Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission will hold its next public meeting on Thursday, December 13, 2001, and Friday, December 14, 2001, at the Ronald Reagan Building, International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC. The meeting is tentatively scheduled to begin at 10 a.m. on December 13, and at 9 a.m. on December 14.

Topics for discussion include: Quality improvement for health plans and providers; pass-through payments under the prospective payment system for hospital outpatient department services; Medicare+Choice; measuring changes in input prices in traditional Medicare; adjusting local differences in resident training costs; paying for services in traditional Medicare; and assessing payment adequacy and updating Medicare payments.

Agendas will be mailed on December 4, 2001. The final agenda will be available on the Commission's web site (*www.MedPAC.gov*)

ADDRESSES: MedPAC's address is: 1730 K Street, NW., Suite 800, Washington, DC 20006. The telephone number is (202) 653–7220.

FOR FURTHER INFORMATION CONTACT: Diane Ellison, Office Manager, (202) 653–7220.

Murray N. Ross,

Executive Director.

[FR Doc. 01–30040 Filed 12–4–01; 8:45 am]

BILLING CODE 6820–BW–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–331]

Nuclear Management Company, LLC; Correction

The November 14, 2001 (66 FR 57115), **Federal Register** contained a "Notice of Issuance of Amendment to Facility Operating License." On page 57116, the date of September 24, 2001, should have been included in the list of supplemental letters to the application dated November 16, 2000.

Dated at Rockville, Maryland, this 29th day of November, 2001.

Brenda L. Mozafari,

Project Manager, Section 1, Project Directorate III–1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30111 Filed 12–4–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–348 and 50–364]

Southern Nuclear Operating Company, Inc., et al.; Joseph M. Farley Nuclear Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of amendments to Facility Operating License Nos. NPF–2 and NPF–8, issued to Southern Nuclear Operating Company Inc., et al. (the licensee), for operation of the Joseph M. Farley Nuclear Plant, Units 1 and 2, located in Houston County, Alabama.

Environmental Assessment

Identification of Proposed Action

The proposed action would amend the Facility Operating Licenses (FOLs) for Joseph M. Farley Nuclear Plant, Units 1 and 2, and to delete license conditions that have been completed or are otherwise no longer in effect. These activities have now been completed and the license conditions are either obsolete or are no longer needed.

The proposed action is in response to the licensee's application dated December 8, 2000.

The Need for the Proposed Action

When the FOLs, NPF–2 and NPF–8, were issued to the licensee, the NRC staff deemed certain issues essential to safety and/or essential to meeting certain regulatory interests. These issues were imposed as license conditions in the FOLs, with deadlines for their implementation. Since the units were licensed to operate in the late 1970s and early 1980s, most of these license conditions have been fulfilled. For the license conditions that have been fulfilled, the licensee proposed to have them deleted from the FOLs.

The licensee also proposed to make changes to correct administrative errors such as words inadvertently omitted, documents erroneously cited, etc.

The proposed amendments involve administrative changes to the FOLs only. No actual plant equipment, regulatory requirements, operating practices, or analyses are affected by these proposed amendments.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the amendments are granted. No changes will be made to the design and licensing bases, and applicable procedures at the two units at the Joseph M. Farley Nuclear Plant, Units 1 and 2, will remain the same. Other than the administrative changes, no other changes will be made to the FOLs, including the Technical Specifications.

The changes will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant

nonradiological environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the McGuire Nuclear Station.

Agencies and Persons Contacted

In accordance with its stated policy, on January 10, 2001, the staff consulted with the Alabama State official, Kirk Whatley of the Office of Radiation Control, Alabama Department of Public Health, regarding the environmental impact of the proposed amendments. The State official had no comments.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed amendments will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendments.

For further details with respect to the proposed action, see the licensee's letter dated December 8, 2000. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 29th day of November, 2001.

For the Nuclear Regulatory Commission.

Frank Rinaldi,

Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30110 Filed 12–4–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45115; File No. SR–CHX–2001–17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by The Chicago Stock Exchange, Incorporated, Relating to Eligibility of Limit Orders for Trade Through Protection

November 28, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("the Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby is given that on August 6, 2001, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CHX Article XX, Rule 37(b)(6), which governs execution of limit orders in the specialist's book in the event of a trade through in the primary market. The proposed rule change would require that a limit order be resident in the specialist's book for a time period of 0–15 seconds (as designated by the specialist) before it would be eligible for limit order protection. The text of the proposed rule change is available from the Office of the Secretary, the CHX and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Article XX, Rule 37(b)(6) of its rules, which governs execution of limit orders in the specialist's book in the event of a trade through in the primary market. The proposed rule change would require that a limit order be resident in the specialist's book for a time period of 0–15 seconds (as designated by the specialist) before it would be eligible for limit order protection.

Under current CHX rules, limit orders resting in a specialists's book are afforded trade through protection, which requires execution of the limit orders in the event of a price penetration in the primary market. The limit orders are entitled to price protection in their entirety regardless of their size. The Exchange represents that, at present, an order sender is able to take advantage of the time latency between a primary market execution and the reporting of the execution to the tape to gain these liquidity guarantees. The Exchange believes that an order sender will do so by placing a large limit order in a CHX specialist's book between the time of the primary market execution and the tape print. The limit order will typically be priced at a penny or two superior to the primary market trade price. According to the Exchange, the print of the inferior priced primary market trade will cause an automatic execution of the limit order in its entirety on the CHX at the limit price, thus giving the order sender inexpensive access to large amounts of liquidity.

In the example above, the Exchange explains that the limit order would not be due an execution because it was not "resting" on the specialist's book at the time the trade through occurred in the primary market. Rather, it was resting at the time the trade through execution was reported to the tape. The Exchange believes that this practice exploits a limitation in the trade reporting system that equates "trade time" with "report time." The Exchange believes that this practice has grown more prevalent with

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the transition to a decimal pricing environment because the premium needed to secure the increased liquidity (the minimum price variation) has been reduced to a penny.

The proposed rule change would provide that before a limit order in the specialist's book is automatically executed following a price penetration in the primary market, the limit order must have resided in the specialist's book for a time period of 0–15 seconds (as designed by the specialist).[3] This requirement is intended to preclude order-senders from taking advantage of the time latency between a primary market execution and the reporting of the execution to the tape.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b).[4] In particular, the proposed rule is consistent with section 6(b)(5) of the Act[5] in that it is designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose my inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–2001–17 and should be submitted by December 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30140 Filed 12–4–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45117; File No. SR–CHX–2001–08]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the Chicago Stock Exchange, Incorporated, Amending its Minor Rule Violation Plan

November 29, 2001.

On April 23, 2001, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change that would amend CHX Article XII, Rule 9(h), Minor Rule Violations, to include CHX Article XX, Rule 43(d), Trading in Nasdaq/NM Securities/Manual Executions, in the Exchange's Minor Rule Violation Plan ("Plan"). Specifically, a member who fails to manually execute a Nasdaq/NM market or marketable limit order at the national best bid or offer or better at the time of its receipt or at the best price available in another market place may be fined under the Plan. Notice of the proposed rule change was published for comment in the **Federal Register** on October 10, 2001.[3] The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, the requirements of section 6 of the Act[5] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 6(b)(5) of the Act[6] because it will help prevent fraudulent and manipulative acts and practices, as well as promote just and equitable principles of trade. The Commission finds the proposal is consistent with section 6(b)(6) of the Act,[7] because the proposal provides a mechanism for the appropriate discipline for violations of certain rules and regulations.

In addition, the Commission finds the proposal is consistent with section 6(b)(7) of the Act[8] because the proposal provides a fair procedure for the disciplining of members and persons associated with members. Finally, the Commission finds the proposal is consistent with Securities Exchange Act Rule 19d–1(c)(2)[9] that governs minor rule violation plans.

In approving this proposal, the Commission in no way minimizes the importance of compliance with this rule, and all other rules subject to the imposition of fines under the Plan. The Commission believes that the violation

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[3] A specialist might chose a lesser time as a competitive inducement to attract order flow.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 44900 (October 2, 2001), 66 FR 51694.

[4] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(6).

[8] 15 U.S.C. 78f(b)(7).

[9] 17 CFR 240.19d–1(c)(2).

of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, in an effort to provide the Exchange with greater flexibility in addressing certain violations, the Plan provides a reasonable means to address rule violations that do not rise to the level of requiring formal disciplinary proceedings. The Commission expects that the CHX will continue to conduct surveillance with due diligence, and make a determination based on its findings whether fines of more or less than the recommended amount are appropriate for violations of rules under the Plan, on a case by case basis, or if a violation requires formal disciplinary action.

It is therefore ordered, pursuant to section 19(b)(2) of the Act[10], that the proposed rule change (SR–CHX–2001–08), be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30142 Filed 12–4–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45109; File No. SR–NASD–2001–19]

Self-Regulataory Organizations; Order Approving a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the National Association of Securities Dealers, Inc., Relating to Reporting Requirements for Clearing Members

November 27, 2001.

On March 21, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to reporting requirements for members that are clearing firms. The proposed rule change was published for comment in the **Federal Register** on May 9, 2001.[3] The Commission received five comment letters on the proposed rule change.[4] On June 6, 2001, NASD Regulation filed Amendment No. 1 to the proposed rule change.[5] On November 1, 2001, NASD Regulation filed Amendment No. 2 to the proposed rule change.[6] This order approves the proposed rule change as amended.

I. Description of the Proposed Rule Change

NASD Regulation is developing a new business model regarding the surveillance and examination of NASD members. The new program's official title is Integrated National Surveillance and Information Technology Enhancements (commonly referred to as "INSITE"). INSITE will allow NASD Regulation to concentrate its examinations on the higher-risk segments of the industry; focus the content of each examination on higher-risk topics; streamline the examination process for the examiners and members; better coordinate regulatory findings with other NASD Regulation departments; and provide specialized training to enhance and maintain examiner's competency levels.

According to NASD Regulation, the surveillance component of the INSITE program will produce reports that identify member "exceptions" based on historical and current comparisons of member data. Further, the exceptions will trigger follow-up reviews and possible member examinations. To facilitate the surveillance component of INSITE, NASD Regulation proposed to adopt Rule 3150 to require all members that are clearing firms (both those that are self-clearing and those that clear for other firms) to report certain data (*i.e.*, data elements) to the NASD Regulation Department of Member regulation ("Member Regulation").[7] Under the NASD's proposal, a clearing firm member may enter into an agreement with a third party pursuant to which the third party agrees to fulfill the clearing firm's obligations under proposed Rule 3150. Notwithstanding the existence of such an agreement, NASD Regulation proposed that each member that is a clearing firm would be responsible for complying with the requirements of the proposed rule change.

The text of proposed Rule 3150 does not specify the data that must be reported to NASD Regulation. Initially, the data elements that NASD Regulation will require its members that are clearing firms to submit to the Association pursuant to proposed Rule 3150 included items such as trade cancellations (T+1 forward) and as-of trades, aggregate net liquidating equity in each firm's correspondents' proprietary accounts, and unsecured customer debits. NASD Regulation represented that it would continue to work its clearing firm members and the SEC staff in identifying the data that is needed in order to operate the surveillance component of INSITE. NASD Regulation would also provide its clearing firm members with advance notice through the NASD Notice to Members process (or similar guidance) of any changes to the required data

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[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44251 (May 3, 2001), 66 FR 23750 (SR–NASD–2001–19)

[4] *See* Letters to Jonathan G. Katz, Secretary, Commission, from D. Stuart Bowers, Senior Vice President, Legg Mason Wood Walker, Inc., John H. Haynie, Managing Director, Wachovia Securities, Inc., Thomas F. Grabowski, Vice President, BNY Clearing Services, LLC, Douglas W. Noll, First Vice President, Stifel, Nicolaus & Company, Incorporated, Michael D. Duffy, Director of Operations, U.S. Bancorp Piper Jaffray, and Ken Cameranesi, Senior Vice President, Wells Fargo Investments, dated May 17, 2001 ("The Firms' Letter"); Harry D. Frisch, Esq., Senior Vice President, iClearing LLC, dated June 7, 2001 ("iClearing Letter"); Gregory P. Vitt, Senior Vice President, A.G. Edwards & Sons, Inc., dated June 28, 2001 ("A.G. Edwards Letter"); and W. Leo McBlain, Chairman and Cindy Foster, Chair, FIF Service Bureau Committee, Financial Information Forum, dated June 28, 2001 ("FIF Letter").

[5] *See* Letter from Shirely H. Weiss, Office of General Counsel, NASD Regulation, Inc., to Jonathan G. Katz, Secretary, Commission (June 4, 2001) ("Amendment No. 1"). Amendment No. 1 responds to the Firms' letter by reiterating the commitment of NASD Regulation to work with its member firms to facilitate reporting requirements under proposed Rule 3150. Further, NASD Regulation represented that it conducted and would continue to conduct a series of meetings with the service bureaus and member clearing firms to explain and modify data element requirements. Moreover, NASD Regulation amended the proposed rule text to include both clearing and self-clearing member firms.

[6] *See* Letter from Patrice M. Gliniecki, Vice President and Deputy General Counsel, NASD Regulation, Inc., to Jonathan G. Katz, Secretary, Commission (November 1, 2001) ("Amendment No. 2"). Amendment No. 2 responds to comment letters received by the Commission, as well as comment letters received by NASD Regulation from Harris Schwartz, Nordea Securities, Inc., dated June 8, 2001 ("Nordea Letter"); Bonnie K. Wachtel, CEO and Wendie L. Wachtel, COO, Wachtel & Co., Inc., dated June 29, 2001 ("Wachtel Letter"); and Michael Viviano, Chairman, Operations Committee, Christopher R. Franke, Chairman, Self-Regulatory and Supervisory Practices Committee, and Gerard McGraw, Chairman, Clearing Firms Committee, Securities Industry Association, dated July 19, 2001 ("SIA Letter"). In particular, Amendment No. 2 clarifies that only clearing and self-clearing firms that are members (not non-members) will be required to report the prescribed data. Amendment No. 2 provides additional information on the data element requirements, and proposes a phase-in schedule for the implementation of reporting requirements. Last, Amendment No. 2 amends the rule text to include an exemptive provision from the reporting requirements, pursuant to the Rule 9600 Series.

[7] The Association anticipates requesting members that are clearing firms to submit data electronically. Telephone conversation between Shirley W. Weiss, Office of General Counsel, NASD Regulation, and Heidi Pilpel, Special Counsel, and Lisa Jones, Attorney, Division of Market Regulation, Commission (May 2, 2001).

elements. Moreover, NASD Regulation would advise its clearing firm members of the format to be used in transmitting information pursuant to proposed Rule 3150, and the methodology by which NASD Regulation will require its clearing firm members to submit the information to the Association.

II. Summary of Comments

The Commission received five comment letters on the proposal.[8] In addition, NASD Regulation received three comment letters regarding the proposal.[9] There were several issues raised by commenters.

First, commenters requested that NASD Regulation give further details on the data elements that were to be collected.[10] Further, commenters questioned the usefulness of the required data elements, since the requirements tend to duplicate information already provided by clearing and self-clearing firms through Financial and Operational Combined Uniform Single ("FOCUS") Reports, the NASD's Automated Confirmation Transaction Service ("ACT") and Order Audit Trail System ("OATS").[11]

In response to the commenters' request for clarification of the required data elements, the NASD Regulation has created an INSITE Web site from which firms may obtain information.[12] Members may review the proposed Firm Data Filing Technical Specifications that will be required under Rule 3150 and a bullet point presentation of the INSITE Exam Program, which describes the INSITE program in detail. The Web site will also feature questions asked by clearing and self-clearing firms and NASD Regulation's answers to their questions. NASD Regulation has also represented that it will continue to report modifications or clarifications of the reporting requirements on the INSITE Web site.[13]

In addition, starting in June 2001, NASD Regulation conducted a series of workshops with clearing and self-clearing firms around the country. According to NASD Regulation, the purpose of these workshops was, among other things, to explain the data elements that firms would be required to report under proposed Rule 3150, to answer the firms' questions about the reporting process, and to gather additional information about the firms' capability to report required information.[14] NASD Regulation stated that it would continue to modify the reporting requirements as necessary based on the information it has received, and continues to receive, from its member firms and service bureaus.[15] Moreover, as suggested by the SIA,[16] NASD Regulation is currently meeting with a specially formed committee ("SIA Committee") comprised of technology, compliance, operations, and legal professionals to discuss such issues as the data elements, the implementation schedule for firm filings, and reports to member firms. NASD Regulation staff expects to have an on-going relationship with the Committee as a means of obtaining industry input.[17]

In response to the commenters' concerns of the duplication of reporting information through FOCUS reports, ACT, and OATS, NASD Regulation has represented that data reported through OATS will not be duplicated, since that data pertains to orders, and the INSITE data would pertain to transaction and account data. Similarly, information reported through ACT does not provide the detail required by the INSITE program regarding cancellations and rebills.[18]

In addition, NASD Regulation noted that some of the required data duplicates information required to be reported in FOCUS Reports.[19] According to NASD Regulation, the difference is the frequency with which INSITE information would be reported. INSITE information, which can change very rapidly and which can have a significant impact on a firm's capital, would be reported on a daily basis,[20] giving NASD Regulation the opportunity to discover capital problems almost as they occur, whereas FOCUS Reports are filed on a monthly and quarterly basis.[21] Furthermore, NASD Regulation believes that the data elements also provide valuable insights into potential sales practice issues as they arise.

Second, commenters were concerned that they would not be able to submit the data elements requested in the suggested format due to technical flaws and inconsistencies.[22] In addition, commenters wanted more details and results of the testing completed by the three pilot member firms.[23]

In response to the commenters' concerns, NASD Regulation represented that it is in the process of conducting a pilot program with three clearing firms (Bear, Stearns & Co. Inc., Pershing, a division of Donaldson, Lufkin & Jenrette Securities Corporation, and Wexford Clearing Services Incorporated, a division of Prudential Securities Incorporated). These pilot firms are electronically reporting on a daily basis a portion of the firm data elements, and the pilot firms have not reported any significant problems in collecting and reporting this data. According to NASD Regulation, the pilot program has helped NASD Regulation to identify and resolve any technical problems experienced by these firms.[24] NASD Regulation expects, as with any new program or technology, that systems failures may arise. When that happens, firms will be expected to report these failures to NASD Regulation, correct them as expeditiously as possible, and restart the reporting process.[25] Generally, NASD Regulation represents that a system failure that has happened in the normal course of doing business, and which a firm is attempting to correct, will not be viewed as a disciplinary matter.[26]

The proposed reporting program has been designed to require firms to provide summaries of information that they already collect, including, among other things, aggregate net liquidating equity, exchange and non-exchange transactions, options transactions, debt transactions, customer accounts, short interest, unsecured customer debits, trade cancellations and as-of trades summaries and detail. NASD Regulation is specifying the file formats. Firms may report this data via NASD Regulation's Form Filing Web site or, for firms with connectivity to the NASD OATS private network, through that file transfer protocol.[27] NASD Regulation recognizes that firms may have to make some

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[8] *See* note 4, *supra*.

[9] *See* note 6, *supra*.

[10] *See* The Firms Letter; iClearing Letter; SIA Letter

[11] *See* A.G. Edwards Letter; SIA Letter.

[12] Currently, NASD members may review the Firm Data Elements on NASD Regulation's Web site, *http://www.nasdr.com/insite.htm*, at ages 16–18. In the initial implementation of the INSITE program, NASD Regulation represents that no new data elements will be added, and some data elements may be eliminated. NASD Regulation does not anticipate materially expanding the data element requirements.

[13] *See* Amendment No. 2, p. 3.

[14] *See id.*

[15] *Id.*

[16] *See* SIA Letter.

[17] *See* note 13, *supra*.

[18] *Id.*

[19] *Id.*

[20] NASD Regulation represents that the INSITE program may, in the future, require firms to report certain data elements less frequently. NASD Regulation will publish any change in the daily reporting requirements well in advance of the date on which that change will occur.

[21] *See* note 13, *supra*.

[22] *See* The Firms Letter; iClearing Letter; A. G. Edwards Letter.

[23] *See* The Firms Letter; iClearing Letter.

[24] *See* Amendment No. 2, p. 4.

[25] *Id.*

[26] *Id.*

[27] *Id.*

programming changes in order to create the daily summaries required by the INSITE program. The information required to establish these programs is currently being made available on the INSITE Web site, and firms subject to proposed Rule 3150 should have ample time to prepare for their participation in the program.[28] Further, members are advised on the INSITE Web site that NASD Business and Technology Support Services is the primary source of information about INSITE, and that it can be used as a source for answers to questions about reporting responsibilities, technical specifications for reporting to the NASD, deadlines, and more.[29]

Moreover, as suggested by the SIA, NASD Regulation has represented that it is committed to developing a system on its Web site that will permit members to review the information that has been reported by firms, directly or on their behalf by clearing firms or service bureaus. NASD Regulation will work with its member firms to develop a useful format. NASD Regulation expects this system to be fully functional in the latter part of 2002.[30]

Third, commenters were concerned that the time frame of implementing proposed Rule 3150 would be unrealistic.[31] In response to the commenters concerns, NASD Regulation has stated that its goal is to implement reporting requirements under proposed Rule 3150 in as reasonable a manner as possible in order to give clearing firms, self-clearing firms, and service bureaus sufficient time to prepare. NASD Regulation plans to begin requiring reporting under proposed Rule 3150 as of December 10, 2001. The three member firms that have been participating in the pilot program will be phased in first. All three firms will be reporting the published Firm Data Elements under proposed Rule 3150 by mid-January 2002.

NASD Regulation represents that it will phase in all other members in several stages. NASD Regulation is currently working with the SIA Committee and FIF to establish these dates. NASD Regulation will publish the schedule of phase-ins as soon as it has been established, but in no event will NASD Regulation give member firms less than six-months notice of their start-up date. NASD Regulation also represents that it will take into account broker-dealers' relationships with service bureaus in establishing the phase-in schedules. NASD Regulation expects Rule 3150 to be fully implemented by the end of 2002.[32]

NASD Regulation also proposed to amend proposed Rule 3150 to eliminate the requirement that all data be reported on a daily basis, in order to give NASD Regulation the flexibility it needs to require that certain data elements be reported less frequently.[33] As with the current data elements, NASD Regulation would announce any change in the reporting requirements well in advance of their implementation.[34]

Fourth, commenters suggested that the Association include a provision for exemptive relief from the reporting requirements of proposed Rule 3150.[35] These commenters suggested that such relief might be based on the nature of a firm's activities, its risk factors, and the size of its capital reserves.[36]

In response to these commenters, NASD Regulation has decided to include a provision in proposed Rule 3150 that would permit broker-dealers to request an exemption from the reporting requirements of proposed Rule 3150 pursuant to the Rule 9600 Series.[37] As stated in proposed Rule 3150(b), exemptions from any or all of the Rule 3150 reporting requirements will be granted only under exceptional and unusual circumstances. According to NASD Regulation, the size of a firm will not be the determinative factor in deciding whether to grant such exemptions, since wholesale exemptions based solely on the size of a firm could jeopardize the strength of the INSITE program.

NASD Regulation also proposed additional clarifications to proposed Rule 3150.[38] NASD Regulation proposed to amend the rule language to explicitly refer to both clearing firms and self-clearing firms.[39] In addition, NASD Regulation proposed to amend the rule language to clarify that the Association will only require its *member* clearing and self-clearing firms to report prescribed data pertaining to the member and any member broker-dealer for which it clears.[40] This should exclude from the parameters of proposed Rule 3150 any broker-dealer that is not registered with the NASD.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[41] In particular, the Commission finds the proposal is consistent with section 15A(b)(6) of the Act,[42] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission believes that the Association's proposal to enhance the surveillance and examination of NASD members via the INSITE program should help to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade because it authorizes the Association to require clearing and self-clearing members to report certain data to be analyzed for indications of sales practice violations. In addition, the data elements reported pursuant to NASD Rule 3150 and NYSE Rule 416[43] will assist regulators in addressing concerns about microcap fraud.[44]

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[28] *Id.*

[29] *Id.*

[30] *Id.*

[31] *See* The Firms Letter; iClearing Letter; FIF Letter.

[32] Telephone conversation between Shirley H. Weiss, Office of General Counsel, NASD Regulation and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission (Nov. 27, 2001).

[33] *See* Amendment No. 2, p. 5.

[34] *Id.*

[35] *See* Nordea Letter; Wachtel Letter.

[36] *Id.*

[37] NASD Regulation is also proposing a rule change to Rule 9610 that will add Rule 3150 to the rules under which members can seek exemptive relief.

[38] *See* Amendment No. 2, p. 6.

[39] *Id.*

[40] When a clearing firm files data for its own business, NASD Regulation will treat it as a self-clearing firm for purposes of INSITE reporting requirements. In any event, a clearing firm (or a self-clearing firm) is not required to report is own aggregate net liquidating equity; instead, a clearing firm must report the aggregate net liquidating equity of its correspondent firms. (*See* page 16 of the INSITE Firm Data Technical Specifications, which states that a self-clearing firm may report its aggregate net liquidating equity as NULL, or no value.)

[41] In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78*o*–3(b)(9). The Commission finds that Rule 3150 appropriately balances the need of NASD Regulation for regulatory information with the need to provide clearing firms flexibility in reporting such information in a manner that is not unduly burdensome. For example, NASD Regulation has tailored the data elements, committed to provide six-months of notice of implementation, worked closely with the industry on implementation of Rule 3150, and provided alternative methods for reporting, such as service bureaus.

[42] 15 U.S.C. 78*o*–3(b)(6).

[43] *See* Securities Exchange Act Release No. 44135 (March 30, 2001), 66 FR 18334 (April 6, 2001) (order approving SR–NYSE–00–60).

[44] NASD Regulation reiterates its commitment that it is collecting the data pursuant to Rule 3150 solely for regulatory purposes. Telephone conversation between Shirley H. Weiss, Office of General Counsel, NASD Regulation and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission (Nov. 26, 2001).

The Commission finds that the data elements that NASD Regulation initially will require its clearing and self-clearing members to provide pursuant to proposed Rule 3150, including items such as trade cancellations (T+1 forward) and as-of trades, aggregate net liquidating equity in each firm's proprietary accounts, and unsecured customer debits, have been sufficiently identified by NASD Regulation as core data that is needed in order to operate the surveillance component of INSITE.[45] Further, the Association has represented that in the initial implementation of the INSITE program, no new data elements will be added, and some data elements may be eliminated. Moreover, the Association noted that it does not anticipate materially expanding the data element requirements.

After careful consideration of the commenters' concerns about the intricacies and usefulness of the data elements required pursuant to proposed Rule 3150, the Commission believes that NASD Regulation's INSITE Web site should help to keep NASD members informed of all modifications and clarifications of the reporting requirements. In addition, the Commission finds that NASD Regulation has been and will continue to be committed towards modifying the reporting requirements as necessary based on the information that it receives from member firms and service bureaus, thus promoting just and equitable principles of trade consistent with the Act.

The Commission has also carefully considered the commenters' concerns about the duplication of reporting information through FOCUS reports, ACT and OATS. The Commission finds that although some of the required data duplicates information required to be reported in FOCUS reports, the required data pursuant to proposed Rule 3150 will be reported on a daily basis, at least initially, which would give NASD Regulation the opportunity to discover capital problems almost as they occur. Further, NASD Regulation has represented that INSITE data would pertain to transaction and account data. Therefore, the Commission believes that the data elements should provide valuable insights into potential sales practice issues as they arise, consistent with section 15A(b)(6) of the Act.

The Commission finds that NASD Regulation has sufficiently addressed commenters' concerns about any possible technical flaws and inconsistencies of the INSITE program. The Commission believes that NASD Regulation's pilot program with three clearing firms should help to identify any significant programs in collecting and reporting this data, and any technical problems experienced by member firms. The Association notes that should a system failure happen in the normal course of doing business, and a firm is attempting to correct it, the Association would not view the violation of Rule 3150 as a disciplinary matter.[46] Further, NASD Regulation represents that the reporting program is designed to require member firms to provide summaries of information that it already collects. Moreover, NASD Regulation is specifying the file formats and providing information on the INSITE Web site on how to establish the reporting program should some firms need to make some programming changes. Therefore, the Commission believes that the Association will work with its member firms to develop a useful format.

After careful consideration of the commenters' concerns about the ambiguous time frame of implementing reporting requirements pursuant to proposed Rule 3150, the Commission finds that the Association's proposal to begin requiring reporting under proposed Rule 3150 as of December 10, 2001, phase in the three pilot member firms first, and thereafter phase in other member firms in several stages should reasonably help the Association to implement the reporting requirements of proposed Rule 3150 by giving clearing and self-clearing firms, and service bureaus sufficient time to prepare. The Commission believes that the representation by NASD Regulation that it would give member firms no less than six-months notice of their start-up date should provide clearing and self-clearing member firms adequate notice to prepare for the reporting requirements. Further, NASD Regulation has represented that it would take into account broker-dealer relationships with service bureaus in establishing the phase-in schedules.

The Commission also finds that the Association's proposal to include a provision for exemptive relief from the reporting requirements of proposed Rule 3150 should alleviate commenters concerns that members under certain circumstances should be exempted from the reporting requirements. The Commission notes, in particular, that the size of a firm will not be the determinative factor in deciding to grant such exemption in order not to jeopardize the strength of the INSITE program.

IV. Amendments No. 1 and No. 2

The Commission finds good cause for approving Amendments No. 1 and 2 prior to the thirtieth day after notice of the publication in the **Federal Register**. In addition to making minor technical changes to the proposed rule language, these amendments (1) explicitly refer to both clearing firms and self-clearing firms, and clarify that only *member* clearing and self-clearing firms are required to report the prescribed data; (2) eliminate the requirement that all data be reported on a daily basis; and (3) provide an exemption process from Rule 3150. Additionally, these amendments address commenters' concerns about duplicative data reporting and the proposed implementation date, and provide the assurance of NASD Regulation that it will work in close coordination with its member firms in implementing the reporting requirements under rule 3150. Accordingly, the Commission finds that by providing Amendments Nos. 1 and 2 to proposed Rule 3150 the Rule should enable the Association to detect unusual trading patterns at an early stage and thereby better protect investors and the public interest from abusive sales practices. The Commission believes that it is not necessary to separately solicit comment on Amendment Nos. 1 and 2 prior to approving this proposal because it finds that these changes to the proposed rule language respond to and incorporate suggestions made by commenters to the original proposal. The Commission therefore finds that acceleration of Amendments No. 1 and 2 is appropriate.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1 and 2, including whether the proposed amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed amendments that are filed with the Commission, and all written communications relating to the amendments between the Commission and any person, other than those that

[45] *See* Firm Data Filing Technical Specifications under Rule 3150, available at pp. 16–18 at *www.nasdr.com/insite.htm*.

[46] The Commission notes, however, that a series of systems failures raises issues as to a broker-dealer's fulfillment of its regulatory responsibilities. *See* Lowell H. Listrom, 50 S.E.C. 883, 887 note 7 (1992).

may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD.

All submissions should refer to File No. SR–NASD–2001–19 and should be submitted by December 26, 2001.

VI. Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[47] that the proposed rule change (SR–NASD–2001–19), as amended, is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[48]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30138 Filed 12–4–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45116; File No. SR–NASD–2001–84]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. To Change the Description of the Market Capitalization Listing Standard to Market Value of Listed Securities

November 28, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 14, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq has filed with the Commission a proposed rule change to change the description of the market capitalization listing standard to market value of listed securities. Nasdaq is also proposing to provide a definition of the term "listed securities" in Nasdaq's Marketplace Rules. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

Rule 4200. Definitions

(a) For purposes of the Rule 4000 Series, unless the context requires otherwise:

(1)–(18) No change

(19) "Listed securities" means securities quoted on Nasdaq or listed on a national securities exchange.

Former (19)–(36) renumbered as (20)–(37)

(b) No change

Rule 4310. Qualification Requirements for Domestic and Canadian Securities

To qualify for inclusion in Nasdaq, a security of a domestic or Canadian issuer shall satisfy all applicable requirements contained in paragraphs (a) or (b), and (c) hereof.

(a)–(b) No change

(c) In addition to the requirements contained in paragraph (a) or (b) above, and unless otherwise indicated, a security shall satisfy the following criteria for inclusion in Nasdaq:

(1) No change

(2)(A) For initial inclusion, the issuer shall have:

(i) No change

(ii) *market value of listed securities* [market capitalization] of $50 million (currently traded issuers must meet this requirement and the bid price requirement under Rule 4310(c)(4) for 90 consecutive trading days prior to applying for listing); or

(iii) No change

(B) For continued inclusion, the issuer shall maintain:

(i) No change

(ii) *market value of listed securities* [market capitalization] of $35 million; or

(iii) No change

(3) For initial inclusion, the issuer shall have an operating history of at least one year or *a market value of listed securities* [market capitalization] of $50 million.

(4)–(7) No change

(8)(A) No change

(B) No change

(C) A failure to meet the continued inclusion requirements for *market value of listed securities* [market capitalization] shall be determined to exist only if the deficiency continues for a period of 10 consecutive business days. Upon such failure, the issuers shall be notified promptly and shall have a period of 30 calendar days from such notification to achieve compliance with the applicable continued inclusion standard. Compliance can be achieved by meeting the applicable standard for a minimum of 10 consecutive business days during the 30 day compliance period.

(9)–(29) No change

(d) No change

Rule 4320. Qualification Requirements for Non-Canadian Foreign Securities and American Depositary Receipts

To qualify for inclusion in Nasdaq, a security of a non-Canadian foreign issuer, an American Depositary Receipt (ADR) or similar security issued in respect of a security of a foreign issuer shall satisfy the requirements of paragraphs (a), (b) or (c), and (d) and (e) of this Rule.

(a)–(d) No change

(e) In addition to the requirements contained in paragraphs (a), (b) or (c), and (d), the security shall satisfy the following criteria for inclusion in Nasdaq:

(1) No change

(2)(A) For initial inclusion, the issuer shall have:

(i) No change

(ii) *market value of listed securities* [market capitalization] of U.S. $50 million (currently traded issuers must meet this requirement for 90 consecutive trading days prior to applying for listing); or

(iii) No change

(B) For continued inclusion, the issuer shall maintain:

(i) No change

(ii) *market value of listed securities* [market capitalization] of U.S. $35 million; or

(iii) No change

(C) No change

(D) A failure to meet the continued inclusion requirements for *market value of listed securities* [market capitalization] shall be determined to exist only if the deficiency continues for a period of 10 consecutive business days. Upon such failure, the issuer shall be notified promptly and shall have a period of 30 calendar days from such notification to achieve compliance with the applicable continued inclusion standard. Compliance can be achieved by meeting the applicable standard for a minimum of 10 consecutive business days during the 30 day compliance period.

(E) No change

(3)–(25) No change

(f) No change

Rule 4420. Quantitative Designation Criteria

In order to be designated for the Nasdaq National Market, an issuer shall

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[47] 15 U.S.C. 78s(b)(2).

[48] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

be required to substantially meet the criteria set forth in paragraphs (a), (b), (c), (d), (e), (f), or (g) below. Initial Public Offerings substantially meeting such criteria are eligible for immediate inclusion in the Nasdaq National Market upon prior application and with the written consent of the managing underwriter that immediate inclusion is desired. All other qualifying issues, excepting special situations, are included on the next inclusion date established by Nasdaq.

(a)–(b) No change

(c) Entry Standard 3

An issuer designated under this paragraph does not also need to be in compliance with the quantitative criteria for initial inclusion in the Rule 4300 series.

(1)–(5) No change

(6) The issuer has:

(A) a *market value of listed securities* [market capitalization] of $75 million (currently traded issuers must meet this requirement and the bid price requirement under Rule 4420(c)(3) for 90 consecutive trading days prior to applying for listing); or

(B) No change

(d)—(f) No change

(g) Nasdaq will consider designating as Nasdaq National Market securities Selected Equity-linked Debt Securities (SEEDS) that generally meet the criteria of this paragraph (g). SEEDS are limited-term, non-convertible debt securities of an issuer where the value of the debt is based, at least in part, on the value of another issuer's common stock or non-convertible preferred stock (or sponsored American Depositary Receipts (ADPs) overlying such equity securities).

(1)–(2) No change

(3) Minimum Standards Applicable to the Linked Security

An equity security on which the value of the SEEDS is based must:

(A)(i) have a *market value of listed securities* [market capitalization] of at least $3 billion and a trading volume in the United States of at least 2.5 million shares in the one-year period preceding the listing of the SEEDs;

(ii) have a *market value of listed securities* [market capitalization] of at least $1.5 billion and trading volume in the United States of at least 10 million shares in the one-year period preceding the listing of the SEEDS; or

(iii) have a *market value of listed securities* [market capitalization] of at least $500 million and a trading volume in the United States of at least 15 million shares in the one-year period preceding the listing of the SEEDS.

(B)–(C) No change

(4)–(5) No change

(h) No change

Rule 4450. Quantitative Maintenance Criteria

After designation as a Nasdaq National Market security, a security must substantially meet the criteria set forth in paragraphs (a) or (b), and (c), (d), (e), and (f) below to continue to be designated as a national market system security. A security maintaining its designation under paragraph (b) need not also be in compliance with the quantitative maintenance criteria in the Rule 4300 series.

(a) No change

(b) Maintenance Standard 2—Common stock, Preferred Stock, Shares or Certificates of Beneficial Interest of Trusts and Limited Partnership Interests in Foreign or Domestic Issues

(1) The issuer has:

(A) a *market value of listed securities* [market capitalization] of $50 million; or

(B) No change

(2)–(6) No change

(c)–(g) No change

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the description of the market capitalization listing standard to market value of listed securities. One of the standards under which issuers can qualify for listing on The Nasdaq National Market ("National Market") is to have a market capitalization of at least $75,000,000. Issuers may also qualify for continued inclusion on the National market with at least $50,000,000 in market capitalization. The minimum market capitalization standards for initial and continued inclusion on The Nasdaq SmallCap Market are $50,000,000 and $35,000,000, respectively.

For purposes of initial listing eligibility, Nasdaq has historically interpreted the term market capitalization to include only the value of listed securities. In connection with continued listing eligibility, however, Nasdaq has also considered market capitalization to include classes of non-redeemable convertible preferred stock, provided that the conversion price was "in the money." This approach has created uncertainty among issuers and investors as to the definition and application of the market capitalization listing standard. Furthermore, Nasdaq's Marketplace Rules do not define market capitalization and this term may be thought to include more than just the value of listed securities or non-redeemable convertible preferred stock that is in the money. For example, issuers and investors may believe that all unlisted convertible preferred stock or non-convertible preferred stock may be included in the definition of market capitalization.

As such, Nasdaq proposes to change the description of the market capitalization listing standard to market value of listed securities. In conjunction with this change, Nasdaq also proposes to add to Nasdaq's Marketplace Rules a definition of the term "listed securities." Nasdaq believes that these modifications will clarify for issuers and investors that initial and continued listing eligibility will be based only upon the value of an issuer's securities that are quoted on Nasdaq or listed on a national securities exchange.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act[3] in that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[3] 15 U.S.C. 78o(b)(6).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2001–84 and should be submitted by December 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30141 Filed 12–4–01; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45114; File No. SR–Phlx–2001–38]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change, and Amendment No. 1 Thereto, by the Philadelphia Stock Exchange, Inc. Relating to the Definition of a Controlled Account

November 28, 2001.

I. Introduction

On March 12, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change related to the definition of a controlled account. On August 16, 2001, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change was published for comment in the **Federal Register** on September 18, 2001.[4] This order approves the proposed rule change, as amended.

II. Description of the Proposed Rule Change

The Phlx proposes to amend the definition of controlled accounts under Phlx Rule 1014(g)(i) and Option Floor Procedure Advice ("Advice") B–6. The proposed rule change would also make corresponding amendments to Phlx Rule 1014(g)(i) and Advice B–6 pertaining to the requirements to circle the "yield" field on order tickets. This proposed rule change has been filed in response to the Ordering Instituting Public Administrative Proceeding Pursuant to section 19(h)(1) of the Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File 3–10282 (the "Order"). Under Section IV.B.j of the Order, the Exchange is required to codify market maker practices pertaining to the allocation of orders.

Currently, Phlx Rule 1014(g) defines the term controlled account to include "any account controlled by or under common control with a member broker-dealer." Phlx Option Specialists, Registered Options Traders ("ROTs") and other "firm proprietary" accounts (if for the account of a member broker-dealer) are included in this definition. Under the rule, if an account is not a controlled account, it is considered a customer account. Thus all other accounts, including non-member broker-dealer accounts, are considered customer accounts. Except for specialists and ROTs closing in-person, controlled accounts must yield priority to customer accounts. Presently, member broker-dealers are required to yield priority to non-member broker-dealer accounts because such accounts are considered customer accounts under the rule language. However, Phlx Rule 1014(g) has been interpreted to yield the priority of non-member broker-dealer orders to "true" customer orders, and treat non-member broker-dealer orders on par with member broker-dealer orders on the floor of the Exchange. This proposed rule change would codify the floor's interpretation of the term "controlled account."

Specifically, the proposed rule change would amend the controlled account definition to include a non-member broker-dealer account. Thus, non-member broker-dealers would be required to yield priority to public customer orders, and be treated on par with orders for accounts of member broker-dealers. For instance, currently, where both a customer and a non-member broker-dealer order bid for 100 contracts at the same time and at the same price, the customer and the non-member broker-dealer would each be entitled to 50 contracts of an incoming order to sell 100 contracts under the rule. However, under the proposed rule change, the customer's bid would have priority over the non-member broker-dealer and would receive the entire execution of an incoming sell order for 100 contracts at that price. In addition, under the proposed rule change, where a non-member broker-dealer and a ROT both bid for 100 contracts at the same time and at the same price, the ROT and the non-member broker-dealer would each be entitled to 50 contracts as opposed to the result under the current rule in which the non-member broker-dealer would have priority and be entitled to the entire execution of the incoming sell order for 100 contracts.

In addition, the proposed rule change would amend Advice B–6 to clarify that there is no requirement to circle the "yield" field on market maker order tickets because unlike customer order tickets, the tickets used for orders by ROTs and other exchanges' market makers (due to the processing needs of clearing firms), do not have such a category. This amendment would make

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Senior Special Counsel, Division of Market Regulation, Commission, dated August 15, 2001 ("Amendment No. 1").

[4] *See* Securities Exchange Act Release No. 44809 (September 18, 2001), 66 FR 49056 (September 25, 2001).

Advice B–6 consistent with the expanded definition of controlled account under the proposed rule change. Currently, specialists and ROTs closing-in person are not required to circle the yield field; this requirement would not change. Other controlled accounts would still be required to circle the yield field.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange.[5] In particular, the proposed rule change is consistent with sections 6(b)(5) and 6(b)(8) of the Act.[6] The Commission finds that proposed rule change is consistent with the requirements of section 6(b)(5) of the Act[7] because the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. The Commission also finds that the proposed rule change is consistent with section 6(b)(5) of the Act because the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Further, the Commission finds that the proposed rule change is consistent with section 6(b)(8) of the Act[8] because the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In particular, the Commission finds that it is consistent with sections 6(b)(5) and 6(b)(8) of the Act[9] to treat non-member broker-dealers and member broker-dealers similarly by generally requiring that orders for such accounts yield to customer orders. In this regard, this rule is similar to protections offered to customer orders in other contexts. Further, the Commission finds that parity between orders for non-member broker-dealers and member broker-dealers, except for members (*i.e.*, specialists and ROTs) that close in-person, is appropriate and consistent with the Act.

[5] In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5) and 78f(b)(8).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(8).

[9] 15 U.S.C. 78f(b)(5) and 78f(b)(8).

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change (SR–Phlx–2001–38), as amended, is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30139 Filed 12–4–01; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

President's Commission To Strengthen Social Security

AGENCY: Social Security Administration (SSA).

ACTION: Announcement of meeting location.

DATES: December 11, 2001 10:00 a.m.–6:00 p.m.

ADDRESSES: Park Hyatt Ballroom, Park Hyatt Washington, 24th at M Street NW., Washington, DC 20037, (202) 789–1234.

SUPPLEMENTARY INFORMATION: The **Federal Register** notice announcing the December 11 meeting of the President's Commission to Strengthen Social Security did not include a meeting location. The purpose of this announcement is to provide the meeting location.

The Commission will meet commencing Tuesday, December 11, at 10:00 a.m. and ending at 6:00 p.m., with a break for lunch between 12:30 p.m. and 1:30 p.m. The Commission will be discussing its draft Final Report.

Dated: November 30, 2001.

Michael A. Anzick,

Designated Federal Officer.

[FR Doc. 01–30244 Filed 12–4–01; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

Bureau of Consular Affairs

[Public Notice 3850]

Designation of Certain Posts for Special Fee Payment Procedures

This public notice adds additional posts, located in India and Vietnam, to those already designated by the Deputy Assistant Secretary for Visa Services for two purposes related to the payment of immigrant visa fees. The first purpose relates to the revised procedure for payment of the fee for the processing of the application for an immigrant visa set forth in the **Federal Register** on September 8, 2000, (65 FR 54598). The effective date of that notice was stayed until January 1, 2001 by a public notice in the **Federal Register** of December 14, 2000, (65 FR 78243).

The second purpose is to identify the posts for which a fee pursuant to Item 61 of the Schedule of Fees for Consular Services (22 CFR 22.1) will be assessed for advance review of and assistance with the Affidavit of Support that is required in certain immigrant visa cases. Notice of this fee requirement was added to the visa regulation pertaining to the Affidavit of Support requirement in 22 CFR 40.41(b), and was effective January 1, 2001.

The Department will publish further public notices as additional designations are made.

The Deputy Assistant Secretary for Visa Services has designated the Foreign Service posts in the following cities for participation in the new immigrant visa application processing fee payment system and the fee for review of and assistance with the Affidavit of Support required under section 213A of the Immigration and Nationality Act. The effective date of this notice is October 1, 2001.

Abidjan, Cote D'Ivoire
Accra, Ghana
Addis Ababa, Ethiopia
Algiers, Algeria
Antananarivo, Madagascar
Bogota, Colombia
Cairo, Egypt
Chennai, India
Casablanca, Morocco
Ciudad Juarez, Mexico
Cotonou, Benin
Dakar, Senegal
Dar-es-Salaam, Tanzania
Djibouti, Djibouti
Freetown, Sierra Leone
Georgetown, Guyana
Guangzhou, China
Harare, Zimbabwe
Ho Chi Minh City, Vietnam
Johannesburg, South Africa
Kinshasa, Democratic Republic of the Congo
Lagos, Nigeria
Libreville, Gabon
Lilongwe, Malawi
Lome, Togo
Lusaka, Zambia
Manila, Philippines
Monrovia, Liberia
Montreal, Canada
Mumbai, India
Nairobi, Kenya
New Delhi, India

Niamey, Niger
Ouagadougou, Burkina Faso
Port-au-Prince, Haiti
Praia, Cape Verde Islands
Santo Domingo, Dominican Republic
Tirana, Albania
Tunis, Tunisia
Yaounde, Cameroon

Dated: November 26, 2001.

Wayne G. Griffith,

Deputy Assistant Secretary for Visa Services, U.S. Department of State.

[FR Doc. 01–30136 Filed 12–4–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 3851]

Future Leaders Exchange (FLEX) Computer Training of Trainers Workshop; Request for Proposals

SUMMARY: The Office of Citizen Exchanges, Division of the NIS Secondary School Initiative of the United States Information Agency's Bureau of Educational and Cultural Affairs, announces an open competition for the Computer Training of Trainers Workshop for the Future Leaders Exchange (FLEX) program. The FLEX program brings secondary students from the New Independent States (NIS) of the former Soviet Union to the U.S. for an academic year. During their time in the U.S., FLEX students live with American host families and attend U.S. high schools.

The primary goal of the Computer Training of Trainers Workshop is to train the participants to educate others in basic computer skills and Internet access. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501c(3) may submit proposals to conduct a one-week workshop in Spring, 2002 to train a minimum of 30 FLEX students.

Participants will be selected from among a group of 1200 students. We anticipate the maximum grant award to be approximately $75,000. Cost sharing to maximize the number of participants will be looked at very favorably.

Program Information

The recipient of the grant is responsible for developing and conducting the Computer Training of Trainers Workshop based on guidelines set forth by the Division. The grantee organization will also have responsibility for selecting participants. Additional responsibilities include coordinating travel arrangements for each participant from his/her host community to the training site and return, and for providing room and board for students during their time at the workshop.

Background

Academic year 2001/2002 is the ninth year of the FSA/FLEX program, which now includes over 10,000 alumni. This component of the NIS Secondary School Initiative was originally authorized under the FREEDOM Support Act of 1992 and is funded by annual allocations from the Foreign Operations and Department of State appropriations. The goals of the program are to promote mutual understanding and foster a relationship between the people of the NIS and the U.S.; assist the successor generation of the NIS to develop the qualities it will need to lead in the transformation of those countries in the 21st century; and to promote democratic values and civic responsibility by giving NIS youth the opportunity to live in American society for an academic year.

Other Components

Two organizations have already been awarded grants to perform functions that include recruitment, selection, international travel of all FLEX students, and ongoing follow-up with alumni upon their return to the NIS. Additionally, "placement organizations" have been awarded grants to place FSA/FLEX students in schools and homestays for the academic year. The organization selected for the Computer Training of Trainers Workshop will need to request that each placement organization disseminate information on the workshop to all its students and assist in coordinating travel of finalists to the workshop site, and return.

Overview

Workshop participants should be selected according to computer ability, interest, and teaching potential as well as motivation to help citizens of their countries. The workshop should provide an opportunity, first and foremost, for participants to learn about teaching methodologies that will enable them to instruct others. In addition, this can serve as a venue for them to improve their computer expertise so they will be well-prepared to teach these skills to others. Participants should learn about tools they can use to teach basic computer skills, keeping in mind that some of these tools may not be available in their home countries. They should also gain an awareness of how computers can enhance societal development through communication with appropriate organizations, distance learning projects, local language web sites, etc. Particular attention should be paid to those issues that will be especially significant to people from the former Soviet Union. The program should be arranged for seven days, including arrival and departure.

Selection of workshop participants will be completed by the recipient of the grant through a merit-based, equitable selection process. Finalists must represent all 12 NIS countries.

Guidelines

The workshop should be held in Spring 2002, preferably in March or April. Proposals must effectively describe the organization's ability to accomplish the following essential components of the program:

1. Provide a Computer Training of Trainers Workshop, as described above and, preferably, at the time period indicated.
2. Include a description of the student selection process.
3. Describe training that will be provided for organization staff on NIS society and culture.
4. Provide housing and meals for the students throughout the program.
5. Arrange travel for students from their U.S. host communities to the training site, and return, in coordination with FLEX placement organizations. (**Note:** Students will likely be coming from as many as 30 states.) Provide ground transportation for students in the training area, including to and from airports.
6. Provide opportunities to attend cultural events in the area during non-class hours.
7. Provide staff to assist in case of medical emergencies.
8. Incorporate a program component designed to facilitate students' transition from the computer workshop to their host communities.
9. Include a description of the ways in which students will be encouraged to share what they have learned in their U.S. host communities, and to teach others when they return to their home countries. Include a plan for how returning students will interface with FLEX alumni associations that exist throughout the NIS.
10. Provide a mechanism in which participants can continue to communicate with each other upon completion of the workshop.
11. Provide tools for evaluation of the program in terms of its impact on the students and its success in fulfilling objectives, particularly the component that involves their teaching others in their home countries. Plan for continued activity to build upon program

achievements without additional U.S. government support.

A competitive proposal will incorporate important elements of American/NIS culture in sessions that are largely interactive and designed to appeal to high school-age students. The program must be substantive and academic while, at the same time, paced realistically to meet the needs of young people. A strong proposal will reflect a clear, convincing agenda outlining exactly how the program will be carried out and how outcomes will be accomplished as a result of the grant. Knowledge of the current technological capacity (Internet connectivity, e-mail, hardware and software) of NIS countries is essential.

Please refer to the Program Objectives, Goals, and Implementation (POGI) section of the Solicitation Package for greater detail regarding the design of component parts as well as other program information.

Budget Guidelines

Organizations must submit proposals that arrange a program for a minimum of 30 students, but may increase the number of participants through cost sharing. Proposals that maximize the number of students will be favorably viewed. One grant will be awarded for this activity. It is estimated that the total costs of the Computer Training of Trainers Workshop will average $2,500 per NIS participant for a one-week program, including U.S. domestic travel.

Applicants must submit a comprehensive budget for the entire program. We anticipate awarding one grant for approximately $75,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Please refer to the Solicitation Package for further details and for complete budget guidelines and formatting instructions.

Allowable costs for the program include the following:

(1) Transportation for participants from their host U.S. cities/towns to workshop site.

(2) Daily travel to/from workshop site location.

(3) Room and board during the time of the workshop.

(4) Rental of facilities and equipment.

(5) Fees for related activities/ excursions.

(6) Honoraria for speakers/trainers, as appropriate.

(7) Supplies.

(8) Security services.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number

All correspondence with the Bureau concerning this RFGP should reference the above title and number *ECA/PE/C/PY–02–40.*

FOR FURTHER INFORMATION, CONTACT: The Youth Programs Division, Office of Citizen Exchanges, ECA/PE/C/PY, Room 568, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, phone: 202/619–6299, fax: 202/619–5311, e-mail: <*lbeach@pd.state.gov*> to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Anna Mussman on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package via Internet: The entire Solicitation Package may be downloaded from the Bureau's web site at *http://exchanges.state.gov/education/RFGPs.* Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on January 14, 2002. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. It is the responsibility of each applicant to ensure that its proposal is received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and seven copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/PY–02–40, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be forwarded to panels of Bureau officers for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the organization will meet the program's objectives and plan.

4. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

5. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. Proposing organization should demonstrate it has experience with computer education, preferably with youth, as well as familiarity with the culture of the New Independent States (NIS) of the former Soviet Union.

6. *Track Record:* Proposals should demonstrate an institutional record of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

7. *Multiplier effect/impact:* Proposed programs should describe how workshop participants will be motivated and enabled to reach out to other individuals in their communities in the U.S. and in their home countries.

8. *Follow-on Activities:* Proposals should describe how the program will track participants to confirm that they share their knowledge and information with their U.S. communities and organize ways to teach others in their home countries.

9. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives are recommended. Successful applicants will be expected to submit a final report after the project has been completed.

10. *Cost-effectiveness/Cost Sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation of the Freedom Support Act.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: November 26, 2001.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 01–30137 Filed 12–4–01; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Greater Kankakee Airport, Kankakee, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Corrected notice of intent of waiver with respect to land.

SUMMARY: Previous notice of intent of waiver with respect to land was published in the **Federal Register** on November 27, 2001 (page 59297). The notice provided that comments must be received on or before November 27, 2001 and did not provide 30 days for public comment as required. This corrected notice amends the date for comments to be filed. Comments must be received on or before December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Denis Rewerts, Program Manager, 2300 East Devon Avenue, Des Plaines, IL, 60018. Telephone Number 847–294–7195/FAX Number 847–294–7046.

Issued in Des Plaines, Illinois on November 28, 2001.

Philip M. Smithmeyer,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 01–30175 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Land at the Safford Municipal Airport, Safford, Arizona From Certain Restrictions Contained in the Patent Dated April 3, 1956

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on request to release airport land from certain restrictions contained in the Patent No. 1158979 dated April 3, 1956.

SUMMARY: The FAA proposes to rule and invites public comment on the release of approximately 183.30 acres of land at the Safford Municipal Airport, Safford, Arizona, from certain restrictions contained in the Patent dated April 3, 1956. The purpose of the release is to permit the use of approximately 183.30 acres of airport property to be developed for non-aeronautical purposes, but remain dedicated airport land.

DATES: Comments must be received on or before January 4, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, P.O. Box 92007, Los Angeles, CA 90009. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Ronald Jacobson, City

Manager, City of Safford, P.O. Box 272 Safford, AZ 85548–0272.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Flynn, Supervisor, Arizona Standards Section, Airports Division, AWP–623, P.O. Box 92007, Los Angeles, CA 90009, Telephone: (310) 725–3632. Arrangements may be made with Mr. Flynn to review the request to release the subject airport property from certain obligations in person at the FAA Western-Pacific Regional office, 15000 Aviation Blvd., Hawthorne, CA 90250.

SUPPLEMENTARY INFORMATION: On April 5, 2000, new authorizing legislation became effective. That bill, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61), requires that a 30-day public notice must be provided before the Secretary may waive any condition imposed on an interest in surplus property.

The following is a brief overview of the request:

On April 3, 1956, the United States Department of Interior, acting under the authority of section 16 of the Federal Airport Act of 1946, granted patent No. 1158979 to the Town of Safford, Arizona for 692.66 acres to be developed as a public use airport. The City of Safford has requested the release of approximately 183.30 acres of dedicated airport land at the Safford Municipal Airport, Safford Arizona from certain restrictions contained in the Patent dated April 3, 1956. The purpose of the release is to permit the use of dedicated airport property for non-aeronautical purposes. Net proceeds from the leasing and development of the subject land will be utilized by the city for capital improvements, operation, and maintenance at the Safford Municipal Airport.

Issued in Hawthorne, California, on November 15, 2001.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 01–30133 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–92]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Disposition of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on November 29, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Disposition of Petitions

Docket No.: FAA–2001–10789 (previously Docket No. 29903).

Petitioner: Bain Aviation, Inc., dba Tavaero Jet Charter, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit TJC to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 7146A.

Docket No.: FAA–2001–10793 (previously Docket No. 29116).

Petitioner: Taconite Aviation, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit TAI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 6735B.

Docket No.: FAA–2001–9618 (previously Docket No. 24165).

Petitioner: U.S. Air Force.

Section of 14 CFR Affected: 14 CFR 91.209(a) and (b).

Description of Relief Sought/ Disposition: To permit the USAF to conduct helicopter night-vision flight training operations without lighted aircraft position lights at or below 500 feet above ground level.

Grant, 11/13/2001, Exemption No. 5891B.

Docket No.: FAA–2001–10790 (previously Docket No. 27118).

Petitioner: Air Logistics, L.L.C.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Air Logistics to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 6736B.

Docket No.: FAA–2001–10920.

Petitioner: Yute Air Taxi, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit YAT to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 7658.

Docket No.: FAA–2001–10838.

Petitioner: Frontline Aviation, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit FAI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 7660.

Docket No.: FAA–2001–10839.

Petitioner: Alaska Flying Tours.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit AFT to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 7657.

Docket No.: FAA–2001–10927.

Petitioner: Miller Aero Services, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit MAS to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 7659.

Docket No.: FAA–2001–10853. (previously Docket No. 29783).

Petitioner: Indiaanapolis Aviation, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit IAI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 7082A.

[FR Doc. 01–30131 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–93]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC., on November 29, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–10384 (previously Docket No. 29137).

Petitioner: Weary Warriors Squadron.

Section of 14 CFR Affected: 14 CFR 91.315, 119.21(g), and 119.21(a).

Description of Relief Sought/ Disposition: To permit WWS to operate its North American B–25 aircraft, which is certificated in the limited category, for the purpose of carrying passengers for compensation or hire.

Grant, 11/01/2001, Exemption No. 6786B.

Docket No.: FAA–2001–10452 (previously Docket No. 29599).

Petitioner: Air Logistics, L.L.C.

Section of 14 CFR Affected: 14 CFR 145.45(f).

Description of Relief Sought/ Disposition: To permit Air Logistics to place and maintain its Inspection Procedures Manual (IPM) in a number of fixed locations within its facility in lieu of giving a copy of the IPM to each of its supervisory and inspection personnel.

Grant, 10/24/2001, Exemption No. 7097A.

Docket No.: FAA–2001–10876.

Petitioner: EAA Aviation Foundation, Inc., and Experimental Aircraft Association, Inc.

Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a).

Description of Relief Sought/ Disposition: To permit EAA to operate its Boeing B–17 airplane, which is certificated in the limited category, for the purpose of carrying its members for compensation or hire in its former military vintage airplane on local flights for educational and historical purposes.

Grant, 10/30/2001, Exemption No. 6541C.

Docket No.: FAA–2001–9780.

Petitioner: Schwartz Engineering Company.

Section of 14 CFR Affected: 14 CFR 25.813(e).

Description of Relief Sought/ Disposition: To permit SEC to install interior "hinged/slab" doors between passenger compartments on one private-use Boeing Model 737–700 IGW airplane.

Denial, 11/02/2001, Exemption No. 7656.

[FR Doc. 01–30132 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 02–05–C–00–BGM To Impose/Use the Revenue from a Passenger Facility Charge (PFC) at Binghamton Regional Airport, Binghamton, New York

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose/use the revenue from a PFC at Binghamton Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 4, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Carl R. Beardsley, Jr., Deputy Commissioner of Aviation of the Broome County Department of Aviation at the following address: Broome County Department of Aviation, 2534 Airport Road, Box 16, Johnson City, NY 13790.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Broome County Department of Aviation under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Philip Brito, Manager, New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530, Telephone: (516) 227–3800. The application may be reviewed in person at the same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose/use the revenue from a PFC at Binghamton Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 31, 2001, the FAA determined that the application to impose/use the revenue from a PFC submitted by the Broome County Department of Aviation was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 19, 2001.

The following is a brief overview of the application.

PFC Application No.: 02–05–C–00–BGM.

Level of the proposed PFC: $3.00.

Proposed charge effective date: February 1, 2002.

Proposed charge expiration date: July 31, 2006.

Total estimated PFC revenue: $1,445,438.

Brief description of proposed project(s):
Impose Only:
—Airport Service Road Improvements—Phase I
—ARFF Facility Refurbishment
—Passenger Boarding Bridge Purchase
—Runway 16–34 Refurbishment Design/Construction
Impose and Use:
—Snow Removal Equipment Purchase
—Fire Rescue Equipment
—Runway 16–34 RSA EMAS Design/Construction
—Airport Master Plan Update
Use:
—Maintenance Building Construction—Construction Phase
Class of classes of air carriers which the public agency has requested not be required to collect PFCs: Non-Scheduled/On Demand Operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional airports office located at: Federal Aviation Administration, Eastern Region, Airports Division, AEA–610, 1 Aviation Plaza, Jamaica, New York 11434–4809.

In addition, any person may, upon request, inspect the FAA application, notice and other documents germane to the application in person at the Broome County Department of Aviation.

Issued in Garden City, New York on November 27, 2001.

Philip Brito,

Manager, New York Airports District Office, Eastern Region.

[FR Doc. 01–30176 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Dayton International Airport for Use at Dayton International Airport and Dayton-Wright Brothers Airport, Dayton, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Dayton International Airport for use at Dayton International Airport and Dayton-Wright Brothers Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 4, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111. The application may be reviewed in person at this location.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Eugene B. Conrad, Jr., A.A.E., Dayton International Airport at the following address: Dayton International Airport, 3600 Terminal Drive, Suite 300, Vandalia, Ohio, 45377.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Dayton International Airport under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Arlene B. Draper, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (734–487–7282). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Dayton International Airport and to use the revenue at Dayton International Airport and Dayton-Wright Brothers Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 27, 2001, the FAA determined that the application to impose a PFC at Dayton International Airport and to use the revenue at Dayton International and Wright-Brothers Airports submitted by the City of Dayton was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, not later than December 26, 2001.

The following is a brief overview of the application.

PFC application number: 01–03–C–00–DAY.

Level of the proposed PFC: $4.50.

Proposed charge effective date: March 1, 2004.

Proposed charge expiration date: August 1, 2014.

Total estimated PFC revenue: $64,670,915.00.

Brief description of proposed projects:

Dayton International: Runway Pavement Rehabilitation, Environmental Impact Study, Deicing System Improvements, Backup Generator-Airfield, Aircraft Rescue and Fire Fighting (ARFF) Station Renovation and Expansion, Taxiways A and Z Rehabilitation, Taxiway H, K, E, C, L and V Rehabilitation, Cargo and Terminal Aircraft Apron Rehabilitation, Land Acquisition-Approach and Runway Protection, Airfield Snow Removal Equipment, ARFF Vehicle Replacement (Rescue 22), Backup Generator-Terminal, Terminal Gate Expansion, Terminal Drive and Related Roads Rehabilitation, Southwest Terminal Apron, Northeast Deicing Apron, Computerized Airfield Lighting Control System, Perimeter Road, Far Part 150 Noise Study—Phase 1, 2, and Final, Airport Police Offices Renovation. Dayton-Wright Brothers Airport: Land Acquisition and Approach Protection for Runway End 20, Runway 2/20 and Other Pavement Rehabilitation. Class or classes of air carriers which the public agency has requested to be required to collect PFCs: air taxi/commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Dayton International Airport, 5300 Riverside Drive, Dayton, Ohio 44135.

Issued in Des Plaines, Illinois on November 27, 2001.

Mark McClardy,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 01–30134 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Duluth International Airport, Duluth Minnesota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Duluth International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 part 158).

DATES: Comments must be received on or before January 4, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Minneapolis Airports District office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450–2706.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Raymond Klosowski, Executive Director, Duluth Airport Authority, at the following address: Duluth Airport Authority, Duluth International Airport, 4701 Grinder Drive, Duluth, MN 55811. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Duluth Airport Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Gordon Nelson, Program Manager, Federal Aviation Administration, Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450–2706, (612) 713–4358. The applicaiton may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Duluth International Airport Under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 18, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Duluth Airport authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 16, 2002.

The following is a brief overview of the application.

PFC application number: 01–05–C–00–DLH.

Level of the proposed FPC: $4.50.

Proposed charge effective date: March 1, 2002.

Proposed charge expiration date: March 1, 2003.

Total estimated FPC revenue: $554,556.00.

Brief description of proposed projects: Prepare PFC application; upgrade surveillance camera system (Phase II); repair and replace concrete panels for Runway 9–27 and reconstruct a segment of Taxiway A; design Runway 9 Cat II Instrument Landing System (ILS) and midfield runway Visual Range (RVR); reconstruct passenger terminal apron; improve runway 9 safety area (west end); install runway 9 high intensity approach lighting system with sequenced flashing lights (ALSF–2); acquire 8.5 acres of wetland credits; improve runway safety area at the southwest end of runway 3–21; construct perimeter road around the southwest end of Runway 3–21; install 12,950 feet of 6-ft high security fence and 2,700 feet of ten-foot high deer fence. Class or classes of air carriers which the public agency has requested not be required to collect PFCs: non-scheduled part 135 Air Taxi/Commercial Operators (ATCO).

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**".

In addition, any person may, upon request, inspect the application, notice and other documents germane to the applicaiton in person at the Duluth Airport Authority Office.

Issued in Des Plaines, Illinois, on November 27, 2001.

Mark McClardy,

Acting Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 01–30135 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Subject of Intent To Rule on Application To Impose and Use the Revenue From A Passenger Facility Charge (PFC) at Orlando International Airport, Orlando, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Orlando International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 4, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, FL 32822.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. C.W. Jennings, Executive Director of the Greater Orlando Aviation Authority at the following address: Mr. C.W. Jennings, Executive Director, Greater Orlando Aviation Authority, One Airport Boulevard, Orlando, FL 32827–4399.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Greater Orlando Aviation Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Bud Jackman, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, FL 32822, (407) 812–6331, x22. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Orlando International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconcilitation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On November 21, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Greater Orlando Aviation Authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 14, 2002.

The following is a brief overview of the application.

PFC Application No.: 02–09–C–00–MCO.

Level of the proposed PFC: $3.00.

Proposed charge effective date: Februrary 1, 2014.

Proposed charge expiration date: February 1, 2017.

Total estimated net PFC revenue: $219,494,000.

Brief description of proposed projoect(s):

Landside Terminal Level 1 Modifications,

Six Bank Elevator Improvements,

Baggage Conveyor System—Landside Levels 1&2,

Central Plant Improvements Phase 3,

Fourth Runway (9,000 ft by 150 ft),

Drainage Improvements (Wildlife Attractants Mitigation),

Intermodal Transit System (ITS),

Replacement of 180,000 LF of Pavement Joints for Runway 17–35,

Satellite Aircraft Rescue and Fire Fighting (ARFF) Facility,

800 MHz Radio System—Digital Upgrade,

Baggage Sorting System Upgrade,

Taxiway Lighting Improvements,

Mobile Command Post,

Surface Movement Guidance Control System,

Automated Guide way Transit (AGT) Rehabilitation Program,

Emergency Operations Center,

Aircraft Rescue and Fire Fighting (ARFF) Vehicles.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Greater Orlando Aviation Authority.

Dated: Issued in Orlando, Florida on November 28, 2001.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 01–30177 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In October 2001, there were six applications approved. Additionally, 11 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of 158.29.

PFC Applications Approved

Public Agency: Shenandoah Valley Regional Airport Commission, Weyers Cave, Virginia.

Application Number: 01–01–C–00–SHD.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $207,875.

Earliest Charge Effective Date: December 1, 2001.

Estimated Charge Expiration Date: December 1, 2006.

Classes of Air Carriers Not Required To Collect PFC's: (1) Unscheduled Part 135 air taxi/commercial operators for hire to the general public and (2) unscheduled Part 121 charter operators for hire to the general public.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Shenandoah Valley Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Develop PFC program and application.

Install medium intensity taxiway lights, airfield guidance signs, and precision approach path indicator.

Design and construct apron expansion.

Design and rehabilitate general aviation apron.

Design and construct runway safety area—runway 5.

Acquisition of snow removal and friction testing equipment.

Update airport layout plan.

Install stand-by emergency generator.

Decision Date: October 2, 2001.

FOR FURTHER INFORMATION CONTACT: Eleanor Schifflin, Eastern Region Airports Division, (718) 553–3354.

Public Agency: City of Bismarck, North Dakota.

Application Number: 01–03–C–00–BIS.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $925,522.

Earliest Charge Effective Date: May 1, 2002.

Estimated Charge Expiration Date: January 1, 2004.

Classes of Air Carriers Not Required To Collect PFC's: Air taxis filing FAA Form 1800–31, except commuter air carriers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Bismarck Municipal Airport.

Brief Description of Projects Approved for Collection and Use:

Remove taxiway A–4 and construct taxiway C–4.

Update security access system.

Extend taxiway C and reconfigure runway 13/31 exit taxiways.

Remove taxiways A, A–1, A–3, C–1, C–2, and associated electrical facilities.

Abandon and remove runway 17/35 and associated electrical facilities.

Replace general aviation apron.

Update airport master plan—terminal area study.

Replace airport beacon.

Terminal ramp rehabilitation.

Purchase broom truck.

PFC application preparation.

Decision Date: October 15, 2001.

FOR FURTHER INFORMATION CONTACT: Thomas T. Schauer, Bismarck Airports District Office, (701) 323–7380.

Public Agency: Port of Seattle, Washington.

Application Number: 01–06–U–00–SEA.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $50,000,000.

Charge Effective Date: January 1, 2004.

Estimated Charge Expiration Date: September 1, 2021.

Class of Air Carriers Not Required To Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Collection and Use: Noise remedy program.

Decision Date: October 16, 2001.

FOR FURTHER INFORMATION CONTACT: Suzanne Lee-Pang, Seattle Airports District Office, (425) 227–2654.

Public Agency: County of Venture Department of Airports, Oxnard, California.

Application Number: 01–01–C–00–OXR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $872,000.

Earliest Charge Effective Date: January 1, 2002.

Estimated Charge Expiration Date: June 1, 2007.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Revise/amend updates to airport master plan and Part 150 noise study.

Rehabilitate airport pavement, runway 7/25 and exit taxiways.

Rehabilitate terminal loop road.

Decision Date: October 19, 2001.

FOR FURTHER INFORMATION CONTACT: Dave Delshad, Western Pacific Region Airports Division, (310) 725–3627.

Public Agency: City of Harlingen, Texas.

Application Number: 01–02–C–00–HRL.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $5,032,330.

Earliest Charge Effective Date: January 1, 2002.

Estimated Charge Expiration Date: February 1, 2006.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators operating under Part 135 and filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Valley International Airport.

Brief Description of Projects Approved for Collection and Use:

Construct air cargo apron.

Extend Bodenhamer Drive.

Install air cargo ramp lighting.

Acquire and install passenger loading bridge.

Overlay access roads.

Rehabilitate taxiway F.

Construct runway 17 blast pad.

Rehabilitate runways 17R/35L and 13/31 lighting.

Acquire 180 acres for runways 35L and 35R protection zones.

Construct taxiways L and M.

Improve runways 15L and 35R safety areas.

Rehabilitate and extend taxiway C.

Rehabilitate air carrier apron.

Convert runway 8/26 to a taxiway.

Reconstruct perimeter road.

Rehabilitate north general aviation apron.

Rehabilitate west cargo apron.

Rehabilitate taxiways J and K.

Rehabilitate terminal.

Rehabilitate terminal access road.

PFC administrative costs.

Decision Date: October 22, 2001.

FOR FURTHER INFORMATION CONTACT: G. Thomas Wade, Southwest Region Airports Division, (817) 222–5613.

Public Agency: County of Victoria, Texas.

Application Number: 01–03–C–00–VCT.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $182,356.

Earliest Charge Effective Date: January 1, 2002.

Estimated Charge Expiration Date: March 1, 2004.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Acquire aircraft rescue and firefighting vehicle.

Acquire airfield sweeper.

Update airport master plan.

Rehabilitate runways 12L/30R and 17/35.

Rehabilitate medium intensity taxiway lights on taxiways A and B.

Decision Date: October 30, 2001.

FOR FURTHER INFORMATION CONTACT: G. Thomas Wade, Southwest Region Airports Division, (817) 222–5613.

Amendments to PFC Approvals

Amendment No. City, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
99–03–C–01–PLB Plattsburgh, NY	09/26/01	$63,764	$7,264	03/01/01	02/01/99
98–05–C–01–MEI Meridian, MS	10/01/01	121,650	234,082	09/01/02	02/01/04
*92–01–C–02–PSP Palm Springs, CA	10/09/01	81,888,919	76,883,179	11/01/32	07/01/24
00–03–C–01–BHM Birmingham, AL	10/11/01	8,000,000	13,500,000	11/01/02	04/01/03
98–05–C–02–BNA Nashville, TN	10/16/01	2,355,000	2,855,000	10/01/01	11/01/01
*96–03–C–02–MGW Morgantown, WV	10/16/01	18,450	18,450	02/01/02	02/01/02
*99–05–C–01–MGW Morgantown, WV	10/16/01	192,739	192,739	07/01/05	06/01/04
*97–03–C–02–MIA Miami, FL	10/18/01	253,011,000	253,011,000	01/01/04	02/01/03
*99–01–C–01–AEX Alexandria, LA	10/20/01	5,378,352	5,378,352	11/01/20	07/01/12
*99–02–C–01–PUW Pullman, WA	10/24/01	714,731	714,731	03/01/05	05/01/04
95–02–C–01–SF Sacramento, CA	10/31/01	7,327,560	6,049,560	03/01/97	03/01/97

NOTE: The amendments denoted by an asterisk (*) include a change to the PFC level charged from $2.00 or $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Morgantown, WV, this change is effective on December 1, 2001. For Palm Springs, CA, Miami, FL, Alexandria, LA, and Pullman, WA, this change is effective on January 1, 2002.

Issued in Washington, DC, on November 29, 2001.

Sheryl Scarborough,

Program Analyst, Passenger Facility Charge Branch.

[FR Doc. 01–30174 Filed 12–4–01: 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: King County Washington

AGENCY: Federal Highway Administration (FHWA), King County Department of Transportation, Washington.

ACTION: Notice of Intent to prepare a draft supplemental environmental impact statement (EIS).

SUMMARY: The FHWA, in cooperation with the Washington State Department of Transportation and King County Department of Transportation, is issuing this notice to advise the public that a supplemental to the final environmental impact statement (EIS) will be prepared on the proposal to replace the Elliott Bridge on 149th Avenue Southeast where it crosses the Cedar River

approximately three miles east of downtown Renton in King County, Washington.

FOR FURTHER INFORMATION CONTACT: Elizabeth Healy, Transportation and Environmental Engineer, Federal Highway Administration, 711 South Capital Way, Suite 501, Olympia, Washington, 98501–1284, Telephone: (360) 753–9480 or Tina Morehead, Senior Environmental Engineer, King County, Road Services Division, Department of Transportation, King Street Center M.S. KSC–0231, 201 South Jackson Street, Seattle, WA 98104–3856, Telephone: (206) 296–3733.

SUPPLEMENTARY INFORMATION: The Record of Decision for the original EIS for the improvements (FHWA–WA–EIS–92–4–F) was signed on November 21, 1995. In the original EIS, the proposed improvements to the Elliott Bridge provided a three-lane bridge (two travel lanes and one center lane) with pedestrian sidewalk and associated approach road realignment. Improvements to the bridge were and still are considered necessary to provide for traffic circulation, roadway safety, and structural stability.

After approval and subsequent appeal of the local shoreline substantial development permit, King County withdrew its shoreline permit application based on issues related to the federal Endangered Species Act. Since that withdrawal, the county has reevaluated the original purpose and need for the project, reviewed and expanded the alternatives considered, and determined that a supplemental EIS needs to be prepared.

Alternatives under consideration include four action alternatives in addition to the no-action alternative. The four action alternatives include: Alternative IS—replacing the existing bridge with a new bridge approximately 50 feet east of the existing bridge and constructing two offset tee-intersections to provide connections to Southeast Jones Place and Jones Road; Alternative 4S—replacing the existing bridge with a new bridge approximately 820 feet east of the existing bridge and constructing a new road alignment from the existing tee intersection of 152nd Avenue Southeast and SR 169 northeastly to tie into the existing 154th Place Southeast approximately 1,100 feet north of the new bridge, and constructing a new intersection with Jones Road; Alternative 5S—similar to 4S but the new bridge would be located approximately 180 feet further east; and Alternative 7Sb replacing the existing bridge with a new bridge approximately 65 feet west of the existing bridge and constructing a tee intersection to provide connection to Southeast Jones Place and a right turn lane from 154th Place Southeast to Jones Road.

No formal scoping period will be held. Letters describing the proposed action and soliciting comments will be sent to approximate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Subsequent to distribution of the draft supplemental EIS, a public hearing will be held during the draft supplemental EIS comment period. The location and time of the public hearing will be announced in the local news media and through a public mailing when it is scheduled. The draft supplemental EIS will be available for public and agency review prior to the public hearing. Release of the draft supplemental EIS for public comment and the public hearing will also be announced in the local news media as these dates are established.

Comments or questions concerning this proposed action and the supplemental EIS should be directed to the FHWA or King County at the address provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernment consultation on Federal programs and activities apply to this program.)

Issued on: November 28, 2001.

Elizabeth Healy,

Transportation and Environmental Engineer.

[FR Doc. 01–30167 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Mercer and Middlesex Counties, NJ

AGENCY: Federal Highway Administration (FHWA), USDOT.

ACTION: Notice of scoping forum.

SUMMARY: Notice is hereby given that the Federal Highway Administration and the New Jersey Department of Transportation will be holding a Scoping Forum for the purpose of soliciting public comments on the scope of work to be performed for the Penns Neck Area Environmental Impact Statement (EIS).

The Scoping Forum will include brief presentations to introduce the overall study and the project team; describe the study's background and objectives; review the process that will be followed to evaluate all potential solutions; and introduce the technical studies, categories of possible actions, and range of impacts that the EIS will assess for all potential options. The remainder of the session will be a public comment period, wherein the public will be invited to offer statements of up to five minutes each, commenting on the study's scope of work and on the range of solutions to be considered in the EIS.

SCHEDULE FOR SCOPING FORUM

Date: Tuesday, December 4, 2001.

Time: Presentation, followed by continuous public comment period 11 a.m. to 7 p.m.; Repeat of presentation followed by continuation of public comment period, 7 p.m. to 11 p.m.

Place: West Windsor Township Municipal Building, 271 Clarksville Road, West Windsor, NJ.

If needed, a supplemental public comment period will be held on Thursday, December 6th at the West Windsor Municipal Complex, from 7 p.m. to 11 p.m., to accommodate additional speakers who could not be scheduled due to time limitations.

COMMENT DUE DATE: All comments made during the Scoping Forum public comment period will be recorded and become part of the official record of the proceedings. Written statements on the scope of work for the Penns Neck Area EIS may also be submitted, either at the Scoping Forum, or by forwarding them to Helen Neuhaus & Associates (see information below). All statements received by January 7, 2002, will be included in the official record.

AVAILABILITY OF INFORMATION: Documents related to the project and Scoping Forum can be reviewed on the project website at *www.pennsneckareaseis.org*. They are also available at any of the following project repositories (please call for hours):

West Windsor Township Public Library, 333 N. Post Road, West Windsor, NJ (609) 799–0462

Princeton Township Clerk's Office, 369 Witherspoon Street, Princeton Township, NJ (609) 924–5176

Princeton Borough Clerk's Office, Borough Hall, 1 Monument Drive, Princeton, NJ (609) 497–7622

Plainsboro Public Library, 641 Plainsboro Road, Plainsboro, NJ (609) 275–2898

Rutgers University Transportation Policy Institute, 33 Livingston Avenue, New Brunswick, NJ (732) 932–6812

Ext. 593, New Jersey Department of Transportation, 1035 Parkway Avenue, Ewing, NJ (609) 530–2824

[Ask for Andy Fekete]

AGENCY SCOPING MEETING: A scoping meeting for public agencies will be held at a later date.

PRE-REGISTRATION FOR SCOPING FORUM AND FURTHER INFORMATION: For further information regarding the Penns Neck Area EIS, please contact Randell Prescott, Program Operations Director or Amy Fox, Environmental Coordinator, Federal Highway Administration, 840 Bear Tavern Road, Suite 310, West Trenton, NJ 08628. To pre-register and reserve a speaking time during the public comment period, please contact Helen Neuhaus by phone: (212) 532–4175; mail: 432 Park Avenue South, New York, NY 10016; email: *hna1977@aol.com;* or fax: (212) 532–7479.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program)

Issued on: November 21, 2001.

Randell Prescott,

Program Operations Director, FHWA—New Jersey Division, Trenton.

[FR Doc. 01–30085 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Waukesha County, WI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Supplemental notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for transportation improvements in the State Trunk Highway (STH) 83 corridor between County Trunk Highway (CTH) "NN" at the north limits of the Village of Mukwonago and STH 16, Waukesha County, Wisconsin. The north terminus was extended since the notice of intent was published in the **Federal Register** on March 26, 2001 (66 FR 16520).

FOR FURTHER INFORMATION CONTACT: Mr. Richard C. Madrzak, Field Operations Engineer, Federal Highway Administration, 567 D'Onofrio Drive, Madison, Wisconsin, 53719–2814; telephone: (608) 829–7510. You may also contact Ms. Carol Cutshall, Director, Bureau of Environment, Wisconsin Department of Transportation, P.O. Box 7965, Madison, Wisconsin, 53707–7965; telephone: (608) 266–9626.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Offices' Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Offices' database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA, in cooperation with the Wisconsin Department of Transportation, will prepare a Draft Environmental Impact Statement (EIS) on a proposal to provide safety, operational and capacity improvements on an approximate 27 kilometer (17 mile) section of STH 83 between CTH "NN" at the north limits of the Village of Mukwonago and STH 16, Waukesha County.

This notice is supplementary to the notice of intent, which was published in the **Federal Register** on March 26, 2001 at 66 FR 16520. The purpose of the supplemental notice of intent is to extend the project limits about 6 kilometers (4 miles) at the north terminus. The previous north terminus was Interstate Highway 94. The revised north terminus is STH 16.

To ensure that the full range of issues related to this proposed action are addressed, and all substantive issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or the Wisconsin Department of Transportation at the addresses provided in the caption **FOR FURTHER INFORMATION CONTACT.**

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: November 29, 2001.

Richard C. Madrzak,

Field Operations Engineer, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. 01–30086 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–99–5748 and FMCSA–99–5578 (formerly FHWA–99–5748 and FHWA–99–5578)]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: This notice announces the FMCSA's decision to renew the exemptions from the vision requirement in 49 CFR 391.41(b)(10) for 18 individuals.

DATES: This decision is effective November 30, 2001. Comments from interested persons should be submitted by January 4, 2002.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dmses.dot.gov/submit.* All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366–1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may see all comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.*

Background

Eighteen individuals have requested renewal of their exemptions from the vision requirement in 49 CFR

391.41(b)(10) which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are Terry J. Aldridge, Jerry D. Bridges, Michael L. Brown, Roosevelt Bryant, Jr., Duane D. Burger, Ralph E. Eckels, Jerald C. Eyre, Gary R. Gutschow, Richard J. Hanna, James J. Hewitt, Albert E. Malley, Eldon Miles, Craig W. Miller, Rodney M. Mimbs, Walter Moniowczak, Thomas E. Walsh, Kevin P. Weinhold, and Thomas A. Wise. Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a renewable 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." Accordingly, the FMCSA has evaluated the 18 petitions for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

On November 30, 1999, the agency published a notice of final disposition announcing its decision to exempt 33 individuals, including 11 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (64 FR 66962). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 40404 (July 26, 1999). Three comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petitions (64 FR 66962). On September 23, 1999, the agency published a notice of final disposition announcing its decision to exempt 32 individuals, including 7 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (64 FR 51568). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 27027 (May 18, 1999). Two comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petitions (64 FR 51568). The agency determined that exempting the individuals from 49 CFR 391.41(b)(10) was likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption as long as the vision in each applicant's better eye continued to meet the standard specified in 49 CFR 391.41(b)(10). As a condition of the exemption, therefore, the agency imposed requirements on the individuals similar to the grandfathering provisions in 49 CFR 391.64(b) applied to drivers who participated in the agency's former vision waiver program.

These requirements are as follows: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that vision in the better eye meets the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application for an additional 2-year period. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 18 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 30285; 63 FR 54519; 63 FR 66226; 64 FR 16517), and each has requested timely renewal of the exemption. These 18 applicants have submitted evidence showing that the vision in their better eye continues to meet the standard specified at 49 CFR 391.41(b)(10), and that the vision impairment is stable. In addition, a review of their records of safety while driving with their respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, the FMCSA concludes that extending the exemption for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption for each renewal applicant.

Discussion of Comments

The Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to the FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, the AHAS objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by the AHAS were addressed at length in 66 FR 17994 (April 4, 2001). We will not address these points again here, but refer interested parties to that earlier discussion.

Conclusion

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA extends the exemptions from the vision requirement in 49 CFR 391.41(b)(10) granted to Terry J. Aldridge, Jerry D. Bridges, Michael L. Brown, Roosevelt Bryant, Jr., Duane D. Burger, Ralph E. Eckels, Jerald C. Eyre, Gary R. Gutschow, Richard J. Hanna, James J. Hewitt, Albert E. Malley, Eldon Miles, Craig W. Miller, Rodney M. Mimbs, Walter Moniowczak, Thomas E. Walsh, Kevin P. Weinhold, and Thomas A. Wise, subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for 2 years unless rescinded earlier by the FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Request for Comments

The FMCSA has evaluated the qualifications and driving performance of the 18 applicants here and extends their exemptions based on the evidence introduced. The agency will review any comments received concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). While comments of this nature will be entertained at any time, the FMCSA requests that interested parties with information concerning the safety

records of these drivers submit comments by January 4, 2002. All comments will be considered and will be available for examination in the docket room at the above address. The FMCSA will also continue to file in the docket relevant information which becomes available. Interested persons should continue to examine the docket for new material.

Authority: 49 U.S.C. 322, 31136 and 31315; and 49 CFR 1.73.

Issued on: November 30, 2001.

Julie Anna Cirillo,

Assistant Administrator.

[FR Doc. 01–30080 Filed 11–30–01; 1:49 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34134]

Jackson County Port Authority Railroad—Operation Exemption—Jackson County Port Authority

Jackson County Port Authority Railroad (JCPARR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate approximately 2.9 miles of rail line owned by the Jackson County Port Authority (JCPA).[1] The lines to be operated include: (1) The Bayou Casotte trackage which extends approximately 1 mile from a connection with the Bayou Casotte Branch of CSX Transportation, Inc. (CSXT) to JCPA's Bayou Casotte Terminals where it serves two public cargo terminals, a distance (including side tracks) of approximately 1.4 miles; and (2) the Pascagoula River trackage which connects with the West Pascagoula Branch of CSXT and extends southward into JCPA's Pascagoula River Terminals where it serves four public cargo terminals and a grain elevator, a distance (including side tracks) of approximately 1.5 miles. JCPARR certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier.

The transaction was expected to be consummated on or after November 24, 2001.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

[1] JCPA is a public agency and political subdivision in the State of Mississippi.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34134, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John D. Heffner, 555 Twelfth Street, NW., Suite 950N, Washington, DC 20004.

Board decisions and notices are available on our web site at "*WWW.STB.DOT.GOV.*"

Decided: November 27, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–29997 Filed 12–4–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 29, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before January 4, 2002, to be assured of consideration.

Departmental Offices/Office of Foreign Exchange Operations/Market Room

OMB Number: 1505–0010.

Form Number: FC–2.

Type of Review: Revision.

Title: Monthly Consolidated Foreign Currency Report of Major Market Participants.

Description: Collection of information on Form FC–2 is required by law. Form FC–2 is designed to collect timely information on foreign exchange spot, forward, and futures purchased and sold; net options positions, delta equivalent value long or short; and net reported dealing position long or short.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 22.

Estimated Burden Hours Per Respondent: 4 hours.

Frequency of Response: Monthly.

Estimated Total Reporting Burden: 1,056 hours.

OMB Number: 1505–0012.

Form Number: FC–1.

Type of Review: Revision.

Title: Weekly Consolidated Foreign Currency Report of Major Market Participants.

Description: Collection of information on Form FC–1 is required by law. Form FC–1 is designed to collect timely information on foreign exchange spot, forward, and futures purchased and sold; net options positions, delta equivalent value long or short; and net reported dealing position long or short.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 22.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Weekly.

Estimated Total Reporting Burden: 1,144 hours.

OMB Number: 1505–0014.

Form Number: FC–3.

Type of Review: Revision.

Title: Quarterly Consolidated Foreign Currency Report of Major Market Participants.

Description: Collection of information on Form FC–3 is required by law. Form FC–1 is designed to collect timely information on foreign exchange spot, forward, and futures purchased and sold; net options positions, delta equivalent value long or short; and net reported dealing position long or short.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 60.

Estimated Burden Hours Per Respondent: 8 hours.

Frequency of Response: Quarterly.

Estimated Total Reporting Burden: 1,920 hours.

Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW, Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–30104 Filed 12–4–01; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Geriatrics and Gerontology, Notice of Meeting

The Department of Veterans Affairs gives notice that a meeting of the Geriatrics and Gerontology Advisory Committee (GGAC) will be held on December 19–20, 2001, in the Board Room of the Hotel Lombardy located at 2019 Pennsylvania Avenue, NW., Washington, DC. The Committee will meet from 8:30 a.m. until 5 p.m. (EST) on December 19 and from 8:30 a.m. until noon on December 20. On December 19, the topics to be presented/discussed include:

- Site visits to five new Geriatric Research, Education, and Clinical Centers (GRECCs)
- Update on current issues of the Millennium Act
- Geriatrics and Extended Care Initiatives
- Status of Geriatric Fellowship Program

On December 20, the Committee will discuss administrative matters and the general status of the program. The meeting will be open to the public. Individuals who wish to attend the meeting should contact Jacqueline Holmes, Staff Assistant, Geriatrics and Extended Care Strategic Healthcare Group at (202) 273–8539.

Dated: November 29, 2001.

By Direction of the Secretary.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 01–30089 Filed 12–4–01; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special-Disabilities Programs; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Prosthetics and Special-Disabilities Programs (Committee) will be held Tuesday, December 11, 2001, at VA Headquarters, Room 742, 810 Vermont Avenue, NW., Washington, DC. The meeting will convene at 8 a.m. and adjourn at 4 p.m. The purpose of the Committee is to advise the Department on its prosthetic programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also advises the Department on special disability programs which are defined as any program administered by the Secretary to serve veterans with spinal cord injury, blindness or vision impairment, loss of or loss of use of extremities, deafness or hearing impairment, or other serious incapacities in terms of daily life functions.

The Advisory Committee on Prosthetics and Special-Disabilities Programs will receive briefings by the National Program Directors of the Special-Disabilities Programs regarding the status of their activities over the last six months and present any critical issues requiring the Committee's consideration.

The meeting is open to the public. For those wishing to attend, contact Kathy Pessagno, Veterans Health Administration (113), phone (202) 273–8512, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, prior to the meeting.

Dated: November 29, 2001.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 01–30090 Filed 12–4–01; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Wednesday,
December 5, 2001

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

Modifications of the Dimensions of the Grand Canyon National Park Rules Areas and Free Flight Zone; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA–1999–5926]

RIN 2120–AG74

Modifications of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On April 4, 2000, the FAA published two final rules regarding commercial air tour operations over Grand Canyon National Park (GCNP). The first rule, Commercial Air Tour Limitation in Grand Canyon National Park Special Flight Rules Area, limited the number of commercial air tour operations that may be flown in the GCNP Special Flight Rules Area (SFRA) on an annual basis. This rule became effective on May 4, 2000. The second rule, Modifications of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones, modified the airspace in the SFRA to accommodate a new route system for commercial air tour operations and to expand the amount of airspace overall protected by flight free zones. This rule initially was scheduled to become effective December 1, 2000. After several delays, the new routes and airspace were adopted for the west end of the GCNP SFRA on April 19, 2001. The routes and airspace on the east end of the GCNP SFRA were stayed several times after adoption of the final rule. The east and routes and airspace are scheduled to be implemented December 1, 2001. This rule extends the implementation of the Airspace Modification Final Rule until February 20, 2003.

DATES: The effective date of 14 CFR 93.305(a) and (b), delayed until December 1, 2001 (66 FR 16582, March 26, 2001), is further delayed until February 20, 2003. This rule was originally published at 61 FR 69330 on December 31, 1996, April 4, 2000 (65 FR 17736).

The amendments to 14 CFR 93.305(a) and (b) originally published April 4, 2000 (65 FR 17736) and most recently delayed until December 1, 2001 (66 FR 16582, March 26, 2001) are further delayed until February 20, 2003.

ADDRESSES: You may view a copy of this final rule, Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones, through the Internet at: http://dms.dot.gov, by selecting docket numbers FAA–01–9218. You may also review the public dockets on this regulation in person in the Docket Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Friday holidays. The Docket Office is on the plaza level of the Nassif Building at the Department of Transportation, 400 7th St., SW., Room 401, Washington, DC, 20590.

As an alternative, you may search the **Federal Register's** Internet site at http://www.access.gpo.gov/su_docs for access to this final rule.

You may also request a paper copy of this final rule from the Office of Rulemaking, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC, 20591, or by calling (202) 267–9680.

FOR FURTHER INFORMATION CONTACT: Howard Hesbitt, Flight Standards Service, (AFS–200), or Ken McElroy, Airspace and Rules Division, ATA–400, Federal Aviation Administration, Seventh and Maryland Streets, SW., Washington, DC 20591; Telephone: (202) 493–4981.

SUPPLEMENTARY INFORMATION:

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA t comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT.** You can find out more about SBRFA on the Internet at our site, *http://www.gov/avr/arm/sbrefa.htm.* For more information on SBREFA, e-mail us *9–AWA–SBREFA@faa.gov.*

Background

On April 4, 2000, the Federal Aviation Administration published two final rules, the Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones (Airspace Modification), and the Commercial Air Tour Limitation in the Grand Canyon National Park Special Flight Rules Area (Commercial Air Tour Limitation). See 65 FR 17736; 65 FR 17708; April 4, 2000. The FAA also published concurrently a notice of availability of Commercial Routes for the Grand Canyon National Park (Routes Notice). See 65 FR 17698, April 4, 2000. The Commercial Air Tour Limitations final rule was implemented, effective May 4, 2000. The Airspace Modification final rule and the routes set forth in the Notice of Availability were scheduled to become effective December 1, 2000. The Final Supplemental Environmental Assessment for Special Flight Rules in the Vicinity of Grand Canyon National Park (SEA) was completed on February 22, 2000, and the Finding of No Significant Impact was issued on February 25, 2000.

Following the publication of the final rules, the United States Air Tour Association and seven air tour operators petitioned the United States District Court of Appeals for the District of Columbia to review the rules. See USATA v. FAA, et al. (Docket No. 001201). During the course of litigation, the USATA raised new safety concerns regarding the new routes in the east end of the GCNP SFRA. AS a result, the FAA first delayed implementation of the routes until December 28, 2000 (November 20, 2000; 65 FR 69848) so that it could evaluate the new issues. During this evaluation, the FAA determined that modifications could be made to the routes to enhance safety. On December 13, 2000, the FAA published a second Notice of Availability seeking comment on proposed changes to routes in the east-end of the GCNP SFRA (65 FR 78071). Subsequently, the FAA delayed the implementation of the routes until April 1, 2001. (66 FR 2001, January 4, 2001).

During the comment period for the second Notice of Availability, additional safety concerns were raised regarding the proposed revisions to the east end routes. Consequently, the FAA decided to implement the modifications to the route structure of the GCNP SFRA in two phases. First, on April 19, 2001, the FAA implemented the routes and airspace in the west-end (defined as all areas of the SFRA west of the Dragon corridor) of the GCNP SFRA that originally were published on April 4, 2000. Also, on April 19, 2001, the SFRA boundary in the eastern part of the GCNP SFRA over the Navajo Nation lands was extended five miles to the east. Second, the route structure on the east-end (Dragon Corridor and all airspace east of that Corridor) in the GCNP SFRA was stayed until December 1, 2001 to enable the FAA and NPS to determine what changes should be made in the east end of GCNP. Accordingly, the routes now flown remain almost exactly as that shown under Special Federal Aviation Regulation (SFAR) 50–2, with only

slight modification to certain entry and exit points.

The FAA is working on proposed changes to the route structure and airspace modification in the east end of GCNP. This process involves printing maps depicting those changes, performing an environmental assessment of the proposed routes, publishing a proposal and notice of availability of the map in the **Federal Register**, and reviewing comments on the proposed changes. Because this process is not complete, it is necessary to gain extend the effective date of the April 2000 final rule airspace modifications. That date now is extended until February 20, 2003. Part of this delay results from the increased workload since the events of September 11, 2001. Additionally, the FAA has determined that any new routes should be implemented in the winter when tour activity is limited and operators are conducting new pilot training. Given all of these constraints, the FAA has found that it is necessary to delay the implementation of the east end airspace until February 20, 2003. In the meantime, the FAA and NPS will continue to move forward on a revised east end route structure.

The FAA notes that the changes to the routes and airspace in the West end of GCNP finalized in the April 2000 rule have been in effect since April 19, 2001. Those changes were implemented to further the goal of substantial restoration of natural quiet in GCNP.

Immediate Effective Date

The FAA finds that good cause exists under 5 U.S.C. 553(d) for this final rule to become final rule upon issuance. The FAA and NPS must propose and receive comments on new air tour routes in the east end of GCNP requiring the modification of the airspace in GCNP. Therefore, the FAA has determined that to address the safety concerns of operators, it is necessary to further delay the implementation date of the airspace changes codified in April 2000. The FAA notes that the delay only affects the east end of the GCNP SFRA; changes to the west end have been in effect since April 19, 2001.

Environmental Review

In March 2001, the FAA completed a written reevaluation (WR) of the February 22, 2000 Final Supplemental Environmental Assessment (FSEA) for Special flight rules in the Vicinity of Grand Canyon National Park (GCNP). The WR examined the potential environmental impacts associated with a phased implementation of the Airspace rule and the Commercial Air Tour Route Modifications described in the February 2000 FSEA. The phased approach involved implementation of the "preferred" alternative airspace and air tour route structure as described in the February 2000 FSEA for the GCNP SFRA west of Dragon Corridor. Since no changes to the western portion of the GCNP SFRA as described in the FSEA remained valid for the stage-one airspace and routes implementation at the west-end of the GCNP SFRA. The FAA also reviewed the planned implementation of the stage-one airspace, routes, and route modifications on the east-end and determined that they were not significant changes from the plans analyzed under the "no action" alternative in the February 2000 FSEA. Therefore, the FAA determined that the proposed route revisions to the SFAR 50–2 route structure conformed to the "no action" alternative analyzed in the FSEA. The FAA determined that the data and analyses contained in the February 2000 FSEA were still substantially valid and all pertinent conditions and requirements of the prior approval have or would be met in the April 2001 action.

While the delayed implementation of the east-end route and airspace structure lessened the percentage of the GCNP substantially restored to natural quiet, it was only a temporary delay. In addition, given that the majority of the revised routes and airspace for GCNP were implemented during phase one, the phased implementation process resulted in a gain of substantial restoration of natural quiet for GCNP as described in the February 2000 FSEA.

Therefore for the above reasons and pursuant to FAA Order 1050.1D, Paragraph 92, the FAA determined that the contents of the final Supplemental Environmental Assessment and its conclusions issued on February 22, 2000 were still valid. Additionally, the FAA found that the previous Section 106 Determination of No Adverse Effect to Traditional Cultural Properties identified by Native Americans issued for the FSEA was also still valid. Copies of the written reevaluation were placed in the public docket for the April 2001 rulemaking, were circulated to interested parties, and were available for inspection at the same time and location as the April 2001 final rule. The findings of the March 2001 WR remain valid for this final rule extending the April 2001 Airspace Rule.

Economic Analysis

The economic analysis completed for the final rule published April 4, 2000 evaluates the east-end and the west-end operations separately since these are distinct markets. This action does not affect the April 19, 2001 implementation of the west-end airspace structure, and the economic analysis from the April 4, 2000 final rule remains valid. At this time the FAA is delaying further the implementation of the east-end routes; however, it is not taking a final action. If the agency takes a final action that is different than that published on April 4, 2000, then it may be necessary to complete a revised economic evaluation.

Initial Regulatory Flexibility Determination and Assessment

The Regulatory Flexibility Act (RFA) of 1980 establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutues, to fit regulatory and informational requirements to the scale of the business, organization, and government jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule will have only a de minimus cost impact on the certificate holders. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this final rule will not have a significant impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act (TAA) of 1979 prohibits Federal agencies from engaging in any standard or related activities that create unnecessary obstacles to the foreign commerce of the

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United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The TAA also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States. In accordance with the above Act and policy, the FAA has assessed the potential effect of this final rule and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

Federalism Implications

This amendment will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this amendment would not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more (when adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in the Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments in the aggregate of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan, which, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity for these small governments to provide input in the development of regulatory proposals. The FAA has determined that this rule will not impose any unfunded mandates.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Navigation (Air).

Adoption of Amendments

Accordingly, the Federal Aviation Administration (FAA) amends 14 CFR part 93 as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

§ 93.305 [Amended]

2. Section 93.305 (a) and (b) published on December 31, 1996 (61 FR 69330), and most recently delayed until December 1, 2001 (see 66 FR 16582, March 26, 2001) are further delayed until February 20, 2003.

3. The amendments to Section 93.305 published on April 4, 2000 (65 FR 17736), and most recently delayed until December 1, 2001 (see 66 FR 16582, March 26, 2001) are further delayed until February 20, 2003.

Issued in Washington, DC on November 29, 2001.

Jane F. Garvey,

Administrator.

[FR Doc. 01–30012 Filed 11–30–01; 3:34 pm]

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Federal Register

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December 5, 2001

Part III

Department of Labor

Employment and Training Administration

20 CFR Part 655

Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H–1b Visas; Implementation of Electronic Filing; Final Rule

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DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

[RIN 1205–AB29]

Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H–1B Visas; Implementation of Electronic Filing

AGENCIES: Employment and Training Administration and Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is amending its regulations governing the filing and processing of labor condition applications (LCAs) for the employment of nonimmigrant aliens on H–1B visas in specialty occupations and as fashion models. The amendments will allow employers to submit LCAs electronically, utilizing web based forms and instructions.

DATES: *Effective Date:* This Final Rule is effective on January 14, 2002.

Compliance Dates: Affected parties do not have to comply with the revised information collection requirements in this rule (i.e., provisions relating to the new Form ETA 9035–E), until the Department publishes in the **Federal Register** a notice approving the revision of the information collection provisions. For further information on collection information, see **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Denis Gruskin, Senior Specialist, Division of Foreign Labor Certifications, Employment and Training Administration, 200 Constitution Avenue, NW, Room C–4318, Washington, DC 20210.

SUPPLEMENTARY INFORMATION:

I. What Is the H–1B Nonimmigrant Program?

On November 29, 1990, the Immigration and Nationality Act (INA) was amended by the Immigration Act of 1990 (IMMACT 90) (Pub. L. 101–649, 104 Stat. 4978) to create the "H–1B visa program" for the temporary employment in the United States (U.S.) of nonimmigrants in "specialty occupations" and as "fashion models of distinguished merit and ability." The H–1B provisions of the INA govern the temporary entry of foreign "professionals" to work in "specialty occupations" in the United States under H–1B visas. 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184(c). The H–1B category of specialty occupations consists of occupations requiring the theoretical and practical application of a body of highly specialized knowledge and the attainment of a Bachelor's or higher degree in the specific specialty as a minimum for entry into the occupation in the United States. 8 U.S.C. 1184(i)(1). In addition, an H–1B nonimmigrant in a specialty occupation must possess full State licensure to practice in the United States (if required), completion of the required degree, or experience equivalent to the degree and recognition of expertise in the specialty. 8 U.S.C. 1184(i)(2). The category of "fashion model" requires that the nonimmigrant be of distinguished merit and ability. 8 U.S.C. 1101(a)(15)(H)(i)(b).

The H–1B provisions of the INA have been amended several times since 1990. A detailed legislative history of the H–1B nonimmigrant program can be found in the preamble to the Interim Final Rule published on December 20, 2000, to implement changes made to the INA by the American Competitiveness and Workforce Improvement Act of 1998. See 65 FR at 80117.

II. Why Is the Department Implementing an Electronic Filing System?

The current regulations permit employers to submit labor condition applications (LCAs) by facsimile transmission (FAX) or by mail. Although submission of LCAs by FAX and processing of such applications have generally been more efficient than submission and processing of LCAs by mail, operational problems delayed the processing of some LCAs submitted by FAX for the first several months of its operation. To improve customer service, the Department will, through this Final Rule, provide employers the option to utilize an electronic filing system which will permit employers to fill out their LCAs on a Department of Labor website and submit them electronically to the Department's Employment and Training Administration (ETA). The electronic filing system will be convenient and less burdensome for employers, since, unlike a system based on filing applications by FAX or by mail, the new system will allow the filing of an application without the submission of a "hard copy," which is required for filing of an application by mail or by FAX. Electronic filing will permit more efficient ETA electronic processing of LCAs without the technical and administrative uncertainties inherent in the technology currently available to process applications that are submitted by FAX. Further, since the scope of the Department's review of LCAs under section 212(n)(1)(D) of the INA is limited to "completeness and obvious inaccuracies," the filing and processing of LCAs is particularly amenable to an electronic filing system. Because the electronic filing system includes guidance to the employers in filling out their LCAs "on line," the LCAs will have fewer incomplete or obviously inaccurate entries and will, therefore, ordinarily be acceptable for immediate electronic certification.

III. What Changes Are Being Made To Implement an Electronic Filing System?

The creation of an electronic filing and certification system requires changes in the current regulations, because the regulations explicitly permit only two types of submission: FAX transmission and hard copy by U.S. Mail. (20 CFR 655.720(a) and (b)). Therefore, in this Final Rule, the Department is amending the regulations at §§ 655.700, 655.705, 655.720, 655.730, 655.731, 655.732, 655.733, 655.734, 655.736, 655.740, 655.750, 655.760, and 655.805, to implement a new labor condition application form (Form ETA 9035E) and a new electronic submission and certification system. The new LCA form is identical in all respects to the existing LCA (Form ETA 9035), except that the new form contains additional "blocks" to be marked by the employer to acknowledge that the submission is being made electronically and that the employer will be bound by the LCA obligations through such submission. The Department has developed a customer-friendly website (www.lca.doleta.gov) which can be accessed by employers to electronically fill out and submit the Form ETA 9035E. The website includes detailed instructions, prompts and checks to help employers fill out the 9035E. This process is designed to help insure that employers enter the H–1B program based on accurate LCA information and with explicit, immediate notice of the obligations.

Additionally, the Department's website provides an option to permit employers that frequently file LCAs to set up secure files within the ETA electronic filing system containing information which is common to any LCA they may wish to file. Under this option, each time an employer files an LCA, the information common to all its LCAs would be entered automatically by the electronic filing system and the employer would only have to enter the data that was specific to the new LCA it wished to file in the instance at hand.

The electronic submission and certification system implemented by this Rule requires that the new LCA form be printed and signed by the employer immediately after ETA provides the electronic certification. The signed form must then be maintained in the employer's files and a copy of the signed form must be maintained in the public access file; another copy of the signed form must be submitted to the Immigration and Naturalization Service (INS) to support the Petition for Nonimmigrant Worker, INS Form I–129. This requirement is functionally equivalent to the current requirement that employers retain the signed original certified LCA in their files, and place a copy of this LCA in the public access file. This Rule also provides additional procedural guidance which clarifies the interrelationship between the Department's regulations and the INS regulations on the matter of the employer's acceptance of its H–1B obligations under the LCA.

Since the Department does not yet have the technology to satisfy the statutes that deal with electronic signatures on Government applications—Government Paperwork Elimination Act (44 U.S.C. 3504 n.) and/or the Electronic Records and Signatures in Global and National Commerce Act (E–SIGN) (15 U.S. C. 7001–7006)—we are not implementing either of these statutes in this Rule. We consider it to be essential that an electronic LCA filing and certification system be made available as soon as possible. In the event that such technology becomes available in the future, the Department will modify the electronic LCA system to comply with these statutes and will provide appropriate notice(s) and instructions to employers. We view it as inadvisable to delay the electronic LCA system while we develop this additional technology.

IV. Why Is a Final Rule Being Published Without Notice and Comment?

The Department is promulgating this Rule in final form. This Rule makes no substantive alteration in the regulations and does not alter the rights of any parties. The Rule makes changes which constitute a "rule of agency organization, procedure, or practice" which may be published in final form pursuant to section 553(b)(A) of the Administrative Procedure Act (5 U.S.C. 553(b)(A)).

V. Executive Order 12866

We have determined that this Rule is not an "economically significant regulatory action" within the meaning of Executive Order 12866, in that it will not have an economic effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.

While the Rule is not economically significant, the Office of Management and Budget reviewed this Rule because of the extensive interest on the part of the regulated community in the matters addressed in this Rule.

VI. Small Business Regulatory Enforcement Fairness Act of 1996

This Rule is not a rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996, 5 U.S.C. 804(3)(C). It is a rule of agency organization, procedure or practice that does not substantially affect the rights or obligations of parties other than the Department of Labor.

VII. Unfunded Mandates Reform Act of 1995

This Rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

VIII. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this Rule (5 U.S.C. 553(b)), the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. pertaining to regulatory flexibility analysis, do not apply to this Final Rule. See 5 U.S.C. 603(a).

IX. Executive Order 13132

This Rule will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, we have determined that this Rule does not have sufficient federalism implications to warrant the preparation of a summary impact statement.

X. Assessment of Federal Regulations and Policies on Families

This Rule does not affect family well-being.

XI. Paperwork Reduction Act

Summary: Sections 655.700, 655.705, 655.720, 655.730, 655.731, 655.732, 655.733, 655.734, 655.736, 655.740, 655.750, 655.760, and 655.805 have been amended to reflect the option of electronic submission of the Form ETA 9035–E. The amendments parallel the current provisions for submission, recordkeeping and posting requirements for hard copies prepared for submission by mail or by FAX. The new LCA form is the same as the existing LCA (Form ETA 9035), except that the new form contains additional "blocks" to be marked by the employer to acknowledge that the submission is being made electronically and that the employer will be bound by the LCA obligations through such submission. ETA estimates that the time to fill out and submit a Form ETA 9035–E electronically and to comply with recordkeeping and notice requirements under the regulations will be the same as for hard copies of Form ETA 9035 prepared for submission by mail or by FAX. It should be noted, however, that because of certain operational problems with the FAX system, applications submitted by FAX are submitted on average 1.1 times. Such duplication does not occur with respect to applications submitted by mail and the Department does not anticipate duplicate submissions of forms submitted electronically.

Need: The creation of an optional electronic filing and certification system requires changes in the current regulations because the regulations explicitly permit only two types of submission: FAX transmission and hard copy by U.S. mail (20 CFR 655.720(a) and (b)).

Respondents and frequency of response: Employers submit LCAs when they wish to employ an H–1B nonimmigrant worker. ETA estimates, based on its operating experience with the H–1B program, that in the upcoming year employers will file approximately 260,000 LCAs (including duplicate FAX submissions). Specifically, ETA estimates that it will receive 7,000 hard copies submitted by mail, 123,000 hard copies submitted by FAX (which includes 12,300 duplicate submissions), and 130,000 LCAs submitted electronically.

Estimated total annual burden: DOL estimates that the completion of LCAs, complying with recordkeeping requirements and providing a copy to each H–1B nonimmigrant will result in a total burden of 247,700 hours in the upcoming year (7,000 hard copies submitted by mail x 1 hour + 123,000

FAX submissions (which includes 12,300 duplicate submissions) x .90 hours + 130,000 electronic submissions x 1 hour = 247,700 hours, or about 57 minutes per application submitted).

Request for comments: The public is invited to provide comments on the revised information collection requirement so that the Department of Labor may:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimates of the burdens of the collections of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Written comments should be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for Department of Labor, Employment and Training Administration, 725 17th Street, NW., Washington, DC 20503. Comments should be received by January 4, 2002.

The revised information collection requirements are not effective until they have been approved by OMB. A notice will be published in the **Federal Register** when approval is obtained of the revision to the information collection.

Copies of the information collection request submitted to OMB may be obtained by contacting Denis Gruskin, Senior Specialist, Division of Foreign Labor Certifications, Employment and Training Administration, 200 Constitution Avenue NW., Room N–4318, Washington, DC 20210; Telephone (202) 693–2953 (this is not a toll-free number).

XII. Catalog of Federal Domestic Assistance Number

This program is listed in the Catalog of Federal Domestic Assistance at 17.252.

List of Subjects in 20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Employment, Forest and forest products, Health professions, Immigration, Labor, Longshore work, Migrant labor, Penalties, Reporting requirements, Students, Wages.

Accordingly, subparts H and I of part 655 of title 20 of the Code of Federal Regulations are amended as follows:

Subpart H—Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H–1B Visas

1. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(H)(i) and (ii), 1182(m) and (n), 1184, 1188, and 1288(c) and (d); 29 U.S.C. 49 et seq.; sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 323, Pub. L. 103–206, 107 Stat. 2149; Title IV, Pub. L. 105–277, 112 Stat. 2681; Pub. L. 106–95, 113 Stat. 1312 (8 U.S.C. 1182 note); and 8 CFR 213.2(h)(4)(i).

Section 655.00 issued under 8 U.S.C. 1101(a)(15)(H)(ii), 1184, and 1188; 29 U.S.C. 49 et seq.; and 8 CFR 214.2(h)(4)(i).

Subparts A and C issued under 8 U.S.C. 1101(a)(15)(H)(ii)(b) and 1184; 29 U.S.C. 49 et seq.; and 8 CFR 214.2(h)(4)(i).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184, and 1188; and 29 U.S.C. 49 et seq.

Subparts D and E issued under 8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m), and 1184; 29 U.S.C. 49 et seq. and sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note).

Subparts F and G issued under 8 U.S.C. 1184 and 1288(c); and 29 U.S.C. 49 et seq.

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184; 29 U.S.C. 49 et seq.; sec 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1182 note); and Title IV, Pub. L. 105–277, 112 Stat. 2681.

Subparts J and K issued under 29 U.S.C. 49 et seq.; and sec 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

Subparts L and M issued under 8 U.S.C. 1101(a)(15)(H)(i)(c), 1182 (m) and 1184; and 29 U.S.C. 49 et seq.

2. Section 655.700 is amended by revising the third sentence of paragraph (b)(1) to read as follows:

§ 655.700 What statutory provisions govern the employment of H–1B nonimmigrants and how do employers apply for an H–1B visa?

* * * * *

(b) * * *

(1) * * * The LCA (Form ETA 9035 or ETA 9035E) and cover page (Form ETA 9035CP, containing the full attestation statements that are incorporated by reference in Form ETA 9035 and ETA 9035E) may be obtained from http://ows.doleta.gov, from DOL regional offices, and from the Employment and Training Administration (ETA) national office.

* * *

* * * * *

3. Section 655.705 is amended by revising paragraph (c) to read as follows:

§ 655.705 What federal agencies are involved in the H–1B program, and what are the responsibilities of those agencies and of employers?

* * * * *

(c) *Employer's responsibilities.* Each employer seeking an H–1B nonimmigrant in a specialty occupation or as a fashion model of distinguished merit and ability has several responsibilities, as described more fully in this subpart and subpart I of this part, including—

(1) The employer shall submit a completed labor condition application (LCA) on Form ETA 9035 or Form ETA 9035E in the manner prescribed in § 655:720. By completing and submitting the LCA, and in addition by signing the LCA, the employer makes certain representations and agrees to several attestations regarding an employer's responsibilities, including the wages, working conditions, and benefits to be provided to the H–1B nonimmigrants (8 U.S.C. 1182(n)(1)); these attestations are specifically identified and incorporated by reference in the LCA, as well as being set forth in full on Form ETA 9035CP. The LCA contains additional attestations for certain H–1B-dependent employers and employers found to have willfully violated the H–1B program requirements; these attestations impose certain obligations to recruit U.S. workers, to offer positions to U. S. workers who are equally or better qualified than the H–1B nonimmigrant(s), and to avoid the displacement of U.S. workers (either in the employer's workforce, or in the workforce of a second employer with whom the H–1B nonimmigrant(s) is placed, where there are indicia of employment with that second employer (8 U.S.C. 1182(n)(1)(E)–(G)). These additional attestations are specifically identified and incorporated by reference in the LCA, as well as being set forth in full on Form ETA 9035CP. If the LCA is certified by ETA, notice of the certification will be sent to the employer, either by return FAX (where the Form ETA 9035 was submitted by FAX), by hard copy (where the Form ETA 9035 was submitted by U.S. Mail), or by electronic certification (where the Form ETA 9035E was submitted electronically). The employer reaffirms its acceptance of all of the attestation

obligations by submitting the LCA to the Immigration and Naturalization Service in support of the Petition for Nonimmigrant Worker, INS Form I–129, for an H–1B nonimmigrant. See INS regulation 8 CFR 214.2(h)(4)(iii)(B)(*2*), which specifies that the employer will comply with the terms of the LCA for the duration of the H–1B nonimmigrant's authorized period of stay.

(2) The employer shall maintain the original signed and certified LCA in its files, and shall make a copy of the LCA, as well as necessary supporting documentation (as identified under this subpart), available for public examination in a public access file at the employer's principal place of business in the U.S. or at the place of employment within one working day after the date on which the LCA is filed with ETA.

(3) The employer then may submit a copy of the certified, signed LCA to INS with a completed petition (Form I–129) requesting H–1B classification.

(4) The employer shall not allow the nonimmigrant worker to begin work until INS grants the alien authorization to work in the United States for that employer or, in the case of a nonimmigrant previously afforded H–1B status who is undertaking employment with a new H–1B employer, until the new employer files a nonfrivolous petition (Form I–129) in accordance with INS requirements.

(5) The employer shall develop sufficient documentation to meet its burden of proof with respect to the validity of the statements made in its LCA and the accuracy of information provided, in the event that such statement or information is challenged. The employer shall also maintain such documentation at its principal place of business in the U.S. and shall make such documentation available to DOL for inspection and copying upon request.

4. Section 655.720 is revised to read as follows:

§ 655.720 Where are labor condition applications to be filed and processed?

(a) *Facsimile transmission (FAX).* If the employer submits the LCA (Form ETA 9035) by FAX, the transmission shall be made to 1–800–397–0478 (regardless of the intended place of employment for the H–1B nonimmigrant(s)). (Note: the employer submitting an LCA via FAX shall not use the FAX number assigned to an ETA regional office, but shall use only the 1–800–397–0478 number designated for this purpose.) The cover pages to Form ETA 9035 (i.e., Form ETA 9035CP) should not be FAXed with the Form ETA 9035.

(b) *U.S. Mail.* If the employer submits the LCA (Form ETA 9035) by U.S. Mail, the LCA shall be sent to the ETA service center at the following address: ETA Application Processing Center, P.O. Box 13640, Philadelphia PA 19101 (regardless of the intended place of employment for the H–1B nonimmigrant(s)).

(c) *Electronic submission.* If the employer submits the LCA (Form ETA 9035E) by electronic transmission, the submission shall be made on the Department of Labor WEB page at www.lca.doleta.gov (regardless of the intended place of employment for the H–1B nonimmigrant(s)). The employer shall follow the instructions in the electronic submission process, which include the requirement that the employer shall print out and sign the LCA immediately after ETA's certification, shall maintain the "signed original" in its files, shall place a copy of the "signed original" in the public access file, and shall submit a copy of the "signed original" to the Immigration and Naturalization Service in support of the Form I–129 petition for the H–1B nonimmigrant. In the event that ETA implements the Government Paperwork Elimination Act (44 U.S.C.A. 3504 n.) and/or the Electronic Records and Signatures in Global and National Commerce Act (E–SIGN) (15 U.S.C.7001–7006) for the submission and certification of the ETA 9035E, instructions will be provided (by public notice(s) and by instructions on the Department's WEB page) to employers as to how the requirements of these statutes will be met in the ETA–9035E procedures.

(d) All matters other than the processing of LCAs (e.g., prevailing wage challenges by employers) that are the responsibility of ETA are within the jurisdiction of the Regional Certifying Officers in the ETA regional offices identified in § 655.721.

5. Section 655.730 is amended by revising paragraphs (b) and paragraph (c)(1) introductory text to read as follows:

§ 655.730 What is the process for filing a labor condition application?

* * * * *

(b) *Where and when is an LCA to be submitted?* An LCA shall be submitted by the employer to ETA in accordance with the procedure prescribed in § 655.720 no earlier than six months before the beginning date of the period of intended employment shown on the LCA. It is the employer's responsibility to ensure that a complete and accurate LCA is received by ETA. Incomplete or obviously inaccurate LCAs will not be certified by ETA. ETA will process all LCAs sequentially upon receipt regardless of the method used by the employer to submit the LCA (i.e., FAX, or U.S. Mail, or electronic submission, as prescribed in § 655.720) and will make a determination to certify or not certify the LCA within seven working days of the date the LCA is received by ETA.

(c) *What is to be submitted?* Form ETA 9035 or ETA 9035E.

(1) *General.* One completed and dated Form ETA 9035 or ETA 9035E shall be submitted to ETA by the employer (or by the employer's authorized agent or representative) in accordance with the procedure prescribed in § 655.720. In submitting the Form ETA 9035 or the ETA 9035E, the employer, or its authorized agent or representative on behalf of the employer, attests that the statements in the Form are true and promises to comply with the attestation requirements set forth in full in the ETA 9035–CP. The Form ETA 9035 must be used if the employer uses FAX or U.S. Mail for submission; this Form must bear the original signature of the employer (or that of the employer's authorized agent or representative) when it is submitted to ETA. The Form ETA 9035E must be used for electronic submission; this Form must be printed out and signed by the employer immediately upon certification by ETA. The signed original of the Form ETA 9035 or the Form ETA 9035E must be maintained by the employer in its files, as set forth at § 655.720(c) and § 655.760(a)(1), if it is submitted by FAX or by electronic submission to ETA. A copy of the signed, certified Form ETA 9035 or ETA 9035E must be made available in the public access file, as set forth at § 655.760(a)(1). The signature of the employer or its authorized agent or representative on Form ETA 9035 or Form ETA 9035E constitutes the employer's representation of the truth of the statements on the Form and acknowledges the employer's agreement to the labor condition statements (attestations), which are specifically identified in Forms ETA 9035 and ETA 9035E, as well as set forth in the cover pages (Form ETA 9035CP) and incorporated by reference in Forms ETA 9035 and ETA 9035E. Another copy of the signed, certified Form ETA 9035 or ETA 9035E must be submitted to the Immigration and Naturalization Service in support of the Form I–129 petition, thereby reaffirming the employer's acceptance of all of the attestation obligations in accordance with 8 CFR 214.2(h)(4)(iii)(B)(*2*). The labor

condition statements (attestations) are described in detail in §§ 655.731 through 655.735, and 655.736 through 655.739 (if applicable). Copies of Form ETA 9035 and cover pages Form ETA 9035CP are available from ETA regional offices and on the ETA website at http://ows.doleta.gov. Form ETA 9035E is found on the DOL WEB page at www.lca.doleta.gov, where the electronic submission is made. Each Form ETA 9035 and ETA 9035E shall identify the occupational classification for which the LCA is being submitted and shall state:

* * * * *

§ 655.731 [Amended]

6. Section 655.731 is amended in the introductory text, the first sentence of paragraph (a), and the first sentence of paragraph (b)(1), by inserting the phrase "or 9035E" after the phrase "Form ETA 9035".

§ 655.732 [Amended]

7. Section 655.732 is amended in the introductory text by inserting the phrase "or 9035E" after the phrase "Form ETA 9035".

§ 655.733 [Amended]

8. Section 655.733 is amended in the introductory text by inserting the phrase "or 9035E" after the phrase "Form ETA 9035".

9. Section 655.734 is amended in the introductory text by revising the phrase "Form ETA 9035" to read "Form ETA 9035 or 9035 E" and by revising (a)(3) and the first sentence of paragraph (b) as follows:

§ 655.734 What is the fourth LCA requirement, regarding notice?

An employer seeking to employ H–1B nonimmigrants shall state on Form ETA 9035 or 9035E that the employer has provided notice of the filing * * *.

(a) * * *

(3) The employer shall, no later than the date the H–1B nonimmigrant reports to work at the place of employment, provide the H–1B nonimmigrant with a copy of the LCA (Form ETA 9035, or Form ETA 9035E) certified by ETA and signed by the employer (or by the employer's authorized agent or representative). Upon request, the employer shall provide the H–1B nonimmigrant with a copy of the cover pages, Form ETA 9035CP.

(b) * * * The employer shall develop and maintain documentation sufficient to meet its burden of proving the validity of the statement referenced in paragraph (a) of this section and attested to on Form ETA 9035 or 9035E. * * *

* * * * *

10. Section 655.736 is amended in the first sentence of paragraph (e) by inserting the phrase "or 9035E" after the phrase "Form ETA–9035".

11. Section 655.740 is amended by revising the first sentence of paragraph (a)(1), and paragraphs (a)(2)(i), and (a)(2)(ii) as follows:

§ 655.740 What actions are taken on labor condition applications?

(a) * * *

(1) *Certification on labor condition application.* Where all items on Form ETA 9035 or Form ETA 9035E have been completed, the form is not obviously inaccurate, and in the case of Form ETA 9035, it contains the signature of the employer or its authorized agent or representative, the regional Certifying Officer shall certify the labor condition application unless it falls within one of the categories set forth in paragraph (a)(2) of this section.

* * *

(2) * * *

(i) *When the Form ETA 9035 or 9035E is not properly completed.* Examples of a Form ETA 9035 or 9035E which is not properly completed include instances where the employer has failed to check all the necessary boxes; or where the employer has failed to state the occupational classification, number of nonimmigrants sought, wage rate, period of intended employment, place of intended employment, or prevailing wage and its source; or, in the case of Form ETA 9035, where the application does not contain the signature of the employer or the employer's authorized representative.

(ii) *When the Form ETA 9035 or ETA 9035E contains obvious inaccuracies.* An obvious inaccuracy will be found if the employer files an application in error—e.g., where the Administrator, Wage and Hour Division, after notice and opportunity for a hearing pursuant to subpart I of this part, has notified ETA in writing that the employer has been disqualified from employing H–1B nonimmigrants under section 212(n)(2) of the INA. Examples of other obvious inaccuracies include stating a wage rate below the FLSA minimum wage, submitting an LCA earlier than six months before the beginning date of the period of intended employment, identifying multiple occupations on a single LCA, identifying a wage which is below the prevailing wage listed on the LCA, or identifying a wage range where the bottom of such wage range is lower than the prevailing wage listed on the LCA.

* * * * *

12. Section 655.750 is amended by revising paragraph (a) to read as follows:

§ 655.750 What is the validity period of the labor condition application?

(a) *Validity of certified labor condition applications.* A labor condition application which has been certified pursuant to the provisions of § 655.740 shall be valid for the period of employment indicated on Form ETA 9035 or ETA 9035E by the authorized DOL official. The validity period of a labor condition application shall not begin before the application is certified (whether through the FAX submission or U.S. Mail submission of the Form ETA 9035, or the electronic submission of the Form ETA 9035E) or exceed three years. However, in the event employment pursuant to section 214(m) of the INA commences prior to certification of the labor condition application, the attestation requirements of the subsequently certified application shall apply back to the first date of employment. Where the labor condition application contains multiple periods of intended employment, the validity period shall extend to the latest date indicated or three years, whichever comes first.

* * * * *

13. Section 655.760 is amended by revising paragraph (a)(1) to read as follows:

§ 655.760 What records are to be made available to the public, and what records are to be retained?

(a) * * *

(1) A copy of the certified labor condition application (Form ETA 9035 or Form ETA 9035E) and cover pages (Form ETA 9035CP). If the Form ETA 9035 is submitted by facsimile transmission, the application containing the original signature shall be maintained by the employer in its files. If the Form ETA 9035E is submitted electronically, a printout of the certified application shall be signed by the employer and maintained in its files.

* * * * *

14. Section 655.805 is amended by revising paragraph (d) to read as follows:

§ 655.805 What violations may the Administrator investigate?

* * * * *

(d) The provisions of this part become applicable upon the date that the employer's LCA is certified pursuant to §§ 655.740 and 655.750, or upon the date employment commences pursuant to section 214(m) of the INA, whichever is earlier. The employer's submission and signature on the LCA (whether Form ETA 9035 or Form ETA 9035E) each constitutes the employer's representation that the statements on

the LCA are accurate and its acknowledgment and acceptance of the obligations of the program. The employer's acceptance of these obligations is re-affirmed by the employer's submission of the petition (Form I–129) to the INS, supported by the LCA. See 8 CFR 214.2(h)(4)(iii)(B)(*2*), which specifies that the employer will comply with the terms of the LCA for the duration of the H–1B nonimmigrant's authorized period of stay. If the period of employment specified in the LCA expires or the employer withdraws the application in accordance with § 655.750(b), the provisions of this part will no longer apply with respect to such application, except as provided in § 655.750(b)(3) and (4).

Signed at Washington, DC, this 29th day of November, 2001.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training.

Annabelle T. Lockhart,

Acting Administrator Wage and Hour Division.

[FR Doc. 01–30054 Filed 12–4–01; 8:45 am]

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Federal Register

Wednesday,
December 5, 2001

Part IV

Department of the Interior

Office of the Secretary
Bureau of Indian Affairs
Office of Special Trustee for American Indians
Office of Indian Trust Transition

Tribal Consultation on Indian Trust Asset Management; Notice

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Bureau of Indian Affairs

Office of Special Trustee for American Indians

Office of Indian Trust Transition

Tribal Consultation on Indian Trust Asset Management

AGENCIES: Office of the Secretary, Bureau of Indian Affairs, Office of the Special Trustee for American Indians, Office of Indian Trust Transition, Interior.

ACTION: Notice of tribal consultation meetings.

SUMMARY: The Office of the Secretary, along with the Bureau of Indian Affairs, the Office of Special Trustee for American Indians, and Office of Indian Trust Transition will conduct meetings on Indian trust asset management. The purpose is to discuss a proposed reorganization of the Department's trust responsibility functions to improve the management of Indian trust assets. Any Indian tribe, band, nation or individual is encouraged to attend the meeting and to submit written comments.

DATES: The second consultation meeting will be held in Minneapolis, Minnesota on December 20, 2002 at 9 a.m. The first consultation meeting is scheduled to be held in Albuquerque, New Mexico on December 13, 2001. The dates times and locations of additional meetings will be announced shortly. All written comments must be received by February 15, 2002.

ADDRESSES: The location of the Albuquerque consultation has changed. The Albuquerque meeting will be held on December 13, 2002 at the Hyatt Regency, 330 Tijeras Street NW, Albuquerque, New Mexico. The Minneapolis consultation will be held at the Doubletree Hotel, 7901 24th Avenue South, Minneapolis, Minnesota. Send written comments to the Office of the Secretary, Attn: Office of the executive Secretariat, 1849 C Street NW., MS7229–MIB, Washington, DC 20240. Send written comments by electronic mail to *www.doi.gov/oait*.

FOR FURTHER INFORMATION CONTACT: Wayne R. Smith, Deputy Assistant Secretary Indian Affairs, 1849 C Street NW., MS4140–MIB, Washington, DC 20240, (202) 208–7163, Fax (202) 208–5320.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to involve affected and interested parties in the process of organizing the Department's trust asset management responsibility functions. The Department has determined that there is a need for dramatic change in the management of Indian trust assets. This need has been made apparent in several ways. An independent consultant has analyzed important components of the Department's trust reform activities and made several recommendations, including the recommendation that the Department consolidate trust functions under a single entity. Concerns have also been raised in the *Cobell* v. *Norton* case, which is currently pending in the Federal District Court for the District of Columbia. Internal review has also supported reorganization. Additionally, a recent report commissioned by the Department of the Interior has supported reorganization. This report, developed by the EDS Corporation, should be available online at *www.doi.gov* by December 10, 2002. A new office in the Department, the Office of Indian Trust Transition, has been created to plan and support reorganization. While preliminary actions have been taken by the Department, the plan is still in the early stages of development. The meeting is the first in a series of public meetings. Future meetings have been tentatively scheduled in Oklahoma City, OK on January 3, 2002; Rapid City, SD on January 10, 2002; Palm Springs, CA on January 17, 2002; Anchorage, AK on January 23, 2002; and Washington, DC, on February 1, 2002. The dates and locations of these meetings will be announced in a future notice.

Written comments, including names, street addresses, and other contact information of persons submitting comments, will be available for public review at the address stated in the **ADDRESSES** section. Interested persons may examine the written comments during regular business hours (7:45 a.m. to 4:15 p.m. EST), Monday through Friday, except Federal holidays. Individuals who submit comments may request confidentiality. If you wish us to withhold your name, street address, and other contact information (such as fax or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. We will honor your request to the extent allowable by law. We will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

This meeting supports administrative policy on tribal consultation by encouraging maximum direct participation of representatives of tribal governments, tribal organizations, and other interested persons in important processes.

Dated: December 3, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 01–30327 Filed 12–4–01; 10:09 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–347–AD; Amendment 39–12528; AD 2001–24–11]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Beech 400, 400A, and 400T Series Airplanes, Model Mitsubishi MU–300 Airplanes, and Model Beech MU–300–10 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Raytheon Model Beech 400, 400A, and 400T series airplanes, Model Mitsubishi MU–300 airplanes, and Model Beech MU–300–10 airplanes. This action requires revising the Emergency Procedures Section of the Airplane Flight Manual to ensure the flightcrew is advised of in-flight procedures in the event of loss of airspeed indication. Such loss of airspeed indication and the resulting adverse effects on certain connecting systems could result in reduced controllability of the airplane.

DATES: Effective December 11, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 11, 2001.

Comments for inclusion in the Rules Docket must be received on or before February 4, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–347–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–347–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Bennett Sorensen, Aerospace Engineer, Flight Test Branch, ACE–117W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4165; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: The FAA has received several reports of loss of the pilot's and/or the co-pilot's Indicated Airspeed (IAS) display on certain Raytheon Model Beech 400A series airplanes. Such loss of IAS display may lead to loss of the altitude displays and up to 10 degrees of pitch error in the pilot's and/or co-pilot's attitude display. Loss of the Indicated Airspeed (IAS) display can also adversely affect the display for altitude and attitude (Attitude/Heading/Reference System (AHRS)), and can result in uncommanded autopilot or yaw damper disengagement. The reported incidents occurred between 38,000 and 41,000 feet of altitude while the airplanes were in cruise or during initial descent. In the reported incidents, the altitude indication returned to normal at an undetermined point in the descent, and the airplanes landed without further incident. Investigation of those reports indicates that the cause of the loss of airspeed indication display may be due to water freezing in the pitot systems.

Loss of airspeed indication and the resulting adverse effects on certain connecting systems could result in reduced controllability of the airplane.

Similar Models

The pitot systems installation on Raytheon Model Beech 400, and 400T series airplanes, Model Mitsubishi MU–300 airplanes, and Model Beech MU–300–10 airplanes are identical to those installed on the affected Model Beech 400A series airplanes. Therefore, all of these models may be subject to the same unsafe condition.

Explanation of Relevant Service Information

The FAA has reviewed and approved the following Raytheon Temporary Changes to the FAA-approved Airplane Flight Manual:

- Beechjet 400T Temporary Change, P/N 132–590002–5TC3, dated November 12, 2001;
- Beechjet 400T Temporary Change, P/N 134–590002–1TC3, dated November 12, 2001;
- Beechjet 400A Temporary Change, P/N 128–590001–91TC5, dated November 12, 2001;
- Beechjet 400A Temporary Change, P/N 128–590001–95TC5, dated November 12, 2001;
- Beechjet 400A Temporary Change, P/N 128–590001–107TC5, dated November 12, 2001;
- Beechjet 400A Temporary Change, P/N 128–590001–109TC5, dated November 12, 2001;
- Beechjet 400A Temporary Change, P/N 128–590001–167TC7, dated November 12, 2001;
- Beechjet 400A Temporary Change, P/N 128–590001–169TC3, dated November 12, 2001;
- Beechjet 400 Temporary Change, P/N 128–590001–13BTC1, dated November 12, 2001;
- Beechjet 400 Temporary Change P/N 128–590001–13BTC2, dated November 12, 2001;
- MU–300 Diamond I Temporary Change, P/N MR–0460TC1, dated November 12, 2001;
- MU–300 Diamond IA Temporary Change, P/N MR–0873TC1, dated November 12, 2001.

The documents specified above describe certain in-flight procedures in the event of loss of airspeed indication for the various models specified.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to ensure the flightcrew is advised of in-flight procedures in the event of loss of airspeed indication. Such loss of airspeed indication and the resulting adverse effects of certain connecting systems could result in reduced controllability of the airplane. This AD requires accomplishment of the actions specified in the Temporary AFM's described previously, or insertion of this AD into the Airplane Flight Manual (AFM).

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–347–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–11 Raytheon Aircraft Company (Formerly Beech): Amendment 39–12528. Docket 2001–NM–347–AD.

Applicability: All Model Beech 400, 400A, and 400T series airplanes, Model Mitsubishi MU–300 airplanes, and Model Beech MU–300–10 airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane due to loss of airspeed indication by ensuring that the flightcrew is advised of in-flight procedures in the event of loss of airspeed indication, accomplish the following:

(a) Within five days after the effective date of this AD, revise the Emergency Procedures Section of the FAA-approved Airplane Flight Manual (AFM), as applicable, by inserting a copy of Raytheon Beechjet 400T Temporary Change, P/N 132–590002–5TC3, dated November 12, 2001; Beechjet 400T Temporary Change, P/N 134–590002–1TC3, dated November 12, 2001; Beechjet 400A Temporary Change, P/N 128–590001–91TC5, dated November 12, 2001; Beechjet 400A Temporary Change, P/N 128–590001–95TC5, dated November 12, 2001; Beechjet 400A Temporary Change, P/N 128–590001–107TC5, dated November 12, 2001; Beechjet 400A Temporary Change, P/N 128–590001–109TC5, dated November 12, 2001; Beechjet 400A Temporary Change, P/N 128–590001–167TC7, dated November 12, 2001; Beechjet 400A Temporary Change, P/N 128–590001–169TC3, dated November 12, 2001; Beechjet 400 Temporary Change, P/N 128–590001–13BTC1, dated November 12, 2001; Beechjet 400 Temporary Change P/N 128–590001–13BTC2, dated November 12, 2001; MU–300 Diamond I Temporary Change, P/N MR–0460TC1, dated November 12, 2001; or MU–300 Diamond IA Temporary Change, P/N MR–0873TC1, dated November 12, 2001; as applicable, into the AFM or by inserting a copy of this AD into the AFM to include the following procedures:

"Emergency Procedures (400 & MU–300)

Loss of Airspeed

Note: If the pilot's and/or copilot's airspeed(s) are noted to be decreasing toward zero, refer to the AOA indicator for airspeed control and land at the nearest suitable airport.

1. Autopilot—Disconnect
2. Airspeed—Slow to and Maintain 0.2 AOA
3. Thrust—As Required

4. Speed Brakes—As Required (Slow to 0.25 AOA with speed brakes extended)

Note: An AOA of 0.2 (0.25 with speed brakes extended) will yield an airspeed of about 210 knots. Use pitch attitude as the primary reference. Make small changes in pitch and wait for the AOA to stabilize.

When Ready for Descent

5. Seat Belts/Shoulder Harnesses—Fastened
6. Cabin Sign—As Required
7. Recognition Light—As Required
8. Anti/De-Ice Systems—As Required

Caution

If icing conditions are anticipated during the descent and approach, turn ice protection systems ON as early as possible prior to penetrating clouds. Maintain wing anti/deice operation light ON (approximately 70% N2) during descent to assure proper wing anti-ice operation.

9. Cabin Pressure Control—Set Field Elevation + 500 Feet
10. Windshield Defog—As Required
11. Altimeters—Set

When Ready for Approach

12. Airspeed—Slow to and Maintain 0.3 AOA

Note: Maintain 0.3 AOA throughout the configuration change to Flaps 10° Gear Down. This will yield an airspeed of about 180 knots.

13. Fuel Management—Check
14. N1, Landing Distance—Confirm
15. Cabin Sign—Safety
16. Windshield Anti-Ice—Low
17. Hydraulic/Nitrogen Pressure—Check
18. Engine Sync—Off
19. Flaps 10°

Before Landing

20. AOA Index—Preset 1.3 V/Vs
21. Landing Gear—Down
22. Airspeed—Slow to 0.4 AOA
23. Recognition Light—Off
24. Landing Lights—As Required
25. Ignitions—On
26. Flaps—30°
27. Approach Airspeed (VREF)—Slow to and Maintain 0.57 AOA

Note: This will yield a normal approach speed of VREF (0.57 AOA) and normal landing distances.

Balked Landing

28. Thrust—Takeoff N1
29. Pitch Attitude—10°

When Positive Climb Has Been Established

30. Flaps—10°
31. Landing Gear—Up
32. Airspeed—Accelerate to 0.3 AOA
33. Flaps—Up
34. Airspeed—Accelerate and Maintain 0.2 AOA
35. Landing Lights—Ret/off

Emergency Procedures (400A & RJ–61)

Loss of Airspeed

Note: If the pilot's, or copilot's and standby, or all three airspeed(s) are noted to be decreasing toward zero, refer to the standby attitude indicator, standby altimeter, standby heading and the AOA indicator for aircraft control and land at the nearest suitable airport. On PFD equipped airplanes, the pilot's and copilots altimeters, attitude displays and heading displays may be unreliable and the autopilot may disconnect. This may be accompanied by amber boxed A/S, ALT, ATT and/or HDG comparator flags. The comparator flags may be followed by red FAIL flags and removal of airspeed and altitude tapes and attitude/heading displays.

1. Autopilot—Disconnect
2. Airspeed—Slow to and Maintain 0.2 AOA
3. Thrust—As Required
4. Speed Brakes—As Required (Slow to 0.25 AOA with speed brakes extended)

Note: An AOA of 0.2 (0.25 speed brakes extended) will yield an airspeed of about 210 knots. Use pitch attitude as primary reference. Make small changes in pitch attitude and wait for AOA to stabilize.

When Ready for Descent

5. Seat Belts/Shoulder Harnesses—Fastened
6. Cabin Sign—As Required
7. Recognition Light—As Required
8. Anti/De-Ice Systems—As Required

Caution

If icing conditions are anticipated during the descent and approach, turn ice protection systems ON as early as possible prior to penetrating clouds. Maintain wing anti/deice operation light ON (approximately 70% N2) during descent to assure proper wing anti-ice operation.

9. Cabin Pressure Control—Set Field Elevation + 500 Feet
10. Windshield Defog—As Required
11. Altimeters—Set

When Ready for Approach

12. Airspeed—Slow to and Maintain 0.3 AOA

Note: Maintain 0.3 AOA throughout the configuration change to Flaps 10°, Gear Down. This will yield an airspeed of about 180 knots.

13. Fuel Management—Check
14. N1, Landing Distance—Confirm
15. Cabin Sign—Safety
16. Windshield Anti-Ice—Low
17. Hydraulic/Nitrogen Pressure—Check
18. Engine Sync—Off
19. Flaps—10°

Before Landing

20. AOA Index—Preset 1.3 V/Vs
21. Landing Gear—Down
22. Airspeed—Slow to 0.4 AOA
23. Recognition Light—Off
24. Landing Lights—As Required
25. Ignitions—On
26. Flaps—30°
27. Approach Airspeed (VREF) Slow to and Maintain 0.57 AOA

Note: This will yield a normal approach speed of VREF (0.57 AOA) and normal landing distances.

28. Yaw Damp—Off

Balked Landing

29. Thrust—Takeoff N1
30. Pitch Attitude 10°

When Positive Climb Has Been Established

31. Flaps—10°
32. Landing Gear—Up
33. Yaw Damp—On
34. Airspeed—Accelerate to 0.3 AOA
35. Flaps—Up
36. Airspeed—Accelerate and Maintain 0.2 AOA
37. Landing Lights—Ret/off

Emergency Procedures 400T(T–1A)

Loss of Airspeed

Note: If the pilot's, or copilot's and standby, or all three airspeed(s) are noted to be decreasing toward zero, refer to the standby attitude indicator, standby altimeter, standby heading and the AOA indicator for aircraft control and land at the nearest suitable airport. The pilot's and copilots altimeter's, attitude displays and heading displays may be unreliable and the autopilot may disconnect. This may be accompanied by amber boxed A/S, ALT, ATT and/or HDG comparator flags. The comparator flags may be followed by red FAIL flags on the airspeed, altitude, attitude and heading displays.

1. Autopilot—Disconnect
2. Airspeed—Slow to and Maintain 0.2 AOA
3. Thrust—As Required
4. Speed Brakes—As Required (Slow to 0.25 AOA with speed brakes extended)

Note: An AOA of 0.2 (0.25 speed brakes extended) will yield an airspeed of about 210 knots. Use pitch attitude as primary reference. Make small changes in pitch attitude and wait for AOA to stabilize.

When Ready for Descent

5. Seat Belts/Shoulder Harnesses—Fastened
6. Cabin Sign—AS Required
7. Anti/De-Ice Systems—As Required

Caution

If icing conditions are anticipated during the descent and approach, turn ice protection systems ON as early as possible prior to penetrating clouds. Maintain wing anti/deice operation light ON (approximately 70% N2) during descent to assure proper wing anti-ice operation.

8. Cabin Pressure Control—Set Field Elevation + 500 Feet
9. Windshield Defog—As Required
10. Altimeters—Set

When Ready for Approach

11. Airspeed—Slow to and Maintain 0.3 AOA

Note: Maintain 0.3 AOA throughout the configuration change to Flaps 10°, Gear Down. This will yield an airspeed of about 180 knots.

12. Fuel Management—Check
13. N1, Landing Distance—Confirm
14. Cabin Sign—Safety
15. Windshield Anti-Ice—Low
16. Hydraulic/Nitrogen Pressure—Check
17. Engine Sync—Off
18. Flaps—10°
19. GPWS TAC and FLP ORIDE—Off

Before Landing

20. AOA Index—Preset 1.3 V/Vs
21. Landing Gear—Down

22. Airspeed—Slow to 0.4 AOA
23. Landing Lights—As Required
24. Ignitions—On
25. Flaps—Set for Landing
26. Approach Airspeed (VREF)—Slow to and Maintain 0.57 AOA

Note: This will yield an approach speed of VREF (0.57 AOA) and normal landing distances.

27. Yaw Damp—Off

Caution

If icing conditions are encountered during flight, the maximum landing flap is 10° unless one of the following are met.

The icing conditions are encountered for less than 10 minutes, and the RAM Air Temperature (RAT) during the encounter was warmer than −8°C.

A RAT of +10°C, or warmer, is observed during the descent, approach or landing.

If either of the above two conditions are met, Flaps 30° may be used for landing.

Balked Landing

28. Thrust—Takeoff N1
29. Pitch Attitude—10°

When Positive Climb Has Been Established

30. Flaps—10°
31. Landing Gear—Up
32. Yaw Damp—On
33. Airspeed—Accelerate to 0.3 AOA
34. Flaps—Up
35. Airspeed—Accelerate and Maintain 0.2 AOA
36. Landing Lights—Ret/off

Emergency Procedures 400T(TX)

Loss of Airspeed

Note: If the pilot's, or copilot's and standby, or all three airspeed(s) are noted to be decreasing toward zero, refer to the standby attitude indicator, standby altimeter, standby heading and the AOA indicator for aircraft control and land at the nearest suitable airport. The pilot's and copilots altimeter's, attitude displays and heading displays may be unreliable and the autopilot may disconnect. This may be accompanied by amber boxed A/S, ALT, ATT and/or HDG comparator flags. The comparator flags may be followed by red FAIL flags on the airspeed, altitude, attitude and heading displays.

1. Autopilot—Disconnect
2. Airspeed—Slow to and Maintain 0.2 AOA
3. Thrust—As Required
4. Speed Brakes—As Required (Slow to 0.25 AOA with speed brakes extended)

Note: An AOA of 0.2 (0.25 speed brakes extended) will yield an airspeed of about 210 knots. Use pitch attitude as primary reference. Make small changes in pitch attitude and wait for AOA to stabilize.

When Ready for Descent

5. Seat Belts/Shoulder Harnesses—Fastened
6. Cabin Sign—As Required
7. Anti/Delce Systems—As Required

Caution

If icing conditions are anticipated during the descent and approach, turn ice protection systems ON as early as possible prior to penetrating clouds. Maintain wing anti/deice operation light ON (approximately 70% N2) during descent to assure proper wing anti-ice operation.

8. Cabin Pressure Control—Set Field Elevation + 500 Feet
9. Windshield Defog—As Required
10. Altimeters—Set

When ready for approach

11. Airspeed—Slow to and Maintain 0.3 AOA

Note: Maintain 0.3 AOA throughout the configuration change to Flaps—10°, Gear Down. This will yield an airspeed of about 180 knots.

12. Fuel Management—Check
13. N1, Landing Distance—Confirm
14. Cabin Sign—Safety
15. Windshield Anti-Ice—Low
16. Hydraulic/Nitrogen Pressure—Check
17. Engine Sync—Off
18. Flaps—10°

Before Landing

19. AOA Index—Preset 1.3 V/Vs
20. Landing Gear—Down
21. Airspeed—Slow to 0.4 AOA
22. Landing Lights—As Required
23. Ignitions—On
24. Flaps—30°
25. Approach Airspeed (VREF)—Slow to and Maintain 0.57 AOA

Note: This will yield a normal approach speed of VREF (0.57 AOA) and normal landing distances.

26. Yaw Damp—Off

Balked Landing

26. Thrust—Takeoff N1
27. Pitch Attitude 10°

When Positive Climb Has Been Established

29. Flaps 10°
30. Landing Gear—Up
31. Yaw Damp—On
32. Airspeed—Accelerate to 0.3 AOA
33. Flaps— 0°
34. Airspeed—Accelerate and Maintain 0.2 AOA
35. Landing Lights—Ret/off"

Note 1: When a previously specified Temporary AFM revision has been incorporated into the general revisions of the AFM, the general revision may be inserted in the AFM, provided the information contained in the general revision is identical to that specified in the specified Temporary AFM revision.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) Except as provided by paragraph (a) of this AD, the AFM revision shall be done in accordance with Raytheon Beechjet 400T Temporary Change, P/N 132–590002–5TC3, dated November 12, 2001; Beechjet 400T Temporary Change, P/N 134–590002–1TC3, dated November 12, 2001; Beechjet 400A Temporary Change, P/N 128–590001–91TC5, dated November 12, 2001; Beechjet 400A Temporary Change, P/N 128–590001–95TC5, dated November 12, 2001; Beechjet 400A Temporary Change, P/N 128–590001–107TC5, dated November 12, 2001; Beechjet 400A Temporary Change, P/N 128–590001–109TC5, dated November 12, 2001; Beechjet 400A Temporary Change, P/N 128–590001–167TC7, dated November 12, 2001; Beechjet 400A Temporary Change, P/N 128–590001–169TC3, dated November 12, 2001; Beechjet 400 Temporary Change, P/N 128–590001–13BTC1, dated November 12, 2001; Beechjet 400 Temporary Change P/N 128–590001–13BTC2, dated November 12, 2001; MU–300 Diamond I Temporary Change, P/N MR–0460TC1, dated November 12, 2001; or MU–300 Diamond IA Temporary Change, P/N MR–0873TC1, dated November 12, 2001; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on December 11, 2001.

Issued in Renton, Washington, on November 26, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30083 Filed 12–5–01; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 62

[CT067–7224a; A–1–FRL–7106–4]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Revisions to State Plan for Municipal Waste Combustors and Incorporation of Regulation into State Implementation Plan for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving revisions to Connecticut's State Plan for Municipal Waste Combustors (MWC) submitted by the Connecticut Department of Environmental Protection (DEP) on November 28, 2000 and October 15, 2001. The MWC State Plan implements and enforces provisions at least as protective as the EPA's Emission Guidelines (EGs) applicable to existing MWC units with capacity to combust more than 250 tons per day of municipal solid waste. Further, the EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut on October 15, 2001. This is a SIP-strengthening revision that incorporates the nitrogen oxide limits and related regulatory provisions of Connecticut's adopted Regulation Section 22a–174–38, Municipal Waste Combustors, into the SIP to further reduce emissions of nitrogen oxides (NO_X) from MWC units. The EPA proposed approval of these revisions on August 24, 2001, and received no comments during the public comment period which ended September 24, 2001. These actions are being taken under the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on January 7, 2002.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room M–1500, 401 M Street, (Mail Code 6102), SW., Washington, DC; and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Daniel Brown, (617) 918–1532 or brown.dan@epa.gov.

SUPPLEMENTARY INFORMATION: In the following text the terms "we," "us," or "our" mean the EPA. This notice is organized according to the following Table of Contents.

I. What was our Proposed Rulemaking on the Connecticut DEP's Revisions to the MWC Plan and SIP?
II. What was Connecticut DEP's final MWC Plan and SIP Revision?
III. What Action is the EPA Taking Today?
IV. What are the Administrative Requirements?

I. What Was Our Proposed Rulemaking on the Connecticut DEP's Revisions to the MWC Plan and SIP?

On August 24, 2001 we published a Notice of Proposed Rulemaking (NPR) for the Connecticut DEP's November 28, 2000 revision to its Municipal Waste Combustor (MWC) Plan and its June 4, 2001 proposed revision to its State Implementation Plan (SIP) for ozone. Please refer to our proposed rule published in the **Federal Register** on August 24, 2001 (66 FR 44582) for more information on the Connecticut DEP's submittals. Briefly, the November 28, 2000 submittal consisted of the revised Connecticut regulation 22a–174–38, Municipal Waste Combustors, which Connecticut DEP adopted and which became effective on October 26, 2000. The June 4, 2001 submittal consisted of the revised regulation 22a–174–38 and a request that the nitrogen oxide (NO_X) limits and related regulatory provisions be incorporated into the SIP to further reduce NO_X emissions from MWC units.

In our August 24, 2001 action, we proposed approval of the SIP revision through parallel processing. Under the parallel processing procedure, we work closely with the Connecticut DEP while it is developing its revision to its SIP. The State submitted its proposed SIP revision to us concurrent with its public hearing. We reviewed this proposed state action, and published our notice of proposed rulemaking and request for comments in the **Federal Register** on August 24, 2001.

We did not receive any comments on our proposed approval and the Connecticut DEP addressed all comments it received during its public comment period as described below.

II. What Was Connecticut DEP's Final MWC Plan and SIP Revision?

On October 15, 2001, Connecticut DEP submitted its final MWC Plan revision and SIP revision to the EPA for approval. The submittal includes the final regulation 22a–174–38 (state MWC rule), a certification of public hearing and a hearing report which responds to all public comments raised during the Connecticut DEP's public hearing on July 10, 2001.

Connecticut DEP's final MWC Plan revision and SIP revision submitted on October 15, 2001 is substantially the same as the June 4, 2001 proposed SIP revision which we proposed to approve on August 24, 2001. Therefore, in this action we are fully approving the MWC Plan and SIP revision. The rationale for our action is explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. What Action Is the EPA Taking Today?

EPA is approving Connecticut DEP's revisions to its MWC Plan and approving the provisions of the MWC regulation pertaining to NO_X controls into the ozone SIP.

IV. What Are the Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Incorporation by reference.

40 CFR Part 62

Administrative practice and Procedures, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Authority: 42 U.S.C. 7401 et seq.

Dated: November 9, 2001.

Robert W. Varney,

Regional Administrator, EPA New England.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart H—Connecticut

2. Section 52.370 is amended by adding paragraph (c)(90) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(90) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on October 15, 2001, to incorporate the nitrogen oxide limits and related regulatory provisions of regulation 22a–174–38, Municipal Waste Combustors.

(i) Incorporation by reference.

(A) The nitrogen oxide emission limits and related regulatory provisions of State of Connecticut Regulation of Department of Environmental Protection Section 22a–174–38, Municipal Waste Combustors effective October 26, 2000, included in sections 22a–174–38 (a), (b), (c), (d), (i), (j), (k), (l), and (m).

(ii) Additional material.

(A) Letter from the Connecticut Department of Environmental Protection dated October 15, 2001, submitting a revision to the Connecticut State Implementation Plan.

2. In § 52.385, Table 52.385 is amended by adding in numerical order a new entry for "22a–174–38" to read as follows:

§ 52.385 EPA-approved Connecticut regulations.

* * * * *

TABLE 52.385.—EPA-APPROVED REGULATIONS

Connecticut State citation	Title/subject	Dates: Date adopted by State	Dates: Date approved by EPA	Federal Register citation	Section 52.370	Comments/description
•	•	•	•	•	•	•
22a–174–38	Municipal Waste Combustors.	10/26/2000	12/6/01	[Insert FR citation from published date].	c(90)	The nitrogen oxide emission limits and related regulatory provisions of 22a–174–38, Municipal Waste Combustors, included in sections 22a–174–38 (a), (b), (c), (d), (i), (j), (k), (l), and (m).
•	•	•	•	•	•	•

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart H—Connecticut

2. Section 62.1500 is amended by adding paragraph (b)(2) to read as follows:

§ 62.1500 Identification of plan.

* * * * *

(b) * * *

(2) Revisions to Plan for Implementing the Municipal Waste Combustor Guidelines and New Source Performance Standards, submitted by the Connecticut Department of Environmental Protection on October 15, 2001 and including Connecticut DEP's revised regulation 22a–174–38. Certain provisions of the revised regulation 22a–174–38 submitted with the MWC Plan are stricken from the regulatory text. The stricken provisions include standards for MWC units constructed after September 20, 1994, more stringent mercury emission standards, and shutdown provisions for mass burn refractory MWC units.

* * * * *

[FR Doc. 01–30098 Filed 12–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7114–6]

RIN 2050–AE79

NESHAP: Emergency Extension of the Compliance Date for Standards for Hazardous Air Pollutants for Hazardous Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to extend for one year the compliance date for regulations for incinerators, cement kilns, and lightweight aggregate kilns that burn hazardous waste, promulgated on September 30, 1999 (NESHAP: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors). We are taking this action in response to the Court's opinion in *Cement Kiln Recycling Coalition* v. *EPA*, 255 F.3d 855, 872 (D.C. Cir. 2001) issued on July 24, 2001, where the Court vacated the emission standards known as the hazardous waste combustor "floors" and remanded for further proceedings. 255 F.3d at 871. The rules are still in effect, however, because the Court has issued an order (at the request of the parties to the proceeding) which stays issuance of the mandate and vacature does not occur until the Courts issue a mandate. These existing regulations require sources to take actions based on the current compliance date, September 30, 2002. Deadlines for some of these actions are imminent. Given that some delay in compliance will be necessitated as a result of the uncertainty created by the Court's opinion, and that action is needed now because of imminent deadlines which are keyed to the compliance date, it is not appropriate to require sources to comply with the current regulatory schedule. Consequently, EPA is extending the compliance date for one year.

EFFECTIVE DATE: December 6, 2001.

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Call Center at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). Callers within the Washington Metropolitan Area must dial 703–412–9810 or TDD 703–412–3323 (hearing impaired). The RCRA Call Center is open Monday–Friday, 9 am to 4 pm, Eastern Standard Time. For more information, contact Rhonda Minnick at 703–308–8771, minnick.rhonda@epa.gov, or write her at the Office of Solid Waste, 5302W, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Part One: Overview and Background for This Final Rule

I. Regulatory Information

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because a change in the compliance date is necessitated by the Court's opinion. There are imminent deadlines which are keyed to the existing compliance date, yet affected sources presently lack information to make necessary compliance decisions. Some immediate change of the compliance date is needed. Thus, notice and public procedure are impracticable. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). EPA also finds that good cause exists under U.S.C. 553(d)(3) for making this rule effective less than 30 days after publication in the **Federal Register**.

II. What Is the Purpose of This Final Rule?

Today's action extends for one year the compliance date for the NESHAP: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I) rule, published September 30, 1999 (64 FR 52828). We are taking this action in response to the Court's opinion in *Cement Kiln Recycling Coalition* v. *EPA*, 255 F.3d 855, 872 (D.C. Cir. 2001) issued on July 24, 2001, where the Court vacated the emission standards known as the hazardous waste combustor "floors" and remanded for further proceedings. 255 F.3d at 871. "Vacature", however, only actually takes effect when the Court issues an order called a mandate. In this case, the Court has stayed issuance of the mandate (until February 14, 2002) in response to a joint motion from all parties to the case requesting such action. The rules thus are still in effect. These existing regulations require sources to take actions based on the current compliance date, September 30, 2002. Deadlines for some of these actions are imminent. Given that some delay in compliance will be necessitated as a result of the uncertainty created by the Court's opinion, and that action is needed now because of imminent deadlines which are keyed to the compliance date, it is not appropriate to require sources to comply with the current regulatory schedule. Consequently, EPA is extending the compliance date for one year.

III. What Is the Phase I Rule?

In the Phase I final rule, we adopted National Emissions Standards for Hazardous Air Pollutants, pursuant to section 112(d) of the Clean Air Act, to control toxic emissions from the burning of hazardous waste in incinerators, cement kilns, and lightweight aggregate kilns. 64 FR 52828 (September 30, 1999). These emission standards created a technology-based national cap for hazardous air pollutant emissions from the combustion of hazardous waste in these devices. Additional risk-based conditions necessary to protect human health and the environment may be imposed (assuming a proper, site-specific justification) under section 3005(c)(3) of the Resource Conservation and Recovery Act (RCRA).

Section 112(d) of the Clean Air Act (CAA) requires emissions standards for hazardous air pollutants to be based on

the performance of the Maximum Achievable Control Technology (MACT). These standards apply to the three major categories of hazardous waste burners—incinerators, cement kilns, and lightweight aggregate kilns. For purposes of today's action, we refer to these three categories collectively as hazardous waste combustors (HWC).

Additionally, the Phase I HWC MACT rule satisfies our obligation under RCRA (the main statute regulating hazardous waste management) to ensure that hazardous waste combustion is conducted in a manner protective of human health and the environment. 64 FR at 52833, 52839–41. By using both CAA and RCRA authorities in a harmonized fashion, we consolidate regulatory control of hazardous waste combustion into a single set of regulations, thereby minimizing the potential for conflicting or duplicative federal requirements.

More information on the Phase I HWC MACT rule is available electronically from the World Wide Web at *www.epa.gov/hwcmact*.

IV. What Related Actions Have Been Taken Since Publication of the Phase I Rule?

On November 19, 1999, we issued a technical correction to the HWC MACT rule (64 FR 63209). It clarified our intent with respect to certain aspects of the Notification of Intent to Comply and Progress Report requirements of the 1998 "Fast Track" final rule (63 FR 33783). Additionally, specific to the HWC MACT rule, we corrected several typographical errors and omissions.

On July 10, 2000, we issued a second technical correction to the HWC MACT rule (65 FR 42292). This action corrected additional typographical errors and clarified several issues to make the rule easier to understand and implement. This action also supplied one omission from the technical correction published on November 19, 1999, and made one correction to the related June 19, 1998 "Fast Track" final rule (63 FR 33783).

On July 25, 2000, the Court of Appeals for the District of Columbia decided *Chemical Manufacturers Association* v. *EPA*, 217 F. 3d 861 (D.C. Cir. No. 99–1236). The Court held that EPA had the legal authority to promulgate a requirement of early cessation of hazardous waste burning activity for those sources not intending to comply with the MACT emission standards. However, the Court also held that we had not adequately explained our reasons for imposing the early cessation requirement. As a result, the Court vacated the early cessation requirement and the related Notice of Intent to Comply (NIC) and Progress Report requirements. This vacature took effect on October 11, 2000. Since the requirements were not vacated until after sources were required to submit their NICs (on October 2, 2000), we determined that the Court's action does not impact a source's ability to request a RCRA permit modification using the streamlined procedures of § 270.42(j)(1). As long as a source complied with the NIC provisions (including filing the NIC before the provision was vacated), the source has met the requirements in § 270.42(j)(1) and is therefore eligible for the streamlined RCRA permit modification process. The Court's decision does not impact the emission standards or compliance schedule for the other requirements of the HWC NESHAP Subpart EEE.

On November 9, 2000, we issued a third technical correction to the HWC MACT rule (65 FR 67268). It clarified our intent with respect to the applicability of new source versus existing source standards for hazardous waste incinerators. This action also clarified three issues to make the rule easier to understand and implement.

On May 14, 2001, we issued a final rule implementing two court orders that removed affected provisions of the HWC MACT rule from the *Code of Federal Regulations* (66 FR 24270). This action removed the Notice of Intent to Comply provisions (discussed above) and certain operating parameter limits of baghouses and electrostatic precipitators.

On July 3, 2001, we published a direct final rule (66 FR 35087) and a notice of proposed rulemaking (66 FR 35124) promulgating and proposing thirteen amendments to several compliance, testing, and monitoring provisions of the HWC MACT rule. We promulgated these amendments as direct final rules, with an accompanying proposed rule to supplant these rules in the event we received any adverse comment on the amendments. We subsequently received adverse comment on four of the amendments. On October 15, 2001, we published a withdrawal notice (66 FR 52361) removing those parts of the direct final rule that received adverse comment. The nine amendments for which we did not receive adverse comment became effective on October 16, 2001.

On July 3, 2001, we also issued a separate proposed rule soliciting comment on twenty amendments to several compliance, testing, and monitoring provisions of the HWC MACT rule (66 FR 35126). We will address comments to the proposed rule in the future in a final action.

On July 24, 2001, the D.C. Circuit Court issued an opinion vacating the HWC MACT emission standards known as the "floors" and remanded for further proceedings. See *Cement Kiln Recycling Coalition* v. *EPA*, 255 F.3d 855, 872 (D.C. Cir. 2001). The Court also invited any party to file a motion asking that issuance of the mandate be stayed:

> Because this decision leaves EPA without standards regulating HWC emissions, EPA (or any of the parties to this proceeding) may file a motion to delay issuance of the mandate to request either that the current standards remain in place or that EPA be allowed reasonable time to develop interim standards.

255 F.3d at 872.

Part Two: Rationale for Today's Action

I. Why Is a One-Year Extension of the Compliance Date Needed?

In response to the Court's opinion that the Phase I HWC MACT rule be vacated, the Agency and litigants are investigating options to retain some form of the current rules, or issuing some type of interim revised rules. Notwithstanding those efforts, however, and until the Court issues a mandate putting the opinion into force, sources must continue to comply with the rule. The compliance date for the rule is September 30, 2002, three years after the promulgation date.

To meet that compliance date, sources must take steps to comply with the rule prior to that date, and regulatory officials must respond to many of those actions. For example, sources must have submitted by September 30, 2001 requests to extend the compliance date because of inability to meet the emission standards by that date for reasons beyond their control. Regulatory officials should respond to those requests within 30 days of receipt of a complete application. See §§ 63.1206(b)(4), 63.6(i), and 63.1213. In addition, sources must submit the performance test plan to permit officials for review and approval by March 30, 2002, one year prior to the deadline for conducting the initial comprehensive performance test. See § 63.1206(c) and (e). Most sources were planning to submit their test plan and conduct the test in advance of the deadline to facilitate review and approval of the plan and ensure availability of stack testing personnel.

Given the uncertainty created by the opinion as to what standards will ultimately be in place and when sources will have to comply, it is appropriate to delay the compliance date.[1] Quite

[1] If the Agency were not to promulgate an interim rule prior to the Court's issuance of a mandate

simply, sources are (legitimately) unwilling to make the substantial commitments in time, effort, and capital to comply with standards when they no longer know what those standards will be. We believe a one-year delay of the compliance date is warranted. Many sources reasonably stopped most efforts to comply with the rule when the Court issued its opinion on July 24, 2001 because the rule's status was so uncertain. Further, although the Agency plans to promulgate interim rules prior to the Court's issuance of the vacature mandate, the interim rules will not be promulgated until approximately February 14, 2002. That hiatus would justify a six month delay in the compliance date, but the requirements of an interim rule will differ from the current rule to address concerns of litigants and the Court. Thus, sources may need additional time to address such differences. Consequently, we believe a one-year delay in the compliance date is within the range of time extensions that are appropriate.

Should EPA promulgate replacement rules, those rules would, of course, have their own compliance dates (to be determined as part of that rulemaking). Our action today deals only with the status of the existing rule, which date clearly needs to change as a result of the *Cement Kiln Recycling Coalition* opinion.

To implement the one-year delay in the compliance date, we are revising dates in several regulatory provisions. We are revising the compliance date provided by § 63.1206(a)(1) from September 30, 2002 to September 30, 2003. In addition, we are making conforming revisions to several paragraphs that establish deadlines based on the compliance date.

II. Why Is This Rule Issued Without Notice and Opportunity for Public Comment?

EPA finds that there is good cause to issue this rule without prior notice and opportunity for comment (although EPA notes that all of the litigants in the *Cement Kiln Recycling Coalition* proceedings have had actual notice of this action as a result of the on-going discussions following issuance of that opinion, and have had the opportunity to present their views to the appropriate EPA officials). First, as explained above, source owners and operators presently lack the information to make necessary compliance decisions: they do not know what the standards will be, or if there will be any national standards at all. The only thing that is clear is that the current rules, as a result of the Court's opinion and vacature remedy, will require some alteration. Yet there are imminent deadlines (September, 2001 and March, 2002) which are keyed to the September, 2002 compliance date. Some immediate change of the compliance date is thus needed. Second, EPA regards a change in the compliance date as necessitated by the Court's opinion in any case, and thus that this action is essentially non-discretionary. For all of these reasons, EPA finds that there is good cause to issue this rule without notice and opportunity for comment pursuant to 5 U.S.C. section 553(b)(B) (which applies to CAA rulemakings, see section 307(d)(1), final sentence), as well as good cause for this rule to take effect immediately pursuant to 5 U.S.C. section 553(d).

Part Three: Analytical and Regulatory Requirements

I. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, EPA must determine whether a regulatory action is significant and, therefore, subject to comprehensive review by the Office of Management and Budget (OMB), and the other provisions of the Executive Order. A significant regulatory action is defined by the Order as one that may:

—Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
—Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
—Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations or recipients thereof; or
—Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Pursuant to the terms of Executive Order 12866, the Agency has determined that this rule is not a "significant regulatory action" and is therefore not subject to OMB review.

The aggregate annualized compliance costs for this final rule are less than $100 million. Furthermore, this rule is not expected to adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The benefits to human health and the environment resulting from today's action have not been monetized but are deemed to be less than $100 million per year.

A. Why Is This Final Rule Necessary?

See Part Two, Section I of this Preamble.

B. Were Non-Regulatory Alternatives First Considered?

Section 1(b)(3) of Executive Order 12866 instructs Executive Branch Agencies to consider and assess available alternatives to direct regulation prior to making a determination for regulation. This regulatory determination assessment should be considered, "to the extent permitted by law, and where applicable." The ultimate purpose of the regulatory determination assessment is to ensure that the most efficient tool, regulation, or other type of action is applied in meeting the targeted statutory objective(s). The consideration of non-regulatory alternatives is not applicable to today's final rule.

C. What Regulatory Options Were Considered?

Alternative regulatory options are not applicable to this action.

II. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's final rule on small entities, a small entity is defined as: (1) A small business that has fewer than 750, or 500 employees per firm depending upon the SIC–NAICS code(s) the firm is primarily classified in; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and

vacating the rule, today's action to delay the compliance date for one year becomes moot. This is because vacature of the emission standards would as a practical matter vacate the compliance date for those standards.

operated and is not dominant in its field.

Because the Agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see Part Two, Section II), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

III. Executive Order 13045: "Protection of Children From Environmental Health Risks and Safety Risks'

"Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866. Furthermore, the Agency does not have reason to believe that environmental health or safety risks addressed by this action present a disproportionate risk to children.

IV. Executive Order 12898: Environmental Justice

Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population" (February 11, 1994), is designed to address the environmental and human health conditions of minority and low-income populations. EPA is committed to addressing environmental justice concerns and has assumed a leadership role in environmental justice initiatives to enhance environmental quality for all citizens of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, income, or net worth bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities. In response to Executive Order 12898, and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response (OSWER) formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17). We have no data indicating that today's final rule would result in disproportionately negative impacts on minority or low income communities.

V. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any single year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any single year. The final rule may result in modified annualized incremental costs from those presented in the Assessment[2], due primarily to baseline adjustments over the one year extension period. However, no significant cost adjustments are anticipated. Because the Agency has made a "good cause" finding that this action is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute (see Part Two, Section II of this action), it is not subject to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

VI. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Order. Thus, Executive Order 13132 does not apply to this rule.

VII. Executive Order 13175: Consultation and Coordination with Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

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[2] "Assessment of Potential Costs, Benefits, and Other Impacts of the Hazardous Waste Combustion MACT Standards: Final Rule," U.S. EPA, July 1999.

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in the Order. Today's rule will not significantly or uniquely affect the communities of Indian tribal governments, nor impose substantial direct compliance costs on them.

VIII Executive Order 13211: Energy Impact Analysis

Executive Order 13211, "Actions Concerning Regulations That Affect Energy Supply, Distribution, or Use" (May 18, 2001), addresses the need for regulatory actions to more fully consider the potential energy impacts of the proposed rule and resulting actions. Under the Order, agencies are required to prepare a Statement of Energy Effects when a regulatory action may have significant adverse effects on energy supply, distribution, or use, including impacts on price and foreign supplies. Additionally, the requirements obligate agencies to consider reasonable alternatives to regulatory actions with adverse affects and the impacts the alternatives might have upon energy supply, distribution, or use.

Today's final rule is not likely to have any significant adverse impact on factors affecting energy supply. We believe that Executive Order 13211 is not relevant to this action.

IX. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Because there are no paperwork requirements as part of this final rule, we are not required to prepare an Information Collection Request in support of today's action.

X. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rulemaking does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

XI. The Congressional Review Act (5 U.S. C. 801 et seq., as Added by the Small Business Regulatory Enforcement Fairness Act of 1996)

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing Agency to make a rule effective sooner than otherwise provided by the CRA if the Agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to public interest (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding. We have established an effective date of December 6, 2001.

EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 29, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 63.1206 is amended by:

a. Revising paragraphs (a)(1), (a)(2)(ii), and (a)(4).

b. Revising paragraphs (b)(6)(i), (b)(7)(i)(B), and (b)(7)(ii)(B).

The revisions read as follows:

§ 63.1206 When and how must you comply with the standards and operating requirements?

(a) * * * (1) *Compliance date for existing sources.* You must comply with the standards of this subpart no later than the compliance date, September 30, 2003, unless the Administrator grants you an extension of time under § 63.6(i) or § 63.1213.

(2) * * *

(ii) For a standard in this subpart that is more stringent than the standard proposed on April 19, 1996, you may achieve compliance no later than September 30, 2003 if you comply with the standard proposed on April 19, 1996 after September 30, 1999. This exception does not apply. however, to new or reconstructed area source hazardous waste combustors that become major sources after September 30, 1999. As provided by § 63.6(b)(7), such sources must comply with this subpart at startup.

(4) *Early compliance.* If you choose to comply with the emission standards of this subpart prior to September 30, 2003, your compliance date is the date you postmark the Notification of Compliance under § 63.1207(j)(1).

(b) * * *

(6) * * *

(i) If a DRE test performed after March 30, 1999 is acceptable as documentation of compliance with the DRE standard, you may use the highest hourly rolling average hydrocarbon level achieved during those DRE test runs to document compliance with the hydrocarbon standard. An acceptable DRE test is a test that was used to support successful issuance or reissuance of an operating permit under part 270 of this chapter.

* * * * *

(7) * * *

(i) * * *

(B) You may use DRE testing performed after March 30, 1999 for purposes of issuance or reissuance of a RCRA permit under part 270 of this chapter to document conformance with the DRE standard if you have not modified the design or operation of the source since the DRE test in a manner that could affect the ability of the source to achieve the DRE standard.

(ii) * * *

(B) You may use DRE testing performed after March 30, 1999 for purposes of issuance or reissuance of a RCRA permit under part 270 of this chapter to document conformance with

the DRE standard in lieu of DRE testing during the initial comprehensive performance test if you have not modified the design or operation of the source since the DRE test in a manner that could affect the ability of the source to achieve the DRE standard.

* * * * *

3. Section 63.1207 is amended by:

a. Revising paragraph (c)(2)(i)(A).

b. Revising paragraph (l) introductory text by designating the text after the heading as (l)(1) and revising newly designated paragraph (l)(1).

The revision read as follows:

§ 63.1207 What are the performance testing requirements?

* * * * *

(c) * * *

(2) * * *

(i) * * *

(A) Initiated after March 30, 1999;

* * * * *

(l) Failure of performance text—(1) *Comprehensive performance test.* The provisions of this paragraph do not apply to the initial comprehensive performance test if you conduct the test prior to September 30, 2003 (or a later compliance date approved under § 63.6(i)).

* * * * *

[FR Doc. 01–30267 Filed 12–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[TX–002; FRL–7113–6]

Clean Air Act Full Approval of Operating Permits Program; State of Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is promulgating full approval of the Operating Permit Program submitted by the Texas Natural Resource Conservation Commission (TNRCC or Commission) based on the revisions submitted on June 12, 1998, and June 1, 2001, which satisfactorily address the program deficiencies identified in EPA's June 7, 1995, and June 25, 1996, Interim Approval (IA) Rulemakings. *See* 60 FR 30037 and 61 FR 32693. The TNRCC revised its program to satisfy the conditions for full approval, and EPA proposed full approval in the **Federal Register** on October 11, 2001 (66 FR 51895). This notice only takes action on issues related to correcting interim approval issues. We will address other issues at a later date as described in sections V.C and V.D of this document.

EFFECTIVE DATE: This rule is effective on November 30, 2001.

ADDRESSES: Copies of documents relevant to this action are available inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two days in advance.

Environmental Protection Agency, Region 6, Air Permitting Section (6PD–R), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Spruiell, Air Permitting Section (6PD-R), EPA, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7212 or e-mail at *spruiell.stanley@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" means EPA.

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VII. Administrative Requirements

I. What Is the Operating Permit Program?

Title V of the Clean Air Act (the "Act") Amendments of 1990 required all States to develop Operating Permit Programs that meet certain Federal criteria. In implementing the title V Operating Permit Programs, permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the Act. The focus of the title V Operating Permit Program is to facilitate compliance and improve enforcement by issuing each source a permit that consolidates all of the applicable requirements of the Act into a federally enforceable document. This consolidation of all applicable requirements enables the source, the public, and the permitting authority to readily determine which of the Act's requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution as defined by title V and certain other sources specified in the Act or in EPA's implementing regulations. This includes all sources regulated under the acid rain program, regardless of size, which must obtain operating permits. Examples of major sources include those that have the potential to emit 100 tons per year (tpy) or more of volatile organic compounds (VOC), carbon monoxide (CO), lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM–10); those that emit 10 tpy of any single hazardous air pollutant (HAP) specifically listed under the Act; or those that emit 25 tpy or more of a combination of HAP. In areas that are not meeting the National Ambient Air Quality Standards for ozone, CO, or PM–10, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as "serious," major sources include those with the potential of emitting 50 tpy or more of VOC or NO_X.

II. What Is Being Addressed in This Document?

Where a title V Operating Permit Program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 CFR part 70, we granted IA contingent on the State revising its program to correct the deficiencies. Because Texas's Operating Permit Program substantially, but not fully, met the requirements of part 70, we granted a source category-limited IA to the program in a rulemaking published on June 25, 1996 (61 FR 32693). The IA notice stipulated numerous conditions that had to be met in order for the State's program to receive full approval. Texas submitted revisions to its interim approved Operating Permit Program dated June 12, 1998, and June 1, 2001. Texas also submitted supplementary information to EPA on August 22, 2001, August 23, 2001, and September 20, 2001. On November 5, 2001, EPA received a Statement by the Attorney General of Texas stating that the laws of Texas provide adequate authority to carry out all aspects of the program.

On October 11, 2001 (66 FR 51895), we proposed full approval of Texas's title V Operating Permits Program based on our determination that Texas had corrected the IA deficiencies identified in our June 7, 1995 and June 25, 1996 actions. On November 13, 2001, we received comments on our proposal. Our response to the comments are in section III of this action.

In today's action, we are promulgating final full approval of the Texas Operating Permits Program based upon our determination that Texas has corrected the deficiencies identified in the IA rulemaking. We are approving revisions which the TNRCC adopted October 15, 1997 (submitted June 12, 1998) and May 9, 2001 (submitted June 1, 2001). We will take appropriate action on the remaining provisions of the June 1, 2001, submittal in a separate **Federal Register** action. We are also not taking action on issues unrelated to correcting IA issues. We will address these issues at a later date as described in sections V.C and V.D of this notice.

III. What Is Our Response to Comments?

On November 13, 2001, we received two comment letters on the proposed full approval of the Texas program. We received comments from Public Citizen, on behalf of the Public Citizen's Texas Office, Lone Star Chapter of the Sierra Club, Environmental Defense, Citizens for Health Growth, Galveston Houston Association for Smog Prevention, Neighbors for Neighbors, Quality of Life El Paso, Clean Water Action, Texas Center for Policy Studies, and the law firm of Lowerre & Kelly (collectively referred to as Public Citizen). We also received comments from the law firm of Baker Botts, L.L.P., on behalf of the Texas Industry Project.

Below is our response to the comments received on the proposed full approval of the Texas Operating Permits program. In this notice, we are only addressing the comments which relate to our determination that Texas has corrected the IA deficiencies in its title V program. We also received comments which relate to (and in many cases are the same as) comments the we received from citizens in response to our **Federal Register** Notice published December 11, 2000. Because these comments are not related to the correction of IA deficiencies, they will be addressed in a separate **Federal Register** action as described in section V.C of this preamble. In addition, we also received comments not related to the correction of IA deficiencies and which were not raised in response to the December 11, 2000 **Federal Register** notice. These issues will be handled as described in section V.D.

A. Comment A—EPA Failed To Determine Whether Texas's Current Operating Permits Program Complies With Part 70 and Title V

Public Citizen states that since receiving IA, Texas has completely revised its operating permits program. However, EPA has never reviewed these changes to determine whether the interim program that Texas has been running substantially complies with the requirements of part 70. Public Citizen contends that EPA is proposing to grant Texas full approval of its federal operating program without ever analyzing whether or not Texas current program actually meets the minimum requirements of part 70. Public Citizen does not agree with EPA's position to only look narrowly at whether the problems in the 1996 program have been remedied.

Public Citizen believes that, in order to be granted full approval, EPA must evaluate whether Texas's entire program meets the requirements of part 70 and title V and that EPA's notice of proposed approval indicates that such an evaluation has not been undertaken. 66 FR 51895, 51896 (October 11, 2001). Public Citizen does not believe that EPA can turn a blind eye to elements of the program which were not raised as interim deficiency issues and which do not comply with part 70. Public Citizen realizes that EPA is proposing to look at the additional elements of the current program after full approval is granted; however, they believe that EPA has a duty to ensure that Texas's program meets statutory and regulatory requirements before approval can be granted. For the reasons noted below, Public citizen believes that Texas's program does not comply with part 70 and that full approval should be denied.

EPA Response to Comment A

We are aware that issues other than those listed in the June 25, 1996, IA exist in the Texas program and that the Texas regulations have undergone changes since 1996 that EPA has not approved. We agree that these issues must be addressed and that Texas must submit all changes made since 1996 to EPA for review and approval. For the reasons discussed below, however, we disagree that limiting our review to correction of IA deficiencies prohibits us from granting Texas full program approval at this time.

In 1990, Congress amended the Clean Air Act, 42 U.S.C. 7401 *et seq.*), by adding title V, 42 U.S.C. 7661 to 7661f, which requires certain air pollutant emitting facilities, including "major source[s]" and "affected source[s]," to obtain and comply with operating permits. *See* 42 U.S.C. 7661a(a). Title V is intended to be administered by local, state or interstate air pollution control agencies, through permitting programs that have been approved by EPA. *See* 42 U.S.C. 7661a(a). The EPA is charged with overseeing the State's efforts to implement an approved program, including reviewing proposed permits and vetoing improper permits. *See* 42 U.S.C. 7661a(i) and 7661d(b). Accordingly, title V of the Act provides a framework for the development, submission and approval of state operating permit programs. Following the development and submission of a state program, the Act provides two different approval options that EPA may utilize in acting on state submittals. *See* 42 U.S.C. 7661a(d) and (g). Pursuant to section 502(d), EPA "may approve a program to the extent that the program meets the requirements of the Act * * *" The EPA may act on such program submittals by approving or disapproving, in whole or in part, the state program. An alternative option for acting on state programs is provided by the IA provision of section 502(g). This section states: "[i]f a program * * * substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval." This provision provides EPA with the authority to act on State programs that substantially, but do not fully, meet the requirements of title V and part 70. Only those program submittals that meet the requirements of eleven key program areas are eligible to receive IA. *See* 40 CFR 70.4(d)(3)(i)–(xi). Finally, section 502(g) directs EPA to "specify the changes that must be made before the program can receive full approval." 42 U.S.C. 7661a(g); 40 CFR 70.4(e)(3). This explicit directive encompasses another, implicit one: once a state corrects the specified deficiencies then it will be eligible for full program approval. The EPA believes this is so even if deficiencies have been identified sometime after final IA, either because the deficiencies arose after EPA granted IA or, if the deficiencies existed at that time, EPA failed to identify them as such in proposing to grant IA.

Thus, an apparent tension exists between these two statutory provisions. Standing alone, section 502(d) appears to prevent EPA from granting a state operating permit program full approval until the state has corrected all deficiencies in its program no matter how insignificant, and without consideration as to when such deficiency was identified. Alternatively, section 502(g) appears to require that EPA grant a state program full approval if the state has corrected those issues that the EPA identified in the final IA. The central question, therefore, is whether Texas by virtue of correcting the deficiencies identified in the final IA is eligible at this time for full

approval, or whether Texas must also correct any new or recently identified deficiencies as a prerequisite to receiving full program approval.

According to settled principles of statutory construction, statutory provisions should be interpreted so that they are consistent with one another. *See Citizens to Save Spencer County* v. *EPA*, 600 F.2d 844, 870 (D.C. Cir. 1979). Where an agency encounters inconsistent statutory provisions, it must give maximum possible effect to all of the provisions, while remaining within the bounds of its statutory authority. *Id.* at 870–71. Whenever possible, the agency's interpretation should not render any of the provisions null or void. *Id.* Courts have recognized that agencies are often delegated the responsibility to interpret ambiguous statutory terms in such a fashion. *See Chevron U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 845 (1984). Harmonious construction is not always possible, however, and furthermore should not be sought if it requires distorting the language in a fashion never imagined by Congress. *Citizens to Save Spencer County*, 600 F.2d at 870.

In this situation, in order to give effect to the principles embodied in title V that major stationary sources of air pollution be required to have an operating permit that conforms to certain statutory and regulatory requirements, and that operating permit programs be administered and enforced by state permitting authorities, the appropriate and more cohesive reading of the statute recognizes EPA's authority to grant Texas full approval in this situation while working simultaneously with the State, in its oversight capacity, on any additional problems that were identified. To conclude otherwise would disrupt the current administration of the state program and cause further delay in Texas's ability to issue operating permits to major stationary sources. A smooth transition from IA to full approval is in the best interest of the public and the regulated community and best reconciles the statutory directives of title V.

Furthermore, requiring the State to fix any deficiencies that may exist and that have been identified in the past year to receive full approval runs counter to the established regulatory process that is already in place to deal with newly identified program deficiencies. Section 502(i)(4) of the Act and 40 CFR 70.4(i) and 70.10 provides EPA with the authority to issue notices of deficiency ("NODs") whenever EPA makes a determination that a permitting authority is not adequately administering or enforcing a part 70 program, or that the State's permit program is inadequate in any other way. Consistent with these provisions, in its NOD, EPA will specify a reasonable time frame for the permitting authority to correct any identified deficiencies. The Texas title V IA expires on December 1, 2001. This deadline does not provide adequate time for the State to correct any deficiencies that may be identified at this time prior to the expiration of IA. Allowing the State's program to expire because of issues identified as recently as March 2001 will cause disruption and further delay in the issuance of permits to major stationary sources in Texas. As explained above, we do not believe that title V requires such a result. Rather, the appropriate mechanism for dealing with additional deficiencies that are identified sometime after a program received IA but prior to being granted full approval is a notice of program deficiency or administrative deficiency as discussed herein. This process provides the State an adequate amount of time after such findings to implement any necessary changes without unduly disrupting the entire state operating permit program. As a result, addressing newly identified problems separately from the full approval process will not cause these issues to go unaddressed. To the contrary, Texas will be placed on notice that it must promptly correct the non-IA deficiencies within a specified time period or face the imposition of sanctions and disapproval of its program. Furthermore, because Texas is also required to submit for review and approval all changes that it has made to its title V program since we granted IA, EPA will also disapprove any program revisions that are inconsistent with part 70 through formal notice and comment rulemaking.

B. Comment B—Lack of Sufficient Attorney General (AG) Statement

Public Citizen contends that in the preamble to Texas's 2001 revisions to its program, Texas stated that it would provide an AG Opinion with its submittal package for full approval that would address such issues as Texas Audit Privilege Act.[1] Likewise, in Part I of Texas's Submittal Package, Texas stated that "a legal opinion from the Office of the AG (AG) will be forwarded as a supplement to this submittal after the end of the 2001 Texas Legislative Session." Public Citizen also asserts that Texas had not, however, submitted an AG statement at the time EPA proposed full approval of Texas's program. Public Citizen contends that, in fact, Texas did not file an AG statement with EPA until November 8, 2001, five days before the end of the public comment period on EPA's proposed full approval, and that there was no notice to the public that such statement was available for comment.

Because an AG statement was not produced prior to EPA's proposed full approval of Texas's program, Public Citizen claims that EPA cannot possibly have had sufficient information to determine that Texas's program complied with the requirements of part 70. Likewise, Public Citizen contends that because an AG statement was not provided until five days before the close of the comment period, the public has not had an adequate opportunity to comment on the opinion.

Public Citizen also asserts that there were issues that should have been addressed in the AG statement, such as the Sunset legislation (House Bill 2912), as well as other statutes or regulations adopted by Texas since IA.

Furthermore, because the statement "incorporates" earlier AG statements, Public Citizen contends that it is impossible to determine exactly what is included in this certification and the statement is so vague that it is difficult to determine what authority is being certified. For example, Public Citizen refers to Section IV of the AG Statement which states that state law provides authority to incorporate monitoring consistent with 40 CFR 70.6.[2] It goes on, however, to state that Texas has authority to incorporate monitoring consistent with 40 CFR 70.6(a)(3)(i)(B). Public Citizen asserts that the Texas's program is flawed in that it does not include monitoring "sufficient to assure compliance" as required by 40 CFR 70.6(c)(1), and that the AG statement does not even address this issue.

Likewise, Public Citizen contends that the statement's analysis of SB766 is flawed. First, Public Citizen contends that the AG argues that Section 12 of SB766 does not impact the enforceability of title V permits because it only excuses modifications which occurred before March 1, 1999 and Texas's operating permits program did not include minor new source review conditions until 2001. Public Citizen contends that what the AG fails to state is that each day of operation after modification without the required permit is an ongoing violation.

[1] The EPA is unaware of such a statement in the preamble to Texas's Chapter 122 revisions. The TNRCC, however, did agree to address amnesty provisions of SB 766 in an AG statement. 26 TexReg 3747, 3758–59 (May 25, 2001).

[2] This provision is actually in Section VI of the AG statement.

Therefore, Public Citizen contends that facilities covered by title V may be in continuous violation for modifications made prior to March 1, 1999. Public citizen also argues that the statement argues that Section 12 does not excuse violations of PSD or Nonattainment NSR requirements. Public Citizen contends that while the AG crafts an argument based on legislative history, the AG will not be the final authority on whether or not Section 12 applies to PSD or Nonattainment NSR violations. Public Citizen also contends that the courts will have to decide this issue. Finally, Public citizen believes that the statement misstates important facts. For example, the statement says that applying for *and* obtaining a Voluntary Emission Reduction Permit (VERP) permit is one of the preconditions of Section 12's applicability. Public Citizen argues that SB766 only requires, however, that sources apply for a VERP permit to be eligible for Section 12's immunity and that the statute does not require that such a permit be issued. Public Citizen believes SB766 impermissibly limits Texas's enforcement authority.

EPA Response to Comment B

As stated in our response to Comment A above, EPA believes that Texas only needs to correct the IA deficiencies in order for EPA to grant the State full program approval. As such, for the purpose of this approval, the revised AG statement must only address issues related to the correction of IA deficiencies. The EPA will address the AG discussion of SB 766 in its response to the Citizen Comment letters, as explained in section V.C. Any potential flaws in Texas's program that EPA did not identify as IA deficiencies will also be addressed as set forth in Sections V.C and D.

The EPA believes that it did have sufficient information to propose full approval even though it had not yet received the revised AG statement. The EPA received three previous AG opinions (1993, 1996, and 1998) stating that the laws of Texas provide adequate authority to carry out all aspects of the program. Furthermore, EPA worked closely with TNRCC to correct the IA deficiencies, and was well aware of the changes that were made by TNRCC regarding the IA deficiencies prior to proposing full approval. The EPA did not find any problems in the previous AG statements relating to TNRCC's authority to correct the IA deficiencies to meet the part 70 requirements. In fact, all of the IA deficiencies that EPA identified were corrected by regulatory changes. Based on the three prior AG statements, EPA believed that these changes were within the authority of TNRCC to promulgate. Furthermore, Public Citizen did not raise any issues regarding TNRCC's authority to revise its regulations to correct the IA deficiencies or that the revisions were beyond the scope of TNRCC's authority in its comments. Therefore, EPA believes that it did have sufficient information to propose full approval even though it had not yet received the revised AG statement. For the same reasons, EPA also believes that although Public Citizen had less than 30 days to review the AG statement, this does not prevent EPA from promulgating final approval of the Operating Permits Program.

We also believe, contrary to Public Citizen's assertion, that one can determine what authority is included in the AG statement. For example, Public Citizen claims that the AG states that state law provides authority to incorporate monitoring consistent with 40 CFR 70.6. However, Public Citizen asserts that the Texas's program is flawed in that it does not include monitoring "sufficient to assure compliance" as required by 40 CFR 70.6(c)(1), and that the AG statement does not even address this issue.

40 CFR 70.4(b)(3) provides that the AG statement must include citations to administrative regulations that demonstrate adequate authority to carry out the program. In section VI of the AG statement (Monitoring, Recordkeeping and Reporting), the Texas AG cites to several provisions of the Texas Administrative Code which relate to monitoring. These regulations include 30 TAC 122.142(c) & (h), and 30 TAC Chapter 122, Subchapters G (Periodic Monitoring—122.600 *et seq.*) and H (Compliance Assurance Monitoring—122.700 *et seq.*). Sections 122.142(c) and (h) require permits to contain periodic monitoring and compliance assurance monitoring. Subchapters G and H implement the periodic monitoring and compliance assurance monitoring requirements. Therefore, one can determine what authority is included in the AG statement, and the AG statement addresses the issue of monitoring sufficient to determine compliance. The issue of whether Texas's periodic monitoring regulations and compliance assurance monitoring regulations are deficient will be addressed in our response to the citizen comment letters, as set forth in section V.C. Therefore, we do not agree with these comments.

C. Comments on Minor New Source Review (MNSR)/Part 70 Integration

The EPA received six comments pertaining to minor new source review (MNSR)/Part 70 Integration. The comments pertain to (1) Incorporation of MNSR, (2) Timing of incorporation on minor new source review requirements, (3) Procedure for incorporation of MNSR requirements, (4) Lack of sufficient monitoring, (5) Lack of specificity in MNSR permits, and (6) TNRCC's schedule for incorporating MNSR requirements into existing title V permit and authorizations.

1. Comment C1—Incorporation of Minor New Source Review (MNSR)

Public Citizen acknowledged that Texas has included Chapters 106 and 116 as applicable requirements. While Chapters 106 and 116 are the chapters that provide for preconstruction permits, Public Citizen is concerned that Texas's language is not as clear as the part 70 requirement that the definition of applicable requirement include "any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under title I, including parts C or D, of the Act." 40 CFR 70.2. Public Citizen believes that EPA should explain whether and how the Texas definition of applicable requirement is consistent with the part 70 definition and includes both past and future minor new source review requirements. In addition, because of the facial discrepancy between the Texas regulations and the part 70 definition, Public Citizen believes that the Texas AG should provide a legal opinion affirming this understanding.

EPA Response to Comment C1

As the commenter noted, Chapters 106 and 116 implement Texas's preconstruction permit program. These chapters are part of the definition of applicable requirements. Texas's regulations also defines "applicable requirement" to include the terms and conditions of all preconstruction permits. The definition of "applicable requirement" in Section 122.10(2)(H) now provides that an applicable requirement includes:

> (H) All of the requirements of Chapter 106, Subchapter A of this title (relating to permits by rule), or Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) *and any term or condition of any preconstruction permit*. (Emphasis added).

Furthermore, Section 122.231(c) provides that:

The executive director shall institute proceeding to reopen permits * * * to incorporate the requirements of Chapter 106, Subchapter A * * * or Chapter 116 of this title *or any term or condition of any preconstruction permit.*" (Emphasis added).

Thus, the definition for "applicable requirement" and the regulations for incorporating MNSR permits include the terms and conditions of preconstruction permits, and includes the Texas regulations which implement Texas's preconstruction review program. The preconstruction review program in Chapters 106 and 116 includes MNSR. Therefore, EPA believes that the definition of applicable requirement in 30 TAC 122.10(2)(H) includes any term or condition of any preconstruction permit issued pursuant to regulations approved or promulgated through rulemaking under title I, including parts C or D, of the Act and is consistent with part 70.

We disagree with Public Citizen's contention that an AG statement must confirm this understanding. State regulations must be consistent with the part 70 regulations, but they do not have to track the exact language of part 70. The EPA believes that Section 122.10(2)(H) is consistent with part 70 definition, and therefore disagrees with this comment.

2. Comment C2—Timing of Incorporation of MNSR Requirements

Public Citizen asserts that under Texas's proposal, MNSR requirements will not be incorporated before or upon transition to full approval. In fact, Public Citizen argues that some permits will not be reopened to include minor new source review permit terms and conditions for up to four years, or even up to renewal. Public Citizen also contends that Texas proposes to merely send notification to permit holders upon transition to full approval that their permits will have to be reopened at some time in the future to include minor new source review.

Further, Public Citizen contends that Texas's program does not assure that all permits issued by the State after full approval would include minor new source review permit terms and conditions. Public Citizen argues that the state is allowing those permits that went out for public notice prior to June 3, 2001 to be issued without incorporating minor new source review permit terms and conditions. Public Citizen contends that this violates 40 CFR 70.4(d)(3)(ii)(D) and should not be permitted.

EPA Response to Comment C2

We disagree that the procedures Texas will use to incorporate MNSR requirements into title V permits violates part 70. Texas will reopen its title V permits consistent with 40 CFR 70.4(d)(3)(ii)(D). The September 20, 2001 agreement, as set forth in the **Federal Register**, describes the process for reopening permits to incorporate MNSR requirements. 66 FR at 51897.

The reopening procedure (which begins no later than December 1, 2001) consists of notification of title V permit holders as follows: (1) Direct notification in writing to each individual permit holder no later than December 1, 2001; (2) during stakeholder meetings; (3) through the TNRCC website; and (4) another follow-up letter which will be sent to each permit holder when it is time to reopen the permit holder's permit to incorporate the MNSR permits and permits by rule (PBR).[3]

The procedure provides that all title V permits will be reopened to incorporate MNSR. Permits nearing renewal (*i.e.*, those with less than two years remaining until renewal) will be reopened at renewal to incorporate MNSR. Permits not close to renewal (*i.e.*, those with two or more years remaining until renewal (which includes permits issued prior to June 3, 2001)) will be reopened within three to four years initial issuance to incorporate MNSR. 66 FR at 51898.

This process is consistent with the requirement in 40 CFR 70.4(d)(3)(ii)(D) that a state "institute proceedings to reopen part 70 permits," and provides for a reasonable transition time for a State to reopen title V permits to incorporate MNSR. The reopening process that TNRCC described in its September 20, 2001 letter, and is described above, represents an agreement between EPA and TNRCC on how proceedings will be instituted to reopen all title V permits and ensure that they will have the MNSR requirements. This agreement meets the requirements of part 70 and ensures that all title V permits will be reopened in a timely manner to incorporate MNSR. Furthermore, the requirements of the MNSR permits are enforceable by Texas and EPA even if they have not yet been incorporated into the title V permit. Therefore, we do not agree with this comment.

[3] Although the September 20, 2001 letter from Texas did not reference PBRs as to this issue, the letter did state that PBRs will be cited to the lowest level of citation necessary to make clear what requirements apply to the facility. Furthermore, PBRs also fall under Texas's MNSR program.

3. Comment C3—Procedure for Incorporation of MNSR Requirements

Public Citizen alleges the following:

First, Texas is not proposing to use the reopening provisions of 40 CFR 70.7(f) and (g) in order to incorporate minor new source review requirements into its existing title V permits, but instead will utilize its minor revision process. Public Citizen contends that part 70 only allows the use of streamlined procedures during the interim period. Because Texas did not adopt provisions during the IA period to ensure that MNSR would be properly incorporated into all title V permits upon full approval, Texas must follow the reopening provisions of 40 CFR 70.7(f) and (g) to incorporate MNSR into title V permits.

Second, Public Citizen argues that the 40 CFR 70.4(d)(3)(ii)(D) requirement that states "institute proceedings to reopen permits * * * upon or before granting of full approval" requires the immediate submission of applications or updates to pending applications and does not allow for the delay provided by Texas rules.

Third, Public Citizen argues that Texas is proposing to assume that applicants who have already certified compliance are in compliance with the minor new source review permit terms and conditions which are now applicable. Consequently, Public Citizen contends that Texas will not require an updated compliance certification to certify compliance with these permit terms and conditions, contrary to 40 CFR 70.5(c)(8) and 70.5(b) for compliance certifications and supplementary information.

EPA Response to Comment C3

In response to the first allegation, EPA disagrees that the streamlined procedures set forth in part 70 may only be used during the interim period, and that Texas must use the reopening provisions of 40 CFR 70.7(f) and (g) to incorporate MNSR into its existing title V permits. To the contrary, 40 CFR 70.4(d)(3)(ii)(D) specifies that the State must upon or prior to receiving full approval, "institute proceedings to reopen part 70 permits to incorporate excluded minor NSR permits * * * [and] * * * [s]uch reopenings need not follow full permit issuance procedures nor the notice requirement of § 70.7(f)(3), but may instead follow the permit revision procedure in effect under the State's approved part 70 program for incorporation of minor NSR permits." As described in our **Federal Register** notice proposing approval of the Texas Operating Permits Program,

Texas will institute proceedings to reopen its part 70 permits on or before full program approval and will use the provisions in 30 TAC 122.215 and 122.217 to incorporate the MNSR permits into existing title V permits, which is the permit revision procedure in effect under Texas's approved part 70 program. 66 FR 51897–98. Thus, for the reasons stated herein, EPA believes that Texas's procedures for reopening title V permits to incorporate MNSR is consistent with the requirements of part 70.

In response to the second allegation, EPA disagrees that 40 CFR 70.4(d)(3)(ii)(D) requires the immediate submission of applications or updates to pending applications. As previously discussed, this section requires a state to "institute proceedings to reopen part 70 permits" to incorporate MNSR *on or before a State receives full approval.* The TNRCC will institute proceedings to reopen previously issued title V permits and draft title V permits for which TNRCC issued or authorized the initiation of public notice prior to June 3, 2001. The TNRCC has stated that it will begin these proceedings no later than December 1, 2001. The TNRCC will accomplish this reopening through direct notification in writing to each individual permit holder, during stakeholder meetings, and through the TNRCC website. Another follow-up letter will be sent to each permit holder when it is time to reopen the permit holder's permit to incorporate the MNSR permits and PBRs. 66 FR at 41897–98. Thus, as required by part 70, TNRCC will have *instituted proceedings* to incorporate MNSR prior to full approval. Part 70 does not require that the reopening occur prior to full approval, just that the process begin.

In response to the third allegation, EPA disagrees that Texas will assume that applicants who have already certified compliance are in compliance with the MNSR permit terms and conditions which are now applicable. Furthermore, we believe that the allegation is consistent with of the September 20, 2001, agreement set forth in the October 11, 2001 **Federal Register** notice. 66 FR 51897–98. The process described in the agreement contains no provision which would allow Texas to assume the applicants who have already certified compliance are in compliance with the MNSR permit terms and conditions. To the contrary, 30 TAC 122.142(e) provides that if an emission unit is not in compliance with the applicable requirements (e.g., MNSR requirements) at time of permit issuance, the permit must contain a compliance schedule. Furthermore, Public Citizen's assertion is not consistent with the provisions in 30 TAC 122.146—Compliance Certification Terms and Conditions, which contains no provision which would allow Texas to assume the applicants who have already certified compliance are in compliance with the MNSR permit terms and conditions. Thus, we do not agree with these comments.

4. Comment C4—Lack of Sufficient Monitoring

Public Citizen alleges that Texas has stated that all minor new source review permits incorporated into title V permits will include monitoring that complies with 40 CFR 70.6(a)(3) and (c)(1). Public Citizen argues that those Texas operating permits that were issued or sent to public notice prior to June 3, 2001, clearly will not include adequate monitoring. Thus Public Citizen contends that these operating permits will not include all required applicable requirements or the monitoring sufficient to assure compliance with those requirements. Further, as discussed below, Public Citizen maintains that Texas's program does not provide for incorporation of sufficient monitoring into its title V permit. Public Citizen argues that Texas's program does not require that monitoring sufficient to assure compliance be incorporated into its title V permits. Further, Public Citizen contends that the provisions for incorporation of 40 CFR 70.6(a)(3) monitoring allow this monitoring to be incorporated in an untimely manner that does not provide for sufficient public participation. Public Citizen argues that Texas's program does not assure that adequate monitoring for minor new source review requirements will be incorporated into Texas permits.

EPA Response to Comment C4

The first allegation is that permits that were issued or sent to public notice prior to June 3, 2001 will not include all applicable requirements (*e.g.* MNSR is missing) and will not include all required monitoring. As described in the October 11, 2001 **Federal Register** notice, the TNRCC will reopen all title V permits which the TNRCC had authorized for public notice before June 3, 2001. Those permits which as of December 1, 2001, are two years or less before renewal will be reopened to incorporate MNSR no later than renewal. Permits for which renewal is longer than two years after December 1, 2001 will be reopened within three to four years of initial issuance, which is more expeditious than renewal. The September 20, 2001 agreement provides that all the MNSR permits include all monitoring, reporting and recordkeeping (MRR) requirements as required by part 70. 66 FR at 51898. Thus, Texas will add any necessary provisions to its title V permits to ensure that the requirements of part 70 concerning periodic monitoring (40 CFR 70.6(a)(3)(i)(B)) and monitoring sufficient to assure compliance as required by 40 CFR 70.6(c)(1) are met. It is the continuing responsibility of the source and permitting authority to ensure that a title V permit is not issued until it fully complies with the requirements of part 70. Therefore, we do not agree with this comment.

Public Citizen further alleges that Texas's program does not require that monitoring sufficient to assure compliance be incorporated into its title V permits. Under 30 TAC 122.142(c), each permit must contain periodic monitoring requirements that are designed to produce data that is representative of the emissions unit's compliance with applicable requirements. This is consistent with 40 CFR 70.6(c)(1) which provides that title V permits must contain "periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit * * *" In addition, 30 TAC 122.142(b)(2)(B)(ii) provides that each emission unit in the permit must contain specific terms and conditions for monitoring requirements associated with the applicable requirement sufficient to ensure compliance with the permit. Therefore, we do not agree with this comment.

Finally, Public Citizen alleges that the Texas program does not provide for sufficient public participation when Texas incorporates monitoring requirements into its title V permits. As stated above, the September 20, 2001, agreement assures that Texas will reopen title V permits in a timely manner to incorporate MNSR and that the incorporation procedures are consistent with part 70. 66 FR at 51897–98. Finally, with regard to the public participation aspect of the comment, if Texas adds MRR when the permit is reopened, then Texas is not required to follow the public participation requirements of 70.7(f)(3) when it adds monitoring. However, if MRR is not included at this time, then Texas would be required to provide for public participation (see 40 CFR 70.7(e)(4)(i)). Therefore, we do not agree with this comment.

5. Comment C5—Lack of Specificity in MNSR Permits

Public Citizen alleges the following:

First, Texas is not requiring permittees to identify all applicable MNSR provisions, but will instead produce a list of all PBRs (one type of minor new source review authorization) developed before 1991. Permittees would then attach the list of PBRs to their title V permit and application and indicate that some of the authorizations on the list applied to them. Permittees would not be required to identify which specific authorizations applied to them until a later date. Public Citizen contends that this makes it impossible for the public to evaluate whether a permittee has correctly identified applicable requirements and will prevent the addition of required monitoring to assure compliance with the applicable pre-1991 PBRs.

Second, Texas will not require all MNSR authorizations to be incorporated into its title V permits. Only those authorizations listed on the unit attribute form will be required to be incorporated into Texas's title V permits.

Third, the Texas approach for incorporating MNSR permit terms and conditions and PBR into title V permits violates title V and part 70. Public Citizen argues that the statute and EPA regulations require title V permits to assure compliance with all applicable requirements, including enforceable emissions limitations and standards. For example, Public Citizen refers to section 504(c) which requires each permit to "set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions." Public Citizen also contends that 40 CFR 70.2 defines applicable requirements to include "[a]ny term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under title I, including parts C or D, of the Act." Public Citizen also contends that section 70.6(a)(1) further requires that each permit shall include "emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance. Public Citizen contends that the permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based." Similarly, Public Citizen contends that 40 CFR 70.6(a)(3) requires each operating permit to contain all monitoring and testing associated with applicable requirements, such as minor NSR permit terms and conditions.

Therefore, Public Citizen contends that the Texas approach for assuring compliance with minor NSR permit terms and conditions by identifying and cross-referencing the minor NSR permit by permit number, and PBRs by their Section number, fails to comply with the aforementioned requirements of title V and part 70. Public Citizen contends that the aforementioned provisions require the terms and conditions of minor NSR permits, including actual enforceable emissions limitations and standards, operational requirements, and monitoring, for example, to be identified in title V permits, an obligation that is not fulfilled by unhelpful cross-references to permit numbers or rule sections.

EPA Response to Comment C5

In response to the first allegation, in the September 20, 2001 agreement, as set forth in the October 11, 2001 **Federal Register** notice, the TNRCC agreed that each title V permit will state: (1) That the terms and conditions of MNSR permits and PBR identified and cross-referenced in the title V permit are included as applicable requirements;[4] (2) the MNSR permits and PBR are incorporated by reference into the title V permit by identifying its permit number or the PBR by its Section number; and (3) the terms and conditions of each MNSR permit and PBR are included in the title V permits and are subject to part 70 requirements. 66 FR at 51897. The September 20, 2001, agreement further ensures that TNRCC will ensure availability of all MNSR permits and files to the public. The table of contents to the title V permit will also indicate the location within the title V permit of each MNSR preconstruction authorization numbers (file numbers).[5] 66 FR at 51898.

In response to the second allegation, the September 20, 2001, agreement, as set forth in the October 11, 2001 **Federal Register** notice, requires *all* MNSR permits and PBR to be incorporated into title V permits. The September 20, 2001 agreement does not contain any provision which would limit Texas only to incorporating only those authorizations listed on the unit attribute form as alleged by Public Citizen.

In response to the third allegation, we do not agree that Texas's approach for incorporating MNSR permits and PBR violates title V and part 70. As stated above, all the title V permits will incorporate the necessary MRR which will assure compliance with the title V permit, including MNSR and PBR requirements. Texas's program provides for inspection, entry, monitoring, compliance certification, and reporting requirements. See 30 TAC 122.142—122.146. Furthermore, the September 20, 2001 agreement provides that under the incorporation by reference process, Texas must incorporate all terms and conditions of the MNSR permits and PBR, which would include emission limits, operational and production limits, and monitoring requirements. We therefore believe that the terms and conditions of the MNSR permits so incorporated are fully enforceable under the full approved title V program that we are approving in this action. We therefore do not agree with these comments.

6. TNRCC's Schedule for Incorporating MNSR Requirements Into Existing Title V Permit and Authorizations

Baker Botts, L.L.P., does not support TNRCC's schedule for incorporating MNSR requirements into existing title V permits. The commenter believes that such incorporation should take place no sooner than renewal of the operating permit.

EPA Response to Comment C6

As set forth in our response to Comment C2—Timing of Incorporation of MNSR requirements, Texas will reopen its title V permits as follows: permits nearing renewal (*i.e.*, those with less than two years remaining until renewal) will be reopened at renewal to incorporate MNSR. Permits not close to renewal (*i.e.*, those with two or more years remaining until renewal (which includes permits issued prior to June 3, 2001)) will be reopened within three to four years initial issuance to incorporate MNSR. 66 FR at 51898. This schedule provides for a reasonable transition time for a State to reopen title V permits to incorporate MNSR. Baker Botts'

[4] As previously stated, although the September 20, 2001 did not reference PBRs as to this issue, it did state that PBRs will be cited to the lowest level of citation necessary to make clear what requirements apply to the facility. PBRs also fall under Texas's MNSR program.

[5] The September 20, 2001 agreement does not mention a table of contents, as was indicated in the **Federal Register** notice. 66 FR at 51898. This was not part of the agreement because TNRCC was already including a table of contents in its title V permits which references attachments for preconstruction authorizations. The attachment lists the relevant preconstruction authorizations, including PBRs. Likewise, the reference to providing the entire permit file to the requestor in Items 4 and the modification procedures in Item 5 of the MNSR procedures (66 FR at 51898) were not included in the September 20, 2001 agreement. TNRCC will, of course, provide the entire permit file to anyone to requests it. As to Item 5, this relates to modification permit revision procedures, as required by its regulations.

proposal would delay this incorporation for permits with two or more years until renewal until the permit is renewed, thus further delaying the incorporation of MNSR requirements. The EPA believes that the commenter's approach is not consistent with part 70, and therefore disagrees with this comment.

D. Comment D—Emergency Provisions and TNRCC Upset/Maintenance Reporting Rules

Baker Botts, L.L.P. acknowledges that the TNRCC had removed its upset/maintenance reporting rules from its June 2001 submittal and is not proposing to use the upset/maintenance reporting rules to satisfy emergency provisions of 40 CFR part 70. As a result of TNRCC's actions, this deficiency no longer exists. However, Baker Botts also believes that the TNRCC's upset/maintenance reporting rules do not undermine the part 70 deviation reporting requirements. If a site's upset report previously submitted to TNRCC contains the information required for title V deviation reporting purposes, that report may be referenced in a site's deviation report; however, if a site has not already reported a deviation under sections 101.6 or 101.7, the Texas title V program requires the site to include the event in its next title V deviation repot. Thus, Baker Botts believes TNRCC's upset/maintenance reporting rules are not grounds for finding of deficiency.

EPA Response to Comment D

The EPA agrees that emergency provision deficiency has been corrected. However, Baker Botts claims that the upset/maintenance rules do not undermine part 70 deviation reporting requirements, and that the upset/reporting rules are not grounds for a finding of deficiency. The EPA did not state in its October 11, 2001 **Federal Register** notice that the upset/maintenance rules undermine Part 70 deviation reporting requirements, or that the upset/reporting rules are deficient. Therefore, this comment is beyond the scope of this action.

E. Comment E—Definition of "Major Source"

Public Citizen asserts that part 70 requires fugitive emissions for all sources subject to Clean Air Act section 111 and 112 standards to be included in the calculation to determine whether a source is "major." Public Citizen contends that Texas current definition of "major source" only requires inclusion of fugitives for source categories regulated under section 111 or 112 as of August 7, 1980.

Public Citizen states that Texas has not changed its regulations in response to this deficiency. The EPA's proposed approval acknowledges that Texas definition does not match the current requirement in 40 CFR 70.2. 66 FR 51895, 51899 (October 11, 2001). The fact that EPA has proposed to amend the regulation does not alter Texas's obligation to comply with it.

EPA Response to Comment E

Texas' definition of major source for category 27 reads as follows:

(xxvii) any stationary source category regulated under FCAA, § 111 (Standards of Performance for New Stationary Sources) or § 112 for which EPA has made an affirmative determination under FCAA, § 302(j) (Definitions).

On November 27, 2001, EPA revised the definition of "major source" for category 27 to read as follows:

(xxvii) Any other stationary source category, which as of August 7, 1980 is being regulated under section 111 or 112 of the Act.

66 FR 59161, 59166. Texas' regulation is consistent with the revised definition because both cover the same universe of sources. The Texas requirement to count fugitive emissions applies to sources "for which EPA has made an affirmative determination under FCAA section 302(j)" whereas the part 70 definition applies to sources which were "subject to section 111 or 112 standards promulgated as of August 7, 1980." Because, August 7, 1980, was the date of EPA's last "affirmative determination under section 302(j)" the Texas requirement is now consistent with the current requirements of both parts 70 and part 71. Therefore, EPA does not agree with this comment.

F. Comment F—Definition of "Title I Modification"

Public Citizen asserts that part 70 states that minor permit modification procedures may be used only for those permit modifications which "are not modifications under any provision of title I of the Act." 40 CFR 70.7 (e)(2)(i)(A)(5). Public Citizen further argues that part 70 states that off-permit changes may be made if certain conditions are met, including the requirement that the changes not be "modifications under any provision of title I of the Act." 40 CFR 70.4(b)(12).

Public Citizen states that in EPA's notice of proposed interim approval for Texas, EPA interpreted "title I modifications" to include minor new source review and pre-1990 National Emissions Standards for Hazardous Air Pollutant ("NESHAP") requirements. 60 FR 30037, 30041 (June 7, 1995). Public Citizen argues that because Texas defined title I modification to exclude changes reviewed under a minor new source review program or changes that trigger the application of NESHAPS established prior to the 1990 amendments, EPA found Texas's program deficient. *Id.*

Public Citizen maintains that Texas removed the definition of title I modification from its regulations in response to EPA's comments. They contend that Texas has clearly stated, however, that it maintains its interpretation that largely excludes modifications made pursuant to Texas's minor new source review program from the definition of title I modification. As a result Public Citizen argues that Texas is proposing to allow minor new source review authorizations and modifications to be incorporated into its title V permits through minor modification and off-permit procedures.

Public Citizen contends that "title I modifications" clearly include modifications under State minor new source review programs. Public Citizen refers to Section 110(a) of the Clean Air Act is clearly within title I of the Act. Further, Public Citizen contends that section 110(a)(2)(c) refers to "modifications" of minor new source review authorizations. Public Citizen contends that the interpretation adopted by EPA in the preamble to the 1994 proposal for revisions to part 70 constitutes the Agency's initial, definitive interpretation of "title I modification." 59 FR 44460, 44462 (Aug. 29, 1994). Accordingly, Public Citizen contends that EPA may only change such an interpretation pursuant to notice and comment rulemaking. *See* generally, *Paralyzed Veterans* v. *D.C. Arena*, 111 F.3d 579, 586 (D.C. Cir. 1997).

EPA Response to Comment F

As stated in proposal and in the June 7, 1995 **Federal Register** notice, we noted that at the time of interim approval Texas's definition of "title I modification" in Section 122.10 did not include changes reviewed under a minor source preconstruction review plan (MNSR), nor did it include changes that trigger the application of National Emission Standards for Hazardous Air Pollutants (NESHAP) established pursuant to section 112 of the Act prior to the 1990 Amendments. 60 FR at 30041. In the 1998 submittal, Texas deleted the definition of title I modification from Section 122.10. Since part 70 does not have a definition of title I modification, Texas's elimination of its definition of title I modification corrected the deficiency by removing

the possibility of a conflicting regulatory definition.

Thus, as to the adequacy of the Texas regulations, the commenter's assertions regarding the meaning and status of EPA's statements in the August 29, 1994 proposed Part 70 revisions, and the June 7, 1995 proposed approval concerning the definition of "Title I modification" have been rendered moot by Texas' removal of the definition from its regulations. It follows that there is no need for EPA to respond to the commenter's views regarding EPA's statements for the purpose of resolving a possible regulatory conflict. Moreover, to the extent that the commenter remains concerned about this issue due to the manner in which Texas has implemented its program, the commenter's generalized allegations that Texas maintains interpretations that are at odds with what the commenter believes EPA's interpretations are, or should be, such allegations lack sufficient specificity to require a response. If there are specific permits as to which the commenter believes Texas is implementing its program in a manner inconsistent with the requirements of applicable Federal law, it may of course present them to EPA for response.

G. Comment G—Fugitive Emissions in Applications

Public Citizen states that EPA noted in the June 7, 1995, notice of proposed IA that Texas did not require fugitive emissions to be included in permit applications in the manner required by 40 CFR 70.3. 60 FR 30037 (June 7, 1995). Public Citizen contends that Texas still does not require that complete permit applications include fugitive emissions. While Texas did adopt Section 122.132(e)(10), as indicated in the proposed full approval notice, Public Citizen contends that this provision does not ensure that applications and permits will include fugitive emissions. Public Citizen contends that Texas allows facilities to submit "abbreviated applications," which are required to include only: (1) Identifying information regarding the site and applicant, (2) certification by a responsible official and (3) any other information deemed necessary by the executive director. 30 TAC 122.132(c). Public Citizen contends that these applications do not require the submissions of fugitive emission information.

Similarly, Public Citizen contends that Texas's regulations provide for a "phased permit detail process." 30 TAC 122.131. Public Citizen contends that this process allows sites with 75 or more emission units in nonattainment areas, or with 150 or more emission units in attainment areas, to qualify for the phased permit detail process. Public Citizen contends that these sites are allowed to submit permit applications that include fugitive emission information and all other detailed information for only a portion of their emissions units. Public Citizen contends that the sites are then required to follow a schedule, included as a term and condition of the permit, for submitting the additional detailed information. 30 TAC 122.131(b).

Thus, Public Citizen contends that Texas's abbreviated application and phased permit detail process do not comply with Part 70's requirement that permit applications include fugitive emissions in the same manner as stack emissions. 40 CFR 70.3(d).

EPA Response to Comment G

Although TNRCC does allow facilities to submit an abbreviated application, the fact remains that the remaining information, including fugitive emissions information, is required for every operating permit. The TNRCC informs the facility when the remaining information needs to be submitted. 30 TAC 122.132(c) & 122.132(e)(10). This applies even if the "phased permit detail process" is followed. 30 TAC 122.131(b). The abbreviated application procedure was developed to allow TNRCC to develop the application submittal schedule without requiring the applicant to continually update and certify the detailed application information prior to the technical review of the permit. 26 TexReg at 3762. It does not make any difference that the abbreviated application does not contain fugitive emissions information so long as this information is submitted when requested by TNRCC and is available to the public when the draft permit goes out for public comment. A full application, including fugitive emissions information, is required prior to TNRCC issuing a draft permit. 30 TAC 122.132(c) & (e); 26 TexReg at 3762. Therefore, EPA does not agree with this comment.

H. Comment H—Inadequate Personnel and Funding

Public Citizen contends that EPA noted in the proposed approval that Texas had to provide complete projection of program costs for four years after approval was required for full approval. 66 FR 51895, 51902 (Oct. 11, 2001). Public Citizen argues that Section 70.4(b)(8) of EPA's regulations require states to submit a statement that adequate personnel and funding have been made available to develop, administer, and enforce the operating permit program. Public Citizen contends that this statement must include an estimate of the permit program costs for the first four years after approval and a description of how the state plans to cover those costs. 40 CFR 70.4(b).

Public Citizen further contends that Texas's supplemental "Statement of Adequate Personnel and Funding" submitted on August 22, 2001, acknowledges that the agency will face a funding shortfall for its operating permits program in 2003 unless the fees charged by the State are increased. The statement says, "staff will recommend to the Commission to raise the emissions fee to $30 per ton. Public Citizen contends that this increase is necessary to provide the funding to support the title V activities of the state and is contingent on approval by the Commission." Likewise, Public Citizen contends that the Texas Sunset Commission Staff Report on the TNRCC noted that the title V fund—the Clean Air Account—will have a $3.2 million shortfall by fiscal year 2003. Commenters believe that the State must commit to raising the emission fee in 2003, rather than merely stating that staff will recommend such an increase.

Even with the increase in fees, however, Commenters do not believe that Texas has demonstrated adequate personnel and funding to run the state operating permits program. Public Citizen argues that the most complex and time-consuming title V facilities in Texas are due to be permitted over the next few years. Further, minor new source review requirements will have to be incorporated into Texas permits during this period. Public Citizen contends that in EPA's proposal for revisions to IA criteria, EPA noted:

> Texas has pointed to the exceptionally large number of part 70 sources which are located in the State and which are candidates for minor NSR. Texas estimates that it has over 3,000 part 70 sources, including the nations largest concentration of chemical manufacturing and petroleum refining facilities. Many of these sources have large numbers of emission units, making part 70 permitting difficult and time-consuming. * * * While Texas's burden of processing part 70 applications will be heavy in any event, Texas contends that the added burden of integrating minor NSR into part 70 permits will completely overwhelm the State's processing system in the initial years of implementation.

59 FR 44572, 44574–44575 (Aug. 29, 1994).

Public Citizen contends that despite this huge increase in workload, Texas has projected that only a very small increase in the percentage of time,

required by only some of the divisions assigned to title V, will be needed in the coming years. For example, Public Citizen argues that the air permits division is projected to only provide an 8.3% increase in staff time, while the field operations and enforcement divisions project no increase. Public Citizen does believe Texas had projected costs for staff adequate to handle incorporation of minor new source review and the processing and enforcement of the large, complex sites that will require permitting in the next few years.

In addition, Public Citizen contends that as a result of the low salaries offered by the Texas Natural Resource Conservation Commission (TNRCC), the agency often has numerous vacancies. Public Citizen contends that the high turnover means that there is often a lack of trained, experienced personnel and that remaining personnel must shoulder an unreasonable workload.

EPA Response to Comment H

As stated in the proposal, on August 22, 2001, Texas submitted a complete four-year projection. In its fee demonstration, Texas documented that it requires an average of $34,274,000 per year to cover the cost of the title V program. Texas projects that it will collect an average of approximately $36,840,000 per year in fees from title V sources. This demonstration indicates that the title V fees that Texas anticipates will be collected are sufficient to cover the program costs with an adequate margin of safety. The TNRCC has the authority to adjust the emissions fee as necessary using its rulemaking authority (Texas Health & Safety Code Section 382.0621). The demonstration submitted by Texas meets the requirements of 40 CFR 70.4(b)(7) and (8), and therefore we do not agree with this comment.

I. Comment I—Monitoring Requirements and Public Participation

Baker Botts L.L.P. responded to our proposal to take no action on TNRCC's Chapter 122 revisions relating to periodic monitoring (PM), compliance assurance monitoring (CAM), and public participation. It believes that these provisions meet the requirements of part 70 and that we should approve them. Baker Botts further states that Texas's part 70 program satisfies all part 70 requirements with respect to compliance and deviation reporting based on the monitoring requirements and that the deviation reporting and compliance certification of 30 TAC Chapter 122 fully comply with part 70.

EPA Response to Comment I

As stated in the October 11, 2001, proposal and in section IV of this preamble, we are not taking action on provisions relating to General Operating Permits (promulgated February 26, 1999), Public Participation (promulgated September 24, 1999), and Compliance Assurance Monitoring and Periodic Monitoring (promulgated September 1, 2000) at this time. Texas submitted these revisions to EPA for approval on June 1, 2001. Some of these revisions are related to the comments we received from citizens in response to our **Federal Register** notice published December 11, 2000. The citizens identified areas where they believe that certain of these provisions are deficient. The rationale for taking no action on these provisions is outlined in detail in our response to Comment A, section III of this notice. We will respond to the citizen comments as described in section V.C of this preamble which provides additional information on the citizen comment letters. As discussed therein, we will respond either by publishing a notice of deficiency if we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. Any provisions unrelated to the citizen comment letters will be addressed in accordance with section V.D.

J. Comment J—Statutory Changes Enacted After State Submittal of Operating Program

Public Citizen claims that several statutory changes adopted since 1995 constitute program deficiencies, and that these changes were not adequately addressed, or not addressed at all, in the AG statement. These statutes include the following:

a. Audit Privilege—Tex. Rev. Civ. Stat. Art. 4447cc. (2 commenters);

b. Voluntary Emissions Reduction Permit Program—SB766;

c. Regulatory Flexibility—SB 1591 (1997) Section 5.123, Texas Water Code; and

d. TNRCC Sunset Legislation—HB2912.

Audit Privilege Act Comments

Baker Botts, L.L.P. states that the Audit Privilege Act does not limit the TNRCC's ability to adequately administer and enforce the title V program.

Public Citizen states that the Audit Privilege Act prevents the State from having the authority to seek appropriate penalties and injunctive relief for Clean Air Act violations. Public Citizen argues that there is no AG statement reflecting the interpretation or implementation of the Texas audit privilege law to respond to the deficiency noted in EPA's IA of the Texas title V Program. Public Citizen further argues that Texas has implemented and interpreted the law contrary to EPA's audit policy and the requirements for state title V permit programs. While the EPA reached an agreement with Texas on amendments to its law in 1997, Public Citizen contends that EPA made it clear that the actual implementation of the law would be a critical factor in EPA's future evaluation of the law.

Public Citizen contends that the Audit Privilege Act violates EPA guidance[6] because of inadequate limits on privileged information. Public Citizen contends that The EPA guidance limits the circumstances under which information may be "privileged" pursuant to an audit law. Public Citizen also contends that Information may not be privileged if (1) it is required by law, regulation or permit (2) state access is needed to verify compliance, or (3) an audit presents evidence of criminal conduct. It also contends that it is unclear under the Texas audit law whether information required to be reported or maintained pursuant to title V or a title V permit may be considered exempt. Thus, Public Citizen contends that EPA must require Texas law to be amended to make clear that none of this information may be privileged, withheld from the public, or excluded from any judicial or administrative proceeding involving any party.

Also, Public Citizen alleges that Texas law does not have a sufficient limit on claims of privilege regarding documents needed to verify compliance. Because Texas Audit law allows certain information collected during an audit to be held as privileged, even if no notice of audit is filed with the state, Public Citizen contends that many companies do audits just to claim the privilege. Thus, Public Citizen contends that whether violations were found during an audit cannot be determined under Texas law because industry can simply claim privilege for all information collected during the audit. Public Citizen contends that no subsequent inspection will include inspection of the "privileged" documents because TNRCC has instructed its personnel to not ask for information from audits and to even refuse to look at information offered by the regulated entity. There is no provision for reviewing documents

[6] Herman & Nichols, Effect of Audit Immunity/Privilege Laws on States' Ability to Enforce title V Requirements (April 5, 1996).

that are required to be made available or public under Texas law.

Furthermore, Public Citizen contends that the law does not prevent all evidence of criminal conduct from being disclosed. While the law provides that such information may be used in criminal proceedings, it does not remove the barrier to obtaining such information for use in criminal investigations.

Public Citizen also claims that the Audit Privilege Act violates EPA guidance by providing inadequate limits on immunity from penalties. Public Citizen contends that EPA's guidance requires state audit laws to limit the types of violations that may be exempt from penalties. Public Citizen argues that the guidance provides that state audit laws must not exempt (1) repeat violations, (2) violations of previous court or administrative orders, (3) violations resulting in serious harm or risk of harm, or (4) violations resulting in substantial economic benefit to the violator. *Id.* at p. 4. The Texas Audit Privilege Law exempts repeat violations and violations of previous court orders or administrative orders. Tex. Rev. Civ. Stat. art. 4447cc, Sec. 10. (2000).

Public Citizen contends that the Texas audit law does provide that a violation is not exempt if the violation resulted in "injury or imminent and substantial risk of serious injury to one or more persons at the site or off-site substantial actual harm or imminent and substantial risk of harm to persons, property, or the environment." *Id.* at Sec. 10(b)(7). Public Citizen argues that this standard is higher than the "resulting in serious harm or risk of harm" provided by EPA guidance. Likewise, the Texas law provides that immunity does not apply if "the violations have resulted in a substantial economic benefit which gives the violator a clear advantage over its business competitors" conflicts with EPA's requirement that immunity not be granted where the violation resulted in a substantial economic benefit.

Public Citizen contends that these problems with Texas law are exacerbated by the fact that Texas does not require facilities to prove their entitlement to immunity. Public Citizen contends that facilities are not required to submit proof of such entitlement to the State when they conduct an audit. The audit documents themselves are simply labeled as privileged by the permittee. Further, Public Citizen contends that the Audit Privilege Act expressly states that in a civil or administrative enforcement action "[a]fter the person claiming the immunity establishes a *prima facie* case of voluntary disclosure * * * the enforcement authority has the burden of rebutting the presumption by a preponderance of the evidence or, in a criminal case, by proof beyond a reasonable doubt." Tex. Rev. Civ. Stat. art. 4447cc, Sec. 10(f) (2000).

Although more than 500 disclosures of violation have been filed, Public Citizen contends that TNRCC has never collected a penalty because a violation was a continuous or repeat violation, caused the risk of serious injury, or because a competitive advantage or economic benefit was obtained through the violation.

Public Citizen also claims that as a result of its audit law, Texas lacks the minimum enforcement authority required by title V to administer a state operating permits program because Texas lacks authority to recover civil penalties for "each violation" occurring at a title V source, if that violation qualifies for the immunity provisions of the Texas Audit Privileges Law. Therefore, EPA must disapprove the Texas program as a result of the state's inadequate enforcement authority.

EPA Response to Audit Privilege Act Comments

Public Citizen has raised a mixture of authority and implementation issues regarding the Audit Privilege Act. EPA is responding below to the authority issue and will respond to the implementation issues at a later date, as the implementation issues are unrelated to correcting interim approval deficiencies.

The EPA believes that the Texas Audit Privilege Act (Audit Act) is not in conflict with Texas's authority to enforce Title V. In evaluating the Audit Act, as well as those of other states, EPA has looked to the requirements for enforcement authority contained in the federal environmental statutes and their implementing regulations for all federal programs to determine if the state retains the minimum requirements necessary for approval or authorization of those federal programs.[7]

With respect to the issue regarding alleged inadequate limits on privileged information, Texas has said that it will interpret Section 9(c) of the Audit Act[8] as giving the public the right to obtain any information in the state's possession required to be made available under federal or Texas law, irrespective of whether it is privileged under Texas law. This interpretation is consistent with federal delegation provisions that require States to make information publicly available. For example, Section 3006(f) of the Resource Conservation and Recovery Act (RCRA) requires that to be authorized, a state must make public any information it has obtained on "facilities and sites for the treatment, storage and disposal of hazardous waste * * * in substantially the same manner * * * as would be the case if the Administrator [of EPA] was carrying out the provisions of this subchapter in such state." Section 3007(b) of RCRA goes even further in requiring public availability of information obtained from "any person" by the state or EPA, as long as the information may not be claimed as confidential under the Freedom of Information Act (FOIA). Federal regulations governing the Safe Drinking Water Act provide the same degree of public access.

Likewise, under Section 114(c) of the Act, any records, reports or information obtained under section 114(a) of the Act must be available to the public, as long as the information may not be claimed as confidential under FOIA. Sections 502(b)(8) and 503(c) of the Act and 40 CFR 70.4(b)(3)(viii) provide that the permit application, compliance plan, permit, monitoring and compliance report are available to the public, subject to the same protections under FOIA. In addition, these same authorities provide that the contents of a Title V permit cannot be claimed as confidential. The Texas AG has certified that:

> State law provides authority to make available to the public any permit application, compliance plan, permit, and monitoring and compliance certification report, except for information entitled to confidential treatment. State law provides that the contents of an operating permit shall not be entitled to confidential treatment.

Attorney General Statement, Section XIII (October 29, 2001). Therefore, EPA believes that the Audit Privilege Act meets the minimum federal statutory and regulatory requirements for access to information.

Furthermore, EPA disagrees that the Audit Privilege Act provides a barrier to obtaining information for use in criminal investigations. The Audit Privilege Act limits the application of the privilege to "civil or administrative proceedings", which cannot reasonably be read as encompassing criminal investigations. *See* Tex. Rev. Civ. Stat. Art. 4447cc, Sec. 5(b). In addition,

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[7] See, for example, Clean Air Act sections 110, 114, and 502 and 40 CFR 70.11; Resource Conservation and Recovery Act section 3006 and 40 CFR part 271; Clean Water Act Section 402 and 40 CFR 123.27.

[8] "If information is required to be available to the public by operation of a specific state or federal law, the governmental authority shall notify the person claiming the privilege of the potential for public disclosure prior to obtaining such information under Subsection (a) or (b)." Tex. Rev. Civ. Stat. Art. 4447cc, Sec. 9(c).

Section 9(b) removes any limit on the State's ability to review any information that is required to be made available under federal or state law prior to any in camera determination that such material may be privileged.[9] Those requirements encompass virtually all information that is relevant to determining a violation, leaving the State with ample authority to conduct both civil and criminal investigations without the encumbrance of a prior hearing to determine whether the material can be reviewed.

As to the issues regarding alleged inadequate limits on immunity from penalties, EPA points out that if the violation "results in injury or imminent and substantial risk of serious injury to one or more persons at the site or off-site substantial actual harm or imminent and substantial risk of harm to persons, property, or the environment", or "the violation has resulted in a substantial economic benefit which gives the violator a clear advantage over its business competitors", immunity does not apply. Tex. Rev. Civ. Stat. Art. 4447cc, Sec. 10(b)(7) and 10(c)(5). Furthermore, EPA believes that Texas has retained authority to curb abuses because it can issue administrative or consent orders for violations even if these are voluntarily disclosed, and the subsequent violation of such orders is not entitled to immunity under State law. In addition, Texas has the discretion to determine that a pattern of significant violations should disqualify a company from further penalty amnesty.

Therefore, for the reasons set forth in the **Federal Register** notice (66 FR at 51903) and as set forth above, EPA believes that TNRCC has adequate authority to enforce Title V. Because implementation issues are not related to interim approval issues, we will address those allegations as set forth in Section V.D.

K. Comment K—Confidentiality

In this comment, Public Citizen is concerned that public air-related information that should not be classified as confidential is being withheld under claims of confidentiality. Much of this comment is identical to a comment received in a citizen comment letter. This portion of the comment will be addressed as set forth in section V.C. Public Citizen did raise one additional issue, namely, the alleged change in the treatment of emissions data by the Texas AG. Public Citizen contends that previously, a 1975 AG statement prevented companies from stopping the release of emissions data to the public if a company had claimed the emissions data as confidential. Now, Public Citizen contends that the AG has stated that emissions related data, including modeling of impacts, and information in a number of other documents of impacts, and information in a number of a other documents claims as confidential business information must be excluded from public access. Thus, Public Citizen asserts that Texas should submit a supplemental AG statement on this issue, and EPA should withhold approval until this issue is resolved.

EPA Response to Comment K

As previously noted, EPA is fully approving the Texas operating permit program because we believe that Texas has adequately addressed the IA deficiencies we identified in our 1995 and 1996 **Federal Register** notices. As such, for the purpose of this approval, Texas is only required to address issues related to the correction of IA deficiencies. The EPA will address the issue relating to the confidentiality of emissions data as set forth in section V.D.

IV. Did Texas Submit Other Title V Program Revisions?

The June 1, 2001, submittal included other changes that Texas made to Chapter 122. These changes were made after we granted IA of Texas's operating permits program and do not address the IA deficiencies. Because the following changes do not address the IA issues, they do not affect our decision to grant full approval of Texas operating permits program. The additional revisions to Chapter 122 relate to General Operating Permits (promulgated February 26, 1999), Public Participation (promulgated September 24, 1999) and Compliance Assurance Monitoring and Periodic Monitoring (promulgated September 1, 2000).

We have received comments from citizens concerning these additional provisions in response to our **Federal Register** notice published December 11, 2000. The citizens identified areas where they believe these provisions are deficient. We will respond to the citizen comments as described in section V.C of this preamble which provides additional information on the citizen comment letters. We will take appropriate action on the other revisions to Chapter 122 at a later date.

V. What Is Involved in This Final Action?

A. Final Action

In this action, we are promulgating full approval of the operating permits program submitted by the State of Texas. The program was submitted by Texas to us for the purpose of complying with federal requirements found in title V of the Act and in part 70, which mandate that States develop, and submit to us, programs for issuing operating permits to all major stationary sources, and to certain other sources with the exception of Indian Lands. We have reviewed this submittal of the Texas operating permits program and are granting full approval.

B. Indian Lands and Reservations

In its program submission, Texas did not assert jurisdiction over Indian country. To date, no tribal government in Texas has applied to EPA for approval to administer a title V program in Indian country within the state. The EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. The EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

C. Citizen Comment Letters

On May 22, 2000, EPA promulgated a rulemaking that extended the IA period of 86 operating permits programs until December 1, 2001. 65 FR 32035. The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made

[9] "Notwithstanding the privilege established under this Act, a regulatory agency may review information that is required to be available under a specific state or federal law, but such review does not waive or eliminate the administrative or civil evidentiary privilege where applicable. Tex. Rev. Civ. Stat. Art. 4447cc, Sec. 9(b).

within 90 days of publication of the **Federal Register** notice.

Several citizens commented on what they believe to be deficiencies with respect to the Texas title V program. As stated in the October 11, 2001 **Federal Register** notice proposing to fully approve the Texas operating permit program, EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 14, 2001 to timely public comments on programs that have obtained IA. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. In addition, we will publish a notice of availability in the **Federal Register** notifying the public that we have responded in writing to these comments and how the public may obtain a copy of our response. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

D. Non IA Issues Not Addressed in Citizen Comment Letter Responses

Public Citizen raised many issues in response to our October 11, 2001, proposal that are not related to the IA issues and were not raised in response to EPA's December 2000 notice soliciting citizen comments on state operating permit programs. These issues include sufficiency of the AG Statement, statutory changes enacted after 1995, Audit Privilege Act implementation, confidentiality of emissions data, alleged failure of Texas's compliance assurance monitoring provisions to comply with part 64, public participation in enforcement, emergency orders, temporary sources, alleged violation of statutory deadlines, insignificant emission units, and acid rain requirement. For the reasons set forth in our response to Comment A in section III, EPA believes that limiting our review to IA issues does not limit our ability to grant full approval to Texas. Therefore, EPA will address the issues at a later date.

VI. What Is the Effective Date of EPA's Full Approval of the Texas Title V Program?

The EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the state's program effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except— * * * (3) as otherwise provided by the agency for good cause found and published with the rule. 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. The EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. EPA's IA of Texas's prior program expires on December 1, 2001. In the absence of this full approval of Texas's amended program taking effect on November 30, 2001, the federal program under 40 CFR part 71 would automatically take effect in Texas and would remain in place until the effective date of the fully-approved state program. The EPA believes it is in the public interest for sources, the public and Texas to avoid any gap in coverage of the state program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because Texas has been administering the title V permit program for six years under an IA. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

VII. Administrative Requirements

Under Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit

program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 29, 2001.

Lawrence E. Starfield,

Acting Deputy Regional Administrator, Region 6.

For the reasons set out in the preamble, Appendix A of Part 70 of title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended under the entry for Texas by adding paragraph (b) to read as follows:

Appendix A to part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Texas

* * * * *

(b) The Texas Natural Resource Conservation Commission submitted program revisions on June 12, 1998, and June 1, 2001, and supplementary information on August 22, 2001; August 23, 2001; September 20, 2001; and November 5, 2001. The rule revisions adequately addressed the conditions of the IA effective on July 25, 1996, and which will expire on December 1, 2001. The State is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–30270 Filed 12–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7110–7]

Indiana: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting Indiana final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Agency published a proposed rule on August 17, 2001 at 66 FR 43143 and provided for public comment. The public comment period ended on September 17, 2001. We received no comments. No further opportunity for comment will be provided. EPA has determined that Indiana's revisions satisfy all the requirements needed to qualify for final authorization, and is authorizing the State's changes through this final action.

DATES: This final authorization will be effective on December 6, 2001.

ADDRESSES: You can view and copy Indiana's application from 9 am to 4 pm at the following addresses: Indiana Department of Environmental Management, 100 North Senate, Indianapolis, Indiana, (mailing address P.O. Box 6015, Indianapolis, Indiana 46206) contact Lynn West (317) 232–3593, and EPA Region 5, contact Gary Westefer at the following address.

FOR FURTHER INFORMATION CONTACT: Gary Westefer, Indiana Regulatory Specialist, U.S. EPA Region 5, DM–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7450.

SUPPLEMENTARY INFORMATION: On August 17, 2001, U.S. EPA published a proposed rule proposing to grant Indiana authorization for changes to its Resource Conservation and Recovery Act program, listed in section E of that notice, which was subject to public comment. No comments were received. We hereby determine that Indiana's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization.

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Indiana's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we propose to grant Indiana Final authorization to operate its hazardous waste program with the changes described in the authorization application. Indiana has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus,

EPA will implement those requirements and prohibitions in Indiana, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Indiana subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Indiana has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- do inspections, and require monitoring, tests, analyses or reports
- enforce RCRA requirements and suspend or revoke permits
- take enforcement actions regardless of whether the State has taken its own actions

This action does not impose additional requirements on the regulated community because the regulations for which Indiana is being authorized by today's action are already effective, and are not changed by today's action.

D. Proposed Rule

On August 17, 2001 (66 FR 43143) EPA published a proposed rule. In that rule we proposed granting authorization of changes to Indiana's hazardous waste program and opened our decision to public comment. The Agency received no comments on this proposal. EPA found Indiana's RCRA program to be satisfactory.

E. What Has Indiana Previously Been Authorized for?

Indiana initially received Final authorization on January 31, 1986, effective January 31, 1986 (51 FR 3955) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on October 31, 1986, effective December 31, 1986 (51 FR 39752); January 5, 1988, effective January 19, 1988 (53 FR 128); July 13, 1989, effective September 11, 1989 (54 FR 29557); July 23, 1991, effective September 23, 1991 (56 FR 33717); July 24, 1991, effective September 23, 1991 (56 FR 33866); July 29, 1991, effective September 27, 1991 (56 FR 35831); July 30, 1991, effective September 30, 1991 (56 FR 36010); August 20, 1996, effective October 21, 1996 (61 FR 43018); September 1, 1999, effective November 30, 1999 (64 FR 47692), and January 4, 2001, effective January 4, 2001 (66 FR 733).

F. What Changes Are We Authorizing With Today's Action?

On March 16, 2001, Indiana submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make a final decision, that Indiana's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we propose to grant Indiana Final authorization for the following program changes: n

Description of Federal Requirement (include Checklist #, if relevant)	FEDERAL REGISTER date and page (and/or RCRA statutory authority)	Analogous State Authority
Hazardous and Used Oil Fuel Criminal Penalties; Checklist CP	November 8, 1984 SWDA 3006(h), 3008(d), 3014	IC 13–30–6 Effective 1996 previously codified at IC 13–17–13–4 Effective 1985 IC 13–17–13–3 Effective 1986
Hazardous Waste Management System; Testing and Monitoring Activities; Checklist 158.	June 13, 1997 62 FR 32452	329 IAC 3.1–1–7; 3.1–9–1; 3.1–10–1; 3.1–11–1 Effective April 5, 2000
Hazardous Waste Management System; Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Checklist 159.	June 17, 1997 62 FR 32974	329 IAC 3.1–6–1; 3.1–6–2(17); 3.1–6–2(18); 3.1–6–2(19); 3.1–6–2(20); 3.1–12–1; 3.1–12–2(10); 3.1–12–2(12) Effective April 5, 2000
Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance; Checklist 160.	July 14, 1997 62 FR 37694	329 IAC 3.1–12–1; 3.1–12–2(10) Effective April 5, 2000
Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment; Checklist 163.	December 8, 1997 62 FR 64636	329 IAC 3.1–9–1; 3.1–10–1; 3.1–13–1; 3.1–13–2(8), (9) Effective April 5, 2000
Kraft Mill Steam Stripper Condensate Exclusion; Checklist 164	April 15, 1998 63 FR 18504	329 IAC 3.1–6–1 Effective April 5, 2000
Recycled Used Oil Management Standards; Technical Correction and Clarification; Checklist 166; as amended Checklist 166.1.	May 6, 1998 63 FR 24963 July 14, 1998 63 FR 37780	329 IAC 3.1–6–1; 3.1–6–2(4); 13–1–1; 13–1–2; 13–3–1; 13–3–1(b)(2); 13–4–3; 13–6–6; 13–7–5; 13–8–5; 13–9–5 Effective April 5, 2000
Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes. Checklist 167A	May 26, 1998 63 FR 28556	329 IAC 3.1–12–1; 3.1–12–2(6); 3.1–12–2(10); 3.1–12–2(12); 3.1–12–2(13) Effective April 5, 2000
Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions Checklist 167B.	May 26, 1998 63 FR 28556	329 IAC 3.1–12–1; 3.1–12–2(1)(D); 3.1–12–2(2)(D); 3.1–12–2(3); 3.1–12–2(6) Effective April 5, 2000
Land Disposal Restrictions Phase IV—Corrections; Checklist 167C; as amended Checklist 167C.1.	May 26, 1998 63 FR 28556 June 8, 1998 63 FR 31266	329 IAC 3.1–12–1; 3.1–12–2(1)(C); 3.1–12–2(2)(C); 3.1–12–2(3); 3.1–12–2(12); 3.1–12–2(13) Effective April 5, 2000

Description of Federal Requirement (include Checklist #, if relevant)	FEDERAL REGISTER date and page (and/or RCRA statutory authority)	Analogous State Authority
Bevill Exclusion Revisions and Clarification; Checklist 167E	May 26, 1998 63 FR 28556	329 IAC 3.1–6–1 Effective April 5, 2000
Exclusion of Recycled Wood Preserving Wastewaters; Checklist 167F	May 26, 1998 63 FR 28556	329 IAC 3.1–6–1 Effective April 5, 2000
Hazardous Waste Combustors Revised Standards; Checklist 168	June 19, 1998 63 FR 33782	329 IAC 3.1–6–1; 3.1–13–1 Effective April 5, 2000
Petroleum Refining Process; Checklist 169; as amended; Checklist 169.1.	August 6, 1998 63 FR 42110 October 9, 1998 63 FR 54356	329 IAC 3.1–6–1; 3.1–6–2(4); 3.1–6–2(17); 3.1–6–2(19); 3.1–11–1; 3.1–12–1; 3.1–12–2(12) Effective April 5, 2000
Land Disposal Restrictions Phase IV; Checklist 170	August 31, 1998 63 FR 46332	329 IAC 3.1–12–1; 3.1–12–2(12) Effective April 5, 2000
Emergency Revisions of LDR Treatment Standards (Carbamate Production); Checklist 171.	September 4, 1998 63 FR 47409	329 IAC 3.1–12–1; 3.1–12–2(12); 3.1–12–2(13) Effective April 5, 2000
Emergency Revisions of LDR Treatment Standards (Characteristic Slags); Checklist 172.	September 9, 1998 63 FR 48124	329 IAC 3.1–12–1; 3.1–12–2(10) Effective April 5, 2000
Land Disposal Restrictions Treatment Standards (Spent Potliners); Checklist 173.	September 24, 1998 63 FR 51254	329 IAC 3.1–12–1; 3.1–12–2(10); 3.1–12–2(12) Effective April 5, 2000
tandards Applicable to Owners and Operators of Closed/Closing Facilities; Checklist 174.	October 22, 1998 63 FR 56710	329 IAC 3.1–9–1; 3.1–9–2(9); 3.1–10–1; 3.1–10–2(11); 3.1–10–2(12); 3.1–10–2(13); 3.1–10–2(14); 3.1–13–1; 3.1–13–2(1),(2),(3),(4); 3.1–13–2(8),(9); 3.1–13–3; 3.1–13–4; 3.1–13–5; 3.1–13–6; 3.1–13–7; 3.1–13–8; 3.1–13–9; 3.1–13–10; 3.1–13–11; 3.1–13–12; 3.1–13–13; 3.1–13–14; 3.1–13–15; 3.1–13–16; 3.1–13–17; 3.1–14; 3.1–15 Effective April 5, 2000
Hazardous Remediation Waste Management Requirements (HWIR Media); Checklist 175.	November 30, 1998 63 FR 65874	329 IAC 3.1–4–1; 3.1–4–1(b); 3.1–6–1; 3.1–9–1; 3.1–9–2(1),(2); 3.1–10–1; 3.1–10–2(1),(2),(3),(4); 3.1–12–1; 3.1–12–2(6); 3.1–13–1; 3.1–13–2(15) Effective April 5, 2000
Universal Waste Rule; Technical Amendment; Checklist 176	December 24, 1998 63 FR 71225	329 IAC 3.1–11–1; 3.1–11–2(3); 3.1–16–1; 3.1–16–2(3) Effective April 5, 2000
Organic Air Emission Standards; Checklist 177	January 21, 1999 64 FR 3381	329 IAC 3.1–7–1; 3.1–9–1 Effective April 5, 2000
Petroleum Refining Process Wastes; Checklist 178	February 11, 1999 64 FR 6806	329 IAC 3.1–6–1 Effective April 5, 2000

G. Where Are the Revised State Rules Different From the Federal Rules?

Indiana has excluded the non-delegable Federal requirements at 40 CFR 268.5, 268.6, 268.42(b), 268.44, and 270.3 in their Incorporation by Reference at 3.1–12–2 and 3.1–13–2(4). EPA will continue to implement those requirements.

H. Who Handles Permits After the Authorization Takes Effect?

Indiana will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until they expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Indiana is not yet authorized.

I. What Is Codification and Is EPA Codifying Indiana's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart P for this authorization of Indiana's program changes until a later date.

J. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or

uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes." This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Indiana is not approved to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State. Thus, Executive Order 13175 does not apply to this rule.

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 F.R. 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: November 2, 2001.

Robert Springer,

Acting Regional Administrator, Region 5.

[FR Doc. 01–30269 Filed 12–5–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3600, 3610, 3620, and 3800

[WO–320–1430–PB–24 1A]

RIN: 1004–AD29

Mineral Materials Disposal; Sales; Free Use; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule; correction.

SUMMARY: The Bureau of Land Management (BLM) published in the **Federal Register** of November 23, 2001, a final rule revising the regulations on Mineral Materials Disposal. The final rule inadvertently contained an incorrect effective date.

EFFECTIVE DATES: The effective date of the final rule published on November 23, 2001 (66 FR 58892), is corrected to read January 22, 2002.

FOR FURTHER INFORMATION CONTACT: Ted Hudson, Federal Register Liaison Officer, at (202) 452–5042. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION: On November 23, 2001, BLM published a final rule in the **Federal Register** (66 FR 58892) revising the regulations on Mineral Materials Disposal in 43 CFR part 3600. In FR Doc. 01–29001, we stated the wrong effective date in the first column of page 58892. The effective date should have been 60 days after the date of publication, or January 22, 2002.

Dated: November 26, 2001.

Michael H. Schwartz,

Group Manager, Regulatory Affairs.

[FR Doc. 01–30231 Filed 12–5–01; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF DEFENSE

48 CFR Parts 202, 215, and 242

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement to

update activity names and addresses and reference numbers.

EFFECTIVE DATE: December 6, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations Council, OUSD(AT&L)DP(DAR),IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0311; facsimile (703) 602–0350.

List of Subjects in 48 CFR Parts 202, 215, and 242

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 202, 215, and 242 are amended as follows:

1. The authority citation for 48 CFR Parts 202, 215, and 242 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 202—DEFINITIONS OF WORDS AND TERMS

202.101 [Amended]

2. Section 202.101 is amended in the definition of "Contracting activity", under the heading "ARMY", by removing the entry "Troop Support Agency".

PART 215—CONTRACTING BY NEGOTIATION

215.404–71–3 [Amended].

3. Section 215.404–71–3 is amended in paragraph (e)(3), in the second sentence, by removing "75" and "25" and adding in their place "80" and "20", respectively.

4. Section 215.404–76 is amended in paragraph (b) by revising the table to read as follows:

215.404–76 Reporting profit and fee statistics.

* * * * *

(b) * * *

Contracting office	Designated office
ARMY	
All	U.S. Army Contracting Support Agency, ATTN: SARD–RS, 5109 Leesburg Pike, Suite 916, Falls Church, VA 22041–3201.
NAVY	
All	Commander, Fleet and Industrial Supply Center, Norfolk, Washington Detachment, Code 402, Washington Navy Yard, Washington, DC 20374–5000.
AIR FORCE	
Air Force Materiel Command (all field offices).	Air Force Materiel Command, 645 CCSG/SCOS, ATTN: J010 Clerk, 2721 Sacramento Street, Wright-Patterson Air Force Base, OH 45433–5006.

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

242.202 [Amended]

5. Section 242.202 is amended in paragraph (e)(1)(A) in the first sentence, in the parenthetical, by removing "www" and adding in its place "home".

242.302 [Amended]

6. Section 242.302 is amended in paragraph (a)(13)(B)*(1)* in the last parenthetical by removing "www" and adding in its place "home."

[FR Doc. 01–30263 Filed 12–5–01; 8:45 am]

BILLING CODE 5000–04–U

DEPARTMENT OF DEFENSE

48 CFR Parts 212 and 237

[DFARS Case 2000–D306]

Defense Federal Acquisition Regulation Supplement; Performance-Based Contracting Using Federal Acquisition Regulation Part 12 Procedures

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 821(b) of the National Defense Authorization Act for Fiscal Year 2001. Section 821(b) permits DoD to treat certain performance-based service contracts and task orders as contracts for the procurement of commercial items.

DATES: *Effective date:* December 6, 2001.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before February 4, 2002, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil*. Please cite DFARS Case 2000–D306 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Sandra Haberlin, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2000–D306.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Haberlin, (703) 602–0289.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends DFARS Part 212, Acquisition of Commercial Items, and DFARS Part 237, Service Contracting, to implement Section 821(b) of the National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398).

Section 821(b) of Public Law 106–398 establishes an incentive for the use of performance-based service contracts. Section 821(b) permits a contracting officer to use the same procedures used for the acquisition of commercial items under Part 12 of the Federal Acquisition Regulation (FAR) for a performance-based service contract or task order, if certain conditions are met. These conditions include—

1. The contract or task order must—
(a) Be firm-fixed-price;
(b) Have a value of $5 million or less;
(c) Set forth specifically each task to be performed;
(d) Define each task in measurable, mission-related terms; and
(e) Identify the specific end products or output to be achieved for each task;

2. The contractor must provide similar services at the same time to the general public under terms and conditions similar to those in the contract or task order; and

3. The procedures in FAR Subpart 13.5, Test Program for Certain Commercial Items, must not be used.

Since procurements undertaken pursuant to the authority of Section

821(b) will be conducted under FAR Part 12, the clauses at FAR 52.212–4 and 52.212–5 will be incorporated into resulting contracts. In this regard, when soliciting offers, contracting officers may need to modify paragraph (a) of the provision at 52.212–4 in particular, addressing inspection and acceptance, as may be necessary to ensure the contract's remedies adequately protect the Government's interests. For example, contracting officers may wish to negotiate the inclusion of commercial remedies such as extension of contract performance or the right to reduce the contract price to reflect the reduced value of the services performed when defects in services cannot be corrected by reperformance.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule pertains only to those small entities that will be awarded performance-based service contracts or task orders meeting the conditions specified in the rule. Therefore, DoD has not prepared an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2000–D306.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 821(b) of the National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398). Section 821(b) establishes an incentive for the use of performance-based service contracts by permitting DoD to treat a performance-based service contract as a contract for the procurement of commercial items if certain conditions are met. Section 821(b) became effective on October 30, 2000, and the contracting authority provided under that section expires on October 30, 2003. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 212 and 237

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 212 and 237 are amended as follows:

1. The authority citation for 48 CFR Parts 212 and 237 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

2. Subpart 212.1 is added to read as follows:

Subpart 212.1—Acquisition of Commercial Items—General

Sec.
212.102 Applicability.
212.102 Applicability.

(a)(i) In accordance with Section 821 of the National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398), the contracting officer also may use FAR part 12 for any performance-based contracting for services if the procedures in FAR Subpart 13.5 are not used, and the contract or task order—

(A) Is entered into on or before October 30, 2003;

(B) Has a value of $5 million or less;

(C) Meets the definition of performance-based contracting at FAR 2.101;

(D) Uses quality assurance surveillance plans;

(E) Includes performance incentives where appropriate;

(F) Specifies a firm-fixed price; and

(G) Is awarded to an entity that provides similar services at the same time to the general public under terms and conditions similar to those in the contract.

(ii) In exercising the authority specified in paragraph (a)(i) of this section, the contracting officer should modify paragraph (a) of the clause at FAR 52.212–4 as may be necessary to ensure the contract's remedies adequately protect the Government's interests.

PART 237—SERVICE CONTRACTING

3. Subpart 237.6 is added to read as follows:

Subpart 237.6—Performance-Based Contracting

Sec.
237.601 General.
237.601 General.

See 212.102 for the use of FAR part 12 procedures with performance-based contracting.

[FR Doc. 01–30262 Filed 12–5–01; 8:45 am]
BILLING CODE 5000–04–U

DEPARTMENT OF DEFENSE

48 CFR Part 217

[DFARS Case 2000–D303/304]

Defense Federal Acquisition Regulation Supplement; Multiyear Contracting

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Sections 802 and 806 of the National Defense Authorization Act for Fiscal Year 2001. Sections 802 and 806 amend requirements pertaining to multiyear contracting.

EFFECTIVE DATE: December 6, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Haberlin, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0289; facsimile (703) 602–0350. Please cite DFARS Case 2000–D303/304.

SUPPLEMENTARY INFORMATION:

A. Background

Section 802 of the National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398) relocated provisions relating to multiyear contracts for services from 10 U.S.C. 2306(g) to a new 10 U.S.C. 2306c. Section 806 of Public Law 106–398 amended 10 U.S.C. 2306b to add reporting requirements pertaining to multiyear contracts for property. This final rule updates DFARS Subpart 217.1 to reflect current statutory requirements pertaining to multiyear contracts.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2000–D303/304.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 217

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 217 is amended as follows:

1. The authority citation for 48 CFR part 217 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 217—SPECIAL CONTRACTING METHODS

2. Sections 217.170 through 217.172 are revised to read as follows:

217.170 General.

(a) Before awarding a multiyear contract, the head of the agency must compare the cost of that contract to the cost of an annual procurement approach, using a present value analysis. Do not award the multiyear contract unless the analysis shows that the multiyear contract will result in the lower cost (10 U.S.C. 2306b(l)(7); Section 8008(a) of Public Law 105–56 and similar sections in subsequent DoD appropriations acts).

(b) The head of the agency must provide written notice to the congressional defense committees at least 10 days before termination of any multiyear contract (10 U.S.C. 2306b(l)(6); 10 U.S.C. 2306c(d)(3); Section 8008(a) of Public Law 105–56 and similar sections in subsequent DoD appropriations acts).

(c) Every multiyear contract must comply with FAR 17.104(c), unless an exception is approved through the budget process in coordination with the cognizant comptroller.

(d)(1) DoD must receive authorization from, or provide notification to, Congress before entering into a multiyear contract for certain procurements, including those expected to—

(i) Exceed $500 million (see 217.171(a)(5); 217.172(c); and 217.173(b)(4));

(ii) Employ economic order quantity procurement in excess of $20 million in any one year (see 217.174(a)(1));

(iii) Employ an unfunded contingent liability in excess of $20 million (see 217.171(a)(4)(i) and 217.172(d)(1));

(iv) Involve a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20 million in any one year (see 217.174(a)(2)); or

(v) Include a cancellation ceiling in excess of $100 million (see 217.171(a)(4)(ii) and 217.172(d)(2)).

(2) A DoD component must submit a request for authority to enter into multiyear contracts described in paragraphs (d)(1)(i) through (iv) of this section as part of the component's budget submission for the fiscal year in which the multiyear contract will be initiated. DoD will include the request, for each candidate it supports, as part of the President's Budget for that year and in the Appendix to that budget as part of proposed legislative language for the appropriations bill for that year (Section 8008(b) of Public Law 105–56).

(3) If the advisability of using a multiyear contract becomes apparent too late to satisfy the requirements in paragraph (d)(2) of this section, the request for authority to enter into a multiyear contract must be—

(i) Formally submitted by the President as a budget amendment; or

(ii) Made by the Secretary of Defense, in writing, to the congressional defense committees. (Section 8008(b) of Public Law 105–56)

(4) Agencies must establish reporting procedures to meet the congressional notification requirements of paragraph (d)(1) of this section. The head of the agency must submit a copy of each notice to the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) (OUSD (AT&L) DP), and to the Deputy Under Secretary of Defense (Comptroller) (Program/Budget) (OUSD (C) (P/B)).

217.171 Multiyear contracts for services.

(a) *10 U.S.C. 2306c.* (1) The head of the agency may enter into a multiyear contract for a period of not more than 5 years for the following types of services (and items of supply relating to such services), even though funds are limited by statute to obligation only during the fiscal year for which they were appropriated:

(i) Operation, maintenance, and support of facilities and installations.

(ii) Maintenance or modification of aircraft, ships, vehicles, and other highly complex military equipment.

(iii) Specialized training requiring high quality instructor skills (*e.g.*, training for pilots and aircrew members or foreign language training).

(iv) Base services (*e.g.*, ground maintenance, in-plane refueling, bus transportation, and refuse collection and disposal).

(2) The head of the agency must be guided by the following principles when entering into a multiyear contract for services:

(i) The portion of the cost of any plant or equipment amortized as a cost of contract performance should not exceed the ratio between the period of contract performance and the anticipated useful commercial life of the plant or equipment. As used in this section, "useful commercial life" means the commercial utility of the facilities rather than the physical life, with due consideration given to such factors as the location, specialized nature, and obsolescence of the facilities.

(ii) Consider the desirability of obtaining an option to extend the term of the contract for a reasonable period not to exceed 3 years at prices that do not include charges for plant, equipment, or other nonrecurring costs already amortized.

(iii) Consider the desirability of reserving the right to take title, under the appropriate circumstances, to the plant or equipment upon payment of the unamortized portion of the cost.

(3) Before entering into a multiyear contract for services, the head of the agency must make a written determination that—

(i) There will be a continuing requirement for the services consistent with current plans for the proposed contract period;

(ii) Furnishing the services will require—

(A) A substantial initial investment in plant or equipment; or

(B) The incurrence of substantial contingent liabilities for the assembly, training, or transportation of a specialized work force; and

(iii) Using a multiyear contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operations.

(4) The head of the agency must provide written notice to the congressional defense committees at least 30 days before award of a

multiyear contract for services that include—

(i) An unfunded contingent liability in excess of $20 million (Section 8008(a) of Public Law 105–56 and similar sections in subsequent DoD appropriations acts); or

(ii) A cancellation ceiling in excess of $100 million.

(5) The head of the agency must not initiate a multiyear contract for services exceeding $500 million unless a law specifically provides authority for the contract.

(b) *10 U.S.C. 2829.* (1) The head of the agency may enter into multiyear contracts for supplies and services required for management, maintenance, and operation of military family housing and may pay the costs of such contracts for each year from annual appropriations for that year.

(2) The head of the agency may use this authority only if the term of the contract does not exceed 4 years.

217.172 Multiyear contracts for supplies.

(a) This section applies to all multiyear contracts for supplies, including weapon systems. For policies that apply only to multiyear contracts for weapon systems, see 217.173.

(b) The head of the agency may enter into a multiyear contract for supplies if, in addition to the conditions listed in FAR 17.105–1(b), the use of such a contract will promote the national security of the United States.

(c) The head of the agency must not enter into or extend a multiyear contract that exceeds $500 million (when entered into or when extended) until the Secretary of Defense identifies the contract and any extension in a report submitted to the congressional defense committees (10 U.S.C. 2306b(l)(5)).

(d) The head of the agency must provide written notice to the congressional defense committees at least 30 days before award of a multiyear contract that includes—

(1) An unfunded contingent liability in excess of $20 million (10 U.S.C. 2306b(l)(1); Section 8008(a) of Public Law 105–56 and similar sections in subsequent DoD appropriations acts); or

(2) A cancellation ceiling in excess of $100 million (10 U.S.C. 2306b(g)).

(e) The Secretary of Defense may instruct the head of the agency proposing a multiyear contract to include in that contract negotiated priced options for varying the quantities of end items to be procured over the life of the contract (10 U.S.C. 2306b(j)).

3. Section 217.174 is revised to read as follows:

217.174 Multiyear contracts that employ economic order quantity procurement.

(a) The head of the agency must provide written notice to the congressional defense committees at least 30 days before awarding—

(1) A multiyear contract providing for economic order quantity procurement in excess of $20 million in any one year; or

(2) A contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20 million in any one year. (10 U.S.C. 2306b(l)(1); Section 8008(a) of Public Law 105–56 and similar sections in subsequent DoD appropriations acts)

(b) Before initiating an advance procurement, the contracting officer must verify that it is consistent with DoD policy (e.g., Chapter 2 of DoD 5000.2–R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPs) and Major Automated Information System (MAIS) Acquisition Programs, and the full funding policy in Volume 2A, Chapter 1, of DoD 7000.14–R, Financial Management Regulation).

[FR Doc.01–30264 Filed 12–5–01; 8:45 am]

BILLING CODE 5000–04–U

Proposed Rules

Federal Register
Vol. 66, No. 235
Thursday, December 6, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1410

RIN 0560–AF77

Conservation Reserve Program—Cropland Eligibility and Private Sector Technical Assistance

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation (CCC) proposes a series of amendments to the Conservation Reserve Program (CRP) regulations. These proposed amendments would make certain orchard lands, vineyards, berry lands, and hay lands eligible for enrollment, provide for acquisition of private sector technical assistance, and make minor technical and clerical adjustments to the regulations. This action would allow producers greater flexibility in enrolling in the CRP, thereby allowing CCC greater flexibility in conducting the CRP, and provide enhanced environmental benefits under the CRP.

DATES: Comments must be submitted on or before February 4, 2002.

ADDRESSES: All comments concerning these proposed regulations should be either addressed to Robert Stephenson, Director, Conservation and Environmental Programs Division, USDA/FSA/CEPD/STOP 0513, 1400 Independence Avenue, SW., Washington, DC 20250–0513 or sent electronically to: *crprule@wdc.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Robert Stephenson, (202) 720–6221.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule is issued in conformance with Executive Order 12866 and has been determined to be significant has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental impact assessment nor an Environmental Impact Statement is needed.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988. This proposed rule, if adopted, would not be retroactive and would not pre-empt State laws. Before any judicial action may be taken with respect to the provisions of the proposed rule, if adopted, administrative remedies at 7 CFR parts 11 and 780 would have to be exhausted.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983). Unfunded Mandates

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, agencies generally must prepare a written statement, including a cost-benefit assessment, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or the private sector, of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA generally requires agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

Federal Domestic Assistance Program

The title and number of the Federal Domestic Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, is the Conservation Reserve Program—10.069.

Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements contained in the current regulations at 7 CFR part 1410 under provisions of 44 U.S.C. Chapter 33 and OMB Control Number 0560–0125, effective through October 31, 2002.

Background

The purpose of the Conservation Reserve Program (CRP) is to cost-effectively assist owners and operators in conserving and improving soil, water, and wildlife resources by converting highly erodible and other environmentally sensitive acreage normally devoted to the production of agricultural commodities to a long-term vegetative cover. CRP participants enter into contracts for 10 to 15 years in exchange for annual rental payments and cost-share assistance for installing certain conservation practices. In determining the amount of annual rental payments to be paid, CCC considers, among other things, the amount necessary to encourage owners or operators of eligible cropland to participate in the CRP. Applicants submit offers in such a manner as the Secretary prescribes. The maximum rental payments CCC will pay reflect site-based soil productivity, prevailing local cash equivalent rental rates, maintenance costs, and other factors. Offers by producers who request rental payments greater than the amount CCC is willing to pay for their soil type are automatically rejected by CCC. Except for the continuous signup process, remaining offers are evaluated for possible acceptance based on a comparison of environmental benefits indicators with the rental payment cost.

The continuous signup process does not include an evaluation based on environmental benefits indicators because only those practices designed to obtain high environmental benefits are eligible to be offered during the continuous signup. Acreage determined eligible and suitable to be devoted to continuous signup practices by the Secretary is automatically accepted in the CRP provided all other eligibility requirements are met.

Program Changes

Proposed changes fall into three general categories: (1) Changes to § 1410.6, Eligible Land; (2) permitting CCC to acquire private sector technical assistance; and (3) minor editorial, technical, and conforming amendments.

Section 1410.6 Eligible Land

Generally, by statute, CRP land enrolled in the program must be cropland, but the rules for the program provide that the crop history must generally be a history of production of tillable crops. That limitation provides for focusing the CRP on the conversion of land with the most intensive uses to a cover crop. Also, this focus emphasizes the "reserve" nature of the program and can provide a greater amount of public benefit by producing savings in other programs as recompense for the monies spent on this program. This rule, however, proposes that for the continuous sign-ups held for the CRP and for enrollments in the Conservation Reserve Enhancement Program (CREP), certain orchard lands, vineyards, berry fields, and hay land be permitted to be enrolled. These lands can provide significant benefits in those special sign-ups which involve special, often narrow (geographically) practices such as conservation measures along stream banks where these enrollments may even be more beneficial than the enrollment of normal cropland. Such an expansion of the eligibility criteria for the program had been requested by a number of State governments involved in CREP agreements.

Private Sector Technical Assistance

Currently, technical assistance for running the CRP is generally conducted through the auspices of the Natural Resources Conservation Service (NRCS) and a number of decisions which may be needed for the CRP are by regulation committed to the NRCS. However, because of funding and other considerations it may be necessary for some determinations, from time to time, to be made using private contractors or other agencies. Accordingly, this rule proposes that some references to the NRCS in the regulations be replaced or amended. This change will allow greater flexibility in running the program even though no fundamental change in program operations is contemplated at this time. No changes for the participant are anticipated regarding eligibility or paperwork. These adjustments to the regulations are found at 7 CFR 1410.1(f), 1410.2, 1410.3(b), 1410.6(b)(2)(i), 1410.6(b)(2)(iv), and 1410.22.

Minor Editorial, Technical, and Conforming Amendments

CCC further proposes a number of minor amendments for clarity at §§ 1410.4, 1410.20, and 1410.62(f) and to more closely track the CRP legislation. These modifications involve: (1) Adding a specific reference to the statutory requirement that allowing greater than a certain maximum level of CRP participation in a county requires a finding that producers are having trouble complying with conservation plans; (2) changing the limit on how much land one farm can have in both the CRP and in the Production Flexibility Program to that based on the amount of the farm's "agricultural use" land rather than the farm's "cropland"; and (3) specifying that only that land which was "cropland" at the start of the contract will be treated as "cropland" during the duration of the contract. Also, § 1410.1(g), which currently provides for the development by State FSA committees of State-specific evaluation processes to rank acreage, is removed because no State FSA committee has developed a State-specific evaluation process for bid acceptance for over 2 years.

List of Subjects in 7 CFR Part 1410

Administrative practices and procedures, Agriculture, Conservation plan, Natural resources, Technical assistance.

For reasons set out in the preamble, 7 CFR part 1410 is proposed to be amended as follows:

PART 1410—CONSERVATION RESERVE PROGRAM

1. The authority citation for 7 CFR part 1410 continues to reads as follows:

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 3801–3847.

2. In § 1410.1:

a. Paragraphs (a) and (f) are revised;

b. Paragraph (g) is removed; and

c. Paragraphs (h) through (k) are redesignated as paragraphs (g) through (j).

The revisions read as follows:

§ 1410.1 Administration.

(a) The regulations in this part will be administered under the general supervision and direction of the Executive Vice President, Commodity Credit Corporation (CCC), through the Deputy Administrator for Farm Programs (Deputy Administrator) of the Farm Service Agency (FSA). In the field, the regulations in this part will be administered by the State and county FSA committees ("State committees" and "county committees", respectively). Further, CCC may enter into agreements to perform technical assistance with the private sector; however, national level concurrence between FSA and the Natural Resource Conservation Service (NRCS) or Forest Service (FS), as appropriate, is required for CCC to acquire private sector technical assistance, except when NRCS or FS cannot provide technical assistance due to funding or other restrictions. Further, private sector costs should be comparable when practicable, to the cost of technical assistance provided by NRCS and FS.

* * * * *

(f) Notwithstanding other provisions of the preceding paragraphs of this section, the Erosion Index (EI), suitability of land for permanent vegetative or water cover, factors for determining the likelihood of improved water quality, and adequacy of the planned practice to achieve desired objectives shall be determined by the Natural Resource Conservation Service (NRCS), or any other technical authority approved by CCC. Any CCC-approved technical authority shall utilize the NRCS Field Office Technical Guide (FOTG), or other CRP guidelines established by CCC.

* * * * *

3. In § 1410.2, the definition of technical assistance is revised to read as follows:

§ 1410.2 Definitions.

* * * * *

Technical assistance means the assistance provided in connection with the CRP to owners or operators by NRCS, FS, or another source as approved by CCC in developing conservation plans, determining the eligibility of land and practices, and implementing and certifying conservation practices, and forestry issues.

* * * * *

4. Section 1410.3 paragraph (b) is revised to read as follows:

§ 1410.3 General description.

* * * * *

(b) A participant must obtain a conservation plan prepared in accordance with NRCS planning policy for eligible acreage, available in the National Conservation Planning Handbook and the General Manual at the Natural Resource Conservation Service State offices and field offices.

* * * * *

5. Section 1410.4 is revised to read as follows:

§ 1410.4 Maximum county acreage.

(a) Except as provided in paragraph (b) of this section, the maximum acreage which may be placed in the CRP and the WRP may not exceed 25 percent of the total cropland in the county; further, no more than 10 percent of the cropland in the county may be subject, in the aggregate, to a CRP or WRP easement;

(b) The restrictions in paragraph (a) of this section may be waived if CCC determines that such action would not adversely affect the local economy of the county, and also that operators in the county are having difficulties complying with conservation plans directed under part 12 of this title;

(c) These restrictions on participation shall be in addition to any other restriction imposed by law.

6. In § 1410.6, revise paragraphs (a)(2)(ii), (b)(2)(i) introductory text, (b)(2)(iv), (b)(4), (b)(8) and (b)(9) and add a new paragraph (b)(12) to read as follows:

§ 1410.6 Eligible land.

(a) * * *

(2) * * *

(ii) As determined by CCC, is or will be planted to trees, and such other woody and non-woody vegetation as appropriate, for water quality purposes in or near riparian areas or in other areas where, as determined by CCC in accordance with the FOTG, the same or similar water quality enhancement benefits will be obtained; or

* * * * *

(b) * * *

(2)(i) Be a field which has evidence of scour erosion caused by out-of-bank flows of water, as determined by CCC in accordance with the FOTG. In addition such land must:

* * * * *

(iv) Be planted to an appropriate tree species, unless tree planting is determined by CCC to be inappropriate under provisions of the FOTG, in which case the eligible cropland shall be devoted to another acceptable permanent vegetative cover identified as appropriate in the FOTG; or

* * * * *

(4) Be devoted to certain covers, which are established and maintained in accordance with the FOTG and other guidelines approved by CCC provided such acreage is not required to be maintained as such under any life span obligations; or

* * * * *

(8) Be within a public wellhead protection area or in an approved Hydrologic Unit Area as determined by the NRCS or other delegatee as determined by NRCS;

(9) Be within a designated conservation priority area as determined by CCC; or

* * * * *

(12) is cropland devoted to orchard lands, vineyards, berry land, or hay lands, as determined by CCC, but will only be eligible for continuous signup practices authorized by § 1410.30 or practices authorized by § 1410.50(b).

* * * * *

7. Section 1410.20, paragraph (a)(4)(ii), is revised to read as follows:

§ 1410.20 Obligations of participant.

(a) * * *

(4) * * *

(ii) Reduce production flexibility contract acres enrolled under part 1412 of this chapter or CRP acres enrolled under this part so that the total of such acres does not exceed the total agricultural use land on the farm;

* * * * *

8. Section 1410.22 paragraphs (a) and (e) are revised to read as follows:

§ 1410.22 Conservation plan.

(a) The applicant shall obtain a conservation plan which is developed in accordance with NRCS conservation planning policy and is approved by the conservation district for the land to be entered in the CRP. If the conservation district declines to review the conservation plan, such approval may be waived by CCC.

* * * * *

(e) All conservation plans and revisions of such plans shall be made in accordance with the NRCS conservation planning policy and be subject to the approval of CCC.

9. Section 1410.62, paragraph (f), is revised to read as follows:

§ 1410.62 Miscellaneous.

* * * * *

(f) Cropland enrolled in CRP shall be classified as cropland for the time period enrolled in CRP and, after the time period of enrollment, may be removed from such classification upon a determination by the county committee that such land no longer meets the conditions identified in part 718 of this title.

* * * * *

Signed at Washington, D.C., on November 29, 2001.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 01–30213 Filed 12–5–01; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–12–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to Rolls-Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 series turbofan engines. This proposal would require reapplication of dry film lubricant to low pressure compressor (LPC) fan blade roots. This proposal is prompted by an aborted take-off resulting from LPC fan blade loss. Since this event, four additional cracked LPC fan blade roots have been reported. The actions specified by the proposed AD are intended to prevent LPC fan blade loss, which could result in an uncontained engine failure and possible aircraft damage.

DATES: Comments must be received by February 4, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–12–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line. The service information referenced in the proposed rule may be obtained from Rolls-Royce plc, PO Box 31, Derby, England, DE248BJ; telephone: 011–44–1332–242–424; fax: 011–44–1332–245–418. This information may be examined,

by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Keith Mead, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7744, fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NE–12–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–12–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (U.K.), recently notified the FAA that an unsafe condition may exist on Rolls-Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 series turbofan engines. The CAA advises that a Trent 800 series powered aircraft experienced an aborted take-off as a result of an inability to achieve the commanded exhaust pressure ratio (EPR) on the Number 1 engine. Ground inspection of the engine revealed loss of one LPC fan blade. Since this event, four additional LPC fan blade roots have been reported cracked. Loss of the LPC fan blade resulted from high stresses and subsequent cracking in the fan blade root. Investigation by the engine manufacturer has shown that regular reapplication of dry film lubricant on the LPC fan blade root results in reduced blade to disk friction during engine operation and hence reduced blade root stressing. The FAA concurs with the manufacturer's determination as to the optimum times to perform the reapplication of the dry film lubricant, as provided in this proposal. The actions specified by the proposed AD are intended to prevent LPC fan blade loss, which could result in an uncontained engine failure and possible aircraft damage.

Manufacturer's Service Information

Rolls-Royce has issued Mandatory Service Bulletin (MSB) RB.211–72–D347, Revision 2, dated May 30, 2001, that requires initial and reapplication of dry film lubricant to LPC fan blade roots. The CAA classified this service bulletin as mandatory and issued AD 001–03–2001 in order to ensure the airworthiness of these Rolls-Royce engines in the U.K.

Bilateral Agreement Information

This engine model is manufactured in the U.K. and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Proposed Requirements of This AD

Since an unsafe condition has been identified that is likely to exist or develop on other Rolls-Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 series turbofan engines of the same type design , the proposed AD would require initial and reapplication of dry film lubricant to LPC blade roots. The actions would be required to be accomplished in accordance with the SB described previously.

Economic Impact

The FAA estimates that 88 engines installed on aircraft of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately 6 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total labor cost impact of the proposed AD on U.S. operators is estimated to be $31,680 to accomplish each application of lubricant. The FAA estimates that operators will apply lubricant an average of 1.5 times per year, making the total annual cost of compliance with this proposal $ 47,520.

Regulatory Impact

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Rolls-Royce plc: Docket No. 2001–NE–12–AD.

Applicability: This airworthiness directive (AD) is applicable to Rolls-Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 series turbofan engines with low pressure compressor (LPC) fan blade part numbers: FK 30838, FK30840, FK30842, FW12960, FW12961, FW12962, FW13175, or FW18548. These engines are installed on, but not limited to Boeing 777 airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance with this AD is required as indicated, unless already done.

To prevent LPC fan blade loss, which could result in an uncontained engine failure and possible aircraft damage, accomplish the following:

TABLE 1.—INITIAL AND REPETITIVE APPLICATION THRESHOLDS

LPT Fan blade part Nos.	Initial compliance criteria	Repetitive compliance criteria
FK30842, FK30840, and FK30838	Before achieving 600 cycles since installation	Repeat at intervals not exceeding 600 cycles since last compliance.
FW12961, FW12960, FW12962, FW13175, FW18548.	Before achieving 1200 cycles since installation.	Repeat at intervals not exceeding 1200 cycles since last compliance.

(a) Apply an approved dry film lubricant to low pressure compressor (LPC) fan blade roots as specified in Table 1 above. Aircraft Maintenance Manual (AMM) task 72–31–11–300–801–R00 (Repair Scheme FRS A031 by air spray method only) or engine manual 72–31–11–R001 (Repair Scheme FRS A028) contain procedures for renewing the dry film lubricant on the blade roots. For purposes of this AD, approved lubricants are Dow Corning 321R (Rolls-Royce (RR) Omat item 4/52), Rocol Dry Moly Spray (RR Omat item 4/52), Molydag 709 (RR Omat item 444), or PL.237/R1 (RR Omat item 4/43).

Fan Blades Exceeding Initial Application Thresholds

(b) For blades that have, on the effective date of the AD, more cycles since installation than the initial compliance criteria in Table 1 of this AD, inspect blades within 100 cycles in service after the effective date of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(d) Special flight permits may be issued in accordance §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be done.

Note 3: The subject of this AD is addressed in Civil Aviation Authority Airworthiness Directive 001–03–2001, dated March 2, 2001.

Issued in Burlington, Massachusetts, on November 30, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–30266 Filed 12–5–01; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[ME065–7014; A–1–FRL–7114–5]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Control of Gasoline Volatility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maine on June 7, 2000 and May 29, 2001, establishing a lower Reid Vapor Pressure (RVP) fuel requirement for gasoline distributed in southern Maine which includes York, Cumberland, Sagadahoc, Kennebec, Androscoggin, Knox, and Lincoln Counties. Maine has developed these fuel requirements to reduce emissions of volatile organic compounds (VOC) in accordance with the requirements of the Clean Air Act (CAA). EPA is proposing to approve Maine's fuel requirements into the Maine SIP because EPA has found that the requirements are necessary for southern Maine to achieve the national ambient air quality standard (NAAQS) for ozone. The intended effect of this action is to propose approval of Maine's request to control the RVP of fuel in these seven southern counties. This action is being taken under section 110 of the Clean Air Act.

DATES: Written comments must be received on or before January 7, 2002.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA–New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Robert C. Judge, (617) 918–1045.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Description of the SIP Revision and EPA's Action

A. What Is the Background for This Action?
B. What is Reid Vapor Pressure?
C. What are the relevant Clean Air Act requirements?
D. How has the State met the Test Under Section 211(c)(4)(C)?
E. What Comments were Previously Submitted on Maine's low-RVP Rule?
F. Why is EPA Taking this Action?

II. Proposed Action

III. What Are the Administrative Requirements?

I. Description of the SIP Revision and EPA's Action

A. What is the Background for this Action?

Under the Clean Air Act Amendments of 1990, southern Maine was divided into three separate ozone nonattainment areas: the Portland area which is comprised of York, Cumberland and Sagadahoc Counties; the Lewiston-Auburn area which is comprised of Androscoggin and Kennebec counties; and the Knox and Lincoln County area. Each of these areas was classified as moderate nonattainment for ozone. The ozone attainment deadline for these areas was initially November 15, 1996. Just downwind from these areas, the largely rural counties of Hancock and Waldo were designated nonattainment for ozone and classified as marginal.

To bring these areas into attainment, the State has adopted and implemented a broad range of ozone control measures including stage II vapor recovery on larger gasoline retail facilities, numerous stationary and area source VOC controls, a vehicle inspection and maintenance (I/M) program, and the California low emission vehicle program. In addition, the State participated in the federal reformulated gasoline (RFG) program in the seven southern counties in Maine from January 1, 1995 until March 10, 1999, when the State's opt-out of the federal RFG became effective. This strategy and other measures resulted in significant air quality improvements in southern Maine.

EPA issued a direct final rule to approve a low RVP control program for the seven southern Maine counties on May 14, 1999 (64 FR 26306), but received adverse comment on that action. As a result, that direct final action was withdrawn on June 28, 1999 (64 FR 24557). Those comments are addressed in this notice for the purpose of developing this proposal.

After EPA withdrew the 1998 direct final approval of the State's low-RVP program, Maine Department of Environmental Protection (DEP) amended its low RVP control program and revised its SIP submittal request. The amendments changed the RVP of a compliant fuel and became effective on June 1, 2000. The rule as amended requires that beginning May 1, 1999 through September 15, 1999, and each May 1 through September 15 thereafter, no gasoline may be sold with an RVP greater than 7.8 psi in the counties of York, Cumberland, Sagadahoc, Kennebec, Androscoggin, Knox, and Lincoln. The State's low-RVP rule is codified in Chapter 119 of the Maine Department of Environmental Protection's regulations, entitled "Motor Vehicle Fuel Volatility Limit."

The DEP submitted this amended low-RVP rule to EPA as a revision to the SIP on June 7, 2000. On May 29, 2001, Maine submitted additional technical support for the SIP revision, including materials supporting the State's request to waive Clean Air Act preemption of state fuel controls pursuant to section 211(c)(4) of the Act and a description of its fuel enforcement strategy.

By this low-RVP rule, Maine is ensuring that it replaces much of the VOC benefits that RFG had been required to achieve. These emission reductions were critical to Maine's attainment of the 1-hour ozone standard in several areas.

B. What Is Reid Vapor Pressure?

Reid Vapor Pressure, or RVP, is a measure of a gasoline's volatility at a certain temperature and is a measurement of the rate at which gasoline evaporates and emits VOC; the lower the RVP, the lower the rate of evaporation. The RVP of gasoline can be lowered by reducing the amount of its more volatile components, such as butane. Lowering RVP in the summer months can offset the effect of summer temperature upon the volatility of gasoline, which, in turn, lowers emissions of VOC. Because VOC is a necessary component in the production of ground level ozone in hot summer months, reduction of RVP will help areas achieve the NAAQS for ozone and thereby produce benefits for human health and the environment.

The primary emission reduction benefits from low-RVP gasoline used in motor vehicles comes from reductions in VOC evaporative emissions; exhaust emission reductions are much smaller. Because oxides of nitrogen (NO_X) are a product of combustion from motor vehicles, they will not be found in evaporative emissions, and low-RVP gasoline will have little or no effect on NO_X.

C. What Are the Relevant Clean Air Act Requirements?

In determining the approvability of a SIP revision, EPA must evaluate the proposed revision for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

For SIP revisions approving certain state fuel measures, an additional statutory requirement applies. CAA section 211(c)(4)(A) prohibits state regulations respecting a fuel characteristic or component for which EPA has adopted a control or prohibition under section 211(c)(1), unless the state control is identical to the federal control. Section 211(c)(4)(C) provides an exception to this preemption if EPA approves the state requirements in a SIP. Section 211(c)(4)(C) states that the Administrator may approve an otherwise preempted state fuel standards in a SIP:

> only if [s]he finds that the State control or prohibition is necessary to achieve the national primary or secondary ambient air quality standard which the plan implements. The Administrator may find that a State control or prohibition is necessary to achieve that standard if no other measures that would bring about timely attainment exist, or if other measures exist and are technically possible to implement, but are unreasonable or impracticable.

EPA's August, 1997 "Guidance on Use of Opt-in to RFG and Low RVP Requirements in Ozone SIPS" gives further guidance on what EPA is likely to consider in making a finding of necessity. Specifically, the guidance recommends breaking down the necessity demonstration into four steps: identify the quantity of reductions needed to reach attainment; identify other possible control measures and the quantity of reductions each measure would achieve; explain in detail which of those identified control measures are considered unreasonable or impracticable; and show that even with the implementation of all reasonable and practicable measures, that the state would need additional emission reductions for timely attainment, and that the state fuel measure would supply some or all of such additional reductions.

EPA has evaluated the submitted SIP revision and has determined that it is consistent with the requirements of the CAA, EPA regulations, and conforms to EPA's completeness criteria in 40 CFR part 51, Appendix V. Further, EPA has looked at Maine's demonstration that the low-RVP fuel control is necessary in accordance with 211(c)(4)(C) and agrees with the State's conclusion that a fuel measure is needed to achieve the 1-hour ozone NAAQS.

The SIP submittal contains: (1) Chapter 119, Maine Department of Environmental Protection regulations, as amended by the Maine Board of Environmental Protection and effective on June 1, 2000; (2) documentation of

the public notice dated December 4, 1999, and a transcript of the public hearing regarding the amendment of Chapter 119, dated January 6, 2000; (3) evidence of State legal authority; and (4) application for waiver of federal preemption. Information regarding prohibitions on the sale of non-conforming gasoline, test procedures and sampling for the SIP revision can be found in Chapter 119 of the Maine Department of Environmental Protection regulations, and Maine statutes on enforcement and penalties can be found at Title 38 of Maine Revised Statutes Annotated (M.R.S.A.) sections 348 and 349. Based on this and a detailed enforcement strategy in the May 29, 2001 submittal, EPA has concluded that these provisions confer on the State the requisite authority to enforce compliance with the 7.8 psi RVP limit.

D. How Has the State Met the Test Under Section 211(c)(4)(C)?

CAA section 211(c)(4)(A) preempts certain state fuel regulations by prohibiting a state from prescribing or attempting to enforce any control or prohibition respecting any characteristic or component of a fuel or fuel additive for the purposes of motor vehicle emission control if the Administrator has prescribed under section 211(c)(1) a control or prohibition applicable to such characteristic or component of the fuel or fuel additive, unless the state prohibition is identical to the prohibition or control prescribed by the Administrator.

EPA has adopted Federal RVP controls under sections 211(c) and 211(h). See 56 FR 64704 (Dec. 12, 1991). These regulations are found in 40 CFR 80.27. Maine is required under the Federal rule to meet the 9.0 psi RVP standard. See 40 CFR 80.27(a)(2).

A state may prescribe and enforce an otherwise preempted low-RVP requirement only if the EPA approves the control into the state's SIP. In order to approve a preempted state fuel control into a SIP, EPA must find that the state control is necessary to achieve a NAAQS because no other reasonable or practicable measures exist to bring about timely attainment. Thus, to determine whether Maine's low-RVP rule is necessary to meet the ozone NAAQS, EPA must consider whether there are other reasonable and practicable measures available to produce the emission reductions needed to achieve the 1-hour ozone NAAQS.

With the State's decision to opt-out of the federal RFG program, additional VOC reductions are necessary to ensure that the Portland area meets the 1-hour ozone standard. The Portland area has measured air quality in recent years fluctuating between meeting and exceeding the 1-hour standard. Maine has had exceedances of the 1-hour ozone standard in 1999 and 2001—two out of the three years since the State opted out of the federal RFG program. Given this situation, it is clear that the VOC reductions provided by participation of the seven counties of southern Maine in the federal RFG program are critical to the Portland area's achievement of the ozone NAAQS.

For purposes of demonstrating necessity, EPA has used the phase 1 RFG VOC reductions required in the SIP submitted by Maine on July 19, 1995 for its 15 percent rate of progress plan as an estimate of the emission reductions that are necessary for southern Maine to achieve the ozone NAAQS. EPA believes this estimate of necessary reductions is conservative. In its 15-percent rate of progress plan for the Portland area, Maine had estimated that RFG would achieve 6.96 tons of VOC reduction per summer day. This figure was calculated using only vehicle miles traveled in the three-county Portland area. The sale of RFG in the surrounding four counties further benefitted the Portland area due to driving patterns into and around the Portland area and the geographic proximity of these surrounding four counties (Knox, Lincoln, Androscoggin, and Kennebec). These counties are downwind of the Portland area, and had previously participated in the RFG program. While these areas are no longer violating the one-hour ozone NAAQS, they did benefit from the fuel program's reductions. Further, persons traveling from these areas do travel into the Portland area, exacerbating the air quality problem in that area.

With this estimate of the VOC reductions necessary to achieve the ozone NAAQS, the State evaluated an extensive list of non-fuel alternative controls to determine if reasonable and practicable controls could be implemented to provide sufficient VOC reductions in a timely manner. The State analyzed potential control measures by reviewing previously prepared emission inventories to determine if other non-fuel control measures could be adopted and used to replace the VOC reductions that RFG had achieved. The State reviewed all the source categories that comprised the emission inventory, and evaluated control measures on each source category. For a variety of reasons, most control measures were either already implemented, or were found to be unreasonable or impracticable for achieving reductions in a timely manner. (See May 29, 2001 submittal from the State of Maine.)

As one example, the State evaluated the possibility of further controlling gasoline refueling, or stage II, emissions. The State does have a stage II vapor recovery program for larger facilities, but expanding the geographic coverage, and requiring smaller facilities (i.e., gas stations) to comply would yield among the most additional VOC reductions of any control strategy that the State reviewed. The State concluded that a legislative change, as well as a regulatory change, would be necessary to further control emissions from this source category. As a result, such controls could not be adopted and implemented as quickly as the low-RVP fuel control. Further, the actual installation of these controls would take additional time, which would not be reasonable or practicable because the State needed to replace the reductions as soon as possible. For these reasons, the State concluded that further stage II controls were not a practical measure for achieving VOC emission reductions. Other control measures were similarly evaluated, and determined to be either technically impossible or unreasonable and impracticable, or in a longer time frame when the State needed to secure the replacement emission reductions as soon as possible to achieve the NAAQS.

The State's analysis identified several non-fuel alternative controls that could conceivably be implemented by the summer of 2001—the earliest time frame for EPA approval of this low-RVP standard. (See May 29, 2001 State submittal) At best, adoption of all available measures would result in about 0.5 tons per day (tpd) of emission reductions—substantially less than the estimated reductions needed. Thus, even with implementation of all reasonable and practicable non-fuel control measures, additional VOC reductions are necessary. It should be noted that this low-RVP rule has been in effect at the State level since 1999, and the State reports that fuel sold in this area has been complying with this RVP limit.

Maine's low-RVP rule achieves approximately 4.5 tpd of VOC reductions beginning the summer of 1999 (based on vehicle miles traveled in the Portland area). Because low-RVP fuel sales in the four surrounding counties will reduce emissions in the Portland area when drivers from these areas travel into Portland, EPA believes RVP controls in these areas will further benefit the Portland area. EPA believes these emission reductions are necessary to achieve the applicable ozone NAAQS

in southern Maine. EPA is basing today's action on the information available to the Agency at this time, which indicates that adequate reasonable and practicable non-fuel measures are not available to the State that would achieve these needed emission reductions, and protect Maine's air quality in a timely manner. Hence, EPA is finding that the RVP standards are necessary for attainment of the applicable ozone NAAQS, and EPA is proposing to approve them as a revision to the Maine SIP.

E. What Comments Were Previously Submitted on Maine's low-RVP Rule?

On May 14, 1999 (64 FR 26306, 64 FR 26352), EPA published a Direct Final Rulemaking (DFR) and parallel Notice of Proposed Rulemaking (NPRM) proposing approval of a SIP revision for Maine for a low-RVP fuel control program. The NPRM provided the public with the opportunity to comment. On June 11, 1999, the Oxygenated Fuels Association (OFA) provided comment on that rulemaking. In accordance with established Direct Final Rulemaking procedures, EPA withdrew the DFR and would have had to respond to OFA's comments before taking final action on the NPRM.

After EPA withdrew the DFR, however, Maine DEP amended its low-RVP program and submitted a revised SIP revision, which is the basis for today's new proposed rulemaking. While EPA is not taking final action on the 1999 NPRM on which OFA commented, EPA has nevertheless considered the comments raised by OFA in developing this new proposal and has decided to address those points in developing today's proposal. Because EPA's prior withdrawn action is distinct from the action proposed today, parties seeking to participate in this rulemaking for comment and judicial review purposes should submit comments during the comment period on this action.

Comment 1. OFA commented that the State of Maine can not adopt a fuel strategy under section 211(c) because it is not necessary for attainment. Under the Clean Air Act (CAA), EPA can only waive the federal preemption of state fuel programs when the state fuel program is necessary for attainment. The State had already achieved attainment of the 1-hour ozone standard using RFG, and chose to no longer participate in the RFG program. OFA argues the State cannot adopt a new fuel control measure and justify it as necessary for attainment when it is choosing to no longer implement a control measure that helped achieve attainment. OFA also takes issue with the fact that RFG actually sold in Maine achieved more reductions than it was required to, and that we were only requiring Maine to replace the reductions that RFG was required to achieve.

Response 1. The commenter is correct in that EPA believes that RFG contributed to cleaner air in Maine. Maine, however, has decided that RFG is no longer a desirable fuel control for the State and has adopted the low-RVP control measure to replace at least some of the emission reductions provided by RFG. Maine chose to implement RFG, and Federal regulations allowed the State to choose to no longer implement RFG subject to the constraints in the RFG opt-out rule. With RFG no longer viewed as a viable option in the State, due to concerns about MTBE contaminating groundwater, Maine moved forward to replace the fuel measure by achieving the emission reductions it had planned for in its SIP.

It is important to note, however, that EPA required the State to take several steps before allowing the State to "opt-out" of the RFG program. Consistent with the RFG opt-out procedures (40 CFR 80.72), the State identified an alternative control measure to make up for planned emission reductions lost from opting-out of RFG, and provided adequate lead time to industry to notify that the State was opting-out of the program. Nevertheless, Maine made a decision fully allowed under the RFG program, and followed the criteria outlined in the rule. The State had relied upon RFG in the Portland area in the plan submitted under section 182(b)(1) of the CAA (*i.e.*, the 15 percent plan). As required by the RFG opt-out rule (40 CFR 80.72(b)(3)), Maine identified the measures with which it intended to replace RFG. Based on that, EPA allowed the RFG opt-out to proceed.

As OFA pointed out, current data suggests that RFG has achieved more clean air benefits than required under the Clean Air Act and the RFG rules. As the commenter correctly pointed out, RFG achieved emission reductions of VOC, air toxics and NO_X well in excess of that required by law. However, the RFG opt-out rule only requires that States move to replace emission reductions that were planned for. In light of the fact that RFG did in fact achieve more emission reductions than required, EPA intends to continue to work with Maine to ensure that Maine's actual air quality is not degraded by the State's choice to opt-out of the RFG program.

The relevant the issue for today's action, however, is whether or not Maine, in fact, needed emission reductions from RFG to attain the 1-hour ozone standard. The fact that RFG was cleaner than required would seem to argue even more strongly that the emission reductions from RFG were necessary to achieve attainment. In fact, as pointed out in the May 14, 1999 **Federal Register** (64 FR 26308), Maine achieved the 1-hour standard by the slimmest of margins. Since then, Maine has fluctuated between meeting and violating the 1-hour ozone standard. Not sustaining those emission reductions will jeopardize Maine's attainment of the 1-hour standard.

Comment 2. OFA commented that this 211(c) waiver was not necessary to meet the 1-hour ozone standard, since EPA had proposed in December, 1998 that the 1-hour standard was achieved in the Portland area, and had previously found that the 1-hour standard had been met in all other parts of the State. OFA further contends that, based on DC court ruling (*ATA* vs. *EPA*—May 14, 1999), that EPA could not justify the need for fuel controls based on the fact that Maine's air quality was violating the new 8-hour ozone NAAQS.

Response 2. On June 9, 1999, EPA determined that the Portland, Maine area had attained the 1-hour ozone standard (64 FR 30911), and revoked the one-hour standard. This determination was based on data collected from 1996–1998. For the time period 1997–1999, however, Maine again violated the one-hour ozone standard. On July 20, 2000 (65 FR 45182), due to uncertainty regarding the implementation of the 8-hour ozone standard, EPA determined that the one-hour standard should apply again in all areas where it was previously revoked, such as Maine. Subsequently, based on data collected in 1998–2000 and 1999–2001, Maine is again measuring air quality which meets the one-hour ozone standard.

Because Maine achieved the 1-hour ozone standards by only the slimmest of margins with reductions achieved though fuel controls, and because Maine continues to monitor exceedances that could be even worse without the current RVP controls, EPA concludes that the VOC reductions provided by the State fuel controls are necessary to achieve the 1-hour ozone NAAQS. In today's action, we are proposing to approve the State's 7.8 psi RVP fuel control program into the SIP to replace much of the emission reductions that RFG was designed to achieve. Failure to do so would jeopardize Maine's ability to achieve the 1-hour standard. EPA is not relying upon a finding that the State's

fuel control is necessary under section 211(c)(4)(C) to achieve the 8-hour ozone NAAQS.

Comment 3. OFA contends that Maine (or EPA) did not identify the level of reductions necessary to achieve attainment of the ozone standard in Maine.

Response 3. EPA, and Maine, identified a conservative amount of reductions that were necessary for Maine to achieve the 1-hour ozone standard. Maine had previously established that, as part of the 15 percent rate of progress plan for the Portland area, RFG had been expected to achieve 6.96 tons of VOC reductions per summer day. As pointed out in our earlier rulemaking (64 FR 26308), EPA had also determined that, with the strategies that Maine had implemented, the 1-hour ozone standard had been achieved by the slimmest of margins. In short, the Portland area needed all of the reductions that had been achieved to secure attainment. As discussed in the previous response, this is further evidenced by the fact that Maine subsequently violated the 1-hour standard after opt-out. Even this past summer, 2001, Maine has recorded 1-hour exceedances. As such, in order to preserve clean air, Maine would need to replace emission reductions from any program implemented and relied upon in the 15 percent rate of progress plan. As stated earlier, because RFG is no longer being implemented, those reductions must be replaced.

OFA made the additional point that the emission reductions from RFG were underestimated for two reasons, and that more than 6.96 tons of VOC reductions per summer day would need to be replaced for the Portland area. First, OFA pointed out that the 6.96 tpd estimate represents only the emission reductions required to be achieved in the Portland area (York, Cumberland, and Sagadahoc Counties) from RFG, and that RFG was also sold in four other counties (Androscoggin, Kennebec, Knox and Lincoln counties). Second, OFA explained that RFG in practice actually achieved more emission reductions than required, and that this should be the clean air target.

EPA agrees with OFA that RFG likely provided more than 6.96 tpd of VOC reductions for the Portland area. As explained above, this further stresses the importance and necessity of Maine replacing this control measure even if the State's 7.8 psi RVP fuel control program does not require the same level of reductions that RFG achieved in practice. Nevertheless, EPA intends to continue to work with Maine to ensure that all of the actual emissions reductions achieved by RFG will be replaced to ensure sustained clean air for Maine's citizens.

Comment 4. OFA argues that this low-RVP fuel control strategy was not the only available control measure to bring about timely attainment. OFA contends that RFG was available, and in fact brought about attainment in Maine and that RFG should have been among the measures that EPA evaluated as a measure which could bring about attainment, since it was technically possible to implement, and was reasonable and practicable. OFA also took issue with Maine's argument that other non-fuel measures were not available to achieve the level of reductions necessary because of the lead time needed to implement those additional programs (such as further Stage 2 vapor recovery). OFA argued that Maine had known since at least 1997 that the State was considering opting-out of the RFG program, and that proper planning would have allowed the State to achieve any requisite emission reductions with other non-fuel control measures.

Response 4. We address this comment in two parts. First is to discuss EPA policy requiring that a State's section 211(c) analysis look at only non-fuel measures to secure the emission reductions necessary for attainment, prior to being allowed to adopt or enforce otherwise preempted fuel controls. The second point will discuss, in this instance, whether or not sufficient non-fuel control measures exist which could eliminate the need for the low-RVP fuel control pursuant to section 211(c)(4)(C).

On the first point, section 211(c)(4)(C) provides that EPA can approve an otherwise preempted state fuel control only if there are no other reasonable or practicable measures available to achieve the NAAQS. EPA interprets the reference to other measures that must be evaluated as generally not encompassing other fuels measures. The Agency believes that the Act does not call for a comparison between state fuels measures to determine which measures are unreasonable or impracticable, but rather section 211(c)(4) is intended to ensure that a state resorts to a fuel measure only if there are no available practicable and reasonable non-fuels measures. This interpretation minimizes the burden on the oil industry of different state fuel measures where non-fuel measures are available, and thereby satisfies one of the underlying purposes of section 211(c)(4). But where the state must turn to a fuel measure, it gives the state flexibility to choose whatever particular fuel measure best suits its needs. Under this interpretation, EPA retains the ability not to approve a state fuel measure that is grossly over-burdensome, however, because the state must show that whatever fuel measure it selects is necessary to achieve needed emissions reductions. Thus, in demonstrating that measures other than requiring 7.8 psi RVP gasoline are unreasonable or impracticable, Maine need not address the reasonableness or practicability of other possible state fuel measures, such as RFG. EPA expects that once States determine that fuel controls are necessary, they will work judiciously with suppliers to find a fuel which balances the environmental need, against the cost to industry and consumers. EPA has articulated this principal in earlier rulemaking actions in St. Louis on July 2, 1997 (62 FR 35756), Phoenix on February 10, 1998 (63 FR 6653), and Pittsburg on June 8, 1998 (63 FR 31116).

With respect to OFA's claim that measures would have been available had Maine properly planned for the possibility that RFG opt-out could be occurring, we believe the history is not so plain. Maine clearly had wrestled with RFG through several legislative sessions. However, each year, the State maintained its commitment to the RFG program. It would have been unreasonable to expect the State to adopt control measures based on the possibility of one day opting-out of the RFG program. It would be even more extreme to suggest that Maine should attempt to secure legislative authority to adopt additional controls measures before a decision was made to opt-out of RFG.

On October 13, 1998, Maine made the formal decision that it no longer felt it could continue to participate in the RFG program. From that point forward, though it was clear that the State preferred to adopt a fuel control measure, it had also looked at an extensive list of non-fuel measures, relying in large part upon the State's detailed analysis prepared in the Spring of 1996 in support of its 15 percent rate of progress plan. Part of the reason the State stayed in the RFG program at that time was that no other reasonable alternatives existed. When Maine reanalyzed the availability of further control measures under this 211(c)(4) waiver request, the State again found that no additional non-fuel measures were available that could provide emission reductions in sufficient quantity in an expeditious fashion. EPA has reached that same conclusion in our independent analysis of the situation (see EPA's Technical Support Document). It would not be reasonable

to expect Maine (or any area) to be adopting control measures to replace the reductions from RFG at the same time the State was defending the program. Instead, we reviewed the availability of control measures to secure the needed reductions today.

Comment 5. Maine did not demonstrate that low RVP gasoline standards are necessary to attain a national ambient air quality standard (NAAQS), and maintenance is not a statutory basis for a waiver.

Response 5. EPA believes, as discussed elsewhere in this notice, that the emission reductions from a fuels control program (i.e., RFG, or this low RVP fuel) are necessary for Maine to achieve the 1-hour ozone NAAQS. As stated in response 3, Maine has had recent exceedances of the 1-hour ozone NAAQS, and they clearly need all of the emission reductions they have achieved through this control program. The Portland area remains designated nonattainment for ozone, and these emission reductions are necessary.

F. Why Is EPA Taking This Action?

EPA is proposing to approve a SIP revision at the request of the Maine DEP. This rule has been adopted at the State level since the summer of 1999. However, to ensure that it secures the needed approval under section 211(c)(4)(C) of the Clean Air Act, Maine submitted this action for EPA approval, to make it part of the SIP.

II. Proposed Action

EPA is proposing to approve a SIP revision submitted by the State of Maine on June 7, 2000 and May 29, 2001, establishing a 7.8 psi RVP fuel requirement for gasoline distributed in southern Maine which includes York, Cumberland, Sagadahoc, Kennebec, Androscoggin, Knox, and Lincoln Counties. This revision will propose to approve into the SIP Maine DEP's Chapter 119, entitled "Motor Vehicle Fuel Volatility Limit" as amended on June 1, 2000. Maine has developed these fuel requirements to reduce emissions of volatile organic compounds (VOC) in accordance with the requirements of the Clean Air Act (CAA). EPA is proposing to approve Maine's fuel requirements into the SIP because EPA has found that the requirements are necessary for southern Maine to achieve the national ambient air quality standard for ozone.

III. What Are the Administrative Requirements?

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely proposes to approve a state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule would approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 26, 2001.

Robert W. Varney,

Regional Administrator, EPA—New England.

[FR Doc. 01–30271 Filed 12–5–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

48 CFR Part 235

[DFARS Case 2001–D002]

Defense Federal Acquisition Regulation Supplement; Research and Development Streamlined Contracting Procedures

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to eliminate the requirement for posting of solicitations at the research and development streamlined solicitation website. Instead, each contracting activity will use its own procedures for electronic posting of research and development streamlined solicitations. Contracting activities will continue to make synopses and solicitations available through the Governmentwide point of entry (FedBizOpps).

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before February 4, 2002, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil*. Please cite DFARS Case 2001–D002 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Angelena Moy, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2001–D002.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena Moy, (703) 602–1302.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Subpart 235.70 contains streamlined procedures for acquiring research and development using a standard solicitation and contract format. The standard format is available on the research and development streamlined solicitation (RDSS) website at http://www/rdss.osd.mil. DFARS 235.7003–2 presently requires that each solicitation issued in the standard format be posted at the RDSS website. This proposed rule eliminates the requirement for contracting activities to post their solicitations at the RDSS website, to permit each activity to use its own procedures for electronic posting of solicitations. However, contracting activities will continue to make synopses and solicitations available through the Governmentwide point of entry (FedBizOpps) in accordance with FAR 5.102 and 5.203.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et *seq.*, because the rule does not significantly change solicitation procedures or limit public access to solicitation information. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2001–D002.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 235

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR part 235 as follows:

1. The authority citation for 48 CFR part 235 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

2. Section 235.7003–2 is revised to read as follows:

235.7003–2 RDSS process.

(a) *Synopsis.* The synopsis required by FAR 5.203 must include—

(1) The information required by FAR 5.207; and

(2) A statement that the solicitation will be issued in the research and development streamlined solicitation format shown at the RDSS/C website.

(b) *Solicitation.*

(1) The solicitation, to be made available consistent with the requirements of FAR 5.102—

(i) Must be in the format shown at the RDSS/C website;

(ii) Must include the applicable version number of the RDSS standard format; and

(iii) Must incorporate by reference the appropriate terms and conditions of the RDSS standard format.

(2) To encourage preparation of better cost proposals, consider allowing a delay between the due dates for technical and cost proposals.

[FR Doc. 01–30261 Filed 12–5–01; 8:45 am]

BILLING CODE 5000–04–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 17 and 21

RIN 1018–AH87

Migratory Bird Permits; Regulations Governing Rehabilitation Activities and Permit Exceptions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would create a permit category to specifically authorize rehabilitation activities involving migratory birds. Migratory bird rehabilitation is the practice of caring for sick, injured, or orphaned migratory birds with the goal of releasing them back to the wild. Currently, in the absence of a permit specifically for this purpose, migratory bird rehabilitation activities are authorized by issuance of a special purpose permit under 50 CFR 21.27. In addition, this proposed regulation would create a permit exception for public officials responsible for tracking infectious diseases.

DATES: You should submit written comments by March 6, 2002, to the address below.

ADDRESSES: You may mail or deliver written comments to the Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 634, Arlington, Virginia 22203–1610. Please reference "RIN 1018–AH87" at the top of your letter. Alternatively, you may submit your comments via the Internet to: *migbird_rehab@fws.gov*. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your e-mail message. If you do not receive a confirmation that we have received your message, contact us directly at 703/358–1714.

The complete file for this proposed rule is available for inspection, by appointment, during normal business hours at the Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 634, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Jon Andrew, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service; 703 / 358–1714.

SUPPLEMENTARY INFORMATION:

Background

The Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*) prohibits possession

of any bird protected by treaties between the U.S. and Canada, Mexico, Japan, and Russia. Birds covered by the Act are referred to as "migratory birds." Presently, if you wish to provide treatment to sick, injured, or orphaned migratory birds, you must obtain a special purpose permit from the U.S. Fish and Wildlife Service under 50 CFR 21.27. The special purpose permit category is used to authorize activities not specifically covered by other existing types of permits. In order to more effectively promote rehabilitation and conservation of migratory birds, and to facilitate the activities of rehabilitators nationwide by providing them with a reliable, consistent regulatory framework, we are proposing this rule to create a new permit category specifically authorizing rehabilitation of migratory birds.

Currently, approximately 2,500 special purpose permits for migratory bird rehabilitation purposes are active nationwide, representing almost half the approximately 5,500 currently active special purpose permits. Because the special purpose permit can cover numerous types of activities, the framework for issuing these permits is necessarily broad and general. The Service has addressed this generality by issuing standard conditions with which holders of special purpose permits for rehabilitation must conform. This proposed rehabilitation permit regulation largely incorporates—and expands upon—those existing standard conditions.

The impetus behind creating a rehabilitation permit category is threefold: to codify permit conditions through the public rulemaking process; to clarify what is expected from migratory bird rehabilitators by providing more specificity and detail to permit requirements; and to bring greater consistency nationwide to the regulation of migratory bird rehabilitation.

This proposed rule addresses rehabilitation of threatened and endangered migratory bird species, and amends 50 CFR 17 (Endangered and Threatened Wildlife), to exempt persons who obtain a rehabilitation permit from having to obtain a permit under part 17. The rule was written with the premise that migratory bird rehabilitators should not be required to obtain two separate permits when there is always some possibility that they may be presented with a sick or injured, endangered or threatened migratory bird species. Accordingly, the rule contains numerous provisions addressing rehabilitation of threatened and endangered migratory bird species, including additional requirements to notify and coordinate with the Service. Some rehabilitators may not be authorized to care for threatened and endangered species. Individual permits may be further conditioned at the time of issuance to specify which categories of migratory bird species the permittee is authorized to rehabilitate.

The proposed rule also provides an exemption to the permit requirements of 50 CFR part 17 and 50 CFR part 21 for vets who treat listed migratory bird species, under certain conditions.

In conjunction with an ongoing review of all U.S. Fish and Wildlife Service permit fee schedules, the Division of Migratory Bird Management is reviewing and revising migratory bird permit application processing fees. Currently, applicants for Special Purpose—Rehabilitation permits do not pay a processing fee. This proposed rule would require rehabilitation permit applicants to pay the permit application fee listed in 50 CFR 13.11.

Permit Exception for Authorities Tracking Infectious Disease

This proposed rule also adds a new permit exception to § 21.12 to allow wildlife managers and public health officials responsible for monitoring West Nile virus and other health threats to collect, possess, transport, and dispose of sick or dead migratory birds or their parts for analysis to confirm the presence or absence of infectious disease. It would also cover authorities dealing with avian diseases caused by natural toxins, such as botulism. The exception does not apply to healthy birds, or where circumstances indicate that the death, injury, or disability of a bird was caused by factors other than infectious disease. This permit exception will facilitate timely response to public health concerns and outbreaks of avian infectious disease.

Endangered Species Act Consideration

Section 7(a)(2) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531, *et seq.*), requires all Federal agencies to "insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of [critical] habitat." This proposed rule is currently being reviewed pursuant to section 7 of the ESA. Section 7 consultation on this rule will be concluded before this rule is finalized. Individual decisions to issue rehabilitation permits to cover species that are listed as endangered or threatened will require consultation pursuant to section 7 of the ESA.

Required Determinations

Responsibilities of Federal Agencies To Protect Migratory Birds (Executive Order 13186)

This rule has been evaluated for impacts to migratory birds, with emphasis on species of management concern, and is in accordance with the guidance in E.O. 13186.

Regulatory Planning and Review (Executive Order 12866)

In accordance with the criteria in Executive Order 12866, this rule is not a significant regulatory action. OMB has made this final determination of significance under E.O. 12866.

a. This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required.

b. This rule will not create serious inconsistencies or otherwise interfere with other agencies' actions. The Fish and Wildlife Service is the only Federal agency responsible for enforcing the Migratory Bird Treaty Act.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This rule does not have anything to do with the aforementioned programs.

d. This rule does not raise novel legal or policy issues. Rehabilitation activities for migratory birds currently operate under a different permit than that proposed in this rule.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must either certify that the rule will not have a significant economic impact on a substantial number of small entities (i.e., small business, small organizations, and small governmental jurisdictions), or prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities.

We have examined this proposed rule's potential effects on small entities as required by the Regulatory Flexibility Act. This proposed rule requires applicants for migratory bird

rehabilitation permits to pay the fee listed in the Service permit application fee schedule at 50 CFR 13.11. Currently, the Service waives fees for rehabilitation permit applicants, although the fee schedule is being revised as part of a separate proposed rule revising part 13. We will consider and address the economic effects of proposed fee revisions as part of that rulemaking. Because permit application fees will be addressed in another proposed rule, we certify that this action will not have a significant economic impact on a substantial number of small entities. A final Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*):

a. This rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. We have determined and certified pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

b. This rule will not produce a Federal mandate of $100 million or greater in any year, i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. A takings implication assessment is not required.

Federalism

In accordance with Executive Order 13132, and based on the discussions in Regulatory Planning and Review above, this rule does not have significant Federalism effects. A Federalism assessment is not required. Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. This rule does not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The Department of the Interior has certified to the Office of Management and Budget that this rule meets the applicable standards provided in Sections 3(a) and 3(b)(2) of E.O. 12988.

Paperwork Reduction Act

This proposed rule does not contain new or revised information collection for which Office of Management and Budget approval is required under the Paperwork Reduction Act. Information collection associated with migratory bird permit programs is covered by an existing OMB approval, No. 1018–0022. The Service may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

National Environmental Policy Act

We have determined that this rule is categorically excluded under the Department's NEPA procedures in 516 DM 2, Appendix 1.10.

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), E.O. 13175, and 512 DM 2, this rule will have no effect on federally recognized Indian tribes.

Clarity of Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Send a copy of any written comments about how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW., Washington, DC 20240. You also may e-mail comments to: *Exsec@ios.doi.gov*.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. You may call 703/358–2329 to make an appointment to view the files. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. Under limited circumstances, as allowable by law, we can withhold from the rulemaking record a respondent's identity. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representing an organization or business, available for public inspection in their entirety.

List of Subjects

50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife, Birds, Migratory birds.

For the reasons set forth in this preamble, the U.S. Fish and Wildlife Service proposes to amend Title 50, Chapter I, Subchapter B of the CFR as follows:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.21 by adding paragraphs (c)(6), (c)(7), (d)(3), and (d)(4) to read as follows:

§ 17.21 Prohibitions.

* * * * *

(c) * * *

(6) Notwithstanding paragraph (c)(1) of this section, any person acting under a valid migratory bird rehabilitation permit issued pursuant to § 21.31 of this subchapter may take endangered migratory birds without an endangered

species permit if such action is necessary to aid a sick, injured, or orphaned specimen, provided the permittee:

(i) Notifies the issuing Migratory Bird Permit Program Office immediately upon receipt of such bird (contact information can be obtained from the Internet at *http://offices.fws.gov*), and

(ii) Disposes of or transfers such birds, or their parts or feathers, as directed by the Migratory Bird Permit Program Office.

(7) Notwithstanding paragraph (c)(1) of this section, persons exempt from the permit requirements of part 21 under paragraphs 21.12(c) and (d) may take endangered migratory birds without an endangered species permit in performing the activities authorized under paragraphs 21.12(c) and (d).

(d) * * *

(3) Notwithstanding paragraph (d)(1) of this section, any person acting under a valid migratory bird rehabilitation permit issued pursuant to § 21.31 of this subchapter may possess and transport endangered migratory birds without an endangered species permit when such action is necessary to aid a sick, injured, or orphaned specimen, provided the permittee:

(i) Notifies the issuing Migratory Bird Permit Program Office immediately upon receipt of such bird (contact information can be obtained from the Internet at *http://offices.fws.gov*), and

(ii) Disposes of or transfers such birds, or their parts or feathers, as directed by the Migratory Bird Permit Program Office.

(4) Notwithstanding paragraph (d)(1) of this section, persons exempt from the permit requirements of part 21 under paragraphs 21.12(c) and (d) may possess and transport endangered migratory bird species without an endangered species permit in performing the activities authorized under paragraphs 21.12(c) and (d) .

* * * * *

PART 21—MIGRATORY BIRD PERMITS

3. The authority citation for part 21 continues to read as follows:

Authority: Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)); Pub. L. 106–108.

4. Amend § 21.2 by revising paragraph (b) to read as follows:

§ 21.2 Scope of regulations.

* * * * *

(b) This part, except for § 21.22 (banding and marking), § 21.29 (falconry), and § 21.31 (rehabilitation), does not apply to the bald eagle (*Haliaeetus leucocephalus*) or the golden eagle (*Aquila chrysaetos*), for which regulations are provided in part 22 of this subchapter.

* * * * *

5. Amend § 21.12 by adding new paragraphs (c) and (d) to read as follows:

§ 21.12 General exceptions to permit requirements.

* * * * *

(c) Employees of Federal, State, and local wildlife agencies; employees of Federal, State, and local public health agencies; and laboratories under contract to such agencies may in the course of official business collect, possess, transport, and dispose of sick or dead migratory birds or their parts for analysis to confirm the presence of infectious disease. Nothing in this section authorizes the take of uninjured or healthy birds without prior authorization from the Service. Additionally, nothing in this section authorizes the taking, collection, or possession of migratory birds when circumstances indicate reasonable probability that death, injury, or disability was caused by factors other than infectious disease and/or natural toxins. These factors may include, but are not limited to, oil or chemical contamination, electrocution, shooting, or pesticides. If the cause of death of a bird is determined to be other than natural causes or disease, Service law enforcement officials must be contacted without delay.

(d) Licensed veterinarians are not required to obtain a Federal migratory bird permit to temporarily possess, stabilize or euthanize sick and injured migratory birds. However, veterinarians must transfer any such bird to a permitted rehabilitator as soon as is practicable following necessary treatment, unless the bird is euthanized. Veterinarians must notify the local Service Ecological Services Office immediately upon receiving a threatened or endangered migratory bird species. Contact information for Ecological Services offices can be located on the Internet at *http://offices.fws.gov*. Veterinarians must administer euthanasia in accordance with § 21.31(e)(3)(ii). Disposition of dead migratory birds must be in accordance with § 21.31(e)(3)(iv). Veterinarians must comply with the recordkeeping requirements in § 21.31(e)(5).

6. Amend part 21, subpart C, by adding a new § 21.31 to read as follows:

§ 21.31 Rehabilitation permits.

(a) *What is the permit requirement?* Except as provided in § 21.12, a rehabilitation permit is required to take, temporarily possess, or transport any migratory bird for rehabilitation purposes. However, any person who finds a sick, injured, or orphaned migratory bird may, without a permit, take possession of the bird in order to immediately transport it to a permitted rehabilitator.

(b) *What are the general permit provisions?*

(1) The permit authorizes you to:

(i) Take from the wild or receive from another person sick, injured, or orphaned migratory birds, and to possess them and provide medical care for them for up to 180 days;

(ii) Transport the birds to a suitable habitat for release, to another permitted rehabilitator's facilities, or to a veterinarian;

(iii) Conduct euthanization and/or necropsy (for threatened or endangered species, euthanization and necropsy require prior approval from your Regional Migratory Bird Permit Program Office);

(iv) Transfer or dispose of migratory birds; and

(v) Receive, possess for up to 24 hours, stabilize, and transfer types of migratory bird species not authorized by your permit, in cases of emergency.

(2) The permit does not authorize the use of migratory birds for educational purposes. Birds may not be displayed to the public unless you use video equipment or barriers that prevent the birds from both hearing and seeing the public. You may not use any equipment for this purpose that causes stress or harm, or impedes the rehabilitation of any bird.

(c) *How do I apply for a migratory bird rehabilitation permit?* You must submit your application to the appropriate Regional Director—Attention Migratory Bird Permit Program Office. You can find addresses for the appropriate Regional Directors in § 2.2 of subchapter A of this chapter. Your application must contain the information required under § 13.12(a) of this chapter, and the following information:

(1) A description of your experience and training in maintaining and rehabilitating migratory birds. Include a list of the species with which you have worked, noting any threatened and endangered species; the types of injuries you have treated; and the treatments provided.

(2) A list of types of species you intend to rehabilitate (e.g., passerines, raptors, etc.).

(3) A description of your rehabilitation facilities. Attach photographs and diagrams of your enclosures. Diagrams must include dimensions and a description of interior

and exterior construction materials, such as flooring and caging materials. Indicate the species or type of species to be housed in each.

(4) A letter of recommendation from a permitted rehabilitator who is familiar with your training and experience, including experience with threatened and endangered species. Also provide a letter from a permitted rehabilitator stating his or her willingness to provide you with assistance. If these are the same individual, a single letter will suffice.

(5) A letter from a licensed veterinarian acknowledging agreement to work with you by providing any necessary veterinary assistance. Any first-hand knowledge of your training or qualifications for rehabilitating migratory birds should be addressed in the letter.

(6) The names of persons (subpermittees) who will be assisting you, including anyone who will be regularly transporting birds to or from your facility. Anyone who will be performing permitted activities in your absence must be at least 18 years of age and listed on your permit as a subpermittee. You must include a description of the qualifications of anyone who will be performing permitted activities in your absence, including any experience with threatened or endangered species. If a subpermittee will be authorized to rehabilitate migratory birds at a site other than your facility, you need to provide the following information: name, address, date of birth, description of the individual's expertise in working with the type of species to be cared for, the type of care to be provided, and photographs and/or diagrams of the individual's facilities.

(7) A copy of your State rehabilitation permit or license, if one is required in your State.

(8) A check or money order made payable to the "U.S. Fish and Wildlife Service" in the amount of the application fee for permits issued under this section listed in § 13.11 of this chapter.

(d) *What criteria will the Service consider before issuing a permit?* (1) Upon receiving an application completed in accordance with paragraph (b) of this section, the Regional Director will decide whether to issue you a permit based on the general criteria of § 13.21 of this chapter, and the following factors:

(i) Whether you are at least 18 years of age with adequate experience rehabilitating migratory birds.

(ii) Whether your facilities are adequate to properly care for the type(s) of species of migratory birds for which you seek authorization to rehabilitate.

(iii) Whether you have an agreement with a qualified veterinarian to provide medical care for the birds you intend to rehabilitate.

(iv) Whether a State permit or license is required, and if so, whether you have the required permit or license.

(2) In issuing a permit, the Regional Director may place restrictions on the types of migratory bird species you are authorized to rehabilitate, based on your experience and facilities, as well as the specific requirements, traits, and conservation status of particular species.

(e) *What are the standard conditions for this permit?* In addition to the general permit conditions set forth in part 13 of this chapter, rehabilitation permits are subject to the following conditions:

(1) *Facilities.* To conduct the activities authorized by a rehabilitation permit, you must have appropriate facilities or a working relationship with a person or organization with such facilities. All facilities must be approved and identified on the face of your permit. In evaluating whether facilities are adequate, the Service will use as a guideline the current standards developed by the National Wildlife Rehabilitation Association and the International Wildlife Rehabilitation Council (Minimum Standards for Wildlife Rehabilitation).[1] The Regional Migratory Bird Permit Program Office may authorize variation from the standards where it is reasonable and necessary to accommodate a particular rehabilitator's circumstances. However, except as provided by paragraph (f)(2)(i) of this section, all facilities must adhere to the following criteria:

(i) Rehabilitation facilities for migratory birds must be secure and provide protection from predators, domestic animals, undue noise and human disturbance, sun, wind, and inclement weather.

(ii) Caging must be made of a material that will not entangle or cause injury to the type of birds that will be housed within.

(iii) Facilities must be large enough to allow easy access for caring for the species of bird housed in the facility and to allow each bird to fully extend its wings.

(iv) The floor must be well-drained and kept clean.

(v) You must provide adequate perches for birds under your care.

(vi) Birds must be housed only with compatible migratory bird species.

(2) *Subpermittees.* Except as provided by paragraphs (e)(2)(ii) and (f)(2)(ii) of this section, anyone who will be assisting you by performing permitted activities in your absence must either possess his or her own Federal rehabilitation permit or be authorized as a subpermittee on your permit. Subpermittees must be at least 18 years of age and possess sufficient experience to tend the species in their care. As the primary permittee, you are directly responsible for the actions of any subpermittees acting under your permit.

(i) Subpermittees authorized to care for migratory birds at a site other than your facility must have facilities adequate to house the species in their care. All such facilities must be approved and identified on the face of your permit.

(ii) Any individual who transports birds to or from your facility on a regular basis must either have his or her own permit, be listed on your permit as a subpermittee, or be named in a letter from you to your issuing Migratory Bird Permit Program Office.

(3) *Disposition of birds under your care.* You may not retain migratory birds longer than 180 days without additional authorization from your Regional Migratory Bird Permit Office. Every precaution must be taken to avoid imprinting or habituating birds in your care to humans, and all imprinted birds must be transferred to the Service or a designee of the Service.

(i) You must release all recuperated birds to the wild in an appropriate season and habitat for the species, preferably near the point where the bird was taken from the wild. If the appropriate season for release is outside the 180-day timeframe, you must seek authorization from the Service to hold the bird until the appropriate season. For most species, you should work with local and State wildlife agencies to identify appropriate release sites. Before releasing a threatened or endangered migratory bird, you must coordinate with the nearest U.S. Fish and Wildlife Service Ecological Services Office. You can obtain contact information for this office from your issuing Migratory Bird Permit Program Office or from the Internet at *http://offices.fws.gov.*

(ii) Any bird that has sustained injuries requiring amputation of a leg, a foot, or a wing at the elbow (humero-ulnar joint) or above must be euthanized. You must euthanize any bird that, after medical treatment, is blind, cannot feed itself, perch upright,

[1] Copies may by obtained by contacting either the National Wildlife Rehabilitators Association: 14 North 7th Avenue, St. Cloud MN 56303–4766, or the International Wildlife Rehabilitation Council: 4437 Central Place, Suite B–4, Suisun, CA 94585–1633.

or ambulate without inflicting additional injuries to itself. You are required to obtain authorization from your issuing Migratory Bird Permit Program Office before euthanizing endangered and threatened migratory bird species. In some cases, the Service may designate a disposition other than euthanization for those birds. If Service personnel are not available, you may euthanize endangered and threatened migratory birds without Service authorization where prompt euthanization is warranted by humane consideration for the welfare of the bird.

(iii) Unreleasable live birds that are suitable for use in educational programs, foster parenting, research projects, or other permitted activities may be placed with persons permitted or otherwise authorized to possess migratory birds, with prior approval from your issuing Migratory Bird Permit Program Office.

(iv) You may donate dead birds and parts thereof, except threatened and endangered species and bald and golden eagles, to persons authorized by permit to possess migratory bird specimens or exempted from permit requirements under § 21.12.

(A) You must send all dead bald and golden eagles, and their parts and feathers, to: National Eagle Repository, Building 128, Rocky Mountain Arsenal, Commerce City, Colorado 80022.

(B) You must obtain approval from your issuing Migratory Bird Permit Program Office before disposing of or transferring any dead endangered or threatened migratory bird specimen, parts, or feathers.

(C) Unless specifically required to do otherwise by the Service, you must destroy all other dead specimens by burial or incineration.

(v) With authorization from your issuing Migratory Bird Permit Program Office, you may hold a non-releasable bird longer than 180 days for the purpose of fostering juveniles during their rehabilitation. You may also use birds you possess under an educational permit to foster juveniles.

(vi) You may possess no more than a reasonable number of feathers for the repair of damaged feathers of birds in your care.

(vii) You may draw blood and take other medical samples from the birds under your care for purposes of diagnosis and recovery of the individual bird, or for transfer to authorized facilities conducting research pertaining to a contagious disease or other public health hazard (e.g., West Nile virus).

(viii) All birds held under this permit remain under the stewardship of the U.S. Fish and Wildlife Service and may be recalled at any time.

(4) *Notification to the U.S. Fish and Wildlife Service.* (i) When you acquire a threatened or endangered migratory bird species, or bald or golden eagle, whether live or dead, you are required to immediately notify your issuing Migratory Bird Permit Program Office.

(ii) You must immediately notify the local U.S. Fish and Wildlife Service Law Enforcement Office, and within 48 hours your issuing Migratory Bird Permit Program Office, if you have reason to believe a bird has been poisoned, electrocuted, shot, or otherwise subject to criminal activity. Contact information for local Service Law Enforcement offices can be located on the Internet at *http://offices.fws.gov*.

(iii) If the sickness, injury, or death of any bird is due or likely due to avian virus, or other contagious disease or public health hazard, you should notify your issuing Migratory Bird Program Office within 48 hours.

(5) *Recordkeeping.* You must maintain complete and accurate records of all migratory birds that you receive, including for each bird the date received, type of injury or illness, disposition, and date of disposition. You must retain these records for five (5) years following the end of the calendar year covered by the records.

(6) *Annual report.* You must submit a completed Form 3–202–4 by January 31 of each year for the preceding year to your issuing Migratory Bird Permit Program Office.

(7) Additional conditions may be stipulated on the face of the permit at the discretion of the Regional Director.

(8) The permittee assumes responsibility for damage or injury to any person or property occasioned through the possession or handling of migratory birds, and the U.S. Government shall be indemnified against claims for damage or injury in such cases.

(f) *How does this permit apply to oil and hazardous waste spills?* Prior to entering the location of an oil or hazardous material spill, you must notify the U.S. Fish and Wildlife Service Field Response Coordinator or other designated Service representative and obtain permission from the On-Scene Coordinator. All activities within the location of the spill are subject to the authority of the On-Scene Coordinator. The U.S. Fish and Wildlife Service is responsible for the disposition of all migratory birds, dead or alive.

(1) Permit provisions in oil or hazardous material spills.

(i) In addition to the rehabilitation permit provisions set forth in paragraph (b) of this section, when under the authority of the designated U.S. Fish and Wildlife Service representative, this permit further authorizes you to temporarily possess healthy, unaffected birds for the purpose of removing them from imminent danger.

(ii) This permit does not authorize salvage of dead migratory birds. When dead migratory birds are discovered, a Service law enforcement officer must be notified immediately in order to coordinate the handling and collection of evidence. Contact information for local Service Law Enforcement Offices can be located on the Internet at http://offices.fws.gov. The designated Service representative will have direct control and responsibility over all live migratory birds, and will coordinate the collection, storage, and handling of any dead migratory birds with the Service's Division of Law Enforcement.

(iii) You must notify your issuing Migratory Bird Permit Program Office of any migratory birds in your possession within 24 hours of removing such birds from the area.

(2) Conditions specific to oil and hazardous waste spills.

(i) *Facilities.* Facilities used at the scene of oil or hazardous waste spills may be temporary, mobile, and in some circumstances, provide less space and protection from noise and disturbance than facilities authorized under paragraph (e)(1)(i) of this section. Such facilities should conform as closely as possible with the facility specifications contained in the Service policy, Best Practices for Migratory Bird Care During Oil Spill Response.

(ii) *Subpermittees.* In cases of oil and hazardous waste spills, persons who assist with cleaning or treating migratory birds at the on-scene facility will not be required to have a rehabilitation permit or be a subpermittee; however, volunteers must be trained in rescue protocol for migratory birds affected by oil and hazardous waste spills. A permit (or subpermittee designation) is required to perform extended rehabilitation of such birds, after initial cleaning and treating, at a subsequent location.

(g) *Will I also need a permit from the State in which I live?* Nothing in this section prevents a State from making and enforcing laws or regulations consistent with this section that are more restrictive or give further protection to migratory birds. If your State requires a license or permit to rehabilitate migratory birds, you must obtain that license or permit and adhere

to its requirements, in addition to the terms of your Federal permit.

(h) *How long is a migratory bird rehabilitation permit valid?* Your rehabilitation permit will expire on the date designated on the face of the permit unless amended or revoked. No rehabilitation permit will have a term exceeding five (5) years.

Dated: November 13, 2001.

Joseph E. Doddridge,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–30297 Filed 12–5–01; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 66, No. 235
Thursday, December 6, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–013–3]

Protection of Sunflowers From Red-Winged Blackbird Damage in North Dakota and South Dakota; Request for Public Involvement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability of scoping document.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service's Wildlife Services program has developed a scoping document for an environmental impact statement being prepared to analyze the potential environmental effects of reducing blackbird damage to ripening sunflowers in North Dakota and South Dakota. This scoping document addresses the comments received and issues raised in response to our March 2001 and May 2001 notices on this subject. The information received in response to this notice, as well as the information received previously, will be considered during development of an environmental impact statement prepared in accordance with the National Environmental Policy Act.

DATES: We invite you to comment on the scoping document. We will consider all comments we receive that are postmarked, delivered, or e-mailed by January 7, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–013–3, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–013–3. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01–013–3" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Mastrangelo, State Director, Wildlife Services, APHIS, USDA, 2110 Miriam Circle, Suite A, Bismarck, ND 58501–2502; phone (701) 250–4405.

SUPPLEMENTARY INFORMATION: Wildlife Services (WS) of the Animal and Plant Health Inspection Service (APHIS) provides technical and operational assistance to entities who request assistance to reduce damage caused by wildlife, in this case to sunflower producers. WS loans damage abatement equipment (e.g., propane cannons, pyrotechnics), conducts training workshops, provides informational leaflets on damage management and sources of damage abatement tools, and, in the case of blackbird damage to sunflowers, conducts roost management programs to disperse blackbirds from sunflower production areas.

In 2000, approximately 81 percent of the sunflower production in the United States occurred in North Dakota and South Dakota. In North Dakota, the acreage of sunflower increased from 12,500 acres in 1962 to 1.3 million acres in 2000, with a commercial value of $125 million. In South Dakota, sunflower acreage increased from 132,000 acres in 1977 to 719,000 acres in 2000, with a commercial value of $63 million. However, increased production of sunflowers has been hampered by damage associated with blackbirds feeding on the ripening crop.

Damage surveys conducted in sunflower production areas in North Dakota and South Dakota indicate that overall loss is generally 1 to 2 percent of the crop. If all producers received less than 2 percent damage, there would be little concern for damage caused by blackbirds. However, damage is not equally distributed, can be severe for some producers, and is fairly consistent from year-to-year within a locality. Research has been conducted throughout the northern Great Plains to estimate the amount of damage birds have caused to ripening sunflower crops. Historically, sunflower damage surveys have estimated blackbird damage to range from $4–7 million annually in North Dakota and South Dakota.

Sunflower growers and Government agencies have used both lethal and nonlethal techniques to reduce red-winged blackbird damage to ripening sunflowers. The goal of nonlethal methods is to decrease the availability or attractiveness of the crop to blackbirds or to disperse the birds so that damage is not concentrated in any given area. Examples of nonlethal methods include altering farming practices, using audio and visual frightening devices, growing bird-resistant sunflowers, increasing weed control in fields, and growing decoy crops. Additionally, research has shown that opening dense cattail stands, which are traditional roost sites for blackbirds, aids in dispersing blackbirds from nearby sunflower crops. To date, nonlethal blackbird damage management initiatives have been somewhat effective in reducing blackbird damage to unharvested sunflowers, but have not alleviated the problem for all sunflower growers.

Scoping Document

The scoping document made available by this notice explains why WS is preparing an environmental impact statement (EIS) to analyze the potential environmental effects of reducing blackbird damage to ripening sunflowers in North Dakota and South Dakota. This scoping document describes and defines the blackbird damage problem to sunflower crops grown in North Dakota and South Dakota. The goal of the WS blackbird

damage management program—to reduce the level of blackbird damage to sunflower crops in North Dakota and South Dakota to no more than 5 percent in individual sunflower fields—is also explained.

Included in the scoping document is a summary of the WS role in managing blackbird damage. This includes past research efforts by WS' National Wildlife Research Center (NWRC), an overview of proposed future research, and a summary of WS operational programs. Information regarding State and academic programs, and the efforts of sunflower producers for reducing blackbird damage, is also provided. The scoping document details the Federal and State laws that are applicable to the reduction of blackbird damage.

Based on WS' experience and comments received in response to our previous notices on the subject, which were published in the **Federal Register** on March 22, 2001 (66 FR 16028–16031, Docket No. 01–013–1), and May 21, 2001 (66 FR 27933–27934, Docket No. 01–013–2), WS proposes to analyze three alternatives for detailed evaluation in the EIS:

(1) *Continue the Current Operational Wildlife Services Program of Technical Assistance and Cattail Management in North Dakota and South Dakota, and Associated Research (No Action Alternative).* Under this alternative, WS' professional wildlife biologists would continue to respond to requests for assistance with blackbird damage to sunflower crops, using all the lethal and non-lethal techniques currently available. WS would continue to provide technical assistance to sunflower producers. The cattail management program would continue at its current level (70 percent maximum treatment per wetland, up to 6,000 acres annually). Current and future NWRC research activities regarding blackbird damage management to sunflower crops and associated blackbird biology would continue.

(2) *Integrated Adaptive Management Program.* Under this alternative, WS' professional wildlife biologists would continue to use, as appropriate, all available damage management techniques for reducing blackbird damage to sunflower crops. This could include chemical repellents and frightening devices. WS would continue to provide technical assistance to sunflower producers.

Cattail management would continue under this alternative. However, treatment of cattail wetlands would increase to 8,000 acres annually from the current level of 6,000 acres.

The WS operational program could also include spring baiting using the avian toxicant DRC–1339. Spring baiting with DRC–1339-treated rice could be conducted for 5 years beginning at the end of March and continuing through the third week of April each year. Up to 25 bait plots of 2 acres each would be treated in east-central South Dakota (possible counties include Brookings, Clark, Codington, Deuel, Hamlin, Kingsbury, Lake, Miner, and Moody Counties). Bait plots would be established near blackbird staging areas in harvested grain fields. Spring baiting is intended to reduce the population of red-winged blackbirds by up to 2 million each year to reduce fall damage to sunflowers. North Dakota State University researchers determined likely blackbird baiting sites based on studies of habitat preferences of spring migratory blackbirds.

Under this alternative, extensive program monitoring would be conducted by WS personnel, in cooperation with the NWRC and North Dakota State University, to determine the effectiveness of DRC–1339 spring baiting and cattail management to reduce sunflower damage. WS biologists would also evaluate and monitor the effects on populations of blackbirds and non-target species. Monitoring would include blackbird population surveys, sunflower damage assessments, and the study of habitat variables, migration timing and patterns, and related climate variations within selected plots in sunflower production areas. If monitoring results indicate that spring baiting does not reduce sunflower damage, the spring baiting program would be terminated.

(3) *Implement State, Private, and Sunflower Producer Damage Management Actions, with no Wildlife Services Programs.* Under this alternative, WS would not participate in or implement any wildlife damage assessments or programs for reducing blackbird damage to sunflower crops in North Dakota and South Dakota. No technical assistance, research, lethal/non-lethal programs, cattail management, or any other related actions would be provided by WS. Certain functions of the present WS program would most likely be conducted by individual sunflower producers. All requests made to WS for sunflower crop protection would be referred to the North Dakota and South Dakota Departments of Agriculture, other Federal or State agencies, private businesses, or organizations, as appropriate.

The scoping document explains why five suggested alternatives will not be evaluated in detail in the EIS. These include: (1) Create and implement crop damage insurance against blackbird depredation; (2) financial compensation for economic losses to sunflower crops caused by blackbirds; (3) eradicate blackbirds; (4) reintroduce cougars, coyotes, wolves, bobcats, and other predator species to reduce populations of depredating blackbirds in North Dakota and South Dakota; and (5) physical exclusion of blackbirds from sunflower fields with netting or other material.

The scoping document identifies issues proposed for detailed analysis in the EIS. These include: (1) The cumulative impact on populations of target blackbird and non-target species of plants and wildlife, including Federally and State-protected species, from the use of DRC–1339 and glyphosate; (2) effects on biodiversity, including effects of glyphosate on terrestrial and wetland biodiversity, effects on terrestrial biodiversity from reducing populations of blackbirds, including impacts on insect populations, and effects on terrestrial biodiversity from reducing populations of terrestrial non-target plants and animals; (3) degree of humaneness of lethal methods for reducing blackbird populations; (4) cost-effectiveness of Federal actions for reducing economic impacts of blackbird depredation on sunflower crops; (5) potential for and impacts of exotic and nuisance plant species to invade wetlands after treatment with glyphosate; and (6) impacts of non-herbicidal components of glyphosate, such as surfactants, on insect populations.

The scoping document may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT.** We ask you to please read the scoping document and let us know, at a minimum:

- What are your concerns regarding the current program and the proposed changes (issues)?
- What are your concerns regarding environmental impacts that you want us to study in the EIS (issues)?
- How does this program affect you and how do you feel about protecting sunflowers from blackbird damage?
- What other ways of reducing damage to sunflower crops in North Dakota and South Dakota (alternatives) do you want us to consider?
- What ways of reducing environmental impacts (mitigation measures) do you want us to consider?
- What way would you prefer that we reduce blackbird damage to sunflower crops (preferred alternative)?

• What methods would you like us to use to evaluate environmental impacts?

Preparation of the EIS

Following completion of the scoping process, we will prepare a draft EIS for the program to protect sunflowers from blackbird damage. A notice announcing that the draft EIS is available for review will then be published in the **Federal Register**. The notice will also request comments concerning the draft EIS.

Done in Washington, DC, this 30th day of November, 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30258 Filed 12–5–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Forest Service

USDA Forest Service and State of Florida Land Exchange, National Forests in Florida, Baker, Citrus, Franklin, Hernando, Lake, Liberty, Okaloosa, Osceola, Pasco, Santa Rosa, and Sumter Counties, FL

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed land exchange between the State of Florida and the Forest Service in Baker, Citrus, Franklin, Hernando, Lake, Liberty, Okaloosa, Osceola, Pasco, Santa Rosa, and Sumter counties, Florida. The Forest Service invites written comments and suggestions on the scope of the environmental analysis for the EIS from Federal, State, and local agencies, federally recognized Tribes, and other individuals or organizations that may be interested in or affected by the proposed action.

DATES: Comments should be submitted by January 18, 2002 at the address listed below. A draft EIS is expected to be completed in July 2002. The final EIS is scheduled to be completed in October 2002.

ADDRESSES: To ensure that the full range of issued related to the proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. You may request to be placed on the project mailing list or you may direct questions, comments and suggestions to Mr. Gary Hegg, NEPA Coordinator, Apalachicola National Forest, 57 Taff Drive, Crawfordville, Florida 32327, telephone (850) 926–3561.

FOR FURTHER INFORMATION CONTACT: Mrs. Chris Zajicek, Lands Program Manager, USDA Forest Service, 325 John Knox Road Suite F–100, Tallahassee, Florida 32303, telephone (850) 942–9328.

SUPPLEMENTARY INFORMATION: The Forest Service is proposing a value for value exchange of federal land and mineral rights for state lands. The federal lands are from three locations, the Choctawhatchee (357±acres), Apalachicola (4,053±acres), and the Ocala National Forests (237±acres). The federal mineral rights are from two locations, lands under the Blackwater (182,300±acres) and Withlacoochee State Forests (114,000±acres). The Lands that the State would exchange are in two locations, Pinhook Swamp (33,700±acres) and Seminole State Forest Lands (214±acres). Newsletters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to organizations and citizens who express interest in this proposal. Preliminary issues include the different levels of protection between state and federal ownership regarding cultural resources and Tribal consultation rights and protection provided for Proposed, Endangered, Threatened and Sensitive (PETS) species. Possible other alternatives under consideration include: Taking no action, purchasing the land to be acquired, an alternative that does not include the Tate's Hell Tract, and an alternative where only the mineral rights are exchanged for an equal value of land in the Pinhook Swamp. The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. The Forest Service believes, at this early state, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 US. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful it comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: November 28, 2001.

Marsha Kearney,

Forest Supervisor, National Forests in Florida.

[FR Doc. 01–30237 Filed 12–5–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Master Development Plan For Pelican Butte Ski Area, Winema National Forest, Klamath County, OR

AGENCY: Forest Service, USDA.

ACTION: Cancellation notice.

SUMMARY: On October 18, 1996, a Notice of Intent (NOI) to prepare an environmental impact statement for the Master Development Plan For Pelican Butte Ski Area, was published in the **Federal Register** (61 FR 54410). The 1996 NOI is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Charles Graham, Forest Supervisor, Winema National Forest, 2819 Dahlia Street, Klamath Falls, Oregon 97601, telephone 541–883–6736.

Dated: November 29, 2001.

Jack B. Sheehan,

Deputy Forest Supervisor.

[FR Doc. 01–30235 Filed 12–5–01; 8:45 am]

BILLING CODE 3410–11–M

AMTRAK REFORM COUNCIL

Notice of Meeting

AGENCY: Amtrak Reform Council.

ACTION: Notice of special public business meeting in Washington, DC.

SUMMARY: As provided in Section 203 of the Amtrak Reform and Accountability Act of 1997 (Reform Act), the Amtrak Reform Council (Council) gives notice of a special public meeting of the Council. On Friday, December 14, 2001, the Council will hold a Business Meeting from 9:30 a.m.–4 p.m. Eastern Standard Time (EST) during which time the Council members will discuss the various options for restructuring intercity rail passenger service. The Council's action plan must be submitted to the Congress on February 7, 2002.

On Friday, November 9th, the Amtrak Reform Council approved a resolution finding that Amtrak would not achieve operational self-sufficiency by December 2, 2002 as required by the Amtrak Reform and Accountability Act of 1997. The Council's Finding starts a 90-day clock in which the Council must submit an action plan for a restructured and rationalized national rail passenger system to Congress. During this same time period, Amtrak must submit a plan to Congress for liquidation.

DATES: The Business Meeting will be held on Friday, December 14, 2001, from 9:30 a.m.–4 p.m. EST. The event is open to the public.

ADDRESSES: The Business Meeting will take place in the Monet Suite in the Loews L'Enfant Hotel, 480 L'Enfant Plaza, SW, Washington, DC 20024. The nearest Metro stop is L'Enfant. Persons in need of special arrangements should contact the person listed below.

FOR FURTHER INFORMATION CONTACT: Deirdre O'Sullivan, Amtrak Reform Council, Room 7105, JM-ARC, 400 Seventh Street, SW, Washington, DC 20590, or by telephone at (202) 366–0591; FAX: 202–493–2061. For information regarding ARC's Finding Resolution, the ARC's Annual Reports, information about ARC Council Members and staff, and much more, you can also visit the Council's Web site at *www.amtrakreformcouncil.gov*.

SUPPLEMENTARY INFORMATION: The ARC was created by the Amtrak Reform and Accountability Act of 1997 (Reform Act), as an independent commission, to evaluate Amtrak's performance and to make recommendations to Amtrak for achieving further cost containment, productivity improvements, and financial reforms. In addition, the Reform Act provides: that the Council is to monitor cost savings from work rules established under new agreements between Amtrak and its labor unions; that the Council submit an annual report to Congress that includes an assessment of Amtrak's progress on the resolution of productivity issues; and that, after a specified period, the Council has the authority to determine whether Amtrak can meet certain financial goals specified under the Reform Act and, if it finds that Amtrak cannot, to notify the President and the Congress.

The Reform Act prescribes that the Council is to consist of eleven members, including the Secretary of Transportation and ten others nominated by the President and the leadership of the Congress. Members serve a five-year term.

Issued in Washington, DC, December 3, 2001.

Thomas A. Till,

Executive Director.

[FR Doc. 01–30265 Filed 12–5–01; 8:45 am]

BILLING CODE 4910–06–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

Date and Time: December 11, 2001; 11 a.m.–4 p.m.

Place: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

Closed Meeting: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

Contact Person for More Information: Persons interested in obtaining more information should contact either Brenda Hardnett or Carol Booker at (202) 401–3736.

Dated: December 3, 2001.

Carol Booker,

Legal Counsel.

[FR Doc. 01–30346 Filed 12–4–01; 11:07 am]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

AGENCY: U.S. Census Bureau.

Title: Government Finance Forms.

Form Number(s): F–5, F–11, F–12, F–13, F–21, F–22, F–25, F–28, F–29, F–32, F–42.

Agency Approval Number: 0607–0585.

Type of Request: Revision of a currently approved collection.

Burden: 115,076 hours.

Number of Respondents: 47,981.

Avg Hours Per Response: 2 hours and 23 minutes.

Needs and Uses: Title 13, section 161, of the United States Code requires the Secretary of Commerce to conduct a census of governments every fifth year. Section 182 allows the Secretary to conduct annual surveys in other years. The Census Bureau requests OMB clearance of the questionnaires needed to conduct the 2002 Census of Governments, Finance Phase and the 2003 Annual Survey of State and Local Government Finance. There are eleven survey forms used to collect data on government finances. Since there are many different types and sizes of governments, each form is tailored to the unique characteristics of the type and size of government or government agency to be surveyed. In both the census and annual surveys, equivalent data are collected, except for the F–11 and F–12 retirement forms. For these forms, in the census year, an additional organizational and system coverage section is included. There are no other changes to these forms, as currently cleared.

The Census Bureau incorporates the data collected on these forms into its governmental finance program. This program has made possible the dissemination of comprehensive and comparable governmental finance statistics since 1902. The data are released in reports which contain

benchmark statistics on public revenue, expenditure, debt, and assets. They are widely used by federal, state, and local legislators, policy-makers, administrators, analysts, economists, and researchers to follow the changing characteristics of the government sector of the economy.

Affected Public: State, local or Tribal government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., sections 161 and 182.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *mclayton@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: December 3, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–30294 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

AGENCY: U.S. Census Bureau.

Title: Boundary and Annexation Survey (BAS).

Form Number(s): BAS 1, BAS 1A, BAS 2, BAS 2A, BAS 2CUO, BAS 3, BAS 3A, BAS 4, BAS 5, BAS 5A, 8 letters, 2 postcards, 12 inserts.

Agency Approval Number: 0607–0151.

Type of Request: Revision of an existing collection.

Burden: 40,986 hours.

Number of Respondents: 13,662.

Avg Hours Per Response: 3 hours.

Needs and Uses: The Census Bureau requests extension of the OMB clearance for the Boundary and Annexation Survey (BAS). The Census Bureau conducts the BAS annually to collect information on the creation of newly incorporated municipalities, minor civil divisions (MCDs), counties, federally recognized American Indian areas (AIAs) which include reservations and/or off-reservation trust lands, and Alaska Native Regional Corporations (ANRCs), the dissolution of incorporated municipalities and MCDs, and changes to the boundaries of counties, incorporated municipalities, MCDs, AIAs, and ANRCs. The BAS information is used to provide an appropriate record for reporting the results of the decennial and economic censuses and the Census 2000 Long Form Transitional Database, to support the annual population estimates program, to update the municipal, MCD, county, AIA, and ANRC inventory for the Federal Information Processing Standards (FIPS) program managed by the U.S. Geological Survey (USGS) for the National Institute of Standards and Technology, and to update the Geographic Names Information System (GNIS) maintained by the USGS.

Affected Public: State, local or Tribal government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 6.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202)482–3129, Department of Commerce, room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *mclayton@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: December 3, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–30295 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 011120280–1280–01]

Annual Surveys in the Manufacturing Area

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of determination.

SUMMARY: The Bureau of the Census (Census Bureau) is conducting the 2001 Annual Surveys in the Manufacturing Area. The 2001 Annual Surveys consist of the Current Industrial Reports surveys, the Annual Survey of Manufactures, the Survey of Industrial Research and Development, and the Survey of Plant Capacity Utilization. We have determined that annual data collected from these surveys are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The data derived from these surveys, most of which have been conducted for many years, are not publicly available from nongovernmental or other governmental sources.

FOR FURTHER INFORMATION CONTACT: William G. Bostic, Jr., Chief, Manufacturing and Construction Division, on (301) 457–4593.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to take surveys necessary to furnish current data on the subjects covered by the major censuses authorized by Title 13, United States Code (U.S.C.), sections 61, 81, 182, 224, and 225. These surveys will provide continuing and timely national statistical data on manufacturing for the period between economic censuses. The next economic censuses will be conducted for the year 2002. The data collected in these surveys will be within the general scope and nature of those inquiries covered in the economic censuses.

Current Industrial Reports

Most of the following commodity or product surveys provide data on shipments or production, data on stocks, unfilled orders, orders booked, consumption, and so forth. Reports will be required of all, or a sample of, establishments engaged in the production of the items covered by the following list of surveys.

Survey Title	
MA313F	Yarn Production.
MA313K	Knit Fabric Production.
MA314Q	Carpets and Rugs.
MA315D	Gloves and Mittens.
MA316A	Footwear Production.
MA321T	Lumber Production and Mill Stocks.
MA325F	Paint and Allied Products.
MA325G	Pharmaceutical Preparations, except Biologicals.
MA327C	Refractories.
MA327E	Consumer, Scientific, Technical, and Industrial Glassware.
MA331A	Iron and Steel Castings.
MA331B	Steel Mill Products.
MA331E	Nonferrous Castings.
MA332Q	Antifriction Bearings.
MA333A	Farm Machinery and Lawn and Garden Equipment.
MA333D	Construction Machinery.
MA333F	Mining Machinery and Mineral Processing Equipment.
MA333L	Internal Combustion Engines.
MA333M	Refrigeration, Air-conditioning, and Warm Air Equipment.
MA333P	Pumps and Compressors.
MA334B	Selected Instruments and Related Products.
MA334M	Consumer Electronics.
MA334P	Communication Equipment.
MA334Q	Semiconductors, Printed Circuit Boards, and Electronic Components.
MA334R	Computers and Office and Accounting Machines.
MA334S	Electromedical and Irradiation Equipment.
MA335A	Switchgear, Switchboard Apparatus, Relays, and Industrial Controls.
MA335E	Electric Housewares and Fans.
MA335F	Major Household Appliances.
MA335H	Motors and Generators.
MA335J ..	Insulated Wire and Cable.
MA335K	Wiring Devices and Supplies.

The following list of surveys represent annual counterparts of monthly and quarterly surveys and will cover only those establishments that are not canvassed, or do not report, in the more frequent surveys. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly and quarterly reports.

Survey Title	
M311H ...	Animal and Vegetable Fats and Oils (Stocks).
M311J	Oilseeds, Beans, and Nuts (Primary Producers).
M311L	Fats and Oils (Renderers).
M311M ...	Animal and Vegetables Fats and Oils (Consumption and Stocks).
M311N ...	Animal and Vegetables Fats and Oils (Production, Consumption, and Stock).
M313P ...	Consumption on the Cotton System.
M327G ...	Glass Containers.
M331J	Inventories of Steel Producing Mills.
M336G ...	Civil Aircraft and Aircraft Engines.
M336L	Truck Trailers.
MQ311A	Flour Milling Products.
MQ313D	Consumption on the Woolen System and Worsted Combing.
MQ313T	Broadwoven Fabrics (Gray).
MQ314X	Bed and Bath Furnishings.
MQ315A	Apparel.
MQ325A	Inorganic Chemicals.
MQ325B	Fertilizer Materials.
MQ325C	Industrial Gases.
MQ327D	Clay Construction Products.
MQ332E	Plumbing Fixtures.
MQ333W	Metalworking Machinery.
MQ335C	Fluorescent Lamp Ballasts

Annual Survey of Manufactures

The Annual Survey of Manufactures collects industry statistics, such as total value of shipments, employment, payroll, workers' hours, capital expenditures, cost of materials consumed, supplemental labor costs, and so forth. This survey, while conducted on a sample basis, covers all manufacturing industries, including data on plants under construction but not yet in operation.

Survey of Industrial Research and Development

The Survey of Industrial Research and Development measures spending on research and development activities in private U.S. businesses. The Census Bureau collects and compiles this information with funding from the National Science Foundation (NSF). The NSF publishes the results in its publication series. Four data items in the survey provide interim statistics collected in the Census Bureau's Economic Censuses. These items (total company sales, total company employment, and total expenditures and Federally-funded expenditures for research and development conducted within the company) are collected on a mandatory basis under the authority of Title 13, U.S.C. Responses to all other data collected for the NSF are voluntary.

Survey of Plant Capacity Utilization

The Survey of Plant Capacity Utilization is designed to measure the use of industrial capacity. The survey collects information on actual output and estimates of potential output in terms of value of production. These data are the basis for calculating rates of utilization of full production capability and use of production capability under national emergency conditions.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a current valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 U.S.C., Chapter 45, the OMB approved the 2001 Annual Surveys under the following OMB Control Numbers: Current Industrial Reports—0607–0206, 0607–0392, 0607–0393, 0607–0395, 0607–0476, and 0607–0776; Annual Surveys of Manufactures—0607–0449; Survey of Industrial Research and Development—3145–0027; and Survey of Plant Capacity Utilization—0607–0175. We will provide copies of the form upon written request to the Director, U.S. Census Bureau, Washington, DC 20233–0001.

Based upon the foregoing, I have directed that the Annual Surveys in the Manufacturing Area be conducted for the purpose of collecting these data.

Dated: November 27, 2001.

William G. Barron, Jr.,

Acting Director, Bureau of the Census.

[FR Doc. 01–30256 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

National Security Assessment of the U.S. Maritime Industry

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 4, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawnielle Battle, BXA ICB Liaison, (202) 482–0637, Bureau of

Export Administration (BXA), Department of Commerce, Room 6877, 14th and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION

I. Abstract

Commerce/BXA, in coordination with the Department of the Navy, Carderock Division, and the Department of Transportation, Maritime Administration is conducting a survey of the U.S. maritime industry in order to assess the health and competitiveness as well as the technology requirements of the forms that comprise this critical sector.

II. Method of Collection

The information will be collected using a non-recurring, mandatory survey. It will be collected in written form.

III. Data

The survey will collect information on the nature of the business performed by each firm; estimated sales and employment data; financial information; research and development expenditures and funding sources; capital expenditures and funding sources; competitiveness issues and technology requirements.

OMB Number: 0694–0113.
Form Number: N/A.
Type of Review: Regular Submission.
Affected Public: The vendor, supplier and manufacturer base of the U.S. Maritime industry.
Estimated Number of Respondents: 2,000.
Estimated Time Per Response: 4.0 hours.
Estimated Total Annual Burden Hours: 8,000 hours.
Estimated Total Annual Cost: No equipment or other materials will need to be purchased to comply with the requirement.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 3, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–30296 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 47–2001]

Foreign-Trade Zone 50, Long Beach, CA, Proposed Foreign-Trade Subzone, Ultramar Diamond Shamrock Corporation (Oil Refinery Complex), Los Angeles, CA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Board of Harbor Commissioners of the City of Long Beach, grantee of FTZ 50, requesting special-purpose subzone status for the oil refinery complex of Ultramar Diamond Shamrock Corporation (Ultramar), located in Los Angeles, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on November 27, 2001.

The Ultramar refinery complex (120,000 BPD, 54 tanks with 3.1 million barrel capacity on 5.9 million square feet) is located at 2402 East Anaheim Street, Wilmington area of Los Angeles (Los Angeles County), California. The refinery is within the Long Beach port of entry.

The "Wilmington" refinery (435 full-time and 133 contract employees) is used to produce fuels and petrochemical feedstocks. Fuel products include gasoline, jet fuel, distillates, residual fuels, naphthas and motor fuel blendstocks. Petrochemical feedstocks and refinery by-products include propane, butane, petroleum coke and sulfur. Some 35 percent of the crude oil and natural gas condensate (54 percent of inputs) is sourced abroad. The company is also requesting to import certain intermediate inputs (naphthas and gas oils) under FTZ procedures. Currently 35 percent of the refinery's intermediate inputs are foreign-sourced.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the Customs duty rates that apply to certain petrochemical feedstocks and refinery by-products (duty-free) by admitting incoming foreign inputs (crude oil, natural gas condensate, gas oil, naphtha) in non-privileged foreign status. The duty rates on inputs range from 5.25¢/barrel to 10.5¢/barrel. The application indicates that the savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below.

The closing period for their receipt is [60 days from date of publication]. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to February 19, 2002).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, One World Trade Center, Suite 1670, Long Beach, CA 90831.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: November 29, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–30289 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Initiation of Sixth New Shipper Antidumping Duty Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce has received requests to conduct a new shipper review of the antidumping duty order on brake rotors from the People's

Republic of China. In accordance with 19 CFR 351.214(d), we are initiating a review for Longkou TLC Machinery Co., Ltd.

EFFECTIVE DATE: December 6, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Terre Keaton, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1766 and (202) 482–1280, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce ("the Department") regulations are to 19 CFR Part 351 (April 2001).

SUPPLEMENTARY INFORMATION:

Background

The Department has received a timely request from Longkou TLC Machinery Co., Ltd. ("LKTLC"), in accordance with 19 CFR 351.214(c), for a new shipper review of the antidumping duty order on brake rotors from the People's Republic of China ("PRC"), which has an October semiannual anniversary month.

As required by 19 CFR 351.214(b)(2)(i), (ii), and (iii)(A), the company identified above has certified that it did not export brake rotors to the United States during the period of investigation ("POI"), and that it has never been affiliated with any exporter or producer which did export brake rotors during the POI. The company has further certified that its export activities are not controlled by the central government of the PRC, satisfying the requirements of 19 CFR 351.214(b)(2)(iii)(B). Pursuant to the Department's regulations at 19 CFR 351.214(b)(2)(iv)(A), LKTLC submitted documentation establishing the date on which it first shipped the subject merchandise to the United States, the date of entry of that first shipment, the volume of that shipment, and the date of the first sale to an unaffiliated customer in the United States.

In accordance with section 751(a)(2)(B) of the Act, as amended, and 19 CFR 351.214(b), and based on information on the record, we are initiating the new shipper review for LKTLC.

Initiation of Review

In accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214(d)(1), we are initiating a new shipper review of the antidumping duty order on brake rotors from the PRC. We intend to issue the preliminary results of this review not later than 180 days after the date on which the review is initiated.

Antidumping duty proceeding	Period to be reviewed
PRC: Brake Rotors, A–570–846	
Longkou TLC Machinery Co., Ltd.	04/01/01–09/30/01

We will instruct the Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the above-listed company. This action is in accordance with 19 CFR 351.214(e).

Interested parties that need access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214(d).

Dated: November 30, 2001.

Richard Moreland,

Deputy Assistant Secretary, for Import Administration.

[FR Doc. 01–30284 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–503]

Iron Construction Castings From Canada: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 6, 2001.

FOR FURTHER INFORMATION CONTACT: Alexander Amdur or Karine Gziryan, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5346, (202) 482–4081, respectively.

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245-day time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On April 30, 2001, the Department published a notice of initiation of administrative review of the antidumping duty order on iron construction castings from Canada, covering the period March 1, 2000 through February, 2001. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews* 66 FR 21310. The preliminary results are currently due no later than December 1, 2001.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. Therefore, the Department is extending the time limit for completion of the preliminary results until no later than March 31, 2002. See Decision Memorandum from Holly A. Kuga to Bernard T. Carreau, dated concurrently with this notice, which is on file in the Central Records Unit, Room B–099 of the Department's main building. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: November 29, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 01–30283 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–845]

Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for the final results of the antidumping duty administrative review of stainless steel sheet and strip in coils from Japan.

SUMMARY: The Department of Commerce ("Department") is extending the time limit for the final results of the review of stainless steel sheet and strip in coils from Japan. This review covers the period January 4, 1999 through June 30, 2000.

EFFECTIVE DATE: December 6, 2001.

FOR FURTHER INFORMATION CONTACT: Juanita H. Chen or James C. Doyle, Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230; telephone: 202–482–0409, or 202–482–0159, respectively.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("Act"), requires the Department of Commerce ("Department") to issue the final results of an antidumping duty administrative review within 120 days of the date on which the preliminary results are published. However, if the Department concludes that it is not practicable to complete the review within the time period, the Department may extend the 120-day period to 180 days.

Background

On September 6, 2000, the Department published a notice of initiation of the administrative review of stainless steel sheet and strip in coils from Japan, covering the period January 4, 1999 through June 30, 2000. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 65 FR 53980 (September 6, 2000). The preliminary results of this administrative review were published in the **Federal Register** on August 8, 2001. *See Notice of Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Japan*, 66 FR 41543 (August 8, 2001) ("Preliminary Results"). The current due date for the final results is December 6, 2001.

Extension of Time Limits for the Final Results

Due to the complexity of issues present in this administrative review, such as home market affiliated downstream sales and complicated cost accounting issues, it is not practicable to complete this review within the original time period. Therefore, the Department has postponed the deadline for issuing the final results until February 4, 2002, which is 180 days after publication of the Preliminary Results in this administrative review.

Dated: November 30, 2001.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 01–30287 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–807]

Certain Steel Concrete Reinforcing Bars From Turkey; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 6, 2001.

SUMMARY: The Department of Commerce is publishing amended final results of the antidumping duty administrative review on certain steel concrete reinforcing bars from Turkey.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Elizabeth Eastwood, AD/CVD Enforcement Group I, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0656 or (202) 482–3874, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2000).

Amendment to Final Results

In accordance with section 751(a) of the Act, on November 7, 2001, the Department published the final results of administrative review of the antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey. *See Certain Steel Concrete Reinforcing Bars from Turkey; Final Results of Antidumping Duty Administrative Review*, 66 FR 56274 (Nov. 7, 2001). On November 13, 2001, we received an allegation, timely filed pursuant to 19 CFR 351.224(c)(2), from a respondent, the Ekinciler Group (Ekinciler), that the Department had made a ministerial error in its final results. We did not receive comments from Colakoglu Metalurji A.S. (Colakoglu), Diler Demir Celik Endustrisi ve Ticaret A.S., Yazici Demir Celik Sanayi ve Ticaret A.S., and Diler Dis Ticaret A.S. (collectively "Diler"), or ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S. (ICDAS), the other three respondents in this review. After analyzing Ekinciler's submission, we have determined, in accordance with 19 CFR 351.224, that a ministerial error was made because we did not publish the correct recalculated margin for Ekinciler in the **Federal Register**.

On November 13, 2001, we also received ministerial error allegations from AmeriSteel Corporation, the petitioner in this review. After analyzing the petitioner's submission, we have also determined, in accordance with 19 CFR 351.224, that a second ministerial error was made in our final margin calculation for Ekinciler. Specifically, we find that we failed to properly sum Ekinciler's adjusted financing expenses as shown in Attachment 2 of the October 31, 2001, memorandum from Elizabeth Eastwood to the file entitled "Calculations Performed for the Ekinciler Group (Ekinciler) for the Final Results in the 1999–2000 Antidumping Duty Administrative Review on Steel Concrete Reinforcing Bars from Turkey." Correcting this mistake resulted in a revised interest expense ratio for Ekinciler, and thus a revised margin.

For a detailed discussion of the ministerial errors noted above, as well as the Department's analysis, see the memorandum to Richard W. Moreland from the Team, dated November 29, 2001.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final results of the 1999–2000 antidumping duty administrative review of rebar from Turkey. The revised weight-averaged dumping margins are as follows:

Exporter/ manufacturer	Original final margin percentage	Revised final margin percentage
Colakoglu Metalurji A.S.	9.51	.....
Ekinciler Holding A.S./ Ekinciler Demir Celik A.S.	6.83	8.41
Diler Demir Celik Endustrisi ve ticaret A.S./Yazici Demir Celik Sanayi ve ticaret A.S./Diler Dis Ticaret A.S.	0.00	.....
ICDAS Celik Enerji Tersane ve Ulasim Sanayi A.S.	0.00	.....

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: November 29, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–30285 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–852]

Notice of Preliminary Results of Antidumping Duty New Shipper Review: Structural Steel Beams From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results in the antidumping duty new shipper review of structural steel beams from Japan.

SUMMARY: In response to a request from Yamato Kogyo Co., Ltd. ("Yamato Kogyo"), the Department of Commerce ("Department") is conducting an antidumping duty new shipper review of the antidumping duty order on structural steel beams from Japan. This new shipper review covers imports of subject merchandise from Yamato Kogyo. The period of review is February 11, 2000 through November 30, 2000.

The Department preliminarily determines that Yamato Kogyo has not made sales of structural steel beams from Japan at below normal value during the period of review. If these preliminary results are adopted in our final results of this new shipper review, we will instruct the U.S. Customs Service to liquidate entries during the period of review without regard to antidumping duties.

Interested parties are invited to comment on these preliminary results. *See* "Preliminary Results of the Review" section, *infra*.

EFFECTIVE DATE: December 6, 2001.

FOR FURTHER INFORMATION CONTACT: Juanita H. Chen or James C. Doyle, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230; telephone: 202–482–0409 or 202–482–0159, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000). *See Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296 (May 19, 1997) (*"AD/CVD Final Rule"*).

Background

On June 19, 2000, the Department published in the **Federal Register** a notice of the antidumping duty order on structural steel beams from Japan. *See Structural Steel Beams from Japan: Notice of Antidumping Duty Order*, 65 FR 37960 (June 19, 2000). On December 27, 2000, Yamato Kogyo, a producer and exporter of subject merchandise during the period of review ("POR"), requested that the Department conduct an antidumping duty new shipper review of the antidumping duty order. On January 24, 2001, the Department requested that Yamato Kogyo provide: (1) Certification that it has never been affiliated with any exporter or producer who exported the subject merchandise to the United States during the period of investigation ("POI"); (2) a list of all of its affiliates during the POI; and (3) clarification on whether there were shipments of subject merchandise during the review period subsequent to the shipment reported. See Letter from James C. Doyle, Program Manager to Thomas Rogers, Capital Trade Incorporated (January 24, 2001). The Department also conducted an automated customs query on January 24, 2001, and found no shipments by Yamato Kogyo during the POI. See Memorandum to the File from Juanita H. Chen (January 25, 2001). On January 29, 2001, Yamato Kogyo submitted the requested certification, listing and clarification. See Letter from Thomas Rogers to Secretary Evans (January 29, 2001). On January 31, 2001, the Department initiated a new shipper review of the antidumping duty order on structural steel beams from Japan. *See Initiation of New Shipper Antidumping Duty Review: Structural Steel Beams From Japan*, 66 FR 10668 (February 16, 2001).

On February 16, 2001, the Department issued its antidumping duty questionnaire. Subsequently, the Department corrected the period of review from the requested period of June 1, 2000 through November 30, 2000, to the current period of February 11, 2000 through November 30, 2000. *See* Memorandum to the File from Juanita H. Chen (February 22, 2001). On February 23, 2001, the Department granted Yamato Kogyo's request to limit its reporting period of home market sales to the three months preceding and two months following the months of the first and last U.S. sales in the POR, noting that such reporting is at Yamato Kogyo's own risk. See Memorandum to the file from Juanita H. Chen (February 23, 2001).

On March 21, 2001, the Department received Yamato Kogyo's Section A response to the questionnaire ("Section A response"). On April 13, 2001, the Department received Yamato Kogyo's Sections B and C responses to the questionnaire ("Sections B/C response"). On August 20, 2001, the Department issued a Sections A–C supplemental questionnaire. On September 18, 2001, the Department received Yamato Kogyo's Sections A–C supplemental response ("Supplemental Response"), along with revised data files.

Under section 751(a)(2)(B)(iv) of the Act, the Department may extend the deadline for completion of a new shipper review if it determines that the case is extraordinarily complicated. On June 12, 2001, the Department fully extended the time limit for the preliminary results of this new shipper review by 120 days until November 27, 2001. *See Notice of Extension of Time for the Preliminary Results of the Antidumping Duty New Shipper Review: Structural Steel Beams from Japan*, 66 FR 32790 (June 18, 2001).

The Department is conducting this new shipper review in accordance with section 751 of the Act.

Period of Review

The POR is February 11, 2000 through November 30, 2000.

Verification

Pursuant to section 782(i)(3) of the Act, the Department verified the information provided by Yamato Kogyo for use in our preliminary results. We used standard verification procedures, including on-site inspection of Yamato Kogyo's facilities, as well as of relevant sales and financial records. From October 3, 2001 through October 5, 2001, we conducted verification of sales information submitted by Yamato Kogyo. Our verification results are outlined in the public version of the verification report and are on file in the central records unit located in room B–099 of the main Department of Commerce Building, 1401 Constitution Avenue, NW., Washington, DC. See Report on the Sales Verification of Yamato Kogyo Co. Ltd. (November 14, 2001) ("Verification Report").

Scope of the Review

For purposes of this investigation, the products covered are doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These products ("Structural Steel Beams") include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes.

All products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products, are outside and/or specifically excluded from the scope of this investigation:

- Structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, 7228.70.6000. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Facts Available

Section 776(a) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e), the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties. We have applied facts available for the reported payment date pursuant to section 776(a) of the Act because Yamato Kogyo did not report payment date, as requested by the Department. When asked for an explanation, it stated that it "cannot readily {report} the specific payment date for each transaction" and instead reported the payment due date based on the payment terms. *See* Sections B/C response at B–14. At verification, we noted the actual payment date appears on the receipt of payment. *See* Verification Report at 12. These receipts of payments show that payment on the invoice is made well in advance of the actual due date. Accordingly, we have used facts available for payment date, in order to calculate a more accurate credit expense by taking the simple average of the number of days between the shipment date and actual payment date, from those home market sales reviewed at verification for which actual payment date information is available. Additionally, for those home market sales for which we have actual payment date information, we have used the actual payment date to calculate the credit expense.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all structural steel beam products covered by the "Scope of the Review" section of this notice, supra, which were produced and sold by Yamato Kogyo in the home market during the POR, to be foreign like products for the purpose of determining appropriate product comparisons to U.S. sales of structural steel beam products. We have relied on four characteristics to match U.S. sales of subject merchandise to comparison sales of the foreign like product: hot/cold formed, shape/size, strength/grade, and coating (listed in order of preference).

Export Price/Constructed Export Price

In accordance with section 772(a) of the Act, export price ("EP") is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. In accordance with section 772(b) of the Act, constructed export price ("CEP") is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. For purposes of this review, Yamato Kogyo has classified its sale(s) as EP sales. *See* Sections B/C response, at C–11. Yamato Kogyo identified one channel of distribution (sales to distributors in the U.S. market) for its U.S. sale(s) during the POR. *Id.* at C–13. Based on Yamato Kogyo's description of its U.S. sales process, that it sells the merchandise directly to unaffiliated distributors in the U.S. market, and did not sell in the U.S. through an affiliated U.S. importer, we preliminarily determine that Yamato Kogyo's sale(s) were EP sales. *See* Section A response, at A–8. We calculated EP in accordance with section 772(a) of the Act. We based EP on packed prices for export to distributors in the U.S. market. We made deductions for foreign inland freight, foreign brokerage and handling, foreign inland and marine insurance, and credit expenses in accordance with section 772(c) of the Act.

Normal Value

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than or equal to five percent of the aggregate volume of U.S. sales), we compared Yamato Kogyo's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Because Yamato Kogyo's aggregate volume of home market sales of the foreign like

product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. We therefore based NV on home market sales to unaffiliated purchasers and to those affiliated customer sales which passed the arm's length test, as discussed, *infra*, made in the usual commercial quantities and in the ordinary course of trade. We made adjustments, where applicable, for movement expenses (*i.e.*, inland freight, warehousing expense, and inland insurance) in accordance with section 773(a)(6)(B) of the Act. We recalculated credit expenses, where appropriate, using actual payment dates or the average of actual payment dates reported. *See* Facts Available section of this notice, *supra;* Verification Report, at 12; Analysis Memorandum for Yamato Kogyo Co., Ltd. (November 27, 2001) at 3. Additionally, in accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs.

Arm's Length Sales

Yamato Kogyo reported that it made home market sales of subject merchandise to affiliates, and also reported that it did not make sales of subject merchandise to affiliated parties for consumption. *See* Section A response, at A–3; *see also* Yamato Kogyo's Supplemental Response, at 11–12.

If any sales to affiliated customers in the home market are not made at arm's length prices, we exclude them from our analysis because we consider them to be outside the ordinary course of trade. To test whether sales were made at arm's length prices, we compare, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, and packing. Where prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determine that sales made to the affiliated party were at arms's length. *See* 19 CFR 351.403(c). In instances where no price ratio can be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we are unable to determine that these sales were made at arm's length prices and, therefore, exclude them from our analysis. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062, 37077 (July 9, 1993). In our home market NV calculation, we have included Yamato Kogyo's sales to its affiliated customers because those sales pass the Department's arm's length test.

Date of Sale

Yamato Kogyo stated that it reported its home market sales based on the shipment date of such sales. *See* Verification Report at Exhibit 1. Yamato Kogyo explained that "the terms of the sale may change up to the date of shipment." *See* Sections B/C response, at B–13. Yamato Kogyo stated that, for the U.S. market, it issues the invoice when it ships the merchandise, and for the home market, it issues the invoice either: (1) the day of shipment, when the merchandise is loaded onto the barge (for sales shipped by barge); or (2) the day following shipment, when the merchandise is received by the customer (for sales shipped by truck). *See* Section A response, at 13. Section 351.401(i) of the Department's regulations states that the Department will normally use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale, but may use a date other than the date of invoice if it better reflects the date on which the material terms of sale are established. The preamble to these regulations provides an explanation of this policy, as well as examples of when the Department may choose to base the date of sale on a date other than the date of invoice. *See AD/CVD Final Rule*, 62 FR at 27348–49. From Yamato Kogyo's response, it appears that the material terms of sale are established by the date of shipment. Accordingly, for these preliminary results, in accordance with 19 CFR 351.401(i), we based date of sale on the shipment date.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP transactions. As noted in the "Export Price/Constructed Export Price" section, *supra*, we preliminarily determine that Yamato Kogyo's U.S. sale(s) were EP sales. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP sales, the LOT is also the level of the starting-price sale, which is usually from the exporter to the unaffiliated U.S. customer.

To determine whether NV sales are at a different LOT than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

In the present review, Yamato Kogyo stated that it is not claiming a LOT adjustment. However, to determine whether an adjustment is nevertheless necessary, in accordance with the principles discussed above, we examined information regarding the distribution systems and selling functions in both the United States and Japanese markets.

For the LOT in the home market, Yamato Kogyo stated that all sales were shipped directly to the final customer, either to trading companies or general contractors, and for the LOT in the U.S. market, stated that all sales were made to distributors. Yamato Kogyo reported two channels of distribution in the home market: (1) sales to trading companies; and (2) direct sales to general contractors. Yamato Kogyo reported one channel of distribution in the U.S. market: sales to unaffiliated distributors.

For sales in the home market, Yamato Kogyo asserts the sales are "effectively" through a single sales channel, *i.e.* from Yamato Kogyo to the customer. For sales to trading companies in the home market, Yamato Kogyo reported that the trading company issues the purchase order and makes payment, however Yamato Kogyo makes shipments directly to the trading company's customer (either a distributor or a general contractor/construction company). For sales to general contractors in the home market, Yamato Kogyo deals directly with the general contractor. For sales shipped by barge, Yamato Kogyo issues the invoice when the merchandise is loaded, and for sales shipped by truck, Yamato Kogyo issues the invoice the day the merchandise is received by the customer (usually the day following shipment). In some cases, Yamato Shoji issues the invoice to the customer. Yamato Kogyo (and in some cases, Yamato Shoji) makes the freight and delivery arrangements, provides technical information, and performs sales promotion activities such as sales calls. Based on our review of the selling functions performed in the channels of distribution in the home market, there do not appear to be any substantial differences in selling activity when the customer is a trading company versus a general contractor. Accordingly, we

preliminarily determine that there is one LOT in the home market.

For sales to the U.S. market, Yamato Kogyo sold and shipped directly to an unaffiliated distributor. Yamato Kogyo issues the invoice when it ships the merchandise. For sales to the U.S. market, Yamato Kogyo makes the freight arrangements but stated that it performs little other selling activities or services. We preliminarily determine there is one LOT in the U.S. market.

Based on our analysis of the selling functions performed for sales in the home market and EP sales in the U.S. market, we preliminarily determine that Yamato Kogyo performs significantly more selling functions in the home market than for the U.S. market; thus, these sales are made at different LOTs. However, because there is only one LOT in the home market, we cannot determine if there is a pattern of consistent price differences between the sales on which NV is based and the comparison market sales at the LOT of the export transaction, and do not have the means to calculate a LOT adjustment. Accordingly, we have not made a LOT adjustment.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Act.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average dumping margin exists for the period February 11, 2000 through November 30, 2000:

Producer/Manufacturer/Exporter	Weighted-average margin (percent)
Yamato Kogyo, Co. Ltd	0.00

In accordance with 19 CFR 351.224(b), the Department will disclose to parties to this proceeding the calculations performed in connection with these preliminary results within five days of the date of publication of this notice.

Pursuant to 19 CFR 351.309, interested parties may submit written comments on these preliminary results. Case briefs must be submitted no later than 30 days after the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be submitted no later than five days after the time limit for filing case briefs. Parties submitting arguments in this proceeding are requested to submit with the argument: (1) A statement of the issue, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, within 30 days of the date of publication of this notice, an interested party may request a public hearing on arguments to be raised in the case and rebuttal briefs. *See* 19 CFR 351.310(c). Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, or the first working day thereafter. The Department will issue the final results of this new shipper review, including the results of its analysis of issues raised in any case or rebuttal brief, within 120 days of publication of these preliminary results.

Assessment

The Department shall determine, and the U.S. Customs Service ("Customs") shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates. We calculated importer-specific duty assessment rates on a unit value per metric ton basis by summing the dumping margins on U.S. sales, and then dividing this sum by the total metric tons of all U.S. sales examined. If these preliminary results are adopted in our final results, we will instruct Customs not to assess antidumping duties on the merchandise subject to review. Upon completion of this review, the Department will issue appraisement instructions directly to Customs.

Cash Deposit

The following cash deposit requirements will be effective upon publication of the final results of this new shipper review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this new shipper review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this new shipper review (except that no deposit will be required if the rate is zero or *de minimis*, i.e., less than 0.5 percent); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review or the original LTFV investigation, the cash deposit rate will continue to be the "all others" rate of 37.13 percent established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next review.

Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper review and notice are issued and published in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: November 27, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–30286 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–857]

Antidumping Duty Order: Welded Large Diameter Line Pipe From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of antidumping duty order.

EFFECTIVE DATE: December 6, 2001.

FOR FURTHER INFORMATION CONTACT: John Drury or Helen Kramer at (202) 482–0195 and (202) 482–0405, respectively; AD/CVD, Enforcement, Office 8, Group III, Import Administration, Room 7866, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments

made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (April 2001).

Scope of Investigation

The product covered by this investigation is certain welded carbon and alloy line pipe, of circular cross section and with an outside diameter greater than 16 inches, but less than 64 inches, in diameter, whether or not stencilled. This product is normally produced according to American Petroleum Institute (API) specifications, including Grades A25, A, B, and X grades ranging from X42 to X80, but can also be produced to other specifications. The product currently is classified under U.S. Harmonized Tariff Schedule (HTSUS) item numbers 7305.11.10.30, 7305.11.10.60, 7305.11.50.00, 7305.12.10.30, 7305.12.10.60, 7305.12.50.00, 7305.19.10.30, 7305.19.10.60, and 7305.19.50.00. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope is dispositive. Specifically not included within the scope of this investigation is American Water Works Association (AWWA) specification water and sewage pipe and the following size/grade combinations; of line pipe:

- Having an outside diameter greater than or equal to 18 inches and less than or equal to 22 inches, with a wall thickness measuring 0.750 inch or greater, regardless of grade.
- Having an outside diameter greater than or equal to 24 inches and less than 30 inches, with wall thickness measuring greater than 0.875 inches in grades A, B, and X42, with wall thickness measuring greater than 0.750 inches in grades X52 through X56, and with wall thickness measuring greater than 0.688 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 30 inches and less than 36 inches, with wall thickness measuring greater than 1.250 inches in grades A, B, and X42, with wall thickness measuring greater than 1.000 inches in grades X52 through X56, and with wall thickness measuring greater than 0.875 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 36 inches and less than 42 inches, with wall thickness measuring greater than 1.375 inches in grades A, B, and X42, with wall thickness measuring greater than 1.250 inches in grades X52 through X56, and with wall thickness measuring greater than 1.125 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 42 inches and less than 64 inches, with a wall thickness measuring greater than 1.500 inches in grades A, B, and X42, with wall thickness measuring greater than 1.375 inches in grades X52 through X56, and with wall thickness measuring greater than 1.250 inches in grades X60 or greater.
- Having an outside diameter equal to 48 inches, with a wall thickness measuring 1.0 inch or greater, in grades X–80 or greater.

Antidumping Duty Order

In accordance with section 735(a) of the Act, the Department made its final determination that welded large diameter line pipe from Japan is being sold at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe from Japan*, 66 FR 47172 (September 11, 2001).

On October 25, 2001, in accordance with section 735(d) of the Act, the U.S. International Trade Commission ("ITC") notified the Department that a U.S. industry is "materially injured," within the meaning of section 735(b)(1)(A)(i) of the Act, by reason of less-than-fair-value imports of welded large diameter line pipe from Japan.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of welded large diameter line pipe from Japan. These antidumping duties will be assessed on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after June 27, 2001, the date of publication of the preliminary determination in the **Federal Register** (*see Notice of Preliminary Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe From Japan*, 66 FR 34151). On or after the date of publication of this notice in the **Federal Register**, Customs officers must require, at the same time as importers normally would deposit estimated duties, cash deposits based on the rates listed below. The "All Others" rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Manufacturer/Exporter	Margin (percent)
Nippon Steel Corporation (Nippon)	30.80
Kawasaki Steel Corporation (Kawasaki)	30.80
All Others	30.80

This notice constitutes the antidumping duty order with respect to welded large diameter line pipe from Japan. Interested parties may contact the Department's Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act.

Dated: November 30, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–30288 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 000929280–1201–01]

RIN 0693–ZA42

Announcing Approval of Federal Information Processing Standard (FIPS) 197, Advanced Encryption Standard (AES)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The Secretary of Commerce approves FIPS 197, Advanced Encryption Standard (AES), and makes it compulsory and binding on Federal agencies for the protection of sensitive, unclassified information. A new robust encryption algorithm was needed to replace the aging Data Encryption Standard (FIPS 46–3), which had been developed in the 1970s. In September 1997, NIST issued a **Federal Register** notice soliciting an unclassified, publicly disclosed encryption algorithm that would be available royalty-free worldwide. Following the submission of 15 candidate algorithms and three publicly held conferences to discuss and analyze the candidates, the field was narrowed to five candidates. NIST continued to study all available information and analyses about the candidate algorithms, and selected one of the algorithms, the Rijndael algorithm, to propose for the AES.

EFFECTIVE DATE: This standard is effective May 26, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Barker, (301) 975–2911, National Institute of Standards and Technology, 10 Bureau Drive, STOP 8930, Gaithersburg, MD 20899–8930.

A copy of FIPS 197 is available electronically from the NIST web site at: *<http://csrc.nist.gov/encryption/aes/index.html/>*.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** (Volume 66, Number 40, pp. 12762–3) on February 28, 2001, announcing the proposed FIPS for Advanced Encryption Standard for public review and comment. The **Federal Register** notice solicited comments from the public, academic and research communities, manufacturers, voluntary standards organizations, and Federal, state, and local government organizations. In addition to be published in the **Federal Register**, the notice was posted on the NIST Web pages; information was provided about the submission of electronic comments. Comments and responses were received from 21 private sector organizations, individuals, and groups of individuals, and from one federal government organization. None of the comments opposed the adoption of the AES as a Federal Information Processing Standard. Comments supported the selection of the algorithm and commended the clear, well-written presentation of the standard. Some comments offered editorial suggestions, pointed out perceived inconsistencies in the text, and requested clarifications. All of the editorial recommendations were carefully reviewed, and changes were made to the standard where appropriate.

Following is an analysis of the technical and related comments received.

Comment: The FIPS for AES should include support for additional block and key sizes. This would take advantage of the AES algorithm's built-in flexibility, making it better suited for use in a hashing mode and with communications applications that require minimal overhead (padding).

Response: NIST recognizes that one of the AES algorithm's strengths is its inherent support for additional block and key sizes. However, other block and key sizes have not been subjected to the same public analyses as those sizes that are provided for in the recommended FIPS. As a result, NIST believes that it would not be appropriate to include the additional sizes at this time. The block and key sizes are specified as parameters in the recommended FIPS, and could be modified to include other block and key sizes in the future if needed. The recommended standard explains that the use of parameters in the specification is intended to encourage AES implementers to build their applications and systems with future flexibility and adaptability in mind. NIST will monitor future developments, and will consider adding more parameters to the specification if needed in the future.

Comment: For added security, and to meet the needs for extremely long-term security, NIST should increase the number of rounds that are specified by the AES algorithm (i.e., the amount of processing used for encryption and decryption). Since new techniques to break the algorithm may evolve, the margin of security offered by the algorithm should be increased.

Response: Prior to its evaluation of the five finalist candidate algorithms, NIST's AES selection team discussed the issue of whether the number of rounds should be changed for one or more of the algorithms; the selection team decided to consider only the algorithms as initially submitted. Changing the number of prescribed rounds would change the way that the algorithm was defined (e.g., its key schedule), and the process of proposing, reviewing, and evaluating an algorithm would have to start over from the beginning. If the number of rounds were changed, many of the security and performance analyses that had already been performed on the candidate algorithms would no longer be useful.

Furthermore, throughout the development and review of the recommended FIPS, there was little agreement on which key sizes should have more rounds, and less agreement on how many rounds to add. Some who commented on the Draft FIPS proposed adding just two rounds, while another comment suggested adding 114 rounds.

NIST is not aware of advances in cryptographic techniques that would threaten the security provided by the recommended FIPS, but will continue to follow developments, to reevaluate the standard, and to consider changes or additions that might be needed. As with its other cryptographic standards, NIST will review the recommended FIPS every five years to consider whether the standard should be reaffirmed, amended, or withdrawn.

Comment: Since the AES algorithm allows three different key sizes, NIST should provide guidance to users regarding how and for what purpose(s) the different keys should be used.

Response: NIST is currently developing a guideline that will address numerous key management issues, including considerations for selecting from among multiple key sizes. Details on the content and development of that guideline are available on NIST's web pages http://csrc.nist.gov/encryption/kms/white-paper.pdf.

Comment: Statements in the FIPS are unclear and ambiguous regarding validation requirements for AES implementations. Additionally, many of these statements refer to FIPS 140–2, which has not been approved and which has a transition period when both FIPS 140–1 and FIPS 140–2 are in effect.

Response: FIPS 140–2 was approved in May 2001, and became effective on November 25, 2001. However, references to FIPS 140–2 have been removed in order to limit any misunderstandings.

Following approval of this recommended FIPS, vendors may request that their AES implementation be tested and validated either for conference to the AES specification or in conjunction with a cryptographic module validation test (i.e., validation testing for FIPS 140–2). The process is the same for all testing of implementations of FIPS-approved algorithms under the Cryptographic Module Validation Program.

Comment: Comments indicated concern about the padding to be used when the length of the data to be encrypted was not an even multiple of the block size. Other comments proposed more optimal specifications of the algorithm.

Response: NIST considers padding and optimization to be outside the scope of this standard. Padding will be addressed in a standard or recommendation to be developed on the modes of operation for the AES, and in the applications and protocols that use the AES.

It is expected that many optimization of the AES will be developed over time. NIST plans to post information that it receives on optimization issues on its web pages with the permission of the submitter.

Comment: One comment recommended the selections of a different algorithm, one that had not been submitted during the AES development process.

Response: NIST conducted an open process to solicit and evaluate algorithms for consideration for the AES. All candidate algorithms have been thoroughly reviewed and analyzed by the international cryptographic community.

Authority: Under section 5131 of the Information Technology Management Reform

Act of 1996 and the Computer Security Act of 1987, the Secretary of Commerce is authorized to approve standards and guidelines for the cost effective security and privacy of sensitive information processed by federal computer systems.

Executive Order 12866: This notice has been determined not to be significant for the purposes of E. O. 12866.

Dated: November 28, 2001.

Karen H. Brown,

Acting Director, National Institute of Standards and Technology.

[FR Doc. 01–30232 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–CN–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120301A]

Proposed Information Collection; Comment Request; Economic Data Collection for the Atlantic Wreckfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before February 4, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Jim Waters, Department of Commerce, NOAA, National Marine Fisheries Service, 101 Pivers Island Road, Beaufort, NC 28516–9722, (252–7288710).

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS) proposes to collect to conduct a one-time census to collect economic, sociocultural, and demographic data about commercial fishing for wreckfish (*Polyprion americanus*) along the U.S. south Atlantic coast. The wreckfish fishery has been managed with individual transferable quotas (ITQs) since 1992. Few shareholders currently fish for wreckfish, yet they have not sold or leased their shares. This project will address why shareholders chose not to participate in the wreckfish fishery, where and for what species they did fish, and why they did not sell or lease their unused quota to generate revenue even though they did not fish for wreckfish. Equally important is to determine if the process of developing an ITQ system contributed to the rapid increase in fishing effort in the early 1990s. The results of this inquiry could offer important lessons for economists, fishery managers and others researching the appropriateness of applying ITQ systems in other fisheries in the southeast.

II. Method of Collection

Data will be collected through personal interviews with approximately 50 past and current shareholders in the ITQ management system for the wreckfish fishery. Interviews will include open-ended questions so that respondents can put into their own words their thoughts, interpretations and experiences with the fishery and the ITQ management program. All interviews will be tape-recorded and transcribed. Results of the study will be made available both through publications and on a National Marine Fisheries Community Impacts web page. Participation in the study will be voluntary.

III. Data

OMB Number: None.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 50.
Estimated Time Per Response: 2 hours.
Estimated Total Annual Burden Hours: 100.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 29, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–30291 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120301C]

Proposed Information Collection; Comment Request; Highly Migratory Species Logbooks

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before February 4, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Jill Stevenson at the National Marine Fisheries Service (NMFS) Highly Migratory Species Division, 1315 East-West Highway, Silver Spring, MD 20910, or by email at *jill.stevenson@noaa.gov*or phone at 301–713–2347.

SUPPLEMENTARY INFORMATION:

I. Abstract

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), NOAA is responsible for management of the Nation's marine fisheries. In addition, NOAA must comply with the United States' obligations under the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*). NMFS collects information via vessel logbooks to monitor the U.S. catch of Atlantic swordfish, sharks, and bluefin tuna in relation to the quotas, thereby ensuring that the United States complies with its international obligations. The information supplied through vessel logbooks also provides the catch and effort data necessary to assess the status of highly migratory species and to evaluate bycatch in each fishery. Stock assessments are conducted and presented to the International Commission for the Conservation of Atlantic Tunas (ICCAT) periodically and provide, in part, the basis for ICCAT management recommendations which become binding on member nations. Supplementary information on fishing costs and earnings has been collected via this vessel logbook program on a voluntary basis. This economic information enables NMFS to assess the economic impacts of regulatory programs on small businesses and fishing communities. Given the need for more representative data and more complete analyses, NMFS proposes to make the cost/earnings summary a mandatory requirement of this program.

II. Method of Collection

Vessel owners who are issued a vessel permit in the swordfish or shark fisheries are required to complete vessel logbooks for all trips targeting Atlantic highly migratory species(HMS). In addition, selected tuna vessels (10 percent of permitted fleet) will be required to complete logbooks. Under this revised collection, the cost/earnings summary of the logbook would be required for selected vessels for all trips targeting HMS.

III. Data

OMB Number: 0648–0371.
Form Number: NOAA Form 88–191.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations (fishing vessel owners).
Estimated Number of Respondents: 5,840.
Estimated Time Per Response: 10 minutes for cost/earnings summaries attached to logbook reports, 12 minutes for logbook catch reports, 2 minutes for negative logbook catch reports.
Estimated Total Annual Burden Hours: 25,383.
Estimated Total Annual Cost to Public: $0 (no capital expenditures required).

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 29, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–30292 Filed 12–5–01; 8:45 am]
BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120301D]

Proposed Information Collection; Comment Request; Vessel-Marking Requirements in Antarctic Waters

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before February 4, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Robin Tuttle, F/ST3, Room 12643, SSMC–3, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2282, ext. 199).

SUPPLEMENTARY INFORMATION:

I. Abstract

U.S. vessels participating in Antarctic fisheries must display the vessel's official identification number or international radio call sign in three locations on the vessel. The requirement aids in the enforcement of fishery regulations.

II. Method of Collection

The information is displayed in three locations on the vessel.

III. Data

OMB Number: 0648–0368.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations, individuals.
Estimated Number of Respondents: 3.
Estimated Time Per Response: 45 minutes.
Estimated Total Annual Burden Hours: 2.
Estimated Total Annual Cost to Public: $90.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 29, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–30293 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket Number 981203295–1272–06; CFDA: 11.552]

RIN 0660–ZA05

Technology Opportunities Program

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of solicitation of grant applications.

SUMMARY: The National Telecommunications and Information Administration (NTIA) issues this Notice describing the conditions under which applications will be received by the Technology Opportunities Program (TOP) and how NTIA will select applications for funding, subject to the availability of Fiscal Year 2002 funds.

The Bush Administration believes that new technologies and the deployment of high-speed networks are crucial to promoting America's economic growth and our nation's social well-being. The TOP program can play an important role in extending those priorities to underserved communities, through matching grants to state, local, and tribal governments and non-profit entities that demonstrate innovative uses of digital network technologies. TOP projects address specific challenges and realize opportunities for change in such areas as lifelong learning, community and economic development, government and public services, safety, health, culture, and the arts.

DATES: Complete applications for the Fiscal Year 2002 TOP grant program must be mailed or hand-carried to the address indicated below and received by NTIA no later than 8:00 P.M. EST, March 21, 2002. NTIA anticipates the processing and selection of applications for funding will require 6 months. NTIA expects to announce FY 2002 awards prior to September 30, 2002.

ADDRESSES: Completed applications must be mailed, shipped, or sent overnight express to:

Technology Opportunities Program
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Avenue, NW
HCHB, Room 4092
Washington, DC 20230

or hand-delivered to:

Technology Opportunities Program
National Telecommunications and Information Administration
U.S. Department of Commerce
HCHB, Room 1874
1401 Constitution Avenue, NW
Washington, DC 20230

Room 1874 is located at entrance #10 on 15th Street NW, between Pennsylvania and Constitution Avenues.

Materials needed to complete an application can be obtained electronically via TOP's Web site at *http://www.ntia.doc.gov/top* or by contacting the TOP office at 202–482–2048.

FOR FURTHER INFORMATION CONTACT: Stephen J. Downs, Director of the Technology Opportunities Program. Telephone: 202–482–2048; fax: 202–501–5136; e-mail: *top@ntia.doc.gov*.

SUPPLEMENTARY INFORMATION:

Authority: NTIA issues this Notice subject to the appropriations made available under continuing resolution (Public Law 107–70). NTIA anticipates making grant awards provided that funding for TOP is continued beyond December 7, 2001, the expiration date of the current continuing resolution.

Eligible Organizations

All non-profit entities (including, but not limited to, faith-based organizations, national organizations and associations, non-profit community-based organizations, non-profit health care providers, schools, libraries, museums, colleges, universities, public safety providers) and state, local, and tribal governments are eligible to apply.

Although individuals and for-profit organizations are not eligible to apply, they are encouraged to participate as project partners.

Funding Availability

Issuance of grants is subject to the availability of FY 2002 funds. Based on the status of relevant appropriations legislation, NTIA expects to have approximately $12.5 million available for new grants. Further notice will be made in the **Federal Register** and the TOP web site of the final status of funding for this program at the appropriate time.

Based on past experience, NTIA expects this year's grant round to be very competitive. In Fiscal Year 2001, NTIA received over 660 applications collectively requesting more than $367 million in federal funds. From these applications, the Department of Commerce announced 74 awards totaling $42.8 million in federal funds.

Award Amount

An applicant may request up to a total of $750,000 in funds from NTIA. TOP expects the federal amounts awarded to range from $200,000 to $750,000, with an average of approximately $500,000. The amount awarded covers the duration of the project.

Matching Funds Requirements

Grant recipients under this program will be required to provide matching funds toward the total project cost. Applicants must document their capacity to provide matching funds. Matching funds may be in the form of cash or in-kind contributions. NTIA will provide up to 50 percent of the total project cost, unless the applicant can document extraordinary circumstances warranting a grant of up to 75 percent. Grant funds under this program are usually released in direct proportion to local matching funds utilized and documented as having been expended.

Generally, federal funds may not be used as matching funds, except as provided by federal statute. If you plan to use funds from a federal agency as matching funds, you should contact the federal agency that administers the funds in question and obtain documentation from that agency's Office of General Counsel to support the use of federal funds for matching purposes.

Completeness of Application

TOP will initially review all applications to determine whether all required elements are present and clearly identifiable. The required elements are listed and described in the Guidelines for Preparing Applications'Fiscal Year 2002. Details on how to access the Guidelines for Preparing Applications'Fiscal Year 2002, are available in the section "Other Information" in this Notice. Each of the required elements must be present and clearly identified. Failure to do so may result in rejection of the application. For details on how to obtain materials needed to complete an application, see "Addresses" in this Notice.

Application Deadline

As noted above, complete applications for the Fiscal Year 2002 TOP grant program must be received by NTIA no later than 8 P.M. EST, March 21, 2002. A postmark date is not sufficient. Applications which have been provided to a delivery service on or before March 20, 2002, with "delivery guaranteed" before 8:00 P.M. on March 21, 2002, will be accepted for review if the applicant can document that the application was provided to the delivery service with delivery to the

address listed above guaranteed prior to the closing date and time. Applications will not be accepted via facsimile machine transmission or electronic mail.

NTIA anticipates that it will take approximately six months to complete the review of applications and make final funding decisions.

Program Funding Priorities

Through TOP, NTIA provides underserved communities with opportunities to explore the possibilities that emerging digital network technologies offer to solve critical challenges in such areas as lifelong learning, community and economic development, government and public services, safety, health, culture, and the arts.[1]

TOP projects demonstrate creative uses of digital network technologies to address pressing needs in the public and non-profit sectors. Therefore, TOP expects each applicant to present a clear vision and a workable plan to apply digital network technologies to address specific challenges in their communities. Rather than simply requesting funds to build capacity or upgrade existing equipment, each application should describe a project that pinpoints specific problems, proposes creative solutions, and postulates measurable outcomes.

As a national program, TOP emphasizes innovation, learning, and diffusion of new ideas and practical knowledge. Each TOP-supported project must be innovative in the sense that it represents a departure from how other communities and groups across the country are using digital network technologies to overcome obstacles. Each TOP project should yield new insights into how best to use these technologies and offer opportunities to learn what works well and what does not. Because these grants will serve as national models for other communities, NTIA expects each project to include provisions for thorough evaluations that will provide valid and reliable data as well as valuable lessons learned to be shared with others interested in the project.

All funded projects must be interactive in that they allow end users to share information with each other or gain access to information on an on-demand basis, as opposed to a one-way or broadcast basis.[2] TOP-supported projects must also involve communication and new partnerships among multiple unaffiliated organizations or enable direct, interactive communication between an organization and the public it serves.

For the FY 2002 grant competition, TOP is interested in projects that involve:

- Broadband technologies that bring very high-speed communications directly to end users;
- Mobile wireless communication technologies that offer end users greater flexibility in how, where, and when they access information;
- Empowering end users to move beyond passive information consumption to become valued contributors to the development, use, and expansion of shared information resources; [3] and
- Emerging data sharing techniques that facilitate the seamless and secure exchange of information across organizational boundaries.

In previous fiscal years, NTIA supported planning projects. The emphasis for Fiscal Year 2002 is on projects that deploy, use, and evaluate digital network technologies. NTIA will, however, support projects that incorporate some planning activities as part of the proposed project.

Limitations on Project Scope

Each TOP project is expected to include a range of activities that support project development, implementation, and evaluation. However, TOP will not support projects whose primary purpose is to develop network infrastructure, to create hardware or software, to provide training on the use of the network technologies, or to build voice-based systems. Details on these restrictions are discussed below.

(1) Infrastructure Development Projects. Every TOP applicant is expected to create a project that describes and provides funding for specific applications of digital network technologies to address important community challenges. Therefore, TOP will not support projects whose primary purpose is to create telecommunications or network infrastructure without significant dedication of resources to specific applications of that infrastructure.

(2) Hardware or Software Development Projects. Some projects may require limited software development or the customization or modification of existing software or hardware in order to meet particular end-user requirements or to enable the exchange of information across networks. However, the creation of a software or hardware product cannot be a project's primary purpose.

(3) Training Projects. While TOP does consider training to be an essential aspect of most projects, TOP will not support projects whose primary purpose is to provide training in the use of software applications, Internet use, or other use of network technologies.

(4) Voice-based Systems. Two-way, interactive voice networks are an important element of the existing network systems. Voice as a means for conveying information and voice input tools play critical roles in ensuring people with disabilities have access to network technology. However, TOP will not support projects whose primary purpose is to either build or install voice-based communication networks such as call centers, two-way radio networks, enhanced-911 and 311 systems, or 800 MHZ radio systems.

Review Criteria

Reviewers will analyze and rate each application using the following criteria. The relative weights of each criterion are identified in parentheses.

1. Project Purpose (20%)

Each application should describe a clearly defined project that focuses on underserved communities. In this criterion, reviewers will judge each application on (1) the overall design of the project and (2) the degree to which it provides opportunities for underserved communities.

In assessing the project design, reviewers will examine the degree to which the applicant clearly: (1) Defines the problem(s) within the community to be served and describes its severity; (2) proposes creative and practical means of addressing the community's problem(s) through specific applications of digital network technologies; and (3) identifies anticipated outcomes and that are both realistic and measurable. Reviewers will also assess the degree to which an applicant convincingly links the three major elements—problem(s), solution(s), and outcome(s).

Reviewers will assess the degree to which the project targets underserved communities and populations, and the degree to which the proposed project

[1] "Underserved" refers to various groups of people and geographic communities that face technological, economic, physical, linguistic, or cultural barriers that limit access to the benefits of digital network technologies.

[2] An "end user" is an individual who directly utilizes the network technology.

[3] For example, once isolated communities now use Internet technology to collect and express their histories; children have become agents of community change as they have used network technology to collect information, provide analysis, and contribute to the public policy dialogue in their communities; and citizens are exploring the creation of databases which enrich the resources made available by local and state governments.

will address the circumstances and challenges (such as poverty, low literacy, disabilities, high unemployment, low educational achievement, high crime rate, poor health status, etc.) they face.

2. Innovation (20%)

Reviewers will assess innovation by examining both the technology to be used and the application of technology in a particular setting, to serve a particular population, or to solve a particular problem. TOP defines innovation broadly. For example, projects that involve imaginative partnerships, the introduction of new business processes designed to offer more effective services, untested strategies for overcoming access barriers, or new techniques that transform inter-organizational relationships can all be considered innovative. TOP encourages applicants to experiment with leading edge technologies. It is, however, the creativity behind the application of the technology to meet community needs that ultimately determines the level of innovation.

Using their experience in their respective fields, reviewers will examine each project in a national context and evaluate how an application compares with, complements, and improves on what is known about using digital network technology as a solution to problems in its particular field.

3. Diffusion Potential (20%)

The innovations and approaches to be demonstrated in any proposed project should contain the potential to be diffused broadly throughout the country. NTIA expects that each awarded project will serve as a model for other communities to follow.

To assess this potential for diffusion, reviewers will consider five factors:

(1) The degree to which the problem identified by the applicant is common to many communities;

(2) The relative advantage of the project's innovations over established approaches to addressing the specified problems;

(3) The ease of replication and adaptation, based on considerations such as cost and complexity;

(4) The applicant's plans and budget resources dedicated to disseminate actively the knowledge gained from the project's successes and failures; and

(5) The capability and experience of an applicant or their partner organizations to reach communities across the country and disseminate their findings.

4. Project Feasibility (15%)

In assessing the feasibility of each application, reviewers will focus on six issues: the technical approach, the qualifications of the project staff, the proposed budget, the implementation schedule, plans for protecting privacy, and the applicant's plan for sustaining the project beyond the grant period.

(1) In assessing the technical approach, reviewers will examine the degree to which the proposed system would work and operate with other systems; technological alternatives that have been considered; designs for system maintenance and periodic upgrades; and plans for project expansion. Applicants are expected to make use of existing infrastructure and commercially available telecommunications services, unless extraordinary circumstances require the construction of new network facilities.

(2) In assessing the qualifications of the project team, reviewers will assess the applicant and its partners to determine if they have the resources, expertise, and experience necessary to undertake, evaluate, and complete the project and disseminate results within the proposed period.

(3) Reviewers will analyze the budget in terms of clarity and cost-effectiveness. The proposed budget should be appropriate to the tasks proposed and sufficiently detailed so that reviewers can easily understand the relationship of items in the budget to the project narrative.

(4) Reviewers also will assess the degree to which the implementation process is comprehensive, reasonable, and can be completed in the proposed time frame.

(5) Reviewers will evaluate the applicant's plans to safeguard the privacy of the project's end users and others affected by the project.

(6) Finally, reviewers will examine the applicant's strategies to sustain the project after the completion of the grant.

5. Community Involvement (15%)

Each application will be rated on the overall level and breadth of community involvement in the development and implementation of the proposed project. Reviewers will:

(1) Analyze the applicant's partnerships to ensure that they include linkages among unaffiliated organizations (from the public, non-profit, or private sectors) as an ongoing and integral part of project planning and implementation. TOP considers partners to be organizations that supply cash or in-kind resources and/or play an active role in the planning and implementation of the project;

(2) Examine the steps the applicant has taken to include and sustain the involvement of a variety of community stakeholders. Reviewers will look for evidence of demand, from the community, the end users, and the potential beneficiaries, for the services proposed by the project; and

(3) Consider the degree of attention paid to the needs, skills, working conditions, and living environments of the targeted end users. Reviewers will consider the extent to which applicants involve representatives from a broad range of potential users in both the design and implementation of the project and consider the varying degrees of abilities of all end users, including individuals with disabilities. Reviewers will also assess the degree to which the project addresses barriers which limit a community's or a group's access to digital network technologies. Finally, reviewers will assess the applicant's plans for training end users and upgrading their skills.

6. Evaluation (10%)

Each application will be rated on its proposed plans for evaluating the project. Reviewers will assess the extent to which the applicant's research or evaluation design: (1) Provides for continuous feedback for project planning, implementation, review and revision; (2) addresses the problems, solutions, and anticipated outcomes described in the project purpose and yields valid and reliable findings; (3) captures lessons learned and sufficient descriptive data so that others may easily adapt and replicate the project; and (4) meets TOP's requirements for an independent evaluation as described in the "Reporting Requirements" section of Notice.

In assessing evaluation, reviewers will examine:

(1) The research design and methodology;

(2) Evaluation questions, data collection, and data analysis plans;

(3) The qualifications of any staff or external evaluators working on the evaluation; and

(4) The allocation of resources for implementing the evaluation and reporting project findings.

Eligible Costs

Eligible Costs. Allowable costs incurred under approved projects shall be determined in accordance with applicable federal cost principles, i.e., OMB Circular A–21, A–87, A–122, or Appendix E of 45 CFR part 74. If included in the approved project budget, TOP will allow costs for personnel; fringe benefits; computer

hardware, software, and other end-user equipment; telecommunication services and related equipment; consultants, evaluators, and other contractual items; travel; rental of office equipment, furniture, and space; and supplies. All costs must be reasonable and directly related to the project.

Indirect Costs. The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant federal agency.

Ineligible Costs

Costs associated with the construction or major renovation of buildings are not eligible. While costs for the construction of new network facilities are eligible, applicants are expected to make use of existing infrastructure and commercially available telecommunications services. Only under extraordinary circumstances will the construction of new network facilities be approved.

Costs for professional services are also ineligible. TOP defines professional services as activities delivered over a network that would otherwise be provided in a face-to-face setting such as teaching students, counseling clients, providing direct patient care, or interpreting services, etc. For example, if the project proposes to create a telemedicine network, the costs of setting up, maintaining, and evaluating the use of the network are eligible, but payment for the time or services of physicians or other health professionals providing care over the network is not an eligible cost.

Note that costs that are ineligible for TOP support may not be included as part of the applicant's matching fund contribution.

In addition, the restrictions on the use of grant funds defined in the Consolidated Appropriations Act for Fiscal Year 2001, Public Law 106–553 are still applicable. The act placed restrictions on eligible costs for applicants that are recipients of Universal Service Fund discounts and applicants receiving assistance from the Department of Justice's Regional Information Sharing Systems Program as part of the project costs. The statute provided:

> That notwithstanding any other provision of law, no entity that receives telecommunications services at preferential rates under section 254(h) of the Act (47 U.S.C. 254(h)) or receives assistance under the regional information sharing systems grant program of the Department of Justice under part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) may use funds under a grant under this heading to cover any costs of the entity that would otherwise be covered by such preferential rates or such assistance, as the case may be.

Accordingly, recipients of the above-described preferential rates or assistance are prohibited from including any costs that would be covered by such preferential rates or assistance in their proposed TOP grant budget. More details on this restriction can be found in the Guidelines for Preparing Applications—Fiscal Year 2002.

NTIA will clarify this restriction through a Notice of Availability of Funds which will be released in the **Federal Register** and TOP's web site once a FY 2002 appropriations bill is signed into law.

Award Period

Successful applicants will have up to 36 months to complete their projects. While the completion time will vary depending on the complexity of the project, NTIA has found that most grant recipients require at least two years to complete and evaluate fully their projects. Accordingly, NTIA encourages applicants to propose projects that last two to three years.

Selection Process

The selection process will last approximately six months and involves four stages outlined below:

(1) During the first stage, each eligible application will be reviewed by a panel of outside readers, who have demonstrated expertise in both the programmatic and technological aspects of the application. The review panel members will evaluate applications according to the review criteria provided in this Notice and provide the ratings to the program staff. As discussed below, these ratings constitute one of the selection factors to be used by the TOP Director when preparing the slate of recommended grant awards.

(2) Upon completion of the external review process, program staff will analyze applications considered for award that will be based on the degree to which a proposed project meets the program's funding scope as described in the section entitled "Limitations on Project Scope;" the eligibility of costs and matching funds included in an application's budget; and the extent to which an application complements or duplicates projects previously funded or under consideration by NTIA or other federal programs.[4]

The TOP Director then prepares and presents a slate of recommended grant awards to the Office of Telecommunications and Information Applications' (OTIA) Associate Administrator for review and approval of the recommended slate.[5] The Director's recommendations and the Associate Administrator's review and approval will take into account the following selection factors:

1. The evaluations of the outside reviewers;
2. The analysis of program staff;
3. The degree to which the proposed grants meet the program's priorities as described in the section entitled "Program Funding Priorities;"
4. The geographic distribution of the proposed grant awards;
5. The variety of technologies and diversity of uses of the technologies employed by the proposed grant awards;
6. The provision of access to and use of digital network technologies by rural communities and other underserved groups;
7. Avoidance of redundancy and conflicts with the initiatives of other federal agencies; and,
8. The availability of funds.

(3) Upon approval by the OTIA Associate Administrator, the Director's recommendations will then be presented to the Selecting Official, the NTIA Administrator. The NTIA Administrator selects the applications to be negotiated for possible grant award taking into consideration the Director's recommendations and the degree to which the slate of applications, taken as a whole, satisfies the selection factors described above and the program's stated purposes as set forth in the section entitled "Program Funding Priorities."

(4) After applications have been selected in this manner, negotiations will take place between TOP staff and the applicant. These negotiations are intended to resolve any differences that exist between the applicant's original request and what TOP proposes to fund, and if necessary, to clarify items in the application. Not all applicants who are contacted for negotiation will necessarily receive a TOP award. Final selections made by the Administrator will be based upon the recommendations by the Director and

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[4] See discussion of "Eligible Costs" and "Matching Funds Requirements" in this Notice.

Information on previously funded grants is available from the TOP. In the section "Other Information" of this Notice, details are available on how to access this information.

[5] The Office of Telecommunication and Information Applications is the division of the National Telecommunications and Information Administration that supervises NTIA's grant awards programs.

the OTIA Associate Administrator and the degree to which the slate of applications, taken as a whole, satisfies the program's stated purposes as set forth in the section entitled "Program Funding Priorities," upon the conclusion of negotiations.

Use of Program Income

Applicants are advised that any program income generated by a proposed project is subject to special conditions. Anticipated program income must be documented appropriately in the project budget. In addition, should an application be funded, unanticipated program income must be reported to TOP, and the budget for the project must be renegotiated to reflect receipt of this program income. Program income means gross income earned by the recipient that is either directly generated by a supported activity, or earned as a result of the award. In addition, federal policy prohibits any recipient or subrecipient receiving federal funds from the use of equipment acquired with these funds to provide services to non-federal outside organizations for a fee that is less than private companies charge for equivalent services. This prohibition does not apply to services provided to outside organizations at no cost.

Policy on Sectarian Activities

Applicants are advised that on December 22, 1995, NTIA issued a notice in the **Federal Register** on its policy with regard to sectarian activities. Under NTIA's policy, while religious activities cannot be the essential thrust of a grant, an application will not be ineligible where sectarian activities are only incidental or attenuated to the overall project purpose for which funding is requested. Applicants for whom this policy may be relevant should read the policy that was published in the **Federal Register** at 60 FR 66491, Dec. 22, 1995.

Reporting Requirements

To ensure compliance with federal regulations and collect systemic evaluation data on each project, successful TOP applicants have a number of basic reporting requirements once they are awarded a grant. At project outset, TOP grantees provide detailed baseline information on the project objectives, goals, partners, and populations served. Each quarter, grantees provide financial reports and updates on project activities. At project completion, TOP grantees must also provide a closeout report.

Finally, because evaluation results play such a critical role in helping other organizations learn about what works well and what does not, each TOP-supported project will provide NTIA a final evaluation report. To ensure the validity of the findings, the final evaluation report must be completed by an independent evaluator or team of evaluators who are not in a direct reporting relationship with the applicant.[6] TOP will make copies of the final evaluation report available to the public.

Waiver Authority

It is the general intent of NTIA not to waive any of the provisions set forth in this Notice. However, under extraordinary circumstances and when it is in the best interest of the federal government, NTIA, upon its own initiative or when requested, may waive the provisions in this Notice. Waivers may only be granted for requirements that are discretionary and not mandated by statute. Any request for a waiver must set forth the extraordinary circumstances for the request and be included in the application or sent to the address provided in the **ADDRESSES** section above. NTIA will not consider a request to waive the application deadline for an application until the application has been received.

Intergovernmental Review

Applications under this program are subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

Other Information

Electronic Information. Information about NTIA and TOP, including this document and the Guidelines for Preparing Applications—Fiscal Year 2002, can be retrieved electronically via the Internet using the World Wide Web at *http://www.ntia.doc.gov/top*. This document can be provided in alternate formats, including braille. If you need assistance please contact TOP at 202–482–2048 or *top@ntia.doc.gov*.

In order to facilitate the diffusion of ideas generated by the grant round and opportunities for other potential funders to identify promising projects, TOP will provide a copy of each application's executive summary and contact information on its home page.

For FY 2002, applicants to the TOP will also be able to utilize the Internet to prepare their Standard Forms 424 and 424A and an executive summary. Through TOP's web site at *http://www.ntia.doc.gov/top*, applicants can access helpful guides and online tools with self calculating totals and pre-filled forms that will reduce the time it takes to prepare the application forms. These tools are optional and not required to prepare an application.

Please note that applicants must submit all application materials (even those forms prepared online) in hard copy with appropriate signatures as specified in the Application Deadline section of this Notice.

Submission Requirements. TOP requests one original and five copies of the application. Applicants for whom the submission of five copies presents financial hardship may submit one original and two copies of the application. In addition, all applicants are required to submit a copy of their application to their state Single Point of Contact (SPOC) offices, if they have one. For information on contacting state SPOC offices, refer to the Guidelines for Preparing Applications—Fiscal Year 2002.

Disposition of Unsuccessful Applications. Applications accepted for review for the Fiscal Year 2002 grant round will be stored at the Department of Commerce until the start of the next grant competition or one year, whichever period is longer. At the end of that period, the applications will be destroyed.

Sensitive Information. Because of the high level of public interest in projects supported by TOP, the program anticipates receiving requests for copies of successful applications. Applicants are hereby notified that the applications they submit are subject to the Freedom of Information Act. To assist NTIA in making disclosure determinations, applicants may identify sensitive information and label it "confidential."

Human Subject Research Protections. The Department of Commerce, through Part 27 of Title 15 of the Code of Federal Regulations, requires that all applications awarded under the TOP ensure protections for any human subjects involved in research.

For each application that involves human subject research, applicants should clearly indicate in the evaluation section of the application that:

(1) The project involves human subjects research, but the research will likely be eligible for an exemption from Institutional Review Board approval, or

(2) The project involves human subjects research, and you either have or will seek approval of the research from an Institutional Review Board.

[6] In large institutions, such as universities, colleges, and foundations, an independent evaluator can include a representative from departments not associated with the applicant. In addition, TOP's requirement for having a grantee have an independent evaluator develop the final evaluation report does not preclude an applicant from conducing the evaluation in conjunction with an independent evaluator.

If an application is considered for funding, the grant applicant will be asked to submit appropriate documentation of IRB approval or exemption status to the Federal Program Officer for approval by Department officials. More details on human subject research protections are available through the TOP's Web site at *http://www.ntia.doc.gov/top* and the Guidelines for Preparing Applications—Fiscal Year 2002.

Grant Requirements. The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), are applicable to this solicitation.

Other Requirements. It has been determined that this Notice is not significant for purposes of Executive Order 12866.

Because notice and comment are not required under 5 U.S.C. 553, or any other law, for notices relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared for this Notice, 5 U.S.C. 601 *et seq.*

It has been determined that this Notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Nancy J. Victory,

Assistant Secretary for Communications and Information.

[FR Doc. 01–30172 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Public User ID Badging

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 4, 2002.

ADDRESSES: Direct all written comments to Susan K. Brown, Records Officer, Office of Data Management, Data Administration Division, USPTO, Suite 310, 2231 Crystal Drive, Washington, DC 20231; by telephone at (703) 308–7400; or by electronic mail at *susan.brown@uspto.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Catherine Hollan, Manager, Public Search Facilities, USPTO, Room 2C04, 2021 South Clark Place, Arlington, VA 22202; by telephone at (703) 306–2608; or by electronic mail at *chollan@uspto.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. 41(i)(1) to maintain a Public Search Facility to provide patent and trademark collections for the public to search and retrieve information. The Public Search Facilities are maintained for public use with paper and automated search files and trained staff to assist searchers. The Public Search Facilities are available to everyone.

In order to maintain and control the patent and trademark collections so that the information is available to the public, the USPTO issues Public User ID badges to users who wish to use the Public Search Facilities. For many years, the USPTO issued paper User IDs, but the USPTO now uses an electronic badging database for the issuance of plastic ID badges.

The plastic ID badge shows a color photograph of the user, a bar-coded user number, and an expiration date. The badging system allows the USPTO to electronically store the information, which can be updated periodically. The ID system is designed to enable the USPTO to (a) identify users of patent and trademark documents, (b) confine user access to public areas, (c) locate and control access to patent and trademark documents, and (d) identify users of USPTO services.

The Public User ID badge enables the USPTO to accurately track use of the documents and to identify anyone misusing the search facilities. The USPTO uses the ID badges to identify, counsel, and sanction users who destroy, misfile, or remove documents from its collections, or who mishandle its equipment. The Public User ID also grants the public limited access to the non-public parts of the USPTO, such as the Examiner areas. To access these areas, users are required to wear a visible USPTO employee ID, a contractor ID, or a Public User ID. (The Public User ID badges enable the USPTO to immediately confirm a user's identity via an on-the-spot comparison with the color photograph on the badge.)

For its ID system, the USPTO collects the following mandatory identifying information: name and mailing address (as verified on a picture ID such as a driver's license), signature, and a digital photograph of the user that is taken by USPTO staff. Optional information includes telephone number and USPTO Attorney Registration Number, if any.

II. Method of Collection

The application for the Public User ID is completed on site and handed to a staff member to enter into the system and issue the badge.

III. Data

OMB Number: 0651–0041.

Form Number(s): PTO–2030.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; not-for-profit institutions; farms; the Federal Government; and state, local or tribal governments.

Estimated Number of Respondents: 9,084 responses per year.

Estimated Time Per Response: The USPTO estimates that it will take the public approximately five minutes (.08 hours) to gather the necessary information, prepare the form, and submit the completed application for a Public User ID or to renew the Public User ID Badge, and approximately ten minutes (.17 hours) to supply any optional information to the staff, have the photograph taken, and be issued the Public User ID Badge.

Estimated Total Annual Respondent Burden Hours: 1,054 hours per year.

Estimated Total Annual Respondent Cost Burden: $109,616 per year. The USPTO estimates that of those users requesting Public User IDs, approximately 1/3 of the users will be attorneys and 2/3 will be paraprofessionals. Using the professional hourly rate of $252 per hour for associate attorneys in private firms and the paraprofessional hourly rate of $30 per hour, the average hourly rate for all respondents to this collection will be $104 per hour.

Item	Estimated time for response (minutes)	Estimated annual responses	Estimated annual burden hours
Application for Public User ID	5	3,642	291
Issue Public User ID Badge	10	3,642	619
Renew Public User ID Badge	5	1,800	144
Total		9,084	1,054

Estimated Total Annual Nonhour Respondent Cost Burden: $0. (There are no capital start-up or maintenance costs or filing fees associated with this information collection.)

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 26, 2001.

Susan K. Brown,

Records Officer, USPTO, Office of Data Management, Data Administration Division.

[FR Doc. 01–30212 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Technology Administration

Announcing a Public Workshop on Digital Entertainment and Rights Management

AGENCY: Technology Administration, Commerce.

ACTION: Notice of a public workshop.

SUMMARY: The United States Department of Commerce Technology Administration (TA) announces a public workshop on digital entertainment and its availability to consumers. The workshop will help gather data on such issues as the strengths, weaknesses and availability of current and imminent technological solutions to protect digital content, barriers that are inhibiting movies, music and games from coming online and the capability of networks to handle digital content such as video-on-demand to the home. Limited seating will be available to members of the general public. It is recommended that persons wishing to become general public attendees call in advance to reserve seating, on a first come, first served basis.

DATES: This workshop will be held on December 17, 2001, from 9 a.m.–4 p m.

ADDRESSES: The workshop will be held at the Herbert C. Hoover Building, 1401 Constitution Avenue, NW., Room 4830, Washington, DC. Entrance on 14th St. between Pennsylvania and Constitution Aves., NW.

FOR FURTHER INFORMATION CONTACT: Further information may be obtained from Chris Israel, Deputy Assistant Secretary for Technology Policy, Technology Administration, (202) 482–5687.

SUPPLEMENTARY INFORMATION: Pursuant to its statutory authority found at 15 U.S.C. 3704(c), the Technology Administration is authorized, among other things, to do the following:

- Conduct technology policy analyses to improve United States industrial productivity, technology, and innovation, and cooperate with United States industry in the improvement of its productivity, technology, and ability to compete successfully in world markets;
- Determine the relationships of technological developments and international technology transfers to the output, employment, productivity, and world trade performance of United States and foreign industrial sectors;
- Determine the influence of economic, labor and other conditions, industrial structure and management, and government policies on technological developments in particular industrial sectors worldwide;
- Identify technological needs, problems, and opportunities within and across industrial sectors that, if addressed, could make a significant contribution to the economy of the United States;
- Assess whether the capital, technical and other resources being allocated to domestic industrial sectors which are likely to generate new technologies are adequate to meet private and social demands for goods and services and to promote productivity and economic growth;
- Propose and support studies and policy experiments, in cooperation with other Federal agencies, to determine the effectiveness of measures with the potential of advancing United States technological innovation;
- Serve as a focal point for discussions among United States companies on topics of interest to industry and labor, including discussions regarding manufacturing and discussions regarding emerging technologies; and,
- Consider government measures with the potential of advancing United States technological innovation and exploiting innovations of foreign origin.

With these responsibilities in mind, the Technology Administration is planning on holding a full-day, moderated series of informal discussions with relevant stakeholders to gather information on the availability of digital entertainment and status of copyright protection and rights management tools. The discussions will help gather data on such issues as the strengths, weaknesses and availability of technological solutions, as well as network capability.

Authority: This work effort is being initiated pursuant to TA's statutory responsibilities, codified at section 3704 of Title 15 of the United States Code.

Dated: November 30, 2001.

Phillip J. Bond,

Undersecretary of Commerce for Technology.

[FR Doc. 01–30221 Filed 12–5–01; 8:45 am]

BILLING CODE 3510–13–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 02–C0002]

MTS Products, Inc., a Corporation Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20. Published below is a provisionally-accepted Settlement Agreement with MTS Products, Inc., a corporation containing a civil penalty of $75,000.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by December 21, 2001.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 02–C0002, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Dennis C. Kacoyanis, Trial Attorney, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0980, 1346.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: December 3, 2001.

Todd A. Stevenson,

Acting Secretary.

[CPSC Docket No. 02–C0002]

In the Matter of MTS PRODUCTS, INC., a corporation.

Settlement Agreement and Order

1. This Settlement Agreement and Order, entered into between MTS Products, Inc. (hereinafter, "MTS" or "Respondent"), a corporation, and the staff of the Consumer Product Safety Commission (hereinafter, "staff"), pursuant to the procedures set forth in 16 CFR 1118.20, is a compromise resolution of the matter described herein, without a hearing or a determination of issues of law and fact.

I. The Parties

2. The "staff" is the staff of the Consumer Product Safety Commission (hereinafter, "Commission"), an independent federal regulatory commission of the United States government established pursuant to section 4 of the Consumer Product Safety Act (CPSA), as amended, 15 U.S.C. 2053.

3. Respondent MTS Products, Inc. is a corporation organized and existing under the laws of the State of California. Its office is located at 190401 Business Center Drive, Northridge, CA 91324. Respondent is a manufacturer and wholesaler of general merchandise including juvenile products.

II. Allegations of the Staff

4. In March 1996, MTS manufactured and distributed in commerce 18,200 J. Mason Infant Carriers (hereinafter, "Infact Carrier"), Model Number 12502, "Squiggles," Model Number 12505, "Aurora Dreams," and Model No. 12506, "Aurora Dreams With Canopy" MTS is, therefore, a "manufacturer" of a "consumer product" "distributed in commerce" as those terms are defined in sections 3(a)(1), (4), and (11) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2052(a)(1), (4), and (11).

5. Between June 6, 1996 and February 24, 1997, MTS received seven reports of the Infant Carrier's carrying handle breaking during use, allowing babies to fall to the ground or the floor. Several babies sustained bruises, cuts, and abrasions to the face. MTS did not report this information to the Commission.

6. MTS had sufficient information to conclude that the Infant Carriers contained a defect which could create a substantial product hazard, but failed to report such information as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b). A failure to report under section 15(b) is a prohibited act under section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4). By knowingly failing to report, MTS subjected itself to civil penalties under section 20 of the COSA, 15 U.S.C. 2069.

III. Response of MTS

7. Respondent denies the staff's allegations set forth in paragraphs 4 through 6 above.

8. Respondent denies that the Infant Carrier contains a defect which could create a substantial product hazard under section 15(a) of the CPSA, 15 U.S.C. 2064(a).

9. Respondent denies that it knowingly violated the reporting requirement of section 15(b) of the CPSA, 15 U.S.C. 2064(b) pursuant to section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

10. Respondent contends that its contractor had used re-grind plastic material to complete a production run one day in March 1996. This material was not in accordance with Respondent's specifications for its Infant Carriers. It appears that a minimum of 100 Infant Carriers may have been affected. Because Respondent did not date code its Infant Carriers, Respondent recalled all Infant Carriers manufactured in March 1996. The total number of Infant Carriers recalled was 18,200.

IV. Agreement of the Parties

11. The Commission has jurisdiction over Respondent and the subject matter of this Settlement Agreement and Order under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051 *et seq.*

12. This Agreement is entered into for settlement purposes only and does not constitute an admission by Respondent or a determination by the Commission that Respondent knowingly violated the CPSA's Reporting Requirement.

13. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(f). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed to be finally accepted on the 16th day after the date it is published in the **Federal Register**.

14. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, Respondent knowingly, voluntarily, and completely waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether Respondent failed to comply with the CPSA, as alleged, (4) to a statement of findings of facts or conclusions of law, and (5) to any claims under the Equal Access to Justice Act.

15. In settlement of the staff's allegations, Respondent agrees to pay a $75,000.00 civil penalty as set forth in the incorporated Order.

16. The Commission may publicize the terms of the Settlement Agreement and Order.

17. Upon final acceptance by the Commission of this Settlement Agreement and Order, the Commission shall issue the attached Order incorporated herein by reference.

18. Agreements, understandings, representations, or interpretations made outside this Settlement Agreement and Order may not be used to vary or contradict its terms.

19. The provisions of this Settlement Agreement and Order shall apply to Respondent and each of its successors and assigns.

Respondents MTS Products, Inc.

Dated: December 18, 2000.

Paula Willis Mueller,

Vice President, General Merchandise Manager, MTS Products, Inc., 19401 Business Center Drive, Northridge, CA 91324.

Commission Staff.

Alan H. Schoem,
Assistant Executive Director, Consumer Product Safety Commission, Office of Compliance, Washington, DC 20207–0001.

Eric L. Stone,
Director, Legal Division, Office of Compliance.

Dated: December 21, 2000.

Dennis C. Kacoyanis,
Trial Attorney, Legal Division, Office of Compliance.

Order

Upon consideration of the Settlement Agreement entered into between Respondent MTS Products, Inc. (hereinafter, "Respondent"), a corporation, and the staff of the Consumer Product Safety Commission ("Commission"); and the Commission having jurisdiction over the subject matter and Respondent; and it appearing that the Settlement Agreement and Order is in the public interest, IT IS

Ordered, that the Settlement Agreement be and hereby is accepted, and it is

Further Ordered, that upon final acceptance of the Settlement Agreement and Order, Respondent MTS Products, Inc. shall pay to the United States Treasury a civil penalty in the amount of seventy-five thousand and 00/100 dollars ($75,000.00) in two (2) installments each. The first payment of thirty-seven thousand five hundred and 00/100 dollars ($37,500.00) shall be paid within twenty (20) days after service of the Final Order of the Commission (hereinafter, "anniversary date"). The second payment of thirty-seven thousand five hundred and 00/100 dollars ($37,500.00) shall be paid within one (1) year of the anniversary date. Upon the failure of Respondent MTS Products, Inc. to make a payment or upon the making of a late payment by Respondent MTS Products, Inc. (a) the entire amount of the civil penalty shall be due and payable, and (b) interest on the outstanding balance shall accrue and be paid at the federal legal rate of interest under the provisions of 28 U.S.C. 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 3rd day of December, 2001.

By Order of the Commission,

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 01–30307 Filed 12–5–01; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF ENERGY

National Energy Technology Laboratory; Notice of Availability of a Financial Assistance Solicitation

AGENCY: National Energy Technology Laboratory, Department of Energy (DOE).

ACTION: Notice of availability of a Financial Assistance Solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Solicitation No. DE–PS26–02NT15379 entitled "Applications of Petroleum Technologies on Native American and Alaskan Native Corporation Properties for the Benefit of the Entire Tribe/Native Corporation." The DOE/NETL is seeking applications on behalf of the National Petroleum Technology Office, for support of projects consistent with applied research for development, exploration, processing and environmental solutions for oil production problems on Native American and Alaskan Native Corporation lands, thereby commonly benefitting the Tribe or Corporation. This program is directed toward creating cooperative efforts between the Tribes or Corporations and the oil industry.

DATES: The solicitation will be available on the DOE/NETL's Internet address at *http://www.netl.doe.gov/business* and on the "Industry Interactive Procurement System" (IIPS) webpage located at *http://e-center.doe.gov* on or about December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Juliana L. Murray, U.S. Department of Energy, National Energy Technology Laboratory, PO Box 10940, MS 921–107, Pittsburgh, PA 15236, E-mail Address: murray@netl.doe.gov, Telephone Number: 412–386–4872.

SUPPLEMENTARY INFORMATION: The DOE supports modern petroleum technologies on Native American and Alaskan Native Corporation lands which are both economically and environmentally viable. For a number of reasons, many areas on Native American and Alaskan Native Corporation lands are under explored and consequently have underdeveloped oil reserves. This program is directed toward creating cooperative efforts between the Tribes or Corporations and the oil industry.

The four areas of interest for the technical topics of this solicitation are:

(1) Development Program

The Development program is directed toward technologies to improve the development of a known oil field on Native American and Alaskan Native Corporation lands. Proposed efforts must be economically and environmentally viable as well as an improvement in the development of an oil field. The types of technologies to be considered are not limited to, but may include, reservoir characterization, completion or stimulation, secondary or tertiary oil recovery, artificial lift, well workovers, well drilling, field studies and production management;

(2) Exploration Program

The Exploration program is directed toward technologies to promote the exploration of undiscovered oil fields on Native American and Alaskan Native Corporation lands. In cooperation with the Tribal management, proposed efforts must be economically and environmentally viable as well as an improvement of oil field exploration techniques. The types of technologies to be considered are not limited to, but may include, non-invasive exploration techniques, computer-based modeling for exploration and well drilling and evaluation;

(3) Environmental Program

The Environmental program is directed toward technologies to reduce the cost of effective environmental oil and gas field compliance. The types of technologies to be considered are not limited to, but may include, soil remediation and remediation due to past operational practices or problems, air emissions, innovative waste and produced water management; and

(4) Oil Processing Program

The oil processing program is directed toward an increase in refining capacity by addressing issues that limit potential construction. The types of studies to be considered are those that evaluate the environmental impact and the economic feasibility of oil processing on Native American lands. Projects that focus on reducing the environmental impact of oil refining on these lands will also be considered.

Proposed efforts must incorporate innovative technologies to improve the development of a known oil field, to promote exploration of undiscovered oil reserves, to study viable solutions to evaluate and minimize the environmental impact of oil processing construction/operation or to reduce the cost of effective environmental oil and gas field compliance.

This solicitation fits into the overall mission of NETL by furthering to resolve the environmental, supply and reliability constraints of producing and using fossil energy resources to provide Americans with a stronger economy,

healthier environment and more secure future. Reserves and production are expected to increase as well as potential for facilitating a cleaner environment and a strong potential to increase processing capacity. The benefits are far-reaching to U.S. citizens, Native American Tribes, Alaskan Native Corporations and the U.S. Government by promoting a stronger economy, healthier environment and more secure future.

This solicitation is a follow-on to a 1999 Native American Solicitation. DOE anticipates issuing approximately two to five financial assistance (grant) awards with a project performance period no less than one year in length and up to two years in length. Approximately $1.2 million of DOE funding is planned for this solicitation. DOE has determined the minimum cost share of twenty percent (20%) of the total estimated project cost is required; details of the cost sharing requirement and the specific funding levels will be contained in the program solicitation.

This solicitation will be targeted for unrestricted competition however, all potential offerors must provide a letter of commitment for the project from the Native American Tribe's governing body or from the governing body of an Alaskan Native Corporation (more information will be provided in the solicitation). Applications submitted by or on behalf of (1) another Federal agency; (2) a Federally Funded Research and Development Center sponsored by another Federal agency; or (3) a Department of Energy (DOE) Management Operating (M&O) contractor will not be eligible for award under this solicitation. However, an application that includes performance of a portion of the work by a DOE M&O contractor will be evaluated and may be considered for award subject to the provisions to be set forth in Program Solicitation DE–PS26–02NT15379 (**Note:** The limit on participation by an M&O contractor for an individual project under this solicitation cannot exceed 20% of the total project cost).

Once released, the solicitation will be available for downloading from the IIPS Internet page. At this Internet site you will also be able to register with IIPS, enabling you to submit an application. If you need technical assistance in registering or for any other IIPS function, call the IIPS Help Desk at (800) 683–0751 or e-mail the Help Desk personnel at *IIPS_HelpDesk@e-center.doe.gov*. The solicitation will only be made available in IIPS, no hard (paper) copies of the solicitation and related documents will be made available.

Prospective applicants who would like to be notified as soon as the solicitation is available should subscribe to the Business Alert Mailing List at *http://www.netl.doe.gov/business*. Once you subscribe, you will receive an announcement by e-mail that the solicitation has been released to the public. Telephone requests, written requests, e-mail requests, or facsimile requests for a copy of the solicitation package will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. The actual solicitation document will allow for requests for explanation and/or interpretation.

Issued in Pittsburgh, PA, on November 29, 2001.

Dale A. Siciliano,

Deputy Director, Acquisition and Assistance Division.

[FR Doc. 01–30243 Filed 12–5–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–56–000]

Dominion Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

November 30, 2001.

Take notice that on November 27, 2001, Dominion Transmission Inc. (DTI) filed, as part of its FERC Gas Tariff, Third Revised Volume No. 1, Eleventh Revised Sheet No. 31, and Fourteenth Revised Sheet No. 32, with an effective date of January 1, 2002.

DTI states that the purpose of this filing is to adopt the 2002 Gas Research Institute (GRI) surcharges approved by the Commission in Docket No. RP01–434–000.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI 's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30253 Filed 12–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–57–000]

Dominion Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

November 30, 2001.

Take notice that on November 27, 2002, Dominion Transmission Inc. (DTI), filed as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets, with an effective date of January 1, 2002:

Second Revised Sheet No. 606
Third Revised Sheet No. 1000
Second Revised Sheet No. 1057
First Revised Sheet No. 1093
Second Revised Sheet No. 1112
Second Revised Sheet No. 1117
Second Revised Sheet No. 1119
Second Revised Sheet No. 1120
Second Revised Sheet No. 1126
Second Revised Sheet No. 1171
Third Revised Sheet No. 1184
Second Revised Sheet No. 1185
First Revised Sheet Nos. 2000–2005
First Revised Sheet Nos. 2052–2054
First Revised Sheet Nos. 2101–2104
First Revised Sheet No. 2151
First Revised Sheet No. 2153
First Revised Sheet No. 2154
First Revised Sheet No. 2156
Second Revised Sheet No. 2203
Second Revised Sheet No. 2204
Second Revised Sheet No. 2206
First Revised Sheet No. 2252
First Revised Sheet No. 2253
Third Revised Sheet No. 2304
First Revised Sheet No. 2305
First Revised Sheet No. 2352
First Revised Sheet No. 2353
First Revised Sheet Nos. 2402–2404
First Revised Sheet Nos. 2452–2454
First Revised Sheet No. 2501
First Revised Sheet No. 2506
First Revised Sheet No. 2507

DTI is filing the above-referenced tariff sheets to make various administrative changes and correct typographical errors.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30254 Filed 12–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL99–65–002; Docket No. EL95–38–002]

Sithe/Independence Power Partners, L.P. v. Niagara Mohawk Power Corporation and Sithe/Independence Power Partners, L.P. v. Niagara Mohawk Power Corporation; Notice of Filing

November 30, 2001.

Take notice that on November 9, 2001, Sithe/Independence Power Partners (Sithe) and Niagara Mohawk Power Corporation (Niagara Mohawk) filed with the Federal Energy Regulatory Commission (Commission) a revised Settlement Agreement in compliance with the requirements of the Commission's October 11, 2001 Letter Order issued in the above-referenced proceedings.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 14, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30255 Filed 12–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–35–000, et al.]

Bluegrass Generation Company, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

November 29, 2001.

Take notice that the following filings have been made with the Commission:

1. Bluegrass Generation Company, L.L.C.

[Docket No. EG02–35–000]

Take notice that on November 26, 2001, Bluegrass Generation Company, L.L.C., 1000 Louisiana, Suite 5800, Houston, Texas filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Foothills Generating, L.L.C.

[Docket No. EG02–36–000]

Take notice that on November 26, 2001, Foothills Generating, L.L.C., 1000 Louisiana, Suite 5800, Houston, Texas filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Renaissance Power, L.L.C.

[Docket No. EG02–37–000]

Take notice that on November 26, 2001, Renaissance Power, L.L.C., 1000 Louisiana, Suite 5800, Houston, Texas filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Rolling Hills Generating, L.L.C.

[Docket No. EG02–38–000]

Take notice that on November 26, 2001, Rolling Hills Generating, L.L.C., 1000 Louisiana, Suite 5800, Houston, Texas filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Duke Energy Corporation

[Docket No. ER01–1616–005]

Take notice that on November 26, 2001, Duke Energy Corporation tendered for filing with the Federal Energy Regulatory Commission (Commission) its compliance filing in the above-captioned docket pursuant to the Commission's November 7, 2001 order in Docket Nos. ER01–1616–000, *et al.*

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. New York Independent System Operator, Inc.

[Docket No. ER01–3001–001]

Take notice that on November 26, 2001 the New York Independent System Operator, Inc. (NYISO) filed a compliance filing in the above-captioned proceedings. The NYISO was required to submit this compliance filing pursuant to New York Independent System Operator, Inc., 97 FERC ¶61,095 (October 25, 2001).

A copy of this filing was served upon all persons designated on the official service list compiled by the Secretary in Docket No. ER01–3001–000.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. American Electric Power Service Corporation

[Docket No. ER01–3026–002]

Take notice that on November 26, 2001, American Electric Power Service Corporation (AEPSC) tendered for filing with the Federal Energy Regulatory Commission (Commission) the Amended Facilities Agreement between Ohio Power Company and Fremont Energy Center LLC. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Revised Volume No. 6, effective June 15, 2000.

AEP requests an effective date of November 6, 2001.

A copy of the filing was served upon the Ohio Public Utilities Commission.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. PPL Electric Utilities Corporation

[Docket No. ER02–128–002]

Take notice that on November 26, 2001, PPL Electric Utilities Corporation (PPL Electric) and Williams Generation Company—Hazleton (WGC) filed with the Commission revisions to the Interconnection Agreement originally filed with the Commission on October 18, 2001 and supplemented on October 23, 2001.

PPL Electric and WGC request an effective date of October 19, 2001 for the Interconnection Agreement, as revised.

PPL Electric and WGC also enclose a form of cancellation designated in accordance with Order No. 614, to cancel the interconnection agreement that will be superceded by the Interconnection Agreement submitted in this docket.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. The Dayton Power and Light Company

[Docket No. ER02–403–000]

Take notice that on November 26, 2001, The Dayton Power and Light Company (Dayton) submitted service agreements establishing Dominion Nuclear Marketing II, Inc. as a customer under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements.

Copies of this filing were served upon Dominion Nuclear Marketing II, Inc. and the Public Utilities Commission of Ohio.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. The Dayton Power and Light Company

[Docket No. ER02–404–000]

Take notice that on November 26, 2001, The Dayton Power and Light Company (Dayton) submitted service agreements establishing with Dominion Nuclear Marketing II, Inc. as a customer under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements.

Copies of this filing were served upon with Dominion Nuclear Marketing II, Inc. and the Public Utilities Commission of Ohio.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Entergy Services, Inc.

[Docket No. ER02–405–000]

Take notice that on November 26, 2001, Entergy Services, Inc., on behalf of Entergy Mississippi, Inc., tendered for filing an unexecuted, amended and restated Interconnection and Operating Agreement with Duke Energy Hinds, LLC (Duke Hinds), and an updated Generator Imbalance Agreement with Duke Hinds (the First Revised Interconnection Agreement). Duke Hinds objects to certain aspects of the First Revised Agreement, including Duke Hinds' cost responsibility for the interconnection facilities necessary for the physical interconnection of the Duke Hinds Facility to Entergy's transmission system.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. TransÉnergie U.S. Ltd., Hydro One Delivery Services Inc.

[Docket No. ER02–406–000]

Take notice that on November 26, 2001, TransÉnergie U.S. Ltd. (TEUS) and Hydro One Delivery Services Inc. (Hydro One Delivery), on behalf of their to-be-formed project development subsidiary, LELCO, submitted for filing, pursuant to section 205 of the Federal Power Act, an application requesting that the Commission (1) grant LELCO blanket authority to make sales of transmission rights at negotiated rates, and (2) grant certain waivers, in connection with their proposed Lake Erie Link transmission interconnector project.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Geysers Power Company, LLC

[Docket No. ER02–407–000]

Take notice that on November 26, 2001, Geysers Power Company, LLC (Geysers Power), tendered for filing its updated Rate Schedules for the calendar year 2002 for Reliability Must-Run services provided to the California Independent System Operator Corporation (CAISO) pursuant to the Geysers RMR Agreement for Units 13 and 16. This filing is being made in response to the ISO's designation of Geysers Unit 16 as a Reliability Must-Run (RMR) Unit for calendar year 2002 in order to (i) provide required annual updates of the contract service limits, monthly options payments and start-up costs for the Geysers Units 13 and 16 governed by the RMR Agreement; (ii) set new rates reflecting the revisions to the Annual Fixed Revenue Requirement in accordance with Schedule F of the RMR Agreement; (iii) revise the RMR Agreement in accordance with a settlement agreement reached in 1999 among various RMR parties; and (iv) comply with Order No. 614, 90 FERC ¶61,352 (2000).

Copies of this filing have been served upon the CAISO and Pacific Gas and Electric Company.

Comment date: December 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. PPL Electric Utilities Corporation

[Docket No. ES02–8–000]

Take notice that on November 13, 2001, PPL Electric Utilities Corporation submitted an application pursuant to section 204 of the Federal Power Act

seeking authorization to issue promissory notes and other evidences of secured and unsecured short-term indebtedness through December 31, 2003, in an amount not to exceed $1 billion at any one time.

Comment date: December 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. UtiliCorp United Inc.

[Docket No. ES02–9–000]

Take notice that on November 14, 2001, UtiliCorp United Inc. submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue, from time to time, up to and including $500 million, in the aggregate at any one time outstanding, of short-term notes and other evidences of indebtedness, including guarantees of securities issued by subsidiaries or affiliates.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. UtiliCorp United Inc.

[Docket No. ES02–10–000]

Take notice that on November 15, 2001, UtiliCorp United Inc. (UtiliCorp) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue to issue UtiliCorp Common Stock shares in an Exchange Offer pursuant to which the public shareholders of Aquila will receive a determined number of shares of UtiliCorp Common Stock.

UtiliCorp also requests an exemption from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. UtiliCorp United Inc.

[Docket No. ES02–11–000]

Take notice that on November 9, 2001, UtiliCorp United Inc. submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue, from time to time, up to and including $500 million, in the aggregate at any one time outstanding, of short-term notes and other evidences of indebtedness, including guarantees of securities issued by subsidiaries or affiliates.

Comment date: December 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Soyland Power Cooperative Inc.

[Docket No. ES02–12–000]

Take notice that on November 10, 2001, Soyland Power Cooperative Inc. (Soyland) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue up to and including $12 million of long-term debt.

Soyland also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30217 Filed 12–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

November 30, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12132–000.

c. *Date filed:* October 15, 2001.

d. *Applicant:* Lake Altoona Water Power Company, Inc.

e. *Name and Location of Project:* The Lake Altoona Dam Project would be located at the existing county-owned dam on the Eau Claire River in The City of Altoona, Eau Claire County, Wisconsin.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant contact:* Mr. Thomas J. Reiss Jr., Lake Altoona Water Power Company, Inc., P.O. Box 553, 319 Hart Street, Watertown, WI 53094, (920) 261–7975.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Please include the project number (P–12132–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would consist of: (1) The existing reinforced concrete, 223-foot-long, 43-foot-high, Lake Altoona Dam, (2) a proposed 50-foot-long, 12-foot-diameter reinforced concrete penstock, (3) a proposed powerhouse containing one generating unit having a total installed capacity of 875 kW, (4) a proposed 200-foot-long 4.2-kV transmission line, and (5) appurtenant facilities. The project would have an annual generation of 2.5 GWh.

k. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30249 Filed 12–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

November 30, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 12136–000.

c. *Date Filed:* November 7, 2001.

d. *Applicant:* Public Utility District No. 1 of Franklin County.

e. *Name of Project:* Scooteney Hydroelectric Project.

f. *Location:* The proposed project would be located at Scooteney Lake 10 miles southeast of Othello, in Franklin County, Washington at Station 1622+11 on the Potholes East Canal, a man-made structure within the Columbia Basin Project. The project will require the use of an existing irrigation canal administered owned by the U.S. Bureau of Reclamation (BOR) and would occupy lands on which the United States has been granted an easement.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Kenneth A. Sugden, Manager, Public Utility District No. 1 of Franklin County, 1411 W. Clark, Pasco, WA 99302–2407, Telephone: (509) 547–5591.

i. *FERC Contact:* Mr. Lynn R. Miles, Sr. (202) 219–2671.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Please include the Project Number (12136–000) on any comments, protest, or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would utilize the BOR's existing irrigation canal and consist of: (1) An intake structure (2) a concrete bypass weir, (3) a powerhouse with an installed capacity of 1,450 kW, (3) a 13.8 kv transmission line approximately 2,000 feet long, and (4) appurtenant facilities. The project would have an annual generation of 4.23 GWh.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also

be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30250 Filed 12–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

November 30, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 12138–000.

c. *Date Filed:* November 7, 2001.

d. *Applicant:* Public Utility District No. 1 of Franklin County.

e. *Name of Project:* PEC 1973 Hydroelectric Project.

f. *Location:* The proposed project would be located approximately 2 miles west of Mesa, in Franklin County, Washington at an existing check/drop structure within the Potholes East Canal system at station 1973+00. The project will require the use of an existing irrigation canal administered by the U.S. Bureau of Reclamation (BOR) and would occupy lands on which the United States has been granted an easement.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Kenneth A. Sugden, Manager, Public Utility District No. 1 of Franklin County, 1411 W. Clark, Pasco, WA 99302–2407, Telephone: (509) 547–5591.

i. *FERC Contact:* Mr. Lynn R. Miles, Sr. (202) 219–2671.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Please include the Project Number (12138–000) on any comments, protest, or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would utilize the BOR's existing irrigation canal and will not require a new or existing dam. The project would consist of: (1) an intake structure constructed integral with the powerhouse to avoid the use of a lengthy penstock, (2) a concrete

bypassed weir, (3) a powerhouse with an installed capacity of 2,000 kW, (3) a 13.8 kv transmission line approximately 500-foot long, and (4) appurtenant facilities. The project would have an annual generation of 5,440,000 kWh.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30251 Filed 12–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

November 30, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 12139–000.

c. *Date Filed:* November 7, 2001.

d. *Applicant:* Public Utility District No. 1 of Franklin County.

e. *Name of Project:* EBC 625 Hydroelectric Project.

f. *Location:* The proposed project would be located at Station 625+00 on the existing Eltopia Branch Canal, an irrigation canal administered by the U.S. Bureau of Reclamation (BOR) near Eltopia, in Franklin County, Washington. The project would occupy lands on which the United States has been granted an easement.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Kenneth A. Sugden, Manager, Public Utility District No. 1 of Franklin County, 1411 W. Clark, Pasco, WA 99302–2407, Telephone: (509) 547–5591.

i. FERC Contact: Mr. Lynn R. Miles, Sr. (202) 219–2671.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Please include the Project Number (12139–000) on any comments, protest, or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would utilize the BOR's existing irrigation canal and would consist of: (1) a concrete intake structure, (2) a concrete bypass weir, (3) a 60-inch diameter, 750-foot-long, buried steel penstock, (4) a powerhouse with an installed capacity of 1.1 MW, (3) a 13.8 kv transmission line approximately 2,000-foot-long, and (4) appurtenant facilities. The project would have an annual generation of 3.76 GWh.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30252 Filed 12–5–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–42080A; FRL–6813–1]

Nebraska State Plan for Certification ofApplicators of Restricted Use Pesticides; Notice of Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In the **Federal Register** of October 3, 2001 (66 FR 50430) (FRL–6798–8), EPA issued a notice of intent to approve an amended Nebraska Plan for the certification of applicators of restricted use pesticides. In this notice EPA solicited comments from the public on the proposed action to approve the amended Nebraska Plan. The amended Certification Plan Nebraska submitted to EPA contained several statutory, regulatory, and programmatic changes to its current Certification Plan. The proposed amendments established new commercial and noncommercial categories and subcategories along with their respective standards of competency, and the payment of appropriate fees for the licensing of commercial, noncommercial and private applicators. No comments were received and EPA hereby approves the amended Nebraska Plan.

ADDRESSES: The amended Nebraska Certification Plan can be reviewed at the locations listed under Unit I.B. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: John Tice, Water, Wetlands and Pesticide Division/Pesticide Branch (WWPD/PEST), Environmental Protection Agency, Region VII, 901 N. 5th St., Kansas City, KS; telephone number: (402) 437–5080; fax number: (402) 323–9079; e-mail address: Tice.john@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those involved in agriculture and anyone involved with the distribution and application of pesticides for agricultural purposes. Others involved with pesticides in a

non-agricultural setting may also be affected. In addition, this action may be of interest to others, such as, those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of the Amended State Plan, Other Related Documents, and Additional Information?

To obtain copies of the amended Nebraska Certification Plan, other related documents, or additional information contact:

1. John Tice at the address listed under **FOR FURTHER INFORMATION CONTACT**.

2. Tim Creger, Nebraska, Department of Agriculture, P.O. Box 94756, Lincoln, NE 68509–4756; telephone number: (402) 471–2394; e-mail address: timc@agr.state.ne.us.

3. Jeanne Heying, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.; telephone number: (703) 308–3240; e-mail address: heying.jeanne@epa.gov.

4. The Nebraska Certification plan and proposed changes may be viewed on the internet at the following URL: http://www.agr.state.ne.us/division/bpi/pes/p07.pdf.

II. What Action Is the Agency Taking?

EPA is approving the amended Nebraska Certification Plan. This approval is based upon the EPA review of the Nebraska Plan and finding it in compliance with FIFRA and 40 CFR part 171. Further, there were no public comments submitted to the earlier **Federal Register** Notice soliciting comments. The amended Nebraska Certification Plan is therefore approved.

List of Subjects

Environmental protection.

Dated: November 19, 2001.

Martha R. Steincamp,

Acting Regional Administrator, Region VII.

[FR Doc. 01–30273 Filed 12–5–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

November 30, 2001.

Summary: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Dates: Written comments should be submitted on or before January 7, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

Addresses: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to *jboley@fcc.gov*.

For Further Information Contact: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at *jboley@fcc.gov*.

Supplementary Information:

OMB Control No.: 3060–0756.

Title: Procedural Requirements and Policies for Commission Processing of BOC Applications for the Provisions of In-Region, InterLATA Services Under Section 271 of the Telecommunications Act of 1996.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 75.

Estimated Time Per Response: 250.9 hours (average).

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 18,820 hours.

Total Annual Cost: $0.

Needs and Uses: The Public Notice sets forth procedural requirements and policies relating to the Commission processing of Bell Operating Company (BOC) applications to provide in-region, interLATA services pursuant to section 271 of the Communications Act of 1934, as amended. BOCs must file applications, which provide information on which the applicant intends to rely in order to satisfy the requirement of section 271. State regulatory commission and Department of Justice can file written consultations relating to the applications. Interested third parties may file comments and reply comments regarding the applications. All of the requirements are used to ensure that BOCs have complied with their obligations under Communications Act of 1934, as amended, before being authorized to provide in-region, interLATA services pursuant to section 271.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30245 Filed 12–5–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATIONS

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2 p.m. on Monday, December 10, 2001, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum re: Memorandum of Understanding with Farm Service Agency.

Discussion Agenda:

Memorandum and resolution re: Proposed Regulation Regarding Payment of Post-Insolvency Interest in Receiverships With Surplus Funds.

Memorandum and resolution are: Amendment to Part 325—Capital Standards for Nonfinancial Equity Investments.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2089 (Voice); (202) 416–2007 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: December 3, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–30345 Filed 12–4–01; 11:12 am]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE & TIME: *Tuesday, December 11, 2001 at 10:00 A.M.*

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration

Internal personnel rules and procedures or matters affecting a particular employee

DATE & TIME: *Thursday, December 13, 2001 at 10:00 A.M.*

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes

Election of Officers

Service Awards

Future Meeting Dates

Revised Draft Advisory Opinion 2001–16: Democratic National Committee by counsel, Joseph E. Sandler and Neil Reiff

Voting System Standards—Release for Public Comment

Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 01–30347 Filed 12–4–01; 11:07 am]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 010786–012.

Title: Contship and Italia di Navigazione SpA Space Charter and Sailing Agreement.

Parties: Contship Containerlines, Italia di Navigazione S.p.A.

Synopsis: The proposed agreement modification increases the minimum number of slots chartered by Italia on Contship's vessels from 130 to 150.

Agreement No.: 011671–004.

Title: Italia/Contship Space Charter and Sailing Agreement.

Parties: Italia di Navigazione S.p.A., Contship Containerlines, Lykes Lines Limited, LLC, TMM Lines Limited, LLC.

Synopsis: The proposed amendment restates the agreement and adds TMM Lines Limited and Lykes Lines Limited as parties, provides for new slot allocations among the parties, eliminates obsolete language, and changes the name of the agreement.

By Order of the Federal Maritime Commission.

Dated: November 30, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–30180 Filed 12–5–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR 515.

License No.	Name/Address	Date Reissued
861F	George J. Young & Co., 110 West Ocean Blvd., Suite 622, Long Beach, CA 90802	November 1, 2001.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints, and Licensing.

[FR Doc. 01–30179 Filed 12–5–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicant

Notice is hereby given that the following applicant has filed with the Federal Maritime Commission an application for license as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicant should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicant: International Services Corporation, 1629 K Street, NW., Suite 700, Washington,

DC 20006. Officers: Stephen P. Druhot, Exec. Vice President, (Qualifying Individual), Mariano Echevarria, President.

Dated: November 30, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–30181 Filed 12–5–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 3:30 p.m. on Tuesday, December 4, 2001.

The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Future capital framework. (This item was originally announced for a closed meeting on December 3, 2001.)

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: December 3, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–30321 Filed 12–3–01; 5:15 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; System of Records

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS), formerly Health Care Financing Administration (HCFA).

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records. The proposed system is titled "Medicare Beneficiary Database (MBD)," HHS/CMS/CBS, System No. 09–70–0536. The Medicare program is rapidly changing to accommodate expansion of new service delivery models and payment options, allowing for more medical choices for its beneficiaries. To successfully support ongoing and expanded program administration, service delivery modalities and payment coverage options, CMS proposes to establish an enterprise database. More specifically, the proposed system will contain a complete "beneficiary insurance profile" that reflects individual Medicare and Medicaid health insurance coverage and Medicare health plan and demonstration enrollment. Once fully developed, the MBD would provide a database of pertinent and comprehensive personal data on people with Medicare and persons dually eligible for both Medicare and Medicaid under either the Fee for Service or Managed Care Programs. It would support data processing, at the discrete beneficiary level, necessary for continued and evolving program operations including but not limited to Medicare claims payment, entitlement, Medicare + Choice elections and payments, coordination of benefits for the purpose of conducting Medicare business, payment demonstrations and Medicaid coverage. The data in this database is held at the person level and is identified through use of an individual health insurance claim number. As such, the MBD would serve as CMS's singular, reliable and authoritative data source, from which all systems can retrieve current, standard, valid and timely data necessary for Medicare Program administration. MBD will provide CMS with a centralized database that is able to communicate with other systems while being able to view, manage, and update beneficiary information. It will also provide new sets of data not found in existing CMS systems. Other groups of information maintained in this data management structure will be initially extracted from data elements currently maintained in other CMS systems of records: "Enrollment Database (EDB)" (formerly known as the Health Insurance Master Record), System No. 09–70–0502, "Group Health Plan (GHP), System No. 09–70–5001," and the "Medicaid Statistical Information System (MSIS), System No. 09–70–4001." These systems will remain active for the purposes stated in their current notices. The data elements include, but are not limited to, standard data for identification such as health insurance claim number (HICN), social security number (SSN), sex, race/ethnicity, date of birth, geographical location, Medicare entitlement information, M+C plan elections and enrollment, End Stage Renal Disease (ESRD) coverage, primary insurance coverage, e.g., the "working aged" population, historic and current listing of residences, and Medicaid eligibility and Managed Care institutional status.

The MBD is in its first stage of a multi-year implementation. In its full implementation the MBD will be the national source of comprehensive beneficiary information and provide consistent information throughout Medicare operations. The first application of the MBD focuses on the Medicare Managed Care Program. The system is being developed in several different stages and this notice addresses the initial stage of development that will contain data of interest to the Medicare Managed Care program rather than the Fee For Service Program. The initial stage will include two major functions: (1) Allows system users to view and update beneficiary data based upon role based security access and (2) allows accurate and timely processing of beneficiary residence information particularly for mailings and to processing managed care payments. The MBD update function will ensure the accuracy and timeliness of data using business rules developed to assess and validate the correctness of new and changed data. However, historic data will be retained to provide insurance profiles for specified "points in time". Further, for accurate beneficiary residence address processing, the MBD identifies the conditions where the acceptance of new or corrected address information will trigger the establishment of a new or corrected period of Beneficiary

Residence History Information or Beneficiary Temporary Residency History Information. It also would identify the conditions where new Social Security Administration (SSA) State and County Codes must be derived when an address is changed. Future modifications of the MBD that substantially change the system of records will follow a corresponding modification or alteration of this system notice.

The primary purpose of this system of records is to provide the Centers for Medicare & Medicaid Services (CMS) with a singular, authoritative, database of comprehensive data on people enrolled in Medicare. The development and operation of the MBD would establish within CMS, a singular, national source of comprehensive beneficiary information. This information would be consistent throughout the Medicare Program, providing key benefits to CMS's program, administrative and customer service goals. The MBD will combine and house beneficiary centric data that resides currently within CMS databases such as the EDB, MSIS and GHP. It will be the authoritative database for approved agency contractors who need specific types of data to support and implement business processes. Although the MBD does not replace any of these systems at this time, the MBD will provide the most current and reliable information for contractors to make timely decisions about payment and service delivery. The Information retrieved from this system of records will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor or consultant, (2) another federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent, (3) providers and suppliers of services for administration of Title XVIII, (4) third parties where the contact is expected to have information relating to the individual's capacity to manage his or her own affairs, (5) Peer Review Organizations, (6) other insurers for processing individual insurance claims, (7) facilitate research on the quality and effectiveness of care provided, as well as payment related projects, (8) support constituent requests made to a congressional representative, (9) support litigation involving the agency, and (10) combat fraud and abuse in certain health benefits programs. We have provided background information about the modified system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

EFFECTIVE DATES: CMS has filed a new system of records report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on November 28, 2001. We will not disclose any information under a routine use until 40 days after notification to OMB and Congress, whichever is latest. We may defer implementation of this system of records or one or more of the routine use statements listed below if we receive comments that persuade us to defer implementation.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution (DDLD), CMS, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT: William Seabrease, Health Insurance Specialist, Center for Beneficiary Choices, CMS, Mail-stop C5–16–15, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–6187.

SUPPLEMENTARY INFORMATION:

I. Description of the New System of Records

A. Background

The MBD was established to provide CMS with a singular, authoritative database of comprehensive data on people with Medicare. The MBD is necessary to successfully support ongoing program administration including Medicare claims payment, entitlement; Medicaid coverage, Medicare+Choice elections and payments; coordination of benefits for the purpose of conducting Medicare business; payment demonstrations; and demographic research. As CMS's authoritative enterprise beneficiary database, it will provide new sets of data that is not currently available in the EDB, GHP or MSIS. The "Medicare Beneficiary Database (MBD)," System No. 09–70–0536 will also maintain beneficiary data elements extracted from existing CMS systems of records: EDB, GHP, and MSIS. The renamed "Enrollment Database," was established in 1965 to maintain accurate and complete data on Medicare enrollment and entitlement. Notice of the modification to this system, "Health Insurance Master Record (HIMR)," HHS/CMS/BDMS, System No. 09–70–0502 was published in the **Federal Register** at 55 FR 37549 (September 12, 1990), 61 FR 6645 (Feb. 21, 1996) (added unnumbered social security use), 63 FR 38414 (July 16, 1998) (added three fraud and abuse uses), and 65 FR 50552 (Aug. 18, 2000) (deleted one and modified two fraud and abuse uses). The "Group Health Plan (GHP)," System No. 09–70–4001, published in the **Federal Register** at 57 FR 60819 (December 22,1992), was established to maintain a master file of group health plan members for accounting control, to expedite the exchange of data with the plans, and to control the posting of pro-rata amounts to the part B deductible of enrolled members. The "Medicaid Statistical Information System (MSIS)," System No. 09–70–6001, published in the **Federal Register** at 59 FR 41327 (August 11, 1994), was established to maintain an accurate, current, and comprehensive database containing standardized enrollment, eligibility, and paid claims of Medicaid beneficiaries to be used for the administration of the Medicaid program at the Federal level, produce statistical reports, support Medicaid research, and assist in the detection of fraud and abuse.

CMS has long realized that the Medicare program is in the middle of rapidly changing health insurance industry characterized by an expansion of service delivery models and payment options. The Medicare+Choice provisions of the Balance Budget Act (BBA) of 1997 (Pub. L. 105–217) has made the challenge of managing beneficiary health choices one of the most critical challenges facing CMS and the health industry at large. To be of maximum use, the data must be organized and categorized into a comprehensive system. CMS sought to identify key sources, including both organizations and systems that could provide valid and reliable information. Medicare will no longer exist within an environment characterized by limited health insurance options and standard delivery models. The MBD provides CMS with a timely model for data inventory of beneficiary information retained in a database environment that provides flexibility to react quickly to changing Medicare program needs.

Data relating to Medicare Managed Care beneficiaries will be the initial focus of the system implementation.

The MBD provides a solution as a singular, reliable and authoritative source, in which all systems can retrieve current, standard, valid and timely data for processing beneficiary selections of capitated delivery options. It will provide a comprehensive "national view" of beneficiary information that is consistent throughout the Medicare program, which will primarily benefit CMS's operational and customer service business goals. In addition to providing a flexible system to accommodate changes, the MBD will support significant improvements in the accuracy of the beneficiary residence address used for capitation, determining payments and will serve as the first identifying record of dual Medicare/Medicaid eligible population which is essential to the capitation process.

An independent technical evaluation of CMS's managed care systems found that without major enhancements, Medicare+Choice provisions could not be supported by existing Medicare systems. Also the comprehensive review of existing systems was necessary in order to proceed with a development effort that would ensure that future customer service and program management objectives were met. The MBD alters an old architecture that could only support two beneficiary Medicare choice options: Fee-for service or traditional Health Maintenance Organizations (HMO). As these models merge and additional choices become available, (i.e., Medicare+Choice Organizations, Medicare Savings Accounts (MSA) and Private Fee for Service options), CMS determined the need for a beneficiary management structure, the MBD, designed to support these expanded program and coverage options.

The MBD design will accommodate the future growth in delivery service options; scalable to support the entire Medicare beneficiary population of approximately 42 million. This would include both the targeted sets of business requirements and processes for beneficiary choice between capitated delivery service options, now and later to support all beneficiaries remaining in the traditional Medicare Fee For Service Program.

The MBD includes standard data for identification such as the Medicare HICN, SSN, sex, race/ethnicity, date of birth, and geographical location for Medicare beneficiaries. Further, the MBD will maintain data on the following types of beneficiary information: demographic information, Medicare entitlement information, Medicare Secondary Payer data, hospice election, Plan elections and enrollments, End Stage Renal Disease (ESRD) entitlement, historic and current listing of residences, and Medicaid eligibility and Managed Care institutional status. The MBD will have a common interface layer that enables existing legacy systems and new applications to access MBD in a uniform fashion. The system shall support both online and batch transaction volumes up to 200,000-batch update transaction per-day; up to 2 million interactive inquiries per-day. An operational day is assumed to be 16 hours. It is envisioned to be capable of supporting access and interoperability across mainframe, mid-tier, and desktop systems. The MBD is currently scoped to encompass up to 15 logical database tables, containing about 250 logically grouped data elements. The logical database tables include: The Beneficiary Demographics and Communication Profiles, Medicare Entitlement Information, Hospice Election and Usage Information, Beneficiary Service and Delivery Elections, Other Beneficiary Explicit Elections, Fee-For-Service Periods, Managed Care Institutional Status Information, ESRD Medicare entitlement information, Medicaid Eligibility information, and Other Required Beneficiary Specific information. It also will accommodate new and modified beneficiary data that was determined to be necessary to support effective implementation of the BBA.

B. Statutory and Regulatory Basis for System of Records

Authority for maintenance of the system is given under §§ 226, 226A, 1811, 1818, 1818A, 1831, 1833(a)(1)(A), 1836, 1837, 1838, 1843, 1866, 1876, 1881, and 1902(a)(6) of the Social Security Act and Title 42 United States Code (U.S.C.) 426, 1395(a)(1)(A), 1395c, 1395cc, 1395i–2, 1395i–2a, 1395j, 1395l, 1395mm, 1395o, 1395p, 1395q, 1395rr, 1395v, and 1396(a).

II. Collection and Maintenance of Data in the System

A. Scope of the Data Collected

Individuals age 65 or over who have been, or currently are, entitled to health insurance (Medicare) benefits under Title XVIII of the Social Security Act or under provisions of the Railroad Retirement Act; individuals under age 65 who have been, or currently are, entitled to such benefits on the basis of having been entitled for not less than 24 months to disability benefits under title II of the Act or under the Railroad Retirement Act; individuals who have been, or currently are, entitled to such benefits because they have end-stage renal disease; individuals age 64 and 8 months or over who are likely to become entitled to health insurance (Medicare) benefits upon attaining age 65, individuals under age 65 who have at least 21 months of disability benefits who are likely to become entitled to Medicare upon the 25th month of entitlement to such benefits, and the populations dually eligible for both Medicare and Medicaid (Title XIX of the Social Security Act).

The data elements include, but are not limited to, standard data for identification such as HICN, SSN, sex, race/ethnicity, date of birth, geographic location, Medicare enrollment and entitlement information, Medicare Secondary Payer (MSP) data containing insurance information on payers primary to Medicare necessary for appropriate Medicare claim payment, hospice election, plan elections and enrollment, End Stage Renal Disease (ESRD) entitlement, historic and current listing of residences, and Medicaid eligibility and institutional status.

B. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a "routine use." The government will only release MBD information that can be associated with an individual as provided for under "Section III. Proposed Routine Use Disclosures of Data in the System." Both identifiable and non-identifiable data may be disclosed under a routine use. We will only disclose the minimum personal data necessary to achieve the purpose of the MBD. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the system of records will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected, e.g., ensuring proper enrollment, establishing the validity of individual's entitlement to benefits, verifying the accuracy of information presented by the individual, insuring proper reimbursement for services provided, and claims payment.

2. Determines that:

a. The purpose for which the disclosure is to be made can only be

accomplished if the record is provided in individually identifiable form;

b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. Remove or destroy at the earliest time all patient-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosure of Data in the System

A. Entities Who May Receive Disclosures Under Routine Use

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the MBD without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. In addition, our policy will be to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary). We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors, or consultants who have been engaged by the agency to assist in accomplishment of a CMS function relating to the purposes for this system of records and who need to have access to the records in order to assist CMS.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing a CMS function relating to purposes for this system of records.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or consultant whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or consultant from using or disclosing the information for any purpose other than that described in the contract and requires the contractor or consultant to return or destroy all information at the completion of the contract.

2. To another federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. Enable such agency to administer a federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a federal statute or regulation that implements a health benefits program funded in whole or in part with federal funds, and/or

c. Assist federal/state Medicaid programs within the state.

Other federal or state agencies in their administration of a federal health program may require MBD information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided;

The Internal Revenue Service may require MBD data for the application of tax penalties against employers and employee organizations that contribute to Employer Group Health Plan or Large Group Health Plans that are not in compliance with 42 U.S.C. 1395y(b);

In addition, other state agencies in their administration of a federal health program may require MBD information for the purposes of determining, evaluating and/or assessing cost, effectiveness, and/or the quality of health care services provided in the state;

The Railroad Retirement Board requires MBD information to administer provisions of the Railroad Retirement and Social Security Acts relating to railroad employment and/or the administration of the Medicare program;

The Social Security Administration requires MBD data to enable them to assist in the implementation and maintenance of the Medicare program;

Disclosure under this routine use shall be used by state Medicaid agencies pursuant to agreements with the Department of Health and Human Services for determining Medicaid and Medicare eligibility, for quality control studies, for determining eligibility of recipients of assistance under Titles IV, XVIII, and XIX of the Social Security Act, and for the administration of the Medicaid program. Data will be released to the state only on those individuals who are patients under the services of a Medicaid program within the state or who are residents of that state;

3. To providers and suppliers of services directly or through fiscal intermediaries or carriers for the administration of Title XVIII of the Social Security Act.

Providers and suppliers of services require MBD information in order to establish the validity of evidence or to verify the accuracy of information presented by the individual, as it concerns the individual's entitlement to benefits under the Medicare program, including proper reimbursement for services provided.

4. To third party contacts in situations where the party to be contacted has, or is expected to have information relating to the individual's capacity to manage his or her affairs or to his or her eligibility for, or an entitlement to, benefits under the Medicare program and,

a. The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exists: the individual is confined to a mental institution, a court of competent jurisdiction has appointed a guardian to manage the affairs of that individual, a court of competent jurisdiction has declared the individual to be mentally incompetent, or the individual's attending physician has certified that the individual is not sufficiently mentally competent to manage his or her own affairs or to provide the information being sought, the individual cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

b. The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's entitlement to benefits under the Medicare program, the amount of reimbursement, and in cases in which the evidence is being reviewed as a

result of suspected fraud and abuse, program integrity, quality appraisal, or evaluation and measurement of activities.

Third parties contacts require MBD information in order to provide support for the individual's entitlement to benefits under the Medicare program; to establish the validity of evidence or to verify the accuracy of information presented by the individual, and assist in the monitoring of Medicare claims information of beneficiaries, including proper reimbursement of services provided.

5. To Peer Review Organizations (PRO) in connection with review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI of the Social Security Act and in performing affirmative outreach activities to individuals for the purpose of establishing and maintaining their entitlement to Medicare benefits or health insurance plans.

The PRO will work to implement quality improvement programs, provide consultation to CMS, its contractors, and to state agencies. The PRO will assist state agencies in related monitoring and enforcement efforts, assist CMS and intermediaries in program integrity assessment, and prepare summary information for release to CMS.

6. To insurance companies, third party administrators (TPA), employers, self-insurers, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, group health plans (i.e., health maintenance organizations (HMO) or a Medicare-approved health care prepayment plan (HCPP), directly or through a contractor. Information to be disclosed shall be limited to Medicare enrollment data. In order to receive the information, they must agree to:

a. Certify that the individual about whom the information is being provided is one of its insured or employees;

b. Utilize the information solely for the purpose of processing the individual's insurance claims; and

c. Safeguard the confidentiality of the data and prevent unauthorized access.

Other insurers, HMO, and HCPP may require MBD information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

7. To an individual or organization for a research project or in support of an evaluation project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

The MBD data will provide for research or in support of evaluation projects, a broader, longitudinal, national perspective of the status of Medicare beneficiaries. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare beneficiaries and the policy that governs the care.

8. To a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

Beneficiaries sometimes request the help of a Member of Congress in resolving an issue relating to a matter before CMS. The Member of Congress then writes CMS, and CMS must be able to give sufficient information to be responsive to the inquiry.

9. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved.

10. To a CMS contractor (including, but not limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contract or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud and abuse;

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

11. To another federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

Other agencies may require MBD information for the purpose of combating fraud and abuse in such federally funded programs.

B. Additional Provisions Affecting Routine Use Disclosures

In addition, our policy will be to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

This System of Records contains Protected Health Information as defined by the Department of Health and Human Services' regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR parts 160 and 164, 65 FR 82462 as amended by 66 FR 12434). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the "Standards for Privacy of Individually Identifiable Health Information."

IV. Safeguards

The MBD system will conform to applicable law and policy governing the privacy and security of federal automated information systems. These include but are not limited to: the

Privacy Act of 1974, Computer Security Act of 1987, the Paperwork Reduction Act (PRA) of 1995, the Clinger-Cohen Act of 1996, and OMB Circular A–130, Appendix III, "Security of Federal Automated Information Resources." CMS has prepared a comprehensive system security plan as required by the Office and Management and Budget (OMB) Circular A–130, Appendix III. This plan conforms fully to guidance issued by the National Institute for Standards and Technology (NIST) in NIST Special Publication 800–18, "Guide for Developing Security Plans for Information Technology Systems." Paragraphs A–C of this section highlight some of the specific methods that CMS is using to ensure the security of this system and the information within it.

A. Authorized Users

Personnel having access to the system have been trained in Privacy Act and systems security requirements. Employees and contractors who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data. In addition, CMS is monitoring the authorized users to ensure against excessive or unauthorized use. Records are used in a designated work area or workstation and the system location is attended at all times during working hours.

To assure security of the data, the proper level of class user is assigned for each individual user as determined at the agency level. This prevents unauthorized users from accessing and modifying critical data. The system database configuration includes five classes of database users:

➢ Database Administrator class owns the database objects; e.g., tables, triggers, indexes, stored procedures, packages, and has database administration privileges to these objects;

➢ Quality Control Administrator class has read and write access to key fields in the database;

➢ Quality Indicator (QI) Report Generator class has read-only access to all fields and tables;

➢ Policy Research class has query access to tables, but are not allowed to access confidential patient identification information; and

➢ Submitter class has read and write access to database objects, but no database administration privileges.

B. Physical Safeguards

All server sites have implemented the following minimum requirements to assist in reducing the exposure of computer equipment and thus achieve an optimum level of protection and security for the MBD system: Access to all servers is controlled, with access limited to only those support personnel with a demonstrated need for access. Servers are to be kept in a locked room accessible only by specified management and system support personnel. Each server requires a specific log-on process. All entrance doors are identified and marked. A log is kept of all personnel who were issued a security card, key and/or combination, which grants access to the room housing the server, and all visitors are escorted while in this room. All servers are housed in an area where appropriate environmental security controls are implemented, which include measures implemented to mitigate damage to Automated Information System (AIS) resources caused by fire, electricity, water and inadequate climate controls.

Protection applied to the workstations, servers and databases include:

➢ User Log-ons—Authentication is performed by the Primary Domain Controller/Backup Domain Controller of the log-on domain.

➢ Workstation Names—Workstation naming conventions may be defined and implemented at the agency level.

➢ Hours of Operation—May be restricted by Windows NT. When activated all applicable processes will automatically shut down at a specific time and not be permitted to resume until the predetermined time. The appropriate hours of operation are determined and implemented at the agency level.

➢ Inactivity Log-out—Access to the NT workstation is automatically logged out after a specified period of inactivity.

➢ Warnings—Legal notices and security warnings display on all servers and workstations.

➢ Remote Access Services (RAS)—Windows NT RAS security handles resource access control. Access to NT resources is controlled for remote users in the same manner as local users, by utilizing Windows NT file and sharing permissions. Dial-in access can be granted or restricted on a user-by-user basis through the Windows NT RAS administration tool.

C. Procedural Safeguards

All automated systems must comply with federal laws, guidance, and policies for information systems security as stated previously in this section. Each automated information system should ensure a level of security commensurate with the level of sensitivity of the data, risk, and magnitude of the harm that may result from the loss, misuse, disclosure, or modification of the information contained in the system.

V. Effect of the New System of Records on Individual Rights

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. We will only disclose the minimum personal data necessary to achieve the purpose of MBD. Disclosure of information from the system of records will be approved only to the extent necessary to accomplish the purpose of the disclosure. CMS has assigned a higher level of security clearance for the information maintained in this system in an effort to provide added security and protection of data in this system.

CMS will take precautionary measures to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act.

CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of the disclosure of information relating to individuals.

Dated: November 28, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

09–70–0536

SYSTEM NAME:

Medicare Beneficiary Database, HHS/CMS/CBS.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data.

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850, and at various other remote locations (See Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals age 65 or over who have been, or currently are, entitled to health insurance (Medicare) benefits under Title XVIII of the Social Security Act or under provisions of the Railroad Retirement Act; individuals under age 65 who have been, or currently are, entitled to such benefits on the basis of having been entitled for not less than 24 months to disability benefits under title II of the Act or under the Railroad Retirement Act; individuals who have been, or currently are, entitled to such benefits because they have end-stage renal disease; individuals age 64 and 8 months or over who are likely to become entitled to health insurance (Medicare) benefits upon attaining age 65, and individuals under age 65 who have at least 21 months of disability benefits who are likely to become entitled to Medicare upon the 25th month of entitlement to such benefits and those populations that are dually eligible for both Medicare and Medicaid (Title XIX of the Social Security Act).

CATEGORIES OF RECORDS IN THE SYSTEM:

The data elements include, but are not limited to, standard data for identification such as health insurance claim number (HICN), social security number (SSN), sex, race/ethnicity, date of birth, geographic location, Medicare enrollment and entitlement information, Medicare Secondary Payer data necessary for appropriate Medicare claim payment, hospice election, plan elections and enrollment, End Stage Renal Disease (ESRD) entitlement, historic and current listing of residences, and Medicaid eligibility and Managed Care institutional status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under sections 226, 226A, 1811, 1818, 1818A, 1831, 1833(a)(1)(A), 1836, 1837, 1838, 1843, 1866, 1876, 1881, and 1902(a)(6) of the Social Security Act and Title 42 United States Code (U.S.C.) 426, 1395(a)(1)(A), 1395c, 1395cc, 1395i–2, 1395i–2a, 1395j, 1395l, 1395mm, 1395o, 1395p, 1395q, 1395rr, 1395v, and 1396(a).

PURPOSE(S):

The primary purpose of this system of records is to provide the Centers for Medicare & Medicaid Services (CMS) with a singular, authoritative, database of comprehensive data on people with Medicare. The development and operation of the MBD would establish within CMS, a singular, national source of comprehensive beneficiary information. This information would be consistent throughout the Medicare Program, providing key benefits to CMS's operation, administrative and customer service goals. The MBD will combine and house beneficiary centric data that resides currently within CMS databases such as the EDB, MSIS and GHP. It becomes the authoritative database for approved agency contractors who need specific types of data to support and implement business processes, based upon a beneficiary's health insurance needs. Although the MBD does not replace any of these systems at this time, the MBD does provide the most current and reliable information for contractors to make timely decisions about payment and service delivery elections. Information retrieved from this system of records will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor or consultant, (2) another federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent, (3) providers and suppliers of services for administration of Title XVIII, (4) third parties where the contact is expected to have information relating to the individual's capacity to manage his or her own affairs, (5) Peer Review Organizations, (6) other insurers for processing individual insurance claims, (7) facilitate research on the quality and effectiveness of care provided, as well as payment related projects, (8) support constituent requests made to a congressional representative, (9) support litigation involving the agency, and (10) combat fraud and abuse in certain health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the MBD without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. In addition, our policy will be to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary). We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors, or consultants who have been engaged by the agency to assist in accomplishment of a CMS function relating to the purposes for this system of records and who need to have access to the records in order to assist CMS.

2. To another federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. Enable such agency to administer a federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a federal statute or regulation that implements a health benefits program funded in whole or in part with federal funds, and/or

c. To assist federal/state Medicaid programs within the state.

3. To providers and suppliers of services directly or through fiscal intermediaries or carriers for the administration of Title XVIII of the Social Security Act.

4. To third party contacts in situations where the party to be contacted has, or is expected to have information relating to the individual's capacity to manage his or her affairs or to his or her eligibility for, or an entitlement to, benefits under the Medicare program and,

a. The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exists: the individual is confined to a mental institution, a court of competent jurisdiction has appointed a guardian to manage the affairs of that individual, a court of competent jurisdiction has declared the individual to be mentally incompetent, or the individual's attending physician has certified that the individual is not sufficiently mentally competent to manage his or her own affairs or to provide the information being sought, the individual cannot read or write, cannot afford the cost of obtaining the information, a language barrier exist, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

b. The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or

more of the following: the individual's entitlement to benefits under the Medicare program, the amount of reimbursement, and in cases in which the evidence is being reviewed as a result of suspected fraud and abuse, program integrity, quality appraisal, or evaluation and measurement of activities.

5. To Peer Review Organizations (PRO) in connection with review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI of the Social Security Act and in performing affirmative outreach activities to individuals for the purpose of establishing and maintaining their entitlement to Medicare benefits or health insurance plans.

6. To insurance companies, third party administrators (TPA), employers, self-insurers, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, group health plans (i.e., health maintenance organizations (HMO), Cost Plans, or a Medicare-approved health care prepayment plan (HCPP), Programs for All Inclusive Care for the Elderly, Medicare + Choice Organizations (i.e. Coordinated Care Plans (CCPs), Religious Based Fraternal Plans Private Fee For Service (PFFS), Medical Savings Accounts (MSAs), Demonstrations) directly or through a contractor. Information to be disclosed shall be limited to Medicare enrollment data. In order to receive the information, they must agree to:

a. Certify that the individual about whom the information is being provided is one of its insured or employees;

b. Utilize the information solely for the purpose of processing the individual's insurance claims; and

c. Safeguard the confidentiality of the data and prevent unauthorized access.

7. To an individual or organization for a research project or to support an evaluation project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

8. To a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

9. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

10. To a CMS contractor (including, but not limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

11. To another federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on magnetic media.

RETRIEVABILITY:

All Medicare records are accessible by Health Insurance Claim Number, and SSN search. This system supports both on-line and batch access.

SAFEGUARDS:

CMS has safeguards for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data.

In addition, CMS has physical safeguards in place to reduce the exposure of computer equipment and thus achieve an optimum level of protection and security for the MBD system. For computerized records, safeguards have been established in accordance with the Department of Health and Human Services (HHS) standards and National Institute of Standards and Technology guidelines, e.g., security codes will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management (IRM) Circular No. 10, "Automated Information Systems Security Program;" CMS's "IT Systems Securities Policies, Standards, and Guidelines Handbook;" OMB Circular No. A–130 (revised), Appendix III.

RETENTION AND DISPOSAL:

Records are maintained in the active files for a period of 15 years. The records are then retired to archival files maintained at the Health Care Data Center.

SYSTEM MANAGER(S) AND ADDRESS:

Acting Director, Center for Medicare Choices & Deputy Director for Beneficiary Education in the Center for Beneficiary Choices, CMS, 7500 Security Boulevard, C5–18–27, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, health insurance claim number, address, date of birth, and sex, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), and social security number (SSN). Furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with department regulation 45 CFR 5b.7).

RECORD SOURCE CATEGORIES:

The data contained in this system of records are extracted from other CMS systems of records: Enrollment Database, Group Health Plan, and the Medicaid Statistical Information System.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix A. Health Insurance Records

Medicare records are maintained at the CMS Central Office (see section 1 below for the address). Health Insurance Records of the Medicare program can also be accessed through a representative of the CMS Regional Office (see section 2 below for addresses). Medicare records are also maintained by private insurance organizations that share in administering provisions of the health insurance programs. These private insurance organizations, referred to as Managed Care Organizations, are under contract to the Centers for Medicare & Medicaid Services and the Social Security Administration to perform specific task in the Medicare program (see section three below for information on MCOs).

1. *Central Office Address:* CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850.

2. *CMS Regional Offices:* BOSTON REGION—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont. John F. Kennedy Federal Building, Room 1211, Boston, Massachusetts 02203. Office Hours: 8:30 a.m.–5 p.m.

NEW YORK REGION—New Jersey, New York, Puerto Rico, Virgin Islands. 26 Federal Plaza, Room 715, New York, New York 10007. Office Hours: 8:30 a.m.–5 p.m.

PHILADELPHIA REGION—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia. Post Office Box 8460, Philadelphia, Pennsylvania 19101. Office Hours: 8:30 a.m.–5 p.m.

ATLANTA REGION—Alabama, North Carolina, South Carolina, Florida, Georgia, Kentucky, Mississippi, Tennessee. 101 Marietta Street, Suite 702, Atlanta, Georgia 30223. Office Hours: 8:30 a.m.–4:30 p.m.

CHICAGO REGION—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin. Suite A—824, Chicago, Illinois 60604. Office Hours: 8 a.m.–4:45 p.m.

DALLAS REGION—Arkansas, Louisiana, New Mexico, Oklahoma, Texas, 1200 Main Tower Building, Dallas, Texas. Office Hours: 8 a.m.–4:30 p.m.

KANSAS CITY REGION—Iowa, Kansas, Missouri, Nebraska. New Federal Office Building, 601 East 12th Street, Room 436, Kansas City, Missouri 64106. Office Hours: 8 a.m.–4:45 p.m.

DENVER REGION—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming. Federal Office Building, 1961 Stout Street, Room 1185, Denver, Colorado 80294. Office Hours: 8 a.m.–4:30 p.m.

SAN FRANCISCO REGION—American Samoa, Arizona, California, Guam, Hawaii, Nevada. Federal Office Building, 10 Van Ness Avenue, 20th Floor, San Francisco, California 94102. Office Hours: 8 a.m.–4:30 p.m.

SEATTLE REGION—Alaska, Idaho, Oregon, Washington. 1321 Second Avenue, Room 615, Mail Stop 211, Seattle, Washington 98101. Office Hours 8 a.m.–4:30 p.m.

3. *Managed Care Organizations:* Monthly report of Managed Care Organizations is available at *www.cms.gov.*

[FR Doc. 01–30005 Filed 12–5–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and Services Administration (60 FR 56605 as amended November 6, 1995, as last amended at 66 FR 56333–34, dated November 7, 2001).

This notice establishes the Office for the Advancement of Telehealth and revises the functional statement for the Office of Policy and Program Development (RV3) in the HIV/AIDS Bureau (RV).

1. Establish the Office for the Advancement of Telehealth as follows:

Office for the Advancement of Telehealth (RV9)

Telehealth is the use of electronic communications and information technologies to provide and support health care services and training when distance separates the participants. The Office for the Advancement of Telehealth (OAT) serves as the focal point for coordinating and advancing the use of electronic communications and information (telehealth) technologies across all of HRSA's programs. Telehealth information can be used in a broad array of applications, including, but not limited to, the provision of: health care at a distance (telemedicine); distance-based learning to improve the knowledge of the agency grantees, and others; and improved information dissemination to both consumers and providers about the latest developments in health care, and other activities designed to improve the health status of the nation. The Office for the Advancement of Telehealth carries out the following functions, specifically; (1) provides leadership in developing and coordinating telehealth programs and policies; (2) provides professional assistance and support in developing telehealth initiatives; (3) administers grant programs to promulgate and evaluate the use of appropriate telehealth technologies among grantees and others; (4) in conjunction with HRSA's OIT assesses new and existing telehealth technologies and advises on strategies to maximize the potential of these technologies for meeting educational and technical assistance objectives; (5) in conjunction with OIT disseminates the latest information and research findings related to the use of telehealth technologies in the agency programs and underserved areas, including findings on "best practices"; (6) works with other components of the Department, with other Federal and state agencies, and with the private sector to promote and overcome barriers to cost-effective telehealth programs; and (7) provides advise on telehealth policy.

2. Abolish the functional statement for the Office of Policy and Program Development (RV3) in its entirety and replace with the following:

Office of Policy and Program Development (RV3)

Serves as the Bureau's focal point for program planning and related coordination activities including the development and dissemination of program objectives, alternatives, policy statements and the formulation and interpretation of program related policies. Specifically: (1) Advises the Associate Administrator and Division Directors in the development of plans and proposals to support Administration goals, and serves as the primary staff unit on special projects for the Associate Administrator; (2) coordinates with the Office of Planning and Evaluation, HRSA, and other appropriate offices in the preparation of

HIV/AIDS-related program policies including the preparation of testimony and related information to be presented to the Congress; (3) monitors and analyzes HIV/AIDS-related policy developments, both within and outside the Department, for their potential impact on HIV/AIDS activities, and advises the Associate Administrator on alternative courses of action for responding to such developments; (4) organizes, guides, and coordinates the Bureau's program planning and development activities, and prepares the Bureau's strategic planning agenda; (5) provides staff services and coordinates activities pertaining to policy and position papers to assure the fullest possible consideration of programmatic requirements in meeting established departmental, and HRSA goals; (6) maintains liaison with the Agency, Department, and other agencies; (7) participates in the development and coordination of program policies and implementation plans, including the development, clearance, and dissemination of regulations, criteria, guidelines, and operating procedures; (8) serves as the point of contact for the Agency, developing and coordinating working relationships and conducts specific joint activities among programs to assure optimum interaction on related HIV/AIDS activities and to minimize duplication and overlap; (9) conducts special inquiries and studies with emphasis on coordinating, managing and/or undertaking special projects which cut across Office or Division lines and responsibilities; (10) coordinates Bureau and HRSA comments on HIV/AIDS-related reports, position papers, and related issues; (11) coordinates responses to requests for information received from other OPDIVs of the Department and from outside the Department; (12) provides program policy interpretation and technical assistance to other governmental and private organizations and institutions; and (13) develops and coordinates performance measures.

3. In the HIV/AIDS Bureau, abolish the Office of Communications and Information Dissemination (RV8).

Delegation of Authority

All delegations and redelegations of authorities to officers and employees of the Health Resources and Services Administration which were in effect immediately prior to the effective date of this action will be continued in effect in them or their successors, pending further redelegation, provided they are consistent with this action.

This document is effective upon date of signature.

Dated: November 30, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01–30233 Filed 12–5–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project

Notification of Intent To Use Schedule III, IV, or V Opioid Drugs for the Maintenance and Detoxification Treatment of Opioid Addiction Under 21 U.S.C. 823(g)(2)

—(New)—The Drug Addiction Treatment Act of 2000 ("DATA," Pub. L. 106–310 (21 U.S.C. 823(g)(2)) amended the Controlled Substances Act to permit practitioners (physicians) to seek and obtain waivers to prescribe certain approved narcotic treatment drugs for the treatment of opiate addiction. The legislation sets eligibility requirements and certification requirements as well as an interagency application process for physicians who seek waivers.

To implement these new provisions, SAMHSA has developed a notification form to permit it to determine whether practitioners (i.e., individual physicians and physicians in group practices (as defined under section 1877(h)(4) of the Social Security Act, licensed to practice medicine) meet the qualifications for waivers set forth under the new law. The information entered on the form will assist SAMHSA in determining whether practitioners are eligible for a waiver. The Secretary will convey practitioner determination to the Drug Enforcement Administration (DEA), which will assign an identification number to qualifying practitioners; this number will be included in the practitioner's registration under 21 U.S.C. 823(f). Practitioners will also use this notification form to renew their waivers at the time they renew their DEA practitioner registration—every three years.

Practitioners will use the form for three types of notification: (a) New, (b) emergency, and (c) renewal. Under "new" notifications, practitioners will make their initial waiver requests to SAMHSA. "Emergency" notifications will inform SAMHSA and the Attorney General of a practitioner's intent to prescribe immediately to facilitate the treatment of an individual (one) patient under 21 U.S.C. 823(g)(2)(E)(ii). "Renewal" notifications will be submitted to HHS to initiate review of an identification number already provided by DEA.

The form will collect data on the following items: Practitioner name; state medical license number and DEA registration number; address of primary location, telephone and fax numbers; e-mail address; name and address of group practice; group practice employer identification number; names and DEA registration numbers of group practitioners; purpose of notification (new, emergency, or renewal); name of narcotic drugs or combinations for use under the notification; certification of qualifying criteria for treatment and management of opiate-dependent patients; certification of capacity to refer patients for appropriate counseling and other appropriate ancillary services; certification of maximum patient load.

At present, there are no narcotic drugs or combinations for use under notifications; however, SAMHSA believes that it is appropriate to develop a notification system to implement DATA in anticipation of narcotic treatment medications becoming available in the future. Respondents will be able to submit the form electronically, through a dedicated Web page that SAMHSA will establish for the purpose, as well as via U.S. mail.

The following table summarizes the estimated annual burden for the use of this form.

Purpose of submission	Number of respondents	Responses per respondent	Burden per response (hr.)	Total burden (hrs.)
Initial Application for Waiver	1,200	1	.083	100
Notification to Prescribe Immediately	33	1	.083	3
Application for Renewal	1,200	1	.083	100
Total	1,200			203

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: November 29, 2001.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–30234 Filed 12–5–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permit for Marine Mammals

On July 11, 2001, a notice was published in the **Federal Register** (66 FR 36295), that an application had been filed with the Fish and Wildlife Service by Harbor Branch Oceanographic Institution, Fort Pierce, FL, for a permit (PRT–038605) to take for scientific research 6 captive held, 2 captive born, as well as 1 Pre-Act, West Indian manatee (*Trichechus manatus*) for scientific research.

Notice is hereby given that on October 30, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), and the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*), the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On July 25, 2001, a notice was published in the **Federal Register** (66 FR 38739), that an application had been filed with the Fish and Wildlife Service by Michael Walker for a permit (PRT–045478) to import one polar bear taken from the Northern Beaufort Sea population, Canada for personal use.

Notice is hereby given that on October 22, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On July 25, 2001, a notice was published in the **Federal Register** (66 FR 38739), that an application had been filed with the Fish and Wildlife Service by John D. Harris for a permit (PRT–045396) to import one polar bear taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on October 22, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On July 25, 2001, a notice was published in the **Federal Register** (66 FR 38739), that an application had been filed with the Fish and Wildlife Service by Michael E. Walker for a permit (PRT–045478) to import one polar bear taken from the Northern Beaufort Sea population, Canada for personal use.

Notice is hereby given that on October 24, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone (703) 358–2104 or fax (703) 358–2281.

Dated: November 2, 2001.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–30257 Filed 12–5–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 020–02–1610–DO–241A,HAG02–0007]

Harney and Malheur Counties, OR; Andrews Resource Area, Steens Mountain; Resource Management Plan

AGENCY: Bureau of Land Management, Burns District, Andrews Field Office.

ACTION: Notice of Intent to (1) prepare a Resource Management Plan (RMP) for the Andrews Resource Area (ARA) and (2) prepare a management plan for the Steens Mountain Cooperative Management and Protection Area (CMPA), designated October 30, 2000. These actions will be addressed in a single Environmental Impact Statement (EIS). The ARA is located in Harney and Malheur Counties, Oregon. The CMPA lies solely within Harney County, largely within the ARA, and to a lesser extent, within the Three Rivers Resource Area (RA), Burns District.

SUMMARY: This document provides notice that the Bureau of Land Management (BLM) intends to prepare an RMP, with an associated EIS, for the ARA/CMPA. This planning activity encompasses approximately 1,723,564 acres of public land, including 425,550 acres in the CMPA. The area to be addressed involves the ARA, the CMPA, and a small segment of the Burns District's Three Rivers RA, which is included in the CMPA. Depending on the alternative selected and approved, a portion of the Three Rivers RMP may be amended by this planning effort.

The plan will fulfill the needs and obligations set forth by the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), the Steens Mountain Cooperative Management and Protection Act of 2000 (Act), and BLM management policies. The analysis and resulting decisions will also meet the requirements of the Wilderness Act and Wild and Scenic Rivers Act, as applicable. The BLM will work closely with the Steens Mountain Advisory

Council (SMAC), a citizen's advisory group established by the Act, and with other interested parties to collaboratively identify the management decisions that are best suited to local, regional and national needs and concerns.

This notice gives early notification of the public scoping process, which is designed to identify planning issues and develop planning criteria. The SMAC will initiate the scoping process through its work on preliminary planning issues, criteria and alternatives. The scoping process will also include opportunity for internal and external review of the existing management plan.

DATES: The formal scoping comment period is expected to begin in January 2002 with publication of a notice in local newspapers and other media. Formal scoping will end sixty days after publication of that notice. At least 15 days public notice will be given for activities for which the public is invited to attend. Written comments will be accepted throughout the planning process at the address shown below.

Public Participation

The SMAC will be the primary public advisory group for this planning effort. In addition, open-house type public meetings will be held during the scoping and plan preparation period. Public meetings will be held in Burns, Oregon, and at other communities as interest warrants. Early participation by all those interested is encouraged and will help determine the future management of the CMPA and ARA. All public comments and lists of attendees for each meeting will be available to the public and open for 30 days to participants who wish to clarify the views they expressed. Meetings and comment deadlines will be announced through the local news media, newsletters and the Burns BLM web site (*www.or.blm.gov/Burns/*). I n addition to the ongoing public participation process, formal opportunities for public participation will be provided through comment on the alternatives and upon publication of the Draft RMP/EIS.

ADDRESSES: Written comments should be sent to Andrews Resource Management Plan, Bureau of Land Management, Burns District Office, HC 74–12533, Highway 20 West, Hines, Oregon 97738; Fax (541) 573–4411, or e-mail (*rkarges@or.blm.gov*). Documents pertinent to this proposal may be examined at the Burns District Office in Hines, Oregon. Comments, including names and street addresses of respondents, will be available for public review at the Burns District Office during regular business hours, 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays, and may be published as part of the EIS. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Rhonda Karges, Telephone (541) 573–4433 or Gary Foulkes, Telephone (541) 573–4541 at the BLM Burns District Office.

SUPPLEMENTARY INFORMATION: The creation of the CMPA, including 169,465 acres of the newly created Steens Mountain Wilderness Area, along with the changing needs and interests of the public, necessitate formulation of the Andrews/Steens RMP. The new ARA RMP and the management plan for the CMPA will be combined into one planning effort. In addition, management plans for the Steens Wilderness and WSRs, as well as a transportation plan for the CMPA will be incorporated into the RMP.

Some preliminary issues and management concerns were identified when the Act was developed, through subsequent meetings with individuals and user groups, and by BLM personnel. Major issue themes that will be addressed in the plan effort include: upland and watershed management; riparian areas and wetlands; woodlands management; vegetation; wildlife habitat; special status species; energy and minerals; special management areas; fire/fuels management; recreation management; lands and realty issues; wild horses; cultural resources; noxious weeds; Off Highway Vehicle management; water quality/aquatic resources/fisheries; transportation; and socio-economics. After gathering public comments on issues that the plan should address and reviewing them in concert with the SMAC, the issues will be placed in one of three categories:

1. Issues to be resolved in the plan;
2. Issues resolved through policy or administrative action; or
3. Issues beyond the scope of the plan.

Rationale will be provided in the plan for each issue placed in category two or three. In addition to these major issues, a number of management questions and concerns will be addressed in the plan. The public is encouraged to help identify these questions and concerns during the scoping phase. An interdisciplinary approach will be used to develop the plan in order to consider the variety of resource issues and concerns identified. Disciplines involved in the planning process will include (but not be limited to) those with expertise in rangeland management, minerals and geology, botany, forestry, outdoor recreation, wilderness management, archaeology, paleontology, wildlife and fisheries, lands and realty, hydrology, soils, sociology and economics.

Background Information

The CMPA was established through an Act of Congress (P.L. 106–399). Special Management Areas created within the CMPA include: the Wildland Juniper Management Area; the Steens Mountain Wilderness, which contains a No Livestock Grazing Area; new Wild and Scenic River (WSR) designations; and a Redband Trout Reserve. Congress recognized that the CMPA fosters exceptional cooperative management opportunities and offers outstanding natural, cultural, scenic, wilderness, and recreational resources. To ensure those resources are appropriately managed, the Act mandated that BLM prepare a management plan for the CMPA by October 30, 2004.

In 1995, preparation of the Southeastern Oregon Resource Management Plan (SEORMP) was initiated by the BLM, Vale and Burns District Offices. The SEORMP initially included the ARA. As a result of the Act, however, the Andrews Field Office determined it was necessary to create a separate RMP for the ARA and CMPA to address changes in management resulting from the Act.

Consequently, the ARA is no longer addressed in the SEORMP. The ARA has been managed under the Andrews Management Framework Plan since 1982 and the grazing decisions in the Andrews Rangeland Program Summary (RPS) since 1984. Part of a 900,000 acre Mineral Withdrawal Area designated by the Act is within Malheur County and Vale District's Jordan Resource Area, and the effects of the withdrawal on

those lands have been addressed in the SEORMP.

Miles Brown,

Andrews Field Office Manager.

[FR Doc. 01–30222 Filed 12–5–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–01–1610]

Notice of Intent To Prepare an Environmental Impact Statement for the Coordinated Activity Plan for the Jack Morrow Hills Area, Sweetwater, Fremont, and Sublette Counties, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) Rock Springs Field Office proposes to prepare a Supplemental Draft Environmental Impact Statement (EIS), Coordinated Activity Plan (CAP), and amendment to the Green River Resource Management Plan (GRRMP) for the Jack Morrow Hills (JMH) area of Wyoming. The JMH CAP is an integrated activity planning effort to provide more specific management direction for certain public lands located in Sweetwater, Fremont, and Sublette Counties, Wyoming. The JMH CAP will amend the GRRMP with regard to fluid mineral leasing and mineral location. Comments to the draft EIS for the CAP, issued in July 2000, resulted in the submission of new resource information; consequently, the BLM is preparing a supplemental draft EIS for the JMH CAP. To the extent possible, existing analyses and information used to prepare the original draft EIS will be updated and used in preparing the supplemental draft EIS.

This notice also requests any resource information, including fluid mineral resource information (oil and gas, coalbed methane), mineral location information (gold, diamonds), operational or development plans, and other resource information that will help in developing fluid mineral and mineral location management direction, Resource Management Plan (RMP) decisions, and in analyzing environmental impacts.

DATES: The official scoping period for this planning effort will commence with the publication of this notice. Open house workshops will be scheduled in Lander and Rock Springs, Wyoming, during the week of December 9, 2001. Two scoping meetings will be held in these same locations during the week of January 6, 2002. Notification of the open house-information sharing workshops and the scoping meetings will be done through public notices, media news releases, internet postings, and/or mailings. The purpose of these workshops and scoping meetings is to share information, identify specific concerns and issues pertaining to the various resource and land use values in the JMH CAP planning area, and to identify any data gaps, needs and data sources pertaining to the area. Scoping comments must be submitted by January 11, 2002, or within 30 days of publication of this notice, whichever occurs later.

Future meetings, hearings, or any other public involvement activities will be scheduled as needed. Notification of these activities will be through other public notices, media news releases, internet postings, or mailings.

ADDRESSES: Scoping comments must be submitted to: Rock Springs BLM Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901. Comments submitted by electronic mail should be sent to: *rock_springs_wymail@blm.gov*, reference Supplemental Draft in the subject line. All comments must include legible full name and return address on the envelope, letter, postcard, or e-mail. Public comments submitted for this planning effort, including names and street addresses of respondents, will be available for public review after the comment period closes at the Rock Springs Field Office during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays. All submissions from organizations, or businesses, and from individuals who are representatives or officials of organizations, or businesses, will be made available for public inspection in their entirety. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review, or from disclosure, under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law.

FOR FURTHER INFORMATION CONTACT: Andy Tenney, Assistant Team Leader, Bureau of Land Management, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901–3447, telephone number 307–352–0311.

SUPPLEMENTARY INFORMATION: The JMH CAP planning area contains 622,340 acres of Federal, State, and private lands. It includes Steamboat Mountain, the Greater Sand Dunes, White Mountain Petroglyphs, and Oregon Buttes Areas of Critical Environmental Concern (ACEC); seven wilderness study areas; and part of the South Pass Historic Landscape ACEC. BLM has deferred fluid mineral leasing and mineral location decisions in the Jack Morrow Hills core area and has placed a moratorium on fluid mineral leasing throughout the JMH CAP planning area pending completion of this CAP. This planning effort will address the leasing and development of energy resources; transportation planning, access, designation of roads; wildlife habitat and vegetation management; livestock grazing practices; and other issues.

In conformance with the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA), a supplemental draft EIS will be prepared in the course of developing the CAP. The existing GRRMP and interim management criteria will guide management actions in the JMH CAP area until the CAP is completed.

BLM invites public identification of the issues that should be addressed in the JMH CAP planning process. Comments may be sent to the address above. Preliminary issues that have been identified to date include:

Issue 1: Minerals Resource Management and Rights-of-Way.

Issue 2: Resource Uses Affecting Vegetation, Soils, Air, and Watershed Values.

Issue 3: Recreation and Cultural Resource Management.

Issue 4: Special Management Area Resource Management.

Public participation will be an essential component of the supplemental draft EIS and Coordinated Activity Plan preparation process. Several techniques for public involvement will be used including: **Federal Register** announcements, one-to-one discussion with key groups and individuals interested in the JMH CAP area, internet postings, news releases and articles in the local media, and individual mailings to all parties who have expressed an interest in the process. For those persons wishing to be placed on this mailing list, a BLM contact is provided elsewhere in this notice.

RMP level decisions to be made through the CAP will constitute amendment to the Green River RMP and will be subject to protest by parties who participate in the planning process and who have an interest which is, or may be, adversely affected by the adoption of RMP decision as provided by Title 43, Code of Federal Regulations, § 1610.5–2 (43 CFR 1610.5–2).

Dated: November 13, 2001.
Alan R. Pierson,
State Director.
[FR Doc. 01–30277 Filed 12–5–01; 8:45 am]
BILLING CODE 4310–22–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW 124628]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW124628 for lands in Sublette County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16–2/3 percent, respectively.

The lessee has paid the required $500 administrative fee and $158 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW124628 effective July 1, 2001, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,
Chief, Fluid Minerals Adjudication.
[FR Doc. 01–30224 Filed 12–5–01; 8:45 am]
BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW 139400]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW139400 for lands in Sublette County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $158 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW139400 effective July 1, 2001, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,
Chief, Fluid Minerals Adjudication.
[FR Doc. 01–30225 Filed 12–5–01; 8:45 am]
BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW 135437]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW135437 for lands in Sublette County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $158 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW135437 effective July 1, 2001, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,
Chief, Fluid Minerals Adjudication.
[FR Doc. 01–30226 Filed 12–5–01; 8:45 am]
BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1530–02–0036]

State Office Move; Oregon and Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces the move of the Bureau of Land Management (BLM) Oregon/Washington State Office, and the temporary closure of the Land Office during the move.

FOR FURTHER INFORMATION CONTACT: Sherrie L. Reid, Chief Realty Records Section, BLM Oregon/Washington State Office, 1515 S.W. 5th Ave., PO Box 2965, Portland, Oregon 97208–2955, (503)952–6655.

SUPPLEMENTARY INFORMATION: Effective at the close of business on January 16, 2002, the Land Office of the BLM Oregon State Office will close for the purpose of moving to 333 S.W. 1st. Ave., Portland, Oregon 97204. The Land Office provides access to and inspection of the official Public Land Tenure Records and Cadastral Survey Records of the Federal Government, and the serialized case files of active land and mineral transactions for Oregon and Washington. The Land Office will reopen, at the new address, at 8:30 a.m. on Monday, January 28, 2002. The Land Office telephone number will be (503) 808–6001.

The BLM Oregon State Office mailing address for delivery by the U.S. Post Office will remain PO Box 2965, Portland, Oregon 97208–2965. For other commercial delivery services that require a street address, the BLM Oregon State Office Warehouse address is: 14015 N.E. Airport Way, Portland, Oregon 97230.

Dated: November 19, 2001.
Robert D. DeViney, Jr.,
Chief, Branch of Realty and Records Services.
[FR Doc. 01–30229 Filed 12–5–01; 8:45 am]
BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–05; N–37128]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and Public Purpose Lease/Conveyance—Change of Use.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*) (R&PP). This land was previously segregated for R&PP on March 12, 1992, in the **Federal Register** under (NV–930–92–4212–11; N–55370 *et al.*) on page 3777, for case file N–41565–07. The City of Las Vegas proposes to amend its existing lease, N–37128, to include the land as part of a public park.

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E., sec 27
SW¼NE¼NW½
Containing 10 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

And will be subject to:

1. An easement 25 feet in width along the South boundary and 20 feet in width along the West boundary in favor of the City of Las Vegas for road, sewer, public utilities and flood control purposes.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada.

2. Those rights for public utility purposes which have been granted to the Nevada Power Company by Permit No. N–59745, and to the Las Vegas Valley Water District by Permit No. N–56526, and to the City of Las Vegas by Permit No. N–47872 under the Act of October 26, 1976 (FLPMA).

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the Field Manager, Las Vegas Field Office, Las Vegas, Nevada 89108.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a public park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a public park.

Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: October 26, 2001.

Rex Wells,

Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 01–30227 Filed 12–5–01; 8:45 am]

BILLING CODE 4510–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–025–1610–DO]

Notice of Intent To Prepare a Resource Management Plan for the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area, et al.; Nevada

AGENCY: Bureau of Land Management, Winnemucca (Nevada) and Surprise (California) Field Offices, Department of the Interior.

ACTION: Notice of intent to prepare a Resource Management Plan for the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area, (NCA) and associated wilderness, and other contiguous lands in Nevada.

SUMMARY: The Bureau of Land Management (BLM) Winnemucca and Surprise Field Offices will jointly prepare a RMP and an Environmental Impact Statement (EIS) for the recently designated Black Rock Desert-High Rock Canyon Emigrant Trails NCA and associated wilderness areas, designated by the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area Act of 2000 (Pub. L. 106–554, December 21, 2000). The following contiguous areas also will be addressed in the plan: (1) The Lahontan Cutthroat Trout Instant Study Area (ISA) and a small area of BLM administered public lands located west of the ISA between the ISA and the Summit Lake Indian Reservation, both of which are contiguous to the northern edge of the NCA; and (2) the southern part of the Black Rock Desert Playa (South Playa), which is contiguous to the southern edge of the NCA.

The planning area encompasses approximately 1,217,500 acres of public land, located in Humboldt, Pershing, and Washoe counties in northwestern Nevada. These public lands are jointly managed by the BLM Winnemucca and Surprise Field Offices. The RMP will be based on statutory requirements and will meet the requirements of the Federal Land Policy and Management Act (FLPMA) of 1976, the Wilderness Act of 1964, the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area Act of 2000, and other applicable provisions of law. The RMP will guide BLM's management actions within the NCA, wilderness, and identified contiguous areas. The BLM will work closely with interested parties to identify the management decisions that are best suited to the needs of the public. This collaborative process will take into account local, regional, and

national needs and concerns. This notice initiates the public scoping process to identify planning issues and to develop planning criteria.

DATES: In compliance with the enabling legislation (Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area Act of 2000 (Pub. L. 106–554, December 21, 2000)), the plan must be completed by December 20, 2003. The public is encouraged to participate in the planning process, beginning with the identification of issues and planning criteria. The scoping comment period will commence with the publication of this notice. Formal scoping will end 60 days after publication of this notice. Comments on issues and planning criteria would be most helpful if received on or before the end of the scoping period. Public participation activities, including scoping meetings to identify issues and planning critieria, will be announced at least 15 days before the scheduled meeting in the local news media and in notices sent to persons and parties on the mailing list. In order to ensure local community participation, public meetings will be rotated among locations including, but not necessarily limited to Cedarville, California, and Gerlach, Reno, and Winnemucca, Nevada. In audition to the ongoing public participation process and the scoping meetings, formal opportunities for public participation will be provided through comment on the alternatives and upon publication of the draft RMP/draft EIS. A web site will also be established to display updated information to the public and to provide a means for submission of public comments via e-mail. Persons who would like to be placed on mailing lists, should notify the Winnemucca or Surprise Field Offices at the addresses listed below, or call (775) 623–1500.

ADDRESSES: Written comments should be sent to the attention of the NCA Resource Management Plan Project Manager, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445, Phone (775) 623–1500. Comments, including names and street addresses of respondents, may be published as part of the EIS. Individual respondents may require confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

A map of the planning area is available at the Winnemucca Field Office (address and phone number listed above); the Surprise Field Office, 602 Cressler Street, Cedarville, CA 96104, Phone (530) 279–6101; the Nevada State Office, 1340 Financial Blvd., Reno, NV 89502, Phone (775) 861–6400; and at the California State Office, 2800 Cottage Way, Suite W–1834, Sacramento, CA 95825–1886, Phone (916) 978–4600.

FOR FURTHER INFORMATION CONTACT: Terry Reed, Field Office Manager or Roger Farschon, Acting NCA Manager, at the Winnemucca Field Office, Phone (775) 623–1500 or the Acting Surprise Field Office Manager, Phone (530) 279–6101.

SUPPLEMENTARY INFORMATION: The RMP will determine management of approximately 1,217,500 acres of federally administered public lands including: the Black Rock Desert-High Rock Canyon Emigrant Trails NCA (Approximately 800,100 acres), ten associated wilderness areas (approximately 757,100 acres), the Lahontan Cutthroat Trout ISA (approximately 13,400 acres) and a small area of BLM administered public lands located west of the ISA between the ISA and the Summit Lake Indian Reservation (approximately 2,300 acres), and the southern portion of the Black Rock Desert Playa (South Playa) (approximately 24,100 acres). Approximately 379,500 acres of wilderness are located within the boundaries of the NCA.

The public is asked to assist the BLM with the identification of issues related to management of the planning area, including the NCA and wilderness. Preliminary issues and management concerns have been identified by BLM personnel, other agencies, and in meetings with individuals and user groups. Anticipated issues include, but are not limited to the following: how will natural, cultural, and wilderness resources be protected?; how can visitor use, access and safety best be achieved?; how will NCA management be integrated with other agency and community plans and needs?; and what facilities and infrastructure are needed to provide visitor services and administration of the NCA? After gathering public comments on what issues the plan should address, the suggested issues will be placed in one of three categories: (1) Issues to be resolved in the plan; (2) issues resolved through policy or administrative action; and (3) issues beyond the scope of the plan. BLM will provide feedback to the public on the final issues to be addressed in the plan. An interdisciplinary approach will be used to develop the plan in order to consider the variety of resource issues and concerns identified. Disciplines involved in the planning process will include specialists with expertise in rangeland management, minerals and geology, forestry, outdoor recreation, archaeology, paleontology, wildlife and fisheries, land and realty, hydrology, soils, sociology, and economics.

Plan development will involve close cooperation with the State of Nevada, tribal, county and municipal governments, federal agencies, and interested groups, agencies, and individuals. The Resource Advisory Councils (RACs) for the planning area, the Sierra Front-Northwestern Great Basin RAC and the Northeast California RAC, will be used to provide additional public input. Consistent with the enabling legislation, the plan for the NCA and associated wilderness areas will emphasize the protection and enhancement of the NCA's and wilderness areas' resource values while providing the public with opportunities for compatible recreation activities. The plan for the specified contiguous areas will emphasize management consistent with applicable laws and regulations. The concerns and interest of area residents, including the activities of recreation, grazing, hunting, trapping, mining, energy development, and access will be addressed in the plan.

The Plan will incorporate appropriate decisions from existing BLM plans such as current management plans for the area. It also will use information developed and management alternatives proposed in previous studies of the lands within or adjacent to the NCA (including the Draft Sonoma-Gerlach/ Paradise Denio Plan Amendment).

Terry A. Reed,

Field Manager, Winnemucca, Nevada.

[FR Doc. 01–30223 Filed 12–5–01; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1910–BJ–4489] ES–51270, Group 35, Missouri

Notice of Filing of Plat of Survey; Missouri

The plat of the dependent resurvey of a portion of the township boundaries and portions of the subdivisional lines

and the survey of the Lock and Dam No. 26 acquisition boundary, in Townships 48 and 49 North, Range 5 East, of the 5th Principal Meridian, Missouri, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on January 8, 2002.

The survey was requested by the U.S. Army Corps of Engineers.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., January 8, 2002.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: November 15, 2001.

Corwyn J. Rodine,

Chief Cadastral Surveyor.

[FR Doc. 01–30228 Filed 12–5–01; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NMNM 94899, NMNM 94902, NMNM 94903]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, has filed applications to withdraw approximately 329.44 acres of National Forest System lands to protect the area and future investment of existing microwave electronic sites. This notice closes the National Forest System lands for up to 2 years from location and entry under the United States mining laws. The land will remain open to mineral leasing and to all other uses which may be made of National Forest System lands.

DATES: Comments must be received by March 6, 2002.

ADDRESSES: Comments should be sent to the U.S. Department of Agriculture, Forest Service, Cibola National Forest, 2113 Osuna Road, NE, Suite A, Albuquerque, New Mexico 87113–1001.

FOR FURTHER INFORMATION CONTACT: Sue McHenry, Cibola National Forest, 505–346–2650.

SUPPLEMENTARY INFORMATION: On April 12, 2001, the United States Department of Agriculture, Forest Service, filed applications to withdraw the following described National Forest System lands from location and entry under the United States mining laws, subject to valid existing rights:

1. NMNM 94899 (Microwave Electronic Site), New Mexico Principal Meridian, Cibola National Forest

T. 11 N., R. 7 W.,
Sec. 8, S½SE¼SW¼ and SW¼SW¼SE¼;
Sec. 17, W½NW¼NE¼, NE¼NW¼, N½SE¼NW¼, SW¼SE¼NW¼, and SE¼SW¼NW¼.

The area described contains 130 acres in Cibola County.

2. NMNM 94902 (Capilla Peak Electronic Site), New Mexico Principal Meridian

T. 5 N., R. 5 E.,
Sec. 3, W½ of lot 2, E½ of lot 3, E½W½ of lot 3, NE¼NW¼SW¼NE¼, W½W½SW¼NE¼, SE¼SE¼SW¼NW¼, E½SE¼NW¼, SW¼SE¼NW¼, N½NE¼NE¼SW¼, SW¼NE¼NE¼SW¼, NW¼NE¼SW¼, E½NE¼NW¼SW¼, and NW¼NE¼NW¼SW¼.
T. 6 N., R. 5 E.,
Sec. 34, E½SE¼SE¼SW¼ and W½SW¼SW¼SE¼.

The area described aggregates 131.94 acres in Torrance County.

3. NMNM 94903, East La Mosca Electronic Site, New Mexico Principal Meridian

T. 12 N., R. 7 W.,
Sec. 20, E½E½SE¼SE¼NE¼;
Sec. 21, W½W½SW¼SW¼NW¼.

The area described contains 5.0 acres in Cibola County.

La Mosca Peak Electronic Site, New Mexico Principal Meridian

T. 20 N., R. 7 E.,
Sec. 20, SW¼SW¼NW¼NE¼, W½W½SW¼NE¼, S½NW¼NE¼NW¼, SW¼NE¼NW¼, NW¼SE¼NE¼NW¼, S½SE¼NE¼NW¼, NE¼SE¼NW¼, N½NW¼SE¼NW¼, NW¼NW¼SE¼, and N½N½SW¼NW¼SE¼.

The area described contains 62.5 acres in Cibola County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Cibola National Forest Supervisor at the above address.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Cibola National Forest Supervisor, at the above address, within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The applications will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the applications are denied or canceled or the withdrawals are approved prior to that date. The temporary uses which will be permitted during this segregative period are land uses permitted by the Forest Service under existing laws and regulations including, but not limited to, construction and operation of the electronic sites.

Dated: November 6, 2001.

Steven W. Anderson,

Acting Albuquerque Field Manager.

[FR Doc. 01–30230 Filed 12–5–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

Availability of Record of Decision for the General Management Plan for Cane River Creole National Historical Park, LA

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of the Record of Decision for the Final General Management Plan and Environmental Impact Statement, Cane River Creole National Historical Park, Natchitoches Parish, Louisiana.

SUMMARY: The U.S. Department of the Interior's National Park Service signed a Record of Decision (March 29, 2001) on a General Management Plan for Cane River Creole National Historical Park.

The National Park Service will implement Alternative 1, the preferred alternative, as described in the Final General Management Plan/ Environmental Impact Statement. Cane River Creole National Historical Park will persevere and rehabilitate the cultural landscapes, historic structures, and artifacts of the two park units, Oakland and Magnolia Plantations, to reflect the continuum of history up to about 1960. This will result in few changes to the current configuration of plantation structures or the general appearance of the landscape.

The long history of the plantations and the major cultural, social, and economic stories of Louisiana plantation lifeways and agriculture that they represent will be told (interpreted) to

the public. Based on research and documentation, accounts of the lives and lifestyles of the people who lived and worked at the plantations will be shared through media and programs.

The park will provide access, parking, trails, and basic visitor services at each unit. Development at Oakland Plantation will include an access road and parking area for cars and buses. Visitors will be able to explore the site using an accessible trail system. An outdoor pavilion-style shelter will be constructed and serve as an entry portal for that site, providing visitor information and restrooms. Eventually a park maintenance facility will be constructed either offsite near Oakland or, if an offsite location cannot be found or is infeasible, then a facility will be constructed onsite in the development management area. Development at Magnolia Plantation will include parking for cars and buses, with the goal of limiting bus parking onsite and establishing additional offsite bus parking near Magnolia. An accessible trail system will be developed and will link the major resources of the site.

The parks's historic features will be interpreted, with several structures being adapted either to provide visitors interior access and services or to accommodate park management needs. At Oakland Plantation, the main plantation hours will be furnished, staffed, and interpreted. The plantation store will include a cooperating association sales outlet and interpretive exhibits. Visitors will also be able to access the interior of the mule barn, overseer's house, and quarters. Park offices will be located in the doctor's house and the seed house will be adapted initially for maintenance activities, to be converted later to educational space for groups. At Magnolia, the plantation store will be staffed and provide visitor information and restrooms. Controlled access to the gin barn's main floor will be provided. The interiors of two of the quarters will be restored for visitor access and interpretation and visitors will also have access to the interior of the overseer's house/slave hospital.

To provide the knowledge base needed to fully implement the plan, the park will engage in additional study, data collection and resource monitoring, especially of archeological and ethnographic resources, historic structures and furnishings, cultural landscapes, and visitor uses. The National Park Service will work in partnership with the Cane River National Heritage Area Commission and others to develop a joint regional visitor center and headquarters in the Natchitoches/Cane River area, outside the downtown Natchitoches historic landmark district. This facility will be important for orienting the public to the area's resources and will provide a variety of interpretive and educational opportunities. Also, park managers will pursue the possibility of developing a joint curatorial facility, possibly as part of the joint visitor center complex. The park will work collaboratively with a variety of public and private entities to encourage and fund research, education, and preservation projects and heritage events.

FOR FURTHER INFORMATION CONTACT: Laura Soullière, Superintendent, Cane River Creole National Historical Park; 400 Rapides Drive; Natchitoches, LA 71457. Telephone: (318) 352–0383.

SUPPLEMENTARY INFORMATION: The complete Record of Decision is available on the NPS planning website at *http://www.nps.gov/planning.*

Dated: November 30, 2001.

Patricia A. Hooks,

Regional Director, Southeast Region.

[FR Doc. 01–30240 Filed 12–5–01; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–450]

In the Matter of Certain Integrated Circuits, Processes for Making Same, and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Denying Respondents' Motion for Summary Determination of Lack of Importation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 15) issued by the presiding administrative law judge (ALJ) in the above-captioned investigation, denying a motion of respondents Silicon Integrated Systems Corp. and Silicon Integrated Systems Corporation for summary determination on respondents' first affirmative defense of lack of importation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3115. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 6, 2001. The complainants are United Microelectronics Corporation of Hsinchu City, Taiwan; UMC Group (USA) of Sunnyvale, California; and United Foundry Service, Inc. of Hopewell Junction, New York. The respondents are Silicon Integrated Systems Corp. of Hsinchu City, Taiwan; and Silicon Integrated Systems Corporation of Sunnyvale, California. 66 FR 13567 (2001).

On September 13, 2001, complainants filed a motion for summary determination on respondents' first affirmative defense of lack of importation. On September 25, 2001, respondents filed a cross-motion for summary determination on lack of importation. On the same day, the Commission investigative attorney ("IA") filed his response in support of complainants" motion.

On October 5, 2001, complainants filed a memorandum in opposition to respondents' cross-motion for summary determination on lack of importation and a reply memorandum in support of complainants' motion for summary determination. On the same day, the IA filed his response in opposition to respondents' cross-motion for summary determination.

On October 23, 2001, complainants filed a motion for leave to file a supplemental memorandum in support of their motion, which was granted. On October 25, 2001, respondents filed a response to complainants' motion for supplemental memorandum.

On November 2, 2001, the ALJ granted complainants' motion for summary determination (Order No. 15) and denied respondents' motion for summary determination. On November 8, 2001, respondents filed petition for review of the ID. On November 16,

2001, complainants and the IA filed responses in opposition to respondents' petition.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: December 3, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–30275 Filed 12–5–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–455]

In the Matter of Certain Network Interface Cards and Access Points for Use In Direct Sequence Spread Spectrum Wireless Local Area Networks and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Extending the Target Date for Completion of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 53) issued by the presiding administrative law judge (ALJ) in the above-captioned investigation which extended the target date for completion of the investigation to January 10, 2003.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3115. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 9, 2001, based on a complaint filed by Proxim against 14 entities. 66 FR 18507 (2001). The complaint alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, sale for importation, and/or sale within the United States after importation of certain wireless network interface cards and access points by reason of infringement of certain claims of U.S. Letters Patents Nos. 5,077,753, 5,809,060, and 6,075,812 owned by Proxim.

On November 1, 2001, the ALJ issued an ID (Order No. 53) extending the target date for completion of the investigation to January 10, 2003. No petitions for review of the ID were filed.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.42(h)).

Issued: December 3, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–30276 Filed 12–5–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 29, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or e-mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: Stuart Shapiro, OMB Desk Officer for OSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Commercial Diving Operations—29 CFR 1910, Subpart T.

OMB Number: 1218–0069.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Type of Response: Recordkeeping and Reporting.

Frequency: On occasion and Annually.

Number of Respondents: 3,000.

Requirement	Annual responses	Average response time (hours)	Estimated burden hours
§ 1910.401(b):			
Phone	3,000	0.25	0
Written	3,000	2.00	0
§ 1910.420(a) and (b)	300	1.00	300
§ 1910.420(a) and (b)	3,000	0.05	150

Requirement	Annual responses	Average response time (hours)	Estimated burden hours
§ 1910.423(d)(1)	1,500,000	0.08	120,000
§ 1910.423(d)(2)	150,000	0.08	12,000
§ 1910.423(d)(3)	16,500	0.08	1,320
§ 1910.423(e)	16,500	1.00	16,500
§ 1910.430(a)	180,000	0.05	9,000
§ 1910.430(b)(4)	6,000	0.05	300
§ 1910.430(c)(1)(iii)	20,000	0.05	1,000
§ 1910.430(f)(3)(ii)	300	0.05	15
§ 1910.430(g)(2)	12,000	0.05	600
§ 1910.440(a)(2)	165	0.17	28
§ 1910.440(b)(1) and (b)(2)	193,135	0.03	5,794
§ 1910.440(b)(3)	1,904,465	0.02	38,089
§ 1910.440(b)(4) and (b)(5)	601	0.50	301
Total	4,005,966		205,397

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Standards' paperwork requirements allow employers to deviate from established diving practices and tailor diving operations to unusually hazardous diving conditions, and to analyze diving records (including hospitalization and treatment records) for information they can use to improve diving operations. These requirements are also a direct and efficient means for employers to inform dive-team members about diving-related hazards, procedures to use in avoiding and controlling these hazards, and recognizing and treating diving-related illnesses and injuries. Additionally, employers can review equipment records to ensure that employees performed the required actions, and that the equipment is in safe working order.

Disclosing the records to employees and their designated representatives permits them to identify operational and equipment conditions that may contribute to diving accidents or diving-related medical conditions. Moreover, the records provide the most efficient means for OSHA compliance officers to determine that employers are performing the regulatory requirements of the Standards.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Fire Brigades.

OMB Number: 1218–0075.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Type of Response: Recordkeeping and Third-party disclosure.

Frequency: On occasion.

Number of Respondents: 8,391.

Number of Annual Responses: 8,391.

Estimated Time Per Response: 5 minutes to obtain a physician's certificate and 2 hours to develop an organizational statement.

Total Burden Hours: 6,042.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: 29 CFR 1910.156 requires employers to develop an organized statement for fire brigades. The organizational statement describes what the fire brigade is expected to do, and will help employees understand their duties are as fire brigade members. It also informs OSHA compliance offices of the type of fire fighting that will be performed.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Occupational Exposure to Hazardous Chemicals in Laboratories.

OMB Number: 1218–0131.

Affected Public: Business or other for-profit; Federal Government; and State, Local, or Tribal Government.

Type of Response: Recordkeeping and Third-party disclosure.

Frequency: On occasion; Annually; Semi-annually; and Quarterly.

Number of Respondents: 41,900.

Requirement	Annual responses	Average time per response (hours)	Estimated burden hours
Exposure Monitoring and Measurement	41,900	0.17	7,123
Employees Notification of Monitoring Results	41,900	0.08	3,352
Chemical Hygiene Plan—New	750	8.00	6,000
Chemical Hygiene Plan—Existing	41,900	0.50	20,950
Information and Training	15,970	1.00	15,970
Medical Surveillance, Medical Examination	63,880	0.75	47,910
Medical Surveillance, Medical Examination	31,940	1.50	47,910
Medical Surveillance, Medical Examination	31,940	2.25	71,865
Medical Surveillance, Information Provided to Physician	127,760	0.08	10,221
Medical Surveillance, Physician's Written Opinion	127,760	0.08	10,221
Hazardous Identification	0	0.00	0
Use of Respirators	0	0.00	0
Exposure Monitoring/Medical Records	169,660	0.08	13,573
Making Records and Documents Available to Employees or OSHA	173,063	0.08	13,845
Transferring Records to the National Institute of Occupational Safety and Health	333	1.00	333
Totals	868,756		269,273

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $18,235,000.

Description: 29 CFR 1910.1450 requires employers to monitor employee exposure to hazardous chemicals in laboratories, to provide medical consultation and examinations, to train employees about the hazards of chemicals in their working areas, and to establish and maintain accurate records of employee exposure to hazardous chemicals in laboratories. These records are used by employers, employees, physicians, and the Government to ensure the health and safety of workers.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Cadmium in General Industry—29 CFR 1910.1027.

OMB Number: 1218–0185.

Affected Public: Business or other for-profit; Federal Government; and State, Local, or Tribal Government.

Type of Response: Recordkeeping.

Frequency: On occasion, Semi-annually, and Annually.

Number of Respondents: 53,161.

Information collection requirement	Annual responses	Average response time (hours)	Requested burden hours
Exposure Monitoring:			
Initial Monitoring	0	0.00	0
Objective Data	167	1.00	167
Monitoring Frequency (Periodic Monitoring)	14,261	0.50	7,131
Additional Monitoring	143	0.50	72
Employee Notification of.			
Monitoring Results	142,898	0.08	11,432
Compliance Program:			
Review and Update Plan	5,052	1.50	7,578
Compliance Plan for Plants above the Permissible Exposure Level	9,622	1.00	9,622
Respiratory Protection (Respiratory Program and Respirator Fit-Testing)	0	0.00	0
Emergency Situations	0	0.00	0
Notification of Laundry Personnel	0	0.00	0
Medical Surveillance:			
Initial Examination	35,653	1.50	53,480
Additional Examinations	285	1.50	428
Biological Monitoring	1,110	0.75	833
Information Provided to Physician	37,048	0.08	2,964
Physician's Written Medical Opinion	37,048	0.08	2,964
Communication of Cadmium Hazards to Employees:			
Warning Signs and Warning Labels	0	0.00	0
Employee Information and Training	21,659	1.00	21,659
Recordkeeping	0	0.00	0
Training Records	21,490	0.08	1,719
Making Records Available to OSHA or Employees	52,615	0.08	4,210
Transfer of Records	0	0.00	0
Total	379,051		124,259

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $6,190,692.

Description: The information collection requirements specified in the Cadmium in General Industry Standard (Sec. 1910.1027; "the Standard") protect employees from the adverse health effects that may result from occupational exposure to cadmium. The major information collection requirements in the Standard include conducting employee exposure monitoring, notifying employees of their cadmium exposures, implementing a written compliance program, implementing medical surveillance of employees, providing examining physicians with specific information, ensuring that employees receive a copy of their medical surveillance results, maintaining employees' exposure monitoring and medical surveillance records for specific periods, and providing access to these records by OSHA, the National Institute of Occupational Safety and Health, the employee who is the subject of the records, the employee's representative, and other designated parties.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Standard on Walking-Working Surfaces—29 CFR Part 1910, Subpart D.

OMB Number: 1218–0199.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Type of Response: Recordkeeping and Third-party disclosure.

Frequency: Initially and On occasion.

Number of Respondents: 10,100.

Number of Annual Responses: 10,100.

Estimated Time Per Response: 3 minutes.

Total Burden Hours: 505.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The following provisions of the Standards on Walking-Working Surfaces (29 CFR part 1910, subpart D; "the Standards") specify collection of information requirements: Secs. 1910.22(b)(2), 1910.22(d)(1), 1910.26(c)(2)(vii), and 1910.28(e)(3). These provisions require employers to: Permanently mark aisles and passageways in buildings; post signs in a conspicuous location that show floor-loading limits approved by the building official, and replace these signs if lost, removed, or defaced; mark defective ladders and remove them from service until repaired; and, if a registered professional engineer designs an outrigger scaffold, construct and erect it according to this design, and maintain at the jobsite a copy of the detailed

drawings and specifications showing the sizes and spacing of members. These paperwork requirements prevent serious injury and death among employees by notifying them of: Clearance limits in aisles and passageways to avoid improper use (and resulting impact) by mechanical-handling equipment; maximum loadings to prevent floor collapse; defective ladders that could become unstable or collapse during use; and proper construction and erection of outrigger scaffolds to avoid instability or collapse.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Powered Industrial Trucks.

OMB Number: 1218–0242.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Type of Response: Recordkeeping and Third-party disclosure.

Frequency: On occasion; Initially; Triennially; and Annually.

Number of Respondents: 999,000.

Requirement	Annual reponses	Average response time (hours)	Estimated burden hours
Notification of Truck Approval	199,800	0.08	15,984
Notification of Truck Modifications	49,950	0.08	3,996
Notification of Front—End Attachments	19,980	0.08	1,598
Inspection of Markers	0	0.00	0
Operator Training—Initial Training	28,881	6.17	178,196
Operator Training—Refresher Training	9,627	2.17	20,891
Training Rehires	28,881	2.17	62,672
Operator Evaluation—Triennial Evaluations	513,438	0.58	297,794
Operator Evaluation—Evaluating Rehires	231,047	0.25	57,762
Certifying Evaluation and Training	539,110	0.34	183,298
Total	1,620,714		822,191

Total Annualized Capital/Startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Under the paperwork requirement specified by paragraph (a)(3) of 1910.178, employers must place a marker (e.g., label) on an approved truck indicating that a national testing laboratory accepted its design and construction.[1] Paragraph (a)(4) requires that employers obtain the manufacturer's written approval before modifying a truck in a manner that affects its capacity and safe operation; if the manufacturer grants such approval, the employer must revise capacity, operation, and maintenance instruction plates, tags, and decals accordingly. For front-end attachments not installed by the manufacturer, paragraph (a)(5) mandates that employers provide a marker on the trucks that identifies the attachment, as well as the weight of both the truck and the attachment when the attachment is at maximum elevation with a laterally centered load. Paragraph (a)(6) specifies that employers must ensure that the markers required by paragraphs (a)(3) through (a)(5) remain affixed to trucks and are legible.

Paragraphs (1)(1) through (1)(6) of 1910.178 contain the paperwork requirements necessary to certify the training provided to powered industrial truck operators. Accordingly, these paragraphs specify the following requirements for employers:

- Paragraph (1)(1)—Ensure that trainees successfully complete the training and evaluation requirements of paragraph (1) prior to operating a truck without direct supervision.
- Paragraph (1)(2)—Allow trainees to operate a truck only under the direct supervision of an individual with the knowledge, training, and experience to train operators and to evaluate their performance, and under conditions that do not endanger other employees. The training program must consist of formal instruction, practical training, and evaluation of the trainee's performance in the workplace.
- Paragraph (1)(3)—Provide the trainees with initial training on each of 22 specified topics, except on topics that the employer demonstrates do not apply to the safe operation of the truck(s) in the employer's workplace.
- Paragraphs (1)(4)(i) and (1)(4)(ii)—Administer refresher training and evaluation on relevant topics to operators found by observation or formal evaluation to operate a truck unsafely, involved in an accident or near-miss incident, or assigned to operate another type of truck, or if the employer identifies a workplace condition that could affect safe truck operations.
- Paragraph (1)(4)(iii)—Evaluate each operator's performance at least once every three years.
- Paragraph (1)(5)—Train rehires only in specific topics that they performed unsuccessfully during an evaluation and that are appropriate to the employer's truck(s) and workplace conditions.
- Paragraph (1)(6)—Certify that each operator meets the training and evaluation requirements specified by paragraph (1). This certification must include the operator's name, the training date, the evaluation date, and the identity of the individual(s) who performed the training and evaluation.

Requiring markers notifies employees of the conditions under which they can safely operate powered industrial trucks, thereby, preventing such hazards as fires and explosions caused by poorly designed electrical systems, rollovers/tipovers that result from exceeding a truck's stability characteristics, and falling loads that occur when loads exceed the lifting capacities of attachments. Certification of training and evaluation provides a means of informing employers that their employees received the training, and demonstrated the performance necessary to operate a truck within its capacity and control limitations. Therefore, by ensuring that employees operate only trucks that are in proper working order, and do so safely, employers prevent severe injury and death to truck operators and other employees who are in the vicinity of the trucks. Finally, these paperwork requirements are the most efficient means for an OSHA compliance officer to determine that an employer properly notified employees regarding the design and construction of, and modifications made to, the trucks they are operating.

[1] A national testing laboratory evaluates a truck's electrical system for fire safety.

and that an employer provided them with the required training.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–30187 Filed 12–5–01; 8:45 am]

BILLING CODE 4510–35–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 30, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or e-mail: *King-Darrin@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Revision of a currently approved collection.

Agency: Employment and Training Administration (ETA).

Title: Quantum Opportunity Program (QOP) Demonstration Net Impact Evaluation.

OMB Number: 1205–0397.

Affected Public: Individuals or households.

Frequency: One time in 2002.

Number of Respondents: 846.

Number of Annual Responses: 846.

Estimated Time Per Response: 20 minutes.

Total Burden Hours: 282.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The revision to the QOP Demonstration Net Impact Evaluation will provide for a second wave of the survey to be completed approximately 72 months after random assignment of the youth in the research sample. It will allow for an analysis of the impact of QOP on participants' outcomes including education and training, employment, earnings, public assistance participation, childbearing, and other behavior and activities. The findings will be directly relevant for the future development of employment and training policy for youth.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–30218 Filed 12–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 29, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 219–8904 or e-mail *Howze-Marlene@dol.gov*).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for PWBA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Suspension of Pension Benefits Regulation Pursuant to 29 CFR 2530.203–3.

OMB Number: 1210–0048.

Affected Public: Business or other for-profit, Individuals or households, and Not-for-profit institutions.

Frequency: On occasion.

Number of Respondents: 74,872.

Number of Annual Responses: 74,872.

Estimated Time Per Response: 15 minutes.

Total Burden Hours: 18,718.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $62,892.48.

Description: Section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 (ERISA) governs the circumstances under which pension plans may suspend pension benefit payments to retirees who return to work or to participants who continue to work beyond normal retirement age. The requirement that retirees or participants be notified in the event of a suspension of benefits is intended to protect their non-forfeitable right to their normal retirement benefits. The information collection requirement ensures that the retiree or participant is informed at the initiation of every withholding or suspension of benefits.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–30219 Filed 12–5–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employment and Training Administration

Disability Employment Grant Program Funded Under the Workforce Investment Act Title I, Disability Program; Notice of Changes to Solicitation for Grant Application (SGA)

On November 7, 2001, the Department of Labor (DOL) announced in the **Federal Register** (Vol. 66, No. 216; pp. 56347–56358) a solicitation for grant applications (SGA) for the Disability Program (Reference: SGA/DFA 02–100). Proposals for this SGA were to be submitted by 4 p.m. Eastern Standard Time (EST) on Friday, December 21, 2001.

Under Part III Review Process, Evaluation Criteria and Statement of Work, four (4) criteria are described. As a result of several inquiries, the Department wishes to clarify its' intent of criterion A. Project Design. Effective this date, Part III Project Design, No. 2. Training and Supportive Services paragraphs 4 & 5 are replaced as follows:

Applicants are encouraged to include on-the-job training and internship or self-employment strategies in their project design. Project design must describe why these are effective strategies for the client group being served and how many participants are expected to receive specific services (e.g., how many will be in on-the-job training). Private sector employer commitment to on-the-job positions should be identified.

Applicants are also encouraged to include strategies related to training in the information technology skills sector, such as software design, network applications, and service repair technicians. The description provided should be clear on the complexity of the training and expectations for higher salaried employment outcomes with a long range career potential. This may include training on Microsoft WORD, Word Perfect, Lotus, or other basic computer familiarity training.

Other than indicated herein, the requirements established by the above referenced November 7, 2001 SGA (SGA/DFA 02–100) remain in force.

Signed at Washington, DC, this 30th day of November 2001.

Lorraine H. Saunders,

Grant Officer, Division of Federal Assistance.

[FR Doc. 01–30186 Filed 12–5–01; 8:45 am]

BILLING CODE 4510–30–P

LEGAL SERVICES CORPORATION

Notice of Availability of 2002 Competitive Grant Funds for Service Areas LA–1, LA–4 and LA–8 in Louisiana

AGENCY: Legal Services Corporation.

ACTION: Solicitation of proposals for the provision of civil legal services for basic field-general service areas LA–1, LA–4 and LA–8 in Louisiana.

SUMMARY: The Legal Services Corporation (LSC) is the national organization charged with administering federal funds provided for civil legal services to the poor. Congress has adopted legislation requiring LSC to utilize a system of competitive bidding for the award of grants and contracts.

LSC hereby announces that it is reopening competition for 2002 competitive grant funds and is soliciting grant proposals from interested parties who are qualified to provide effective, efficient and high quality civil legal services to the eligible client population in the service areas LA–1, LA–4 and LA–8 in Louisiana. The exact amount of congressionally appropriated funds and the date and terms of their availability for calendar year 2002 are not known, although it is anticipated that the funding amount will be similar to calendar year 2001 funding. LSC has canceled the competition and rejected all bids for Louisiana service area LA–9.

DATES: Request for Proposals (RFP) are available from *www.ain.lsc.gov*. A Notice of Intent to compete is due by 5 p.m. EST, December 28, 2001. Grant proposals must be received at LSC offices by 5 p.m. EST, January 21, 2002.

ADDRESSES: Legal Services Corporation—Competitive Grants, 750 First Street NE., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Jennifer Bateman, Grants Coordinator, Office of Program Performance, (202) 336–8835.

SUPPLEMENTARY INFORMATION: LSC is seeking proposals from non-profit organizations that have as a purpose the furnishing of legal assistance to eligible clients, and from private attorneys, groups of private attorneys or law firms, state or local governments, and substate regional planning and coordination agencies which are composed of substate areas and whose governing boards are controlled by locally elected officials.

The solicitation package, containing the grant application, guidelines, proposal content requirements and specific selection criteria, is available at *www.ain.lsc.gov*.

Issue Date: December 3, 2001.

Michael A. Genz,

Director, Office of Program Performance.

[FR Doc. 01–30248 Filed 12–5–01; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meeting

AGENCY: National Council on Disability

SUMMARY: This notice sets forth the schedules and proposed agenda of the upcoming quarterly meeting of the National Council on Disability (NCD). Notice of this meeting is required under section 522b(e)(1) of the Government Sunshine Act, Pub. L. 94–409).

Type: Quarterly Meeting.

Quarterly Meeting Dates: February 4–5, 2002, 8:30 a.m. to 5:00 p.m.

Location: Los Angeles Marriott Hotel Downtown, 333 South Figueroa Street, Los Angeles, California; 213–617–1133.

Contact Information: Mark S. Quigley, Public Affairs Specialist, National Council on Disability, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax).

Agency Mission: NCD is an independent federal agency composed of 15 members appointed by the President and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, including people from culturally diverse backgrounds, regardless of the nature or significance of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

Accommodations: Those needing sign language interpreters or other disability accommodations should notify NCD at least one week prior to this meeting.

Language Translation: In accordance with Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, those people with disabilities who are limited English proficient and seek translation services for this meeting should notify NCD at least one week prior to these meeting.

Multiple chemical Sensitivity/ Environmental Illness: People with multiple chemical sensitivity/ environmental illness must reduce their exposure to volatile chemical substances to attend this meeting. To

reduce such exposure, NCD requests that attendees not wear perfumes or scented products at this meeting. Smoking is prohibited in meeting rooms and surrounding areas.

Open Meeting: In accordance with the Government in the Sunshine Act and NCD's bylaws, this quarterly meeting will be open to the public for observation, except where NCD determines that a meeting or portion thereof should be closed in accordance with NCD's regulations pursuant to the Government in the Sunshine Act. A majority of NCD members present shall determine when a meeting or portion thereof is closed to the public, in accordance with the Government in the Sunshine Act. At meetings open to the public, NCD may determine when non-members may participate in its discussions. Observers are not expected to participate in NCD meetings unless requested to do so by an NCD member and recognized by the NCD chairperson.

Quarterly Meeting Agenda:

Reports from the Chairperson and the Executive Director
Committee Meetings and Committee Reports
Executive Session (closed)—
Unfinished Business
New Business
Announcements
Adjournment

Records will be kept of all National Council on Disability proceedings and will be available after the quarterly meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on December 3, 2001.

Ethel D. Briggs,

Executive Director.

[FR Doc. 01–30340 Filed 12–4–01; 10:42 am]

BILLING CODE 8820–MA–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Federal Advisory Committee on International Exhibitions (FACIE)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Federal Advisory Committee on International Exhibitions (FACIE) will be held by teleconference from 3 p.m. to 4 p.m. on Monday, December 17, 2001 in Room 709 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC, 20506.

This meeting is for the purpose of review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of May 22, 2001, these sessions will be closed to the public pursuant to subsection (c)(4),(6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: November 30, 2001.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 01–30214 Filed 12–5–01; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL LABOR RELATIONS BOARD

Revision of Statement of Organization and Functions; Position of Deputy General Counsel

AGENCY: National Labor Relations Board.

ACTION: Revision of the description of the powers and duties of the Deputy General Counsel.

SUMMARY: The National Labor Relations Board is revising the description of the powers and duties of the Deputy General Counsel to make plain that the Board's Deputy General Counsel is authorized to perform the functions and duties of the office of General Counsel upon the vacancy of the General Counsel's office.

EFFECTIVE DATE: December 6, 2001.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, 1099 14th Street NW., Room 11600, Washington, DC 20570, Telephone: (202) 273–1936.

SUPPLEMENTARY INFORMATION: The National Labor Relations Board has determined that § 3345(a)(1) of the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 et seq., authorizes the Board's Deputy General Counsel to perform the functions and duties of the office of General Counsel, upon the vacancy of the General Counsel's office. In pertinent part, § 3345(a) provides:

> If an officer of an Executive agency * * * whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate, dies, resigns, or is otherwise unable to perform the functions and duties of the office—
>
> (1) The first assistant to the office of such officer shall perform the functions and duties of the office temporarily in an acting capacity subject to the time limitations of section 3346.

Historically, the provisions of section 3(d) of the National Labor Relations Act (29 U.S.C. 153(d)) have been the only mechanism for appointments to the position of Acting General Counsel. The Vancies Act is an alternative means of filing vacancies in positions appointed by the President subject to Senate confirmation, but, until 1988, that statute was applicable only to positions in cabinet departments. By amendment in 1988, Congress made the Vancies Act applicable to all "executive agencies," with the intent of expanding the scope of the statute to independent agencies such as the Board. Thus, although NLRA section 3(d) remains a valid mechanism for appointment to the position of Acting General Counsel, it is now clear that the Vacancies Act provides an alternative procedure and that the President can appoint an Acting General Counsel under that Act, under section 3(d) of the NLRA, or can allow the provisions of section 3345(a) to take effect.

The Deputy General Counsel position is a "first assistant" position within the meaning of 5 U.S.C. 3345(a)(1). Although "first assistant" is not expressly defined in the statute, it was referred to in debate as a term of art that generally refers to the office holder's top deputy. The National Labor Relations Board's Statement of Organization and Functions makes clear that the Deputy General Counsel acts as the alter ego of the General Counsel and readily satisfies the functions of a "first assistant:" "The Deputy General Counsel is vested with the authority to speak and act for the General Counsel in all phases of the responsibilities of the office to the full extent permitted by law * * *"

Accordingly, the National Labor Relations Board is revising its statement of Organization and Functions, part 201, subpart A, section 202, second paragraph (32 F.R. 9588, as amended by 37 F.R. 15956, 44 F.R. 32415) to read as follows:

Sec. 202 The General Counsel.

* * * * *

The Deputy General Counsel is vested with the authority to speak and act for the General Counsel in all phases of the responsibilities of the office to the full extent permitted by law and is responsible for overall coordination of the General Counsel's organization. The Deputy General Counsel position is a "first assistant" for purposes of section

3345(a)(1) of the Federal Vacancies Reform Act. References to the General Counsel hereinafter may refer to either the General Counsel or Deputy General Counsel collectively.

* * * * *

Dated, Washington, DC, December 3, 2001.

By direction of the Board.

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 01–30305 Filed 12–5–01; 8:45 am]

BILLING CODE 7545–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On August 29, 2001, the National Science Foundation published a notice in the **Federal Register** of permit applications received. A permit was issued on November 26, 2001 to: Rennie S. Holt, Permit No. 2002–007.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 01–30220 Filed 12–5–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–352 and 50–353]

Exelon Generation Company, LLC, Limerick Generating Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR) part 50, Appendix E, Item IV.F.2. c, for Facility Operating License Nos. NPF–39 and NPF–85, issued to Exelon Generation Company, LLC (Exelon, the licensee), for operation of the Limerick Generating Station, Units 1 and 2, located in Montgomery County, Pennsylvania. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow a one-time exemption from the requirements of 10 CFR Part 50, Appendix E, Item IV.F.2. c, regarding conduct of a full-participation exercise of the offsite emergency plan every 2 years. Under the proposed exemption, the licensee would reschedule the exercise originally scheduled for November 1, 2001, and complete the exercise requirements by March 14, 2002.

The proposed action is in accordance with the licensee's application for an exemption dated October 16, 2001.

The Need for the Proposed Action

Currently under 10 CFR part 50, Appendix E, Item IV.F.2. c, each licensee at each site is required to conduct a full-participation exercise of its offsite emergency plan every 2 years. Federal agencies, such as the Federal Emergency Management Agency, observe these exercises and evaluate the performance of the licensee, state, and local authorities having a role under the emergency plan.

The licensee had initially planned to conduct an exercise of its offsite emergency plan on November 1, 2001, which was within the required 2-year interval. However, due to the ongoing national security threat in the United States, and the response, recovery, and other offsite agency activities associated with the September 11, 2001, terrorist attacks, the licensee has decided to postpone the exercise. The licensee does not plan to conduct the full-participation exercise until after the 2-year interval has expired.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the proposed action involves an administrative activity unrelated to plant operations.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the Limerick Generating Station, Units 1 and 2, dated April 1984.

Agencies and Persons Consulted

On November 13, 2001, the staff consulted with the Pennsylvania State official, Dennis Dyckman of the Pennsylvania Department of Environment and Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments. In addition, the licensee notified the Federal Emergency Management Agency and the Pennsylvania Emergency Management Agency, who indicated support for rescheduling the exercise.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

Further details with respect to the proposed action can be found in the licensee's letter dated October 16, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov*

(the Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 30th day of November 2001.

For the Nuclear Regulatory Commission.

Christopher Gratton,

Sr. Project Manager, Section 2, Project Directorate 1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30238 Filed 12–5–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–62]

University of Virginia, University of Virginia Research Reactor; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of a license amendment to Facility Operating License No. R–66, issued to the University of Virginia (UVA or the licensee), that would allow decommissioning of the UVA Research Reactor located in the north portion of the UVA grounds near Charlottesville, Virginia.

Environmental Assessment

Identification of the Proposed Action

By application dated February 9, 2000, as supplemented on April 26, June 6, and December 19, 2000, and May 4 and 11, 2001, the licensee submitted a decommissioning plan in accordance with 10 CFR 50.82(b), in order to dismantle the 2000-kilowatt (thermal) UVA Research Reactor, to dispose of its component parts and radioactive material, and to decontaminate the facility in accordance with the proposed dismantling plan to meet the Commission's unrestricted release criteria. After the Commission verifies that the release criteria have been met, Facility Operating License No. R–66 would be terminated. The licensee submitted an Environmental Report on February 9, 2000, dated February 2000, that was supplemented on December 19, 2000, that addresses the estimated environmental impacts resulting from decommissioning the UVA Research Reactor.

UVA ceased operating the reactor in July 1998. All the reactor fuel has been removed from the facility.

A "Notice and Solicitation of Comments Pursuant to 10 CFR 20.1405 and 10 CFR 50.82(b)(5) Concerning Proposed Action to Decommission the University of Virginia, University of Virginia Reactor" was published in the **Federal Register** on April 4, 2000 (65 FR 17684), and in the Charlottesville, Virginia daily newspaper, The Daily Progress, on April 23, 2000. One comment was received from the Director, Radiological Health, Commonwealth of Virginia, Department of Health, Radiological Health Program that "the proposed decommissioning plan appears to adequately ensure the return of the facility to unrestricted use without adversely affecting the public health and safety."

Need for the Proposed Action

The proposed action is necessary because of UVA's decision to cease operations permanently. As specified in 10 CFR 50.82, any licensee may apply to the Nuclear Regulatory Commission for authority to surrender a license voluntarily and to decommission the affected facility. Further, 10 CFR 51.53(d) stipulates that each applicant for a license amendment to authorize decommissioning of a production or utilization facility shall submit with its application an environmental report that reflects any new information or significant environmental change associated with the proposed decommissioning activities. UVA is planning to use the area that would be released for other academic purposes.

Environmental Impact of the Proposed Action

All decontamination will be performed by trained personnel in accordance with previously reviewed procedures, and will be overseen by experienced health physics staff. Solid and liquid waste will be removed from the facility and managed in accordance with NRC requirements. The operations are calculated to result in a total occupational radiation exposure of about 4 person-rem. Radiation exposure to the general public during decommissioning is expected to be negligible. This will be accomplished by keeping the public at a safe distance and by controlling effluent releases during decommissioning.

Occupational and public exposure may result from offsite disposal of the low-level residual radioactive material from the UVA Research Reactor. The handling, storage, and shipment of this radioactive material are to meet the requirements of 10 CFR 20.2006, "Transfer for Disposal and Manifest," and 49 CFR parts 100–177, "Transportation of Hazardous Materials." It is anticipated that about 220 ft^3 (7 m^3) of irradiated hardware will be shipped during two truck shipments in Type B shipping casks to a waste processor. About 2700 ft^3 (76 m^3) of other waste in strong tight containers will be shipped during four truck shipments to a waste processor. Approximately 9700 ft^3 (275 m^3) of waste will be shipped in strong tight containers to the Envirocare of Utah facility in nine truck shipments. Included in these shipments will be mixed waste consisting primarily of activated and/or contaminated lead (43 ft^3 or 1.2 m^3) and cadmium (1 ft^3 or 0.03 m^3). Radiation exposure to the general public during waste shipments is expected to be negligible.

The NRC Final Rule on License Termination, 10 CFR 20.1402, provides radiological criteria for release of a site for unrestricted use. Release criteria for unrestricted use is a maximum Total Effective Dose Equivalent (TEDE) of 25 mrem per year from residual radioactivity above background. Application of the As Low As Reasonably Achievable (ALARA) principle is also a requirement. The results of the final survey will be used to demonstrate that the predicted dose to a member of the public from any residual activity does not exceed the 25 mrem per year dose limit.

Liquid waste that is generated during the decommissioning activities will be released to the environment in accordance with the regulations in 10 CFR part 20, subpart K, "Waste Disposal," or will be solidified and disposed of as solid waste in accordance with state and Federal guidelines. Containment measures will be taken as necessary to minimize the spread of contamination. Engineered features such as enclosures and temporary barriers with high-efficiency particulate air filters will be used to control the spread of airborne radioactive material. Airborne releases of radioactive materials are not expected.

The licensee analyzed accidents applicable to decommissioning activities. The accident with the greatest potential impact on members of the public is the dropping of a waste shipping liner containing radioactive material. The maximum TEDE to a member of the public at the site boundary for this accident is about 43 mrem which is within the dose limits for members of the public given in 10 CFR part 20, subpart D, "Radiation Dose

Limits for Individual Members of the Public."

Based on the review of the specific proposed activities associated with the dismantling and decontamination of the UVA facility, the staff has determined that the proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, the staff concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. In addition to the lead and cadmium discussed above, asbestos is present at the UVA Research Reactor. Asbestos will be removed by a licensed asbestos abatement contractor. Decommissioning activities will not affect non-radiological facility effluents and have no other environmental impact. The licensee states that there are no sensitive or endangered species on the UVA Research Reactor site. Therefore, the staff concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

The four alternatives for disposition of the UVA Research Reactor are: DECON, SAFSTOR, ENTOMB, and no action. UVA has proposed the DECON option.

DECON is the alternative in which the equipment, structures, and portions of the facility containing radioactive contaminants are removed or decontaminated to a level that permits the property to be released for unrestricted use. SAFSTOR is the alternative in which the nuclear facility is placed and maintained in a condition that allows the nuclear facility to be safely stored and subsequently decontaminated (deferred decontamination) to levels that permit release for unrestricted use. ENTOMB is the alternative in which radioactive contaminants are encased in a structurally long-lived material, such as concrete; the entombed structure is appropriately maintained; and continued surveillance is carried out until the radioactivity decays to a level permitting release of the property for unrestricted use. The no-action alternative would leave the facility in its present configuration.

The SAFSTOR, ENTOMB, and no-action alternatives would entail continued surveillance and physical security measures to be in place and continued monitoring by licensee personnel. The SAFSTOR and no-action alternatives would also require continued maintenance of the facility. The radiological impacts of SAFSTOR would be less than the DECON option because of radioactive decay prior to the start of decommissioning activities. However, this option involves the continued use of resources during the SAFSTOR period. The ENTOMB option would also result in lower radiological exposure than the DECON option but would involve the continued use of resources. UVA has determined that the proposed action (DECON) is the most efficient use of the existing facility, since it proposes to use the space that will become available for other academic purposes. These alternatives would have no significant environmental impact. In addition, the regulations in 10 CFR 50.82(b)(4)(i) only allow an alternative if it provides for completion of decommissioning without significant delay. The environmental impacts of the proposed action and the alternatives are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Environmental Report submitted on February 9, 2000, dated February 2000, as supplemented on December 19, 2000, for the UVA Research Reactor.

Agencies and Persons Contacted

In accordance with its stated policy, on November 6, 2001, the staff consulted with the Virginia State official, Leslie P. Foldesi, Director, Radiological Health, Commonwealth of Virginia Department of Health, regarding the environmental impact of the proposed action. The state official stated that he concurred with the environmental assessment and had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated February 9, 2000, as supplemented on April 26, June 6, and December 19, 2000, and May 4 and 11, 2001, which are available for public inspection, and can be copied for a fee, at the U.S. Nuclear Regulatory Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the internet at *http://www.nrc.gov*. Persons who do not have access to ADAMS or who have problems in accessing the documents located in ADAMS may contact the PDR reference staff at 1–800–397–4209, 301–415–4737 or by email at pdr@nrc.gov.

Dated at Rockville, Maryland, this 27th day of November 2001.

For the Nuclear Regulatory Commission.

Alexander Adams, Jr.,

Senior Project Manager, Operational Experience and Non-Power Reactors Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30239 Filed 12–5–01; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Reclearance of a Revised Information Collection: RI 38–31

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for reclearance of a revised information collection. RI 38–31, We Need More Information About Your Missing Payment, is sent out by the Office of Retirement Programs in response to notification of the loss or non-receipt of payment from the Civil Service Retirement and Disability Fund. The form requests the information needed to enable OPM to trace and/or reissue the payment. Missing payments may also be reported to OPM by a telephone call.

Approximately 8,000 reports of missing payment requests for both Treasury checks and electronic funds

transfers (EFT's) are processed each year; 200 RI 38–31 forms will be completed annually while 7,600 telephone calls are received at OPM. We estimate it takes approximately 10 minutes to complete the form for missing Treasury checks or to report the missing payment by telephone. The annual burden for reporting missing checks is 1,300 hours. The remaining 200 reports are about missing EFT payments. Since people have realized that they can report on the telephone, no missing EFT payments are reported using RI 38–31. The annual burden of reporting 200 missing EFT payments by telephone is 33 hours. The combined burden for collecting this information is 1,333 hours. In 1998 we included a total burden of 25 hours because 50 missing EFT payments were reported using RI 38–31. It takes an estimated 30 minutes to report a missing EFT payment using RI 38–31. The total burden is 17 hours lower because RI 38–31 is no longer used to report missing EFT payments.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or e-mail to *mbtoomey@opm.gov*. Please include a mailing address with your request.

DATES: Comments on this proposal should be received January 7, 2002.

ADDRESSES: Send or deliver comments to—

Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349A, Washington, DC 20415–3540 and

Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Donna G. Lease, Team Leader, Forms Analysis and Design, (202) 606–0623.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 01–30246 Filed 12–5–01; 8:45 am]

BILLING CODE 6325–50–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Review of a Revised Information Collection: INV 41, 42, 43 and 44

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for reclearance of revised information collection forms INV 41, 42, 43 and 44. OPM uses these forms to request information when conducting employment investigations. The investigations are conducted to determine suitability for Federal employment or the ability to hold a security clearance as prescribed in Executive Orders 10450, 12968, and 10577 (5 CFR part V), and 5 U.S.C. 3301.

INV Form 41, Investigative Request for Employment Data and Supervisor Information, is sent to employers and supervisors. INV Form 42, Investigative Request for Personal Information, is sent to references. INV Form 43, Investigative Request for Educational Registrar and Dean of Students Record Data, is sent to educational institutions. INV Form 44, Investigative Request for Law Enforcement Data, is sent to local law enforcement agencies.

Based on current usage, OPM estimates that 1,962,947 individuals will respond annually to the forms (902,204 to INV 41; 494,728 to INV Form 42; 135,304 to INV 43; and 430,711 to INV 44). We believe the forms require an average of 5 minutes to complete. The total estimated public burden is 162,924 hours.

To obtain copies of this proposal, please contact Mary Beth Smith-Toomey at (202) 606–8358 or FAX (202) 418–3251 or by e-mail to *mbtoomey@opm.gov*. Please include a mailing address with your request.

DATES: Comments on this proposal should be received on or before January 7, 2002.

ADDRESSES: Send or deliver written comments to:

Richard A. Ferris, Associate Director, Investigations Service, U.S. Office of Personnel Management, 1900 E Street, NW Room 5416, Washington, DC 20415–4000; and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Rasheedah I. Ahmad, Program Analyst, Investigations Service, Phone (202) 606–7983, FAX (202) 606–2390.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 01–30247 Filed 12–5–01; 8:45 am]

BILLING CODE 5325–40–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Tell Us How We're Doing!": SEC File No. 270–406, OMB Control No. 3235–0463

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this previously-approved questionnaire to the Office of Management and Budget for approval.

The title of the questionnaire is "Tell Us How We're Doing!'

The Commission currently sends the questionnaire to persons who have used the services of the Commission's Office of Investor Education and Assistance. The questionnaire consists mainly of eight (8) questions concerning the quality of services provided by OIEA. Most of the questions can be answered by checking a box on the questionnaire.

The Commission needs the information to evaluate the quality of services provided by OIEA. Supervisory personnel of OIEA use the information collected in assessing staff performance and for determining what improvements or changes should be made in OIEA operations for services provided to investors.

The respondents to the questionnaire are those investors who request assistance or information from OIEA.

The total reporting burden of the questionnaire in 2001 was approximately 5 hours. This was calculated by multiplying the total number of investors who responded to the questionnaire times how long it is estimated to take to complete the questionnaire (20 respondents × 15 minutes = 5 hours).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate

of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: November 28, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30215 Filed 12–5–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25303]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

November 30, 2001.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of November, 2001. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549–0102 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 26, 2001, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549–0506.

Vanguard Preferred Stock Fund [File No. 811–2601]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 27, 2001, applicant made a liquidating distribution to its shareholders based on net asset value. Applicant incurred $1,890 in expenses in connection with the liquidation.

Filing Dates: The application was filed on November 14, 2001, and amended on November 27, 2001.

Applicant's Address: 100 Vanguard Blvd., Malvern, PA 19355.

Solanus Funds [File No. 811–10311]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on November 20, 2001.

Applicant's Address: 6120 Parkland Blvd., Suite 101, Mayfield Heights, OH 44124.

The Baupost Fund [File No. 811–6138]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On August 10, 2001 and October 31, 2001, applicant made liquidating distributions to its shareholders based on net asset value. Expenses of $202,480 incurred in connection with the liquidation were paid by applicant and applicant's investment adviser, The Baupost Group, L.L.C.

Filing Date: The application was filed on November 15, 2001.

Applicant's Address: 10 Saint James Ave., Suite 2000, Boston, MA 02116.

Pilgrim Government Securities Fund [File No. 811–4432]

Pilgrim Balance Sheet Opportunities Fund [File No. 811–4433]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On March 27, 2000, Pilgrim Government Securities Fund transferred its assets to Pilgrim Government Securities Income Fund, Inc., based on net asset value. On March 27, 2000, Pilgrim Balance Sheet Opportunities Fund transferred its assets to Pilgrim Balanced Fund, a series of Pilgrim Mutual funds, based on net asset value. Expenses of $95,415 and $100,897, respectively, incurred in connection with the reorganizations were paid by each applicant and by its surviving fund.

Filing Date: The applications were filed on November 6, 2001.

Applicants' Address: 7337 East Doubletree Ranch Road, Scottsdale, AZ 85258–2034.

Federated Exchange Fund, Ltd. [File No. 811–2626]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On January 2, 1996, applicant transferred its assets to Federated Capital Appreciation Fund, a portfolio of Federated Equity Funds, based on net asset value. Applicant incurred no expenses in connection with the reorganization.

Filing Dates: The application was filed on September 26, 2001, and amended on November 20, 2001.

Applicant's Address: 5800 Corporate Dr., Pittsburgh, PA 15237–7000.

Fortress Utility Fund, Inc. [File No. 811–4530]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 1, 1996, applicant transferred its assets to Federated Utility Fund, Inc., based on net asset value. Applicant incurred no expenses in connection with the reorganization.

Filing Dates: The application was filed on Septembe 26, 2001, and amended on November 20, 2001.

Applicant's Address: 5800 Corporate Dr., Pittsburgh, PA 15237–7000.

Fiduciary Management Associates [File No. 811–1897]

Summary: Applicant seeks an order clearing that it has ceased to be an investment company. By May 5, 1998, all shareholders of applicant had redeemed their shares at net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on September 28, 2001, and amended on November 15, 2001.

Applicant's Address: 1345 Avenue of the Americas, New York, NY 10105.

Equitable Government Securities Account, Inc. [File No,. 811–3684]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By August 15, 1985, all shareholders of applicant had redeemed their shares at net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on September 28, 2001, and amended on November 15, 2001.

Applicant's Address: 1285 Avenue of the Americas, New York, NY 10019.

Alliance Corporate Cash Reserves [File No. 811–3973]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By April 8, 1988, all shareholders of applicant had redeemed their shares at net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on September 28, 2001, and amended on November 15, 2001.

Applicant's Address: 1345 Avenue of the Americas, New York, NY 10105.

Alliance Regent Sector Opportunity Fund, Inc. [File No. 811–7709]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By March 24, 1999, all shareholders of applicant had redeemed their shares at net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on September 28, 2001, and amended on November 15, 2001.

Applicant's Address: 1345 Avenue of the Americas, New York, NY 10105.

Bullock Insured New York Tax Exempt Shares, Inc. [File No. 811–4360]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on September 28, 2001, and amended on November 15, 2001.

Applicant's Address: 40 Rector St., New York, NY 10006.

Equitable Capital High Yield Plus Fund [File No. 811–5814] American Energy Resources Fund, Inc. [File No. 811–6326]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. Applicants has never made a public offering of their securities and does not propose to make any public offering or engage in business of any kind.

Filing Dates: The application was filed on September 28, 2001, and amended on November 15, 2001.

Applicant's Address: 1285 Avenue of the Americas, New York, NY 10019.

Alliance Developing Markets Fund, Inc. [File No. 811–8806]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make any public offering or engage in business of any kind.

Filing Dates: The application was filed on September 28, 2001, and amended on November 15, 2001.

Applicant's Address: 1345 Avenue of the Americas, New York, NY 10105.

Money Shares, Inc. [File No. 811–2780]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By August 15, 1986, all shareholders of applicant had redeemed their shares based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on September 28, 2001, and amended on November 15, 2001.

Applicant's Address: 30 Rector St., New York, NY 10006.

Value Trend Large Cap Fund [File No. 811–9041]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 28, 2001, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of approximately $407 incurred in connection with the liquidation were paid by Value Trend Capital Management, L.P., applicant's investment adviser.

Filing Date: The application was filed on October 30, 2001.

Applicant's Address: 480 North Magnolia Avenue, El Cajon, CA 92020.

Tax Free Fund of Vermont, Inc. [File No. 811–6328]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 28, 2001, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of $32,741 incurred in connection with the liquidation were paid by applicant.

Filing Dates: The application was filed on October 1, 2001, and amended on October 29, 2001.

Applicant's Address: 87 North Main Street, Suite 611, Rutland, VT 05701.

Prudential Developing Markets Fund [File No. 811–8753]

Summary: Applicant seeks on order declaring that it has ceased to be an investment company. On July 28, 2000, applicant made a liquidating distribution to its shareholders based on net asset value. No expenses were incurred in connection with the liquidation.

Filing Dates: The application was filed on July 10, 2001, and amended on November 13, 2001.

Applicant's Address: Gateway Center Three, 100 Mulberry Street, Newark, NJ 07102–4077.

IAI Retirement Funds, Inc. [File No. 811–08032]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 19, 2001, applicant made a liquidating distribution to its shareholders based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on September 10, 2001.

Applicant's Address: IAI Retirement Funds, Inc., 3700 U.S. Bank Place, 601 Second Avenue, South, Minneapolis, MN 55402.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30216 Filed 12–5–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of December 10, 2001:

a closed meeting will be held on Tuesday, December 11 at 10:00 a.m., and an open meeting will be held on Thursday, December 13, 2001, at 10:00 a.m., in Room 1C30, the William O. Douglas Room, followed by a closed meeting.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(A), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meetings.

The subject matter of the closed meeting scheduled for Tuesday, December 11, 2001, will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;
Formal orders of investigation; and
Adjudicatory matter.

The subject matter of the open meeting scheduled for Thursday, December 13, 2001, will be:

The Commission will consider the Nasdaq Stock Market, Inc.'s request that the Commission interpret Section 28(e) of the Securities Exchange Act of 1934 to apply to riskless principal transactions in certain Nasdaq securities in light of recent amendments to Nasdaq's trade reporting rules.

For further information, please contact Catherine McGuire or Joseph Corcoran, Division of Market Regulation, at (202) 942–0073.

The subject matters of the closed meeting scheduled for Thursday, December 13, 2001, will be:
Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings of an enforcement nature;
Formal orders of investigation; and
Opinion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: December 3, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30326 Filed 12–4–01; 9:41 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45119; File No. SR–ISE–2001–33]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the International Securities Exchange LLC To Amend the Original Criteria for Underlying Securities Contained in ISE Rule 502

November 30, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 19, 2001, the International Securities Exchange LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Currently, paragraph (b)(5) of ISE Rule 502, "Criteria for Underlying Securities," provides that the market price per share of a security underlying an option must have been at least $7.50 for the majority of business days during the three calendar months preceding the date of the selection, as measured by the lowest closing price reported in any market in which the underlying security traded on each of the subject days. The ISE proposes to amend ISE Rule 502(b)(5) to provide an alternative listing requirement for underlying securities that satisfy all of the initial listing requirements in ISE Rule 502 other than the $7.50 per share requirement. Specifically, the ISE proposes to amend ISE Rule 502(b)(5) to permit the ISE to list options on securities that satisfy all of the initial listing requirements other than the $7.50 per share requirement so long as: (1) The underlying security meets the guidelines for continued approval in ISE Rule 503, "Withdrawal of Approval of Underlying Securities;" (2) options on such underlying security are traded on at least one other registered national securities exchange; and (3) the average daily volume for such options over the last three calendar months preceding the date of selection has been at least 5,000 contracts.

The text of the proposed rule change appears below. New text is in italics.

Rule 502. Criteria for Underlying Securities

* * * * *

(b) In addition, the Exchange shall from time to time establish guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. There are many relevant factors which must be considered in arriving at such a determination, and the fact that a particular security may meet the guidelines established by the Exchange does not necessarily mean that it will be selected as an underlying security. Further, in exceptional circumstances an underlying security may be selected by the Exchange even though it does not meet all of the guidelines. The Exchange may also give consideration to maintaining diversity among various industries and issuers in selecting underlying securities. Notwithstanding the forgoing, however, absent exceptional circumstances, an underlying security will not be selected unless:

* * * * *

(b) *Either:*

(i) The market price per share of the underlying security has been at least $7.50 for the majority of business days during the three calendar months preceding the date of selection, as measured by the lowest closing price reported in any market in which the underlying security traded on each of the subject days; *or*

(ii) The underlying security meets the guidelines for continued approval in Rule 503; options on such underlying security are traded on at least one other registered national securities exchange; and the average daily volume for such options over the last three calendar months preceding the date of selection has been at least 5,000 contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

ISE Rule 502 contains the criteria that an underlying security must meet before the Exchange may initially list options on that security. The ISE states that these criteria are uniform among the five options exchanges. The ISE notes that after an exchange lists options on an underlying security, the underlying security must continue to meet another set of uniform, but somewhat less stringent, requirements for the exchange to list additional series of options on the security (the "continued listing requirements").

The ISE believes that although the continued listing requirements are uniform among the five options exchanges, the application of these

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.

standards in the current market environment has had an anticompetitive effect on the ISE. Specifically, the Exchange states that it cannot list several of the more actively-traded options classes because the price of the underlying securities has fallen below the initial listing requirement since the time the options were listed on the other exchanges. Because the underlying securities remain above the continue listing criteria, the other options exchanges may continue to trade options on these securities—and list additional series—while the ISE cannot begin listing any options on these securities.[3]

To address this situation, the Exchange proposes an alternative listing requirement solely with respect to the underlying security's price during the three calendar months preceding listing. Specifically, ISE Rule 502(b)(5) currently provides that the market price per share of the underlying security must have been at least $7.50 for the majority of business days during the three calendar months preceding the date of selection for listing. The ISE proposes to amend ISE Rule 502(b)(5) to provide that, for underlying securities that satisfy all of the initial listing requirements other than the $7.50 per share price requirement, the ISE would be permitted to list options on the securities so long as: (1) The underlying security meets the guidelines for continued approval contained in ISE Rule 503; (2) options on such underlying security are traded on at least one other registered national securities exchange; and (3) the average daily trading volume for such options over the last three calendar months preceding the date of selection has been at least 5,000 contracts.

The ISE states that it has narrowly drafted the proposed rule change to address the circumstances where an actively-traded options class is currently ineligible for listing on the ISE. The ISE notes that when an underlying security meets the continued listing requirements and at least one other exchange trades options on the underlying security, the options already are available to the investing public. Therefore, the ISE notes that the current proposal will not introduce any additional listed options classes.

The ISE notes that it has limited the proposed rule change to options that are actively-traded by requiring that the average daily trading volume for the options be at least 5,000 contracts over the last three calendar months. Thus, the ISE maintains that the proposed alternative listing standard would be limited to options with volume in the top half of all options, indicating that there is widespread investor interest in the options. Because these options are actively-traded in other markets, the ISE believes that there would be no investor protection concerns with listing the options on the ISE. In addition, the ISE believes that listing these options on the ISE would enhance competition and benefit investors.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements under section 6(b)(5) of the Act[4] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–ISE–2001–33 and should be submitted by December 21, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30274 Filed 12–5–01; 8:45 am]

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[3] According to the Exchange, two of the 50 most-actively traded securities, Lucent and Northern Telecom, currently fall into this category. The Exchange asserts that the only reason they fail to meet the initial listing criteria is that they do not meet the $7.50 per share stock price test.

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program for Hilo International Airport, Hilo, HI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program submitted by the State of Hawaii, Department of Transportation under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and Title 14, Code of Federal Regulations, Part 150 (FAR part 150). These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On November 28, 2000, the FAA determined that the noise exposure maps submitted by the State of Hawaii, Department of Transportation under FAR Part 150 were in compliance with applicable requirements. On

October 24, 2001, the Acting Associate Administrator for Airports approved the Hilo International Airport Noise Compatibility Program. All eight of the program measures have been approved. Two measures were approved as voluntary measures and six measures were approved outright.

EFFECTIVE DATE: The effective date of the FAA's approval of the Hilo International Airport Noise Compatibility Program is October 24, 2001.

FOR FURTHER INFORMATION CONTACT: David J. Welhouse, Airport Planner, Honolulu Airports District Office, Federal Aviation Administration, Box 50244, Honolulu, Hawaii 96850–0001, Telephone: (808) 541–1243. Street Address: 300 Ala Moana Blvd., Room 7–128. Documents reflecting this FAA action may be received at this location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for the Hilo International Airport, effective October 24, 2001.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a Noise Exposure Map may submit to the FAA a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the Noise Exposure Maps. The Act requires such program to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport Noise Compatibility Program developed in accordance with FAR part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measures according to the standards expressed in FAR part 150 and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport Noise Compatibility Program are delineated in FAR Part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Honolulu, Hawaii.

The State of Hawaii, Department of Transportation submitted to the FAA on December 29, 2000, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from April 1998 through December 2000. The Hilo International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on November 28, 2000. Notice of this determination was published in the Federal Register on December 21, 2000.

This Hilo International Airport study contains a proposed Noise Compatibility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2005. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in section 104(b) of the Act. The FAA began its review of the program on April 27, 2001 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained eight proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The Acting Associate Administrator for Airports approved the overall program effective October 24, 2001.

All eight program measures were approved. The following two measures were approved as voluntary measures: Publish an Informal Preferential Runway Use Program and request use of certain flight procedures; and, Restrictions on Military Training Operations. The following six measures were approved outright: Continue to study the possible land exchange with Hawaiian Home Lands to locate suitable State or private lands which could be exchanged for Keaukaha Tract 1 and 2 lands within the 60 DNL contour; Sound attenuation barrier; Sound attenuation treatment of impacted structures; Continue to monitor development proposals in the Hilo International Airport environs and disclose Airport Noise Exposure Maps to the community; Disclose the Base Year and 5-Year Noise Exposure Maps to the local community by providing overlays of the noise contours on a Tax Map; and, Annually monitor Hilo International Airport aircraft noise levels and operations at Hilo International Airport and conduct public informational meetings on the progress of the Part 150 program.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on October 24, 2001. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the State of Hawaii.

Issued in Hawthorne, California on November 28, 2001.

Herman C. Bliss,

Manager, Airports Division.

[FR Doc. 01–30281 Filed 12–5–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Agency Information Collection Activities: Submission for OMB Review

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for review and approval. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on September 25, 2001 (66 FR 49061). We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by January 7, 2002.

ADDRESSES: You may send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information.

SUPPLEMENTARY INFORMATION:

Title: Customer Satisfaction Surveys.

Abstract: Executive Order 12862, "Setting Customer Service Standards" requires that Federal agencies provide the highest quality service to our customers by identifying them and determining what they think about our services and products. The surveys covered in this request for a generic clearance will provide the FHWA a means to gather this data directly from our customers. The information obtained from the surveys will be used to assist in evaluating service delivery and processes. The responses to the surveys will be voluntary and will not involve information that is required by regulations. There will be no direct costs to the respondents other than their time. The FHWA plans to provide an electronic means for responding to the majority of the surveys via the World Wide Web.

Survey Frequency and Respondents: A total of 31 agency-wide customer satisfaction surveys are planned over the next 3 years. The survey frequency varies from one-time to annually. For all 31 surveys, there will be approximately 55,500 respondents, including State and local governments, highway industry organizations and the general public.

Estimated Total Annual Burden Hours: The burden hours per response will vary with each survey. A few of the surveys will require approximately 30 minutes each to complete; however, the majority of them will take from 5 to 20 minutes each. We estimate a total of 12,000 annual burden hours for all of the surveys.

FOR FURTHER INFORMATION CONTACT: Connie Yew, 202–366–1078, Department of Transportation, Federal Highway Administration, Corporate Management Service Business Unit, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Electronic Access: Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help. An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at telephone number 202–512–1661. Internet users may reach the **Federal Register**'s homepage at *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara*.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: November 30, 2001.

James R. Kabel,

Chief, Management Programs and, Analysis Division.

[FR Doc. 01–30280 Filed 12–5–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Amendment of System of Records "Health Care Provider Credentialing and Privileging Records—VA".

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. The Department of Veterans Affairs (VA) is amending the system of records, known as "Health Care Provider Credentialing and Privileging Records-VA" (77VA11) as set forth in the **Federal Register** 55 FR 30790 dated 7/27/90. VA is changing the system number to 77VA10Q and amending the system notice by revising the paragraphs on System Location; Categories of Individuals Covered by the System; Categories of Records in the System; Purposes; Routine Uses; Storage; Retrievability; Safeguards; System Manager(s) and Address. VA is republishing the system notice in its entirety at this time.

DATES: Comments on the amendment of this system of records must be received no later than January 7, 2002. If no public comment is received, the changes will become effective January 7, 2002.

ADDRESSES: Written comments concerning the proposed amendment of the system of records may be submitted to the Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Veterans Health Administration (VHA) Privacy Act Officer, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (727) 320–1839.

SUPPLEMENTARY INFORMATION: VA is renumbering the system of records from 77VA11 to 77VA10Q to reflect organizational changes in the Department. In addition, VA has decided, as a matter of policy, to automate and provide direct, on-line, remote access to data on the credentialing of health care practitioners appointed or otherwise utilized by the VHA. The automation and on-line access to credentialing data improves the quality, timeliness, and reliability of the credentialing process; promotes inter-facility sharing of health care resources; supports national readiness; facilitates the establishment of telemedicine initiatives; simplifies the process for covered health care practitioners; and reduces costs. An electronic credentials data file can cross facility and network boundaries and eliminate duplication.

VHA is responsible for the medical treatment of veterans and promotes the provision of quality health care through credentialing the education, training, and qualifications of the practitioners delivering this care. Historically, VHA has maintained these records in a paper format in each medical treatment facility or Veterans Integrated Service Network (VISN). When a practitioner transfers between facilities or the practitioner's services are shared among facilities, either all or portions of the paper record are transferred to the receiving facility. Some medical treatment facilities keep credentialing data in non-validated electronic formats to meet local needs. However, the exchange of paper and/or non-validated electronic data means that some of the practitioner's credentials must be re-verified with the primary source to ensure the adequate and appropriate education, training, and qualifications of the practitioner. This results in unnecessary use of resources by VA and the sources providing information to VA.

VHA is supplementing the paper record through the development of a centralized electronic data warehouse for the storage of credentialing data and the images of the primary source verification. This effort is a joint project between the VHA and the Department of Health and Human Services, Health Resources and Services Administration (HHS/HRSA). The electronic data warehouse will not only store the electronic data and images, but will cross-validate data provided by the practitioner with data received from the primary or secondary source. Primary source verification is that verification received from the source that provided the credential, *i.e.*, **Federal Register**, educational or training institution, certifying or licensing agency. A secondary information source is one that provides credentialing data that is derived from a primary source, *i.e.*, National Practitioners Data Bank (NPDB). Secondary information sources may require additional supporting documentation either from a primary source or additional secondary sources for corroboration. Providers shall enter data into the system through an Internet browser. Once data has been entered into the system, the credentialing staff initiate the primary source verification of the provider's education, training, and qualifications. To ensure provider identification, and appropriate matching of information entered into an electronic system, available unique identifiers which may include name, social security number, national provider identifier, unique physician identification number, etc. will be used for matching data, when available. In instances where electronic data is available from alternate sources and meets or exceeds VA credentialing requirements, it will be utilized.

Access to data in electronic files is controlled at the health care facility in accordance with nationally and locally established data security procedures. These standards include, but are not limited to, requiring a unique password for each user, restricting access to "need-to-know" data, and deactivating screen displays after short periods of time. All data transmitted across the Internet is supported by encryption, deactivation with the server after short periods of time without interaction, and insulation of the Internet server by a firewall.

VHA has determined that direct, real-time, remote access to the credentialing data of health care practitioners by authorized users should expedite the processing of health care practitioners for appointment, reappointment, rapid deployment and granting of privileges. VHA has also determined that the use of information technology and data warehousing of credentialing information should result in a more timely and accurate credentials file for ensuring practitioners' education, training, and qualifications while facilitating the accurate identification of providers to all interested parties. The availability will decrease the time it takes to address health care delivery needs met not only through the employment or appointment process, but also through contracting, sharing agreements, affiliations, etc. Valid electronic data will assist VA in meeting legislative mandates and executive orders such as Federal emergency responses. The availability of electronic data required for credentialing can also facilitate VA's requirements related to appointment, emergency response by the appropriate health care providers, telemedicine, or response to scarce medical needs.

VHA may collect biometric information (i.e., fingerprint) for the verification of identity. A verification transaction involves the one-to-one matching of sample data against a particular record of the person presenting the sample. This can be done automatically based completely on biometric minutiae. Since the credentialing process is for the purpose of data validation, personal validation and the unequivocal link of a record to the individual reinforces the credentialing process. The use of a biometric data adds an additional level of patient safety by verifying that providers are who they say they are throughout their professional career. Additionally, a biometric identifier can add an additional level of security to the system in the verification of individuals making transactions in the electronic file at log-on.

Validated credentialing information may be shared with other established data systems such as Veterans Information Systems and Technology Architecture (VistA) and Decision Support System (DSS). The purpose of sharing credentialing data is to decrease the duplicative effort of both providers and staff in gathering the same information multiple times for various data bases used in VA. This data is required for such activities as emergency medical responses in the times of national disaster response, telemedicine, and medical cost care recovery and would be disclosed only to the extent it is reasonably necessary to assist in the accomplishment of legislative or executive order mandates.

Amendments to the System Location include that contractors may maintain the records of contractors who provide care in a VA health care facility in accordance with this notice and VHA policy. With the implementation of the electronic credentials data bank, the System Location is also amended so all the electronic records may be maintained by HHS, a component thereof, a contractor or subcontractor of HHS in accordance with the VA Interagency Agreement. The Categories of Individuals Covered by the System is amended to include those health care providers who are not employed by VA but providing care through contractual or other types of agreements to VA patients. The Category of Records in the System is amended to reflect the inclusion of those health care providers who are providing care through arrangements other than employment. The Category of Records in the System is also amended to more clearly specify the data elements collected, including items that will bring VA into compliance with the National Standard disseminated by HHS.

Routine use 1 was deleted. Former routine uses 2, 3, 5, 6, 10, 12, 18, and 20 are amended to clarify the inclusion of all individuals regardless of employment, utilization, or appointment to the professional staff. VA utilizes the services of numerous providers through various appointment processes beyond the employment process. Former routine use 2 (now 1) was amended to allow disclosure of information in response to scarce or emergency needs of the Department or

other entities when specific skills are required. Former routine use 5 (now 4) was amended to delete the section numbers. Former routine use 7 (now 6) was amended to replace the word "private" with "non-Federal." Former routine use 8 (now 7) was amended to delete "local Government" and "State." Routine use 12 (now 11) was amended to specify that the relevant information is disclosed at VA's initiative and that names and addresses of veterans are to be excluded from the relevant information that could be disclosed. Former routine use 13 (now 16) is being modified to clarify the conditions under which data is disclosed to officials of labor organizations recognized under 5 U.S.C., chapter 71. The clarification ties such disclosures to the law authorizing such disclosures, i.e., 5 U.S.C. 7114(b)(4). The former version authorized disclosures to officials of labor organizations " when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions." An editorial change is being made to routine use 14 (now 13) to clarify the terminology used for fitness for duty examinations. Former routine use 16 (now 15) is being changed to delete the language concerning disclosures to the Equal Employment Opportunity Commission to ensure compliance with the Uniform Guidelines on Employee Selection Procedures, since VA has not chosen to adopt the Uniform Guidelines for use in its Title 38 employment procedures. Former routine use 17 (now 12) is amended to expand the purposes for which information may be disclosed to the Federal Labor Relations Authority to investigate representation petitions and conduct or supervise representation elections. Former routine use 17 (now 12) is also being clarified to indicate that disclosures to the Federal Labor Relations Authority and the Federal Service Impasses Panel may only be made after appropriate jurisdiction has been established. Matters arising out of (1) professional conduct or competence, (2) peer review, and (3) the establishment, determination or adjustment of compensation shall be decided by the Secretary of Veterans Affairs and is not itself subject to collective bargaining and may not be reviewed by another agency. See 38 U.S.C. 7422. One routine use is added to this System (new 20) to allow for the sharing of information and data on a need-to-know basis for providers who move between sites and/or provide care at multiple sites. The routine use disclosure statements are being renumbered.

VA is revising and updating the systems of record notice 77VA10Q, "Health Care Provider Credentialing and Privileging Records—VA".

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: November 19, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

77VA10Q

SYSTEM NAME:

Health Care Provider Credentialing and Privileging Records-VA.

SYSTEM LOCATION:

Records are maintained at each VA health care facility. Address locations for VA facilities are listed in VA Appendix 1 of the biennial publication of VA system of records. In addition, information from these records or copies of records may be maintained at the Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 and/or Veterans Integrated Service Network (VISN) Offices. Records for those VA contracted health care providers who are credentialed by the contractor in accordance with VHA policy, where credentialing information is received by VHA facilities will be maintained in accordance with this notice and VHA policy. Electronic copies of records may be maintained by the Department of Health and Human Services (HHS), a component thereof, a contractor, subcontractor of HHS, or by another entity in accordance with the VA Interagency Agreement. Back-up copies of the electronic data warehouse are maintained at off-site locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records include information concerning health care providers currently or formerly employed or otherwise utilized by VA, and individuals who make application to VA and are considered for employment or appointment as health care providers. These records will include information concerning individuals who through a contractual or other type of agreement may be or are providing health care to VA patients. This may include, but is not limited to: audiologists; dentists; dietitians; expanded-function dental auxiliaries; licensed practical or vocational nurses; nuclear medicine technologists; nurse anesthetists; nurse practitioners; nurses; occupational therapists; optometrists; clinical pharmacists; licensed physical therapists; physician assistants; physicians; podiatrists; psychologists; registered respiratory therapists; certified respiratory therapy technicians; diagnostic and therapeutic radiology technologists; social workers; and speech pathologists.

CATEGORIES OF RECORDS IN THE SYSTEM:

The record consists of information related to:

(1) The credentialing (the review and verification of an individual's qualifications for employment or utilization which includes licensure, registration or certification, professional education and training, employment history, experience, appraisals of past performance, health status, etc.) of applicants who are considered for employment and/or appointment, for providing health services under a contract or other type of agreement, and/or for appointment to the professional staff.

(2) The privileging (the process of reviewing and granting or denying a provider's request for clinical privileges to provide medical or other patient care services, within well defined limits, which are based on an individual's professional license, registration or certification, experience, training, competence, health status, ability, and clinical judgment) health care providers who are permitted by law and by the medical facility to provide patient care independently and individuals whose duties and responsibilities are determined to be beyond the normal scope of activities for their profession;

(3) The periodic reappraisal of health care providers' professional credentials and the reevaluation of the clinical competence of providers who have been granted clinical privileges; and/or

(4) Accessing and reporting to the National Practitioner Data Bank (NPDB).

The record may include individual identifying information (e.g., name, date of birth, gender, social security number, national provider number, and/or other personal identification number), address information (e.g., home and/or mailing address, home telephone number, e-mail address, facsimile number), biometric data and information related to education and training (e.g., name of medical or professional school attended and date of graduation, name of training program, type of training, dates attended, and date of completion). The record may also include information

related to: the individual's license, registration or certification by a State licensing board and/or national certifying body (e.g., number, expiration date, name and address of issuing office, status including any actions taken by the issuing office or any disciplinary board to include previous or current restrictions, suspensions, limitations, or revocations); citizenship; honors and awards; type of appointment or utilization; service/product line; professional society membership; professional performance, experience, and judgment (e.g., documents reflecting work experience, appraisals of past and current performance and potential); educational qualifications (e.g., name and address of institution, level achieved, transcript, information related to continuing education); Drug Enforcement Administration and or State controlled dangerous substance certification (e.g., current status, any revocations, suspensions, limitations, restrictions); information about mental and physical status; evaluation of clinical and/or technical skills; involvement in any administrative, professional or judicial proceedings, whether involving VA or not, in which professional malpractice on the individual's part is or was alleged; any actions, whether involving VA or not, which result in the limitation, reduction, revocation, or acceptance of surrender or restriction of the individual's clinical privileges; and, clinical performance information that is collected and used to support a determination of an individual's request for clinical privileges. Some information that is included in the record may be duplicated in an employee personnel folder.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38 U.S.C. 501(a) and 7304(a)(2).

PURPOSES(S):

The information may be used for: Verifying the individual's credentials and qualifications for employment or utilization, appointment to the professional staff, and/or clinical privileges; advising prospective health care entity employers, health care professional licensing or monitoring bodies, the NPDB, or similar entities of activities of individuals covered by this system; accreditation of a facility by an entity such as the Joint Commission on Accreditation of Healthcare Organizations; audits, reviews and investigations conducted by staff of the health care facility, the VISN Directors and Division Offices, VA Central Office, VHA program offices who require the credentialing information, and the VA Office of Inspector General; law enforcement investigations; quality assurance audits, reviews and investigations; personnel management and evaluations; employee ratings and performance evaluations; and, employee disciplinary or other adverse action, including discharge. The records and information may be used for statistical analysis, to produce various management reports, evaluate services, collection, distribution and utilization of resources, and provide clinical and administrative support to patient medical care.

ROUTINE UESE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system of records may be disclosed to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), when necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee; the issuance or reappraisal of clinical privileges; the issuance of a security clearance; the conducting of a security or suitability investigation of an individual; the letting of a contract; the issuance of a license, grant, or other benefits; or in response to scarce or emergency needs of the Department or other entities when specific skills are required.

2. A record from this system of records may be disclosed to an agency in the executive, legislative, or judicial branch, or the District of Columbia's Government in response to its request, or at the initiation of VA, information in connection with the hiring of an employee; appointment to the professional staff; the issuance of a security clearance; the conducting of a security or suitability investigation of an individual; the letting of a contract; the issuance of a license, grant, or other benefit by the agency; or the lawful statutory or administrative purpose of the agency to the extent that the information is relevant and necessary to the requesting agency's decision; or at the initiative of VA, to the extent the information is relevant and necessary to an investigative purpose of the agency.

3. Disclosure may be made to a congressional office from the record or an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made to National Archives and Records Administration in records management inspections conducted under authority of Title 44 United States Code.

5. Information from this system of records may be disclosed to a Federal agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar non-Government entity, which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registration necessary to practice an occupation, profession or specialty, in order for the Department to obtain information relevant to a Department decision concerning the hiring, utilization, appointment, retention or termination of individuals covered by this system or to inform a Federal agency or licensing boards or the appropriate non-Government entities about the health care practices of a currently employed, appointed, otherwise utilized, terminated, resigned, or retired health care employee or other individuals covered by this system whose professional health care activity so significantly failed to meet generally accepted standards of clinical practice as to raise reasonable concern for the safety of patients. These records may also be disclosed as part of an ongoing computer-matching program to accomplish these purposes.

6. Information may be disclosed to non-Federal sector (i.e., State or local governments) agencies, organizations, boards, bureaus, or commissions (e.g., the Joint Commission on Accreditation of Healthcare Organizations). Such disclosures may be made only when: (a) The records are properly constituted in accordance with VA requirements; (b) the records are accurate, relevant, timely, and complete; and (c) the disclosure is in the best interest of the Government (e.g., to obtain accreditation or other approval rating). When cooperation with the non-Federal sector entity, through the exchange of individual records, directly benefits VA's completion of its mission, enhances personnel management functions, or increases the public confidence in VA's or the Federal Government's role in the community, then the Government's best interests are served. Further, only such information that is clearly relevant and necessary for accomplishing the intended uses of the information as certified by the receiving entity is to be furnished.

7. Information may be disclosed to a state or national certifying body, which has the authority to make decisions concerning the issuance, retention or revocation of licenses, certifications or registrations required to practice a

health care profession, when requested in writing by an investigator or supervisory official of the licensing entity or national certifying body, for the purpose of making a decision concerning the issuance, retention or revocation of the license, certification or registration of a named health care professional.

8. Information may be disclosed to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

9. Hiring, appointment, performance, or other personnel credentialing related information may be disclosed to any facility or agent with which there is, or there is proposed to be, an affiliation, sharing agreement, partnership, contract, or similar arrangement, where required for establishing, maintaining, or expanding any such relationship.

10. Information concerning a health care provider's professional qualifications and clinical privileges may be disclosed to a VA patient, or the representative or guardian of a patient who, due to physical or mental incapacity, lacks sufficient understanding and/or legal capacity to make decisions concerning his/her medical care. This information may also be disclosed to a VA patient, who is receiving or contemplating receiving medical or other patient care services from the provider when the information is needed by the patient or the patient's representative or guardian in order to make a decision related to the initiation of treatment, continuation or discontinuation of treatment, or receiving a specific treatment that is proposed or planned by the provider. Disclosure will be limited to information concerning the health care provider's professional qualifications (professional education, training and current licensure/certification status), professional employment history, and current clinical privileges.

11. VA may disclose on its own initiative any information in this system, except the names and home addresses of veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, State, local or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On its own initiative, VA may also disclose the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

12. VA may disclose to the Federal Labor Relations Authority (including its General Counsel) information related to the establishment of jurisdiction, the investigation and resolution of allegations of unfair labor practices, or information in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; to disclose information in matters properly before the Federal Service Impasses Panel, and to investigate representation petitions and conduct or supervise representation elections.

13. Information may be disclosed to the VA-appointed representative of an employee regarding all notices, determinations, decisions, or other written communications issued to the employee in connection with an examination ordered by VA under fitness-for-duty examination procedures or Agency-filed disability retirement procedures.

14. Information may be disclosed to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

15. Information may be disclosed to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or the other functions of the Commission as authorized by law or regulation.

16. Information listed in 5 U.S.C. 7114(b)(4) may be disclosed to officials of labor organizations recognized under 5 U.S.C., chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

17. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the NPDB at the time of hiring, appointment, utilization, and/or clinical privileging/reprivileging of physicians, dentists and other health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, appointment, utilization, privileging/reprivileging, retention or termination of the individual.

18. Relevant nformation from this system of records may be disclosed to the NPDB and/or State Licensing Board in the State(s) in which a practitioner is licensed, in which the VA facility is located, and/or in which an act or omission occurred upon which a medical malpractice claim was based when VA reports information concerning: (a) Any payment for the benefit of a physician, dentist, or other licensed health care practitioner which was made as the result of a settlement or judgment of a claim of medical malpractice if an appropriate determination is made in accordance with agency policy that payment was related to substandard care, professional incompetence or professional misconduct on the part of the individual; (b) a final decision which relates to possible incompetence or improper professional conduct that adversely affects the clinical privileges of a physician or dentist for a period longer than 30 days; or, (c) the acceptance of the surrender of clinical privileges or any restriction of such privileges by a physician or dentist either while under investigation by the health care entity relating to possible incompetence or improper professional conduct, or in return for not conducting such an investigation or proceeding. These records may also be disclosed as part of a computer-matching program to accomplish these purposes.

19. In response to a request about a specifically identified individual covered by this system from a prospective Federal or non-Federal health care entity employer, the following information may be disclosed: (a) Relevant information concerning the individual's professional employment history including the clinical privileges held by the individual; (b) relevant information concerning a final decision which results in a voluntary or involuntary limitation, reduction or loss of clinical privileges; and (c) relevant information concerning any payment which is made in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim and, when through a peer review process that is undertaken

pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to the individual.

20. Disclosure may be made to any Federal, State, local, tribal or private entity in response to a request concerning a specific provider for the purposes of credentialing providers who provide health care at multiple sites or move between sites. Such disclosures may be made only when: (a) The records are properly constituted in accordance with VA requirements; (b) the records are accurate, relevant, timely, and complete; and (c) disclosure is in the best interests of the Government (i.e., to meet the requirements of contracts, sharing agreements, partnerships, etc.). When the exchange of credentialing information through the exchange of individual records directly benefits VA's completion of its mission and enhances public confidence in VA's or the Federal Government's role in the delivery of health care, then the best interests of the Government are served.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper documents or in electronic format. Information included in the record may be stored on microfilm, magnetic tape or disk.

RETRIEVABILITY:

Records are retrieved by the names and social security number or other assigned identifiers, e.g. the National Provider Identifier, of the individuals on whom they are maintained.

SAFEGUARDS:

1. Access to VA working and storage areas in VA health care facilities is restricted to VA employees on a "need-to-know" basis; strict control measures are enforced to ensure that disclosure to these individuals is also based on this same principle. Generally, VA file areas are locked after normal duty hours and the health care facilities are protected from outside access by the Federal Protective Service or other security personnel.

2. Access to computer rooms within the health care facilities is generally limited by appropriate locking devices and restricted to authorized VA employees and vendor personnel. Automated data processing peripheral devices are generally placed in secure areas (areas that are locked or have limited access) or are otherwise protected. Information in the VistA system may be accessed by authorized VA employees. Access to file information is controlled at two levels; the system recognizes authorized employees by a series of individually unique passwords/codes as a part of each data message, and the employees are limited to only that information in the file, which is needed in the performance of their official duties.

3. Access to records in VA Central Office and the VISN Directors and Division Offices is only authorized to VA personnel on a "need-to-know" basis. Records are maintained in manned rooms during working hours. During non-working hours, there is limited access to the building with visitor control by security personnel.

4. The automated system is Internet enabled and will conform to all applicable Federal regulations concerning information security. The automated system is protected by a generalized security facility and by specific security techniques used within the application that accesses the data file and may include individually unique passwords/codes and may utilize Public Key Infrastructure personal certificates. Both physical and *system security measures will meet or* exceed those required to provide an adequate level of protection for host systems. Access to file information is limited to only that information in the file which is needed in the performance of official duties. Access to computer rooms is restricted generally by appropriate locking devices to authorized operational personnel. Information submitted to the automated electronic system is afforded the same protections as the data that is maintained in the original files. Access from remote locations, including remote on-line access from other agencies to the data storage site, is controlled in the same manner. Access to the electronic data is supported by encryption and the Internet server is insulated by a firewall.

RETENTION AND DISPOSAL:

Records are maintained at the employing VA facility. If the individual transfers to another VA facility location, the record is transferred to the new location, if appropriate. Paper records are retired to a Federal records center 3 years after the individual separates from VA employment or no longer utilized by VA (in some cases, records may be maintained at the facility for a longer period of time) and are destroyed 30 years after separation. Paper records for applicants who are not selected for VA employment or appointment are destroyed 2 years after non-selection or when no longer needed for reference, whichever is sooner. Electronic records are transferred to the Director, Credentialing and Privileging Program, Office of Quality and Performance, VHA Central Office, when the provider leaves the facility. Information stored on electronic storage media is maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Official responsible for policies and procedures: Director, Credentialing and Privileging Program, Office of Quality and Performance (10Q), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Officials maintaining the system: (1) The Chief of Staff at the VA health care facility where the provider made application, is employed, or otherwise utilized; (2) the credentialing coordinator of the VA health care facility for individuals who made application for employment or other utilization, or providers currently or previously employed or otherwise utilized at VA Central Office or at a VISN location; and (3) HHS/HRSA, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, for the electronic data warehouse. In most cases, the electronic data will be maintained by the Department of Health and Human Services, Health Resources and Services Administration (HHS/HRSA), a component thereof (a contractor, subcontractor of HHS/HRSA, or by another entity) in accordance with the VA Interagency Agreement.

NOTIFICATION PROCEDURE:

Individuals who wish to determine whether this system of records contains information about them should contact the VA facility where they made application for employment or appointment, or to the VA facility where they are or were employed. Inquiries should include the employee's full name, social security number, date of application for employment or appointment or dates of employment or appointment, and return address.

RECORD ACCESS PROCEDURES:

Individuals seeking information regarding access to and contesting of records in this system may write, call or visit the VA facility where they made application for employment or appointment, or the VA facility where they are or were employed.

CONTESTING RECORDS PROCEDURES:

(See Record Access Procedures above.)

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by the applicant/employee, or obtained from State licensing boards, Federation of State Medical Boards, National Council of State Boards of Nursing, National Practitioner Data Bank, professional societies, national certifying bodies, current or previous employers, other health care facilities and staff, references, educational institutions, medical schools, VA staff, patient, visitors, and VA patient medical records.

[FR Doc. 01–30241 Filed 12–5–01; 8:45 am]

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VOL 66 ISS 235 DE 6 2001 UMI

Corrections

Federal Register
Vol. 66, No. 233
Thursday, December 6, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2001–8683;Airspace Docket No. 01–ASW–2]

RIN 2120–AA66

Modification of Restricted Area R–6312 Cotulla, TX

Correction

In final rule document 01–27159 beginning on page 54435 in the issue of Monday, October 29, 2001, make the following correction:

§ 73.63 [Corrected]

On page 54436, in the first column, in § 73.63, under the heading **R–6312 Cotulla, TX**, in the second paragraph, in the third line, "28°141" N." should read, "28°17'41" N.".

[FR Doc. C1–27159 Filed 12–5–01; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collection; Comment Request

Correction

In notice document 01–27268 appearing on page 56192 in the issue of Tuesday, November 6, 2001, make the following correction:

On page 56192, in the first column, in the **DATES** section, in the second line, "January 7, 2001" should read, "January 7, 2002".

[FR Doc. C1–27268 Filed 12–5–01; 8:45 am]
BILLING CODE 1505–01–D

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Federal Register

Thursday,
December 6, 2001

Part II

Department of Housing and Urban Development

24 CFR Part 30

Amendments to HUD's Civil Money Penalty Regulations; Final Rule

VOL 66 ISS 235 DEC 6 2001 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 30

[Docket No. FR–4399–F–02]

RIN 2501–AC56

Amendments to HUD's Civil Money Penalty Regulations

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule implements sections 561 and 562 of the Multifamily Assisted Housing Reform and Affordability Act of 1997. These sections concern HUD's ability to impose civil money penalties. Section 561 expands the list of parties and violations subject to civil money penalties related to multifamily properties. Section 562 authorizes HUD to impose civil money penalties for violations of Section 8 project-based housing assistance payments contracts.

DATES: Effective Date: January 7, 2002.

FOR FURTHER INFORMATION CONTACT: Dane M. Narode, Deputy Chief Counsel for Administrative Proceedings, Departmental Enforcement Center, U.S. Department of Housing and Urban Development, 1250 Maryland Avenue, Suite 200, Washington, DC 20024; telephone (202) 708–2350 (this is not a toll-free number). Hearing- or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. The June 26, 2000 Proposed Rule

The proposed rule proposed to implement section 561 and 562 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (Pub. L. 105–65, Title V, 111 Stat. 1384) (the MAHRA), the purpose of which is to enhance enforcement against multifamily mortgagors and Section 8 owners who violate program requirements. Section 561 of the MAHRA amended the National Housing Act at 12 U.S.C. 1735f–15, "Civil Money Penalties Against Multifamily Mortgagors," to expand the parties against whom HUD may seek a civil money penalty, as well as the violations potentially subject to a civil money penalty. Under the law, civil money penalty liability can extend to mortgagors, general partners of mortgagors, officers or directors of corporate mortgagors, identity of interest agents, and members of limited liability companies that are mortgagors or partners of partnership mortgagors. Additional violations for which HUD may seek a civil money penalty under section 561 include failure to maintain the mortgaged property, failure to provide acceptable management, and failure to properly maintain the books and accounts of the mortgaged property in accordance with HUD requirements.

Section 562 of the MAHRA added a new section to the U.S. Housing Act of 1937, codified at 42 U.S.C. 1437z–1, entitled "Civil Money Penalties Against Section 8 Owners." Under this section, potentially liable parties include owners, their general partners in the case of a partnership owner, and identity of interest agents. A penalty may be imposed for any knowing and material breach of a housing assistance payments contract, including failure to provide decent, safe and sanitary housing, and knowing submission of false or fraudulent statements or requests for housing assistance payments to HUD or any other government agency.

The final rule implements these sections by amending the existing civil money penalty regulations at 24 CFR part 30. Section 561 of the MAHRA is implemented at § 30.45. Amendments to that section include new definitions, including definitions of "identity of interest agent" and further definitions of terms used within that definition. The section also incorporates the amended statutory list of violations for which HUD may seek a civil money penalty. Section 562 of the MAHRA is implemented in a new 24 CFR 30.68.

II. This Final Rule

The public comment period on the proposed rule closed on August 25, 2000. HUD received 11 comments. Five were from trade associations representing housing owners or managers, four were from groups representing tenants, one was from a management corporation on its own behalf, and one was from an individual owner.

III. Public Comments

A. Comments Arguing That the Rule Unfairly Burdens Mortgagors/Owners

Comment: The potential maximum penalty will cause financial hardship to small owners. Many of the owners subject to the rule are single asset entities with only the one property and the related assistance as their sole source of income. Many of these are small businesses or non-profits with limited outside revenue, individuals, elderly, and other like entities. These owners cannot afford the maximum $30,000 penalty being proposed. The reason such owners often fail to maintain properties or submit audited financial statements are income shortages, and the proposed penalty will only exacerbate the problem.

Response: While the maximum amount of civil money penalty is set as a statutory matter, the rule does not require HUD to assess the maximum civil penalty in any given case of a violation subject to such penalty. Rather, in assessing a penalty, HUD, by statute, must assess a variety of factors, including an entity's ability to pay. (See 12 U.S.C. 1735f–15(d)(3); 12 U.S.C. 1701q–1((d)(3); and 42 U.S.C. 1437z–1(c)(3)(C).) HUD's civil money penalty regulations implement this statutory requirement at 24 CFR 30.80(c). Thus, there is already sufficient statutory and regulatory protection of small owners. HUD has made no change to the rule as a result of this comment.

Comment: The cash flow from assisted projects can be too low for owners to fully comply with all HUD standards. It is unfair to require owners to maintain projects at a higher level than the project income allows. There needs to be balance in the system so that owners who are doing a good job of managing the project within the constraints of the rent they can charge are not subject to penalties. It is not fair to require owners to reach into their own pockets to supplement the rent. HUD field officials should be trained in this standard.

Response: HUD is required to consider "the gravity of the offense" and "the degree of the violator's culpability" when determining whether to seek a civil money penalty and, if so, how much to seek. (See 24 CFR 30.80(a) and (h).) These mandatory considerations should provide sufficient protection to the owner in the scenario described, where an owner is generally doing a good job but is found to have committed a violation. In addition, HUD expects owners with income shortfalls to seek relief that may be available, including budget-based rents or other permitted rent increases, or mortgage restructuring, if applicable. If such relief is available and an owner fails to seek it, HUD will consider that failure as part of its analysis of the gravity of the offense and the degree of culpability. Nonetheless, lack of income is not *per se* an excuse for an owner's failure to comply with legal obligations. Civil money penalties are always a potential result of failure to comply.

As to the commenter's request that HUD provide training, the Departmental Enforcement Center currently provides employees engaged in the civil penalty process with adequate training in applying HUD's regulations on such

penalties, including the standards discussed above. For these reasons, HUD makes no change to the rule as a result of this comment.

Comment: Since owners generally rely on HAP payments to correct violations, and since the owners face civil money penalties if they apply for HAP payments knowing that violations exist, there would never be funds available to correct the violations and return the property to compliance. Therefore, the procedures should allow for an evaluation of the cause of a property's financial distress before imposing monetary penalties.

Response: HUD existing procedures allow sufficient flexibility to consider a variety of circumstances. These procedures include a general requirement that HUD consider "such matters as justice may require," 24 CFR 30.80(j). However, HUD believes that it is important that the agency retain maximum flexibility regarding civil penalties, within the general standards and procedures stated in the regulations. Therefore, after consideration, HUD has decided not to change the rule to address the specific situation raised by the comment. Rather, as to that situation and other individual situations that may arise, owners can consult with legal counsel and/or HUD field office staff, as appropriate.

Comment: Civil money penalties will be "detrimental" to housing managers and hinder the operation of their properties.

Response: While HUD considers the ability to pay in assessing a civil money penalty under 24 CFR 30.80(c), it is also true that the purpose of civil money penalties is to provide a disincentive for a manager, or any party statutorily subject to civil money penalties, to violate its legal obligations regarding HUD-assisted housing developments. Thus, the fact that civil money penalties might be detrimental does not argue against their imposition in appropriate cases. HUD makes no change to the rule as a result of this comment.

B. Comments on the Proposed Amount of Penalties

Comment: HUD should seek penalties appropriate to the violations, and not excessive penalties. A number of commenters stated that the amount of penalties should not be excessive and should relate to the severity of the violation, the financial condition of the violator, and whether there was good faith in attempting to comply with HUD regulations. Some commenters specifically cited the Small Business Regulatory Flexibility Act ("SBRFA"), 5 U.S.C. 612(b), and one commenter stated that some of the SBRFA policies should be incorporated into the final rule so that owners and managers will have a basic understanding of them.

Response: HUD's existing regulations governing civil penalties within which the new rule will be codified already provide for consideration of these factors. The regulations require consideration of, among other things, the gravity of the offense (24 CFR 30.80(a)); the violator's ability to pay (which of necessity includes the financial condition)(24 CFR 30.80(c)); and whether there was good faith (24 CFR 30.80(h)). Furthermore, in order to assess a civil penalty, HUD must show that there was a "knowing and material" violation. (*See, e.g.,* 24 CFR 30.45(b)(1)(ii) and (c).) Lack of knowledge would be a form of good-faith defense that a respondent could raise. Regarding SBRFA-related matters, HUD has fully complied with SBRFA requirements, and has published material on its SBRFA policies, so that it is not necessary to repeat this material in each individual rule. For more information, please see below the section entitled "Small Entities and HUD Enforcement Actions." In addition, information on HUD's SBRFA policies can be found on the World Wide Web by choosing the "Small Business" link from HUD's home page, *http://www.hud.gov,* and clicking on the link to "1996 Law (SBREFA)."

Comment: Civil money penalties could be crippling in many circumstances, and owners and managers need a clear understanding of their exposure to deter potential wrongdoing.

Response: Under its current statutory authority to assess civil money penalties for multifamily housing, section 202 and section 811 developments, as adjusted under the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, HUD may assess a civil money penalty of up to $30,000. For section 8 properties, the Inflation Adjustment Act currently does not result in an increase above the original $25,000 statutory amount (*See* 42 U.S.C. 1437z–1(b)(3)). Owners and managers should consider these amounts their maximum potential civil money penalty exposure. (For the pre-adjustment penalty for multifamily housing, see 12 U.S.C. 1715f–15(c)(2).) See the preamble to the proposed rule for an explanation as to the section 202 and 811 programs, 65 FR 39502–39504 (June 26, 2000).)

Comment: Four commenters supported increased civil money penalties. One also supported the expansion of parties potentially subject to civil money penalties. Others stated that aggressive enforcement of civil money penalties is the best remedy to insure that tenants get decent homes and HUD funds are spent wisely.

Response: These comments do not seek any change in the regulation. Therefore, no change is necessary as a result.

C. Comments Raising Fairness Concerns

Five commenters raised concerns regarding the fairness of civil money penalties. These comments concerned hypothetical situations where HUD contributes to a violation; false statement provisions; due process concerns; and a concern that potential civil money penalties will encourage owners to opt out of assisted housing programs.

Comment: A provision prohibiting HUD from assessing penalties in the case of misconduct by HUD should be more fully implemented in the rule. Three commenters stated that, as to Section 8 owners, the rule implements the statutory provision that HUD may not impose penalties if a material cause of the violation is the failure of HUD or a PHA to comply with an existing agreement at 24 CFR 30.68(e) (*see* 42 U.S.C. 1437z–1(a)(2). However, the rule does not implement a similar provision in 12 U.S.C. 1735f–15(a) relating to HUD-assisted mortgagors. In addition, the rule should provide examples of HUD actions to which this provision would apply. One of the three commenters cited, as an example, HUD denials of requests for rent increases, which the commenter argued made it unfair for HUD to impose penalties for non-compliance. Another commenter similarly argued that the rule should not allow HUD to take any enforcement action until the agency has "fully complied" with its obligations under the regulatory agreement between the owner and HUD.

Response: The commenters correctly observe that the provision in question regarding failure to comply with existing agreements is found in both authorizing statutes that this rule implements. Therefore, HUD sees no reason why HUD should not implement the parallel provision in § 30.45. Indeed, failure to do so could be misunderstood to indicate that HUD intended to implement this provision for the Section 8 program only. Therefore, in accordance with this comment, HUD revises the proposed rule to implement this provision in § 30.45.

However, HUD disagrees with the commenters' assertion that HUD should provide examples of conduct to which this provision would apply, or address

the specific issue of the regulatory agreement. In particular, HUD disagrees with the commenter's example, citing a denial of a rent increase as cause for excuse from civil money penalties for noncompliance with HUD regulations. In most circumstances, the ordinary denial of a requested rent increase would not be an example of a failure to comply with an existing agreement, and would not insulate the owner from civil money penalties. Rather, such requests would be assessed in accordance with the regulatory requirements governing them, and approved or denied based on those requirements. As to the comment regarding theoretical future failures of HUD to "fully comply" with the regulatory agreement, HUD believes that the issue of whether a failure to comply with an agreement has occurred, and amounts to a violation of the agreement that constitutes a material cause of the owner's malfeasance, is of necessity controlled by the facts of particular cases, and is best examined on a case by case basis in the hearing process. Therefore, HUD makes no change other than to add the parallel provision.

Comment: The provision allowing for civil money penalties to be imposed on Section 8 owners in the case of false statements or false requests to HUD for housing assistance payments is unfair. Two commenters stated that, since it is impossible to determine that each unit is "decent, safe and sanitary" each day, the certification on the HAP voucher exposes the owner to a penalty with each submission. It would be an impossible administrative burden for owners to inspect each unit prior to submission on the voucher. In addition, minor technical violations could unfairly lead to large civil money penalties. Therefore, standards need to be set so that *de minimis* inaccuracies in vouchers, which can always be found, do not lead to civil penalties.

Response: In order to be liable for civil penalties, an owner must make a "knowing or willful" false submission or statement. While it is impossible to comment on future situations that may or may not arise, in the type of hypothetical scenario described by the comment, the submission might not be "knowing" or "willful," and so might not meet the standard for assessing a civil penalty. Of course, this response does not relieve each owner of the responsibility to make reasonable and timely efforts to ascertain the condition of the project and take appropriate corrective action when necessary. In close cases, HUD is still obligated to consider the gravity of the offense and the degree of culpability (see 24 CFR 30.80(a) and (h)). Of course, HUD will consider each case on its merits. In questionable cases, potential respondents are advised to consult with the HUD field office as well as their own counsel. However, the rule as currently written is flexible enough to deal with the commenter's concern, and so no further modification of the rule is necessary.

Comment: Owners will opt out of HUD programs. The proposed rule provides another incentive for owners to opt out at the earliest opportunity. There should be reasonable procedures whereby good owners will not be fined for minor and technical violations. It should be HUD's goal to create incentives for owners who want to stay in HUD's programs.

Response: Reasonable procedures regarding minor and technical violations are already in place. For example HUD is required to consider the gravity of the offense when determining the amount of a civil money penalty. 12 U.S.C. 1735f-15(d)(3); 12 U.S.C. 1701q–1(d)(3); 42 U.S.C. 1437z–1(c)(3)(A), implemented at 24 CFR 30.80(a). In addition, HUD has provided incentives for owners to remain in multifamily assisted housing programs, including mark-to-market and mark-up-to market. Whether or not particular owners will choose to opt out rather than pay civil money penalties is purely hypothetical. In any case, HUD must enforce its program rules, which are for the benefit of tenants and the taxpaying public.

D. Due Process Concerns

Comment: One commenter stated that since the rule does not include a detailed appeals procedure, it violates due process.

Response: The commenter is incorrect. Although these particular revisions to 24 CFR part 30 do not include a separate appeals procedure, the general procedures incorporated into part 30, where these sections will be codified, applies. Under 24 CFR 30.95, hearings regarding part 30 civil money penalties are to be conducted under the procedures in 24 CFR part 26, subpart B. This subpart contains complete hearing procedures that comply with due process, including higher-level administrative appeal and judicial review provisions. Furthermore, judicial review is authorized by the underlying statutes. (*See* 12 U.S.C. 1735f–15(e) and 42 U.S.C. 1437z–1(d)). Therefore, no change is necessary as a result of this comment.

Comment: One commenter stated that the rule should provide that civil penalties cannot be imposed until the appeals process is completed.

Response: Generally, the authorizing statutes provide that a civil penalty may be imposed only after the respondent "has received notice and an opportunity for a hearing on the record." (*See* 12 U.S.C. 1735f–15(d)(1)(B) and 42 U.S.C. 1437z–1(c)(1)(B)). Thus, HUD has authority to impose the penalty at that point, and sees no reason to refrain from imposing a penalty at the time of the initial decision if the respondent is found liable. While respondents have the right to seek a stay of the penalty during the appeals process, HUD does not believe an automatic stay for all cases would be in the public interest, since some cases may involve egregious acts of noncompliance for which a stay would not be appropriate.

E. Use of Funds Collected Through Civil Penalties

Three commenters suggested uses of the funds collected through the civil penalty process to benefit the specific project found liable.

Comment: Since the ultimate goal is to provide decent, safe and sanitary housing, HUD should permit the penalty or a payment in lieu of the penalty to be paid to the project to fix the underlying problems.

Response: The law does not permit the suggested payment of penalties. Penalties collected from multifamily and Section 202 owners may only be deposited in the Flexible Subsidy fund established by Section 201(j) of the Housing and Community Development Amendments of 1978. 12 U.S.C. 1735f–15(j); 12 U.S.C. 1701q–1(j). For FHA-insured or formerly FHA-insured projects, penalties collected against Section 8 owners and agents must either be deposited in the appropriate insurance fund or in another fund established under 42 U.S.C. 1437 (*see* 42 U.S.C. 1437z–1(g)(1)). For projects that are not FHA-insured, penalties collected against Section 8 owners and agents must be applied to the administrative costs incurred in enforcing HUD programs (see 42 U.S.C. 1437z-1(g)(2)). Since HUD cannot promulgate rules that violate Federal law, HUD makes no change as a result of this comment.

Comment: The fines should be directed to be used by the property solely to address any "damage" which was caused to the property for failure to meet the defined level of expectation.

Response: As in the comment above, the law does not permit the suggested application of penalties. Penalties collected from multifamily and section 202 owners may only be deposited in the Flexible Subsidy fund established by section 201(j) of the Housing and Community Development Amendments

of 1978. 12 U.S.C. 1735f–15(j); 12 U.S.C. 1701q–1(j). Penalties collected against Section 8 owners and agents must either be deposited in the appropriate insurance fund or another fund established by 42 U.S.C. 1437, or applied to the administrative costs incurred in enforcing HUD programs. 42 U.S.C. 1437z–1(g). Since HUD cannot promulgate rules that violate Federal law, HUD makes no change as a result of this comment.

F. Accessibility Issues

Comment: Failure to provide accessibility features required by law should be a basis for liability for civil penalties. One commenter stated that under § 561, failure to maintain the premises should include failure to have accessibility features required by law. Failure to have acceptable management should include failure to grant reasonable accommodations and other fair housing compliance as required by law. A commenter stated that under § 562, decent, safe and sanitary housing should be changed to "decent, safe, accessible, and sanitary housing."

Response: The proposed rulemaking for this rule did not put the public on notice that violations of civil rights laws could lead to the assessment of civil money penalties under sections 561 and 562 of the MAHRA. HUD does not believe it can add entirely new categories of penalties at this stage of the rulemaking, but rather would have to do so through a new proposed rule. Therefore, HUD makes no change to this rule as a result of these comments.

G. Additional Factors in Assessing Penalties

Two commenters argued for the inclusion of additional factors when assessing civil money penalties.

Comment: A past pattern of violation, prior to the publication of the final rule, and/or evidence of continuing violation should be given "material weight" in whether or not to establish penalties and in establishing their amount.

Response: 24 CFR 30.80(b) requires HUD to consider any history of past violations in determining whether to assess a civil penalty and the amount of such penalty. Therefore, no further revision to part 30 is necessary as a result of this comment.

Comment: The rule should clarify that mortgagors/owners who are in noncompliance with HUD procedures and management standards, particularly those affecting tenant living conditions and security of tenure, will be subject to penalties. For example, failure by the owner to comply with the notice requirements for Section 8 opt-outs and/or mortgage prepayments should be subject to penalties. Similarly, common violations of HUD management standards stated in handbooks, such as failure to maintain proper waiting lists for vacancies or transfers, improper charges to tenants, violations of local and State landlord/tenant laws and tenants' rights under leases, should be subject to penalties.

Response: HUD agrees that the violation of programatic procedures and standards, including the examples given by the commenter, are indicators of unsatisfactory management. The rule has been clarified to include this interpretation. However, the rule also makes clear that HUD does not believe that a single programmatic violation, unless extraordinarily serious, constitutes unacceptable management for which a civil money penalty may be imposed.

Comment: The rule should clarify that failure to respect the right of tenants to organize, should be subject to civil penalties. One commenter states that rule on tenant organization did not include civil penalties as an enforcement mechanism, and that HUD advised tenant representatives that this was an oversight that could be corrected by a subsequent rulemaking.

Response: HUD agrees with the comment, and the final rule has been revised accordingly.

H. Opt-Out Projects

One commenter stated that the rule should be extended to cover project-based Section 8 developments that opt out and convert to preservation vouchers.

Comment: HUD has authority to apply the civil penalty rule to projects that opt out because the MAHRAA statute which extended "civil monetary authority" over Section 8 units has been amended to provide for preservation vouchers in the event of an opt out. Doing so would eliminate the different standards used for units receiving preservation vouchers as opposed to project-based assistance. Ultimately, the commenter would prefer that oversight of units receiving preservation vouchers be transferred from PIH to the Office of Multifamily Housing. In the meantime, HUD should seek to equalize the standards. If further research suggests that MAHRAA, as amended, does not give HUD the authority to do this, HUD should propose legislation to accomplish this objective.

Response: HUD does not believe that it has the authority under the statute being implemented by this rule to take the steps suggested by the commenter under the MAHRAA, which states that a penalty may be imposed for a knowing and material breach of a HAP contract. (See 42 U.S.C. 1437z–1(b)(2).) This provision applies to owners, general partners, and identity-of-interest management agents of projects receiving project-based Section 8, 42 U.S.C. 1437z–1(b)(1). However, the enhanced vouchers granted to opt-out projects are generally tenant-based, and projects receiving project-based vouchers are generally not projects that have opted out. Thus, the statute being implemented by this rule does not appear to grant HUD the authority over projects that opt out as the commenter claims. Furthermore, HUD is reluctant to seek an expansion of its civil money penalty authority until it has gained sufficient experience to determine the effectiveness of its existing authority. Therefore, HUD makes no change to the rule as a result of this comment.

I. Tenant Participation in Civil Penalty Proceedings

Comment: Tenants and tenant organizations should be able to have a voice in HUD's process for assessing civil money penalties. Specifically, tenants should get notice of any proposed civil penalties; access to information regarding the administrative record of such proceedings, including all correspondence between HUD and owners on proposed penalties; and the right to comment before HUD's final decision. This should be done because tenants have the greatest stake in the maintenance of HUD standards, and they aspire to be major partners with HUD in the oversight of their homes. Allowing tenants to participate will allow tenants to be HUD's "eyes and ears" and enhance HUD's ability to gather evidence.

Response: The civil penalty process, by statute, is conducted by the government. HUD does not believe that involvement by tenants in the actual conduct of civil penalty cases is authorized, and therefore declines to adopt this suggestion.

As to the portion of the comment seeking information regarding ongoing civil penalty proceedings, the Freedom of Information Act would apply to those requests.

J. Clarification of Terms

Five commenters requested that the meaning of various terms used in the rule be clarified.

Comment: The definition of "ownership interest in" is too broad and should be clarified to mean persons holding legal title to interests in the subject entity.

Response: HUD believes that the suggested revision is too restrictive, as there are a variety of legal and equitable forms of ownership interest. Furthermore, for purposes of determining whether there is an identity of interest between ownership and the managing agent, the commenter's suggested definition is inadequate. HUD therefore declines to adopt the suggested change.

Comment: The definition of "effective control" is too broad and should be clarified to mean actual or apparent legal authority to bind the subject entity.

Response: HUD believes that effective control means much more than the authority to bind, and includes various forms of influence over others in the organization. Such influence is often based on financial or family considerations. HUD has thus adopted a functional definition of "effective control." The suggested clarification would prevent HUD from taking relevant factors into consideration when determining whether an identity of interest relationship exists between an owner and a management agent. Therefore, HUD declines to adopt the suggested change.

Comment: HUD should amend "agent employed to manage the property that has an identity of interest" so it is the same as for "identity of interest agent" in Handbook 4381.5 REV–2, Chapter 1.

Response: The definition for identity of interest agent used in the rule is statutory, and HUD does not believe it has the authority to alter it. (*See* 12 U.S.C. 1735f–15–1(k), 42 U.S.C. 1437z–1(h).)

Comment: The rule should contain more precise cross-references to new Section 29 of the U.S. Housing Act of 1937 and the corresponding provisions of 24 CFR parts 26 and 30.

Response: The "Authority" statement at the beginning of the rule and the discussion in the preamble provide appropriate cross-references to the underlying statutory authority.

Comment: The definition of "entity" is too broad. In the case of a public corporation, a low-level staff member such as a "low ranking Vice President" can be the owner of a small number of shares in an employee stock ownership plan, and could be included in the definition. Similarly, the definition of "entity" in 30.45(a)(3) as "any other organization or group of people" is overly broad. The same problem occurs in section 30.68. The definition should be narrowed to limit the scope of liability to those with actual responsibility for violations.

Response: Although the commenter seems to take the position that one can become liable for civil penalties simply by meeting the definition of "entity," in fact the definition of "entity" does not control who is potentially liable for civil penalties; rather, the only potentially liable parties are those listed under 12 U.S.C. 1735f–15(c)(1)(A) and 42 U.S.C. 1437z–1(b)(1). HUD does not believe, as the commenter fears, that the relevant statutory sections and rule would allow HUD to hold a person liable for a civil money penalty for the sole reason that he or she is a "low-level staff member" of, or holds a few shares in, the management agent. The proposed definition of "entity" properly takes account of the various legal and business entities that can be involved in housing transactions.

Comment: Entities subject to fines in §§ 30.45(b)(1) and (c)(1) and 30.68(b) should include the officers or directors of a corporate general partner in a partnership entity. This is necessary to prevent bad landlords from avoiding liability by using complex corporate structures to shield themselves.

Response: Applicable statutes do not give HUD authority to impose civil money penalties directly against the parties mentioned in the comment. 12 U.S.C. 1735f–15(c)(1)(A); 12 U.S.C. 1701q–1(b)(1) and (c)(1); 42 U.S.C. 1437z–1(b)(1). Of course, "any" general partners, including corporate ones, are covered under 12 U.S.C. 1735f–15(c)(1)(A) and 42 U.S.C. 1437z–1(b)(1).

K. Effective Date

Comment: The rule should be effective retroactively. The effective date should be amended to include past patterns of violation or continuing violations that have not been corrected as of the date of publication of the rule. This is essential to prevent bad landlords who have escaped effective enforcement action for years from getting away with impunity by claiming that only violations going forward from the date of rule publication are subject to fines. HUD should be able to take into account a previous administrative record of non-compliance with HUD standards in assessing fines quickly and firmly after the date of publication.(#8)

Response: HUD currently has the authority to impose civil money penalties for violations listed in the original civil penalty statutes which occurred after December 15, 1989, the effective date of those statutes. Sections 108(b) and 109(b) of the Department of Housing and Urban Development Reform Act of 1989, Public Law 101–235, 103 Stat. 2007, 2011. With respect to violations which were added by Section 561 of MAHRAA, HUD has statutory authority to impose civil money penalties only for violations which take place after the effective date of the final rule implementing section 561. (See Public Law 105–65 at section 561(c)(1). Section 562 has a similar provision. (See Public Law 105–65 at section 562(b).

Although HUD cannot make violators liable under the new laws for conduct occurring prior to the effective date of final regulations, HUD does consider a history of past violations in determining whether to assess a civil penalty and how much. 24 CFR 30.80(b).

L. Section 811 and 202 Properties

Comment: Four commenters support the application of the rule to 811 and 202 properties.

Response: Since these comments seek no change in the proposed rule, no response is necessary.

IV. Small Entities and HUD Enforcement Actions

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 847, approved March 29, 1996) (SBREFA) provides, among other things, for agencies to establish specific policies or programs to assist small entities. Small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. On May 21, 1998 (63 FR 28214), HUD published a **Federal Register** notice describing HUD's actions on implementation of SBREFA.

Section 223 of SBREFA requires agencies that regulate the activities of small entities to establish a policy or program to reduce or, *under appropriate circumstances,* waive civil penalties when a small entity violates a statute or regulation. Where penalties are determined appropriate, HUD's policy is to consider: (1) The nature of the violation (the violation must not be one that is repeated or multiple, willful, criminal or poses health or safety risks), (2) whether the entity has shown a good faith effort to comply with the regulations; and (3) the resources of the regulated entity.

With respect to the imposition of civil money penalties, HUD is cognizant that section 222 of the SBREFA requires the Small Business and Agriculture Regulatory Enforcement Ombudsman to "work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by this personnel." To

implement this statutory provision, the Small Business Administration has requested that agencies include the following language on agency publications and notices which are provided to small businesses concerns at the time the enforcement action is undertaken. The language is as follows:

Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of [insert agency name], call 1–888–REG–FAIR (1–888–734–3247).

As HUD stated in its May 21, 1998 **Federal Register** notice, HUD intends to work with the Small Business Administration to provide small entities with information on the Fairness Boards and National Ombudsman program, at the time enforcement actions are taken, to ensure that small entities have the full means to comment on the enforcement activity conducted by HUD.

V. Findings and Certifications

Environmental Impact

In accordance with 40 CFR 1508.4 of the Council on Environmental Quality regulations and 24 CFR 50.19(c)(1) and (c)(6) of the HUD regulations, the policies and procedures contained in this final rule are determined not to have the potential of having a significant impact on the human environment and are therefore exempt from further environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Federalism Impact

This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of Executive Order 13132 (entitled "Federalism").

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule. In so doing, the Secretary certifies that this final rule would not have a significant economic impact on a substantial number of small entities. This rule implements sections 561 and 562 of the Multifamily Reform Act. The rule makes conforming changes to HUD's regulations at 24 CFR part 30 to reflect statutory changes made to the National Housing Act and the United States Housing Act of 1937. These changes were mandated by the Multifamily Reform Act and are not discretionary on the part of HUD.

The purpose of these amendments is to grant HUD additional enforcement tools to use against those who violate agreements and program requirements. The Multifamily Reform Act expanded the list of persons and the types of violations subject to civil money penalties under HUD's insured housing and Section 8 programs. To the extent that these statutory changes impact small entities, it will be as a result of actions taken by the small entities themselves—that is, by violating multifamily and Section 8 program regulations and requirements.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This final rule does not, within the meaning of the UMRA, impose any Federal mandates on any State, local, or tribal governments nor on the private sector.

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866 (entitled "Regulatory Planning and Review"). OMB determined that this proposed rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the proposed rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Rules Docket Clerk, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410–0500.

List of Subjects in 24 CFR Part 30

Administrative practice and procedure, Loan programs—housing and community development, Mortgages, Penalties.

Accordingly, for the reasons stated in the preamble, HUD amends 24 CFR part 30 as follows:

PART 30—CIVIL MONEY PENALTIES: CERTAIN PROHIBITED CONDUCT

1. The authority citation for 24 CFR part 30 is revised to read as follows:

Authority: 12 U.S.C. 1701q–1, 1703, 1723i, 1735f–14, and 1735f–15; 15 U.S.C. 1717a; 28 U.S.C. 2461 note; 42 U.S.C. 1437z–1 and 3535(d).

2. Add paragraph (f) to § 30.5 to read as follows:

§ 30.5 Effective dates.

* * * * *

(f) Under § 30.68, a civil money penalty may be imposed for violations, or for those parts of continuing violations, occurring on or after January 7, 2002.

3. Revise § 30.45 to read as follows:

§ 30.45 Multifamily and section 202 or 811 mortgagors.

(a) *Definitions.* The following definitions apply to this section only:

(1) *Agent employed to manage the property that has an identity of interest* and *identity of interest agent.* An entity:

(i) That has management responsibility for a project;

(ii) In which the ownership entity, including its general partner or partners (if applicable) and its officers or directors (if applicable), has an ownership interest; and

(iii) Over which the ownership entity exerts effective control.

(2) *Effective control.* The ability to direct, alter, supervise, or otherwise influence the actions, policies, decisions, duties, employment, or personnel of the management agent.

(3) *Entity.* An individual corporation; company; association; partnership; authority; firm; society; trust; state, local government or agency thereof; or any other organization or group of people.

(4) *Multifamily property.* Property that includes 5 or more living units and that has a mortgage insured, co-insured, or held pursuant to the National Housing Act (12 U.S.C. 1702 *et seq.*).

(5) *Ownership interest.* Any direct or indirect interest in the stock, partnership interests, beneficial interests (for a trust) or other medium of equity participation. An indirect interest includes equity participation in any entity that holds a management interest (e.g. general partner, managing member of an LLC, majority stockholder, trustee) or minimum equity interest (e.g., a 25% or more limited partner, 10% or more stockholder) in the ownership entity of the management agent.

(6) *Section 202 or 811 property.* Property that includes 5 or more living units and that has a mortgage held pursuant to a direct loan or capital

advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) or capital advances under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013).

(b) *Violation of agreement.*—(1) *General.* The Assistant Secretary for Housing-Federal Housing Commissioner, or his or her designee, may initiate a civil money penalty action against a mortgagor of a section 202 or 811 property or a mortgagor, general partner of a partnership mortgagor, or any officer or director of a corporate mortgagor of a multifamily property who:

(i) Has agreed in writing, as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a workout agreement, to use nonproject income to make cash contributions for payments due under the note and mortgage, for payments to the reserve for replacements, to restore the project to good physical condition, or to pay other project liabilities; and

(ii) Knowingly and materially fails to comply with any of the commitments listed in paragraph (b)(1)(i) of this section.

(2) *Maximum penalty.* The maximum penalty for each violation under paragraph (b) of this section is the amount of loss that the Secretary would experience at a foreclosure sale, or a sale after foreclosure, of the property involved.

(c) *Other violations.* The Assistant Secretary for Housing-Federal Housing Commissioner, or his or her designee, may initiate a civil money penalty action against any of the following who knowingly and materially take any of the actions listed in 12 U.S.C. 1735f–15(c)(1)(B):

(1) Any mortgagor of a multifamily property;

(2) Any general partner of a partnership mortgagor of such property;

(3) Any officer or director of a corporate mortgagor;

(4) Any agent employed to manage the property that has an identity of interest with the mortgagor, with the general partner of a partnership mortgagor, or with any officer or director of a corporate mortgagor of such property; or

(5) Any member of a limited liability company that is the mortgagor of such property or is the general partner of a limited partnership mortgagor or is a partner of a general partnership mortgagor.

(d) *Acceptable management.* For purposes of this rule, "management acceptable to the Secretary" under 12 U.S.C. 1735f–15(c)(1)(B)(xiv) shall include:

(1) Proper fiscal management;

(2) Proper handling of vacancies and tenanting in accordance with HUD regulations;

(3) Appropriate handling of rent collection;

(4) Proper maintenance;

(5) Compliance with HUD regulations on tenant organization; and

(6) Any other matters that pertain to proper management.

(e) *Civil money penalty.* A consistent pattern of violations of HUD program requirements, or a single violation that causes serious injury to the public or tenants, can be a basis for an action to assess a civil money penalty.

(f) *Section 202 or 811 projects.* The Assistant Secretary for Housing-Federal Housing Commissioner, or his or her designee, may initiate a civil money penalty action against any mortgagor of a section 202 or 811 property who knowingly and materially takes any of the actions listed in 12 U.S.C. 1701q–1(c)(1).

(g) *Maximum penalty.* The maximum penalty for each violation under paragraph (c) of this section is $30,000.

(h) *Payment of penalty.* No payment of a civil money penalty levied under this section shall be payable out of project income.

(i) *Exceptions.* The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

4. Add § 30.68 to read as follows:

§ 30.68 Section 8 owners.

(a) *Definitions.* The following definitions apply to this section only:

Agent employed to manage the property that has an identity of interest and *identity of interest agent.* An entity:

(1) That has management responsibility for a project;

(2) In which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and

(3) Over which the ownership entity exerts effective control.

Effective control. The ability to direct, alter, supervise, or otherwise influence the actions, policies, decisions, duties, employment, or personnel of the management agent.

Entity. An individual corporation; company; association; partnership; authority; firm; society; trust; state, local government or agency thereof; or any other organization or group of people.

Ownership interest. Any direct or indirect interest in the stock, partnership interests, beneficial interests (for a trust) or other medium of equity participation. An indirect interest includes equity participation in any entity that holds a management interest (*e.g.* general partner, managing member of an LLC, majority stockholder, trustee) or minimum equity interest (*e.g.*, a 25% or more limited partner, 10% or more stockholder) in the ownership entity of the management agent.

(b) *General.* The Assistant Secretary for Housing-Federal Housing Commissioner, or his or her designee, and the Assistant Secretary for Public and Indian Housing, or his or her designee, may initiate a civil money penalty action against any owner, any general partner of a partnership owner, or any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of a property receiving project-based assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for a knowing and material breach of a housing assistance payments contract, including the following:

(1) Failure to provide decent, safe, and sanitary housing pursuant to section 8 of the United States Housing Act of 1937 and 24 CFR 5.703; or

(2) Knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to the Secretary or to any department or agency of the United States.

(c) *Maximum penalty.* The maximum penalty for each violation under this section is $25,000.

(d) *Payment of penalty.* No payment of a civil money penalty levied under this section shall be payable out of project income.

(e) *Exceptions.* The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

4. Revise § 30.80(k) introductory text, to read as follows:

§ 30.80 Factors in determining appropriateness and amount of civil money penalty.

* * * * *

(k) In addition to the above factors, with respect to violations under §§ 30.45, 30.55, 30.60, and 30.68, the Assistant Secretary for Housing-Federal Housing Commissioner, or his or her designee, or the Assistant Secretary for Public and Indian Housing, or his or her designee, shall also consider:

* * * * *

Dated: November 26, 2001.

Mel Martinez,

Secretary.

[FR Doc. 01–30033 Filed 12–5–01; 8:45 am]

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Federal Register

Thursday,
December 6, 2001

Part III

Department of Veterans Affairs

38 CFR Part 17

Copayments for Inpatient Hospital Care and Outpatient Medical Care, Copayments for Medications; Interim and Final Rule

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AK50

Copayments for Inpatient Hospital Care and Outpatient Medical Care

AGENCY: Department of Veterans Affairs.

ACTION: Interim and final rule.

SUMMARY: This document amends VA's medical regulations to set forth a mechanism for determining copayments for inpatient hospital care and outpatient medical care. This is necessary to implement provisions of the Veterans Millennium Health Care and Benefits Act and to set forth exemptions from copayment requirements as mandated by statute.

DATES: *Effective Date:* December 6, 2001.

Comment Date: Comments must be received by VA on or before February 4, 2002.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov*. Comments should indicate that they are submitted in response to "RIN 2900–AK50." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Nancy L. Howard at (202) 273–8198, Revenue Office (174), Office of Finance, Veterans Health Administration, 810 Vermont Avenue, NW., Washington, DC 20420. (The telephone number is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This document amends VA's medical regulations to set forth a mechanism for determining copayments for inpatient hospital care and outpatient medical care provided to veterans by VA. As explained below, a number of groups of veterans and services would be exempted from the copayment requirements.

The provisions of 38 U.S.C. 1710(a), (f), and (g) state that certain veterans are not eligible for inpatient hospital care or outpatient medical care provided by VA under 38 U.S.C. 1710(a) unless they agree to pay a copayment.

Inpatient Hospital Care

The rule restates provisions of 38 U.S.C. 1710(f), which state that the copayment for inpatient hospital care during any 365-day period is the sum of:

(i) $10 for every day the veteran receives inpatient hospital care, and

(ii) The lesser of:

(A) The sum of the inpatient Medicare deductible for the first 90 days of care and one-half of the inpatient Medicare deductible for each subsequent 90 days of care (or fraction thereof) after the first 90 days of such care during such 365-day period, or

(B) VA's cost of providing the care.

Outpatient Medical Care

Previously, the copayment amount for outpatient medical care was $50.80. This was based on statutory provisions that required the copayment to be "an amount equal to 20 percent of the estimated average cost (during the calendar year in which the services are furnished) of an outpatient visit in a * * * [VA] facility."

This statutory provision was changed by the Veterans Millennium Health Care and Benefits Act, Public Law 106–117, 113 Stat. 1545. VA now has authority to change the copayment amount to "the applicable amount or amounts established by the Secretary by regulation."

HR Report 106–237, July 16, 1999, which accompanied the Veterans Millennium Health Care and Benefits Act, indicates that the previous copayment for routine outpatient medical care is too high. The Committee noted, at pp. 43 and 44, that "[such copayments] may in many cases approach the full cost for the episode of treatment. Requiring so high a copayment for a routine, primary care visit appears to the Committee to be unreasonable. * * * The Committee recommends that the Secretary not set a single copayment amount, but consider practices within the health care industry to differentiate between primary care and specialty clinic visits."

Accordingly, based on the new statutory authority, we are establishing a copayment amount of $15 for primary care visits and $50 for specialty care visits. Further, as discussed below, we would not charge a copayment for certain services.

The $50 copayment for specialty care visits is essentially the same as the current copayment. However, the $15 copayment for primary care visits is more in line with copayment amounts charged in the private sector. A VHA copayment work group found that the mean copayment for primary care in HMOs is $6.84, the mean copayment for mental health care in HMOs is $15.32, and the mean copayment for emergency care in HMOs is $28.91. The work group also found that the most common copayment for all types of HMO care is $10.00. TRICARE Prime copayments range from $6 to $12 for primary and specialty care, from $6 to $25 for mental health care, and $10 to $30 for emergency care.

A primary care outpatient visit is an episode of care furnished in a clinic that provides integrated, accessible healthcare services by clinicians who are accountable for addressing a large majority of personal healthcare needs, developing a sustained partnership with patients, and practicing in the context of family and community. Primary care includes, but is not limited to, diagnosis and management of acute and chronic biopsychosocial conditions, health promotion, disease prevention, overall care management, and patient and caregiver education. Each patient's identified primary care clinician delivers services in the context of a larger interdisciplinary primary care team. Patients have access to the primary care clinician and much of the primary care team without need of a referral. A specialty care outpatient visit is an episode of care furnished in a clinic that does not provide primary care, and is only provided through a referral. Some examples of specialty care provided at a specialty care clinic are radiology services requiring the immediate presence of a physician, audiology, optometry, magnetic resonance imagery (MRI), computerized axial tomography (CAT) scan, nuclear medicine studies, surgical consultative services, and ambulatory surgery.

We believe these definitions of primary care and specialty care are consistent with the common understanding of these terms.

The rule provides that if a veteran has more than one primary care encounter on the same day and no specialty care encounter on that day, the copayment amount is the copayment for one primary care outpatient visit. The rule also provides that if a veteran has one or more primary care encounters and one or more specialty care encounters on the same day, the copayment amount is the copayment for one specialty care outpatient visit. This is intended to encourage veterans to get as much care as they can get scheduled on the same day. Further, we believe that this will help veterans meet their appointments and, consequently, will help veterans obtain the care they need as quickly as possible.

Exceptions

As mandated by statutory authority, the rule provides that the following veterans are not subject to the

copayment requirements for inpatient hospital care or outpatient medical care:

- A veteran with a compensable service-connected disability;
- A veteran who is a former prisoner of war;
- A veteran awarded a Purple Heart;
- A veteran who was discharged or released from active military service for a disability incurred or aggravated in the line of duty;
- A veteran who receives disability compensation under 38 U.S.C. 1151;
- A veteran whose entitlement to disability compensation is suspended pursuant to 38 U.S.C. 1151, but only to the extent that the veteran's continuing eligibility for care is provided for in the judgment or settlement described in 38 U.S.C. 1151;
- A veteran whose entitlement to disability compensation is suspended because of the receipt of military retirement pay;
- A veteran of the Mexican border period or of World War I;
- A military retiree provided care under an interagency agreement as defined in section 113 of Public Law 106–117, 113 Stat. 1545; and
- A veteran who VA determines to be unable to defray the expenses of necessary care under 38 U.S.C. 1722(a).

Also, as mandated by statutory authority, the rule provides that veterans are not subject to the copayment requirements for inpatient hospital care or outpatient medical care authorized under 38 U.S.C. 1710(e) for Vietnam-era herbicide-exposed veterans, radiation-exposed veterans, Gulf War veterans, or post-Gulf War combat-exposed veterans. Further, as mandated by statutory authority, the rule provides that care provided for a veteran's noncompensable zero percent service-connected disability is not subject to the copayment requirements for inpatient hospital care or outpatient medical care.

We have authority to impose a copayment for inpatient hospital care and outpatient medical services only if the care or services are provided under 38 U.S.C. 1710. Accordingly, the rule also exempts the following from the copayment requirements for inpatient hospital care and outpatient medical services because they are provided under authorities other than 38 U.S.C. 1710:

- Special registry examinations (including any follow-up examinations or testing ordered as part of the special registry examination) offered by VA to evaluate possible health risks associated with military service;
- Counseling and care for sexual trauma as authorized under 38 U.S.C 1720D;
- Compensation and pension examinations requested by the Veterans Benefits Administration;
- Care provided as part of a VA-approved research project authorized by 38 U.S.C. 7303;
- Outpatient dental care provided under 38 U.S.C. 1712;
- Readjustment counseling and related mental health services authorized under 38 U.S.C 1712A;
- Emergency treatment paid for under 38 U.S.C. 1725 or 1728;
- Extended care services authorized under 38 U.S.C. 1710B; and
- Care or services authorized under 38 U.S.C. 1720E for certain veterans regarding cancer of the head or neck.

The rule also exempts publicly announced VA public health initiatives (*e.g.*, health fairs) or outpatient visits solely consisting of preventive screening and immunizations (*e.g.* influenza immunization, pneumonococcal immunization, hypertension screening, hepatitis C screening, tobacco screening, alcohol screening, hyperlipidemia screening, breast cancer screening, cervical cancer screening, screening for colorectal cancer by fecal occult blood testing, and education about the risks and benefits of prostate cancer screening). These initiatives are viewed as cost-effective for health care in that they often provide early detection of irregularities or abnormalities that can be resolved without major intervention. Charging a copayment for these services would deter a veteran from obtaining these services. Also, these health care screenings often are provided at no charge to the patient in private health care settings.

The rule provides that laboratory services, flat film radiology services, and electrocardiograms are not subject to the copayment requirements. These services are considered to be a part of the initial provision of care and a separate copayment would not be charged.

The rule provides that outpatient care is not subject to the outpatient copayment requirements under this section when provided to a veteran during a day for which the veteran is required to make a copayment for extended care services that were provided either directly by VA or obtained for VA by contract. We believe that this will encourage veterans to obtain outpatient care needed which should reduce medical problems for patients in a hospital, nursing home, or domiciliary.

Administrative Procedure Act

We have found good cause to dispense with the notice-and-comment and delayed effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) because compliance with such provisions would be impracticable and contrary to the public interest. It is necessary to reduce primary care copayments for outpatient medical care as quickly as possible to encourage enrolled veterans to utilize VA primary outpatient care services, thereby helping to avoid potentially more costly specialty services.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

OMB Review

This document has been reviewed by OMB under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This amendment would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this document are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.025.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government

contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and record-keeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: November 30, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 17 is amended as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

2. An undesignated center heading and § 17.108 are added to read as follows:

Copayments

§ 17.108 Copayments for inpatient hospital care and outpatient medical care.

(a) *General.* This section sets forth requirements regarding copayments for inpatient hospital care and outpatient medical care provided to veterans by VA.

(b) *Copayments for inpatient hospital care.* (1) Except as provided in paragraphs (d) or (e) of this section, a veteran, as a condition of receiving inpatient hospital care provided by VA (provided either directly by VA or obtained by VA by contract), must agree to pay VA (and is obligated to pay VA) the applicable copayment, as set forth in paragraph (b)(2) of this section.

(2) The copayment for inpatient hospital care shall be, during any 365-day period, a copayment equaling the sum of:

(i) $10 for every day the veteran receives inpatient hospital care, and

(ii) The lesser of:

(A) The sum of the inpatient Medicare deductible for the first 90 days of care and one-half of the inpatient Medicare deductible for each subsequent 90 days of care (or fraction thereof) after the first 90 days of such care during such 365-day period, or

(B) VA's cost of providing the care.

Note to § 17.108(b): The requirement that a veteran agree to pay the copayment would be met by submitting to VA a signed VA Form 10–10EZ. This is the application form for enrollment in the VA healthcare system and also is the document used for providing means-test information annually.

(c) *Copayments for outpatient medical care.* (1) Except as provided in paragraphs (d), (e) or (f) of this section, a veteran, as a condition of receiving outpatient medical care provided by VA, must agree to pay VA (and is obligated to pay VA) a copayment as set forth in paragraph (c)(2) of this section.

(2) The copayment for outpatient medical care is $15 for a primary care outpatient visit and $50 for a specialty care outpatient visit. If a veteran has more than one primary care encounter on the same day and no specialty care encounter on that day, the copayment amount is the copayment for one primary care outpatient visit. If a veteran has one or more primary care encounters and one or more specialty care encounters on the same day, the copayment amount is the copayment for one specialty care outpatient visit.

(3) For purposes of this section, a primary care visit is an episode of care furnished in a clinic that provides integrated, accessible healthcare services by clinicians who are accountable for addressing a large majority of personal healthcare needs, developing a sustained partnership with patients, and practicing in the context of family and community. Primary care includes, but is not limited to, diagnosis and management of acute and chronic biopsychosocial conditions, health promotion, disease prevention, overall care management, and patient and caregiver education. Each patient's identified primary care clinician delivers services in the context of a larger interdisciplinary primary care team. Patients have access to the primary care clinician and much of the primary care team without need of a referral. In contrast, specialty care is generally provided through referral. A specialty care outpatient visit is an episode of care furnished in a clinic that does not provide primary care, and is only provided through a referral. Some examples of specialty care provided at a specialty care clinic are radiology services requiring the immediate presence of a physician, audiology, optometry, magnetic resonance imagery (MRI), computerized axial tomography (CAT) scan, nuclear medicine studies, surgical consultative services, and ambulatory surgery.

Note to § 17.108(c): The requirement that a veteran agree to pay the copayment would be met by submitting to VA a signed VA Form 10–10EZ. This is the application form for enrollment in the VA healthcare system and also is the document used for providing means-test information annually.

(d) *Veterans not subject to copayment requirements for inpatient hospital care or outpatient medical care.* The following veterans are not subject to the copayment requirements of this section:

(1) A veteran with a compensable service-connected disability;

(2) A veteran who is a former prisoner of war;

(3) A veteran awarded a Purple Heart;

(4) A veteran who was discharged or released from active military service for a disability incurred or aggravated in the line of duty;

(5) A veteran who receives disability compensation under 38 U.S.C. 1151;

(6) A veteran whose entitlement to disability compensation is suspended pursuant to 38 U.S.C. 1151, but only to the extent that the veteran's continuing eligibility for care is provided for in the judgment or settlement described in 38 U.S.C. 1151;

(7) A veteran whose entitlement to disability compensation is suspended because of the receipt of military retirement pay;

(8) A veteran of the Mexican border period or of World War I;

(9) A military retiree provided care under an interagency agreement as defined in section 113 of Public Law 106–117, 113 Stat. 1545; or

(10) A veteran who VA determines to be unable to defray the expenses of necessary care under 38 U.S.C. 1722(a).

(e) *Services not subject to copayment requirements for inpatient hospital care or outpatient medical care.* The following are not subject to the copayment requirements under this section:

(1) Care provided to a veteran for a noncompensable zero percent service-connected disability;

(2) Care authorized under 38 U.S.C. 1710(e) for Vietnam-era herbicide-exposed veterans, radiation-exposed veterans, Gulf War veterans, or post-Gulf War combat-exposed veterans;

(3) Special registry examinations (including any follow-up examinations or testing ordered as part of the special registry examination) offered by VA to evaluate possible health risks associated with military service;

(4) Counseling and care for sexual trauma as authorized under 38 U.S.C 1720D;

(5) Compensation and pension examinations requested by the Veterans Benefits Administration;

(6) Care provided as part of a VA-approved research project authorized by 38 U.S.C. 7303;

(7) Outpatient dental care provided under 38 U.S.C. 1712;

(8) Readjustment counseling and related mental health services authorized under 38 U.S.C 1712A;

(9) Emergency treatment paid for under 38 U.S.C. 1725 or 1728;

(10) Care or services authorized under 38 U.S.C. 1720E for certain veterans regarding cancer of the head or neck;

(11) Publicly announced VA public health initiatives (*e.g.*, health fairs) or an outpatient visit solely consisting of preventive screening and immunizations (*e.g.* influenza immunization, pneumonococcal immunization, hypertension screening, hepatitis C screening, tobacco screening, alcohol screening, hyperlipidemia screening, breast cancer screening, cervical cancer screening, screening for colorectal cancer by fecal occult blood testing, and education about the risks and benefits of prostate cancer screening); and

(12) Laboratory services, flat film radiology services, and electrocardiograms.

(f) *Additional care not subject to outpatient copayment.* Outpatient care is not subject to the outpatient copayment requirements under this section when provided to a veteran during a day for which the veteran is required to make a copayment for extended care services that were provided either directly by VA or obtained for VA by contract.

(Authority: 38 U.S.C. 1710)

[FR Doc. 01–30182 Filed 12–5–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AK85

Copayments for Medications

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends VA's medical regulations to set forth copayment requirements for medications. This is necessary to implement provisions of the Veterans Millennium Health Care and Benefits Act.

DATES: *Effective Date:* February 4, 2002.

FOR FURTHER INFORMATION CONTACT: Nancy L. Howard at (202) 273–8198, Revenue Office (174), Office of Finance, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420. (This is not a toll-free telephone number).

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on July 16, 2001, we proposed to amend VA's medical regulations to set forth copayment requirements for medications provided to veterans by VA (66 FR 36960). Interested persons were given 60 days to submit comments. We received over 1000 comments, almost all of which opposed all or portions of the proposal. Based on the rationale set forth in the proposed rule and this document, we are adopting the provisions of the proposed rule as a final rule.

A number of commenters asserted that VA should not charge any veteran a medication copayment. Other commenters asserted that VA should not charge veterans who had combat service a medication copayment. Other commenters asserted that military retirees should not be charged a medication copayment. Other commenters asserted that veterans who are service-connected should not be charged a medication copayment for any condition. No changes are made based on these comments. With certain statutory exceptions set forth in § 17.110(c) of this final rule, the provisions of 38 U.S.C. 1722A require veterans to pay a copayment for each 30-day or less supply of medication furnished on an outpatient basis. The applicable statutory provisions do not allow an exemption based merely on the fact that an individual is a veteran, that an individual was a combat veteran, or that a veteran is a military retiree. The provisions in the final rule concerning service-connection are also reflections of statutory requirements. The final rule exempts from the copayment requirements medication for a veteran who has a service-connected disability rated 50% or more based on a service-connected disability or unemployability. The final rule also exempts from the copayment requirements medication for a veteran's service-connected disability. However, VA has no authority to exempt from the medication copayments medication for a nonservice-connected condition of a veteran whose total service-connected disabilities are rated at less than 50%.

The vast majority of commenters opposed the proposal to increase the copayment amount from $2 to $7. Some asserted there should be no increase at all. Others asserted that the increase was just too great. Others asserted that the increase would cause them a financial hardship. Some of the commenters asserted that the Prescription Drug Component of the Medical Consumer Price Index should not be used to determine whether the copayment amount should be increased since this is typically greater than the overall inflation rate. A number of the commenters also asserted that the copayment increase also would cause the annual caps to be too high. A few were in favor of the proposal. No changes are made based on these comments.

The copayment amount was set at $2 in 1990 by 38 U.S.C. 1722A for each 30-day or less supply of medication and until now has never been changed. The Veterans Millennium Health Care and Benefits Act, Public Law 106–117, amended 38 U.S.C. 1722A authorizing VA to increase the copayment amount and to establish maximum annual copayment amounts. Clearly, the statutory intent was for VA to increase the copayment amount. In helping VA to determine the amount of the copayment, the House Conference Report (H. Rept. 106–237, July 16, 1999) specifically noted that the copayment for DOD's Tricare Prime Plan included a $9 copayment for each 30-day prescription. Further, the House Conference Report indicated, at page 42, that "[a] survey of copayment trends in 1996–7 found the most common [prescription drug] copayment among members of the American Association of Health Plans * * * [to be] in the range of $5 to $10 per prescription." Also, as we stated in the proposal, we believe that the proposed $7 medication copayment would be lower than or equal to most medication copayments charged by the private health care industry. Many recent newspaper articles have reported dramatic increases throughout the health care industry for medication copayment amounts which are reflective of increases in medication costs. Accordingly, even with the increase we may have one of the lowest copayment amounts. Under these circumstances, we believe that a $7 copayment amount is reasonable. Further, we believe that increases should be based on the Prescription Drug Component of the Medical Consumer Price Index since it is most relevant to the cost of prescriptions and thereby should be relevant to any general increases in medication copayments in the private sector.

Also, as we stated in the proposal, under 38 U.S.C. 1722A, VA may not require a veteran to pay an amount in excess of the actual cost of the medication and the pharmacy administrative costs related to the dispensing of the medication. VHA conducted a study of the pharmacy administrative costs relating to the dispensing of medication on an outpatient basis and found that VA incurred a cost of $7.28 to dispense an outpatient medication even without consideration of the actual cost of the medication. This amount covers the cost of consultation time, filling time,

dispensing time, an appropriate share of the direct and indirect personnel costs, physical overhead and materials, and supply costs. Under these circumstances, we believe that a $7 copayment would not exceed VA's costs.

A number of commenters asserted that the increase in the medication copayment would cause them a financial hardship, particularly in those cases when a veteran would obtain multiple prescriptions requiring multiple copayments. No changes are made based on these comments. The issue of financial hardship caused by copayments was addressed by statute. The text portion of this document restates statutory provisions by providing that certain veterans whose income is less than the VA pension level are exempt from the copayment requirements. Moreover, the final rule includes an annual cap to help eliminate financial hardships for veterans who in unusual circumstances need a significant number of prescriptions. Furthermore, VA has statutory authority under 38 U.S.C. 5302 to waive debts arising from a veteran's failure to pay the pharmacy copayment when collection of the debt would be against equity and good conscience. One factor VA uses in determining whether collection would be against equity and good conscience is whether it would cause undue hardship by depriving the veteran and his or her family of basic necessities.

One commenter asserted that the income threshold for requiring a medication copayment should be raised. No changes are made based on this comment. This reflects a statutory requirement and we have no authority to change the amount.

A number of commenters indicated that they would return to private-sector health care if the copayment were increased. Although some might choose not to obtain their medications from VA, as we indicated above, we believe that our copayment amount is still on the low end of the private-sector copayment scale.

A number of commenters asserted that VA should not charge copayments in those cases when VA is reimbursed by Medicare. No changes are made based on these comments. Medicare does not provide medication coverage and does not reimburse VA for medication costs.

One commenter suggested that the copayment amount should vary based on geographic location. No changes are made based on this comment. We do not believe that this would be administratively feasible.

One commenter suggested that we refrain from establishing a new copayment amount based on the conclusion that the copayment authority is scheduled to expire September 30, 2002. No changes are made based on this comment. We anticipate that a timely extension of the copayment authority will be enacted into law. If this does not occur we would delete the copayment provisions.

Compliance With the Congressional Review Act and Executive Order 12866

This rule is economically significant under Executive Order 12866 and constitutes a major rule under the Congressional Review Act. The rule is necessary to implement the provisions of section 201 of Public Law 106–117, The Veterans Millennium Health Care and Benefits Act. These provisions, which are set forth at 38 U.S.C. 1722A, authorize VA to set the copayment charge for medications.

I. Benefits Costs

This rule would directly impact veterans who receive prescriptions for other than service-connected conditions and who have been paying a $2 copayment. Based on VA records for fiscal year 2000, we found that approximately 1.1 million veterans averaged 47 30-day supply prescriptions per year. VA collected $101 million in fiscal year 2000 as copayments. This rule would increase the copayment from the current $2 level to $7. We do not believe the increase in the copayment amount will have an impact upon utilization. It is anticipated that the same number of veterans will continue to receive the same average number of prescriptions generating an increase in collections of $250 million annually.

II. Administrative Costs

The estimated administrative cost for these increased collections would remain the same at the current collection expense of $17 million. This is based upon an average cost of a GS–5 at $12/hour x 8.2 million bills per year at the average rate of 10.3 minutes per bill.

III. Alternatives

In addition to alternatives discussed above, VA considered establishing higher and lower copayment and cap amounts and considered whether or not to have escalator provisions. However, for the reasons discussed above, we believe that the copayment and cap amounts, and the escalator provisions, are appropriate.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

OMB Review

This rule is economically significant under Executive Order 12866 and major under the Congressional Review Act. This rule has been reviewed by OMB.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This amendment would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this document are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.025.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: November 30, 2001.
Anthony J. Principi,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 17 is amended as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

2. Section 17.110 is added under the undesignated center heading COPAYMENTS to read as follows:

§ 17.110 Copayments for medication.

(a) *General.* This section sets forth requirements regarding copayments for medications provided to veterans by VA.

(b) *Copayments.* (1) Unless exempted under paragraph (c) of this section, a veteran is obligated to pay VA a copayment for each 30-day or less supply of medication provided by VA on an outpatient basis (other than medication administered during treatment). For the period from February 4, 2002 through December 31, 2002, the copayment amount is $7. The copayment amount for each calendar year thereafter will be established by using the Prescription Drug component of the Medical Consumer Price Index as follows: For each calendar year beginning after December 31, 2002, the Index as of the previous September 30 will be divided by the Index as of September 30, 2001. The ratio so obtained will be multiplied by the original copayment amount of $7. The copayment amount for the new calendar year will be this result, rounded down to the whole dollar amount.

Note to Paragraph (b)(1): Example for determining copayment amount. If the ratio of the Prescription Drug component of the Medical Consumer Price Index for September 30, 2003, to the corresponding Index for September 30, 2001, is 1.2242, then this ratio multiplied by the original copayment amount of $7 would equal $8.57, and the copayment amount for calendar year 2004, rounded down to the whole dollar amount, would be $8.

(2) The total amount of copayments in a calendar year for a veteran enrolled in one of the priority categories 2 through 6 of VA's health care system (see § 17.36) shall not exceed the cap established for the calendar year. The cap for calendar year 2002 is $840. If the copayment amount increases after calendar year 2002, the cap of $840 shall be increased by $120 for each $1 increase in the copayment amount.

(c) *Medication not subject to the copayment requirements.* The following are exempt from the copayment requirements of this section:

(1) Medication for a veteran who has a service-connected disability rated 50% or more based on a service-connected disability or unemployability;

(2) Medication for a veteran's service-connected disability;

(3) Medication for a veteran whose annual income (as determined under 38 U.S.C. 1503) does not exceed the maximum annual rate of VA pension which would be payable to such veteran if such veteran were eligible for pension under 38 U.S.C. 1521;

(4) Medication authorized under 38 U.S.C. 1710(e) for Vietnam-era herbicide-exposed veterans, radiation-exposed veterans, Persian Gulf War veterans, or post-Persian Gulf War combat-exposed veterans;

(5) Medication for treatment of sexual trauma as authorized under 38 U.S.C. 1720D;

(6) Medication for treatment of cancer of the head or neck authorized under 38 U.S.C. 1720E; and

(7) Medications provided as part of a VA approved research project authorized by 38 U.S.C. 7303.

(Authority: 38 U.S.C. 501, 1710, 1720D, 1722A)

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40 CFR Part 8

Environmental Impact Assessment of Nongovernmental Activities in Antarctica; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 8

[FRL–7114–3]

RIN 2020–AA34

Environmental Impact Assessment of Nongovernmental Activities in Antarctica

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Public Law 104–227, the Antarctic Science, Tourism, and Conservation Act of 1996 (the Act), amends the Antarctic Conservation Act of 1978 to implement the Protocol on Environmental Protection (the Protocol) to the Antarctic Treaty of 1959 (the Treaty). The Act directs the Environmental Protection Agency (EPA) to promulgate regulations that provide for assessment of the environmental impacts of nongovernmental activities in Antarctica and for coordination of the review of information regarding environmental impact assessments received from other Parties under the Protocol. This final rule establishes the requirements for assessment of the environmental impacts of nongovernmental activities in Antarctica and for coordination of the review of information regarding environmental impact assessments received from other parties under the Protocol.

DATES: This rule will be effective on January 7, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Montgomery or Ms. Katherine Biggs at telephone: (202) 564–7157 or (202) 564–7144, respectively, or by mail at: NEPA Compliance Division; Office of Federal Activities (2252A); U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue, NW; Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: This preamble is organized according to the following outline:

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I. Introduction

A. Statutory Background

On October 2, 1996, the President signed into law the Antarctic Science, Tourism, and Conservation Act of 1996 (the Act). The purpose of the Act is to implement the provisions of the Protocol on Environmental Protection (the Protocol) to the Antarctic Treaty of 1959 (the Treaty). The Act provides that:

"The [Environmental Protection Agency] shall within 2 years after the date of * * * enactment * * * promulgate regulations to provide for * * * the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under Paragraph 5 of Article VII of the Treaty * * * and * * * coordination of the review of information regarding environmental impact assessment received from other Parties under the Protocol." Regulations must be "consistent with Annex I to the Protocol."

B. Background of the Rulemaking

Although the Act gave the Environmental Protection Agency (EPA) two years to promulgate regulations, the United States (U.S.) sought immediate ratification of the Protocol which, in turn, required EPA, contemporaneous with ratification, to have regulations in effect which enabled the U.S. to comply with its obligations under the Protocol. Accordingly, on April 30, 1997, EPA promulgated an interim final rule so that the United States could ratify the Protocol and implement its obligations under the Protocol as soon as the Protocol entered into force.

Because of the importance of facilitating the Protocol's prompt entry into force, EPA believed it had good cause under 5 U.S.C. 553(b)(B) to find that implementation of notice and comment procedures for the interim final rule would be contrary to the public interest and unnecessary. Therefore, the interim final regulations were issued without notice and an opportunity to comment and, for the same reasons, under 5 U.S.C. 553(d)(3), the interim final regulations took effect on April 30, 1997.

Further, EPA believed that public comment on the requirements for environmental documentation, including procedures and content, in the interim final regulations was unnecessary because the interim final regulations incorporated the environmental documentation requirements of the Protocol, which was signed by the U.S. in 1991 and received the advice and consent of the Senate in 1992. Specifically, language from the Protocol was incorporated into the interim final regulations regarding the content of initial environmental evaluation (IEE) and comprehensive environmental evaluation (CEE) documentation as required by the Protocol, and the timing requirements of the interim final regulations were set out to meet those established by Annex I to the Protocol.

At the time the interim final regulations were promulgated, EPA announced its plans to provide extensive opportunities for public comment in the development of the proposed final regulations. EPA stated the final regulations would be proposed and promulgated in accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 553 *et seq.*), which generally requires notice to the public, description of the substance of the proposed rule and an opportunity for public comment. Further, EPA announced that it would prepare under the National Environmental Policy Act

(42 U.S.C. 4321 *et seq.*) an Environmental Impact Statement (EIS), which would consider the environmental impacts of the proposed rule and alternatives and address the environmental and regulatory issues raised by interested agencies, organizations, groups and individuals. EPA stated that the public would have an opportunity to participate in the scoping process for the EIS. The Notice of Availability for the "Draft Environmental Impact Statement for the Proposed Rule on Environmental Impact Assessment of Nongovernmental Activities in Antarctica" (DEIS) was published in the **Federal Register** on February 16, 2001; the public comment period closed on April 2, 2001. In preparing this final rule, EPA considered the comments received on the issues involved with and the alternatives presented in the DEIS for this regulatory action.

The interim final regulations were intended to be limited in time and effect to provide for a transition period until the final regulations could be developed. This was expected to occur prior to the statutory deadline of October 2, 1998. However, during scoping, the International Association of Antarctica Tour Operators, individual tour operators, and The Antarctica Project/Antarctic and Southern Ocean Coalition requested that the deadline for the interim final rule be extended to give the operators an opportunity to determine the "workability" of the requirements and then to comment to EPA. After consultation with other interested federal agencies, EPA determined that this request was reasonable and that additional time to develop the final rule would be beneficial. Thus, EPA issued a direct amendment to the interim final rule effective July 14, 1998, which extended its applicability through the 2000–2001 austral summer. The interim final regulations served as the model for these final regulations which are described below. Certain aspects of these final regulations are new or different from the interim final regulations, including a new provision that would allow submission of environmental documentation on a multi-year basis and a definition of the term "more than a minor or transitory impact."

II. Public Comments on the Proposed Rule and EPA's Response to These Comments

Five sets of comments were received in response to the June 29, 2001, notice of proposed rule-making. Comments were received from: two federal agencies, the U.S. Department of State and the National Science Foundation; tour industry respondents including the International Association of Antarctica Tour Operators (IAATO), its U.S. members and one non-member; and two non-governmental environmental interest organizations including The Antarctica Project on behalf of the Antarctic and Southern Ocean Coalition, and the Defenders of Wildlife. Most of the comments raised by the industry respondents and the non-governmental environmental interest organizations were the same or similar to comments raised by these entities during scoping for EPA's EIS and the subsequent public comment period on the DEIS. The scoping comments were considered by EPA in the development of the alternatives for the proposed rule-making, and the comments on the DEIS were considered by EPA in the development of the proposed rule.

Federal agencies. The two federal agencies support the rule as proposed. One agency supports implementation of the rule as soon as possible since the rule supports implementation of the Protocol on Environmental Protection to the Antarctic Treaty. The other agency commented that the rule, as proposed, is fully responsive to, and consistent with, the requirements of the Protocol and EPA's implementation authority under the Act.

Tour industry respondents. The tour industry respondents generally support EPA's approach in the proposed rule, particularly the provision for multi-year environmental documentation, although they opine that certain modifications to reduce regulatory burdens, as previously commented to EPA under the EIS scoping and DEIS review process, would be appropriate. However, the tour industry respondents did provide other specific comments which are addressed below.

In their previous comments, the tour industry respondents requested elimination of EPA's ability to pass on the adequacy of environmental documentation and to eliminate the enforcement provision in the rule in order to reduce regulatory burden. EPA is not accepting these proposed modifications because the Act requires EPA to provide for the environmental impact assessment of nongovernmental activities, including tourism, for which the U.S. is required to give advance notice under paragraph 5 of Article VII of the Treaty in order for the U.S. government to implement certain of its obligations under the Protocol. The procedures in the rule ensure that: (1) Nongovernmental operators identify and assess the potential impacts of their proposed activities, including tourism, on the Antarctic environment; (2) operators consider these impacts in deciding whether or how to proceed with proposed activities; and (3) operators provide environmental documentation pursuant to the Act and Annex I of the Protocol. In keeping with the U.S. government's obligations under the Protocol and EPA's obligations under the Act, under the rule, EPA may make a finding that the environmental documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of the regulations. EPA believes that before such a finding is made, it is prudent to offer comments to the operator so that the operator may, at its discretion, make necessary revisions to the document. If the operator proceeded after EPA made a finding that the documentation does not meet the requirements of Article 8 and Annex I and the requirements of the regulations, the operator would be in violation of the regulations and would be subject to enforcement.

The tour industry respondents requested elimination of Preliminary Environmental Review Memorandums (PERMS) in order to reduce regulatory burden. EPA is not accepting this proposed modification because the preliminary environmental review process that may result in PERM-level environmental documentation is significantly different from submitting the basic information delineated in 40 CFR 8.4(a) of the rule, information similar to that submitted by operators for advance notification purposes. Simply submitting this information does not constitute the preliminary environmental review process as delineated in 40 CFR 8.6 of the rule for PERMS. EPA notes that, to date, none of the U.S.-based operators has submitted PERM-level documentation for its final environmental document.

The tour industry respondents requested that the rule provide for automatic reciprocity when environmental documentation is prepared for other Treaty Parties in order to reduce regulatory burden. EPA is not accepting this proposed modification because it is the responsibility of the U.S. government to comply with its obligations under the Protocol. The U.S. government would need to determine whether on a case-by-case basis it could rely on the regulatory procedures of another Party. Therefore, EPA believes that a discretionary process should not be included in the rule.

To reduce regulatory burden, the tour industry respondents requested that the rule provide a "categorical exclusion"

from the requirement to prepare environmental documentation for ship-based tourism conducted according to the "Lindblad model." EPA is not accepting this proposed modification for the following reasons. As discussed in the Preamble at section III.H., the National Environmental Policy Act (NEPA) defines "categorical exclusion" as "a category of actions which do not individually or cumulatively have a significant effect on the human environment * * * and for which, therefore, neither an environmental assessment nor an environmental impact statement is required" (40 CFR 1508.4). Only narrow and specific classes of activities can be categorically excluded from environmental review. For example, EPA in its NEPA regulations at 40 CFR 6.107(d) excludes "* * * actions which are solely directed toward minor rehabilitation of existing facilities * * *" and the National Science Foundation in its environmental assessment regulations at 45 CFR 641(c)(1) and (2) excludes certain scientific activities (*e.g.*, use of weather/research balloons that are to be retrieved) and interior remodeling and renovation of existing facilities. EPA does not have a specific definition for the "Lindblad model." EPA also believes that a broad categorical exclusion covering ship-based tourism as now conducted does not fit well with the approach used by the U.S. government for categorical exclusions because it does not identify actions to be excluded in sufficient detail. Further, more needs to be known about potential cumulative impacts of nongovernmental activities undertaken by U.S.-based ship-based tour operators before deciding to exclude some or all of these specific activities. Categorical exclusions can be designated by amendment to the rule if categorical exclusion activities are identified in the future. Any such amendment to the rule would be subject to notice and comment.

The tour industry respondents requested that the rule clarify that even if mitigation is not carried out as described in the environmental documentation, this would not subject an operator to enforcement action or otherwise place an operator in violation of its obligations under the Protocol, the Act and EPA's implementing regulations. EPA is not accepting this proposed modification for the following reasons. EPA recognizes that the rule requires only that environmental documentation be prepared and does not specifically require implementation of either the activities, as described, or the planned mitigation measures. However, if, for example, an operator proposes to mitigate the potential environmental impacts associated with a proposed activity, and the assessment of the proposed activity without the mitigative measures would be greater than minor or transitory effects, EPA assumes the operator will proceed with these mitigation measures. Otherwise, to be in compliance with the provisions of the rule, the operator's decision might have been to prepare a CEE, a different level of environmental documentation used when the reasonably foreseeable potential environmental effects of a proposed activity are likely to be more than minor or transitory. (*e.g.*, if planned mitigation measures are the basis for the level of documentation there is an obligation on the part of the operator to implement the planned mitigation, otherwise, the level of documentation might not have met the requirements of the Protocol and the regulations.)

Further, EPA assumes the activities will be undertaken as planned and described because, based on experience to date, the planned mitigation measures are generally one of the following: requirements or prohibitions of federal laws (for example, tour vessels are operated according to the domestic legislation of its flag state that gives effect to MARPOL, U.S.-based tour operators adhere to applicable domestic statutes and regulations, and staff are trained and passengers educated on the mandates and prohibitions of the Treaty, the Protocol, and U.S. regulations); adopted recommendations under the Antarctic Treaty System (for example, certain mitigation measures include staff training and passenger education on Recommendation XVIII–1); and, for most U.S.-based ship-based tour operators, requirements for membership under IAATO's Bylaws (for example, certain mitigation measures include adherence to the membership provisions of the IAATO Bylaws, specifically, agreement not to have more than 100 passengers ashore at any one site at the same time). EPA acknowledges that section II.D.3.(d), Mitigation, in the proposed rule's Preamble (section III.D.3.(d) in the Preamble to this final rule) was not in the Preamble to the Interim Final Rule. However, section II.D.5, Measures to Assess and Verify Environmental Impacts, in the Preamble to the Interim Final Rule states in the example for activities requiring an IEE that the information could include, as appropriate, "* * * *description of any activity requiring mitigation*, the mitigative actions undertaken, and the actual or projected outcome of the mitigation" (italics added for emphasis). Once again, EPA believes that if an operator chooses to mitigate and the mitigation measures are the basis for the level of environmental documentation, EPA assumes the operator will proceed with these mitigation measures. Otherwise, the level of documentation may not have met the requirements of Article 8 and Annex I and the provisions of the regulations. Were an operator to fail to comply with these regulations, the operator could be subject to enforcement under the provisions listed in 40 CFR 8.11.

The tour industry respondents requested that EPA, in the Preamble to the rule, confirm the respondents' interpretation of the nature of the requirements of section 8.9, measures to assess and verify environmental impacts, including that operators are under no regulatory obligation to submit post-season reports related to the assessment and verification of environmental impacts to EPA (or to any other Federal agency), that operators are responsible for deciding whether and how to proceed with proposed activities, and that operators are not subject to any regulatory requirement to make assessment and verification information available to EPA. These same issues were addressed by EPA in the Information Collection Request, Part C of the Supporting Statement, for the Interim Final Rule and have been addressed by EPA in the Supporting Statement for the Information Collection Request for this rule. With regard to assessment and verification information, the Protocol, and thus the Act, requires that operators have procedures designed to provide a regular and verifiable record of the impacts of their activities. Like the Interim Final Rule, such a provision has been incorporated into this final rule in order to ensure that the U.S. government has the ability to implement its environmental impact assessment obligations for nongovernmental operators under the Protocol, including a requirement that operators have procedures designed to provide a regular and verifiable record of the impacts of these activities. EPA believes that this establishes a requirement that the information be available to EPA in order to verify that the operator has assessment and verification procedures. Otherwise, there would be no way to know if an operator was in compliance with this requirement of the regulation. Operators are currently voluntarily providing this information to the

government, thus it is available to EPA. As indicated in the regulations (40 CFR 8.1(b)), this Preamble (section III.C.), and the Supporting Statement for the Information Collection Request for this rule (section 2(b)), the operator is responsible for deciding whether or how to proceed with proposed activities.

The tour industry respondents requested that EPA clarify in the final rule that, at least in the near term, the Agency does not expect environmental documentation to include assessment of cumulative impacts in that information is currently insufficient to determine whether such impacts are in fact likely. EPA is not accepting this proposed modification because, as acknowledged by the tour industry respondents, Annex I includes consideration of cumulative impacts in light of existing and known planned activities for IEE and CEE level documentation. In order to remain consistent with Annex I, the final rule requires the same. However, EPA believes that, to date, the IEEs submitted by U.S.-based operators have contained sufficient detail to assess whether proposed activities may have more than a minor or transitory impact on the Antarctic environment including consideration of cumulative impacts in light of existing and known proposed activities. EPA further believes that the operators' conclusions to date, including those for cumulative impacts, have been supported by the information currently available. (*e.g.*, based on the current scientific studies, there is no evidence of cumulative environmental impacts related to tourism.) However, the issue of cumulative impacts, particularly in the Peninsula area, remains a concern in light of such factors as the increasing number of tour operators, expeditions, and passengers landed; the number of sites visited; and the frequency with which certain sites are visited. For these reasons, EPA jointly sponsored a workshop with the National Science Foundation and IAATO to consider the issue of possible cumulative environmental impacts associated with ship-based tourism. Amongst other things, the workshop discussions exemplified the difficulties of identifying cumulative impacts related specifically to tourism. (For example, research findings suggest that most of the variability associated with the decline in Adelie penguins can be explained by the effects of climate change, and tourism is not having a measurable impact on Adelie penguin populations in the Palmer Station area.) As data and information become available on cumulative impacts, the operators may, as appropriate, decide to modify their activities and/or their mitigation measures, or they may determine that a different level of environmental documentation is appropriate. To date, however, EPA believes that the IEEs prepared by the U.S.-based operators have identified and assessed the potential environmental consequences associated with their planned activities, including cumulative impacts.

Non-governmental environmental interest organizations. One of the non-governmental environmental interest organizations incorporated by reference the comments it made to EPA during the scoping process for the DEIS for the proposed rule and on the DEIS. Comments in these attachments either reiterate comments provided by the commentor on the proposed rule and/or provide recommendations that were considered in EPA's preparation of the DEIS for this rule-making. EPA has focused its response to the issues specifically addressed in the commentor's letter on the proposed rule except where both non-governmental environmental interest organizations provided comment on the same issue; any such issues are specifically responded to below.

Both of the non-governmental environmental interest organizations supported EPA's decision not to categorically exclude Antarctic ship-based tourism organized under the "Lindblad Model." One of the commentors does not believe that categorical exclusions are appropriate for any type of non-emergency activity in Antarctica. EPA disagrees with this opinion. Although no activities have yet been identified that can be categorically excluded, EPA believes this regulatory option should not be precluded automatically. EPA reiterates that categorical exclusions can be designated by amendment to the rule if such activities are identified in the future. Any such amendment to the rule would be subject to notice and comment.

One of the non-governmental environmental interest organizations supported a provision for multi-year environmental documentation and the other objected to the multi-expedition/multi-year environmental documentation provisions. EPA is not removing these provisions from the final rule for the following reasons. EPA believes that the environmental impact assessment process documented in the IEEs prepared by the U.S.-based operators that have included multiple expeditions by a single operator, and by more than one operator, have identified the potential environmental impacts, including direct, indirect and cumulative impacts. The assessment process employed by the operators under the regulations is the same as that delineated in Article 8 and Annex I. EPA believes this process can be, and has been, applied appropriately to multiple expeditions by a single operator, or by more than one operator. Further, the multi-year provision is applicable only if the conditions described in the document, including the assessment of cumulative impacts, are unchanged. An operator would need to take into account any additional data or information obtained over the course of the five-year life of the environmental document and if the conditions described in the initial multi-year document are changed by this data or information, then the operator would need to submit supplemental environmental documentation that appropriately addresses this information relative to the operator's planned activities as delineated in the multi-year document. If, for example, a new activity is added, this information can be submitted as a supplement to the multi-year document provided that this does not change the overall assessment of impacts and conclusion by the operator (*e.g.*, for an IEE, the potential impacts are no more than minor or transitory).

One of the non-governmental environmental interest organizations supported the multi-year environmental documentation provision but recommended that operators submit some form of annual certification, under the enforcement sanctions provision, that there have been no change in the conditions described in the multi-year document. EPA is not accepting this proposed modification to the multi-year provision because this requirement, including the enforcement sanction provision, is implicit in 40 CFR 8.4(e). If the operator were to continue with planned expeditions that do not meet the conditions described in the multi-year document, the operator's documentation may not met the requirements of Article 8 and Annex I and the requirements of the rule and the operator could, therefore, be subject to enforcement under 40 CFR 8.11.

Both of the non-governmental environmental interest organizations disagree with defining in the rule "more than a minor or transitory impact" as having the same meaning as the term "significantly" as defined in regulations under the National Environmental Policy Act at 40 CFR 1508.27. EPA is retaining this definition for the following reasons. The Protocol does not define "minor or transitory." Until the Antarctic Treaty Consultative

Meeting (ATCM) provides guidance or definition, EPA believes it is reasonable to provide such guidance to operators and that it is prudent to define the term "more than a minor or transitory impact" consistent with the threshold definition applied to the environmental impact assessment of governmental activities in Antarctica as delineated in 16 U.S.C. 2401 et seq. If a definition were to be provided under the Protocol or other appropriate means under the Treaty, EPA would amend its final rule, as appropriate, to ensure it is consistent with Annex I as required by the Act. Contrary to the commentors' assertions, as with the Protocol, NEPA's starting point is the environment. As stated in 40 CFR 1500.1, NEPA "is our basic national charter for protection of the environment" (italics added for emphasis).

Both of the non-governmental environmental interest organizations commented on public review of IEEs. One commentor agreed with EPA's process for advertising the public availability of IEEs on its website and the schedule for IEE reviews. The other commentor recommended a regulatory provision for EPA to advertise the availability of IEEs on its website and for public comment on IEEs. EPA is not accepting these proposed modifications because this process is required by Article 8 and Annex I only for CEEs. EPA will continue to publish notice of availability of IEEs on its website. Based on its experience to date, there has been no evidence that interested parties have been unable to obtain IEEs and to offer comments to the operators under this notification scheme. EPA believes that including a regulatory provision for public notice and comment on IEEs would not necessarily reduce environmental impacts (*e.g.*, an operator's conclusion for an IEE would remain that the potential impacts of the proposed activity will be no more than minor or transitory). It would, however, impose obligations and undue burden on U.S. nongovernmental operators not required under Annex I or the Act, and would not be consistent with the environmental impact assessment requirements that apply to U.S. governmental entities for activities in Antarctica. C.f. 45 CFR 641.10 through 641.22 (National Science Foundation regulations for assessing impacts of governmental activities in Antarctica).

Both of the non-governmental environmental interest organizations commented on the schedules for environmental documentation submission and review. One commentor recommended that EPA change either the default provisions that provide for approval of nongovernmental activities or extend the time period in which it can respond to environmental documentation. The other commentor believes the dates listed for CEEs are inaccurate and recommends that CEEs be required 180 days prior to the next ATCM rather than on December 1 since the December 1 date assumes the ATCMs will be on schedule for spring meetings which is not always the case. Regarding the first comment, under the final rule, EPA does not "approve" activities. EPA, in consultation with other interested Federal agencies, will review the environmental documentation to determine whether it meets the requirements of Article 8, Annex I and the regulations. Regarding the comments on the schedules for review, EPA is not accepting the commentors' proposed modifications because it believes the schedules in the rule are reasonable, as has been demonstrated by experience under the Interim Final Rule. Further, these schedules conform to the necessary time frames should an operator decide, based on comments offered by EPA, to revise the document or to submit a higher level of environmental documentation. Regarding the recommendation to change the submission for CEEs to 180 days before the next ATCM, EPA believes this is not reasonable nor is it warranted. The ATCM traditionally has been held in the May-June time frame, although the Protocol does not dictate this schedule. The date of the ATCM may vary. While it is possible that the meeting schedule would be set early enough to allow time for an operator to submit a draft CEE 180 days before the next ATCM, this is not certain. This commentor also expressed concern that since an activity cannot be held up for more than 15 months, there may not be time for the operator to address comments received at the ATCM, particularly if the ATCM is held relatively close to the beginning of the Antarctic tourist season. The final rule states that a draft CEE must be submitted by December 1 of the preceding year. The 15-month clock does not begin on the date the CEE is submitted to the State Department, but rather starts on the date the State Department circulates the draft CEE to the Parties to the Protocol and the Committee for Environmental Protection. Thus, even if the draft CEE was circulated by the State Department as early as mid-December, the 15-month clock for this project would run through mid-March of the next season which falls after the end of the regular tourist season for that year.

One of the non-governmental environmental interest organizations commented that it believes the rule proceeds on a number of erroneous factual, legal and policy conclusions, that it insufficiently implements the mandate of Congress in legislating the Act, and will inadequately protect the Antarctic environment for nongovernmental activities conducted there, particularly tourism. EPA disagrees with this opinion. EPA sought assistance from the Department of State, the Department of Justice and the National Science Foundation on factual, legal and policy issues.

One of the non-governmental environmental interest organizations reiterated its concern that the rule proceeds on the assumption that Antarctic tourism is limited, controlled and easily subject to self-regulation by the industry, and that the projections for increases in Antarctic tourism have been deliberately understated perhaps requiring a new round of regulatory review in 5–10 years. EPA disagrees with these opinions. In keeping with the purpose and need for this rule-making, EPA's objective during the rule-making process, including the DEIS for the proposed rule, has not been to analyze the magnitude and impact of tourism on the Antarctic environment but rather to evaluate the environmental impacts of the alternatives for the final rule. EPA disagrees that the projections for increases in Antarctic tourism have been deliberately understated. The projections used by EPA are based on the available data and information in referenced sources in the DEIS. The rule delineates the environmental impact assessment process, a process that accounts for increases in tourism and assessment of any potential impacts, including cumulative impacts, that could result from such increases. EPA does not believe that increases in tourism will necessarily require new regulatory review. Rather, to the extent that increases in tourism would have the potential to result in impacts that are more than minor or transitory, an operator would prepare a CEE to be in compliance with the regulations.

One of the non-governmental environmental interest organizations' primary objections to the legal conclusions propounded in the rule includes objection that the rule does not broaden the definition of "operator;" in the opinion of the commentor, section 4(a)(6) of the Act extends applicability of the Act, and thus the rule, to any person who organizes, sponsors, operates or promotes a non-governmental expedition to the United States, and who does business in the

United States. In response, the authority for EPA's rule-making is 16 U.S.C. 2401 *et. seq.*, as amended, 16 U.S.C. 2403a. EPA does not believe that section 2403(a)(6) (e.g., section 4(a)(6) of the Act) is germane to this rule-making. EPA sought legal, and programmatic, assistance from the Department of State, the Department of Justice and the National Science Foundation on this issue; EPA stands by this analysis.

One of the non-governmental environmental interest organizations' primary objections to the legal conclusions propounded in the rule includes its opinion that the rule should include a requirement that environmental documentation demonstrate compliance with applicable Protocol and statutory provisions; further, the Act does not require parity between governmental and nongovernmental activities in this regard. EPA is not accepting this proposed modification for the following reasons. First, certain provisions of the Act are the responsibility of other federal agencies. Further, rather than imposing a blanket requirement that may add unnecessary burden on the operator, EPA maintains that the EIA documentation provides the mechanism to identify whether a proposed activity raises issues under other obligations of the Protocol or domestic law which need further review by the responsible authority. Operators may, and do, reference compliance with appropriate Protocol provisions and U.S. regulations as planned mitigation measures for their activities, measures which support the level of environmental documentation for the planned activities. A mandatory blanket requirement to demonstrate compliance would impose obligations not required under Annex I or the Act and would require considerations that may have no relevance to the activity and, thus, no effect in reducing environmental impacts. EPA acknowledges that the Act does not require consistency between the governmental and nongovernmental environmental impact assessment processes and regulations. However, regardless of whether the activities are governmental or nongovernmental, it is the U.S. government that has the responsibility to ensure that the U.S. is able to comply with its obligations under the Protocol. The National Science Foundation is charged with this responsibility for governmental activities, and EPA for purposes of nongovernmental activities. EPA believes it is reasonable that the governmental and nongovernmental processes be consistent with regard to the requirements of Article 8 and Annex I to the Protocol.

One of the non-governmental environmental interest organizations' primary objections to the legal conclusions propounded in the rule includes its opinion that Article 3 of the Protocol, unlike NEPA, imposes substantive requirements and because the rule does not impose substantive requirements, nongovernmental operators can file IEEs and CEEs that disclose substantial risks to the Antarctic environment or associated and dependent ecosystems and those activities could be approved. EPA sought legal, and programmatic, assistance from the Department of State and the National Science Foundation on the Article 3 issue. It is the U.S. government's position that Article 3 of the Protocol does not impose substantive obligations. Thus, EPA is not accepting this proposed modification. Further, as noted above, as with the Interim Final Rule, under the final rule, EPA does not "approve" activities. EPA, in consultation with other interested federal agencies, will review the environmental documentation to determine whether it meets the requirements of Article 8 and Annex I and the regulations.

One of the non-governmental environmental interest organizations expressed concerns that the Preamble language discussing harmonization between regulation of governmental and nongovernmental actors and cost/benefit analyses of the provisions of the rule have the effect of narrowing the scope of the regulatory regime. This commentor also maintains the regulatory regime is also narrowed by EPA's argument that if enhanced regulation and enforcement is adopted, U.S.-based operators will simply move to another country to evade such regulation or enforcement. EPA acknowledges that the Act does not require consistency between the governmental and nongovernmental environmental impact assessment processes and regulations. However, regardless of whether the activities are governmental or nongovernmental, it is the U.S. government that has the responsibility to ensure that the U.S. is able to comply with its obligations under the Protocol. As discussed above, the National Science Foundation is charged with this responsibility for governmental activities, and EPA for purposes of nongovernmental activities. EPA believes it is reasonable that the governmental and nongovernmental processes be consistent with regard to the requirements of Article 8 and Annex I of the Protocol. EPA further acknowledges that neither the Protocol nor the Act dictates a cost-benefit requirement but that it gave consideration to, amongst other things, the concern that U.S.-based operators continue to do business as U.S. operators and not move their Antarctic business operations to a non-Party country because of any undue burden imposed by the final rule. However, this was one of several considerations that EPA believed was reasonable in its analysis of the alternatives for the rule-making in the DEIS and the process to promulgate the final rule.

One of the non-governmental environmental interest organizations expressed concern that the Preamble language discussing IEEs as the appropriate level of environmental documentation has the effect of corrupting the integrity of the environmental impact assessment process and narrowing the scope of the regulatory regime. EPA disagrees with this opinion. The Preamble at section III.D.3.(b) includes reference to not only ATCM Recommendation XVIII–1 but also the relevant provisions of other U.S. statutes and Annexes II–V to the Protocol. The information in the Preamble is not regulatory, rather it is a guideline to operators. The regulations state the mandatory requirements that must be met by operators and include the criteria for the level of environmental documentation. EPA believes that providing a level of guidance to those subject to regulation does not corrupt the integrity of the regulatory process. Contrary to the commentor's assertion that EPA has made a conclusory statement regarding IEEs, including that a CEE may not be called for in some cases for nongovernmental activities, EPA's view is that, as stated in the Preamble, at a minimum, an IEE is the appropriate level of environmental documentation where multiples of the activity over time are likely and may create a cumulative impact.

One of the non-governmental environmental interest organizations expressed concern that the Preamble language discussing the criteria for a CEE narrows the scope of the regulatory regime. EPA disagrees with this opinion. In section III.D.4., EPA provides the new crushed rock airstrip or runway example as a level of guidance to those subject to regulation. EPA disagrees that a 10% increase in tourism activity would automatically trigger the need for a CEE. As with any activity, including the runway example or a 10% increase in tourism, the rule delineates the environmental impact assessment process to be employed by

an operator to determine the level of potential impact for the proposed activity and, thus, the level of environmental documentation required by the rule.

This final rule is being promulgated without change in response to comments for the reasons stated above and because these regulations are consistent with Annex I to the Protocol and ensure that the U.S. government is able to meet its obligations under the Protocol. This final rule ensures that nongovernmental operators identify and assess the potential impacts of their proposed activities, including tourism, on the Antarctic environment; that operators consider these impacts in deciding whether or how to proceed with proposed activities; and that operators provide environmental documentation pursuant to the Act and Annex I of the Protocol. This final rule also provides for coordination of the review of information regarding environmental impact assessment received from other Parties under the Protocol.

III. Description of Program and These Regulations

A. The Antarctic Treaty and Protocol

The Antarctic Treaty of 1959 entered into force in 1961 and guarantees freedom of scientific research in Antarctica, reserves Antarctica exclusively for peaceful purposes, establishes regular meetings of the Parties to the Treaty (Parties) to develop measures to implement the Treaty and to deal with issues that may arise, and freezes territorial claims. Currently 27 countries participate in decision-making under the Treaty as Consultative Parties. Eighteen other countries are Parties, but may not block decisions taken by consensus of the Consultative Parties.

As human activities in Antarctica intensified, concern grew regarding the effects of such activities on the Antarctic environment and the potential consequences of the development of mineral resources. In 1990, the U.S. Congress responded by passing the Antarctic Protection Act, which prohibited persons subject to U.S. jurisdiction from engaging in Antarctic mineral resource activities and called for the negotiation of an environmental protection agreement.

Over the years, the Antarctic Treaty Parties have adopted a variety of measures to protect the Antarctic environment. In 1991, the Parties adopted the Protocol on Environmental Protection which builds upon the Treaty by extending and strengthening Antarctic environmental protection. The Protocol designates Antarctica as a natural reserve dedicated to peace and science, and bans non-scientific mineral activities. The Protocol requires prior assessment of the possible environmental impacts of all activities to be carried out in Antarctica. It establishes the Committee for Environmental Protection (the Committee) to provide expert scientific and technical advice to the Parties on measures necessary to effectively implement the Protocol. The Protocol requires that draft CEEs for activities likely to have more than a minor or transitory impact on Antarctica and its dependent and associated ecosystems be provided to the Parties and to the Committee. Because legislation was needed in order for the United States to be able to implement its obligations under the Protocol, the Antarctic Science, Tourism, and Conservation Act of 1996 was enacted by Congress. The Act directs EPA to issue regulations implementing the requirements for environmental impact assessments of nongovernmental activities, including tourism, for which the U.S. is required to give advance notice under the Treaty.

B. The Purpose of These Regulations

The purpose of these final regulations is to provide for the evaluation of the potential environmental impact of those nongovernmental activities in Antarctica, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Treaty. The Treaty requires notice of, *inter alia*, "all expeditions to Antarctica organized in or proceeding from" the United States. In addition, these regulations provide for coordination of reviews of draft CEEs received from other Parties, in accordance with the Protocol. The Act states that these regulations are to be consistent with Annex I to the Protocol.

Among other things, these regulations specify the procedures that need to be followed by any person or persons organizing a nongovernmental expedition to or within Antarctica ("operator" or "operators") in evaluating the potential environmental impacts of their activities. These regulations include considerations and elements relevant to environmental documentation of the evaluation, as well as procedures for submission of environmental documentation that allow the EPA to review whether the evaluation meets the provisions of the regulations and the requirements of Annex I of the Protocol.

Operators currently provide information prior to each Antarctic summer season to the Department of State to meet U.S. obligations for notification pursuant to Article VII of the Treaty, which requires advance notice of expeditions to and within Antarctica. This information is also part of the basic information requirements for preparation of environmental documentation, as addressed in Section 8.4(a) of these regulations. While operators would be required to include this information in environmental documentation, they could also continue to provide this information directly to the Department of State.

C. Summary of the Protocol

This final rule implements Annex I to the Protocol, which describes procedures to be used in conducting environmental impact assessments of effects of activities in Antarctica. Article 8 of the Protocol provides that Parties to the Protocol ensure that the assessment procedures of Annex I are applied in planning processes leading to decisions about any activities, including nongovernmental activities, including tourism, to be undertaken in the Antarctic Treaty area for which advance notice is required under paragraph 5 of Article VII of the Treaty.

The procedures set forth in Annex I require that all proposed activities by operators be assessed, through one or more stages of environmental impact assessment. If an activity will have an impact that is less than minor or transitory, only a preliminary environmental assessment would need to be submitted in accordance with these regulations before the activity proceeds. For an activity that will have no more than a minor or transitory impact, an initial environmental evaluation (IEE) must be submitted in accordance with these regulations before the activity proceeds. Finally, if it is determined (through an IEE or otherwise) that an activity is likely to have more than a minor or transitory impact, a comprehensive environmental evaluation (CEE) must be submitted in accordance with these regulations before the activity proceeds.

An IEE describes an activity's purpose, location, duration and intensity, and considers alternatives and assesses impacts, including cumulative impacts, in light of existing and known proposed activities. A CEE is a detailed analysis that comprehensively evaluates the activity, its impacts, alternatives, mitigation and the like. A draft CEE must be provided to the Parties and the Committee at least 120 days before the next consultative meeting where the draft CEE may be addressed. No final decision shall be taken to proceed with any activity for which a CEE is prepared

unless there has been an opportunity for consideration of the draft CEE at an Antarctic Treaty Consultative Meeting (ATCM) on the advice of the Committee (unless the decision to proceed with the activity has already been delayed more than 15 months since the date of circulation of the draft CEE). A final CEE must be circulated at least 60 days before commencement of the proposed activity. Any decision by the operator on whether a proposed activity should proceed in either its original or modified form must be based upon the final CEE as well as other relevant considerations, and procedures must be put in place for monitoring the impact of any activity that proceeds following completion of a CEE.

Environmental impact assessments need to address Annex I to the Protocol. The information contained in an evaluation should allow the operator to make decisions based on a sound understanding of factors relevant to the likely impact of the proposed activity. An evaluation should, as appropriate, contain sufficient information to allow assessments of, and informed judgements about, the likely impacts of proposed activities on the Antarctic environment and on the value of the Antarctic environment for the conduct of scientific research. Depending on the specific circumstances surrounding the proposed activities, various factors may be relevant for consideration in the environmental impact assessment process such as the scope, duration and intensity of the activity proposed in Antarctica, cumulative impacts, impacts on other activities in the Antarctic Treaty area, and capacity to assess and verify adverse environmental impacts. Operators may also find it appropriate to consider the availability of technology and procedures for environmentally safe operations and whether there exists the capacity to respond promptly and effectively to accidents with environmental effects.

D. Activities Covered by These Regulations

1. Persons Required to Carry Out an EIA

The requirements of these final regulations apply to operators of nongovernmental expeditions organized in or proceeding from the territory of the United States to Antarctica. The term "expedition" is taken from paragraph 5 of Article VII of the Treaty and encompasses all actions or activities undertaken by a nongovernmental expedition while it is in Antarctica. These regulations do not apply to individual U.S. citizens or groups of citizens planning to travel to Antarctica on an expedition for which they are not acting as an operator.

For a commercial tour, typical functions of an operator would include, for example, acting as the primary person or group of persons responsible for acquiring use of vessels or aircraft, hiring expedition staff, planning itineraries, and other organizational responsibilities. Non-commercial expeditions covered by these regulations would include trips by yachts, skiing or mountaineering expeditions, privately funded research expeditions, and other nongovernmental or nongovernment-sponsored activities.

These regulations do not apply to U.S. citizens who participate in tours organized in and proceeding from countries other than the United States. As provided in the Protocol, the requirements do not apply to activities undertaken in the Antarctic Treaty area that are governed by the Convention on the Conservation of Antarctic Marine Living Resources or the Convention for the Conservation of Antarctic Seals. Persons traveling to Antarctica are subject to the requirements of the Marine Mammal Protection Act, 16 U.S.C. 1371 *et seq.*

2. Differences Between Governmental and Nongovernmental Activities

These regulations do not apply to governmental activities. C.f. 45 CFR 641.10 through 641.22 (National Science Foundation regulations for assessing impacts of governmental activities in Antarctica). However, EPA believes that, to the extent practicable, similar procedures should generally be used for assessing both governmental and nongovernmental activities. Consistent with this approach, these regulations generally establish procedures for assessing the impacts of nongovernmental activities in Antarctica similar to those used for governmental activities under the National Science Foundation regulations.

However, EPA also recognizes that it will not always be appropriate to apply identical standards and procedures for governmental and nongovernmental activities. Specifically, numerous mechanisms and processes exist to ensure public scrutiny and accountability of governmental activities. In some instances, no comparable mechanisms or processes exist for nongovernmental activities. Thus, these regulations provide for direct federal review of each nongovernmental environmental impact assessment by giving EPA authority to review, in consultation with other interested federal agencies, nongovernmental environmental impact assessments for compliance with the requirements of Annex I to the Protocol and these regulations.

To promote consistency regarding environmental documentation, EPA intends to consult with the National Science Foundation and other U.S. government agencies with appropriate expertise in the course of reviewing the assessments of proposed nongovernmental activities in the Antarctic. Further, following the final response from the operator to EPA's initial comments, EPA will obtain the concurrence of the National Science Foundation in making any determination that the environmental documentation submitted by an operator fails to meet the requirements under Article 8 and Annex I to the Protocol and the provisions of these regulations.

3. Appropriate Level of Environmental Documentation

(a) Preliminary Environmental Review Memorandum (PERM). These regulations provide that an operator who asserts that an expedition will have less than a minor or transitory impact must provide a Preliminary Environmental Review Memorandum (PERM) to the EPA no later than 180 days before the proposed departure of the expedition to Antarctica. The timing requirement has been established to provide sufficient time for the operator to prepare an IEE if one is needed. The EPA, in consultation with other interested federal agencies, will review the PERM to determine if it is sufficient to demonstrate that the activity will have less than a minor or transitory impact or whether additional environmental documentation, *i.e.*, an IEE or CEE, is required to meet the obligations of Annex I. The EPA will provide its comments to the operator within fifteen (15) days of receipt of the PERM, and the operator will have seventy-five (75) days to prepare a revised PERM or an IEE, if necessary. Following the final response from the operator, EPA may make a finding that the submitted environmental documentation does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of these regulations. This finding will be made with the concurrence of the National Science Foundation. If EPA does not provide notice of such a finding within thirty (30) days, the operator will be deemed to have met the requirements of these regulations.

If EPA recommends an IEE and one is prepared and submitted within the seventy-five (75) day response period,

the schedule for review will follow the time frames set out for an IEE in these regulations. (See: section II.D.3(b), below.) Should EPA recommend a CEE, timing requirements applicable to CEEs may necessitate a delay in plans to initiate a proposed activity. Operators are encouraged to consult with EPA on options in this regard.

(b) Initial Environmental Evaluation (IEE). Article 2 of Annex I to the Protocol requires that unless it has been determined that an activity will have less than a minor or transitory impact, or unless a CEE is being prepared in accordance with Article 3 of Annex I, an IEE must be prepared. Among the items to be included in an IEE to document that an activity will have no more than a minor or transitory impact are the cumulative impacts of the proposed activity in light of existing and known proposed activities. Expeditions, by their nature, involve the transport of persons to Antarctica that will result in physical impacts, which may include, but are not limited to: air emissions, discharges to the ocean, noise from engines, landings for sight-seeing, and activities by visitors near wildlife. Accordingly, it is EPA's view, which has been confirmed by its experience under the interim final regulations, that, at a minimum, an IEE is the appropriate level of environmental documentation for proposed activities where multiples of the activity over time are likely and may create a cumulative impact, unless an existing IEE or CEE supports a finding that the type of activity proposed results in a less than minor or transitory cumulative impact. However, as noted below, it is also EPA's view that the types of nongovernmental activities that are currently being carried out will typically be unlikely to have impacts that are more than minor or transitory assuming that activities will be carried out in accordance with the guidelines set forth in the ATCM Recommendation XVIII–1, Tourism and Non-Governmental Activities, the relevant provisions of other U.S. statutes, and Annexes II–V to the Protocol. In the event that a determination is made that a CEE is needed to meet the requirements of Annex I to the Protocol and the provisions of these regulations, timing requirements applicable to CEEs may necessitate a delay in plans to initiate a proposed activity, and operators are encouraged to consult with EPA on options.

Any operator who wishes to make an expedition to Antarctica is required to provide an IEE to EPA no less than ninety (90) days prior to the proposed departure of the expedition to Antarctica unless: (1) A decision has been made to prepare a CEE, or (2) the operator has submitted a PERM and there has not been a finding within the time limits of these regulations that the PERM fails to meet the requirements under Annex I to the Protocol and the provisions of these regulations.

The EPA will provide its comments to the operator within thirty (30) days of receipt of the IEE, and the operator will have forty-five (45) days to prepare a revised IEE, if necessary. Following the final response from the operator, EPA may make a finding that the documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of these regulations. This finding will be made with the concurrence of the National Science Foundation. If a notice of such a finding is required, EPA will provide it within fifteen (15) days of receiving the final IEE from the operator or, if the operator does not provide a final IEE, within sixty (60) days following EPA's comments on the original IEE. If EPA does not provide notice within these time limits, the operator will be deemed to have met the requirements of these regulations, provided that procedures, which may include appropriate monitoring, are carried out to assess and verify the impact of the activity.

If a CEE is required, the operator must adhere to the time limits applicable to such documentation. (See: section II.D.3.(c), below.) In the event that a determination is made that a CEE is required, EPA, at the operator's request, will consult with the operator regarding possible changes in the proposed activity that would allow preparation of an IEE.

The EPA, upon receipt of an IEE, will electronically publish notice of its receipt on the Office of Federal Activities' World Wide Web Site: *http://www.epa.gov/oeca/ofa/*. The Department of State will circulate to the Parties and make publicly available a copy of an annual list of IEEs prepared by U.S. operators in accordance with Article 2 of Annex I of the Protocol and any decisions taken in consequence thereof. Any IEE prepared in accordance with these regulations will be made available by the EPA on request.

(c) Comprehensive Environmental Evaluation (CEE). Article 3(4), of Annex I of the Protocol requires that draft CEEs be circulated to all Parties and the Committee 120 days in advance of the next Antarctic Treaty Consultative Meeting at which the CEE may be addressed. Since the 2001 ATCM occurred in July, CEEs prepared for nongovernmental activities in the 2001–2002 season would have to have been distributed by March 2001. Operators who are anticipating activities for the 2002–2003 season that may require a CEE are encouraged to consult with the EPA as soon as possible.

In order to meet the requirements of Article 3(4), of Annex I of the Protocol which requires that draft CEEs be circulated to all Parties and forwarded to the Committee 120 days in advance of the next Antarctic Treaty Consultative Meeting at which the CEE may be addressed, and because the ATCM generally meets in May, the regulations require the operator to submit a draft CEE the preceding December in order to ensure its timely distribution to all Parties and the Committee. Thus, for example, for the 2002–2003 season, any operator who plans an activity which would require a CEE will need to submit a draft of the CEE to EPA by December 1, 2001. Within fifteen (15) days of receipt of the draft CEE, EPA will send it to the Department of State for transmittal to other Parties, publish notice of receipt of the CEE in the **Federal Register**, and provide copies to any person upon request. The EPA will accept public comments on the CEE for a period of ninety (90) days following notice in the **Federal Register**. The EPA will make these public comments available to the operator.

The EPA, in consultation with other interested federal agencies, will review the CEE to determine if it meets the requirements under Annex I to the Protocol and the provisions of these regulations. EPA will transmit its comments to the operator within 120 days following publication of notice of availability in the **Federal Register** to allow for the inclusion of any additional information in the CEE. The operator must prepare a final CEE that addresses and includes or summarizes any comments on the draft CEE received from EPA, the public and the Parties. The final CEE must be sent to EPA at least seventy-five (75) days before the proposed departure date. Following the final response from the operator, the EPA will notify the operator if EPA, with the concurrence of the National Science Foundation, makes the finding that the submitted environmental documentation does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of these regulations. This notification will occur within fifteen (15) days of submittal of the final CEE if the CEE is submitted by the operator within the time limits set out in these regulations. If no final CEE is submitted by the operator, or if the operator fails to meet

these time limits, EPA will provide such notification sixty (60) days prior to departure of the expedition. If, after receipt of such notification, the operator proceeds with the expedition without fulfilling the requirements of these regulations, the operator will be subject to enforcement proceedings pursuant to Sections 7, 8, and 9 of the Antarctic Conservation Act, as amended by the Act; 16 U.S.C. 2407, 2408, 2409, and 45 CFR part 672. If EPA does not provide notice, the operator will be deemed to have met the requirements of these regulations provided that procedures, which include appropriate monitoring, are carried out to assess and verify the impact of the activity. The EPA will transmit the final CEE to the Department of State which will circulate it to all Parties no later than sixty (60) days before proposed departure of the expedition, along with a notice of any decisions by the operator relating to the CEE. The EPA will publish a notice of availability of the final CEE in the **Federal Register**.

Operators are encouraged to consult with the EPA as early as possible if there are questions as to whether a CEE will be required for a proposed expedition.

(d) Mitigation. If an operator chooses to mitigate the environmental impacts of its activity and the mitigation measures are the basis for the level of environmental documentation, EPA will assume that the operator will undertake these mitigation measures. Otherwise, the documentation may not have met the requirements of Article 8 and Annex I and the provisions of these regulations.

4. Criteria for a CEE

Article 3 of Annex I to the Protocol requires a CEE when it is determined that an activity is likely to have more than a minor or transitory impact. While the need for a CEE will be evaluated for each activity on a case-by-case basis, it is EPA's view that the type of nongovernmental activities that are currently being carried out will typically be unlikely to have impacts that are more than minor or transitory.

However, the need for a CEE could be triggered by a proposed activity that represents a major departure from current nongovernmental activities, resulting in a large increase in an adverse environmental impact at a site. Similarly, a CEE may be required if an activity is likely to give rise to particularly complex, cumulative, large-scale or irreversible effects, such as perturbations in unique and very sensitive biological systems. An example of an activity that might require a CEE would be the construction and operation of a new crushed rock airstrip or runway.

In evaluating whether a CEE is the appropriate level of environmental documentation, the EPA will consider the impact in terms of the context of the Antarctic environment and the intensity of the activity. The Antarctic environment is for the most part unspoiled, has intrinsic value, and is of great value to science and to humankind's overall understanding of the global environment. In addition, because of the location and uniqueness of the ecosystem, there would likely be great difficulty responding to environmental threats and mitigating damage to the Antarctic ecosystem. The EPA believes a comparable threshold should be applied in determining whether an activity may have an impact that is more than minor or transitory under these regulations as is used in determining if a Federal activity will have a significant effect for purposes of the National Environmental Policy Act (NEPA). See 40 CFR 1508.27. For this reason, for purposes of these regulations and consistent with the environmental impact assessment regulations for federal activities, the term "more than a minor or transitory impact" has been defined to have the same meaning as the term "significantly" under NEPA. 16 U.S.C. 2403a(a)(1)(B); 40 CFR 1508.27. The recommendation to add this definition to these regulations was made to EPA during the scoping process and was considered in the DEIS prepared by EPA.

5. Measures To Assess and Verify Environmental Impacts

The Protocol and these regulations require an operator to employ procedures to assess and provide a regular and verifiable record of the actual impacts of any activity that proceeds on the basis of an IEE or CEE. The record developed through these measures must be designed to: (a) Enable assessments to be made of the extent to which such impacts are consistent with the Protocol; and (b) provide information useful for minimizing and mitigating those impacts, and, where appropriate, on the need for suspension, cancellation, or modification of the activity. Moreover, an operator must monitor key environmental indicators for an activity proceeding on the basis of a CEE. An operator may also need to carry out monitoring in order to assess and verify the impact of an activity for which an IEE has been prepared.

For activities requiring an IEE, an operator should be able to use procedures currently being voluntarily utilized by operators to provide the required information. For example, such information could include, as appropriate and to the best of the operator's knowledge: identification of the number of tourists put ashore at each site, the number and location of each landing site, the total number of tourists at each site per ship and for the season; the number of times the site has been visited in the past; the number of times the site is expected to be visited in the forthcoming season; the times of the year that visits are expected to occur (e.g., before, during, or after the penguin breeding season); the number of visitors expected to be put ashore at the site at any one time and over the course of a particular visit; what visitors are expected to do while at the site; verification that guidelines for tourists are followed; description of any tourist exceptions to the landing guidelines; and a description of any activity requiring mitigation, the mitigative actions undertaken, and the actual or projected outcome of the mitigation.

These regulations do not set out detailed monitoring procedures for activities requiring a CEE because the Parties are still working to identify monitoring approaches that can best support the Protocol's implementation. Thus, should an activity require a CEE, the operator should consult with EPA to: (a) Identify the monitoring regime appropriate to that activity, and (b) determine whether and how the operator might utilize relevant monitoring data collected by the U.S. Antarctic Program. The EPA would consult with the National Science Foundation and other interested federal agencies regarding this monitoring regime.

E. Incorporation of Information, Consolidation of Environmental Documentation, Waiver or Modification of Deadlines, and Provision for Multi-Year Environmental Documentation

The EPA is strongly committed to minimizing unnecessary paperwork and to implementation of these regulations such that undue burden is not placed on operators, particularly in view of the time requirements associated with environmental documentation requirements. Therefore, provided that documentation complies with all applicable provisions of Annex I to the Protocol and these regulations, and, provided that the environmental documentation is appropriate in light of the specific circumstances of each operator's expedition or expeditions, the EPA will allow the following approaches to documentation: (1) Material may be incorporated by

referring to it in the environmental document with its content briefly described when the cited material is reasonably available to the EPA; (2) more than one proposed expedition by an operator may be included within one environmental document and may, if appropriate, include a single discussion of components of the environmental analysis that are applicable to some or all of the proposed expeditions; (3) one environmental document may also be used to address expeditions being carried out by more than one operator, provided that the environmental documentation includes the names of each operator for which the environmental documentation is being submitted pursuant to obligations under these regulations; and (4) one environmental document may be submitted by one or more operators for proposed expeditions for a period of up to five consecutive austral summer seasons, provided that the conditions described in the multi-year environmental document, including the assessment of cumulative impacts, are unchanged. The multi-year provision also allows operators to update basic information and to provide information on additional activities to supplement the multi-year environmental document without having to revise and re-submit the entire document. Further, the EPA may waive or modify the deadlines of these regulations where EPA determines an operator is acting in good faith and that circumstances outside the control of the operator created delays, provided that environmental documentation fully meets deadlines under the Protocol. The multi-year documentation provision was recommended to EPA during the scoping process and was considered in the DEIS prepared by EPA.

F. Submission of Environmental Documents

The operator must submit five copies of its environmental documentation, along with an electronic copy in HTML format, if available, to the EPA by mail at: U.S. Environmental Protection Agency; Office of Federal Activities; Director, NEPA Compliance Division—Mail Code 2252A; 1200 Pennsylvania Avenue, NW; Washington, DC 20460.

Environmental documents may also be sent by special delivery (Federal Express, United Parcel Service, etc.) or hand-carried to: U.S. Environmental Protection Agency; Office of Federal Activities; Director, NEPA Compliance Division—Room 7239A; Ariel Rios Building; 1200 Pennsylvania Avenue, NW; Washington, DC 20004.

An operator may submit environmental documentation at an earlier date than required by this final rule. The EPA review process, including notification for public review and comment, will commence with the submittal of environmental documentation and will follow deadlines for response indicated in the appropriate sections of this rule.

G. Prohibited Acts, Enforcement and Penalties

It is unlawful for any operator to violate these regulations. An operator who violates any of these regulations will be subject to enforcement proceedings, which may include civil and criminal enforcement proceedings, and penalties, pursuant to sections 7,8, and 9 of the Antarctic Conservation Act, as amended by the Act; 16 U.S.C. 2407, 2408, 2409, and 45 CFR part 672.

H. Provision for Categorical Exclusions

The National Environmental Policy Act defines 'categorical exclusion' as "a category of actions which do not individually or cumulatively have a significant effect on the human environment * * * and for which, therefore, neither an environmental assessment nor an environmental impact statement is required" (40 CFR 1508.4). Only narrow and specific classes of activities can be categorically excluded from environmental review. For example, EPA in its NEPA regulations at 40 CFR 6.107(d) excludes * * * actions which are solely directed toward minor rehabilitation of existing facilities * * * and the National Science Foundation in its environmental assessment regulations at 45 CFR 641(c)(1) and (2) excludes certain scientific activities (e.g., use of weather/research balloons that are to be retrieved) and interior remodeling and renovation of existing facilities. The DEIS considered a modification that would add a provision for categorical exclusion. The DEIS noted that the International Association of Antarctica Tour Operators (IAATO) recommended that Antarctic ship-based tourism organized under the "Lindblad Model" be categorically excluded. However, EPA does not have a specific definition for the "Lindblad Model." EPA also believes that a broad categorical exclusion covering ship-based tourism as now conducted does not fit well with the approach used by the U.S. government for categorical exclusions because it does not identify actions to be excluded in sufficient detail. Further, more needs to be known about potential cumulative impacts of nongovernmental activities undertaken by U.S.-based ship-based tour operators before deciding to exclude some or all of these specific activities. In the Preamble to the proposed rule, EPA requested comments on specific activities that the Agency should consider including as categorical exclusions in the final rule including the justification for this proposed designation. EPA did not receive any such comments, therefore, the final rule does not include a provision for categorical exclusions. However, if categorical exclusion activities are identified in the future, the rule could be amended.

IV. Coordination of Review of Information Received From Other Parties to the Treaty

Article 6 of Annex I to the Protocol provides that the following information shall be circulated to the Parties, forwarded to the Committee for Environmental Protection, and made publicly available: (1) A description of national procedures for considering the environmental impacts of proposed activities; (2) an annual list of any IEEs and any decisions taken in consequence thereof; (3) significant information obtained and any action taken in consequence thereof with regard to monitoring from IEEs and CEEs; and (4) information in a final CEE. In addition, Article 6 requires that any IEE be made available on request, and Article 3 requires that draft CEEs be circulated to all Parties, who shall make them publicly available. A period of ninety (90) days is allowed for the receipt of comments. To implement these requirements of the Protocol, this rule sets out the process for circulation of this information within the United States.

Upon receipt of a CEE from another Party, the Department of State will publish notice of receipt in the **Federal Register** and will circulate a copy of the CEE to all interested federal agencies. The Department of State will coordinate responses from federal agencies to the CEE and will transmit the coordinated response, if any, to the Party that has circulated the CEE. The Department of State will make a copy of the CEE available upon request to the public. Members of the U.S. public should comment directly to the operator who has drafted the CEE and provide a copy to the EPA for its consideration.

Upon receipt of the annual list from another Party of IEEs prepared in accordance with Article 2 of Annex I and any decisions taken in consequence thereof, the Department of State will circulate a copy to all interested federal agencies. The Department of State will make a copy of any list of IEEs from other Parties prepared in accordance

with Article 2 and any decisions taken in consequence thereof available upon request to the public.

Upon receipt of a description of appropriate national procedures for environmental impact assessments from another Party, the Department of State will circulate a copy to all interested federal agencies. The Department of State will make such descriptions available upon request to the public.

Upon receipt from another Party of significant information obtained, and any action taken in consequence therefrom from procedures put in place with regard to monitoring pursuant to Articles 2(2) and 5 of Annex I to the Protocol, the Department of State will circulate a copy to all interested federal agencies. The Department of State will make a copy of this information available upon request to the public.

Upon receipt of a final CEE from another Party, the Department of State will circulate a copy to all interested federal agencies. The Department of State will make a copy available upon request to the public.

V. Administrative Requirements

A. Executive Order 12866 Clearance

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the EPA must determine whether the regulatory action is "significant" and therefore subject to the Executive Order and to review by the Office of Management and Budget (OMB). The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action." This rule raises novel legal or policy issues arising out of legal mandates under Public Law 104–227, the Antarctic Science, Tourism, and Conservation Act of 1996 and the Protocol on Environmental Protection to the Antarctic Treaty of 1959. Accordingly, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the public record.

B. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, 5 U.S.C. 601 et seq.)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration with the North American Industry Classification System (NAICS) code for "Tour Operators" (NAICS code 561520) with maximum annual receipts of $5.0 million (13 CFR part 121); and (2) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Under the Antarctic Science, Tourism, and Conservation Act of 1996, governmental jurisdictions are not subject to this rulemaking.

For purposes of assessing the potential impacts of the rule on small entities, EPA assessed the potential impacts the rule may have on the U.S.-based operators regulated under the interim final rule, that is, those for which the United States provided advance notice under Paragraph 5 of Article VII of the Treaty for proposed nongovernmental expeditions organized in or proceeding from the U.S. to the Antarctic Treaty area during the austral summer season 2000–2001, and other U.S.-based operators included in such documentation. The screening assessment indicated that of the twelve operators, four would qualify as small entities under the Small Business Administration definition. EPA has estimated that these small entities have annual operating expenditures (small organization) or annual sales (small business) ranging from about $100,000 to about $4,600,000. Based on costs estimated under the interim final rule, EPA estimated the potential impact on these small entities to range from an average of about $1,400 to about $4,200 for the 5-year period a multi-year environmental document could be in effect; this represents an impact in the range of less than 1% to about 1.4%. Even if the small entities did not take advantage of the additional cost-saving alternative provided in the multi-year provision of the rule, the impact of the rule would range from an average of about $2,300 to $6,800 for the same 5-year period. Of the four small entities subject to today's rule, only one may be impacted significantly. Therefore, this rule will not impact a substantial number of small entities. Moreover, the potential impact on that small entity arguably is not significant. In addition, as discussed below, EPA included in today's rule cost-saving alternatives that are available to all operators, including small operators. Under the interim final rule, all operators made use of the cost-saving alternatives and EPA expects them to continue using these alternatives and the additional alternative included in today's rule.

The cost reduction provisions in this final rule include: (1) Material may be incorporated by referring to it in the environmental document with its content briefly described when the cited material is reasonably available to the EPA; (2) more than one proposed expedition by an operator may be included within one environmental document and may, if appropriate, include a single discussion of components of the environmental analysis which are applicable to some or all of the proposed expeditions; (3) one environmental document may also be used to address expeditions being carried out by more than one operator, provided that the environmental documentation includes the names of each operator for which the environmental documentation is being submitted pursuant to obligations under these regulations; and (4) one environmental document may be submitted by one or more operators for proposed expeditions for a period of up to five consecutive austral summer seasons, provided that the conditions described in the multi-year environmental document, including the assessment of cumulative impacts, are unchanged. The multi-year provision also allows operators to update basic information and to provide information on additional activities to supplement the multi-year environmental document without having to revise and re-submit the entire document. Further, the EPA may waive or modify the deadlines of these regulations where EPA determines an operator is acting in good faith and that circumstances outside the control

of the operator created delays, provided that environmental documentation fully meets deadlines under the Protocol.

In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. The EPA believes that, because this rule only requires assessment of environmental impacts, the effects on any small entities will be limited primarily to the cost of preparing such an analysis and that the requirements are no greater than necessary to ensure that the United States will be in compliance with its international obligations under the Protocol and the Treaty. The costs are likely to be minimal because, in EPA's view, the types of activities currently being carried out typically will be unlikely to have impacts that are more than minor or transitory assuming that the activities will be carried out in accordance with the guidelines set forth in the ATCM Recommendation XVIII–1, Tourism and Non-Governmental Activities, the relevant provisions of other U.S. statutes, and Annexes II–V to the Protocol. Therefore, most activities will likely need only IEE documentation, the cost of which is minimal as shown in section VII, Paperwork Reduction Act. Further, EPA has included provisions in this final rule that are available to all respondents, including small entities, that will have a positive effect by minimizing the cost of such an analysis.

Therefore, after considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year.

Today's rule contains no Federal mandates for State, local, or tribal governments or the private sector. Furthermore, the UMRA does not apply to rules that are necessary for the national security or the ratification or implementation of international treaty obligations. These regulations are necessary to enable the United States to implement its obligations under the Protocol on Environmental Protection to the Antarctic Treaty of 1959. This rule does not apply to any governmental jurisdictions. For the private sector, there are currently less than 20 regulated operators and, because of the nature of business and the Antarctic location, this number is not expected to increase significantly. Moreover, as described in section V.B., above, this final rule provides alternatives that may be used by operators to reduce the burden and costs associated with the rule.

D. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2020–0007.

Public Law 104–227, the Antarctic Science, Tourism, and Conservation Act of 1996 (the Act) amends the Antarctic Conservation Act of 1978, 16 U.S.C. 2401 *et seq.*, to implement the provisions of the Protocol on Environmental Protection to the Antarctic Treaty of 1959. The Act provides that EPA must promulgate regulations to provide for the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under Paragraph 5 of Article VII of the Treaty, and for coordination of the review of information regarding environmental impact assessment received from other Parties under the Protocol. This rule provides nongovernmental operators with the specific environmental documentation requirements they must meet in order to comply with the Protocol.

Nongovernmental operators, including tour operators, conducting expeditions to Antarctica are required to submit environmental documentation to EPA that evaluates the potential environmental impact of their proposed activities. If EPA has no comments, or if the documentation is satisfactorily revised in response to EPA's comments, and the operator does not receive a notice from EPA that the environmental documentation does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of these regulations, the operator would have no further obligations pursuant to the applicable requirements of these regulations provided that any appropriate measures, which may include monitoring, are put in place to assess and verify the impact of the activity. The type of environmental document required depends upon the nature and intensity of the environmental impacts that could result from the activity under consideration. Nongovernmental operators would be able to use the following approaches for submission of the environmental documentation required under the final rule: (1) Material may be incorporated by referring to it in the environmental document with its content briefly described when the cited material is reasonably available to the EPA; (2) more than one proposed expedition by an operator may be included within one environmental document and may, if appropriate, include a single discussion of components of the environmental analysis which are applicable to some or all of the proposed expeditions; (3) one environmental document may also be used to address expeditions being carried out by more than one operator, provided that the environmental documentation includes the names of each operator for which the environmental documentation is being submitted pursuant to obligations under these regulations; and (4) one environmental document may be submitted by one or more operators for proposed expeditions for a period of up to five consecutive austral summer seasons, provided that the conditions described in the multi-year environmental document, including the assessment of cumulative impacts, are unchanged. The multi-year provision also allows operators to update basic information and to provide information on additional activities to supplement the multi-year environmental document without having to revise and re-submit the entire document. EPA anticipates that operators will make one submittal per year for all of their expeditions for that year and that most operators will be able to use the multi-year environmental documentation provision. EPA does not expect or anticipate receipt of any confidential information. No capital costs or operational and maintenance

costs are anticipated to be incurred as a result of this ICR.

Frequency of Reporting: Once per year.

Affected Public: Businesses, other nongovernmental entities including for profit entities, and not-for-profit institutions.

Number of Respondents: 13 to 14.

Estimated Average Time Per Respondent: 29 to 185 Hours depending on the anticipated level of environmental documentation and the paperwork reduction provisions employed by the respondent.

Total Annual Burden Hours: 377 to 562 Hours depending on the anticipated level of environmental documentation and the paperwork reduction provisions employed by the respondent.

Estimated Average Cost Per Respondent To Prepare and Submit Environmental Documentation for the First Year: $2,668 to $13,405 depending on the anticipated level of environmental documentation and the paperwork reduction provisions employed by the respondent.

Estimated Average Cost Per Respondent To Prepare and Submit Environmental Documentation for Subsequent Years: $1,844 to $14,117 depending on the anticipated level of environmental documentation and the paperwork reduction provisions employed by the respondent.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

E. National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, Section 12(d) (15 U.S.C. 272 note)

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rulemaking does not involve technical standards.

F. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 56 FR 7629 (1994), requires each Federal agency, to the greatest extent practicable and permitted by law, to make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority or low-income populations, including Indian tribes. The provisions of Executive Order 12898 do not apply to this regulatory action because it does not have any effects on minority or low income populations.

G. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. No governmental jurisdictions including Federal, State, local and tribal governments are subject to this rulemaking. Thus, Executive Order 13132 does not apply to this rule.

H. Executive Order 13175, Consultation and Coordination with Tribal Governments

Executive Order 13175 took effect on January 6, 2001, and revoked Executive Order 13084 (Tribal Consultation) as of that date. EPA developed the proposed rule, however, during the period when Executive Order 13084 was in effect. Thus, EPA addressed tribal considerations under Executive Order 13084. Executive Order 13175, Consultation and Coordination with Tribal Governments, requires federal agencies to adhere to certain fundamental principles and policy making criteria when formulating or implementing policies with tribal implications and to establish a process to ensure that tribal officials have the opportunity to provide meaningful and timely input into regulatory policies that have tribal implications. Tribal governments are not subject to this rulemaking. Thus, neither Executive Order 13084 nor Executive Order 13175 apply to this rule.

I. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

J. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution and Use

Executive Order 13211 requires federal agencies to prepare a Statement of Energy Effects and to submit such statements to the Office of Management and Budget. This final rule is not subject to Executive Order 13211 because it does not significantly affect energy supply, distribution or use.

K. Submission to Congress and the Comptroller General of the United States

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that, before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on January 7, 2002.

List of Subjects in 40 CFR Part 8

Environmental protection, Antarctica, Environmental impact statements, Penalties, Reporting and recordkeeping requirements.

Dated: November 29, 2001.

Christine Todd Whitman,

Administrator.

Therefore, for the reasons set forth in the Preamble, EPA hereby amends title 40 chapter 1 of the Code of Federal Regulations by revising part 8 to read as follows:

PART 8—ENVIRONMENTAL IMPACT ASSESSMENT OF NONGOVERNMENTAL ACTIVITIES IN ANTARCTICA

Sec.

8.1 Purpose.
8.2 Applicability and effect.
8.3 Definitions.
8.4 Preparation of environmental documents, generally.
8.5 Submission of environmental documents.
8.6 Preliminary environmental review.
8.7 Initial environmental evaluation.
8.8 Comprehensive environmental evaluation.
8.9 Measures to assess and verify environmental impacts.
8.10 Cases of emergency.
8.11 Prohibited acts, enforcement and penalties.
8.12 Coordination of reviews from other Parties.

Authority: 16 U.S.C. 2401 *et seq.*, as amended, 16 U.S.C. 2403a.

§ 8.1 Purpose.

(a) This part is issued pursuant to the Antarctic Science, Tourism, and Conservation Act of 1996. As provided in that Act, this part implements the requirements of Article 8 and Annex I to the Protocol on Environmental Protection to the Antarctic Treaty of 1959 and provides for:

(1) The environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Antarctic Treaty of 1959; and

(2) Coordination of the review of information regarding environmental impact assessment received by the United States from other Parties under the Protocol.

(b) The procedures in this part are designed to: ensure that nongovernmental operators identify and assess the potential impacts of their proposed activities, including tourism, on the Antarctic environment; that operators consider these impacts in deciding whether or how to proceed with proposed activities; and that operators provide environmental documentation pursuant to the Act and Annex I of the Protocol. These procedures are consistent with and implement the environmental impact assessment provisions of Article 8 and Annex I to the Protocol on Environmental Protection to the Antarctic Treaty.

§ 8.2 Applicability and effect.

(a) This part is intended to ensure that potential environmental effects of nongovernmental activities undertaken in Antarctica are appropriately identified and considered by the operator during the planning process and that to the extent practicable, appropriate environmental safeguards which would mitigate or prevent adverse impacts on the Antarctic environment are identified by the operator.

(b) The requirements set forth in this part apply to nongovernmental activities for which the United States is required to give advance notice under paragraph 5 of Article VII of the Antarctic Treaty of 1959: All nongovernmental expeditions to and within Antarctica organized in or proceeding from its territory.

(c) This part does not apply to activities undertaken in the Antarctic Treaty area that are governed by the Convention on the Conservation of Antarctic Marine Living Resources or the Convention for the Conservation of Antarctic Seals. Persons traveling to Antarctica are subject to the requirements of the Marine Mammal Protection Act, 16 U.S.C. 1371 *et seq.*

§ 8.3 Definitions.

As used in this part:

Act means 16 U.S.C. 2401 *et seq.*, Public Law 104–227, the Antarctic Science, Tourism, and Conservation Act of 1996.

Annex I refers to Annex I, Environmental Impact Assessment, of the Protocol.

Antarctic environment means the natural and physical environment of Antarctica and its dependent and associated ecosystems, but excludes social, economic, and other environments.

Antarctic Treaty area means the area south of 60 degrees south latitude.

Antarctic Treaty Consultative Meeting (ATCM) means a meeting of the Parties to the Antarctic Treaty, held pursuant to Article IX(1) of the Treaty.

Antarctica means the Antarctic Treaty area; i.e., the area south of 60 degrees south latitude.

Comprehensive Environmental Evaluation (CEE) means a study of the reasonably foreseeable potential effects of a proposed activity on the Antarctic environment, prepared in accordance with the provisions of this part and includes all comments received thereon. (See: § 8.8.)

Environmental document or environmental documentation (Document) means a preliminary environmental review memorandum, an initial environmental evaluation, or a comprehensive environmental evaluation.

Environmental impact assessment (EIA) means the environmental review process required by the provisions of this part and by Annex I of the Protocol, and includes preparation by the operator and U.S. government review of an environmental document, and public access to and circulation of environmental documents to other Parties and the Committee on Environmental Protection as required by Annex I of the Protocol.

EPA means the Environmental Protection Agency.

Expedition means any activity undertaken by one or more nongovernmental persons organized

within or proceeding from the United States to or within the Antarctic Treaty area for which advance notification is required under Paragraph 5 of Article VII of the Treaty.

Impact means impact on the Antarctic environment and dependent and associated ecosystems.

Initial Environmental Evaluation (IEE) means a study of the reasonably foreseeable potential effects of a proposed activity on the Antarctic environment prepared in accordance with § 8.7.

More than a minor or transitory impact has the same meaning as the term "significantly" as defined in regulations under the National Environmental Policy Act at 40 CFR 1508.27.

Operator or *operators* means any person or persons organizing a nongovernmental expedition to or within Antarctica.

Person has the meaning given that term in section 1 of title 1, United States code, and includes any person subject to the jurisdiction of the United States except that the term does not include any department, agency, or other instrumentality of the Federal Government.

Preliminary environmental review means the environmental review described under that term in § 8.6.

Preliminary Environmental Review Memorandum (PERM) means the documentation supporting the conclusion of the preliminary environmental review that the impact of a proposed activity will be less than minor or transitory on the Antarctic environment.

Protocol means the Protocol on Environmental Protection to the Antarctic Treaty, done at Madrid October 4, 1991, and all annexes thereto which are in force for the United States.

This part means 40 CFR part 8.

§ 8.4 Preparation of environmental documents, generally.

(a) *Basic information requirements.* In addition to the information required pursuant to other sections of this part, all environmental documents shall contain the following:

(1) The name, mailing address, and phone number of the operator;

(2) The anticipated date(s) of departure of each expedition to Antarctica;

(3) An estimate of the number of persons in each expedition;

(4) The means of conveyance of expedition(s) to and within Antarctica;

(5) Estimated length of stay of each expedition in Antarctica;

(6) Information on proposed landing sites in Antarctica; and

(7) Information concerning training of staff, supervision of expedition members, and what other measures, if any, that will be taken to avoid or minimize possible environmental impacts.

(b) *Preparation of an environmental document.* Unless an operator determines and documents that a proposed activity will have less than a minor or transitory impact on the Antarctic environment, the operator will prepare an IEE or CEE in accordance with this part. In making the determination what level of environmental documentation is appropriate, the operator should consider, as applicable, whether and to what degree the proposed activity:

(1) Has the potential to adversely affect the Antarctic environment;

(2) May adversely affect climate or weather patterns;

(3) May adversely affect air or water quality;

(4) May affect atmospheric, terrestrial (including aquatic), glacial, or marine environments;

(5) May detrimentally affect the distribution, abundance, or productivity of species, or populations of species of fauna and flora;

(6) May further jeopardize endangered or threatened species or populations of such species;

(7) May degrade, or pose substantial risk to, areas of biological, scientific, historic, aesthetic, or wilderness significance;

(8) Has highly uncertain environmental effects, or involves unique or unknown environmental risks; or

(9) Together with other activities, the effects of any one of which is individually insignificant, may have at least minor or transitory cumulative environmental effects.

(c) *Type of environmental document.* The type of environmental document required under this part depends upon the nature and intensity of the environmental impacts that could result from the activity under consideration. A PERM must be prepared by the operator to document the conclusion of the operator's preliminary environmental review that the impact of a proposed activity on the Antarctic environment will be less than minor or transitory. (See § 8.6.) An IEE must be prepared by the operator for proposed activities which may have at least (but no more than) a minor or transitory impact on the Antarctic environment. (See § 8.7.) A CEE must be prepared by the operator if an IEE indicates, or if it is otherwise determined, that a proposed activity is likely to have more than a minor or transitory impact on the Antarctic environment (See § 8.8.)

(d) *Incorporation of information, consolidation of environmental documentation, and multi-year environmental documentation.* (1) An operator may incorporate material into an environmental document by referring to it in the document when the effect will be to reduce paperwork without impeding the review of the environmental document by EPA and other federal agencies. The incorporated material shall be cited and its content briefly described. No material may be incorporated by referring to it in the document unless it is reasonably available to the EPA.

(2) Provided that environmental documentation complies with all applicable provisions of Annex I to the Protocol and this part and is appropriate in light of the specific circumstances of the operator's proposed expedition or expeditions, an operator may include more than one proposed expedition within one environmental document and one environmental document may also be used to address expeditions being carried out by more than one operator provided that the environmental document indicates the names of each operator for which the environmental documentation is being submitted pursuant to obligations under this part.

(e) *Multi-year environmental documentation.* (1) Provided that environmental documentation complies with all applicable provisions of Annex I to the Protocol and this part, an operator may submit environmental documentation for proposed expeditions for a period of up to five consecutive austral summer seasons, provided that the conditions described in the multi-year environmental document, including the assessment of cumulative impacts, are unchanged and meets the provisions of paragraphs (e)(1) (i) through (iii) of this section.

(i) The operator shall identify the environmental documentation submitted for multi-year documentation purposes in the first year it is submitted. If the operator, or operators, fail to make this initial identification to EPA. this provision shall not be in effect although subsequent years' submissions by the operator, or operators, may use this environmental documentation as provided in paragraphs (d) (1) and (2) of this section.

(ii) In subsequent years, up to a total maximum of five years, the operator, or operators, shall reference the multi-year documentation identified initially if it is necessary to update the basic

information requirements listed in paragraph (a) of this section.

(iii) An operator, or operators, may supplement a multi-year environmental document for an additional activity or activities by providing information regarding the proposed activity in accordance with the appropriate provisions of this part. The operator, or operators, shall identify this submission as a proposed supplement to the multi-year documentation in effect. Addition of the supplemental information shall not extend the period of the multi-year environmental documentation beyond the time period associated with the documentation as originally submitted.

(2) Multi-year environmental documentation may include more than one proposed expedition within the environmental document and the multi-year environmental document may also be used to address expeditions being carried out by more than one operator provided that the environmental document indicates the names of each operator for which the environmental documentation is being submitted pursuant to obligations under this part.

(3) The schedules for multi-year environmental documentation depend on the level of the environmental document and shall be the same as the schedules for comparable environmental documentation submitted on an annual basis; *e.g.*, a multi-year PERM shall comply with the schedule in § 8.6, a multi-year IEE shall comply with the schedule in § 8.7, and a multi-year CEE shall comply with the schedule in § 8.8. These schedules apply to the operator's submission of the initial multi-year environmental document; the operator's subsequent annual submissions pursuant to paragraphs (e)(1) (ii) and (iii) of this section; EPA's review, in consultation with other interested federal agencies, and comment on the multi-year environmental documentation and subsequent annual submissions; and a finding the EPA may make, with the concurrence of the National Science Foundation, that the environmental documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part.

§ 8.5 Submission of environmental documents.

(a) An operator shall submit environmental documentation to the EPA for review. The EPA, in consultation with other interested federal agencies, will carry out a review to determine if the submitted environmental documentation meets the requirements of Article 8 and Annex I of the Protocol and the provisions of this part. The EPA will provide its comments, if any, on the environmental documentation to the operator and will consult with the operator regarding any suggested revisions. If EPA has no comments, or if the documentation is satisfactorily revised in response to EPA's comments, and the operator does not receive a notice from EPA that the environmental documentation does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part, the operator will have no further obligations pursuant to the applicable requirements of this part provided that any appropriate measures, which may include monitoring, are put in place to assess and verify the impact of the activity. Alternatively, following final response from the operator, the EPA, in consultation with other federal agencies and with the concurrence of the National Science Foundation, will inform the operator that EPA finds that the environmental documentation does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part. If the operator then proceeds with the expedition without fulfilling the requirements of this part, the operator is subject to enforcement proceedings pursuant to sections 7, 8, and 9 of the Antarctic Conservation Act, as amended by the Act; 16 U.S.C. 2407, 2408, 2409, and 45 CFR part 672.

(b) The EPA may waive or modify deadlines pursuant to this part where EPA determines an operator is acting in good faith and that circumstances outside the control of the operator created delays, provided that the environmental documentation fully meets deadlines under the Protocol.

§ 8.6 Preliminary environmental review.

(a) Unless an operator has determined to prepare an IEE or CEE, the operator shall conduct a preliminary environmental review that assesses the potential direct and reasonably foreseeable indirect impacts on the Antarctic environment of the proposed expedition. A Preliminary Environmental Review Memorandum (PERM) shall contain sufficient detail to assess whether the proposed activity may have less than a minor or transitory impact, and shall be submitted to the EPA for review no less than 180 days before the proposed departure of the expedition. The EPA, in consultation with other interested federal agencies, will review the PERM to determine if it is sufficient to demonstrate that the activity will have less than a minor or transitory impact or whether additional environmental documentation, *i.e.*, an IEE or CEE, is required to meet the obligations of Article 8 and Annex I of the Protocol. The EPA will provide its comments to the operator within fifteen (15) days of receipt of the PERM, and the operator shall have seventy-five (75) days to prepare a revised PERM or an IEE, if necessary. Following the final response from the operator, EPA may make a finding that the environmental documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part. This finding will be made with the concurrence of the National Science Foundation. If EPA does not provide such notice within thirty (30) days, the operator will be deemed to have met the requirements of this part provided that any required procedures, which may include appropriate monitoring, are put in place to assess and verify the impact of the activity.

(b) If EPA recommends an IEE and one is prepared and submitted within the seventy-five (75) day response period, it will be reviewed under the time frames set out for an IEE in § 8.7. If EPA recommends a CEE and one is prepared, it will be reviewed under the time frames set out for a CEE in § 8.8.

§ 8.7 Initial environmental evaluation.

(a) *Submission of IEE to the EPA.* Unless a PERM has been submitted pursuant to § 8.6 which meets the environmental documentation requirements under Article 8 and Annex I to the Protocol and the provisions of this part or a CEE is being prepared, an IEE shall be submitted by the operator to the EPA no fewer than ninety (90) days before the proposed departure of the expedition.

(b) *Contents.* An IEE shall contain sufficient detail to assess whether a proposed activity may have more than a minor or transitory impact on the Antarctic environment and shall include the following information:

(1) A description of the proposed activity, including its purpose, location, duration, and intensity; and

(2) Consideration of alternatives to the proposed activity and any impacts that the proposed activity may have on the Antarctic environment, including consideration of cumulative impacts in light of existing and known proposed activities.

(c) *Further environmental review.* (1) The EPA, in consultation with other interested federal agencies, will review an IEE to determine whether the IEE meets the requirements under Annex I to the Protocol and the provisions of this part. The EPA will provide its comments to the operator within thirty (30) days of receipt of the IEE, and the

operator will have forty-five (45) days to prepare a revised IEE, if necessary. Following the final response from the operator, EPA may make a finding that the documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part. This finding will be made with the concurrence of the National Science Foundation. If such a notice is required, EPA will provide it within fifteen (15) days of receiving the final IEE from the operator or, if the operator does not provide a final IEE, within sixty (60) days following EPA's comments on the original IEE. If EPA does not provide notice within these time limits, the operator will be deemed to have met the requirements of this part provided that any required procedures, which may include appropriate monitoring, are put in place to assess and verify the impact of the activity.

(2) If a CEE is required, the operator must adhere to the time limits applicable to such documentation. (See: § 8.8.) In this event EPA, at the operator's request, will consult with the operator regarding possible changes in the proposed activity which would allow preparation of an IEE.

§ 8.8 Comprehensive environmental evaluation.

(a) *Preparation of a CEE.* Unless a PERM or an IEE has been submitted and determined to meet the environmental documentation requirements of this part, the operator shall prepare a CEE. A CEE shall contain sufficient information to enable informed consideration of the reasonably foreseeable potential environmental effects of a proposed activity and possible alternatives to that proposed activity. A CEE shall include the following:

(1) A description of the proposed activity, including its purpose, location, duration and intensity, and possible alternatives to the activity, including the alternative of not proceeding, and the consequences of those alternatives;

(2) A description of the initial environmental reference state with which predicted changes are to be compared and a prediction of the future environmental reference state in the absence of the proposed activity;

(3) A description of the methods and data used to forecast the impacts of the proposed activity;

(4) Estimation of the nature, extent, duration and intensity of the likely direct impacts of the proposed activity;

(5) A consideration of possible indirect or second order impacts from the proposed activity;

(6) A consideration of cumulative impacts of the proposed activity in light of existing activities and other known planned activities;

(7) Identification of measures, including monitoring programs, that could be taken to minimize or mitigate impacts of the proposed activity and to detect unforeseen impacts and that could provide early warning of any adverse effects of the activity as well as to deal promptly and effectively with accidents;

(8) Identification of unavoidable impacts of the proposed activity;

(9) Consideration of the effects of the proposed activity on the conduct of scientific research and on other existing uses and values;

(10) An identification of gaps in knowledge and uncertainties encountered in compiling the information required under this section;

(11) A non-technical summary of the information provided under this section; and

(12) The name and address of the person or organization which prepared the CEE and the address to which comments thereon should be directed.

(b) *Submission of Draft CEE to the EPA and Circulation to Other Parties.* (1) Any operator who plans a nongovernmental expedition that would require a CEE must submit a draft of the CEE by December 1 of the preceding year. Within fifteen (15) days of receipt of the draft CEE, EPA will: send it to the Department of State which will circulate it to all Parties to the Protocol and forward it to the Committee for Environmental Protection established by the Protocol, and publish notice of receipt of the CEE and request for comments on the CEE in the **Federal Register**, and will provide copies to any person upon request. The EPA will accept public comments on the CEE for a period of ninety (90) days following notice in the **Federal Register**. The EPA, in consultation with other interested federal agencies, will evaluate the CEE to determine if the CEE meets the requirements under Article 8 and Annex I to the Protocol and the provisions of this part and will transmit its comments to the operator within 120 days following publication in the **Federal Register** of the notice of availability of the CEE.

(2) The operator shall send a final CEE to EPA at least seventy-five (75) days before commencement of the proposed activity in the Antarctic Treaty area. The CEE must address and must include (or summarize) any comments on the draft CEE received from EPA, the public, and the Parties. Following the final response from the operator, the EPA will inform the operator if EPA, with the concurrence of the National Science Foundation, makes the finding that the environmental documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part. This notification will occur within fifteen (15) days of submittal of the final CEE by the operator if the final CEE is submitted by the operator within the time limits set out in this section. If no final CEE is submitted or the operator fails to meet these time limits, EPA will provide such notification sixty (60) days prior to departure of the expedition. If EPA does not provide such notice, the operator will be deemed to have met the requirements of this part provided that procedures, which include appropriate monitoring, are put in place to assess and verify the impact of the activity. The EPA will transmit the CEE, along with a notice of any decisions by the operator relating thereto, to the Department of State which shall circulate it to all Parties no later than sixty (60) days before commencement of the proposed activity in the Antarctic Treaty area. The EPA will also publish a notice of availability of the final CEE in the **Federal Register**.

(3) No final decision shall be taken to proceed with any activity for which a CEE is prepared unless there has been an opportunity for consideration of the draft CEE by the Antarctic Treaty Consultative Meeting on the advice of the Committee for Environmental Protection, provided that no expedition need be delayed through the operation of paragraph 5 of Article 3 to Annex I of the Protocol for longer than 15 months from the date of circulation of the draft CEE.

(c) *Decisions based on CEE.* The decision to proceed, based on environmental documentation that meets the requirements under Article 8 and Annex I to the Protocol and the provisions of this part, rests with the operator. Any decision by an operator on whether to proceed with or modify a proposed activity for which a CEE was required shall be based on the CEE and other relevant considerations.

§ 8.9 Measures to assess and verify environmental impacts.

(a) The operator shall conduct appropriate monitoring of key environmental indicators as proposed in the CEE to assess and verify the potential environmental impacts of activities which are the subject of a CEE. The operator may also need to carry out monitoring in order to assess and verify the impact of an activity for which an IEE has been prepared.

(b) All proposed activities for which an IEE or CEE has been prepared shall include procedures designed to provide a regular and verifiable record of the impacts of these activities, in order, *inter alia*, to:

(1) Enable assessments to be made of the extent to which such impacts are consistent with the Protocol; and

(2) Provide information useful for minimizing and mitigating those impacts, and, where appropriate, information on the need for suspension, cancellation, or modification of the activity.

§ 8.10 Cases of emergency.

This part shall not apply to activities taken in cases of emergency relating to the safety of human life or of ships. aircraft, equipment and facilities of high value, or the protection of the environment, which require an activity to be undertaken without completion of the procedures set out in this part. Notice of any such activities which would have otherwise required the preparation of a CEE shall be provided within fifteen (15) days to the Department of State, as provided in this paragraph, for circulation to all Parties to the Protocol and to the Committee on Environmental Protection, and a full explanation of the activities carried out shall be provided within forty-five (45) days of those activities. Notification shall be provided to: The Director, The Office of Oceans Affairs, OES/OA, Room 5805, Department of State, 2201 C Street, NW, Washington, DC 20520–7818.

§ 8.11 Prohibited acts, enforcement and penalties.

(a) It shall be unlawful for any operator to violate this part.

(b) An operator who violates any of this part is subject to enforcement, which may include civil and criminal enforcement proceedings, and penalties, pursuant to sections 7,8, and 9 of the Antarctic Conservation Act, as amended by the Act; 16 U.S.C. 2407, 2408, 2409, and 45 CFR part 672.

§ 8.12 Coordination of reviews from other Parties.

(a) Upon receipt of a draft CEE from another Party, the Department of State shall publish notice in the **Federal Register** and shall circulate a copy of the CEE to all interested federal agencies. The Department of State shall coordinate responses from federal agencies to the CEE and shall transmit the coordinated response to the Party which has circulated the CEE. The Department of State shall make a copy of the CEE available upon request to the public.

(b) Upon receipt of the annual list of IEEs from another Party prepared in accordance with Article 2 of Annex I and any decisions taken in consequence thereof, the Department of State shall circulate a copy to all interested federal agencies. The Department of State shall make a copy of the list of IEEs prepared in accordance with Article 2 and any decisions taken in consequence thereof available upon request to the public.

(c) Upon receipt of a description of appropriate national procedures for environmental impact assessments from another Party, the Department of State shall circulate a copy to all interested federal agencies. The Department of State shall make a copy of these descriptions available upon request to the public.

(d) Upon receipt from another Party of significant information obtained, and any action taken in consequence therefrom from procedures put in place with regard to monitoring pursuant to Articles 2(2) and 5 of Annex I to the Protocol, the Department of State shall circulate a copy to all interested federal agencies. The Department of State shall make a copy of this information available upon request to the public.

(e) Upon receipt from another Party of a final CEE, the Department of State shall circulate a copy to all interested federal agencies. The Department of State shall make a copy available upon request to the public.

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Federal Register

Thursday,
December 6, 2001

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Parts 107 and 108
Criminal History Records Checks; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 107 and 108

[Docket No. FAA–2001–10999; Amdt. Nos. 107–14 and 108–19]

RIN 2120–AH53

Criminal History Records Checks

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This rule requires each airport operator and aircraft operator that has adopted a security program under part 107 or part 108, respectively, to conduct fingerprint-based criminal history record checks (CHRC's) for individuals if they have not already undergone CHRC's. The rule applies to those who either have, or apply for: Unescorted access authority to the Security Identification Display Area (SIDA) of an airport; authority to authorize others to have unescorted access; and screening functions. The rule is needed because the FAA has determined that the current employment investigation method is not adequate. The rule will ensure that individuals in these positions do not have disqualifying criminal offenses.

DATES: This rule is effective December 6, 2001. Submit comments by January 7, 2002.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW, Washington, DC 20590. You must identify the docket number FAA–2001–10999 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard. You may also submit comments through the Internet to *http://dms.dot.gov.*

You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Linda Valencia, Office of Civil Aviation Security Policy and Planning, Civil Aviation Security Division (ACP–100), Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591; telephone 202–267–3413.

SUPPLEMENTARY INFORMATION:

Comments Invited

This final rule is being adopted without prior notice and prior public comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; Feb. 26, 1979), however provides that, to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Comments relating to environmental, energy, federalism, or international trade impacts that might result from this amendment also are invited. Comments must include the regulatory docket or amendment number and must be submitted in duplicate to the address above. All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the public docket. The docket is available for public inspection before and after the comment closing date.

The FAA will consider all comments received on or before the closing date for comments. Late-filed comments will be considered to the extent practicable. This final rule may be amended in light of the comments received.

See **ADDRESSES** above for information on how to submit comments.

Availability of Final Rule

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the final rule.

You can also get an electronic copy using the Internet through FAA's web page at *http://www.faa.gov/avr/arnhome.htm* or the Office of the Federal Register's web page at *http://www.access.gpo.gov/su_docs/aces/aces140html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this final rule.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information advice about compliance with statutes and regulations within the FAA's jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official. Internet users can find additional information on SBREFA on the FAA's web page at http:www.faa.gov/avr/arm/sbrefa.htm and send electronic inquiries to the following Internet address: *9-AWA-SBREFA@faa.gov.*

Abbreviations And Terms Used In This Document

AIR–21—Wendell H. Ford Aviation Investment and Reform Act for the 21st Century
ASIA 1990—Aviation Security Improvement Act of 1990
ASIA 2000—Airport Security Improvement Act of 2000
ATSA—Aviation and Transportation Security Act
CHRC—Criminal history records check
Reauthorization Act—Federal Aviation Reauthorization Act of 1996
SIDA—Security Identification Display Area

Background

In the wake of the September 11, 2001, terrorist attacks against four U.S. commercial aircraft resulting in the tragic loss of human life at the World Trade Center, the Pentagon, and southwest Pennsylvania, the potential for additional terrorist attacks exists. Those responsible for the attacks are believed to be affiliated with an organization possessing a near-global terrorist network. The leaders of the groups constituting this organization have publicly stated they will attack the United States for incarcerating their members and are vehemently opposed to U.S. foreign policy and presence in the Middle East. They retain a capability and willingness to conduct airline bombings, hijackings, and suicide attacks against U.S. targets. These attacks also indicate that the terrorists are willing to use aircraft as weapons to inflict significant damage on persons and property in the United States. Given the resources and reach of the organization, it is likely that it has sought or will seek to place members in

positions at airports to facilitate future attacks, or that it will attempt to co-opt individuals already in such positions. It should be underscored that, although other potential threats to U.S. civil aviation may be overshadowed at present, they have not disappeared. The uncertain course of the Middle East peace process involving Israel and the Palestinians, negative reactions to the U.S.-led military campaign in Afghanistan, and Iraqi opportunism in response to continued United Nations sanctions are among the developments that could give rise to attacks by groups or individuals not linked to the September 11 atrocities.

Since 1996, the FAA has required airport operators and aircraft operators to conduct checks on certain individuals to prevent individuals from working in those positions if they have a history of certain criminal convictions. See 14 CFR 107.31 and 108.33 (1997). Most of these checks include a 10-year employment investigation. If the employment investigation reveals one of four triggers listed in the rules, such as a 12-month gap in employment that is not satisfactorily explained, the investigation must include a Federal Bureau of Investigation (FBI) criminal history records check (CHRC) that is based on fingerprints of the individual. If the employment investigation or CHRC reveals a conviction in the 10 years before the investigation for one or more of the crimes listed in the regulations, the individual may not serve in the specified positions.

As discussed below, the Administrator has determined that the current employment investigation method is not adequate. This rule requires that all employees in the specified positions undergo a CHRC based on their fingerprints.

Title 14 of the Code of Federal Regulations (CFR) part 107 prescribes security requirements for airport operators that must adopt and carry out an FAA-approved security program. The airport operators' responsibilities include the security of the Security Identification Display Area (SIDA). The SIDA is an area of an airport in which individuals who have unescorted access authority must display approved identification media (ID). It includes the areas near the terminal where aircraft taxi, and other areas as necessary for security. See 14 CFR 107.3. The approved ID usually is issued by the airport operator, but in some cases is issued by the aircraft operator. In this preamble, the term "airport operator" refers to airport operators that hold security programs under part 107.

Title 14 CFR part 108 prescribes security rules for U.S. aircraft operators that must adopt and carry out an FAA-approved security program. Aircraft operators are responsible for screening passengers and property that are carried on their aircraft. They also have responsibilities for the security of the SIDA. As used in this document, the term "aircraft operator" refers to U.S. aircraft operators conducting operations under security programs under part 108.

History

Section 105 of the Aviation Security Improvement Act of 1990 (ASIA 1990), Pub. L. 101–604, added a new provision that is now codified at 49 U.S.C. 44936. It directed the FAA to "issue regulations to require individuals employed in, and individuals applying for, [certain positions] to be subjected to such employment investigations, including criminal history records check, as the Administrator determines necessary to ensure air transportation security." The positions covered were those in which the individual has unescorted access authority to aircraft operator or foreign air carrier aircraft, or to secured areas of airports serving aircraft operators or foreign air carriers.

The FAA issued rules to carry out ASIA 1990. *See* 60 FR 51854 (October 3, 1995). The rules, §§ 107.31 and 108.33 (1997), require each airport operator and aircraft operator to conduct a 10-year employment history investigation for each individual applying for certain positions on or after the effective date, January 31, 1996. These employment checks must be performed for individuals who are granted unescorted access authority to a SIDA and individuals who authorize others to have unescorted access authority (together referred to in this preamble as individuals with "unescorted access authority"). If the employment investigation reveals one of four conditions (triggers) listed in the rules the investigation must include a CHRC. The rule lists crimes that disqualify the individual from a position with unescorted access authority if the conviction occurred during the 10 years ending on the date of the investigation. Individuals who had unescorted access authority before the effective date were not subject to the rule. In the preamble to the rule the FAA stated that it would continue to evaluate the civil aviation security system to determine if further changes were warranted.

Effective November 14, 2001, § 107.31 was renumbered as § 107.209, and § 108.33 was renumbered as § 108.229, in connection with comprehensive revisions of those parts, Amendments 107–13 and 108–18. *See* 66 FR 37274 and 37330 (July 17, 2001).

Section 304 of the Federal Aviation Reauthorization Act of 1996, Pub. L. 104–264, directs the FAA to expand the checks to individuals who screen passengers and property that will be carried in an aircraft cabin in air transportation or intrastate air transportation and to supervisors of individuals with authority to perform screening functions (together referred to in this preamble as "individuals with authority to perform screening functions"). The act specifically requires that an employment investigation be performed for each individual hired to be a screener, and that a CHRC be done where the employment investigation reveals one of the four triggers.

The FAA amended § 108.33 to carry out the Reauthorization Act. See 63 FR 18076 (September 24, 1998). The amendment requires each aircraft operator to conduct a 10-year employment history investigation for individuals applying for positions as individuals with authority to perform screening functions on or after the effective date, November 23, 1998. It applies the same scheme as that for individuals with unescorted access authority, that is, a 10-year employment history investigation, with a CHRC if one of the four triggers exists.

Section 508 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21), Pub. L. 106–181, gave the Administrator additional authority as to checks on individuals with authority to perform screening functions. In addition to the four triggers that provide a basis for a CHRC, it provided that a CHRC shall be done in any case in which "the Administrator decides it is necessary to ensure air transportation security with respect to passenger, baggage, or property screening at airports." See 49 U.S.C. 44936(a)(1)(C)(v).

Section 2 of the Airport Security Improvement Act of 2000 (ASIA 2000), Pub. L. 106–528, expands the use of CHRC's. It requires that, as of the effective dates, each individual applying for a position with unescorted access authority, or applying for a position as a screener, must undergo a CHRC. This is sometimes is referred to as "100% fingerprinting of applicants." The effective date is December 23, 2000, for individuals at airports defined as a Category X airport by the FAA. The effective date is November 23, 2003, for individuals at other airports. These requirements are self-executing. That means that the FAA did not need to

issue a rule to make 100% fingerprinting of applicants effective on December 23, 2000, at Category X airports, and does not need to issue a rule to make 100% fingerprinting of applicants effective on November 23, 2003, at non-Category X airports.

ASIA 2000 also added crimes that disqualify an individual from a position with unescorted access authority or as a screener. This provision is self-executing and became effective on December 23, 2000, for individuals at all airports.

In sum, there are some individuals who have had neither an employment investigation nor a CHRC, some individuals who have had employment investigations only, and some individuals who have had CHRC's, as follows:

Individuals with unescorted access authority—

- At all airports, individuals who were in positions before January 31, 1996, did not undergo an employment investigation or a CHRC.
- At Category X airports, individuals applying for positions on or after January 31, 1996, and before December 23, 2000, underwent an employment investigation, and only underwent a CHRC if one of the four triggers existed.
- At Category X airports, all individuals applying for positions on or after December 23, 2000, through the present, undergo a CHRC.
- At other airports, individuals applying for positions on or after January 31, 1996, through the present, undergo an employment investigation, and a CHRC only if one of the four triggers exists.

Individuals with authority to perform screening functions—

- At all airports, individuals who were in positions before November 23, 1998, did not undergo an employment investigation or a CHRC.
- At Category X airports, individuals applying for positions on or after November 23, 1998, and before December 23, 2000, underwent an employment investigation, and only underwent a CHRC if one of the four triggers existed.
- At Category X airports, all individuals applying for positions on or after December 23, 2000, through the present, undergo a CHRC.
- At other airports, individuals applying for positions on or after January 31, 1996, through the present, undergo an employment investigation, and a CHRC only if one of the four triggers exists.

While the FAA has not before required CHRC's for all covered individuals, the statute provides authority to do so. Further, section 138 of the Aviation Transportation Security Act (ATSA) provides that a new background check, including a criminal history record check, shall be required for individuals with unescorted access authority and individuals with authority to perform screening functions. This rulemaking accomplishes that requirement.

There may be some individuals who now are in the covered positions who will be disqualified under these new checks. For instance, there may be individuals who underwent an employment history investigation only before December 23, 2000, and did not have a history of a crime that was disqualifying at the time. If that individual has a disqualifying criminal offense for one of the crimes added in ASIA 2000, he or she will be disqualified. The legislative history for ASIA 2000 recognizes that this provision "may cause a few individuals to be removed from their jobs or prevent others from being hired. However, the number of people affected (convicted felons) will be few, and such actions will be taken to increase air travel security." S. Rep. No. 106–388, 106th Cong., 2nd Sess. 3 (2000), reprinted in 2000 U.S.C.C.A.N. 2252, 2254.

Note that individuals subject to §§ 107.209 and 108.229 have been required to report if they were convicted of a disqualifying crime after the initial investigation. See §§ 107.31 (l) and 108.33 (h) of the 1996 rule, and §§ 107.31 (l)(1) and 108.33 (l)(1) of the 1998 rule. The CHRC's conducted under this rule may reveal some individuals who did not report convictions that occurred after their original investigation. These individuals will no longer be able to have unescorted access authority or to perform screening functions.

ATSA also requires that additional background checks be done on both current employees and applicants for covered positions to the extent practicable. The additional checks include such things as a review of records of other governmental and international agencies. This rulemaking, which was written before ATSA was enacted, does not cover the additional background checks. They will be developed and adopted in the future.

Inadequacy of the Current Rules

In the past year the FAA has conducted nationwide assessments of aircraft operator and airport operator compliance with the regulatory requirements for employment history investigations. While the FAA has found numerous properly completed employment history investigations, it has also discovered serious problems with the use of employment history investigations as a means for determining when a CHRC must be accomplished.

Under current regulations, the applicant provides a 10-year employment history. The airport operator, aircraft operator, or designee verifies the most recent 5 years of that history, for example, by calling prior employers to verify employment. An airport operator or aircraft operator may only request a CHRC if one of four triggers exists, such as an unexplained gap of 12 months or more in the 10-year employment history. The determination of whether a trigger exists depends almost entirely on information provided by the applicant. This process has proven to be insufficiently reliable and subject to abuse.

In its review of hundreds of employment history investigations, the FAA has found many instances where gaps in employment greater than 12 months were accounted for by a friend or family member, or by third party firm in the United States that claimed to know the whereabouts of an applicant while he or she was living in a foreign country. While the FAA regards such information as unsatisfactory to account for a period of unemployment, screening companies, on behalf of aircraft operators, routinely accept this information as sufficient under the regulations. Accordingly, applications that the FAA considers to reveal a trigger, and therefore require a CHRC, have not been regarded as such by an aircraft operator.

Furthermore the FAA has found several cases where it appears that an applicant has provided false information of employment and another person to provide a false reference for time periods greater than 12 months. In these cases, the screening company may be duped when verifying the information, because the false reference is a co-conspirator in the applicant's falsification of his or her employment history. In other cases, the screening company may have been unable to contact the reference, therefore may have been unable to verify prior employment, but nonetheless did not request a CHRC. In either instance, the applicant has successfully avoided undergoing a CHRC.

Even when an employment history is complete and an investigation of that history is properly conducted, the FAA is concerned that the four triggers do not always identify applicants with disqualifying criminal histories. For instance, during an October 2001 audit,

the FAA and the Department of Transportation found that some current employees had disqualifying criminal convictions. For at least one such employee, the employment history investigation appears to have been properly completed, but it revealed no triggers that would have required a CHRC.

Accordingly, the Administrator has determined that the employment history and verification procedure in the current rule is inadequate to determine whether the individual has a history of a disqualifying crime.

In addition to the changes in this rulemaking, the FAA continues to review pertinent information and determine whether additional requirements are needed to enhance the background checks for individuals in various positions that affect security.

Section-by-Section Analysis

These amendments reflect the new requirements in ASIA 2000, which provides additional disqualifying crimes and 100% fingerprinting of applicants at Category X airports. These amendments also require 100% fingerprinting of all applicants at Category I through IV airports, and 100% fingerprinting of all current employees with unescorted access authority and all current employees with authority to perform screening functions who have not been subject to a CHRC under current rules.

In this preamble, references to "current" rules mean §§ 107.209 and 108.229 as they became effective on November 14, 2001, 66 FR 37274 and 37330 (July 17, 2001). References to "new" rules mean amendments made in this rulemaking.

Section 107.209 Fingerprint-Based Criminal History Records Checks (CHRC)

This section amends § 107.209, Employment history, verification, and criminal history records checks. It applies to airport operators and others.

Paragraph (a), Scope, sets out the scope of the section. It is essentially unchanged, except that the section now covers individuals not only applying for unescorted access authority, but also those who currently have unescorted access authority. This section does not apply to individuals with authority to perform screening functions because airport operators are not responsible for screening.

Paragraph (b), Individuals seeking unescorted access authority, states the basic requirement for CHRC's for individuals seeking unescorted access authority. This paragraph provides that the airport operator must ensure that no individual is granted unescorted access authority unless the individual has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense. There are exceptions to this paragraph in paragraph (m).

Paragraph (c), Individuals who have not had a CHRC, states the requirements for individuals who currently have unescorted access authority. The airport operator must ensure that after December 6, 2002, no individual retains unescorted access authority unless the airport operator has obtained and submitted a fingerprint under part 107. This means that if the individual who currently has unescorted access authority was subject to a fingerprint-based CHRC under part 107 in the past, the individual does not need to undergo another CHRC. If the individual underwent only an employment history verification under part 107, or no check, the individual must now be fingerprinted and undergo a CHRC. There are exceptions to this paragraph in paragraph (m).

Paragraph (c)(2) provides that when a CHRC discloses a disqualifying criminal offense for which the conviction or finding of not guilty by reason of insanity was in the 10 years before December 6, 2001, the airport operator must immediately suspend that individual's authority. This is similar to current § 107.209 (l)(2), which in part provides that if the airport operator confirms that the individual has a disqualifying conviction the airport operator must withdraw any authority granted to that individual. An individual who believes that the CHRC is incorrect may seek to correct the record in accordance with paragraph (h).

Paragraph (d), Disqualifying criminal offenses, states what a disqualifying criminal offense is under the rule. A criminal offense is disqualifying if it meets several conditions: The individual must have been either convicted or found not guilty by reason of insanity; the crime must be listed in this section; and the conviction or finding must have occurred either during the 10 years before the date of the CHRC or while the individual has unescorted access authority. The disqualifying crimes are the crimes listed in current § 107.209 (b)(2), plus the crimes added in ASIA 2000. Further, 18 U.S.C. 37, Violence at international airports, is added.

The statute provides that the Administrator may make any other felony a disqualifying crime if she determines that the crime indicates a propensity for placing contraband aboard an aircraft in return for money. See 49 U.S.C. 44936(b)(1)(B)(xiv)(IX). If the Administrator determines that an additional crime should be disqualifying, these rules will be amended to so provide.

Paragraph (e), Fingerprint application and processing, describes how the airport operator obtains and processes the fingerprint. Paragraph (e)(1) describes the application. The application must contain only the items in this paragraph, for reasons discussed for paragraph (e)(1)(iii). The application must have the disqualifying criminal offenses described in paragraph (d). This will give the individual the opportunity to determine whether he or she is not qualified and to stop the application process at that point. The application must have a statement that the individual signing the form does not have a disqualifying criminal offense. The application must contain a statement informing the individual that he or she must advise the airport operator within 24 hours if he or she is convicted of any disqualifying criminal offense that occurs while the individual has unescorted access authority. This is a notification to the individual of his or her responsibility under paragraph (l)(2).

Under paragraph (e)(1)(iii) the application also must have a statement that the individual signing the application may be subject to prosecution under title 18 of the United States Code if he or she knowingly and willfully provides false information on the application. This will inform the individual of the serious nature of the application and the need to be truthful. This statement applies to information that the government determines is material for governmental purposes. Other information that the airport operator may want to have to make employment decisions, such as the individual's wages and duties in prior employment, is not material to the government for this purpose and cannot be subject to the warning regarding title 18 of the United States Code. For this reason the application may contain only the information in this paragraph.

The application must have a line for the printed name of the individual. Finally, the application must a line for the individual's signature and date of signature.

Paragraph (e)(2) provides that the individual must complete and sign the application prior to submitting his or her fingerprints.

Before the fingerprints are taken the airport operator must verify the identity of the individual with two forms of identification (ID). At least one ID must

have been issued by a government authority and at least one must include a photograph of the individual. One ID may satisfy the two latter requirements, together with one other ID. For instance, an individual may present one state driver's license with a photograph (which is both a government ID and an ID with a photograph) plus one other ID that is not issued by the government and does not have a photograph. This is a small expansion of the current rule. Current § 107.209 (e)(3) requires two forms of ID, at least one of which has a photo. The requirement for a government ID means that at least one of the ID's is from an official source.

Paragraph (e)(4) requires the airport operator to advise the individual that a copy of the criminal record received from the FBI will be provided to the individual if requested in writing. This is in current § 107.209 (g)(1). This paragraph also requires the airport operator to advise the individual that the Airport Security Coordinator is the point of contact for questions, as in current § 107.209 (d).

Under paragraph (e)(5) the airport operator must collect, control, and process one set of legible and classifiable fingerprints under direct observation by the airport operator or a law enforcement officer. These are essentially in current § 107.209 (e)(1) and (e)(2).

Paragraph (e)(6) makes clear that fingerprints may be either obtained and processed electronically, or on fingerprint cards approved by the FBI and distributed by the FAA for that purpose. Current § 107.209 (e)(1) provides only for obtaining fingerprints on cards. However, there now are electronic means of collecting fingerprints in use at a number of airports.

Paragraph (e)(7) provides that the fingerprints must be submitted in a manner specified by the Administrator, similar to current § 107.209 (e)(4).

Under paragraph (f), Fingerprint fees, the airport operator must pay for all fingerprints in a form and manner approved by the FAA. Current § 107.209 (e)(5) provides only for payment by corporate check, cash, or money order, due upon application. However, electronic fund transfers now are accepted, and credit cards and escrow accounts will be accepted in the future. This paragraph ensures that there is flexibility to develop new payment procedures for the efficiency of both the industry and the government. The rule specifically provides that individual personal checks are not acceptable. The FAA simply cannot handle checks from each individual who submits fingerprints.

Paragraph (g), Determination of arrest status, states that the airport operator must investigate arrests recorded in the CHRC for individuals seeking unescorted access authority and for individuals with unescorted access authority. This is essentially the same as current § 107.209 (f), except that this paragraph also expressly states that—

- The airport operator must determine that the arrest of an individual seeking unescorted access authority did not result in a disqualifying offense before granting the individual that authority.
- When a CHRC on an individual with unescorted access authority discloses an arrest for a disqualifying criminal offense without indicating a disposition, the airport operator must suspend the individual's authority within 45 days of obtaining the CHRC, unless the arrest did not result in a disqualifying criminal offense. This rule does not require immediate suspension of the individual's unescorted access authority. The CHRC may not be complete. For instance, the charges might have been withdrawn or there could have been a conviction for a crime that is not disqualifying. The 45-day period provides an opportunity to obtain current information on disposition of the arrest.
- The airport operator only makes this determination for individuals for whom it is issuing or has issued unescorted access authority, and who are not covered by a certification from the aircraft operator under paragraph (n). The airport operator may not make this determination for individuals described in § 108.229 (a).

Paragraph (h), Correction of FBI records and notification of disqualification, states the airport operator's duty to advise the individual about a disqualifying criminal offense in the CHRC received from the FBI, provide a copy of the record, and notify the individual of a final decision. This paragraph is essentially the same as current § 107.209 (g)(2) and (3), except that the new section also covers individuals who already have unescorted access authority, as well as those seeking authority.

Paragraph (i), Corrective action by the individual, describes how the individual may correct his or her record. Paragraph (i)(1) describes the action the individual may take to correct an inaccurate CHRC. It is similar to current § 107.209 (h) with some additions. The current rule provides that the FBI record must be revised, but this may take undue time. New paragraph (i)(1)(i) permits the airport operator to accept a certified true copy of the record from the appropriate court. For example, if the FBI record indicates that the individual was convicted, but does not also show that the conviction was reversed on appeal, the individual may obtain a certified true copy of the court record of that ruling. Certified true copies of court records may be obtained from the clerk of the court. This paragraph makes clear that the airport operator may either obtain the copy of the record itself, or accept a copy from the individual.

Paragraph (i)(2) provides a similar procedure for individuals who have unescorted access authority on December 6, 2001. If the individual corrects the information on the CHRC or provides a certified true copy of the information from the appropriate court, the individual's authority may be reinstated.

Paragraph (j), Limitations on dissemination of results, describes the limitations on disseminating the CHRC results. It is largely the same as current § 107.209 (i). This paragraph now expressly states that the CHRC may only be used to determine the appropriateness of granting unescorted access authority under this section. It also expressly states that the CHRC may be given to other airport operators who are determining whether to grant unescorted access to the individual under this part. It also states the information may be given to aircraft operators who are determining whether to grant unescorted access to the individual or authorize the individual to perform screening functions under part 108. If an individual has a need for unescorted access at two airports, for instance, one airport may conduct the CHRC and share the results with the second airport, so the individual only is fingerprinted once.

Paragraph (k), Recordkeeping, states the airport operator's duties to maintain records, and is essentially the same as current § 107.209 (k).

Paragraph (l), Continuing responsibilities, describes the continuing responsibilities of individuals, airport operators, and airport users regarding disqualifying criminal offenses occurring after the initial investigation. Paragraph (l)(1) addresses all individuals who currently have unescorted access authority. It requires them to report any disqualifying criminal offenses that have occurred in the 10 years before December 6, 2001. This applies to those who never underwent a background check under part 107 because they had unescorted access authority before the

1996 rule, to those who underwent an employment verification only under the 1996 rule, and to those who underwent a CHRC under the 1996 rule. This ensures that individuals who currently hold unescorted access authority are required to report offenses that are now listed in (d) and that disqualify them from continuing to serve in such a position.

Paragraphs (l)(2) and (l)(3) essentially repeat the current provisions of § 107.209 (l)(1) and (l)(2).

Paragraph (m), Exceptions, states the exceptions to this rule. Government employees, crewmembers of foreign air carriers and individuals who were previously employed in a position requiring a CHRC need not be fingerprinted under this rule, as described in this section. These exceptions are the same as in current § 107.209 (m). There are two changes to current paragraph (m). First, new paragraph (m) does not contain the exemption for certain individuals who were given access authority to U.S. Customs' secured areas before November 23, 1998. Section 138 of ATSA removes the exemption for the individuals with access to U.S. Customs' secured areas. Second, new paragraph (m) permits individuals who have unescorted access authority or authority to perform screening functions and who already have been subject to an FAA fingerprint-based CHRC to move to another employer or airport without being subject to another CHRC, provided that they have been continuously employed.

Paragraph (n), Certification by aircraft operators, states when the airport operator may accept a certification from an aircraft operator. Paragraph (n) permits the airport operator to accept a certification from an aircraft operator that it has complied with the requirements of the aircraft operator's rule, similar to current § 107.209 (n). This paragraph clarifies that if the airport operator accepts a certification from the aircraft operator, the airport operator may not also require a copy of the CHRC. If the airport operator is accepting a certification, it does not have a need for the CHRC.

Paragraph (o), Airport operator responsibilities, describes airport operator responsibilities, corresponding to current § 107.209 (o).

Paragraph (p), Airport user responsibility, states the airport user's responsibilities, similar to current § 107.209 (p).

Section 108.229 Fingerprint-Based Criminal History Records Checks (CHRC)

This section amends § 108.229, Employment history, verification, and criminal history records checks. It applies to aircraft operators and others.

Paragraph (a), Scope, sets out the scope of this section. Paragraph (a)(1) covers individuals applying for unescorted access or to have authority to perform screening functions on and after the December 6, 2001. Paragraph (a)(1)(i) covers each employee or contract employee covered under a certification made to an airport operator, pursuant to new § 107.209 (n), on and after December 6, 2001. These are employees who receive their unescorted access authority from the airport operator, based on the CHRC conducted by the aircraft operator. Paragraph (a)(ii) covers each individual, on and after December 6, 2001, issued aircraft operator identification media that one or more airports accepts as airport-approved media for unescorted access within a SIDA. Finally, paragraph (a)(1)(iii) covers each individual, on and after December 6, 2001, granted authority to perform certain screening functions within the United States. These functions are screening passengers or property that will be carried in a cabin of an aircraft, and serving as an immediate supervisor (checkpoint security supervisor (CSS)), or the next supervisory level (shift or site supervisor), to those individuals (referred to as individuals authorized to perform screening functions).

Paragraph (a)(2) covers individuals who were employed before the December 6, 2001. Paragraph (a)(2)(i) covers each employee or contract employee covered under a certification made to an airport operator pursuant to § 107.31 (n) as it existed before November 14, 2001, or pursuant to § 107.209 (n) before December 6, 2001. Paragraph (a)(2)(ii) covers individuals with unescorted access authority based on an aircraft operator identification media, and paragraph (a)(2)(iii) covers individuals authorized to perform screening functions.

Paragraph (b), Individuals seeking unescorted access authority or authority to perform screening functions, states the basic requirement for CHRC's for individuals identified in paragraph (a)(1). This paragraph provides that the aircraft operator must ensure that each individual has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense before making a certification to an airport operator regarding that individual, issuing an aircraft operator identification media to that individual, or authorizing that individual to perform a screening function.

Paragraph (c), Individuals who have not had a CHRC, states the requirements for individuals who currently have unescorted access authority or who perform screening functions. Under paragraph (c), such individuals may not retain their unescorted access authority, and may not perform screening functions, after one year after the December 6, 2001, unless a CHRC has been conducted. Paragraph (c)(2) is essentially the same as current § 107.209 (c)(2).

Paragraph (d), Disqualifying criminal offenses, states what a disqualifying criminal offense is under the rule. It is essentially the same as new § 107.209 (d), discussed above, and corresponds to current § 108.229 (d).

Paragraph (e), Fingerprint application and processing, describes how the aircraft operator obtains and processes the fingerprints. It is essentially the same as new § 107.209 (f).

Paragraph (f), Fingerprint fees, describes the fees for fingerprinting, essentially the same as new § 107.209 (g). It corresponds to current § 108.29 (e)(5).

Paragraph (g), Determination of arrest status, requires the aircraft operator to investigate arrests recorded in the CHRC. It is essentially the same as new § 107.209 (g), and corresponds to current § 108.229 (f). The paragraph states that—

- When a CHRC on an individual described in paragraph (a)(1) discloses an arrest for a disqualifying criminal offense and does not indicate a disposition, an aircraft operator may not grant that individual unescorted access authority, either by making a certification to an airport operator or issuing identification media that is accepted by airport operators for unescorted access, or authority to perform screening functions.
- When a CHRC on an individual described in paragraph (a)(2) discloses an arrest for a disqualifying criminal offense and does not indicate a disposition, an aircraft operator must suspend the individual's unescorted access authority or authority to perform screening functions within 45 days after obtaining the CHRC unless the aircraft operator determines, after investigation, that the arrest did not result in a disqualifying criminal offense.
- An aircraft operator may only make this determination for individuals described in paragraph (a).

Paragraph (h), Correction of FBI records and notification of

disqualification, states the aircraft operator's duty to advise the individual about a disqualifying criminal offense in the CHRC, provide a copy of the record, and notify the individual of a final decision. It is essentially the same as new § 107.209 (h) and current § 108.229 (g).

Paragraph (i), Corrective action by the individual, describes the action the individual may take to correct an inaccurate CHRC. It is essentially the same as new § 107.209 (i) and current § 108.229(h).

Paragraph (j), Limits on dissemination of results, describes the limitations on disseminating the CHRC results. It is essentially the same as new § 107.209 (j) and current § 108.229(i). Paragraph (j)(2) clarifies that an aircraft operator may not provide CHRC results to an airport operator if the aircraft operator is providing a certification under part 107. In such a case, the airport operator does not have a need to see the CHRC under these rules. This is consistent with new § 107.209 (n).

Paragraph (k), Recordkeeping, states the airport operator's duties to maintain records, and is essentially the same as new § 107.209 (k) and current § 108.229 (k).

Paragraph (l), Continuing responsibilities, states the continuing responsibilities of the aircraft operator, each person with unescorted access authority, and each person performing screening functions, corresponding to new § 107.209 (l) and current § 108.229 (l).

Paragraph (m), Aircraft operator responsibility, states the aircraft operator responsibility corresponding to new § 107.209 (o) and current § 108.229 (m).

Compliance Dates

This rule becomes effective on December 6, 2001. On that date each airport operator and each aircraft operator may begin submitting fingerprints to complete the CHRC's required under this rule.

The compliance date for individuals seeking unescorted access authority, and for individuals seeking authority to perform screening functions, at non-Category X airports is December 6, 2001. On and after that date each individual seeking such authority must undergo a CHRC as provided in this rulemaking.

Under § 107.209 (c) and § 108.229 (c) the compliance date for submitting fingerprints for individuals who now have unescorted access authority and individuals who now have authority to perform screening functions is one year after the December 6, 2001. By that date, each airport operator and each aircraft operator must have submitted fingerprints for all such individuals.

The FAA considers it critical to promptly address the deficiencies in the current employment investigations described above. Based on discussions with the industry, the FAA believes that these dates can be met. Indeed, a number of airport operators agree that all covered individuals should be fingerprinted and are ready to undertake that task as soon as possible, and expect to complete it much sooner than one year.

Good Cause for Immediate Adoption

This action is necessary to prevent a possible imminent hazard to aircraft and persons and property within the United States. Because the circumstances described herein warrant immediate action, the Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further, the Administrator finds that good cause exists under 5 U.S.C. 553(d) for making this rule effective less than 30 days after publication in the **Federal Register**.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to this rule.

Paperwork Reduction Act

This emergency rule contains information collection activities subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). In accordance with section 3507 (j)(1)(B) of that statute, the FAA requested the Office of Management and Budget to grant an immediate emergency clearance on the paperwork package that was submitted. As protection provided by the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The collection of information was approved and assigned OMB Control Number 2120–0673. Following is a summary of the information collection activity.

Need: This rule requires information to be collected on individuals who perform, or seek to perform, security-related functions at domestic airports. The rule covers individuals at all categories of airports who were not subject to a fingerprint-based CHRC before December 6, 2001. Under current FAA rules and statutes, fingerprint-based criminal history record checks are conducted on applicants at Category X airports for employment as screeners and for positions with access to secured areas of the airport. At non-Category X airports criminal history record checks are done only in limited circumstances, that is, when a verification of their prior employment reveals certain triggers, such as an unexplained gap in employment of 12 months. No individual with access to secured areas had a background check before 1996, and no screener had a background check before 1998. Only limited numbers of individuals hired since 1996 and 1998 respectively have been subjected criminal history checks. The new rules will require that all individuals with access to secured areas and all screeners be fingerprinted and a criminal history check conducted if it has not been done in the past. The rules are an essential part of the response to the current threat of terrorist activity.

Description of Respondents: All new and existing personnel who have unescorted access authority to the security identification display area of an airport, individuals who authorize others to have unescorted access authority, individuals who screen passengers and property that will be carried in an aircraft cabin in air transportation or intrastate air transportation, and supervisors of screeners. The FAA estimates that there will be 1.06 million respondents during the first year.

Estimated Burden: This rule will constitute a recordkeeping burden for certificate holders operating under parts 107 and 108. All personnel will need to be fingerprinted. In the first year of this rule, 1.06 million employees will need to be processed; in subsequent years, it will average about 275,000 employees. The total ten-year burden for the estimated 3.52 million employees is 1,234,711 hours at a cost of $27,833,525. The annual burden sums to 123,471.1 hours at a cost of $2,783,352.50.

Economic Analyses

This rulemaking action is taken under an emergency situation within the meaning of Section 6(a)(3)(D) of Executive Order 12866, Regulatory Planning and Review. It also is considered an emergency regulation under Paragraph 11g of the Department of Transportation (DOT) Regulatory Policies and Procedures. In addition, it is a significant rule within the meaning of the Executive Order and DOT's policies and procedures. No regulatory

analysis or evaluation accompanies this rule. The FAA has not assessed of whether this rule will have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980. When no notice of proposed rulemaking has first been published, no such assessment is required for a final rule. The FAA recognizes that this rule will impose significant costs on airport operators and aircraft operators. The current security threat requires, however, that operators take all necessary measures to ensure the safety and security of their operations.

Executive Order 13132, Federalism

The FAA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this final rule does not have federalism implications.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995 is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action."

Based on the FAA's rough initial estimates the FAA does not believe that the rule will result in such a mandate. The requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply when no notice of proposed rulemaking has first been published, however. Accordingly, the FAA has not prepared a statement under the Act.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j) this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of this rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that this rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects

14 CFR Part 107

Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

14 CFR Part 108

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

The Amendments

For the reasons stated in the preamble, the Federal Aviation Administration amends 14 CFR chapter I as set forth below:

PART 107—AIRPORT SECURITY

1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 106(g), 5103, 40113, 40119, 44701–44702, 44706, 44901–44905, 44907, 44913–44914, 44932, 44935–44936, 46105.

2. Revise § 107.209 to read as follows:

§ 107.209 Fingerprint-based criminal history records checks (CHRC).

(a) *Scope.* The following persons are within the scope of this section—

(1) Each airport operator and airport user.

(2) Each individual currently having unescorted access to a SIDA, and each individual with authority to authorize others to have unescorted access to a SIDA (referred to as unescorted access authority).

(3) Each individual seeking unescorted access authority.

(4) Each airport user and aircraft operator making a certification to an airport operator pursuant to paragraph (n) of this section, or § 107.31 (n) as it existed before November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001). An airport user, for the purposes of this section only, is any person other than an aircraft operator subject to § 108.229 of this chapter making a certification under this section.

(b) *Individuals seeking unescorted access authority.* Except as provided in paragraph (m) of this section, each airport operator must ensure that no individual is granted unescorted access authority unless the individual has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense, as described in paragraph (d) of this section.

(c) *Individuals who have not had a CHRC.* (1) Except as provided in paragraph (m) of this section, each airport operator must ensure that after December 6, 2002, no individual retains unescorted access authority, unless the airport operator has obtained and submitted a fingerprint under this part.

(2) When a CHRC discloses a disqualifying criminal offense for which the conviction or finding of not guilty by reason of insanity was on or after December 6, 1991, the airport operator must immediately suspend that individual's authority.

(d) *Disqualifying criminal offenses.* An individual has a disqualifying criminal offense if the individual has been convicted, or found not guilty of by reason of insanity, of any of the disqualifying crimes listed in this paragraph in any jurisdiction during the 10 years before the date of the individual's application for unescorted access authority, or while the individual has unescorted access authority. The disqualifying criminal offenses are as follows—

(1) Forgery of certificates, false marking of aircraft, and other aircraft registration violation; 49 U.S.C. 46306.

(2) Interference with air navigation; 49 U.S.C. 46308.

(3) Improper transportation of a hazardous material; 49 U.S.C. 46312.

(4) Aircraft piracy; 49 U.S.C. 46502.

(5) Interference with flight crew members or flight attendants; 49 U.S.C. 46504.

(6) Commission of certain crimes aboard aircraft in flight; 49 U.S.C. 46506.

(7) Carrying a weapon or explosive aboard aircraft; 49 U.S.C. 46505.

(8) Conveying false information and threats; 49 U.S.C. 46507.

(9) Aircraft piracy outside the special aircraft jurisdiction of the United States; 49 U.S.C. 46502(b).

(10) Lighting violations involving transporting controlled substances; 49 U.S.C. 46315.

(11) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements; 49 U.S.C. 46314.

(12) Destruction of an aircraft or aircraft facility; 18 U.S.C. 32.

(13) Murder.

(14) Assault with intent to murder.

(15) Espionage.
(16) Sedition.
(17) Kidnapping or hostage taking.
(18) Treason.
(19) Rape or aggravated sexual abuse.
(20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.
(21) Extortion.
(22) Armed or felony unarmed robbery.
(23) Distribution of, or intent to distribute, a controlled substance.
(24) Felony arson.
(25) Felony involving a threat.
(26) Felony involving—
(i) Willful destruction of property;
(ii) Importation or manufacture of a controlled substance;
(iii) Burglary;
(iv) Theft;
(v) Dishonesty, fraud, or misrepresentation;
(vi) Possession or distribution of stolen property;
(vii) Aggravated assault;
(viii) Bribery; or
(ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year.
(27) Violence at international airports; 18 U.S.C. 37.
(28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph.

(e) *Fingerprint application and processing.* (1) At the time of fingerprinting, the airport operator must provide the individual to be fingerprinted a fingerprint application that includes only the following—
(i) The disqualifying criminal offenses described in paragraph (d) of this section.
(ii) A statement that the individual signing the application does not have a disqualifying criminal offense.
(iii) A statement informing the individual that Federal regulations under 14 CFR 107.209 (l) impose a continuing obligation to disclose to the airport operator within 24 hours if he or she is convicted of any disqualifying criminal offense that occurs while he or she has unescorted access authority.
(iv) A statement reading, "The information I have provided on this application is true, complete, and correct to the best of my knowledge and belief and is provided in good faith. I understand that a knowing and willful false statement on this application can be punished by fine or imprisonment or both. (See section 1001 of Title 18 United States Code.)"
(v) A line for the printed name of the individual.
(vi) A line for the individual's signature and date of signature.

(2) Each individual must complete and sign the application prior to submitting his or her fingerprints.
(3) The airport operator must verify the identity of the individual through two forms of identification prior to fingerprinting, and ensure that the printed name on the fingerprint application is legible. At least one of the two forms of identification must have been issued by a government authority, and at least one must include a photo.
(4) The airport operator must advise the individual that:
(i) A copy of the criminal record received from the FBI will be provided to the individual, if requested by the individual in writing; and
(ii) The ASC is the individual's point of contact if he or she has questions about the results of the CHRC.
(5) The airport operator must collect, control, and process one set of legible and classifiable fingerprints under direct observation of the airport operator or a law enforcement officer.
(6) Fingerprints may be obtained and processed electronically, or recorded on fingerprint cards approved by the FBI and distributed by the FAA for that purpose.
(7) The fingerprint submission must be forwarded to the FAA in the manner specified by the Administrator.

(f) *Fingerprinting fees.* Airport operators must pay for all fingerprints in a form and manner approved by the FAA. The payment must be made at the designated rate (available from the local FAA security office) for each set of fingerprints submitted. Information about payment options is available though the designated FAA headquarters point of contact. Individual personal checks are not acceptable.

(g) *Determination of arrest status.* (1) When a CHRC on an individual seeking unescorted access authority discloses an arrest for any disqualifying criminal offense listed in paragraph (d) of this section without indicating a disposition, the airport operator must determine, after investigation, that the arrest did not result in a disqualifying offense before granting that authority.
(2) When a CHRC on an individual with unescorted access authority discloses an arrest for any disqualifying criminal offense without indicating a disposition, the airport operator must suspend the individual's unescorted access authority not later than 45 days after obtaining the CHRC unless the airport operator determines, after investigation, that the arrest did not result in a disqualifying offense.
(3) The airport operator may only make the determinations required in paragraphs (g)(1) and (g)(2) of this section for individuals for whom it is issuing, or has issued, unescorted access authority, and who are not covered by a certification from an aircraft operator under paragraph (n) of this section. The airport operator may not make determinations for individuals described in § 108.229 of this chapter.

(h) *Correction of FBI records and notification of disqualification.* (1) Before making a final decision to deny unescorted access authority to an individual described in paragraph (b) of this section, the airport operator must advise him or her that the FBI criminal record discloses information that would disqualify him or her from receiving or retaining unescorted access authority and provide the individual with a copy of the FBI record if he or she requests it.
(2) The airport operator must notify an individual that a final decision has been made to grant or deny unescorted access authority.
(3) Immediately following the suspension of unescorted access authority of an individual, the airport operator must advise him or her that the FBI criminal record discloses information that disqualifies him or her from retaining unescorted access authority and provide the individual with a copy of the FBI record if he or she requests it.

(i) *Corrective action by the individual.* The individual may contact the local jurisdiction responsible for the information and the FBI to complete or correct the information contained in his or her record, subject to the following conditions—
(1) For an individual seeking unescorted access authority on or after December 6, 2001, the following applies:
(i) Within 30 days after being advised that the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the airport operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The airport operator must obtain a copy, or accept a copy from the individual, of the revised FBI record, or a certified true copy of the information from the appropriate court, prior to granting unescorted access authority.
(ii) If no notification, as described in paragraph (h)(1) of this section, is received within 30 days, the airport operator may make a final determination to deny unescorted access authority.

(2) For an individual with unescorted access authority before December 6, 2001, the following applies: Within 30 days after being advised of suspension because the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the airport operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The airport operator must obtain a copy, or accept a copy from the individual, of the revised FBI record, or a certified true copy of the information from the appropriate court, prior to reinstating unescorted access authority.

(j) *Limits on dissemination of results.* Criminal record information provided by the FBI may be used only to carry out this section and § 108.229 of this chapter. No person may disseminate the results of a CHRC to anyone other than:

(1) The individual to whom the record pertains, or that individual's authorized representative.

(2) Officials of other airport operators who are determining whether to grant unescorted access to the individual under this part.

(3) Aircraft operators who are determining whether to grant unescorted access to the individual or authorize the individual to perform screening functions under part 108 of this chapter.

(4) Others designated by the Administrator.

(k) *Recordkeeping.* The airport operator must maintain the following information.

(1) *Investigations conducted before December 6, 2001.* The airport operator must maintain and control the access or employment history investigation files, including the criminal history records results portion, or the appropriate certifications, for investigations conducted before December 6, 2001.

(2) *Fingerprint application process on or after December 6, 2001.* Except when the airport operator has received a certification under paragraph (n) of this section, the airport operator must physically maintain, control, and, as appropriate, destroy the fingerprint application and the criminal record. Only direct airport operator employees may carry out the responsibility for maintaining, controlling, and destroying criminal records.

(3) *Certification on or after December 6, 2001.* The airport operator must maintain the certifications provided under paragraph (n) of this section.

(4) *Protection of records—all investigations.* The records required by this section must be maintained in a manner that is acceptable to the Administrator and in a manner that protects the confidentiality of the individual.

(5) *Duration—all investigations.* The records identified in this section with regard to an individual must be maintained until 180 days after the termination of the individual's unescorted access authority. When files are no longer maintained, the criminal record must be destroyed.

(l) *Continuing responsibilities.* (1) Each individual with unescorted access authority on December 6, 2001, who had a disqualifying criminal offense in paragraph (d) of this section on or after December 6, 1991, must, by January 7, 2002, report the conviction to the airport operator and surrender the SIDA access medium to the issuer.

(2) Each individual with unescorted access authority who has a disqualifying criminal offense must report the offense to the airport operator and surrender the SIDA access medium to the issuer within 24 hours of the conviction or the finding of not guilty by reason of insanity.

(3) If information becomes available to the airport operator or the airport user indicating that an individual with unescorted access authority has a disqualifying criminal offense, the airport operator must determine the status of the conviction. If a disqualifying offense is confirmed the airport operator must immediately revoke any unescorted access authority.

(m) *Exceptions.* Notwithstanding the requirements of this section, an airport operator may authorize the following individuals to have unescorted access authority:

(1) An employee of the Federal, state, or local government (including a law enforcement officer (LEO)) who, as a condition of employment, has been subjected to an employment investigation which includes a criminal records check.

(2) A crewmember of a foreign air carrier covered by an alternate security arrangement in the foreign air carrier's approved security program.

(3) An individual who has been continuously employed in a position requiring unescorted access authority by another airport operator, airport user, or aircraft operator, provided the grant for his or her unescorted access authority was based upon a fingerprint-based CHRC through the FAA.

(4) An individual who has been continuously employed by an aircraft operator, in a position with authority to perform screening functions, provided the grant for his or her authority to perform screening functions was based upon a fingerprint-based CHRC through the FAA.

(n) *Certifications by aircraft operators.* An airport operator is in compliance with its obligation under paragraph (b) or (c) of this section when the airport operator accepts, for each individual seeking unescorted access authority, certification from an aircraft operator subject to part 108 of this chapter indicating it has complied with § 108.229 of this chapter for the aircraft operator's employees and contractors seeking unescorted access authority. If the airport operator accepts a certification from the aircraft operator, the airport operator may not require the aircraft operator to provide a copy of the CHRC.

(o) *Airport operator responsibility.* The airport operator must—

(1) Designate the ASC, in the security program, or a direct employee if the ASC is not a direct employee, to be responsible for maintaining, controlling, and destroying the criminal record files when their maintenance is no longer required by paragraph (k) of this section.

(2) Designate the ASC, in the security program, to serve as the contact to receive notification from individuals applying for unescorted access authority of their intent to seek correction of their FBI criminal record.

(3) Audit the employment history investigations performed by the airport operator in accordance with this section and § 107.31 as it existed before November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001), and those investigations conducted by the airport users who provided certification to the airport operator. The audit program must be set forth in the airport security program.

(p) *Airport user responsibility.* (1) The airport user must report to the airport operator information, as it becomes available, that indicates an individual with unescorted access authority may have a disqualifying criminal offense.

(2) The airport user must maintain and control, in compliance with paragraph (k) of this section, the employment history investigation files for investigations conducted before December 6, 2001, unless the airport operator decides to maintain and control the employment history investigation file.

(3) The airport user must provide the airport operator with either the name or title of the individual acting as custodian of the files described in this paragraph, the address of the location where the files are maintained, and the phone number of that location. The airport user must provide the airport operator and the FAA with access to these files.

PART 108—AIRCRAFT OPERATOR SECURITY

3. The authority for part 108 continues to read as follows:

Authority: 49 U.S.C. 106(g), 5103, 40113, 40119, 44701–44702, 44705, 44901–44905, 44907, 44913–44914, 44932, 44935–44936, 46105.

4. Revise § 108.229 to read as follows:

§ 108.229 Fingerprint-based criminal history records checks (CHRC).

(a) *Scope.* The following persons are within the scope of this section—

(1)(i) Each employee or contract employee covered under a certification made to an airport operator on or after December 6, 2001, pursuant to § 107.209(n) of this chapter.

(ii) Each individual issued on or after December 6, 2001, aircraft operator identification media that one or more airports accepts as airport-approved media for unescorted access authority within a security identification display area (SIDA), as described in § 107.205 of this chapter (referred to as unescorted access authority).

(iii) Each individual, on or after December 6, 2001, granted authority to perform the following screening functions at locations within the United States (referred to as authority to perform screening functions)—

(A) Screening passengers or property that will be carried in a cabin of an aircraft of an aircraft operator required to screen passengers under this part.

(B) Serving as an immediate supervisor (checkpoint security supervisor (CSS)), and the next supervisory level (shift or site supervisor), to those individuals described in paragraph (a)(1)(iii)(A) of this section.

(2)(i) Each employee or contract employee covered under a certification made to an airport operator pursuant to § 107.31(n) as it existed before November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001), or pursuant to § 107.209(n) of this chapter before December 6, 2001.

(ii) Each individual who holds on December 6, 2001, an aircraft operator identification media that one or more airports accepts as airport-approved media for unescorted access authority within a security identification display area (SIDA), as described in § 107.205 of this chapter.

(iii) Each individual who is performing on December 6, 2001, a screening function identified in paragraph (a)(1)(iii) of this section.

(b) *Individuals seeking unescorted access authority or authority to perform screening functions.* Each aircraft operator must ensure that each individual identified in (a)(1) of this section has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense, as described in paragraph (d) of this section, before—

(1) Making a certification to an airport operator regarding that individual;

(2) Issuing an aircraft operator identification medium to that individual; or

(3) Authorizing that individual authority to perform screening functions.

(c) *Individuals who have not had a CHRC.* (1) Each aircraft operator must ensure that, on and after December 6, 2002:

(i) No individual retains unescorted access authority, whether obtained as a result of a certification to an airport operator under § 107.31(n) as it existed before November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001), or under § 107.209(n) of this chapter before December 6, 2001, or obtained as a result of the issuance of an aircraft operator's identification media, unless the individual has been subject to a fingerprint-based CHRC for unescorted access authority under this part.

(ii) No individual continues to have authority to perform screening functions described in paragraph (a)(1)(iii) of this section, unless the individual has been subject to a fingerprint-based CHRC under this part.

(2) When a CHRC discloses a disqualifying criminal offense for which the conviction or finding was on or after December 6, 1991, the aircraft operator must immediately suspend that individual's unescorted access authority or authority to perform screening functions.

(d) *Disqualifying criminal offenses.* An individual has a disqualifying criminal offense if the individual has been convicted, or found not guilty by reason of insanity, of any of the disqualifying crimes listed in this paragraph in any jurisdiction during the 10 years before the date of the individual's application for unescorted access authority or authority to perform screening functions, or while the individual has unescorted access authority or authority to perform screening functions. The disqualifying criminal offenses are as follows—

(1) Forgery of certificates, false marking of aircraft, and other aircraft registration violation; 49 U.S.C. 46306.

(2) Interference with air navigation; 49 U.S.C. 46308.

(3) Improper transportation of a hazardous material; 49 U.S.C. 46312.

(4) Aircraft piracy; 49 U.S.C. 46502.

(5) Interference with flight crew members or flight attendants; 49 U.S.C. 46504.

(6) Commission of certain crimes aboard aircraft in flight; 49 U.S.C. 46506.

(7) Carrying a weapon or explosive aboard aircraft; 49 U.S.C. 46505.

(8) Conveying false information and threats; 49 U.S.C. 46507.

(9) Aircraft piracy outside the special aircraft jurisdiction of the United States; 49 U.S.C. 46502(b).

(10) Lighting violations involving transporting controlled substances; 49 U.S.C. 46315.

(11) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements; 49 U.S.C. 46314.

(12) Destruction of an aircraft or aircraft facility; 18 U.S.C. 32.

(13) Murder.

(14) Assault with intent to murder.

(15) Espionage.

(16) Sedition.

(17) Kidnapping or hostage taking.

(18) Treason.

(19) Rape or aggravated sexual abuse.

(20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.

(21) Extortion.

(22) Armed or felony unarmed robbery.

(23) Distribution of, or intent to distribute, a controlled substance.

(24) Felony arson.

(25) Felony involving a threat.

(26) Felony involving—

(i) Willful destruction of property;

(ii) Importation or manufacture of a controlled substance;

(iii) Burglary;

(iv) Theft;

(v) Dishonesty, fraud, or misrepresentation;

(vi) Possession or distribution of stolen property;

(vii) Aggravated assault;

(viii) Bribery; or

(ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year.

(27) Violence at international airports; 18 U.S.C. 37.

(28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph.

(e) *Fingerprint application and processing.* (1) At the time of fingerprinting, the aircraft operator must provide the individual to be fingerprinted a fingerprint application that includes only the following—

(i) The disqualifying criminal offenses described in paragraph (d) of this section.

(ii) A statement that the individual signing the application does not have a disqualifying criminal offense.

(iii) A statement informing the individual that Federal regulations under 14 CFR 108.229 impose a continuing obligation to disclose to the aircraft operator within 24 hours if he or she is convicted of any disqualifying criminal offense that occurs while he or she has unescorted access authority.

(iv) A statement reading, "The information I have provided on this application is true, complete, and correct to the best of my knowledge and belief and is provided in good faith. I understand that a knowing and willful false statement on this application can be punished by fine or imprisonment or both. (See section 1001 of Title 18 United States Code.)"

(v) A line for the printed name of the individual.

(vi) A line for the individual's signature and date of signature.

(2) Each individual must complete and sign the application prior to submitting his or her fingerprints.

(3) The aircraft operator must verify the identity of the individual through two forms of identification prior to fingerprinting, and ensure that the printed name on the fingerprint application is legible. At least one of the two forms of identification must have been issued by a government authority, and at least one must include a photo.

(4) The aircraft operator must:

(i) Advise the individual that a copy of the criminal record received from the FBI will be provided to the individual, if requested by the individual in writing; and

(ii) Identify a point of contact if the individual has questions about the results of the CHRC.

(5) The aircraft operator must collect, control, and process one set of legible and classifiable fingerprints under direct observation by the aircraft operator or a law enforcement officer.

(6) Fingerprints may be obtained and processed electronically, or recorded on fingerprint cards approved by the FBI and distributed by the FAA for that purpose.

(7) The fingerprint submission must be forwarded to the FAA in the manner specified by the Administrator.

(f) *Fingerprinting fees.* Aircraft operators must pay for all fingerprints in a form and manner approved by the FAA. The payment must be made at the designated rate (available from the local FAA security office) for each set of fingerprints submitted. Information about payment options is available though the designated FAA headquarters point of contact. Individual personal checks are not acceptable.

(g) *Determination of arrest status.* (1) When a CHRC on an individual described in paragraph (a)(1) of this section discloses an arrest for any disqualifying criminal offense listed in paragraph (d) of this section without indicating a disposition, the aircraft operator must determine, after investigation, that the arrest did not result in a disqualifying offense before granting unescorted access authority or authority to perform screening functions.

(2) When a CHRC on an individual described in paragraph (a)(2) of this section discloses an arrest for any disqualifying criminal offense without indicating a disposition, the aircraft operator must suspend the individual's unescorted access authority or authority to perform screening functions not later than 45 days after obtaining the CHRC unless the aircraft operator determines, after investigation, that the arrest did not result in a disqualifying criminal offense.

(3) The aircraft operator may only make the determinations required in paragraphs (g)(1) and (g)(2) of this section for individuals for whom it is issuing, or has issued, unescorted access authority; individuals for whom it is issuing, or has issued, authority to perform screening functions; and individuals who are covered by a certification from an aircraft operator under § 107.209 (n) of this chapter. The aircraft operator may not make determinations for individuals described in § 107.209 (a) of this chapter.

(h) *Correction of FBI records and notification of disqualification.* (1) Before making a final decision to deny authority to an individual described in paragraph (a)(1) of this section, the aircraft operator must advise him or her that the FBI criminal record discloses information that would disqualify him or her from receiving or retaining unescorted access authority or authority to perform screening functions and provide the individual with a copy of the FBI record if he or she requests it.

(2) The aircraft operator must notify an individual that a final decision has been made to grant or deny unescorted access authority or authority to perform screening functions.

(3) Immediately following the suspension of unescorted access authority or authority to perform screening functions, the aircraft operator must advise the individual that the FBI criminal record discloses information that disqualifies him or her from retaining his or her authority, and provide the individual with a copy of the FBI record if he or she requests it.

(i) *Corrective action by the individual.* The individual may contact the local jurisdiction responsible for the information and the FBI to complete or correct the information contained in his or her record, subject to the following conditions—

(1) For an individual seeking unescorted access authority or authority to perform screening functions on or after December 6, 2001, the following applies:

(i) Within 30 days after being advised that the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the aircraft operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The aircraft operator must obtain a copy, or accept a copy from the individual, of the revised FBI record or a certified true copy of the information from the appropriate court, prior to granting unescorted access authority or authority to perform screening functions.

(ii) If no notification, as described in paragraph (h)(1) of this section, is received within 30 days, the aircraft operator may make a final determination to deny unescorted access authority or authority to perform screening functions.

(2) For an individual with unescorted access authority or authority to perform screening functions before December 6, 2001, the following applies: Within 30 days after being advised of suspension because the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the aircraft operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The aircraft operator must obtain a copy, or accept a copy from the individual, of the revised FBI record, or a certified true copy of the information from the appropriate court, prior to reinstating unescorted access authority or authority to perform screening functions.

(j) *Limits on dissemination of results.* Criminal record information provided by the FBI may be used only to carry out this section and § 107.209 of this chapter. No person may disseminate the results of a CHRC to anyone other than:

(1) The individual to whom the record pertains, or that individual's authorized representative.

(2) Officials of airport operators who are determining whether to grant

unescorted access to the individual under part 107 of this chapter when the determination is not based on the aircraft operator's certification under § 107.209 (n) of this chapter.

(3) Other aircraft operators who are determining whether to grant unescorted access to the individual or authorize the individual to perform screening functions under this part.

(4) Others designated by the Administrator.

(k) *Recordkeeping.* The aircraft operator must maintain the following information.

(1) *Investigation conducted before December 6, 2001.* The aircraft operator must maintain and control the access or employment history investigation files, including the criminal history records results portion, for investigations conducted before December 6, 2001.

(2) *Fingerprint application process on or after December 6, 2001.* The aircraft operator must physically maintain, control, and, as appropriate, destroy the fingerprint application and the criminal record. Only direct aircraft operator employees may carry out the responsibility for maintaining, controlling, and destroying criminal records.

(3) *Protection of records—all investigations.* The records required by this section must be maintained in a manner that is acceptable to the Administrator and in a manner that protects the confidentiality of the individual.

(4) *Duration—all investigations.* The records identified in this section with regard to an individual must be maintained until 180 days after the termination of the individual's unescorted access authority or authority to perform screening functions. When files are no longer maintained, the criminal record must be destroyed.

(l) *Continuing responsibilities.* (1) Each individual with unescorted access authority or the authority to perform screening functions on December 6, 2001, who had a disqualifying criminal offense in paragraph (d) of this section on or after December 6, 1991, must, by January 7, 2002, report the conviction to the aircraft operator and surrender the SIDA access medium to the issuer and cease performing screening functions, as applicable.

(2) Each individual with unescorted access authority or authority to perform screening functions who has a disqualifying criminal offense must report the offense to the aircraft operator and surrender the SIDA access medium to the issuer within 24 hours of the conviction or the finding of not guilty by reason of insanity.

(3) If information becomes available to the aircraft operator indicating that an individual with unescorted access authority or authority to perform screening functions has a possible conviction for any disqualifying criminal offense in paragraph (d) of this section, the aircraft operator must determine the status of the conviction. If a disqualifying criminal offense is confirmed the aircraft operator must immediately revoke any unescorted access authority and authority to perform screening functions.

(m) *Aircraft operator responsibility.* The aircraft operator must—

(1) Designate an individual(s) to be responsible for maintaining and controlling the employment history investigations for those whom the aircraft operator has made a certification to an airport operator under § 107.209 (n) of this chapter, and for those whom the aircraft operator has issued identification media that are airport-accepted. The aircraft operator must designate a direct employee to maintain, control, and, as appropriate, destroy criminal records.

(2) Designate an individual(s) to maintain the employment history investigations of individuals with authority to perform screening functions whose files must be maintained at the location or station where the screener is performing his or her duties.

(3) Designate an individual(s) at appropriate locations to serve as the contact to receive notification from individuals seeking unescorted access authority or authority to perform screening functions of their intent to seek correction of their FBI criminal record.

(4) Audit the employment history investigations performed in accordance with this section and § 108.33 as it existed before November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001). The aircraft operator must set forth the audit procedures in its security program. Section 138 of ATSA removes the exemption for the individuals with access to U.S. Customs' secured areas.

Issued in Washington, DC on December 3, 2001.

Jane F. Garvey,

Administrator.

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Title 3—

The President

Presidential Determination No. 02–04 of November 21, 2001

Presidential Determination on FY 2002 Refugee Admissions Numbers and Authorizations of In-Country Refugee Status Pursuant to Sections 207 and 101(a)(42), Respectively, of the Immigration and Nationality Act, and Determination Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act, as Amended

Memorandum for the Secretary of State

In accordance with section 207 of the Immigration and Nationality Act (the "Act") (8 U.S.C. 1157), as amended, and after appropriate consultations with the Congress, I hereby make the following determinations and authorize the following actions:

The admission of up to 70,000 refugees to the United States during FY 2002 is justified by humanitarian concerns or is otherwise in the national interest; provided, however, that this number shall be understood as including persons admitted to the United States during FY 2002 with Federal resettlement assistance under the Amerasian immigrant admissions program, as provided below.

The 70,000 admissions numbers shall be allocated among refugees of special humanitarian concern to the United States in accordance with the following regional allocations; provided, however, that the number allocated to the East Asia region shall include persons admitted to the United States during FY 2002 with Federal refugee resettlement assistance under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, as contained in section 101(e) of Public Law 100–202 (Amerasian immigrants and their family members); provided further that the number allocated to the former Soviet Union shall include persons admitted who were nationals of the former Soviet Union, or in the case of persons having no nationality, who were habitual residents of the former Soviet Union, prior to September 2, 1991:

Africa	22,000
East Asia	4,000
Eastern Europe	9,000
Former Soviet Union	17,000
Latin America/Caribbean	3,000
Near East/South Asia	15,000

Unused admissions numbers allocated to a particular region may be transferred to one or more other regions if there is an overriding need for greater numbers for the region or regions to which the numbers are being transferred. You are hereby authorized and directed to consult with the Judiciary Committees of the Congress prior to reallocation of numbers from one region to another.

Pursuant to section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as amended, I hereby determine that assistance to or on behalf of persons applying for admission to the United States as part of the overseas refugee admissions program will contribute to the foreign policy interests of the United States and designate such persons for this purpose.

An additional 10,000 refugee admissions numbers shall be made available during FY 2002 for the adjustment to permanent resident status under section

290(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) of aliens who have been granted asylum in the United States under section 208 of the Act (8 U.S.C. 1158), as this is justified by humanitarian concerns or is otherwise in the national interest.

In accordance with section 101(a)(42) of the Act (8 U.S.C. 1101(a)(42)) and after appropriate consultation with the Congress, I also specify that, for FY 2002, the following persons may, if otherwise qualified, be considered refugees for the purpose of admission to the United States within their countries of nationality or habitual residence:

(a) Persons in Vietnam

(b) Persons in Cuba

(c) Persons in the former Soviet Union

You are authorized and directed to report this determination to the Congress immediately and to publish it in the **Federal Register**.

THE WHITE HOUSE,
Washington, November 21, 2001.

[FR Doc. 01–30449
Filed 12–6–01; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–13]

Amendment of Class E Airspace; Dayton, TN; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction

SUMMARY: This action corrects an error in the geographic coordinates of a final rule amending the Class E airspace at Dayton, TN, that was published in the **Federal Register** on November 27, 2001, (66 FR 59136), 01–ASO–13.

EFFECTIVE DATE: 0901 UTC, February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

Federal Register document 01–29480, Airspace Docket No. 01–ASO–13, published on November 27, 2001 (66 FR 59136), amended Class E5 airspace at Dayton, TN. An error was discovered in the geographic coordinates for the Bradley Memorial Hospital point in space. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the geographic coordinates for the Class E5 airspace area at Dayton, TN, incorporated by reference at (14 CFR 71.1 and published in the **Federal Register** on November 27, 2001 (66 FR 59136), is corrected as follows:

§ 71.1 [Corrected]

ASO TN E5 Dayton, TN [CORRECTED]

1. On page 39136, column 3, under Bradley Memorial Hospital, Cleveland, TN, correct the geographic coordinates "(Lat. 35°10′45″ N, long 84°52′56″ W)" to read "(Lat. 35°10′52″ N, long. 84°52′56″ W)".

* * * * *

Issued in College Park, Georgia, on November 27, 2001.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 01–30173 Filed 12–06–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2001–10877; Airspace Docket No. 01–ANM–13]

RIN 2120–AA66

Revision of Legal Descriptions of Multiple Federal Airways in the Vicinity of Salt Lake City, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the legal descriptions of four Federal airways and eight jet routes that use the Salt Lake City, UT, very high frequency omnidirectional range/tactical air navigation (VORTAC) in their route structure. Currently, the Salt Lake City VORTAC and the Salt Lake City International Airport, UT, share the same location identifier. The fact that the VORTAC and the airport are not collocated has led to confusion among users. To eliminate this confusion, the Salt Lake City VORTAC will be renamed the "Wasatch VORTAC." All airways with "Salt Lake City VORTAC" included in their legal descriptions will be amended, concurrent with the effective date of this final rule, to reflect the name change.

EFFECTIVE DATE: 0901 UTC, April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends Title 14 CFR part 71 (part 71) by amending the legal descriptions of four Federal airways and eight jet routes that have "Salt Lake City VORTAC" included as part of their route structure. Currently, the Salt Lake City, UT, VORTAC and the Salt Lake City International Airport, UT, share the same location identifier. The fact that the VORTAC and the airport are not collocated has led to confusion among users. To eliminate this confusion, the Salt Lake City VORTAC will be renamed the "Wasatch VORTAC." All airways with "Salt Lake City VORTAC" included in their legal descriptions will be amended to reflect the name change. The name change of the VORTAC will coincide with the effective date of this rulemaking action.

Since this action merely involves editorial changes in the legal description of three Federal airways, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Jet Routes and domestic VOR Federal airways are published in paragraphs 2004 and 6010(a), respectively, of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The jet routes and airways listed

in this document will be published subsequently in the order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854,24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9], Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 2004 Jet Routes

* * * * *

J–9 [Revised]

From Los Angeles, CA, via Daggett, CA; Las Vegas, NV; INT Las Vegas 046° and Milford, UT, 213° radials; Milford; Fairfield, UT; Wasatch, UT; Dubois, ID; Dillon, MT, to Great Falls, MT.

* * * * *

J–11 [Revised]

From Tucson, AZ, via INT Tucson 320° and Phoenix, AZ, 155° radials; Phoenix; Drake, AZ; Bryce Canyon, UT; Fairfield, UT; to Wasatch, UT.

* * * * *

J–12 [Revised]

From Seattle, WA, via Ephrata, WA; Donnelly, ID; Twin Falls, ID; Wasatch, UT; Fairfield, UT; to Grand Junction, CO.

* * * * *

J–15 [Revised]

From Humble, TX, via INT Humble 269° and Junction, TX, 112° radials; Junction; Wink, TX; Chisum, NM; Corona, NM; Albuquerque, NM; Farmington, NM; Grand Junction, CO; Wasatch, UT; Twin Falls, ID; Boise, ID; Kimberly, OR; INT Kimberly 288° and Battle Ground, WA, 136° radials; to Battle Ground.

* * * * *

J–56 [Revised]

From Mina, NV; Wasatch, UT; Hayden, CO; INT Hayden 090° and Falcon, CO, 317° radials; to Falcon.

* * * * *

J–116 [Revised]

From Wasatch, UT via Fairfield, UT; Meeker, CO; to Falcon, CO.

* * * * *

J–154 [Revised]

From Battle Mountain, NV; Bonneville, UT; Wasatch, UT; Rock Springs, WY; INT Rock Springs 106° and Mile High, CO, 322° radials; Mile High; INT Mile High 133° and Garden City, KS, 296° radials; to Garden City.

* * * * *

J–173 [Revised]

From Wasatch, UT, to Meeker, CO.

* * * * *

Paragraph 6010(a) Domestic VOR Federal Airways

* * * * *

V–21 [Revised]

From Santa Catalina, CA, via Seal Beach, CA; Paradise, CA; 35 miles, 7 miles wide (3 miles SE and 4 miles NW of centerline), Hector, CA; Boulder City, NV; Morman Mesa, NV; Milford, UT; Delta, UT; Fairfield, UT; Wasatch, UT; Ogden, UT; Malad City, ID; Pocatello, ID; Idaho Falls, ID; INT of Idaho Falls, 030° and DuBois, ID, 157° radials; DuBois; Dillon, MT; Whitehall, MT; Helena, MT; Great Falls, MT; Cut Bank, MT; INT Cut Bank 348° radial and the United States/Canadian border.

* * * * *

V–32 [Revised]

From Mustang, NV; via Hazen, NV; Lovelock, NV; INT Lovelock 057° and Battle Mountain, NV, 264° radials; Battle Mountain; Bullion, NV; Bonneville, UT; Wasatch, UT; 17 miles, 45 miles, 105 MSL, Fort Bridger, WY.

* * * * *

V–101 [Revised]

From Gill, CO, via Hayden, CO; Vernal, UT; 25 miles, 25 miles 120 MSL, 22 miles 145 MSL, 20 miles 125 MSL, Wasatch, UT; Ogden, UT; 61 miles, 26 miles, 109 MSL, Burley, ID; INT Burley 344° and Pocatello, ID, 286° radials; Hailey, ID, NDB; to the INT Pocatello 286° and Twin Falls, ID, 355° radials.

* * * * *

V–484 [Revised]

From Hailey, ID, NDB; INT Twin Falls, ID, 007° and Burley, ID, 323° radials; Twin Falls, 49 miles, 34 miles 114 MSL, Wasatch, UT; 25 miles, 31 miles, 125 MSL, Myton, UT; 14 miles, 79 MSL, 33 miles, 100 MSL, Grand Junction, CO; Blue Mesa, CO; INT Blue Mesa 110° and Alamosa, CO, 339° radials; Alamosa.

Issued in Washington, DC, November 29, 2001.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 01–30359 Filed 12–6–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR PART 12

[T.D. 01–86]

RIN 1515–AC95

Import Restrictions Imposed on Archaeological and Ethnological Materials From Bolivia

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the imposition of import restrictions on certain archaeological and ethnological materials originating in Bolivia. These restrictions are being imposed pursuant to an agreement between the United States and Bolivia that has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The document amends the Customs Regulations by adding Bolivia to the list of countries for which an agreement has been entered into for imposing import restrictions. The document also contains the "Designated List of Archaeological and Ethnological Material From Bolivia" that describes the types of articles to which the restrictions apply.

EFFECTIVE DATE: December 7, 2001.

FOR FURTHER INFORMATION CONTACT: (Legal Aspects) Joseph Howard, Intellectual Property Rights Branch (202) 927–2336; (Operational Aspects) Al Morawski, Trade Operations (202) 927–0402.

SUPPLEMENTARY INFORMATION:

Background

The value of cultural property, whether archaeological or ethnological in nature, is immeasurable. Such items often constitute the very essence of a society and convey important information concerning a people's origin, history, and traditional setting. The importance and popularity of such items regrettably makes them targets of theft, encourages clandestine looting of archaeological sites, and results in their illegal export and import.

The U.S. shares in the international concern for the need to protect endangered cultural property. The appearance in the U.S. of stolen or illegally exported artifacts from other

countries where there has been pillage has, on occasion, strained our foreign and cultural relations. This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the U.S. to join with other countries to control illegal trafficking of such articles in international commerce.

The U.S. joined international efforts and actively participated in deliberations resulting in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)). U.S. acceptance of the 1970 UNESCO Convention was codified into U.S. law as the "Convention on Cultural Property Implementation Act" (Pub.L. 97–446, 19 U.S.C. 2601 *et seq.*) ("the Act"). This was done to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance to the nations from where they originate and to achieving greater international understanding of mankind's common heritage.

During the past several years, import restrictions have been imposed on archaeological and ethnological artifacts of a number of signatory nations. These restrictions have been imposed as a result of requests for protection received from those nations as well as pursuant to bilateral agreements between the United States and other countries. More information on import restrictions can be found on the International Cultural Property Protection Web site (*http://exchanges.state.gov/education/culprop*).

Import restrictions are now being imposed on certain archaeological and ethnological materials originating in Bolivia as the result of a bilateral agreement entered into between the United States and Bolivia (the Agreement). The Agreement was entered into on December 4, 2001, pursuant to the provisions of 19 U.S.C. 2602. The archaeological materials subject to the Agreement represent pre-Columbian cultures of Bolivia and range in date from approximately 10,000 B.C. to A.D. 1532. The ethnological materials subject to the Agreement are from the Colonial and Republican periods and range in date from A.D. 1533 to 1900.

Accordingly, § 12.104g(a) of the Customs Regulations is being amended to indicate that restrictions have been imposed pursuant to the Agreement between the United States and Bolivia. This document amends the regulations by imposing import restrictions on certain archaeological and ethnological materials from Bolivia as described below.

It is noted that emergency import restrictions on antique ceremonial textiles from Coroma, Bolivia were previously imposed but are no longer in effect.(See T.D. 89–37, published in the **Federal Register** (54 FR 17529) on March 14, 1989, and T.D. 93–34 published in the **Federal Register** (58 FR 29348) on May 20, 1993.) The restrictions published in this document are separate and independent from these previously imposed emergency import restrictions. This document removes the reference in the Customs Regulations in § 12.104g(b) to these expired emergency import restrictions.

Material Encompassed in Import Restrictions

In reaching the decision to recommend protection for the cultural patrimony of Bolivia, the Acting Assistant Secretary for Educational and Cultural Affairs of the U. S. State Department determined, pursuant to the requirements of the Act, that the cultural patrimony of Bolivia is in jeopardy from the pillage of archaeological and ethnological materials and this pillage is widespread, on-going, and systematically destroying the non-renewable archaeological and ethnological record of Bolivia.

The archaeological materials which are the subject of the Acting Assistant Secretary's determination represent pre-Columbian cultures of Bolivia, range in date from approximately 10,000 B.C. to A.D. 1532, and include: (1) Objects comprised of textiles, featherwork, ceramics, metals, and lithics (stone); and (2) perishable remains, such as bone, human remains, wood, and basketry that represent cultures including but not limited to the Formative Cultures (such as Wankarani and Chiripa, Tiwanaku, and Inca), Tropical Lowland Cultures, and Aymara Kingdom. The ethnological materials which are the subject of the Acting Assistant Secretary's determination represent the Colonial and Republican periods, range in date from A.D. 1533 to 1900, and include: (1) Objects of indigenous manufacture and ritual, sumptuary, or funeral use related to the pre-Columbian past, which may include masks, wood, musical instruments, textiles, featherwork, and ceramics; and (2) objects used for rituals and religious ceremonies, including Colonial religious art, such as paintings and sculpture, reliquaries, altars, altar objects, and liturgical vestments.

The Acting Assistant Secretary also determined, pursuant to the requirements of the Act, that the archaeological materials covered by the Agreement are of cultural significance because they derive from numerous cultures that developed autonomously in the Andean region and attained a high degree of technological, agricultural, and artistic achievement, but whose underlying political, economic, and religious systems remain poorly understood. Also, the archaeological materials represent a legacy that serves as a source of identity and pride for the modern Bolivian nation. The Acting Assistant Secretary determined that the ethnological materials play an essential and irreplaceable role in indigenous Bolivian communities and are vested with symbolic and historic meaning. They are used in ceremonial and ritualistic practices and frequently serve as marks of identity within the society. Serving as testimony to the continuation of pre-Columbian cultural elements despite European political domination, they form an emblem of national pride in a society that is largely indigenous.

Also, pursuant to the requirements of the Act, the Acting Assistant Secretary determined that Bolivia has taken measures consistent with the Convention to protect its cultural patrimony, and that the application of import restrictions set forth in Section 307 of the Act is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes.

Designated List

The bilateral agreement between Bolivia and the United States covers the categories of artifacts described in a "Designated List of Archaeological and Ethnological Material from Bolivia," which is set forth below. Importation of articles on this list is restricted unless the articles are accompanied by an appropriate export certificate issued by the Government of Bolivia or documentation demonstrating that the articles left the country of origin prior to the effective date of the import restriction.

List of Archaeological and Ethnological Materials From Bolivia

Archaeological Materials

I. Pre-Columbian Ceramics

Ceremonial, sumptuary, and funerary ceramics representing the following principal cultures:

A. Formative Cultures (2000 B.C.–A.D. 400)

Decoration: Ceramics are monochrome in appearance from the use of red, tan, or pale orange slip against a fire-clouded surface; some forms are black and finely polished. Some show use of polychrome slip paints in red, orange, black, and yellow. The surface exterior is polished or burnished. There is some use of applique and incision.

Forms: Plates (*ch'illami*), open bowls, vases, double-cylinder vases with bridge handles, beakers with vertical handles, pitchers, incense burners, portrait jars, handled funerary jars, boot-shaped jars, tripod-base jars, canoe-shaped bowls, double-spout bottles, effigy jars in the shape of humans, animals and birds, and figurines.

Size: Varies according to form; miniatures average 2 cm. in height while over-sized *ch'illamis* can average 70 cm. in width/rim diameter.

Identifying features: Formative Period ceramics are plain in appearance but their shapes are distinct. Some are miniature or over-sized (bowls, or *ch'illami*); asymmetrical or lop-sided (boot-shaped jars); and unconventional (beakers with vertical handles, canoe-shaped vessels, "genie lamp" shape).

Styles: Formative Period style ceramics are distributed throughout Bolivia. These include: Chiripa, Fluke, Kaluyo/Qaluyu, Wankarani, Salar de Uyuni, Urus, Chipayas, Tupuraya, Mojocoya, Pocona, Mizque, Aiquile, Beni, Pando, Santa Cruz regions, and Mojeñas styles. Other terms used include: Quillacollo, Cliza, Llampara, Inquisivi, Navillera, Tapacarí, Capinota, Parotani, Chullpa Pampa, Sacaba, Tiraque, Chullpa Pata, Santa Lucia, Arani, Sierra Mokho, and Sauces.

B. Wankarani (1600 B.C.–A.D. 100)

Decoration: Typically monochrome, slipped vessels in red or black and well-polished. Black stripes against a red surface are also common. Incision, punctate, and applique are used for surface decoration on effigy vessels.

Forms: Plates (*ch'illami*), open bowls, vases, beakers with vertical handles, pitchers, incense burners, portrait jars, double-spout bottles, funerary urns, ladles, conical vases with circular bases, effigy jars in the shape of humans, animals and birds, and figurines.

Size: Varies according to form.

Identifying features: Plain forms and monochrome surface decoration that is well-polished. Most rim edges show a slight, rounded scallop that often gives the appearance of a misshapen vessel.

Styles: Wankarani ceramics are limited in distribution to northeast of Lake Titicaca and north of Lake Poopo. The term Wankarani is sometimes used broadly to refer to all Formative Period ceramics.

C. Chiripa (1500 B.C.–A.D. 200)

Decoration: Generally red or black slipped surfaces, with cream, yellow, or black painted geometric designs. Effigy vessels and fineware jars are often painted and incised. Yellow-painted, incised, and modeled flat-based jars are distinct.

Forms: Bowls, vases, pitchers, jars, effigy jars, and figurines. Flat-based restricted bowls with small, animal-shaped lug handles are common.

Size: Varies according to form.

Identifying features: Yellow-or cream-painted on red, incised, and modeled flat-based jars and bowls are distinct. The walls of the vessels are thick (5 cm. to 8 cm.) and the rims are thickened. The painted decoration is geometric, rendered in wide strokes.

Style: Linked to the Wankarani and Tiwanaku I styles of the Bolivian highlands.

D. Tiwanaku (A.D. 600–1200)

Decoration: Well-fired (hard), polychrome pottery in black on red or combined black, red, yellow, orange, gray, brown, and white. Design motifs include human and divine representations, pumas, jaguars, birds, and geometric elements. On many beakers, the design is complex. Plastic decoration includes modeling, incision, and applique.

Forms: Bowls, plates, urns, vases, *lebrillos*, flat-bottomed beakers, incense burners (*sahumerios*), lamps (*mechero*), effigy jars, portrait vessels, bottles, flat-bottomed bottles, challadores, and some tripod forms. The rim edges of some beakers are scalloped.

Size: Varies according to form; storage jars are known to be up to one meter in height.

Identifying features: Tiwanaku finewares are typically polychrome and often exhibit complex images of cats, llamas, or personages bearing a staff in each outstretched arm. Beakers and plates often bear an open-mouthed feline or llama adornment along the rim edge. Some decorated jars (*lebrillos*) are short-bodied with disproportionately large, outflaring rims.

Styles: Tiwanaku I-V, Qalasasaya, Qeya, Yampara, Mollo, Omereque, Uruquilla, Quillacasa, Yura, Tupuraya, Ciaco, Mojocoya, Lakatambo, Colla, and Presto-Puno. Linked to the Wari style of Ayacucho, Peru, and the earlier Chiripa style of Bolivia.

E. Aymara Kingdoms (A.D. 1200–1450)

Decoration: Monochrome and polychrome painted vessels utilizing red, grey, orange, white, black, and reddish-brown for intricate geometric designs.

Forms: Bowl, vase (*lebrillo*), pitcher, jar, figurine, cup, beaker (*kero*), portrait vessel, plate, oil lamp (*mechero*), incense burner (*sahumerio*), and challador.

Size: Varies according to form.

Identifying features: After the demise of the Tiwanaku empire, local ceramic traditions re-emerged. Design elements such as color and placement on the vessel are retained from Tiwanaku styles, but religious personages and deities are replaced by abstract, geometric designs.

Styles: Mollo, Pacajes, Uruquilla, Yuna, Chaqui, Lupaqa, Karanga, Charcas, Killaqa, Karanka, Kara Kara, Ciaco, Chuyes, Tomatas, Yampará, and Mizque Regional. Also referred to as "Decadent Tiwanaku."

F. Inca (A.D. 1450–1533)

Decoration: Monochrome and polychrome painted vessels utilizing red, grey, orange, white, black, and reddish-brown for intricate geometric designs arranged in bands.

Forms: Cook pot, bowl, vase (*lebrillo*), pitcher, jar (*aríbalo*), figurine, cup, kero (*beaker*), portrait vessel, plate, oil lamp (*mechero*), incense burner (*sahumerio*), funerary urn, bottle (*angara*), challador, storage vessel.

Size: Varies according to form; funerary urns and storage vessels can average one meter in height.

Identifying features: The most recognizable form of these ceramics is the flat-based beaker or *kero*. These average about 10 cm. in height and are painted with complex geometric and naturalistic designs in polychrome colors, often adorned at or near the rim by a modeled puma, llama, or jaguar head. *Keros* are often decorated in the style called Tocapu, an Inca design consisting of horizontally and vertically arranged squares with abstract and geometric motifs in each square.

Styles: Inca, Yampará, Lakatambo, Colla, Yura, and Pacajes.

G. Tropical Lowland Cultures (1400 B.C.–A.D. 1533):

Decoration: Often plain slipped in colors of red, tan, cream, orange, black, and yellow with bands of geometric designs.

Forms: Bowls, vases, pitchers, jars, funerary urn, plate, oil lamp, and challador.

Size: Varies according to form; some funerary urns are over one meter in height.

Identifying features: Soft pastes containing organic inclusions.

Styles: Casarabe, Mamoré, San Juán, Palmar, Vanegas, and Chané.

H. Ceramic Musical Instruments (Formative Cultures—Inca, including Tropical Lowland Cultures)

Decoration/Form: Ceramic musical instruments include whistles, flutes, rattles, and panpipes. Often plain slipped in colors of red, tan, cream, orange, black, and yellow or painted with intricate polychrome designs.

Size: Panpipes range between 20 cm. and 120 cm.; whistles and rattles are typically hand size; flutes range from 20 cm. to 120 cm.

Styles and distribution: Whistle/flute (*ocarina* or *silbato*); Rattle (*sonajera*); Flute/panpipe (zampoña). Distributed throughout all parts of Bolivia.

II. Pre-Columbian Textiles

Ceremonial, sumptuary, and funerary textiles representing the following principal cultures:

A. Tiwanaku

1. Shawl/mantle (*awayo, ahuayo, lliclla, llacota*): Square or rectangular garment composed of two pieces of cloth sewn together. Woven from cotton and/or camelid fibers and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. Fabric designs include: (1) Stripes arranged across the cloth in a vertical or horizontal pattern; (2) repetitive arrangements of llamas or other animal motifs; (3) patterns created from tie-dye, checkerboards, and repetitive squares or cloth patchwork. Average size is one square meter.

2. Tunic (*unku, ccahua*): Man's ceremonial vestment constructed from one piece of cloth which is folded in half and sewn up the sides, leaving openings for the arms at the top and an opening in the middle for the head. Woven from cotton and/or camelid fibers, often in tapestry weave, and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. Designs are typically found in the hip, sleeve, and neck areas but there are more elaborate examples where designs cover the entire garment: (1) Stripes arranged across the cloth in a vertical or horizontal pattern; (2) repetitive arrangements of llamas or other animal motifs; (3) patterns created from tie-dye, checkerboards, repetitive squares or cloth patchwork. Average size is 135 cm. x 92 cm.

3. Belts and bag belts (*chumpi, wak'a*): Worn by both men and women, woven from cotton or camelid fibers in a variety of widths, lengths, and colors. Found in either a solid color or simple polychrome geometricized design. Bag belts are long rectangular sashes comprised of one piece of cloth folded length-wise that contain an opening in the top and are secured to the waist by braided straps.

4. Hat, headband: Includes polychrome caps, four-cornered hats with tassels (gorro), headbands, and small cloths sometimes used as head-coverings by women (icuña) which were either woven or knotted and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. When present, designs are geometric or depict highly stylized animals, such as llamas and other camelids.

5. Bag/pouch (*ch'uspa, huallquepo*): Carried by both men and women; woven from cotton or camelid fibers in a variety of widths, lengths and colors. Found in either a solid color or simple polychrome stripe pattern arrangement with geometric motifs. These bags are usually square (20 cm.) or rectangular with a woven carrying strap. They often contain small pockets on the pouch exterior and are decorated with tassels.

6. Cloth: Square, rectangular, or fragmentary cloth woven from cotton or camelid fibers, or constructed from soft tree bark or other natural fiber, and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. Some examples are striped in a vertical or horizontal pattern. Tapestry wall-hangings often exhibit complex geometric or animal designs arranged in repetitive patterns. Average size ranges between six square centimeters and six square meters. Cloth may be fragmentary, folded flat, or bundled (q'epi) for use in ritual ceremonies. Women's ritual cloth, called icuña or tari, is also included in this category.

7. *Featherwork:* Colorful, tropical feathers attached to leather, cloth, wood, or other material, such as basketry, to create adornments worn on the wrists, ankles, neck, waist, back, and head, including the lips and ears. Most typically found are headdresses, which may consist of small crowns (30 cm. average) or large, towering bonnets of feathers (80 cm.). This category also includes feather-covered ritual belts and textiles (35–70 cm.), fans (250 cm. long), staves or batons (145–250 cm.), basketry supports, and healer's amulets or photadi (80–250 cm.).

B. Aymara Kingdom

1. Shawl/mantle (*awayo, ahuayo, lliclla, llacota, iscayo*): Square or rectangular garment composed of two pieces of cloth sewn together. Woven from cotton or camelid fibers and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. Designs are typically stripes arranged across the cloth in a vertical or horizontal pattern or along the margins of the garment. Average size is one square meter.

2. Tunic (*unku, ccahua*): Man's ceremonial vestment constructed from one piece of cloth which is folded in half and sewn up the sides, leaving openings for the arms at the top and an opening in the middle for the head. Woven from cotton or camelid fibers and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. Designs are typically found in the hip, sleeve, and neck areas, but there are examples of more elaborate designs which cover the entire garment; plain vertical stripe designs across the garment are also known. Average size is 135 cm. x 92 cm.

3. Dress (*aksu/urku*): Woman's ceremonial vestment woven from camelid fiber constructed from one piece of cloth that is wrapped around the body. These are dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. The vestments are plain or striped. Average length is 1.5 meters.

4. Belts and bag belts (*chumpi, wak'a*): Worn by both men and women; woven from cotton or camelid fibers in a variety of widths, lengths, and colors. Found in either a solid color or simple polychrome geometricized design. Bag belts are long rectangular sashes comprised of one piece of cloth folded length-wise that contain an opening in the top and are secured to the waist by braided straps.

5. Hat (*chucu*) or headband: The Aymara chucu is a conical shaped cap that is attached to the head with a headband. These were woven from camelid fibers and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. When present, designs are geometric or depict highly stylized animals, such as llamas and other camelids.

6. Bag/pouch (*ch'uspa, huallquepo, istalla*): Carried by both men and women, woven from cotton or camelid fibers in a variety of widths, lengths, and colors. Found in either a solid color or simple polychrome stripe pattern arrangement with geometric motifs. These bags are usually square (20 cm.) or rectangular with a woven carrying strap. They often contain small pockets

on the pouch exterior and are decorated with tassels.

7. *Cloth:* Square, rectangular, or fragmentary cloth woven from cotton or camelid fibers, or constructed from soft tree bark or other natural fiber, and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. Some examples are striped in a vertical or horizontal pattern. Average size ranges between six square centimeters and six square meters. Cloth may be fragmentary, folded flat, or bundled (*q'epi*) for use in ritual ceremonies. Woman's ritual cloth, called *icuña* or *tari*, is also included in this category.

8. *Featherwork:* Consists of colorful, tropical feathers attached to leather, cloth, wood, or other material, such as basketry, to create adornments worn on the wrists, ankles, neck, waist, back, and head, including the lips and ears. Most typically found are head dresses, which may consist of small crowns (30 cm. average) or large, towering bonnets of feathers (80 cm.). This category also includes feather-covered ritual belts and textiles (35–70 cm.), fans (250 cm. long), staves or batons (145–250 cm.), basketry supports, and healer's amulets or *photadi* (80–250 cm.).

C. Inca

1. Shawl/mantle (*awayo, ahuayo, lliclla, llacota, iscayo*): Square or rectangular garment composed of two pieces of cloth sewn together. Woven from cotton or camelid fibers and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. Designs are typically stripes arranged across the cloth in a vertical or horizontal pattern or along the margins of the garment. Average size is one square meter.

2. Tunic (unku, ccahua): Man's ceremonial vestment constructed from one piece of cloth which is folded in half and sewn up the sides, leaving openings for the arms at the top and an opening in the middle for the head. Woven from cotton and/or camelid fibers, often in tapestry weave, and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. Designs are typically found in the hip, sleeve, and neck areas, but there are more elaborate examples where designs cover the entire garment: (1) Stripes arranged across the cloth in a vertical or horizontal pattern; (2) repetitive arrangements of llamas or other animal motifs; (3) patterns created from tie-dye, checkerboards, and repetitive squares or cloth patchwork. Tunics are often decorated in the style called Tocapu, an Inca design consisting of horizontally and vertically arranged squares with abstract and geometric motifs in each square. Average size is 135 cm. x 92 cm.

3. Dress (aksu/urku): Woman's ceremonial dress woven from camelid fiber and constructed from a rectangular, two-piece cloth that is wrapped around the body and tied at the waist. These are dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. The vestments are normally plain or striped, but during the Inca Period, many were made from cumbi (see Inca cloth) and decorated in striped patterns (usually horizontal) of geometric motifs. Average length is 1.5 meters.

4. Belts and bag belts (*chumpi, wak'a*): Worn by both men and women, woven from cotton or camelid fibers in a variety of widths, lengths, and colors. Found in either a solid color or simple polychrome geometricized design. Bag belts are long rectangular sashes comprised of one piece of cloth folded length-wise that contain an opening in the top and are secured to the waist by braided straps.

5. Hat (*chuc, ñañaca*) or headband: The *chucu* is a conical shaped cap that is attached to the head with a headband. These were woven from camelid fibers and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. When present, designs are geometric or depict highly stylized animals, such as llamas and other camelids. Ñañacas are head coverings worn by women that range in size between 10 square cm. and one square meter.

6. Bag/pouch (*ch'uspa, huallquepo, istalla*): Carried by both men and women; woven from cotton or camelid fibers in a variety of widths, lengths, and colors. Found in either a solid color or simple polychrome stripe pattern arrangement with geometric motifs. These bags are usually square (20 cm.) or rectangular with a woven carrying strap. They often contain small pockets on the pouch exterior and are decorated with tassels.

7. Cloth and *cumbi:* Square, rectangular, or fragmentary cloth woven from fine cotton and/or camelid fibers, or constructed from soft tree bark or other natural fiber, and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. Some examples are striped in a vertical or horizontal pattern. Average size ranges between six square centimeters and six square meters. Cloth may be fragmentary, folded flat, or bundled (*q'epi*) for use in ritual ceremonies. Woman's ritual cloth, called *icuña, tari,* or *ñañaca,* is also included in this category. *Cumbi,* or "royal Inca cloth," refers to a finely woven, soft cloth produced for Inca dignitaries and is analogous to gold in value. Often baby alpaca wool was utilized.

8. Knotted Strings or *quipu* (*k'ipu, khipu*): *Quipus* are knotted string devices used to count and record. They were created from woven cotton and/or camelid fiber twine. They appear as sets of knotted strings in colors, such as tan, cream, brown, or coffee. *Quipus* range in size from hand-size to 2.5 meters in length.

9. *Featherwork:* Colorful, tropical feathers attached to leather, cloth, wood, or other material to create adornments worn on the wrists, ankles, neck, waist, back, and head, including the lips and ears. Most typically found are headdresses, which may consist of small crowns (30 cm. average) or large, towering bonnets of feathers (80 cm.). This category also includes feather-covered ritual belts and textiles (35–70 cm.), fans (250 cm. long), staves or batons (145–250 cm.), basketry supports, and healer's amulets or *photadi* (80–250 cm.).

D. Tropical Lowland Cultures

1. *Cloth:* Square, rectangular, or fragmentary cloth woven from cotton, or constructed from soft tree bark or other natural fiber, and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. Some examples are striped in a vertical or horizontal pattern. Average size ranges between six square centimeters and six square meters. Cloth may be fragmentary, folded flat, or bundled (*q'epi*) for use in ritual ceremonies.

2. *Featherwork:* Colorful, tropical feathers attached to leather, cloth, wood, or other material to create adornments worn on the wrists, ankles, neck, waist, back, and head, including the lips and ears. Most typically found are headdresses, which may consist of small, modest crowns (30 cm. average) or large, towering bonnets of feathers (80 cm.). This category also includes feather-covered ritual belts and textiles (35–70 cm.), fans (250 cm. long), staves or batons (145–250 cm.), and healer's amulets or *photadi* (80–250 cm.).

III. Pre-Columbian Metals

Ceremonial, sumptuary, and funerary metal objects produced and used by indigenous cultures from the Formative Period to A.D. 1533:

A. Axe: Made of copper, bronze, or gold. Generally flat with rounded head

and attached to a handle. Average size is 15 cm. long x 10 cm. wide. Formative Cultures—Inca.

B. Chisel: Made of copper, bronze, silver, gold, or tumbaga. Long stem(50 cm.) terminates at short bulbous head (10 cm.). Formative Cultures—Inca.

C. Clamps/tweezers: Made of copper, bronze, silver, gold, or tumbaga. Short stem (5 cm.) attaches to thin, flat heads, sometimes decorated (10 cm.). Formative Cultures—Inca.

D. Knife (*tumi*): Made of copper, bronze, silver, gold, or tumbaga. Flat surface with trapezoidal or squared handle and ovaloid or half-moon blade. Often incised, embossed, or applique decoration at base. Average size is 50 cm. in height. Formative Cultures—Inca.

E. Crown: Made of gold or silver. Generally flat metal with animal, bird, or geometric designs. Average size is 14 cm. in diameter. Formative Cultures—Inca.

F. Diadem: Made of gold or silver. Generally flat with animal, bird, or geometric designs. Average size is 35 cm. long × 45 cm. wide. Formative Cultures—Inca.

G. Bracelet: Made of copper, bronze, silver, gold, or tumbaga. Usually tubular form. Average size is 11 cm. in diameter. Formative Cultures—Inca.

H. Collar: Made of copper, bronze, silver, gold, or tumbaga. Normally a thin (4 cm.) band without clasps. Sometimes contains beads, disks, or pendants. Formative Cultures—Inca.

I. Earring or ear plug: Made of copper, bronze, silver, gold, or tumbaga. Generally discoid, ring shape, or pendant. Often inlaid with semi-precious stones or shell. Average size is 4 cm. in diameter. Tiwanaku—Inca.

J. Necklace: Made of copper, silver, gold, or tumbaga. Normally a thin(4 cm.) band without clasps. Sometimes contains beads, disks, or pendants. Formative Cultures—Inca.

K. Nose plug (*nariguera*): Made of copper, silver, gold, or tumbaga. Either ring shaped (plain, thin band) or a circular band with applique. Average size is 3 cm. in diameter. Formative Cultures—Inca.

L. Belt: Made of copper, bronze, silver, gold, or tumbaga. Usually consists of joined disks or chain links. Average size is one meter in length. Formative Cultures—Inca.

M. Figurine: Made of copper, bronze, silver, gold, or tumbaga. Usually human or animal (camelid) shape. Often found in pairs. Range in size from miniatures (2 cm. in height) to small statuettes (50 cm. in height). Lauraques are small (3 cm. to 7 cm.) amulet-like figurines of brass shaped like humans. Formative Cultures—Inca.

N. Mask: Made of copper, bronze, silver, gold, or tumbaga. Usually hammered, unadorned metal plaque that is sometimes inlaid with semi-precious stone or shell. Motifs include felines and humans or combinations of the two. Average size is 30 square cm.

O. Pectoral: Made of copper, silver, gold, or tumbaga. Flat surface with squared base and curved edge. Often decorated with fine incised lines. Average size is 70 cm. in height. Formative Cultures—Inca.

P. Sheet/plaque: Thin, hammered sheets of copper, silver, gold, or tumbaga. Often incised or embossed. Size varies. Formative Cultures—Inca.

Q. Garment pin (*tupu*): Made of copper, bronze, silver, gold, or tumbaga. A large pin with a long shaft (15 cm.) that usually terminates with flat, discoid head (4 cm.) often embossed with design. Tiwanaku—Inca.

IV. Pre-Columbian Stone

Ceremonial, sumptuary, and funerary stone objects produced and used by indigenous cultures from the Archaic period to A.D. 1533:

A. Projectile point: Made of red, black, brown, or transparent obsidian, chert, basalt, or other semi-precious stone. Leaf-shape, with or without stem. Average size is 7 cm. long x 3 cm. wide. Formative Cultures-Inca, including Tropical Lowland Cultures. Locally known as Vizcachani style.

B. Axe: Made of red, black, brown or transparent obsidian, chert, basalt, or other semi-precious stone. Leaf-shape, or rectangular shaped head, with or without notches where handle is attached. Average size is 12 cm. long x 6 cm. wide. Formative Cultures—Inca, including Tropical Lowland Cultures.

C. Sword: Made of red, black, brown or transparent obsidian, chert, basalt, or other semi-precious stone. Oblong, leaf-shaped, with or without notches where handle is attached. Formative Cultures—Inca, including Tropical Lowland Cultures.

D. Bead: Made of lapis lazuli, sodalite, obsidian, quartz, malachite, green stone, or other semi-precious stone. Usually are globular with fine aperture; pendants are also known. Average size is 1 cm., although much larger (4 cm.) and much smaller (2 mm.) sizes are recognized. Formative Cultures—Inca.

E. Lip plug: Made of lapis lazuli, sodalite, obsidian, quartz, malachite, green stone, or other semi-precious stone. Normally of discoidal shape. Average size is 2.5 cm. Formative Cultures—Inca, including Tropical Lowland Cultures.

F. Idol/*conopa*/figurine: Small human or animal shaped statuettes of turquoise, alabaster, lapis lazuli, sodalite, obsidian, quartz, malachite, green stone, or other semi-precious stone. Exterior is finely polished. Often found in matching pairs. Animals are usually camelids. Average size is 5 cm. in height. Formative Cultures—Inca, including Tropical Lowland Cultures.

G. Drinking vessel (*kero*): These are vase-shaped beakers, about 15 cm. in height, made from grey andesite or basalt. They often exhibit a puma or jaguar face on the vessel exterior or other stylized geometric design. Tiwanaku—Inca.

H. Snuff tablet: These are shallow, rectangular trays approximately 20 cm. long x 5 cm. wide x 1 cm. in height. May be constructed of andesite, basalt, alabaster, or other semi-precious stone, or of wood. These small trays are often carved with intricate designs and inlaid with semi-precious stone and/or shell. Formative Cultures—Inca, including Tropical Lowland Cultures.

I. Sculpture

1. Tenon head: Made of sandstone, basalt, granite, volcanic tuff, or other stone. These are carved ashlar stone heads, normally in the shapes of masked humans, jaguars, and pumas that either serve as architectural wall embellishments at temples and religious shrines or are portions of free-standing monoliths (*see also* stelae, monolith). Small round heads average 50 square cm., while the heads of columnar stelae average one square meter. Formative Cultures—Inca.

2. Animal-shaped: Made of sandstone, basalt, granite, volcanic tuff, or other stone. These are carved statues of the head and neck portions of llamas and other animals. Because they are not supported by a base or pedestal, they are unable to free-stand. Average size is 2 meters in height. Mostly Formative Cultures.

3. Plaques (*lapida*): Made of sandstone, basalt, granite, limestone, volcanic tuff, or other stone. These are rectangular ashlar slabs, 52 cm. long x 39 cm. wide x 3.5 cm. thick that are sculpted on both faces with elaborate human, animal, and geometric designs. Mostly Wankarani, Chiripa, and Formative Cultures.

4. Stelae: Made of sandstone, granite, andesite, or other stone. Includes free-standing columnar figures, inscribed columns, and door jambs. These are typically engraved with masked figures and other personages. Between one and three meters in height. Formative Cultures—Inca.

5. Monolith: Free-standing columnar sandstone, granite, andesite, or other

stone. Between one and three meters in height. Formative Cultures—Inca.

J. Rock art: Made of sandstone, basalt, granite, limestone, volcanic tuff or, other stone. These are portions of larger boulders or cave faces that have been chiseled off. They contain simple images, either painted, carved, or incised, of animals, humans, geometric, and abstract designs. Sizes range between hand-size and several square meters. Formative Cultures—Inca.

V. Pre-Columbian Shell Figurines

Ceremonial, sumptuary, and funerary shell figurines produced and used by indigenous cultures from the Formative period to A.D. 1533. Small human or animal shaped statuettes of *spondylus*, mother-of-pearl, and/or other shell. Exterior is finely polished. Often found in matching pairs. Animals are usually camelids. Average size is 5 cm. in height. Formative Cultures—Inca, including Tropical Lowland Cultures.

VI. Pre-Columbian Mummified Human Remains

Whole or partial mummified human remains, including modified skulls. May be wrapped in textiles. Individual limbs often contain bracelets and other precious metal and shell objects.

VII. Pre-Columbian Bone Objects

Ceremonial, sumptuary, and funerary bone objects produced and used by indigenous cultures from the Formative period to A.D. 1533:

A. Punch: Spike-like implement approximately 14 cm. long and 1 cm. wide that tapers to a pointed, sharp head. Formative Cultures—Inca, including Tropical Lowland Cultures.

B. Needle: Vary in size from 5 cm. to 15 cm. in length. Formative Cultures—Inca, including Tropical Lowland Cultures.

C. Hook: Semicircular implement of polished bone that often contains barb. Approximately 2 cm. in height. Formative Cultures—Inca, including Tropical Lowland Cultures.

D. Figurine: Usually human or animal (camelid) shape. Often found in matching pairs. Range in size from miniatures (2 cm. in height) to small statuettes (50 cm. in height). Formative Cultures—Inca.

E. Spindle: Long, spine-like object used in weaving to wind thread in conjunction with a spindle whorl. Appear as elongated needles with dull edges. Average size is 17 cm. long x 5 mm. wide. Formative Cultures—Inca.

F. Spindle whorl: Small globular, bead-shaped, or flat circular object that adds weight and balance to spindles used to wind thread. The whorl attaches to the spindle via an aperture in the whorl. Often engraved on the exterior with intricate designs. Bead size averages 2 square centimeters. Flat disks range from 3 cm. to 7 cm. in diameter. Formative Cultures—Inca.

G. Snuff tablet: These are shallow, rectangular trays approximately 20 cm. long x 5 cm. wide x 1 cm. in height. May be constructed of bone, stone, or wood. These small trays are often carved with intricate designs and inlaid with semi-precious stone and/or shell. Formative Cultures—Inca, including Tropical Lowland Cultures.

H. Inhaler tube: Small bones that have been hollowed, polished, and decorated on the exterior with engraved and polychrome painted designs. Average size is 8 cm. long x 3 cm. in diameter. Formative Cultures—Inca, including Tropical Lowland Cultures.

I. Amulet/talisman (*tembeta*): Can consist of a single bone engraved on the exterior with a design or a bead, amulet, or charm made from bone that has been polished, carved, and/or painted. Size ranges from 2 cm. to 40 cm. Formative Cultures—Inca, including Tropical Lowland Cultures.

J. Lip plug: Either ring shaped (plain, thin band) or disk shaped. Average size is 3 cm. in diameter. Formative Cultures—Inca, including Tropical Lowland Cultures.

K. Flute or panpipe (*zampoña*): Panpipes range between 20 cm. and 120 cm.; flutes range from 20 cm. to 120 cm. Formative Cultures—Inca, including Tropical Lowland Cultures.

VIII. Pre-Columbian Wood Objects

Ceremonial, sumptuary, and funerary wood objects produced and used by indigenous cultures from the Formative period to A.D. 1533:

A. Drinking vessel (*kero*): These are vase-shaped beakers, about 15 cm. in height. A puma or jaguar face is often modeled onto the vessel exterior and/or the wood is carved or engraved with a stylized geometric design. Tiwanaku—Inca.

B. Snuff tablet: Shallow, rectangular trays approximately 20 cm. long x 5 cm. wide x 1 cm. in height. May be constructed of wood, bone, or stone. These small trays are often carved with intricate designs and inlaid with semi-precious stone and/or shell. Formative Cultures—Inca, including Tropical Lowland Cultures.

C. Bowl or *challador:* Compartmented bowl carved from a single slab of wood, with or without handles. Carved or engraved decoration on the surface exterior. Size ranges from 9 cm. to 17 cm. in height.

D. Arrow shaft: Created from a solid piece of wood. Often tipped with gold spear. Size varies from 30 cm. to 3 meters long.

E. Necklace: A thin strip (4 cm.) without clasps. Sometimes contain beads, disks, seeds, or pendants. Formative Cultures—Inca.

F. Mask: These are created from a single slab of wood. Often carved in the shape of feline or human face, with slits for the eyes and mouth. Average size is 30 square cm. and 3 cm. thick. Formative Cultures—Inca, including Tropical Lowland Cultures.

G. Digging stick: These implements most often take the form of a central staff (one meter in height) to which an appendage is added. The central staff is often carved. The appendage may be secured to the staff with bands of precious metals such as gold. Inca Culture.

H. Spindle whorl: Small globular, bead-shaped, or flat circular object that adds weight and balance to spindles used to wind thread. The whorl attaches to the spindle via an aperture in the whorl. Often engraved on the exterior with intricate designs. Bead size averages 2 square centimeters. Flat disks range from 3 cm. to 7 cm. in diameter. Formative Cultures—Inca.

IX. Pre-Columbian Basketry

Ceremonial, sumptuary, and funerary basketry produced and used by indigenous cultures from the Formative Period to A.D. 1533:

A. Basket: Round, square, or rectangular containers with or without handles. May be constructed of reeds, vines, grasses, or other vegetal fibers. Sometimes construction is combined with cloth, animal skin, or wood. Size varies from 4 cm. to 1 meter in height. Formative Cultures—Inca, including Tropical Lowland Cultures.

B. Casket: Square or rectangular containers with lids and handles. May be constructed of reeds, vines, grasses, or other vegetal fibers. Sometimes construction is combined with cloth, animal skin, or wood. Size varies from 50 cm. to 1 meter in height. Formative Cultures—Inca, including Tropical Lowland Cultures.

C. Headdress: These are supports for featherwork worn on the head. Can be up to 60 cm. in length/height. Formative Cultures—Inca, including Tropical Lowland Cultures.

Ethnological Materials

Ethnological materials date from A.D. 1533 to 1900. Two broad categories are encompassed in the sections below. Sections I to VI describe artifacts that reflect Pre-Columbian traditions and are

considered religious in nature or are critically linked to indigenous identity and ancestral use and/or manufacture. Section VII encompasses artifacts produced for use in Catholic religious observance. Some of these items may occur in archaeological contexts.

I. Colonial and Republican Masks (A.D. 1533–1900)

These masks are constructed of wood, leather or skins, silver, tin, cloth, glass beads, oil painted plaster, fur, feathers, or some combination of these materials, with the intent of exaggerating the facial features, particularly the eyes and mouth, of the personage or animal in the dance. Common themes include the devil with horns, old men (*Awki*), African faces (*Moreno*), blonde haired/blue eyed men with bullet holes in their foreheads (*Chunchus*), angels, heroines (*China Supay*), and animals. Size varies according to the mask. Some are as small as 40 cm. or as large as 170 cm.

All masks produced until 1900 that are associated with the Christian or indigenous dance rituals of the Colonial and Republican Periods are included. These include but are not limited to masks of the following dances: Dance of La Diablada; Dance of La Morenada; Dance of Kullawada; Dance of La Llamerada; Dance of the Chunchus; Chutas Dance; Kusillos Dance; Chiriguano Dance; Dance of the Inca; Dance of the Chunchos; Dance of the Achuŝ; Dance of St. Ignatius of Moxos; Dance of the Little Angels; Moors and Christians Dance; Dance of the Sun and the Moon; Dance of the Little Bull; Dance of the Jucumari; Chiriguano Ritual; Dance of the Auqui Auqui; Dancer Ritual; Dance of the Misti'l Siku; Dance of the Little Bull; Dance of the Tundiquis; Dance of the Paqochis.

II. Colonial and Republican Wood Objects (A.D. 1533–1900)

Objects in wood that relate to indigenous ceremonial activities. These include:

A. Drinking vessels (*kero, keru, q'ero*): These are vase-shaped beakers, about 15 cm. in height. During the Colonial Period, these wooden cups were polychrome painted with elaborate scenes and designs.

B. Scepter (*Bastón de mando*): Wooden staff made of palm wood and encased in silver with semi-precious stones. Size varies from 45–120 cm.

C. Ceremonial vessels (*challador cups/vases*): The interiors of these vessels are segmented into compartments. Size ranges between 10–35 cm.

D. Bow: Constructed with wood, feathers, and other animal and vegetal fibers. Used for ritual purposes by the Araona Culture of the Tropical Lowlands. Size ranges from 120 cm. to 210 cm.

E. Tobacco pipe: Straight tubular shape, without a bowl, used by Tropical Lowland Cultures in religious ceremonies. Often, an X is painted as a clan symbol on one end of the tube. Size ranges from 10 cm. to 15 cm.

III. Colonial and Republican Musical Instruments (A.D. 1533–1900)

Musical instruments created for and used in indigenous ceremonies. These include:

A. *Charango:* Stringed instrument, similar to a mandolin or ukelele, manufactured of wood. The bowl of the instrument is sometimes decorated with animal pelts. About 50 cm. in length.

B. Drum (*Sancuti bombo, Wankara bombo, muyu muyu, q'aras*): Vary in size and shape. Generally the box is cylindrical and made of wood or tree bark with skins stretched over the frame to form the heads. Size ranges from 30 cm. to 60 cm.

C. Flutes

1. Flute (*rollano, chaxes, lawatos*): Made of hollowed wood with leather strips. These flutes are characterized by six holes. Size ranges from 40 cm. to 100 cm.

2. Flute (*chutu pinquillo*): Made of uncut flamingo bone with six holes. Size ranges from 25 cm. to 35 cm.

3. Flute (*pifano*): Made of bato bone. Size varies.

4. Flute (*jantarco, sicus*): Made of wood with flower designs engraved on the surface. Diamond shaped in cross-section. Size varies from 10 cm. to 35 cm.

D. Harp: Stringed instrument made of wood and animal skin. It contains 30 strings. Size ranges from 80 cm. to 150 cm.

E. Mandolin: Constructed of wood and often inlaid with shell. Size varies.

F. Whistle (*ocarina, willusco*): Small, hand-held whistle made of wood, 7 cm. Willusco is small, disk shaped whistle with design engraved on surface, 3 cm. to 7 cm.

G. Panpipe (*bajón*): Made of leaves formed into tubes, attached to each other with cotton thread. Characterized by 10 tubes. Size ranges from 120 cm. to 180 cm.

H. Violin (*tacuara*): Made of wood. Size ranges from 40 cm. to 50 cm.

IV. Colonial and Republican Textiles (A.D. 1533–1900)

Textiles woven by indigenous peoples for ceremonial or ritual use:

A. Indigenous Highland Traditions:

1. Poncho (*balandran, ponchito, choni, khawa, challapata*): Square or rectangular overgarment worn by men usually consisting of two pieces of hand-woven cloth sewn together, with a slit in the center for the head. May be dyed with natural or synthetic dyes in all colors. Plain or striped. Often woven from alpaca or other camelid fibers. Some with tassels. Average size is 80 cm. × 100 cm.

2. Dress (*almilla/urku/aksu*): The *almilla* is the dress adopted by indigenous women in the sixteenth century tailored from hand-woven wool cloth (*bayeta*). It consists of a gathered skirt attached to a fitted bodice. The *urku* is a pleated or gathered skirt characterized by a bold stripe pattern arranged horizontally. The *aksu* is a women's ceremonial dress woven from camelid fiber and constructed from a rectangular, two-piece cloth that is wrapped around the body and tied at the waist. May be dyed with natural or synthetic dyes in all colors. Average size is one square meter.

3. Mantle/shawl (*axsu, tsoc urjcu, tscoc irs, medio axsu, llacota, isallo, awayo, llixlla, iscayo, phullu, talo unkhuña, ñañaqa*): Square or rectangular garment composed of two pieces of cloth sewn together. May be dyed with natural or synthetic dyes in all colors. Plain or striped. Often woven from alpaca or other camelid fibers. Designs are typically stripes arranged across the cloth in a vertical or horizontal pattern or confined to the margins of one side of the garment. Average size is one square meter.

4. Tunic (*unku, ira, ccahua*): Man's ceremonial vestment constructed from one piece of cloth which is folded in half and sewn up the sides, leaving openings for the arms at the top and an opening in the middle for the head. Designs are typically found in the hip, sleeve, and neck areas, but there are more elaborate examples where stripes cover the entire garment, some with silver thread. May be dyed with natural or synthetic dyes in all colors. Usually made from camelid wool, especially alpaca. Average size is 135 cm. × 92 cm.

5. Bag (*chuspa, alforja, kapachos, huayacas*): Carried by both men and women; woven from cotton or camelid fibers in a variety of widths, lengths, and colors. Found in either a solid color or simple polychrome stripe pattern arrangement with geometric motifs. These bags are usually square (20 cm.) or rectangular with a woven carrying strap. They often contain small pockets on the pouch exterior and are decorated with tassels.

6. Belt (*w'aka, tsayi, chumpi, wincha, t'isnu*): Worn by both men and women; woven from cotton or camelid fibers in a variety of widths, lengths, and colors. Found in either a solid color or simple polychrome geometric design.

7. Scarf/muffler: Worn by both men and women; woven from camelid fibers or sheep's wool with natural dyes in a variety of widths, lengths, and colors. Consists of one rectangular piece. Approximately 50 cm. in length.

8. Hat: Caps (10 square cm.) worn by men and *nañacas* worn by women that range in size between 10 square cm. and one square meter. Both are woven from camelid fibers and silk, and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or a combination of colors. When present, designs are geometric or depict highly stylized animals such as llama and other camelids.

9. Sling (*wichi wichis, qorawas*): Rectangular band of cloth (25 cm. × 10 cm.); long ends taper to a loop where ropes are attached to either side.

10. Cloth: Square, rectangular, or fragmentary cloth woven from fine camelid fibers, silk, and/or silver and gold threads, or constructed from soft tree bark or other natural fiber, and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or combination of colors. Some examples are striped in a vertical or horizontal pattern. Average size ranges between six square centimeters and six square meters. Cloth may be fragmentary, folded flat, or bundled (*q'epi*) for use in ritual ceremonies. Woman's ritual cloth, called *icuña, tari,* or *ñañaca,* is also included in this category.

B. Indigenous Lowland Traditions (A.D. 1533–1900):

1. Long shirt (*camijeta/ tipois*): Tunic-like vestment made of cotton or vegetal material such as bark. Tassels often attached to lower edge. Size is 133 cm. long x 71 cm. wide.

2. Woman's Two Piece Vestment (*tsotomo and noca*): Long, straight skirt (*noca*) and separate bodice (*tsotomo*) made of cotton or vegetal material such as bark. Noca size is 50 cm. long × 40 cm. wide; *Tsotomo* size is 11.5 cm. deep x 35 cm. long.

3. Cloth: Square, rectangular, or fragmentary cloth woven from cotton, or constructed from soft tree bark or other natural fiber, and dyed with natural pigments in red, blue, green, orange, yellow, tan, brown, black, purple, or combination of colors. Some examples are striped in a vertical or horizontal pattern. Average size ranges between six square centimeters and six square meters. Cloth may be fragmentary, folded flat, or bundled (*q'epi*) for use in ritual ceremonies.

V. Colonial and Republican Featherwork (A.D. 1533–1900)

Featherwork produced for ceremonial use consists of colorful, tropical feathers attached to leather, cloth, wood, or other material, such as basketry, to create adornments worn on the wrists, ankles, neck, waist, back, and head, including the lips and ears. Most typically found are headdresses, which may consist of small, modest crowns (30 cm. average) or large, towering bonnets of Suri feathers (80 cm.). This category also includes feather-covered ritual belts and textiles (35–70 cm.), fans (250 cm. long), staves or batons (145–250 cm.), basketry supports, and healer's amulets or *photadi* (80–250 cm.).

VI. Colonial and Republican Ceramics (A.D. 1533–1900)

A. Ceremonial drinking vessels (*recipiente, andavete, trampavaso*): Containers and serving vessels used in the ceremonial context of chicha drinking. In post-Columbian times, these are hard ceramics with glassy surfaces resulting from the application of a mineral glaze. May be brown, green, blue, red, or any combination of colors. Vary in size and shape from handled jars, pitchers, cups, and vases, to animal-shapes (bull, tiger, llama, hoof).

B. Ritual smoking pipes: Tubular shape without tobacco bowl. The average size is from 10 cm. to 15 cm.

VII. Colonial and Republican Religious Art (A.D. 1533–1900)

A. Statues: Made of wood, maguey, gesso, silver, gold, bronze, alabaster, or other stone and often decorated with gilt paint. Typical statuary for this period includes depictions of patron saints (*santos/santas*), angels, Christ, the Virgin Mary, the apostles, and the Holy Family. Gold and silver crowns and other adornments in precious metals and precious stone are often found on these statues. Some are dressed with brocade and tapestry cloth made from gold and silver threads. Some are holding objects such as swords. Size varies from 30 cm. to two meters.

B. Crucifixes: Made of wood, maguey, alabaster, silver, gold, bronze, brass. Size varies from 5 cm. to 200 cm.

C. Oil paintings: Include depictions of patron saints (*santos/santas*), angels, Christ, the Virgin Mary, the apostles, and the Holy Family on wood, metal, canvas (*lienzo*), and other cloth. With or without frame. The archangel is a central theme. Oil painting is found on objects as small as reliquaries (3 cm.), mid-sized canvas (one square meter), or wall-sized renditions.

D. Reliquaries: Include painted and engraved depictions of patron saints (*santos/santas*), angels, Christ, the Virgin Mary, the apostles, and the Holy Family primarily on wood, ceramic, and metal such as silver. Bolivian reliquaries are essentially small lockets and do not always contain relics. Size ranges from 3 cm. to 25 cm.

E. Trunks/coffers (*petaca*): Made of leather and gilded wood or of silver. These small boxes (30 cm. length) or large trunks (1.5 meters in length) held altar objects, such as chalices and holy oil, during transport.

F. *Retablo:* Made of wood and precious metals such as gold or silver. These are altars or architectural wall facades behind existing altars that contain niches and a tabernacle. Often disassembled in pieces. May be as large as 20 meters high x 7 meters wide; portions vary—a niche may be one square meter. Small, self-contained units that appear as boxes with hinged doors are as small as 40 cm. in height. Miniatures average 5 cm. in height.

G. Altar pieces: Altars and their components (for example, frontal, grates, sacristy) made of gilded wood, gold, or silver. Often decorated in repousse. Average size is 1.6 meters x 1.2 meters.

H. Altar objects: These include chalices, monstrances/ostensoria, cruets, candelabras, lecterns, incense burners, hand bells typically made of gold and silver and decorated with precious stones, shell such as pearl, or other adornments. Size varies according to object. This category also includes ceramic, metal, and wooden *challadores* and ceremonial drinking cups.

I. Church furniture: Made of wood, silver gold, stone, brass, or bronze. Includes carved picture frames, confessionals, pulpits, pedestals, litters, choir stalls, chancels, banisters, lectern, saint's flags, and church bells and chimes. Size varies according to object.

J. Crowns and radiations: Made of silver and gold, these objects are found alone or in conjunction with religious statuary depicting the Virgin and Jesus. Size varies from 10 cm. to 30 cm.

K. Garment pin (*tupu/prendedor*): Made of copper, bronze, brass, silver, gold, or tumbaga. A large pin with a long shaft (15 cm.) that usually terminates with flat, discoid head (4 cm.), often embossed with design. Some heads are inlaid with semi-precious stone.

L. Liturgical vestments: Garments worn by the priest and/or other religious dignitaries made of fine cotton, silk, and gold and silver thread. This category

includes the chasuble, dalmatic, alb, stole, girdle, maniple, rochet, musette, mitre, and bonnet. Size varies according to garment.

Inapplicability of Notice and Delayed Effective Date

Because the amendments to the Customs Regulations contained in this document merely remove reference to expired import restrictions and impose import restrictions on the above-listed cultural property of Bolivia in response to a bilateral agreement entered into in furtherance of a foreign affairs function of the United States, pursuant to the Administrative Procedure Act (5 U.S.C. 553(a)(1)), no notice of proposed rulemaking or public procedure is necessary and a delayed effective date is not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This amendment does not meet the criteria of a "significant regulatory action" as described in E.O. 12866.

Drafting Information

The principal author of this document was Bill Conrad, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 12

Customs duties and inspections, Imports, Cultural property.

Amendment to the Regulations

Accordingly, Part 12 of the Customs Regulations (19 CFR Part 12) is amended as set forth below:

PART 12—[AMENDED]

1. The general authority and specific authority citations for Part 12, in part, continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

2. In § 12.104g, paragraph (a), the list of agreements imposing import restrictions on described articles of cultural property of State Parties, is amended by adding Bolivia in appropriate alphabetical order, as follows, and paragraph (b), the list of emergency actions imposing import restrictions, is amended by removing the entry for "Bolivia":

§ 12.104g Specific items or categories designated by agreements or emergency actions.

(2) * * *

State party	Cultural property	T.D. No.
Bolivia	Archaeological and Ethnological Material from Bolivia.	T.D. 01–86
. . . .	. .	.

* * * * *

Dated: December 4, 2001.

Robert C. Bonner,

Commissioner of Customs.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–30417 Filed 12–5–01; 10:36 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for six approved new animal drug applications (NADAs) from Koffolk, Inc., to Phibro Animal Health.

DATES: This rule is effective December 7, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209, e-mail: lluther@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Koffolk, Inc., P.O. Box 675935, 14735 Las Quintas, Rancho Santa Fe, CA 92067, has informed FDA that it has transferred ownership of, and all rights and interest in, the following NADAs to Phibro Animal Health, 710 Rte. 46 East, suite 401, Fairfield, NJ 07004.

NADA Number	Established Names of Ingredients
9–476	Nicarbazin
98–378	Nicarbazin/Bacitracin Methylene Disalicylate
107–997	Nicarbazin/Lincomycin/Roxarsone
108–115	Nicarbazin/Roxarsone
108–116	Nicarbazin/Lincomycin
141–146	Nicarbazin/Bacitracin Zinc

Accordingly, the agency is amending the regulations in 21 CFR 558.366 to reflect the transfer of ownership.

Following the change of sponsor of these NADAs, Koffolk, Inc., is no longer the sponsor of any approved applications. Therefore, 21 CFR 510.600(c) is amended to remove the entries for this sponsor.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry "Koffolk, Inc.," and in the table in paragraph (c)(2) by removing the entry "063271".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

4. Section 558.366 is amended by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively; by revising paragraph (a); by adding a new paragraph (b); and in the newly redesignated paragraph (d), in the table, under the headings "Limitations" and "Sponsor" by removing "063271" wherever it appears and by adding in its place "066104" to read as follows:

§ 558.366 Nicarbazin.

(a) *Specifications.* Type A medicated articles containing 25 percent nicarbazin.

(b) *Approvals.* See Nos. 000986, 060728, and 066104 in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

* * * * *

Dated: November 15, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–30299 Filed 12–6–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by MoorMan's, Inc. The supplemental NADA provides for use of approved monensin Type A medicated articles to make free-choice, medicated feed blocks used for prevention and control of coccidiosis caused by *Eimeria bovis* and *E. zuernii* in pasture cattle.

DATES: This rule is effective December 7, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel A. Benz, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0223.

SUPPLEMENTARY INFORMATION: MoorMan's, Inc., 1000 North 30th St., Quincy, IL 62305–3115, filed a supplement to NADA 115–581 that provides for use of monensin Type A medicated articles to make free-choice, medicated protein/mineral blocks (MoorMan's Mintrate Blonde Block RU and MoorMan's Mintrate Red Block RU) used for increased rate of weight gain in cattle on pasture (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers) which may require supplemental feed. The supplemental NADA provides for use of these medicated feed blocks for the prevention and control of coccidiosis caused by *Eimeria bovis* and *E. zuernii* in pasture cattle. The supplemental NADA is approved as of September 27, 2001, and the regulations are amended in 21 CFR 558.355 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that these actions are of a type that do not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.355 is amended by revising paragraph (f)(3)(v)(*a*) to read as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(3) * * *

(v) * * *

(a) Indications for use. For increased rate of weight gain and for prevention and control of coccidiosis caused by *Eimeria bovis* and *E. zuernii*.

* * * * *

Dated: November 8, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–30298 Filed 12–6–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Parts 578, 579, and 580

RIN 1215–AB20

Adjustment of Civil Money Penalties for Inflation

AGENCY: Wage and Hour Division, Employment Standards Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This document adjusts the amount of civil money penalties that may be assessed under the Fair Labor Standards Act (FLSA) for repeated or willful violations of the minimum wage or overtime provisions of the FLSA, and for violations of the child labor provisions of the FLSA. These adjustments are required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. Under the amended Federal Civil Penalties Inflation Adjustment Act, Federal agencies must adjust their civil money penalties for inflation pursuant to a specified formula, and make periodic adjustments thereafter to account for inflation.

EFFECTIVE DATE: The rule is effective on January 7, 2002.

FOR FURTHER INFORMATION CONTACT: Richard M. Brennan, Deputy Director, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 693–0745 (this is not a toll-free number). Copies of this final rule may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0023. TTY/TDD callers may dial toll-free 1–877–889–5627 to obtain information or request materials in alternative formats.

Questions of interpretation and/or enforcement of final regulations issued by this agency or referenced in this notice may be directed to the nearest Wage and Hour Division District Office. To locate the nearest office, telephone our toll-free information and helpline at 1–866–4USWAGE (1–866–487–9243) between 8 am and 5 pm in your local time zone, or log onto the Wage and Hour Division's website for a nationwide listing of Wage and Hour District and Area Offices at: *http://www.dol.gov/dol/esa/public/contacts/whd/america2.htm.*

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This rule contains no new information collection requirements which are subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

II. Background

The Debt Collection Improvement Act of 1996 (Pub. L. 104–134, 110 Stat. 1321) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890) to require Federal agencies to regularly adjust certain civil money penalties (CMPs) for inflation. As amended, the law requires each agency to initially adjust for inflation all covered civil money penalties, and to make further inflationary adjustments every four years thereafter. The adjustment prescribed in the amended Act is based on a cost-of living formula according to the amount that the Department of Labor's Consumer Price Index (CPI) for all urban consumers for June of the calendar year before the adjustment exceeds the June CPI for the calendar year that the CMP amount was last set or adjusted. The statute provides for rounding the penalty increases. Once the percentage change in the CPI is calculated, the amount of the adjustment is rounded according to a table in the Federal Civil Penalties Inflation Adjustment Act, which is scaled based on the dollar amount of the current penalty. The statute applies a cap that limits the amount of the first increase in penalty to 10 percent of the current penalty amount (for the *initial* adjustment only). Any increase under the Act applies prospectively to violations that occur after the date the increase takes effect.

Section 16(e) of the FLSA authorizes CMP assessments for the following violations: (1) Any person who violates the child labor provisions (section 12 or section 13(c)(5)) of the FLSA or any regulation thereunder may be subject to a CMP not to exceed $10,000 for each employee who was the subject of such a violation; and (2) any person who repeatedly or willfully violates the minimum wage (section 6) or overtime provisions (section 7) of the FLSA may be subject to a CMP not to exceed $1,000 for each such violation. In determining the amount of any such penalty in a particular case for either type of violation, the size of the business of the person charged and the gravity of the violation must be taken into consideration, among other appropriate factors.

The child labor CMP amount was last adjusted by the Congress in 1990 pursuant to the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508 (November 5, 1990), which raised the former $1,000 maximum child labor CMP amount to $10,000 and directed that the amounts be deposited into the general fund of the U.S. Treasury. The $1,000 CMP amount for repeated and willful violations of the minimum wage and overtime provisions was established by the Congress under the 1989 FLSA Amendments, Public Law 101–157 (November 17, 1989). Due to inflation since these CMP amounts were last set in law or adjusted by the Congress, the first increase is limited to the maximum 10 percent cap initially permitted under the Debt Collection Improvement Act amendments to the Federal Civil Penalties Inflation Adjustment Act. The adjusted CMP amounts will apply only to violations occurring after the revised regulations become effective.

On December 28, 1998, the Department of Labor published a proposal in the **Federal Register** (63 FR 71405) to amend affected sections of parts 578 and 579 of Title 29 of the Code of Federal Regulations to increase the specified CMP amounts as described above. No comments were received on the proposal. Accordingly, the proposal is being adopted as a final rule.

III. Summary of Rule

The $1,000 maximum penalty amount in Section 578.3 for repeated or willful violations of the minimum wage or overtime requirements of the FLSA is increased to $1,100. The $10,000 maximum penalty amount in Section 579.5 for violations of the child labor provisions of the FLSA is increased to $11,000. Conforming changes are also made in other affected sections of the regulations to discuss the inflationary adjustment provisions of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

In addition, the following technical amendments are made to correct two typographical errors in parts 579 and 580. In Section 579.5(e) of part 579, the reference to "§ 579.6" is corrected to read "§ 580.6". In Section 580.5 of part 580, the reference to "§ 580.19" is corrected to read "§ 580.18'.

Executive Order 12866 and Significant Regulatory Actions

This rule is not a "significant regulatory action" within the meaning of Executive Order 12866. The rule will adjust for inflation the maximum civil money penalties under Section 16(e) of

the Fair Labor Standards Act. The adjustments and the formula for determining the amount of the adjustment were mandated by the Congress in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. Thus, the Congress has required that the Department promulgate the amendments to this rule, and provided no discretion to the Department regarding the substance of the amendments. Moreover, for the three-year period prior to the proposed rule, the Department collected a total of $6,169,771 in CMPs for repeated or willful minimum wage or overtime violations that were assessed in 1,157 cases, for an average of $2,056,590 collected per year (less than $5,333 per case, on average). Over the same three-year period, the Department collected a total of $12,496,180 in CMPs for child labor violations that were assessed in 3,772 cases, for an average of $4,165,393 collected per year (approximately $3,314 per case, on average). With the initial increase in the maximum CMP limited to the statutory 10 percent cap, the total economic impact of the proposal was estimated at less than $623,000 per year. CMPs for the three most recent years are comparable in amounts. Thus, this action will not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no regulatory impact analysis was required or prepared.

Section 202 of the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector, "* * * (other than to the extent that such regulations incorporate requirements specifically set forth in law)." For purposes of the Unfunded Mandates Reform Act, this rule includes only requirements that are specifically set forth in law pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. In addition, the rule will not result in increased annual expenditures in excess of $100 million by State, local or tribal governments in the aggregate, or by the private sector.

Executive Order 13132

This rule does not have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government" under the terms of Executive Order 13132 regarding federalism. Therefore, under section 6 of that Order, we have determined that the rule does not have sufficient federalism implications to require consultations or a federalism summary impact statement.

Regulatory Flexibility Analysis

This rule will not have a significant economic impact on a substantial number of small entities. The rule does no more than ministerially increase certain statutory CMPs to account for inflation, pursuant to specific directions of the Congress in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. Provisions of law specify the procedures for calculating the inflation adjustments and do not allow variations in the calculations to minimize the effects on small entities. Nevertheless, in each case the amount of the penalty assessed under Section 16(e) of the FLSA must take into consideration the size of the business of the person charged with the violations, which will further mitigate the ultimate effects of the rule on small businesses. Moreover, only persons who have willfully or repeatedly violated the minimum wage or overtime provisions of the FLSA, or violated the child labor requirements of the FLSA, will be affected by this rule. Based on the average CMP amounts collected for these types of violations over a three-year period as discussed above, we estimate that the effect of the rule will be to increase the average CMP collected for repeated or willful minimum wage or overtime violations by $533 per case, and increase the average CMP collected for child labor violations by $331 per case. Accordingly, the Department determined that this rule will not have a significant economic impact on a substantial number of small entities. The Department certified to this effect to the Chief Counsel for Advocacy of the U.S. Small Business Administration when the proposed rule was published. Therefore, no Regulatory Flexibility Analysis was required. No comments were received on any aspect of the rule or these conclusions as set forth in the proposed rule.

Small Business Regulatory Enforcement Fairness Act

This rule is not a "major rule" under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effects on Families

This rule has been assessed under section 654 of the Treasury and General Government Appropriations Act, 1999, for its effect on family well-being and we hereby certify that the rule will not adversely affect the well-being of families.

List of Subjects

29 CFR Part 578

Employment, Labor, Law enforcement, Penalties.

29 CFR Part 579

Child labor, Law enforcement, Penalties.

29 CFR Part 580

Administrative practice and procedure, Child labor, Employment, Labor, Law enforcement, Penalties.

Signed at Washington, DC, on this 30th day of November, 2001.

Annabelle T. Lockhart,

Acting Administrator, Wage and Hour Division.

For the reasons set forth above, 29 CFR parts 578, 579, and 580 are amended as set forth below.

PART 578—MINIMUM WAGE AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES

1. The authority citation for part 578 is revised to read as follows:

Authority: Sec. 9, Pub. L. 101–157, 103 Stat. 938, sec. 3103, Pub. L. 101–508, 104 Stat. 1388–29 (29 U.S.C. 216(e)), Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note), as

amended by Pub. L. 104–134, section 31001(s), 110 Stat. 1321–358, 1321–373.

2. Section 578.1 is revised to read as follows:

§ 578.1 What does this part cover?

Section 9 of the Fair Labor Standards Amendments of 1989 amended section 16(e) of the Act to provide that any person who repeatedly or willfully violates the minimum wage (section 6) or overtime provisions (section 7) of the Act shall be subject to a civil money penalty not to exceed $1,000 for each such violation. The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, section 31001(s)), requires that inflationary adjustments be periodically made in these civil money penalties according to a specified cost-of-living formula. This part defines terms necessary for administration of the civil money penalty provisions, describes the violations for which a penalty may be imposed, and describes criteria for determining the amount of penalty to be assessed. The procedural requirements for assessing and contesting such penalties are contained in 29 CFR part 580.

3. The section heading and paragraph (a) of § 578.3 are revised to read as follows:

§ 578.3 What types of violations may result in a penalty being assessed?

(a) A penalty of up to $1,000 per violation may be assessed against any person who repeatedly or willfully violates section 6 (minimum wage) or section 7 (overtime) of the Act; Provided, however, that for any violation occurring on or after January 7, 2002 the civil money penalty amount will increase to up to $1,100. The amount of the penalty will be determined by applying the criteria in § 578.4.

* * * * *

PART 579—CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES

4. The authority citation for part 579 is revised to read as follows:

Authority: 29 U.S.C. 203, 211, 212, 216; Reorg. Plan No. 6 of 1950, 64 Stat. 1263, 5 U.S.C. App.; secs. 25, 29, 88 Stat. 72, 76; Secretary of Labor's Order No. 4–2001, 66 FR 29656; Sec. 3103, Pub. L. 101–508; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note), as amended by Pub. L. 104–134, section 31001(s), 110 Stat. 1321–358, 1321–373.

5. The section heading of Section 579.1 is revised, paragraph (b) of § 579.1 is redesignated as paragraph (c) of that section, and a new paragraph (b) is added, to read as follows:

§ 579.1 What does this part cover?

* * * * *

(b) The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, section 31001(s)), requires that Federal agencies periodically adjust their civil money penalties for inflation according to a specified cost-of-living formula. This law requires each agency to make an initial inflationary adjustment for all covered civil money penalties, and to make further inflationary adjustments at least once every four years thereafter. Any increase in the civil money penalty amount will apply only to violations that occur after the date the increase takes effect.

* * * * *

6. In § 579.5:

a. The section heading and paragraph (a) are revised; and

b. In paragraph (e), the reference to "§ 579.6" is revised to read "§ 580.6".

The revisions read as follows:

§ 579.5 How is the amount of the penalty determined?

(a) The administrative determination of the amount of the civil penalty, of not to exceed $10,000 for each employee who was the subject of a violation of section 12 or section 13(c)(5) of the Act relating to child labor or of any regulation issued under that section, will be based on the available evidence of the violation or violations and will take into consideration the size of the business of the person charged and the gravity of the violation as provided in paragraphs (b) through (d) of this section; Provided, however, that for any violation occurring on or after January 7, 2002 the civil money penalty amount will increase to not to exceed $11,000 for each employee who was the subject of a violation.

* * * * *

§ 579.9 [Removed]

7. Section 579.9 is removed.

PART 580—CIVIL MONEY PENALTIES—PROCEDURES FOR ASSESSING AND CONTESTING PENALTIES

8. The Authority citation for part 580 is revised to read as follows:

Authority: 29 U.S.C. 9a, 203, 211, 212, 216; Reorg. Plan No. 6 of 1950, 64 Stat. 1263, 5 U.S.C. App.; secs. 25, 29, 88 Stat. 72, 76; Secretary of Labor's Order No. 4–2001, 66 FR 29656; 5 U.S.C. 500, 503, 551, 559; sec. 9, Pub. L. 101–157, 103 Stat. 938; sec. 3103, Pub. L. 101–508.

§ 580.5 [Amended]

9. In § 580.5, the reference to "§ 580.19" is revised to read "§ 580.18".

[FR Doc. 01–30364 Filed 12–6–01; 8:45 am]
BILLING CODE 4510–27–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA065–Pt 70; FRL–7113–5]

Clean Air Act Full Approval of 34 Operating Permits Programs in California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the operating permits programs submitted by the California Air Resources Board (CARB) on behalf of the following 34 air districts: Amador County Air Pollution Control District (APCD), Bay Area Air Quality Management District (AQMD), Butte County AQMD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Glenn County APCD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lake County AQMD, Lassen County APCD, Mariposa County APCD, Mendocino County APCD, Modoc County APCD, Mojave Desert AQMD, Monterey Bay Unified APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Sacramento Metro AQMD, San Diego County APCD, San Joaquin Valley Unified APCD, San Luis Obispo County APCD, Santa Barbara County APCD, Shasta County APCD, Siskiyou County APCD, South Coast AQMD, Tehama County APCD, Tuolumne County APCD, Ventura County APCD, and Yolo-Solano AQMD. These programs were submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. On the dates listed in Table 1 below, EPA granted interim approval to the 34 operating permits programs. All 34 air districts revised their programs to satisfy the conditions of the interim approval, and EPA proposed full approval in the **Federal Register** on

the dates listed in Table 1. EPA received comments from several commenters on our proposed actions. After carefully reviewing and considering the issues raised by the commenters, EPA is taking final action to fully approve all 34 operating permits programs. EPA published 11 separate proposals to approve the 34 districts' title V operating permits programs. Today we are consolidating our final actions on those proposals into one final rule.

EFFECTIVE DATE: This rule is effective on November 30, 2001.

ADDRESSES: Copies of the 34 submittals and other supporting information used in developing these final full approvals are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Gerardo Rios, EPA Region 9, at 415–972–3974 or *rios.gerardo@epa.gov*.

SUPPLEMENTARY INFORMATION: This section contains additional information about our final rulemaking, organized as follows:

I. Background on the 34 operating permits programs.
II. Comments received by EPA on our proposed rulemakings and EPA's responses.
A. Comments received by EPA that apply to some or all of the 34 districts.
B. Comments received by EPA that are specific to Bay Area Air Quality Management District.
1. Comments from Communities for a Better Environment.
2. Comments from Our Children's Earth
3. Comments from Commonweal
III. EPA's final action.
IV. Effective date of EPA's full approval of the 34 operating permits programs.
V. What is the scope of EPA's full approval?
VI. Citizen comments on operating permits programs

I. Background on the 34 Operating Permits Programs

The Clean Air Act (CAA) Amendments of 1990 required all state and local permitting authorities to develop operating permits programs that meet certain federal criteria. The 34 California operating permits programs were submitted in response to this directive. Because the programs substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the programs. The interim approval notices described the conditions that had to be met in order for the 34 programs to receive full approval. After the 34 air districts revised their programs to address the conditions of the interim approval, EPA promulgated proposals to fully approve these title V operating permits programs. Table 1 lists the dates and **Federal Register** citations for EPA's actions finalizing interim approval and proposing full approval of the 34 operating permits programs.

TABLE 1.—FEDERAL REGISTER CITATIONS AND PROGRAM SUBMITTAL DATES FOR THE 34 OPERATING PERMITS PROGRAMS

District	Interim Approval Federal Register Citation	Date of Revised Program Submittals	Proposed Full Approval Federal Register Citation
Amador County APCD	60 FR 21720; 5/3/95	4/10/01	66 FR 53354; 10/22/01
Bay Area AQMD	60 FR 32606; 6/23/95	5/30/01	66 FR 53104; 10/19/01
Butte County AQMD	60 FR 21720; 5/3/95	5/17/01	66 FR 53354; 10/22/01
Calaveras County APCD	60 FR 21720; 5/3/95	7/27/01	66 FR 53354; 10/22/01
Colusa County APCD	60 FR 21720; 5/3/95	8/22/01 and 10/10/01	66 FR 53354; 10/22/01
El Dorado County APCD	60 FR 21720; 5/3/95	8/16/01	66 FR 53354; 10/22/01
Feather River AQMD	60 FR 21720; 5/3/95	5/22/01	66 FR 53354; 10/22/01
Glenn County APCD	60 FR 36065; 7/13/95	9/13/01	66 FR 53354; 10/22/01
Great Basin Unified APCD	60 FR 21720; 5/3/95	5/18/01	66 FR 53354; 10/22/01
Imperial County APCD	60 FR 21720; 5/3/95	8/2/01	66 FR 53354; 10/22/01
Kern County APCD	60 FR 21720; 5/3/95	5/24/01	66 FR 53354; 10/22/01
Lake County AQMD	60 FR 36065; 7/13/95	6/1/01	66 FR 53354; 10/22/01
Lassen County APCD	60 FR 21720; 5/3/95	8/2/01	66 FR 53354; 10/22/01
Mariposa County APCD	60 FR 62758; 12/7/95	9/20/01	66 FR 53354; 10/22/01
Mendocino County APCD	60 FR 21720; 5/3/95	4/13/01	66 FR 53354; 10/22/01
Modoc County APCD	60 FR 21720; 5/3/95	9/12/01	66 FR 53354; 10/22/01
Mojave Desert AQMD	61 FR 4217; 2/5/96	7/11/01 and 8/4/01	66 FR 53163 10/19/01
Monterey Bay Unified APCD	60 FR 52332; 10/6/95	5/9/01	66 FR 53178; 10/19/01
North Coast Unified AQMD	60 FR 21720; 5/3/95	5/24/01	66 FR 53354; 10/22/01
Northern Sierra AQMD	60 FR 21720; 5/3/95	5/24/01	66 FR 53354; 10/22/01
Northern Sonoma County APCD	60 FR 21720; 5/3/95	5/21/01	66 FR 53354; 10/22/01
Placer County APCD	60 FR 21720; 5/3/95	5/4/01	66 FR 53354; 10/22/01
Sacramento Metro AQMD	60 FR 39862; 8/4/95	6/1/01	66 FR 53167; 10/19/01
San Diego County APCD	60 FR 62753; 12/7/95	6/4/01	66 FR 53148; 10/19/01
San Joaquin Valley Unified APCD	61 FR 18083; 4/24/96	6/29/01	66 FR 53151; 10/19/01
San Luis Obispo County APCD	60 FR 21720; 5/3/95	5/16/01	66 FR 53159; 10/19/01
Santa Barbara County APCD	60 FR 55460; 11/1/95	4/5/01	66 FR 53155; 10/19/01
Shasta County APCD	60 FR 36065; 7/13/95	5/18/01	66 FR 53354; 10/22/01
Siskiyou County APCD	60 FR 21720; 5/3/95	9/28/01	66 FR 53354; 10/22/01
South Coast AQMD	61 FR 45330; 8/29/96	8/2/01	66 FR 53170; 10/19/01
Tehama County APCD	60 FR 36065; 7/13/95	6/4/01	66 FR 53354; 10/22/01
Tuolumne County APCD	60 FR 21720; 5/3/95	7/18/01	66 FR 53354; 10/22/01
Ventura County APCD	60 FR 55460; 11/1/95	5/21/01	66 FR 53174; 10/19/01

TABLE 1.—FEDERAL REGISTER CITATIONS AND PROGRAM SUBMITTAL DATES FOR THE 34 OPERATING PERMITS PROGRAMS—Continued

District	Interim Approval Federal Register Citation	Date of Revised Program Submittals	Proposed Full Approval Federal Register Citation
Yolo-Solano AQMD	60 FR 21720; 5/3/95	5/9/01	66 FR 53354; 10/22/01

II. Comments Received by EPA on Our Proposed Rulemakings and EPA's Responses

We received several comment letters on EPA's proposed approval of the title V operating permits programs in California. Four comment letters applied to some or all of the 34 districts in California; a summary of these comments and our response are included in section II.A, below. Three other comment letters were directed specifically at our proposed approval of the Bay Area AQMD's operating permits program; a summary of the comments specific to Bay Area AQMD and our responses are included in section II.B below.

A. Comments Received by EPA That Apply to Some or All of the 34 Districts

We received four comment letters that specifically address the EPA's proposed approach of granting full program approval to the California districts' title V operating permits programs while deferring the permitting of agricultural operations involved in the growing of crops or the raising of fowl or animals for a brief period, not to exceed three years. We received comments objecting to our proposed approach on this issue from two coalitions of environmental groups and comments supporting our approach from a coalition of agricultural industry representatives and from the California Air Resources Board (CARB).[1]

The adverse comments we received from the environmental groups oppose EPA's proposed approach on both legal and technical grounds. The groups' comments assert that since the repeal of the statewide agricultural permitting exemption was a condition established by EPA for full title V program approval and the exemption is still in place, EPA cannot grant full approval to the California districts' operating permits programs. Moreover, they argue that the three-year deferral represents an inappropriate continuation of interim approval. In addition, they comment that EPA cannot exempt any major sources from title V permitting under the Act.

Their comments also question EPA's assertion that there is not a complete inventory of emissions associated with agricultural operations in California and maintain that there are reliable methodologies to determine emissions from certain animal feeding operations (e.g., dairies). The groups' comments also dispute the need for additional research on emissions from agricultural sources prior to implementing title V permitting of these sources and cite the results of San Joaquin Air District and CARB reports regarding the impact of agricultural pollution sources on air quality in the San Joaquin Valley. Finally, the groups request that EPA disapprove the California districts' title V operating permits programs, although they express support for EPA delegating part 71 to the local permitting authorities for all sources not subject to the agricultural exemption, if the Agency were to disapprove the districts' part 70 programs.

Comments received from the coalition of agricultural industry associations support EPA's proposed approval of the San Joaquin Valley Unified APCD's title V program as well as EPA's proposal to defer title V permitting of in-field agricultural operations for three years for all California air districts. The groups' comments confirm that reliable data and a complete inventory of emissions associated with production agricultural operations are not currently available and commit the California agricultural industry to participating in research efforts to better determine emission levels associated with in-field activities. CARB's comments also support EPA's proposal to grant full approval to all of the local title V programs in the State and to defer the permitting of State-exempted agricultural sources for a three-year period. CARB maintains that local districts have corrected all of the interim title V program deficiencies within their authority. CARB also reiterates the position conveyed in their September 19, 2001 letter to Jack Broadbent, Region 9 Air Director, that emissions from much of the equipment used in the pre-harvest activities exempted by State law cannot be included in title V applicability determinations, and that the potential to emit of California's exempt agricultural equipment is likely to be below title V major source thresholds.

EPA considered the comments raised in response to our proposed approval, and has decided to grant full approval to the title V operating permits programs in the State and to defer permitting of the limited category of State-exempt agricultural sources for a period of no more than three years. This approach will allow EPA and the State to evaluate the existing science, improve on assessment tools, collect and analyze additional data, remove any remaining legal obstacles, and issue any necessary guidance on implementation of the title V operating permits program for major agricultural stationary sources. At the same time, this approach will not impede local permitting authorities from issuing all of their initial round of title V permits as expeditiously as possible.

During the interim deferral period, EPA will continue to work with the agricultural industry and our state and federal regulatory partners to pursue, wherever possible, emission reduction strategies. At the end of this period, EPA will, taking into consideration the additional data gathered during the deferral, make a determination as to how the title V operating permits program will be implemented for any major agricultural stationary sources in the State.

B. Comments received by EPA That Are Specific to Bay Area Air Quality Management District

In addition to the comments discussed in II.A above that apply to all programs in California, EPA received several comment letters specific to our proposed full approval of the operating permits program for the Bay Area Air Quality Management District ("Bay Area," "District" or "BAAQMD"). These comments were received by EPA on November 19, 2001 from three organizations: Communities for a Better Environment ("CBE"); the Golden Gate University Environmental Law and Justice Clinic, acting on behalf of Our

[1] We also received a comment objecting to our proposal on this matter as it relates to the Bay Area AQMD operating permits program. See section II.B, below.

Children's Earth ("OCE"); and a Bay Area environmental organization called Commonweal. The following is a summary of the comments—and our responses—related to our proposed full approval of the Bay Area Air Quality Management District operating permits program.

1. Comments from Communities for a Better Environment

The CBE comments addressed our proposed approval of the District's revision of its definition of potential to emit ("PTE") at 2–6–218. We had proposed to approve this revised definition which allows a permit limitation, or the effect it would have on emissions, to be "enforceable by the District or EPA." The phrase, "enforceable by the District or EPA" replaced the term, "federally enforceable."

CBE stated that EPA should reject BAAQMD's revision to the definition of potential to emit at 2–6–218, or in the alternative, find the revision deficient and order BAAQMD to revise the definition. CBE stated that the proposed change to 2–6–218 is illegal because the rule change expands the definition of potential to emit beyond the bounds of the federal case law and EPA guidance on the subject. They assert that our position—that the new District definition of potential to emit is consistent with the new meaning under federal law as defined by the courts—is simply wrong. They claim that the phrase, "enforceable by the District or EPA" is vague, much broader than the current case law, and not defined anywhere in the District rule. CBE stated that it makes no sense to define "federally enforceable" in Rule 2–6–207 and then use a different phrase in the definition of potential to emit. CBE also discussed how the Manual of Procedures ("MOP"), without expressly saying so, appears to define the phrase, "enforceable by the district" as "a district or state requirement that has not been approved for inclusion in the SIP by EPA is not federally enforceable but can limit potential to emit for the purposes of major facility review." (MOP at page 3–2). CBE stated that if this is how the District intends to define the phrase, then it is much broader than what the courts allowed (see *Clean Air Implementation Project* v. *EPA No.* 96–1224 (D.C. Cir. June 28, 1996)). CBE also was opposed to our proposed action on this matter in which we rely on the District to implement its new definition of PTE to be consistent with federal case law. They said it is improper for us to approve the "vague and overly broad rule" and rely on our enforcement discretion as a means to correct any misapplication of the definition.

Finally, CBE stated that the definition of federally enforceable in the NSR rule is not consistent with the definition in the part 70 program and this would cause confusion, misinterpretation, and ambiguity surrounding enforcement actions. In particular, CBE is concerned that previous NSR actions where federally enforceable limits on the source's PTE were created under the NSR definition of PTE, could be altered under title V using "the expanded definition" to allow sources to no longer have limits on potential to emit that are federally enforceable.

EPA Response to CBE Comments: The comments made by CBE do not alter our position and today's final action approves the definition of potential to emit at District rule 2–6–218 (amended by BAAQMD on May 17, 2001). We hold to our proposed position in today's final action because the District's definition is consistent with federal case law and EPA policies. CBE is concerned that the phrase, "enforceable by the District or EPA," which replaced, "federally enforceable," is not consistent with the federal case law and EPA policies. Although the definition does not include the clarifying phrase that the state and local limits shall be, "legally and practicably enforceable" (See *Clean Air Act Implementation* v. *EPA* No. 96–1224 (D.C. Cir. June 28, 1996)), EPA does not believe that this phrase must be included before we can approve the definition in a part 70 rule. In our proposed rulemaking for Bay Area, we notified the BAAQMD of the practicable enforceability criteria and of our expectations as they implement the definition. Furthermore, the requirement that a limitation be "effective" or "practically enforceable" is inherent in any PTE limit.

In general, we agree with CBE that there could be ambiguity about the interpretation of the definition of potential to emit if it is defined differently under NSR compared to Part 70. While these differences may exist, the NSR rule is independent from the part 70 program and, therefore, a different definition of PTE in the NSR rule does not necessarily affect our ability to approve the District's definition of PTE for part 70 purposes. In response to CBE's concerns that sources would argue that certain limits on their PTE obtained during an earlier NSR action would no longer need to be federally enforceable under part 70, such arguments would not be valid because the District's NSR rules are SIP-approved and all terms and conditions of permits issued pursuant to the SIP-approved rules are federally enforceable applicable requirements for part 70 purposes.

2. Comments From Our Children's Earth

OCE provided comments on four interim approval issues, five program implementation issues, and several other changes the Bay Area had made to its rules which were not required to correct interim approval issues. We find that the five comments made by OCE on possible program implementation issues, are not related to Bay Area rule changes and are, therefore, outside the scope of today's rulemaking. (See OCE comments B.2, B.3, B.4, B.5, and B.6). Our proposal was limited to specific rule changes the district has made to its operating permits rule or program since interim approval was granted. The changes that we had identified in our proposal were made by Bay Area to either correct interim approval issues that we had earlier identified or to clarify the rule. The following are the comments that are within the scope of the rulemaking; our response follows each comment.

Issue #1—Insignificant Activities: OCE objected to our proposed approval because Bay Area did not provide a basis for defining significant source as those emission units with Hazardous Air Pollutant (HAP) emissions above 400 pounds.

EPA Response: The Bay Area established as "significant source" any emission unit that has a potential to emit of more than 2 tons per year of any regulated air pollutant or more than 400 pounds per year of any HAP. (See BAAQMD rule 2–6–238). Although the District has not provided a detailed determination of how they established this level, the emission levels for HAPs are well within the guidance EPA provided to California agencies on this matter. (See letter to Mike Tollstrup, CARB, from Gerardo Rios, EPA Region IX, dated February 22, 2001). This guidance originated from EPA's own title V permitting regulations at 40 CFR 71.5(c)(11)(ii)(B) in which we state that, "potential to emit of any HAP from any single emission unit shall not exceed 1,000 pounds per year * * *" Therefore, for this reason and the reasons described in our proposed approval action, EPA finds that the District has corrected the interim approval issue #1 and approves the District's definition of significant source.

Issue 11—Emissions Trading: OCE asserted that the District does not appear to have an emissions trading scheme in place to allow for emissions trading for Title V facilities. They said

that the inclusion of emissions trading procedures into the Title V program is inappropriate unless there are rules in place to implement emissions trading. Until this deficiency is remedied, they asked that full approval of the District's title V program be denied.

EPA Response: While we agree with the commenter that the District does not appear to have a SIP-approved rule to allow for emissions trading at title V sources, EPA does not agree that such provisions be in place before the District can adopt, and EPA can approve, part 70 program changes that would allow such trading consistent with 40 CFR 70.6(a)(10) once the applicable requirement allows for it. 40 CFR 70.6(a)(10) requires the part 70 permit contain "terms and conditions, if the permit applicant requests them, for the trading of emissions * * * to the extent that the applicable requirements provide for trading such increases and decreases * * *" [emphasis added]. Even if a permitting authority does not have applicable requirements (e.g., a SIP) that provide for such trading, it can still have provisions in its part 70 program to allow for such trading.

Issue #16—Regulated Air Pollutant: OCE was concerned about our approval of the definition of Regulated Air Pollutant at section 2–6–222.3 which includes, "[a]ny Class I or Class II ozone depleting substance subject to a. standard promulgated under Title VI of the Clean Air Act." OCE felt that this definition is inconsistent with 40 CFR 70.2(4) which only states that "[a]ny Class I or Class II subject to a standard promulgated under or established by title VI of the Act." OCE felt that by specifying "ozone depleting substance" in its regulations, the District may unnecessarily be narrowing the definition of a Class I or Class II substance. Therefore, they stated, the phrase 'ozone depleting substance' should be deleted from Regulation 2–6–222.3 to parallel the definition in 40 CFR 70.2(4). Further, OCE requested that Regulation 2–6–222.5 be amended to include the expanded language in 40 CFR 70.2(5) since the federal regulations set out a more specific explanation of regulated air pollutants. In the very least, they requested that EPA require the District to reference 40 CFR 70.2(5) in Regulation 2–6–222.5 before granting full program approval.

EPA Response: EPA disagrees with the commenter. We do not believe that the District's definition conflicts with Part 70's definition of regulated air pollutant; rather, we find it is redundant with the definition since Class I or Class II substances can reasonably be called, "ozone depleting substances." A Class I substance is a substance that, "the Administrator finds causes or contributes significantly to harmful effects on the stratospheric ozone layer." A Class II substance is, "any other substances that the Administrator finds is known or may reasonably be anticipated to cause or contribute to harmful effects on the stratospheric ozone layer." (See CAA section 602(a) and (b), respectively). Further, we disagree with OCE's comment that we should require the District to include a more complete reference of regulated pollutant at 40 CFR 70.2(5). In our interim approval notice we required that the District add the references to section 112 provisions because this was the only aspect of the definition that we found to be deficient. The District has made the required correction.

Issue #17—Agricultural Exemption: OCE commented that the District's Title V program is inadequate and should be denied because the California Legislature has failed to amend the Health and Safety Code to remove the agricultural exemption. OCE was concerned with EPA's proposal to grant the District full approval while agricultural sources remain exempt from the Title V program and stated that EPA cannot grant full approval to the District while allowing the deferral of Title V permitting of agricultural operations.

EPA Response to OCE Comment #4: Although this comment is specific to Bay Area, it is a statewide issue. Our response to this comment is provided in section II.A, above.

Comments received from OCE on non-interim approval rule changes: The following comments were made by OCE on our proposal to approve other rule changes made by Bay Area that were not required to correct interim approval deficiencies. We find that these comments are within the scope of the rulemaking and our response to these comments follow.

OCE Comment #5: Rule 2–6–113 (Exemption, Registered Portable Engines)—OCE expressed concern that the District exempts registered portable engines from its Title V program purportedly because the District does not regulate them.

EPA Response to OCE Comment #5: Rule 2–6–113 is not a provision that we proposed to approve (see table 2 in our proposed full approval dated October 19, 2001, 66 FR 53140), and therefore the comment is outside the scope of today's final rulemaking. Since the provision at 2–6–113 is not included in our final action, the provision does not exist in the federally approved part 70 program for Bay Area. Thus, the exemption for portable equipment at 2–6–113 is not available to sources in the Bay Area under the federally approved part 70 program.

OCE Comment #6: Rule 2–6–201 (Administrative Permit Amendment)—This provision defines "administrative permit amendment" and lists the changes at a title V source that can be considered for administrative permit amendment procedures. To correct an interim approval issue (see issue #6 in the proposed rulemaking) with this definition, Bay Area eliminated the phrase, "but not necessarily limited to" from the sentence introducing the list of what can be considered an administrative permit amendment. OCE commented that the definition still suffers from lack of clarity because it still uses the word "include" to introduce the list of what can be an administrative permit amendment. Further, they asked that the phrase "or new" be eliminated because new monitoring requirements are significant permit modifications to which the public ought to be able to comment.

EPA Response to OCE Comment #6: EPA disagrees with OCE's comment that the definition of Administrative Permit Amendment is still unclear. The District's deletion of the language, "not necessarily limited to" in the current rule must be considered to mean that the District considers this list to be exhaustive. Therefore, EPA considers the list to be all that is allowed. Regarding the request that the term, "new or" be eliminated, EPA does not believe it is necessary because we view "new" monitoring at an existing source to mean increasing the frequency of the existing monitoring. Furthermore, any significant change in monitoring is required to undergo a significant permit revision as defined at 2–6–226.

OCE Comment #7: Definition of Potential to Emit—OCE objected to the District replacing the phrase, "federally enforceable" with the phrase, "enforceable by the District." They stated that EPA has not yet made final decisions based on the recent court decisions, and they believed that EPA should await completion of its decision making process to review any proposed rules on potential to emit. In the alternative, they said that the phrase, "enforceable by the District or EPA" should be substituted with "federally enforceable or legally and practically enforceable by the District" consistent with EPA's guidance and comments in the proposed approval.

EPA Response to OCE Comment #7: EPA disagrees with the comment that the definition cannot be approved with the phrase, "enforceable by the District." Further, we can approve the

provision because the requirement that a limitation be "effective" or "practically enforceable" is inherent in any PTE limit. See also our response to the CBE comment above.

OCE Comment #8: Rule 2–6–231 (Synthetic Minor Operating Permit) means "a District operating permit that has been modified to include conditions imposing enforceable condition on a facility or source." OCE stated that the rule should reference Rule 2–6–218 "potential to emit." They felt that the title V program should not be approved without the clarification in this rule that exceedance of the synthetic minor limit voids the minor permit.

EPA's Response to OCE Comment #8: In light of the comments, we have re-considered our proposed action and find that EPA should defer final action on this provision. We are choosing to not take final action on this provision at this time and will complete our analysis and take appropriate action in the near future. For the time being, however, it is not part of the approved part 70 program for Bay Area.

OCE Comment #9: Rule 2–6–314 (Revocation): OCE stated that Part 70 requires a provision stating that the permittee must comply with all conditions of the Title V permit and that any noncompliance constitutes a violation of the Act and is grounds for enforcement action, and for permit termination and revocation, among other things. They stated that the Manual of Procedures makes clear that such a provision is part of a title V permit. However, OCE objected to EPA's proposed program approval to the extent that Rule 2–6–314 may be read to restrict any resources the citizen may have to enforce permit terms. In addition, they stated that the discretion to request the Hearing Board to hold a hearing should not reside solely with the Air Pollution Control Officer. They commented that any interested public member should be allowed to request the Hearing Board to hold a hearing to determine whether a major facility permit should be revoked.

EPA Response to OCE Comment #9: As the commenter acknowledges, BAAQMD's program is consistent with 70.6(a)(6)(i)'s requirements for permit content regarding non-compliance. The revocation procedures at 2–6–314 are a requirement of State law (see Health and Safety Code § 42307) and are not inconsistent with part 70 procedures, thus it is an approvable provision. In fact, part 70 does not require specific hearing board procedures for permitting agencies; therefore, the District can proceed in this way. Members of the public may avail themselves of federal remedies, including requesting revocation, under section 304 of the Clean Air Act.

OCE Comment #10: Rule 2–6–404 (Timely Application): OCE stated that there is no justification for extending the deadline for certain applications to October 20, 2000 and, for this reason, the program should not be approved.

EPA Response to OCE Comment #10: Rule 2–6–404.8 states that, "the initial application for a major facility review permit for a existing major facility with actual emissions lower than 50 tons per year of each regulated pollutant and 7 tons per year of any hazardous air pollutant shall be submitted by the applicant by October 20, 2000." This provision was adopted by the District Board on October 19, 1999 and provided warning to sources whose emissions were less than those specified, but whose PTE exceeded major source levels, that and initial application was due in one year. EPA finds that this provision is approvable because it was more restrictive than EPA policy on the matter at this time.[2] EPA's policy allowed a source to temporarily establish a potential to emit limit based on actual emissions to avoid major source status under section 112 and title V of the Clean Air Act. EPA's transition policy expired on December 31, 2000, which was after the October 20, 2000 date established by the District in its rule for these type of sources to submit timely title V applications.

OCE Comment #11: Rule 2–6–409 (Permit Content): The testing, monitoring, reporting and recordkeeping section of the rule should contain the requirement in 40 CFR 70.6(a)(3)(i)(C) for the requirements, as necessary, concerning the use, maintenance and, where appropriate, installation of monitoring equipment. This requirement could be included in Rule 2–6–503.

EPA Response to Comment #11: District rule 2–6–409.2 requires that permits include "all applicable requirements for monitoring, recordkeeping and reporting, including applicable test methods and analysis procedures." Furthermore, the District MOP at 4.6 includes a reference to numerous federal and local regulations that require monitoring (e.g., Federal New Source Performance Standards, etc.) and a statement that, "the requirements in the above regulations contain extensive instructions on monitoring procedures. They include details on the calibration of instruments, source testing for verification, number of data points per time period, averaging and statistical analysis. Such requirements will be included in the permit by reference." EPA finds that the MOP at section 4.6, and the general requirement at 2–6–409.2, adequately satisfy the part 70 requirement cited by the commenter. Therefore, we are approving 2–6–409.2.

OCE Comment #12: Rule 2–6–415 (Reopening for Cause): OCE objected to EPA's proposed program approval to the extent that Rule 2–6–314 may be read to restrict any resources the citizen may have to request revocation of permits. They stated that, consistent with the right provided to the public to enforce the terms of Title V permits and consistent with 40 CFR 70.6(a)(6)(i), any interested public member should be allowed to seek the remedy of revocation.

EPA Response to OCE Comment #12: We disagree with the comment. Part 70 does not require specific hearing board procedures to allow citizens to reopen or revoke a permit, but the Clean Air Act allows members of the public to sue to enforce permit requirements and to request appropriate relief from a court. See also our response to comment #9, above.

3. Comments From Commonweal

Commonweal raised concerns regarding provision 2–6–314, "Revocation" which states, "the Air Pollution Control Officer (APCO) may request the Hearing Board to hold a hearing to determine whether a major facility permit should be revoked if it is found that the holder of the permit is violating any provision in the permit or any applicable permit." Commonweal commented that this provision needs more specificity concerning when the APCO requests a hearing. Commonweal also stated it is necessary to require that the APCO "must" request the Hearing Board to hold a hearing about whether a permit should be revoked when a consistent pattern of permit violations has occurred. Commonweal provided two slightly different options for what they would like to the revocation language to state.

EPA's Response to Commonweal's Comment: EPA does not agree that the provision at 2–6–314 needs to be modified before it can be approved as part of the Bay Area's part 70 permitting

[2] *See* January 25, 1995 Memorandum from John Seitz, Director, OAQPS and Robert Van Heuvelen, Director, Office of Regulatory Enforcement, to various Regional EPA Air Program Directors, entitled, "Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under section 112 and Title V of the Clean Air Act." *See* also, Memorandum dated December 20, 1999 entitled, "Third Extension of January 25, 1995 Potential to Emit Transition Policy," from John Seitz, Director, OAQPS and Eric Schaeffer, Director, Office of Regulatory Enforcement.

program. Part 70 does not require that the APCO request a public hearing to determine if a permit should be revoked. The permit revocation procedure described in 2–6–314, including all District Hearing Board proceedings, is an attribute of California State Law and is not inconsistent with any provision in Part 70 (see California Health and Safety Code § 42307). In general, part 70 requires that all permit proceedings undergo adequate public notice requirements including "offering an opportunity for public comment and a hearing on the draft permit." (See § 70.7(h)). Also, part 70 describes the procedures that must be followed if "the Administrator or the permitting authority determines that the permit must be revised or revoked to assure compliance with the applicable requirements." (See § 70.7(f)(1)(iv)).

III. EPA's Final Action

EPA is granting full approval to the 34 operating permits programs submitted by CARB based on the revisions submitted by the 34 districts, which satisfactorily address the program deficiencies identified in EPA's interim approvals for these districts. In addition, EPA is approving, as title V operating permits program revisions, other changes made by some districts that are unrelated to the changes required by EPA for full program approval. EPA is not taking action on certain other changes made by some districts that are also unrelated to the changes required by EPA for full program approval. For detailed descriptions of these changes and the basis for EPA's actions, readers should refer to the **Federal Register** notices published on October 19, 2001 and October 22, 2001 (see Table 1 above for **Federal Register** citations), in which EPA proposed full approval of the 34 operating permit programs, as well as the Technical Support Documents associated with those proposals.

Today EPA is also approving, as part of their revised operating permits programs, changes to the definition of potential to emit (PTE) made by Kern County APCD (KCAPCD) and Amador County APCD (ACAPCD). Both districts had revised the PTE definition in their local rules such that the requirement to count fugitives towards the major source threshold was inconsistent with the requirement in the definition of major source in 40 CFR Part 70, and was therefore not approvable. However, when EPA proposed to fully approve the KCAPCD and ACAPCD operating permits programs, on October 22, 2001 (66 FR 53354), the Agency proposed to approve the KCAPCD and ACAPCD definitions of potential to emit provided that EPA finalized revisions to the part 70 rule that would make the revised PTE definitions of KCAPCD and ACAPCD approvable. EPA promulgated a final rule on November 27, 2001 (66 FR 59161) that revised the definition of major source in part 70; the KCAPCD and ACAPCD definitions are now consistent with part 70 and EPA is approving them as part of these districts' revised title V programs.

Finally, for the Bay Area Air Quality Management District's operating permits program, our full approval includes all provisions except for:

—Provisions identified in table 2 from our proposed FR notice dated October 19, 2001. (66 FR 53140); and

—the definition of Synthetic Minor Operating Permit. Section 2–6–231.

IV. Effective Date of EPA's Full Approval of the 34 Operating Permits Programs

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the 34 districts' programs effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except— * * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the programs to take effect before December 1, 2001. EPA's interim approval of the 34 districts' programs expires on December 1, 2001. In the absence of this full approval of 34 districts' amended programs taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in the 34 districts and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public and 34 districts to avoid any gap in coverage of the district programs, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because the 34 districts have been administering the title V permit program for approximately six years under interim approvals. Through this action, EPA is approving a few revisions to the existing and currently operational programs. The change from the interim approved programs which substantially met the part 70 requirements, to the fully approved programs is relatively minor, in particular if compared to the changes between a district-established and administered program and the federal program.

V. What Is the Scope of EPA's Full Approval?

In its program submission, the 34 districts did not assert jurisdiction over Indian country. To date, no tribal government in California has applied to EPA for approval to administer a title V program in Indian country within the state. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

VI. Citizen Comments on Operating Permits Programs

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

One member of the public commented on what he believes to be deficiencies with respect to the California title V programs. As stated in the **Federal Register** notices published on October

19, 2001 and October 22, 2001 proposing to fully approve the 34 operating permits programs, EPA takes no action on those comments in today's action. Rather, EPA will respond by December 14, 2001 to timely public comments on programs that have obtained interim approval, and by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. In addition, we will publish a notice of availability in the **Federal Register** notifying the public that we have responded in writing to these comments and how the public may obtain a copy of our response. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 5, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 29, 2001.

Wayne Nastri,

Regional Administrator, Region 9.

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by revising paragraphs (a) through (hh) under California to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

California

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(a) Amador County Air Pollution Control District (APCD):

(1) Complete submittal received on September 30, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on April 10, 2001. The rule amendments contained in the April 10, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Amador County Air Pollution Control District is

hereby granted final full approval effective on November 30, 2001.

(b) Bay Area Air Quality Management District (AQMD):

(1) Submitted on November 16, 1993, amended on October 27, 1994, and effective as an interim program on July 24, 1995. Revisions to interim program submitted on March 23, 1995, and effective on August 22, 1995, unless adverse or critical comments are received by July 24, 1995. Approval of interim program, including March 23, 1995, revisions, expires December 1, 2001.

(2) Revisions were submitted on May 30, 2001. The rule amendments contained in the May 30, 2001 submittal adequately addressed the conditions of the interim approval effective on July 24, 1995. Bay Area Air Quality Management District is hereby granted final full approval effective on November 30, 2001.

(c) Butte County APCD:

(1) Complete submittal received on December 16, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 17, 2001. The rule amendments contained in the May 17, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Butte County APCD is hereby granted final full approval effective on November 30, 2001.

(d) Calaveras County APCD:

(1) Complete submittal received on October 31, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on July 27, 2001. The rule amendments contained in the July 27, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Calaveras County APCD is hereby granted final full approval effective on November 30, 2001.

(e) Colusa County APCD:

(1) Complete submittal received on February 24, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on August 22, 2001 and October 10, 2001. The rule amendments contained in the August 22, 2001 and October 10, 2001 submittals adequately addressed the conditions of the interim approval effective on June 2, 1995. Colusa County APCD is hereby granted final full approval effective on November 30, 2001.

(f) El Dorado County APCD:

(1) Complete submittal received on November 16, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on August 16, 2001. The rule amendments contained in the August 16, 2001 submittals adequately addressed the conditions of the interim approval effective on June 2, 1995. El Dorado County APCD is hereby granted final full approval effective on November 30, 2001.

(g) Feather River AQMD:

(1) Complete submittal received on December 27, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 22, 2001. The rule amendments contained in the May 22, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Feather River AQMD is hereby granted final full approval effective on November 30, 2001.

(h) Glenn County APCD:

(1) Complete submittal received on December 27, 1993; interim approval effective on August 14, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on September 13, 2001. The rule amendments contained in the September 13, 2001 submittal adequately addressed the conditions of the interim approval effective on August 14, 1995. Glenn County APCD is hereby granted final full approval effective on November 30, 2001.

(i) Great Basin Unified APCD:

(1) Complete submittal received on January 12, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 18, 2001. The rule amendments contained in the May 18, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Great Basin Unified APCD is hereby granted final full approval effective on November 30, 2001.

(j) Imperial County APCD:

(1) Complete submittal received on March 24, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on August 2, 2001. The rule amendments contained in the August 2, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Imperial County APCD is hereby granted final full approval effective on November 30, 2001.

(k) Kern County APCD:

(1) Complete submittal received on November 16, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 24, 2001. The rule amendments contained in the May 24, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Kern County APCD is hereby granted final full approval effective on November 30, 2001.

(l) Lake County AQMD:

(1) Complete submittal received on March 15, 1994; interim approval effective on August 14, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on June 1, 2001. The rule amendments contained in the June 1, 2001 submittal adequately addressed the conditions of the interim approval effective on August 14, 1995. Lake County AQMD is hereby granted final full approval effective on November 30, 2001.

(m) Lassen County APCD:

(1) Complete submittal received on January 12, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on August 2, 2001. The rule amendments contained in the August 2, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Lassen County APCD is hereby granted final full approval effective on November 30, 2001.

(n) Mariposa County APCD:

(1) Submitted on March 8, 1995; approval effective on February 5, 1996 unless adverse or critical comments are received by January 8, 1996. Interim approval expires on December 1, 2001.

(2) Revisions were submitted on September 20, 2001. The rule amendments contained in the September 20, 2001 submittal adequately addressed the conditions of the interim approval effective on February 5, 1996. Mariposa County APCD is hereby granted final full approval effective on November 30, 2001.

(o) Mendocino County APCD:

(1) Complete submittal received on December 27, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on April 13, 2001. The rule amendments contained in the April 13, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Mendocino County APCD is hereby granted final full approval effective on November 30, 2001.

(p) Modoc County APCD:

(1) Complete submittal received on December 27, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on September 12, 2001. The rule amendments contained in the September 12, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Modoc County APCD is hereby granted final full approval effective on November 30, 2001.

(q) Mojave Desert AQMD:

(1) Complete submittal received on March 10, 1995; interim approval effective on March 6, 1996; interim approval expires December 1, 2001.

(2) Revisions were submitted on June 4, 2001 and July 11, 2001. The rule amendments contained in the June 4, 2001 and July 11, 2001 submittals adequately addressed the conditions of the interim approval effective on March 6, 1995. Mojave Desert AQMD is hereby granted final full approval effective on November 30, 2001.

(r) Monterey Bay Unified Air Pollution Control District:

(1) Submitted on December 6, 1993, supplemented on February 2, 1994 and April 7, 1994, and revised by the submittal made on October 13, 1994; interim approval effective on November 6, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 9, 2001. The rule amendments contained in the May 9, 2001 submittal adequately addressed the conditions of the interim approval effective on November 6, 1995. Monterey Bay Unified Air Pollution Control District is hereby granted final full approval effective on November 30, 2001.

(s) North Coast Unified AQMD:

(1) Complete submittal received on February 24, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 24, 2001. The rule amendments contained in the May 24, 2001 submittal adequately addressed

the conditions of the interim approval effective on June 2, 1995. North Coast Unified AQMD is hereby granted final full approval effective on November 30, 2001.

(t) Northern Sierra AQMD:

(1) Complete submittal received on June 6, 1994; interim approval effective on June 2, 1995; interim approval expiresDecember 1, 2001.

(2) Revisions were submitted on May 24, 2001. The rule amendments contained in the May 24, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Northern Sierra AQMD is hereby granted final full approval effective on November 30, 2001.

(u) Northern Sonoma County APCD:

(1) Complete submittal received on January 12, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 21, 2001. The rule amendments contained in the May 21, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Northern Sonoma APCD is hereby granted final full approval effective on November 30, 2001.

(v) Placer County APCD:

(1) Complete submittal received on December 27, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 4, 2001. The rule amendments contained in the May 4, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Placer County APCD is hereby granted final full approval effective on November 30, 2001.

(w) The Sacramento Metropolitan Air Quality Management District:

(1) Complete submittal received on August 1, 1994; interim approval effective on September 5, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on June 1, 2001. The rule amendments contained in the June 1, 2001 submittal adequately addressed the conditions of the interim approval effective on September 5, 1995. The Sacramento Metropolitan Air Quality Management District is hereby granted final full approval effective on November 30, 2001.

(x) San Diego County Air Pollution Control District:

(1) Submitted on April 22, 1994 and amended on April 4, 1995 and October 10, 1995; approval effective on February 5, 1996, unless adverse or critical comments are received by January 8, 1996. Interim approval expires on December 1, 2001.

(2) Revisions were submitted on June 4, 2001. The rule amendments contained in the June 4, 2001 submittal adequately addressed the conditions of the interim approval effective on February 5, 1996. The San Diego County Air Pollution Control District is hereby granted final full approval effective on November 30, 2001.

(y) San Joaquin Valley Unified APCD:

(1) Complete submittal received on July 5 and August 18, 1995; interim approval effective on May 24, 1996; interim approval expires May 25, 1998. Interim approval expires on December 1, 2001.

(2) Revisions were submitted on June 29, 2001. The rule amendments contained in the June 29, 2001 submittal adequately addressed the conditions of the interim approval effective on May 24, 1996. San Joaquin Valley Unified APCD is hereby granted final full approval effective on November 30, 2001.

(z) San Luis Obispo County APCD:

(1) Complete submittal received on November 16, 1995; interim approval effective on December 1, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 18, 2001. The rule amendments contained in the May 18, 2001 submittal adequately addressed the conditions of the interim approval effective on December 1, 1995. San Luis Obispo County APCD is hereby granted final full approval effective on November 30, 2001.

(aa) Santa Barbara County APCD:

(1) Submitted on November 15, 1993, as amended March 2, 1994, August 8, 1994, December 8, 1994, June 15, 1995, and September 18, 1997; interim approval effective on December 1, 1995; interim approval expires on December 1, 2001.

(2) Revisions were submitted on April 5, 2001. The rule amendments contained in the April 5, 2001 submittal adequately addressed the conditions of the interim approval effective on December 1, 1995. Santa Barbara County APCD is hereby granted final full approval effective on November 30, 2001.

(bb) Shasta County AQMD:

(1) Complete submittal received on November 16, 1993; interim approval effective on August 14, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 18, 2001. The rule amendments contained in the May 18, 2001 submittal adequately addressed the conditions of the interim approval effective on August 14, 1995. Shasta County AQMD is hereby granted final full approval effective on November 30, 2001.

(cc) Siskiyou County APCD:

(1) Complete submittal received on December 6, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on September 28, 2001. The rule amendments contained in the September 28, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Siskiyou County APCD is hereby granted final full approval effective on November 30, 2001.

(dd) South Coast Air Quality Management District:

(1) Submitted on December 27, 1993 and amended on March 6, 1995, April 11, 1995, September 26, 1995, April 24, 1996, May 6, 1996, May 23, 1996, June 5, 1996 and July 29, 1996; approval effective on March 31, 1997. Interim approval expires on December 1, 2001.

(2) Revisions were submitted on August 2, 2001 and October 2, 2001. The rule amendments contained in the August 2, 2001 and October 2, 2001 submittals adequately addressed the conditions of the interim approval effective on March 31, 1997. South Coast AQMD is hereby granted final full approval effective on November 30, 2001.

(ee) Tehama County APCD:

(1) Complete submittal received on December 6, 1993; interim approval effective on August 14, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on June 4, 2001. The rule amendments contained in the June 4, 2001 submittal adequately addressed the conditions of the interim approval effective on August 14, 1995. Tehama County APCD is hereby granted final full approval effective on November 30, 2001.

(ff) Tuolumne County APCD:

(1) Complete submittal received on November 16, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on July 18, 2001. The rule amendments contained in the July 18, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Tuolumne County APCD is hereby granted final full approval effective on November 30, 2001.

(gg) Ventura County APCD:

(1) Submitted on November 16, 1993, as amended December 6, 1993; interim approval effective on December 1, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 21, 2001. The rule amendments contained in the May 21, 2001 submittal adequately addressed the conditions of the interim approval effective on December 1, 1995. Ventura County APCD is hereby granted final full approval effective on November 30, 2001.

(hh) Yolo-Solano AQMD:

(1) Complete submittal received on October 14, 1994; interim approval effective on June 2, 1995; interim approval expiresDecember 1, 2001.

(2) Revisions were submitted on May 9, 2001. The rule amendments contained in the May 9, 2001 submittal adequately addressed the conditions of the interim approval effective on June 2, 1995. Yolo-Solano AQMD is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–30368 Filed 12–6–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 25 and 101

[IB Docket No. 98–172; FCC–01–323]

Redesignation of the 18 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the Ka-band, and the Allocation of Additional Spectrum for Broadcast Satellite-Service Use

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document we grant in part and deny in part the petitions for reconsideration of the 18 GHz Order filed by Hughes Electronics Corporation (Hughes), the Fixed Wireless Communications Coalition (FWCC) and

Winstar Communications, Inc. (Winstar). We defer for action in a future Commission order certain issues raised by Hughes relating to the band plan adopted in the 18 GHz Order and blanket licensing. We also address a number of issues raised by Teledesic Corporation (Teledesic) in its letter to the Commission and its request for judicial review of the rules adopted by the Commission in the 18 GHz Order.

DATES: Effective January 7, 2002.

FOR FURTHER INFORMATION CONTACT: Richard Engelman, Planning & Negotiations Division, International Bureau, (202) 418–2150 or via electronic mail: *rengelma@fcc.gov*. In addition to filing comments with the Office of the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION: The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) 445 12th Street, SW., Washington, DC and may also be purchased from the Commission's copy contractor, International Transcription Services (ITS), Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Summary of the Order on Reconsideration

1. In this First Order on Reconsideration we addressed issues raised by Hughes, FWCC, Winstar, and Teledesic in petitions to the Commission for reconsideration, and a petition to the United States Court of Appeals for the District of Columbia for judicial review of the *18 GHz Order*. The issues generally fall into one of four groups: 18 GHz band plan, licensing, Legacy List, and relocation.

2. With regard to the 18 GHz band plan, this Order gives the NGSO/FSS operators increased flexibility in relocating interfering terrestrial fixed stations by terminating after ten years the co-primary status of existing terrestrial fixed stations in the 19.26–19.3 GHz band, and low-power terrestrial fixed service stations in the 18.8–19.3 GHz band. This Order finds that it is appropriate to treat such operations in the same manner as other operations in the 18 GHz band, and that such treatment necessarily includes the right to compensation for relocation of both parts of a channel pair. Thus, this Order provides that, where it becomes necessary during the ten years to relocate an existing terrestrial fixed station in the 19.26–19.3 GHz band, or low-power terrestrial fixed service station in the 18.8–19.3 GHz band, the FS operator will be able to receive comparable facilities at no cost to the fixed operator.

3. We are persuaded by Hughes and several commenters to reverse the Legacy List policy that we adopted in the *18 GHz Order*. As a result, this Order removes § 25.145(i) of our rules and the requirement for a GSO/FSS space station licensee to use of the Legacy List coordination process to alleviate interference to a terrestrial fixed station.

4. This Order also generally affirms our basic findings in the *18 GHz Order* with regard to the blanket licensing rules. It changes, however the power flux-density (pfd) value for the 18.3–18.8 GHz frequency band to the values in § 25.208(c) to be consistent with the pfd limit in the Radio Regulations of the International Telecommunication Union and removes § 25.208(d). We also determine that the pfd level in § 25.138(a)(6) of −118 dBW/m2/MHz should apply to all Geostationary Satellite Orbit/Fixed Satellite Service (GSO/FSS) downlink bands in which the Commission permits blanket licensing. We amend § 101.97 to clarify that an incumbent Fixed Service (FS) licensee retains primary status notwithstanding a change in ownership or control. Further, we clarify that an incumbent licensee is entitled to a 12-month trial period after relocation to test the new facilities.

5. Finally, this Order generally denies the requests to reconsider the relocation issues, and reaffirms the Commission decision to adopt the relocation rules codified in §§ 101.89 and 101.91. This is in part because we find that it is appropriate to apply in the 18 GHz band the established policy that the Commission has employed in other similar circumstances. In addition, we find that it is Commission policy to enable an incumbent, that is required to relocate, to construct a comparable replacement system without the additional burden of undue costs. Moreover, this Order finds that the alternative proposals offered by Teledesic for measuring relocation costs are plainly inconsistent with this Commission goal. We further find that, contrary to the allegations made by Teledesic, new entrants benefit from the Commission policy of seeking to ensure that incumbents have every possible reasonable incentive to relocate promptly and voluntarily.

Supplemental Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), a Final Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities was incorporated in the *18 GHz Order*. The Commission sought written public comments on the proposals in the *18 GHz NPRM* including comment on the IRFA. This Supplemental Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Rules

In this First Order on Reconsideration, the Commission changes the pfd value for the 18.3–18.8 GHz frequency band to the values in § 25.208(c) to be consistent with the pfd limit in the Radio Regulations of the International Telecommunication Union and remove § 25.208(d). This First Order on Reconsideration also determines that the pfd level in § 25.138(a)(6) of −118 dBW/m2/MHz should apply to all Geostationary Satellite Orbit/Fixed Satellite Service (GSO/FSS) downlink bands in which the Commission permits blanket licensing. It amends § 101.97 to clarify that an incumbent Fixed Service (FS) licensee retains primary status notwithstanding a change in ownership or control. Further, this First Order on Reconsideration clarifies that an incumbent licensee is entitled to a twelve-month trial period after relocation to test the new facilities. Upon reconsideration, this First Order on Reconsideration also concludes that existing terrestrial services operating in the 19.26–19.3 GHz band will not be allowed to recover relocation reimbursement on a permanent basis, and will be subject to the ten year sunset period applicable to other FS operations in the 18 GHz band. This First Order on Reconsideration also takes the following steps to better reconcile the competing interests of the new entrants and the low-power terrestrial fixed service operators in satellite bands: (1) Cuts off any further low-power fixed service applications under § 101.147(r)(10) as of April 1, 2002 (outdoor applications were already cut off in the *18 GHz Order*); and (2) permits low-power services authorized pursuant § 101.147(r)(10) to continue to operate on a co-primary basis for a period of ten years, subject to the right of satellite providers to require low-power operators to relocate. Finally, this First Order on Reconsideration removes § 25.145(i) of our rules and reverses the Legacy List policy that the Commission adopted in the *18 GHz Order*; thus, the

Commission will no longer require the use of the Legacy List coordination process by an FSS space station licensee to alleviate interference to a terrestrial fixed station.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

No comments were submitted in direct response to the IRFA.

C. Description and Estimate of the Number of Small Entities To Which the Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the adopted rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. Below, we further describe and estimate the number of small entity licensees that may be affected by the adopted rules.

1. International Services

The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC). This definition provides that a small entity is one with $11.0 million or less in annual receipts. According to the Census Bureau, there were a total of 848 communications service providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than $9.999 million. The Census report does not provide more precise data.

2. Fixed Satellite Transmit/Receive Earth Stations

Currently there are no operational fixed satellite transmit/receive earth stations authorized for use in the 17.7–20.2 GHz and 27.5–30 GHz band. However, with 12 GSO/FSS licensees and 1 NGSO/FSS licensee, and our decision to adopt blanket licensing, we expect applications for FSS earth station licenses to be filed in the near future. We do not request or collect annual revenue information, and thus are unable to estimate the number of earth stations that would constitute a small business under the SBA definition.

3. Mobile Satellite Earth Station Feeder Links

We have granted one license for MSS earth station feeder links. We do not request or collect annual revenue information, and thus are unable to estimate of the number of mobile satellite earth stations that would constitute a small business under the SBA definition.

4. Space Stations (Geostationary)

Commission records reveal that there are 12 space station licensees. We do not request nor collect annual revenue information, and thus are unable to estimate of the number of geostationary space stations that would constitute a small business under the SBA definition, or apply any rules providing special consideration for Space Station (Geostationary) licensees that are small businesses.

5. Space Stations (Non-Geostationary)

There is one Non-Geostationary Space Station licensee and that licensee is operational. We do not request or collect annual revenue information, and thus are unable to estimate of the number of non-geostationary space stations that would constitute a small business under the SBA definition.

6. Direct Broadcast Satellites

Because DBS provides subscription services, DBS falls within the SBA definition of Cable and Other Pay Television Services (SIC 4841). This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts. As of December 1996, there were eight DBS licensees. However, the Commission does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees that could be impacted by these proposed rules. Although DBS service requires a great investment of capital for operation, we acknowledge that there are several new entrants in this field that may not yet have generated more than $11 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated.

7. Auxiliary, Special Broadcast and Other Program Distribution Services

This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). At the frequencies under consideration in this proceeding there are no transmissions of this type directly to the public. The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radio broadcasting stations (SIC 4832) and television broadcasting stations (SIC 4833). These definitions provide, respectively, that a small entity is one with either $5.0 million or less in annual receipts or $10.5 million in annual receipts. 13 CFR 121.201, SIC CODES 4832 and 4833. The numbers of these stations are very small. The FCC does not collect financial information on any broadcast facility and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe, however, that by themselves most, if not all, of these auxiliary facilities could be classified as small businesses. We also recognize that most of these types of services are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (as noted, either $5 million for a radio station or $10.5 million for a TV station). Furthermore, they do not meet the Small Business Act's definition of a "small business concern" because they are not independently owned and operated.

8. Microwave Services

Microwave services includes common carrier, private operational fixed, and

broadcast auxiliary radio services. At present, there are 22,015 common carrier licensees, approximately 61,670 private operational fixed licensees and broadcast auxiliary radio licensees in the microwave services. Inasmuch as the Commission has not yet defined a small business with respect to microwave services, we will utilize the SBA's definition applicable to radiotelephone companies—i.e., an entity with no more than 1,500 persons. 13 CFR 121.201, SIC CODE 4812. We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The Commission has adopted rules in this First Order on Reconsideration that involve no reporting requirements.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The changes made by this First Order on Reconsideration do not affect small entities disproportionately and it is likely no additional outside professional skills will be necessary to comply with the rules and requirements here listed. The *18 GHz NPRM* solicited comment on several alternatives for spectrum sharing blanket licensing, and band segmentation. This First Order on Reconsideration considered comments offering alternatives, and has acted in response to stated concerns and suggestions, particularly those representing significant agreement or consensus by commenters. The decisions of this First Order on Reconsideration should positively impact both large and small businesses by providing a faster, more efficient, and less economically burdensome coordination and licensing procedure.

F. Report to Congress

The Commission will send a copy of this First Order on Reconsideration including this Supplemental FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1966, *see* 5 U.S.C. 801 (a)(1)(A). In addition, the Commission will send a copy of this First Order on Reconsideration, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this First Order on Reconsideration and Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

Ordering Clauses

Pursuant to sections 1, 4(i), 4(j), 301, 302, 303(c), 303(e), 303(f), 303(r) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154 (i), 154(j), 301, 302, 303(c), 303(e), 303(f), 303 (r), and 403, this *First Order on Reconsideration* is adopted and that parts 25 and 101 of the Commission's rules ARE AMENDED, as specified in the rules, Effective January 7, 2002.

The Regulatory Flexibility Analysis as required by section 604 of the Regulatory Flexibility Act and as set forth is adopted.

The Commission's Consumer Information Bureau SHALL SEND a copy of this *First Order on Reconsideration*, including the Supplemental Final Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the Small Business Administration.

This proceeding is terminated pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and 154 (j).

List of Subjects

47 CFR Part 25

Communications common carriers, communications equipment, Radio, Satellites, Telecommunications.

47 CFR Part 101

Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

For the reasons set forth in the preamble, parts 25, and 101 of title 47 of the Code of Federal Regulations are amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 701–744. Interprets or applies § 303, 47 U.S.C. 303. 47 U.S.C. §§ 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

2. Section 25.138 is amended by revising paragraph (a)(6) to read as follows:

§ 25.138 Blanket licensing provisions of GSO FSS Earth Stations in the 18.58–18.8 GHz (space-to-Earth), 19.7–20.2 GHz (space-to-Earth), 28.35–28.6 GHz (Earth-to-space) and 29.5–30.0 GHz (Earth-to-space) bands.

(a) * * *

(6) Power flux-density (PFD) at the Earth's surface produced by emissions from a space station for all conditions, including clear sky, and for all methods of modulation shall not exceed a level of −118 dBW/m²/MHz, in addition to the limits specified in § 25.208 (d).

* * * * *

3. Section 25.145 is amended by revising paragraph (h) and removing paragraph (i) to read as follows:

§ 25.145 Licensing Conditions for the Fixed-Satellite Service in the 20/30 GHz Bands.

* * * * *

(h) *Policy governing the relocation of terrestrial services from the 18.58 to 19.3 GHz band.* Frequencies in the 18.58–19.3 GHz band listed in parts 21, 74, 78, and 101 of this chapter have been reallocated for primary use by the Fixed-Satellite Service, subject to various provisions for the existing terrestrial licenses. Fixed-Satellite Service operations are not entitled to protection from the co-primary operations until after the period during which terrestrial stations remain co-primary has expired. (see §§ 21.901(e), 74.502(c), 74.602(g), 78.18(a)(4), and 101.147(r) of this chapter).

4. In § 25.202, footnote 7 of the table following paragraph (a)(1) is revised to read as follows:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

* * * * *

[7] The band 18.8–19.3 GHz is shared co-equally with terrestrial radiocommunications services until June 8, 2010.

* * * * *

5. Section 25.208 is amended by revising paragraph (c), removing paragraph (d), and redesignating paragraph (e) as paragraph (d) and paragraph (f) as paragraph (e) to read as follows:

§ 25.208 Power flux-density limits.

* * * * *

(c) In the 18.3–18.8 GHz, 19.3–19.7 GHz, 22.55–23.00 GHz, 23.00–23.55 GHz, and 24.45–24.75 GHz frequency bands, the power flux-density at the Earth's surface produced by emissions from a space station for all conditions and for all methods of modulation shall not exceed the following values:

(1) −115 dB (W/m²) in any 1 MHz band for angles of arrival between 0 and 5 degrees above the horizontal plane.

(2) −115+0.5 (d–5) dB (W/m²) in any 1 MHz band for angles of arrival d (in degrees) between 5 and 25 degrees above the horizontal plane.

(3) −105 dB (W/m²) in any 1 MHz band for angles of arrival between 25

and 90 degrees above the horizontal plane.

* * * * *

PART 101—FIXED MICROWAVE SERVICES

6. The authority citation for part 101 continues to read as follows:

Authority: 47 U.S.C. 154, and 303.

7. Section 101.85 is amended by revising paragraph (b) to read as follows:

§ 101.85 Transition of the 18.58–19.3 GHz band from the terrestrial fixed services to the fixed-satellite service (FSS).

* * * * *

(b) FS operations in the 18.58–19.30 GHz band that remain co-primary under the provisions of §§ 21.901(e), 74.502(c), 74.602(d), 78.18(a)(4) of this chapter, and § 101.147(r) will continue to be co-primary with the FSS users of this spectrum until June 8, 2010 or until the relocation of the fixed service operations, whichever occurs sooner, except for operations in the band 19.26–19.3 GHz and low power systems operating pursuant to § 101.47(r) (10), which shall operate on a co-primary basis until October 31, 2011. If no agreement is reached during the negotiations, an FSS licensee may initiate relocation procedures. Under the relocation procedures, the incumbent is required to relocate, provided that the FSS licensee meets the conditions of § 101.91.

* * * * *

8. Section 101.91 is amended by adding a sentence to the end of paragraph (c) to read as follows:

§ 101.91 Involuntary relocation procedures.

* * * * *

(c) * * * The FS licensee may take up to 12 months to make such adjustments and perform such testing.

* * * * *

9. Section 101.95 is amended by revising the section heading to read as follows:

§ 101.95 Sunset provisions for licensees in the 18.58–19.30 GHz band.

* * * * *

10. Section 101.97 is amended by adding a new paragraph (a)(9) to read as follows:

§ 101.97 Future licensing in the 18.58–19.30 GHz band.

(a) * * *

(9) Changes in ownership or control.

* * * * *

11. Section 101.147 is amended by revising paragraph (r) introductory text and by adding a sentence at the end of paragraph (r)(10)(iv) to read as follows:

§ 101.147 Frequency assignments.

* * * * *

(r) *17,700 to 19,700 and 24,250 to 25,250 MHz:* Stations operating on the following frequencies in the band 18.58–18.8 GHz that were licensed or had applications pending before the Commission as of June 8, 2010 may continue those operations on a shared co-primary basis with other services under parts 21, 25, and 74 of the Commission's rules until June 8, 2010, except for operations in the band 19.26–19.3 GHz and low power systems operating pursuant to paragraph (r)(10) of this section, which shall operate on a co-primary basis until October 31, 2011. Those stations operating on the following frequencies in the band 18.8–19.3 GHz that were licensed or had applications pending before the Commission as of September 18, 1998 may continue those operations on a shared co-primary basis with other services under parts 21, 25, and 74 of the Commission's rules until June 8, 2010. After this date, operations in the 18.58–19.30 GHz band are not entitled to protection from fixed-satellite service operations and must not cause unacceptable interference to fixed-satellite service station operations. No new part 101 licenses will be granted in the 18.58–19.3 GHz band after June 8, 2010, except for certain low power operations authorized under paragraph (r)(10) of this section, which may continue to be licensed until April 1, 2002. Licensees may use either a two-way link or one frequency of a frequency pair for a one-way link and must coordinate proposed operations pursuant to the procedures required in § 101.103. (Note, however, that stations authorized as of September 9, 1983, to use frequencies in the band 17.7–19.7 GHz may, upon proper application, continue to be authorized for such operations, consistent with the conditions related to the 18.58–19.3 GHz band.)

* * * * *

(10) * * *

(iv) * * * No new licenses will be authorized for applications received after April 1, 2002.

* * * * *

[FR Doc. 01–30304 Filed 12–6–01; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 66, No. 236
Friday, December 7, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 584

[No. 2001–76]

RIN 1550–AB52

Authority for Certain Savings and Loan Holding Companies To Engage in Financial Activities

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of extension of comment period.

SUMMARY: The Office of Thrift Supervision is extending the comment period for the proposed rule published on November 8, 2001. The proposed rule would clarify what financial activities are authorized for certain savings and loan holding companies after the Gramm-Leach-Bliley Act. This extension will allow interested persons until January 10, 2002 to provide comments on the proposed rule.

DATES: Comments must be received by January 10, 2002.

ADDRESSES:

Mail: Send comments to Regulations Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 2001–69.

Delivery: Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention Regulation Comments, Chief Counsel's Office, Docket No. 2001–69.

Facsimile: Send facsimile transmissions to FAX Number (202) 906–6518, Attention Docket No. 2001–69.

E-mail: Send e-mail to "*regs.comments@ots.treas.gov*", Attention Docket No. 2001–69, and include your name and telephone number.

Availability of comments: You may access the public comments and an index of comments on the OTS Internet Site at "*www.ots.treas.gov*". In addition, you may inspect comments at the Public Reference Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail message to *public.info@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755. (Please identify the materials you would like to inspect, to assist us in serving you.) We schedule appointments on business days between 10 a.m. until 4 p.m. In most cases, appointments will be available the next business day following the date we receive your request.

FOR FURTHER INFORMATION CONTACT: Donna M. Deale, (202) 906–7488, Manager, Holding Company and Affiliate Policy, Office of Supervision Policy; Kevin A. Corcoran, (202) 906–6962, Assistant Chief Counsel for Business Transactions, Business Transactions Division, Office of Chief Counsel; and Sally Warner Watts, (202) 906–7380, Counsel (Banking and Finance), Regulations and Legislation Division, Office of Chief Counsel; Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552. If you want to access any of these telephone numbers by text telephone (TTY), you may call the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On November 8, 2001, OTS published a proposed rule on financial activities that are authorized for certain savings and loan holding companies after the Gramm-Leach-Bliley Act (66 FR 56488). That rule required interested persons to submit their comments by December 10, 2001.

During the comment period, OTS received a written request to extend the comment period until January 10, 2002. The requestor, an association representing financial organizations, sought an extension to permit its member institutions to have time to review the proposal, consider its implications, and develop meaningful comments.

In response to this request, OTS is extending the comment period for the proposed rule until January 10, 2002. This will allow time for the requestor and other interested persons to develop and submit comments on the proposed rule.

OTS encourages e-mail or facsimile submissions to ensure that it receives comments in a timely manner, in light of recent experience with postal service interruptions in the Washington, DC area.

Dated: December 3, 2001.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 01–30306 Filed 12–6–01; 8:45 am]

BILLING CODE 6720–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2001–10743; Airspace Docket No. 01–ASW–16]

Proposed Realignment of Federal Airway V–385; TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes to realign Federal Airway 385(V–385) between Lubbock, TX, and Abilene, TX, so that aircraft navigating on the airway will be able to remain clear of the newly established Lancer Military Operations Area (MOA).

DATES: Comments must be received on or before January 28, 2002.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket numbers FAA–2001–10743/ Airspace Docket No. 01–ASW–16 at the beginning of your comments.

You may also submit comments through the Internet to *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address.

An informal docket may also be examined during normal business hours

at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2601 Meacham Blvd; Fort Worth, TX 76193–0500.

FOR FURTHER INFORMATION CONTACT: Steve Rohring, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Nos. FAA 2001–10743/ Airspace Docket No. ASD 01–ASW–16." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*.

Additionally, any person may obtain a copy of this action by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On February 21, 2002, the Lancer MOA will be designated between Lubbock, TX, and Abilene, TX. Currently, V–385 (between Lubbock and Abilene) passes through the eastern boundary of the new MOA. By moving a turning point (BOOMR intersection) on V–385, the airway would be relocated approximately seven miles to the east of its present location. With this realignment, aircraft may continue to use V–385 to navigate between Lubbock and Abilene without encroaching upon the new Lancer MOA.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to realign V–385 between Lubbock, TX, and Abilene, TX, by relocating the BOOMR intersection and moving the airway approximately seven miles to the east of its present location. This realignment will allow aircraft to navigate on the airway between Lubbock, TX, and Abilene, TX, without encroaching upon the new Lancer MOA.

This regulation is limited to an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since it has been determined that this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Federal airways are published in paragraph 6010(a) of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Federal airway listed in this document would be published subsequently in the Order.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–385 [Revised]

From Lubbock, TX, INT Lubbock 105°T(094°M) and Abilene, TX, 329°T(319°M) radials; Abilene.

* * * * *

Issued in Washington, DC, on December 3, 2001.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 01–30360 Filed 12–6–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 500

[Docket No. 01N–0284]

Import Tolerances; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to March 11, 2002, the comment period for the advance notice of proposed rulemaking (ANPRM) that appeared in the **Federal Register** of August 10, 2001 (66 FR 42167). The ANPRM gave notice that FDA was proposing a regulation for establishing import tolerances. The ANPRM was soliciting comments on issues related to the implementation of the import tolerances provision in section 4 of the Animal Drug Availability Act of 1996 (ADAA). The ADAA authorizes FDA to establish drug residue tolerances (import tolerances) for imported food products of animal origin for drugs that are used in other countries, but that are unapproved new animal drugs in the United States. Food products of animal origin that are in compliance with the import tolerance will not be considered adulterated under the Federal Food, Drug, and Cosmetic Act (the act) and may be imported into the United States. FDA is taking action because it has rescheduled the public meeting on the issue and wishes to allow time for the consideration of comments made after the meeting.

DATES: Submit written or electronic comments by March 11, 2002.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–235), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments.*

FOR FURTHER INFORMATION CONTACT: Frances Pell, Center for Veterinary Medicine (HFV–235), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0188, e-mail: *fpell@cvm.fda.gov.*

SUPPLEMENTARY INFORMATION:

I. Extension of Comment Period

In the **Federal Register** of August 10, 2001 (66 FR 42167), FDA published an ANPRM that gave notice that FDA intends to propose a regulation for establishing import tolerances. Interested persons were given until December 10, 2001, to comment on the ANPRM. The ANPRM is available on the Internet at: *http://www.fda.gov/OHRMS/DOCKETS/98fr/081001a.htm.* Because the agency has rescheduled the meeting of the Veterinary Medicine Advisory Committee (VMAC) from September 2001 to January 2002 (66 FR 58052, November 21, 2001), the agency is extending the comment period 90 days. The VMAC will be asked to discuss answers to questions similar to those posed in the ANPRM.

II. Comments

Interested persons may submit written or electronic comments regarding the ANPRM by March 10, 2002. Written or electronic comments should be submitted to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Comments may also be submitted electronically on the Internet at: *http://www.fda.gov/dockets/ecomments.* Once on the Internet site, select 01N–0284 Import Tolerances and follow the directions.

Dated: November 30, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–30331 Filed 12–6–01; 8:45 am]

BILLING CODE 4160–01–S

Notices

Federal Register
Vol. 66, No. 236
Friday, December 7, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Notice of Request for Approval of a New Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Commodity Credit Corporation to request approval for collecting information necessary to pre-approve producers who request Loan Deficiency Payments online. This request does not involve any revisions to program rules or eligibility. The proposed "Request for E–LDP Services" collects information that is necessary to determine whether the producer is eligible to obtain an LDP online.

DATES: Comments on this notice must be received on or before February 5, 2002, to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Kimberly V. Graham, USDA/Farm Service Agency, 1400 Independence Avenue, SW., STOP 0512; Washington, DC 20250–0512, telephone number (202) 720–9154. Comments may also be submitted by e-mail to: *Kimberly_Graham@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Request for Electronic LDP Services.

OMB Control Number: 0560–NEW.

Type of Request: Approval of a new information collection.

Abstract: On behalf of CCC, the Farm Service Agency (FSA) has developed an Electronic Loan Deficiency Payment pilot project. This internet-based process would allow producers to request an LDP online. The capability to request LDPs online would provide producers an alternative method for obtaining loan deficiency payments. The purpose for obtaining this information is to determine producer eligibility and establish producer profiles in support of the online process. The reporting method is customer/producer-based and focuses on collecting and maintaining information needed to authorize producers access to E–LDP Services.

Estimate of Burden: Public reporting burden for the collection of information is estimated to average 4 minutes per producer.

Respondents: Producers/corporations.

Estimated Number of Respondents: 500.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 25 hours.

Proposed topics for comment include: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility and protect the interests of CCC and the producer; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of the information on those who respond, including the use of appropriated automated, electronic, mechanical, or techniques or other forms of information technology.

Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Kimberly V. Graham, USDA/Farm Service Agency, 1400 Independence Avenue, SW., STOP 0512; Washington, DC 20250–0512, telephone number (202) 720–9154. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Signed at Washington, DC, on November 15, 2001.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 01–30312 Filed 12–6–01; 8:45 am]

BILLING CODE 3410–05–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: January 7, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740.

SUPPLEMENTARY INFORMATION: On August 17, September 21, October 5, October 12 and October 19, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 FR 43180, 48661, 51005, 52095 and 53201) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Trunklocker, Wood
8460–00–NSH–0003

Services

Administrative Services

U.S. Customs Service Academy, Glynco, Georgia.

Janitorial/Custodial

U.S. Army Reserve Center, Newington, Connecticut.

Mailroom Operation

At the following location: GSA Washington, 18th & F Streets NW, Washington, DC.

GSA Arlington

Crystal Mall #3, 1931 Jefferson Davis Highway, Arlington, Virginia.
GSA Regional Office Building 7th & D Streets, SW, Washington, DC.

Mailroom Operation

Internal Revenue Service, San Patricio Office Center Building, #7 Tabonuco Street, Guaynabo, Puerto Rico.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are deleted from the Procurement List:

Commodities

Skin Protectant Plus, Effective Prevention
6505–01–474–7707
6505–01–474–7343
Skin Protectant, Plus
6505–01–474–7724
Suspension Assembly, Liner, Helmet
8470–00–880–8814

Sheryl D. Kennerly,
Director, Information Management.

[FR Doc. 01–30365 Filed 12–6–01; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 7, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice for each service will be required to procure the service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the service proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following service is proposed for addition to Procurement List for production by the nonprofit agencies listed:

Service

Commissary Shelf Stocking, Custodial & Warehousing

U.S. Coast Guard Support Center, Kodiak, Alaska.
NPA: MQC Enterprises, Inc., Anchorage, Alaska.
Government Agency: Defense Commissary Agency, Fort Lee, Virginia.

Sheryl D. Kennerly,
Director, Information Management.

[FR Doc. 01–30366 Filed 12–6–01; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–816]

Notice of Rescission of Antidumping Duty Administrative Review: Certain Corrosion-Resistant Carbon Steel Flat Products From Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of the antidumping duty administrative review of certain corrosion-resistant carbon steel flat products from Korea.

SUMMARY: On October 1, 2001, the Department of Commerce ("Department") published a notice of initiation of an antidumping duty administrative review on certain corrosion-resistant carbon steel flat

products from Korea (66 FR 49924). This review covers three manufacturers/exporters of the subject merchandise. The period of review ("POR") is August 1, 2000 through July 31, 2001. This review has now been rescinded as a result of a timely withdrawal of the request for administrative review by the interested parties.

EFFECTIVE DATE: December 7, 2001.

FOR FURTHER INFORMATION CONTACT: Marlene Hewitt or Jim Doyle, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202–482–1385 (Hewitt) or 202–482–0159 (Doyle), fax 202–482–1388.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 ("Act") are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2001).

Background

On August 1, 2001, the Department published a notice of opportunity to request an administrative review of this order for the period August 1, 2000 through July 31, 2001. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 66 FR 39729 (August 1, 2001). Pohang Iron & Steel Co., Ltd. ("POSCO"), Dongbu Steel Co., Ltd. ("Dongbu") and Union Steel Manufacturing Co., Ltd. ("Union"), Korean producers or exporters of subject merchandise (collectively "respondents"), timely requested that the Department conduct an administrative review of their sales of subject merchandise to the United States. On October 1, 2001, in accordance with section 751(a) of the Act, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 66 FR 49924 (October 1, 2001).

Rescission of Review

Dongbu and Union withdrew their request for review on November 5, 2001 and POSCO withdrew its request for review on November 7, 2001. The Department's regulations provide that the Secretary will rescind an administrative review "if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review." *See* 19 CFR 351.213(d)(1). Respondents withdrew their review requests within the 90 day time limit. There were no other requests for administrative review from petitioners or other interested parties. Therefore, in accordance with section 351.213(d)(1) of the Department's regulations, we are rescinding this administrative review. *See* Memorandum to the File from Marlene Hewitt, Enforcement Group III: Recission of Eighth Review (November 21, 2001). The Department will issue appropriate assessment instructions to the U.S. Customs Service.

This notice serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751(a)(1) of the Act, and section 351.213(d) of the Department's regulations.

Dated: November 29, 2001.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 01–30377 Filed 12–6–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–834–807, A–533–823]

Notice of Postponement of Final Determinations for Antidumping Duty Investigations: Silicomanganese From Kazakhstan and India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for final determinations in the antidumping duty investigations of silicomanganese from Kazakhstan and India.

SUMMARY: The Department of Commerce ("Department") is extending the time limit for the final determinations in the antidumping duty investigations of silicomanganese from Kazakhstan and India.

EFFECTIVE DATE: December 7, 2001.

FOR FURTHER INFORMATION CONTACT: Jean Kemp (Kazakhstan), at (202) 482–4037, and Sally Gannon (India) at (202) 482–0162, at the Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2001).

Postponement of Final Determinations and Extension of Provisional Measures

On November 9, 2001, the affirmative preliminary determinations were published for the investigations of silicomanganese from Kazakhstan and India. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Silicomanganese from Kazakhstan*, 66 FR 56639 (November 9, 2001) and *Notice of Preliminary Determination of Sales at Less Than Fair Value: Silicomanganese from India*, 66 FR 56644 (November 9, 2001). Pursuant to section 735(a)(2) of the Act and section 351.210(b)(2)(ii) of the Department's regulations, on November 8, 2001, Transnational Co. Kazchrome and its Aksu Ferroalloy Plant ("Kazchrome"), Considar, Inc. ("Considar"), and Alloy 2000 ("Alloy 2000") requested that the Department extend the period for final determination for silicomanganese from Kazakhstan. On November 16, 2001, Kazchrome, Considar, and Alloy 2000 submitted an amended request that the Department extend provisional measures (i.e., suspension of liquidation) from a four-month period to a period not to exceed six months, pursuant to 19 CFR 351.210(e)(2). On November 20, 2001, Universal Ferro & Allied Chemicals, Ltd ("Universal"), requested that the Department postpone the final determination of silicomanganese from India until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** and requested an extension of provisional measures.

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

In accordance with 19 CFR 351.210(b)(2)(ii), because (1) The preliminary determinations for silicomanganese from Kazakhstan and India are affirmative, (2) the respondents requesting a postponement account for a significant proportion of exports of the subject merchandise from their respective countries, and (3) no compelling reasons for denial exist, we are granting the respondents' requests and are postponing the final determinations to March 25, 2002, which is not later than 135 days after the publication of the preliminary determinations in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Furthermore, in the Department's November 9, 2001 preliminary determination on silicomanganese from Kazakhstan, the Department invited public comment with respect to Kazakhstan's status as a non-market economy ("NME") country on factors listed in section 771(18) of the Act, which the Department must take into account in making a market/non-market economy determination. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Silicomanganese from Kazakhstan*, 66 FR 56641 (November 9, 2001). Public comments are currently due no later than December 10, 2001. The Department further requests any rebuttal comments be submitted no later than January 24, 2002.

This notice of postponement is published pursuant to 19 CFR 351.210(g).

Dated: December 3, 2001.

Bernard Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–30376 Filed 12–6–01; 8:45 am]

BILLING CODE 3510–DS–F

DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–817, C–351–835, C–427–823, C–580–849]

Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Brazil, France, and the Republic of Korea: Extension of Time Limit for Preliminary Determinations in Countervailing Duty Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary determinations in countervailing duty investigations.

SUMMARY: The Department of Commerce is extending the time limit of the preliminary determinations in the countervailing duty ("CVD") investigations of certain cold-rolled carbon steel flat products from Argentina, Brazil, France, and the Republic of Korea from December 22, 2001 until no later than January 28, 2002. This extension is made pursuant to section 703(c)(1)(B) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: December 7, 2001.

FOR FURTHER INFORMATION CONTACT: Suresh Maniam (Argentina and France), at (202) 482–0176; Sean Carey (Brazil), at (202) 482–3964; and Tipten Troidl (the Republic of Korea), at (202) 482–1767, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2001).

Extension of Due Date for Preliminary Determinations

On October 18, 2001, the Department of Commerce ("the Department") initiated the CVD investigations of certain cold-rolled carbon steel flat products from Argentina, Brazil, France, and the Republic of Korea. *See Notice of Initiation of Countervailing Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Brazil, France, and the Republic of Korea*, 66 FR 54218 (October 26, 2001). Currently, the preliminary determinations are due no later than December 22, 2001. However, pursuant to section 703(c)(1)(B) of the Act, we have determined that these investigations are "extraordinarily complicated" and are therefore extending the due date for the preliminary determinations by 37 days to no later than January 28, 2002. The Department notes that on November 27, 2001, petitioners submitted a letter to the Department indicating that they would not object to a 35-day postponement of the preliminary determinations. This requested postponement would result in a deadline that would fall on Saturday, January 26, 2002. Therefore, the Department has extended the due date for its preliminary determinations by 37 days, until the following Monday, January 28, 2002.

Under section 703(c)(1)(B), the Department can extend the period for reaching a preliminary determination until not later than the 130th day after the date on which the administering authority initiates an investigation if:

(B) The administering authority concludes that the parties concerned are cooperating and determines that

(i) the case is extraordinarily complicated by reason of

(I) the number and complexity of the alleged countervailable subsidy practices;

(II) the novelty of the issues presented;

(III) the need to determine the extent to which particular countervailable subsidies are used by individual manufacturers, producers, and exporters; or

(IV) the number of firms whose activities must be investigated; and

(ii) additional time is necessary to make the preliminary determination.

Regarding the first requirement, we find that in each case all concerned parties are cooperating. Regarding the second requirement for extraordinarily complicated cases, it is the Department's position that the appropriate criterion for analysis is not the number of programs in question, but rather, the *specific transactions*, e.g., equity infusions, debt-to-equity conversions, etc., applied under those programs, which are numerous and appropriately categorized as "practices." With respect to the issue of the complexity of the practice, these practices are complex in nature as reflected in the extensive analysis required to address these subsidies.

Therefore, we find that each of these four cases is extraordinarily complicated as described below.

Argentina

The Argentine investigation is extraordinarily complicated because a number of the alleged countervailable subsidies practices are complex or novel. For example, the Department must analyze complicated equity and debt assumption issues, involving multiple transactions, and conduct extensive and complex financial analysis. In addition, the Department is examining a "committed investment" which requires the examination of complicated circumstances and documents surrounding the privatization of the respondent. Furthermore, the Department is analyzing significant amounts of information in order to determine whether the respondent was "creditworthy" when the government provided equity and loans to the company (*i.e.*, whether a private investor would have provided the types of financing that the government provided) and/or was "equityworthy" when the government made certain equity infusions (*i.e.*, examining the government's investment decision against that of a private investor). In making these decisions, the Department must also determine the extent to which the particular countervailable subsidies are used by the individual respondent producers/exporters.

Brazil

The Brazilian investigation is extraordinarily complicated by reason of the number and complexity of the alleged countervailable subsidy practices. The Department has to reexamine the privatization of Brazilian mills under its new change-in-ownership methodology, which will involve the analysis of complicated circumstances and documents. In addition, petitioners have submitted additional allegations of new programs involving complex issues which will require novel and detailed analysis. In making these decisions, the Department must also determine the extent to which the particular countervailable subsidies are used by the individual respondent producers/exporters.

France

The French investigation is extraordinarily complicated because a number of the alleged programs are complex or novel. For example, the Department must analyze complicated equity and loan financing issues, involving extensive and complex financial analysis. The shareholder advance allegation will require the Department to delve into the investment decision process of the government. In addition, the Department is examining novel tax issues, involving tax benefits for foreign branches. Also, the Department will be analyzing several programs that have never been examined before or were deferred in a previous case, including government advances for SODIs, funding for electric arc furnaces, and a repayable grant to Sollac for "pre-coating" technology. Finally, the Department will be examining several allegations that the European Union provided new, additional funding to programs that were previously found not to be used on several occasions, requiring the Department to re-analyze the countervailability of some of these programs.

The Republic of Korea

The Korean investigation is extraordinarily complicated due to the number and complexity of the alleged countervailable subsidy practices. Specifically, there are nineteen programs which the Department is investigating, which involve numerous and complicated issues. Over one-fourth of these programs have never been investigated before and present novel issues, and over one-half of these programs require a significant amount of information and complex analysis, such as the various tax exemptions and credit programs. In addition, the subsidized infrastructure and R&D allegations are complex, and require various types of data and information. In making these decisions, the Department must also determine the extent to which the particular countervailable subsidies are used by the individual respondent producers/exporters.

Accordingly, we deem these investigations to be extraordinarily complicated and determine, with regard to the third requirement noted above, that additional time is necessary to make the preliminary determinations. Therefore, pursuant to section 703(c)(1)(B) of the Act, we are postponing the preliminary determinations in these investigations to January 28, 2002.

This notice is published pursuant to section 703(c)(2) of the Act.

Dated: November 30, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–30375 Filed 12–6–01; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

December 4, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 81846, published on December 27, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 4, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products,

produced or manufactured in China and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on December 10, 2001, you are directed to increase the limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and the People's Republic of China:

Category	Adjusted twelve-month limit [1]
Sublevels in Group I	
200	845,614 kilograms.
218	12,656,591 square meters.
237	2,315,711 dozen.
313	47,207,417 square meters.
314	56,352,424 square meters.
315	141,936,331 square meters.
317/326	24,719,048 square meters of which not more than 4,685,451 square meters shall be in Category 326.
331	5,826,384 dozen pairs.
334	362,498 dozen.
335	423,568 dozen.
336	197,343 dozen.
338/339	2,545,931 dozen of which not more than 1,932,640 dozen shall be in Categories 338–S/339–S [2].
340	869,692 dozen of which not more than 434,845 dozen shall be in Category 340–Z [3].
341	753,581 dozen of which not more than 439,590 dozen shall be in Category 341–Y [4]
342	296,652 dozen.
345	139,912 dozen.
347/348	2,544,403 dozen.
351	646,055 dozen.
352	1,794,941 dozen.
359–V [4]	1,001,152 kilograms.
360	8,984,782 numbers of which not more than 6,128,490 numbers shall be in Category 360–P [5]
361	4,903,526 numbers.
362	8,144,309 numbers.
363	24,053,920 numbers.
433	22,745 dozen.
434	14,543 dozen.
435	26,712 dozen.
438	28,797 dozen.
442	43,550 dozen.
443	140,697 numbers.
445/446	311,712 dozen.
447	77,031 dozen.
631	1,490,680 dozen pairs.
633	65,064 dozen.
634	707,861 dozen.
635	746,670 dozen.
636	608,711 dozen.
638/639	2,684,688 dozen.
640	1,512,506 dozen.
641	1,432,787 dozen.
642	385,198 dozen.
643	575,784 numbers.
644/844	4,061,951 numbers.
645/646	894,653 dozen.
647	1,730,578 dozen.
648	1,236,487 dozen.
651	878,123 dozen of which not more than 150,305 dozen shall be in Category 651–B [6].
652	3,209,352 dozen.
659–C [7]	464,888 kilograms.
659–H [8]	3,239,176 kilograms.
666	4,026,236 kilograms.
845	2,543,417 dozen.
Group II	
330, 332, 349, 353, 354, 359–O [9], 431, 432, 439, 459, 630, 632, 653, 654 and 659–O [10], as a group.	136,222,783 square meters equivalent.
Group III	
201, 220, 222, 223, 224–V [11], 224–O [12], 225, 227, 229, 369–O [13], 400, 414, 464, 465, 469, 600, 603, 604–O [14], 606, 618–622, 624–629, 665, 669–O [15] and 670–O [16], as a group.	282,573,291 square meters equivalent.
Group IV	
832, 834, 838, 839, 843, 850–852, 858 and 859, as a group.	13,396,518 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 338–S: all HTS numbers except 6109.10.0012, 6109.10.0014, 6109.10.0018 and 6109.10.0023; Category 339–S: all HTS numbers except 6109.10.0040, 6109.10.0045, 6109.10.0060 and 6109.10.0065.

[3] Category 340–Z: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2050 and 6205.20.2060.

[4] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[5] Category 360–P: only HTS numbers 6302.21.3010, 6302.21.5010, 6302.21.7010, 6302.21.9010, 6302.31.3010, 6302.31.5010, 6302.31.7010 and 6302.31.9010.

[6] Category 651–B: only HTS numbers 6107.22.0015 and 6108.32.0015.

[7] Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[8] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[9] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070 (Category 359–V).

[10] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[11] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

[12] Category 224–O: all HTS numbers except 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020 (Category 224–V).

[13] Category 369–O: all HTS numbers except 6302.60.0010, 6302.91.0005 and 6302.91.0045 (Category 369–D); 4202.22.4020, 4202.22.4500, 4202.22.8030 (Category 369–H); 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091 and 6307.90.9905 (Category 369–L); and 6307.10.2005 (Category 369S)

[14] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A).

[15] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000 (Category 669–P).

[16] Category 670–O: only HTS numbers 4202.22.4030, 4202.22.8050 and 4202.32.9550.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–30373 Filed 12–6–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Reduction of Charges for Certain Cotton Textile Products Produced or Manufactured in the Republic of Turkey

December 4, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing charges.

EFFECTIVE DATE: December 11, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

On June 26, 2001, in response to a request from the Government of Turkey, CITA published an adjusted limit for Category 350 from Turkey. On November 21, 2001, CITA reduced charges against this limit by 9,533 dozen (see 66 FR 58123, published on November 20, 2001, with an amendment published on November 29, 2001 in 66 FR 59602). As a result of further discussions with the Government of Turkey, CITA is instructing U.S. Customs to reduce the charges applied to the limit established in the directive dated October 27, 2000, for goods exported in 2001, for Category 350 by an additional 20,000 dozens.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 4, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Pursuant to further discussions with the Government of Turkey, effective on December 11, 2001, you are directed to reduce the charges applied to the limit established in the directive dated October 27, 2000, for goods exported in 2001, for Category 350 by 20,000 dozens.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–30374 Filed 12–4–01; 2:55 pm]

BILLING CODE 3510–DR–S

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 7, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: December 3, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New.

Title: Generic Application Package for Discretionary Grant Programs.

Frequency: Annually.

Affected Public: Individuals or household; Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 300.

Burden Hours: 7,525.

Abstract: This is a generic application package using ED standard forms and instructions and will be used for Office of Educational Research and Improvement (OERI) discretionary grant program competitions. The purpose is to provide a common and easily recognizable format for applicants to experiment with research and demonstration programs.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the Internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (540) 776–7742 or via her Internet address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–30319 Filed 12–6–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Talent Search Program

AGENCY: Department of Education.

ACTION: Notice reopening competition and establishing a new application deadline date for fiscal year (FY) 2002.

SUMMARY: The Department of Education (we) announces the reopening of the competition for new awards under the Talent Search Program for FY 2002. We also establish a new deadline date for the transmittal of applications. We are taking these actions because recent disruptions in the U.S. Postal Service may have interfered with our receipt of many applications. The reopening is intended to help potential applicants compete fairly under this competition.

DATES: The new deadline date for transmitting applications is December 17, 2001. The previous date was October 19, 2001. The new deadline date for the transmittal of State process recommendations by State Single Points of Contact (SPOCs) and comments by other interested parties under Executive Order 12372 is February 15, 2002. The previous date was December 19, 2001.

ADDRESSES: The addresses and telephone numbers for obtaining applications for, or information about, this competition were in the original application notice published in the **Federal Register** on June 11, 2001 (66 FR 31338–31339).

If you use a telecommunications device for the deaf (TDD), you may call the TDD number, if any, listed in the individual application notice. If we have not listed a TDD number, you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

If you want to transmit a recommendation or comment under Executive Order 12372, you can find the latest list and addresses of individual SPOCs on the Web site of the Office of Management and Budget at the following address: *http://www.whitehouse.gov/omb/grants.*

SUPPLEMENTARY INFORMATION: On June 11, 2001, we published in the **Federal Register** a notice inviting applications for new awards under this program for FY 2002 and establishing a deadline date for the transmittal of applications.

In the application package, which hundreds of potential applicants requested, we stated that if you send your application by mail or if you or your courier deliver it by hand, our Application Control Center will mail a Grant Application Receipt Acknowledgment to you.

We further stated that if you do not receive the notification of application receipt within 15 days from the date of mailing the application, you should call the U.S. Department of Education Application Control Center at (202) 708–9493.

In recent weeks numerous applicants have called to say that they did not get a notification that we had received their respective applications even though they had proof of having mailed the applications. Through a search of our records, we determined that we had not received those applications. In addition, we determined that we had received far fewer applications for new awards under this program than we had received in previous years and far fewer than we had expected for the FY 2002 competition.

We have concluded that many applications may be delayed because of the recent disruptions of normal mail service, particularly in the Washington, DC area. Because we do not know when delayed applications may be delivered, we have decided to reopen this competition to give all applicants a chance to transmit their applications to us. This reopening and new deadline date for transmittal of applications apply to the entire country, as well as to eligible Territories.

Please note that there are alternative methods of transmittal besides the U.S. Postal Service. These include commercial carriers and courier services, as well as hand delivery. If you use a commercial carrier, please make sure to get a dated shipping label, invoice, or receipt from the carrier. If you use one of these alternative means of transmittal, we will mail a Grant Application Receipt Acknowledgment to you.

Note: If you have already submitted an application by mail and have not received a notification of application receipt from us by now, we urge you to resubmit your application and to indicate on the application that this is a resubmission. You may also wish to consider an alternative means of transmittal. Otherwise, we may not receive your application in time to consider it.

Assistance for Individuals With Disabilities

If you are an individual with a disability, you may obtain a copy of this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT** in the application notice.

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You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister.*

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Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Dated: December 3, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning, and Innovation, Office of Postsecondary Education.

[FR Doc. 01–30356 Filed 12–6–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Office of Science; Biological and Environmental Research Advisory Committee; Renewal

AGENCY: Department of Energy.

ACTION: Notice of renewal.

SUMMARY: Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act, and in accordance with section 102–3.65, title 41 of the Code of Federal Regulations, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Biological and Environmental Research Advisory Committee has been renewed for a two-year period beginning in November 2001. The Committee will provide advice to the Director, Office of Science, on the Biological and Environmental Research Program managed by the Office of Biological and Environmental Research.

The renewal of the Biological and Environmental Research Advisory Committee has been determined to be essential to the conduct of the Department of Energy business and to be in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act, the Department of Energy Organization Act (Public Law No. 95–91), and rules and regulations issued in implementation of those Acts.

Further information regarding this Advisory Committee can be obtained from Ms. Rachel M. Samuel at (202) 586–3279.

Issued in Washington, DC on November 27, 2001.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. 01–30353 Filed 12–6–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Idaho Operations Office; University Research for the Geothermal Program

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of Competitive Financial Assistance Solicitation.

SUMMARY: The U.S. Department of Energy (DOE) Idaho Operations Office (ID) is seeking applications for research projects in earth science at universities to expand the geothermal knowledge base. The knowledge gained from this work will result in new and improved technology that will help meet geothermal program goals. University earth science research and development is sought to enhance exploration tools, increase reservoir productivity, and improve reservoir management. The Program's overarching goal is to reduce the levelized cost of generating geothermal power to 3 to 5 cents/kWh by 2010, as compared to 5 to 8 cents/kWh in 2000.

DATES: The Standard Form 424, and the technical application (20 page maximum), must have an IIPS transmission time stamp of not later than *5 p.m. ET on Thursday, February 28, 2002.*

ADDRESSES: Completed applications are required to be submitted via the U.S. Department of Energy Industry Interactive Procurement System (IIPS) at the following URL: *http://e-center.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Dahl, Contract Specialist at *dahlee@id.doe.gov,* facsimile at (208) 526–5548, or by telephone at (208) 526–7214.

SUPPLEMENTARY INFORMATION: Approximately $2,000,000 dollars in Federal funds is expected to be available over the next three fiscal years. A maximum of $500,000 dollars is expected to be available in fiscal year 2002 to totally fund the first year of selected research efforts. DOE anticipates awarding three to five grants, each with a duration of three years or less. U.S. institutions of higher education may submit applications in response to this solicitation. National laboratories will not be eligible for an award under this solicitation. Multi-partner collaborations between U.S. universities and U.S. industry are encouraged. Cost share is not required but encouraged. The issuance date of Solicitation Number DE–PS07–02ID14263 is on or about November 29, 2001. The solicitation is available in its full text via the Internet at the following address: *http://e-center.doe.gov.* The statutory authority for this program is the Department of Energy Organization Act of 1977, Public Law 95–238, Section 207, and Public Law 101–218. The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.087, Renewable Energy Research and Development.

Issued in Idaho Falls on November 29, 2001.

R.J. Hoyles,

Director, Procurement Services Division.

[FR Doc. 01–30354 Filed 12–6–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–22–000]

Michigan Gas Storage Company; Notice of Application

December 3, 2001.

Take notice that on November 9, 2001, Michigan Gas Storage Company (Michigan Gas), 212 West Michigan Avenue, Jackson, Michigan, 49201, filed an application pursuant to section 1(c) of the Natural Gas Act (NGA), as amended, and section 152.1 of the Commission's regulations, for a declaration of exemption from the provisions of NGA. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Any person desiring to be heard or make any protest with reference to said application should on or before December 24, 2001, file with the Commission 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedures (19 CFR sections 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR section 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition in accordance with the Commission's Rules. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Take notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no protest or motion to intervene is filed within the time required herein. At that time, the Commission, on its own review of the matter, will determine whether granting the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advise, it will be unnecessary for Michigan to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30351 Filed 12–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–26–000]

Nevada Power Company and Sierra Pacific Power Company, Complainants, v. Duke Energy Trading and Marketing, Inc., Respondent; Notice of Complaint

December 3, 2001.

Take notice that on November 30, 2001, Nevada Power Company (NPC) and Sierra Pacific Power Company (SPPC) (collectively, the Nevada companies) filed a complaint requesting that the Commission mitigate unjust and unreasonable prices in sales contracts between NPC and Duke Energy Trading and Marketing, Inc. (Duke) and between SPPC and Duke entered into in late 2000 and the first half of 2001 for delivery after January 1, 2001.

The Nevada companies request that the Commission set a refund effective

date of 60 days from the date of filing of their complaint.

Copies of the Nevada companies' filing were served on Duke and the Public Utilities Commission of Nevada.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 20, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before December 20, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30352 Filed 12–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–39–000, et al.]

Rocky Mountain Power, Inc., et al.; Electric Rate and Corporate Regulation Filings

November 30, 2001.

Take notice that the following filings have been made with the Commission:

1. Rocky Mountain Power, Inc.

[Docket No. EG02–39–000]

Take notice that on November 27, 2001, Rocky Mountain Power, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Rocky Mountain Power is a Montana corporation that will be engaged directly and exclusively in the business of owning and operating all or part of one or more eligible facilities to be located in Hardin, Montana. The eligible facilities will consist of an approximately 110 MW coal-fired single cycle electric generation plant and related interconnection facilities. The output of the eligible facilities will be sold at wholesale or market based rates.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Consumers Energy Company

[Docket Nos. ER92–331–010 and ER92–332–010]

Take notice that on November 27, 2001, Consumers Energy Company (Consumers) tendered for filing the following tariff sheets as part of its FERC Electric Tariff No. 5 in compliance with Order No. 614, dealing with tariff sheet designations: Second Revised Volume Original Sheet Nos. 1.00 through 14.00.

The second sheet listed is to have an effective date of June 21, 1993. The remaining sheets are to have an effective date of May 2, 1992.

Copies of these sheets were served upon the Michigan Public Service Commission and upon those on the official service lists in these proceedings.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Northeast Utilities Service Company, Select Energy, Inc., and Northeast Generation Company

[Docket Nos. ER96–496–010, ER99–14–007 and ER99–4463–001]

Take notice that on November 27, 2001, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company, and Public Service of New Hampshire (the NU Operating Companies), and Select Energy, Inc. (Select), and Northeast Generation Company (NGC) (collectively, Applicants) jointly filed with the Federal Energy Regulatory Commission an updated market power analysis. This filing serves as the triennial updated market power analysis in Docket Nos. ER96–496–000 for the NU Operating Companies; ER99–3658–000 for Select; and ER99–4463–000 for NGC. In addition, Applicants request the Commission to synchronize their future triennial market power updates.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Carolina Power & Light Co. and Florida Power Corporation

[Docket Nos. ER01–1807–007 and ER01–2020–004]

Take notice that on November 26, 2001, Progress Energy, Inc. (Progress Energy), on behalf of Carolina Power & Light Company (CP&L), tendered for filing revised service agreements under CP&L's open access transmission tariff, FERC Electric Tariff, Third Revised Volume No. 3 in compliance with the Commission's June 25, 2001 and September 21, 2001 orders in these proceedings. See Carolina Power & Light Co. and Florida Power Corp., 95 FERC ¶ 61,429 (2001). Progress Energy also tendered for filing an index of Revised Service Agreements and Notices of Cancellation for certain of CP&L's currently-effective service agreements.

Progress Energy respectfully requests that the Revised Service Agreements become effective on the date set forth on the cover sheet for each Revised Service Agreement and that the Notices of Cancellation become effective as of November 26, 2001.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. New York Independent System Operator, Inc.

[Docket Nos. ER01–3009–002, ER01–3153–002 andEL00–90–002]

Take notice that on November 27, 2001, the New York Independent System Operator, Inc. (NYISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) a compliance filing in accordance with the Commission's October 25, 2001, order in the above-captioned proceedings.

A copy of this filing was served upon all persons designated on the official service list compiled by the Secretary in the above-captioned proceedings.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Public Service Corporation

[Docket No. ER02–157–001]

Take notice that on November 27, 2001, Wisconsin Public Service Commission (WPSC) filed a letter withdrawing its October 23, 2001 filing in Docket No. ER02–157–000 as required by the Commission's staff.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. PacifiCorp

[Docket No. ER02–408–000]

Take notice that on November 27, 2001, PacifiCorp tendered for filing with the Federal Energy Regulatory Commission (Commission) in accordance with 18 CFR part 35 of the Commission's Rules and Regulations, a fully executed Integration and Exchange Agreement (Agreement) dated October 22, 2001 between Seattle City Light and PacifiCorp.

PacifiCorp has requested a November 26, 2001 effective date.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Exelon Generation Company, LLC

[Docket No. ER02–409–000]

Take notice that on November 27, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and Aquila Energy Marketing Corporation, under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Florida Power Corporation

[Docket No. ER02–410–000]

Take notice that on November 27, 2001, Florida Power Corporation (FPC) filed a Service Agreement with Exelon Generation Company, LLC under FPC's Short-Form Market-Based Wholesale Power Sales Tariff (SM–1), FERC Electric Tariff No. 10.

FPC is requesting an effective date of November 1, 2001 for this Agreement.

A copy of this filing was served upon the Florida Public Service Commission and the North Carolina Utilities Commission.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Southern Company Services, Inc.

[Docket No. ER02–411–000]

Take notice that on November 27, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies), filed one (1) agreement for network integration transmission service between Southern Companies and Generation Energy Marketing, a Department of SCS, as agent for Mississippi Power Company, under the Open Access Transmission Tariff of Southern Companies (FERC Electric Tariff, Fourth Revised Volume No. 5). Under this agreement, power will be delivered to the South Mississippi Electric Power Association's Coastal EPA Cedar Lake Delivery Point. Additionally, the agreement provides for Generation Energy Marketing to pay the Direct Assignment Facilities Charges specified in the agreement. This agreement is being filed in conjunction with a power sale by SCS, as agent for Mississippi Power Company, to the South Mississippi Electric Power Association under Southern Companies' Market-Based Rate Power Sales Tariff, as was approved in FERC Docket No. ER01–1284–000.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. American Transmission Company LLC

[Docket No. ER02–412–000]

Take notice that on November 27, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Distribution-Transmission Interconnection Agreement between ATCLLC and the City of Wisconsin Rapids.

ATCLLC requests an effective date of July 26, 2001.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Arizona Public Service Company

[Docket No. ER02–413–000]

Take notice that on November 27, 2001 , Arizona Public Service Company (APS) tendered for filing a cancellation of APS FERC Rate Schedule No. 231, a Wholesale Power Agreement between the Colorado River Commission of Nevada and APS.

A copy of this filing has been served on the Colorado River Commission of Nevada and the Arizona Corporation Commission.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER02–414–000]

Take notice that on November 27, 2001, the California Independent System Operator Corporation (ISO) tendered for filing Second Revised Service Agreement No. 229 Under ISO Rate Schedule No.1, which is a Participating Generator Agreement (PGA) between the ISO and Geysers Power Company, LLC (Geysers). The ISO has revised the PGA to modify the description of generating units contained in Schedule 1 of the PGA, and to modify Schedule 3 of the PGA to reflect the new addresses, phone numbers, and fax numbers for Jacob Rudisill and Calpine's Western Region Office.

The ISO requests that the agreement be made effective as of August 22, 2000.

The ISO states that this filing has been served on all entities that are on the official service list for Docket No. ER99–2820–000, Geysers, and the Public Utilities Commission of the State of California.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. LG&E Power Monroe LLC

[Docket No. ER02–415–000]

Take notice that on November 27, 2001, LG&E Power Monroe LLC (Power Monroe) tendered for filing a service agreement between Power Monroe and LG&E Energy Marketing Inc. executed pursuant to Power Monroe's FERC Electric Tariff No. 1.

Power Monroe requests an effective date of November 28, 2001.

Copies of the filing were served upon LG&E Energy Marketing Inc.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Florida Power Corporation

[Docket No. ER02–416–000]

Take notice that on November 26, 2001, Progress Energy, Inc. (Progress Energy), on behalf of Florida Power Corporation (FPC), tendered for filing revised service agreements (Revised Service Agreements) under FPC's open-access transmission tariff (OATT), FERC Electric Tariff, Second Revised Volume No. 6 (FPC's OATT), to comply with the Commission's June 25, 2001 and September 21, 2001 orders in Carolina Power & Light Co. and Florida Power Corp., 95 FERC ¶ 61,429 (2001). Progress Energy also tendered for filing an index of Revised Service Agreements as filed under FPC's OATT.

Copies of the filing were served upon the Commission's official service list and the North Carolina Utilities Commission, the South Carolina Public Service Commission and the Florida Public Service Commission.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30320 Filed 12–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–17–000]

Texas Eastern Transmission, LP; Notice of Intent To Prepare an Environmental Assessment for the Proposed Freehold Project and Request for Comments on Environmental Issues

December 3, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Freehold Project involving the construction and operation of facilities by Texas Eastern Transmission, LP (Texas Eastern) in Somerset and Hunterdon Counties, New Jersey.[1] These facilities would consist of one 5,000 horsepower (hp) compressor station and facilities related to the uprate of certain segments of its mainline facilities east of Lambertville, New Jersey. This EA will be used by the Commission in its decisionmaking process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" was attached to the project notice Texas Eastern provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*www.ferc.fed.us*).

Summary of the Proposed Project

Texas Eastern proposes to provide service to New Jersey Natural Gas Company's local distribution system at Texas Eastern's Freehold Lateral M&R Stations 953 and 2210. Texas Eastern proposes to:

- Construct and operate a 5,000-horsepower electric motor-driven compressor station in Somerset County, New Jersey (Freehold Compressor Station);
- Uprate the maximum allowable operating pressure of the 36-inch-diameter Line No. 20 and the 42-inch-diameter Line No. 38 from 975 pounds per square inch gauge (psig) to 1,170 psig from milepost (MP) 0.0 to MP 13.9;
- Install two pressure limiting devices at MP 13.9 of Line Nos. 20 and 38, respectively; and
- Replace five road crossings on Line No. 38 with heavier wall thickness pipeline at the following locations in Somerset and Hunterdon Counties, New Jersey:
  - County Road 605/Queens Road (MP 0.06);
  - State Route 31 (MP 2.69);
  - County Road 607/Rileyville Road (MP 6.12);
  - Montgomery Road (MP 9.37); and
  - Long Hill Road (MP 10.44).

The general location of Texas Eastern's proposed facilities is shown on the map attached as appendix 1.[2]

Land Requirements for Construction

The proposed Freehold Compressor Station would be constructed on a 5-acre site which Texas Eastern would own. Texas Eastern indicated it would need an additional 25 acres which it would acquire through easements, for use as a noise buffer. Construction of the proposed pressure limiting devices and the five road crossings would require a total of about 6.9 acres of land, of which about 5.9 acres consist of existing and maintained right-of-way. The remaining 1.0 acres of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We[3] call this "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands

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[1] Texas Easterns's application was filed with the Commission on October 26, 2001, under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the "RIMS" link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] "We," "us," and "our" refer to the environmental staff of the Office of Energy Projects.

- Vegetation and wildlife
- Endangered and and threatened species
- Land use
- Cultural resources
- Air quality and noise
- Public safety

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section beginning on page 5.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Texas Eastern. This preliminary list of issues may be changed based on your comments and our analysis.

- Potential impact on 3 Federally-listed threatened reptile (1) and plant (2) species.
- Conversion to industrial use of about 30 acres of land that is registered with the New Jersey Green Acres program.
- Proximity of the proposed facilities to homes and residential land-use impacts.
- Impact and routing of a 25 kilovolt electric service line, about 1.5 miles long, to be installed by Public Service Electric & Gas Company.
- The Franklin Township Board of Education is in the process of acquiring land for construction of a new high school within 0.25 mile of the proposed Freehold Compressor Station site.
- Noise impacts due to operation of the proposed Freehold Compressor Station.
- Impact of operation of the proposed Freehold Compressor Station on Franklin Township Board of Education's plan to construct a new high school.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas/Hydro, PJ–11.3.
- Reference Docket No. CP02–17–000; and
- Mail your comments so that they will be received in Washington, DC on or before January 15, 2002.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request, you will be removed from the environmental mailing list.

Due to current events, we cannot guarantee that we will receive mail on a timely basis from the U.S. Postal Service, and we do not know how long this situation will continue. However, we continue to receive filings from private mail delivery services, including messenger services in a reliable manner. The Commission encourages electronic filing of any comments or interventions or protests to this proceeding. We will include all comments that we receive within a reasonable time frame in our environmental analysis of this project.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an "intervenor." Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket#" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30350 Filed 11–29–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6624–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa.*

Weekly receipt of Environmental Impact Statements

Filed November 26, 2001 Through November 30, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010501, Draft Supplement, FHW, NM, US 70 Corridor Improvement, Between Ruidoso Downs to Riverside, New Information and Circumstances, Implementation, Right-of-Way Acquisition, Lincoln County, NM, Comment Period Ends:

January 22, 2002, Contact: Gregory D. Rawlings (505) 820–2027.

EIS No. 010502, Draft EIS, NAS, CA, Programmatic EIS—NASA Ames Development Plan (NADP) for Ames Research Center, New Research and Development Uses, Implementation, San Francisco Bay, Santa Clara County, CA, Comment Period Ends: January 28, 2002, Contact: Sandy Olliges (650) 604–3355. This document is available on the Internet at: *http://researchpark.arc.nasa.gov.*

EIS No. 010503, Final Supplement, AFS, UT, Rendezvous Vegetation Management Project, To the South Spruce Ecosystem Rehabilitation Project, Implementation, Dixie National Forest, Cedar City Ranger District, Iron and Kane Counties, UT, Wait Period Ends: January 07, 2002, Contact: Phillip G. Eisenhauer (435) 865–3200.

EIS No. 010504, Final EIS, FHW, TX, IH–10 West from Taylor Street to FM–1489, Construction and Reconstruction, Central Business District (CBD), Funding, Right-of-Way Permit and COE Section 404 Permit, Harris, Fort Bend and Waller Counties, TX, Wait Period Ends: January 07, 2002, Contact: John R. Mack (512) 536–5960.

EIS No. 010505, Draft Supplement, COE, FL, Central and Southern Florida Project, Tamiami Trail Feature (US Highway 41), Modified Water Deliveries to Everglades National Park, Dade County, FL, Comment Period Ends: February 04, 2002,

Contact: Jon Moulding (904) 232–2286.

Amended Notices

EIS No. 010419, Draft EIS, AFS, UT, Ray's Valley Road Realignment, Proposal to Reduce or Eliminate Adverse Impacts to Watershed, and Aquatic Species, Provide Safer Driving Conditions, Uinta National Forest, Spanish Fork Ranger District, Utah County, UT, Due: January 11, 2002, Contact: Renee Flanagan (801) 342–5145. Revision of FR notice published on 11/16/2001: CEQ Comment Period Ending 01/02/2002 has been Corrected to 1/11/2002.

Dated: December 4, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–30380 Filed 12–6–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6624–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the OFFICE OF FEDERAL ACTIVITIES at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (66 FR 27647).

Draft EISs

ERP No. D–AFS–K65236–AZ Rating LO, Buck Springs Range Allotment Rangeland Management, Implementation, Blue Ridge Coconino National Forest, Coconino County, AZ.

Summary: EPA supports the dual objectives of providing grazing land and protecting sensitive habitat analyzed in the Buck Springs Range Allotment DEIS. EPA has no objections to the proposed project.

ERP No. D–AFS–L65390–ID Rating EO2, Garnet Stars and Sands Project, To Test and Develop Future Recreation, Garnet, Idaho Panhandle National Forests, St. Joe Ranger District, Latah, Shoshone and Benewah Counties, ID.

Summary: EPA had environmental objections because the proposed project would likely worsen already impaired water quality and degrade habitat for listed and sensitive fish species and riparian areas. EPA recommended that the final EIS contain sufficient mitigation measures to conserve aquatic resources consistent with section 313 of the Clean Water Act, section 7(a)(1) of the Endangered Species Act and the Forest Plan, utilize the Forest Service's Protocol for 303(d) Waters and include a comprehensive monitoring plan specifically tied to the project.

ERP No. D–APH–A65169–00 Rating EC2, Programmatic—EIS Rangeland Grasshopper and Mormon Cricket Suppression Program, Authorization, Funding and Implementation in 17 Western States, AZ, CA, CO, ID, KS, MT, NB, NV, NM, ND, OK, OR, SD, TX, UT, WA and WY.

Summary: EPA expressed environmental concerns since the draft EIS did not fully identify a proposed action nor fully analyze a reasonable range of alternatives. EPA requested that additional information and analyses be available in the final EIS.

ERP No. D–BLM–K65235–AZ Rating LO, Las Cienegas Resource Management Plan, Implementation, Las Cienegas National Conservation Area (NCA) and Sonoita Valley Acquisition Planning District, AZ.

Summary: EPA expressed a lack of environmental objections to the proposed project. ERP No. D–FHW–F40398–IN Rating EO2, Indianapolis Northeast Corridor Transportation Connections Study, To Identify Actions to Reduce Expected Year 2025 Traffic Congestion and Enhance Mobility, Between I–69: from I–465 to IN–328; I–465: from US 31 to I–70; I–70: from I–65 to I–465: IN–37 from I–69 to Allisonville Road (Noblesville), Marion and Hamilton Counties, IN.

Summary: EPA expressed objections to and requested additional information regarding: Alternatives, noise, air quality, wetlands, threatened and endangered species habitat, water quality/storm water management, flood plains and mitigation.

ERP No. D–NOA–K36136–CA Rating EC2, Goat Canyon Enhancement Project, Implementation, Tijuana River Estuary, City and County of San Diego, CA.

Summary: EPA expressed environmental concerns regarding impacts to water quality, cumulative impacts and the objectives for improvements to Monument Road and the trail system. EPA requested that additional information be provided to address EPA's concerns on these issues.

ERP No. DS–COE–E39054–FL Rating LO, Cape Sable Seaside Sparrow Protection, Interim Operating Plan (IOP), Updated Information on a New Alternative 7 for Emergency Sparrow Protection Actions, Implementation, Everglades National Park, Miami-Dade County, FL.

Summary: EPA had no objection to the proposed action sinceAlternative 7 appears to address our previous water quality concerns, but still provides adequate protection to the Cape Sable Seaside Sparrow.

Final EISs

ERP No. F–AFS–L65232–OR, Deep Vegetation Management Project, Implementation, Ochoco National Forest, Paulina Ranger District, Crook and Wheeler Counties, OR.

Summary: The final EIS adequately discloses the impacts and satisfactorily responded to most of EPA's previous comments on the draft EIS. In addition, the project overall should benefit the landscape. Therefore, EPA has no objection to the action as proposed.

ERP No. F–DOE–E09807–TN Programmatic EIS—Oak Ridge Y–12 Plant Mission, Processing and Storage of Highly Enriched Uranium, U.S. Nuclear Weapons Stockpile, Anderson County, TN.

Summary: EPA continues to have environmental concerns about construction impacts of the project.

Dated: December 4, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–30381 Filed 12–6–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[PF–970; FRL–6737–9]

Notice of Filing Pesticide Petitions to Establish a Tolerance for a Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–970, must be received on or before January 7, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–970 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Adam Heyward, Antimicrobials Division (7510C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone numbers: (703) 308–6422; e-mail address: heyward.adam@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–970. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–970 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "opp-docket@epa.gov", or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–970. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record.

Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under "FOR FURTHER INFORMATION CONTACT."

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petitions. Additional data may be needed before EPA rules on the petitions.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 28, 2001.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. . The petition summaries announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

I. Ecolab Inc.

PP 0F6193

EPA has received a pesticide petition (0F6193) from Ecolab Inc., 370 N. Wabasha Street, St. Paul MN 55102 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for pelargonic acid nonanoic acid in or on the raw agricultural commodity, in processed commodities, and in or on meat and meat byproducts of cattle, sheep, hogs, goats, horses, and poultry, milk, and dairy products, eggs, seafood, and shellfish, and fruits and vegetables when such residues results from the use of pelargonic acid as a component of a food contact surface sanitizing solution for use in food handling establishments. The request is for unlimited clearance. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Analytical method.* Because Ecolab Inc. is petitioning for an exemption from the requirement of a tolerance, an enforcement method for pelargonic acid is not needed.

2. *Magnitude of residues.* The residues which transfer from the sanitized dish or utensil to food are not of toxicological significance.

B. Toxicological Profile

1. *Acute toxicity.* From published literature values the acute oral LD_{50} in rats was determined to be greater than 3.2 gram/kilogram (g/kg); the acute oral LD_{50} in mice was 15 g/kg. The dermal LD_{50} is greater than 5 g/kg. It is considered to be essentially non-toxic via the oral and dermal routes.

2. *Genotoxicity.* Nothing in the available literature indicates that the pelargonic acid is genotoxic.

3. *Reproductive and developmental toxicity.* Nothing in the available literature indicates the pelargonic acid is a developmental or reproductive toxin. No evidence of maternal or developmental toxicity was seen in a rat oral developmental toxicity screen with pelargonic acid at a dose of 1,500 milligrams/kilograms/day (mg/kg/day).

4. *Subchronic toxicity.* Nothing in the available literature indicates chronic exposure of pelargonic acid products any adverse toxicological effects unless it is ingested at an extremely high concentration. A 14-day oral toxicity test with rats revealed no adverse effects from pelargonic acid at any dose level, including the highest dietary concentration of 20,000 ppm, (equivalent to 1,834 mg/kg/day, a level exceeding the limit dose of 1,000 mg/kg/day). In another study, eight rats were exposed to a diet consisting of 4.19% pelargonic acid for 4 weeks equivalent to approximately 2,090 mg/kg/day). There was no effect on survival. At normal dietary intake levels in the human diet, no adverse effects would result.

5. *Chronic toxicity.* Chronic exposure would not produce any additional effect over what is noted in subchronic exposure, therefore, no additional concerns were warranted. Nothing in the literature indicates that pelargonic acid may be carcinogenic.

6. *Endocrine disruption.* A review of information from the Agency of Toxic Substances and Disease Registry indicates that potential endocrine effects from exposure to pelargonic acid have not been studied. The best of our knowledge, nothing in the available literature suggests that nonanoic acids as an endocrine disrupter or that it possesses intrinsic hormonal activity.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Acute.* There are no acute toxicology concerns for pelargonic acid, an acute dietary risk assessment is not required.

ii. *Chronic indirect.* Using a worst-case scenario, the exposure resulting from the use of this material in a sanitizer would be 0.005 mg/kg/day for a 70 kg person (adult) and 0.007 mg/kg/day for a 28 kg person (child).

2. *Food—Chronic direct.* A typical adult ingest significant quantities of pelargonic acid via diet. When pelargonic acid is used as a compound

of a food contact surface sanitizer, the residue that would be introduce into food will be insignificant. Based on this, there are no toxicological concerns resulting from exposures to residues of pelargonic acid from the use of sanitizing solutions.

3. *Drinking water*—i. *Acute.* Since there are no acute toxicological concerns for pelargonic acid, an acute drinking water risk assessment is not required.

ii. *Chronic.* There are no toxicological concerns about the exposure of low concentrations of pelargonic acid in the drinking water. Although it is possible that the trace amounts pelargonic acid resulting for its use as a sanitizer may ultimately get into drinking water, no adverse health effects would results.

4. *Non-dietary exposure.* The potential for significant additional non-occupational exposure to the general population (including children) is unlikely.

D. Cumulative Effects

Potentially small amounts of pelargonic acid exposure will be the result of non-food uses. The amount of pelargonic acid exposure resulting from direct exposure to sanitizing solutions will be minuscule. Since pelargonic acid in the diet poses no toxicological risk, the cumulative toxicity resulting form this additional exposure is negligible.

E. Safety Determination

1. *U.S. population.* Since there are no adverse toxicological effects resulting from normal dietary concentrations of pelagonic acid, there is no need to determine aggregate risks, or to conduct a safety determination. Pelargonic acid is generally recognized as safe and the incremental exposure due to its use as an inert in a food contact surface sanitizer is negligible.

2. *Infants and children.* As in adults, infants and children ingest pelargonic acid in their diet. Children are at no greater "risk" from exposure to pelargonic acid. Therefore, as with adults, a safety determination is not appropriate.

F. International Tolerances

No codex maximum residue levels have been established for pelargonic acid.

II. Ecolab Inc.

PP 0F6194

EPA has received a pesticide petition (0F6194) from Ecolab Inc., 370 N. Wabasha St., St. Paul MN 55102 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for decanoic acid in or on the raw agricultural commodity, in processed commodities, and in or on meat and meat byproducts of cattle, sheep, hogs, goats, horses, and poultry, milk, and dairy products, eggs, seafood, and shellfish, and fruits and vegetables when such residues results from the use of decanoic acid as a component of a food contact surface sanitizing solution for use in food handling establishments. The request is for unlimited clearance. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Analytical method.* Because Ecolab Inc. is petitioning for an exemption from the requirement of a tolerance, an enforcement method for decanoic acid is not needed.

2. *Magnitude of residues.* The residues which transfer from the sanitized dish or utensil to food are not of toxicological significance.

B. Toxicological Profile

1. *Acute toxicity.* From published literature values the acute oral LD_{50} in rats ranged from 3.2 g/kg to greater than 10 g/kg. The dermal LD_{50} in rats greater than 5 g/kg.

2. *Genotoxicity.* Nothing in the available literature indicates that the decanoic acid is genotoxic.

3. *Reproductive and developmental toxicity.* Nothing in the available literature indicates the decanoic acid is a developmental or reproductive toxin. It is generally recognized as safe and is normal constituent in the human diet.

4. *Subchronic toxicity.* Long term studies with decanoic acid have shown that this material is a relatively non-toxic. In on study, rats were fed decanoic acid in their diet at the level of 10% for 150 days. No adverse effects were observed at the conclusion of the study. In another study rats were administered decanoic acid at dietary levels 8% (corresponding to approximately 4 g/kg/day for 6 weeks. These animals exhibited reduced body weight gain and increased plasma triglyceride levels. Dogs fed approximately 4.4 g/kg/day of decanoic acid for 102 days showed no adverse effects.In another study, rats were fed 2.5 g/kg/day of decanoic acid (as the triglyceride) for 47 weeks. These animals showed no abnormalities in the cellular structure of the liver or intestine. Other animals ingesting 5 g/kg/day for 150 days did not develop abnormal tissues in the gastrointestinal tract. No other tissues were examined.

5. *Chronic toxicity.* Chronic exposure would not produce any additional effect over what is noted in subchronic exposure, therefore, no additional concerns were warranted. Nothing in the literature indicates that decanoic acid may be carcinogenic.

6. *Endocrine disruption.* A review of information from the Agency for Toxic Substances and Disease Registry indicates that potential endocrine effects from exposure to decanoic acid have not been studied. The best of our knowledge, nothing in the available literature suggests that decanoic acid acts as an endocrine disrupter or that is possesses intrinsic hormonal activity.

C. Aggregate Exposure

1. *Dietary exposure*— i. *Acute.* There are no acute toxicology concerns for decanoic acid, an acute dietary risk assessment is not required.

ii. *Chronic indirect.* Using a worst-case scenario, the exposure resulting from the use of this material in a sanitizer would be 0.0008 mg/kg/day for a 70 kg person (adult) and 0.0010 mg/kg/day for a 28 kg person (child).

2. *Food—Chronic direct.* A typical adult ingest significant quantities of decanoic acid via diet. When decanoic acid is used as a compound of a food contact surface sanitizer, the residue that would be introduce into food will be insignificant compared to the normal dietary intake. Based on this, there are no toxicological concerns resulting from exposures to residues of decanoic acid from the use of sanitizing solutions.

3. *Drinking water*— i. *Acute.* Since there are no acute toxicological concerns for decanoic acid, an acute drinking water risk assessment is not required.

ii. *Chronic.* There are no toxicological concerns about the exposure of low concentrations of decanoic acid in the drinking water. Although it is possible that the trace amounts decanoic acid resulting for its use as a sanitizer may ultimately get into drinking water, no adverse health effects would results.

4. *Non-dietary exposure.* The potential for significant additional non-occupational exposure to the general population (including children) is unlikely.

D. Cumulative Effects

Over 99% of the exposure to decanoic acid is expected to be via the diet.

Potentially small amounts of decanoic acid exposure will be the result of non-food uses. The amount of decanoic acid exposure resulting from indirect exposure to sanitizing solutions will be minuscule. Since decanoic acid in the diet pose no toxicological risk, the cumulative toxicity resulting from the additional exposure is negligible.

E. Safety Determination

1. *U.S. population.* Since there are no adverse toxicological effects resulting from normal dietary concentrations of decanoic acid, there is no need to determine aggregate risks, or to conduct a safety determination. Decanoic acid is generally recognized as safe and the incremental exposure due to its use as an inert in a food contact surface sanitizer is negligible.

2. *Infants and children.* As in adults, infants and children ingest decanoic acid in their diet. Children are at no greater "risk" from exposure to decanoic acid. Therefore, as with adults, a safety determination is not appropriate.

F. International Tolerances

No codex maximum residue levels have been established for decanoic acid.

[FR Doc. 01–30369 Filed 12–6–01; 8:45 a.m.]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51979; FRL–6815–6]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new Chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the Chemicals under review and the receipt of notices of commencement to manufacture those Chemicals. This status report, which covers the period from September 17, 2001 to October 24, 2001, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. The "S" and "G" that precede the chemical names denote whether the chemical idenity is specific or generic.

DATES: Comments identified by the docket control number OPPTS–51979 and the specific PMN number, must be received on or before January 7, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51979 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain copies of this document and certain other available documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations"," Regulations and Proposed Rules, and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–51979. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, any test data submitted by the Manufacturer/Importer is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51979 and the specific PMN number in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

3. *Electronically.* You may submit your comments electronically by e-mail to: "oppt.ncic@epa.gov," or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51979 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why Is EPA Taking This Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new Chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the Chemicals under review and the receipt of notices of commencement to manufacture those Chemicals. This status report, which covers the period from September 17, 2001 to October 24, 2001, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs and TMEs

This status report identifies the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available. The "S" and "G" that precede the chemical names denote whether the chemical idenity is specific or generic.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 102 PREMANUFACTURE NOTICES RECEIVED FROM: 09/17/01 TO 10/24/01

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0921	09/17/01	12/16/01	Arch Chemicals, Inc.	(S) Component in a photoresist formulation to be use in the manufacture of semiconductor and related devices	(G) Derivatized ethoxylated polystyrene resin
P–01–0922	09/17/01	12/16/01	Xerox Corporation	(G) Open, non-dispersive use as a constituent in solid, crayon like inks for computer printers	(G) Copper phthalocyanine
P–01–0923	09/17/01	12/16/01	CBI	(G) Ingredients for use in consumer products: highly dispersive use	(G) Cycloalkyl acetate
P–01–0924	09/17/01	12/16/01	CBI	(G) Ingredients for use in consumer products: highly dispersive use	(G) Carbo cyclic oxime
P–01–0925	09/17/01	12/16/01	CBI	(G) Sealant	(G) Substituted methoxysilane
P–01–0926	09/17/01	12/16/01	CBI	(G) Sealant	(G) Acrylic polymer
P–01–0927	09/18/01	12/17/01	CBI	(G) An open, non-dispersive use	(G) Polycarbonate and polyester-type polyurethane
P–01–0928	09/18/01	12/17/01	CBI	(G) Catalyst	(G) Alkoxysilane
P–01–0929	09/19/01	12/18/01	BASF Corporation	(S) Protective colloid	(S) 1,3-benzenedicarboxylic acid, 5-sulfo-, monosodium salt, polymer with 1,3-benzenedicarboxylic acid, 1,4-benzenedicarboxylic acid, 1,2-ethanediol, 2,2′-[1,2-ethanediylbis(oxy)]bis[ethanol] and 2,2′-oxybis[ethanol]
P–01–0930	09/18/01	12/17/01	International Flavors and Fragrances, Inc.	(S) Raw material for use in fragrances for soaps, detergents, cleaners and other household products	(S) 3-hexene, 1-[(2-methyl-2-propenyl)oxy]-, (3z)-

I. 102 PREMANUFACTURE NOTICES RECEIVED FROM: 09/17/01 TO 10/24/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0931	09/21/01	12/20/01	The Goodyear Tire and Rubber Company	(S) Polymerization catalyst	(G) Neodymium ziegler-natta catalyst
P–01–0932	09/24/01	12/23/01	CBI	(S) Coatings; additives	(G) Aliphatic epoxide
P–01–0933	09/24/01	12/23/01	CBI	(G) Open, non-dispersive use	(G) Aromatic alkanoate
P–01–0934	09/24/01	12/23/01	CBI	(G) This product will be used to manufacture flexible polyurethane foam	(G) Polymeric polyol
P–01–0936	09/26/01	12/25/01	Crompton Corporation	(G) Catalyst	(S) Zirconium, dichloro[rel-(7ar,7'ar)-1,2-ethanediylbis[(1,2,3,3a,7a-.eta.)-4,5,6,7-tetrahydro-1h-inden-1-ylidene]]-
P–01–0937	09/21/01	12/20/01	The Procter and Gamble Company	(S) Industrial lubricant for metal finishing	(S) Fatty acids, C_{16-18} and C_{18}-unsatd., esters with sucrose
P–01–0938	09/21/01	12/20/01	The Procter and Gamble Company	(S) Industrial lubricant for metal finishing	(S) Fatty acids, C_{18} and C_{18}-unsatd., esters with sucrose
P–01–0939	09/21/01	12/20/01	The Procter and Gamble Company	(S) Industrial lubricant for metal finishing	(G) Methyl esters of long-chain fatty acids and sucrose
P–01–0940	09/21/01	12/20/01	The Procter and Gamble Company	(S) Industrial lubricant for metal finishing	(S) alpha-d-glucopyranoside, beta-d-fructofuranosyl, docosanoate
P–01–0941	09/21/01	12/20/01	The Procter and Gamble Company	(S) Industrial lubricant for metal finishing	(S) alpha-d-glucopyranoside, beta-d-fructofuranosyl, hexadecanoate
P–01–0942	09/21/01	12/20/01	The Procter and Gamble Company	(S) Industrial lubricant for metal finishing	(S) alpha-d-glucopyranoside, beta-d-fructofuranosyl, (9z)-9-octadecenoate
P–01–0943	09/26/01	12/25/01	CBI	(G) Coating application	(G) Methylsiloxane polymer
P–01–0944	09/26/01	12/25/01	CIBA Specialty Chemicals Corporation	(S) Pigment for use in plastics	(G) Benzenesulfonic acid derivative, salt
P–01–0945	09/26/01	12/25/01	CBI	(G) Acrylic polymer for use in a coating application	(G) Copolymer of alkyl acrylates and alkyl methacrylates
P–01–0946	09/27/01	12/26/01	CBI	(G) Destructive use as a chemical intermediate	(G) Alkoxylated fatty amine
P–01–0947	09/25/01	12/24/01	CBI	(G) Open, non-dispersive (resin)	(G) Meko blocked aromatic polyisocyanate based on tdi
P–01–0948	09/28/01	12/27/01	CBI	(G) Conductive agent	(G) Spiro arylamine derivative
P–02–0001	10/01/01	12/30/01	CBI	(G) Coating material	(G) Acrylic polymer on the basis of methyl methacrylate and n-butyl methacrylate
P–02–0002	10/01/01	12/30/01	CBI	(G) Colorant for printing inks	(G) Polyimide terminated, polyester/polyamide graft to styrene/ -acrylic polymer
P–02–0003	10/02/01	12/31/01	CBI	(G) Contained use in sealed electrical components	(G) Tetraalkylammonium salt
P–02–0004	10/02/01	12/31/01	CBI	(G) Open, non-dispersive use in a coating application	(G) Aqueous polyurethane dispersion
P–02–0005	10/02/01	12/31/01	CBI	(G) Open, non-dispersive use in a coating application	(G) Aqueous polyurethane dispersion
P–02–0006	10/02/01	12/31/01	CBI	(G) Contained use in sealed electrical components	(G) Tetraalkylammonium salt
P–02–0007	10/02/01	12/31/01	CBI	(G) Destructive use as chemical intermediate	(G) Maleic acid monoester
P–02–0008	10/04/01	01/02/02	CBI	(G) Destructive use as chemical intermediate	(G) Maleic acid monoester
P–02–0009	10/02/01	12/31/01	Dow Corning Corporation	(S) Lubricant for fibers	(S) Silsesquioxanes, 2(or 3)-methylbutyl, hydroxy-terminated
P–02–0010	10/01/01	12/30/01	CBI	(G) Flocculant	(G) N-substituted-2-methyl-2-propenamide, polymer with 2-propenoic acid, sodium salt
P–02–0011	10/01/01	12/30/01	CBI	(G) Flocculant	(G) N-substituted-2-methyl-2-propenamide, polymer with 2-methyl-2-propenoic acid and 2-propenoic acid, sodium salt
P–02–0012	10/01/01	12/30/01	CBI	(G) Flocculant	(G) N-substituted-2-methyl-2-propenamide, polymer with 2-propenamide and 2-propenoic acid, sodium salt
P–02–0013	10/01/01	12/30/01	CBI	(G) Flocculant	(G) N-substituted-2-methyl-2-propenamide, polymer with 2-methyl-2-propenoic acid, 2-propenamide and 2-propenoic acid, sodium salt

I. 102 PREMANUFACTURE NOTICES RECEIVED FROM: 09/17/01 TO 10/24/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–02–0014	10/04/01	01/02/02	CBI	(G) Pigment dispersant	(G) Maleated fatty acid
P–02–0015	10/04/01	01/02/02	CBI	(G) Additive for paint	(G) Aliphatic benzoate ester
P–02–0016	10/04/01	01/02/02	3M Company	(G) Protective coating	(G) Fluorochemical urethane
P–02–0017	10/05/01	01/03/02	CBI	(G) Colour transfer printing	(G) Azo oil soluble dye
P–02–0018	10/05/01	01/03/02	The Dow chemical Company	(G) Paint additive	(G) Polyalkoxylated alkyl carbamate
P–02–0019	10/05/01	01/03/02	The Dow chemical Company	(G) Paint additive	(G) Polyalkoxylated alkyl carbamate
P–02–0020	10/05/01	01/03/02	CBI	(G) Ester wax	(G) Ester wax
P–02–0021	10/09/01	01/07/02	CBI	(G) Dispersive use: oilfield performance chemical.	(G) Modified polyamide
P–02–0022	10/09/01	01/07/02	CBI	(G) Dispersive use: oilfield performance chemical.	(G) Modified fatty amide
P–02–0023	10/09/01	01/07/02	CBI	(G) Dispersive use: oilfield performance chemical.	(G) Modified polyamide
P–02–0024	10/09/01	01/07/02	CBI	(G) Dispersive use: oilfield performance chemical.	(G) Modified fatty amide
P–02–0025	10/09/01	01/07/02	Chemetall chemical products, Inc.	(G) Aluminum welding, destructive use	(S) Aluminum cesium fluoride
P–02–0026	10/05/01	01/03/02	CBI	(S) Specialty grease thickener	(G) Mixed aliphatic substituted bis-p-phenylene diurea
P–02–0027	10/09/01	01/07/02	Solutia Inc.	(S) Defoamer for water based industrial coatings	(G) Modified fatty acid ester
P–02–0028	10/09/01	01/07/02	CBI	(S) Inherently conducting polymer in corrosion control coatings	(S) Lignosulfonic acid, ethoxylated, compounds with polyaniline, hydrochlorides
P–02–0029	10/09/01	01/07/02	CBI	(S) Inherently conducting polymer in corrosion control coatings	(S) Lignosulfonic acid, ethoxylated, compounds with polyaniline, p-toluenesulfonates
P–02–0030	10/09/01	01/07/02	BASF Corporation	(S) Processing aid for leather tanning	(G) Counter ion of vegetable oil, oxidized and sulfited
P–02–0031	10/05/01	01/03/02	Quest International Fragrances Co.	(S) Fragrance ingredient	(S) Cyclohexan-1-ol, 1-methyl-3-(2-methylpropyl)-
P–02–0032	10/10/01	01/08/02	CIBA Specialty Chemicals Corporation	(S) Photoacid generator for resists in semiconductor and display mfg.	(G) Aromatic thiophene derivative
P–02–0033	10/10/01	01/08/02	CBI	(G) Dispersant for inorganic materials	(G) Sodium salt of methacrylic acid, methylacrylate copolymer
P–02–0034	10/11/01	01/09/02	CBI	(S) Phenolic resin used as a raw material for photoresist	(G) Phenolic resin
P–02–0035	10/12/01	01/10/02	Burlington Chemical Company, Inc.	(S) Fabric softener	(S) Ethanaminium, n-ethyl-2-hydroxy-n,n-bis(2-hydroxyethyl)-, mono- and diesters with branched and linear C_{16-18} and C_{18}-unsatd, fatty acids, et sulfates (salts)
P–02–0036	10/12/01	01/10/02	Burlington Chemical Company, Inc.	(S) Component of automotive spray wax	(S) Imidazolium compounds, 2-(C_{15-17} and C_{17}-unsatd. branched and linear alkyl)-1-ethyl-4,5-dihydro-3-(hydroxyethyl), et sulfates (salts)
P–02–0037	10/12/01	01/10/02	Burlington Chemical Company, Inc.	(S) fabric softener; component of automotive spray wax	(S) Imidazolium compounds, 2-(C_{15-17} and C_{17}-unsatd. branched and linear alkyl)-1-[2-(C_{16-18} and C_{18}-unsatd. branched and linear amido)ethyl]-3-ethyl-4,5-dihydro, et sulfates
P–02–0038	10/11/01	01/09/02	CBI	(G) Polymer for waterborne paints	(G) Modified acrylic emulsion
P–02–0039	10/11/01	01/09/02	CBI	(G) Polymer for waterborne paints	(G) Modified acrylic emulsion
P–02–0040	10/12/01	01/10/02	CBI	(G) Open non-dispersive (thermoplastic material)	(G) Modified polycarbonate
P–02–0041	10/12/01	01/10/02	Solutia Inc.	(S) Binding agent for waterborne coatings	(G) Modified acrylic copolymer
P–02–0042	10/12/01	01/10/02	CBI	(G) Acrylate resin for the coating, adhesive and sealant industry	(G) Hexanedioc acid, polymer with 1,1′-methylenebis[4-isocyanatocyclohexane] and a difunctional alcohol, 2-hydroxyethyl acrylate-blocked
P–02–0043	10/12/01	01/10/02	BASF Corporation	(S) Processing aid for leather tanning	(G) Metal salt of an aliphatic acid
P–02–0044	10/12/01	01/10/02	CIBA Specialty Chemicals Corporation	(S) Photoreactive dye for recordable compact discs(cd-r)	(G) Copper phthalocyanine derivative

I. 102 PREMANUFACTURE NOTICES RECEIVED FROM: 09/17/01 TO 10/24/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–02–0045	10/12/01	01/10/02	CBI	(G) Antistatic agent; surfactant rinse aid; flotation reagent; surfactant rinse aid	(G) Esterquat
P–02–0046	10/12/01	01/10/02	CBI	(G) Antistatic agent; surfactant rinse aid; flotation reagent; surfactant rinse aid	(G) Esterquat
P–02–0047	10/12/01	01/10/02	CBI	(G) Antistatic agent surfactant rinse aid; flotation reagent; surfactant rinse aid	(G) Esterquat
P–02–0048	10/12/01	01/10/02	CBI	(G) Antistatic agent surfactant rinse aid; flotation reagent; surfactant rinse aid	(G) Esterquat
P–02–0049	10/15/01	01/13/02	CBI	(G) Gellant	(G) Fatty acids, C_{18}-unsatd., dimers, hydrogenated, polymers with fatty amines, ethylenediamine and 2-methyl-1,5-pentanediamine
P–02–0050	10/15/01	01/13/02	CBI	(G) Gellant	(G) Fatty acids, C_{18}-unsatd., dimers, polymers with fatty amines, ethylenediamine and 2-methyl-1,5-pentanediamine
P–02–0051	10/15/01	01/13/02	CBI	(G) Gellant	(G) Fatty acids, C_{18}-unsatd., dimers, hydrogenated, polymers with ethylenediamine, neopentyl glycol and fatty alcohol
P–02–0052	10/15/01	01/13/02	CBI	(G) Gellant	(G) Fatty acids, C_{18}-unsatd., dimers, polymers with ethylenediamine, neopentyl glycol and fatty alcohol
P–02–0053	10/15/01	01/13/02	Solutia Inc.	(S) Wetting agent for waterborne coatings	(G) Neutralized acrylic copolymer
P–02–0054	10/15/01	01/13/02	CBI	(G) Open, non-dispersive (resin)	(G) Aliphatic thermoplastic polyurethane
P–02–0055	10/15/01	01/13/02	CBI	(S) Aqueous dispersion of polyurethane for leather finishing	(G) Dioic acid, polymer with (substituted)diol, hydrazine, hydroxypoly[(substituted)diyl], (substituted)propanoic acid and [(substituted)cyclohexane], compound with (substituted)amine
P–02–0056	10/16/01	01/14/02	Solutia Inc.	(S) Dispersing agent for industrial coatings	(G) Modified phosphoric acid group ester
P–02–0057	10/16/01	01/14/02	Solutia Inc.	(S) Binder for industrial paints	(G) Polycarboxylic resin
P–02–0060	10/17/01	01/15/02	Dow corning Corporation	(S) Adhesion promoter	(S) Poly[oxy(methyl-1,2-ethanediyl)], alpha-hydro-w-(2-propenyloxy)-, ether with bis[ethyl 3-(oxo-k0)butanoato-k0']bis(1,2-propanediolato-k0)titanium (2:1)
P–02–0061	10/17/01	01/15/02	Jeneil Biosurfactant Company	(G) Agriculture chemical additive, additive for soil remediation, additive for waste water treatment, additive for petroleum tank cleaning and hydrocarbon slugde remediation, additive for cleaning formulations.	(S) Decanoic acid, 3-[[6-deoxy-2-o-(6-deoxy-.alpha.-l-mannopyranosyl)-.alpha.-l-mannaopyranosyl]oxy]-, 1-(carboxymethyl)octyl ester, mixture with 1-(carboxymethyl)octyl 3-[(6-deoxy-.alpha.-l-mannopyranousyl)oxy]decanoate
P–02–0062	10/18/01	01/16/02	CBI	(G) Reactive hot melt adhesive	(G) Reactive hot melt
P–02–0063	10/19/01	01/17/02	Quest International Fragrances Co.	(S) Fragrance ingredient	(S) Cyclohexanecarboxylic acid, 1,4-dimethyl-, methyl ester (cis and trans); cyclohexanecarboxylic acid, 1,3-dimethyl-, methyl ester (cis and trans)
P–02–0064	10/18/01	01/16/02	CBI	(G) Open, non-dispersive (resin)	(G) Copolymer from acrylic acid and diethylene glycol divinylether with carboxylic acid groups in h-form
P–02–0065	10/19/01	01/17/02	CBI	(G) Open, non-dispersive (catalyst)	(G) Polyether - polycarbonat-carbamate
P–02–0066	10/19/01	01/17/02	Nippon Kayaku America, Inc.	(S) Photosensitive oligomer for solder mask	(S) Formaldehyde, polymer with (chloromethyl)oxirane and phenol, hydrogen 4-cyclohexene-1,2-dicarboxylate 2-propenoate

I. 102 PREMANUFACTURE NOTICES RECEIVED FROM: 09/17/01 TO 10/24/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–02–0067	10/19/01	01/17/02	Nippon Kayaku America, Inc.	(S) Photosensitive oligomer for solder mask	(S) Formaldehyde, polymer with (chloromethyl)oxirane and 2-methylphenol, hydrogen 4-cyclohexene-1,2-dicarboxylate 2-propenoate
P–02–0068	10/19/01	01/17/02	Dow Corning Corporation	(S) Silicone matting agent	(G) Organo silicone elastomer
P–02–0069	10/24/01	01/22/02	Sasol North America Inc.	(G) Solubilizer	(S) Glycerides, mixed decanoyl and octanoyl mono-, di- and tri-,ethoxylated
P–02–0070	10/24/01	01/22/02	CBI	(G) Alkaline battery component - contained use enclosed in battery container	(S) 2-propenoic acid, polymer with sodium 4-ethenylbenzenesulfonate
P–02–0071	10/24/01	01/22/02	CBI	(G) Resin for coating	(G) Acrylic copolymer
P–02–0079	10/22/01	01/20/02	CBI	(S) Tackifying resin for adhesive formulations	(G) Polymer of phenol and substituted benzenes
P–02–0080	10/24/01	01/22/02	BASF Corporation	(S) Processing aid for leather tanning	(G) Diglyceride fatty acid, acetylated
P–02–0082	10/22/01	01/20/02	CBI	(G) Polymeric binder	(G) Strene-methacrylate copolymer
P–02–0083	10/22/01	01/20/02	CBI	(G) Polymeric binder	(G) Strene-methacrylate copolymer
P–02–0084	10/22/01	01/20/02	CBI	(G) Polymeric binder	(G) Strene-methacrylate copolymer
P–02–0085	10/22/01	01/20/02	CBI	(G) Polymeric binder	(G) Strene-methacrylate copolymer

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received

II. 3 TEST MARKETING EXEMPTION NOTICES RECEIVED FROM: 09/17/01 TO 10/24/01

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–02–0001	10/12/01	11/26/01	Westvaco Corporation - chemical division	(S) Binding agent in paper coatings	(G) Butyl acrylate, polymer with styrene and ,ethylamino chloride compounds, acetic acid salt
T–02–0002	10/12/01	11/26/01	Westvaco Corporation - chemical division	(S) Binding agent in paper coatings	(G) Butyl acrylate, polymer with styrene and ,ethylamino chloride compounds, lactic acid salt
T–02–0003	10/12/01	11/26/01	Westvaco Corporation - chemical division	(S) Binding agent in paper coatings	(G) Butyl acrylate, polymer with styrene and ,ethylamino chloride compounds, nitric acid salt

In table III, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

III. 71 NOTICES OF COMMENCEMENT FROM: 09/17/01 TO 10/24/01

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0065	10/15/01	09/17/01	(G) Amines, n-tallow alkylpoly-, hydrochlorides
P–00–0066	09/17/01	08/29/01	(G) Amines, n-tallow alkylpoly-
P–00–0099	10/11/01	09/12/01	(G) Fatty acid condensate
P–00–0115	10/05/01	10/01/01	(S) 8-undecenal, (8z)-
P–00–0118	09/24/01	09/18/01	(G) Unsaturated dialkyl acetal
P–00–0482	09/20/01	08/24/01	(G) Alkyl methacrylate copolymer
P–00–0736	09/27/01	09/04/01	(G) Polyester acrylate
P–00–0802	10/16/01	09/14/01	(S) Rosin, polymd., compound with 2-(dimethylamino) ethanol
P–00–1228	09/24/01	09/10/01	(G) Substituted benzophenone
P–01–0013	09/17/01	09/17/01	(S) Oxacycloheptadec-11-en-2-one
P–01–0074	10/03/01	09/15/01	(G) Modified styrene acrylate polymer
P–01–0121	10/02/01	08/29/01	(G) Aromatic saturated copolymer
P–01–0122	09/26/01	09/14/01	(G) Acetate-substituted bicyclic olefin
P–01–0130	10/24/01	10/08/01	(S) Sulfur, trifluoro[2-methoxy-n-(2-methoxyethyl)ethanaminato-kn]-, (t-4)-
P–01–0161	09/17/01	08/24/01	(G) Aliphatic capped polyester
P–01–0232	09/27/01	09/18/01	(G) Perfluoroalkyl derivative

III. 71 NOTICES OF COMMENCEMENT FROM: 09/17/01 TO 10/24/01—Continued

Case No.	Received Date	Commencement/ Import Date	Chemical
P–01–0282	09/26/01	09/12/01	(G) Urethane acrylate
P–01–0313	10/01/01	09/13/01	(G) Alkanoic acid diester
P–01–0315	10/09/01	09/09/01	(G) Urethane acrylate dispersion
P–01–0391	10/09/01	09/27/01	(G) Modified phenolic resin
P–01–0399	09/26/01	09/24/01	(G) Polyacrylate, salt with polyalkylene glycolbutylether, phosphate
P–01–0411	10/09/01	09/23/01	(G) Acrylic copolymer
P–01–0412	09/21/01	09/19/01	(G) Acrylic copolymer
P–01–0414	09/21/01	09/17/01	(G) Acrylic copolymer
P–01–0416	09/21/01	09/18/01	(G) Acrylic copolymer
P–01–0441	10/09/01	09/17/01	(G) Modified phenolic resin
P–01–0444	09/21/01	08/23/01	(G) Hydroxy functional polyester resin
P–01–0445	10/15/01	09/26/01	(G) Aminomodified silicone-polyether copolymer
P–01–0451	09/25/01	08/21/01	(G) Fatty acid modified polyester
P–01–0476	10/09/01	09/17/01	(G) O-macroalkyl hydroxylamine
P–01–0482	10/09/01	09/09/01	(G) Modified polyurethane resin
P–01–0496	09/17/01	09/05/01	(G) Acrylate ester
P–01–0503	10/12/01	10/10/01	(G) Bis substituted amino benzenesulfonic acid, amine salt
P–01–0530	09/19/01	08/24/01	(G) Alkoxylated alcohol
P–01–0553	10/02/01	08/29/01	(G) Aromatic/aliphatic copolyester
P–01–0554	10/02/01	08/29/01	(G) Copolyester
P–01–0561	09/21/01	09/06/01	(G) Modified phenolic resin
P–01–0562	09/17/01	08/29/01	(G) Water redispersible cationic acrylic copolymer
P–01–0566	09/18/01	08/13/01	(G) Modified polyurethane resin
P–01–0572	10/01/01	09/06/01	(S) Fatty acids, C_{18}-unsatd., dimers, di-me esters, hydrogenated, polymers with 1,1′-methylenebis[4-isocyanatobenzene], polypropylene glycol and trimethylolpropane
P–01–0576	10/16/01	10/03/01	(G) Aromatic benzaldehyde polymer
P–01–0587	10/01/01	08/29/01	(S) Glycerides, tall-oil mono-, di-, and tri-
P–01–0588	10/15/01	10/03/01	(G) Rosin, maleated, metal oxide salts.
P–01–0597	09/24/01	09/10/01	(G) Acrylate and urethane modified polyester resin
P–01–0604	10/15/01	10/05/01	(G) Diketo pyrrolo pyrrol isomers
P–01–0615	09/25/01	09/12/01	(G) Acrylic polymer
P–01–0617	10/09/01	09/28/01	(S) Hexadecene, polymer with pentadecene, hydrogenated*
P–01–0618	10/09/01	09/28/01	(S) Tetradecene, homopolymer, hydrogenated*
P–01–0635	09/17/01	09/07/01	(G) Polyurethane resin
P–01–0638	10/16/01	10/04/01	(G) (monosubstituted naphthalene azo)tri substituted naphthalene sulfonic acid, salt
P–01–0645	10/03/01	09/15/01	(G) Isoprene based polymer
P–01–0647	09/27/01	09/25/01	(G) Substituted arylcarboxamide
P–01–0651	10/09/01	09/23/01	(G) Polyester acrylate
P–01–0652	10/10/01	09/22/01	(G) Plant extract
P–01–0660	09/26/01	09/20/01	(G) Alkylated aromatic
P–01–0665	10/17/01	10/01/01	(G) Benzenesulfonic acid, 2,2′-(1,2-ethenediyl)bis[5-[[4-substituted-6-substituted-1,3,5-triazin-2-yl]amino-, sodium salt, compound with (substituted)oxirane polymer with sorbitol, (substituted)amine and (substituted)triol formate (salt)
P–01–0671	10/10/01	09/28/01	(G) Polyalkoxylated aromatic chromophore
P–01–0673	10/15/01	10/05/01	(G) Polyalkoxylated intermediate
P–01–0675	10/10/01	09/20/01	(G) Polyalkoxylated aromatic chromophore
P–01–0679	10/04/01	09/21/01	(G) Polyalkoxylated intermediate
P–01–0681	10/12/01	09/24/01	(G) Polyalkoxylated intermediate
P–01–0699	10/15/01	10/01/01	(G) Alkene adduct, calcium phenate, sulfurized
P–94–0943	09/28/01	09/21/01	(G) Alkyl - aminophenol
P–97–0492	10/09/01	09/26/01	(G) Acrylic polymer
P–97–0579	09/21/01	09/06/01	(S) Benzene, 1,2-bis(phenoxymethyl)
P–97–0736	10/02/01	09/25/01	(G) Fatty acids, C_{18}-unsatd., dimers, polymers with ethylenediamine and a fatty alcohol.
P–98–0494	10/09/01	09/28/01	(G) Polyurethane polymer
P–98–1257	09/19/01	09/13/01	(G) Blocked aromatic isocyanate
P–99–0214	09/18/01	09/07/01	(G) Hydrofluorocarbon (hfc)
P–99–0444	09/18/01	07/27/01	(G) Urethane modified alcohol
P–99–0957	10/02/01	09/17/01	(G) Chromophore substituted polyoxyalkylene

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: November 28, 2001.

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–30370 Filed 12–6–01; 8:45 m]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

[EB 01–66; DA 01–2775]

Emergency Alert Systems

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission has received an *ex parte* submission from the Media AccessProject regarding the use of Emergency Alert System (EAS) decoders at low power FM broadcast stations. The Commission also received an *ex parte* submission jointly filed by the National Cable & Telecommunications Association, the National Association of the Deaf and the Telecommunications for the Deaf regarding the use of EAS decoders at small cable television systems. The Commission requests specific information regarding these requests to assist it in reaching an informed decision.

DATES: Comments are due on or before December 24, 2001.

ADDRESSES: Federal Communications Commission, Office of the Secretary, TW–A325, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: George Dillon of the Enforcement Bureau at (202) 418–1215 or by e-mail at *gdillon@fcc.gov*.

SUPPLEMENTARY INFORMATION: The Media Access Project (MAP) submitted an ex parte presentation regarding the use of certified Emergency Alert System (EAS) decoders at low power FM broadcast stations. The National Cable & Telecommunications Association, the Telecommunications for the Deaf, Inc. and the National Association of the Deaf (NCTA/NAD) submitted an *ex parte* presentation regarding the use of Emergency Alert System (EAS) decoders in connection with the Commission's Notice of Proposed Rule Making, Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System, EB Docket No. 01–66.

MAP notes that the Commission adopted rules in the Low Power FM proceeding that recognized the budgetary constraints under which low power FM stations would operate and permitted low power FM station to install a FCC certified EAS decoder in lieu of an EAS encoder/decoder. MAP states that when the Commission adopted this requirement it recognized that FCC certified EAS decoders were not available, but expected certified decoders to become available at a cost similar to non-certified decoders. MAP states that there are no certified EAS decoders available and that it does not believe that they will become available at a reasonable price. In this regard, MAP indicates that the cost of a certified decoder would likely be at or near the cost of a certified EAS encoder/decoder. MAP requests that the FCC consider alternatives to the EAS requirement for Low Power FM stations, such as temporarily exempting low power FM stations from the requirement to install EAS decoders.

NCTA/NAD filed a joint *ex parte* submission requesting that the Commission permit small cable systems to use EAS decoders rather than an EAS encoder/decoder. NCTA/NAD state that the use of an EAS decoder could serve as an alternative to the Commission's EAS rules for cable systems that serve fewer than 5,000 subscribers and will meet the "best practices" procedures that the Commission agreed to consider in the Second Report and Order amending the EAS rules.

We seek to supplement the record in this docket with respect to MAP's request for alternative arrangements for EAS alerting and NCTA/NAD's request that small cable systems be permitted to install an EAS decoder as an alternative to the requirements of section 11.11 of the Commission's rules for small cable systems. We also seek specific comment from EAS manufacturers about the likelihood that they will manufacture and certify an EAS decoder. The date by which a FCC certified decoder would likely be available for purchase and the cost of any such decoder.

We note that small cable systems are required to install EAS encoder/decoders by October 1, 2002. This request for supplemental comment on the NCTA/NAD ex parte submission does not alter that requirement.

Interested parties may file comments concerning this matter on or before December 24, 2001. All filings must reference EB Docket No. 01–66 and should be sent to Magalie Roman Salas, Secretary, Federal Communications Commission, TW-A325, 445 12th Street, SW., Washington, DC 20554. Two copies should also be sent to the Technical and Public Safety Division, 445 12th Street, SW., Suite 7–C802, Washington, DC, 20554. Comments may also be filed using the Commission's Electronic Comment Filing System (ECFS). Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, electronic filers should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. This is a "permit but disclose" proceeding pursuant to section 1.1206 of the Commission's rules. Presentations to or from Commission decision-making personnel are permissible provided that *ex parte* presentations are disclosed pursuant to section 1.1206(b) of the Commission's rules.

The full text of the comments is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. The documents may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*. A copy of the requests from MAP and NCTA/NAD may also be viewed online at the FCC's E-filing System located at *http://gullfoss2.fcc.gov/cgi-bin/ws.exe/prod/ecfs/comsrchv.hts* by typing EB 01–66 in the Proceeding Block and clicking on Retrieve Document.

Federal Communications Commission.

David H. Solomon,

Chief, Enforcement Bureau.

[FR Doc. 01–30341 Filed 12–6–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2517]

Petition For Reconsideration and Clarification of Action in Rulemaking Proceeding

November 30, 2001.

Petition for Reconsideration and Clarification has been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR section 1.429(e). The full text of this document is available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Qualex International (202) 863–2893. Oppositions to this petition must be filed by December 24, 2001. See section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: In the Matter of Inquiry Regarding Software Defined Radios (ET Docket No. 00–47).

Number of Petitions Filed: 1.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30302 Filed 12–6–01; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL HOUSING FINANCE BOARD

Sunshine Act; Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 66 FR 59595, November 29, 2001.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, December 5, 2001.

CHANGE OF MEETING DATE: Notice is hereby given that the Board of Directors meeting scheduled for December 5, 2001 has been changed to Tuesday, December 11, 2001 at 3 p.m.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

J. Timothy O'Neill,

Chairman.

[FR Doc. 01–30429 Filed 12–5–01; 10:50 am]

BILLING CODE 6725–01–M

FEDERAL RESERVE SYSTEM

Change In Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 21, 2001.

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. M. Charles Kellogg, Overland Park, Kansas; individually, and as Trustee of the C.H. Goppert Trust; to acquire voting shares of Country Agencies & Investments, Inc., Odessa, Missouri, and thereby indirectly acquire voting shares of Bank of Odessa, Odessa, Missouri, Commercial Bank of Oak Grove, Oak Grove, Missouri, and LaMonte Community Bank, LaMonte, Missouri.

Board of Governors of the Federal Reserve System, December 3, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–30300 Filed 12–6–01; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 31, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Peoples Bancorp, Rock Valley, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bank, Rock Valley, Iowa.

In connection with this application, Applicant also has applied to acquire Peoples Financial Inc., Rock Valley, Iowa, and thereby engage in insurance activities in a place of less than 5,000 in population, pursuant to § 225.28(b)(11)(iii) of Regulation Y.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Texas Regional Bancshares, Inc., McAllen, Texas, and Texas Regional Delaware, Inc., Wilmington, Delaware; to merge with Riverway Holdings, Inc., Houston, Texas, and thereby indirectly acquire Riverway Bank, Houston, Texas.

Board of Governors of the Federal Reserve System, December 3, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–30301 Filed 12–6–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Charges for Certain Disclosures

AGENCY: Federal Trade Commission.

ACTION: Notice regarding charges for certain disclosures.

SUMMARY: The Federal Trade Commission announces that the ceiling on allowable charges under Section 612(a) of the Fair Credit Reporting Act ("FCRA") will increase from $8.50 to $9.00 on January 1, 2002. Under 1996 amendments to the FCRA, the Federal Trade Commission is required to increase the $8.00 amount referred to in

paragraph (1)(A)(i) of Section 612(a) on January 1 of each year, based proportionally on changes in the Consumer Price Index ("CPI"), with fractional changes rounded to the nearest fifty cents. The CPI increased 10.16 percent between September 1997, the date the FCRA amendments took effect, and September 2001. This increase in the CPI and the requirement that any increase be rounded to the nearest fifty cents results in an increase in the current maximum allowable charge to $9.00 effective January 1, 2002.

EFFECTIVE DATE: January 1, 2002.

ADDRESSES: Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Keith B. Anderson, Bureau of Economics, Federal Trade Commission, Washington, DC 20580, 202–326–3428.

SUPPLEMENTARY INFORMATION: Section 612(a)(1)(A) of the Fair Credit Reporting Act, as amended in 1996, states that, where a consumer reporting agency is permitted to impose a reasonable charge on a consumer for making a disclosure to the consumer pursuant to Section 609, the charge shall not exceed $8 and shall be indicated to the consumer before making the disclosure. Section 612(a)(2) goes on to state that the Federal Trade Commission ("the Commission") shall increase the $8.00 maximum amount on January 1 of each year, based proportionally on changes in the Consumer Price Index, with fractional changes rounded to the nearest fifty cents. The allowable charge was increased from $8.00 to $8.50 on January 1, 2000. (See 64 FR 69769 (December 14, 1999).)

The Commission considers the $8 amount referred to in paragraph (1)(A)(i) of Section 612(a) to be the baseline for the effective ceiling on reasonable charges dating from the effective date of the amended FCRA, *i.e.*, September 30, 1997. Each year the Commission calculates the proportional increase in the Consumer Price Index (using the most general CPI, which is for all urban consumers, all items) from September 1997 to September of the current year. The Commission then determines what modification, if any, from the original base of $8 should be made effective on January 1 of the subsequent year, given the requirement that fractional changes be rounded to the nearest fifty cents.

Between September 1997 and September 2001, the Consumer Price Index for all urban consumers and all items increased by 10.61 percent—from an index value of 161.2 in September 1997 to a value of 178.3 in September 2001. An increase of 10.61 percent in the $8.00 base figure would lead to a new figure of $8.85. However, because the statute directs that the resulting figure be rounded to the nearest $0.50, the allowable charge should be $9.00.

The Commission therefore determines that the allowable charge for the year 2002 will be $9.00

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–30355 Filed 12–6–01; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

[Document No. JFMIP–SR–01–03]

Joint Financial Management Improvement Program (JFMIP)—Federal Financial Management System Requirements (FFMSR)

AGENCY: Joint Financial Management Improvement Program (JFMIP).

ACTION: Notice of document availability.

SUMMARY: The JFMIP is seeking public comment on an exposure draft entitled "Acquisition/Financial Systems Interface Requirements," dated November 2001. The draft is the first Federal Financial Management System Requirements (FFMSR) document to address standard financial requirements for Federal acquisition/financial systems. The document is intended to assist agencies when developing, improving or evaluating benefit systems. It provides the baseline functionality that agency systems must have to support agency missions and comply with laws and regulations. When issued in final, the document will augment the existing body of FFMSR that define financial system functional requirements which are used in evaluating compliance with the Federal Financial Management Improvement Act (FFMIA) of 1996.

DATES: Comments are due by February 28, 2002.

ADDRESSES: Copies of the exposure draft have been mailed to senior financial officials, chief information officers, and procurement executives, together with a transmittal memo listing items of interest for which JFMIP is soliciting feedback. The Exposure Draft, transmittal memo, and comment response matrix are available on the JFMIP Web site: *www.jfmip.gov* Responses should be addressed to JFMIP, 1990 K Street, NW., Suite 430, Washington, DC 20006.

FOR FURTHER INFORMATION: Dennis Mitchell, (202) 219–0529 or *dennis.mitchell@gsa.gov.*

SUPPLEMENTARY INFORMATION: The FFMIA of 1996 mandated that agencies implement and maintain systems that comply substantially with FFMSR, applicable Federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level. The FFMIA statute codified the JFMIP financial system requirements documents as a key benchmark that agency systems must meet to substantially comply with systems requirements provisions under FFMIA. To support the provisions outlined in the FFMIA, the JFMIP is updating obsolete requirements documents and publishing additional requirements documents. Comments received will be reviewed and the exposure draft will be revised as necessary. Publication of the financial document will be mailed to agency financial officials, procurement executives, chief information officers, and others, and will be available on the JFMIP website. An open house is scheduled for Thursday, December 13, 2001, from 9:30 a.m. to noon in the General Services Administration (GSA) Auditorium in the main GSA Building, located at 18th and F Streets NW, to provide additional information on the Exposure Draft. The name, organization, telephone number, and e-mail address for attendees should be e-mailed to *dennis.Mitchell@gsa.gov* or faxed to 202–219–0549.

Karen Cleary Alderman,

Executive Director, Joint Financial Management Improvement Program.

[FR Doc. 01–30308 Filed 12–6–01; 8:45 am]

BILLING CODE 1610–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0519]

Medical Devices: Draft Guidance on Cardiac Ablation Catheters Generic Arrhythmia Indications for Use; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Cardiac Ablation Catheters Generic Arrhythmia Indications for Use." This draft guidance document encourages manufacturers of approved conventional cardiac ablation catheters to submit supplements to broaden their

labeling from arrhythmia-specific indications to a generic arrhythmic treatment indication. The Center for Devices and Radiological Health (CDRH) is issuing this draft guidance document to allow companies to label these products for a broader indication without submitting additional clinical information. This recommendation is based on a comprehensive search of the medical literature. This draft guidance is neither final nor is it in effect at this time.

DATES: Submit written or electronic comments concerning this draft guidance by March 7, 2002.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance document entitled "Cardiac Ablation Catheters Generic Arrhythmia Indications for Use" to the Division of Small Manufacturers, International and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning this draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Donna-Bea Tillman, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8517.

SUPPLEMENTARY INFORMATION:

I. Background

The draft guidance document recommends that manufacturers of approved conventional cardiac radiofrequency ablation catheters submit a premarket approval supplement to obtain a generic indication for creating endocardial lesions to treat arrhythmias. The draft guidance document provides evidence from the medical literature to support this broadening of indications from arrhythmia-specific indications to a generic arrhythmia treating indication.

II. Significance of Guidance

The draft guidance document, when finalized, represents the agency's current thinking on generic indications for cardiac ablation catheters. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute and regulations.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This draft guidance document is issued as a level 1 guidance in accordance with the GGP regulations.

III. Electronic Access

In order to receive "Cardiac Ablation Catheters Generic Arrhythmia Indications for Use" via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number 1382 followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. Guidance documents are also available on the Dockets Management Branch Web site at http://www.fda.gov/ohrms/dockets/default.htm.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the draft guidance by March 7, 2002. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 28, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 01–30330 Filed 12–6–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4630–C–35]

Announcement of Funding Awards; Indian Housing DrugElimination Program; Fiscal Year 2001; Correction

AGENCY: Office of Native American Programs, HUD.

ACTION: Announcement of funding awards for fiscal year 2001; Correction.

SUMMARY: On October 19, 2001 (66 FR 53242), the Department published a notice that announced the funding awards for Fiscal Year (FY) 2001 funding for its Indian Housing Drug Elimination Program. This document makes a correction to the list of funded applicants.

FOR FURTHER INFORMATION CONTACT: Please contact the office or individual identified in the notice published in the **Federal Register** on October 19, 2001 for further information.

SUPPLEMENTARY INFORMATION: On October 19, 2001 (66 FR 53242), the Department published a notice that announced the funding awards for Fiscal Year (FY) 2001 funding for its Indian Housing Drug Elimination Program. In Appendix A, Awarded Applicants, HUD incorrectly stated that the Housing Authority of the Cherokee Nation received a grant award. Through this document, HUD corrects the successful applicant's name.

Accordingly, FR Doc. 01–26333, Announcement of Funding Awards for the Indian Housing Drug Elimination Program for Fiscal Year 2001, published in the **Federal Register** on October 19, 2001 at 66 FR 53242, is corrected as follows:

- On page 53244, Appendix A.—Awarded Applicants FY 2001 Indian Housing Drug Elimination Program, is corrected to delete the Housing Authority of the Cherokee Nation from the list of awarded applicants, and to revise the Applicant name to read as follows: Cherokee Nation.

Dated: December 3, 2001.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 01–30309 Filed 12–6–01; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–49]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: December 7, 2001.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: November 30, 2001.

John D. Garrity,

Director, Office of Special Needs, Assistance Program.

[FR Doc. 01–30310 Filed 12–6–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Letters of Authorization To Take Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of Letters of Authorization to take marine mammals incidental to oil and gas industry activities.

SUMMARY: In accordance with section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service implementing regulations (50 CFR 18.27(f)(3)), notice is hereby given that the following Letters of Authorization to take polar bears incidental to oil and gas industry exploration activities in the Beaufort Sea and adjacent northern coast of Alaska has been issued to the following companies:

Company	Activity	Location	Date issued
WesternGeco	Exploration	Alaska North Slope	October 19, 2001.
Phillips Alaska, Inc	Exploration	Spark #1	October 22, 2001.
Phillips Alaska, Inc	Exploration	Oxbow #1	October 22, 2001.
Phillips Alaska, Inc	Exploration	Outlook #1	October 22, 2001.
Phillips Alaska, Inc	Exploration	Hunter #1	October 23, 2001.
Phillips Alaska, Inc	Exploration	Rendezvous #1 & # 2	October 23, 2001.
Phillips Alaska, Inc	Exploration	Nanuq #4	October 24, 2001.
Phillips Alaska, Inc	Exploration	Antigua #1	October 29, 2001.
BP Exploration (Alaska), Inc	Exploration	Sakonowyak River	October 30, 2001.

Contact: Mr. John W. Bridges at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, (800) 362–5148 or (907) 786–3810.

SUPPLEMENTARY INFORMATION: The Letter of Authorization is issued in accordance with U.S. Fish and Wildlife Service Federal Rules and Regulations "Marine Mammals; Incidental Take During Specified Activities (65 FR 16828; March 30, 2000)."

Dated: November 8, 2001.

David B. Allen,

Regional Director.

[FR Doc. 01–30303 Filed 12–6–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–130–01–1610–DS–241A]

Notice of Intent To Prepare an Environmental Impact Statement (EIS)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management(BLM) announces its intent to prepare a management plan for the CCNCA. This notice initiates the public scoping, the planning review process; and the EIS associated with completion of the CCNCA Management Plan. The Act establishing the CCNCA directs the Secretary of the Interior to develop a "comprehensive plan for the long-range protection and management of the Conservation Area" by October 24, 2003.

DATES: The formal scoping comment period will commence with the publication of this notice and end 60 days after publication of this notice. Comments on issues, alternatives, and the preliminary planning criteria to be addressed in the CCNCAManagement Plan and EIS should be received on or before the end of the scoping period at the address listed below. During this formal scoping comment period, an open house will be held in Grand Junction, Colorado, where BLM personnel will be available to respond to questions and provide other information pertaining to the preparation of the documents. There will be subsequent public review periods and open houses where additional public comment will be requested, including a formal comment period on the draft EIS/CCNCA Management Plan. At least 15 days public notice will be given for the open houses or other public meetings. Written comments will be accepted throughout the planning process at the address shown below. All open house and comment deadlines will be announced through the local news media, newsletters and on the CCNCA website (*http://www.co.blm.gov/gjra/ccnca/ccncahome.htm*).

ADDRESSES: For further information, to provide written comments, or to be placed on the mailing list, contact Bureau of LandManagement, CCNCA RMP Amendment, 2815 H Road, Grand Junction,Colorado 81506; e-mail *Jane__Ross@co.blm.gov;* Telephone (970) 244-3000. Individual respondents may request confidentiality. If you wish to withhold your name and/or address

from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, are available for public inspection in their entirety.

SUPPLEMENTARY INFORMATION: The CCNCA is located in both Colorado and Utah, and preparation of the CCNCA plan may involve amendment of both the Grand Junction RMP in Colorado and the Grand RMP in Utah. The Grand Junction Field Office, located in Colorado, is responsible for management of the CCNCA and preparation of the CCNCA plan. The BLM will work closely with interested parties to identify the management discussions that are best suited to the needs of the public. This collaborative process will take into account local, regional, and national needs and concerns. The Act establishing the 122,300 acre CCNCA in western Colorado and eastern Utah was signed into law by the President on October 24, 2000. The purpose of the Act is to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the unique and nationally important values of the public lands in the CCNCA, including geology, recreation, cultural, paleontological, biological, wilderness, wildlife, educational, and scenic resources. The Act also designates 75,550 acres of the CCNCA as the Black Ridge Canyons Wilderness Area. There are 5,500 acres of the CCNCA located in the state of Utah. The Grand Junction Field Office in Colorado will coordinate with the Moab Field Office in Utah during preparation of the CCNCA Management Plan.

Management of the CCNCA is currently guided by the Ruby Canyon/Black Ridge Integrated Management Plan completed in March 1998. The Grand Junction RMP and the Grand RMP, in addition to several activity level management plans, include other decisions affecting the CCNCA. On February 13, 2001, the BLM Colorado State Director issued interim guidance for management of the CCNCA pending completion of the final Management Plan. All of these documents will be reviewed during preparation of the CCNCA Management Plan.

The CCNCA Plan and associated EIS will be prepared by an interdisciplinary team. Disciplines to be represented on the team include: Archaeology, botany, fisheries, geology, hydrology, paleontology, range management, realty, recreation, soils, wilderness, and wildlife. Pursuant to the Act establishing the CCNCA, an advisory council is currently being established to advise the BLM the management of the CCNCA. The advisory council is also anticipated to take an active role in preparation of the CCNCA Management Plan.

Preliminary issues identified by the BLM for the CCNCA plans include travel management, recreation, use authorizations such as rights-of-ways and grazing, management of natural resources, wilderness stewardship, and integration of the CCNCA Management Plan with other agency and community plans. Public involvement gained through the initial scoping comment period will be utilized to refine these topics and identify any additional issues to be evaluated.

Planning criteria are the standards, rules, and other factors used in formulating judgements about data collection, analysis, and decision making associated with preparation of the CCNCA Management Plan. These criteria establish parameters and help focus preparation of the effort. Public comment is also welcomed on the following preliminary planning criteria, which will be utilized in the preparation of the CCNCA Management Plan.

A. The CCNCA Management Plan will be completed in compliance with the Federal Land Policy and Management Act and all other applicable laws.

B. The project team will work cooperatively with the States of Colorado and Utah, tribal governments, county and municipal governments, other Federal agencies, and all other interested groups, agencies, and individuals. Public participation will be encouraged throughout the process.

C. Completion of the CCNCA Management Plan will include preparation of an EIS that will comply with the National Environmental Policy Act.

D. The CCNCA Management Plan will evaluate valid existing rights in the various alternative management schemes.

E. The lifestyles and concerns of area residents, including the activities of grazing, recreational use, off-highway vehicle use, and wilderness management will be addressed in the CCNCA Management Plan.

F. Preparation of the CCNCA Management Plan will involve coordination with Native American tribal governments and will provide strategies for the protection of recognized traditional uses.

G. Decisions in the CCNCA Management Plan will strive to be compatible with existing plans and policies of adjacent local, State and Federal agencies.

H. The CCNCA Management Plan will comply with the legislative directives, needs, and obligations set forth by the legislation establishing the CCNCA.

Catherine Robertson,
Field Manager, Grand Junction Field Office.
[FR Doc. 01–30322 Filed 12–6–01; 8:45 am]
BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement/General Management Plan Lassen Volcanic National Park Lassen, Plumas, Shasta, Tehama Counties, CA; Notice of Availability

SUMMARY: Pursuant to § 102 (2) © of the National Environmental Policy Act of 1969 (Pub.L. 91–190 as amended), the National Park Service, Department of the Interior, has prepared a Final Environmental Impact Statement identifying four alternatives for (and assessing the potential impacts of) a proposed General Management Plan for Lassen Volcanic National Park, located in northeastern California. Upon approval, the new General Management Plan will serve as a "blueprint" for the management and use of Lassen Volcanic National Park over the next 10–15 years.

Proposal and Alternatives Considered

The "no action" alternative, Alternative A, assumes that physical facilities and ongoing activities would remain largely unchanged, and that staffing and operational funding would remain constant over the planning period.

Alternative B: Resource Preservation and Basic Visitor Service, provides a program for preserving, and where necessary, restoring significant park resources. It includes essential staffing and funding increases for the park's cultural and natural resource management functions, restores key elements of the park's infrastructure, provides for restoration of several specific sites with natural system conflicts, establishes a standards-based management zoning system, and proposes designation of approximately

25,000 acres as part of the National Wilderness Preservation System (increasing the total amount of designated Wilderness to approximately 104,000 acres). The plan also includes program increases and visitor facility improvements to provide for quality basic visitor service.

Alternative C: The Proposed General Management Plan—Resource Protection and Enhanced Visitor Experience. This plan includes all the features of Alternative B, and provides enhancement to visitor experience by making more facilities available during winter months, and increasing interpretive services, facilities, and information.

Alternative D: Resource Protection and Expanded Visitor Opportunities, includes all of the features of Alternative C and, in addition, provides for expansion of family and group campgrounds at several locations. It also expands winter access at the north entrance by plowing the park road an additional 9 miles to the Devastated Area, and keeping one loop of the campground open for winter camping.

Significant adverse environmental impacts and potential impairment of park values would be expected to result from Alternative A as a number of cultural, natural, and environmental resources are undergoing deterioration under current conditions. All of the action alternatives include programs to arrest the deterioration of resources and mitigation features to avoid or reduce impacts, which might ensue from implementation of project features. It was determined that the "environmentally preferred" alternative is Alternative C.

Public Comment

A Notice of Intent to prepare an EIS was published in the **Federal Register** on July 24, 1998. During the subsequent scoping phase leading to development of the Draft EIS, the NPS conducted seven public meetings, three agency meetings, and several Tribal meetings. In all, information provided by 120 commentors and 49 letters was obtained. A Notice of Availability of the Draft EIS was published in the **Federal Register** on August 18, 2000. During the subsequent public comment period, seven public workshops were conducted and over 650 copies of the Draft EIS were distributed. Throughout the process contacts were undertaken with Tribes, the State Historic Preservation Office, U.S. Forest Service, the four surrounding County Boards of Supervisors, and other entities. Altogether 189 comment letters were received; these as well as the responses obtained during the scoping phase are filed in the administrative record.

Copies

Inquiries and requests for printed copies of the final EIS for the proposed General Management Plan may be directed to Superintendent, Lassen Volcanic National Park, P.O. Box 100, Mineral, California 96063–0100, or via telephone at (530) 595–4444 ext.5101. Public review copies will also be available at area libraries.

During the Ano action" period following release of the Final EIS, if any individuals submit comments and request that their name or/and address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of the comments. There also may be circumstances wherein the NPS will withhold a respondent's identity as allowable by law. As always: NPS will make available to public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses; and, anonymous comments may not be considered.

Decision

A Record of Decision may be approved by the Regional Director, Pacific West Region, no sooner than 30 days after publication of a Notice of filing of this Final EIS in the **Federal Register** by the Environmental Protection Agency. The official responsible for the final decision is the Regional Director, Pacific West Region; subsequently the official responsible for implementation of the plan is the Superintendent, Lassen Volcanic National Park.

Dated: October 25, 2001.

Martha K. Leicester,

Acting Regional Director, Pacific West Region.

[FR Doc. 01–30336 Filed 12–6–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Aniakchak National Monument Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Aniakchak National Monument and the Chairperson of the Subsistence Resource Commission for Aniakchak National Monument announce a forthcoming meeting of the Aniakchak National Monument Subsistence Resource Commission. The following agenda items will be discussed:

(1) Call to order (Chair).

(2) SRC Roll Call and Confirmation of Quorum.

(3) Welcome and Introductions.

(4) Review and Adopt Agenda.

(5) Review and adopt minutes from last meeting.

(6) Commission Purpose.

(7) Status of Membership.

(8) Public and Agency Comments.

(9) Old Business:

a. Customary Trade.

b. Status of Subsistence Management Plan.

c. Status of Hunting Plan Recommendation 97–1, Establish One-Year Minimum Residency Requirement for Resident Zone Communities.

d. Status of Aniakchak National Preserve Non-Subsistence User Permit Request.

(1) New Business:

a. October 2001 Chairs Workshop Report.

b. Federal Subsistence Board and Bristol Bay Regional Council Report.

c. Land Status Map.

d. Subsistence Access.

e. Hunting Guide Issues

(11) Election of SRC Chair and Vice Chair.

(13) Public and Agency Comments.

(14) SRC work session (draft proposals, letters, and recommendations).

(15) Set time and place of next SRC meeting.

(16) Adjournment.

DATES: The meeting will begin at 10 a.m. on Tuesday, February 12, 2002 and conclude at approximately 6 p.m. The meeting will reconvene at 9 a.m. on Wednesday, February 13, 2002 and adjourn at approximately 1 p.m.

Location: The meeting will be held at the Chignik Lake Subsistence Community Building, Chignik Lake, Alaska, (907) 845–2212.

FOR FURTHER INFORMATION CONTACT: Mary McBurney at Phone (907) 257–2633, or Tom O'Hara, Subsistence Manager, Aniakchak National Monument, P.O. Box 7, King Salmon, Alaska 99613. Phone (907) 246–2101.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

In light of a recent attempt to relocate National Park Service administrative personnel and offices in Washington, DC, this notice may not be published at least 15 days prior to the meeting. The National Park Service regrets these events, but is compelled to hold the meeting as scheduled because of the significant sacrifice re-scheduling would require of commission members who have adjusted their schedules to accommodate the proposed meeting dates.

Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting at the Aniakchak National Monument Office, P.O. Box 7, King Salmon, Alaska 99613. Phone (907) 246–2101.

Robert L. Arnberger,

Regional Director.

[FR Doc. 01–30337 Filed 12–6–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Subsistence Resource Commission meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1, Section 10), notice is hereby given that the Superintendent of Gates of the Arctic National Park and Preserve and the Chairperson of the Subsistence Resource Commission for Gates of the Arctic National Park announce a forthcoming meeting of the Gates of the Arctic National Park Subsistence Resource Commission. The following agenda items will be discussed:

(1) Call to order.
(2) Roll call. Confirm quorum.
(3) Approval of summary of meeting minutes for November 13–14, 2001 meeting in Fairbanks.
(4) Review agenda.
(5) Superintendent's Welcome.
(6) Introductions of Guests and Agency Staff.
(7) Review Commission Role and Purpose.
(8) Superintendent's Management and Research Update.
(9) Public and agency comments.
(10) Old Business:
a. October 2001 SRC Chair's Workshop Report.
b. Status Gates of the Arctic National Park and Preserve Subsistence Management Plan.
c. Status Customary Trade Hunting Plan Recommendation 99–01.
(11) New Business:
a. Review Federal Subsistence Board and Regional Advisory Council Proposals and Record of Actions Taken.
b. Federal Subsistence Fisheries Management Update.
c. SRC Work Session.
(12) SRC Elections for Chair and Vice Chair.
(13) Set time and place of next SRC meeting.
(14) Adjournment.

DATES: The meeting will be held from 8:30 a.m. to 5 p.m. on Thursday, December 13, 2001, and 8:30 a.m. to 5 p.m. on Friday, December 14, 2001.

Location: The meeting will be held at Wedgewood Manor Resorts, 212 Wedgewood Drive, University Ave., Fairbanks, Alaska 99701, Tel. (907) 452–1442.

FOR FURTHER INFORMATION CONTACT: Dave Mills, Superintendent and Fred Andersen, Subsistence Manager, 201 First Avenue, Doyon Bldg., Fairbanks, Alaska 99701, Telephone (907) 456–0281.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487 and operate in accordance with the provisions of the Federal Advisory Committees Act.

In light of a recent attempt to relocate National Park Service administrative personnel and offices in Washington, DC, this notice may not be published at least 15 days prior to the meeting. The National Park Service regrets these events, but is compelled to hold the meeting as scheduled because of the significant sacrifice rescheduling would require of commission members who have adjusted their schedules to accommodate the proposed meeting dates.

Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting at the Gates of the Arctic National Park & Preserve Office, 201 First Avenue, Doyon Bldg., Fairbanks, Alaska 99701, Telephone (907) 456–0281.

Paul R. Anderson,

Acting Regional Director.

[FR Doc. 01–30332 Filed 12–6–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Wrangell-St. Elias National Park Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Wrangell-St. Elias National Park and the Chairperson of the Subsistence Resource Commission announce a forthcoming meeting of the Wrangell-St. Elias National Park Subsistence Resource Commission. The following agenda items will be discussed:

(1) Call to Order (Chairman)
(2) Roll Call: Confirmation of Quorum
(3) An introduction of Commission members, staffs, and guests
(4) Review Agenda
(5) Review and approval of minutes from February 20–21, 2001 meeting
(6) Superintendent's welcome and review of the Commission purpose
(7) Commission membership status
(8) Election of Chair and Vice Chair
(9) Public and other agency comments
(10) Superintendent's report
(11) Old Business:
a. Proposal to change Unit 11 sheep regulations
b. Subsistence Hunting Program Recommendation 97–01: establish minimum residency requirement for resident zone communities
c. Customary Trade Concerns
d. Alternate SRC members
e. Roster Regulations
(12) Wrangell-St. Elias National Park and Preserve Staff Report
a. Chief of Resources Update
b. Fisheries Report
c. Cultural Resources Update
d. Wildlife Report
(13) New Business:
a. Update on Federal Fish Management and Resource Monitoring
b. Review of 2001–2002 Federal Subsistence Board Fisheries proposals
c. Subsistence Wildlife Regulations Proposed Changes
d. October 2001 Chairs Workshop Report
(14) Public and other agency comments
(15) Subsistence Resource Commission Work Session
(16) Set time and place of next Subsistence Resource Commission meeting
(17) Adjourn meeting.

DATES: The meeting will begin at 9 a.m. on Tuesday, February 19, 2002, and

conclude at approximately 5 p.m. The meeting will reconvene at 9 a.m. on Wednesday, February 20, 2002, and adjourn at approximately 5 p.m. The meeting will adjourn earlier if the agenda items are completed.

LOCATION: The Meeting will be held at the Chitina Village Community Hall, Chitina, Alaska, Telephone (907) 823–2223.

FOR FURTHER INFORMATION CONTACT: Devi Sharp, Chief Natural Resources, Wrangell-St. Elias National Park and Preserve, P.O. Box 439, Copper Center, Alaska 99573. Phone (907) 822–5234.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commission is authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operates in accordance with the provisions of the Federal Advisory Committees Act.

In light of a recent attempt to relocate National Park Service administrative personnel and offices in Washington, DC, this notice may not be published at least 15 days prior to the meeting. The National Park Service regrets these events, but is compelled to hold the meeting as scheduled because of the significant sacrifice re-scheduling would require of commission members who have adjusted their schedules to accommodate the proposed meeting dates.

Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting at the Wrangell-St. Elias National Park and Preserve Office, P.O. Box 439, Copper Center, Alaska 99573. Phone (907) 822–5234.

Robert L. Arnberger,

Regional Director.

[FR Doc. 01–30338 Filed 12–6–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 17, 2001. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St. NW., Suite 400, Washington DC 20002; or by fax, 202–343–1836 . Written or faxed comments should be submitted by December 24, 2001.

Carol D. Shull,

Keeper of the National Register Of Historic Places.

DISTRICT OF COLUMBIA

District of Columbia

Clifton Terrace (Apartment Buildings in Washington, DC, MPS), 1308, 1312, 1350 Clifton St., Washington, 01001366
Owl's Nest, 3031 Gates Rd., NW, Washington, 01001365
Trinity Towers (Apartment Buildings in Washington, DC, MPS), 3023 14th St., NW, Washington, 01001367

MARYLAND

Baltimore Independent city

Greater Homeland Historic District, Roughly bounded by Charles St. Homeland Ave., York Rd., and Melrose Ave., Baltimore (Independent City), 01001377
Lake Drive Apartments, 903 Druid Park Lake Dr., Baltimore (Independent City), 01001368
Lauraville Historic District, Rghly bnded by Harford Rd, Herring Run Cr, Cold Spring Ln, Charlton Ave., Halcyon Ave., Grindon Rd, and Echodale Ave., Baltimore (Indepedent City), 01001371
Mount Washington Mill Historic District (Boundary Increase), 1405–1407 Forge Ave., Baltimore (Independent City), 01001376
Northern District Police Station, 3355 Keswick Rd., Baltimore (Independent City), 01001372
Sellers Mansion, 801 N. Arlington St., Baltimore (Independent City), 01001369
Southern District Police Station, 28 E. Ostend St., Baltimore (Independent City), 01001373
Stone Hill Historic District, Pacific, Puritan, Bay, Field and Worth Sts., Baltimore (Independent City), 01001370

Frederick County

Sheffer, Daniel, Farm, 8924A Mt. Tabor Rd., Middletown, 01001375

Howard County

Dorsey Hall, 5100 Dorsey Hall Dr., Columbia, 01001374

MISSOURI

Jackson County

Chambers Building, 25 E. 12th St., Kansas City, 01001379

Phelps County

National Bank of Rolla Building, 718 Pine St., Rolla, 01001380

St. Louis County

Ball—Essen Farmstead Historic District, 749 Babler Park Dr., Wildwood, 01001378

NEW YORK

Albany County

Schoonmaker House, 283 Beaver Dam Rd., Selkirk, 01001396

Delaware County

Hobart Masonic Hall, 6 Cornell Ave., Hobart, 01001399

Greene County

Cleveland, L.E., House, 7818 NY 81, Durham, 01001385
DeWitt, W.F., Hotel, 7803 NY 81, Durham, 01001389
Ford's Store, 7811 NY 81, Durham, 01001395
Jewett Presbyterian Church Complex, Church St., Jewett, 01001382
Osburn, Mrs., House, 7872 NY 81, Durham, 01001390
Pierce, Charles, House, 7846 NY 81, Durham, 01001386
Union Chapel, Mill Rd., Windham, 01001394

Herkimer County

Lalino Stone Arch Bridge, 319 NY 29, Middleville, 01001397
Old City Road Stone Arch Bridge, Old City Rd., Welch Corners, 01001398

Orange County

Dunning House, 633 Ridgebury Rd., Wawayanda, 01001383
Walsh, A., Stone House and Farm Complex (Cornwall MPS), 1570 NY 94, Cornwall, 01001384

Sullivan County

Bennett Family House, 11 Hamilton Ave., Monticello, 01001400

Tompkins County

Second Baptist Society of Ulysses, 1 Congress St., Trumansburg, 01001381

Ulster County

Boice House, 110 Fair St., Kingston, 01001388
Chichester House, 116 Fair St., Kingston, 01001392
Kenyon, William, House, 104 Fair St., Kingston, 01001387
Second Reformed Dutch Church of Kingston, 213–223 Fair St., Kingston, 01001393

OREGON

Lane County

Psi Alpha Chapter, Chi Omega House (Residential Architecture of Eugene, Oregon MPS) 1461 Alder St., Eugene, 01001402
South University Historic District (Residential Architecture of Eugene, Oregon MPS) Roughly bounded by E. 19th, Agate, E 23rd, and Alder Sts., Eugene, 01001401

Malheur County

Blackaby, James Rowley and Mary J., House, 717 SW 2nd St., Ontario, 01001391

[FR Doc. 01–30333 Filed 12–6–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 10, 2001. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St. NW., Suite 400, Washington DC 20002; or by fax, 202–343–1836. Written or faxed comments should be submitted by December 24, 2001.

Carol D. Shull,

Keeper of the National Register Of Historic Places.

FLORIDA

Miami-Dade County

Curtiss, Glenn, House (Country Club Estates TR), 500 Deer Run, Miami Springs, 01001359

Polk County

Winston School, 3415 Swindell Rd., Lakeland, 01001362

MISSOURI

St. Louis Independent city

Forest Park Southeast Historic District, Roughly bounded by Chouteau Ave., Manchester and Cadet Aves., Kingshighway Blvd., and S. Sarah St., St. Louis (Independent City), 01001360

OHIO

Summit County

Akron—Fulton International Airport Administration Building, 1800 Triplett Blvd., Akron, 01001361

VERMONT

Addison County

Lampson School (Educational Resources of Vermont MPS), 44 Summer Rd., New Haven, 01001363

Chittenden County

North Street Historic District, Roughly Along North St., from North Ave. to N. Winooski Ave., Burlington, 01001364

[FR Doc. 01–30334 Filed 12–6–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 24, 2001. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St. NW., Suite 400, Washington DC 20002; or by fax, 202–343–1836 . Written or faxed comments should be submitted by December 24, 2001.

Carol D. Shull,

Keeper of the National Register Of Historic Places.

ALABAMA

Baldwin County

State Bank Silverhill, 15950 Silverhill Ave., Silverhill, 01001410

Lee County

Northside Historic District, Roughly Bounded by 7th Ave., 3rd St., 2nd Ave., and N. 11th St., Opelika, 01001409

Madison County

Alabama Agricultural and Mechanical University Historic District, Chase Rd., Normal, 01001407

Montgomery County

Stone Plantation, 5001 Old Selma Rd., Montgomery, 01001411

Shelby County

McKibbon House, 611 E. Boundary St., Montevallo, 01001408

CONNECTICUT

Litchfield County

Terryville Waterwheel, 262 Main St., Plymouth, 01001412

FLORIDA

Leon County

Rollins House, 5456 Rollins Pointe, Tallahassee, 01001415

Polk County

Downtown Winter Haven Historic District, (Winter Haven, Florida MPS) Roughly Avenue A NW, Avenue A SW, 3rd and 5th Sts., Winter Haven, 01001414

MAINE

Androscoggin County

Gay—Munroe House, 64 Highland Ave., Auburn, 01001422

Cumberland County

Hanson, Asa, Block, 548–550 Congress St., Portland, 01001418

Tarr—Eaton House, 906 Harpswell Neck Rd., Harpswell Center, 01001416

Kennebec County

Capitol Complex Historic District, State and Capitol Sts., Augusta, 01001417

Knox County

Union Town House (Former), 128 Town House Rd., Union, 01001419

Sagadahoc County

Ropes End, 36 Hyde Rd., Phippsburg, 01001421

York County

Cummings Shoe Factory, 2 Railroad Ave., South Berwick, 01001420

MISSOURI

Jackson County

West Ninth Street—Baltimore Avenue Historic District (Boundary Increase I), West 100 blk. of 10th St. and 1000 blk. of Baltimore Ave.,Kansas City, 01001413

NORTH CAROLINA

Alamance County

South Broad—East Fifth Streets Historic District, (Burlington MRA)Roughly bounded by E. Morehead, S. Broad, Sixth, and W. Main Sts., Burlington, 01001427

Buncombe County

Kenilworth Inn, 60 Caledonia Rd., Asheville, 01001423

Cleveland County

Sperling, George, House and Outbuildings, 1219 Fallston Rd., Shelby, 01001425

Duplin County

Loftin Farm (Duplin County MPS), NC 1368, 0.65 mi. S of jct. with NC 1367, Beautancus, 01001426

Henderson County

West Side Historic District (Hendersonville MPS) Roughly bounded by Fifth Ave. W., Washington St., Third Ave. W., and Blythe St., Hendersonville, 01001424

OREGON

Josephine County

Allen Gulch Mill (Upper Illinois Valley, Oregon Mining Resources MPS) Approx. 1 mi. SE of Jct. of Waldo Rd. and Waldo Lookout Rd., Cave Junction, 01001148

Allen Gulch Townsite (Upper Illinois Valley, Oregon Mining Resources MPS) Approx. 1 mi. SE. of Jct. of Waldo Rd. and Waldo Lookout Rd., Cave Junction, 01001136

Cameron Mine (Upper Illinois Valley, Oregon Mining Resources MPS) Approx. 2 mi. S. of Jct. of Waldo Rd. and Waldo Lookout Rd., Cave Junction, 01001144

Deep Gravel Mine (Upper Illinois Valley, Oregon Mining Resources MPS) Approx. 1 mi. N. of Jct of Waldo Rd. and BLM Rd. 40–8–28, Cave Junction, 01001141
Esterly Pit No. 2—Llano De Oro Mine (Upper Illinois Valley, Oregon Mining Resources MPS) Approx. 1.5 mi. N. of Jct. of Waldo Rd. and BLM Rd. 40–8–28,Cave Junction, 01001145
Fry Gulch Mine (Upper Illinois Valley, Oregon Mining Resources MPS) Approx. .75 mi. from Jct. of Waldo Rd. and BLM Rd. 40–8–28, Cave Junction, 01001143
High Gravel Mine (Upper Illinois Valley, Oregon Mining Resources MPS) Approx. 1.3 mi. S. of Jct. of Waldo Rd. and Waldo Lookout Rd., Cave Junction, 01001142
Logan Cut (Upper Illinois Valley, Oregon Mining Resources MPS) Historic Channel of Logan Cut, Cave Junction, 01001154
Logan Drain Ditches (Upper Illinois Valley, Oregon Mining Resources MPS) Approx. 2 mi. N. of Jct. of Waldo Rd. and BLM Rd. 40–8–28, Cave Junction, 01001155
Logan Wash Ditch (Upper Illinois Valley, Oregon Mining Resources MPS) Historic Channel of Logan Wash Ditch, Cave Junction, 01001153
Middle Ditch (Upper Illinois Valley, Oregon Mining Resources MPS) Historic Channel of Logan-Esterly Middle Ditch, Cave Junction, 01001150
Old Placer Mine (Upper Illinois Valley, Oregon Mining Resources MPS) Approx. .65 mi. W. of Jct. of Rockydale Rd. and BLM Rd. 40–8–15, Cave Junction, 01001140
Osgood Ditch (Upper Illinois Valley, Oregon Mining Resources MPS) Historic Channel of Osgood Ditch, Cave Junction, 01001151
Plataurica Mine (Upper Illinois Valley, Oregon Mining Resources MPS) Approx. .75 mi. SE. of Jct. of Waldo Rd. and Waldo Lookout Rd., Cave Junction, 01001146
St. Patrick's Roman Catholic Cemetery (Upper Illinois Valley, Oregon Mining Resources MPS) Approx. 1 mi. SE. of Jct. of Waldo Rd. and Waldo Lookout Rd., Cave Junction, 01001137
Upper Ditch (Upper Illinois Valley, Oregon Mining Resources MPS) Historic Channel of Logan-Esterly Upper Ditch, Cave Junction, 01001149
Waldo Cemetery (Upper Illinois Valley, Oregon Mining Resources MPS) Approx. .5 mi. SW. of Jct. of Waldo Rd. and BLM Rd. 40–8–28, Cave Junction, 01001138
Waldo Chinese Cemetery (Upper Illinois Valley, Oregon Mining Resources MPS) Approx. .5 mi. SW. of Jct. of Waldo Rd. and BLM Rd. 40–8–28, Cave Junction, 01001139
Waldo Mine (Upper Illinois Valley, Oregon Mining Resources MPS) SW. of Jct. of Waldo Rd. and BLM Rd. 40–8–28, Cave Junction, 01001147
Wimer Ditch (Upper Illinois Valley, Oregon Mining Resources MPS) Historic Channel of Wimer Ditch, Cave Junction, 01001152

WYOMING

Teton County

Flat Creek Ranch, Approx. 12 mi. E and N, Jackson, 01001428

To assist in preservation of the following resource the comment period has been shortened to seven (7) days:

MASSACHUSETTS

Barnstable County

Old Village Historic District, Roughly bounded by Main, Holway, Bridge Sts., Bearse's Ln., Chatham Harbor, Mill Pond, and Little Mill Pond, Chatham, 01001406.

[FR Doc. 01–30335 Filed 12–6–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Repatriate Native American Cultural Items in the Possession of the U.S. Department of the Interior, National Park Service, Capitol Reef National Park, Torrey, UT

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate three cultural items in the possession of the U.S. Department of the Interior, National Park Service, Capitol Reef National Park, Torrey, UT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibilities of the National Park Service unit that has control or possession of these Native American cultural items. The Assistant Director, Cultural Resources Stewardship and Partnerships is not responsible for the determinations within this notice.

In 1926, Ephraim P. Pectol discovered three buffalo-hide shields cached in a rock crevice on public lands southeast of Torrey, UT. Though he had not obtained the permit required to remove an object of antiquity from Federal lands, Mr. Pectol removed the shields from the rock crevice and took them to his home and place of business. In 1932, a Federal agent seized the shields and returned them to Federal control, though they remained in the possession of Mr. Pectol. Capitol Reef National Monument acquired the shields in 1953. The three shields have been designated as CARE-11, CARE-12, and CARE-191.

CARE-11 is a roughly circular piece of buffalo hide with a diameter of approximately 79 centimeters. The original shape and dimensions of the shield have been altered by minor damage along its perimeter probably caused by rodent gnawing and/or exposure to weathering processes while in the cache. The face of the shield is concave and is decorated with a wing-shaped design of red pigment and a fan-shaped section of radiating green stripes. The convex side of the shield exhibits some red pigment stain and some incised triangular patterns. Three buckskin ties hang from the face as fringe and, on the back of the shield, serve to fasten an arm strap. A looping piece of buckskin is tied to 2 holes about 20 centimeters apart on the perimeter of the shield. A series of 12 holes in a straight line angles outward from the center of the shield to the perimeter. A tear in the rawhide, about 1.9 centimeter long, has been repaired with a hide lace.

CARE-12 is a roughly circular piece of buffalo hide measuring approximately 88 centimeters by 70 centimeters. The original shape and dimensions of the shield have been altered by damage along its perimeter probably caused by rodent gnawing and/or exposure to weathering processes while in the cache. It is believed to have been circular when originally constructed. The face of the shield is convex and is decorated with parallel rows of unpainted, stenciled dots on a painted field. Approximately two-thirds of the painted field is black and one-third is covered with a rust-colored pigment. Five buckskin ties hang from the face as a fringe and, on the back of the shield, some serve to fasten an arm sling. The arm sling has a padded piece of hide. The shield exhibits a cut mark along one edge, probably caused when a radiocarbon dating sample was removed by researchers in the 1960s.

CARE-191 is a roughly circular piece of buffalo hide measuring approximately 95 centimeters by 74 centimeters. The original shape and dimensions of the shield have been altered by damage along its perimeter probably caused by rodent gnawing and/or exposure to weathering processes while in the cache. It is believed to have been circular when originally constructed. The face of the shield is convex and is decorated in four painted quadrants. One quadrant is painted with a rust-colored pigment. One quadrant is painted red. One quadrant is painted black. One quadrant is painted with green bands. Three buckskin ties hang from the face as fringe and hold a buckskin arm strap on the back.

An assessment of the three shields was made by National Park Service professional staff, specially contracted independent scholars, and representatives of the Navajo Nation, Arizona, New Mexico and Utah; Hopi Tribe of Arizona; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; and Kaibab

Band of Paiute Indians of the Kaibab Indian Reservation, Arizona. Representatives of the Confederated Tribes of the Goshute Reservation, Nevada and Utah; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Paiute Tribe of Utah (Cedar City, Indian Peak, Kanosh, Koosharem, Shivwits Bands); Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; San Juan Southern Paiute Tribe of Arizona; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah and Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico and Utah; and Zuni Reservation, New Mexico also were contacted but did not participate in consultation regarding the three shields.

Over the years, several researchers have considered the cultural origin and age of the Capitol Reef shields. Archeologist Noel Morss (1931) observed similarities among the three shields, known Apache shields, and historic-era pictographs of shields in association with horses. He attributed the Capitol Reef shields to recent (post-introduction of the horse) Apaches or Navajos. While subsequent radiocarbon dating indicates that the Capitol Reef shields pre-date the introduction of the horse to south-central Utah, the dates do not invalidate Morss's favorable comparisons to Navajo/Apache pictograph shields.

Archeologist Carling Malouf (1944) suggested that the shields were modern in origin, although he did not offer an opinion regarding who made them. Archeologist Marie Wormington (1955) found the Capitol Reef shields to resemble shield and shield-bearer pictographs attributed to the Fremont Culture. Shield pictographs attributed to the Fremont Culture exist near the area in which the Capitol Reef shields were discovered. However, subsequent radiocarbon dating shows the shields to significantly post-date the commonly accepted, archeologically derived Fremont Culture termination date of A.D. 1300.

Archeologist C. Melvin Aikens (1966), in an article postulating a Plains origin for Fremont Culture, described Plains-style cultural attributes of the Capitol Reef shields. His later abandonment of the Plains/Fremont construct does not invalidate his observations regarding the Plains-like attributes of the shields.

In 1967, Campbell Grant obtained a standard radiocarbon age from a sample of CARE-12. Reported as UCLA sample 1221, the age had a tree-ring calibrated radiocarbon age of (1) modern, or (2) A.D. 1650, or (3) A.D. 1750 (Berger and Libby 1968). Based on the radiocarbon dates, archeologist and rock art scholar Polly Schaafsma (1971) concluded that the shields were made in recent times and therefore were not associated with Fremont Culture.

In a 1976 study of Puebloan shields, researcher Barton Wright attributed the shields to Pueblo warriors. He noted the smaller size of historic Navajo shields when compared to Pueblo shields as an important consideration. Researcher Stuart Baldwin (1997) suggested that the shields are Ute, based on the 1967 radiocarbon dates.

Loendorf and Conner (1993) reported three accelerator mass spectrometry radiocarbon ages for a small piece of strap from CARE-11. Based on recently developed tree ring calibrations and weighted averages, the likely date of construction for the shields is between A.D. 1420 and A.D. 1640 (Loendorf 2001).

Capitol Reef National Park contracted with three experts to help determine the cultural affiliation of the three shields. Lawrence Loendorf is a research professor at the Department of Anthropology, New Mexico State University. Benson Lanford is a researcher, appraiser, and lecturer on American Indian arts and material culture. Barton A. Wright is a retired research anthropologist and archeologist specializing in the study of Southwestern cultures, and author of the book "Pueblo Shields From the Fred Harvey Collection" (1976). These scholars examined a wide body of archeological and ethnographic evidence, including comparative artistic motifs; construction techniques; tribal oral traditions; and known origins, historic distributions, and inter-tribal affiliations of ethnographic groups of the Plains and Southwest. Each observed that assigning these shields, the oldest dated shields known in North America, to a specific historic or modern tribe by anthropological and scientific methods is problematic. These researchers did not nor were they asked to offer advice or opinions regarding the potential repatriation of the shields to a claimant tribe. Rather, they independently and objectively traced the various lines of evidence relating to possible cultural affiliation(s) of the shields.

Regarding CARE-11, Dr. Loendorf attributes the shield to Athabaskan speakers based on similarities between its design elements and the so-called Castle Garden rock art style found in Wyoming and Montana and also believed to have been made by Athabaskans. He also documents similar design elements on historic Apache shields. Based on the radiocarbon dates for this shield and CARE-12, and taking into account various related factors, Dr. Loendorf suggests that the three Capitol Reef shields were likely constructed at different times between A.D. 1420 and A.D. 1640, and likely were made toward the recent end of that range. Mr. Lanford traces the vertical orientation and grid-like patterning on CARE-11 to similar elements that are common in the Great Basin, Plains, and Montane regions, but rare in the Southwest region. He finds very little similarity between the design elements of this shield and motifs common to Southwestern rock art, historic Puebloan shields, or other Puebloan painted iconographic objects. Mr. Wright observes design similarities between CARE-11 and shields produced at Jemez, particularly in the use of rays or fans of feathers as decorative motifs.

Regarding CARE-12, Dr. Loendorf attributes the shield to Athabaskan speakers based on similarities between the dot design elements and the Castle Garden rock art style, shield warrior petroglyphs in the Dinetah region of New Mexico, and other Athabaskan petroglyph and pictograph shields. Mr. Lanford observes that the pattern of vertically aligned dots in CARE-12 is in keeping with the radical asymmetry and freedom of expression typical of Apache painted motifs. He draws parallels between the design on this shield and rock art shields found in the La Sal Mountains of Utah and in Weatherman Draw in Montana. He also observes that the vertical orientation and grid-like patterning on CARE-12 is similar to elements common in the Great Basin, Plains, and Montane regions, but rare in the Southwest region. He finds very little similarity between the design elements of this shield and motifs common to Southwestern rock art, historic Puebloan shields, or other Puebloan painted iconographic objects. Mr. Wright noted the use of bands with dots on them in Jemez shields.

Regarding CARE-191, Dr. Loendorf indicated the difficulty of assigning a cultural affiliation to this shield, but he tentatively suggests that it may be

Puebloan in origin, and possibly from the Pueblo of Jemez. His conclusion is based on the shield's design, which is replicated on a Pueblo rock art shield that dates to about the same period when the CARE shields were made. He also noted that Jemez had allied with the Navajo in fights with the Spanish as early as A.D. 1640. Mr. Lanford notes similarities between the black-dash lines and related artistic design elements and Apache parfleche painting and beadwork designs.

Regarding the three shields collectively, Mr. Lanford identifies the clear glaze on each as a type of sizing or varnish, applied to seal and protect the painted surface, which is typical of painted rawhide objects originating outside of the Southwest culture area. Mr. Wright notes that most documented Navajo shields were creased across the middle so that they could be folded for storage. The Capitol Reef shields are not creased across the middle. Mr. Wright also notes that the three shields are not similar to documented 19th century Hopi shields.

To date, no archeological sites directly attributable to Navajo occupation have been identified within Capitol Reef National Park. However, Navajo oral tradition places Navajo ancestors in the park area prior to Euro-American settlement. Archeologists continue to debate the evidence for Southern Athabaskan and Navajo/Apache cultural origins, linguistics, chronology, and territorial expansion. They generally concur, however, that modern Navajo and Apache tribes are related, all having descended from an ancestral Southern Athabaskan culture. Cultural anthropologists document that Apacheans (including Navajos) share mythological accounts of origins, culture heroes, and events; principles of kinship and social organization; marriage customs and division of labor; religion; and other aspects of cultural tradition. Linguists have identified seven separate Southern Athabaskan or Apachean-speaking groups, which include the Navajo. Navajo and many Apache languages are mutually intelligible. Glottochronological data suggest that the Apachean languages began diverging, as a result of geographic separation, as recently as A.D. 1300. Material culture traits probably began diverging at approximately the same time. However, whether or not Navajo artifacts can be reliably differentiated from Apache artifacts between A.D. 1420 and A.D. 1650 is a matter of professional opinion. Making such a determination for the Capitol Reef shields, which were discovered outside of any identifiable cultural context, is particularly difficult.

Consultation with representatives of the Navajo Nation indicates that the three shields were made by Many Goat White Hair and four other men and used in a battle with the Spanish. After the battle, Many Goat White Hair hid the three shields in the rock crevice and prayed that they would be found in the future, as they have been. Many Goat White Hair's clan affiliation was not identified. However, nearly half of the Navajo clans trace their ancestry to other Native American groups, including the Ma'iideeshgiizhinii, or Coyote Pass People, who are descendant of people from Jemez Pueblo.

According to Kluckhohn, Hill, and Kluckhohn (1971), Navajo shields were made by warriors under strict ritual conditions. Only men who knew one of the war chants could make shields. The war leader held a special Blessing Way over the shields while they were being painted. The designs on a shield represent the chantway in which the man went to war.

According to representatives of the Navajo Nation, the Naayéé (Protection Way) ceremony deals with the armor and shields of Navajo deities and Navajo people. People who have possession of such shields must be knowledgeable in the proper songs, prayers, and oral history of the Naayéé ceremony. Jon Holiday, a recognized Naayéé chanter, has identified the designs and colors on the three shields as representing earth, sky, sun rays, day and night, stars, and the male and female mountains, as described in Navajo oral history. Mr. Holiday has indicated that he intends to use the three shields in the Naayéé ceremony. The Naayéé ceremony provides individuals with a protective barrier behind which they may regain strength, harmony, and balance after a physical or mental illness.

On June 11, 2001, a representative of the Navajo Nation requested repatriation of the three shields. The Navajo Nation claim identified the three shields as sacred objects, indicating that they are needed by Navajo traditional religious leaders for the practice of the Naayéé (Protection Way) ceremony by present-day adherents. The Navajo claim also identified the three shields as objects of cultural patrimony, but did not provide documentation as to whether they were considered inalienable by the Navajo in the 1600s.

Based on the above-mentioned information, the superintendent of Capitol Reef National Park determined that, pursuant to 43 CFR 10.2 (d), the three shields are related to a tribe, people, or culture that is indigenous to the United States. The superintendent of Capitol Reef National Park also determined that, pursuant to 43 CFR 10.2 (d)(3), the three shields are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Lastly, the superintendent of Capitol Reef National Park determined that, pursuant to 43 CFR 10.2 (c), there is a relationship of shared group identity that can be reasonably traced between the three shields and the Navajo Nation, Arizona, New Mexico, and Utah.

This notice has been sent to officials of the Apache Tribe of Oklahoma; Confederated Tribes of the Goshute Reservation, Nevada and Utah; Fort McDowell Mohave-Apache Indian Community of the Fort McDowell Indian Reservation, Arizona; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico and Utah; Paiute Tribe of Utah (Cedar City, Indian Peak, Kanosh, Koosharem, Shivwits Bands); Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; San Juan Southern Paiute Tribe of Arizona; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Tonto Apache Tribe of Arizona; Ute Indian Tribe of the Uintah and Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico and Utah; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; and Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with these cultural items

should contact Albert J. Hendricks, Superintendent, Capitol Reef National Park, HC 70 Box 15, Torrey, UT 84775, telephone (435) 425-3791, extension 101, before January 7, 2002. Repatriation of the cultural items to the Navajo Nation may begin after that date if no additional claimants come forward.

Dated: October 19, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–30339 Filed 12–6–01; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the U.S. Department of Agriculture, U.S. Forest Service, Chugach National Forest, Anchorage, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the U.S. Department of Agriculture, U.S. Forest Service, Chugach National Forest, Anchorage, AK, that meet the definition of "unassociated funerary objects" under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43, CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations within this notice.

The 16 objects are 1 bone harpoon point, 1 bone-toggling harpoon point, 1 stone end blade, 1 whetstone, 2 sea mammal bones, 9 glass beads, and 1 small piece of red ochre.

In 1981, U.S. Department of the Interior, Bureau of Indian Affairs and U.S. Department of the Interior, National Park Service, Cooperative Park Studies Unit archeologists conducted a survey of the Esther Bay site, a 14(h)(1) selection on the southern side of Esther Island, Prince William Sound, AK. Cultural items, along with human remains, were collected from two burial sites. The human remains from these sites were were reinterred at the original burial location in the spring of 1990. The cultural items are one bone harpoon point, one bone-toggling harpoon point, one stone end blade, one whetstone, and two sea mammal bones. Based on archeological evidence, the Esther Bay site is identified as a prehistoric Chugach Eskimo burial cave. Chugach National Forest is not in possession or control of the human remains from these burial sites.

In 1933, Frederica de Laguna investigated the Campbell Bay site, located on the northwestern shore of Glacier Island, Prince William Sound, AK, and collected two sets of human remains from burials there. The human remains were curated at the National Museum of Denmark, Copenhagen, and were previously repatriated to the Chugach Alaska Corporation.

In 1981, U.S. Department of the Interior, Bureau of Indian Affairs and U.S. Department of the Interior, National Park Service, Cooperative Park Studies Unit archaeologists conducted a survey of the same site, a 14(h)(1) selection, and located the area from which de Laguna had removed the human remains. No human remains were located during the 1981 survey, but 10 cultural items were recovered from the burial site: 7 blue and 2 white glass beads, along with 1 small piece of red ochre. Based on archeological evidence, the Campbell Bay site is identified as a postcontact, late 18th-century Chugach Eskimo burial cave. Chugach National Forest is not in possession or control of human remains from these burial sites.

Based on the above-mentioned information, officials of Chugach National Forest have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these 16 cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from specific burial sites of Native American individuals. Officials of Chugach National Forest also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can reasonably be traced between these unassociated funerary objects and the Native Village of Chenega and Native Village of Tatitlek, which are represented by Chugach Alaska Corporation.

This notice has been sent to officials of the Chugach Alaska Corporation, Chenega Corporation, Native Village of Chenega, Tatitlek Corporation, Native Village of Tatitlek, English Bay Corporation, Native Villages of Nanwalek, Port Graham Corporation, Native Village of Port Graham, Eyak Corporation, and Native Village of Eyak. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these unassociated funerary objects should contact Linda Finn Yarborough, Forest Archaeologist, Chugach National Forest, 3301 C Street, Suite 300, Anchorage, AK 99503, telephone (907) 271-2511, facsimile (907) 271-2725, before January 7, 2002. Repatriation of these unassociated funerary objects to the Chugach Alaska Corporation may begin after that date if no additional claimants come forward.

Dated: November 5, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–30349 Filed 12–6–01; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Michael C. Carlos Museum, Emory University, Atlanta, GA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Michael C. Carlos Museum, Emory University, Atlanta, GA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Michael C. Carlos Museum professional staff in consultation with representatives of the Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Kialegee Tribal Town, Oklahoma; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Thlopthlocco Tribal Town, Oklahoma; and United

Keetoowah Band of Cherokee Indians of Oklahoma.

Between 1925 and 1928, human remains representing two individuals were excavated from Mound C, Etowah site, Bartow County, GA, by an unknown person under the direction Warren K. Moorehead, of Phillips Academy, Andover, MA. Prior to 1932 the remains and associated funerary objects were donated to the Michael C. Carlos Museum by Phillips Academy. No known individuals were identified. The 21 associated funerary objects are 2 shell vessels, 1 grinding stone (pestle?), 1 projectile point, 1 whelk columella pendant (?), 1 lot of freshwater pearl beads, and 15 lots of shell beads.

The Etowah site is located on the north bank of the Etowah River, near present-day Cartersville in northeastern Georgia. Archeological evidence documents that the site was inhabited from A.D. 800-1550, spanning the entirety of the Mississippian culture, through its Early, Middle, and Late periods. The site is believed to have housed several thousand inhabitants at its peak, circa A.D. 1300, making it one of the largest Middle Mississippian period settlements in the southeastern United States.

The burials were excavated from Mound C at the Etowah site. Mound C is the third largest of seven mounds at the site and the only burial mound. Radiocarbon 14 dating has dated burials associated with the mound to A.D. 800-1400. There is no absolute archeological proof that links the site with any modern day tribe. However, consultations and studies with the federally recognized Cherokee and Muscogeean (Creek) tribes have indicated that there is a reasonable link to a shared group identity with the Muscogeean-speaking tribes of today based on historical documents, early maps, certain common lifeway traits, and linguistic evidence.

Based on the above-mentioned information, officials of the Michael C. Carlos Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the Michael C. Carlos Museum also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 21 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Michael C. Carlos Museum have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Alabama-Quassarte Tribal Town, Oklahoma; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; and Thlopthlocco Tribal Town, Oklahoma.

This notice has been sent to officials of the Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Thlopthlocco Tribal Town, Oklahoma; and United Keetoowah Band of Cherokee Indians of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Todd Lamkin, Registrar, Michael C. Carlos Museum, Emory University, Atlanta, GA 30322, telephone (404) 727-4456, before January 7, 2002. Repatriation of the human remains and associated funerary objects to the Alabama-Quassarte Tribal Town, Oklahoma; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; and Thlopthlocco Tribal Town, Oklahoma may begin after that date if no additional claimants come forward.

Dated: November 5, 2001.

Robert D. Stearns,

Manager, National NAGPRA Program.

[FR Doc. 01–30348 Filed 12–6–01; 8:45 am]

BILLING CODE 4310–70–S

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–429]

Certain Bar Clamps, Bar Clamp Pads, and Related Packaging, Display and Other Materials; Notice of Commission Decision To Grant-In-Part a Joint Motion for Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has decided to grant-in-part a joint motion for termination of the above-captioned investigation based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: David I. Wilson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–708–2310. General information concerning the Commission also may be obtained by accessing its Internet server (*http://www.usitc.gov*). Hearing-impaired individuals can obtain information concerning this matter by contacting the Commission's TDD terminal at 202–205–1810. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: The Commission instituted the investigation to determine whether there is a violation of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain bar clamps, bar clamp pads, and related packaging, display, and other materials. The complainants were American Tool Companies, Inc., and its subsidiary, Peterson Manufacturing Co., Inc. The respondents were Wolfcraft GmbH and Wolfcraft, Inc. The complainants alleged that the respondents' imported merchandise infringes claims of a U.S. patent owned by complainants, infringes complainants' registered trademark, and misappropriated complainants' trade dress. *See* 65 FR 13307 (Mar. 13, 2001).

The patent-based portion of the complaint was deemed withdrawn and that portion of the investigation was terminated when the Commission granted complainants' motion to amend the complaint and notice of investigation (Motion No. 429–4) (Sept. 6, 2000). *See* Commission Order (Jan. 4, 2001) and Commission Opinion (Jan. 4, 2001).

On March 13, 2001, the ALJ issued his final ID, pursuant to 19 CFR 210.42(a)(1), holding that there is no violation of section 337 in the importation and sale of the respondents' merchandise.

On July 3, 2001, complainants and respondents filed a joint motion (Motion No. 429–10C) in which they sought (a) vacatur of the final ID, (2) termination of the investigation with prejudice and (3) withdrawal of respondents' sanctions motion.

The Commission denied the requests in the joint motion that the investigation be terminated with prejudice, and granted the requests that the ID be vacated and that respondents' motion for sanctions be withdrawn.

The authorities for this action are section 337(c) of the Tariff Act of 1930, 19 U.S.C. 1337(c), and Commission rules 210.46(a) and 210.42(h)(2) and (i), 19 CFR 210.46(a), and 210.42(h)(2) and (i).

All nonconfidential documents filed in the investigation are or will be available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Commission's Office of the Secretary, Dockets Branch, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–1802.

By Order of the Commission.

Issued: December 3, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–30362 Filed 12–6–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–465]

Certain Semiconductor Timing Signal Generator Devices, Components Thereof, and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 5, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Integrated Circuit Systems, Inc. of Valley Forge, Pennsylvania. Supplements to the complaint were filed on November 14 and 26, 2001. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain semiconductor timing signal generator devices, components thereof, and products containing same, by reason of infringement of claim 9 of U.S. Letters Patent 5,036,216 and claim 6 of U.S. Letters Patent 5,703,537. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist order.

ADDRESSES: The complaint and supplements, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's ADD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

FOR FURTHER INFORMATION CONTACT: Jeffrey R. Whieldon, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2580.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2001).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on December 3, 2001, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain semiconductor timing signal generator devices, components thereof, and products containing same, by reason of infringement of claim 9 of U.S. Letters Patent 5,036,216 or claim 6 of U.S. Letters Patent 5,703,537, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Integrated Circuit Systems, Inc., 2435 Boulevard of the Generals, Valley Forge, Pennsylvania 19428.

(b) The respondent is the following company alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Cypress Semiconductor Corp., 3901 North First Street, San Jose, California 95134.

(c) Jeffrey R. Whieldon, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation;

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge; and

(4) The Commission has determined to assign this investigation to Judge Luckern, who is the presiding administrative law judge in Certain Power Saving Integrated Circuits and Products Containing Same, Inv. No. 337–TA–463, in view of the overlapping subject matter in the two investigations. The presiding administrative law judge is authorized to consolidate Inv. No. 337–TA–463 and this investigation if he deems it appropriate.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

By order of the Commission.

Issued: December 3, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–30363 Filed 12–6–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–01–042]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

Time and Date: December 13, 2001 at 2 p.m.

Place: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

Status: Open to the public.

Matters to be Considered:

1. Agenda for future meeting: None.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–267–268 (Review)(Remand)(Top-of-Stove Stainless Steel Cooking Ware from Korea and Taiwan)—briefing and vote. (The Commission is currently scheduled to transmit its views on remand to the Court of International Trade on December 26, 2001.)
5. Inv. No. 731–TA–921 (Final)(Folding Gift Boxes from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on December 21, 2001.)
6. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier announcement of this meeting was not possible.

Issued: December 5, 2001.

By order of the Commission:

Donna R. Koehnke,

Secretary.

[FR Doc. 01–30450 Filed 12–5–01; 2:06 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Passenger list, crew list.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on August 16, 2001 at 66 FR 43031, allowing for a 60-day public comment period. No public comment was received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until January 7, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725—17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Passenger List, Crew List.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–418, Inspection Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is prescribed by the Attorney General for the INS for use by masters, owners or agents of vessels in complying with sections 231 and 251 of the Immigration and Nationality Act.

(5) *As estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 95,000 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 95,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Ste. 1600, Washington, DC 20530.

Dated: November 29, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–30313 Filed 12–6–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under Review: Application for certificate of citizenship on behalf of an adopted child.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in

accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on October 15, 2001, at 66 FR 52456, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until January 7, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725 17th Street, NW., Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extention of currently approved collection.

(2) *Title of the Form/Collection:* Application for Certification of Citizenship in Behalf of an Adopted Child.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–643, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This information collection allows United States citizen parents to apply for a certificate of citizenship on behalf of their adopted alien children.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 11,159 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 11,159 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: November 30, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–30314 Filed 12–6–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Aircraft/vessel report.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on August 8, 2001 at 66 FR 41806, allowing for a 60-day public comment period. No public comment was received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until January 7, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725—17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Aircraft/Vessel Report.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–92, Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary Individuals or Households. This form is part of the manifest requirements of Section 231 and 251 of the Immigration and Nationality Act and is used by the

Immigration and Naturalization Service and other agencies for data collection and statistical analysis.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 720,000 responses at 11 minutes (.183 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 129,600 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Ste. 1600, Washington, DC 20530.

Dated: November 30, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–30315 Filed 12–6–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Immigrant petition by alien entrepreneur.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on July 27, 2001 at 66 FR 39206, allowing for a 60-day public comment period. No public comment was received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until January 7, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725—7th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a Currently Approved Information Collection.

(2) *Title of the Form/Collection:* Immigrant Petition by Alien Entrepreneur.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–526, Immigration Services Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used by qualified immigrants seeking to enter the United States under section 203(b)(5) of the Immigration and Nationality Act for the purpose of engaging in a commercial enterprise, must petition the Immigration and Naturalization Service.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,368 responses at 1 hour and 15 minutes (1.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,710 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW:, Ste. 1600, Washington, DC 20530.

Dated: November 30, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–30316 Filed 12–6–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Application for transmission of citizenship through a grandparent.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on October 15, 2001 at 66 FR 52456, allowing for a 60-

day public comment period. No public comment was received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until January 7, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725—17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Transmission of Citizenship Through a Grandparent.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–600/N–643, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. Section 322 of the Immigration and Nationality Act Technical Corrections Act of 1994 enables a U.S. citizen parent, who is unable to transmit citizenship of his or her children, to use a citizen grandparent's residence for transmission. This form is required so that information on a grandparent's residence may be collected to establish a child's eligibility for naturalization.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 9,641 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,820 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, 425 I Street, NW., Room 4034, Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: November 30, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–30317 Filed 12–6–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Petition to remove conditions on residence.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on September 28, 2001 at 66 FR 49697, allowing for a 60-day public comment period. No public comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until January 7, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725—17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection*: Extension of a currently approved collection.

(2) *Title of the Form/Collection*: Petition to Remove Conditions on Residence.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection*: Form I–751, Adjudications, Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract*: Primary: Individuals or Households. Persons granted conditional residence through marriage to a United States citizen or permanent

resident use this form to petition for the removal of those conditions.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: 118,008 responses at 80 minutes (1.33 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection*: 156,951 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Ste. 1600, Washington, DC 20530.

Dated: November 29, 2001.

Richard A. Sloan,

Department Clearance Office, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–30318 Filed 12–6–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decision, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contracts for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
- MA010001 (Mar. 2, 2001)
- MA010002 (Mar. 2, 2001)
- MA010006 (Mar. 2, 2001)
- MA010007 (Mar. 2, 2001)
- MA010009 (Mar. 2, 2001)
- MA010017 (Mar. 2, 2001)
- MA010018 (Mar. 2, 2001)
- MA010019 (Mar. 2, 2001)

Maine
- ME010001 (Mar. 2, 2001)
- ME010002 (Mar. 2, 2001)

Rhode Island
- RI010001 (Mar. 2, 2001)
- RI010002 (Mar. 2, 2001)

Volume II

Pennsylvania
- PA010007 (Mar. 2, 2001)
- PA010010 (Mar. 2, 2001)

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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*.

They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help Desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 29th day of November, 2001.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–30074 Filed 12–6–01; 8:45 am]
BILLING CODE 4510–27–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–410]

Rochester Gas and Electric Corporation; Nine Mile Point Nuclear Station, Unit No. 2; Notice of Withdrawal of Application for Approval of Indirect Transfer of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) was considering the issuance of an order under 10 CFR 50.80 approving the indirect transfer of Facility Operating License No. NPF–69 for Nine Mile Nuclear Station, Unit No. 2 (NMP–2), to the extent held by Rochester Gas and Electric Corporation (RG&E). The indirect transfer would have resulted from the planned acquisition of RG&E's parent company, RGS Energy Group, Inc. (RGS), by Energy East Corporation (Energy East).

On November 7, 2001, the NMP–2 license, as held by RG&E and others, was transferred to Nine Mile Point Nuclear Station, LLC, as authorized by an NRC Order dated June 22, 2001, as modified by a Supplemental Order dated October 30, 2001. By letter dated November 14, 2001, RG&E withdrew its request for NRC approval of the indirect transfer of the NMP–2 license since RG&E no longer holds the NMP–2 license. The NRC has permitted the withdrawal.

The Commission previously published a Notice of Consideration of Approval of Application Regarding Proposed Merger and Opportunity for a Hearing (66 FR 42687, dated August 14, 2001). No hearing requests or written comments were filed.

For further details with respect to this withdrawal, see RG&E's letter dated June 22, and November 14, 2001, available for public inspection at the Commission's Public Document Room (PDR), at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site (*http://www.nrc.gov/ADAMS/index.htm*). If you do not have access to ADAMS or if there are problems accessing the documents located in ADAMS, contact the NRC PDR reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 30th day of November 2001.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30343 Filed 12–6–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation; Vermont Yankee Nuclear Power Station; Notice of Consideration of Approval of Transfer of Facility Operating License and Conforming Amendment, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the transfer of Facility Operating License No. DPR–28 currently held by Vermont Yankee Nuclear Power Corporation (VYNPC), as owner and licensed operator of Vermont Yankee Nuclear Power Station (VYNPS). The transfer would be to Entergy Nuclear Vermont Yankee, LLC (Entergy Nuclear VY), the proposed owner of VYNPS, and to Entergy Nuclear Operations, Inc. (ENO), the proposed entity to operate VYNPS. The Commission is also considering amending the license for administrative purposes to reflect the proposed transfer.

According to an application for approval filed by VYNPC, Entergy Nuclear VY, and ENO, Entergy Nuclear VY would assume title to the facility following approval of the proposed license transfer, and ENO would operate and maintain VYNPS. VYNPC will transfer all decommissioning trust funds to a decommissioning trust established by Entergy Nuclear VY. No physical changes to the facility or operational changes are being proposed in the application.

The proposed amendment would replace references to VYNPC in the license with references to Entergy Nuclear VY and/or ENO, as appropriate, and make other necessary administrative changes to reflect the proposed transfer.

Entergy Nuclear VY, a Delaware limited liability company, is an indirect wholly owned subsidiary of Entergy Corporation, and an indirect wholly owned subsidiary of Entergy Nuclear Holding Company #3.

ENO, a Delaware corporation, is an indirect wholly owned subsidiary of Entergy Corporation, and a direct wholly owned subsidiary of Entergy Nuclear Holdings Company #2.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By December 27, 2001, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, "Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon David R. Lewis, Esq., Shaw, Pittman, LLP, 2300 N Street, NW., Washington, DC 20037–1128, Phone: (202) 663–8474, Fax: (202) 663–8007, e-mail: *david.lewis@shawpittman.com;* and Douglas Levanway, Esq., Wise Carter Child & Caraway, 600 Heritage Building, 401 East Capitol Street, P.O. Box 651, Jackson, MS 39201–5519, Phone: (601) 968–5524, Fax: (601) 968–5519, e-mail: *del@wisecarter.com;* the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: *ogclt@nrc.gov*); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by January 7, 2002, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

Further details with respect to this action, see the initial application dated October 5, 2001, and supplements dated November 7 and November 8, 2001, available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet

at the NRC Web site, *http://www.nrc.gov/ADAMS/index.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room (PDR) Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland this 3rd day of December 2001.

For the Nuclear Regulatory Commission.

Robert M. Pulsifer,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30342 Filed 12–6–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–155]

Consumers Energy Company; Big Rock Point Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering approval of a request to dispose of demolition debris in accordance with Title 10 of the Code of Federal Regulations (10 CFR) section 20.2002 for Facility Operating License No. DPR–6, issued to Consumers Energy Company, (the licensee), for the possession of the Big Rock Point (BRP) Plant, located in Charlevoix County, Michigan. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would approve the disposal of BRP Plant demolition debris that could contain trace quantities of licensed materials in a State of Michigan landfill. The debris would consist of flooring materials, concrete, rebar, roofing materials, structural steel, soils associated with digging up foundations, and concrete and/or asphalt pavement or other similar solid materials originating from decommissioning activities. A radiological survey process would be used to determine if the debris is acceptable for landfill disposal. The request for approval is submitted pursuant to 10 CFR 20.2002 due to the potential presence of licensed material in the debris.

The proposed action is in accordance with the licensee's application requesting approval dated March 14, 2001, as supplemented by letters dated May 18 and June 20, 2001.

The Need for the Proposed Action

The proposed action is needed to dispose of demolition debris that may contain trace quantities of licensed material in a State of Michigan landfill prior to license termination as opposed to (1) terminating the license with the material remaining onsite (either with structures intact or demolished) in accordance with 10 CFR 20, subpart E, or (2) handling the debris as low level radioactive waste and shipping it to a low level waste facility. As stated in the proposal, the licensee does not intend to make this submittal for intentional disposal of radioactive waste, but recognizes that a potential exists for trace quantities of licensed material to be present at levels below instrument detection capabilities. Disposal of the demolition debris in the manner proposed is protective of public health and safety, is consistent with as low as reasonably achievable, and is the most cost-effective alternative.

Environmental Impacts of the Proposed

The NRC has completed its evaluation of the proposed action and concludes that the environmental impacts of processing the total waste projected for BRP (635,100 cubic feet), which includes the 563,000 cubic feet of demolition debris proposed to be sent to a State of Michigan landfill, are bounded by the NUREG–0586, "Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities," (GEIS) evaluation of 18,975 cubic meters (670,096 cubic feet) of waste disposal for a generic boiling water reactor. Adherence to the radiological survey process would ensure that the potential radiological dose posed by the demolition debris to a transport worker, a landfill worker, or a member of the public is conservatively estimated at a maximum of 1.0 millirem/year.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in (1) terminating the license for unrestricted use in accordance with 10 CFR part 20, subpart E, with the demolition debris remaining onsite (either with structures intact or demolished), or (2) handling the debris as low level radioactive waste and shipping it to a low level waste facility. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in BRP's Environmental Report for Decommissioning, dated February 27, 1995, or in the GEIS.

Agencies and Persons Consulted

On May 22, 2001, the staff consulted with the Michigan State official, Mr. David W. Minnaar of the Michigan Department of Environmental Quality, Drinking Water and Radiological Protection Division, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated March 14, 2001, as supplemented by letters dated May 18 and June 20, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public

Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 3rd day of December, 2001.

David J. Wrona,

Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30344 Filed 12–6–01; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") is requesting that the Office of Management and Budget ("OMB") extend approval, under the Paperwork Reduction Act, of the collection of information under its regulation on Payment of Premiums (29 CFR part 4007), including Form 1–ES, Form 1–EZ, Form 1, and Schedule A to Form 1, and related instructions (OMB control number 1212–0009). The collection of information also includes a certification (on Form 1–EZ and on Schedule A) of compliance with requirements to provide certain notices to participants under the PBGC's regulation on Disclosure to Participants (29 CFR part 4011). This notice informs the public of the request for OMB approval and solicits public comment on the collection of information.

DATES: Comments should be submitted by January 7, 2002.

ADDRESSES: Comments should be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503. The request for extension (including the collection of information) will be available for public inspection at the Communications and Public Affairs Department of the Pension Benefit Guaranty Corporation, suite 240, 1200 K Street, NW., Washington, DC 20005–4026, between 9 a.m. and 4 p.m. on business days.

Copies of the request for extension (including the collection of information) may be obtained without charge by writing to the PBGC's Communications and Public Affairs Department at the address given above or calling 202–326–4040. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4040.) The premium payment regulation can be accessed on the PBGC's Web site at *www.pbgc.gov*.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Deborah C. Murphy, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4024.)

SUPPLEMENTARY INFORMATION: Section 4007 of Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") requires the Pension Benefit Guaranty Corporation ("PBGC") to collect premiums from pension plans covered under Title IV pension insurance programs. Pursuant to ERISA section 4007, the PBGC has issued its regulation on Payment of Premiums (29 CFR part 4007). Section 4007.3 of the premium payment regulation requires plans, in connection with the payment of premiums, to file certain forms prescribed by the PBGC, and section 4007.10 requires plans to retain and make available to the PBGC records supporting or validating the computation of premiums paid.

The forms prescribed are PBGC Form 1–ES, Form 1–EZ, and Form 1 and (for single-employer plans only) Schedule A to Form 1. Form 1–ES is issued, with instructions, in the PBGC's Estimated Premium Payment Package. Form 1–EZ, Form 1 and Schedule A are issued, with instructions, in the PBGC's Annual Premium Payment Package.

The premium forms are needed to determine the amount and record the payment of PBGC premiums, and the submission of forms and retention and submission of records are needed to enable the PBGC to perform premium audits. The plan administrator of each pension plan covered by Title IV of ERISA is required to file one or more of the premium payment forms each year. The PBGC uses the information on the premium payment forms to identify the plans paying premiums and to verify whether plans are paying the correct amounts. That information and the retained records are used for audit purposes.

In addition, section 4011 of ERISA and the PBGC's regulation on Disclosure to Participants (29 CFR part 4011) require plan administrators of certain underfunded single-employer pension plans to provide an annual notice to plan participants and beneficiaries of the plans' funding status and the limits on the Pension Benefit Guaranty Corporation's guarantee of plan benefits. The participant notice requirement only applies (subject to certain exemptions) to plans that must pay a variable rate premium. In order to monitor compliance with Part 4011, plan administrators must indicate on Form 1–EZ or Schedule A to Form 1 that the participant notice requirements have been complied with.

The collection of information under the regulation on Payment of Premiums, including Form 1–ES, Form 1–EZ, Form 1, and Schedule A to Form 1, and related instructions has been approved by OMB under control number 1212–0009. This collection of information also includes the certification of compliance with the participant notice requirements (but not the participant notices themselves). The PBGC is revising the forms and instructions to clarify them and make them easier to use. The PBGC is requesting that OMB extend its approval of this collection of information, as revised, for three years from the date of approval. (The participant notices constitute a different collection of information that has been separately approved by OMB.) An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The PBGC estimates that it receives responses annually from about 37,700 plan administrators and that the total annual burden of the collection of information is about 2,540 hours and $9,657,780.

Issued in Washington, DC, this 4th day of December, 2001.

Stuart A. Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 01–30382 Filed 12–6–01; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27471]

Filings Under the Public Utility Holding Company Act of 1935, as amended ("Act")

November 30, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 26, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After December 26, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Allegheny Energy, Inc., et al. (70–9897)

Allegheny Energy, Inc. ("Allegheny"), a registered holding company; Allegheny Ventures, Inc. ("Ventures"), a direct wholly owned nonutility subsidiary company of Allegheny, both located at 10435 Downsville Pike, Hagerstown, Maryland 21740; Allegheny Energy Supply Company, L.L.C. ("AE Supply"), 4350 Northern Pike, Monroeville, Pennsylvania 15146–2841, a direct wholly owned generating subsidiary company of Allegheny; and Allegheny Energy Global Markets, L.L.C. ("AE Global"), 10435 Downsville Pike, Hagerstown, Maryland 21740, a direct wholly owned subsidiary of AE Supply that will cease to exist upon completion of the requested transactions, ("Applicants"), have filed an application-declaration ("Application") under sections 3(a)(2), 6(a), 7, 9(a), 10, 12(b), 12(c), 12(d), 32 and 33 of the Act, and rules 43, 44, 45, 46, 53, 54, 90 and 91 under the Act.

I. Background

A. Summary

Applicants request financing authority and request authority to increase its investment in exempt wholesale generators ("EWGs") and foreign utility companies ("FUCOs"). In addition, Applicants seek authority to restructure AE Supply, which includes among other things: reincorporating AE Supply in Maryland; merging AE Global,[1] an energy trading subsidiary formed under rule 58, into the restructured AE Supply ("New AE Supply"); and transferring some of Allegheny's membership interests in generation to New AE Supply. New AE Supply also seeks a section 3(a)(2) exemption from registration.

B. The Allegheny System

Allegheny is a diversified energy company. The Allegheny companies consist of three regulated electric public utility companies, West Penn Power Company ("West Penn"), Monongahela Power Company ("Monongahela Power") and The Potomac Edison Company ("Potomac Edison"), and a regulated public utility natural gas company, Mountaineer Gas Company, which is a wholly owned subsidiary of Monongahela Power (collectively, "Operating Companies and d/b/a, "Allegheny Power"). The subsidiaries of Allegheny, other than the Operating Companies and AE Supply are referred to as ("Other Subsidiaries").

AE Supply is an electric generating company for the Allegheny system. AE Supply is a public utility company within the meaning of the Act. AE Supply is not a utility for purposes of state regulation nor is it subject to regulation as an electric public utility in any of the states in which it operates. It also manages and operates electric generation owned by the regulated utilities d/b/a Allegheny Power. AE Supply owns, operates, and markets competitive retail and wholesale electric generation.

Allegheny Ventures, a nonutility subsidiary of Allegheny, actively invests in and develops energy-related projects through its wholly owned subsidiary Allegheny Energy Solutions. Allegheny Ventures also invests in and develops telecommunications projects through Allegheny Communications Connect, Inc., an exempt telecommunications company ("ETC") under section 34 of the Act.

C. Existing Financing Authority

Under a series of orders ("Money Pool and Financing Orders"),[2] the Allegheny system companies were authorized to engage in certain financing transactions and to establish and participate in a money pool, among other things. Also, by order dated April 20, 2001, HCAR No. 27383, the Commission authorized Allegheny and/or AE Supply to issue to unaffiliated third parties guarantees, short-term debt, and long-term debt through July 31, 2005, up to an aggregate amount of $430 million.

II. Requested Financing Authority

A. Summary

Applicants state that increased financing authority is needed to build new electric generation facilities and to purchase existing generation facilities. Allegheny states that its plans to acquire and/or build additional generating facilities, if consummated, would bring Allegheny's aggregate investment in EWGs and FUCOs in excess of 50% of its consolidated retained earnings.

Through July 31, 2005 ("Authorization Period"), Applicants seek authority for: Allegheny to issue up to $1 billion in equity securities; Allegheny and AE Supply to issue short-term debt and long-term debt in an aggregate amount up to $4 billion; and Allegheny and/or its subsidiaries to issue up to $3 billion in guarantees. The total debt and equity authorization requested is $4 billion with the option to utilize up to $1 billion for equity issuance. Also, Applicants request authorization to form capital investment subsidiaries ("Capital Corps"), and for Applicants to engage in intrasystem financings with each other, with the Other Subsidiaries, and between the Other Subsidiaries in an aggregate amount not to exceed $4 billion outstanding during the Authorization Period ("Intrasystem Financing Limit"). The aggregate amount of financing obtained by Allegheny during the Authorization Period from issuance and sale of preferred securities, when combined with the amount of common stock, short-term debt, long-term debt, and guarantees, issued and then outstanding, shall not exceed $7 billion ("Aggregate Financing Limit").

[1] AE Supply formed AE Global to acquire Global Energy markets from Merrill Lynch in S.E.C. File No. 70–9833.

[2] HCAR No. 25462 (January 29, 1992); HCAR No. 25481 (February 28, 1992); HCAR No. 25581 (July 14, 1992); HCAR No. 25919 (November 5, 1993); HCAR No. 26418 (November 28, 1995); HCAR No. 26506 (April 16, 1996); HCAR No. 26804 (December 23, 1997); HCAR No. 27030 (May 19, 1999); HCAR No. 27084 (October 8, 1999); and HCAR No. 27199 (July 14, 2001).

The proceeds will be used for general corporate purposes, including: (1) Payments, redemptions, acquisitions and refinancing of outstanding securities issued by Applicants; (2) acquisitions of and investments in EWGs and FUCOs, provided that Allegheny's aggregate investment in these projects does not exceed the requested limit;[3] (3) loans to, and investments in, other system companies; and (4) other lawful corporate purposes permitted under the Act. Proceeds may also be used to invest in, or acquire interests under rule 58 to the extent permitted by rule 58 ("Rule 58 Companies").

B. Financing Parameters

Financings by the Applicants will be subject to the following conditions ("Financing Conditions"): (1) During the Authorization Period, the common stock equity of Allegheny, on a consolidated basis, and of each of the Operating Companies, individually, will not fall below 30% of its total capitalization; (2) Allegheny will maintain its senior unsecured long-term debt rating at investment grade level, as established by a nationally recognized statistical rating organization; (3) the effective cost of money on long-term debt borrowings will not exceed the greater of (a) 400 basis points over comparable term U.S. Treasury securities and (b) the gross spread over U.S. Treasuries that is consistent with similar securities of comparable credit quality and maturities issued by other companies; (4) the effective cost of money on short-term debt borrowings will not exceed the greater of (a) 300 basis points over the comparable term London Interbank Offered Rate ("LIBOR") and (b) a gross spread over LIBOR that is consistent with similar securities of comparable credit quality and maturities issued by other companies; (5) the dividend rate on any series of preferred securities will not exceed the greater of (a) 500 basis points over the yield to maturity of a comparable term U.S. Treasury security and (b) a rate that is consistent with similar securities of comparable credit quality and maturities issued by other companies; (6) the underwriting fees, commissions, and other similar remuneration paid in connection with the non-competitive issue, sale or distribution of a security will not exceed 5% of the principal or total amount of the security being issued; (7) the maturity of long-term debt will be not less than one year and not exceed thirty years; and (8) short-term debt will have a maturity of not less than one day and not more than 364 days.

C. Short-Term and Long-Term Debt

Allegheny and AE Supply request authorization, through the Authorization Period, to issue and sell an aggregate of up to $4 billion of short-term debt and/or long-term debt at any time outstanding to non-associate banks and/or other parties. Debt of AE Supply may be nonrecourse to Allegheny. Also, through the Authorization Period, Allegheny seeks authorization to transfer some or all of the debt proceeds into AE Supply in the form of contributions or interest-bearing loan(s).

D. Common and Preferred Stock

Allegheny proposes to issue, through the Authorization Period, up to $1 billion at any time outstanding of equity securities. Allegheny may issue common stock or options, warrants or other stock purchase rights exercisable for common stock in public or privately negotiated transactions for cash or as consideration for the equity securities or assets of other companies, provided that the acquisition of any such equity securities or assets has been authorized in this proceeding or in a separate proceeding or is exempt under the Act or the rules under the Act. Allegheny common stock issued in connection with acquisitions of companies shall be valued, for purposes of determining compliance with the Aggregate Financing Limit, at its market value as of the date of issuance (or if appropriate at the date of a binding contract providing for the issuance).

Allegheny seeks to have the flexibility to issue its authorized preferred stock or other types of preferred securities (including, without limitation, trust preferred securities or monthly income preferred securities) directly or indirectly through one or more special-purpose financing subsidiaries organized by Allegheny. Preferred stock or other types of preferred securities may be issued in one or more series with such rights, preferences, and priorities as may be designated in the instrument creating each series, as determined by Allegheny's board of directors. Dividends or distributions on preferred securities will be made periodically and to the extent funds are legally available for this purpose, but may be made subject to terms which allow the issuer to defer dividend payments for specified periods. Preferred securities may be convertible or exchangeable into shares of Allegheny common stock or unsecured indebtedness.

Stock financings may be affected in accordance with underwriting agreements of a type generally standard in the industry. Public distributions may be made through private negotiation with underwriters, dealers or agents or effected through competitive bidding among underwriters. In addition, sales may be made through private placements or other non-public offerings to one or more persons. All stock sales will be at rates or prices and under conditions negotiated or based upon, or otherwise determined by, competitive capital markets.

E. Guarantees

Allegheny proposes to enter into Guarantees from time to time with respect to the obligations of the Operating Companies, AE Supply and the Other Subsidiaries of Allegheny ("Allegheny Guarantees") during the Authorization Period in an aggregate principal amount, together with the Subsidiary Guarantees (as defined below), not to exceed $3 billion ("Aggregate Guarantee Limitation"), based on the amount at risk, outstanding at any one time, exclusive of (1) any guarantees or credit support arrangements authorized by the Commission in separate proceedings and (2) any guarantees exempt under rule 45(b). Allegheny seeks to provide credit support in connection with AE Supply's purchase and operation of generation assets and in connection with the trading by AE Global in the ordinary course of AE Global's energy marketing and trading activities and for other purposes.

In addition, the Applicants request authorization for AE Supply and the Other Subsidiaries to enter into Guarantees from time to time, with respect to the obligations of any of the Other Subsidiaries, as may be appropriate, to enable AE Supply and/or the Other Subsidiaries to carry on their respective businesses ("Subsidiary Guarantees") in an aggregate principal amount, together with the Allegheny Guarantees, not to exceed the Aggregate Guarantee Limitation, based on the amount at risk, outstanding at any one time. The Aggregate Guarantee Limitation excludes: (1) Any such guarantees or credit support arrangements authorized by the Commission in separate proceedings and (2) any such guarantees exempt under rule 45(b).

[3] Allegheny seeks authority to apply the proceeds of equity issuances, short-term debt, long-term debt and guarantees to increase its "aggregate investment" in EWGs and FUCOs up to $2.0 billion, or 207% of its consolidated retained earnings. Applicants state that Allegheny's aggregate investment in EWGs and FUCOs as of March 31, 2001 was approximately $462 million, or 49% of its consolidated retained earnings.

Allegheny, AE Supply, or the Other Subsidiaries which issues a guarantee may charge a fee for each guarantee it provides, which fee will not exceed the cost of obtaining the liquidity necessary to perform the guarantee.

F. Capital Corporations

Applicants seek authorization to form one or more Capital Corps as direct or indirect subsidiaries. Capital Corps will be limited liability companies, corporations, trusts, partnerships or other entities formed to engage in tax efficient and financially efficient transactions with Applicants or any of their respective subsidiaries for the acquisition of EWGs and FUCOs, Rule 58 Companies, and other general corporate purposes permitted under the Act.

Applicants seek authorization through the Authorization Period to: (1) Make capital contributions to the Capital Corps in exchange for equity ownership; (2) have Capital Corps make interest-bearing loan(s) of up to $4 billion to AE Supply evidenced by note(s); and (3) permit Capital Corps, as the loan(s) are repaid, to make additional borrowings available to AE Supply and its subsidiaries from the interest and principal payments it receives. Any intrasystem loans will count against the Intrasystem Financing Limit. These borrowings will be used for authorized acquisitions, EWGs and FUCOs, Rule 58 Companies, or other corporate purposes. The Applicants state that the loans will not affect Applicants' debt-equity ratio and will provide for a tax efficient capital structure.

Applicants also request authorization for Capital Corps to serve as financing entities and to issue debt and equity securities, including trust preferred securities, to third parties in the event the issuances are not exempt under rule 52. Specifically, Applicants request authorization to: (1) Issue debentures or other evidences of indebtedness to financing entities in return for the proceeds of the financing; (2) acquire voting interests or equity securities issued by the financing entities to establish ownership of the financing entities; and (3) guarantee financing entities' obligations.

Applicants and the Other Subsidiaries may enter into expense agreements with their respective financing entity, and they would agree to pay all expenses of the financing entity.

Any amounts issued by the financing entities to third parties under these authorizations will count against the Aggregate Financing Limit. However, the underlying intrasystem mirror debt and guarantee will not count against any applicable Intrasystem Financing Limit or the separate guarantee limits applicable to Allegheny or the subsidiary.

G. Intrasystem Financings

Applicants request authorization to engage in intrasystem financings with each other, with the Other Subsidiaries, and between the Other Subsidiaries in an aggregate amount not to exceed $4 billion outstanding during the Authorization Period. Financings will be in the form of cash capital contributions, open account advances and/or loans. The interest rate on intrasystem loans payable by a borrowing company will parallel the cost of capital of the lending company. This request excludes: (1) Financings that are exempt under rules 45(b) and 52, as applicable; and (2) amounts outstanding from time to time under the Money Pool and Financing Orders. Loans made by the Capital Corps to AE Supply and its subsidiaries will count against this Intrasystem Financing Limit to the extent described.

H. Interest Rate and Currency Risk Management

Applicants request authority to enter into, perform, purchase and sell financial instruments intended to manage the volatility of interest rates and currency exchange rates, including but not limited to interest rate and currency swaps, caps, floors, collars and forward agreements or any other similar agreements ("Instruments") in connection with the issuance and sale of the short-term debt and long-term debt described. Applicants will employ Instruments as a means of prudently managing the interest rate and currency risks associated with any of their outstanding debt issued under this Application or an applicable exemption by, in effect, synthetically (1) Converting variable rate debt to fixed rate debt, (2) converting fixed rate debt to variable rate debt, (3) limiting the impact of changes in interest rates resulting from variable rate debt; and (4) hedging currency exposures of foreign currency denominated debt. In addition, Applicants may utilize Instruments for planned issuances of debt securities in order to lock-in current interest rates and or to manage interest rate and currency risks in future periods. The notional amount of any Instruments will not exceed that of the underlying debt instrument. Applicants will not engage in "speculative" transactions, and agree to only enter into Instruments with counterparties which have, or whose obligations are guaranteed by a party with, senior debt ratings, as published by Standard & Poor's, that are greater than or equal to "BBB+," or an equivalent rating from Moody's Investors Service, Inc. or Fitch IBCA, Inc. Applicants represent that the Instruments to be entered into will qualify for hedge accounting treatment under GAAP. Allegheny will comply with the financial disclosure requirements of the Financial Accounting Standards Board.

I. Payment of Dividends

Applicants request authorization for AE Supply and the Other Subsidiaries to pay dividends, from time to time through the Authorization Period, out of capital and unearned surplus (including revaluation reserve), to the extent permitted under applicable corporate law. Applicants anticipate that there will be situations in which one or more of their respective direct or indirect subsidiaries will have unrestricted cash available for distribution in excess of any such company's current and retained earnings. In such situations, the declaration and payment of a dividend would have to be charged, in whole or in part, to capital or unearned surplus.

III. Request To Reorganize AE Supply

Applicants seek authority to restructure AE Supply ("Restructuring"). First, AE Supply will be reincorporated in Maryland by forming a new corporation in Maryland ("New AE Supply") and then merging AE Supply with and into New AE Supply. New AE Supply is the surviving entity.

In addition, the proposed Restructuring, will include: (a) The transfer from Allegheny to New AE Supply of, and the reorganization of, Allegheny Energy Supply Hunlock Creek, LLC ("Hunlock Creek")[4] and Green Valley Hydro, LLC ("Green Valley");[5] (b) the reorganization of Allegheny Energy Supply Conemaugh, LLC ("Conemaugh")[6] and Allegheny

[4] The transfer of Hunlock Creek will be made as a capital contribution in the amount of the book value of approximately $21 million. New AE Supply will form a new single-member Delaware limited liability company to be referred to as Hunlock Creek II. New AE Supply proposes to merge Hunlock Creek with and into Hunlock Creek II, with Hunlock Creek II as the surviving entity.

[5] The transfer of Green Valley will be made as a capital contribution in the amount of the book value of approximately $2 million. New AE Supply will form a new single-member Virginia limited liability company to be referred to as Green Valley II. New AE Supply proposes to merge Green Valley with and into Green Valley II, with Green Valley II as the surviving entity.

[6] New AE Supply will form a single-member Delaware limited liability company, to be referred to as Conemaugh II. New AE Supply proposes to

Continued

Generating Company ("AGC");[7] and (c) the merger of AE Global with and into New AE Supply.

New AE Supply seeks a section 3(a)(2) exemption from registration under the Act. As a Maryland corporation, New AE Supply will be predominantly a public utility company whose operations do not extend beyond the state of organization and states contiguous thereto. New AE Supply will operate in Maryland, its state of incorporation, and in Virginia, West Virginia, and Pennsylvania, which are all contiguous to Maryland.

New AE Supply will be a holding company solely through its ownership of the following public utility companies: (a) Conemaugh; (b) Green Valley; and (c) AGC. Each of these entities was formed under the laws of Delaware and is exclusively engaged in selling power at wholesale.[8]

As part of the restructuring, Allegheny Energy Service Corporation ("AESC") proposes to expand the scope of services to be provided to New AE Supply to include energy trading activities. AESC will engage in the trading activities solely as agent on behalf of New AE Supply. All trades will be booked at New AE Supply, and will not affect the financial condition or operations of AESC or the Operating Companies. AESC and New AE Supply, as successor to AE Supply, request authority to revise the service agreement to provide for AESC to effect trading transactions for and on behalf of New AE Supply involving electricity and other types of energy commodities, and hedging and/or financial transactions, including derivatives, future contracts, options and swaps, including, without limitation, electric power, oil, natural and manufactured gas, emission allowances, coal, refined petroleum products and natural gas liquids and to provide incidental related services, such as fuel management, storage and procurement services. All services will be provided by AESC at cost computed in accordance with rules 90 and 91 under the Act.

merge Conemaugh with and into Conemaugh II, with Conemaugh II as the surviving entity.

[7] New AE Supply will form a single-member Virginia limited liability company, to be referred to as AGC, LLC. New AE Supply proposes to merge AGC with and into AGC, LLC, with AGC, LLC as the surviving entity. The purpose of the reorganization of AGC is to effect a "liquidation" of AGC for tax purposes, which may enhance the tax treatment to Allegheny in the future, while maintaining AGC, LLC as a separate legal entity.

[8] At an appropriate time, AE Supply will seek to certify each entity as an EWG under section 32 of the Act. In the interim, they will remain public utility companies under the Act.

Alabama Power Company (70–9955)

Alabama Power Company ("Alabama Power"), 600 North 18th Street, Birmingham, Alabama 35291, a wholly owned public utility subsidiary of The Southern Company, a registered holding company, has filed a declaration under section 12(d) of the Act, and rules 44 and 54 under the Act.

Alabama Power proposes to sell, from time to time prior to December 31, 2006, distribution line poles located in Alabama to non-affiliated telephone and other non-electric utility companies ("Purchasers"). Alabama Power would convey the poles to the Purchasers by a bill of sale for a negotiated cash sale price that would exceed Alabama Power's average book value for the number of distribution poles of each class being sold, and the aggregate price of the sales would not exceed $30 million. The conveyance would include a release of the poles from Alabama's first mortgage indenture lien. The $30 million authority requested is in addition to any exceptions otherwise provided by rules under the Act relating to sales of utility securities or assets.

Alabama Power and each Purchaser have or will have entered into a joint use agreement under which each party may attach facilities to poles belonging to the other party, with each party obligated to the other for rental of space on poles owned by the other party. The proposed sale of poles is for the purpose of equalizing the rental payments under those joint use agreements, and it is anticipated that there will be no substantial change in the use of the poles.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30324 Filed 12–6–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25305; File No. 812–12544]

Touchstone Variable Series Trust, *et al.*

December 3, 2001.

AGENCY: Securities and Exchange Commission (the "Commission").

ACTION: Notice of an application for an order of exemption pursuant to Section 6(c) of the Investment Company Act of 1940 (the "1940 Act") granting relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2 and 6e–3(T) thereunder.

Applicants: Touchstone Variable Series Trust and Touchstone Advisors, Inc. (collectively, "Applicants").

Summary of Application: Applicants seek an order of exemption from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder to the extent necessary to permit shares of any current or future series of Touchstone Variable Series Trust ("TVST") and shares of any other investment company that is offered as a funding medium for insurance products and for which Touchstone Advisors, Inc. ("Touchstone Advisors" or the "Manager") or any affiliates thereof may now or in the future serve as manager, investment adviser, sub-adviser, administrator, principal underwriter or sponsor (TVST and such future investment companies are collectively referred to herein as the "Trusts" and individually as a "Trust"; the current and future series of the Trusts are collectively referred to herein as the "Funds" and individually as a "Fund") to be sold and held by: (1) Variable annuity and variable life insurance separate accounts ("Participating Separate Accounts") of both affiliated and unaffiliated life insurance companies ("Participating Insurance Companies"); (2) qualified pension and retirement plans ("Participating Plans") outside the separate account context; and (3) the Manager and any other affiliated and unaffiliated registered investment advisor (each, a "Subadvisor") retained by the Manager to manager the portfolio securities of a Touchstone Fund, and any affiliate of the Manager and affiliates of the Subadvisors (collectively, the "Participating Investors").

Filing Date: The original application was filed on June 5, 2001. An amended and restated application was filed on November 28, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 28, 2001, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a

hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Applicants, c/o Frost Brown Todd LLC, 2200 PNC Center, 201 East Fifth Street, Cincinnati, Ohio 45202, Attention: Karen M. McLaughlin, Esq. or Kevin L. Cooney, Esq.

FOR FURTHER INFORMATION CONTACT: Alison Toledo, Senior Counsel, or Lorna Macleod, Branch Chief, Office of Insurance Products, Division of Investment Management at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC, 20549–0102 (202–942–8090).

Applicants' Representations

1. TVST is a Massachusetts business trust that is registered under the 1940 Act as an open-end diversified management investment company. TVST currently consists of, and offers shares of beneficial interests in, separate portfolios (each a "Touchstone Fund" and collectively the "Touchstone Funds"), each of which has its own investment objectives and policies. TVST may in the future issue shares of additional portfolios.

2. Touchstone Advisors is registered as an investment adviser under the Investment Advisers Act of 1940, as amended, and is the investment adviser for each Touchstone Fund. Touchstone Advisors in turn has retained Subadvisors to manage the portfolio securities of each Touchstone Fund.

3. Shares of the Funds will be offered to Participating Separate Accounts of Participating Insurance Companies to serve as investment vehicles for various types of insurance products, which may include variable annuity contracts, single premium variable life insurance contracts, scheduled premium variable life insurance contracts, modified single premium variable life insurance policies and flexible premium variable life insurance contracts.

4. Each Participating Insurance Company will have the legal obligation to satisfy all requirements applicable to it under both state and federal securities laws in connection with any variable contract issued by such company. Each Participating Insurance Company will enter into a fund participation agreement with the applicable Trust on behalf of the Fund in which the Participating Insurance Company invests. With respect to the Participating Insurance Companies, the role of the funds, insofar as the federal securities laws are applicable, will be limited to offering shares to Participating Separate Accounts and fulfilling any conditions the Commission may impose upon granting the order requested by this Application.

5. Shares of the Funds will also be offered to Participating Plans. It is anticipated that Participating Plans may choose a Fund (or any one or more series thereof) as the sole investment under the Participating Plan or as one of several investments. Participating Plan participants may or may not be given an investment choice among investment alternatives, depending on the plan itself. Shares of the Funds sold to Participating Plans would be held by the trustee(s) of these plans as mandated by Section 403(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). With respect to the Participating Plans, insofar as federal securities laws are applicable, the role of the Funds will be limited to offering shares to Participating Plans and fulfilling any conditions the Commission may impose upon granting the order requested by this Application.

6. Shares of each Fund also may be offered to the Participating Investors. When the Participating Investors invest in the Funds, they will have the legal obligation of satisfying all applicable requirements under the federal securities laws and other applicable laws. With respect to the Participating Investors, insofar as the federal securities laws are applicable, the role of the Funds will be limited to offering shares to the Participating Investors and fulfilling any conditions the Commission may impose upon granting the order requested by this Application.

Applicants' Legal Analysis

1. Applicants request an order of the Commission pursuant to Section 6(c) of the 1940 Act exempting the Participating Separate Accounts of Participating Insurance Companies (and, to the extent necessary, any investment adviser, sub-adviser, principal underwriter, manager, administrator or sponsor of a Fund) from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act, and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder (and any permanent rule comparable to Rule 6e–3(T)), to the extent necessary to permit shares of the Funds to be offered and sold to, and held by: (a) Variable annuity separate accounts and variable life insurance separate accounts (including both scheduled and flexible premium variable life insurance separate accounts) of the same life insurance company or of affiliated life insurance companies; (b) separate accounts of unaffiliated life insurance companies (including both variable annuity separate accounts and variable life insurance separate accounts); (c) trustees of qualified pension or retirement plans; and (d) the Participating Investors.

2. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction from the provisions of the 1940 Act and rules promulgated thereunder, if and to the extent that, such exemption is necessary or appropriate in the public interest or for the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

3. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–2(b)(15) under the 1940 Act provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as an investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to disqualification enumerated in Section 9(a)(1) or (2) of the 1940 Act. Rules 6e–2(b)(15)(i) and (ii) provide partial exemptions from Section 9(a). Rule 6e–2(b)(15)(iii) provides a partial exemption from Sections 13(a), 15(a) and 15(b) of the 1940 Act to the extent those sections have been deemed by the Commission to require "pass-through" voting with respect to an underlying fund's shares.

4. The exemptions granted by Rule 6e–2(b)(15) are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies that offer their shares "exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company * * *." Therefore the relief granted by Rule 6e–2(b)(15) is not available if the scheduled premium variable life insurance separate account owns shares of a management company that also offers its shares to a flexible premium variable life insurance or variable annuity separate account of the same insurance company or any other insurance company. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of the same life insurance company or

of any affiliated life insurance company is referred to as "mixed funding."

5. In addition, applicants assert that the relief granted by Rule 6e–2(b)(15) is not available if the scheduled premium variable life insurance separate account owns shares of an underlying management company that also offers its shares to separate accounts funding variable contracts of one or more unaffiliated life insurance companies. The use of a common management company as the underlying investment medium for variable annuity and/or variable life insurance separate accounts of one insurance company and separate accounts funding variable contracts of one or more unaffiliated life insurance companies is referred to as "shared funding."

6. Moreover, although the relief granted by Rule 6e–2(b)(15) is not affected by the purchase of shares of the Funds by Participating Plans and the Participating Investors, because the relief granted by Rule 6e–2(b)(15) is available only where shares are offered exclusively to variable life insurance separate accounts, additional exemptive relief may be necessary if the shares of the Funds are also sold to Participating Plans or to the Participating Investors.

7. In connection with the funding of flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–3(T)(b)(15) under the 1940 Act provides partial exemptions from Sections 13(a), 15(a), and 15(b) of the 1940 Act to the extent that those sections have been deemed by the Commission to require "pass-through" voting with respect to an underlying fund's shares. In addition, Rule 6e–3(T)(b)(15) provides a partial exemption from Section 9(a) to the extent that such section would render a company ineligible to serve as an investment adviser or principal underwriter of any registered open-end management investment company, where an officer, director, employee or affiliated person of such company is subject to a disqualification enumerated in Section 9(a), but the individual subject to such disqualification does not participate directly in the management or administration of the underlying management investment company.

8. The exemptions granted to a separate account by Rule 6e–3(T)(b)(15) are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares "exclusively to separate accounts of the life insurer, or of any affiliated life insurance company offering either scheduled premium variable life insurance contracts or flexible premium variable life insurance contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company." Therefore, Rule 6e–3(T)(b)(15) grants the exemptions if the underlying fund engages in mixed funding for a flexible premium variable life insurance separate account, subject to certain conditions, but does not permit shared funding.

9. Applicants asset that the relief provided by Rule 6e–3(T) is not relevant to the purchase of shares of the Funds by Participating Plans or by the Participating Investors. However, because the relief granted by Rule 6e–3(T)(b)(15) is available only where shares of the underlying fund are offered exclusively to separate accounts, or to life insurers in connection with the operation of a separate account, additional relief may be necessary if shares of the Funds are also sold to Participating Plans or to the Participating Investors.

10. Applicants assert that if the Funds were to sell their shares only to Participating Plans or to the Participating Investors, no exemptive relief would be necessary. None of the relief provided for in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) relates to qualified pension and retirement plans or to a registered investment company's ability to sell its shares to such plans or to the Participating Investors. Exemptive relief in connection with the sale of shares of the Funds to Participating Plans or the Participating Investors is requested only because Applicants are seeking relief under Rules 6e–2 and 6e–3(T) and do not wish to be denied such relief if the Funds sell shares to Participating Plans or to the Participating Investors.

11. Applicants state that the current tax law permits the Funds to sell their shares to the Participating Plans and to the Participating Investors. Section 817(h) of the Internal Revenue Code (the "Code") imposes certain diversification requirements on the underlying assets of variable contracts. The Code provides that variable contracts shall not be treated as an annuity contract or life insurance contract for any period (and any subsequent period) in which the underlying assets are not adequately diversified as prescribed by the U.S. Department of the Treasury (the "Treasury Department"). The Treasury Department has issued regulations (Treas. Reg. 1.817–5) (the "Treasury Regulations") which establish diversification requirements for investment portfolios underlying variable contracts. To meet these diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. The regulations, however, do contain certain exceptions to this requirement, one of which allows shares in an investment company to be held by the trustees of a pension or retirement plan as well as segregated asset accounts of insurance companies in connection with their variable contracts. (*See* Treas. Reg. § 1.817–5(f)(3)(iii)). Applicants assert that another exception allows shares in an investment company to be held by the investment manager of the investment company and certain companies related to the investment manager as well as the segregated asset accounts of insurance companies (Treas. Reg. § 1.817–5(f)(3)(ii)).

12. Applicants state that the promulgation of Rules 6e–2 and 6e–3(T) preceded the issuance of these Treasury Regulations, and that it is possible for shares of an investment company to be held by the trustee of a qualified pension or retirement plan or the investment company's investment manager and certain related companies without adversely affecting the ability of shares in the same investment company to be held by the separate accounts of insurance companies in connection with their variable contracts. Given the then-current tax law, the sale of shares of the same investment company to separate accounts of insurance companies, trustees of qualified plans or the investment company's investment manager and companies related to the investment manager could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

13. In general, Section 9(a) of the 1940 Act disqualifies any person convicted of certain offenses, and any company affiliated with that person, from acting or serving in various capacities with respect to a registered investment company. Section 9(a) provides that it is unlawful for any company to serve as investment adviser to, or principal underwriter for, any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Sections 9(a)(1) or (2). Rules 6e–2(b)(15)(i) and (ii) and Rules 6e–3(T)(b)(15)(i) and (ii) provide partial exemptions from Section 9(a) under certain circumstances, subject to limitations on mixed and shared funding imposed by the 1940 Act and the rules thereunder. These exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly

participate in the management of the underlying management company.

14. Applicants state that the relief provided by Rules 6e–2(b)(15)(i) and 6e–3(T)(b)(15)(i) under the 1940 act permits a person disqualified under Section 9(a) to serve as an officer, director, or employee of the life insurer, or any of its affiliates, so long as that person does not participate directly in the management or administration of the underlying fund.

15. Applicants assert that the relief provided by Rules 6e–2(b)(15)(ii) and 6e–3(T)(b)(15)(ii) under the 1940 Act permits a life insurer to serve as the underlying fund's investment adviser or principal underwriter, provided that none of the insurer's personnel who are ineligible pursuant to Section 9(a) are participating in the management or administration of the underlying fund.

16. Applicants state that the partial relief granted in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) from the requirements of Section 9 of the 1940 Act, in effect, limits the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. The rules recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to many individuals in a typical insurance company complex, most of whom typically will have no involvement in matters pertaining to investment companies in that organization. Applicants assert that it is also unnecessary to apply Section 9(a) to the many individuals employed by Participating Insurance Companies (or affiliated companies of Participating Insurance Companies) who do not participate in the administration or management of the Funds.

17. The Applicants state that there is no regulatory purpose in extending the monitoring requirements to embrace a full application of Section 9(a)'s eligibility restrictions because of mixed and shared funding or sales to Participating Plans. Participating Insurance Companies and Participating Plans are not expected to play any role in the management or administration of the Funds. It is expected that those individuals who participate in the management or administration of the Funds will remain the same regardless of which separate accounts, insurance companies or qualified plans use the Funds. Therefore, applying the monitoring requirements of Section 9(a) because of investments by Participating Insurance Companies or Participating Plans would not serve any regulatory purpose. Furthermore, the increased monitoring costs would reduce the net rates of return realized by contract owners and plan participants.

18. Moreover, Applicants assert that the relief requested should not be affected by the sale of shares of the Funds to the Participating Investors. The eligibility restrictions of Section 9(a) will still apply to any officers, directors or employees of the Participating Investors who participate directly in the management or administration of the Funds.

19. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) assume the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. Participating Insurance Companies will provide pass-through voting privileges to variable contract owners so long as the Commission interprets the 1940 Act to require pass-through voting privileges for variable contract owners. However, if the limitations on mixed funding and shared funding are observed, Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide exemptions from the pass-through voting requirements with respect to several significant matters.

20. Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A)(*1*) provide that an insurance company may disregard the voting instructions of its contract owners with respect to the investments of an underlying fund, or any contract between a fund and its investment adviser, when required to do so by an insurance regulatory authority (subject to the provisions of paragraphs (b)(5)(i) and (b)(*7*)(ii)(A) of such Rules).

21. Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(A)(*2*) provide that, with respect to registered management investment companies whose shares are held by a separate account of an insurance company, the insurance company may disregard contract owners' voting instructions if the contract owners initiate any change in such company's investment objectives or any principal underwriter or investment adviser (provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraphs (b)(5)(ii) and (b)(7)(ii)(B) and (C) of Rules 6e–2 and 6e–3(T)).

22. Applicants state that in the case of a proposed change in the underlying fund's investment policies, the insurance company, in order to disregard contact owner voting instructions, must make a good faith determination that such a change either would: (a) Violate state law; or (b) result in investments that either (i) would not be consistent with the investment objectives of the separate account or (ii) would vary from the general quality and nature of investments and investments techniques used by other separate accounts of the company or of an affiliated life insurance company with similar investment objectives.

23. Applicants state that in the case of a change in an investment adviser or principal underwriter, the insurance company, in order to disregard contract owners' voting instructions, must make a good faith determination that either: (a) The proposed advisory fees would exceed the maximum rate that may be charged against the separate account's assets; or (b) the proposed adviser may be expected (i) to employ investment techniques that would vary from the general techniques used by the current adviser, or (ii) to manage the investments in a manner that either would be inconsistent with the investment objectives of the separate account or would result in investments that vary from certain standards.

24. Applicants state that Rule 6e–2 recognizes that a variable life insurance contract has important elements unique to insurance contracts and is subject to extensive state regulation of insurance. In adopting Rule 6e–2(b)(15)(iii), the Commission expressly recognized that state insurance regulators have authority, pursuant to state insurance laws or regulations, to disapprove or require changes in investment policies, investment advisers, or principal underwriters. The Commission also expressly recognized that state insurance regulators have authority to require an insurer to draw from its general account to cover costs imposed upon the insurer by a change approved by contract owners over the insurer's objection. The Commission, therefore, deemed exemptions from the pass-through voting requirements necessary "to assure the solvency of the life insurer and performance of its contractual obligations by enabling an insurance regulatory authority or the life insurer to act when certain proposals reasonably could be expected to increase the risks undertaken by the life insurer." In this respect, flexible premium variable life insurance contracts are identical to scheduled premium variable life insurance contracts. Therefore, the corresponding provisions of Rule 6e–3(T), which apply to flexible premium insurance contracts and permit mixed funding, were adopted in recognition of the same considerations as the Commission applied in adopting Rule 6e–2.

25. Applicants assert that the considerations that prompted the

Commission to include exemptions from pass-through voting requirements in both Rules 6e–2 and 6e–3(T) are no less important and necessary when an insurance company funds its separate accounts with underlying funds engaged in mixed funding and shared funding. Such funding does not compromise the goals of the insurance regulatory authorities or the Commission. In connection with mixed funding, the Commission may have wished to reserve wide latitude with respect to the once unfamiliar variable annuity product, but that product is now familiar, and there appears to be no reason for the maintenance of prohibitions against mixed funding arrangements.

26. Applicants note that when the Commission amended Rule 6e–3(T) in 1985, it considered the appropriateness of extending the partial exemptions from the pass-through voting requirements to separate accounts that invest in underlying funds offering their shares to variable contract separate accounts of both affiliated and unaffiliated life insurance companies (*i.e.*, shared funding). At that time, the Commission stated that shared funding was a new and somewhat complicated area from a regulatory perspective and reiterated its concerns about voting arrangements and irreconcilable conflicts in the area of mixed and shared funding. The Applicants believe that the Commission's concerns about voting arrangements and material irreconcilable conflicts are not warranted in the context of shared funding because offering shares of an underlying fund to separate accounts of unaffiliated life insurance companies does not increase the risk of material irreconcilable conflicts among shareholders of the Funds. Furthermore, the Commission's application experience over the past 15 years in crafting appropriate safeguards to deal with potential conflicts of interest arising from shared funding arrangements is reflected in the conditions proposed by the Applicants.

27. Applicants further assert that the offer and sale of shares of the Funds to Participating Plans or to the Participating Investors will not have any impact on the relief requested with respect to pass-through voting. Shares of the Funds sold to Participating Plans will be held by the trustees or custodians of the Participating Plans as required by Section 403(a) of ERISA or applicable provisions of the Code. The exercise of voting rights by Participating Plans, whether by the trustees, by participants, by beneficiaries, or by investment managers engaged by the Participating Plans, does not present the type of issues with respect to voting rights that are presented by variable life separate accounts. ERISA does not require pass-through voting to participants in qualified pension or retirement plans that are not registered as investment companies under the 1940 Act.

28. Applicants submit that Section 403(a) of ERISA provides that the trustee(s) must have exclusive authority and discretion to manage and control the investments of the Participating Plans with two exceptions: (a) When a Participating Plan expressly provides that the trustee(s) is (are) subject to the direction of a named fiduciary who is not a trustee, in which case the trustee(s) is (are) subject to proper directions made in accordance with the terms of the plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, plan trustees have the exclusive authority and responsibility for voting proxies. When a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. Accordingly, unlike the case with insurance company separate accounts, issues related to pass-through voting rights and potential material irreconcilable differences are not present with respect to Participating Plans that do not provide pass-through voting privileges to their participants.

29. Applicants note that some plans may provide participants with the right to give voting instructions. However, there is no reason to believe that participants in plans generally, or those in a particular plan, either as a single group or in combination with other plans, would vote in a manner that would disadvantage variable contract owners. Therefore, the purchase of shares of the Funds by Participating Plans that provide voting rights to participants does not present any complications not otherwise occasioned by mixed funding and shared funding.

30. Applicants further assert that certain complications are not present with respect to these Participating Plans because insurance regulations would not be applicable to the plans and the insurance company could not disregard votes cast by a plan trustee, even if the votes were based on plan participant instructions. Moreover, the conditions proposed by the Applicants, which are based on those imposed by the Commission in numerous exemptive orders related to sales to qualified retirement and pension plans, will provide the appropriate safeguards for dealing with such conflicts of interest.

31. Moreover, Applicants assert that the Participating Investors are not subject to any pass-through voting requirements. Accordingly, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with respect to the Participating Investors.

32. Applicants assert that the Commission's primary concern with respect to mixed and shared funding issues is that of potential conflicts of interest. Therefore the prohibitions on mixed and shared funding might reflect some concern with possible divergent interests among different classes of investors. When Rule 6e–2 was adopted, variable annuity separate accounts could (and some did) invest in mutual funds whose shares were also offered to the general public. Therefore, at the time of the adoption of Rule 6e–2, the Commission staff contemplated underlying funds with public shareholders and with variable life insurance separate account shareholders. The Commission staff may have been concerned with the potentially different investment motivations of public shareholders and variable life insurance contract owners. There also may have been some concern with a state insurance regulatory authority having the authority to affect the operations of a publicly available mutual fund, and hence, affect the investment decisions of public shareholders.

33. Applicants note that, for reasons unrelated to the 1940 Act, Internal Revenue Service Ruling 81–225 (Sept. 25, 1981) effectively deprived variable annuities funded by publicly available mutual funds of their tax-benefited status. Applicants state that the Tax Reform Act of 1984 codified the prohibition against the use of publicly available mutual funds as an investment medium for variable contracts (including variable life contracts). Applicants further state that Section 817(h) of the Code, in effect, requires that the investments made by variable annuity and variable life insurance separate accounts be "adequately diversified." If a separate account is registered as a unit investment trust that invests in a single fund or series, Applicants maintain that Section 817(h) and the Treasury Regulations provide, in effect, that the diversification test will be applied at the underlying fund level rather than at the separate account

level, but only if "all of the beneficial interests" in the underlying fund "are held by one or more insurance companies (or affiliated companies) in their general account or in segregated asset accounts * * *" Applicants state that, accordingly, a unit investment trust separate account that invests solely in a publicly available mutual fund would not be adequately diversified. In addition, Applicants state that any underlying fund, including any fund that sells its shares to separate accounts, in effect, would be precluded from selling its shares to the public. Consequently, there will be no public shareholders of the Funds.

34. Moreover, Applicants assert that the National Association of Insurance Commissioners Variable Insurance Model Regulation (the "NAIC Model Regulation") reflects the Commission's apparent confidence that mixed and shared funding is appropriate and that state insurance regulators can adequately protect the interests of all contract owners. The NAIC Model Regulation suggests that it is unlikely that insurance regulators would find an investment policy, principal underwriter or investment adviser inappropriate for one insurance product, but not for another insurance product. Applicants note that the NAIC Model Regulation, at Article VI, Section 1.9, as amended, removes a previous requirement that variable life insurance separate accounts not be used for variable annuity contracts. The NAIC Model Regulation has long permitted the use of a single underlying fund for different separate accounts. The NAIC Model Regulation, at Article VI, Section 3, as amended, eliminates a previous prohibition on one separate account investing in a separate account of another insurance company. As between scheduled premium and flexible premium variable life insurance policies, Applicants note that the NAIC Model Regulation draws no distinction.

35. Applicants assert that shared funding by unaffiliated insurance companies does not present any issues that do not already exist where a single insurance company is licensed to do business in several or all states. If insurers are domiciled in different states, it is possible that the particular state insurance regulatory body in a state in which one insurance company is domiciled could require action that is inconsistent with the requirements of insurance regulators of other states in which other insurance companies are domiciled. The fact that different Participating Insurance Companies are domiciled in different states does not create a significantly different or enlarged problem.

36. Applicants assert that shared funding by unaffiliated insurers does not present any issues that do not already exist where the same investment company serves as the funding vehicle for affiliated insurers, which Rules 6e–2(b)(15) and 6e–3(T)(b)(15) permit. Affiliated insurers may be domiciled in different states and be subject to differing state law requirements. Applicants submit that affiliation does not reduce the potential, if any exists, for differences in state regulatory requirements. In any event, the conditions proposed below, which are adopted from the conditions included in Rule 6e–3(T)(b)(15) and which are virtually identical to the conditions imposed in other mixed and shared funding orders granted by the Commission, are designed to safeguard against, and provide procedures for, resolving any adverse effects that differences among state regulatory requirements may produce. For example, if a particular state insurance regulatory decision conflicts with the majority of other states regulators, then the affected Participating Insurance Company will be required to withdraw its separate account's investment in the Fund. This requirement will be included in agreements that will be entered into by Participating Insurance Companies with respect to their participation in the Funds.

37. Shared funding does not present any issues that do not already exist when a life insurer disregards contract owner voting instructions. Under Rules 6e–2(b)(15) and 6e–3(T)(b)(15), an insurer may disregard contract owner voting instructions only with respect to certain specified items. Affiliation does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter, or investment adviser initiated by contract owners. The potential for disagreement is limited by the requirements in Rules 6e–2 and 6e–3(T) that the insurance company's disregard of voting instructions be reasonable and based on specific good faith determinations.

Nevertheless, a particular insurer's disregard of voting instructions could conflict with the voting instructions of a majority of contract owners. One insurer might determine to disregard voting instructions when all or some of the other insurers (including affiliated insurers) determine to follow the voting instructions of contract owners. If the insurer's judgment represents a minority position or would preclude a majority vote, the insurer may be required, at the relevant Fund's election, to withdraw its separate account's investment in the Fund. No charge or penalty will be imposed as a result of such withdrawal. The participation agreements executed by the Participating Insurance Companies will contain these provisions.

38. Applicants submit that investment by the Participating Plans and the Participating Investors in any of the Funds will similarly present no additional conflict. The likelihood that voting instructions of variable contract owners will ever be disregarded or the possible withdrawal referred to immediately above is extremely remote and this possibility will be known, through prospectus disclosure, to any plans choosing to invest in a Fund. Moreover, Applicants state that even if a material irreconcilable conflict involving a Participating Plan or the Participating Investors arises, the Participating Plan or the Participating Investors may simply redeem its Fund shares and make alternative investments.

39. Applicants state that there is no reason why the investment policies of a Fund when it engages in sales to Participating Plans would or should be materially different from the investment policies of the Fund when it supports only variable annuity separate accounts or variable life insurance separate accounts, whether flexible premium or scheduled premium contracts. Each type of insurance product is designed as a long-term investment program. The investment objective of a qualified pension or retirement plan should coincide with a long-term investment program and should not increase the potential for conflicts.

40. Each Fund will be managed to attempt to achieve the investment objective or objectives of the Fund, and not to favor or disfavor any particular Participating Insurance Company or Participating Plan, the Participating Investors or any particular type of insurance product or plan. There is no reason to believe that the different features of various types of contracts, including the "minimum death benefit" guarantee under certain variable life insurance and variable annuity contracts, will lead to different investment policies for different types of variable contracts. First, minimum death benefit guarantees generally are specifically provided for by particular charges, and always are supported by general account reserves as required by state insurance law. Second, certain variable annuity contracts also have minimum death benefit guarantees. To

the extent that the degree of risk may differ as between variable annuity contracts and variable life insurance policies, the differing insurance charges imposed, in effect, adjust any such differences and equalize the insurer's exposure in either case. Third, the sale, persistency and ultimate success of all variable insurance products depend, at least in part, on satisfactory investment performance, which provides an incentive for the insurer to optimize investment performance. Fourth, under existing statutes and regulations, an insurance company and its affiliates can offer a variety of variable annuity and life insurance contracts, some with death benefit guarantees of different types and significance (and different degrees of risk for the insurer), some without death benefit guarantees, all funded by a single mutual fund.

41. Applicants note that no one investment strategy can be identified as appropriate to a particular insurance product or to a particular pension or retirement plan. Each pool of variable annuity and variable life insurance contract owners is composed of individuals of diverse financial status, age, insurance needs, and investment goals. Likewise participants in a particular pension or retirement plan differ in financial status, age and investment goals. A Fund supporting even one type of insurance product or one type of pension or retirement plan must accommodate these diverse factors in order to attract and retain purchasers. Applicants submit that permitting sales to Participating Plans will provide economic support for the continuation of the Funds. In addition, the broader base of contract owners and participants can be expected to provide economic support for the creation of additional Funds with a greater variety of investment objectives and policies.

42. In connection with the proposed sale of shares of the Funds to Participating Plans or to the Participating Investors, Applicants submit that either there are no conflicts of interest or there exists the ability by the affected parties to resolve any such conflicts without harm to the contract owners in the Participating Separate Accounts or to participants under the Participating Plans. Section 817(h) of the Code imposes certain diversification standards on the underlying assets of variable contracts held in the portfolios of management investment companies. Treasury Regulation 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits, among other things, "qualified pension or retirement plans" and insurance company separate accounts to share the same underlying investment company. In addition, Treasury Reg. 1.817–5(f)(3)(ii) permits the Participating Investors to invest in the same underlying investment company. Applicants assert, therefore, that neither the Code, nor the Treasury Regulations, nor the revenue rulings thereunder recognize any inherent conflicts of interests if Participating Plans, Participating Separate Accounts and the Participating Investors all invest in the same management investment company.

43. Although there may be differences in the manner in which distributions from variable annuity contracts, variable life insurance contracts and qualified pension and retirement plans are taxed, Applicants state that the tax consequences do not raise any conflicts of interest with respect to use of the Funds. When distributions are to be made, and a Participating Separate Account or a Participating Plan cannot net purchase payments to make the distributions, the Participating Separate Account or the Participating Plan will redeem shares of the Fund at their net asset value. The Participating Plan will then make distributions in accordance with the terms of the plan, and the Participating Insurance Company will make distributions in accordance with the terms of the variable contract.

44. Applicants state that it is possible to provide an equitable means of giving voting rights to separate account contract owners and to Participating Plans and the Participating Investors. Applicants represent that each Fund will inform each shareholder, including each Participating Separate Account, each Participating Plan and the Participating Investors, of its respective share of ownership in the Funds. Each Participating Insurance Company then will solicit voting instructions in accordance with the applicable "pass-through" voting requirement.

45. Applicants submit that the ability of a Fund to sell its shares directly to Participating Plans or the Participating Investors does not create a "senior security" with respect to any variable contract owner as opposed to a participant in a Participating Plan or the Participating Investors. The term "senior security" is defined under Section 18(g) of the 1940 Act to include "any stock of a class having priority over any other class as to distribution of assets or payment of dividends." Regardless of the rights and benefits of participants under the Participating Plans, or contract owners under variable contracts, Participating Plans, Participating Separate Accounts and the Participating Investors have rights only with respect to their respective shares of a Fund. They can only redeem such shares at their net asset value. No shareholder of any of the Funds will have any preference over any other shareholder with respect to distribution of assets or payment of dividends.

46. Applicants assert that there are no conflicts between the variable contract owners of the Participating Separate Accounts and the participants under the Participating Plans or the Participating Investor with respect to the state insurance commissioners' veto powers (direct with respect to variable life and indirect with respect to variable annuities) over investment objectives. The basic premise of shareholder voting is not all shareholders may agree with a particular proposal. This does not mean that there are any inherent conflicts of interest between shareholders. The state insurance commissioners have been given the veto power in recognition of the fact that insurance companies cannot simply redeem their separate accounts out of one investment company and invest in another. Generally, time-consuming, complex transactions must be undertaken to accomplish such redemptions and transfers. On the other hand, trustees of qualified plans can redeem their shares from an investment company and reinvest in another funding vehicle without the same regulatory impediments or, as is the case with most plans, even hold cash pending suitable investment. Based on the foregoing, Applicants have concluded that even if issues arise where the interests of variable contract owners and the interests of Participating Plans are in conflict, the issues can be almost immediately resolved because the trustees of the Plans, on their own, can redeem their shares from an investment company and reinvest in another funding vehicle at any time.

47. The Applicants assert that permitting the sale of a Fund's shares to the Participating Investor in compliance with Treasury Reg. 1.817–5 will enhance Fund management without raising significant concerns regarding material irreconcilable conflicts. Section 14(a) of the 1940 Act generally requires that an investment company have a net worth of $100,000 upon making a public offering of its shares. Initial capital is also required in connection with the creation of new series and the voting of initial shares of such series on matters requiring the approval of shareholders. A potential source of initial capital for a new Trust or a new Fund is the Manager or its affiliates or a Participating Insurance Company. Any of these parties may have an interest in

making the capital expenditure, and in participating with the new Trust or the new Fund in its organization. However, provision of seed capital or the purchase of Fund shares by the Participating Investor or by a Participating Insurance Company may be deemed to violate the exclusivity requirement of Rule 6e–2(b)(15) and/or Rule 6e–3(T)(b)(1) under the 1940 Act.

48. Applicants anticipate that such investment by the Participating Investor or by a Participating Insurance Company will be made in compliance with Treasury Reg. 1.817–5(f)(3). Given the conditions of Treasury Reg. 1.817–5(f)(3) under the Code and the harmony of interest between a Fund, on the one hand, and the Participating Investors or a Participating Insurance Company, on the other, the Applicants assert that little incentive for overreaching exists. Furthermore, such investment should not implicate the concerns discussed above regarding the creation of material irreconcilable conflicts. Instead, permitting investments by the Participating Investor or a Participating Insurance Company will permit the orderly and efficient creation and operation of the Funds.

49. Applicants state that various factors have limited the number of insurance companies offering variable annuity and variable life insurance contracts. Applicants state that these factors include the costs of organizing and operating a funding medium, the lack of expertise with respect to investment management (principally with respect to stock and money market investments) and the lack of name recognition by the public of certain insurers as investment professionals. In particular, some small life insurance companies may not find it economically feasible, or within their investment or administrative expertise, to enter the variable contract business on their own.

50. Applicants argue that use of the Funds as common investment mediums for variable contracts, as well as for qualified plans, could ameliorate these concerns for insurance companies that decide to participate in the Funds. Applicants also submit that mixed and shared funding should provide a benefit to variable contract owners by eliminating a significant portion of the costs of establishing and administering separate funds. Participating Insurance Companies should also benefit from the investment and administrative expertise of Touchstone Advisors and Western-Southern, or any other investment adviser or sub-adviser to a fund, and the cost efficiencies and investment flexibility afforded by a larger pool of assets. Therefore, making the Funds available for shared funding should encourage more insurance companies to offer variable contracts and result in increased competition with respect to both variable contract design and pricing, which can be expected to result in more product variation and lower charges.

51. The Applicants further assert that sale of shares of the Funds to Participating Plans should further increase the amount of assets available for investment by the Funds. This larger asset base should benefit variable contract owners and plan participants by promoting economies of scale, by permitting greater diversification, and by making the addition of new Funds more feasible. In connection with the proposed sale of shares of the Funds to Participating Plans, Applicants further submit that the intended use of the Funds with Participating Plans is not dissimilar from the intended use of the Funds with variable contracts in that Participating Plans, like variable contracts, are generally long-term retirement vehicles. The Applicants further submit that the sale of shares of the Funds to Participating Plans does not increase the risk of material irreconcilable conflicts to such Funds or to the Participating Separate Accounts.

52. Applicants assert that there is no significant legal impediment to permitting mixed and shared funding. Applicants also note that the Commission has granted numerous applications for orders permitting mixed and shared funding with respect to both scheduled and flexible premiums, including where sales are made to qualified pension and retirement plans. Applicants further note there is ample precedent for extending exemptive relief to members of a class or classes of persons, not currently identified, that may be similarly situated in the future. Such relief has been granted in various contexts and from a wide variety of the 1940 Act's provisions, including class exemption in the context of mixed and shared funding. Applicants assert that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Applicants' Conditions

Applicants have consented to the following conditions if the order requested in its application is granted:

1. A majority of the Board of Trustees of each Fund (a "Board") will consist of persons who are not "interested persons" of that Trust, as defined by Section 2(a)(19) of the 1940 Act, and the rules thereunder, and as modified by any applicable orders of the Commission. However, if this condition is not met by reason of the death, disqualification, or bona fide resignation of any trustee or trustees, then the operation of this condition will be suspended: (a) For a period of 90 days if the vacancy or vacancies may be filled by the remaining trustees;

(b) for a period of 150 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. Each Board will monitor its respective Funds for the existence of any material irreconcilable conflict among the interests of the variable contract owners of the Participating Separate Accounts, participants under the Participating Plans and the Participating Investor investing in the Fund, and the Board will determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any Fund are being managed; (e) a difference in voting instructions given by variable annuity contract owners, variable life insurance contract owners, plan trustees or plan participants; (f) a decision by an insurer to disregard the voting instructions of variable contract owners; or (g) if applicable, a decision by a Participating Plan to disregard voting instructions of its participants.

3. Any Participating Plan that executes a fund participation agreement upon becoming an owner of 10 percent or more of the issued and outstanding shares of the Fund (a "Reporting Plan"), Participating Insurance Companies, and the Participating Investor investing in a Fund (collectively, the "Reporting Entities") will report any potential or existing conflicts to the relevant Board and will be responsible for assisting the Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. These responsibilities include, but are not limited to, (a) an obligation by each Participating Insurance Company to inform the Board whenever it has determined to disregard voting instructions of variable contract

owners, and (b) if pass-through voting is applicable, an obligation by each Reporting Plan to inform the relevant Board whenever it has determined to disregard its participants' voting instructions. The responsibility to report such information and conflicts and to assist the relevant Board will be contractual obligations of all Participating Insurance Companies and Reporting Plans under their agreements governing participation in the Funds, and such agreements will provide that these responsibilities will be carried out with a view only to the interests of the variable contract owners and plan participants, as applicable.

4. If it is determined by a majority of the Board of a Trust, or by a majority of its disinterested trustees, as appropriate, that a material irreconcilable conflict exists with respect to a Fund, the relevant Participating Insurance Companies and Relevant Participating Plans, at their own expense (or at the discretion of a Manager of the Fund, at that Manager's expense), will take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict to the extent reasonably practicable (as determined by a majority of the disinterested trustees). These steps could include: (a) Withdrawing the assets allocable to some or all of the separate accounts of the Participating Insurance Companies from the Fund and reinvesting such assets in a different investment medium, including another Fund, (b) submitting the question as to whether such segregation should be implemented to a vote of all affected variable contract owners and, as appropriate, segregating the assets of any appropriate group that votes in favor of such segregation, (c) offering to the affected variable contract owners the option of making such a change; (d) withdrawing the assets allocable to some or all of the Participating Plans from the Fund and reinvesting such assets in a different investment medium; or (e) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a decision by a Participating Insurance Company to disregard contract owner voting instructions, or, if applicable, a decision by a trustee of a Participating Plan to disregard participant voting instructions, and that decision represents a minority position or would preclude a majority vote, then that insurer or plan, as applicable, may be required, at the Fund's election, to withdraw its investment in the Fund, and no charge or penalty will be imposed as a result of such withdrawal. To the extent permitted by applicable law, the responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action will be a contractual obligation of all Participating Insurance Companies and Reporting Plans under their agreements governing participation in the Funds, and these responsibilities will be carried out with a view only to the interests of variable contract owners and plan participants, as applicable.

5. For purposes of Condition 4, a majority of the disinterested trustees of the relevant Board will determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but in no event will the Trust or the Participating Investor be required to establish a new funding medium for any variable contract or qualified plan. No Participating Insurance Company will be required by Condition 4 to establish a new funding medium for any variable contract if a majority of the variable contract owners materially and adversely affected by the material irreconcilable conflict vote to decline such offer. Furthermore, no Participating Plan will be required by Condition 4 to establish a new funding medium for such plan if (a) A majority of plan participants materially and adversely affected by the irreconcilable material conflict vote to decline such offer, or (b) pursuant to governing documents and applicable law, the Participating Plan makes such decision without plan participant vote.

6. The affected Reporting Entities will be informed promptly in writing of a Board's determination of the existence of a material irreconcilable conflict and its implications.

7. Participating Insurance Companies will provide pass-through voting privileges to all variable contract owners so long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for variable contract owners. Accordingly, each Participating Insurance Company will vote shares of a Fund held in its Participating Separate Accounts in a manner consistent with voting instructions timely received from variable contract owners. Each Participating Insurance Company also will vote shares of the Fund held in its Participating Separate Accounts for which it has not received timely voting instructions from contract owners, as well as shares of the Fund that the Participating Insurance Company itself owns, in the same proportion as those shares of the Fund for which voting instructions from contract owners are timely received. Each Participating Insurance Company will be responsible for assuring that each of its Participating Separate Accounts investing in a Fund calculates voting privileges in a manner consistent with other Participating Insurance Companies investing in the Fund. The obligation to vote the Fund shares and to calculate voting privileges in a manner consistent with all other Participating Separate Accounts investing in a Fund will be a contractual obligation of all Participating Insurance Companies under the agreements governing their participation in that Fund. Each Participating Plan will vote as required by applicable law and governing plan documents.

8. All reports of potential or existing conflicts received by the Board, and all Board actions with regard to determining the existence of a conflict, notifying affected Reporting Entities of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the meetings of the Board or other appropriate records, and such minutes or other records will be made available to the Commission upon request.

9. Each Fund will notify all Participating Insurance Companies and all Participating Plans that disclosure regarding potential risks of mixed and shared funding may be appropriate in separate account prospectuses or plan documents. Each Fund will disclose in its prospectus that: (a) The Fund is intended to be a funding vehicle for all types of variable annuity and variable life insurance contracts offered by various insurance companies and for qualified pension and retirement plans; (b) due to differences of tax treatment and other considerations, the interests of various variable contract owners participating in the Fund and the interests of Participating Plans investing in the Fund may conflict, and (c) the relevant Board will monitor events in order to identify the existence of any material irreconcilable conflicts and to determine what action, if any, should be taken in response to any such conflict.

10. Each Trust will comply with all provisions of the 1940 Act requiring voting by shareholders (which, for these purposes, will be the persons having a voting interest in the shares of the Fund). In particular, each Trust will either provide for annual shareholder meetings (except to the extent that the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act (although the Trusts are not the type of trust described in

Section 16(c) of the 1940 Act), as well as with Section 16(a) of the 1940 Act and, if and when applicable, Section 16(b) of the 1940 Act. Further, each Trust will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors and with whatever rules the Commission may promulgate with respect thereto.

11. So long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for variable contract owners, the Participating Investor will vote their shares in the same proportion as all contract owners having voting rights with respect to the relevant Funds; provided, however, that the Participating Investor shall vote their shares in such other manner as may be required by the Commission or its staff.

12. If and to the extent that Rules 6e–2 and Rule 6e–3(T) under the 1940 Act are amended, or Rule 6e–3 under the 1940 Act is adopted, to provide exemptive relief from any provision of the 1940 Act, or the rules promulgated thereunder, with respect to mixed funding or shared funding, on terms and conditions materially different from any exemptions granted in the order requested in this Application, then the Trusts and/or Participating Insurance Companies, as appropriate, will take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T), as amended, or Rule 6e–3, as adopted, to the extent that such rules are applicable.

13. The Reporting Entities, at least annually, will submit to the relevant Board such reports, materials, or data as the Board may reasonably request so that the Board may fully carry out the obligations imposed upon it by the conditions contained in this Application. Such reports, materials, and data will be submitted more frequently if deemed appropriate by the Board. The obligations of the Participating Insurance Companies and the Reporting Plans to provide these reports, materials, and data to the Board will be a contractual obligation under their agreements governing participation in the Funds.

14. If a Participating Plan should ever become a holder of ten percent or more of the issued and outstanding shares of a Fund, such plan will execute a participation agreement with the Fund, which will include the conditions set forth herein to the extent applicable. A Participating Plan will execute a document containing an acknowledgement of this condition upon such plan's initial purchase of the shares of any Fund.

15. Any shares of a Fund purchased by the Manager or its affiliates will be automatically redeemed if and when the Manager's investment management agreement terminates, and to the extent required by the applicable Treasury Regulations. No Participating Investor will sell such shares of the Funds to the public.

Conclusion

For the reasons summarized above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30325 Filed 12–6–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45118; File No. SR–NYSE–2001–34]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the New York Stock Exchange, Inc. Amending NYSE Rule 103A To Delete an Unused Measure of Specialist Performance

November 29, 2001.

On August 29, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Rule 103A (Specialist Stock Reallocation and Member Education and Performance) to delete an unused measure of specialist performance.

Currently, NYSE Rule 103A provides authority for the Market Performance Committee ("MPC") to establish and administer measures of specialist performance, conduct performance improvement actions where a specialist unit does not meet the performance standards in the Rule, and reallocate stocks if a unit does not achieve its specified goals when subject to a performance improvement action. The performance standards in the Rule include the Specialist Performance Evaluation Questionnaire, timeliness of stock openings, SuperDot order turnaround, administrative message responses and market share. This latter provision refers to a significant decline in market share, as measured by share volume, in two consecutive quarters where the decline is determined to be attributable to factors within the control of the specialist unit.

At the time the Exchange adopted the market share measure, it was intended that the Exchange would develop criteria as to what constitutes "significant decline" before the market share performance standard could be enforced. However, criteria were never developed, and the MPC has never used the market share standard as a performance measure.

The proposed rule change was published for comment in the **Federal Register** on October 26, 2001.[3] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, the requirements of section 6 of the Act.[5] The Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[6] which requires, among other things, that the rules of an exchange promote just and equitable principles of trade and in general to protect investors and the public interest. The Commission believes that the remaining measurements of specialist performance set forth in NYSE Rule 103A should be sufficient to assist the Exchange in ensuring a certain level of market quality and performance in Exchange listed securities is maintained. The Exchange should continue to review its standards for measuring specialist performance and ensure that there are adequate, objective measures to assess such performance.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (SR–NYSE–2001–34) be, and it hereby is, approved.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44961 (October 19, 2001), 66 FR 54316.

[4] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30323 Filed 12–6–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before January 7, 2002. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Lender Transcript of Account.

No.: SBA Form 1149.

Frequency: On Occasion.

Description of Respondents: Lenders requesting SBA to provide the Agency with breakdown of payments.

Annual Responses: 5,000.

Annual Burden: 5,000.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–30311 Filed 12–6–01; 8:45 am]

BILLING CODE 8025–01–P

[8] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 187: Mode Select Beacon and Data Link System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 187 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 187: Mode Select Beacon and Data Link System.

DATES: The meeting will be held December 18, 2001, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at RTCA, 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 187 meeting. The agenda will include:

- December 18:
  - Opening Session (Chairman's Introductory Remarks, Review and Approve Agenda)
  - Review and Approve Proposed Change 1 to RTCA DO–181C, RTCA Paper No. 368–01/SC187–042, *Addition of Hijack Mode Operations*
  - Closing Session (Other Business, Date and Time of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 27, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–30361 Filed 12–6–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration and Federal Railroad Administration

Environmental Impacts Statement: New York/New Jersey

AGENCY: Federal Highway Administration (FHWA), Federal Railroad Administration (FRA).

ACTION: Notice of meeting.

SUMMARY: Notice of Public Scoping Meetings in Preparation of a Draft Environmental Impact Statement for the Cross Harbor Freight Movement Project.

The New York City Economic Development Corporation (NYCEDC), as project sponsor, in coordination with the Federal Highway Administration (FHWA) and the Federal Railroad Admininstration (FRA) as joint lead agencies, is preparing an Environmental Impact Statement (EIS) for the Cross Harbor Freight Movement Project. As part of the Cross Harbor Freight Movement Project, strategies for enhancing freight mobility within the New York City/northern New Jersey region are being evaluated. A Major Investment Study (MIS), completed in 2000, identified several strategies that satisfied established project goals and objectives. The purpose of the EIS is to examine the ability of the selected strategies to improve mobility of goods traffic, improve environmental quality, enhance the region's competitive position and provide flexibility to respond to possible service disruptions to the region's vital Hudson River Crossings.

NYCEDC will conduct seven (7) public scoping meetings to discuss the proposed draft scope of work for the Draft Environmental Impact Statement (DEIS), and will accept comments from the public. The draft scope of work is available for viewing on-line at *www.crossharborstudy.org.* One copy of the draft scope of work will also be available at the following libraries. Manhattan, New York Public Library at 188 Madison Ave.; Queens, Queens Borough Public Library at 89–11 Merrick Blvd.; Bronx, Bronx Borough Library at 2556 Bainbridge Ave.; Staten Island, SI Borough Library at 5 Central Avenue; Brooklyn, Brooklyn Public Library Sunset Park at 5108 4th Ave. (at 51st St.); Jersey City, Jersity City Public Library at 472 Jersey Ave.; Elizabeth, Elizabeth Public Library at 11 South Broad St.

DATES: The seven (7) meetings will be held at the following locations within the New York/New Jersey metropolitan area:

Tuesday, January 15, 2002, 11 am–3 pm NYCEDC, 110 William Street, 4th Floor, NY, NY 10038
Thursday, January 17, 2002, 5 pm–8 pm Snug Harbor Manor, Lower Great Hall Room, 1000 Richmond Terrace, Staten Island, NY 10301
Tuesday, January 22, 2002, 5 pm–8 pm Hostos College, Savoy Multi-Purpose Room, East 149th Street/ Walton Avenue, Bronx, NY 10451
Wednesday, January 23, 2002, 5 pm–8 pm PS 1, 309 47th Street, (b/w 3rd–4th Aves.), Brooklyn, NY 11220
Tuesday, January 29, 2002, 5 pm–8 pm LaGuardia College, 31–10 Thomson Avenue, L.I.C., NY 11101
Wednesday, January 30, 2002, 11 am–3 pm Jersey City City Hall, Council Chambers, 280 Grove Street, Jersey City, NJ 07302
Wednesday, January 30, 2002, 5 pm–8 pm Elizabeth High School, 600 Pearl Street, Elizabeth, New Jersey 07202

FOR FURTHER INFORMATION CONTACT:

Ms. Alice Cheng, Director, Intermodal Planning, a New Economic Development Corporation, 110 William Street, 6th floor, New York, NY 10038, telephone (212) 619–5000, e-mail "acheng@nyedc.com"
or
Richard E. Backlund, Intermodal Transporation Coordinator, Federal Highway Administration, New York Division, One Bowling Green, Room 428, New York, NY 1004–1415, telephone (212) 668–2205, e-mail "richard.backlund@fhwa.dot.gov"
or
Michael Saunders, Northeast Corridor Program Manager, Federal Railroad Administration, 628–2 Hebron Avenue, Suite 303, Glastonbury, Connecticut 06033–5007, telephone (860) 659–6714, e-mail "michael.saunders@fhwa.dot.gov"

SUPPLEMENTARY INFORMATION:

Registration to speak will begin at the meeting start time and end one half-hour before the meeting end time. All registered speakers will be heard. The public will be able to present oral comments and can register one the day of the meeting or in advance by calling the project information line at 1–877–XHAR EIS (942–7347), or e-mailing the project at *crossharbor@astvinc.com*. Written comments can be presented at the meeteings, e-mailed to *crossharbor@stvinc.com* or mailed to Cross Harbor Freight Movement Project, 225 Park Avenue South, NY, NY 10003. the deadline for submitting comments is February 28, 2002. Due to heightened security, a photo ID is required to enter the above-mentioned locations. Please allow additional travel time to sign-in at the security desk.

Authority: 23 U.S.C. 315; 23 CFR 771.123.

Dated: November 28, 2001.

Richard E. Backlund,

Intermodal Transportation Coordiantor.

[FR Doc. 01–30328 Filed 12–6–01; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Desha, Chicot, Ashley, Drew, Union, Bradley, Calhoun, Ouachita, and Columbia Counties, AR

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in the Arkansas Counties of Desha, Chicot, Ashley, Drew, Union, Bradley, Calhoun, Ouachita, and Columbia.

FOR FURTHER INFORMATION CONTACT: Randal Looney, Environmental Specialist, Federal Highway Administration, Room 3130 Federal Building, Little Rock, Arkansas 72201–3298, telephone: (501) 324–6430; or Dale Loe, Consultant Coordinator, Assistant Chief Engineer, Arkansas State Highway and Transportation Department, P.O. Box 2261, Little Rock, Arkansas 72203, telephone: (501) 569–2301.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Arkansas State Highway and Transportation Department (AHTD), will prepare an Environmental Impact Statement (EIS) for a segment of the proposed Interstate 69 corridor in Arkansas.

This approximately 85-mile segment of I–69 will connect the Mississippi River crossing of I–69 to U.S. 167 near El Dorado and will improve regional travel, safety, intermodal connectivity and will enhance the economic vitality of the project area. This segment will accommodate the overall purpose of the national I–69 Corridor, a much larger transcontinental project identified as a "high priority corridor" on the National Highway System that would provide a North American Free Trade Agreement (NAFTA) transportation corridor of national significance from Canada to Mexico. I–69 is also a transportation recommendation of the Delta Initiative aimed at the revitalization and economic development of the Lower Mississippi Delta.

I–69 is proposed to be a fully controlled access facility located on a new alignment. Several alternatives and locations will be considered, including the "no-action" alternative. The western terminus of the project will connect to U.S. 167 near El Dorado, Arkansas and the eastern terminus will connect to U.S. 65 near McGehee, Arkansas.

The FHWA and AHTD are seeking input as part of the scoping process to assist in determining and clarifying important issues relative to this project. Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, state, and local agencies, Native American Tribes, and to private organizations and citizens who have previously expressed or are known to have an interest in this project. Formal scoping meetings with Federal, state, and local agencies, NativeAmerican Tribes, and other interested parties will be held in the near future. A series of public meetings will also be held in the study area beginning in early 2002, with on-going public involvement activities. The draft Environmental Impact Statement (EIS) will be available for public and agency review and comment prior to a formal public hearing. Public notice will be given of the time and place for all meetings and hearings.

To ensure that the full range of issues related to this project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed action.)

Issued on: December 3, 2001.

Derrell Turner,

Assistant Division Administrator, FHWA, Little Rock, Arkansas.

[FR Doc. 01–30329 Filed 12–6–01; 8:45 am]

BILLING CODE 4910-33-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–8842; Notice 2]

General Motors Corporation; Denial of Application for Decision of Inconsequential Noncompliance

General Motors Corporation (GM) of Warren, Michigan, has determined that child restraint lower anchorages in approximately 33,916 of its model year 2001 vehicles [1] fail to comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 225, "Child Restraint Anchorage Systems," and has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports." GM has also petitioned to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301, "Motor Vehicle Safety," on the basis that the noncompliance is inconsequential to motor vehicle safety.

On February 20, 2001, NHTSA published a notice of receipt of the application in the **Federal Register** (66 FR 10948, Docket No. NHTSA–2001–8842; Notice 1) and requested comments by March 22, 2001.

Paragraphs S9.1.1 and S15.1.2.1 of FMVSS No. 225 specify that, for each child restraint anchorage system, the lower anchorages shall consist of two bars that are 6 mm ± 0.1 mm in diameter. The lower anchorages are designed to secure the child restraint system onto the vehicle rather than using the vehicle's belt system. Child restraints will have components that attach to the bars. NHTSA established the diameter specification of the anchorages to ensure compatibility between the child seat and the anchorages so that the components on child restraints can latch securely onto the bars and will remain attached in a crash.

On November 3, 2000, GM submitted a Part 573 Noncompliance Report advising NHTSA that 75,816 model year (MY) 2001 vehicles may not comply with FMVSS No. 225. Based on measurements taken from a sample of 32 seats in GMT250 (Azteks) and 52 seats in GM200 (U Vans) vehicles, GM believes that approximately 33,916 of these vehicles actually have anchors with diameters outside the range allowed by the standard. From the sampling data, the range of the diameter of the anchorages were estimated as 5.99 mm to 6.30 mm for the first group and 5.59 mm to 6.32 mm for the second group of vehicles. The compliance range allowed by FMVSS No. 225 is 5.9 mm to 6.1 mm. The 33,916 affected vehicles include 30% of 27,901 Chevrolet Ventures (8,370), 30% of 9,845 Oldsmobile Silhouettes (2,954), 30% of 17,383 Pontiac Montanas (5,215), and 84% of 20,687 Pontiac Azteks (17,377).

On November 29, 2000, GM submitted a petition for an exemption from the recall requirements of 49 U.S.C. Chapter 301 on the basis that the noncompliance is inconsequential to motor vehicle safety.

GM explained how the noncompliance happened. "In the case of the Aztek, this condition was caused by the inadvertent release of component drawings that allowed the lower anchorage bar material to be supplied out of compliance. For the U vans and Azteks, it was not originally known that the coating process for the lower anchorage bar was not capable of holding the required tolerance. As a result, some of the lower anchorages of the subject vehicles do not meet the diameter specification."

In summary, GM supported its petition for a determination of inconsequential noncompliance with the following:

1. "Child restraint manufacturers currently offer to U.S. customers two child seats with LATCH attachment mechanisms: The Fisher Price Safe Embrace [2] and the Cosco Triad. Both of these child seats use a hook mechanism to attach to the lower anchorage bars * * * [T]he integrity and performance of the [hook] attachment will not be materially affected by the small deviations from the specification for the diameter of the lower anchor * * * GM is not aware of any proposed U.S. child seat latch mechanism that would not be compatible with the anchors on the subject vehicles."

2. "[A]ll the child seats, in addition to the requirements for a latch mechanism, must also be designed to work with the vehicle seat belt system. Therefore, each child seat, whether LATCH compatible or not, will be able to be safely secured to each of these vehicles."

3. GM said they "do not foresee any problem with future designs and the anchors that are below 5.9 mm."

4. In the future, it is possible that a slotted attachment could be designed and that the slot might be too small to accept some of these anchors that exceed 6.1 mm. To address this situation, GM plans to send a letter to owners to advise them how to handle such a situation." (Use the vehicle belt system to attach the child seats.)

Based on the above arguments, GM stated that the noncompliance with FMVSS No. 225 is inconsequential to motor vehicle safety and requested that NHTSA grant the inconsequentiality petition.

The agency received two comments responding to NHTSA's February 2001 notice. They were from Britax Child Safety, Inc. (8842–2, dated March 21, 2001), and Advocates for Highway and Auto Safety (8842–3, dated March 22, 2001).

Britax (8842–2) stated that its "designed LATCH compatible connectors will *not* fit onto lower anchorage bars having a diameter greater than the tolerances specified in Standard 225." Britax contacted GM about the potential problem but could not arrive at a mutually agreeable solution to the problem with GM. Britax worries that it may be wrongly and unfairly blamed if consumers encounter the potential incompatibility problem between its child restraints and the GM lower anchorages. Britax also worries that a partially engaged seat connector and oversized anchorage bar could fail in a crash, and that Britax could be blamed for a faulty seat design.

Advocates (8842–3) believes that the agency should deny GM's application based on various safety concerns, and that the denial would be consistent with the agency's previous ruling on denying a petition submitted by Suzuki for inconsequential noncompliance (65 FR 57649, September 25, 2000).

On May 7, 2001, GM submitted supplemental information (8842–4) "to document the additional information discussed and GM's position." GM further estimated that among the 33,916 noncompliant vehicles, 19,610 vehicles (58%) may have an anchorage diameter over 6.1 mm. Therefore, the other 14,306 vehicles (42%) may have an anchorage diameter less than 5.9 mm. GM stated that the noncompliance problem was first discovered during an ISO Working Group meeting in Canada. A demonstration of a Britax prototype child seat with a LATCH "hard connector" design failed to fit onto the lower anchorages in a 2001 Pontiac Aztek vehicle. The diameters of the anchorages were measured as 6.18 mm to 6.23 mm in the middle, and 6.22 mm to 6.25 mm on the sides of the anchorage bars.

Although GM acknowledged the noncompliance of the anchorage bars in

[1] Noncompliant GM vehicles include approximately 17,377 Pontiac Azteks, 5,215 Pontiac Montanas, 8,370 Chevrolet Ventures, and 2,954 Oldsmobile Silhouettes (U-vans). These vehicles were built with lower anchorage bars that are either above or below the 6.0 ± 0.1 mm diameter requirement.

[2] Fisher Price has recently announced that it will cease the production of child restraints, including the Safe Embrace. [*Footnote added by NHTSA.*]

the Aztek vehicle, GM also complained that the opening of Britax's "hard connector" deviated too much from the 6.5 mm diameter designation for the Static Force Application Device 2 (SFAD 2), a test fixture used to test compliance with one aspect of FMVSS No. 225. The SFAD 2 is referenced in S9.4 and S15.3 of FMVSS No. 225 and is illustrated in Figures 17 and 18 of the standard.

GM had already orally presented these comments during a GM-requested meeting with NHTSA on April 25, 2001. A meeting record has been entered into the docket.

NHTSA has thoroughly evaluated the data GM provided, carefully considered its subsequent explanations about the data, and also considered the comments submitted by Britax and Advocates. We disagree with GM's position. We consider the incompatibility problem to be very much safety related. When a child seat fails to latch onto the lower anchorages, the entire latch system will not work, regardless of how well the components are designed.

GM has acknowledged that the lower anchorages do not comply with FMVSS No. 225, but also blamed the deviation of the opening of the "hard connectors" on the Britax child seat. However, GM has not shown, and cannot show, that the Britax seat has an improper connector design or dimensions, since the dimensions for the SFAD do not apply to child restraint systems.

Moreover, we disagree with each of the four "reasons" asserted by GM in support of the petition. First, we disagree with GM's assertion that there is no "proposed U.S. child seat latch mechanism that would not be compatible with the anchors on the subject vehicles." As GM stated in its May 7, 2001 supplemental petition, the incompatibility problem was discovered when a demonstration of a Britax child seat with a LATCH "hard connector" failed to fit onto the lower anchorages in a 2001 Pontiac Aztek vehicle. Based on the Britax comments, it is certainly possible, if not likely, that such a mechanism would be used on child restraint systems sold in the U.S. In any case, such a mechanism is clearly legal, and the current market decisions of all child restraint manufacturers do not preclude future restraints with "hard connectors."

GM's argument that since every child restraint is designed to work with the vehicle belt system in addition to the latch system, the child restraint will be able to be safely secured to the vehicle regardless of whether the latch mechanism works or not misses the point. The primary basis for the adoption of the LATCH requirements is to enhance safety beyond the level provided by the vehicle belt systems. The May 7, 2001 GM supplement noted that "[n]ational studies reflect an approximately 80% incorrect use rate. Many local checkups report misuse rate over 90%." (Attachment B, H.2., page C–5). Because of this high rate of misuse of the vehicle belt system, NHTSA adopted FMVSS No. 225 to make it easier to properly attach a child seat to the vehicle by means of the lower bar system. The requirement in FMVSS No. 213 that a child seat must be designed to be restrained by means of the vehicle belt system is not an alternative, equivalent means for restraining a child. This provision was kept in the standard to ensure that new child restraint systems equipped with a latch system can also be used in older motor vehicles that are not equipped with a latch system and in aircraft.

As to GM's statement that they "do not foresee any problem with future designs and the anchors that are below 5.9 mm," neither we nor GM can predict future child restraint system designs. There may be a system that cannot properly attach to bars that are less than 5.9 mm in diameter, and remain engaged during a crash. The fact that a problem has not occurred does not mean that the problem will not occur in the future.

GM acknowledged in its petition that in the future, "it is possible that a slotted attachment could be designed and that the slot might be too small to accept some of these anchors that exceed 6.1 mm." However, GM's proposal "to address this situation" by sending a letter to vehicle owners to advise them to "use the vehicle belt system to attach the child seats" would be inadequate for several reasons. First, for the reasons noted above, this would not provide an equivalent level of safety. Second, a consumer might fail to heed the warning against using the lower bars. Third, a consumer forced to use the vehicle belts might attach the seat incorrectly. And finally, such a letter would not warn subsequent owners of the vehicle.

For the reasons stated above, NHTSA has decided that GM has not met its burden of persuasion that the noncompliance described herein is inconsequential to motor vehicle safety, and the application is denied. Therefore, GM is required to provide notification of, and a remedy for, the noncompliance as required by 49 U.S.C. 30118–30120.

(49 U.S.C. 30118–30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: December 3, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–30357 Filed 12–6–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–41–93]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, IA–41–93, (TD 8703), Automatic Extension of Time to File Partnership return of Income, Trust Income Tax Return, and U.S. Real Estate Mortgage Investment Conduit Income Tax Return (§ 1.6081–4).

DATES: Written comments should be received on or before February 5, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5575, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Automatic Extension of Time for Filing Individual Income Tax Returns; Automatic Extension of Time To File Partnership Return of Income, Trust Income Tax Return, and U.S. Real Estate Mortgage Investment Conduit Income Tax Return.

OMB Number: 1545–1479.

Regulation Project Number: IA–41–93.

Abstract: Internal Revenue Code section 6081(a) provides that the Secretary may grant a reasonable extension of time for filing any return.

Under regulation section 1.6081–4, an individual required to file an income tax return is allowed an automatic 4-month extension of time to file if (a) an application is prepared on Form 4868, Application Extension of Time to File U.S. Individual Income Tax Return, or in such other manner as may be prescribed by the Internal Revenue Service, (b) the application is filed on or before the date the return is due, and (c) the application shows the full amount properly estimated as tax.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

The burden for the collection of information is reflected in the burden of Form 4868, Application for Automatic Extension of Time to File U.S. Individual Tax Return.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 28, 2001.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 01–30378 Filed 12–6–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the New York Metro Citizen Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the New York Metro Citizen Advocacy Panel will be held in Brooklyn, New York.

DATES: The meeting will be held Thursday, January 17, 2002.

FOR FURTHER INFORMATION CONTACT: Eileen Cain at 1–888–912–1227 or 718–488–3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Thursday, January 17, 2002, 6 p.m. to 9:20 p.m. at the Internal Revenue Service, 625 Fulton Street, Brooklyn, NY 11201.

For more information or to confirm attendance, notification of intent to attend the meeting must be made with Eileen Cain. Mrs. Cain can be reached at 1–888–912–1227 or 718–488–3555.

The public is invited to make oral comments from 9 p.m. to 9:20 p.m. on Thursday, January 17, 2002.

Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 718–488–3555, or write Eileen Cain, CAP Office, P.O. Box R, Brooklyn, NY, 11201. The Agenda will include the following: Various IRS issues. Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: November 20, 2001.

John J. Mannion,

Director, Program Planning & Quality.

[FR Doc. 01–30379 Filed 12–6–01; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Friday,
December 7, 2001

Part II

Department of Agriculture

Animal and Plant Health Inspection Service

9 CFR Parts 70 and 88

Commercial Transportation of Equines to Slaughter; Final Rule

VOL 66 ISS 236 DEC 7 2001 UMI

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 70 and 88

[Docket No. 98–074–2]

RIN 0579–AB06

Commercial Transportation of Equines to Slaughter

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are establishing regulations pertaining to the commercial transportation of equines to slaughtering facilities. These regulations fulfill our responsibility under the 1996 Farm Bill to regulate the commercial transportation of equines for slaughter by persons regularly engaged in that activity within the United States. The purpose of the regulations is to establish minimum standards to ensure the humane movement of equines to slaughtering facilities via commercial transportation. As directed by Congress, the regulations cover, among other things, the food, water, and rest provided to such equines. The regulations also require the owner/shipper of the equines to take certain actions in loading and transporting the equines and require that the owner/shipper of the equines certify that the commercial transportation meets certain requirements. In addition, the regulations prohibit the commercial transportation to slaughtering facilities of equines considered to be unfit for travel, the use of electric prods on equines in commercial transportation to slaughter, and, after 5 years, the use of double-deck trailers for commercial transportation of equines to slaughtering facilities.

EFFECTIVE DATE: February 5, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Timothy Cordes, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–3279.

SUPPLEMENTARY INFORMATION:

Background

We are establishing regulations pertaining to the commercial transportation of equines to slaughtering facilities. We are taking this action to fulfill a responsibility given by Congress to the Secretary of Agriculture in the Federal Agriculture Improvement and Reform Act of 1996 (commonly referred to as "the 1996 Farm Bill"). Congress added language to the 1996 Farm Bill concerning the commercial transportation of equines to slaughtering facilities after having determined that equines being transported to slaughter have unique and special needs.

Sections 901–905 of the 1996 Farm Bill (7 U.S.C. 1901 note, referred to below as "the statute") authorize the Secretary of Agriculture, subject to the availability of appropriations, to issue guidelines for the regulation of the commercial transportation of equines for slaughter by persons regularly engaged in that activity within the United States. The Secretary is authorized to regulate the food, water, and rest provided to such equines in transit, to require the segregation of stallions from other equines during transit, and to review other related issues the Secretary considers appropriate. The Secretary is further authorized to require any person to maintain such records and reports as the Secretary considers necessary. The Secretary is also authorized to conduct such investigations and inspections as the Secretary considers necessary and to establish and enforce appropriate and effective civil penalties. In a final rule published in the **Federal Register** on December 30, 1996 (61 FR 68541–68542, Docket No. 96–058–1), the authority to carry out the statute was delegated from the Secretary of Agriculture to the Assistant Secretary for Marketing and Regulatory Programs (now the Under Secretary for Marketing and Regulatory Programs), and from that official to the Administrator of the Animal and Plant Health Inspection Service (APHIS), and from the APHIS Administrator to the Deputy Administrator for Veterinary Services.

To clarify its intentions, Congress set forth definitions in the statute. For purposes of interpreting the statute, "commercial transportation" is defined as "the regular operation for profit of a transport business that uses trucks, tractors, trailers, or semitrailers, or any combination thereof, propelled or drawn by mechanical power on any highway or public road." "Equine for slaughter" means "any member of the *Equidae* family being transferred to a slaughter facility, including an assembly point, feedlot, or stockyard." "Person" means "any individual, partnership, corporation, or cooperative association that regularly engages in the commercial transportation of equine for slaughter" but does not include any individual or other entity who "occasionally transports equine for slaughter incidental to the principal activity of the individual or other entity in production agriculture."

Congress further clarified its intentions with regard to the statute through a conference report. The conference report states that the object of any prospective regulation would be the individuals and companies that regularly engage in the commercial transport of equines to slaughter and not the individuals or others who periodically transport equines to slaughter outside of their regular activity. The conference report also states that the Secretary has not been given the authority to regulate the routine or regular transportation of equines to other than a slaughtering facility or to regulate the transportation of any other livestock, including poultry, to any destination. In addition, the conference report states that, to the extent possible, the Secretary is to employ performance-based standards rather than engineering-based standards when establishing regulations to carry out the statute and that the Secretary is not to inhibit the commercially viable transport of equines to slaughtering facilities.

On May 19, 1999, we published in the **Federal Register** (64 FR 27210–27221, Docket No. 98–074–1) a proposal to establish regulations pertaining to the commercial transportation of equines to slaughtering facilities in a new part of title 9 of the Code of Federal Regulations (CFR). The new regulations would be found at 9 CFR part 88. We proposed to divide part 88 into six sections: § 88.1—Definitions, § 88.2—General information, § 88.3—Standards for conveyances, § 88.4–Requirements for transport, § 88.5—Requirements at a slaughtering facility, and § 88.6—Violations and penalties. The proposed regulations pertained only to the actual transport of a shipment of equines from the point of being loaded on the conveyance to arrival at the slaughtering facility.

We solicited comments concerning our proposal for 60 days ending July 19, 1999. During the comment period, we received 276 comments. They were from animal humane associations, academia, slaughter plants, horse industry organizations, veterinary practitioners, a State government and a foreign government, the U.S. Congress, livestock industry organizations, livestock transporters, an organization representing veterinarians, and private citizens, among others.

The commenters expressed a variety of concerns that are discussed below by topic. Many commenters referred to "horses" rather than "equines"; for consistency with the rule portion of this document, we will use the term

"equines," as appropriate, in discussing those comments.

Summary of Changes Made in Response to Comments

We are making the following changes in response to the comments we received.

1. *Definitions.* We have removed the separate definitions of *owner* and *shipper* and applied the definition of *shipper* to *owner/shipper.* As a result, all references to "owner" and "shipper" have been changed to "owner/shipper."

2. *General information.* Proposed § 88.2(b) provided that, to determine whether an individual or other entity transporting equines to a slaughtering facility is subject to the regulations, a USDA representative may request "from any individual or other entity" information regarding the business of the individual or other entity who transported the equines. We have amended that language in this final rule to clarify that a USDA representative may request that information "from the individual or other entity who transported the equines." Also, proposed § 88.2(b) stated that, when such information is requested, the individual or other entity who transported the equines "will" provide the information within 30 days and in the format specified by the USDA representative. We have amended this provision to clarify that the individual or other entity "must" provide the information within 30 days and in the format specified.

3. *Requirements for transport.* Proposed § 88.4(a)(1) specified that, for a period of not less than 6 hours prior to the equines being loaded onto the conveyance, the owner or shipper must provide each equine appropriate food, potable water, and the opportunity to rest. This final rule clarifies that the 6 hours must be *immediately* prior to the equines being loaded. Proposed § 88.4(a)(3) listed information that must be included on the owner-shipper certificate for each equine being transported. This final rule adds the following information to that list: (1) The owner/shipper's telephone number; (2) the receiver's (destination) name, address, and telephone number; (3) if applicable, the name of the auction/market where the equine is loaded; (4) the breed of the equine; and (5) a description of any tattoos on the equine. This final rule also requires at § 88.4(a)(3) that information provided on the owner-shipper certificate be typed or legibly completed in ink. Proposed § 88.4(a)(3) required the owner-shipper certificate to contain a statement of the equine's fitness to travel. This final rule clarifies that we mean fitness to travel at the time of loading. Proposed § 88.4(a)(3) required a statement on the owner-shipper certificate about any unusual physical conditions and any special handling needs. We have reworded this provision to clarify that we mean any unusual physical conditions that may cause the equine to have special handling needs. Proposed § 88.4(b)(2) stated that "veterinary assistance must be provided as soon as possible for any equines in obvious physical distress." This final rule adds that veterinary assistance must be provided by an equine veterinarian. In addition, § 88.4(b)(2) of this final rule adds that if an equine becomes nonambulatory en route, an owner/shipper must have the equine euthanized by an equine veterinarian. Further, § 88.4(b)(2) of this final rule specifies that, if an equine dies en route, the owner/shipper must contact the nearest APHIS office as soon as possible to allow an APHIS veterinarian to examine the equine, and if an APHIS veterinarian is not available, the owner/shipper must contact an equine veterinarian. Proposed § 88.4(e) required the shipper to secure the services of a veterinary professional to treat an equine, including performing euthanasia, if deemed necessary by the USDA representative. This final rule will require the veterinary professional to be an equine veterinarian.

4. *Requirements at a slaughtering facility.* Proposed § 88.5(b) stated that the shipper who transported the equines to the slaughtering facility must not leave the premises of the slaughtering facility until the equines have been examined by a USDA representative. Under this final rule, if an owner/shipper arrives at a slaughtering facility outside of the facility's normal business hours, the owner/shipper may leave the premises but must return to the premises of the slaughtering facility to meet the USDA representative upon his or her arrival.

Section 88.1—Definitions

Shipper and Owner

A number of commenters expressed concerns about the proposed definitions of *shipper* and *owner.*

We proposed to define *shipper* as "Any individual, partnership, corporation, or cooperative association that engages in the commercial transportation of equines to slaughtering facilities more often than once a year, except any individual or other entity that transports equines to slaughtering facilities incidental to the principal activity of production agriculture." We proposed to define *owner* as "Any individual, partnership, corporation, or cooperative association that purchases equines for the purpose of sale to a slaughtering facility." We stated that both owners and shippers would be subject to the regulations.

One commenter stated that exempting only those who ship equines once a year is too limiting and suggested allowing three shipments per year, which the commenter believed would allow the occasional transport of equines to slaughtering facilities by equine owners. One commenter stated that the definition of *shipper* should reflect both the frequency and number of equines transported. One commenter stated that an entity should have to adhere to the regulations if he or she transported more than 24 equines to slaughter per year.

Based on these comments and our experience with the equine industry, we have decided to apply the regulations to any individual, partnership, corporation, or cooperative association that engages in the commercial transportation of more than 20 equines per year to slaughtering facilities, except any individual or other entity who transports equines to slaughtering facilities incidental to his or her principal activity of production agriculture. We believe that those entities who transport more than 20 equines per year to slaughtering facilities, except those entities who transport equines to slaughtering facilities incidental to their principal activity of production agriculture, should be considered as regularly engaged in the commercial transportation of equines to slaughter.

Many commenters stated that replacing the term "person" in the statute with the terms "owner" and "shipper" exempts from the regulations horse owners who do not fit the definition of *owner*; and horse transporters who do not fit the definition of *shipper* and distorts Congress' intent. These commenters stated that Congress included in the definition of "person" any individual or entity that regularly engages in the transportation of equines for slaughter, exempting only those who occasionally transport equines to slaughter incidental to the principal activity of the same individual or other entity in production agriculture; however, the proposed definition of *owner* includes only an individual or entity that purchases equines for the purpose of sale to a slaughtering facility.

We agree that the definition of *owner* may be confusing and could be interpreted to mean that certain entities that did not purchase equines for the

purpose of sale to a slaughtering facility could be excluded from the requirements. Therefore, in this rule, we have removed the definition of *owner*. Instead, we will use the term *owner/shipper*, which we have defined as "Any individual, partnership, corporation, or cooperative association that engages in the commercial transportation of more than 20 equines per year to slaughtering facilities, except any individual or other entity who transports equines to slaughtering facilities incidental to his or her principal activity of production agriculture." We believe that the definition of *owner/shipper* meets the intent of the definition of *person* in the statute.

Many commenters objected that our proposed definitions for *shipper* and *owner* narrowed the scope of the statute and would provide more exemptions from the regulations than intended by Congress. The issue that was mentioned most frequently was that our proposal would exclude persons in the premarin mare urine (PMU) industry. They said these persons would not be "shippers" because their principal activity would be considered production agriculture. Others stated that the premarin farmer would not be an "owner" because the farmer did not purchase the foals or any other equines for the purpose of sale to a slaughtering facility. For the purposes of these regulations, we consider "production agriculture" to mean food or fiber production. The principal activity of the PMU industry is the collection of urine from pregnant mares for use by the pharmaceutical industry, which is not production agriculture. Therefore, individuals or other entities in the PMU industry who transport equines to slaughter incidental to this business would be covered by our regulations unless they ship 20 or fewer equines per year. To clarify that we consider production agriculture to mean food or fiber production, the definition of *owner/shipper* in this final rule specifies that production agriculture means production of food or fiber.

In addition, we believe that the new definition of *owner/shipper*, as previously explained, provides clarification as to the entities that must comply with the regulations.

Some commenters appeared to believe that the term "production agriculture" includes professional horse breeders, those who sell riding or work horses, and persons who have riding stables or board horses. They expressed concern that these individuals or other entities would be exempt from the regulations if they transported unwanted foals or other equines to slaughter. Some commenters assumed that trucking companies would be exempt from the regulations if they moved equines to slaughter for a farmer whose principal activity was production agriculture. As explained above, we consider production agriculture to mean food or fiber production. None of the entities listed above are engaged in food or fiber production. Therefore, they would not be exempt from the regulations unless they ship 20 or fewer equines per year.

Some commenters objected to our exempting entities who transport equines to slaughtering facilities incidental to their principal activity of production agriculture. One commenter suggested that the definition of *shipper* exempt only those who transport fewer than 10 equines per year, and another commenter stated that we should exempt those who transport 50 or fewer equines per year instead of providing an exemption for those entities involved in production agriculture. One commenter objected that the proposed definition of *shipper* would allow a farmer or other entity that engages in production agriculture to ship any number of equines a year to slaughtering facilities without complying with the regulations. Another commenter stated that there is no legitimate reason for persons or entities who derive income from production agriculture to be excluded from the regulations, and that anyone who engages in commercial transportation should have to comply with the regulations.

As stated previously, this final rule uses the term *owner/shipper* and exempts only those entities who transport 20 or fewer equines to slaughtering facilities per year and entities who transport equines to slaughtering facilities incidental to their principal activity of production agriculture (food or fiber production). As noted earlier, Congress clarified its intentions concerning who should be covered by the regulations in its conference report. The conference report states, among other things, that the object of any prospective regulation would be the individuals and companies that regularly engage in the commercial transport of equines to slaughter and not the individuals or others who periodically transport equines for slaughter outside of their regular activity. In the definition of *person* in the statute, Congress specifically exempted any individual or entity that occasionally transports equines for slaughter incidental to the principal activity of the individual or other entity in production agriculture.

One commenter stated that the definitions of *owner* and *shipper* should be amended to exclude slaughtering facilities. We disagree. If a slaughtering facility possesses equines that will be transported to a slaughtering facility, including its own, from its own feedlot or other premises and the facility transports more than 20 equines a year, that slaughtering facility is an owner/shipper and must comply with the regulations.

Slaughtering Facility

We proposed to define *slaughtering facility* as "A commercial establishment that slaughters equines for any purpose."

Many commenters objected that the definition of *slaughtering facility* excludes facilities that were specifically intended by Congress to be covered by the regulations (i.e., assembly points, feedlots, and stockyards). Several commenters stated that auctions and sales should be added to the definition of *slaughtering facility*. One commenter stated that tracing a stolen equine would be easier if all locations intended by Congress were regulated by APHIS.

The statute gives the Secretary authority to regulate the commercial transportation of equines to slaughtering facilities, which the statute indicates include assembly points, feedlots, or stockyards. The Secretary may use his or her discretion within this authority. At this time, we are defining slaughtering facility to mean only those establishments where equines are slaughtered because (1) we believe that equines moved to these facilities are most at risk of being transported under inhumane conditions, and (2) USDA representatives are available at these facilities to help enforce the regulations. Equines moved to assembly points and stockyards are more likely to be taken better care of because the purpose of the movement is for sale. Also, equines may not be moved from these points to slaughter. Equines sent to feedlots are going there for the express purpose of gaining weight. Plus, we have no way currently to monitor movements from all points to these intermediate destinations.

Regarding lost or stolen equines, we believe that the use of the owner-shipper certificate will help ensure that there is documented identification for each equine that is transported to a slaughtering facility. To improve its usefulness for tracebacks, the owner-shipper certificate will provide for the identification of any auction/market where an equine is loaded. In addition, we plan to develop a database of the information provided on the owner-shipper certificates.

One commenter stated that the definition of *slaughtering facility* should exclude assembly points, feedlots, and stockyards to which the equines are transported for feeding or holding if the time at such a location is intended to exceed 14 days.

The definition of slaughtering facility in this rule excludes assembly points, feedlots, and stockyards regardless of the amount of time an equine spends there. However, equines moved *from* an assembly point, feedlot, or stockyard to a slaughtering facility must be transported in accordance with the regulations.

Commercial Transportation

We defined *commercial transportation* as "The movement for profit via conveyance on any highway or public road."

One commenter stated that the definition of *commercial transportation* should exempt transport by conveyances that are owned or leased by slaughtering facilities that deliver equines to their own slaughtering facilities.

As stated previously, if a slaughtering facility transports equines to a slaughtering facility, including its own, the equines must be transported in accordance with the regulations.

Euthanasia

We proposed to define *euthanasia* as "The humane destruction of an animal by the use of an anesthetic agent or other means that causes painless loss of consciousness and subsequent death."

One commenter stated that we should provide a list of acceptable anesthetic agents, such as pentobarbital, choral hydrate, pentobarbital combinations, and gunshot, and require them to be administered by a trained person. This commenter added that succinylcholine curariform drugs or other paralytic agents, cyanide, strychnine, ether, and carbon monoxide should be prohibited.

We do not believe that listing anesthetic agents (pharmaceuticals that provide a loss of sensation with or without loss of consciousness) or requiring them to be administered by a trained person is necessary. As explained later in this document, § 88.4(b)(2) of this final rule requires veterinary assistance to be provided by an equine veterinarian. In addition, as explained later in this document, § 88.4(b)(2) of this final rule provides that, if an equine becomes nonambulatory en route, the equine must be euthanized by an equine veterinarian. Also, § 88.4(e) of this final rule provides that, if deemed necessary at any time during transportation to a slaughtering facility, a USDA representative may direct an owner/shipper to take actions to alleviate the suffering of an equine and this could include obtaining the services of an equine veterinarian to treat an equine, including performing euthanasia if necessary. An equine veterinarian will be aware of and will use appropriate and humane anesthetic agents for equines.

As mentioned in the proposed rule, we will allocate funds for public information efforts and are developing educational materials about the humane transport of equines.[1] These materials will include a list of equine veterinarians within the United States and their telephone numbers.

Section 88.2 General information

Federal Preemption

Proposed § 88.2(a) stated that State governments may enact and enforce regulations that are consistent with or that are more stringent than the regulations.

Many commenters expressed concerns that the regulations could preempt State laws that may be more stringent. Some pointed out that in the preamble, under the heading "Executive Order 12988," we stated that the regulations would preempt all State and local laws and regulations that are in conflict with the rule. Many commenters stated that the Federal regulations should not preempt State regulations unless compliance with the State regulations would make compliance with the Federal regulations impossible. In particular, many commenters expressed concern that the regulations would preempt existing State bans on transporting equines in double-deck trailers.

States may promulgate and enforce similar or even more stringent regulations to ensure the humane transport of equines to slaughtering facilities. State or local laws that are more stringent than the regulations will not necessarily conflict with the regulations. For example, the regulations would not preempt existing States' bans on transporting equines in double-deck trailers because double-deck trailers are not required by our regulations. The drivers of conveyances will be responsible for complying with any State laws that prohibit the use in a State of double-deck trailers for the transportation of equines to slaughter. State and local laws and regulations would be "in conflict" with the regulations established by this rule only if they made compliance with this rule impossible, just as some commenters suggested.

Collection of Information

Proposed § 88.2(b) stated that a USDA representative may request of any individual or other entity information regarding the business of the individual or other entity that transported the equines to determine whether that individual or other entity is subject to the regulations. The proposal further stated that the individual or other entity will provide the information within 30 days and in a format as specified by the USDA representative.

Several commenters stated that we should say "must" request information regarding the business of the individual or other entity that transported the equines and that we should state that the individual or other entity "must provide" in place of "will provide."

We believe that "may" is more appropriate in the first instance because the USDA representative may not need to request information at all times to make a determination of whether an individual or other entity that is transporting the equines to a slaughtering facility is subject to the regulations. However, as to using "must provide," we agree with the commenters and have amended the rule accordingly.

One commenter stated that we should clarify in § 88.2(b) that a USDA representative may request information from the entity that actually transported the load of equines.

We agree. We have amended § 88.2(b) to read as follows: "To determine whether an individual or other entity found to transport equines to a slaughtering facility is subject to the regulations in this part, a USDA representative may request from that individual or other entity information regarding the business of that individual or other entity. When such information is requested, the individual or other entity who transported the equines must provide the information within 30 days and in a format as may be specified by the USDA representative."

Section 88.3 Standards for Conveyances

Cargo Space

Proposed § 88.3(a)(1) stated that the animal cargo space of conveyances used for the commercial transportation of equines to slaughtering facilities must be designed, constructed, and maintained in a manner that at all times protects the health and well-being of the equines being transported (e.g., provides

[1] To obtain information about these educational materials, contact the person listed under FOR FURTHER INFORMATION CONTACT.

adequate ventilation, contains no sharp protrusions, etc.).

Many commenters stated that we should explain adequate ventilation, and some of these commenters stated that adequate ventilation cannot be provided in certain conveyances. Several commenters stated that the requirements should address protection from the elements and extremes of weather. One commenter suggested that trailers be modified to use air scoops to control air flow and stated that trailers that cannot be appropriately modified for operation in extreme weather conditions should not be used when adverse conditions are likely to exist. This commenter stated that a rating system could be used to rate trailers for their suitability for summer or winter conditions and could encourage transporters to invest in better-designed trailers.

As stated previously, the regulations are performance-based standards. If a conveyance does not provide adequate ventilation or other measures to protect the health and well-being of the equines in transit, it must not be used.

The educational materials we are developing about humane transport of equines will include information on ventilation and transport under various weather conditions.

Several commenters stated that our proposal did not address proper flooring in conveyances. Many commenters stated that the rule should require flooring within a conveyance to be of such material (rubber, neoprene, etc.) as to afford the animal secure footing at all times under all conditions. One commenter stated that welding 3/8-inch rods at 12-inch intervals to the deck could prevent slipping. Many commenters stated that ramps should also have nonslip (nonmetal, nonskid) flooring. Several commenters stated that wood shavings, sawdust, or sand could be used to provide secure footing.

There are many ways of providing secure footing and otherwise protecting the health and well-being of equines in transit. We do not believe it is necessary to specify how this must be done. Many of the shippers or owners who transport equines safely and correctly already use flooring that provides equines with secure footing. In addition, the regulations will require the use of an owner-shipper certificate that must describe any preexisting injury the equine has at loading. If an equine arrives at a slaughter facility with an injury that was not identified on the certificate, such as an injury from a fall due to insecure footing, the owner/shipper may be found in violation of the regulations and could be fined in accordance with § 88.6. Also, the educational program previously mentioned in this document will provide owners, shippers, and other stakeholders in the equine slaughtering industry with information regarding the safe transport of equines, including information on flooring.

One commenter objected that our proposal did not require conveyances to be cleaned of manure and urine. This commenter also stated that § 88.3(a)(1) should prohibit use of ropes, wires, or chains in animal cargo space because an equine could become entangled in or injured by them. This commenter further added that a conveyance that transports equines should not have openings in the walls or sides of the vehicle lower than 2 feet from the floor of the conveyance.

Under § 88.3(a)(1), the conveyance used for the commercial transportation of equines to slaughtering facilities must be maintained in a manner that at all times protects the health and well-being of the equines being transported. Maintenance of the conveyance would include the removal of manure and urine, when appropriate. Similarly, owners/shippers must ensure that the cargo space is free of any articles that may injure the equines. If a conveyance has openings in the walls or sides that cause harm to the equines, the conveyance must either be altered or not used for the transport of equines to slaughter. We do not believe that a comprehensive list of all articles or configurations that could injure an equine is necessary or appropriate.

Segregation of Aggressive Equines

Proposed § 88.3(a)(2) stated that the animal cargo space of conveyances used for the commercial transportation of equines to slaughtering facilities must include means of completely segregating each stallion and each aggressive equine on the conveyance so that no stallion or aggressive equine can come into contact with any of the other equines on the conveyance.

Many commenters stated that partitions or individual stalls should be required to segregate stallions and other aggressive equines, and one of these commenters stated that the partitions should be at least 6 feet high. Several commenters stated that partitions should be required for "high strung" equines. Several commenters stated that equines should be transported in trailers with separate individual compartments or haltered, and several commenters stated that equines could be tied to prevent injuries due to fighting if not partitioned. One commenter stated that tying equines will prevent rearing. One commenter stated that stallions can be muzzled and tied.

Under § 88.4(a)(4)(ii), stallions and aggressive equines are required to be completely segregated from other equines during transit. We do not believe that it is necessary to require owner/shippers to separate equines into individual compartments. However, because this is a performance-based standard, an owner/shipper could use a partition to separate aggressive equines from other equines. As to tying equines, we agree that tying an equine, in some cases, could prevent it from rearing; however, the equines could still kick. Also, haltering and tying an equine could pose a danger to the equine if it attempted to rear and lost its balance and fell. The equine could be stepped on by other equines or injure itself. As to the comment regarding muzzling the equines, we assume that this commenter recommended muzzling and tying stallions instead of segregating them. Tying up or muzzling an equine is not practical for all equines going to slaughter because some are not halter-broken. We believe the owner/shipper should have some discretion in determining how to achieve segregation of stallions and aggressive equines.

Interior Height

Proposed § 88.3(a)(3) stated that the animal cargo space of conveyances used for the commercial transportation of equines to slaughtering facilities must have sufficient interior height to allow each equine on the conveyance to stand with its head extended to the fullest normal postural height.

Several commenters stated that the performance specifications were too vague and could be subject to interpretation. One commenter suggested that § 88.3(a)(3) state, "Have sufficient height to allow each equine on the conveyance to stand in a normal relaxed posture with its feet on the floor, without its head or any part of its body contacting the ceiling of the conveyance. There must be sufficient clearance to prevent injury or abrasions to the withers and the top of the rump. Horses which arrive at their destination with reddened abrasions or fresh injuries on the withers or the top of the rump would be in violation." One commenter suggested "* * * extended up to the highest normal postural height so that its withers and top of its rump will not come into contact with the ceiling, but in any case the ceiling must be no less than 7 feet from the floor." Many commenters stated that the hauling area of vehicles used to transport equines should be a minimum of 7 feet high from the highest point

used by the animals for footing, to the lowest point in the ceiling, not having a strut or brace, and no less than 6 feet 6 inches from the highest point used by the animals for footing to the lowest point having a strut or brace. Some commenters provided ranges of 6 feet 6 inches to 7 feet for the minimum heights in the hauling area of conveyances, and several commenters stated that the height should be adequate for equines to stand upright and provide for safe loading and unloading. Many commenters stated that the intent of the statute was to require a conveyance to have a ceiling height of no less than 6 feet 6 inches. One commenter stated that § 88.4(a)(3) should state that, if equines arrive at their destination with injuries indicative of transport, the owner/shipper could be found in violation of the regulations.

We believe that the performance-based standards in this rule fulfill the intent of Congress under the statute to help ensure the humane movement of equines in commercial transit to slaughtering facilities. We have left the owner/shipper with the responsibility of ensuring that the design, construction, and maintenance of the conveyance used are adequate to ensure that the conveyance can safely and humanely transport equines. If an equine arrives at its destination with an injury, and the injury was caused by a violation of the regulations, the owner/shipper may be assessed civil penalties of up to $5,000 per violation for each equine injured. Accountability for injuries that occur during transport due to violations is the reason the owner-shipper certificate requires the documentation of any preexisting injuries that are present prior to loading.

Doors and Ramps

Proposed § 88.3(a)(4) stated that the animal cargo space of conveyances used for the commercial transportation of equines to slaughtering facilities must be equipped with doors and ramps of sufficient size and location to provide for safe loading and unloading.

Many commenters stated that we should provide engineering-based standards for doors and ramps. One commenter stated that ramps should have sides, and another commenter stated that rails should be required. One commenter stated that we could require commercial semi-trailers to travel with their own external ramps. One commenter stated that conveyances should be equipped with doorways and ramps of sufficient height and width and location to provide for safe loading and unloading, including in an emergency. One commenter suggested that conveyances be equipped with ramps and floors which provide nonslip footing and doors of sufficient width and height so that a horse that is walking off the conveyance will not sustain visible external injuries such as abrasions and lacerations. Another commenter stated that we should require ramps, rails, and flooring to be maintained in a good state of repair; fittings to be designed for quick and easy operation and maintained in good working order; ramps and floors to be covered with a nonmetal, nonskid surface; and flooring to be free of rust and rot and designed to allow for appropriate drainage. This commenter further stated that vehicles should be fitted with a ramp not to exceed 25 degrees in slope and be of sufficient width and equipped with solid sides of sufficient strength and height to prevent equines from falling off, and that all portable or adjustable ramps should be equipped with anchoring devices. This commenter also stated that vehicles must be equipped with an additional exit ramp suitable for use in emergencies and that conveyances should be equipped to provide for the safest and least stressful loading and unloading. One commenter stated that equines should be loaded in as quiet a situation as possible and that the area surrounding the ramp should also be nonslip.

We believe the performance-based standards in this rule provide clear guidance on what we mean by humane transport. Owner/shippers will have to ensure the safe loading and offloading of equines because, if equines sustain injuries while loading, in transit, or while offloading, due to violations of the regulations, the owner/shipper may be assessed civil penalties as set forth in § 88.6.

Double-Deck Trailers

Proposed § 88.3(b) stated that equines in commercial transportation to slaughtering facilities must not be transported in any conveyance that has the animal cargo space divided into two or more stacked levels, except that conveyances lacking the capability to convert from two or more stacked levels to one level may be used until a date 5 years from the date of publication of the final rule. The proposal also stated that conveyances with collapsible floors (also known as "floating decks") must be configured to transport equines on one level only.

Many commenters opposed the continued use of double-deck trailers. Many of them stated that the original intent of the statute was to ban the use of double-deck trailers for the transport of equines.

The statute does not prohibit the use of double-deck trailers or any other conveyance; however, it requires the commercial transport of equines to slaughter by humane methods.

Many commenters stated that continued use of double-deck trailers is inconsistent with providing for the safe and humane transport of equines to slaughter. Many commenters stated that our rule is inconsistent with the State of New York's ban on the use of double-deck trailers for the transport of horses. Several commenters stated that APHIS should provide a shorter grace period for the use of double-deck trailers, and some of these commenters suggested grace periods ranging from 30 days to 2 years. One commenter suggested that, rather than allow an across-the-board 5-year "grandfather clause," APHIS should require entities to show that they cannot practicably comply with an immediate ban. This commenter stated that this requirement would require the shipper to demonstrate how soon he or she could switch to a single-deck trailer. Many commenters expressed concern that, with the 5-year exception, a shipper could begin to use a new double-deck trailer or a double-deck trailer previously used to transport nonequine livestock at any time during the 5-year period. Several commenters stated that vehicles designed for horses should be required.

We believe that the grace period of 5 years is fair and reasonable. As stated in the proposal, we arrived at a time period of 5 years after discussions with interested parties, including representatives of the trucking and equine industries, at two meetings hosted by humane organizations. We believe that many of the double-deck trailers currently used to transport equines will need to be replaced in approximately 5 to 7 years.

We acknowledge that some double-deck trailers are likely to cause injuries and trauma to equines; however, we are allowing their continued use for the next 5 years in order to minimize economic losses to those dependent on the use of double-deck trailers. Nevertheless, we will hold owners and shippers responsible for any injuries that occur during transport. If equines are injured during transport to slaughtering facilities, even if that transport is in double-deck trailers still allowed under the regulations, the owner/shipper could be in violation of the regulations for each equine that is injured and be assessed civil penalties as set forth in § 88.6. Furthermore, although our rule may not mirror

regulations that were promulgated by certain States, this rule will not preempt State regulations that have bans on the use of double-deck trailers.

One commenter stated that the regulations are not clear as to whether the 5-year grace period means that no violations can be written for transporting tall equines in a double-deck trailer for 5 years. As stated above, we will hold owners and shippers responsible for any injuries that occur during transport if the injuries are due to violations of the regulations.

One commenter stated that the use of double-deck trailers will lead to a violation of § 88.4 regarding the observation of equines every 6 hours and offloading every 28 hours because shippers will have little incentive to comply with unloading requirements given the intrinsic hazards to handlers and equines.

In the proposal, we stated that equines frequently sustain injuries from being forced up or down the steep inclines of double-deck loading ramps. However, if an owner/shipper continues to use a double-deck trailer, he or she must take proper precautions to protect equines from injury during loading and offloading while using ramps. In addition, the owner/shipper must adhere to the prescribed observation period and offloading times provided in § 88.4(b)(2) and 88.4(b)(3), respectively. The grace period for double-deck trailers is strictly a phase-out period for the use of double-deck trailers and does not provide protection from the regulations for owners or shippers for injuries incurred by equines due to their transport in double-deck trailers. Therefore, if equines are injured during transport to slaughtering facilities, the owner/shipper may be found in violation of the regulations for each equine that is injured and may be assessed civil penalties as set forth in § 88.6 even if the transport was performed using a double-deck trailer.

One commenter stated that the regulations are not clear as to whether double-deck trailers will be banned as of the date of the final rule.

As of the effective date of this rule, conveyances with collapsible floors (also known as "floating decks") must be configured to transport equines on one level only and will not be prohibited. In addition, if a conveyance is converted from two or more stacked levels to one level, the conveyance will not be prohibited. Conveyances that lack the capability to convert from two or more stacked levels to one level may be used until 5 years from the date of publication of this rule.

Many commenters stated that double-deck trailers can jeopardize public safety and, therefore, should not be allowed.

We agree that if drivers operate double-deck trailers in an unsafe manner, the trailers can pose a danger to humans, just as any vehicle that is operated in an unsafe manner. In § 88.4, paragraph (b) states that during transit to the slaughtering facility, the owner/shipper must drive in a manner to avoid causing injury to the equines. This is a performance-based standard that is meant to protect the equines from injury caused by poor driving habits and should help ensure that double-deck trailers are driven in a safe manner. Our educational program regarding the humane transport of equines will include safe driving procedures.

Several commenters stated double-deck trailers should not be prohibited after 5 years if they can be altered to accommodate equines or converted to single level.

Double-deck trailers do not provide adequate headroom for equines, with the possible exception of foals and yearlings. We do not believe that trailers that have two or more permanent levels that are not collapsible can be adequately altered to accommodate adult equines, especially tall equines. A tall equine can be 8 feet tall to the top of its head when standing on all four legs and close to 12 feet tall when rearing. As stated in the proposal, the overpasses on most U.S. interstate highways are between 14- and 16-feet high. We are not prohibiting, either immediately or after 5 years, the use of double-deck trailers that can be converted to a single level.

Several commenters said that if equines are sorted by size, double-deck trailers could continue to be used. Other commenters stated that we should require only that ceilings be of adequate height, which one commenter maintained would prohibit only unusually tall equines from the double-deck portion of the trailers. One commenter stated that § 88.3(b) should require only that conveyances be of sufficient interior height to allow each equine to stand with its head extended to the fullest normal postural height.

Again, we do not believe that double-deck trailers provide sufficient headroom for horses other than foals and yearlings.

Two commenters stated that research has shown that stress levels and physiological factors are improved on double-deck trailers versus single-deck trailers.

Upon completion of the USDA research, we determined that rubber padding used in the single-deck trailers may have caused physiological differences between horses transported in double-deck trailers and horses transported in single-deck trailers. The rubber padding lined the interior walls of the single-deck trailer and limited the ventilation capacity within the conveyance. However, this discovery may support the use of rubber padding to decrease the exposure of equines to extremely low temperatures during their transport in the winter.

Several commenters opposed the prohibition on double-deck trailers because single deck, or "straight-floor," trailers do not hold as many horses. Several commenters stated that they now use the double-deck trailers for horses and other livestock and that going to a single deck, or "straight-floor," trailer would not be economical for them because they hold fewer animals. Thus, our rule would cause them economic hardship. One commenter stated that, since it will still be legal to transport livestock other than equines in double-deck trailers, and to transport equines to destinations other than slaughtering facilities in double-deck trailers, shippers will have no economic incentive to trade in double-deck trailers for single-deck trailers. The commenter maintained that the rule will, therefore, impede the transport of equines to slaughter by reducing the number of vehicles available for this transport and increasing the costs of transporting equines to slaughter.

We acknowledge that double-deck trailers can carry more equines and other livestock than single-deck trailers. We are allowing the continued use of double-deck trailers for the next 5 years in order to minimize economic losses to those dependent on the use of double-deck trailers. We do not believe that equines can be safely and humanely transported on a conveyance that has an animal cargo space divided into two or more stacked levels. As stated in the proposal, double-deck trailers can continue to be used to transport other commodities, including produce and livestock other than equines. Also, owners can sell their serviceable trailers at fair market value to transporters of commodities other than equines.

Section 88.4 Requirements for Transport

Food and Water Prior to Transport

Proposed § 88.4(a)(1) stated that, prior to the commercial transportation of equines to a slaughtering facility, the shipper or owner must, for a period of not less than 6 consecutive hours prior to the equines being loaded on the

conveyance, provide each equine appropriate food (*i.e.*, hay, grass, or other food that would allow an equine in transit to maintain well-being), potable water, and the opportunity to rest.

Several commenters expressed concern that the proposed rule would not require the 6-hour period of feed, water, and rest to occur immediately preceding loading for transport. One commenter suggested saying "not more than 6 consecutive hours prior to the equines being loaded." One commenter suggested inserting the words "for a period of at least 6 consecutive hours immediately. * * *"

It was our intent in § 88.4(a)(1) to require a 6-hour time period immediately preceding the loading of the equines. To make that clearer, we have added the word "immediately" before the word "prior" in the rule portion of this document.

Several commenters stated that the proposed provisions for access to food and water were too vague. One commenter objected to the lack of specific information regarding the quality or quantity of food and water to be provided. Two commenters stated that equines should be grouped appropriately to ensure that all of them have uninhibited access to food and water, and that water should be *ad libitum*, and one other commenter stated that the equines should have unimpeded access. One commenter suggested that we require "free access to potable water *ad libitum*."

The rule requires that each equine be provided appropriate food and potable water. This means that each equine must have access to the food and water. Also, the rule requires "appropriate" food. We do not believe that it is necessary to prescribe the quality or quantity of food that must be provided or to require grouping of animals. We believe that the owner/shipper can determine the quality and quantity of food and water that should be provided to equines and the best methods to ensure that all equines have access to food and water.

One commenter stated that requiring owners or shippers to provide equines with access to feed within 6 hours of transport could be a potential problem due to the possibility of impaction. This commenter stated that there are anecdotal accounts linking impaction to feed and dehydration and that requiring feed may need more study.

We are aware that impaction can occur under certain circumstances; however, impaction has been associated with inadequate intake of water. (Impaction is the blockage of a portion of the digestive system formed by digested material.) However, we believe that allowing equines access to appropriate food and potable water for 6 hours immediately prior to loading is unlikely to result in impaction and is essential to ensure that the equines do not undergo serious physiological distress during transit.

One commenter stated that the minimum rest period prior to loading should be 16 hours with unlimited access to water, good quality hay, and shelter, and another commenter stated that water should be provided within 12 hours of transport.

Based on one of the USDA-commissioned research studies, we found that equines that were provided water for 6 hours immediately before transport did better than those that were provided water for more than 6 hours.

One commenter stated that feedlots practice dry lotting, which means that equines are not fed immediately prior to slaughter, and the regulations are not clear as to whether the practice will be prohibited when the rule is finalized. One commenter stated that providing food and water is not necessary if equines are going directly to processing from the truck.

The regulations at § 88.4(a)(1) require that equines be provided food and water prior to loading for transport to slaughter, and § 88.5 requires that equines be given access to food and water after being unloaded at the slaughtering facility. As a consequence, dry lotting will be prohibited.

One commenter stated that equines purchased at sale barns may have already been deprived of water for quite some time. This commenter stated that the regulations are not clear as to how USDA representatives will verify that each equine has received the required 6-hour access to food and water and whether USDA representatives will examine equines for evidence that they received preloading services upon arrival at the slaughtering facility. One commenter stated that we should not trust the owner-shipper statement that claims an equine was provided access to appropriate food, potable water, and rest prior to loading.

Owners/shippers are responsible for ensuring that equines have access to food, water, and rest for 6 hours immediately prior to loading on a conveyance for transport to a slaughtering facility. In accordance with § 88.4(a)(3), the owner/shipper must certify on the owner-shipper certificate for each equine being transported that the equine had access to food, water, and rest for the 6 hours immediately prior to loading into the conveyance. In addition, in accordance with § 88.5(a)(3), a USDA representative must be given access to the equines upon arrival at the slaughtering facility. If the USDA representative suspects that the equines are suffering from the effects of a lack of food, water, or rest, he or she can question the owner/shipper regarding the care the equines received prior to and during transport. If we determine that an owner/shipper did not comply with any requirement, the owner/shipper may be subject to civil penalties of up to $5,000 per violation per equine as set forth in § 88.6. In addition, if we determine that the owner/shipper falsified the form, the owner/shipper could be subject to a fine of not more than $10,000 or imprisonment for not more than 5 years or both. (The penalty for falsification of the owner-shipper certificate is stated on the owner-shipper certificate (18 U.S.C. 1001).)

USDA Backtag

Proposed § 88.4(a)(2) stated that, prior to the commercial transportation of equines to a slaughtering facility, the shipper or owner must apply a USDA backtag to each equine in the shipment.

One commenter stated that we should remove the requirement for a backtag and require each equine to be marked in a manner that provides a unique identification of the animal.

Backtags provide a unique identification for each animal. They are easy to apply and easy to read. We believe that requiring their use will facilitate identification of equines during loading, unloading, and in spaces where they are congregated. If an equine has a unique identifying mark such as a brand or tattoo, the owner-shipper must record the identifying mark on the owner-shipper certificate along with the USDA backtag number.

One commenter stated that an identification tag should be attached to each equine and that the tag should provide the identification of the owner/shipper and the license plate number of the conveyance.

A USDA backtag will be applied to each equine and the number will be recorded on the owner-shipper certificate for each equine. The owner-shipper certificate will contain the name, address, and telephone number of the owner/shipper. In addition, the vehicle license number or registration number of the conveyance will be recorded on the owner-shipper certificate. Because the USDA backtag provides a unique identification for each animal, the backtag will allow us to determine the identification of the

owner/shipper should that become necessary.

Owner-Shipper Certificate

Proposed § 88.4(a)(3) stated that, prior to the commercial transportation of equines to a slaughtering facility, the shipper or owner must complete and sign an owner-shipper certificate for each equine being transported. The proposal also stated that the owner-shipper certificate for each equine must accompany the equine throughout transit to the slaughtering facility and must include specified information, including, under § 88.4(a)(3)(v) (redesignated as § 88.4(a)(3)(vii) in this final rule), a statement of the equine's fitness to travel (a statement that the equine is able to bear weight on all four limbs, is able to walk unassisted, is not blind in both eyes, is older than 6 months of age, and is not likely to give birth during the trip).

One commenter maintained that an owner-shipper certificate is unnecessary paperwork, because, upon arrival at the slaughtering facility, the USDA representative can check the equines and conveyance and address any problems noted with the owner of the equines.

As explained in our proposal, we have several reasons for requiring the owner-shipper certificate. They make the owner/shipper responsible for ensuring that the equines are fit to travel and have had adequate food, water, and rest prior to transport; provide a way for the USDA representative at slaughtering facilities to determine whether an injury occurred en route; assist in the prosecution of persons found to be in violation of the regulations; and facilitate the traceback of any stolen equines.

Owner-Shipper Certificate; Who Signs

Many commenters expressed concern about an owner or shipper preparing the certificate for movement. In particular, with respect to the statement of fitness for travel, they stated that the owner or shipper may have an economic incentive to certify the equines fit to travel. Many commenters stated that a professional should certify an equine's fitness to travel prior to the transport to ensure the equine is in a reasonable state of health at the beginning of the trip. (Some of these commenters listed people such as a licensed veterinarian, accredited veterinarian, USDA representative, or licensed veterinary technician. One commenter added certified humane officers and brand inspectors.) Many commenters stated that the fitness to travel should be certified by a veterinarian because an owner/shipper could ship a lame equine without identifying the injury on the certificate and state that injury occurred en route if lameness is noted as the equine is unloaded at the slaughtering facility. Several commenters stated that a lack of veterinary certification could mean that the USDA representative at the slaughtering facility would be unable to determine whether the injuries were preexisting or a result of transportation. One commenter stated that without medical or veterinary knowledge or training, there may be mistakes or inaccurate entries on the owner-shipper certificate. One commenter stated that the owner-shipper certificate requires subjective determinations that cannot be made by nonveterinary personnel. Many commenters stated that the original intent of the statute was to ban the shipment of sick and injured horses by having a veterinarian inspect the horses, rather than the owner, who stands to lose money if the horse is not shipped.

We considered requiring a veterinarian to certify each equine's fitness to travel. However, in most cases, because of the lack of a client-patient relationship, the veterinarian would not have liability coverage. We also determined that use of accredited veterinarians would be inappropriate because, as provided in 9 CFR part 161, they perform functions required by cooperative State-Federal disease control and eradication programs. We also decided, however, that a veterinarian was not needed to provide the information we require on the owner-shipper certificate. This information could be provided by any person who makes careful observation of an equine. However, if an owner/shipper wishes to have a veterinarian examine an equine prior to loading the equine for slaughter, the owner/shipper may make those arrangements.

If an equine arrives at a slaughtering facility with an injury that should have prevented the equine from being transported (e.g., if the equine cannot walk unassisted), the owner/shipper may be found in violation of the regulations and could be subject to civil penalties as set forth in § 88.6. In addition, if an equine arrives at a slaughtering facility with an injury that was not identified on the owner-shipper certificate, the USDA representative, who in most cases will be a veterinarian, will make a professional judgment as to the length of time an equine suffered the lameness or the age of a wound and its possible cause. If the USDA representative determines that the injury occurred en route or was present prior to loading the equine on the conveyance, the owner/shipper may be found in violation of the regulations and subject to civil penalties as set forth in § 88.6. Any owner/shipper found to have falsified a certificate could also be subject to a fine of not more than $10,000 or imprisonment for not more than 5 years or both, in accordance with 18 U.S.C. 1001.

A few commenters stated that allowing owners or shippers to complete the owner-shipper certificate is inconsistent with other regulations that require an accredited veterinarian to sign a certificate or that require a health certificate for the interstate movement of equines.

Other Federal regulations regarding the interstate movement of equines, for example, those for equine infectious anemia (9 CFR part 75), are intended to prevent the interstate spread of communicable diseases of equines. This rule does not pertain to a disease control or eradication program, and veterinary medical training is not required to complete the owner-shipper certificate.

One commenter asked if there would be a penalty for the owner or shipper if he or she is mistaken about an equine's fitness to travel. One commenter stated that an owner or shipper should not be found in violation of the regulations if he or she makes a mistake on the owner-shipper certificate or neglects to mark a box, such as the sex of the equine.

If an owner/shipper is unsure about an equine's fitness to travel, he or she should seek the proper guidance from a veterinarian or other qualified individual. If an owner/shipper makes a mistake on the owner-shipper certificate or fails to accurately complete the certificate, APHIS will attempt to determine whether the mistake or failure to accurately complete the certificate was inadvertent or an attempt to circumvent the regulations. We understand that, at times, someone who fills out a certificate may make a minor error, and we do not intend to bring a case against someone solely because he or she made a minor clerical error. However, falsification of the owner-shipper certificate is a criminal offense that may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both because the owner-shipper certificate is a Federal document.

In the proposal, § 88.4(a)(3)(iii) (redesignated as § 88.4(a)(3)(v) in this final rule) required that the owner-shipper certificate provide a description of the equine's physical characteristics, including such information as sex, coloring, distinguishing markings, permanent brands, and electronic means of identification.

Several commenters stated that, at the point of loading, a USDA representative should inspect the equines to verify the description of the equine on each owner-shipper certificate.

Shippers and owners are responsible for the accuracy of the information on the owner-shipper certificate for each equine being transported. We believe that shippers and owners are capable of providing an accurate description of an equine's physical characteristics. If we find that an owner/shipper has provided false information on an owner-shipper certificate, the owner/shipper may be found in violation of the regulations and be assessed civil penalties for each equine as provided in § 88.6. In addition, if an owner/shipper provides false information, the owner/shipper could be subject to criminal charges that may result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both, under 18 U.S.C. 1001.

Owner-Shipper Certificate; When Signed

One commenter stated that fitness to travel should not be determined more than 48 hours prior to loading.

We agree that if an equine's fitness to travel is assessed too far in advance, there is a chance that an equine that becomes ill or injured would not be noted. The fitness to travel should be determined during the period prior to the loading of equines into the conveyance. Ideally, this determination should be made when equines are provided appropriate food, potable water, and rest in accordance with § 88.4(a)(1). In this final rule, we have reworded the provision concerning an equine's "fitness to travel" to clarify that we mean at the time of loading (see § 88.4(a)(3)(vii)).

Owner-Shipper Certificate; Identification of Owner, Shipper, Consignee, Vehicle

Under proposed § 88.4(a)(3), the shipper's name and address, and, if the shipper is not the owner of the equines, the owner's name and address, and a description of the conveyance, including the license plate number, must be included on the owner-shipper certificate.

One commenter stated that we should require the owner-shipper certificate to state the ultimate destination (city, State, and name of business) as well as any anticipated intermediate stopping points to allow USDA and law enforcement personnel to intercept a conveyance en route to a slaughtering facility. This commenter also suggested that the expected driving route should be filed with a copy of the owner-shipper certificate at the point of sale and departure.

We agree that the destination of each equine should be required on the owner-shipper certificate and our certificate includes fields for that information. We have added a requirement to § 88.4(a)(3) that the owner-shipper certificate provide the name, address (street address, city, and State), and telephone number of the receiver (destination). We do not believe that listing intermediate stopping points on the owner-shipper certificate is necessary, however. There are only a few slaughtering establishments for equines. Most drivers follow a set route to the slaughtering facility to which they transport equines and, as a result, USDA representatives or other law enforcement officials will be able to locate the conveyance.

Several commenters stated that it is unnecessary to require a separate owner-shipper certificate for each equine in a shipment or to require a new owner-shipper certificate for each segment of the trip. They stated that, in the case of equines that are unloaded en route, information about the equines' fitness to travel and other required information could be added to the original certificate if the certificate was designed to accommodate more than one trip segment.

We do not believe that there would be circumstances that an owner/shipper certificate would unload equines except in an emergency or as required in § 88.4(b)(3) for equines that have been on a conveyance for 28 hours. Under these circumstances, we would want the owner/shipper to reassess each equine's fitness to travel prior to reloading onto the conveyance.

We require an owner-shipper certificate for each equine on the conveyance because the certificate provides a description of the equine. These descriptions can help us trace lost or stolen equines.

One commenter stated that the owner-shipper certificate should include the telephone number of the consignor (shipper) and consignee's (receiver/destination) businesses.

We agree. There is a field for this information on the certificate, and we have added that requirement to § 88.4(a)(3).

Owner-Shipper Certificate; Description of the Equine

As noted earlier, proposed § 88.4(a)(3)(ii) required the owner-shipper certificate to include a description of the equine's physical characteristics, including such information as sex, coloring, distinguishing markings, permanent brands, and electronic devices that could be used to identify the equines.

One commenter stated that the owner-shipper certificate should include additional identifying information, including the breed or type of equine, color combinations, and the location and relative size of any markings, brands, tattoos, or scars, as well as the approximate age of the equine. The commenter stated that this information could assist individuals who are tracing missing or stolen animals. One commenter stated that a description of any physical preconditions should be included on the owner-shipper certificate. One commenter stated that we should require tattoos, especially lip tattoos, to be identified on the certificate.

The owner-shipper certificate contains fields for the owner/shipper to indicate the breed and color of the equine. If a specific breed or color is not indicated on the certificate, there is a field marked "Other" that should be completed. Also, on the owner-shipper certificate, the field for identifying marks specifies "brands, tattoos, and scars." In this final rule, § 88.4(a)(3) specifies that the owner-shipper certificate should include the breed of the equine and any tattoos that are present. We believe that most people who are familiar with handling equines will also add any facial or leg markings, as appropriate; however, we have added "facial or leg markings" to the field for "Identifying Marks" on the owner-shipper certificate. The certificate also provides space for recording any preconditions. We are not requiring an age to be indicated because an owner/shipper may have to guess the age of the equine. People use the teeth of an equine to determine its age, but, in most cases, there are many variables such as teeth grinding and diet that can affect the accuracy of the assessment.

Who Determines Fitness To Travel

One commenter stated that studies have shown that the majority of injuries to equines do not occur during transport or marketing but occur at the point of origin, prior to transport, due to either neglect or abuse. Several commenters provided examples of injuries that equines exhibited upon their arrival at a slaughtering facility that were determined to have occurred at the point of origin. These examples included equines that were emaciated, had severe founder, broken legs, deformities, etc. Several commenters provided examples of injuries, such as illness and broken limbs, that equines

exhibited at sales or auctions and that were caused by owners. The commenters stated that the equines were shipped even though they were unfit to travel. One commenter provided examples of people who have a history of transporting injured equines, transporting equines without water, or transporting equines in conveyances that are unsafe. A number of commenters suggested that APHIS should regulate the care of equines prior to loading.

This rule prohibits the commercial transport to slaughter of equines that are not found fit to travel under § 88.4(a)(3)(vii). This rule also requires that the equines be provided food, water, and rest for the 6 hours immediately prior to transport under § 88.4(a)(1). We believe that these regulations will prevent most animals with point-of-origin injuries from being moved to slaughtering facilities via commercial transportation.

Criteria for Fitness To Travel

As noted above, we proposed to require a statement of the equine's fitness to travel on the owner-shipper certificate for each equine. Proposed § 88.4(a)(3)(v) (redesignated as paragraph (a)(3)(vii) in this final rule) stated that equines must be able to bear weight on all four limbs, be able to walk unassisted, have sight in at least one eye, be older than 6 months of age, and not be likely to give birth during the trip.

One commenter suggested that we remove the reference to a "statement of fitness to travel" because that language implies that we are requiring untrained people to make a subjective determination.

We agree that, by itself, that phrase is subjective. However, the criteria for making that determination are objective. The phrase simply states the purpose of the criteria that the owner/shipper must consider prior to loading equines on a conveyance.

Several commenters objected to, or suggested changes to, the criteria. Some stated that the proposed regulations would allow the shipment of blind animals that are unable to defend themselves, board a conveyance, or travel without injury, as well as allow the transport of equines that are extremely ill, diseased, injured, incapacitated, or not physically fit. One commenter stated that equines that exhibit obvious disease, injuries, or similar indications of ill health should not be transported unless they are being removed from a facility for humane destruction due to the disease or injury as determined by a certified veterinarian. One commenter stated that we should prohibit the transport of any equine with a known physical problem likely to cause collapse and that animals that are in immediate and severe distress and determined unfit to travel by an accredited veterinarian should be immediately and humanely euthanized. One commenter stated that, at minimum, the regulations should require that an equine bear weight evenly on all four limbs as determined by a veterinarian.

In § 88.4, paragraph (a)(3)(vii) prohibits the transport of equines that are blind in both eyes. However, equines that are blind in one eye can be transported safely and humanely when correctly loaded and placed on the conveyance. In addition, paragraph (a)(3)(vii) requires that equines be able to bear weight on all four limbs, be able to walk unassisted, be older than 6 months of age, and not be likely to give birth during the trip. These requirements will, in most cases, prohibit the transport of equines that are extremely ill or diseased, injured, or incapacitated.

Two commenters stated that, to ensure that equines are fit for travel, the owner-shipper certificate should be modified to state, "Horse is able to walk unassisted without physical prodding or marked difficulty." The commenters stated that equines are often forced to walk onto vehicles through the use of whips, hard slaps, kicks, or other devices and that "unassisted" is not defined and could be interpreted to allow the use of whips, hard slaps, etc. One commenter stated that an equine that cannot enter a conveyance under its own power should not be loaded.

In § 88.4, paragraph (a)(3)(vii) states that the equine must be able to bear weight on all four limbs and be able to walk unassisted. Unassisted means that the equine must be capable of climbing a ramp or entering a conveyance with ease and under its own power. In addition, § 88.4(c) states that the equines must be handled in a manner that does not cause unnecessary discomfort, stress, physical harm, or trauma.

One commenter stated that the owner-shipper certificate should use language similar to performance-based standards, i.e., require that the equine arrive in a condition that meets the requirements of animal cruelty laws.

We believe that a reference to animal cruelty laws would not specifically address the needs of equines being transported to slaughter. We believe that our requirements are clear.

Many commenters stated that pregnant mares, late-term pregnant mares, foals of varying ages (up to 1 year), and foals less than 600 pounds should not be transported to slaughtering facilities.

Equines that are likely to give birth during transport can develop serious complications if they foal during transport. In addition, the mare's and the foal's well-being could be in danger. Among other things, § 88.4(a)(3)(vii) states that an equine cannot be transported if it is likely to give birth during the trip. If an owner/shipper thinks it's possible that a mare is close to delivering, the owner/shipper should not put the mare on the conveyance. If an owner/shipper transports a late-term pregnant mare that gives birth during transport, the owner/shipper may be found in violation of the regulations. In addition, the owner/shipper could be found to have falsified the owner-shipper certificate. We believe that, as long as the mare is not likely to give birth during transport, it can be safely transported.

As to the transport of foals to slaughtering facilities, § 88.4(a)(3)(vii) prohibits, among other things, the transport of equines less than 6 months of age to a slaughter facility. We believe that foals older than 6 months of age, including those that weigh less than 600 pounds, can be transported safely and humanely if the foals are loaded in a proper manner.

One commenter stated that mares should not be taken from their foals and shipped to slaughter if their foals are under 4 months of age.

We do not believe that it is necessary to prohibit the shipment of mares that will leave 4-month-old foals on the premises of origin. Foals are weaned from 1 to 9 months of age, depending on the standard practice of the premises of operation. Weaning is extremely traumatic at any age and could be in direct proportion to the time the mare and foal spend together. From this standpoint, separating a mare from its foal at 4 months may be less stressful for the mare and the foal than when the foal is older.

Several commenters expressed concern that shoed equines, especially equines with shoes on their hind feet, could injure other equines and said they should not be transported.

We are aware that equines can be injured when kicked by other equines that are wearing shoes. In addition, shoes can be slippery in a conveyance if the proper flooring is not provided. As stated previously, these regulations are performance-based standards. We believe that shoed equines may be transported safely if the owner/shipper takes proper precautions and, therefore,

will not prohibit the transport of shoed equines. However, the owner/shipper must ensure that equines are not injured during transport. Any injuries that an equine incurs during transport may result in the owner/shipper being found in violation of the regulations and subject to civil penalties as provided in § 88.6.

One commenter stated that the regulations will require owners to keep lame and debilitated equines or pay for euthanasia rather than sell the equines to slaughter to salvage some value.

The regulations pertain to those individuals who meet the definition of *owner/shipper*. An individual or entity is exempt from these regulations if the individual or entity transports 20 or fewer equines to slaughtering facilities or transports equines to slaughtering facilities incidental to his or her principal activity of production agriculture.

Owner-Shipper Certificate; Identification of Special Handling Needs

Proposed § 88.4(a)(3)(vi) (redesignated as § 88.4(a)(3)(viii) in this final rule) stated that the owner-shipper certificate should include a description of anything unusual with regard to the physical condition of the equine, such as a wound or blindness in one eye, and any special handling needs.

One commenter stated that special handling needs means taping and wiring horses mouths for the entire journey, which are practices that should be prohibited. Many commenters stated that taping shut the mouths and/or eyes of aggressive horses is inhumane and should be prohibited. One added that taping the nostrils of equines should be banned. One commenter stated that the meaning of special handling is not clear and that we should remove those words from § 88.4(a)(3)(vi). This commenter questioned whether a determination by APHIS that an equine required special handling would override a different opinion expressed on an owner-shipper certificate.

By special handling needs, we meant that an owner/shipper should provide any information that should be taken into account to ensure the safe and humane transport of the equine. For example, an owner/shipper could use this space to indicate that an equine is blind in one eye, which would alert those handling the equine to be cautious when handling the horse. We have slightly reworded the provision concerning special handling needs in this final rule to clarify what we mean. Special handling needs should in no way be interpreted to mean instructions for taping or wiring the mouths or taping the eyes or nostrils of equines. We do not condone such practices. In fact, § 88.4(c) of the regulations requires the handling of equines in a manner that does not cause unnecessary discomfort, stress, physical harm, or trauma to the equines. The educational program that we are developing will explain appropriate techniques for the humane transport of equines to slaughtering facilities.

Owner-Shipper Certificate; Date, Time, and Place of Loading

Proposed § 88.4(a)(3)(vii) (redesignated as § 88.4(a)(3)(ix) in this final rule) stated that the shipper or owner must indicate on the certificate the date, time, and place the equines were loaded.

Two commenters stated that the departure time should be noted and one commenter stated that a third party should verify the exact time and location of loading.

We believe that the time each equine was loaded onto the conveyance is more essential than the time of departure because, based on § 88.4 (b)(2), any equine that has been on the conveyance for 28 consecutive hours, whether the conveyance was in motion or not, must be offloaded and provided appropriate food, potable water, and the opportunity to rest for 6 consecutive hours.

We do not believe that a third party should be required to verify the time and location of loading. If an owner/shipper falsifies the owner-shipper certificate, the falsification may be a criminal offense that could result in a fine of not more than $10,000 or imprisonment for not more than 5 years or both.

Owner-Shipper Certificate; Other Comments

One commenter stated that APHIS should require the owner-shipper certificate to be legibly filled out in ink or typed and should prohibit script writing other than for the signature. One commenter stated that the departure time should be written in ink.

We agree that the owner-shipper certificate must be legibly completed. We are amending § 88.4(a)(3) to require the owner/shipper to type or legibly provide in ink the information required on the owner-shipper certificate. If the owner-shipper certificate is not legibly completed, the owner/shipper may be assessed a civil penalty.

One commenter wanted the certificate to state that the equine was loaded under the supervision of the owner/shipper. The commenter also requested that the certificate include a statement that the horse's condition, gender, and size were taken into account in positioning it in the vehicle.

We do not believe it is necessary to require a statement that the equine was loaded under the supervision of the owner/shipper. The owner/shipper must complete and sign the owner-shipper certificate, so he or she must be present. We do not believe that adding a qualifying statement that the equine's condition, gender, and size were taken into account when loading is necessary. However, our educational program will include instruction on the proper loading and offloading of equines, as well as how to position animals so that smaller or thin equines or ponies are not harmed by larger equines.

Another commenter also stated that the owner-shipper certificate should include the name and address of the shipper and the owner if the owner is not the shipper.

We do not believe that the owner has to be identified on the certificate if he or she is not the shipper. In most cases where the owner is not the shipper, the shipper will have purchased the equines from an auction/market. The records maintained at most auction/markets include the identification and address of the owner of the equines should it become necessary to trace the owner.

One commenter stated that funds should be set aside for a pamphlet with clear instructions on the proper handling of equines and completion of the owner-shipper certificate.

The educational program we are developing in conjunction with this rule will provide guidelines for the humane transport of equines to slaughtering facilities, including instructions for completion of an owner-shipper certificate.

Segregation of Stallions and Aggressive Equines

Proposed § 88.4(a)(4)(ii) required that each stallion and any aggressive equines be segregated on the conveyance to prevent them from having contact with any other equine on the conveyance.

Many commenters expressed concern that our requirement for the segregation of stallions would encourage point-of-sale castration. They recommended that our rule be amended in some way to discourage point-of-sale castration. One commenter stated that the regulations should not allow a stallion to be gelded within 2 weeks preceding transport unless it is segregated and accompanied by a signed and dated veterinary certificate.

We do not believe that the regulations need to address point-of-sale castration. A recovery period of 21 days or more is

necessary for the site of castration to heal. If an equine arrives at slaughter with a fresh and open wound, the equine's value will decline, and the owner/shipper will lose money. The healthier an equine is upon arrival at the slaughtering facility, the more that equine is worth. In addition, stallions retain their aggressive behavior for a period of at least 30 days after castration. Therefore, an owner/shipper could not circumvent the requirement for segregating a stallion by performing a point-of-sale castration because the equine would still be aggressive, and aggressive equines must be segregated from other equines in the conveyance.

Many commenters stated that equines should be segregated by size and/or sex, several commenters added age, and one commenter added height and weight. One commenter stated that all equines 14.2 hands or less should be shipped on separate conveyances from larger equines. One commenter stated that thin, weak, and old horses should be separated.

As stated previously, we designed performance-based standards to ensure that equines have sufficient space and are protected from injury during transport. We do not believe it is necessary to spell out in the regulations exactly how this must be accomplished. However, the educational program we are developing will show appropriate ways to transport equines and will address loading by size. It is worth noting that, if an equine is extremely thin, weak, or old, the equine may not be fit to travel as required by § 88.4(a)(3)(vii).

Some commenters stated that we should not require segregation of aggressive equines. One commenter stated that we may have gone beyond our authority under the statute to require the segregation of aggressive equines, along with stallions. Several comments stated that it was unclear what we meant by "aggressive" or how aggressiveness would be determined. One commenter stated that it was not clear who would be responsible for determining whether an equine is aggressive. Two commenters expressed concern that an equine may not be aggressive during observation prior to transport but may become aggressive during transport. One commenter suggested that we require segregation of any equine "that has been observed to display aggressiveness toward other horses," to give the shipper some direction and protection if an equine that did not show aggressive behavior becomes aggressive when transport begins.

The statute directs the Secretary to review, among other things, the segregation of stallions from other equines and such other issues as the Secretary considers appropriate. The main purpose for separating stallions (uncastrated male equines that are 1 year of age or older) is that stallions are known to be aggressive animals that are easily provoked into attacking other equines. In line with protecting equines from aggressive behavior by stallions, we believe that any aggressive equine should be separated from the other equines as set forth in § 88.3(a)(2). In fact, one of the USDA-commissioned studies observed that the segregation of stallions did not solve the entire aggression problem. The study determined that aggressive geldings and mares had to be separated in the same manner as stallions.

The use of "aggressive" in the regulations is in accordance with the definition of the term "aggressive" found in various dictionaries. If an equine attacks another equine for no apparent reason or kicks or bites another equine without provocation, for example, we believe that equine should be considered aggressive. The educational program we are developing will provide guidance concerning aggressive equines. However, USDA representatives will be aware that some equines that have not exhibited aggressive behavior on previous occasions may do so under certain conditions, and they will take into consideration that the owner/shipper may not have had prior knowledge of the equines' aggressive tendencies.

Some commenters stated that mares with foals should be segregated from other equines during transport. We believe that mares with foals may be transported safely with other equines if the owner/shipper takes proper precautions and, therefore, we will not require the segregation of mares with foal. The educational program that we are developing will show owners, shippers, and other stakeholders in the equine slaughtering industry appropriate loading procedures and placement of equines in the conveyance.

Several commenters stated that equines with shoes on their hind feet should be segregated.

As stated previously, these regulations are performance-based standards. We believe that shoed equines may be transported safely with other equines if the owner/shipper takes proper precautions and, therefore, we will not require the segregation of shoed equines. However, the owner/shipper must ensure that equines are not injured during transport. Any injuries that an equine incurs during transport may result in the owner/shipper being found in violation of the regulations and subject to civil penalties as provided in § 88.6.

Floor Space

Proposed § 88.4(a)(4)(i) stated that equines on the conveyance must be loaded so that each equine has enough floor space to ensure that no equine is crowded in a way likely to cause injury or discomfort.

Several commenters stated that this requirement is vague and that specifications for floor space should be included in the regulations. One commenter stated that the number of equines carried should be equal to the length of the compartment in feet divided by 4. One commenter suggested a standard of 1.75m²/equine or approximately 18 square feet per equine. Some commenters provided further suggestions based on transit time, and/or the number, ages, and size of the equines. One commenter stated that a numerical density specification should be provided and should be based on scientific studies and practical experience. One commenter stated that we should determine an average numerical figure that is safe and acceptable for each vehicle type based on research and require each vehicle to have a permanent tag affixed that specifies the range or the number of equines/ponies that are acceptable to be transported in the vehicle at one time. One commenter stated that we should determine the appropriate density of equines for each vehicle-type, based on studies conducted by Texas A&M and Colorado State University. Several commenters stated that horse industry standard for trailers is 8 to 15 horses and not the 40 to 45 that would be permitted for slaughter transport. One commenter suggested a system in which equines may be transported at higher densities during shorter trips, but at lower densities for longer trips. This commenter stated that his studies and experience indicate that slaughter-type horses that are transported for 28 hours should be transported at a much lower density than the industry average (13 to 14 square feet per horse).

We were directed by Congress to draft performance-based regulations wherever possible. Owner/shippers will have to load equines in a manner that will avoid injury to the equines. Overcrowding in a conveyance can cause animals to bruise and sustain other injuries. This could result in the owner/shipper being found in violation of the regulations and being assessed a civil penalty. Owner/shippers also have some market-based

incentive to prevent injury to equines during transport because bruised carcasses command lower market values. Our educational program will help owner/shippers comply with the performance-based standards. The educational program will address many issues, including loading density and floor space. The educational program will be directed towards owners, shippers, and other stakeholders in the equine slaughtering industry.

Observation of Equines During Transport

Proposed § 88.4(b)(2) stated that, during transit to the slaughtering facility, the shipper must observe the equines as frequently as circumstances allow, but not less than once every 6 hours, to check the physical condition of the equines and ensure that the regulations are being followed. Proposed § 88.4(b)(2) also stated that veterinary assistance must be provided as soon as possible for any equines in obvious physical distress.

Many commenters stated that observation of the equines every 6 hours is insufficient. Some of these commenters provided observation ranges of every 2, 3, and 4 hours. One commenter stated that equines should be observed the first hour and every 6 hours after. One commenter stated that equines should be observed each time the conveyance stops for a break or refueling, but not less than once every 6 hours, and that the equines must be allowed to rest for no less than 30 minutes while the vehicle remains stopped. One commenter stated that the phrase "not less than once every 6 hours" is misleading and that we should replace it with the phrase "at least once every 6 hours."

We believe that the requirement conveys the meaning that the equines are to be observed once every 6 hours or more often. We provided a maximum time of every 6 hours because we believe that this is the maximum amount of time that equines should go without observation to ensure that none have fallen or have become otherwise physically distressed en route. However, § 88.4(b)(2) requires shippers or owners to observe the equines as frequently as circumstances allow during transport, which would include during breaks from driving and refueling.

One commenter stated that we should clarify whether adequate observation includes stopping the truck and climbing on the trailer in any weather and lighting conditions to examine the equines.

Observation of the equines by the owner/shipper means that the owner/shipper must stop the conveyance and observe each equine at least once every 6 hours. The owner/shipper has the responsibility of locating an area where observation of the equines can be performed safely and completely.

One commenter stated that § 88.4(b)(2) should require veterinary assistance as soon as "reasonably" possible.

We believe that § 88.4(b)(2), as worded, conveys an appropriate sense of urgency and does not require an owner/shipper to do anything unreasonable. Veterinary assistance must be provided as soon as possible to ensure the safe and humane transport of equines in the conveyance. Also, in this final rule, § 88.4(b)(2) requires owner/shippers to obtain the services of an *equine veterinarian* for veterinary assistance. We believe that an equine veterinarian will be better equipped than most other veterinarians to handle equines. The educational program we are developing in conjunction with this regulation will provide participants with a list of equine veterinarians within the United States and their telephone numbers.

One commenter stated that the regulations should specify how equines that die in transit should be handled.

Our regulations are intended to ensure that equines transported to slaughtering facilities are fit to travel and, therefore, not likely to die in transit. However, in this final rule, § 88.4(b)(2) states that if an equine dies in transit, the driver of the conveyance must contact the nearest APHIS office as soon as possible and allow an APHIS veterinarian to examine the equine, and, if an APHIS veterinarian is not available, the owner/shipper must contact an equine veterinarian.

Offloading of Equines After 28 Hours

Proposed § 88.4(b)(3) stated that during transit to the slaughtering facility, the shipper must offload from the conveyance any equine that has been on the conveyance for 28 consecutive hours and provide the equine appropriate food, potable water, and the opportunity to rest for at least 6 consecutive hours. In addition, proposed § 88.4(b)(3) stated that, if such offloading is required en route to the slaughtering facility, the shipper must prepare another owner-shipper certificate and record the date, time, and location where the offloading occurred. Both owner-shipper certificates would then need to accompany the equine to the slaughtering facility. In this final rule, the requirement for completing a new certificate if equines are unloaded is at § 88.4(a)(4).

Many commenters opposed allowing 28 hours without water, and many opposed allowing the transport of horses for 28 hours without food, water, or rest. Most of these commenters stated that equines must be provided water, food, and/or rest, and unloaded at times ranging from every 4 to 24 hours or reasonable intervals, and some added that the time for water, food, and rest should be whether the vehicle is in transit or stationary. Many commenters stated that equines should not be without water, and some added food, for time periods ranging 3 to 12 hours, and some added that water could be provided during the observation period. Several commenters stated that studies have shown that equines suffer serious and traumatic health problems from travel for periods under 28 hours, and several commenters referenced 24 hours. One commenter stated that the amount of time that equines are deprived of water, food, and rest should be reviewed by a qualified veterinarian to establish that fewer hours should be specified. Several commenters stated that the standard of 28 hours was determined primarily using young, healthy horses, and that equines going to slaughter are not young or healthy. Several commenters stated that the USDA-commissioned studies did not take into account such variables as the age and condition of the equines, the density of equines on the truck, and temperature or other conditions. Some commenters, apparently thinking the 6-hour period of food, water, and rest prior to loading could occur at *any* time prior to loading, expressed concern that equines could be without water for more than 28 hours if transport took 28 hours. Several commenters stated that we should recommend a rest period of 8 hours that is not included in the transit length.

In accordance with § 88.4(a)(1), an owner/shipper must provide equines appropriate food, potable water, and an opportunity to rest for a period of not less than 6 consecutive hours immediately prior to the equines being loaded on the conveyance. Therefore, 28 hours would be the longest an equine could go without being offered food and water during transport to a slaughtering facility in the United States.

We based the requirements in § 88.4(b)(3) on the conclusions of the USDA-commissioned research, which was performed by veterinarians. In addition, various times that horses could be without water were reviewed by a panel of qualified veterinarians who established that the research was valid. At least half of the USDA-commissioned research involved

slaughter horses for comparison. In fact, one of the studies involved 306 horses that ranged from 1 to 30 years of age, and 33 percent of the horses were 16 years of age or older.

Further, some of the research simulated transport to slaughter under varying situations. For instance, straight-deck trucks were divided into compartments with four levels of density, and the equines were transported during the hottest part of the day during the summer. The research also showed that frequent loading and unloading caused more distress to equines than allowing the equines to remain on the conveyance.

One commenter stated that the USDA-commissioned research performed in 1998 by Drs. Carolyn Stull, Ted Friend, and Temple Grandin was developed to deny that water, food, and rest are basic needs. Several commenters stated that the research was biased and flawed and that some of the researchers contradicted their findings in previously published studies and findings. One commenter cited a study by Dr. Stull that recommended water every 6 to 8 hours, if possible. Many commenters stated that the USDA-commissioned study performed by Dr. Stull concluded that trips longer than 27 hours showed effects in equines that were considered to be reliable stress indices and that injuries increased with travel times over 27 hours. These commenters added that Dr. Stull performed a study that concluded that transportation in hot, humid conditions should attempt to minimize thermal stress by frequently offering (every 4 to 6 hours) water to horses and limiting the duration of the trip. These commenters and several others stated that Dr. Friend performed a study that concluded that tame horses in good condition could be transported for up to 24 hours before dehydration and fatigue became severe; however, they stated that the study was terminated after 24 hours because 3 of the 30 horses were deemed unable to continue and concluded that if horses must be transported more than 24 hours, the truck must be equipped with a watering device. One commenter stated that the study performed by Dr. Stull was biased because she used horses in the study that were identified by cooperating brokers and transport drivers who had an interest in the outcome of the study. Another commenter also stated that people associated with the auction facility and slaughtering facility used for Dr. Grandin's study were made aware of the study ahead of time.

We commissioned the performance of research to identify appropriate timeframes in which food, water, and rest should be provided to ensure that the last trip for equines being transported to slaughter was a tolerable one. The research was performed to address the transport of equines to slaughtering facilities. Our results were based on the most recent research, which may have shown different results than previous research by the same researchers. We based the requirements for food, water, and rest on the conclusions of the research. The study performed by Dr. Stull that was cited by the commenters regarding the transportation of equines in hot and humid conditions was performed to determine the optimal conditions for the transport of performance horses.

It is true that Dr. Stull's USDA-commissioned research study concluded that trips longer than 27 hours could cause distress to equines; however, as stated in the proposal, we believe that 28 hours will allow for realistic travel times from most points of the United States to equine slaughtering facilities without the equines undergoing serious physiological distress. In most cases, we believe equines will be transported from the point of loading to the slaughtering facility within 24 hours.

It is true that the equines used in Dr. Stull's study were identified by cooperating brokers and transport drivers. Dr. Stull's study required a large number of equines that were destined for transport to slaughtering facilities. We believe that the identification of equines by brokers and drivers did not have a significant impact on the results of the study.

The nature of the research performed by Dr. Grandin required her to have access to the equines for examination. The premises were privately-owned and, as a consequence, there had to be a certain level of cooperation with the owners or management of the premises. However, we do not believe that the level of cooperation affected the results of the study.

Several commenters suggested that providing water to equines en route, via an onboard watering system, might be preferable to unloading equines after 28 hours because unloading and loading equines from a conveyance causes stress. One commenter suggested that loading equines at a reduced density and watering enroute should be an alternative to unloading. One commenter stated that each conveyance should contain at least 10 gallons of water for every 20 equines for emergencies, in addition to the equine's regular water supply.

We believe that unloading after 28 hours to provided food, water, and rest is appropriate based on the findings of the USDA-commissioned research.

Several commenters stated that APHIS is not following the findings of the USDA-commissioned research because APHIS indicated that equines do not experience serious physiological distress for 30 hours without water if they have had access to water during the 6-hour period prior to deprivation.

It is true that we stated in the proposed rule that the USDA-commissioned studies showed that equines that had access to water in the 6-hour period before deprivation occurred did not experience serious physiological distress for up to 30 hours without further access to water. However, we believe that a 28-hour maximum allowable timeframe for deprivation of food, water, and rest during transport to slaughter will allow for realistic travel times from most points of the United States to the equine slaughtering facilities and ensure that the equines will not undergo serious physiological distress.

One commenter stated that adequate water, ventilation, and feed must be provided because equines are often sold by the pound, and loss of weight during transport reduces revenue for the seller.

In accordance with § 88.4(b)(3), the owner/shipper must offload from the conveyance any equine that has been on the conveyance for 28 consecutive hours and provide the equine appropriate food, potable water, and the opportunity to rest for at least 6 consecutive hours. However, the owner/shipper may provide appropriate food, potable water, and rest to equines at any point during transit that it is safe to do so.

One commenter stated that we should recommend the offloading of equines every 10 hours when drivers are required to stop and rest because drivers are not allowed to drive for 28 hours straight. One commenter stated that equines should be provided water, food, and rest at each rest stop.

It is not clear whether the commenter was referring to each rest area long the interstate or each time the driver stops for a rest. In some areas, rest stops can be with 30 to 60 minutes of each other, which could be an unnecessary burden on the owner/shipper. Further, we do not believe that it is necessary to require the owner/shipper to provide the equines with food, potable water, and rest at every rest stop for the driver. Drivers must stop periodically for personal and safety reasons. The timing of these stops has nothing to do with the well-being of the equines.

One commenter stated that equines should be offloaded at weigh and check stations when crossing a State or Federal boundary so that the equines can be inspected for injuries because visibility is better compared to observing the equines while they are in the conveyance.

Offloading equines at weigh and check stations could be a safety hazard for the equines due to the presence of other commercial vehicles that are not involved with the transport of equines. In addition, weigh and check stations would have to be equipped with facilities that could provide food, water, and containment of equines.

One commenter stated that the regulations are not clear whether the 28-hour rule includes the amount of time an APHIS official may spend examining the equines. One commenter stated that § 88.4(b)(3) should exempt time required for inspection by USDA, State or Federal law enforcement officials, or any other delay in the direct transport of the equines due to governmental or law enforcement interference with movement of the conveyance.

Section 88.4, paragraph (b)(3), requires any equine that has been on a conveyance for 28 consecutive hours to be offloaded and provided appropriate food, potable water, and the opportunity to rest for at least 6 consecutive hours. We do not believe that amending § 88.4(b)(3) to address delays due to law enforcement officials is appropriate. Equines that have been on a conveyance for 28 hours need to be offloaded and provided food, rest, and, most importantly, potable water, regardless of the reason that they were on the conveyance for 28 hours.

Handling of Equines

Proposed § 88.4(c) required the handling of all equines in commercial transportation to a slaughtering facility to be done as expeditiously and carefully as possible in a manner that does not cause unnecessary discomfort, stress, physical harm, or trauma. Proposed § 88.4(c) also prohibited use of electric prods on equines in commercial transportation to a slaughtering facility for any purpose, including loading or offloading on the conveyance, except when human safety is threatened.

Many commenters stated that any use of electric prods should be banned or prohibited, and some of these commenters stated that other equipment is readily available if human safety is threatened. One commenter stated that we should provide clarification as to who determines when human safety is threatened. One commenter stated that use of an electric prod can elicit unpredictable movement in horses. One commenter stated that the loading of equines should be monitored to ensure that prods are not used.

One of the purposes of the regulations is to ensure that equines are transported without unnecessary discomfort, stress, physical harm, or trauma. Therefore, the regulations prohibit the use of electric prods, except in cases when human safety is threatened. We limited the use of electric prods to situations in which human safety is threatened to decrease the potential that prods could be used in abusive situations. We agree that there may be other equipment that can be used; however, they may not elicit a response quickly enough in a life or death situation. The owner/shipper is the entity who must make the determination of whether human safety is threatened. A USDA representative cannot be present in all areas that equines may be loaded for transport to slaughtering facilities; however, if an owner/shipper uses an electric prod when human safety is not threatened and evidence of that abuse is found, that person may be found in violation of the regulations.

Many commenters stated that metal pipes and sharp or pointed objects capable of piercing the skin should be banned. Many commenters stated that no implement, device, contrivance, mechanism, apparatus, appliance, contraption, instrument, tool, or utensil should be allowed to be used, including for the control or restraint of the equines, that was not expressly and specifically designed for use on equines and generally recognized as such. In addition, several commenters stated that only restraints considered humane should be used. Two commenters stated that, in addition to electric prods, whips or any other object that could cause injury or pain should be prohibited except when human safety is directly threatened by an equine.

We cannot provide a list of all implements that have been or could be used on equines because of the number of possibilities; however, the use of any implement that does not provide equines with the care described in § 88.4(c) should not be used and could be a violation of the regulations.

Examination of Equines at Any Point

Proposed § 88.4(d) stated that at any point during the commercial transportation of equines to a slaughtering facility, a USDA representative may examine the equines, inspect the conveyance, or review the owner-shipper certificates required by § 88.4(a)(3).

Several commenters stated that § 88.4(d) should state "must" rather than "may."

We use "may" in § 88.4(d) because a USDA representative may not be able to examine all equines, inspect all conveyances, or review all of the owner-shipper certificates. However, USDA representatives are authorized by § 88.4(d) to inspect the equines and conveyances as the need arises, and USDA representatives will collect all of the owner-shipper certificates at slaughtering facilities.

One commenter stated that § 88.4(d) should require a USDA representative, his or her designee, a weigh station or agricultural check point employee, or other law enforcement personnel to enforce the requirements of the regulations during transit as well as upon arrival at the slaughter facility. One commenter stated that we should clarify whether law enforcement officials can perform duties such as inspect vehicles, conduct investigations, examine the animals and seize and impound the animals, if necessary. Some commenters stated that there should be a provision that allows law enforcement officials, State or Federal employees, or inspectors to ensure an owner or shipper's compliance with the regulations.

In a State that has its own regulations regarding the transport of equines to slaughter, that State's police or law enforcement personnel can enforce the State's regulations. The statute does not provide for Federal enforcement actions by State and local law enforcement personnel in State and local courts.

One commenter stated that equines should be shipped directly and expeditiously from the point of loading to the slaughtering facility without stopping between the points for USDA representatives to conduct examinations, which the commenter stated could be potentially harmful and cause stress to the animals. This commenter stated that the manner at which the equines arrive at the slaughtering facility should be sufficient.

We believe that we need to be able to check conveyances, equines, and paperwork if we have any concerns that equines may be being transported in violation of the regulations. Every transport will not be subject to such an examination; however, if an examination has to be conducted, the USDA representative will consider the welfare of the equines in the conveyance and will not take more time than necessary to perform his or her duties.

Direction to the Owner/Shipper To Take Action

Proposed § 88.4(e) stated that, at any time during the commercial transportation of equines to a slaughtering facility, a USDA representative may direct the shipper to take appropriate actions to alleviate the suffering of any equine. Proposed § 88.4(e) also stated that, if deemed necessary by the USDA representative, such actions could include securing the services of a veterinary professional to treat an equine, including performing euthanasia if necessary.

Several commenters stated that § 88.4(e) should state that a USDA representative "must," "shall," or "should" direct the shipper to take appropriate actions, and that such actions "must" include securing the services of a veterinary professional.

We use "may" in § 88.4(e) because this provision authorizes a USDA representative to direct the owner/shipper to take appropriate actions to alleviate the suffering of any equine based on the representative's assessment of the equine's condition. "Must" would imply that such direction will be necessary in all cases. Similarly, we say that such action "could" include securing the services of a veterinary professional because those services will not always be necessary.

One commenter stated that § 88.4(e) should state that the services of a veterinary professional will be secured if "reasonably" available.

We believe that if a USDA representative directs the owner/shipper, as provided in § 88.4(e), to secure the services of a veterinary professional to treat an equine, the veterinary professional should be secured as soon as possible.

One commenter stated that § 88.4(e) should refer to a USDA representative "or his or her designee." In addition, this commenter stated that the veterinary professional should be an equine veterinary professional.

We do not believe that § 88.4(e) needs to indicate "his or her designee" because we define *USDA representative* as any USDA employee authorized by the Deputy Administrator, Veterinary Services, APHIS, to enforce the regulations. However, we agree with the commenter that § 88.4(e) should specify that the veterinary professional must be an equine veterinarian. We have amended § 88.4(e) to require the veterinary professional to be an equine veterinarian.

Retention of the Owner-Shipper Certificate for 1 Year

Proposed § 88.4(f) stated that the individual or other entity who signs the owner-shipper certificate must maintain a copy of the owner-shipper certificate for 1 year following the date of signature.

Several commenters stated that the owner or shipper should retain a copy of the owner-shipper certificate for a minimum of 2 years, and some of these commenters stated that we should retain a copy so that information is readily accessible to those who are attempting to trace lost or stolen equines. One commenter stated that there should be provisions for law enforcement and State agencies to have access to the owner-shipper certificates for identifying and locating stolen or missing horses.

We believe that requiring a 1-year retention of the owner-shipper certificates is adequate. If someone is attempting to trace a lost or stolen equine, the investigation will more than likely take place within a few months of the disappearance of the equine. However, to improve the capability of tracing lost or stolen equines, APHIS plans to develop a database of the information provided on the owner-shipper certificates. If necessary, information from the database could be supplied to law enforcement or State agencies, when requested.

Section 88.5 Requirements at a Slaughtering Facility

Access to Food and Water After Unloading

Proposed § 88.5(a)(1) stated that, upon arrival at a slaughtering facility, the shipper must ensure that each equine has access to appropriate food and potable water after being offloaded.

Two commenters stated that the shipper should not be responsible for providing food and water to equines at the slaughtering facility. Both commenters stated that the slaughtering facility should be the responsible party. One of these commenters stated that the shipper would not know the conditions at destination and, in most cases, would not be the owner of the equines.

We believe that the requirement in § 88.5(a)(1) will ensure that the owner/shipper notifies the proper officials of his or her arrival at the slaughtering facility, and that the equines are offloaded into an area where the slaughtering facility can provide food and potable water.

One commenter stated that § 88.5(a)(1) should state that the management of the slaughtering facility must provide consent to the shipper to provide each equine access to appropriate potable water after being offloaded, but not food.

We believe that equines should be allowed access to both food and potable water to maintain their well-being after being transported without access to food and water, sometimes over great distances. The requirement in § 88.5(a)(1) is to ensure that the owner/shipper notifies the proper officials of his or her arrival at the slaughtering facility. We believe that most shippers and owners will appropriately communicate with the proper personnel at the slaughtering facility without the inclusion of the word "consent" in the regulation.

One commenter stated that equines should be provided water every 4–6 hours where they are housed before slaughter.

The statute only allows us to regulate the transport of equines to a slaughtering facility. Once the equines arrive at the slaughtering facility and are provided food, potable water after being offloaded in accordance with § 88.5(a)(1), the equines are subject to the facility's feed and water schedule.

One commenter stated that § 88.5(a) should require the arrival of a conveyance during regular business hours of the slaughtering facility and to require the shipper to "immediately" abide by the requirements set forth in § 88.5(a).

We do not believe that requiring shipments of equines to arrive at slaughtering facilities during normal business hours would always be in the best interests of the equines. It could, for instance, result in the equines being kept on the conveyance for a longer time than might otherwise be necessary.

We do not believe that adding "immediately" is necessary because, in most cases, the owner/shipper will offload the equines and discharge his or her responsibilities as soon as possible after arrival.

Access to the Equines

Proposed § 88.5(a)(3) stated that, upon arrival at a slaughtering facility, the shipper must allow a USDA representative access to the equines for the purpose of examination.

Several commenters pointed out that USDA representatives are not available at slaughtering facilities on all days of the week or at all hours. One commenter stated that § 88.5(a)(3) should state that management of the slaughtering facility must provide consent to a USDA representative to have access to the equines for the purpose of examination. The commenter also stated that

§ 88.5(a)(3) should state that the absence or delay in arrival of the USDA representative will not prohibit the slaughtering facility from proceeding with the slaughter of the equines during its normal course of business. One commenter stated that if a USDA representative is not available prior to slaughter, an examination of carcasses for bruising or abrasions during inspection could be used to assess injuries incurred during transport to the slaughtering facility. One commenter asked who a USDA representative is. One commenter asked if full-time veterinarians would be assigned to the slaughtering facilities to enforce the regulations.

A USDA representative will be available during normal business hours of the slaughtering facility to examine the equines. This requirement, therefore, should not cause any significant delays in slaughter operations. Also, most equines are delivered during the hours of operation of the slaughtering facility. Regardless of when the equines arrive, we believe a USDA representative must be given access to the equines prior to slaughter for the purpose of examination.

A USDA representative may be any employee of the USDA who is authorized by the Deputy Administrator, Veterinary Services, APHIS, to enforce the regulations. The employee could be an APHIS veterinarian, a Food Safety and Inspection Service (FSIS) employee, or any other USDA employee so authorized.

One commenter stated that § 88.5(a)(3) should require equines to be inspected when they reach their destination.

In accordance with § 88.5(a)(3), a USDA representative must be given access to the equines for the purpose of examination; however, the USDA representative will use his or her discretion in determining which equines to inspect and the extent of any examination.

Access to the Animal Cargo Area

Proposed § 88.5(a)(4) stated that, upon arrival at a slaughtering facility, the shipper must allow a USDA representative access to the animal cargo area of the conveyance for the purpose of inspection.

One commenter stated that § 88.5(a)(4) should require inspection of the animal cargo area.

Inspection of the animal cargo area may not be necessary in all cases. This requirement in § 88.5(a)(4) alerts owner/shippers that the animal cargo area of their conveyances may be inspected by a USDA representative.

Owner/Shipper Remaining on Premises

Proposed § 88.5(b) stated that the shipper must not leave the premises of a slaughtering facility until the equines have been examined by a USDA representative.

One commenter stated that equine slaughtering facilities should not have their slaughter schedules dictated by APHIS. This commenter stated that § 88.5(b) should allow the shipper to leave the premises of the slaughtering facility if a USDA representative does not appear to examine the equines within 3 hours after they are offloaded from the conveyance. One commenter stated that drivers should not have to wait for the USDA representative and should be allowed to leave the premises if an employee of the slaughtering facility is there to allow the USDA representative access to the equines.

A USDA representative will be available for the examination of the equines and conveyances during normal business hours, and we believe it is important for the owner/shipper to be present during these activities. However, we agree that a driver who arrives at a slaughtering facility outside of normal business hours should be able to leave the premises to eat or rest. Therefore, § 88.5(b) of this final rule states that the owner/shipper must not leave the premises of a slaughtering facility until the equines have been examined by a USDA representative if the owner/shipper arrives during normal business hours; however, if the owner/shipper arrives outside of normal business hours, the owner/shipper may leave the premises but must return to the premises of the slaughtering facility to meet the USDA representative upon his or her arrival.

One commenter stated that § 88.5(a) should provide that all equines that are nonambulatory upon arrival should be euthanized on the vehicle after all other equines have been unloaded and that euthanasia should be performed by a licensed and accredited veterinarian in an approved manner. The commenter stated further that if arrival of a veterinarian would cause time delays and suffering to the equine, the regulations should provide that euthanasia could be performed by a trained individual using approved methods. In addition, the commenter maintained that the regulations should provide that seriously injured or downed animals may not be dragged, hoisted, thrown, or left alone without medical intervention.

Any equine that is seriously injured or nonambulatory upon arrival must be provided veterinary assistance and may not be mistreated or left unattended. A USDA representative will be available to examine the equines upon their arrival at the slaughtering facility during normal business hours. In most cases, the USDA representative will be a veterinarian; therefore, the USDA representative will be able to perform euthanasia, if necessary. If an equine is nonambulatory, is seriously injured, or is otherwise in obvious physical distress upon arrival and a USDA representative is not available (i.e., because of arrival of the equines at the slaughtering facility outside of normal business hours), § 88.4(b)(2) requires the owner/shipper to obtain veterinary assistance as soon as possible. We agree that equines that become nonambulatory should be euthanized. In this final rule, § 88.4(b)(2) provides that equines that become nonambulatory en route to a slaughtering facility must be euthanized by an equine veterinarian. Since we are requiring that euthanasia be performed by an equine veterinarian, we do not believe that it is necessary to add that euthanasia be performed in an approved manner.

Transport of Equines Outside the United States

Proposed § 88.5(c) stated that any shipper transporting equines to slaughtering facilities outside the United States must present the owner-shipper certificate to USDA representatives at the border.

One commenter stated that § 88.5(c) does not state that a USDA inspector will inspect the equines to determine whether they are fit to travel or whether the description on the owner-shipper certificate matches the equines in the conveyance.

A USDA representative at the border will inspect conveyances carrying equines destined for slaughter outside the United States when he or she deems it necessary.

Section 88.6 Violations and Penalties

Proposed § 88.6(a) stated that the Secretary is authorized to assess civil penalties of up to $5,000 per violation of any of the regulations in part 88, and proposed § 88.6(b) stated that each equine transported in violation of the regulations would be considered a separate violation.

Many commenters stated that penalties for violation of the regulations should be criminal instead of civil; otherwise, law enforcement personnel will not be able to enforce them. Some commenters stated that laws must be

enforced at auctions and feedlots, prior to loading. One commenter stated that § 88.6 should provide that a person who knowingly violates the regulations shall, upon conviction, be subject to imprisonment for not more than 1 year or a fine of $5,000, or both, and on conviction of a second or subsequent offense, the person shall be subject to imprisonment for not more than 3 years or to a fine of $8,000, or both.

The statute does not allow the Secretary to establish criminal penalties for violations of the regulations. The statute allows the Secretary to establish and enforce appropriate and effective civil penalties only. As previously explained, the regulations pertain to equines transported to slaughter from any point of loading, including auctions/markets and feedlots.

One commenter stated that shippers should be subject to penalties as prescribed by county, State, or Federal statutes or regulations.

The regulations do not prohibit counties or States from applying penalties in accordance with their regulations if an owner/shipper violates their regulations even if the amount of the penalty is more than that provided in § 88.6(a).

One commenter stated that civil penalties of up to $10,000 rather than $5,000 should be assessed. One commenter stated that if a conveyance carrying a load of equines is found to have a sharp protrusion, a fine of $5,000 per equine in the conveyance seems excessive, especially if an equine that is being transported caused the protrusion by kicking the walls of the conveyance. This commenter stated that a sliding scale should be used that increases the amount of the fine proportional to the seriousness of the violation. This commenter further stated that a sliding scale would help the shipper know exactly what is expected of him/her, ensure that USDA representatives levy the same fines for the same offense, and provide credibility to the USDA during any appeals process. One commenter stated that § 88.6 should provide that civil penalties will be progressive, with the first offense receiving a written warning; the second offense a fine up to $500 per violation; the third offense a fine up to $2,500 per violation; and the fourth or subsequent offense a fine up to the jurisdictional limit. One commenter suggested that we provide for a minimum fine of $500. One commenter suggested that each day a violation occurs should be considered a separate violation.

In § 88.6(a), we state that the Secretary is authorized to assess civil penalties of up to $5,000 per violation. We proposed assessing civil penalties of up to $5,000 per violation based on the legislative history of the statute and our experience as a Federal regulatory agency. We believe that a civil penalty of up to $5,000 per violation is appropriate and will be effective in deterring noncompliance with the regulations. Among other things, this belief is based on our experience in enforcing the Animal Welfare Act as amended (7 U.S.C. 2131 *et seq.*) and the Horse Protection Act, as amended (15 U.S.C. 1821–1831), two other statutes whose purpose is ensuring the humane treatment of animals. The statement concerning each equine transported in violation of the regulations being a separate violation also derives from the statute's legislative history and our experience as a regulatory agency.

We do not believe that we need to include a sliding scale or a minimum fine. The amount of the civil penalty will be determined based on the severity of the violation and the history of the owner/shipper's compliance with the regulations. Procedures will be in place to ensure consistent application of civil penalties. We also do not believe that we need to consider each day that a violation occurs as a separate violation. We believe that considering each equine transported in violation of the regulations as a separate violation is sufficient.

One commenter stated that § 88.6 should provide that a person who assaults, resists, opposes, impedes, intimidates, or interferes with any USDA representative or his/her agent in performing an official duty pursuant to the regulations should be assessed a fine of no less than $1,000 and up to $5,000.

There is a statute that provides protection to all Federal employees (18 U.S.C. 111). The statute prohibits the assault on any Federal employee.

One commenter stated that APHIS should provide that, for any person who fails to pay a civil penalty, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other court of the United States for any district in which the person is found, resides, or transacts business, to collect the penalty, and to provide that the court shall have jurisdiction to hear and decide the actions.

If an owner/shipper is unable to pay a civil penalty, we can pursue payment through a payment plan or adjustment of the amount. However, if the case is not settled, a formal complaint may be filed. If a complaint is issued, the case may go to a hearing. If a hearing is held, the matter will be heard and decided by an administrative law judge.

One commenter stated that, to a certain extent, injuries during transport are unavoidable and assessing civil penalties to commercial transporters may not be appropriate. This commenter stated that civil penalties should be designed to ensure compliance with the regulations and not punish an industry for occurrences that are beyond its control.

We understand that some injuries may not be avoidable; however, the purpose of the regulations is to ensure the humane transport of equines to slaughtering facilities. If shippers and owners adhere to this rule, we believe that many of the injuries that equines have suffered in the past will be avoided.

One commenter stated that the regulations do not allow truck drivers to provide grounds for their defense as to how the equines were injured.

USDA will consider a trucker's explanation in determining whether a violation has occurred. However, as stated in the proposal, if adjudication is necessary, it will be conducted pursuant to the USDA's "Uniform Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes," found at 7 CFR part 1, subpart H(7 CFR 1.130–1.151), and the Supplemental Rules of Practice found at 9 CFR, part 70, subpart B (9 CFR 70.10). The Rules of Practice establish, among other things, the procedures for filing a complaint and a response, settling a case, and holding a hearing. Based on this information, any one who is cited for violating the regulations will be provided an opportunity to present his or her case.

Many commenters stated that enforcement of the regulations may be difficult because we use performance-based standards rather than engineering-based standards. Some of these commenters stated that Congress directed the Secretary of Agriculture to employ "to the extent possible" performance-based standards. One of these commenters stated that USDA tried performance-based standards with § 3.81 of the Animal Welfare regulations regarding primate psychological well-being, which led to confusion among entities that were affected by the regulations.

The conference report states that, to the extent possible, the Secretary is to employ performance-based standards rather than engineering-based standards when establishing regulations to carry out the intent of the statute and that the Secretary is not to inhibit the commercially viable transport of equines to slaughtering facilities. We used performance-based standards

rather than engineering-based standard because they are the least intrusive method of regulating entities and are potentially less burdensome on regulated entities. We will review and evaluate these standards once they are in place. If we determine that changes are necessary, we will publish another document in the **Federal Register** for public comment.

One commenter stated that we will not be able to adequately enforce the regulations because we do not require persons transporting equines to slaughter to register with or apply for a USDA license. This commenter stated that individuals who are not in compliance could be threatened with suspension of their licenses rather than assessment of fines, which could be viewed as the cost of doing business.

We do not believe that registration with or a license issued by APHIS is necessary. We believe that the civil penalties set forth in § 88.6 are sufficient to ensure compliance with the regulations.

One commenter stated that the regulations should provide for suspension of a hauler's carrier certificate, the operator's commercial driver's license (CDL), and the registration of the vehicle involved for not less than 90 calendar days from the date of adjudication upon violations of the regulations. This commenter further stated that the hauler and consignor should be jointly responsible for the maintenance of the animals that were in the vehicle at the time of the seizure at the seizing authority's choice until a proper vehicle is provided for their continued shipment. The commenter also maintained that failure to post a satisfactory bond or to pay the costs involved should result in forfeiture of the vehicle and load to the seizing authority as partial payment for costs incurred by the seizing authority, which should retain all other remedies including civil suits and criminal prosecutions. The commenter also stated that a second violation of the regulations or violation of any other jurisdiction's animal transportation regulations should result in penalties applied per animal in the vehicle, without limit, and that a third violation should result in a minimum 1-year suspension of certificates and CDL per animal in the vehicle.

The statute does not provide the Secretary with the authority to suspend a hauler's carrier certificate, the operator's commercial driver's license, or registration of the vehicle if the operator violates these regulations. In addition, the statute does not give the Secretary authority to seize vehicles. The statute provides the Secretary with the authority to assess only civil penalties for violation of the regulations.

One commenter stated that the regulations do not address how we will determine, other than by checking for a signed, properly timed and dated owner-shipper certificate, that the intentions of the regulations are being met and a violation of the regulations has not occurred. One commenter stated that the proposed regulations were unclear as to what APHIS would do when an owner-shipper certificate appears to be in order but the equines arrive in poor condition or with injuries. Several commenters stated that the regulations should state that any equine arriving in a condition that is noncompliant with the regulations will be considered a violation, regardless of the information on the owner-shipper certificate.

The USDA representative at the slaughtering facility will have access to both the equines and the paperwork accompanying them. If an equine arrives at a slaughtering facility with an injury that was not recorded on the owner-shipper certificate or in a condition that is evidence that the equine was not fit to travel, the owner/shipper may be found in violation of the regulations and may be assessed civil penalties as set forth in § 88.6.

Paperwork Burden

One commenter stated that electronic transmission of the owner-shipper certificate may not decrease the burden because the format must be standardized, and a "hard-copy" must be made to accompany each equine. The commenter stated that the owner-shipper certificate could be in book form that is bound and supplied with a duplicate-style copy so the owner/shipper would have a copy of the certificate that was given to APHIS.

The owner-shipper certificate will consist of a multipart set that will eliminate the need for the owner/shipper to make copies of the form.

One commenter stated that completion of the owner-shipper certificate would take 2 to 3 minutes. Several commenters stated that completion of the owner-shipper certificate will take more than 5 minutes per equine. One of these commenters stated that each equine must be examined thoroughly, in addition to completing the certificate.

The estimated burden was based on discussions with owners and shippers of slaughter horses and the owner/operators of slaughtering facilities. The estimated burden of 5 minutes was only an estimate. We are aware that some individuals may take a little less or a little more time than others to inspect each equine and complete the owner-shipper certificate.

Miscellaneous

One commenter stated that the proposal does not cover equines that belong to slaughtering facilities and that are transferred from a feeding facility owned by the facility to the plant grounds. This commenter stated that the regulations are not clear as to whether owner-shipper certificates are required to ship equines to a feedlot when the equines will be eventually transported for slaughter, and they are not clear as to whether a slaughtering facility has to complete owner-shipper certificates for equines owned by the facility to transport them from its own facilities or ranches to the slaughtering facility.

The regulations pertain to any individual or other entity that fits the definition of the term *owner/shipper*. Therefore, a slaughtering facility would have to complete an owner-shipper certificate and otherwise adhere to the regulations if it moves equines from its own premises, such as a ranch or feedlot, to the slaughtering facility. However, if equines arrive at a slaughtering facility (defined as a commercial establishment that slaughters equines for any purpose) and the facility moves all or some of the equines to its own feedlot or other premises, the slaughtering facility will not have to complete an owner-shipper certificate or otherwise comply with the regulations for that movement. The slaughtering facility must, however, complete an owner-shipper certificate and otherwise comply with the regulations when it transports the equines back to the slaughtering facility.

One commenter stated that mileage calculations that we provided under the "Executive Order 12866 and Regulatory Flexibility Analysis" section of the proposal were based on the assumption that shippers deliver to the closest available plant, which is not always the case. This commenter stated that shippers deliver to the plant where they have their contract or to the plant that is paying the most money. This commenter also stated that the proposal contended that shippers would have to share driving responsibilities with another driver to meet the requirements, but the regulations do not require it.

We believe that barring unusual circumstances, the overwhelming majority of equines arrive at slaughtering facilities in 28 hours or less. As to the use of two different drivers, we stated that drivers of equines that originate at east or west coast

locations could reduce the time equines spent on conveyances considerably by using two different drivers on long trips. However, this scenario was only an example for those drivers who can share driving responsibilities with another driver. If the driver of a conveyance will require more than 28 hours to reach his or her destination, whether alone or with a partner, he or she must abide by § 88.4(b)(3) and offload the equines from the conveyance to provide them with appropriate food, potable water, and the opportunity to rest for at least 6 consecutive hours before reloading them.

One commenter stated that we should require drivers to be certified by APHIS as knowledgeable in equine handling and humane treatment.

We do not believe this is necessary. We believe that the regulations will help ensure the humane movement of equines that are transported to slaughtering facilities. If the equines are not handled or transported as required by the regulations, or if the equines are injured during transport, the owner/shipper may be found in violation of the regulations and assessed a civil penalty. To assist drivers and others in meeting the requirements of the regulations, we are preparing an educational program.

One commenter stated that the regulations should extend to agents of owners and shippers. This commenter suggested, "The act, omission, or failure of an individual acting for or employed by the owner or shipper, within the scope of employment, shall be considered the act, omission, or failure of the owner or shipper as well as that of the individual."

We do not believe that we need to address agents. We believe that we have defined owner/shipper broadly enough to cover anyone transporting equines to slaughtering facilities (except as specifically exempted by the regulations).

One commenter stated that the regulations will result in increased transit time and more frequent loading and unloading of equines, which will increase the possibility of exacerbating existing injuries or creating new ones.

We do not believe that the regulations will result in an increase in transit time or loading and unloading in most cases. As stated in the discussion under "Executive Order 12866 and Regulatory Flexibility Act," officials at two of the U.S. equine slaughtering facilities, including the largest facility, indicated that, barring unusual circumstances, the overwhelming majority of equines already arrive at the slaughtering facilities in 28 hours or less. In cases where transport would take more than 28 hours, we believe the benefits of unloading the equines for rest, food, and water outweigh the disadvantages of unloading and reloading. Also, owners or shippers could locate, in advance, appropriate facilities close to their routes for unloading the equines. In addition, the educational program that we are developing will provide owners and shippers with information on the proper methods for loading and unloading equines from a conveyance to help ensure that injuries to equines do not occur.

One commenter stated that the regulations should apply as minimum standards for all commercial haulers, regardless of the origin or destination of the load. One commenter stated that the regulations seem to state that if an equine is transported to a slaughtering facility, the transportation is given protection by Federal regulations; however, if the animal is transported to some other destination, the transportation can be performed without protection of these regulations.

We are unable to expand the scope of these regulations to include the transportation of equines to any destination other than a slaughtering facility. Congress authorized the Secretary to issue guidelines for the regulation of the commercial transportation of equines for slaughter by persons regularly engaged in that activity. In addition, Congress clarified its intentions with regard to the statute through a conference report. The conference report states, among other things, that the Secretary has not been given the authority to regulate the routine or regular transportation of equines to other than a slaughtering facility.

One commenter stated that conveyances that enter the United States from Canada are sealed by authorities in Canada, and that to meet the requirement that equines must be fed, watered, and offloaded every 28 hours, the seals would have to be broken during transport in the United States to comply with the regulations.

Few equines are transported from Canada into the United States for slaughter purposes. However, if equines are transported from Canada into the United States and must be offloaded in the United States to meet the requirements of part 88, the seals may only be broken by a USDA representative at an approved site for offloading the equines. The owner/shipper must make arrangements with the APHIS office that is nearest to the location where the equines must be offloaded. After the equines have had the prescribed rest, food, and water, the truck will be sealed by the USDA representative and allowed to resume transport to the slaughtering facility.

One commenter stated that we should obtain written agreements from Canada and Mexico to ensure compliance with the regulations for equines moving into those countries for slaughter. One commenter stated that the regulations would allow travel time of 28 hours within the United States and additional travel time after entering Canada. This commenter stated that the regulations should include travel time to the final destination in Canada because the locations of plants in Canada are established.

For equines transported by conveyance from a point inside the United States to a slaughtering facility outside the United States, the regulations end at the border, where the owner/shipper must present the owner-shipper certificates. We do not have jurisdiction over movement of equines outside the United States. Although, we currently do not have an arrangement with Mexico, we have revised the owner-shipper certificate to include a field for a stamp to be administered by Canadian officials at slaughtering facilities in Canada. The stamp will include the time and date of arrival and slaughtering facility. We can use this information to verify the amount of time that equines have been on a conveyance prior to leaving the United States.

One commenter stated that we must provide the public with the findings from USDA-commissioned research so the public can offer comment. Another commenter stated that she could not obtain copies of the research.

Copies of the USDA-commissioned research were and are available from the person listed under **FOR FURTHER INFORMATION CONTACT.**

One commenter stated that an equine first aid kit that includes, among other things, fly spray, rubbing alcohol, and a hoof pick should be on the conveyance. In addition, this commenter stated that at least one fire extinguisher should be on the conveyance and that the driver's ability to use the fire extinguisher should be established by an APHIS inspector.

We do not believe that it is necessary to require an equine first aid kit. If an equine is in physical distress, the owner/shipper is required, in accordance with § 88.4(b)(2), to have an equine veterinarian provide veterinary assistance as soon as possible. Until such assistance is available, the owner/shipper may be the only person in a conveyance, and attempts by the owner/shipper to apply first aid, without assistance, to an injured equine could be

dangerous for the person and the equine. As to a fire extinguisher, the Federal Motor Carrier Safety Administration within the Department of Transportation requires commercial motor vehicles used on a highway in interstate commerce to be equipped with a fire extinguisher when, in short, the gross vehicle has a weight rating or gross combination weight rating, or gross vehicle weight, or gross combination weight, of 4,537 kg (10,001 lb) or more; whichever is greater. We believe that most conveyances used for the commercial transportation of equines to slaughtering facilities meet this weight threshold.

Several commenters stated that a $400 disposal fee should be levied against an owner or shipper for every equine that arrives dead or in an unusable condition to discourage owners from sending downed or dying horses to slaughter. One of these commenters stated that the disposal fee could be used to subsidize long distance shipments of equines that are made at reduced loading density. Two commenters stated that the regulations should establish a per equine fee of $5 to be levied upon an owner who sells an equine to slaughter. One commenter stated that the $5 per equine fee could be used to cover the costs of administering and enforcing the regulations, and another commenter stated that the fee could be used to provide rewards for information leading to documentation of violations of the regulations.

We believe that the regulations will help ensure that equines that are shipped to slaughtering facilities are fit to travel. However, we do not have authority to assess a disposal fee and/or a $5 fee per equine.

One commenter stated that we should not allow dogs to be used to herd equines for breeding.

If someone wishes to use dogs to herd equines into a conveyance, the equines must be handled in a manner that does not violate the regulations, including those in § 88.4(c). In § 88.4, paragraph (c) states that handling of all equines in commercial transportation to a slaughtering facility shall be done in a manner that does not cause unnecessary discomfort, stress, physical harm, or trauma.

One commenter stated that all conveyances that contain live animals should be so labeled and that a toll-free USDA/APHIS telephone number should be displayed for the public to call if a vehicle is operating in an unsafe manner or a dangerous or inhumane treatment is witnessed.

We do not believe that we should require a conveyance to be labeled as containing live equines or to display a toll free USDA/APHIS telephone number. Many conveyances transport equines for purposes other than to slaughtering facilities, and the Secretary has not been given the authority to regulate the routine or regular transportation of equines to other than a slaughtering facility. However, if someone witnesses inhumane treatment, we encourage the person to contact the nearest APHIS office or the proper local authorities. In addition, if a vehicle is operating in an unsafe manner, especially if human safety is threatened, the proper local law enforcement authorities should be contacted.

One commenter stated that individuals who transport equines to veterinary facilities for treatment should be exempt from the regulations that pertain to the health of the equines that are hauled.

The regulations do not pertain to the transport of equines to veterinary facilities, only to the transport of equines to slaughtering facilities.

One commenter stated that USDA does not have a program to identify stolen equines that arrive at slaughtering facilities.

APHIS will require an owner-shipper certificate for each equine that is transported to a slaughtering facility. The USDA representative at the slaughtering facility will collect the certificates. In addition, the owner/shipper must maintain a copy of the certificate for 1 year. We will maintain information from the completed certificates in a database that can help us trace lost or stolen equines.

One commenter stated that proficiency testing (written and skills) for those engaged in the commercial transport of equines should be required because it is impossible to determine whether the persons targeted (e.g., drivers of the conveyances) are reading and understanding the educational materials. One commenter stated that an educational component should be included in the regulations to ensure that all affected parties are informed of the new regulations. One commenter stated that APHIS must put effort toward educating inspectors at feedlots, assembly points, or stockyards because shippers and owners already know how to properly transport equines.

We do not think that a proficiency test is necessary. We are developing an educational program that will include a video, guidebook, and workshops. The program will be directed towards owners, shippers, and others in the equine slaughtering industry. We will also provide opportunities for individuals who work at feedlots, assembly points, and stockyards to participate in the educational program.

Several commenters expressed concern that burdensome regulations in the United States may lead to an increase in the shipment of livestock to countries where animal welfare is not a consideration. One of these commenters and others stated that the regulations are not necessary and that effective enforcement of existing laws is necessary. One of these commenters stated that safeguards already exist for the humane treatment of equines prior to slaughter. One commenter stated that imposing additional humane shipping conditions on the industry will decrease profits by increasing transportation costs.

Until this final rule becomes effective, no specific standards exist that address the needs of equines transported to slaughtering facilities. We believe that the regulations are the minimum standards to ensure the humane movement of equines to slaughtering facilities via commercial transportation. If equines are transported by conveyance from a point inside the United States to a slaughtering facility outside the United States, the owner/shipper will be required to meet the requirements of the regulations until the conveyance reaches the U.S. border. In addition, this rule allows us to assess civil penalties for those individuals who are not in compliance.

Under the heading, "Executive Order 12866 and Regulatory Flexibility Act," we estimate that this rule will increase operating costs for owners and commercial shippers who transport equines to slaughtering facilities by an amount somewhere between $300 and several thousand dollars annually for an entity that transports 500 equines per year. However, we added that the data suggested that the economic consequences for most entities would fall somewhere near the minimum point on the impact scale because many entities are already in compliance with at least some of the rule's provisions.

One commenter stated that the USDA does nothing to prevent the shipment of diseased animals for human consumption.

FSIS has regulations that provide for the antemortem and postmortem examination of equines to ensure that equines with certain diseases are not slaughtered or used for the purposes of human consumption.

One commenter stated that all horses shipped for slaughter should have a negative Coggins test performed within 6 months of transport due to possible zoonosis and also because horses are transported near highways and pass

horses on private farms and could pose a disease risk. One commenter stated that Coggins tests are required for horses that enter or exit Pennsylvania.

A Coggins test is the common name for the agar gel immunodiffusion test used for the diagnosis of equine infectious anemia (EIA). The purpose of this rule is to provide for the humane transport of equines to slaughtering facilities. Other regulations are concerned with the potential transmission of disease, including 9 CFR part 75, which restricts the interstate movement of horses that are positive to a test for EIA. Also, all States require a Coggins test for equines entering the State. At this time, there is no evidence that EIA can be contracted by humans through the consumption of meat from an equine infected with EIA. However, equines infected with EIA are not allowed to be used for human consumption. The transmission of EIA infection from equines on a conveyance to equines on farms that are passed by the conveyance is a low risk and highly unlikely because a number of factors have to be present, such as presence of tabanidaes (horse flies) and high viremia in the infected equine.

Several commenters stated that all meetings regarding the statute were not open to all interested parties. One commenter stated that, contrary to the statements in the proposal, consensus was not reached on the proposed regulations, and certain humane organizations opposed the regulations.

We did not state in the proposed rule that the proposal was a consensus-based document. We stated that, prior to drafting the proposed rule, APHIS representatives established a working group that included participants from other parts of the USDA, including FSIS and the Agricultural Marketing Service. In addition, APHIS attended two meetings regarding the statute that were hosted by humane organizations and attended by representatives of the equine, auction, slaughter, and trucking industries and the research and veterinary communities. At these meetings, we had an opportunity to listen to diverse opinions. We have relied on the proposed rule and public comment period to obtain comments from all interested persons.

One commenter stated that APHIS should remove "minimum" in the summary in reference to the standards to ensure the humane movement of equines to slaughtering facilities. This commenter also added that the summary should be revised to state "humane movement and treatment of equines to slaughtering facilities via commercial transportation."

The summary only serves as a brief description of the document and is not intended to prove a point or argue a case.

Two commenters stated that proposed rules should be made available to everyone, and one commenter stated that APHIS should disclose them to the media, especially the press.

All proposed rules are published in the **Federal Register**, which satisfies the legal requirements to notify the public. In addition, APHIS makes all of its proposed rules available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html* and advises various media through distribution of press releases.

Two commenters stated that they must pay taxes on transactions that involve horses, but entities involved in the transportation of horses to slaughter, including slaughtering facilities, do not. Many commenters stated that they were opposed to the slaughter of equines. One commenter stated that, rather than slaughter horses, zoos should be established or States zoned to hold the horses. These comments are outside the scope of this rulemaking.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document. In addition, we are making minor, nonsubstantive, editorial changes in the rule for clarity.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis for this rule, which is set out below. Our discussion of the anticipated economic effects of this rule on small entities also serves as our cost-benefit analysis under Executive Order 12866.

This rule is intended to fulfill a responsibility given to the Secretary of Agriculture in the 1996 Farm Bill. Sections 901–905 of the 1996 Farm Bill (7 U.S.C. 1901 note) authorize the Secretary of Agriculture, subject to the availability of appropriations, to issue guidelines for the regulation of the commercial transportation of equines for slaughter by persons regularly engaged in that activity within the United States. In both fiscal years 1998 and 1999, $400,000 was made available to administer this law. The regulations, which appear as a new part in title 9 of the CFR, are designed to help ensure the humane transport of equines to slaughtering facilities. The regulations cover, among other things, food, water, and opportunity for rest; space on the conveyance; segregation of stallions and other aggressive equines; completion of an owner-shipper certificate; and prohibitions on the movement of certain types of equines as well as on the use of electric prods and conveyances with animal cargo spaces divided into more than one stacked level.

This rule pertains almost exclusively to the commercial transportation of slaughter horses because horses account for almost all equines slaughtered in the United States. Equines are generally slaughtered for their meat, which is sold for human consumption, primarily outside the United States. From 1995 through 1997, an average of 100,467 equines were slaughtered annually in federally inspected U.S. slaughtering facilities. At the current time, there are three slaughtering facilities that accept equines in the continental United States: Two are located in Texas (Ft. Worth and Kaufman), and one is in Illinois (DeKalb). In 1996, the United States exported 38 million pounds of horse, ass, and mule meat, with a value of $64 million. Of the total volume exported in 1996, 29 million pounds, or 76 percent, was exported to Belgium and France. Slaughter equines represent a variety of types, and they come from a variety of sources, including working ranches, thoroughbred racing farms, and pet owners. Equines are usually slaughtered when they are unfit or unsuitable for riding or other purposes.

Economic Effects of the Rule on Owners and Commercial Shippers

The "path" from source supplier (farmer, rancher, pet owner, etc.) to slaughtering facility can vary. However, the most common scenario and the one used for the purpose of this analysis is as follows: The source suppliers transport their equines to local auction markets, where the equines are sold to persons who purchase the equines for the specific purpose of selling them to a slaughtering facility. (Hereafter, for the purposes of this final regulatory flexibility analysis, we will refer to persons who sell equines for slaughter as "owners"; however, in some cases, the owners use agents to conduct some aspect of the business of purchasing the equines and transporting and selling them to slaughtering facilities. We will use the term "owners" to refer to either the actual owners or their agents.) The owners consider price lists published by the slaughtering facilities for equines (the price varies in relation to the

weight of the equine and the quality of the meat), transportation costs, and profit requirements to establish the maximum prices that they will pay for equines at local auctions. Because the owners cannot usually purchase enough slaughter-quality equines at any one auction to make it economically feasible to ship the equines directly from the auction site to the slaughtering facility, the owners transport the equines back to their own farms or feedlots, usually nearby, where the equines are stored until such time as the owners can accumulate more equines from other auctions. Double-deck livestock trailers, which are the types most often used for transporting equines to slaughtering facilities, can carry up to about 45 equines each; single-deck trailers can carry up to about 38 equines each.

When enough equines have been accumulated to comprise a shipment, the owners transport the equines to the slaughtering facility. Although owners who ship 2,000 or more equines to slaughter per year are not uncommon, most owners ship far fewer than that number. In an estimated 75 percent of the cases, owners hire commercial shippers to move the equines to the slaughtering facilities; in the remaining estimated 25 percent of the cases, owners transport the equines to slaughter in their own conveyances. Therefore, the regulations will apply both to owners of equines destined for slaughter and to commercial shippers who transport such equines to slaughtering facilities. We estimate that approximately 200 owners and commercial shippers will be affected by this rule. Based on the average number of equines slaughtered in the United States per year (approximately 100,000) and on the estimated number of potentially affected owners and commercial shippers (approximately 200), the average number of equines transported annually to slaughter per affected entity would be 500.

This rule will require that, for a period of not less than 6 consecutive hours immediately prior to the equines being loaded on the conveyance, each equine be provided access to food and water and the opportunity to rest. As indicated above, the owners generally have possession of the equines immediately prior to their being loaded onto conveyances for transport to slaughtering facilities. In those cases where the owners hire commercial shippers, the latter do not take possession of the equines until they are loaded onto the conveyance. Furthermore, when commercial shippers are hired, they are normally not in the presence of the equines for the full 6-hour period prior to loading. For these reasons, it can be assumed that the owners, not commercial shippers, would be responsible for fulfilling the preloading requirements of this rule. In addition, the owners are more likely than commercial shippers to have the facilities necessary to meet the preloading requirements.

This requirement is unlikely to impose a hardship on affected entities. While in the possession of the owners, equines are usually housed on farms or in feedlots, where they have access to food, water, and rest. Owners have an incentive to provide equines awaiting transport to a slaughtering facility with food, water, and rest because malnourished equines have a reduced slaughter value and dead equines have no slaughter value. Furthermore, most equines are stored on farms or in feedlots for 6 consecutive hours or more because it usually takes at least that long for owners to accumulate enough equines to fill a conveyance. At most, the rule would result in owners having to keep their equines in a farm or feedlot for an additional 6 hours to fulfill the preloading requirements for the last equines needed to fill a conveyance. This worst-case scenario assumes that the "last-in" equines have not had the required preloading services prior to their acquisition by the owners. If the last-in equines have had those services, then the owners would be able to load them onto the conveyance immediately. For example, owners might be able to stop at an auction en route to a slaughtering plant and pick up their last-in equines.

We cannot estimate the precise dollar effects of this requirement because no hard data is available on the prevalence of slaughter equines receiving the required food, water, and rest prior to loading. However, for the reasons stated above, the economic effects would be minimal. Storing equines in feedlots costs about $2 per day per animal. (This amount is the typical rental rate for a pen, which includes food and water.) If an owner had to store a truckload of equines (assume 38) for a full day, the cost would be $76. The cost for storing 500 equines (the estimated average number of equines shipped annually to slaughter per affected entity) would be $1,000.

This rule will require that owners or commercial shippers sign an owner-shipper certificate for each equine being transported to a slaughtering facility. Among other things, the owner-shipper certificate will include a statement that the equine has received the required preloading services. If, as a result of this requirement, commercial shippers load fewer equines per conveyance, the shippers should not be affected because they typically charge owners a flat rate to transport equines to slaughtering facilities regardless of the number of equines on the conveyance. For owners who use their own vehicles for transportation, fewer equines per conveyance translates into increased costs. As an example, assume that it costs an owner $1,850 ($1.85 per mile—a representative average rate for commercial shipment of slaughter equines—times 1,000 miles) to transport a truckload of equines in the person's own conveyance. Assume also that, as a result of this rule, the owner could ship only 35 equines in a particular shipment, 3 fewer than the 38 that would have been shipped had the rule not been in effect. Using that data, the owner's transportation costs on a per-equine basis for that particular shipment would increase by 8.6 percent, from $48.68 to $52.86. The owner would incur similar costs if the owner secured the services of a commercial shipper.

This rule will require that any equine that has been on the conveyance for 28 consecutive hours or more without food, water, and the opportunity to rest be offloaded and, for at least 6 consecutive hours, provided with food, water, and the opportunity to rest. This rule will also require that each equine be provided with enough space on the conveyance to ensure that no animal is crowded in a way likely to cause injury or discomfort. Finally, this rule will require that stallions and other aggressive equines be segregated from each other and all other equines on the conveyance.

Available data suggest that the "28-hour rule" should not pose a problem for the vast majority of slaughter equine transporters. Officials at two of the U.S. equine slaughtering facilities, including the largest facility, indicate that, barring unusual circumstances, the overwhelming majority of equines arrive at the slaughtering facilities in 28 hours or less. Indeed, there is reason to believe that few equines actually fit the "worst-case" scenario in terms of travel distance—equines transported from the east or west coasts to the slaughtering facilities, which are all located in the central part of the United States. Equines on the east coast, at least from the State of Maryland northward, as well as those on the west coast and in the States of Montana and Idaho, are usually transported to Canadian slaughtering facilities. (For example, the slaughtering plant at Massueville, Quebec, is about 100 miles from the port of entry at Champlain, NY. For transporters in the northeastern part of

the United States, the Massueville plant is closer than any of the U.S. plants.) Furthermore, even for equines that do originate at east and west coast locations, the time spent on conveyances is reduced considerably by the common transport practice of using two different drivers on long trips. This practice allows the equines to be transported virtually nonstop because one person can drive while the other rests, thereby avoiding federally mandated rest periods that apply in a single-driver situation. Assuming an average speed of 55 mph and two different drivers, and allowing 1½ hours for loading and 2 hours for refueling and meal stops, even a trip as long as 1,300 miles would take only about 27 hours.

If equines do have to be offloaded for feeding, rest, etc., while en route to a slaughtering facility, transporters would incur additional costs. As stated previously, pens can generally be rented at a rate of about $2 per day per equine. (The rent for a 6-hour period is unknown but, presumably, it would be less than the full-day fee.) In addition to the pen rental fee, transporters would have to spend time unloading the equines. Also, they may have to: (1) Adjust routes and schedules to find pens to accommodate the equines; (2) wait while they are being serviced; and (3) reload them after they have been serviced. These activities would add to the cost of servicing equines at intermediate points.

This rule will also require that, during transport, equines must be provided with enough space to ensure that they are not crowded in a way that is likely to cause injury or discomfort. One source of injury and discomfort, double-deck trailers, will be banned in 5 years. (See "Alternatives Considered," below, for a discussion of why we selected a 5-year phase-in period rather than a shorter time.) Overcrowding can also occur in single-deck (also called straight-deck) trailers, which are used to transport equines to a lesser extent than double-deck trailers. The requirement concerning adequate space could translate into fewer equines per conveyance. As stated previously, commercial shippers typically charge owners a flat rate to transport their equines, so the possibility of fewer equines per shipment should not result in less revenue for commercial shippers. For owners, however, fewer equines per conveyance translates into increased costs, regardless of whether the owners hire commercial shippers or use their own vehicles for transportation.

The requirement that aggressive equines be segregated during transport is not likely to have a significant impact. Available data suggests that such segregation is already common practice. Owners have an incentive to make sure that aggressive equines are segregated because equines that arrive at the slaughtering facilities injured as the result of biting and kicking en route command lower market values. The segregation of equines requires that transporters spend more time and effort during loading, but that added time and effort is considered to be relatively minor. Nor should most transporters have to buy special equipment, because livestock trailers usually come equipped with devices, such as swing gates, that permit animal segregation. As a final point in this regard, relatively few stallions are transported for slaughter. USDA personnel stationed at two of the slaughtering facilities estimate that no more than about 5 percent of the equines arriving for slaughter are stallions.

This rule will require that an owner-shipper certificate be completed for each equine prior to departing for the slaughtering facility. The certificate must describe, among other things, the equine's physical characteristics (color, sex, permanent brands, etc.), and it must show the number of the animal's USDA backtag. It must also certify the equine's fitness to travel and note any special care and handling needs during transit (e.g., segregation of stallions). An equine will be fit to travel if it: (1) Can bear weight on all four limbs; (2) can walk unassisted; (3) is not blind in both eyes; (4) is older than 6 months of age; and (5) is not likely to give birth in transit. Affected entities will not need the services of a veterinarian in order to make the fitness-to-travel determination. This rule will require that either the owners or the commercial shippers sign the certificate and that the owner-shipper certificate accompany the equine to the slaughtering facility.

This requirement for an owner-shipper certificate will create additional paperwork for both owners and commercial shippers. As with the other preloading services discussed above, it is reasonable to assume that the responsibility for providing the data on the certificate will generally rest with the owners, not the commercial shippers. The owners have possession of the equines prior to departing for the slaughtering facility and presumably are more qualified to provide the data required by the owner-shipper certificate. It is also reasonable to assume that the responsibility for obtaining and installing the USDA backtag will be theirs, not the commercial shippers. The owners will not incur a cost for obtaining the backtags, which are available free of charge from a variety of sources. The backtags are adhesive and are attached simply by sticking them on the equine's back, so owners will not incur installation costs.

The added administrative costs that owners will incur as a result of having to complete and sign the owner-shipper certificate is difficult to quantify. Assuming that it takes 5 minutes to complete each certificate, an owner who ships 500 equines to slaughter annually will have to spend about 42 hours per year complying with the rule. Assuming a labor rate of $7 per hour, the 42 hours translates into added costs of about $300 per year. For reasons explained earlier, the added administrative costs for commercial shippers will likely be less than those for owners.

This rule will allow the use of electric prods only in life-threatening situations and will prohibit the transport of equines to slaughter on conveyances divided into more than one level, such as double-deck trailers, 5 years after publication of this final rule. The restriction on the use of electric prods should not pose a burden because effective, low-cost substitutes are available for use in non-life-threatening situations. For example, fiberglass poles with flags attached, which cost only about $5 each, are considered to be an effective alternative to electric prods. Any current use of electric prods by transporters of slaughter equines probably derives from the traditional use of these devices to assist in moving other livestock, such as cattle and swine.

The retail cost of a new double-deck livestock trailer averages about $42,000; single-deck trailers retail for about $38,000 each. The cost varies depending largely on the model, type of construction, and optional features. The useful life of the trailers also varies, depending on such factors as the weight and type of animals hauled and the needed frequency of cleaning. It is not uncommon, however, for trailers of both types to provide 10 to 12 years' worth of useful service.

As discussed previously, double-deck trailers can carry more equines than single-deck trailers, and some owners and shippers will be negatively affected by the reduction in the numbers of equines that could be transported in a single conveyance. Upon publication of this rule, shippers using floating-deck trailers to transport equines to slaughtering facilities will need to collapse the decks so that they create only one level. Conveyances divided permanently into more than one stacked

level can be, and are, also used to transport commodities other than equines, including livestock and produce. In fact, it is estimated that double-deck trailers in general carry equines no more than about 10 percent of the time they are in use. Upon effect of the ban, commercial shippers who transport equines to slaughtering facilities could use their double-deck trailers to transport other livestock and produce. Owners who use their own double-deck trailers to transport equines to slaughtering facilities will have to find another use for the equipment or trade them for single-deck trailers. Owners should be able to sell their serviceable trailers at fair market value to transporters of commodities other than equines. Furthermore, some of the double-deck trailers now in use by owners will need to be taken out of service within the next 5 years anyway as the result of normal wear and tear and could be replaced by single-deck trailers.

In conclusion, we do not anticipate that any of the requirements will have undue onerous economic effects on any affected owners or commercial shippers. We believe that many transporters of slaughter equines may already be in compliance with many of the requirements. The requirement for an owner-shipper certificate will affect all transporters of slaughter equines, but we have designed the form to make its preparation as easy as possible. We do not believe that the completion and maintenance of these certificates will be unreasonably time-consuming or burdensome. As stated previously, the proposed "28-hour rule" should not pose a problem for the vast majority of slaughter equine transporters, and the ban on double-deck trailers should not have a significant economic effect on owners or commercial shippers because these trailers can be used for other purposes and will need to be replaced anyway within the next 5 years and could be replaced with a single-deck trailer.

At a minimum, the rule will require that affected owners and commercial shippers complete an owner-shipper certificate, an administrative task that they do not have to perform now. For an entity that transports 500 equines per year, the average for all potentially affected entities, the requirement regarding owner-shipper certificates will translate into added costs of about $300 annually. In a worst-case scenario, the rule can add several thousand dollars to the annual operating costs of an entity that transports 500 equines per year. This worst-case scenario assumes that, at the current time, affected owners and commercial shippers are engaging in little or no voluntary compliance with the requirements.

Economic Effects of the Rule on Horse Slaughtering Facilities

Up to this point, the discussion in this final regulatory flexibility analysis has centered entirely on owners and commercial shippers, who represent the bulk of the entities affected by this rule. However, the rule will also impact the three horse slaughtering facilities currently operating in the continental United States. While the deferral of the effective date for the prohibition on double-deck trailers will allow them time to respond to the expected decline in the number of transporters willing to haul horses to slaughter, these slaughtering facilities will nonetheless be affected because they will experience lost business as a result of that expected decline. Some transporters will choose to keep their double-deck trailers and carry other commodities (*i.e.*, other than equine) because in their locations it is more lucrative for them to do so. Other transporters will likely find that it is not cost effective to haul horses long-distance in conveyances that have a smaller capacity, i.e., straight-deck and goose-neck trailers.

The slaughtering facilities will also experience increased hauling costs over time, because transporters that continue to ship horses to slaughter will be forced to do so in smaller conveyances. The hauling cost that slaughtering facilities pay to acquire each horse will increase, because the number of horses per load (being hauled the same distance) will be reduced but the hauling cost per load will remain the same. Officials at one U.S. slaughtering facility indicate that commercial shippers currently charge a hauling fee of $1.65 per mile if they have a return load, and $2.25 per mile if they return empty, regardless of the type of conveyance used. For a trip of 1,000 miles at $1.65 per mile, the facility's hauling cost per horse is $36.67 with a double-deck trailer and $43.42 with a straight-deck trailer, an increase of $6.75 or 18 percent per horse.[2] For each lot of 1,000 horses delivered to the slaughtering facility, the per horse cost increase of $6.75 translates into increased costs of $6,750.

Economic Effects on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic effects of rules on small entities (i.e., businesses, organizations, and governmental jurisdictions). As discussed above, the entities that will be affected by this rule are owners and commercial shippers who transport equines to slaughtering facilities and the slaughtering facilities themselves.

As stated previously, we estimate that approximately 200 entities will be affected by this rule, most of whom are owners and commercial shippers. Although the sizes of these entities are unknown, it is reasonable to assume that most are small by U.S. Small Business Administration (SBA) standards. This assumption is based on composite data for providers of the same and similar services in the United States. In 1993, there were 30,046 U.S. firms in Standard Industrial Classification (SIC) 4213, a classification category comprising firms primarily engaged in "over-the-road" trucking services, including commercial shipping. The per-firm average gross receipts for all 30,046 firms that year was $2.6 million, well below the SBA's small-entity threshold of $18.5 million. Similarly, in 1993, there were 1,671 U.S. firms in SIC 5159, a classification category that includes horse dealers. Of the 1,671 firms, 97 percent had fewer than 100 employees, the SBA's small-entity threshold for those firms.

This rule will result in increased costs for affected entities, large and small. As indicated above, operating costs will increase somewhere between about $300 and several thousand dollars annually for an entity that transports 500 equines per year. However, the available data suggests that, for most entities, the economic consequences will fall somewhere near the minimum point on the impact scale because, as stated previously, many are already in compliance with at least some of the rule's provisions, such as stallion segregation. Because we did not have enough data to conclude that even a cost increase of as low as $300 annually will not be significant for most of the potentially affected entities, we requested public comment on the potential economic impact of the proposal on small entities.

We received several comments regarding the initial regulatory flexibility analysis.

One commenter stated that the effect of the rule is so minimal that the small entities are the "winners" at an impact of $300 per year or $25 per month. Another commenter stated that APHIS put more emphasis on not creating financial hardship for the entities involved than on what Congress mandated regarding the humane transport of equines to slaughter.

We believe that these regulations will help ensure the humane movement of

[2] This assumes 45 horses on a double-deck trailer and 38 horses on a single-deck trailer.

equines to slaughtering facilities via commercial transportation. However, we do not believe that small entities are not affected. In fact, in the discussion under the heading, "Executive Order 12866 and Regulatory Flexibility Act," we stated that the regulations would have a negative economic effect on affected entities, large and small. We determined that operating costs would increase somewhere between about $300 and several thousand dollars annually for an entity that transports 500 equines per year, which would be a negative impact on these entities. However, we stated that, for most entities, the economic consequences of the regulations would fall somewhere near the minimum point on the impact scale because many entities are already in compliance with at least some of the requirements in part 88.

One commenter stated that the number of affected entities was understated because certain entities were not counted. Commercial airlines; air and sea cargo carriers; vendors that supply packing plants; feed manufacturers; and suppliers of veterinary supplies and medications were among the entities the commenter cited.

We stated above that the entities that would be affected by this rule were owners and commercial shippers who transport equines to slaughtering facilities and the slaughtering facilities themselves. These are the primary entities that would be directly affected by this rule. It is possible that these regulations may indirectly affect other entities, including commercial airlines, vendors, and feed manufacturers; however, these entities are not directly affected by this rule, and this rule should not have a significant economic effect on them.

Alternatives Considered

The Regulatory Flexibility Act requires Federal agencies promulgating new regulations to consider alternatives that will lessen the economic effects of the regulations on affected small entities. In developing the proposed rule, we considered many alternatives, some of which are discussed below. In developing the proposed program to carry out the statute, we established a working group that included participants both from within the agency as well as from other parts of USDA, including FSIS and AMS. In addition, APHIS representatives attended two meetings about the statute hosted by humane organizations and attended by representatives of the equine, auction, slaughter, and trucking industries and the research and veterinary communities.

We considered requiring that owners and commercial shippers of equines destined for slaughter secure the services of a veterinarian to certify the equines' fitness for travel. However, this rule allows owners and commercial shippers to certify the equines' fitness to travel themselves. In addition, we considered various alternatives with regard to the types of equines that would be prohibited from shipment. After much consideration, we are prohibiting the shipment of equines that are unable to bear weight on all four limbs, unable to walk unassisted, blind in both eyes, less than 6 months of age, and likely to give birth during shipment. We believe that we must prohibit the shipment to slaughter of equines in these five categories to carry out congressional intent under the statute for ensuring the humane transport of equines for slaughter. In addition, we considered many allowable time frames for equines to be on conveyances without access to food and water; the proposed 28-hour period is based on available data and input from interested and potentially affected parties. Finally, in regard to the prohibition on the transport of slaughter equines in any type of conveyance divided into more than one stacked level, we determined that such a ban is necessary to ensure the humane transport of equines to slaughtering facilities. However, this rule would allow the use of double-deck trailers for a period of 5 years following publication of this rule to lessen the effect of the ban on affected entities.

The Regulatory Flexibility Act also requires that Federal agencies consider the use of performance-based rather than design-based standards. In keeping with this requirement and the direction provided in the conference report to employ performance-based rather than engineering-based standards to the extent possible, the requirements included in the proposed rule are primarily performance-based. As examples, the rule's requirements for design of the conveyance, space allotted per equine on the conveyance, and manner of driving the conveyance are all performance-based.

For this rule, we also considered establishing the effective date of the ban on double-deck trailers at various points of time in the future, ranging from 6 months to 10 years after the rule's publication. We chose a 5-year effective date because we believe it provides a strategy for steadily improving the welfare of equines transported to slaughter. For reasons discussed below, a shorter period could have an onerous impact on the slaughter horse industry and result in unintended consequences for equines.

As discussed above, hauling costs for slaughtering facilities will increase as a result of owners and commercial shippers using smaller conveyances, and to the extent that the transition to a new single-deck system results in more trips at the higher, empty backhaul rate. In this regard, slaughtering facility officials believe that transporters who decide to continue shipping horses in the new single-deck environment will need time to find markets or customers with alternative products to haul, thereby avoiding empty backhauls and saving the facilities money. As indicated above, transporters charge one slaughtering facility a hauling fee of $1.65 per mile if they have a return load and $2.25 per mile if they return empty. For one trip of 1,000 miles, the savings for that facility would be $600 if the transporter is able to secure a return load. For 100 trips, the savings would be $60,000.

Slaughtering facility officials believe that they also need a deferral of the effective date for the prohibition on double-deck trailers to allow them time to respond to the expected decline in the number of transporters willing to haul horses to slaughter. Specifically, they have stated that they need time to budget and to arrange for financing on equipment they may need to acquire if they must haul horses on their own because commercial shippers and owners will not. The largest facility currently owns two tractors and one straight-deck trailer and estimates that it would have to acquire about 10 additional tractor trailers in order to do all of its own hauling. One new tractor costs approximately $100,000, and one new single-deck trailer costs approximately $38,000.

Officials at one slaughtering facility believe that, because the profit margin for their operation is already very thin (due in part to the financial burden imposed by the new European Union Additional Residue Testing Program), the facility could not make the transition to single-deck trailers in 6 months.[3] However, the same officials believe that, with a gradual transition,

[3] The European Union established Maxxam Laboratory, Inc. (Maxxam) in Canada as the North American residue testing facility. Maxxam charged the horse slaughter facilities in the United States $130,000 start-up costs; as a direct result, one facility, Central Nebraska Packing in North Platte, NE., closed its operation. The three facilities in Canada in direct competition with the U.S. facilities are subsidized by the Canadian government for both start-up and future testing fees. This places the U.S. facilities at a financial disadvantage with their Canadian competitors.

over a 5-year period, they would be able to plan accordingly and the facility might survive. They point out that their facility, which generates export sales exclusively, may be forced to close regardless of the time frame imposed by this rule, but the facility's chances of remaining open would be substantially improved with a 5-year phase-in.

If the facility closes, we believe it likely that horses in the United States that are intended for slaughter will be trucked to feedlots in Canada or Mexico, ostensibly as saddle horses, then go to slaughter. If that happens, we will have no jurisdiction over those movements because our statutory authority to regulate is limited to the commercial transportation of horses to slaughter and to movements to slaughter within the United States. Thus, a critical factor in our decision to use a 5-year time frame for the ban on double-deck trailers is our belief that if the rule has too great an impact on horse slaughtering facilities in the United States, our rule will not provide equines transported to slaughter the protection that we intend.

The information collection and recordkeeping requirements contained in this rule were described in the proposed rule and have been approved by the Office of Management and Budget. See "Paperwork Reduction Act," below.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. *et seq.*), the information collection or recordkeeping requirements included in this final rule have been approved by the Office of Management and Budget (OMB). The assigned OMB control number is 0579–0160.

List of Subjects

9 CFR Part 70

Administrative practice and procedure.

9 CFR Part 88

Animal welfare, Horses, Penalties Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 9 CFR, chapter I, subchapter C, as follows:

PART 70—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER CERTAIN ACTS

1. The authority citation for part 70 is revised to read as follows:

Authority: 21 U.S.C. 111, 112, 114a, 114a–1, 115, 117, 120, 122, 123, 125–127, 134b, 134c, 134e, and 134f; 7 CFR 2.22, 2.80, 371.4.

2. In § 70.1, the list of statutory provisions is amended by adding at the end of the list the following:

§ 70.1 Scope and applicability of rules of practice.

* * * * *

Sections 901–905 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note).

* * * * *

3. A new part 88 is added to read as follows:

PART 88—COMMERCIAL TRANSPORTATION OF EQUINES FOR SLAUGHTER

Sec.

88.1 Definitions.
88.2 General information.
88.3 Standards for conveyances.
88.4 Requirements for transport.
88.5 Requirements at a slaughtering facility.
88.6 Violations and penalties.

Authority: 7 U.S.C. 1901, 7 CFR 2.22, 2.80, 371.4.

§ 88.1 Definitions.

The following definitions apply to this part:

APHIS. The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

Commercial transportation. Movement for profit via conveyance on any highway or public road.

Conveyance. Trucks, tractors, trailers, or semitrailers, or any combination of these, propelled or drawn by mechanical power.

Equine. Any member of the *Equidae* family, which includes horses, asses, mules, ponies, and zebras.

Euthanasia. The humane destruction of an animal by the use of an anesthetic agent or other means that causes painless loss of consciousness and subsequent death.

Owner/shipper. Any individual, partnership, corporation, or cooperative association that engages in the commercial transportation of more than 20 equines per year to slaughtering facilities, except any individual or other entity who transports equines to slaughtering facilities incidental to his or her principal activity of production agriculture (production of food or fiber).

Owner-shipper certificate. VS Form 10–13,[1] which requires the information specified by § 88.4(a)(3) of this part.

Secretary. The Secretary of Agriculture.

Slaughtering facility. A commercial establishment that slaughters equines for any purpose.

Stallion. Any uncastrated male equine that is 1 year of age or older.

USDA. The U.S. Department of Agriculture.

USDA backtag. A backtag issued by APHIS that conforms to the eight-character alpha-numeric National Backtagging System and that provides unique identification for each animal.

USDA representative. Any employee of the USDA who is authorized by the Deputy Administrator for Veterinary Services of APHIS, USDA, to enforce this part.

§ 88.2 General information.

(a) State governments may enact and enforce regulations that are consistent with or that are more stringent than the regulations in this part.

(b) To determine whether an individual or other entity found to transport equines to a slaughtering facility is subject to the regulations in this part, a USDA representative may request from any individual or other entity who transported the equines information regarding the business of that individual or other entity. When such information is requested, the individual or other entity who transported the equines must provide the information within 30 days and in a format as may be specified by the USDA representative.

§ 88.3 Standards for conveyances.

(a) The animal cargo space of conveyances used for the commercial transportation of equines to slaughtering facilities must:

(1) Be designed, constructed, and maintained in a manner that at all times protects the health and well-being of the equines being transported (e.g., provides

[1] Forms may be obtained from the National Animal Health Programs Staff, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231.

adequate ventilation, contains no sharp protrusions, etc.);

(2) Include means of completely segregating each stallion and each aggressive equine on the conveyance so that no stallion or aggressive equine can come into contact with any of the other equines on the conveyance;

(3) Have sufficient interior height to allow each equine on the conveyance to stand with its head extended to the fullest normal postural height; and

(4) Be equipped with doors and ramps of sufficient size and location to provide for safe loading and unloading.

(b) Equines in commercial transportation to slaughtering facilities must not be transported in any conveyance that has the animal cargo space divided into two or more stacked levels, except that conveyances lacking the capability to convert from two or more stacked levels to one level may be used until December 7, 2006. Conveyances with collapsible floors (also known as "floating decks") must be configured to transport equines on one level only.

§ 88.4 Requirements for transport.

(a) Prior to the commercial transportation of equines to a slaughtering facility, the owner/shipper must:

(1) For a period of not less than 6 consecutive hours immediately prior to the equines being loaded on the conveyance, provide each equine appropriate food (i.e., hay, grass, or other food that would allow an equine in transit to maintain well-being), potable water, and the opportunity to rest;

(2) Apply a USDA backtag [2] to each equine in the shipment;

(3) Complete and sign an owner-shipper certificate for each equine being transported. The owner-shipper certificate for each equine must accompany the equine throughout transit to the slaughtering facility and must include the following information, which must be typed or legibly completed in ink:

(i) The owner/shipper's name, address, and telephone number;

(ii) The receiver's (destination) name, address, and telephone number;

(iii) The name of the auction/market, if applicable;

(iv) A description of the conveyance, including the license plate number;

(v) A description of the equine's physical characteristics, including such information as sex, breed, coloring, distinguishing markings, permanent brands, tattoos, and electronic devices that could be used to identify the equine;

(vi) The number of the USDA backtag applied to the equine in accordance with paragraph (a)(2) of this section;

(vii) A statement of fitness to travel at the time of loading, which will indicate that the equine is able to bear weight on all four limbs, able to walk unassisted, not blind in both eyes, older than 6 months of age, and not likely to give birth during the trip;

(viii) A description of any preexisting injuries or other unusual condition of the equine, such as a wound or blindness in one eye, that may cause the equine to have special handling needs;

(ix) The date, time, and place the equine was loaded on the conveyance; and

(x) A statement that the equine was provided access to food, water, and rest prior to transport in accordance with paragraph (a)(1) of this section; and

(4) Load the equines on the conveyance so that:

(i) Each equine has enough floor space to ensure that no equine is crowded in a way likely to cause injury or discomfort; and

(ii) Each stallion and any aggressive equines are completely segregated so that no stallion or aggressive equine can come into contact with any other equine on the conveyance.

(b) During transit to the slaughtering facility, the owner/shipper must:

(1) Drive in a manner to avoid causing injury to the equines;

(2) Observe the equines as frequently as circumstances allow, but not less than once every 6 hours, to check the physical condition of the equines and ensure that all requirements of this part are being followed. The owner/shipper must obtain veterinary assistance as soon as possible from an equine veterinarian for any equines in obvious physical distress. Equines that become nonambulatory en route must be euthanized by an equine veterinarian. If an equine dies en route, the owner/shipper must contact the nearest APHIS office as soon as possible and allow an APHIS veterinarian to examine the equine. If an APHIS veterinarian is not available, the owner/shipper must contact an equine veterinarian;

(3) Offload from the conveyance any equine that has been on the conveyance for 28 consecutive hours and provide the equine appropriate food, potable water, and the opportunity to rest for at least 6 consecutive hours; and

(4) If offloading is required en route to the slaughtering facility, the owner/shipper must prepare another owner-shipper certificate as required by paragraph (a)(2) of this section and record the date, time, and location where the offloading occurred. In this situation, both owner-shipper certificates would need to accompany the equine to the slaughtering facility.

(c) Handling of all equines in commercial transportation to a slaughtering facility shall be done as expeditiously and carefully as possible in a manner that does not cause unnecessary discomfort, stress, physical harm, or trauma. Electric prods may not be used on equines in commercial transportation to a slaughtering facility for any purpose, including loading or offloading on the conveyance, except when human safety is threatened.

(d) At any point during the commercial transportation of equines to a slaughtering facility, a USDA representative may examine the equines, inspect the conveyance, or review the owner-shipper certificates required by paragraph (a)(3) of this section.

(e) At any time during the commercial transportation of equines to a slaughtering facility, a USDA representative may direct the owner/shipper to take appropriate actions to alleviate the suffering of any equine. If deemed necessary by the USDA representative, such actions could include securing the services of an equine veterinarian to treat an equine, including performing euthanasia if necessary.

(f) The individual or other entity who signs the owner-shipper certificate must maintain a copy of the owner-shipper certificate for 1 year following the date of signature.

§ 88.5 Requirements at a slaughtering facility.

(a) Upon arrival at a slaughtering facility, the owner/shipper must:

(1) Ensure that each equine has access to appropriate food and potable water after being offloaded;

(2) Present the owner-shipper certificates to a USDA representative;

(3) Allow a USDA representative access to the equines for the purpose of examination; and

(4) Allow a USDA representative access to the animal cargo area of the conveyance for the purpose of inspection.

(b) If the owner/shipper arrives during normal business hours, the owner/shipper must not leave the premises of

[2] USDA backtags are available at recognized slaughtering establishments and specifically approved stockyards and from State representatives and APHIS representatives. A list of recognized slaughtering establishments and specifically approved stockyards may be obtained as indicated in § 78.1 of this chapter. The terms "State representative" and "APHIS representative" are defined in § 78.1 of this chapter.

a slaughtering facility until the equines have been examined by a USDA representative. However, if the owner/shipper arrives outside of normal business hours, the owner/shipper may leave the premises but must return to the premises of the slaughtering facility to meet the USDA representative upon his or her arrival.

(c) Any owner/shipper transporting equines to slaughtering facilities outside of the United States must present the owner-shipper certificates to USDA representatives at the border.

§ 88.6 Violations and penalties.

(a) The Secretary is authorized to assess civil penalties of up to $5,000 per violation of any of the regulations in this part.

(b) Each equine transported in violation of the regulations of this part will be considered a separate violation.

(Approved by the Office of Management and Budget under control number 0579–0160.)

Done in Washington, DC, this 3rd day of December 2001.

Bill Hawks,

Under Secretary, Marketing and Regulatory Programs.

[FR Doc. 01–30259 Filed 12–6–01; 8:45 am]

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Federal Register

Friday,
December 7, 2001

Part III

Department of State

Designation of 39 "Terrorist Organizations" Under the "PATRIOT USA ACT"; Notice

DEPARTMENT OF STATE

[Public Notice 3852]

Designation of 39 "Terrorist Organizations" Under the "PATRIOT USA Act"

AGENCY: Office of the Coordinator for Counterterrorism, Department of State.

ACTION: Designation.

Pursuant to Section 411(a)(1)(G) of the Uniting andStrengthening America by providing Appropriate ToolsRequired to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107–56, 115 Stat. 272 ("USA PATRIOT Act"), the Secretary of State, in consultation with the AttorneyGeneral, hereby designates each group listed in the Appendix to this notice as a "terrorist organization." This designation is effective upon publication.

Section 411(a)(1)(G) of the USA PATRIOT Act requires the Secretary of State to find that a group has engaged in terrorism-related activities before designating it as a "terrorist organization." This statutory requirement has been satisfied because classified and/or unclassified information available to the Secretary of State contains findings that the named groups have committed, or have provided material support to further, terrorist acts.

Dated: December 5, 2001.

Mark Wong,

Acting Coordinator for Counterterrorism, Department of State.

Appendix

—Al-Ittihad al-Islami (AIAI)
—Al-Wafa al-Igatha al-Islamia
—Asbat al-Ansar
—Darkazanli Company
—Salafist Group for Call and Combat (GSPC)
—Islamic Army of Aden
—Libyan Islamic Fighting Group
—Makhtab al-Khidmat
—Al-Hamati Sweets Bakeries
—Al-Nur Honey Center
—Al-Rashid Trust
—Al-Shifa Honey Press for Industry and Commerce
—Jaysh-e-Mohammed
—Jamiat al-Ta'awun al-Islamiyya
—Alex Boncayao Brigade (ABB)
—Army for the Liberation of Rwanda (ALIR)—AKA: Interahamwe,Former Armed Forces (EX–FAR)
—First of October Antifascist Resistance Group (GRAPO)—AKA: Grupo de Resistencia Anti-Fascista Premero De Octubre
—Lashkar-e-Tayyiba (LT)—AKA: Army of the Righteous
—Continuity Irish Republican Army (CIRA)—AKA: Continuity Army Council
—Orange Volunteers (OV)
—Red Hand Defenders (RHD)
—New People's Army (NPA)
—People Against Gangsterism and Drugs (PAGAD)
—Revolutionary United Front (RUF)
—Al-Ma'unah
—Jayshullah
—Black Star
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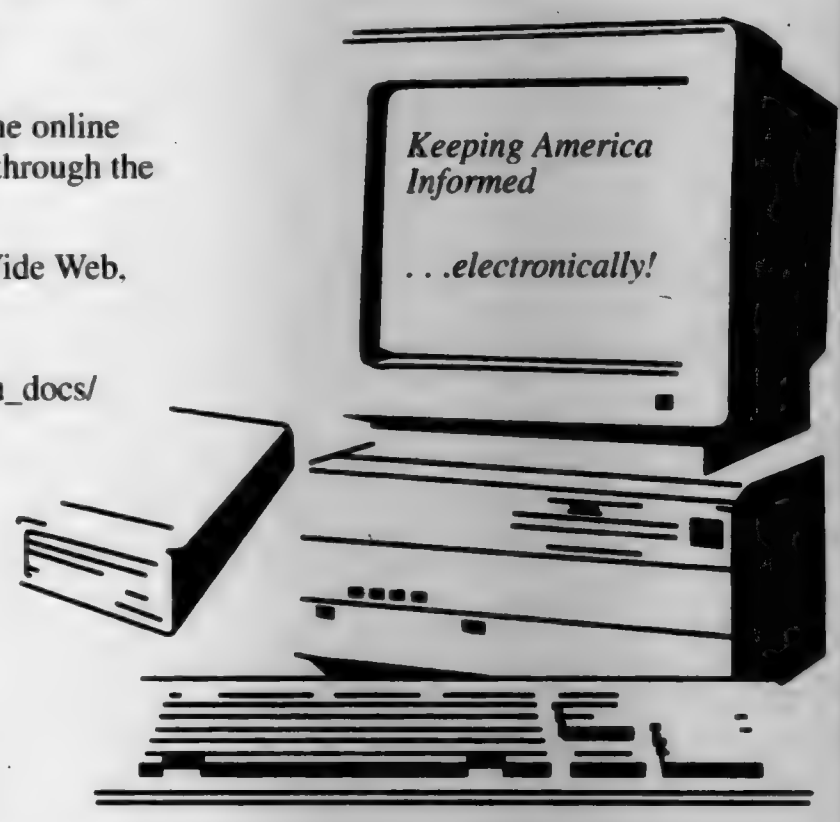

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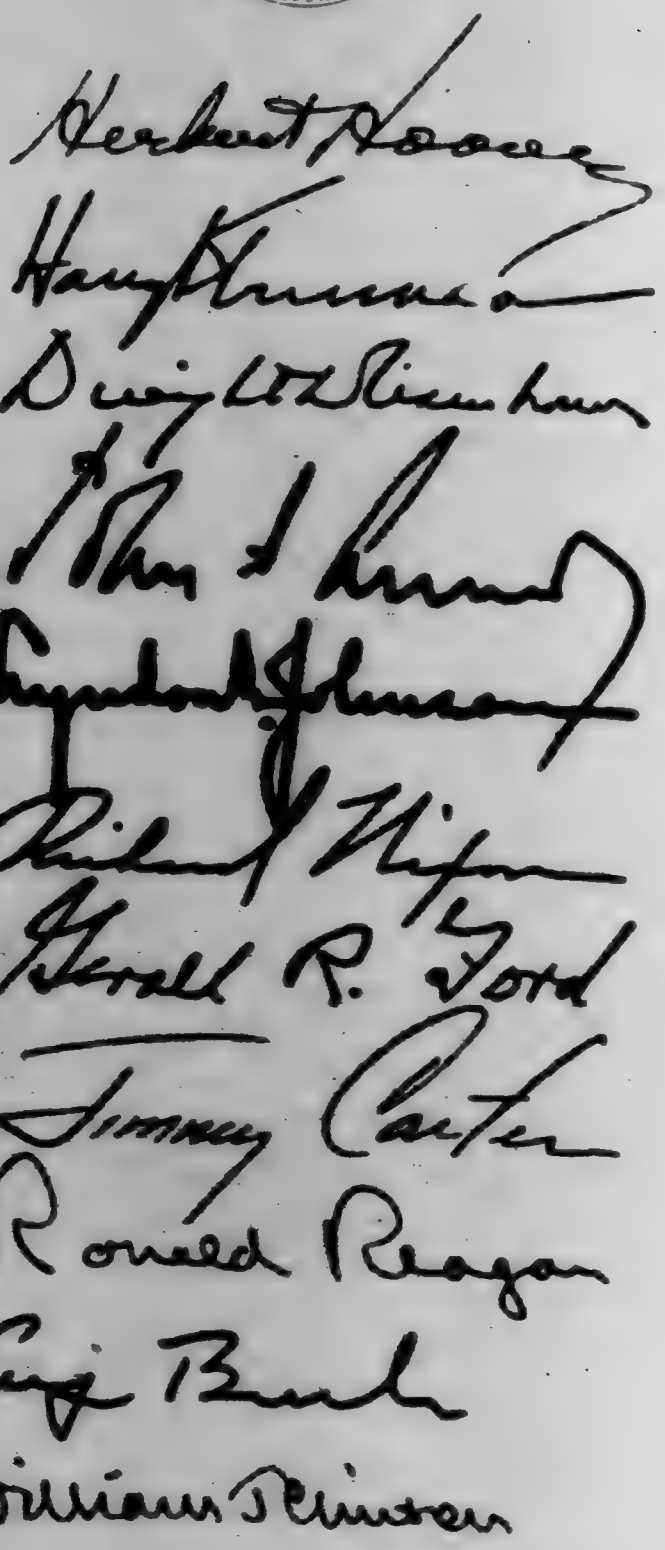

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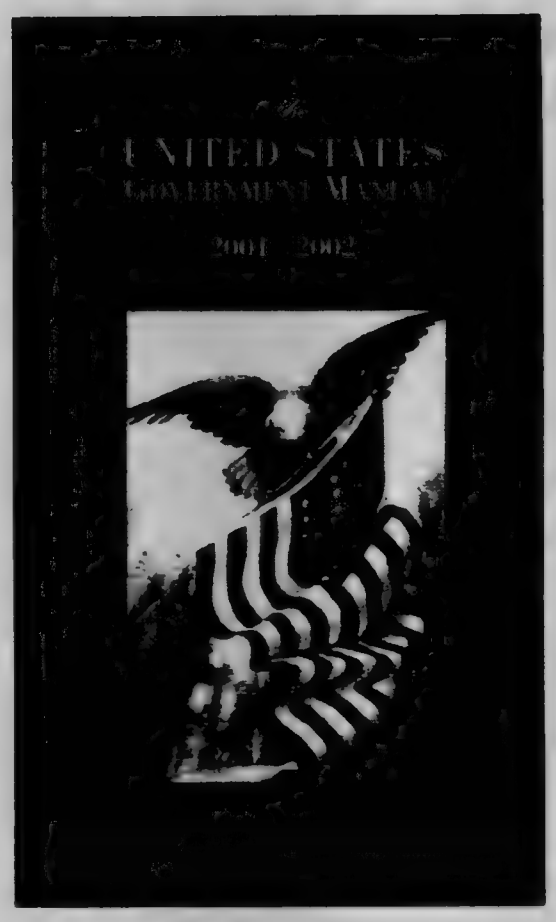

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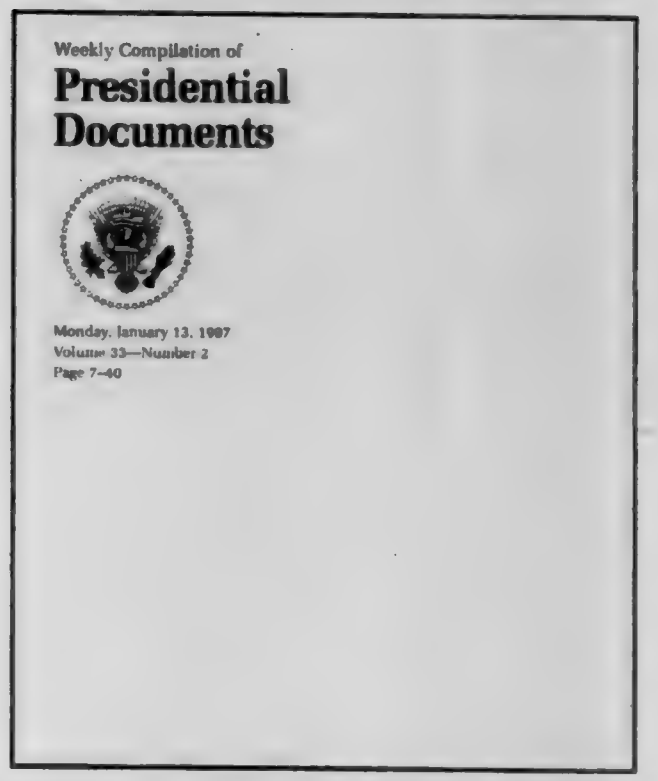

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107th Congress, 1st Session, 2001

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–55–AD; Amendment 39–12552; AD 2001–22–51]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A119 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2001–22–51, which was sent previously to all known U.S. owners and operators of Agusta S.p.A. (Agusta) Model A119 helicopters by individual letters. This AD requires removing a certain part-numbered tail rotor blade (blade) on or before accumulating 50 hours time-in-service (TIS). This AD also requires visually or dye penetrant inspecting each blade at specified time intervals and removing any cracked blade before further flight. This AD is prompted by the discovery of a fatigue crack on a blade during an inspection. The actions specified by this AD are intended to prevent failure of a blade and subsequent loss of control of the helicopter.

DATES: Effective December 26, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2001–22–51, issued on October 30, 2001, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 26, 2001.

Comments for inclusion in the Rules Docket must be received on or before February 8, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–55–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov.

The applicable service information may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On October 30, 2001, the FAA issued Emergency AD 2001–22–51 for Agusta Model A119 helicopters, which requires removing a certain part-numbered tail rotor blade on or before accumulating 50 hours TIS. That Emergency AD also requires visually or dye penetrant inspecting each blade at specified time intervals and removing any cracked blade before further flight. That action was prompted by the discovery of a fatigue crack on a blade during an inspection. This condition, if not corrected, could result in failure of a blade and subsequent loss of control of the helicopter.

The FAA has reviewed Agusta Bollettino Tecnico No. 119–1, Revision A, dated August 22, 2001 (ABT), which describes procedures for performing inspections of each blade, part number (P/N) 109–8132–01–107, for a crack and assigning a new retirement life. The Ente Nazionale per l'Aviazione Civile, which is the airworthiness authority for Italy, classified the ABT as mandatory and issued ADs 2001–124, dated March 30, 2001; 2001–348, dated August 20, 2001; and 2001–374, dated August 29, 2001, to ensure the continued airworthiness of these helicopters in Italy.

This helicopter model is manufactured in Italy and is typed certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to this bilateral agreement, the ENAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the ENAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other Agusta Model A119 helicopters of the same type designs, the FAA issued Emergency AD 2001–22–51 to prevent failure of a blade and subsequent loss of control of the helicopter. The AD requires the following for each blade, P/N 109–8132–01–107:

- Removing any blade on or before accumulating 50 hours TIS.
- Before each flight, visually checking both sides of each blade for a crack.
- Initially and at specified intervals or before the next flight after any abnormal tail rotor vibration, inspecting each blade for a crack using a 5-power or higher magnifying glass.
- Initially and repetitively, dye penetrant inspecting each blade for a crack.
- If a crack is found, removing the blade.

The AD revises the Limitations section of the maintenance manual by establishing a 50-hour life limit for blade, P/N 109–8132–01–107. The actions must be accomplished in accordance with the ABT described previously. An owner/operator (pilot) may perform the visual check required by paragraph (b) of the AD and must enter compliance in the helicopter maintenance records in accordance with 14 CFR 43.11 and 91.417(a)(2)(v)). The AD allows a pilot to perform this check because it involves only a visual check for a crack in the blade and can be performed equally well by a pilot or a mechanic.

The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity and controllability of the helicopter. Therefore, the actions stated previously

are required at the specified time intervals, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on October 30, 2001 to all known U.S. owners and operators of Agusta Model A119 helicopters. However, shortly after the issuance of the emergency AD, ENAC advised us that a replacement blade is being certificated. That replacement blade should have a longer life limit and should not require mandatory inspections. Therefore, a terminating action for the requirements of this AD may become available soon. In the meantime, the unsafe condition still exists, and the emergency AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons. This published version of the AD is identical to the version issued on October 30, 2001 except that the citation in paragraph (b) for recording compliance with the pilot check is corrected to read 91.417(a)(2)(v) instead of the non-existent 91.147(a)(2)(v) cited in the October 30, 2001 version of this AD.

We estimate that 2 helicopters of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per helicopter to accomplish the required actions, and the average labor rate is $60 per work hour. The manufacturer has indicated that the cost of any replacement blade will be given pro-rata warranty credit. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $480, assuming 100% warranty credit for any replacement blades.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001–SW–55–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2001–22–51 Agusta S.p.A: Amendment 39–12552. Docket No. 2001–SW–55–AD.

Applicability: Model A119 helicopters, with a tail rotor blade (blade), part number 109–8132–01–107, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a blade and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove any blade on or before accumulating 50 hours time-in-service (TIS).

(b) Before each flight, visually check both sides of each blade for a crack. An owner/operator (pilot) holding at least a private pilot certificate may perform the visual check required by this paragraph, and must enter compliance into the helicopter maintenance records in accordance with 14 CFR 43.11 and 91.417(a)(2)(v).

(c) Within 10 hours TIS and thereafter at intervals not to exceed 10 hours TIS or before the next flight after any abnormal increase in the vibratory level of the helicopter, inspect each blade for a crack using a 5-power or higher magnifying glass in accordance with the Compliance Instructions, Part II, paragraphs 1 through 6, of Agusta Bollettino Tecnico No. 119–1, Revision A, dated August 22, 2001 (ABT).

(d) Within 25 hours TIS and thereafter at intervals not to exceed 25 hours TIS, dye penetrant inspect each blade for a crack in accordance with the Compliance Instructions, Part III, paragraphs 1 through 4.5, of the ABT.

(e) Before further flight, remove any blade in which a crack is found.

(f) This AD revises the Limitations section of the maintenance manual by establishing a 50-hour life limit for each blade, P/N 109–8132–01–107.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be

used if approved by the Manager, Regulations Group, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(h) Special flight permits will not be issued.

(i) The inspections shall be done in accordance with the Compliance Instructions, Part II, paragraphs 1 through 6 and Part III, paragraphs 1 through 4.5, of Agusta Bollettino Tecnico No. 119–1, Revision A, dated August 22, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on December 26, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2001–22–51, issued October 30, 2001, which contained the requirements of this amendment.

Note 3: The subject of this AD is addressed in Ente Nazionale per l'Aviazione Civile (Italy) ADs 2001–124, dated March 30, 2001; 2001–348, dated August 20, 2001; and 2001–374, dated August 29, 2001.

Issued in Fort Worth, Texas, on November 27, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–30211 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 2001–ASW–14]

Revision of Class E Airspace, Springhill, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises the Class E Airspace, Springhill, LA.

EFFECTIVE DATE: The direct final rule published at 66 FR 45600 and is effective 0901 UTC, December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Joseph R. Yadouga, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5597.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on August 29, 2001, (66 FR 45600). The FAA uses the direct final rulemaking procedure for a noncontroversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 27, 2001. No adverse comments were received, and, thus, this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on December 3, 2001.

Robert N. Stevens,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 01–30482 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 211

RIN 1510–AA88

Delivery of Checks and Warrants to Addresses Outside the United States, Its Territories and Possessions

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule; revision.

SUMMARY: This final rule amends the regulations governing the delivery of Treasury checks outside the United States by removing the reference to Democratic Kampuchea, now known as Cambodia, as an area to which checks may not be sent. With the resumption of diplomatic relations, there is reasonable assurance that payees residing in Cambodia will receive and be able to negotiate checks for full value.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: William S. Mehr, Manager, Administrative Services Branch, (202) 874–6932, or Tricia Long, Attorney, Office of the Chief Counsel, (202) 874–8615, Financial Management Service, Department of the Treasury, Washington, DC 20227.

SUPPLEMENTARY INFORMATION: Banking and postal facilities in Cambodia have improved since the resumption of diplomatic relations in 1993. With respect to postal facilities, the Department of State has available a system whereby Treasury checks can be sent to the American Embassy for distribution. This arrangement is feasible for both Treasury and State, because the number of payees residing in Cambodia is small.

Accordingly, there is reasonable assurance that payees living in Cambodia will receive checks or warrants drawn against funds of the United States, its agencies or instrumentalities, and will be able to negotiate the same for full value. For this reason, 31 CFR 211.1(a) is being revised to delete the reference to Cambodia.

Rulemaking Analysis

This regulation is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because no notice of proposed rulemaking is required under 5 U.S.C. 553 or any other law.

Because this regulation involves a foreign affairs function of the United States, it is not subject to Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

Notice and Comment

Because this rule removes a restriction on the delivery of checks and warrants to a foreign country, the Department of the Treasury has determined that notice of proposed rulemaking, public procedure and a delayed effective date are not required pursuant to 5 U.S.C. 553(a)(1), 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(1).

List of Subjects in 31 CFR Part 211

Foreign Banking, Checks.

For the reasons set forth in the preamble, 31 CFR Part 211 is amended as follows:

PART 211—DELIVERY OF CHECKS AND WARRANTS TO ADDRESSES OUTSIDE THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS

1. The authority citation for part 211 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 321 and 3329.

2. Section 211.1 is amended by revising paragraph (a) to read as follows:

§ 211.1 Withholding delivery of checks.

(a) It is hereby determined that postal, transportation or banking facilities in

general or local conditions in the Republic of Cuba and the Democratic People's Republic of Korea (North Korea) are such that there is not a reasonable assurance that a payee in those areas will actually receive checks or warrants drawn against funds of the United States, or agencies or instrumentalities thereof, and be able to negotiate the same for full value.

* * * * *

Dated: November 2, 2001.

Richard L. Gregg,

Commissioner.

[FR Doc. 01–30535 Filed 12–7–01; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–01–120]

RIN 2115–AE46

Special Local Regulations: Cingular Wireless Winterfest Boat Parade, Broward County, Fort Lauderdale, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Temporary special local regulations are being established for the Cingular Wireless Winterfest Boat Parade. The event will be held on December 15, 2001, on the waters of the Port Everglades turning basin and the Intracoastal Waterway (ICW) from Dania Sound Light 35 to Pompano Beach Day Beacon 74. This rule creates 3 regulated areas around a staging area, parade route and viewing area. These regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: These regulations are effective from 5 p.m. on December 15, 2001 until 11 p.m. on December 15, 2001.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD07–01–120 and are available for inspection or copying at Coast Guard Group Miami, 100 MacArthur Causeway, Miami Beach, Florida, 33139 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: BMC Sorensen, Coast Guard Group Miami, Florida at (305) 535–4317.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM and delaying the effective date of this rule would be contrary to public safety interests since immediate action is needed to minimize potential danger to the public because there will be numerous spectator craft in the area. Publishing a NPRM is also unnecessary because the temporary rule will only be in effect for 6 hours and this is an annual event that has been well publicized to the local community.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

The Cingular Wireless Winterfest Boat Parade is a nighttime parade of approximately 110 pleasure boats ranging in length from 20 feet to 200 feet decorated with holiday lights. Approximately 1500 spectator craft are anticipated to view the parade. The parade will form in the staging area at the Port Everglades turning basin and south in the ICW and the parade route will proceed north on the ICW to Lake Santa Barbara where the parade will disband. This regulation creates regulated areas for the staging area, viewing area, and parade route. The staging area encompasses the entire Port Everglades turning basin, south to Dania Sound Light 35 (LLNR 47575). The parade route encompasses the Intracoastal Waterway from Dania Sound Light 35 (LLNR 47575) to Pompano Beach day beacon 74 (LLNR 47230). The viewing area covers the west side of the ICW from the Sunrise Boulevard Bridge (26° 08.281′N, 080° 06.482′W) south to the New River Sound Light 3 (LLNR 47240).

Non-participant vessels are not allowed to enter or anchor in the staging area. Further, no vessel is allowed to anchor in the vicinity of the shore side viewing area that covers the west side of the ICW between the Sunrise Boulevard Bridge (26° 08.281′N, 080° 06.482′W and the New River Sound Light 3 (LLNR 47240). During the parade transit, these regulations prohibit non-participant vessels from approaching within 175 yards ahead of the lead vessel or 175 yards astern of the last participant vessel in the parade, and within 15 yards on either side of the outboard parade vessels, unless authorized by the Coast Guard Patrol Commander. The event sponsor will have approximately 20 watercraft to guide mariners around the regulated areas.

The staging area of this special local regulation will overlap the two existing temporary fixed security zones in Port Everglades [COTP MIAMI–01–116 and COTP MIAMI–01–122]. These temporary fixed security zones are activated when a high capacity passenger vessel or a vessel carrying cargoes of particular hazard as defined in Title 33, Code of Federal Regulations part 126, enter or moor within the respective zone. These temporary fixed security zones prohibit vessels from entering the security zones without the permission of the Captain of the Port of Miami.

The first temporary fixed security zone [COTP MIAMI–01–116] encompasses all waters west of an imaginary line starting with the northern most point 26° 05.98′N, 080° 07.15′W, near the west side of the 17th Street Bridge, to the southern most point at 26° 05.41′N, 080° 06.97′W on the tip of the pier near Burt and Jacks Restaurant. The Coast Guard anticipates a cruise ship being moored within this zone; thus this security zone will be activated and no vessels will be permitted to enter the zone without the permission of the Miami Captain of the Port or his designated representative.

The second temporary fixed security zone [COTP MIAMI–01–122] encompasses the waters of the ICW between a line connecting a point at 26° 05.41′N, 080° 06.97′W on the northern tip of Port Everglades berth 22 near Burt and Jacks Restaurant and a point directly east across the Intracoastal Waterway (ICW) at 26° 05.41′N, 080° 06.74′W; and a line drawn from the corner of Port Everglades berth 29 at point 26° 04.72′N, 080° 06.92′W, easterly across the ICW to John U. Lloyd Beach, State Recreational Area at point 26° 04.72′N, 080° 06.81′W. The Coast Guard anticipates that a cruise ship will be moored in this second temporary fixed security zone, so no person or vessel may enter the security zone without the permission of the Captain of the Port or his designated representative. This second zone overlaps the parade staging area but the Coast Guard anticipates allowing persons to transit the east side of the ICW enroute to the parade staging area (with the cruise ship moored on the west side near terminal 24), while this second temporary security zone is activated. The Coast Guard anticipates further that the cruise ship moored at berth 24 will depart the Port sometime during the parade formation and as a result this security zone will be deactivated after the cruise ship departs.

The regulated area created by this special local regulation will continue to

be enforced if either security zone above is deactivated. The security zones and special local regulation allow the Coast Guard and local law enforcement maximum flexibility to ensure the safety of the entire Port and those within the Port area. The Coast Guard anticipates no ship arrivals during the timeframe of this special local regulation. However, a ship may unexpectedly require transit into port, necessitating on-scene changes. All on-scene changes will be announced on VHF–FM Channels 13 and 16.

Discussion of Rule

The Coast Guard is establishing 3 regulated areas under this regulation, a staging area, a viewing area, and a parade route. The staging area encompasses all the waters within the Port Everglades turning basin and that portion of the Intracoastal Waterway (ICW) extending from Port Everglades turning basin to Dania Sound Light 35 (LLNR 47575). The viewing area covers the west side of the Intracoastal Waterway from the Sunrise Boulevard Bridge (26° 08.281′N, 080° 06.482′W) south to the New River Sound Light 3 (LLNR 47240). The parade route includes the Intracoastal Waterway from Dania Sound Light 35 (LLNR 47575) to Pompano Beach Daybeacon 74 (LLNR 47230).

All non-participant persons and vessels are prohibited from entering or anchoring in the staging area and all vessels are prohibited from anchoring in the viewing area, unless authorized by the Patrol Commander. During the parade transit along the parade route, non-participant vessels are prohibited from approaching within 175 yards ahead of the lead vessel or 175 yards astern of the last participant vessel in the parade, and within 15 yards on either side of the outboard parade vessels. The Coast Guard Patrol Commander may allow vessels to enter the staging area when the last participant vessel has cleared the staging area. The Coast Guard Patrol Commander will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (157.1 MHz) if vessels are authorized to enter the staging area.

Regulatory Evaluation

This proposal is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979) because the rule will only be in effect for 6 hours and vessels will still be allowed to transit the regulated areas with the permission of the Coast Guard Patrol Commander.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. "Small entities" include small business, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the Port Everglades turning basin and portions of the Intracoastal Waterway. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because the rule will only be in effect for 6 hours and vessels will still be allowed to transit the regulated areas with the permission of the Coast Guard Patrol Commander.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they may better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandate Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to Figure 2–1, paragraph 34(h) of Commandant Instruction M16475.1D, that this action is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 to 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A new temporary § 100.35T–07–120 is added to read as follows:

§ 100.35T–07–120 Cingular Wireless Winterfest Boat Parade, Broward County, Fort Lauderdale, FL.

(a) Definitions.

(1) *Staging area.* The staging area includes all waters within the Port Everglades turning basin, west of a line drawn from the 17th Street Causeway Bridge (26° 06.044′N, 080° 07.089′W) south along the northeast shore of the turning basin, east through Bar Cut to Light 6 (LLNR 10340), south across Bar Cut to Light 7 (LLNR 10345), then southwest along the southeast shore of the turning basin to Daybeacon 1 (LLNR 10375) at Coast Guard Station Fort Lauderdale. The staging area also includes that portion of the Intracoastal Waterway from Port Everglades Turning Basin south to Dania Sound Light 35 (LLNR 47575).

(2) *Parade route.* The parade route includes the Intracoastal Waterway (ICW) from Dania Sound Light 35 (LLNR 47575) to Pompano Beach Daybeacon 74 (LLNR 47230).

(3) *Viewing area.* The viewing area covers the west side of the Intracoastal Waterway from the Sunrise Boulevard Bridge (26° 08.281′N, 080° 06.482′W) south to the New River Sound Light 3 (LLNR 47240).

(4) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Miami, Florida and is also the designated representative of the Captain of the Port of Miami for purposes of enforcing security zones in Port Everglades during this event.

(b) Special Local Regulations.

(1) *Staging area.* Entry or anchoring in the staging area by nonparticipating vessels is prohibited, unless authorized by the Patrol Commander. The Coast Guard Patrol Commander may allow vessels to enter the staging area when the last participant vessel has departed the staging area. The Coast Guard Patrol Commander will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (157.1 MHz) if vessels are allowed to enter the staging area.

(2) *Parade route.* During the parade transit, non-participant vessels are prohibited from approaching within 175 yards ahead of the lead vessel or 175 yards astern of the last participating vessel in the parade, and within 15 yards on either side of the outboard parade vessels, unless authorized by the Coast Guard Patrol Commander.

(3) *Viewing Area.* Vessels are prohibited from anchoring in the viewing area.

(4) *Miscellaneous.* A succession of not fewer that 5 short whistle or horn blasts from a patrol vessel will be the signal for any and all vessels to stop immediately. At the discretion of the Coast Guard Patrol Commander, all vessels may resume normal operations after the passage of the parade participants.

(c) Dates. This section becomes effective at 5 p.m. on December 15, 2001 and terminates at 11 p.m. on December 15, 2001.

Dated: December 1, 2001.

James S. Carmichael,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 01–30477 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–041]

RIN 2115–AE47

Drawbridge Operation Regulation; Mississippi River, Iowa and Illinois

AGENCY: Coast Guard, DOT.

ACTION: Temporary deviation.

SUMMARY: The Commander, Eighth Coast Guard District has authorized a temporary deviation from the regulation governing the Burlington Northern Railroad Drawbridge, Mile 0.2, St. Croix River at Prescott, Wisconsin. This deviation allows the drawbridge to remain closed to navigation for 29 days November 16, until December 15, 2001. This action will facilitate maintenance work on the bridge.

DATES: This temporary deviation is effective from 12:01 a.m., November 16, 2001, until 12:01 a.m., December 15, 2001.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, Commander (obr), Eighth Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103–2832, (314) 539–3900, extension 378.

SUPPLEMENTARY INFORMATION: The Burlington Northern Railroad Drawbridge provides a vertical clearance of 20.4 feet above normal pool in the closed to navigation position. Navigation on the waterway is a mixture of recreational boating and commercial tows. This deviation has been coordinated with waterway users. No objections were received.

This deviation allows the bridge to remain closed to navigation from 12:01 a.m., November 16, 2001 to 12:01 a.m., December 15, 2001. The bridge will open during this period of time upon receipt of 24 hours advance notice.

Dated: November 20, 2001.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–30476 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–044]

Drawbridge Operating Regulation; Lake Pontchartrain, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the bascule spans of the Greater New Orleans Expressway Commission Causeway across Lake Pontchartrain between Metairie, Jefferson Parish and Mandeville, St. Tammany Parish, Louisiana. This deviation allows the draws of the bridges to remain closed to navigation from 6 a.m. on Monday, December 17, 2001 until 6 a.m. on Wednesday, December 19, 2001. This temporary deviation allows for the connection of new submarine cables to operate the draw spans of the bridges.

DATES: This deviation is effective from 6 a.m. on Monday, December 17, 2001 until 6 a.m. on Wednesday, December 19, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), 501 Magazine Street, New Orleans, Louisiana, 70130–3396 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: Presently, the draw is required to open on signal if at least three hours notice is given; except that, the draw need not be opened for the passage of vessels Monday through Friday except Federal holidays from 5:30 a.m. to 9:30 a.m. and from 3 p.m. until 7 p.m. The draw opens on signal for any vessel in distress or vessel waiting immediately following the closures listed above.

During the closure period, the bridges will not be able to open for vessels to transit through the bascule spans of the bridge. The bridges have a vertical clearance of 42 feet above mean high water in the closed-to-navigation position. Navigation on the waterway consists of small tugs with tows, fishing vessels, sailing vessels, and other recreational craft. In case of an emergency, the bridge owner will be able to hand crank the draws of the bridges to the open-to-navigation position. As an alternate route, the south channel fixed spans of the dual bridges provide a vertical clearance of 50 feet above mean high water.

The Greater New Orleans Expressway Commission requested a temporary deviation from the normal operation of the drawbridge in order to allow for the connection of new submarine cables to operate the draw spans of the bridges.

This deviation allows the draws of the bridges of the Greater New Orleans Expressway Commission Causeway across Lake Pontchartrain to remain closed to navigation from 6 a.m. on Monday, December 17, 2001 until 6 a.m. on Wednesday, December 19, 2001.

Dated: December 3, 2001.

J. R. Whitehead,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard Dist., Acting.

[FR Doc. 01–30475 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–15–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7773]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Edward Pasterick, Division Director, Program Marketing and Partnership Division, Federal Insurance Administration and Mitigation Directorate, 500 C Street, S.W.; Room 411, Washington, D.C. 20472, (202) 646–3098.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition

against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp.; p. 252.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp.; p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and Location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region V				
Illinois: Bureau County, unincorporated areas.	170729	July 25, 1973, Emerg.; June 15, 1984, Reg.; December 6, 2001.	Dec. 6, 2001	Dec. 6, 2001.
Minnesota: Cook, City of, St. Louis County	270420	December 3, 1971, Emerg.; March 1, 1977, Reg.; December 6, 2001.	.....do.....	Do.
Region VIII				
South Dakota: Grenville, Town of, Day County.	461201	August 18, 1995, Emerg.; June 8, 1998, Reg.; December 6, 2001.	.....do.....	Do.
Region II				
New Jersey: New Providence, Borough of, Union County.	345306	July 16, 1971, Emerg.; November 23, 1973, Reg.; December 20, 2001.	Dec. 20, 2001 ...	Dec. 20, 2001.
Roseland, Borough of, Essex County	340193	July 31, 1975, Emerg.; September 2, 1981, Reg.; December 20, 2001.	.....do.....	Do.
West Caldwell, Borough of, Essex County	340196	September 8, 1972, Emerg.; April 16, 1979, Reg.; December 20, 2001.	.....do.....	Do.
Region X				
Washington: Castle Rock, City of, Cowlitz County.	530277	May 8, 1975, Emerg.; June 18, 1980, Reg.; December 20, 2001.	.....do.....	Do.
Cowlitz County, unincorporated areas	530032	June 18, 1971, Emerg.; August 1, 1980, Reg.; December 20, 2001.	.....do.....	Do.
Kelso, City of, Cowlitz County	530033	July 28, 1972, Emerg.; December 4, 1979, Reg.; December 20, 2001.	.....do.....	Do.
Longview, City of, Cowlitz County	530034	May 26, 1972, Emerg.; December 18, 1979, Reg.; December 20, 2001.	.....do.....	Do.

Code for reading third column: Emerg.-Emergency; Reg.-Regular; Susp.-Suspension.

Dated: December 3, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance Administration and Mitigation Administration.

[FR Doc. 01–30428 Filed 12–7–01; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2735; MM Docket No. 00–31; RM–9815; RM–10014; RM–10095]

Radio Broadcasting Services; Nogales,Vail and Patagonia, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a proposal filed on behalf of Desert West Air Ranchers Corporation, licensee of Station KZNO(FM), Nogales, Arizona, the Commission substitutes Channel 253A for Channel 252A at Nogales, reallots Channel 253A to Vail, Arizona, as that community's first local aural transmission service, and modifies the license for Station KZNO(FM), as requested. *See* 65 FR 11540, March 3, 2000. Additionally, in response to a counterproposal filed on behalf of Desert West Air Ranchers Corporation, this document allots Channel 251A to Patagonia, Arizona, as that community's first local aural transmission service. And, in response to a counterproposal filed on behalf of Big Broadcasting of Arizona, LLC, this document allots Channel 283A to Vail, Arizona, as that community's second local FM service. Coordinates used for Channel 253A at Vail, Arizona to accommodate the reallotment are 31–55–39 NL and 110–37–57 WL; coordinates for Channel 283A at Vail for general application are 32–02–48 NL and 110–42–42 WL; coordinates used for Channel 251A at Patagonia are 31–33–05 NL and 110–44–45 WL. As Vail and Patagonia are located within 320 kilometers (199 miles) of the US-Mexico border, concurrence of the Mexican government has been requested for Channels 253A, and 283A at Vail, and for Channel 251A at Patagonia, but has not been received. Therefore, if construction permits are granted for the specified channels at Vail and Patagonia prior to receipt of final notification by the Mexican government, the authorizations will include the following condition: "Operation with the facilities specified herein is subject to modification, suspension or termination without right to a hearing if found by the Commission to be necessary in order to conform to the 1992 USA-Mexico FM Broadcast Agreement, or if specifically objected to by Mexico.

DATES: Effective January 7, 2002. Filing windows for Channel 283A at Vail, Arizona, and for Channel 251A at Patagonia, Arizona, will not be opened at this time. Instead, the issue of opening those allotments for auction will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–31, adopted November 14, 2001, and released November 23, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualtex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended].

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 252A at Nogales.

3. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Patagonia, Channel 251A; and Vail, Channel 253A and Channel 283A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–30391 Filed 12–7–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2681; MM Docket Nos. 01–118, 01–119, 01–122; RM–10106, RM–10127, RM–10130]

Radio Broadcasting Services; Grants, Milan, and Shiprock, New Mexico; Van Wert and Columbus Grove, Ohio; Lebanon and Hamilton, Ohio and Fort Thomas, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission allots channels in three separate docketed proceedings which were proposed together in a multiple docket *Notice of Proposed Rule Making*. (1) At the request of KXXQ(FM) Radio Partners, Inc., Channel 264C0 is substituted for Channel 264A at Grants, New Mexico, Channel 264C0 is reallotted from Grants to Milan, New Mexico, and the license for Station KXXQ(FM) is modified to reflect the changes. In addition, Channel 299C1 is substituted for vacant Channel 265C1 at Shiprock, New Mexico to accommodate the changes. *See* 66 FR 33655 (June 25, 2001). Channel 264C0 is allotted at Milan with a site restriction of 21.2 kilometers (13.2 miles) north of the community. Channel 299C1 is allotted at Shiprock at the original allotment site. Coordinates for Channel 264C0 at Milan are 35–21–19 NL and 107–56–52 WL. Coordinates for Channel 299C1 at Shiprock are 36–46–12 NL and 108–42–49 WL. (2) At the request of Clear Channel Broadcasting Licenses, Inc., we substitute Channel 230B1 for Channel 230A at Van Wert, reallot the channel to Columbus Grove, Ohio, as the community's first local aural transmission service, and modify Clear Channel's construction permit for its unbuilt station to reflect the changes. *See* 66 FR 33656 (June 25, 2001). Channel 230B1 is allotted at Columbus Grove with a site restriction of 8.1 kilometers (5.0 miles) northwest of the community. Coordinates for Channel 230B1 at Columbus Grove are 40–57–33 NL and 84–08–14 WL. (3) At the joint request of Infinity Radio License Inc. and Caron Broadcasting, we reallot Channel 247A from Lebanon, Ohio to Fort Thomas, Kentucky, as the community's first local aural transmission service, and the modify Station WAQZ(FM)'s license to reflect the change. We also reallot Channel 243B from Hamilton, Ohio to Lebanon, as a replacement channel for the

community's first local aural transmission service and modify Station WYGY(FM)'s license to reflect the change. *See* 66 FR 33657 (June 25, 2001). Channel 247A can be reallotted from Lebanon to Fort Thomas at petitioner's requested site 14.7 kilometers (9.1 miles) north of Fort Thomas. Channel 243B can be reallotted from Hamilton to Lebanon at Station WYGY(FM)'s existing site 13.9 kilometers (8.6 miles) southwest of the community. Coordinates for Channel 247A at Fort Thomas, Kentucky, are 39–11–51 NL and 84–22–56 WL. Coordinates for Channel 243B at Lebanon, Ohio, are 39–21–11 NL and 84–19–30 WL.

DATES: Effective December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket Nos. 01–118, 01–119, and 01–122, adopted November 7, 2001, and released November 16, 2001. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended].

2. Section 73.202(b), the Table of FM Allotments under Ohio, is amended by removing Channel 230A at Van Wert adding Columbus Grove, Channel 230B1, and by removing Channel 247A and adding Channel 243B at Lebanon.

3. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by removing Channel 264A at Grants, adding Milan, Channel 264C0, and removing Channel 265C1 and adding Channel 299C1 at Shiprock.

4. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by adding Fort Thomas, Channel 247A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–30388 Filed 12–7–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010511123–1123–01; I.D. 042001D]

RIN 0648–AP24

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Hawaii-based Pelagic Longline Restrictions and Seasonal Area Closure, and Sea Turtle and Sea Bird Mitigation Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule and extension of expiration date.

SUMMARY: This action extends an emergency interim rule, now in effect, applicable to vessels registered for use under a Hawaii longline limited access permit (Hawaii longline vessels) and allows the use of basket-style longline gear as an alternative method for deep-set tuna longline fishing. This emergency interim rule: Prohibits the targeting of swordfish north of the equator by Hawaii longline vessels; prohibits longline fishing by Hawaii longline vessels in waters south of the Hawaiian Islands (from 15° N. lat. to the equator, and from 145° W. long. to 180° long.) during the months of April and May; allows re-registration of vessels to Hawaii longline limited access permits only in October; imposes additional sea turtle handling and resuscitation measures; and requires all Hawaii longline vessel operators to attend an annual protected species workshop. This emergency interim rule implements an order issued by the U.S. District Court for the District of Hawaii (Court) in March 2001 to reduce the number of sea turtles injured and killed incidental to longline fishing operations. Other parts of this emergency interim rule implement the terms and conditions contained in an amended November 2000 biological opinion issued by the U.S. Fish and Wildlife Service (FWS) on the effects of the Hawaii longline fleet on the endangered short-tailed albatross. In October 2001, FWS amended its biological opinion on the short-tailed albatross allowing Hawaii longline vessels to use basket-style longline gear as an alternative method for deep-set tuna longline fishing, which is implemented by this emergency interim rule.

DATES: 1. The expiration date of the emergency interim rule published on June 12, 2001 (66 FR 31564), is extended to June 8, 2002.

2. The amendments to §§ 660.12, 660.35 (a)(7), and (a)(10) in this emergency interim rule are effective from December 11, 2001, through June 8, 2002.

ADDRESSES: Copies of the environmental assessment and regulatory impact review prepared for this emergency interim rule may be obtained from Dr. Charles Karnella, Administrator, Pacific Islands Area Office (PIAO), National Marine Fisheries Service, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI, 96814–4700.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, PIAO, at 808–973–2937.

SUPPLEMENTARY INFORMATION: On June 12, 2001, NMFS issued an emergency interim rule (66 FR 31561) implementing temporary measures for the Hawaii-based pelagic longline fishery (Hawaii longline fishery) to avoid the likelihood of jeopardy to sea turtles and to reduce adverse effects to the short-tailed albatross. These measures are consistent with NMFS' March 29, 2001, Biological Opinion on the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region and FWS' November 28, 2000, Biological Opinion on the Effects of the Hawaii-based Domestic Longline Fleet on the Short-tailed Albatross (*Phoebastria albatrus*) (short-tailed albatross BiOp). NMFS received no written comments on the June 12, 2001, emergency interim rule.

The action taken to protect and conserve sea turtles complies with a March 30, 2001, Order Modifying Injunction (Order) issued by the Court in *Center for Marine Conservation* v. *NMFS*, CV No. 99-00152. This emergency interim rule codifies that Order in 50 CFR part 660 under the authority of section 305 (c) of the Magnuson-Stevenson Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1855 (c). Background information on the Order was published in several previous

Federal Register documents (64 FR 72290, December 27, 1999; 65 FR 16346, March 28, 2000; 65 FR 37917, June 19, 2000; 65 FR 51992, August 25, 2000; 65 FR 66186, November 3, 2000; 66 FR 1110, February 22, 2001; and at 66 FR 15358, March 19, 2001; 66 FR 31561, June 12, 2001) and is not repeated here.

The turtle component of this emergency interim rule (a) prohibits Hawaii longline vessels from using longline gear to target swordfish north of the equator; (b) requires Hawaii longline vessels to deploy longline gear such that the "sag" (deepest point) between any two floats is at least 100 m (328.1 ft) beneath the sea surface and the float line suspending the main longline beneath a float is at least 20 m (65.6 ft) long, with a minimum of 15 branch lines deployed between any 2 floats; (c) prohibits a Hawaii longline vessel from possessing light sticks on board the vessel; (d) prohibits Hawaii longline vessels from fishing with longline gear during the months of May and April in the area bounded on the south by the equator, on the west by 180° long., on the east by 145° W. long., and on the north by 15° N. lat.; (e) allows the re-registration of a Hawaii longline vessel that has been de-registered from a Hawaii longline limited access permit after March 29, 2001, only during the month of October; (f) requires operators of Hawaii longline vessels to annually attend a protected species workshop conducted by NMFS; (g) requires Hawaii longline vessel operators to cease gear retrieval if a sea turtle is discovered hooked or entangled on a longline until the turtle has been removed from the gear or brought onto the vessel's deck; (h) requires that hooks be removed from sea turtles as quickly and carefully as possible; however, if a hook cannot be removed, that the line be cut as close to the hook as possible; (i) requires that wire or bolt cutters capable of cutting through a longline hook be on board the vessel to facilitate cutting of hooks imbedded in sea turtles; and (j) requires the operator of a Hawaii longline vessel to bring comatose sea turtles on board the vessel and to perform resuscitation on such turtles as prescribed in 50 CFR 223.206 (d)(1).

The seabird protection component of this emergency interim rule implements the terms and conditions of the short-tailed albatross BiOp, as amended. This biological opinion requires operators and crew of Hawaii longline vessels operating with longline gear north of 23° N. lat. to (1) use thawed blue-dyed bait in a manner specified by NMFS and discard offal strategically to distract sea birds during the setting and hauling of longline gear; and (2) employ a line-setting machine or basket-style longline gear (as discussed below) with weights (minimum weight = 45 g) attached to each branch line within 1 m of the hook when making tuna target sets (the only type of set allowed under this emergency interim rule north of the equator). Also, the crew of a Hawaii longline vessel is required to apply certain sea bird handling techniques to increase the likelihood of survival of any short-tailed albatross that is incidentally taken and brought on board the vessel alive. If a short-tailed albatross is brought aboard a Hawaii longline vessel, the vessel operator must determine if it exhibits the following traits: Head is held erect and the bird responds to noise and motion stimuli; bird breathes without noise; both wings can flap and retract to normal folded position on back; and the bird can stand on both feet with toes pointed forward. If a short-tailed albatross fails to exhibit even one of these traits, the vessel operator must contact NMFS immediately. In addition, any short-tailed albatross recovered dead must be frozen immediately and surrendered as soon as possible to NMFS.

This emergency interim rule implements an amendment to the short-tailed albatross BiOp issued by FWS on October 18, 2001, in response to NMFS' request of August 15, 2001, to allow basket-style longline gear to be deployed without a line-setting machine north of 23° N. lat. under the terms and conditions of that biological opinion. This gear type is regarded as a traditional rope or tarred longline fishing method in the Hawaii longline fishery. The FWS made this adjustment because this gear type, when it is deployed slack, sinks at approximately 9 m per minute through the first 50 m of the water column, which is comparable to the sink rate of a monofilament longline deployed by a line-setting machine. The FWS determined that the use of basket-style longline gear, like a line-setting machine, minimizes the incidental take of sea birds, including the short-tailed albatross. At present, there is one vessel in the Hawaii longline fishery that uses the basket-style longline gear. Both the Western Pacific Fishery Management Council (Council) and NMFS strongly support the use of basket-style longline gear in the fishery.

The short-tailed albatross BiOp also requires all Hawaii longline vessel operators to attend annually a protected species workshop. The BiOp also contains seabird take mitigation measures for longline fishing targeting swordfish north of 23° N. lat.; however, these measures become moot because, under this emergency interim rule, targeting swordfish north of the equator is prohibited under the sea turtle take mitigation measures.

Changes From the Original Emergency Interim Rule

This emergency interim rule contains adjustments to regulatory measures at § 660.12 by adding a definition for "basket-style longline gear," by suspending § 660.35 (a)(7), and by adding § 660.35 (a)(10) that allows the use of basket-style longline gear as an alternative to a line-setting machine or line-shooter (currently required for all Hawaii longline vessels fishing above 23° N. lat.).

Extension of this emergency interim rule is authorized under section 305 (c)(3)(B) of the Magnuson-Stevens Fishery Conservation and Management Act. Background information on other aspects of this emergency interim rule regarding longline sag depth and non-regulatory requirements of the Court Order are presented in the **Federal Register** announcing the emergency interim rule on June 12, 2001 (66 FR 3156). This information is not repeated here.

Recent, Unforeseen Events or Recently Discovered Circumstances

On October 18, 2001, FWS amended the terms and conditions of its November 2000 short-tailed albatross BiOp to allow the use of basket-style longline gear in the Hawaii longline fishery. This amendment is based on information provided by NMFS demonstrating that this method of deep-set longline fishing is an acceptable alternative to monofilament longline deployed with a line-setting machine in minimizing sea bird take. This gear, when deployed slack, has a sinking rate such that birds diving on the bait are unable to get the bait or become hooked or entangled in the gear. At present there is one Hawaii longline vessel that uses basket-style longline gear. While using this gear, this vessel has not observed or reported any sea turtle interactions. Both the Council and NMFS believe that this vessel should be allowed to continue using this method of fishing. Therefore, this emergency interim rule includes the basket-style longline gear as an alternative to line-setting machine or line shooter currently required of all Hawaii longline vessels targeting tuna north of 23° N. lat. around the Hawaiian Islands.

Classification

The Assistant Administrator for Fisheries, NOAA (AA) has determined

that extension of the emergency interim rule is necessary to comply with a U.S. District Court Order and the mandatory terms and conditions of a BiOp issued under section 7 of the Endangered Species Act.

This emergency interim rule has been determined to be not significant for the purposes of Executive Order 12866.

The AA finds for good cause that providing prior notice and opportunity for public comment is unnecessary because this action implements a Court Order and mandatory terms and conditions of a BiOp, authorized under the ESA, thus precluding implementation of any alternative. Similarly, the AA finds, for good cause, under 5 U.S.C. 553 (d)(3), that delaying the effectiveness of this rule for 30 days is impracticable given the explicit directive from the Court and the mandatory requirements of the FWS's BiOp. Further, the AA finds, under 5 U.S.C. 553 (d)(1), that this rule relieves a restriction by allowing the use of a longline gear type that was previously prohibited above 23° N. lat. Accordingly, the AA is making this emergency interim rule effective from December 11, 2001, through June 8, 2002.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: December 3, 2001.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Effective from December 11, 2001, through June 8, 2002, in § 660.12, a definition for "Basket-style longline gear" is added in alphabetical order to read as follows:

§ 660.12 Definitions.

* * * * * *

Basket-style longline gear means a type of longline gear that is divided into units called "baskets" each consisting of a segment of main line to which 10 or more branch lines with hooks are spliced. The lines are made of multiple braided strands of cotton, nylon, or other synthetic fibers impregnated with tar or other heavy coatings that cause the lines to sink rapidly in seawater.

* * * * * *

3. Effective from December 11, 2001, through June 8, 2002, in § 660.35, paragraph (a)(7) is suspended and a new paragraph (a)(10) is added to read as follows:

§ 660.35 Seabird take mitigation measures.

(a) * * *

(10) Use a line-setting machine or line-shooter to set the main longline, or use basket-style longline gear such that the main longline is deployed slack to maximize its sinking rate;

* * * * * *

[FR Doc. 01–30384 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 237
Monday, December 10, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–026–1]

Change in Disease Status of Portugal Because of African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to remove Portugal from the list of regions where African swine fever exists. We are proposing this action because Portugal is now free of African swine fever. This action would relieve restrictions due to African swine fever on the importation of pork and pork products into the United States from Portugal. However, because Portugal is on the list of regions where hog cholera exists and the list of regions that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or foot-and-mouth disease-affected countries, Portugal would continue to be subject to certain restrictions regarding the importation into the United States of pork and pork products.

DATES: We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by February 8, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–026–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–026–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01–026–1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various animal diseases, including rinderpest, foot-and-mouth disease (FMD), African swine fever (ASF), hog cholera, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.8 of the regulations lists regions of the world where ASF exists or is reasonably believed to exist. Section 94.8 also restricts the importation of pork and pork products into the United States from the listed regions.

On December 29, 1999, we published in the **Federal Register** an interim rule (64 FR 72912–72913, Docket No. 99–096–1) that added Portugal to the list in § 94.8 of regions where ASF exists because the presence of ASF was confirmed in that region on November 15, 1999. As a result of that action, the importation into the United States of any pork and pork products that left Portugal on or after November 5, 1999, the effective date of that interim rule, was restricted. We adopted the interim rule without change in a document published in the **Federal Register** on August 28, 2000 (65 FR 51997, Docket No. 99–096–2).

Portugal responded quickly to the presence of ASF, which was confined to four premises. Following depopulation of the affected herds, Portugal conducted extensive serological surveillance. This testing indicated that ASF had not spread beyond the affected premises. The Government of Portugal recently requested that APHIS recognize Portugal as a region considered free of ASF.

In response to that request, we reviewed the documentation submitted by the Government of Portugal in support of its request, and a team of APHIS officials performed a site visit to conduct an evaluation of Portugal's animal health program with regard to ASF. You may review the on-site evaluation on the Internet at *http://www.aphis.usda.gov/vs/reg-request.html*. The evaluation consisted of a review of Portugal's veterinary service infrastructure, laboratory and diagnostic procedures, vaccination practices, and administration of laws and regulations intended to prevent the introduction of communicable animal diseases into Portugal. After reviewing the documentation provided by Portugal and the data gathered during the site visit by APHIS officials, we have determined that Portugal qualifies to be recognized as free of ASF.

However, Portugal is still considered to be affected with hog cholera, also known as classical swine fever, so pork and pork products from Portugal offered for importation into the United States would remain subject to the restrictions in § 94.9 for hog cholera. Similarly, dry-cured pork products from Portugal would continue to be subject to the restrictions in § 94.17 due to hog cholera. Additionally, pork and pork products from Portugal would continue to be subject to the restrictions in § 94.11 because Portugal is one of the countries listed in § 94.11(a) that have been declared free of rinderpest and FMD, but from which the importation of meat and other animal products is restricted due to the nature of their trade with countries affected with rinderpest or FMD or because they have a land border with a country affected with rinderpest or FMD.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required under Executive Order 12866.

We are proposing to remove Portugal from the list of regions where ASF exists. We are proposing this action because Portugal is now free of ASF. This action would relieve restrictions due to ASF on the importation of pork and pork products into the United States from Portugal. However, because Portugal is on the list of regions where hog cholera exists and the list of regions that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected countries, Portugal would continue to be subject to certain restrictions regarding the importation into the United States of pork and pork products.

The following analysis addresses the economic effect of this rule on small entities, as required by the Regulatory Flexibility Act.

Entities in the United States likely to be affected by this proposed rule include those engaged in the production of swine and processed pork products. Since Portugal has never exported pork or pork products to the United States, we anticipate that this proposed rule would have no economic effect on U.S. swine importers, hog meat processors, hog producers, or any other entities, large or small. However, should Portugal commence the exportation of pork and pork products to the United States, restrictions on the importation of pork and pork products into the United States from Portugal would still be in place because Portugal is on the list of regions where hog cholera exists and the list of regions that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected countries. Given those continuing restrictions, we believe any potential imports of processed pork and pork products from Portugal would be minimal. Likewise, because any potential increase in imports of processed pork and pork products from Portugal would be slight, the potential effect on U.S. swine producers and processors of pork is expected to be minimal.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

§ 94.8 [Amended]

2. In § 94.8, the introductory text of the section would be amended by removing the word "Portugal,".

Done in Washington, DC, this 4th day of December, 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30463 Filed 12–7–01; 8:45 am]

BILLING CODE 3410–34–U

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulations No. 4 and 16]

RIN 0960–AF29

Revised Medical Criteria for Evaluating Skin Disorders

AGENCY: Social Security Administration.

ACTION: Proposed rules.

SUMMARY: We propose to revise the criteria in the Listing of Impairments (the listings) that we use to evaluate claims involving skin disorders. We apply these criteria when you claim benefits based on disability under title II and title XVI of the Social Security Act (the Act). The proposed revisions will reflect advances in medical knowledge, treatment, and methods of evaluating skin disorders.

DATES: To be sure your comments are considered, we must receive them by February 8, 2002.

ADDRESSES: You may give us your comments by using: our Internet site facility (*i.e.*, Social Security Online) at: *http://www.ssa.gov/regulations/*, e-mail to *regulations@ssa.gov;* telefax to (410) 966–2830; or by letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235–7703.

You may also deliver them to the Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site, or you may inspect them physically on regular business days by making arrangements with the contact person shown in this preamble.

Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.access.gpo.gov/su docs/aces/aces140.html.* It is also available on the Internet site for SSA (i.e., Social Security Online): *http://www.ssa.gov/regulations/.*

FOR FURTHER INFORMATION CONTACT: Suzanne DiMarino, Social Insurance Specialist, Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–1769 or TTY (410) 966–5609. For information on eligibility or filing for benefits, call our national toll-free number 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet web site, Social Security Online, at *http://www.ssa.gov.*

SUPPLEMENTARY INFORMATION:

What Programs Would These Proposed Regulations Affect?

These proposed regulations would affect disability determinations and decisions we make for you under title II and title XVI of the Act. In addition, to the extent that Medicare and Medicaid eligibility are based on entitlement to benefits under title II and eligibility for

benefits under title XVI, these proposed regulations would also affect the Medicare and Medicaid programs.

Who Can Get Disability Benefits?

Under title II of the Act, we provide for the payment of disability benefits if you are disabled and belong to one of the following three groups:

- Workers insured under the Act,
- Children of insured workers, and
- Widows, widowers, and surviving divorced spouses (see 20 CFR § 404.336) of insured workers.

Under title XVI of the Act, we provide for Supplemental Security Income (SSI) payments on the basis of disability if you have limited income and resources.

How Do We Define Disability?

Under both the title II and title XVI programs, disability must be the result of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of at least 12 months. Our definitions of disability are shown in the following table:

If you file a claim under . . .	And you are . . .	Disability means you have a medically determinable impairment(s) that meets the statutory duration requirement and results in . . .
title II	an adult or child	the inability to do any substantial gainful activity (SGA).
title XVI	an adult	the inability to do any SGA.
title XVI	a child	marked and severe functional limitations.

What Are the Listings?

The listings contain examples of impairments that we consider severe enough to prevent you as an adult from doing any gainful activity. If you are a child seeking SSI benefits based on disability, the listings describe impairments that we consider severe enough to result in marked and severe functional limitations. Although the listings are contained only in appendix 1 to subpart P of part 404 of our rules, we incorporate them by reference in the SSI program in § 416.925 of our regulations, and apply them to claims under both title II and title XVI of the Act.

How Do We Use the Listings?

There are listings for adults (part A) and for children (part B). We apply the medical criteria in part A when we assess your claim if you are an adult, i.e., a person age 18 or over.

If you are a child, we first use the criteria in part B. If the B criteria do not apply, and the specific disease process(es) has a similar effect on adults and children, we then use the criteria in part A. (*See* §§ 404.1525, 404.1526, 416.925 and 416.926.)

We use the criteria in the listings only to make favorable findings of disability. We never deny a claim or find that disability has ceased because your impairment(s) does not meet or medically equal a listing.

Why Are We Proposing To Revise the Listings for Skin Impairments?

We are proposing these revisions to update the medical criteria and provide more information about how we evaluate skin impairments. We last published final rules containing comprehensive revisions to the skin listings in the **Federal Register** on March 27, 1979 (44 FR 18170). In subsequent rules published December 6, 1985 (50 FR 50068), we indicated that due to advances in medical treatment, technology, and program experience we would periodically review and update the listings. The current listings for the evaluation of skin impairments would no longer be effective on July 2, 2003 (66 FR 34361 (June 28, 2001)).

How Long Would These Proposed Rules Be Effective?

These proposed rules would remain in effect for 8 years from the date we publish them as final rules in the **Federal Register**, unless we extend them, or revise and issue them again.

We will continue to apply our current listings until we evaluate the public comments on these proposed rules and determine whether they should be issued as final rules. If we finalize these proposed rules, when any final rules become effective, we will apply them to new applications filed on or after the effective date of the final rules, and to cases that are pending in the administrative review process. In accordance with our usual practice, we would explain how we would apply any final rules in greater detail in the preamble to the final rules.

When we conduct reviews to determine whether your disability continues, we would not find that your disability has ended based only on any changes in the listings. Our regulations explain that we continue to use our prior listings when we review your case if you receive disability benefits or SSI payments based on our determination or decision that your impairment(s) met or equaled the listings. In these cases, we determine whether you have experienced medical improvement, and if so, whether the medical improvement is related to the ability to work. If your impairment(s) still meets or equals the same listing section that we used to make our most recent favorable determination or decision, we will find the medical improvement is not related to the ability to work. If your condition has medically improved so that you no longer meet or equal the prior listing, we evaluate your case further to determine whether you are currently disabled. We may find that you are currently disabled, depending on the full circumstances of your case. See 20 CFR 404.1594(c)(3)(i), 416.994(b)(2)(iv)(A). If you are a child who is eligible for SSI payments, we follow a similar rule when we decide whether you have experienced medical improvement in your condition. 20 CFR 416.994a(b)(2).

What Revisions Are We Proposing To Make?

To present the skin listing criteria in part A of Appendix 1 in a more logical order, and make the listings easier to use, we propose to:

- Revise the titles to put them in plain language;
- Revise the order and update the diagnostic groupings of skin impairments;
- Add a listing for photosensitivity disorders;
- Provide a more uniform and clearly defined statement of severity required for a listing-level skin impairment;
- Expand the guidance in the introductory text to the listing; and
- Make nonsubstantive editorial changes.

In addition, we propose to add a set of childhood skin listings in part B of Appendix 1.

How Are We Proposing To Change the Introductory Text to the Adult Skin Listings?

We propose to change the heading title from 8.00 Skin to 8.00 Skin Disorders.

We propose to expand and significantly reorganize the introductory

text to the skin impairments listings in current 8.00A and 8.00B in order to provide additional guidance in applying the skin listings. In doing so, we propose to:

- Expand and supplement the first sentence of current 8.00A and move it into proposed 8.00C;
- Expand and supplement the second sentence of current 8.00A and move it into proposed 8.00F;
- Expand the third sentence of current 8.00A and move it into proposed 8.00C(3); and
- Expand the material in 8.00B and move it into proposed 8.00D.

We also propose to add new material in all the proposed sections of the introductory text. A detailed description of the new and modified paragraphs follows.

Proposed 8.00A—What Skin Impairments Do We Evaluate With These Listings?

This new section provides a detailed description of the more common impairments that may be disabling covered by the skin listings.

Proposed 8.00B—What Documentation Do We Need?

We propose to add a new section that discusses the documentation we require in evaluating skin impairment(s) cases. The proposed section explains the information we expect to find in a complete dermatologic case record in order to make a reasonable assessment of severity. It also explains the importance of diagnostic procedures, which produce laboratory findings or other evidence from generally acceptable methods, in accurately diagnosing skin impairments.

Proposed 8.00C—How Do We Determine if Your Skin Impairment(s) Prevents You From Doing Any Gainful Activity?

This section, which is partially new and partially based on modification to the first sentence of current 8.00A, will explain the three factors we consider when evaluating the severity of skin impairments. The proposed section consists of three subsections:

- Proposed 8.00C1 defines "extensive lesions", a term in proposed listings 8.02 through 8.07. That definition explains that the term extensive not only refers to the amount of surface area affected, but also to the limitations resulting from the lesions. Hence, these listings require a qualitative, as well as a quantitative, evaluation of the effect of the skin lesions. This section also gives examples of extensive lesions. We will determine whether you can ambulate effectively or can perform fine and gross movements effectively based on the medical and other evidence in the case record, generally without developing additional evidence about your ability to perform the specific activities listed as examples.
- Proposed 8.00C2 explains how we evaluate symptoms (including pain) consistent with our rules in §§ 404.1525(f) and 416.925(f) and §§ 404.1529 and 416.929.
- Proposed 8.00C3 explains that while skin impairments often respond to treatment, there is a wide variation in how people respond, including side effects to drug therapy. Therefore, we will consider each case on an individual basis.

Proposed 8.00D—How Do We Assess Impairments That Involve More Than One Body System?

This section modifies current 8.00B. It clarifies that other impairments, in addition to systemic ones, can involve the skin and explains how we evaluate such impairments under the listings. It also broadens the list of examples of impairments that affect skin and other body systems.

Proposed 8.00E—How Do We Evaluate Burns?

We propose to include this new section on burns in the introductory text to the skin listings in response to many inquiries that we receive on how we evaluate these injuries. This new paragraph notes that burns frequently affect more than one body system. It then explains that we evaluate the specific impairment resulting from burns using the criteria of the affected body system.

Proposed 8.00F—How Do We Determine if an Impairment Will Continue at a Disabling Level of Severity in Order to Meet the Duration Requirement?

We propose to add this section to explain how we will determine if the duration requirement is or will be met. This section is partially new and partially based on the second sentence of current 8.00A.

We state that the extensive skin lesions must persist for at least 3 months despite continuing treatment as prescribed in order for us to infer that the duration requirement will be met. Currently, each listing requires that the skin lesions not respond to prescribed treatment, but there is no statement of how long the lesions must last despite prescribed treatment before we can evaluate the skin impairment(s) under the listing criteria. Since most skin impairments improve significantly within 3 months after treatment begins, we propose that skin lesions must have persisted for at least 3 months despite continuing treatment as prescribed. The proposed timeframe will allow us to predict, with a high degree of certainty, which impairments resulting in the inability to perform gainful activity will also satisfy the duration requirement of the Act. In addition, the proposed timeframe will help to ensure that we do not decide cases prematurely or unnecessarily delay making decisions.

Proposed 8.00G—How Do We Assess Impairments if There Is No Prescribed Treatment, or the Extensive Lesions Have Not Persisted for at Least 3 Months?

This section explains how we assess a skin impairment when there is no record of ongoing treatment, such treatment has lasted less than 3 months, or the extensive lesions have not yet persisted for at least 3 months. It describes how we continue through the sequential evaluation process if the listing(s) cannot be met due to insufficient longitudinal treatment records.

How Are We Proposing To Change the Criteria in the Listings for Evaluating Skin Impairments in Adults?

8.01 Category of Impairments, Skin

Most of the changes we propose to make to the skin listings are not significant. For instance, we propose to update the medical terminology and to broaden and reorganize the skin listings.

A significant change we do propose to make is to add a listing, 8.07, for photosensitivity disorders. Currently, such disorders may be found equivalent in severity to a listed skin impairment. We also propose to define "extensive lesions" and to add to each listing a requirement that the extensive lesions must persist, despite continuing treatment as prescribed, for a period of at least 3 months. This is explained in 8.00F of the introductory text.

The following is a detailed explanation of the proposed listing criteria.

Proposed Listing 8.02—Ichthyosis

We propose to revise the title of listing 8.02 to ichthyosis so that it covers the general group of disorders characterized by noninflammatory scaling of the skin. This prevents the need to also cite the inherited disorder ichthyosiform erythroderma, which we do not commonly see. We also propose to move exfoliative dermatitis to listing 8.05 with the other dermatitis disorders.

Proposed Listing 8.03—Bullous Disease (e.g., Pemphigus, Erythema Multiforme Bullosum, Epidermolysis Bullosa, Bullous Pemphigoid, Dermatitis Herpetiformis)

We propose to revise the title of listing 8.03 so that we can apply it to all types of bullous diseases. Then, through the use of examples, we propose to cite the four currently listed diseases and epidermolysis bullosa.

Proposed Listing 8.04—Chronic Infections of the Skin or Mucous Membranes

We propose to revise the title of listing 8.04 so that the listing will include infections other than deep mycotic (fungal) infections. In this listing we propose to use the words "fungating" (to grow exuberantly like a fungus or spongy growth) and "ulcerating" (a lesion through the skin or a mucous membrane resulting from loss of tissue, usually with inflammation) to modify the term "extensive lesions" because they are descriptive of the different types of lesions frequently associated with the more severe types of chronic infections. Listing-level severity is characterized by either fungating or ulcerating lesions.

Proposed Listing 8.05—Dermatitis (e.g., Psoriasis, Dyshidrosis, Atopic Dermatitis, Exfoliative Dermatitis, Allergic Contact Dermatitis)

We propose to revise the title of listing 8.05 so that we can use it to evaluate miscellaneous inflammatory conditions of the skin, rather than just the three conditions currently cited. The new title will allow us to use this listing to evaluate environmental skin conditions such as allergic contact dermatitis.

Proposed Listing 8.06—Hidradenitis Suppurativa

We propose to remove the reference to acne conglobrata from listing 8.06 because it is not usually disabling and frequently responds well to current treatment. Also, we propose different severity criteria for this listing. We are taking out the condition of "not amenable to surgical treatment" since most lesions associated with hidradenitis suppurativa involve local inflammation of the apocrine glands and occur in the axillae, inguinal areas, or perineum. Due to advances in medical treatments, these conditions do not usually require surgery; but if surgery is needed, continuing treatment as prescribed includes any necessary surgical procedures.

Proposed Listing 8.07—Photosensitivity Disorders (e.g., Xeroderma Pigmentosum)

We propose to add a listing for evaluating photosensitivity disorders, such as xeroderma pigmentosum, in adults. Some individuals with these disorders are now surviving into adulthood and thus we believe it appropriate to have a separate listing for these disorders. For more information about this new listing disorder, we refer you to the following:

1. Photosensitivity (Section 15), in: Harper J, Oranje A, Prose N, (eds) *Textbook of Pediatric Dermatology*, vols 1 & 2, Oxford: Blackwell Science, 2000:895–936.

2. Roelandts R., The Diagnosis of Photosensitivity, Arch Dermatol, 2000:136:1152–7.

3. Epstein JH., Photosensitivity and Photoallergy, Semin Cutan Med Surg., 1999:18:274–84.

Why Are We Proposing To Add Listings for Evaluating Skin Impairments in Children?

We propose to add new listings to evaluate claims filed by persons under age 18 who have skin impairments to maintain consistency with the other body system listings which have both adult and child criteria.

How Do the Skin Listings We Are Proposing for Children Differ From Those We Are Proposing for Adults?

The skin listings we are proposing for children are identical in content to those we are proposing for adults, except that we propose to include examples of erythropoietic porphyrias and hemangiomas in 108.00D, and not in 8.00D. We did this because the skin manifestations of these disorders are not likely to be the primary manifestations in adults. For example, most hemangiomas disappear spontaneously or are surgically removed in childhood. When the hemangiomas are associated with Kasabach-Merritt Syndrome, a rare condition in which the low number of blood platelets cause bleeding, the hemic manifestations are obvious in adults. Similarly, in erythropoietic porphyria, a rare metabolic disorder characterized by a deficiency of the enzyme ferrochelatase that is essential to the synthesis of hemoglobin, a major symptom in children is the hypersensitivity of their skin to sunlight and some types of artificial light. Generally, by adulthood, anemia is a prominent manifestation in the more severe cases, with possible complications related to liver and gallbladder function.

Clarity of These Proposed Rules

Executive Order 12866 requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make these proposed rules easier to understand.

For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

Regulatory Procedures

Executive Order (E.O.) 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the requirements for a significant regulatory action under E.O. 12866. Thus, they were subject to OMB review.

Regulatory Flexibility Act

We certify that these proposed rules would not have a significant economic impact on a substantial number of small entities because they affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These proposed rules contain reporting requirements at 8.00B, 8.00C, 8.00D, 108.00B, 108.00C, and 108.00D. The public reporting burden is accounted for in the Information Collection Requests for the various forms that the public uses to submit the information to SSA. Consequently, a 1-hour placeholder burden is being assigned to the specific reporting requirement(s) contained in these rules. We are seeking clearance of the burdens referenced in these rules because they were not considered during the clearance of the forms. An Information Collection Request has been submitted to OMB. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of

automated collection techniques or other forms of information technology. Comments should be submitted to the Social Security Administration at the following address: Social Security Administration, Attn: SSA Reports Clearance Officer, Rm. 1–A–20 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235–6401.

Comments can be received for between 30 and 60 days after publication of this notice. Comments will be most useful if received by SSA within 30 days of publication.

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: December 3, 2001.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend subpart P of part 404 of 20 CFR chapter III as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

Appendix 1 to Subpart P of Part 404—Listing of Impairments (Amended)

2. Item 9 of the introductory text before part A is amended by revising the heading title, revising the expiration date for section 8.00, and adding section 108.00 and its expiration date as follows:

* * * * *

9. Skin Disorders (8.00 and 108.00): (date 8 years from the date of publication of final rules in the **Federal Register**).

* * * * *

3. The list of sections for part A of appendix 1 is amended by revising 8.00 to read "8.00 Skin Disorders".

4. The list of sections for part B of appendix 1 is amended by revising of 108.00 to read "108.00 Skin Disorders".

5. Section 8.00 in part A of appendix 1 is revised and section 108.00 in part B of appendix 1 is added to read as follows:

APPENDIX 1 TO SUBPART P OF PART 404—LISTING OF IMPAIRMENTS

* * * * *

Part A

* * * * *

8.00 Skin Disorders

A. *What skin impairments do we evaluate with these listings?* We use these listings to evaluate skin impairments that may result from hereditary, congenital, or acquired pathological processes. Examples of impairments covered by these listings include: ichthyosis, bullous diseases, chronic infections of the skin or mucous membranes, dermatitis, hidradenitis suppurativa, and photosensitivity disorders.

B. *What documentation do we need?* Your case record should include information about onset, duration, frequency of flare-ups, and prognosis; location, size, and appearance of lesions; and, when applicable: history of exposure to toxins, allergens, or irritants; familial incidence; seasonal variation; and stress factors. To confirm the diagnosis, we often need laboratory findings (e.g., biopsy or serological testing) or evidence from other medically acceptable methods consistent with the prevailing state of medical knowledge and clinical practice.

C. *How do we determine if your skin impairment(s) prevents you from doing any gainful activity?* We base our assessment of severity on whether your skin lesions are extensive, how your symptoms (including pain) limit you, the extent of your treatment, and how your treatment affects you.

(1) *Extensive skin lesions.* Extensive skin lesions are those that involve sufficient surface area over multiple body sites or involve critical body areas, and result in very serious limitations. Examples of extensive lesions that result in very serious limitations include:

(a) Skin lesions that interfere with motion of joints that very seriously limit your use of more than one extremity, i.e. two upper extremities, two lower extremities, or one upper and one lower extremity; or

(b) Skin lesions on the palms of the hands or the axillary areas that very seriously limit your ability to do fine and gross motor movements; or

(c) Skin lesions on the soles of the feet, the perineum, or the inguinal areas that very seriously limit your ability to ambulate.

(2) *Symptoms (including pain).* Symptoms (including pain) may be important factors contributing to the severity of your skin impairment(s). We assess the impact of symptoms as explained in §§ 404.1525(f), 404.1529, 416.925(f), and 416.929.

(3) *Treatment.* Skin impairments frequently respond to treatment, however response to treatment can vary widely, with some impairments becoming resistant to treatment.

(a) We assess the effects of treatment by determining if there is improvement in the symptoms, signs, and laboratory findings of the disorder, and if there are side effects that may result in functional limitations. We assess the effects of medication, therapy, surgery, or any other form of treatment you receive when determining the severity and the duration of the impairment(s). An assessment of these issues may require:

(i) a description of the treatment prescribed (e.g., the type, dosage, method and frequency of administration of medication or therapy);

(ii) your response to the treatment;

(iii) any adverse effects of such treatment; or

(iv) the expected duration of the treatment.

(b) Because treatment itself or the effects of treatment may be temporary, in most cases sufficient time must elapse to allow us to evaluate the impact and expected duration of treatment and side effects. You must follow prescribed treatment for at least 3 months before your impairment can be determined to meet a skin listing. We consider your specific response to treatment when we evaluate overall severity of your impairment.

D. *How do we assess impairments that involve more than one body system?* These listings are only examples of common skin disorders that we consider severe enough to prevent you from doing any gainful activity. If your impairment(s) does not meet the criteria of any of these listings, we must also consider whether you have an impairment that satisfies the criteria of a listing in another body system. Also, when your impairment involves more than one body system, we first evaluate the predominant feature under the appropriate body system. For example:

(1) Tuberous sclerosis has cutaneous manifestations, but the more dominant feature involves the brain, often resulting in seizures (11.02 and 11.03) and organic mental disorders (12.02);

(2) Malignant tumors of the skin (e.g., malignant melanoma) are neoplastic diseases and we first evaluate them under 13.00ff;

(3) Connective tissue disorders or immune system disorders (e.g., systemic lupus erythematosis or HIV infection) involve more than one body system. We first evaluate these disorders under 14.00ff;

(4) Scleroderma, although at times limited to skin only, usually involves other body systems as a part of generalized systemic sclerosis which we evaluate under listing 14.04. However, when it involves skin contractures restricting joint motion we also consider the appropriate criteria in 1.00ff;

(5) Facial disfigurement resulting from skin lesions may also be associated with physical functional loss such as impairment of sight, hearing, speech, and mastication, which we evaluate under the appropriate criteria in 2.00ff and 5.00ff. Facial disfigurement or any kind of physical deformity due to skin lesions may also result in psychological impairment(s) with socialization, mood, or other related limitations. We evaluate those impairments under the appropriate criteria in 12.00ff.

E. *How do we evaluate burns?* Electrical, chemical, or thermal traumatic burns frequently affect more than one body system (e.g., musculoskeletal, special senses, respiratory, cardiovascular, skin, renal, neurological, or mental). Consequently, we evaluate impairments that can result from severe burns under the criteria of the affected body systems. For example, we evaluate soft tissue injuries resulting from burns under the musculoskeletal system criteria in 1.00ff and

we evaluate renal failure resulting from burns under the genito-urinary system criteria in 6.00ff.

F. *How do we determine if an impairment will continue at a disabling level of severity in order to meet the duration requirement?* If you have extensive skin lesions, and they persist for at least 3 months despite continuing treatment as prescribed, these listings allow us to infer that they will continue at that level of severity for at least 12 months. By persist, we mean the longitudinal clinical record shows that, with few exceptions, the lesions have been at the level of severity specified in the listing and that this pattern could be expected to continue. Where adverse effects of treatment contribute to the impairment severity, the duration or expected duration of the treatment must be considered in assessing the duration of the impairment(s).

G. *How do we assess skin impairments if there is no prescribed treatment, or extensive lesions have not persisted for 3 months?*

(1) For your impairment to meet a skin listing, you must have extensive lesions that persist for at least 3 months despite continuing treatment as prescribed, and you must follow that treatment, unless you have an acceptable reason for failing to follow prescribed treatment (see §§ 404.1530 and 416.930).

(2) If you have not received ongoing treatment nor have an ongoing relationship with the medical community despite the existence of a severe impairment(s), or if your skin lesions have not persisted for at least 3 months, but you are undergoing continuing treatment as prescribed, you still may have an impairment(s) that medically equals the listings. An individual who has an impairment(s) that does not meet or medically equal the listings may or may not have the residual functional capacity to engage in substantial gainful activity. For such an individual, we proceed to the fourth, and if necessary, the fifth steps of the sequential evaluation process in §§ 404.1520 and 416.920. When we decide whether an adult continues to be disabled, we use the rules in §§ 404.1594 and 416.994, as appropriate. We will base our evaluation on the current objective medical evidence and other available evidence. We will take into consideration your medical history, symptoms, and acceptable medical source opinions.

8.01 Category of Impairments, Skin

8.02 *Ichthyosis*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

8.03 *Bullous disease (e.g., pemphigus, erythema multiforme bullosum, epidermolysis bullosa, bullous pemphigoid, dermatitis herpetiformis)*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

8.04 *Chronic infections of the skin or mucous membranes*, with extensive fungating, or extensive ulcerating lesions that persist for at least 3 months despite continuing treatment as prescribed.

8.05 *Dermatitis (e.g., psoriasis, dyshidrosis, atopic dermatitis, exfoliative dermatitis, allergic contact dermatitis)*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

8.06 *Hidradenitis suppurativa*, with extensive lesions involving the axillae, inguinal areas, or perineum that persist for at least 3 months despite continuing treatment as prescribed.

8.07 *Photosensitivity disorders (e.g., xeroderma pigmentosum)*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

* * * * *

Part B

* * * * *

108.00 Skin Disorders

A. *What skin impairments do we evaluate with these listings?* We use these listings to evaluate skin impairments that may result from hereditary, congenital, or acquired pathological processes. Examples of impairments covered by these listings include: ichthyosis, bullous diseases, chronic infections of the skin or mucous membranes, dermatitis, hidradenitis suppurativa, and photosensitivity disorders.

B. *What documentation do we need?* Your case record should include information about onset, duration, frequency of flare-ups, and prognosis; location, size, and appearance of lesions; and, when applicable: history of exposure to toxins, allergens, or irritants; familial incidence; seasonal variation; and stress factors. To confirm the diagnosis, we often need laboratory findings (*e.g.*, biopsy or serological testing) or evidence from other medically acceptable methods consistent with the prevailing state of medical knowledge and clinical practice.

C. *How do we determine if your skin impairment(s) results in marked and severe limitations?* We base our assessment of severity on whether your skin lesions are extensive, how your symptoms (including pain) limit you, the extent of your treatment, and how your treatment affects you.

(1) *Extensive skin lesions.* Extensive skin lesions are those that involve sufficient surface area over multiple body sites or involve critical body areas, and result in very serious limitations. Examples of extensive lesions that result in very serious limitations include:

(a) Skin lesions that interfere with motion of joints that very seriously limit your use of more than one extremity, i.e. two upper extremities, two lower extremities, or one upper and one lower extremity; or

(b) Skin lesions on the palms of the hands or the axillary areas that very seriously limit your ability to do fine and gross motor movements; or

(c) Skin lesions on the soles of the feet, the perineum, or the inguinal areas that very seriously limit your ability to ambulate.

(2) *Symptoms (including pain).* Symptoms (including pain) may be important factors contributing to the severity of your skin impairment(s). We assess the impact of symptoms as explained in §§ 404.1525(f), 404.1529, 416.925(f) and 416.929.

(3) *Treatment.* Skin impairments frequently respond to treatment, however response to treatment can vary widely, with some impairments becoming resistant to treatment.

(a) We assess the effects of treatment by determining if there is improvement in the symptoms, signs, and laboratory findings of the disorder, and if there are side effects that may result in functional limitations. We assess the effects of medication, therapy, surgery, or any other form of treatment you receive when determining the severity and the duration of the impairment(s). An assessment of these issues may require:

(i) a description of the treatment prescribed (e.g., the type, dosage, method and frequency of administration of medication or therapy);

(ii) your response to the treatment;

(iii) any adverse effects of such treatment; or

(iv) the expected duration of the treatment.

(b) Because treatment itself or the effects of treatment may be temporary, in most cases sufficient time must elapse to allow us to evaluate the impact and expected duration of treatment and side effects. You must follow prescribed treatment for at least 3 months before your impairment can be determined to meet a skin listing. We consider your specific response to treatment when we evaluate overall severity of your impairment.

D. *How do we assess impairments that involve more than one body system?* These listings are only examples of common skin disorders that we consider severe enough to result in marked and severe functional limitations. If your impairment(s) does not meet the criteria of any of these listings, we must also consider whether you have an impairment that satisfies the criteria of a listing in another body system. Also, when your impairment involves more than one body system, we first evaluate the predominant feature under the appropriate body system. For example:

(1) Tuberous sclerosis has cutaneous manifestations, but the more dominant feature involves the brain, often resulting in seizures (111.02 and 111.03) and organic mental disorders (112.02);

(2) Malignant tumors of the skin (e.g., malignant melanoma) are neoplastic diseases and we first evaluate them under 113.00ff;

(3) Connective tissue disorders or immune system disorders (e.g., systemic lupus erythematosis or HIV infection) involve more than one body system. We first evaluate these disorders under 114.00ff;

(4) Scleroderma, although at times limited to skin only, usually involves other body systems as a part of generalized systemic sclerosis which we evaluate under listing 114.04. However, when it involves skin contractures restricting joint motion we also consider the appropriate criteria in 101.00ff;

(5) Facial disfigurement resulting from skin lesions may also be associated with physical functional loss such as impairment of sight, hearing, speech, and mastication, which we evaluate under the appropriate criteria in 102.00ff and 105.00ff. Facial disfigurement or any kind of physical deformity due to skin lesions may also result in psychological impairment(s) with socialization, mood, or other related limitations. We evaluate those impairments under the appropriate criteria in 112.00ff;

(6) We evaluate erythropoietic porphyrias under 107.00ff;

(7) We evaluate hemangiomas associated with thrombocytopenia and hemorrhage (e.g., Kasabach-Merritt Syndrome) involving

coagulation defects, under 107.00ff. But, when hemangiomas impinge on vital structures or interfere with function or feeding, we evaluate them under the appropriate body system.

E. *How do we evaluate burns?* Electrical, chemical, or thermal traumatic burns frequently affect more than one body system (e.g., musculoskeletal, special senses, respiratory, cardiovascular, skin, renal, neurological, or mental). Consequently, we evaluate impairments that can result from severe burns under the criteria of the affected body systems. For example, we evaluate soft tissue injuries resulting from burns under the musculoskeletal system criteria in 101.00ff and we evaluate renal failure resulting from burns under the genito-urinary system criteria in 106.00ff.

F. *How do we determine if an impairment will continue at a disabling level of severity in order to meet the duration requirement?* If you have extensive skin lesions, and they persist for at least 3 months despite continuing treatment as prescribed, these listings allow us to infer that they will continue at that level of severity for at least 12 months. By persist, we mean the longitudinal clinical record shows that, with few exceptions, the lesions have been at the level of severity specified in the listing and that this pattern could be expected to continue. Where adverse effects of treatment contribute to the impairment severity, the duration or expected duration of the treatment must be considered in assessing the duration of the impairment(s).

G. *How do we assess skin impairments if there is no prescribed treatment, or extensive lesions have not persisted for 3 months?*

(1) For your impairment to meet a skin listing, you must have extensive lesions that persist for at least 3 months despite continuing treatment as prescribed, and you must follow that treatment, unless you have an acceptable reason for failing to follow prescribed treatment (*see* §§ 404.1530 and 416.930).

(2) If you have not received ongoing treatment nor have an ongoing relationship with the medical community despite the existence of a severe impairment(s), or if your skin lesions have not persisted for at least 3 months, but you are undergoing continuing treatment as prescribed, you still may have an impairment(s) that medically equals the listings or, in the case of a childhood claim for SSI payments under Title XVI, functionally equals the listings. (See §§ 404.1526, 416.926, and 416.926a.) When we decide whether a child receiving SSI payments continues to be disabled, we use the rules in § 416.994a. We will base our evaluation on the current objective medical evidence and other available evidence. We will take into consideration your medical history, symptoms, and acceptable medical source opinions.

108.01 Category of Impairments, Skin

108.02 *Ichthyosis*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

108.03 *Bullous disease (e.g., pemphigus, erythema multiforme bullosum, epidermolysis bullosa, bullous pemphigoid, dermatitis herpetiformis)*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

108.04 *Chronic infections of the skin or mucous membranes*, with extensive fungating or extensive ulcerating lesions that persist for at least 3 months despite continuing treatment as prescribed.

108.05 *Dermatitis (e.g., psoriasis, dyshidrosis, atopic dermatitis, exfoliative dermatitis, allergic contact dermatitis)*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

108.06 *Hidradenitis suppurativa*, with extensive lesions involving the axillae, inguinal areas, or perineum that persist for at least 3 months despite continuing treatment as prescribed.

108.07 *Photosensitivity disorders (e.g., xeroderma pigmentosum)*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

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[FR Doc. 01–30431 Filed 12–7–01; 8:45 am]
BILLING CODE 4191–02–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

[USCG–2001–9175]

RIN 2115–AG15

Revised Options for Responding to Notices of Violations

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes changing the procedure for Notices of Violation when the recipient fails to either accept or decline it within 45 days. Instead of automatically converting the Notice of Violation to a marine violation case with its lengthier processing and potentially higher penalties, we would treat the Notice of Violation as a default and proceed with the civil penalty. Our proposal would not change the party's existing option to choose marine violation processing at any time during the 45-day response period.

DATES: Comments and related material must reach the Docket Management Facility on or before February 8, 2002.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2001–9175), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the web site for the Docket Management System at *http://dms.dot.gov*.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call LCDR Scott Budka, Project Manager, Office of Investigations & Analysis (G–MOA), Coast Guard, telephone 202–267–2026. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–2001–9175), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background

Notices of Violation provide an optional simplified civil penalty process for first and second minor violations of a law, regulation, or order enforced by the Coast Guard. A Notice of Violation (NOV) is like a ticket issued for a minor motor vehicle offense.

Until we started issuing NOVs, the marine violation (MV) procedures of 33 CFR 1.07–10 applied to all Coast Guard civil penalty cases. The lengthy processing time for MV cases resulted in some parties being charged with second or third violations before their first violation had been fully processed. We established the NOV procedures in 33 CFR 1.07–11 in 1994 (59 FR 66477, December 27, 1994).

NOVs offer both the party and the Coast Guard the benefits of speedier processing and a scheduled penalty that is fixed lower than the maximum penalty amount for the offense. The NOV form (CG–5582) describes the processing options available to the party. NOV recipients choose between NOV and MV processing. They have 45 days in which to notify the Coast Guard of their choice.

At present, if you receive an NOV, you can accept it, decline it, or take no action on it. If you accept it, you pay the scheduled penalty set out on the NOV, which is between $50 and $3,000. In this case, Coast Guard records show your case as proved. Declining an NOV is like choosing to "go to court" over a traffic ticket. Your NOV is converted to a MV case and a Coast Guard hearing officer processes the case and sets any penalty—up to the maximum $27,500 per offense. If you take no action during the 45-day response period, the NOV is automatically converted to an MV case, just as if you had declined the NOV. Once you decline or fail to take action on an NOV and it is converted to an MV case, the scheduled penalty amount on the NOV is no longer the maximum penalty for your offense; it is the maximum for an MV case, as previously noted.

Recently, we completed a review of the NOV program. The Coast Guard issues about 2300 NOVs each year. About 95% of the parties accept, 4% decline, and 1% fail to respond to the NOV issuance within the 45-day response period. To improve the program's efficiency, we are proposing a change in processing NOVs for which we receive no response. By streamlining the process for each "fail to respond" NOV that we now automatically convert to an MV case, we would expect to save MV processing time. Further, the Coast Guard would be able to quickly dispense with these cases and alleviate the situation noted earlier, where the first case has not finished processing before a second or third NOV is issued to the same party.

Discussion of Proposal

We propose changing the procedure that results when an NOV recipient fails to either accept or decline it within 45 days. Conversion of an NOV to an MV case costs the Coast Guard about 8 additional hours of personnel time in processing and reviewing the case and also subjects the party to a lengthier adjudication time and potentially higher penalty assessments. Instead of automatically converting the NOV to an MV case with its lengthier processing and potentially higher penalties, we would treat the NOV as a default and proceed with the civil penalty on the NOV. Our proposal would not change the party's existing option to choose marine violation processing at any time during the 45-day response period. However, the party would have to specifically request MV processing by marking the NOV as declined and returning it to the Coast Guard.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This proposed rule would change the Notice of Violation (NOV) regulations in 33 CFR 1.07–11. Today, if you fail to respond to your NOV by accepting or declining it within 45 days, we convert the NOV to a marine violation (MV) case, as if you declined it. MV cases provide fuller processing and a higher potential penalty than NOVs ($27,500 maximum MV penalty per charge while scheduled NOV penalties of $50 to $3000 per charge are fixed by COMDTINST M5582). We propose changing the procedure that results when you fail to respond. After 45 days we would treat the NOV as a default and assess the scheduled penalty.

The proposed change would affect only those parties who receive an NOV and fail to respond to it within the allotted 45 days, about 1% of issued NOVs. Currently, of about 2300 NOVs issued each year, approximately 95% of the recipients accept, 4% decline, and 1% fail to respond. We spend an average of 8 hours per MV case. For each "fail to respond" NOV we now automatically convert to an MV case, we would save some MV processing time by showing the NOV charge as proved. If, however, all of these parties declined their NOVs, the Coast Guard expenditure of resources would remain the same. The parties who decline the NOV would shorten their MV processing time by up to 45 days, depending on how quickly they respond to the NOV.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The proposed rule would not change the choice (accept or decline the NOV option) currently required by 33 CFR section 1.07–11. The only change proposed is in the handling we provide, by default, to those parties who fail to make their choice within the 45 days allotted. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(a) of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. The changes proposed here are procedural and serve to update and streamline the Coast Guard's processing of NOVs. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 1 as follows:

PART 1—GENERAL PROVISIONS

Subpart 1.07—Enforcement; Civil and Criminal Penalty Proceedings

1. The authority citation for subpart 1.07 continues to read as follows:

Authority: 14 U.S.C. 633; Sec. 6079(d), Pub. L. 100–690, 102 Stat. 4181; 49 CFR 1.46.

2. In § 1.07–11, a new paragraph (b)(7) is added, paragraph (d) is revised, and paragraphs (e) and (f) are added, as follows:

§ 1.07–11 Notice of Violation.

* * * * *

(b) * * *

(7) A statement that failure to either pay the proposed penalty on the Notice of Violation or decline the Notice of Violation and request a hearing within 45 days will result in a finding of default and the Coast Guard will proceed with the civil penalty in the amount recommended on the Notice of Violation without processing the violation under the procedures described in 33 CFR 1.07–10(b).

* * * * *

(d) If a party declines a Notice of Violation within 45 days, the case file will be sent to the District Commander for processing under the procedures described in 33 CFR 1.07–10(b).

(e) If a party pays the proposed penalty on the Notice of Violation within 45 days, a finding of proved will be entered into the case file.

(f) If a party fails within 45 days to either pay the proposed penalty on the Notice of Violation or decline the Notice of Violation, the Coast Guard will enter a finding of default in the case file and proceed with the civil penalty in the amount recommended on the Notice of Violation without processing the violation under the procedures described in 33 CFR 1.07–10(b).

Dated: November 5, 2001.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 01–30480 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 147

[CGD08–01–025]

RIN 2115–AG22

Safety Zones for Outer Continental Shelf Facilities in the Gulf of Mexico

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish safety zones around five petroleum and gas production facilities in the Outer Continental Shelf in the Gulf of Mexico. The four platforms and one moored spar buoy need to be protected from vessels operating outside the normal shipping channels and fairways. Placing safety zones around these facilities will significantly reduce the threat of allisions, oil spills and releases of natural gas. The proposed regulation prevents all vessels from entering or remaining in specified areas around the platforms except for the following: An attending vessel; a vessel under 100 feet in length overall not engaged in towing; or a vessel

authorized by the Eighth Coast Guard District Commander.

DATES: Comments and related material must reach the Coast Guard on or before February 8, 2002.

ADDRESSES: You may mail comments and related material to Commander, Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130, or comments and related material may be delivered to Room 1341 at the same address between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–6271. Commander, Eighth Coast Guard District (m) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander, Eighth Coast Guard District (m) between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Karrie Trebbe, Project Manager for Eighth Coast Guard District Commander, Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130, telephone (504) 589–6271.

SUPPLEMENTARY INFORMATION:

Requests for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD08–01–025], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander, Eighth Coast Guard District (m) at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard proposes to establish safety zones around the following petroleum producing facilities in the Gulf of Mexico: ExxonMobil Hoover Floating OCS Facility, a moored spar buoy, Alaminos Canyon Block 25A (AC25A), located at position 26°56′33″ N, 94°41′19.55″ W; Sir Douglas Morpeth Tension Leg Platform (Morpeth TLP), Ewing Bank Block 921A (EB 921A), located at position 28°02′05.28″ N, 90°01′22.12″ W; and Allegheny Tension Leg Platform (Allegheny TLP), Green Canyon Block 254A (GC 254A), located at position 27°41′29.65″ N, 90°16′31.93″ W; Brutus Tension Leg Platform (Brutus TLP), Green Canyon Block 158 (GC 158), located at position 27°47′42.86″ N, 90°38′51.15″ W; Enchilada Platform, Garden Banks Block 128A (GB 128A), located at position 27°52′31.31″ N, 91°59′11.09″ W.

These five proposed safety zones are in the deepwater area of the Gulf of Mexico. For the purposes of this regulation it is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the area of the proposed safety zones consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways. The fairways include the Gulf of Mexico East-West Fairway, the entrance/exit route of the Mississippi River, and the Houston-Galveston Safety Fairway. Significant amounts of vessel traffic occur in or near the various fairways in the deepwater area.

ExxonMobil Production Company, British Borneo USA, Inc and Shell Exploration and Production have requested that the Coast Guard establish safety zones in the Gulf of Mexico around the following: ExxonMobil Production Company, the ExxonMobil Hoover Floating OCS Facility, a moored spar buoy; British Borneo platforms, the Morpeth TLP and the Allegheny TLP; and Shell platforms, the Brutus TLP and the Enchilada Platform.

The request for the safety zones was made due to the high level of shipping activity around the facilities and the safety concerns for both the personnel on board the facilities and the environment. ExxonMobil Production Company, British Borneo USA, Inc and Shell Exploration and Production, indicated that the location, production level, and personnel levels on board the facilities make it highly likely that any allision with the facilities would result in a catastrophic event. The Enchilada Platform is located near the edge of a shipping safety fairway. The ExxonMobil Hoover Floating OCS Facility, Brutus TLP, Morpeth TLP and Allegheny TLP are located in open waters where no fixed structures previously existed. All are high production oil and gas drilling platforms producing from 20,000 to 108,000 barrels of oil per day, and are manned with crews ranging from approximately 18 to 160 people.

The Coast Guard has reviewed ExxonMobil Production Company's, British Borneo USA, Inc's and Shell Exploration and Production's concerns and agrees that the risk of allision to the facilities and the potential for loss of life and damage to the environment resulting from such an accident warrant the establishment of these safety zones. The proposed regulation would significantly reduce this threat of allisions, oil spills and natural gas and increase the safety of life, property, and the environment in the Gulf of Mexico. This regulation is issued pursuant to 14 U.S.C. 85 as set out in the authority citation for all of 33 CFR part 147.

Discussion of Proposed Rule

In addition to the general risks discussed above, the following specific risks apply to the individual facilities. The specific risk factors, which necessitate a safety zone for the *ExxonMobil Hoover Floating OCS Facility*, a moored spar buoy, are as follows: (1) There is no designated fairway at this distance offshore and mariners use the facility as a navigational aid; (2) the facility has a high production capacity of 100,000 barrels of petroleum oil per day and 325 million cubic feet of gas per day; and (3) the facility is manned with a crew of 160.

The specific risk factors, which necessitate a safety zone for the *Morpeth TLP*, are as follows: (1) Proximity to the Gulf of Mexico East-West fairway; (2) the facility has a high production capacity of 15,000 barrels of petroleum oil per day and 12,000 cubic feet of gas per day; and (3) the facility is manned with a crew of 18.

The specific risk factors, which necessitate a safety zone for the *Allegheny TLP*, are as follows: (1) There is no designated fairway at this distance offshore and mariners use the facility as a navigational aid; (2) the facility has a high production capacity of 23,500 barrels of petroleum oil per day and 32

million cubic feet of gas per day; and (3) the facility is manned with a crew of 18.

The specific risk factors, which necessitate a safety zone for the *Brutus TLP*, are as follows: (1) Proximity to the Gulf of Mexico East-West fairway; (2) the facility has a high production capacity of 100,000 barrels of petroleum oil per day and 150 million cubic feet of gas per day; and (3) the facility is manned with a crew of 150.

The specific risk factors, which necessitate a safety zone for the *Enchilada Platform*, are as follows: (1) Proximity to the Gulf of Mexico East-West fairway; (2) the facility has a high production capacity of 108,000 barrels of petroleum oil per day and 384 million cubic feet of gas per day; and (3) the facility is manned with a crew of 35.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The impacts on routine navigation are expected to be minimal because the safety zone will not encompass any nearby safety fairways.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612.), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. Since the offshore facilities are located far offshore, few privately owned fishing vessels and recreational boats/yachts may be operating in the area and alternate routes are available for these vessels. Deviation of their intended course may cause a minimal loss of time (estimated loss of four to ten minutes) to their destination depending on how fast the vessel is traveling. The Coast Guard expects the impact of this regulation on small entities to be minimal.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Small businesses may send comments on the actions of Federal Employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this proposed rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this proposed rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; 49 CFR 1.46.

2. Add §§ 147.815, 147.817, 147.819, 147.821 and 147.23 to read as follows:

§ 147.815 ExxonMobil Hoover Floating OCS Facility safety zone.

(a) *Description.* The ExxonMobil Hoover Floating OCS Facility, a moored spar buoy, Alaminos Canyon Block 25A (AC25A), is located at position 26°56′33″ N, 94°41′19.55″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.817 Sir Douglas Morpeth Tension Leg Platform safety zone.

(a) *Description.* The Sir Douglas Morpeth Tension Leg Platform (Morpeth TLP), Ewing Bank Block 921A (EB 921A), is located at position 28°02′5.28″ N, 90°01′22.12″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.819 Allegheny Tension Leg Platform safety zone.

(a) *Description.* The Allegheny Tension Leg Platform (Allegheny TLP), Green Canyon Block 254A (GC 254A), is located at position 27°41′29.65″ N, 90°16′31.93″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.821 Brutus Tension Leg Platform safety zone.

(a) *Description.* The Brutus Tension Leg Platform (Brutus TLP), Green Canyon Block 158 (GC 158), is located at position 27°47′42.86″ N, 90°38′51.15″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.823 Enchilada Platform safety zone.

(a) *Description.* The Enchilada Platform, Garden Banks Block 128A (GB 128A), is located at position 27°52′31.31″ N, 91°59′11.09″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge, not to extend into the adjacent East—West Gulf of Mexico Fairway, is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: August 27, 2001.

R.J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–30481 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 175

[USCG–2001–10163]

RIN 2115–AG18

Federal Requirements For Propeller Injury Avoidance Measures

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to require owners of non-planing recreational houseboats with propeller-driven propulsion located aft of the transom to install one of two propulsion unit measures or employ three combined measures. This change responds to recommendations made by the National Boating Safety Advisory Council (NBSAC). The proposed rule would reduce the number of boaters who are seriously or fatally injured when struck by a non-planing recreational houseboat with propeller-driven propulsion.

DATES: Comments and related material must reach the Docket Management Facility on or before March 11, 2002.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2001–10163), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Internet Site for the Docket Management System at *http://dms.dot.gov*. The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*. You may obtain a copy of this proposed rule by calling the U. S. Coast Guard Infoline at 1–800–368–5647, or read it on the Internet, at the web site for the Office of Boating Safety, at *http://www.uscgboating.org or at http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, contact Carlton Perry, Project Manager, Office of Boating Safety, U.S. Coast Guard, by telephone at 202–267–0979 or by e-mail at *cperry@comdt.uscg.mil*. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting

comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–2001–10163), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and want to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting but you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Regulatory History. The Coast Guard received requests from the National Boating Safety Advisory Council (NBSAC), propeller strike prevention organizations, and the general public to require installation of propeller guards on recreational houseboats and other displacement (non-planing) vessels, including those leased by livery operations. While accident data currently available to us does not show a high number of reported fatalities from propeller strikes annually, the number of responses to the 1995 and 1997 notices of request for comments (discussed below) indicate a great deal of public interest in whether and how the Federal government should act to prevent propeller-strike accidents. After consideration of public input and consultation with the National Boating Safety Advisory Council (NBSAC), we determined that we should promulgate regulations for owners of houseboats as non-planing recreational vessels with propeller-driven propulsion aft of the transom.

Initial Notice of Request for Comments. To gather information from the recreational boating public and industry, we published a notice of request for comments in the **Federal Register** in May 1995 (60 FR 25191). We asked the recreational boating public to comment on: (1) The economic and other impacts of establishing a requirement for propeller guards on recreational houseboats and other displacement (non-planing) vessels; (2) suggestions on alternatives to propeller guards that should also be considered; (3) recommendations on the applicability of regulations; and (4) concerns of the livery and charter industries.

We received over 100 comments during the 60-day comment period. Various parties, including the National Association of State Boating Law Administrators (NASBLA) requested an extension of the comment period. To accommodate this request, we published a notice to reopen the comment period for an additional 120-days in August 1995 (60 FR 40545). We received 1,994 comments to this notice, including more than 1,800 form letters that supported a requirement to use propeller guard technology or jet pump propulsion on rental houseboats. An additional 69 comments also supported developing such a requirement. Fifty-seven comments objected to such a requirement. The information received was voluminous, but too general to help us develop a regulation.

Advance Notice of Proposed Rulemaking. We published an advance notice of proposed rulemaking (ANPRM) in March 1996 (61 FR 13123) that asked questions to gather current and specific information about the injuries involving propeller strikes and rented boats. We also announced a series of meetings across the country to enable the public to express their views. Some of the questions specifically sought out the following information: the appropriate Federal and State roles in reducing propeller strike incidents; whether government intervention is appropriate; and if so, whether it should be directed at the vessels, their manufacturers, their operators, their owners, or the companies leasing such vessels.

Second Notice of Request for Comments. After reviewing available research and the comments from the public, and consulting with NBSAC at its November 1996 meeting, we published another notice of request for comments in April 1997 (62 FR 22991) and provided a 90-day comment period. We solicited comments on the effectiveness of specific devices and interventions that may reduce the number of recreational boating accidents involving rented powerboats in which individuals are injured by the propeller. We also asked for information about other devices or interventions (propeller injury avoidance measures) that may reduce the severity of injuries to individuals involved in propeller-strike accidents.

The devices or interventions we asked about included: (1) Swimming ladder locations and interlocks; (2) large warning notices to make the operators, passengers and swimmers more aware of the dangers; (3) propeller location wands; (4) clear vision aft to alert operators to the presence of swimmers near the propeller; (5) propeller shaft engagement alarms to alert passengers and swimmers of a rotating propeller; (6) conversion of a standard inboard, outboard, or inboard/outboard engine with a jet pump propulsion engine; (7) ignition cut-off/auto throttle and neutral returns to stop the propeller when the helm is vacated or unattended; and (8) education specifically directed to the location and dangers of propellers. We also solicited comments on propeller guards, and any other devices that might reduce the occurrence or severity of injuries due to propeller strikes. Based on requests from the public, we published a notice that extended the comment period an additional 210 days in August 1997 (62 FR 44507).

Summary of Comments. In response to the ANPRM and the notices, we received 2,027 comments, more than 1,800 of which were form letters and none of which contained information sufficient to support proposing requirements for manufacturers of new recreational boats, nor did they help us determine the estimated burdens and costs to boat manufacturers. Of the total comments received, 95% were in favor of initiating a Federal regulation.

NBSAC Consultation. At the April 30, 2000, NBSAC Subcommittee meeting, we presented the results of our research on accident report statistics: vessels most frequently involved with injuries are open recreational motorboats in the category "16 feet to less than 26 feet in length." We announced our intention to initiate a regulatory project that would require owners of this category of recreational vessels to attach pre-printed warning labels at strategic locations on their vessels. We would also propose requirements for owners to attach a propeller guard on a smaller number of rental non-planing houseboats. The Subcommittee report included the Coast Guard rulemaking project description. The Subcommittee presented its report to the full Council at the May 1, 2000, meeting and the Council accepted the Subcommittee's report without amendment.

At the October 2000 NBSAC Subcommittee meeting, the Subcommittee reviewed the preferred alternative from its April 2000 meeting and recommended that we propose, instead, an expanded list of interventions for vessels in the category "16 feet to less than 26 feet in length." As a result, we developed and presented a number of propeller injury avoidance measures to NBSAC for their review. Again, the full Council accepted the Subcommittee report.

At the April 2001 NBSAC Subcommittee meeting, we presented the expanded list of alternatives from which owners of the affected vessels can choose for their vessels. After discussing the alternatives and their cost, the Council recommended that the Coast Guard, instead, develop four specific regulations:

(1) Require owners of all propeller driven vessels 12 feet in length and longer with propellers aft of the transom to display propeller warning labels and to employ an emergency cut-off switch, where installed;

(2) Require manufacturers and importers of new planing vessels 12 feet to 26 feet in length with propellers aft of the transom to select and install one of several factory installed propeller injury avoidance methods;

(3) Require manufacturers and importers of new non-planing vessels 12 feet in length and longer with propellers aft of the transom to select and install one of several factory installed propeller injury avoidance methods; and

(4) Require owners of all non-planing rental boats with propellers aft of the transom to install either a jet propulsion system or a propeller guard or all of several propeller injury avoidance measures.

This regulatory project would focus on implementing the fourth NBSAC recommendation. We will address the other NBSAC recommendations in subsequent regulatory projects. Due to the extensive broadening of the initial regulatory project, we are withdrawing the initial regulatory project, as published in the Notices section of this document, and initiating the first of a series of separate regulatory projects in response to recent NBSAC recommendations. We have placed the public docket for the initial regulatory project (CGD 95–041) into a new public docket (USCG–2001–10299) at the Docket Management System (DMS) at the above address under **ADDRESSES** for public viewing.

Use of the propeller injury avoidance measures described in this proposed rule would, in most cases, prevent direct contact of the propeller blades with persons in the water and minimize serious and fatal injuries due to propeller strikes.

Discussion of Proposed Rule

1. Section 175.03 of Title 33 Code of Federal Regulations would be amended to include definitions of the following terms used in this subpart: clear vision aft, houseboat, ignition cut-off switch, non-planing vessel, planing vessel, and swim ladder interlock. We would specifically like public comment on these terms and definitions.

2. Part 175—Equipment Requirements would be revised by adding a new subpart E—Propeller Injury Avoidance Measures.

3. New section 175.301, Applicability, would describe the category of recreational vessels that are subject to the new requirements: Non-planing recreational houseboats with propeller-driven propulsion located aft of the transom. We would specifically like public comment on definitions for terms used in this section.

4. New sections 175.310 and 175.315 would describe the specific safety measures required by this proposed rule. Section 175.310 instructs owners and operators of vessels for rent; section 175.315 instructs owners and operators of vessels not for rent.

Owner and Operator Requirements for Vessels for Rent

Under proposed section 175.310, owners of recreational, non-planing houseboats for rent with propeller-driven propulsion located aft of the transom must equip their vessels with either a propeller guard, or a combination of three propeller injury avoidance measures: A swim ladder interlock, an aft visibility device, and an emergency ignition cut-off switch. Operators of vessels for rent must use either a propeller guard or all three propeller injury avoidance measures listed above.

Owner and Operator Requirements for Vessels Not for Rent

Under proposed section 175.315, owners of recreational, non-planing houseboats not for rent with propeller-driven propulsion located aft of the transom must equip their vessels with either a propeller guard, or both of the following propeller injury avoidance measures: a swim ladder interlock and an aft visibility device.

Operators of vessels not for rent must use either a propeller guard, or all of the following propeller injury avoidance measures: a swim ladder interlock, an aft visibility device, and an emergency ignition cut-off switch (if factory installed).

We are not requiring owners of vessels not for rent to install an emergency ignition cut-off switch because it may be cost-prohibitive. However, if a vessel has an emergency ignition cut-off switch that was installed at the factory, vessel operators must use it. If a vessel does not have a factory-installed emergency ignition cut-off switch, we encourage, but do not require the owner to get one.

We would specifically like public comment on the availability of, and experience with, the safety devices described in this proposed rule. We would also like feedback about your experience operating a vessel with a propeller guard; fitting a propeller guard to a vessel drive unit; or concerns about propeller guard clogging, if any.

5. *Phase-in period for installing safety measures.* To minimize the immediate economic burden on owners of both rental and non-rental vessels and to provide a reasonable time period for compliance, we would provide a phase-in period for implementing the safety measures. Owners of vessels not for rent, lease, or charter would have 2 years from the date that a final rule is published to install the prescribed safety measures. Owners of vessels for rent, lease, or charter would have an additional year (3 years) from the date that a final rule is published to install the prescribed safety measures. We are allowing owners of vessels for rent an extra year because, in many cases, they have multiple vessels on which they must install the safety measures.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed this rule under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT follows:

Costs of Proposed Rule

We estimate that this rule would impose a $12 to $30 million economic cost on owners of approximately 100,000 non-planing houseboats. Approximately 5,000 of these vessels are rented, leased or chartered.

Owners who lease, rent, or charter non-planing recreational houseboats would have to install either a propeller guard or three combined measures. The three measures include a swim ladder interlock ($100 plus installation), a clear visibility aft device ($20, self-installed), and an ignition cut-off switch ($40, plus installation). Owners of non-planing non-rental recreational houseboats would not be required to install an ignition cut-off switch. Therefore, in our calculation of the total minimum cost to this group of owners, we have only included the cost of the other two measures.

Owners could convert their engine into a jet pump at a cost of $2500 and be exempt from this rule. Because we do not expect many houseboat owners to do this, the maximum cost is based on installation of a propeller guard, which we estimate to be $300 (self-installed).

To minimize the immediate economic impact of this rule, owners of non-rental houseboats are provided two years to comply; rental and livery businesses are granted an additional year (three years) to comply.

We estimate that costs to the government would be minimal. The Coast Guard would have to expand its Boarding Officer personnel training to include checking for installation of the injury avoidance measures, a propeller guard, or a jet pump engine in a safe and determinative manner, during currently required field boardings of recreational vessels for safety equipment checks.

Benefits of Proposed Rule

This proposed rule is appropriate because the Boating Accident Reporting Database (BARD) shows that the number of injuries and fatalities reported during calendar years 1990 through 1999 occurred at a chronic rate. BARD data for the same period revealed a total of 18 injuries and 2 fatalities involving non-planing recreational houseboats. The number of injuries to be prevented by this rule may be greatly understated since many boaters are unaware of the requirement to report accidents.

The benefits of avoiding future propeller strike injuries and fatalities are based on the eighteen propeller strike injuries and two fatalities caused by non-planing houseboats from 1990 through 1999. If we anticipate 100% compliance with this regulation and assume the eighteen injuries to be severe, then the total monetary benefits of injuries avoided are $9.1 million. The total monetary benefits of injuries avoided are based on the value society is willing to pay to avert a severe injury, which the Office of the Secretary of Transportation has calculated to be $506,300.

In addition, two propeller-related fatalities were reported in the accident database from 1990 through 1999. If compliance with the regulation prevents these fatalities, then the total monetary benefits of fatalities avoided, based on the value society is willing to pay to avert a fatality, are $5.4 million ($2,700,000 × 2 deaths). The total monetary benefit to society for avoiding all of the injuries and fatalities involving non-planing houseboats are $14.5 million ($9.1 for injuries and $5.4 for fatalities) over a 10-year period. This exceeds our lowest cost estimates of $12 million. If at least twelve fatalities are averted due to the implementation of the regulation, the benefits will exceed our highest cost estimates of $30 million for this rule.

Vessel owners may incur additional benefits from lower insurance premiums as a result of their use of improved safety measures.

The Coast Guard expects that this rule would reduce the number of people who are killed or injured due to a propeller strike involving non-planing recreational houseboats.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Individuals, not small entities, own the majority of non-planing recreational houseboats affected by this rule; however, under the Regulatory Flexibility Act, the Coast Guard must determine the impact on small entities. The Coast Guard estimates that there are 300 houseboat rental facilities that must install the propeller injury avoidance measures required by this rule. In order to minimize the burden on these small entities, the Coast Guard would provide them 3 years (an additional year beyond the 2 years provided to owners of non-rental houseboats) to comply with this rule.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic effect on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effect on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Carlton Perry, Project Manager, Office of Boating Safety, by telephone at 202–267–0979, or by e-mail at *cperry@comdt.uscg.mil*.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for Federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them

We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism. Under this proposal, the Coast Guard establishment of a performance standard or equipment installation requirement would not conflict with any existing State statute. The Coast Guard routinely consults with the National Association of State Boating Law Administrators (NASBLA) and will continue to do so on this specific regulatory project.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(d), of Commandant Instruction M16475.1D, this proposed rule is categorically excluded from further environmental documentation. The proposed rule requires owners of non-planing recreational houseboats with propeller-driven propulsion located aft of the transom to install one of two propulsion unit measures or three combined measures. The propeller guard devices do not create sufficient drag through the water for these slow moving non-planing vessels to result in an increase of consumption of fossil fuels or increase air pollution due to increased exhaust. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 175

Marine Safety.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 175 as follows:

PART 175—EQUIPMENT REQUIREMENTS

1. The authority citation for part 175 continues to read as follows:

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

2. Amend § 175.3 by adding the following undesignated definitions in alphabetical order to the rest of the section, to read as follows:

§ 175.3 Definitions.

* * * * *

Clear visibility aft device means a device, such as a video camera and monitor or a mirror, that allows the operator to see aft of the vessel from the engine throttle control station to be aware of the presence of a swimmer near a propeller.

Houseboat means a motorized vessel designed primarily with accommodation spaces with little or no foredeck or cockpit, with low freeboard and with a low length to beam ratio.

Ignition cut-off switch means a device that interrupts the engine ignition to stop the engine when the operator moves away from the engine throttle control station.

* * * * *

Non-planing vessel means a vessel with a hull that is designed to ride through the water at any speed.

* * * * *

Planing vessel means a vessel with a hull that is designed to ride on top of the water beyond a minimum speed.

* * * * *

Swim ladder interlock means a device that interrupts the engine ignition to stop the engine when a swim ladder is moved into position near the propeller.

* * * * *

3. Amend part 175 by adding a new subpart E—Propeller Injury Avoidance Measures as follows:

Subpart E—Propeller Injury Avoidance Measures

§ 175.301 Applicability.

§ 175.310 Propeller safety measures for rental houseboats.

§ 175.315 Propeller safety measures for non-rental houseboats.

§ 175.301 Applicability.

(a) Sections 175.310 and 175.315 apply to recreational vessels described in § 175.1, which:

(1) Are monohull houseboats;

(2) Use a propulsion drive unit with an exposed propeller located aft of the transom; and

(3) Are designed to be operated in a non-planing manner.

(b) Sections 175.310 and 175.315 do not apply to multi-hull vessels or planing vessels.

§ 175.310 Propeller safety measures for rental houseboats.

(a) If you own a recreational non-planing houseboat and provide it for rent, charter or lease, you must either—

(1) Cover each exposed propeller located aft of the transom with a propeller guard attached in a secure manner; or;

(2) Do all of the following—

(i) Install and maintain an interlock device for each swim ladder;

(ii) Install and maintain a clear visibility aft device that provides a clear view, aft of the vessel from the engine throttle control area; and

(iii) Install and maintain an emergency ignition cut-off switch.

(b) If you operate a rented, chartered, or leased vessel that has an exposed propeller located aft of the transom, you must—

(1) Use all swim ladder interlock devices;

(2) Use a clear visibility aft device that provides a clear view, aft of the vessel from the engine throttle control station; and

(3) Use the emergency ignition cut-off switch.

§ 175.315 Propeller safety measures for non-rental houseboats.

(a) If you own a recreational non-planing houseboat and do not provide it for rent, charter or lease, you must either—

(1) Cover each exposed propeller located aft of the transom with a propeller guard attached in a secure manner; or

(2) Do both of the following—

(i) Install and maintain an interlock device for each swim ladder; and

(ii) Install and maintain a clear visibility aft device that provides a clear view, aft of the vessel from the engine throttle control station.

(b) If you operate a vessel with an exposed propeller located aft of the transom, you must—

(1) Use all swim ladder interlock devices;

(2) Use a clear visibility aft device that provides a clear view, aft of the vessel from the engine throttle control area; and

(3) Use the emergency ignition cut-off switch (if factory installed).

Dated: October 15, 2001.

Terry M. Cross,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 01–30479 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 181

[USCG–2001–10299; CGD 95–041]

RIN 2115–AE37

Propeller Injury Prevention Aboard Rental Boats

AGENCY: Coast Guard, DOT.

ACTION: Notice of withdrawal.

SUMMARY: The Coast Guard is withdrawing its proposed rulemaking regarding requirements for manufacturers to prevent propeller strike injuries and terminating rulemaking under the following Regulatory Identification Number: (RIN) 2115–AE37 (USCG–2001–10299; CGD 95–041). The Coast Guard lacks sufficient data to demonstrate that the benefits of requirements for manufacturers clearly outweigh the costs and burdens.

DATES: This withdrawal of the March 26, 1996 (61 FR 13123) advance notice of proposed rulemaking is made on December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Randolph Doubt, Project Manager, Recreational Boating Product Assurance Division, Office of Boating Safety, 202–267–0981.

SUPPLEMENTARY INFORMATION:

Regulatory History

Initial Notice of Request for Comments. To gather information from the recreational boating public and industry, we published a notice of request for comments in the **Federal Register** in May 1995 (60 FR 25191). We asked the recreational boating public to comment on: (1) The economic and other impacts of establishing a requirement for propeller guards on recreational houseboats and other displacement (non-planing) vessels; (2) suggestions on alternatives to propeller guards that should also be considered; (3) recommendations on the applicability of regulations; and (4) concerns of the livery and charter industries.

We received over 100 comments during the 60-day comment period. Various parties, including the National Association of State Boating Law Administrators (NASBLA) requested an extension of the comment period. To accommodate this request, we published a notice to reopen the comment period for an additional 120-days in August 1995 (60 FR 40545). We received 1,994 comments to this notice, including more than 1,800 form letters that supported a requirement to use propeller guard technology or jet pump propulsion on rental houseboats. An additional 69 comments also supported developing such a requirement. Fifty-seven comments objected to such a requirement. The information received was voluminous, but too general to help us develop a regulation.

Advance Notice of Proposed Rulemaking. We published an advance notice of proposed rulemaking (ANPRM) in March 1996 (61 FR 13123) that asked questions to gather current and specific information about the injuries involving propeller strikes and rented boats. We also announced a series of meetings across the country to enable the public to express their views. Some of the questions specifically sought out the following information: the appropriate Federal and State roles in reducing propeller strike incidents; whether government intervention is appropriate; and if so, whether it should be directed at the vessels, their manufacturers, their operators, their owners, or the companies leasing such vessels.

Second Notice of Request for Comments. After reviewing available research and the comments from the public, and consulting with the National Boating Safety Advisory Council (NBSAC) at its November 1996 meeting, we published another notice of request for comments in April 1997 (62 FR 22991) and provided a 90-day comment period. We solicited comments on the effectiveness of specific devices and interventions that may reduce the number of recreational boating accidents involving rented powerboats in which individuals are injured by the propeller. We also asked for information about other devices or interventions (propeller injury avoidance measures) that may reduce the severity of injuries to individuals involved in propeller-strike accidents.

The devices or interventions we asked about included: (1) Swimming ladder locations and interlocks; (2) large warning notices to make the operators, passengers and swimmers more aware of the dangers; (3) propeller location wands; (4) clear vision aft to alert operators to the presence of swimmers near the propeller; (5) propeller shaft engagement alarms to alert passengers and swimmers of a rotating propeller; (6) conversion of a standard inboard, outboard, or inboard/outboard engine with a jet pump propulsion engine; (7) ignition cut-off/auto throttle and neutral returns to stop the propeller when the helm is vacated or unattended; and (8) education specifically directed to the location and dangers of propellers. We also solicited comments on propeller guards, and any other devices that might reduce the occurrence or severity of injuries due to propeller strikes. Based on requests from the public, we published a notice that extended the comment period an additional 210 days in August 1997 [62 FR 44507].

Summary of Comments. In response to the ANPRM and the notices, we received 2,027 comments, more than 1,800 of which were form letters and none of which contained information sufficient to support proposing requirements for manufacturers of new recreational boats, nor did they help us determine the estimated burdens and costs to boat manufacturers. Of the total

comments received, 95% were in favor of initiating a Federal regulation.

NBSAC Consultation. At the April 30, 2000 NBSAC Subcommittee meeting, we presented the results of our research on accident report statistics: vessels most frequently involved with injuries are open recreational motorboats in the category "16 feet to less than 26 feet in length." We announced our intention to initiate a regulatory project that would require owners of this category of recreational vessels to attach pre-printed warning labels at strategic locations on their vessels. We would also propose requirements for owners to attach a propeller guard on a smaller number of rental, non-planing houseboats. The Subcommittee report included the Coast Guard rulemaking project description. The Subcommittee presented its report to the full Council at the May 1, 2000 meeting and the Council accepted the Subcommittee's report without amendment.

At the October 2000 NBSAC Subcommittee meeting, the Subcommittee reviewed the preferred alternative from its April 2000 meeting and recommended that we propose, instead, an expanded list of interventions for vessels in the category "16 feet to less than 26 feet in length." As a result, we developed and presented a number of propeller injury avoidance measures to NBSAC for their review. Again, the full Council accepted the Subcommittee report.

At the April 2001 NBSAC Subcommittee meeting, we presented the expanded list of alternatives from which owners of the affected vessels can choose for their vessels. After discussing the alternatives and their cost, the Council recommended that the Coast Guard, instead, develop four specific regulations:

(1) Require owners of all propeller driven vessels 12 feet in length and longer with propellers aft of the transom to display propeller warning labels and to employ an emergency cut-off switch, where installed;

(2) Require manufacturers and importers of new planing vessels 12 feet to 26 feet in length with propellers aft of the transom to select and install one of several factory installed propeller injury avoidance methods;

(3) Require manufacturers and importers of new non-planing vessels 12 feet in length and longer with propellers aft of the transom to select and install one of several factory installed propeller injury avoidance methods; and

(4) Require owners of all non-planing rental boats with propellers aft of the transom to install either a jet propulsion system or a propeller guard or all of several propeller injury avoidance measures.

Withdrawal

We are withdrawing the rulemaking because of (1) the lack of substantive information about the benefits to society of a requirement for manufacturers to prevent propeller strike injuries, and (2) to simplify the development of a series of new regulatory projects initiated in response to the recent, broader NBSAC recommendations. For these reasons, we are terminating further rulemaking under RIN 2115–AE37 (USCG–2001–10299).

We have placed the public docket (CGD 95–041) for this project into an electronic docket under the Department of Transportation Docket Management System (DMS) under a new docket number: USCG–2001–10299. This new docket number will allow the public to access the early docket records electronically. These early docket records serve as background for new regulatory projects the Coast Guard is initiating in response to recommendations from the NBSAC in its April 2001 meeting.

We are publishing a notice of proposed rulemaking elsewhere in this issue under RIN 2115–AG18 (USCG–2001–10163). This rulemaking is the first of a series of separate regulatory projects initiated in response to the recent NBSAC recommendations.

Dated: October 15, 2001.

Terry M. Cross,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 01–30478 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–15–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 01–321; FCC 01–339]

Performance Measurements and Standards for Interstate Special Access Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comment on whether the Commission should adopt a select group of performance measurements and standards for evaluating incumbent local exchange carrier (incumbent LEC) performance in the provisioning of special access services. These comments will assist the Commission in ensuring that these services are provisioned in a just, reasonable, and nondiscriminatory manner.

DATES: Comments are due January 9, 2002, and Reply Comments are due January 30, 2002.

FOR FURTHER INFORMATION CONTACT: Jon Reel, Attorney Advisor, Policy and Program Planning Division, Common Carrier Bureau, (202) 418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in CC Docket No. 01–321, FCC 01–339, adopted November 16, 2001, and released November 19, 2001. The complete text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*. It is also available on the Commission's website at *http://www.fcc.gov*.

Synopsis of the Notice of Proposed Rulemaking

1. *Jurisdiction and Enforcement.* The Commission has broad authority to establish national performance measurements and standards for special access services pursuant to sections 201, 202, and 272 of the Act. The Commission seeks comment on how, if the Commission were to adopt special access measures and standards, the state commissions might participate in enforcing these requirements. The Commission also seeks comment on whether and to what extent the Commission should exercise the fully panoply of enforcement mechanisms available to it under the Act to enforce any national measurements and standards it may adopt.

2. *Performance Measures and Standards.* In this NPRM, the Commission seeks comment on whether the Commission should adopt interstate special access measures and standards at this juncture. It seeks comment on whether national measurements, standards, and reporting requirements for special access provisioning should apply to all incumbent LECs, or should exclude small, rural or midsized incumbent LECs. The Commission also seeks comment on whether the proposed performance measurements and standards for unbundled network

elements should apply to provisioning of both high-capacity loops and special access circuits.

3. *Suggested Model Performance Measures and Standards.* The NPRM calls commenters attention to measurements and standards that have been proposed by New York in *Proceeding on Motion of the Commission to Review Service Quality Standards for Telephone Companies,* Order Adopting Revisions to Inter-Carrier Service Quality Guidelines, Case 97–C–0139 (December 15, 2000); *New York State Carrier-to-Carrier Guidelines Performance Standards and Reports,* NYPSC Case 97–C–0139 (Jan. 2001), and in Texas in *Texas Performance Remedy Plan and Performance Measurement, Attachment 17 to Texas 271 Agreement (Version 2.0)* (Aug. 2001). To facilitate access by commenters, these documents have been filed in the docket of the instant proceeding, CC Docket No. 01–321. The NPRM also calls commenters attention to proposals by WorldCom on August 6, 2001 and by Time Warner on July 16, 2001; these documents have also been filed in the docket of the instant proceeding, CC Docket. No. 01–321. Commenters are also directed to the performance measurements and standards in the *Performance Measurements and Standards for Unbundled Network Elements and Interconnection Notice,* CC Docket No. 01–318, FCC No. 01–331, at Section IV.B.

4. *Implementation.* The Commission asks commenters to discuss the same issues that apply in the context of performance measures and standards for UNEs and interconnection, namely (1) How may we best ensure that reported data are sufficiently accurate to form the basis for an enforcement action? (2) Should penalties be imposed if data inaccuracies are detected? (3) How may the Commission ensure the valid and accurate implementation of business rules and exclusions? (4) What auditing procedures, if any, are reasonable? (5) Would industry workshops under the direction of regulators be useful, and if so, should we adopt safeguards against delay and stalemate? In addition, the Commission solicits comment on appropriate reporting procedures that may help foster competition while avoiding increases on the overall burdens imposed on incumbent LECs. The Commission also seeks comment regarding the development, implementation, and analysis of the results of statistical measures that might be applicable and appropriately used in analyzing performance data.

5. *Sunset Requirements.* The Commission contemplates that when the services discussed herein are provisioned in a nondiscriminatory, just and reasonable manner, the Commission will suspend any reporting requirements that have become unnecessary. Accordingly, the Commission seeks comment on whether it should establish a sunset date on which the proposed reporting requirements would cease to apply to incumbent LECs. In particular, the Commission asks parties to comment on whether the reporting requirements should sunset on a date certain, such as in two, three or four years, or whether it should establish a specific trigger event. Similarly, for BOCs, the Commission seeks comment on whether these rules should sunset on a date certain after section 271 approval. The Commission also requests comments on additional proposals parties may have on establishing a sunset date.

Initial Regulatory Flexibility Analysis

6. As required by the Regulatory Flexibility Act (RFA), as amended, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the expected economic impact on small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the NPRM will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

7. In this NPRM, the Commission seeks comment on whether it should adopt a limited number of measurements and standards for evaluating incumbent local exchange carrier performance with respect to ordering, provisioning and maintaining and repairing of the facilities that are critical for competitive carriers to compete for end-user customers.

Legal Basis

8. The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 1, 2, 4, 201, 202, 205, 206, 207, 209, 272, 303(r) and 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201, 202, 205, 206, 207, 209, 272, 303(r) and 503(b).

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

9. The RFA directs agencies to provide a description and, an estimate where feasible, of the number of small entities that will be affected by any rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." For the purposes of this Order, the RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). Consistent with the SBA's Office of Advocacy's view, we have included small incumbent LECs in this RFA analysis. We emphasize, however, that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

10. *Local Exchange Carriers.* The most reliable source of information regarding the number of LECs nationwide appears to be the data that we collect annually in connection with the Telecommunications Relay Service. According to our most recent data, there are 1,335 incumbent LECs. Although some of these carriers may not be independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 1,335 small entity incumbent LECs that may be affected by the proposals in the NPRM.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

11. We expect that any proposal we may adopt pursuant this NPRM will not substantially increase existing reporting, recordkeeping or other compliance requirements. The Commission already requires the filing of service quality reports and many states require the same of incumbent LECs.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

12. One objective of this proceeding is to adopt reporting requirements for UNEs that will not increase the existing regulatory burdens on small carriers.

Ordering Clauses

13. Pursuant to Sections 1, 2, 4, 201, 202, 205, 206, 207, 209, 272, 303(r) and 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201, 202, 205, 206, 207, 209, 272, 303(r), and 503(b) a NOTICE OF PROPOSED RULEMAKING IS ADOPTED.

14. CC Docket No. 00–51 IS HEREBY TERMINATED.

15. The Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this NPRM, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30434 Filed 12–7–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2785, MM Docket No. 00–124, RM–9893]

Digital Television Broadcast Service; Bryan, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a request filed by KWTX/KBTX License Corporation, requesting the substitution of DTV channel 50 for DTV channel 59 at Bryan, Texas. DTV Channel 50 can be allotted to Bryan, Texas, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (30–33–16 N. and 96–01–51 W.). As requested, we propose to allot DTV Channel 50 to Bryan with a power of 1000 and a height above average terrain (HAAT) of 477 meters.

DATES: Comments must be filed on or before January 28, 2002, and reply comments on or before February 12, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Vincent A. Pepper, Pepper & Corazzini, LLP, 1776 K Street, NW., Suite 200, Washington, DC 20006–2334 (Counsel for KWTX/KBTX Licensee Corporation).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Further Notice of Proposed Rule Making, MM Docket No. 00–124, adopted December 4, 2001, and released December 5, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Texas is amended by removing DTV Channel 59 and adding DTV Channel 50 at Bryan.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–30390 Filed 12–7–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2682; MM Docket No. 99–196; RM–9619, RM–9674]

Radio Broadcasting Services; Bethel Springs, Martin, Tiptonville, Trenton, South Fulton, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: The Allocations Branch dismisses the petition for rule making filed by Sherry A. Brown proposing the allotment of Channel 249A at Bethel Springs, Tennessee, as being procedurally defective for failure to properly file comments in compliance with sections 1.415(b) and 1.420(e) of the Commission's Rules. *See* 64 FR 29979, June 4, 1999. In addition, the counterproposal filed by Thunderbolt Broadcasting Company, proposing two options for the substitution of Channel 267C3 for Channel 269A at Martin, and the reallotment of Channel 267C3 to South Fulton, Tennessee (described more fully in the *Report and Order*) is disposed of as follows: Option I is denied because it required the downgrade of vacant Channel 267C3 at Tiptonville, Tennessee, and there are expressions of interest for the Class C3 channel. Option II is dismissed for failure to be "technically correct" and "substantially complete" as required at the time it is filed.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–196, adopted November 7, 2001, and released November 16, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex, International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–30389 Filed 12–7–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2737; MM Docket No. 01–322; RM–10332]

Radio Broadcasting Services; Fremont and Sunnyvale, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed on behalf of Chase Radio Properties, L.L.C., licensee of Station KCNL(FM), Channel 285A, at Fremont, California, requesting the reallotment of Channel 285A from Fremont to Sunnyvale, California, and modification of its authorization accordingly, pursuant to the provisions of section 1.420(i) of the Commission's Rules. Coordinates used for requested Channel 285A at Sunnyvale, California, are 37–18–41 North Latitude and 121–48–58 West Longitude.

Petitioner's reallotment proposal complies with the provisions of section 1.420(i) of the Commission's Rules, and therefore, the Commission will not accept competing expressions of interest in the use of Channel 285A at Sunnyvale, California, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before January 14, 2002, and reply comments on or before January 29, 2002.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Harry C. Martin; Fletcher, Heald & Hildreth, P.L.C.; 1300 North 17th Street, 11th Floor; Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–322 adopted November 14, 2001, and released

November 23, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., CY–A257, Washington, DC 20554. This document may also be may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

The provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303. 334, and 336.

§ 73.202 [Amended].

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Sunnyvale, Channel 285A, and removing Channel 285A at Fremont.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–30387 Filed 12–7–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI28

Endangered and Threatened Wildlife and Plants; Listing the San Miguel Island Fox, Santa Rosa Island Fox, Santa Cruz Island Fox, and Santa Catalina Island Fox as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose endangered status pursuant to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), for four subspecies of island fox (*Urocyon littoralis*): San Miguel Island Fox (*Urocyon littoralis littoralis*), Santa Rosa Island Fox (*U. l. santarosae*), Santa Cruz Island Fox (*U. l. santacruzae*), and Santa Catalina Island Fox (*U. l. catalinae*). Island fox populations on these four islands have experienced precipitous declines since 1995. The three island fox subspecies inhabiting the northern Channel Islands (San Miguel, Santa Rosa, and Santa Cruz) have declined due to predation by golden eagles (*Aquila chrysaetos*). Island foxes on San Miguel and Santa Rosa islands have been effectively extirpated in the wild; captive breeding efforts are underway on both islands. On Santa Cruz Island, the island fox population decreased from 1,300 to less than 100 animals; captive breeding efforts on Santa Cruz will begin in the fall of 2001. The Santa Catalina Island fox population experienced a precipitous decline in 1999 as a result of an outbreak of canine distemper virus; fewer than 200 Santa Catalina Island foxes are thought to remain in the wild.

DATES: Comments from all interested parties must be received by February 8, 2002. Public hearing requests must be received by January 24, 2002.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods.

(1) You may submit written comments to the Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003.

(2) You may send comments by electronic mail (e-mail) to: *fw1islandfox@r1.fws.gov*.

See the Public Comments Solicited section below for file format and other information about electronic filing.

(3) You may hand-deliver comments to our office at 2493 Portola Road, Suite B, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Diane Noda, Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, at the address above (telephone 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

The island fox was first described as *Vulpes littoralis* by Baird in 1857 from the type locality of San Miguel Island, Santa Barbara County, California. Merriam (1888, in Hall and Kelson 1959) reclassified the island fox into the genus *Urocyon* and later described island foxes from Santa Catalina, San Clemente, and Santa Cruz islands as three separate taxa (*U. catalinae, U. clementae,* and *U. littoralis santacruzae*) (Merriam 1903). Grinnell *et al.* 1937 revised Merriam's classification, placing foxes from all islands under the species *U. littoralis* and assigning each island population a subspecific designation (*U. l. catalinae* on Santa Catalina Island, *U. l. clementae* on San Clemente Island, *U. l. dickeyi* on San Nicolas Island, *U. l. littoralis* on San Miguel Island, *U. l. santacruzae* on Santa Cruz Island, and *U. l. santarosae* on Santa Rosa Island). Recent morphological and genetic studies support the division of the *U. littoralis* complex into six subspecies which are each limited in range to a single island (Gilbert *et al.* 1990; Wayne *et al.* 1991a; Collins 1991a, 1993; Goldstein *et al.* 1999). Each subspecies is reproductively isolated from the others by a minimum of 5 kilometers (3 miles) of ocean waters. The island fox is closely related to the mainland gray fox, *U. cinereoargenteus*, but is smaller in size and darker in coloration (Moore and Collins 1995).

The island fox is a diminutive canid, weighing approximately 1.4 to 2.7 kilograms (3 to 6 pounds) and standing approximately 0.3 meters (1 foot) tall. Dorsal coloration is grayish-white and black. The base of the ears and sides of the neck and limbs are cinnamon-rufous in color. The underbelly is a dull white, and the tail is conspicuously short. Island foxes display sexual size dimorphism, with males being larger and heavier than females (Moore and Collins 1995).

Island foxes inhabit the six largest islands (San Miguel, Santa Rosa, Santa Cruz, San Nicolas, Santa Catalina, and San Clemente islands) off the coast of southern California. Genetic evidence suggests that all island foxes are descended from one colonization event (George and Wayne 1991), possibly from chance overwater dispersal by rafting on floating debris (Moore and Collins 1995). Fossil evidence indicates that island foxes inhabited the northern Channel Islands (San Miguel, Santa Rosa, and Santa Cruz) between 10,000 to 16,000 years ago (Orr 1968). However, island foxes are thought to have existed on the northern Channel Islands even before that time, during a period when Santa Cruz, Santa Rosa, and San Miguel were one land mass referred to as "Santarosae," last known to have been united 18,000 years before present (Johnson 1978, 1983). The island fox was thought to have reached the southern Channel Islands (San Nicolas, San Clemente, and Santa Catalina) much more recently (2,200 to 3,800 years ago), most likely introduced to these islands by Native Americans as pets or semi-domesticates (Collins 1991a, b). However, island fox remains recently recovered from San Nicolas Island extend this time period to approximately 5,200 years before present (Vellanoweth 1998).

Genetic evidence confirms the pattern of dispersal suggested by archeological and geological findings (Gilbert *et al.* 1990). The pattern of genetic relatedness supports the geological evidence of the sequence of isolation for each island, and each population, as rising sea levels separated Santarosae into the northern Channel Islands. Santa Cruz separated from the other northern Channel Islands first, about 11,500 years ago, followed by the separation of San Miguel and Santa Rosa about 9,500 years ago. Together with the fossil record, genetic evidence indicates that San Clemente was the first southern Channel Island colonized, probably by immigrants from San Miguel. Dispersal then occurred from San Clemente to San Nicolas and then Santa Catalina (Gilbert *et al.* 1990).

Island forms of species generally have less genetic variability than their mainland counterparts (Gill 1980), and island foxes are no exception. Mainland gray foxes are more variable both morphologically and genetically than island foxes (Wayne *et al.* 1991b; Goldstein *et al.* 1999). Island fox population size and genetic variability seem to decrease with island size; the smallest island fox populations, San Miguel and San Nicolas, show the least genetic variability, with San Nicolas having virtually no genetic variability, which is highly unusual among mammals. This lack of variability could be attributed either to extensive inbreeding, or to the population having passed through a bottleneck, a period of very low population (George and Wayne 1991).

The diminutive island fox is the largest native carnivore on the Channel Islands. The island fox is a habitat generalist, occurring in valley and foothill grasslands, southern coastal dunes, coastal bluff, coastal sage scrub, maritime cactus scrub, island chaparral, southern coastal oak woodland, southern riparian woodland, bishop (*Pinus muricata*) and torrey pine (*Pinus torreyana*) forests, and coastal marsh habitats. Although foxes can be found in a wide variety of habitats on the islands, they prefer areas of diverse topography and vegetation (Von Bloeker 1967; Laughrin 1977; Moore and Collins 1995). Laughrin (1973, 1980) found woodland habitats to support higher densities of island fox due to increased food availability, while Crooks and Van Vuren (1996) found island foxes to prefer fennel grasslands and avoid ravines and scrub oak patches.

Island foxes are omnivores, taking a wide variety of seasonally available plants and animals (Collins and Laughrin 1979; Collins 1980; Kovach and Dow 1981; Moore and Collins 1995; Crowell 2001). Island foxes forage opportunistically on any food items encountered within their home range. Selection of food items is determined largely by availability, which varies by habitat and island, as well as seasonally and annually. Island foxes prey on native deer mice (*Peromyscus maniculatus*), as well as introduced house mice (*Mus musculus*) and rats (*Rattus rattus*). Small mammals may be especially important prey during the breeding season, because they are large, energy-rich food items that adult foxes can bring back to their growing pups (Garcelon *et al.* 1999). In addition to small mammals, island foxes feed on ground-nesting birds such as horned larks (*Eremophila alpestris*) and western meadowlarks (*Sturnella neglecta*), and a wide variety of insect prey (Moore and Collins 1995). At certain times of the year, foxes feed heavily on orthopterans (e.g., grasshoppers and crickets) (Crooks and VanVuren 1995), especially Jerusalem crickets (*Stenopelmatus fuscus*). Less common in the diet are amphibians, reptiles, and carrion of marine mammals (Collins and Laughrin 1979). Island foxes feed on a wide variety of native plants, including the fruits of manzanita (*Arctostaphylos* spp.), summer holly (*Comarostaphylis* spp.), toyon (*Heteromeles* spp.), chollo cactus (*Opuntia* spp.), island cherry (*Prunus ilicifolia*), sumac (*Rhus* spp.), rose (*Rosa* spp.), nightshade (*Solanum* spp.), and huckleberry (*Vaccinium* spp.) (Moore and Collins 1995). Fruiting shrubs do not occur on San Miguel

Island, where island foxes rely more on the fruits of the low growing sea-fig, *Carpobrotus chilensis*.

The island fox is a docile canid, exhibiting little fear of humans in many instances. Although primarily nocturnal, the island fox is more diurnal than the mainland gray fox (Collins and Laughrin 1979; Fausett 1993). This is thought to be a result of the historical absence of large predators and freedom from human harassment on the islands (Laughrin 1977).

Mated island foxes maintain territories that are separate from the territories of other pairs (Crooks and Van Vuren 1996; Roemer *et al.* 2001a). Island fox home range size varies with sex, season, population density, landscape features, and habitat type (Laughrin 1977; Crooks and Van Vuren 1996; Thompson *et al.* 1998; Roemer *et al.* 2001a). Estimates of territory size range from 0.24 square kilometers (km^2) (59 acres (ac)) in mixed habitat (Crooks and Van Vuren 1996) and 0.87 km^2 (214 ac) in grassland habitat (Roemer 1999) on Santa Cruz Island, to 0.77 km^2 (190 ac) in canyons on San Clemente Island (Thompson *et al.* 1998). Island fox territory configuration changes after the death and replacement of paired male foxes, but not after the death and replacement of paired females or juveniles, indicating that adult males are involved in territory formation and maintenance (Roemer *et al.* 2001a).

Although island foxes appear monogamous, copulations with individuals other than the mate, and offspring as a result of those unions, are common (Roemer *et al.* 2001a). Courtship activities occur from late January to early March; genetic evidence suggests that inbreeding avoidance occurs (Roemer *et al.* 2001a). Recent endocrine assays on fecal samples from San Miguel Island indicate that, unlike all other canids studied to date, island foxes are induced rather than spontaneous ovulators (*i.e.*, the presence of males is necessary in order for females to go into estrous) (Bauman *et al.* 2001). Young are born from late April through May after a gestation period of approximately 50 days. Island foxes give birth to their young in simple dens, which are usually not excavated by the foxes themselves (Moore and Collins 1995). Rather, any available sheltered site (*e.g.*, brush pile, rock crevice, and hollow stump) is used (Laughrin 1977). Litter size ranges from one to five (average = 2.17). Both island fox care for the young (Garcelon *et al.* 1999). By 2 months of age, young foxes spend most of the day outside the den and will remain with their parents throughout the summer. Some pups disperse from their birth territories by winter, although others may stay on their natal territories into their second year (Coonan 2001). Island foxes can mate at the end of their first year (Collins and Laughrin 1979), although most breeding involves older animals. Coonan *et al.* (1998) found that only 16 percent of females under the age of 2 bred over a 5-year period, in contrast to 60 percent of older females.

Due to the low reproductive output of island foxes, survival of adults is the most important factor influencing population growth rate (Roemer *et al.* 1994; 2001a). Compared with the gray fox, island fox populations are skewed toward older adults (Laughrin 1980; Garcelon 1988). Adult island foxes live an average of 4 to 6 years (Moore and Collins 1995), although this may be an underestimate (Coonan *et al.* 1998).

In the 1970s, island foxes were found at higher densities than any other canid species, likely due to the lack of competition and predation compared with the island foxes' mainland canid counterparts (Laughrin 1980). At the time of Laughrin's early studies, island fox populations were stable on all islands except Santa Catalina (Laughrin 1973). Pre-decline trapping on Santa Cruz Island in 1993 and 1994 reconfirmed that island foxes existed at high densities (Roemer *et al.* 2001a)

San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina island foxes have experienced precipitous declines in the last 6 years (Coonan *et al.* 1998, 2000, and in review; Roemer 1999; Timm *et al.* 2000; Roemer *et al.* in press). Total island fox numbers rangewide have fallen from approximately 6,000 individuals (Roemer *et al.* 1994) to fewer than 1,660 (Tim Coonan, Channel Islands National Park, pers. comm. 2001a). Island fox populations on San Miguel and Santa Cruz islands have declined by an estimated 80 to 90 percent and have a 50 percent chance of extinction over the next 5 to 10 years (Roemer 1999; Roemer *et al.* in press). During the period of decline, island fox population monitoring was not conducted on Santa Rosa Island; however, anecdotal observations and recent trapping efforts showed that a similar decline occurred for this subspecies as well (Roemer 1999; Coonan 2001). Island fox populations on the northern Channel Islands are considered critically endangered and in need of immediate conservation action (Coonan *et al.* 1998; Roemer 1999; Roemer *et al.* 2001b). On Santa Catalina, island foxes are now rare on the larger eastern portion of the island. This decline is thought to be a result of a canine distemper outbreak that swept through the population in 1999 (Timm *et al.* 2000).

San Clemente and San Nicolas islands have island fox populations estimated at more than 500 and 738 individuals, respectively (D. Garcelon, unpublished data; Roemer 2000), although the San Nicolas estimate is likely an overestimate, as it did not factor in habitat suitability (Grace Smith, Department of the Navy, pers. comm. 2001). San Clemente Island has not experienced the sharp declines seen on other islands; however, 13 years of trapping data display a slow decline of island fox since the early 1990s (Garcelon 1999; D. Garcelon, unpublished data). Populations of the San Nicolas Island fox appear to be stable. However, its small population size (Roemer *et al.* 1994), insular nature, lack of resistance to canine distemper and other diseases (Garcelon *et al.* 1992), high densities (Roemer 2000), and low genetic variability (Wayne *et al.* 1991a) increase the vulnerability of this subspecies (Roemer 1999). Protective measures have been put in place on these islands, such as implementing a wildfire management plan and feral cat management program and removing all feral ungulates, to prevent further decline of these two subspecies.

San Miguel Island Fox (Urocyon littoralis littoralis)

The first quantitative surveys for island foxes on San Miguel Island were conducted by Laughrin in the early 1970s (Laughrin 1973). Trap efficiency was high (43 percent) and Laughrin concluded that island fox populations were stable at 2.7 foxes per km^2 (7 foxes per square mile (mi^2)), although this may be an underestimate. In the late 1970s, the island foxes on San Miguel had an average density of 4.6 foxes per sq. km (12 foxes per mi^2) for a total estimated population of 151 to 498 individuals (Collins and Laughrin 1979). Island foxes on San Miguel Island were not surveyed again until the National Park Service (NPS) instituted a long-term population study in 1993 which recorded an average density of 7.7 foxes per sq. km (20 foxes per mi^2) on two trapping grids and estimated the total population at more than 300 foxes (Roemer *et al.* 1994; Coonan *et al.* 1998). A third trapping grid was added the following year, and yielded the highest island fox densities ever recorded to that point (15.8 foxes per km^2 (41 foxes per mi^2) in one study area), resulting in an island-wide estimate of 450 adults (Coonan *et al.* 1998). Annual population monitoring using capture-mark-recapture techniques documented a substantial decline in island fox

populations on San Miguel Island between 1994 and 1999 (Coonan *et al.* 1998; Coonan *et al.* in review). In the last 7 years, estimated population size dropped from as many as 450 adults in 1994 (Coonan *et al.* 1998) to 17 adults currently (T. Coonan, unpublished data). Data from a remote camera survey and from fox sign (scat and tracks) indicate only one fox (a lone female that has evaded capture efforts) exists in the wild on San Miguel Island (Coonan *et al.* in review); the remaining 16 foxes are captive.

In 1999, NPS captured 14 individuals (4 males and 10 females) from the San Miguel Island fox subspecies to protect them from further losses to predation and to initiate a captive propagation program. Captive breeding over the last 2 years has brought the captive San Miguel Island fox population up to 16 adults (5 males and 11 females) and 5 pups (all males). The captive San Miguel Island fox population has high parasite loads, which may affect the health of individual foxes (L. Munson, unpublished data). Until September 2001, all captive San Miguel Island foxes were held in one breeding facility, putting the subspecies in danger of extinction due to a catastrophic event such as wildfire or disease outbreak. The NPS moved half the captive foxes into a second breeding facility on San Miguel Island in October 2001 to minimize this risk (T. Coonan, pers. comm. 2001b).

Santa Rosa Island Fox (Urocyon littoralis santarosae)

The earliest island fox trapping study from Santa Rosa reported a trapping efficiency of 50 percent and a density of 4.2 foxes per km^2 (11 foxes per mi^2) (Laughrin 1973). Little population data has been collected on Santa Rosa Island foxes since Laughrin's studies. However, recent trapping data in 1998 and 2000 as well as anecdotal evidence suggests that Santa Rosa has experienced a decline similar to those on Santa Cruz and San Miguel Islands (Roemer 1999; Coonan 2001). During 132 trap nights in 1998, trap success was 4.8 percent, and only nine individuals were captured (Roemer 1999). Anecdotal sightings by park and ranch staff became much less frequent than in previous years (Coonan 2001).

Believing that fewer than 100 island foxes remained on Santa Rosa Island (T. Coonan pers. comm. 1999), the NPS captured 10 adult foxes (four males and six females) to initiate captive breeding in March 2000. Two seasons of captive breeding have increased the captive population to 22 adults (9 males and 13 females) and 10 pups (3 males and 7 females). The last known fox in the wild on Santa Rosa Island was brought into captivity in May 2001 (T. Coonan, pers. comm. 2001a). As with San Miguel Island, approximately half the captive foxes were moved to a second facility in October 2001 (T. Coonan, pers. comm. 2001b).

Santa Cruz Island Fox (Urocyon littoralis santacruzae)

Santa Cruz Island is the largest of the Channel Islands and has supported the highest known densities of island fox in the past (Laughrin 1973). Laughrin (1971) estimated the island fox population of Santa Cruz Island to be approximately 3,000 individuals. Average density between 1973 and 1977 was 7.9 foxes per km^2 (20.4 foxes per mi^2) (Laughrin 1980). Following Laughrin's studies, island fox populations on Santa Cruz Island were not surveyed again until 1993, when island foxes were found to be at an average density of 8.2 foxes per km^2 (21.2 foxes per mi^2) (Roemer *et al.* 1994). Since that time, the population has decreased from an estimated 1,312 in 1993 to an estimated size of 133 in 1999 (Roemer 1999; Roemer *et al.* 1994; Roemer *et al.* in press). In 1998, trapping efficiency was low (2.9 percent), and island fox density ranged from 0.0 to 2.4 foxes per km^2 (0.0 to 6.2 foxes per mi^2), the lowest ever reported from Santa Cruz Island (Roemer 1999).

Population monitoring efforts in 2001 have yielded captures of 75 individual foxes. Of these, 27 have been outfitted with radio collars. The highest numbers of foxes were captured in the areas of relatively high cover. Five radio-collared fox carcasses have been retrieved, and all deaths have been attributable to predation by golden eagles (David Garcelon, Institute for Wildlife Studies, pers. comm. 2001). The Island Fox Conservation Working Group, a team of experts convened by the NPS to recommend appropriate recovery actions for the island fox, found that "the existence of one pair of golden eagles on the island as of October 1, 2001, will warrant bringing foxes into captivity as the necessary conservative step in preserving the Santa Cruz Island fox population." Intensive trapping efforts to capture and relocate the remaining golden eagles in the spring and summer of 2001 have resulted in three captures; however, four eagles remain on the island (Brian Latta, Santa Cruz Predatory Bird Research Group (SCPBRG), pers. comm. 2001b). Thus, captive breeding of foxes will be initiated on Santa Cruz Island in early 2002 (T. Coonan, pers. comm. 2001b).

Santa Cruz Island is currently occupied by a large feral pig population (estimated at approximately 3,000 to 5,000 individuals), which facilitates the colonization of the island by golden eagles. The Nature Conservancy and the NPS are planning an island-wide pig eradication program which will take years to complete.

Santa Catalina Island Fox (Urocyon littoralis catalinae)

Santa Catalina Island has the largest human population, a large population of domestic dogs, and the highest degree of human activity and accessibility of the Channel Islands. Island fox numbers on Santa Catalina Island have fluctuated widely over the past 30 years. In Laughrin's early 1970s studies, only 2 island foxes were trapped on Santa Catalina Island for a trap efficiency of 6 percent and an average density of 0.1 fox per km^2 (0.3 foxes per mi^2) (Laughrin 1973). This density was 37 percent lower than any other island during this study. The reason for past low island fox numbers on Santa Catalina Island is unknown; the available food and habitats are comparable to that on the other islands. Island fox numbers on Santa Catalina Island increased slightly between 1975 and 1977 with average densities of 0.29 foxes per km^2 (0.77 foxes per mi^2) (Propst 1975) and 0.30 foxes per km^2 (0.8 foxes per mi^2) (Laughrin 1980). Between 1988 and 1991, average density increased, ranging from 2.6 to 12.8 foxes per km^2 (6.7 to 33.1 foxes per mi^2) (Garcelon *et al.* 1991). The Santa Catalina Island fox population increased to an estimated 1,342 foxes by 1994 (Roemer *et al.* 1994).

The Santa Catalina Island fox population has experienced a recent dramatic decline attributed to canine distemper, presumably introduced by domestic dogs, in the eastern portion of the island (Timm *et al.* 2000). Santa Catalina Island is separated into a large eastern side (40,000 acres) and a small western side (8,000 acres) by a narrow isthmus, which has apparently served as a barrier to the canine distemper virus. Trap success on the eastern side dropped from 26 percent in 1998 to 0.96 percent in 1999 and 2000, while remaining stable at approximately 36 percent on the western portion. Two live foxes and one deceased fox recovered from the eastern portion of the island tested positive for canine distemper virus, constituting the first positive record of canine distemper in island foxes (Timm *et al.* 2000). Island fox trapping efforts during 2000 and 2001 captured 137 island foxes on the western end and 37 on the eastern

portion of Santa Catalina Island (D. Garcelon, unpublished data).

A captive propagation program for the Santa Catalina Island fox is currently underway. The Institute for Wildlife Studies captured 16 adults (10 females and 6 males) between February and mid-March 2001 as the founder population for the captive breeding program. Of these, three were pregnant females, which gave birth to a total of 18 pups. Twelve of these pups died within 7 days of birth, likely due to stress to the females from capture during late pregnancy. The six remaining pups will be released onto the east end of the island in the fall of 2001 (Steve Timm, Institute for Wildlife Studies, pers. comm. 2001).

In addition to the captive breeding program, the Santa Catalina Conservancy and the Institute for Wildlife Studies initiated a translocation program in 2001 to repopulate island foxes on the east side of the island. Of the 10 island foxes relocated from the west end to the east end, one has died as a result of trauma, potentially from a vehicle strike (S. Timm, pers. comm. 2001). The remaining nine foxes appear to be alive and healthy.

Previous Federal Action

We published an updated candidate Notice of Review for animals on December 30, 1982 (47 FR 58454). This notice included all six subspecies of island fox in a list of category 2 candidate species. We maintained all six subspecies of island fox as category 2 candidates in subsequent notices: September 18, 1985 (50 FR 37958), January 6, 1989 (54 FR 554), November 21, 1991 (56 FR 58804) and November 15, 1994 (59 FR 58982). As announced in a notice published in the February 28, 1996, **Federal Register** (61 FR 7596), we discontinued the designation of category 2 candidates. Thus, all six subspecies of island fox were not included in this and subsequent notices of review. In our most recent Notice of Review, published on October 30, 2001 (65 FR 54808), we included the San Miguel, Santa Rosa, Santa Cruz and Santa Catalina island foxes as candidate species. Candidate species are those species for which listing is warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act.

On June 1, 2000, we received a petition from the Center for Biological Diversity (Center) in Tucson, Arizona, and the Institute for Wildlife Studies in Arcata, California, requesting that we add four subspecies of island fox, the San Miguel Island fox, Santa Rosa Island fox, Santa Cruz Island fox, and Santa Catalina Island fox to the list of endangered species pursuant to the Act. Due to a lack of funding, we did not issue a 90-day finding for the petition. In response to our lack of action on the petition, the Center sent us a 60-day notice of intent to sue on December 4, 2000. This proposed rule satisfies a measure in the settlement agreement with the Center (*Center for Biological Diversity, et al.* v. *Norton*, Civ. No. 01–2063 (JR) (D.D.C.), entered by the Court on October 2, 2001.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act and its implementing regulations (50 CFR part 424) issued to implement the listing provisions of the Act establish procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act. These factors and their application to the four island fox subspecies are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Habitat on all islands occupied by island foxes has been heavily affected by a history of livestock grazing, cultivation, and other disturbance. A century and a half of overgrazing by non-native herbivores, including sheep (*Ovis aries*), goats (*Capra hircus*), rabbits (*Oryctolagus cuniculus*), deer (*Odocoileus hemionus*), elk (*Cervus elaphus*), cattle (*Bos taurus*), pigs (*Sus scrofa*), and horses (*Equus caballus*) resulted in substantial impacts to the soils, topography, and vegetation of the islands (Coblentz 1980; Johnson 1980; O'Malley 1994; Peart *et al.* 1994). Damage to native island plants and their habitats on the northern Channel Islands by introduced stock and game animals is evidenced by our 1997 listing of 13 endemic island plants as endangered or threatened (62 FR 40954). One result of overgrazing has been the replacement of much of the native coastal sage scrub, chaparral, and oak woodland habitats with other vegetation, especially non-native annual grasses such as *Avena* and *Bromus* spp. (Brumbaugh 1980; Klinger *et al.* 1994). Annual grasslands are less preferred as habitat by island foxes (Laughrin 1977; Kovach and Dow 1982). The California Department of Fish and Game (CDFG), in recommending the retention of the island foxes classification as threatened under State law, cited the continued habitat degradation by herbivorous mammals on Santa Rosa, Santa Cruz, Santa Catalina, and San Clemente islands (CDFG 1987). Since that time, alien species removal programs have eradicated or reduced the introduced herbivore populations on many islands, but pigs remain on Santa Cruz Island; deer, elk, and horses remain on Santa Rosa Island; and pigs and goats remain on Santa Catalina Island. Even though many of the introduced herbivores have been removed, their earlier presence facilitated the invasion of and spread of non-native annual grasses on the islands. This invasion continues to be a problem as native island habitats are replaced by annual grasslands, which constitute less preferred habitats for foxes. On Santa Rosa Island, the continued presence of deer likely results in less available food for foxes, as deer browse the flowering and fruiting branches of native shrubs such as manzanita and toyon, which can be an important component of island fox diets during some seasons.

Even after the removal of non-native grazers on some islands, habitat recovery is slow (Hochberg *et al.* 1979) and threatened by the spread of non-native plants that became established during the ranching era. These exotic species continue to invade and modify island fox habitat resulting in lower diversity of vegetation, less diverse habitat structure, and reduced food availability. The replacement of native shrub communities by non-native annual grasslands has reduced protective cover for island foxes, making them more vulnerable to predation (Roemer 1999; Coonan *et al.* in review). Annual grasslands also offer fewer food resources to foxes, and the seeds of annual grasses can become lodged in the eyes of island foxes, causing damage or temporary blindness (Laughrin 1977).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Although island foxes were used in the past for pelts and ceremonial uses by Native Americans (Collins 1991b), island foxes are not currently known to be exploited for commercial, recreational, scientific, or educational purposes.

C. Disease or Predation

Predation. Recent island fox declines on San Miguel, Santa Cruz, and Santa Rosa islands have been attributed to predation by golden eagles (Roemer 1999; Coonan *et al.* in review; Roemer *et al.* in press). Roemer (1999) linked 19 of 21 documented island fox mortalities on Santa Cruz Island between April 1994 and July 1997 to golden eagles. On

San Miguel Island, 5 of 7 mortalities of radio-collared foxes were attributed to golden eagle predation during 1998 to 1999 (Coonan *et al.* in review). No data exist from Santa Rosa Island, but due to its location between Santa Cruz and San Miguel islands, island foxes on Santa Rosa Island likely experience similar predation pressures from golden eagles. As island foxes did not evolve under the presence of a large avian predator, they are likely not vigilant towards avian predators, and thus provide an easy target for golden eagles (Roemer *et al.* in press). Golden eagle predation likely continues to be the leading cause of mortality of island foxes on Santa Cruz Island. The deaths of 5 radio-collared foxes during radio-tracking efforts in 2001 have been attributed to golden eagle predation, based on the state of the carcasses and the presence of golden eagle feathers or avian feces at the carcass site (D. Garcelon, pers. comm. 2001).

The current level of golden eagle activity on the northern Channel Islands is historically unprecedented (Paul Collins, Santa Barbara Museum of Natural History, unpublished data). Golden eagles were known to occasionally visit the islands but never to establish residence (Diamond and Jones 1980; Jones and Collins, in prep.). The first known active golden eagle nest from the Channel Islands was located on Santa Cruz Island in 1999 (Gary Roemer, New Mexico State University, pers. comm. 1999; SCPBRG 2001), but golden eagles were likely established on the island as early as 1994 (Roemer *et al.* in press). Island fox remains along with the remains of feral piglets (*Sus scrofa*), ravens (*Corvus corax*), Brandt's cormorants (*Phalacrocorax pencillatus*), and western gulls (*Larus occidentalis*) were found in the nest. In September 1999, surveys by SCPBRG identified 12 resident golden eagles, including possibly five breeding pairs on Santa Cruz Island. Santa Cruz Island is now the main nesting and roosting location for golden eagles on the northern Channel Islands, although one pair of golden eagles may have nested on Santa Rosa Island (B. Latta, pers. comm. 1999). Golden eagles breeding on Santa Cruz Island are thought to "commute" to Santa Rosa and San Miguel islands to feed, where eagles have fewer alternative prey species to island foxes (*i.e.*, no feral pigs as there are on Santa Cruz Island) and foxes have less cover from vegetation to hide them from avian predators (Roemer 1999).

Before golden eagles started utilizing the northern Channel Islands in the 1990s, the only known predator of island foxes was the red-tailed hawk (*Buteo jamaicensis*), which preyed only occasionally on young island foxes (Laughrin 1973; Moore and Collins 1995). The docile and inquisitive nature of the island fox (Laughrin 1977) suggests an evolutionary history lacking predation (Carlquist 1974).

The recent colonization of the northern Channel Islands by golden eagles is likely a combination of two factors: (1) Introduction of exotic mammals on the northern Channel Islands resulting in a historically unprecedented prey base, and (2) the extirpation of bald eagles (*Haliaeetus leucocephalus*) from the islands as a result of dichlorodiphenyltrichloroethane (DDT) poisoning. Historically, the small population of vertebrate island fauna would have provided little prey for golden eagles, which rely on a diet of small terrestrial vertebrates. Before the ranching era on the Channel Islands, transient golden eagles landing on the islands would have found little prey to encourage them to establish permanent residence. Furthermore, nesting bald eagles would have discouraged foraging golden eagles from establishing residence by aggressively defending their already established territories. Bald eagles are represented in the prehistoric fossil record of the northern Channel Islands (Guthrie 1993) and bred there until 1960 when nest failures, as a result of DDT contamination, extirpated them from the northern Channel Islands (Kiff 1980).

Roemer *et al.* (in press) modeled time-energy budgets and predation rates of golden eagles on Santa Cruz Island to determine if the precipitous decline in island foxes could be attributed to predation alone. They concluded that the island fox declines on the northern Channel Islands are a consequence of hyper-predation, defined as when a prey species that can sustain high predation rates subsidizes the extinction of another prey species by acting as an alternate food resource for a shared predator (Courchamp *et al.* 1999). In this case, the large feral pig population enabled the golden eagle to colonize Santa Cruz Island; a resident golden eagle population could not have been supported by the native terrestrial vertebrate fauna (Roemer *et al.* in press). Their model indicates that as few as six golden eagles could have driven the island fox populations to the current low levels. Between 1999 and the present, 19 golden eagles have been translocated from Santa Cruz Island (SCPBRG 2001).

To protect island foxes on the northern Channel Islands from further declines, the National Park Service, the Service, and The Nature Conservancy funded a golden eagle removal program beginning in August of 1999. Between the fall of 1999 and 2000, 13 golden eagles were captured from Santa Cruz Island and relocated to northern California. When trapping efforts ceased in the fall of 2000, an estimated seven golden eagles remained on the northern Channel Islands (Brian Walton, SCPBRG, pers. comm. 2000). Golden eagle trapping was resumed in 2001, with six eagles removed from Santa Cruz Island. Additional golden eagles seem to be coming from the mainland; currently, five eagles (two adult females, one adult male and two subadults) remain on Santa Cruz Island. Due to trap wariness, the abundance of feral pig prey, and the harsh topography of Santa Cruz Island, the remaining golden eagles have proven difficult to trap (B. Latta, pers. comm. 2001a). Thus, despite these efforts to remove golden eagles from the islands, golden eagle predation continues to be the main cause of mortality of island foxes on Santa Cruz Island, and would likely constitute a serious predation threat to any foxes subsequently released from captive breeding programs on Santa Rosa and San Miguel islands.

We are currently investigating the feasibility of reintroducing bald eagles to the northern Channel Islands (Valoppi *et al.* 2000). As part of this feasibility study, releases of juvenile bald eagles to Santa Rosa or Santa Cruz Island could begin as early as 2002 (Dan Welsh, U.S. Fish and Wildlife Service, pers. comm. 2001). The feasibility study is being conducted as a pilot project to assess the potential breeding success of bald eagles on the northern Channel Islands, and will include several aspects of monitoring bald eagle movement and exposure to 2, 2-Bis (p-chlorophenyl)-1, 1-dechloroethylene (DDE), the metabolized form of DDT. The presence of territorial golden eagles on the islands may hinder bald eagle reintroduction, because territorial golden eagles may chase away non-nesting bald eagles (B. Latta, pers. comm. 2001a). Currently, the NPS is in the process of capturing golden eagles on the northern Channel Islands as part of an overall island fox recovery strategy. The presence of territorial bald eagles on the northern Channel Islands may assist in discouraging transient golden eagles from establishing breeding territories on the islands. However, the success of bald eagle introduction efforts is uncertain, and would take years to discern, due to the long time it takes for bald eagles to reach sexual maturity (4 years or more). Therefore, if

reintroduction efforts are successful, bald eagles will not nest on this island until 2006. To ensure that no golden eagles return to the northern Channel Islands, a large resident bald eagle population would be necessary, because Santa Cruz Island is large enough for many eagle breeding territories.

Disease. On Santa Catalina Island, the large sudden decline in island foxes has been attributed to canine distemper, most likely brought to the island by a domestic dog (Timm *et al.* 2000). The steep and sudden pattern of decline on Santa Catalina Island is more indicative of a disease outbreak rather than the slower decline due to predation seen on the northern Channel Islands (Timm *et al.* 2000). In addition to positive testing for canine distemper in foxes caught on the east end of Santa Catalina Island, the evidence suggesting a disease-related decline versus other causes are: (1) The population decline on Santa Catalina Island is of a similar magnitude (90 percent) as on the northern Channel Islands, but has occurred within 1 year rather than the steady 6-year decline seen on San Miguel, Santa Cruz, and Santa Rosa Islands; (2) the declines on the northern islands are island-wide, while the geographically restricted western population on Santa Catalina Island has remained relatively healthy; and (3) sick foxes have been seen on Santa Catalina Island but not on the northern islands (G. Roemer, pers. comm. 2000).

Two healthy adult foxes caught on the east end of Santa Catalina Island in 1999 tested positive for canine distemper, constituting the first positive records of canine distemper in island fox. A necropsy of one island fox identified the cause of death as canine distemper (Timm *et al.* 2000). No island foxes tested positive for canine distemper in a previous comprehensive serologic survey of all islands (Garcelon *et al.* 1992), nor did any foxes from San Clemente, Santa Cruz, or San Miguel test positive for canine distemper virus during the period (1994 to 1997) of the fox decline on the northern islands (Roemer *et al.* in press). The absence of antibodies to canine distemper virus in any island foxes during these studies implies that either the virus had never been introduced to the islands, or the species is highly susceptible to the virus and none survive infection. As the closely related mainland gray fox is highly susceptible to canine distemper virus, island foxes likely have high susceptibility as well (Garcelon *et al.* 1992). This hypothesis is supported by the deaths of two island foxes in zoos from the inappropriate administration of modified live canine distemper vaccine (Linda Munson, University of California at Davis, pers. comm. 2001). Although the outbreak of canine distemper that precipitated the sudden decline of island foxes on Santa Catalina Island has apparently run its course, the Santa Catalina Island subspecies remains susceptible to another outbreak of the disease due to the continued exposure to domestic dogs that may transmit the virus.

Administration of an experimental canine distemper vaccine developed for ferrets (another species highly susceptible to canine distemper) to some island foxes captured on Santa Catalina Island has had promising preliminary results (S. Timm, pers. comm. 2001). With further testing, the vaccine may prove useful for protecting island foxes on all islands from future canine distemper outbreaks.

All island fox populations have been surveyed for other canine diseases and parasites. Although island foxes are known to carry antibodies for a variety of canine diseases, none of these could explain the type or geographic distribution of the observed decline on the northern Channel Islands (Garcelon *et al.* 1992; Coonan *et al.* 2000; Roemer 1999; Roemer *et al.* in press). Although pathology work has not identified a specific cause of population decline (with the exception of canine distemper virus on Santa Catalina Island), some underlying diseases or parasites may also affect population viability or individual health (L. Munson, pers. comm. 2001). The most common antibodies found in island foxes are canine adenovirus and canine parvovirus (Garcelon *et al.* 1992). Canine herpesvirus, coronavirus, leptospirosis, and toxoplasmosis have been recorded at low levels (Garcelon *et al.* 1992, Coonan *et al.* 2000, Roemer *et al.* in press). The relative occurrence of canine adenovirus was similar before and after the population crashes on these islands, while antibodies for parvovirus were detected from a small number of samples from 1994, but not detected in 1995 or 1997 samples (Coonan *et al.* 2000). Canine adenovirus may be typically present in the island fox populations (Garcelon *et al.* 1992), with little effect on individual health. Canine parvovirus has been found in other wild canids and can result in mortality of pups, prior to emergence from the den (Garcelon *et al.* 1992).

Canine heartworm (*Dirofilaria immitis*) has been documented in four island fox subspecies (San Miguel, Santa Cruz, Santa Rosa, and San Nicolas island foxes; Roemer *et al.* 2000). Despite the high seroprevalence or occurence of heartworm in these populations (between 58 and 100 percent in 1997–98), heartworm is not thought to be responsible for the decline of island foxes for the following reasons: (1) Seroprevalence on San Nicolas Island, where the population is stable, is higher than on Santa Cruz Island, where the population is decreasing (Roemer *et al.* in press), (2) heartworm was present in all four subspecies in or before 1988, pre-dating the population declines, (3) seroprevalence in the San Miguel population was high in 1994, when densities on that island reached the highest levels ever recorded for island foxes, and (4) necropsy results have found few adults worms in the hearts of island foxes and no evidence of heartworm disease (Roemer 1999). However, heartworm may have contributed to mortality in older foxes (Roemer *et al.* in press), exacerbating the conservation crisis for the island fox.

Necropsies performed at the University of California at Davis have detected an unusually high degree of thyroid atrophy (characterized by a complete absence of colloid in the thyroid gland) in island foxes from San Clemente, Santa Catalina, San Nicolas, and San Miguel islands (L. Munson, pers. comm. 2001). The cause of thyroid atrophy in island foxes has yet to be investigated; thyroid atrophy in other species has been linked to high levels of polychlorinated biphenyl (PCBs). It is unclear how thyroid atrophy is affecting fox populations (L. Munson, pers. comm. 2001). Pathology work on 89 foxes has also detected an increased prevalence of emaciation (20 percent pre-1994; 47 percent post-1994); it is unknown why increased emaciation has occurred.

Island foxes held in captivity are likely to be exposed to increased parasite loads due to artificial densities and unnaturally low mobility. On San Miguel Island, captive island foxes have been found to have high parasite loads of *Angiocaulus* spp., *Spirocerca* spp., and *Uncinaria* spp. (L. Munson, unpublished data). These parasites, thought to have had minor effects on the population in the past (see Coonan *et al.* in review), may have significant effects on individual fox health due to the facilitation of their spread and density by the captive breeding situation. For example, fox handlers have noticed high incidence of rectal bleeding in the captive San Miguel population, likely due to *Uncinaria* (a type of hookworm). Hookworms feed on the inner lining of the small intestine and cause loss of blood or hemorrhaging to the host, sometimes to the point of severe anemia and death. The NPS is working to address this threat by developing a

treatment process for hookworm in coordination with the veterinary team of the Island Fox Conservation Working Group. Captive breeding programs to facilitate recovery are planned to continue for these four island fox subspecies. Therefore, exposure to increased parasitic loads will continue to be a threat.

D. The Inadequacy of Existing Regulatory Mechanisms

The primary causes of the decline of the island fox are the degradation of habitat by introduced herbivores, unprecedented predation by golden eagles, and the rapid transmission of canine distemper through the Santa Catalina subspecies. Federal, State and local laws have not been sufficient to prevent past and ongoing losses of island foxes.

In 1971, the State of California listed the island fox as State-rare (a designation later changed to threatened), which means that it may not be taken without a special (*i.e.*, scientific collecting) permit (CRC, Title 14, Section 41) or an incidental take permit issued pursuant to section 2081 of the California Endangered Species Act. However, this protection applies generally only to actual possession or intentional killing of individual animals, or actual death of individual animals incidental to otherwise lawful activity, and may afford little or no protection to habitat. State law does not require Federal agencies to avoid or compensate for impacts to the island fox and its habitat. There are currently no State regulatory mechanisms designed to protect island foxes on federally managed lands, including San Miguel, Santa Rosa, and Santa Cruz islands.

Federal law governs the management of NPS and Navy lands, including the National Environmental Policy Act (NEPA), the Endangered Species Act, the National Park Service Organic Act, and the Marine Mammal Protection Act. Many federally listed plant and animals species, including 14 listed plants, the brown pelican (*Pelecanus occidentalis*), the southern sea otter (*Enhydra lutris nereis*), the island night lizard (*Xantusia riversiana*), and the western snowy plover (*Charadrius alexandrinus nivosus*), occur on the Channel Islands. NPS management is further dictated by Department of the Interior policies and NPS policies and guidelines, including NPS guidelines for natural resources management (NPS 1991), and the Channel Islands National Park Management Plan (NPS 1985). Both the NPS and the Navy have adequate authority to manage the land and activities under their administration to benefit the welfare of the island fox. The NPS developed a draft recovery plan for island foxes on the northern Channel Islands to guide their recovery options. Steps are being taken to eliminate feral pigs on Santa Cruz Island and decrease predation pressure on island foxes by relocating golden eagles from the northern Channel Islands. However, in some cases because of conflicting management concerns, other priorities, and lack of funding, conservation efforts are not proceeding as quickly as necessary. In addition to removing golden eagles, their feral pig prey base must be removed to prevent golden eagles from recolonizing the islands.

San Miguel Island is under the jurisdiction of the Navy, but the NPS assists in managing the natural, historic, and scientific values of San Miguel Island through a Memorandum of Agreement (MOA) originally signed in 1963, an amendment signed in 1976, and a supplemental Interagency Agreement (IA) signed in 1985. The MOA states that the "paramount use of the islands and their environs shall be for the purpose of a missile test range, and all activities conducted by or in behalf of the Department of the Interior on such islands, shall recognize the priority of such use" (Navy 1963). In addition to San Miguel, Santa Cruz and Santa Rosa lie wholly within the Navy's Pacific Missile Test Center (PMTC) Sea Test Range. The 1985 IA provides for PMTC to have access and use of portions of those islands, for expeditious processing of any necessary permits by NPS, and for mitigation of damage of park resources from any such activity (Navy 1985). Should the Navy no longer require use of the islands, NPS would seek authorization for the islands to be preserved and protected as units within the NPS system (Navy 1976). To date, conflicts concerning protection of sensitive resources on San Miguel Island have not occurred. However, if the Navy were to resume use of San Miguel Island, there are no mechanisms in place to protect the island fox.

On islands managed by Federal agencies, prohibitions against bringing domestic pets to the islands exist. These prohibitions are difficult to enforce and violations are known to occur. Boaters have been observed bringing pets onshore to all three northern Channel Islands with island fox populations. On Santa Catalina Island, health certificates or quarantines are not necessary to bring domestic pets to the islands, exposing island foxes to increased risk of disease. On Santa Rosa Island, a ranching enterprise operating under a special use permit from the NPS is allowed to have ranch dogs on the island provided that the dogs have proof of vaccination in compliance with Santa Barbara County regulations, which requires only rabies shots.

Federal protection of golden eagles by the Bald and Golden Eagle Protection Act of 1962, as amended, has increased the golden eagle population on mainland California (B. Walton, pers. comm. 2000). As a result, golden eagles have expanded their range in order to establish breeding territories. The protections afforded golden eagles limit management alternatives to protect island foxes. Lethal removal of golden eagles would require a depredation permit from the Service. Such a permit would allow golden eagles to be taken by firearms, traps, or other suitable means except by poison or from aircraft (50 CFR 22.23). The regulatory restrictions on taking golden eagles limit the effectiveness of golden eagle removal, as the very steep topography on Santa Cruz Island makes lethal removal of golden eagles from the ground unfeasible.

California State law (Food and Agricultural Code 31752.5) prohibits lethal control of feral cats unless cats are held for a minimum of six days. This law prevents the Catalina Island Conservancy from taking steps to eradicate feral cats on the island, as it does not have adequate facilities to hold cats (see Factor E).

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Several other factors, including competition from introduced species and stochastic environmental factors, may have negative effects on island foxes and their habitats.

Competition with feral cats. CDFG, in recommending the retention of the threatened classification of the island fox under State law, cited competition with feral cats on Santa Catalina, San Nicolas, and San Clemente islands (CDFG 1987). The effects of cats on island foxes are unknown and may differ among islands. Feral cats outweigh island fox by an average of 2 to 1 and may negatively affect island foxes by direct aggression, predation on young, disease transmission, and competition for food resources (Laughrin 1978). Island fox population decreases on San Nicolas Island were accompanied by a concomitant increase in feral cat populations (Laughrin 1978). The presence of feral cats increases the risk of a transfer of infectious disease to island foxes (Roelke-Parker *et al.* 1996). Feral cats have been found to displace island foxes from habitats on San Nicolas Island (Kovach and Dow 1985).

As has been seen on San Nicolas and San Clemente islands, feral cats are extremely difficult to eradicate, requiring ongoing yearly programs to keep numbers controlled (Phillips and Schmidt 1997). No feral cat control exists on Santa Catalina Island due to local ordinances and resistance to lethal control from the residents of the island.

Lack of genetic variability. As a population becomes genetically homogenous, its susceptibility to disease, parasites, and extinction increases (O'Brien and Evermann 1988) and its ability to evolve and adapt to environmental change is diminished (Templeton 1994). The four island fox subspecies that have suffered large population declines could be at risk of having reduced genetic variability. Such population or demographic "bottlenecks" may result in reductions in genetic variation, depending on the size of the bottleneck and the growth rate of the population afterward (Meffe and Carroll 1997). In fact, at least one previously variable microsatellite locus is now fixed (i.e., one DNA marker no longer exhibits any genetic variability) in the San Miguel Island captive population following the decline (Gray *et al.* 2001). The San Nicolas Island fox has an unusually low degree of genetic variability (Gilbert *et al.* 1990; Wayne *et al.* 1991a; Goldstein *et al.* 1999), which may have been due to a major historical bottleneck (Gilbert *et al.* 1990). A lack of genetic variability can correspond to a reduced resistance to disease or physical abnormalities due to inbreeding. Due to the low numbers of individuals in the captive breeding programs and the lack of wild populations on San Miguel and Santa Rosa Islands, the lack of genetic variability threatens the island foxes from these islands.

Stochastic environmental and population factors. Island endemic species have high extinction risk due to isolation and small population sizes (MacArthur and Wilson 1967). Because the island fox is restricted to small islands, it is more subject to the effects of environmental perturbations and decline of birth rates due to low densities (*i.e.*, Allee effects; Allee 1931) than species occurring on the mainland. Reduced population size exposes the island fox to both catastrophic environmental events (*e.g.*, drought, wildfire, or disease) and demographic factors (*e.g.*, skewed sex ratios) that could cause or hasten extinction. Wildfires could affect island foxes by reducing food availability, altering vegetation or resulting in the death of individual foxes (especially pups during the denning season). On San Miguel and Santa Rosa islands, which no longer have wild populations, the concentration of all island foxes into small geographic areas increases the vulnerability of these subspecies to disease outbreaks. The extremely small island fox population sizes on San Miguel, Santa Rosa and Santa Cruz islands puts those populations at risk of extinction due to demographic factors as well. For example, 4 of the 14 original island foxes brought into the captive propagation program on San Miguel Island were male. Skewed sex ratios may hinder recovery efforts for the species, because island foxes typically form long-standing pair bonds and unpaired females have never been recorded to raise a litter.

Road mortalities. The fearless nature of island foxes, coupled with relatively high vehicle traffic on the southern Channel Islands, results in a number of vehicle collisions each year on islands with human populations (Wilson 1976; Garcelon 1999; G. Smith, unpublished data). For example, on San Nicolas Island where vehicle collisions are the largest documented mortality source, an average of 13 fox carcasses attributed to vehicle collisions are recovered each year (G. Smith, unpublished data). On San Clemente Island, vehicle strikes claimed a minimum of 26 foxes between the years 1991 and 1995 (Garcelon 1999), while in earlier times, Wilson (1976) estimated that approximately 25 island foxes were killed each year. Although no records have been kept, vehicle collisions on Santa Catalina Island likely cause a number of deaths comparable to San Nicolas and San Clemente Islands. Vehicle collisions on the northern Channel Islands are uncommon due to low traffic volume and the rough unpaved nature of most roads.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these taxa in determining to propose this rule. The precipitous declines of all four island fox subspecies addressed in this rule are due to the indirect and direct effects of the introduction of non-native mammals on all islands. Other threats include disease and competition from feral cats, road mortality on Santa Catalina Island, and natural events which could diminish or destroy the small extant populations. Existing regulatory mechanisms are inadequate to protect these taxa. Based on our evaluation, the preferred action is to list the San Miguel Island fox, Santa Cruz Island fox, Santa Rosa Island fox, and Santa Catalina Island fox as endangered.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection and, (ii) specific areas outside the geographical area occupied by a species at the time it is listed in accordance with the provisions of section 4 of the Act, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1) state that the designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

In the case of these subspecies, designation of critical habitat would not be expected to increase the threats to the subspecies and may provide some benefits. The primary regulatory effect of critical habitat is the section 7 requirement that agencies refrain from taking any action that destroys or adversely modifies critical habitat. While a critical habitat designation for habitat currently occupied by this species would not be likely to change the section 7 consultation outcome because an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, there may be instances where section 7 consultation would be triggered only if critical habitat is designated. Examples could include unoccupied habitat or occupied habitat that may become unoccupied in the future. Designating critical habitat may also produce some educational or informational benefits. Therefore, designation of critical habitat is prudent for the San Miguel, Santa Rosa, Santa Cruz, and San Clemente Island foxes.

However, our budget for listing activities is currently insufficient to allow us to immediately complete all the listing actions required by the Act. Listing these four island fox subspecies without designation of critical habitat will allow us to concentrate our limited resources on higher priority critical habitat and other listing actions, while allowing us to put in place protections needed for the conservation of these island fox subspecies without further delay. This is consistent with section 4(b)(6)(C)(i) of the Act, which states that final listing decisions may be issued without critical habitat designations when it is essential that such determinations be promptly published. We will prepare a critical habitat designation in the future at such time when our available resources allow it.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages public awareness and results in conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Funding may be available through section 6 of the Act for the State to conduct recovery activities. The protection required of Federal agencies and the prohibitions against certain activities involving listed animals are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service, under section 7(a)(2) of the Act. San Miguel and Santa Rosa islands are entirely federally owned and managed. Although 75 percent of Santa Cruz Island is owned by The Nature Conservancy, the entire island lies within the Channel Islands National Park and Channel Islands National Marine Sanctuary, and The Nature Conservancy and the NPS coordinate many of the resource management activities occurring on the island. Santa Catalina Island is the only island fox locality that does not have substantial Federal involvement. Federal agency actions that may affect the San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina island foxes and may require conference and/or consultation with us include, but are not limited to, those within the jurisdiction of the U.S. Army Corps of Engineers, the Navy, the NPS, and the National Oceanic and Atmospheric Administration.

The listing of the San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina island foxes as endangered would provide for the development and implementation of a recovery plan for these taxa. Such a plan will bring together Federal, State, and local efforts for the conservation of these taxa. The plan will establish a framework for agencies to coordinate activities and to cooperate with each other in conservation efforts. The plan will set recovery priorities and estimate the costs of the tasks necessary to accomplish the priorities. It will also describe site-specific management actions necessary to achieve the conservation of the San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina island foxes. Additionally, pursuant to section 6 of the Act, we would be able to grant funds to the State for management actions promoting the protection and recovery of the San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina island foxes.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.21 for endangered species, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Further, it is illegal for any person to attempt to commit, to solicit another person to commit, or to cause to be committed, any of these acts. Certain exceptions apply to our agents and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in the course of otherwise lawful activities. Permits are also available for zoological exhibitions, educational purposes, or special purposes consistent with the purposes of the Act. Requests for copies of the regulations on listed species and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 NE 11th Avenue, Portland, Oregon 97232–4181 (503/231–2063, facsimile 503/231–6243).

As published in the **Federal Register** on July 1, 1994 (59 FR 34272), it is our policy to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the species' range.

We believe that, based on the best available information, the following actions are not likely to result in a violation of section 9, provided these activities are carried out in accordance with existing regulations and permit requirements:

(1) Possession, delivery, or movement, including interstate transport and import into or export from the United States, involving no commercial activity, of dead specimens of these taxa that were collected prior to the date of publication in the **Federal Register** of a final regulation adding these taxa to the list of endangered species;

(2) Actions that may affect the San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island foxes that are authorized, funded, or carried out by a Federal agency, when the action is conducted in accordance with an incidental take statement issued by us under section 7 of the Act;

(3) Actions that may affect the Santa Cruz or Santa Catalina island foxes that are not authorized, funded, or carried out by a Federal agency, when the action is conducted in accordance with

an incidental take permit issued by us under section 10(a)(1)(B) of the Act. To obtain a permit, an applicant must develop a habitat conservation plan and apply for an incidental take permit that minimizes and mitigates impacts to the species to the maximum extent practicable; and

(4) Actions that may affect the San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island foxes that are conducted in accordance with the conditions of a section 10(a)(1)(A) permit for scientific research or to enhance the propagation or survival of the species.

We believe that the following actions could result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Unauthorized collecting, trapping, capturing, killing, harassing, sale, delivery, or movement, including interstate, and foreign commerce, or harming, or attempting any of these actions, of San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island foxes without a permit (research activities where San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island foxes are trapped or captured will require a permit under section 10(a)(1)(A) of the Endangered Species Act);

(2) The transportation of unvaccinated domestic animals, which transmit diseases or parasites to island foxes causing serious injury or death on the San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina islands;

(3) Destruction or alteration of occupied habitat of the San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island foxes (e.g., excavating, compacting, grading, discing, or removing soil or vegetation);

(4) Destruction or alteration of San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island fox dens, even when seasonally unoccupied when the destruction results in irreparable harm; and

(5) Discharges or dumping of toxic chemicals, or other pollutants into San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island fox habitat, including dens or burrows, that results in death or injury of the species or that results in degradation of their occupied habitat.

Questions regarding whether specific activities would constitute a violation of section 9 should be directed to our Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial, trade, or other relevant data concerning any threat (or lack thereof) to San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island foxes;

(2) The reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act;

(3) Additional information concerning the essential habitat features (biotic and abiotic), range, distribution, and population size of these taxa; and

(4) Current or planned activities in the subject area and their possible impacts on these taxa.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods, as listed above in **ADDRESSES.** If you submit comments by e-mail, please submit comments as an ASCII file format and avoid the use of special characters and encryption. Please include "Attn: [RIN 1018–AI28]" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Ventura Fish and Wildlife Office at phone number 805/644–1766. Please note that this e-mail address will be closed out at the termination of the public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Commenters may request that we withhold their home address, which we will honor to the extent allowable by law. In some circumstances, we may also withhold a commenter's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

You may request a public hearing on this proposal. Your request for a hearing must be made in writing and filed within 45 days of the date of publication of the proposal in the **Federal Register**. Address your requests to the Field Supervisor (see **ADDRESSES** section).

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will seek expert opinions of at least three appropriate independent specialists regarding this proposed rule. The purpose of such review is to ensure listing decisions are based on scientifically sound data, assumptions, and analysis. We will send copies of this proposed rule immediately following publication in the **Federal Register** to these peer reviewers. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

Executive Order 12866

Executive Order 12866 requires agencies to write regulations that are easy to understand. We invite your comments on how to make this proposal easier to understand including answers to questions such as the following: (1) Is the discussion in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposal? (2) Does the proposal contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposal (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? What else could we do to make the proposal easier to understand?

National Environmental Policy Act

We have determined that an environmental impact statement and environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any information collection requirements for which Office of Management and Budget (OMB) approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is required. Any information collection related to the rule pertaining to permits for endangered and threatened species has

OMB approval and is assigned clearance number 1018–0094. This rule does not alter that information collection requirement. For additional information concerning permits and associated requirements for endangered wildlife species, see 50 CFR 17.22.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

References Cited

A complete list of all references cited herein is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this proposed rule is Bridget Fahey, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we hereby propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.11(h) is amended by adding the following, in alphabetical order under MAMMALS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*	*	
Fox, San Miguel Island.	*Urocyon littoralis littoralis.*	U.S.A., CA	U.S.A., CA	E	.....	NA	NA
Fox, Santa Catalina Island.	*Urocyon littoralis catalinae.*	U.S.A., CA	U.S.A., CA	E	.....	NA	NA
Fox, Santa Cruz Island.	*Urocyon littoralis santacruzae.*	U.S.A., CA	U.S.A., CA	E	.....	NA	NA
Fox, Santa Rosa Island.	*Urocyon littoralis santarosae.*	U.S.A., CA	U.S.A., CA	E	.....	NA	NA
*	*	*	*	*	*	*	

Dated: November 29, 2001.

Marshall P. Jones, Jr.,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 01–30188 Filed 12–7–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 20 and 21

RIN 1018–AI07

Migratory Bird Hunting and Permits; Regulations for Managing Harvest of Light Goose Populations; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is extending the comment period on a proposed rule published in the **Federal Register** on October 12, 2001. The rule would implement our preferred alternative identified in a Draft Environmental Impact Statement (DEIS) on light goose management. The rule would authorize new methods of take for light goose hunting. In addition, the rule would revise the regulations for the management of overabundant light goose populations and modifies the conservation order that will increase take of such populations.

DATES: Written comments on the proposed rule must be received on or before January 25, 2002.

ADDRESSES: Comments on the proposed rule should be mailed to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street NW., Washington, DC 20240. Requests for copies of the DEIS should be mailed to the above address. Copies of the DEIS can be downloaded from the Division of Migratory Bird Management web site at *http://migratorybirds.fws.gov/issues/snowgse/tblcont.html*. Comments on the DEIS should be sent to the above address. Alternatively, comments may be submitted electronically to the following address: *white_goose_eis@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Jon Andrew, Chief, Division of Migratory Bird Management, (703) 358–1714.

SUPPLEMENTARY INFORMATION: On September 28, 2001 (66 FR 49668), and October 5, 2001 (66 FR 51274), notices were published in the **Federal Register** announcing the availability of our DEIS on light goose management. The DEIS evaluates four management alternatives to address habitat destruction and agricultural depredations caused by light geese on various breeding, migration, and wintering areas: (1) No Action or a continuation to manage light goose populations through existing wildlife management policies and practices (Alternative A); (2) modify harvest regulation options and refuge management (Alternative B) (PREFERRED); (3) implement direct agency control of light goose populations on migration and wintering

areas in the U.S. (Alternative C); (4) seek direct light goose population control on breeding grounds in Canada (Alternative D). Our preferred alternative (Alternative B) modifies existing light goose hunting regulations to expand methods of take during normal hunting season frameworks. In addition, we propose to create a conservation order to allow take of light geese outside of normal hunting season frameworks. On October 12, 2001 (66 FR 52077) we published a proposed rule in the **Federal Register** that would implement our preferred alternative. On November 7, 2001 (66 FR 56266) we published a correction in the **Federal Register** that added New Jersey to the list of States eligible to implement special light goose regulations. We inadvertently omitted New Jersey from the list of States contained in the proposed rule.

We have received a request to extend the comment period on the DEIS. The Service invites careful consideration by all parties, and welcomes serious scrutiny from those committed to the long-term conservation of migratory birds. Therefore, to facilitate substantive public review, we are also extending the comment period on the proposed rule from December 11, 2001, to January 25, 2002. Extension of the comment period on the DEIS is made through a separate notice in this issue of the **Federal Register**.

In order to be considered, electronic submission of comments must include your name and postal mailing address; we will not consider anonymous comments. All comments received, including names and addresses, will become part of the public record. The public may inspect comments during normal business hours in Room 634—Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's National Environmental Policy Act regulations [40 CFR 1506.6(f)]. Our practice is to make comments available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If a respondent wishes us to withhold his/her name and/or address, this must be stated prominently at the beginning of the comment.

Dated: November 21, 2001.

Joseph E. Doddridge,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–30411 Filed 12–7–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 112701C]

Fisheries of the Northeastern United States; Northeast Monkfish Fishery; Scoping Process

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of intent to prepare a Supplemental Environmental Impact Statement (SEIS) and notice of scoping process; request for comments.

SUMMARY: The New England and Mid-Atlantic Fishery Management Councils (Councils) announce their intent to prepare Amendment 2 to the Monkfish Fishery Management Plan (FMP) and to prepare an SEIS in accordance with the National Environmental Policy Act (NEPA) to analyze the impacts of any proposed management measures on the human environment. The Councils, with New England Council having the lead authority, jointly manage the fishery. The amendment would be developed pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Councils also formally announce the initiation of a public process to determine the scope of issues to be addressed in the environmental impact statement (EIS). The purpose of this notice is to alert the interested public of the scoping process and to provide for public participation in compliance with NEPA.

DATES: The Councils will discuss and take scoping comments at public meetings in January and February 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times. Written scoping comments must be received on or before 5 p.m. local time, February 11, 2002.

ADDRESSES: Written comments and requests for copies of the scoping document and other information should be directed to Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA, 01950, Telephone (978) 465–0492. Comments may also be submitted via facsimile (fax) to (978) 465–3116. Comments and requests for information should be marked "Monkfish Amendment 2." The Council will not accept unsigned faxes or comments by email.

FOR FURTHER INFORMATION CONTACT: Contact Paul J. Howard, Executive Director, telephone (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Background

The FMP, implemented November 8, 1999 (64 CFR 54732, October 7, 1999), contains management programs for the Northern and Southern Fishery Management Areas (NFMA and SFMA, respectively) based on incremental reductions in fishing mortality rates to stop overfishing and rebuild monkfish stocks by 2009. The FMP calls for elimination of the directed fishery for monkfish in Year 4, starting May 1, 2002, unless a plan review during Year 3 indicates that the Councils should use another management measure. The 31st Northeast Regional stock Assessment Workshop SAW 31) conducted by NMFS in 2000 concluded that the current proxy-based biological reference points on which the plan is based are unreliable, and that current fishing mortality rates could not be reliably estimated. Based on this assessment, the Councils are considering a 1-year delay in the Year 4 default measures.

A new assessment, scheduled for January, 2002 will address many of the issues raised at SAW 31, and incorporate data collected during a cooperative survey with the monkfish industry in the spring of 2001. The Councils intend to consider this new scientific information and take appropriate action to modify the FMP so that the goal of rebuilding the stocks can be achieved by 2009.

In addition, while the Councils were developing the original Monkfish FMP, a new fishery for monkfish emerged in the waters south of the North Carolina/Virginia border. Some vessels from that area began participating in the fishery shortly after publication of a notice of control date for limited entry into the Atlantic monkfish fishery on February 27, 1995 (60 FR 10574). These vessels did not hold any northeast fishery permits and, therefore, did not receive timely notice of the actions related to the monkfish fishery being considered by the Councils. Although the management unit for the FMP was initially defined as ending at the North Carolina/Virginia border, which would have excluded those vessels from the FMP provisions, the boundary was

shifted southward (to the North Carolina/South Carolina border) during the development of the FMP. Meanwhile, the public hearing document mistakenly retained the original management unit definition with the North Carolina/Virginia boundary as its Southern border. As a result of the circumstances described above, a number of vessels failed to qualify for limited access permits. Because of some confusion regarding the correct southern boundary line, the Councils are considering options for addressing this issue in Amendment 2.

Third, in response to a U.S. District Court Order (*AOC* v. *Daley*, September 14, 2000), NMFS and the Councils are re-evaluating the essential fish habitat (EFH) components of the FMP. NMFS has already initiated scoping on this matter (66 FR 46979, September 10, 2001) and the Councils will consider scoping comments submitted in that process when preparing Amendment 2. NMFS and the Councils will jointly develop EFH analysis and management alternatives to minimize adverse effects of fishing activities on EFH for consideration in the FMP.

Scoping Process

The public will have an opportunity to provide oral comments at the January meetings of the Councils and may submit written comments through February 11, 2002 (see **DATES** and **ADDRESSES**). The New England Council meeting is scheduled for January 15-17, 2002 at the Courtyard by Marriott, Portsmouth, NH and the Mid-Atlantic Council meeting for January 29-31 at the Meadowlands Plaza Hotel, Secaucus, NJ. The Councils will notify the public of the specific times on the agendas where the public scoping comments will be heard when those agendas are finalized.

All persons affected by, or otherwise interested in monkfish fisheries management, are invited and encouraged to participate in this process, and to assist the Councils in developing the scope of issues to be considered and alternatives to be analyzed in the SEIS. The Councils will also use the scoping process to identify and eliminate from consideration issues that are not significant.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 4, 2001.

Valerie L. Chambers,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–30464 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 237
Monday, December 10, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Request for Extension of a Currently Approved Information Collection

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intent of the Farm Service Agency (FSA) to request an extension of currently approved information collection for a regulation used in support of the FSA Farm Loan Programs (FLP). This renewal does not involve any revisions to the program rules.

DATES: Comments on this notice must be received on or before February 8, 2002 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Michael Cumpton, Senior Loan Officer, USDA, Farm Service Agency, Farm Loan Programs, Loan Servicing Division, 1400 Independence Avenue, SW., STOP 0523, Washington, DC 20250–0523; Telephone (202) 690–4014; Electronic mail: *mike.cumpton@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: (7 CFR 1965–A) Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases.

OMB Control Number: 0560–0158.

Expiration Date: Jan. 31, 2002.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: This regulation promulgates provisions of sections 331 and 335 of the Consolidated Farm and Rural Development Act (Act) (7 U.S.C. Secs. 1981 and 1985). Section 331 of the Act, in part, authorizes the Secretary of Agriculture to modify, subordinate and release terms of security instruments, leases, contracts, and agreements entered into by FSA. That section also authorizes transfers of security property as the Secretary deems necessary to carry out the purpose of the loan or protect the Government's financial interest. Section 335 of the Act provides servicing authority for real estate security, operation or lease of realty, disposition of property, conveyance of real property interests of the United States, including dispositions for easements and rights of way. The information collection required by this subpart relates to a program benefit recipient or loan borrower requesting action on security which they own which has been mortgaged to the Agency to secure a Government loan. The information to be collected will primarily be financial data not already on file, such as borrower asset values.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .42 hours per response.

Respondents: Individuals or households, businesses or other for profit farming entities.

Estimated Number of Respondents: 15,246.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 6,436 hours.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. These comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Michael Cumpton, Senior Loan Officer, USDA, FSA, Farm Loan Programs, Loan Servicing Division, 1400 Independence Avenue, SW., STOP 0523, Washington, DC 20250–0523.

Comments will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

Signed in Washington, DC, on November 20, 2001.

John W. Williams,

Acting Administrator, Farm Service Agency.

[FR Doc. 01–30392 Filed 12–7–01; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 01–038N]

Codex Alimentarius: Meeting of the Codex Committee on Meat and Poultry Hygiene

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting, request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), is sponsoring a public meeting on December 12, 2001, to provide information and receive public comments on agenda items that will be discussed at the Eighth Session of the Codex Committee on Meat and Poultry Hygiene, which will be held in Wellington, New Zealand, on February 18–22, 2002. The Under Secretary recognizes the importance of providing interested parties with information about the Codex Committee on Meat and Poultry Hygiene of the Codex Alimentarius Commission and to address items on the Agenda for the 8th Session of the Committee.

DATES: The public meeting is scheduled for Wednesday, December 12, 2001, from 9 a.m. to 12 p.m.

ADDRESSES: The public meeting will be held at the Washington Plaza Hotel in the Diplomat Room, 10 Thomas Circle, Washington, DC.

To receive copies of the documents referenced in the notice contact the FSIS Docket Room, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web

at the following address: *http://www.codexalimentarius.net/agend.htm.*

If you have comments, please send an original and two copies to the FSIS Docket Room at the address above and reference Docket 01–038N and the document number. All comments submitted will be available for public inspection in the Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, Phone: (202) 205–7760, Fax: (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, USDA, FDA, and EPA manage and carry out U.S. Codex activities.

The Codex Executive Committee (CEC), at its 47th Session in 2000, asked that the Codex Committee on Meat Hygiene reconvene to redraft the existing codes on meat hygiene so that they reflect contemporary developments. The CEC also asked that the scope of the existing codes include poultry hygiene. These recommendations were confirmed by the 24th Session of the Codex Alimentarius Commission in July 2001, and it was agreed that the name of the Committee would be amended to the Codex Committee on Meat and Poultry Hygiene (CCMPH).

Issues To Be Discussed at the Public Meeting

The provisional agenda items to be discussed during the public meeting are:

—Proposed Draft General Principles of Meat Hygiene

—Proposed Draft Code of Hygienic Practice for Fresh Meat

Public Meeting

At the December 10th public meeting, the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments should state that they relate to activities of the 8th Session of the Codex Committee on Meat and Poultry Hygiene.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could effect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience.

For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 01–30393 Filed 12–7–01; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Hackberry Draw Watershed, Eddy County, NM

AGENCY: Natural Resources Conservation Service

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Rules (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the rehabilitation of two dams (Sites 1 and 2) and a floodwater diversion (FD–1) in the Hackberry Draw Watershed.

FOR FURTHER INFORMATION CONTACT: Rosendo Treviño III; State Conservationist; Natural Resources Conservation Service; 6200 Jefferson, NE; Albuquerque, NM 87109–3734; telephone 505–761–4400.

SUPPLEMENTARY INFORMATION: The environmental assessment (EA) of this federally assisted action indicates that the project will not cause significant local, regional, or national effects on the human environment. As a result of these findings, Rosendo Treviño III, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is flood damage prevention. The action includes the rehabilitation of two floodwater retarding dams and one floodwater diversion. The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency; various Federal, state, and local agencies; and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address. Basic data developed during the EA are on file and may be reviewed by contacting Rosendo Treviño III. No administrative action on implementation of the proposed action will be taken until 30 days after the date of this publication in the **Federal Register**.

Rosendo Treviño III,

State Conservationist.

[FR Doc. 01–30398 Filed 12–7–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Georgia Transmission Corporation; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from Georgia Transmission Corporation for assistance from the RUS to finance the

construction of a 230 kV transmission line in Mitchell County, Georgia.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–0468, fax (202) 720–0820, e-mail at *bquigel@rus.usda.gov*.

SUPPLEMENTARY INFORMATION: No comments were received by RUS via e-mail or telephone during the 30-day comment period, which closed on November 5, 2001. However, mail service to the U.S. Department of Agriculture has been disrupted during the comment period due to screening of mail for potential anthrax contamination. Any person that sent written comments on the environmental assessment through the U.S. Postal Service to RUS during the comment period should contact RUS at the telephone number listed above within 5 working days of this notice to ensure their comments are considered prior to project construction. Should RUS conclude that any written comments that may have been submitted during the official comment period warrant further review and would cause reconsideration of RUS' decision, the public would be so notified. Otherwise, this FONSI notice will serve as the final public notice of this project.

The project is to be named the Raccoon Creek Transmission Line. Georgia Transmission Corporation proposes to construct the 230 kV electric transmission line south of Albany, Georgia, in Mitchell County. The approximate length of the transmission line is 6 miles. It will traverse between Plant Mitchell located west of Route 19 near the Dougherty/Mitchell County line to the 500/230 kV Raccoon Creek Substation which is currently under development near the intersection of Jackson Darry Road and Stagecoach Road.

Copies of the FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Mr. John Lasseter, Georgia Transmission Corporation, 2100 East Exchange Place, Tucker, Georgia 30085–2088, telephone (770) 270–7710. Mr. Lasseter's e-mail address is *john.lasseter@gatrans.com*.

Dated: December 4, 2001.

Alfred Rodgers,

Acting Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 01–30453 Filed 12–7–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Georgia Transmission Corporation; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from Georgia Transmission Corporation for assistance from the RUS to finance the construction of a 230 kV transmission line and a 230/25 kV substation in Hall County, Georgia.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–0468, fax (202) 720–0820, e-mail at *bquigel@rus.usda.gov*.

SUPPLEMENTARY INFORMATION: No comments were received by RUS via e-mail or telephone during the 30-day comment period, which closed on November 23, 2001. However, mail service to the U.S. Department of Agriculture has been disrupted during the comment period due to screening of mail for potential anthrax contamination. Any person that sent written comments on the environmental assessment through the U.S. Postal Service to RUS during the comment period should contact RUS at the telephone number listed above within 5 working days of this notice to ensure their comments are considered prior to project construction. Should RUS conclude that any written comments that may have been submitted during the official comment period warrant further review and would cause reconsideration of RUS' decision, the public would be so notified. Otherwise, this FONSI notice will serve as the final public notice of this project.

The transmission line will tap off of the existing 230 kV Gainesville #2—Winder transmission line at a point approximately ½ mile southeast of the junction of Lee Land Road and Webb Girth Road. The transmission line will traverse approximately 8.25 miles in a southwesterly direction paralleling Georgia Power Company's 500 kV Norcross-Oconee transmission line to the proposed 230/25 kV Spout Spring Substation which is to be located approximately 2000 feet east of the intersection of Williams Road and Spout Springs Road. The transmission line and substation would require virtually no clearing or major earth movement activities. The transmission line support structures will be between 60 and 80 feet tall. The substation will require 2.25 acres.

Copies of the FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Ms. Wende Martin, Georgia Transmission Corporation, 2100 East Exchange Place, Tucker, Georgia 30085–2088, telephone (770) 270–7591. Ms. Martin's e-mail address is *wende.martin@gatrans.com*.

Dated: December 4, 2001.

Alfred Rodgers,

Acting Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 01–30454 Filed 12–7–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Honey From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of antidumping duty order and amendment to final determination.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Angelica Mendoza, Charles Rast, or Donna Kinsella at (202) 482–3019, (202) 482–1324, or (202) 482–0194, respectively; Antidumping and Countervailing Duty Enforcement Group III, Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce (Department) regulations are to the regulations codified at 19 CFR part 351 (April 2000).

Scope of Order

For purposes of this investigation, the products covered are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise subject to this investigation is currently classifiable under subheadings 0409.00.00, 1702.90.90, and 2106.90.99 of the harmonized tariff schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (Customs) purposes, the Department's written description of the merchandise under investigation is dispositive.

Amendment to the Final Determination

On September 26, 2001, the Department determined that honey from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act. *See Notice of Final Determination of Sales at Less Than Fair Value; Honey from the People's Republic of China*, 66 FR 50608 (October 4, 2001). On October 10, 2001, respondents Zhejiang Native Produce and Animal By-Products Import and Export Corporation (Zhejiang), Inner Mongolia Autonomous Region Native Produce and Animal By-Products Import and Export Corporation (Inner Mongolia), and Kunshan Foreign Trade Co., Ltd. (Kunshan), filed timely allegations that the Department made ministerial errors in the final determination. On October 15, 2001, petitioners filed timely comments in rebuttal to respondents' ministerial error allegations.

Section 735(e) of the Act defines a "ministerial error" to include "errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial." *See also* section 351.224(f) of the Department's regulations.

Comment 1: Zhejiang, Inner Mongolia, and Kunshan argue that the Department erred in its calculation of total raw honey costs by including the freight expenses associated with raw honey purchased during the period of investigation (POI). They argue that the Department should have included only the freight expenses associated with raw honey consumed in the production of processed honey during the POI.

Petitioners argue that, contrary to respondents' claims, the Department did in fact calculate raw honey expenses based on the freight costs associated with raw honey consumed in the production of processed honey during the POI.

Department's Position: We disagree with Zhejiang, Inner Mongolia, and Kunshan that our method of calculating inland freight for raw honey constitutes a ministerial error. Our computations for each respondent are shown in the final determination analysis memoranda. *See* Memorandum to the File from Fred Baker through Donna Kinsella, dated September 26, 2001 at Appendix V and Memoranda to the File from Angelica Mendoza through Donna Kinsella, dated September 26, 2001 at Appendix V. These memoranda show that we used both raw honey purchase volumes and raw honey consumption volumes in calculating the total raw honey inland freight costs. We used the volumes of raw honey *consumed* (column E) to represent the quantity to which freight costs should be attributed. We used the volumes of raw honey *purchased* (column C) as the basis for allocating a percentage of the total cost of inland freight to each individual supplier of raw honey. The volumes purchased from each supplier during the POI were the only supplier-specific volumes on the record, and were identified in the analysis memorandum for each company as the quantities we intended to use for allocation purposes.

Comment 2: Kunshan argues that the Department used an incorrect surrogate labor rate to calculate direct labor, indirect labor, and packing labor.

Department's Position: We agree. In the final determination, the Department calculated Kunshan's direct labor, indirect labor, and packing labor, using a standard country-wide rate from the Department's website, but from a country other than the PRC. We have corrected this error in this amended final determination.

We are amending the final determination of the antidumping duty investigation of honey from the PRC to reflect the correction of a ministerial error with respect to Kunshan. As a result of this correction the margin has also changed for the four cooperative respondents who were not selected as mandatory respondents but who were given separate rates. Those four respondents are High Hope, Shanghai Eswell, Anhui, and Henan. The revised final weighted-average dumping margins are shown below.

Antidumping Duty Order

On November 19, 2001, the U.S. International Trade Commission (the ITC) notified the Department of its final determination, pursuant to section 735(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of LTFV imports of subject merchandise from the PRC. In addition, the ITC made an affirmative determination that critical circumstances exist with respect to subject imports from the PRC for which the Department made affirmative critical circumstances determinations. In rendering its critical circumstances determination, we note that three ITC Commissioners found that critical circumstances exist with regard to such merchandise, and three Commissioners found that critical circumstances do not exist with regard to imports of subject merchandise from the PRC. Section 771(11) of the Act provides that-if the Commissioners voting on a determination "are evenly divided as to whether the determination should be affirmative or negative, the ITC shall be deemed to have made an affirmative determination." We consider that the tie-vote provision in section 771(11) applies to critical circumstances determinations.

We note that critical circumstances decisions are referred to as both "determinations" and "findings" in the statute. Moreover, while the legislative history will sometimes refer to the ITC's critical circumstances decisions as "findings" (*see, e.g.*, H.R. Rep. No. 96–317, at 69 (1979), these decisions are more often identified as "determinations." *See, e.g.*, S. Rep. No. 96–249, at 74 (1979); H.R. Rep. No. 103–826 (Part 1), at 50 (1994). Since the terms "findings" and "determinations" are used interchangeably in the statute and legislative history, the use of one or the other does not preclude the application of section 771(11) to the ITC's consideration of the critical circumstances issue.

Congress promulgated the critical circumstances provision in order "to provide prompt relief to domestic industries suffering from large volumes of, or a surge over a short period of, imports and to deter exporters whose merchandise is subject to an investigation from circumventing the intent of the law by increasing their exports to the United States during the period between initiation of an investigation and a preliminary determination by the [Department]." H.R. Rep. 96–317, at 63 (1979). In

amending the critical circumstances provisions in 1988, Congress developed "an improved critical circumstances procedure [that] will significantly strengthen antidumping and countervailing duty procedures by revitalizing a provision that has up to now been ineffective." H.R. Rep. No. 100–576, at 611 (1988). Considering this legislative history, we conclude that Congress did not intend to limit the availability of retroactive relief in cases such as this one to only those instances where two-thirds of the ITC votes to grant such relief. Moreover, as noted above, the ITC itself explicitly stated in its final injury determination that it made "an affirmative determination that critical circumstances exist with respect to subject imports from China for which Commerce made affirmative critical circumstances determinations." *See Honey from Argentina and China*, Inv. Nos. 701–TA–402 and 731–TA–892–893 (Final), USITC Pub., 3470 (November 19, 2001).

Therefore, for all the reasons discussed above, we consider the ITC to have made an affirmative critical circumstances determination. The Department's finding in this regard is consistent with the Department's treatment of this issue in previous critical circumstances cases involving tie votes at the ITC. *See Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms from the PRC*, 64 FR 8308 (February 19, 1999) and *Notice of Antidumping Order: Coumarin from the People's Republic of China*, 60 FR 7751 (February 9, 1995).

In accordance with section 736(a)(1) of the Act, the Department will direct Customs to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the subject merchandise exceeds the U.S. price of the subject merchandise for all relevant entries of honey from the PRC. These antidumping duties will be assessed on all unliquidated entries of honey from the PRC entered, or withdrawn from warehouse, for consumption on or after May 11, 2001, the date on which the Department published its notice of preliminary determination for this investigation in the **Federal Register**, except for subject merchandise exported by Kunshan, High Hope, Zhejiang, or other companies not specifically named below. For merchandise exported by Kunshan, High Hope, Zhejiang, or by other companies not specifically named below, we are directing the Customs Service to assess antidumping duties on all unliquidated entries of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after February 10, 2001, the date 90 days prior to the date of publication of the preliminary determination in the **Federal Register** (*see Notice of Preliminary Determination of Sales at Less Than Fair Value; Honey from the PRC*, 66 FR 24101, (May 11, 2001)), in accordance with the critical circumstances finding in the final determination.

On or after the date of publication of this notice in the **Federal Register**, Customs must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins noted below:

Exporter/Manufacture	Margin (percent)	Critical circumstances
Inner Mongolia	57.13	No.
Kunshan	49.60	Yes.
Zhejiang	25.88	Yes.
High Hope	45.46	Yes.
Shanghai Eswell	45.46	No.
Anhui	45.46	No.
Henan	45.46	No.
PRC-wide Entity	183.80	Yes.

The "PRC-wide" rate applies to all exporters in the PRC of subject merchandise not specifically listed above.

In accordance with section 735(c)(1)(B) of the Act, we are directing the United States Customs Service to continue suspending liquidation of all imports of the subject merchandise from the PRC. Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which normal value exceeds the export price as indicated in the chart above. These suspension-of-liquidation instructions will remain in effect until further notice.

This notice constitutes the antidumping duty order with respect to honey from the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of the antidumping duty orders currently in effect.

This determination and order are issued and published in accordance with sections 735(d), 736(a), and 777(i)(1) of the Act.

Dated: November 28, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–30468 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–812]

Notice of Antidumping Duty Order; Honey From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Antidumping Duty Orders.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Melissa Blackledge at (202) 482–3518 or Donna Kinsella at (202) 482–0194, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations: Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Tariff Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR part 351 (2000).

Scope of the Order

For purposes of this order, the products covered are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise subject to this order is currently classifiable under subheadings 0409.00.00, 1702.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (U.S. Customs) purposes, the Department's written description of the merchandise under investigation is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act, as amended, the Department made its final determination that honey from Argentina is being sold at less than fair value (*see Notice of Final Determination*

of Sales at Less Than Fair Value: Honey From Argentina, 66 FR 50611 (October 4, 2001)). On November 9, 2001, the Department issued an amended final determination (*see Notice of Amended Final Determination of Sales at Less Than Fair Value: Honey*, 66 FR 58434 (November 21, 2001)). On November 13, 2001, the International Trade Commission (the Commission) notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from Argentina.

In accordance with section 736(a)(1) of the Tariff Act, the Department will direct Customs officers to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of honey from Argentina. These antidumping duties will be assessed on all unliquidated entries of honey from Argentina entered, or withdrawn from warehouse, for consumption on or after May 11, 2001, the date on which the Department published its notice of preliminary determination in the **Federal Register** (66 FR 24108). Effective on the date of publication of the order, customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The "All Others" rate applies to all exporters of honey not specifically listed.

Article VI.5 of the General Agreement on Tariffs and Trade (GATT 1994) prohibits assessing antidumping duties on the portion of the margin attributable to an export subsidy. In this case, the product under investigation is subject to a countervailing duty investigation. *See Notice of Final Affirmative Countervailing Duty Determination: Honey from Argentina*, 66 FR 50613 (October 4, 2001). Therefore, for all entries of honey from Argentina entered, or withdrawn from warehouse, for consumption on or after the date on which the order in the companion countervailing duty investigation is published in the **Federal Register**, we will request for duty deposit purposes that the Customs Service deduct the portion of the margin attributable to export subsidies as determined in the countervailing duty investigation. The antidumping duty cash deposit rates, as adjusted for export subsidies, are as follows:

Producer/manufacturer/ exporter	Cash deposit rate (percent)
Asociacion Cooperativas Argentinas (ACA)	31.92
Radix S.R.L. (Radix)	27.04
ConAgra Argentina	55.15
All Others	30.24

This notice constitutes the antidumping duty order with respect to honey from Argentina. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Tariff Act.

Dated: November 30, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–30469 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–813]

Notice of Countervailing Duty Order: Honey From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn at (202) 482–4236, or Holly Hawkins at (202) 482–0414, Office of AD/CVD Enforcement VII, Group III, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930, as amended (the Act). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (2000).

Scope of Order

The merchandise subject to this investigation is natural honey, artificial honey containing more than 50 percent natural honeys by weight, preparations of natural honey containing more than 50 percent natural honeys by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, combs, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise subject to this investigation is currently classifiable under subheadings 0409.00.00, 1702.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (Customs) purposes, the Department's written description of the merchandise under investigation is dispositive.

Countervailing Duty Order

In accordance with section 705(d) of the Act, on October 4, 2001, the Department published in the **Federal Register** its final affirmative determination in the countervailing duty investigation of Honey from Argentina (66 FR 50613). On November 19, 2001, the International Trade Commission (ITC) notified the Department of its final determination, pursuant to section 705(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of imports of honey from Argentina.

Therefore, countervailing duties will be assessed on all unliquidated entries of honey from Argentina entered, or withdrawn from warehouse, for consumption on or after March 13, 2001, the date on which the Department published its preliminary countervailing duty determination in the **Federal Register**, and before July 11, 2001, the date that the Department instructed the U.S. Customs Service to terminate the suspension of liquidation in accordance with section 703(d) of the Act, and on all entries and withdrawals on or after the date of publication of this countervailing duty order in the **Federal Register**. Section 703(d) of the Act states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for longer than four months. Entries of honey made on or after July 11, 2001, and prior to the date of publication of this order in the **Federal Register** are not liable for the assessment of countervailing duties due to the Department's termination, effective July 11, 2001, of suspension of liquidation.

In accordance with section 706 of the Act, the Department will direct U.S. Customs officers to reinstate the suspension of liquidation effective the date of publication of this notice in the **Federal Register** and to assess, upon

further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the countervailable subsidy rate for the subject merchandise.

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the countervailable subsidy rate noted below. In accordance with section 777A(e)(2)(B) of the Act, we have calculated an aggregate or industry-wide rate for all of the producers/exporters of honey under investigation. We have determined that the total estimated countervailable subsidy rate is 4.53 percent *ad valorem*. However, due to a program-wide change, we have established a cash deposit rate of 5.85 percent *ad valorem* in accordance with section 351.526(a) of the Department's regulations.

This notice constitutes the countervailing duty order with respect to honey from Argentina pursuant to section 706(a) of the Act. Interested parties may contact the Central Records Unit, for an updated list of countervailing duty orders currently in effect.

This countervailing duty order is published in accordance with section 706(a) of the Act and 19 CFR 351.211.

Dated: November 28, 2001.

Richard W. Moreland,

Acting Assistant Secretary, for Import Administration.

[FR Doc. 01–30470 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–437–805]

Sulfanilic Acid From Hungary: Postponement of Preliminary Determination of Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of preliminary determination.

SUMMARY: The Department of Commerce is postponing the preliminary determination of the countervailing duty investigation of sulfanilic acid from Hungary. This postponement is made pursuant to section 703(c) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Melani Miller at (202) 482-0116, Office of AD/CVD Enforcement I, Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

Postponement of Preliminary Determination

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act. All citations to the Department of Commerce's ("the Department") regulations are to 19 CFR Part 351 (2001).

Statutory Time Limits

Section 703(b)(1) of the Act, requires the Department to make a preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiates an investigation. However, if the Department concludes that the parties concerned are cooperating and determines pursuant to section 703(c) of the Act that the case is extraordinarily complicated and additional time is necessary to make the preliminary determination, according to section 703(c) of the Act, the Department may postpone making the preliminary determination until no later than 130 days after the date of initiation of the investigation.

Background

On October 18, 2001, the Department initiated the countervailing duty investigation of sulfanilic acid from Hungary. See Notice of Initiation of Countervailing Duty Investigation: Sulfanilic Acid from Hungary, 66 FR 54229 (October 26, 2001). Currently, the preliminary determination must be issued by December 24, 2001.

Postponement of Preliminary Determination

Because of the complexity of certain issues in this investigation (*e.g.*, change in ownership and privatization and new subsidy allegations), it is not practicable to complete the preliminary determination within the original time limit. *See* December 4, 2001 memorandum to Richard W. Moreland, *"Extension of Time Limit for the Preliminary Determination: Countervailing Duty Investigation of Sulfanilic Acid from Hungary."* Therefore, pursuant to 703(c) of the Act and 19 CFR 351.205(b)(2), the Department is postponing the preliminary determination until no later than February 25, 2002.

We are issuing and publishing this notice in accordance with sections 703(c)(2) and 777(i)(1) of the Act.

Dated: December 4, 2001.

Bernard T. Carreau.

Acting Assistant Secretary, for Import Administration.

[FR Doc. 01–30471 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Docket No. 000724217–1278–04]

Amendment to Selection Procedures To Include Site Visits

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: This notice announces the Minority Business Development Agency's (MBDA) amendment of prior **Federal Register** notices published by MBDA that identified selection procedures for MBDA's Minority Business Development Center Program and its Native American Business Development Center Program. MBDA amends the selection procedures to provide that the National Director or his designee reserves the right to conduct a site visit to the location of qualified applicants receiving an average of at least 70% of the total points available for all four evaluation criterion.

DATES: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita E. Berry at (202) 482–3262.

SUPPLEMENTARY INFORMATION: Under Executive Order 11625, MBDA provides business development services to persons who are members of groups determined by the U. S. Department of Commerce to be socially or economically disadvantaged, and to business concerns owned and controlled by such individuals.

MBDA has determined that site visits to qualified applicants would support MBDA's selection and would confirm the applicant's stated ability to best fulfill MBDA's Funding Priorities, particularly identifying and working to meet the needs of minority businesses seeking to obtain large-scale contracts with institutional customers, as set out

in the prior **Federal Register** Notices (65 FR 52069 and 66 FR 58990).

Therefore, MBDA's prior **Federal Register** notices (65 FR 52069 and 66 FR 41202 and 66 FR 58990) are hereby amended to provide that the National Director or his designee reserves the right to conduct a site visit to applicant organizations receiving an average of at least 70% of the total points available for all four evaluation criterion in order to assist with the application of the selection procedures provided at 65 FR 52083 and 52095 and 66 FR 59000.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), are applicable to this notice.

Executive Order 12866: This notice was determined to be not significant for purposes of E.O. 12866.

Administrative Procedure Act: The provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this notice is a matter relating to public property, loans, grants, benefits, or contracts 5 U.S.C. 553(a)(2),

Regulatory Flexibility Act: Because a notice of proposed rulemaking and opportunities for public comment are not required to be given for this notice by 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 are inapplicable.

Executive Order 13132: This notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Authority: 15 U.S.C. 1512 and Executive Order 11625.

Dated: December 4, 2001.

Juanita E. Berry,

Federal Register Liaison Officer, Minority Business Development Agency.

Ronald N. Langston,

National Director, Minority Business Development Agency.

[FR Doc. 01–30416 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 011113275–1275–01; I.D. 120401A]

RIN 0648–ZB11

Coral Reef Conservation Program Proposed Implementation Guidelines

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Request for comments on Proposed Implementation Guidelines for the Coral Reef Conservation Program.

SUMMARY: The purpose of this document is to request comments on NOAA's proposed Implementation Guidelines (Guidelines) for the Coral Reef Conservation Program (Program) under the Coral Reef Conservation Act of 2000 (Act). The Act authorizes the Secretary of Commerce (Secretary), through the NOAA Administrator (Administrator) and subject to the availability of funds, to provide matching grants of financial assistance for coral reef conservation projects under the Act (Coral Reef Conservation Program). As per the Act, NOAA has developed this set of proposed Implementation Guidelines for the Program for Fiscal Year (FY) 2002 through FY 2004. NOAA proposes to use several existing grant programs and mechanisms to implement the Program. Final Guidelines and specific Program information including available funding, dates, and detailed application requirements and proposal evaluation criteria will be published annually in a separate **Federal Register** solicitation. NOAA is in the process of developing a National Coral Reef Action Strategy (Strategy), as also required under the Act. The purpose of the Strategy is to provide an implementation plan to advance coral reef conservation, including a basis for funding allocations to be made under the Program. The Final Strategy will be published concurrently with the Final Program Guidelines and the FY 2002 Program Solicitation in the first quarter of calendar year 2002. The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), will be applicable to solicitations under this Program. This document is not a solicitation for FY 2002 project proposals.

DATES: In order to be considered, comments on this document must be received by NOAA on or before January 14, 2002.

ADDRESSES: Only written comments will be accepted. Please send your comments by mail or fax to: David Kennedy, NOAA Coral Program Coordinator, Office of Response and Restoration, N/ORR, NOAA National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910, Fax: 301-713-4389.

FOR FURTHER INFORMATION CONTACT: Bill Millhouser, Pacific Regional Manager, CPD/OCRM, N/ORM-3, NOAA National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910; 301–713–3155 extension 189, Internet: bill.millhouser@noaa.gov; or Robin Bruckner, Community-based Restoration Coordinator, NOAA Restoration Center, F/HC3, NOAA National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; 301–713–0174 extension 162, Internet: robin.bruckner@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 *et seq.*) was enacted on December 14, 2000, for the following purposes:

(1) To preserve, sustain and restore the condition of coral reef ecosystems;

(2) To promote the wise management and sustainable use of coral reef ecosystems to benefit local communities and the Nation;

(3) To develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems;

(4) To assist in the preservation of coral reefs by supporting conservation programs, including projects that involve affected local communities and non-governmental organizations;

(5) To provide financial resources for those programs and projects; and

(6) To establish a formal mechanism for the collecting and allocating of monetary donations from the private sector to be used for coral reef conservation projects.

Under section 6403 of the Act, the Secretary, through the NOAA Administrator (Administrator) and subject to the availability of funds, is authorized to provide matching grants of financial assistance for coral reef conservation projects. Section 6408(c)of the Act authorizes up to $8,000,000 in each of FY 2001 through FY 2004 for projects under the Program.

As required under section 6403(j) of the Act, NOAA has developed this set of proposed Implementation Guidelines for the Program and through this document, is making them available for public review and comment.

NOAA proposes to use several existing grant programs and mechanisms to implement the Program. Each fiscal year the Program will publish a **Federal Register** notice to describe the availability of funds and solicit project proposals. These annual solicitations, beginning in FY 2002, will provide greater detail on the year's program priorities, application process, and proposal evaluation criteria. This document is not a solicitation for project proposals.

II. Electronic Access

The Coral Reef Conservation Act of 2000 can be found on the Internet at: http://thomas.loc.gov/ (Select Bill Text, then select 106th Congress, search on Bill Number HR 1653, select H.R. 1653.EH). Information on the U.S. Coral Reef Task Force, established June 11, 1998 under Executive Order 13089, can be found at: http://coralreef.gov.

III. Coral Reef Conservation Program

The objective of the Program is to provide financial assistance for coral reef conservation projects consistent with the Act and National Coral Reef Action Strategy currently under development. NOAA's role in administering the Program is to strengthen and support the development and implementation of sound coral reef conservation projects, as well as ensure that the most beneficial projects are recommended for funding.

IV. Applicant Eligibility Requirements

As per section 6403(c) of the Act, eligible applicants include: any natural r esource management authority of a state or other government authority with jurisdiction over coral reefs or whose activities directly or indirectly affect coral reefs or coral reef ecosystems, or educational or non-governmental institutions with demonstrated expertise in the conservation of coral reefs. Each subcategory of funding under this Program, as described in section VII of this document, encompasses a specific subgroup of eligible applicants, per this section.

As a matter of policy, funding Federal agency activities under this Program will be a low priority unless such activities are an essential part of a cooperative project with other eligible governmental or non-governmental entities.

NOAA agencies are not eligible for funding under this Program, as funding for such activities is provided for under section 6406 of the Act (National Program).

V. Eligible Coral Reef Conservation Activities

As described in section 6403(g) of the Act, projects considered for funding under this Program must be consistent with the National Coral Reef Action Strategy, scheduled to be published concurrently in the **Federal Register** with the FY 2002 solicitation for proposals, in the first quarter calendar year 2002. In addition, per the same section, the Administrator may not approve a project proposal unless it will enhance the conservation of coral reefs by addressing at least one of the following:

(1) Implementing coral conservation programs which promote sustainable development and ensure effective, long-term conservation of coral reefs;

(2) Addressing the conflicts arising from the use of environments near coral reefs or from the use of corals, species associated with coral reefs, and coral products;

(3) Enhancing compliance with laws that prohibit or regulate the taking of coral products or species associated with coral reefs or regulate the use and management of coral reef ecosystems;

(4) Developing sound scientific information on the condition of coral reef ecosystems or the threats to such ecosystems, including factors that cause coral disease;

(5) Promoting and assisting to implement cooperative coral reef conservation projects that involve affected local communities, non-governmental organizations, or others in the private sector;

(6) Increasing public knowledge and awareness of coral reef ecosystems and issues regarding their long term conservation;

(7) Mapping the location and distribution of coral reefs;

(8) Developing and implementing techniques to monitor and assess the status and condition of coral reefs;

(9) Developing and implementing cost-effective methods to restore degraded coral reef ecosystems; or

(10) Promoting ecologically sound navigation and anchorages near coral reefs.

VI. Program Funding and Distribution

Section 6408(c) of the Act authorizes up to $8,000,000 for use by the Secretary for each of FY 2001 through FY 2004 for the Coral Reef Conservation Program. The number of individual awards to be made each year will depend on the total amount of funds appropriated for coral reef activities within NOAA and the portion of those funds that are allocated to this Program. The total annual Program funding amount, suggested ranges for funding requests, and specific funding categories under which an applicant may choose to be considered will be published in the Program's annual *Federal Register* solicitation.

Program funding awarded during any given fiscal year will be distributed, per section 6403(d) of the Act, in the following manner:

(1) No less than 40 percent of funds available shall be awarded for coral reef conservation projects in the Pacific Ocean within the maritime areas and zones subject to the jurisdiction or control of the United States;

(2) No less than 40 percent of funds available shall be awarded for coral reef conservation projects in the Atlantic Ocean, Gulf of Mexico and the Caribbean Sea within the maritime areas and zones subject to the jurisdiction or control of the United States; and

(3) Remaining funds shall be awarded for projects that address emerging priorities or threats, including international priorities or threats, identified by the Administrator. When identifying emerging threats or priorities, the Administrator may consult with the Coral Reef Task Force.

VII. Funding Categories and Mechanisms

In order to ensure adequate funding for each of the purposes envisioned under the Act and provide for a balanced overall Program, existing NOAA programs will be used to award funds in the five funding categories described below. Each of the five categories references the general activity and applicant eligibility requirements associated with proposals submitted therein. Specific activity and applicant eligibility information and proposal evaluation criteria for each category, consistent with Guideline sections IV. Applicant Eligibility Requirements, VI. Funding and Funding Distribution, VIII. Matching Funds, IX. Application Process, and X. Project Review, will be published in each year's solicitation for proposals.

(1) *U.S. state and territorial government coral reef conservation activities*, as described in section V(1-10) of the Guidelines (section 6403(g) of the Act) for the purposes of comprehensively managing coral reef ecosystems and associated fisheries within their jurisdictions. Eligibility to receive an award is limited to one agency in each state or territory with jurisdiction over coral reefs, as designated by the respective governors. These proposals will be reviewed and awarded by the National Ocean Service

(NOS) Office of Ocean and Coastal Resource Management (OCRM) per guidelines published June 28, 2001 in the **Federal Register** (66 FR 34425), and pursuant to Section 310 of the Coastal Zone Management Act, under title, Coastal Zone Management Administration Awards, CFDA 11.419.

(2) *U.S. state and territorial government coral reef ecosystem monitoring and/or assessment activities*, as described in section V(8) of the Guidelines (section 6403(g)(8) of the Act). Such activities include the collection, analysis, and reporting of long-term coral reef monitoring data pursuant to scientifically valid methodologies and protocols. Eligible applicants are limited to one natural resource management authority in each U.S. state or territory with jurisdiction over coral reefs, as designated by the respective governors. Cooperative agreements between these agencies and the NOS National Centers for Coastal and Ocean Science (NCCOS) will be developed without competition under title, Financial Assistance for National Centers of Coastal Ocean Science, CFDA 11.426.

(3) *U.S. state, territorial, or other governmental and non-governmental entities, not eligible under other categories*, for the purpose of implementing cooperative coral reef conservation, protection, restoration, research, or education projects, as described in section V(1-10) of the Guidelines (section 6403(g) of the Act). These proposals will be reviewed and awarded by the National Marine Fisheries Service (NMFS) Office of Habitat Conservation under title, Habitat Conservation, CFDA 11.463.

(4) *Projects to develop, improve, or amend Fishery Management Plans to conserve, protect and restore coral reef habitats and associated fishery populations within the U.S. Exclusive Economic Zone*; with the overall goal of improving the management of coral reefs and associated organisms through the avoidance of fishing impacts, ecosystem management or similar approaches and practices; as described in section V(3) of the Guidelines (section 6403(g)(3) of the Act). Eligible applicants include Regional Fishery Management Councils with jurisdiction over coral reefs, as established under the Magnuson-Stevens Fishery Conservation and Management Act (16 USC 1801 et seq.). These proposals will be reviewed and awarded by the NMFS Office of Habitat Conservation under title, Habitat Conservation, CFDA 11.463.

(5) *International coral reef conservation projects* for the purpose of implementing cooperative coral reef conservation activities as described in section V(1-10) of the Guidelines (section 6403(g) of the Act). Eligible applicants include all international governmental and non-governmental entities, including those in the Freely Associated States of the Pacific. These proposals will be reviewed and awarded by the NOS International Programs Office or the NMFS Office of Habitat Conservation, as appropriate, under title, Habitat Conservation, CFDA 11.463.

The annual solicitation will establish the range of funds available and specific evaluation criteria for each of these five categories. NOAA may add additional funding categories in the annual solicitation based on available funding and/or coral reef conservation priorities under the Strategy. Applicants will be required to specify in their application the category(s) under which they are applying for funding. Selected applications may be funded and awards administered by NOAA, through either NMFS or NOS. Generally, one award will be made for each proposal accepted for funding.

NOAA will determine the most appropriate funding mechanisms (grant, cooperative agreement, or interagency agreement) for selected individual projects, in consultation with the applicant, based on the degree of direct NOAA involvement with the project beyond the provision of financial assistance.

Proposals from non-Federal applicants that are selected for funding will be funded either through a project grant or cooperative agreement. Selected Federal proposals will be funded through interagency agreements; however, under the Program, such agreements must include a local sponsor of the coral reef conservation project.

VIII. Matching Funds

As per section 6403(b)(1) of the Act, Federal funds for any coral conservation project funded under this Program may not exceed 50 percent of the total costs of such project. The match may comprise a variety of public and private sources and can include in-kind contributions and other non-cash support. NOAA strongly encourages applicants to leverage as much investment as possible. Federal funds may not be considered as matching funds.

For applicants who cannot meet the match requirement, as per section 6403(b)(2) of the Act, the Secretary may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements:

(1) No reasonable means are available through which an applicant can meet the matching requirement, and

(2) The probable benefit of such project outweighs the public interest in such matching requirement.

Applicants must specify in their proposal the source and amount of the proposed match and may be asked to provide letters of commitment to confirm stated contributions. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver, as described in section IX(6) of these Guidelines.

Notwithstanding any other provision herein, and in accordance with 48 U.S.C. 1469a(d), this Program shall waive any requirement for local matching funds for any project under $200,000 (including in kind contributions) to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

IX. Application Process

NOAA will publish in the **Federal Register** one annual notification soliciting project proposals, pursuant to these Guidelines. Applications submitted in response to solicitation notices will be screened for eligibility and conformance with the Program Guidelines.

To submit a proposal, a complete NOAA standard grants application package must be filed in accordance with the guidelines in this document and instructions in the Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained the **Federal Register** notice of October 1, 2001 (66 FR 49917).

A more detailed description of specific application requirements will be published in the annual solicitation; however, pursuant to section 6403(e)of the Act and NOAA, each application must include the following elements:

(1) A cover sheet with the name of the individual or entity responsible for conducting the project;

(2) A description of the qualifications of the individual(s) who will conduct the project;

(3) A succinct statement of the purposes of the project, including the specific geographic location where the project will be carried out;

(4) An estimate of the funds and time required to complete the project including: a detailed breakdown by

category of cost estimates as they relate to specific aspects of the project, with appropriate justification for both the Federal and non-Federal shares;

(5) Evidence of support for the project by appropriate representatives of states or other government jurisdictions in which the project will be conducted, including obtaining or proceeding to obtain all applicable State and/or Federal permits, consultations, and consistencies. U.S. state or territorial applicants must also provide evidence of coordination with all relevant state or territorial agencies, including a list of agencies consulted in developing the proposal;

(6) Information regarding the amount of matching funding available to the applicant. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver including attempts to obtain sources of matching funds, how the benefit of the project outweighs the public interest in providing match, and any other extenuating circumstances preventing the availability of match;

(7) A description of how the project meets one or more the goals and objectives stated in section V of the Guidelines (section 6403(g) of the Act); and

(8) Any other information the Administrator considers to be necessary for evaluating the eligibility of the project for funding under this title.

In order to streamline the application and award process, and to allow NOAA to fully evaluate all coral reef conservation applications in the context of the overall Program, applicants must indicate under which category(s) (as described in section VII of these Guidelines) they are seeking funds, and are encouraged to submit only one comprehensive application per solicitation. The Program will give preference to projects where requested funding will be used to complete proposed coral reef conservation activities within a period of 12 months from the time the awards are distributed.

X. Project Review

As per section 6203(f) of the Act, NOAA will review eligible coral reef conservation proposals using an external governmental review and merit-based peer review. After such reviews, NOAA will implement an internal ranking and selection process. The overall project review and selection process will include the following five steps:

(1) NOAA will request and consider written comments on the proposal from each Federal agency, state government, or other government jurisdiction, including the relevant regional Fishery Management Councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), or any National Marine Sanctuary, with jurisdiction or management authority over coral reef ecosystems in the area where the project is to be conducted. Pursuant to this requirement of the Act, NOAA will apply the following standard in requesting comments:

(A) Proposals for projects in state or territorial waters, including Federal marine protected areas in such waters (e.g. National Marine Sanctuaries), will be submitted to that state or territorial government's designated U.S. Coral Reef Task Force point of contact for comment;

(B) Proposals for projects in Federal waters will be submitted to the relevant Fishery Management Council for comment;

(C) Proposals for projects which require Federal permits will be submitted to the Federal agency which issued the permit for comment;

(D) Proposals for projects in Federal marine protected areas managed by Federal agencies (e.g. National Wildlife Refuges, National Parks, National Marine Sanctuaries, etc.) will be submitted to the respective Federal management authority for comment; and

(E) NOAA will seek comments from other government entities, authorities, and/or jurisdictions, including international entities for projects proposed outside of U.S. waters, as necessary based on the nature and scope of the proposed project.

Specifically, agencies will be requested to comment on: the extent to which the project is consistent with locally established coral reef conservation priorities and projects; whether the project has been coordinated with existing or planned projects; suggestions for improving project coordination and/or technical approach; and appropriate staff points of contact. Each entity will be provided 21 days to review and comment on subject proposals. Comments submitted will be part of the public record.

(2) Each NOAA program office will provide for a merit-based peer review and standardized documentation of that review for proposals considered appropriate for funding under their respective category(s). Each proposal will be reviewed by a minimum of three individuals with knowledge of the subject of the proposal. Each reviewer will submit a separate and individual review and reviewers will not provide a consensus opinion. The identities of the peer reviewers will be kept anonymous to the degree permitted by law. Specific evaluation criteria for projects submitted under each funding category will be published in each annual **Federal Register** solicitation.

(3) Each NOAA Program Office will subsequently implement an internal review process to rank each proposal that is appropriate for funding under their program based upon consideration of: comments and recommendations from the reviews under paragraphs (1) and (2), and their evaluation of each proposal consistent with the five following criteria:

(A) *Direct Benefit to Coral Reef Resources and Ecosystems.* NOAA will evaluate proposals based on the potential of the project to meet goals and objectives stated in section 6403(g) of the Act.

(B) *Technical Merit and Adequacy of Implementation Plan.* Proposals will be evaluated on the technical feasibility of the project and the qualifications of project leaders and/or partners based on demonstrated abilities to:

(i) Deliver the conservation objective stated in the proposal;

(ii) Provide educational benefits, where appropriate;

(iii) Incorporate assessment of project success in terms of meeting the proposed objectives;

(iv) Demonstrate that the conservation activity will be sustainable and long-lasting;

(v) Provide assurance that implementation of the project will meet all state environmental laws and Federal consistency requirements by obtaining or proceeding to obtain applicable permits and consultations; and

(C) *Past Performance.* Proposals will be evaluated on the previous accomplishments of the applicants in achieving coral reef conservation objectives similar to those outlined in section V. Eligible Coral Reef Conservation Activities of these Guidelines. Applicants submitting their first coral reef conservation project should document past experience in related activities;

(D) *Consistency with the National Coral Reef Action Strategy and the National Action Plan to Conserve Coral Reefs.* Proposals will be evaluated on how well they meet the respective programmatic goals and objectives (e.g. goals and objectives for restoration) outlined in the National Coral Reef Action Strategy, currently under development pursuant to Section 6402 of the Act, and the National Action Plan to Conserve Coral Reefs (U.S. Coral Reef

Task Force, 2000, http://coralreef.gov). Applicants are strongly encouraged to review both documents and identify in their application the specific conservation objectives that their project proposal will address; and

(E) *Cost-effectiveness and Budget Justification.* Proposals will be evaluated on their ability to demonstrate that significant benefit will be generated for the most reasonable cost. Projects will also be reviewed in terms of their need for funding and the ability of NOAA funds to act as a catalyst to implement projects and precipitate partnerships and other sources of funding to achieve conservation objectives. Preference will be given to projects that will be completed within a period of 12 months from the time the awards are distributed;

(4) A NOAA review panel made up of representatives from each NOAA program office will review the project rankings from each program office and make consensus-based, final project selections and funding recommendations to be presented to the NOAA Administrator, or his designee, for final approval. The review panel and Administrator, or designee, will ensure that the Act requirements for geographic funding distribution and consistency with the overall Program goals outlined in the Strategy have been met. NOAA reserves the right to consult with applicants, prior to making an award, to determine the exact amount of funds to be awarded, as well as the most appropriate funding category and mechanism under which to consider the project for funding; and

(5) NOAA will provide written notification of a proposal's approval or disapproval to each applicant within 6 months of submitting a coral reef conservation proposal. Similarly, NOAA will also provide written notification of a project's approval to each State or other government jurisdiction that provided comments and/or reviews.

Definitions

In this Program:

(1) Administrator means the Administrator of the National Oceanic and Atmospheric Administration.

(2) Conservation means the use of methods and procedures necessary to preserve or sustain corals and associated species as diverse, viable, and self-perpetuating coral reef ecosystems, including all activities associated with resource management, such as assessment, conservation, protection, restoration, sustainable use, and management of habitat; mapping; habitat monitoring; assistance in the development of management strategies for marine protected areas and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*); law enforcement; conflict resolution initiatives; community outreach and education; and that promote safe and ecologically sound navigation.

(3) Cooperative Agreement means a legal instrument reflecting a relationship between the Department of Commerce (DoC) and a recipient whenever: (1) the principal purpose of the relationship is to transfer money, property, services or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute, and (2) substantial involvement (e.g. collaboration, participation, or intervention by DoC in the management of the project) is anticipated between DoC and the recipient during performance of the contemplated activity.

(4) Coral means species of the phylum Cnidaria, including--

(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), Alcyanacea (soft corals), and Coenothecalia (blue coral), of the class Anthozoa; and

(B) all species of the order Hydrocorallina (fire corals and hydrocorals) of the class Hydrozoa.

(5) Coral Reef means any reefs or shoals composed primarily of corals.

(6) Coral Reef Ecosystem means coral and other species of reef organisms (including reef plants) associated with coral reefs, and the non-living environmental factors that directly affect coral reefs, that together function as an ecological unit in nature.

(7) Coral Products means any living or dead specimens, parts, or derivatives, or any product containing specimens, parts, or derivatives, of any species referred to in paragraph (3).

(8) Grant means a legal instrument reflecting a relationship between DoC and a recipient whenever: (1) the principal purpose of the relationship is to transfer money, property, services, or anything of value in order to accomplish a public purpose of support or stimulation authorized by Federal statute, and (2) no substantial involvement is anticipated between DoC and the recipient during the performance of the contemplated activity.

(9) Interagency Agreement, for the purposes of these Guidelines, means a written document containing specific provisions of governing authorities, responsibilities, and funding, entered into between NOAA and another Federal agency where NOAA is funding the other Federal agency, pursuant to the Act.

(10) Secretary means the Secretary of Commerce.

(11) State means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States, that contains a coral reef ecosystem within its seaward boundaries.

Classification: This is a new Program and will be added to the Catalog of Federal Domestic Assistance under the Coastal Zone Management Act (11.419), Financial Assistance for National Centers for Coastal Ocean Science (11.426), and Habitat Conservation (11.463). The Program uses only the existing NOAA Federal assistance application package requirements per 15 CFR parts 14 and 24.

The program will determine NEPA compliance on a project by project basis.

This action has been determined to be not significant for purposes of Executive Order 12866.

The use of the standard grants application package referred to in this notice involves collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

The proposed guidelines also contain new collection-of- information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. These requirements will be submitted to OMB for approval. Public reporting burden for these collections of information is estimated to average one hour per request for a matching funds waiver (section IX(6) of these Guidelines) and one hour per comment on proposals (section X(1) of these Guidelines), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NOAA Office of Response and Restoration at the **ADDRESSES** above, and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Dated: November 30, 2001.

Scott Gudes,

Acting Under Secretary for Oceans and Atmosphere/Administrator and Deputy Under Secretary

[FR Doc. 01–30383 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–JE–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112101B]

Small Takes of Marine Mammals Incidental to Specified Activities; Repairs at the Carpinteria Oil and Gas Processing Facility, Carpinteria, CA

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of Pacific harbor seals (*Phoca vitulina richardsi*) by harassment incidental to repairs at the Carpinteria Oil and Gas Processing Facility in Carpinteria, CA., has been issued to Venoco, Inc.

DATES: Effective from November 28, 2001, until November 28, 2002.

ADDRESSES: The application, Wildlife Protection Plans, Project Execution Plans, and IHA are available by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225.

FOR FURTHER INFORMATION CONTACT: Simona P. Roberts, (301) 713–2322, ext. 106 or Christina Fahy, (562) 980–4023.

SUPPLEMENTARY INFORMATION:

Background

Sections 101 (a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization may be granted if NMFS finds, based on the best available scientific evidence, that the taking will have a negligible impact on the marine mammal species or stock(s). Negligible impact is defined in regulation (50 CFR 216.103) as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival".

Summary of Request

On June 17, 2001, NMFS received an application from Venoco, Inc., the owner and operator of the Carpinteria Oil and Gas Processing Facility in Carpinteria, CA, requesting an IHA for the take of small numbers of Pacific harbor seals incidental to repair of gas pipeline supports and pier pilings at Casitas Pier.

On October 24, 2001, Venoco notified NMFS that the project had been modified such that only repairs to the gas pipeline supports and not the pier were to be made. In addition, Venoco revised its original Project Execution Plan and Wildlife Protection Plan to better address the issue of acoustic harassment. A detailed description of the work proposed for 2001 is contained in the revised Project Execution Plan, which are available upon request (see **ADDRESSES**).

Venoco plans to complete all repair activities in a three-week period. However, to account for potential weather and logistical delays and reduce further paperwork, the IHA will be issued for a full 1–year period (November 2001–November 2002).

Comments and Responses

On September 12, 2001 (66 FR 47453), NMFS published a notice of receipt and a 30–day public comment period was provided on the application and proposed authorization. Comments were received from the Santa Barbara County Energy Division, the California Coastal Commission, the City of Carpinteria, and a private citizen.

Cumulative Impact Concerns

Comment 1: The California Coastal Commission recommended that the authorization address the potential for cumulative impacts from chronic disturbances to the Pacific harbor seal rookery located near the gas pipeline and the possibility that additional disturbances such as the proposed activity could cause the seal rookery to permanently abandon this location.

Response: Based on previous observations conducted in the vicinity of the gas pipeline and pier, as well as daily observations made by the Carpinteria Seal Watch, there is no evidence that chronic disturbances, such as people walking along the beach, are negatively impacting the Pacific harbor seals hauling out on the beach over the long-term (Seagars, 1986; Howorth,1995). From information provided by Howorth (1995), the most negative disturbance to date, resulting in haul-out abandonment, has been not from direct disturbance by humans but rather from disturbance and pup injury and predation by a coyote. Based on these previous documented observations at Carpinteria and nearby haul-out sites, there is very low probability that the harbor seals will completely abandon the Carpinteria haul-out site as a result of Venoco's repair activities. While there is evidence from other haul-out sites in San Francisco Bay that seals will abandon haul-out sites during chronic daytime disturbance, the San Francisco Bay seals did not completely abandon the site and continued to use the site during nighttime hours when there was no disturbance (Paulbitsky, 1975; Risebrough *et al.*, 1980).

Biologically, the primary concerns of harbor seal haul-out site abandonment are physiological stress resulting from the inability to find alternate haul-out sites and the inability to find alternate haul-out sites for pupping and molting. In the Carpinteria case, there are two alternate haul-out sites in the vicinity; offshore rocks west of the beach and off Carpinteria Beach State Park. Harbor seals have been observed hauling out in these locations after having been disturbed on the beach (Sadler, 1976;

Rambo, 1978; Bowland, 1978; Carpinteria Seal Watch records; Howorth, 1995). In order to minimize disturbance to the Carpinteria site as much as possible all activities undertaken by Venoco will be subject to the mitigation conditions in the IHA, which are designed to reduce the sights and sounds associated with human presence. Further, there will be no access to the beach from December 1–May 31, pursuant to the City of Carpineria's Municipal Code, eliminating potential disturbance from Venoco's activities during the pupping season.

Mitigation, Monitoring and Reporting Concerns

Comment 2: The County of Santa Barbara, Energy Division and the California Coastal Commission both recommended that NMFS require safety zones and ramp-up procedures for the pile driving operations occurring near the harbor seal haul-out area to address the potential for acoustic harassment and injury. Specifically, the County of Santa Barbara recommended that NMFS' mitigation requirements follow previous conditions imposed by the California Coastal Commission for work necessary to stabilize two leaking oil wells located in the surf zone, including designating a 500–foot (152–meter) safety zone around pile driving activity, an initial ramp up period at the commencement of pile driving activities, and scheduling of pile driving activities during periods of low tides to the maximum extent feasible.

Response: Under the IHA, Venoco must establish a 500–foot (152–meter) buffer zone around each of the pile driving sites. If any marine mammal is sighted within this 500–foot (152–meter) zone immediately prior to planned commencement of driving, pile driving must not occur until marine mammals have left the area. In addition, pile driving must not commence unless the buffer zone can be monitored for a minimum of 15 minutes immediately prior to the start-up of the pile driving episode. Due to the characteristics of the sounds produced by these pile-driving operations, NMFS does not support an initial ramp-up period during Venoco's repairs. Pile driving in a different sediment type (i.e., clay) than at Carpinteria has shown that instituting an initial ramp-up period at the commencement of pile-driving activities may lengthen the period of time and necessitate higher energy levels to adequately drive the piles, thus increasing the amount of time marine mammals are exposed to increased sound levels (California Department of Transportation, 2001). Until there is better data on the operational requirements of ramping-up pile driving activities in varying sediment types, NMFS will not require ramp-up for any pile-driving activity. In contrast, NMFS does support an initial ramp-up period at the commencement of seismic and shallow-hazard surveys.

NMFS found no scientific or anecdotal evidence that scheduling pile driving activities only during periods of low tides would reduce the disturbance to seals while they are hauled out. On the contrary, the greatest number of harbor seals observed hauled out at the Carpinteria site was in the month of September during an early morning low tide (Horworth, 1995). Clearly the tide cycles, as well as still undetermined environmental variables, play a significant role in harbor seal haul out behavior; however, Howorth (1995) noted that the most prevalent cause of natural disturbance to the Carpinteria haul out site was from waves striking the beach and washing over seals on the rising tides. If pile driving activities occurred during this rising tide phase, it may be very difficult for monitors to determine a causal relationship between seals entering the water, environmental variables, and repair activities. In order to gather more information on the relationship between harbor seal behavior, environmental factors, and the repair activities, the IHA requires the collection and reporting of the following information: tide height, sea state, weather conditions, type of repair activity being conducted, and harbor seal observations (including number and age ranges present and behavior).

Comment 3: The California Coastal Commission recommended that the authorization require the presence of one or more onsite biological monitors with the authority to suspend project operations if marine mammals are observed within or enter into established safety zones or if it is determined that impacts to marine mammals are greater than those authorized in the IHA.

Response: All IHA's require the presence of one or more onsite biological monitors, with relevant marine mammal experience and approved by NMFS, to document marine mammal presence and any disturbances. These monitors have the authority to suspend activities that are in violation of the conditions set out in the IHA.

Comment 4: The City of Carpinteria requested that the City's Municipal Code governing access to the city beach from December 1-May 31 each year be made part of the conditions of the proposed authorization. The City supports NMFS' proposals to condition the authorization so that all noise, sudden movement, and unnecessary personnel be minimized in or adjacent to the project site.

Response: NMFS has made the Municipal Code part of the IHA conditions by restricting work on the pipeline and other activities occurring on the beach or surf zone within 750 ft (230 m) of the harbor seal haul-out from December 1–May 31.

Comment 5: The private citizen who commented volunteers with the Carpinteria Seal Watch. This commentor protested the application for takings and requested that NMFS condition the authorization so that: (1) work would not occur between November 30 and May 31, (2) work would not occur during the molting season, (3) work would be ceased if the seals are not returning in "usual" numbers during the evening hours after the workday, and (4) monitoring biologist(s) would consult with Carpinteria Seal Watch representatives to discuss daily observations and data collection.

Response: The IHA issued by NMFS restricts work on the pipeline and other activities occurring on the beach or surf zone from December 1–May 31. However, based on previous harbor seal observations there is no scientific or anecdotal evidence to support restricting work during the molting season (SRS Technologies, 2001). Scientific research and monitoring studies carried out on haul-out sites on Vandenberg Air Force Base in California from 1997 through 2001 have shown that molting Pacific harbor seals entering the water because of disturbance from rocket launches are not adversely affected in their ability to molt and do not become subject to thermo-regulatory stress. Until similar site-specific research is carried out on the Carpinteria haul-out, NMFS accepts the Vandenberg evidence as the best scientific information available on the behavior of the California stock of Pacific harbor seals during molting. While on average the greatest number of harbor seals haul out during the molting season (starting in May and continuing through the summer), this is confounded at the Carpinteria site by a September estimate of 364 seals during an early morning low tide (Horworth, 1995). Clearly, not only molting and pupping, but tide cycle, as well as still undetermined environmental variables, play a significant role in harbor seal haul-out behavior.

Given this difficulty in determining the underlying natural factors involved

in harbor seal haul-out behavior, NMFS cannot assume that in all cases a failure of seals to return to the beach during the evening hours after work has finished is a direct result of the daytime work activities. However, in order to mitigate for disturbances that could result from Venoco's activities, the IHA is conditioned such that if the biological monitor(s) have direct evidence that work activities during the day resulted in 100 percent haul-out abandonment with no return to the haul-out site after work has ceased for a full 48–hour period, then the monitor must notify Venoco, and Venoco must contact NMFS to discuss appropriate changes to the mitigation plan.

NMFS agrees that the Carpinteria Seal Watch data will be an important contribution to the overall monitoring of the marine mammal impacts of Venoco's activities. In addition, the Seal Watchers provide an invaluable service in educating the public about the potential for human activities to negatively impact the harbor seals and their haul-out habitat. The biological monitor(s) will consult with Seal Watch representatives at the beginning and end of Venoco's repair activities to share observational data.

Description of Marine Mammals and Habitat Potentially Affected by the Activity

Harbor seals generally are non-migratory, with local movements associated with such factors as tides, weather, season, food availability, and reproduction (Scheffer and Slipp, 1944; Fisher, 1952; Bigg, 1969, 1981). They haul out on rocks, reefs, beaches, and drifting glacial ice, and feed in marine, estuarine, and occasionally fresh waters. Harbor seals have also displayed strong fidelity for haulout sites (Pitcher and Calkins, 1979; Pitcher and McAllister, 1981). The eastern Pacific harbor seal has an estimated population of 285,000 individuals distributed along the entire west coast of North America from the Pribilof and Aleutian Islands in Alaska to Baja, CA.

In Carpinteria, Pacific harbor seals haul out year round. This area is one of two along the mainland coast of southern California that is readily accessible to the public. The other haul out is in La Jolla, CA. There are four other sizable haul outs along the mainland coast of Santa Barbara County, one at Naples, one at Point Conception, and two at Vandenberg Air Force Base. However, unlike the Carpinteria haul out, these sites are on private land and not readily accessible to the public.

In Carpinteria, peak numbers are reached during the pupping season (late February through March) and molting season (summer months). The pups born at these sites are weaned in 4 to 6 weeks, so nearly all pups are independent by the end of May. Twenty to 30 pups are usually born there each year (Howorth, 1995, 1998). A peak abundance count made during the 1998 pupping season was 345 seals (Howorth, 1998).

The project site is adjacent to a small beach used by harbor seals as a haul-out and rookery area. Harbor seals continue to use this area despite pier activity and human presence (Howorth, 1995, 1998). Two-hundred and sixty-five feet (ft) (81 meters (m)) east of Casitas Pier, a small sandy beach and offshore rock area marks the western limits of the local harbor seal haul outs.

California sea lions (*Zalophus californianus*) do occasionally haul out on the beach or rocks adjacent to the project site. However, such individuals are usually not healthy and are taken to the Santa Barbara Marine Mammal Center (Howorth, 1995, 1998).

Bottlenose dolphins (*Tursiops truncatus*) and the eastern North Pacific gray whale (*Eschrichtius robustus*) have been reported near the project site (Howorth, 1995, 1998). Both species, when sighted near the project site, have consistently avoided the pier. Years of data from previous projects and from the Carpinteria Seal Watch have not observed any instances of cetaceans within the project area.

Potential Effects on Marine Mammals and their Habitat

Potential harassment may result from noise generated by repair activities to the pipeline as well as from the physical presence of people and machinery on the beaches.

Seals may be disturbed and leave the beach when pile driving activities are underway; however, previous monitoring has shown that all seals returned once activities had ceased (Venoco, 2001).

Number of Marine Mammals Potentially Harassed

During repair work carried out by Venoco an estimated 364 Pacific harbor seals have the potential to be incidentally harassed. This number is the maximum count documented by Howorth (1995, 1998) during the summer molting season.

Mitigation

Mitigation measures described in this section have been designed to reduce the potential for harassment and eliminate the potential for incidental injury and mortality due to repair activities.

If operationally feasible, all repairs will take place during daylight hours in a three-week period before the annual harbor seal pupping period and while the beach is open to the public. During this period few, if any, seals are present on shore because beachwalkers, dogs, joggers, kayakers, and others frequent the beach during daylight hours. During November, early storms and currents erode the sand covering the rocks and reefs, which will also reduce the amount of excavation necessary to expose the base of the pier pilings.

Work on pilings closest to the haul-out site will be conducted at the beginning of the project and only during low tides (American Marine Corp., 2000). Therefore, any potential for disturbing harbor seals would be limited to times of low tide or approximately 4 hours each 24–hour period.

To reduce the potential for acoustically and visually disturbing the seals, mitigation measures include: establishment of a 500–foot (152–meter) buffer zone around each of the pile driving sites; equipping the diving air compressor, trucks, and equipment motors with quiet mufflers; disconnecting backup alarms on trucks; securing all lines, floats, cables, etc. used in handling materials to the pier or removing them from the site; instruction of all personnel on avoidance of rapid or sudden movements, shouting, throwing objects or other actions that could startle the seals; allowing only the minimum number of people needed to perform the work on the beach; insuring divers stay submerged while performing their tasks; and using hand-held radio for verbal communications from the pier or other project site to divers or workers.

Successful implementation by Venoco and their contractors of additional mitigation measures specified by NMFS in the IHA are designed to further reduce the potential for adverse impacts on Pacific harbor seals in the area.

Monitoring

Issuance of the IHA requires Venoco to monitor the impact of pile driving and other repair activities on harbor seals. Monitoring will be conducted by one or more NMFS-approved biologists. As part of the IHA monitoring requirements, Venoco will notify the designated on-site biological monitor(s) at least 30 minutes before a pile driving session begins and if there are unexpected changes to the work plan. In addition, monitoring information should be collected a minimum of 1 hour before the work day begins, a minimum of 15 minutes prior to

planned pile driving sessions, during pile driving sessions, and for a minimum of 1 hour after pile driving or other work is completed.

On-site biological monitor(s) are required to collect the following information related to harbor seals: (1) date; (2) time of arrival/departure of monitor(s) and work crew; (3) number of harbor seals on the beach; (4) number of harbor seals in the water; (5) number of adults, subadults, and pups; (6) number of molting seals; (7) disturbance reactions observed; and (8) Concurrently, the monitor(s) will record type of repair activity (including specific equipment used), location of activity, and duration of activity. The monitor(s) will also collect the following information related to environmental conditions: (1) date; (2) time; (3) cloud cover; (4) visibility; (5) wind direction; (6) wind velocity; (7) swell direction; (8) swell height; and (9) tidal stage. The presence of other marine mammal species on the beach and in the water is also a requirement.

The NMFS-approved biological monitor has the authority under the IHA to prevent pile driving operations from commencing if a harbor seal pup is sighted on the beach. If a harbor seal pup is sighted after pile driving has begun, then the monitor is required to notify Venoco, who must stop pile driving as soon as operationally practicable and consult immediately with NMFS' Southwest Regional Office.

Reporting

During periods of operation, Venoco will provide weekly reports to NMFS' Southwest Regional Administrator, including a summary of the previous week's monitoring activities and an estimate of the number of seals that may have been disturbed as a result of repair activities. A description of the repair activities at the time of observation will also be provided.

An interim report must be submitted to the Southwest Regional Administrator on or about July 30, 2001. This report will contain a description of the methods, results, and interpretation of all monitoring tasks. A draft final report is due 90 days after expiration of the IHA. If comments are received from the Regional Administrator on the draft final report, then the final report must be submitted to the Southwest Regional Administrator within 30 days after receiving comments. If no comments are received from the Southwest Regional Administrator, the draft final report will be considered the final report.

Endangered Species Act (ESA) Consultation

This proposed authorization would not allow the take of any species listed as endangered or threatened under the ESA; therefore, no ESA Section 7 consultation was necessary for issuance of the IHA.

Coastal Zone Management Act Consistency

On November 19, 2001, the California Coastal Commission issued a conditioned emergency permit to Venoco, Inc. to begin repair activities on the Carpinteria pipeline. The determination to issue an emergency permit was based on the conclusion of the Commission that an imminent threat to the nearby seal haul-out and the marine environment will exist if repairs to the pipeline are not made due to inadequate support of the pipeline during the winter storm season. The Commission's emergency permit contains conditions similar to NMFS' IHA designed to prevent the "take" of marine mammals during the course of Venoco's activities. All of the marine mammal conditions were added to the Coastal Commission's permit in close consultation with NMFS.

Conclusions

NMFS has determined that the impact of conducting repair activities at the Carpinteria Oil and Gas Processing Facility in Carpinteria, CA, will have a negligible impact on Pacific harbor seal stocks in California. While behavioral modifications may be made by individuals to avoid the resultant noise and activities, the avoidance of the area is not reasonably expected to, and is not reasonably likely to, adversely affect the annual rates of recruitment or survival of the stock.

The number of potential harassment takings is estimated to be small. In addition, no take by injury or death is anticipated, and the potential for such taking will be avoided through the incorporation of the mitigation measures mentioned in this document and in the IHA. Haul-out sites, rookeries, mating grounds, areas of concentrated feeding, and other areas of special significance for harbor seals within or near the planned area of operations will be avoided in order to minimize any potential impacts.

Authorization

NMFS has issued an IHA for repair activities at the Carpinteria Oil and Gas Processing Facility in Carpinteria, CA from November 28, 2001, until November 28, 2002, provided the mitigation, monitoring, and reporting requirements defined by NMFS in the IHA are implemented successfully. NMFS has determined that the proposed activity would result in the harassment of only small numbers of Pacific harbor seals and would have a negligible impact on stocks of harbor seals in California waters.

Dated: December 3, 2001.

David Cottingham,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–30465 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

December 4, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Pakistan and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002

(see 60 FR 21075, published on May 1, 1995). Accordingly, certain previously restrained categories have been modified and their limit has been revised, and other limits have been eliminated. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

Carryforward that has been applied to the 2001 limits is being deducted from the 2002 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the availability of the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 4, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Pakistan and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following limits:

Category	Twelve-month restraint limit
Specific limits	
219	12,361,182 square meters.
226/313	169,841,711 square meters.
237	601,202 dozen.
239pt.[1]	2,596,432 kilograms.
314	8,989,949 square meters.
315	109,140,142 square meters.
317/617	48,310,478 square meters.
331pt./631pt.[2]	787,805 dozen pairs.
334/634	336,230 dozen.
335/635	548,386 dozen.
336/636	721,444 dozen.
338	6,238,373 dozen.
339	1,934,985 dozen.
340/640	961,925 dozen of which not more than 360,721 dozen shall be in Categories 340–D/640–D[3].
341/641	1,082,165 dozen.
342/642	535,616 dozen.
347/348	1,132,284 dozen.
351/651	455,399 dozen.
352/652	1,138,500 dozen.
359–C/659–C[4]	2,164,331 kilograms.
360	7,315,629 numbers.
361	8,506,544 numbers.
363	58,026,017 numbers.
369–S[5]	1,042,777 kilograms.
613/614	33,630,217 square meters
615	35,776,820 square meters.
625/626/627/628/629	110,033,519 square meters of which not more than 55,016,761 square meters shall be in Category 625; not more than 55,016,761 square meters shall be in Category 626; not more than 55,016,761 square meters shall be in Category 627; not more than 11,382,779 square meters shall be in Category 628; and not more than 55,016,761 square meters shall be in Category 629.
638/639	604,934 dozen.
647/648	1,146,931 dozen.
666–P[6]	1,018,061 kilograms.
666–S[7]	5,389,734 kilograms.

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[3] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030; Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[4] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, , 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[5] Category 369–S: only HTS number 6307.10.2005.

[6] Category 666–P: only HTS numbers 6302.22.1010, 6302.22.1020, 6302.22.2010, 6302.32.1010, 6302.32.1020, 6302.32.2010 and 6302.32.2020.

[7] Category 666–S: only HTS numbers 6302.22.1030, 6302.22.1040, 6302.22.2020, 6302.32.1030, 6302.32.1040, 6302.32.2030 and 6302.32.2040.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated November 2, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be filled, such products shall no longer be charged to any limit.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–30435 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Epidemiological Board (AFEB); Closed Meeting

AGENCY: Office of The Surgeon General, DoD.

ACTION: Notice of closed meeting.

SUMMARY: In accordance with section 10(a)(2) of Public Law 92–463, The Federal Advisory Committee Act, this announces the forthcoming select AFEB subcommittee meeting. This Board will meet via teleconference on 20 December 2001. The purpose of the meeting is to review a draft manuscript and make recommendations on potential policy implications. The manuscript has not formally been published and is protected by intellectual property rights.

This meeting will be closed to the public.

FOR FURTHER INFORMATION CONTACT: Lt Col James R. Riddle, Executive Secretary, Armed Forces Epidemiological Board, Skyline Six, 5109 Leesburg Pike, Room 682, Falls Church, Virginia 22041–3258, (703) 681–8012/3.

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–30462 Filed 12–7–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, DOD.

ACTION: Notice of partially closed meeting.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During this meeting inquiries will relate to the internal personnel rules and practices of the Academy, may involve on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The executive session of this meeting will be closed to the public.

DATES: The meeting will be held on Friday, December 14, 2001, from 8:30 a.m. to 1 p.m. The closed Executive Session will be from 12:15 p.m. to 1 p.m.

ADDRESSES: The meeting will be held in the Bo Coppedge Dining Room of Alumni Hall at the U.S. Naval Academy.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Thomas E. Osborn, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, telephone number (410) 293–1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The executive session of the meeting will consist of discussions of information, which pertain to the conduct of various midshipmen at the Naval Academy and internal Board of Visitors matters. Discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the special committee meeting shall be partially closed to the public because they will be concerned with matters as outlined in section 552(b)(2), (5), (6), and (7) of title 5 U.S.C. Due to an unavoidable delay in administrative processing, the 15 days advance notice could not be provided.

Dated: December 5, 2001.

T.J. Welsh,

Lieutenant Commander, U.S. Navy, Judge Advocate General's Corps, Federal Register Liaison Officer.

[FR Doc. 01–30534 Filed 12–7–01; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 8, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: December 4, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information, Officer.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Field Test of Agency Capacity to Implement Reporting Requirements Associated with Draft Evaluation Standard 3 and section 101 (a)(10)(c) of the Rehabilitation Act, as Amended.

Frequency: One time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 81.

Burden Hours: 9,801.

Abstract: This field test will assess Designated State Unit (VR agency) capacity to obtain and use unemployment insurance wage record data maintained by the State Employment Security Agencies (SESAs) needed to implement a proposed evaluation standard and associated performance indicators mandated by the 1992 amendments to the Rehabilitation Act, as amended by the Workforce Investment Act of 1998.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional

Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–30413 Filed 12–7–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory

Notice of Availability of a Financial Assistance Solicitation

AGENCY: National Energy Technology Laboratory (NETL), Department of Energy (DOE).

ACTION: Notice of availability of a Financial Assistance Solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Program Solicitation No. DE-PS26–02NT40865 entitled "Solid State Energy Conversion Alliance (SECA) Core Technology Program." The purpose of the SECA Core Technology Program is to develop science and technologies that address specific technical challenges and barriers faced by the SECA Industrial Teams. The goal for SECA Industrial Teams is to develop a 3 kilowatt (kW)–10kW solid-oxide fuel cell system including stack and balance of plant that has a Factory Cost of $400/kW by 2010. Additional information associated with the SECA program is located at *http://www.seca.doe.gov*.

DATES: The solicitation will be available on the "Industry Interactive Procurement System" (IIPS) Web page located at *http://e-center.doe.gov* on or about December 10, 2001. Prospective applicants can obtain access to the solicitation from the above Internet address or through the DOE/NETL's Internet address at *http://www.netl.doe.gov/business*.

ADDRESSES: The solicitation and any subsequent amendments will be published on the DOE/NETL's Internet address at *http://www.netl.doe.gov/business* and on the IIPS Web page located at http://e-center.doe.gov. Comments and/or questions prior to the issuance of the solicitation shall be forwarded to the mailing address or E-mail address provided below.

FOR FURTHER INFORMATION CONTACT: Mary S. Gabriele, MS I07, U.S. Department of Energy, National Energy Technology Laboratory, 3610 Collins Ferry Road, P.O. Box 880, Morgantown, WV 26507–0880, E-mail Address: *mgabri@netl.doe.gov*, Telephone Number: (304) 285–4253.

SUPPLEMENTARY INFORMATION: The subject solicitation will focus on specific sub-topics under the following six Core Technology topic areas:

1. Fuel Processing.
2. Manufacturing.
3. Controls & Diagnostics.
4. Power Electronics.
5. Modeling & Simulation.
6. Materials.

Each topic area contains one or more sub-topics that describe needs for specific science, engineering and technologies to support the SECA Industrial Teams. The Core Technology Program will focus on generating new scientific and engineering knowledge and on creating technology breakthroughs to address technical risks and barriers that limit achievement of the SECA performance and cost goals for solid-state fuel cell systems. Universities and small business research entities are considered well suited for this role of generating new knowledge and creating breakthroughs. The solicitation is however open to any nonprofit or for-profit organization, university or other institution of higher education, or non-federal agency, unless otherwise restricted by the Simpson-Craig Amendment.

The DOE anticipates award of multiple cooperative agreements in the various topic/subtopic areas; but the DOE reserves the right to award the agreement type and number deemed in its best interest. Each award will consist of two phases, and the selection for each phase will be based on a competitive process. Phase I will investigate the feasibility of the proposed concept/approach and will be limited to approximately $150,000 (DOE Funding) and twelve (12) months. Only Phase I recipients will have the opportunity to submit a renewal application to receive funds for Phase II research. If the Phase I work demonstrates feasibility, the selected Industrial Team members see sufficient commercialization merit, and adequate program funds are available, the recipient will be awarded a Phase II renewal agreement. Phase II work includes advancing the science and technology to a sufficient maturity level that it will be adopted by the Industrial Team(s). The Phase II effort will be limited to approximately $500,000 (DOE Funding) and twenty-four (24) months. Phase II renewal awards may be partially funded to pick only the aspects of the Phase II work that have sufficient merit to the SECA Industrial Team(s).

Applicants are advised that a minimum of 20% cost sharing will be required in Phase I and Phase II for technologies proposed under Topic Areas 1 through 5. Cost sharing is not mandatory for Phase I or Phase II under Topic Area 6, but is highly encouraged.

Once released, the solicitation will be available for downloading from the IIPS Internet page. At this Internet site you will also be able to register with IIPS, enabling you to submit an application. If you need technical assistance in registering or for any other IIPS function, call the IIPS Help Desk at (800) 683–0751 or E-mail the Help Desk personnel at *IIPS—HelpDesk@e-center.doe.gov*. The solicitation will only be made available in IIPS, no hard (paper) copies of the solicitation and related documents will be made available.

Prospective applicants who would like to be notified as soon as the solicitation is available should subscribe to the Business Alert Mailing List at *http://www.netl.doe.gov/business*. Once you subscribe, you will receive an announcement by E-mail that the solicitation has been released to the public. Telephone requests, written requests, E-mail requests, or facsimile requests for a copy of the solicitation package will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. The actual solicitation document will allow for requests for explanation and/or interpretation.

Issued in Morgantown, WV on November 30, 2001.

Randolph L. Kesling,

Director, Acquisition and Assistance Division.

[FR Doc. 01–30444 Filed 12–7–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration; Stewardship Science Academic Alliances Program Financial Assistance Number DE–PS03–01SF22349

AGENCY: National Nuclear Security Administration (NNSA), U.S. Department of Energy (DOE).

ACTION: Notice of competitive financial assistance solicitation.

SUMMARY: The DOE/NNSA, through the Oakland Operations Office, is seeking applications/proposals in specific areas of physical science with the principal goals of: (1) Grow the U.S. scientific community, through the funding of research projects at universities, in areas of fundamental science and technology relevant to stockpile stewardship, with a focus on those areas that have not been traditionally supported by other federal agencies and for which there is a recruiting need within the NNSA/DP laboratories complex; and (2) Providing fundamental-science information and developing advanced experimental measurement techniques in selected areas of physical sciences: condensed matter physics and materials science, hydrodynamics, plasma and high-energy-density physics, fluid dynamics, and low-energy nuclear science.

ADDRESSES: The formal solicitation document, Stewardship Science Academic Alliances Program (DE–PS03–01SF22349), is available through the Industry Interactive Procurement System (IIPS) located at the following URL: *http://e-center.doe.gov*. IIPS provides the medium for disseminating solicitations, receiving financial assistance applications and evaluating applications in a paperless environment. Completed applications are required to be submitted via IIPS. Individuals who have the authority to enter their university or academic institution into a financial assistance award and intend to submit proposals/applications via the IIPS system must register and receive confirmation that they are registered prior to being able to submit an application on the IIPS system. An IIPS "User Guide for Contractor" can be obtained by going to the IIPS Homepage at the following URL: *http://e-center.doe.gov* and then clicking on the "Help" button. Questions regarding the operation of IIPS may be e-mailed to the IIPS Help Desk at *IIPSHelpDesk@e-center.doe.gov* or call the help desk at (800) 683–0751.

FOR FURTHER INFORMATION CONTACT: Ms Bertha Crisp, Contract Specialist, U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, N–700, Oakland, CA 94612–5208; e-mail *bertha.crisp@oak.doe.gov*

SUPPLEMENTARY INFORMATION: Proposals for Research Grants and Centers of Excellence are invited from universities or other academic institutions in the following specific areas of physical science: (1) Properties of materials under extreme conditions and hydrodynamics, (2) high-energy-density physics and fluid dynamics, and (3) low-energy nuclear science. The Stewardship Science Academic Alliances Program is an expansion of the currently funded "Inertial Fusion Science in Support of Stockpile Stewardship" Grant Program. The Office of Research, Development and Simulation anticipates supporting multiple awards in physical sciences totaling approximately $12.5M annually, subject to the availability of funds, as a result of this solicitation. Awards will be for one to three-year projects of work at a funding level appropriate for the proposed scopes. Funding of awards will range up to approximately $2,000,000 per year for Centers of Excellence and will range up to a few hundred thousand dollars per year for Research Grants. The solicitation document contains all the information relative to this action for prospective applicants. The North American Industry Classification System (NAICS) number for this program is 541.

Issued in Oakland, CA, on December 3, 2001.

R. Arlene Coleman,

Acting Director, Financial Assistance Center, Oakland Operations Office.

[FR Doc. 01–30443 Filed 12–7–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for emergency OMB Review; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: Submission for Emergency OMB review; comment request.

SUMMARY: The EIA has submitted the energy information collections listed at the end of this notice to the Office of Management and Budget (OMB) for emergency processing under section 3507(j)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 et seq.). The DOE is requesting an emergency clearance from OMB for the Form EIA–417R by December 18, 2001. This form is used to collect information on emergency situations in U.S. electric power systems. Approval of the request will provide DOE with the time necessary to more thoroughly evaluate its information needs in light of the changed environment since September 11, 2001.

DOE has responsibilities for tracking actual and potential emergency situations on the U.S. electric energy supply system so that Federal emergency response and national security measures can be implemented in a timely and effective manner, as necessary. DOE has had regulations in place since the 1980's requiring electric energy entities to report on systems' incidents and disturbances.

In 1998, the DOE received OMB approval, under Form EIA–417R, to collect electric systems' emergency information through December 31, 2001. DOE is requesting emergency approval to continue use of the existing Form EIA–417R while the revised form is being prepared for submittal to OMB.

During the summer of 2001, DOE developed revised reporting requirements for the form and issued a request for public comments. The **Federal Register** notice (66 FR 47189) requesting public comments was published on September 11. Given the events of September 11, 2001, public comments received in response to the **Federal Register** notice, and consultations with affected groups, DOE is reassessing the information it will require on electric power systems' incidents and disturbances. DOE will not complete this reassessment prior to expiration of the EIA–417R's approval, and thus needs to request an emergency 6-month approval to continue collecting information under the existing regulations (10 CFR 205.350—353).

DATES: Comments must be filed with OMB by December 17, 2001.

ADDRESSES: Send comments to the Bryon Allen, OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget. To ensure receipt of the comments by the due date, submission by FAX at 202–395–7285 or e-mail to *BAllen@omb.eop.gov* is recommended. The mailing address is 726 Jackson Place NW., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–7318. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Herbert Miller.. To ensure receipt of the comments by the due date, submission by FAX at 202–287–1705 or e-mail to *herbert.miller@eia.doe.gov* is recommended. The mailing address is Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of

Energy, Washington, DC 20585–0670. Mr. Miller may be contacted by telephone at (202) 287–1711.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collection submitted to OMB for review: (1) The collection number and title; (2) the sponsor (i.e., the Department of Energy component); (3) the current OMB docket number (if applicable); (4) the type of request (i.e, new, revision, extension, or reinstatement); (5) response obligation (i.e., mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (i.e., the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. Form EIA–417R, "Electric Power System Emergency Report"

2. Office of Emergency Management, Office of Security and Emergency Operations.

3. OMB Number 1901–0288.

4. Reinstatement (emergency clearance request).

5. Mandatory.

6. The Form EIA–417R serves the purpose of alerting the Federal government about actual or projected incidents that will impact the operational and/or reliability of the Nation's domestic electric power systems. Respondents are the owners and/or operators of the Nation's electric power systems. Data are used to examine the incidents and track recovery process, along with alerting the senior policy makers of the Executive branch.

7. Businesses or other for-profit; Federal Government; Not-for-profit institutions; and State, Local or Tribal Governments.

8. 139 total burden hours; (48 respondents × 1 report × 2.89 hours/report).

Statutory Authority: Section 3507(j)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C., December 4, 2001.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 01–30445 Filed 12–7–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–59–000]

Algonquin Gas Transmission Company; Notice of Compliance Filing

December 4, 2001

Take notice that on November 28, 2001 Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2, the revised tariff sheets listed on Appendix A to the filing to become effective January 1, 2002.

Algonquin states that the purpose of this filing is to revise the Gas Research Institute (GRI) surcharges to be effective January 1, 2002 in compliance with the January 21, 1998, Stipulation and Agreement Concerning GRI Funding approved by the Commission in Gas Research Institute, 83 FERC ¶ 61,093 (1998), order on reh'g, 83 FERC ¶ 61, 331 (1998).

Algonquin states that the filing complies with the surcharges set forth in Appendix A to the Stipulation and Agreement as adjusted upward by 10% consistent with Article II, Section 1.0 of the Stipulation and Agreement, which was approved for filing by GRI member pipelines to be effective on January 1, 2002 without suspension or potential refund obligation by OMTR letter order issued September 19, 2001 in GRI's Docket No. RP01–434.

Specifically, Algonquin states that the approved 2002 surcharges are as follows: (1) A GRI volumetric surcharge of 0.55¢ per dekatherm will be charged on all non-discounted firm commodity and interruptible transportation services; (2) a 0.88¢ per dekatherm surcharge will be charged on all non-discounted firm commodity units delivered to small customers qualifying for service under Algonquin's Rate Schedules AFT–1S and AFT–ES; (3) a reservation surcharge of 6.6¢ per dekatherm per month will be charged on non-discounted firm high load factor customers, *i.e.*, greater than 50% load factor; and (4) a reservation surcharge of 4.07¢ per dekatherm per month will be charged on non-discounted firm low load factor customers, *i.e.*, less than or equal to 50% load factor.

Algonquin states that copies of the filing were mailed to all affected customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30408 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–445–001]

Alliance Pipeline L.P.; Notice of Negotiated Rates

December 4, 2001.

Take notice that on November 26, 2001, Alliance Pipeline L.P. (Alliance) tendered for filing as part of its FERC Gas Tariff, Volume No. 1, the following tariff sheets to become effective January 1, 2002:

First Revised Sheet No. 11
First Revised Sheet No. 12
First Revised Sheet No. 13
First Revised Sheet No. 14

Alliance states that it provides firm service under Rate Schedule FT–1 for its existing shippers, all of whom have agreed to pay negotiated rates. The negotiated rate agreements provide that changes in Alliance's costs will be reflected in its negotiated rates from time to time. Alliance states that the tariff sheets listed above set forth the essential elements of its Rate Schedule FT–1 negotiated rate transactions, including the rates thereunder, and that it is filing the listed tariff sheets to reflect changes made to the rates charged under its negotiated rate agreements as a result of changes in its

costs. Alliance states that its filing is made pursuant to the authorization set forth in its negotiated rates agreements and section 39 of the General Terms and Conditions of its FERC Gas Tariff. Alliance states that copies of its filing have been mailed to all customers, state commissions, and other interested customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30406 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–035]

Dominion Transmission, Inc.; Notice of Negotiated Rate

December 4, 2001.

Take notice that on November 27, 2001, Dominion Transmission, Inc. (DTI) filed with the Commission the following tariff sheets for disclosure of a recently negotiated rate transaction:

Sixth Revised Sheet No. 1300
Second Revised Sheet No. 1406

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30404 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–58–000]

East Tennessee Natural Gas Company; Notice of Compliance Filing

December 4, 2001.

Take notice that on November 28, 2001, East Tennessee Natural Gas Company (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Twenty-Second Revised Sheet No. 4 and First Revised Sheet No. 4A to become effective January 1, 2002.

East Tennessee states that the purpose of this filing is to revise the Gas Research Institute (GRI) surcharges to be effective January 1, 2002 in compliance with the January 21, 1998, Stipulation and Agreement Concerning GRI Funding approved by the Commission in Gas Research Institute, 83 FERC ¶61,093 (1998), order on reh'g, 83 FERC ¶61,331 (1998).

East Tennessee states that the filing complies with the surcharges set forth in Appendix A to the Stipulation and Agreement as adjusted upward by 10% consistent with Article II, Section 1.0 of the Stipulation and Agreement, which was approved for filing by GRI member pipelines to be effective on January 1, 2002 without suspension or potential refund obligation by OMTR letter order issued September 19, 2001 in GRI's Docket No. RP01–434.

Specifically, East Tennessee states that the approved 2002 surcharges are as follows: (1) A GRI volumetric surcharge of 0.55¢ per dekatherm will be charged on all non-discounted firm commodity and interruptible transportation services; (2) a 0.88¢ per dekatherm surcharge will be charged on all non-discounted firm commodity units delivered to small customers qualifying for service under East Tennessee's Rate Schedule FT–GS; (3) a reservation surcharge of 6.6¢ per dekatherm per month will be charged on non-discounted firm high load factor customers, *i.e.*, greater than 50% load factor; and (4) a reservation surcharge of 4.07¢ per dekatherm per month will be charged on non-discounted firm low load factor customers, *i.e.*, less than or equal to 50% load factor.

East Tennessee states that copies of the filing were mailed to all affected customers of East Tennessee and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30407 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–25–000]

Llano Estacado Wind, LP Shell WindEnergy Inc.; Notice of Filing

December 4, 2001.

Take notice that on November 14, 2001, Llano Estacado Wind, LP (Llano Estacado Wind) and Shell WindEnergy, Inc. (Shell WindEnergy) (collectively, Applicants) tendered for filing the Federal Energy Regulatory Commission (Commission) an application pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby Shell WindEnergy will indirectly acquire all the interests in Llano Estacado Wind, including jurisdictional rate schedules and certain substation and interconnection facilities.

Llano Estacado Wind owns the Llano Estacado Wind Ranch at White Dear, a wind-powered generation facility and Qualifying Small Power Production Facility with a nameplate gross output rating of 79.8 megawatts. Applicants have requested confidential treatment of certain commercially sensitive information.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 14, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30402 Filed 12–7–01; 8:45 am]

BILLING CODE 5717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–044]

Natural Gas Pipeline Company of America; Notice of Negotiated Rate

December 4, 2001.

Take notice that on November 28, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Substitute Original Sheet No. 26T, to be effective November 21, 2001.

On November 21, 2001, Natural filed Original Sheet No. 26T at Docket No. RP99–176–043 to implement a negotiated rate transaction under Rate Schedule ITS with Nicor Enerchange, LLC. Subsequently, it was discovered that certain provisions were inadvertently omitted. Therefore, Natural is now submitting Substitute Original Sheet No. 26T reflecting the appropriate provisions to be accepted in lieu of Original Sheet No. 26T previously submitted on November 21, 2001.

Natural requests waivers of the Commission's Regulations, including the 30-day notice requirement of section 154.207, to the extent necessary to permit the proposed tariff sheet to become effective November 21, 2001.

Natural states that copies of the filing are being mailed to its customers, interested state commissions and all parties set out on the Commission's official service list in Docket No. RP99–176.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30405 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–99–000]

Shell Offshore Inc., Complainant, v. Transcontinental Gas Pipeline Corporation, Williams Gas Processing—Gulf Coast Company, L.P., and Williams Field Services Company, Respondents; Notice of Complaint

December 4, 2001.

Take notice that on November 30, 2001, pursuant to rule 206 of the rules of practice and procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206, Shell Offshore Inc. (Shell) tendered for filing a Complaint Requesting Fast Track Processing and Request for Interim Relief against Transcontinental Gas Pipeline Corporation (Transco), Williams Gas Processing—Gulf Coast Company, L.P.(WGP), and Williams Field Services Company (WFS). Shell alleges that Transco, in concert with its affiliates WGP and WFS, are acting in an anti-competitive manner in connection with the transportation of gas in interstate commerce. More specifically, Shell alleges that Transco and its affiliates are implementing the abandonment of the North Padre facilities in a manner that frustrates the Commission's expectation that the abandonment would foster competition within the gathering industry and in a manner contrary to the Commission's policies and effective regulation of the interstate transportation of natural gas.

Shell has requested the Commission to: (1) Reassert jurisdiction over Transco's integrated system to protect shippers such as Shell from the anti-competitive behavior of Transco and its affiliates; (2) protect Shell from the immediate danger of losing its essential service on the North Padre facilities and the jurisdictional IT-feeder facilities by providing immediate interim relief requiring Transco and its affiliates to continue service without interruption at the Pre-December 1, 2001 rates, and under the same terms and conditions of service; and (3) provide permanent

relief to Shell against the loss of essential service on the North Padre facilities and the jurisdictional IT-feeder facilities by requiring Transco and its affiliates to continue service without interruption at just and reasonable rates and terms and conditions of service.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before December 14, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30410 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP96–312–063]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate and Compliance Filing

December 4, 2001.

Take notice that on November 27, 2001, Tennessee Gas Pipeline Company (Tennessee), submitted for filing and approval a Gas Transportation Agreement between Tennessee and eCORP Marketing, L.L.C., pursuant to Tennessee's Rate Schedule FT–IL for service on Tennessee's Stagecoach Lateral, dated November 5, 2001 (November 5 Lateral Service Agreement).

Tennessee states that the filing is being made in compliance with the Commission's February 23, 2001 Order Issuing Certificates and Authorizing Abandonment in Docket Nos. CP00–65–000, *et al.*, and the Commission's November 2, 2001 letter order in Docket Nos. RP02–17–000 and CP00–65–005. Tennessee requests that the Commission accept and approve on an expedited basis the negotiated rates in the November 5 Lateral Service Agreement to be effective on December 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30403 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–60–000]

Texas Eastern Transmission, LP; Notice of Compliance Filing

December 4, 2001.

Take notice that on November 28, 2001, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 and First Revised Volume No. 2, the revised tariff sheets listed on Appendix A to the filing, to become effective January 1, 2002.

Texas Eastern states that the purpose of this filing is to revise the Gas Research Institute (GRI) surcharges to be effective January 1, 2002 in compliance with the January 21, 1998, Stipulation and Agreement Concerning GRI Funding approved by the Commission in Gas Research Institute, 83 FERC ¶ 61,093 (1998), order on reh'g, 83 FERC ¶ 61,331 (1998).

Texas Eastern states that the filing complies with the surcharges set forth in Appendix A to the Stipulation and Agreement as adjusted upward by 10% consistent with Article II, Section 1.0 of the Stipulation and Agreement, which was approved for filing by GRI member pipelines to be effective on January 1, 2002 without suspension or potential refund obligation by OMTR letter order issued September 19, 2001 in GRI's Docket No. RP01–434.

Specifically, Texas Eastern states that the approved 2002 surcharges are as follows: (1) A GRI volumetric surcharge of 0.55¢ per dekatherm will be charged on all non-discounted firm commodity and interruptible transportation services; (2) a 0.88¢ per dekatherm surcharge will be charged on all non-discounted firm commodity units delivered to small customers qualifying for service under Texas Eastern's Rate Schedule SCT; (3) a reservation surcharge of 6.6¢ per dekatherm per month will be charged on non-discounted firm high load factor customers, *i.e.*, greater than 50% load factor; and (4) a reservation surcharge of 4.07¢ per dekatherm per month will be charged on non-discounted firm low load factor customers, *i.e.*, less than or equal to 50% load factor.

Texas Eastern states that copies of the filing were mailed to all affected customers of Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and

interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30409 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–4–000, et al.]

GNE, LLC, et al.; Electric Rate and Corporate Regulation Filings

December 3, 2001.

Take notice that the following filings have been made with the Commission:

1. GNE, LLC

[Docket No. EG02–4–000]

Take notice that on November 30, 2001, GNE, LLC located at 1 Katahdin Avenue, Millinocket, Maine, 04462–1398, tendered for filing with the Federal Energy Regulatory Commission (Commission) an amendment to application for exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

GNE, LLC is a Delaware limited liability company that will own and operate four hydroelectric plants located at or near Millinocket, Maine, with a total nameplate capacity of approximately 130 megawatts and certain undivided joint ownership interest in several transmission interconnection components that will be part of the eligible facility. GNE, LLC will be engaged directly and exclusively in the business of owning and operating all or part of one or more eligible facilities and selling electric energy at wholesale.

Comment date: December 24, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Portland General Electric Company

[Docket No. ES01–33–001]

Take notice that on November 28, 2001, Portland General Electric Company submitted an amendment to its original application pursuant to section 204 of the Federal Power Act. The amendment seeks authorization to issue short-term debt securities in an amount not to exceed $550 million.

Comment date: December 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Northeast Utilities Service Company, Select Energy, Inc., Northeast Generation Company

[Docket No. ER96–496–010, Docket No. ER99–14–007, and Docket No. ER99–4463–001]

Take notice that on November 28, 2001, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company, and Public Service of New Hampshire (the NU Operating Companies), and Select Energy, Inc. (Select), and Northeast Generation Company (NGC) (collectively, Applicants) jointly filed with the Federal Energy Regulatory Commission (Commission), an updated market power analysis. This filing serves as the triennial updated market power analysis in Docket Nos. ER96–496–000 for the NU Operating Companies; ER99–14–000 for Select; and ER99–4463–000 for NGC. In addition, Applicants request the Commission to synchronize their future triennial market power updates.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Phoenix Wind Power LLC

[Docket No. ER02–417–000]

Take notice that on November 28, 2001, Phoenix Wind Power LLC filed with the Federal Energy Regulatory Commission (Commission) a Notice of Succession informing the Commission that the name of PPM One LLC had been changed to Phoenix Wind Power LLC. Phoenix Wind Power LLC included with the Notice of Succession its First Revised Rate Schedule No. 1, effective November 27, 2001, which was revised to reflect the name change and to satisfy the Commission's regulations in 18 CFR 35.9.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Klamath Generation LLC

[Docket No. ER02–418–000]

Take notice that on November 28, 2001, Klamath Generation LLC filed with the Federal Energy Regulatory Commission (Commission) a Notice of Succession informing the Commission that the name of PPM Four LLC had been changed to Klamath Generation LLC. Klamath Generation LLC included with the Notice of Succession its First Revised Rate Schedule No. 1, effective November 27, 2001, which was revised to reflect the name change and to satisfy the Commission's regulations in 18 CFR 35.9.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Southern Company Services, Inc.

[Docket No. ER02–419–000]

Take notice that on November 28, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies), filed eleven (11) service agreements for point-to-point transmission service under the Open Access Transmission Tariff of Southern Companies (FERC Electric Tariff, Fourth Revised Volume No. 5). Specifically, this filing concerns seven (7) agreements for short-term firm point-to-point transmission service executed between SCS, as agent for Southern Companies, and: (i) TXU Energy Trading Company; (ii) Enron Power Marketing, Inc.; (iii) Cinergy Services, Inc.; (iv) Cargill-Alliant, LLC; (v) Avista Energy, Inc.; (vi) Sempra Energy Trading Corporation; and (vii) NRG Power Marketing, Inc. This filing also concerns four (4) agreements for non-firm point-to-point transmission service executed between SCS, as agent for Southern Companies, and: (i) TXU Energy Trading Company; (ii) Cargill-Alliant, LLC; (iii) Sempra Energy Trading Corporation; and (iv) NRG Power Marketing, Inc.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Tucson Electric Power Company

[Docket No. ER02–420–000]

Take notice that on November 28, 2001, Tucson Electric Power Company tendered for filing one (1) Umbrella Service Agreement (for short-term firm service) and one (1) Service Agreement (for non-firm service) pursuant to Part II of Tucson's Open Access Transmission Tariff, which was filed in Docket No. ER01–208–000.

The details of the service agreements are as follows:

Umbrella Agreement for Short-Term Firm Point-to-Point Transmission Service dated as of July 24, 2001 by and between Tucson Electric Power Company PPL EnergyPlus, LLC–FERC Electric Tariff Vol. No. 2, Service Agreement No. 182. No service has commenced at this time.

Form of Service Agreement for Non-Firm Point-to-Point Transmission

Service dated as of July 24, 2001 by and between Tucson Electric Power Company and PPL EnergyPlus, LLC—FERC Electric Tariff Vol. No. 2, Service Agreement No. 183. No service has commenced at this time.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Southwest Power Pool, Inc.

[Docket No. ER02–421–000]

Take notice that on November 28, 2001, Southwest Power Pool, Inc. (SPP) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Notice of Cancellation for SPP Service Agreement Nos. 518 through 521, between SPP and McCurtain Energy Associates, LLC, and SPP Service Agreement Nos. 522 through 524, between SPP and Sequoyah Energy Associates, LLC (collectively, Transmission Customers).

SPP requests an effective date of November 6, 2001 for this cancellation.

Copies of this filing have been served upon the Transmission Customers.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. West Texas Utilities Company

[Docket No. ER02–422–000]

Take notice that on November 28, 2001, West Texas Utilities Company (WTU) submitted for filing revised tariff sheets under WTU's Wholesale Power Choice Tariff (WPC Tariff) to modify billing procedures.

WTU seeks an effective date of August 1, 2001.

WTU states that a copy of this filing has been served on all customers taking service under the WPC Tariff and the Public Utilities Commission of Texas.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Commonwealth Edison Company

[Docket No. ER02–423–000]

Take notice that on November 28, 2001 Commonwealth Edison Company (ComEd) submitted for filing a Form of Service Agreement for Firm Point-to-Point Transmission Service (Service Agreement) between ComEd and Exelon Generation Company, LLC (Exelon) under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of November 21, 2001.

Copies of this filing were served on Exelon.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Michigan Electric Transmission Company and Consumers Energy Company

[Docket No. ER02–424–000]

Take notice that on November 28, 2001, Consumers Energy Company (Consumers) and Michigan Electric Transmission Company (Michigan Transco) tendered for filing a Notice of Succession and several documents related to the transfer of specified Rate Schedules from Consumers to Michigan Transco. (The filing is intended to supplement a prior filing in Docket No. ER01–1683–000).

The changes therein noted are to become effective April 1, 2001.

A full copy of the filing was served upon the Michigan Public Service Commission, and the Customers served under the affected Rate Schedules.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Cleco Power LLC

[Docket No. ER02–425–000]

Take notice that on November 28, 2001, Cleco Power LLC (Cleco) filed a Revised Electric System Interconnection Agreement with Southwestern Electric Power Company that provides for a new delivery point for SWEPCO deliveries at Grand Bayou and the terms and conditions for the installation of new meter and communications equipment associated with that delivery point. The revised agreement is designated as Cleco Power LLC First Revised Rate Schedule FERC No. 17.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. American Transmission Company LLC

[Docket No. ER02–426–000]

Take notice that on November 28, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Distribution-Transmission Interconnection Agreement between ATCLLC and Cloverland Electric Cooperative.

ATCLLC requests an effective date of June 29, 2001.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30399 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–25–000]

Copiah County Storage Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Copiah Storage Project and Request for Comments on Environmental Issues

December 4, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Copiah Storage Project involving construction and operation of facilities by Copiah County Storage Company (Copiah) in Copiah County, Mississippi.[1] Copiah proposes to construct a compressor station, a natural gas storage cavern, approximately 635 feet of 20-inch-diameter pipeline, and up to five freshwater withdrawal/brine injection well sites. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about

[1] Copiah's application was filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" was attached to the project notice Copiah provided to affected landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*www.ferc.gov*).

Summary of the Proposed Project

Copiah wants to provide a storage facility that would act as a reservoir for a supply of natural gas to the Mississippi regional area. The proposed project would meet load swings brought about by gas-fired electric generation and the peak winter heating load and growth of local distribution companies for rapid fuel delivery services to nearby pipeline systems. The storage facility would have an initial natural gas storage working capacity of approximately 3.3 billion cubic feet (Bcf) with 300,000 dekatherms per day (Dth/d) of deliverability capability and 150,000 Dth/d of injection capability. Specifically, Copiah seeks authority to construct and operate:

- A single 3.3 Bcf capacity gas storage cavern extending approximately 5,500 feet below the ground surface within an underground salt dome;
- 13,350 horsepower (hp) of gas engine-driven compression at the new Copiah Storage Project compressor station to provide compression for injection and withdrawal of natural gas from the gas storage cavern;
- Approximately 635 feet of 20-inch-diameter pipeline from the compressor station to the storage cavern wellhead; and
- Up to five well sites consisting of a freshwater withdrawal well and brine injection well at each site.

The location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Approximately 730 acres have been identified by Copiah as the project area. However, only 59 acres would be disturbed by construction and 53 acres would be necessary for the operation of the proposed project.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Land use
- Water resources, fisheries, and wetlands
- Endangered and threatened species
- Vegetation and wildlife
- Air quality and noise
- Cultural resources

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Copiah. This preliminary list of issues may be changed based on your comments and our analysis.

- The project would be located in a United States Environmental Protection Agency-designated sole-source aquifer area, the Southern Hills Regional Aquifer System.
- The project would require approximately 34 million barrels of non-potable freshwater for cavern solution leaching. The rate of withdrawal from each well would be approximately 600 to 1,000 gallons per minute (gpm). Brine resulting from cavern leaching would be disposed of by injection into disposal wells.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas/Hydro.
- Reference Docket No. CP02–025–000.
- Submit your comments so that they will be received in Washington, DC on or before January 15, 2002.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Web site at the "RIMS" link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] "We", "us", and "our" refer to the environmental staff of the Office of Energy Projects (OEP).

site at *http://www.ferc.gov* under the "e-Filing" link and link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on "Login to File" and then "New User Account."

Everyone who responds to this notice or comments throughout the EA process will be retained on our mailing list. If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Due to current events, we cannot guarantee that we will receive mail on a timely basis from the U.S. Postal Service, and we do not know how long this situation will continue. However, we continue to receive filings from private mail delivery services, including messenger services in a reliable manner. The Commission encourages electronic filing of any comments or interventions or protests to this proceeding. We will include all comments that we receive within a reasonable time frame in our environmental analysis of this project.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an "intervenor". Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's rules of practice and procedure (18 CFR 385.214) (see appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC Web site (*www.ferc.gov*) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the "CIPS" link on the FERC Internet Web site provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet Web site, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30401 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–433–000]

Transcontinental Gas Pipe Line Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Station 35 Clean Air Project and Request for Comments on Environmental Issues

December 4, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Station 35 Clean Air Project involving construction and operation of facilities by Transcontinental Gas Pipe Line Corporation (Transco) in Harris County, Texas.[1] These facilities would consist of 14,910 horsepower (hp) of compression at an existing compressor station. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner you might have also received previous notification from Transco. FERC regulations require the applicant to notify all landowners within one-half mile of the compressor station. However, the proposed facility modifications will take place entirely within Transco property and no additional land will be required for this project.

Summary of the Proposed Project

Transco proposes to modify its existing compressor site at Compressor Station 35 in Harris County, Texas to comply with Clean Air Act Amendments (CAA) of 1990 and the Texas Natural Resource Conservation Commission for the Houston-Galveston Intrastate Air Quality Control Region. To reduce emissions and comply with the CAA, Transco proposes to:

- Install 2 electric motors driving two 7455 HP centrifugal compressors and associated equipment;
- Remove 4 existing gas-fired compressors;
- Construct a new 75 feet x 110 feet compressor building, a 35 feet x 72 feet auxiliary building, a 120 feet x 200 feet electrical auxiliary building and a 16 feet x 50 feet switchgear station;
- Demolish the old compressor building and remove associated equipment; and;
- Modify existing yard piping.

Land Requirements for Construction

Construction of the proposed facilities would require about 4 acres of land in a completely fenced site that has been previously disturbed.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

[1] Transco's application was filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

[2] "We", "us", and "our" refer to the environmental staff of the Office of Energy Projects (OEP).

1. Geology and soils.
2. Land use.
3. Water resources, fisheries, and wetlands.
4. Cultural resources.
5. Vegetation and wildlife.
6. Air quality and noise.
7. Endangered and threatened species.
8. Hazardous waste.
9. Public safety.
10. Water resources, fisheries, and wetlands.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section beginning on page 4.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Transco. This preliminary list of issues may be changed based on your comments and our analysis.

11. Air quality effects.
12. Noise impact.
13. Land-use compatibility.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

14 Send an original and two copies of your letter to: Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

15. Label one copy of the comments for the attention of (Gas/Hydro Branch).

16. Reference Docket No. CP01–433–000.

17. Mail your comments so that they will be received in Washington, DC on or before (January 15, 2002).

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information request (appendix 2). If you do not return the Information Request, you will be removed from the environmental mailing list.

Due to current events, we cannot guarantee that we will receive mail on a timely basis from the U.S. Postal Service, and we do not know how long this situation will continue. However, we continue to receive filings from private delivery services, including messenger services in a reliable manner. The Commission encourages electronic filing of any comments or interventions or protests to this proceeding. We will include all comments that we receive within a reasonable time frame in our environmental analysis of this project.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an "intervenor". Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's rules of practice and procedure (18 CFR 385.214) (see appendix 2).[3] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

[3] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC Web site (*www.ferc.gov*) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the "CIPS" link on the FERC Internet Web site provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet Web site, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 01–30400 Filed 12–7–01; 8:45 am]
BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7114–8]

Equipment Containing Ozone Depleting Substances at Industrial Bakeries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed bakery partnership program and request for comments.

SUMMARY: In today's **Federal Register** the Environmental Protection Agency announces a unique voluntary Partnership Program for the baking industry. EPA believes that there are many bakeries that are leaking ozone depleting substances, including chlorofluorocarbons (CFCs), in excess of permitted levels, and therefore, intends to establish a voluntary program for reducing these emissions in an expeditious, highly cost-effective manner. This program generally requires participants to audit certain appliances and phase out Class I industrial process refrigeration appliances. It also provides incentives to replace existing appliances with non-ozone depleting systems, and requires compliance with the leak repair regulations.

Participation in the partnership program is purely voluntary, and this is not a rule, but it does combine the advantages of predictability and

reduced penalties with incentives to move away from the use of ozone depleting substances (ODS). Participating companies will be asked to agree to phase out use of the more hazardous Class I ODS by July 15, 2003, reflecting the fact that use of these substances is being rapidly phased out under existing rules. Bakeries that have installed non-ODS systems by March 15, 2002, can avoid all penalties under this agreement. Bakeries that install non-ODS systems after that date but no later than July 15, 2004 (unless an extension is granted) are limited to penalties of $10,000 per appliance. All other appliances must pay a per pound penalty for any leaks that cross a high threshold but again, this per pound penalty can be avoided by conversion to non-ODS systems. Companies already under national investigation for violations are not eligible to participate in this program. EPA solicits comments on the Bakery Partnership Program described below.

DATES: Comments should be submitted by January 9, 2002.

ADDRESSES: Comments should be submitted: Bakery Partnership Program Comments, the Docket Clerk, Enforcement and Compliance Docket and Information Center (Mail Code 2201A), Docket Number EC–2001–007, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave, NW., Washington, DC 20460 (in triplicate, if possible). Please use a font size no smaller than 12. Commenters are encouraged to submit their comments electronically in lieu of or in addition to standard delivery, by sending those comments electronically to a separate email box established for the purpose of receiving comments and other notices under this Bakery Partnership Program: *docket.oeca@epa.gov*. Attach electronic comments as an ASCii (text) file, and avoid the use of special characters and any form of encryption. Be sure to include the docket number, EC–2001–007 on your document. Comments may also be faxed to (202) 501–1011. In person, deliver comments to Enforcement and Compliance Docket and Information Center, U.S. Environmental Protection Agency, Ariel Rios Building, Room 4033, 1200 Pennsylvania Ave, NW., Washington, DC 20460. Persons interested in reviewing this docket may do so by calling (202) 564–2614 or (202) 564–2119.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Garlow, Air Enforcement Division (2242A), U.S. EPA, 1200 Pennsylvania Ave NW., Washington, DC 20460, telephone 202–564–1088.

SUPPLEMENTARY INFORMATION: Many industries, including most industrial bakeries, use ozone depleting substances [ODS], such as CFCs and hydrochlorofluorocarbons [HCFCs], to cool their products. Like other industrial sources, most industrial bakeries have industrial process refrigeration appliances that are subject to 40 CFR part 82, subpart F. The equipment that produces the product contains CFCs or other ozone depleting substances in jackets around the product. The equipment may sometimes leak these coolants in sizeable quantities into the air, not into the product. If certain leak rates are exceeded, the company may be required to retrofit or retire the equipment.

EPA has concluded two large industrial process refrigeration enforcement cases, one of which involved a baking company with bakeries in several states. In both cases, the companies voluntarily chose to replace their industrial process refrigeration appliances with equipment designed to prevent pollution. The ozone depleting coolant was replaced by a cooling system which uses a secondary loop containing a cooling solution, glycol, that is not an ozone depleting substance. Although the primary loop of the refrigeration system may still contain some ozone depleting substances, the quantity is greatly reduced, and the ODS refrigerant is located where vibration and the potential for leaks is greatly reduced. The EPA wants to encourage all companies with industrial process refrigeration appliances that may be leaking to consider a similar pollution prevention approach to ensuring their compliance with the refrigerant recycling and emissions reduction regulations found at 40 CFR part 82, subpart F.

EPA is inviting the baking industry to participate in a voluntary program to address these potential violations. It offers an expedited way for companies to correct past violations and prevent future ones, in return for a release from past liabilities and reduced penalties. The largest trade association representing bakeries accepted this invitation on behalf of its members. The total number of industrial bakeries is not exactly known yet, but it is believed that there may be over 1,000 bakeries in the United States. Each bakery will likely have one or more industrial process refrigeration appliances that are subject to the regulations, such as mixers or chillers, at each bakery. Many of these industrial process refrigeration appliances, have already been converted to non-ODS, pollution prevention equipment.

In the interests of promoting fast, efficient and widespread emission reductions, and better compliance with the regulatory structure, EPA intends to offer and enter into agreements with baking companies providing for the following:

- Audit their facilities;
- Identify problem areas;
- Pay a greatly reduced penalty, and propose solutions that will protect the environment; and,
- Ensure greater compliance with the refrigerant recycling and emissions reduction regulations found at 40 CFR part 82, subpart F.

EPA's proposal offers clear and consistent terms to reduce uncertainty and eliminate the need for extended, individualized negotiations. Presented here are the basic elements, illustrations and a chronology of key steps that EPA and participants will be expected to take. The basic elements of the program are as follows:

- *Notice to EPA*. Bakeries not already the subject of a national enforcement investigation or action, and which have industrial process refrigeration appliances containing 50 pounds or more of ODS refrigerants, are eligible to participate. Companies intending to participate should notify EPA by March 15, 2002 and as soon thereafter as possible, but no later than March 30, 2002, identify the number of appliances to be audited. If some of the industrial process refrigeration appliances have been converted to non-ODS systems prior to March 15, 2002, a count of these appliances should also be provided. If, during the audit, a more accurate tally is obtained, an updated notice may be submitted at that time. Appendix A contains a sample notice of participation. It can be sent by electronic mail or hard copy mail, but electronic mail or e-mail is preferred.
- *Annualized leak rate*. For the purposes of this Partnership Agreement, the annualized leak rate shall be calculated for every instance in which refrigerant was added to the appliance. The leak rate shall be calculated by the formula agreed upon by EPA in the *Compliance Guidance for Industrial Process Refrigeration Leak Repair Regulations under Section 608 of the Clean Air Act*.
- *Audit*. Participating companies must audit up to June 15, 2003, i.e., assess the compliance status of all their industrial process refrigeration appliances and facilities. They must then report to EPA a summary of their findings, by July 15, 2003. If a company complies with the program, EPA intends

to grant a release from civil liability for the matters identified and corrected, so long as reduced penalties are paid as described below. However, if violative conduct is not identified and corrected, EPA is not granting any release for such problems. Good faith participants in this Partnership Program will receive a release for the period of time prior to September 30, 2000, even though this period may not be audited. If a facility has installed non-ODS technology on any of their appliances prior to the March 15, 2002 start date for this partnership program, such an appliance need not be audited, and a complete release from civil liabilities and penalties will be granted for such appliances. By non-ODS systems, EPA means systems that contain no ODS at all [e.g. HFC systems or ammonia systems] or no ODS in the secondary loop, but may contain an ODS in the primary loop. Typically, the ODS in the primary loop [compressor] is a much smaller volume, and is not subjected to the vibration in the process areas that may cause greater leaks. If the primary loop contains less than 50 pounds of ODS, as is frequently the case, then the appliance is exempt from the leak repair regulations. It is still subject to other requirements such as the "no venting" requirement of 40 CFR 82.154(a).

• *Class I appliances.* All Class I appliances must be audited and converted either to a non-ODS system or to a system using an ODS with an ozone depleting potential [ODP] of less than 0.1. Class I appliances are those containing Class I controlled substances, listed in appendix A to subpart A of 40 CFR part 82, and include CFC refrigerants (e.g., R–12). Leaks from these Class I appliances are more damaging to the Earth's ozone layer than an equivalent amount of leakage from Class II appliances. The phaseout of the production of CFCs was completed as of December 31, 1995. Since the availability of CFCs will continue to decrease over time, EPA believes that this is a good time to switch to a less ozone-depleting technology. EPA estimates that the vast majority of appliances in this industry have already switched from using Class I ODS to either Class II or non-ODS systems. Participating companies must identify their Class I appliances and submit a plan for change/conversion to either the Class II ODS with an ODP of 0.1 or less, such as R–22, or to a non-ODS system. The audits must be completed and plans must be submitted to EPA by July 15, 2002. An Administrative Order on Consent [AOC] will incorporate a pledge to complete the audits of Class II appliances and to submit plans if needed, for those appliances by July 15, 2003 and pay penalties as specified in the agreement. EPA expects the plans for Class I appliances to be fully implemented by July 15, 2003, but may grant additional time in exceptional circumstances pursuant to 40 CFR 82.156(i)(7).

• *Class II appliances.* All Class II appliances must be audited by June 15, 2003. Class II appliances are those containing Class II controlled substances, listed in appendix B to subpart A of 40 CFR part 82 (including all HCFC refrigerants, such as R–22). If any of these appliances are being changed/converted to non-ODS systems, then plans to accomplish this must be submitted by July 15, 2003 as agreed to in the July 2002 AOC.

• *CAFO.* EPA will issue Compliance Agreement Final Orders [CAFOs] to participating companies that reflect the audit findings, implementation plans and schedule of corrections, any reduced penalties that must be paid and a release from civil liability conditioned on completion of the implementation plans and corrections. EPA will issue CAFOs at the completion of all audits in July of 2003. If a company has only Class I appliances, EPA will issue the CAFO in July of 2002. Companies must also commit to compliance with all regulations.

• *Plan Implementation.* By July 15, 2003 for Class I appliances and by July 15, 2004 for Class II appliances, all plans for equipment changes/conversions should be completely implemented, unless extensions are granted pursuant to 40 CFR 82.156(i)(7). EPA is still considering whether the proposal outlined above satisfies the Clean Air Act requirement that Section 113(a) administrative orders must require compliance within twelve months of their issuance.

• *Program Completion.* By July 15, 2004 or such later date that all conversions are completed, the participating company will notify EPA and EPA will respond with a confirmation letter acknowledging the completion of the Bakery Partnership Program.

Penalties

• *Per appliance penalty.* A penalty of $10,000 shall be paid for all ODS containing appliances, regardless of whether violations are identified or not, except that no penalties are due for any appliance converted to a non-ODS system before March 15, 2002. No bakery facility must pay more than $50,000 in these penalties. This penalty will be paid with other penalties no later than 30 days after receipt of the CAFO.

• *Per pound penalties.* Additional "per pound" penalties for all appliance leaks discovered during the audit, occurring after a 35% annualized leak rate, must be calculated on a 12 month basis, beginning when the auditing period starts, *i.e.*, September 30, 2000. At the end of the 12 month period following a 35% annualized leak rate, per pound calculations cease, unless a subsequent 35% annualized leak is discovered, in which case another 12 month period of calculation begins. Per pound penalty calculations end June 15, 2003.

• *No per pound penalties for replacement with non-ODS system.* Switching to a non-ODS system is encouraged. If a participating company agrees to replace an ODS system with a non-ODS system in an appliance, no "per pound" penalties need be paid for that appliance. If a company is facing high per pound penalties for a particular appliance but has decided that it does not make technical or economic sense for the company to convert that particular appliance to a non-ODS system, it may instead substitute another appliance[s] and still avoid the per pound penalties for the first appliance. The first appliance must still be brought into full compliance. This "bubbled compliance" concept would allow a company to substitute another appliance or appliances that have 120% of the full charge of the appliance that will not be changed/converted. For example, if a 1000 pound appliance has very high per pound penalties that the company wishes to avoid, it may avoid those penalties either by converting this appliance to a non-ODS system, or by converting one or more other ODS containing appliances [that were not already required to convert to non-ODS systems] which have a total charge of at least 1200 pounds. This could be one other appliance with a full charge of 1200 pounds or two appliances of 600 pounds each or some other combination of appliances that total at least 1200 pounds of refrigerant. If the two 600 pound appliances in this example had per pound penalties of their own, those penalties would still be due, unless some other appliance or appliances in turn were converted to non-ODS systems in their stead, at the 1.2 to 1 ratio, as above.

• *Start-up period.* No leaks will be counted as part of the per pound calculation for the period 60 days after a new installation or after an appliance is changed/converted to a non-ODS or lower than 0.1 ODP system, as a "start up" period.

• *Per pound amounts.* Per pound penalties will be calculated per appliance as follows: $20 per pound for up to 500 pounds, $30 per pound for 501–1000 pounds and $40 per pound for the pounds over 1000 for each 12 month period after a 35% annualized leak rate is identified.

In summary, all sources must achieve and maintain full compliance with the refrigerant recycling and emissions reduction regulations found at 40 CFR part 82, subpart F. In addition, appliances using class I substances must be audited and changed/converted. Appliances using class II substances must be audited. Owners of Class I and II appliances may elect to convert to non-ODS to avoid paying fees for higher leaks. Each company will sign an Administrative Order on Consent [AOC] on or before July 15, 2002 and sign a Consent Agreement Final Order [CAFO] on or before July 15, 2003, which will specify a conditional waiver of liability. These are the main points of interest in this partnership agreement. There are some other minor details that are mentioned in the Partnership Agreement and the other Appendices, which should be self explanatory. Other approaches to achieving the objectives of this program were considered by EPA and the industry representatives, but this approach was chosen as being the best from the point of view of administrative ease of implementation and environmental improvement.

Here is an example of what a participating company may encounter during participation in this partnership agreement:

If a participating company, is eligible and wants to participate, it should send a notice to EPA by March 15, 2002, identifying the company and its facilities and appliances. If this company has five bakeries and five appliances in each bakery, for a total of 25 appliances, seven of which have been converted to a non-ODS system prior to March 15, 2002, then there will be a $10,000 penalty per appliance for the 18 ODS containing appliances. This company will, however, get a release from civil liability for all 25 appliances for problems identified and corrected. The company is best advised to pay particular attention to their Class I appliances, if any, as audits must be conducted and a decision on these appliances must be made by July 15, 2002. If there are four Class I appliances, they should be audited first to determine what "per pound" penalties may be due for these appliances. If the per pound penalties determined from this audit indicate that a large per pound penalty may be due for several of these appliances, then this may be persuasive in deciding to convert these appliances to a non-ODS system in order to avoid the per pound penalties. If, instead, the company chooses to convert some or all of the Class I appliances to a Class II ODS refrigerant with an ODP of less than 0.1, rather than a non-ODS system, then the per pound penalties will still be due and payable by 30 days after receipt of the CAFO, which should be shortly after July 2003. Auditing and calculation of per pound penalties should continue through June 15, 2003 to ensure continuing compliance and lowered emissions.

By July 15, 2002, this company must prepare a plan and submit this plan to EPA, indicating which of the appliances are the Class I appliances, and what changes or conversions the company pledges to make to them, with a schedule for the work anticipated. The company should submit, along with the plans, the auditing summaries for the Class I appliances [see the sample below]. EPA will incorporate the plans for these four Class I appliances, along with the pledge to continue auditing the other appliances and to prepare and submit plans for them within a year in an Administrative Order on Consent [AOC] which should be signed by both the company, and then by EPA. EPA will return a copy of the signed AOC to the company.

For the other Class II appliances, a similar audit of compliance should begin covering the period from September 30, 2000 until June 15, 2003. Per pound penalties, if any, should be calculated for these appliances. As with the Class I appliances, if the company wishes to avoid paying these per pound penalties, it may do so by agreeing to convert the Class II systems to non-ODS systems. The company should make that decision and submit plans, if any, for such conversions to EPA by July 15, 2003. These plans will be incorporated in the CAFO. EPA expects that these plans will be implemented by July 15, 2004 with the possibility of extensions if additional time is needed.

In calculating per pound penalties, this company should look at each appliance and calculate its per pound penalties, if any. If, for example, the first Class I appliance had a 50% annualized leak rate in October 2000 and thereafter in the next 12 months had small and large leaks totaling 1500 pounds, then the per pound penalty for these 1500 pounds would be calculated as follows: $20 per pound for the first 500 pounds or $10,000, $30 per pound for pounds 501–1000 or $15,000 and $40 per pound for pounds 1001–1500 or $20,000. Thus, the total for this 12 month block period would be $45,000 [$10,000 + $15,000 + $20,000]. If a large leak rate was discovered in December 2000, that does not start another 12 month block period up to December 2001, as this is a leak inside the October 2000–2001 12 month period. If after October 2001 this same appliance had another annualized leak greater than 35%, for example, a 90% annualized leak rate, then leaks after that point would be calculated as above and added to the $45,000 total. This process should continue through June 15, 2003 and a total per pound penalty should be calculated for this appliance, and for all other appliances. The company then has the option of paying this per pound penalty or avoiding it by submitting a plan for converting to a non-ODS system. EPA hopes that this financial incentive will cause more companies to choose conversion to non-ODS systems while still giving the company the flexibility to decide which option is best for it.

On July 15, 2003, the company should submit audit summaries and plans for any equipment changes/conversions that it intends to make to the Class II appliances. It should also be prepared to pay any penalties that may be due shortly after the CAFO is received by the company. EPA will also prepare a CAFO with the release from civil liability for all matters that the company has identified as being a potential problem and corrected. This listing of audit discovered problems can be included in the plan for equipment changes/conversions or can be listed separately. It can include matters such as technician certification, better recordkeeping systems, equipment certifications, etc. Problem areas, or violations, not so identified and corrected will not receive a release from liability, so it is very important to identify all these problem areas and correct all these problems.

By July 15, 2004, the company will have completed the equipment changes/conversions, unless more time is needed and corrected other problems identified in the audit. The company will send a letter certifying that all these matters have been attended to and EPA will reply accepting this certification and thanking the company for participating. This is the end of the program for this company.

Key Dates

September 30, 2000

Begins period of compliance audit and monthly measurement of annual leak rates from industrial process refrigeration appliances for all partnership participants.

"Look-back" period gives credit to companies that have taken steps to improve leak management.

March 15, 2002

Notice of intent to participate in partnership program

—Companies must identify charging capacity and location of all appliances using over 50 lbs of Class I or Class II ozone depleting substances, and those which have converted to use of non-ODS refrigerant in secondary loop by March 15, 2002.

—Companies commit to complete audit and submit implementation plans by July 15, 2002, to convert Class I appliances to at least Class II, and to pay stipulated penalties or switch to non-ODS refrigeration appliances by July 15, 2003 (unless extension granted).

—All penalties waived for appliances that have been converted to non-ODSs by March 15, 2002.

—Program open to all companies not subject of national enforcement investigation.

July 15, 2002

EPA issues administrative order/information request on consent to participating companies reflecting commitment to complete audit by June 15, 2003 and submit implementation plans for Class II appliances by July 15, 2003.

Companies that have switched all appliances to non-ODS by March 15, 2002 may receive compliance agreement/final order (CAFO) discharging all liabilities for past violations without payment of penalty.

June 15, 2003

Audits are completed.

July 15, 2003

Bakeries submit audit results and final implementation plans.

Bakeries pay stipulated penalties for 12 months following any single month in which annualized leak rate exceeds 35%, but:

—Bakeries can avoid stipulated penalties if implementation plan commits to replace leaking appliance with non-ODS system no later than July 15, 2004 (unless program grants extension).

—Bakeries can "bubble" by substituting ODS conversion at another appliance (must have charge 120% greater than leaking appliance).

All Class I ODS appliances must convert to at least Class II ODS appliances by July 15, 2003, unless program grants extension.

EPA issues compliance agreement/final order reflecting conversion to Class II or non-ODS systems, and payment of stipulated penalties.

July 15, 2004

Bakeries must complete conversion to non-ODS systems reflected in implementation plans, unless program has granted an extension.

Key Definitions

Annualized leak rate—(pounds of refrigerant added/pounds of full charge) × (365 days/# days since refrigerant last added) × 100%.

Appliance—industrial process refrigeration device containing 50 pounds or more of ODS refrigerants.

Class I—an ODS listed in appendix A to 40 CFR part 82, subpart A.

Class II—an ODS listed in appendix B to 40 CFR part 82, subpart A.

ODS—ozone depleting substance.

Facility—a discrete parcel of real property or such a parcel improved by Participating Company's building, structure, factory, plant, premises, or other thing, related to Participating Company's wholesale baking/bakery business, and containing at least one appliance as defined in this agreement.

Non-ODS system—systems that contain no ODS at all [e.g. HFC systems or ammonia systems] or no ODS in the secondary loop, but may contain an ODS in the primary loop.

Additional Sources of General Information

To find out more about compliance with Title VI of the Clean Air Act, access the EPA's web site at *www.epa.gov/ozone*. The U.S. Environmental Protection Agency (EPA) and the Chemical Manufacturer's Association (CMA) have developed a guidance document entitled Compliance Guidance For Industrial Process Refrigeration Leak Repair Regulations Under Section 608 of the Clean Air Act [see *http://www.epa.gov/ozone/title6/608/compguid/compguid.html*] that provides greater detail than the discussion on the EPA web site. The guidance document is intended for those persons who are responsible for complying with the requirements. The guidance should not be used to replace the actual regulations published in the **Federal Register** on August 8, 1995 (60 FR 40420) [see http://www.epa.gov/spdpublc/title6/608/leakfrm.txt] ; however, it can act as a supplement to explain the requirements. Reliance on this fact sheet alone will likely not result in compliance. Another useful web site is one pertaining to general leak repair: *http://www.epa.gov/ozone/title6/608/leak.html*. EPA has also made available a sample inspector's checklist to the trade association, which is available online at *http://www.epa.gov/ozone/title6/608/compguid/compguid.html* or *http://www.epa.gov/oeca/ore/aed/bakery/index.html* or by contacting the Ozone Hotline at 800–296–1996.

Conclusion

EPA believes that the above-described program is the best, most cost-effective way to achieve immediate environmental improvement and achieve significant progress in resolving the myriad compliance concerns that may be present in this industry. Its terms, conditions and protections will be available only to those companies that are eligible and elect to participate. As appropriate, non-participants may be subject to enforcement actions in which significant penalties would be sought for violations of the part 82 regulations at issue here.

Comments on the approach outlined above, as well as on the specific items and terms reflected in the following Appendices, are solicited. To be fully considered, comments must be received by January 9, 2002.

Eric Schaeffer,

Director, Office of Regulatory Enforcement, Office of Enforcement and Compliance Assurance.

Attachments
Partnership Agreement with Appendices:
Sample Identification of Facilities/Appliances due March 15, 2002
Sample AOC
Sample CAFO

Ozone-Depleting Substance Emission Reduction Bakery Partnership Agreement

The United States Environmental Protection Agency ("EPA") and _____ ("Participating Company"), the parties to this agreement, desire to enter into and be bound by the terms of this Ozone-Depleting Substance (ODS) Emission Reduction Bakery Partnership Agreement ("Agreement").

Introduction

The Agreement specifies an audit, self-disclosure and corrective action program, which shall result in a release from liability for the conditions that are identified and corrected. This Agreement incorporates the features of the Bakery Partnership Program as detailed in the **Federal Register** on this topic, published January ____, 2002.

Applicability

1. This Partnership Agreement shall apply to and be binding upon both EPA and Participating Company, including but not limited to its officers, directors, agents, servants, employees, successors, and assigns. Participating Company shall give notice of this Agreement to any successor in interest prior to the transfer of any ownership interest in any machinery subject to Title VI, Clean Air Act (42 U.S.C. 7671 et. seq.) (the "Act") and its incorporating regulations, 40 CFR Part 82 ("Regulations"). The Notice for this Program ("Program Notice") was given to the baking industry by the EPA in cooperation with baking industry trade officials and trade journals.

2. In order for a Participating Company to be eligible to participate in this Agreement, the Participating Company must be a wholesale bakery not currently under corporate-wide investigation by EPA for a violation of Title VI of the Clean Air Act.

Definitions

3. "Participating company" means any eligible company and its wholly-or partially-owned subsidiaries, including all their bakeries, which agree to abide by the conditions of this Agreement.

4. "Corporate-wide investigation" means an investigation that requires information disclosure from either (1) five or more facilities owned by a company that seeks to be a Participating Company or (2) all facilities that are subject to Title VI and owned by a company that seeks to be a Participating Company.

5. "Non-ODS system" means pollution prevention technology recommended to and agreed upon by EPA that supplants standard ODS technology, including but not limited to glycol, chilled water, or other non-ODS coolant in a secondary-loop system or totally non-ODS systems, such as HFCs or ammonia.

6. "Facility" means a discrete parcel of real property or such a parcel improved by Participating Company's building, structure, factory, plant, premises, or other thing, related to Participating Company's baking/bakery business, containing at least one appliance.

7. "Retrofit" means to install new or modified parts in an appliance which were not provided as a part of the originally manufactured equipment. The retrofitted appliance must use a refrigerant with an ozone depleting potential that is lower than that which was used before the retrofit.

8. "Retire" means to withdraw an appliance from service and replace it with an appliance containing a refrigerant with an ozone depleting potential that is lower than that which was used in the retired appliance.

9. "Appliance" means an industrial process refrigeration appliance containing 50 pounds of more of ODS refrigerant that is housed within the facility.

10. "ODS" means Ozone Depleting Substance used as a refrigerant.

Initial Notice

11. Participating Company represents that:

a. It notified EPA of Participating Company's intent to participate in the Ozone Depleting Substance Emission Reduction Bakery Partnership Program by 5 p.m. Eastern Time, March 15, 2002 by submitting this executed Partnership Agreement.

b. Annex A, submitted with this Agreement, or updated shortly thereafter, is a true, accurate, and complete identification of:

i. Name of the Participating Company; and

ii. Name, street address, ZIP code, and city of each facility at which the Participating Company believes any subject appliance is presently located; and

iii. State in which the facility is located; and

iv. EPA region in which the facility is located; and

v. The number or best estimate of the number of appliances with more than 50 pounds of refrigerant when fully charged, as determined by calculation, weight, manufacturer supplied information, or an established range as described in 40 CFR 82.152.

vi. The number or best estimate of the number of non-ODS industrial process refrigeration appliances.

c. Participating Company certifies that it is eligible to be a participating company, that is, it meets the qualifications specified in paragraphs 2 and 3.

d. Participating Company agrees to audit all its facilities as specified below and disclose the summary results of such audits to EPA and correct any and all violations in accordance with this Agreement.

e. Participating Company agrees to toll the applicable statute of limitations during the life of the Agreement that may apply to the violations that may have occurred within the time period five years prior to the signing of this Agreement.

f. In the event that ownership of a facility subject to this agreement is (or was) transferred during the period covered by the agreement, the agreement shall apply to the former owner for the period during which the facility was owned by the former owner, provided all applicable terms and conditions are otherwise satisfied. The agreement shall also apply prospectively, according to its terms, to the party to whom the facility is transferred, if the new owner provides EPA with written confirmation of intent to comply with the agreement.

Audit Conduct, Report and Plans

12. Participating Company agrees to assist EPA with EPA's review of audit results. Such assistance may take the form of responding to telephone calls for clarification and other reasonable informal inquiries, without the need for formal information demands.

13. Participating Company agrees to identify all facilities with applicable industrial process refrigeration appliances.

14. Participating Company agrees to undertake a reasonable investigation and to the extent it can reasonably assemble such information, report to EPA for each applicable appliance, dates of service, beginning September 30, 2000 and continuing until June 15, 2003; pounds of refrigerant added; days since the last addition of refrigerant; percent annualized leak rate; and any associated comments by using a spreadsheet such as the one contained in Annex C. To the extent that a change in system components, such as a new compressor, may have altered the full charge, or where other special conditions arise, these conditions should be noted in the comments section.

15. Participating Company agrees to complete audits of all industrial process refrigeration appliances at each facility, except for those appliances converted to a non-ODS system prior to March 15, 2002, and notify EPA with a summary of the audit results as specified in the preceding paragraph and corrective actions planned, as necessary, by July 15, 2002 for Class I appliances and by July 15, 2003 for Class II appliances. Participating Company may, at its sole discretion, include commercial and comfort cooling appliances subject to 40 CFR 82.156(i) in the audit for compliance and receive a release from liability for problems identified and corrected.

16. Participating Company agrees to calculate the total per appliance and per pound penalties, if any, due and owing by July 15, 2003 in accordance with the method outlined in the **Federal Register** final announcement of the Bakery Partnership Program, and to submit this calculation to EPA.

17. Participating Company agrees to provide, in writing, by July 15, 2003, the steps that Participating Company will take to achieve continuous compliance with the requirements of 40 CFR Part 82. Such measures may include, but are not limited to, such things as training, record keeping, replacement, repair, installation of non-ODS systems. See Annex E for additional required Compliance Plan elements. Participating Company agrees to implement this Plan.

Audit Compliance Program

18. For all Class I appliances Participating Company will complete an audit and submit plans for the retrofit of these appliances with an ODS having an ozone depleting potential of 0.1 or less or retirement/replacement with a non-ODS system. Plans for these Class I appliances must be submitted by July 15, 2002, with a schedule for the completion of these activities within one year, unless additional time is allowed pursuant to 40 CFR 82.156(i)(7). These plans will be incorporated in an Administrative Order on Consent [AOC]. See Annex B.

19. For Class II appliances, Participating Company will sign an Administrative Order on Consent agreeing to develop, within the next twelve months, plans, where needed, for the replacement of these Class II appliances with non-ODS systems.

20. If any appliance within a facility owned by Participating Company contains a refrigerant that is not an EPA-approved refrigerant for that particular end-use (such as R–409A use in an industrial process refrigeration appliance) or is not in compliance with use restrictions of an approved refrigerant, Participating Company must take immediate steps to properly recover said refrigerant from the appliance (in accordance with the Regulations) and replace it with an approved refrigerant, in accordance with any use restrictions. Recovered refrigerant must be sent to an EPA-certified refrigerant reclaimer for ultimate reclamation or disposal.

Certification of Complete Compliance

21. Participating Company shall sign and submit to EPA a Certification of Complete Compliance (Annex D) when all plans, retrofits and other steps necessary to ensure continuous compliance have been finalized.

Employee Participation

22. Participating Company shall provide a procedure for its employees to report violations or potential problems to the auditing team. Participating Company agrees to ensure that employees who disclose violations or potential violations to the auditing team under the Act and the Regulations are not subject to adverse job actions (including without limitation disciplinary action, denial of promotion, bonuses or pay) on the basis of such employee disclosing such violations or potential violations in accordance with company policies.

Participating Company Records Retention

23. Participating Company agrees to keep and retain on site or readily available any and all records from March 15, 1999 until two years after the conclusion of all obligations under this Agreement. Records for appliances that have been converted to non-ODS systems need not retain records for more than three years prior to the completion of the conversion to the non-ODS system. Such records shall be from both Participating Company and its employees, agents and any contractors working for Participating Company. All records are required to be retained for this period of time to facilitate review by EPA, should EPA choose to conduct such a review. Participating Company agrees to notify all employees, agents and contractors that any such record is not to be destroyed.

Penalties

24. A "per appliance" penalty of $10,000, with a cap of $50,000 per facility, shall be due and owing for each industrial process refrigeration appliance that contains greater than 50 pounds of ODS after March 15, 2002. A "per pound" penalty, as specified in the above-referenced **Federal Register** notice, shall be calculated for each appliance, unless equipment conversions to non-ODS systems eliminate this penalty.

25. The total penalty shall be paid within 30 days of receipt of the CAFO which should be shortly after July 2003.

Forbearance

26. EPA agrees to forbear on Part 82 enforcement activity against Participating Company during the course of this Agreement. EPA may however, inspect and request information to ensure that the audits are being conducted fully and properly.

27. Participating Company understands that any violations discovered by EPA subsequent to the completion of the audit or compliance efforts and/or the expiration of this Agreement are subject to standard regulatory enforcement. That is, nothing in this Agreement, other than the release from civil liability for problems/violations disclosed and corrected, is to the derogation of EPA's full enforcement and compliance authority at the conclusion of the Partnership.

28. EPA does not forbear or relinquish any right to access and inspection under this agreement.

29. If EPA believes that the Participating Company has miscategorized or mischaracterized any problem/violation under this Agreement, the Dispute Resolution section of this Agreement shall be utilized.

Release From Liability/CAFO

30. Participating Company understands and acknowledges that participation in the Program will not absolve Participating Company or its employees from any criminal liability. Good faith compliance efforts with this program, as always, will be considered in the context of any alleged criminal liability.

31. EPA agrees to execute an administrative Consent Agreement Final Order conditionally releasing Participating Company from civil liability for any and all violations or potential violations that have been self-disclosed and corrected, on condition that Participating Company pays penalties that may be due and completes the plans with compliance schedules that have been submitted and agreed upon by the Participating Company and the EPA. A complete release from civil liability will be granted for any appliance that is converted to a non-ODS system. Good faith participants in this Partnership Program will receive a release for the period of time prior to September 30, 2000, even though this period may not be audited.

32. EPA and Participating Company will execute an Administrative Compliance Order on Consent and CAFO confirming that understanding.

Publicity

33. Participating Company may publicize that it is partnering with the EPA in an effort to reduce ODS emissions.

34. Upon request by the Participating Company, EPA will recognize and acknowledge Participating Company's participation and assistance under the Program.

Access and Inspection

35. Without prior notice, any authorized representative of EPA (including a designated contractor), upon presentation of credentials at any of Participating Company's facilities, may enter such location(s) at reasonable

times to determine compliance with this Agreement. Access under this clause is subject to the normal health and safety and confidentiality requirements in effect at such facilities.

Dispute Resolution

36. Should the need arise, Participating Company agrees to first engage in informal dispute resolution with EPA's Air Enforcement Division staff concerning any determination made by EPA in its review of the program. Such informal dispute resolution will consist of negotiations between Participating Company and the designated attorney(s) and/or Division Director of the Air Enforcement Division at the address in paragraph 41. To exercise informal dispute resolution, Participating Company shall send a written notice to EPA outlining the nature of the dispute or disagreement and request informal negotiations to resolve the dispute. Such period of informal negotiations shall not extend beyond thirty (30) days from the date when the notice was received, unless the parties agree otherwise in writing.

37. Should the Participating Company be dissatisfied with the results of the informal dispute resolution, the Participating Company may request that the dispute be elevated to the Director of the Office of Regulatory Enforcement or the Assistant Administrator of the Office of Enforcement and Compliance Assurance, Headquarters US EPA, to determine the outcome of the dispute or disagreement. As part of any such dispute elevation, the Office of Air and Radiation staff and managers will be consulted. Participating Company agrees that elevation within EPA is the sole and final dispute resolution mechanism. [EPA is exploring additional ways to resolve disputes such as Alternative Dispute Resolution with a third party].

Effective Date

38. This Agreement shall become effective upon the date signed by the parties to this agreement (below).

Miscellaneous

39. Nothing in this Agreement will relieve the Participating Company of its obligation to comply with any other Clean Air Act provision, other environmental law, or applicable environmental regulations, either state or Federal.

40. Participating Company agrees to accept service from EPA by mail with respect to all matters relating to this Agreement at the address listed below (if different from the one listed in Annex A).

_____

_____

_____

_____

41. EPA agrees to accept service from Participating Company by mail with respect to all matters relating to this Agreement at the address listed below

Electronically preferred:
docket.oeca@epa.gov

or

Title VI Coordinator, Attention: Charlie Garlow, US EPA Air Enforcement Division, 1200 Pennsylvania Ave NW., Mail Code 2242A, Washington, D.C. 20460,

202–564–1088

Integration

42. This Agreement and the Annexes and Federal Register notice incorporated by reference in this Agreement, represents the final form of the contract between EPA and Participating Company. No oral modifications to the Agreement will be binding upon either party.

Signatures

43. EPA and the Participating Company represent that they have examined this agreement and the attached and incorporated annexes and Federal Register notice and agree to the terms by signing and dating below.

44. Each person signing this Agreement represents that he or she is authorized to legally bind the party on whose behalf he or she is signing.

45. Agreed To:

BY _____

[Participating Company]

DATE: _____

BY _____

U.S. Environmental Protection Agency

DATE: _____

Annex A—Sample Identification of Facilities

Participating company/facility name	Location, mailing address, city, zip	State	Region	Number of ODS-containing and non-ODS appliances, if known
Marvy Bread/Plant 4	123 Main St, Lodi 94588	CA	9	15 ODS, 5 non-ODS.

Annex B—Sample Administrative Order on Consent

United States Environmental Protection Agency

In the Matter of [Participating Company]
Respondent. Bakery Partnership Program,
Agreement Number _____

Findings and Order

Pursuant to Sections 113(a)(3) and 114 of the Clean Air Act ("CAA"), consistent with the Bakery Partnership Program identified above and entered into between the United States Environmental Protection Agency ("EPA") and Respondent, and based upon available information, EPA hereby makes and issues the following Findings and Order, with the expressed consent of Respondent:

Findings

1. Respondent is a Participating Company under the above-identified Bakery Partnership Program.

2. EPA promulgated regulations for the control of Ozone Depleting Substances, appearing in 40 CFR Part 82, Subpart F.

3. Respondent owns or operates certain affected equipment under Part 82 that contains or contained Ozone Depleting Substances, at facilities identified in Attachment A attached hereto.

Order

4. Respondent shall retrofit or replace the referenced equipment as specified in Attachment A by the date(s) there indicated. Where additional time may be required to complete these actions, application to EPA shall be timely made pursuant to 40 CFR 82.156(i)(7).

5. Within 12 months of this Order, Respondent shall prepare and submit to EPA plans for the conversion of Class II appliances to non-ODS systems, for the appliances identified in Attachment B, attached hereto.

6. Consistent with the Bakery Partnership Agreement entered into between EPA and [the Participating Company], per appliance and per pound penalties shall be calculated and submitted to EPA by July 15, 2003.

7. Pursuant to Section 113(a) of the CAA, failure to comply with this Order may lead to a civil action to obtain compliance or an action for penalties.

Issued this _____ day of _____, 2003

_____

U.S. Environmental Protection Agency

8. [Participating Company] consents to the issuance of this Order and further agrees not to contest EPA's authority to issue this Order.

Signed this _____ day of _____, 2003

_____

For [Participating Company]

Annex C—Leak Rate Calculation Sheet for each Appliance—Sample

Beanie Bread/ Plant 4. The Appliance Serial Number 456789 containing 350 pounds full charge of R–22.

The leak rate is calculated by dividing the number of pounds added by the full charge [here 350 pounds].

Then multiply that number by 365 days.

Then divide that number by days since the last add.

Multiply that number by 100 to express it as a percentage, if over 35%.

Date	lbs added	Days since last add	Leak rate (percent)	Comments
10/28/00 ...	112	base	.....	
2/20/01	60	115	54	
2/27/01	14	7	.....	
5/31/01	30	93	33	
6/18/01	166	18	961	
12/3/01	100	168	62	
				Total pounds added since high leak rate=310 pounds × $20 per pound=$6200, the "per pound" penalty.

Annex D—Certification of Completion and Compliance

I certify, based on personal inspection, that correction of the violations/problems identified as a part of the Bakery Partnership Agreement with the United States Environmental Protection Agency, dated _____, is complete.

I certify that _____, Participating Company, has corrected all violations, and training, recordkeeping, equipment replacement, and all other necessary and prudent measures have been taken to ensure complete compliance with Title VI, Clean Air Act (42 U.S.C. 7671 *et seq.*).

I certify that the following summary of the actions taken are true and complete:

_____

_____

_____

_____

I certify that I am an officer of _____, Participating Company, and am duly authorized to sign and complete this Certification of Compliance on behalf of Participating Company.

_____

Name (print)

_____

Signature

_____

Date

Annex E—Compliance Plan Required Elements for Appliances Containing Greater than 50 pounds of a Class I or Class II substance

A. Each Participating Company will have at least one employee in each facility responsible for ensuring compliance with the refrigerant Compliance Plan.

B. Only technicians certified in accordance with 40 CFR Part 82 will perform refrigerant-related service on refrigerant containing appliances.

C. Technicians will use/ have available for use and use, as required, recycle/recovery equipment certified pursuant to 40 CFR 82.156.

D. Repairs to refrigerant-leaking appliances will be conducted within the time frames outlined in 40 CFR 82.156.

E. Initial verification tests on industrial process equipment will be conducted following any refrigerant-related repairs.

F. Follow-up verification tests on industrial process equipment will be conducted within thirty days of any refrigerant-related repairs.

G. Leak rates will be calculated (a) when refrigerant is added to appliances containing greater than 50 pounds of a class I or class II substance and (b) when the follow-up verification test reveals an unsuccessful repair.

H. Procedures documenting what additional action will be taken as a result of a failed repair will be written.

I. Each Participating Company will maintain the following records in a single location at each facility:

1. An inventory of appliances containing greater than 50 pounds of a class I or class II substance and their refrigerant capacities.

2. A unique identification for each appliance containing greater than 50 pounds of a class I or class II substance.

3. Date the refrigerant-related service is performed on each appliance containing greater than 50 pounds of a class I or class II substance.

4. Type of refrigerant-related service performed on each appliance containing greater than 50 pounds of a class I or class II substance.

5. Amount and type of refrigerant added to each appliance containing greater than 50 pounds of a class I or class II substance.

6. Name of the technician performing work on each appliance containing greater than 50 pounds of a class I or class II substance.

7. A copy of the technician certification card for all technicians performing work.

8. Refrigerant purchase records.

9. A copy of the recycle/recovery equipment owner's certification.

J. Each participant will provide refresher training on the refrigerant compliance program annually for facility personnel responsible for oversight of maintenance and service of refrigerant-containing appliances.

Sample CAFO

United States Environmental Protection Agency

Washington, D.C.

In the Matter of: [Participating Company] Respondent. Docket No. CAA–HQ–2003–XXX

Consent Agreement and Final Order

I. Preliminary Statement

1. The United States Environmental Protection Agency ("EPA") and [Participating Company] have entered into a voluntary Bakery Partnership Agreement, pursuant to which an audit of compliance status and self-correction program has been undertaken. It was further agreed by the parties that certain civil penalties would be paid pursuant to the administrative authority of Section 113(d) of the Clean Air Act ("CAA), 42 U.S.C. 7413(d).

2. This Consent Agreement and Final Order [CAFO] is issued pursuant to the authority of 40 CFR 22.13(b), 22.18(b)(2) and (3), which pertain to the quick

resolution and settlement of matters without the filing of a complaint.

3. This Consent Agreement and Final Order resolves the liability for violations that may have been discovered pursuant to an audit of the Respondent's facilities regarding compliance with Title VI of the Clean Air Act, Stratospheric Ozone Protection, and more particularly 40 CFR Part 82, Subpart F, relating to recycling and emissions reductions from appliances containing ozone depleting substances.

II. Consent Agreement

4. As a result of the voluntary audit conducted pursuant to the Bakery Partnership Agreement, EPA and Respondent have agreed to resolve this matter by executing this Consent Agreement.

5. For the purpose of this proceeding, Respondent does not contest the jurisdiction of this tribunal, consents to the assessment of the civil penalty as specified below, and consents to implement the corrective action Plans and Other Conditions, attached hereto.

6. The execution of this Consent Agreement is not an admission of liability by Respondent, and Respondent neither admits nor denies any specific factual allegations contained herein. EPA alleges that one or more of the conditions contained in the attached Summary of Audit Findings constitutes a violation of 40 CFR Part 82.

7. As a complete settlement for all problematic conditions specified in the attached Summary of Audit Findings, Respondent hereby agrees to pay to the United States a civil penalty as specified in the attached Penalty Calculation. EPA agrees to conditionally release Respondent from civil liability for the conditions, and only those conditions, identified in the attached Summary of Audit Findings, except for those appliances that are identified as having been or being converted to non-ozone depleting substances, for which a complete release of civil liability is granted. This release is conditioned upon the satisfactory completion of the Plans and Other Conditions attached hereto, and the timely payment of the civil penalty. Good faith participants in this Partnership Program will receive a release for the period of time prior to September 15, 2000, even though this period may not be audited. The parties agree that the attached Summary of Audit Findings, Penalty Calculation and Plans and Other Conditions are incorporated herein by reference and made a part of this CAFO.

8. Respondent waives its right to request an adjudicatory hearing on any issue addressed in this Consent Agreement.

9. Respondent and EPA represent that they are duly authorized to execute this Consent Agreement and that the parties signing this Agreement on their behalf are duly authorized to bind Respondent and EPA to the terms of this Consent Agreement.

10. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

11. Respondent and EPA stipulate to issuance of the proposed Final Order below.

[Participating Company], Respondent
By
(Print name)
Title:
Dated: _____
U.S. Environmental Protection Agency, Complainant
By
Headquarters EPA
Dated: _____

III. Final Order

It Is Hereby Ordered and Adjudged as follows:

12. Respondent shall comply with all terms of the Consent Agreement.

13. For the reasons set forth above, Respondent is hereby assessed a penalty in the amount of $_____.

14. Respondent shall pay the assessed penalty no later than thirty (30) calendar days from the date a conformed copy of this Consent Agreement and Final Order ("CAFO) is received by Respondent.

15. All payments under this CAFO shall be made by certified check or money order, payable to the United States Treasurer, mailed to: U.S. Environmental Protection Agency, (Washington D.C. Hearing Clerk), P.O. Box 360277, Pittsburgh, Pennsylvania 15251–6277. A transmittal letter, indicating Respondent's name, complete address, and this case docket number must accompany the payment. Respondent shall file a copy of the check and of the transmittal letter with the Headquarters Hearing Clerk.

16. Failure to pay the penalty assessed under this CAFO may subject Respondent to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. 7413(d)(5), to collect any unpaid portion of the assessed penalty, together with interest, handling charges, enforcement expenses, including attorneys fees, and nonpayment penalties. In any such collection action, the validity, amount, and appropriateness of this order or the penalty assessed hereunder are not subject to review.

17. Pursuant to 42 U.S.C. 7413(d)(5) and 31 U.S.C. 3717, Respondent shall pay the following amounts:

a. *Interest.* Any unpaid portion of the assessed penalty shall bear interest at the rate established pursuant to 26 U.S.C. 6621(a)(2) from the date a conformed copy of this CAFO is received by Respondent; provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the date a copy of this CAFO is received by Respondent.

b. Attorney *Fees, Collection Costs, Nonpayment Penalty.* Pursuant to 42 U.S.C. 7413(d)(5), should Respondent fail to pay on a timely basis the amount of the assessed penalty, Respondent shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses, including but not limited to attorney fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

18. This document constitutes an "enforcement response" as that term is used in the CAA Penalty Policy for the purposes of determining Respondent's "full compliance history" as provided in Section 113(e) of the CAA, 42 U.S.C. 7413(e).

19. Each party shall bear its own costs, fees, and disbursements in this action.

20. The provisions of this CAFO shall be binding on Respondent, its officers, directors, employees, agents, servants, authorized representatives, successors and assigns.

It Is So Ordered.
Dated this _____ day of _____, 1999.

Environmental Appeals Judge
Environmental Appeals Board
U.S. Environmental Protection Agency

Certificate of Service

I certify that the forgoing Consent Agreement and Final Order was sent to the following persons, in the manner specified, on the date below:

Original hand-delivered: Eurika Durr, EAB Hearing Clerk, U.S. Environmental Protection Agency, Mail Code 1103B, 607 14th Street NW., Suite 500, Washington, DC 20005

Copy by certified mail, return receipt requested:

_____ Registered Agent for
[Participating Company]
[Participating Company's address]
Dated: _____
U.S. EPA _____

Sample Summary of Findings

Annex C—Leak Rate Calculation Sheet for each Appliance—Sample

Marvy Bread/Plant 4. The Appliance Serial Number 456789 containing 350 pounds full charge of R–22.

The leak rate is calculated by dividing the number of pounds added by the full charge [here 350 pounds].

Then multiply that number by 365 days.

Then divide that number by days since the last add.

Multiply that number by 100 to express it as a percentage, if over 35%.

Date	lbs added	days since last add	Leak rate (percent)	Comments
10/28/00	112	base	.....	
2/20/01	60	115	54	
2/27/01	14	7	.....	
5/31/01	30	93	33	
6/18/01	166	18	961	
12/3/01	100	168	62	
				Total pounds added since high leak rate = 310 pounds × $20 per pound = $6200, the "per pound" penalty.

Technician Certifications for two technicians, Joe Jones and Sam Spade, at Plant 4 were missing.

Those certifications are now on file.

Service records before September 2000 were missing.

Sample Penalty Calculation

Marvy Bread Plant 4 The Appliance Serial Number 456789 containing 350 pounds full charge of R–22.

Per pound penalty: $6,200—waived as this machine is being converted to non-ODS.

Per appliance penalty: 10,000.

Total Penalty: 10,000.

Sample Plans and Other Conditions

Beanie Bread agrees to convert the Bun Mixer at Plant 4, Serial Number 45678, to a non-ODS system.

Completion date: July 30, 2004.

Beanie Bread agrees to develop a computer based recordkeeping program to ensure that complete and accurate records are retained as required.

Completion date: September 30, 2003.

[FR Doc. 01–30459 Filed 12–7–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7115–1]

Notice of Availability of the Draft Supplemental Guidance for Dermal Risk Assessment, Risk Assessment Guidance for Superfund, Volume I, Part E

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability, request for comment, request for data.

SUMMARY: The U.S. Environmental Protection Agency (EPA) has developed and is requesting public comment on a draft Risk Assessment Guidance for Superfund: Volume I Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment) (RAGS Part E). EPA is also requesting data pertinent to reducing the uncertainty and variability in assessing the risks from dermal exposure. RAGS Part E is available electronically on the Internet at *http://www.epa.gov/superfund/programs/risk/ragse/index.htm*. This guidance is intended to assist risk assessors and others in addressing concerns resulting from the evaluation of dermal exposure risk assessment pathways. It proposes a consistent methodology for assessing the exposures from the dermal pathway for Superfund human health risk assessments. It incorporates and updates principles of the EPA (1992) interim report, *"Dermal Exposure Assessment: Principles and Applications"*.

DATES: You may submit comments and data until February 8, 2002. Comments received after that date may be considered to the extent feasible.

ADDRESSES: You are invited to submit written comments and data to: EPA, Superfund Docket RAGS Part E, Mail Code 5202G, 1200 Pennsylvania Ave, NW., Washington, DC 20460. For cost savings the draft RAGS Part E document is available electronically on the Internet at *http://www.epa.gov/superfund/programs/risk/ragse/index.htm*. EPA plans to print the document only after it is finalized. The Superfund Docket, containing the RAGS Part E document and public comments, is physically located at 1235 Jefferson Davis Highway, Arlington, Virginia. Appointments to review the docket can be made by calling (703) 603–9232.

FOR FURTHER INFORMATION CONTACT: Contact the RCRA/Superfund Call Center at (800) 424–9346; from the Washington, DC, metropolitan area call (703) 412–9810. The Telecommunications Device for the Deaf (TDD) number is (800) 553–7672; from the Washington, DC, metropolitan area the number is (703) 412–3323. For technical inquiries, you may contact Lee Hofmann, Office of Solid Waste and Emergency Response, Mail Code 5101, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460: telephone number 202–260–2230, email *hofmann.lee@epa.gov*.

SUPPLEMENTARY INFORMATION:

Background

In January 1992, the Office of Health and Environmental Assessment (OHEA), in the Office of Research and Development (ORD) of the U.S. Environmental Protection Agency (EPA) issued an interim report, *Dermal Exposure Assessment: Principles and Applications* (DEA). The DEA provided guidance for conducting dermal exposure assessments and was peer-reviewed by EPA's Science Advisory Board. A Workgroup was subsequently formed to develop guidance for Superfund based on the DEA. In August 1992, a draft Superfund Interim Dermal Risk Assessment Guidance was circulated for comment but was never issued. This current guidance supersedes the 1992 Superfund document.

This 2001 Superfund RAGS Part E, Supplemental Guidance for Dermal Risk Assessment (RAGS Part E) is the result of Superfund RAGS Part E Workgroup

meetings from FY 95 through FY 01 on issues associated with the characterization of risk resulting from the dermal exposure pathway. RAGS Part E updates recommendations presented in the DEA, and incorporates additional information from the *Exposure Factors Handbook* (U.S. EPA, 1997a) and scientific literature, as cited. Users of this guidance are strongly encouraged to review and understand the material presented in the DEA. This guidance is considered interim, pending release of any update to the DEA from ORD. As more data become available, RAGS Part E may be updated.

This Supplemental Guidance for Dermal Risk Assessment (RAGS Part E) has undergone external peer review in January 1998 and in February 2000. Also, EPA's Risk Assessment Forum conducted a Peer Consultation Workshop on this document in December 1998.

Elements of the RAGS Part E Approach

Risk Assessment Guidance for Superfund: Volume I–Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment) (RAGS Part E) is structured to be consistent with the four steps of the Superfund risk assessment process: hazard identification, exposure assessment, toxicity assessment, and risk characterization. RAGS Part E is organized into six chapters and four appendices. To provide an indication of the scope of the document, we have included the Table of Contents below:

1.0 Introduction and Flowchart
1.1 Introduction
1.2 Organization of Document
1.3 Flowcharts
2.0 Hazard Identification
2.1 Choosing Contaminants of Concern for the Dermal-water Pathway
2.2 Choosing Contaminants of Concern for the Dermal-soil Pathway
3.0 Exposure Assessment
3.1 Estimation of Dermal Exposures to Chemicals in Water
3.1.1 Standard Equation for Dermal Contact with Chemicals in Water
3.1.2 Exposure Parameters
—Permeability coefficient for compounds in water (K_p in cm/hr)
—Chemical concentration in water
—Skin surface area
—Event time, frequency and duration of exposure
3.2 Estimation of Dermal Exposure to Chemicals in Soil
3.2.1 Standard Equation for Dermal Contact with Chemicals in Soil
3.2.2 Exposure Parameters
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RAGS Part E focuses on dermal contact with soil and water, and it does not provide guidance on quantifying dermal absorption of chemicals resulting from exposure to vapors. The Superfund RAGS Part E Workgroup agreed with the finding in the DEA report that many chemicals, with low vapor pressure and low environmental concentrations, cannot achieve adequate vapor concentration to pose a dermal exposure hazard. For chemicals with the potential to achieve adequate vapor concentrations, this guidance assumes that they are primarily absorbed through the respiratory tract.

Goals

EPA welcomes feedback on this draft RAGS Part E document. EPA is seeking public comment at this time in order to ensure hearing the widest range of views and obtaining all information relevant to the development of policy. In addition, EPA is soliciting data pertinent to reducing uncertainty and variability in assessing risks from dermal exposure. EPA will review public comments received on the draft RAGS Part E document and will make appropriate changes in the document. EPA expects to respond in a summarized manner to the principal comments received on the draft RAGS Part E document as a matter of public information.

Dated: November 30, 2001.

Michael H. Shapiro,

Principal Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 01–30457 Filed 12–7–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting Wednesday, December 12, 2001

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, December 12, 2001, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	Common Carrier	Title: Development of a Regulatory Framework for Incumbent LEC Broadband Services; and SBC Petition for Expedited Ruling That it is Non-Dominant in its Provision of Advanced Services and for Forbearance from Dominant Carrier Regulation of Those Services. Summary: The Commission will consider a Notice of Proposed Rule Making initiating a comprehensive examination of the appropriate regulatory framework for incumbent LECs' provision of broadband services. As part of this proceeding, the Commission also invites comment on the petition filed by SBC Communications, Inc.

Item No.	Bureau	Subject
2	Common Carrier	Title: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of the 1996 (CC Docket No. 96–98); and Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98–147). Summary: The Commission will consider a Notice of Proposed Rule Making to initiate its "triennial" review of the definitions of and rules concerning access to incumbent LEC unbundled network elements.
3	Common Carrier	Title: Numbering Resource Optimization (CC Docket No. 99–200); Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717 (CC Docket No. 96–98); and Telephone Number Portability (CC Docket No. 95–116). Summary: The Commission will consider a Third Report and Order and Second Order on Reconsideration in CC Docket No. 96–98 and CC Docket No. 99–200 regarding plans for nationwide thousands-block number pooling and other strategies to ensure that the numbering resources of the North American Numbering Plan are used efficiently.
4	Mass Media	Title: Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies (MM Docket No. 98–204). Summary: The Commission will consider a Second Notice of Proposed Rule Making concerning new equal opportunity rules for broadcast licensees and cable entities.
5	Office of Engineering and Technology and Wireless Telecommunications.	Title: Reallocation and Service Rules for the 698–746 MHz ASpectrum Band (Television Channels 52–59) (GN Docket No. 01–74). Summary: The Commission will consider a Report and Order concerning allocation and service rules to reallocate television channels 52–59, pursuant to the Balanced Budget Act of 1997.
6	Office of Engineering and Technology.	Title: Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission System (ET Docket No. 98–153). Summary: The Commission will consider a First Report and Order to provide for new ultra-wideband devices.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International (202) 863–2893; Fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at Qualexint@apl.com

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–1470, Ext. 10; fax number (703) 834–0111.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30623 Filed 12–6–01; 8:45 am]

BILLING CODE 6712–01–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0043]

Submission for OMB Review; Comment Request Entitled Appraisal of Fair Annual Parking Rate Per Space for Standard Level User Charge (GSA Form 3357)

AGENCY: General Services Administration (GSA).

ACTION: Notice of a request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration (GSA) has sumitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement Appraisal of Fair Annual Parking Rate Per Space for Standard Level User Charge (GSA Form 3357). A request for public comments was published at 66 FR 43871, August 21, 2001. No comments were received.

DATES: Comments may be submitted on or before January 9, 2002.

FOR FURTHER INFORMATION CONTACT: Robert A. Yevoli, Public Buildings Service, GSA (202) 219–1403.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, OMB Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0043, concerning Appraisal of Fair Annual Parking Rate Per Space for Standard Level User Charge (GSA Form 3357). Form 3357 is needed by GSA contract and staff appraisers who use the form for estimating parking rates assessed on Federal agencies occupying space in GSA owned or controlled buildings.

B. Annual Reporting Burden

Respondents: 260.
Annual Responses: 1,300.
Average Hours Per Response: 1.6.
Burden Hours: 2,080.
Obtaining Copies of Proposals: A copy of this proposal may be obtained from the General Services

Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0043, Appraisal of Fair Annual Parking Rate Per Space for Standard Level User Charge (GSA Form 3357), in all correspondence.

Dated: December 3, 2001.

Michael Carleton,

Chief Information Officer.

[FR Doc. 01–30461 Filed 12–7–01; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Momiao Xiong, Ph.D., The University of Texas Health Science Center at Houston: On November 26, 2001, the U.S. Public Health Service (PHS) entered into a Voluntary Exclusion Agreement with The University of Texas Health Science Center at Houston (UTHSCH) and Momiao Xiong, Ph.D., an Assistant Professor at UTHSCH. Based on the report of an inquiry conducted by UTHSCH, and any related actions and findings by UTHSCH, as well as additional analysis conducted by ORI in its oversight review, PHS found that Dr. Xiong engaged in scientific misconduct by plagiarizing and fabricating data in National Institute of General Medical Sciences (NIGMS), National Institutes of Health (NIH), grant application R01 GM64353–01, "Genetics of Human Pigmentation and Skin Response" (Pigmentation Application), on which he was a co-investigator. The plagiarized and fabricated data were essential to the scientific validity of the proposed research and were important for NIH's scientific evaluation of the Pigmentation Application. Dr. Xiong has admitted his actions.

Specifically, PHS and UTHSCH found that Dr. Xiong: (1) plagiarized text from another researcher's grant application, which Dr. Xiong had obtained during the NIH confidential review process and used without appropriate citation in the Pigmentation Application; and (2) falsified research in the Pigmentation Application by (a) falsely claiming that he had performed an extensive series of simulations to evaluate the power to detect genes influencing pigmentation traits by the proposed statistical analysis, and (b) falsely representing estimates from previous work on unrelated individuals as being appropriate for large families in the proposed research.

The Voluntary Exclusion Agreement (Agreement) states that Dr. Xiong:

(1) Will not serve as a principal investigator on PHS grants for one (1) year, beginning on November 26, 2001;

(2) Will exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for a period of three (3) years, beginning on November 26, 2001;

(3) Agrees that he and any institution employing him are required to certify, in every PHS application or report in which Dr. Xiong is involved: (a) That all persons who contribute original sources of ideas, data, or research results to the applications or reports are properly cited or otherwise acknowledged; and

(b) that the applications or reports do not contain any falsified, fabricated, or misleading information, for a period of three (3) years, beginning on November 26, 2001. This requires Dr. Xiong and the institution, with respect to Dr. Xiong's contributions to the application or report, to certify that all individuals (both within and outside the institution) who contributed to the application or report are acknowledged. The institution must also send a copy of the certification to ORI; and

(4) Accepts the following UTHSCH administrative actions: (a) Dr. Xiong must send a formal, written apology to the principal and co-investigators explicitly acknowledging his plagiarism from their grant application; (b) for a one year period starting October 11, 2001, Dr. Xiong may not: (i) Submit, as a principal investigator, any new grant applications, including applications to any federal, state, or local government agencies, as well as any private foundations or agencies; or (ii) submit any publications without providing certification, co-signed by his immediate supervisor, that any manuscript for publication does not contain any plagiarized information or any falsified, fabricated, or misleading information; (c) for an additional two year period, Dr. Xiong must similarly certify any grant application or publication; (d) for the next three years, to submit any grant application or publication, Dr. Xiong must have a signed statement from his immediate supervisor stating that the supervisor has reviewed the materials and finds no indication of plagiarism, falsification or fabrication of data, nor any other form of scientific misconduct; (e) for the next academic year, Dr. Xiong is required to participate in a course in the responsible conduct of research, and in the year after completing the course, serve as a co-instructor in a small discussion group for all breakout sessions of the course; and (f) within two years, Dr. Xiong must write a formal essay, of publication quality, in English and Chinese, on plagiarism for submission to the Executive Vice President for Research, UTHSCH, and for publication.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. 01–30437 Filed 12–7–01; 8:45 am]

BILLING CODE 4155–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–15]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques

or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Evaluation of Block Grants for Rape Prevention and Education—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC). The Rape Prevention and Education (RPE) Grant Program strengthens violence against women prevention efforts by supporting increased awareness, education and training, and the operation of hotlines. The purpose of this program is to award formula grants to States and Territories to be used for RPE programs conducted by rape crisis centers, state sexual assault coalitions, and other public and private nonprofit entities.

Although the Rape Prevention and Education program has been funded since 1996 little is known about how the funds are allocated and utilized in each state and what each state's public health needs are with regard to rape prevention and education. In order to effectively administer and collaboratively work with state's to enhance the utilization of these funds, the CDC needs to know how these funds are allocated, what activities are being conducted with these funds and the kinds of data they are collecting. The primary objectives of this study are to:

1. Document the intended goals and objectives of the RPE program as it relates to the activities of state health departments and sexual assault coalitions, from the perspective of various stakeholder levels (*e.g.*, National, state and local); 2. Assess the allocation mechanisms, uses, and impact of the funds for RPE as they relate to these documented intentions; and, 3. Assess public health needs of states and local programs in terms of knowledge, skills, resources, and barriers to effective implementation.

To meet these objectives, a variety of data collection tasks will be employed. A critical review of the published literature and related materials pertaining to the monies for RPE will be conducted to provide guidance for the survey instrument development. Two e-mail surveys will be conducted: One with the state health department RPE coordinators and the other with sexual assault coalition directors. Each survey instrument will take approximately 30 minutes to complete. Site visits will be conducted with a sample of 15 sites to obtain more detailed information about the RPE programs and the current systems in place. Sites will be purposefully selected to maximize variability and interviews will be conducted with both the state health department RPE coordinators and the state sexual assault coalition directors. There is no cost to the respondent.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total burden (in hours)
State Health Department RPE Coordinators	59	1	30/60	30
State Sexual Assault Coalition Directors	59	1	30/60	30
State Health Department RPE Coordinators	15	1	3	45
State Sexual Assault Coalition Directors	15	1	3	45
Total				150

Dated: December 3, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–30395 Filed 12–7–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–02–14]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: National Hospital Ambulatory Medical Care Survey (NHAMCS) OMB No. 0920–0278—Revision—National Center for Health Statistics, (NCHS) Centers for Disease Control and Prevention (CDC). The National Hospital Ambulatory Medical Care Survey (NHAMCS) has been conducted annually since 1992 and is directed by the Division of Health Care Statistics, National Center for Health Statistics, CDC. The purpose of the NHAMCS is to meet the needs and demands for statistical information about the provision of ambulatory medical care services in the United States. Ambulatory services are rendered in a wide variety of settings, including physicians' offices and hospital outpatient and emergency departments. The target universe of the NHAMCS is in-person visits made in the U.S. to outpatient departments and emergency departments of non-Federal, short-stay hospitals (hospitals with an average length of stay of less than 30 days) or those whose specialty is general (medical or surgical) or children's general. The NHAMCS was initiated to complement the National Ambulatory Medical Care Survey (NAMCS, OMB No. 0920–0234) which provides similar data concerning patient visits to physicians' offices. The NAMCS and NHAMCS are the principal sources of data on approximately 90 percent of ambulatory care provided in the United States.

The NHAMCS provides a range of baseline data on the characteristics of the users and providers of ambulatory medical care. Data collected include patients' demographic characteristics and reason(s) for visit, and the physicians' diagnosis(es), diagnostic equipment and services, medications, and disposition. These data, together with trend data, may be used to monitor the effects of change in the health care system, for the planning of health services, improving medical education, determining health care work force needs, and assessing the health status of the population.

Users of NHAMCS data include, but are not limited to, congressional offices, Federal agencies such as NIH, state and local governments, schools of public health, colleges and universities, private industry, nonprofit foundations, professional associations, as well as individual practitioners, researchers, administrators, and health planners. Uses vary from the inclusion of a few selected statistics in a large research effort, to an in-depth analysis of the entire NHAMCS data set covering several years.

To calculate the burden hours the number of respondents for the NHAMCS is based on an annual sample of approximately 500 hospitals with an 94 percent participation rate. The total cost to respondents is estimated to be $300,000.

Respondents (non-Federal general and short-stay hospitals)	Number of respondents	Number of responses/respondent	Avg. burden/response (in hrs.)	Response burden (in hrs.)
Induction forms:				
Ineligible hospitals	50	1	15/60	13
Eligible hospitals	440	1	1	440
Emergency departments	400	1	1	400
Outpatient departments	240	4	1	960
Patient record forms:				
Emergency departments	400	100	5/60	3,333
Outpatient departments	240	200	5/60	4,000
Pediatric emergency services and equipment	400	1	30/60	200
Total				9,346

Dated: November 30, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–30396 Filed 12–7–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–02–13]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: National Ambulatory Medical Care Survey OMB No. 0920–0234—Revision—National Center for Health Statics (NCHS), Centers for Disease Control and Prevention, (CDC): The National Ambulatory Medical Care Survey (NAMCS) was conducted annually from 1973 to 1981, again in 1985, and resumed as an annual survey in 1989. It is directed by the Division of Health Care Statistics, National Center for Health Statistics, CDC. The purpose of NAMCS is to meet the needs and demands for statistical information about the provision of ambulatory medical care services in the United States. Ambulatory services are rendered in a wide variety of settings, including physicians' offices and hospital outpatient and emergency departments. The NAMCS target population consists of all office visits within the United States made by ambulatory patients to non-Federal office-based physicians (excluding those in the specialties of anesthesiology, radiology, and pathology) who are engaged in direct patient care. Since more than 80 percent of all direct ambulatory medical care visits occur in physicians' offices, the NAMCS provides data on the majority of ambulatory medical care services. To complement these data, in 1992 NCHS initiated the National Hospital Ambulatory Medical Care Survey (NHAMCS, OMB No. 0920–0278) to provide data concerning patient visits to hospital outpatient and emergency departments. The NAMCS, together with the NHAMCS constitute the ambulatory component of the National Health Care Survey (NHCS), and will provide coverage of more than 90 percent of ambulatory medical care.

The NAMCS provides a range of baseline data on the characteristics of the users and providers of ambulatory medical care. Data collected include the patients' demographic characteristics and reason(s) for visit, and the physicians' diagnosis(es) and diagnostic services, medications and disposition. These data, together with trend data, may be used to monitor the effects of change in the health care system, provide new insights into ambulatory medical care, and stimulate further research on the use, organization, and delivery of ambulatory care.

Users of NAMCS data include, but are not limited to, congressional and other

federal government agencies such as NIH and FDA, state and local governments, medical schools, schools of public health, colleges and universities, private businesses, nonprofit foundations and corporations, professional associations, as well as individual practitioners, researchers, administrators and health planners. Uses vary from the inclusion of a few selected statistics in a large research effort, to an in-depth analysis of the entire NAMCS data set covering several years.

To calculate the burden hours the number of respondents for NAMCS is based on a sample of 3,150 physicians with a 50 percent participation rate (this includes physicians who are out-of-scope as well as those who refuse). The total cost to respondents is estimated to be $300,000.

Respondents	Number of respondents	Number of response/respondent	Avg. burden/responses (in hrs.)	Response burden (in hrs.)
Office-based physicians Induction form	1,575	1	25/60	656
Patient record form	1,575	30	5/60	3,938
Total				4,594

Dated: November 30, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–30397 Filed 12–7–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0496]

Patient Profile Viewer; Notice of Pilot Project

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Drug Evaluation and Research (CDER), is seeking volunteers to participate in a pilot project involving the testing of the Patient Profile Viewer (PPV). The PPV is computer software that allows a reviewer to display data collected from case report tabulations (CRTs) submitted in electronic format. We are working with PPD Informatics to develop the PPV under a Cooperative Research and Development Agreement (CRADA) in an effort to improve review efficiency, develop standards for submission of data, and eliminate the need for the submission of patient profiles by applicants of new drug applications (NDAs). To help in this development, we are seeking volunteers to provide CRT datasets from clinical studies to test the PPV. Data supplied during the pilot project will not replace any regulatory requirements for submitting CRTs.

DATES: Submit written or electronic requests to participate in the pilot project by January 9, 2002. Comments on the pilot project may be submitted at any time.

ADDRESSES: Submit written requests to participate and comments regarding this pilot project to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written comments on the pilot project to the Dockets Management Branch (address above). Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Randy Levin, Center for Drug Evaluation and Research (HFD–001), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5411, e-mail: levinr@cder.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Under current FDA regulations (21 CFR 314.50), applicants must provide CRTs with NDAs. Since November 1997, under 21 CFR part 11, we have accepted CRTs in electronic format instead of paper.

We have published several guidance documents that provide recommendations concerning electronic submissions. In the **Federal Register** of January 28, 1999 (64 FR 4432), CDER published the guidance entitled "Providing Regulatory Submissions in Electronic Format—NDAs." This guidance describes how applicants can provide CRTs as electronic datasets. This guidance also offers recommendations on how to organize the datasets and how to provide descriptive information on the datasets and the data variables (metadata). In the **Federal Register** of November 12, 1999 (64 FR 61647), the Center for Biologics Evaluation and Research (CBER) provides similar recommendations for biologic license applications (BLAs) in their guidance entitled "Providing Regulatory Submissions in Electronic Format—BLAs." A joint CBER and CDER guidance for industry entitled "Providing Regulatory Submissions in Electronic Format—General Considerations," provides recommendations for the file formats for clinical datasets (64 FR 4433, January 28, 1999).

The datasets described in these guidance documents are organized by domain (e.g., labs, adverse events). For NDAs, however, we also recommend the submission of CRTs organized by individual patients—a format we call patient profiles. Patient profiles are provided in portable document format (PDF) and not as electronic datasets. Patient profiles are not recommended for submissions to CBER. CDER is working with CBER to update the guidance documents with more detailed standards for the submission of CRT datasets and metadata.

Recently, we have received recommendations for a standard presentation of the most common CRT datasets and metadata from the Clinical Data Interchange Standards Consortium, Inc. (CDISC). CDISC is a nonprofit organization and its members are from pharmaceutical companies, biotechnology companies, contract research organizations, and software vendors.

CDER has also entered into a CRADA with PPD Informatics (PPD) to develop a module for PPD's commercially available CrossGraphs software that will generate patient profiles directly from CRT datasets provided with NDA submissions. The use of standardized datasets and metadata reduces the amount of preparation required by the reviewer to generate patient profiles and would eliminate the need for applicants to provide patient profiles in PDF. The purpose of the pilot project is to test the PPV module with standardized datasets and metadata and to obtain feedback from reviewers and pharmaceutical

companies on the creation and use of standardized clinical data and metadata.

II. Pilot Project Description

The pilot project is part of an effort to improve the standards for submission of clinical data. Eventually, we expect to recommend detailed clinical data and metadata standards for the submission of CRTs. Participants in this PPV pilot project will not only assist us in testing the use of the PPV and standard clinical data and metadata but will also familiarize themselves with the process at an early stage of development. Only a few participants are needed for this pilot.

A. Initial Approach

Because a limited number of voluntary participants are needed, the agency will use its discretion in choosing volunteers, based on their experience with providing CRTs and their familiarity with the standards recommended by CDISC. During the pilot project, the agency will make available to the public specific technical instructions for providing the clinical data and metadata for testing. See the **Electronic Access** section for instructions. Participants in the pilot project will be asked to provide clinical trial datasets and metadata as described in the technical instructions and to provide technical feedback.

B. Scope

The pilot project will test the PPV module and the preparation and use of the submitted data and metadata. Existing requirements for the submission of CRT datasets will not be waived, suspended, or modified for purposes of this pilot project.

III. Pilot Project Participation

Written requests to volunteer for the pilot project should be submitted to the Dockets Management Branch (address above). Requests are to be identified with the docket number found in brackets in the heading of this document.

IV. Comments

Interested persons may submit to the Dockets Management Branch (mail and electronic addresses above) written comments regarding this pilot project. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. FDA will consider comments in making a determination on electronic filing and in drafting a guidance document for submitting clinical trial data and metadata electronically. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

V. Electronic Access

These instructions will be available on the Internet at http://www.fda.gov/cder/regulatory/ersr/default.htm.

Dated: December 3, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–30430 Filed 12–5–01; 11:21 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0532]

Food Code; 2001 Revision; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the 2001 revision of the Food Code (2001 Food Code). This 2001 revision was initiated in cooperation with the Conference for Food Protection (CFP or Conference) to help ensure that food sold or offered for human consumption by retail food establishments is safe, unadulterated, and honestly presented.

DATES: Submit written or electronic comments on the 2001 Food Code at any time.

ADDRESSES: Submit written requests for single copies of the 2001 Food Code to the Office of Field Programs (HFS–600), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204 (after December 14, 2001, the Center for Food Safety and Applied Nutrition's address will be 5100 Paint Branch Pkwy., College Park, MD 20740). Send two self-addressed adhesive labels to assist that office in processing your request. Submit written comments on the 2001 Food Code to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access and ordering information for the 2001 Food Code.

FOR FURTHER INFORMATION CONTACT: Glenda R. Lewis, Center for Food Safety and Applied Nutrition (HFS–627), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–8140. (After December 14, 2001, the Center for Food Safety and Applied Nutrition's address will be 5100 Paint Branch Pkwy., College Park, MD 20740.)

SUPPLEMENTARY INFORMATION:

I. Background

FDA provides assistance to Federal, State, local, and tribal governmental bodies with jurisdiction over food safety to help ensure that food provided to consumers by retail food establishments is not a vehicle of communicable diseases. A primary mechanism for providing that assistance is the regular publication of a model code that sets out FDA's best advice for a uniform system of regulation that is designed to help ensure that food sold or offered for human consumption by retail food establishments is safe, unadulterated, and honestly presented.

In 1971, the CFP was established to provide a dialogue on food safety issues. The CFP is a voluntary organization comprised of Federal, State, and local regulatory officials, food industry representatives, consumer groups, and academia. The public also may participate in the CFP process. The Conference meets biennially for discussion among all parties regarding ways to improve food safety in the retail segment of the food industry. FDA recognizes the CFP as a voluntary national organization that is qualified to provide technical guidance and information toward the development and implementation of codes and standards pertaining to retail food service, retail food stores, and retail vending operations. At the 1986 meeting of the CFP, it was recommended that the three distinct model codes in existence at that time (retail food stores, food service facilities, and vending) be combined into a Food Protection Unicode. The CFP endorsed this approach, FDA concurred, and issued the first Food Code in 1993. FDA has issued subsequent versions of the Food Code every 2 years. Revisions to the Food Code are based in part on recommendations that are cooperatively developed by CFP members in response to issues submitted to the CFP by interested parties.

The 2001 Food Code responds to recommendations made by the CFP and addresses needed clarifications, updates, and corrections. Significant changes between the 2001 Food Code and the 1999 Food Code include the following:

- A revised definition of juice, information on juice treated to control

pathogens, and information that addresses issues relating to juice provided to populations that are particularly vulnerable to foodborne illness;

- A revised definition of "highly susceptible populations" and new definitions relating to employee health including "exclusion" and "restriction";
- New provisions for the refrigeration and labeling of eggs consistent with new requirements in the Code of Federal Regulations (CFR);
- An updated roast beef cooking chart consistent with new U.S. Department of Agriculture/Food Safety and Inspection Service criteria;
- A revised preface to recognize Federal performance standards relating to food products and processes. (Federal performance standards are acceptable, equivalent alternatives to the command-and-control provisions that now provide specific times and temperatures for cooking);
- A new definition for "shiga toxin-producing *E. coli*" and a replacement of references to "*E. coli 0157:H7* "with Ashiga toxin-producing *E.* coli";
- Clarification of hand washing procedures with respect to time and water temperature; application of hand washing procedures to persons with prosthetic devices; and hand washing procedures before donning gloves;
- Clarification of the provisions relating to marking refrigerated, ready-to-eat food to indicate its shelf life;
- A new provision that allows the use of a thermometer embedded in a nonfood substance as a means of monitoring the temperature of food products in a refrigerator, as well as encouraging the use of small diameter probes for measuring the internal temperature of thin masses of food;
- New provisions that address backflow prevention devices for beverage carbonators;
- Additional references relating to time as a public health control and cooling; and
- Provisions updated to reflect consistency with the current CFR and guidances issued by Federal agencies.

The 2001 Food Code is a level 1 guidance being issued consistent with FDA's good guidance practices regulation in § 10.115 (21 CFR 10.115). With certain exceptions, this regulation requires that the public be afforded an opportunity to comment on level 1 guidance documents before their implementation. FDA is not seeking public comment before implementing this edition of the Food Code because we have determined that it is not feasible or appropriate in accordance with § 10.115(g)(2). The Food Code is revised biennially to keep it up-to-date. Each revision is based on comments received on a previous Food Code, as well as issues presented to the CFP for further development and discussion. Each revision also reflects current public comment. The Conference engages in outreach in a number of ways. First and foremost, its members communicate within their respective constituencies (industry—retail food store, food service, vending, processing; government—Federal, State, and local; consumer and academia). In addition, the Conference has a Web site at http://www.foodprotect.org; press releases go out to various organizations; and members receive a Conference newsletter. Thus, each revision of the Food Code is part of an ongoing dialogue and serves effectively as a "draft" for the next revision.

The 2001 Food Code does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such an approach satisfies the requirements of applicable statutes and regulations.

II. Comments

The public may comment on this document at any time. The public may comment in one of two ways: (1) By participating in the CFP meeting held biennially for the purpose of, among other things, considering recommended changes to the Food Code; or (2) by commenting in writing or electronically to FDA. Comments submitted to the agency may be offered for consideration and vote at a subsequent CFP meeting.

Interested persons, at any time, may submit written or electronic comments to the Dockets Management Branch (address above) on the 2001 Food Code. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The 2001 Food Code and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access and Ordering Information

Persons with access to the Internet may obtain the document at http://www.cfsan.fda.gov/dms/guidance.html, http://vm.cfsan.fda.gov/list.html, or http://www.fedworld.com. In addition, the 2001 Food Code may be ordered from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, 1–800–553–6847, in several formats: Docutek copy, spiral bound, Microsoft Word 97 files on diskette, enhanced electronic version on cassette or CD–ROM, including Adobe Reader. The enhanced versions include electronic features such as hypertext links that enable the reader to locate quickly a specific code provision and to read simultaneously the text of cross-referenced documents.

Dated: December 5, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–30489 Filed 12–5–01; 4:08 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at the following websites: *http://workplace.samhsa.gov; http://www.drugfreeworkplace.gov;* and *http://www.health.org/workplace.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014, Fax: (301) 443–3031.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–

71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection.

To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016 (Formerly: Bayshore Clinical Laboratory)

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 716–429–2264

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000 (Formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Laboratory Partners, LLC, 129 East Cedar St., Newington, CT 06111, 860–696–8115 (Formerly: Hartford Hospital Toxicology Laboratory)

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093 (Formerly: Cox Medical Centers)

Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31602, 912–244–4468

DrugProof, Divison of Dynacare, 543 South Hull St., Montgomery, AL 36103, 888–777–9497/334–241–0522 (Formerly: Alabama Reference Laboratories, Inc.)

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672/800–898–0180 (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

Dynacare Kasper Medical Laboratories,* 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 780–451–3702/800–661–9876

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 662–236–2609

Express Analytical Labs, 1301 18th Ave NW, Suite 110, Austin, MN 55912, 507–437–7322

Gamma-Dynacare Medical Laboratories,* A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ONT, Canada N6A 1P4, 519–679–1630

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Laboratory Specialists, Inc.)

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–728–4064 (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 10788 Roselle Street, San Diego, CA 92121, 800–882–7272 (Formerly: Poisonlab, Inc.)

Laboratory Corporation of America Holdings, 1120 Stateline Road West, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc., MedExpress/National Laboratory Center)

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734

MAXXAM Analytics Inc.,* 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555 (Formerly: NOVAMANN (Ontario) Inc.)

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699, 419–383–5213

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515

Northwest Drug Testing, a division of NWT Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 801–293–2300/800–322–3361 (Formerly: NWT Drug Testing, NorthWest Toxicology, Inc.)

One Source Toxicology Laboratory, Inc., 1705 Center Street, Deer Park, TX 77536, 713–920–2559 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134

Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818–598–3110/800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory

Pathology Associates Medical Laboratories, 110 West Cliff Drive, Spokane, WA 99204, 509–755–8991/800–541–7891x8991

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–215–8800 (Formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–842–6152 (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010 (Formerly: SmithKline Beecham Clinical Laboratories, International Toxicology Laboratories)

Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 619–686–3200/800–446–4728 (Formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520 (Formerly: SmithKline Beecham Clinical Laboratories)

Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176

Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507/800–279–0027

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520 (Formerly: St. Lawrence Hospital & Healthcare System)

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260

Universal Toxicology Laboratories (Florida), LLC, 5361 NW 33rd Avenue, Fort Lauderdale, FL 33309, 954–717–0300, 800–419–7187x419 (Formerly: Integrated Regional Laboratories, Cedars Medical Center, Department of Pathology)

Universal Toxicology Laboratories, LLC, 9930 W. Highway 80, Midland, TX 79706, 915–561–8851/888–953–8851

US Army Forensic Toxicology Drug Testing Laboratory, Fort Meade, Building 2490, Wilson Street, Fort George G. Meade, MD 20755–5235, 301–677–7085

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (**Federal Register**, 16 July 1996) as meeting the minimum standards of the "Mandatory Guidelines for Workplace Drug Testing" (59 **Federal Register**, 9 June 1994, Pages 29908–29931). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–30422 Filed 12–7–01; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–88]

Notice of Submission of Proposed Information Collection to OMB; HUD Mobility-Impaired Tenant Survey

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 9, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: HUD Mobility-Impaired Tenant Survey.

OMB Approval Number: 2528–XXXX.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: The proposed survey to HUD Mobility-Impaired Tenants will attempt to obtain information regarding the reasonable accommodation process. The results of the survey will help HUD verify compliance with requirements for discrimination-free housing, including housing for the mobility impaired. The survey will be administered via the telephone and should take no more than 15 to 20 minutes per respondent. We anticipate 480 respondents to the survey, which is a one-time survey. The anticipated timeframe from survey start to survey completion is approximately 8 weeks.

Respondents: Individuals or Households, Federal Government, State, Local or Tribal Government.

Frequency of Submission: One-Time.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporing burden	480		1		0.3		160

Total Estimated Burden Hours: 480.
Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: December 4, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–30439 Filed 12–7–01; 8:45 am]
BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–07]

Notice of Submission of Proposed Information Collection to OMB; Information Collection To Identify Users and Uses of Electronic Permitting Applications

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 9, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Information Collection to Identify Users and Uses of Electronic Permitting Applications.

OMB Approval Number: 2528–XXXX.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: A survey of the uses and users of electronic permitting systems will assist communities and software developers to understand their requirements. This information will be published by HUD to aid in the development and selection of systems for use by community building code officers.

Respondents: Business or other for-profit, State, Local, or Tribal Government.

Frequency of Submission: One-Time.

Reporting Burden:

	Number of respondents	×	Frequency of responses	×	Hours per response	=	Burden hours
Application	200		1		2		400

Total Estimated Burden Hours: 400.
Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: December 4, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–30440 Filed 12–7–01; 8:45 am]
BILLING CODE 210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4558–N–07]

Mortgagee Review Board; Administrative Actions

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In compliance with section 202(c) of the National Housing Act, notice is hereby given of the cause and description of administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees.

FOR FURTHER INFORMATION CONTACT: D. Jackson Kinkaid, Secretary to the Mortgagee Review Board, 451 7th Street, SW., Washington, DC 20410, P–200, telephone: (202) 708–3041 extension 3574 (this is not a toll-free number). A Telecommunications Device for Hearing and Speech-Impaired Individuals (TTY) is available at 1 (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (added by section 142 of the Department of Housing and Urban Development Reform Act of 1989, Public Law 101–235, approved December 15, 1989), requires that HUD "publish a description of and the cause for administrative action against a HUD-approved mortgagee" by the Department's Mortgagee Review Board. In compliance with the requirements of Section 202(c)(5), notice is hereby given of administrative actions that have been taken by the Mortgagee Review Board from April 14, 2001 through September 30, 2001.

1. 1st American Home Loan, Merrilville, IN

[Docket No. 01–1470–MR]

Action: Settlement Agreement signed May 21, 2001. Without admitting fault or liability, 1st American Home Loan ("FAHL") agreed to a civil money penalty of $7,000. FAHL also agreed to indemnify HUD for any losses incurred on one loan.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: FAHL failed to ensure that loan officers

worked exclusively for FAHL; FAHL paid referral fees to other lenders; FAHL failed to establish, maintain and implement a Quality Control Plan; and FAHL failed to maintain complete loan origination files for review.

2. Altiva Financial Corporation, Formerly Known as MEGO Mortgage Corporation, Atlanta, GA

[Docket No. 01–1428–MR]

Action: In a letter dated May 18, 2001, the Board withdrew Altiva Financial Corporation's ("Altiva") HUD/FHA approval for three years. The Board also voted to impose a civil money penalty of $104,500.

Cause: HUD's Office of Inspector General made the following findings of violations of HUD/FHA requirements: Altiva failed to ensure that the loan amount did not exceed the cost of repairs described in the borrowers' Title I loan application in seventeen loans; Altiva failed to properly evaluate the borrowers' income and/or liabilities; Altiva failed to document the borrowers' source of funds for the initial payment; and Altiva failed to ensure that loan proceeds were only used for the eligible purposes cited in the loan application.

3. America's Mortgage, Inc., Roswell, GA

[Docket No. 00–1334–MR]

Action: Settlement Agreement signed May 3, 2001. Without admitting fault or liability, America's Mortgage, Inc. ("AMI") agreed to a civil money penalty of $3,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: AMI failed to file annual loan origination reports for 1996–1998, which supplements the requirements of the Home Mortgage Disclosure Act; AMI failed to establish, maintain and implement a Quality Control Plan in compliance with HUD/FHA requirements; and AMI failed to report to HUD a violation of law or regulation, false statement, or program abuse.

4. BancGroup Mortgage Corporation, Palos Hills, IL

[Docket No. 00–1159–MR]

Action: Settlement Agreement signed August 28, 2001. Without admitting fault or liability, BancGroup Mortgage Corporation ("BMC") agreed to a civil money penalty of $12,000. In addition, BMC agreed to refund all impermissible fees charged to borrowers on FHA/HUD loans it closed between September 1, 1998 and August 31, 1999.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: BMC failed to file annual loan origination reports for 1998, which supplements the requirements of the Home Mortgage Disclosure Act; BMC failed to establish, maintain and implement a Quality Control Plan in compliance with HUD/FHA requirements; BMC failed to retain documents originating mortgagees are required to maintain; BMC charged unallowable fees and allowed unexplained and/or pre-paid credits; and BMC failed to itemize on the HUD–1 Settlement Statement the items paid on behalf of the borrowers.

5. California Empire Financial Group, Inc., Rancho Cucamonga, CA

[Docket No. 00–1094–MR]

Action: Settlement Agreement signed June 1, 2001. Without admitting fault or liability, California Empire Financial Group, Inc. ("CEFG") agreed to a civil money penalty of $11,000. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53731, September 5, 2000.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: CEFG allowed non-employees to originate HUD/FHA loans; and CEFG allowed employees to act as real estate agents and loan officers.

6. Casey Duncan Group, Inc., Timonium, MD

[Docket No. 01–1447–MR]

Action: In a letter dated May 8, 2001, the Board withdrew Casey Duncan Group, Inc.'s ("CDGI") HUD/FHA approval for five years.

Cause: In conjunction with a related MRB action, American SkyCorp, Inc., HUD's Departmental Enforcement Center observed the following violations of HUD/FHA requirements: CDGI failed to exclude participants that were suspended from participating in federal government programs; CDGI failed to meet basic lender approval requirements by its surrender of its license to originate mortgages in the State of Maryland; and CDGI failed to maintain the requirements for a main office.

7. Cendant Mortgage Corporation, Mt. Laurel, NJ

[Docket No. 01–1523–MR]

Action: Settlement Agreement signed September 25, 2001. Without admitting fault or liability, Cendant Mortgage Corporation ("CMC") agreed to a payment of $10,000. In addition, Cendant agreed to indemnify HUD for any losses incurred on 36 loans.

Cause: HUD's Quality Assurance Division made the following finding of violations of HUD/FHA requirements: CMC allowed a non FHA approved lender, Select Financial Services, to originate 63 HUD/FHA insured loans.

8. Colonial Atlantic Mortgage, Silver Spring, MD

[Docket No. 00–1162–MR]

Action: Settlement Agreement signed July 25, 2001. Without admitting fault or liability, Colonial Atlantic Mortgage ("CAM") agreed to a civil money penalty of $4,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: CAM failed to file annual loan origination reports for 1997–1998, which supplements the requirements of the Home Mortgage Disclosure Act; CAM accepted faxed copies of required documents in 2 loans; and CAM failed to have, implement and maintain an adequate Quality Control Plan that meets HUD guidelines.

9. Columbia National, Inc., Columbia, MD

[Docket No. 01–1405–MR]

Action: Settlement Agreement signed May 21, 2001. Without admitting fault or liability, Columbia National, Inc. ("CN") agreed to an administrative payment of $24,000. CN also agreed to indemnify HUD for any losses incurred on 24 loans.

Cause: CN self reported two loans to HUD after discovering fraud during the course of its own quality assurance audit of a branch office it later shut down. Thereafter, HUD's Quality Assurance Division initiated a review and made the following findings of violations of HUD/FHA requirements: CN used falsified documentation or conflicting information to originate loans and obtain HUD/FHA mortgage insurance; CN failed to document the borrower's source of funds used for down payment or closing costs; CN approved mortgage loans where loan origination documents passed through the hands of an interested third party; CN approved mortgage loans where the ratios exceeded HUD/FHA guidelines; CN approved mortgage loans where the borrower's stability of income was not adequately documented; CN failed to properly verify the borrower's previous rental history; CN approved mortgage loans where borrowers were charged fees which were not specifically permitted by HUD/FHA; CN failed to obtain insured ten year warranty plans from a HUD/FHA approved entity for high loan to value, new construction

loans; CN failed to obtain letters of credit reference where the borrower had not established traditional credit; CN failed to properly document the borrower's income; CN failed to ensure that the property's valuation conditions were met in accordance with HUD/FHA requirements; CN approved a mortgage loan with a reduced up-front mortgage insurance premium where the borrower did not meet the criteria for the reduced MIP as outlined by HUD/FHA requirements; and CN failed to ensure that the borrower met the minimum required cash investment.

10. Corona Hills Financial, Inc., d/b/a American Capitol Mortgage, Boise, ID

[Docket No. 00–1157–MR]

Action: Settlement Agreement signed June 1, 2001. Without admitting fault or liability, Corona Hills Financial, Inc. d/b/a/American Capitol Mortgage ("ACM") agreed to pay a civil money penalty of $5,500. ACM also agreed to surrender to HUD any assets that it accrued for the next 5 years up to $60,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: ACM failed to file an annual loan origination report for 1998 which supplements the requirements of the Home Mortgage Disclosure Act; ACM used independent contractors to originate HUD/FHA insured loans; ACM used false documentation to originate HUD/FHA insured loans; ACM failed to provide complete loan origination files for review; ACM used income/employment documents that do not support the borrower's income; ACM failed to include all known liabilities in calculating the ratios; ACM failed to properly document the source of funds for a gift; and ACM used an expired conditional commitment.

11. Cypress Financial Mortgage Corporation, Inc., Davie, FL

[Docket No. 00–1163–MR]

Action: In a letter dated May 18, 2001, the Board withdrew Cypress Financial Mortgage Corporation, Inc.'s ("Cypress") HUD/FHA approval for three years. The Board also voted to impose a civil money penalty of $22,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Cypress failed to maintain and implement a Quality Control Plan; and Cypress used false information to originate loans to obtain HUD/FHA insurance and misrepresented the Title I program to borrowers.

12. DLM Financial Services Corporation, d/b/a First Financial Mortgage, a/k/a The Home Store, Fresno, CA

[Docket No. 01–1521–MR]

Action: In a letter dated August 16, 2001, the Board withdrew DLM Financial Services Corporation's ("DLM") [d/b/a First Financial Mortgage, a/k/a The Home Store] HUD/FHA approval for three years. The Board also voted to impose a civil money penalty of $65,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: DLM failed to maintain and implement a Quality control Plan in compliance with HUD requirements; DLM knowingly did business with a debarred, suspended, ineligible or voluntarily excluded individual; DLM used false information in originating an FHA insured loan; DLM allowed non-employees to originate HUD/FHA mortgage loans; DLM allowed employees to have dual employment; and DLM failed to retain complete origination files.

13. Eagle Home Loans and Realty, Inc., Sacramento, CA

[Docket No. 00–1129–MR]

Action: Settlement Agreement signed May 21, 2001. Without admitting fault or liability, Eagle Home Loans and Realty, Inc. ("EHLR") agreed to a civil money penalty of $1000. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53732, September 5, 2000.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: EHLR failed to file annual loan origination reports for 1995 through 1999 which supplements the requirements of the Home Mortgage Disclosure Act; EHLR failed to maintain and implement a Quality Control Plan; EHLR shared office space with its parent company; and EHLR did not clearly identify the office space to the public.

14. First Funding Mortgage Bankers Corporation, Rosedale, NY

[Docket No. 00–1323–MR]

Action: Settlement Agreement signed June 1, 2001. Without admitting fault or liability, First Funding Mortgage Bankers Corporation ("FFMBC") agreed to a civil money penalty of $60,000. FFMBC also agreed to indemnify HUD for any losses incurred on 11 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: FFMBC failed to maintain a Quality Control Plan in compliance with HUD requirements; FFMBC failed to submit One Time Mortgage Insurance Premiums Payments within 15 days of loan closing; FFMBC failed to determine that borrowers met minimum cash investment requirements; FFMBC failed to verify the source and adequacy of funds for the down payment and/or closing costs; FFMBC failed to verify income used to qualify the borrower; and FFMBC failed to resolve conflicts in information contained within the loan file prior to loan closing.

15. First Union Mortgage Corporation, Raleigh, NC

[Docket No. 01–1536–MR]

Action: Settlement Agreement signed September 18, 2001. Without admitting fault or liability, First Union Mortgage Corporation ("FUMC") agreed to indemnify HUD for any losses incurred on 4 loans.

Cause: HUD's Departmental Enforcement Center made the following findings of violations of HUD/FHA requirements resulting from a Quality Assurance Division review of Fidelity Home Mortgage Corporation, a loan correspondent that FUMC sponsored: FUMC failed to properly verify the source and adequacy of funds for the down payment and failed to properly verify income requirements.

16. Golden Home Mortgage Corporation, Concord, CA

[Docket No. 01–1471–MR]

Action: Settlement Agreement signed August 28, 2001. Without admitting fault or liability, Golden Home Mortgage Corporation ("GHMC") agreed to a civil money penalty of $20,000. In settlement, GHMC agreed to withdraw its appeal of the withdrawal of HUD/FHA approval for five years that the Board had imposed on GHMC in a letter dated January 29, 2001. It further agreed to forever forfeit its FHA approval.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: GHMC originated 19 HUD/FHA insured mortgages in which false statements were submitted to HUD and GHMC was aware of these false statements; GHMC failed to ensure that non-profit mortgagors did not exceed 10% profit on properties purchased from HUD with a 30 % discount; GHMC processed a loan that resulted in the Department over-insuring an FHA loan; GHMC failed to accurately prepare the closing instructions causing the sponsor to submit false and/or inaccurate HUD–1 Settlement Statements to the Department in 38 loans; GHMC used

falsified documentation in originating an FHA loan; GHMC falsely certified that a repair condition, the repair of a swimming pool, had been satisfied in one loan; GHMC processed loans containing false and/or inaccurate owner occupancy information in two loans; GHMC failed to properly document the transfer of gift funds in two loans; GHMC provided false statements and/or certifications concerning housing counseling in 16 loans; GHMC provided false information concerning face-to-face interviews, used non-employees to perform loan origination functions, and failed to meet face-to-face with first-time homebuyers in five loans; GHMC failed to process loan applications within HUD/FHA guidelines in four loans; GHMC charged unallowable fees on FHA loans in two loans; GHMC allowed a mortgagor to sign a blank document; and GHMC failed to file annual loan origination reports for 1996–1998, which supplements the requirements of the Home Mortgage Disclosure Act.

17. Herring National Bank, Vernon, TX

[Docket No. 01–1391–MR]

Action: Settlement Agreement signed August 28, 2001. Without admitting fault or liability, Herring National Bank ("Herring") agreed to a civil money penalty of $30,000. Herring also agreed to indemnify HUD for any losses incurred on 6 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Herring operated branch offices under prohibited branch arrangements; Herring failed to meet the requirements for late endorsements in three loans; Herring failed to adequately document the sufficiency and/or source of funds to close three transactions; Herring failed to support income used to qualify the mortgagor in one loan; and Herring failed to obtain the required field reviews on properties previously sold by HUD's Real Estate Owned Division in three loans.

18. Home Loan Mortgage Corporation, Hesperia, CA

[Docket No. 01–1426–MR]

Action: Settlement Agreement signed May 3, 2001. Without admitting fault or liability, Home Loan Mortgage Corporation ("HLMC") agreed to a civil money penalty of $144,000. HLMC also agreed to indemnify HUD for any losses incurred on 7 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: HLMC failed to maintain and implement a quality control plan in compliance with HUD requirements; HLMC failed to remit timely Up Front Mortgage Insurance Premiums; HLMC failed to segregate escrow funds; HLMC failed to submit loans for endorsement in a timely manner; HLMC submitted ineligible loans for endorsement; HLMC used other entities to originate loans through branch office arrangements; HLMC used independent contractors as loan originators; and HLMC failed to properly verify the source and adequacy of funds for the down payment and/or closing.

19. InterAmerican Mortgage Corporation, Rosedale, NY

[Docket No. 01–1482–MR]

Action: Settlement Agreement signed July 25, 2001. Without admitting fault or liability, InterAmerican Mortgage Corporation ("IAMC") agreed to pay HUD $524,256.79, representing losses HUD incurred on 5 loans that were part of a prior August 27, 1997 Settlement Agreement with HUD.

Cause: The Board followed up on IAMC's failure to indemnify HUD on five loans which were the subject of an August 27, 1997 Settlement Agreement. This failure to indemnify violated HUD regulations and breached the 1997 Settlement Agreement.

20. Intercoastal Funding Corporation, Huntington Beach, CA

[Docket No. 00–1320–MR]

Action: Settlement Agreement signed May 3, 2001. Without admitting fault or liability, Intercoastal Funding Corporation agreed to a civil money payment of $11,000.

Cause: HUD's Quality Assurance Division made the following finding of violations of HUD/FHA requirements: Intercoastal Funding Corporation failed to maintain and implement a Quality Control Plan in compliance with HUD requirements.

21. J & R Mortgage, Inc., San Mateo, CA

[Docket No. 00–1127–MR]

Action: Settlement Agreement signed May 3, 2001. Without admitting fault or liability, J & R Mortgage, Inc. ("JRM") agreed to a civil money penalty of $25,000. JRM also agreed to indemnify HUD for any losses incurred on 6 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: JRM used false information to originate 9 loans; JRM allowed non-employees to take loan applications in 9 loans; JRM permitted "straw buyers" to qualify for HUD/FHA insured mortgages in 3 loans; JRM failed to verify the source of funds used for borrowers' down payment and/or closing costs and thereby, did not ensure that borrowers met their minimum required investment in 4 loans; and JRM allowed real estate agents to accept second deeds of trust and/or promissory notes from mortgagors in exchange for making the mortgagors' minimum required investment in 3 loans.

22. Johnson Mortgage Corporation, New Orleans, LA

[Docket No. 01–1514–MR]

Action: Settlement Agreement signed July 25, 2001. Without admitting fault or liability, Johnson Mortgage Corporation ("JMC") agreed to a payment of $16,500.

Cause: HUD's Quality Assurance Division made the following finding of violations of HUD/FHA requirements: JMC failed to maintain and implement a Quality Control Plan in compliance with HUD/FHA requirements, despite previous findings on this requirement and JMC's assurance of corrective action.

23. Malone Mortgage Company America, Ltd., Carlsbad, CA

[Docket No. 00–1081–MR]

Action: Settlement Agreement signed May 21, 2001. Without admitting fault or liability, Malone Mortgage Company America, Ltd. "(MMC") agreed to a civil money penalty of $100,000. MMC also agreed to indemnify HUD for any losses incurred on 4 loans. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53735, September 5, 2000.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MMC employed, as a loan officer, an individual who was concurrently working for the mortgagor entity and had an ownership interest in another lending institution; MMC's files were found to contain false completion inspections and 203(k) escrow draws; MMC charged consulting fees and inspection fees that were unearned; MMC originated single-family 203(k) mortgages for the purpose of financing the acquisition of multifamily housing complexes with the knowledge that title to the properties would be subsequently transferred to limited partnerships; MMC processed, approved and closed mortgages where the mortgagor failed to meet the minimum capital investment requirements due to the receipt of Low Income Housing Tax Credits; MMC failed to verify adequate funds from an acceptable source to be used to close the mortgages and to meet the reserve requirements after closing the FHA

insured mortgages; MMC provided FHA insured financing to a nonprofit where there was less than an arms-length transaction between the nonprofit's officers and entities providing goods and services; MMC permitted the nonprofit mortgagor to close on FHA insured mortgages and subsequently sell the properties via Contract for Deed; MMC originated FHA insured mortgages using Uniform Residential Appraisal Reports (URAR) that were found to be deficient, which resulted in overstated values; MMC escrowed and released excess amounts for mortgage payments; MMC did not properly value commercial space that was acquired by an affiliate of the mortgagor entity; MMC failed to properly account for a credit that was to have been given to the mortgagor from the seller, thereby reducing the acquisition cost; MMC used an incorrect sales price when determining acquisition cost for the purpose of calculating maximum mortgage amounts; MMC submitted to HUD for endorsement loans that were closed incorrectly; MMC closed and submitted for endorsement mortgages on properties that exceeded the 4 unit limit in effect for single-family programs; MMC failed to obtain as-is appraisals on properties that were acquired as part of bulk purchases; MMC originated inaccurate correspondence that was used by the mortgagor when applying for Low Income Housing Tax Credits; MMC permitted the mortgagor to receive payment for sweat equity for repair items completed by the mortgagor; MMC processed, approved, and closed loans where the properties were not eligible for 203(k) mortgage insurance; MMC failed to ensure that rehabilitation work was completed in a timely manner; MMC approved and closed a loan with a high loan to value ratio on a property that was less than one year old; and MMC failed to resolve discrepancies in documents used to originate FHA insured mortgages.

24. Marathon Financial Corporation, Southfield, MI

[Docket No. 00–1362–MR]

Action: Settlement Agreement signed June 1, 2001. Without admitting fault or liability, Marathon Financial Corporation ("MFC") agreed to a civil money penalty of $15,000. MFC also agreed to indemnify HUD for any losses incurred in one loan.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MFC failed to make timely payments of Upfront Mortgage Insurance Premiums; MFC shared office space and commingled employees with Miracle Financial, a non-HUD approved lender; MFC failed to obtain and analyze the terms and conditions of the real estate transaction to consider the acquisition cost of recently acquired properties in the underwriting of loans; MFC failed to properly verify the source and adequacy of funds for the down payment and/or closing cost; MFC charged borrowers fees which are not in compliance with HUD/FHA guidelines; and MFC failed to maintain and implement a quality control plan in compliance with HUD requirements.

25. Marketplace Home Mortgage, LLC, Edina, MN

[Docket No. 01–1479–MR]

Action: Settlement Agreement signed July 25, 2001. Without admitting fault or liability, Marketplace Home Mortgage, LLC ("MHM") agreed to a civil money penalty of $20,000. In addition, MHM agreed to indemnify HUD for any losses incurred on 4 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MHM allowed a non-FHA approved entity to originate 6 HUD/FHA loans that were registered with the Department as loans originated by MHM; and MHM failed to file annual loan origination reports for 1996–1997, which supplements the requirements of the Home Mortgage Disclosure Act.

26. Megamerica Mortgage Group, Inc., San Antonio, TX

[Docket No. 00–1319–MR]

Action: Settlement Agreement signed May 3, 2001. Without admitting fault or liability, Megamerica Mortgage Group, Inc. ("Megamerica") agreed to indemnify HUD for any losses incurred on 5 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Megamerica recruited non-HUD approved entities and allowed non-Megamerica employees to originate loans which Megamerica processed and submitted to be approved for FHA insurance; Megamerica allowed prohibited branch arrangements; Megamerica signed false Lender Certifications contained in addenda to the Uniform Residential Loan Applications; Megamerica made prohibited payments to entities that both prepared loan applications and received real estate commissions on the same FHA loan transactions; Megamerica failed to disclose payments to brokers on the HUD–1 Settlement Statements; and Megamerica failed to maintain complete loan files for a minimum period of two years from the date of insurance endorsement.

27. Mission Hills Mortgage Corporation, Santa Ana, CA

[Docket No. 00–1350–MR]

Action: Settlement Agreement signed July 25, 2001. Without admitting fault or liability, Mission Hills Mortgage Corporation ("MHMC") agreed to a civil money penalty of $60,000. In addition, MHMC agreed to indemnify HUD for any losses incurred on 15 loans. Further, MHMC agreed to audit its FHA/HUD loan files for a specific time period and refund any unallowable fees to mortgagors.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MHMC failed to maintain and implement a quality control plan in compliance with HUD requirements; MHMC provided false information in originating and obtaining HUD/FHA mortgage insurance in one loan; MHMC failed to properly verify the source and adequacy of funds for the down-payment and/or closing; MHMC failed to properly verify credit history; MHMC failed to provide acceptable compensating factors for high ratios; MHMC failed to evaluate properly effective income; MHMC charged unallowable fees; MHMC failed to resolve discrepancies; MHMC failed to include liabilities in one loan; and MHMC failed to maintain complete origination files.

28. Molton, Allen & Williams Corporation, Birmingham, AL

[Docket No. 01–1544–MR]

Action: Settlement Agreement signed September 18, 2001. Without admitting fault or liability, Molton, Allen & Williams Corporation ("MAWC") agreed to indemnify HUD for any losses incurred on 2 loans.

Cause: HUD's Departmental Enforcement Center made the following finding of violations of HUD/FHA requirements resulting from a Quality Assurance Division review of Colonial Atlantic Mortgage, a loan correspondent that MAWC sponsored: MAWC failed to properly verify the source and adequacy of funds for the down payment or income requirements in two loans.

29. Money Line Classic Corporation, Whittier CA

[Docket No. 01–1398–MR]

Action: In a letter dated July 26, 2001, the Board voted to impose a civil money

penalty on Money Line Classic Corporation ("MLCC") of $45,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MLCC failed to maintain and implement a Quality Control Plan in compliance with HUD requirements; MLCC failed to notify the Department of program abuses; MLCC failed to designate a senior corporate officer to conduct exclusively the affairs of MLCC during normal business hours; MLCC failed to provide office space that is clearly identified to the public; and MLCC failed to retain complete origination files.

30. Mortgage Loan Specialists, Inc., Solana Beach, CA

[Docket No. 01–1429–MR]

Action: Settlement Agreement signed July 18, 2001. Without admitting fault or liability, Mortgage Loan Specialists, Inc. ("MLS") agreed to a civil money penalty of $192,500.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MLS allowed prohibited branch arrangements or net branches; MLS failed to file annual loan origination reports for 1997–1999, which supplements the requirements of the Home Mortgage Disclosure Act; and MLS failed to maintain and implement a Quality Control Plan.

31. MortgageOne Financial Services, Kissimmee, FL

[Docket No. 01–1472–MR]

Action: Settlement Agreement signed May 21, 2001. Without admitting fault or liability, MortgageOne Financial Services ("MOFS") agreed to a civil money penalty of $10,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MOFS failed to implement a Quality Control Plan in compliance with HUD/FHA requirements; MOFS failed to assure that interested third parties did not participate in the origination and/or processing of loans to be insured by the Department; and MOFS falsely certified loan documents to obtain HUD/FHA insurance.

32. Mortgage One, Inc., Minneapolis, MN

[Docket No. 00–1343–MR]

Action: Settlement Agreement signed July 25, 2001. Without admitting fault or liability, Mortgage One, Inc. ("MOI") agreed to a civil money penalty of $15,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MOI failed to maintain and implement a Quality Control Plan; MOI failed to file annual loan origination reports for 1996–1998, which supplements the requirements of the Home Mortgage Disclosure Act; MOI failed to conduct face-to-face interviews with four first time home buyers; MOI allowed non-MOI employees in six cases to take loan applications and process paperwork on HUD/FHA insured mortgages; and MOI used false information in originating seven loans and obtaining HUD/FHA mortgage insurance.

33. Norwest Mortgage, Inc., Des Moines, IA

[Docket No. 99–1038–MR]

Action: Settlement Agreement signed May 3, 2001. Without admitting fault or liability, Norwest Mortgage, Inc., now known as Wells Fargo Home Mortgage, Inc., ("Norwest") agreed to a civil money penalty of $75,000. Norwest also agreed to indemnify HUD for any losses incurred, including interest, from Norwest's submission of insurance claims on 39 loans that were subject to a 1996 settlement agreement. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53736, September 5, 2000.]

Cause: Contrary to the terms of a March 22, 1996 Settlement Agreement, Norwest submitted claims for FHA insurance on 39 loans on which Norwest had agreed to not submit such claims.

34. PMA Mortgage, Inc., Long Beach, CA

[Docket No. 01–1485–MR]

Action: In a letter dated August 14, 2001, the Board withdrew PMA Mortgage, Inc."s ("PMA") HUD/FHA approval for three years.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: PMA failed to maintain and implement a quality control plan in compliance with HUD requirements; PMA used falsified documentation and/or conflicting information in originating loans and obtaining HUD/FHA mortgage insurance; PMA failed to properly verify the source and adequacy of funds for the down payment and/or closing costs; PMA failed to identify sales within the last 12 months on appraisals; and PMA requested a seller to backdate loan documents.

35. RBMG, Inc., Columbia SC

[Docket No. 01–1545–MR]

Action: Settlement Agreement signed September 25, 2001. Without admitting fault or liability, RBMG agreed to indemnify HUD for any losses incurred on six loans.

Cause: HUD's Quality Assurance Division made the following finding of violations of HUD/FHA requirements: RBMG failed to properly verify the source and adequacy of funds for the down payment or income requirements in six loans.

36. Twins, Inc., Columbia, SC

[Docket No. 00–1076–MR]

Action: Settlement Agreement signed May 21, 2001. Without admitting fault or liability, Twins, Inc. ("TI") agreed to a civil money penalty of $8,000. In addition, the Department reinstated TI as an FHA approved mortgagee. The Board had previously withdrawn TI's HUD/FHA approval for three years in a letter dated September 29, 2000. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53737, September 5, 2000.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: TI shared office space with its parent company and maintained an office not clearly identified to the public; TI commingled employees with its parent company; TI used more than one entity to conduct its loan origination function; TI failed to maintain an adequate Quality Control Plan for the origination of HUD/FHA insured mortgages; TI failed to properly implement its Quality Control Plan; and TI charged mortgagors unallowable fees.

37. U.S. Lending Corporation, Long Beach, CA

[Docket No. 01–1537–MR]

Action: In a letter dated July 26, 2001, the Board withdrew U.S. Lending Corporation's ("USLC") HUD/FHA approval for five years. In addition, the Board voted to impose a civil money penalty of $35,000.

Cause: While preparing for an administrative hearing against Milestone Mortgage Corporation, HUD's Mortgagee Review Board staff learned that Milestone, despite its immediate withdrawal from FHA programs was operating under the name of U.S. Lending Corporation and was still originating FHA insured loans. The Board voted to immediately withdraw USLC's approval based on the following violations of HUD/FHA requirements: USLC circumvented the Mortgagee Review Board's withdrawal action against Milestone Mortgage Corporation; USLC failed to exclude participants that are suspended from participating in federal government programs; USLC

used non FHA approved offices to originate FHA insured mortgages; USLC failed to maintain complete origination files; USLC failed to maintain an office space that was separate and apart from that of another entity; USLC failed to meet the staffing requirement of at least two full-time employees at a main office; USLC failed to follow proper quality control procedures; and USLC failed to establish and maintain an adequate Quality Control Plan for the origination of HUD/FHA insured mortgages. [For the prior **Federal Register** notice relating to Milestone Mortgage Corporation, see 66 FR at page 38307, July 23, 2001.]

38. Valley Mortgage Company, Inc., McAllen, TX

[Docket No. 01–1411–MR]

Action: Settlement Agreement signed August 28, 2001. Without admitting fault or liability, Valley Mortgage Company, Inc., ("VMCI") agreed to a civil money penalty of $25,000. VMCI also agreed to indemnify HUD for any losses incurred on 11 loans. At the time of settlement, VMCI paid HUD an additional $77,604.22 for losses incurred on three loans upon which HUD had paid claims and had sold the property.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: VMCI failed to verify the source of funds for closing and/or to pay off debts; VMCI used inaccurate and/or unstable income to qualify mortgagors; VMCI omitted mortgagor liabilities and/or the liabilities of the non-purchasing spouse in one loan qualification; VMCI failed to adequately document mortgagors' credit histories in one loan; VMCI failed to update credit documents in excess of 120 days at the time of closing; VMCI failed to clarify or document important file discrepancies in one loan; VMCI closed a loan in excess of the maximum allowable resulting in an over-insured mortgage; and VMCI failed to perform sufficient investigation and analysis to certify that a condominium project satisfied the eligibility criteria for a "spot loan'.

39. West Coast Mortgage Securities, Inc., San Diego, CA

[Docket No. 00–1130–MR]

Action: Settlement Agreement signed August 28, 2001. Without admitting fault or liability, West Coast Mortgage Securities, Inc., ("WCMS") agreed to a civil money penalty of $1,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: WCMS failed to file annual loan origination reports for 1995–1999, which supplements the requirements of the Home Mortgage Disclosure Act; and WCMS failed to properly document liabilities.

Dated: December 3, 2001.

John C. Weicher,

Assistant Secretary for Housing—FHA, Commissioner, Chairman, Mortgagee Review Board.

[FR Doc. 01–30438 Filed 12–7–01; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability; Draft Environmental Impact Statement on Light Goose Management; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability for public comment; extension of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is extending the comment period on a Draft Environmental Impact Statement (DEIS) which is available for public review. The DEIS analyzes the potential environmental impacts of several management alternatives for addressing problems associated with overabundant light goose populations. The Service invites the public to comment on the DEIS.

DATES: Written comments on the DEIS must be received on or before January 25, 2002.

ADDRESSES: Requests for copies of the DEIS should be mailed to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street NW., Washington, D.C. 20240. Copies of the DEIS can be downloaded from the Division of Migratory Bird Management web site at *http://migratorybirds.fws.gov/issues/snowgse/tblcont.html*. Comments on the DEIS should be sent to the above address. Alternatively, comments may be submitted electronically to the following address: *white_goose_eis@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Jon Andrew, Chief, Division of Migratory Bird Management, (703) 358–1714.

SUPPLEMENTARY INFORMATION: On September 28, 2001 (66 FR 49668), and October 5, 2001 (66 FR 51274), notices were published in the **Federal Register** announcing the availability of our DEIS on light goose management. On October 12, 2001 (66 FR 52147) we published a notice in the **Federal Register** to announce the schedule of public hearings to invite further public participation in the DEIS review process.

The DEIS evaluates four management alternatives to address habitat destruction and agricultural depredations caused by light geese on various breeding, migration, and wintering areas: (1) No Action or a continuation to manage light goose populations through existing wildlife management policies and practices (Alternative A); (2) modify harvest regulation options and refuge management (Alternative B) (PREFERRED); (3) implement direct agency control of light goose populations on migration and wintering areas in the U.S. (Alternative C); (4) seek direct light goose population control on breeding grounds in Canada (Alternative D). Our preferred alternative (Alternative B) modifies existing light goose hunting regulations to expand methods of take during normal hunting season frameworks. In addition, we propose to create a conservation order to allow take of light geese outside of normal hunting season frameworks. We would also modify management practices on certain National Wildlife Refuges to alter the availability of food and sanctuary to light geese. On October 12, 2001 (66 FR 52077) we published a proposed rule in the **Federal Register** that would implement our preferred alternative.

We have received a request to extend the comment period on the DEIS. The Service invites careful consideration by all parties, and welcomes serious scrutiny from those committed to the long-term conservation of migratory birds. Therefore, to facilitate substantive public review, we are extending the comment period from December 14, 2001, to January 25, 2002. Extension of the comment period on the proposed rule is made through a separate notice in the **Federal Register**.

In order to be considered, electronic submission of comments must include your name and postal mailing address; we will not consider anonymous comments. All comments received, including names and addresses, will become part of the public record. The public may inspect comments during normal business hours in Room 634—Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. Requests for such comments will be handled in accordance with the Freedom of Information Act and the

Council on Environmental Quality's National Environmental Policy Act regulations [40 CFR 1506.6(f)]. Our practice is to make comments available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If a respondent wishes us to withhold his/her name and/or address, this must be stated prominently at the beginning of the comment.

Dated: November 19, 2001.

Kevin R. Adams,

Acting Deputy Director.

[FR Doc. 01–30412 Filed 12–7–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request; Notice of Information Collection Under Review, Refugee/Asylee Relative Petition

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until February 8, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Refugee/Asylee Relative Petition.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–730. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form will be used by an asylee or refugee to file on behalf of his or her spouse and/or children provided that the relationship to the refugee/asylee existed prior to their admission to the United States. The information collected on this form will be used by the Service to determine eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 86,400 responses at 35 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50,371 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Solan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: December 3, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–30386 Filed 12–7–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Bureau of Justice Assistance

[OJP(BJA)–1343]

Announcement of the Availability of the State Criminal Alien Assistance Program for FY 2002

AGENCY: Office of Justice Programs, Bureau of Justice Assistance, Justice.

ACTION: Notice of solicitation.

SUMMARY: Announcement of the availability of the Bureau of Justice Assistance (BJA) State Criminal Alien Assistance Program (SCAAP) funding for FY 2002.

DATES: Applicant account registration through an Internet-based system begins on January 3, 2002 and continues until February 1, 2002. Submission of applications begins on January 3, 2002 and continues until February 1, 2002.

ADDRESS: Bureau of Justice Assistance, 810 Seventh Street, NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: For SCAAP program guidance and technical assistance, please log on to the Bureau of Justice Assistance Home Page at: *http://www.ojp.usdoj.gov/BJA* and select "SCAAP" or call the Office of Justice Programs Grants Management System Hotline at 1–888–549–9901, Option #4. For general information about online application procedures for other solicitations, please call the U.S. Department of Justice Response Center 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, sections 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Background

SCAAP provides Federal assistance to states and units of general government for costs incurred for the imprisonment of undocumented criminal aliens, who are charged or convicted of one felony or two misdemeanor offenses. Potential applicants may no longer submit hard copy application forms and diskettes. For FY 2002, state and local governments apply for payment via a paperless, electronic, end-to-end distributive, Internet-based web-site application. BJA anticipates providing over 490 payments of varying amounts from a FY2002 funding total of approximately $550 million.

Potential applicants with questions should call the Office of Justice Programs Grants Management System

Hotline at 1–888–549–9901, Option #4. For access to program guidance and the online application, connect to *http://www.ojp.usdoj.gov/BJA* and select "SCAAP"

Dated: December 5, 2001.

Richard R. Nedelkoff,

Director, Bureau of Justice Assistance.

[FR Doc. 01–30456 Filed 12–7–01; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–155)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Fiber Materials, Inc. of Biddeford, Maine has applied for an exclusive license to practice the invention described and claimed in U.S. Patent No. 5,610,363, entitled "Enhanced Whipple Shield," which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Johnson Space Center.

DATE(S): Responses to this notice must be received by January 9, 2002.

FOR FURTHER INFORMATION CONTACT: James M. Cate, Patent Attorney, NASA Johnson Space Center, Mail Stop HA, Houston, TX 77058–8452; telephone (281) 483–1001.

Dated: November 30, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–30426 Filed 12–7–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–154)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that International Electronic Machines Corporation, 60 Fourth Avenue, Albany, New York, has applied for an exclusive license to practice the invention disclosed in U.S. Patent No. 5,726,632, entitled "Flame Imaging System," which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Randall M. Heald, Assistant Chief Counsel/Patent Counsel.

DATE(S): Responses to this notice must be received by December 26, 2001.

FOR FURTHER INFORMATION CONTACT: Randall M. Heald, Assistant Chief Counsel/Patent Counsel, John F. Kennedy Space Center, Mail Code CC–A, Kennedy Space Center, FL 32899, telephone (321) 867–7214.

Dated: November 30, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–30425 Filed 12–7–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before January 24, 2002. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to *records.mgt@arch2.nara.gov*. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Michael Miller, Director, Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: *records.mgt@arch2.nara.gov*.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions

requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Army, Agency-wide (N1–AU–00–16, 7 items, 7 temporary items). Records relating to readiness training of senior intelligence officers. Included are such records as correspondence, planning committee invitations and minutes, on-going training files, budget and financial status reports, and inspection files. Also included are electronic copies of documents created using electronic mail and word-processing. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

2. Department of the Army, Agency-wide (N1–AU–01–10, 25 items, 25 temporary items). Short-term records documenting security measures undertaken to protect classified information and the activities and resources allocated to support military operations. Included are records relating to such matters as investigations of security breaches, the protection of automated systems, signal security operations, the allocation and distribution of communications security material, and strategic and tactical planning for military operations. Also included are electronic copies of documents created using electronic mail and word processing. This schedule allows the agency to expedite disposal of these records, which previously were approved for disposal. It also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

3. Department of Defense, Defense Contract Audit Agency (N1–372–01–2, 4 items, 2 temporary items). Records pertaining to legal matters not related to the mission of the agency, including files pertaining to standards of conduct and conflict of interest that do not relate to actual cases in the agency. Included are legal opinions and related background materials. Proposed for permanent retention are recordkeeping copies of legal opinions relating to the mission of the agency and standards of conduct records relating to actual cases in the agency. The related electronic copies of documents created using electronic mail and word processing were previously approved for disposal.

4. Department of Defense, Defense Contract Audit Agency, Agency-wide (N1–372–02–1, 6 items, 6 temporary items). Records relating to the use of Government charge cards for obtaining small purchase items. Included are such records as receipts, statements of charges and amounts due, certifications of payments to be made, and electronic copies of records created using electronic mail and word processing.

5. Department of Defense, National Imagery and Mapping Agency (N1–537–01–4, 65 items, 65 temporary items). Paper and electronic records relating to safety, health, and environmental matters, including electronic copies of documents created using electronic mail and word processing. Records relate to general medical and health matters, industrial hygiene, safety programs, fire prevention, and environmental protection.

6. Department of the Navy, Agency-wide. (N1–NU–02–1, 13 items, 9 temporary items). Records relating to investigations or inquiries conducted by the Navy Inspector General. Included are such records as case files, final investigative reports, working papers, correspondence, and final reports. Also included are electronic copies of documents created using electronic mail and word processing and a database used for tracking the progress of each investigation. Recordkeeping copies of historically significant case files are proposed for permanent retention.

7. Department of the Navy, Agency-wide, (N1–NU–02–2, 3 items, 3 temporary items). Records relating to non-combat counterintelligence investigations and inquiries conducted in order to determine the suitability of U.S. citizens and foreign nationals for base access and employment purposes. Also included are electronic copies of records created using electronic mail and word processing.

8. Federal Emergency Management Agency, Agency-wide (N1–311–01–1, 5 items, 4 temporary items). Records relating to pending legislation of interest to the agency, including electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of files, accumulated in the Office of General Counsel and the Office of Congressional and Legislative Affairs, that pertain to legislation that directly affects the agency's enabling legislation.

9. Federal Emergency Management Agency, Mitigation Directorate (N1–311–01–7, 5 items, 5 temporary items). Records relating to disaster response, including grant administration records relating to disaster response. Also included are records relating to FEMA activities to reduce and mitigate losses in future disasters including hazard mitigation, technical assistance, grants and agreements securing the development rights of disaster-prone parcels of land. Also included are electronic copies of documents created using electronic mail and word processing.

10. Federal Retirement Thrift Investment Board, Office of Automated Systems (N1–474–01–1, 2 items, 2 temporary items). Web site feedback records and statistical reports on web site utilization. This schedule reduces the retention period for the recordkeeping copies of these files, which were previously approved for disposal. Also included are electronic copies of documents created using electronic mail and word processing.

11. National Archives and Records Administration, Agency-wide (N1–64–02–2, 2 items, 2 temporary items). Security backups for agency desktop computer applications created and maintained to restore the system in the event of a system failure or other unintentional loss of data.

12. National Archives and Records Administration, Access Programs (N1–64–02–3, 3 items, 3 temporary items). Electronic systems containing researcher application information and data recording the movement of researchers within the agency's research complex in College Park, Maryland.

13. National Credit Union Administration, Agency-wide (N1–413–02–1, 10 items, 8 temporary items). Subject files, chronological files, and regional files, accumulated by offices other than the Office of the Board, and individual working files. Also included are electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of agency directives and operating manual case files created in central and regional offices are proposed for permanent retention.

14. Nuclear Regulatory Commission, Office of the Secretary of the Commission (N1–431–01–2, 51 items, 39 temporary items). Electronic records in the Commission's Agencywide

Document Access and Management System (ADAMS) accumulated by the Office of the Secretary of the Commission, including electronic copies of records created using office automation tools and of records used to create ADAMS portable document format files. Records proposed for disposal include electronic recordkeeping copies of records related to committees and conferences for which the agency is not the sponsor, routine correspondence files, and rulemaking docket files. Paper copies of these records were previously approved for disposal. Series proposed for permanent retention include recordkeeping copies of such files as decisional dockets, records relating to committees and conferences sponsored by the agency, program correspondence at the Commission level, rulemaking records, and transcripts of Commission meetings.

15. Office of Personnel Management, Office of the Chief Information Officer (N1–478–02–1, 8 items, 8 temporary items). Year 2000 (Y2K) project records, including such records as plans, test documentation, correspondence, reports, and electronic copies of records created using electronic mail and word processing.

Dated: December 4, 2001.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 01–30436 Filed 12–7–01; 8:45 am]

BILLING CODE 7515–01–U

POSTAL RATE COMMISSION

Sunshine Act Meeting

Name of Agency: Postal Rate Commission.

Time and Date: December 12, 2001 at 10 a.m.

Place: Commission conference room, 1333, H Street NW., Suite 300, Washington, DC 20268–0001.

Status: Open.

Matters to be Considered: Election of vice-chairman.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, general counsel Postal Rate Commission, 202–789–6820.

Dated: December 5, 2001.

Steven W. Williams.

Acting Secretary.

[FR Doc. 01–30501 Filed 12–5–01; 4:07 pm]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration on the American Stock Exchange LLC (Quicksilver Resources Inc., Common Stock, $.001 par value) File No. 1–14837

December 4, 2001.

Quicksilver Resources Inc., a Delaware Corporation ("Issuer"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.001 par value ("Security"), from listing and registration on the American Stock Exchange LLC ("Amex").

On September 28, 2001, the Board of Directors of the Issuer unanimously approved a resolution to withdraw the Issuer's Security from listing on the Amex and to list the Security on the New York Stock Exchange, Inc. ("NYSE"). In making the decision to withdraw the Security from listing on the Exchange, the Issuer considered the direct and indirect costs and the division of the market resulting from dual listing. The Issuer states that trading in the Security ceased on the Amex on October 22, 2001 and began on the NYSE the same day.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of Delaware, in which it is incorporated and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Issuer's application relates solely to the Security's withdrawal from listing on the Amex and shall have no effect upon its listing on the NYSE or its registration under section 12(b) of the Act.[3]

Any interested person may, on or before December 27, 2001, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–30415 Filed 12–7–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d–2(d).

[3] 15 U.S.C. 78*l*(b).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25308; File No. 812–12556]

First Variable Life Insurance Company, et al.

December 4, 2001.

AGENCY: Securities and Exchange Commission ("SEC or "Commission").

Summary of Application: Applicants seek an order pursuant to Section 26(c) of the Investment Company Act of 1940 ("1940 Act"), approving the substitution of shares of certain Portfolios of Variable Investors Series Trust ("VIST") for shares of certain portfolios of other variable insurance products funds as follows: (1) Shares of the Pilgrim Baxter Insurance Series Fund, Inc.—PBHG Small Cap Growth Portfolio for shares of the VIST Small Cap Growth Portfolio; (2) shares of the American Century VP International Growth Fund for shares of the VIST World Equity Portfolio; (3) shares of the American Century VP Ultra Fund for shares of the VIST Growth Portfolio; (4) shares of the American Century VP Income and Growth Fund for shares of the VIST Matrix Equity Portfolio; (5) shares of the Fidelity Variable Insurance Products Fund—Growth & Income Portfolio for shares of the VIST Growth & Income Portfolio; (6) shares of the Fidelity Variable Insurance Products Fund—Growth & Income Portfolio for shares of the VIST Multiple Strategies Portfolio; (7) shares of the Federated High Income Bond Fund II for shares of the VIST High Income Bond Portfolio; and (8) shares of the Federated U.S. Government Securities Fund II for shares of the VIST U.S. Government Bond Portfolio. Applicants also seek an order, pursuant to Section 17(b) of the 1940 Act, granting exemptions from Section 17(a) to permit Applicants to carry out the above-referenced substitution by means of in-kind redemption and purchase.

Applicants: First Variable Life Insurance Company ("First Variable"),

[4] 17 CFR 200.30–3(a)(1).

First Variable Annuity Fund E ("Account E"), First Variable Annuity Fund A ("Account A") and Separate Account VL ("Account VL") of First Variable Life Insurance Company. First Variable is referred to herein as the "Insurance Company Applicant." Account E, Account A and Account VL are referred to herein as the "Separate Account Applicants."

Filing Date: The application ("Application") was filed on June 21, 2001 and amendments thereto were filed on October 11, 2001 and December 3, 2001.

Hearing or Notification of Hearing: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 27, 2001, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: For the Commission: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. For Applicants: c/o Raymond A. O'Hara III, Esquire, Blazzard, Grodd & Hasenauer, PC, P.O. Box 5108, Westport, Connecticut 06881. Copies to: Steve M. Callaway, Esquire, Senior Associate Counsel, Protective Life Corporation, Birmingham, Alabama 35202.

FOR FURTHER INFORMATION CONTACT: Alison Toledo, Senior Counsel, or Lorna MacLeod, Branch Chief, Division of Investment Management, Office of Insurance Products, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW., Washington, DC 20549, (tel. (202) 942–8090).

Applicants' Representations

1. First Variable is a stock life insurance company that was organized under Arkansas law in 1968. It engages principally in the business of variable life insurance, variable annuities and fixed annuities. First Variable holds licenses to sell insurance in 49 states, the District of Columbia and the U.S. Virgin Islands. On October 1, 2001, Protective Life Insurance Company, a subsidiary of Protective Life Corporation of Birmingham, Alabama, acquired the stock of First Variable from ILona Financial Group, Inc., formerly known as Irish Life of North America, Inc., which had owned all of the outstanding stock of First Variable until that date.

2. Account E is a segregated asset account of First Variable. Account E was established by First Variable on December 4, 1979, under Arkansas insurance laws. Account E is used to fund certain Contracts issued by First Variable. Account E is divided into several subaccounts, each of which invests in and reflects the investment performance of a specific underlying registered investment company or portfolio thereof. Account E is registered as a unit investment trust under the 1940 Act.

3. Account A is a segregated asset account of First Variable. Account A was established by First Variable on July 1, 1968 under Arkansas insurance laws. Account A is used to fund certain Contracts issued by First Variable. Account A is divided into several subaccounts, each of which invests in and reflects the investment performance of a specific underlying registered investment company or portfolio thereof. Account A is registered as a unit investment trust under the 1940 Act.

4. Account VL is a segregated asset account of First Variable. Account VL was established by First Variable on March 6, 1987, under Arkansas insurance laws. Account VL is used to fund certain Contracts issued by First Variable. Account VL is divided into several subaccounts, each of which invests in and reflects the investment performance of a specific underlying registered investment company or portfolio thereof. Account VL is registered as a unit investment trust under the 1940 Act.

5. The segregated asset accounts support certain variable annuity contracts and variable life insurance policies (collectively, the "Contracts") issued by the Insurance Company Applicant. Under the Contracts, First Variable reserves the right to substitute one or more of the variable investment options with another variable investment option. These contractual provisions have been disclosed in the prospectus or the statements of additional information relating to the contracts.

6. The Trust was organized as a Massachusetts business trust on December 23, 1986. The Trust is comprised of eight separate series ("Portfolios" or "Replaced Portfolios"). The Trust is registered as an open-end management investment company under the 1940 Act and its shares are registered as securities under the Securities Act of 1933 ("1933 Act"). The shares of the Trust are sold exclusively to the Separate Account Applicants to fund benefits under the Contracts. First Variable Advisory Services Corporation ("FVAS") is the investment adviser for the Trust. FVAS is a wholly-owned subsidiary of First Variable, the ultimate parent of which is Protective Life Corporation. FVAS has engaged sub-advisers for each of the Portfolios of the Trust to make investment decisions and place orders.

7. Applicants request the Commission's approval to effect the substitutions of the shares of portfolios of other variable insurance products funds ("Substituting Portfolios") for the shares of the Replaced Portfolios (the "Substitution"). The Substituting Portfolios are series of open-end management investment companies registered under the 1940 Act, the shares of which are registered as securities under the 1933 Act. Applicants represent that the Substituting Portfolios, in general, have similar investment objectives to, and more assets, better performance and lower expense ratios than, the Replaced Portfolios. The Replaced Portfolios and the corresponding Substituting Portfolios are as follows:

Replaced portfolios	Substituting portfolios
High Income Bond Portfolio.	Federated High Income Bond Fund II.
World Equity Portfolio	American Century VP International Growth Fund.
Small Cap Growth Portfolio.	PBHG Small Cap Growth Portfolio.
Matrix Equity Portfolio	American Century VP Income and Growth Fund.
U.S. Government Bond Portfolio.	Federated U.S. Government Securities Fund II.
Growth Portfolio	American Century VP Ultra Fund.
Multiple Strategies Portfolio.	Fidelity VIP Growth & Income Portfolio.
Growth & Income Portfolio.	Fidelity VIP Growth & Income Portfolio.

8. The investment objectives of the Replaced Portfolios and Substituted Portfolios are as follows:

(a) The stated objective for the High Income Bond Portfolio and the Federated Income Bond Fund II is to seek a high level of current income while secondarily seeking capital appreciation by investing primarily in fixed-income securities, including corporate bonds and notes, discount

bonds, zero-coupon bonds, convertible securities and preferred stocks and bonds issued with warrants, which are rated Baa or below by Moody's or BBB or below by Standard & Poor's or in unrated securities determined to be of comparable quality. The same individual, Mark E. Durbiano, manages both of these Portfolios.

(b) The World Equity Portfolio's stated objective is to seek maximum long-term total return by investing primarily in common stocks, and securities convertible into common stocks, traded in securities markets located around the world, including the United States. This objective is to be obtained via international blue chips and domestic U.S. small cap stocks. The American Century VP International Growth Portfolio's stated objective is to seek capital growth by investing primarily in large cap equities in developed countries around the world. The Portfolio also invests in preferred stock and convertible debt and it can invest in the United States.

Morningstar Inc. ("Morningstar"), a provider of mutual fund, stock and variable insurance investment information, assigns both of these Portfolios to a Large-Growth investment style box focusing on international equities.

(c) The objective of the Small Cap Growth Portfolio and the PBHG Small Cap Growth Portfolio is to seek capital appreciation by investing primarily in common stocks of emerging companies with the potential for significant capital appreciation and strong earnings growth with attendant risk. The Portfolios normally invest at least 65% of assets in common stocks and convertible securities issued by companies with market capitalization or annual revenues not exceeding $1 billion at the time of purchase. Both Portfolios are managed by the same entity—Pilgrim Baxter & Associates, Ltd.

(d) The Matrix Equity Portfolio's investment objective is to seek capital appreciation and current income by investing in a diversified portfolio of equity securities. The American Century VP Income and Growth Portfolio's investment objective is to seek capital growth by investing in common stocks, with income as a secondary objective.

Over the last ten years, both Portfolios have had substantially similar investment styles and Morningstar has categorized each fund as either being Large/Value or Large/Blend during that time period.

(e) The U.S. Government Bond Portfolio's investment objective is to seek current income and preservation of capital. Under normal circumstances, at least 80% of the Portfolios assets will be invested in U.S. Government Securities; the remainder may be invested in investment grade corporate securities and in cash and money market instruments. The Federated U.S. Government Securities Fund II's investment objective is to provide current income by investing at least 65% of its assets in U.S. government securities, including mortgage backed securities issued by U.S. government agencies. In addition, the Fund may invest up to 35% of its assets in investment grade non-government mortgage-backed securities.

Morningstar classifies both portfolios as Intermediate Government Bond Funds.

(f) The Growth Portfolio's investment objective is to seek capital growth; it also seeks current income when consistent with its primary objective. It pursues its objective by investing primarily in common stocks and securities convertible into common stock. Securities are selected on the basis of their issuers long-term potential for expanding their earnings, profitability, and size and on the basis of potential increases in market recognition of their securities. The American Century VP Ultra Fund's investment objective is to seek long-term capital growth. The Portfolio pursues this objective by investing in large company stocks that the manager believes will increase in value over time, using a growth investment strategy. The strategy looks for companies with earnings and revenues that are not only growing, but also growing at a successfully faster or accelerating pace.

Both portfolios are classified by Morningstar as large cap growth funds.

(g) The Multiple Strategies Portfolio's investment objective is to seek as high a level of total return as the manager considers consistent with prudent investment risk. The Portfolio invests in equity securities, fixed income securities and money market instruments. Equity securities are selected on the basis of their issuers long-term potential for expanding their earnings, profitability, and size and on the basis of potential increases in market recognition of their securities. The Fidelity VIP Growth & Income Portfolio's investment objective is to seek high total return through a combination of current income and capital appreciation. The Portfolio invests a majority of its assets in common stocks with a focus on those that pay current dividends and show potential for capital appreciation. The Portfolio also invests in bonds, including lower-quality debt securities, as well as stocks that are not currently paying dividends, but offer prospects for future income or capital appreciation.

(h) The Growth & Income Portfolio's investment objective is to seek growth of capital and income. The Portfolio pursues this objective by investing primarily in dividend-paying common stocks, as well as fixed income securities. The Fidelity VIP Growth & Income Portfolio's investment objective is to seek high total return through a combination of current income and capital appreciation. The Portfolio invests a majority of its assets in common stocks with a focus on those that pay current dividends and show potential for capital appreciation. The Portfolio also invests in bonds, including lower-quality debt securities, as well as stocks that are not currently paying dividends, but offer prospects for future income or capital appreciation.

Both of the Portfolios have been characterized by Morningstar as Large/Value and Large/Blend over the last 10 years.

9. For the shares of each Replaced Portfolio held on behalf of their respective Separate Accounts at the close of business on the date selected for the Substitution, First Variable will redeem those shares for cash or in-kind. Simultaneously, First Variable, on behalf of each of its Separate Account Applicants, will place a purchase order for shares of each Substituting Portfolio so that each purchase will be for the exact amount of the redemption proceeds, which may be partly or wholly in-kind. Accordingly, at all times monies attributable to Owners then invested in the Replaced Portfolio will remain fully invested and will result in no change in the amount of any Owner's contract value, death benefit or investment in the applicable Separate Account Applicant.

10. In connection with the redemption of all shares of each Replaced Portfolio, it is anticipated that the Replaced Portfolio will incur brokerage fees and expenses in connection with such redemption. To alleviate the potential impact, the redemptions for certain Replaced Portfolios will be effected partly for cash and partly for portfolio securities redeemed in-kind. In addition, Applicants will use the in-kind and cash redemption proceeds to purchase shares of the Substituting Portfolio. In effecting the in-kind redemptions and transfers, the Trust has informed the Applicants that it will comply with the requirements of Rule 17a–7 under the 1940 Act and the procedures established

thereunder by the Board of Trustees of the Trust.

11. As noted above, the portfolio securities received from the in-kind redemptions will be used together with the cash proceeds to purchase the shares of the Substituting Portfolios. The Applicants have determined that partially effecting the redemption of shares of the Replaced Portfolios in-kind is appropriate, based on the similarity of certain types of portfolio securities that may be held by the Replaced Portfolio and its corresponding Substituting Portfolio. The Trust has advised the Applicants that the valuation of any in-kind redemptions will be made on a basis consistent with the normal valuation procedures of the Replaced Portfolio and that of the Substituting Portfolio.

12. The full net asset value of the redeemed shares held by the Separate Account Applicants will be reflected in the Owners' contract values following the Substitution. The Applicants represent that the Owners will not bear, directly or indirectly any expenses, including brokerage expenses, for the Substitution so that the full net asset value of redeemed shares of the Replaced Portfolio held by the Separate Account Applicants will be reflected in the Owners' contract values following the Substitution.

13. The Trust is fully advised of the terms of the Substitution. Applicants anticipate that until the Substitution occurs, the Trust will conduct the trading of portfolio securities in accordance with the investment objectives and strategies stated in the Trust's prospectus and in a manner that provides for the anticipated redemptions of shares held by the Separate Account Applicants.

14. Applicants have determined that the Contracts allow the Substitution as described in the application, and that the transactions can be consummated as described therein under applicable insurance laws and under the Contracts. In addition, prior to effecting the Substitution, Applicants will have complied with any regulatory requirements they believe are necessary to complete the transactions in each jurisdiction where the Contracts are qualified for sale.

15. Affected Owners will not incur any fees or charges, directly or indirectly, as a result of the Substitution, nor will the rights or obligations of First Variable under the Contracts be altered in any way. The proposed Substitution will not have any adverse tax consequences to Owners. The proposed Substitution will not cause Contract fees and charges currently being paid by existing Owners to be greater after the proposed Substitution than before the proposed Substitution. The proposed Substitution will not be treated as a transfer for the purpose of assessing transfer charges. Moreover, First Variable will allow the Owners, with respect to shares substituted, to transfer the Contract values held in the subaccount invested in the Substituting Portfolio for a period of thirty-one days without collecting transfer fees or imposing any additional restrictions on transfers. Moreover, such a transfer will not be counted as a transfer request under any contractual provisions of the Contracts that limit the number of transfers that may be made without charge.

16. In anticipation of the filing of this Application, the respective Applicants have supplemented the prospectuses for the Contracts to reflect the proposed Substitution. Within five days after the Substitution, First Variable will send to Owners written notice of the Substitution (the "Notice"), identifying the shares of the Replaced Portfolios that have been eliminated and the shares of the Substituting Portfolios that have been substituted. First Variable will include in such mailing the applicable prospectus supplement for the Contracts of the Separate Account Applicants describing the Substitution. For those Contracts that already include as a variable investment option the Substituting Portfolio, First Variable does not intend to mail a copy of the prospectus for the Substituting Portfolio to the Owners, because they already will have received a copy of a prospectus that includes the Substituting Portfolio in the ordinary course. For those Contracts that do not include as a variable investment option the Substituting Portfolio, First Variable will have amended the applicable registration statement and will provide a copy of the prospectus supplement for the Contract and the prospectus for the Substituting Portfolio with the Notice. Owners will be advised in the Notice that for a period of thirty-one days from the mailing of the Notice, Owners may transfer all assets, as substituted, to any other available subaccount without limitation or charge (the "Free Transfer Period").

Applicants' Legal Analysis

1. Section 26(c) of the 1940 Act provides that "[i]t shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the [SEC] shall have approved such substitution." Section 26(b) of the 1940 Act (now Section 26(c)) was enacted as part of the Investment Company Act Amendments of 1970. Prior to the enactment of these amendments, a depositor of a unit investment trust could substitute new securities for those held by the trust by notifying the trust's security holders of the substitution within five (5) days after the substitution. In 1966, Commission, concerned with the high sales charges then common to most unit investment trusts and the disadvantageous position in which such charges placed investors who did not want to remain invested in the substituted security, recommended that Section 26 be amended to require that a proposed substitution of the underlying investments of a trust receive prior Commission approval.

2. Applicants submit that the Substitution does not present the type of costly forced redemption or other harms that Section 26(c) was intended to guard against and is consistent with the protection of investors and the purposes fairly intended by the 1940 Act for the following reasons:

(a) The Substitution will continue to fulfill Owners' objectives and risk expectations, because the investment objectives of each Substituting Portfolio are substantially similar to those of each Replaced Portfolio.

(b) After receipt of the Notice informing an Owner of the Substitution, an Owner may request that his or her assets be reallocated to another subaccount at any time during the Free Transfer Period. The Free Transfer Period provides sufficient time for Owners to consider their reinvestment options;

(c) The Substitution will be at net asset value of the respective shares, without the imposition of any transfer or similar charge;

(d) Neither the Owners, the Replaced Portfolio nor the Substituting Portfolio will bear any costs of the Substitution, including brokerage fees, and accordingly, the Substitution will have no impact on the Owners' Contract values;

(e) The Substitution will in no way alter the contractual obligations of First Variable or the rights and privileges of Owners under the Contracts;

(f) The Substitution will in no way alter the tax benefits to Owners; and

(g) The Substitution is expected to confer certain economic benefits on Owners by virtue of enhanced asset size and lower expenses.

3. The Applicants have determined that each Substituting Portfolio is an appropriate replacement for each Replaced Portfolio and an appropriate investment vehicle for the Owners

because they share similar investment objectives. Accordingly, the Insurance Company Applicant has specifically determined that the Substituting Portfolios are appropriate investment vehicles for owners who have allocated values to the Replaced Portfolios and that the Substitution will be consistent with Owners' investment objectives.

4. As of December 31, 2000, each Substituting Portfolio had lower expense ratios than its corresponding Replaced Portfolio, and with the exception of American Century VP International Growth Fund, American Century VP Income and Growth Fund and American Century VP Ultra Fund, each Substituting Portfolio pays management fees that are equal to or less than the corresponding Replaced Portfolio. Applicants believe that the addition of assets resulting from the Substitution will likely result in lower expense ratios for the Owners that have allocated their Contract values to the Substituting Portfolios.

The expense structure of the American Century Fund is substantially different from that of the Trust. The Trust pays, in addition to a management fee, all of its own expenses, which may vary from year to year. In contrast, services provided by American Century under the American Century Management Agreement are offered under a unified fee arrangement. For the services it provides to the American Century Fund, American Century receives a unified management fee based on a percentage of the average net assets of the series of the Fund, including each of the American Century Substituting Portfolios. Out of that fee American Century pays all expenses of managing and operating the American Century Fund except brokerage expenses, taxes, interest, fees and expenses of the Fund's independent directors (including legal counsel fees), and extraordinary expenses. In each substution into the American Century Fund, the overall expense ratios of the Substituting Portfolios are lower and, in some cases, significantly so.

5. With respect to the First Variable separate accounts investing in the American Century Substituting Portfolios, Applicants represent that there will be no increase in the contract charges from their current levels for a period of at least two years from the date of the Commission order requested herein.

6. Applicants represent that First Variable does not currently receive (and will not receive for three years from the date of the Commission order requested herein) any direct or indirect benefit from the Substituting Portfolios (other than the American Century Substituting Portfolios), their advisers and/or their affiliates, that would exceed the amounts that First Variable or FVAS, the Trust's adviser, had received from the Replaced Portfolios, including without limitations, 12b-1, shareholder service, administrative or other service fees, revenue sharing or other arrangements, either with respect to specific reference to the Substituting Portfolios or as part of an overall business arrangement.

7. Applicants represent that the returns for most of the Substituting Portfolios have generally been higher than the returns of the corresponding Replaced Portfolios, and that while there is no guarantee that past performance will continue, the return data supports Applicants' view that the Substitution is not expected to give rise to diminution in performance or other adverse effects on Contract values.

8. Section 17(a)(1) of the 1940 Act prohibits any affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits any of the persons described above from purchasing any security or other property from such registered investment company. The proposed Substitution will be effected in part through in-kind redemptions and purchases and may be deemed to entail the indirect purchase of shares of a related Substituting Portfolio with portfolio securities of the Replaced Portfolio and the indirect sale of securities of the Replaced Portfolio for shares of the Substituting Portfolio.

9. Section 17(b) of the 1940 Act provides that the Commission may grant an Order exempting transactions prohibited by Section 17(a) of the 1940 Act upon application if evidence establishes that:

(a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve over-reaching on the part of any person concerned;

(b) The proposed transaction is consistent with the investment policy of each registered investment company concerned, as recited in its registration statement and reports filed under the 1940 Act; and

(c) The proposed transaction is consistent with the general purposes of the 1940 Act.

The Applicants represent that the terms of the proposed transactions, as described in this Application are: reasonable and fair, including the consideration to be paid and received; do not involve over-reaching; are consistent with the policies of the Replaced Portfolios of the Trust; and are consistent with the general purposes of the 1940 Act.

10. Applicants represent that for all the reasons stated above, with regard to Section 26(c) of the 1940 Act, the Substitution is reasonable and fair. It is expected that existing and future Owners will benefit from the consolidation of assets in the Substituting Portfolios. The transactions effecting the Substitution will be effected in conformity with Section 22(c) of the 1940 Act and Rule 22c–1 thereunder. Moreover, the partial in-kind redemptions of portfolios' securities of the Replaced Portfolios will be effected in conformity with Rule 17a–7 under the 1940 Act and the procedures of the Trust established pursuant to Rule 17a–7. The Owners' interests after the Substitution, in practical economic terms, will not differ in any measurable way from such interests immediately prior to the Substitution. In each case, the consideration to be received and paid is, therefore, reasonable and fair.

Conclusion

Applicants submit, for all of the reasons stated herein, that their requests meet the standards set out in Sections 6(c), 17(b) and 26(c) of the 1940 Act and that an Order should, therefore, be granted. Accordingly, Applicants request an Order pursuant to Sections 6(c), 17(b) and 26(c) of the 1940 Act approving the Substitution.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–30442 Filed 12–7–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–8039, 34–45124, FR–59]

Cautionary Advice Regarding the Use of "Pro Forma" Financial Information in Earnings Releases

AGENCY: Securities and Exchange Commission.

SUMMARY: The Securities and Exchange Commission is issuing a statement regarding the use by public companies of "pro forma" financial information in earnings releases.

FOR FURTHER INFORMATION CONTACT: John M. Morrissey, Deputy Chief Accountant,

at 202–942–4400, or Paula Dubberly, Chief Counsel of the Division of Corporation Finance, at 202–942–2900.

SUPPLEMENTARY INFORMATION: As we approach year end, we believe it is appropriate to sound a warning to public companies and other registrants who present to the public their earnings and results of operations on the basis of methodologies other than Generally Accepted Accounting Principles ("GAAP"). This presentation in an earnings release is often referred to as "pro forma" financial information. In this context, that term has no defined meaning and no uniform characteristics. We wish to caution public companies on their use of this "pro forma" financial information and to alert investors to the potential dangers of such information.

"Pro forma" financial information can serve useful purposes. Public companies may quite appropriately wish to focus investors' attention on critical components of quarterly or annual financial results in order to provide a meaningful comparison to results for the same period of prior years or to emphasize the results of core operations. To a large extent, this has been the intended function of disclosures in a company's Management's Discussion and Analysis section of its reports. There is no prohibition preventing public companies from publishing interpretations of their results, or publishing summaries of GAAP financial statements.

Moreover, as part of our commitment to improve the quality, timeliness, and accessibility of publicly available financial information, we believe that—with appropriate disclosures about their limitations—accurate interpretations of results and summaries of GAAP financial statements taken as a whole can be quite useful to investors.

Nonetheless, we are concerned that "pro forma" financial information, under certain circumstances, can mislead investors if it obscures GAAP results. Because this "pro forma" financial information by its very nature departs from traditional accounting conventions, its use can make it hard for investors to compare an issuer's financial information with other reporting periods and with other companies.

For these reasons, we believe it is appropriate to alert public companies and their advisors of the following propositions:

First, the antifraud provisions of the federal securities laws apply to a company issuing "pro forma" financial information. Because "pro forma" information is information derived by selective editing of financial information compiled in accordance with GAAP, companies should be particularly mindful of their obligation not to mislead investors when using this information.

Second, a presentation of financial results that is addressed to a limited feature of a company's overall financial results (for example, earnings before interest, taxes, depreciation, and amortization), or that sets forth calculations of financial results on a basis other than GAAP, raises particular concerns. Such a statement misleads investors when the company does not clearly disclose the basis of its presentation. Investors cannot understand, much less compare, this "pro forma" financial information without any indication of the principles that underlie its presentation. To inform investors fully, companies need to describe accurately the controlling principles. For example, when a company purports to announce earnings before "unusual or nonrecurring transactions," it should describe the particular transactions and the kind of transactions that are omitted and apply the methodology described when presenting purportedly comparable information about other periods.

Third, companies must pay attention to the materiality of the information that is omitted from a "pro forma" presentation. Statements about a company's financial results that are literally true nonetheless may be misleading if they omit material information. For example, investors are likely to be deceived if a company uses a "pro forma" presentation to recast a loss as if it were a profit, or to obscure a material result of GAAP financial statements, without clear and comprehensible explanations of the nature and size of the omissions.

Fourth, we commend the earnings press release guidelines jointly developed by the Financial Executives International and the National Investors Relations Institute and we encourage public companies to consider and follow those recommendations before determining whether to issue "pro forma" results, and before deciding how to structure a proposed "pro forma" statement. A presentation of financial results that is addressed to a limited feature of financial results or that sets forth calculations of financial results on a basis other than GAAP generally will not be deemed to be misleading merely due to its deviation from GAAP if the company in the same public statement discloses in plain English how it has deviated from GAAP and the amounts of each of those deviations.

Fifth, as always, and especially in light of the disclosure that we expect to see accompanying these presentations, we encourage investors to compare any summary or "pro forma" financial presentation with the results reported on GAAP-based financials by the same company. Read before you invest; understand before you commit.

Companies with questions about the use of "pro forma" financial presentations in earnings releases are encouraged to call John M. Morrissey, Deputy Chief Accountant, at 202–942–4400, or Paula Dubberly, Chief Counsel of the Division of Corporation Finance, at 202–942–2900. Investors are encouraged to read our investor alert on "pro forma" financial statements (available at *http://www.sec.gov/investor.shtml*).

By the Commission.

Dated: December 4, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–30414 Filed 12–7–01; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3378]

State of Texas; Disaster Loan Areas

Medina County and the contiguous counties of Atascosa, Bandera, Bexar, Frio, Uvalde and Zavala in the State of Texas constitute a disaster area as a result of severe storms and tornadoes that occurred on October 12, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on February 1, 2002 and for economic injury may be filed until the close of business on September 3, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

	(Percent)
For Physical Damage:	
Homeowners with Credit Available Elsewhere	6.500
Homeowners without Credit Available Elsewhere	3.250
Businesses with Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations without Credit Available Elsewhere	4.000

	(Percent)
Others (Including Non-Profit Organizations) with Credit Available Elsewhere	6.375
For Economic Injury:	
Businesses and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 337811 and for economic injury is 9N6700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 3, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 01–30427 Filed 12–7–01; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determinations Under the African Growth and Opportunity Act

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative has determined that Namibia has adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents in connection with shipments of textile and apparel articles and has implemented and follows, or is making substantial progress toward implementing and following, the customs procedures required by the African Growth and Opportunity Act. Therefore, imports of eligible products from Namibia qualify for the textile and apparel benefits provided under the AGOA.

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Chris Moore, Director for African Affairs, Office of United States Trade Representative, (202) 395–9514.

SUPPLEMENTARY INFORMATION: The African Growth and Opportunity Act (Title I of the Trade and Development Act of 2000, Public Law 106–200) (AGOA) provides preferential tariff treatment for imports of certain textile and apparel products of beneficiary sub-Saharan African countries. The textile and apparel trade benefits under the AGOA are available to imports of eligible products from countries that the President designates as "beneficiary sub-Saharan African countries," provided that these countries (1) have adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents, and (2) have implemented and follow, or are making substantial progress toward implementing and following, certain customs procedures that assist the Customs Service in verifying the origin of the products.

In Proclamation 7350 (Oct. 2, 2000), the President designated Namibia as a "beneficiary sub-Saharan African country." Proclamation 7350 delegated to the Office of United States Trade Representative (USTR) the authority to determine whether designated countries have met the two requirements described above. The President directed the USTR to announce any such determinations in the **Federal Register** and to implement them through modifications of the Harmonized Tariff Schedule of the United States (HTS). Based on actions that Namibia has taken, I have determined that Namibia has satisfied these two requirements.

Accordingly, pursuant to the authority vested in the USTR by Proclamation 7350, U.S. note 7(a) to subchapter II of chapter 98 of the HTS and U.S. note 1 to subchapter XIX of chapter 98 of the HTS are each modified by inserting "Namibia" in alphabetical sequence in the list of countries. The foregoing modifications to the HTS are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the effective date of this notice. Importers claiming preferential tariff treatment under the AGOA for entries of textile and apparel articles should ensure that those entries meet the applicable visa requirements. *See Visa Requirements Under the African Growth and Opportunity Act*, 66 FR 7837 (2001).

Robert B. Zoellick,

United States Trade Representative.

[FR Doc. 01–30460 Filed 12–7–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending November 23, 2001

The following Agreements were filed with the Department of Transportation under provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the applications.

Docket Number: OST–2001–11027.
Date Filed: November 19, 2001.
Parties: Members of the International Air Transport Association.
Subject:
Telex Mail Vote A105 dated October 2, 2001
Resolution 832 (to defer implementation of the weekly remittance procedures in Malaysia until 1 April 2002)
Telex dated November 6, 2001—Declaration of Approval
Intended effective date: 23 October 2001.

Docket Number: OST–2001–11035.
Date Filed: November 20, 2001.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 AFR–TC3 0136 dated 29 October 2001
Mail Vote 0177—TC23/TC123 Africa-Japan/Korea
Expedited Resolution 010k
PTC23 AFR–TC3 0147 dated 23 November 2001 (Affirmative)
PTC23 AFR–TC3 0137 dated 29 October 2001
Mail Vote 0178—TC23/TC123 Africa-South East Asia Expedited
Resolution 010L
PTC23 AFR–TC3 00148 dated 23 November 2001 (Affirmative)
Intended effective date: 1 December 2001.

Docket Number: OST–2001–11044.
Date Filed: November 23, 2001.
Parties: Members of the International Air Transport Association.
Subject:
PTC COMP 0879 dated 23 November 2001
Mail Vote 182—Resolution 010n
TC2/12/23/123 Special Passenger Amending Resolution from Latvia
Intended effective date: 1 February 2002.

Docket Number: OST–2001–11045.
Date Filed: November 23, 2001.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 ME–TC3 0128 dated 16 November 2001
(Mail Vote 172)
TC23/TC123 Middle East-South East Asia Resolutions r1–r15
MINUTES—PTC23 ME–TC3 0124 dated 30 October 2001 filed with Docket OST–2001–10978
TABLES—PTC23 ME–TC3 Fares 0057 dated 16 November 2001
Intended effective date: 1 April 2002.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–30421 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 33.17–1, Fire Prevention

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed advisory circular.

SUMMARY: This notice announces the availability of proposed Advisory Circular (AC) 33.17–1, titled "Fire Prevention".

DATES: Comments must be received on or before February 8, 2002.

ADDRESSES: Send all comments on the proposed AC to the Federal Aviation Administration, Attn: Marc Bouthillier, Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, MA 01803–5299.

FOR FURTHER INFORMATION CONTACT: Marc Bouthillier, Engine and Propeller Standards Staff, ANE–110, at the above address, telephone (781) 238–7120, fax (781) 238–7199. If you have access to the Internet, you may also obtain further information by writing to the following address: *"marc.bouthillier@faa.gov"*.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the proposed AC may be obtained by contacting the person named under **FOR FURTHER INFORMATION CONTACT**, or Internet users may obtain a copy at the following address: *"http://www.airweb.faa.gov/rgl"*. Interested persons are invited to comment on the proposed AC, and to submit such written data, views, or arguments as they desire. Commenters must identify the subject of the AC, and submit comments to the address specified above. All communications received on or before the closing date for comments will be considered by the Engine and Propeller Directorate, Aircraft Certification Service, before issuance of the final AC.

Background

This draft advisory circular (AC) would provide guidance and acceptable methods, but no the only methods that may be used to demonstrate compliance with the fire prevention requirements under Title 14 Code of Federal Regulations (14 CFR), part 33. Section 33.17 is the primary section addressed in this proposed AC, although other sections of part 33 that address fire prevention may also be applicable. Other related parts and sections are listed in AC 20–135, Powerplant Installation and Propulsion System Component Fire Protection Methods, Standards and Criteria, Appendix 1. This proposed AC is intended to provide guidance relating to these requirements, and is considered a supplement to AC 20–135.

This advisory circular would be published under the authority granted to the Administrator by 49 U.S.C. 106(g), 40113, 44701–44702, 44704, and would provide guidance for the requirements in 14 CFR part 33.

Issued in Burlington, Massachusetts on November 30, 2001.

Fran Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–30484 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice For Waiver of Aeronautical Land-Use Assurance; Toledo Express Airport; Toledo, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of airport land from aeronautical use to non-aeronautical use and to authorize the sale of the airport property. The proposal consists of sixty-seven parcels of land totaling approximately 122.5 acres for industrial land use. Current use and present condition is vacant grassland. There are no impacts to the airport by allowing the airport to dispose of this property. The land was acquired under FAA Project No(s). AIP–3–39–0077–1190, AIP–3–39–0077–1692, AIP–3–39–0077–1993, AIP–3–39–0077–2293, AIP–3–39–0077–2594, and AIP–3–39–0077–2794. Approval does not constitute a commitment by the FAA to financially assist in the sale of the subject airport property nor a determination that all measures covered by the program are eligible for Airport Improvement Program funding from the FAA. The disposition of proceeds from the sale of the airport property will be in accordance with the FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999. This proposal is for approximately 122.5 acres in total.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose. The proposed land will be used for commercial/industrial development, which will provide additional jobs in an economically challenged area and enhance the aesthetics of the surrounding community.

The proceeds from the sale of the land will be reinvested in an approved noise compatibility project as prescribed by the Secretary of Transportation, or be paid to the Secretary of Transportation for deposit in the Trust Fund.

DATES: Comments must be received on or before January 9, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence C. King, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO–670.2, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (734) 487–7293. Documents reflecting this FAA action may be reviewed at this same location or at Toledo Express Airport, Toledo, Ohio.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Lucas County, Ohio, and described as follows:

East 1

A parcel of land being part of Lots 3 and 4 in Ellwood Farms and Lots 13 and 14 in Hamlin's Subdivision, all in the Northeast quarter of Section 12, Town 7 North, Range 9 East, Monclova Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the point of intersection of the South line of the Northeast quarter of said Section 12 with the Northeasterly line of the Ohio Turnpike, said point being the TRUE POINT OF BEGINNING of the parcel here in described;

thence on the Northeasterly line of the Ohio Turnpike, the following five calls: Northwesterly, on a curve to the right, a distance of 692.28 feet to a point, said curve having a radius of 22778.31 feet, a central angle of 01°44′29″, a chord bearing of North 70°43′05″ West, and a chord distance of 692.25 feet; South 00°36′17″ West, a distance of 21.22 feet to a point; Northwesterly, on a curve to the right, a distance of 209.03 feet to a point, said curve having a radius of 22798.31 feet, a central angle of 00°31′31″, a chord bearing of North 69°36′09″ West, and a chord distance of 209.03 feet; South 20°39′36″ West, a distance of 10.00 feet to a point; Northwesterly, on a curve to the right, a distance of 383.19 feet to the intersection with the West line of Lot 13 in Hamlin's Subdivision, said curve having a radius of 22808.31 feet, a central angle of 00°57′45″, a chord bearing of North 68°51′31″ West, and a chord distance of 383.19 feet;

thence North 00°45′49″ East, on the West line of said Lot 13, a distance of 473.70 feet to a point;

thence North 45°32′23″ East, a distance of 330.31 feet to the intersection with the Southwesterly right-of-way line of Garden Road, said point being 30.00 feet Southwesterly from as measured at right angles to the centerline of Garden Road;

thence South 44°27′37″ East, on the Southwesterly right-of-way line of Garden Road, said line being 30.00 feet Southwesterly from and parallel to the centerline of Garden Road, a distance of 1316.48 feet to a point;

thence South 45°32′23″ West, continuing on the right-of-way line of Garden Road, a distance of 50.00 feet to a point;

thence Southeasterly, on a curve to the left, a distance of 197.75 feet to the intersection with the South line of the Northeast quarter of Section 2, said curve having a radius of 652.94 feet, a central angle of 17°21′10″, a chord bearing of South 53°08′12″ East, and a chord distance of 197.00 feet to a point;

thence South 89°44′04″ West, on the said South line of the Northeast quarter, a distance of 54.18 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 12.6 acres of land, more or less, subject to all easements; zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

East 2

A parcel of land being part of Lots 2, 3, 4 and 6 in Ellwood Farms in the Northeast quarter of Section 2, Town 7 North, Range 9 East, Monclova Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Southeast corner of the Northeast quarter of said Section 2, also being the intersection of the centerline of Eber Road (right-of-way varies), and the centerline of Garden Road (right-of-way varies);

thence North 00°27′34″ East line of the Northeast quarter, and the centerline of Eber Road, a distance of 330.06 feet to a point;

thence South 89°32′19″ West, a distance of 60.00 feet to a point on the south line of Lot 2 in Ellwood Farms, said point being on the West right-of-way line of Eber Road and being the TRUE POINT OF BEGINNING of the parcel here in described ;

thence south 89°32′19″ West, on the south line of Lot 2, a distance of 609.54 feet to the intersection with the East line of Lot 3 in Ellwood Farms;

thence South 00°31′55″ West, on the East line of Lot 3, a distance of 145.74 feet to the intersection with the Northeasterly right-of-way line of Garden Road;

thence Northwesterly, on a curve to the right, a distance of 36.44 feet to a point, said curve having a radius of 522.94 feet, a chord bearing of North 46°27′45″ West, and a chord distance of 36.43 feet;

thence South 45°32′23″ West, continuing on the Northeasterly right-of-way line of Garden Road, a distance of 20.00 feet to a point that is 30.00 feet Northeasterly from as measured at right angles to the centerline of Garden Road;

thence North 44°27′37″ West, on a line 30.00 feet Northeasterly from and parallel to the centerline of Garden Road, a distance of 645.32 feet to the intersection with the North line of Lot 4 in Ellwood Farms;

thence North 89°32′02″ East, on the North line of said Lot 4 and Lot 3, a distance of 497.11 feet to the Northeast corner of Lot 3, also being the Southwest corner of Lot 6;

thence North 00°31′54″ East, on the West line of Lot 6, a distance of 165.01 feet to the intersection with the North line of the South one-half of Lot 6;

thence North 89°31′54″ East, on the said North line of the South one-half of Lot 6, a distance of 638.91 feet to the intersection with the West line of Eber Road, said point being 30.00 feet Westerly from as measured at right angles to the centerline of Eber Road;

thence on the West line of Eber Road, the following seven calls: South 00°27′34″ West, a distance of 292.75 feet to a point; North 89°32′26″ West, a distance of 10.00 feet to a point; South 00°27′34″ West, a distance of 75.00 feet to a point; North 89°32′26″ West, a distance of 10.00 feet to a point; South 00°27′34″ West, a distance of 100.00 feet to a point; North 89°32′26″ West, a distance of 10.00 feet to a point; South 00°27′34″ West, a distance of 27.82 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 10.0 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions or the subject parcels.

East 3

A parcel of land being part of East one-half of the West one-half of the Northwest quarter of Section 1, Town 7 North, Range 9 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Southwest corner of the Northwest quarter of Section 1, said point also being the intersection of the centerline of Eber Road with the centerline of Garden Road;

then South 89°25′45″ East, on the South line of the Northwest quarter of Section 1, also being the centerline of Garden road (60 foot right-of-way), a distance of 670.38 feet to the intersection with the West line of the East one-half of the West one-half of the Northwest quarter of Section 1, said point also being the TRUE POINT OF BEGINNING of the parcel herein described;

thence North 00°27′03″ East, on the said West line of the East one-half of the West one-half of the Northwest quarter of Section 1, a distance of 656.52 feet to the intersection with the North line of the South 10 acres of the East one-half of the West one-half of the Northwest quarter of Section 1;

thence South 89°25′45″ East, on the said North line of the South 10 acres of the East one-half of the West one-half of the Northwest quarter of Section 1, a distance of 490.29 feet to the intersection with the East line of the West 120.00 feet of the East 300.00 feet of the South 10 acres of the East one-half of the West one-half of the Northwest quarter of Section 1;

thence South 00°26′33″ West, on the said East line of the West 120.00 feet of the East 300.00 feet of the South 10 acres of the East one-half of the West one-half of the Northwest quarter of Section 1, a distance of 656.52 feet to the intersection with the South line of the Northwest quarter of Section 1, also being the centerline of Garden Road;

thence North 89°25′45″ West, on the south line of the Northwest quarter of Section 1 and the centerline of Garden Road, a distance of 490.38 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 7.4 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

East 4

A parcel of land being part of East one-half of the Northwest quarter of Section 1, Lots 145 through 160, Lot 176 and that portion of Leighton Drive vacated in Trotter Whelan Co. Plat 3 Subdivision, all in Town 7 North, Range 9 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Southeast corner of Lot 145 in Trotter Whelan Co. Plat 3, also being the intersection of the North line of Garden Road and West line of Mescher road, said point being the TRUE POINT OF BEGINNING of the parcel herein described;

thence North 89°25′45″ West, on the South line of Lots 145 through 147 in said Trotter Whelan Co. Plat 3, also being the North right-of-way line of Garden Road, said line of the Northwest quarter of Section 1, a distance of 348.60 feet to the Southwest corner of said Lot 147;

thence South 00°25′32″ West, a distance of 40.00 feet to the intersection with the South line of the Northwest quarter of Section 1, also being the centerline of Garden Road;

thence North 89°25′45″ West, on the South line of the Northwest quarter of Section 1, also being the centerline of Garden Road (60 foot right-of-way), a distance of 486.97 feet to the intersection with the East line of the West 96.75 feet of the East one-half of the Northwest quarter of Section 1;

thence North 00°26′33″ East, on the said East line of the West 96.75 feet of the East one-half of the Northwest quarter of Section 1, a distance of 441.13 feet to the intersection with the centerline of a ditch;

thence South 79°30′54″ East, on the centerline of said ditch, a distance of 494.44 feet to the intersection with the West line of Lot 148 in Trotter Whelan Co. Plat 3;

thence North 00°25′32″ East, on the West line of Lots 148 through 160 and Lot 176, a distance of 1251.00 feet to the Northwest corner of Lot 160;

thence South 89°34′28″ East, on the North line of Lot 160, a distance of 348.60 feet to the Northeast corner of Lot 160, on the Westerly right-of-way line of Mescher Drive (80 foot right-of-way);

thence South 00°25′32″ West, on the East line of Lots 145 through 160, and the East line of that portion of Leighton Drive vacated, said line also being the Westerly right-of-way line of Mescher Drive, a distance of 1567.88 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 17.0 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

East 5

A parcel of land being Lots 119 through 144 in Trotter Whelan Co. Plat 3 Subdivision, in Town 7 North, Range 9 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Southeast corner of Lot 142 in Trotter Whelan Co. Plat 3, being on the North right-of-way line of Garden Road, said point being the TRUE POINT OF BEGINNING of the parcel herein described;

thence North 89°25′45″ West, on the South line of Lots 142 through 144 in said Trotter Whelan Co. Plat 3, and on the North right-of-way line of Garden Road, said line being 40.00 feet Northerly of and parallel to the South line of the Northwest quarter of Section 1, a distance of 328.70 feet to the Southwest corner of said Lot 144, also being the intersection with the East line of Mescher Drive (80 foot right-of-way);

thence North 00°25′32″ East, on the East line of said Mescher Drive and as extended past Leighton Drive and Block Drive, also being the West line of Lots 119 through 144, a distance of 2617.72 feet to the Northwest corner of Lot 119;

thence South 89°40′48″ East, on the North line of Lot 119, a distance of 328.7 feet to the Northeast corner of Lot 119 at the intersection with the East line of the Northwest quarter of Section 1;

thence South 00°25′32″ West, on the said East line of Lots 119 through 144 and Lots 174 and 175 also being the East line of the Northwest quarter of Section 1, a distance of 2619,16 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 19.7 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways, excepting that part of the previously described parcel lying within the right-of-way's of Leighton Drive and Block Drive

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

East 6

A parcel of land being part of the Southwest quarter of the Northeast quarter of Section 1, Town 7 North, Range 9 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the center of said Section 1, point also being on the centerline of Garden Road (60 foot right-of-way);

thence South 90°25′45″ East, on the south line of the Northeast quarter of Section 1, and on the centerline of Garden Road, a distance of 335.09 feet to the Intersection with the West line of the East one-half of West one-half of the Southwest quarter of the Northeast quarter of Section 1, said point being the TRUE POINT OF BEGINNING of the parcel herein described;

thence North 00°25′22″ East, on the said West line of the East one-half of the West one-half of the Southwest quarter of the Northeast quarter of Section 1, a distance of 665.12 feet to the intersection with the North line of the South one-half of the West one-half of the Southeast quarter of the Northeast quarter of Section 1;

thence South 89°29′09″ East, on the said North line of the South one-half of the West one-half of the Southeast quarter of the Northeast quarter of Section 1, a distance of 335.06 feet to the intersection with the East line of the West one-half of the Southwest quarter of the Northeast quarter of Section 1;

thence South 00°25′12″ West, on the said East line of the West one-half of the Southwest quarter of the Northeast quarter of Section 1, a distance of 665.45 feet to the intersection with the South line of the Northeast quarter of Section 1, also being the centerline of Garden Road;

thence North 89°25′45″ West, on the South line of the Northeast quarter of Section 1, and on the centerline of Garden Road, a distance of 335.09 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 5.1 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

East 7

A parcel of land being part of the Southwest quarter of the Northeast quarter of Section 1, Town 7 North, Range 9 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Southeast corner of the Southwest quarter of the

Northeast quarter of Section 1, said point being on the centerline of Garden Road (60 foot right-of-way) and also being the TRUE POINT OF BEGINNING of the parcel herein described;

thence North 89°25′45″ West, on the South line of the Northeast quarter of Section 1 and on the centerline of Garden Road, a distance of 30.13 feet to a point;

thence North 00°32′19″ East, a distance of 732.50 feet to a point;

thence North 89°25′45″ West, a distance of 306.51 feet to a point;

thence South 00°25′03″ West, a distance of 732.50 feet to the intersection with the South line of the Northeast quarter of Section 1, also being the centerline of Garden Road;

thence North 89°25′45″ West, on the South line of the Northeast quarter of Section 1 and the centerline of Garden Road, a distance of 221.22 feet to a point;

thence North 00°25′12″ East, a distance of 1331.12 feet to the intersection with the North line of the Southwest quarter of the Northeast quarter of Section 1;

thence South 89°32′31″ East, on the said North line of the Southwest quarter of the Northeast quarter of Section 1, a distance of 556.18 feet to the intersection with the East line of the Southwest quarter of the Northeast quarter of Section 1;

thence South 00°24′53″ West, on the East line of the Southwest quarter of the Northeast quarter of Section 1, a distance of 1332.22 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 11.8 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is base don tax descriptions of the subject parcels.

East 8

A parcel of land being part of Original Lot 1 in Fractional Section 6, Town 7 North, Range 10 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Northeast corner of said Original Lot 1, point being on the centerline of Crissey Road (60 foot right-of-way), said point also being the TRUE POINT OF BEGINNING of the parcel herein described;

thence South 00°47′46″ West, on the East line of said Original Lot 1, and on the centerline of Crissey Road, a distance of 289.97 feet to a point;

thence North 89°51′04″ West, a distance of 1502.37 feet to the intersection with the West line of said Lot 1, also being the West line of Fractional Section 6;

thence North 00°24′14″ East, on the East line of Original Lot 1, a distance of 289.95 feet to the intersection with the North line of Original Lot 1, also being the North line of Fractional Section 6;

thence South 89°51′04″ East, on the North line of Original Lot 1, and the North line of Fractional Section 6, a distance of 1504.36 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 10.0 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The hearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

East 10

A parcel of land being part of the Southwest quarter of Section 1, Town 7 North, Range 9 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Southwest corner of said Section 1, said point being the point of intersection of the centerline of Eber Road (60 foot right-of-way) and the centerline of Weckerly Road (60 foot right-of-way), and also being the TRUE POINT OF BEGINNING of the parcel herein described;

thence North 00°59′13″ East, on the West line of the Southwest quarter of Section 1 also being the centerline of Eber Road, a distance of 194.83 feet to the intersection with the North line of the South 6 acres of the West one-half of the Southwest quarter of Section 1;

thence North 89°39′14″ East, on the said North line of the South 6 acres of the West one-half of the Southwest quarter of Section 1, a distance of 1341.41 feet to the intersection with the East line of the West one-half of the Southwest quarter of Section 1;

thence South 00°58′47″ West, on the East line of the West one-half of the Southwest quarter of Section 1, a distance of 194.83 feet to the intersection with the South line of the Southwest quarter of Section 1, also being the centerline of Weckerly Road;

thence South 89°39′14″ West, on the South line of the Southwest quarter of Section 1, and the centerline of Weckerly Road, a distance of 1341.43 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 6.0 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

East 11

A parcel of land being part of the Northwest quarter of Section 12, Town 7 North, Range 9 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Northwest corner of the Northwest quarter of Section 12, said point also being the intersection of the centerline of Eber Road (60 foot right-of-way), and also being the TRUE POINT OF BEGINNING of the parcel herein described;

thence North 89°39′14″ East, on the North line of the Northwest quarter of Section 12 and the centerline of Weckerly Road, a distance of 1154.40 feet to the intersection with a line that is 187.00 feet Westerly from and parallel to the East line of the Northwest quarter of the Northwest quarter of Section 12;

thence South 00°48′25″ West, on the said line that is 187.00 feet Westerly from and parallel to the East line of the Northwest quarter of the Northwest quarter of Section 12, a distance of 487.20 feet to the intersection with a line that is 487.20 feet Southerly from and parallel to the North line of the Northwest quarter of Section 12;

thence North 89°39′14″ East, on the said line being 487.20 feet Southerly from and parallel to the North line of the Northwest quarter of Section 12, a distance of 187.04 feet to the intersection with the East line of the Northwest quarter of the Northwest quarter of Section 12;

thence South 00°48′25″ West, on the said East line of the Northwest quarter of the Northwest quarter of Section 12, a distance of 324.97 feet to the intersection with the South line of the North 25 acres of the Northwest quarter of the Northwest quarter of Section 12;

thence South 89°39′14″ West, on the said South line of the North 25 acres of the Northwest quarter of the Northwest quarter of Section 12, a distance of 1339.07 feet to the intersection with the West line of the Northwest quarter of Section 12, also being the centerline of Eber Road;

thence North 00°38′24″ East, on the West line of the Northwest quarter of

Section 12 and the centerline of Eber Road, a distance of 812.12 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 22.9 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

Issued in Belleville, Michigan, October 5, 2001.

Irene R. Porter,

Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 01–30486 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice and Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Seattle-Tacoma Internation Airport under the provisions of 49 U.S.C. 47503 (a) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that its is reviewing the proposed noise compatibility program that was submitted for Seattle-Tacoma International Airport under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before June 3, 2002.

EFFECTIVE DATE: The effective date of the FAA's determination on the Seattle-Tacoma International Airport noise exposure maps and the start of its review of the associated noise compatibility program is December 3, 2001. The public comment period ends January 31, 2002.

FOR FURTHER INFORMATION CONTACT: Dennis Ossenkop, FAA, Airports Division, ANM–611, 1601 Lind Avenue, SW., Renton, Washington, 98055–4056. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: The notice announces that the FAA finds that the noise exposure maps for Seattle-Tacoma International Airport are in compliance with applicable requirements of Part 150, effective December 3, 2001. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before June 3, 2002. This notice also announces the availability of this program for public review and comment.

Under 49 U.S.C. 47503(a), and airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. 49 U.S.C. 47503 (a)(1) requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) Part 150, promulgated pursuant to 49 U.S.C. 47503 (A) may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The Manager of the Airfield Line of Business of Seattle-Tacoma International Airport submitted to the FAA noise exposure maps, descriptions and other documentation which were produced during an airport Noise Compatibility Study. It was requested that the FAA review the noise mitigation measures be approved as a noise compatibility program under 49 U.S.C. 47504.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Seattle-Tacoma Internation Airport. The specific maps under consideration are Figures C40 and F1 in the submission. The FAA has determined that these maps for Seattle-Tacoma International Airport are in compliance with applicable requirements. This determination is effective on December 3, 2001. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the mans were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to a noise compatibility program or to fund implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under 49 U.S.C. 47503, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of 49 U.S.C. 47507. These functions are inseparable from the ultimate land control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under 49 U.S.C. 47503(a)(1). The FAA has relied on the certification by the airport operator, under section 150.21 of the FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Seattle-Tacoma International Airport, also effective on December 3, 2001. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before June 3, 2002.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, paragraph 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to the local land use authorities, will be considered by the FAA to the extent practicable. Copies of

the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 621, Washington, DC.

Federation Aviation Administration, Airports Division, Suite 315, 1601 Lind Avenue, SW., Renton, Washington.

Federal Aviation Administration, Seattle Airports District Office, 1601 Lind Ave. SW., Suite 250, Renton, Washington.

Seattle-Tacoma International Airport, Noise Abatement Office, Main Terminal, Room 6619, Mezzanine Level, Seattle, Washington.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Renton, Washington, December 3, 2001.

Lowell H. Johnson,

Manager, Airports Division, ANM–600, Northwest Mountain Region.

[FR Doc. 01–30483 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (02–05–C–00–CPR) To Impose and Use a Passenger Facility Charge (PFC) at the Natrona County International Airport, Submitted by the County of Natrona, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comments on the application to impose and use a PFC at the Natrona County International Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before January 9, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan Wiechmann, Manager, Denver Airports District Office, DEN–ADO; Federal Aviation Administration, 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Dan E. Mann, Airport Manager, at the following address: Natrona County International Airport, 8500 Airport Parkway, Casper, Wyoming 82604.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to the Natrona County International Airport, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (02–05–C–00–CPR) to impose and use a PFC at Natrona County International Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On December 3, 2001, the FAA determined that the application to impose and use a PFC submitted by the County of Natrona, Wyoming, was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or part, no later than February 26, 2002.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: January 1, 2002.

Proposed charge expiration date: October 1, 2010.

Total requested for use gpproval: $2,660,000.

Brief description of proposed projects: Rehabilitate aircraft parking apron, Terminal renovation, Rehabilitative taxiway C, Acquire snow removal equipment.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suit4e 315, Renton, WA 98055–4056. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Natrona County International Airport.

Issued in Renton, Washington on December 3, 2001.

Warren D. Ferrell,

Acting Manager, Planning, Programming, and Capacity Branch, Northwest Mountain Region.

[FR Doc. 01–30485 Filed 12–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on February 28, 2001 [66 FR 12829–12831].

DATES: Comments must be submitted on or before January 9, 2002.

FOR FURTHER INFORMATION CONTACT: Alberto Jimenez at the National Highway Traffic Safety Administration, Office of Defects and Investigations (NSA–10.1), 202–366–5212. 400 Seventh Street, SW, Room 5219, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Consumer Complaint/Recall Audit Information.

OMB Number: 2127—0008.

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: Vehicle owners provide the agency with information on problems they are experiencing with their vehicles/equipment by an initial call to the agency's toll-free Auto Safety Hotline and by written letters. A Vehicle Owner's Questionnaire (VOQ), HS Form 350, or HS Form 350C is forwarded to the owner. A cover letter of explanation is also sent with the VOQs. The letter is to facilitate and simplify the collection process on the complaint. Frequently, written letters do not provide complete

data of the specific problem(s) on the vehicle or equipment. If incomplete information is received, the HS–350 is sent to the owner for additional information. If the problem concerns a child safety seat, the HS–350C, is sent. The information received on these forms is essential to NHTSA's defects investigation program. The thousands of individual reports received each year are used to help identify safety problems for investigation and possible recalls. This information identifies defect trends in vehicles and vehicle equipment and alerts the agency of these problems.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 45,045.

ADDRESS: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, D.C., on November 26, 2001.

Delmas Johnson,

Acting Associate Administrator for Administration.

[FR Doc. 01–30418 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on May 1, 2001 [66 FR 21816–21817].

DATES: Comments must be submitted on or before January 9, 2002.

FOR FURTHER INFORMATION CONTACT: Deborah Mazyck at the National Highway Traffic Safety Administration, Office of Safety Performance Standards (NPS–32), 202–366–0846. 400 Seventh Street, SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: 49 CFR part 541, Consolidated Labeling Requirements for 49 CFR 571.115, parts 565, 541, and 567.

OMB Number: 2127–0510.

Type of Request: Extension of a currently approved information collection.

Abstract: The Motor Vehicle Information and Cost Savings Act was amended by the Anti-Car Theft Act of 1992 (Pub. L. 102–519). The enacted Theft Act state that passenger vehicles, and light-duty trucks with a gross vehicle weight rating of 6,000 pounds or less be covered under the Theft Prevention Standard. Each major component part must be either labeled or affixed with the VIN and its replacement component part must be marked with the DOT symbol, the letter (R) and the manufacturers' logo.

Affected Public: Individuals or households, business or other for-profit.

Estimated Total Annual Burden: 456,212.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, D.C., on November 26, 2001.

Delmas Johnson,

Acting Associate Administrator for Administration.

[FR Doc. 01–30419 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on February 28, 2001 [66 FR 12829—12831].

DATES: Comments must be submitted on or before January 9, 2002.

FOR FURTHER INFORMATION CONTACT: Alberto Jimenez at the National Highway Traffic Safety Administration, Office of Defects and Investigations (NSA–10.1), 202–366–5212. 400 Seventh Street, SW., Room 5219, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Voluntary Child Safety Registration Form.

OMB Number: 2127—0576.

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: Chapter 301 of Title 49 of the United States Code provides that if either NHTSA or a manufacturer determines that motor vehicles or items of motor vehicle equipment contain a defect that relates to motor vehicle safety or fail to comply with an applicable Federal Motor Vehicle Safety Standard, the manufacturer must notify

owners and purchasers of the defect or noncompliance and must provide a remedy without charge. Pursuant to 49 CFR Part 577 Defects and noncompliance notification for equipment items, including child safety seats, must be sent "by first class mail to the most recent purchaser known to the manufacturer." In the absence of a registration system, many owners of child safety seats are not notified of safety defects and noncompliance, since the manufacturer is not aware of their identities.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 120.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on November 26, 2001.

Delmas Johnson,

Acting Associate Administrator for Administration.

[FR Doc. 01–30420 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. 42052]

Union Pacific Railroad Company—Petition for Declaratory Order—Unilaterally Imposed Interchange Charges

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of further proceedings.

SUMMARY: This proceeding was instituted by the Surface Transportation Board (Board) in response to a request for a declaratory order concerning ways in which rail carriers deal with interchange delays. However, because issues regarding interchange delays are usually addressed under the framework of the industry-wide Car Service and Car Hire Agreement (CS/CH Agreement) and Code of Car Service Rules/Code of Car Hire Rules (CS/CH Rules) administered by the Association of American Railroads (AAR), we are requesting that, before we take action, AAR convene a meeting with railroads, shippers, and other involved parties to discuss ways to address issues concerning delays in the interchange of railroad cars between railroads, and to develop proposals for addressing incidences of traffic delays associated with such interchange. We are further requesting that AAR file a report with the Board, describing the progress made at the meeting(s) and recommending how best to proceed to resolve these issues.

DATES: We request that AAR convene a meeting with railroads, shippers and other involved parties, as described herein, by February 8, 2002. Additional meetings may be held as determined by AAR and the involved parties. AAR's report, as described herein, is due by March 11, 2002.

ADDRESSES: The original and 10 copies of AAR's report, referring to STB Docket No. 42052, should be sent to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001, ATTN: STB Docket No. 42052. AAR should also make a copy of its report available to all participants in the meeting, and any other involved parties upon request.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: By notice served and published June 13, 2000, 65 FR 37205, in response to a petition filed by Union Pacific Railroad Company (UP), a declaratory order proceeding was instituted by the Board under 5 U.S.C. 554(e) to address questions concerning the right of a rail carrier to impose penalty charges unilaterally against other rail carriers for delays in accepting cars in interchange. Comments were requested from interested parties.

As indicated in our notice, the controversy centers on "tariff" provisions issued by respondents Indiana Harbor Belt Railroad Company (Indiana Harbor Belt), Iowa Interstate Railroad, Ltd., and City of Tacoma, Tacoma Public Utilities, d/b/a Tacoma Rail and Tacoma Beltline Railroad, pursuant to which penalty charges would be imposed when cars are not pulled from interchange within specified time limits. UP asserts that such interchange issues are subject to the CS/CH Agreement and CS/CH Rules, unless the rail carriers enter into alternative agreements. UP seeks a declaration from the Board that, under 49 U.S.C. 11121, a rail carrier may not unilaterally impose such charges on another carrier for delayed interchange of cars, either by "tariff" or otherwise, and that interchange-related charges imposed by one rail carrier on another must be either permitted by agreement of the carriers involved or specifically authorized by the Board.

Comments were received from Class I railroads, short line railroads, shippers, and labor interests.[1] A substantial number of these comments focused on the effect that a declaratory order might have on switching services in the vicinity of Chicago, IL. We have considered all of the comments carefully, and we find that there are significant issues to be resolved, which could have an impact on the important matter of fluidity throughout the rail system. Because we believe that resolution of these issues can best be achieved through the cooperation of all segments of the railroad industry, rather than a decision by the Board on a particular controversy, we are deferring final Board action to provide an opportunity for such private-sector discussions.

Discussion and Conclusions

Interchange of traffic among railroads is a fundamental operational component of the national railroad network. It is important that interchange be accomplished in an economical and efficient manner. The interchange of traffic is typically a straightforward and reasonably uniform process in which all carriers participate for the benefit of themselves and the shipping public.

Sometimes parties differ as to how such interchange can be accomplished to best meet the needs of all concerned. We can resolve these sorts of disputes, if the parties cannot do so themselves, and we will resolve the issues raised here if it is necessary for us to do so. However, the national railroad system functions best on the basis of good faith cooperation among all railroads, both

[1] Indiana Harbor Belt has moved to strike portions of UP's reply, tendering, in the alternative, a surreply to what it asserts are new arguments presented in that reply. UP filed a reply to the motion to strike and, in the alternative, a surreply. Given our action here, we do not find good cause to strike the challenged material, nor will any party be prejudiced by leaving it (and UP's and Indiana Harbor Belt's surreplies) in the record.

large and small. If we were to rule against UP and find that carriers are not prohibited from unilaterally imposing interchange charges, the result could be a variety of charges, imposed pursuant to the actions of one carrier and the responses of another, that would not be conducive to the cooperation necessary for a seamless, efficient national rail network. The U.S. Department of Transportation filed comments suggesting that we urge the rail industry to meet and attempt to negotiate an effective and equitable resolution of these issues. We agree that broader industry discussion of those issues would be preferable. Therefore, in the spirit of cooperation, before we undertake to resolve this matter, we will first give those directly affected by the issues UP has raised, both in the Chicago area and elsewhere, an opportunity to establish workable solutions.

The Board has successfully encouraged private-sector negotiation to resolve other difficult issues. For example, during implementation of the merger between UP and Southern Pacific Transportation Company and its affiliates,[2] UP was directed to convene meetings with shippers, involved railroads, and other interested parties to address concerns pertaining to the Houston Terminal, leading to a coordinated plan for improving the utilization of Houston area infrastructure.[3] Then, during our review of the division of Conrail's assets, we directed CSX and Norfolk Southern to convene meetings with shippers, involved railroads, and other interested parties to discuss opportunities to improve the Buffalo, NY area rail infrastructure, which resulted in service improvements and better communication.[4] Also, in an effort to address congestion in the Chicago, IL area, the individual railroads and AAR, at the urging of the Board and other interested parties, have been working together to improve rail operations in Chicago through the development of the Chicago Service Plan and the establishment of the Chicago Planning Group and the Chicago Transportation Coordination Office. Most recently, we directed railroads to negotiate, in accordance with a 1986 agreement, concerning disputes with private tank car owners about certain charges being levied by The Burlington Northern and Santa Fe Railway Company and UP.[5]

As signatories to the CS/CH Agreement, operating railroads, including Class I, short line, regional and terminal railroads, have agreed to use the CS/CH Rules as a means both to coordinate their operations and to resolve areas of dispute that arise. Accordingly, we are requesting AAR to convene a meeting with shippers, railroads, and other involved parties to discuss more fully the available means of improving coordination of interchange of traffic in Chicago and elsewhere, and file a report with the Board. The report should describe the results of the meeting and should present suggestions for the best ways to address issues concerning delays in interchange, including the appropriate use of the CS/CH Rules.[6] AAR should explain if changes are needed to the terms and application of the CS/CH Rules, why they may be needed, how these changes may most effectively be implemented, and the possible timetable for implementing such changes. Once the report is filed, we will determine what further action is appropriate.

We encourage AAR to reach out to all involved parties[7] and to work with them to achieve the common goal of improving interchange of cars in general and reducing the opportunity for delay of rail traffic in interchange, not only in the Chicago area, but across the Nation as well.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Indiana Harbor Belt's motion to strike is denied. The surreplies of Indiana Harbor Belt and UP are accepted.

2. AAR is requested to convene a meeting with railroads, shippers, and other involved parties to discuss issues concerning delays in the interchange of railroad cars, consistent with this decision, by February 8, 2002.

3. AAR should provide a report to the Board by March 11, 2001. AAR should also make a copy of its initial report available to all meeting participants, and any other involved parties upon request.

4. This decision is effective on December 10, 2001.

Decided: December 3, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30467 Filed 12–7–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 601X)]

CSX Transportation, Inc.—Abandonment Exemption—In Lenoir County, NC

On November 20, 2001, CSX Transportation, Inc. (CSXT) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a portion of its line of railroad in the Southern Region, known as the Florence Division, Parmele Subdivision, extending from railroad milepost AA–173.09 to railroad milepost AA–173.70 a distance of 0.61 miles, in Elmer, Lenoir County, NC. The line traverses United States Postal Service Zip Code 28501 and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by March 8, 2002.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public

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[2] The merger was approved by the Board in *Union Pacific/Southern Pacific Merger*, 1 S.T.B. 233 (1996), *aff'd, Western Coal Traffic League v. STB*, 169 F.3d 775 (D.C. Cir. 1999).

[3] *Joint Petition for Service Order*, STB Service Order No. 1518 *et al.*, (STB served Feb. 25, 1998), slip op. at 5.

[4] *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation* (Buffalo Area Infrastructure), STB Finance Docket No. 33388 (Sub-No. 93) (STB served June 9, 2000).

[5] *North America Freight Car Association—Protest and Petition for Investigation—Tariff Publications of The Burlington Northern and Santa Fe Railway Company, et al.*, STB Docket No. 42060, *et al.* (STB served Oct. 18, 2001).

[6] The CS/CH Rules include arbitration as a means of resolving disputes between participating carriers.

[7] Participation in the meetings should be open to large and small railroads, shippers and other involved parties.

use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than December 31, 2001. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 601X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001, and (2) Paul R. Hitchcock, 500 Water Street–J150, Jacksonville, FL 32202. Replies to the CSXT petition are due on or before December 31, 2001.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at "www.stb.dot.gov."

Decided: November 30, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30372 Filed 12–7–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 217X]

Norfolk Southern Railway Company—Abandonment Exemption—in Buchanan County, VA

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.4-mile line of railroad between mileposts LS–0.0 and LS–0.4, at Long Spur Jct. to end of track in Buchanan County, VA (line).[1] The line traverses United States Postal Service Zip Code 24614.

Applicant has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line is either pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must me filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 9, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 20, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 31, 2001, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–00001.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, Esq., Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Applicant has filed a separate environmental report which address the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 17, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed with 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1151.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 10, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: November 30, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30446 Filed 12–7–01; 8:45 am]

BILLING CODE 4915–00–P

[1] NSR notes that authority to discontinue operations on the line was granted by the former Interstate Commerce Commission. *See Norfolk and Western Railway Company—Discontinuance Exemption—in Buchanan County, VA*, Docket No. AB–290 (Sub-No. 102X) (ICC served Sept. 25, 1990–)

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot by made before the exemption's effective date. *See Exemption of out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1980). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 235X)]

Norfolk Southern Railway Company—Abandonment Exemption—in McDowell County, WV

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a 4.58-mile

line of railroad between milepost RP–0.0 at Roderfield and milepost RP–4.58 at Premier, in McDowell County, WV. The line traverses United States Postal Service Zip Codes 24878 and 24881.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 9, 2002, unless stayed pending reconsideration.[1] Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 20, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 31, 2001, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NSR has filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 14, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by NSR's filing of a notice of consummation by December 10, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at "www.stb.dot.gov."

Decided: December 3, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30447 Filed 12–7–01; 8:45 am]

BILLING CODE 4915–00–P

[1] While the applicant initially indicated a proposed consummation date of January 8, 2002, because the verified notice was filed on November 20, 2001, consummation may not take place prior to January 9, 2002. Applicant's representative has subsequently confirmed that the correct consummation date is on or after January 9, 2002.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

FLETC Cheltenham, MD; Notice of Availability of Document for Review

AGENCY: Federal Law Enforcement Training Center, Treasury.

ACTION: Notice of availability of environmental assessment for public review.

SUMMARY: Notice is hereby given that the Federal Law Enforcement Training Center (FLETC), pursuant to the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality Regulations for Implementing the National Environmental Policy Act (40 CFR parts 1500–1508), and Department of the Treasury Directive 75–02 (Department of the Treasury Environmental Quality Program), has prepared an Environmental Assessment (EA) related to the renovation of the former Naval Communications Detachment Cheltenham, MD to provide a law enforcement requalification training facility for use by a wide variety of federal, state, and local agencies located in the metropolitan Washington, DC area. The proposed action includes demolition and renovation of existing buildings for use as classrooms, simulators, locker facilities, storage, etc., and construction of a free-standing, completely enclosed, environmentally safe indoor firearms training range and an outdoor vehicle training range. Vegetation manipulation will occur for aesthetic purposes, wildlife habitat improvement, wildfire hazard control, and insect/disease reduction.

The public and resource agencies were invited to attend a public meeting held October 24, 2001, and participate in the planning and analysis of the proposed project. At that meeting the FLETC discussed the environmental review process, described the project and alternatives under consideration, discussed the scope of environmental issues to be investigated in accordance with the requirements of NEPA, and answered questions from attendees.

An Environmental Assessment document has been prepared in accordance with NEPA and Department of the Treasury requirements, addressing the various project alternatives, their potential environmental impacts, and issues raised during the October 24 public meeting. This document will be available for public review and comment from December 17, 2001 until January 16, 2002 at the following locations:

1. Prince George's County Memorial Library System, Surratts-Clinton Branch, 9400 Piscataway Road, Clinton, MD 20735, 301–868–9200
2. Department of the Treasury, Library, Main Treasury Building, 1500 Pennsylvania Avenue NW, Washington, DC 20220, Contact Bill McGovern at 282–622–0043

The EA will also be viewable as a PDF file on the FLETC's Internet site at

http://www.fletc.gov/evs/cheltenham.htm for the same time period.

Significant comments received from the public and agencies during the review period will be addressed in the EA and included in an Appendix. Should the FLETC determine, based on the public's comments and the information presented in the Environmental Assessment, that the impacts of the demolition/renovation, construction, and operation of the facility will not have a significant environmental impact, it will prepare a Finding of No Significant Impact (FONSI) for publication in the **Federal Register** and in a newspaper in general circulation at the project location. Should significant environmental impacts be determined to exist due to the project, the FLETC will proceed with the preparation of an Environmental Impact Statement, per the requirements of NEPA, the Council on Environmental Quality, and its own environmental policies and procedures.

DATES: Written comments concerning the EA should be received on or before January 16, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Ms. Susan Shaw, NEPA Coordinator/Project Manager, c/o FLETC Cheltenham Facility, 9000 Commo Road, Cheltenham, MD 20623–5000.

FOR FURTHER INFORMATION CONTACT: Susan Shaw, NEPA Coordinator/Project Manager, FLETC, at (912) 261–4557. Ms. Shaw's e-mail address is *sshaw@fletc.treas.gov*. Information is also available from Bob Smith, Chief, Cheltenham Operations at (301) 868–5830. Mr. Smith's e-mail address is *rsmith@fletc.treas.gov*.

SUPPLEMENTARY INFORMATION: The Federal Law Enforcement Training Center has a mission of providing high quality, cost-effective training of federal law enforcement personnel. The FLETC proposes with this action to provide requalification-training services in the Washington, DC area by renovating the former Naval Communications Detachment Cheltenham, MD facility, which has been inactive since 1998. Providing these requalification services in the Washington, DC area will eliminate the need for Washington, DC area law enforcement agencies to travel to the FLETC's Glynco, GA facility, reducing associated costs and time demands.

The FLETC Cheltenham facility is located approximately 15 miles southeast of Washington, DC, in Prince George's County, MD. The project site is situated east of Maryland Route 5 and west of Maryland Route 301, approximately 3 miles south of Andrews Air Force Base.

Authority: The Council on Environmental Quality's National Environmental Policy Act, 40 CFR parts 1500 *et seq.*

Dated: December 5, 2001.

Bruce Bowen,

Assistant Director, Office Of Compliance, Federal Law Enforcement Training Center.

[FR Doc. 01–30424 Filed 12–7–01; 8:45 am]

BILLING CODE 4810–32–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 98–55

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 98–55, Extension of Relief for Late S Elections.

DATES: Written comments should be received on or before February 8, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5575, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Extension of Relief for Late S Elections.

OMB Number: 1545–1548.

Revenue Procedure Number: Revenue Procedure 98–55.

Abstract: Revenue Procedure 98–55 updates the Service's instructions for requesting relief for a late S corporation election and other late elections that must be filed by or for an S corporation. Revenue Procedure 98–55 provides that a corporation will have 12 months from the original due date for the S election (but not later than the due date for the tax return for the first year it intended to be an S corporation) to request relief for a late S election by filing Form 2553, Election by a Small Business Corporation, and attaching a statement explaining the reason for the failure to file a timely S corporation election.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 25,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 25,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 27, 2001.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 01–30466 Filed 12–7–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0614]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to identify individuals at risk for stress-related illnesses.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 8, 2002.

ADDRESSES: Submit written comments on the collection of information to Ann W. Bickoff, Veterans Health Administration (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *ann.bickoff@mail.va.gov*. Please refer to "OMB Control No. 2900–0614" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann W. Bickoff (202) 273–8310 or FAX (202) 273–9381. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Number: Phase IV of Study of Individuals at Risk for Stress Related Illnesses, VA Form 10–21036(NR).

OMB Control Number: 2900–0614.

Type of Review: Revision of a currently approved collection.

Abstract: Phases I and II of this study are completed. The collection of information associated with Phase III is also completed. Phase IV is intended to complete VA's study of the "psychological and biomedical measurements for early identification of individuals at risk for stress-related illness." The information collected will be used to produce a reliable inventory of psychosocial risk and resilience factors for contemporary military personnel and then demonstrate its validity visàvis Gulf War veterans' self-reported somatic and psychological symptoms and judgments of health-related quality of life.

Affected Public: Individuals or households.

Estimated Annual Burden: 313 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 417.

Dated: November 7, 2001.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 01–30472 Filed 12–7–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0029]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed from a private sector sales broker to submit an offer to VA on behalf of a prospective purchaser of a VA-acquired property.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 8, 2002.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *irmnkess@vba.va.gov*. Please refer to "OMB Control No. 2900–0029" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles

a. Offer to Purchase and Contract of Sale, VA Form 26–6705.

b. Credit Statement of Prospective Purchaser, VA Form 26–6705b.

c. Addendum to VA Form 26–6705 Offer to Purchase and Contract of Sale, VA Form 26–6705d

OMB Control Number: 2900–0029.

Type of Review: Extension of a currently approved collection.

Abstract

a. VA Form 26–6705 is used by the private sector sales broker to submit an offer to the VA on behalf of a prospective purchaser of a VA-acquired property. The form will be prepared for each proposed contract submitted to the VA. If the VA accepts the offer to purchase, it then becomes a contract of sale. The form defines the terms of sale, provides the prospective purchaser with a receipt for his/her earnest money deposit, eliminates the need for separate transmittal of a purchase offer and develops the contract without such intermediate processing steps and furnishes evidence of the station decision with respect to the acceptance of the contract as tendered. Without this information, a determination of the best offer for a property cannot be made.

b. VA Form 26–6705b is used as a credit application to determine the creditworthiness of a prospective purchaser in those instances when the prospective purchaser seeks VA vendee financing, along with VA Form 26–6705. In such sales, the offer to purchase will not be accepted until the purchaser's income and credit history have been verified and a loan analysis has been completed, indicating loan approval. Without this information, the creditworthiness of a prospective purchaser cannot be determined and the offer to purchase cannot be accepted.

c. VA Form 26–6705d is an addendum to VA Form 26–6705 for use in Virginia. It includes requirements of State law, which must be acknowledged by the purchaser at or prior to closing.

Affected Public: Individuals or households.

Estimated Annual Burden: 57,917 hours.

a. VA Form 26–7605—35,000 hours.
b. VA Form 26–6705b—22,500 hours.
c. VA Form 26–6705d—417 hours.

Estimated Average Burden Per Respondent: 20 minutes (average).

a. VA Form 26–7605—21 minutes.
b. VA Form 26–6705b—20 minutes.
c. VA Form 26–6705d—5 minutes.

Frequency of Response: Generally one-time.

Estimated Number of Total Respondents: 172,500.

a. VA Form 26–7605—100,000.
b. VA Form 26–6705b—67,500.
c. VA Form 26–6705d—5,000.

Dated: November 7, 2001.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 01–30473 Filed 12–7–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0570]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the burden estimates relating to customer satisfaction surveys.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 8, 2002.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *ann.bickoff@mail.va.gov*. Please refer to "OMB Control No. 2900–0570" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Generic Clearance for the Veterans Health Administration Customer Satisfaction Surveys.

OMB Control Number: 2900–0570.

Type of Review: Revision of a currently approved collection.

Abstract: Executive Order 12862, Setting Customer Service Standards, requires Federal agencies and departments to identify and survey its customers to determine the kind and quality of services they want and their level of satisfaction with existing services. VHA uses customer satisfaction surveys to gauge customer perceptions of VA services as well as customer expectations and desires. The results of these information collections lead to improvements in the quality of VHA service delivery by helping to shape the direction and focus of specific programs and services.

Affected Public: Individuals or households.

Listing of Survey Activities

I. Special Emphasis Programs

The following list of activities is a compendium of customer satisfaction survey plans by VHA. Different special emphasis programs will be surveyed annually; however, program selections have not been made for FYs 2002–2004. Burden hours for the out-years are based on FY 2001 estimates (Burden hours per respondent: 15 minutes).

Year	Number of respondents	Estimated annual burden (in hours)	Frequency
2002	50,000	12,500	Annually.
2003	50,000	12,500	Annually.
2004	50,000	12,500	Annually.

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II. Local Facilities Surveys

Year	Number of respondents	Estimated annual burden (in hours)	Frequency
2002	288,780	62,569	One-time.
2003	288,780	62,569	One-time.
2004	288,780	62,569	One-time.

Most customer satisfaction surveys will be recurring so that VHA can create ongoing measures of performance and to determine how well the Agency meets customer service standards. Each collection of information will consist of the minimum amount of information necessary to determine customer needs and to evaluate VHA's performance. VHA expects to distribute written surveys with a total annual burden of approximately 75,069 hours in FYs 2002, 2003, and 2004 (Burden hours per respondent: 13 minutes).

Dated: November 27, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–30474 Filed 12–7–01; 8:45 am]

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Corrections

Federal Register
Vol. 66, No. 237
Monday December 10, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Under the Energy Policy and Conseravation Act ("Appliance Labeling Rule")

Correction

In rule document 01–28438 beginning on page 57867, in the issue of Monday, November 19, 2001, make the following corrections:

PART 305 [AMENDED]

1.On page 58768, the heading for Appendix A2 to Part 305 should read "Appendix A2 to Part 305.—Refrigerators and Refrigerators–Freezers With Manual Defrost".

2.On the same page in the table for Appendix A2 to Part 305, in the column under the heading Low, in the ninth line,"(396)" should read "396".

3.On the same page, in the table for Appendix A2 to Part 305, in the column under the heading High, in the ninth line,"(438)" should read "438".

[FR Doc. C1–28438 Filed 12–7–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1001

RIN 0991–AB05

Medicare and State Health Care Programs: Fraud and Abuse; Ambulance Replenishing Safe Harbor Under the Anti-Kickback Statute

Correction

In final rule document 01–29875 beginning on page 62979 in the issue of Tuesday, December 4, 2001, make the following correction:

§1001.952 [Corrected]

On page 62991, in the first column, in §1001.952(v)(4)(iii), in the last line, remove "47.".

[FR Doc. C1–29875 Filed 12–7–01; 8:45 am]

BILLING CODE 1505–01–D

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Federal Register

Monday,
December 10, 2001

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Critical Habitat for the Oahu Elepaio (Chasiempis sandwichensis ibidis); Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG99

Endangered and Threatened Wildlife and Plants; Determination of Critical Habitat for the Oahu Elepaio (*Chasiempis sandwichensis ibidis*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for the Oahu elepaio pursuant to the Endangered Species Act of 1973, as amended (Act). The Oahu elepaio is a forest bird found only on the island of Oahu and is listed as endangered under the Act. The critical habitat consists of five units whose boundaries encompass a total area of approximately 26,661 hectares (ha) (65,879 acres (ac)) in the Koolau and Waianae mountains on the island of Oahu, Hawaii. Critical habitat identifies specific areas that are essential to the conservation of a listed species and that may require special management considerations or protection. As required by section 4 of the Act, we considered economic and other relevant impacts prior to making a final decision on what areas to designate as critical habitat.

DATES: This rule is effective January 9, 2002.

FOR FURTHER INFORMATION CONTACT: Marilet A. Zablan, Vertebrate Conservation Coordinator, or Eric VanderWerf, Biologist, Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, Hawaii 96850 (telephone: 808/541–3441; facsimile: 808/541–3470).

SUPPLEMENTARY INFORMATION:

Background

The Oahu elepaio (*Chasiempis sandwichensis ibidis*) is a small forest-dwelling bird approximately 12.5 grams (0.43 ounces) in weight and 15 centimeters (cm) (6 inches (in)) in length, and is a member of the monarch flycatcher family Monarchidae (VanderWerf 1998). It is dark brown above and white below, with light brown streaks on the breast. The tail is long (6.5 cm, 2.6 in) and often held up at an angle. Adults have conspicuous white wing bars, a white rump, and white tips on the tail feathers. The throat is white with black markings in both sexes, but males tend to have more black on the chin than females. Juveniles and subadults are reddish above, with a white belly and rusty wing-bars. The bill is medium-length, straight, and black, with the base of the lower mandible bluish-gray in adults and yellow in juveniles. The legs and feet are dark gray and the iris is dark brown (VanderWerf 1998).

Three subspecies of elepaio are recognized, each found only on a single island: the Oahu elepaio; the Hawaii elepaio (*Chasiempis s. sandwichensis*); and the Kauai elepaio (*C. s. sclateri*). The forms on different islands are similar in ecology and behavior, but differ somewhat in coloration and vocalizations (Conant 1977, van Riper 1995, VanderWerf 1998). The taxonomy used in this rule follows Pratt *et al.* (1987) and Pyle (1997), in which all forms are regarded as subspecies, but the form on each island was originally described as a separate species. The Oahu form was known as *C. s. gayi* (Wilson 1891) until Olson (1989) pointed out that the epithet *ibidis* (Stejneger 1887) has priority. The elepaio comprises a monotypic genus that is found only in the Hawaiian Islands (VanderWerf 1998). Its closest relatives are other monarch flycatchers from the Pacific region (Pratt *et al.* 1987, Sibley and Ahlquist 1985).

The Oahu elepaio occurs in a variety of forest types, but is most common in riparian vegetation along streambeds and in mesic forest with a tall canopy and a well-developed understory (Shallenberger and Vaughn 1978, VanderWerf *et al.* 1997). Population density is roughly 50 percent lower in shorter dry forest on ridges (VanderWerf *et al.* 1997). Elepaio currently are not found in very wet, stunted forest on windswept summits or in very dry shrub land, but these areas may be used by individuals dispersing among subpopulations. Forest structure appears to be more important to elepaio than plant species composition (VanderWerf *et al.* 1997), and unlike many Hawaiian forest birds, elepaio have adapted relatively well to disturbed forest composed of introduced plants (Conant 1977, VanderWerf *et al.* 1997, VanderWerf 1998). Fifty-five percent of the current range is dominated by introduced plants and 45 percent is dominated by native plants (VanderWerf *et al.* 2001). This observation does not imply that elepaio prefer introduced plant species, but probably reflects a preference by elepaio for riparian vegetation in valleys and the high degree of habitat disturbance and abundance of introduced plants in riparian areas (VanderWerf *et al.* 1997). Of the 45 percent dominated by native plants, 23 percent is categorized as wet forest, 17 percent as mesic forest, and 5 percent as dry forest, shrub land, and cliffs (Hawaii Heritage Program 1991).

Plant species composition in elepaio habitat varies considerably depending on location and elevation, but some of the most common native plants in areas where elepaio occur are ohia (*Metrosideros polymorpha*), papala kepau (*Pisonia umbellifera*), lama (*Diospyros sandwicensis*), mamaki (*Pipturus albidus*), kaulu (*Sapindus oahuensis*), hame (*Antidesma platyphyllum*), and alaa (*Pouteria sandwicensis*), and some of the most common introduced plants are guava (*Psidium guajava*), strawberry guava (P. cattleianum), kukui (*Aleurites moluccana*), mango (Mangifer indica), Christmasberry (*Schinus terebinthifolius*), and ti (*Cordyline terminalis*) (VanderWerf *et al.* 1997, VanderWerf 1998).

The current population of Oahu elepaio is approximately 1,982 birds distributed in six core subpopulations and several smaller subpopulations (Table 1, Figure 1; VanderWerf *et al.* 2001).

TABLE 1.—ESTIMATED SIZE AND AREA OF OAHU ELEPAIO SUBPOPULATIONS

[Data from VanderWerf et al. (2001). Letters before each subpopulation correspond to those on Figure 1]

Subpopulation	Total population size	Breeding population size	Area (ha)
Waianae Mountains:			
A. Southern Waianae (Honouliuli Preserve, Lualualei Naval Magazine)	458	418	1,170
B. Schofield Barracks West Range	340	310	538
C. Makaha, Waianae Kai Valleys	123	112	459

TABLE 1.—ESTIMATED SIZE AND AREA OF OAHU ELEPAIO SUBPOPULATIONS—Continued

[Data from VanderWerf et al. (2001). Letters before each subpopulation correspond to those on Figure 1]

Subpopulation	Total population size	Breeding population size	Area (ha)
D. Pahole, Kahanahaiki	18	4	256
E. Schofield Barracks South Range	6	0	20
F. Makua Valley	7	2	49
G. Kaala Natural Area Reserve	3	0	21
H. Makaleha Gulch	2	0	7
I. Kuaokala	3	2	14
J. Kaluakauila Gulch	1	0	6
Koolau Mountains:			
K. Southern Koolau (Pia, Wailupe, Kapakahi, Kuliouou, Waialae Nui)	475	432	1,063
L. Waikane, Kahana Valleys	265	242	523
M. Central Koolau (Moanalua, North and South Halawa, Aiea, Kalauao)	226	206	1,396
N. Palolo Valley	46	42	78
O. Waihee Valley	5	4	32
P. Manoa	2	0	19
Q. Hauula	1	0	4
R. Waianu Valley	1	0	8
Total	1,982	1,774	5,663

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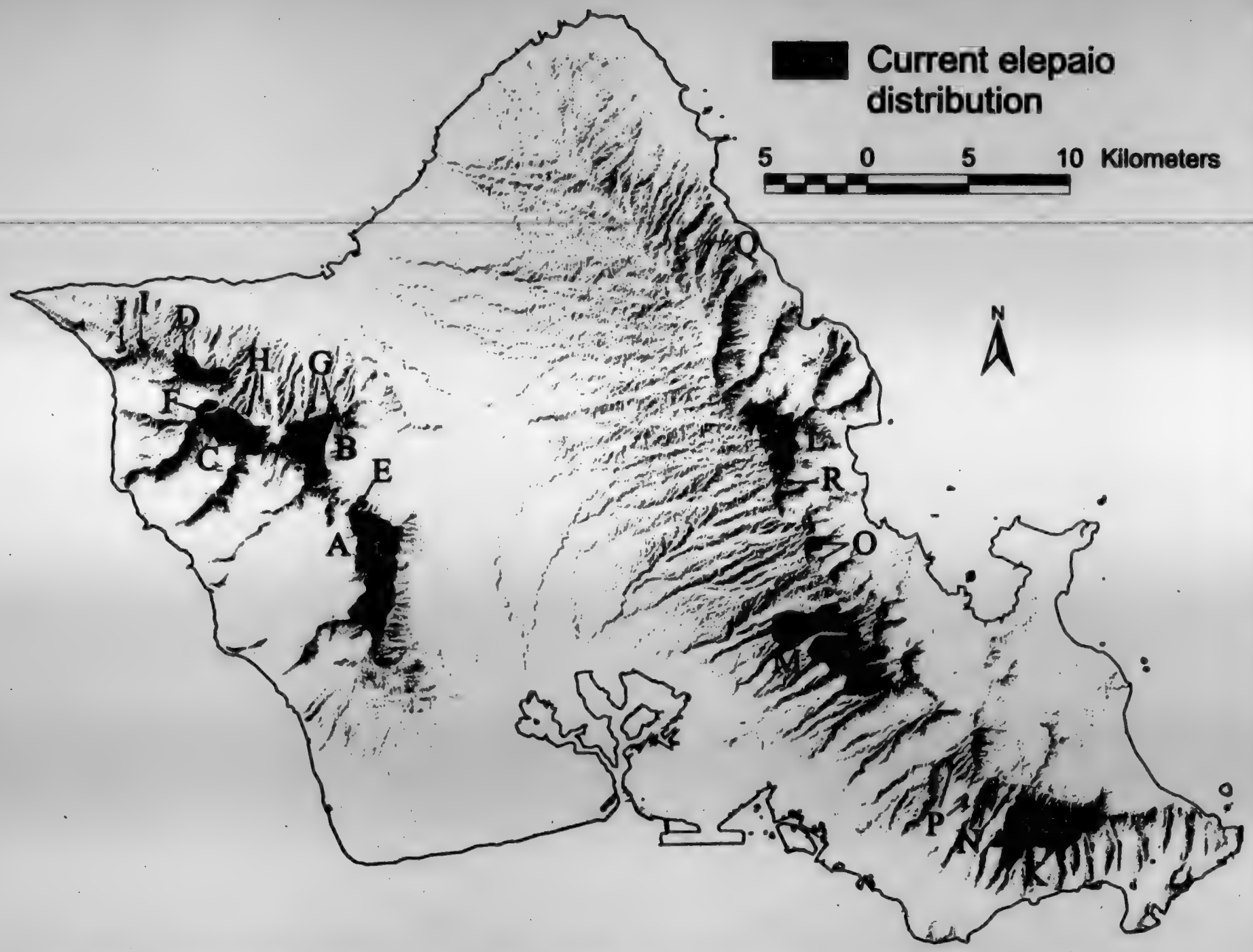

Figure 1. Current distribution of the Oahu elepaio. Subpopulations are identified by letters corresponding to those in Table 1.

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The only previous population estimate (200–500 birds; Ellis *et al.* 1992) was not accurate because little information was available when the estimate was made. The number of birds is divided about evenly between the Waianae Mountains in the west and the Koolau Mountains in the east, with three core subpopulations in each mountain range. At least 10 tiny remnant subpopulations consisting mostly or entirely of males remain in both the Waianae and Koolau mountains (Table 1). These remnant subpopulations were much larger or continuous with other subpopulations in the past, but because of their very small size, skewed sex ratio, and geographic isolation, these relicts likely will disappear in a few years as the last adults die.

The breeding population, about 1,774 birds, is less than the total population because of a male-biased sex ratio; only 84 percent of territorial males have mates in large populations (VanderWerf *et al.* 2001), and many small, declining populations contain mostly males (Table 1). The genetically effective population size, a measure that takes into account genetic population structure and variation in number of individuals over time, is probably even smaller than the breeding population because of the geographically fragmented distribution (Grant and Grant 1992). Offspring dispersal distances in elepaio are usually less than one kilometer (km) (0.62 mile (mi)) and adults have high site fidelity (VanderWerf 1998), but most elepaio populations on Oahu are separated by many kilometers of unsuitable urban or agricultural habitat. There may be some exchange among subpopulations within each mountain range, but dispersal across the extensive pineapple fields that separate the Waianae and Koolau mountains is unlikely. While the current distribution superficially appears to constitute a metapopulation, it is uncertain if dispersal occurs among subpopulations.

Before humans arrived, forest covered about 127,000 ha (313,690 ac) on Oahu (Figure 2; Hawaii Heritage Program 1991), and it is likely that elepaio once inhabited much of that area (VanderWerf *et al.* 2001). Reports by early naturalists indicate that elepaio were once widespread and abundant on Oahu. Bryan (1905) called the Oahu elepaio "the most abundant Hawaiian species on the mountainside all the way from the sea to well up into the higher elevations." Perkins (1903) remarked on its "universal distribution * * * from the lowest bounds to the uppermost edge of continuous forest." Seale (1900) stated the elepaio was "the commonest native land bird to be found on the island," while MacCaughey (1919) described it as "the most abundant representative of the native woodland avifauna" and "abundant in all parts of its range." The historical range of the Oahu elepaio apparently included most forested parts of the island, and it was formerly abundant.

Despite its adaptability, the Oahu elepaio has seriously declined since the arrival of humans, and it has disappeared from many areas where it was formerly common (Shallenberger 1977, Shallenberger and Vaughn 1978, Williams 1987, VanderWerf *et al.* 1997). The aggregate geographic area of all current subpopulations is approximately 5,660 ha (13,980 ac) (see Table 1) (VanderWerf *et al.* 2001). The Oahu elepaio thus currently occupies only about 4 percent of its original prehistoric range, and its range has declined by roughly 96 percent since humans arrived in Hawaii 1,600 years ago (Kirch 1982). In 1975, elepaio inhabited approximately 20,900 ha (51,623 ac) on Oahu, almost four times the area of the current range (Figure 2; VanderWerf *et al.* 2001). The range of the Oahu elepaio has thus declined by roughly 75 percent in the last 25 years. Much of the historical decline of the Oahu elepaio can be attributed to habitat loss, especially at low elevations. Fifty-six percent of the original prehistoric range has been developed for urban or agricultural use, and practically no elepaio remain in developed areas (VanderWerf *et al.* 2001).

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Figure 1. Current distribution of the Oahu elepaio. Subpopulations are identified by letters corresponding to those in Table 1.

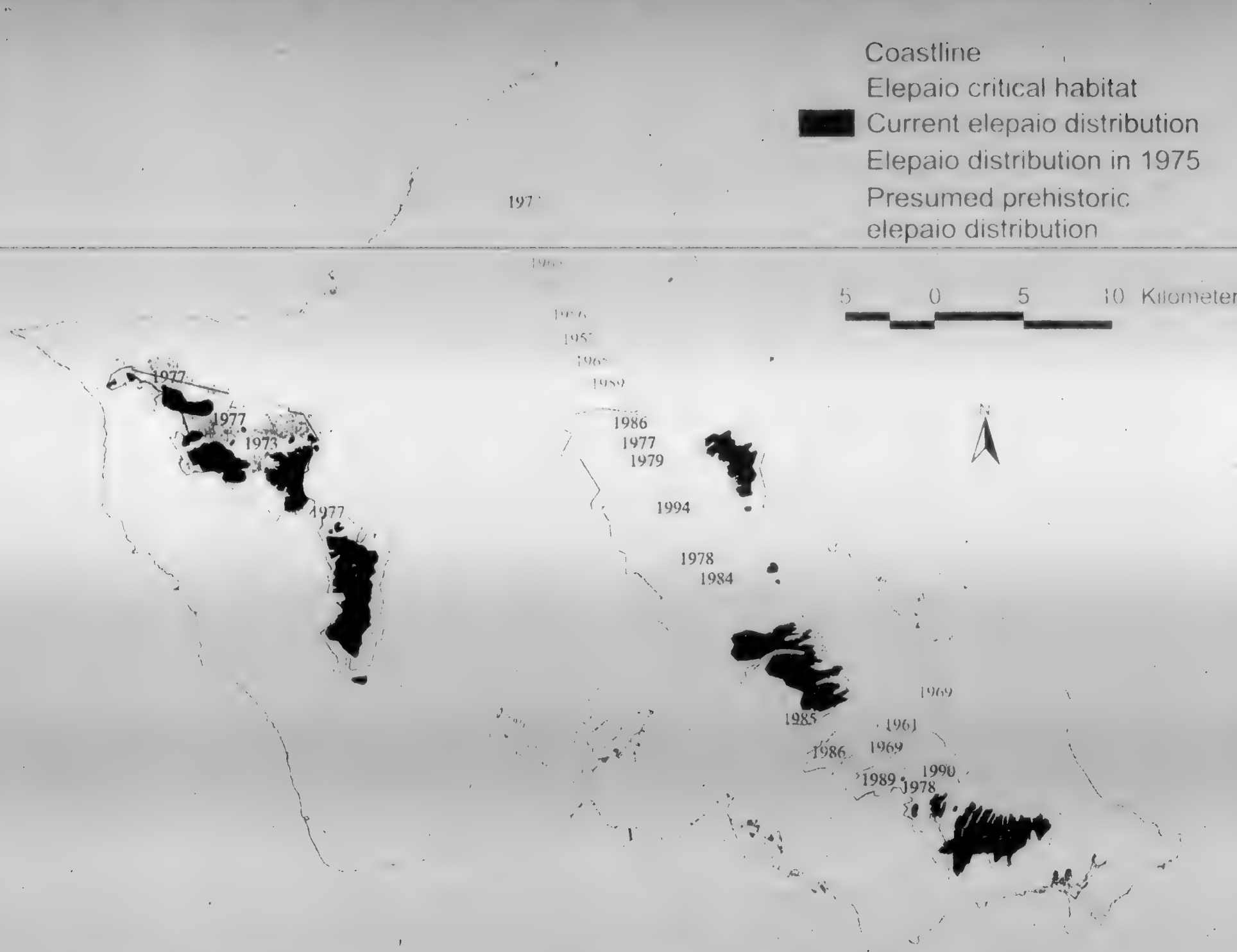

Figure 2. Critical habitat for the Oahu elepaio in relation to its current, recent historical (1975), and presumed prehistoric distributions. Years indicate when elepaio were last observed in that area.

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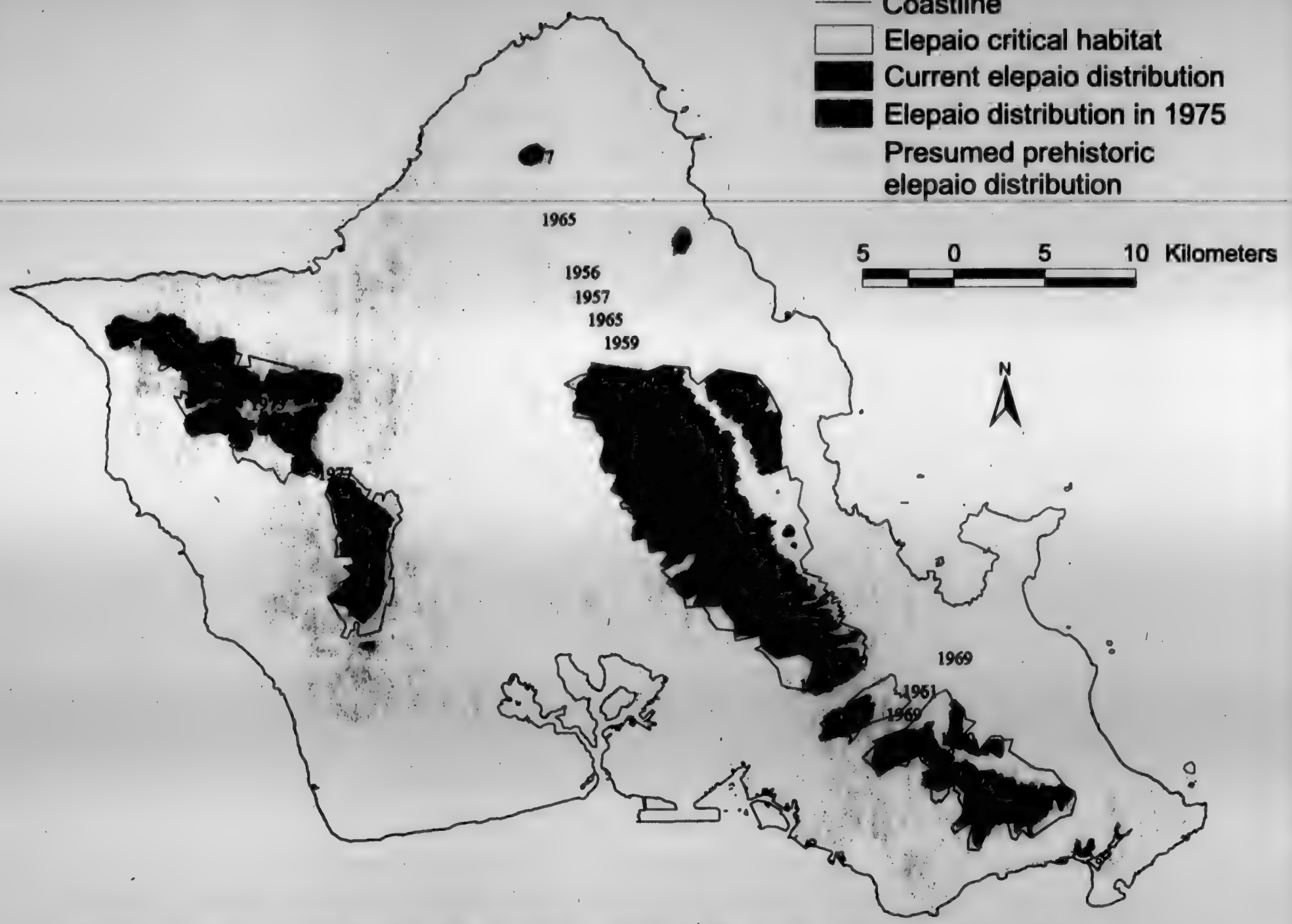


Figure 2. Critical habitat for the Oahu elepaio in relation to its current, recent historical (1975), and presumed prehistoric distributions. Years indicate when elepaio were last observed in that area.

However, many areas of Oahu that recently supported elepaio and still contain suitable forest habitat are currently unoccupied, demonstrating that habitat loss is not the only threat. Recent declines in Oahu elepaio populations are due to a combination of low adult survival and low reproductive success. Both annual adult survival and reproductive success are lower on Oahu (0.76, 0.33, respectively) than in a large, stable population of another subspecies of elepaio at Hakalau Forest National Wildlife Refuge on Hawaii Island (0.85, 0.62; VanderWerf 1998). The two main causes of low survival and low reproduction on Oahu are nest predation by alien black rats (*Rattus rattus*) and alien diseases, particularly avian pox (*Poxvirus avium*) and avian malaria (*Plasmodium relictum*), which are carried by the alien southern house mosquito (*Culex quinquefasciatus*). Annual survival of birds with active avian pox lesions (60 percent) was lower than annual survival of healthy birds (80 percent) (E. VanderWerf unpubl. data). Pairs in which at least one bird had pox lesions produced fewer fledglings than healthy pair. (E. VanderWerf, unpubl. data). Many birds with active pox did not even attempt to nest, and infected birds were sometimes deserted by their mate. Malaria is a serious threat to many Hawaiian forest birds (Warner 1968, van Riper *et al.* 1986, Atkinson *et al.* 1995), but its effect on elepaio has not been investigated.

Nest predation by black rats causes many nests to fail, and rats also probably take adult female elepaio on the nest at night. An experiment in which automatic cameras were wired to artificial elepaio nests containing quail eggs showed that a black rat was the predator in all 10 predation events documented (VanderWerf 2001). Control of rats with snap traps and diphacinone (an anticoagulant rodenticide) bait stations was effective at improving elepaio reproductive success, resulting in an 85 percent increase in nest success and a 127 percent increase in fledglings per pair compared to control areas (VanderWerf 1999).

A comprehensive description of the life history and ecology of the elepaio is provided by VanderWerf (1998), from which much of the information below is taken. Elepaio are non-migratory and defend all-purpose territories year-round. The average territory size on Oahu was 2.0 ha (4.94 ac) in forest composed of introduced plant species (Conant 1977), but territory size likely varies with vegetation structure. Population density on Oahu was 50 percent lower in short forest on ridges than in tall riparian forest along streambeds (VanderWerf *et al.* 1997), and for the related subspecies on Hawaii, territory size was 50 percent larger in more disturbed forest with an open canopy and grass understory.

Oahu elepaio are socially monogamous, and approximately 63 percent of pairs remain together each year (E. VanderWerf, unpubl. data). Site fidelity is high, with 96 percent of males and 67 percent of females remaining on the same territory from year to year. Annual survival of healthy adults is high, approximately 85 percent in males and 70 percent in females (E. VanderWerf, unpubl. data). Young birds wander (or float) while they attempt to acquire a territory and a mate.

The nesting season usually extends from mid February through May, but active nests have been found from January through July (VanderWerf 1998). Nest site selection is not specialized, and nests have been found in a variety of plants, including 6 native species and 13 introduced species (E. VanderWerf, unpubl. data). The nest is a finely-woven, free-standing cup made of rootlets, bark strips, leaf skeletons, lichen, and spider silk, and is placed in a fork or on top of a branch (Conant 1977, VanderWerf 1998). Both sexes participate in all aspects of nesting, but the female plays a larger role in nest building and the male provides more food for the nestlings. Clutch size is 1 to 3 eggs, usually 2, and eggs hatch after 18 days. The nestling period is 16 days. Fledglings are fed by their parents for more than a month after leaving the nest, and may remain in the home territory for up to 9 months, until the start of the next breeding season. Fecundity (reproductive rate) is low; even if nest predators are removed, the mean reproductive rate is 0.75 fledglings per pair per year (VanderWerf 1999). Oahu elepaio will re-nest once or twice after failure, but they rarely attempt to re-nest if the first nest is successful. Other than introduced predators, storms with heavy rain and strong winds are the most common cause of nest failure.

The diet and foraging behaviors of elepaio are extremely varied. The diet consists of a wide range of arthropods, particularly insects and spiders, and includes introduced species such as fruit flies (Tephritidae) (VanderWerf 1998). Large prey, such as moths and caterpillars, are beaten against a branch before being eaten. In a study on Hawaii Island, VanderWerf (1993, 1994) found that elepaio foraged at all heights on all available plant species, and that they caught insects from a variety of substrates, including the ground and fallen logs (2 percent), trunks (5 percent), branches (24 percent), twigs (38 percent), foliage (20 percent), and in the air (11 percent). Elepaio are versatile and agile in pursuit of prey, using a diversity of foraging behaviors that is among the highest recorded for any bird, including perch-gleaning (48 percent), several forms of flight-gleaning (30 percent), hanging (11 percent), aerial flycatching (7 percent), and active pursuit (4 percent) (VanderWerf 1994).

Previous Federal Action

We were petitioned by Mr. Vaughn Sherwood on March 22, 1994, to list the Oahu elepaio as an endangered or threatened species with critical habitat. The November 15, 1994, Animal Candidate Notice of Review (59 FR 58991) classified the Oahu elepaio (then *Chasiempis sandwichensis gayi*) as a category 1 candidate. Category 1 candidates were those species for which we had sufficient data in our possession to support a listing proposal. On June 12, 1995 (60 FR 30827), we published a 90-day petition finding stating that the petition presented substantial information that listing may be warranted. On February 28, 1996 (61 FR 7596), and September 19, 1997 (62 FR 49398), we published notices discontinuing candidate category designations, and the Oahu elepaio was listed as a candidate species. Candidate species are those for which we have on file sufficient information on biological vulnerability and threats to support proposals to list as threatened or endangered. On October 6, 1998 (63 FR 53623), we published the proposed rule to list the Oahu elepaio as an endangered species. Because *C. s. gayi* is a synonym of *C. s. ibidis*, the proposed rule constituted the final 12-month finding for the petitioned action. On April 18, 2000 (65 FR 20760), we published the final rule to list the Oahu elepaio as an endangered species.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) also state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) the species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. In the proposed listing rule we indicated that designation of

Figure 2. Critical habitat for the Oahu elepaio in relation to its current, recent historical (1979), and presumed prehistoric distributions. Years indicate when elepaio were last observed in that area.

critical habitat for the Oahu elepaio was not prudent because we believed a critical habitat designation would not provide any additional benefit beyond that provided through listing as endangered. Based on comments we received on the proposed listing rule and on recent court rulings which address the prudency standard, in the final listing rule we determined that a critical habitat designation for the Oahu elepaio was prudent because such a designation could benefit the species beyond listing as endangered by extending protection under section 7 of the Act to currently unoccupied habitat and by providing informational and educational benefits.

Although we determined in the final listing rule that critical habitat designation for the Oahu elepaio would be prudent, we also indicated in the final listing rule that we were not able to develop a proposed critical habitat designation for the Oahu elepaio at that time due to budgetary and workload constraints. However, on June 28, 2000, the United States District Court for the District of Hawaii established, in the case of *Conservation Council for Hawaii* v. *Babbitt*, CIV. NO. 00–00001 HG–BMK, a timetable to designate critical habitat for the Oahu elepaio, and ordered that the Service publish the final critical habitat designation by October 31, 2001. That date was extended to November 21, 2001. This final rule responds to the court's order.

On November 9, 2000, we mailed letters to 32 landowners on Oahu informing them that the Service was in the process of designating critical habitat for the Oahu elepaio and requesting from them information on management of lands that currently or recently (within the past 25 years) supported Oahu elepaio. The letters contained a fact sheet describing the Oahu elepaio and critical habitat, a map showing the historic and current range of the Oahu elepaio, and a questionnaire designed to gather information about land management practices, which we requested be returned to us by November 27, 2000. We received 11 responses to our landowner mailing with varying types and amounts of information on current land management activities. Some responses included detailed management plans, provided new information on locations where elepaio have been observed recently, and described management activities such as fencing, hunting, public access, fire management, methods for controlling invasive weeds and introduced predators, and collaboration with conservation researchers. In addition, we met with several landowners and managers, including the U.S. Army and the Hawaii State Division of Forestry and Wildlife, to obtain more specific information on management activities and suitability of certain habitat areas for the elepaio. The information provided in the responses and during meetings was considered and incorporated into this final rule.

On June 6, 2001, we published a proposed rule to designate critical habitat for the Oahu elepaio (66 FR 30372). The proposed critical habitat consisted of five units whose boundaries encompassed a total area of approximately 26,661 hectares (ha) (65,879 acres (ac)) in the Koolau and Waianae mountains on the island of Oahu, Hawaii. The public comment period was open for 60 days until August 6, 2001. We did not receive any requests for public hearings during the comment period and we did not hold any public hearings. On August 6, 2001, we published a notice announcing the reopening of the public comment period and the availability of the draft economic analysis for the proposed critical habitat designation for the Oahu elepaio (66 FR 40960). The comment period was open for an additional 30 days until September 6, 2001. On August 28, 2001, we held a public meeting in Honolulu to provide information and promote discussion about the critical habitat designation for the Oahu elepaio. The meeting was attended by 11 people, not including Service staff. During this meeting the Service presented a brief introduction to the biology of the Oahu elepaio, a summary of previous federal actions regarding the elepaio, information about critical habitat, and the methods used to identify critical habitat for the Oahu elepaio. The presentation was followed by a question and answer session and general discussion, and we made available information including maps, fact sheets, news releases, reprints of scientific papers, copies of the proposed rule and draft economic analysis, and instructions for submitting public comments. On September 5, 2001, we published a correction to the proposed rule (66 FR 46428). The proposed rule contained the correct maps and legal descriptions of the proposed critical habitat units, but figure 2 in the background section of the proposed rule, which showed the proposed critical habitat units in relation to the current, recent historical, and presumed prehistoric distribution of the Oahu elepaio, showed the proposed critical habitat units incorrectly. The correction provided an accurate version of figure 2 that matched the critical habitat units depicted in the legal description of the original proposed rule. Page 30377 of the proposed rule was replaced with page 46429 of the correction.

Critical Habitat

Critical habitat is defined in section 3, paragraph (5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation," as defined by the Act, means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat. Destruction or adverse modification is direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical. Aside from the added protection that may be provided under section 7, the Act does not provide other forms of regulatory protection to lands designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not afford any additional regulatory protections under the Act against such activities.

Critical habitat also provides non-regulatory benefits to the species by informing the public and private sectors of areas that are important for species recovery and where conservation actions would be most effective. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that

are essential for conservation of that species, and can alert the public as well as land-managing agencies to the importance of those areas. Critical habitat also identifies areas that may require special management considerations or protection, and may help provide protection to areas where significant threats to the species have been identified or help to avoid accidental damage to such areas.

In order to be included in a critical habitat designation, the habitat must be "essential to the conservation of the species." Critical habitat designations identify, to the extent known and using the best scientific and commercial data available, habitat areas that provide essential life cycle needs of the species (*i.e.*, areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)). Section 3(5)(C) of the Act states that not all areas that can be occupied by a species should be designated as critical habitat unless the Secretary determines that all such areas are essential to the conservation of the species. Our regulations (50 CFR 424.12(e)) also state that, "The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species."

Section 4(b)(2) of the Act requires that we take into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Our Policy on Information Standards Under the Endangered Species Act, published on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that decisions made by the Service represent the best scientific and commercial data available. It requires that our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing rule for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, and biological assessments or other unpublished materials (*i.e.*, gray literature).

Section 4 requires that we designate critical habitat based on what we know at the time of the designation. Habitat is often dynamic, however, and populations may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Habitat areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, and the section 9 take prohibition, as determined on the basis of the best available information at the time of the action. It is possible that federally funded or assisted projects affecting listed species outside their designated critical habitat areas could jeopardize those species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning and recovery efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by the Act and regulations (section 4(b)(2) and 50 CFR 424.12), we used the best scientific information available to determine areas that contain the physical and biological features that are essential for the survival and recovery of the Oahu elepaio. This information included: peer-reviewed scientific publications (Conant 1977; Banko 1981; VanderWerf 1993, 1994, 1998, 2001; VanderWerf *et al.* 1997, 2001); the final listing rule for the Oahu elepaio (65 FR 20760); unpublished reports by the Hawaii State Division of Forestry and Wildlife (VanderWerf 1999); the Hawaii Natural Heritage Program database; the Sightings database from the Occurrence and Status of Birds in Hawaii project maintained at Bishop Museum in Honolulu; the Oahu Forest Bird Survey conducted in 1991 by the Hawaii State Division of Forestry and Wildlife; field trip reports in the "Elepaio" (journal of the Hawaii Audubon Society); responses to the Oahu elepaio critical habitat outreach package mailed to Federal, State, and private land managers and landowners; and comments received during the comment period.

The distribution and abundance of the Oahu elepaio have declined seriously in the last few decades (Williams 1987; Oahu elepaio final listing rule, 65 FR 20760; VanderWerf *et al.* 2001). The area currently occupied by the Oahu elepaio represents only about four percent of the species' original range, and the distribution has contracted into numerous small fragments (Figure 2). Moreover, the remaining elepaio subpopulations are small and isolated, comprising six core subpopulations that contain between 100 and 500 birds, and numerous small remnant subpopulations, most of which contain fewer than 10 birds (Table 1). Even if the threats responsible for the decline of the elepaio were controlled, the existing subpopulations would be unlikely to persist because their small sizes make them vulnerable to extinction due to a variety of natural processes. Small populations are particularly vulnerable to reduced reproductive vigor caused by inbreeding depression, and they may suffer a loss of genetic variability over time due to random genetic drift, resulting in decreased evolutionary potential and ability to cope with environmental change (Lande 1988, IUCN 2000). Small populations are also demographically vulnerable to extinction caused by random fluctuations in population size and sex ratio and to catastrophes such as hurricanes (Lande 1988). Survival and reproduction of elepaio are known to fluctuate across years in response to variation in disease prevalence and predator populations (VanderWerf 1998, 1999), possibly due to El Niñno episodes and variation in rainfall, which may exacerbate the threats associated with small population size (Lande 1988).

Elepaio are highly territorial; each pair defends an area of a certain size, depending on the forest type and structure, resulting in a maximum population density or carrying capacity (VanderWerf 1998). Although elepaio have declined island-wide and the range has contracted, density in the remaining core subpopulations is high, and much of the currently occupied land is at or near carrying capacity and cannot support many more elepaio than it currently supports (VanderWerf *et al.* 1997, 2001). Consequently, each of the currently occupied areas is too small to support an elepaio population large enough to be considered safe from extinction. In order for the number of birds in each subpopulation to increase,

additional land must be available for young birds to establish new territories and attract mates. The potential for expansion is especially important for the smallest subpopulations that currently contain only a few individuals. Because of their very small size and skewed sex ratio, these tiny subpopulations are unlikely to persist more than a few generations if limited to the currently occupied area.

Elepaio are also relatively sedentary; adults have high fidelity to their territory and juveniles rarely disperse more than 1 km (0.62 mi) in search of a territory (VanderWerf 1998). Because the areas currently occupied by elepaio are separated from each other by many kilometers (Figure 1) and elepaio are unlikely to disperse long distances, the existing subpopulations probably are isolated (VanderWerf *et al.* 2001). The Oahu elepaio evolved in an environment with large areas of continuous forest habitat covering much of the island (Figure 2), and their dispersal behavior is not adapted to a fragmented landscape. In the past, subpopulations were less isolated and dispersal and genetic exchange among different parts of the island probably was more frequent. Providing links among subpopulations via dispersal would increase the overall effective population size through genetic exchange and equalization of sex ratios and breeding opportunities, thereby helping to alleviate the threats associated with small population size, and would better reflect the conditions under which the elepaio dispersal behavior evolved. In particular, enlargement of small subpopulations by expansion onto adjacent lands not only would increase the chances of their long-term survival, but also would improve connectivity among subpopulations by enhancing their value as "stepping stones" within the distribution of the entire population.

Section 3(5)(A)(i) of the Act provides that areas outside the geographical area currently occupied by the species may meet the definition of critical habitat upon determination that they are essential for the conservation of the species. Because of the territorial nature of the Oahu elepaio, its small total population size, limited range, fragmented distribution, and resulting vulnerability to genetic, demographic, and environmental threats, we find that inclusion of currently unoccupied areas identified as containing the primary constituent elements is essential to the conservation of the species. The final rule listing the Oahu elepaio as endangered emphasized that the "small total population size, limited distribution, and population fragmentation make this taxon particularly vulnerable to reduced reproductive vigor and the effects of naturally occurring events" (65 FR 20760). Recovery will require restoration of elepaio in areas that were formerly inhabited but that are not currently occupied, through natural dispersal, translocation, or release of captive birds. Unoccupied areas adjacent to currently occupied areas are needed for recovery to allow expansion of existing subpopulations and help alleviate the threats associated with small population size. Unoccupied lands linking subpopulations are needed for recovery to provide opportunities for dispersal among subpopulations, promote genetic exchange, and facilitate finding of mates. Specifically, each of the existing core populations in Pahole-Kahanahaiki, Makaha-Waianae Kai, Schofield Barracks West Range, the southern Waianae Mountains, the central leeward Koolau Mountains, Waikane-Kahana, and the southern leeward Koolau Mountains are small and isolated, and are unlikely to be viable on their own. The long-term chances for persistence of these subpopulations would increase if each subpopulation increased in size by expanding onto adjacent lands and if the connectivity among the subpopulations was enhanced by occasional dispersal of individuals across intervening lands.

We determined the amount and spatial arrangement of critical habitat needed to support a viable population of Oahu elepaio. Because a recovery plan for the Oahu elepaio has not been completed yet, in making this determination we looked to the historical distribution of the Oahu elepaio for a model of a viable population. The best and most recent information available on the distribution of an apparently viable Oahu elepaio population is from 1975, when extensive surveys were conducted over much of the island (Shallenberger 1977, Shallenberger and Vaughn 1978, Banko 1981). Elepaio began declining on Oahu before 1975 and already had disappeared from some parts of the island (Figure 2; Conant 1977, Williams 1987, VanderWerf *et al.* 2001), but in 1975 the subpopulations were still relatively large and birds were distributed in two well-connected population clusters, one in the Waianae Mountains and one in the Koolau Mountains. The areas occupied since 1975 also are likely to be most suitable for recovery because they supported elepaio for a longer period. The number and distribution of Oahu elepaio in 1975 has allowed for the persistence of a population, albeit in a declining state, for more than 25 years. We believe that active management of threats, including nest predation and disease, in areas reflecting the distribution in 1975 would allow for long-term recovery. This approach is consistent with the approved recovery outline for the Oahu elepaio; if, after critical habitat for the Oahu elepaio is designated, a final approved recovery plan for Hawaiian forest birds calls for a different approach to the conservation of the Oahu elepaio, we will consider amending the critical habitat designation, subject to resource and workload priorities.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we are required to consider those physical and biological features that are essential to the conservation of the species and that may require special management considerations and protection. Such features are termed primary constituent elements, and include but are not limited to: space for individual and population growth and for normal behavior; food, water, air, light, minerals and other nutritional or physiological requirements; cover or shelter; sites for nesting and rearing of offspring; and habitats that are protected from disturbance and are representative of the historic geographical and ecological distributions of the species.

Elepaio are adaptable and able to forage and nest in a variety of forest types composed of both native and introduced plant species (Conant 1977, VanderWerf 1993, 1994, 1998). Nest site selection by elepaio is non-specialized; nests have been found in 7 native and 13 introduced plant species (E. VanderWerf, unpubl. data). Shallenberger and Vaughn (1978) found the highest relative abundance of elepaio in forest dominated by introduced guava and kukui trees, but they also found elepaio in the following forest types (in order of decreasing abundance): mixed native-exotic; tall exotic; koa dominant; mixed koa-ohia; low exotic; ohia dominant; and ohia scrub. This distribution does not imply that elepaio prefer introduced plant species, but probably reflects a preference by elepaio for riparian vegetation in valleys and the high degree of habitat disturbance and abundance of introduced plants in riparian areas. VanderWerf *et al.* (1997) found that (1) forest structure was more

important to elepaio than plant species composition, (2) most birds occurred in areas with a continuous forest canopy and a dense understory, and (3) population density was roughly twice as high in tall riparian vegetation in valleys as in shorter forest on ridges. Fifty-five percent of the currently occupied area consists of forest dominated by introduced plant species, 23 percent is native wet forest, 17 percent is native mesic forest, and 5 percent is native dry forest and shrub land (VanderWerf *et al.* 2001).

The primary constituent elements required by the Oahu elepaio for foraging, sheltering, roosting, nesting, and rearing of young are undeveloped wet, mesic, and dry forest habitats composed of native or introduced plant species. Higher population density can be expected in tall, closed canopy riparian forest than in low scrubby forest on ridges and summits. In addition, the primary constituent elements associated with the biological needs of dispersal and genetic exchange among populations are undeveloped wet or dry shrub land and wet or dry cliff habitats. Elepaio may not establish territories in shrub or cliff habitats and may use them only transiently, but areas containing these habitats are important for linking populations by providing the opportunities for dispersal and genetic exchange.

Within the forests and shrub lands providing the primary constituent elements, plant species composition varies with rainfall, elevation, and degree of habitat disturbance, and plant species occur in a variety of assemblages. Common native and introduced species within these plant assemblages include, but are not limited to, ohia (*Metrosideros polymorpha*), koa (*Acacia koa*), papala kepau (*Pisonia umbellifera*), lama (*Diospyros sandwicensis*), mamaki (*Pipturus albidus*), kaulu (*Sapindus oahuensis*), hame (*Antidesma platyphyllum*), alaa (*Pouteria sandwicensis*), aalii (*Dodonaea viscosa*), naupaka kuahiwi (*Scaevola* spp.), pukiawe (*Styphelia tameiameiae*), uluhe (*Dicranopteris linearis*), guava (*Psidium guajava*), strawberry guava (*P. cattleianum*), mango (*Mangifera indica*), kukui (*Aleurites moluccana*), christmasberry (*Schinus terebinthifolius*), ti (*Cordyline terminalis*), rose apple (*Syzygium jambos*), mountain apple (*S. malaccense*), and Java plum (*S. cumini*).

Criteria Used To Identify Critical Habitat

We used several criteria to identify and select lands for designation as critical habitat. We began with areas that are currently occupied by elepaio, excluding a few very small, isolated subpopulations that contain only a single male. We then added unoccupied lands containing the primary constituent elements that were needed for recovery of the species. As discussed in greater detail in the Methods section, in deciding which unoccupied areas were essential for recovery, we used the distribution of elepaio in 1975 as a model of a viable population. Within this area of distribution in 1975, we gave preference to lands that (a) provided more preferred forest types, (b) were more recently occupied (since 1975), and (c) were contiguous and formed large blocks of preferred habitat or provided links between areas of preferred habitat. We determined the boundaries of critical habitat units by the extent of suitable forest containing the primary constituent elements, which in many areas coincided with the boundaries of State Forest Reserves, Natural Area Reserves, or other conservation lands. We did not include urban and agricultural lands because they generally do not contain the primary constituent elements and are not suitable for elepaio. We included lower Wailupe Valley because it contains the primary constituent elements, is currently occupied by elepaio, and is contiguous with a large subpopulation. Although this area is zoned for urban use, the topography and unstable soil conditions make it unsuitable for development.

We were unable to map the critical habitat unit boundaries in sufficient detail to exclude all existing developed lands that do not contain the primary constituent elements. However, existing development features and structures within the boundaries of the mapped units, such as buildings, roads, aqueducts, antennas, water tanks, agricultural fields, paved areas, lawns, and other urban landscaped areas generally do not contain the primary constituent elements and are not critical habitat. Federal actions limited to those areas, therefore, would not trigger a section 7 consultation, unless they affect the species or primary constituent elements in adjacent critical habitat.

Application of the Section 3(5)(A) Criteria Regarding Special Management Considerations or Protection

Critical habitat is defined in section 3, paragraph (5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Special management and protection are not required if adequate management and protection are already in place. Adequate special management or protection is provided by a legally operative plan or agreement that addresses the maintenance and improvement of the primary constituent elements important to the species and manages for the long-term conservation of the species. If any areas containing the primary constituent elements currently were being managed to address the conservation needs of the Oahu elepaio and did not require special management or protection, these areas would not meet the definition of critical habitat in section 3(5)(A)(i) of the Act and would not be included in the designation.

To determine if a plan provides adequate management or protection we consider 3 criteria: (1) Whether the plan is current and specifies the management actions and whether such actions provide sufficient conservation benefit to the species; (2) whether the plan provides assurances that the conservation management strategies will be implemented, and in determining this we consider whether: (a) A management plan or agreement exists that specifies the management actions being implemented or to be implemented; (b) the schedule for implementation is timely; (c) there is a high probability that the funding source(s) or other resources necessary to implement the actions will be available; and (d) the party(ies) have the authority and long-term commitment to implement the management actions, as demonstrated, for example, by a legal instrument providing enduring protection and management of the lands, and (3) whether the plan provides assurances that the conservation management strategies will be effective. In determining whether an action is likely to be effective, we consider whether: (a) The plan specifically addresses the management needs, including reduction of threats to the species; (b) such actions have been successful in the past; (c) there are provisions for monitoring and assessment of the effectiveness of the management actions; and (d) adaptive management principles have been incorporated into the plan.

Based on information provided to us by landowners and managers to date, we

find that no areas are adequately managed and protected to address the threats to elepaio. Several areas are covered under current management plans and are being managed in a manner that meets some of the conservation needs of the Oahu elepaio, but in no areas does the management adequately reduce the primary threats to this species. Specifically, the threat from introduced nest predators, primarily rodents, has been successfully managed on a small scale in Honouliuli Preserve by The Nature Conservancy of Hawaii, in Schofield Barracks West Range and Makua Military Reservation by the U.S. Army, and in the Honolulu Watershed Forest Reserve by the Hawaii State Division of Forestry and Wildlife, but in each case the management actions have affected only a small proportion of the elepaio in the area. Adequate reduction of the threat from rodents will require larger scale management that protects more elepaio. The other primary threat to the Oahu elepaio, introduced diseases carried by mosquitoes, has not been managed in any area. In several areas, such as Schofield Barracks, the threat from fire also has not been managed adequately.

The Oahu Forest National Wildlife Refuge does not meet these criteria because the refuge was created only recently (December 2000) and current management does not yet provide adequate management for the Oahu elepaio. Refuge lands have not been adequately surveyed yet, and it remains uncertain whether the area is currently occupied by elepaio.

The Sikes Act Improvements Amendment of 1997 (Sikes Act) requires each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an Integrated Natural Resources Management Plan (INRMP). An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found there. Each INRMP is to include an assessment of the ecological needs on the installation, including needs to provide for the conservation of listed species; a statement of goals and priorities; a detailed description of management actions to be implemented to provide for these ecological needs; and a monitoring and adaptive management plan. We consult with the military on the development and implementation of INRMPs for installations with listed species. We believe that bases that have completed and approved INRMPs that address the needs of the species generally do not meet the definition of critical habitat discussed above, because they require no additional special management or protection. Therefore, we do not include these areas in critical habitat designations if they meet the following three criteria: (1) A current INRMP must be complete and provide a conservation benefit to the species; (2) the plan must provide assurances that the conservation management strategies will be implemented; and (3) the plan must provide assurances that the conservation management strategies will be effective, by providing for periodic monitoring and revisions as necessary. If all of these criteria are met, then the lands covered under the plan would not meet the definition of critical habitat. To date, no military installation on Oahu has completed a final INRMP that provides sufficient management and protection for the elepaio. The Service received information from the Army indicating they understand and agree that the current INRMP for Army installations on Oahu does not obviate the need for critical habitat designations because it does not meet criteria for special management or protection necessary to ensure long-term conservation of the species (Department of the Army, *in litt.* 2001).

Critical Habitat Designation

Lands designated as critical habitat occur in five separate units and provide the full range of primary constituent elements needed by the Oahu elepaio, including: a variety of currently occupied undeveloped forested areas that are used for foraging, roosting, sheltering, nesting, and raising offspring; a variety of currently unoccupied undeveloped forested areas that are adjacent to occupied areas and provide for expansion of existing subpopulations; and shrub land and cliff habitats that link subpopulations and can be used for dispersal. If elepaio were restored throughout each of the critical habitat units, the resulting distribution would resemble the distribution in 1975, when the subpopulations were larger and less isolated, the overall population appeared to be viable, and the Oahu elepaio was not considered endangered. The area designated as critical habitat (26,661 ha) is larger than the area occupied in 1975 (20,900 ha) because the critical habitat contains not only lands expected to support breeding elepaio populations, but also intervening lands that provide for periodic dispersal, which is a primary biological need, but not for permanent occupation.

TABLE 2.—CRITICAL HABITAT UNITS AND POTENTIAL ELEPAIO POPULATIONS

[Data on current density from VanderWerf *et al.* (2001). Unit 4 is not currently occupied by elepaio; the density used to estimate the potential elepaio population of this unit is an average of the densities in the two nearest units, central and southern Koolau.]

Critical habitat unit	Area	Elepaio density in currently occupied parts of unit	Potential elepaio population in unit
1. Northern Waianae Mountains	4,454 ha 11,005 ac	0.45 per ha 0.18 per ac	2,004
2. Southern Waianae Mountains	2,422 ha 5,985 ac	0.39 per ha 0.16 per ac	945
3. Central Koolau Mountains	14,801 ha 36,573 ac	0.33 per ha 0.14 per ac	4,884
4. Kalihi-Kapalama	804 ha 1,987 ac	0.39 per ha 0.16 per ac	314
5. Southern Koolau Mountains	4,180 ha 10,329 ac	0.45 per ha 0.18 per ac	1,881
All units	26,661 ha 65,879 ac	0.37 per ha 0.15 per ac	10,028

The potential elepaio population in the area designated as critical habitat is approximately 10,028 birds, as estimated by multiplying the current density of elepaio in different parts of the island by the area of each critical habitat unit (Table 2). Although population density varies somewhat among locations depending on the habitat quality, we believe the current overall density of elepaio on Oahu, 37.6 birds per square kilometer, is a reasonable estimate of the potential population density throughout the entire area designated as critical habitat. It may be possible to restore elepaio to higher densities in some large blocks of dense forest, but in other areas, such as steep slopes and ridges, it likely will be difficult to establish dense populations. The densities used to calculate these potential populations are average values and the estimates are approximate.

Critical habitat for the Oahu elepaio includes land under Federal, State, and private ownership, with Federal lands being managed by the Department of Defense and the Department of the Interior. Designated lands include most (99 percent) of the species' current range and encompass approximately 21 percent of the species' original range. Approximately 22 percent of designated lands are currently occupied by elepaio, and 78 percent are currently unoccupied but were recently occupied (since 1975). A detailed description of each unit and reasons for designating each portion of the unit as critical habitat are presented below. The approximate area and land ownership within each critical habitat unit are shown in Table 3.

TABLE 3.—APPROXIMATE AREA (HECTARES, ACRES) OF CRITICAL HABITAT UNITS BY LAND OWNERSHIP

Unit	Federal [1]	State	County	Private	Total
1. Northern Waianae Mountains	774 ha	3,033 ha	646 ha	0.7 ha	4,454 ha.
	1,913 ac	7,494 ac	1,596 ac	2 ac	11,005 ac.
2. Southern Waianae Mountains	616 ha	308 ha.		1,498 ha	2,422 ha.
	1,522 ac	761 ac		3,702 ac	5,985 ac.
3. Central Koolau Mountains	2,852 ha	3,754 ha	308 ha	7,887 ha	14,801 ha
	7,047 ac	9,276 ac	761 ac	19,489 ac	36,573 ac.
4. Kalihi-Kapalama		397 ha	179 ha	228 ha	804 ha.
		981 ac	442 ac	564 ac	1,987 ac.
5. Southern Koolau Mountains	3 ha	2,553 ha	476 ha	1,148 ha	4,180 ha.
	7 ac	6,309 ac	1,176 ac	2,837 ac	10,329 ac.
Total	4,245 ha	10,045 ha	1,609 ha	10,762 ha	26,661 ha.
	10,489 ac	24,821 ac	3,975 ac	26,594 ac	65,879 ac.

[1] Federal lands include Department of Defense and U.S. Fish and Wildlife Service.

Unit 1: Northern Waianae Mountains

Unit 1 consists of approximately 4,454 ha (11,005 ac) encompassing the higher elevations of the northern Waianae Mountains. It is bounded on the south by Kolekole pass, and on the north, east, and west by forest edge created by human actions. Natural features within the unit include Mt. Kaala, the highest peak on Oahu at 1,227 m (4,025 feet), several other high peaks along the spine of the Waianae Range, and the upper portions of valleys and slopes, including Waianae Kai, Makaha, Makua, Kahanahaiki, and Kuaokala valleys on the west slope, Haleauau and Mohiakea gulches on the east slope, and several narrow valleys on the north slope. Vegetation consists primarily of mixed-species wet, mesic, and dry forest communities composed of native and introduced plants, with smaller amounts of dry shrub land and cliff plant communities (Hawaii Heritage Program 1991).

Unit 1 contains two important elepaio core subpopulations: One in upper Haleauau and Mohiakea gulches above the firebreak road on U.S. Army Schofield Barracks West Range, and the other in upper Makaha and Waianae Kai valleys on Waianae Kai State Forest Reserve and City and County of Honolulu land. The unit also includes small scattered elepaio subpopulations in Pahole and Kaala State Natural Area Reserves, Mokuleia, Makua-Keaau, and Kuaokala State Forest Reserves, and the upper portion of the U.S. Army Makua Military Reservation. Thirty percent of Unit 1 is currently occupied by elepaio. Of critical habitat lands on the West Range of Schofield Barracks, approximately 70 percent are currently occupied by elepaio. The subpopulation on Schofield Barracks is of particular importance to the conservation of the species because it is the densest and third largest subpopulation on the island, contains the majority of birds remaining in the northern Waianae Mountains, and may serve as a source that supports smaller subpopulations nearby. Elepaio in the northern Waianae Mountains are morphologically and behaviorally distinct from elepaio in other parts of the island, and conservation of this population segment would not be possible without the core subpopulation on Schofield Barracks.

In addition to protecting lands occupied by the two core elepaio subpopulations and six smaller subpopulations, designated lands in Unit 1 provide for expansion of these subpopulations by including currently unoccupied lands that were occupied within the past 30 years and contain the types of forest most preferred by elepaio. Specifically, currently unoccupied lands in Pahole and Kaala State Natural Area Reserves, Mokuleia, Makua-Keaau, and Kuaokala State Forest Reserves, upper Makua Valley, and upper Kahanahaiki Valley are needed for recovery to allow the number of birds in existing subpopulations to increase. The current distribution of elepaio in Unit 1 represents a remnant of what was once a single, large, continuous elepaio population in the northern Waianae Mountains. Inclusion of currently unoccupied forested lands that provide for expansion and shrub land and cliff habitats that provide for dispersal among subpopulations will provide linkage needed to approximate the original genetic and demographic conditions that once existed in this area.

Unit 2: Southern Waianae Mountains

Unit 2 consists of approximately 2,422 ha (5,985 ac) encompassing the higher elevations of the southern Waianae Mountains. It is bounded on the north by Kolekole Pass, and on the east, west, and south by forest edge created by human actions. Natural features of the unit include several high peaks along the spine of the southern Waianae Range, including Palikea, Kaua, Kanehoa, and Hapapa, the upper portions of Lualualei and Nanakuli valleys on the west side of the mountains, and the upper portions of numerous narrower valleys on the east side of the mountains. Vegetation consists primarily of mixed-species

mesic and dry forest communities composed of native and introduced plants, with smaller amounts of dry shrub land and cliff communities (Hawaii Heritage Program 1991).

Unit 2 contains the second largest Oahu elepaio subpopulation, encompassing several land parcels, including Honouliuli Preserve (managed by The Nature Conservancy of Hawaii), Naval Magazine Pearl Harbor Lualualei Branch, Nanakuli State Forest Reserve, and other unmanaged State lands. This unit also contains several scattered elepaio territories north of the core subpopulation on U.S. Army Schofield Barracks South Range. Fifty percent of Unit 2 is currently occupied by elepaio. In addition to protecting currently occupied habitat, designated lands in Unit 2 include peripheral areas of currently unoccupied habitat in Honouliuli Preserve, Lualualei, and Schofield Barracks South Range that are needed for recovery to allow expansion of the core subpopulation, and dry shrub land and cliff habitats on unmanaged State land between Lualualei and Honouliuli and on Schofield Barracks South Range that provide for dispersal among parts of the southern Waianae subpopulation and between the northern and southern Waianae subpopulations.

Unit 3: Central Koolau Mountains

Unit 3 is the largest unit, encompassing 14,801 ha (36,573 ac) of the higher elevations of the central Koolau Mountains. Natural features of the unit include the summit of the Koolau Range and the upper portions of numerous narrow valleys separated by steep ridges, including (from south to north) Manaiki, Moanalua, South Halawa, North Halawa, Kalauao, Waimalu, Waimano, Manana, Waiawa, Kipapa, Kaukonahua, and Poamoho on the leeward (western) side, and Waihee, Kaalaea, Waiahole, Waikane, and Kahana on the windward (eastern) side. Vegetation consists primarily of montane and lowland wet and mesic forest, and smaller areas of shrub land and wet cliff plant communities (Hawaii Heritage Program 1991). The higher elevations of the unit are primarily native forest dominated by ohia and koa, but the lower elevations are more disturbed and dominated by a variety of introduced plant species.

Unit 3 contains two important core elepaio subpopulations: one located almost entirely on private land in Moanalua, North and South Halawa, Manaiki, and Kalauao valleys at the southern end of the unit; the other on the windward side in Kahana Valley State Park and on private lands in Waikane Valley. The unit also contains a few scattered elepaio territories in Waiahole State Forest Reserve. Thirteen percent of Unit 3 is currently occupied by elepaio. Designated lands include the existing subpopulations, and also provide for the expansion and recovery of existing subpopulations by including adjacent lands in Manaiki, Waimalu, Waimano, Manana, Waiawa, Kipapa, Kaukonahua, and Poamoho on the leeward (western) side, and in Waihee, Kaalaea, Waiahole, Waikane, and Kahana on the windward (eastern) side that are currently unoccupied but were occupied since 1975. Unit 3 also includes wet shrub land and cliff habitats along the Koolau summit that provide for dispersal of elepaio between the windward and leeward sides of the Koolau Mountains. The existing core subpopulations are geographically distant from each other and probably are isolated. Restoration of elepaio in intervening areas would increase the chances of dispersal and genetic exchange between subpopulations. Currently unoccupied habitat lies on the Oahu Forest National Wildlife Refuge, U.S. Army Schofield Barracks East Range, U.S. Army Fort Shafter, Ewa and Waiahole State Forest Reserves, Kahana Valley State Park, and 9 privately owned parcels. The narrow indentation in the southern portion of Unit 3 reflects the H–3 freeway and adjacent cleared areas in North Halawa Valley.

Unit 4: Kalihi-Kapalama

Unit 4 consists of approximately 804 ha (1,987 ac) encompassing the higher elevations of the leeward (western) side of the central Koolau Mountains above Kalihi and Kapalama. It is bounded on the north by the Likelike Highway and on the south by the Pali Highway. Natural features of the unit include the upper portions of Kalihi, Kamanaiki, and Kapalama valleys. Vegetation consists primarily of mixed-species wet and mesic forest composed of native and introduced plant species (Hawaii Heritage Program 1991). The higher elevations are primarily native forest dominated by ohia and koa, but the lower elevations are more disturbed and are dominated by introduced plant species. This unit is not known to contain any elepaio at present, but it was occupied within the last 20 years, still contains suitable forest habitat, and provides an important habitat stepping-stone that increases the chances of dispersal and genetic exchange between elepaio subpopulations in the central and southern Koolau units. This unit includes lands within the State of Hawaii Honolulu Watershed Forest Reserve, two parcels owned by the City and County of Honolulu, and 3 private parcels.

Unit 5: Southern Koolau Mountains

Unit 5 consists of approximately 4,180 ha (10,329 ac) encompassing the higher elevations of the southern Koolau Mountains. It is bounded on the west by the Pali Highway. Natural features of the unit include: the summit of the southern Koolau Mountains, including Konahuanui, the highest peak in the Koolau Range at 960 m (3,150 ft), the upper portion of Maunawili Valley on the windward (northern) side of the mountains, and the upper portions of numerous narrow valleys separated by steep ridges on the leeward side, including (from east to west) Kaalakei, Kuliouou, Kupaua, Pia, Kului, Wailupe, Kapakahi, Waialae Nui, Palolo, Manoa, Tantalus, and Pauoa. The vegetation consists primarily of mixed-species wet, mesic, and dry forest communities, with small areas of mesic shrub land and wet cliff plant communities (Hawaii Heritage Program 1991). The higher elevations are primarily native forest dominated by ohia and koa, but the lower elevations are more disturbed and are dominated by introduced plant species, particularly guava, kukui, christmasberry, and mango.

Unit 5 contains the largest remaining elepaio subpopulation, located in Kuliouou, Kupaua, Pia, Kului, Wailupe, Kapakahi, and Waialae Nui valleys, and two smaller elepaio populations located nearby in Palolo and Manoa valleys. Twenty-nine percent of Unit 5 is currently occupied by elepaio. The current distribution of elepaio in the southern Koolau Mountains represents a remnant of what was once a single, large, continuous population. In addition to protecting the largest remaining subpopulation and two smaller subpopulations, designated lands in Unit 5 provide for recovery through expansion of existing subpopulations by including currently unoccupied lands in Maunawili, Palolo, Manoa, Nuuanu, Tantalus, and Pauoa that were occupied since 1975 and contain the most preferred forest types. Designated lands in Unit 5 also provide for recovery by including shrub land and wet cliff habitats along the Koolau summit that are used for dispersal and link subpopulations on the windward and leeward sides of the Koolau Mountains, thereby increasing the potential genetic exchange and maintenance of optimal sex ratios. Restoration of elepaio in unoccupied lands in Tantalus and Pauoa at the western end of Unit 5 would increase the chances of dispersal and genetic exchange between the southern Koolau

subpopulation and the central Koolau subpopulation. Ownership within Unit 5 consists of the Honolulu Watershed, Maunawili, and Kuliouou State Forest Reserves, several parcels owned by the City and County of Honolulu, and nine private parcels.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out do not destroy or adversely modify critical habitat. Destruction or adverse modification occurs when a Federal action directly or indirectly alters critical habitat to the extent it appreciably diminishes the value of critical habitat for the conservation of the species. Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory.

We may issue a formal conference report, if requested by the Federal action agency. Formal conference reports include an opinion that is prepared according to 50 CFR 402.14, as if the species was listed or critical habitat was designated. We may adopt the formal conference report as the biological opinion when the species is listed or critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Through this consultation, the Federal action agency would ensure that the permitted actions do not destroy or adversely modify critical habitat.

If we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we would also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed if those actions may affect designated critical habitat.

Activities on Federal lands that may affect the elepaio or its critical habitat will require section 7 consultation. Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act, or some other Federal action, including funding (e.g., from the Federal Highway Administration, Federal Aviation Administration, Federal Emergency Management Agency, or Natural Resources Conservation Service) will also continue to be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat and actions on non-Federal lands that are not federally funded or permitted do not require section 7 consultation.

Section 4(b)(8) of the Act requires us to evaluate briefly in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. Activities that may result in the destruction or adverse modification of critical habitat include those that alter the primary constituent elements to an extent that the value of critical habitat for the survival and recovery of the elepaio is appreciably reduced. We note that such activities also may jeopardize the continued existence of the species. Activities that may directly or indirectly adversely affect critical habitat for the Oahu elepaio include, but are not limited to:

(1) Removing, thinning, or destroying elepaio habitat (as defined in the Primary Constituent Elements discussion), whether by burning, mechanical, chemical, or other means (e.g., woodcutting, grading, overgrazing, construction, road building, mining, herbicide application, etc.).

(2) Appreciably decreasing habitat value or quality as an indirect effect of an action (e.g., introduction or promotion of potential nest predators, diseases or disease vectors, vertebrate or invertebrate food competitors, or invasive plant species; forest fragmentation; overgrazing; augmentation of feral ungulate populations; water diversion or impoundment, groundwater pumping, or other activities that alter water quality or quantity to an extent that these activities affect vegetation structure or produce mosquito breeding habitat; and activities that increase the risk of fire).

To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat.

Actions likely to result in the destruction or adverse modification of critical habitat would almost always result in jeopardy to the species concerned, particularly when the area affected by the proposed action is occupied by the species concerned. In those cases, critical habitat provides little additional protection to a species, and the ramifications of its designation

are few or none. However, critical habitat designation in unoccupied areas may trigger consultation under section 7 of the Act where it would not have otherwise occurred if critical habitat had not been designated.

Federal agencies already consult with us on activities in areas currently occupied by the species to ensure that their actions do not jeopardize the continued existence of the species. These actions include, but are not limited to:

(1) Regulation of activities affecting waters of the United States by the Army Corps of Engineers under section 404 of the Clean Water Act;

(2) Regulation of water flows, damming, diversion, and channelization by Federal agencies;

(3) Development on private or State lands requiring permits from other Federal agencies, such as the Department of Housing and Urban Development;

(4) Military training or similar activities of the U.S. Department of Defense (Army and Navy) on their lands or lands under their jurisdiction at Schofield Barracks, Makua Military Reservation, Fort Shafter, Kawailoa Training Area, and Pearl Harbor Naval Magazine Lualualei Branch;

(5) Construction of communication sites licensed by the Federal Communications Commission;

(6) Road construction and maintenance, right-of-way designation, and regulation of agricultural activities by Federal agencies;

(7) Hazard mitigation and post-disaster repairs funded by the Federal Emergency Management Agency; and

(8) Activities not previously mentioned that are funded or authorized by the U.S. Department of Agriculture (Forest Service, Natural Resources Conservation Service), Department of Defense, Department of Transportation, Department of Energy, Department of the Interior (U.S. Fish and Wildlife Service, U.S. Geological Survey, National Park Service), Department of Commerce (National Oceanic and Atmospheric Administration), Environmental Protection Agency, or any other Federal agency.

If you have questions regarding whether specific activities would constitute adverse modification of critical habitat, contact the Field Supervisor, Pacific Islands Ecological Services Field Office (see **ADDRESSES** section). Requests for copies of the regulations on listed wildlife and plants and inquiries about prohibitions and permits should be directed to the U.S. Fish and Wildlife Service, Endangered Species Act Section 10 Program at the same address.

Exclusions Under Section 4(b)(2)

Section 4(b)(2) of the Act requires that we designate critical habitat on the basis of the best scientific and commercial information available, and that we consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat designation if the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species. We conducted an analysis of the economic impacts of designating these areas as critical habitat prior to a final determination. We find that in no area do the benefits of exclusion outweigh the benefits of inclusion, and we did not exclude any areas under Section 4(b)(2).

Currently, no habitat conservation plans (HCPs) include the Oahu elepaio as a covered species. However, we believe that in most instances the benefits of excluding HCPs from critical habitat designations will outweigh the benefits of including them. In the event that future HCPs are developed within the boundaries of proposed or designated critical habitat, we will work with applicants to ensure that the HCPs provide for protection and management of habitat areas essential for the conservation of this species. This will be accomplished by either directing development and habitat modification to nonessential areas, or appropriately modifying activities within essential habitat areas so that such activities will not adversely modify the critical habitat.

We will provide technical assistance and work closely with applicants throughout the development of any future HCPs to identify lands essential for the long-term conservation of the Oahu elepaio and appropriate management for those lands. The take minimization and mitigation measures provided under such HCPs would be expected to protect the essential habitat lands designated as critical habitat in this rule and provide for the conservation of the covered species. Furthermore, we will complete intra-Service consultation on our issuance of section 10(a)(1)(B) permits for these HCPs to ensure permit issuance will not destroy or adversely modify critical habitat.

Summary of Comments and Recommendations

In the proposed rule published on June 6, 2001 (66 FR 30372), we requested that all interested parties submit comments on the proposal. We also contacted all appropriate State and Federal agencies, county governments, landowners, and other interested parties and invited them to comment. In addition, we requested three expert ornithologists and conservation biologists to provide peer review of the proposed critical habitat designation. The first comment period closed on August 6, 2001 (66 FR 30372). The comment period was reopened from August 6 to September 6, 2001, to allow for comments on the draft economic analysis of the proposed critical habitat and additional comments on the proposed rule (66 FR 40960).

We received a total of 22 written comments during the two comment periods. Comments were received from 2 Federal agencies, 5 State agencies, 8 private organizations or individuals, and 3 peer reviewers. Four commenters provided comments in both comment periods. We reviewed all comments received for substantive issues and new data regarding critical habitat and the Oahu elepaio. Peer reviewer comments are summarized separately in the next paragraph. Public comments are grouped into 4 general issues relating to the proposed critical habitat determination and draft economic analysis, and are addressed in the following summary.

All three peer reviewers thought our methods for designating critical habitat were sound, the best available scientific information was used, and the relevant scientific literature, reports, and recent research were summarized adequately. All three also felt that inclusion of currently unoccupied areas was justified and well supported, and that the definition of primary constituent elements and the criteria used to identify critical habitat were comprehensive, valid, and justified. One reviewer commented that the short dispersal distances of elepaio offspring justify the inclusion of large tracts of contiguous forest. Two reviewers felt that the size and distribution of the units would allow for development of sustainable populations, but one reviewer expressed some doubt whether the amount of critical habitat proposed, which is similar to the area occupied in 1975, was sufficient to ensure the survival of the species, because the distribution in 1975 was unstable. Finally, one reviewer suggested that the importance of wet stunted forest and dry shrubland for dispersal should be more clearly demonstrated if possible. None of the reviewers provided new information about the biology or distribution of elepaio or about areas that should be considered essential to its conservation.

Issue 1: Biological Justification and Methodology

(1) *Comment:* Several commenters supported the CH designation and felt that critical habitat is needed because habitat loss is one of the primary causes in the decline of the Oahu elepaio.

Service Response: Habitat loss has been an important factor in the decline of the Oahu elepaio; 56 percent of the former range has been lost to urban and agricultural development.

(2) *Comment:* Several commenters supported the inclusion of unoccupied habitat due to the clear need for the elepaio to expand outside currently occupied areas if it is to recover.

Service Response: As stated in both the proposed rule and this final rule, the small population size and fragmented distribution of the Oahu elepaio make it vulnerable to extinction. Each of the currently occupied areas is too small to support a viable long-term population, and recovery will require restoration of elepaio in areas that were formerly inhabited.

(3) *Comment:* The area proposed as critical habitat is larger than necessary. One commenter stated that a smaller area than that proposed would meet all legal requirements and lessen the regulatory burden. Based on the area of the proposed critical habitat (26,853 ha, 66,354 ac) and the current population density of elepaio on Oahu (37.6 birds per square kilometer), the area proposed would provide habitat for 10,100 elepaio. The commenter asserted that elepaio occur at densities over 200 birds per square kilometer on other islands, that it is possible to attain densities of 50–100 elepaio per square kilometer on Oahu, so that less land is needed to support the same number of elepaio.

Service Response: The critical habitat designation was based on the distribution of lands required to support a viable population of elepaio, not on the amount of land required to support a certain number of elepaio. The viability of a population depends not only on the number of birds, but also on their distribution. We feel the distribution of lands in the designation, in large blocks of contiguous habitat, is necessary for the long-term conservation of elepaio on Oahu, as a large number of birds distributed in many tiny habitat fragments is less likely to persist than birds in a single large population or in several well-connected populations. We also believe the current density of elepaio on Oahu, 37.6 birds per square kilometer, is a reasonable estimate of the overall potential population density throughout the entire area designated as critical habitat. It probably will be possible to restore elepaio to densities of 50–100 birds per square kilometer in some large blocks of dense forest, but in other areas density probably will be lower than 37.6 birds per square kilometer because it will be difficult to establish populations in other portions of the former range. The density we used to estimate the potential population is an average value.

(4) *Comment:* Several commenters supported the designation of critical habitat on military lands, citing the threats from military training, particularly fire, to the elepaio.

Service Response: We included all areas containing the primary constituent elements that are essential to the conservation of the elepaio, regardless of ownership. We determined that no areas, including military lands, were sufficiently protected so as not to meet the definition of critical habitat under section 3(5)(A)(i)(II) of the Act, or qualified for exclusion from critical habitat under Section 4(b)(2) of the Act. Also see comments 6 and 7.

(5) *Comment:* Critical habitat designation is not appropriate in particular areas. One commenter stated it was not appropriate to designate critical habitat in areas that are not occupied by the elepaio, and that none of the physical or biological features necessary to the conservation of the species are present in unoccupied areas. The Army requested that an area southeast of Puu Pane be removed from Unit 1 because it is marginal habitat for the elepaio and has limited potential for recovery.

Service Response: All currently unoccupied areas designated as critical habitat were occupied by elepaio within the past 25 years, and these areas still contain the primary constituent elements needed by the elepaio. Even if the threats responsible for the decline of the elepaio were controlled, the existing subpopulations would be unlikely to persist because their small sizes and isolation make them vulnerable to extinction due to a variety of natural processes, such as inbreeding depression, loss of genetic variability due to genetic drift, decreased evolutionary potential and ability to cope with environmental change, random fluctuations in population size and sex ratio, and catastrophes such as hurricanes. Unoccupied areas that still contain the primary constituent elements are needed for recovery to allow the number of elepaio to increase. (Also see comment 2 and summary of reviewer's comments).

Since the proposed rule was published we visited the area southeast of Puu Pane with Army biologists, and we agree with the Army that it is marginal habitat for the elepaio and should not have been included in the proposed designation. Much of this area consists of exposed ridges and steep slopes that support dry shrubland, and most of the remainder is dominated by Eucalyptus robusta, an alien tree that is not favored by elepaio. The small forested areas in the dry gulches southeast of Puu Pane could support at most a few pairs of elepaio, and they are isolated from other forested areas and would not serve as habitat stepping stones between other subpopulations. In this final rule we removed 48 ha (119 ac) from the proposed rule that should not be designated as critical habitat.

(6) *Comment:* The U.S. Navy requested that lands in NAVMAG Pearl Harbor Lualualei Branch be excluded from the critical habitat designation because existing protections and management are sufficient, thereby resulting in their lands not requiring special management or protection and not meeting the definition of critical habitat under Section 3(5)(A) of the Act. The Navy also stated that it has prepared a full management strategy for the Oahu elepaio in the pending INRMP for NAVMAG Pearl Harbor Lualualei Branch, which includes an evaluation of population distribution, quality and quantity of nesting habitat, threats, and management needs for recovery. The Navy maintains that the management strategy in the INRMP provides adequate management and protection and should exempt NAVMAG Pearl Harbor Lualualei Branch from critical habitat.

Service Response: The primary threats to the elepaio, predation by alien rats and diseases carried by alien mosquitoes, have not been addressed on Navy lands. The Navy conducts predator control in a small wetland in Lualualei to protect endangered waterbirds, but this site is several kilometers from elepaio critical habitat and provides no benefit to elepaio. After reviewing the draft INRMP for NAVMAG Pearl Harbor Lualualei Branch, we have determined that it does not provide for adequate protection or management for the Oahu elepaio. The draft INRMP does not include a management strategy for the Oahu elepaio and does not provide an evaluation of population distribution, quality and quantity of nesting habitat, threats, and management needs for recovery.

We agree that INRMPs can provide adequate management and protection of military lands such that they no longer require critical habitat designation. To determine if an INRMP provides

adequate management or protection we consider: (1) Whether there is a current plan specifying the management actions and whether such actions provide sufficient conservation benefit to the species; (2) whether the plan provides assurances that the conservation management strategies will be implemented; and (3) whether the plan provides assurances that the conservation management strategies will be effective, i.e., provide for periodic monitoring and revisions as necessary. If all of these criteria are met, then under current Service policy the lands covered under the plan would no longer meet the definition of critical habitat.

(7) *Comment:* The U.S. Army stated that current management actions for the Oahu elepaio at Schofield Barracks and Makua Military Reservation and existing wildfire management programs afford adequate protection for the elepaio, suggesting these areas should be excluded from critical habitat.

Service Response: We agree that the Army has conducted some valuable management for the elepaio, but thus far only a small fraction of elepaio on Army lands have benefited from management activities such as rodent control, and the threat to elepaio at Schofield Barracks of wildfires resulting from training activities has not been managed adequately. Larger scale rodent control and improved fire management will be necessary to meet the long-term conservation needs of the elepaio. We have determined that current management does not adequately address the conservation needs of the Oahu elepaio, and that Army lands cannot be excluded from critical habitat under Section 3(5)(A)(i)(II).

(8) *Comment:* Before final designation, the Service should ground-truth all suitable habitat and the known range of elepaio to maximize the area available for recovery.

Service Response: The critical habitat designation was based on the best information available at the time, and included data from numerous surveys by university, State, military, and private biologists. We recognize that more information on habitat suitability and distribution of the elepaio would be useful, and the Service recently ground-truthed several areas. If new scientific information shows that there is a need to add or remove lands from the critical habitat, an amendment or correction to the designation could be considered.

Issue 2: Policy and Regulations

(9) *Comment:* Efforts by the Service to protect elepaio habitat must include incentives and support for landowners to manage habitat. Several commenters mentioned that they have ongoing management for elepaio, and four commenters urged the Service to provide financial and technical support to private landowners to implement additional voluntary predator control and habitat management.

Service Response: The Service agrees there is a need to provide financial and technical support to private landowners who would like to help recover listed species. Since the proposed rule was published, the Partners for Fish and Wildlife Program of the Service has provided a private land manager with money to manage elepaio habitat through the Hawaii Community-Based Endangered Species Conservation Initiative. The Service also is working, in collaboration with the State Department of Land and Natural Resources, to design potential Safe Harbor Agreements with private landowners under section 10 of the Act, in which the Service would provide technical support and up to 75 percent of the cost of managing habitat for elepaio recovery. One Safe Harbor Agreement is approved and funded, and there is potential to develop more. (see also comments 13 and 22).

(10) *Comment:* Several commenters questioned whether critical habitat designation would provide any benefit to the elepaio, particularly on privately owned lands with no Federal nexus. One commenter requested that, since there are no discernible benefits to including private lands in the designation, such lands be excluded under Section 4(b)(2) of the Act. Another commenter stated that the majority of land proposed as critical habitat already is protected by State conservation zoning, Natural Area Reserves, Forest Reserves, and watershed partnerships, and that critical habitat designation is not necessary and would duplicate existing zoning and land use protection.

Service Response: It is true that most (99.6%) of the critical habitat for the Oahu elepaio is in areas that already receive protection from State regulations, zoning restrictions, private preserves, and partnerships, but the critical habitat designation provides an additional type of protection that only affects actions carried out, funded, or permitted by the Federal Government. If actions with a Federal nexus occur on State, County, or private lands, then critical habitat designation will ensure that those actions do not adversely modify the habitat elements important to the elepaio. Over 39,000 acres of the critical habitat are in the Resource Subzone of the State Conservation District, which allows such actions as commercial forestry, mining, and extraction of any material or natural resource. An additional 1,136 acres are in the General Subzone of the Conservation District, which in addition to the activities listed above, allows farming, nurseries, orchards, and grazing. Critical habitat designation ensures that any of these actions on State conservation lands that involve a Federal nexus will not adversely modify critical habitat. Because State Conservation zoning already places limitations on land use, we expect very few if any economic impacts from the designation of critical habitat.

Critical habitat designation provides educational as well as regulatory benefits. Attention brought by critical habitat designation can help educate the public about the conservation needs of a species, aid landowners and managers in focusing and concerting management efforts, and can even result in increased funding opportunities (see response to comment 9).

(11) *Comment:* Critical habitat designation will result in expensive additional land management requirements for private landowners. There is no benefit to designating critical habitat on the property of a small landowner if they do not have the resources to manage the area and government agencies do not have access for management.

Service Response: Critical habitat designation does not require any additional management to be done by private landowners, State agencies, or the Federal Government. Critical habitat designation does not create a wilderness area or preserve; it does not require fencing, control of rodents, ungulates, or weeds; and it does not close an area to hunting or hiking. It requires only that actions carried out, funded, or permitted by the Federal Government must not destroy or adversely modify critical habitat. The decision to manage land to control threats to the elepaio, such as nest predation or disease, is separate from critical habitat designation and at the discretion of the landowner.

(12) *Comment:* Designation of critical habitat may discourage private landowners from entering cooperative management programs such as watershed partnerships, particularly if a landowner is concerned or uncertain about Federal regulations.

Service Response: The goals of watershed partnerships are compatible with the conservation needs of the Oahu elepaio and with the objectives of critical habitat. There is no reason that critical habitat designation should discourage private landowners from entering watershed partnerships. We

welcome the opportunity to discuss concerns or uncertainties about critical habitat regulations with any such partnership. Our Partnerships Program is actively involved in cooperative management programs, such as watershed partnerships, and helps guide and fund partnerships toward good land stewardship practices.

(13) *Comment:* Money spent on this and future regulatory processes to enforce critical habitat could be much better spent on management activities. More management, not more regulations, can best address the decline of the elepaio.

Service Response: We agree that greater management of threats such as predation and disease is needed for recovery of the elepaio, but habitat protection also is essential to the recovery of the elepaio, and critical habitat is a method of habitat protection. The Service provides financial and technical support for several elepaio recovery actions, and critical habitat designation can lead to increased funding opportunities for recovery actions (see comments 9 and 22).

(14) *Comment:* One commenter questioned the Service's policy not to include existing structures within the boundaries of the mapped critical habitat units because doing so could create confusion as to whether a given area contains the primary constituent elements and thus whether section 7 consultation is necessary.

Service Response: Within the critical habitat units there are numerous small structures that do not contain the primary constituent elements required by the elepaio, such as buildings, roads, aqueducts, water tanks, and antennas. Including such structures in the critical habitat designation would imply that they are required by the elepaio and therefore must be present for the elepaio to survive, which is not true and easily could be misinterpreted. In the text of the proposed rule we therefore stated that any such features within the critical habitat units are not included in the critical habitat designation. The alternative to describing such features in the text is to depict each one as a "hole" in the critical habitat. However, these structures are too small to be visible on a map and it was impossible to map every existing structure that does not contain the primary constituent elements. A few structures, such as the H–3 freeway and the Palehua Road, are large enough to be mapped.

(15) *Comment:* One commenter objected to the suggestion in the proposed rule that habitat cannot be "critical" unless it contains the primary constituent elements, and stated that for unoccupied areas the only relevant consideration is whether the area is essential for the conservation of the species. Some unoccupied areas may be degraded, but that does not mean they do not require protection from further adverse modification for the elepaio to have a chance at recovery.

Service Response: We recognize that areas outside the boundaries of the critical habitat may be suitable for elepaio recovery, and that it is possible, although perhaps expensive, to restore degraded areas that do not currently contain the primary constituent elements. The focus of critical habitat, however, is the area essential to the conservation of the species. For some species there may not be sufficient land available that contains the primary constituent elements, and it may be necessary to restore additional habitat in order to provide for the conservation of the species. In the case of the Oahu elepaio, we believe that the designated critical habitat does contain the areas essential to the conservation of the species, and that these lands alone are sufficient to provide for its recovery. This does not mean that areas outside the designated critical habitat units are not suitable and cannot be used for elepaio recovery, nor does it imply that they should not be protected or restored. It simply reflects our conclusions that sufficient lands are available that already contain the primary constituent elements.

(16) *Comment:* One commenter urged the Service not to exclude any areas containing the primary constituent elements, including areas covered by Conservation Agreements and Safe Harbor Agreements, that are being managed to address the conservation needs of the species and therefore allegedly do not meet the definition of critical habitat in Section 3(5)(A) of the Act because they do not require special management or protection.

Service Response: No areas were excluded from the designation on the basis that current management was adequate and special management or protection was not required. Currently there are no Conservation Agreements or Safe Harbor Agreements that include the Oahu elepaio.

(17) *Comment:* The inability to use flares and tracer ammunition at Schofield Barracks would require that the Army conduct all such training elsewhere, which would have tremendous economic impact and would adversely affect training readiness.

Service Response: Designation of critical habitat for the Oahu elepaio on Army lands would not necessarily prohibit any training activities or the use of any type of ammunition at Schofield Barracks. The critical habitat does not contain any lands used for training, but an impact area for live-fire training is adjacent to critical habitat. The primary potential effect on elepaio from military training at Schofield Barracks is the risk of wildfires that cross the firebreak road and burn forested areas comprising the critical habitat. If an adequate fire management plan is implemented and fires that affect critical habitat are controlled, there should be no effect on elepaio from military training and no changes needed to the types of training conducted at Schofield Barracks.

Although it would be possible, but more expensive, to conduct training with flares and tracer ammunition at an alternate site, we believe that moving such training is not necessary if the risk of fires resulting from use of such munitions at Schofield Barracks is adequately controlled. A detailed fire management plan has been prepared for nearby Makua Military Installation, but the draft INRMP for Schofield Barracks does not contain a full fire management plan and currently there are no specific procedures to control wildfires at Schofield Barracks. Because most of the critical habitat at Schofield Barracks is occupied by elepaio, the effect of military training on elepaio would require consultation under Section 7 of the Act even if critical habitat were not designated. Since the area is occupied by elepaio, consultations will point to a need for a fire management plan regardless of any CH designation, which, if adequately done, will moot any impact to the Army from the critical habitat designation. The Service expects to work with the Army on the development of a sound fire management plan for Schofield Barracks and on minimizing or mitigating potential impacts of training on the elepaio in ways that will not compromise training readiness.

Issue 3: Economic Issues

(18) *Comment:* Several commenters stated that critical habitat designation will have an adverse economic impact to private landowners, and requested that a particular area be excluded from designation under Section 4(b)(2) because costs outweigh benefits. One commenter pointed out that the draft economic analysis found that the area along Palehua Road might experience a large economic impact, and that exclusion of the area would not compromise conservation objectives, would maximize efficiency of private land use for commercial purposes, and

would not result in extinction of the species.

Service Response: Critical habitat designation would not affect any uses of private land unless actions on the land were carried out, funded, or somehow permitted by the Federal Government. The economic analysis showed that the economic impact of the proposed critical habitat designation would be minimal in most areas, and that only a few locations potentially could experience a moderate impact. Some of the areas where the economic impact might be moderate also are of high value to the elepaio, and we feel that the benefits of inclusion outweigh the benefits of exclusion.

Since publication of the proposed rule, we have re-evaluated the Palehua Road area and decided that for biological reasons it should not have been included in the proposed designation, and we removed it from the final designation (see Summary of Changes From the Proposed Rule).

(19) *Comment:* One commenter expressed concern about the impact of critical habitat designation on agricultural resources, particularly the water catchment and distribution facilities of the Waiahole Ditch (which is within the boundaries of Unit 3), and recommended that a corridor be established around the ditch excluding it from critical habitat. This ditch is the sole source of irrigation water for several thousand acres of agricultural land in south-central Oahu, and it will require periodic maintenance.

Service Response: Existing features and structures within the boundaries of the critical habitat units, such as the Waiahole Ditch, are not included in the critical habitat because they do not contain the primary constituent elements needed by the elepaio. Maintenance of these features and structures would only be affected by the critical habitat designation and would only require section 7 consultation if the maintenance is federally funded or permitted and if the action affected the species or the primary constituent elements in adjacent areas of critical habitat. It was not practical to create a corridor in the critical habitat around the Waiahole Ditch because the ditch is too small.

(20) *Comment:* One commenter objected to the draft Economic Analysis because it does not meet the requirements of the Tenth Circuit Court's opinion in *New Mexico Cattle Growers Association* v. *U.S. Fish and Wildlife Service*, No. 00–2050, May 11, 2001, which requires a full analysis of all economic impacts of a critical habitat designation, regardless of whether those impacts are attributable co-extensively to other causes.

Service Response: On May 11, 2001, the U.S. Court of Appeals for the Tenth Circuit issued a ruling that addressed the analytical approach used by the Service to estimate the economic impacts associated with the critical habitat designation for the southwestern willow flycatcher. *New Mexico Cattle Growers Association* v. *U.S. Fish and Wildlife Service*, 248 F.3d 1277 (10th Cir. 2001). Specifically, the court rejected the approach used by the Service to define and characterize baseline conditions. Defining the baseline is a critical step in an economic analysis, as the baseline in turn identifies the type and magnitude of incremental impacts that are attributed to the policy or change under scrutiny. In the flycatcher analysis, the Service defined baseline conditions to include the effects associated with the listing of the flycatcher and presented only the incremental effects of the rule.

We have revised the economic analysis for the Oahu elepaio through the Addendum to specifically address the Tenth Circuit Court's instructions. Specifically, the economic analysis quantifies, to the extent possible, the effects of section 7 in its entirety on current and planned activities that are reasonably expected to occur in the near future within proposed critical habitat. For these reasons we believe the economic analysis of the critical habitat designation for the Oahu elepaio meets the requirements of the Tenth Circuit Court's opinion.

Issue 4: Other Relevant Issues

(21) *Comment:* The Service and other agencies should work together in a cooperative fashion to benefit endangered species. The U.S. Navy commented that, although this critical habitat designation was generated as a result of litigation, that fact should not limit the ability of the Navy and the Service to work together. A State agency commended the Service for the process used in developing the critical habitat designation for the Oahu elepaio, and commented that State and Service biologists have worked together to identify and manage important habitat for the Oahu elepaio.

Service Response: We fully agree, and we expect to continue working closely with all Federal and State agencies and private landowners and managers in developing effective management for the elepaio and other endangered species. We see no reason that this designation, or any other action that results from litigation, should affect existing positive working relationships.

(22) *Comment:* Current management efforts fall short of meeting the conservation needs of the Oahu elepaio. Recovery of the elepaio will require larger, landscape-scale management, more funding, and possibly different methods, such as aerial broadcast of rodenticide to control rodents.

Service Response: We agree that current management is not sufficient and that recovery of the elepaio will require not just habitat protection but large-scale active habitat management. Both the proposed rule and this final rule clearly state that additional management will be necessary for recovery of the elepaio. The Service has provided technical assistance with rodent control to the U.S. Army, the U.S. Navy, the State, and private land managers, and financial support for rodent control to the State and private managers. We also are actively involved in obtaining EPA registration for aerial broadcast of rodenticide, which will be an important tool in reducing the threat from nest predation by rats.

(23) *Comment:* The critical habitat designation for the Oahu elepaio directly conflicts with approved Federal recovery plans for 12 endangered plant species, which identify control of introduced plant species as a needed recovery action. The proposed rule identifies the primary constituent elements for the elepaio as wet, mesic, and dry forest composed of both native and introduced plant species. Preservation of a native forest ecosystem should be emphasized and protected over a mixed or introduced forest. Mixed or introduced forest should be excluded as a primary constituent element of elepaio habitat.

Service Response: Elepaio are generalized in habitat use and are able to occupy a variety of forest types composed of many different plants, including native and introduced species. Many areas currently occupied by elepaio contain mostly introduced plants, but this does not mean that elepaio must have those introduced plants to survive. The structure of the forest is more important to elepaio than the species of plants present. The plant species listed in the description of primary constituent elements are examples of common plants in areas suitable for elepaio; it is not necessary for all those species to be present. The critical habitat designation for the Oahu elepaio does not require or advocate the preservation of introduced forests over native forests. Recovery actions for endangered native plant species that involve removal of alien plants do not conflict with recovery of the elepaio, as long as the alien plant species are

replaced with native plant species and the vegetative cover is retained in the long term. To avoid this misconception in the final rule, the description of the primary constituent elements has been changed to wet, mesic, and dry forest composed of native or introduced plant species.

(24) *Comment:* Several commenters supported the critical habitat designation for the Oahu elepaio, citing the species cultural significance to the Hawaiian people, its uniqueness and value to the Hawaiian ecosystem, its intangible existence value, and the benefits it provides to human communities that cannot be measured.

Service Response: We recognize the cultural and natural significance of the Oahu elepaio. The elepaio is familiar to many people in Hawaii, and it has served as a symbol not only for the natural environment, but also for conservation and collaborative management. In addition to being a guardian spirit of Hawaiian canoe makers, the elepaio was prominent in legends and folklore. Elepaio are often the first birds to sing in the morning, and their songs were thought to warn spirits of the night that their work must end because dawn was approaching.

(25) *Comment:* Hunting for various mammals and game birds currently is authorized in portions of all five critical habitat units. Because nothing in the proposed rule indicates there will be a curtailment or cessation of hunting, it must be assumed that current authorized hunting programs will continue. A well-designed hunting program is a vital element of game management and overall conservation. If hunting is considered to have negative impacts, or a hunting program is considered for expansion or improvement, hunter groups should be involved in any discussions or planning.

Service Response: Alteration of native ecosystems by feral mammals is not one of the primary threats to the Oahu elepaio, and no changes in authorized hunting programs are expected as a result of critical habitat designation for the Oahu elepaio. The Service agrees that in many circumstances a well-designed hunting program can be an important component in the conservation of native ecosystems in Hawaii by helping to control excessive damage caused by large populations of feral mammals. Should a change in authorized hunting programs result from this critical habitat designation, the Service would work with State agencies and hunting groups to address any concerns.

Summary of Changes From the Proposed Rule

In the proposed rule we attempted to use Hawaiian language diacritical marks in the spelling of Hawaiian words, but there were numerous conversion errors and the marks were not printed correctly. We published a correction to the proposed rule (66 FR 46428) in which we said we would ensure that the marks are either used correctly or eliminated. In this final rule we eliminated the diacritical marks because we cannot ensure they will be printed properly in the short time before the court-ordered publication deadline. We recognize the importance of using the marks to accurately portray the pronunciation of Hawaiian words and we regret not being able to use them, but we feel that printing the marks incorrectly would be worse than not using them.

Based partly on public comments received on the proposed determination of critical habitat for the Oahu elepaio and partly on additional biological examination of several areas, we re-evaluated our proposed designation of critical habitat for the Oahu elepaio. This resulted in the removal for biological reasons of five relatively small areas totaling 207 ha (513 ac) in this final determination, including: (1) 48 ha (119 ac) in Unit 1 on Schofield Barracks West Range; (2) 31 ha (77 ac) in Unit 2 around the Palehua-Mauna Kapu road; (3) 63 ha (156 ac) in Unit 2 in Nanakuli Valley; (4) 49 ha (121 ac) in Unit 3 in Keaiwa Heiau State Recreation Area; and (5) 16 ha (40 ac) in Unit 5 in and around Lyon Arboretum in Manoa Valley. These areas comprise less than 1 percent of the area originally proposed. The designation is based on the distribution of lands needed to support a viable population, not on the amount of land required to support a certain number of birds. The lands in question were all located on the edge of one of the habitat units and were unlikely to serve as habitat stepping stones between other forested areas. A more detailed discussion and justification for removal of each of these areas is provided below.

On Schofield Barracks West Range we removed 48 ha (119 ac) in the area southeast of Puu Pane, which was the easternmost portion of Unit 1, because it is less suitable for elepaio than we realized. This area consists largely of exposed ridges, steep dry slopes that support dry shrub land, and open forest dominated by *Eucalyptus robusta*, an introduced tree not favored by elepaio. The gulches contain small areas of more mesic forest that could support a few pairs of elepaio, but these areas are isolated from other suitable forest and would not provide habitat stepping stones between other elepaio subpopulations.

As a result of the economic analysis and information provided to us during the public comment period on the proposed rule, we learned that the area along the Palehua Road at the southern edge of Unit 2 contains a large concentration of telecommunication antennas and associated facilities, several houses, and other structures. The forest has been largely removed due to the extensive development, and the existing vegetation is dominated by ironwood (*Casuarina* spp.) and *Eucalyptus robusta*, introduced trees that are not favored by elepaio. The existing structures in this area were not included in the proposed designation because they are developed features that do not contain the primary constituent elements required by elepaio, but to make this more explicit and clear, we removed a total of 31 ha (77 ac) in a corridor roughly 200 meters wide centered on the road between Palehua and Mauna Kapu. Of this area, 24 ha (60 ac) is privately owned and 7 ha (17 ac) is owned by the State.

In Nanakuli Valley we removed 63 ha (156 ac) from the southwest corner of Unit 2 because it is does not contain forest with the primary constituent elements needed by elepaio and is unlikely to be useful for dispersal. This valley is much drier than we previously realized and contains mostly dry shrubland and grassland. Portions of the valley are very steep and contain almost no vegetation. This area is on the very edge of the potential elepaio distribution and is unlikely to serve as a link to other subpopulations because of its location.

In Unit 3, we removed 49 ha (121 ac) that contained developed areas of the Keaiwa Heiau State Recreation Area, including roads, parking areas, campsites, picnic areas, and restrooms. These are developed features and do not contain the primary constituent elements needed by the elepaio, and as such were not included in the proposed critical habitat. To clarify this, in this final rule we have moved the boundary so it does not include the developed section of the recreation area, but the higher, undeveloped section of the recreation area is retained.

Finally, we removed 16 ha (40 ac) on the edge of Unit 5 that consisted of landscaped areas in and near Lyon Arboretum in Manoa Valley. The landscaped gardens in Lyon Arboretum are developed features that do not contain the primary constituent

elements needed by the elepaio, and as such were not included in the proposed designation. To clarify this, in this final rule we moved the boundary so it does not include the lower, developed section of the arboretum, but it still contains the higher, undeveloped section.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial data available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat, but we cannot exclude such areas from critical habitat if the exclusion will result in the extinction of the species.

In the addendum, the methodology was modified to more fully describe and explore the baseline conditions attributable to the listing of the elepaio. This change in methodology is consistent with the planned modification discussed in the Foreword to the DEA, and is consistent with the ruling of the Tenth Circuit Court concerning the analytical approach used by the Service to estimate economic impacts. The results of the analysis cover economic impacts that are attributable to (1) both the listing of the elepaio as an endangered species and its critical habitat designation and (2) just the critical habitat designation. In general, cost and benefit estimates were not developed for projects and activities in cases where: (1) The economic impacts attributable to both the listing and the critical habitat are expected to be small, (2) the probability of the impacts occurring is small, (3) the impacts are highly speculative, or (4) data needed to quantify the impacts are not reasonably available.

An analysis of the economic impacts of critical habitat designation for the Oahu elepaio was prepared by Decision Analysts Hawaii, Incorporated, under subcontract to the Service through Industrial Economics, Incorporated, and was made available for public review from August 6 through September 6, 2001 (66 FR 40960). The final analysis, which reviewed and incorporated public comments, concluded that no significant economic impacts are expected from critical habitat designation. Few new developments, land uses, or other activities are expected in the critical habitat units because of the mountainous terrain, poor access, and existing conservation zoning. Most current and planned projects and land uses in the critical habitat areas have no Federal involvement, and thus would not be affected by critical habitat designation. Most activities with a Federal nexus involve the operation and management of existing facilities, and also would not be affected by critical habitat designation. The primary economic impact on most activities would be a small cost associated with an increased number of section 7 consultations and an increased length of time required for consultations resulting from critical habitat. There may be a modest economic impact of critical habitat designation on lands owned or controlled by the Department of Defense.

A copy of the final economic analysis and supporting documents are included in our administrative record and may be obtained by contacting the Pacific Islands Field Office (see **ADDRESSES** section). Copies of the final economic analysis also are available on the Internet at *http://pacificislands.fws.gov/wesa/endspindex.html*.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document has been reviewed by the Office of Management and Budget (OMB). OMB makes the final determination of significance under Executive Order 12866.

(a) This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis therefore is not required. The Oahu elepaio was listed as an endangered species in April 2000. In fiscal years 2000 through 2001 we have conducted two informal section 7 consultations with other Federal agencies to ensure that their actions would not jeopardize the continued existence of the Oahu elepaio. We have not issued any section 10(a)(1)(B) incidental take permits for the elepaio.

Under the Act, critical habitat may not be adversely modified by a Federal agency action; critical habitat does not impose any restrictions on non-Federal persons or agencies unless they are conducting activities funded or otherwise sponsored, authorized, or permitted by a Federal agency. Section 7 requires Federal agencies to ensure that they do not jeopardize the continued existence of this species. Based upon our experience with this species and its needs, we conclude that any Federal action or authorized action that could potentially cause adverse modification of proposed critical habitat would currently be considered as "jeopardy" under the Act in areas occupied by the species. Accordingly, the designation of currently occupied areas as critical habitat does not have any impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding beyond the existing impacts. The designation of areas as critical habitat where section 7 consultations would not have occurred but for the critical habitat designation may have impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons who receive Federal authorization or funding that are not attributable to the species listing. These impacts were evaluated in our economic analysis (under section 4 of the Act; see Economic Analysis section of this rule). Non-Federal persons or agencies that do not have Federal involvement in their actions are not restricted by the designation of critical habitat.

(b) This rule will not create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions do not jeopardize the continued existence of the Oahu elepaio since its listing in April 2000. We evaluated the impact of designating areas where section 7 consultations would not have occurred but for the critical habitat designation in our economic analysis (see Economic Analysis section of this rule). The prohibition against adverse modification of critical habitat is not expected to impose any additional restrictions to those that currently exist on currently occupied lands and will not create inconsistencies with other agencies' actions on unoccupied lands. Specifically, construction and land management activities carried out by the Service on the newly created Oahu Forest National Wildlife Refuge are expected to benefit the elepaio and other listed species in the long term, and those actions therefore will not be affected by this designation. Storage of munitions by the U.S. Navy at NAVMAG Pearl Harbor Lualualei Branch is not expected to be affected by this designation because the lands used for munitions storage and those designated as critical habitat do not overlap, and storage of munitions on adjacent lands does not affect the elepaio. Training by the U.S. Army at Makua Military Reservation and Schofield Barracks is not expected to be affected by this designation because

wildfires caused by training exercises are the only means by which training may affect the elepaio, and the Army has implemented a detailed fire management plan for Makua and soon plans to implement a fire management plan for Schofield Barracks.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of a listed species, and, as discussed above, we do not anticipate that the adverse modification prohibition resulting from critical habitat designation will result in additional restrictions.

(d) OMB has determined that this rule raises novel legal or policy issues. Therefore, this rule is significant under E.O. 12866, and, as a result, has undergone OMB review.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic effect on a substantial number of small entities. The SBREFA also amended the Regulatory Flexibility Act to require a certification statement. In this rule, we are certifying that the critical habitat designation for the Oahu elepaio will not have a significant effect on a substantial number of small entities. The following discussion explains our rationale.

Small entities include small organizations, such as independent non-profit organizations, small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses. Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule as well as the types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if the rule would affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (e.g., housing development, grazing, oil and gas production, timber harvesting, etc.). We apply the "substantial number" test individually to each industry to determine if certification is appropriate. In some circumstances, especially with critical habitat designations of limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the numbers of small entities potentially affected, we also consider whether their activities have any Federal involvement. Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation.

In areas where the species is present, Federal agencies already are required to consult with us under section 7 of the Act on activities that they fund, permit, or implement that may affect the Oahu elepaio. Federal agencies also must consult with us if their activities may affect critical habitat. Designation of critical habitat therefore could result in an additional economic impact on small entities due to the requirement to reinitiate consultation for ongoing Federal activities. However, since the Oahu elepaio was proposed for listing in October 1998, we have conducted only two informal consultations and one formal consultation, involving the Oahu Forest National Wildlife Refuge and the U.S. Army. As a result, the requirement to reinitiate consultation for ongoing projects will not affect any small entities.

In areas where the species clearly is not present, designation of critical habitat could trigger additional review of Federal activities under section 7 of the Act. We are aware of relatively few activities in the critical habitat for the Oahu elepaio that have Federal involvement and thus would require consultation or reinitiation of already-completed consultations for ongoing projects. Moreover, no activities currently undertaken by small entities in the critical habitat units have Federal involvement, nor, for the reasons explained herein, would Federal involvement be expected in the future, and thus we do not anticipate that this designation of critical habitat will result in any additional regulatory impacts to small entities.

Current activities with Federal involvement that will require consultation are; training by the U.S. Army; storage of munitions by the U.S. Navy; Federally funded land management and wildlife restoration and game-hunting projects; and improvements to communications facilities that require approval from the FCC. We are not aware of any additional projects that have been proposed, but potential future activities that might have Federal involvement include; maintenance of water diversion and flood control facilities that may require authorization from the Army Corps of Engineers under Section 404 of the Clean Water Act; watershed and restoration management projects sponsored by NRCS; projects to improve access and management for the Oahu Forest National Wildlife Refuge. The requirement in section 7(a)(2) to avoid jeopardizing listed species and destroying or adversely modifying designated critical habitat may result in Federal agencies requiring certain modifications to proposed projects.

The five critical habitat units identified in this rule consist of 15, 6, 37, 12, and 43 parcels, of which 0, 1, 16, 3, and 12 parcels are owned by 0, 1, 11, 3, and 9 different small entities, respectively. The majority of parcels are owned by the Federal government, the State of Hawaii, and the City and County of Honolulu, which are not small entities.

Of the lands designated as critical habitat for the Oahu elepaio, 99.6% are zoned for conservation. Projected uses of these lands consist of; recreation (hiking, camping, hunting, and fishing); protection of natural and cultural resources, including threatened and endangered species; watershed protection and management; ecotourism; and in certain areas, harvesting of natural resources under an approved management plan. As discussed in the economic analysis,

most of the critical habitat lands are in mountainous areas where access is difficult due to the steep terrain, and these lands are not suited to development or agriculture. Because use of the vast majority of lands designated as critical habitat already is limited by existing zoning regulations and mountainous terrain with difficult access, we do not anticipate a significant decline in property values as a result of this critical habitat designation.

Unit 5 includes a portion of one parcel in Wailupe Valley that is zoned for urban use and is occupied by elepaio. Residential development of this parcel was considered before 1970, but was abandoned due to the unstable nature of the soil in this area. The parcel recently was purchased by the City and County of Honolulu, and future development is unlikely. Unit 2 includes one parcel owned by the U.S. Navy that is partially zoned for agriculture, but this area is very dry and access is restricted by the Naval installation, making agriculture unlikely.

In general, two different mechanisms in section 7 consultations could lead to additional regulatory requirements. First, if we conclude, in a biological opinion, that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer "reasonable and prudent alternatives." Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid jeopardizing the continued existence of listed species or resulting in adverse modification of critical habitat. A Federal agency and an applicant may elect to implement a reasonable and prudent alternative associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. An agency or applicant could alternatively choose to seek an exemption from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless an exemption were obtained, the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives. Secondly, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal species, we may identify reasonable and prudent measures designed to minimize the amount or extent of take and require the Federal agency or applicant to implement such measures through non-discretionary terms and conditions. We may also identify discretionary conservation recommendations designed to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to develop information that could contribute to the recovery of the species.

Based on our experience with section 7 consultations for all listed species, virtually all projects-including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations-can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures, by definition, must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. As we have a very limited consultation history for the Oahu elepaio, we can only describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. These are based on our understanding of the needs of the species and the threats it faces, as described in the final listing rule and this critical habitat designation. The kinds of actions that may be included in future reasonable and prudent alternatives include; conservation set-asides; management of non-native predators, particularly black rats; management of non-native mosquitoes that carry non-native avian diseases; restoration of degraded habitat; and regular monitoring. These measures are not likely to result in a significant economic impact to project proponents.

As required under section 4(b)(2) of the Act, we conducted an analysis of the potential economic impacts of this critical habitat designation, and that analysis was made available for public review and comment before finalization of this designation. Based on estimates provided in the economic analysis, the potential economic impact of critical habitat designation for the Oahu elepaio over the next 10 years ranged from $296,000 to $1,347,000, of which the cost to small entities ranged from $40,000 to $60,000. The high estimate of the total potential impact includes control of alien rodents in all Army and navy installations, which probably will not be required as a result of critical habitat designation, and implementation of a fire management plan at Schofield Barracks, which also is attributable to other purposes, so the lower estimate of $296,000 is a more realistic estimate of the impact attributable to the critical habitat designation. The estimate of the potential impact to small entities varied depending on the number of small entities attempting to investigate the implications of critical habitat designation on their land.

In summary, we have considered whether this rule would result in a significant economic effect on a substantial number of small entities. It would not affect a substantial number of small entities. The entire critical habitat designation involves fewer than 120 parcels, only 32 of which are owned by 23 different small entities. All of these parcels are zoned for conservation, and most of these parcels are located in mountainous areas where access is limited. Future uses of these lands are already limited, and are not expected to have Federal involvement or result or section 7 consultations. This rule would result in project modifications only when proposed Federal activities would destroy or adversely modify critical habitat. While this may occur, it is not expected frequently enough to affect a substantial number of small entities. Even when it does occur, we do not expect it to result in a significant economic impact, as the measures included in reasonable and prudent alternatives must be economically feasible and consistent with the proposed action. The kinds of measures we anticipate we would provide can usually be implemented at very low cost. Therefore, we are certifying that the designation of critical habitat for the Oahu elepaio will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis is not required.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

In the economic analysis, we determined whether designation of critical habitat would cause (a) any effect on the economy of $100 million or more, (b) any increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Refer to the final economic analysis for a discussion of the effects of this determination.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) This rule will not "significantly or uniquely" affect small governments. A

Small Government Agency Plan is not required. Small governments will only be affected to the extent that they must ensure that any programs involving Federal funds, permits or other authorized activities will not adversely affect the critical habitat.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year, that is, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments.

Executive Order 13211

On May 18, 2001, the President issued Executive Order EO 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this is a significant regulatory action under Executive Order 12866, this final rule is not expected to significantly affect energy supplies, distribution, or use, therefore this action is not a significant energy action and no Statement of Energy Effects is required.

Takings

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we have analyzed the potential takings implications of designating critical habitat for the Oahu elepaio in a takings implication assessment. The takings implications assessment concludes that this final rule does not pose significant takings implications.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. As discussed above, the designation of critical habitat in areas currently occupied by the Oahu elepaio would have little incremental impact on State and local governments and their activities. The designations may have some benefit to these governments in that the areas essential to the conservation of these species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are identified. While this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning rather than waiting for case-by-case section 7 consultation to occur.

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and does meet the requirements of sections 3(a) and 3(b)(2) of the Order. We designate critical habitat in accordance with the provisions of the Act. The proposed rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the Oahu elepaio.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any information collection requirements for which Office of Management and Budget approval under the Paperwork Reduction Act is required.

National Environmental Policy Act

We have determined that an Environmental Assessment or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act. A notice outlining our reason for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244). This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations With Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a government-to-government basis. The designation of critical habitat for the Oahu elepaio does not contain any Tribal lands or lands that we have identified as impacting Tribal trust resources.

References Cited

A complete list of all references cited in this proposed rule is available upon request from the Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this document is Eric A. VanderWerf, Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h) revise the entry for "Elepaio, Oahu" under "BIRDS" to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
BIRDS							

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
Elepaio, Oahu	*Chasiempis sandwichensis ibidis (Chasiempis sandwichensis gayi).*	U.S.A. (HI)	Entire	E	696	17.95(b)	NA
*	*	*	*	*	*	*	

3. Amend § 17.95(b) by adding critical habitat for the Oahu elepaio (*Chasiempis sandwichensis ibidis*) in the same alphabetical order as this species occurs in § 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(b) Birds.

* * * * *

Oahu elepaio (*Chasiempis sandwichensis ibidis*)

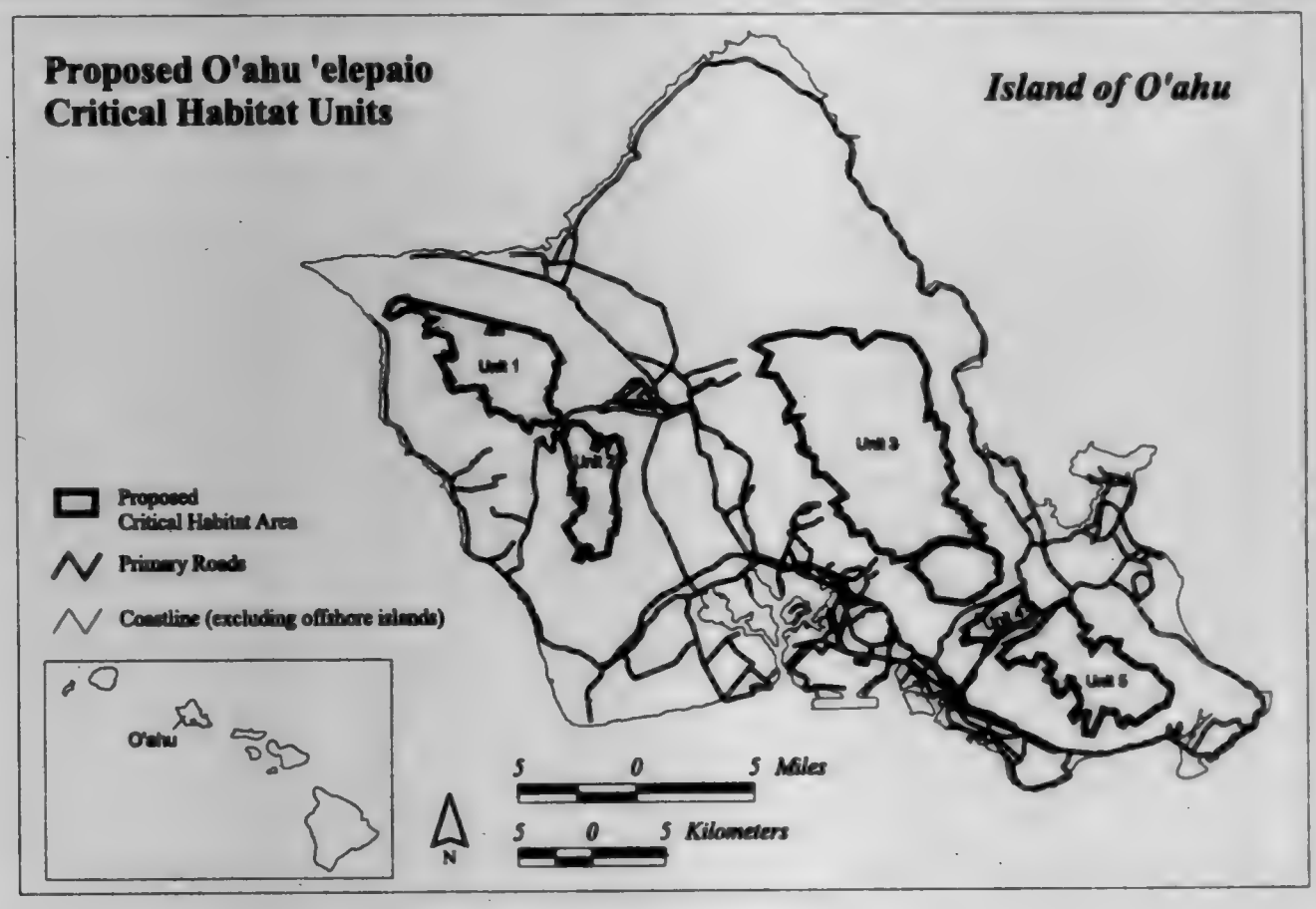
(1) Critical Habitat Units are depicted for the City and County of Honolulu on the maps below.

(2) (i) Within these areas, the primary constituent elements required by the Oahu elepaio are those habitat components that are essential for the biological needs of foraging, sheltering, roosting, nesting, and rearing of young. These primary constituent elements are undeveloped wet, mesic, and dry forest habitats with a generally continuous canopy and a dense understory and that are composed of native and/or introduced plant species. Such forests are found in valleys and on mountain slopes and ridges. The primary constituent elements associated with the biological needs of dispersal and genetic exchange are undeveloped wet or dry shrub land and wet or dry cliff habitats composed of native and/or introduced plant species that separate elepaio populations. Elepaio may not establish territories in shrub or cliff habitats and may use them only transiently, but undeveloped areas containing these habitats are important for linking populations by providing dispersal corridors and promoting genetic exchange among populations.

(ii) Within the forests and shrub lands providing the primary constituent elements, plant species composition varies with rainfall, elevation, and degree of habitat disturbance, and plant species occur in a variety of assemblages. Common native and introduced species within these plant assemblages include, but are not limited to, ohia (*Metrosideros polymorpha*), koa (*Acacia koa*), papala kepau (*Pisonia umbellifera*), lama (*Diospyros sandwicensis*), mamaki (*Pipturus albidus*), kaulu (*Sapindus oahuensis*), hame (*Antidesma platyphyllum*), alaa (*Pouteria sandwicensis*), aalii (*Dodonaea viscosa*), naupaka kuahiwi (*Scaevola spp.*), pukiawe (*Styphelia tameiameiae*), uluhe (*Dicranopteris linearis*), guava (*Psidium guajava*), strawberry guava (*P. cattleianum*), mango (*Mangifera indica*), kukui (*Aleurites moluccana*), christmasberry (*Schinus terebinthifolius*), ti (*Cordyline terminalis*), rose apple (*Syzygium jambos*), mountain apple (*S. malaccense*), and Java plum (*S. cumini*).

(3) Existing developed features and structures, such as buildings, roads, aqueducts, antennas, water tanks, agricultural fields, paved areas, lawns, and other urban landscaped areas, that do not contain one or more of the primary constituent elements, are not included as critical habitat.

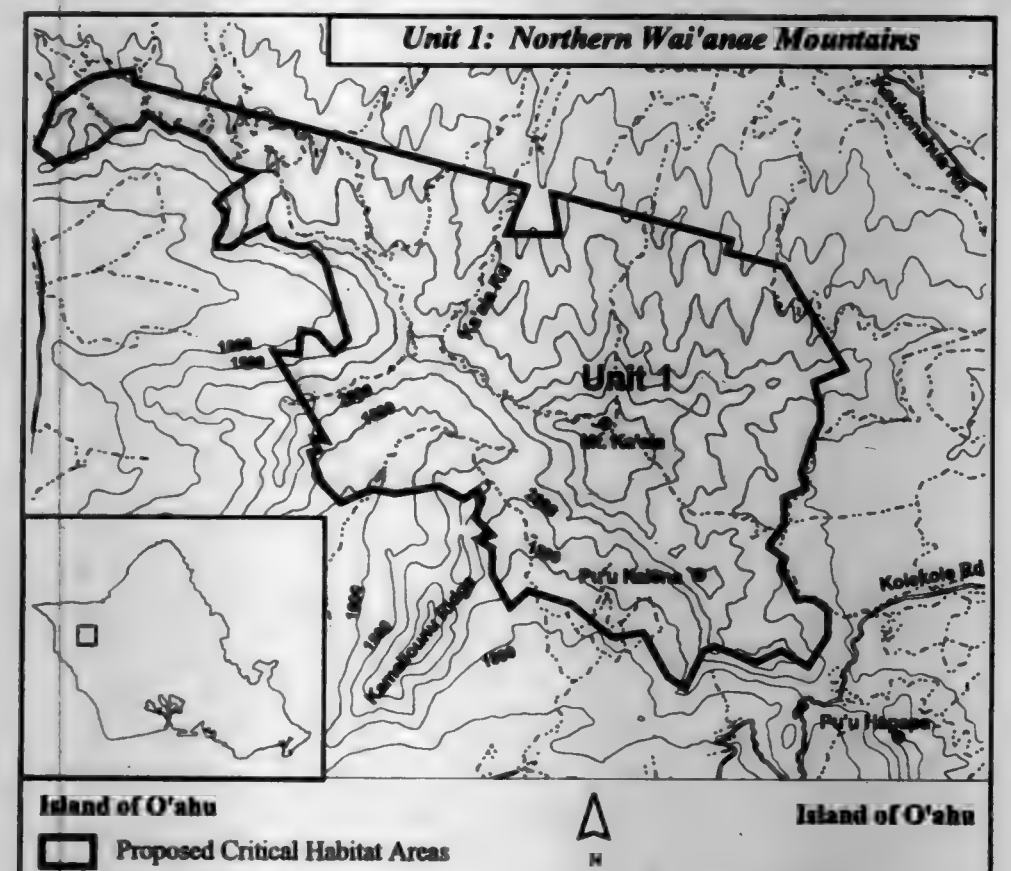
(4) Map of critical habitat units for the Oahu elepaio follows.



(5) Unit 1 (4,454 ha; 11,005 ac)

(i) Unit 1 consists of 94 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 588465, 2375750; 587846, 2376228; 587213, 2376416; 586946, 2376176; 586675, 2376658; 586672, 2377028; 586468, 2377154; 586672, 2377219; 586430, 2377462; 586532, 2377741; 586464, 2377863; 586261, 2377727; 585895, 2377915; 585242, 2377801; 584907, 2377864; 584433, 2377671; 584139, 2377961; 583974, 2378388; 584099, 2378414; 584016, 2378599; 584207, 2378563; 583425, 2379849; 583801, 2379814; 583831, 2380171; 584075, 2380122; 584324, 2379841; 584526, 2380031; 584181, 2381150; 584078, 2381295; 583938, 2381385; 583738, 2381388; 583402, 2381505; 583315, 2381668; 582998, 2381518; 582785, 2381368; 582566, 2381369; 582561, 2381485; 582694, 2381702; 582685, 2381865; 582566, 2382005; 582651, 2382112; 583122, 2382432; 582768, 2382529; 582445, 2382889; 581998, 2383075; 581881, 2383019; 581546, 2383276; 581387, 2383071; 581221, 2383069; 581023, 2383019; 580811, 2382809; 580192, 2382557; 580070, 2382662; 579894, 2382772; 580060, 2383144; 580151, 2383425; 580526, 2383690; 580750, 2383802; 581314, 2383901; 581353, 2383719; 587168, 2382252; 586876, 2381574; 587645, 2381564; 587539, 2382159; 590187, 2381495; 590131, 2381324; 590955, 2381123; 591864, 2379621; 591408, 2379439; 591501, 2379125; 591510, 2378867; 591393, 2378631; 591229, 2378138; 591294, 2377905; 590979, 2377773; 590984, 2377387; 590770, 2377109; 590760, 2377063; 590999, 2376896; 590945, 2376772; 591176, 2376297; 591268, 2376320; 591426, 2376305; 591624, 2376158; 591620, 2375793; 591334, 2375340; 590950, 2375570; 590580, 2375400; 589956, 2375632; 589799, 2375555; 589539, 2375014; 589285, 2375190; 588919, 2375824; 588465, 2375750.

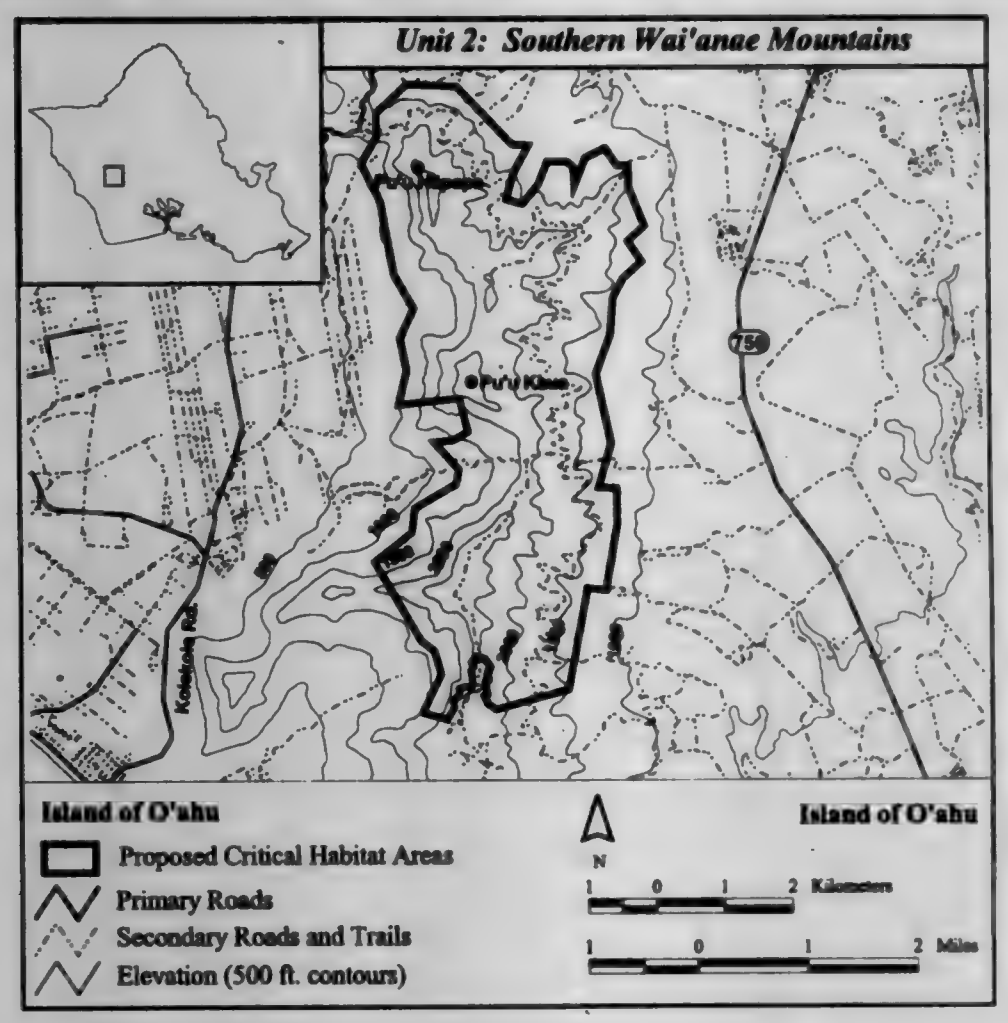
(ii) Map of Unit 1 follows.



(6) Unit 2 (2,422 ha; 5,985 ac)

(i) Unit 2 consists of 78 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 592645, 2367498; 591970, 2368628; 592530, 2369066; 592575, 2369415; 593190, 2369759; 593231, 2369971; 592864, 2370362; 593156, 2370385; 593368, 2370513; 593249, 2370991; 592348, 2370899; 592469, 2371381; 592374, 2371861; 592582, 2372284; 592295, 2372774; 592100, 2373836; 591816, 2374384; 592053, 2374764; 592045, 2375115; 592504, 2375529; 593245, 2375497; 594056, 2374659; 594299, 2374644; 594081, 2374253; 593970, 2373860; 594207, 2373793; 594437, 2374070; 594578, 2374412; 594867, 2374406; 594965, 2374331; 594978, 2374067; 595140, 2374463; 595431, 2374602; 595604, 2374352; 595772, 2374351; 595782, 2374020; 596005, 2373471; 595754, 2373256; 595960, 2372960; 595678, 2372709; 595531, 2372434; 595485, 2371908; 595272, 2371337; 595489, 2370340; 595296, 2369703; 595561, 2369694; 595565, 2369178; 595390, 2368213; 595117, 2368245; 594830, 2366778; 594015, 2366560; 593884, 2366525; 593756, 2366491; 593635, 2366570; 593574, 2366695; 593629, 2366713; 593594, 2366869; 593651, 2366917; 593639, 2367019; 593682, 2367104; 593591, 2367228; 593472, 2367265; 593388, 2367176; 593425, 2367112; 593379, 2367045; 593395, 2367010; 593413, 2366861; 593391, 2366809; 593307, 2366826; 593203, 2366792; 593207, 2366684; 593121, 2366632; 593137, 2366521; 593030, 2366348; 592668, 2366451; 592945, 2366998; 592852, 2367332; 592645, 2367498.

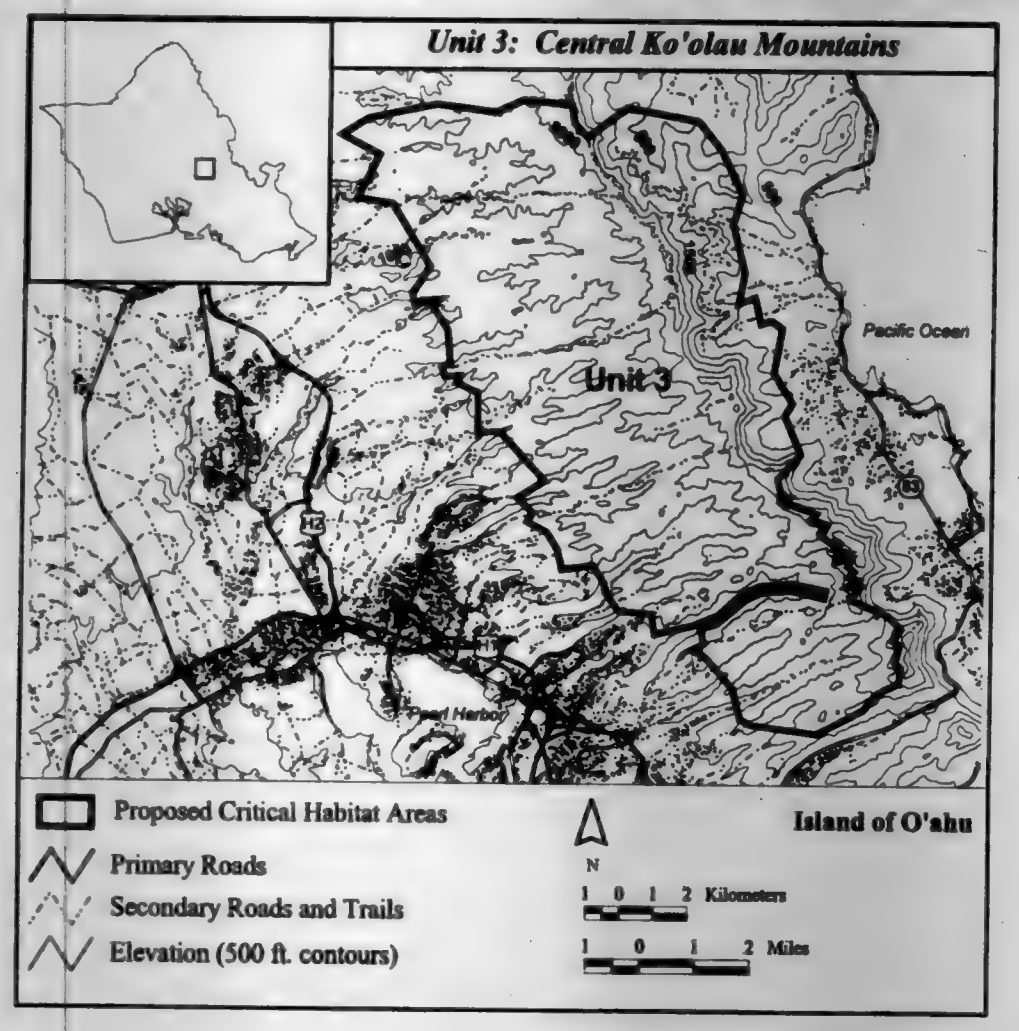
(ii) Map of Unit 2 follows.



(7) Unit 3 (14,801 ha; 36,573 ac)

(i) Unit 3 consists of 108 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 615481, 2366443; 614313, 2366190; 614232, 2366761; 613262, 2366836; 612845, 2367394; 612829, 2367639; 612488, 2368140; 611561, 2368027; 611448, 2368566; 611117, 2369088; 610523, 2369387; 610693, 2369643; 610226, 2370083; 611040, 2370565; 609681, 2371985; 609025, 2371951; 609034, 2373100; 608391, 2373401; 608469, 2373609; 608065, 2373567; 607941, 2373859; 608199, 2373978; 608109, 2374925; 607637, 2375635; 607869, 2375817; 607456, 2375780; 607136, 2375598; 607046, 2375977; 607565, 2376766; 606428, 2378568; 605381, 2378725; 606026, 2379972; 604900, 2380551; 605708, 2381032; 607698, 2381439; 609468, 2381214; 610319, 2381573; 611728, 2381425; 611797, 2380904; 612201, 2380506; 613364, 2381362; 615459, 2380980; 616152, 2380161; 616780, 2378903; 616513, 2378013; 616873, 2376632; 616699, 2375737; 617180, 2375933; 617356, 2375158; 617664, 2375259; 617994, 2375029; 617757, 2373739; 618311, 2372859; 618082, 2372506; 618563, 2371385; 617894, 2370668; 618022, 2370181; 618247, 2370148; 618043, 2370014; 619043, 2369685; 618878, 2369509; 619381, 2369376; 619182, 2369040; 619525, 2368805; 619611, 2368922; 619747, 2368829; 619588, 2368664; 619928, 2368585; 619650, 2368496; 619614, 2368284; 620097, 2368401; 619967, 2368174; 620164, 2368022; 620005, 2367870; 620257, 2367795; 619954, 2367590; 620341, 2367572; 620055, 2367214; 621150, 2366779; 621549, 2366388; 621302, 2366064; 621511, 2365913; 621381, 2365424; 621553, 2365265; 621489, 2364827; 620880, 2364530; 620469, 2364040; 619115, 2363338; 617176, 2363590; 616868, 2363761; 616638, 2364642; 615913, 2365439; 615777, 2365575; 615420, 2365753; 615767, 2365918; 615684, 2366361; 616156, 2366495; 616990, 2367187; 617469, 2367398; 618312, 2367466; 619282, 2367250; 619336, 2367460; 618293, 2367672; 617426, 2367594; 616876, 2367352; 616189, 2366748; 615713, 2366555; 615481, 2366443.

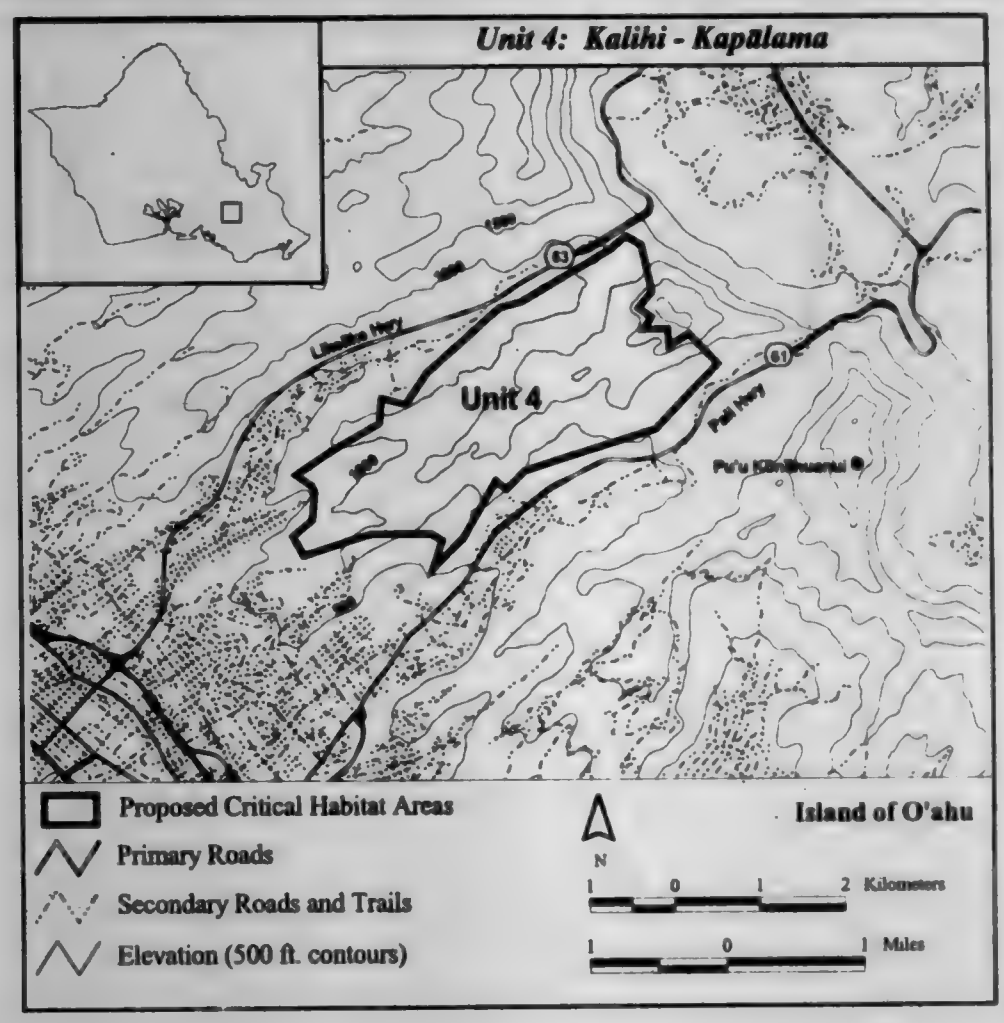
(ii) Map of Unit 3 follows.



(8) Unit 4 (804 ha; 1,987 ac)

(i) Unit 4 consists of 35 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 619449, 2361897; 619967, 2362184; 619999, 2362473; 620286, 2362404; 620537, 2362773; 621409, 2363520; 621660, 2363584; 622719, 2364191; 622901, 2364348; 623091, 2364242; 623209, 2363699; 623046, 2363507; 623201, 2363403; 623106, 2363264; 623391, 2363271; 623404, 2363073; 623634, 2363216; 623976, 2362864; 623238, 2362105; 621688, 2361633; 621467, 2361418; 621345, 2361518; 620954, 2360860; 620598, 2360514; 620700, 2360831; 620572, 2360908; 619869, 2360908; 619670, 2360852; 619064, 2360661; 618935, 2360886; 619170, 2361072; 619199, 2361402; 619163, 2361470; 618977, 2361595; 619449, 2361897.

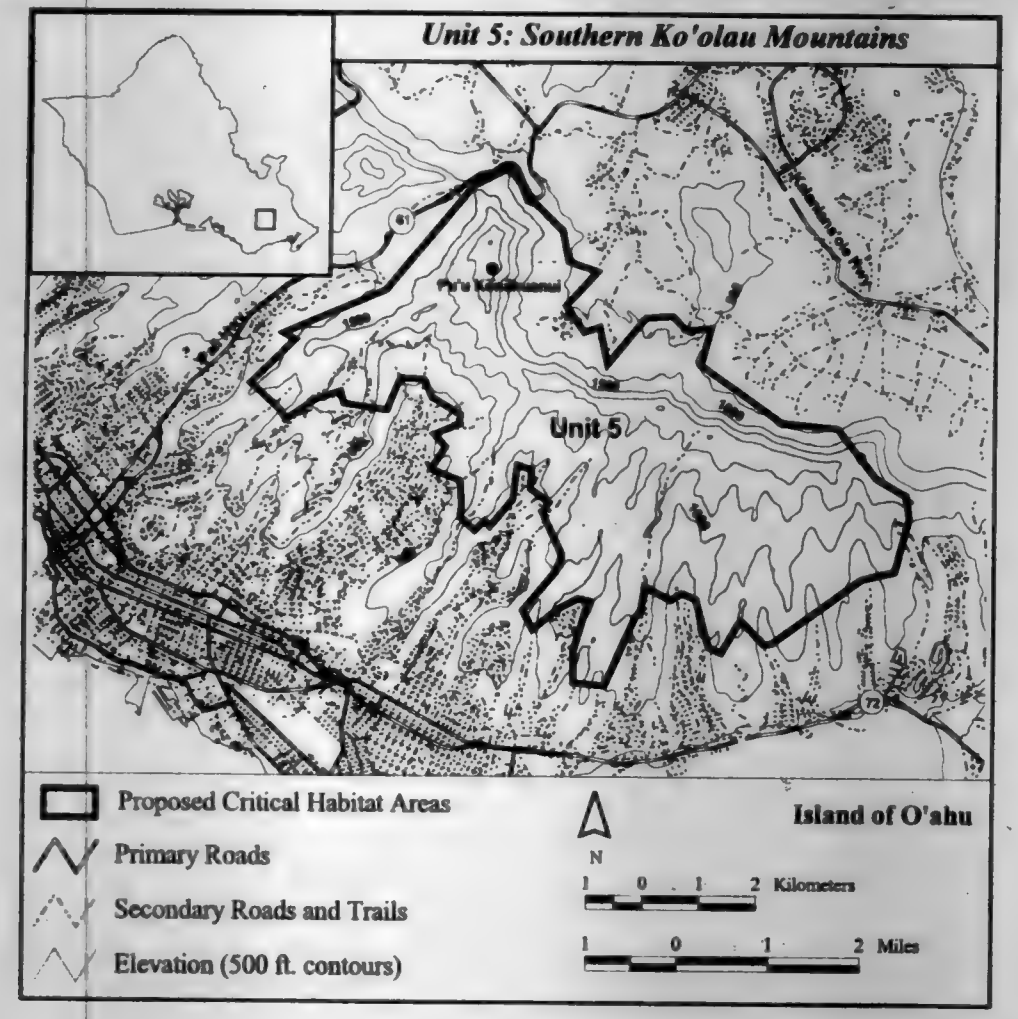
(ii) Map of Unit 4 follows.



(9) Unit 5 (4,180 ha; 10,329 ac)

(i) Unit 5 consists of 78 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 626915, 2356759; 626560, 2357502; 626675, 2357669; 626333, 2357906; 626359, 2358234; 626110, 2358313; 626031, 2357725; 625623, 2357254; 625538, 2357354; 625351, 2357186; 625091, 2357420; 625118, 2357617; 625085, 2358039; 624568, 2358236; 624821, 2358624; 624612, 2358850; 625059, 2359019; 625083, 2359182; 624571, 2359489; 624430, 2359798; 624013, 2359828; 623768, 2359261; 623004, 2359366; 622941, 2359584; 622499, 2359435; 621968, 2359088; 621864, 2359256; 621335, 2359722; 622127, 2360488; 621920, 2360603; 623746, 2361359; 625281, 2363179; 625896, 2363475; 626109, 2363219; 626146, 2363135; 626234, 2362910; 626392, 2362857; 626871, 2362399; 626986, 2361859; 627500, 2361686; 626946, 2361095; 627268, 2360638; 627548, 2360727; 627690, 2360077; 628361, 2360895; 628839, 2360922; 629079, 2360676; 629519, 2360722; 629341, 2360070; 630776, 2359069; 631754, 2358982; 632440, 2358108; 632959, 2357815; 633019, 2357425; 632769, 2356517; 632191, 2356385; 630620, 2355286; 630491, 2355266; 630104, 2355644; 630041, 2355624; 629732, 2355117; 629510, 2355214; 629279, 2356032; 629033, 2356130; 628836, 2356015; 628378, 2356236; 628317, 2355841; 628209, 2355703; 627673, 2354542; 627125, 2354591; 627125, 2355143; 627381, 2355990; 627200, 2356033; 626832, 2355846; 626399, 2355498; 626215, 2355823; 626806, 2356493; 626915, 2356759.

(ii) Map of Unit 5 follows.



Dated: November 20, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–29475 Filed 12–7–01; 8:45 am]

BILLING CODE 4310–55–P

Federal Register

Monday,
December 10, 2001

Part III

Department of the Treasury

Internal Revenue Service

Privacy Act of 1974, as Amended; System of Records; Notice

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974, as Amended; System of Records

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Internal Revenue Service, Treasury, is publishing its Privacy Act systems of records.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget (OMB) Circular No. A–130, the Internal Revenue Service (IRS) has completed a review of its Privacy Act systems of records notices to identify minor changes that will more accurately describe these records.

The changes throughout the document are editorial in nature and consist principally of changes to system locations and system manager addresses. Revisions have also been made due to the restructuring of the IRS along business lines.

The IRS Restructuring and Reform Act of 1998 included specific provisions impacting the Office of the Chief Inspector, Internal Revenue Service. The law provided for the appointment of a Treasury Inspector General for Tax Administration (TIGTA), effective January 19, 1999, who reports directly to the Secretary of the Treasury. As a consequence, two IRS systems of records were affected by the transfer of responsibility (published June 15, 1999 at 64 FR 32096). The first, IRS 60.008—Security, Background, and Character Investigation Files, Inspection, has been renumbered and renamed as "IRS 34.021—Personnel Security Investigations, National Background Investigations Center-Treasury/IRS." The second, IRS 60.011—Internal Security Management Information System (ISMIS) has been renumbered and renamed as "IRS 34.022—National Background Investigations Center Management Information System (NBICMIS)—Treasury/IRS."

The following seven systems of records have been added to the IRS' inventory of Privacy Act notices since September 30, 1998:

IRS 00.334—Third Party Contact Reprisal Records. (Published October 25, 2000, at 65 FR 63917)
IRS 00.333—Third Party Contact Records. (Published June 15, 1999, at 64 FR 32095, and as amended on October 25, 2000, at 65 FR 63919)
IRS 22.062—Electronic Filing Records. (Published August 31, 2000, at 65 FR 53089)
IRS 46.051—Criminal Investigation Audit Trail Records System. (Published April 4, 2000, at 65 FR 21236)
IRS 22.028—Disclosure Authorizations for United States Residency Certification Letters. (Published March 6, 2000, at 65 FR 11833)
IRS 34.037—IRS Audit Trail and Security Records System. (Published November 18, 1999, at 64 FR 63108).

The following systems of records have been removed from IRS' inventory of Privacy Act systems:

IRS 34.005—Parking Space Application and Assignment. (December 14, 2000, at 65 FR 78263).
IRS 36.888—Employee Tax Compliance Records (ETC). (Published February 6, 2001, at 66 FR 9142).

Systems Covered by This Notice

This notice covers all systems of records adopted by the Bureau up to August 1, 2001. The systems notices are reprinted in their entirety following the Table of Contents.

Dated: September 26, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

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IRS 90.018—Expert Witness Library
IRS Appendix A—Addresses of System Locations

Internal Revenue Service

Treasury/IRS 00.001

SYSTEM NAME:

Correspondence Files (including Stakeholder Relationship files) and Correspondence Control Files-Treasury/IRS.

SYSTEM LOCATION:

Various area and other offices of the Internal Revenue Service maintain files of correspondence received, including the Eastern Distribution Center, 4300 Carolina Avenue, Richmond, VA 23222; the Central Area Distribution Center, 2402 East Empire, Bloomington, IL 61799; the Western Area Distribution Center, 3041 Sunrise Boulevard, Rancho Cordova, CA 95742; and the Tennessee Computing Center, PO Box 30309, Airport Mail Facility, Stop 76, Memphis, TN 38130. (See IRS appendix A for addresses of other offices).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Initiators of the correspondence. (2) Persons upon whose behalf the correspondence was initiated. (3) Subjects of the correspondence.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Correspondence received. (2) Responses to correspondence (including surveys of individuals to improve IRS service and stakeholder relationship correspondence). Correspondence may be included in other systems of records described by specific notices. Files are maintained in connection with a variety of correspondence received and the uses vary widely in accordance with the content of the correspondence. Correspondence may include letters, telegrams, memoranda of telephone calls, and other forms of communication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

Often taxpayers choose to communicate with the IRS through correspondence. The ability to access the information when the need arises is paramount to our success as an agency. This system will allow the IRS to quickly access correspondence received from the taxpayers and their representatives.

This system also provides a means for IRS to track correspondence responses from quality and improvement surveys we may periodically ask our customers to voluntarily participate in.

ROUTINE USES OF RECORDS MAINTAINED BY THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosures of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) Appropriate Federal, State, local, or foreign agencies responsible for enforcing or implementing a statute, rule, regulation, order or license; (3) disclose information to a Federal, State, or local agency, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's bureau's or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) provide information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media, in accordance with guidelines contained in 28 CFR 50.2, concerning this agency's functions relating to civil and criminal proceedings; (8) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, microfiche, and magnetic media.

RETRIEVABILITY:

Controlled items are generally retrievable by name, but it depends upon the controls established locally.

SAFEGUARDS:

Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with the Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, disposition varies in accordance with the nature of the correspondence file.

SYSTEM MANAGER(S) AND ADDRESS:

Head of the Office maintaining the file. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the office believed to have received the correspondence. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information supplied by the initiators of the correspondence and information secured internally from other systems of records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 00.002

SYSTEM NAME:

Correspondence Files/Inquiries About Enforcement Activities-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Internal Revenue Service Centers, Detroit Computing Center, Martinsburg Computing Center. (See IRS appendix A for addresses.) Other offices of the Internal Revenue Service maintain files of correspondence received, including the Eastern Distribution Center, 4300 Carolina Avenue, Richmond, VA 23222; the Central Area Distribution Center, 2402 East Empire, Bloomington, IL 61799; the Western Area Distribution Center, 3041 Sunrise Boulevard, Rancho Cordova, CA 95742; and the Tennessee Computing Center, PO Box 30309, Airport Mail Facility, Stop 76, Memphis, TN 38130.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Initiators of correspondence. (2) Persons upon whose behalf the correspondence was initiated. (3) Persons who are subjects of the correspondence. Includes individuals for whom tax liabilities exist, individuals who have made a complaint or inquiry relative to an Internal Revenue tax matter, or individuals for whom a third party is interceding relative to an Internal Revenue tax matter.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number (if applicable), information about tax matters (if applicable), chronological investigative history. Other information relative to the conduct of the case and/or the taxpayer's compliance history (if applicable). Correspondence may include letters, telegrams, memoranda of telephone calls, and other forms of communication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

Often taxpayers choose to communicate with the IRS through correspondence. The ability to access the information when the need arises is paramount to our success as an agency. This system will allow the IRS to quickly access correspondence received from the taxpayers and their representatives and provide a chronological record of what has transpired concerning tax matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license; (3) disclose information to a Federal, state, or local agency, or other public authority, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's bureau's or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (6) provide information to the news media, in accordance with guidelines contained in 28 CFR 50.2 concerning this agency's functions relating to civil and criminal proceedings; (7) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (8) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (9) provide information to other agencies to the extent provided by law or regulation and as necessary to report apparent violation of law to appropriate law enforcement agencies; (10) provide information to states, the Area of Columbia, the Commonwealth of Puerto Rico, or possessions of the United States, to assist in the administration of tax laws.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Controlled items are generally retrievable by name, but it depends upon the controls established locally.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1 (16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with the Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, disposition varies in accordance with the nature of the correspondence file.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioners, Regional Commissioners, Area Directors, Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 00.003

SYSTEM NAME:

Taxpayer Advocate Service and Customer Feedback and Survey Records—Treasury/IRS

SYSTEM LOCATION:

Internal Revenue Service Centers, National Office, Area Offices, including National Office Chief Counsel Offices, Regional Counsel Offices, and Area Counsel Offices, the Martinsburg Computing Center, the Detroit Computing Center, and the Tennessee Computing Center, and Area Distribution Centers. Area Distribution Center addresses are as follows: the Eastern Distribution Center, 4300 Carolina Avenue, Richmond, VA 23222, the Central Area Distribution Center, 2402 East Empire, Bloomington, IL 61799, and the Western Area Distribution Center, 3041 Sunrise Boulevard, Rancho Cordova, CA 95742. (See IRS Appendix A for other addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system consists of records relating to (1) individuals (customers) who make complaints and compliments about Internal Revenue Service employees (including customer responses to surveys) and; (2) Internal Revenue Service employees who have had complaints and compliments made about them.

CATEGORIES OF RECORDS IN THE SYSTEM:

A variety of documents and/or reports reflecting customer feedback on current and former IRS employees and the resolution of that feedback. Records include quality review and tracking information that helps the Service measure and improve service quality for our customers. This system includes The Taxpayer Advocate Management Information System (TAMIS) records that track taxpayer advocate cases for administrative and quality improvement purposes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 1211 of Pub. L. 104–168, TBOR 2, Reports on Misconduct of IRS Employees.

PURPOSE(S):

This system will capture customer feedback, including complaints and compliments. The capture of this data will provide a means to analyze trends to identify and take corrective action on systemic problems. The data will not be used to affect any rights or benefits of individuals in the records system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Tax returns and return information may be disclosed as provided by IRC 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and magnetic media.

RETRIEVABILITY:

Documents are stored and retrieved by control numbers and by taxpayer name, taxpayer identification number or person to contact. The control number can be determined by reference to the entries for the individual to whom they relate.

SAFEGUARDS:

Access is limited to authorized personnel who have a direct need to know. Access controls will not be less than those provided for by the Manager's Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM (2)(10)00. This includes the use of passwords and access codes.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 206 for Service Centers, IRM 1.15.2.1 and Records Control Schedule 301—General Records Schedules, IRM 1.15.3.

SYSTEM MANAGER(S) AND ADDRESS:

Taxpayer Advocate or Head of the Office maintaining the file. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for the purpose of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

Individuals should write to the head of the office Where the records are kept.

CONTESTING RECORD PROCEDURES:

See "Records access procedures" above.

RECORD SOURCE CATEGORIES:

Information originates from IRS employees and customer feedback.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 00.333

SYSTEM NAME:

Third-party Contact Records—Treasury/IRS.

SYSTEM LOCATION:

Area offices, IRS Service Centers and Computing Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals on whom Federal tax assessments have been made; individuals believed to be delinquent in filing Federal tax returns or in paying Federal taxes, penalties or interest; individuals who are or have been considered for examination for tax determination purposes; i.e., income, estate and gift, excise or employment tax liability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of third-party contacts as required by 26 U.S.C. 7602 (c), including the taxpayer name control, taxpayer identification number, the third-party contact's name, date of contact, and IRS personnel's identification number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, and 7801.

PURPOSE(S):

The IRS is establishing the third-party contact records to comply with section 7602(c) of the Internal Revenue Code as enacted by section 3417 of the IRS Restructuring and Reform Act of 1998. The third-party contact records will be used to report to the taxpayers regarding third-party contacts that the IRS would normally make with respect to the determination or collection of the tax liability of the taxpayer. Third-party contact data will be provided periodically to taxpayers and upon the taxpayer's request.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may only be made as authorized by 26 U.S.C. 6103 and 7602.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

By taxpayer identification number (social security number or employer identifier number) and taxpayer name control.

SAFEGUARDS:

Access controls will be no less than those provided by the Automated Information Systems Security Handbook IRM 2.10 and IRM 1(16)12, Manager's Security Handbook.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1(15)59.1 through IRM 1(15)59.32.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices: Assistant Commissioner (Collection). Officials maintaining the system: Assistant Commissioner (International), Regional Chief Compliance Officers, District Directors, IRS Service Center Directors, IRS Computing Center Directors, Associate Chief Counsel, Regional Counsel, and District Counsel.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Records Access Procedure" below.

RECORDS ACCESS PROCEDURE:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing in 31 CFR part 1, subpart C, appendix B. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURE:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax records of the individual; public information sources; third parties including individuals, city and state governments, other Federal agencies, taxpayer's employer, employees and/or clients, licensing and professional organizations, and foreign governments via Tax Treaty.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 00.334

SYSTEM NAME:

Third Party Contact Reprisal Records-Treasury/IRS.

SYSTEM LOCATION:

Area offices, Service Centers, Office of Assistant Commissioner (International), and IRS Computing Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals on whom Federal tax assessments have been made; individuals believed to be delinquent in filing Federal tax returns or in paying Federal taxes, penalties or interest; individuals who are or have been considered for examination for tax determination purposes; i.e., income, estate and gift, excise or employment tax liability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of third party contacts as described in 26 U.S.C. 7602(c), where reprisal determinations have been made, including the taxpayer name control, taxpayer identification number, date of contact, fact of reprisal determination, and IRS personnel's identification number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, and 7801.

PURPOSE(S):

These records will be used to track the number of reprisal determinations made pursuant to IRC Sec. 7602(c)(3)(B).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may only be made as authorized by 26 U.S.C. 6103 and 7602(c).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

By taxpayer identification number. Safeguards: Access controls will be no less than those provided by IRM 2.1.10, Automated Information Systems Security Handbook; 1(16)12, Manager's Security Handbook.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1(15)59.1 through IRM 1(15)59.32.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices: Area Directors, IRS Service Center Directors, IRS Computing Center Directors, Chief Counsel management officials.

NOTIFICATION PROCEDURE:

This system of records is exempt from certain provisions of the Privacy Act.

RECORDS ACCESS PROCEDURE:

This system of records is exempt from certain provisions of the Privacy Act and may not be accessed for the purpose of determining if the system contains a record pertaining to a particular individual.

CONTESTING RECORD PROCEDURE:

This system of records is exempt from certain provisions of the Privacy Act and may not be accessed for purposes of inspection or contest of record contents. Also, 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records is exempt from the Privacy Act provision which requires that record source categories be reported. (See "Exemptions Claimed for the System," below.)

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (see 31 CFR 1.36)

Treasury/IRS 10.001

SYSTEM NAME:

Biographical Files, Chief, Communications and Liaison-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are biographical data and photographs of key IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. Information contained in this system may be included in news releases issued to the media and the public.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files or magnetic media.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Office doors locked at night. Access controls will not be less than those provided for by the Manager's Security Handbook IRM 1(16)12,and IRM 2.10 regarding electronic security.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Communications and Liaison), Area Managers (see IRS appendix A for addresses).

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant to the Commissioner (Chief, Communications and Liaison), IRS, Washington, DC 20224, for National Office file or head of the office for the area office where the record is maintained. See Appendix A for appropriate addresses for and area office or service center files.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information is supplied by the IRS official on an IRS biographical data form.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 10.004

SYSTEM NAME:

Stakeholder Relationship Management and Subject Files, Chief, Communications and Liaison-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, Internal Revenue Service Centers. (see IRS appendix A for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In general, records are maintained concerning individuals who have stakeholder relationships with the IRS including individuals whose names have been mentioned in the press in connection with their relationship with IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records include stakeholder relationship records, correspondence, newspaper clippings, inter-office memoranda and similar documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be provided in response to inquiries from the media and the public.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files or magnetic media.

RETRIEVABILITY:

Alphabetically by subject or other identifier.

SAFEGUARDS:

Office doors locked at night. Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2.10), and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.11.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Communications and Liaison), National Office; Area, Internal Revenue Service Center/Campus Directors, or Head of the Office that maintains the file (see IRS appendix A for addresses).

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager in the office where the records are located.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Records generally are clippings from newspapers, magazines, and similar sources, and stakeholder relationship documents and memoranda.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 21.001

SYSTEM NAME:

Tax Administration Resources File, Office of Tax Administration Advisory Services-Treasury/IRS.

SYSTEM LOCATION:

Office of the Director (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and potential tax administration advisors who have served or indicated an interest in serving on advisory assignments, and selected officials engaged in tax administration and related fields.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applicant roster database, locator cards and lists with names, addresses, telephone numbers, and organizational affiliations of officials engaged in tax administration; work assignment or application folders of past and potential tax administration advisors, which contain employment history, information, medical abstracts, security clearances, and passport information; bio-data sketches on IRS employees and others engaged in tax administration and related fields.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

The purpose is to identify IRS employees who have expressed an interest in overseas assignments, and to further identify historical and current activities in given countries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Maintained for use by Office management officials as a reference in obtaining and presenting information related to tax administration, and for administrative selection and processing of overseas and domestic assignments. The records and information in these records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Access limited to authorized office personnel. File folders kept in locked file or locked room. Access controls will not be less than those provided for by the Manager's Security Handbook, IRM 1(16)12 and IRM 2.10 regarding electronic security.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are disposed of when they are no longer needed for official use.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (International), Internal Revenue Service, 950 L'Enfant Plaza, SW, Fourth Floor, Washington, DC 20024.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Office of the Director (International), Internal Revenue Service, 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

From the individual, from the organization with which he or she is associated, or from other knowledgeable experts in the field of Tax Administration.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.003

SYSTEM NAME:

Annual Listing of Undelivered Refund Checks-Treasury/IRS.

SYSTEM LOCATION:

Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers whose refund checks have been returned as undeliverable since the last Annual Listing of Undelivered Refund Checks was produced.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity information (Name, Street Address, City, State, Zip Code and social security number) and records containing tax module information (Tax Period, Amount of Credit Balance and Control Document Locator Number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

The purpose of this system is to keep a record of refund checks that have been returned undeliverable.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Individuals entitled to undeliverable refund checks will be notified of such checks by publication of their names in the news media.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents stored in files or on magnetic media.

RETRIEVABILITY:

By taxpayer name or taxpayer social security number (SSN).

SAFEGUARDS:

Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Officials prescribing policies and practices—Commissioners, LMSB, TE/GE, W&I, SB/SE. Officials maintaining the system—Area Directors, Internal Revenue Service Centers Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the area office servicing the areas in which the individual resided at the time he or she filed the return which created the undeliverable refund. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.011

SYSTEM NAME:

File of Erroneous Refunds-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Campuses/Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers issued erroneous refunds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case reference name, number, control number, date of erroneous refunds, statute expiration date, status of case, location, correspondence and research material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary to resolve erroneous refund issues.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper document files.

RETRIEVABILITY:

By Social Security Number (SSN) or Employer Identification Number (EIN).

SAFEGUARDS:

Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks IRM 1.15.2.1 through IRM 1(15) 59.32. Generally, records are retained for four years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Head of the Office maintaining the file. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.026

SYSTEM NAME:

Form 1042S Index by Name of Recipient-Treasury/IRS.

SYSTEM LOCATION:

Philadelphia Internal Revenue Service Center/Campus, 11601 Roosevelt Boulevard, Philadelphia, PA 19154.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Non-resident aliens and U.S. citizens living abroad whose taxes are covered by IR Chapter 3 Withholding.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include taxpayer's name, address, tax data, country of residence and employer identification number and name of withholding agent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary to effectively administer the back-up withholding laws and regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and by the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1(15)59.32. Generally, records are retained at the Service Center for 5 years and then at a Federal Records Center for 25 years.

SYSTEM MANAGER(S) AND ADDRESS:

Philadelphia Internal Revenue Service Center Director. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Director, Philadelphia Internal Revenue Service Center, Mid-Atlantic Region, 11601 Roosevelt Boulevard, Philadelphia, PA 19154.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.027

SYSTEM NAME:

Foreign Information System (FIS)—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Philadelphia Internal Revenue Service Center, and its servicing Federal Records Centers, and the Detroit Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who file Form 5471, Information Return with Respect to a Foreign Corporation and Form 5472, Information Return of a Foreign Owned Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, identification number), foreign corporation identification, information relating to stock, U.S. shareholders, Earnings and Profits, Balance Sheet, and other available accounting information relating to a specific taxable period.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary to effectively administer laws and regulations relative to foreign owned corporations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media. (Various tables are published from this media.)

RETRIEVABILITY:

Documents are stored and retrieved by document locator numbers.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 206 for Service Centers, IRM 1.15.2.22.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Director, International Commissioner (Wage and Investment, Commissioner Small Business/Self Employed). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.028

SYSTEM NAME:

Disclosure Authorizations for U.S. Residency Certification Letters—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Northeast Region, Philadelphia Service Center, 11601 Roosevelt Boulevard, Philadelphia, PA 19154.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and third parties who are subjects of correspondence and who initiate correspondence for disclosure authorizations for U.S. Residency Certification Letters. The correspondence may include any form of communications, including telephone calls, and e-mail.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to the entity requesting certification, including taxpayer identification number, name and address, countries for which certification has been requested, and when applicable, business activity code; records relating to the designated entity authorized to receive tax information specific to the U.S. Residency Certification Letters, name, address, and number of years authorization has been granted.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 & 7802.

PURPOSE(S):

The records will enable the IRS to determine if there is a valid disclosure authorization to provide a third party with the Residency Certification Letter (Form 6166, Form 2297 or Form 2298) or related taxpayer information.

ROUTINE USES OF THE RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may only be made as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media, and/or hard copy media (paper).

RETRIEVABILITY:

Records may be retrieved by the taxpayer's name, authorized individual or company name, and by the Taxpayer Identification Number (TIN).

SAFEGUARDS:

Protection and control of the records are in accordance with the requirements of IRM 2(10), the Automated Security System Security Handbook, and IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 206 for Service Centers, IRM 1(15)59.26. Records will be maintained up to 3 years. Hard copy and microfilm media will be disposed by shredding or incineration. Electronic media will be erased electronically.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Philadelphia Service Center, Internal Revenue Service, Northeast Region, Philadelphia Service Center, 11601 Roosevelt Boulevard, Philadelphia, PA 19154.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Philadelphia Service Center Director. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

See record access procedures above. 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Information supplied by the initiators of the correspondence.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.032

SYSTEM NAME:

Individual Microfilm Retention Register—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers/ Campuses and the Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals on whom records are maintained are: For Individual Master File (IMF) registers—Individuals who file, or may be required to file, individual tax returns such as Form 1040, 1040A, or 1040EZ.

CATEGORIES OF RECORDS IN THE SYSTEM:

Abstracts of tax and/or entity modules that have been removed from the IMF. These abstract records indicate the taxpayer name, identification number, specific tax returns filed, document locator number, tax years, debit and credit amounts, balances, and other transactions which have been recorded relative to the module(s).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains individual tax account information which is retained in microfilm after a certain period of inactivity on the master file in order not to overburden the computer system required for active accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm tape.

RETRIEVABILITY:

IMF Reference Register (for IMF Register only), taxpayer identification number, tax Period, name, and type of tax. Methods of retrievability are explained in the Research Operations Handbook, IRM 36(66)0.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Commissioner (Wage and Investment and Commissioner, Small Business/ Self Employed). Officials maintaining the system-Internal Revenue Service Center Directors, and the Martinsburg Computing Center Director. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record

pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.034

SYSTEM NAME:

Individual Returns Files, Adjustments and Miscellaneous Documents Files-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers/ Campuses, IRS areas.(See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers or return preparers who have had changes made to their accounts, or have had information posted to the Individual Master File or other tax accounting files as a result of filing returns, applications, or other documents, or as a result of actions initiated by the Service. A record will be maintained for those taxpayers whose individual income tax overpayments have been retained or transferred from the IMF to apply against past due child and/or spousal support payments as reported to IRS by the states under Pub. L. 97–35.

CATEGORIES OF RECORDS IN THE SYSTEM:

A variety of records reflecting tax matters which have served as input documents or supporting documentation for entries on the Individual Master File, or other tax accounting files, including tax return forms, declarations, applications, case records, processing documents, vouchers, computer notices, posting and correction forms, Interest Equalization Tax Forms, withholding allowance certificates, and similar records. Information will be maintained as to the name, SSN, address of individuals owing past due child and/or spousal support payments submitted by states under Pub. L. 97–35. Also maintained will be the name of the submission state, the amount owed, and the amount of any individual income tax overpayment retained and transferred to the state to apply against the amount owed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

The purpose of this system is to provide background and supporting documentation for inputs affecting taxpayer account information. Additionally, overpayments retained and transferred against outstanding liabilities from the state in which it occurred will be recorded. This will aid taxpayers in reconciling their account balances with state agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper document files or magnetic media.

RETRIEVABILITY:

Documents are stored and retrieved by document locator numbers and by taxpayer name. The document locator numbers can be determined by reference to the Individual Master File entries for the individual to whom they relate.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 206 for Service Centers, IRM 1.15.2.22.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—(Wage and Investment and Small Business/Self Employed). Officials maintaining the system-Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.043

SYSTEM NAME:

Potential Refund Litigation Case Files-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers, the Austin Compliance Center and Federal Records Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who have indicated to the Service that they may file suit against the Service for a refund.

CATEGORIES OF RECORDS IN THE SYSTEM:

Forms filed by the taxpayer and case documents determined by the Service to be related.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary to effectively administer potential refund litigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper document files.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 206 for Service Centers, IRM 1.15.2.22.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Commissioners for Wage and Investment, Small Business/Self Employed, and Large and Mid Size business. Officials maintaining the system-Internal Revenue Service Center/Campus Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in **Record access procedures** below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.044

SYSTEM NAME:

P.O.W.–M.I.A. Reference File-Treasury/IRS.

SYSTEM LOCATION:

Area Offices and the Austin Internal Revenue Service Center/Campus. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

P.O.W./M.I.A.-originated from Department of Defense lists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lists of P.O.W./M.I.A., Regulations, Rulings, and Instructions as to how to handle specific tax questions relating to their special tax status, copies of individual tax returns, claims, and other documents germane to specific cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary to effectively administer the tax accounts with POW/MIA issues.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents in file folders.

RETRIEVABILITY:

Cases filed alphabetically by last name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Wage and Investment and Small Business/Self Employed). Officials maintaining the system—Austin Internal Revenue Service Center Director and Area Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in **Record access procedures** below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Austin Internal Revenue Service Center or the Director of the Area Office servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.054

SYSTEM NAME:

Subsidiary Accounting Files—Treasury/IRS.

SYSTEM LOCATION:

Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals on whom records are maintained are taxpayers affected by one or more of the transactions reflected in the categories of records listed below.

CATEGORIES OF RECORDS IN THE SYSTEM:

The types of records maintained in the system are documents containing entity information (name, address, social security number or employer identification number and other information necessary to identify the taxpayer) and accounting information relevant to one of the following categories: Funds held pending, disposition and not applied to the taxpayer's liability at present, properties, tangible or intangible, now in the custody of the Internal Revenue Service, counterfeit money, misappropriation or robbery of Internal Revenue Service funds, credits which

cannot be applied to a specific taxpayer account at this time, accounts transferred to other Service Centers or agencies, substantiation for the receipt of funds collected by the Service for other agencies, abatements or assessments of tax on individuals, deposits received from taxpayers, refunds to taxpayers, taxpayer accounts written off by the Service as uncollectible, credits allowed taxpayers requiring special consideration due to processing constraints, litigation, seized and acquired property and Offers-in-Compromise.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

This system maintains records necessary to effectively administer the accounting files relevant to the unusual circumstances described in "categories of records in the system," above.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Accounting Files consist of paper documents, computer printouts, magnetic media and disk storage.

RETRIEVABILITY:

By social security number, name, or document locator number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are retired to Federal Records Centers and retrieved by request from authorized individuals when account substantiation is necessary.

SYSTEM MANAGER(S) AND ADDRESS:

Head of the office maintaining the file (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account. Some Justice Department investigations are an additional source for the information contained in litigation case files.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.059

SYSTEM NAME:

Unidentified Remittance File—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Remittances which have been received but cannot be positively identified, either as to taxpayer who sent it or the tax period to which it is to be applied.

CATEGORIES OF RECORDS IN THE SYSTEM:

Each record contains a fourteen digit unidentified remittance (UR) control number, the amount, received date, and all known identifying data. In addition, the URF contains a record of all doubtfully applied Estimated Tax (ET) credits. The ES record contains the taxpayers' name, address, type of payment, taxpayer identification number, tax period, received date, money amount, and the transaction document locator number (DLN).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains the records controlling remittances where accounting is delayed for lack of the data required to properly post a credit.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disk storage.

RETRIEVABILITY:

By remittance amount, unidentified remittance control number, taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are kept 180 days after the amount is reduced to zero balance.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Wage and Investment and Small Business/Self Employed). Officials maintaining the system-Internal Revenue Service Center/campus Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Remittances received from taxpayers that cannot be positively identified either as to the taxpayer who sent it or the type of tax to which it is to be applied.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.060

SYSTEM NAME:

Automated Non-Master File (ANMF)—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on taxpayers having accounts with the Internal Revenue Service which are not compatible with the normal master file processes; e.g., penalties, transferee assessments, termination assessments, excise protest accounts, Master File overflow accounts, culpable and non-petitioning spouses, Forms 1042, 1040–NR, 926, 5330, 4720, 990–AR (Penalty) and any pre-ADP returns. Also, a record will be maintained for those taxpayers whose individual income tax overpayment has been retained and transferred from the IMF to apply against past due child and/or spousal support payments as reported to IRS by the States under Pub. L. 97–35.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records maintained are taxpayer entity records (name, address, taxpayer identification number or employer identification number and other indicators relevant to entity maintenance) and records containing tax module information (the tax return, the tax period, the balance due or credit balance, and transactions which have been recorded relative to the module). Information will be maintained as to the name, SSN, address of individuals owing past due child and/or spousal support payments submitted by the States under Pub. L. 97–35. Also maintained will be names of the submission state, the amount owed, and the amount on any individual income tax overpayment retained and transferred to the state to apply against the amount owed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary for efficient accounting on files which are not compatible with the master file system Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card file or magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security number or employer identification number), or document locator card.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Management Official prescribing policies and practices—(Wage and Investment and Small Business Self Employed). Officials maintaining the system-Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.061

SYSTEM NAME:

Individual Return Master File (IRMF)—Treasury/IRS.

SYSTEM LOCATION:

Martinsburg Computing Center, Martinsburg, West Virginia 25401, and Detroit Computing Center, 985 Michigan Ave., Detroit, MI 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of various types of income; wages; dividends; interest; rents and royalties; medical payments; capital gains distributions; non-taxable distributions; pensions, annuities, retired pay or IRA payments; patronage dividends, distributions, and allocations; fishing crew payments; sales or redemption of securities, future transactions, commodities, bartering exchange transactions; original issue discount; distributions and prizes; currency transactions; state tax refunds; unemployment compensation, agricultural payments, taxable grants, indebtedness forgiveness; non-employees compensation; gambling winnings; and miscellaneous income.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained are records representing certain wage and information returns: Forms W–2, W–2P, the 1087 and 1099 series; currency transaction reports; state tax refunds; statements of sales of equity obligations; and records of agricultural subsidy payments. Information included on each record identifies the recipient of the income (name, address, taxpayer identifying number, and other indicators relating to payee identification), identifies the income payer (very similar information), and identifies the type(s) and amount(s) of income.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary for the efficient administration of tax accounts related to Wage and Information Returns.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media.

RETRIEVABILITY:

By taxpayer social security number and name control.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, until tax year 1974, records were maintained until processed. After tax year 1974, records are maintained for four years and then magnetically erased.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Management officials—(Wage and Investment and Small Business Self Employed). Officials maintaining the system—Internal Revenue Service Center/campus Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 22.062

SYSTEM NAME:

Electronic Filing Records—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, area offices, Service Centers, and Computing Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Electronic return providers (electronic return preparers, electronic return collectors, electronic return originators, electronic filing transmitters, individual filing software developers) who have applied to participate, are participating, or have been rejected, expelled or suspended from participation in the electronic filing program (including Volunteer Income Tax Assistance (VITA) volunteers). Individuals who attend, or have indicated interest in attending, seminars and marketing programs to encourage electronic filing and improve electronic filing programs (including individuals who provide opinions or suggestions to improve electronic filing programs), or who otherwise indicate interest in participating in electronic filing programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to individual electronic filing providers including applications to participate in electronic filing, credit reports, conduct reports, law enforcement records, and other information from investigations into suitability for participation. Records pertaining to marketing electronic filing, including surveys and opinions about improving electronic filing programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 6011, 6012, and 7803.

PURPOSE(S):

This system will maintain records for administration and marketing of electronic filing programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies or instrumentalities responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of a violation or potential violation of civil or criminal law or regulation or licensing requirements; (2) Disclose information to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee; or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged; (4) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) Provide information to third parties during the course of an investigation to the extent necessary to obtain information that is pertinent to the investigation, including credit bureaus for credit checks and fingerprint records to the FBI or other law enforcement agencies; (6) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (7) Provide information to contractors for use in contracted services for electronic filing programs; (8) Disclose information to state taxing authorities to promote joint and state electronic filing, including marketing such programs and enforcing the legal and administrative requirements of such programs; (9) Disclose to the public the identities (including addresses) of electronic return originators, electronic return preparers, electronic return transmitters, and individual filing software developers, who have been suspended, removed, or otherwise disciplined. The Service may also disclose the effective date and duration of the suspension, removal, or other

disciplinary action; (10) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic media.

RETRIEVABILITY:

By electronic filing provider name or tax identification number (SSN, EIN, EFIN, PTIN) or document control number (DCN).

SAFEGUARDS:

Access controls will not be less than those provided for by the Manager's Security Handbook, IRM 1(16)12, and the Automated Information System Security Handbook, IRM 2.10.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbook, IRM 1.15.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices: Assistant Commissioner (Electronic Tax Administration). Officials maintaining the system: Assistant Commissioner (Electronic Tax Administration), Business Systems Modernization Executive/Chief Information Officer, or head of the IRS office maintaining the file (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or to gain access to records maintained in the system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the appropriate official maintaining the system (above).

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. See "Notification procedure" above for seeking amendment to records that are not tax records.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from the following sources: (1) Electronic filing providers; (2) informants and third party information; (3) city and state governments; (4) IRS and other Federal agencies; (5) professional organizations; (6) business entities; and (7) participants in marketing efforts or who have otherwise indicated interest in electronic filing programs.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 24.013

SYSTEM NAME:

Combined Account Number File, Taxpayer Services—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers/ campuses. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and businesses having specific, current business with IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, taxpayer identification number, and filing requirements related to entity liability); and tax modules (specific tax returns, tax years, and transactions which have been recorded relative to the module) when specifically requested by a service center, or if a notice for balance of tax due has been issued; a specific tax period is in taxpayer delinquent account status (TDA); a specific tax period is either credit or debit balance; no return has been posted and the return due date (RDD) has passed; or when a specific tax period is in taxpayer delinquent return (TDI) status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains tax account information necessary for the efficient resolution of accounting issues.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disk storage.

RETRIEVABILITY:

By social security number or employer identification number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Management Official (Wage and Investment and Small Business and Self Employed). Officials maintaining the system—Internal Revenue Service Center/campus Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part I, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" above.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 24.029

SYSTEM NAME:

Individual Account Number File (IANF)—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals having specific, current business with IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, taxpayer identification number, and filing requirements related to entity liability); and tax modules (specific tax returns, tax years, and transactions which have been recorded relative to the module) when specifically requested by a service center, or if a notice for balance of tax due has been issued; a specific tax period is in taxpayer delinquent account status (TDA); a specific tax period is either credit or debit balance; no return has been posted and the return due date (RDD) has passed; or when a specific tax period is in taxpayer delinquent return (TDI) status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary to efficiently identify individuals having specific current business with the IRS.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disk storage.

RETRIEVABILITY:

By social security number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—management official (Wage and Investment and Small Business Self Employed). Officials maintaining the system—Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 24.030

SYSTEM NAME:

CADE Individual Master File (IMF)—Treasury/IRS.

SYSTEM LOCATION:

Martinsburg Computing Center, Martinsburg, West Virginia 25401, and IRS Service Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who file and/or are included on Federal Individual Income Tax Returns (i.e., Forms 1040, 1040A, and 1040EZ); individuals who file other information filings; and power of attorney notifications for individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, identification number (SSN), and other indicators pertaining to entity maintenance, including zip code), and tax modular records which contain all records relative to specific tax returns for each applicable tax period or year. Modular records for authorization information (name, address, identification number and type of authority granted, and the name of the representative(s) for the taxpayer. Modular records for the representative (name, address and unique identification number). Recorded here are tax transactions such as tax amount, additions, abatements of tax payments, interest and like type transactions recorded relative to each tax module, power or attorney authorization transactions, and a code identifying taxpayers who threatened or assaulted IRS employees. An indicator will be added to any taxpayer's account who owes past due child and/or spousal support payments and whose name has been submitted to IRS by a state under provisions of Pub. L. 97–35.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

To increase the efficiency of tax administration, the IRS maintains records of tax returns, payments, and assessments including Telefile records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by (1) 26 U.S.C. 3406, and (2) 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media.

RETRIEVABILITY:

By taxpayer identification number (social security number or employer identification number), document locator numbers and alphabetically by name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, the code identifying taxpayers who threatened or assaulted IRS employees may be removed five years after initial input.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Commissioner (Commissioner, Wage and Investment). Officials maintaining the system—Internal Revenue Service Center /Campus Directors and the Director, Martinsburg Computing Center. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in

accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director or the Internal Revenue Service Center/ Campus Director servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 24.046

SYSTEM NAME:

CADE Business Master File (BMF)—Treasury/IRS.

SYSTEM LOCATION:

Martinsburg Computing Center, Martinsburg, West Virginia 25401, Cincinnati Service Center, 201 West River Center Blvd., Covington, KY 41019; Memphis Service Center/ Campus, 3131 Democrat Road, Memphis, TN 38118; and Ogden Service Center/Campus, 1160 West 1200 South Street, Ogden, UT 84201, and other IRS Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons in a sole proprietary role who file business tax returns, including Employer's Quarterly Federal Tax Returns (Form 941), Excise Tax Returns (Form 720), Wagering Returns (Forms 11C and 730), Highway Use Returns (Form 2290), and Form 1065 (U.S. Partnership Returns of Income), and U.S. Fiduciary Returns (Form 1041) and Estate and Gift Taxes (Forms 706, 706NA, and 709). The latter can be individuals not in a sole proprietorship role.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, taxpayer identification number (TIN) which may be either EIN or SSN, and other indicators pertaining to entity maintenance, including zip code), and tax modules which are all the records relative to specific tax returns for each applicable tax period. Recorded are tax transactions such as tax amount, statements/additions to tax, payments, interest and like type transactions relative to each tax module. The Employer Identification Number (EIN)/ Name Control file which contains EINs and the associated IRS name controls.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

To increase the efficiency of tax administration, the Service maintains magnetic media records of tax returns filed by business taxpayers, and payments and assessments made to the accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made as provided by 26 U.S.C. 6103, and for meeting the requirements of 26 U.S.C. 3406. 26 U.S.C. 3406 provides, in part, that the Secretary of the Treasury notify a payor that the TIN (Taxpayer Identification Number) furnished by the payee is incorrect.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media.

RETRIEVABILITY:

By name, type of tax, and identifying number (including document locator number).

SAFEGUARDS:

Access Controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Management Official—Small Business Self Employed. Officials maintaining the system—Internal Revenue Service Center/Campus Directors, and the Director, Martinsburg Computing Center. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part I, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 24.047

SYSTEM NAME:

Audit Underreporter Case File-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers and Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of income who appear not to have declared on their income tax returns (Forms 1040, 1040A, and 1040EZ) all income paid to them in the tax year under study.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained are taxpayer (i.e., payee) entity records containing payee name, address, taxpayer identification number, and other indicators relating to entity maintenance; and income records containing the types and amounts of income received/reported, and information identifying the income payer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

These records provide a way to identify recipients of income who

appear not to have declared all taxable income paid to them in the tax year under study.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media.

RETRIEVABILITY:

By matching social security number and name control.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are retained for one year and then magnetically erased.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Executive Officer for Customer Service, National Office. Officials maintaining the system—Internal Revenue Service Center/ Campus Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purpose of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Information returns filed by payers and Forms 1040, 1040A, and 1040EZ.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 24.070

SYSTEM NAME:

Debtor Master File (DMF)—Treasury/ IRS.

SYSTEM LOCATION:

Martinsburg Computing Center, Martinsburg, West Virginia 25401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have delinquent obligations to a Federal or State agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Entity records (names and social security numbers), the amount owed by the individual, the name of the Federal or State agency to whom the debt is owed and a cross-reference number (SSN) of the spouse in the case of a jointly filed return.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 6305, 6402(c) and 6402(d); 31 U.S.C. 3720A.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and disk file.

RETRIEVABILITY:

By name, address, and social security number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

The information is kept for one year and then destroyed. A new Debtor Master File is established each year.

SYSTEM MANAGER(S) AND ADDRESS:

Officials prescribing policies and practices—Commissioner (Wage and Investment and Small Business Self Employeds) and Commissioner (Information Systems Management). Officials maintaining the system-Director, Submission Processing Division. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part I, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director or the Internal Revenue Service Center Director servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest any record contained in this system of records must contact the agency to whom the debt is owed.

RECORD SOURCE CATEGORIES:

Names, SSNs, and obligation amounts are supplied by the Federal or state agency to whom the delinquent obligation is owed.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 26.001

SYSTEM NAME:

Acquired Property Records-Treasury/ IRS.

SYSTEM LOCATION:

Area Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delinquent taxpayers whose property has been acquired by purchase by government or right of redemption.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, revenue officer reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

The system tracks property acquired under Internal Revenue Code section 6334 to provide fiscal accountability.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security

number or employer identification number), seizure number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Area Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.006

SYSTEM NAME:

Form 2209, Courtesy Investigations-Treasury/IRS.

SYSTEM LOCATION:

Area Offices, Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom a delinquent account or delinquency or other investigation is or was located in one IRS area offices, but the individual is now living or has assets located in the jurisdiction of another IRS Area office. Taxpayers on whom an investigation has been initiated for purposes of securing information necessary for federal tax administration purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains taxpayer name, current and former addresses, taxpayer identifying number, if known. Contains the information, including class of tax, if applicable, or information concerning the action desired to be taken. The name and address of party that was contacted, chronological investigative history and/or information secured. The following types of investigations are included in this system: Form SSA–1273 cases—Notice of determination of FICA wages—issued when SSA obtains evidence that wages paid to claimant have not been recorded on his earnings record; requests for data needed in proof of claim cases; applications for discharge of property from tax lien; service of tax court subpoenas; complaints of employers failing to provide withholding statements; recovery of unassessable erroneous refunds; Form SSA–7010 cases—Request for preferential investigation. This is a request for preferential treatment (over other SSA cases) on an earning discrepancy case. Secure application for exemption from self-employment tax. Offers in compromise and related activities; i.e., follow-up on defaulted installments, secure payments on collateral agreements, etc. Maximize compliance with withholding requirements on alien's earnings; other miscellaneous uses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

The Form 2209 system provides a record of the nature of the investigation and to whom the investigation is assigned. It also provides a method of follow-up to ensure investigations are accomplished in a timely manner.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Retrievable by taxpayer name and taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Area Directors, and Internal Revenue Service Center/Campus Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.008

SYSTEM NAME:

IRS and Treasury Employee Delinquency-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS and Treasury employees who are shown on the Master File as delinquent in meeting Federal tax requirements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, social security number, address, fact of IRS or Treasury employment code, Area location code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

This system enables the IRS to secure documentation concerning the resolution of balance due and return delinquency cases concerning IRS employees. This documentation may be used to support conduct investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name and taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Assistant Commissioner (SB/SE, W&I, LMSB), Regional Commissioners, Area Directors, Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.009

SYSTEM NAME:

Lien Files (Open and Closed)-Treasury/IRS.

SYSTEM LOCATION:

Area Offices and the Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom Federal tax liens have been filed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment including class of tax, period, dollar amount. Open and closed Federal tax liens including: Certificates of Discharge of Property from Federal Tax Lien; Certificates of Subordination; Certificates of Non-Attachment; Exercise of Government's Right of Redemption of Seized Property; Releases of Government's Right of Redemption. Federal tax lien information entered in Treasury Enforcement Communications System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 6323, 7801 and 7802.

PURPOSE(S):

To identify those taxpayers on whom a Federal tax lien, discharge, or subordination on lien attachment has been filed. The file also provides notice to the public that the Federal Government has an interest in property or rights to the property of the identified taxpayer. Further, the file also provides evidence that the lien has been released, a specific piece of property has been discharged and the government has obtained its interest in the property, or a subordination has been granted and the government has taken a junior lien position, or a certification of nonattachment has been issued.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Notices of lien and the index thereto are available to the public.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name and taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Assistant Commissioner (SB/SE, W&I, LMSB), Regional Commissioners, Area Directors and Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 2, Subpart C, Appendix B. Inquires should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director of each Area where records are to be searched. (See IRS appendix A for addresses.) This system contains copies of public records, the originals of which are filed in accordance with the laws of each state, the Area of Columbia, the Commonwealth of Puerto Rico, or possessions of the United States.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 26.010

SYSTEM NAME:

Lists of Prospective Bidders at Internal Revenue Sales of Seized Property—Treasury/IRS.

SYSTEM LOCATION:

Area Offices. (See IRS appendix A for addresses.)

Categories of individuals covered by the system:

Individuals who have requested that they be notified of Internal Revenue sales of seized property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address and phone number (if provided).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

This system provides an up-to-date list of prospective bidders that may be notified when the IRS has seized property that is going to sale. Notification of prospective bidders is done to enhance the possibility of obtaining a higher price for the property.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records and magnetic media.

RETRIEVABILITY:

By name of prospective bidder.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system-Area Directors. (See IRS appendix A for addresses.) Notification procedure:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Area Office servicing the area in which the individual resides. (See IRS appendix A for addresses.) Contesting record procedures:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Supplied voluntarily by the subject prospective bidder.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 26.011

SYSTEM NAME:

Litigation Case Files-Treasury/IRS.

SYSTEM LOCATION:

Area Offices and Internal Revenue Service Centers/Campuses. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom Federal tax assessments have been made but against whom litigation has been initiated or is being considered by the government or who have instituted suits against the government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, and dollar amount. This file includes: Suit to Reduce Tax Claim to Judgement; Suit for Failure to Honor a Levy; Suit to Enforce Federal Tax Lien; Suit Against Transferee; Suit to Set Aside Fraudulent Transfer; Suit to Recover Erroneous Refund; other suits include those which the United States may intervene to assert a Federal tax lien; a proceeding to require opening of a safe deposit box, etc. The following suits against the United States are also included in this file: Quiet Title Suit; Foreclosure of Mortgage or other Lien; Partition; Condemnation; Interpleader; Refund Suits Involving Trust Fund Recovery Penalty Assessments; Injunction Suits under Freedom of Information Act. Also included in Litigation Files are: Individuals against whom bankruptcy proceedings are pending; decedent estates in probate with outstanding Federal tax liabilities; individuals executing Assignments for the Benefit of Creditors; individuals in Receivership Proceedings; individuals conducting a bulk sale; summons referrals; subpoena files; advisory opinions; collateral security agreements; revenue officer reports; and various other legal instruments and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

The purpose of the system is to maintain a record of all categories of suits filed either by the taxpayer against the government or the government against the taxpayer.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Commissioner (SB/SE or W&I,or LMSB), Officials maintaining the system—Area Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.012

SYSTEM NAME:

Offer in Compromise (OIC) File-Treasury/IRS.

SYSTEM LOCATION:

Area offices, Area Offices, Internal Revenue Service and computing Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who have submitted an offer to compromise a liability imposed by the Internal Revenue Code.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form 2515, used to control offer cases, contains space for entering taxpayer name, address, taxpayer identification number, and all other pertinent information for identifying and assigning the OIC investigation. The file contains all records, documents, reports and work papers relating to the assignment, investigation, review and adjudication of the offer. This includes such items as the original offer, results of property records checks, interviews with third parties and the taxpayer, collateral income agreements, financial statements, tax return copies, and other information submitted by the taxpayer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

These records are used to control offer in compromise cases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. This includes disclosure to the extent necessary to permit public inspection of any accepted offer-in-compromise as required by 26 U.S.C. 6103(k)(1).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name and identification number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Area Directors and Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported. If an offer is accepted, an Abstract and Statement which identifies the taxpayer, the liability, the amount compromised and the basic circumstances of the case is made available for public inspection in accordance with Executive Order 10386 and Executive Order 10906.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.013

SYSTEM NAME:

Trust Fund Recovery Cases/One Hundred Percent Penalty Cases-Treasury/IRS.

SYSTEM LOCATION:

Area Offices, Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom Federal tax assessments have been made or are being considered as a result of their being deemed responsible for payment of unpaid corporation withholding taxes and social security contributions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar figures, waiver extending the period for asserting the 100-percent penalty/Trust Fund Recovery penalty (if any) and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

This system provides a record of all Trust Fund Recovery Penalty cases made under 26 U.S.C. 6672.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By individual, or corporation name, taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices: Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system: Area Directors, Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.014

SYSTEM NAME:

Record 21, Record of Seizure and Sale of Real Property-Treasury/IRS.

SYSTEM LOCATION:

Area Offices (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom tax assessments have been made and whose real property was seized and sold to satisfy their tax liability. Also name and address of purchaser.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts, property description.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

This system provides a record of all sales under 26 U.S.C. 6335 of real property as required by 26 U.S.C. 6390. The contents of this system of records evidences chain of title to real property and is a matter of public record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security number or employer identification number) and seizure number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB); Officials maintaining the system—Area Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to or individuals may appear in person at the Office of the Area Director for each Area whose records are to be searched. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records evidences chain of title to real property and is a matter of public record. (See "Categories of records in the system" above).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 26.016

SYSTEM NAME:

Returns Compliance Programs-Treasury/IRS.

SYSTEM LOCATION:

Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who may be delinquent in filing or paying Federal taxes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of name, address, taxpayer identification number (if known) and information concerning the potential tax liability. Returns Compliance Programs involve any type of Federal tax administered by the SB/SE, W&I, LMSB Division and are conducted in accordance with section 7601 of the Internal Revenue Code. RCP programs can be initiated by the National Office, Area offices, or by individual areas.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

This program identifies individuals who may be delinquent in filing or paying Federal tax.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices-Assistant Commissioner (SB/SE, W&I, LMSB), Officials maintaining the system-Area Directors and Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.019

SYSTEM NAME:

Taxpayer Delinquent Account (TDA) Files, including subsystems: (a) Adjustments and Payment Tracers Files, (b) Collateral Files, (c) Seized Property Records, (d) Tax SB/SE, W&I, LMSB Waiver, Forms 900, Files, and (e) Accounts on Child Support Obligations-Treasury/IRS.

SYSTEM LOCATION:

Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom Federal tax assessments have been made, and persons who owe child support obligations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts, chronological investigative history, canceled checks, amended returns, claims, collateral submitted to stay SB/SE, W&I, LMSB, copies of notices of Federal tax liens, revenue officer reports, waivers to extend statutory period for SB/SE, W&I, LMSB, etc, and similar information about persons who owe child support obligations. This system includes Installment Agreement Files; Delinquent Account Inventory Profile (DAIP); Currently Not Collectible Register; Currently Not Collectible Register (over $25,000); Advance Dated Remittance Check Files; Currently Not Collectible Accounts Files; File of taxpayer names entered in the Treasury Enforcement Communications System and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

The Taxpayer Delinquent Account (TDA) records provide a comprehensive inventory control of delinquent accounts. This system includes records for Adjustments and Payment Tracers files, collateral files, seized property records, Tax SB/SE, W&I, LMSB Waiver Form 900 files, Accounts on Child Support Obligations, Dyed Diesel Fuel Program, and Integrated SB/SE, W&I, LMSB System (ICS).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, or name of person who owes child support obligations, and taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Assistant Regional Commissioners (SB/SE, W&I, LMSB), Area Directors, Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.020

SYSTEM NAME:

Taxpayer Delinquency Investigation (TDI) Files—Treasury/IRS.

SYSTEM LOCATION:

Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers believed to be delinquent in filing Federal tax returns.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information from previously filed returns, information about the potential delinquent return(s), including class of tax, chronological investigative history; Delinquency Investigation Inventory Profile (DIIP) and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

The purpose of this system is to establish a control on taxpayers on whom tax assessments have been made.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Area Directors and Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.021

SYSTEM NAME:

Transferee Files—Treasury/IRS.

SYSTEM LOCATION:

Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Includes taxpayers on whom tax assessments have been made but who have allegedly transferred their assets in order to place them beyond the reach of the government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts. Also, the name, address, taxpayer identification number and related information about transferee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

To establish controls on records relating to taxpayers believed to be delinquent in filing Federal Tax returns.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Area Directors, Internal Revenue Service Center Directors, the Director of the Detroit Computing Center. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.022

SYSTEM NAME:

Delinquency Prevention Programs—Treasury/IRS.

SYSTEM LOCATION:

Area Offices, Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers having a history of Federal tax delinquency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, taxpayer identification number, address, filing requirements, chronological investigative history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook,

IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Area Directors, Internal Revenue Service Center Directors, the Detroit Computing Center Director. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 30.003

SYSTEM NAME:

Requests for Printed Tax Materials Including Lists—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices and Service Centers, 1111 Constitution Avenue, NW, Washington, DC 20224. (See appendix A for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Files include those individuals that request various IRS printed/electronic materials such as publication 1045, reproduction proofs, educational media, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of individual or company wanting to receive Area Manager or Area Director's newsletters, and/or ordering tax forms materials on certain distribution programs, (i.e. tax Practitioner Program; Bank, Post Office and Library Program; Reproducible Forms Program, etc.). A cross reference index may be developed to identify and control requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used to: (1) Disclose information to mailing or distribution services contractors for the purpose of executing mailouts, order fulfillment, or subscription fulfillment; (2) disclose information to mailing or distribution services contractors for the purpose of maintaining mailing lists.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosure of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(e)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, paper records or mailing plates.

RETRIEVABILITY:

Alphabetically or numerically, by zip code.

SAFEGUARDS:

Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Record Schedule 13, Printing, Binding, Duplication, and Distribution Records, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Publishing Services Branch, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, or head of the office maintaining the file.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in Record access procedures below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Chief, Publishing Services Branch, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See Record access procedures above.

RECORD SOURCE CATEGORIES:

The information is supplied by the individual and/or company making the request. The Service adds data pertaining to the fulfillment of the request.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 30.004

SYSTEM NAME;

Security Violations—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Violators of IRS Security Regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of violator, circumstances of violation (date, time, actions of violator, etc), supervisory action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used to: (1) The Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes. (2) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder (notices of violation), 3×5 inch card file, and electronic storage.

RETRIEVABILITY:

3×5 inch card file—by name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. Access to lateral file cabinets by security officer and staff only.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Property, Security, and Records Unit, National Office, Regional Office, Area Offices, Internal Revenue Service Center. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in Record access procedure below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager in the office where the records are located.

CONTESTING RECORD PROCEDURES:

See Record access procedures above.

RECORD SOURCE CATEGORIES:

Contract Guard Force and Security Inspections.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.003

SYSTEM NAME:

Assignment and Accountability of Personal Property Files—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Area Offices, Internal Revenue Service Centers, Detroit Computing Center, and the Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals receiving Government property for temporary use and repair.

CATEGORIES OF RECORDS IN THE SYSTEM:

Descriptions of property, receipts, reasons for removal, and property passes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information contained in these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored on various forms and ledgers maintained in locked filing cabinets.

RETRIEVABILITY:

Indexed alphabetically by name.

SAFEGUARDS:

Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedule 18, Security and Protective Services Records, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Space and Property Branch and Chief, National Office Facilities Management Branch, National Office; Regional Commissioners, Area Directors, Internal Revenue Service Center Directors, and Computing Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager in the office where the records are located.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Individuals who receive property or request property passes.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.007

SYSTEM NAME:

Record of Government Books of Transportation Requests—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Area Offices, Internal Revenue Service Centers, Detroit Computing Center, and Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees issued Transportation Requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form 496, alphabetical card record by name or the serial numbers of Transportation Requests issued to the employee; and Form 4678, numerical list by serial number listing the name of the employee to whom issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information from these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or

seeking legal advice. Disclosure may be made during judicial processes; (2) disclose information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (3) disclose information to another Federal agency to effect inter-agency salary offset; to furnish a consumer reporting agency information to obtain commercial credit reports; to furnish a debt collection agency information for debt collection services; to furnish a consumer reporting agency with delinquency and default data available to private sector credit grantors.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents.

RETRIEVABILITY:

By name or serial number.

SAFEGUARDS:

Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedule 9, Travel and Transportation Records, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officers, National Office; Area Directors, Internal Revenue Service Center Directors, and Computing Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager in the office where the records are located.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Government Books of Transportation Requests and employees to whom books were issued.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.009

SYSTEM NAME:

Safety Program Files-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Area Offices, Internal Revenue Service Centers, Detroit Computing Center, and the Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees and others involved in an IRS motor vehicle accident, an accident or injury on IRS property, or a tort or personal property claim against the Service. All individuals issued an IRS driver's license are covered by this system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual driving records and license applications, motor vehicle accident reports, lost time and no-lost time personal injury reports, tort and personal property claims case files, informal and formal investigative report files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Executive Order 12196.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) provide information to the Department of Labor in connection with investigations of accidents occurring in the work place; (3) provide information to other federal agencies for the purpose of effecting interagency salary offset or interagency administrative offset; (4) provide information to consumer reporting agencies in accordance with 31 U.S.C. 3711(f); (5) provide information to a debt collection agency for debt collection services; (6) disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, when the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (7) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (8) provide information to Officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents.

RETRIEVABILITY:

Indexed alphabetically by name.

SAFEGUARDS:

Access controls will not be less than those required by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. Generally, access is restricted to official use by IRS employees.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedule 1, 10, and 18; Records Control Schedule 114 for Facilities Management Division—National Office, IRM 1.15.2.1 (14); and Records Control Schedule 212 for Regional Commissioner, Assistant Regional Commissioner (Resource Management) and Area Director, IRM 1(15)59.2(12).

SYSTEM MANAGER(S) AND ADDRESS:

Safety Management Officer, Office of Research, Planning and Development, Director, Facilities and Information Management Systems, National Office; Director, Human Resources, Headquarters, appropriate Area Office; Computing Center Directors; and the Austin Service Center Director. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records or seeking to contest its content, may inquire in accordance with instructions appearing in 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager in the office where the records are located.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information originates from IRS employees, private individuals and private parties.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.012

SYSTEM NAME:

Emergency Preparedness Cadre Assignments and Alerting Rosters Files-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Area Offices, and Internal Revenue Service Centers/Campuses. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Key IRS and Treasury personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cadre assignments—personal information on employees; i.e., name, address, phone number, family data, security clearance, relocation assignment, etc. Alerting rosters—current listing of individuals by name and title stating their work and home address and phone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

The records are collected and maintained to identify emergency preparedness team members and their responsibilities; and to provide a means of contacting cadre members in the event of a national emergency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information from these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Individual forms, correspondence kept in file folders, and electronic storage.

RETRIEVABILITY:

Cadre assignments are filed by relocation site and alerting rosters by title of list.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedule 18, Security and Protective Services Records, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Physical Security Section, Facilities Standards Branch, Facilities and Information Management Support Division, National Office. Regional Office, Area Office, Internal Revenue Service Center Security Officers. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager in the office where the records are located.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Provided by individuals themselves.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.013

SYSTEM NAME:

Identification Media Files System for Employees and Others Issued IRS ID-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Internal Revenue Service Centers, Detroit Computing Center, and Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees having one or more items of identification and federal and non-federal personnel working in or visiting IRS facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain individual's name, home address, and other personal information and reports on loss, theft, or destruction of pocket commissions, enforcement badges and other forms of identification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

The records are collected and maintained to provide required information on the issuance of identification media by the IRS.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information from these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Correspondence file folders, 3 x 7 inch card files, and magnetic media.

RETRIEVABILITY:

Indexed separately by name and Identification Media serial number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. Access to the records is restricted to official use of Internal Revenue.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedule 11, Space and Maintenance Records, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Physical Security Section, Facilities Standards Branch, Facilities and Information Management Support Division, and Chief, Property, Security and Records unit, National Office; Area offices, Area Offices, Internal Revenue Service Center Security Officers.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below. Individual's name, SSN, address and type of ID media, plus the approximate date that he/she was issued and/or returned the particular item of identification, would have to be furnished to the Service office that issued the item for the Service to be able to ascertain whether or not the system contains a record about the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at CFR Part 1, subpart C, appendix B. Inquires should be addressed to the system manager in the offices where the record is located.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information is generated by specific personnel action and is initially gathered on an application for employment. The information is confirmed by the newly hired employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.014

SYSTEM NAME:

Motor Vehicle Registration and Entry Pass Files-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals requiring continued access to the facility and parking area violators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of employee, registered owner of vehicle, branch, telephone number, description of car, license number, employee's signature, name and expiration date of insurance, parking violations, decal number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

The records are collected and maintained to provide information on the issuance of parking permits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information from these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, card files.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Security Function at Internal Revenue Service Centers. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURES:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager in the office where the record is located.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information is supplied by individual, except for parking violations information which is supplied by Security guard personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.016

SYSTEM NAME:

Security Clearance Files-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Personnel Security Office, 1111 Constitution Avenue, NW., Room 4244, Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Internal Revenue Service requiring a security clearance, having their security clearance canceled or transferred and individuals who have violated IRS security regulations regarding classified national security information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain individual's name, employing office, date of security clearance, level of clearance, reason for the need for the national security clearance, and any changes in such clearance. Security violations records

contain name of violator, circumstance of violation and supervisory action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE:

This system of records documents issuances, transfers, and cancellations of security clearances issued to Internal Revenue Service employees in critical sensitive and noncritical sensitive positions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information from these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (3) provide information to agencies and on a need-to-know basis to determine the current status of an individual's security clearance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Correspondence file folders.

RETRIEVABILITY:

Indexed by name or social security number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. Records are stored in locked file cabinets and computerized records are password protected.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices-Chief, Agencywide Shared Services, 1111 Constitution Avenue, NW, Room 1408, Washington, DC 20224. Official maintaining the system and records—Personnel Security Officer, A:S:PSO, 1111 Constitution Avenue, NW, Room 4244, Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to this system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the IRS Personnel Security Officer, A:S:PSO, 1111 Constitution Avenue, NW, Room 4244, Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information is provided by the employee, his/her supervisor or employee's personnel record. Security violation information is obtained from a variety of sources, such as guard reports, security inspections, supervisor's reports, Internal Audit Reports, etc.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.020

SYSTEM NAME:

IRS Audit Trail Lead Analysis System (ATLAS)—Treasury/IRS.

SYSTEM LOCATION:

The ATLAS is located in an IRS facility in West Virginia. The users of the system are located in a facility in Ohio.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) IRS employees and contractors who have accessed, by any means, tax return or other IRS information contained within an IRS information system (i.e., its operating system, network, or data base) which processes taxpayer information. (2) Individual taxpayers upon whom the IRS maintains paper or electronic records and whose records have been accessed. (3) Individuals who have illegally accessed, by any means, tax return or other IRS information contained within an IRS information system (i.e., its operating system, network, or data base) which processes taxpayer information.

CATEGORIES OF RECORDS IN THE SYSTEM:

The IRS information systems create audit logs of IRS employees or contractors who have accessed or other individuals who have illegally accessed taxpayer records. The audit logs are then processed by ATLAS to determine whether the accesses are consistent with the IRS policy, standards and practices regarding tax administration, and the confidentiality statutes within the U.S. Code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 6103, 7213, 7213A, 7214, 7608, 7801, 7802, and 18 U.S.C. 1030(a)(2)(B).

PURPOSE(S):

To enable the IRS to enhance protection of sensitive tax return information by assuring the public that its tax information is being protected in an ethical and legal manner, thereby promoting voluntary taxpayer compliance. The system is to detect and counter unauthorized access, use, fraud and abuse of tax return information. The system provides protection by monitoring and tracking, through analysis of audit logs, accesses to and use of IRS electronic records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of tax returns and tax return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (2) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged; (3) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (4) Provide information to third parties

during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (5) Provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, the Merit Systems Protection Board, arbitrators, the Federal Labor Relations Authority, and other parties responsible for the administration of Federal labor actions or grievances or conducting administrative hearings or appeals or if needed in the performance of other authorized duties; (6) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; and (7) Disclose information to the defendant in a criminal prosecution, the Department of Justice, or a court of competent jurisdiction where required in criminal discovery or by the Due Process Clause of the Constitution.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage, either by magnetic or optical media, and paper copy.

RETRIEVABILITY:

(1) Indexed by name, social security number (SSN) or other unique identifier assigned to an IRS employee or contractor who has been granted access to an IRS computer system, or other individuals who have illegally accessed an application which processes taxpayer information. (2) Indexed by name, SSN, or other unique identifier assigned to an IRS employee or contractor who has been granted access to paper records. (3) Retrieved by the Taxpayer Identification Number (SSN, EIN, or ITIN).

SAFEGUARDS:

Access controls will not be less than those described in TD P 71–10, Department of Treasury Security Manual, IRM 2.1.10 Internal Revenue Manual—Information Systems Security, and IRM 1(16)12 Internal Revenue Manual—Managers Security Handbook.

RETENTION AND DISPOSAL:

Records are maintained in accordance with record disposition handbooks, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Security Program Section, Telecommunication and Operations Division, Information Systems, Internal Revenue Service, Department of the Treasury, 1111 Constitution Ave., NW, Washington, DC 20220.

NOTIFICATION PROCEDURE:

This system of records is exempt from certain provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system of records is exempt from certain provisions of the Privacy Act and may not be accessed for the purpose of determining if the system contains a record pertaining to a particular individual.

CONTESTING RECORD PROCEDURES:

This system of records is exempt and may not be accessed for purposes of inspection or contest of record contents. Also, 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records is exempt from the Privacy Act provision which requires that record source categories be reported. (See "Exemptions Claimed for the System," below.)

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (see 31 CFR 1.36)

Treasury/IRS 34.021

SYSTEM NAME:

Personnel Security Investigations, National Background Investigations Center—Treasury/IRS.

SYSTEM LOCATION:

National Background Investigations Center, P.O. Box 248, Florence, KY 41022–0248.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current, former and prospective employees of: Internal Revenue Service, Office of the Secretary of the Treasury, Office of the General Counsel, Office of the Treasurer of the United States, Office of the Comptroller of the Currency, Office of International Finance, Financial Management Service, Bureau of Engraving and Printing, Bureau of the Mint, Bureau of the Public Debt, Federal Law Enforcement Training Center, and Private Contractors at IRS Facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Federal Employment Application Forms; (2) Results of National Agency Checks (prior reports and records from FBI Investigative Files, Fingerprint Files, Office of Personnel Management, Defense Central Index of Investigations, House Committee on Internal Security, and Coast Guard Intelligence); (3) Employees' Tax Account Histories; (4) Results of Employees' Tax Examinations; (5) Employees' Financial Statements; (6) A summary report, a narrative report, notes and/or written replies resulting from the investigator's inquiries into the subject's scholastic record, prior employment, military service, references, neighbors, acquaintances or other knowledgeable sources, police records and past credit record; (7) Report of action taken by management personnel adjudicating any derogatory information developed by the investigation; (8) Report of legal action resulting from violations of statutes referred for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801 and 7802; Executive Order 10450; Executive Order 11222.

PURPOSE(S):

This system documents personnel security investigations conducted for the purpose of furnishing to proper authorities sufficient information concerning a person's character, reputation and loyalty to the United States. They also serve as a basis for determining a person's suitability for employment or retention in employment and the issuance of security clearances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement

negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00. Records will be accessible to National Background Investigations Center personnel on a need-to-know basis, all of whom have been the subject of background investigations. Computerized records are password protected.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, National Background Investigations Center, Exhibit (10)110–2.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices: Assistant Commissioner, (Support Services). Official maintaining the system: Director, National Background Investigations Center, P.O. Box 248, Florence, KY 41022–0248.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the IRS National Background Investigations Center, P.O. Box 248, Florence, KY 41022–0248, Attn: Disclosure Specialist.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Employment Application Forms submitted by subjects of investigation. Financial information from subjects. Federal, State and Local Government Agencies (Police, Court and Vital Statistics records). Credit Reporting Agencies. Neighbors (former and present). References. Former and present employers and co-workers. Other third party sources. Schools. Tax Returns and Examination Results. Information provided by the individual under investigation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5).

Treasury/IRS 34.022

SYSTEM NAME:

National Background Investigations Center Management Information System (NBICMIS)—Treasury/IRS.

SYSTEM LOCATION:

National Background Investigations Center, P.O. Box 248, Florence, KY 41022–0248.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Internal Revenue Service within the Department of the Treasury, and private contractors at IRS facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) NBICMIS personnel system records contain National Background Investigations Center (NBIC) employee name, office, start of employment, series/grade, title, separation date; (2) NBICMIS tracking records contain status information on investigations from point of initiation through conclusion; (3) NBICMIS timekeeping records contain assigned cases and distribution of time; (4) NBICMIS case tracking records contain background investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801 and 7802; Executive Order 11222.

PURPOSE(S):

The purpose of NBICMIS is to: (1) Effectively manage NBIC resources and assess the effectiveness of current NBIC programs as well as assist in determining budget and staff requirements. (2) Provide the technical ability for other components of the Service to analyze trends in integrity matters on an organizational, geographic and violation basis.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority, responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (3) Disclose information to a Federal, State, or local, or other public authority, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee; or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged; (5) Provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (6) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (7) Provide information to third parties during the course of an investigation to the extent

necessary to obtain information pertinent to the investigation; (8) Disclose information to a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, social security number, or case number.

SAFEGUARDS:

Access is limited to authorized Support Services personnel who have a direct need to know. Hard copy of data is stored in rooms of limited accessibility except to employees. These rooms are locked after business hours. Access to magnetic media is controlled by computer passwords. Access to specific NBICMIS records is further limited by computer security programs limiting access to select personnel.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and are retained and archived as long as deemed necessary.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices: Assistant Commissioner, (Support Services). Official maintaining the system: Director, National Background Investigations Center, P.O. Box 248, Florence, KY 41022–0248.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to them may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the IRS National Background Investigations Center, P.O. Box 248, Florence, KY 41022–0248, Attn: Disclosure Specialist.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Current and former employees of the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2).

Treasury/IRS 34.037

SYSTEM NAME:

IRS Audit Trail and Security Records System-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, Regional Offices, Service Centers, Computing Centers. (See IRS Appendix A for addresses of IRS offices).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have accessed, by any means, information contained within IRS electronic or paper records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Electronic and paper records concerning IRS employees or contractors or other individuals who have accessed IRS records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301: 26 U.S.C. 6103, 7213, 7213A , 7214, 7608, 7803, and 18 U.S.C. 1030(a)(2)(B).

PURPOSE(S):

To enable the IRS to enhance protection of sensitive information by assuring the public and employees that their information is being protected in an ethical and legal manner.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of IRS tax return and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations, or foreign government under a tax treaty; (2) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged; (3) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the information pertains; (4) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (5) Provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, the Merit Systems Protection Board, arbitrators, the Federal Labor Relations Authority, and other parties responsible for the administration of Federal labor actions or grievances or conducting administrative hearings or appeals or if needed in the performance of other authorized duties; (6) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; and, (7) Disclose information to the defendant in a criminal prosecution, the Department of Justice, or a court of competent jurisdiction where required in criminal discovery or by the Due Process Clause of the Constitution.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and paper.

RETRIEVABILITY:

(1) Indexed or retrieved by name, social security number (SSN) or other unique identifier assigned to an IRS employee or contractor or other individual who has been granted access to IRS records. (2) Retrieved or indexed by a Taxpayer Identification Number.

SAFEGUARDS:

Access controls will not be less than those described in TD P 71–10, Department of Treasury Security Manual, IRM 2.1.10 Automated

Information Systems Security, and IRM 1(16)12 Managers Security Handbook.

RETENTION AND DISPOSAL:

Records are maintained in accordance with record disposition handbooks, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Security Program Section, Telecommunication and Operations Division, Information Systems, Internal Revenue Service, Department of the Treasury, 1111 Constitution Ave., NW, Washington, D.C. 20224 or head of the office maintaining the file.

NOTIFICATION PROCEDURE:

This system of records is exempt from certain provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system of records is exempt from certain provisions of the Privacy Act and may not be accessed for the purpose of determining if the system contains a record pertaining to a particular individual.

CONTESTING RECORD PROCEDURES:

This system of records is exempt and may not be accessed for purposes of inspection or contest of record contents. Also, 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Records contained in the IRS Audit Trail and Security Records System are obtained from three sources: (1) Information provided by authorized users to managers used for establishing access control; (2) information automatically recorded by information security audit functions of the operating systems and various IRS applications which process IRS information; and (3) information derived from IRS records in paper and electronic format.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (see 31 CFR 1.36).

Treasury/IRS 36.001

SYSTEM NAME:

Appeals, Grievances and Complaints Records-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Internal Revenue Service Centers/Campuses, Detroit Computing Center, and the Martinsburg Computing Center. (see IRS appendix A for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Federal employment, current and former Federal employees (including annuitants) who submit appeals, grievances, or complaints for resolution.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to a decision or determination made by an agency or other appropriate action organization (e.g., Office of Personnel Management, Equal Employment Opportunity Commission, Merit Systems Protection Board) affecting an individual. The records consist of the initial appeal or complaint, letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimonies of witnesses, investigative reports, instructions to an agency about action to be taken to comply with decisions, and related correspondence, opinions and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, 4308, 5115, 5338, 5351, 5388, 7105, 7151, 7154, 7301, 7512, 7701 and 8347, Executive Order 9830, 10577, 10987, 11222, 11478 and 11491; and Pub. L. 92–261 (EEO Act of 1972), and Pub. L. 93–259.

PURPOSE(S):

This system consists of records compiled for administrative purposes, for appeals, grievances and complaints. Automated Labor and Employee Relations Tracking System (ALERTS) records are included to provide administrative tracking for personnel administration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be only made as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Provide information to a Member of Congress regarding the status of an appeal, complaint or grievance; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (3) disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) provide information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (5) provide information to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies; (6) provide records and information to the Office of Personnel Management, Merit Systems Protection Board or Equal Employment Opportunity Commission for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders and regulations; (7) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (8) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (10) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card files, flat paper, lists, forms, folders, binder, microfilm and microfiche, punch card, and magnetic media.

RETRIEVABILITY:

Indexed by the names and case number of the individuals on whom they are maintained.

SAFEGUARDS:

Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. This

is also in conformance with existing EEOC regulations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedules, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

(a) EEO Discrimination Complaint Records—Regional Complaints Center Directors; (b) all other records—Director, Human Resources Division, or Chief, Personnel Branch, appropriate office. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Area Director for each Area whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, Martinsburg Computing Center (for computing center employees only); Director, Detroit Computing Center (for computing center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner Human Resources, National Office; Regional Counsel for each region whose records are to be searched; Assistant Chief Counsel (Disclosure Litigation) for records in the National Office of Chief Counsel. (See IRS appendix A for addresses.) Individuals should provide their name, date of birth, agency in which employed, and the approximate date, and the kind of action taken by the agency when making inquiries about records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the appropriate official listed above. Individuals should provide their name, date of birth, POD, approximate date, and the kind of action taken by the agency when requesting access to, or contest of, records.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

(1) Individual to whom the record pertains; (2) Agency and/or other authorized Federal officials; (3) Affidavits or statements from employee; (4) Testimony of witnesses; (5) Official documents relating to the appeal, grievance, or complaints; (6) Correspondence from specific organization or persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 36.002

SYSTEM NAME:

Employee Activity Records—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Internal Revenue Service Centers/Campuses, Detroit Computing Center, and Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records and information relating to employee activities and functions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (3) provide information to officials of labor organization recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (5) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Indexed by the name of the individuals on whom they are maintained.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. This is in conformance with existing OPM regulations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Supervisor of the organizational segment participating in the activity. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below. Inquiring individuals need only provide their name.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager or the individual designated to maintain the record. Inquiring individuals need only provide their name.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information is derived only from the individual to whom the record pertains.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 36.003

SYSTEM NAME:

General Personnel and Payroll Records—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Internal Revenue Service Centers, Detroit Computing Center, Martinsburg Computing Center, and the Tennessee Computing Center. Payroll records are maintained at the Detroit Computing Center. (See IRS appendix A for addresses.) Transaction Processing Center, U.S. Department of Agriculture, National Finance Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective, current and former employees of the IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records relating to personnel actions and determinations made about an individual while employed in the Federal service. These records contain data on individuals required by the Office of Personnel Management (OPM) and maintained in the Official Personnel Folder (OPF). The OPF may also contain letters of commendation; awards from non-Federal organizations; recommendations for Federal awards; awards; reprimands; adverse or disciplinary charges; records relating to life insurance, health insurance, designation of beneficiary; training; and other records which OPM and IRS require or permit to be maintained in the OPF. This system also includes records which are maintained in support of a personnel action such as a position management or position classification action, a reduction-in-force action (including such documents as retention registers and notices), and priority placement actions. Other records maintained about an individual in this system are evaluation records, including appraisal, expectation and payout records; employee performance file (EPF) records (includes performance ratings); suggestion files; award files; financial and tax matters; back pay files; jury duty records; special emphasis programs records, such as Upward Mobility and Handicapped; outside employment statements; clearance upon separation; Unemployment Compensation Records; adverse and disciplinary action files; supervisory drop files; records relating to personnel actions correcting a pay problem; employment of relatives; furlough/recall records; work measurement records; emergency notification, employee locator and current address records; other records relating to the status of an individual; Executive Resources records and Senior Executive Service records; Management Careers Program records; and correspondence files pertaining to any personnel information contained in this notice. Payroll records included in this system are data storage and file records system for processing payroll and personnel actions, consisting of records of time and attendance, leave, tax withholding, bond purchases and issuances, emergency salaries, overtime and holiday pay, optional payroll deductions, and minority group designator codes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 1302, 2951, 4118, 4308 and 4506; and Executive Order 10561.

PURPOSE(S):

This system consists of records compiled for personnel administrative purposes. Automated Labor and Employee Relations tracking system (ALERTS) records are collected and maintained in the system to provide a management information database. This system also includes automated records such as the Totally Automated Personnel System (TAPS). Information that supports evaluations of IRS personnel may also be in this system. Listing of employee pseudonyms may be included in this system of records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to: (1) Provide information to a prospective employer of an IRS employee or former IRS employee; (2) provide data to update Federal Automated Career Systems (FACS), Executive Inventory File, and security investigations index on new hires, adverse actions, and terminations; (3) provide information to a Federal, state, or local agency, other organizations or individuals in order to obtain relevant and pertinent information about an individual which is necessary for the hiring or retention of an individual; letting of a contract; or the issuance of a license, grant or other benefit; (4) request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent agencies; (5) provide information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial process; (6) provide information to other agencies to the extent provided by law or regulation and as necessary to report apparent violation of law to appropriate law enforcement agencies; (7) provide information or records, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to any other appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto or upon request of such agency when the agency is investigating the possible violation of their rules or regulations; (8) provide records to the Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, and General Accounting Office for the purpose of properly administering Federal Personnel systems or other agencies' systems in accordance with applicable laws, Executive Orders, and applicable regulations; (9) provide information to hospitals and similar institutions or organizations involved in voluntary blood donation activities; (10) provide information to educational institutions for recruitment and cooperative education purposes; (11) provide information to a Federal, state, or local agency so that the agency may adjudicate an individual's eligibility for a benefit, such as a state unemployment compensation board, housing administration agency and Social Security Administration; (12) provide information to financial institutions for payroll purposes; (13) provide information to another agency such as the Department of Labor or Social Security Administration and state and local taxing authorities as required by law for payroll purposes; (14) provide information to Federal agencies to effect inter-agency salary offset; to effect inter-agency administrative offset to the consumer reporting agency for obtaining commercial credit reports; and to a debt collection agency for debt collection services; (15) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (16) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (17) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (18) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (19) provide

information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (20) disclosure of information about particular Treasury employees may be made to requesting Federal agencies or non-Federal entities under approved computer matching efforts, limited to only those data elements considered relevant to making a determination of eligibility under particular benefit programs administered by those agencies or entities or by the Department of the Treasury or any constituent unit of the Department, to improve program integrity, and to collect debts and other monies owed under those programs; (21) respond to state and local authorities for support garnishment interrogatories; and (22) provide information to private creditors for the purpose of garnishment of wages of an employee if a debt has been reduced to a judgement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, discs, forms, punched cards, flat paper, lists, card files, forms, folders, binders, microfilm and microfiche.

RETRIEVABILITY:

Records are indexed by any combination of name, birth date, social security number, or employee identification number.

SAFEGUARDS:

Access controls will be not less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. This is also in conformance with existing OPM and GAO regulations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedules, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

AWSS manager or Director, Human Resources Branch, and Chief, Personnel Branch, appropriate office; Executive Secretary, Executive Resources Board (for executive resource records); Director of Labor Relations; Chiefs, Transactional Processing Centers; Director, Tennessee Computing Center; Director of Support Services, Midstates Region, 4050 alpha Road, 12th Floor, Mail code 1100 MSRO, Dallas, TX 75244–4203; Director of Support Services, Northeast Region, PO Box 2815, Church Street Station, New York, NY 10008; Director of Support Services, Southeast Region, PO Box 926, Stop 160–R, Atlanta, GA 30370; Director of Support Services, Western Region, 1650 Mission Street, Room 511, San Francisco, CA 94103.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Area Director for each Area whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, Martinsburg Computing Center (for computing center employees only); Director, Detroit Computing Center (for computing center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Human Resources Division, National Office; for each appropriate Division in the National Office; Counsel for each area whose records are to be searched; Assistant Chief Counsel (Disclosure and Privacy Law) for records in the National Office of Chief Counsel; (See IRS appendix A for addresses.) Inquiries should include name, date of birth, social security number and post-of-duty.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the appropriate official listed above. Former IRS employees who wish to gain access to their records should direct such a request in writing, including their name, date of birth, and social security number, to: National Personnel Records Center, National Archives and Records Administration, 9700 Page Boulevard, St. Louis, Missouri 63132.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information supplied by that individual, except information provided by agency officials. Payroll information is compiled from existing master records, i.e., employees' official personnel folders, or the employee. Information is also obtained directly from an employee, payroll coordinator, or administrative officer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 36.005

SYSTEM NAME:

Medical Records-Treasury/IRS.

SYSTEM LOCATION:

(1) Applicants and current IRS employees: National Office, Area offices, Internal Revenue Service Centers/Campuses, Detroit Computing Center, and the Martinsburg Computing Center. (See IRS appendix A for addresses.); (2) Former IRS employees: National Personnel Records Center, 9700 Page Blvd., St. Louis, Missouri 63132. Records may also be maintained in the offices listed under (1) above.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Applicants for IRS employment; (2) Applicants rejected on medical grounds; (3) Applicants for disability retirement under the Civil Service Retirement Law; (4) IRS employees; (5) Former IRS employees; (6) Visitors of IRS offices who require medical attention while on the premises.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Applications for IRS employment containing information relating to an individual's medical qualifications to hold a position in the IRS; (2) Applications rejected on medical grounds. Information relating to an applicant's rejection for a position because of medical reasons; (3) Disability retirement records. Information relating to an individual's capability (physical or mental) to satisfactorily perform the duties of the position he or she holds or held; (4) Health unit medical records (Federal civilian employees); (5) Information relating to an employee's participation in an occupational health services program; (6) Qualification examinations (Federal employees). Information relates

to pre-employment, or periodic re-qualification medical examinations to assure that the incumbents are qualified (physically and mentally) to satisfactorily perform the duties of the position; (7) Fitness-for-duty examinations. Information relating to a medical examination to determine an individual's physical or mental condition with respect to ability to satisfactorily perform the duties of the position held; (8) Alcohol/drug employee assistance records. Information relating to employee participation in the Federal Civilian Alcoholism and Drug Abuse Program; (9) Injury Compensation Records. Information relating to on-the-job injuries of employees and former employees; (10) Records relating to the Blood Donor Program; (11) Records relating to drug testing program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Medical Information relating to the Retirement, Life Insurance and Health Benefits Programs—5 U.S.C. Chapters 81, 87, and 89. Information for Federal employment—5 U.S.C. 3301. Information relating to the Alcoholism, Drug Abuse and Employee Assistance Programs—Pub. L. 91–616 and 92–255 as amended by Pub. L. 93–282 in regard to confidentiality of patient records. Information relating to the Occupational Health Program—5 U.S.C. 7901. Information relating to workman's compensation—5 U.S.C. 8101. Information relating to drug testing—5 U.S.C. 7301.

PURPOSE(S):

Injury compensation records and records relating to drug testing are collected and maintained to effectively administer the Worker's Compensation Program and the Drug-Free Workplace Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information contained in these records may be used to: (1) Provide information to other Federal agencies responsible for other Federal benefits programs administered by the Office of Workers' Compensation Programs; Retired Military Pay Centers; Veterans Administration; Social Security Administration; Office of Personnel Management; Private contractors engaged in providing benefits under Federal contracts; (2) disclose information to the Department of Justice for the purpose of litigating an action or seeking advice. Disclosure may be made during judicial processes; (3) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (4) disclose information to other agencies to the extent provided by law or regulation; (5) disclosure may be made to the appropriate Federal, state or local agency where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature; (6) Federal, state, or local agencies in order to obtain or release relevant and pertinent information to an agency decision concerning the hiring or retention of an individual, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit; (7) disclose information to the Public Health Service; (8) disclose information to an individual's private physician where medical considerations or the content of medical records indicate that such release is appropriate; (9) disclose information to an agency designated employee representative where such representative is required by the Office of Personnel Management; (10) disclose information to hospitals and similar institutions or organizations participating in blood donor activities; (11) disclosure of Alcoholism, Drug Abuse, and Employee Assistance records are limited under Public Laws 91–616, 92–255, and 93–282; (12) disclose information to the Equal Employment Opportunity Commission when needed to resolve a complaint; (13) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (14) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (15) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, discs, flat paper, lists, forms, folders, card files, microfilm and microfiche.

RETRIEVABILITY:

Records are indexed by name, social security number, date of birth and/or claim number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedules, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Branch, or Chief, Personnel Branch, appropriate office; Associate Chief Counsel (Finance and Management), Regional and Area Counsels. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Area Director for each Area whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, Martinsburg Computing Center (for Computing Center employees only); Director, Detroit Computing Center (for Computing Center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Human Resources Branch, National Office; Chief, Management and Administration, National Office; Counsel for each region whose records are to be searched; Assistant Chief Counsel (Enforcement Litigation-Disclosure and Privacy Law) for records in the National Office of Chief Counsel. (See IRS appendix A for addresses.) Former employees should direct inquiries to: The National Personnel Records Center, 9700 Page Blvd., St. Louis, Missouri 63132. Individuals requesting information about this system of records should provide their full name, date of birth, social security number, name and address of office in which currently or formerly employed in the Federal service, and annuity account number, if any has been assigned.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with

instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the appropriate official listed above.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

(1) The individual to whom the record pertains; (2) private physicians; (3) Medical institutions; (4) Office of Workers' Compensation Programs; (5) Military Retired Pay Systems Records; (6) Federal civilian retirement systems other than Civil Service Retirement System; (7) General Accounting office pay, leave allowance cards; (8) OPM Retirement, Life Insurance and Health Benefits Records System; (9) OPM Personnel Management Records System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 36.008

SYSTEM NAME:

Recruiting, Examining and Placement Records-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, PODs, Internal Revenue Service Centers/ Campuses, Detroit Computing Center, and Martinsburg Computing Center, (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for IRS employment, current and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education, training, employment history and earnings, tests, results of written tests, test scores, qualification determinations, evaluations, appraisals of potential, interview records, responses to test items and questionnaires, honors, and awards or fellowships. Other information maintained in the records includes military service, date of birth, birthplace, SSN, home address. Records may also be maintained on suitability determinations, employee participation in special emphasis, placement and recruiting programs, and employee turnover records. This system also includes correspondence files relating to the above mentioned records. Personnel research and test validation records are included in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3109, 3301, 3302, 3304, 3306, 3307, 3309, 3313, 3317, 3318, 3319, 3326, 3349, 4103, 5532, 5533 and 5723; Executive Order 10577 and 11103.

PURPOSE(S):

This system is to determine eligibility for employment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) disclose information to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies; (3) disclose information and records to the Office of Personnel Management, Merit Systems Protection Board, or the Equal Employment Opportunity Commission, for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders and regulations; (4) refer applicants to officials of Federal government agencies for purposes of consideration for placement in positions for which an applicant has applied and is qualified; to state and local governments with permission of an applicant for the purpose of employment consideration; and to refer current IRS employees to Federal agencies for consideration for transfer, reassignment, and promotion; (5) disclose information to educational institutions in connection with recruiting efforts; (6) disclose information or records where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to any other appropriate agency, whether Federal, state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule; (7) request information from a Federal, state or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (8) provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter; (9) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (10) provide information to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation; (11) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (12) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, punched cards, discs, card files, lists, flat paper, microfilm, microfiche, forms and folders.

RETRIEVABILITY:

Records are indexed by name, combination of birth date, social security account number, and an identification number that is applicable.

SAFEGUARDS:

Access Controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. This is in conformance with existing OPM regulations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedules, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Branch (or equivalent), or Chief, Personnel Branch (or equivalent), appropriate office. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Area Director for each Area whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, Martinsburg Computing Center (for Computing Center employees only);

Director, Detroit Computing Center (for Computing Center employees only); Commissioner for each Office whose records are to be searched; Director, Personnel Branch, National Office; Chief, Management and Administration, National Office; or other appropriate official. (See appendix A.) Individuals should provide name, date of birth, social security number, identification number (if known), approximate date of record, and title of examination or announcement with which concerned.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the appropriate official as listed above. This system of records may not be accessed for purposes of inspection or for contest of content of Treasury Forms 4825 (Evaluation of Candidates for Initial Executive Placement) and Treasury Form 4245 (Report of Managerial Potential) prepared prior to September 27, 1975.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information he or she supplied, except reports from medical personnel on physical qualification; results of examination which are made known to applicants and vouchers supplied by references the applicant lists.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 36.009

SYSTEM NAME:

Retirement, Life Insurance and Health Benefits Records System—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Internal Revenue Service Centers/Campuses, the Detroit Computing Center, and the Martinsburg Computing Center, (See IRS appendix A for addresses.) For former employees: Records Division, Bureau of Retirement, Insurance and Occupational Health, Office of Personnel Management, Boyers, Pennsylvania.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) IRS employees who are covered by the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS); (2) IRS employees who have either declined or are covered by the Federal Employees' Group Life Insurance Program or the Federal Employees' Health Benefits Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Documentation of Federal service creditable under CSRS/FERS; (2) Documentation of coverage or declination of coverage under the Federal Employees' Group Life Insurance Program, and the Federal Employees' Health Benefits Program; (3) Documentation of claim for refund or for annuity benefits under CSRS/FERS; (4) Documentation of claim for survivor annuity or death benefits under CSRS/FERS; (5) Medical records supporting claims for disability retirement under CSRS/FERS; (6) Designations of beneficiary for benefits payable under CSRS/FERS or the Federal Employees' Group Life Insurance Program; (7) All other information necessary to enable offices to recruit annuitants for short term assignments and to send them requested publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapters 83, 87, and 89.

PURPOSE(S):

Retirement, life insurance, and health insurance benefit records are collected and maintained to effectively administer the Federal Employee's Retirement System (FERS); Civil Service Retirement System (CSRS); Federal Employee's Group Life Insurance Plan, and the Federal Employees' Health Benefit Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to: (1) Provide information to the Office of Workers' Compensation Programs, Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, and Federal civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system; (2) provide information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance Program to the Office of Federal Employees' Group Life Insurance, 4 East 24th Street, New York, N.Y. 10010; (3) provide information necessary to support a claim for health insurance benefits under the Federal Employees' Health Benefits Program to a health insurance carrier or plan participating in the program; (4) disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (5) provide information to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies; (6) disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (7) provide information and records to the Office of Personnel Management for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders and regulations; (8) provide information to an agency designated employee representative when such representative is required under Office of Personnel Management regulations; (9) provide information to hospitals and similar institutions to verify an employee's coverage in the Federal Employees' Health Benefits Program; (10) provide information to the Equal Employment Opportunity Commission when needed to resolve a complaint; (11) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (12) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (13) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (14) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, punched cards, discs, forms, flat paper, card files, lists, folders, microfilm and microfiche.

RETRIEVABILITY:

Records are indexed by name, social security number, birth date, and by annuity or death claim number.

SAFEGUARDS:

Access Controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. This is also in conformance with existing OPM regulations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301— General Records Schedules, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Branch, and Chief, Personnel Branch, appropriate office. Associate Chief Counsel (Finance and Management), Regional and Area Counsels. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

(1) Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR, part 1, subpart C, appendix B. Inquiries should be addressed to: Area Director for each Area whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, Martinsburg Computing Center (for Computing Center employees only); Director, Detroit Computing Center (for Computing Center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Human Resources Branch, National Office; Chief, Management and Administration, National Office; Regional Counsel for each region whose records are to be searched; Assistant Chief Counsel (Enforcement Litigation-Disclosure Litigation) for records in the National Office of the Chief Counsel. (see IRS appendix A for addresses); (2) If the individual is retired from Federal service he should direct inquiries to: Associate Director for Compensation, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415; (3) if the individual is not retired, but has been separated from Federal service, he should direct inquiries to: National Personnel Records Center, 9700 Page Blvd., St. Louis, Missouri 63132.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the appropriate official listed above. Individuals requesting information in this system of records should provide their full name, date of birth, social security number, claim number, if assigned, and the POD in which currently or formerly employed.

CONTESTING RECORDS PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

The information in this system is obtained from the following sources: (1) The individual whom the information is about; (2) GAO Pay, Leave and Allowance Records System; (3) OPM Personnel Management Records System; (4) NARA National Personnel Records Center; (5) OPM Medical Records System; (6) Federal civilian retirement systems other than Civil Service Retirement System and Federal Employees' Retirement System; (7) Military retired pay system records; (8) Office of Workers' Compensation Programs; (9) Veterans Administration Pension Benefits Programs; (10) Social Security, Old Age, Survivor and Disability Insurance and Medicare Programs.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 37.001

SYSTEM NAME:

Abandoned Enrollment Applications—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 901 D Street, SW., Washington, DC, and the Detroit Computing Center, 985 Michigan Ave., Detroit, MI 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who applied for enrollment to practice before the Internal Revenue Service but subsequently abandoned their applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for enrollment to practice before the Internal Revenue Service and, in some cases, information regarding individuals' fitness for enrollment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purpose of this system is to retain enrollment applications, for the benefit of applicants, until the time limits for pursuing such applications have expired.

ROUTINE USES OF RECORD MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing; a statute, rule, regulation, order or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Indexed by name of applicant;

SAFEGUARDS:

Those safeguards in effect at Federal Records Center.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, 1111 Constitution Ave., NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Internal Revenue Service Office of the Director of Practice, C:AP:P, 1111 Constitution Ave, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by (1) The applicant; (2) individuals; (3) the Internal Revenue Service; (4) other government agencies, and (5) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 37.002

SYSTEM NAME:

Files Containing Derogatory Information about Individuals Whose Applications for Enrollment to Practice Before the IRS Have Been Denied and Applicant Appeal Files—Treasury/IRS.

SYSTEM LOCATION:

(1) Internal Revenue Service, Office of Director of Practice, 901 D Street, SW., Washington, DC; and (2) Detroit Computing Center, 985 Michigan Avenue, Detroit, MI 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose applications for enrollment to practice before the Internal Revenue Service have been denied, including those who have appealed such denial.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' applications and eligibility for enrollment to practice before the Internal Revenue Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to inform the Director of Practice personnel that certain individuals have been denied enrollment based on derogatory information and that certain individuals have appealed denial of enrollment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5 year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals; (2) the Internal Revenue Service; (3) other Government agencies, and (4) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/IRS 37.003

SYSTEM NAME:

Closed Files Containing Derogatory Information About Individuals' Practice Before the Internal Revenue Service and Files of Attorneys and Certified Public Accountants Formerly Enrolled to Practice—Treasury/IRS.

SYSTEM LOCATION:

(1) Internal Revenue Service, Office of Director of Practice, 901 D Street SW., Washington; and (2) Detroit Computing Center, 985 Michigan Avenue, Detroit, MI 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals eligible to practice before the Internal Revenue Service (attorneys, certified public accountants and enrolled agents).

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollments to practice before the Internal Revenue Service and derogatory and other information regarding such practice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to permit Director of Practice personnel to evaluate new derogatory information about an individual's practice before the Internal Revenue Service in light of past evidence of misconduct, and to retain information on formerly enrolled attorneys and certified public accountants whom the Director of Practice might need to contact with regard to their eligibility to practice before the Internal Revenue Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/IRS 37.004

SYSTEM NAME:

Derogatory Information (No Action)—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 901 D Street SW., Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys, certified public accountants, enrolled agents and others.

CATEGORIES OF RECORDS IN THE SYSTEM:

Such files contain derogatory information concerning attorneys, certified public accountants, and enrolled agents and others over whom there is no current jurisdiction, where such information is subject to future development, or where such information is not sufficiently serious to be currently considered a case file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purpose of this system of records is to permit Director of Practice personnel to evaluate new derogatory information about an individual's practice before the Internal Revenue Service in light of past evidence of misconduct.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose after 5 years by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by (1) Individuals, (2) the Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/IRS 37.005

SYSTEM NAME:

Present Suspensions and Disbarments Resulting from Administrative Proceeding-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 901 D Street, SW, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals formerly eligible to practice before the Internal Revenue Service but now either suspended or disbarred from such practice after being accorded due notice and opportunity for hearing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollment to practice before the Internal Revenue Service, derogatory and other information regarding such practice, and record of proceedings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to retain derogatory information about an individual's practice before the Internal Revenue Service, to retain a record of how such information was evaluated by Director of Practice personnel, to retain a record of how an individual responded to allegations of misconduct, to retain a record of proceeding before an administrative law judge, to inform Director of Practice personnel that certain individuals have been suspended or disbarred, and to permit Director of Practice personnel to assemble and consider new information bearing on an individual's eligibility for reinstatement to practice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Transfer information regarding suspension or disbarment of attorneys, certified public accountants and enrolled agents to professional organizations; (2) disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a state, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged

information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/IRS 37.006

SYSTEM NAME:

General Correspondence File-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, 901 D Street SW., Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

General public.

CATEGORIES OF RECORDS IN THE SYSTEM:

General inquiries and comments from the general public.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purpose of this system is to permit Director of Practice personnel to retrieve selected correspondence from the general public by the correspondent's last name.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a state, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to any agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Correspondence is indexed alphabetically by writer.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed after 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information contained in this system has been provided by the general public.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 37.007

SYSTEM NAME:

Inventory-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 901 D Street, SW. Washington, DC; Internal Revenue Service, Long Island Appeals, 50 Clinton Street, Hempstead, NY 11550; and Internal Revenue Service, Appeals Office, 701 Market Street, Suite 2200, Philadelphia, PA 19106.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Attorneys, certified public accountants and enrolled agents about which alleged misconduct in their practice before the Internal Revenue Service is being reviewed and evaluated; (2) Appraisers who have been referred to the Director of Practice for review and evaluation of conduct which resulted in assessment of a penalty under 26 U.S.C. 6701(s); and (3) Applicants for enrollment to practice before the Internal Revenue Service whose applications are being reviewed and evaluated.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollment or eligibility to practice before the Internal Revenue Service, and information relating to their conduct in such practice; and information relating to appraisers and applicants for enrollment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to inform Director of Practice personnel of current derogatory information about an individual's practice before the Internal Revenue Service, to permit Director of Practice personnel to evaluate such information and an individual's response to allegations of misconduct, and to permit Director of Practice personnel to make recommendations as to the disposition of cases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case is closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/IRS 37.008

SYSTEM NAME:

Register of Docketed Cases and Applicant Appeals -Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 901 D Street SW, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom complaints have been filed with the Office of Director of Practice pursuant to Title 31, CFR, subpart C, § 10.54, for alleged violation of the regulations governing practice before the Internal Revenue Service and individuals who have appealed to the Secretary of the Treasury, the denials of their application for enrollment to practice before the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of actions taken in cases docketed for hearings and record of actions taken on appeals from denials of applications for enrollment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to permit Director of Practice personnel to assign sequential numbers to cases in which complaints will be issued and to inform Director of Practice personnel of which cases are on appeal with the Secretary of the Treasury.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by complaint number and by name of the individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) This office, (2) administrative law judges and (3) the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 37.009

SYSTEM NAME:

Enrolled Agents and Resigned Enrolled Agents (Action pursuant to 31 CFR 10.55(b))—Treasury/IRS.

SYSTEM LOCATION:

Detroit Computing Center, 985 Michigan Avenue, Detroit, MI 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those individuals who are currently enrolled to practice before the Internal Revenue Service and those who were formerly enrolled to practice before the Internal Revenue Service and who resigned from such enrollment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' applications for enrollment to practice before the Internal Revenue Service and derogatory and other information regarding such practice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to retain derogatory information about an individual's practice before the Internal Revenue Service, to retain a record of how such information was evaluated, to retain a record of how an individual responded to allegations of misconduct, to inform Director of Practice personnel that certain individuals, pursuant to 31 CFR, section 10.55(b), have offered their consent to suspension or offered to resign as enrolled agents and that such offers have been accepted by the Director of Practice, and to permit Director of Practice personnel to assemble and consider new information bearing on an individual's eligibility for reinstatement to practice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return

information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed 60 years after enrollment.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by (1) Individuals, (2) Internal Revenue Service; (3) other government agencies, and (4) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/IRS 37.010

SYSTEM NAME:

Roster of Former Enrollees—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 901 D Street SW, Washington, DC; and Detroit Computing Center, 985 Michigan Avenue, Detroit, MI 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys and certified public accountants who were enrolled to practice before the Internal Revenue Service prior to enactment of the Agency Practice Act, Title 5 U.S. Code, section 500 and former enrolled agents who do not renew their enrollment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains individuals' names, addresses, professions, the dates of their enrollments and the expiration dates of such enrollments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to inform Director of Practice personnel that certain individuals were enrolled to practice before the Internal Revenue Service prior to enactment of the Agency Practice Act, 5 U.S.C., section 500, and to inform Director of Practice personnel that certain individuals have not renewed their enrollment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by profession (i.e., attorney or certified public accountant) and by the individual's name.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information contained in records in this system has been provided by: (1) Individuals and (2) the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 37.011

SYSTEM NAME:

Present Suspensions from Practice before the Internal Revenue Service—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 901 D Street, SW., Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys, certified public accountants and enrolled agents who have offered their consent to voluntary suspension from practice before the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollment or eligibility to practice before the Internal Revenue Service, derogatory and other information relating to their conduct in such practice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to retain derogatory information about an individual's practice before the Internal Revenue Service, to retain a record of how such information was evaluated by Director of Practice personnel, to retain a record of how an individual responded to allegations of misconduct, to inform Director of Practice personnel that certain individuals, pursuant to 31 CFR 10.55(b), have offered their consent to suspension and that such offers have been accepted by the Director of Practice, and to permit Director of Practice personnel to assemble and consider new information bearing on an individual's eligibility for reinstatement to practice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance

with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) the Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/IRS 38.001

SYSTEM NAME:

General Training Records—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, Internal Revenue Service Centers, Detroit Computing Center and the Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees who have participated in or who may be scheduled for training activities (students, instructors, program managers, etc.). Other Federal or non-Government individuals who have participated in or assisted with training programs (students, instructors, course developers, interpreters, etc.).

CATEGORIES OF RECORDS IN THE SYSTEM:

Variety of records containing information about an individual related to training, such as: course rosters, student registrations, nomination forms, course evaluations, instructor lists, individual development plans, counseling records, examination materials, payment records, and other recordations of training necessary for reporting and evaluative purposes. Some records within this system may also be contained in TR/IRS 36.003, General Personnel Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 41; Executive Order 11348.

PURPOSE(S):

These records are collected and maintained to provide documentation of individual training development plans, training requirements, nominations, student training registration, instructor lists, course rosters, course evaluations, counseling records, examination materials, and accounting and financial information, with regard to training reporting and evaluation purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information from these records may be used to: (1) Disclosure of information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (3) provide input data for the automated Training CPDF at the Office of Personnel Management.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, index cards, forms, or flat paper.

RETRIEVABILITY:

Computer records are indexed by social security account numbers, course titles, dates of training, location of training and by specific employee information (i.e., name, title, grade, etc.); other records are indexed by name and course title.

SAFEGUARDS:

Access Controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00. Individual computer records are available to those persons at OPM, Treasury or IRS who are directly involved with the training function.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedules, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

All Education Branch Chiefs, Support Services Division, at the National Office; Office of the Assistant Commissioner (International); National Director of Education; Managers in Corporate Education; Chief, Headquarters Operations and Training; Managers at the Detroit and Martinsburg Computing Centers; Regional Directors, and Host Site Support Chiefs. (see appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR, part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager(s) in the office(s) where records to be searched are located. (See appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Information is extracted from participant registration forms, individual development plans, skill surveys, personnel records, and other forms as may be developed and prescribed by OPM, Treasury, and IRS Training Personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 42.001

SYSTEM NAME:

Examination Administrative File—Treasury/IRS.

SYSTEM LOCATION:

National Office; Area offices, and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any taxpayer who is being considered for examination or is being or has been examined for tax determination purposes, i.e., income, estate and gift, excise, or employment tax liability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing investigatory materials required in making a tax determination or other verification in the administration of tax laws and all other related sub-files directly related to the processing of the tax case. These records may concern any compliance determinations, including for section 527 organizations. This system also includes other management material related to a case and used for tax administrative purposes, including the appeals process and systems formerly published as 42.018, 42.023, and 42.025.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

Numerous tax returns are examined each year. The system provides a complete record of the examinations of tax returns. It also allows IRS access to investigatory materials and management materials relating to examinations for purposes of tax administration and analysis of taxpayer compliance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, machine-sensible data media, microfilm.

RETRIEVABILITY:

By taxpayer's name, taxpayer identification number (social security number or employer identification number) and document locator number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 202 for Examination—Regional and Area Offices, IRM 1(15)59.22.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices " Head of the Office that maintains the file-Wage and Investment, Small Business/Self employed, Tax Exempt Government Entities, Large and Mid Size Business, Area Directors, and Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the access and contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Taxpayers' returns; (2) taxpayer's books and records; (3) informants and third party information; (4) city and state governments; (5) other Federal agencies; (6) examinations of related taxpayers; (7) examinations of other taxpayers, and (8) taxpayer's representative.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.008

SYSTEM NAME:

Audit Information Management System (AIMS)-Treasury/IRS.

SYSTEM LOCATION:

This system is composed of (1) computer files located at each jurisdictional IRS Service Center (where tax return is under examination control); (2) video terminals located at each jurisdictional area (served by an IRS Service Center), National Office; and (3) group control card forms 5345 and 5354 (including temporary and interim processing files for management and control purposes), located at each jurisdictional area office. Items described under (3) above are subfiles of the AIMS System. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers whose tax returns are under the jurisdiction of the Examination Division. Examiners assigned to taxpayer cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tax return information from the Master File, Tax return status and location changes, Examination Closing information on examined and non-examined tax returns, examiner's name, including related internal management information and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

AIMS is a computer system designed to give Examination Division information about returns in inventory and closed returns. This allows IRS to identify the status and location of tax returns in Examination and prepare analyses of the examination process. It includes Exam Returns Control System (ERCS) records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer, microfiche, paper.

RETRIEVABILITY:

By taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Computer Record: Examined closings, surveyed claims and some types of non-examined closings are dropped from the data base 60 days after closing or when assessment verification is completed, whichever is later. The balance of non-examined closings are dropped at the end of the month following the month of closing. Paper Records: Generally, AIMS forms are destroyed within 90 days of the closing. Exceptions include: (1) The charge-out which becomes part of the case file and is sent to the Federal Records Center with the case; (2) Examination request forms which become the Examination group's control card; and (3) The Examination group's control card which is retained in a closed file for 3 years (in the case of field examinations) and 90 days (in the case of office examinations). Authority: Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices " Management Official(SB/SE, TE/GE. W&I). Officials maintaining the system -, Area Directors, and Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the access and contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax Returns and Examination files.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.013

SYSTEM NAME:

Project Files for the Uniform Application of Laws as a Result of Technical Determinations and Court Decisions-Treasury/IRS.

SYSTEM LOCATION:

Area offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals grouped as to project, i.e., individual shareholders of a corporation where a determination having a tax effect has been made.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing of individuals and their income tax information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

In some instances, a technical determination either from an examination or from a Chief Counsel ruling or court decision will result in tax effect to shareholders of a corporation. This system allows the IRS to monitor and control the shareholder returns that are included in the project.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and magnetic media.

RETRIEVABILITY:

By taxpayer's name and social security number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 102 for Examination Division—National Office, IRM 1.15.2.16.

SYSTEM MANAGER(S) AND ADDRESS:

Officials prescribing policies and practices—Assistant Commissioner (W&I, SB/SE,TE/GE, LMSB) and Director(International). Officials maintaining the system—Director of appropriate area where the taxpayer resides. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director in the Area where the records are located. (See IRS appendix A for addresses.) Contesting record procedures: 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Shareholder records, (2) individual's tax return, and (3) examination of related taxpayer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 42.014

SYSTEM NAME:

Internal Revenue Service Employees' Returns Control Files-Treasury/IRS.

SYSTEM LOCATION:

Area Offices (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who is employed by the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetical listing of employee, income tax return information including prior examination results and other tax related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system provides administrative controls for tax returns of Internal Revenue Service employees considered for examination, being examined, or previously examined.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, machine-sensible data media, microfilm.

RETRIEVABILITY:

By employee's name and social security number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are periodically updated to reflect changes and retained as long as the individual is employed.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Director of Area where individual resides. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director in the Area where the records are located. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Employee's tax return.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 42.016

SYSTEM NAME:

Classification/Centralized Files and Scheduling Files-Treasury/IRS.

SYSTEM LOCATION:

Area Offices, Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose returns or claims are classified for examination.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals' tax returns/claims and other information, including information reports considered in screening/classifying of an individual's return or claim for refund.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This is a system for storage and control of returns identified for potential examination. It provides for the centralized storage of returns prior to scheduling for examination and a means to control and access these returns as needed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, computer printouts, magnetic media.

RETRIEVABILITY:

By taxpayer's name and social security number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Returns/claims accepted as filed are returned to System of Records 22.034. Returns/claims selected for examination become part of System of Records 42.001. Other information is retained until associated with returns/claims or two years, whichever occurs first. Authority: Records Disposition Handbook IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Area Directors, Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the access and contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Tax returns, (2) requests from taxpayer, and (3) requests from SB/SE, W&I, LMSB Division for prompt examination.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.017

SYSTEM NAME:

International Enforcement Program Files-Treasury/IRS.

SYSTEM LOCATION:

Office of the Assistant Commissioner (International), National Office; Area Offices, and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual having foreign business/financial activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing of individuals, identification numbers (if known), summary of income expenses, financial information as to foreign operations or financial transactions, acquisition of foreign stock, controlling interest of a foreign corporation, organization or reorganization of foreign corporation examination results, information concerning potential tax liability, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

The purpose is to monitor the International Enforcement Program. It provides data for the preparation of periodic reports, the analysis of which is the basis to determine the effectiveness of the program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, microfilm, machine sensible magnetic media.

RETRIEVABILITY:

By individual's name and social security number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are periodically updated to reflect changes and retained as long as the individual has substantial foreign business/financial activities.

SYSTEM MANAGER(S) AND ADDRESS:

Officials prescribing policies and practices—Director (International). Officials maintaining the system—Director (International), Area Directors, Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the access and contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) European treaty countries, (2) individual's tax returns, (3) examination of related taxpayers, and (4) public sources of information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.021

SYSTEM NAME:

Compliance Programs and Projects Files-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who may be involved in tax evasion schemes or noncompliance schemes, including withholding noncompliance or other areas of noncompliance grouped by industry, occupation, or financial transactions, and other; e.g., return preparers, political contributions, corporate kickbacks, questionable Forms W–4.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to individuals in projects and programs, and records used to consider individuals for selection in projects and programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system provides a means to monitor and control information related to special programs and projects to identify areas of non-compliance. Using this information, available efforts can be focused on the more significant non-compliance issues. This system includes Midwest Automated Compliance System (MACS) records and records concerning tax preparers. Certain records in this system (for example, MACS) may be used to select individuals for compliance actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, machine-sensible data media, microfilm, and magnetic media.

RETRIEVABILITY:

By taxpayer's name and social security number, document locator number or other unique identifier.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

W–4 paper case files and National Computer Center (NCC) magnetic tape records are destroyed two years after the cases have been inactive. Records associated with the examination of returns are disposed of in accordance with the established Retention Schedule 1(15)59.22, Records Control Schedule. Records not associated with the examination of returns will be destroyed at the completion of the program or project, or in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Head of the Office where the file resides. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Taxpayer's return, (2) taxpayer's books and records, (3) informants and third party information, (4) city, state government, (5) other Federal agencies, (6) examinations of related taxpayers, and (7) taxpayer's employer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.027

SYSTEM NAME:

Data on Taxpayers Filing on Foreign Holdings-Treasury/IRS.

SYSTEM LOCATION:

Office of the Assistant Commissioner (International), National Office, Area Offices, Philadelphia Internal Revenue Service Center, and the Detroit Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals required to file Form 5471, Information Return with respect to a Foreign Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals filing on foreign holdings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

The purpose is to monitor the International Enforcement Program. It provides data for the preparation of periodic reports, the analysis of which is the basis to determine the effectiveness of the program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape in Detroit Computing Center and Philadelphia Service Center; Paper at other listed locations, machine-sensible data media and microfilm.

RETRIEVABILITY:

By taxpayer's name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are disposed of within three years.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Director(International), National Office. Officials maintaining the system—AreaAREA Directors Director (International), National Office; Director, Detroit Computing Center; Assistant Commissioner (Wage and Investment and Small Business Self Employeds), National Office. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in

accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director for each area whose records are to be accessed or contested, or to the directors, or Assistant Commissioner (International) in the case of records in the National Office. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Form 5471 only.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 42.030

SYSTEM NAME:

Discriminant Function File (DIF)-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose income tax returns have a DIF Score higher than a cutoff score determined by Examination and International, indicating high audit potential, based on formulae prescribed by Examination.

CATEGORIES OF RECORDS IN THE SYSTEM:

Document Locator Number of the return, the Regional and Area Offices of the taxpayer, the taxpayer's DIF Score and data from the individual's Income Tax Return needed to conduct an audit of his/her return.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

These records provide the means to identify returns with the highest potential for examination.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and computer printout.

RETRIEVABILITY:

By individual's social security number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Record Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. Generally, records are disposed of after three years.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (W&I, SB/SE, TE/GE, L, MSB) and Director (International). Officials maintaining the system—Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purpose of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This System of records may not be accessed for the purpose of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individual's tax return information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 44.001

SYSTEM NAME:

Appeals Case Files—Treasury/IRS.

SYSTEM LOCATION:

Office of the National Director of Appeals, National Office; Regional Directors of Appeals (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who disagree with examiner's findings and proposed adjustments and seek administrative review.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tax returns, Revenue Agents' Reports, Appeals Supporting Statements, case correspondence, appeals papers and documents relating to arbitration, legal opinions, work papers, and Appeals closing actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By name of taxpayer.

SAFEGUARDS:

Locked file cabinets, locked doors, IRS employees access data only on a need to know basis.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Record Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. Records are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Appeals, Internal Revenue Service, 901 D Street, SW., Box 68, Washington, DC 20024; Regional Directors of Appeals (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 44.003

SYSTEM NAME:

Appeals Centralized Data System-Treasury/IRS.

SYSTEM LOCATION:

Office of the National Director of Appeals, National Office; Regional Directors of Appeals (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who disagree with examiner's findings and proposed adjustments and seek administrative review.

CATEGORIES OF RECORDS IN THE SYSTEM:

Databases which produce management information on case inventory by taxpayer name, tax year, amount of tax in dispute, settlement amount, and professional time required to arrive at settlement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, diskette, hard disk.

RETRIEVABILITY:

By taxpayer's name and/or taxpayer identification number (social security number or employer identification number) and by work unit number.

SAFEGUARDS:

IRS personnel access data only on a need-to-know basis and use passwords to access system information.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Record Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Appeals, Internal Revenue Service, 901 D Street, SW., Box 68, Washington, DC 20024; Regional Directors of Appeals (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager(s) in the office where records to be searched are located.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account. Also, time reports prepared by Appeals Officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 44.004

SYSTEM NAME:

Art Case File—Treasury/IRS.

SYSTEM LOCATION:

Office of the National Director of Appeals, National Office; Area Directors of Appeal (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Famous or noted artists whose works have been evaluated by the Art Panel or its staff for use in a taxpayer case.

CATEGORIES OF RECORDS IN THE SYSTEM:

Commissioner's Art Panel or its staff decisions on values of works of art by named artists and appraisal documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, 7802, and 7805(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigation an action or seeking legal advice; (2) disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Indexed by taxpayer, artist, and appraiser name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. The system has been retained since 1968.

SYSTEM MANAGER(S) AND ADDRESS:

National Director of Appeals, Internal Revenue Service, 901 D Street, SW., Box 68, Washington, DC 20024; Regional Directors of Appeals (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the National Director of Appeals, Internal Revenue Service, 901 D Street, SW., Box 68, Washington, DC 20024

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Art panel and staff decisions and appraisal documentation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 44.005

SYSTEM NAME:

Expert Witness and Fee Appraiser Files-Treasury/IRS.

SYSTEM LOCATION:

Office of the Director of Appeals, National Office; Area Directors of Appeals (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Actual and potential expert witnesses for litigation and fee appraisers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical sketches, application letters, or list of expert/appraiser names by specialty.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, 7802, and 7805(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating and action and seeking legal advice; (2) disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, state, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Indexed by taxpayer and expert witness/appraiser name.

SAFEGUARDS:

Access Controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. Records are periodically updated to reflect changes and maintained as needed.

SYSTEM MANAGER(S) AND ADDRESS:

National Director of Appeals, Internal Revenue Service, 901 D Street, SW., Box 68, Washington, DC 20024; Regional Directors of Appeals. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the National Director of Appeals, Internal Revenue Service, 901 D Street, SW., Box 68, Washington, DC 20024

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Varied, generally from the named individual, often unsolicited.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 46.002

SYSTEM NAME:

Criminal Investigation Management Information System (CIMIS)-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, Internal Revenue Service Centers, and Detroit Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects and potential subjects of Criminal Investigation Division investigations, Special Agents, U.S. Area Court Judges and U.S. Attorneys.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal and financial information developed in criminal tax

investigations, potential tax investigations and in projects including information from other Federal, state and local agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

To maintain and process sensitive investigative data that identifies patterns of criminal and/or civil noncompliance with federal income tax laws and to maintain and process sensitive information on agent personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided in 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in binders, magnetic media, computer discs, computer printouts.

RETRIEVABILITY:

By taxpayer's name, case number and social security number, or other unique identifier.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Chief (Criminal Investigation), National Office. Officials maintaining the system—Assistant Commissioner (Criminal Investigation);, Area Directors, Internal Revenue Service Center/Campus Directors, and the Detroit Computing Center Director. (see IRS appendix A for addresses).

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.003

SYSTEM NAME:

Confidential Informants, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

Area Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Confidential Informants; Subjects of Confidential Informant's Reports.

CATEGORIES OF RECORDS IN THE SYSTEM:

Memorandums, Index Cards, Related Data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

To maintain a file of the true identities of confidential informants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By confidential informant's name and number or name in informant's report.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Chief (Criminal Investigation), National Office. Officials maintaining the system—Area Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.004

SYSTEM NAME:

Controlled Accounts (Open and Closed)—Treasury/IRS.

SYSTEM LOCATION:

Area Offices, Internal Revenue Service Centers, and the Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects and potential subjects of criminal tax investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Criminal Investigation Information and Control Notices; Lists of names and related data; Lists of action taken: Transcripts of account.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

To maintain and process any activity pertaining to the taxpayer account that identifies patterns of criminal and/or civil noncompliance with federal tax and moneylaundering laws.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By name or social security number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. Paper records are destroyed one year after the close of the investigation. Magnetic tape is erased three months after the close of the investigation.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Chief(Criminal Investigation), National Office. Officials maintaining the system—Area Directors, Internal Revenue Service Center Directors, and the Martinsburg Computing Center Director. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking to access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director for each Area where records are to be searched (see IRS appendix A for addresses).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Area Office Personnel; Service Center Personnel, Form 4135, Criminal Investigation Control Notice.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 46.005

SYSTEM NAME:

Electronic Surveillance File, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

National Office, 1111 Constitution Avenue, NW., Washington, DC 20224

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects of electronic surveillance. Individuals who have been subjects of queries by other agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to conduct of electronic surveillance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

To monitor and track all electronic surveillances that are conducted by area field offices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By names, addresses, and telephone numbers.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. Generally, records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Chief(Criminal Investigation) National Office. Officials maintaining the system—Director, Office of Investigations (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.009

SYSTEM NAME:

Centralized Evaluation and Processing of Information Items (CEPIIs), Evaluation and Processing of Information (EOI), Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

Area Offices, Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers about whom the Internal Revenue Service has received information alleging a violation of laws within IRS jurisdiction, potential subjects of investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of income tax returns, special agent's reports, revenue agent's reports, reports from police and other investigative agencies, memoranda of interview, question-and-answer statements, affidavits, collateral requests and replies, information items, newspaper and magazine articles and other published data, financial information from public records, court records, confidential reports, case initiating documents and other similar and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

To maintain and process sensitive investigative data that possibly identifies potential criminal and/or civil noncompliance with federal law and money laundering laws.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic media.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. Paper records are disposed of after use.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Chief (Criminal Investigation) National Office. Officials maintaining the system—Area Directors, Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.011

SYSTEM NAME:

Illinois Land Trust Files, Criminal Investigation Division-Treasury/IRS.

SYSTEM LOCATION:

Chicago Area Office, Springfield Area Office, and the Kansas City Internal Revenue Service Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Beneficiaries of Land Trusts, Related individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Notices of Fiduciary Relationships. Related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic tape.

RETRIEVABILITY:

By taxpayer and beneficiary name; trust and social security number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chicago Area Director, Springfield Area Director, and the Kansas City Internal Revenue Service Center Director. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Area Director, Chicago Area, Internal Revenue Service, 230 South Dearborn Street, Room 2890, Chicago, Illinois 60604.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Financial institutions, Fiduciary reports and Notices of Fiduciary Relationships.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 46.015

SYSTEM NAME:

Relocated Witnesses, Criminal Investigation Division-Treasury/IRS.

SYSTEM LOCATION:

Office of the Assistant Commissioner (Criminal Investigation), National Office, 1111 Constitution Avenue, NW., Washington, DC. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Relocated Witnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation and Relocation Information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

By Name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. Generally, records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief (Criminal Investigation), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.016

SYSTEM NAME:

Secret Service Details, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices and Area Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Special Agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

List of Criminal Investigation participants and correspondence between Criminal Investigation and Secret Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information contained in these records may be disclosed to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices— Chief (Criminal Investigation), National Office. Officials maintaining the system—Chief (Criminal Investigation), Area Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act Amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.022

SYSTEM NAME:

Treasury Enforcement Communications System (TECS), Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Area Offices, and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Fugitives, subjects of open and closed criminal investigations, subjects of potential criminal investigations, subjects with Taxpayer Delinquent Accounts against whom Federal Tax Liens have been filed and other subjects of potential interest to criminal investigation such as witnesses and associates of subjects of criminal investigations or related to a matter under Criminal Investigation jurisdiction.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, social security number, address, identifying details, aliases, associates, physical descriptions, various identification numbers, details and circumstances surrounding the actual or suspected violator.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disc.

RETRIEVABILITY:

By name, social security number or other unique identifier.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM1.15.2.1 though IRM 1.15.2.31. Fugitives until apprehended. Other records are deleted when no longer of potential use for criminal investigation case or informational purposes. Cancellation after 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Criminal Investigation), National Office. Officials maintaining the system—Assistant Commissioner (Criminal Investigation), Regional Commissioners, Area Directors, and Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.050

SYSTEM NAME:

Automated Information Analysis System—Treasury/IRS.

SYSTEM LOCATION:

Detroit Computing Center, 1300 John C. Lodge Drive, Detroit, Michigan 48226, and Automated Criminal Investigation Office, 7940 Kentucky Drive, Boone County, Kentucky 41042.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers and other individuals involved in financial transactions which require the filing of information reflected in the Categories of Records below.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information included in the Automated Information Analysis System is from reported income and tax information on the Individual Master File (IMF—Treasury/IRS 24.030; Individual Returns Files, Adjustments and Miscellaneous Documents File—Treasury/IRS 22.034. The Automated Information Analysis System also includes information from such sources as: Currency Transaction Reports (CTRs), Currency and Monetary Instrument Reports (CMIR's), Bank Secrecy Reports File, Foreign Bank Account Reports (FBARs), Forms 8300 (Currency Received in Trade or Business)-Treasury/CS .067; the Taxpayer Delinquent Account Files (TDA)—Treasury/IRS 26.019, which includes adjustments and payment tracer files and collateral files; Taxpayer Delinquency Investigation Files (TDI)—Treasury/IRS 26.020, which includes taxpayer information on delinquent returns; the Examination Administrative File—Treasury/IRS 42.001, and Casino Transaction Reports from the Detroit Computing Center.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

The purpose is to maintain records which identify transaction patterns that are indicative of criminal and/or civil noncompliance with Federal income tax and money laundering laws and to simultaneously evaluate diverse data sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and Magnetic Media.

RETRIEVABILITY:

Records are retrievable by name, address, and social security number.

SAFEGUARDS:

All Criminal Investigation personnel accessing the system will have successfully passed a background investigation. Criminal Investigation will furnish information from the system of records to approved personnel only on a "need to know" basis using passwords and access controls. Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00. Procedural and physical safeguards to be utilized include the logging of all queries and periodic review of the query logs; compartmentalization of information to restrict access to authorized personnel; encryption of electronic communications; intruder alarms; and 24-hour building guards.

RETENTION AND DISPOSAL:

All records are disposed of after 4 years. Records will be disposed of by erasure of magnetic media.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Chief (Criminal Investigation), National Office. Officials maintaining the system—Detroit Computing Center, CI Representative, and the Automated Criminal Investigation Office Manager, 7940 Kentucky Drive, Boone County, Kentucky 41042.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORDS PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records may not be accessed for purposes of determining the source of the records. Records to be included all come from existing Treasury and Internal Revenue Service databases. The databases are comprised of records submitted by taxpayers, financial institutions, casinos and businesses pursuant to federal law.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4),(e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), and (k)(2).

Treasury/IRS 46.051

SYSTEM NAME:

Criminal Investigation Audit Trail Records System—Treasury/IRS.

SYSTEM LOCATION:

Records are located at the Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224 . Other locations of these records are: Automated Criminal Investigation Project Office, located in Florence, Kentucky; Internal Revenue Service Areas of Investigation, Criminal Investigation District Offices, and Internal Revenue Service Posts of Duty. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who use or attempt to use the IRS Criminal Investigation computer systems; log onto the Criminal Investigation system; use the Criminal Investigation applications; use the Criminal Investigation operating system, or log off the Criminal Investigation computer are covered by this system.

CATEGORIES OF RECORDS IN THE SYSTEM:

This is an electronic data base which captures system use information such as: Date and time a user initiated or attempted to initiate a session on the system; date and time of all unsuccessful system accesses; date and time of data or system file accesses; date and time of privileged security actions on the system, and date and time of system logoff by a user. Criminal Investigation application audit trail

records may contain information regarding system or application access for any of the following Criminal Investigation files: CIMIS, 46.002; Confidential Informants, Criminal Investigation Division, 46.003; Electronic Surveillance File, 46.005; and Centralized Evaluation and Processing of Information Items, 46.009.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 6103, 7213, 7213A, 7214, 7602, 7608, 7801, and 7803; 18 U.S.C. 1030(a)(2)(B).

PURPOSE:

The Criminal Investigation Division of the Internal Revenue Service established this system to enable the division to monitor and analyze usage of its computer system. The system will provide information showing: (1) The system users; (2) the times of use for each user; (3) the areas of the system being accessed by each user; (4) unauthorized access by Criminal Investigation employees; and (5) access, or attempted access, by persons other than Criminal Investigation employees. System uses include reading, adding, deleting, and/or modifying data and system records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Disclosure of records and information from this system may be disclosed only as provided by 26 U.S.C. 6103 and 18 U.S.C. 1030(a)(2)(B). Records other than returns and return information may be used: (1) To disclose pertinent information to appropriate federal, state, local, or foreign agencies responsible for investigating or prosecuting the violation or potential violation of civil or criminal law or regulations; (2) to disclose information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged; (3) to provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (4) to provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (5) to provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, the Merit Systems Protection Board, arbitrators, the Federal Labor Relations Authority, and other parties responsible for the administration of federal labor actions or grievances or conducting administrative hearings or appeals or if needed in the performance of other authorized duties; (6) to disclose to the Department of Justice for the purpose of litigating an action or seeking legal advice; (7) to disclose to a defendant in a criminal prosecution, the Department of Justice, or a court of competent jurisdiction where required in criminal discovery or by the Due Process Clause of the Constitution.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and magnetic media and paper.

RETRIEVABILITY:

Records are retrievable by user name.

SAFEGUARDS:

Protection and control of any sensitive but unclassified information or records are in accordance with Department of the Treasury Security Manual, TD P 71–10 and Internal Revenue Manual, IRM 2.1.10, Automated Information System Security, and Internal Revenue Manual, IRM 1(16)00, Physical Security Handbook, as well as internal CI Policy. The Criminal Investigation Audit Trail Records System is contained in an operating system, which has been rated as C2 compliant. All system access is controlled with the use of passwords and only Criminal Investigation personnel who have been assigned a "need-to-know" can access system data. The computers that operate the System are in secure space, housed in a Federal Building with 24-hour security.

RETENTION AND DISPOSAL:

Records are maintained, administered and disposed of in accordance with Internal Revenue Manual (IRM) 1.15; 1.15.1 Records Administration Handbook, 1.15.2 Records Disposition Handbook, 1.15.3 General Records Handbook, and 1.15.4 Files Management Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

The official prescribing policies and practices is the Assistant Commissioner, Criminal Investigation, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, 20224. The organization responsible for maintaining the system is Systems Development and Support, Criminal Investigation Representative.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection by an individual to determine if there exists a record pertaining to him or her, and/or to view the contents of the records. Contesting Record Procedures: 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), and (k)(2).

Treasury/IRS 48.001

SYSTEM NAME:

Disclosure Records—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, Internal Revenue Service Centers, Detroit Computing Center, and the Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Subjects of requests for disclosure initiated by the Department of Justice, including suspects or persons related to the violation of Federal laws; persons who have initiated legal actions against the Federal Government, persons identified as strike force targets or related to organized crime activities, persons under investigation for national security reasons, persons believed by the Internal Revenue Service to be related to violations of Federal laws other than the Internal Revenue Code. (2) Persons under investigation by other executive departments or congressional

committees for whom tax information has been requested pursuant to 26 U.S.C. 6103. (3) Persons who are parties to criminal or civil non-tax litigation in which the testimony of IRS employees has been requested. (4) Persons who have applied for Federal employment or presidential appointments for which preemployment tax checks have been requested and applicants for Department of Commerce "E" Awards. (5) Requesters for access to records pursuant to 26 U.S.C. 6103, the Freedom of Information Act, 5 U.S.C. 552, and initiators of requests for access, amendment or other action pursuant to the Privacy Act of 1974, 5 U.S.C. 552a. (6) Individuals identified by or initiating correspondence or inquiries processed or controlled by the Disclosure function or relating to the foregoing subjects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests for records, information or testimony, responses to such requests, supporting documentation, processing records, copies of items provided or withheld, control records and related files. Department of Justice, and IRS replies to such requests. (1) Copies of related authorizations to IRS officials permitting such disclosures and, in some instances, their responses. (2) Copies of individuals' tax information, memoranda for file, notations of telephone calls, file search requests, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 552 and 552a; 26 U.S.C. 6103, 7801 and 7802.

PURPOSE(S):

This is a system for maintaining records to administer applicable laws and regulations concerning disclosure. It includes Disclosure Information Management System (DIMS) records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) report apparent violations of law to appropriate law enforcement agencies; (3) disclose debtor information to a Federal payor agency for purposes of salary and administrative offsets, to a consumer reporting agency to obtain commercial credit reports, and to a debt collection agency for debt collection services; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12):

Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records in alphabetical or chronological order within subject categories and/or such automated or electronic record-keeping equipment as may be locally available. Accountings of disclosure of tax related records pursuant to 5 U.S.C. 552a(c) or 26 U.S.C. 6103(p)(3) are posted to the Individual Master File and retrievable by Social Security Number, or to the Business Master File and retrievable by Employer Identification Number.

RETRIEVABILITY:

Records are generally retrievable by name of individual, although category of record and chronological period may be necessary to retrieve some records. The social security number is necessary to access accountings of disclosure posted to the Individual Master File. The employer identification number is necessary for access to the Business Master File.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Director, Office of Disclosure, National Office. Officials maintaining the system—Director, Office of Disclosure, National Office;, Area Directors, and Internal Revenue Service Center/Campus Directors, or other official receiving or servicing requests for records. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Requesters seeking to determine if accountable disclosures about them have been made should request an accounting of disclosure pursuant to 5 U.S.C. 552a(c) and 26 U.S.C. 6103(p)(3) of the Area Director for the area in which they reside. Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director for the area of residence or to the official believed to be maintaining the record of interest (See IRS appendix A for addresses.) This system contains some records of law enforcement activities which may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Requests for disclosure, records being evaluated and processed for disclosure and related information from other systems of records. This system may contain investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 48.008

SYSTEM NAME:

Defunct Special Service Staff File Being Retained Because of Congressional Directive—Treasury/IRS.

SYSTEM LOCATION:

National Office, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals suspected of violating the Internal Revenue laws by the Special Service Staff before its discontinuation on August 23, 1973.

CATEGORIES OF RECORDS IN THE SYSTEM:

Internal Revenue Service Master File printouts; returns and field reports; information from other law enforcement government investigative agencies; Congressional Reports, and news media articles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

This system of records was gathered and maintained by Congressional Directive to document violations of the Internal Revenue Laws by the Special Services Staff before its discontinuation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. This file is no longer being used by the Internal Revenue Service. The Special Service Staff was abolished August 13, 1973. Records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose information to Congressional Committees and individuals making Freedom of Information requests pertaining to themselves.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained alphabetically by individual and organization contained in vault at IRS National Office.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00. No IRS official has access to these records except for retrieval purposes in connection with Congressional or Freedom of Information inquiries and litigation cases.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbook, IRM 1.15.2.1 through IRM 1.15.2.31. Initially retained solely for congressional committees' inquiries, these records are currently being retained because of their possible historical significance under Archival statutes. Consideration of their historical significance is in abeyance pending resolution of the Archivist right to access tax information under the Internal Revenue Code.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Disclosure, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the National Director, Office of Governmental Liaison and Disclosure, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. In addition, this System may contain some records provided by other agencies which are exempt from the access and contest provisions of the Privacy Act as published in the Notices of the Systems of Records for those agencies.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

News media articles, taxpayers' returns and records, informant and third party information, other Federal agencies and examinations of related or other taxpayers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Information from another agency's exempt system of records duplicated in this system of records retains the exempt status.

Treasury/IRS 49.001

SYSTEM NAME:

Collateral and Information Requests System—Treasury/IRS.

SYSTEM LOCATION:

The central files for this system are maintained at the Office of the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024. A corresponding system of records is separately maintained by the foreign posts located in: (1) Bonn, Germany; (2) Sydney, Australia; (3) London, England; (4) Mexico City, Mexico; (5) Ottawa, Canada; (6) Paris, France; (7) Rome, Italy; (8) Singapore and (9) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Assistant Commissioner (International).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Citizens, Resident Aliens, Nonresident Aliens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of interviewing witnesses regarding financial transactions of taxpayers; employment data; bank and brokerage house records; probate records; property valuations; public documents; payments of foreign taxes; inventories of assets; business books and records. These records relate to tax investigations conducted by the Internal Revenue Service where some aspects on an investigation must be pursued in foreign countries pursuant to the various tax treaties between the United States and foreign governments. The records also include individual case files of taxpayers on whom information (as is pertinent to carrying out the provisions of the convention or preventing fraud or fiscal evasion in relation to the taxes which are the subject of this convention) is exchanged with foreign tax officials of treaty countries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

The purpose is to maintain a historical record of correspondence and background work regarding the subjects for future references within the stated retention time frames.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

Generally, records are disposed of after three years.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Records of examinations of taxpayers, interviews of witnesses, etc. where some aspects of an investigation must be pursued in foreign countries pursuant to various tax treaties between the United States and foreign governments.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.002

SYSTEM NAME:

Tax Treaty Information Management System-Treasury/IRS.

SYSTEM LOCATION:

Office of the DirectorCommissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizens, resident aliens, nonresident aliens whose tax matters come under the jurisdiction of the U.S. competent authority in accordance with pertinent provisions of tax treaties with foreign countries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual case files of taxpayers who request relief from double taxation or any other assistance that is pertinent to carrying out the provisions of income tax treaties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802; applicable treaties.

PURPOSE(S):

To maintain records to monitor an inventory of individual case files of taxpayers who request competent authority assistance pursuant to the provisions of income tax treaties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, microfilm and electronic records.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records may be disposed of after six years.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of the records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Requests for relief from double taxation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.003

SYSTEM NAME:

Financial Statements File-Treasury/IRS.

SYSTEM LOCATION:

Compliance Area Director, Area 15, SBSE, 950 L'Enfant Plaza, SW., PROM level, Washington, DC 20024.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who submitted financial statements when interviewed overseas by Examination Branch employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Financial Statements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

To verify income reported on individual tax returns during the course of an examination of that return.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By taxpayer's name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are disposed of after two years.

SYSTEM MANAGER(S) AND ADDRESS:

Compliance Area Director, Area 15, SBSE, 950 L'Enfant Plaza, SW, Prom Level, Washington, DC 20024.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Overseas Examination branch employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 49.007

SYSTEM NAME:

Overseas Compliance Projects System-Treasury/IRS.

SYSTEM LOCATION:

The central files for this system are maintained at the Office of the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024. A corresponding system of records is separately maintained by the foreign posts located in: (1) Bonn, Germany; (2) Sydney, Australia; (3) London, England; (4) Mexico City, Mexico;(5)Santiago, Chile; (6) Paris, France; (7) Rome, Italy;(8) Singapore and (9) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Compliance Area Director Appeals, SBSE.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Citizens, Resident Aliens, Nonresident Aliens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents and factual data relating to: (1) Personal expenditures or investments not commensurate with known income and assets; (2) receipt of significant unreported income; (3) improper deduction of significant capital or personal living expenses; (4) failure to file required returns or pay tax due; (5) omission of assets or improper deduction or exclusion of items from state and gift tax returns.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

The purpose is to maintain documents and records of individuals residing abroad that contain information pertaining to the individual to determine proper tax liability.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By taxpayer name, social security number, or other identification number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are disposed of after 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Compliance Area Director, Area 15, SBSE, 950 L'Enfant Plaza, SW., prom level, Washington, DC 20024.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Documents and data relating to income and expense items concerning income, Estate and Gift tax returns.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.008

SYSTEM NAME:

International Correspondence System-Treasury/IRS.

SYSTEM LOCATION:

This system is separately maintained by each one of the 13 overseas posts of the Office of the Assistant Commissioner (International) located in: (1) Berlin, Germany; (2) London, England; (3) Mexico City, Mexico; (4) Paris, France; (5) Rome, Italy; (6) Singapore and (9) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Office of the Director (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Citizens, Resident Aliens, Nonresident Aliens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence from taxpayers, foreign post personnel and the Office of the Director (International) headquarters offices in Washington, DC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

The purpose of this of records is to control correspondence received from taxpayers concerning tax law and account related inquiries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are disposed of after three years.

SYSTEM MANAGER(S) AND ADDRESS:

Director (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of

records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and the Office of the Assistant Commissioner (International) foreign posts and headquarter's offices.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 50.001

SYSTEM NAME:

Employee Plans/Exempt Organizations Correspondence Control Records—Treasury/IRS.

SYSTEM LOCATION:

National Office, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Requesters of letter rulings, and subjects of field office requests for technical advice and assistance and other correspondence, including correspondence associated with section 527 organization programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, date, nature and subject of an assignment, and work history. Sub-systems include case files and section 527 records that contain the correspondence, internal memoranda, and related material. They also include digests of issues involved in proposed revenue rulings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801, 7802, and 7805.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103 and 26 U.S.C. 6104 where applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, microfiche and magnetic media.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 104 for Employee Plans/Exempt Organizations—National Office, IRM 1.15.2.17

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Tax Exempt/Government Entity), 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant Commissioner (Employee Plans/Exempt Organizations), 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individuals requesting rulings or information and field offices requesting technical advice or assistance.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 50.003

SYSTEM NAME:

Employee Plans/Exempt Organizations, Report of Significant Matters in Technical-Treasury/IRS.

SYSTEM LOCATION:

National Office, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual subjects of letter ruling requests, technical advice requests etc., where a "Report of Significant Matter in Technical," has been prepared because of the presence of a matter significant to tax administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of "Reports of Significant Matter in Technical."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801, 7802, and 7805.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103 and 26 U.S.C. 6104 where applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 104 for Employee Plans/Exempt Organizations—National Office, IRM 1.15.2.17

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, (Tax Exempt/Government Entities), 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant Commissioner, (Employee Plans/Exempt Organizations), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individual subjects of letter ruling requests, technical advice requests, etc., where a "Report of Significant Matter in EP/EO" has been prepared.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 60.001

SYSTEM NAME:

Assault and Threat Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office; Regional Inspectors' Offices; as well as offices of the Area Directors. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals attempting to interfere with the administration of internal revenue laws through assaults, threats, or forcible interference of any officer or employee while discharging the official duties of his/her position, including individuals designated as potentially dangerous taxpayers (PDT$), based on verifiable evidence or information that fit any of the following five criteria: (1) Individuals who assault employees or members of their immediate families; (2) Individuals who attempt to intimidate or threaten employees or members of their immediate families through specific threats of bodily harm, a show of weapons, the use of animals, or through other specific threatening or intimidating behavior; (3) Individuals who are active members of groups that advocate violence against Internal Revenue Service employees specifically, or against Federal employees generally where advocating such violence could reasonably be understood to threaten the safety of Service employees and impede the performance of their official duties; (4) Individuals who have committed the acts set forth in any of the above criteria, but whose acts have been directed against employees of other governmental agencies at Federal, state, county, or local levels; and (5) Individuals who are not designated as potentially dangerous taxpayers through application of the above criteria, but who have demonstrated a clear propensity toward violence through act(s) of violent behavior within the five-year period immediately preceding the time of designation as potentially dangerous.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Document citing the complaint; (2) Documentary evidence (i.e., threatening letter); (3) Report of investigation, with possible statements, or affidavits as exhibits, and related tax information; (4) Report of legal action, if case is prosecuted; (5) Local police record of individual named in case; (6) FBI record of individual named in the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7608, 7801, and 7802.

PURPOSE(S):

This system of records documents the investigation into any attempt to obstruct or impede (or endeavor to obstruct or impede) Internal Revenue Service employees in the performance of their official duties. It includes records relevant to the use of force or threats of force against IRS employees or their immediate family (including any threatening letter or communication).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided by the Manager's Security Handbook, IRM 1(16)12. The records are accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of a background investigation. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols which are periodically changed; these terminals are accessible only to authorized persons.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system is exempt and may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for criminal law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.002

SYSTEM NAME:

Bribery Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office and Regional Inspectors' Offices.

(See IRS appendix A for addresses.)
Categories of individuals covered by the system:

Employees and/or former employees of the Treasury Department; taxpayers and non-IRS persons whose alleged criminal actions may affect the integrity of the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Report of investigation including exhibits, affidavits, transcripts, and documentation concerning requests and approval for consensual telephone and consensual non-telephone monitoring; (2) Report of legal action concerning the results of prosecution; (3) Prior criminal record of subject.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, and 7802; Executive Order 11222.

PURPOSE(S):

This system of records contains information relevant to Internal Security's specific and exclusive jurisdiction within the Service to investigate violation of 18 U.S.C. 201, Bribery. This is described as an offer to give something of value with the intent that the recipients will do something improper or will fail to do something they should do within the authority of their position.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for enforcing or investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00. Accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system is exempt and may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for criminal law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.003

SYSTEM NAME:

Conduct Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office and Regional Inspectors' Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of Internal Revenue Service, and other Bureaus and Services within the Department of the Treasury.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Document citing complaint of alleged misconduct or violation of statute; (2) Report of investigation to resolve allegation of misconduct or violation of statute, with related exhibits of statements, affidavits or records obtained during investigation; (3) Report of action taken by management personnel adjudicating any misconduct substantiated by the investigation; (4) Report of legal action resulting from violations of statutes referred for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, and 7802; Executive Order 11222.

PURPOSE(S):

Records in this system include information gathered by Inspection in order to identify and report all pertinent facts to management relative to the investigation of complaints and allegations against employees of the Internal Revenue Service

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other

relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (7) disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, and on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00. Accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system is exempt and may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel and records, taxpayers (complainants, witnesses, confidential informants), other Federal agencies, State and local agencies, tax returns and related documents, personal observations of the investigator and subjects of the investigation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.004

SYSTEM NAME:

Disclosure Investigation Files, Inspection-Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office and Regional Inspectors' Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Internal Revenue Service employees and/or Government contract employees at IRS Facilities, who have allegedly disclosed confidential tax information; (2) Federal, state and local Government employees who have allegedly disclosed confidential Federal tax information. (3) Tax return preparers who have allegedly disclosed confidential Federal tax information.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Document citing the complaint of the alleged criminal or administrative violation; (2) Investigative report, including statements, affidavits and any other pertinent documents supporting the investigative report, which will be attached as an exhibit; (3) Report of legal action if case is accepted by U.S. Attorney for prosecution; (4) Report of action by management personnel if case is referred for administrative adjudication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, and 7802; Executive Order 11222.

PURPOSE(S):

This system of records documents investigations into allegations of unauthorized disclosures of Internal Revenue Service Records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the

Automated Information System Security Handbook, IRM 2(10)00. Accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records is exempt and may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for criminal law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.005

SYSTEM NAME:

Enrollee Applicant Investigation Files, Inspection-Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office and Regional Inspectors' Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former employees and non-IRS persons who apply for enrollment to practice before IRS under the provisions of Circular 230.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative reports on non-IRS employees covering derogatory results of checks of: FBI files; Inspection files; local police; Examination, Criminal Investigation and SB/SE, W&I, LMSB Division files; and verification of Federal tax filing status. Also, appropriate documents attached as exhibits showing results of above file checks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801 and 7802.

PURPOSE(S):

This system of records documents investigations of enrollee applicants conducted at the request of the Director of Practice, to determine their eligibility to practice before the Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for or investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets and on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

Accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

The Internal Revenue Service, the Federal Bureau of Investigation, and local police departments.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 60.006

SYSTEM NAME:

Enrollee Charge Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office and Regional Inspectors' Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees or former employees, tax practitioners, attorneys, certified public accountants or enrolled persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

A documented complaint or request for investigation alleging criminal or administrative misconduct affecting IRS integrity. A report of investigation, including exhibits such as affidavits, statements or documents which have been reviewed. A report of legal action resulting from violations of statutes referred for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7608, 7801, and 7802.

PURPOSE(S):

This system documents investigations of complaints of unethical practices by unenrolled tax practitioners and persons enrolled to practice before the Internal Revenue Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

Accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20024.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system is exempt and may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury, personnel and records, other Federal agencies, taxpayers/complainants, state and local agencies, tax returns, newspapers, person acquainted with the individual under investigation, subjects of the investigation, and personal observations of the investigator.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.007

SYSTEM NAME:

Miscellaneous Information File, Inspection—Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office and Regional Inspectors' Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the Internal Revenue Service; Tax Practitioners (Attorneys, Certified Public Accountants, Enrolled Persons, Return Preparers); alleged tax violators; persons whose actions or alleged actions indicated a threat to IRS employees, facilities, or the integrity of the tax system; confidential informants; and reputed members of the organized criminal element.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Complaint type information regarding IRS employees which is not, in itself, specific or significant enough to initiate an investigation when received. (2) Allegations of bribery and gratuities by taxpayers and/or their representatives which are not by themselves specific or significant enough to initiate an investigation when received. (3) Allegations of misconduct by tax practitioners, enrolled persons, or tax preparers which are not by themselves specific or significant enough to initiate an investigation when received. (4) Any information received or developed by Inspection that has a bearing on IRS, but is not of itself specific or significant enough to initiate an investigation when received. (5) Information received by Inspection pertaining to alleged violations enforced by other agencies or divisions of IRS, copies of which are referred to those respective agencies or divisions. (6) Photographs and descriptive data of some IRS employees and of persons arrested by Inspection. (7) Information concerning lost or stolen Government documents, property, credentials, or IRS employee personal property lost or stolen on Government premises. (8) List of persons in state or local government agencies working under state agreements and having access to federal tax information. (9) Newspaper or periodical items about IRS. (10) Newspaper items regarding attorneys, CPA's, Tax Practitioners, or Return Preparers arrested, indicted, convicted or under investigation by other agencies. (11) Allegations of threats, assaults, forcible interference, or other violence type activity aimed at employees or facilities of IRS which are not by

themselves specific or significant enough to initiate an investigation when received. Information regarding Inspection's mission which does not fall into any of the above categories.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801 and 7802; Executive Order 11222.

PURPOSE(S):

The purpose of this system of records is to document information related to Inspection's mission and/or allegations which are not specific or significant enough to warrant initiation of an investigation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records and other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual, subject, or incident involved, by name of cross-referenced third parties, and/or information item number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

Accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system is exempt and may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel and records, newspapers and periodicals, taxpayers (complainants, witnesses, and informants), state and local government agency personnel and records, and anonymous complainants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.010

SYSTEM NAME:

Tort Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office and Regional Inspectors' Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department of the Treasury and non-Federal persons involved in accidents on property under Department of the Treasury jurisdiction or with Department of the Treasury employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Report of investigation including exhibits such as SF–91, Operator's Report of Motor Vehicle Accident; SF–91A, Investigation Report of Motor Vehicle Accident; SF–92A, Report of Accident Other Than Motor Vehicle; SF–94, Statement of Witness; Optional Form 26, Data Bearing Upon Scope of Employment of Motor Vehicle Operator. In addition, attached as exhibits might be a Police Report of the accident; copies of insurance policies of the involved drivers; photographs of the scene or vehicles after the accident; Treasury Department vehicle maintenance record, medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801 and 7802; Executive Order 11222.

PURPOSE(S):

This system of records documents formal Federal Tort Claims investigations conducted to obtain factual data required to defend the Government against claims for property loss or damages, personal injury or death caused by the negligence of wrongful act or omission of a government employee acting within the scope of his/her employment, or aid in the prosecution of Government claims arising from accidents involving Service employees or activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used: (1) Disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or

the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00. Accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel and records, Federal, State and local police agencies, witnesses, subjects involved in the investigation, hospitals (medical records), doctors (medical records and personal observations), personal observations of the investigator, automobile repair facilities, insurance companies, attorneys, Federal, State and local driver license records, and Federal and State vehicle registration records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 70.001

SYSTEM NAME:

Individual Income Tax Returns, Statistics of Income—Treasury/IRS.

SYSTEM LOCATION:

Primary—Detroit Computing Center; Secondary—(a) Internal Revenue Service, Statistics of Income Branch, National Office; (b) Treasury Department, Office of Tax Analysis; (c) Treasury Department, Office of Economic Modeling and Computer Applications; (d) Federal Records Centers; (e) Congress of the United States, Joint Committee on Taxation. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers selected for an annual statistical sample.

CATEGORIES OF RECORDS IN THE SYSTEM:

Sources of income, exemptions, deductions, income tax, and tax credits, as reported on Forms 1040, 1040A and 1040EZ U.S. Individual income tax return. The records are used to prepare and publish annual statistics, with respect to the operations of the tax laws and for special statistical studies and compilations. The statistics, studies, and compilations are designed so as to prevent disclosure of any particular taxpayer's identity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 6108.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Each magnetic tape record is identified by social security number and a unique document locator number assigned by the Internal Revenue Service. Those with sole proprietorship income, in addition, contain employer identification number, if reported by the taxpayer.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbook, IRM 1.15.2.1 through IRM 1.15.2.31. Input records are disposed of after publication of the statistics, except for input records for high income taxpayers for tax years prior to 1967 which are disposed of after 40 years. Output records are retained as long as they are needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Research and Analysis, Statistics of Income, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Primary: Forms 1040, 1040A, and 1040EZ, U.S. Individual Income Tax Returns. Secondary: Form SS–5, Application for a social security number.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.001

SYSTEM NAME:

Chief Counsel Criminal Tax Case Files. Each Regional Counsel Office and Area Counsel Office maintains one of these systems. The Office of the Assistant Chief Counsel (Criminal Tax) maintains one of these systems. The information in this notice applies to all 62 offices—Treasury/IRS.

SYSTEM LOCATION:

The addresses of the National Office, each Regional Counsel Office and each Area Counsel Office are listed in the Appendix. (See IRS Appendix A.)

Categories of individuals covered by the system:

(1) Taxpayers and related parties against whom tax-related criminal recommendations have been made. (2) Taxpayers and related parties on whom advice has been requested concerning investigation for tax-related offenses. (3) Persons who have filed petitions for the remission or mitigation of forfeitures or who are otherwise directly involved as parties in forfeiture matters, judicial or administrative.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Internal Control Records. (2) Legal and administrative files including investigative reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than return and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Records are locked up during nonworking hours and during periods when the work area is vacant. Access is strictly controlled and limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) one year after they are closed. The FRC will retain "significant case" files an additional 19 years and dispose of them 20 years after they are closed. Other legal files are retained in the FRC 4 years after they are transferred to the FRC and disposed of 5 years after they are closed. Duplicate National Office monitoring files are destroyed immediately upon notification that the field has closed its file. National Office unjacketed case files (e.g., appeals for which no monitoring files exist: FOIA requests, search warrants, formal technical advice and miscellaneous legal opinions) are retained for ten years after closing. National Office original centralized grand jury files and administrative case files are maintained indefinitely. Files transferred from other functions are returned to the source when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the systems in his or her Region. The Assistant Chief Counsel (Criminal Tax) is the system manager of the National Office system. The addresses are in the Appendix. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or 552a(j)(2).

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for the purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or 552a(j)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.002

SYSTEM NAME:

Chief Counsel Disclosure Litigation Case Files—Treasury/IRS.

SYSTEM LOCATION:

Office of the Assistant Chief Counsel (Disclosure and Privacy Law), Internal

Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who communicate with the Service regarding disclosure matters or who are involved with a disclosure issue involving the Service, or who are the subjects of investigations made by the Internal Security Division if their cases are referred to Disclosure Litigation for criminal violations of disclosure laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal Case and Administrative Case Files; (2) Internal Control Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Legal case and administrative case files: Paper records. Internal control records: Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply, cross-referenced third parties, issues, attorneys assigned, and by case number.

SAFEGUARDS:

A background investigation is made on personnel. Offices are located in a security area. Access to keys to these offices is restricted. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) 1 year after they are closed. "significant case" files are retained an additional 29 years and disposed of 30 years after they are closed. Other legal files are retained in the FRC 5 years after they are transferred to the FRC and disposed of 6 years after they are closed. Other records are retained in the Division for the same time periods as described above.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief Counsel (Disclosure Litigation), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purpose of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Persons who communicate with the agency regarding disclosure matters; Department of Treasury employees; State, local, and foreign governments; other Federal agencies; witnesses; informants; parties to disputed matters of fact or law.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.003

SYSTEM NAME:

Chief Counsel General Administrative Systems. Each of the 7 Regional Counsel Offices and 54 Area Counsel Offices, each of the 10 functions in the National Office, the Office of the Chief Counsel, and the Office of the Deputy Chief Counsel, the Offices of the Associate Chief Counsels (Enforcement Litigation), (International), (Domestic), (Finance and Management), and (Employee Benefits and Exempt Organizations) maintain a General Administrative System. This notice applies to all 78 of these offices-Treasury/IRS.

SYSTEM LOCATION:

The location of these systems are listed in the Appendix. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Past, present and prospective employees of the Office of Chief Counsel. (2) Tax Court Witnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Employee Performance Folders and employee records other than Official Personnel Files of the Office of Personnel Management and the Merit Systems Protection Board. (2) Time cards and attendance rosters. (3) Financial records such as travel expenses, Notary Public expenses, moving expenses, expenses of Tax Court witnesses and miscellaneous expenses. (4) Employee recruiting records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose information to the Office of Personnel Management and the Merit Systems Protection Board for appropriate Personnel actions; (3) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (4) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (5) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (6) disclose information to foreign governments in accordance with formal or informal international agreements; (7) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (8) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (9) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (10) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are generally retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Records are updated periodically to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the systems in his or her Region. Each Assistant Chief Counsel is the system manager of the system in his or her function. The Chief Counsel, the Deputy Chief Counsel and the Associate Chief Counsels (Enforcement Litigation), (Domestic), (International), (Finance and Management), and (Employee Benefits and Exempt Organizations) are the system managers of the system in each of their Offices. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Regional Counsel of the Region in which the records are located or the Assistant Chief Counsel (Disclosure Litigation) in the case of records in the National Office. The addresses are listed in the Appendix. Information leading to the identity of a confidential source is exempt pursuant to 5 U.S.C. 552a(k)(5).

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Employees, Department of Treasury personnel; Tax Court witnesses; Office of Personnel Management and Merit Systems Protection Board; other Federal agencies; State, local, and foreign governments; references; former employers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.004

SYSTEM NAME:

Chief Counsel General Legal Services Case Files. Each of the seven Regional Counsel Offices and the National Office maintain a General Legal Services Case File System. The information in this notice applies to all eight of the offices-Treasury/IRS.

SYSTEM LOCATION:

The addresses of Counsel offices are listed in the appendix. (See IRS appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons involved in litigation, actions, investigations or cases falling within the jurisdiction of the General Legal Services function including persons (1) who are parties in personnel matters, as well as discrimination and labor management relations matters, of the Internal Revenue Service, Chief Counsel's Office or, in some instances, other agencies in the Treasury Department; (2) who are parties in practitioner actions under the jurisdiction of the Director of Practice or the Joint Board of Actuaries; (3) who are parties in procurement matters and under the Federal Claims Collection Act (as amended by the Debt collection Act); (4) who are parties in litigation or administrative claims involving alleged violations of the United States Constitution, the Federal Tort Claims Act, the Military Personnel and Civilian Employee Compensation Act, relief of accountable officers for loss of Government funds, claims or suits for rewards, acts of officers or employees acting within the scope of their employment, or official acts of officers or employees not directly relating to Federal tax issues but relating to the Internal Revenue Service; (5) who are

parties in miscellaneous matters referred to the General Legal Service; (6) who are the subjects of investigations made by the Internal Security Division if the case is referred to General Legal Services (7) who are officials of the Internal Revenue Service and Chief Counsel's Office required to file a Financial Disclosure Statement under the Ethics in Government Act of 1978; (8) who have corresponded regarding a matter under consideration within General Legal Services .

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal case and administrative case files. (2) Internal control cards. (3) Correspondence files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purposes of litigating an action or seeking legal advice; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (10) provide information to the Director of Practice and Joint Board of Actuaries in practitioner disciplinary matters; (11) provide information to the Office of Personnel Management in personnel, discrimination and labor management matters; (12) provide information to arbitrators, the Federal Labor Relations Authority, including the Office of the General Counsel of that authority, the Federal Service Impasses Board and the Federal Mediation and Conciliation Service in labor management matters; (13) provide information to the Merit Systems Protection Board, including its Special Counsel, in Personnel, Discrimination, and Labor Management matters; (14) provide information to the Equal Employment Opportunity Commission in Personnel, Discrimination, and Labor Management matters; (15) provide information to the General Services Administration in property management matters; (16) provide information to the Administrative Assistant of the Executive Resources Board as to Financial Disclosure Statements, who makes the statements available to the public as required by law; (17) provide information to other federal agencies for the purpose of effectuating inter-agency salary offset or inter-agency administrative offset; (18) provide information to the Office of Government Ethics in conflict of interest, conduct, financial statement reporting, and other ethical matters.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply. If more than one person is involved in a given case then it is generally retrievable only by the first named person.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) 1 year after the cases are closed. The FRC will retain "significant case" files an additional 19 years and dispose of them 20 years after they are closed. Other legal files are retained in the FRC 4 years after they are transferred to the center and disposed of 5 years after they are closed. Other records are retained for the same time periods described above.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the system in his or her Region. The Assistant Chief Counsel (General Legal Services) is the system manager of the National Office system. The addresses are in the Appendix. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.005

SYSTEM NAME:

Chief Counsel General Litigation Case Files. Each Regional Counsel Office and each Area Counsel Office maintains one of these systems. The National Office maintains one of these systems. The information in this notice applies to all 62 offices—Treasury/IRS.

SYSTEM LOCATION:

The addresses of the Counsel offices are listed in the Appendix. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers or other individuals involved in matters referred to the General Litigation function including: (a) Taxpayers with outstanding tax liabilities or with potential outstanding tax liabilities; (b) persons from whom information is being sought (summons); (c) persons requesting information (disclosure); (d) present or former Internal Revenue Service employees who are being or may be sued in connection with their duties or who have been called upon to testify in private litigation; (e) persons who are or may be liable to the United States on non-tax claims; (f) persons who have submitted offers in compromise of federal taxes. (2) Persons who have corresponded regarding a matter under consideration within the General Litigation function.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal and Administrative Files. (2) Internal Control Records. (3) Offer in Compromise Files. (4) Correspondence Files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Provide information to other Federal agencies holding funds of taxpayer for the purpose of collecting a liability owed by the taxpayer; (2) disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (3) provide information to State and local taxing authorities for the purpose of enforcing Federal tax laws; (4) provide information to Federal, state and local regulatory authorities for purposes of SB/SE, W&I, LMSB of Federal taxes; (5) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (6) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (7) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (8) disclose information to foreign governments in accordance with formal or informal international agreements; (9) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (10) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (11) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (12) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

All records are retrievable by the name of the persons to whom they apply. Some internal control records are retrievable by names of taxpayers and related taxpayers, attorneys assigned, subject matter, and certain key administrative dates.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

National Office, Regional, and Area counsel legal files are generally retired to the Federal Records Center (FRC) one year after they are closed. The FRC will retain "significant case" files an additional 24 years and dispose of them 25 years after the cases are closed. Other legal files are retained in the FRC 9 years after they are transferred to the Center and disposed of 10 years after they are closed. Other records are retained in the Division for the same time periods described above. Files transferred from other functions are returned to the source when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the systems in his or her Region. The Assistant Chief Counsel (General Litigation) is the system manager of the National Office system. The addresses are in the Appendix. (See IRS appendix A.)

NOTIFICATION PROCEDURE:

Most of the records in this system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.007

SYSTEM NAME:

Chief Counsel Legislation and Regulations Division, Employee Plans and Exempt Organizations Division, and Associate Chief Counsel (Technical and International) Correspondence and Private Bill Files-Treasury/IRS.

SYSTEM LOCATION:

Legislation and Regulations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, Washington DC 20224; Employee Plans and Exempt Organizations Division and Associate Chief Counsel (Technical and International), same address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Persons who have corresponded to the Service, the Department of the Treasury, the White House or Members of Congress regarding a matter in which the Legislation and Regulations Division or the Employee Plans and Exempt Organizations Division was asked to draft a reply. (2) Persons on whose behalf private relief bills were introduced in Congress involving tax related matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Correspondence Files; (2) Private Relief Bill Legal Files; (3) Internal Control Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (10) provide information to the agency or individual who directed correspondence to the Legislation and Regulations Division for the Division to draft a response.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Correspondence files are retrievable by the name of the individual who initiated the correspondence. Private Relief Bill files are retrievable by the H.R. or S. number for each Congress.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Correspondence files are generally disposed of after 3 years. Private Relief Bill files are periodically updated to reflect changes and are maintained as long as needed. Internal control records are generally disposed of after 2 years or when no longer useful. Auth: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel, TE/GE, and Associate Chief Counsel International Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. (See IRS appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. (See IRS appendix A.)

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Persons who initiate correspondence referred to the Legislation and Regulations Division; Congressional documents; taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; state, local, and foreign governments; witnesses; informants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 90.009

SYSTEM NAME:

Chief Counsel Field Services Case Files. Each Regional Counsel Office and each Area Counsel Office maintains one of these systems. The National Office maintains one of these systems. The information in this notice applies to all 62 offices-Treasury/IRS.

SYSTEM LOCATION:

The addresses of the National Office, each Area Counsel Office, Area. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers who have filed petitions with the Tax Court or suits for refunds

of Federal taxes. (2) Taxpayers upon whom the issuance of a statutory notice is or was contemplated whose case has been referred to the Tax Litigation function. (3) Taxpayers who are the subject of formal or informal advisory opinions during the investigative stage of the case or while under administrative processing. (4) Persons who have corresponded regarding a matter under consideration within the Tax Litigation function.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal Case and Administrative Case Files. (2) Internal Control Records. (3) Correspondence Files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements. (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings; (8) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) one year after they are closed. The FRC will retain "significant case" files an additional 29 years and dispose of them 30 years after they are closed. Other legal files are retained in the FRC 9 years after they are transferred to the Center and disposed of 10 years after they are closed. Other records are periodically updated to reflect changes and maintained as long as needed. Files transferred from other functions are returned to the source when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Area Counsel is the system manager of the systems in his or her Region. The Assistant Chief Counsel (Field Services) is the system manager of the National Office system. The addresses are in the Appendix. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.010

SYSTEM NAME:

Digest Room Files Containing Briefs, Legal Opinions, and Digests of Documents Generated Internally or by the Department of Justice Relating to the Administration of the Revenue Laws-Treasury/IRS.

SYSTEM LOCATION:

Office of the Associate Chief Counsel (Finance and Management), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who have sought Internal Revenue Service rulings and/or legal opinions on tax problems and those whose cases are being or have been adjudicated.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Internal Control Records; (2) Briefs; (3) Legal Opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to Justice Department personnel for research purposes; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for

investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Records are kept in a secured area. Access is limited to authorized personnel. Users of the system must show IRS identification and sign a register each time the room is used. Background checks are made on employees. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Briefs, legal opinions, and digests are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel, (Finance and Management), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel; Department of Justice personnel; taxpayers and their representatives; other Federal agencies; witnesses; informants; State, local, and foreign governments; parties to disputed matters of fact and law; other persons who communicate with the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.011

SYSTEM NAME:

Attorney Recruiting Files—Treasury/IRS.

SYSTEM LOCATION:

Office of the Associate Chief Counsel (Finance and Management), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for attorney positions with the Office of Chief Counsel, both National Office and field.

CATEGORIES OF RECORDS IN THE SYSTEM:

Attorney Files and lists of eligible applicants; Internal Control Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (10) provide information to the Office of Personnel Management and Merit System Protection Board for appropriate personnel actions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Applicant files and internal control records: paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

The attorney applicant files and other records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Finance and Management), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant Chief Counsel (Disclosure Litigation), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. Information leading to the identity of a confidential source is exempt pursuant to 5 U.S.C. 552a(k)(5).

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Applicants, Department of Treasury Personnel; Office of Personnel Management; other Federal agencies; State, local, and foreign governments; references, former employers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.013

SYSTEM NAME:

Legal Case Files of the Chief Counsel, Deputy Chief Counsel and Associate Chief Counsels-Treasury/IRS.

SYSTEM LOCATION:

Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons whose cases at one time involved important issues or unusual circumstances which were brought to the attention of the above persons (or their predecessors).

CATEGORIES OF RECORDS IN THE SYSTEM:

Legal case files which include internal control records of such case files of both the persons currently holding the above positions and those who previously held such positions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records pertaining to individuals are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Counsel, Deputy Chief Counsel, or the Associate Chief Counsels, respectively, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; other persons who communicate with the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.015

SYSTEM NAME:

Reference Records of the Library in the Office of Chief Counsel—Treasury/IRS.

SYSTEM LOCATION:

Office of the Associate Chief Counsel (Finance and Management), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers who have sought Congressional tax relief by means of a Private Bill. (2) IRS employees who charge out books.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Numerical and alphabetical listing of Private Relief Bill and files related to the Bill. (2) Charge cards and inter-library loan forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (3) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the individual to whom they pertain and Private Bill material can also be retrieved by H.R. or S. number.

SAFEGUARDS:

Although access is limited to authorized individuals, this material would be available to any person through a Freedom of Information Act request. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Records are regularly updated. If the library materials to which the references pertain are no longer in the library SB/SE, W&I, LMSB, the reference cards are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Finance and Management), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C. Appendix B. Inquiries should be addressed to Assistant Chief Counsel (Disclosure and Privacy Law), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Material to which reference information pertains.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 90.016

SYSTEM NAME:

Counsel Automated Tracking System (CATS) Records—Treasury/IRS.

SYSTEM LOCATION:

Computer Records: Detroit Computing Center, 1300 John C. Lodge Drive, Detroit, Michigan 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers who initiated suits for refund in area courts or the Claims Court.(2) Taxpayers who have filed petitions with the United States Tax Court. (3) Taxpayers who have requested rulings from the Service in those cases in which the request has been referred to the Office of Chief Counsel for a legal opinion. (4) Taxpayers who have been involved in litigation concerning the SB/SE, W&I, LMSB of taxes. (5) Taxpayers whose cases were the subject of technical advice.

CATEGORIES OF RECORDS IN THE SYSTEM:

Skeletal legal files and Indexes (including taxpayer name; uniform issue list number; key dates; subject matter; name of attorney and office handling the case; and miscellaneous remarks.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose

information to the Department of Justice for the purpose of litigating an action, seeking legal advice, or for research purposes; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Skeletal legal files and indexes are stored on magnetic media. Input documents are on paper. The CATS system also allows access by interactive terminal.

RETRIEVABILITY:

Records are retrievable by legal jacket number, the name of the person to whom they apply, and by name of the attorney to whom the cases are assigned.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Passwords are required in the Counsel Automated Tracking System to access system information. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Magnetic media will be periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Finance and Management), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Most of the records in this system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2). An individual who wishes to determine whether the system contains any records pertaining to himself which are not exempt may address inquiries to the Assistant Chief Counsel (Disclosure Litigation), 1111 Constitution Avenue, NW., Washington, DC 20224.

RECORD ACCESS PROCEDURES:

Most of the records in this system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2). Individuals seeking access to any record which is not exempt, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant Chief Counsel (Disclosure Litigation) whose address is listed above. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies, State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.017

SYSTEM NAME:

Correspondence Control and Records, Associate Chief Counsel (Technical and International)—Treasury/IRS.

SYSTEM LOCATION:

National Office (See IRS appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual subjects of letter rulings, technical advice, memorandum and other correspondence from the Office of the Associate Chief Counsel (Technical and International).

CATEGORIES OF RECORDS IN THE SYSTEM:

Cards, disks and tapes containing taxpayer names, date of correspondence, issue, and related information, including in some cases the conclusions reached, and related letter ruling, technical advice, memorandum and other correspondence files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 7802, 7602, 7805(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used to: (1) Disclose information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice; (2) disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, State, or local agency maintaining civil, criminal or other

relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media, and tapes.

RETRIEVABILITY:

Indexed by name and control number.

SAFEGUARDS:

Safeguards will not be less than those provided by the Physical and Document Security Handbook, IRM 1(16)41, and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Cards, disks and tapes are periodically updated and maintained as long as needed. Related files are destroyed or retired over varying numbers of years as specified in the Records Control Schedule, IRM 1.15.2.1 (10).

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Technical and International), National Office. (See IRS appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Associate Chief Counsel (Technical and International), National Office. (See IRS appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Associate Chief Counsel (Technical and International), National Office. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individual subjects of letter rulings, technical advice memorandums, and other correspondence, field office personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 90.018

SYSTEM NAME:

Expert Witness Library—Treasury/IRS.

SYSTEM LOCATION:

Office of the Assistant Chief Counsel (Field Services) Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Potential expert witnesses for tax litigation in a variety of areas of expertise.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, and phone numbers of expert witnesses who have been used either by IRS or taxpayers in litigation. The library also contains evaluations of the performance of each expert, copies of transcripts where experts have testified and copies of the experts' reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, 7802, and 7805(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice in connection with requests for legal advice; (2) disclose information to a Federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of or retention of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena where relevant or potentially relevant to the proceeding; (4) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Indexed by name and subject matter expertise.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Furthermore, access to the paper files is controlled by a designated attorney in the Tax Shelter Branch. Access to the expert witness library indices on magnetic media are controlled by the Tax Shelter Branch. The Tax Shelter Branch is locked during nonworking hours. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Background checks are made on employees. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

The records will be periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief Counsel (Field Services), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW, Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant Chief Counsel (Disclosure Litigation), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Attorneys working for the IRS and expert witnesses themselves.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

IRS Appendix A—Addresses of System Locations

This appendix contains the addresses of Treasury/IRS system locations along with the title of the principal system manager(s) at each location. Other system managers at these locations are individually noted in the text of the system notices. Generally, inquiries under Treasury/IRS systems should be addressed to the office where the records in question are located. For Area Office records, this would be the office with jurisdiction over the area where the individual resides. For Internal Revenue Service Center/Campus records, this would be the service center/campus where the individual files Federal income tax returns.

The Internal Revenue Service has been reorganized and the following divisions serve their respective customers:

Wage and Investment—individual taxpayers;
Large and Mid Size Business-taxpayers who are large and mid-size businesses;
Tax Exempt/Government Entities—taxpayers who are tax-exempt/government entities;
Small Business/ Self Employed—small business taxpayers and self-employed taxpayers.

National Office Internal Revenue Service

Chief, Equal Employment Opportunity and Diversity
Chief, Communications and Liaison
Chief Information Officer
Assistant Commissioner (Employee Plans and Exempt Organizations)
Director, Tax Administration Modernization
Commissioner, Large and Mid Size Business Division
Commissioner, Small Business/Self Employed Division
Commissioner, Tax Exempt and Government Entities Division
Commissioner, Wage and Investment Division
Director, Commissioner's Complaint and Processing Group
Director of Practice
National Taxpayer Advocate
National Director, Strategic Planning and Research
National Director, Compliance and Research
Chief Financial Officer
Chief, Appeals
Director, National Headquarters Management and Finance
Director, Research and Analysis and SOI
Chief Agency Wide Shared Services
Chief (Criminal Investigation)
Director, Strategic Human Resources
Director (International)
Assistant Commissioner (Procurement)
Chief Appeals
Director, Office of Disclosure

The address for all of the above systems managers with the exception of the Assistant Commissioner (International), noted below, is as follows:

1111 Constitution Avenue, NW., Washington, DC 20224.
Director (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

Addresses of the Detroit Computing Center, Martinsburg Computing Center, and the Austin Service Center/Campus

Director, Detroit Computing Center, 1300 John C. Lodge Drive, Detroit, Michigan 48226.

Director, Martinsburg Computing Center, PO Box 1208, Martinsburg, West Virginia 25401.

Director, Austin Service Center/Campus, Stop 7000 AUSC, 3651 Interregional Hwy 35, Austin, Texas 78741.

Addresses of Area Offices and Internal Revenue Service Centers

Area Offices

Midstates (Dallas)
Internal Revenue Service, 4050 Alpha Road, Dallas, Texas 75244–4203.
Northeast (Manhattan), Internal Revenue Service, 90 Church Street, New York, New York, 10007.
Southeast (Atlanta), Internal Revenue Service, PO Box 926, Stop 100–R, Atlanta, Georgia 30370.
Western (San Francisco), Internal Revenue Service, Room 511, 1650 Mission Street, San Francisco, California 95113.

Area Directors

Area Director, Internal Revenue Service, PO Box 1818, Cincinnati, Ohio 45201.
Area Director, Internal Revenue Service, PO Box 99181, Cleveland, Ohio 44199.
Area Director, Internal Revenue Service, PO Box 330500, Stop #1, Detroit, Michigan 48232–6500.
Area Director, Internal Revenue Service, PO Box 44687, Stop 10, Indianapolis, Indiana 46244.
Area Director, Internal Revenue Service, PO Box 1735, Stop 100, Louisville, Kentucky 40201.
Area Director, Internal Revenue Service, 425 Juliana Street, Parkersburg, West Virginia 26101.
Director, Internal Revenue Service Center/ Campus, 201 W. Second Street., Covington, Kentucky 41019.
Area Director, Internal Revenue Service, George Fallon Building, 31 Hopkins Plaza, Baltimore, Maryland 21201.
Area Director, Internal Revenue Service, P.O. Box 939, Newark, New Jersey 07101.
Area Director, Internal Revenue Service, W. J. Green Federal Building, 600 Arch Street, Philadelphia, Pennsylvania 19106.
Area Director, Internal Revenue Service, 1000 Liberty Avenue, Room 1139, Pittsburgh, Pennsylvania 15222.
Area Director, Internal Revenue Service, 400 North Eighth Street, Richmond, Virginia 23240.
Area Director, Internal Revenue Service, 409 Silverside Road, Wilmington, Delaware 19809.
Director, Internal Revenue Service Center/ Campus, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19154.
Area Director, Internal Revenue Service, Federal Building, 115 Fourth Avenue, SE., Aberdeen, South Dakota 57401.
Area Director, Internal Revenue Service, 230 South Dearborn Street, Room 2890, Chicago, Illinois 60604.
Area Director, Internal Revenue Service, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.
Area Director, Internal Revenue Service, Federal Building and Post Office, 657 Second Avenue, North Fargo, North Dakota 58102.
Area Director, Internal Revenue Service, Federal Building, Second Floor, 301 South Park Avenue, Helena, Montana 59626–0010.
Area Director, Internal Revenue Service, Federal Building and Court House, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203.
Area Director, Internal Revenue Service, Federal Office Building, 106 South Fifteenth Street, Omaha, Nebraska 68102.
Area Director, Internal Revenue Service, 1222 Spruce Street, St. Louis, Missouri 63101.
Area Director, Internal Revenue Service, Federal Building and Court House, 316 North Robert Street, St. Paul, Minnesota 55101.
Area Director, Internal Revenue Service, 320 West Washington Street, Springfield, Illinois 62701.
Director, Internal Revenue Service Center/ Campus, P.O. Box 24551, Kansas City, Missouri 64131.
Area Director, Internal Revenue Service, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.
Area Director, Internal Revenue Service, 68 Sewall Street, Augusta, Maine 04330.
Area Director, Internal Revenue Service, Leo W. O'Brien Federal Building, Clinton Avenue and North Pearl Street, Albany, New York 12207.

Area Director, Internal Revenue Service, 120 Church Street, New York, New York 10007.
Area Director, Internal Revenue Service, 35 Tillary Street, Brooklyn, New York 11201.
Area Director, Internal Revenue Service, 111 West Huron Street, Buffalo, New York 14202.
Area Director, Internal Revenue Service, Courthouse Plaza, 119 Main Street, Burlington, Vermont 05401.
Area Director, Internal Revenue Service, William R. Cotter Federal Building, Stop 204, 135 High Street, Hartford, Connecticut 06103.
Area Director, Internal Revenue Service, Federal Building, 80 Daniel Street, Portsmouth, New Hampshire 03801.
Area Director, Internal Revenue Service, 380 Westminster Mall, Providence, Rhode Island 02903.
Andover IRS Internal Revenue Service, Stop 100, 310 Lowell Street, Andover, Massachusetts 05501.
Director, Internal Revenue Service Center/ Campus, Stop 100, 1040 Waverly Avenue, Holtsville, New York 11799.
Area Director, Internal Revenue Service, 401 West Peachtree Street, NW. Atlanta, Georgia 30365.
Area Director, Internal Revenue Service, 500 Twenty-second Street South, Birmingham, Alabama, 35233.
Area Director, Internal Revenue Service, 1835 Assembly Street, Columbia, South Carolina 29201.
Area Director, Internal Revenue Service, 320 Federal Place, Greensboro, North Carolina 27401.
Area Director, Internal Revenue Service, Suite 504, 100 W. Capitol Street, Suite 504, Jackson, Mississippi 39269.
Area Director, Internal Revenue Service, Federal Office Building, 400 West Bay Street, Jacksonville, Florida 32202.
Area Director, Internal Revenue Service, 801 Broadway, Nashville, Tennessee 37203.
Area Director, Internal Revenue Service, (Stop 6) 700 West Capitol, Little Rock, Arkansas 72201.
Area Director, Internal Revenue Service, (Stop 6) 501 Magazine Street, New Orleans, Louisiana 70130.
Area Director, Internal Revenue Service, One University Drive, Building B, Ft. Lauderdale, Florida 33324.
Director, Internal Revenue Service Center/ Campus, 4800 Buford Highway, Chamblee, Georgia 30341.
Director, Internal Revenue Service Center/ campus, P.O. Box 30309, Airport Mail Facility, Memphis, Tennessee 38130.
Area Director, Internal Revenue Service, 5338 Montgomery NE, 3rd Floor, Albuquerque, New Mexico 87109.
Area Director, Internal Revenue Service, Stop 100D AUS, 300 East Eighth Street, Austin, Texas 78701.
Area Director, Internal Revenue Service, 1919 Smith Street, Houston, Texas 77002.
Area Director, Internal Revenue Service, 308 West Twenty-first Street, Cheyenne, Wyoming 82001.
Area Director, Internal Revenue Service, Stop 1000 DAL, 1100 Commerce Street, Dallas, Texas 75242.
Area Director, Internal Revenue Service, 600 Seventeenth Street, Stop 1000 DEN, Denver, Colorado 80202–2490.
Area Director, Internal Revenue Service, 210 East Earll Drive, Sixth Floor, Room 600, Phoenix, Arizona 85012.
Area Director, Internal Revenue Service, 465 South 400 East, Salt Lake City, Utah 84111.
Area Director, Internal Revenue Service, 200 NW. Fourth Street, Oklahoma City, Oklahoma 73102.
Area Director, Internal Revenue Service, 412 South Main Street, Wichita, Kansas 76202.
Director, Internal Revenue Service Center/ Campus, 3651 South Interregional Highway, Austin, Texas 73301.
Director, Internal Revenue Service Center/ Campus, 1160 West 1200 South Street, Ogden Utah 84201.
Area Director, Internal Revenue Service, 949 East Thirty-sixth Avenue, Anchorage, Alaska 99508.
Area Director, Internal Revenue Service, Box 041, 550 West Fort Street, Boise, Idaho 83724.
Area Director, Internal Revenue Service, PJKK Federal Building, 300 Ala Moana, Honolulu, Hawaii 96850.
Area Director, Internal Revenue Service, 24000 Avila Road, Laguna Niguel, California 92677.
Area Director, Internal Revenue Service, 300 North Los Angeles Street, Los Angeles, California 90012.
Area Director, Internal Revenue Service, 1220 SW. Third Avenue, Portland, Oregon 97204.
Area Director, Internal Revenue Service, 4750 West Oakey Boulevard, Las Vegas, Nevada 89102.
Area Director, Internal Revenue Service, 4330 Watt Avenue, North Highland, California 95660.
Area Director, Internal Revenue Service, 1301 Clay Street, South Tower, San Francisco, California 94612.
Area Director, Internal Revenue Service, 55 South Market Street, San Jose, California 95113.
Area Director, Internal Revenue Service, 915 Second Avenue, Seattle, Washington, 98174.
Director, Internal Revenue Service Center, 5045 East Butler Avenue, Fresno, California 93888.

Addresses of Chief Counsel, Area Counsel, and Regional Director of Appeals Offices

National Office

Office of the National Director of Appeals, Internal Revenue Service, 901 D Street, SW., Box 68, Washington, DC 20024.
Office of the Assistant Chief Counsel (Criminal Tax), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (Disclosure and Privacy Law), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (General Legal Services), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (General Litigation), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (Income Tax and Accounting), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (Employee Benefits and Exempt Organizations), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Counsel (Field Services), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (Financial Institutions and Products), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (Passthroughs and Special Industries), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Chief Counsel, Deputy Chief Counsel, Associate Chief Counsels (Litigation), (Domestic), (International), Finance and Management) and (Employee Benefits and Exempt Organizations), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

Counsel Offices

Southeast Counsel's Office, IRS, 401 West Peachtree Street, Suite 2110–Stop 180–R, Atlanta, Georgia 30365
Midstates Counsel's Office, IRS, 4050 Alpha Road, 14th Floor, Dallas, Texas 75244–4203.
Western Counsel's Office, IRS, Room 514, 1650 Mission Street, San Francisco, California 94103.

Director of Appeals

Northeast Director of Appeals, IRS, 90 Church Street, Room 1003, New York, NY 10007.
Southeast Director of Appeals, IRS, 625 Federal Office Building, Suite 2118, 401 West Peachtree Street, NW., Atlanta, Georgia 30365.
Midstates Director of Appeals, IRS, 4050 Alpha Road, Fourteenth Floor, Dallas, Texas 75244–4203,

Western

Director of Appeals, IRS, Room 515, 1650 Mission Street, San Francisco, California 94103.

Area Counsel Offices

Area Counsel's Office, IRS, Leo W. O'Brien Federal Building, Clinton Avenue and N. Pearl Street, Albany, New York 12207.
Area Counsel's Office, IRS, 10 Causeway Street, Room 401, Boston, Massachusetts 02222–1061.
Area Counsel's Office, IRS Brooklyn Office, 1600 Stewart Avenue, Suite 601, Uniondale, New York 11590.
Area Counsel's Office, IRS, 28 Church Street, Guaranty Building, Suite 500, Buffalo, New York 14202.
Area Counsel's Office, IRS, 333 East River Drive, Suite 200, Commerce Center One, Hartford, Connecticut 06108.
Area Counsel's Office, IRS, Room 10424, 600 Arch Street, Philadelphia, Pennsylvania 19106.
Area Counsel's Office, IRS, Room 4100, 101 West Lombard Street, Baltimore, Maryland 21201.
Area Counsel's Office, IRS, Room 904, 970 Broad Street, Newark, New Jersey 07102.
Area Counsel's Office, IRS, 1001 Liberty Center, Room 601 C, Pittsburgh, Pennsylvania 15222.
Area Counsel's Office, IRS, 2727 Enterprise Parkway, First Floor, Richmond, Virginia 23240.
Area Counsel's Office, IRS, 4620 Wisconsin Avenue, NW., Fourth Floor, Washington, DC 20016.
Area Counsel's Office, IRS, Suite 1400, 401 West Peachtree Street, NW., Atlanta, Georgia 30365.
Area Counsel's Office, IRS, Room 340, 500 Twenty-second Street, South, Birmingham, Alabama 35233.
Area Counsel's Office, IRS, Room 509, 320 Federal Place, Greensboro, North Carolina 27401.
Area Counsel's Office, IRS, Box 35027, Federal Office Building, 400 West Bay Street, Room 564, Jacksonville, Florida 32202.
Area Counsel's Office, IRS, Room 1114, Federal Office Building, 51 SW First Avenue, Miami, Florida 33130.
Area Counsel's Office, IRS, Room 703, U.S. Courthouse, 801 Broadway, Nashville, Tennessee 37203–3814.
Area Counsel's Office, IRS, 917 Hale Boggs Building, 501 Magazine Street, New Orleans, Louisiana 70130.
Area Counsel's Office, IRS, Room 7525, John Weld Peck Federal Building 550 Main Street, Cincinnati, Ohio 45202.
Area Counsel's Office, IRS, Suite 810, One Cleveland Center, 1375 East, Ninth Street, Cleveland, Ohio 44114.
Area Counsel's Office, IRS, 1870 McNamara Building, 477 Michigan Avenue, Detroit, Michigan 48226.
Area Counsel's Office, IRS, 513 Minton-Capehart Federal Building, 575 N. Pennsylvania Street, Indianapolis, Indiana 46204.
Area Counsel's Office, IRS, Suite 1100 Heyburn Building, 332 West Broadway, Louisville, Kentucky 40202.
Area Counsel's Office, IRS, 219 South Dearborn Street, Room 1342, Chicago, Illinois 60604.
Area Counsel's Office, IRS, 439 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.
Area Counsel's Office, IRS, Room 242, Federal Building, 301 South Park Avenue, Helena, Montana 59626.
Area Counsel's Office, IRS, 2700 Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.
Area Counsel's Office, IRS, 760 Henry Reuss Federal Plaza, Suite 760, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203.
Area Counsel's Office, IRS, 3101 Federal Building, 215 North Seventeenth Street, Omaha, Nebraska 68101.
Area Counsel's Office, IRS, Room 720, 320 West Washington Street, Springfield, Illinois 62701.
Area Counsel's Office, IRS, Third Floor, Chouteau Center, 133 S. Eleventh Street, St. Louis, Missouri 63102.
Area Counsel's Office, IRS, Galtier Plaza, Suite 650, 175 East Fifth Street, St. Paul, Minnesota 55101.
Area Counsel's Office, IRS, 5338 Montgomery NE Suite 400, Albuquerque, New Mexico 87109.
Area Counsel's Office, IRS, Room 601, 300 East Eighth Street, Austin, Texas 78701.
Area Counsel's Office, IRS, Room 12A24, Stop 2000 DAL, 1100 Commerce Street, Dallas, Texas 75242.
Area Counsel's Office, IRS, Suite 500, 1244 Speer Boulevard, Denver, Colorado 80204.
Area Counsel's Office, IRS, Suite 350, 10850 Richmond Avenue, Houston, Texas 77042–4775.
Area Counsel's Office, IRS, Suite 320, 500 West Main, Oklahoma City, Oklahoma 73102.
Area Counsel's Office, IRS, Suite 1500, 3225 N. Central Avenue, Phoenix, Arizona 85012.
Area Counsel, IRS, Room 131, Wallace F. Bennett Federal Building, 125 South State Street, Salt Lake City, Utah 84138.
Area Counsel's Office, IRS, Room 607, 949 East Thirty-sixth Avenue, Anchorage, Alaska 99508.
Area Counsel's Office, IRS, Box 024, 550 West Fort Street, Boise, Idaho 83724.
Area Counsel's Office, IRS, 7119 PJKK Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850.
Area Counsel's Office, IRS, Fourth Floor, Chet Holifield Building, 24000 Avila Road, Laguna Niguel, California 92656.
Area Counsel's Office, IRS, 4750 Oakey, Suite 403, Las Vegas, Nevada 89102.
Area Counsel's Office, IRS, 3018 Federal Building, 300 N. Los Angeles Street, Los Angeles, California 90012.
Area Counsel's Office, IRS, 222 SW. Columbia, Suite 450, Portland, Oregon 97201.
Area Counsel's Office, IRS, 4330 Watt Avenue, Suite 470, North Highlands, California 95660.
Area Counsel's Office, IRS, Suite 901, 701 B Street, San Diego, California 92101.
Area Counsel's Office, IRS, Room 504, 160 Spear Street, San Francisco, California 94105.
Area Counsel's Office, IRS, Suite 505, 55 South Market Street, San Jose, California 95113.
Area Counsel's Office, IRS, 2710 Federal Building, 915 Second Avenue, Seattle, Washington 98174.
Area Counsel's Office, IRS, 950 Hampshire Road, East Pavilion, Thousand Oaks, California 91361.

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Monday,
December 10, 2001

Part IV

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Special Research Grants Program, Potato Research: Request for Applications and Request for Input; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Special Research Grants Program, Potato Research: Request for Applications and Request for Input

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of Request for Applications and Request for Input.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) announces the availability of grant funds and requests applications for the Special Research Grants Program, Potato Research (Potato Research) for fiscal year (FY) 2002 to facilitate or expand ongoing State-Federal food and agricultural research programs. The amount available for support of this program in FY 2002 will be approximately between $1,447,000 and $1,600,000.

This notice identifies the objectives for Potato Research projects, the eligibility criteria for projects and applicants, and the application forms and associated instructions needed to apply for a Potato Research grant.

By this notice, CSREES additionally requests stakeholder input from any interested party for use in the development of the next Request for Applications (RFA) for this program.

DATES: Applications must be received by close of business (COB) on January 21, 2002 (5:00 p.m. Eastern Time). Applications received after this deadline will not be considered for funding. Comments regarding this RFA are requested within six months from the issuance of this notice. Comments received after that date will be considered to the extent practicable.

ADDRESSES: The address for hand-delivered applications or applications submitted using an express mail or overnight courier service is: Special Research Grants Program, Potato Research; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 1307, Waterfront Centre; 800 9th Street, SW.; Washington, DC 20024; Telephone: (202)401–5048.

Applications sent via the U.S. Postal Service must be sent to the following address: Special Research Grants Program, Potato Research; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, SW.; Washington, DC 20250–2245.

Written stakeholder comments should be submitted by mail to: Policy and Program Liaison Staff; Office of Extramural Programs; USDA-CSREES; STOP 2299; 1400 Independence Avenue, SW.; Washington, DC 20250–2299; or via e-mail to: *RFP-OEP@reeusda.gov*. (This e-mail address is intended only for receiving comments regarding this RFA and not requesting information or forms.) In your comments, please state that you are responding to the Special Research Grants Program, Potato Research RFA.

FOR FURTHER INFORMATION: Applicants and other interested parties are encouraged to contact Ann Marie Thro; telephone: 202–401–6702; fax: 202–401–4888; email: *athro@reeusda.gov*.

SUPPLEMENTARY INFORMATION:

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under number 10.200.

Stakeholder Input

CSREES is requesting comments regarding this RFA from any interested party. These comments will be considered in the development of the next RFA for the program. Such comments will be used to meet the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(c)(2)). This section requires the Secretary to solicit and consider input on a current RFA from persons who conduct or use agricultural research, education and extension for use in formulating future RFA's for competitive programs. Comments should be submitted as provided for in the **ADDRESSES** and **DATES** portions of this Notice.

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A. Legislative Authority and Background

The authority for this program is contained in subsection (c)(1)(B) of section 2 of the Competitive, Special, and Facilities Research Grant Act, of Pub. L. No. 89–106, as amended (7 U.S.C. 450i(c)(1)(B)). Only section 3400.1, Applicability of regulations, subpart C, Peer and Merit Review Arranged by Grantees, and subpart D, Annual Reports, of the administrative regulations at 7 CFR part 3400 for the Special Grants Programs awarded under the authority of section 2(c) of this Act (7 U.S.C. 450i(c)) apply to grants solicited and awarded under subsection (c)(1)(B).

In accordance with the statutory authority, grants awarded under this program will be for the purpose of facilitating or expanding ongoing State-Federal food and agricultural research programs that—

(i) Promote excellence in research on a regional and national level; (ii) promote the development of regional research centers; (iii) promote the research partnership between the Department of Agriculture, colleges and universities, research foundations, and State agricultural experiment stations for regional research efforts; and (iv) facilitate coordination and cooperation of research among States through regional research grants.

B. Purpose, Priorities, and Fund Availability

The purpose of this grant program is to support potato research that focuses on varietal development/testing. As used herein, varietal development/testing is research using traditional and biotechnological genetics to develop improved potato variety(ies). Aspects of evaluation, screening and testing must support or complement the development of improved varieties.

There is no commitment by USDA to fund any particular application or to make a specific number of awards. Approximately between $1,447,000 and

$1,600,000 will be available to fund applications in FY 2002.

C. Definitions

For the purpose of this program, the following definitions are applicable:

Administrator means the Administrator of the Cooperative State Research, Education, and Extension Service (CSREES) and any other officer or employee of the Department to whom the authority involved may be delegated.

Authorized departmental officer (ADO) means the Secretary or any employee of the Department with delegated authority to issue or modify grant instruments on behalf of the Secretary.

Authorized organizational representative (AOR) means the president, or chief executive officer of the applicant organization or the official, designated by the president or chief executive officer of the applicant organization, who has the authority to commit the resources of the organization.

Budget period means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

Department or *USDA* means the United States Department of Agriculture.

Grantee means the organizaton designated in the grant award document as the responsible legal entity to which a grant is awarded.

Peer review is an evaluation of a proposed project for scientific or technical quality and relevance performed by experts with the scientific knowledge and technical skills to conduct the proposed work or to give expert advice on the merits of a proposal.

Peer reviewers means experts or consultants qualified by training and experience to give expert advice on the scientific and technical merit of grant applications or the relevance of those applications to one or more of the proposal evaluation criteria. Peer reviewers may be ad hoc or convened as a panel.

Project Director means the single individual designated by the grantee in the grant application and approved by the Authorized Departmental Officer who is responsible for the direction and management of the project (also known as a principal investigator for research activities).

Prior approval means written approval evidencing prior consent by an authorized departmental officer.

Project means the particular activity within the scope of the program supported by a grant award.

Project period means the total length of time as stated in the award document and modifications thereto, if any, during which Federal sponsorship begins and ends.

Secretary means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved is delegated.

D. Eligibility

Applications may be submitted by State agricultural experiment stations, land-grant colleges and universities, research foundations established by land-grant colleges and universities, colleges and universities receiving funds under the Act of October 10, 1962, as amended (16 U.S.C. 582a et seq.), and accredited schools or colleges of veterinary medicine. The proposals must be directly related to potato varietal development/testing. Although an applicant may be eligible based on its status as one of these entities, other factors may exclude an applicant from receiving Federal assistance under this program (*e.g.*, debarment or suspension, a determination of non-responsibility based on submitted organizational management information, etc.). Award recipients may subcontract to organizations not eligible to apply provided such organizations are necessary for the conduct of the project.

E. Indirect Costs

Pursuant to Section 1473 of the National Agriculture Research, Extension, and Teaching Policy Act of 1977, as amended, 7 U.S.C. 3319, indirect costs are not allowable costs under section 2(c)(1)(B) projects, and no funds will be approved for this purpose. Further, costs that are a part of an institution's indirect cost pool (e.g., administrative or clerical salaries) may not be reclassified as direct costs for the purpose of making them allowable.

F. Matching Requirements

Cost-sharing is not required nor will it be a factor in the awarding of any grant.

G. Funding Restrictions

CSREES has determined that grant funds awarded under this authority may not be used for renovation or refurbishment of research, education, or extension space; the purchase or installation of fixed equipment in such space; or the planning, repair, rehabilitation, acquisition, or construction of buildings or facilities.

H. Types of Applications

In FY 2002, applications may be submitted to the Potato Research Program as one of the following three types of requests:

(1) New application. This is a project application that has not been previously submitted to the Potato Research Program. All new applications will be reviewed competitively using the selection process and evaluation criteria described in Part IV—Review Process.

(2) Renewal application. This is a project application that requests additional funding for a project beyond the period that was approved in an original or amended award. Applications for renewed funding must contain the same information as required for new applications, and additionally must contain a Progress Report (see Project Description, Part III.B.6). Renewal applications must be received by the relevant due dates, will be evaluated in competition with other pending applications in appropriate area to which they are assigned, and will be reviewed according to the same evaluation criteria as new applications.

(3) Resubmitted application. This is an application that had previously been submitted to the Potato Research Program but not funded. Project Directors (PD's) must respond to the previous review panel summary (see Response to Previous Review, Part III.B.5). Resubmitted applications must be received by the relevant due dates, will be evaluated in competition with other pending applications in appropriate area to which they are assigned, and will be reviewed according to the same evaluation criteria as new applications.

Part II—Program Description

A. Project Types

Each proposal submitted in FY 2002 shall request funding for a period not to exceed one year. Funding for additional years will depend upon the availability of funds and progress toward objectives. FY 2002 awardees would need to recompete in future years for additional funding.

B. Applicant Peer Review Requirements

Subsection (c)(5)(A) of the Competitive, Special, and Facilities Research Grant Act, as amended (7 U.S.C. 450i(c)(5)(A)) requires applicants to conduct a scientific peer review of a proposed research project in accordance with regulations promulgated by the Secretary prior to the Secretary making a grant award under this authority. Regulations implementing this requirement are set forth in 7 CFR

3400.20 and 3400.21. The regulations impose the following requirements for scientific peer review by applicants of proposed research projects:

1. Credible and independent. Review arranged by the grantee must provide for a credible and independent assessment of the proposed project. A credible review is one that provides an appraisal of technical quality and relevance sufficient for an organizational representative to make an informed judgment as to whether the proposal is appropriate for submission for Federal support. To provide for an independent review, such review may include USDA employees, but should not be conducted solely by USDA employees.

2. Notice of completion and retention of records. A notice of completion of the review shall be conveyed in writing to CSREES either as part of the submitted proposal or prior to the issuance of an award, at the option of CSREES (Part III. B. 15.). The written notice constitutes certification by the applicant that a review in compliance with these regulations has occurred. Applicants are not required to submit results of the review to CSREES; however, proper documentation of the review process and results should be retained by the applicant.

3. Renewal and supplemental grants. Review by the grantee is not automatically required for renewal or supplemental grants as defined in 7 CFR 3400.6. A subsequent grant award will require a new review if, according to CSREES, either the funded project has changed significantly, other scientific discoveries have affected the project, or the need for the project has changed. Note that a new review is necessary when applying for another standard or continuation grant after expiration of the grant term.

Part III—Preparation of an Application

A. Program Application Materials

Program application materials are available at the CSREES Funding Opportunities web site *(http://www.reeusda.gov/1700/funding/ourfund.htm)*. If you do not have access to the web page or have trouble downloading material and you would like a hardcopy, you may contact the Proposal Services Unit, Office of Extramural Programs, USDA/CSREES at (202) 401–5048. When calling the Proposal Services Unit, please indicate that you are requesting the RFA and associated application forms for the Special Research Grants Program, Potato Research. These materials also may be requested via Internet by sending a message with your name, mailing address (not e-mail) and phone number to psb@reeusda.gov. State that you want a copy of the RFA and the associated application forms for Special Research Grants Program, Potato Research.

B. Content of Applications

1. General

Use the following guidelines to prepare an application. Proper preparation of applications will assist reviewers in evaluating the merits of each application in a systematic, consistent fashion:

(a) Prepare the application on only one side of the page using standard size (8½″ × 11″) white paper, one-inch margins, typed or word processed using no type smaller than 12 point font, and single or double spaced. Use an easily readable font face (*e.g.*, Geneva, Helvetica, Times Roman).

(b) Number each page of the application sequentially, starting with the Project Description, including the budget pages, required forms, and any appendices.

(c) Staple the application in the upper left-hand corner. Do not bind. An original and 18 copies (19 total) must be submitted in one package, along with 2 additional copies of the "Project Summary," Form CSREES–2003, as a separate attachment.

(d) Include original illustrations (photographs, color prints, etc.) in all copies of the application to prevent loss of meaning through poor quality reproduction.

(e) The contents of the application should be assembled in the following order:

(1) Proposal Cover Page (Form CSREES–2002)
(2) Table of Contents
(3) Project Summary (Form CSREES–2003)
(4) Response to Previous Review
(5) Project Description
(6) References
(7) Appendices to Project Description
(8) Key Personnel
(9) Collaborative Arrangements (including Letters of Support)
(10) Conflict-of-Interest List (Form CSREES–2007)
(11) Budget (Form CSREES–2004)
(12) Budget Narrative
(13) Matching
(14) Current and Pending Support (Form CSREES–2005)
(15) Assurance Statement(s) (Form CSREES–2008)
(16) Compliance with the National Environmental Policy Act (NEPA) (Form CSREES–2006)
(17) Page B, Proposal Cover Page (Form CSREES–2002), Personal Data on Project Director

2. Proposal Cover Page (Form CSREES–2002)

a. Page A

Each copy of each grant application must contain a "Proposal Cover Page", Form CSREES–2002. One copy of the application, preferably the original, must contain the pen-and-ink signature(s) of the proposing PD's and the authorized organizational representative (AOR), the individual who possesses the necessary authority to commit the organization's time and other relevant resources to the project. If there are more than four co-PD's for an application, please list additional co-PD's on a separate sheet of paper (with appropriate information and signatures) and attach to the Proposal Cover Page (Form CSREES–2002). Any proposed PD or co-PD whose signature does not appear on Form CSREES–2002 or attached additional sheets will not be listed on any resulting grant award. Complete both signature blocks located at the bottom of the "Proposal Cover Page" form. Please note that Form CSREES–2002 is comprised of two parts—Page A which is the "Proposal Cover Page" and Page B which is the "Personal Data on Project Director."

Form CSREES–2002 serves as a source document for the CSREES grant database; it is therefore important that it be accurately completed in its entirety, especially the e-mail addresses requested in blocks 4.c. and 18.c. However, the following items are highlighted as having a high potential for errors or misinterpretations:

(a) *Type of Performing Organization (Block 6A and 6B).*

For block 6A, a check should be placed in the appropriate box to identify the type of organization which is the legal recipient named in block 1. Only one box should be checked. For block 6B, please check as many boxes that apply to the affiliation of the PD listed in block 16.

(b) *Title of Proposed Project (Block 7).* The title of the project must be brief (140-character maximum, including spaces), yet represent the major thrust of the effort being proposed. Project titles are read by a variety of nonscientific people; therefore, highly technical words or phraseology should be avoided where possible. In addition, introductory phrases such as "investigation of," "research on," "education for," or "outreach that" should not be used.

(c) *Program to Which You Are Applying (Block 8).* Enter Special Research Grants Program, Potato Research. The reference to Program Area (*i.e.*, name of the program component)

and Number should be ignored in this block.

(d) *Type of Request (Block 14).* Check the appropriate box.

(e) *Project Director (PD) (Blocks 16–19).* Blocks 16–18 are used to identify the PD and Block 19 to identify co-PD's. If needed, additional co-PD's may be listed on a separate sheet of paper and attached to Form CSREES–2002, the Proposal Cover Page, with the applicable co-PD information and signatures. Listing multiple co-PD's, beyond those required for genuine collaboration, is discouraged.

(f) *Other Possible Sponsors (Block 21).* List the names or acronyms of all other public or private sponsors including other agencies within USDA to which your application has been or might be sent. In the event you decide to send your application to another organization or agency at a later date, you must inform the identified CSREES program contact as soon as practicable. Submitting your application to other potential sponsors will not prejudice its review by CSREES; however, submitting the same (*i.e.*, duplicate) application to another CSREES program is not permissible.

b. Page B

Page B should be submitted only with the original signature copy of the application and should be placed as the last page of the original copy of the application. This page contains personal data on the PD(s). CSREES requests this information in order to monitor the operation of its review and awards processes. This page will not be duplicated or used during the review process. Please note that failure to submit this information will in no way affect consideration of your application.

3. Table of Contents

For consistency and ease in locating information, each application must contain a detailed Table of Contents immediately following the proposal cover page. The Table of Contents should contain page numbers for each component of the application. Page numbering should begin with the first page of the Project Description.

4. Project Summary (Form CSREES–2003)

The application must contain a "Project Summary," Form CSREES–2003. The summary should be approximately 250 words, contained within the box, placed immediately after the Table of Contents, and not numbered. The names and affiliated organizations of all PD's and co–PD's should be listed on this form, in addition to the title of the project. The summary should be a self-contained, specific description of the activity to be undertaken and should focus on: overall project goal(s) and supporting objectives; plans to accomplish project goal(s); and relevance of the project to the goals of the Potato Research Program. The importance of a concise, informative Project Summary cannot be overemphasized. If there are more than four co-PD's for an application, please list additional co-PD's on a separate sheet of paper (with appropriate information) and attach to the Project Summary (Form CSREES–2003).

5. Response to Previous Review

This requirement only applies to "Resubmitted Applications" as described under Part I, H, "Types of Applications." Project Directors (PD's) must respond to the previous review panel summary on no more than one page, titled "RESPONSE TO PREVIOUS REVIEW," which is to be placed directly after the "Project Summary," Form CSREES–2003.

6. Project Description

Please Note: The Project Description shall not exceed 20 pages of written text and up to five additional pages for figures and tables. This maximum (25 pages) has been established to ensure fair and equitable competition. The Project Description must include all of the following:

a. Introduction: A clear statement of the long-term goal(s) and supporting objectives of the proposed activities should be included. Summarize the body of knowledge or other past activities which substantiate the need for the proposed project. Describe ongoing or recently completed significant activities related to the proposed project including the work of key project personnel. Preliminary data/information pertinent to the proposed project should be included. In addition, this section should include in-depth information on the following, when applicable:

(1) Estimates of the magnitude of the issues and their relevance to stakeholders and to ongoing State-Federal food and agricultural research.

(2) Role of the stakeholders in problem identification, planning, and implementation and evaluation as appropriate.

(3) Reasons for having the work performed at the proposing institution.

b. Objectives: Clear, concise, complete, and logically arranged statement(s) of specific aims of the proposed effort must be included in all proposals.

c. Methods: The procedures or methodology to be applied to the proposed effort should be explicitly stated. This section should include but not necessarily be limited to:

(1) A description of stakeholder involvement in problem identification, planning, implementation and evaluation;

(2) A description of the proposed project activities in the sequence in which it is planned to carry them out;

(3) Techniques to be employed, including their feasibility and rationale for their use in this project;

(4) Kinds of results expected;

(5) Means by which data will be analyzed or interpreted;

(6) Pitfalls that might be encountered; and

(7) Limitations to proposed procedures.

d. Cooperation and Institutional Units Involved: Cooperative, multi-institutional and multi-disciplinary applications are encouraged. Identify each institutional unit contributing to the project and designate the lead institution or institutional unit. When appropriate, the project should be coordinated with the efforts of other State and/or national programs. Clearly define the roles and responsibilities of each institutional partner of the project team.

e. Facilities and Equipment: All facilities which are available for use or assignment to the project during the requested period of support should be reported and described briefly. All items of major equipment or instrumentation available for use or assignment to the proposed project should be itemized. In addition, items of nonexpendable equipment needed to conduct and bring the project to a successful conclusion should be listed, including dollar amounts and, if funds are requested for their acquisition, justified.

f. Project Timetable: The proposal should outline all important phases as a function of time, year by year, for the entire project, including periods beyond the grant funding period.

g. Renewal Applications: If the proposal is a renewal of an existing project supported under the same program, include a clearly identified summary progress report describing the results to date. The progress report should contain the following information:

1. A comparison of actual accomplishments with the goals established for the active grant;

2. The reasons for slippage if established goals were not met; and

3. Other pertinent information, including, when appropriate, cost

analysis and explanation of cost overruns or unexpectedly high unit costs.

The progress report should be placed immediately after the "Project Summary".

7. References

All references to works cited should be complete, including titles and all co-authors, and should conform to an acceptable journal format. References are not considered in the page-limitation for the Project Description.

8. Appendices to Project Description

Appendices to the Project Description are allowed if they are directly germane to the proposed project. The addition of appendices should not be used to circumvent the text and/or figures and tables page limitations.

9. Key Personnel

The following should be included, as applicable:

(a) The roles and responsibilities of each PD and/or collaborator should be clearly described; and

(b) Vitae of the PD and each co-PD, senior associate, and other professional personnel. This section should include vitae of all key persons who are expected to work on the project, whether or not CSREES funds are sought for their support. The vitae should be limited to two (2) pages each in length, excluding publications listings. The vitae should include a presentation of academic and research credentials, as applicable, *e.g.*, earned degrees, teaching experience, employment history, professional activities, honors and awards, and grants received. A chronological list of *all* publications in *refereed journals* during the past *four (4) years*, including those in press, must be provided for each project member for whom a curriculum vitae is provided. Also list only those *non-refereed* technical publications that have *relevance* to the proposed project. All authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

10. Collaborative Arrangements

If it will be necessary to enter into formal consulting or collaborative arrangements with others, such arrangements should be fully explained and justified. If the consultant(s) or collaborator(s) are known at the time of application, a vitae or resume should be provided. In addition, evidence (*e.g.*, letter of support) should be provided that the collaborators involved have agreed to render these services. The applicant also will be required to provide additional information on consultants and collaborators in the budget portion of the application. See instructions in the application forms for completing Form CSREES–2004, Budget.

11. Conflict-of-Interest List (Form CSREES–2007)

A "Conflict-of-Interest List," Form CSREES–2007, must be provided for all individuals who have submitted a vitae in response to item 9.(b) of this part. Each Form CSREES–2007 should list alphabetically, by the last names, the full names of the individuals in the following categories: (a) All co-authors on publications within the past four years, including pending publications and submissions; (b) all collaborators on projects within the past four years, including current and planned collaborations; (c) all thesis or postdoctoral advisees/advisors within the past four years; and (d) all persons in your field with whom you have had a consulting or financial arrangement within the past four years, who stand to gain by seeing the project funded. This form is necessary to assist program staff in excluding from application review those individuals who have conflicts of interest with the personnel in the grant application. The program contact must be informed of any additional conflicts of interest that arise after the application is submitted.

12. Budget (Form CSREES–2004)

a. General

Prepare the Budget, Form CSREES–2004, in accordance with instructions provided with the application forms. A budget form is required for each year of requested support. In addition, a cumulative budget is required detailing the requested total support for the overall project period. The budget form may be reproduced as needed by applicants. Funds may be requested under any of the categories listed on the form, provided that the item or service for which support is requested is allowable under the authorizing legislation, the applicable statutes, regulations, and Federal cost principles, and these program guidelines, and can be justified as necessary for the successful conduct of the proposed project. Applicants also must include a budget narrative to justify their budget requests (see section b. below.)

b. Budget Narrative

All budget categories, with the exception of Indirect Costs, for which support is requested, must be individually listed (with costs) in the same order as the budget and justified on a separate sheet of paper and placed immediately behind the Budget form.

13. Current and Pending Support (Form CSREES–2005)

All applications must contain Form CSREES–2005 listing other current public or private support (including in-house support) to which personnel (*i.e.*, individuals submitting a vitae in response to item 9.(b) of this part) identified in the application have committed portions of their time, whether or not salary support for person(s) involved is included in the budget. Please follow the instructions provided on this form. Concurrent submission of identical or similar applications to the possible sponsors will not prejudice application review or evaluation by the CSREES. However, an application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. Please note that the project being proposed should be included in the pending section of the form.

14. Assurance Statement(s) (Form CSREES–2008)

A number of situations encountered in the conduct of projects require special assurances, supporting documentation, etc., before funding can be approved for the project. In addition to any other situation that may exist with regard to a particular project, applications involving any of the following elements must comply with the additional requirements as applicable.

a. Recombinant DNA or RNA Research

As stated in 7 CFR part 3015.205(b)(3), all key personnel identified in the application and all endorsing officials of the proposing organization are required to comply with the guidelines established by the National Institutes of Health entitled, "Guidelines for Research Involving Recombinant DNA Molecules," as revised. If your project proposes to use recombinant DNA or RNA techniques, you must so indicate by checking the "yes" box in Block 20 of Form CSREES–2002 (the Proposal Cover Page) and by completing Section A of Form CSREES–2008. For applicable applications recommended for funding, Institutional Biosafety Committee approval is required before CSREES funds will be released. Please refer to the application forms for further instructions.

b. Animal Care

Responsibility for the humane care and treatment of live vertebrate animals used in any grant project supported with funds provided by CSREES rests with the performing organization. Where a project involves the use of living vertebrate animals for experimental purposes, all key personnel identified in an application and all endorsing officials of the proposing organization are required to comply with the applicable provisions of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 et seq., and the regulations promulgated thereunder by the Secretary in 9 CFR parts 1, 2, 3, and 4 pertaining to the care, handling, and treatment of these animals. If your project will involve these animals, you should check "yes" in block 20 of Form CSREES–2002 and complete Section B of Form CSREES–2008. In the event a project involving the use of live vertebrate animals results in a grant award, funds will be released only after the Institutional Animal Care and Use Committee has approved the project. Please refer to the application forms for further instructions.

c. Protection of Human Subjects

Responsibility for safeguarding the rights and welfare of human subjects used in any grant project supported with funds provided by CSREES rests with the performing organization. Guidance on this issue is contained in the National Research Act, Pub. L. No. 93–348, as amended, and implementing regulations promulgated by the Department under 7 CFR Part 1c. If you propose to use human subjects in your project, you should check the "yes" box in Block 20 of Form CSREES–2002 and complete Section C of Form CSREES–2008. Please refer to the application forms for additional instructions.

15. Certifications

By signing Form CSREES–2002, the AOR of the applicant institution is providing the required certification that the full proposal has received a credible and independent peer review arranged by the institution (see Part II. A.).

Note that by signing Form CSREES–2002 the applicant is providing the certifications required by 7 CFR part 3017, regarding Debarment and Suspension and Drug-Free Workplace, and 7 CFR part 3018, regarding Lobbying. The certification forms are included in the application package for informational purposes only. These forms should not be submitted with the application since by signing Form CSREES–2002 your organization is providing the required certifications. If the project will involve a subcontractor or consultant, the subcontractor/consultant should submit a Form AD–1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions, to the grantee organization for retention in their records. This form should not be submitted to USDA.

16. Compliance With the National Environmental Policy Act (NEPA) (Form CSREES–2006)

As outlined in 7 CFR part 3407 (the Cooperative State Research, Education, and Extension Service regulations implementing NEPA), the environmental data for any proposed project is to be provided to CSREES so that CSREES may determine whether any further action is needed. In some cases, however, the preparation of environmental data may not be required. Certain categories of actions are excluded from the requirements of NEPA.

In order for CSREES to determine whether any further action is needed with respect to NEPA, pertinent information regarding the possible environmental impacts of a particular project is necessary; therefore, Form CSREES–2006, "NEPA Exclusions Form," must be included in the application indicating whether the applicant is of the opinion that the project falls within a categorical exclusion and the reasons therefore. If it is the applicant's opinion that the proposed project falls within the categorical exclusions, the specific exclusion(s) must be identified.

Even though a project may fall within the categorical exclusions, CSREES may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for an activity, if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present which may cause such activity to have a significant environmental effect.

C. Submission To Applications

1. When To Submit (Deadline Date)

Applications must be received by COB on on January 21, 2002 (5:00 p.m. Eastern Time). Applications received after this deadline will not be considered for funding.

2. What To Submit

An original and 18 copies must be submitted. In addition submit two additional copies of the application's Project Summary. All copies of the application and the Project Summary must be submitted in one package.

3. Where To Submit

Applicants are strongly encouraged to submit completed applications via overnight mail or delivery service to ensure timely receipt by the USDA. The address for hand-delivered applications or applications submitted using an express mail or overnight courier service is: Special Research Grants Program, Potato Research; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 1307, Waterfront Centre; 800 9th Street, SW.; Washington, DC 20024; Telephone: (202) 401–5048.

Applications sent via the U.S. Postal Service must be sent to the following address: Special Research Grants Program, Potato Research; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, SW.; Washington, DC 20250–2245.

D. Acknowledgment of Applications

The receipt of all applications will be acknowledged by e-mail. Therefore, applicants are strongly encouraged to provide accurate e-mail addresses, where designated, on the Form CSREES–2002. If the applicant's e-mail address is not indicated, CSREES will acknowledge receipt of the application by letter.

If the applicant does not receive an acknowledgment within 60 days of the submission deadline, please contact the program contact. Once the application has been assigned an application number, please cite that number on all future correspondence.

Part IV—Review Process

A. General

Each application will be evaluated in a 2-part process. First, each application will be screened to ensure that it meets the administrative requirements as set forth in this RFA. Second, applications that meet these requirements will be technically evaluated by a review panel.

Reviewers will be selected based upon training and experience in relevant scientific, extension, or education fields, taking into account the following factors: (a) The level of relevant formal scientific, technical education, or extension experience of the individual, as well as the extent to which an individual is engaged in relevant research, education, or

extension activities; (b) the need to include as reviewers experts from various areas of specialization within relevant scientific, education, or extension fields; (c) the need to include as reviewers other experts (*e.g.*, producers, range or forest managers/operators, and consumers) who can assess relevance of the applications to targeted audiences and to program needs; (d) the need to include as reviewers experts from a variety of organizational types (*e.g.*, colleges, universities, industry, state and Federal agencies, private profit and non-profit organizations) and geographic locations; (e) the need to maintain a balanced composition of reviewers with regard to minority and female representation and an equitable age distribution; and (f) the need to include reviewers who can judge the effective usefulness to producers and the general public of each application.

B. Evaluation Criteria

The evaluation criteria below will be used in reviewing applications submitted in response to this RFA:

I. Relevance

Relevance and importance of proposed research to specific problems or opportunities; value of expected results for States beyond the State in which the project leader resides and will perform the work—20 points.

II. Quality

Overall scientific and technical quality of the proposal and the specific approach proposed—20 points.

III. Feasibility

Feasibility of attaining objectives; adequacy of training, experience, facilities, and equipment—20 points.

IV. Participation

Proposals that provide evidence of cooperation or involvement of multiple institutions or states—5 points.

Proposals that list more than one state as recipient of funds—10 points.

Evidence of stakeholder participation, including growers, in developing the project objectives—5 points.

Stakeholder participation in project implementation or monitoring—5 points.

V. Co-Funding

Proposals that provide evidence of funding from identified state, regional, or industry sources (*e.g.*, check-off programs)—15 points.

C. Conflicts of Interest and Confidentiality

During the peer evaluation process, extreme care will be taken to prevent any actual or perceived conflicts of interest that may impact review or evaluation. For the purpose of determining conflicts of interest, the academic and administrative autonomy of an institution shall be determined by reference to the 2002 Higher Education Directory, published by Higher Education Publications, Inc., 6400 Arlington Boulevard, Suite 648, Falls Church, Virginia 22042. Phone: (703) 532–2300. Web site: http://www.hepinc.com.

Names of submitting institutions and individuals, as well as application content and peer evaluations, will be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of peer reviewers will remain confidential throughout the entire review process. Therefore, the names of the reviewers will not be released to applicants. At the end of the fiscal year, names of panelists will be made available in such a way that the panelists cannot be identified with the review of any particular application.

Part V—Grant Awards

A. General

Within the limit of funds available for such purpose, the awarding official of CSREES shall make grants to those responsible, eligible applicants whose applications are judged most meritorious under the procedures set forth in this RFA. The date specified by the awarding official of CSREES as the effective date of the grant shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the grant effective date, but as soon thereafter as practical so that project goals may be attained within the funded project period. All funds granted by CSREES under this RFA shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (parts 3015 and 3019 of 7 CFR).

B. Organizational Management Information

Specific management information relating to an applicant shall be submitted on a one-time basis as part of the responsibility determination prior to the award of a grant identified under this RFA, if such information has not been provided previously under this or another CSREES program. CSREES will provide copies of forms recommended for use in fulfilling these requirements as part of the preaward process. Although an applicant may be eligible based on its status as one of these entities, there are factors which may exclude an applicant from receiving Federal financial and nonfinancial assistance and benefits under this program (e.g., debarment or suspension of an individual involved or a determination that an applicant is not responsible based on submitted organizational management information).

C. Grant Award Document and Notice of Grant Award

The grant award document shall include at a minimum the following:

(1) Legal name and address of performing organization or institution to whom the Administrator has awarded a grant under the terms of this request for applications;

(2) Title of project;

(3) Name(s) and institution(s) of PD's chosen to direct and control approved activities;

(4) Identifying grant number assigned by the Department;

(5) Project period, specifying the amount of time the Department intends to support the project without requiring recompetition for funds;

(6) Total amount of Departmental financial assistance approved by the Administrator during the project period;

(7) Legal authority(ies) under which the grant is awarded;

(8) Appropriate Catalog of Federal Domestic Assistance (CFDA) number;

(9) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(10) Other information or provisions deemed necessary by CSREES to carry out its respective granting activities or to accomplish the purpose of a particular grant.

The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee that is not included in the grant award document.

Part VI—Additional Information

A. Access to Review Information

Copies of reviews, not including the identity of reviewers, and a summary of the panel comments will be sent to the applicant PD after the review process has been completed.

B. Use of Funds; Changes

1. Delegation of Fiscal Responsibility

Unless the terms and conditions of the grant state otherwise, the grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

2. Changes in Project Plans

a. The permissible changes by the grantee, PD(s), or other key project personnel in the approved project grant shall be limited to changes in methodology, techniques, or other similar aspects of the project to expedite achievement of the project's approved goals. If the grantee or the PD(s) is uncertain as to whether a change complies with this provision, the question must be referred to the Authorized Departmental Officer (ADO) for a final determination. The ADO is the signatory of the award document, not the program contact.

b. Changes in approved goals or objectives shall be requested by the grantee and approved in writing by the ADO prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

c. Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the ADO prior to effecting such changes.

d. Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the ADO prior to effecting such transfers, unless prescribed otherwise in the terms and conditions of the grant.

e. Changes in Project Period: The project period may be extended by CSREES without additional financial support, for such additional period(s) as the ADO determines may be necessary to complete or fulfill the purposes of an approved project, but in no case shall the total project period exceed five years. Any extension of time shall be conditioned upon prior request by the grantee and approval in writing by the ADO, unless prescribed otherwise in the terms and conditions of a grant.

f. Changes in Approved Budget: Changes in an approved budget must be requested by the grantee and approved in writing by the ADO prior to instituting such changes if the revision will involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal cost principles, Departmental regulations, or grant award.

C. Applicable Federal Statutes and Regulations

Several Federal statutes and regulations apply to grant applications considered for review and to project grants awarded under this program. These include, but are not limited to:

7 CFR Part 1.1—USDA implementation of the Freedom of Information Act.

7 CFR Part 3—USDA implementation of OMB Circular No. A–129 regarding debt collection.

7 CFR Part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e., OMB Circular Nos. A–21 and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. No. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR Part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR Part 3018—USDA implementation of Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

7 CFR Part 3019—USDA implementation of OMB Circular A–110, Uniform Administrative Requirements for Grants and Other Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR Part 3052—USDA implementation of OMB Circular No. A–133, Audits of States, Local Governments, and Non-profit Organizations.

7 CFR Part 3407—CSREES procedures to implement the National Environmental Policy Act of 1969, as amended.

29 U.S.C. 794 (section 504, Rehabilitation Act of 1973) and 7 CFR Part 15b (USDA implementation of statute)— prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 et seq.—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

D. Confidential Aspects of Applications and Awards

When an application results in a grant, it becomes a part of the record of CSREES transactions, available to the public upon specific request. Information that the Secretary determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as confidential, privileged, or proprietary should be clearly marked within the application. The original copy of an application that does not result in a grant will be retained by the Agency for a period of one year. Other copies will be destroyed. Such an application will be released only with the consent of the applicant or to the extent required by law. An application may be withdrawn at any time prior to the final action thereon.

E. Regulatory Information

For the reasons set forth in the final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29114, June 24, 1983), this program is excluded from the scope of the Executive Order 12372 which requires intergovernmental consultation with State and local officials. Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0039.

Done at Washington, DC, this 3rd day of December, 2001.

Colien Hefferan,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 01–30394 Filed 12–7–01; 8:45 am]

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Federal Register

Monday,
December 10, 2001

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 91
Reduced Vertical Separation Minimum; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA–2000–8490; Amdt. No. 91–271]

RIN 2120–AH12

Reduced Vertical Separation Minimum (RVSM)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the list of airspace locations where Reduced Vertical Separation Minimum (RVSM) may be applied to include the New York Flight Information Region (FIR) portion of West Atlantic Route System (WATRS) airspace. RVSM is the reduction of vertical separation between aircraft at certain higher altitudes. RVSM is applied only between aircraft that meet stringent altimeter and auto-pilot performance requirements. The introduction of RVSM in WATRS airspace will save operators fuel and time and will enhance airspace capacity. This rule also requires any aircraft that is equipped with Traffic Alert and Collision Avoidance System version II (TCAS II) and that is flying in RVSM airspace to incorporate a version of TCAS II that is compatible with RVSM operations.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Dave Maloy, Flight Technologies and Procedures Division, Flight Standards Service, AFS–400, Federal Aviation Administration, 600 Independence Avenue, SW., Washington, DC 20591, telephone (860) 654–1006.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (*http://dms.dot.gov/search*).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number for the item you wish to view.

You can also get an electronic copy using the Internet through the Office of Rulemaking's Web page at *http://www.faa.gov/avr/armhome.htm* or the **Federal Register** Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html*.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT.** You can find out more about SBREFA on the Internet at our site, *http://www.faa.gov/avr/arm/sbrefa.htm*. For more information on SBREFA, e-mail us at *9–AWA–SBREFA@faa.gov*.

Background

This final rule is based on Notice of Proposed Rulemaking (NPRM) No. 00–16 published in the **Federal Register** on December 18, 2000 (65 FR 79283). That NPRM proposed to amend Appendix G of 14 CFR part 91, Operations within Airspace designated as Reduced Vertical Separation Minimum (RVSM) Airspace. RVSM is the reduction of vertical separation between aircraft from 2,000 feet to 1,000 feet at flight levels (FLs) between FL 290 (29,000 feet) and FL 410 (41,000 feet).

Statement of the Problem

Air traffic in WATRS airspace has increased steadily in the past few years and is projected to continue to increase. Between 1997 and 1999, the annual traffic count in the WATRS airspace increased from 72,020 to 109,044 flights. This represents an increase of 51 percent. This is a result of a resurgence of activity after several years of economic downturn. The Office of International Operations for the FAA's New York Enroute Air Traffic Center estimates a similar increase over at least the next several years, assuming the economy stays healthy. A substantial portion of the increase is the Europe to Caribbean traffic that overflies the WATRS airspace.

Unless efficiency is improved, the FAA may not be able to accommodate these greater numbers of aircraft without altitude restrictions that can result in traffic delays and fuel penalties. RVSM alleviates the limitation on air traffic management at high altitudes imposed by the conventional 2,000-foot vertical separation standard. Increasing the number of flight levels available in the WATRS airspace is projected to provide operator benefits similar to those achieved in the North Atlantic (NAT) and Pacific (PAC). Operators will save fuel and time by using optimum altitudes and tracks.

In the WATRS airspace, the FAA plans to initially implement RVSM between FL 310 and FL 390 (inclusive). This is in line with the altitudes in the NAT.

Oversight for Implementation

The New York Oceanic Capacity Enhancements Task Force (NYOCETF) (the Task Force), provides oversight for plans and policy related to:

1. Changes to separation minima.
2. Issues relating to traffic management.
3. Airspace/ATS Routes.
4. Standardization of ATC and Operator procedures.
5. Contingency procedures.
6. Communication issues.
7. Status of oceanic ATC automation.

The NYOCETF is the body that is developing WATRS RVSM implementation plans. The New York Air Route Traffic Control Center (ARTCC) Plans and Procedures Manager chairs the Task Force. The Task Force is using the policy and criteria developed in International Civil Aviation Organization (ICAO) forums to build the RVSM program for the WATRS airspace.

History of RVSM

Rising traffic volume and fuel costs, which made flight at fuel-efficient altitudes a priority for operators, sparked an interest in the early 1970s in implementing RVSM above FL 290. In April 1973, the Air Transport Association of America (ATA) petitioned the FAA for a rule change to reduce the vertical separation minimum to 1,000 feet for aircraft operating above FL 290. The petition was denied in 1977 in part because (1) aircraft altimeters had not been improved sufficiently, (2) improved maintenance and operational standards had not been developed, and (3) altitude correction was not available in all aircraft. In addition, the cost of modifying nonconforming aircraft was prohibitive. The FAA concluded that granting the ATA petition at that time would have adversely affected safety. Nevertheless, the FAA recognized the

potential benefits of RVSM under certain circumstances and continued to review technological developments, committing extensive resources to studying aircraft altitude-keeping performance and necessary criteria for safely reducing vertical separation above FL 290. Data showing that RVSM implementation is technically and economically feasible has been published in studies conducted cooperatively in international forums, as well as separately by the FAA.

Because of the high standard of performance and equipment required for RVSM, the FAA advocated initial introduction of RVSM in oceanic airspace where special navigation performance standards were already required. Special navigation areas require high levels of long-range navigation precision due to the separation standard applied. RVSM implementation in such airspace requires an increased level of precision demanded of operators, aircraft, and vertical navigation systems.

On March 27, 1997, RVSM was implemented in one such special navigation area of operation established in the ICAO NAT Region, the NAT Minimum Navigation Performance Specification (MNPS) airspace. In designated NAT MNPS airspace, tracks are spaced 60 nautical miles (NM) apart. Between FLS 310 and 390 (inclusive), aircraft are separated vertically by 1000 feet. All aircraft operating in this airspace must be appropriately equipped and capable of meeting required lateral navigation performance standards of 14 CFR 91.705 and the vertical navigation performance standards of 91.706. Operators must follow procedures that ensure that the navigation standards are met. Flight crews must also be trained on RVSM policy and procedures. Each operator, aircraft, and navigation system combination must receive and maintain authorization to operate in the NAT MNPS. The North Atlantic Systems Planning Group (NATSPG) Central Monitoring Agency (CMA) monitors NAT aircraft fleet performance to ensure that a safe operating environment is maintained.

In addition, Pacific RVSM was implemented on February 24, 2000. The Asia/Pacific Approval Registry and Monitoring Agency performs the function of the CMA in the Pacific.

Current Aircraft Capabilities

FAA data indicate that the altitude-keeping performance of most aircraft flying in oceanic airspace meet the standards for RVSM operations. The FAA and ICAO research to determine the feasibility of implementing RVSM included the following four efforts:

1. *FAA Vertical Studies Program.* This program began in mid-1981, with the objectives of collecting and analyzing data on aircraft performance in maintaining assigned altitude, developing program requirements to reduce vertical separation, and providing technical and operational representation on the various working groups studying the issue outside the FAA.

2. *RTCA Special Committee (SC)–150. RTCA, Inc., (formerly Radio Technical Commission for Aeronautics).* This committee is an industry organization in Washington, DC, that addresses aviation technical requirements and concepts, and procedures, recommended standards. When the FAA hosted a public meeting in early 1982 on vertical separation, it was recommended that RTCA be the forum for development of minimum system performance standards for RVSM. RTCA SC–150 was formed in March 1982 to develop minimum system performance requirements, identify required improvements to aircraft equipment and changes to operational procedures, and assess the impact of the requirements on the aviation community. SC–150 served as the focal point for the study and development of RVSM criteria and programs in the United States from 1982 to 1987, including analysis of the results of the FAA Vertical Studies Program.

3. *ICAO Review of the General Concept of Separation Panel (RGCSP).* In 1987, the FAA concentrated its resources for the development of RVSM programs in the ICAO RGCSP. The U.S. delegation to the ICAO RGCSP used the material developed by SC–150 as the foundation for U.S. positions and plans on RVSM criteria and programs. The panel's major conclusions were:

- RVSM is technically feasible without imposing unreasonably demanding technical requirements on the equipment.
- RVSM provides significant benefits in terms of economy and en route airspace capacity.
- Implementation of RVSM on either a regional or global basis requires sound operational judgment supported by an assessment of system performance based on: aircraft altitude-keeping capability, operational considerations, system performance monitoring, and risk assessment.

4. *NATSPG and the NATSPG Vertical Separation Implementation Group (VSIG).* The NATSPG Task Force was established in 1988 to identify the requirements to be met by the future NAT Region air traffic services system; to design the framework for the NAT airspace system concept; and to prepare a general plan for the phased introduction of the elements of the concept. The objective of this effort was to permit significant increases in airspace capacity and improvements in flight economy. At the meeting of the NATSPG in June 1991, all of the NAT air traffic service provider States, as well as the International Air Transport Association (IATA) and International Federation of Airline Pilots Association (IFALPA), endorsed the Future NAT Air Traffic Services System Concept Description developed by the NATSPG Task Force. With regard to the implementation of RVSM, the Concept Description concludes that priority must be given to implementation of this measure as it is believed to be achievable within the early part of the concept timeframe. The NATSPG's initial goal was to implement RVSM between 1996 and 1997. To meet this goal, the NATSPG established the VSIG in June 1991 to take the necessary actions to implement RVSM in the NAT. These actions included:

- Programs, and supporting documents, to approve aircraft and operators for conducting flight in the RVSM environment and to address all issues related to aircraft airworthiness, maintenance, and operations. The group has produced guidance material for aircraft and operator approval that ICAO has distributed to civil aviation authorities and NAT users. Also, ICAO has planned that the guidance material be incorporated in the approal process established by the States.
- Developing the system for monitoring aircraft altitude-keeping performance. This system is used to observe aircraft performance in the vertical plane to determine that the approval process is uniformly effective and that the RVSM airspace system is safe.
- Evaluating and developing Air Traffic Control (ATC) procedures for RVSM, conducting simulation studies to assess the effect of RVSM on ATC, and developing documents to address ATC issues.

The ICAO Limited NAT Regional Air Navigation Meeting held in Portugal in November 1992 endorsed the NATSPG RVSM implementation program. At that meeting, it was concluded that RVSM implementation should be pursued. The FAA concurred with the conclusions of the NATSPG on RVSM implementation.

Discussion of Traffic Alert and Collision Avoidance System (TCAS) II, Version 7.0 for RVSM Operations

Traffic Alert and Collision Avoidance System (TCAS) is a general term for equipment that warns pilots of nearby aircraft and provides collision avoidance protection. It is designed to serve as a safety back-up to the air traffic control system.

TCAS I warns pilots of the potential for collision by providing traffic advisories (TAs). These TAs show where another aircraft is relative to the TCAS-equipped aircraft. TAs generally include the range, altitude, and bearing of the intruding aircraft.

TCAS II provides both TAs and recommended vertical escape maneuvers, known as resolution advisories (RAs) Resolution advisories provide pilots with information to change a flight path or prevent a maneuver that could cause insufficient separation between airplanes. TCAS II also coordinates RAs between two TCAS-equipped airplanes (i.e., each pilot would receive an RA that would not conflict with the other RA).

The regulations require under 14 CFR sections 121.356, 125.224, and 135.180, that certain aircraft must be operated with TCAS II, or an equivalent, and the appropriate class of Mode S transponder. Certain other aircraft may be operated with TCAS I or its equivalent. Airworthiness Directives issued to the avionics manufacturers in 1994 require that those aircraft that are required to be TACS II equipped be equipped with TCAS II, Version 6.04 Enhanced. Approximately 90% of the flights now conducted in RVSM airspace are equipped with TCAS II, version 6.04 Enhanced.

This rule will require that aircraft operated in RVSM airspace and equipped with TCAS II, must be modified to incorporate collision avoidance system logic software Version 7.0, or a later version. Version 7.0 is necessary because only Version 7.0 and later versions incorporate revised alert thresholds for traffic alerts (TA) and resolution advisories (RA) for flight levels (FL) 300 through FL 420 that are compatible with RVSM operations. The alert thresholds in Version 6.04 Enhanced are not totally compatible with RVSM operations. The logic for these alert thresholds does not consider the reduced separation in RVSM airspace and occasionally causes false alerts.

This rule will not require aircraft in RVSM airspace to be equipped with TCAS II. Other rules regulate which aircraft are required to be equipped with TCAS II. The rule will, however, require any aircraft that is equipped with TCAS II to use Version 7.0 to be approved to fly in RVSM airspace.

Status of TCAS I

TCAS I is compatible with RVSM operations and no modifications are necessary.

Background of TCAS II Operation in RVSM Airspace

RVSM was implemented in North Atlantic (NAT) Minimum Navigation Specifications Airspace (NAT MNPSA) in March 1997. In preparation for RVSM implementation, the North Atlantic System Planning Group (NATSPG) Operations/Airworthiness (Ops/Air) group reviewed the effect that RVSM would have on the operation of TCAS II, Version 6.04 Enhanced in NAT oceanic airspace. The group recognized that TCAS II, Version 6.04 Enhanced was designed with a TA alert threshold of 1,200 feet for FL 300 through FL 420 and would produce inappropriate TA's for aircraft that were separated in RVSM airspace by 1,000 feet vertically, especially in certain situations. For example, the group recognized that in situations where two aircraft were separated by 1,000 feet vertically and one nautical mile or less longitudinally, on the same track and proceeding in the same direction at approximately the same speed, TA's could be received in the cockpit repeatedly over an extended period of time. The group observed, however, that the traffic levels in oceanic airspace are low relative to continental operations and operations are relatively stable (i.e., aircraft generally climb or descend infrequently). For this reason, it concluded that TCAS II, Version 6.04 Enhanced was acceptable during the early stages of RVSM operations in oceanic airspace provided pilots were informed on the operating characteristics of TCAS II, Version 6.04 Enhanced operations in RVSM airspace. To inform pilots of the potential problem with Version 6.04, the group developed and distributed a document to educate pilots on these characteristics. The document also recommended that pilots limit their vertical speed to 1,000 feet per minute when close to other aircraft to reduce the number of unnecessary alerts.

RVSM has been implemented for over three years in North Atlantic airspace and since February 2000 in the Pacific oceanic Flight Information Regions. In that time, TCAS II, Version 6.04 Enhanced has proven generally acceptable for RVSM operations in oceanic airspace. Multiple TA events have, however, been found to occur in situations where aircraft are on the same track, speed and direction with one nautical mile or less longitudinal spacing.

How Unnecessary TA's May Affect Safety

TCAS provides an aural TA in the form of the announcement "Traffic, Traffic" in the cockpit. The "Traffic, Traffic" announcement repeated over a period of time distracts the pilot from the execution of his or her duties and produces the potential to cause a pilot error. As an example, during the flight, pilots program navigation computers with a series of numbers representing positions on the route of flight. A distraction while programming the navigation computer can cause the pilot to make an error that results in the aircraft straying from its assigned route and posing a hazard to itself and other aircraft.

Increase in RVSM Operations

As air traffic increases in areas where RVSM is currently implemented and as RVSM is implemented in new areas, there will be more aircraft conducting RVSM flights and increased exposure to distracting TA's. Air traffic in NAT and Pacific oceanic airspace where RVSM has already been implemented is projected to increase 4–6% each year. New RVSM implementations are planned in the near future in airspace over the Western and South Atlantic, the western Pacific, and the Caribbean. The number of RVSM flights will continue to increase and therefore, the probability of aircraft experiencing distracting multiple TA's will also increase.

TCAS II, Version 7.0 Compatibility With RVSM Operations

To avoid the potential for an increase in distracting TA's that can lead to pilot errors, those aircraft that are used in RVSM operations that are equipped with TCAS II systems must be modified to incorporate a version of TCAS that is compatible with RVSM operations. TCAS II, Version 7.0 was designed to be compatible with RVSM operations and mitigates the occurrence of unnecessary TA's in RVSM operations. In TCAD, Version 7.0, the TA alert threshold between flight levels 300 and 420 is reduced from 1,200 feet to 850 feet. This revision will eliminate unwarranted TA's between aircraft that are correctly separated by 1,000 feet vertically in RVSM airspace.

ICAO and Foreign Standards

ICAO Annexes and civil aviation authorities in foreign countries have already established standards and requirements for specified aircraft to be equipped with TCAS II, Version 7.0. ACAS II is the ICAO term that describes aircraft collision avoidance systems and related equipment. To comply with ICAO ACAS II Standards, Version 7.0 must be incorporated in TCAS II. The aircraft covered and compliance dates for ACAS II (TCAS II, Version 7.0) are discussed in the paragraph below.

Part 91, Section 91.703 Requirements Applicable to U.S. Operations

Various countries throughout the world have adopted the ICAO Annex 6 requirements discussed below for ACAS II equipage in their airspace. In some major areas, countries and regions have adopted accelerated equipage compliance dates. Because 14 CFR 91.703 requires United States operators to comply with the regulations of the countries in which they are operating, the ACAS II equipage requirements of foreign countries have already required United States operators to plan to equip with Version 7.0.

Section 91.703 is entitled "Operations of civil aircraft of U.S. registry outside of the United States". Paragraph 91.703(a)(2) states that each person operating a civil aircraft of U.S. registry outside the United States shall "when within a foreign country, comply with the regulations relating to the flight and maneuver of aircraft there in force".

ICAO Annex 6 Standards for ACAS II Equipage.

ICAO Annex 6 (Operation of Aircraft), part 1 (International Commercial Air Transport—Aeroplanes), paragraph 6.18 contains standards calling for TCAS II, Version 7.0 (ACAS II) equipage for specified aircraft by January 1, 2003. Specifically, it states that all turbine-engined aircraft with a maximum certified take-off mass (gross weight) that exceeds 15,000 kg (33,000 pounds) or authorized to carry more than 30 passengers shall be equipped with ACAS II by January 1, 2003. Annex 6 also calls for all aircraft to be equipped with a pressure altitude reporting transponder that operates in accordance with the relevant provisions of ICAO Annex 10.

Asia/Pacific Regional Standards for ACAS II

The ICAO Regional Supplements for the Middle East/Asia and the Pacific are published in the ICAO document entitled "Regional Supplementary Procedures" (ICAO Doc 7030). Those regional Supplements call for TCAS II, Version 7.0 equipage for the aircraft specified in Annex 6 by January 1, 2000. Since Version 7.0 was not widely available from avionics manufacturers, most aircraft were not able to meet that date. In response, the Asia/Pacific Air Navigation Planning and Implementation Regional Group (APAN/PIRG) has adopted a regional policy that calls for the specified aircraft to be equipped by January 1, 2002.

North Atlantic Regional Standards for ACAS II

The ICAO Doc 7030 Regional Supplement for the NAT Regional calls for TCAS II, Version 7.0 equipage for the aircraft specified in Annex 6 by March 31, 2001. (The ICAO NAT Region encompasses most of WATRS airspace).

European Country Requirements for ACAS II

The requirements for ACAS II equipage in European countries have been published in the European Regional Supplements contained in ICAO DOC 7030. European Supplement paragraph 16.1 (Carriage and operation of ACAS II) calls for the aircraft specified in Annex 6, Part 1 to be ACAS II equipped by January 1, 2000. In response to the lack of availability of Version 7.0, the European Civil Aviation Conference (ECAC) member States have granted exemptions to allow aircraft to continue to operate until March 31, 2001 with TCAS, Version 6.04 Enhanced.

Requirements for TCAS II, Version 7.0 in Countries in the Pacific and Asian Regions

The ICAO Bangkok office has conducted a survey of countries in Asia and the Pacific to determine those countries that have established or plan to establish requirements for ACAS II equipage in their airspace. To date, 28 countries have established or are developing requirements for operators to equip by the ICAO Annex 6 compliance date of January 1, 2003 or sooner. This list includes: Australia, China, Japan, Korea, New Zealand and Singapore.

Effect of Linking TCAS, II, Version 7.0 Equipage to RVSM Operations

The rule requires aircraft that are used in RVSM operations and equipped with TCAS II to be equipped with Version 7.0 because it is compatible with RVSM operations. Because other countries and ICAO Regions are already requiring ACAS II (Version 7.0), however, the economic and aircraft engineering impact directly related to this rule will be minimal.

RVSM is currently applied only in certain major oceanic airspace outside the U.S.—the NAT and Pacific. As detailed above, requirements for TCAS II, Version 7.0 have already been established for operators and aircraft operating outside the US to destinations in Europe, Asia and the Pacific. Since operators will already be required to equip with TCAS II, Version 7.0 to operate in the airspace of most countries in the Pacific and European regions, the effect of requiring TCAS II, Version 7.0 for RVSM operations after March 31, 2002 will be minimal.

Compliance Date for Version 7.0

This amendment requires operators to incorporate Version 7.0 software into TCAS II equipped airplanes used in RVSM operations by March 31, 2002. The following are factors considered in this decision.

First, there have not been adequate numbers of Version 7.0 units and upgrade kits available to operators. TCAS II, Version 7.0 requirement for European airspace was delayed to March 31, 2001 for this reason. To allow time for adequate numbers of Version 7.0 units and upgrade kits to be made available following the European compliance date, the FAA is delaying its TCAS II Version 7.0 requirement for RVSM operations to March 31, 2002. This will allow 12 months after the initial demand for Version 7.0 to meet the European requirement.

Second, incorporation of Version 7.0 in TCAS II unites is not a major aircraft engineering effort. Incorporation of Version 7.0 is a software change. Existing equipment is removed from the aircraft and the Version 7.0 modification is accomplished by an authorized service facility. Considering these factors, the FAA believes establishing a requirement for incorporation of Version 7.0 for operations after March 31, 2002 will provide adequate time for aircraft not affected by the European requirements to comply.

Discussion of Comments

The FAA received comments on the proposed rule from the following 6 organizations:

(1) The Air Traffic Control Association (ATCA).

(2) Aircraft Owners and Pilots Association (AOPA).

(3) Cessna Aircraft Company.

(4) General Aviation Manufacturers Association (GAMA).

(5) The Department of Defense (DOD).

(6) The Coalition of Airlines Pilots Association (CAPA).

1. *ATCA Comments.* ATCA states that it concurs with the proposed rule to implement RVSM in WATRS airspace and also concurs with the requirement that aircraft equipped with TCAS incorporate a version of TCAS that is compatible with RVSM operations. ATCA also states that the rule offers the prospect of greater availability of the most time and efficient tracks and routes as well as increased capacity in the North Atlantic Route System.

FAA Response

ATCA comments support publication of the final rule. No FAA response required.

2. *AOPA Comments.* AOPA states that procedures such as WATRS RVSM will likely have minimal short-term repercussions. AOPA is concerned that the introduction of exclusionary RVSM airspace brings the potential to improve service to participating users at the expense of non-RVSM operators. AOPA's greater concern is that RVSM procedures, and with them new equipment mandates and certification processes, will reduce access afforded to some operators if implemented domestically within the United States.

FAA Response

This rule only affects WATRS airspace, not domestic airspace. The FAA will give careful consideration to AOPA's concern in any future rulemaking.

3. *Cessna Aircraft Company Comments.* Cessna states that it will not have an adequate number of modification kits to be able to meet WATRS RVSM requirements by the compliance dates proposed in the NPRM.

FAA Response

First, aircraft that are not RVSM compliant retain the option to operate above and/or below RVSM airspace. The option for unapproved aircraft to climb through RVSM flight levels to operate above RVSM airspace has been used successfully in both North Atlantic and Pacific operations, and it will be available to WATRS operators. Aircraft that are not RVSM compliant may also operate below WATRS RVSM airspace. Maximum leg lengths across WATRS RVSM airspace are approximately two hours. Fuel consumption at lower altitudes for two hours or less should not provide unacceptable operational limitations.

Second, the FAA provided industry with over 3 years of notice of its intent to implement WATRS RVSM. The FAA announced its intention to implement RVSM in the New York FIR portion of WATRS airspace at the New York Oceanic Capacity Enhancement Task Force on August 28, 1998. The FAA believes it has given the aircraft manufacturers and operator community adequate time to prepare for WATRS RVSM implementation and has made extensive efforts to keep them informed on the progress of implementation plans. RVSM has been implemented for over four years in the North Atlantic and for a year and a half in the PAC. Operators and aircraft manufacturers have been well informed of the planned expansion of RVSM to other airspace.

4. *General Aviation Manufacturers Association (GAMA).* GAMA states that its member companies support the planned implementation of RVSM where airspace is congested. However, it is concerned that the proposed rule to implement RVSM in WATRS on November 1, 2001 may not allow enough time for the fleet to be properly equipped.

FAA Response

The FAA responses to the Cessna comments also apply to the GAMA comments.

Additionally, by November 1, 2001, a significant majority of flights are projected to be conducted by RVSM compliant aircraft. As of May 2001 (six months prior to the planned implementation date), 75 percent of all flights operating at and above FL 290 in WATRS airspace had already been approved for RVSM operations. The FAA has observed a steady increase in the number of RVSM approved aircraft and projects that by November 1 RVSM compliant aircraft will conduct a significant majority of WATRS flights. In addition, business aviation aircraft conduct approximately 7.5 per cent of the flights in WATRS airspace. As of May, 51% of business jets operating above FL 290 in WATRS airspace had already been RVSM approved. The FAA anticipates that this percentage will continue to increase as implementation approaches. The FAA estimates that the percentage of WATRS flights projected to be conducted by unapproved business jets will be 3% or less.

5. *DOD Comments.* DOD is concerned that it would have to separately notify each sector/center in the route of flight when an aircraft is not RVSM approved. DOD requests that the FAA adopt the following guidance: "For operational purposes, it is the desire of the Department of Defense that filing of a routine flight plan will suffice for advance notification of non-RVSM equipped aircraft and request that the first oceanic center make all subsequent coordination."

FAA Response

The FAA accepts the DOD's recommendation. Specifically, filing a flight plan for non-RVSM equipped aircraft is adequate advance notice to ATC and no additional notice is required.

6. *CAPA Comments.* CAPA does not object in principle to the concept of reducing vertical separation, as long as safety is not compromised. CAPA states, however, that reducing vertical separation minima without requiring TCAS for all aircraft will jeopardize safety.

FAA Response

The FAA does not agree that reducing separation without requiring TCAS equipage will create a safety problem. The FAA does recognize, however, the significant enhancements to operational safety provided by TCAS. In its comments on this issue below, the FAA discusses the FAA and ICAO initiatives that should lead to increased TCAS equipage in oceanic operations. The FAA does not agree with the CAPA position for the following reasons:

First, 1,000-foot vertical separation has been applied below flight level 290 since the early 1960's (over 40 years) without special aircraft equipage or performance requirements, including TCAS. ICAO Annex 2 (Rules of the Air), Appendix 3 (Table of Cruising Levels) provides for 1,000 ft vertical separation to be applied globally below FL 290.

Second, standardized aircraft altitude-keeping performance and pilot/controller contingency procedures maintain safe RVSM operations. Section 91.706 and Appendix G require that for an aircraft to be approved for RVSM operations, the aircraft altimetry systems, automatic altitude-keeping devices and altitude alerters must meet stringent performance requirements.[1] In addition, pilot and controller procedures in contingencies and emergencies were developed and revised prior to RVSM implementation. Pilot and controller actions in events such as aircraft system malfunctions, turbulence encounters and wake turbulence encounters have proven to be effective over the past four and one half years of RVSM operations.

Third, RVSM has been applied successfully without a TCAS requirement since March 1997 in North Atlantic oceanic airspace and since

[1] Aircraft equipage and performance were developed in the ICAO Review of the General Concept of Separation Panel (RGCSP) and published in ICAO Document 9574 in 1992. Section 91.706 and Appendix G reflect the ICAO requirements.

February 2000 in Pacific airspace. Over that period of time, approximately 1.7 million flights have been conducted in RVSM airspace and approximately 7.2 million hours of RVSM successful flight experience have been accumulated. NAT airspace has the highest traffic density of any oceanic airspace in the world. Between 900 to 1100 flights are conducted each day in the RVSM airspace of the North Atlantic. The busiest route system in the Pacific is the North Pacific Route System (NOPAC) where approximately 175 flights are conducted each day and in the entire Pacific, approximately 440 flights operate per day.

Fourth, monitoring of system safety has shown that the probability of collision in RVSM operations is extremely low when measured against the agreed Target Level of Safety (TLS). The ICAO recommended Target Level of Safety applied in the vertical dimension is five fatal accidents in one billion hours of flight time. Both NAT and Pac RVSM airspace have been assessed against this TLS. When considering the major components of Collision Risk Modeling (CRM), RVSM operations have been shown to meet the TLS.[2]

Applicability of CAPA Comments to TCAS Rulemaking

The FAA believes that the CAPA comments relate more specifically to the benefits of TCAS as a safety net in general operations. We do not believe that the CAPA recommendation for TCAS equipage is relevant to the expansion of 1,000-foot vertical separation above FL 290. The FAA has reviewed incidents where TCAS could have or did contribute to the prevention of an accident. None of these incidents occurred in airspace where RVSM is applied and many of them occurred below FL 290.

Current Rule Projects Related to TCAS Equipage.

There are efforts under way in the United States to revise the regulations related to TCAS equipage. Also, ICAO has published Standards and Recommended Practices (SARPS) that address TCAS eqipage. The status of these efforts is as follows:

Revision of Regulations Related to TCAS Eqipage.

In response to an Independent Pilot Association (IPA) petition for rulemaking, the FAA is developing an NPRM. We believe that the CAPA comments are more applicable to this effort than to RVSM rulemaking.

ICAO Annex 6 (Operation of Aircraft).

In November 1998, Annex 6 Part 1 (International Commercial Transport Airplanes) was amended to require TCAS equipage by January 1, 2003 for aircraft in excess of 15,000 kg (33,000 pounds) takeoff weight or authorized to carry more than 30 passengers. By January 1, 2005, aircraft in excess of 5,700 kg (12,500 pounds) take off weight or authorized to carry more than 19 passengers will be required to be TCAS equipped. In addition, Annex 6 Part II (International General Aviation Airplanes) has been amended to require IGA aircraft eqipage with a pressure altitude reporting transponder by January 1, 2003. This amendment was made to enhance the effectiveness of TCAS operations.

Paperwork Reduction Act

The reporting and recording keeping requirements associated with this rule remain the same as under current rules and have previously been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and have been assigned OMB Control Number 2120–0026. There are no new requirements for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARP) to the maximum extent practicable. The operator and aircraft approval process was developed jointly by the FAA and the Joint Aviation Authorities (JAA) under the auspices of NATSPG. The FAA has determined that this amendment does not present any differences.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, OMB directs agencies to assess the effect of regulatory changes on international trade. And fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by private sector, of $100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA has determined that this rule: (1) Generates benefits that justify its costs and is not "a significant regulatory action" as defined in the Executive Order; (2) is not significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) does not have a significant impact on a substantial number of small entities; and 94) does not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

This rule amends 14 CFR 91, Appendix G, Section 8 (Airspace Designation) by adding the New York FIR portion of the WATRS airspace to the list of airspace where RVSM would be implemented. It also amends section 2 (Aircraft Approval) by adding a new paragraph that requires any aircraft that are equipped with TCAS II to use Version 7.0, which is RVSM compatible.

This rule will provide operators the following benefits: (1) Permit more operations at fuel/time efficient tracks and altitudes, thereby providing fuel savings, (2) increase the number of available flight levels, and (3) enhance airspace capacity.

In addition to operator fuel savings, many non-quantifiable or value-added benefits will result from the implementation of RVSM in WATRS. Input from air traffic managers, controllers, and operators has identified numerous additional benefits.

These benefits include:

- Enhanced capacity.
- Reduced airspace complexity.
- Decreased operational errors in these regions.
- Reduction of user-requested off course climbs for, altitude changes.
- Improved flexibility for peak traffic demands.
- More options in deviating aircraft during periods of adverse weather.

The operational benefits realized.in the NAT and PAC regions are anticipated in WATRS as well.

Specific benefits cited by aircraft operators are:

- Decreased flight delays.
- Improved access to desired flight levels.
- Reduced average flight times.
- Increased availability of step-climbs.

[2] The major CRM components are: Traffic density, aircraft altitude-keeping performance and the frequency of large errors attributed to human and aircraft system errors.

• Increased likelihood of receiving a clearance for weather deviations.
• Seamless, transparent, and harmonious operations between the NAT and WATRS regions.
• Consistent procedural environment throughout the entire flight.
• Reduced impact of adverse weather by permitting aircraft deviations to other airways without any efficiency loss.

Implementing RVSM in WATRS should increase user satisfaction. The benefits described in this section are compelling in number and operational impact. These benefits are alos significant in that both air traffic service providers and aircraft operators will enjoy them.

Most of the costs of this rule will be incurred by those operators who choose to participate in WATRS RVSM and, therefore, must upgrade various equipment and altimetry systems to meet requirements. The quantifiable benefits of the rule result from fuel savings to participating operators who may operate at more fuel-efficient altitudes. Significant non-quantifiable benefits are also associated with the rule as previously discussed.

The FAA assumed for the purpose of this analysis that all existing operators in the area would become WATRS RVSM participants. Based on that assumption, the agency's final quantified estimates of the costs and benefits are nearly equal. For the period 2001–2015, estimated undiscounted benefits in fuel savings are $34.2 million, while undiscounted costs are $26.2 million. Discounted benefits, however, are $18.4 million while discounted costs equal $23.4 million. Discounted benefits fall below discounted estimated costs because costs are incurred early in the 15-year analysis period and benefits are distributed more evenly throughout the period.

Although the FAA's quantified estimates of costs and benefits are nearly equal, there are substantial non-quantifiable benefits. Each operator will be free, under this rule, to decide for itself if the benefits to that operator justify the costs to that operator. As stated previously, participating in WATRS RVSM is entirely voluntary. Operators who choose not to participate will still be able to fly above or beneath WATRS RVSM airspace.

The FAA believes that many operators will decide that benefits justify costs and participate in WATRS RVSM. This belief is strengthened by the widespread acceptance of similar RVSM programs recently implemented in the North Atlantic and Pacific regions, and further reinforced by the fact that no comments on the NPRM opposed the rule on economic grounds.

TCAS II Version 7.0 is mandated for any operator who uses TCAS II. There is no economic impact to operators upgrading to TCAS II Version 7.0 due to their upgrading for other international requirements.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulations." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rational for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have significant economic impact on a substantial number of small entities. If the determination is that it will, then the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Operators that met the Small Business Administration (SBA) small entity criteria were extracted from the 44-day traffic sample of ETMS data. These operators were cross-referenced with the Central Monitoring Agency (CMA) and the Asia Pacific Approvals and Monitoring Organization (APARMO) databases to determine if they operated any RVSM-approved aircraft. The small entity operators with RVSM-approved aircraft were not considered further in this impact determination.

The list of potential small entity operators, taken from the traffic sample, was used to identify six operators currently reporting financial data to the FAA Bureau of Transportation Statistics. Revenue information for these small entities for year 1999 was obtained from the *Air Carrier Financial Statistics Quarterly*. The operators were then ranked with respect to their total operating revenue.

The annualized cost of compliance is less than one-half of one percent of annual operating revenues for all but one small entity operator. The FAA does not consider one operator being significantly impacted by this rule to be a substantial number of small operators being significantly impacted. Moreover, the FAA does not mandate these costs. Only operators who choose to participate in the RVSM program and WATRS will incur costs. The FAA therefore certifies that this rule does not have a significant impact on a substantial number of small entities.

International Trade Impact Statement

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statue also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

In accordance with the above statute, the FAA has assessed the potential effect of this rule and has determined that it will impose the same costs on domestic and international entities and thus has a neutral trade impact.

Federalism Implications

The regulations proposed herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive order 12612, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Unfunded Mandates Reform Act of 1995 Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified as 2 U.S.C. 1501 1571, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by

elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon state, local, and tribal governments, in the aggregate, of $100 million or more (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain a Federal intergovernmental and private sector mandate that exceeds $100 million a year, therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rule qualifies for a categorical exclusion.

Energy Impact

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and P. L. 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

Immediate Adoption

Expansion of RVSM into WATRS is part of an internationally coordinated plan to expand RVSM in the ICAO North Atlantic Region. Operators have already committed financial and engineering resources and obtained RVSM approval. Because of the efficiencies that RVSM will bring to operations in this area, good cause exists for making this rule effective on publication.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 91 of Title 14 Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

2. In Appendix G, amend section 2 by revising paragraph (g), and adding a new paragraph (h), and in section 8 add a new paragraph (c) to read as follows:

Appendix G to Part 91—Operations in Reduced Vertical Separation Minimum (RVSM) Airspace

* * * * *

Section 2. Aircraft Approval

* * * * *

(g) Traffic Alert and Collision Avoidance System (TCAS) Compatibility With RVSM Operations: All aircraft. After March 31, 2002, unless otherwise authorized by the Administrator, if you operate an aircraft that is equipped with TCAS II in RVSM airspace, it must be a TCAS II that meets TSO C–119b (Version 7.0), or a later version.

(h) If the Administrator finds that the applicant's aircraft comply with this section, the Administrator notifies the applicant in writing.

* * * * *

Section 8. Airspace Designation

* * * * *

(c) *RVSM in the West Atlantic Route System (WATRS).* RVSM may be applied in the New York FIR portion of the West Atlantic Route System (WATRS). The area is defined as beginning at a point 38°30′ N/60°00′W direct to 38°30′N/69°15′ W direct to 38°20′ N/69°57′ W direct to 37°31′ N/71°41′ W direct to 37°13′ N/72°40′ W direct to 35°05′ N/72°40′ W direct to 34°54′ N/72°57′ W direct to 34°29′ N/73°34′ W direct to 34°33′ N/73°41′ W direct to 34°19′ N/74°02′ W direct to 34°14′ N/73°57′ W direct to 32°12′ N/76°49′ W direct to 32°20′ N/77°00′ W direct to 28°08′ N/77°00′ W direct to 27°50′ N/76°32′ W direct to 27°50′ N/74°50′ W direct to 25°00′ N/73°21′ W direct to 25°00′05″ N/69°13′06″ W direct to 25°00′ N/69°07′ W direct to 23°30′ N/68°40′ W direct to 23°30′ N/60°00′ W to the point of beginning.

Issued in Washington, DC on December 4, 2001.

Jane F. Garvey,

Administrator.

[FR Doc. 01–30358 Filed 12–7–01; 8:45 am]

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Federal Register

Monday,
December 10, 2001

Part VI

The President

Proclamation 7511—National Pearl Harbor Remembrance Day, 2001

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Presidential Documents

Title 3—

The President

Proclamation 7511 of December 5, 2001

National Pearl Harbor Remembrance Day, 2001

By The President Of The United States of America

A Proclamation

On the morning of December 7, 1941, America was attacked without warning at Pearl Harbor, Hawaii, by the air and naval forces of Imperial Japan. More than 2,400 people perished and another 1,100 were wounded, triggering our entry into World War II.

Today, we honor those killed 60 years ago and those who survived to fight on other fronts in the four succeeding years of world war. We also remember the millions of brave Americans who answered our country's call to the battlefield, to the factory, and to the farm, remembering Pearl Harbor by their deeds, their devotion to duty, and their willingness to fight for freedom. The attack at Pearl Harbor fired the American spirit with a determination that freedom would not fall to tyranny; and the United States and its allies fought to victory, preserving a world in which democracy could grow. The tragedy of December 7, 1941, remains seared upon our collective national memory, a recollection that serves not just as a symbol of American military valor and American resolve, but also as a reminder of the presence of evil in the world and the need to remain ever vigilant against it.

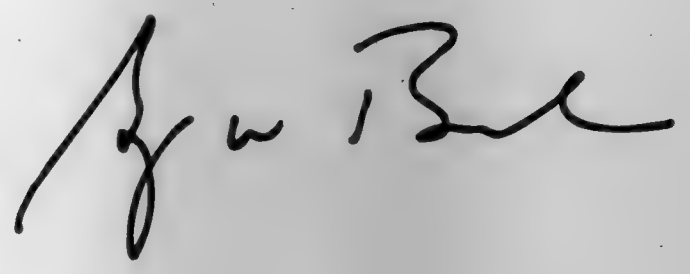
Now, another date will forever stand alongside December 7—September 11, 2001. On that day, our people and our way of life again were brutally and suddenly attacked, though not by a complex military maneuver, but by the surreptitious wiles of evil terrorists who took cruel and heartless advantage of the freedoms guaranteed by our Nation. Their target was not chiefly our military, but innocent civilians. We fight now to defend freedom, secure civilization, and ensure the survival of our American way of life.

As we fight to defend what we believe is right, we remember the sacrifice of those who have gone before us—not only the heroes of Pearl Harbor but all the men and women of the greatest of generations who defeated tyranny. We are grateful for their service, and honor it by pledging to do our best to secure for our children, our grandchildren, and all of posterity the continuing blessings of liberty.

The Congress, by Public Law 103–308, as amended, has designated December 7, 2001, as "National Pearl Harbor Remembrance Day."

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 7, 2001, as National Pearl Harbor Remembrance Day. I call upon the people of the United States to observe this solemn occasion with appropriate ceremonies and activities. I urge all Federal agencies, interested organizations, groups, and individuals to fly the flag of the United States at half-staff this and every December 7 in honor of those who died as a result of their service at Pearl Harbor.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of December, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 01–30660
Filed 12–7–01; 8:51 am]
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Federal Register

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Part VII

The President

Executive Order 13238—Closing of Federal Government Executive Departments and Agencies on Monday, December 24, 2001

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Presidential Documents

Title 3—

The President

Executive Order 13238 of December 5, 2001

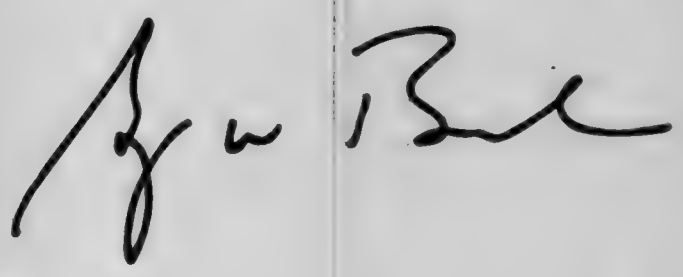
Closing of Federal Government Executive Departments and Agencies on Monday, December 24, 2001

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. All executive branch departments and agencies of the Federal Government shall be closed and their employees excused from duty on Monday, December 24, 2001, the day before Christmas Day, except as provided in section 2 below.

Sec. 2. The heads of executive branch departments and agencies may determine that certain offices and installations of their organizations, or parts thereof, must remain open and that certain employees must report for duty on December 24, 2001, for reasons of national security or defense or other public reasons.

Sec. 3. Monday, December 24, 2001, shall be considered as falling within the scope of Executive Order 11582 of February 11, 1971, and of 5 U.S.C. 5546 and 6103(b) and other similar statutes insofar as they relate to the pay and leave of employees of the United States.



THE WHITE HOUSE,
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[FR Doc. 01–30624
Filed 12–7–01; 10:08 am]
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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html.* Some laws may not yet be available.

H.R. 768/P.L. 107–72
Need-Based Educational Aid Act of 2001 (Nov. 20, 2001; 115 Stat. 648)

H.R. 2620/P.L. 107–73
Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002 (Nov. 26, 2001; 115 Stat. 651)

H.R. 1042/P.L. 107–74
To prevent the elimination of certain reports. (Nov. 28, 2001; 115 Stat. 701)

H.R. 1552/P.L. 107–75
Internet Tax Nondiscrimination Act (Nov. 28, 2001; 115 Stat. 703)

H.R. 2330/P.L. 107–76
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Nov. 28, 2001; 115 Stat. 704)

H.R. 2500/P.L. 107–77
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (Nov. 28, 2001; 115 Stat. 748)

H.R. 2924/P.L. 107–78
To provide authority to the Federal Power Marketing Administration to reduce vandalism and destruction of property, and for other purposes. (Nov. 28, 2001; 115 Stat. 808)

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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[2] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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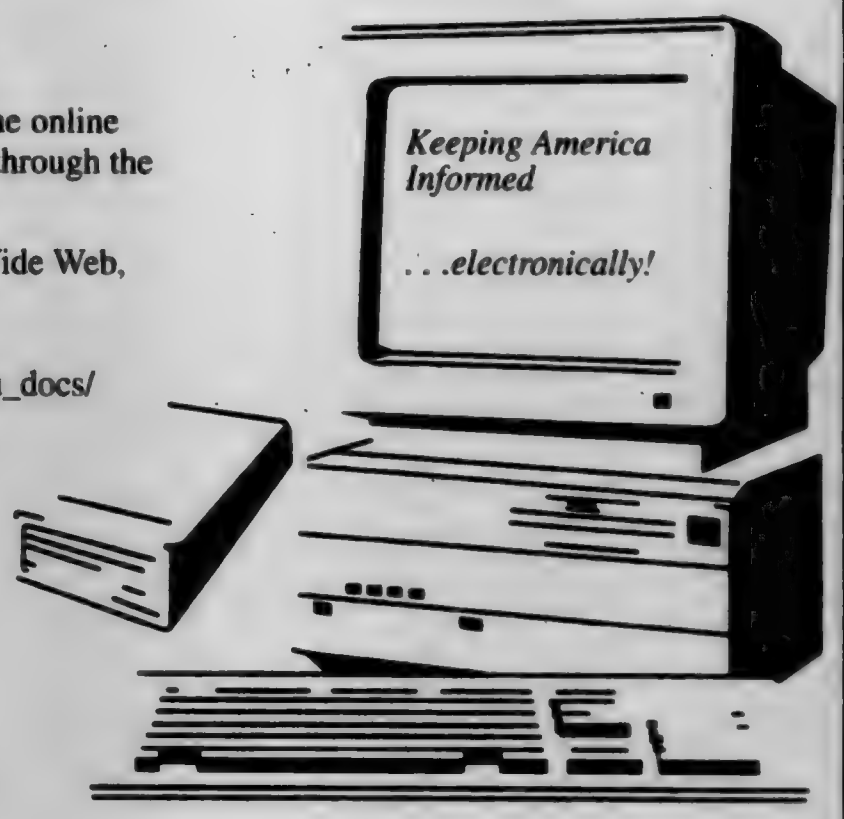

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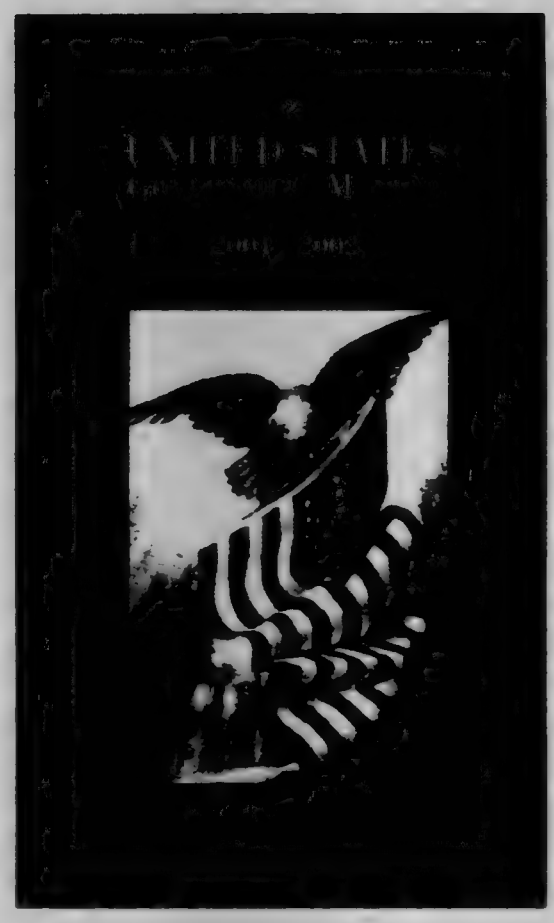

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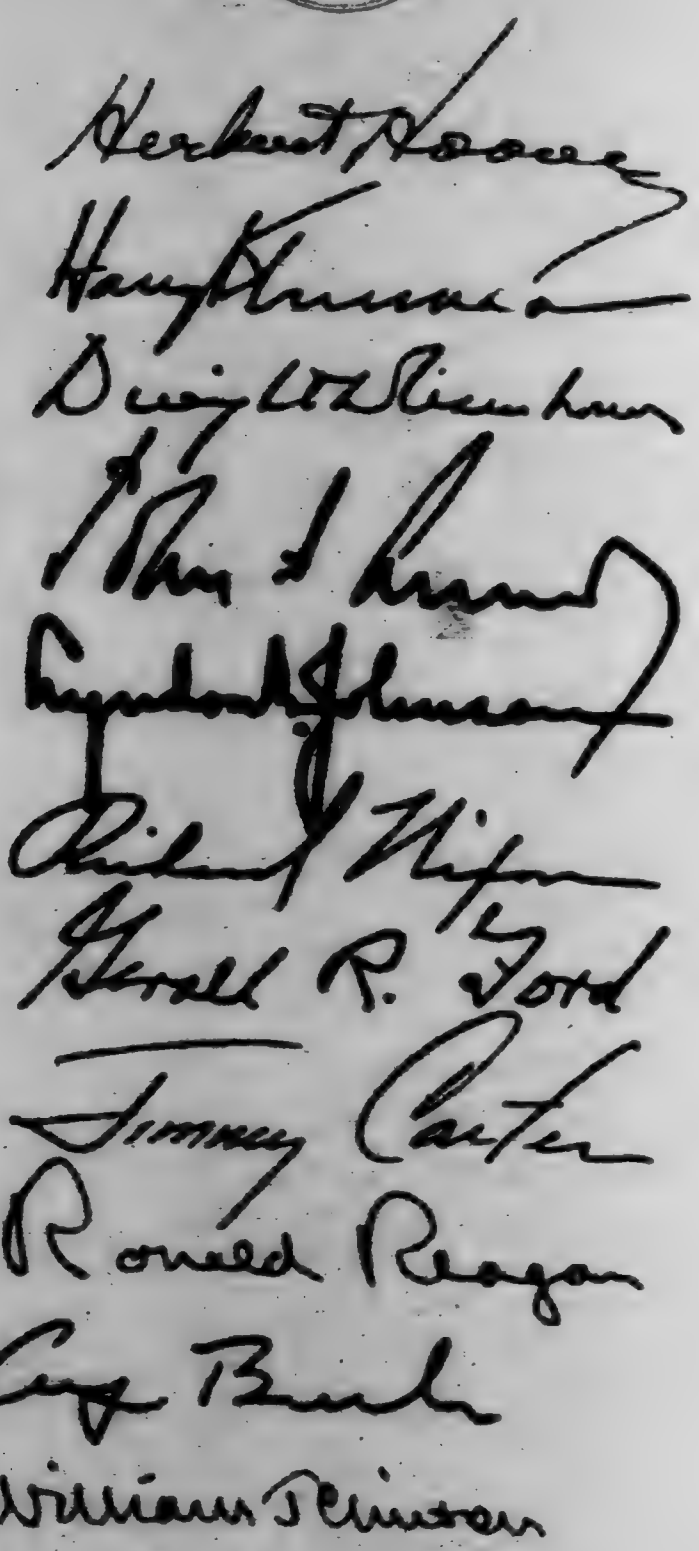

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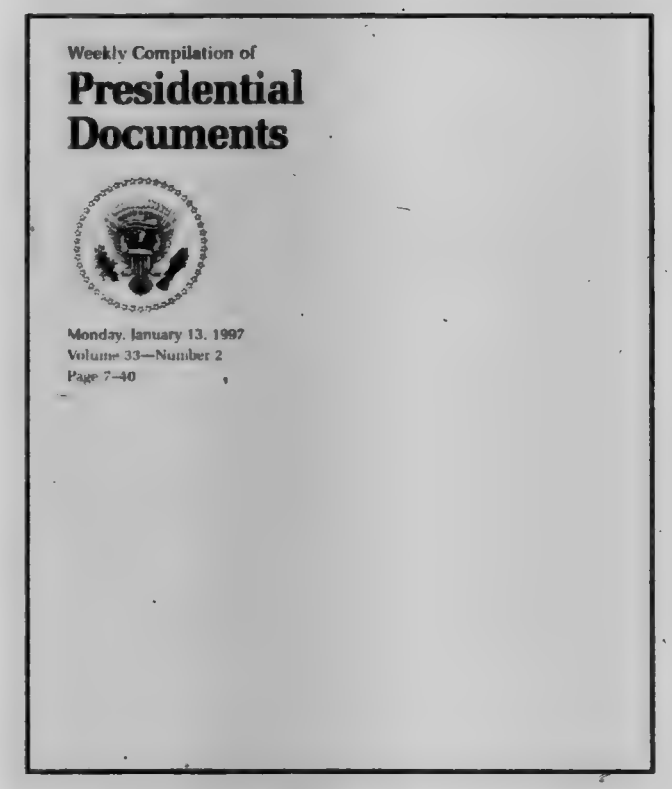

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Rules and Regulations

Federal Register
Vol. 66, No. 238
Tuesday, December 11, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 302, 317, 330, 333, and 335

RIN 3206–AJ11

Reasonable Accomodation Requirements in Vacancy Announcements

AGENCY: Office of Personnel Management.

ACTION: Interim rule and request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing this interim regulation to require a reasonable accommodation statement in agency vacancy announcements. The intent of this action is to provide language that agencies can use or modify to inform applicants with disabilities that agencies offer reasonable accommodation.

DATES: These regulations are effective January 10, 2002. Comments must be received on or before February 11, 2002.

ADDRESSES: Send written comments to Ellen E. Tunstall, Assistant Director for Employment Policy, Office of Personnel Management, Room 6500, 1900 E Street NW. Washington, DC 20415–9500.

FOR FURTHER INFORMATION CONTACT: Linda Watson (Parts 302, 330, 333, and 335), 202–606–1252, Jacqueline Yeatman (Part 330, subpart G), 202–606–2786; or Marcia Staten (Part 317), 202–606–1832.

SUPPLEMENTARY INFORMATION:

Background

Reasonable accommodation is an adjustment or alteration that enables people with disabilities to apply for jobs, to gain access to the work environment, to perform job duties, or to enjoy the benefits and privileges of employment. Routinely, agencies provide services, establish active recruitment programs and use selective placement appointment authorities that focus on people with disabilities. Section 501 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in Federal employment. The law requires Federal employers to develop and implement affirmative action programs that promote the hiring, placement, and advancement of people with disabilities. It encourages employers to hire people with disabilities in all grade levels and occupational series according to the qualifications for the job and to provide reasonable accommodation when appropriate.

Executive Order 13078, dated March 13, 1998, established the National Task Force on Employment of Adults with Disabilities. The Task Force received the assignment of creating and coordinating an aggressive national policy to bring adults with disabilities into gainful employment at a rate as close as possible to that of the general adult population. To accomplish this the Task Force established a Federal Personnel Review Workgroup comprised of representatives from 11 different Federal agencies.

The Workgroup found that vacancy announcements and other recruiting materials of most Federal agencies did not include a reasonable accommodation statement. The Workgroup recommended that OPM and the Equal Employment Opportunity Commission work together in developing reasonable accommodation language for vacancy announcements and revise regulations to require all Federal agencies to include a reasonable accommodation statement in vacancy announcements.

OPM issued a memorandum on March 2, 2000, instructing Federal agencies to include a reasonable accommodation statement on all future vacancy announcements. Executive Order 13164, dated July 26, 2000, requires Federal agencies to establish procedures for reasonable accommodation.

This interim rule includes minor changes to vacancy announcements in the excepted service, Senior Executive Service, and competitive service, including temporary and term positions, covered under 5 CFR Parts 302, 317, 330, and 333. This interim rule includes guidance for including reasonable accommodation language in Federal vacancy announcements.

The revision of 5 CFR Part 330, subpart G adds "Reasonable accommodation statement" to the list of items that must be included in all vacancy announcements published on USAJOBS as required under 5 CFR 330.707. This change supports the requirement for specific information on the vacancy announcement and establishes consistency in the information USAJOBS provides to applicants about vacancies. OPM's authority to require specific items in vacancy announcements for competitive service positions is title 5 U.S.C. 3330.

The revision to 5 CFR 335 updates the reference to reflect changes caused by the revision of 5 CFR 330, subpart G.

Recommended Reasonable Accommodation Statement

OPM recommends use of the following language in all future job announcements.

"This agency provides reasonable accommodation to applicants with disabilities where appropriate. If you need a reasonable accommodation for any part of the application and hiring process, please notify the agency. Determinations on requests for reasonable accommodation will be made on a case-by-case basis."

Modification of the Reasonable Accommodation Statement

Agencies may use wording of their choice that conveys the availability of reasonable accommodation. The statement must not list any specific type of medical condition or physical impairment as appropriate for a reasonable accommodation request.

Processing Reasonable Accommodation Requests

Agencies should designate an individual as a contact for reasonable accommodation requests. The contact must have sufficient knowledge about the agency's internal procedures for reasonable accommodation requests to prevent misinforming or frustrating the applicant with disabilities. OPM suggests that agencies include a general phone number, a TDD number, or email address for the contact.

Pursuant to Executive Order 13164, dated July 26, 2000, agencies are required to develop their own procedures for processing reasonable

accommodation requests. These instructions should be in writing to provide for consistency.

Waiver of Notice of Proposed Rulemaking

In accordance with section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. An opportunity for public comment prior to issuing this rule is unnecessary and contrary to the public interest. In developing this regulation, OPM worked extensively with affected stakeholders.

Regulatory Flexibility Act

I certify that these regulations would not have significant economic impact on a substantial number of small entities because they would only apply to Federal agencies and employees.

Executive Order 12866, Regulatory Review

This interim rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Parts 302, 317, 330, 333, and 335

Armed forces reserves, Government employees, Individuals with disabilities.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, OPM is amending parts 302, 317, 330, 333, and 335 of title 5 of the Code of Federal Regulations as follows:

PART 302—EMPLOYMENT IN THE EXCEPTED SERVICE

1. The authority citation in part 302 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302, 8151, E.O. 10577 (3 CFR 1954-1958 Comp., p. 218); § 302.105 also issued under 5 U.S.C. 1104, Pub. L. 95–454, sec. 3(5); § 302.501 also issued under 5 U.S.C. 7701 *et seq.*

2. In subpart A § 302.106 is added to read as follows:

Subpart A—General Provisions

§ 302.106 Vacancy Announcements.

When an agency announces a vacancy in the excepted service, the announcement must contain a reasonable accommodation statement that complies with requirements in § 330.707 of subpart G of this chapter.

"This agency provides reasonable accommodation to applicants with disabilities where appropriate. If you need a reasonable accommodation for any part of the application and hiring process, please notify the agency. Determinations on requests for reasonable accommodation will be made on a case-by-case basis."

PART 317—EMPLOYMENT IN THE SENIOR EXECUTIVE SERVICE

3. The authority citation in part 317 is revised to read as follows:

Authority: 5 U.S.C. 3392, 3393, 3393a, 3395, 3397, 3593, 3595 and 3596.

4. In § 317.501, paragraph (b)(2) is revised to read as follows:

Subpart E—Career Appointments

§ 317.501 Recruitment and selection for initial SES career appointment be achieved from the brightest and most diverse pool possible.

* * * * *

(b) ***

(2) Before an agency can fill an SES vacancy by career appointment, it must post a vacancy announcement in USAJOBS for at least 14 calendar days, including the date of publication. Each agency's SES vacancy announcement must comply with criteria in § 330.707 of subpart G of this chapter.

* * * * *

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

5. The authority citation for part 330 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302, 3327 and 3330; E.O. 10577, 3 CFR 1954–58 Comp., p.218.

Section 330.102 also issued under 5 U.S.C. 3327.

Subpart B also issued under 5 U.S.C. 3315 and 8151.

Section 330.401 also issued under 5 U.S.C. 3310.

Subpart G also issued under 5 U.S.C. 8337(h) and 8456(b).

Subpart K also issued under sec. 11203 of Pub. L. 105–33, 111 Stat. 738 and Pub. L. 105–274, 112 Stat. 2424.

Subpart L also issued under sec.1232 of Pub. L. 96–70, 93 Stat. 452.

Subpart G—Interagency Career Transition Assistance Plan for Displaced Employees

6. In § 330.707, paragraph (b)(14) is added to read as follows:

§ 330.707 Reporting vacancies to OPM.

* * * * *

(b)***

(14) Reasonable accommodation statement.

(i) An agency may use wording of its choice that conveys the availability of reasonable accommodation. An agency must not list types of medical conditions or impairments as appropriate for accommodation, and must keep the wording simple.

(ii) We recommend using the following statement:

PART 333—RECRUITMENT AND SELECTION FOR TEMPORARY AND TERM APPOINTMENTS OUTSIDE THE REGISTER

7. The authority citation for part 333 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302, 3327, 3330; E.O. 10577, 3 CFR 1954–58 Comp., p. 218; section 333.203 also issued under 5 U.S.C. 1104.

8. Section 333.102 is revised to read as follows:

§ 333.102 Notice of job announcements to OPM.

Under 5 U.S.C. 3327, and 3330, agencies are required to report job announcements to OPM when recruiting outside the register. This requirement is implemented through § 330.707 of subpart G of this chapter.

PART 335—PROMOTION AND INTERNAL PLACEMENT

9. The authority citation in part 335 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302, 3304(f), 3330; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; and Pub. L. 106–117.

10. Section 335.105 is revised to read as follows:

§ 335.105 Notice of job announcements to OPM.

Under 5 U.S.C. 3330, agencies are required to report job announcements to OPM for vacancies for which an agency will accept applications from outside the agency's work force. This requirement is implemented through § 330.707 of subpart G of this chapter.

[FR Doc. 01–30531 Filed 12–10–01; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 534, 591, and 930

RIN 3206–AJ44

Pay for Administrative Appeals Judge Positions

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement a new pay system for administrative appeals judge positions. The administrative appeals judge pay system was recently authorized to cover positions which are not classifiable above GS–15 and for which the duties primarily involve reviewing decisions of administrative law judges. OPM is issuing interim regulations to ensure that agencies administer the new administrative appeals judge pay system in a consistent and equitable manner. These interim regulations also implement changes in law regarding the manner in which the administrative law judge basic pay schedule is adjusted.

DATES: *Effective Date*: The regulations are effective on December 11, 2001.

Applicability Date: The regulations apply on the first day of the first applicable pay period beginning on or after December 11, 2001.

Comments Date: Comments must be received on or before February 11, 2002.

ADDRESSES: Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415, FAX: (202) 606–0824, or email: *payleave@opm.gov*.

FOR FURTHER INFORMATION CONTACT: Jeanne Jacobson, (202) 606–2858; FAX: (202) 606–0824; or email: *payleave@opm.gov*.

SUPPLEMENTARY INFORMATION:

Section 645 of the Treasury and General Government Appropriations Act, 2001, as incorporated in Public Law 106–544 by section 101(a)(3) of that Public Law, established a new pay system for administrative appeals judge (AAJ) positions effective on the first day of the first pay period beginning on or after April 20, 2001. The AAJ pay system is authorized under a new section 5372b of title 5, United States Code. New section 5372b authorizes the heads of Executive agencies (not including the U.S. General Accounting Office) to fix the rates of basic pay for AAJ positions. Section 5372b authorizes the Office of Personnel Management (OPM) to issue regulations under which the head of an Executive agency must fix the rate of basic pay for each AAJ position. The new regulations will appear in a new subpart F of part 534 of title 5, Code of Federal Regulations.

Coverage

Section 5372b of title 5, United States Code, defines an "administrative appeals judge position" as a position not classifiable above GS–15, the duties of which primarily involve reviewing decisions of administrative law judges (ALJs) appointed under 5 U.S.C. 3105. Section 534.601 of these interim regulations restates this statutory definition and clarifies that employees in AAJ positions review ALJ decisions and render final administrative decisions.

Section 534.601 of the interim regulations also provides that the AAJ pay system does not cover employees already excluded from the General Schedule (GS) classification system established under 5 U.S.C. chapter 51. Members of the Senior Executive Service (SES), employees in senior-level (SL) and scientific or professional positions, ALJs, and employees in positions whose pay is fixed by administrative action and limited to level IV of the Executive Schedule also are excluded from the AAJ pay system.

Pay Structure

Under 5 U.S.C. 5372b, the head of an Executive agency may set the rate of basic pay for employees in AAJ positions at a rate not less than the minimum rate of basic pay for level AL–3 and not more than the maximum rate of basic pay for level AL–3 of the ALJ pay system under 5 U.S.C. 5372. To be consistent with the law, § 534.603 of these interim regulations links the structure of the AAJ pay system directly to the structure of level AL–3 of the ALJ pay system. Since employees in AAJ positions review the decisions made by ALJs, linking to the ALJ basic pay structure also will help to ensure that employees in both pay systems are paid equitably.

Section 534.603 of the interim regulations establishes six rates of basic pay for the AAJ pay system—AA–1, 2, 3, 4, 5, and 6. These rates correspond to the rates of basic pay for AL–3/A, B, C, D, E, and F of the ALJ pay system under 5 U.S.C. 5372, as shown in the following table:

AAJ pay level	ALJ pay level	Rate of basic pay in 2001
AA–1	AL–3/A	$82,100
AA–2	AL–3/B	$88,000
AA–3	AL–3/C	$94,700
AA–4	AL–3/D	$101,000
AA–5	AL–3/E	$107,300
AA–6	AL–3/F	$113,600

The interim regulations provide that each of the rates of basic pay of the AAJ pay system will be adjusted at the same time and in the same manner as the corresponding rates of basic pay of the ALJ pay system are adjusted under 5 U.S.C. 5372.

Pay Administration

Section 534.604 of these interim regulations provides the basic pay administration rules for the AAJ pay system. These provisions are consistent with the ALJ pay administration rules found in 5 U.S.C. 5372 and 5 CFR part 930, subpart B. Section 534.601(a) provides the head of each agency with authority to fix the rate of basic pay for each AAJ position within the agency. Section 534.604(b) requires the head of each agency to set the pay of an employee initially appointed to the AAJ pay system at rate AA–1, except as described below.

The regulations provide the following three exceptions for setting pay above rate AA–1, up to the maximum rate AA–6:

1. The regulations require agencies to set the pay of an employee under the GS pay system, who is appointed to an AAJ position without a break in service, at the lowest rate of basic pay of the AAJ pay system that equals or exceeds the employee's GS rate of basic pay immediately before the appointment. If the resulting basic pay increase is less than one-half of the dollar value of the employee's next within-grade increase, agencies must set the employee's rate of basic pay at the next higher rate of basic pay in the AAJ rate range.

2. The regulations provide agencies with discretion to set pay at a higher rate based on a rate of basic pay the applicant received in a prior Federal position.

3. The regulations provide agencies with discretion to set the rate of basic pay of an applicant who is not a current Federal employee at a higher rate based on the superior qualifications of the applicant.

Section 534.604(c) of the interim regulations provides that employees in AAJ positions will advance successively to rates AA–2, 3, and 4 upon completion of 52 weeks of service in the next lower rate, and to rates 5 and 6 upon completion of 104 weeks of service in the next lower rate. Service time under a pay system outside the AAJ pay system does not count toward the required period of service, except for service under the ALJ pay system established under 5 U.S.C. 5372 when an employee moves from an ALJ position to an AAJ position without a break in service.

Section 534.604(d) provides procedures for converting the AAJ

annual rate of pay to an hourly, daily, weekly, or biweekly rate.

Conversion

On the first day of the first pay period beginning on or after December 11, 2001, agencies must convert the rate of basic pay of employees under the AAJ pay system to a rate of basic pay provided by these regulations. Section 534.605 requires agencies to set the rate of basic pay of an AAJ at the lowest rate of basic pay provided by § 534.603(a) that equals or exceeds the rate of basic pay the AAJ received immediately before this date.

Locality Payments and Non-Foreign Area Cost-of-Living Allowances

The President's Pay Agent (consisting of the Secretary of Labor and the Directors of the Office of Management and Budget and OPM) extended locality-based comparability payments to employees covered by the AAJ pay system under the authority of 5 U.S.C. 5304(h), effective on the first day of the first pay period beginning on or after April 20, 2001. Locality payments must be paid to employees in AAJ positions in accordance with 5 U.S.C. 5304 and 5 CFR part 531, subpart F. Under these rules, the locality rate of pay of employees in AAJ positions may not exceed the rate for level III of the Executive Schedule ($133,700 in 2001).

The interim regulations amend 5 CFR 591.203 to allow any employees in AAJ positions who are employed in an area covered by a nonforeign area cost-of-living allowance or post differential to receive that benefit.

Administrative Law Judges

These interim regulations amend 5 CFR 930.210(a) to reflect changes in law concerning how the administrative law judge pay levels are set and adjusted. Section 1 of Public Law 106–97 (November 12, 1999) amended the ALJ pay law (5 U.S.C. 5372). Under this section, as amended, the rate of basic pay for AL–3/A may not be less than 65 percent of the rate for level IV of the Executive Schedule, and the rate of basic pay for AL–1 may not exceed the rate for level IV of the Executive Schedule. (Section 5372(b)(4) gives the President authority to adjust the rates of basic pay for ALJs, subject to the pay range described above. Such adjustments are effective on the first day of the first applicable pay period beginning on or after the first day of the month in which General Schedule rates of basic pay are adjusted under 5 U.S.C. 5303.) Based on agency inquiries, we also added a provision to § 930.210(a) to clarify that agencies must use a 2,087-hour payroll divisor to determine the hourly, daily, weekly, and biweekly pay rate of an ALJ in accordance with 5 U.S.C. 5504.

Waiver of Notice of Proposed Rule Making and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B) and 553(d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and making these regulations effective in less than 30 days. Section 645 of the Treasury and General Government Appropriations Act, 2001, as incorporated in Public Law 106–544 by section 101(a)(3) of that Public Law, became effective for service performed by an administrative appeals judge on the first day of the first applicable pay period beginning on or after April 20, 2001. These regulations must be issued as interim to ensure that agencies administer the new administrative appeals judge pay system in a consistent and equitable manner. These regulations must be made effective prior to January 1, 2002, to ensure that administrative appeals judges receive the January 2002 basic pay adjustment in a consistent and equitable manner.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Parts 534, 591, and 930

Administrative practice and procedure, Computer technology, Government employees, Hospitals, Motor vehicles, Students, Travel and transportation expenses, Wages.

U.S. Office of Personnel Management

Kay Coles James,

Director.

Accordingly, OPM is amending parts 534, 591, and 930 of title 5, Code of Federal Regulations, as follows:

PART 534—PAY UNDER OTHER SYSTEMS

1. The authority citation for part 534 is amended to read as follows:

Authority: 5 U.S.C. 1104, 5307, 5351, 5352, 5353, 5372b, 5376, 5384, 5541, and 5550a.

2. Subpart F is added to read as follows:

Subpart F—Pay for Administrative Appeals Judge Positions

Sec.
534.601 Coverage.
534.602 Definitions.
534.603 Rates of Basic Pay.
534.604 Pay Administration.
534.605 Conversion.

Subpart F—Pay for Administrative Appeals Judge Positions

§ 534.601 Coverage.

(a) This subpart implements 5 U.S.C. 5372b and applies to administrative appeals judge positions, the duties of which are not classifiable above GS–15 under 5 U.S.C. 5108 and which primarily involve reviewing decisions of administrative law judges appointed under 5 U.S.C. 3105 and rendering final administrative decisions.

(b) This subpart does not apply to—

(1) Senior-level positions classified above GS–15 pursuant to 5 U.S.C. 5108;

(2) Scientific or professional positions established under 5 U.S.C. 3104;

(3) Senior Executive Service positions established under 5 U.S.C. 3132 or 3151;

(4) Positions for which pay is fixed by administrative action and limited to level IV of the Executive Schedule under 5 U.S.C. 5373;

(5) Administrative law judge positions appointed under 5 U.S.C. 3105; or

(6) Positions in agencies that are excluded from chapter 51 of title 5, United States Code, by section 5102(a) or 5102(c) or other provision of law.

§ 534.602 Definitions.

Administrative appeals judge position means a position not classified above GS–15 under 5 U.S.C. 5108 and for which the duties primarily involve reviewing decisions of administrative law judges appointed under 5 U.S.C. 3105 and rendering final administrative decisions.

Administrative law judge means an individual in an *administrative law judge* position as that term is defined in section 930.202 of this chapter.

Agency means an *Executive agency*, as defined in 5 U.S.C. 105, excluding the U.S. General Accounting Office.

Head of an agency means the head of an Executive agency or an official who has been delegated the authority to act for the head of the agency in the matter concerned.

§ 534.603 Rates of Basic Pay.

(a) The administrative appeals judge pay system (AA) has six rates of basic pay—AA–1, 2, 3, 4, 5, and 6. These rates correspond to the rates of basic pay for AL–3/A, B, C, D, E, and F, respectively, of the administrative law judge pay

system established under 5 U.S.C. 5372 and part 930, subpart B, of this chapter.

(b) The rates of basic pay of the administrative appeals judge pay system will be adjusted at the same time and in the same manner as adjustments are made in the corresponding rates of basic pay for the administrative law judge pay system under 5 U.S.C. 5372.

§ 534.604 Pay Administration.

(a) The head of each agency must fix the rate of basic pay for each administrative appeals judge position within the agency.

(b) Upon initial appointment, an agency must set the rate of basic pay of an administrative appeals judge at the minimum rate AA–1 of the administrative appeals judge pay system, except as provided in paragraphs (b)(1), (b)(2), and (b)(3) of this section.

(1) An agency must set the pay of an employee under the General Schedule pay system who is appointed to an administrative appeals judge position without a break in service at the lowest rate of basic pay of the administrative appeals judge pay system that equals or exceeds the rate of basic pay the employee received immediately prior to such appointment, not to exceed the rate of basic pay for AA–6. If the resulting basic pay increase is less than one-half of the dollar value of the employee's next within-grade increase, the agency must set the employee's rate of basic pay at the next higher rate of basic pay in the basic rate range of the administrative appeals judge pay system.

(2) An agency may offer an administrative appeals judge applicant with prior Federal service a rate up to the lowest rate of basic pay of the administrative appeals judge pay system that equals or exceeds the employee's highest previous rate of basic pay in a Federal civil service position, not to exceed the rate of basic pay for AA–6.

(3) An agency may offer an administrative appeals judge applicant with superior qualifications who is not a current Federal employee a higher than minimum rate when such a rate is clearly necessary to meet the needs of the Government. An agency may pay a higher than minimum rate of pay that is next above the applicant's existing pay or earnings, up to the maximum rate AA–6. Superior qualifications for applicants include, but are not limited to, having legal practice before the hiring agency, having practice in another forum with legal issues of concern to the hiring agency, or having an outstanding reputation among others in the field.

(c) Administrative appeals judges will advance successively to rates AA–2, 3, and 4 upon completion of 52 weeks of service in the next lower rate, and to rates 5 and 6 upon completion of 104 weeks of service in the next lower rate. Advancement to a higher rate takes effect on the first day of the first pay period beginning on or after completion of the required period of service. Time in a nonpay status is creditable service in the computation of a waiting period in so far as it does not exceed 2 weeks for each 52 weeks of service. Time in a nonpay status is fully creditable if the absence is due to military service, as defined in 5 U.S.C. 8331(13), or receipt of injury compensation under chapter 81 of title 5, United States Code. Time under pay systems outside the administrative appeals judge pay system is not creditable service in computing the required waiting period, except that time under the administrative law judge pay system established under 5 U.S.C. 5372 is creditable when an individual moves from that system to the administrative appeals judge pay system without a break in service.

(d) An agency must use the following procedures to convert an administrative appeals judge's annual rate of basic pay to an hourly, daily, weekly, or biweekly rate:

(1) To derive an hourly rate, divide the annual rate of pay by 2,087 and round to the nearest cent, counting one-half cent and over as the next higher cent.

(2) To derive a daily rate, multiply the hourly rate by the number of daily hours of service required by the administrative appeals judge's basic daily tour of duty.

(3) To derive a weekly or biweekly rate, multiply the hourly rate by 40 or 80, as the case may be.

§ 534.605 Conversion.

On the first day of the first pay period beginning on or after December 11, 2001, agencies must convert the rate of basic pay of an administrative appeals judge to the lowest rate of basic pay provided by § 534.603(a) of this subpart that equals or exceeds the rate of basic pay the administrative appeals judge received immediately before that date.

PART 591—ALLOWANCES AND DIFFERENTIALS

Subpart B—Cost-of-Living Allowance and Post Differential—Nonforeign Areas

3. The authority citation for subpart B continues to read as follows:

Authority: 5 U.S.C. 5941; E.O. 10000, 3 CFR 1943–1948 Comp., p. 792; and E.O. 12510, 3 CFR, 1985 Comp., p. 338.

4. A new paragraph (a)(8) is added to § 591.203 to read as follows:

§ 591.203 Employees covered.

(a) * * *

(8) Administrative appeals judges paid under 5 U.S.C. 5372b.

* * * * *

PART 930—PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATIONS (MISCELLANEOUS)

Subpart B—Appointment, Pay and Removal of Administrative Law Judges

5. The authority citation for subpart B continues to read as follows:

Authority: 5 U.S.C. 1104(a)(2), 1305, 3105, 3323(b), 3344, 4301(2)(D), 5372, 7521.

6. In § 930.210, paragraph (a) is revised to read as follows:

§ 930.210 Pay.

(a) OPM will place each administrative law judges position in one of the three grades or levels of basic pay, AL–3, AL–2, or AL–1, of the Administrative Law Judge Pay System established under 5 U.S.C. 5372 in accordance with this section. AL–3 has six rates of basic pay, A, B, C, D, E, and F.

(1) The rate of basic pay for AL–3, rate A, may not be less than 65 percent of the rate of basic pay for level IV of the Executive Schedule. The rate of basic pay for AL–1 may not exceed the rate for level IV of the Executive Schedule.

(2) The President will determine the appropriate adjustment for each rate in the Administrative Law Judge Pay System, subject to paragraph (a)(1) of this section. Such adjustments will take effect on the first day of the first applicable pay period beginning on or after the first day of the month in which adjustments in the General Schedule rates of basic pay under 5 U.S.C. 5303 take effect.

(3) An agency must use the following procedures to convert an administrative law judge's annual rate of basic pay to an hourly, daily, weekly, or biweekly rate:

(i) To derive an hourly rate, divide the annual rate of pay by 2,087 and round to the nearest cent, counting one-half cent and over as the next higher cent.

(ii) To derive a daily rate, multiply the hourly rate by the number of daily hours of service required by the administrative appeals judge's basic daily tour of duty.

(iii) To derive a weekly or biweekly rate, multiply the hourly rate by 40 or 80, as the case may be.

* * * * *

[FR Doc. 01–30530 Filed 12–10–01; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 01–020–2]

Brucellosis in Cattle; State and Area Classifications; Florida

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Florida from Class A to Class Free. The interim rule was based on our determination that Florida meets the standards for Class Free Status. The interim rule relieved certain restrictions on the interstate movement of cattle from Florida.

EFFECTIVE DATE: The interim rule became effective on June 13, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Valerie Ragan, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–7708.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective June 13, 2001, and published in the **Federal Register** on June 19, 2001 (66 FR 32893–32894, Docket No. 01–020–1), we amended the brucellosis regulations in 9 CFR part 78 by removing Florida from the list of Class A States in paragraph (b) of § 78.41 and adding it to the list of Class Free States in paragraph (a) of that section.

Comments on the interim rule were required to be received on or before August 20, 2001. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 78 and that was published at 66 FR 32893–32894 on June 19, 2001.

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 6th day of December 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30600 Filed 12–10–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–029–2]

Change in Disease Status of the Republic of San Marino and the Independent Principalities of Andorra and Monaco

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations by adding the Republic of San Marino and the independent principalities of Andorra and Monaco to the list of regions that present an undue risk of introducing bovine spongiform encephalopathy into the United States because their import requirements are less restrictive than those required for import into the United States and/or because of inadequate surveillance. The interim rule placed restrictions on the importation of ruminants that have been in Andorra, Monaco, or San Marino and meat, meat products, and certain other products of ruminants that have been in Andorra, Monaco, or San Marino. The interim rule was necessary in order to prevent the introduction of bovine spongiform encephalopathy into the United States.

EFFECTIVE DATE: The interim rule became effective on May 29, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Malloy, Senior Staff Veterinarian, National Center for Import and Export, Products Program, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231; (301) 734–3277.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective May 29, 2001, and published in the **Federal Register** on June 4, 2001 (66 FR 29899–29900, Docket No. 01–029–1), we amended 9 CFR part 94 by adding the Republic of San Marino and the independent principalities of Andorra and Monaco to the list of regions that present an undue risk of introducing bovine spongiform encephalopathy (BSE) into the United States because their import requirements are less restrictive than those required for import into the United States and/or because of inadequate surveillance. That action was necessary on an emergency basis to prevent the introduction of BSE into the United States.

Comments on the interim rule were required to be received on or before August 3, 2001. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 66 FR 29899–29900 on June 4, 2001.

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80 and 371.4.

Done in Washington, DC, this 6th day of December 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30601 Filed 12–10–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–032–2]

Prohibition of Beef From Argentina

AGENCY: Animal and Plant Health inspection Service, USDA

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations by removing the provisions for the importation of fresh (chilled or frozen) beef from Argentina and by removing the exemptions that allowed cured or cooked beef to be imported from Argentina under certain conditions without meeting the requirements of the regulations regarding cured and cooked meat from regions where rinderpest or foot-and-mouth disease exists. We took those actions after the existence of foot-and-mouth disease was confirmed in Argentina. The effect of the interim rule was to prohibit the importation of any fresh (chilled or frozen) beef from Argentina and to prohibit the importation of any cooked or cured beef from Argentina that does not meet the requirements of the regulations regarding cured and cooked meat from regions where rinderpest or foot-and-mouth disease exists. We took those actions as an emergency measure to protect the livestock of the United States from foot-and-mouth disease.

DATES: The interim rule became effective on February 19, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–3276.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective on February 19, 2001, and published in the **Federal Register** on June 4, 2001 (66 FR 29897–29899, Docket No. 01–032–1), we amended the regulations in 9 CFR part 94 by removing the provisions for the importation of fresh (chilled or frozen) beef from Argentina and by removing the exemptions that allowed cured or cooked beef to be imported from Argentina under certain conditions without meeting the requirements of the regulations regarding cured and cooked meat from regions where rinderpest or foot-and-mouth disease exists. The effect of that action was to prohibit the importation of any fresh (chilled or frozen) beef from Argentina and to prohibit the importation of any cooked or cured beef from Argentina that does not met the requirements of the regulations regarding cured and cooked meat from regions where rinderpest or foot-and-mouth disease exists.

Comments on the interim rule were required to be received on or before August 3, 2001. We received one comment, which supported the interim rule. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 66 FR 29897–29899 on June 4, 2001.

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 6th day of December 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30602 Filed 12–10–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–008–2]

Change in Disease Status of Germany, Italy, and Spain Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that added Germany, Italy, and Spain to the list of regions where bovine spongiform encephalopathy (BSE) exists because the disease had been detected in native-born animals in those regions. Germany, Italy, and Spain had already been listed among the regions that present an undue risk of introducing BSE into the United States, so the effect of the interim rule was a continued restriction on the importation of ruminants that have been in Germany, Italy, or Spain and meat, meat products, and certain other products of ruminants that have been in Germany, Italy, or Spain. The interim rule was necessary in order to update the disease status of Germany, Italy, and Spain regarding BSE.

EFFECTIVE DATE: The interim rule became effective on April 30, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Malloy, National Center for Import and Export, Products Program, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231; (301) 734–3277.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective April 30, 2001, and published in the **Federal Register** on May 4, 2001 (66 FR 22425–22426, Docket No. 01–008–1), we amended the regulations in 9 CFR part 94 by adding Germany, Italy, and Spain to the list of regions where bovine spongiform encephalopathy (BSE) exists. Germany, Italy, and Spain had previously been listed in § 94.18(c)(2) as regions that present an undue risk of introducing BSE into the United States. However, due to the detection of BSE in native-born animals in those regions, the interim rule was necessary to update the disease status of Germany, Italy, and Spain regarding BSE.

Comments on the interim rule were required to be received on or before July 3, 2001. We received one comment by

that date from a foreign agricultural official. The commenter indicated that the actions taken in the interim rule were consistent with the actions taken by his government. The commenter did not raise any objections to the interim rule.

Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 66 FR 22425–22426 on May 4, 2001.

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 6th day of December 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30599 Filed 12–10–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81–ASW–27; Amendment 39–12555; AD 81–18–01 R1]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 206A, 206B, 206A–1, 206B–1, 206L, and 206L–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD) for Bell Helicopter Textron, Inc. (BHTI) Model 206A, 206B, 206A–1, 206B–1, 206L, and 206L–1 helicopters that currently establishes a retirement life for the main rotor trunnion (trunnion) based on hours time-in-service (TIS). This amendment retains those requirements but revises the AD to remove the trunnion, part number (P/N) 206–011–120–103, from the applicability. This amendment is prompted by the issuance of another AD for the BHTI Model 206L and 206L–1 helicopters that requires a different method of calculating the retirement life for the trunnions. The actions specified by this AD are intended to prevent failure of the trunnion due to fatigue cracks and subsequent loss of control of the helicopter.

EFFECTIVE DATE: January 15, 2002.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 by revising AD 81–18–01, Amendment 39–4192 (46 FR 42651, August 24, 1981), which applies to BHTI Model 206A, 206B, 206A–1, 206B–1, 206L, and 206L–1 helicopters, was published in the **Federal Register** on September 13, 2001 (66 FR 47600). The action proposed to revise AD 81–18–01 to remove the trunnion, P/N 206–011–120–103, from the applicability so that the trunnions on BHTI Model 206L series helicopters would only be affected by the RIN retirement life as required by AD 99–17–19 (64 FR 45433, August 20, 1999). The BHTI Model 206L and 206L1 helicopters are included in this AD because the other trunnions affected by the AD may be installed on these helicopters.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that since the requirements of the AD are not changed and fewer helicopters of U.S. registry will be affected by this AD revision, there will be no additional cost impact from the AD revision on U.S. operators.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–4192 (46 FR 42651, August 24, 1981), and by adding a new airworthiness directive (AD),

Amendment 39–12555, to read as follows:

81–18–01 R1 Bell Helicopter Textron, Inc.: Amendment 39–12555. Docket No. 81–ASW–27. Revises AD 81–18–01, Amendment 39–4192, Docket No. 81–ASW–27.

Applicability: Model 206A, 206B, 206A–1, 206B–1, 206L, and 206L–1 helicopters, with main rotor trunnion (trunnion), part number (P/N) 206–010–104–3, 206–011–113–001, 206–011–120–001, or 206–011–113–103, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the trunnion due to fatigue cracks, accomplish the following:

(a) Any trunnion, P/N 206–011–120–001, with 1100 or more hours time-in-service (TIS) must be retired from service within the next 100 hours TIS.

(b) Any trunnion, P/N 206–011–120–001, with less than 1100 hours TIS must be retired from service on or before attaining 1200 hours TIS.

(c) Any trunnion, P/N 206–010–104–3 and 206–011–113–001, with 2300 or more hours TIS must be retired from service within the next 100 hours TIS.

(d) Any trunnion, P/N 206–010–104–3 and 206–011–113–001, with less than 2300 hours TIS must be retired from service on or before attaining 2400 hours TIS.

(e) Any trunnion, P/N 206–011–113–103, with 4700 or more hours TIS must be retired from service within the next 100 hours TIS.

(f) Any trunnion, P/N 206–011–113–103, with less than 4700 hours TIS must be retired from service on or before attaining 4800 hours TIS.

(g) The retirement times, for the trunnions, established by this AD, are as follows:

P/N	Service life hours TIS
206–011–120–001	1200
206–010–104–3	2400
206–011–113–001	2400
206–011–113–103	4800

Note 2: The FAA issued AD 99–17–19 (64 FR 45433, August 20, 1999) to establish a retirement life for trunnion, P/N 206–011–120–103.

(h) This AD revises the Limitations section of the maintenance manual by establishing a retirement life of 1200 hours TIS for trunnion, P/N 206–011–120–001; 2400 hours TIS for P/N 206–010–104–3 and 206–011–113–001; and 4800 hours TIS for P/N 206–011–113–103.

Note 3: Bell Helicopter Textron Alert Service Bulletins 206–80–7 and 206L–80–9, both Revision B, and dated October 15, 1980, pertain to the subject of this AD.

(i) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(j) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(k) This amendment becomes effective on January 15, 2002.

Issued in Fort Worth, Texas, on November 30, 2001.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–30498 Filed 12–10–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–46–AD; Amendment 39–12556; AD 2001–25–03]

RIN 2120–AA64

Airworthiness Directives; Cirrus Design Corporation Models SR20 and SR22 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Cirrus Design Corporation (CDC) Models SR20 and SR22 airplanes. This AD requires you to inspect one time for understrength rivets on the elevator torque tube and rudder hinge and replace any understrength rivets. This AD is the result of CDC notifying FAA that understrength rivets were mixed in production supplies. The actions specified by this AD are intended to detect and replace understrength rivets in the elevator and rudder, which could result in failure of the control surfaces. Such failure could lead to a loss of control of the airplane in flight.

DATES: This AD becomes effective on December 17, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of December 17, 2001.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before January 24, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–46–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Cirrus Design Corporation, 4515 Taylor Circle, Duluth, MN 55811, telephone: (218) 529–7202, facsimile: (218) 727–2148. You may download service information from *<http://www.cirrusdesign.com/sb/>*. You may view this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–46–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gregory J. Michalik, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Room 107, Des Plaines, IL 60018, telephone: (847) 294–7135; facsimile: (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

CDC notified FAA that understrength rivets were mixed with production supplies of the type design approved rivets. The understrength rivet is of a softer alloy and has less strength than the rivet required by type design. Internal inspection by CDC has shown that the wrong rivets may be installed on as many as 143 airplanes.

What Are the Consequences If the Condition Is Not Corrected?

This condition, if not corrected, could result in failure of the control surfaces. Such failure could lead to a loss of control of the airplane in flight.

Is There Service Information That Applies to This Subject?

CDC has issued these service bulletins:

—Cirrus Design Service Bulletin SB 20–55–06, issued November 27, 2001; and

—Cirrus Design Service Bulletin SB 22–55–03, issued November 27, 2001.

The service bulletins include procedures for:

—Inspecting rivet installations for understrength rivets; and

—Replacing understrength rivets on the elevator torque tube and rudder hinge.

The FAA's Determination and an Explanation of the Provisions of This AD

What Has FAA Decided?

The FAA has reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other CDC Models SR20 and SR22 airplanes of the same type design;

—The actions specified in the previously-referenced service information (as specified in this AD) should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What Does This AD Require?

This AD requires you to incorporate the actions in the previously referenced service bulletins.

In preparation of this rule, we contacted type clubs and aircraft operators to obtain technical information and information on operational and economic impacts. We have included, in the rulemaking docket, a discussion of information that may have influenced this action.

Will I Have the Opportunity To Comment Prior to the Issuance of the Rule?

Because the unsafe condition described in this document could result in failure of the control surfaces which could lead to a loss of control of the airplane in flight, we find that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How Do I Comment on This AD?

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, FAA invites your comments on the rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date specified above. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of the AD I Should Pay Attention To?

We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

How Can I Be Sure FAA Receives My Comment?

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2001–CE–46–AD." We will date stamp and mail the postcard back to you.

Regulatory Impact

Does This AD Impact Various Entities?

These regulations will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

We have determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by Reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

2001–25–03 Cirrus Design Corporation: Amendment 39–12556; Docket No. 2001–CE–46–AD.

(a) *What airplanes are affected by this AD?* This AD applies to the following airplane models and serial numbers that are certificated in any category:

Model	Serial Nos.
SR20	1134 through 1159.
SR22	0003 through 0119.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and replace understrength rivets in the elevator and rudder, which could result in failure of the control surfaces. Such failure could lead to a loss of control of the airplane in flight.

(d) *What must I do to address this problem?* To address this problem, you must accomplish the following actions:

Actions	Compliance	Procedures
(1) Inspect for understrength rivets on the elevator torque tube and rudder hinge.	Within the next 10 hours time-in-service after December 17, 2001 (the effective date of this AD).	For Model SR 20 airplanes, follow the ACCOMPLISHMENT INSTRUCTIONS section in Cirrus Design Service Bulletin SB 20–55–06, issued November 27, 2001. For Model SR 22 airplanes, follow the ACCOMPLISHMENT INSTRUCTIONS section in Cirrus Design Service Bulletin SB 22–55–03, issued November 27, 2001.
(2) If an understrength rivet is found, replace it with a new rivet, part number MS20470AD4, or FAA-approved equivalent part number.	Before further flight after the inspection referenced in paragraph (d)(1) of this AD.	For Model SR 20 airplanes, follow the ACCOMPLISHMENT INSTRUCTIONS section in Cirrus Design Service Bulletin SB 20–55–06, issued November 27, 2001. For Model SR 22 airplanes, follow the ACCOMPLISHMENT INSTRUCTIONS section in Cirrus Design Service Bulletin SB 22–55–03, issued November 27, 2001.
(3) Do not install part number MS20470A4 rivet	As of December 17, 2001 (the effective date of this AD).	Not Applicable.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Chicago ACO, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Gregory J. Michalik, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Room 107, Des Plaines, IL 60018 telephone: (847) 294–7135; facsimile: (847) 294–7834.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Cirrus Design Service Bulletin No. SB 20–55–06, issued November 27, 2001, and Cirrus Design Service Bulletin No. SB 22–55–03, issued November 27, 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Cirrus Design Corporation, 4515 Taylor Circle, Duluth, MN 55811, telephone: (218) 529–7202, facsimile: (218) 727–2148. You may view this information at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on December 17, 2001.

Issued in Kansas City, Missouri, on December 4, 2001.

Dorenda Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30423 Filed 12–10–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–27–AD; Amendment 39–12554; AD 2001–25–02]

RIN 2120–AA64

Airworthiness Directives; Enstrom Helicopter Corporation Model TH–28 and 480 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Enstrom Helicopter Corporation (EHC) Model TH–28 and 480 helicopters. This AD requires establishing a life limit for certain upper and lower main rotor hub plates of 5000 hours time-in-service (TIS), creating a component history card or equivalent record, and replacing each main rotor hub plate (hub plate) having 5000 or more hours TIS with an airworthy hub plate. This AD is prompted by a recent reliability-based stress analysis that indicates a 5000-hour TIS life limit should be imposed on certain hub plates. The actions specified by this AD are intended to prevent failure of a hub plate, loss of control of the main rotor, and subsequent loss of control of the helicopter.

EFFECTIVE DATE: January 15, 2002.

FOR FURTHER INFORMATION CONTACT: Joseph McGarvey, Fatigue Specialist, FAA, Chicago Aircraft Certification Office, Airframe and Administrative Branch, 2300 East Devon Ave., Des Plaines, Illinois 60018, telephone (847) 294–7136, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD for EHC Model TH–28 and 480 helicopters was published in the **Federal Register** on September 18, 2001 (66 FR 48102). That action proposed establishing a life limit of 5000 hours TIS for both upper and lower hub plates, part number (P/N) 28–14280–1 and 28–14281–1. Also proposed was replacing hub plates, P/N 28–14280–1 and 28–14281–1, having 5000 or more hours TIS with airworthy hub plates.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 4 helicopters of U.S. registry will be affected by this AD, that it will take approximately 10 work hours per helicopter to replace the hub plates, and that the average labor rate is $60 per work hour. Creating a component history or equivalent record

would take approximately 2 hours. Required parts will cost approximately $5350 to install hub plates, P/N 28–14280–3 and 28–14281–3 and $5000 to install hub plates, P/N 28–14280–5 and 28–14281–5, per helicopter. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $24,280 maximum, assuming that all hub plates are replaced and that hub plates, P/N 28–14280–3 and 28–14281–3, are installed.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2001–25–02 Enstrom Helicopter Corporation: Amendment 39–12554. Docket No. 2001–SW–27–AD.

Applicability: Model TH–28 and 480 helicopters, with upper hub plate, part number (P/N) 28–14280–1, and lower hub plate, P/N 28–14281–1, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a hub plate, loss of control of the main rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 30 days after the effective date of this AD, for upper hub plate, P/N 28–14280–1, and for lower hub plate, P/N 28–14281–1, create a component history card or equivalent record, and determine the total hours time-in-service (TIS). Thereafter, record the hours TIS for each hub plate and replace each hub plate having 5000 or more hours TIS as follows:

(1) Install hub plates, P/N 28–14280–3 and 28–14281–3, on helicopters with main rotor damper, P/N 28–14375–8.

(2) Install hub plates, P/N 28–14280–5 and 28–14281–5, on helicopters with main rotor damper, P/N 28–14375–10.

(b) This AD revises the Limitations section of the applicable maintenance manual by establishing a life limit of 5000 hours TIS for the upper hub plate, P/N 28–14280–1, and for the lower hub plate, P/N 28–14281–1.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Chicago ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Chicago ACO.

(d) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on January 15, 2002.

Issued in Fort Worth, Texas, on November 30, 2001.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–30499 Filed 12–10–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 010607148–1277–02]

RIN 0691–AA42

International Services Surveys: BE–48, Annual Survey of Reinsurance and Other Insurance Transactions by U.S. Insurance Companies With Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: This final rule revises regulations for the BE–48, Annual Survey of Reinsurance and Other Insurance Transactions by U.S. Insurance Companies with Foreign Persons.

The BE–48 survey is conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act. The data are needed to support U.S. trade policy initiatives; compile the U.S. international transactions, national income and product, and input-output accounts; assess U.S. competitiveness in international trade in services; and improve the ability of U.S. businesses to identify and evaluate market opportunities.

The revised rule raises the exemption level for the 2001 annual survey to $2 million in either reinsurance premiums, received or paid; reinsurance losses, paid or recovered; primary insurance premiums received; or primary insurance losses paid, from $1 million on the previous (2000) survey. Raising the exemption level will reduce respondent burden, particularly for small companies.

EFFECTIVE DATE: This final rule will be effective January 10, 2002.

FOR FURTHER INFORMATION CONTACT: R. David Belli, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9800.

SUPPLEMENTARY INFORMATION: In the September 5, 2001, **Federal Register**, volume 66, No. 172, 66 FR 46407–46408, BEA published a notice of proposed rulemaking setting forth revised reporting requirements for the BE–48, Annual Survey of Reinsurance and Other Insurance Transactions by U.S. Insurance Companies with Foreign Persons. No comments on the proposed

rule were received. Thus, this final rule is the same as the proposed rule.

This final rule amends 15 CFR part 801 by revising Section 801.9(b)(4)(ii) to set forth revised reporting requirements for the BE–48 Annual Survey of Reinsurance and Other Insurance Transactions by U.S. Insurance Companies with Foreign Persons. The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act (Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101–3108, as amended). Section 3103(a) of the Act provides that the President shall, to the extent he deems necessary and feasible—* * * (1) conduct a regular data collection program to secure current information * * * related to international investment and trade in services * * * . In Section 3 of Executive Order 11961, as amended by Executive Order 12518, the President delegated authority granted under the Act as concerns international trade in services to the Secretary of Commerce, who has redelegated it to BEA.

The major purposes of the survey are to monitor trade in services; to support U.S. trade policy initiatives; compile the U.S. international transactions, national income and product, and input-output accounts; assess U.S. competitiveness in international trade in services; and improve the ability of U.S. businesses to identify and evaluate market opportunities.

BEA will conduct the BE–48 annual survey for the reporting year 2001. The BE–48 estimates will cover the universe of reinsurance and other insurance transactions covered by the survey. Reporting is required from U.S. persons with reinsurance premiums, received or paid; reinsurance losses, paid or recovered; primary insurance premiums received; or primary insurance losses paid, in excess of $2 million during the reporting year. Respondents meeting these criteria must supply data on the amount of their reinsurance premiums, received or paid; reinsurance losses, paid or recovered; primary insurance premiums received; or primary insurance losses paid, disaggregated by county. Respondents that have covered transactions of $2 million or less during the reporting year are asked to provide voluntary estimates of their total premiums or losses of reinsurance and other insurance transactions.

Executive Order 12866

This final rule is not significant for purposes of E.O. 12866.

Executive Order 13132

This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

Paperwork Reduction Act

The collection of information required in this final rule has been approved by the Office of Management and Budget under the Paperwork Reduction Act. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid OMB Control Number; such a Control Number (0608–0016) has been displayed.

The survey is expected to result in the filing of reports, containing mandatory or voluntary data, from about 325 respondents. The average burden for completing the BE–48—both the mandatory and voluntary sections—is estimated to be 4 hours. thus, the total respondent burden of the survey is estimated at 1,300 hours (325 respondents times 4 hours average burden). The actual burden will vary from reporter to reporter, depending upon the number of their reinsurance and other insurance transactions and the ease of assembling the data. Thus, it may range from 1 hour for a reporter that has a small number of reinsurance and other insurance transactions and easily accessible data, or that reports only in the voluntary section of the form, to 20 hours for a very large reporter that engages in a large number of reinsurance and other insurance transactions and has difficulty in locating and assembling the required data. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments regarding the burden estimate or any other aspect of this collection of information should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230, and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0016, Washington, DC 20503 (Attention PRA Desk Officer for BEA).

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities. The information collection excludes most small businesses from mandatory reporting. The reporting threshold for this survey is set at a level that will exempt most small businesses from reporting. The BE–48 annual survey will be required only from reporting threshold for this survey is set at a level that will exempt most small businesses from reporting. The BE–20 benchmark survey will be required only from U.S. persons with sales to, or purchases from, unaffiliated foreign persons in excess of $1 million during the reporting year, in a covered service; the exemption level for the previous benchmark survey, covering 1996, was $500,000. Thus, the exemption level will exclude most small businesses from mandatory coverage. Of those smaller businesses that must report, most will tend to have specialized operations and activities, so they will likely report only one type of transaction, often with a single partner country; therefore, the burden on them should be small.

List of Subjects in 15 CFR Part 801

Balance of payments, Economic statistics, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: November 13, 2001.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA amends 15 CFR part 801, as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

1. The authority citation for 15 CFR part 801 continues to read as follows:

Authority: 5 U.S.C. 301, 15 U.S.C. 4908, 22 U.S.C. 3101–3108, and E.O. 11961 (3 CFR, 1977 Comp., p. 860 as amended by E.O. 12013 (3 CFR, 1977 Comp., p. 147), E.O. 12318 (3 CFR, 1981 Comp., p. 173), and E.O. 12518 (3 CFR, Comp., p. 348).

2. Section 801.9(b)(4)(ii) is revised to read as follows:

§ 801.9 Reports required.

(b) * * *

(4) * * *

(ii) *Exemption.* A. U.S. person otherwise required to report is exempt if, with respect to transactions with foreign persons, each of the following

six items were $2 million or less in the reporting period: Reinsurance premiums received, reinsurance premiums paid, reinsurance losses paid, reinsurance losses recovered, primary insurance premiums received, and primary insurance losses paid. If any one of these items is greater than $2 million in the reporting period, a report must be filed.

[FR Doc. 01–30509 Filed 12–10–01; 8:45 am]

BILLING CODE 3510–06–M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 010724189–1276–02]

RIN 0691–AA41

International Services Surveys: BE–20, Benchmark Survey of Selected Services Transactions With Unaffiliated Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: This final rule revises regulations for the BE–20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons.

The BE–20 survey is conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act. The data are needed to support U.S. trade policy initiatives; compile the U.S. international transactions, national income and product, and input-output accounts; assess U.S. competitiveness in international trade in services; and improve the ability of U.S. businesses to identify and evaluate market opportunities.

The rule raises the exemption level for the 2001 benchmark survey to $1 million in covered sales or purchases transactions, from $500,000 on the previous (1996) survey. Raising the exemption level will reduce respondent burden, particularly for small companies. The rule also: creates new categories for other trade-related services, auxiliary insurance services, and waste treatment and depollution services; adds coverage of transcription services to "other" private services; and amends several other service categories. These changes will close some statistical gaps in the coverage of cross-border services transactions and bring the survey into better compliance with international standards for compilation of statistics on trade in services.

The changes to services that have been reported in past benchmark surveys and the types of new services to be reported reflect BEA's experience in collecting data on selected services transactions over the past 15 years and the growth of new services in the global economy.

EFFECTIVE DATE: This final rule will be effective January 10, 2002.

FOR FURTHER INFORMATION CONTACT: R. David Belli, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9800.

SUPPLEMENTARY INFORMATION: In the August 28, 2001, **Federal Register**, volume 66, No. 167, 66 FR 45219–45221, BEA published a notice or proposed rulemaking setting forth revised reporting requirements for the BE–20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons. No comments on the proposed rule were received. Thus, this final rule is the same as the proposed rule. This final rule amends 15 CFR part 801 by revising § 801.10 to set forth revised reporting requirements for the BE–20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons. The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act (Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101–3108, as amended). Section 3103(a) of the Act provides that the President shall, to the extent he deems necessary and feasible—* * * (1) conduct a regular data-collection program to secure current information * * * related to international investment and trade in services * * *". In Section 3 of Executive Order 11961, as amended by Executive Order 12518, the President delegated authority granted under the Act as concerns international trade in services to the Secretary of Commerce, who has redelegated it to BEA.

The major purposes of the survey are to monitor trade in services; to support U.S. trade policy initiatives; compile the U.S. international transactions, national income and product, and input-output accounts; assess U.S. competitiveness in international trade in services; and improve the ability of U.S. businesses to identify and evaluate market opportunities.

BEA will conduct the BE–20 benchmark survey for the reporting year 2001. The BE–29 estimates will cover the universe of transactions covered by the survey. Reporting is required from U.S. persons who have sales to or purchases from unaffiliated foreign persons in a covered service in excess of $1 million during the reporting year. Respondents meeting these criteria must supply data on the amount of their sales or purchases for each covered type of service, disaggregated by country. Respondents that have covered transactions of $1 million or less during the reporting year are asked to provide voluntary estimates of their total sales or purchases of each type of covered service.

Executive Order 12866

This final rule is not significant for purposes of E.O. 12866.

Executive Order 13132

This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

Paperwork Reduction Act

The collection of information required in this final rule has been approved by the Office of Management and Budget under the Paperwork Reduction Act. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a current valid OMB Control Number; such a Control Number (0608–0058) has been displayed.

The survey is expected to result in the filing of reports, containing mandatory or voluntary data, from about 1,100 respondents. The average burden for completing the BE–20—both the mandatory and voluntary sections—is estimated to be 12 hours. Thus, the total respondent burden of the survey is estimated at 13,200 hours (1,100 respondents times 12 hours average burden). The actual burden will vary from to reporter, depending upon the number and variety of their services transactions and the ease of assembling the data. Thus, it may range from 4 hours for a reporter that has a small number and variety of transactions and easily accessible data, or that reports only in the voluntary section of the form, to 500 hours for a very large reporter that engages in a large number and variety of services transactions and has difficulty in locating and assembling the required data. This estimate includes time for reviewing instructions, searching existing data

sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments regarding the burden estimate or any other aspect of this collection of information should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230, and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0058, Washington, DC 20503 (Attention PRA Desk Officer for BEA).

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities. The information collection excludes most small businesses from mandatory reporting. U.S. persons with reinsurance premiums, received or paid; reinsurance losses, paid or recovered; primary insurance premiums received; or primary insurance losses paid, with foreign persons in excess of $2 million during the reporting year; the exemption level for the previous survey, covering 2000, was $1 million. Thus, the exemption level will exclude most small businesses from mandatory coverage. Of those smaller businesses that must report, most will tend to have specialized operations and activities, so they will likely report only one type of reinsurance of other insurance transaction, often with a single partner country; therefore, the burden on them should be small.

List of Subjects in 15 CFR Part 801

Balance of payments, Economic statistics, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: November 13, 2001.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA amends 15 CFR part 801, as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

1. The authority citation for 15 CFR Part 801 continues to read as follows:

Authority: 5 U.S.C. 301, 15 U.S.C. 4908, 22 U.S.C. 3101–3108, and E.O. 11961 (3 CFR, 1977 Comp., p. 860 as amended by E.O. 12013 (3 CFR, 1977 Comp., p. 147), E.O. 12318 (3 CFR, 1981 Comp., p. 173), and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 801.10 is revised to read as follows:

§ 801.10 Rules and regulations for the BE–20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons.

The BE–20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons, will be conducted covering companies' 2001 fiscal year and every fifth year thereafter. All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 through 801.9(a) are applicable to this survey. Additional rules and regulations for the BE–20 survey are given in this section. More detailed instructions and descriptions of the individual types of services covered are given on the report form itself.

(a) The BE–20 survey consists of two parts and seven schedules. Part I requests information needed to determine whether a report is required and which schedules apply. Part II requests information about the reporting entity. Each of the seven schedules covers one or more types of services and is to be completed only if the U.S. Reporter has transactions of the type(s) covered by the particular schedule.

(b) Who must report—(1) Mandatory reporting. A BE–20 report is required from each person who had transactions (either sales or purchases) in excess of $1 million with unaffiliated foreign persons in any of the services listed in paragraph (c) of this section during its fiscal year covered by the survey.

(i) The determination of whether a U.S. person is subject to this mandatory reporting requirement may be judgmental, that is, based on the judgement of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed records search. Because the $1 million threshold applies separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both sales and purchases.

(ii) Reporters who file pursuant to this mandatory reporting requirement must complete Parts I and II of form BE–20 and all applicable schedules. The total amounts of transactions applicable to a particular schedule are to be entered in the appropriate column(s) on line 1 of the schedule. In addition, except for sales of merchanting services, these amounts must be distributed below line 1 to the country(ies) involved in the transaction(s). For sales of merchanting services, the data by individual foreign country are not required to be reported, although these data may be reported voluntarily.

(iii) Application of the $1 million exemption level to each covered service is indicated on the schedule for that particular service. It should be noted that an item other than sales or purchases may be used as the measure of a given service for purposes of determining whether the threshold for mandatory reporting of the service is exceeded.

(2) *Voluntary Reporting.* If, during the fiscal year covered, the U.S. person's total transactions (either sales or purchases) in any of the types of services listed in paragraph (c) of this section are $1 million or less, the U.S. person is requested to provide an estimate of the total for each type of service.

(i) Provision of this information is voluntary. The estimates may be judgmental, that is, based on recall, without conducting a detailed manual records search. Because the $1 million threshold applies separately to sales and purchases, the voluntary reporting option may apply only to sales, only to purchases, or to both sales and purchases.

(ii) The amounts of transactions reportable on a particular schedule are to be entered in the appropriate column(s) in the voluntary reporting section of the schedule; they are not required to be disaggregated by country. Reporters filing voluntary information only should also complete Parts I and II of the form.

(3) Any U.S. person that receives the BE–20 survey form from BEA, but is not reporting data in either the mandatory or voluntary section of the form, must nevertheless complete and return the Exemption claim included with the form to BEA. This requirement is necessary to ensure compliance with reporting requirements and efficient administration of the Act by eliminating unnecessary followup contact.

(c) *Covered types of services.* Only the services listed in this paragraph are covered by the BE–20 survey. Other services, such as transportation and reinsurance, are not covered. Covered services are Agricultural services; research, development, and testing services; management, consulting, and public relations services; management of health care facilities; accounting auditing, and bookkeeping services; legal services; educational and training services; mailing, reproduction, and commercial art; employment agencies and temporary help supply services;

industrial engineering services; industrial-type maintenance, installation, alteration, and training services; performing arts, sports, and other live performances, presentations, and events; sale and purchase of rights to natural resources, and lease bonus payments; use or lease of rights to natural resources, excluding lease bonus payments; disbursements to fund news-gathering costs of broadcasters; disbursements to fund news-gathering costs of print media; disbursements to fund production costs of motion pictures; disbursements to fund production costs of broadcast program material other than news; disbursements to maintain government tourism and business promotion offices; disbursements for sales promotion and representation; disbursements to participate in foreign trade shows (purchases only); premiums paid on purchases of primary insurance; losses recovered on purchases of primary insurance; construction services (purchases only); engineering, architectural, and surveying services (purchases only); mining services (purchases only); merchanting services (sales only); financial services (purchases only, by companies or parts of companies that are not financial services providers); advertising services; computer and data processing services; data base and other information services; telecommunications services; operational leasing services; other trade-related services; auxiliary insurance services; waste treatment and depollution services; and "other" private services. "Other" private services covers transactions in the following types of services: Language translation services, salvage services, security services account collection services, satellite photograph and remote sensing/satellite imagery services, space transport (includes satellite launches, transport of goods and people for scientific experiments, and space passenger transport), and transcription services.

[FR Doc. 01–30508 Filed 12–10–01; 8:45 am]

BILLING CODE 3510–06–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8966]

RIN 1545–AT47

Effect of the Family and Medical Leave Act on the Operation of Cafeteria Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations that were published in the **Federal Register** on October 17, 2001 (66 FR 52675). These regulations relate to cafeteria plans that reflect changes made by the Family and Medical Leave Act of 1993 (Act).

DATES: These corrections are effective October 17, 2001.

FOR FURTHER INFORMATION CONTACT: Shoshanna Chaiton, (202) 622–6080 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 125 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 8966) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, final regulations (TD 8966), (FR Doc. 01–25909), published on October 17, 2001 (66 FR 52675) is corrected as follows:

§ 1.125–3 [Corrected]

On page 52677, column 3, § 1.125–3, line 3, the language "Family and Medical Leave Act (FMLA)" is corrected to read "Family and Medical Leave Act (FMLA), 29 U.S.C. 2601 *et seq.*,"

On page 52677, column 3, § 1.1253, Q–1, lines 4 and 5, the language "when taking unpaid Family and Medical Leave Act (FMLA), 29 U.S.C., is corrected to read "when taking unpaid FMLA, 29 U.S.C."

LaNita Van Dyke,

Acting Chief, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).

[FR Doc. 01–30621 Filed 12–10–01; 8:45 am]

BILLING CODE 4830–01–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2001–7A]

Disruption or Suspension of Postal or Other Transportation or Communications Services

AGENCY: Copyright Office, Library of Congress.

ACTION: Interim regulations; Request for comments; Correction.

SUMMARY: On December 4, 2001, the Copyright Office published an interim regulation addressing the effect of a general disruption or suspension of postal or other transportation or communications services. This document makes corrections to that interim regulation.

EFFECTIVE DATE: December 11, 2001.

FOR FURTHER INFORMATION CONTACT: Sandra L. Jones, Writer Editor, or Marilyn J. Kretsinger, Assistant General Counsel, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington DC 20024–0400. Telephone: (202) 707–8380. Fax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: The Copyright Office published an interim regulation in the **Federal Register** on December 4, 2001, addressing the effect of a general disruption or suspension of postal or other transportation or communications services on the Office's receipt of deposits, applications, fees, or any other materials, and the assignment of a date of receipt to such materials. This document makes a non-substantial correction to the interim regulation.

In rule RM2001–7 published on December 4, 2001, (66 FR 62942), make the following correction. On page 62944, in the third column, redesignate paragraphs (f)(i) through (iv) as paragraphs (f)(1) through (4).

Dated: December 6, 2001.

Marilyn J. Kretsinger,

Assistant General Counsel.

[FR Doc. 01–30603 Filed 12–10–01; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT057–7216a; FRL–7114–9]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This action approves Connecticut's one-hour Ozone Attainment Demonstration for the Connecticut portion of the New York-Northern New Jersey-Long Island (NY–NJ–CT) severe ozone nonattainment area. EPA is also approving a variety of enforceable commitments associated with the attainment demonstration, Connecticut's post-1999 rate-of-progress (ROP) plan SIP and associated ROP contingency measures, and a reasonably available control measure (RACM) analysis submitted by the state. The post-1999 ROP plan and attainment demonstration establish 2002, 2005 and 2007 volatile organic compound (VOC) and nitrogen oxide (NO_X) motor vehicle emissions budgets for the area for use in transportation conformity. EPA is also approving these budgets.

Along with approving the commitments for the Connecticut portion of the New York-Northern New Jersey-Long Island (NY–NJ–CT) severe ozone nonattainment area, EPA is also approving a modification to the previously approved enforceable commitment associated with the attainment demonstration for the Greater Connecticut ozone nonattainment area. That modification changes the date for submittal of the mid-course review of the attainment status of the one-hour ozone nonattainment area from December 31, 2003 to December 31, 2004.

EFFECTIVE DATE: This rule becomes effective on January 10, 2002.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection by appointment weekdays from 9 a.m. to 4 p.m., at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA, and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, (617) 918–1664.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever "we," "us," or "our" are used, we mean EPA.

This supplementary information section is organized as follows:

I. What Connecticut SIP revisions are the topics of this action and what previous action has EPA taken on these SIP revisions?
II. What are the requirements for approval of the attainment demonstration?
III. What comments did EPA receive on the proposed approvals and how have we responded?
IV. Final EPA Action
V. Administrative Requirements

I. What Connecticut SIP Revisions Are the Topics of This Action and What Previous Action Has EPA Taken on These SIP Revisions?

A. Attainment Demonstration and Enforceable Commitments

EPA is approving an attainment demonstration SIP submitted on September 16, 1998 by the Connecticut Department of Environmental Protection (DEP) for the Connecticut portion of the NY–NJ–CT one-hour severe ozone nonattainment area, as modified on February 8, 2000 by an addendum. Connecticut also submitted additional SIP elements for its attainment demonstration on October 15, 2001. All three submittals are discussed in this section.

EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut's portion of the NY–NJ–CT severe area's ozone attainment demonstration on December 16, 1999 (64 FR 70348). In that action, EPA proposed to conditionally approve the ozone attainment demonstration submitted by the state. We identified the following items in the December 16, 1999 rulemaking as conditions upon which we would base our final approval: (1) Submission of adequate motor vehicle emission budgets for both VOC and NO_X; (2) submission of control measures necessary to meet the ROP requirement from 1999 to the attainment year of 2007, including ROP target level calculations for 2002, 2005 and 2007; (3) a commitment to submit additional control measures to make up for the projected need for additional controls to ensure attainment of the one-hour ozone standard by November 2007; and (4) a commitment to perform a mid-course review. EPA also proposed, in the alternative, to disapprove the attainment demonstration if Connecticut did not submit these items. Also, on December 16, 1999, EPA proposed to approve and/or conditionally approve or disapprove in the alternative the attainment demonstration SIPs for nine other areas in the eastern United States (64 FR 70317).

On February 22, 2000 (65 FR 8703), EPA published a notice of availability announcing two guidance memoranda relating to the ten one-hour ozone attainment demonstrations (including the Connecticut portion of the NY–NJ–CT severe area) proposed for approval or conditional approval on December 16, 1999. The guidance memoranda are entitled: "Guidance on Motor Vehicle Emissions Budgets in One-Hour Ozone Attainment Demonstrations," dated November 3, 1999, and "Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas," dated November 30, 1999.

On July 28, 2000 (65 FR 46383), EPA published a notice of supplemental proposed rulemaking relating to the ten one-hour ozone attainment demonstrations (including the Connecticut portion of the NY–NJ–CT severe area) proposed for approval or conditional approval on December 16, 1999. In the supplemental notice, EPA clarified and expanded on two issues relating to the motor vehicle emissions budgets in the attainment demonstration SIPs. In addition, EPA reopened the comment period to take comment on those two issues and to allow comment on any additional materials that were placed in the dockets for the ten proposed actions close to or after the initial comment period closed on February 14, 2000.

EPA received comments in response to our December 16, 1999 proposal and the supplemental notice. We address the comments relevant to the Connecticut portion of the NY–NJ–CT severe attainment demonstration in section IV below.

On February 8, 2000, Connecticut DEP submitted an addendum to the ozone attainment demonstration for the Connecticut portion of the NY–NJ–CT severe nonattainment area, which contains certain enforceable commitments. The addendum was submitted in response to requirements for full approval EPA articulated in our December 16, 1999 (64 FR 70348) proposed rulemaking on the attainment demonstration SIP. On June 4, 2001, Connecticut DEP submitted a number of outstanding SIP elements for approval via parallel processing. Included in this submittal were proposed revisions to some of the enforceable commitments made on February 8, 2000.

On August 10, 2001 (66 FR 42172), EPA proposed full approval of Connecticut's one hour ozone attainment demonstration for the state's portion of the NY–NJ–CT severe area and of various enforceable commitments. EPA received no comments on its August 10, 2001 proposal to approve the Connecticut one hour ozone attainment demonstration.

On October 15, 2001, Connecticut submitted final versions of the SIP amendments sent to EPA on June 4, 2001.

In this action, EPA is approving the attainment demonstration, the control measures and the final enforceable commitments made by the state. Those enforceable commitments from the February 8, 2000 and October 15, 2001 submittals include: (1) A commitment to perform a mid-course review of the attainment status of the one-hour ozone nonattainment area by December 31, 2004; (2) a commitment to adopt and submit by October 31, 2001 additional necessary regional control measures to offset the shortfall in emission reductions needed to attain the one-hour ozone standard by November 2007; and (3) a commitment to adopt and submit by October 31, 2001, additional necessary intrastate control measures to offset the shortfall in emission reductions needed to attain the one-hour ozone standard by November 2007. With regard to the specific control measures that the state will adopt to offset the shortfall in emission reductions, the Connecticut DEP has committed to adopt and submit: (1) Additional restrictions on VOC emissions from mobile equipment and repair operations and (2) requirements to reduce VOC emissions from certain consumer products.

B. Post-1999 Rate-of-Progress Emission Reduction Plan

The post-1999 ROP plan documents how Connecticut complied with the provisions of section 182(c)(2)(B) of the Act through 2007. This section of the Act requires that states containing certain ozone nonattainment areas develop strategies to reduce emissions of the pollutants that react to form ground level ozone.

EPA is approving the post-1999 ROP emission reduction plan the State of Connecticut submitted on October 15, 2001 for the state's portion of the NY–NJ–CT severe ozone nonattainment area as a revision to Connecticut's SIP. For purposes of meeting the ROP requirements, Connecticut, New York and New Jersey each submitted a plan to reduce emissions within their own portion of the nonattainment area. EPA is taking action today only on the Connecticut portion of the NY–NJ–CT post-1999 plan. EPA will take action on the New York and New Jersey post-99 plans separately. On August 10, 2001 (66 FR 42178), EPA published a proposed rulemaking for the State of Connecticut's proposed post-99 plan that the state submitted for approval via parallel processing on June 4, 2001. EPA received no comments regarding its proposal to approve the Connecticut post-1999 ROP plan.

C. Transportation Conformity Budgets

Transportation conformity is required by section 176(c) of the Clean Air Act (CAA or Act), and EPA's transportation conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. States are required to establish motor vehicle emissions budgets in any control strategy SIP they submit for attainment and maintenance of the national ambient air quality standards.

In the December 16, 1999 proposed rulemaking on the Connecticut attainment demonstration, EPA proposed, in the alternative, to disapprove the attainment demonstration if Connecticut did not submit adequate motor vehicle emissions budgets and a commitment to adopt and submit additional control measures to make up for the projected need for additional controls to ensure attainment of the one-hour ozone standard by November 2007. On February 8, 2000, the Connecticut DEP submitted revisions to the NY–NJ–CT attainment demonstration which contained 2007 motor vehicle emissions budgets for VOC and NO_X, as well as the necessary enforceable commitment.

A public comment period was held on these budgets when they were posted at *www.epa.gov/oms/transp/conform/currsips.htm*. The public comment period began on February 14, 2000, and closed on March 20, 2000. EPA sent a letter to Connecticut DEP on May 31, 2000 finding these budgets adequate for use in transportation conformity determinations. EPA received no public comments during that public comment period.

On June 16, 2000 (65 FR 37778), EPA notified the public that we had found the 2007 VOC and NO_X motor vehicle emission budgets Connecticut submitted on February 8, 2000 adequate for conformity purposes. These budgets became effective on July 3, 2000 (65 FR 37779).When we originally proposed approval of the Connecticut portion of the NY–NJ–CT severe area attainment demonstration on December 16, 1999, however, EPA did receive comments that opposed EPA determining budgets adequate for transportation conformity purposes. EPA responded to all of those comments before determining the 2007 budgets adequate. A copy of our response to comments is available at *http://www.epa.gov/oms/transp/conform/resp_ct.pdf*.

In this notice, EPA is approving into the SIP the 2007 budgets for the Connecticut portion of the NY–NJ–CT severe area. EPA is also approving two enforceable commitments related to the conformity budgets. Those are: (1) a commitment to revise the attainment-level 2007 motor vehicle emissions budgets within one year of the date that EPA releases the final version of our motor vehicle emissions model, MOBILE6; and (2) a commitment to recalculate and submit revised motor vehicle emissions budgets if any additional motor vehicle control measures are adopted to address the shortfall.

We are only approving the 2007 budgets to be used for conformity purposes until Connecticut submits revised 2007 motor vehicle emissions budgets using MOBILE6 and/or revised 2007 budgets associated with mobile source measures to fill the shortfall and we have found them adequate. At that point, our approval of the 2007 budgets will terminate and the new adequate 2007 budgets will apply for conformity purposes. For more information, please see the proposal published on August 10, 2001 (66 FR 42172).

On July 28, 2000 (65 FR 46383), EPA published a notice of supplemental proposed rulemaking relating to ten one-hour ozone attainment demonstrations (including the Connecticut portion of the NY–NJ–CT severe area) proposed for approval or conditional approval on December 16, 1999. In the supplemental notice, EPA clarified and expanded on two issues relating to the motor vehicle emissions budgets in the attainment demonstration SIPs. In addition, EPA reopened the comment period to take comment on those two issues and to allow comment on any additional materials that were placed in the dockets for the ten proposed actions close to or after the initial comment period closed on February 14, 2000.

On June 4, 2001, Connecticut DEP submitted for parallel processing its proposed post-1999 ROP plan which contains 2002, 2005 and 2007 motor

vehicle emissions budgets for nitrogen oxides (NO_X) and volatile organic compounds (VOCs) for the State's portion of the NY–NJ–CT severe area. The 2007 motor vehicle emissions budgets contained in the Connecticut post-1999 ROP plan match the conformity budgets contained in the state's attainment demonstration submitted on February 15, 2000. The 2002 and 2005 motor vehicle emissions budgets are new budgets established by the post-1999 ROP plan. The following table contains these NO_X and VOC motor vehicle emissions budgets in units of tons per summer day:

TABLE 1.—MOTOR VEHICLE EMISSIONS BUDGETS FOR USE IN CONFORMITY

	2002	2005	2007
VOC (tpsd)	15.20	11.42	9.69
NO_X (tpsd)	38.09	29.01	23.68

EPA opened a 30-day public comment period for these budgets on its conformity Web site on August 10, 2001 (see *http://www.epa.gov/otaq/transp/conform/currsips.htm)*. The comment period closed on September 10, 2001, and EPA did not receive any comments on these conformity budgets. On November 1, 2001, EPA issued a letter to Connecticut determining that these budgets were adequate for use in transportation conformity determinations. The 2002 and 2005 motor vehicle emissions budgets become effective December 26, 2001.

On October 15, 2001, Connecticut DEP submitted its final post-1999 ROP plan which contains 2002, 2005 and 2007 motor vehicle emissions budgets for nitrogen oxides (NO_X) and volatile organic compounds (VOCs) in final form for the Connecticut portion of the NY–NJ–CT severe area. These budgets are identical to those submitted for parallel processing and posted for comment on EPA's Web site. In this notice, in addition to approving the 2007 motor vehicle emissions budgets, EPA is approving into the SIP the 2002 and 2005 motor vehicle emissions budgets for VOC and NO_X from the post-1999 plan.

D. Reasonably Available Control Measures (RACM)

EPA is approving as a revision to Connecticut's SIP the RACM analysis plan the State of Connecticut finalized on October 15, 2001 for the State's portion of the NY–NJ–CT severe ozone nonattainment area.

On August 10, 2001 (66 FR 42178), EPA published a proposed rulemaking for Connecticut's proposed RACM plan that the state submitted for approval via parallel processing on August 2, 2001. EPA received no comments regarding its proposal to approve the Connecticut RACM plan.

II. What Are the Requirements for Approval of the Attainment Demonstration?

A. Attainment Demonstration and Budgets

On February 8, 2000, Connecticut DEP submitted an addendum to the ozone attainment demonstrations for the Connecticut portion of the NY–NJ–CT severe nonattainment area. Connecticut submitted the addendum in response to EPA's requirements for full approval as explained in our proposed rulemaking on the attainment demonstration SIP. Connecticut DEP held a public hearing on the addendum on January 6, 2000.

The February 8, 2000 addendum contained 2007 VOC and NO_X motor vehicle emissions budgets for the Connecticut portion of the NY–NJ–CT severe nonattainment area. Connecticut calculated the motor vehicle emissions budgets to be consistent with requirements Connecticut is relying on in its attainment demonstration for the Connecticut portion of the NY–NJ–CT severe area. Connecticut also incorporated credit for the Tier 2/sulfur program in calculating the emissions budgets consistent with the November 8, 1999 memorandum entitled "1-Hour Ozone Attainment Demonstrations and Tier 2/Sulfur Rulemaking" from Lydia Wegman, Office of Air Quality Planning and Standards and Merrylin Zaw-Mon, Office of Mobile Sources. The motor vehicle emissions budgets for 2007 for VOC and NO_X submitted by Connecticut are shown in Table 1.

All States whose attainment demonstration includes the effects of the Tier 2/sulfur program have committed to revise and resubmit their motor vehicle emissions budgets after EPA releases the MOBILE6 model. On February 8, 2000, Connecticut submitted a commitment to revise the 2007 motor vehicle budgets in the attainment demonstration within one year of EPA's release of the MOBILE6 model. In this action, EPA is approving this commitment to revise the 2007 motor vehicle budgets in the attainment demonstration within one year of EPA's release of the MOBILE6 model.

As we proposed in our July 28, 2000 SNPR (65 FR 46383), today's final approval of the budgets contained in the 2007 attainment plan will be effective for conformity purposes only until such time as revised motor vehicle emissions budgets are submitted (pursuant to the commitment to submit revised budgets using the MOBILE6 model within one year of EPA's release of that model) and we have found those revised budgets adequate. We are only approving the attainment demonstration and its current budgets because Connecticut has provided an enforceable commitment to revise the 2007 budgets using the MOBILE6 model within one year of EPA's release of that model. Therefore, we are limiting the duration of our approval of the current 2007 budgets only until such time as the revised budgets are found adequate. Those revised 2007 budgets, once found adequate, will be more appropriate than the budgets we are approving for conformity purposes for the time being.

Similarly, EPA is only approving the 2007 attainment demonstration and its current 2007 budgets because Connecticut has provided an enforceable commitment to submit new budgets as a revision to the attainment SIP consistent with any new measures submitted to fill any shortfall, if the additional control measures affect on-road motor vehicle emissions. Therefore, we are limiting the duration of our approval of the current 2007 budgets only until such time as any such revised budgets are found adequate. Those revised 2007 budgets, once found adequate, will similarly be more appropriate than the budgets we are approving for conformity purposes for the time being.

The Addendum also includes Connecticut's analysis of the future air quality design value for the Connecticut portion of the NY–NJ–CT severe nonattainment area, which is identical to the EPA analysis found in the Technical Support Document to the notice of proposed rulemaking published December 16, 1999. This analysis supports the contention outlined in the notice of proposed rulemaking that additional emission controls beyond the benefits of the Tier 2/Sulfur program are needed for the Connecticut portion of the NY–NJ–CT severe area to demonstrate attainment.

B. Enforceable Commitments to Adopt Additional Control Measures

In our December 16, 1999 proposed conditional approval of Connecticut's ozone attainment demonstration, EPA said we did not believe the attainment analysis submitted at that time for NY–NJ–CT area demonstrates attainment by the year 2007. EPA's analysis to determine how much additional emission reduction is needed before we can approve Connecticut's attainment demonstration showed an ozone shortfall of 5 ppb for the NY–NJ–CT

severe nonattainment. In other words, our analysis predicted that the NY–NJ–CT area would remain 5 ppb over the NAAQS if Connecticut and its neighboring states do not achieve emission reductions beyond those included in the attainment demonstrations submitted by the states of Connecticut, New Jersey and New York. From this 5 ppb shortfall value we developed additional local emission reduction targets, and we recommended that, at a minimum, an additional 3.8% VOC and 0.3% NO_X reduction from base year 1990 inventories would be necessary to approve the attainment demonstration for this area. These additional reductions were to be over and above the CAA measures required for this area and the measures already relied on in the demonstration of attainment. Additionally, since reductions from EPA's Tier 2 tailpipe and low sulfur-in-fuel standards were already included in the EPA analysis, the percent reduction figures were also over and above Tier 2/Sulfur reductions. EPA directed the three states within the nonattainment area to work together to achieve these reductions.

In the February 8, 2000 addendum to the attainment demonstration for the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area, Connecticut included enforceable commitments to submit control measures for additional emission reductions to make-up for the shortfall outlined in EPA's December 16, 1999 proposed conditional approval. Specifically, Connecticut committed to: (1) Adopt and submit by December 31, 2000 additional NO_X limits applicable to municipal waste combustors (MWCs); (2) adopt and submit by October 31, 2001 additional necessary regional control measures to offset the shortfall in emission reductions necessary to attain the one-hour ozone standard by November 2007; and (3) adopt and submit by October 31, 2001, additional necessary intrastate control measures to offset the emission reduction shortfall in order to attain the one-hour ozone standard by November 2007.

The final approval of the Connecticut DEP regulation that reduces emissions of NO_X from Municipal Waste Combustors (MWC) below previously required levels was granted by EPA Region I's Regional Administrator on November 9, 2001. The approved MWC rule will be promulgated at 40 CFR 52.370(c)(90). The additional NO_X reductions that will be achieved by this regulation were not assumed in the attainment demonstration modeling submitted by the state and are thus eligible to fill the emission reduction shortfall necessary for attainment. Since we have already approved this rule, we will not take action on the February 8, 2000 commitment regarding the MWC rule.

In our August 10, 2001 proposed full approval rulemaking notice on the attainment demonstration, we indicated that the shortfall in emission reductions for the Connecticut portion of the nonattainment area was 5.3 tpsd of VOC and 0.5 tpsd of NO_X. Due to a correction we made to Connecticut's estimate of base year VOC emissions from architectural and industrial maintenance (AIM) coatings, the VOC shortfall is now considered to be 5.4 tpsd. In its October 15, 2001 submittal, Connecticut DEP outlines how the individual strategies it is committing to pursue will be sufficient to achieve reductions that will eliminate the shortfall.

In its June 4, 2001 submittal to EPA, Connecticut articulated that it has narrowed the list of further possible control measures for filling the shortfall to those for which model rules were developed by the Ozone Transport Commission (OTC). The OTC model rules include measures to reduce VOC from consumer products, portable fuel containers, AIM coatings, mobile equipment refinishing and repair operations, and solvent cleaning operations. The OTC model rules also include additional NO_X controls for fuel combustion sources, including gas turbines, stationary reciprocating engines, and industrial boilers. These model rules would achieve reductions beyond those already assumed in Connecticut's SIP for some of these measures. At the public hearing Connecticut DEP held on July 10, 2001, the DEP solicited public comment on each of the model rules to determine those that may be most appropriate for adaptation into Connecticut's regulations to address the shortfalls EPA identified for attaining the one-hour ozone standard and to make progress toward attaining the eight-hour ozone standard.

Subsequent to the public hearing, the Connecticut DEP has decided it would pursue adoption of: (1) additional restrictions on VOC emissions from mobile equipment refinishing and repair operations; and (2) requirements to reduce VOC emissions from certain consumer products. In its October 15, 2001 submittal, Connecticut is committing to pursue adoption of regulations for these two categories. Connecticut has proposed a rule on mobile equipment refinishing and repair operations and held a public hearing on it on September 15, 2001. The rule is scheduled to be adopted by the end of 2001. Connecticut DEP has begun the adoption process for the rule covering consumer products. Both of these rules will be adopted and implemented within a time period fully consistent with the NY–NJ–CT nonattainment area attaining the standard by its 2007 attainment date. In today's action, EPA is approving the enforceable commitments Connecticut DEP submitted to adopt control measures to offset the shortfall in emission reductions necessary to attain the one-hour ozone standard by November 2007.

C. Mid-Course Review

A mid-course review (MCR) for the NY–NJ–CT severe area is a reassessment of modeling analyses and more recent monitored data to determine if the prescribed control strategy is resulting in emission reductions and air quality improvements needed to attain the ambient air quality standard for ozone as expeditiously as practicable.

EPA believes that a commitment to perform a MCR is a critical element of the weight of evidence (WOE) analysis for the attainment demonstration on which EPA proposed action in December 1999. To approve the attainment demonstration SIP for the Connecticut portion of the New York City area, EPA believes that the state must have an enforceable commitment to perform a MCR.

Originally, the Connecticut DEP submitted an enforceable commitment with its attainment demonstration on September 16, 1998. The commitment made was to submit a MCR in the 2001/2002 time frame and an additional MCR in 2005. In our December 16, 1999 proposed conditional approval, EPA suggested that Connecticut revise its commitment to provide for the MCR immediately following the 2003 ozone season, so that the MCR would reflect regional NO_X reductions that were scheduled to occur by May 1, 2003 under the NO_X SIP call. Connecticut included this commitment in its February 8, 2000 submittal.

In the summer of 2000, the Court of Appeals for the D.C. Circuit issued an order providing that EPA could not mandate that states require source compliance with rules adopted to meet the SIP call before May 2004. Thus, consistent with more recent advice from us, and with the original intent that the MCR reflect the SIP call reductions, Connecticut has revised the submittal date of the MCR from December 31, 2003 to December 31, 2004. This new due date, and the logic behind its choice, also effects the Greater Connecticut ozone nonattainment area.

We have reviewed the commitment and approve this SIP revision for both the Connecticut portion of the NY–NJ–CT severe nonattainment area and the Greater Connecticut area. This new date is consistent with the EPA recommendation for submittal of the mid-course review on the attainment demonstration and should provide the most robust assessment of whether the state is on-track to attain the 1-hour ozone standard by its attainment date.

D. Post-1999 Rate-of-Progress Plan

This section is organized as follows:

1. What action is EPA taking today?

2. What are Connecticut's target emission levels for VOC and NO_X, and will the state's emissions be below these targets?

3. What control strategy will Connecticut use to meet its emission target levels?

4. How did Connecticut meet the contingency measure requirement?

1. What Action Is EPA Taking Today?

EPA is approving the post-1999 rate-of-progress (ROP) emission reduction plan the State of Connecticut submitted for the state's portion of the NY–NJ–CT severe ozone nonattainment area as a revision to Connecticut's SIP. For purposes of meeting the ROP requirements, Connecticut, New York and New Jersey each submitted a plan to reduce emissions within their own portion of the nonattainment area. EPA is taking action today only on the Connecticut portion of the NY–NJ–CT post-1999 plan.

The post-1999 ROP plan documents how Connecticut complied with the provisions of section 182 (c)(2)(B) of the Act through 2007. This section of the Act requires that states containing certain ozone nonattainment areas develop strategies to reduce emissions of the pollutants that react to form ground level ozone.

On August 10, 2001 (66 FR 42178), EPA published a proposed rulemaking on the State of Connecticut's ROP demonstration for 2002, 2005 and 2007. EPA received no comments regarding its proposal to approve the Connecticut post-1999 ROP plan.

2. What Are Connecticut's Target Emission Levels for VOC and NO_X, and Will the State's Emissions Be Below These Targets?

Connecticut's 2002, 2005, and 2007 target emission levels are shown in table 2, along with the state's projected, controlled emission levels. These target emission levels represent the maximum amount of emissions that Connecticut can emit in each year, given the state's post-1999 emission reduction requirements.

TABLE 2.—TARGET LEVELS AND PROJECTED, CONTROLLED EMISSIONS

Description	2002 VOC (tpsd)	2002 NO_X (tpsd)	2005 VOC (tpsd)	2005 NO_X (tpsd)	2007 VOC (tpsd)	2007 NO_X (tpsd)
Target Level	94.8	115.2	82.7	114.9	76.8	112.9
Projected Controlled Emissions	89.2	96.2	80.4	83.1	76.8	76.8

The emission targets shown in Table 2 reflect a minor adjustment we made to Connecticut's 1990 emission estimate for AIM coatings, which we discuss in further detail below. This modification does not affect the state's ability to meet the statutory ROP requirement.

3. What Control Strategy Will Connecticut Use To Meet Its Emission Target Levels?

EPA's August 10, 2001 proposed approval action outlined the control strategy that Connecticut used to meet its emission target levels. In summary, the state's control strategy consists of the emission reductions from the continued enforcement of measures EPA approved as part of the State's 15 percent and post-1996 (through 1999) emission reduction plans (64 FR 12015 (March 10, 1999) and 65 FR 62624 (October 19, 2000), respectively), coupled with emission reductions from the following programs: Connecticut's NO_X budget program affecting large point sources; municipal waste combustor (MWC) emission limits; federal non-road engine standards; phase II of the reformulated gasoline program; reductions from the final cut-points for the state's enhanced automobile inspection and maintenance program; reductions from the combined effect of tier II automobile standards and low sulfur in gasoline requirements; and phase I controls on heavy duty diesel engines. All these control measures are approved as part of Connecticut's SIP or are otherwise enforceable under the Act.

We agree with Connecticut's determination of emission reductions from its NO_X and VOC control strategy, with the minor exception of the architectural and industrial maintenance coatings (AIM) category that was part of the state's 15 percent plan. We agree with the 20 percent reduction Connecticut applied to its projected emissions for this source category due to a federal rule on these coatings. However, because Connecticut used different emission estimation methodologies to calculate its 1990 AIM emissions (used in development of the target levels) and its 1996 AIM emissions (used to project emissions), EPA concluded that an overstatement of reductions occurred due to these differing emission estimation techniques. To correct this discrepancy, we applied the more accurate 1996 AIM coatings emissions estimation methodology to Connecticut's 1990 base year estimate, and determined that Connecticut's base year emissions (the "ROP" inventory) for VOCs should be lowered from 144.0 tpsd to 142.3 tpsd. Inserting the correct 1990 emission estimate into the State's ROP calculation yields the emission target levels shown above in Table 2. It is important to note that correcting this element of Connecticut's baseline inventory has no effect on the choices the state has made in designing its ROP plan and contingency measures. Connecticut has sufficient emission reductions beyond what is required for these SIP elements such that this adjustment simply reduces that surplus slightly.

4. How Did Connecticut Meet the Contingency Measure requirement?

Connecticut has met its contingency measure obligation by using surplus emission reductions generated by the control measures in its post-1999 ROP plan. EPA policy allows use of surplus reductions that will occur in years after the ROP plan from already adopted measures to serve as contingency measures for ROP plans. We are approving Connecticut's demonstration that it meets the contingency measure provision of section 182(c)(9) of the Act, which requires contingency measures for serious and above milestone failures in ozone nonattainment areas classified serious and above.

Connecticut still must meet the contingency measure provision of section 172(c)(9) of the Act, which pertains to failure to attain the ozone standard by the required date, but EPA

is not obligated to approve such measures prior to approving the attainment demonstration. The EPA believes the contingency measure requirement of section 172(c)(9) is independent from the attainment demonstration requirements under sections 172(c)(1) and 182(c)(2)(A). The section 172(c)(9) contingency measure requirement addresses the event that an area fails to attain the ozone NAAQS by the attainment date established in the SIP and has no bearing on whether a state has submitted a SIP that projects attainment of the ozone NAAQS. The attainment SIP provides a demonstration that attainment ought to be reached, but the contingency measure SIP requirement of section 179(c)(9) concerns what is to happen only if attainment is not actually achieved. The EPA acknowledges that contingency measures are an independently required SIP revision, but does not believe that submission of contingency measures is necessary before EPA may approve an attainment SIP.

Connecticut's post-1999 ROP plan states that its large NO_X surplus is sufficient to meet both contingency measure provisions of the Act. However, the State's surplus NO_X reductions can not be used to meet the 179(c)(9) contingency measure requirement because that requirement pertains to a failure to meet the one hour ozone standard by the area's 2007 attainment date, and therefore must consist of measures that are surplus to the measures needed for attainment. The surplus NO_X reductions in Connecticut's ROP plan are not surplus to the measures needed for attainment.

In the event that attainment is not achieved by 2007, there are a number of EPA measures that will achieve significant emission reductions between 2007 and 2009. These include continuing reductions from EPA's Tier 2 tailpipe standards and EPA's standards for a variety of non-road sources. We have analyzed the Connecticut SIP and determined that the contingency obligation would be covered for this area by these measures. More details on EPA's contingency measure analysis are included in the docket for the rulemaking action. While there is not an approved SIP contingency measure that would apply if the state failed to attain, EPA believes that existing federally enforceable measures would provide the necessary substantive relief.

Other specific requirements of post-1999 ROP plans and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. See 66 FR 42178 (August 10, 2001).

E. SIP Elements EPA Approved Between December 16, 1999 and Today

In the NPR for the Connecticut attainment demonstration SIP published on December 16, 1999, EPA stated that it intended to publish, either before or at the same time as publication of final approval of the attainment demonstration, a final approval of Connecticut's VOC RACT rules pursuant to sections 182(b)(2)(A) and (C) of the Clean Air Act, the 9% rate of progress plan through 1999, the post-99 ROP plan, the state opt-in to the National Low Emission Vehicle (NLEV) program, and the NO_X SIP call SIP for the Connecticut portion of the NY–NJ–CT severe area. These measures are needed to fully approve the attainment demonstration.

EPA approved the Connecticut VOC RACT rules pursuant to sections 182(b)(2)(A) and (C) of Clean Air Act on October 19, 2000 (65 FR 62620). EPA approved the Connecticut area's 9% rate of progress plan on October 19, 2000 (65 FR 62624). EPA approved Connecticut's opt-in to the NLEV program on March 9, 2000 (65 FR 12476). EPA approved Connecticut's NO_X SIP call SIP on December 27, 2000 (65 FR 81743). This action approves the post-99 plan for the Connecticut portion of the NY–NJ–CT severe nonattainment area.

Additionally, subsequent to the December 16, 1999 proposal, EPA granted full approval to two other SIP elements in Connecticut. On March 9, 2000 (65 FR 12474), EPA approved Connecticut's Clean Fuel Fleets Substitute Plan as meeting the requirements of Section 182(c)(4) of the Clean Air Act. On October 27, 2000 (65 FR 64357), EPA approved the Connecticut Enhanced Inspection and Maintenance program SIP, converting it from a limited approval under the Clean Air Act to a full approval.

With the submission and approval of the SIP elements mentioned above, Connecticut has in place all of the required elements of the attainment demonstration SIP. As discussed elsewhere in this notice, Connecticut has met all of the requirements for full approval of its attainment demonstration for the Connecticut portion of the NY–NJ–CT severe area, and EPA is approving it today. The New York and New Jersey portions of the area will be the topic of different rulemaking actions.

III. What Comments Did EPA Receive on the Proposed Approvals and How Have We Responded?

As stated above, EPA did not receive comments on its August 10, 2001 proposal for the attainment demonstration, the post-99 plan, the motor vehicle emissions budgets or the RACM analysis. EPA did receive comments from the public on the NPR published on December 16, 1999 (64 FR 70332) for the Connecticut portion of the NY–NJ–CT severe area's ozone attainment demonstration. EPA received comments from Robert E. Yuhnke (Attorney for Environmental Defense and Natural Resources Defense Council), the Midwest Ozone Group, and ELM Packaging Company. EPA also received comments from the public on the supplemental proposed rulemaking published on July 28, 2000 (65 FR 46383), in which EPA clarified and expanded on two issues relating to the motor vehicle emissions budgets in the attainment demonstration SIPs. Environmental Defense commented on that supplemental proposal.

Additionally, on November 15, 2001, Environmental Defense submitted comments to EPA concerning several proposals to approve the attainment demonstrations for the New York and New Jersey portions of the NY–NJ–CT severe nonattainment area. These comments were not directed at the Connecticut attainment demonstration and generally discussed only the New York and New Jersey demonstrations in any detail. There was one comment in the letter that specifically focused on the adequacy of Connecticut's commitment to submit enforceable measures to address the emissions reduction shortfall. See Letter from Janea A. Scott and Val Washington to Raymond Werner (November 15, 2001) at section I.d. In section III.D., below, EPA is responding to this comment along with other comments concerning the shortfall measures.

The following discussion summarizes and responds to all of these comments. For convenience, the comments we received on previous NPRs have been grouped into categories.

A. Attainment Demonstrations—Weight of Evidence

Comment: The weight of evidence approach does not demonstrate attainment or meet CAA requirements for a modeled attainment demonstration. Commenters added several criticisms of various technical aspects of the weight of evidence approach, including certain specific applications of the approach to particular attainment demonstrations. These comments are discussed in the following response.

Response: Under section 182(c)(2) and (d) of the CAA, serious and severe ozone nonattainment areas were required to

submit by November 15, 1994, demonstrations of how they would attain the 1-hour standard. Section 182(c)(2)(A) provides that "[t]his attainment demonstration must be based on photochemical grid modeling or any other analytical method determined by the Administrator, in the Administrator's discretion, to be at least as effective." As described in more detail below, the EPA allows states to supplement their photochemical modeling results, with additional evidence designed to account for uncertainties in the photochemical modeling, to demonstrate attainment. This approach is consistent with the requirement of section 182(c)(2)(A) that the attainment demonstration "be based on photochemical grid modeling," because the modeling results constitute the principal component of EPA's analysis, with supplemental information designed to account for uncertainties in the model. This interpretation and application of the photochemical modeling requirement of section 182(c)(2)(A) finds further justification in the broad deference Congress granted EPA to develop appropriate methods for determining attainment, as indicated in the last phrase of section 182(c)(2)(A).

The flexibility granted to EPA under section 182(c)(2)(A) is reflected in the regulations EPA promulgated for modeled attainment demonstrations. These regulations provide, "The adequacy of a control strategy shall be demonstrated by means of applicable air quality models, data bases, and other requirements specified in [40 CFR part 51, appendix W] (Guideline on Air Quality Models)."[1] 40 CFR 51.112(a)(1). However, the regulations further provide, "Where an air quality model specified in appendix W * * * is inappropriate, the model may be modified or another model substituted [with approval by EPA, and after] notice and opportunity for public comment * * *" Appendix W, in turn, provides that, "The Urban Airshed Model (UAM) is recommended for photochemical or reactive pollutant modeling applications involving entire urban areas," but further refers to EPA's modeling guidance for data requirements and procedures for operating the model. 40 CFR part 51, appendix W, section 6.2.1.a. The modeling guidance discusses the data requirements and operating procedures, as well as interpretation of model results as they relate to the attainment demonstration. This provision references guidance published in 1991, but EPA envisioned the guidance would change as we gained experience with model applications, which is why the guidance is referenced, but does not appear, in appendix W. With updates in 1996 and 1999, the evolution of EPA's guidance has led us to use both the photochemical grid model, and additional analytical methods approved by EPA.

The modeled attainment test compares model predicted 1-hour daily maximum ozone concentrations in all grid cells for the attainment year to the level of the NAAQS. The results may be interpreted through either of two modeled attainment or exceedance tests: the deterministic test or the statistical test. Under the deterministic test, a predicted concentration above 0.124 parts per million (ppm) ozone indicates that the area is expected to exceed the standard in the attainment year and a prediction at or below 0.124 ppm indicates that the area is expected to not exceed the standard. Under the statistical test, attainment is demonstrated when all predicted (i.e., modeled) 1-hour ozone concentrations inside the modeling domain are at, or below, an acceptable upper limit above the NAAQS permitted under certain conditions (depending on the severity of the episode modeled).[2]

In 1996, EPA issued guidance[3] to update the 1991 guidance referenced in 40 CFR part 51, appendix W, to make the modeled attainment test more closely reflect the form of the NAAQS (i.e., the statistical test described above), to consider the area's ozone design value and the meteorological conditions accompanying observed exceedances, and to allow consideration of other evidence to address uncertainties in the modeling databases and application. When the modeling does not conclusively demonstrate attainment, EPA has concluded that additional analyses may be presented to help determine whether the area will attain the standard. As with other predictive tools, there are inherent uncertainties associated with air quality modeling and its results. The inherent imprecision of the model means that it may be inappropriate to view the specific numerical result of the model as the only determinant of whether the SIP controls are likely to lead to attainment. The EPA's guidance recognizes these limitations, and provides a means for considering other evidence to help assess whether attainment of the NAAQS is likely to be achieved. The process by which this is done is called a weight of evidence (WOE) determination. Under a WOE determination, the state can rely on, and EPA will consider in addition to the results of the modeled attainment test, other factors such as other modeled output (e.g., changes in the predicted frequency and pervasiveness of 1-hour ozone NAAQS exceedances, and predicted change in the ozone design value); actual observed air quality trends (i.e. analyses of monitored air quality data); estimated emissions trends; and the responsiveness of the model predictions to further controls.

In 1999, EPA issued additional guidance[4] that makes further use of model results for base case and future emission estimates to predict a future design value. This guidance describes the use of an additional component of the WOE determination, which requires, under certain circumstances, additional emission reductions that are or will be approved into the SIP, but that were not included in the modeling analysis, that will further reduce the modeled design value. An area is considered to monitor attainment if each monitor site has air quality observed ozone design values (4th highest daily maximum ozone using the three most recent consecutive years of data) at or below the level of the standard. Therefore, it is appropriate for EPA, when making a determination that a control strategy will provide for attainment, to determine whether or not the model predicted future design value is expected to be at or below the level of the standard. Since the form of the 1-hour NAAQS allows exceedances, it did not seem appropriate for EPA to require the test for attainment to be "no exceedances" in the future model predictions. The method outlined in EPA's 1999 guidance uses the highest measured design value across all sites in the nonattainment area for each of three years. These three "design values" represent the air quality observed during the time period used to predict ozone for the base emissions. This is appropriate because the model is predicting the change in ozone from the base period to the future attainment date. The three yearly design values

[1] The August 12, 1996 version of "appendix W to part 51—Guideline on Air Quality Models" was the rule in efect for these attainment demonstrations. EPA is proposing updates to this rule, that will not take effect until the rulemaking process for them is complete.

[2] Guidance on the Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS. EPA–454/B–95–007, June 1996.

[3] Ibid.

[4] "Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled." U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emissions Monitoring, and Analysis Division, Air Quality Modeling Group, Research Triangle Park, NC 27711, November 1999. Web site: *http://www.epa.gov/ttn/scram*.

(highest across the area) are averaged to account for annual fluctuations in meteorology. The result is an estimate of an area's base year design value. The base year design value is multiplied by a ratio of the peak model predicted ozone concentrations in the attainment year (i.e., average of daily maximum concentrations from all days modeled) to the peak model predicted ozone concentrations in the base year (i.e., average of daily maximum concentrations from all days modeled). The result is an attainment year design value based on the relative change in peak model predicted ozone concentrations from the base year to the attainment year. Modeling results also show that emission control strategies designed to reduce areas of peak ozone concentrations generally result in similar ozone reductions in all core areas of the modeling domain, thereby providing some assurance of attainment at all monitors.

In the event that the attainment year design value is above the standard, the 1999 guidance provides a method for identifying additional emission reductions, not modeled, which at a minimum provide an estimated attainment year design value at the level of the standard. This step uses a locally derived factor which assumes a linear relationship between ozone and the precursors.

A commenter criticized the 1999 guidance as flawed on grounds that it allows the averaging of the three highest air quality sites across a region, whereas EPA's 1991 and 1996 modeling guidance requires that attainment be demonstrated at each site. This has the effect of allowing lower air quality concentrations to be averaged against higher concentrations thus reducing the total emission reduction needed to attain at the higher site. The commenter does not appear to have described the guidance accurately. The guidance does not recommend averaging across a region or spatial averaging of observed data. The guidance does recommend determination of the highest site in the region for each of the three-year periods, determined by the base year modeled. For example, if the base year is 1990, it is the amount of emissions in 1990 that must be adjusted or evaluated (by accounting for growth and controls) to determine whether attainment results. These 1990 emissions contributed to three design value periods (1988–90, 1989–91 and 1990–92). Under the approach of the guidance document, EPA determined the design value for each of those three-year periods, and then averaged those three design values, to determine the base design value. This approach is appropriate because, as just noted, the 1990 emissions contributed to each of those periods, and there is no reason to believe the 1990 (episodic) emissions resulted in the highest or lowest of the three design values. Averaging the three years is beneficial for another reason: It allows consideration of a broader range of meteorological conditions—those that occurred throughout the 1988–1992 period, rather than the meteorology that occurs in one particular year or even one particular ozone episode within that year. Furthermore, EPA relied on three-year averaging only for purposes of determining one component, *i.e.*—the small amount of additional emission reductions not modeled—of the WOE determination. The WOE determination, in turn, is intended to be part of a qualitative assessment of whether additional factors (including the additional emissions reductions not modeled), taken as a whole, indicate that the area is more likely than not to attain.

A commenter criticized the component of this WOE factor that estimates ambient improvement because it does not incorporate complete modeling of the additional emissions reductions. However, the regulations do not mandate, nor does EPA guidance suggest, that states must model all control measures being implemented. Moreover, a component of this technique—the estimation of future design value—should be considered a model-predicted estimate. Therefore, results from this technique are an extension of "photochemical grid" modeling and are consistent with section 182(c)(2)(A). Also, a commenter believes that EPA has not provided sufficient opportunity to evaluate the calculations used to estimate additional emission reductions. EPA provided a full 60-day period for comment on all aspects of the proposed rule. EPA has received several comments on the technical aspects of the approach and the results of its application, as discussed above and in the responses to the individual SIPs.

A commenter states that application of the method of attainment analysis used for the December 16, 1999 NPRs will yield a lower control estimate than if we relied entirely on reducing maximum predictions in every grid cell to less than or equal to 124 ppb on every modeled day. However, the commenter's approach may overestimate needed controls because the form of the standard allows up to 3 exceedances in 3 years in every grid cell. If the model over predicts observed concentrations, predicted controls may be further overestimated. EPA has considered other evidence, as described above, through the weight of evidence determination.

When reviewing a SIP, the EPA must make a determination that the control measures adopted are reasonably likely to lead to attainment. Reliance on the WOE factors allows EPA to make this determination based on a greater body of information presented by the states and available to EPA. This information includes model results for the majority of the control measures. Although not all measures were modeled, EPA reviewed the model's response to changes in emissions as well as observed air quality changes to evaluate the impact of a few additional measures, not modeled. EPA's decision was further strengthened by each state's commitment to check progress towards attainment in a mid-course review and to adopt additional measures, if the anticipated progress is not being made.

A commenter further criticized EPA's technique for estimating the ambient impact of additional emissions reductions not modeled on grounds that EPA employed a rollback modeling technique that, according to the commenter, is precluded under EPA regulations. The commenter explained that 40 CFR part 51, appendix W, section 6.2.1.e. provides, "Proportional (rollback/forward) modeling is not an acceptable procedure for evaluating ozone control strategies." Section 14.0 of appendix W defines "rollback" as "a simple model that assumes that if emissions from each source affecting a given receptor are decreased by the same percentage, ambient air quality concentrations decrease proportionately." Under this approach if 20% improvement in ozone is needed for the area to reach attainment, it is assumed a 20% reduction in VOC would be required. There was no approach for identifying NO_x reductions.

The "proportional rollback" approach is based on a purely empirically/mathematically derived relationship. EPA did not rely on this approach in its evaluation of the attainment demonstrations. The prohibition in Appendix W applies to the use of a rollback method which is empirically/mathematically derived and independent of model estimates or observed air quality and emissions changes as the sole method for evaluating control strategies. For the demonstrations under proposal, EPA used a locally derived (as determined by the model and/or observed changes in air quality) ratio of change in emissions to change in ozone to estimate

additional emission reductions to achieve an additional increment of ambient improvement in ozone.

For example, if monitoring or modeling results indicate that ozone was reduced by 25 ppb during a particular period, and that VOC and NO_X emissions fell by 20 tons per day and 10 tons per day respectively during that period, EPA developed a ratio of ozone improvement related to reductions in VOC and NO_X. This formula assumes a linear relationship between the precursors and ozone for a small amount of ozone improvement, but it is not a "proportional rollback" technique. Further, EPA uses these locally derived adjustment factors as a component to estimate the extent to which additional emissions reductions—not the core control strategies—would reduce ozone levels and thereby strengthen the weight of evidence test. EPA uses the UAM to evaluate the core control strategies.

This limited use of adjustment factors is more technically sound than the unacceptable use of proportional rollback to determine the ambient impact of the entire set of emissions reductions required under the attainment SIP. The limited use of adjustment factors is acceptable for practical reasons: it obviates the need to expend more time and resources to perform additional modeling. In addition, the adjustment factor is a locally derived relationship between ozone and its precursors based on air quality observations and/or modeling which is more consistent with recommendations referenced in Appendix W and does not assume a direct proportional relationship between ozone and its precursors. Lastly, the requirement that areas perform a mid-course review (a check of progress toward attainment) provides a margin of safety.

A commenter expressed concerns that EPA used a modeling technique (proportional rollback) that was expressly prohibited by 40 CFR part 51 Appendix W, without expressly proposing to do so in a notice of proposed rulemaking. However, the commenter is mistaken. As explained above, EPA did not use or rely upon a proportional rollback technique in this rulemaking, but used UAM to evaluate the core control strategies and then applied its WOE guidance. Therefore, because EPA did not use an "alternative model" to UAM, it did not trigger an obligation to modify Appendix W. Furthermore, EPA did propose the use the November 1999 guidance, "Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled," in the December 16, 1999 NPR and has responded to all comments received on that guidance elsewhere in this document.

A commenter also expressed concern that EPA applied unacceptably broad discretion in fashioning and applying the WOE determinations. For all of the attainment submittals proposed for approval in December 1999 concerning serious and severe ozone nonattainment areas, EPA first reviewed the UAM results. In all cases, the UAM results did not pass the deterministic test. In two cases—Milwaukee and Chicago—the UAM results passed the statistical test; in the rest of the cases, the UAM results failed the statistical test. The UAM has inherent limitations that, in EPA's view, were manifest in all these cases. These limitations include: (1) Only selected time periods were modeled, not the entire three-year period used as the definitive means for determining an area's attainment status; (2) inherent uncertainties in the model formulation and model inputs such as hourly emission estimates, emissions growth projections, biogenic emission estimates, and derived wind speeds and directions. As a result, for all areas, even Milwaukee and Chicago, EPA examined additional analyses to indicate whether additional SIP controls would yield meaningful reductions in ozone values. These analyses did not point to the need for additional emission reductions for Springfield, Greater Connecticut, Metropolitan Washington, DC, Chicago and Milwaukee, but did point to the need for additional reductions, in varying amounts, in the other areas. As a result, the other areas submitted control requirements to provide the indicated level of emissions reductions. EPA applied the same methodology in these areas, but because of differences in the application of the model to the circumstances of each individual area, the results differed on a case-by-case basis.

As another WOE factor, for areas within the NO_X SIP call domain, results from the EPA regional modeling for NO_X controls as well as the Tier2/Low Sulfur program were considered. Also, for all of the areas, EPA considered recent changes in air quality and emissions. For some areas, this was helpful because there were emission reductions in the most recent years that could be related to observed changes in air quality, while for other areas there appeared to be little change in either air quality or emissions. For areas in which air quality trends, associated with changes in emissions levels, could be discerned, these observed changes were used to help decide whether or not the emission controls in the plan would provide progress towards attainment. For Connecticut, between 1990 and 1999 VOC emissions were lowered by 26 percent and NO_X emissions were lowered by 19 percent. These precursor emissions will continue to be reduced within the state, which will help lower ozone both within and downwind of Connecticut. In addition the reduction of precursor emissions in the large metropolitan areas upwind of Connecticut, along with power plant emissions reductions, throughout the eastern USA, will result in attainment of the one-hour NAAQS by 2007 in Connecticut. Air quality trend data for the past 21 years, since 1980, show vast improvement in ozone levels in Connecticut. Over the past twelve to fourteen years, the maximum design value for the ozone monitors in the severe portion of Connecticut has dropped from 201 ppb, in the 1987–1989 time frame (the value used to classify this area in 1991), to 143 ppb based on ozone data from 1999, 2000 and preliminary ozone data from 2001. This is a drop of 58 ppb or 29 percent.

The commenter also complained that EPA has applied the WOE determinations to adjust modeling results only when those results indicate nonattainment, and not when they indicate attainment. First, we disagree with the premise of this comment: EPA does not apply the WOE factors to adjust model results. EPA applies the WOE factors as additional analysis to compensate for uncertainty in the air quality modeling. Second, EPA has applied WOE determinations to all of the attainment demonstrations proposed for approval in December 1999. Although for most of them, the air quality modeling results by themselves indicated nonattainment, for two metropolitan areas—Chicago and Milwaukee, including parts of the States of Illinois, Indiana, and Wisconsin, the air quality modeling did indicate attainment on the basis of the statistical test.

The commenter further criticized EPA's application of the WOE determination on grounds that EPA ignores evidence indicating that continued nonattainment is likely, such as, according to the commenter, monitoring data indicating that ozone levels in many cities during 1999 continue to exceed the NAAQS by margins as wide or wider than those predicted by the UAM. EPA has reviewed the evidence provided by the commenter. The 1999 monitor values do not constitute substantial evidence indicating that the SIPs will not provide

for attainment. These values do not reflect either the local or regional control programs which are scheduled for implementation in the next several years. Once implemented, these controls are expected to lower emissions and thereby lower ozone values. Moreover, there is little evidence to support the statement that ozone levels in many cities during 1999 continue to exceed the NAAQS by margins as wide or wider than those predicted by the UAM. Since areas did not model 1999 ozone levels using 1999 meteorology and 1999 emissions which reflect reductions anticipated by control measures, that are or will be approved into the SIP, there is no way to determine how the UAM predictions for 1999 compare to the 1999 air quality. Therefore, we can not determine whether or not the monitor values exceed the NAAQS by a wider margin than the UAM predictions for 1999. In summary, there is little evidence to support the conclusion that high exceedances in 1999 will continue to occur after adopted control measures are implemented.

In addition, the commenter argued that in applying the WOE determinations, EPA ignored factors showing that the SIPs under-predict future emissions, and the commenter included as examples certain mobile source emissions sub-inventories. EPA did not ignore possible under-prediction in mobile emissions. EPA is presently evaluating mobile source emissions data as part of an effort to update the computer model for estimating mobile source emissions. EPA is considering various changes to the model, and is not prepared to conclude at this time that the net effect of all these various changes would be to increase or decrease emissions estimates. For attainment demonstration SIPs that rely on the Tier 2/Sulfur program for attainment or otherwise (i.e., reflect these programs in their motor vehicle emissions budgets), States have committed to revise their motor vehicle emissions budgets after the MOBILE6 model is released. EPA will work with States on a case-by-case basis if the new emission estimates raise issues about the sufficiency of the attainment demonstration. If analysis indicates additional measures are needed, EPA will take the appropriate action.

B. Reliance on NO_X SIP Call and Tier 2

Comment: Several commenters stated that given the uncertainty surrounding the NO_X SIP Call at the time of EPA's proposals on the attainment demonstrations, there is no basis for the conclusion reached by EPA that states should assume implementation of the NO_X SIP Call, or rely on it as a part of their demonstrations. One commenter claims that there were errors in the emissions inventories used for the NO_X SIP Call Supplemental Notice (SNPR) and that these inaccuracies were carried over to the modeling analyses, estimates of air quality based on that modeling, and estimates of EPA's Tier 2 tailpipe emissions reduction program not modeled in the demonstrations. Thus, because of the inaccuracies in the inventories used for the SIP Call, the attainment demonstration modeling is also flawed. Finally, one commenter suggests that modeling data demonstrates that the benefits of imposing NO_X SIP Call controls are limited to areas near the sources controlled.

Response: These comments were submitted prior to several court decisions largely upholding EPA's NO_X SIP Call. *Michigan* v. *EPA*, 213 F.3d 663 (D.C. Cir. 2000), cert. denied, 121 S.Ct. 1225, 149 L.Ed. 135 (2001); *Appalachian Power* v. *EPA*, 251 F.3d 1026 (D.C. Cir. 2001) . Although a few issues were vacated or remanded to EPA for further consideration, these issues do not concern the accuracy of the emission inventories relied on for purposes of the SIP Call. Moreover, contrary to the commenter's suggestion, the SIP Call modeling data bases were not used to develop estimates of reductions from the Tier 2 program for the severe-area one-hour attainment demonstrations. Accordingly, the commenter's concerns that inaccurate inventories for the SIP Call modeling lead to inaccurate results for the severe-area one-hour attainment demonstrations are inapposite.

The remanded issues do affect the ability of EPA and the States to achieve the full level of the SIP Call reductions by May 2003. First, the court vacated the rule as it applied to two states—Missouri and Georgia—and also remanded the definition of a co-generator and the assumed emission limit for internal combustion engines. EPA has informed the states that until EPA addresses the remanded issues, EPA will accept SIPs that do not include those small portions of the emission budget. However, EPA is planning to propose a rule shortly to address the remanded issues and ensure that emission reductions from these states and the emission reductions represented by the two source categories are addressed in time to benefit the severe nonattainment areas. Also, although the court in the *Michigan* case subsequently issued an order delaying the implementation date to no later than May 31, 2004, and the *Appalachian Power* case remanded an issue concerning computation of the EGU growth factor, it is EPA's view that states should assume that the SIP Call reductions will occur in time to ensure attainment in the severe nonattainment areas. In fact many states have adopted rules that achieve the full SIP call level reductions by May 1, 2003. Both EPA and the states are moving forward to implement the SIP Call.

Finally, contrary to the commenter's conclusions, EPA's modeling to determine the region-wide impacts of the NO_X SIP call clearly shows that regional transport of ozone and its precursors is impacting nonattainment areas several states away. This analysis was upheld by the court in *Michigan*.

C. RACM (Including Transportation Control Measures)

Comment: Several commenters stated that there is no evidence in several states that they have adopted reasonably available control measures (RACM) or that the SIPs have provided for attainment as expeditiously as practicable. Specifically, the lack of Transportation Control Measures (TCMs) was cited in several comments, but commenters also raised concerns about potential stationary source controls.

One commenter stated that mobile source emission budgets in the plans are by definition inadequate because the SIPs do not demonstrate timely attainment or contain the emissions reductions required for all RACM. That commenter claims that EPA may not find adequate a motor vehicle emission budget (MVEB) that is derived from a SIP that is inadequate for the purpose for which it is submitted. The commenter alleges that none of the MVEBs submitted by the states that EPA is considering for adequacy is consistent with the level of emissions achieved by implementation of all RACM, nor are they derived from SIPs that provide for attainment. Some commenters stated that for measures that are not adopted into the SIP, the state must provide a justification for why they were determined to not be RACM.

Response: After receipt of this comment on the December 16, 1999 proposal, EPA reviewed the initial SIP submittals for the Connecticut portion of the NY–NJ–CT severe area, as well as the other areas for which EPA proposed approval in December 1999, and determined that they did not include sufficient documentation concerning available RACM measures. For all of the severe areas for which EPA proposed approval in December 1999, EPA

consequently issued a guidance memorandum providing that these states should address the RACM requirement through an additional SIP submittal. (Memorandum of December 14, 2000, from John S. Seitz, Director, Office of Air Quality Planning and Standards, re: "Additional Submission on RACM from States with Severe 1-hour Ozone Nonattainment Area SIPs.")

The State of Connecticut provided EPA with a draft RACM analysis on August 2, 2001, and finalized that document on October 15, 2001. EPA proposed to approve this SIP as meeting the RACM requirements via parallel processing on August 10, 2001 (66 FR 42172). In the proposal, EPA set forth its interpretation of the RACM requirement. See 66 FR 42182. Based on our review of the RACM submission, EPA proposed that CT had adopted all RACM. EPA received no comments on that proposal. Today, EPA approves the Connecticut RACM analysis as meeting the requirement for adopting RACM for the Connecticut portion of the NY–NJ–CT severe area.

Section 172(c)(1) of the Act requires SIPs to contain RACM and provides for areas to attain as expeditiously as practicable. EPA has previously provided guidance interpreting the requirements of 172(c)(1). See 57 FR 13498, 13560. In that guidance, EPA indicated its interpretation that potentially available measures that would not advance the attainment date for an area would not be considered RACM. EPA also indicated in that guidance that states should consider all potentially available measures to determine whether they were reasonably available for implementation in the area, and whether they would advance the attainment date. Further, states should indicate in their SIP submittals whether measures considered were reasonably available or not, and if measures are reasonably available they must be adopted as RACM. Finally, EPA indicated that states could reject measures as not being RACM because they would not advance the attainment date, would cause substantial widespread and long-term adverse impacts, would be economically or technologically infeasible, or would be unavailable based on local considerations, including costs. The EPA also issued a recent memorandum re-confirming the principles in the earlier guidance, entitled, "Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas." John S. Seitz, Director, Office of Air Quality Planning and Standards. November 30, 1999. Web site: *http://www.epa.gov/ttn/oarpg/t1pgm.html*. EPA has consistently interpreted the Clean Air Act as requiring only such RACM as will provide for expeditious attainment, since we first addressed the issue in guidance issued in 1979. 44 FR 20372, 20375 (April 4, 1979).

Although EPA does not believe that section 172(c)(1) requires implementation of additional measures for Connecticut portion of the NY–NJ–CT severe area, this conclusion is not necessarily valid for other areas. Thus, a determination of RACM is necessary on a case-by-case basis and will depend on the circumstances for the individual area. In addition, if in the future EPA moves forward to implement another ozone standard, this RACM analysis would not control what is RACM for these or any other areas for that other ozone standard.

Also, EPA has long advocated that states consider the kinds of control measures that the commenters have suggested, and EPA has indeed provided guidance on those measures. See, e.g., *http://www.epa.gov/otaq/transp.htm*. In order to demonstrate that they will attain the 1-hour ozone NAAQS as expeditiously as practicable, some areas may need to consider and adopt a number of measures-including the kind that the Connecticut portion of the NY–NJ–CT severe area itself evaluated in its RACM analysis—that even collectively do not result in many emission reductions. Furthermore, EPA encourages areas to implement technically available and economically feasible measures to achieve emissions reductions in the short term—even if such measures do not advance the attainment date—since such measures will likely improve air quality. Also, over time, emission control measures that may not be RACM now for an area may ultimately become feasible for the same area due to advances in control technology or more cost-effective implementation techniques. Thus, areas should continue to assess the state of control technology as they make progress toward attainment and consider new control technologies that may in fact result in more expeditious improvement in air quality.

Because EPA is finding that the SIP meets the Clean Air Act's requirement for RACM and that there are no additional reasonably available control measures that can advance the attainment date, EPA concludes that the attainment date being approved is as expeditious as practicable.

EPA previously responded to comments concerning the adequacy of MVEBs when EPA took final action determining the budgets adequate and does not address those issues again here. The responses are found at: *http://www.epa.gov/oms/transp/conform/pastsips.htm*.

D. Attainment and Rate of Progress Demonstrations—Approval of Demonstrations That Rely on State Commitments or State Rules for Emission Limitations to Lower Emissions in the Future Not Yet Adopted by a State and/or Approved by EPA

Comment: Several commenters disagreed with EPA's proposal to approve states' attainment and rate of progress demonstrations because: (a) Not all of the emissions reductions assumed in the demonstrations have actually taken place, (b) those emission reductions are reflected in rules yet to be adopted and approved by a state and approved by EPA as part of the SIP, (c) those emission reductions are credited illegally as part of a demonstration because they are not approved by EPA as part of the SIP, or (d) the commenter maintains that EPA does not have authority to accept enforceable state commitments to adopt measures in the future in lieu of current adopted measures to fill a near-term shortfall of reductions.

Response: EPA disagrees with the comments, and believes—consistent with past practice—that the CAA allows approval of enforceable commitments that are limited in scope where circumstances exist that warrant the use of such commitments in place of adopted measures.[5] Once EPA determines that circumstances warrant consideration of an enforceable commitment, EPA believes that three factors should be considered in determining whether to approve the enforceable commitment: (1) Whether the commitment addresses a limited portion of the statutorily-required program; (2) whether the state is capable of fulfilling its commitment; and (3)

[5] These commitments are enforceable by the EPA and citizens under, respectively, sections 113 and 304 of the CAA. In the past, EPA has approved enforceable commitments and courts have enforced these actions against states that failed to comply with those commitments. *See, e.g., American Lung Ass'n of N.J.* v. *Kean*, 670 F. Supp. 1285 (D.N.J. 1987), *aff'd*, 871 F.2d 319 (3rd Cir. 1989); *NRDC, Inc.* v. *N.Y. State Dept. of Env. Cons.*, 668 F. Supp. 848 (S.D.N.Y. 1987); *Citizens for a Better Env't* v. *Deukmejian*, 731 F. Supp. 1448, *recon. granted in part*, 746 F. Supp. 976 (N.D. Cal. 1990); *Coalition for Clean Air* v. *South Coast Air Quality Mgt. Dist.*, No. CV 97–6916–HLH, (C.D. Cal. Aug. 27, 1999). Further, if a state fails to meet its commitments, EPA could make a finding of failure to implement the SIP under section 179(a) of the Act, which starts an 18-month period for the State to begin implementation before mandatory sanctions are imposted.

whether the commitment is for a reasonable and appropriate period of time.

As an initial matter, EPA believes that present circumstances for the New York City, Philadelphia, Baltimore nonattainment areas warrant the consideration of enforceable commitments. The Northeast states that make up the New York, Baltimore, and Philadelphia nonattainment areas submitted SIPs that they reasonably believed demonstrated attainment with fully adopted measures. After EPA's initial review of the plans, EPA recommended to these areas that additional controls would be necessary to ensure attainment. Because these areas had already submitted plans with many fully adopted rules and the adoption of additional rules would take some time, EPA believed it was appropriate to allow these areas to supplement their plans with enforceable commitments to adopt and submit control measures to achieve the additional necessary reductions. For these areas, EPA has determined that the submission of enforceable commitments in place of adopted control measures for these limited sets of reductions will not interfere with each area's ability to meet its rate-of-progress and attainment obligations.

EPA's approach here of considering enforceable commitments that are limited in scope is not new. EPA has historically recognized that under certain circumstances, issuing full approval may be appropriate for a submission that consists, in part, of an enforceable commitment. *See e.g.*, 62 FR 1150, 1187 (Jan. 8, 1997) (ozone attainment demonstration for the South Coast Air Basin); 65 FR 18903 (Apr. 10, 2000) (revisions to attainment demonstration for the South Coast Air Basin); 63 FR 41326 (Aug. 3, 1998) (federal implementation plan for PM–10 for Phoenix); 48 FR 51472 (state implementation plan for New Jersey). Nothing in the Act speaks directly to the approvability of enforceable commitments.[6] However, EPA believes that its interpretation is consistent with provisions of the CAA. For example, section 110(a)(2)(A) provides that each SIP "shall include enforceable emission limitations and other control measures, means or techniques * * * *as well as schedules and timetables for compliance*, as may be necessary or appropriate to meet the applicable requirement of the Act." Section 172(c)(6) of the Act requires, as a rule generally applicable to nonattainment SIPs, that the SIP "include enforceable emission limitations and such other control measures, means or techniques * * * *as may be necessary or appropriate* to provide for attainment * * * by the applicable attainment date * * *" (Emphasis added.) The emphasized terms mean that at the time of approval of the plan, the adopted enforceable emission limitations and other control measures do not necessarily need to generate reductions in the full amount needed to attain. Rather, the emissions limitations and other control measures may be supplemented with other SIP rules—for example, the enforceable commitments EPA is approving today—as long as the entire package of measures and rules provides for attainment by the attainment date and do not interfere with other requirements such as ROP.

As provided above, after concluding that the circumstances warrant consideration of an enforceable commitment—as they do for a nonattainment area such as the Connecticut portion of the NY–NJ–CT severe area—EPA would consider three factors in determining whether to approve the submitted commitments. First, EPA believes that the commitments must be limited in scope. In 1994, in considering EPA's authority under section 110(k)(4) to conditionally approve unenforceable commitments, the Court of Appeals for the District of Columbia Circuit struck down an EPA policy that would allow States to submit (under limited circumstances) commitments for entire programs. *Natural Resources Defense Council* v. *EPA*, 22 F.3d 1125 (D.C. Cir. 1994). While EPA does not believe that case is directly applicable here, EPA agrees with the Court that other provisions in the Act contemplate that a SIP submission will consist of more than a mere commitment. *See NRDC*, 22. F.3d at 1134.

For the Connecticut portion of the NY–NJ–CT severe area, the remaining commitment addresses only a small portion of the emission reductions necessary to attain the standard. Connecticut has adopted all other CAA mandated control programs. Details of these programs are found in section D.3 above. These already adopted programs are achieving the vast majority of the precursor emission reductions necessary for attainment.

As to the second factor, whether the State is capable of fulfilling the commitment, EPA considered the current or potential availability of measures capable of achieving the additional level of reductions represented by the commitment. For the New York, Philadelphia and Baltimore nonattainment areas, EPA believes that there are sufficient untapped sources of emission reductions that could achieve the minimal levels of additional reductions that the areas need. This conclusion is supported by the recent recommendation of the Ozone Transport Commission ("OTC") regarding specific controls that could be adopted to achieve the level of reductions needed for each of these three nonattainment areas. Thus, EPA believes that the states will be able to find sources of reductions to meet the shortfall. The states that comprise the New York, Philadelphia and Baltimore nonattainment areas are making significant progress toward adopting the measures to fill the shortfall. The OTC has met and on March 29, 2001 recommended a set of control measures. Currently, the states are working through their adoption processes with respect to those, and in some cases other, control measures. For example Connecticut recently adopted and EPA approved the MWC rule mentioned above, and Connecticut has identified specific measures that should completely address any remaining shortfall.

The third factor, EPA has considered in determining to approve limited commitments for the Connecticut portion of the NY–NJ–CT severe area attainment demonstration is whether the commitment is for a reasonable and appropriate period. EPA recognizes that both the Act and EPA have historically emphasized the need for submission of adopted control measures in order to ensure expeditious implementation and achievement of required emissions reductions. Thus, to the extent that other factors—such as the need to consider innovative control strategies—support the consideration of an enforceable commitment in place of adopted control measures, the commitment should provide for the adoption of the necessary control measures on an expeditious, yet practicable, schedule.

As provided above, for New York, Baltimore and Philadelphia, EPA proposed that these areas have time to work within the framework of the OTC to develop, if appropriate, a regional control strategy to achieve the necessary reductions and then to adopt the controls on a state-by-state basis. In the

[6] Section 110(k)(4) provides for "conditional approval" of commitments that need not be enforceable. Under that section, a State may commit to "adopt specific enforceable measures" within one-year of the conditional approval. Rather than enforcing such commitments against the State, the Act provides that the conditional approval will convert to a disapproval if "the State fails to comply with such commitment."

proposed approval of the attainment demonstrations, EPA proposed that these areas would have approximately 22 months to complete the OTC and state-adoption processes—a fairly ambitious schedule—i.e., until October 31, 2001. As a starting point in suggesting this time frame for submission of the adopted controls, EPA first considered the CAA "SIP Call" provision of the CAA—section 110(k)(5)—which provides states with up to 18 months to submit a SIP after EPA requests a SIP revision. While EPA may have ended its inquiry there, and provided for the states to submit the measures within 18 months of its proposed approval of the attainment demonstrations, EPA further considered that these areas were all located with the Northeast Ozone Transport Region and determined that it was appropriate to provide these areas with additional time to work through the OTR process to determine if regional controls would be appropriate for addressing the shortfall. See e.g., 64 FR 70348. EPA believed that allowing these states until 2001 to adopt these additional measures would not undercut their attainment dates of November 2005 or 2007 or the ability of these areas to meet their ROP requirement.

Connecticut did not make the October 31, 2001 submission deadline for all the control measures to make up the shortfall. Connecticut did submit the MWC rule (see section II.B), and Connecticut has started on the SIP process for the remaining measures. These measures will include mobile equipment repair and refinishing regulations and regulations on consumer products. EPA believes that Connecticut is making sufficient progress to support approval of the commitment, because Connecticut will adopt and implement the remaining measures within a time period fully consistent with the NY–NJ–CT severe area attaining the standard by November 15, 2007. Details on Connecticut's progress in addressing the shortfall in emission reductions can be found in the memorandum "Status of Connecticut's Adoption of Additional Measures to Close the Shortfall Identified in the One-Hour Ozone Attainment Demonstration for the Connecticut Portion of the New York-New Jersey-Connecticut Severe Area" dated November 29, 2001 located in the docket for this action.

The enforceable commitments submitted for the Connecticut portion of the NY–NJ–CT severe nonattainment area, in conjunction with the other SIP measures and other sources of emissions reductions, constitute the required demonstration of attainment and the commitments will not interfere with the area's ability to make reasonable progress under section 182(c)(2)(B) and (d). EPA believes that the delay in submittal of the final rules is permissible under section 110(k)(3) because the state has obligated itself to submit the rules, and that obligation is enforceable by EPA and the public. Moreover, as discussed in the December 16, 1999 proposal, and Section D.3 of this document, the SIP submittal approved today contains major substantive components submitted as adopted regulations and enforceable orders.

EPA believes that the Connecticut SIP meets the NRDC consent decree definition of a "full attainment demonstration." The consent decree defines a "full attainment demonstration" as a demonstration according to CAA section 182(c)(2). As a whole, the attainment demonstration—consisting of photochemical grid modeling, adopted control measures, an enforceable commitment with respect to a limited portion of the reductions necessary to attain, and other analyses and documentation—is approvable since it "provides for attainment of the ozone [NAAQS] by the applicable attainment date." See section 182(c)(2)(A).

E. Adequacy of Motor Vehicle Emissions Budgets

Comment: We received a number of comments about the process and substance of EPA's review of the adequacy of motor vehicle emissions budgets for transportation conformity purposes.

Response: EPA's adequacy process for these SIPs has been completed, and we have found the motor vehicle emissions budgets in all of these SIPs to be adequate. We have already responded to any comments related to adequacy when we issued our adequacy findings, and therefore we are not listing the individual comments or responding to them here. Our findings of adequacy and responses to comments can be accessed at *www.epa.gov/otaq/traq* (once there, click on the "conformity" button). At the Web site, EPA regional contacts are identified.

F. Attainment Demonstration and Rate of Progress Motor Vehicle Emissions Inventories

Comment: Several commenters stated that the motor vehicle emissions inventory is not current, particularly with respect to the fleet mix. Commenters stated that the fleet mix does not accurately reflect the growing proportion of sport utility vehicles and gasoline trucks, which pollute more than conventional cars. Also, a commenter stated that EPA and states have not followed a consistent practice in updating SIP modeling to account for changes in vehicle fleets. For these reasons, commenters recommend disapproving the SIPs.

Response: The Connecticut SIP we are taking final action on is based on the most recent vehicle registration data from 1996, which is the most recent data that was available at the time the SIP was submitted in 2001. The SIP also contains vehicle fleet characteristics that are in the most recent periodic inventory update, which was submitted on March 13, 2000. EPA requires the most recently available data to be used, but we do not require it to be updated on a specific schedule. Therefore, different SIPs base their fleet mix on different years of data. Our guidance does not suggest that SIPs should be disapproved on this basis. Nevertheless, we do expect that revisions to these SIPs that are submitted using MOBILE6 (as required in those cases where the SIP is relying on emissions reductions from the Tier 2 standards) will use updated vehicle registration data appropriate for use with MOBILE6, whether it is updated local data or the updated national default data that will be part of MOBILE6.

G. VOC Emission Reductions

Comment: For States that need additional VOC reductions, one commenter recommends a process to achieve these VOC emission reductions, which involves the use of HFC–152a (1,1 difluoroethane) as the blowing agent in manufacturing of polystyrene foam products such as food trays and egg cartons. The commenter states that HFC–152a could be used instead of hydrocarbons, a known pollutant, as a blowing agent. Use of HFC–152a, which is classified as VOC exempt, would eliminate nationwide the entire 25,000 tons/year of VOC emissions from this industry.

Response: EPA has met with the commenter and has discussed the technology described by the company to reduce VOC emissions from polystyrene foam blowing through the use of HFC–152a (1,1 difluoroethane), which is a VOC exempt compound, as a blowing agent. Since the HFC–152a is VOC exempt, its use would give a VOC reduction compared to the use of VOCs such a pentane or butane as a blowing agent. However, EPA has not studied this technology exhaustively. It is each state's prerogative to specify which measures it will adopt in order to

achieve the additional VOC reductions it needs. In evaluating the use of HFC–152a, states may want to consider claims that products made with this blowing agent are comparable in quality to products made with other blowing agents. Also the question of the over-all long term environmental effect of encouraging emissions of fluorine compounds would be relevant to consider. This is a technology which states may want to consider, but ultimately, the decision of whether to require this particular technology to achieve the necessary VOC emissions reductions must be made by each affected state. Finally, EPA notes that under the significant new alternatives policy (SNAP) program, created under CAA section 612, EPA has identified acceptable foam blowing agents many of which are not VOCs (http://www.epa.gov/ozone/title6/snap/).

H. Credit for Measures Not Fully Implemented

Comment: States should not be given credit for measures that are not fully implemented. For example, the states are being given full credit for federal coating, refinishing and consumer product rules that have been delayed or weakened.

Response: Architectural and Industrial Maintenance (AIM) Coatings: On March 22, 1995 EPA issued a memorandum [7] that provided that states could claim a 20% reduction in VOC emissions from the AIM coatings category in ROP and attainment plans based on the anticipated promulgation of a national AIM coatings rule. In developing the attainment and ROP SIPs for their nonattainment areas, states relied on this memorandum to estimate emission reductions from the anticipated national AIM rule. EPA promulgated the final AIM rule in September 1998, codified at 40 CFR part 59, subpart D. In the preamble to EPA's final AIM coatings regulation, EPA estimated that the regulation will result in 20% reduction of nationwide VOC emissions from AIM coatings categories (63 FR 48855). The estimated VOC reductions from the final AIM rule resulted in the same level as those estimated in the March 1995 EPA policy memorandum. In accordance with EPA's final regulation, states have assumed a 20% reduction from AIM coatings source categories in their attainment and ROP plans. AIM coatings manufacturers were required to be in compliance with the final regulation within one year of promulgation, except for certain pesticide formulations which were given an additional year to comply. Thus all manufacturers were required to comply, at the latest, by September 2000. Industry confirmed in comments on the proposed AIM rule that 12 months between the issuance of the final rule and the compliance deadline would be sufficient to "use up existing label stock" and "adjust inventories" to conform to the rule. 63 FR 48848 (September 11, 1998). In addition, EPA determined that, after the compliance date, the volume of nonconforming products would be very low (less than one percent) and would be withdrawn from retail shelves anyway. Therefore, EPA believes that compliant coatings were in use by the Fall of 1999 with full reductions to be achieved by September 2000 and that it was appropriate for the states to take credit for a 20% emission reductions in their SIPs.

Autobody Refinish Coatings Rule: Consistent with a November 27, 1994 EPA policy,[8] many states claimed a 37% reduction from this source category based on a proposed rule. However, EPA's final rule, "National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings," published on September 11, 1998 (63 FR 48806), did not regulate lacquer topcoats and will result in a smaller emission reduction of around 33% overall nationwide. The 37% emission reduction from EPA's proposed rule was an estimate of the total nationwide emission reduction. Since this number is an overall national average, the actual reduction achieved in any particular area could vary depending on the level of control which already existed in the area. For example, in California the reduction from the national rule is zero because California's rules are more stringent than the national rule. In the proposed rule, the estimated percentage reduction for areas that were unregulated before the national rule was about 40%. However as a result of the lacquer topcoat exemption added between proposal and final rule, the reduction is now estimated to be 36% for previously unregulated areas. Although Connecticut's post-1999 ROP SIP claims a 37 percent reduction from this rule, the large surplus NO_x reductions achieved by Connecticut's ROP plan easily cover the shortfall caused by the minor overestimation of credit from the federal automobile refinishing rule. Additionally, this minor overestimation is not likely to adversely impact Connecticut's attainment demonstration SIP. By taking a 37% reduction instead of a 36% reduction, Connecticut's SIP overstates VOC emission reductions in its severe area by 0.06 tpsd which is not significant when compared to total VOC emissions and VOC emission reductions for the area. EPA's best estimate of the reduction potential of the final rule was spelled out in a September 19, 1996 memorandum entitled "Emissions Calculations for the Automobile Refinish Coatings Final Rule" from Mark Morris to Docket No. A–95–18.

Consumer Products Rule: Consistent with a June 22, 1995 EPA guidance,[9] states claimed a 20% reduction from this source category based on EPA's proposed rule. The final rule, "National Volatile Organic Compound Emission Standards for Consumer Products," (63 FR 48819), published on September 11, 1998, has resulted in a 20% reduction after the December 10, 1998 compliance date. Moreover, these reductions largely occurred by the Fall of 1999. In the consumer products rule, EPA determined, and the consumer products industry concurred, that a significant proportion of subject products have been reformulated in response to state regulations and in anticipation of the final rule. 63 FR 48819. Thus, while Connecticut did not adopt such regulations, it benefitted from the sale of reformulated products due to the actions of other states to regulate consumer products. In essence, industry reformulated the products covered by the federal consumer products rule in advance of the final rule. Therefore, EPA believes that complying products in accordance with the rule were in use by the Fall of 1999. It was appropriate for the states to take credit for a 20% emission reduction for the consumer products rule in their SIPs.

I. Enforcement of Control Programs

Comment: The attainment demonstrations do not clearly set out programs for enforcement of the various control strategies relied on for emission reduction credit.

Response: In general, state enforcement, personnel and funding program elements are contained in SIP revisions previously approved by EPA

[7] "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rules," March 22, 1995, from John S. Seitz, Director, Office of air Quality Planning and Standards for Air Division Directors, Regions I–X.

[8] "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule and the Autobody Refinishing Rule," November 27, 1994, John S. Seitz, Director OAQPS, to Air Division Directors, Regions I–X.

[9] "Regulatory Schedule for Consumer and Commercial Products under section 183(e) of the Clean Air Act," June 22, 1995, John S. Seitz, Director of OAQPS, to Air Division Directors, Regions I–X.

under obligations set forth in section 110(a)(2)(C) of the Clean Air Act. Once approved by the EPA, there is no need for states to readopt and resubmit these programs with each and every SIP revision required by other sections of the Act. In addition, emission control regulations will also contain specific enforcement mechanisms, such as record keeping and reporting requirements, and may also provide for periodic state inspections and reviews of the affected sources. EPA's review of these regulations includes review of the enforceability of the regulations. Rules that are not enforceable are generally not approved by the EPA. To the extent that the ozone attainment demonstration and ROP plan depend on specific state emission control regulations these individual regulations have undergone review by the EPA in past approval actions or, to the extent they are being approved through this action, have undergone review in the current rulemaking.

J. Contingency Measures

Comment: The SIP for the Connecticut portion of the NY-NJ-CT severe ozone nonattainment area does not provide contingency measures to make up for any emission reduction shortfall, either in achievement of ROP milestones or for failure to attain, as required by sections 172(c)(9) and 182(c)(9) of the Clean Air Act.

Response: The Connecticut SIP does provide contingency measures for ROP as required by section 182(c)(9), but does not provide contingency measures for failure to attain as required by section 172(c)(9). The state's ROP contingency plan is discussed in detail in our August 10, 2001 document (66 FR 42172). We are approving Connecticut's demonstration that it meets the contingency measure provision of section 182(c)(9) of the Act, which requires contingency measures for serious and above milestone failures.

Connecticut still must meet the contingency measure provision of section 172(c)(9) of the Act, which pertains to failure to attain the ozone standard by the required date. But EPA is not obligated to approve such measures prior to approving the attainment demonstration, because the contingency measure requirement of section 172(c)(9) is independent from the attainment demonstration requirements under sections 172(c)(1) and 182(c)(2)(A). The section 172(c)(9) contingency measure requirement addresses the event that an area fails to attain the ozone NAAQS by the attainment date established in the SIP and has no bearing on whether a state has submitted a SIP that projects attainment of the ozone NAAQS. The attainment SIP provides a demonstration that attainment ought to be reached, but the contingency measure SIP requirement of section 179(c)(9) concerns what is to happen only if attainment is not actually achieved. The EPA acknowledges that contingency measures are an independently required SIP revision, but does not believe that submission of contingency measures is necessary before EPA may approve an attainment SIP.

Additionally, in the event that attainment is not achieved by 2007 there are a number of EPA measures that will achieve significant emission reductions that the SIP does not rely on or take credit for. These include continuing reductions from EPA's Tier 2 tailpipe standards and EPA's standards for a variety of non-road sources. The EPA has analyzed the Connecticut SIP and has estimated that the contingency obligation would be approximately 3.8 tons per summer day (tpsd) in ozone precursor emission reductions. Reductions from the federal non-road and the Tier 2 tailpipe standards during the time frame contingency measures would need to be implemented for failure to attain (i.e., by May 2009) [10] are estimated to be at least 5.5 tpsd, which would cover the contingency obligation for this area. More details on EPA's contingency measure analysis are included in the docket for the rulemaking action. While there is not an approved SIP contingency measure that would apply if the state failed to attain, EPA believes that existing federally enforceable measures would provide the necessary substantive relief.

K. MOBILE6 and Motor Vehicle Emissions Budgets

Comment 1: One commenter generally supports a policy of requiring motor vehicle emissions budgets to be recalculated when revised MOBILE models are released.

Response 1: The Connecticut attainment demonstration, which relies on Tier 2 emission reduction credit, contains a commitment to revise the 2007 motor vehicle emissions budgets within 1 year after MOBILE6 is released.

Comment 2: The revised budgets calculated using MOBILE6 will likely be submitted after the MOBILE5 budgets have already been approved. EPA's policy is that submitted SIPs may not replace approved SIPs.

Response 2: EPA proposed to change its policy in the July 28, 2000 SNPRM (65 FR 46383) to provide that the approval of the MOBILE5 budgets for conformity purposes would last only until MOBILE6 budgets had been submitted and found adequate. EPA is taking final action adopting this revised interpretation in this notice. In this way, the MOBILE6 budgets can apply for conformity purposes as soon as they are found adequate.

Comment 3: If a State submits additional control measures that affect the motor vehicle emissions budget but does not submit a revised motor vehicle emissions budget, EPA should not approve the attainment demonstration.

Response 3: EPA agrees. The motor vehicle emissions budgets in the Connecticut attainment demonstration reflect the motor vehicle control measures in the attainment demonstration. In addition, Connecticut has committed to submit new budgets as a revision to the attainment SIP consistent with any new measures submitted to fill any shortfall, if the additional control measures affect on-road motor vehicle emissions.

Comment 4: EPA should make it clear that the motor vehicle emissions budgets to be used for conformity purposes will be determined from the total motor vehicle emissions reductions required in the SIP, even if the SIP does not explicitly quantify a revised motor vehicle emissions budget.

Response 4: EPA will not approve SIPs without motor vehicle emissions budgets that are explicitly quantified for conformity purposes. The Connecticut attainment demonstration contains explicitly quantified motor vehicle emissions budgets which EPA has found adequate (65 FR 37778).

Comment 5: If a state fails to follow through on its commitment to submit the revised motor vehicle emissions budgets using MOBILE6, EPA could make a finding of failure to submit a portion of a SIP, which would trigger a sanctions clock under section 179.

Response 5: EPA agrees that if a state fails to meet its commitment, EPA could make a finding of failure to implement the SIP, which would start a sanctions clock under section 179 of the Clean Air Act.

Comment 6: If the budgets recalculated using MOBILE6 are larger than the MOBILE5 budgets, then attainment should be demonstrated again.

Response 6: As EPA proposed in its December 16, 1999 notices, we will work with states on a case-by-case basis if the new emissions estimates raise

[10] EPA policy provides that contingency measures should achieve a 3 percent reduction in emissions in the year following an EPA determination of a failure to attain or to meet a progress requirement.

issues about the sufficiency of the attainment demonstration.

Comment 7: If the MOBILE6 budgets are smaller than the MOBILE5 budgets, the difference between the budgets should not be available for reallocation to other sources unless air quality data show that the area is attaining, and a revised attainment demonstration is submitted that demonstrates that the increased emissions are consistent with attainment and maintenance. Similarly, the MOBILE5 budgets should not be retained (while MOBILE6 is being used for conformity demonstrations) unless the above conditions are met.

Response 7: EPA agrees that if recalculation using MOBILE6 shows lower motor vehicle emissions than MOBILE5, then these motor vehicle emission reductions cannot be reallocated to other sources or assigned to the motor vehicle emissions budget as a safety margin unless the area reassesses the analysis in its attainment demonstration and shows that it will still attain. In other words, the area must assess how its original attainment demonstration is impacted by using MOBILE6 vs. MOBILE5 before it reallocates any apparent motor vehicle emission reductions resulting from the use of MOBILE6. In addition, Connecticut has committed to submit new budgets based on MOBILE6, so the MOBILE5 budgets will not be retained in the SIP indefinitely.

Comment 8: We received a comment on whether the grace period before MOBILE6 is required in conformity determinations will be consistent with the schedules for revising SIP motor vehicle emissions budgets within 1 or 2 years of MOBILE6's release.

Response 8: This comment is not germane to this rulemaking, since the MOBILE6 grace period for conformity determinations is not explicitly tied to EPA's SIP policy and approvals. However, EPA understands that a longer grace period would allow some areas to better transition to new MOBILE6 budgets. EPA is considering the maximum 2-year grace period allowed by the conformity rule, and EPA will address this in the future when the final MOBILE6 emissions model and policy guidance is released.

Comment 9: One commenter asked EPA to clarify in the final rule whether MOBILE6 will be required for conformity determinations once new MOBILE6 budgets are submitted and found adequate.

Response 9: This comment is not germane to this rulemaking. However, it is important to note that EPA intends to clarify its policy for implementing MOBILE6 in conformity determinations when the final MOBILE6 model is released. EPA believes that MOBILE6 should be used in conformity determinations once new MOBILE6 budgets are found adequate.

Comment 10: One commenter did not prefer the additional option for a second year before the state has to revise the conformity budgets with MOBILE6, since new conformity determinations and new transportation projects could be delayed in the second year.

Response 10: EPA proposed the additional option to provide further flexibility in managing MOBILE6 budget revisions. The supplemental proposal did not change the original option to revise budgets within one year of MOBILE6's release. State and local governments can continue to use the 1-year option, if desired, or submit a new commitment consistent with the alternative 2-year option. EPA expects that state and local agencies have consulted on which option is appropriate and have considered the impact on future conformity determinations. Connecticut has committed to revise its budgets within 1 year of MOBILE6's release.

L. Measures for the 1-Hour NAAQS and for Progress Toward 8-Hour NAAQS

Comment: One commenter notes that EPA has been working toward promulgation of a revised 8-hour ozone National Ambient Air Quality Standard (NAAQS) because the Administrator deemed attaining the 1-hour ozone NAAQS is not adequate to protect public health. Therefore, EPA must ensure that measures be implemented now that will be sufficient to meet the 1-hour standard and that make as much progress toward implementing the 8-hour ozone standard as the requirements of the CAA and implementing regulations allow.

Response: The 1-hour standard remains in effect for all of these areas, and the SIPs that have been submitted are for the purpose of achieving that NAAQS. Congress has provided the states with the authority to choose the measures necessary to attain the NAAQS and EPA cannot second guess the states' choice if it determines that the SIP meets the requirements of the CAA. EPA believes that the SIPs for the severe areas meet the requirements for attainment demonstrations for the 1-hour standard and thus, could not disapprove them even if EPA believed other control requirements might be more effective for attaining the 8-hour standard. However, EPA generally believes that emission controls implemented to attain the 1-hour ozone standard will be beneficial towards attainment of the 8-hour ozone standard as well. This is particularly true regarding the implementation of NO_X emission controls resulting from EPA's NO_X SIP Call.

Finally, EPA notes that although the 8-hour ozone standard has been adopted by the EPA, implementation of this standard has been delayed while certain aspects of the standard remain before the United States Circuit Court of Appeals. The states and the EPA have yet to define the 8-hour ozone nonattainment areas and the EPA has yet to issue guidance and requirements for the implementation of the 8-hour ozone standard.

M. Attainment and Post '99 Rate of Progress Demonstrations

Comment: One commenter claims that the plans fail to demonstrate emission reductions of 3% per year over each 3-year period between November 1999 and November 2002; and November 2002 and November 2005; and the 2-year period between November 2005 and November 2007, as required by 42 U.S.C. 7511a(c)(2)(B). The states have not even attempted to demonstrate compliance with these requirements, and EPA has not proposed to find that they have not been met.

The EPA has absolutely no authority to waive the statutory mandate for 3% annual reductions. The statute does not allow EPA to use the NO_X SIP call or 126 orders as an excuse for waiving rate-of-progress (ROP) deadlines. The statutory ROP requirement is for emission reductions—not ambient reductions. Emission reductions in upwind states do not waive the statutory requirement for 3% annual emission reductions within the downwind nonattainment area.

Response: These comments center on the concern that for many areas, EPA did not propose approval of the post-99 ROP demonstrations at the same time as EPA proposed action on the area's attainment demonstration. For those areas EPA has since proposed approval of the post-99 ROP SIPs. Under no condition is EPA waiving the statutory requirement for an average of 3% annual emission reductions over each 3-year ROP period. In this action EPA is approving the Post-99 plan for the Connecticut portion of the NY–NJ–CT severe area, as achieving 3% average annual reductions over each 3-year period (or 2-year period for 2005–2007) until the area's attainment date. Moreover, EPA has not provided that areas may rely on upwind reductions for purposes of meeting the ROP requirements. Rather, states are relying

on in-state NO_X and VOC measures for meeting the ROP requirement.

IV. Final Action

As described above, EPA does not believe any of the comments we received on the proposals published for the attainment demonstration for the Connecticut portion of the NY–NJ–CT severe area should affect EPA's determination that the SIP is fully approvable. Thus, EPA is approving several SIP revisions that relate to attainment of the one-hour ozone standard in the Connecticut portion of the NY–NJ–CT severe area. The SIP revisions include Connecticut's one-hour ozone attainment demonstration for the state's portion of the NY–NJ–CT severe area, various enforceable commitments, a RACM analysis, and the post-1999 ROP plan. Connecticut's one-hour ozone attainment demonstration includes 2007 motor vehicle emissions budgets, which EPA is approving until new budgets using MOBILE 6 or in conjunction with new mobile source measures to fill the shortfall are submitted and found adequate. Also, EPA is approving the motor vehicle emissions budgets for 2002 and 2005 contained in Connecticut's post-1999 ROP plan for transportation conformity purposes.

The enforceable commitments we are approving include: (1) A commitment to adopt and submit by October 31, 2001 additional necessary regional control measures to offset the shortfall in emission reductions necessary to attain the one-hour ozone standard by November 2007; (2) a commitment to adopt and submit by October 31, 2001 additional necessary intrastate control measures to offset the shortfall in emission reductions necessary to attain the one-hour ozone standard by November 2007; (3) a commitment to adopt and submit additional restrictions on VOC emissions from mobile equipment and repair operations; (4) a commitment to adopt and submit additional requirements to reduce VOC emissions from certain consumer products; (5) a commitment to revise the attainment-level 2007 motor vehicle emissions budgets within one year of the date that EPA releases the final version of their motor vehicle emissions model, MOBILE6; (6) a commitment to recalculate and submit revised motor vehicle emissions budgets if any additional motor vehicle control measures are adopted to address the shortfall; and () a commitment to perform a mid-course review of the attainment status of the one-hour ozone nonattainment area by December 31, 2004. The mid-course review commitment relates to the Greater Connecticut one-hour ozone nonattainment area as well.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 11, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen

dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: November 30, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA—New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart H—Connecticut

2. Section 52.377 is amended by revising paragraph (b) and adding paragraphs (c) and (d) to read as follows:

§ 52.377 Control strategy: Ozone

* * * * * *

(b) Approval—Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on September 16, 1998 and February 8, 2000. The revisions are for the purpose of satisfying the attainment demonstration requirements of section 182(c)(2)(A) of the Clean Air Act for the Greater Connecticut serious ozone nonattainment area. The revision establishes an attainment date of November 15, 2007 for the Greater Connecticut serious ozone nonattainment area. This revision establishes motor vehicle emissions budgets for 2007 of 30.0 tons per day of volatile organic compounds (VOC) and 79.6 tons per day of nitrogen oxides (NO_X) to be used in transportation conformity in the Greater Connecticut serious ozone nonattainment area, until revised budgets pursuant to MOBILE6 are submitted and found adequate. In the revision, Connecticut commits to revise their VOC and NO_X motor vehicle emissions budgets within one year of the release of MOBILE6. Connecticut also commits to conduct a mid-course review to assess modeling and monitoring progress achieved towards the goal of attainment by 2007, and submit the results to EPA by December 31, 2004.

(c) Approval—Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on October 15, 2001. These revisions are for the purpose of satisfying the rate of progress requirement of section 182 (c)(2)(B) through 2007, and the contingency measure requirements of section 182 (c)(9) of the Clean Air Act, for the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area. These revisions also establish motor vehicle emissions budgets for 2002 of 15.20 tons per day of VOC and 38.39 tons per day of NO_X, and for 2005 of 11.42 tons per day of VOC and 29.01 tons per day of NO_X to be used in transportation conformity in the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area.

(d) Approval—Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on September 16, 1998, February 8, 2000 and October 15, 2001. The revisions are for the purpose of satisfying the attainment demonstration requirements of section 182(c)(2)(A) of the Clean Air Act for the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area. These revisions also establish motor vehicle emissions budgets for 2007 of 9.69 tons per day of VOC and 23.68 tons per day of NO_X to be used in transportation conformity in the Connecticut portion of the NY–NJ–CT severe ozone nonattainment area, until revised budgets are submitted and found adequate pursuant to MOBILE6, or in conjunction with the additional mobile source measures, if any, to fulfill the shortfall. Connecticut commits to revise their 2007 VOC and NO_X transportation conformity budgets within one year of the release of MOBILE6, for both 1-hour ozone nonattainment areas. Connecticut commits to recalculate and submit revised motor vehicle emissions budgets, if any additional motor vehicle control measures are adopted to address the shortfall. Connecticut commits to adopt and submit by October 31, 2001, additional necessary regional control measures to offset the emission reduction shortfall in order to attain the one-hour ozone standard by November 2007. Connecticut commits to adopt and submit by October 31, 2001, additional necessary intrastate control measures to offset the emission reduction shortfall in order to attain the one-hour ozone standard by November 2007. Connecticut commits to adopt and submit: (1) additional restrictions on VOC emissions from mobile equipment and repair operations; and (2) requirements to reduce VOC emissions from certain consumer products. Connecticut also commits to conduct a mid-course review to assess modeling and monitoring progress achieved towards the goal of attainment by 2007, and submit the results to EPA by December 31, 2004.

[FR Doc. 01–30458 Filed 12–10–01; 8:45 am]

BILLING CODE 6450–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[VT 022–1225a; FRL–7116–6]

Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Vermont; Negative Declaration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the Sections 111(d)/129 negative declaration submitted by the Vermont Agency of Natural Resources (ANR) on June 5, 2001. This negative declaration adequately certifies that there are no existing commercial and industrial solid waste incineration units (CISWIs) located within the boundaries of the state of Vermont. EPA publishes regulations under Sections 111(d) and 129 of the Clean Air Act requiring states to submit control plans to EPA. These state control plans show how states intend to control the emissions of designated pollutants from designated facilities (*i.e.*, CISWIs). The state of Vermont submitted this negative declaration in lieu of a state control plan.

DATES: This direct final rule is effective on February 11, 2002 without further notice unless EPA receives significant adverse comment by January 10, 2002. If EPA receives adverse comment we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should address your written comments to: Mr. Steven Rapp, Chief, Air Permit Programs Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023.

Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: John J. Courcier, (617) 918–1659.

SUPPLEMENTARY INFORMATION:

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I. What Action Is EPA Taking Today?

EPA is approving the negative declaration of air emissions from CISWI units submitted by the state of Vermont.

EPA is publishing this negative declaration without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve this negative declaration should relevant adverse comments be filed. If EPA receives no significant adverse comment by January 10, 2002, this action will be effective February 11, 2002.

If EPA receives significant adverse comments by the above date, we will withdraw this action before the effective date by publishing a subsequent document in the **Federal Register** that will withdraw this final action. EPA will address all public comments received in a subsequent final rule based on the parallel proposed rule published in today's **Federal Register**. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If EPA receives no comments, this action will be effective February 11, 2002.

II. What Is the Origin of the Requirements?

Under Section 111(d) of the Clean Air Act, EPA published regulations at 40 CFR part 60, Subpart B which require states to submit plans to control emissions of designated pollutants from designated facilities. In the event that a state does not have a particular designated facility located within its boundaries, EPA requires that a negative declaration be submitted in lieu of a control plan.

III. When Did the CISWI Requirements First Become Known?

On November 30, 1999 (64 FR 67092), EPA proposed emission guidelines for CISWI units. This action would enable EPA to list CISWI units as designated facilities. EPA specified particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins/furans as designated pollutants by proposing emission guidelines for existing CISWI units. These guidelines were published in final form on December 1, 2000 (65 FR 75362).

IV. When Did Vermont Submit Its Negative Declaration?

On June 5, 2001, the Vermont Agency of Natural Resources (ANR) submitted a letter certifying that there are no existing CISWI units subject to 40 CFR part 60, subpart B. Section 111(d) and 40 CFR 62.06 provide that when no such designated facilities exist within a state's boundaries, the affected state may submit a letter of "negative declaration" instead of a control plan. EPA is publishing this negative declaration at 40 CFR 62.11480

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks that EPA has reason to believe may have a disproportionate effect on children.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's action does not create any new requirements on any entity affected by this State Plan. Thus, the action will not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of

Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Negative declaration approvals under section 111(d) of the Clean Air Act do not create any new requirements on any entity affected by this rule, including small entities. Furthermore, in developing the small MWC emission guidelines and standards, EPA prepared a written statement pursuant to the Regulatory Flexibility Act which it published in the 1997 promulgation notice (*see* 62 FR 48348). In accordance with EPA's determination in issuing the 1997 small MWC emission guidelines, this negative declaration approval does not include any new requirements that will have a significant economic impact on a substantial number of small entities.

Therefore, because this approval does not impose any new requirements and pursuant to section 605(b) of the Regulatory Flexibility Act, the Regional Administrator certifies that this rule will not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"], signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted on by the rule.

EPA has determined that this approval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Thus, this action is not subject to the requirements of sections 202, 203, 204, and 205 of the Unfunded Mandates Act.

G. Submission to Congress and the General Accounting Office

Under 5 U.S.C. section 801(a)(1)(A), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. section 804(2).

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub L. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

In approving or disapproving negative declarations under section 129 of the Clean Air Act, EPA does not have the authority to revise or rewrite the State's rule, so the Agency does not have authority to require the use of particular voluntary consensus standards. Accordingly, EPA has not sought to identify or require the State to use voluntary consensus standards. Therefore, the requirements of the NTTAA are not applicable to this final rule.

I. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 11, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2), 42 U.S.C. 7607(b)(2)). EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Dated: December 4, 2001.

Robert W. Varney,

Regional Administrator, EPA New England.

40 CFR Part 62 is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart UU—Vermont

2. Subpart UU is amended by adding a new § 62.11480 and a new undesignated center heading to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incineration Units

§ 62.11480 Identification of Plan-negative declaration.

On June 5, 2001, the Vermont Agency of Natural Resources submitted a letter certifying that there are no existing commercial and industrial solid waste incineration units in the state subject to the emission guidelines under part 60, subpart DDDD of this chapter.

[FR Doc. 01–30583 Filed 12–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50643A; FRL–6807–3]

RIN 2070–AB27

Revocation of Significant New Uses of Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking significant new use rules (SNURs) for 2 substances promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) based on new data. Based on the new data the Agency no longer finds that activities not described in the corresponding TSCA section 5(e) consent orders for these chemical substances may result in significant changes in human or environmental exposure.

DATES: This rule is effective February 11, 2002.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: James Alwood, Chemical Control Division, Office of Pollution Prevention and Toxics (7405M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8974; e-mail address: alwood.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture, import, process, or use the chemical substances contained in this revocation. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Chemical manufacturers	325	Manufacturers, importers, processors, and users of chemicals
Petroleum and coal product industries	324	Manufacturers, importers, processors, and users of chemicals

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in title 40 of the Code of Federal Regulations (CFR) at 40 CFR 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 721 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr721_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPPTS–50643A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260–7099.

II. Background

A. What Action is the Agency Taking?

The Agency proposed the revocation of these SNURs in the **Federal Register** of August 16, 2001 (66 FR 42976) (FRL–6763–3). The background and reasons for the revocation of each individual SNUR are set forth in the preamble to the proposed revocation. The comment period closed on September 17, 2001. EPA received one comment supporting the revocation of the SNURs. Therefore, EPA is revoking these rules.

B. What is the Agency's Authority for Taking this Action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2) of TSCA. Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.5.

During review of the PMNs submitted for the chemical substances that are the subject of this revocation, EPA concluded that regulation was

warranted based on available information that indicated activities not described in the TSCA section 5(e) consent order or the PMN might result in significant changes in human or environmental exposure as described in section 5(a)(2) of TSCA. Based on these findings, SNURs were promulgated.

EPA has revoked the TSCA section 5(e) consent orders that are the basis for these SNURs and no longer finds that activities other than those described in the TSCA section 5(e) consent orders may result in significant changes in human or environmental exposure. The revocation of SNUR provisions for these substances is consistent with the findings set forth in the preamble to the proposed revocation of each individual SNUR.

Therefore, EPA is revoking the SNUR provisions for these chemical substances and will no longer require notice of intent to manufacture, import, or process these substances. In addition, export notification under section 12(b) of TSCA will no longer be required.

III. Regulatory Assessment Requirements

This rule revokes or eliminates an existing regulatory requirement and does not contain any new or amended requirements. As such, the Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled "*Regulatory Planning and Review*" (58 FR 51735, October 4, 1993).

Since this rule does not impose any requirements, it does not contain any information collections subject to approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or require any other action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

Nor does it require any prior consultation as specified by Executive Order 12875, entitled "*Enhancing the Intergovernmental Partnership*" (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled "*Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*" (59 FR 7629, February 16, 1994) or require OMB review in accordance with Executive Order 13045, entitled "*Protection of Children from Environmental Health Risks and Safety Risks*" (62 FR 19885, April 23, 1997).

On August 4, 1999, President Clinton issued a new executive order on *Federalism*, Executive Order 13132 (64 FR 43255, August 10, 1999). This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has determined that SNUR revocations, which eliminate requirements without imposing any new ones, have no adverse economic impacts.

This rule is not subject to Executive Order 13211, "*Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 3, 2001.

William H. Sanders, III

Office Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§§ 721.3460 and 721.6820 [Removed]

2. By removing §§ 721.3460 and 721.6820.

[FR Doc. 01–30594 Filed 12–10–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 241

[FRA Docket No. FRA–2001–8728, Notice No. 1]

RIN 2130–AB30

U.S. Locational Requirement for Dispatching of U.S. Rail Operations

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Interim final rule and request for comments.

SUMMARY: This Interim Final Rule adds a new regulation that requires all dispatching of railroad operations that occur in the United States to be performed in the United States, with three minor exceptions. First, a railroad is allowed to conduct dispatching of railroad operations in the United States from a point outside the United States ("extraterritorial dispatching") in emergency situations for the duration of the emergency if the railroad provides prompt written notification of its action to the FRA Regional Administrator of each FRA region in which the railroad operation occurs; such notification is not required before addressing the emergency situation. Second, the rule permits continued extraterritorial dispatching of the very limited track segments in the United States that were regularly being so dispatched in December 1999. This grandfathering covers the four domestic operations that are dispatched from Canada. Third, the rule would allow for extraterritorial dispatching from Canada or Mexico of fringe border operations. Such operations are acceptable provided the United States trackage being dispatched does not exceed 100 miles, each train is under the control of the same assigned crew for the entire trip over that trackage, and the rail line encompassing the trackage either both originates and terminates in either Canada or Mexico without the pick up, set out, or interchange of cars in the United States or is under the exclusive control of a single dispatching district and that portion of the line being dispatched extends no further into the United States than specified types of locations close to the border.

In addition, railroads that wish to commence additional extraterritorial dispatching may apply for a waiver under certain other provisions from the domestic locational requirement set forth in this regulation. Such a waiver may be granted if, inter alia, an

applicant can demonstrate to the satisfaction of FRA a program to assure safety oversight of the dispatching function comparable to that provided by FRA regulators for dispatchers located in the United States.

FRA is interested in receiving public comments on possible benefits and costs of this Interim Final Rule and comments on whether FRA should adopt an alternative regulatory scheme under which extraterritorial dispatching of United States railroad operations would be permitted and, if so, under what conditions. The Interim Final Rule will be in effect for a period of 365 days to provide FRA with time to analyze these comments. Based on the comments, FRA may: Issue final rule amendments to the Interim Final Rule making the Interim Final Rule permanent with any substantive changes FRA determines are appropriate; issue a notice proposing a new rule (a notice of proposed rulemaking), and possibly a final rule amendment extending the deadline of the Interim Final Rule while FRA completes this new rulemaking; or decide that no Federal regulation is appropriate and issue a final rule removing the Interim Final Rule.

DATES: (1) *Effective Date:* This regulation is effective January 10, 2002 through January 10, 2003.

(2) *Written Comments:* Written comments must be received by February 11, 2002. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

(3) *Public Hearing:* FRA is planning to conduct at least one public hearing to be held in Washington, DC, in order to provide all interested parties the opportunity to comment on the provisions contained in the Interim Final Rule. FRA will issue a separate document in the **Federal Register** in the very near future to inform all interested parties as to the exact date and location where the public hearing(s) will be held.

ADDRESSES: Anyone wishing to file a comment should refer to the FRA docket and notice numbers (Docket No. FRA–2001–8728, Notice No. 1). You may submit your comments and related material by only one of the following methods:

By mail to the Docket Management System, United States Department of Transportation, room PL–401, 400 7th Street, SW., Washington, DC 20590–0001;

Electronically through the Web site for the Docket Management System at *http://dms.dot.gov*. For instructions on how to submit comments electronically, visit the Docket Management System Web site and click on the "Help" menu.

The Docket Management Facility maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza Level of the Nassif Building at the same address during regular business hours. You may also obtain access to this docket on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: For technical issues related to alcohol and controlled substance matters, Lamar Allen, Alcohol and Drug Program Manager, FRA Office of Safety, RRS–11, 1120 Vermont Avenue, NW., Stop 25, Washington, DC 20590 (telephone 202–493–6313); or for other technical issues, Dennis Yachechak, Railroad Safety Specialist, FRA Office of Safety, RRS–11, 1120 Vermont Avenue, NW., Stop 25, Washington, DC 20590 (telephone 202–493–6260). For legal issues related to alcohol and controlled substance matters, Patricia Sun, Trial Attorney, FRA Office of the Chief Counsel, RCC–11, 1120 Vermont Avenue, NW., Stop 10, Washington, DC 20590 (telephone 202–493–6038); or for other legal issues, John Winkle, Trial Attorney, FRA Office of the Chief Counsel, RCC–12, 1120 Vermont Avenue, NW., Stop 10, Washington, DC 20590 (telephone 202–493–6067).

SUPPLEMENTARY INFORMATION:

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I. Railroad Dispatchers Are Essential to the Safety of Railroad Operations

Proper dispatching is essential for safe railroad operations. Because trains have long stopping distances, train operations are not conducted by line of sight. Rather, the route ahead must be cleared for the train's movement. Switches must be aligned properly along the route. Potentially conflicting movements must be guarded against in order to prevent collisions. Dispatchers actually "steer" the train by remotely aligning switches. They determine whether the train should stop or move, and if so, at what speed, by operating signals and issuing train orders and other forms of movement authority or speed restriction. In addition, dispatchers protect track gangs and other roadway workers from passing trains by issuing authorities for working limits. Train crews on board locomotives carry out the dispatchers' instructions and are responsible for actually moving the train, but dispatchers make it possible to do so safely.

FRA is aware that, depending upon the "method of operation" in effect on a particular territory and the availability of computer-aided dispatching (CAD) systems, electrical or electronic systems may constitute significant checks on inadvertent dispatcher error. However, the possibility for error remains within any method of operation. For instance, there are a variety of scenarios in which dispatchers can override CAD system warnings. Even in traffic control territory, where vital signal logic nominally protects against conflicting movements, roadway workers and their equipment may lack protection due to dispatcher error; and it may be necessary to issue authorities for train movements past stop signals in a variety of circumstances. Thus, a dispatcher's judgment must be sound if railroad operations are to be conducted safely.

It is commonplace in today's railroad operations for dispatchers to be located at a significant distance from the trackage and operations they control. For example, CSX Transportation, Inc. (CSX) dispatchers in Jacksonville, Florida, control the operations of CSX, Amtrak, and commuter rail trains throughout the Southeast and Mid-Atlantic. This does not create any additional safety risk. FRA does not mean to suggest, in the discussion of dispatch locational issues, that mere distance from the physical site of rail operations poses a safety hazard.

II. Potential for Location of Dispatchers outside United States Borders

Currently, dispatchers located outside the United States control only very limited train movements in the United States. Specifically, the Canadian National Railway Company (CN) uses Canadian-based dispatchers to control trains operating from Ontario, Canada, into the United States on the following trackage in the United States: 1.8 miles to Detroit, Michigan; and 3 miles to Port Huron, Michigan. CN also uses Canadian-based dispatchers located in Edmonton, Alberta, Canada, to control trains operating into Minnesota on 40 miles of track on the Sprague Subdivision, which accommodates 10 trains daily.[1] Finally, the Eastern Maine Railway Company operates track between McAdam, New Brunswick, Canada, to Brownville Junction, Maine, 99 miles of which are in the United States. Operations on this trackage are dispatched from St. John, New Brunswick, Canada. These limited rail operations do not cover any trackage that has been designated by FRA and the Military Traffic Management Command of the Department of Defense (DOD) as vital to the national defense. In addition, there is no evidence that these extremely limited operations have adversely affected safety. No dispatchers located in Mexico control railroad operations in the United States.[2]

However, there is the prospect of increased use of dispatchers located outside the United States. Specifically, CP, which owns the Delaware and Hudson Railway Company (D&H), is interested in relocating from the United States to Canada dispatching functions involving the dispatching of approximately 32 D&H trains per day operating over the 546-mile D&H system in the United States. CN's previous acquisitions of the Grand Trunk Western Railroad, Inc. (GTW) (646 miles of track operated by GTW (1998 figures)), the Illinois Central Railroad Company (2591 miles of track) and the 2,500 route miles of U.S. Class II and III railroads formerly owned by the Wisconsin Central Transportation Company raise the possibility of additional extraterritorial dispatching at some future date.[3] In addition, CP's earlier acquisition of the Soo Line Railroad Company also presents future exposure of the same kind. FRA is aware that the merged or consolidated railroads (other than CP in the case of D&H) disclaim (or are silent regarding) any current intention to transfer dispatching work outside the country. The railroads have the discretion, however, to act in their own best interests and are under no obligation to continue to refrain from extraterritorial dispatching, and those interests may change as circumstances change.

With regard to Mexico, the Texas Mexican Railroad (TM) and Transportacion Ferroviaria Mexicana (TFM) are currently exploring the feasibility of obtaining trackage rights over trackage owned by the Union Pacific Railroad Company (UP) that extends between Laredo and San Antonio and between Laredo and Houston. Finally, because of present technology, railroads operating in the United States that now dispatch their trains in the United States could dispatch these trains from anywhere in the world.

III. Dispatchers Must Comply With the Federal Railroad Safety Laws To Move Traffic Safely in the United States

As noted above, proper dispatching is essential to conducting safe railroad operations. With respect to railroad dispatchers located in the United States, Federal statutes and regulations and oversight actions by FRA, as the agency charged with administering the Federal rail safety laws, together safeguard United States railroad operations when railroad dispatchers are located in the United States. 49 U.S.C. ch. 51, 201–213; 49 CFR 1.49. Examples of safety rules and laws affecting dispatchers include operating rules and efficiency testing (49 CFR part 217), drug and alcohol testing (49 CFR part 219), and hours of service (49 U.S.C. 21105 and 49 CFR part 228). (Hereinafter, references to a numbered part are to a part in title 49 of the CFR unless otherwise stated.) To promote compliance, FRA may conduct inspections and investigations and impose sanctions for violations of its safety standards against both railroads and individuals, including dispatchers, if the individual or railroad is located in the United States. *See*, e.g., 49 U.S.C. 20107; 49 U.S.C. ch. 213; and part 209, appendix A (a description of FRA's safety enforcement program and policy). However, paragraph (c) of § 219.3 currently exempts employees of a foreign railroad, including dispatchers, whose primary reporting point is located outside of the United States and who perform service in the United States covered by the hours of service laws from subparts E (identification of troubled employees), F (pre-employment testing), and G (random testing) of § 219.3. Drug and alcohol testing of such employees is addressed in detail in an FRA Notice of Proposed Rulemaking (NPRM) published elsewhere in the **Federal Register** today that proposes revisions to Part 219 requiring that such employees be tested. The provisions of part 241 along with the provisions of the NPRM will ensure that dispatchers controlling the bulk of rail operations in the United States are covered by effective drug and alcohol testing regulations.

Besides enforcing the Federal railroad safety laws, FRA also can take other safety-related actions. Further, FRA may conduct investigations of railroad accidents in the United States, including those involving dispatching, and may issue reports on the agency's findings, including its determination of probable cause. *See*, e.g., 49 U.S.C. 20107, 20902; 49 CFR 225.31. In addition, FRA may conduct research and development as necessary for every area of railroad safety, including dispatching. 49 U.S.C. 20108. Moreover, FRA may issue rules and orders, as necessary, for every area of railroad safety, including dispatching. *See* 49 U.S.C. 20103. Such orders may include emergency orders to eliminate or reduce an unsafe condition or practice, identified through testing, inspecting, investigation, or research, that causes an emergency situation involving a hazard of death or injury to persons. *See* 49 U.S.C. 20104. Finally, FRA has recently taken a pro-active approach in its ability to influence non-regulated aspects of dispatching operations through its Safety Assurance and Compliance Program (SACP), through its safety advisories published in the **Federal Register**, and through its visits to dispatching centers to ensure that dispatching is being safely conducted whether or not specific federal standards are being violated.

[1] Canadian railroads also operate on the following three lines from Canada into the United States without the use of a dispatcher: 1 miles to Buffalo, New York (CN); 1 mile to Niagara Falls, New York (Canadian Pacific Railway Company (CP); and 1.5 miles to Niagara Falls, New York (CN).

[2] There are currently five interchange operations between Mexican and United States railroads along the Texas-Mexico border and one on the Arizona-Mexico border involving Mexican-based train crews. These movements, however, are not controlled by a dispatcher. They are all within yard limits and are controlled by yard rules. These operations are located in Texas at Brownsville, Laredo, Eagle Pass, Presidio, and El Paso, and in Arizona at Nogales. Only the Eagle Pass operation is greater than one-fourth of a mile (length of haul on United States soil), and even that operation covers less than one mile.

[3] Likewise, although The Kansas City Southern Railway Company remains independent, it "has entered into a comprehensive alliance with CN and IC." STB Ex Parte No. 582 (Sub-No. 1), advance notice of proposed rulemaking, n.7, 65 FR 18021 (April 6, 2000). "Joint marketing arrangements enable railroads to offer joint-line service almost as seamless as single-line service * * *." *Id.* at n.10.

A. Hours of Service, Operating Rules and Efficiency Testing, and Drug and Alcohol Testing Requirements

Congress has established hours of service standards for safety-sensitive domestic railroad employees, including railroad dispatchers. In order to prevent fatigue which could adversely affect job performance, 49 U.S.C. 21105 mandates that dispatchers in the United States may not work more than nine hours during a 24-hour period in a location where two or more shifts are employed, or 12 hours during a 24-hour period where only one shift is employed. Part 228 requires railroads to retain written hours of service records for dispatchers and allows for access to those records by FRA inspectors.

In addition, domestic railroad dispatchers are subject to FRA safety standards. Under part 217, railroads operating in the United States are required to have operating rules, to periodically instruct employees (including dispatchers) on those rules, to periodically conduct operations tests and inspections on employees (including dispatchers) to determine the extent of their compliance with the rules, and to keep records of the individual tests and inspections for review by FRA.

Under part 219, dispatchers and other safety-sensitive railroad employees located in the United States are subject to random, reasonable suspicion, return-to-duty, follow-up, and post-accident drug and alcohol testing, as well as pre-employment testing for drugs.[4] *See* subparts B, C, D, F, and G of part 219. Post-accident testing is required for a dispatcher who is directly and contemporaneously involved in the circumstances of any train accident meeting FRA testing thresholds. *See* subpart C. A dispatcher found to have violated FRA's drug and alcohol rules, or who refuses to submit to testing, is required to be immediately removed from dispatching service for a nine-month period, and the railroad must follow specified procedures including return-to-duty and follow-up testing requirements before returning the dispatcher to dispatching service. *See* subpart B. Additionally, domestic-based employers must provide self-referral and co-worker reporting (self-policing) programs for their employees (subpart E), submit random alcohol and drug testing plans for approval by FRA (subpart G), conduct random testing under part 219 and DOT procedures found in part 40 (subpart H), submit annual reports (subpart I), and maintain program records (subpart J).[5]

FRA's broad-based, multi-component alcohol and drug program has reduced alcohol and drug abuse in the railroad industry since FRA's original alcohol and drug regulations were implemented in 1986.

- In 1987, testing for cause conducted under FRA and railroad programs resulted in a 4.0 percent positive rate for alcohol and a 6.9 percent positive rate for drugs. These rates have declined each year, with the 1998 testing for cause resulting in a 0.36 percent positive rate for alcohol and a 0.95 percent rate for drugs.
- Random drug testing began in 1989. The first full year's data for 1990 indicated a 1.04 percent rate, declining to a 0.77 percent rate in 1998.
- Random alcohol testing began in 1994, with the first full year's data for 1995 resulting in a 0.42 percent rate, which has declined each year to a 0.003 percent rate for 1998.

FRA post-accident testing data provide perhaps the most stark and compelling proof of the decline in alcohol and drug abuse in the railroad industry. In its post-accident testing program, in which testing is triggered only by significant accidents, FRA may use lower drug detection levels (cutoffs) and test for more substances than those tested for in other types of FRA testing. Post-accident testing data are the most scrutinized because FRA reviews each testing event, and tests each specimen in a designated contract laboratory, which FRA inspects quarterly. Furthermore, because the program has been in effect since 1987, post-accident testing data provide the longest trend line.

An analysis of the post-accident testing data in the chart below demonstrates how positive test results have dramatically declined since FRA's program started. In 1987, the first year of the program, 42 employees produced a positive specimen, resulting in a post-accident positive rate of 0.4 percent for alcohol and 5.1 percent for drugs. By 1998, only four employees produced a positive specimen, resulting in positive rates of 0.0 percent for alcohol and 2.6 percent for drugs.

As shown in the post-accident testing chart below, in each of the fields—"Qualifying Events," "Employees Tested," and "Employees Positive One/More Substances [Number (A=Alcohol; D=Drug)]"—FRA has achieved a desired reduction, despite a significant increase in rail traffic. The deterrent effect of random drug testing, which was implemented in 1988–1989, most certainly influenced the dramatic reduction in post-accident positives from 41 in 1988 to only 17 in 1990. Additionally, in the eight years from 1987 through 1994, there were 20 post-accident alcohol positives, but only two post-accident alcohol positives in the succeeding four years after implementation of random alcohol testing in 1994. While some refinement of regulatory requirements over the years has reduced the class of qualifying events (cost criteria for two of the qualifying events have been increased), the remaining events are those for which higher positive rates would be expected due to a higher component of likely human factor involvement.

FRA is aware that many factors have contributed to these results and probably influenced movement in both directions. The number of employees tested has decreased due to fewer qualifying events and crew consist reductions. For other than FRA post-accident testing, the Department of Health and Human Services (DHHS) has reduced the detection cut-off level for marijuana metabolites and has increased the detection levels for opiates used in Federal workplace detection programs such as FRA's. Another factor likely to have contributed to higher industry positive rates is the constant improvement in railroad random testing

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[4] In the Omnibus Transportation Employee Testing Act of 1991, Pub. L. 102–143, Congress found that—(1) Alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, trains, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on or off duty, by those individuals who are involved in the operation of aircraft, trains, trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right to privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate. 49 U.S.C. app. 1434 note. FRA's random testing regulations respond to Congress' directive in the Act (49 U.S.C. 20140) to issue random testing regulations relating to alcohol and drug use in railroad operations.

[5] For example, Subpart I requires that certain information on a railroad's tests and inspections related to enforcement of the company's rules on alcohol and drug use be reported annually to FRA for review.

programs. Nonetheless, testing data remain the best indicator of the success that the comprehensive programs mandated by FRA have had in significantly reducing alcohol and drug abuse in the railroad industry.

FRA POST-ACCIDENT TOXICOLOGICAL TESTING RESULTS (1987–1998)

Year	Qualifying events	Employees tested	Employees positive one/more substances [number (A=Alcohol; D=Drug)]
1987	179	770	42 (3A–39D)
1988	178	682	41 (3A–38D)
1989	161	607	24 (6A–18D)
1990	149	524	17 (1A–16D)
1991	157	552	8 (2A–6D)
1992	109	332	7 (1A–6D)
1993	128	403	8 (2A–6D)
1994	115	294	7 (2A–5D)
1995	82	225	2 (0A–2D)
1996	73	197	1 (0A–1D)
1997	86	240	3 (2A–1D)
1998	68	153	4 (0A–4D)

Note on this chart, concerning 49 CFR 219, subpart C—Post-Accident Toxicological Testing:

The positives reflected in the chart indicate the presence of drugs or alcohol in a covered employee during the event. A positive result does not necessarily indicate a causal relationship with the accident. Causal determinations are made only after a thorough review of all factors that may have contributed to the accident.

With certain stated exceptions, post-accident toxicological tests are required to be conducted for the following events:

1. Major Train Accident (involving damage exceeding the current FRA reporting threshold ($6,600 in 1998)) involving:
   (a) A fatality;
   (b) A release of hazardous material lading from railroad equipment resulting in either an evacuation or a reportable injury; or
   (c) Damage to railroad property of $1,000,000 or more.
2. Impact Accident (as defined in § 219.5 involving damage exceeding the FRA reporting threshold) involving:
   (a) A reportable injury; or
   (b) Damage to railroad property of $150,000 or more.
3. Fatal Train Incident: fatality to any on-duty railroad employee involving movement of on-track equipment with damage not exceeding the reporting threshold.
4. Passenger Train Accident: passenger train involved in an accident that exceeds the reporting threshold and results in an injury reportable to FRA under 49 CFR part 225.

See 49 CFR 219.201(a). Rail/highway grade crossing accidents and accidents wholly resulting from natural causes (e.g., tornado), vandalism, or trespassing are exempt from FRA post-accident testing. *See* 49 CFR 219.201(b). For a major train accident, all train crewmembers must be tested, but any other covered employees (e.g., dispatchers, signalmen) determined not to have had a role in the cause or severity of the accident are not to be tested. *See* 49 CFR 219.201(c)(2).

B. FRA's Oversight and Enforcement Activities

In order to effectively promote safety in all areas of railroad operations, including dispatching, FRA has additional tools and programs at its disposal other than the strictly regulatory framework described above. FRA's SACP is an approach to safety that emphasizes the active partnership of FRA, rail labor representatives, and railroad management in identifying current safety problems and jointly developing effective solutions to those problems. One fundamental principle of this approach is tracing a safety problem to its root cause and attacking that root cause instead of its symptoms. Where a problem is determined to be system-wide, SACP allows for a system-wide approach rather than individual, uncoordinated actions. So far, SACP has demonstrated significant capacity for identifying and eliminating the root cause of system-wide rail safety problems, including dispatching-related problems, by enlisting those most directly affected by such problems—railroad employees and managers—in a partnership effort.

For example, in 1997, FRA effectively used SACP to address system-wide problems on the UP and Southern Pacific Transportation Company (SP) (collectively UP/SP) during the period that the two railroads were in the process of merging with each other.[6] Between June 22 and August 31, 1997, UP/SP experienced five major train collisions that resulted in the deaths of five UP/SP employees and two trespassers. These accidents were in addition to a series of yard switching accidents that claimed the lives of four UP/SP train service employees. On August 23, under the auspices of the SACP, FRA launched a comprehensive safety review of UP/SP's operations, including its dispatching, and in the ensuing two-week period, as many as 80 FRA and state safety inspectors were on UP/SP property to determine the magnitude and extent of safety problems and to recommend measures to address those problems. In November, following two non-fatal collisions, FRA sent a team of 87 Federal and state inspectors onto UP/SP property for one week to ensure that the safety deficiencies identified in the initial review were being dealt with at the highest levels of the organization.

As a result of the safety reviews, FRA concluded that a fundamental breakdown existed in some of the basic railroad operating procedures and practices essential to maintain a safe operation, particularly in the area of dispatching. As part of the SACP process, FRA conducted a comprehensive safety audit of UP/SP's Harriman Dispatch Center, which is the railroad's main dispatching facility and which dispatches operations on approximately 95 percent of UP/SP's territory. During the initial phase of the safety audit, FRA inspectors and safety specialists spent a total of 31 days at the dispatching center observing and analyzing UP/SP dispatching practices

[6] SP merged into UP effective February 1, 1998.

and procedures. Later, FRA inspectors headquartered within a few miles of the dispatching center made frequent follow-up visits to the dispatching center. FRA observed inefficient and unsafe practices by supervisors and dispatchers at the dispatching center, and correctly attributed those practices to inadequate training and extreme work overload. FRA made specific recommendations, which UP/SP accepted, such as creating additional dispatch positions, realigning dispatchers' territories to better balance the workload, hiring new dispatchers, tripling the number of dispatching supervisors, making improvements to the software in the UP/SP's CAD system, and forming a working group consisting of representatives from FRA, rail labor, and UP/SP management to continually monitor and address dispatching issues that may arise.[7] As a result of FRA's SACP efforts, UP/SP's safety performance recovered rapidly. During the year following FRA's dispatching initiative, UP/SP saw fatalities due to train collisions drop by 100 percent, from seven in 1997 to none in 1998. Such an immediate response could not have been effectuated without FRA's ability to obtain access to its facilities, which would not have been guaranteed if UP/SP's dispatching facilities were located outside the United States.

Another safety tool FRA has at its disposal is the safety advisory.[8] Safety advisories are issued by FRA and published in the **Federal Register** to disseminate important information on critical safety concerns. By publishing safety advisories in the **Federal Register**, FRA is able to reach the entire regulated community instead of just the railroad whose actions prompted the safety advisory. Previous safety advisories have concerned problems with train control systems, train handling procedures, equipment securement procedures, and procedures for reducing the risk of damage to tracks and bridges from flash floods. For example, on December 23, 1996, FRA published a Notice of Safety Bulletin in the **Federal Register** (61 FR 64191) addressing recommended safety practices for Direct Train Control (DTC), an umbrella term that refers to methods of operation used by dispatchers to control train movements that are known variously as Direct Traffic Control, Track Warrant Control (TWU), Track Permit Control System (TICS), and Form D Control System (DCS), and similar means of authorizing train movements. The safety bulletin was issued as a result of FRA's investigation of a head-on collision between two freight trains operated by CSX, and included three recommended safety practices for operations in DTC territory. Although railroad compliance with safety advisories is voluntary, the effectiveness of the advisories is greatly influenced by FRA's ability to determine the nature of the railroad's responsive action through on-site inspections and the ability to issue regulations and emergency orders should the railroad refuse to abide by the safety advisory.

Another safety tool FRA utilizes to promote rail safety is the site inspection, which is more closely associated with FRA's regulatory enforcement program than either SACP or safety advisories but can be an integral element in either. *See*, e.g., 49 U.S.C. 20107. Through site inspections, FRA's safety inspectors are able to observe a railroad's practices first-hand and, if warranted, write reports and recommend that civil penalties be assessed for violations. FRA frequently conducts inspections of railroad dispatching centers to monitor operating practices and dispatching procedures. As FRA's experience during the UP/SP SACP investigations demonstrates, site inspections are invaluable in investigating and addressing safety problems and can be used to quickly improve a railroad's operating practices.

These inspections may also reveal the need for an emergency order, especially if the railroad is unwilling to take corrective action. 49 U.S.C. 20104 (superseding 45 U.S.C. 432). FRA's emergency orders provide an example of the kind of dramatic action the agency takes in response to hazards discovered during routine site inspections. FRA received the statutory authority to issue emergency orders in 1970. Of the 22 emergency orders that FRA has issued since then, at least nine have been issued primarily as a result of such routine inspections (as opposed to FRA investigations of railroad accidents or other forms of inquiry).

All of these tools, both regulatory and non-regulatory, are strengthened by FRA's ability to readily gain access to railroad facilities. Such tools as SACP activities, railroad site visits, and emergency orders depend, to a significant degree, on easy access to railroad facilities. For these tools to work, FRA must be assured of such access. FRA is not certain at this time whether access can be assured outside the borders of the United States, or whether the laws of foreign countries will adequately safeguard United States rail operations. While FRA has the power to issue an emergency order under 49 U.S.C. 20104(a) against a railroad that does not have in place a program imposing adequate safety requirements for extraterritorial persons that dispatch domestic railroad operations, FRA would need to meet the high burden of proof entailed in sustaining such an order if it is challenged.[9]

IV. Foreign Regulatory Jurisdiction

FRA may be unable to rely on foreign laws and rules governing dispatchers, in themselves, to ensure safety in accordance with FRA requirements. There can be a number of complexities in the ways foreign laws and regulations apply to dispatching. First, although dispatching can be performed from any country in the world, not every country in the world has an entity that regulates rail transportation safety. Second, even if the host country has established a transportation regulatory entity, that entity may well lack full safety jurisdiction over the railroad operations in the United States that are being dispatched from the host country.

With respect to a host country regulatory agency's level of regulatory authority over the individual dispatchers who conduct extraterritorial dispatching, there appear to be at least four different levels of jurisdiction over these dispatchers, depending on their relevant duties. For jurisdiction purposes, an extraterritorial dispatcher could likely fall into one of at least four categories:

Type 1—a dispatcher who controls both operations in the host country and operations in the United States during a single tour of duty for every tour of duty;

Type 2—a dispatcher who controls both operations in the host county and operations in the United States during a single tour of duty but not during every tour of duty;

Type 3—a dispatcher who sometimes controls operations in the host country and sometimes controls operations in the United States, but never operations

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[7] FRA's SACP program on the post-merger UP continues today, and dispatching is still an important aspect of the program. As a result of the continued monitoring of UP's activities, UP hired 114 new dispatchers in 1998 and, as of mid-year 1999, planned to hire 124 new dispatchers by the end of 1999. In part as a result of this effort, problems with rail traffic congestion and accidents have been addressed.

[8] Safety advisories are also known as safety directives and safety bulletins. All three serve the same purpose—to advise the regulated community of critical safety information.

[9] In order to justify an emergency order, FRA must establish that "an unsafe condition or practice, or a combination of unsafe conditions and practices, causes an emergency situation involving a hazard of death or personal injury." *See* 49 U.S.C. § 20104(a).

in both countries during a single tour of duty; and

Type 4—a dispatcher who controls only operations in the United States and never controls operations in the host country.

For example, if the host country's hours of service restrictions (if any) apply in the same manner as FRA has traditionally interpreted those of the United States (49 U.S.C. ch. 211), then those restrictions would normally apply only if the nexus to railroad safety in the host country is clear because the dispatcher controls railroad operations that occur in the host country at least at some point during his or her duty tour. Several conclusions result. First, the host country's rules would always apply to a Type 1 dispatcher (because he or she is controlling operations in the host country and thus performing service subject to those rules during each of his or her duty tours). Second, the host country's rules would apply only sometimes to a Type 2 or Type 3 dispatcher (only during the duty tours when he or she controls operations in the host country). Third, the host country's rules would never apply to a Type 4 dispatcher (because he or she does not control operations in the host country during his or her duty tour). Of course, the necessity for the Type 2 and Type 3 dispatcher to comply with the host country's rules during some of his or her duty tours might benefit the safety of United States railroad operations, but not as much as if the rules applied to all of his or her duty tours. In the case of the Type 4 dispatcher, who controls only operations in the United States and none in the host country, the probable inapplicability of the host country's safeguards against fatigue to any of his or her dispatching would mean that he or she could legally be required to work for dangerously long periods of time, which would increase the risk of human error that could lead to train accidents and train incidents in the United States. Similar typologies and scenarios could be created with respect to the dispatching centers themselves (e.g., security measures) and to other aspects of the dispatching function, such as training in the railroad company's operating rules paralleling part 217.

FRA invites comments on this potential regulatory gap and how it could be addressed if extraterritorial dispatching is allowed.

V. Hours of Service, Operating Rules Compliance, and Substance Abuse Concerns

Moreover, current regulations and statutes governing hours of service limitations, operational testing, and drug and alcohol programs applicable to dispatchers are not uniform throughout foreign countries, and may fall below the safety standards established by the United States' statutes and regulations. Therefore, even if a foreign country's regulations and statutes applied to and completely covered cross-border dispatching of United States rail operations, the safety of the United States rail operations may not be protected to the same degree as when dispatchers are subject to United States statutory and regulatory requirements or their equivalents. Any dispatcher, wherever located, who controls rail operations while under the influence of alcohol or drugs, exhausted because of working excessive hours, or not properly trained and tested on railroad operating rules could issue incorrect directions or could fail to issue directions, thereby jeopardizing the safety of railroad employees or causing a train collision or derailment with resulting injuries or death to train crews, passengers, or both, and possible harm to surrounding communities. Because problems such as fatigue, drug and alcohol abuse, and lack of effective job training seriously compromise the safety-critical performance of employees who dispatch trains, FRA is concerned that foreign railroads, or domestic railroads that may employ or enter into a contract for services of a foreign-based dispatcher who would control a domestic train movement, must comply with the substantive requirements of the United States hours of service laws, FRA hours of service recordkeeping regulations, FRA operational testing regulations, and FRA drug and alcohol testing regulations, or their equivalents.

At present, it does not appear that, for example, Canadian hours of service and drug testing requirements are the full equivalents of United States statutory and regulatory requirements. For example, under United States law, dispatchers may work no more than twelve hours in a location where only one shift is employed and no more than nine hours in a location where two or more shifts are employed, but Canada does not regulate hours of service for dispatchers. The lengths of their shifts are determined by labor agreements between the applicable union and the respective railroads.[10] In addition, FRA regulations require that United States dispatchers undergo operational testing, but Canada has no such requirement. United States alcohol and drug testing requirements are also more comprehensive and stringent than most other countries' standards.

In the Omnibus Transportation Employee Testing Act of 1991, Pub. L. 102–143 (the Act), Congress recognized the importance of drug and alcohol testing in protecting the safety of domestic transportation systems. *See, supra*, note 4. As stated in the fifth Congressional finding in that Act, Congress believed that "the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, especially random testing." *Id.* Given that the misuse of alcohol and drugs has proven to be a critical factor in transportation accidents, testing is integral to ensuring that domestic transportation systems, including railroads, operate in the safest possible manner. In response to Congress' directives in the Act, FRA expanded its existing regulations relating to drug and alcohol use in railroad operations.

Under FRA's mandatory alcohol and drug testing program, dispatchers working in the United States are subject to random, reasonable suspicion, return-to-duty, follow-up, and post-accident drug and alcohol testing as well as pre-employment testing for drugs. Post-accident testing is required for a dispatcher who is directly and contemporaneously involved in the circumstances of any train accident meeting FRA thresholds. *See* § 219.203. A dispatcher found to have violated FRA's drug and alcohol rules at §§ 219.101 or 219.102 is required to be removed from covered service and is required to complete a rehabilitation program. *See* § 219.104. A dispatcher who refuses to submit a required sample is required to be removed from covered service for nine months and to complete a rehabilitation program. *See* §§ 219.104, 219.107, and 219.213. Additionally, covered employers must provide self-referral and co-worker report (self-policing) programs for their employees. *See* subpart E.

All dispatchers working in the United States who are controlling United States railroad operations are covered by these regulations, and FRA believes that any extraterritorial dispatcher controlling railroad operations in the United States must be covered by the same or fully equivalent requirements.[11] To allow any

[10] It is arguable whether the hours of service laws of the United States (49 U.S.C. ch. 211) may be applied extraterritorially. In the past, FRA has not done so. If in the future FRA does apply the United States hours of service laws to activity outside of the United States, FRA's monitoring and enforcement actions would be subject to all of the problems discussed in Section IV and elsewhere in this preamble.

[11] As previously noted, dispatchers of a foreign railroad whose primary reporting point is located

dispatchers who are not subject to the comprehensive and stringent testing requirements that DOT and FRA believe are necessary for rail safety to control domestic operations would be contrary to FRA's safety efforts.

Drug and alcohol abuse by railroad workers is not limited to the United States.[12] While some countries, such as Canada, have addressed the serious threat that alcohol and drug use poses to the safety of railroad operations, they have done so in a less comprehensive manner than FRA's approach in implementing our statutory scheme. For example, Transport Canada has doubts whether Canadian Constitutional law permits it to implement our regulatory scheme. To date, Transport Canada has not imposed drug and alcohol rules like those of DOT, although motor carriers in Canada have implemented DOT drug and alcohol rules with respect to drivers who enter the United States. Transport Canada has approved Rule G, which was developed by the Canadian railroad industry, but has not reviewed and approved individual railroad plans implementing Rule G.[13] Rule G does not directly prohibit off-duty use of drugs and abuse of alcohol by dispatchers as contrasted with FRA's regulations, which prohibit any off-duty use of drugs and which prohibit use of alcohol within four hours of reporting for covered service or after receiving notice to report for covered service since such usage may ultimately affect an individual's performance on the job. *See* §§ 219.101(a)(3) and 219.102. Furthermore, unlike the FRA's part 219, Rule G also does not provide for alcohol and drug testing of railroad employees. In certain cases, railroads have developed their own testing plans.

FRA has reviewed the Canadian railroads' drug and alcohol testing plans implementing Rule G and found that they are not fully equivalent to FRA's rules. For example, CP's current plan does not provide for random testing, which is a key part of a program to deter drug and alcohol abuse; nor are CP's provisions with respect to pre-employment testing, reasonable suspicion testing, post-accident testing, and refusal to provide a sample equivalent to FRA's more stringent rules.[14] In fact, the only aspect of CP's plan that would be acceptable to FRA is the self-referral and co-worker report (self-policing) programs, and FRA believes that even those programs would need changes before they would be completely acceptable.

In addition, some drugs, such as codeine, which have adverse effects on judgment and reaction time and are available only with a prescription in the United States are available over-the-counter in foreign countries, and over-the-counter formulations may have stronger sedative effects than their United States equivalents.

VI. Security Issues

No nation is immune from criminal actions affecting workplaces or the potential for terrorism. In the United States, occasional workplace shootings by angry or unhinged employees and major incidents like the Oklahoma City and 1993 World Trade Center bombings have heightened awareness of the need for security measures, particularly at critical facilities or with respect to the movement of extremely hazardous materials (e.g., radioactive substances or military munitions). This nation

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outside of the United States and who perform service in the United States are currently exempt from certain Part 219 requirements. *See* 49 CFR 219.3(c). Elsewhere in the **Federal Register**, FRA is publishing an NPRM that proposes revisions to Part 219 requiring drug and alcohol testing of such employees.

[12] In 1987, a Canadian survey commissioned by a federally appointed Task Force on the Control of Drug and Alcohol Abuse in the Railway Industry interviewed by telephone 1,000 randomly selected Canadian railway workers who held positions identified as "safety-sensitive," including dispatchers. The information was collected to assist the Task Force in making recommendations to the Canadian government on steps needed to address any problems of substance abuse in the railroad industry.

The survey revealed, among other things, that 20.6 percent of those surveyed had come to work feeling the effects of alcohol and 9.2 percent felt that their use of alcohol had at some time compromised job safety. In addition, 3.8 percent admitted using illegal drugs, 2.5 percent admitted to using illegal drugs during their shift, and 4 percent were aware of other workers taking drugs during working shifts. As the following passage from a recent Canadian arbitration award involving CN illustrates, drug and alcohol abuse problems continue to exist in Canada:

"* * * As related in the submission of the employer's counsel, CN has extensive experience in drug and alcohol testing over the past decade, including circumstances of hiring, promotion, reasonable cause and post accident testing. Its data confirm a relatively high incidence of positive test results across Canada, exceeding ten per cent over all categories of testing in Western Canada. While positive drug tests obviously do not confirm that individuals in the railway industry have necessarily used illegal drugs while at work, a substantial number of awards of the Canadian Railway Office of Arbitration provide a well-documented record of cases which reveal the unfortunate willingness of some employees to have drugs or alcohol in their possession while at work, to use them while at work, or to report for work under their influence * * *."

In the Matter of an Arbitration Between Canadian National Railway Company and National Automobile, Aerospace, Transportation and General Workers Union of Canada (Union) and Canadian Council of Railway Operating Unions (Intervener), Re: the Company's Drug and Alcohol Policy at 123–24, Arbitrator Michel G. Picher (July 18, 2000).

The drug and alcohol abuse problem in Canada is relevant to the current problem posed by extraterritorial dispatching and helps demonstrate the need for more comprehensive drug and alcohol testing of extraterritorial dispatchers controlling railroad operations in the United States.

[13] Rule G provides that:

(a) The use of intoxicants or narcotics by employees subject to duty, or their possession or use while on duty, is prohibited.

(b) The use of mood altering agents by employees subject to duty, or their possession or use while on duty, is prohibited except as prescribed by a doctor.

(c) The use of drugs, medication or mood altering agents, including those prescribed by a doctor, which, in any way, will adversely affect their ability to work safely, by employees subject to duty, or on duty is prohibited.

(d) Employees must know and understand the possible effects of drugs, medication or mood altering agents, including those prescribed by a doctor, which, in any way, will adversely affect their ability to work safely.

[14] Problems with CP's plan are as follows. First, CP's plan does not provide for random testing, which Congress found, and FRA's experience has shown to be, so integral to preventing drug and alcohol abuse in the United States. Credible research indicates that a "broad-based" approach (with a credible random deterrence program), like FRA's is the only effective methodology to reduce the adverse effects of substance abuse.

Second, CP will not conduct post-accident testing unless there is independent evidence that causes the railroad to suspect impairment of the dispatcher. By contrast, a dispatcher in the United States who is directly and contemporaneously involved in the circumstances of any train accident meeting FRA thresholds as determined by a train supervisor must be tested or else face a nine-month suspension from covered service and the requirement to complete a rehabilitation program and return-to-duty testing before returning to dispatcher service. CP will not use equivalent sanctions against an employee for failing to provide a sample; the problem with this approach is discussed below.

Third, while CP's plan does provide for reasonable suspicion testing, CP will not require an employee to provide a sample for testing. If CP's investigation fails to establish that the employee was impaired, the employee may go back to work without penalty or rehabilitation. Obviously, in many instances, establishing impairment would be difficult without a sample. In contrast, if a dispatcher in the United States refuses a test, he or she is Federally prohibited from performing service as a dispatcher for nine months and must complete required rehabilitation before being allowed to return to dispatching service. Even if FRA were able to apply the disqualification requirements of part 219 to a foreign-based dispatcher who refused a random, for cause, or post-accident test, and if the railroad were able to honor this sanction under foreign law, that sanction might be wholly ineffective because the railroad could legally reassign the dispatcher to a desk handling only host-country traffic, where he or she would suffer no loss of pay. The result would be a near-total loss of the deterrent effect associated with testing.

Fourth, FRA regulations require that new applicants and existing employees seeking to transfer for the first time from non-covered service to duties involving covered service (e.g., dispatching) must undergo pre-employment testing for drugs. CP would make such testing a condition of employment for new employees, but would not apply it to incumbent employees within the department under which dispatchers fall who apply for dispatching jobs. It is sometimes difficult to detect and document drug use in an employee population and, therefore, it is important to do the screening test for anyone who is moving into a safety-sensitive position.

experienced a much more extreme example of a security breach on September, 11, 2001, when terrorists slipped through security forces at three major U.S. airports and subsequently hijacked four airliners. Two of the planes were intentionally flown into the World Trade Center, resulting in the collapse of the Twin Towers, one was intentionally flown into the Pentagon, and the fourth crashed in rural Pennsylvania, presumably before reaching its intended target. As a result of these attacks, over 3,800 people were killed and the landscape of this country was changed forever as not only did the attacks cause an incredible amount of destruction but they also proved unequivocally that citizens of the United States are targets for terrorists and that those terrorists view modes of transportation, including railroads, as a means of carrying out their murderous agendas.[15]

Given the threat that terrorists pose to railroads systems, including their dispatch centers, railroad security measures such as guards that control access to railroad facilities, proximity cards that allow access to dispatching locations, use of railroad police to detect unauthorized persons on railroad property, and background checks on applicants for employment as dispatchers and train crew members are increasingly important to protect railroad property, railroad employees, and railroad passengers from violent actions. FRA is working with domestic railroads as they review the adequacy of their security plans and expects that the railroads will voluntarily take whatever steps are needed to safeguard their systems from terrorists. However, FRA has the authority to require, through regulations and orders, additional security measures that FRA determines are necessary to protect the security of domestic railroad operations against potential terrorist threats.[16]

Law enforcement and security agencies in the United States cannot protect extraterritorial dispatch facilities, and FRA has neither the access to such facilities to investigate instances of violence nor the authority to require additional security measures that FRA determines are necessary to protect the security of domestic railroad operations against potential terrorist threats. FRA does not know, at this time, whether foreign railroads employ security measures comparable to those of United States railroads or whether foreign governments have enforceable security requirements that would effectively protect dispatch facilities. As a result, foreign-based facilities could be more attractive targets than facilities located in the United States and be more susceptible to terrorist infiltration or attack.[17] FRA believes it could not approve a railroad's stationing of dispatchers in a foreign country absent a showing that the security protections afforded the dispatching function were equivalent to those at United States dispatch facilities, and FRA had access to investigate incidents of violence occurring at these facilities.

There is also a national defense aspect to the security of railroad operations. There are both railroad safety and national defense risks posed by extraterritorial dispatch centers having access to information regarding the shipment of military goods (e.g., nuclear weapons and armored vehicles) and extremely hazardous materials (e.g., radioactive materials), and having the capability to control the movement of these items. The Military Traffic Management Command of the Department of Defense (DOD) and FRA have worked together to identify and designate a Strategic Rail Corridor Network (STRACNET). STRACNET consists of more than 30,000 miles of interconnected network of rail corridors (not actual rail lines) in the United States that the agencies have deemed vital to national defense. In the event of a large-scale military mobilization, it is very important that this network be fully responsive to national defense needs and priorities. In any arrangement locating dispatchers abroad, FRA believes, there would have to be effective provisions to ensure that this national defense need can be met. FRA seeks comment on whether, and how, this goal could be accomplished.

VII. Language Differences

There are also safety concerns that are more likely to arise specifically because dispatchers are located in a foreign country. There would need to be a satisfactory resolution to such issues before FRA would be comfortable in permitting dispatchers to be located abroad. For example, it is essential for safe railroad operations that employees involved with directing and effectuating train movements be able to communicate clearly with each other. The railroad personnel most directly involved with train movements are the dispatchers who transmit written and oral instructions to train crews and the train crews who are responsible for carrying out the dispatchers' instructions and for operating trains in accordance with railroad traffic control devices. In addition, dispatchers must also be able to communicate with roadway workers who may control entry onto the stretches of track on which they are working. If it is allowed, extraterritorial dispatching raises the possibility that some of these employees may not be able to communicate with each other because they speak different languages.

FRA's primary safety concern is that one of the parties (either the train crew or the dispatcher) involved in an extraterritorially dispatched operation may not be proficient in the language that is being used to conduct train operations. Thus, there is the potential for miscommunication where one of the parties, unbeknownst to the other, fails to convey necessary safety-critical information, inadvertently conveys false or misleading information, or fails to properly understand safety-critical information that has been conveyed. The results of such a miscommunication could be disastrous. Such a lack of understanding would be even more problematic if railroad operations crossed more than one border (e.g., Canada, the United States, and Mexico).

Another problem related to communication that could arise if extraterritorial dispatching is allowed concerns possible differences in railroad terminology between one country and another. The railroad industry in the United States is both a highly technical industry that uses modern terms and an industry that has existed for 170 years and uses terms that have existed since at least the turn of the century. It would be unreasonable to assume that, absent

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[15] According to the testimony of a convicted terrorist, terrorism training in Afghanistan included "'how to blow up the infrastructure of a country'—such as military installations, electric plants, corporations, airports and railroads," *Convicted Terrorist Testified on Deadly Training*, Wash. Times, September 27, 2001, at A14 (emphasis added).

[16] Section 20103(a) of title 49, United States Code, gives the Secretary of Transportation plenary authority to address any hazards to life and property that may arise in the context of railroad operations. To date, FRA's exercise of this authority has been limited. FRA has issued rules on Passenger Train Emergency Preparedness (49 CFR part 239) that require passenger railroads to conduct detailed planning for emergency situations, which are defined to include "security situations" such as bomb threats. (See 49 CFR § 239.7 and 49 U.S.C. § 20133(a)(4).)

[17] FRA's concern is not limited to Third World countries or countries where terrorists are traditionally expected to operate. A recent article in the Washington Post highlighted the threat that currently exists in Canada. According to the article, "Canada's intelligence agency has identified more than 50 terrorist groups and 350 individual terrorists who live, work and raise money in Canada." Deneen L. Brown, *Attacks Force Canadians to Face Their Own Threat*, The Washington Post, Sept. 23, 2001, at A36. The article went on to note that some of those terrorists were from countries in the Middle East, which is the region of the world from which the terrorists who masterminded the September 11, 2001, attacks are believed to have come.

appropriate training, railroad employees in other countries would be familiar with terms used in the United States. Given the immediacy with which problems sometimes develop while trains are on the tracks, it would be dangerous to discover such a miscommunication at a time when lives and property are in the balance. This problem would be compounded if the dispatcher and the train crew were having problems communicating because of language differences.

The Federal Aviation Administration also recognized that international operations cause communication problems. That agency, however, has addressed the problem through regulations requiring that all domestic air traffic controllers speak English and that all foreign air carriers who operate in the United States have personnel in domestic air traffic control towers who, in the event that no member of a foreign air crew can communicate with ground personnel, speak both English and their native language. *See* 14 CFR 65.33 and 129.21. In addition, FAA is currently considering a requirement that would mandate that flight attendants understand sufficient English to communicate, coordinate, and perform all safety-related duties. That requirement is part of a comprehensive flight attendant training Notice of Proposed Rulemaking that FAA anticipates publishing in the near future. *See* 65 FR 23153 (Apr. 24, 2000).

FRA recognizes that there may be solutions to these problems and therefore requests comments on how to resolve these issues so that domestic rail safety is not compromised. FRA believes solutions to these problems would have to be found before extraterritorial dispatching could be permitted.

VIII. Units of Measure

It is also essential for safe railroad operations in the United States that certain railroad communications concerning such operations that relate to measurements of such critical factors as location, distance, and speed, use a common standard. The two currently used standards are English units, used predominately in the United States, and the International System of Units ("SI"), which is more commonly known as the "metric system" and is used by most of the rest of the world, including Canada and Mexico. Because a kilometer (roughly 3,280.8 feet) is approximately six-tenths the length of a mile (5,280 feet), the potential for confusion is obvious, especially where a measurement of such matters as speed, location, or distance is concerned. If a dispatcher instructs a train and engine crew to travel a specified number of kilometers at a certain speed measured in kilometers per hour and the crew mistakenly thinks that the dispatcher is referring to either or both measurements in miles, the consequences could be at best problematic and, at worst, devastating.[18] FRA requests comments on how to resolve the measurement issue so domestic rail safety is not compromised.

IX. Other Concerns

Communications and computing systems at centralized dispatching are extremely complex. When the operations of a dispatching center are disrupted, the main remedy is changing to local dispatching. This typically results in a considerable disruption of service. For example, in recent years the CSX dispatch center in Jacksonville, Florida went off line twice, because of a lightning strike and a hurricane evacuation. This resulted in significant delays and cancellations of freight and passenger service throughout much of the East Coast. It is theoretically possible for a railroad to establish a backup dispatching center that would be used in the event of such a disruption, but it is unlikely railroads would consider doing so, cost-effective. FRA believes that the greater the number of miles of track controlled by a dispatching center and the higher the volume of traffic involved, the less likely it is that normal dispatching operations could be continued by alternative means, resulting in more pervasive or longer-lived service disruptions. FRA has some concern that this problem could be exacerbated if primary dispatching centers were located out of the country.

With regard to labor issues, dispatchers are typically unionized employees subject to the Railway Labor Act (45 U.S.C. 151–188) ("RLA"), which prohibits strikes over contract interpretation. Under the RLA, Congress has the power to legislate an end to a strike by United States railroad employees, and has done so in 13 rail labor contract disputes. Dispatch employees based in a foreign country, however, are not subject to the RLA and a labor dispute in that country could severely affect United States rail operations, and possibly jeopardize transportation safety.

The railroad industry carries nearly 40 percent of United States intercity freight traffic in terms of ton-miles (over 1 trillion ton-miles a year), including huge quantities of hazardous materials. By comparison, trucks carry about 28 percent of the ton-miles, and pipelines and inland water transport account for the remainder. In addition, railroads provide commuter rail service in and around many of the nation's large cities; provide the infrastructure Amtrak uses for its intercity passenger operations outside the Northeast Corridor; and provide freight service to military facilities across the country. Other modes would be able to replace only a small portion of the transportation services provided by the railroads in the short term in the event of a disruption of service affecting the national major freight railroads. A disruption affecting any one of the major railroads could, of course, have a critical impact over time through cascading impacts across the national rail system because of the extensive interchange of rail traffic among the railroads and the impact on other railroads of service disruptions on lines where they enjoy trackage or haulage rights.

X. Options

When deciding on how to address the issue of extraterritorial dispatching and all of the safety, including security concerns discussed above, FRA examined two possible options. The first option, which is reflected in the Interim Final Rule, is to bar extraterritorial dispatching with the three minor exceptions explained above. The second option is to permit extraterritorial dispatching so long as (1) the foreign-based dispatchers are subject to the same safety standards applicable to dispatchers located in the United States (and enforced by FRA or by the host country with supplementary FRA oversight), and (2) the additional safety concerns previously identified, such as security, language differences, possible labor strikes and other disruptions, are adequately addressed.

The FRA has chosen the first option as the basis for this Interim Final Rule. Banning new dispatching of United States rail traffic by dispatchers stationed outside the country except for limited fringe border operations is a simple, understandable, straightforward, "bright line" approach that will clearly preclude disruptions to service or safety problems resulting from the various issues discussed above and provide greater security for dispatching

[18] FRA recognizes that the Hazardous Materials Regulations require that most measurements regarding the transportation of hazardous materials be given in metric units. Under 49 CFR 171.10, in order to ensure compatibility with international transportation standards, most units of measurement in the hazardous materials regulations are expressed using the SI. This requirement should have no impact on extraterritorial dispatching, however, as SI is currently the standard for domestic railroad operations involving hazardous materials.

facilities. Implementing this approach is more certain, particularly in the short term, because it will not require the exercise of judgment, negotiations over the details of a variety of issues with railroads (and perhaps with foreign governments), or the creation of new rules or mechanisms to deal with these issues. We seek comment, however, on whether there are costs or disadvantages to this approach that FRA should consider in choosing and implementing this option, and on whether any modifications would be beneficial.

The second option could be implemented by, for example, a provision allowing a railroad to apply to FRA for a waiver of the prohibition of dispatching from abroad. The waiver mechanism might, for example, be a more detailed version of the Interim Final Rule's § 241.7. FRA would grant such a waiver only if it were satisfied (1) that the dispatchers involved in controlling United States rail traffic were subject to safety requirements (e.g., with respect to drug and alcohol testing, hours of service, and efficiency testing) fully equivalent to United States standards; (2) that FRA had full and open access to dispatch facilities located abroad, on the same basis as it has to United States facilities; (3) that, as a matter of law or binding agreement with FRA, the railroad would be subject to FRA enforcement actions with respect to the dispatching function, such as civil penalties, emergency and compliance orders, orders disqualifying employees from service for safety violations, court injunctions, etc., on an equivalent basis to railroads whose facilities were located in the United States; and (4) that measures were in place that adequately addressed security issues, labor disputes, language and other communication issues, and measurement issues. It would also be necessary to include a provision for the revocation of the waiver in the event the railroad could no longer meet its conditions, which would have the effect of reimposing the ban on dispatching United States rail traffic from abroad.

As can readily be seen, such an option is much more complex and uncertain than the first option, and it is not clear that any railroad could meet the conditions involved in such an option today. FRA seeks comment on whether it would be useful to include such a provision in the future, or whether it would be essentially futile to do so.

FRA believes that the problems with allowing widespread extraterritorial dispatching are substantial enough and are not sufficiently addressed at the present time to allow such dispatching. However, FRA recognizes that there may be reasonable solutions to these problems that may result in extraterritorial dispatching being performed as safely as domestic dispatching. Therefore, FRA is soliciting comments from interested parties on how to effectively address these concerns so that the safety of domestic rail operations is not compromised.

While FRA is soliciting comments, however, FRA believes that it is necessary to issue this Interim Final Rule in order to block the movement of dispatcher positions to foreign countries, other than for limited fringe border operations, while FRA is determining whether more extensive extraterritorial dispatching should be allowed. Given the safety-critical role that dispatchers play in railroad operations, the safety problems identified with extraterritorial dispatching, and the definite potential that some D&H dispatching functions could be moved to Canada in the very near future, extended notice-and-comment procedures are "impracticable, unnecessary, or contrary to the public interest" within the meaning of section 4(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B). The safety concerns, including security, that this rule is designed to eliminate could very well materialize in the near future before a typical notice-and-comment rulemaking process could be completed. As a consequence, FRA is proceeding directly to an Interim Final Rule.

However, in accordance with Executive Order 12866, FRA is allowing 60 days for comments. FRA believes that a 60-day comment period is appropriate to allow the public to comment on this Interim Final Rule. The Interim Final Rule will terminate on December 11, 2002 unless FRA takes future action to extend the sunset date. FRA solicits written comments on all aspects of this Interim Final Rule, and possible alternatives to the locational requirement of part 241. Parties favoring alternative approaches should provide detailed rationale for their recommended approach together with specific regulatory language they would like FRA to issue. FRA is also soliciting comments on whether the exception for the track segments that were extraterritorially dispatched as of December 1999 should be permanent or for a set period of time. Finally, FRA is soliciting comments on whether dispatching of fringe border operations permitted under the Interim Final Rule should be made permanent.

Based on the comments, FRA may: (1) Issue final rule amendments to the Interim Final Rule making the Interim Final Rule permanent with any substantive changes FRA determines are appropriate; (2) issue a notice proposing a new rule (a notice of proposed rulemaking), and possibly a final rule amendment extending the deadline of the Interim Final Rule while FRA completes this new rulemaking; or (3) decide that no Federal regulation is appropriate and issue a final rule removing the Interim Final Rule.

FRA also directs commenters' attention to certain issues related to the possible application of part 219 to extraterritorial dispatchers. As noted earlier, these issues are addressed in detail in an FRA notice published in the **Federal Register** today proposing amendments to part 219 concerning employees of a foreign railroad who are based outside the United States and engage in train or dispatching service in the United States.

XI. The Interim Final Rule

FRA is issuing this Interim Final Rule prohibiting extraterritorial dispatching of United States rail operations, with three minor exceptions. Under the first exception, a railroad would be allowed to conduct extraterritorial dispatching in an emergency situation for the duration of the emergency if it promptly notified the appropriate FRA Regional Administrator(s) in writing of its actions. Under the second exception, FRA would permit the continued extraterritorial dispatching of the very limited track segments in the United States that were regularly being so dispatched in December 1999. Under the third exception, railroads would be permitted to dispatch "fringe border operations," as defined in the rule, from either Canada or Mexico. In addition, railroads that propose to conduct additional extraterritorial dispatching of railroad operations in the United States may apply for a waiver from the prohibitions of part 241 under subpart C of part 211.

XII. Section-By-Section Analysis

This section-by-section analysis is intended to explain the provisions of the Interim Final Rule. A number of these provisions and issues related to these provisions have been addressed earlier in this preamble. Accordingly, the preceding discussions should be considered in conjunction with those below and will be referred to as appropriate.

Section 241.1 Purpose and scope. Paragraph (a) states that the purpose of the rule is to prevent railroad accidents and incidents, and consequent injuries, deaths, and property damage, that would result from improper dispatching

of railroad operations in the United States by persons located outside of the United States. As noted earlier in the preamble, dispatchers are responsible for establishing a train's route and ensuring that the train has a clear track in front of it. As such, it is essential that dispatching be conducted as safely as possible in order to avoid incidents such as collisions and derailments that endanger train crews, other railroad employees, and the general public.

Paragraph (b) states that the rule prohibits extraterritorial dispatching of railroad operations, conducting railroad operations that are extraterritorially dispatched, and allowing track to be used for such operations, subject to certain stated exceptions. Because FRA believes that extraterritorial dispatching presents serious safety problems and because proper dispatching is such an integral part of safe railroad operations, FRA believes that widespread extraterritorial dispatching of United States rail operations should be prohibited. FRA also wants to address every possible situation by prohibiting any kind of contracting relationship that would entail extraterritorial dispatching. These prohibitions will be more fully explained elsewhere in this section-by-section analysis. Of course, railroads subject to this part may adopt and enforce additional or more stringent requirements provided they are not inconsistent with this part.

Section 241.3 Application and responsibility for compliance. This section employs what is essentially standardized regulatory language that FRA plans to use in most of its rules. Paragraphs (a) and (b) mean that railroads whose entire operations are conducted on track within an installation that is outside of the general railroad system of transportation in the United States (in this paragraph, "general system") are not covered by this part. Tourist, scenic or excursion operations that occur on tracks that are not part of the general railroad system would, therefore, not be subject to this part. The word "installation" is intended to convey the meaning of physical (and not just operational) separateness from the general system. A railroad that operates only within a distinct enclave that is connected to the general system only for the purposes of receiving or offering its own shipments is within an installation. Examples of such installations are chemical and manufacturing plants, most tourist railroads, mining railroads, and military bases. However, a rail operation conducted over the general system in a block of time during which the general system railroad is not operating is not within an installation and, accordingly, not outside of the general system merely because of the operational separation.

Paragraph (c) clarifies FRA's position that the requirements contained in this final rule are applicable not only to any "railroad" subject to this part but also to any "person," as defined in § 241.5, that performs any function required by this final rule. Although various sections of the final rule address the duties of a railroad, FRA intends that any person who performs any action on behalf of a railroad or any person who performs any action covered by the final rule is required to perform that action in the same manner as required of a railroad or be subject to FRA enforcement action. For example, contractors that perform duties covered by these regulations would be required to perform those duties in the same manner as required of a railroad.

Section 241.5 Definitions. This section contains a set of definitions intended to clarify the meaning of important terms as they are used in the text of the rule. Several of the definitions involve fundamental concepts that require further discussion.

Dispatch. The first sentence of this definition is an abstract statement of its scope. FRA intends for the verb "dispatch" to encompass all of the functions of a "dispatching service employee" as that term is defined by the hours of service laws at 49 U.S.C. 21101(2), were these functions to be performed in the United States. Under 49 U.S.C. 21101(2), a "dispatching service employee" is defined as "an operator, train dispatcher, or other train employee who by the use of an electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders related to or affecting train movements." This statutory provision has been interpreted by FRA in a statement of agency policy and interpretation codified at part 209, appendix A. Consistent with that interpretation, both the statutory definition and part 241's definition of "dispatch" are functional, meaning that an individual's job title is irrelevant in determining whether he or she is dispatching. In addition, whether the individual is employed by a railroad is irrelevant. However, unlike the statutory definition of "dispatch," the regulatory definition makes clear that the location of the individual performing the dispatching is irrelevant to the determination of the function the individual is performing. Thus, an individual located in a foreign country who, because of his or her job duties, would be covered by the statutory definition if he or she were located in the United States would be dispatching within the meaning of § 241.5. In addition, although FRA specifically mentions yardmasters under the definition of "dispatcher," FRA does not intend for this rule to cover yardmasters as a job category. Instead, yardmasters are only covered by this part when they are performing dispatching functions.

The remainder of the regulatory definition repeats or attempts to make more explicit the meaning of the statutory language. One aspect of the act of dispatching is to use hand delivery or "an electrical or mechanical device" to control certain movements or to issue a certain authority. The quoted phrase has been interpreted by FRA in its hours of service record keeping regulations at 49 CFR 228.5(c) as including a "telegraph, telephone, radio, or any other electrical or mechanical device."

Subsection (i) of the definition of "dispatch" clarifies the types of movements that one who dispatches controls. One such movement that FRA intends to include is the "movement of a train," which is defined in another paragraph of this section as a movement of on-track equipment requiring a power brake test under parts 232 or 238. Another type of movement that FRA intends to include is the movement of certain other on-track equipment, such as specialized maintenance-of-way equipment, that is not subject to the power brake regulations; again, however, FRA intends to exclude movements of on-track equipment used in the process of sorting and grouping rail cars inside a railroad yard in order to assemble or disassemble a train.

The definition of "dispatch" also makes explicit that the control of the movements within the scope of the definition is accomplished in one of two ways. The first way is by the issuance of a written or verbal authority or permission that affects a railroad operation such as through movement authorities and speed restrictions and includes the following:

Track Warrants, Track Bulletins, Track and Time Authority, Direct Traffic Control Authorities, and any other methods of conveying authority for trains and engines to operate on a main track, controlled siding, or other track controlled by a [dispatcher]. OP–97–34, p. 7.

"Railroad operation" is defined in another paragraph of this section as the movement of a train or other on-track equipment (except as specified earlier) or "the activity that is the subject of an authority issued to a roadway worker for working limits."

The second way that control of the movements within the scope of the definition of "dispatch" is achieved is "by establishing a route through the use of a signal or train control system but not merely by aligning or realigning a switch." The act of aligning or realigning a switch alone is not sufficient to constitute dispatching. In order to constitute dispatching within § 241.5, aligning or realigning a switch must be accompanied by the act of setting a signal authorizing movement over a track segment. This exclusion is consistent with FRA's interpretation in Operating Practices Technical Bulletin (OP–96–04) and Operating Practices Safety Advisory (OPSA–96–03), reissued as OP–97–34 (hereinafter, "OP–97–34").

Subsection (ii) of the definition of "dispatch" clarifies that those railroad employees who issue an authority for either a roadway worker or stationary on-track equipment, or both, to occupy a certain stretch of track while performing repairs, inspections, etc., will also be covered by this rule. FRA included this section to distinguish this activity from that of authorizing movement of trains or other on-track equipment onto track.

Subsection (iii) of the definition of "dispatch" states another function of a dispatcher, which is to issue an authority for working limits to a roadway worker. As defined in another paragraph of this section,

[w]orking limits means a segment of track with definite boundaries established in accordance with part 214 of this chapter upon which trains and engines may move only as authorized by the roadway worker having control over that defined segment of track. Working limits may be established through "exclusive track occupancy," "inaccessible track," "foul time" or "train coordination" as defined in part 214 of this chapter.

Finally, the definition of "dispatch" makes explicit that the term excludes the activity of individuals carrying out a written or verbal authority or permission or an authority for working limits or operating a function of a signal system intended to be used by those individuals, such as initiating an interlocking timing device.

Dispatcher. The definition of "dispatcher" makes clear that the term is intended to refer to an individual who performs the function of dispatching, regardless of the individual's job title.

Emergency. An "emergency" under this part must be unexpected and unforeseeable and must interfere with a railroad's ability to dispatch a United States railroad operation domestically to the extent that if the operation is not dispatched extraterritorially there would be a substantial disruption in rail traffic or a significant safety risk. Planned shortages of domestic dispatchers relating to vacation scheduling or the railroad's failure to maintain an adequate list of extraboard employees and foreseeable train delays due to substandard maintenance and repair of rail equipment are not emergencies.

Typical examples of emergencies are the following: the sudden illness of a domestic dispatcher about to begin working the next duty shift when there is no other domestic employee nearby who could be called to substitute; the delay of a train operating on mainline track in reaching its station when the delay is due to the derailment of another train and the domestic dispatching office was scheduled to close until the next day after the domestic dispatcher completed his or her tour of duty; and unforeseeable system failures resulting in significant train delays when the available pool of domestic relief dispatchers is insufficient to safely handle the increased traffic density. In addition, other situations may constitute part 241 emergencies, depending on all the facts involved. The determination of whether a situation is an emergency must always be made on a case-by-case basis.

Finally, if extraterritorial dispatching service needed to abate an emergency is concluded before the end of a duty tour, the emergency provision does *not* provide license to continue the extraterritorial dispatching if an emergency no longer exists.

Extraterritorial dispatcher. The definition of "extraterritorial dispatcher" explains that the term refers to an individual who, while performing the function of a dispatcher from a country other than the United States, dispatches a railroad operation that takes place in the United States.

Movement of a train. This term is intended to have the same meaning as does the term "train" in 49 CFR 220.5.

Occupancy of a track by a roadway worker or stationary on-track equipment or both. This term refers to the physical presence of a roadway worker or stationary on-track equipment on a track for the purpose of making a repair, an inspection, or another activity not associated with the movement of a train or other on-track equipment. It is intended to cover situations where a stretch of track is being occupied for a certain period of time by roadway workers, with or without on-track equipment, for purposes not related to the movement of a train.

Roadway worker. This term is intended to have the meaning it has in 49 CFR §§ 214.7 and 220.5.

Section 241.7 Waivers. This section sets forth the procedures for seeking waivers of compliance with the prohibitions and requirements of this rule. Requests for such waivers may be filed by any interested party. In reviewing such requests, FRA conducts investigations to determine if a deviation from the general prohibitions and requirements can be made without compromising or diminishing rail safety. This section is consistent with the general waiver provisions contained in other Federal regulations issued by FRA. FRA recognizes that circumstances may arise when conduct of extraterritorial dispatching that does not fall within one of the exceptions to the prohibition contained in this rule is appropriate and in the public interest.

Section 241.9 Prohibition against extraterritorial dispatching; exceptions.

Section 241.11 Prohibition against conducting a railroad operation dispatched by an extraterritorial dispatcher; exceptions.

Section 241.13 Prohibition against track owner's requiring or permitting use of its line for a railroad operation dispatched by an extraterritorial dispatcher; exceptions.

These sections contain a series of three prohibitions, each containing three exceptions and a provision on liability for violation of the prohibition. To promote compliance, each provision imposes a strict liability standard. Actual or constructive knowledge of the facts constituting the violation is not required to establish a violation. For example, it is not necessary for a railroad conducting a railroad operation to know that the operation is being extraterritorially dispatched in order for the railroad to violate § 241.11.

Section 241.9(a) establishes a general rule barring a railroad from requiring or permitting one of its employees or one of its contractors' employees to dispatch a railroad operation that occurs in the United States while the railroad's employee (or railroad contractor's employee) is located outside the United States. A separate violation occurs for each railroad operation so dispatched; each day the violation continues is a separate offense. "Railroad operation" is defined in § 241.5. A dispatcher working in a foreign country and controlling only railroad operations in that country would not violate § 241.9(a). Likewise, a dispatcher located in the United States and controlling train operations in another country would not violate § 241.9(a), although nothing in this rule authorizes

such a practice where it contravenes the domestic law or policy of the country where the railroad operations are conducted.

Section 241.11(a) creates a general prohibition against performing a railroad operation on track in the United States if the railroad operation is dispatched by an individual located outside the United States. A separate violation occurs for each railroad operation performed that was so dispatched; each day the violation continues is a separate offense.

Section 241.13(a) generally forbids a track owner from requiring or permitting a segment of track that it owns to be used for a railroad operation in the United States that is controlled by a dispatcher in another country. A separate violation occurs for each railroad operation so dispatched that was permitted to occur on the owner's track; each day the violation continues is a separate offense.

There are three basic exceptions to each of these three general prohibitions. First, under paragraph (b) of §§ 241.9–241.13, extraterritorial dispatching of railroad operations that occur in the United States is permitted in the event of an emergency. The term "emergency" is defined in § 241.5, which has been discussed earlier. The railroad must notify the FRA Regional Administrator for the region in which the railroad operation occurs, in writing as soon as feasible, either on paper or by electronic mail, that the railroad is conducting such extraterritorial dispatching. If the operation occurs in more than one region, the FRA Regional Administrator for each of the regions in which the operation occurs must be notified. Notification need not necessarily be in advance of the performance of the extraterritorial dispatching. The exception is allowed only for the period of time that the emergency exists. If a railroad continues extraterritorial dispatching after the emergency is over, the railroad is in violation of § 241.9(a).

Second, under paragraph (c) of §§ 241.9–241.13, extraterritorial dispatching of railroad operations that occur in the United States is allowed on the very limited segments of track that were regularly being so dispatched in December 1999, if the extraterritorial dispatching of those track segments is conducted from the same foreign country or territory or possession of the United States where the extraterritorial dispatching was done in December 1999. Paragraph (c) does not impose a limit on the volume of railroad operations over such track segments that may be dispatched extraterritorially.

Third, under paragraph (d) of §§ 241.9–241.13, dispatching from Canada or Mexico of a rail line located in the United States is permissible provided the length of the United States trackage being extraterritorially dispatched is no more than 100 miles, any train being so dispatched is under the control of the same assigned crew for the entire trip over U.S. trackage, and the train movement either both originates and terminates in the foreign country without the pick up, set out, or interchange of cars in the U.S. or is under the exclusive control of a single dispatching district, or "desk", and the portion of the line being extraterritorially dispatched extends no farther into the U.S. than the first of any of the following locations: an interchange point; signal control point; junction of two rail lines; established crew change point; yard or yard limits location, inspection point for U.S. Customs, Immigration and Naturalization Service, Department of Agriculture, or other government inspection; or location where there is a change in the method of train operations. In addition, FRA recognizes an exception to the single train crew requirement if an unforeseen circumstance, such as an equipment failure, accident, or casualty or incapacitation of a crew member necessitates another crew assuming control of the train while it is operating on U.S. track.

Essentially, paragraph (d) recognizes that it will not always be practical or economical to conduct a "hand-off" of train operations between a U.S. and a foreign dispatcher that normally would be required under Part 241, especially when the length of U.S. trackage involved is small and the train movements on that trackage make no stops in the U.S. FRA believes that the safety and security risks posed by these "fringe border operations" are minimal and, therefore, in order to promote the smooth flow of commerce across international borders, they should be permitted, but only to the extent necessary.

Paragraph (e) of §§ 241.9–241.13 discusses liability for violations of those sections. As provided in § 241.9(e), liability for extraterritorial dispatching of a railroad operation in the United States in violation of § 241.9 is on the entity that employs the individual who performed the extraterritorial dispatching, typically a railroad or a contractor to a railroad (if any), and if the employing entity is a contractor to a railroad, liability is also on the railroad. For example, if an employee of a railroad contractor performs the extraterritorial dispatching, FRA may hold either the contractor or the railroad or both liable for the violation (in addition to the individual employee and any other entity that committed the violation or caused the violation, as provided in § 241.3(c)).

As stated in § 241.11(e), liability for conducting a railroad operation that is extraterritorially dispatched in violation of § 241.11 is on the entity that conducts the operation, typically a railroad or a contractor to a railroad. For example, if employees of a railroad contractor engage in the movement of a train that is extraterritorially dispatched and not within the exceptions of paragraphs (b), (c), or (d), then FRA may hold either the contractor or the railroad or both liable for the violation (in addition to the individual train crewmembers and any other entity that committed the violation or caused the violation, as provided in § 241.3(c)).

Finally, as provided in § 241.13(e), liability for requiring or permitting the conduct of a railroad operation that is so dispatched over a segment of track is on the owner of the track segment. For purposes of § 241.13, the track owner includes the owner of the track segment, a person assigned responsibility for the track segment under § 213.5(c), and a railroad operating the track segment pursuant to a directed service order issued by the STB under 49 U.S.C. 11123, during the time that the directed service order is in effect. FRA may hold the track owner, the assignee, or the railroad operating the track under a directed service order, or some or all of such entities liable for a violation of § 241.13 (in addition to the individuals and any other entity that committed the violation or caused the violation, as provided in § 241.3(c)). For example, if the track owner (Company A) has assigned responsibility for the track under § 213.5(c) to Company B and the track is used by a train that is dispatched by a dispatcher located outside of the United States, not within the exceptions of paragraphs (b), (c), or (d), then FRA may assess a civil penalty for violation of § 241.13 against either Company B or Company A, or both.

In a given instance in which an individual outside the United States dispatches a railroad operation that takes place in the United States (not within the exceptions of paragraphs (b), (c), or (d)), three regulatory prohibitions have been violated: §§ 241.9, 241.11, and 241.13. If one single entity dispatches and conducts the railroad operation and owns the track on which the railroad operation occurs, that entity may be assessed a separate civil penalty for each of the three sections violated.

On the other hand, if the three functions are performed by a total of three different entities, the entity that performed the function would be assessed a penalty only for the section it violated. As a matter of discretion, FRA may also cite the dispatching railroad for causing the violation of § 241.11(a) by the operating railroad or § 241.13(a) by the track owner in cases where the dispatching railroad fails to notify the FRA Regional Administrator of each region where the track is located of an emergency, and in other cases.

Section 241.15 Geographical boundaries of FRA's regions and addresses of FRA's regional headquarters.

Under §§ 241.9(b), 241.11(b), and 241.13(b), FRA requires a railroad that, because of an emergency situation, must extraterritorially dispatch a domestic railroad operation to inform the Regional Administrator of the FRA region(s) where the track over which the operation was conducted is located. The written notification must summarize the circumstances of the emergency and the extraterritorial dispatching and must be made either on paper or by electronic mail. In order to facilitate the notification process, Appendix B lists FRA's eight regions and the States that are included in those regions as well as the addresses of the eight regional headquarters where the notification(s) must be sent. If the emergency situation requires extraterritorial dispatching of a railroad operation that takes place in more than one of FRA's regions, the railroad conducting the emergency dispatching must provide this written notification of the emergency to the Regional Administrator for each of the affected regions.

Section 241.17 Penalties and other consequences for noncompliance.

This section identifies three of the sanctions that may be imposed upon a person for violating a requirement of part 241: civil penalties, disqualification, and criminal penalties.

Paragraph (a) on civil penalties parallels the civil penalty provisions included in numerous other safety regulations issued by FRA. Essentially, any person who violates any requirement of this part or causes the violation of any such requirement will be subject to a civil penalty of at least $500 and not more than $11,000 per violation. Civil penalties may be assessed against individuals only for willful violations, and where a grossly negligent violation or a pattern of repeated violations creates an imminent hazard of death or injury to persons, or causes death or injury, a penalty not to exceed $22,000 per violation may be assessed. *See* part 209, appendix A. In addition, each day a violation continues will constitute a separate offense. Civil penalties for violation of part 241 are authorized by 49 U.S.C. 21301, 21302, and 21304 and by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890, 28 U.S.C. 2461 note), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, 110 Stat. 1321–358, 378, Apr. 26, 1996), which requires agencies to adjust for inflation the maximum civil monetary penalties within the agencies' jurisdiction. Consequently, the resulting $11,000 and $22,000 maximum penalties were determined by applying the criteria set forth in sections 4 and 5 of the statute to the maximum penalties otherwise provided for in the Federal railroad safety laws. In addition to the civil penalty provision at § 241.17(a), this final rule includes a schedule of civil penalties for specific violations of part 241 as appendix A to this part.

Paragraph (b) provides that an individual who fails to comply with a provision of this part or causes the violation of a provision of this part may be prohibited from performing safety-sensitive service in accordance with FRA's enforcement procedures found in subpart D, part 209.

Paragraph (c) of § 241.17 provides that a person may be subject to criminal penalties under 49 U.S.C. 21311 for knowingly and willfully falsifying a report required by these regulations, here, a report to the appropriate FRA Regional Administrator(s) concerning extraterritorial dispatching performed under a claim that it was performed to deal with an emergency. Section 21311(a) of title 49, United States Code, reads as follows:

(a) Records and Reports Under Chapter 201.—A person shall be fined under title 18, imprisoned for not more than 2 years, or both, if the person knowingly and willfully—

(1) makes a false entry in a record or report required to be made or preserved under chapter 201 of this title;

(2) destroys, mutilates, changes, or by another means falsifies such a record or report;

(3) does not enter required specified facts and transactions in such a record or report;

(4) makes or preserves such a record or report in violation of a regulation prescribed or order issued under chapter 201 of this title; or

(5) files a false record or report with the Secretary of Transportation.

FRA believes that the inclusion of these provisions for failure to comply with the regulations is important in ensuring that compliance is achieved.

Section 241.19 Preemptive effect.

Section 241.17 informs the public of FRA's views regarding what will be the preemptive effect of the Interim Final Rule. While the presence or absence of such a section does not in itself affect the preemptive effect of an interim final rule, it informs the public about the statutory provision that governs the preemptive effect of the rule. Section 20106 of title 49 of the United States Code provides that all regulations prescribed by the Secretary relating to railroad safety preempt any State law, regulation, or order covering the same subject matter, except a provision necessary to eliminate or reduce an essentially local safety hazard which provision is not incompatible with a Federal law, regulation, or order and does not unreasonably burden interstate commerce. With the exception of a provision that is not incompatible with Federal law, not an unreasonable burden on interstate commerce, and directed at an essentially local safety hazard, 49 U.S.C. 20106 will preempt any State regulatory agency rule covering the same subject matter as the regulations in this final rule.

Section 241.21 Information collection.

This provision shows which sections of this part have been approved by the Office of Management and Budget (OMB) for compliance with the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.* A more detailed discussion of the information collection requirements in this part is provided below.

Section 241.23 Termination of this part.

This provision provides that the Interim Final Rule will terminate 365 days after its effective date unless this date is extended by FRA. Based on the comments, FRA may: (1) Issue final rule amendments to the Interim Final Rule making the Interim Final Rule permanent with any substantive changes FRA determines are appropriate; (2) issue a notice proposing a new rule (a notice or proposed rulemaking), and possibly final rule amendments to the Interim Final Rule extending the deadline of the Interim Final Rule while FRA completes this new rulemaking; or (3) decide that no Federal regulation is appropriate, allow the Interim Final Rule to terminate, and perhaps issue a final rule removing the Interim Final Rule.

Appendix A—Schedule of Civil Penalties

This appendix contains a schedule of civil penalties to be used in connection

with this part. Because the penalty schedule is a statement of agency policy, notice and comment are not required prior to its issuance. *See* 5 U.S.C. 553(b)(3)(A). Commenters are invited to submit suggestions to FRA describing the types of actions or omissions under each regulatory section that should subject a person to the assessment of a civil penalty. Commenters are also invited to recommend what penalties may be appropriate, based upon the relative seriousness of each type of violation.

Appendix B—Geographic Boundaries of FRA's Regions and Addresses of FRA's Regional Headquarters

This appendix contains a list of FRA's eight regions and the States that are included in those regions as well as the addresses of the eight regional headquarters where notification of emergency extraterritorial dispatching of domestic operations must be sent.

XIII. Regulatory Impact

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rule has been evaluated in accordance with existing policies and procedures, and determined to be significant under both Executive Order 12866 and DOT policies and procedures (44 FR 11034; Feb. 26, 1979). FRA has prepared and placed in the docket a regulatory evaluation addressing the economic impact of this rule. Document inspection and copying facilities are available at 1120 Vermont Avenue, NW., 7th Floor, Washington, DC 20590. Photocopies may also be obtained by submitting a written request to the FRA Docket Clerk at Office of Chief Counsel, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20590. Access to the docket may also be obtained electronically through the Web site for the Docket Management System at *http://dms.dot.gov*. FRA invites comments on this regulatory evaluation.

Public and private initiatives have successfully improved the safety of rail operations by reducing the number and severity of incidents, accidents, and resulting casualties. However, dilution of these standards and initiatives to accommodate increasing transborder rail traffic creates the potential for an increase in injuries and fatalities resulting from rail accidents. FRA expects that the locational requirement for dispatching of United States rail operations contained in the Interim Final Rule, or any future program permitting dispatching from abroad under equivalent standards, will prevent the dilution of the standards and initiatives that have led to safety levels currently experienced in the United States.

FRA expects that overall the rule will not impose a significant cost on the rail industry over the next twenty years. FRA believes it is reasonable to expect that several injuries and fatalities will be avoided as a result of implementing this Interim Final Rule. FRA also believes that the safety of rail operations will be compromised if this rule is not implemented.

The following table presents estimated twenty-year *monetary* impacts associated with the new locational requirement for dispatching of United States rail operations.

Description	Estimated 20-year costs (NPV)
Labor rate differential (foregone savings)—	$7,386,569
Additional dispatcher supervisors (cost of rule)—	220,398
Emergency situation notification (cost of rule)— ...	3,811
Dismissed employee compensation (avoided cost)—	(9,433,880)
Total Net Cost (NPV rounded)	(1,823,102)

The basis for these dollar figures is found in section 7.0 of the regulatory evaluation on file at FRA in the docket for this rulemaking. Certain costs resulting from the inability to achieve economies of scale are not quantified in this analysis. The savings from avoiding severance payments are finite and are incurred in the early years; the costs in terms of cost reductions not achieved are experienced in every year and potentially infinitely. The longer the term of the analysis, the higher the level of costs would be relative to benefits. For the twenty-year term of this analysis, net costs are expected to be negative. However, FRA believes that the safety benefits of the rule justify the long-term costs (the costs incurred after the first twenty years of this analysis).

As previously noted in this preamble, FRA has pointed out that the problems associated with permitting extraterritorial dispatching of United States rail operations include the following: hours of service, operating rules compliance, substance abuse, differences in language and units of measurement, security issues, and other concerns. Because FRA has no assurance that these problems can be satisfactorily addressed, FRA believes that the locational requirement imposed by the Interim Final Rule is the best way to ensure railroad safety.

Railroad accidents caused by error in human judgment or other human factors account for approximately a third of all reportable train accidents each year. Whereas errors on the part of train operators are typically limited in scope to the train the operator controls, errors by dispatchers, who usually control vast territories and the movements of many trains, can be truly disastrous.[19] In the absence of the protections afforded by current Federal statutory and regulatory requirements covering domestic dispatchers, FRA believes that additional dispatcher error-related accidents would occur were trains to be controlled by extraterritorial dispatchers. Given that the total costs of this Interim Final Rule are expected to be very low, the avoidance of only a few minor accidents or one major accident would justify this rule. A more detailed explanation of the benefits of this rule as well as a summary of the cost-benefit analysis can be found in Sections 8 and 9 of the regulatory evaluation on file at FRA in the docket for this rulemaking.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of proposed and final rules to assess their impact on small entities. FRA has prepared and placed in the docket a Regulatory Flexibility Assessment (RFA), which assesses the small entity impact. Document inspection and copying facilities are available at 1120 Vermont Avenue, NW., 7th Floor, Washington, DC 20590. Photocopies may also be obtained by submitting a written request to the FRA Docket Clerk at Office of Chief Counsel, Stop 10, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20590. Access to the docket may also be obtained electronically through the Web site for the Docket Management System at *http://dms.dot.gov*.

Pursuant to Section 312 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (RFA), FRA has published an interim policy that formally establishes "small entities" as being railroads that meet the line-haulage revenue requirements of a

[19] For example, on June 22, 1997, two freight trains collided head-on in Devine, Texas. The trains were operating on single main track with passing sidings in nonsignalized territory in which train movement was governed by conditional track warrant control authority through a dispatcher. A conductor, an engineer, and two unidentified individuals were killed in the derailment and subsequent fire. The National Transportation Safety Board determined that the probable cause of the accident was the failure of the third-shift dispatcher to communicate the correct track warrant information to one of the train crews and to verify the accuracy of the read-back information.

Class III railroad. 62 FR 43024 (Aug. 11, 1997). For other entities, the same dollar limit in revenues governs whether a railroad, contractor, or other respondent is a small entity.

The RFA concludes that this final rule would not have a significant economic impact on a substantial number of small entities. FRA further certifies that this Interim Final Rule is not expected to have a significant economic impact on a substantial number of small entities.

About 645 of the approximately 700 railroads in the United States are considered small businesses by FRA. The Interim Final Rule applies to all railroads except (1) railroads that operate only on track that is within an installation that is not part of the general railroad system of transportation and (2) urban rapid transit operations that are not connected to the general railroad system. Approximately 25 tourist and museum railroads that are small businesses do not operate on the general railroad system. Therefore, this rule will affect approximately 620 small entities. Small railroads that will be affected by the final rule provide less than 10 percent of the industry's employment, own about 10 percent of the track, and operate less than 10 percent of the ton-miles.

The American Shortline and Regional Railroad Association (ASLRRA) represents the interests of most small freight railroads and some excursion railroads operating in the United States. According to the ASLRRA, none of its members has shown any interest in relocating their dispatching to foreign countries or in contracting out their dispatching functions to entities in foreign countries. Because tourist, scenic, historic, excursion, and other small railroads generally do not own the right-of-way on which they operate and rely on the host railroad to dispatch their trains, these small railroads would not be affected by the United States locational requirement for dispatching of United States rail operations. Nevertheless, small rail operators have an opportunity to comment on this Interim Final Rule.

FRA field offices and the ASLRRA engage in various outreach activities with small railroads. For instance, when new regulations are issued that affect small railroads, FRA briefs the ASLRRA, which in turn disseminates the information to its members and provides training as appropriate. When a new railroad is formed, FRA safety representatives visit the operation and provide information regarding applicable safety regulations. The FRA regularly addresses questions and concerns regarding regulations raised by railroads. Because this rule is not anticipated to affect small railroads, FRA is not providing alternative treatment for small railroads under this rule.

C. Paperwork Reduction Act

The information collection requirements in this Interim Final Rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq*. The sections that contain the new information collection requirements and the estimated time to fulfill each requirement are as follows:

49 CFR Section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
241.7—Waivers	5 railroads	1 waiver petition	4 hours	4 hours	$152.
241.9—Prohibition against extraterritorial dispatching; exceptions.	5 railroads	1 notification	8 hours	8 hours	$360.
241.11—Prohibition against conducting a railroad operation dispatched by an extraterritorial dispatcher; exceptions.	5 railroads	Included under §241.9.	Included under §241.9.	Included under §241.9.	Included under §241.9.
241.13—Prohibitions against track owner's requiring or permitting use of its line for a railroad operation dispatched by an extraterritorial dispatcher; exceptions.	5 railroads	Included under §241.9.	Included under §241.9.	Included under §241.9.	Included under §241.9.

All estimates include the time for reviewing instructions; searching existing data sources: gathering or maintaining the needed data; and reviewing the information. Pursuant to 44 U.S.C. 3506(c)(2)(B), the FRA solicits comments concerning: whether these information collection requirements are necessary for the proper performance of the functions of FRA, including whether the information has practical utility; the accuracy of FRA's estimates of the burden of the information collection requirements; the quality, utility, and clarity of the information to be collected; and whether the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, may be minimized. For information or a copy of the paperwork package submitted to OMB, contact Mr. Robert Brogan at 202–493–6292.

Organizations and individuals desiring to submit comments on the collection of information requirements should direct them to Mr. Robert Brogan, Federal Railroad Administration, 1120 Vermont Avenue, NW., Mail Stop 17, Washington, DC 20590.

OMB is required to make a decision concerning the collection of information requirements contained in this interim final rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. The final rule will respond to any OMB or public comments on the information collection requirements contained in this Interim Final Rule.

FRA is not authorized to impose a penalty on persons for violating information collection requirements which do not display a current OMB control number, if required. FRA intends to obtain current OMB control numbers for any new information collection requirements resulting from this rulemaking action prior to the effective date of a final rule. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**, and text will be added to § 241.21, Information collection.

D. Federalism Implications

Executive Order 13132, entitled, "Federalism," issued on August 4, 1999, requires that each agency "in a separately identified portion of the

preamble to the regulation as it is to be issued in the **Federal Register**, provide[] to the Director of the Office of Management and Budget a federalism summary impact statement, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of the State and local officials have been met * * *."

When issuing the Interim Final Rule in this proceeding, FRA has adhered to Executive Order 13132. Normally, FRA engages in the required Federalism consultation during the early stages of the rulemaking through meetings of the full Railroad Safety Advisory Committee ("RSAC"), on which several representatives of groups representing State and local officials sit. However, FRA determined that, because the possibility exists that at least one railroad may engage in extensive extraterritorial dispatching in the very near future, these issues have been addressed without the benefit of a presentation to the full RSAC. In order to comply with Executive Order 13132, FRA sent a letter soliciting comment on the Federalism implications of this Interim Final Rule and the NPRM involving part 219 that FRA is currently working on nine groups designated as representatives for various State and local officials. The nine organizations were as follows: the American Association of State Highway and Transportation Officials (AASHTO), the Association of State Rail Safety Managers, the Council of State Governments, The National Association of Counties, the National Association of Towns and Townships, the National Conference of State Legislatures, the National Governors' Association, the National League of Cities, and the U.S. Conference of Mayors. In addition, FRA representatives had informal discussions with representatives of some of those groups. During one such consultation, a representative of AASHTO expressed confidence that FRA and State interests would closely coincide on these issues. He noted that the September 2000 meeting of AASHTO's Standing Committee on Rail Transportation would include a significant discussion of the pending STB proceeding (involving the proposed consolidation of CN and BNSF), with the implication that FRA's rulemakings may be a current topic at that time. To date, FRA has received no indication of concerns about the Federalism implications of this rulemaking from these representatives.

E. Environmental Impact

FRA has evaluated this regulation in accordance with its "Procedures for Considering Environmental Impacts" (FRA's Procedures) (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this regulation is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. 64 FR 28545, 28547, May 26, 1999. Section 4(c)(20) reads as follows:

(c) Actions Categorically Excluded. Certain classes of FRA actions have been determined to be categorically excluded from the requirements of these Procedures as they do not individually or cumulatively have a significant effect on the human environment. * * * The following classes of FRA actions are categorically excluded: * * *

(20) Promulgation of railroad safety rules and policy statements that do not result in significantly increased emissions of air or water pollutants or noise or increased traffic congestion in any mode of transportation.

In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this regulation that might trigger the need for a more detailed environmental review. As a result, FRA finds that this regulation is not a major Federal action significantly affecting the quality of the human environment.

F. Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each federal agency "shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law)." Section 202 of the Act (2 U.S.C. 1532) further requires that "before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement" detailing the effect on State, local, and tribal governments and the private sector. The Interim Final Rule would not result in the expenditure, in the aggregate, of $100,000,000 or more in any one year, and thus preparation of such a statement is not required.

G. Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any "significant energy action." 66 FR 28355 (May 22, 2001). Under the Executive Order, a "significant energy action" is defined as any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) that is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. FRA has evaluated this NPRM in accordance with Executive Order 13211. FRA has determined that this NPRM is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Consequently, FRA has determined that this regulatory action is not a "significant energy action" within the meaning of Executive Order 13211.

List of Subjects in 49 CFR Part 241

Communications, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Rule

For the reasons set forth in the preamble, FRA amends chapter II, subtitle B of title 49, Code of Federal Regulations, by adding Part 241 to read as follows:

PART 241—UNITED STATES LOCATIONAL REQUIREMENT FOR DISPATCHING OF UNITED STATES RAIL OPERATIONS

Sec.
241.1 Purpose and scope.
241.3 Application and responsibility for compliance.
241.5 Definitions.
241.7 Waivers.

241.9 Prohibition against extraterritorial dispatching; exceptions.
241.11 Prohibition against conducting a railroad operation dispatched by an extraterritorial dispatcher; exceptions.
241.13 Prohibition against track owner's requiring or permitting use of its line for a railroad operation dispatched by an extraterritorial dispatcher; exceptions.
241.15 Geographical boundaries of FRA's regions and addresses of FRA's regional headquarters.
241.17 Penalties and other consequences for noncompliance.
241.19 Preemptive effect.
241.21 Information collection.
241.23 Termination of this part.
Appendix A to Part 241—Schedule of Civil Penalties
Appendix B to Part 241—Geographical Boundaries of FRA's Regions and Addresses of FRA's Regional Headquarters

Authority: 49 U.S.C. 20103, 20107, 21301, 21304, 21311; 28 U.S.C. 2461, note; 49 CFR 1.49.

§ 241.1 Purpose and scope.

(a) The purpose of this part is to prevent railroad accidents and incidents, and consequent injuries, deaths, and property damage, that would result from improper dispatching of railroad operations in the United States by individuals located outside of the United States.

(b) This part prohibits extraterritorial dispatching of railroad operations, conducting railroad operations that are extraterritorially dispatched, and allowing track to be used for such operations, subject to certain stated exceptions. This part does not restrict a railroad from adopting and enforcing additional or more stringent requirements not inconsistent with this part.

§ 241.3 Application and responsibility for compliance.

(a) Except as provided in paragraph (b) of this section, this part applies to all railroads.

(b) This part does not apply to—

(1) A railroad that operates only on track inside an installation that is not part of the general railroad system of transportation; or

(2) Rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(c) Although the duties imposed by this part are generally stated in terms of a duty of a railroad, each person, including a contractor for a railroad, who performs a function covered by this part, shall perform that function in accordance with this part.

§ 241.5 Definitions.

As used in this part:

Administrator means the Administrator of the Federal Railroad Administration or the Administrator's delegate.

Dispatch means:

(1) To perform a function that would be classified as a duty of a "dispatching service employee," as that term is defined by the hours of service laws at 49 U.S.C. 21101(2), if the function were to be performed in the United States. In particular, *dispatch* means to use a telegraph, telephone, radio, or any other electrical or mechanical device, or hand delivery—

(i) To control the movement of a train or other on-track equipment by the issuance of a written or verbal authority or permission affecting a railroad operation or by establishing a route through the use of a signal or train control system but not merely by aligning or realigning a switch; or

(ii) To control the occupancy of a track by a roadway worker or stationary on-track equipment, or both; or

(iii) To issue an authority for working limits to a roadway worker.

(2) The term *dispatch* does not include the action of personnel in the field effecting implementation of a written or verbal authority or permission affecting a railroad operation or an authority for working limits to a roadway worker, or operating a function of a signal system designed for use by those personnel (e.g., initiating an interlocking timing device).

Dispatcher means a train dispatcher, control operator, yardmaster, or other individual who dispatches.

Emergency means an unexpected and unforeseeable event or situation that affects a railroad's ability to use a dispatcher in the United States to dispatch a railroad operation in the United States and that, absent the railroad's use of an extraterritorial dispatcher to dispatch the railroad operation, would either materially disrupt rail service or pose a substantial safety hazard.

Employee means an individual who is engaged or compensated by a railroad or by a contractor to a railroad to perform any of the duties defined in this part.

Extraterritorial dispatcher means a dispatcher who, while located outside of the United States, dispatches a railroad operation that occurs in the United States.

Extraterritorial dispatching means the act of dispatching, while located outside of the United States, a railroad operation that occurs in the United States.

FRA means the Federal Railroad Administration, United States Department of Transportation.

Movement of a train means the movement of one or more locomotives coupled with or without cars, requiring an air brake test in accordance with part 232 or part 238 of this chapter, except during switching operations or where the operation is that of classifying and assembling rail cars within a railroad yard for the purpose of making or breaking up trains.

Occupancy of a track by a roadway worker or stationary on-track equipment or both refers to the physical presence of a roadway worker or stationary on-track equipment, or both, on a track for the purpose of making an inspection, repair, or another activity not associated with the movement of a train or other on-track equipment.

Person means an entity of a type covered under 1 U.S.C. 1, including but not limited to the following: a railroad; a manager, supervisor, official, or other employee or agent of a railroad; an owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; an independent contractor providing goods or services to a railroad; and an employee of such owner, manufacturer, lessor, lessee, or independent contractor.

Railroad means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways and any person providing such transportation, including—

(1) Commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979; and

(2) High speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

Railroad contractor means a contractor to a railroad or a subcontractor to a contractor to a railroad.

Railroad operation means the movement of a train or other on-track equipment (other than on-track equipment used in a switching operation or where the operation is that of classifying and assembling rail cars within a railroad yard for the purpose of making or breaking up a train), or the activity that is the subject of an authority issued to a roadway worker for working limits.

Roadway worker means any employee of a railroad, or of a contractor to a railroad, whose duties include

inspection, construction, maintenance, or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities, or roadway maintenance machinery on or near track or with the potential of fouling a track, and flagmen and watchmen/lookouts.

State means a State of the United States of America or the District of Columbia.

United States means all of the States.

Working limits means a segment of track with definite boundaries established in accordance with part 214 of this chapter upon which trains and engines may move only as authorized by the roadway worker having control over that defined segment of track. Working limits may be established through "exclusive track occupancy," "inaccessible track," "foul time" or "train coordination" as defined in part 214 of this chapter.

§ 241.7 Waivers.

(a) A person subject to a requirement of this part may petition the Administrator for a waiver of compliance with such requirement. The filing of such a petition does not affect that person's responsibility for compliance with that requirement while the petition is being considered.

(b) Each petition for waiver under this section shall be filed in the manner and contain the information required by part 211 of this chapter.

(c) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad safety, the Administrator may grant the waiver subject to any conditions that the Administrator deems necessary.

§ 241.9 Prohibition against extraterritorial dispatching; exceptions.

(a) *General.* Except as provided in paragraphs (b), (c) and (d) of this section, a railroad subject to this part shall not require or permit a dispatcher located outside the United States to dispatch a railroad operation that occurs in the United States if the dispatcher is employed by the railroad or by a contractor to the railroad.

(b) *Emergencies.* (1) In an emergency situation, a railroad may require or permit one of its dispatchers located outside the United States to dispatch a railroad operation that occurs in the United States, provided that:

(i) The dispatching railroad notifies the FRA Regional Administrator of each FRA region where the railroad operation was conducted, in writing as soon as practicable, of the emergency, and

(ii) The extraterritorial dispatching is limited to the duration of the emergency.

(2) Written notification may be made either on paper or by electronic mail.

(c) *Grandfathering.* A railroad may require or permit one of its dispatchers located in a foreign country or in a territory or possession of the United States to dispatch a railroad operation that occurs on a track segment located in the United States, the operation of which track segment was normally controlled during the month of December 1999 by a dispatcher located in that foreign country or that territory or possession of the United States.

(d) *Fringe border operations.* In order to facilitate the safety and efficiency of international train movements, railroad dispatchers located in Canada and Mexico may dispatch additional railroad operations in the United States immediately adjacent to their borders if all of the following conditions apply:

(1) The United States trackage being dispatched does not exceed 100 route miles;

(2) Except for unforeseen circumstances such as equipment failure, accident, casualty or incapacitation of a crew member, each train must be under the control of the same assigned crew for the entire trip over the trackage; and

(3)(i) Train movements on the rail line both originate and terminate in either Canada or Mexico without the pick up, set out, or interchange of cars in the United States; in other words, the traffic on the rail line is "bridge traffic" only; or

(ii) In the case of any other rail line, the rail line involved is—

(A) Under the exclusive control of a single dispatching district ("desk"); and

(B) The portion of the line being dispatched extends no farther into the United States than the first of any of the following locations: interchange point; signal control point; junction of two rail lines; established crew change point; yard or yard limits location; inspection point for U.S. Customs, Immigration and Naturalization Service, Department of Agriculture, or other governmental inspection; or location where there is a change in the method of train operations.

(e) *Liability.* The Administrator may hold either the railroad that employs the dispatcher or the railroad contractor that employs the dispatcher, or both, responsible for compliance with this section and subject to civil penalties under § 241.17.

§ 241.11 Prohibition against conducting a railroad operation dispatched by an extraterritorial dispatcher; exceptions.

(a) *General.* Except as provided in paragraphs (b), (c) and (d) of this section, a railroad subject to this part shall not conduct, or contract for the conduct of, a railroad operation in the United States that is dispatched from a location outside of the United States.

(b) *Emergencies.* (1) In an emergency situation, a railroad may conduct, or contract for the conduct of, a railroad operation in the United States that is dispatched from a location outside of the United States, provided that:

(i) The dispatching railroad notifies the FRA Regional Administrator of each FRA region where the railroad operation was conducted, in writing as soon as practicable, of the emergency and

(ii) The extraterritorial dispatching is limited to the duration of the emergency.

(2) Written notification may be made either on paper or by electronic mail.

(c) *Grandfathering.* A railroad may conduct, or contract for the conduct of, a railroad operation on a track segment in the United States that is dispatched from a foreign country or from a territory or possession of the United States if the railroad operation occurs on a track segment located in the United States, the operation of which track segment was normally controlled during the month of December 1999 by a dispatcher located in that foreign country or that territory or possession of the United States.

(d) *Fringe border operations.* In order to facilitate the safety and efficiency of international train movements, a railroad may conduct, or contract for the conduct of, the dispatching of railroad operations in the United States from Canada or Mexico immediately adjacent to their borders if all of the following conditions apply:

(1) The United States trackage being dispatched does not exceed 100 route miles;

(2) Except for unforeseen circumstances such as equipment failure, accident, casualty or incapacitation of a crew member, each train must be under the control of the same assigned crew for the entire trip over the trackage; and

(3)(i) Train movements on the rail line both originate and terminate in either Canada or Mexico without the pick up, set out, or interchange of cars in the United States; in other words, the traffic on the rail line is "bridge traffic" only; or

(ii) In the case of any other rail line, the rail line involved is—

(A) Under the exclusive control of a single dispatching district ("desk"); and

(B) The portion of the line being dispatched extends no farther into the United States than the first of any of the following locations: interchange point;

signal control point; junction of two rail lines; established crew change point; yard or yard limits location; inspection point for U.S. Customs, Immigration and Naturalization Service, Department of Agriculture, or other governmental inspection; or location where there is a change in the method of train operations.

(e) *Liability.* The Administrator may hold either the railroad that conducts the railroad operation or the railroad contractor that conducts the operation, or both, responsible for compliance with this section and subject to civil penalties under § 241.17.

§ 241.13 Prohibition against track owner's requiring or permitting use of its line for a railroad operation dispatched by an extraterritorial dispatcher; exceptions.

(a) *General.* Except as provided in paragraphs (b), (c) and (d) of this section, an owner of railroad track located in the United States shall not require or permit the track to be used for a railroad operation that is dispatched from outside the United States.

(b) *Emergencies.* (1) In an emergency situation, an owner of railroad track located in the United States may require or permit the track to be used for a railroad operation that is dispatched from outside the United States, provided that:

(i) The dispatching railroad notifies the FRA Regional Administrator of each FRA region where the operation was conducted, in writing as soon as practicable, of the emergency, and

(ii) The extraterritorial dispatching is limited to the duration of the emergency.

(2) Written notification may be made either on paper or by electronic mail.

(c) *Grandfathering.* An owner of a track segment located in the United States, the operation of which track segment was normally controlled during the month of December 1999 by a dispatcher located in a foreign country or in a territory or possession of the United States, may require or permit the track segment to be used for a railroad operation that is dispatched from that foreign country or that territory or possession of the United States.

(d) *Fringe border operations.* In order to facilitate the safety and efficiency of international train movements, an owner of railroad track located in the United States immediately adjacent to the border of either Canada or Mexico may require or permit the track to be used for a railroad operation that is dispatched from Canada or Mexico if all of the following conditions apply:

(1) The United States trackage being dispatched does not exceed 100 route miles;

(2) Except for unforeseen circumstances such as equipment failure, accident, casualty or incapacitation of a crew member, each train must be under the control of the same assigned crew for the entire trip over the trackage; and

(3)(i) Train movements on the rail line both originate and terminate in either Canada or Mexico without the pick up, set out, or interchange of cars in the United States; in other words, the traffic on the rail line is "bridge traffic" only; or

(ii) In the case of any other rail line, the rail line involved is—

(A) Under the exclusive control of a single dispatching district ("desk"); and

(B) The portion of the line being dispatched extends no farther into the United States than the first of any of the following locations: interchange point; signal control point; junction of two rail lines; established crew change point; yard or yard limits location; inspection point for U.S. Customs, Immigration and Naturalization Service, Department of Agriculture, or other governmental inspection; or location where there is a change in the method of train operations.

(e) *Liability.* The Administrator may hold either the track owner or the assignee under § 213.5(c) of this chapter (if any), or both, responsible for compliance with this section and subject to civil penalties under § 241.17. A common carrier by railroad that is directed by the Surface Transportation Board to provide service over the track in the United States of another railroad under 49 U.S.C. 11123 is considered the owner of that track for the purposes of the application of this section during the period that the directed service order remains in effect.

§ 241.15 Geographical boundaries of FRA's regions and addresses of FRA's regional headquarters.

For purposes of providing emergency notification to the appropriate FRA Regional Administrator(s) as required by §§ 241.9(b), 241.11(b), and 241.13(b), the geographical boundaries of FRA's eight regions and the addresses for the regional headquarters of those regions are listed in Appendix B to this part.

§ 241.17 Penalties and other consequences for noncompliance.

(a) Any person who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least $500 and not more than $11,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed $22,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense.

(b) An individual who violates any requirement of this part or causes the violation of any such requirement may be subject to disqualification from safety-sensitive service in accordance with part 209 of this chapter.

(c) A person who knowingly and willfully falsifies a record or report required by this part may be subject to criminal penalties under 49 U.S.C. 21311.

§ 241.19 Preemptive effect.

Under 49 U.S.C. 20106, issuance of the regulations in this part preempts any State law, regulation, or order covering the same subject matter, except an additional or more stringent law, regulation, or order that is necessary to eliminate or reduce an essentially local safety hazard; is not incompatible with a law, regulation, or order of the United States Government; and does not impose an unreasonable burden on interstate commerce.

§ 241.21 Information collection. [Reserved]

§ 241.23 Termination of this part.

(a) This part is effective from January 10, 2002 through January 10, 2003.

Appendix A to part 241

SCHEDULE OF CIVIL PENALTIES [1]

Section [2]	Violation	Willful violation
241.9:		
(a) Requiring or permitting extraterritorial dispatching of a railroad operation	$7,500	$11,000
(b) Failing to notify FRA about extraterritorial dispatching of a railroad operation in an emergency situation	5,000	7,500

SCHEDULE OF CIVIL PENALTIES [1]—Continued

Section [2]	Violation	Willful violation
241.11 Conducting a railroad operation that is extraterritorially dispatched:		
(a)(i) Generally	7,500	11,000
(a)(ii) In an emergency situation—where dispatching railroad fails to notify FRA of the extraterritorial dispatching	2,500	5,000
241.13 Requiring or permitting track to be used for the conduct of a railroad operation that is extraterritorially dispatched:		
(a)(i) Generally	7,500	11,000
(a)(ii) In an emergency situation—where dispatching railroad fails to notify FRA of the extraterritorial dispatching	2,500	5,000

[1] A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to $22,000 for any violation where circumstances warrant. See 49 U.S.C. 21301, 21304 and 49 CFR part 209, appendix A.

[2] Further designations for certain provisions, not found in the CFR citation for those provisions, are FRA Office of Chief Counsel computer codes added as a suffix to the CFR citation and used to expedite imposition of civil penalties for violations. FRA reserves the right, should litigation become necessary, to substitute in its complaint the CFR citation in place of the combined designation cited in the civil penalty demand letter.

Appendix B to part 241–Geographical Boundaries of FRA'S Regions and Addresses of FRA'S Regional Headquarters

The geographical boundaries of FRA's eight regions and the addresses for the regional headquarters of those regions are as follows:

(a) *Region 1* consists of Maine, Vermont, New Hampshire, New York, Massachusetts, Rhode Island, Connecticut, and New Jersey. The mailing address of the Regional Headquarters is: 55 Broadway, Room 1077, Cambridge, Massachusetts 02142. The electronic mail (E-mail) address of the Regional Administrator for Region 1 is: *Mark.McKeon@fra.dot.gov*.

(b) *Region 2* consists of Pennsylvania, Delaware, Maryland, Ohio, West Virginia, Virginia, and Washington, DC The mailing address of the Regional Headquarters is: Two International Plaza, Suite 550, Philadelphia, Pennsylvania 19113. The E-mail address of the Regional Administrator for Region 2 is: *David.Myers@fra.dot.gov*.

(c) *Region 3* consists of Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Florida: The mailing address of the Regional Headquarters is: Atlanta Federal Center, 61 Forsythe Street, S.W., Suite 16T20, Atlanta, Georgia 30303. The E-mail address of the Regional Administrator for Region 3 is: *Fred.Dennin@fra.dot.gov*.

(d) *Region 4* consists of Minnesota, Wisconsin, Michigan, Illinois, and Indiana. The mailing address of the Regional Headquarters is: 111 North Canal Street, Suite 655, Chicago, Illinois 60606. The E-mail address of the Regional Administrator for Region 4 is: *Laurence.Hasvold@fra.dot.gov*.

(e) *Region 5* consists of New Mexico, Oklahoma, Arkansas, Louisiana and Texas. The mailing address of the Regional Headquarters is: 8701 Bedford-Euless Road, Suite 425, Hurst, Texas 76053. The E-mail address of the Regional Administrator for Region 5 is: *John.Megary@fra.dot.gov*.

(f) *Region 6* consists of Nebraska, Iowa, Colorado, Kansas, and Missouri. The mailing address of the Regional Headquarters is: 1100 Maine Street, Suite 1130, Kansas City, Missouri 64105. The E-mail address of the Regional Administrator for Region 6 is: *Darrell.Tisor@fra.dot.gov*.

(g) *Region 7* consists of California, Nevada, Utah, Arizona, and Hawaii. The mailing address of the Regional Headquarters is: 801 I Street, Suite 466, Sacramento, California 95814. The electronic mail (E-mail) address of the Regional Administrator for Region 7 is: *Alvin.Settje@fra.dot.gov*.

(h) *Region 8* consists of Washington, Idaho, Montana, North Dakota, Oregon, Wyoming, South Dakota, and Alaska. The mailing address of the Regional Headquarters is: Murdock Executive Plaza, 703 Broadway, Suite 650, Vancouver, Washington 98660. The E-mail address of the Regional Administrator for Region 8 is: *Dick.Clairmont@fra.dot.gov*.

Issued in Washington, DC, on November 30, 2001.

Allan Rutter,

Federal Railroad Administrator.

[FR Doc. 01–30185 Filed 12–10–01; 8:45 am]

BILLING CODE 4910–06–P

Proposed Rules

Federal Register
Vol. 66, No. 238
Tuesday, December 11, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[Docket No. PRM–72–5]

Nuclear Energy Institute; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking: denial.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM–72–5) submitted by the Nuclear Energy Institute (NEI). The petitioner requested that the NRC amend its regulations governing the issuance of Certificates of Compliance (CoCs) for dry cask storage of spent nuclear fuel under a general license. The petitioner requested that the NRC eliminate notice and comment rulemaking from the approval process for initial cask designs and for CoC amendments. The petitioner proposed an alternative approval process which provided for approval by orders after a period for public comment, except in the case of amendments for which a determination of no significant impacts was reached. This type of amendment could be issued as immediately effective with a post-issuance comment period.

The Commission is denying the petition for rulemaking because improvements in the approval process have significantly decreased the length of time for approval of CoC amendments, making regulatory change unnecessary; the petitioner's approval process may require the offer of an opportunity for a hearing which could eliminate any efficiency obtained by the elimination of notice and comment rulemaking; and the Commission's performance goals would be better served by retaining the present process than by adopting the process suggested by petitioner.

ADDRESSES: Copies of the petition for rulemaking, the public comments received, and NRC's letter to the petitioner may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These documents also may be viewed and downloaded electronically via the NRC's rulemaking website (*http://ruleforum.llnl.gov*). For information about the interactive rulemaking website, contact Ms. Carol Gallagher (301) 415–5905; e-mail *CAG@nrc.gov*.

The NRC maintains an Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or it there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Merri Horn, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–8126, e-mail *mlh1@nrc.gov*.

SUPPLEMENTARY INFORMATION:

The Petition

On June 9, 2000 (65 FR 36647), the NRC published a notice of receipt of a petition for rulemaking filed by the Nuclear Energy Institute (NEI) on April 19, 2000. The petitioner supplemented the petition in an August 23, 2000 letter. The petition requests that the NRC amend its regulations at 10 CFR Part 72 governing the issuance of Certificates of Compliance (CoCs) for cask designs for dry cask storage of spent nuclear fuel for use under a general license. The petition proposes to eliminate rulemaking as the method for issuing and amending CoCs. Thus, the primary aim of the petition is to remove § 72.214, which lists approved cask designs. Under the petitioner's proposal, the NRC would continue to approve cask designs after a safety review but would issue and amend CoCs by order rather than by rulemaking.

The petitioner proposes an alternative process for providing an opportunity for public input on CoC and CoC amendment approvals. With respect to applications for a CoC for a new cask design, the NRC would publish in the **Federal Register** a notice of receipt and availability of the application. The NRC would then prepare a draft CoC and a draft Safety Evaluation Report (SER) and would notice the availability of these documents in the **Federal Register** for a 60-day comment period. The NRC would evaluate the public comments and publish a response in the **Federal Register**, together with an order granting the CoC.

Amendments to CoCs would be processed in the same manner as new CoCs except with respect to amendments where the applicant asserted that the amendment "did not have the potential to have a significant impact on public health and safety." As part of the regulatory changes proposed in the petition, the NRC would amend § 72.238 to include criteria for determining whether this "no significant impact" standard is met in any given case. If the NRC staff agreed with the assertion of no significant impact considerations, a notice of availability of the order granting the amendment and the associated SER would be published in the **Federal Register**. A post-effectiveness comment period on the amendment and the no significant impact considerations determination would be provided. If the NRC staff determined that the amendment posed a potential significant impact, the draft CoC and SER would be published in the **Federal Register** for a 60-day comment period and the amendment would not become effective until the NRC had published a response to the comments and an order granting the amendment. The petitioner submitted examples of amendments likely to involve, and not involve, significant impact considerations that it proposed for inclusion in a regulatory guidance document. Thus, the main focus of the NEI petition is to abbreviate the CoC amendment approval process by allowing amendments which do not involve significant impact considerations to become effective upon completion of the NRC staff's safety review and prior to the receipt of any public comments.

In NEI's view, NRC's existing process for issuing and amending CoCs takes too long to complete. NEI believes that the length of the process may create a substantial impediment to the increased future deployment of dry spent fuel storage by reactor licensees and/or to

the reactor decommissioning process. In particular, the petitioner believes that NRC is in need of a regulatory process capable of dealing with a potentially large number of amendments on a more timely basis. The petitioner states that, as of the date of the petition, the rulemaking process to amend cask CoCs has taken about 24 months to complete. Use of notice and comment rulemaking procedures, as the petitioner sees it, unnecessarily expends resources on what petitioner views as a ministerial task—maintaining a list of certified casks. Replacing the present process with a simplified, streamlined procedure will have the additional benefit, NEI believes, of making the process for approving spent fuel storage casks similar to the process for approving spent fuel transportation casks.

The petitioner believes that its suggested alternative process is consistent with legal requirements. NEI takes the position that the notice and comment rulemaking used by the NRC to issue CoCs and CoC amendments is a discretionary choice of the Commission which may have been appropriate when the scope of safety issues associated with the issuance and amendment of CoCs was unknown, but is no longer necessary following more than a decade of experience with these rulemakings. Nor is a license proceeding of any kind needed for the approval of a CoC or CoC amendment, in the petitioner's view, because "a CoC has been recognized legally as something less than a license." The petitioner bases this position on the court's statement in *Kelley* v. *Selin*, 42 F.3d 1501, 1518 (6th Cir. 1995), *cert. denied*, 515 U.S. 1159 (1995), that "certification of designs is not identical to the grant of a general license. Certification is a narrower procedure that approves designs in theory while the grant of a license is a broader form of permission." Thus, the petitioner believes that the alternative approval process suggested in the petition would not be subject to Section 189a of the Atomic Energy Act of 1954, as amended (AEA), and would not result in opportunities for adjudicatory hearings. Because there is no legal requirement, in the petitioner's view, to use either rulemakings or adjudicatory hearings for the approval of CoCs or CoC amendments, the petitioner asserts that the NRC is free to adopt whatever approval procedures it believes are adequate for public consideration of the type of safety issues likely to arise in these proceedings.

The petitioner also believes that its proposal meets the NRC's four performance goals:

(1) Maintain safety, protect the environment and the common defense and security; (2) increase public confidence; (3) make NRC activities and decisions more effective, efficient, and realistic; and (4) reduce unnecessary regulatory burden. With respect to the first goal, the petitioner points out that its proposal will have no effect on the substantive safety standards which the CoC applicant must meet nor on NRC's safety and environmental review of an application. Further, orders are as fully enforceable as rules, so there will be no diminution of NRC's enforcement authority. With respect to the public confidence goal, the petitioner believes that public confidence will be maintained because the public will still be able to participate in a meaningful way by providing comments on all new CoCs and all amendments. The only change will be that prior comment on amendments will be appropriately reserved for those CoC amendments that have the potential for a significant safety impact. The goal of making NRC regulatory decisions more efficient will be obtained by elimination of the delay and expenditure of resources involved in notice and comment rulemaking. Finally, the goal of burden reduction will be achieved because the burdensome aspects of rulemaking would be eliminated and amendment requests which do not present significant impacts would be subject to a suitably streamlined review and approval process.

Public Comments on the Petition

The notice of receipt of the petition for rulemaking invited interested persons to submit comments. The comment period closed on August 23, 2000. NRC received 24 comment letters from industry, an individual, and a State government agency. All industry commenters supported the petition; the State supported the petition with reservations; and the individual opposed the petition. The NRC reviewed and considered all the comments in developing its decision on this petition.

The commenters supporting the petition did so for the same reasons as those expressed by the petitioner, primarily because the present process involving notice and comment rulemaking takes too long and involves an unnecessary expenditure of resources. One commenter observed that elimination of rulemaking would avoid the need for general licensees to seek exemptions to enable them to use a particular cask design before completion of the rulemaking process. These commenters also supported NEI's proposed alternative process. One commenter cautioned that any change to the current rulemaking process should ensure that the finality and standing of current and future CoCs as adjudicated in *Kelley* v. *Selin* be preserved. The State commenter emphasized that any criteria used to determine the significance of an amendment should be in the rule and not in a separate guidance document. Several commenters encouraged the adoption of standard technical specifications and stated that this would reduce the number of amendment requests.

One commenter opposed the petition. This commenter expressed concern that the effect of the alternative proposal would be to reduce public input and that many documents would no longer be publicly available. The commenter felt that any burden imposed by the present process was basically the fault of the industry; that if the vendors "did their homework" and got the proposed cask design complete before submitting it to the NRC, amendments would not be necessary. The commenter stated that the cask designs were supposed to be generic to avoid the need for site-specific approvals, yet amendments are regularly needed to accommodate minor differences in cask content unique to particular plants. The commenter objected to NRC being able to decide, prior to any public notice, whether an amendment has any significant impact or not, noting that this deprives the agency of any public insight on health and safety issues before the amendment becomes immediately effective. This commenter also believes that the present rulemaking process is not a matter of agency discretion but rather is imposed by Section 133 of the Nuclear Waste Policy Act of 1982.

Reasons for Denial

The Commission is denying the petition for rulemaking because (1) improvements in the approval process have already significantly decreased the length of time for approval of CoC amendments, making regulatory change unnecessary; (2) the petitioner's approval process may require the offer of an opportunity for a hearing, which could eliminate any efficiency obtained by generic consideration of cask design issues; and (3) the Commission's performance goals would be better served by retaining the present process than by adopting the process suggested by petitioner.

1. The length of the rulemaking process for CoC amendments has been significantly shortened since submission of the petition, obviating any need for a regulatory change.

The petitioner's primary reason for requesting an amendment of Part 72 to delete the use of notice and comment rulemaking for initial and amended CoCs is the assertion that this process is too lengthy and may interfere with efficient, expeditious use of dry cask storage. The petitioner's proposed process for approving initial cask designs—which includes public notice of the availability of the draft SER and environmental assessment (EA) for a 60-day comment period, and effectiveness of the CoC only after NRC has responded to any comments—is little different from the present process and would not produce any significant time savings. Under the petitioner's proposed process for amending CoCs, however, when the NRC agreed with an applicant's proposed finding of no significant impact, the amendment would become effective upon completion of the NRC staff's safety evaluation of the amendment. This would eliminate the time needed for the current CoC amendment rulemaking process.

At the time the petitioner submitted its petition, the petitioner stated that the rulemaking process to amend cask CoCs took about 24 months to complete. The Commission agrees that this is an excessive amount of time for very simple amendment rulemaking. However, the Commission now uses the direct final rule process for CoC amendments. In this process, the rule automatically becomes effective 75 days after its publication in the **Federal Register** unless a significant adverse comment is received within 30 days of publication. If such a comment is received, it is treated as a comment on a companion proposed rule published at the same time as the direct final rule. The NRC withdraws the direct final rule and subsequently issues a final rule responding to the comment. The NRC has now published 9 direct final rules for CoC amendments, only one of which has been withdrawn. NRC's current experience is that the rulemaking process for CoC amendments takes between 4 and 6 months rather than the 24 months which is the premise of the petition. We do not believe the current amount of time devoted to CoC amendments is inordinate given the advantages, discussed below, of using the present process.

2. Although NRC agrees with petitioner that the use of rulemaking to approve cask designs is discretionary, we are not convinced that, in the absence of rulemaking, NRC should approve CoCs for casks without an opportunity for an adjudicatory hearing.

The petitioner's suggested alternative process for the approval of cask designs and their amendment rests on two legal assumptions: (1) That the Commission has the discretion to eliminate rulemaking from the approval process; and (2) that if the Commission does eliminate rulemaking from this process it will not be necessary to provide an adjudicatory hearing in its place. As explained below, the Commission agrees with the first assumption but has reservations about the second.

In 1990, the Commission amended Part 72 to provide, in new Subpart K, a general license to enable Part 50 reactor licensees to store spent fuel in an on-site independent spent fuel storage installation (ISFSI) without the need for a site-specific NRC approval, provided storage is in casks approved by the NRC and that certain other conditions are met. (55 FR 29181; July 18, 1990.) The same rulemaking added subpart L, in which the Commission established a cask approval program. Under this regulatory regime, a CoC is issued on a finding that the applicant has satisfied NRC requirements (10 CFR 72.236; 72.238), but before the certified cask design can be used under the general license, the cask design must be added to the list of approved designs in 10 CFR 72.214 via a rulemaking.

This regulatory scheme was intended to implement two statutory provisions of the Nuclear Waste Policy Act of 1982, Sections 218(a) and 133. Section 218(a), in part, provides:

> The Secretary [of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.

Section 133, in part, provides:

> The Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section [218(a)] for use at the site of any civilian nuclear power reactor.

In its 1990 rulemaking, the Commission stated that the storage technology it was approving was storage of spent fuel in dry casks (55 FR 29182; July 18, 1990). Thus, the Commission saw its statutory duty under Section 218(a) as being fulfilled by its approval of a particular class of dry storage technology rather than by its approval of particular cask designs which were all of the same class. The Commission's statutory duty under Section 133 was fulfilled by the process it established to provide for the use of the approved technology under a general license.

The NRC agrees with petitioner that the Commission's choice to use rulemaking to list approved cask designs was a discretionary choice not mandated by statute. What must be kept in mind, however, is the process that the regulatory scheme, adopted in 1990, replaced. Before cask designs were approved by generic rulemaking for use by a general licensee, the only process available to approve the ISFSI and the cask design was the site-specific licensing proceeding, which included the opportunity for a hearing. In these site-specific proceedings, NRC approval was granted only to one licensee to use a particular cask design. If other licensees wanted to use the same design, a separate approval was needed and a separate opportunity for a hearing was provided.[1] Thus, the regulatory regime put in place in 1990 was designed to encourage and to expedite the use of dry cask storage technology because it meant that a cask design would only need to be approved once, and then it would be available to any general licensee who wished to use it and who could meet the conditions of the CoC without the need for any further site-specific approval. The new cask approval process was more efficient than the one it replaced, but its success depended upon the approval and manufacture of cask designs which could be used by a large number of reactor licensees. Instead, cask vendors have optimized cask designs for particular licensees, resulting in a need for amendment of the designs to make them more widely usable. Even with the additional time needed to amend cask designs, we believe the current process is more efficient and less time-consuming than the one it replaced.

The second assumption on which the petition is based is the expectation that it would not be necessary to provide an opportunity for an adjudicatory hearing in the proposed alternative approval process. Section 189a(1)(A) of the AEA provides, in relevant part:

> In any proceeding under this Act, for the granting, suspending, revoking, or amending of any license or construction permit * * * and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees * * * the Commission shall grant a hearing upon the

[1] Licensees may still apply for a site-specific license. If they choose to do so and reference a certified cask, issues associated with cask designs are not subject to litigation. *See* "Clarification and Addition of Flexibility Final Rule," (65 FR 50606; August 21, 2000). Elimination of rulemaking from the CoC process would undermine the rationale for the Clarification rulemaking.

request of any person whose interest may be affected by the proceeding, and shall admit such person as a party to such proceeding * * *.

In *Kelley* v. *Selin*, the United States Court of Appeals for the Sixth Circuit considered a claim that the NRC had violated Section 189a by denying the petitioners' request for an adjudicatory hearing to consider issues regarding the storage of nuclear waste in VSC–24 casks at the Palisades nuclear plant. These petitioners asserted that NRC's use of generic rulemaking to add the VSC–24 cask design to the list of approved designs was insufficient because it barred opportunity to dispute issues that were site-specific in relation to the use of the VSC–24 cask at Palisades. The court upheld NRC's choice to use rulemaking to resolve *all* issues concerning the VSC–24 cask design. The court noted that "even where an agency's enabling statute expressly requires it to hold a hearing, the agency may rely on its rulemaking authority to determine issues that do not require case-by-case consideration." 42 F.3d at 1511 (quotations and citations omitted). This was the case here because, *inter alia*:

> The NRC's certificate of compliance for the VSC–24 casks, like the certificates of compliance for the other dry storage technologies listed in 10 C.F.R. 72.214, contains a lengthy list of conditions of system use for operation of the VSC–24. * * * This extensive list of conditions for use of the VSC–24 cask will virtually eliminate the need for site-specific consideration concerning the use of the VSC–24 cask, since the various licensees of civilian nuclear power generating facilities will be able to determine from the conditions of system use for the VSC–24 cask whether it is possible to use the cask at the site of their nuclear power generating facility.

42.Fed at 1513. Thus the court refused to use its power of judicial review to "dictate to the agency the procedure which it must use in approving designs for containers for the dry storage of spent nuclear fuel." *Id. See also Siegel* v. *Atomic Energy Commission*, 400 F.2d 778, 785–786 (D.C. Cir. 1968).

At present, any obligation the NRC may have under Section 189a of the AEA to provide an opportunity for a hearing on a cask approval is satisfied by the rulemaking procedures it employs for these approvals. In the absence of these rulemaking procedures, the Commission's obligations under Section 189a would need to be revisited. As the petitioner points out, the court in *Kelley* v. *Selin*, in dicta, did characterize certification of designs as being a narrower form of permission than the grant of a license (42 F.3d at 1518), and this could conceivably support an argument that Section 189a does not apply to NRC's approval of CoCs or CoC amendments. However, whether Section 189a requires a hearing opportunity on a cask certification in the absence of rulemaking was not at issue before the court and was not decided by the court. Thus, there has been no judicial determination of this issue. The Commission concludes that there is a significant risk that the procedures offered by the petitioner, which fall short of the ingredients of a normal rulemaking,[2] would be seen as deficient.

Similarly, the court did not address, even in dicta, whether the Part 72 Subpart K general licensing scheme for ISFSIs that relies on the CoC process being accomplished by rulemaking, would be acceptable in the absence of either a rulemaking or a § 189a hearing on the CoC. Nor did the court address the specific licensing schemes for ISFSIs that also relies on the CoC rulemaking proceedings to eliminate repetitious review of cask design issues that are resolved by CoC rulemakings. *See* 10 C.F.R. 72.46(e). Consequently, if the CoC process were streamlined as NEI suggests and conducted without a rulemaking or offering a § 189a hearing, the Commission may be required to resolve cask design issues on a case-by-case basis in proceedings for specific ISFSI licenses or license amendments.

3. NRC's performance goals would be better served by retention of the present process than by adoption of petitioner's suggested process.

The Commission examined the petitioner's suggested alternative proposal in the context of NRC's four performance goals and in comparison with NRC's existing cask approval process. With respect to the first goal—maintaining safety and protecting the environment and the common defense and security—there is no difference between the two processes. The petitioner has not suggested any change in NRC's safety review of applications for CoCs or CoC amendments nor for NRC's inspection and enforcement activities.

With respect to the second goal—increasing public confidence—we think that the present process is more likely to obtain this objective. The petitioner notes that its alternative process provides the public with essentially the same opportunities for public comment; the only difference being that for amendments for which a no significant impact considerations is demonstrated, the comment period will be after, rather than prior to, the effectiveness of the amendment. However, this difference, could generate new public objections to being denied an opportunity to comment before the NRC's decision and, in particular, before to NRC's no significant impacts decision.[3] Both the public commenter who opposed the petition and the State commenter questioned petitioner's characterization of some potential amendments as being non-significant. Under the petitioner's suggested scheme, NRC would publish a notice in the **Federal Register** that would both announce its determination that the amendment had no potential for significant impacts and its immediately effective decision approving the amendment. Although, under the petitioner's scheme, the public would have a post-effectiveness opportunity to comment on both the amendment and the no significant impact considerations determination, the public may not regard this as a meaningful opportunity to comment. Under the present process, publication of an amendment as a direct final rule gives the Commission an opportunity to test its judgment that the amendment is non-controversial and will not attract any significant adverse comments. If a significant adverse comment is received, the rule is withdrawn *before it becomes effective* and the Commission proceeds with normal notice and comment rulemaking. We think this process is more likely to achieve the goal of increasing public confidence in the Commission's decisionmaking process.

With respect to the third goal of making NRC decisions more effective, efficient, and realistic, the only advantage of petitioner's alternative process over the present process would be a shortening of the time between the completion of the NRC staff's safety review of CoC amendments which meet the no significant impact considerations test and the effectiveness of the amendment. But, as described *supra*, this time interval—which petitioner asserted to be 24 months—has already been significantly shortened to 4 to 6 months through use of direct final rules and other measures taken to expedite the process, such as elimination of the

[2] For example, under § 553(d) of the Administrative Procedures Act, notice of a final rule must be given at least 30 days prior to its effective date. The petitioner contemplates that an order would be effective immediately.

[3] Petitioner's suggested process is similar to the process the Commission uses for considering Part 50 license amendments. In that process, the applicant submits a no significant hazards consideration analysis and the Commission publishes in the **Federal Register** a proposed determination that no significant hazards consideration is involved and allows a 30-day comment period on this determination. Normally, the amendment is not granted until the conclusion of this comment period. See 10 CFR 50.91(a).

need for a rulemaking plan and issuance of the rule by the Executive Director for Operations. Moreover, the NRC staff continues to find ways to expedite the internal approval process as additional experience is gained. Under the alternative process suggested by the petitioner, the staff's technical review would take longer than it currently takes because the staff would be required to conduct some activities currently conducted under rulemaking and some new activities that they do not perform under the current process. An environmental assessment would need to be prepared for each new CoC and each CoC amendment (this is currently performed during rulemaking). As part of this process, the staff would need to consult with the states. If appropriate, a Finding of No Significant Impact (associated with the environmental review) would need to be prepared and published in the **Federal Register**. The NRC staff would need to prepare, and have published in the **Federal Register**, the no significant impact consideration finding (a new action). In addition, an order granting the CoC (new action) would need to be prepared and issued. These activities would increase the staff effort and review time necessary for approval of a CoC amendment. Moreover, whatever time savings petitioner's process might achieve would be offset if it should prove necessary to resolve cask design issues on a case-by-case basis in ISFSI proceedings. Unquestionably, a case-by-case consideration, rather than a generic review, would significantly increase the time and resources necessary for finally resolving cask design issues. Any uncertainty in the finality of the NRC's decision on cask design issues could postpone the loading of casks, because one outcome of any case-by-case consideration could be to overturn the NRC decision to approve a cask.

Finally, with respect to the fourth goal of reducing unnecessary regulatory burden, the petitioner asserts that its alternative process achieves this goal because "the new process removes the burdensome aspects of rulemaking which are unnecessary because they do not add to the quality of the regulatory decision" and "the new process identifies the CoC amendment requests which do not present significant potential impacts and subjects those amendment requests to a suitably streamlined review and approval process." The NRC notes that the petitioner's suggested process for considering initial CoCs and amendments which do involve significant impacts—a process that involves a 60-day comment period and no final NRC action until NRC has addressed the comments—is not significantly different from the present process and would not provide significant burden reduction for either the NRC staff or the industry. There could be a slight increase in burden for the staff because petitioner's process calls for publication in the **Federal Register** of a Notice of Receipt and Availability of the Application, a step not part of the current process. The petitioner's process for CoC amendments would require the applicant to submit a no significant impacts determination consideration along with the application. This would actually place an additional burden on the applicant and on the NRC staff assigned to reviewing the determination even though the extra burden might produce the benefit of an immediately effective amendment. Staff effort would also continue to be expended on preparation of an environmental assessment and the necessary **Federal Register** notices (currently part of the rulemaking process). The staff would also have the added burden of preparing an order to issue the CoC amendment. In short, there would be little, if any, burden reduction stemming from petitioner's alternative process. Moreover, if it should prove necessary to offer an opportunity for a hearing, a hearing request would also result in an increased expenditure of resources by both staff and the industry.

In conclusion, for the reasons explained above, we believe that NRC's performance goals are better served by retention of the current process.

For the reasons cited in this document, the NRC denies this petition.

Dated at Rockville, Maryland, this 5th day of December, 2001.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 01–30611 Filed 12–10–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[SPATS No. OK–028–FOR]

Oklahoma Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Oklahoma regulatory program (Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Oklahoma proposes revisions to its rules concerning employment and financial interests of state employees and members of advisory boards and commissions, and remining and reclamation of previously mined and certain inadequately reclaimed lands. Oklahoma intends to revise its program to be consistent with the corresponding Federal regulations. Oklahoma also intends to correct some cross references and typographical and grammatical errors.

This document gives the times and locations that the Oklahoma program and the proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4:00 p.m., c.s.t., January 10, 2002 . If requested, we will hold a public hearing on the amendment on January 7, 2002. We will accept requests to speak at the hearing until 4:00 p.m., c.s.t. on December 26, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Oklahoma program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office..

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430.

Oklahoma Department of Mines, 4040 N. Lincoln Blvd., Suite 107, Oklahoma City, Oklahoma 73105, Telephone: (405) 521–3859.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa

Field Office. Telephone: (918) 581–6430. Internet: mwolfrom@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program

Section 503(a) of the Act permits a state to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "a state law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Oklahoma program on January 19, 1981. You can find background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the January 19, 1981, **Federal Register** (46 FR 4902). You can find later actions concerning the Oklahoma program at 30 CFR 936.15 and 936.16.

II. Description of the Proposed Amendment

By letter dated November 1, 2001 (Administrative Record No. OK–993), Oklahoma sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Oklahoma sent the amendment at its own initiative. Oklahoma proposes to amend the Oklahoma Administrative Code (OAC), Title 460, Chapter 20. Below is a summary of the changes proposed by Oklahoma. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES.**

A. Subchapter 3. Permanent Regulatory Program

OAC 460:20–3–5. Definitions

Oklahoma proposes to add definitions for "Lands eligible for remining" and "Unanticipated event or condition."

B. Subchapter 5. Financial Interests of State Employees

1. OAC 460:20–5–1. Purpose

In this section, Oklahoma proposes to add persons who are prohibited from having any direct or indirect financial interest in any underground or surface coal mining operation. These additional persons are (1) members of advisory boards, (2) the Oklahoma Mining Commission, and (3) commissions representing multiple interests.

2. OAC 460:20–5–2. Objectives

Currently, the state's regulations prohibit employees of the Department of Mines who perform any function or duty under the Oklahoma Coal Reclamation Act of 1979 from having any direct or indirect financial interest in any underground or surface coal mining operation. Oklahoma proposes to expand the list of persons who perform any function or duty under the Oklahoma Coal Reclamation Act of 1979 and who are prohibited from these financial interests to include (1) members of advisory boards, (2) the Oklahoma Mining Commission, and (3) commissions representing multiple interests.

3. OAC 460:20–5–3. Authority

Oklahoma proposes to remove the authority of the Director of the Department of Mines to "file all statements and supplements received pursuant to 45 O.S. Supp., Section 765 from members of advisory boards and the Oklahoma Mining Commission with the Oklahoma Governor's Office, Director of Appointment."

4. OAC 460:20–5–4. Responsibility

a. In paragraph (a), Oklahoma proposes to require the Financial Officer of the state Department of Mines to furnish a blank employment and financial interest statement to each state employee, and members of advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests who are required to file a statement. The blank statement must be provided 45 days in advance of the filing date established by Section 460:20–5–8(a). In addition, the Financial Officer must provide annually to all state employees (required to file the statement) the name, address, and telephone number of the person whom they may contact for advice and counseling.

b. Oklahoma proposes to add a new paragraph (b) that sets forth the duties of the Director of Appointments of the Oklahoma Governor's Office.

c. Oklahoma proposes to revise paragraph (c) to read as follows:

(c) Department of Mines employees, members of advisory boards, the Oklahoma Mining Commission, or commissions representing multiple interests performing any duties or functions under the Act shall:

(1) Have no direct or indirect financial interests in coal mining operations;

(2) File a fully completed statement of employment and financial interest 120 days after this Chapter becomes effective or upon entrance of duty, and annually thereafter on specified filing dates; and

(3) Comply with directives issued by persons responsible for approving each statement and comply with directives issued by those persons responsible for ordering remedial actions.

5. OAC 460:20–5–7. Who Shall File

In paragraph (a), Oklahoma proposes to require any employee, and members of the Oklahoma Mining Commission, advisory boards, and commissions representing multiple interests who perform any function or duty under the Oklahoma Coal Reclamation Act of 1979 to file a statement of employment and financial interests.

6. OAC 460:20–5–8. When To File

a. In paragraph (a), Oklahoma proposes to add that members of the Oklahoma Mining Commission who perform functions or duties under the Oklahoma Coal Reclamation Act of 1979 must file employment and financial interest statements.

b. In paragraph (b), Oklahoma proposes to add that new appointments to advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests who are hired, appointed, or transferred to perform functions or duties under the Oklahoma Coal Reclamation Act of 1979 will be required to file employment and financial interest statements at the time of entrance to duty.

c. In paragraph (c), Oklahoma proposes to add that new appointments to advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests are not required to file annual employment and financial interest statements on the subsequent annual filing date if this date occurs within two months after their initial statement was filed.

7. OAC 460:20–5–9. Where To File

In paragraph (b), Oklahoma proposes to add that members of the Oklahoma Mining Commission must file employment and financial interest statements with the Governor's Office, Office of Appointments.

8. OAC 460:20–5–10. What To Report

a. In paragraph (a), Oklahoma proposes to add that advisory board members and commissioners must report all information required on the statement of employment and financial interests for themselves, their spouses, minor children, or other relatives who are full-time residents of their homes.

b. Oklahoma proposes to revise paragraph (a)(2) to read as follows:

(2) A certification that none of the listed financial interests represent a direct or indirect financial interest in an underground or surface coal mining operation except as specifically identified and described by the employee, advisory board member or commissioner as part of the certificate; and

c. In paragraphs (b)(1) through (b)(4), Oklahoma proposes to require advisory board members and commissioners, in addition to employees, to provide information regarding any financial interests pertaining to employment, securities, real property, and creditors. d. In paragraph (c), Oklahoma proposes to require advisory board members and commissioners, in addition to employees, to provide a signed certification that (1) none of the financial interests shown on the financial interest statement represent an interest in an underground or surface coal mining operation except as specifically identified and described as exceptions, and (2) the information shown on the statement is true, correct, and complete. Also, in paragraph (c)(3)(C) regarding exceptions in the financial interest statements, Oklahoma proposes to require advisory board members and commissioners, in addition to employees, to provide any other information which they believe should be considered in determining whether or not an interest represents a prohibited interest.

9. OAC 460:20–5–13. Appeals Procedures

Oklahoma proposes to designate the existing paragraph as paragraph (a) and to add new paragraph (b) to read as follows:

(b) Members of advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests should follow any appeals process provided for by the Oklahoma Governor's Office, Director of Appointments.

C. Subchapter 15. Requirements for Permit and Permit Processing

1. OAC 460:20–15–4. Regulatory Coordination With Requirements Under Other Laws

Oklahoma proposes to add a provision that each regulatory program must provide for the coordination of review and issuance of permits for surface coal mining and reclamation operations with applicable requirements of, among other things, all state, federal, and local permitting and licensing requirements.

2. OAC 460:20–15–6. Review of Permit Applications

a. Oklahoma proposes to add new paragraphs (b)(4) and (b)(5) to read as follows:

(4) Subsequent to October 24, 1992, the prohibitions of paragraph (b) of this Section regarding the issuance of a new permit shall not apply to any violation that:

(A) Occurs after that date;

(B) Is unabated and

(C) Results from an unanticipated event or condition that arises from a surface coal mining and reclamation operation on lands that are eligible for remining under a permit:

(i) Issued before September 30, 2004, or any renewals thereof; and

(ii) Held by the person making application for the new permit;

(5) For permits issued under Section 460:20–33–12 of this Chapter, an event or condition shall be presumed to be unanticipated for the purposes of this paragraph if it:

(A) Arose after permit issuance;

(B) Was related to prior mining; and

(C) Was not identified in the permit.

b. Oklahoma proposes to add new paragraph (c)(13) to read as follows:

(13) For permits to be issued under Section 460:20–33–12 of this Chapter, the permit application must contain:

(A) Lands eligible for remining;

(B) An identification of the potential environmental and safety problems related to prior mining activity which could reasonably be anticipated to occur at the site; and

(C) Mitigation plans to sufficiently address these potential environmental and safety problems so that reclamation as required by the applicable requirements of the regulatory program can be accomplished.

D. Subchapter 33. Requirements for Permits for Special Categories of Mining

OAC 460:20–33–12. Lands Eligible for Remining

Oklahoma proposes to add this new section to its regulations. It contains the permitting requirements for conducting coal mining operations on lands eligible for remining.

E. Subchapter 43. Permanent Program Performance Standards: Surface Mining Standards

OAC 460:20–43–46. Revegetation: Standards for Success

1. Oklahoma proposes to revise paragraphs (b)(6) to read as follows:

(6) For areas previously disturbed by mining that were not reclaimed to the requirements of this Chapter and that are remined or otherwise redisturbed by surface coal mining operations, as a minimum, the vegetative ground cover shall be not less than the ground cover existing before redisturbance and shall be adequate to control erosion. In general this is considered to be at least 70% vegetative ground cover of approved vegetation species.

2. Oklahoma proposes to revise paragraphs (c)(2) through (c)(3) to read as follows:

(2) In areas of more than 26.0 inches average annual precipitation, the period of responsibility shall continue for a period of not less than:

(A) Five full years, except as provided in paragraph (c)(2)(B) of this Section. The vegetation parameters identified in Subsection (b) of this Section for grazingland or pastureland and cropland shall equal or exceed the approved success standard during the growing seasons of any two years of the responsibility period, except the first year. Areas approved for the other uses identified in Subsection (b) of this Section shall equal or exceed the applicable success standard during the growing season of the last year of the responsibility period.

(B) Two full years for lands eligible for remining included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the success standards are established by Subsection (b)(6), the lands shall equal or exceed the standards during the growing season of the last year of the responsibility period.

(3) In areas of 26.0 inches or less average annual precipitation, the period of responsibility shall continue for a period of not less than:

(A) Ten full years, except as provided in Subsection (c)(3)(B) below. Vegetation parameters identified in Subsection (b) of this Section shall equal or exceed the approved success standards for at least the last two consecutive years of the responsibility period.

(B) Five full years for lands eligible for remining included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the success standards are established by Subsection (b)(6), the lands shall equal or exceed the standards during the growing seasons of the last two consecutive years of the responsibility period.

F. Subchapter 45. Permanent Program Performance Standards: Underground Mining Activities

OAC 460:20–45–46. Revegetation: Standards for Success

1. Oklahoma proposes to revise paragraphs (b)(6) to read as follows:

(6) For areas previously disturbed by mining that were not reclaimed to the requirements of this Chapter and that are remined or otherwise redisturbed by surface coal mining operations, as a minimum, the vegetative ground cover shall be not less than the ground cover existing before redisturbance and shall be adequate to

control erosion. In general this is considered to be at least 70% vegetative ground cover of approved vegetation species.

2. Oklahoma proposes to revise paragraphs (c)(2) through (c)(3) to read as follows:

(2) In areas of more than 26.0 inches average annual precipitation, the period of responsibility shall continue for a period of not less than:

(A) Five full years, except as provided in paragraph (c)(2)(B) of this Section. The vegetation parameters identified in Subsection (b) of this Section for grazingland or pastureland and cropland shall equal or exceed the approved success standard during the growing seasons of any two years of the responsibility period, except the first year. Areas approved for the other uses identified in Subsection (b) of this Section shall equal or exceed the applicable success standard during the growing season of the last year of the responsibility period.

(B) Two full years for lands eligible for remining included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the success standards are established by Subsection (b), the lands shall equal or exceed the standards during the growing season of the last year of the responsibility period.

(3) In areas of 26.0 inches or less average annual precipitation, the period of responsibility shall continue for a period of not less than:

(A) Ten full years, except as provided in Subsection (c)(3)(B) below. Vegetation parameters identified in Subsection (b) of this Section shall equal or exceed the approved success standards for at least the last two consecutive years of the responsibility period.

(B) Five full years for lands eligible for remining included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the success standards are established by Subsection (b), the lands shall equal or exceed the standards during the growing seasons of the last two consecutive years of the responsibility period.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Oklahoma program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS NO. OK–028–FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581–6430.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Tulsa Field Office (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.s.t. on December 26, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations "consistent with" regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of this section. However, these standards are not applicable to the actual language of state regulatory programs and program amendments since each program is drafted and promulgated by a specific state, not OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed state regulatory programs and program amendments submitted by the states must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the

other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a State of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866, and because it is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The state submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the state. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 16, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–30578 Filed 12–10–01; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–57–200209; FRL–7116–1]

Potential Clean Air Reclassification and Notice of Potential Eligibility for Attainment Date Extension and Approval of Attainment Demonstration, Georgia: Atlanta Nonattainment Area; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental proposed rule.

SUMMARY: On July 17, 2001, the Georgia Environmental Protection Division (GAEPD) submitted to EPA a revised 1-hour ozone attainment demonstration for the Atlanta 1-Hour Ozone Nonattainment area (Atlanta area) that replaces the attainment demonstration submitted to EPA on October 28, 1999. The new submittal contains revised motor vehicle emissions budgets (MVEB), a request for an attainment date extension to November 15, 2004, a revised partnership for a smog free Georgia (PSG) program and the reasonably available control measure (RACM) analysis. GAEPD also commits to perform an early assessment of the Atlanta Ozone Attainment State Implementation Plan (SIP) and submit it to EPA by November 15, 2003.

EPA is proposing to approve the attainment demonstration, including the components listed above, and to grant an attainment date extension, pursuant to EPA's "Guidance on Extension of Air Quality Attainment Dates for Downwind Transport Areas." The extension policy applies where pollution from upwind areas interferes with the ability of a downwind area to demonstrate attainment with the 1-hour ozone national ambient air quality standard (NAAQS) by the dates prescribed in the Clean Air Act, as amended in 1990 (CAA). As an alternative to reclassification for areas affected by transport, the extension policy provides that an area, such as Atlanta, is eligible for an attainment date extension if it can make submissions that meet certain conditions. EPA is proposing that the Atlanta area meets all of the required conditions.

In the alternative, EPA is proposing to find that the Atlanta area has failed to attain the 1-hour ozone NAAQS by November 15, 1999, the date set forth in the CAA for serious nonattainment areas. If EPA finalizes this finding, the Atlanta area would be reclassified, by operation of law, as a severe nonattainment area. EPA is also taking comment on a proposed schedule for submittal of the SIP revisions required for severe areas should the area be reclassified.

This attainment demonstration relies on the benefits from Georgia's rule "(bbb) Gasoline Marketing" as submitted to EPA on August 21, 2001. EPA will be proposing action on this rule, as well as the fuel waiver request, which was submitted to EPA on May 31, 2000, in a separate **Federal Register** action.

DATES: Comments must be received on or before January 25, 2002.

ADDRESSES: All comments should be addressed to: Scott M. Martin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Copies of the State submittals are available at the following addresses for

inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363–7000.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, EPA Region 4, (404) 562–9036 or email: martin.scott@epa.gov.

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I. National Ambient Air Quality Standards

Since the CAA's inception in 1970, EPA has set NAAQS for six common air pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. The CAA requires these standards be set at levels that protect public health and welfare with an adequate margin of safety. These standards present state and local governments with the air quality levels they must meet to achieve clean air. Also, these standards allow the American people to assess whether or not the air quality in their communities is healthful.

II. Ozone National Ambient Air Quality Standards

The 1-hour ozone NAAQS of 0.12 parts per million (ppm) was promulgated in 1979 and areas were designated and classified as attainment/unclassifiable or nonattainment pursuant to the 1990 CAA amendments. It is the designation and classification of the Atlanta area relative to the 1-hour ozone NAAQS that is addressed in this document.

III. Atlanta 1-Hour Ozone Nonattainment Area

The Atlanta 1-hour ozone nonattainment area consists of the following counties: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding and Rockdale.

Under section 107(d)(1)(C) of the CAA, each ozone area designated nonattainment for the 1-hour ozone NAAQS prior to enactment of the 1990 CAA amendments, such as the Atlanta area, was designated nonattainment by operation of law upon enactment of the 1990 amendments. Under section 181(a) of the Act, each ozone area designated nonattainment under section 107(d) was also classified by operation of law as "marginal," "moderate," "serious," "severe," or "extreme," depending on the severity of the area's air quality problem. These nonattainment designations and classifications were codified in 40 CFR part 81 (see 56 FR 56694, November 6, 1991). The design value for an area, which characterizes the severity of the air quality problem, is represented by the highest design value at any individual ozone monitoring site (i.e., the highest of the fourth highest 1-hour daily maximums in a given three-year period with complete monitoring data). Table 1 in section 181(a) provides the design value ranges for each nonattainment classification. Ozone nonattainment areas with design values between 0.160 ppm and 0.180 ppm for the three year period 1987–1989 were classified as serious. The Atlanta area design value was 0.162 ppm and thus the area was classified as serious.

Under section 182(c) of the CAA, states containing areas that were classified as serious nonattainment were required to submit SIPs to provide for certain controls, to show progress toward attainment, and to provide for attainment of the ozone NAAQS as expeditiously as practicable but no later than November 15, 1999.

IV. Background on Attainment Demonstration Submissions

The CAA requires serious areas to use a photochemical grid model to demonstrate attainment with the 1-hour ozone NAAQS. EPA's guidance provides that states may also rely on a weight of evidence (WOE) analysis to support attainment if the modeled demonstration does not facially demonstrate that the area will attain by the attainment date.

On October 28, 1999, the GAEPD submitted to EPA a 1-hour ozone attainment demonstration for the Atlanta area that was based on photochemical grid modeling and also provided a WOE analysis to support attainment. In addition, Georgia requested that the Atlanta area attainment date be extended to November 15, 2003. The request for an extension of the attainment date was based on the belief that ozone is transported from upwind areas and affects the ability of the downwind area to attain the 1-hour ozone NAAQS. Thus, emission reductions that were going to be achieved by upwind states under EPA's final NO_X SIP Call rule, published on October 27, 1998 (63 FR 57356), by May 1, 2003, were critical to the State's demonstration that Atlanta would attain the standard by November 2003. The states identified in EPA's final NO_X SIP Call rule as affecting Atlanta are Alabama, Kentucky, North Carolina, South Carolina and Tennessee.

In the October 28, 1999, SIP, as part of the WOE analysis, GAEPD committed to identify and adopt regulations to achieve additional reductions of NO_X and VOC emissions as needed for attainment and to implement these control measures by May 1, 2003.[1] On December 16, 1999, EPA proposed approval of the attainment demonstration and the request for an extension of the attainment date in the **Federal Register** (64 FR 70478), provided that the State would take several actions before final approval: (1) fulfill the commitments to adopt additional VOC and NO_X controls necessary to attain the standard and to perform and to complete an early attainment assessment—i.e., prior to the attainment date—of whether the area will attain; and (2) revise the State's low sulfur fuel rule to address enforcement

[1] "Guidance for Improving Weight of Evidence Through Identification of Additional Emission reductions, Not Modeled." U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emissions, Monitoring, and Analysis Division, Air Quality Modeling Group, Research Triangle Park, NC 27711. November 1999. Web site: *http:/www.epa.gov/ttn/scram/* See file ADDWOE1H.

and waiver issues. EPA received comments on the December 1999 proposal during the comment period. All relevant comments pertaining to the December 1999 proposal, as well as this supplemental proposal, will be addressed in the final action pertaining to the 1-hour ozone attainment demonstration for the Atlanta area. Detailed information on the 2003-based attainment photochemical modeling demonstration, the supplemental WOE analysis and EPA modeling requirements are contained in the Technical Support Document (TSD) for the December 16, 1999 **Federal Register** document. Copies of this TSD can be obtained from the EPA contact listed in the addresses section of this document.

The GAEPD submitted revisions to the attainment demonstration, including the additional adopted emission control regulations identified as part of the WOE analysis as necessary to attain the standard, to EPA on January 31, 2000, and July 31, 2001. EPA proposed approval of the emission control regulations on December 18, 2000 (65 FR 79034), and granted final approval on July 10, 2001 (66 FR 35906).

On July 17, 2001, the State submitted a revised attainment demonstration, which relied upon emission reductions from the State's low sulfur fuel rule— "(bbb) Gasoline Marketing"—and included a commitment to perform an early attainment assessment. As described more fully below, in this action, EPA is proposing to approve the revised attainment demonstration (including a new request to extend the attainment date to 2004) and the commitment to perform an early attainment assessment. EPA will propose action on the revised low sulfur rule and an associated fuel waiver request that was submitted on May 31, 2000, and revised on November 4, 2001, in a separate document. However, because the State is relying on the low sulfur rule and the associated waiver request as part of it's attainment demonstration, EPA cannot take final action approving the attainment demonstration unless and until EPA takes final action approving the low sulfur fuel rule and the associated waiver request.

2004 Attainment Demonstration Background

The photochemical grid ozone modeling performed for the Atlanta 1-hour ozone nonattainment area is based on an emissions projection to 2003, the attainment extension year that the GAEPD requested of EPA in its October 28, 1999, submittal. Under a WOE determination, a state can rely on, and EPA will consider, factors such as other modeled attainment tests, e.g., a rollback analysis; other modeled outputs, e.g., changes in the predicted frequency and pervasiveness of exceedances and predicted changes in the design value; actual observed air quality trends; estimated emissions trends; analyses of monitored air quality data; the responsiveness of the model predictions to further controls; and, whether there are additional control measures that are or will be approved into the SIP but were not included in the modeling analysis. This list is not an exclusive list of factors that may be considered and these factors could vary from case to case. The EPA's guidance contains no limit on how close a modeled attainment test must be to passing to conclude that other evidence besides an attainment test is sufficiently compelling to suggest attainment. However, the further a modeled attainment test is from being passed, the more compelling the WOE needs to be.

Detailed information on the 2003 Atlanta attainment photochemical modeling demonstration, the supplemental WOE analysis and EPA modeling requirements are contained in the TSD for the December 16, 1999, proposal (64 FR 70478). The 2003 modeled control strategy simulations indicate that ozone levels in the Atlanta area would be significantly reduced when the state and local controls identified in the October 1999 submission (and subsequently approved by EPA) and NO_X SIP Call plans in upwind states are implemented. Even though the statistical and deterministic modeled attainment tests and the modeling exceedance test used in the photochemical grid modeling assessment for attainment are not satisfied, there were several reasons to believe that Atlanta could reasonably attain the 1-hour ozone NAAQS in 2004 through the development of a WOE analysis for the 2003 demonstration. The WOE submitted as a part of the attainment demonstration for the October 28, 1999, Atlanta SIP includes: (a) an estimate of additional reductions needed for attainment, calculated without the use of additional photochemical grid modeling, (b) estimates of the future design value using EPA's modeling of the NO_X SIP Call; and (c) estimates of the future design value using the Relative Reduction Factor (RRF) analysis. The additional reductions identified by this method, considered along with the results of the Urban Airshed Model (UAM) modeled attainment tests and other weight of evidence presented in the technical analyses for the attainment demonstration, indicate the area would attain the 1-hour ozone NAAQS by November 2003. This analysis strengthens the WOE and accounts for high modeled peaks by estimating the additional measures that at a minimum bring the model estimated future ozone design value to 124 parts per billion (ppb) or below. An air quality and emissions trends analysis is also reviewed as a part of the WOE analysis in attainment demonstrations for other urban areas. Though not submitted as part of Georgia's WOE, EPA considered that air quality in Georgia has improved since the 1980s. The average design value of 162 ppb in the 1980s had decreased to an average design value of 148 ppb in the 1990s. This improvement in air quality has occurred despite growth. The reductions associated with VOC and NO_X reductions implemented in 1999 appear to be beneficial.

V. Evaluation of the 2004 Attainment Demonstration

Subsequent to the State's October 1999 submission and EPA's December 1999 proposed approval of the Atlanta attainment demonstration, the source compliance date under the NO_X SIP Call rule was extended from May 1, 2003 to May 31, 2004. In May 1999, the Court of Appeals for the District of Columbia Circuit stayed the obligation of states to submit SIPs in response to EPA's NO_X SIP Call rule, pending litigation over the rule. In March 2000, the Court issued an opinion largely upholding the SIP Call rule. In later rulings in the summer of 2000, the Court lifted the stay of the SIP submission obligation, but provided that since SIP submissions were delayed, EPA could not mandate that states require sources to comply with state-adopted rules under the SIP Call earlier than May 31, 2004. Because the source compliance date under the SIP Call was delayed, Georgia determined that it could not attain in the year preceding the source-compliance date under the SIP and submitted a revised SIP requesting an attainment date of November 2004.

The revised attainment demonstration submitted by the State on July 17, 2001, relies on the photochemical grid modeling that was submitted in October 1999, but provides additional analysis. The photochemical grid modeling demonstration assumed an attainment year of 2003. The time and resources to redo the modeling for 2004 were not available. Allowing additional time to redo the modeling for 2004 would not be consistent with the CAA intent that areas come into attainment as expeditiously as practicable nor would

it significantly advance the technical basis for the attainment demonstration. Therefore, EPA agreed that attainment for 2004 could be demonstrated with the submittal of a 2004 emissions inventory as a supplement to the 2003 demonstration, provided that the 2004 emissions are less than or equal to the level of emissions used in the modeling. It could then be concluded that if emissions for 2004 were modeled, the predicted concentrations of ozone would be less than or equal to the 2003 1-hour ozone concentrations modeled. If increases in the 2004 emissions were indicated, the supplemental WOE analysis would have to demonstrate why the increase in emissions would not produce an increase in ozone concentrations. Although a 2004 attainment year is being proposed for approval for the Atlanta nonattainment area because of the upwind contribution, the local controls in the attainment strategy will all be implemented no later than May 2003.

The 2004 demonstration is based on the following procedures. First, the State uses information from the photochemical grid modeling and ambient air modeling to assess whether or not additional levels of emission reductions are needed beyond those that were necessary to demonstrate attainment. This assessment was completed using the emissions projections for 2004. The second part of the analysis involves an assessment of the levels of attainment emissions for 2004 and whether or not attainment in 2004 is reasonably likely to occur. A determination was made that if the estimates of the projected 2004 emissions with controls implemented are at or below the 2003 modeled levels then attainment by 2004 is reasonably likely to occur. Both parts of the analysis are described in the following subsections.

Identification of Additional Reductions Needed for Attainment

On December 16, 1999, EPA proposed to approve the 2003 attainment demonstration if the State identified, adopted, and submitted additional controls needed for attainment and revised Georgia's low sulfur fuel rule to address the enforcement and waiver issues in accordance with EPA guidance.

As provided above, the State adopted, and EPA approved, the additional controls identified in the December 1999 proposed approval. In identifying the additional emissions reductions needed to achieve attainment, the State opted to implement controls outside of the nonattainment area, thus requiring a recalculation of the emissions reductions needed. GAEPD used EPA's "Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled" identified additional controls needed beyond those identified in the 2003 modeling analysis. This analysis involved the use of information from the photochemical grid modeling and ambient air quality monitoring to estimate additional levels of emission reductions needed for attainment of the 1-hour NAAQS for ozone. GAEPD used the analysis to identify the additional percentage reduction in NO_X and VOC from the 1996 emissions base year that are needed for attainment. The method is based on the assumption that the relationship between ozone and its precursors (VOC and NO_X) can be calculated. A detailed discussion of the steps used in the analysis to calculate the additional emission reductions needed for attainment is provided in the TSD which can be obtained from the Regional Office staff contact. GAEPD's application of this analysis estimated that additional reductions of 3.94 percent NO_X and 3.59 percent VOC were needed to attain by 2003. This equates to an additional reduction of 35.75 tons per day (TPD) NO_X and 20.81 TPD VOC. To achieve these reductions the GAEPD adopted and implemented open burning prohibition regulations outside the nonattainment area, additional electric generating units regulations applicable to power plants, and a new combustion rule. An excess of reductions of 5.6 TPD NO_X and 6.0 TPD VOC were available beyond the needed reductions for attainment.

Development of the 2004 Emissions Inventory

The GAEPD developed a 2004 projected emission inventory for the 4-km fine-grid domain from the 2003 modeling inventory and adjusted the projected 2004 emissions inventory with the additional emission reductions identified through the WOE analysis. Mobile source emissions were recalculated using the most recent data available. The emissions from major point sources within the nonattainment area were assumed to have zero growth from 2003 to 2004 because of the Offset Rule, 391–3–1–.03 section (8) (c) 13 that was adopted by the Department of Natural Resources (DNR) Board in September of 1999 and approved by EPA on July 10, 2001. However, this assumption is conservative because the regulation requires an offset ratio (1.2 to 1 for external; 1.3 to 1 for internal) in emissions, so point source emissions in this area should decrease if any new sources are permitted for this area. Also, with the new power plant offset rule in 32 counties, there should be no growth of electric generating unit (EGU) point source NO_X (*i.e.*, >50 TPD in 13 counties, > 100 TPD in 32 counties) emissions. Furthermore, zero growth should have been assumed in projecting the 1999 point source emissions in the nonattainment area to 2003 for the 2003 modeling. Therefore, the 2003 modeling inventory contains approximately 2 to 3 TPD more NO_X emissions in the nonattainment area than it should in Table 2. In the remainder of the fine-grid domain, the Emission Processing System 2 (EPS2) was used to grow point sources outside the 13-County Atlanta nonattainment area to 2004 by applying the appropriate Bureau of Economic (BEA) projection factors to 2003 emission rates for the relevant industry. The emissions from non-road mobile sources were calculated using EPA's version 2000 of the draft NONROAD Model and the 2003 control emissions. The model was used to develop a growth or reduction factor between 2003 and 2004. The calculated factors were multiplied by the 2003 projected controlled emissions for off-road mobile sources to determine the projected 2004 emissions. The TSD contains additional details on the development of the inventory for the 2004 non-road mobile source emissions.

The 2003 on-road mobile source emissions inventory was calculated using 12-speed vehicle categories. However, the metropolitan planning organization, the Atlanta Regional Commission (ARC), develops mobile emissions based on 64 averaged speeds. For consistency, GAEPD and ARC needed to develop a methodology to incorporate the higher-resolution information from ARC as well as the result from the Atlanta speed study without revising the mobile source ozone modeling inventory software. The speed study was conducted to update data (i.e., higher speeds and consider the impact of congestion on speeds) for on-road mobile emissions, based on submitted comments indicating faults in that data. The speed study is located on the GAEPD website at *http://www.dnr.state.ga.us/dnr/environ/plans_files/plans/Speed_Study.pdf*. Data from the Atlanta Nonattainment Area Speed Study were used by ARC to develop a typical summer day 2004 mobile source inventory. The 2003-to-2004 adjustment factors for the ozone episode modeling inventories in the 13-county Atlanta nonattainment area were developed by taking the ratio of the 2004 64-speed inventory to the 2003 12-

speed inventory submitted by GAEPD in the October 28, 1999, attainment SIP. These factors were then applied to 2003 episode-day-specific mobile source modeling inventories to adjust them to 2004 modeling inventories reflecting all of the mobile modeling changes between 2003 and 2004, including the revised speed data and the more disaggregate speed averaging. For the 30 counties within the UAM–IV domain but outside the nonattainment area, an area not covered by ARC's travel demand model, an adjustment factor (the percent difference between the resulting 2004 30-county typical summer day inventory and a 2003 30-county typical summer day mobile inventory) was applied to episode-day-specific 2003 mobile modeling inventories in the 30 attainment area counties to produce 2004 mobile modeling inventories. EPA believes that the projected growth rates, methodologies and emissions reductions from the sources subject to the federal and local measures were calculated correctly.

2004 Attainment Assessment

In the 2004 attainment demonstration submitted in the July 2001 SIP, the State included a projected emissions inventory for the 2004 attainment extension year which accounts for (a) growth between 2003 and 2004; (b) the results of the speed study conducted pursuant to comments on the December 1999 proposal; (c) correction to the PSG voluntary program SIP reductions; (d) removal of NSR and VOC and NO_X RACT for attainment counties within the fine grid domain; and (e) revised estimates to the original "additional reductions" identified in the October 28, 1999, SIP. Table 1 provides a comparison between the 2003 projected inventory used for the 2003 modeling demonstration and the 2004 projected attainment inventory in the 4-km fine grid modeling domain. The emissions represent the typical summer day emissions derived from averaging emissions from the three days used in the modeling demonstration as submitted in the July 2001 SIP (i.e., July 31, 1987, August 1, 1987, and July 8, 1988). The levels of anthropogenic NO_X and VOC that were modeled in the 2003 strategy for the Atlanta nonattainment area are 591.6 TPD and 525.8 TPD, respectively. The levels of anthropogenic NO_X and VOC projected for 2004 are 604.5 TPD and 482.1 TPD, respectively. This comparison of emission estimates resulted in an additional reduction of 43.7 TPD VOC and increase of 12.9 TPD NO_X emissions in 2004.

TABLE 1.—COMPARISON OF 2003 MODELED AND 2004 PROJECTED NO_X AND VOC EMISSIONS IN THE MODELING DOMAIN

NO_X (TPD)				VOC (TPD)			
Category	2003	2004	Change	Category	2003	2004	Change
Point	119.4	120.1	0.7	Point	66.7	67.1	0.4
Area	54.9	55.2	0.3	Area	144.7	140.9	−3.8
Non-road	108.9	108.0	−0.9	Non-road	121.5	106.5	−15.0
Mobile	308.4	321.2	12.8	Mobile	192.9	167.6	−25.3
Total	591.6	604.5	12.9	Total	525.8	482.1	−43.7
Biogenics	13.5	13.5	.....	Biogenics	2261.6	2261.6	.....

2004 Air Quality Assessment for Emissions Changes

A comparison of the 2003 and 2004 modeling inventories indicate that NO_X emissions increase about 2 percent over the modeling domain, while VOC emissions decrease over 8 percent. Since the total NO_X emissions projected for 2004 are more than the levels modeled for 2003, a demonstration was needed to show why this would not adversely affect the ability of the area to attain the 1-hour ozone NAAQS by 2004. We believe that the relationship between VOC emission reductions and ozone concentration reductions and between NO_X emission reductions and ozone concentration reductions can be determined using the photochemical modeling results. Sensitivity analyses from the photochemical modeling in the fine grid were used to develop a relationship to assess the potential for increases in ozone formation for the emission levels projected for 2004. The majority of the local emissions reductions for the attainment strategy occur within the 4-km fine grid with the exception of two power plants near the southern boundary. The sensitivity simulations used were based on the three episode days (*i.e.*, July 31, 1987; August 1, 1987; and July 8, 1988) that were used in the 2003 control strategy simulations. These sensitivity simulations represented modeling scenarios based on reductions across emission inventory categories (e.g., low-level source or elevated sources) while holding all other emissions source categories constant. The air-quality-to-emission-change ratio (i.e., tons per day of emissions change per ppb change in ozone) was developed for each day and sensitivity simulation. The average of these ratios over all days and sensitivities was then determined for each pollutant for each episode day.

The submitted ratios indicate that a 41.5 TPD increase in NO_X is needed to cause a 1.0 ppb increase in ozone or a 164.9 TPD increase in VOC is needed to cause a 1.0 ppb increase in ozone. These relationships were applied to the emissions changes predicted between 2003 and 2004 as presented in Table 1. The tables indicate that NO_X emissions are expected to increase by 12.9 TPD and VOC emissions will decrease by 43.7 TPD in 2004. The NO_X and VOC ratios were applied to the emission changes between 2003 and 2004 to determine how ozone formation would be affected in 2004. This analysis indicated that a 0.3 ppb increase in ozone from the increase in NO_X emissions is offset by the a 0.3 ppb decrease in ozone from the VOC emissions. The identified shortfall gap has thus been met by the State and the necessary control measures approved by EPA. Therefore, the assessment supports the conclusion that the area will attain the NAAQS in 2004.

Reasonably Available Control Measures Analysis (RACM)

Section 172(c)(1) of the CAA requires attainment demonstration SIPs to provide for the implementation of all RACM as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology, RACT) and shall provide for the attainment of the NAAQS. EPA issued a memo dated December 2, 1999, and entitled, "Guidance on the Reasonably Available Control Measures (RACM) Requirement

and Attainment Demonstration Submissions for Ozone Nonattainment Areas" stating that states need to provide justification as to why potential RACM have not been adopted. The justification should clearly demonstrate that implementation of feasible measures will not advance the attainment date and will not compensate for any transport contribution such that attainment could be achieved prior to upwind reductions. Evaluations of control measures may be based on technological or economic grounds.

The Georgia RACM analysis must address measures from any anthropogenic source of emissions, i.e., point, area, on-road mobile or non-road mobile. The RACM analysis contains an exhaustive set of control measures, addresses several reasons as to why many of the measures have not been adopted, and contains a demonstration as to why the implementation of remaining potential RACM by the 2003 ozone season would not advance the attainment of the 1-hour ozone NAAQS. Georgia EPD performed a RACM analysis for potential control of NO_X and VOC emission sources not included in the attainment demonstration for the Atlanta 1-hour ozone nonattainment area. Most of the controls identified in the RACM analysis were included in a study completed by Georgia State University ("The Direct Costs of Controlling NO_X and VOC emissions in Atlanta." Georgia State University. Atlanta, Georgia: November 1, 1997, pp. 43–65). In the Georgia State Report, the 1990 NO_X and VOC emissions inventory data were updated using growth factors to reflect emissions in 1999. Georgia EPD multiplied the percent reduction expected from a particular control measure from the study by a 2003 base level of emissions in order to calculate 2003 reductions for VOC and NO_X. The 2003 base level was acquired from the 2003 Base Modeling run for the day of July 31. This method was applied to most of the calculations in the RACM analysis. For many of the remaining RACM calculations, GAEPD applied reduction factors from sources such as STAPPA/ALAPCO and EPA to emissions data derived from modeling runs for the Atlanta nonattainment area in order to get projected 2003 VOC and NO_X reductions from a particular control measure. Other reductions were based on similar control measures enacted in other areas and the reduction results obtained in those areas. Georgia EPD performed a RACM analysis to determine if the 2004 attainment date could be advanced. They analyzed the 2003 season to determine if control measures could be implemented that were sufficient to prevent 1-hour ozone NAAQS violations during the 2003 season and thus advance the attainment date.

Each control option was evaluated according to: (1) the State's authority to implement controls; (2) the amount of NO_X reductions; (3) the amount of VOC reductions; (4) whether a similar control measure is already being implemented in the SIP; (5) the cost effectiveness of the control; (6) whether SIP credit has already been taken for the measure; and (7) whether the measure can be implemented to achieve reductions during the 2003 ozone season, (measures implemented after the 2003 ozone season cannot advance the 2004 attainment date). Any measures determined to be feasible to implement after the above described evaluation were grouped, by primary category, under the heading "remaining measures." Georgia used a cut-off of $5,000 per ton in their analysis of whether a measure was cost effective. Georgia has used this threshold for over 12 years in developing their VOC and NO_X RACT regulations. It was, therefore, used in the RACM analysis for consistency. EPA does not consider this cut-off valid for all areas and it may not be valid for Georgia in all areas. However, for the purpose of this RACM demonstration and considering consistency in developing other measures supporting this demonstration, EPA believes this cut-off is acceptable for Atlanta. The RACM analysis indicates that additional reductions of 18.66 TPD NO_X and 51.76 TPD VOC are available for implementation by 2003 in the Atlanta 1-hour ozone nonattainment area. For the RACM analysis, the GAEPD had to demonstrate why these remaining reductions would not advance attainment for a 2003 attainment year prior to the regional NO_X reductions expected from the EPA NO_X SIP Call in 2004. To do this, GAEPD estimated the effect of the NO_X SIP Call and the RACM reductions on ozone concentrations.

The SIP for bringing the Atlanta area into compliance with the 1-hour ozone NAAQS relies upon reductions from the NO_X SIP Call implemented in upwind states. In order to advance the attainment date from November 15, 2004, and thereby be classified as RACM, a control measure or set of control measures would need to provide a greater effect, during the 2003 ozone season, on ozone reduction than the NO_X SIP Call measures will provide in 2004. Appendix C, "1-Hour Upwind/Downwind Linkages" of *The Air Quality Modeling Technical Support Document for the NO_X SIP Call*, September 23, 1998, lists Alabama, Kentucky, North Carolina, South Carolina, and Tennessee as significant contributors to Atlanta's ozone exceedances. Table 6 of EPA's Final 2007 Base NO_X emission rates published in the **Federal Register** on March 2, 2000, (65 FR 11222) gives totals for these five states equal to 1,109,255 tons per season or 10,177 tons per day.

Not all of these emissions are transported into Georgia or the Atlanta area. Therefore, any meaningful comparison must be based on the NO_X SIP Call's effect on ozone concentrations in Atlanta. Appendix G of the EPA NO_X SIP TSD referenced above, "Evaluation of Contributions—Tables of Metrics, 1-Hour CAMX: Upwind States to Downwind States," page G–6, gives average contributions to an Atlanta area exceedance as follows: Alabama 8 percent; Kentucky, 1 percent; North Carolina, 1 percent; South Carolina, 1 percent; and Tennessee, 4 percent for a total contribution of 15 percent. The State calculated the effect on a monitored exceedance occurring at 125 ppb, the result being a contribution of 18.6 ppb (125 ppb x 15 percent) from upwind states. The implementation of the NO_X SIP Call in 2004 would reduce the contribution to ozone exceedances in Atlanta by 18.6 ppb.

The effect the "remaining measures" would have on air quality if implemented during the 2003 ozone season is calculated by dividing the estimated NO_X or VOC reduction amount times the change in pollutant per change in ozone. Using the factors developed in the air quality assessment to determine the change in ozone concentration from emissions reductions (i.e., 41.45 TPD NO_X per 1 ppb ozone, 164.9 TPD VOC per 1 ppb ozone), the expected change in ozone concentration from the emissions reductions from the remaining measures in the RACM analysis (i.e., 18.66 TPD NO_X, 51.71 TPD VOC) can be estimated. The procedure used to develop the NO_X and VOC factors are discussed in the TSD. Taking the ratio of the factors and the remaining measures reductions would yield 0.45 ppb of ozone decreases from the NO_X reductions and 0.31 ppb of ozone decreases from the VOC reductions. The total ozone reduction due to remaining measures would be 0.75 ppb of ozone. Hence, implementation of the remaining measures in 2003 from the RACM analysis is much less than would be needed to achieve attainment in 2003 without the much larger reductions

from the NO_X SIP Call that will be achieved in 2004. This analysis therefore demonstrates that no additional RACM measures are reasonably available for the Atlanta 1-hour ozone nonattainment area.

Approval of a RACM analysis must be done on a case-by-case basis and the approval for the Atlanta area is not intended to set precedent for any other area requiring a RACM analysis or for any other pollutant.

Although EPA does not believe that section 172(c)(1) requires implementation of additional measures for the Atlanta area, this conclusion is not necessarily valid for other areas. Thus, a determination of RACM is necessary on a case-by-case basis and will depend on the circumstances for the individual area. In addition, if in the future EPA moves forward to implement another ozone standard, this RACM analysis would not control what is RACM for these or any other areas for that other ozone standard.

Also, EPA has long advocated that states consider the kinds of control measures that the commenters have suggested, and EPA has indeed provided guidance on those measures. See, e.g., *http://www.epa.gov/otaq/transp.htm*. In order to demonstrate that they will attain the 1-hour ozone NAAQS as expeditiously as practicable, some areas may need to consider and adopt a number of measures-including the kind that GAEPD evaluated in its RACM analysis —that even collectively do not result in many emission reductions. Furthermore, EPA encourages areas to implement technically available and economically feasible measures to achieve emissions reductions in the short term-even if such measures do not advance the attainment date-since such measures will likely improve air quality. Also, over time, emission control measures that may not be RACM now for an area may ultimately become feasible for the same area due to advances in control technology or more cost-effective implementation techniques. Thus, areas should continue to assess the state of control technology as they make progress toward attainment and consider new control technologies that may in fact result in more expeditious improvement in air quality.

2004 Motor Vehicle Emissions Budgets

The MVEB for 2004 were calculated using the revised speeds, updated registration data, updated vehicle miles traveled (VMT), and projected 2004 VMT, and the control measures identified in the 1-hour ozone attainment demonstration for the Atlanta area. The resulting budgets are 106.25 and 225.12 tons per typical summer day of VOC and NO_X, respectively.

These MVEB reflect the most up-to-date mobile modeling assumptions including 2004 VMT projected from the travel demand model for the Atlanta area and July 2004 emission factors from EPA's MOBILE5b emission factor model and 1999 vehicle registration data, which was the most recent available data at the time of SIP adoption. The control measures identified and modeled for mobile emissions used to establish the MVEB, along with other control measures in this plan, will result in attainment of the 1-hour ozone NAAQS by 2004.

The GAEPD has provided a clearly identified conformity budget for which the Region has initiated the adequacy review process. Comments received during the public comment period are being addressed and the response to these comments will be posted on the agency's internet location at *http://www.epa.gov/otaq/transp/conform/adequacy.htm*. (Memorandum, "Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision," from Gay MacGregor, Director, Regional and State Programs Division, Office of Mobile Sources, issued May 14, 1999, to Regional Air Division Directors.)

EPA is proposing to approve the 2004 MVEB because they are based on the most recent data, they reflect reductions from the control measures included in the attainment demonstration and they are consistent with the overall attainment demonstration. However, a final decision on adequacy will be made on a later date.

Partnership for a Smog Free Georgia

In 1997, EPA published the "Voluntary Mobile Source Emission Policy" (VMEP) in order to assist states considering nonregulatory emission strategies, which are generally not effective on a mandatory basis. The VMEP policy allows states to take credit for expected emission reductions from voluntary mobile source programs, and allows states to take credit for up to 3 percent of the total emission reductions needed for attainment through the VMEP policy. Georgia is using this policy to take credit for its PSG program. The PSG promotes effective voluntary actions that employers, their employees and general residents in the region can take to help improve air quality in the metro Atlanta region during the ozone season. Since 1997, EPA and the State have been working to evaluate the PSG program and its corresponding emission reductions. It was agreed that the best way to evaluate the program was to set VMT emission targets based on assumptions which are consistent with the existing emission models and travel demand models used in the region. The program assumes that 20 percent of the PSG program members will use a non-single occupancy vehicle (SOV) method to commute to work. Data collected between 1997 and 2000 indicates that non-PSG partners also change commuter patterns and that about 40 percent of the non-PSG commuters use non-SOV methods to get to work at least one day per week. However, due to programmatic uncertainty, the State reduced this expectation by 75 percent and is assuming 10 percent of all non-PSG program commuters will commute using non-SOV methods. This assumption is consistent with the VMEP policy regarding programmatic uncertainty. The GAEPD has committed to attaining 4.28 tpd of NO_X reductions and 6.51 tpd of VOC reductions by the year 2003 through this program.

The VMEP policy allows the State to take credit for projected emission reductions without the need for preapproved contingency measures should the program fall short of the expected emission reductions. However, the State has committed to meeting the specific emission targets and will make up any emission reduction shortfall through other means. The State has demonstrated that it has sufficient funding to implement an effective program and is committed to annual program evaluation to ensure that target levels are met. In addition, the State is committing to provide annual evaluation reports to EPA each February 1 beginning in 2002. The State will use these evaluations to adjust the PSG program prior to the 2004 attainment date if needed to ensure that target levels are met or the emission reductions are achieved through other means. Additional information can be found in the corresponding TSD. Therefore, EPA is proposing to approve the PSG program, its evaluation procedures, and the expected emission reduction targets as an enforceable part of the SIP.

Commitment to Mid-Course Review

A mid-course review (MCR) is a reassessment of modeling analyses and more recent monitored data to determine if a prescribed control strategy is resulting in emission reductions and air quality improvements needed to attain the ambient air quality standard for ozone

as expeditiously as practicable but no later than the statutory dates.

The EPA believes that a commitment to perform a MCR is a critical element of the WOE analysis for the attainment demonstration on which EPA is proposing to take action today. In order to approve the attainment demonstration SIP for the serious areas requesting an attainment date extension to a year prior to 2005, a review that occurs at a midpoint prior to the attainment date would be impractical in terms of timing. Therefore, for these areas, the State's commitment to an MCR would be a commitment to perform an early attainment assessment to be submitted by the end of the attainment year (e.g., 2003). GAEPD has committed to perform an early attainment assessment of the Atlanta 1-hour ozone attainment demonstration and submit it to EPA by November 15, 2003.

Summary of the 2004 Attainment Demonstration Evaluation

The ozone attainment demonstration for the Atlanta 1-hour ozone SIP, as submitted on July 17, 2001, contains modeling that was developed according to EPA recommended modeling protocols. Based on the results of the modeling plus additional WOE analysis, the supplemental assessment for attainment in 2004, the suite of control measures to be implemented by 2003 and the RACM analysis, EPA is proposing that the State has adequately demonstrated that the Atlanta area will attain the 1-hour ozone NAAQS by the end of the 2004 ozone season. Prior to, or simultaneous with, taking final action on this proposal, EPA will need to take action on the Georgia fuel rule and the associated fuel waiver request.

VI. Attainment Date Extension

EPA's policy regarding an extension of the ozone attainment date for areas affected by transport was set forth in a July 16, 1998, guidance Memorandum entitled "Extension of Attainment Dates for Downwind Transport Areas" which was published in a notice of interpretation on March 25, 1999 (64 FR 12221). In it, EPA set forth its interpretation of the CAA regarding the extension of attainment dates for ozone nonattainment areas that have been classified as moderate or serious for the 1-hour ozone NAAQS, and which are downwind of areas that have interfered with the moderate and serious nonattainment areas's attainment of the ozone NAAQS by dates prescribed in the CAA. EPA stated that it will consider extending the attainment date for an area or a state that:

a. Has been identified as a downwind area affected by transport from either an upwind area in the same state with a later attainment date or an upwind area in another state that significantly contributes to downwind ozone nonattainment;

b. Has submitted an approvable attainment demonstration with any necessary, adopted local measures, and with an attainment date that shows it will attain the 1-hour NAAQS no later than the date that the emission reductions are expected from upwind areas in the final NO_X SIP Call and/or the statutory attainment date for upwind nonattainment areas, i.e., assuming the boundary conditions reflecting those upwind emission reductions;

c. Has adopted all applicable local measures required under the area's current ozone classification and any additional emission control measures demonstrated to be necessary to achieve timely attainment, assuming the emission reductions occur as required in the upwind areas; and

d. Has provided that it will implement all adopted measures as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved.

EPA proposes that the Atlanta area has satisfied the criteria for an attainment date extension as follows.

(i) The State has cited EPA's NO_X SIP Call modeling and analyses documented in EPA's final NO_X SIP Call notice published on October 27, 1998, (63 FR 57356) to demonstrate that the Atlanta area is affected by an upwind area in another state that significantly contributes to ozone nonattainment in the Atlanta area. In our December 16, 1999, notice (64 FR 70478) proposing approval of the initial 1-hour ozone attainment demonstration for the Atlanta area submitted on October 28, 1999, we explained how the Ozone Transport Assessment Group (OTAG) modeling which supported the NO_X SIP Call and the attainment demonstration for the Atlanta area demonstrates the impacts of transport. The NO_X SIP Call notice provides that emissions from sources in Alabama, Kentucky, North Carolina, South Carolina, and Tennessee significantly contribute to violations of the 1-hour ozone standard in the Atlanta area.

(ii) As explained elsewhere in this notice, the GAEPD has submitted an attainment demonstration that EPA believes is approvable. All of the local control measures relied upon in the attainment demonstration have been adopted and submitted to EPA. These measures include all serious area requirements under section 182(c) and the additional controls discussed in the December 16, 1999, proposal (64 FR 70478) and the July 10, 2001, (66 FR 35906) final rule.

(iii) The GAEPD has adopted all local measures required by section 182(c) of the CAA for the Atlanta serious nonattainment area. (See 59 FR 46176, 60 FR 12691, 60 FR 66150, 61 FR 3819, 62 FR 42918, 64 FR 20188). Additionally, see discussion of contingency measures discussed below.

(iv) With respect to implementation of all adopted measures as expeditiously as practicable but no later than the time upwind controls are expected, the Atlanta SIP requires that all local control measures needed for attainment be in place by May 1, 2003, or earlier. The upwind areas identified above are required to implement controls consistent with the NO_X SIP Call by May 31, 2004. All of the local control measures in the Atlanta SIP will, therefore, be implemented prior to that time and EPA also proposes to find that they will be implemented as expeditiously as possible.

EPA proposes, based on the above discussion, that the Atlanta SIP has met the criteria for an attainment date extension. Therefore, EPA is proposing to extend the attainment date for the Atlanta area to November 15, 2004, to allow the reductions in transport to occur before attainment is required. This does not affect the GAEPD's obligation to implement the remaining local measures by the dates required in the approved SIP regulations. Additional background information on EPA's attainment date extension policy can be found in the following **Federal Register** notices:

64 FR 12284	March 18, 1999.
64 FR 18864	April 16, 1999.
64 FR 27734	May 21, 1999.
64 FR 70459	December 16, 1999.
65 FR 20404	April 17, 2000.
66 FR 586	January 3, 2001.
66 FR 634	January 3, 2001.
66 FR 666	January 3, 2001.
66 FR 17647	April 3, 2001.
66 FR 20122	April 19, 2001.
66 FR 26913	May 15, 2001.
66 FR 33996	June 26, 2001.

VII. Proposed Finding of Nonattainment

Table 2 lists the number of exceedances of the 1-hour ozone NAAQS for each monitor in the Atlanta nonattainment area for the period 1997–1999. The ozone design value for each monitor is also listed for the same period. A complete listing of the ozone exceedances for each monitoring site, as

well as EPA's calculations of the design values, can be found in the docket file. For the three year period ending in 1999 (*i.e.*, 1997–1999), the design value for the Atlanta area was 0.156 ppm. For this three year period and each three year period thereafter, the Atlanta area had a design value greater than 124 ppm. Therefore, if EPA does not approve an attainment date extension for Atlanta pursuant to section 181(b)(2)(A) of the CAA, EPA proposes to find that the Atlanta area did not attain the 1-hour NAAQS by the November 15, 1999, statutory attainment deadline.

TABLE 2.—AIR QUALITY MONITORING DATA FOR THE ATLANTA AREA 1997–1999

Site ID	County	Total exceedances 97–99	Annual average expected exceedances	Design value (ppms)
13–089–0002	DeKalb	16	6.7	0.142
13–089–3001	DeKalb	10	4.4	0.135
13–097–0004	Douglas	9	3.5	0.131
13–121–0055	Fulton	28	10.8	0.156
13–135–0002	Gwinnett	7	2.9	0.138
13–223–0003	Paulding	3	1.1	0.124
13–247–0001	Rockdale	28	10.3	0.153

*Only monitors with three complete years of data were used for these calculations.

VIII. Reclassification

Section 181(b)(2)(A) of the CAA requires that, when an area is reclassified for failure to attain, its reclassification be the higher of the next higher classification or the classification applicable to the area's ozone design value at the time the notice of reclassification is published in the **Federal Register**. Section 181(b)(2)(A)(ii) provides that no area shall be reclassified as Extreme. The Atlanta area is a serious nonattainment area with a design value of 0.156 ppm. Therefore, if EPA finalizes the finding of failure to attain, the Atlanta area would be reclassified, by operation of law, as a severe nonattainment area.

Section 182(i) states that the Administrator may adjust applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency for submission of the new requirements applicable to an area which has been reclassified. An area reclassified to severe is required to submit SIP revisions addressing the severe area requirements for the 1-hour ozone NAAQS in section 182(d).

If the Atlanta area is reclassified to severe, EPA must also address the schedule by which Georgia is required to submit SIP revisions meeting the severe area requirements. EPA is proposing to require that the State submit SIP revisions containing all the severe area requirements no later than 12 to 18 months after final action on the reclassification. EPA is soliciting comments pertaining to the time frame for SIP submission. This submission would include a new attainment demonstration and all additional measures required by section 182(d) of the CAA. The additional measures include, but are not limited to, the following: (1) the use of reformulated gasoline in the nonattainment area, (2) the new source review offset requirements would increase from 1.2 to 1 to 1.3 to 1, (3) the definition of a major source would decrease from 50 tons per year to 25 tons per year, and (4) sources in the nonattainment area could be subject to enforcement penalties for failure to attain. Additionally, the attainment date will be as expeditiously as practicable, but no later than 2005.

IX. Contingency Measures

Section 172(c)(9) and 182(c)(a) of the Act require SIPs to contain additional measures that will take effect without further action by the state or EPA if an area fails to attain the standard by the applicable date or to meet rate-of-progress (ROP) deadlines. The CAA does not specify how many contingency measures are needed or the magnitude of emissions reductions that must be provided by these measures. However, EPA provided guidance interpreting the control measure requirements of 172(c)(1) and 182(c)(a) in the April 16, 1992, General Preamble for Implementation of the CAA (see 57 FR 13498, 13510). In that guidance, EPA indicated that states with moderate and above ozone nonattainment areas should include sufficient contingency measures so that, upon implementation of such measures, additional emissions reductions of up to 3 percent of the emissions in the adjusted base year inventory (or such lesser percentage that will cure the identified failure) would be achieved in the year following the year in which the failure has been identified. States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative reviews. The additional 3 percent reduction would ensure that progress toward attainment occurs at a rate similar to that specified under the reasonable further progress requirements for moderate areas (i.e., 3 percent per year), and that the state will achieve these reductions while conducting additional control measure development and implementation as necessary to correct the shortfall in emissions reductions.

EPA has also determined that federal measures can be used to analyze whether the contingency measure requirements of section 179(c)(9) and 182(c)(a) have been met. While these measures are not SIP-approved contingency measures which would apply if an area fails to attain, EPA believes that existing federally enforceable measures can be used to provide the necessary substantive relief. Therefore, federal measures may be used in the analysis, to the extent that the attainment demonstration does not rely on them or take credit for them (*see, e.g.*, 66 FR 586, 615 (January 3, 2001)).

EPA believes the contingency measure requirements of sections 172(c)(9) and 182(c)(9) are independent requirements from the attainment demonstration requirements under sections 172(c)(1) and 182(c)(2)(A) and the ROP requirements under sections 172(c)(2) and 182(c)(2)(B). The contingency measure requirements are to address the event that an area fails to meet a ROP milestone or fails to attain the ozone NAAQS by the attainment date established in the SIP. The contingency measure requirements have no bearing on whether a state has submitted a SIP that projects attainment of the ozone NAAQS or the required ROP reductions toward attainment. The attainment or ROP SIP provides a

demonstration that attainment or ROP requirements ought to be fulfilled, but the contingency measure SIP requirements concern what is to happen only if attainment or ROP is not actually achieved. The EPA acknowledges that contingency measures are an independently required SIP revision, but does not believe that submission of contingency measures is necessary before EPA may approve an attainment or ROP SIP. However, EPA believes that areas should have sufficient reductions to meet contingency measure requirements, even if a contingency measure SIP has not been approved, in order to receive an attainment date extension.

EPA has examined the 15 percent ROP and 9 percent ROP plans which were submitted to EPA on June 17, 1996. EPA believes that contingency measure requirements can be met by surplus reductions achieved in the ROP plans. EPA granted approval to the 15 percent ROP in a **Federal Register** published on April 26, 1999, (64 FR 20186). The 9 percent ROP was approved in a **Federal Register** published on March 18, 1999, (64 FR 13348). Detailed information relating to the calculation of Georgia's 1990 adjusted baseline inventory for VOC and NO_X emissions for the Atlanta area can be found in the above referenced **Federal Register** actions. The adjusted baseline inventory for VOC found in Georgia" 15 percent ROP is 526.19 tpd and the adjusted baseline inventory for NOX found in the 9 percent ROP is 483.12. Therefore, the required 3 percent ROP reductions would be 15.79 tps for VOC ($0.03 \times 526.19 = 15.79$) and 14.50 tpd for NO_X ($0.03 \times 483.12 = 14.5$). In the 15 percent ROP Georgia exceeds the required VOC emissions reduction by 1.06 tpd. This equates to 0.20 percent of the required 3 percent reduction, leaving a balance of 2.80 percent to be made up by NO_X reductions. This must be 2.8 percent of the NO_X adjusted baseline inventory. Therefore, the required NO_X reductions to satisfy contingency requirements for ROP equal 13.53 tpd (0.0280×483.12). The 9 percent ROP achieves an excess NO_X emissions reduction of 19.47 tpd. Thus, the excess emission reductions achieved in the ROP plans meet the 3 percent contingency requirement. EPA is proposing to approve these contingency measures for ROP.

Additionally, EPA examined the attainment demonstration for the Atlanta area submitted on July 17, 2001, for contingency measures. Although no measures have been specifically designated as contingency measures, EPA has found that measures that could reasonably constitute appropriate contingency measures are already contained in the SIP or exist in promulgated federal regulations. These measures include EPA's Tier 2 tailpipe standards, national low emission vehicle program, heavy duty diesel emission standards for 2004. Additionally, the Atlanta area will benefit from fleet turnover, as well as an additional model year of light duty vehicles subject to on-board diagnostic (OBD) testing. These measures will continue to provide reductions after November 2004, the attainment date EPA is proposing to approve for the Atlanta area. The measures are estimated to reduce emissions in the area by 1.45 percent of the 1990 VOC adjusted baseline emissions and 3.31 percent of the 1990 NO_X adjusted baseline emissions by 2005 (the year following the time by which EPA must determine whether the area has attained). More details on EPA's contingency measure analysis are included in the docket for this rulemaking action. While there is not an approved contingency measure that would apply if the Atlanta area failed to attain, EPA believes that existing federally enforceable measures would provide the necessary substantive relief sufficient to provide the basis for proposing approval of an extension to the area's attainment date.

X. Proposed Action

Today, EPA is proposing to approve the 1-hour ozone attainment demonstration for the Atlanta area as submitted on July 17, 2001, the RACM analysis, commitment to perform an early attainment assessment, contingency measures, the 2004 MVEB, PSG program and to extend the attainment date to November 15, 2004. In the alternative, EPA is proposing to find that the Atlanta area failed to attain the 1-hour ozone NAAQS by November 15, 1999. Should EPA not take final action to approve the attainment demonstration and extend the attainment date, EPA is also proposing, in the alternative, to reclassify the Atlanta area to severe. In such case, additional **Federal Register** action will be taken to set the appropriate submittal dates for any additional measures required for severe areas and the attainment date.

XI. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility.Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise

satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 30, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–30587 Filed 12–10–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–47–2; GA–55–2; GA–58–2–200206; FRL–7116–2]

Approval and Promulgation of Air Quality State Implementation Plans; Georgia: Control of Gasoline Sulfur and Volatility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to fully approve a State Implementation Plan (SIP) revision, submitted by the State of Georgia through the Georgia Environmental Protection Division (GAEPD), establishing low-sulfur and low-Reid Vapor Pressure (RVP) requirements for gasoline distributed in the 13-county Atlanta nonattainment area and 32 surrounding attainment counties. Georgia developed these fuel requirements to reduce emissions of nitrogen oxides (NO_X) and volatile organic compounds (VOC) as part of the State's strategy to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the Atlanta nonattainment area. EPA is approving Georgia's fuel requirements into the SIP because these fuel requirements are in accordance with the requirements of the Clean Air Act (the Act), and are necessary for the Atlanta nonattainment area to achieve the 1-hour ozone NAAQS in a timely manner.

DATES: Comments should be received on or before January 25, 2002.

ADDRESSES: All comments should be addressed to: Lynorae Benjamin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Lynorae Benjamin, (404) 562–9040. Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363–7000.

FOR FURTHER INFORMATION CONTACT: Lynorae Benjamin, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9040. Ms. Benjamin can also be reached via electronic mail at *benjamin.lynorae@epa.gov*.

SUPPLEMENTARY INFORMATION: The following section provides the rationale for EPA's approval of the Georgia fuel requirements into the SIP, as provided in section 211(c)(4)(C) of the Act. Georgia's fuel requirements are being implemented in two phases. The initial phase requires the low-sulfur/low-RVP gasoline sold in the 13-county Atlanta nonattainment area and 12 surrounding attainment counties during the regulatory control period (June 1 through September 15) each year through 2002. The second phase of the Georgia fuel program expands the low-sulfur/low-RVP requirements to an additional 20 attainment counties. The program becomes a year-round program in 2003, except that the RVP requirement applies only during the June 1 through September 15 control period.

I. Analysis of State's Submittal

What Did the State Submit?

On October 28, 1999, the State of Georgia, through the GAEPD, submitted an attainment demonstration for the 1-hour ozone NAAQS for the Atlanta nonattainment area for inclusion into the Georgia SIP. This submittal included a version of the low-sulfur/low-RVP fuel regulations that has subsequently been amended by the State, and submitted by the State to EPA in revised form in subsequent SIP revisions dated July 31, 2000, and August 21, 2001. The version submitted on August 21, 2001, which is the subject of this proposed rulemaking, is the "Gasoline Marketing Rule," provided in Georgia's Rules for Air Quality Control, Chapter 391–3–1.02(2)(bbb).

On May 31, 2000, in support of its request for SIP approval of the State fuel regulations, GAEPD also submitted a demonstration that, in accordance with section 211(c)(4)(C) of the Act, the fuel control is necessary to achieve a NAAQS. On November 9, 2001, GAEPD submitted an updated "necessity" demonstration which reflected the revised motor vehicle emissions budget, the request for an attainment date extension from 2003 to 2004, and the revised Partnership for a Smog Free Georgia emissions calculations.

Does the State Submittal Meet the SIP Approval Requirements Under Section 110?

The SIP submittals, including the rule for Georgia's low-sulfur/low-RVP fuel control program, meet the requirements outlined in section 110 and Part D of Title I of the CAA amendments and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The current version of the fuel rule was formally adopted by the GAEPD Board on June 27, 2001, and became effective July 18, 2001.

How Does the Low-Sulfur/Low-RVP Proposal Relate to Other SIP Activities in the State?

As noted above, on October 28, 1999, GAEPD submitted for EPA approval an ozone attainment demonstration for the Atlanta nonattainment area, which relies upon a number of control measures, including the low-sulfur/low RVP fuel program, to support the demonstration. On December 16, 1999, EPA proposed to approve the October 28, 1999, attainment demonstration for the Atlanta nonattainment area, as well as the underlying rule revisions with the exception of the Georgia fuel rule (the subject of this proposed rulemaking) (see 64 FR 70478). EPA's proposed approval was based on the condition that the GAEPD satisfy certain requirements.

Subsequently, the GAEPD submitted revisions to the Atlanta attainment demonstration on January 31, 2000, and July 31, 2000, along with revisions to State rules supporting the attainment demonstrations. Those rule revisions were proposed for approval on December 18, 2000 (see 65 FR 79034). No adverse comments were received pertaining to any rule revisions.

On July 10, 2001, EPA granted final approval to the rule revisions contained

in the December 16, 1999, and December 18, 2000, proposals (see 66 FR 35906). The final rule noted that EPA action for the Atlanta attainment demonstration would be taken in a separate notice.

On July 17, 2001, GAEPD submitted another revised attainment demonstration. The attainment demonstration continues to rely in part on the expected emissions reductions that will be achieved by the low-sulfur/low-RVP fuel control being proposed for SIP approval in this action. Based on the revised Atlanta attainment demonstration, submitted on July 17, 2001, EPA is currently proposing approval for the Atlanta attainment demonstration in a separate notice.

What are the Clean Air Act Requirements?

This approval action is being taken pursuant to section 110 of the Act. The approval of the State's fuel control measure must also meet the requirements of section 211(c)(4)(C). Under this section of the Act, EPA may approve a state fuel control into a SIP if it is found that the control is "necessary" to achieve a NAAQS.

EPA's August 21, 1997, Guidance on Use of Opt-in to RFG and Low-RVP Requirements in Ozone SIPs gives further guidance on what EPA is likely to consider in making a finding of necessity. The guidance sets out four issues to be analyzed:

1. The quantity of emission reductions needed to achieve the NAAQS;
2. Other possible control measures and the reductions each would achieve;
3. The explanation for rejecting alternatives as unreasonable or impracticable;
4. A demonstration that reductions are needed even after implementation of reasonable and practicable alternatives, and that the fuel control will provide some or all of the needed reductions.

In this notice of proposed rulemaking and associated Technical Support Document (TSD), EPA addresses these issues.

What Does the State's Low-Sulfur/Low-RVP Regulation Include?

The State's low-sulfur/low-RVP regulation includes two phases of fuel controls that will eventually apply in the 13-county Atlanta nonattainment area and 32 surrounding attainment counties. Described below are the primary features of these phases of control. The first phase of fuel controls apply to the 13-county Atlanta nonattainment area (highlighted in bold) and 12 surrounding attainment counties which include the following: Barrow, Bartow, Butts, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Haralson, Henry, Jackson, Newton, Paulding, Pickens, Rockdale, Spalding, and Walton. The controls for the first phase of the State's program, effective through 2002, require that all gasoline sold during the control period (June 1 through September 15) in these counties contain a maximum RVP of 7.0 pounds per square inch (psi) and maximum volume-weighted seasonal average sulfur level of 150 parts per million (ppm) (by weight) and, effective April 1, 2001, a maximum per-gallon volume-weighted sulfur level of 500 ppm (by weight). For ethanol blends meeting specified conditions, Georgia's regulations limit RVP to a maximum of 8.0 psi.

The second phase of fuel controls apply to the aforementioned counties and 20 additional attainment counties surrounding the Atlanta nonattainment area. These additional counties include: Banks, Chattooga, Clarke, Floyd, Gordon, Heard, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Oconee, Pike, Polk, Putnam, Troup, and Upson. The fuel controls for the second phase of the State's program are effective April 1, 2003. Under this phase of the State's program, the RVP requirement is maintained and extended to the additional counties but otherwise does not change. The sulfur requirements, however, become more stringent annual averages. The maximum annual average sulfur level allowed in gasoline is reduced to 30 ppm (by weight); the per-gallon limit is reduced to 150 ppm (by weight). Effective June 1, 2004, the seasonal per-gallon sulfur limit is reduced to 80 ppm (by weight) during the June 1 through September 15 control period.

How Will the Program be Enforced?

EPA finds that the fuel rule contains adequate enforcement provisions. GAEPD will enforce the low-sulfur/low-RVP rule. Producers, importers, terminals, pipelines, truckers, rail carriers, and retail dispensing outlets are subject to provisions of this rule. Registration, recordkeeping, reporting, and certification requirements are included. GAEPD will conduct sampling for the fuel program in accordance with the "Methodology for Randomized Sampling to Estimate Mean Sulfur in Gasoline During a Specified Ozone Season" (contained in Appendix XXX of the attainment demonstration) or by some EPA-approved modification of this sampling plan. Samples, the number to be determined in coordination with GAEPD and EPA, will be collected and analyzed for RVP and sulfur throughout the control period. Any sample that exceeds the limits specified in the fuel rule will be considered a violation and may require an enforcement action. If an enforcement action is warranted, GAEPD would use one of two approaches. Upon learning of a violation, the GAEPD will issue a notice of violation and negotiate a consent order. If a consent order cannot be negotiated, GAEPD will issue an administrative order. Another provision of the fuel rule provides that the seasonal sulfur average will not exceed 140 ppm when the sulfur limit is 150 ppm. If the seasonal sulfur average exceeds 140 ppm, GAEPD will require 100 percent terminal testing in lieu of testing at the retail level for future control periods. Also, when Georgia's sulfur requirement is reduced to 30 ppm, 30 ppm is the "trigger" that will require 100 percent terminal testing in lieu of testing at the retail level for future control periods. Additional commitments related to the enforcement and implementation of the Georgia fuel program are provided in the transmittal letter for the November 9, 2001, fuel control supplemental "necessity" demonstration.

Will the Low-Sulfur/Low-RVP Fuel Control Program Provide Needed Emission Reductions?

The State's modeling for this attainment demonstration shows that, even with implementation of all reasonable and practicable measures, including the low-sulfur/low-RVP fuel program, the design value for the nonattainment area will just barely meet the 1-hour ozone standard. Please refer to the accompanying TSD for more information about the photochemical modeling and the weight-of-evidence (WOE) analysis. Once fully implemented, the low-sulfur/low-RVP fuel program will provide 42.93 tons per day (TPD) of NO_X and 24.16 TPD of VOC emission reductions. Thus, the low-sulfur/low-RVP fuel program will provide emissions reductions needed for the Atlanta nonattainment area to achieve the 1-hour ozone NAAQS.

On May 1, 1998, EPA released a staff paper presenting EPA's understanding of the impact of gasoline sulfur on emissions from motor vehicles and exploring what gasoline producers and automobile manufacturers could do to reduce sulfur's impact on emissions. The staff paper noted that gasoline sulfur degrades the effectiveness of

catalytic converters and that high sulfur levels in commercial gasoline could affect the ability of future automobiles—especially those designed for very low emissions—to meet more stringent NO_X and VOC standards that are in use. The paper also pointed out that sulfur control will provide additional NO_X benefits by lowering emissions from the current fleet of vehicles.

Lowering the RVP in gasoline reduces VOC emissions, primarily through reducing evaporative losses from vehicle fuel tanks, lines, and carburetors as well as losses from gasoline storage and transfer facilities. To a lesser degree, lowering RVP can also reduce VOCs in vehicle exhaust.

Reducing these emissions in both the nonattainment area and the surrounding attainment areas will help address the ozone problem in the Atlanta nonattainment area. Specifically, lowering NO_X and VOC emissions through the Atlanta low-sulfur/low-RVP program will benefit the Atlanta nonattainment area by reducing NO_X and VOCs emitted within the 13-county nonattainment area, and by vehicles that originate in the 32-county attainment area and drive into the nonattainment area. Please refer to the TSD for more information on the commuting patterns for the area.

Are There Any Reasonable and Practicable Alternatives to Georgia's Fuel Program?

The State conducted thorough analyses of potential non-fuel control measures available for the Atlanta nonattainment area. The attainment demonstration for the Atlanta nonattainment area contains a detailed discussion of point and other source controls that are required to help achieve attainment of the 1-hour ozone NAAQS in the Atlanta nonattainment area. Many of these control measures were analyzed in a study, "The Direct Cost of Controlling NO_X and VOC emissions in Atlanta," completed by the Georgia State University on November 1, 1997. Following the completion of this study, the State made its own review of possible control measures, including its review of "reasonably available control measures" (RACM) as required under the Act. The State's summary of its review of non-fuel control measures is contained in Attachment 3 to the November 9, 2001 "necessity" demonstration, which is available in the docket for this rulemaking. The discussion below briefly describes the State's evaluation of the reasonableness and practicability of the non-fuel alternatives that are potentially available after adopting those control measures already included in the revised attainment demonstration. For more detail on the control measures that have already been included in the revised attainment demonstration, and on the State's evaluation of remaining potential alternatives, see the TSD for this rulemaking.

Each potential control option was evaluated according to: (1) The State's authority to implement controls; (2) the amount of NO_X reductions; (3) the amount of VOC reductions; (4) whether a similar control measure is already being implemented; (5) the cost-effectiveness of the controls; (6) whether SIP credit has already been taken for the measure; and (7) whether the measure can be implemented by May 1, 2003 (since measures implemented after this date cannot advance the 2004 attainment date).

GAEPD considered the following source categories for additional VOC and NO_X control measures for the purposes of evaluating the "necessity" of the fuel control measure: (for point sources) furniture and fixtures manufacturing facilities, food and kindred products facilities, commercial printing facilities, chemical products facilities, rubber and plastic facilities, paper and allied products facilities, primary metal facilities, fabricated metal products facilities, non-electrical machinery facilities, electrical equipment facilities, petroleum refining facilities, asphalt and coating facilities, air transportation facilities, transportation equipment facilities, stone, clay, and glass products facilities, hydraulic cement facilities, and sewage plants; (for area sources) auto refinishing operations, surface cleaning and preparation operations, solvent degreasing operations, new residential natural gas water heaters, certain commercial and/or industrial watertube and firetube boilers and pesticide application; (for on-road mobile) elimination of vehicle I/M waivers and exemptions, transportation demand management and vehicle usage disincentives; (for nonroad mobile) railroad switcher engines, specific recreational vehicle types and/or pleasure craft, and lawn and garden equipment.

After further analysis of potential controls on each of the above sources, GAEPD concluded that it was not reasonable or practicable to further control these sources. Specifically, for many of the sources listed above GAEPD stated that the time required to implement controls is unpredictable because legislative action authorizing such regulation by GAEPD would be required, or the number of facilities and potential discharge points affected by these control measures would require a tremendous increase in GAEPD resources to implement and ensure compliance.

Based on the State's analysis of the potentially available alternatives, we agree that there are no reasonable or practicable non-fuel control measures available to the State to achieve the 1-hour ozone NAAQS in a timely manner. Individually, none of these controls would supply enough emissions reductions to displace the need for the fuel measure. In order to replace the needed VOC reductions provided by the fuel measure, the State would need to implement nearly all of the potential controls which would require substantial resources and may not be possible in the time allowed, *i.e.*, by 2004. Even if the State did adopt and implement all of the potentially available NO_X control measures, the State would not be able to replace the needed NO_X reductions provided by the fuel measure. Compared to all of the potentially available measures outlined in the TSD, the low-sulfur/low-RVP fuel, which has already been implemented in its first phase, is the most reasonable and practicable measure available to reduce the emissions from ozone precursors for the Atlanta nonattainment area. Low-sulfur/low-RVP fuel is readily available to the State because it is also being provided to the Birmingham, Alabama nonattainment area. The benefits of this fuel program are already being felt in the Atlanta nonattainment area.

Proposed Action by EPA

EPA is proposing to approve Georgia's low-sulfur/low-RVP fuel program into the SIP. The State has demonstrated necessity as required by section 211(c)(4)(C) of the Act. Without the fuel control program in both the nonattainment area and in the surrounding attainment areas, the design values for the nonattainment area will continue to exceed the 1-hour ozone NAAQS. In the Atlanta attainment demonstration, the State examined control measures, not previously implemented, and concluded that, even with adoption of all reasonable and practicable non-fuel control measures, additional VOC and NO_X reductions in the area are necessary to achieve the 1-hour ozone NAAQS. The State further demonstrated that the fuel control satisfies the requirements of section 110 and will supply reductions needed to achieve the ozone NAAQS.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order.

This proposed approval of the Georgia fuel control necessity demonstration does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: November 30, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–30588 Filed 12–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[VT 022–1225b; FRL–7116–5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Vermont; Negative Declaration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the Sections 111(d)/129 negative declaration submitted by the Vermont Agency of Natural Resources (ANR) on June 5, 2001. This negative declaration adequately certifies that there are no existing commercial and industrial solid waste incineration units (CISWIs) located within the boundaries of the state of Vermont.

DATES: EPA must receive comments in writing by January 10, 2002.

ADDRESSES: You should address your written comments to: Mr. Steven Rapp, Chief, Air Permits Program Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114–2023.

Copies of documents relating to this proposed rule are available for public inspection during normal business hours at the following location. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

Environmental Protection Agency, Air Permits Program Unit, Office of Ecosystem Protection, Suite 1100 (CAP), One Congress Street, Boston, Massachusetts 02114–2023.

FOR FURTHER INFORMATION CONTACT: John Courcier, Office of Ecosystem Protection (CAP), EPA-New England, Region 1, Boston, Massachusetts 02203, (617) 918–1659, or by e-mail at *courcier.john@epa.gov*. While the public may forward questions to EPA via e-mail, it must submit comments on this proposed rule according to the procedures outlined above.

SUPPLEMENTARY INFORMATION: Under Section 111(d) of the Clean Air Act, EPA published regulations at 40 CFR part 60, subpart B which require states to submit control plans to control emissions of designated pollutants from designated facilities. In the event that a state does not have a particular designated facility located within its boundaries, EPA requires that a negative declaration be submitted in lieu of a control plan.

The Vermont ANR submitted the negative declaration to satisfy the requirements of 40 CFR part 60, subpart B. In the Final Rules Section of this **Federal Register**, EPA is approving the Vermont negative declaration as a direct final rule without a prior proposal. EPA is doing this because the Agency views this action as a noncontroversial submittal and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA does not receive any significant, material, and adverse comments to this action, then the approval will become final without further proceedings. If EPA receives adverse comments, the direct final rule will be withdrawn and EPA will address all public comments received in a subsequent final rule based on this proposed rule. EPA will not begin a second comment period.

Dated: December 4, 2001.
Robert W. Varney,
Regional Administrator, EPA New England.
[FR Doc. 01–30584 Filed 12–10–01; 8:45 am]
BILLING CODE 5580–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 01–317 and 00–244; FCC 01–329]

RIN 4217

Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, and Definition of Radio Markets

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes changes to local ownership rules and policies concerning multiple ownership of radio broadcasting stations. The Commission examines the effect our current rules has had on the public and seeks comment to better serve our communities. This action is intended to consider possible changes to our current local market radio ownership rules and policies in accordance with the Commissions Telecommunications Act of 1996.

DATES: Comments are due February 11, 2002; Reply comments are due March 11, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joshi Nandan, Office of General Counsel, (202) 418–1755.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Notice of Proposed Rule Making* (*"NPRM"*) in MM Docket No. 01–317, and Docket No. 00–244; FCC 01–329, adopted November 8, 2001, and released November 9, 2001. The complete text of this *NPRM* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, S.W., Washington, D.C. and may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW, Room CY–B–402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via email *qualexint@aol.com*. This document is also available in alternative formats (computer diskette, large print, audio cassette, and Braille). Persons who need documents in such formats may contact Martha Contee at (202) 4810–0260, TTY (202) 418–2555, or *mcontee@fcc.gov*. The *NPRM* can be found on the Internet at the Commission's website: *http://www.fcc.gov*.

I. Introduction

1. In accordance with sections 309(a) and 310(d) of the Communications Act of 1934 ("the 1934 Act"), the Commission issues new radio broadcast licenses and approves the assignment and transfer of those licenses only when those actions are consistent with the public interest, convenience, and necessity. Pursuant to its public interest authority, the Commission historically has sought to promote diversity and competition in broadcasting by limiting by rule the number of radio stations a single party could own or acquire in a local market. In section 202(b) of the Telecommunications Act of 1996 ("the 1996 Act"), Congress directed the Commission to revise its local radio ownership rule to relax the numerical station limits in the ownership rules. In the almost six years since the Commission implemented this congressional directive, the local radio market has been significantly transformed as many communities throughout the country have experienced increased consolidation of radio station ownership. In this proceeding, we seek to examine the effect that this consolidation has had on the public and to consider possible changes to our local radio ownership rules and policies to reflect the current radio marketplace.

II. Background

2. To guide our evaluation of the regulatory policies that we should adopt in light of the current radio marketplace, we review the background of the local radio ownership rule and the traditional interests that the rule was intended to advance.

A. Rules and Policies before 1992

3. The Commission first limited local radio ownership in 1938, when it denied an application for a new AM station on the ground that the parties that controlled the applicant also controlled another AM station in the same community. The Commission found that the commonly owned, same service stations would not compete with each other and that granting the application could preclude a competitive station from entering the market. Accordingly, "to assure a substantial equality of service to all interests in a community" and "to assure diversification of service and advancements in quality and effectiveness of service," the Commission held that it would allow commonly owned "duplicate facilities" only where it would fulfill a community need that otherwise could not be fulfilled. Based on this policy, the Commission found that the "public convenience, interest or necessity" would not be served by grant of the application.

4. In the early 1940s, this policy was codified in the Commission's rules. AM licensees were prohibited from owning another AM station that would provide "primary service" to a "substantial portion" of the "primary service area" of a commonly owned AM station, except where the public interest would be served by multiple ownership. FM licensees were prohibited from owning another FM station that served "substantially the same service area." Between 1940 and 1964, the Commission determined on a case-by-case basis whether two commonly owned, same service radio stations served substantially the same area.

5. In 1964, the Commission replaced its case-by-case analysis with a "fixed standard" consisting of a contour-based test that looked solely to the overlap of the radio stations' signals. The new rule prohibited common ownership of same service stations when *any* overlap of contours occurred, not just the situation where there was a "substantial" overlap. The Commission explained that the purpose of the multiple ownership rules was "to promote maximum diversification of program and service viewpoints and to prevent undue concentration of economic power contrary to the public interest." The Commission found that the local radio ownership rule in particular was based on two principles: first, that "it is more reasonable to assume that stations owned by different people will compete with each other, for the same audience and advertisers, than stations under the control of a single person or group;" and second, that "the greater the diversity of ownership in a particular area, the less chance there is that a single person or group can have an inordinate effect, in a political, editorial, or similar programming sense, on public opinion at the regional level." The Commission cited, as support for the local ownership limits, the principle that the First Amendment "rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public."

6. In the early 1970s, the Commission briefly restricted local radio ownership further by prohibiting, with certain

exceptions, common ownership of different service broadcast stations in the same market. These limits were designed to advance diversity by maximizing the number of independent owners of broadcast media in a market, and the Commission rejected arguments that common ownership of local broadcast stations would enhance the ability of station owners to provide better quality, more responsive programming. The Commission also found that common ownership of local broadcast stations could "lessen the degree of competition for advertising among the alternative media" and that common owners could "use practices [such as special discounts] which exploit [their] advantage over the single station owner." On reconsideration, however, the Commission relaxed its new ownership restrictions to allow again, in all circumstances, a party to hold a single AM–FM combination.

7. In 1989, the Commission relaxed certain technical aspects of the contour overlap test, which decreased the likelihood of contour overlap between closely located stations and thereby increased the ability of a single party to own those stations. In making this change, the Commission determined that ownership diversity was not an end in itself, but a means of "promoting diversity of program sources and viewpoints." The Commission determined that its rule change would not adversely affect programming and viewpoint diversity because the number of media outlets had increased since the contour overlap test was developed in 1964 and because the efficiencies that common ownership would generate could lead to programming benefits. The Commission also cited the increase in media outlets and the competition that radio stations faced in the advertising market from television stations, cable systems, and newspapers to support its conclusion that relaxing the contour-based test would not harm competition.

B. The 1992 Radio Ownership Proceeding

8. In a 1992 proceeding, the Commission found that increases in the number and types of media outlets warranted further relaxation of the rule. Citing greater numbers of radio and television stations and the growth of cable, particularly cable radio networks, the Commission determined that relaxing the local radio ownership rule would not harm diversity or competition. Specifically with respect to competition, the Commission found that the radio industry's share of the local advertising market, in which the Commission included television stations and cable systems, had remained flat. The Commission found that the inability of radio stations to realize the efficiencies arising from common ownership harmed diversity and competition by making it more difficult for radio stations to compete and to provide valuable programming services. Accordingly, the Commission decided to relax its ownership rules to permit greater consolidation of radio stations in the local market.

9. The Commission initially adopted a tiered approach, similar to the approach that would be adopted in the 1996 Act. Under the Commission's framework, although common ownership of stations with overlapping signals technically remained prohibited, an exception was created to allow common ownership of a specified number of radio stations based on the number of radio stations in the market. To determine the number of stations that could be commonly owned, radio markets were divided into four tiers, and the maximum number of radio stations that a single party could own was 3 AM and 3 FM stations in the top tier, *i.e.*, markets having 40 or more radio stations. In markets with more than 15 radio stations (the top 3 tiers), the numerical limits were also subject to an audience share cap of 25 percent. Although the Commission recognized that the 25 percent limit was "substantially more restrictive than ordinary antitrust concerns would mandate," the Commission "decline[d] to base [the] common ownership restrictions solely on economic concentration considerations" because the restrictions also were "designed to protect and promote a diversity of voices—a concern distinct from antitrust objectives." Both the market size and the audience share were calculated based on the relevant Arbitron market. In adopting this framework, the Commission reserved the right to "implement a full range of remedies" where "ownership levels in a particular market might threaten the public interest."

10. On reconsideration, the Commission again modified its local radio ownership rule. The rule still generally prohibited common ownership of overlapping stations, but the Commission revised the exception to allow common ownership of up to only 2 AM and 2 FM stations in all markets with 15 or more radio stations. In smaller markets, a single party could own up to 3 stations, of which no more than 2 could be in the same service. The Commission also replaced the audience share cap with a provision that, in markets with 15 or more radio stations, "evidence that grant of any application will result in a combined audience share exceeding 25 percent will be considered *prima facie* inconsistent with the public interest." The Commission explained that this provision was designed to prevent "excessive concentration" even if the combination complied with the 2 AM–2 FM limit. The language of the rule indicated that the excessive concentration determination would be made under the public interest standard.

11. The Commission also altered the market definition for calculating the numerical caps; instead of Arbitron markets, the Commission adopted a contour overlap market definition. To determine audience share, the Commission retained use of Arbitron markets, or, if Arbitron data was unavailable, the market created by the counties covered by the contours of the stations to be combined. In certain cases, the Commission permitted applicants to make alternative showings to demonstrate that the proposed combination would not lead to excessive concentration.

C. The 1996 Act

12. In the 1996 Act, Congress directed the Commission to revise its local ownership rule. Specifically, section 202(b)(1) of the 1996 Act, entitled "Local Radio Diversity—Applicable Caps," required the Commission to revise its local radio ownership rule to provide that:

(a) In a radio market with 45 or more commercial radio stations, a party may own, operate, or control up to 8 commercial radio stations, not more than 5 of which are in the same service (AM or FM);

(b) In a radio market with between 30 and 44 (inclusive) commercial radio stations, a party may own, operate, or control up to 7 commercial radio stations, not more than 4 of which are in the same service (AM or FM);

(c) In a radio market with between 15 and 29 (inclusive) commercial radio stations, a party may own, operate, or control up to 6 commercial radio stations, not more than 4 of which are in the same service (AM or FM); and

(d) In a radio market with 14 or fewer commercial radio stations, a party may own, operate, or control up to 5 commercial radio stations, not more than 3 of which are in the same service (AM or FM), except that a party may not own, operate, or control more than 50 percent of the stations in such market. The Conference Report provides little additional detail concerning section 202(b), stating merely that "[n]ew

paragraph *NPRM* 202](b) directs the Commission to further modify its rules with respect to the number of radio stations a party may own, operate or control in a local market." In particular, neither the 1996 Act nor the legislative history elaborates on the intended interplay between section 202(b) and the public interest standard contained in sections 309(a) and 310(d) of the 1934 Act.

13. In addition to section 202(b), Congress enacted section 202(h) in the 1996 Act. Section 202(h) directs the Commission to "review its rules adopted pursuant to this section and all of its ownership rules biennially * * * and [to] determine whether any of such rules are necessary in the public interest as the result of competition." Section 202(h) further directs the Commission to "repeal or modify" any ownership rules that it finds to be "no longer in the public interest." The legislative history provides little additional discussion concerning the implementation of section 202(h).

D. The Commission's Implementation of Section 202(b) and Subsequent Decisions

14. The Commission responded to Congress's directive in section 202(b) by issuing an order in March, 1996 replacing a portion of the local radio ownership rule, including both the numerical station limits and the presumption that an audience share of greater than 25% was *prima facie* inconsistent with the public interest, with the language set forth in section 202(b). The Commission found that prior notice and an opportunity for public comment were unnecessary because the "rule changes [did] not involve discretionary action on the part of the Commission, [but] simply implement[ed] provisions of the Telecom Act that direct the Commission to revise its rules according to the specific terms set forth in the legislation."

15. In 1998, the Commission commenced a biennial review to examine whether the local radio ownership rule was "necessary in the public interest as a result of competition (NOI, 63 FR 15353, March 31, 1998)." In its biennial review final report, the Commission concluded that the rule continued to serve the public interest. Although the Commission noted that consolidation had produced financial benefits for the radio broadcast industry, the Commission expressed concern that consolidation could be having an adverse affect on local advertising rates. The Commission also expressed concern that consolidation could reduce diversity of viewpoint and source diversity. Accordingly, the Commission decided to retain the local radio ownership rule without modification.

16. In the 1998 biennial review proceeding, the Commission also decided to examine the method by which it defined the relevant geographic market and counted the number of commonly owned and independent commercial radio stations for purposes of applying the rule. The Commission expressed concern that its current method of defining radio markets might be achieving results that frustrate the Congress' intent and that, together with its method of counting stations in a market for various purposes, might be undermining legitimate expectations of broadcasters, advertisers and the public as to the size of the market and the number of stations in it. The Commission accordingly initiated a rulemaking proceeding in December 2000 to examine possible revisions to its methodology for defining the market and counting the number of commonly owned and independent radio stations.

17. The 1996 revisions to the local radio ownership rule enabled greater consolidation of radio station ownership at the local level, and, since 1996, thousands of assignment and transfer of control applications have been filed to effectuate this consolidation. Although most of these applications were granted summarily, the Commission in certain instances faced concerns regarding the competitive impact of proposed transactions. In response to these concerns, the Commission concluded in a written decision that it had "an independent obligation [under the statute] to consider whether a proposed pattern of radio ownership that complies with the local radio ownership limits would otherwise have an adverse competitive effect in a particular local radio market and[,] thus, would be inconsistent with the public interest." In several written decisions since 1996, the Commission engaged in public interest analyses that considered the potential competitive impact of the proposed transaction.

18. In addition to competitive analyses, in August 1998 the Commission began "flagging" public notices of radio station transactions that, based on an initial analysis by the staff, proposed a level of local radio concentration that implicated the Commission's public interest concern for maintaining diversity and competition. Under this policy, the Commission flagged proposed transactions that would result in one entity controlling 50% or more of the advertising revenues in the relevant Arbitron radio market or two entities controlling 70% or more of the advertising revenues in that market. Most of these flagged applications that proposed radio concentration levels that were consistent with Commission precedent were granted on delegated authority. A number of applications that remain pending propose concentration levels that would exceed the levels previously approved in Commission-level decisions.

III. Discussion

19. We propose to undertake a comprehensive examination of our rules and policies concerning local radio ownership. The radio industry has undergone substantial changes since 1996, and we are concerned that our current policies on local radio ownership do not adequately reflect current industry conditions. Our framework for analyzing proposed radio combinations particularly has led to unfortunate delays that do not serve well the interests of the agency, the parties, or the public. Our goal in this proceeding is to develop a new framework that will be more responsive to current marketplace realities while continuing to address our core public interest concerns of promoting diversity and competition.

20. We start with a review of the statutory framework from which we derive our regulatory authority and under which we implement our radio ownership policy. We next consider the traditional goals that have supported the local radio ownership rule—diversity and competition—and possible ways to measure and promote those goals in the modern media environment. After discussion of these subjects, we lay out possible changes to our radio ownership rules and policies. Our goal here is to consider the public interest advantages and disadvantages of various potential rule and policy changes as well as questions surrounding their implementation. In the final substantive section of this *NPRM*, we adopt an interim policy to provide guidance on the processing of radio applications pending completion of this rulemaking.

A. Statutory Framework

21. Before 1996, Commission regulation of local radio ownership was governed primarily by the statutory mandate of sections 309(a) and 310(d) that the Commission regulate the granting and transfer of radio licenses consistent with the public interest, convenience, and necessity. This public interest authority has long been held to authorize regulations, such as the local radio ownership rule, that are designed

to promote the goals of diversity and competition.

22. As a result of the 1996 Act, the broad public interest standards of Title III are no longer the sole congressional statement bearing on the question of local radio ownership. We also must consider the impact of section 202(b) and the rule changes it mandated. In deciding prior cases, the Commission expressed the view that the numerical limits mandated by section 202(b) were important tools for promoting our public interest concerns in local radio markets, but that competitive analyses were appropriate in particular cases where compliance with those limits did not fully address those concerns. Because that view developed out of decisions issued in specific cases, the Commission never received the benefit of public input that a rulemaking proceeding would have afforded. This proceeding will provide us with that opportunity. We propose alternative views on the interplay between section 202(b) and our public interest mandate. We seek comment on these views and invite comment on other possible interpretations of the relevant statutory provisions and the impact any such interpretation would have on our diversity and competition goals if adopted.

23. Commenters should explain the relevance, if any, of section 202(h)'s directive that the Commission review its ownership rules biennially to determine if they are no longer in the public interest as a result of competition. Aside from modifying or eliminating the local radio ownership rule if it is no longer in the public interest as a result of competition, are we permitted to revise or replace the current rule with another framework to address our public interest goals?

24. Commenters also are encouraged to explain how their interpretation of the relevant statutory provisions comports with traditional principles of statutory construction and the specific rule of construction set forth in section 601(c)(1) of the 1996 Act.

25. *Numerical limits are definitive.* One interpretation of the statutory framework is that Congress conclusively determined that the numerical limits specified in section 202(b) establish radio station concentration levels that are consistent with the public interest in diversity and competition.

26. *Numerical limits address diversity only.* Another possible interpretation of the statutory framework is that section 202(b) addresses the diversity prong of our public interest analysis, while leaving competition concerns to be addressed by the general public interest standard.

27. *Numerical limits presumptively consistent with public interest.* A third possible interpretation of the statutory framework is that section 202(b) established presumptively permissible levels of radio station ownership and that, therefore, the Commission should rely on section 202(b)'s numerical limits absent a specific reason to conclude that the rule is ineffective in addressing diversity or competition issues with respect to a particular proposed combination.

B. Promoting Diversity and Competition

28. If we determine that section 202(b) permits us to exercise our public interest authority to promote diversity and competition in radio broadcasting, we seek to explore the contours of these public interest goals, which have been the touchstone of our rules and policies on local radio ownership. We undertake this analysis to guide us as we consider, in accordance with the statutory framework, revisions to those rules and policies to reflect the rapidly changing media marketplace. In that regard, we are especially interested in receiving comments that provide not only the theoretical justifications for adopting a particular regulatory framework, but also relevant empirical data on the effect that consolidation in the radio industry since 1996 has had on diversity and competition in local markets.

1. Diversity

29. Diversity is one of the guiding principles of the Commission's local radio ownership rule. This principle is intended to advance the values of the First Amendment, which, as the Supreme Court stated, "rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public."

30. In this proceeding, we intend to consider how our rules and polices concerning local radio ownership affect our goal of promoting diversity. To do this, we first must define the types of diversity we seek to ensure. Viewpoint diversity ensures that the public has access to "a wide range of diverse and antagonistic opinions and interpretations." Outlet diversity ensures that the public has access to multiple distribution channels (*e.g.*, radio, broadcast television, and newspapers) from which it can access information and programming. Source diversity ensures that the public has access to information and programming from multiple content providers. We seek comment on which one or more of these three types of diversity should guide our public interest considerations. Are there other aspects of diversity that we should consider? Parties commenting on this issue should explain in detail how the public will be affected if we decide to emphasize one or more of these various aspects of diversity. We especially seek empirical data in support of parties' positions.

31. We also seek comment on how we should measure the success or failure of our diversity goal, however that goal is defined. We seek comment on the advantages and disadvantages of measuring diversity by looking, in whole or in part, to the number of independent station owners. What other measures of diversity, quantitative or qualitative, should we consider, and what tools do we have that enable us to measure diversity with a reasonable degree of accuracy? Are audience demographics an appropriate measure of diversity? Is competition an appropriate proxy for diversity, such that the presence of a competitive local market will assuage our concerns about diversity? Should we take a radio owner's market share, audience share, or subscribership into account in measuring diversity, and if so, how? In considering the various potential ways to measure diversity, we also seek comment on how their use comports with the values and principles embodied in the First Amendment of the Constitution.

32. In searching for ways to define and measure diversity, we are especially interested in the particular impact of our analysis on the radio broadcast industry and radio listeners. We seek comment on whether there are attributes of radio broadcasting that should lead us to define and measure diversity in radio differently from other media. Two attributes of radio broadcasting—its ability to reach mobile users and its audio-only programming—may give radio stations singular access to the public in certain situations, most notably when listeners are in their cars or at their offices or other places of employment. Are those or other attributes of radio broadcasting sufficiently unique that we should look at radio separately for diversity purposes, or do consumers consider other outlets as substitutes for radio? Are there other attributes we should consider, and how does any particular attribute affect how we define and measure diversity in conducting our public interest analysis?

33. We also must consider the appropriate geographic area over which to measure diversity as it relates to radio broadcasting. The current local radio

ownership rule contemplates that diversity in radio will be measured at the local level. This appears to be an appropriate result if diversity analysis is restricted to radio since radio stations that do not serve the local community do not contribute to media diversity in that community. Would the appropriate geographic area change if we consider other media, in particular Internet-related media such as Internet radio, as significant contributors of diversity? Does the appropriate geographic area for measuring diversity differ based on the type of information or programming involved, for example, local news and sports versus nationwide entertainment programming? Even if some aspects of diversity are not local in nature, should we nonetheless evaluate diversity at the local level in light of the value we traditionally have placed on "localism" in the broadcasting industry? Should the appropriate geographic area for measuring diversity be coextensive with the relevant geographic market for competition purposes? We seek comment responding to these questions.

34. We also seek comment on whether the level of diversity that the public enjoys varies among different demographic or income groups. Does this or other differences between broadcasting and other media reduce the level of diversity that certain demographic or income groups enjoy? What is the extent of any disparity in access to diversity, and how should we factor in that disparity in our diversity analysis? Parties commenting on this issue are encouraged to submit empirical data to support their positions.

35. As we have found previously, the current media marketplace appears robust in terms of the aggregate number of media outlets. As of June 30, 2001, the Commission had licensed 12,932 radio stations, 1,678 full power television stations, 2,396 low power TV stations, and 232 Class A TV stations. Today, there are seven national commercial television broadcast networks. The nation was served in 2000 by 1,422 daily newspapers with a total circulation of 55.8 million, and in 1996 by 7,915 weekly newspapers with a total circulation of approximately 81.6 million. As of June 2000, cable television systems served 67.4% of TV households, or 67.7 million people. These systems offered in the aggregate over 200 video programming services. Direct broadcast satellite (DBS) providers now serve nearly 13 million subscribers, or over 15% of all households served by multichannel video programming distributors (MVPDs), and other MVPDs serve another nearly 4 million subscribers. As of November 2000, 56% of Americans had access to the Internet from their homes. We accordingly seek comment on the significance of these figures and any other information about marketplace conditions that would inform our analysis.

36. The Commission has had both local and national ownership limits for radio broadcast stations. Pursuant to the 1996 Act, the Commission eliminated the national ownership limit on radio stations, in addition to relaxing its local radio ownership rules. As a result, significant consolidation occurred in the national and local radio markets. At approximately the same time that the 1996 Act became law, there were approximately 5,100 owners of commercial radio stations nationwide, while now there are only approximately 3,800 owners, a decrease of 25%. In March 1996, an Arbitron metro market had an average of 13.5 owners; in March 2001, the average was 10.3, a decrease of 22%. Other media also appear to have undergone similar consolidation. For example, in 1995 there were 543 entities nationwide that owned commercial TV stations, while today there are only 360. Does this consolidation in ownership offset the increases in media outlets? What is the relevance of this consolidation to our local radio ownership policies and to diversity in particular? Commenters are encouraged to submit empirical data on the impact of consolidation on diversity.

37. In examining the impact of greater media outlets and increased media consolidation, we note that there is considerable debate concerning the relationship between consolidation and viewpoint and source diversity. The Commission has noted the contrary theory that "the greater the increase in concentration of ownership, the greater the opportunity for diversity of content." Under that theory, competing parties in a market have a commercial incentive to air "greatest common denominator" programming, while a single party that owns all stations in a market has a commercial incentive to air more diverse programming to appeal to all substantial interests.

38. We seek comment on these competing theories and on any relevant empirical analysis of these theories. Should commonly-owned media outlets be considered a single media "voice" in evaluating diversity? Does the answer depend on the type of programming involved, for example, entertainment programming versus news or public affairs programming, or on the type of media outlet involved? Does it make sense to treat increased media consolidation as contributing to diversity if the common owner exercises editorial discretion over news and programming? Even if some consolidation of media outlets does lead to greater diversity, is there a level of consolidation at which the maximum amount of diversity is achieved? How do we determine what that level is? In considering these questions, we are particularly interested in the actual experience of the radio industry. Has consolidation in local radio markets since 1996 lead to greater diversity? Commenters responding in the affirmative are encouraged to submit empirical data and analysis demonstrating both the increase in diversity and the causal link, as opposed to mere correlation, between the increase and greater consolidation in local markets. Commenters arguing that greater consolidation harms diversity also are encouraged to submit empirical data and analysis supporting their view. Evidence comparing the levels of diversity in local communities with different levels of radio concentration would be especially useful.

2. Competition

39. Radio station groups compete with each other in two ways: they compete to attract listeners, and they compete to attract advertising dollars. These two forms of competition are interrelated since advertising revenue is used to finance the production of programming, which in turn helps attract listeners, which then enables radio stations to charge advertisers. Between 1992 and 1996, the local radio ownership rule included, along with numerical limits, a presumption that a combination that created a station group with a greater than 25% audience share resulted in "excessive concentration" that was *prima facie* inconsistent with the public interest. As consolidation in local radio markets increased as a result of the 1996 Act, the Commission began to examine in assignment and transfer cases the potential competitive effect of proposed transactions in the local radio advertising market. Because advertisers provide the financial support for programming on commercial stations and have an incentive to prefer programming with widespread appeal, the Commission has considered competition in advertising markets to enhance the welfare of consumers.

40. As Americans increasingly are willing to pay for information and programming by subscribing to programming services, like satellite radio services, for example, it is incumbent on us to define more precisely the goals of our competition

analysis. Should we be interested in competition for listeners, competition for advertisers, or a combination of the two? With respect to advertising, does our authority to regulate the radio market justify our basing regulation on the level of competition in the radio advertising market? Are we interested in competition as a proxy for ensuring an appropriate level of diversity in a local community? If we conclude that section 202(b) definitively establishes the levels of radio station concentration that are consistent with our diversity interest, how would this affect the role of our competition analysis, if at all? Is one objective of competitive analysis to ensure a healthy radio advertising market so that radio stations not affiliated with larger station groups in a community will be able to attract sufficient advertising dollars to support their operations and their ability to provide valuable news and programming services to the public? Is one objective to protect radio advertisers from any anticompetitive pricing or conduct that could occur if a single party achieved market power or monopoly using the public airways? What precisely are the harms consumers suffer as advertising prices rise, and what empirical evidence of these harms is available? One of the objectives of our competition analysis must be to guide our biennial review examination. We seek comment on these objectives and on any other objectives that should guide the competition aspect of our public interest analysis.

41. Competition analysis requires us to define the relevant product and geographic markets in which radio stations compete, as well as the market share of the participants within the relevant market, and then weigh the competitive benefits of consolidation (*e.g.*, economies of scale and scope that may lead to lower costs and prices or superior products) against the harms (*e.g.*, the exercise of market power or reduction in output). We seek information that would help us conduct our analysis.

42. We seek comment on the relevant product market. If we look at advertising, does radio advertising constitute a separate market from other forms of media advertising? First, radio is exclusively sound-based. Second, radio allows advertisers to focus narrowly on specific demographic groups (*e.g.*, women age 18–49). Third, radio allows an advertiser to build repetition or frequency by advertising at a reasonable price. Fourth, the cost of producing a radio commercial is much lower than producing a television commercial. Fifth, radio allows for fast turnaround of advertising copy. Sixth, radio can reach people driving in their cars. We seek pertinent data that will help us determine the relevant product market.

43. We also seek comment on the relevant geographic market. We tentatively conclude that the relevant geographic market is local in nature, but we seek comment on the precise parameters of that market. What would be the appropriate market if we focused on listenership rather than advertising? With respect to advertising, is there a distinct regional or national market we also should consider in our analysis? If so, what are the relative sizes, in terms of radio station revenue and media revenue, of those markets vis-a-vis each other and local advertising markets? Do some radio stations rely more on national or regional advertising than on local advertising, and, if so, what characteristics lead to that result?

44. Under the Commission's current local radio ownership rule, the geographic market is defined based on a system of mutually overlapping signal contours, which makes the geographic market endogenous to a common owner's particular station holdings. Is this the appropriate basis for defining a relevant geographic market for purposes of a competition analysis? If so, why, and what are the benefits of this market definition? If not, what other geographic market definition should we use? Are Arbitron markets the relevant geographic market for purposes of our competition analysis? Can Arbitron radio markets be manipulated to make a particular market or transaction appear less troublesome. If so, how should we deal with this issue? If we adopt the Arbitron market as the relevant geographic market, how should we treat "below-the-line" stations that Arbitron reports as having audience shares or reportable revenues in the relevant market? Commenters advocating use of the Arbitron market should propose a relevant geographic market definition for radio stations not located in an Arbitron radio market. We also seek comment on any other potential geographic market definitions we should consider.

45. Once we define the relevant product and geographic markets, how should we measure the market share of those that compete in the market? The Commission has flagged proposed transactions based on market share. We seek comment on other sources of available data that we could use to determine market share and concentration levels. Although we have focused on advertising revenue and audience share as the principal potential measures of concentration, there may be other approaches we should consider.

46. Although a large market share in itself does not demonstrate market power, market power may be inferred when a party's market share is protected by high barriers to entry. We seek comment on barriers to entry into the relevant product and geographic markets.

47. Although we believe that entry by new stations is unlikely, we seek comment on whether the mere existence of other stations in the market negates market power, even where the current market shares of those stations are low. Should we consider the number of other stations in the market and their signal strength, either as an alternative to or in addition to market share? Is it easier to increase market share in the radio industry than it is in other industries? Or do market shares tend to remain static, with only small shifts in listening audiences? Further, does the amount of concentration in the market have an impact on the ability of stations to increase their market share? Is it easier for a station with a low audience share to increase its listenership in markets with low concentrations than it is in markets where one or two owners control a majority of the stations? What has been the experience of the radio industry since 1996?

48. After identifying and defining key market characteristics, we next consider the economic benefits and harms of permitting greater horizontal consolidation of local radio stations under common ownership. What are the benefits of these combinations, not only to the radio stations, but also to advertisers, and the public? We seek information on the nature and scope of efficiencies combinations might realize, and the nature and magnitude of benefits that flow through to advertisers and ultimately to consumers. We seek evidence that horizontal radio combinations produce efficiencies that flow through to advertisers and consumers. What economic harms might radio station consolidation bring? We seek additional information on the nature and scope of the economic harms that radio station combinations might bring. Studies and other evidence showing that advertising rates for radio station combinations are significantly higher after a consolidation than before a consolidation would be particularly useful. We also seek comment on associated harm to consumers. For example, if the existence of market power would prevent any efficiencies that otherwise would arise out of consolidation from flowing to the

public, or would harm the incentive of radio stations to produce quality programming responsive to community tastes and needs, that may be a harm we should consider. Similarly, if a certain level of consolidation causes the market to "tip" such that independently owned radio stations could not obtain sufficient revenue to remain on the air or fulfill their public interest obligations, the public interest also may be harmed.

49. We are also concerned about the possibility that coordinated behavior would increase as the number of independently owned competitors in a local market declines. Three factors could provide incentives for coordinated behavior in highly concentrated local radio markets: the ability to price discriminate, the ease of monitoring a collusive agreement, and the existence of barriers to entry. We seek comment on the relationship between radio concentration and coordinated behavior, and the adverse effects such behavior would have on listeners and advertisers.

C. Specific Case Studies

50. To assist us in formulating our radio rules and policies, we seek not only theoretical arguments but specific interest. We examine in detail particular local markets that have empirical data on the effect that consolidation will have on the public undergone substantial consolidation since 1996. We seek data on the public interest harms, if any, that have been caused by this consolidation. Has the public in these markets suffered from an unacceptable reduction in diversity? Have advertising rates increased? What has been the financial impact on independently owned radio stations? We also seek data on the specific benefits that consolidation has produced in those markets. Have the listeners received better quality radio programming, or greater diversity? Have efficiencies produced more radio voices than would otherwise have been possible? Has news and local affairs programming improved? We seek information that addresses these questions and any other public interest factors that we should consider in this proceeding.

51. Parties are encouraged to file information on any local market that they feel is relevant or helpful. In addition we would appreciate comments on three specific local markets that have experienced consolidation. The Arbitron metros that we seek information on are Syracuse, New York; Rockford, Illinois; and Florence, South Carolina.

52. The Syracuse radio metro consists of three New York counties: Madison, Onondaga and Oswego. The population of the Syracuse metro is estimated to be 650,100. This metro is the 75th largest metropolitan area by population and ranks 67th in terms of radio advertising revenue. The three Syracuse counties generated $7.2 billion in retail sales in 2000. Local advertising accounts for approximately 73 percent of station revenues.

53. The Rockford radio metro consists of two Illinois counties: Boone and Winnebago . The population of the Rockford metro is estimated to be 308,500. This metro is the 150th largest metropolitan area by population and ranks 139th in terms of radio advertising revenue. The three Rockford counties generated $3.9 billion in retail sales in 2000. Local advertising accounts for approximately 93 percent of station revenues.

54. The Florence radio metro consists of two South Carolina counties: Darlington and Florence. The population of the Florence metro is estimated to be 192,400. This metro is the 204th largest metropolitan area by population and ranks 181st in terms of radio advertising revenue. The three Florence counties generated $2.4 billion in retail sales in 2000. Local advertising accounts for approximately 80 percent of station revenues.

D. Options

55. We explore the potential ways we could use the results of the preceding diversity and competition analyses to formulate a concrete framework for addressing proposed combinations of radio stations in local markets.

1. Bright-line Rules or Case-by-Case Analysis

56. We first seek comment on the general advantages and disadvantages of relying on numerical limits or other bright-line rules to guide our public interest determination versus conducting a case-by-case public interest analysis. We see several advantages to the use of bright-line rules rather than case-by-case analysis.

57. We also see several advantages to conducting case-by-case analyses. A case-specific analysis, would allow the Commission to take into account the nuances of the particular case, and to adapt more readily to changing market (and other regulatory) conditions.

58. We seek comment on the various trade-offs between bright-line rules and case-by-case analysis. We seek comment whether the characteristics of the radio industry make it more susceptible to bright line strictures or case-by-case review or proposed radio combinations. What are the common characteristics of various radio combinations, and what differences do they have that would be difficult to encapsulate in a rule? Are there other characteristics that weigh in favor of relying on either predetermined rules or case-specific review in conducting a public interest review of a proposed combination? Are diversity concerns more amenable to being encapsulated in a bright-line rule than competition concerns?

59. We also seek comment on whether the advantages of both bright-line rules and case-by-case analysis be obtained by other regulatory tools, such as presumptions, processing guidelines, and screens. To what extent has the 50/70 screen been helpful, and what are its disadvantages? If appropriate, we could adopt a combination of rules, fact-specific analysis, and other formal and informal regulatory tools. We seek comment on the appropriate regulatory "mix" that would provide the greatest benefit to the agency, the industry, and the public.

2. Implementation of Radio Rules and Policies

60. We examine a number of possible frameworks that we could adopt to implement our policies on local radio ownership. We discuss several and seek comment on their advantages, disadvantages, and possible ramifications on our diversity and competition goals. We also invite suggestions for other possible frameworks that we should consider.

61. *Rely exclusively on current numerical limits.* To the extent we have the authority under the statutory framework to consider public interest factors other than compliance with the numerical limits of the local radio ownership rule, should we nonetheless rely on those limits to address our competition and diversity concerns? We seek comment on the advantages and disadvantages of relying exclusively on numerical limits. If we decide to rely exclusively on numerical limits, should we change the market definition we use to apply the rule to reflect more accurately the relevant geographic market? We seek any additional comments that would be useful in light of the broader policy issues raised in this proceeding.

62. *Rely exclusively on modified rule.* Another possibility we may consider is modifying the local radio ownership rule to revise the numerical limits or adopt a new framework entirely. We seek comment on whether our authority to tighten or loosen the numerical limits in the local radio ownership rule, or

otherwise to alter the rule, is limited by the statutory framework. To the extent we have the authority to make such changes, we seek comment on what changes we should make. Aside from revising the numerical limits, are there other standards we could adopt? For example, between 1992 and 1996, the rule provided for consideration of excessive market concentration, which was presumed to exist if a proposed radio combination would have had an audience share exceeding 25% in the Arbitron market. Do we have the authority to adopt an audience share limit, and, if so, should we adopt a similar presumption or bright-line rule? Should such a limit replace or accompany a numerical limit? Would such a rule be beneficial in promoting diversity even if the relevant market is competitive, or would numerical limit best meet our concerns regarding diversity and a market share limit best meet our concerns regarding undue market power?

63. Commenters who propose a market share limit should discuss the following issues: Should we examine audience share, share of the advertising revenue, or some other measure? If we adopt a presumption instead of a rule, what evidence would be sufficient to overcome the presumption? What percentage limit should we adopt, and why should we adopt it? For example, we could adopt limits that attempt to ensure the presence of at least three competitive firms. Commenters supporting this approach should explain how many firms should we seek to ensure remain in the market (counting all commonly controlled stations as one firm) and what maximum market share limit should we impose. Commenters should provide economic, other theoretical, and actual evidentiary support for such limits.

64. Commenters proposing that we modify the local radio ownership rule to change the numerical limits or to include new standards or presumptions should also propose what action we should take with respect to existing combinations that would not comply with the revised rule? Should we require divestiture? Should we grandfather those station groupings? Should we permit assignment and transfer of potentially non-compliant station groups to third parties? What are the benefits and harms of adopting these various approaches?

65. *Case-by-case competition analysis.* Rather than attempting to establish a bright-line rule that would address competition issues, we could examine the public interest concerns of any proposed radio combination on a case-by-case basis. We could adopt an entirely case-by-case approach or conduct a case-by-case analysis within the context of specific rules or presumptions. We could limit our case-by-case approach to competition issues, while using a bright-line rule to protect diversity. We seek comment on these alternatives.

66. To the extent, we are required to conduct a competition analysis of a proposed assignment or transfer control of a radio broadcast license, we nevertheless may have some latitude to consider the actions of the antitrust enforcement agencies.

E. Framework for Possible Case-by-Case Competitive Analysis

67. We consider what the framework for a case-by-case competitive analysis should be if we decide to adopt that approach. We lay out certain possible frameworks and competitive factors we could take into account in evaluating a proposed radio station combination. We seek comment on these factors and on our framework generally.

1. General Framework

68. In evaluating the competitive impact of a proposed license transfer, we could adopt the framework that we have used for assessing market power in other contexts, which is also embodied in the antitrust laws. We would first analyze each proposed radio combination by defining the relevant markets. Next, we would evaluate the effects of the transaction on competition in the relevant market. We seek comment on this approach.

69. One alternative of the approach is to develop certain assumptions that would apply to all proposed radio station combinations. Earlier in this *NPRM*, we sought comment about the relevant product and geographic markets to which radio belongs, barriers to entry, and the benefits and costs of consolidation. We seek comment concerning the assumptions that we could consistently apply in evaluating applications proposing radio station combinations and the advantages or disadvantages of those assumptions. If we adopt certain assumptions, we propose that the party seeking to demonstrate that an assumption is not true in a particular case bears the burden of proof as to that fact. We seek comment on this proposal.

70. Another possible alternative to the basic analytical framework is to examine not only whether a proposed transaction could lead to the exercise of market power, but to take the additional step of considering whether that market power would harm consumers, as opposed to advertisers, of radio broadcasting services. Are there certain situations in which the exercise of market power would not harm consumers? Are there situations in which consumers would affirmatively benefit if we permitted a certain degree of market power in the relevant market? For example, would permitting some degree of market power in smaller geographic markets generate more diverse or better quality programming for the people living in those markets? If so, how do we draw the line between acceptable levels of market power and unacceptable levels of control over local media, and what are the relevant considerations we should examine to help us determine on which side of the line a particular transaction falls? We seek comment on these issues.

2. Specific Factors

71. We seek comment on the specific factors we should consider within our general framework. We seek comment on how we should evaluate these factors in the context of a particular case. In addition, are there other factors we should consider?

72. We seek comment on how we should review applications proposing to assign or transfer control of existing station groups to a new owner.

73. We invite comment on how to treat under our proposed guidelines claims that a station is failing. Highly concentrated radio markets often contain stations with small revenue share that are independent of the one or two largest radio groups.

74. In our decision revising the television ownership rules, we adopted several criteria to evaluate whether a failing station showing would justify waiver of the television duopoly rule in a particular case. We stated that we would presume a waiver would serve the public interest if each of the following criteria were satisfied:

(a) One of the merging stations has had low all-day audience share.

(b) The financial condition of one of the merging stations is poor. A waiver is more likely to be granted where one or both of the stations has had a negative cash flow for the previous three years. We required the applicant to submit data, such as detailed income statements and balance sheets, to demonstrate this and stated that the Commission staff will assess the reasonableness of the applicant's showing by comparing data regarding the station's expenses to industry averages.

(c) The transaction will produce public interest benefits. A waiver will be granted where the applicant

demonstrates that the tangible and verifiable benefits of the transaction outweigh any harm to competition and diversity. At the end of the stations' license terms, the owner of the combined stations must certify to the Commission that the public interest benefits of the transaction are being fulfilled, including a specific, factual showing of the program-related benefits that have accrued to the public. Cost savings or other efficiencies, standing alone, will not constitute a sufficient showing.

(d) The in-market buyer is the only reasonably available candidate willing and able to acquire and operate the station; selling the station to an out-of-market buyer would result in an artificially depressed price. As with the showing required of failed station waiver applicants, one way to satisfy this fourth criterion is to provide an affidavit from an independent broker affirming that active and serious efforts have been made to sell the station, and that no reasonable offer from an entity outside the market has been received.

We further provided that a combination formed as a result of a failing station waiver could be transferred only if the combination met the revised duopoly rule or the waiver standards (including the failing standard just described) at the time of the transfer.

75. We invite comment as to whether to use a similar approach in our competitive analysis. Third, we seek comment on how we should analyze applications proposing the granting of a new license or the acquisition of an unbuilt facility or a "dark" station. Competitive analysis focusing on concentration in the advertising market or audience shares would be insufficient to analyze these transactions because new licenses, unbuilt stations, and dark stations generally will not have an associated radio advertising business or audience share. In the absence of this data, what should we consider in determining the effect of a proposed transaction on competition? And how should we weigh the relevant public interest benefits and harms?

3. Treatment of Brokerage and Sales Agreements

76. *Local Marketing Agreements and Time Brokerage Agreements.* A local marketing agreement (LMA) and time brokerage agreement (TBA) is "a type of contract that generally involves the sale by a licensee of discrete blocks of time to a broker that then supplies the programming to fill that time and sells the commercial spot announcements to support the programming." As we consider whether and how to conduct case-by-case competitive analyses of radio transactions, we seek comment on the appropriate regulatory treatment of LMAs and TBAs.

77. To the extent we decide to conduct a case-by-case analysis of proposed radio transactions, how should we evaluate LMAs or TBAs? Should we continue the practice of treating the merging parties as independent economic actors regardless of the economic realities of the relevant market? If we ignore economic realities, what purpose would our competitive analysis serve? On the other hand, if we treat the merging parties as a single economic unit because of a pre-existing LMA or TBA, what potential competitive harm would our analysis ever uncover? We could address this problem by requiring prior Commission approval of LMAs and TBAs, in some if not all circumstances. If so, what would those circumstances be? What are the costs and benefits of these various procedures? If we adopt new policies towards LMAs or TBAs, how should we apply those policies towards pre-existing agreements? We seek comment on these proposals and on any other proposals that we should consider with regard to the regulatory treatment of LMAs and TBAs?

78. *Joint Sales Agreement.* Joint sales agreements (JSAs) involve primarily the sale of advertising time and not decisions concerning programming.

79. We seek comment on the appropriate regulatory treatment of JSAs. Even if we adopt a bright line rule, JSAs would not be attributable to the sales agent. Should we reconsider this blanket exemption to attribution in light of the new local radio ownership policy we intend to adopt? If so, what should our new rule be? To the extent we decide to conduct a case-by-case analysis of proposed radio transactions, how should we evaluate JSAs? Should we distinguish between JSAs and LMAs or TBAs in a case-by-case review of proposed transactions or in other contexts? What are the reasons for and against affording similar treatment to all three types of agreements?

IV. Interim Policy

80. We set forth in this section the interim policy that the Commission will apply to guide its actions on radio assignment and transfer of control applications pending a decision in this proceeding. We recognize that certain guidelines need to be established both to handle currently pending radio assignment and transfer applications and to address any future applications filed while this proceeding is pending. At the same time, we are mindful of the concern that our policy not expressly or implicitly prejudge, or be viewed as prejudging, our ultimate decision in this proceeding. In that regard, we believe that any fundamental changes we make to our policy and procedures governing radio station combinations should be the result of the record in this rulemaking proceeding, and should not be implemented as an interim measure. We believe that the interim policy we are adopting today strikes a fair balance that addresses our statutory responsibilities while providing guidance to applicants and the public on the process the Commission will use to resolve pending applications during this interim period.

81. Consistent with our precedent and the principles, we will continue to examine the potential competitive effects of proposed radio station combinations, and, and to that end, we will continue to rely on the 50/70 screen to bring to our attention proposed radio transactions that may raise competitive concerns. While we are aware that the utility and appropriateness of 50/70 screen has been the subject of disagreement, we are concerned that adopting another screen or set of processing guidelines on an interim basis would create significant confusion and uncertainty to applicants and could be seen as prejudging the rulemaking proceeding.

82. We will presume that an application that falls below the screen will not raise competition concerns, and the staff will not conduct a further competitive analysis of those proposed transactions absent the filing of a petition to deny raising competitive issues. We establish the following generic categories of information that may be requested or received by the staff in conducting its competitive analysis:

(a) *Product market definition.* During the interim period, the Commission will presume that the relevant product market is radio advertising. The staff nevertheless should consider evidence from the parties that the relevant product market in a specific case includes other forms of media advertising or should be based on listenership rather than advertising.

(b) *Geographic market definition.* During the interim period, the Commission will presume that the relevant geographic market is the Arbitron metro market. The staff nevertheless may ask for or receive evidence from the parties that the relevant geographic market in a specific case is larger, smaller, or otherwise

different from the Arbitron metro market.

(c) *Market participants.* The staff may ask for or receive evidence concerning the firms that participate in the relevant product and geographic markets. The list of market participants should include firms that could enter the relevant product and geographic markets within one year without expending significant sunk costs of entry and exit in response to a small but significant and non-transitory increase in price. If the presumptive product and geographic market definitions are used, the list of market participants should include operating commercial radio stations and any "dark" station that might be expected to become operational in response to such an increase in price.

(d) *Market shares and market concentration.* The staff may ask for or receive evidence concerning the market shares of the market participants. If the presumptive product and geographic market definitions are used, the radio advertising revenues reported in the BIA Master Access Database will be presumed to be an accurate reflection of actual market shares, absent persuasive evidence that another measure of market share should be used.

(e) *Barriers to entry.* The staff may ask for or receive evidence concerning the barriers to entry into the relevant product and geographic markets, including the timeliness, likelihood, and sufficiency of entry to counter any potential market power.

(f) *Potential adverse competitive effects.* The staff may ask for or receive evidence concerning the potential adverse competitive effects of a proposed transaction. Relevant evidence may include direct proof of adverse competitive effects or facts that demonstrate that structural conditions (*e.g.*, a high market share and significant barriers to entry) will facilitate the exercise of market power.

(g) *Efficiencies and other public interest benefits.* The staff may ask for or receive evidence concerning any economic efficiencies that the proposed transaction would produce. In addition, the staff may ask for or receive evidence concerning other public interest benefits the proposed transaction would provide listeners or advertisers, such as improvements in the quality, scope, and quantity of community responsive programming, improved community service, and the furtherance of localism. Parties asserting that a proposed transaction will produce efficiencies or other public interest benefits should show both how the transaction will produce those benefits and how those benefits will flow through to listeners or advertisers.

83. After completing its preliminary competitive analysis of the proposed transaction, the staff may grant any application that is consistent with the public interest and that may be granted on delegated authority. For applications that the staff cannot grant, we establish the following timetable to ensure that they are resolved expeditiously. For each application that, as of the date of adoption of this *NPRM*, has been pending for over one year, within 90 days of the date of adoption of this *NPRM*, the staff will distribute to the Commission a draft order recommending that the application either be granted or designated for hearing. For all other currently pending applications, within six months of the date of adoption of this *NPRM*, the staff will distribute to the Commission a draft order recommending that the application either be granted or designated for hearing. For all applications filed after the date of adoption of this *NPRM*, within six months of the date after such application is filed, the staff will distribute to the Commission a draft order recommending that such application either be granted or be designated for hearing. In all of these cases, the draft order shall include the relevant facts of the proposed transaction, and the staff's competitive analysis and recommendation, including any issues to be resolved at hearing (if the staff recommends a hearing). After receiving the draft order, the Commission shall then decide whether the relevant factors support grant (with or without conditions) of an application or whether the application should be designated for hearing.

84. For applications that the Commission decides to designate for hearing, the hearing designation order shall afford the applicants with the opportunity to elect instead to have their applications held pending completion of this rulemaking proceeding and having the outcome of this proceeding apply to their application. We provide this election because we believe it is appropriate to provide applicants with the ability to have their applications evaluated under our permanent radio rules and policies rather than our interim policy. We caution, however, that our provision of this election will not in any way prejudice or limit the range of actions we could take in processing pending applications, including designation for hearing, upon completion of this rulemaking.

85. The interim policy will apply to currently pending applications to assign or transfer control of radio broadcast stations. This interim policy also will apply to radio assignment or transfer applications filed on or after the date we adopt this *NPRM* until we adopt a decision in this proceeding.

V. Administrative Matters

86. *Comments and Reply Comments.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before 60 days after publication of the item in the **Federal Register**, and reply comments on or before 90 days after publication of the item in the **Federal Register**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

87. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, "get form <your e-mail address." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW–A325, Washington, D.C. 20554.

88. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Wanda Hardy, 445 Twelfth Street, S.W., Room, 2–C207, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for

Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number in this case, MM Docket Nos. 01–317, 00–244, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY–B402, Washington, DC 20554.

89. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 Twelfth Street, S.W., CY–A257, Washington, D.C. 20554. Persons with disabilities who need assistance in the FCC Reference Center may contact Bill Cline at (202) 418–0270, (202) 418–2555 TTY, or *bcline@fcc.gov*. Comments and reply comments also will be available electronically at the Commission's Disabilities Issues Task Force web site: *www.fcc.gov/dtf*. Comments and reply comments are available electronically in ASCII text, Word 97, and Adobe Acrobat.

90. *Ex Parte Rules.* This is a permit-but-disclose notice and comment proceeding. Ex parte presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules. *See generally* sections 1.1202, 1.1203, and 1.1206(a).

91. *Initial Regulatory Flexibility Analysis* ("IRFA"). As required by section 603 of the Regulatory Flexibility Act ("RFA"), the Commission has prepared an IRFA of the possible significant economic impact on small entities of the proposals contained in this *NPRM*. Written public comments are requested on the IRFA. In order to fulfill the mandate of the Contract with America Advancement Act of 1996 regarding the Final Regulatory Flexibility Analysis, we ask a number of questions in our IRFA regarding the prevalence of small businesses in the radio broadcasting industry. Comments on the IRFA must be filed in accordance with the same filing deadlines as comments on the *NPRM*, but they must have a distinct heading designating them as responses to the IRFA. The Secretary shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration ("SBA") in accordance with section 603(a) of the RFA, Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981), as amended.

92. *Authority.* This *NPRM* is issued pursuant to authority contained in sections 4(i), 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 307.

VI. Ordering Clauses

93. Pursuant to the authority contained in sections 1, 2(a), 4(i), 303, 307, 309, and 310 of the Communications Act, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, and 310 this NPRM are adopted.

94. The Interim Policy set forth herein *is adopted.*

95. The Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this *NPRM* , including the IRFA, to the Chief Counsel for Advocacy of the SBA.

VII. Initial Regulatory Flexibility Analysis

96. As required by the Regulatory Flexibility Act of 1980, as amended, the Commission has prepared this present IRFA of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *NPRM* . Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM*. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of SBA. See 5 U.S.C. 603(a). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

97. Application to and consent by the Commission are required under section 310 of the Communications Act before the sale of any licensed radio broadcast station may be consummated. The Commission may grant its consent only if it determines that "the public interest, convenience and necessity will be served thereby." 47 U.S.C. 310(d). The effects of a proposed transaction on the diversity of voices and economic competition in a given market have long been core considerations in making this public interest determination. The Commission's concern for diversity and competition in broadcast markets has prompted us to adopt and maintain structural ownership rules intended to vindicate these interests. Until recently, these ownership rules have been sufficiently strict that we have not been presented with proposed transactions that comply with the ownership rules but nonetheless present economic concentration issues. The Telecommunications Act of 1996, however, substantially relaxed the Commission's local radio ownership rules. Heretofore, the Commission's radio ownership rules have been based strictly on the number of stations proposed for common ownership, without regard to the power or dominance of the stations that are being combined. This was not a problem under the former Commission rules which strictly circumscribed the number of radio stations that could be commonly owned in a local market. Now, however, under the new rules, which allow greater numbers of radio stations to be commonly owned in local markets, the Commission has encountered sales applications that propose transactions which comply with the numerical station limits but which result in substantial economic concentration in the relevant economic markets. In such cases, the Commission "has an independent obligation to consider whether a proposed pattern of radio ownership that complies with the local ownership limits would otherwise have an adverse competitive effect in a particular radio market and thus, would be inconsistent with the public interest. 47 U.S.C. 309(a) (requiring the Commission to make a determination that the transfer or assignment of a broadcast license would be in the public interest)." Accordingly, we are adopting this *NPRM* to consider possible changes to our local radio ownership rules and policies.

Legal Basis

98. This *NPRM* is adopted pursuant to sections 1, 2(a), 4(i), 303, 307, 309, and 310, of the Communications Act, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, and 310.

Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

99. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction. In addition, the term "small business" has the same meaning as the term "small business concern" under the

Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

100. Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." A "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities.

101. The SBA defines a radio broadcasting station that has $5 million or less in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Radio broadcasting stations, which primarily are engaged in radio broadcasting and which produce radio program materials, are similarly included. However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another NAICS code. The 1992 Census indicates that 96 percent (5,861 of 6,127) of radio station establishments produced less than $5 million in revenue in 1992. Official Commission records indicate that 11,334 individual radio stations were operating in 1992. As of June 30, 2001, Commission records indicate that 12,932 radio stations (both commercial and noncommercial) were operating of which 2,216 were noncommercial educational FM radio stations. Applying the 1992 percentage of station establishments producing less than $5 million in revenue (*i.e.*, 96 percent) to the number of commercial radio stations in operation, (*i.e.*, 10,716) indicates that 10,287 of these radio stations would be considered "small businesses" or "small organizations." These estimates may overstate the number of small entities because the revenue figures on which they are based do not include or aggregate revenues from non-radio affiliated companies.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

102. The *NPRM* proposes no new recordkeeping or other compliance requirements associated with the subject rules and policies. These rules amend the Commission's procedures and review processes and do not change existing documentation and application requirements.

Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

103. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

104. In this *NPRM*, the Commission explores the underpinnings of two principles underlying the regulation of the radio broadcast industry, namely diversity and competition. The principles of diversity and competition are of particular import to small entities. Thus we seek comment on the general advantages and disadvantages of relying on numerical limits or other bright-line rules to guide our public interest determination versus conducting a case-by-case competitive analysis. The framework minimizes the impact on small entities by not subjecting to further competitive analysis transactions below a threshold level.

105. This *NPRM* invites comment on a number of alternative interpretations of the relationship between the revision of local radio ownership rules, embodied in section 202(b) of the Telecommunications Act of 1996 and the Commission's public interest mandate. Specifically, we propose alternative views on that relationship in the *NPRM* seek comment on these proposals, and invite additional possible interpretations of the relevant statutory provisions. Further, the *NPRM* seeks comment on how the Commission's rules and policies concerning local radio ownership affect our goal of promoting diversity. In light of the fact that a majority of the radio broadcasting stations likely to be affected are small, we seek comment on the impact of industry consolidation on both viewpoint and source diversity.

106. In addition to the principle of diversity, this *NPRM* seeks comment on the principle of competition in the radio broadcast industry, with regard to the definitions of the marketplace and measurement of market share.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

107. None.

List of Subjects in 47 CFR Part 73.

Radio broadcasting.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30526 Filed 12–10–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 01–317 and 00–244; FCC 01–329]

RIN 4217

Definition of Radio Markets

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes changes to local ownership rules and policies concerning multiple ownership of radio broadcasting stations. The Commission examines the effect our current rules has had on the public and seeks comment to better serve our communities. This action is also intended to consider possible changes to our current local market radio ownership rules and policies in accordance with the Telecommunications Act of 1996. Because of the similarity of the issues presented in Multiple Ownership of Radio Broadcast Stations in Local Markets to those in the Matter of Definition of Radio Markets, the two actions were, in effect, consolidated.

DATES: Comments are due February 11, 2002. Reply comments are due March 11, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joshi Nandan, Office of General Counsel, (202) 418–1755.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Further Notice of Proposed Rule Making* (*"FNPRM"*) in MM Docket No. 00–244, FCC 01–329, adopted November 8, 2001, and released November 9, 2001. The complete text of this *FNPRM* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC and may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW., Room CY–B–402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via email *qualexint@aol.com*. This document is also available in alternative formats (computer diskette, large print, audio cassette, and Braille). Persons who need documents in such formats may contact Martha Contee at (202) 4810–0260, TTY (202) 418–2555, or *mcontee@fcc.gov*. The *FNPRM* can be found on the Internet at the Commission's website: *http://www.fcc.gov*.

1. The issues presented herein, and the substance of this *FNPRM* are identical to those presented in the *Notice of Proposed Rule Making*, in the Matter of Rules and Policy Concerning the Multiple Ownership of Radio Broadcast Stations in Local Markets (MM Docket No. 00–317) published elsewhere in this issue of the **Federal Register**.

2. *Comments and Reply Comments.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file. Comments are due February 11, 2002. Reply comments are due March 11, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

3. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, "get form <your e-mail address." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW., TW–A325, Washington, DC 20554.

4. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Wanda Hardy, 445 Twelfth Street, SW., Room, 2–C207, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number in this case, MM Docket Nos. 01–317, 00–244, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.

5. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 Twelfth Street, SW., CY–A257, Washington, DC 20554. Persons with disabilities who need assistance in the FCC Reference Center may contact Bill Cline at (202) 418–0270, (202) 418–2555 TTY, or *bcline@fcc.gov*. Comments and reply comments also will be available electronically at the Commission's Disabilities Issues Task Force web site: *www.fcc.gov/dtf*. Comments and reply comments are available electronically in ASCII text, Word 97, and Adobe Acrobat.

6. *Ex Parte Rules.* This is a permit-but-disclose notice and comment proceeding. Ex parte presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules. *See generally* sections 1.1202, 1.1203, and 1.1206(a).

7. *Initial Regulatory Flexibility Analysis* ("IRFA"). As required by section 603 of the Regulatory Flexibility Act ("RFA"), the Commission has prepared an IRFA of the possible significant economic impact on small entities of the proposals contained in this *FNPRM*. Written public comments are requested on the IRFA. In order to fulfill the mandate of the Contract with America Advancement Act of 1996 regarding the Final Regulatory Flexibility Analysis, we ask a number of questions in our IRFA regarding the prevalence of small businesses in the radio broadcasting industry. Comments on the IRFA must be filed in accordance with the same filing deadlines as comments on the *FNPRM*, but they must have a distinct heading designating them as responses to the IRFA. The Secretary shall send a copy of this *FNPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration ("SBA") in accordance with section 603(a) of the RFA, Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981), as amended.

8. *Authority.* This *FNPRM* is issued pursuant to authority contained in sections 4(i), 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 307.

9. Pursuant to the authority contained in sections 1, 2(a), 4(i), 303, 307, 309, and 310 of the Communications Act, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, and 310 this *FNPRM are adopted.*

10. The Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this *FNPRM*, including the IRFA, to the Chief Counsel for Advocacy of the SBA.

Initial Regulatory Flexibility Analysis

11. As required by the Regulatory Flexibility Act of 1980, as amended, the Commission has prepared this present IRFA of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *FNPRM*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and

must be filed by the deadlines for comments on the *FNPRM*. The Commission will send a copy of the *FNPRM*, including this IRFA, to the Chief Counsel for Advocacy of SBA. See 5 U.S.C. 603(a). In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

12. Application to and consent by the Commission are required under section 310 of the Communications Act before the sale of any licensed radio broadcast station may be consummated. The Commission may grant its consent only if it determines that "the public interest, convenience and necessity will be served thereby." 47 U.S.C. 310(d). The effects of a proposed transaction on the diversity of voices and economic competition in a given market have long been core considerations in making this public interest determination. The Commission's concern for diversity and competition in broadcast markets has prompted us to adopt and maintain structural ownership rules intended to vindicate these interests. Until recently, these ownership rules have been sufficiently strict that we have not been presented with proposed transactions that comply with the ownership rules but nonetheless present economic concentration issues. The Telecommunications Act of 1996, however, substantially relaxed the Commission's local radio ownership rules. Heretofore, the Commission's radio ownership rules have been based strictly on the number of stations proposed for common ownership, without regard to the power or dominance of the stations that are being combined. This was not a problem under the former Commission rules which strictly circumscribed the number of radio stations that could be commonly owned in a local market. Now, however, under the new rules, which allow greater numbers of radio stations to be commonly owned in local markets, the Commission has encountered sales applications that propose transactions which comply with the numerical station limits but which result in substantial economic concentration in the relevant economic markets. In such cases, the Commission "has an independent obligation to consider whether a proposed pattern of radio ownership that complies with the local ownership limits would otherwise have an adverse competitive effect in a particular radio market and thus, would be inconsistent with the public interest. 47 U.S.C. 309(a) (requiring the Commission to make a determination that the transfer or assignment of a broadcast license would be in the public interest)." Accordingly, we are adopting this *FNPRM* to consider possible changes to our local radio ownership rules and policies.

Legal Basis

13. This *FNPRM* is adopted pursuant to sections 1, 2(a), 4(i), 303, 307, 309, and 310, of the Communications Act, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, and 310.

Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

14. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction. In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

15. Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." A "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities.

16. The SBA defines a radio broadcasting station that has $5 million or less in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Radio broadcasting stations, which primarily are engaged in radio broadcasting and which produce radio program materials, are similarly included. However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another NAICS code. The 1992 Census indicates that 96 percent (5,861 of 6,127) of radio station establishments produced less than $5 million in revenue in 1992. Official Commission records indicate that 11,334 individual radio stations were operating in 1992.. As of June 30, 2001, Commission records indicate that 12,932 radio stations (both commercial and noncommercial) were operating of which 2,216 were noncommercial educational FM radio stations. Applying the 1992 percentage of station establishments producing less than $5 million in revenue (*i.e.*, 96 percent) to the number of commercial radio stations in operation, (*i.e.*, 10,716) indicates that 10,287 of these radio stations would be considered "small businesses" or "small organizations." These estimates may overstate the number of small entities because the revenue figures on which they are based do not include or aggregate revenues from non-radio affiliated companies.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

17. The *FNPRM* proposes no new recordkeeping or other compliance requirements associated with the subject rules and policies. These rules amend the Commission's procedures and review processes and do not change existing documentation and application requirements.

Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

18. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design,

standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

19. In this *FNPRM*, the Commission explores the underpinnings of two principles underlying the regulation of the radio broadcast industry, namely diversity and competition. The principles of diversity and competition are of particular import to small entities. Thus we seek comment on the general advantages and disadvantages of relying on numerical limits or other bright-line rules to guide our public interest determination versus conducting a case-by-case competitive analysis. The framework minimizes the impact on small entities by not subjecting to further competitive analysis transactions below a threshold level.

20. This *FNPRM* invites comment on a number of alternative interpretations of the relationship between the revision of local radio ownership rules, embodied in section 202(b) of the Telecommunications Act of 1996 and the Commission's public interest mandate. Specifically, we propose alternative views on that relationship in the *FNPRM*, seek comment on these proposals, and invite additional possible interpretations of the relevant statutory provisions. Further, the *FNPRM* seeks comment on how the Commission's rules and policies concerning local radio ownership affect our goal of promoting diversity. In light of the fact that a majority of the radio broadcasting stations likely to be affected are small, we seek comment on the impact of industry consolidation on both viewpoint and source diversity.

21. In addition to the principle of diversity, this *FNPRM* seeks comment on the principle of competition in the radio broadcast industry, with regard to the definitions of the marketplace and measurement of market share.

Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

22. None.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30527 Filed 12–10–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket No. FRA 2001–11068, Notice No. 1]

RIN 2130–AB39

Control of Alcohol and Drug Use: Proposed Application of Random Testing and Other Requirements to Employees of a Foreign Railroad Who Are Based Outside the United States and Perform Train or Dispatching Service in the United States; Request for Comment on Even Broader Application of Rules and on Implementation Issues

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of proposed rulemaking (NPRM) and request for comments.

SUMMARY: In general, FRA's regulation on the control of alcohol and drug use (49 CFR part 219) currently applies to all railroads that operate on the general railroad system of transportation in the United States. However, part 219 presently exempts certain operations by foreign railroads and certain small railroads from certain subparts. In this NPRM, FRA proposes to narrow the scope of these exemptions.

This NPRM also seeks to reopen a discussion of part 219 implementation issues, many of which were first raised in FRA's 1992 advance notice of proposed rulemaking on this subject. Finally, FRA invites comment on whether it should expand the basis for requiring post-accident testing (subpart C) and testing for cause (subpart D) of part 219 to include events that occur outside the United States.

DATES: (1) *Written Comments:* Written comments must be received by February 11, 2002. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

(2) *Public Hearing:* FRA will conduct a public hearing to provide interested parties an opportunity to comment on this proposed rule. FRA will issue a separate document in the **Federal Register** informing interested parties of the date and location of the hearing.

ADDRESSES: Anyone wishing to file a comment should refer to the FRA docket and notice numbers (FRA Docket No. FRA 2001–11068, Notice No. 1). You may submit your comments and related material by only one of the following methods:

By mail to the Docket Management System, U.S. Department of Transportation, room PL–401, 400 7th Street, SW., Washington, DC 20590–0001; or

Electronically through the Web site for the Docket Management System at *http://dms.dot.gov.* For instructions on how to submit comments electronically, visit the Docket Management System web site and click on the "Help" menu.

The Docket Management Facility maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL–401 on the plaza level of the Nassif Building at the same address during regular business hours. You may also obtain access to this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For technical issues, Lamar Allen, Alcohol and Drug Program Manager, FRA Office of Safety, RRS–11, 1120 Vermont Avenue, NW., Mail Stop 25, Washington, DC 20590 (telephone 202–493–6313). For legal issues, Patricia V. Sun, Trial Attorney, Office of the Chief Counsel, RCC–11, 1120 Vermont Avenue, NW., Mail Stop 10, Washington, DC 20590 (telephone 202–493–6038).

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XII. Request for Public Comment

[1] Elsewhere in today's **Federal Register**, FRA published an Interim Final Rule (new 49 CFR part 241). That rule requires all dispatching of railroad operations that occur in the United States to be performed in the United States, with three limited exceptions. First, a railroad is allowed to conduct extraterritorial dispatching (dispatching of railroad operations that occur in the United States by dispatchers who are located outside the United States) in emergency situations. Second, the grandfathering provision of the rule permits continued extraterritorial dispatching of the very limited track segments in the United States that were regularly being so dispatched in December 1999. Third, certain other fringe border operations are permitted. FRA does not propose at this time to apply part 219 to the limited number of extraterritorial dispatchers covered by the grandfathering provision in part 241, but invites public comment on this issue.

I. Introduction

A. Summary

Paragraph (c) of § 219.3 now exempts employees of a foreign railroad whose primary reporting point is outside the United States (a foreign railroad's foreign-based employees or "FRFB employees") who perform service in the United States covered by the hours of service laws ("covered service")—train service, dispatching service, or signal service—from subparts E (identification of troubled employees), F (pre-employment testing), and G (random testing). FRA proposes to limit the exemption to FRFB signal service employees, who are currently few in number. FRA would apply all of part 219 to FRFB train and dispatching service employees, including pre-employment testing under subpart F for all individuals seeking to serve in such capacity, unless their employer qualifies as a small railroad under proposed § 219.3(b). This change, together with the Interim Final Rule discussed at footnote 1 below, and will ensure that dispatchers controlling the bulk of rail operations in the United States are covered by part 219.

Paragraph (b)(2) of § 219.3 currently exempts railroads employing not more than 15 covered service employees from the requirements of subparts D (testing for cause), E, F, and G, and paragraph (b)(3) exempts railroads having fewer than 400,000 total manhours from the requirements of subpart I (annual reports). In this NPRM, FRA proposes to amend paragraphs (b)(2) and (3) to take into account a railroad's operations outside the United States in determining its size and eligibility for the "small railroad" exemptions.

As mentioned above, FRA also invites a discussion of part 219 implementation issues, and comment on whether it should expand the basis for requiring post-accident testing (subpart C) and testing for cause to include events that occur outside the United States.

B. Abbreviations

The following abbreviations are used with some frequency in this preamble and are collected here for the convenience of the reader:

ANPRM Advance Notice of Proposed Rulemaking
CFR Code of Federal Regulations
ch. chapter
DOT United States Department of Transportation
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FMCSA Federal Motor Carrier Safety Administration
FR **Federal Register**
FRA Federal Railroad Administration
FRFB foreign railroad's foreign-based
HHS United States Department of Health and Human Services
MRO Medical Review Officer
NPRM Notice of Proposed Rulemaking
Pub. L. Public Law
OST Office of the Secretary, United States Department of Transportation
SAP Substance Abuse Professional
U.S.C. United States Code

II. Alcohol Abuse and Illegal Drug Use by Train Employees and Dispatching Service Employees Pose Significant Dangers to the Safety of Railroad Operations

A. Safety-Sensitive Role of Train Employees

Train employees include engineers, conductors, switchmen, trainmen, brakemen, and hostlers. *See* statement of agency policy and interpretation of the hours of service laws (49 U.S.C. ch. 211 and related provisions in chs. 201 and 213), including 49 U.S.C. 21101(5) and 21103, at 49 CFR part 228, appendix A. These train employees are responsible for safely assembling, disassembling, and operating passenger and freight trains, including working on and around the equipment. Train crew members can become fatigued because of the long and varied hours they are expected to work. Because trains have long stopping distances, a small mistake in application of power or brakes by an engineer or the misreading or forgetting of a signal or a mandatory directive by any of the crew could have serious consequences. For example, such a small mistake could cause the train to run over a crew member, or to exceed its authorized speed and possibly derail or collide with another train, with resulting injuries or death to train crews, passengers, or both, and possible harm to surrounding communities by

the release of hazardous materials. These errors by the train crew could also cause their train to enter into a track segment without authority, endangering authorized occupants of the track such as another train or a roadway work group. The crew's failure to sound the locomotive horn at a grade crossing could endanger motorists. Again, the long stopping distances required by trains can make it very difficult for a crew to recover from such mistakes or omissions in time to avoid accidents and consequent property damage, injury, or death. Train crew members whose judgment and motor skills are impaired by the use of alcohol or drugs pose a significant safety risk to themselves and others.

Adding to the criticality of the train crew's need to be subject to an effective safety program that encourages them to be in the best possible physical and mental state is the environment in which they work. Road train crews and road switching crews in particular (as opposed to switch crews who work in yards) normally work independent of supervision, without the supervisory monitoring that could assist in identifying substance-abuse symptoms, such as poor work performance, and allowing subsequent timely remedies. Misuse of drugs and alcohol is often difficult to identify under the best of circumstances, and this is particularly true of drugs such as cocaine, for which the chronic or after-effects of the drug may be of greater concern than the acute effects. Even practiced, functional alcoholics can sometimes avoid detection over long periods of time.

Train crews do not experience the deterrence provided by the timely oversight of a supervisor because of their normal, independent working conditions. Random alcohol and drug testing of these train employees helps to provide the necessary deterrent effect.

B. Safety-Sensitive Role of Dispatching Service Employees

Proper dispatching is essential for safe railroad operations. Because trains have long stopping distances, train operations are generally not conducted by line of sight. Rather, the route ahead must be cleared for the train's movement. Switches must be aligned properly along the route. Potentially conflicting movements must be guarded against in order to prevent collisions. Dispatching service employees actually "steer" the train by remotely aligning switches; these dispatchers determine whether the train should stop or move, and if so, at what speed, by operating signals and issuing train orders and other forms of movement authority or speed restriction. *See* 49 U.S.C. 21101(2), 21105 and 49 CFR part 228, appendix A. In addition, dispatchers protect track gangs and other roadway workers from passing trains by issuing authorities for working limits. Train crews on board locomotives carry out the dispatchers' instructions and are responsible for actually moving the train, but dispatchers make it possible to do so safely. A dispatcher's judgment must be sound if railroad operations are to be conducted safely.

C. The Dangers to Railroad Operations Posed by Alcohol Abuse and Illegal Drug Use by Train Employees and Dispatching Service Employees

Alcohol and drug use results in safety risks and consequences that are unacceptable in the railroad environment. The loss of life, injuries, and property damage in accidents caused by train employees or dispatchers impaired by alcohol or drugs or both has been well documented. *See* 49 FR 24254–24264 (June 12, 1984) and 53 FR 47105 (Nov. 21, 1988). One of the most serious of these accidents in the United States was the January 4, 1987 train accident at Chase, Maryland, in which 16 persons were killed and 174 injured when a Conrail train passed an absolute restrictive signal and went through a switch into the path of a high-speed Amtrak train. The engineer and conductor of the Conrail train admitted smoking marijuana immediately prior to the accident.

Drug and alcohol abuse in the railroad industry is not limited to the United States. It also occurs in other countries, as evidenced by a 1987 Canadian survey commissioned by a Canadian Task Force on the Control of Drug and Alcohol Abuse in the Railway Industry. In that survey, 1,000 randomly-selected Canadian railway workers, including train employees, were interviewed by telephone. The survey revealed, among other things, that 20 percent of those surveyed had come to work feeling the effects of alcohol and nine percent felt that their use of alcohol had at some time compromised job safety. In addition, 2.5 percent admitted to using illegal drugs during their shift. As the following passage from a recent Canadian arbitration award involving CN illustrates, drug and alcohol abuse problems continue to exist in Canada:

> As related in the submission of the employer's counsel, CN has extensive experience in drug and alcohol testing over the past decade, including circumstances of hiring, promotion, reasonable cause and post accident testing. Its data confirm a relatively high incidence of positive test results across Canada, exceeding ten per cent over all categories of testing in Western Canada. While positive drug tests obviously do not confirm that individuals in the railway industry have necessarily used illegal drugs while at work, a substantial number of awards of the Canadian Railway Office of Arbitration provide a well-documented record of cases which reveal the unfortunate willingness of some employees to have drugs or alcohol in their possession while at work, to use them while at work, or to report for work under their influence. * * *
>
> *In the Matter of an Arbitration Between Canadian National Railway Company and National Automobile, Aerospace, Transportation and General Workers Union of Canada (Union) and Canadian Council of Railway Operating Unions (Intervener), Re: the Company's Drug and Alcohol Policy at* 123–24, Arbitrator Michel G. Picher (July 18, 2000). The drug and alcohol abuse problem in Canada is relevant to the current problem posed by FRFB employees who are performing train or dispatching service in the United States and helps demonstrate the need for more comprehensive drug and alcohol testing of such employees.

III. Congress Has Determined That Comprehensive Alcohol and Drug Testing (Including Random Testing) Is Needed in the Railroad Industry; FRA's Regulations on Control of Alcohol and Drug Use (49 CFR Part 219) Require Such Comprehensive Testing for Safety-Sensitive Employees of United States Railroads

In 1991, the many alcohol- and drug-related railroad accidents caused Congress to require FRA to expand its existing comprehensive drug and alcohol program (and to strengthen FRA's 1988 regulations requiring random drug testing) because Federal regulations and the industry's own rule on drug and alcohol usage had not proven to be totally effective.[2] Congress determined that alcohol abuse and illegal drug use posed significant dangers to the safety of railroad operations, and mandated DOT to establish regulations to eliminate the abuse of alcohol and use of illegal drugs (whether on or off duty), by individuals involved in railroad operations. In passing the Omnibus Transportation Employee Testing Act of 1991, Pub. L. No. 102–143 (Omnibus Act), Congress specifically found that—

(1) Alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

[2] The railroad industry has long had in place a common rule (Rule G) prohibiting employees from using, possessing, or being under the influence of intoxicants or other drugs while on duty or subject to duty. Rule G can be tracked back to at least 1849.

(2) Millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses and depend on the operators of aircraft, trains, trucks, and buses to perform in a safe and responsible manner;

(3) The greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs (whether on duty or off duty), by those individuals who are involved in the operation of aircraft, trains, trucks, and buses;

(4) The use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) The testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, especially random testing;

(6) Adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right to privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) Rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

49 U.S.C. app. 1434 note.

The Omnibus Act, as subsequently recodified in 1994 and amended in 1995, requires the Secretary of Transportation to issue regulations relating to alcohol and drug use in railroad operations (49 U.S.C. 20140, "section 20140"), aviation (49 U.S.C. 45101–45106), motor carriers (49 U.S.C. 31306), and mass transportation (49 U.S.C. 5331). Pub. L. No. 103–272 (1994); Pub. L. No. 104–59 (1995). Section 20140(b) provides that—* * *

(b) General.—(1) In the interest of safety, the Secretary of Transportation shall prescribe regulations and issue orders, . . . related to alcohol and controlled substances use in railroad operations. The regulations shall establish a program requiring—

(A) A railroad carrier to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of a controlled substance in violation of law or United States Government regulation, and to conduct reasonable suspicion, random, and post-accident testing of such employees for the use of alcohol in violation of law or a United States Government regulation; and

(B) When the Secretary considers it appropriate, disqualification for an established period of time or dismissal of any employee found—

(i) To have used or been impaired by alcohol while on duty; or

(ii) To have used a controlled substance, whether on or not on duty, except as allowed for medical purposes by law or a regulation or order under this chapter.

(2) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations and issue orders requiring railroad carriers to conduct periodic recurring testing of railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a Government regulation.

In establishing these requirements, the Secretary is to act consistent with the international obligations of the United States, and to take foreign countries' laws and regulations into account. 49 U.S.C. 20140(e). Part 219 implements the requirements of the Omnibus Act.

In general, FRA's regulation on the control of alcohol and drug use (49 CFR part 219) currently applies to all railroads except a railroad that operates only on track inside an installation which is not part of the general railroad system of transportation or a rapid transit operation in an urban area that is not connected to the general railroad system of transportation. However, part 219 currently exempts certain operations by foreign railroads and certain small railroads from certain subparts. As discussed later in this notice, FRA proposes to narrow the scope of most of these exemption provisions.

Under part 219, dispatcher and train employees of a domestic railroad that perform their duties in the United States are generally subject to random, reasonable suspicion, reasonable cause, return-to-duty, follow-up, and post-accident drug and alcohol testing, as well as pre-employment testing for drugs.[3] *See* subparts B, C, D, F, and G of part 219. Post-accident testing is required for a dispatcher or train employee who is directly and contemporaneously involved in the circumstances of any train accident meeting FRA testing thresholds. *See* subpart C. A dispatcher or train employee found to have violated 219.101 or 219.102 of FRA's drug and alcohol rules is required to be immediately removed from covered service, and the railroad must follow specified procedures, including rehabilitation and return-to-duty and follow-up testing requirements, before returning the dispatcher or train employee to covered service. A dispatcher or train employee who refuses to cooperate with providing a required sample is required to be removed from covered service for a nine-month period and to complete a rehabilitation program. *See* subpart B. Additionally, employers of such dispatchers and train crews operating in the United States generally must provide self-referral and co-worker reporting (self-policing) programs for their employees (subpart E), submit random alcohol and drug testing plans for approval by FRA (subpart G), conduct random testing under part 219 and DOT procedures found in 49 CFR part 40 (part 40) (subpart H), submit annual reports (subpart I), and maintain program records (subpart J).[4] The reports and records required by part 219, especially subparts H through J are necessary for audit purposes in order to demonstrate the employer's compliance with part 219.

FRA's broad-based, multi-component alcohol and drug program has reduced alcohol and drug abuse in the railroad industry (the original regulations were implemented in 1986, and random alcohol testing began in 1994).

- In 1987, testing for cause conducted under FRA and railroad programs resulted in a 4.0 percent positive rate for alcohol and a 6.9 percent positive rate for drugs. These rates have declined each year, with the 1998 testing for cause resulting in a 0.36 percent positive rate for alcohol and a 0.95 percent rate for drugs.
- Random drug testing began in 1989. The first full year's data for 1990 indicated a 1.04 percent rate, declining in 1995 to a 0.93 percent rate, and to a 0.77 percent rate in 1998.
- Random alcohol testing began in 1994, with the first full year's data for 1995 resulting in a 0.42 percent rate, which has declined each year to a 0.003 percent rate for 1998.

FRA post-accident testing data provide perhaps the most stark and compelling proof of the decline in alcohol and drug abuse in the railroad industry. In its post-accident testing program, in which testing is triggered only by significant accidents, FRA may use lower drug detection levels (cutoffs) and test for more substances than those tested for in other types of FRA testing. Post-accident testing data are the most scrutinized because FRA reviews each testing event, and tests each specimen in a designated contract laboratory, which FRA inspects quarterly. Furthermore, because the program has been in effect since 1986, post-accident testing data provide the longest trend line.

[3] Pre-employment testing for alcohol, unlike pre-employment testing for drugs, is authorized but not required (see § 219.502)

[4] For example, Subpart I requires larger railroads to summarize and submit the results of their alcohol and drug misuse programs annually to FRA for review.

An analysis of the post-accident testing data in the chart below demonstrates how positive test results have dramatically declined since FRA's program started. In 1987, the first year of the program, 42 employees produced a positive specimen, resulting in a post-accident positive rate of 0.4 percent for alcohol and 5.1 percent for drugs; by 1998 only four employees produced a positive specimen, resulting in positive rates of 0.0 percent for alcohol and 2.6 percent for drugs.

As shown in the post-accident testing chart, in each of the fields—"Qualifying Events," "Employees Tested," and "Employees Positive . . ."—FRA has achieved a desired reduction, despite a significant increase in rail traffic. The deterrent effect of random drug testing, which was implemented in 1988–1989, most certainly influenced the dramatic reduction in post-accident positives from 41 in 1988 to only 17 in 1990. Additionally, in the eight years from 1987 through 1994, there were 20 post-accident alcohol positives, but only two post-accident alcohol positives in the succeeding four years after implementation of random alcohol testing in 1994. Although some refinement of regulatory requirements over the years has reduced the class of qualifying events (damages criteria for two of the qualifying events have been increased), the remaining events are those for which higher positive rates would be expected due to a higher component of likely human factor involvement.

FRA is aware that many factors have contributed to these results and probably influenced movement in both directions. The number of employees tested has decreased due to fewer qualifying events and crew consist reductions. For Federal workplace detection programs such as FRA's (other than FRA post-accident testing under subpart C), Health and Human Services (HHS) has reduced the detection cut-off level for marijuana metabolites and has increased the detection levels for opiates. Another factor likely to have contributed to higher industry positive rates is the constant improvement in railroad random testing programs. Nonetheless, testing data remain the best indicator of the success that the comprehensive programs mandated by FRA have had in significantly reducing alcohol and drug abuse in the railroad industry.

FRA POST-ACCIDENT TOXICOLOGICAL TESTING RESULTS (1987–1998)

Year	Qualifying events	Employees tested	Employees positive one/more substances [number (A=alcohol; D=drug)]
1987	179	770	42 (3A–39D)
1988	178	682	41 (3A–38D)
1989	161	607	24 (6A–18D)
1990	149	524	17 (1A–16D)
1991	157	552	8 (2A–6D)
1992	109	332	7 (1A–6D)
1993	128	403	8 (2A–6D)
1994	115	294	7 (2A–5D)
1995	82	225	2 (0A–2D)
1996	73	197	1 (0A–1D)
1997	86	240	3 (2A–1D)
1998	60	153	4 (0A–4D)

Note on this chart, concerning 49 CFR 219, subpart C—Post-Accident Toxicological Testing:

The positives reflected in the chart indicate the presence of drugs or alcohol in a covered employee during the event. A positive result does not necessarily indicate a causal relationship with the accident. Causal determinations are made only after a thorough review of all factors that may have contributed to the accident.

With certain stated exceptions, post-accident toxicological tests are required to be conducted for the following events occurring in the United States:

1. Major Train Accident (involving damage exceeding the current FRA reporting threshold ($6,600 in 1998)) involving:

(a) a fatality;

(b) a release of hazardous material lading from railroad equipment resulting in either an evacuation or a reportable injury; or

(c) damage to railroad property of $1,000,000 or more.

2. Impact Accident (as defined in § 219.5 involving damage exceeding the FRA reporting threshold) involving:

(a) a reportable injury; or

(b) damage to railroad property of $150,000 or more.

3. Fatal Train Incident: fatality to any on-duty railroad employee involving movement of on-track equipment with damage not exceeding the reporting threshold.

4. Passenger Train Accident: passenger train involved in an accident that exceeds the reporting threshold and results in an injury reportable to FRA under 49 CFR part 225.

See 49 CFR 219.201(a). Rail/highway grade crossing accidents and accidents wholly resulting from natural causes (e.g., tornado), vandalism, or trespassing are exempt from FRA post-accident testing. *See* 49 CFR 219.201(b). For a major train accident, all train crewmembers must be tested, but any other covered employees (e.g., dispatchers, signalmen) determined not to have had a role in the cause or severity of the accident are not to be tested. *See* 49 CFR 219.201(c)(2).

IV. Currently, a Foreign Railroad's Foreign-Based (FRFB) Employees Who Perform Service Covered by the Hours of Service Laws in the United States Are Exempted by § 219.3(c) from Subparts E (Identification of Troubled Employees), F (Pre-employment Testing), and G (Random Testing)

A. FRA's 1992 Advance Notice of Proposed Rulemaking and 1994 Issuance of Current Exemption at § 219.3(c)

Foreign railroads (railroads incorporated in a place outside the United States) have been subject to portions of FRA's regulations on the control of alcohol and drug use (part 219) since 1986. 51 FR 3973, Jan. 31, 1986. In 1992, FRA published an advance notice of proposed rulemaking (ANPRM) asking for comment on the international application of the additional areas of drug and alcohol testing discussed in the Omnibus Act.

The ANPRM discussed departmental issues because the Federal Aviation Administration (FAA) and the Federal Highway Administration (FHWA, whose Office of Motor Carrier Safety is now the Federal Motor Carrier Safety Administration (FMCSA)), concurrently published separate ANPRMs on international application of the Omnibus Act.

As noted in FRA's ANPRM, section 4 of the Omnibus Act amended then section 202(r)(1) of the Federal Railroad Safety Act of 1970, as well as sections of the Federal Aviation Act and the Commercial Motor Vehicle Safety Act of 1988. 49 U.S.C. 20140, superseding 45 U.S.C. 432(r). Addressing concerns of all three modal administrations, the ANPRM stated that:

> Under these similar provisions, FAA, FRA and FHWA have the authority and obligation to require drug and alcohol tests for safety sensitive employees of foreign employers. The FAA provisions specifically extend coverage to foreign air carriers, and the FHWA and FRA provisions cover motor carriers and railroads, respectively, which definitions include employers based in this country or a foreign country. Moreover, the legal authority extends to all kinds of testing required by the Act: Reasonable suspicion, post-accident, preemployment, and random (subject to U.S. international obligations).
>
> It is the Department's policy to carry out the Act's requirements using a territorial jurisdiction approach. That is, the Department interprets its statutory authority and obligation for drug and alcohol testing to apply to foreign employers who conduct operations in the United States, with respect to those operations. This does not mean that all operations of such a transportation employer would be subject to the rules. For example, a foreign employer's operations within its own country would not be subject to these rules. Following the same policy, only those employees of a foreign transportation employer who perform safety-sensitive functions in operations within the U.S. would be subject to testing.
>
> For each of the three industries involved, the Act requires the Department to act consistent with the international obligations of the U.S. and, to take foreign countries' laws and regulations into account.
>
> (57 FR 59606, Dec. 15, 1992).

To implement Congress' intent, FRA proposed several rules (which later became final rules) and asked in its ANPRM for comments on whether FRA should extend the reach of all its substance abuse rules to FRFB employees who perform, or are assigned to perform, train service or other service covered by the hours of service laws (signal service or dispatching service) in the United States. The ANPRM also asked for information on any treaty obligations or principles of international law that could affect FRA's implementation of the Omnibus Act. Questions posed in the ANPRM are discussed in Section VIII of this preamble.

FRA received no comments in response to this ANPRM. Based on this lack of response and the perceived lack of interest in these issues that it implied, FRA decided not to proceed with a separate rulemaking on extraterritorial application. Accordingly, in 1994, FRA withdrew the ANPRM and instead, in its final rule implementing the Omnibus Act, codified at § 219.3(c) the scope of extraterritorial application already in effect. 59 FR 7448, 59 FR 7482; Feb.15, 1994.

B. Scope of Existing Exemption at § 219.3(c)

Section 219.3(a) makes all of the requirements of part 219 applicable to railroads that operate on the general system and to commuter railroads unless these railroads are exempted by paragraphs (b) (dealing with small railroads) or (c). Paragraph (c) explicitly exempts foreign railroads from only subparts E through G, therefore leaving them subject to subparts A, B, C, D, H, I, and J. Section 219.3(c) reads as follows:

> Subparts E [self-referral and co-worker report policy], F [pre-employment testing] and G [random testing] do not apply to operations of a foreign railroad conducted by covered service employees whose primary place of service ("home terminal") for rail transportation services is located outside the United States. Such operations and employees are subject to subparts A, B, C, and D when operating in United States territory.

The existing paragraph (c) exemption from subparts E through G applies to "covered service employees"—train crews, dispatchers, and signal maintainers subject to the hours of service laws at 49 U.S.C. ch. 21101—who are employed by a foreign railroad and whose primary reporting point is outside the United States. *See*, e.g., 57 FR 59606 (Dec. 15, 1992); 59 FR 7449–7450 (Feb. 15, 1994); and Section X of the preamble, "Section-by-Section Analysis," *infra*. The following categories of employees do not fall within the exemption and are, therefore, subject to part 219 in its entirety, unless their employing railroad qualifies as a small railroad under § 219.3(b): (1) An employee of a United States railroad whose primary reporting point is outside the United States but who enters the United States to perform, or is assigned to perform, service subject to the hours of service laws; and (2) an employee of a foreign or domestic railroad whose primary reporting point is in the United States and who performs, or is assigned to perform, service subject to the hours of service laws.

V. FRA Is Proposing To Narrow the Scope of § 219.3(c) and To Apply All of Part 219 to FRFB Employees Who Perform Train Service or Dispatching Service in the United States, and Pre-employment Testing to All Individuals Seeking To Perform Such Service for the First Time, Unless Their Employer Would Be Exempt Under Proposed § 219.3(b) (Dealing with Small Railroads)

Recent trends in the organization of North American railroads and the expansion of trade among the United States, Mexico, and Canada under such treaties as the North American Free Trade Agreement, together have resulted in a growth, and potential for further growth, in multinational railroad operations. *See* the preamble to FRA's Interim Final Rule (49 CFR part 241) published in today's edition of the **Federal Register** for a discussion of organizational trends, current and potential level of cross-border train dispatching operations, and other issues related to this NPRM. The Interim Final Rule points out the increasing prospect that, if unrestrained, foreign railroads will resort to the use of foreign-based dispatchers who are not subject to the same safety laws and regulations as United States-based dispatchers, to control rail operations in the United States.

Because of the existing level of cross-border train operations involving FRFB train crews, the potential for increase in such operations, and the increasing risk of foreign railroads using foreign-based dispatchers to control rail operation in the United States, and the resulting increased safety risk posed by such actions, FRA now proposes to narrow the scope of all three provisions of § 219.3 that create exemptions from portions of part 219.[5] With regard to the most important of these exemptions, § 219.3(c), FRA would limit the exemption from subparts E, F, and G to FRFB signal service employees, who are currently few in number. FRA would apply all of part 219 to FRFB train and dispatching service employees, including pre-employment testing under subpart F for all individuals seeking to serve in such capacity, unless their

[5] In the proposed rule, FRA repeats verbatim the existing exemption provided by § 219.3(b)(1) from all of part 219, which is for a railroad whose operations are confined to an installation that is not part of the general railroad system of transportation.

employer qualifies as a small railroad under proposed § 219.3(b).

Furthermore, FRA proposes to reduce the scope of the two exemptions at §§ 219.3(b)(2) and 219.3(b)(3) to make sure that they provide relief only to relatively small railroads, as originally intended, and that a railroad's operations outside the United States are taken into account in determining the size of the railroad for purposes of those exemptions. Currently, § 219.3(b)(2) provides relief from subparts D, E, F, and G for a railroad that both (1) does not operate on the track of another railroad except for purposes of interchange and (2) has 15 or fewer employees whose duties are covered by the hours of service laws. The other exemption, at § 219.3(b)(3), provides relief from subpart I (annual reports) for a railroad with fewer than 400,000 manhours. (See Section X of the preamble, "Section-by-Section Analysis," *infra*.)

In the context of § 219.3(c), and omitting the special case involving pre-employment testing, the term "FRFB train employee" or "FRFB dispatching service employee" basically refers to an individual who meets all of the following three criteria. First, the individual must be employed by a foreign railroad or by a contractor to a foreign railroad. If the individual is employed by a United States railroad (a railroad incorporated in the United States) or a contractor to a United States railroad, the exemption in § 219.3(c) from subparts E through G does not apply. Second, the individual's primary place of service for rail transportation services ("home terminal") must be located outside the United States. If the individual's home terminal is inside the United States, § 219.3(c) does not apply. Third, the individual must either—

(a) In the case of a train service employee, be engaged in or connected with the movement of a train, including a hostler (49 U.S.C. 21101(5)), or

(b) In the case of a dispatching service employee, report, transmit, receive, or deliver orders related to or affecting train movements (49 U.S.C. 21101(2))—in the United States during a duty tour or be assigned to perform such train service or dispatching service in the United States during a duty tour.

As previously noted, train and dispatching service in the United States conducted by FRFB employees who perform, or are assigned to perform, such service in the United States is already subject to subparts A (general requirements and definitions), B (prohibitions), C (post-accident toxicological testing), D (testing for cause), H (testing procedures), I (annual report), and J (recordkeeping procedures), unless their employer falls within an exemption at § 219.3(b).

FRA proposes to amend the exemption at § 219.3(c) to limit it to FRFB signal maintainers. Train operations and dispatching service in the United States performed by FRFB train or dispatching service employees, who are currently subject to all of part 219 other than subparts E (self-referral and co-worker report programs), F (pre-employment drug tests), and G (random testing), would become subject to these subparts as well. It should be noted that even though, broadly speaking, subparts H, I, and J currently apply to operations in the United States by FRFB train crews and dispatching service employees, some specific requirements in subparts H, I, and J do not by their terms apply to these operations because the requirements are partly or wholly triggered only if the employing railroad is required to do pre-employment or random testing. *See* the annual reporting requirements in subpart I at, e.g., §§ 219.801(d)(3)–(5) and 219.803(e)(3)–(5), for information by type of testing; § 219.803(d)(6), for number of persons denied a position as a covered employee following a pre-employment drug test; and § 219.801(d)(12), for number of covered employees who refused to submit to a random alcohol test required by part 219. By making pre-employment and random testing requirements applicable to such operations, the proposed amendments would trigger these additional reporting requirements in subpart I, increase the scope of the foreign railroad's activities subject to subpart H and 49 CFR part 40 testing safeguards and procedures, and require the keeping of additional records under subpart J.

To comply with these proposed requirements, foreign railroads that use FRFB train or dispatching service employees to conduct train operations in the United States would have to conduct pre-employment drug tests (subpart F) and submit random alcohol and drug testing plans for approval by FRA (subpart G) for these employees. To meet the same requirements already applicable to railroads with United States-based train and dispatching service employees and to United States railroads with foreign-based train and dispatching service employees, FRA would also require foreign railroads employing or contracting for the services of FRFB train or dispatching service employees operating in the United States to comply with subpart E by providing self-referral and co-worker report programs for such operations and employees. Finally, as indicated earlier, a foreign railroad's responsibilities to comply with subparts H, I, and J with respect to such operations and employees would become more complex because subpart H would also govern random and pre-employment testing, subpart I would require additional specific information on random or pre-employment tests if random or pre-employment testing is required, and subpart J would call for certain records for random and pre-employment tests. FRA's intent is to ensure that, unless exempted by proposed § 219.3(b), part 219 is fully applicable to all employees who perform, or are assigned to perform, train or dispatching service in the United States subject to the hours of service laws at 49 U.S.C. ch. 211, whether they are foreign- or domestically-based and whether employed by a foreign or a domestic railroad.

VI. Whether and to What Extent Extraterritorial Dispatchers or FRFB or Extraterritorial Signal Maintainers Should Be Covered by Part 219

FRA's Interim Final Rule, also published in this edition of the **Federal Register**, generally requires dispatchers controlling United States railroad operations to be located in the United States; by way of exception, the rule (1) conditionally permits extraterritorial dispatching in an emergency, (2) permits continued extraterritorial dispatching of very limited track segments in the United States that were normally being so dispatched in December 1999, and (3) conditionally permits extraterritorial dispatching of certain other fringe border operations. The Interim Final Rule invites comments on whether FRA should adopt an alternative regulatory scheme under which extraterritorial dispatching would be permitted; under this alternative scheme extraterritorial dispatchers may be subject to part 219. As discussed in the Interim Final Rule, an extraterritorial dispatcher of railroad operations in the United States, who is not a "covered employee" and therefore generally outside the scope of application of part 219, could compromise safety in the United States if impaired by drugs or alcohol. Because of the *de minimis* nature of the exceptions to the prohibition against extraterritorial dispatching, FRA does not propose to apply any or all of part 219 to the few employees permitted to conduct extraterritorial dispatching under the Interim Final Rule based on that service. FRA invites comment on this issue.

FRA's safety analysis of extraterritorial dispatchers parallels its safety analysis of extraterritorial and FRFB signal maintainers. An impaired extraterritorial signal maintainer responsible for signals controlling rail operations in the United States could adversely impact safety in the United States without ever physically entering United States territory. An extraterritorial signal maintainer, who by definition is not a "covered employee" and therefore who is normally outside the scope of application of part 219, or an FRFB signal maintainer, who is exempt from subparts E, F, and G under § 219.3(c), could endanger railroad operations in the United States. For this reason, FRA considered proposing an expanded application of part 219 to cover such extraterritorial or FRFB signal maintainers. It appears that this activity is also *de minimis*. To FRA's knowledge, no FRFB signal maintainer comes into the United States to maintain a railroad signal system on a regular basis, and only a few FRFB signal maintainers do so on an occasional basis. This infrequent performance of signal service in the United States by FRFB signal maintainers occurs in the areas of Buffalo and Niagara Falls, New York; Detroit, Michigan; and Sarnia, Michigan. After examining the *de minimis* impact of such extraterritorial or FRFB signal maintainers on rail operations in the United States, FRA has decided that such a proposal is not necessary at this time. However, commenters are invited to address whether any or all of part 219 should be applied to extraterritorial signal maintainers and whether subparts E, F, and G should be applied to FRFB signal maintainers who perform signal service in the United States. (Again, it should be noted that signal maintainers based in the United States, whether employed by United States or foreign railroads, remain, as always, fully subject to part 219 with respect to their covered service (which by definition is in the United States) unless exempt under a provision of existing § 219.3(b). Likewise, signal maintainers employed by United States railroads but based outside the United States remain subject to part 219 in its entirety with respect to their covered service in the United States unless otherwise exempt.)

VII. Whether To Broaden the Application of Other Part 219 Requirements

The preceding portions of this preamble discuss the issue of whether and how to broaden the application of principally random testing and pre-employment testing and of how to narrow three exemption provisions in § 219.3. In this portion of the preamble, FRA solicits comment on whether to broaden the application of other part 219 requirements to reach operations and employees outside the United States.

For example, FRA invites comment on whether it should expand the basis for requiring post-accident testing under subpart C and testing for cause under subpart D to events that occur outside the United States and, if so, what those events should include. Currently, under part 219, FRA limits qualifying events for post-accident and "for cause" testing to those within the borders of the United States. Should FRA expand post-accident testing to include FRFB train employees who are involved in an otherwise qualifying event while in transit to or from the United States?

If FRA decides against such an expansion, the agency will likely amend—

- § 219.201 to make explicit that events for which post-accident toxicological testing under subpart C is required are limited to those within the borders of the United States; and
- §§ 219.300 and 219.301 to clarify that events for which reasonable suspicion testing is mandatory and reasonable cause testing is authorized are limited to those that occur within the borders of the United States.

VIII. Implementation Issues Raised by Extraterritorial Application of Part 219

In its 1992 ANPRM, FRA raised for comment several practical issues associated with the extraterritorial application of part 219, including:

- How would foreign employers ensure that an employee who had tested positive did not engage in operations in the United States until after his or her reinstatement requirements had been met?
- How would FRA monitor or enforce compliance outside the United States?

As in its 1992 ANPRM, FRA seeks comment on potential implementation issues. FAA and FMCSA, the other DOT modes covered by the Omnibus Act, have taken divergent approaches to extraterritorial application of their regulations. (The Federal Transit Administration has not addressed this issue since to date there are no cross-border transit operations affecting United States transit safety.) Citing work in progress by the International Civil Aviation Organization, FAA withdrew a proposed rulemaking that would have required foreign air carriers to establish alcohol and drug testing programs for their employees performing safety-sensitive aviation functions within the United States (65 FR 2079, Jan. 13, 2000).

FMCSA, which, like FRA, does not have an international treaty organization for its regulated industry, adopted an approach similar to what FRA is proposing. FMCSA has applied all of 49 CFR part 382 (FMCSA's equivalent to part 219) to persons and employers of such persons who operate a commercial motor vehicle in commerce in the United States, including foreign-domiciled employees. See 49 CFR 382.115. In the preamble to its final rule (60 FR 49321, 49323, Sept. 22, 1995), FMCSA's predecessor agency, the FHWA, stated that "[a]ll drivers operating in the United States are to be subject to controlled substances and alcohol testing, regardless of domicile. The safety concerns which led to the Omnibus Act pertain equally to United States and foreign-based drivers."

FRA is now reconsidering many of the issues first raised in its ANPRM about the implementation of part 219 testing in foreign countries, and invites comments on extraterritorial application issues. FRA post-accident toxicological testing, unlike other testing under part 219, does not parallel part 40 procedures. *See* part 219, subpart C. In its investigation of a qualifying accident, FRA may require testing for different substances (e.g., carbon monoxide in the remains of a deceased employee) or testing at lower levels of detection than those required under part 40. FRA therefore contracts out all post-accident testing to an HHS-certified special laboratory that meets its detailed testing specifications (currently NWT Inc. in Salt Lake City, Utah). For example, if based on comments received on this NPRM, FRA decides to apply part 219 to extraterritorial signal maintainers and an extraterritorial signal maintainer could have contributed to a qualifying accident on United States soil, is there a way to assure that the employing railroad will ship the maintainer's specimens to FRA's designated post-accident laboratory? Although several Canadian laboratories have been deemed equivalent by HHS, post-accident testing requires testing specifications beyond those of part 40.

Furthermore, clearance through customs and international mail may delay shipment of body fluid and tissue specimens, and may also cause problems with the timely transmission of specimens and their accompanying paperwork. FRA also seeks comment on whether employing railroads in foreign countries would have difficulty obtaining and using evidential breath

testing devices that are on the National Highway Traffic Safety Administration Conforming Products List, as required for part 40 alcohol testing.

IX. In Conclusion, FRA Believes That, Unless Exempted by Proposed § 219.3(b), All of Part 219 Should Apply to FRFB Employees Who Perform Train Service or Dispatching Service in the United States and Pre-Employment Testing Should Apply to Applicants To Perform Such Service

Train and dispatching service employees operating in the United States whose judgment and motor skills are impaired by the use of alcohol or drugs pose a significant safety risk to themselves and others. Significant portions of FRA's highly successful, broad-based, multi-component part 219 alcohol and drug program, including random drug and alcohol testing, do not currently apply to FRFB train and dispatching service employees operating in the United States. If such employees are impaired by alcohol or drugs, they can jeopardize the safety of United States railroad operations. Since train employees do not experience the deterrence provided by the timely oversight of a supervisor because of their normal, independent working conditions, random testing is especially necessary to provide the necessary deterrent effect. With the existing levels of cross-border train operations and the potential for increases in such operations, FRA believes that it is necessary to narrow the scope of three exemptions from part 219 and (absent exemption by proposed 219.3(b)) to apply all of its part 219 program to FRFB train and dispatching service employees operating in the United States, and to apply pre-employment testing to individuals seeking to perform such service. The proposed amendments to part 219 (together with the Interim Final Rule on extraterritorial dispatching published elsewhere in this issue), will help ensure the safety of railroad operations in the United States.

X. Section-by-Section Analysis

Introduction

This section-by-section analysis is intended to explain the provisions of the proposed rule. A number of these provisions and issues related to them have been addressed earlier in this preamble. Accordingly, the preceding discussions should be considered in conjunction with those below and will be referred to as appropriate.

General Provisions (Subpart A)

Section 219.3 Application

Paragraph (a) contains a general statement of the scope of applicability of part 219, and paragraphs (b) and (c) contain exceptions to the general statement of applicability. The three exemptions in paragraph (b) are available to both domestic and foreign railroads, which is noted in the new heading for the paragraph. The exemption in paragraph (c) is available only to foreign railroads, also noted in the new heading for paragraph (c).

Paragraph (a) is unchanged except to add the heading "General" and to make explicit that the commuter railroads to which part 219 applies must operate in the United States. Paragraph (a) means that part 219 applies to each railroad that operates on the general railroad system of transportation and each railroad providing commuter or other short-haul service as described in the statutory definition of "railroad," unless the railroad falls into an exception stated in paragraph (b) or (c). The terms "railroad" and "general railroad system of transportation" are defined in § 219.5. Intercity passenger operations and commuter operations in the United States are covered even if not physically connected to other portions of the general railroad system. See discussion below.

Paragraph (b)(1), which uses standardized regulatory language, means that railroads whose entire operations are conducted on track within an installation that is outside of the general railroad system of transportation in the United States (in this paragraph, "general system" or "general railroad system") are not covered by this part. Tourist, scenic or excursion operations that occur on tracks that are not part of the general railroad system would, therefore, not be subject to this part. The word "installation" is intended to convey the meaning of physical (and not just operational) separateness from the general system. A railroad that operates only within a distinct enclave that is connected to the general system only for the purposes of receiving or offering its own shipments is within an installation. Examples of such installations are chemical and manufacturing plants, most tourist railroads, mining railroads, and military bases. However, a rail operation conducted over the general system in a block of time during which the general system railroad is not operating is not within an installation and, accordingly, not outside of the general system merely because of the operational separation.

Read together, proposed *paragraphs (a) and (b)(1)* mean that all of part 219 applies to all railroads that operate on the general railroad system of transportation or are commuter or intercity passenger railroads, except those exempted from one or more subparts of part 219 by proposed paragraphs (b)(2), (b)(3), or (c).

Paragraph (b)(2). Existing paragraph (b)(2) exempts from subparts D (testing for cause), E (self-referral and co-worker report programs), F (pre-employment testing), and G (random testing) a railroad that meets both of the following criteria: the railroad must (1) utilize 15 or fewer employees covered by the hours of service laws and (2) not operate on the tracks of another railroad or engage in other joint operations with another railroad except for purposes of interchange.

Under proposed paragraph (b)(2), the second criterion remains the same, but the first criterion changes. As proposed, a railroad (including, for example, a foreign railroad that utilizes FRFB employees to perform train operations in the United States) would qualify as a small entity exempt from subparts D, E, F, and G of part 219 upon satisfaction of the following two conditions. First, the *total* number of its employees covered by the hours of service laws (as train employees, dispatching service employees, or signal employees), and employees who would be covered by the hours of service laws if their services were performed in the United States, would have to be 15 or fewer. Second, as is the case currently, the railroad would also be obliged not to operate on the tracks of another railroad or otherwise engage in joint operations in the United States except in order to perform interchange.

The following example, the first of a series, illustrates the interpretation of proposed paragraph (b)(2):

- *Example 1:* Railroad XYZ employs 10 foreign-based individuals who perform service in the United States that is covered by the hours of service laws and 120 foreign-based individuals who would be covered by the hours of service laws if their services were performed in the United States. Railroad XYZ would not qualify under proposed paragraph (b)(2)(i) since it employs a total of 130 individuals who are, or would be, subject to the hours of service laws.

By exempting only railroads *which in their entirety, worldwide*, comprise 15 or fewer employees who are or would be subject to the hours of service laws, FRA would effectuate the original intent of this subsection, which was to lessen the economic impact of part 219 on those small entities that have both limited

resources and a minimal impact on safety.

Although under proposed paragraph (b)(2) FRA would partially determine the applicability of subparts D, E, F, and G to a railroad based on the total number of its employees who are, or would be, covered by the hours of service laws, a railroad that is exempted only under proposed paragraph (b)(2) from subparts D, E, F, and G would have to comply with all the other requirements of part 219 (subparts A, B, C, D, H, I, and J) generally only with respect to those of its employees who are "covered employees" within the meaning of the substantive provisions of part 219. In Example 1, Railroad XYZ with 10 foreign-based employees covered by the hours of service laws and 120 foreign-based employees who would be covered by the hours of service laws if their services were performed in the United States, would not be exempt under proposed paragraph (b)(2). The question remains whether Railroad XYZ is exempt from any subpart of part 219 under proposed paragraph (c) of § 219.3. The following examples illustrate the relationship between the exemption in proposed paragraph (b)(2) and the exemption in proposed paragraph (c).

- *Example 2:* If Railroad XYZ is a domestic railroad (incorporated in the United States) that just happens to have only foreign-based employees, then the proposed exemption at paragraph (c) would not apply because paragraph (c) exempts from subparts E, F, and G only operations by a foreign railroad, not a domestic railroad. As a result, this domestic railroad would be required to conduct random testing on its 10 foreign-based employees who perform covered service in the United States.[6] Broadly speaking, these 10 employees would also be the only ones subject to part 219's prohibitions, general conditions, and other testing and reporting requirements. (However, for example, if § 219.11(g) requires training of a supervisor of a covered employee, then the railroad would have to train the supervisor even if the supervisor is not a covered employee.)
- *Example 3:* If Railroad XYZ is a foreign railroad (incorporated outside the United States) and all ten of its foreign-based employees who perform covered service in the United States perform train or dispatching service in the United States, then proposed paragraph (c) would not exempt them either. All ten FRFB train or dispatching service employees would be subject to random testing.
- *Example 4:* However, if some of foreign Railroad XYZ's ten foreign-based employees instead perform only signal service in the United States, then those employees would be subject to the exemption at proposed paragraph (c) and, therefore, would not be subject to random testing.

[6] Consistent with FRA's treatment of domestic small railroads; part 219 would prohibit a railroad from conducting random testing under part 219 authority on its 120 employees who do not operate in the United States.

Paragraph (b)(3). Existing paragraph (b)(3) reads as follows, "Subpart I does not apply to a railroad that has fewer than 400,000 total manhours." Proposed paragraph (b)(3) would make two basic changes to that provision. First, it would replace the term "manhours" with the term "employee hours" to make the provision gender-neutral. Second, the proposed paragraph would change and clarify the way in which employee hours are to be calculated, in part by defining the term "employee" as used in that subsection. Under the proposal FRA would look to a railroad's *total* number of employee hours worked worldwide in a calendar year, not just those worked in the United States, to determine whether the railroad would be required to file an annual Management Information System (MIS) report under subpart I. For a railroad to be exempt from MIS reporting, the number of hours worked by *all* of the railroad's employees regardless of their location or occupation, not just those employees performing train operations or other covered service in the United States, would have to total fewer than 400,000. For purposes of proposed paragraph (b)(3), an "employee of a railroad" is any individual who performs a service for the railroad; the term would include, for example, people directly compensated by the railroad and people employed by a contractor to the railroad who perform a service for the railroad. Non-work time, such as holidays, sick leave, or annual leave, would be excluded from the calculation of employee hours, even though it is paid.

It should be noted that the calculation of employee hours under proposed paragraph (b)(3) differs in some respects from the calculation of employee hours for purposes of FRA's accident reporting rules at 49 CFR part 225. *See* 49 CFR 225.21(d) (regarding the Form FRA 6180.56, "Annual Railroad Report of Manhours by State"). When reporting employee hours under the accident reporting rules, a railroad is to include only the hours of individuals who are directly compensated by a railroad, not the hours of employees of railroad contractors, and, as a general rule, to include only hours worked in the United States. *See* the FRA Guide for Preparing Accident/Incident Reports (1997 edition), Ch. 3, p. 3; Ch. 11, p. 1.) (By way of exception to the general rule for part 225 purposes, a railroad reporting under part 225 must include hours worked outside the United States in the count of employee hours only if the employee works in both the United States and in a foreign country during the same tour of duty. *Id.*)

FRA proposes to base the application of subpart I on a railroad's total number of employee hours worldwide, rather than on the railroad's total number of employee hours worked in the United States, in order to ensure FRA's ability to monitor foreign-based railroads that impact rail safety in the United States. Requiring these railroads to submit MIS reports, which provide data on the required part 219 programs and tests on the subject employees, would allow FRA to capture basic compliance data even if budgetary and logistical concerns were to impact FRA's ability to conduct inspections in foreign countries.

Paragraph (c). This paragraph would revise existing paragraph (c). Proposed paragraph (c) would limit the existing exemption for operations of a foreign railroad conducted by a covered service employee whose primary reporting point is outside the United States and who is employed by a foreign railroad to FRFB signal maintainers. The change would make an FRFB train or dispatching service employee subject to part 219 to the same extent as a train or dispatching service employee whose primary reporting point is in the United States and as a train or dispatching service employee whose primary reporting point is outside the United States and who is employed by a United States railroad (a railroad incorporated in the United States). Proposed § 219.5 would define "foreign railroad" as a railroad that is incorporated outside the United States. The current term ("primary place of service ("home terminal") for rail transportation services") would be replaced by the more generic term ("primary place of reporting") to convey more clearly that the proposed narrower exemption applies to signal employees, whose principal reporting point is not typically called a "home terminal."

While the text of proposed paragraph (c) states that subparts E, F, and G do not apply to services of a foreign railroad performed by one of its employees whose principal reporting place is outside the United States and who performs signal maintenance in the United States, the note under that proposed paragraph states the positive inference that subparts A, B, C, D, H, I, and J of part 219 do apply to services in the United States performed by FRFB signal employees unless a provision of paragraph (b) provides an exemption from one or more of those subparts. (For

example, if the foreign railroad is small enough and operationally isolated enough to come within proposed paragraph (b)(2), then none of its covered service employees (neither its train crews, nor its signal maintainers, nor its dispatchers who perform covered service in the United States) would be subject to subparts D, E, F, or G.) For clarity, the proposed rule adds subparts H, I, and J to the existing list ("subparts A, B, C, and D") in the second sentence of paragraph (c) of those subparts applicable to individuals meeting all of the following criteria: (1) Whose principal reporting point is outside the United States, (2) who are employed by foreign railroads, and (3) who are covered signal employees, unless exempted by § 219.3(b).

As discussed above, FRA is also asking for comment on whether signal maintainers who are the counterparts of FRFB train and dispatching service employees and whether extraterritorial signal maintainers, who remain outside the United States but may affect rail operations in the United States without entering United States territory, should be treated differently from FRFB train and dispatching service employees.

Section 219.5 Definitions

The terms "covered service" and "covered employee" are closely interrelated and, therefore, their definitions are discussed together.

Covered service. FRA proposes to add this definition of a basic term used in part 219, which appeared in part 219 as originally issued in 1985 but which is no longer among the definitions. The proposed definition tracks the definition in the 1985 final rule, with the exception that FRA makes explicit that FRA continues to interpret "covered service" as occurring only in the United States. In this respect, no substantive change is intended. As stated in the section-by-section analysis of the 1985 final rule,

> Covered service is service subject to the Hours of Service Act. This is a practical, rather than a craft-based, definition of the persons and functions subject to the regulations. However, the employees that will most often fall within the definition of covered employee are train and engine crews, yard crews (including switchmen), hostlers, train order and block operators, dispatchers, and signalmen. These are the functions identified by the Congress as being connected with the movement of trains and requiring maximum limits on duty periods and required off-duty periods in order to ensure their fitness. 50 FR 31530 (Aug. 2, 1985).

Covered employee. The definition of this term is proposed to be revised to make clear that FRA interprets covered service as being performed only in the United States. It should be noted that the existing rule currently provides as follows:

> (6) An employee must be subject to testing only while on duty. Only employees who perform covered service for the railroad are subject to testing under this part. In the case of employees who during some duty tours perform covered service and during others do not, the railroad program must specify the extent to which, and the circumstances under which they are to be subject to testing. To the extent practical within the limitations of this part and in the context of the railroad's operations, the railroad program must provide that employees are subject to the possibility of random testing on any day they actually perform covered service.

49 CFR 219.601(b)(6) (regarding railroad random drug testing programs). The section on railroad random alcohol testing programs contains an almost identical provision. 49 CFR 219.607(b)(5). FRA will be glad to work with railroads to exercise the flexibility provided by the rule.

General railroad system of transportation. FRA proposes to add this definition to clarify that the term is limited to that part of the general railroad system of transportation that is located within the borders of the United States.

Annual Report (Subpart I)

§ 219.801 Reporting alcohol misuse prevention program results in a management information system.

§ 219.803 Reporting drug misuse prevention program results in a management information system.

First, FRA proposes to make conforming changes to §§ 219.801 and 219.803 in order to reflect the replacement of the term "manhours" in § 219.3(b)(3) with the gender-neutral term "employee hours" and to reflect the new criteria for determining which hours should be included as employee hours (*e.g.*, hours worked by a railroad's employees and contractors worldwide). See text and analysis of proposed § 219.3(b)(3). Finally, FRA would conform § 219.803 to § 219.801 by, *e.g.*, defining the calendar year.

XI. Regulatory Impact

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule has been evaluated in accordance with existing policies and procedures, and determined to be significant under both Executive Order 12866 and DOT policies and procedures (44 FR 11034; Feb. 26, 1979). FRA has prepared and placed in the docket a regulatory evaluation addressing the economic impact of this proposed rule. Document inspection and copying facilities are available at 1120 Vermont Avenue, NW., 7th Floor, Washington, DC. Photocopies may also be obtained by submitting a written request to the FRA Docket Clerk, Office of Chief Counsel, Mail Stop 10, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20590. Access to the docket may also be obtained electronically through the web site for the Docket Management System at *http://dms.dot.gov*. FRA invites comments on this regulatory evaluation.

As part of the regulatory evaluation, FRA has assessed costs and benefits expected from the adoption of the proposed rule. Canadian and Mexican railroads employing FRFB employees to perform train or dispatching service in the United States would incur, by United States standards, a seemingly low level of costs associated with extending the application of all of the part 219 requirements addressing control of alcohol and drug use to FRFB employees performing train or dispatching service in the United States.

For a twenty-year period, the Net Present Value (NPV) of the estimated quantified costs are $250,384 for Canadian railroads and $115,860 for Mexican railroads. The following table presents estimated twenty-year monetary costs associated with the distinct proposed rule modifications.

ESTIMATED 20-YEAR COSTS

[Net Present Value]

Description	Canada	Mexico
Identification of Troubled Employees	$7,883	$2,032
Pre-employment Tests	20,857	15,370
Random Alcohol and Drug Testing	166,139	49,962

ESTIMATED 20-YEAR COSTS—Continued
[Net Present Value]

Description	Canada	Mexico
Annual Report	7,373	4,256
Recordkeeping Procedures	47,758	43,162
General: Written Instructions	374	1,078
Total (rounded)	250,384	115,860

Detailed calculations of these estimates can be found in Section 7.0 of the regulatory evaluation on file at FRA in the docket for this rulemaking.

The United States Department of Transportation estimates the "willingness to pay" to avert a fatality to be $2.7 million. The estimated value of preventing a critical injury that is non-fatal over the next twenty years is between $532,020 and $2,058,750, depending on the year in which the injury occurs. Twenty-year costs of this NPRM would be justified if one critical injury or a combination of less severe injuries and property damages totaling $366,244 was prevented over the twenty years. FRA believes that the costs associated with the transition from the current rule to the proposed rule would be justified by safety benefits in the form of fewer accidents and related injuries, fatalities, property damage, and hazardous materials releases. FRA also believes that the safety of certain domestic rail operations would be compromised if the proposed rule is not implemented. A more detailed explanation of the benefits of this rule as well as a summary of the cost-benefit analysis can be found in Sections 9.0 and 10.0 of the regulatory evaluation on file at FRA in the docket for this rulemaking.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of proposed and final rules to assess their impact on small entities. FRA has prepared and placed in the docket an Initial Regulatory Flexibility Assessment (IRA), which assesses the small entity impact. Document inspection and copying facilities are available at 1120 Vermont Avenue, NW., 7th Floor, Washington, DC 20590. Photocopies may also be obtained by submitting a written request to the FRA Docket Clerk, Office of Chief Counsel, Mail Stop 10, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20590.

Pursuant to section 312 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), FRA has published an interim policy that formally establishes "small entities" as being railroads that meet the line-haulage revenue requirements of a Class III railroad. For other entities, the same dollar limit in revenue governs whether a railroad, contractor, or other respondent is a small entity (62 FR 43024, Aug. 11, 1997).

The IRA concludes that this proposed rule would not have an economic impact on a sizable number of small entities. FRA further certifies that this proposed rule is not expected to have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* The sections that contain the new information collection requirements and the estimated time to fulfill each requirement are as follows:

CFR Section—49 CFR	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden hours
219.401/403/405—Voluntary Referral & Co-worker Report Policies.	6 railroads	6 policies	33.33 hours	200	$7,880
219.405(c)(1)—Report by a Co-worker	6 railroads	1 report	5 minutes	.05	3
219.403/405—SAP Counselor Evaluation	6 railroads	10 reports/referrals	2 hours	20	3,000
219.601(a)—Railroad Random Drug Testing Programs.	6 railroads	6 programs	1 hour	6	228
—Amendments to Programs	6 railroads	1 amendment	1 hour	1	38
219.601(b)(1)—Random Selection Proc.—Drug.	6 railroads	72 documents	4 hours	288	4,320
219.601(b)(4); 219.601(d)—Notice to Employees.	6 railroads	6 notices	10 hours	60	2,280
—Notice to Employees—Selection for Testing.	6 railroads	60 notices	1 minute	1	38
219.603(a)—Notice by Employee Asking to be Excused from Urine excuses.	200 employees	2 documented excuses.	15 minutes	.50	17
219.607(a)—Railroad Random Alcohol Testing Progs.	6 railroads	Incl. in 219.601(a)	Incl. in 219.601(a)	(1)	(1)
—Amendments	6 railroads	1 amendment	1 hour	1	38
219.608—Administrator's Determination of Random Alcohol Testing Rate.	6 railroads	2 MIS reports	2 hours	4	152
219.609—Notice by Employee Asking to be Excused from Random Alcohol Testing.	200 employees	2 documented excuses.	15 minutes	.50	17
219.801—Alcohol Testing Management Information System Data Collection Form.	6 railroads	1 form	4 hours	4	152
—"EZ" Data Collection Form	6 railroads	1 form	2 hours	2	76
219.803—Drug Testing MIS Data Collection Form.	6 railroads	1 form	4 hours	4	152

CFR Section—49 CFR	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden hours
—Drug Testing MIS Zero Positives Data Coll. Form.	6 railroads	5 forms	2 hours	10	380
219.901/903—Retention of Breath Alcohol/ Urine Drug Testing Records.	6 railroads	240 records	5 minutes	20	300

[1] Included in 219.601(a).

All estimates include the time for reviewing instructions; searching existing data sources; gathering or maintaining the needed data; and reviewing the information. Pursuant to 44 U.S.C. 3506(c)(2)(B), the FRA solicits comments concerning: whether these information collection requirements are necessary for the proper performance of the functions of FRA, including whether the information has practical utility; the accuracy of FRA's estimates of the burden of the information collection requirements; the quality, utility, and clarity of the information to be collected; and whether the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, may be minimized. For information or a copy of the paperwork package submitted to OMB, contact Mr. Robert Brogan at 202–493–6292.

Organizations and individuals desiring to submit comments on the collection of information requirements should direct them to Mr. Robert Brogan, Federal Railroad Administration, 1120 Vermont Avenue, NW., Mail Stop 17, Washington, DC 20590.

OMB is required to make a decision concerning the collection of information requirements contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

FRA is not authorized to impose a penalty on persons for violating information collection requirements which do not display a current OMB control number, if required. FRA intends to obtain current OMB control numbers for any new information collection requirements resulting from this rulemaking action prior to the effective date of a final rule. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

D. Federalism Implications

Executive Order 13132, entitled "Federalism," requires that each agency in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provide[] to the Director of the Office of Management and Budget a federalism summary impact statement, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of the State and local officials have been met * * *

See section 6(b)(2)(B).

Normally, FRA performs these required Federalism consultations in the early stages of a rulemaking at meetings of the full Railroad Safety Advisory Committee ("RSAC"), which includes representatives of groups representing State and local officials. Shortly after RSAC's inception FRA agreed not to task the RSAC with rulemaking concerning alcohol and drug testing issues, since, as discussed above, these issues require extensive coordination and consultation with both DOT and HHS.

FRA has instead solicited comment on the Federalism implications of this proposed rule from nine groups designated as representatives for various State and local officials. On March 17, 2000, FRA sent a letter seeking comment on the Federalism implications of this NPRM and on the Interim Final Rule to the following organizations: the American Association of State Highway and Transportation Officials, the Association of State Rail Safety Managers, the Council of State Governments, The National Association of Counties, the National Association of Towns and Townships, the National Conference of State Legislatures, the National Governors' Association, the National League of Cities, and the U.S. Conference of Mayors. To date, FRA has received no indication of concerns about the Federalism implications of this rulemaking from these representatives. FRA will adhere to Executive Order 13132 when issuing a final rule in this proceeding.

E. Environmental Impact

FRA has evaluated this regulation in accordance with its "Procedures for Considering Environmental Impacts" (FRA's Procedures) (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this regulation is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. 64 FR 28545, 28547, May 26, 1999. Section 4(c)(20) reads as follows:

(c) Actions Categorically Excluded. Certain classes of FRA actions have been determined to be categorically excluded from the requirements of these Procedures as they do not individually or cumulatively have a significant effect on the human environment. * * * The following classes of FRA actions are categorically excluded: * * *

(20) Promulgation of railroad safety rules and policy statements that do not result in significantly increased emissions of air or water pollutants or noise or increased traffic congestion in any mode of transportation.

In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this regulation that might trigger the need for a more detailed environmental review. As a result, FRA finds that this regulation is not a major Federal action significantly affecting the quality of the human environment.

F. Unfunded Mandates Reform Act of 1995

Pursuant to section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each federal agency "shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law)." Section 202 of the Act (2 U.S.C. 1532) further requires that

before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement * * *

detailing the effect on State, local, and tribal governments and the private sector. The proposed rule would not result in the expenditure, in the aggregate, of $100,000,000 or more in any one year, and thus preparation of a statement is not required.

XII. Request for Public Comment

In accordance with Executive Order 12866, FRA is allowing 60 days for comments. FRA believes that a 60-day comment period is appropriate to allow parties with interests to comment on this proposed rule. FRA solicits written comments on all aspects of this proposed rule, and FRA may make changes to the final rule based on comments received in response to this NPRM.

List of Subjects in 49 CFR Part 219

Alcohol abuse, Drug abuse, Drug testing, Penalties, Railroad safety, Reporting and recordkeeping requirements, Safety, Transportation.

The Proposal

In consideration of the foregoing, the FRA proposes to amend chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 219—[AMENDED]

1. The authority citation for part 219 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20140, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49(m).

2. Section 219.3 is revised to read as follows:

§ 219.3 Application.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, this part applies to—

(1) Railroads that operate rolling equipment on standard gage track which is part of the general railroad system of transportation; and

(2) Railroads that provide commuter or other short haul rail passenger service in a metropolitan or suburban area (as described by 49 U.S.C. 20102) in the United States.

(b) *Exceptions for domestic railroads and foreign railroads.* (1) This part does not apply to a railroad that operates only on track inside an installation which is not part of the general railroad system of transportation.

(2) Subparts D, E, F and G of this part do not apply to a railroad that—

(i) Has a total of 15 or fewer employees who are covered by the hours of service laws at 49 U.S.C. 21103, 21104, or 21105, or who would be subject to the hours of service laws at 49 U.S.C. 21103, 21104, or 21105 if their services were performed in the United States; and

(ii) Does not operate on the tracks in the United States of another railroad (or otherwise engage in joint operations in the United States with another railroad) except as necessary for purposes of interchange.

(3) Subpart I of this part does not apply to a railroad that has fewer than 400,000 total employee hours, including hours worked by all employees of the railroad, regardless of occupation, not only while in the United States but also while outside the United States. For purposes of this paragraph (b)(3), the term "employees of the railroad" includes individuals who perform service for the railroad, including not only individuals who receive direct monetary compensation from the railroad for performing a service for the railroad, but also such individuals as employees of a contractor to the railroad who perform a service for the railroad.

(c) *Exception for foreign railroads.* Subparts E, F, and G of this part do not apply to service in the United States or outside the United States of a foreign railroad performed by a covered signal employee of the foreign railroad if the employee's primary place of reporting is located outside the United States.

Note to paragraph (c) of this section: Unless otherwise provided by paragraph (b) of this section, subparts A, B, C, D, H, I, and J of this part apply to service in the United States of a foreign railroad performed by a covered signal employee of the foreign railroad if the employee's primary place of reporting is located outside the United States. Unless otherwise provided by paragraph (b) of this section, this part applies to the following: (1) Operations in the United States of a foreign railroad conducted by a covered train employee of the foreign railroad if the employee's primary place of service ("home terminal") for rail transportation services is located outside the United States or inside the United States; (2) service in the United States performed by a covered dispatching service employee of the foreign railroad if the employee's primary place of reporting is located outside the United States or inside the United States ; and (3) service in the United States performed by a covered signal employee of the foreign railroad if the employee's primary place of reporting is located in the United States.

3. Section 219.5 is amended by revising the definition of *covered employee* and adding new definitions in alphabetical order, to read as follows:

§ 219.5 Definitions.

* * * * * * *

Covered dispatching service employee means a person who has been assigned to perform service in the United States subject to the limitations on duty hours of dispatching service employees under the hours of service laws at 49 U.S.C. 21105 during a duty tour, whether or not the person has performed or is currently performing such service, and a person who performs such service. For the purposes of pre-employment testing only, the term "covered dispatching service employee" includes a person applying to perform service in the United States subject to 49 U.S.C. 21105.

Covered employee means a person who has been assigned to perform service in the United States subject to the hours of service laws (49 U.S.C. ch. (211) during a duty tour, whether or not the person has performed or is currently performing such service, and any person who performs such service. (An employee is not "covered" within the meaning of this part exclusively by reason of being an employee for purposes of 49 U.S.C. 21106.) For the purposes of pre-employment testing only, the term "covered employee" includes a person applying to perform covered service in the United States.

Covered service means service in the United States that is subject to the hours of service laws at 49 U.S.C. 21103, 21104, or 21105, but does not include any period the employee is relieved of all responsibilities and is free to come and go without restriction.

Covered signal employee means a person who has been assigned to perform service in the United States subject to the limitations on duty hours of signal employees under the hours of service laws at 49 U.S.C. 21104 during a duty tour, whether or not the person has performed or is currently performing such service, and a person who performs such service. For the purposes of pre-employment testing only, the term "covered signal employee" includes a person applying to perform service in the United States subject to 49 U.S.C. 21104.

Covered train employee means a person who has been assigned to perform service in the United States subject to the limitations on duty hours of train employees under the hours of service laws at 49 U.S.C. 21103 during a duty tour, whether or not the person has performed or is currently

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performing such service, and a person who performs such service. For the purposes of pre-employment testing only, the term "covered train employee" includes a person applying to perform service subject to 49 U.S.C. 21103.

* * * * *

Domestic railroad means a railroad that is incorporated in the United States.

* * * * *

Foreign railroad means a railroad that is incorporated outside the United States.

* * * * *

General railroad system of transportation means the general railroad system of transportation in the United States.

* * * * *

State means a State of the United States of America or the District of Columbia.

* * * * *

United States means all of the States.

* * * * *

4. Section 219.801(a) is revised to read as follows:

§ 219.801 Reporting alcohol misuse prevention programs results in a management information system.

(a) Each railroad that has 400,000 or more total employee hours (including hours worked by all employees of the railroad, regardless of occupation, not only while in the United States but also while outside the United States) must submit to FRA by March 15 of each year a report covering the previous calendar year (January 1–December 31), summarizing the results of its alcohol misuse prevention program. As used in this paragraph, the term "employees of the railroad" includes individuals who perform service for the railroad, including not only individuals who receive direct monetary compensation from the railroad for performing a service for the railroad, but also such individuals as employees of a contractor to the railroad who perform a service for the railroad.

* * * * *

5. Section 219.803(a) is revised to read as follows:

§ 219.803 Reporting drug misuse prevention program results in a management information system.

(a) Each railroad that has 400,000 or more total employee hours (including hours worked by all employees of the railroad, regardless of occupation, not only while in the United States but also while outside the United States) must submit to FRA by March 15 of each year an annual report covering the previous calendar year (January 1 through December 31), summarizing the results of its drug misuse prevention program. As used in this paragraph, the term "employees of the railroad" includes individuals who perform service for the railroad, including not only individuals who receive direct monetary compensation from the railroad for performing a service for the railroad, but also such individuals as employees of a contractor to the railroad who perform a service for the railroad.

* * * * *

Issued in Washington, DC, on November 30, 2001.

Allan Rutter,

Federal Railroad Administrator.

[FR Doc. 01–30184 Filed 12–10–01; 8:45 am]

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Notices

Federal Register
Vol. 66, No. 238
Tuesday, December 11, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. TB–01–06]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for Tobacco Report.

DATES: Comments on this notice must be received by 60 days after publication in the **Federal Register** to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Henry R. Martin, Chief, Market Information and Program Analysis Branch, Tobacco Programs, AMS, U.S. Department of Agriculture (USDA), Stop 0280, 1400 Independence Ave. SW., Washington, DC 20250–0280, (202) 205–0489; Fax (202) 205–0099.

SUPPLEMENTARY INFORMATION:

Title: Tobacco Report.

OMB Number: 0581–0004.

Expiration Date of Approval: 08/31/2002.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Tobacco Statistics Act of 1929 (7 U.S.C. 501–508) provides for the collection and publication of statistics of tobacco by USDA with regard to quantity of leaf tobacco in all forms in the United States and Puerto Rico, owned by or in the possession of dealers, manufacturers, growers' cooperative associations, and others with the exception of the original growers of the tobacco.

The statistics shall show the quantity of tobacco in such detail as to types, as USDA shall deem to be practical and necessary and shall be summarized as of January 1, April 1, July 1, and October 1 of each year and are due within 15 days of the summarized dates.

The information furnished under the provisions of this Act shall be used only for statistical purposes for which it is supplied. No publication shall be made by USDA whereby the data furnished by any particular establishment can be identified, nor shall anyone other than the sworn employees of USDA be allowed to examine the individual reports.

The regulations governing the Tobacco Stocks and Standards Act (7 CFR part 30) issued under the Tobacco Statistics Act specifically address the reporting requirements. Tobacco in leaf form or stems is reported by types of tobacco and whether stemmed or unstemmed. Tobacco in sheet form shall be segregated as to whether for cigar wrapper, cigar binder, for cigarettes, or for other products.

Tobacco stocks reporting is mandatory. The basic purpose of the information collection is to ascertain the total supply of unmanufactured tobacco available to domestic manufacturers and to calculate the amount consumed in manufactured tobacco products. This data is also used for the calculation of production quotas for individual types of tobacco and for support calculations.

The Quarterly Report of Manufacture and Sales of Snuff, Smoking and Chewing Tobacco is voluntary. Prior to 1965, information on the manufacture and sale of snuff, smoking and chewing tobacco products was available from Treasury Department publications on the collection of taxes. With repeal of the Federal tax in 1965, the industry requested that the collection of basic data be continued to maintain the statistical series and all the major manufacturers agreed to furnish information. Federal taxes were reimposed in 1985 for snuff and chewing tobacco and the Treasury Department began reporting data on these products, but not in the detail desired by the industry. Data from this report is also used in the calculations to determine the production quotas of types of tobacco used in these products.

The Agriculture Marketing Act of 1946 (7 U.S.C. 1621–1627) directs and authorizes USDA to collect, tabulate, and disseminate statistics on marketing agricultural products including market supplies, storage stocks, quantity, quality and condition of such products in various positions in the marketing channel, utilization of sub-products, shipments, and unloads.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.92 hours per response.

Respondents: Primarily tobacco dealers, manufacturers, and growers' cooperative associations including small businesses or organizations.

Estimated Number of Respondents: 76.

Estimated Number of Responses per Respondent: 4.

Estimated Total Annual Burden on Respondents: 278.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Henry R. Martin, Chief, Market Information and Program Analysis Branch, Tobacco Programs, AMS, USDA Stop 0280, 1400 Independence Ave. SW., Washington, DC 20250–0280. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: December 4, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–30500 Filed 12–10–01; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Forest Service

Brush Boulder Project, Boise National Forest, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The Cascade Ranger District of the Boise National Forest will prepare an environmental impact statement (EIS) for a resource management project in the North Fork Payette River. The entire project area is located within watersheds that drain directly into the North Fork Payette River or its tributaries, downstream of Lake Cascade. The project area is located 7 miles southwest of Cascade, Idaho, and about 100 miles north of Boise, Idaho.

The agency invites written comments and suggestions on the scope of the analysis. The agency also hereby gives notice of the environmental analysis and decision-making process that will occur on the proposal so interested and affected people are aware of how they may participate and contribute to the final decision. At this time, no public meetings to discuss the project are planned.

Proposed Action: Two primary objectives have been identified for the project: (1) Reduce current and future stand susceptibility to forest insects, and (2) improve long-term stand growth to or near levels indicative of healthy, sustainable forests.

The Proposed Action would treat a total of 2,350 acres in the 15,287-acre project area. An estimated 10.0 MMBF of timber would be harvested using ground-based (1,209 acres), skyline (154 acres), and helicopter (159 acres) yarding systems. The Proposed Action would employ a variety of silvicultrual prescriptions including preparation cut of a shelterwood (619 acres), improvement cut (205 acres), improvement cut followed by precommercial thinning (479 acres), seed cut shelterwood (126 acres), final removal shelterwood (27 acres), final removal shelterwood followed by precommercial thinning (12 acres), clearcut with reserve trees (54 acres), and precommercial thinning (828 acres). Precommercial thinning would occur within both plantations and previously managed stands with an overstory component (such as seed cut shelterwoods) where natural and/or artificial regeneration has been established.

The existing transportation system would be improved to facilitate log haul and reduce sedimentation with individual sections of 3.5 miles of road being reconstructed. An estimated 1.4 miles of specified road and 0.7 mile of temporary road would be constructed to facilitate harvest. Roughly 4.4 miles of existing roads would be closed seasonally (September 15 to June 1) with gates to all motorized traffic with the exception of snowmobiles and administrative use. An additional 5.0 miles would be closed seasonally (September 15 to June 1) with gates to vehicles with wheelbases exceeding 40 inches in width with the exception of administrative use. In addition, 0.1 mile of the existing 404B road and the pioneered ford of Olson Creek adjacent to the 404B crossing would be decommissioned.

Preliminary Issues: Preliminary concerns with the Proposed Action include potential impacts on: (1) The visual quality of the area; (2) terrestrial wildlife species; (3) sediment delivery to streams; and (4) the Snowbank Inventoried Roadless Area (IRA).

Possible Alternatives to the Proposed Action: One alternative to the Proposed Action discussed thus far is a no action alternative. Other alternatives will likely be developed as issues are identified and information received.

Decisions to be Made: The Boise National Forest Supervisor will decide the following. Should roads be built and vegetation managed within the Brush Boulder Project Area at this time, and if so; where within the project area, and how many miles of road should be built; and which stands should be treated and what silvicultural systems should be used? What design features and/or mitigation measures should be applied to the project? Should decommissioning of a portion of the 404B road be implemented at this time?

DATES: Written comments concerning the proposed project and analysis are encouraged and should be postmarked within 30 days following publication of this announcement in the **Federal Register**.

ADDRESSES: Comments should be addressed to the Cascade Ranger District, ATTN: Keith Dimmett, P.O. Box 696, Cascade, ID 83611. Comments received in response to this request will be available for public inspection and will be released in their entirety if requested pursuant to the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Further information can be obtained from Keith Dimmett at the address mentioned above or by calling 208–382–7430.

Schedule: Draft Environmental Impact Statement (DEIS), February 2002. Final Environmental Impact Statement (FEIS), April 2002.

SUPPLEMENTARY INFORMATION: Roughly half of the project area occurs within the Snowbank IRA (02924). None of the activities associated with the Proposed Action would occur within this IRA or any 1,000-acre or larger contiguous unroaded area.

Three different management areas occur within the Brush Boulder Project Area. Roughly 1,947 acres of the project area occur within management area (MA) 48 or 49. Management direction for these two MA's emphasizes recreation opportunities. The remaining 13,340 acres of the project area occur within MA 50 where management direction emphasizes protection of scenic qualities in visually sensitive areas, and intensified timber management in areas of low visual sensitivity. All of the activities associated with the Proposed Action would occur within MA 50.

The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS stage but are not raised until after completion of the FEIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F. 2d 1016, 1002 (9th Cir., 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the DEIS 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement.

Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official: David D. Rittenhouse, Forest Supervisor, Boise National Forest, 1249 South Vinnell Way, Suite 200, Boise, ID 83709.

Dated: December 4, 2001.

David D. Rittenhouse,

Forest Supervisor.

[FR Doc. 01–30532 Filed 12–10–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Fairfield Ranger District Sheep Allotment AMP EIS, Fairfield Ranger District, Elmore & Camas Counties, Idaho

AGENCY: Forest Service, USDA.

ACTION: Cancellation of Notice of intent to prepare environmental impact statement.

SUMMARY: This document provides notice of cancellation of the intent to prepare an environmental impact statement (EIS) on a proposal to update the allotment management plans for twelve sheep allotments on the Fairfield Ranger District.

DATES: The draft environmental impact statement was originally scheduled for March 2001 with a 45-day public review and comment period. The publishing and distribution of this draft EIS is cancelled.

FOR FURTHER INFORMATION CONTACT: Terry Fletcher, Interdisciplinary Team Leader, Sawtooth National Forest, 2647 Kimberly Road East, Twin Falls, ID 83301 (208) 737–3200.

SUPPLEMENTARY INFORMATION: A notice of intent to prepare an environmental impact statement appeared in the **Federal Register** on September 1, 2000 (pages 53261 and 53262) announcing the intent to prepare and release a draft EIS in March 2001 with a final EIS scheduled for May 2001. The deadline for public scoping comments expired October 6, 2000.

The original notice of intent informed the public of the agency's intention to document the analysis of twelve sheep allotments in an EIS. The primary reason for the cancellation is that revised direction has been issued by the Responsible Official to complete a capacity determination on all thirty-one sheep and cattle allotments on the Fairfield Ranger District.

Ed Waldopfel,

Acting Forest Supervisor.

[FR Doc. 01–30528 Filed 12–10–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–831]

Stainless Steel Plate in Coils From the Republic of Korea; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review of stainless steel plate in coils from the Republic of Korea.

SUMMARY: On June 7, 2001, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on stainless steel plate in coils from the Republic of Korea (66 FR 30699). This review covers imports of subject merchandise from Pohang Iron & Steel Co., Ltd. ("POSCO"). The period of review ("POR") is November 4, 1998 through April 30, 2000.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results of review. The final weighted-average dumping margin is listed below in the section entitled "Final Results of the Review."

EFFECTIVE DATE: December 11, 2001.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander or Laurel LaCivita, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0182 or (202) 482–4243, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2001).

Background

On June 7, 2001, the Department published *Stainless Steel Plate in Coils From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*, 66 FR 30699 (June 7, 2001) ("*Preliminary Determination*"). We invited parties to comment on these preliminary results. The review covers imports of subject merchandise from POSCO. The period of review ("POR") is November 4, 1998 through April 30, 2000. We received written comments on July 9, 2001 from petitioners (Allegheny Ludlum, AK Steel Corporation (formerly Armco, Inc.), J&L Specialty Steel, Inc., North American Stainless, Butler-Armco Independent Union, Zanesville Armco Independent Union, and the United Steelworkers of America, (AFL-CIO/CLC)) and POSCO. On July 23, 2001, we received rebuttal comments from petitioners and POSCO. We have now completed the administrative review in accordance with section 751 of the Act.

Scope of the Review

For purposes of this administrative review, the product covered by this order is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this order is the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars. In addition, certain cold-rolled stainless steel plate in coils is also excluded from the scope of this order. The excluded cold-rolled stainless steel plate in coils is defined as that merchandise which meets the physical characteristics described above that has undergone a cold-reduction process that reduced the thickness of the steel by 25 percent or more, and has been annealed and pickled after this cold reduction process.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) at subheadings:

7219.11.00.30, 7219.11.00.60, 7219.12.00.06, 7219.12.00.21, 7219.12.00.26, 7219.12.00.51, 7219.12.00.56, 7219.12.00.66, 7219.12.00.71, 7219.12.00.81, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the scope of the orders is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" ("*Decision Memorandum*") from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Bernard Carreau, Acting Assistant Secretary for Import Administration, dated December 4, 2001, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B–099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/frnhome.htm*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculations. The changes are listed below:

- We adjusted POSCO's reported costs to include an amortized portion of its deferred foreign exchange losses.
- We adjusted POSCO's reported foreign exchange ratio to include gains and losses associated with cash, A/P, "other" accounts, and loans payable in the numerator.
- We reversed our position on affiliated party inputs from the preliminary results and, for these final results, we are not making an adjustment to POSCO's costs for an affiliated party input.
- We revised POSCO's per-unit G&A expense to apply POSCO's G&A ratio to the sum of the revised cost of manufacturing plus packing.
- We calculated an adjustment for warranty expense and included it as an adjustment to U.S. price.
- We have recalculated home market credit for POSCO's U.S. dollar home market sales using POSAM's U.S. dollar interest rate instead of POSCO's Korean won interest rate.
- We have recalculated POSAM's indirect selling expenses to adjust the amount of interest expense applicable to U.S. sales of subject merchandise and to take into account an offset for imputed credit.

Final Results of Review

We determine that the following percentage margin exists for the period November 4, 1998 through April 30, 2000:

STAINLESS STEEL PLATE IN COILS FROM KOREA

Manufacturer/exporter/reseller	Margin (percent)
POSCO	1.19

The Department shall determine, and U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the U.S. Customs Service. For duty-assessment purposes, we will calculate importer-specific assessment rates by dividing the dumping margins calculated for each importer by the total entered value of sales for each importer during the period of review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of the final results of this administrative review for all shipments of stainless steel plate in coils from the Republic of Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the "all others" rate of 16.26 percent, which is the all others rate established in the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 771(i) of the Act.

Dated: December 4, 2001.

Bernard Carreau,

Acting Assistant Secretary for Import Administration.

Appendix 1—Issues in Decision Memorandum

Comment 1: Costs for Certain Products that were Reported in a Distortive Manner
Comment 2: Reporting of Home Market Sales
Comment 3: Home Market Credit
Comment 4: Indirect Selling Expenses for POSAM
Comment 5: Unrecognized Bad Debt
Comment 6: Duty Drawback
Comment 7: Export Warranty Expenses
Comment 8: G&A Calculation
Comment 9: Valuation of Re-introduced Scrap
Comment 10: Cost for Affiliate-supplied Inputs
Comment 11: POSCO's L-grade Adjustment
Comment 12: Energy cost
Comment 13: Financial Expenses
Comment 14: Imputed Credit Expenses in the Calculation of Indirect Selling Expenses

Comment 15: Deferred foreign exchange losses

[FR Doc. 01–30605 Filed 12–10–01; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–831]

Stainless Steel Plate in Coils From the Republic of Korea; Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of antidumping duty administrative review.

SUMMARY: On June 19, 2001, the Department of Commerce published in the **Federal Register** (66 FR 32934) a notice announcing the initiation of an administrative review of the antidumping duty order on stainless steel plate in coils from the Republic of Korea for one producer/exporter of the subject merchandise, Pohang Iron & Steel, Co., Ltd. ("POSCO") covering the period of review ("POR"), which is May 1, 2000 through April 30, 2001. The Department of Commerce is rescinding this review with respect to POSCO pursuant to a timely request under 19 CFR 351.213(d)(1) from POSCO, the only party that requested the review. Petitioners did not request a review of POSCO.

EFFECTIVE DATE: December 11, 2001.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander or Laurel LaCivita, Office 9, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0182, or (202) 482–4243, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended, are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department) regulations are to the regulations codified at 19 CFR part 351 (2000).

Background

The Department published in the **Federal Register** on May 1, 2001 (66 FR 21740), a "Notice of Opportunity to Request Administrative Review" of the antidumping duty order on stainless steel plate in coils from the Republic of Korea. On May 31, 2001, POSCO requested that the Department conduct an administrative review of this order with respect to its sales of the subject merchandise. On June 19, 2001, the Department of Commerce initiated an administrative review for the period May 1, 2000 through April 30, 2001 (66 FR 32934). On July 5, 2001, POSCO, the only interested party to request a review in this case, withdrew its request for review. Since POSCO withdrew its request for review within 90 days of the date of publication of the notice of initiation, in accordance with 19 CFR 351.213(d)(1), the Department is rescinding the review for the period May 1, 2000 through April 30, 2001.

This notice is issued and published in accordance with 19 C.F.R. 351.213(d)(4).

Dated: December 5, 2001.

Richard O. Weible,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 01–30606 Filed 12–10–01; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Massachusetts Institute of Technology; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5 PM in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC.

Docket Number: 01–020. *Applicant:* Massachusetts Institute of Technology, Cambridge, MA 02139. *Instrument:* Impact Module for Nano Indentor. *Manufacturer:* Micro Materials Ltd., United Kingdom. *Intended Use:* See notice at 66 FR 55914, November 5, 2001.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the use of the applicant.

The accessory is pertinent to the intended uses and we know of no domestic accessory which can be readily adapted to the previously imported instrument.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01–30607 Filed 12–10–01; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–508–605]

Industrial Phosphoric Acid From Israel; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On August 31, 2001, the Department of Commerce ("the Department") published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on industrial phosphoric acid from Israel for the period January 1, 1999 through December 31, 1999 (66 FR 45965). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended ("the Act"). For information on the subsidy rate for each reviewed company, and for all non-reviewed companies, please see the *Final Results of Review* section of this notice. We will instruct the U.S. Customs Service ("Customs") to assess countervailing duties as detailed in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: December 11, 2001.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein or Sean Carey, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1391 or (202) 482–3964, respectively.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 CFR 351.213(b), this review covers only those producers or exporters of the subject merchandise for

which a review was specifically requested. Accordingly, this review covers Rotem-Amfert Negev Ltd. ("Rotem"). We published the preliminary results on August 31, 2001 (66 FR 45965). We invited interested parties to comment on the preliminary results. We received no comments from any of the parties.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended ("the Act"). All citations to the Department's regulations reference 19 CFR part 351 (2000), unless otherwise indicated.

Scope of the Review

Imports covered by this review are shipments of industrial phosphoric acid (IPA) from Israel. Such merchandise is classifiable under item number 2809.20.00 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and U.S. Customs Service purposes. The written description of the scope remains dispositive.

Subsidies Valuation Information

Period of Review

The period for which we are measuring subsidies is calendar year 1999.

Allocation Period

In *British Steel plc.* v. *United States*, 879 F.Supp. 1254 (CIT 1995) (*British Steel I*), the U.S. Court of International Trade (the Court) ruled against the allocation period methodology for non-recurring subsidies that the Department had employed for the past decade, as it was articulated in the *General Issues Appendix* appended to the *Final Countervailing Duty Determination; Certain Steel Products from Austria*, 58 FR 37225 (July 9, 1993) (GIA). In accordance with the Court's decision, on remand, the Department determined that the most reasonable method of deriving the allocation period for non-recurring subsides is a company-specific average useful life (AUL). This remand determination was affirmed by the Court on June 4, 1996. *See British Steel plc.* v. *United States*, 929 F.Supp 426, 439 (CIT 1996) (*British Steel II*).

However, in administrative reviews in which the Department examines non-recurring subsidies received prior to the POR which have been countervailed based on an allocation period established in an earlier segment of the proceeding, it is not practicable to reallocate those subsidies over a different period of time. When a countervailing duty rate in earlier segments of a proceeding was calculated based on a certain allocation period and resulted in a certain benefit stream, redefining the allocation period in later segments of the proceeding would entail taking the original grant amount and creating an entirely new benefit stream for that grant. (*See, e.g., Certain Carbon Steel Products from Sweden; Final Results of Countervailing Duty Administrative Review*, 62 FR 16549 (April 7, 1997)).

In this administrative review, the Department has considered non-recurring subsidies previously allocated in earlier administrative reviews under the old practice, non-recurring subsidies also previously allocated in recent administrative reviews under the new practice, and non-recurring subsidies received during the POR to which the current countervailing duty regulations apply. Under these circumstances, and as discussed below, the Department has used different allocation periods depending upon the date of receipt of the non-recurring subsidy. For non-recurring subsidies received prior to the 1995 administrative review (the first review for which the Department implemented the *British Steel I* decision), the Department is using the original allocation period of 10 years. For non-recurring subsidies received since 1995, Rotem has submitted in each subsequent administrative review, including this one, AUL calculations based on depreciation and values of productive assets reported in its financial statements. In accordance with the Department's practice, we derived Rotem's company-specific AUL for each respective administrative review since 1995 by dividing the aggregate of the annual average gross book values of the firm's depreciable productive fixed assets by the firm's aggregated annual charge to depreciation for a 10-year period. In the current review, this methodology resulted in an AUL of 23 years. Pursuant to section 351.524(d)(2) of the Department's regulations, this company-specific AUL rebuts the presumptive use of the IRS tables. Therefore, for the purposes of this review, non-recurring subsidies received during the POR have been allocated over 23 years.

Privatization

Israel Chemicals Limited (ICL), the parent company which owns 100 percent of Rotem's shares, was partially privatized in 1992, 1993, 1994, 1995, 1997 and 1998. In this administrative review, the Government of Israel (GOI) and Rotem reported that additional shares of ICL were sold in 1999. We have previously determined that the partial privatization of ICL represents a partial privatization of each of the companies in which ICL holds an ownership interest. *See Final Results of Countervailing Duty Administrative Review; Industrial Phosphoric Acid from Israel*, 61 FR 53351, 53352 (October 11, 1996) (*1994 Final Results*). In this review and prior reviews of this order, the Department found that Rotem and/or its predecessor, Negev Phosphates Ltd., received non-recurring countervailable subsidies prior to these partial privatizations.

On December 4, 2000, the Department announced a new privatization approach in a remand determination following the decision of the U.S. Court of Appeals for the Federal Circuit (CAFC) in *Delverde Srl* v. *United States*, 202 F.3d 1360, 1365 (Fed. Cir. 2000), *reh'g en banc denied* (June 20, 2000) (*Delverde III*). The Department applied this new approach in the final results of the prior administrative review of this order. *See Final Results of Countervailing Duty Administrative Review; Industrial Phosphoric Acid from Israel*, 66 FR 15839 (March 21, 2001) (*1998 Final Results*). Under this approach, the first requirement is to determine whether the person to which the subsidies were given is, in fact, distinct from the person that produced the subject merchandise exported to the United States. If the two persons are distinct, the original subsidies may not be attributed to the new producer/exporter. The Department would, however, consider whether any subsidy had been bestowed upon that producer/exporter as a result of the change-in-ownership transaction. On the other hand, if the original subsidy recipient and the current producer/exporter are considered to be the same person, that person benefits from the original subsidies, and its exports are subject to countervailing duties to offset those subsidies. In other words, we will determine that a "financial contribution" and a "benefit" have been received by the "person" that is the firm under investigation or review. Assuming that the original subsidy had not been fully amortized under the Department's normal allocation methodology as of the POR, the Department would then continue to countervail the remaining benefits of that subsidy.

In making the "person" determination, where appropriate and applicable, we analyze factors such as (1) continuity of general business operations, including whether the successor represents itself as the continuation of the previous enterprise,

as may be indicated, for example, by use of the same name, (2) continuity of production facilities, (3) continuity of assets and liabilities, and (4) retention of personnel. No single factor will necessarily provide a dispositive indication of any change in the entity under analysis. Instead, the Department will generally consider the post-sale entity to be the same person as the pre-sale entity if, based on the totality of the factors considered, we determine that the entity in question can be considered a continuous business entity because it was operated in substantially the same manner before and after the change in ownership.

Using the approach described above, we have analyzed the information provided by the GOI and Rotem to determine whether the subsidies received by Rotem continued to benefit Rotem during the POR. By applying this approach to the facts and circumstances of the instant countervailing duty administrative review of industrial phosphoric acid from Israel and the relevant privatization of ICL and its subsidiary, Rotem, we find that the pre-sale and post-sale entities are not distinct persons. Specifically, Rotem maintains the same plants and uses the same production facilities to manufacture and sell the same products; continues to rely on the same suppliers and customer base; and employs largely the same personnel and management. *See* the Department's June 13, 2001, letter to Rotem (with attached Change in Ownership Analysis Memorandum from the 1998 administrative review) and the *1998 Final Results* and accompanying Decision Memorandum (section entitled Change in Ownership), for a complete discussion of our analysis of ICL's and Rotem's privatization. Therefore, we determine that the subsidies provided to Rotem, prior to the privatization of ICL, continue to benefit Rotem after ICL's privatization.

Grant Benefit Calculations

To calculate the benefit for the POR, we followed the same methodology used in the final results of prior administrative reviews. We converted Rotem's shekel-denominated grants into U.S. dollars, using the exchange rate in effect on the dates the grants were received. We then applied the grant methodology to determine the benefit for the POR. *See e.g., Industrial Phosphoric Acid from Israel; Final Results of Countervailing Duty Administrative Review*, 63 FR 13626, 13633 (March 20, 1998) (*1995 Final Results*).

As a result of our privatization approach and our determination that Rotem continues to benefit from subsidies received prior to the privatization of ICL, the full value of the benefit allocable to the 1999 POR from non-recurring subsidies is being used in the calculation of Rotem's subsidy rate.

Discount Rates

We considered Rotem's cost of long-term borrowing in U.S. dollars as reported in the company's financial statements for use as the discount rate used to allocate the countervailable benefit over time. However, this information includes Rotem's borrowing from its parent company, ICL, and thus does not provide an appropriate discount rate. Therefore, we followed the same methodology used in the final results of prior administrative reviews in using ICL's cost of long-term borrowing in U.S. dollars in each year from 1984 through 1999 as the most appropriate discount rate. ICL's interest rates are shown in the notes to the company's financial statements, public documents which are in the record of this review. *See Comment 9* in the *1995 Final Results*.

Analysis of Programs

There were no comments submitted to the Department with respect to our preliminary results of review; therefore, our preliminary results provide the basis for these final results of review. Accordingly, we determine the following:

I. Programs Conferring Subsidies

A. Encouragement of Capital Investments Law (ECIL)

In the preliminary results, we found that the ECIL grant program conferred countervailable subsidies on the subject merchandise. It is de jure specific because the program limits the availability of grants to enterprises located only in Development Zones A and B. Rotem is located in Development Zone A, and received ECIL investment and capital grants in disbursements over a period of years for several projects. Our review of the record has not led us to change any findings or calculations. Accordingly, the subsidy from ECIL grants is 4.57 percent ad valorem for the POR, which remains unchanged from the preliminary results.

B. Infrastructure Grant Program

In this review, we preliminarily determined that Rotem received an infrastructure grant to initiate and establish industrial areas, and that this grant conferred countervailable subsidies on the subject merchandise. Our review of the record has not led us to change any findings or calculations. Accordingly, the subsidy for this program is 0.21 percent ad valorem, which remains unchanged from the preliminary results.

C. Encouragement of Industrial Research and Development Grants (EIRD)

In the preliminary results, we found that three EIRD grant disbursements received by Rotem were tied to research related to the production of IPA. Our review of the record has not led us to change any findings or calculations. Accordingly, the subsidy for this program is 0.02 percent ad valorem, which remains unchanged from the preliminary results.

II. Programs Determined To Be Not Used

We examined the following programs and preliminarily determined that the producer and/or exporter of the subject merchandise did not apply for or receive benefits under these programs during the POR. Our review of the record has not led us to change our finding for these final results.

A. Environmental Grant Program
B. Reduced Tax Rates under ECIL
C. ECIL Section 24 loans
D. Dividends and Interest Tax Benefits under Section 46 of the ECIL
E. ECIL Preferential Accelerated Depreciation

III.Other Program Examined

Labor Training Grant

For purposes of this administrative review, we expensed this labor training grant and have found that any subsidy which could be calculated for this program would be so small (significantly less than 0.005 percent *ad valorem*) that there would be no impact on the overall subsidy rate. Our review of the record has not led us to change our finding. Therefore, we do not consider it necessary to address the issue of specificity for purposes of this administrative review and have not further considered this program. *See e.g., Final Results of Countervailing Duty Administrative Review: Live Swine from Canada*, 63 FR 2210, 2211 (January 14, 1998).

Final Results of Review

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual *ad valorem* subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 1999 through December 31, 1999, we determine the subsidy rate for Rotem to be 4.80 percent *ad valorem*. We will instruct the U.S. Customs Service (Customs) to assess countervailing duties as indicated

above on all appropriate entries. Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate. Thus, for the period covered by this review, January 1, 1999, through December 31, 1999, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

As a result of the International Trade Commission's determination that revocation of this countervailing duty order would not likely lead to continuation or recurrence of material injury to an industry in the United States in the reasonably foreseeable future, the Department, pursuant to section 751(d)(2) of the Act, revoked the countervailing duty order on IPA from Israel. *See Revocation Countervailing Duty Order: Industrial Phosphoric Acid from Israel*, 65 FR 114 (June 13, 2000). Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(ii), the effective date of revocation was January 1, 2000. Accordingly, the Department has instructed Customs to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/ destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(1)).

Dated: December 4, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–30604 Filed 12–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112601C]

Marine Mammals; File No. 87–1593–01

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Dr. Daniel Costa (Principal Investigator), Institute of Marine Sciences, Earth & Marine Sciences Bldg. A316, University of California, Santa Cruz, CA, 95064, has been issued an amendment to take marine mammals for scientific research Permit No. 87–1593–00.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980-4018.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Amy Sloan (301)713–2289.

SUPPLEMENTARY INFORMATION: On October 9, 2001, notice was published in the **Federal Register** (66 FR 51395) that an amendment of Permit No. 87–1593–00 February 21, 2001 (66 FR 12763), had been requested by the above-named individual. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: December 4, 2001.

Ann D. Terbush,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–30598 Filed 12–10–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Transshipment Charges for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

December 7, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs charging transshipments to 2001 limits.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

In a notice published in the **Federal Register** on September 11, 1996 (61 FR 47892), CITA announced that Customs would be conducting investigations of transshipments of textile products produced in China and exported to the United States. Based on investigations by the U.S. Customs Service (Customs), Customs has determined that textile products in certain categories, produced or manufactured in China and entered into the United States, were entered in circumvention of the bilateral agreement effected by the Memorandum of Understanding (MOU) of February 1, 1997, and extended October 31, 2000. Consultations were held between the Governments of the United States and the People's Republic of China on this matter on October 17–18, 2001 and on December 6–7, 2001. Pursuant to Paragraph 13(E) of the bilateral MOU, the United States may charge three times the amounts transshipped to China's negotiated quantitative limits under certain conditions. Certain shipments made in 1998 of categories 338–S/339–S, 348, 638, 639, and 648 are eligible for triple charging under these provisions. Accordingly, these shipments will be triple charged to China's quotas. In the letter published below, the Chairman of CITA directs the Commissioner of Customs to charge the amounts listed in the letter below to the 2001 quota levels.

A description of the textile and apparel categories in terms of HTS numbers is available in the

CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the availability of the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 7, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: To facilitate implementation of the Bilateral Textile Memorandum of Understanding dated February 1, 1997, between the Governments of the United States and the People's Republic of China, you are directed, effective on December 10, 2001, to charge the following amounts to the following categories for the 2001 restraint period (see directive dated December 20, 2000):

Category	Amounts to be charged
334	245 dozen.
338/339	11,532 dozen.
338–S/339–S	23,562 dozen.
340	13,073 dozen.
340–Z	15,270 dozen.
345	1,374 dozen.
347/348	174,287 dozen.
352	104,022 dozen.
638/639	123,373 dozen.
647	1,096 dozen.
648	18,388 dozen.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–30662 Filed 12–7–01; 10:35 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; meeting

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Defense Science Board (DSB) Task Force on Precision Compellence will meet in closed session on January 3–4, 2002, at SAIC, 4001 N. Fairfax Drive, Arlington, VA. The Task Force will conduct a comprehensive study of the ends and means of precision compellence, of the nuanced use of force, in concert with coalition partners, to achieve political, economic and moral change in countries affecting U.S. interests.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Defense Science Board Task Force will survey the focused use of force so as to alter regimes' behavior, and in ways that are most promising to isolate regimes of concern from their populations and supporting organs and bureaucracies. This will include the means to acquire a well-founded conceptual delineation of targets critically important to the diplomatic, economic and military dominance of the regime. A regime's values and vulnerabilities being highly idiosyncratic, the Task Force shall select some concrete case studies for exploration in depth. These might include current rogue states, terrorist organizations, and future potential adversaries. Of particular relevance are the cleavage planes, where the discriminating use of force might divide the interests of different strata, political, ethnic or religious groups, or even personal rivalries.

In accordance with section 10(D) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board meeting concerns matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, this meting will be closed to the public.

Dated: November 21, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–30493 Filed 12–10–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to delete and amend a system of records.

SUMMARY: The Department of the Army is deleting one notice and amending one notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on January 10, 2002, unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

Dated: December 4, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletion

A0600–8–104c NGB

SYSTEM NAME:

Official Military Personnel File (Army National Guard) (January 20, 2000, 65 FR 3213).

Reason: This system of records has been incorporated into A0600–8–104b TAPC, entitled "Official Military Personnel Record".

Amendment

A0600–8–104b TAPC

SYSTEM NAME:

Official Military Personnel file (October 13, 2000, 65 FR 60918).

CHANGES:

* * * * *

SYSTEM LOCATION:

Add to entry "National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382, for commissioned, warrant officer or enlisted soldier in the Army National Guard."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add to entry "Army National Guard not on active duty, who are enlisted, appointed or commissioned status".

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to entry "Army Regulation 600–8–104, Military Personnel Information Management/Records".

* * * * *

STORAGE:

Delete entry and replace with "Electronic storage media and fiche."

RETRIEVABILITY:

Delete entry and replace with "By Social Security Number and name."

SAFEGUARDS:

Delete entry and replace with "Records are maintained in areas accessible only to authorized personnel"; automated records are further protected by authorized password system for access terminals, controlled access to operations locations, and controlled output distribution.

RETENTION AND DISPOSAL:

Replace "9700 Page Boulevard" with "1 Reserve Way".

SYSTEM MANAGER(S) AND ADDRESS:

Add two new paragraphs 'Director, National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Commander, U.S. Army Reserve Personnel Command, 1 Reserve Way, St. Louis, MO 63132–5200.'

* * * * *

A0600–8–104b TAPC

SYSTEM NAME:

Official Military Personnel Record.

SYSTEM LOCATION:

U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400 for active Army officers.

U.S. Army Enlisted Records and Evaluation Center, 8899 East 56th Street, Fort Benjamin Harrison, IN 46249–5301 for active duty enlisted personnel.

U.S. Army Reserve Personnel Command, 9700 Page Avenue, St Louis, MO 63132–5200 for reserve personnel.

National Personnel Records Center, National Archives and Records Administration, 9700 Page Avenue, St Louis, MO 63132–5100, for discharged or deceased personnel.

An automated index exists at the U.S. Army Reserve Personnel Command showing physical location of the Official Military Personnel of retired, separated and files on all service members returned to active duty.

National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382, for commissioned, warrant officer or enlisted soldier in the Army National Guard.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty members of the U.S. Army and Army National Guard not on active duty, who are enlisted, appointed, or commissioned status; members of the U.S. Army who were enlisted, appointed, or commissioned and were separated by discharge, death, or other termination of military status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include enlistment contract; Department of Veterans Affairs benefit forms; physical evaluation board proceedings; military occupational specialty data; statement of service; qualification record; group life insurance election; emergency data; application for appointment; qualification/evaluation report; oath of office; medical examination; security clearance questionnaire; application/memo for retired pay; application for correction of military records; field/application for active duty; transfer or discharge report/Certificate of Release or Discharge from Active Duty; active duty report; voluntary reduction; line of duty and misconduct determinations; discharge or separation reviews; police record checks, consent/declaration of parent/guardian; Army Reserve Officers Training Corps supplemental agreement; award recommendations; academic reports; line of duty casualty report; U.S. field medical card; retirement points, deferment; pre-induction processing and commissioning data; transcripts of military records; summary sheets review of conscientious objector; election of options; oath of enlistment; enlistment extensions; survivor benefit plans; efficiency reports; records of proceeding, 10 U.S.C. section 815 appellate actions; determinations of moral eligibility; waiver of disqualifications; temporary disability record; change of name; statements for enlistment; acknowledgments of service requirements; retired benefits; application for review by physical evaluation board and disability board; appointments; designations; evaluations; birth certificates; photographs; citizenship statements and status; educational constructive credit transcripts; flight status board reviews; assignment agreements, limitations/waivers/election and travel; efficiency appeals; promotion/reduction/recommendations, approvals/declinations announcements/notifications, reconsiderations/worksheets elections/letters or memoranda of notification to deferred officers and promotion passover notifications; absence without leave and desertion records; FBI reports; Social Security Administration correspondence; miscellaneous correspondence, documents, and military orders relating to military service including information pertaining to dependents, interservice action, in-service details, determinations, reliefs, component; awards, pay entitlement, released, transfers, and other military service data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 42 U.S.C. 10606; DoD Instruction 1030.1, Victim and Witness Assistance; Army Regulation 600–8–104, Military Personnel Information Management/Records; and E.O. 9397 (SSN).

PURPOSE(S):

These records are created and maintained to manage the member's Army and Army National Guard service effectively, to document historically a member's military service, and safeguard the rights of the member and the Army.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of State to issue passport/visa; to document persona-non-grata status, attaché assignments, and related administration of personnel assigned and performing duty with the Department of State.

To the Department of Treasury to issue bonds; to collect and record income taxes.

To the Department of Justice to file fingerprints to perform investigative and judicial functions.

To the Department of Agriculture to coordinate matters related to its advanced education program.

To the Department of Labor to accomplish actions required under Federal Employees Compensation Act.

To the Department of Health and Human Services to provide services authorized by medical, health, and related functions authorized by 10 U.S.C. 1074 through 1079.

To the Nuclear Regulatory Commission to accomplish

requirements incident to Nuclear Accident/Incident Control Officer functions.

To the American Red Cross to accomplish coordination and service functions including blood donor programs and emergency investigative support and notifications.

To the Civil Aeronautics Board to accomplish flight qualifications, certification and licensing actions.

To the Federal Aviation Agency to determine rating and certification (including medical) of in-service aviators.

To the U.S. Postal Service to accomplish postal service authorization involving postal officers and mail clerk authorizations.

To the Department of Veterans Affairs:

1. To provide information relating to service, benefits, pensions, in-service loans, insurance, and appropriate hospital support.

2. To provide information relating to authorized research projects.

To the Bureau of Immigration and Naturalization to comply with status relating to alien registration, and annual residence/location.

To the Office of the President of the United States of America to exchange required information relating to White House Fellows, regular Army promotions, aides, and related support functions staffed by Army members.

To the Federal Maritime Commission to obtain licenses for military members accredited as captain, mate, and harbor master for duty as Transportation Corps warrant officer.

To each of the several states, and U.S. possessions to support state bonus application; to fulfill income tax requirements appropriate to the service member's home of record; to record name changes in state bureaus of vital statistics; and for National Guard affairs.

Civilian educational and training institutions to accomplish student registration, tuition support, graduate record examination tests, and related requirements incident to in-service education programs in compliance with 10 U.S.C. chapters 102 and 103.

To the Social Security Administration to obtain or verify Social Security Number; to transmit Federal Insurance Compensation Act deductions made from members' wages.

To the Department of Transportation to coordinate and exchange necessary information pertaining to inter-service relationships between U.S. Coast Guard (USCG), U.S. Army, and Army National Guard when service members perform duty with the USCG.

To the Civil authorities for compliance with 10 U.S.C. §14.

To the U.S. Information Agency to investigate applicants for sensitive positions pursuant to E.O. 10450.

To the Federal Emergency Management Agency to facilitate participation of Army members in civil defense planning training, and emergency operations pursuant to the military support of civil defense as prescribed by DoD Directive 3025.10, Military Support of Civil Defense, and Army Regulation 500–70, Military Support of Civil Defense.

To the Director of Selective Service System to Report of Non-registration at Time of Separation Processing, of individuals who decline to register with Selective Service System. Such report will contain name of individual, date of birth, Social Security Number, and mailing address at time of separation.

Other elements of the Federal Government pursuant to their respective authority and responsibility.

Note: Record of the identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains. The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices do not apply to these categories of records.

To victims and witnesses of a crime for purposes of providing information, consistent with the requirements of the Victim and Witness Assistance Program, regarding the investigation and disposition of an offense.

To Federal agencies, their contractors and grantees, and to private organizations, such as the National Academy of Sciences, for the purposes of conducting personnel and/or health-related research in the interest of the Federal government and the public. When not considered mandatory, the names and other identifying data will be eliminated from records used for such research studies.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system, except for those specifically excluded categories of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on electronic storage media and fiche.

RETRIEVABILITY:

By Social Security Number and name.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel; automated records are further protected by authorized password system for access terminals, controlled access to operations locations, and controlled output distribution.

RETENTION AND DISPOSAL:

Microfiche and paper records are permanent. They are retained in active file until termination of service, following which they are retired to the U.S. Army Reserve Personnel Command, 1 Reserve Way, St. Louis, MO 63132–5200.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400.

Director, National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Commander, U.S. Army Reserve Personnel Command, 1 Reserve Way, St. Louis, MO 63132–5200.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the following:

Inquiries for records of commissioned or warrant officers (including members of Reserve Components) serving on active duty should be sent to the Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400.

Inquiries for records of enlisted members (including members of Reserve Components) serving on active duty should be sent to: Commander, U.S. Army Enlisted Records and Evaluation Center, 8899 East 56th Street, Fort Benjamin Harrison, IN 46249–5301.

Inquiries for records of commissioned officers or warrant officers in a reserve status not on active duty, or Army enlisted reservists not on active duty, or members of the National Guard who performed active duty, or commissioned officers, warrant officers, or enlisted members in a retired status should be sent to the Commander, U.S. Army

Reserve Personnel Command, 1 Reserve Way, St. Louis, MO 63132–5200.

Inquiries for records of commissioned officers and warrant officers who were completely separated from the service after June 30, 1917, or enlisted members who were completely separated after October 31, 1912, or for records of deceased Army personnel should be sent to the Chief, National Personnel Records Command, National Archives and Records Administration, 9700 Page Avenue, St. Louis, MO 63132–5200.

Inquiries for records of National Guard should be sent to the Director, National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Individual should provide the full name, Social Security Number, service identification number, military status, and current address.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the following:

Inquiries for records of commissioned or warrant officers (including members of Reserve Components) serving on active duty should be sent to the Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400.

Inquiries for records of enlisted members (including members of Reserve Components) serving on active duty should be sent to: Commander, U.S. Army Enlisted Records and Evaluation Center, 8899 East 56th Street, Fort Benjamin Harrison, IN 46249–5301.

Inquiries for records of commissioned officers or warrant officers in a reserve status not on active duty, or Army enlisted reservists not on active duty, or members of the National Guard who performed active duty, or commissioned officers, warrant officers, or enlisted members in a retired status should be sent to the Commander, U.S. Army Reserve Personnel Command, 1 Reserve Way, St. Louis, MO 63132–5200.

Inquiries for records of commissioned officers and warrant officers who were completely separated from the service after June 30, 1917, or enlisted members who were completely separated after October 31, 1912, or for records of deceased Army personnel should be sent to the Chief, National Personnel Records Center, National Archives and Records Administration, 9700 Page Avenue, St. Louis, MO 63132–5200.

Inquiries for records of National Guard should be sent to the Director, National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204–1382.

Individual should provide the full name, Social Security Number, service identification number, military status, and current address.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, enlistment appointment or commission related forms pertaining to individual's military status; educational and financial institutions, training or qualifications records acquired prior to or during military services; law enforcement agencies, references provided by individuals, Army records repots, correspondence, forms, documents and other relevant papers, third parties and members of the public when information furnished relates to the service member's status.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–30494 Filed 12–10–01; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–75–000]

Chandeleur Pipe Line Company; Notice of Filing

December 5, 2001.

Take notice that on November 30, 2001, Chandeleur Pipe Line Company (Chandeleur) tendered for filing in accordance with section 21.0 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1, workpapers supporting the continuation, effective January 1, 2002 of its currently effective Fuel and Line Loss Allowance of 0.0%.

Chandeleur asserts that this filing is tendered in order to comply with the annual calculation requirements of its tariff as referenced above.

Chandeleur states that the purpose of this filing is to account for changes in amounts retained for Fuel and Line Loss Allowance pursuant to the provisions of 18 CFR 154.403(d)(3) and in accordance with section 21.0 of the General Terms and Conditions of Chandeleur Pipe Line Company's (Chandeleur) FERC Gas Tariff, Second Revised Volume No. 1.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before December 12, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30566 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–65–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

December 5, 2001.

Take notice that on November 30, 2001, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective January 1, 2002:

Twenty-seventh Revised Sheet No. 18
Seventeenth Revised Sheet No. 18A
Twenty-eighth Revised Sheet No. 19

Columbia Gulf states that this filing is being submitted in accordance with the Commission's order issued on September 19, 2001 in Gas Research Institute's (GRI) Docket No. RP01–434–000 (Order Approving Settlement), and in accordance with section 31 of the General Terms and Conditions of its FERC Gas Tariff, Columbia Gulf is

submitting revised tariff sheets to reflect the 2002 GRI funding mechanism.

Columbia Gulf states that copies of its filing have been served upon its interruptible customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30559 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF01–103–002]

Decatur Energy Center, LLC and Solutia Inc.; Notice of Filing

December 5, 2001.

Take notice that on November 30, 2001, Decatur Energy Center, LLC and Solutia Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) an amendment to the application for certification of qualifying facility status of a cogeneration facility pursuant to part 292 of the Commission's regulations. The amendment provides additional information concerning the useful thermal output of the facility.

Any person who wishes to be heard or to object to granting qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before December 31, 2001, and must be served on the Applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person who wishes to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30554 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–74–000]

Enbridge Pipelines (KPC); Notice of Refund Report

December 5, 2001.

Take notice that on November 29, 2001, Enbridge Pipelines (KPC) tendered for filing an Excess Interruptible Revenue Refund Report.

KPC states that the report is made pursuant to section 24.5 of its FERC Gas Tariff. KPC requests a waiver from the crediting provision of section 24.5 in order to credit the amount to be refunded against the current balance of receivable from Kansas Gas Service, the only customer paying KPC's maximum rate.

KPC states that copies of the filing have been served on all parties to the proceeding in Docket No. CP96–152.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before December 12, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30565 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–67–000]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

December 5, 2001.

Take notice that on November 30, 2001, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet to become effective January 1, 2002:

Sixth Revised Sheet No. 5
Ninth Revised Sheet No. 6
Fifth Revised Sheet No. 10

Equitrans states that the purpose of this filing is to comply with the "Order Approving the Gas Research Institute's 2002 Research, Development and Demonstration Program and 2002–2006 Five Year Plan" issued on September 19, 2001 in Docket No. RP01–434–000. The Commission authorized pipeline companies to collect the Gas Research Institute (GRI) funding unit from their customers. The 2002 GRI unit surcharge approved by the Commission is (1) $0.0660 per dekatherm (Dth) per month demand surcharge for high load factor customers, (2) $0.0407 per Dth per month demand surcharge for low load factor customers and (3) $0.0055 per Dth commodity/usage surcharge.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections

385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30561 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–66–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

December 5, 2001.

Take notice that on November 30, 2001, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of January 1, 2002:

Fiftieth Revised Sheet No. 8A
Forty-Second Revised Sheet No. 8A.01
Forty-Second Revised Sheet No. 8A.02
Forty-Sixth Revised Sheet No. 8B
Thirty-Ninth Revised Sheet No. 8B.01

FGT states that it is filing the above referenced tariff sheets pursuant to the Gas Research Institute's (GRI) Year 2002 Research, Development and Demonstration Program and 2002–2006 Five-Year Plan as approved by the Federal Energy Regulatory Commission Order issued September 19, 2001 in Docket No. RP01–434. For the year of 2002, the funding mechanism includes the approved GRI demand charges of 6.6 cents per MMBtu per month (.22 cents per MMBtu stated on a daily basis underlying FGT's reservation charges) to be applicable to firm shippers with load factors exceeding 50%, 4.07 cents per MMBtu per month (.13 cents per MMBtu stated on a daily basis underlying FGT's reservation charges) to be applicable to firm shippers with load factors of 50% or less and a volumetric charge of 0.55 cents per MMBtu to be applicable to all non-discounted interruptible rates and to the usage portion of two-part rates. In addition, the 2002 funding mechanism includes a volumetric charge of 0.88 cents per MMBtu to be applicable to all one-part small customer rates. This funding mechanism provides for a decrease in GRI charges as compared to the currently effective 2001 GRI charges.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30560 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–70–000]

Florida Gas Transmission Company; Notice of Filing of Annual Report

December 5, 2001.

Take notice that on November 30, 2001 Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, schedules detailing certain information related to its Cash-Out Mechanism, Fuel Resolution Mechanism and Balancing Tools charges for the accounting months October 2000 through September 2001. No tariff changes are proposed.

FGT states that section 19.1 of the General Terms and Conditions of its Tariff provides for an Annual Report containing an accounting of costs and revenues associated with the Cash-Out Mechanism, Fuel Resolution Mechanism and various Balancing Tools provided for in FGT's Tariff. The instant filing is made in compliance with those provisions.

FGT states that it has experienced a revenue deficiency of $7,140,225 during the current Settlement Period, which when combined with $86,905 net deficiency carried forward, results in a cumulative underrecovery of $7,227,130 as of September 30, 2001. FGT further states that the net deficiency carried forward of $86,905 includes interest calculated in compliance with the Commission's order issued November 20, 2001 in Docket No. RP01–511–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before December 12, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30563 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–82–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

December 5, 2001.

Take notice that on November 30, 2001, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of January 1, 2002:

Fifth Revised Sheet No. 131
Third Revised Sheet No. 133
Fifth Revised Sheet No. 184B
First Revised Sheet No. 184B.01
Second Revised Sheet No. 184C

FGT states that the cash-out pricing provisions of its Tariff have ceased to discourage imbalances and, during periods of price volatility, actually encourage or reward imbalances. FGT states that during the cash-out Settlement Period 9, FGT experienced an underrecovery in its cash-out mechanism of $5,377,712 and an overall underrecovery of its system balancing costs and revenues of $7,140,225.

FGT states that it is filing changes to its cash-out provisions to base its imbalance settlement prices on an arithmetic average of Gas Daily daily prices from the sixth day of the applicable month to the fifth day of the following month in order to reduce a bias to first of the month pricing and create uncertainty as to the prices to be paid or received by imbalance parties for month-end imbalances. In addition, FGT is proposing an interest component to be applied to cumulative monthly imbalances beginning with the cumulative net balance at the end of Settlement Period 9 ended September 30, 2001.

Finally, FGT states that it is filing to make certain clarifying changes to Section 19.1 of the General Terms and Conditions of its Tariff to reflect the methodology and format used by FGT in preparation of the Annual Report of system balancing activities. FGT states that the clarifications will result in no changes to the preparation of the Annual Report, but rather conform the tariff mechanics to the methodology and format historically used by FGT.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30572 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–25–000]

Indianapolis Power & Light Company; Notice of Filing

December 5, 2001.

Take notice that on November 14, 2001, Indianapolis Power & Light Company (IPL) filed an application to transfer control of jurisdictional facilities under section 203 of the Federal Power Act. IPL proposed to transfer control of certain of its jurisdictional transmission facilities to the Midwest Independent System Operator, Inc. (Midwest ISO).

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 12, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30550 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–3000–001, EC01–146–001 and RT01–101–001]

International Transmission Company, DTE Energy Company; Notice of Filing

December 5, 2001.

Take notice that on November 27, 2001, International Transmission Company tendered for filing the remaining outstanding, executed signature pages to the "Supplemental Agreement" filed with the Commission by International Transmission on November 15, 2001, in the above-referenced dockets. The Supplemental Agreement is a multi-party contract that amends the "Appendix I Agreement By and Between International Transmission Company and the Midwest Independent Transmission System Operator, Inc., dated August 31, 2001."

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 18, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for

assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web-site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–30552 Filed 12–10–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–90–000]

Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

December 5, 2001.

Take notice that on November 29, 2001, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective January 1, 2002:

Sixth Revised Sheet No. 5
Second Revised Sheet No. 5–A
Fourth Revised Sheet No. 6

Kern River states that the purpose of this filing is to revise its tariff to incorporate the Gas Research Institute (GRI) surcharges approved by the Commission for 2002.

Kern River states that a copy of this filing has been served upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–30571 Filed 12–10–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–68–000]

Midwestern Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

December 5, 2001.

Take notice that on November 30, 2001, Midwestern Gas Transmission Company (Midwestern) tendered for filing to become part of Midwestern's FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed on Appendix A, to become effective January 1, 2002.

Midwestern states that the purpose of this filing is to implement a new rate schedule (Rate Schedule PAL) under which Midwestern will provide a park and loan service. Midwestern is proposing to revise certain currently effective tariff sheets to incorporate the PAL service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–30562 Filed 12–10–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–71–000]

Midwestern Gas Transmission Company; Notice of Tariff Filing

December 5, 2001.

Take notice that on November 30, 2001, Midwestern Gas Transmission Company (Midwestern) tendered for filing to become part of Midwestern's FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet No. 5, to become effective January 1, 2002.

Midwestern states that the purpose of this compliance tariff filing is to reflect the GRI surcharge amounts as follows: (1) A commodity surcharge of .55 cents per Dth, (2) a high load factor demand surcharge of 6.6 cents per Dth, (3) a low load factor demand surcharge of 4.07 cents per Dth, and (4) a small customer surcharge of .88 cents per Dth. This filing was made in compliance with the Commission's letter order dated September 19, 2001 in Docket No. RP01–434–000.

Midwestern states that copies of this filing have been sent to all of Midwesterns contracted shippers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically

via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30564 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–28–000]

Nevada Power Company and Sierra Pacific Power Company, Complainants, v. Enron Power Marketing, Inc., Respondent; Notice of Complaint

December 5, 2001.

Take notice that on November 30, 2001, Nevada Power Company (NPC) and Sierra Pacific Power Company (SPPC) (collectively, the Nevada companies) filed a complaint requesting that the Commission mitigate unjust and unreasonable prices in sales contracts between NPC and Enron Power Marketing, Inc. (Enron) and between SPPC and Enron entered into in late 2000 and the first half of 2001 for delivery after January 1, 2001.

The Nevada companies request that the Commission set a refund effective date of 60 days from the date of filing of their complaint.

Copies of the Nevada companies' filing were served on Enron and the Public Utility Commission of Nevada.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 20, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before December 20, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30551 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–62–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 5, 2001.

Take notice that on November 30, 2001, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective January 1, 2002:

60 Revised Sheet No. 50
61 Revised Sheet No. 51
57 Revised Sheet No. 53
10 Revised Sheet No. 56

Northern states that this filing establishes the System Balancing Agreement (SBA) cost recovery surcharge to be effective January 1, 2002 for the period January 1 through December 31, 2002.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30556 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–64–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 5, 2001.

Take notice that on November 30, 2001, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets proposed to be effective January 1, 2002:

Fifth Revised Volume No. 1

59 Revised Sheet No. 50
60 Revised Sheet No. 51
27 Revised Sheet No. 52
56 Revised Sheet No. 53
9 Revised Sheet No. 56

Original Volume No. 2

167 Revised Sheet No. 1C
43 Revised Sheet No. 1C.a

Northern states that the purpose of this filing is to set forth the approved 2002 Gas Research Institute (GRI) surcharges for the 2002 calendar year to be effective January 1, 2002 in accordance with the Commission's Order Approving The Gas Research Institute's Year 2002 Research, Development and Demonstration Program and 2002–2006 Five-Year Plan issued on September 19, 2001 in Docket No. RP01–434–000.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30558 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–77–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 5, 2001.

Take notice that on November 29, 2001, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff the following tariff sheets to become effective January 1, 2002:

Third Revised Volume No. 1

Twenty-Second Revised Sheet No. 5

Original Volume No. 2

Twenty-Eighth Revised Sheet No. 2.2

Northwest states that the purpose of this filing is to revise its tariff to incorporate the Gas Research Institute (GRI) surcharges approved by the Commission for 2002.

Northwest states that a copy of this filing has been served upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30568 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–419–001, Docket No. CP01–421–001]

Portland General Electric Company; Notice of Amendment

December 5, 2001.

Take notice that on September 28, 2001, Portland General Electric Company (Portland General), tendered for filing pursuant to Section 7 of the Natural Gas Act and parts 157 and 284 of the Commission's regulations, an amendment to its application for blanket certificates of public convenience and necessity and request for waiver and extension of time filed with the Commission on July 27, 2001.

Portland General states that the purpose of the filing is to amend Portland General's application in order to: (1) Specify that Portland General has executed a transportation service agreement for the transportation of natural gas on the Kelso-Beaver Pipeline which gas will be used for Portland General's own consumption; (2) make a conforming change to the *pro forma* Tariff filed as Exhibit P to the application to reflect Portland General's execution of this agreement; and (3) request waiver of the Part 284 open-access reporting requirements to the extent not fully encompassed by Portland General's request for waiver in its application.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before December 12, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30549 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–61–000]

Questar Pipeline Company; Notice of Tariff Filing

December 5, 2001.

Take notice that on November 29, 2001, Questar Pipeline Company tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, to be effective January 1, 2002:

First Revised Volume No. 1

Twenty-Second Revised Sheet No. 5

Original Volume No. 3

Thirtieth Revised Sheet No. 8

On June 1, 2001, GRI requested approval of funding for its year 2002 research, development and demonstration program and its 2002–2006 five-year plan. The Commission issued an order on September 19, 2001, in Docket No. RP01–434–000, approving GRI's funding plans. Questar's filing incorporated the approved GRI surcharge rates in the Statement of Rates to Questar's tariff.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC

20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–30555 Filed 12–10–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–84–000]

Southern Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

December 5, 2001.

Take notice that on November 30, 2001 Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following revised sheets, with an effective date of January 1, 2002:

Fifty-sixth Revised Sheet No. 14
Seventy-seventh Revised Sheet No. 15
Fifty-sixth Revised Sheet No. 16
Seventy-seventh Revised Sheet No. 17
Fortieth Revised Sheet No. 18
Tenth Revised Sheet No. 22

Southern states that the proposed tariff sheets implement the Gas Research Institute's (GRI) revised surcharges for 2002. The 2002 GRI Funding Formula consists of surcharges of (i) .55¢ per Dth applicable to the commodity/usage portion of firm service rates and to interruptible rates and (ii) either 6.6¢ per Dth for high load factor customers or 4.07¢ per Dth for low load factor customers on the demand/reservation component of firm service rates. The 2002 GRI Funding Formula provides for a surcharge of .88¢ per Dth on service rates for small customers. The Commission authorized these surcharges in Docket No. RP01–434–000 to be effective January 1, 2002. Consistent with the Commission's order dated September 19, 2001, Southern has proposed these tariff sheets to be effective January 1, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–30573 Filed 12–10–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–86–000]

Southern Natural Gas Company; Notice of Settlement Compliance Filing

December 5, 2001.

Take notice that on November 30, 2001, Southern Natural Gas Company (Southern) tendered for filing its annual report pursuant to Section 14.2 of the General Terms and Conditions of its tariff.

Section 14.2 of Southern's Tariff provides for an annual reconciliation of Southern's storage costs to reflect differences between the cost to Southern of its storage gas inventory and the amount Southern receives for such gas arising out of (i) the purchase and sale of such gas in order to resolve shipper imbalances; and (ii) the purchase and sale of gas as necessary to maintain an appropriate level of storage gas inventory for system management purposes. In the instant filing, Southern submits the rate surcharge to the transportation component of its rates under Rate Schedules FT, FT–NN, and IT resulting from the fixed and realized losses it has incurred from the purchase and sale of its storage gas inventory. Southern proposed no change in the surcharge currently in effect.

Southern states that copies of the filing were served upon Southern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–30574 Filed 12–10–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–88–000]

Southern Natural Gas Company; Notice of Settlement Compliance Filing

December 5, 2001.

Take notice that on November 30, 2001, Southern Natural Gas Company (Southern) filed to eliminate the GSR

cost recovery provisions from its tariff to be effective January 1, 2002.

Southern also indicates, based on estimated data, a GSR surcharge refund for GSR overcollections during 2001 will be made on or before March 31, 2002 in the amount of approximately $275,000.

Southern states that copies of the filing were served upon Southern's customers, intervening parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30575 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–63–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 5, 2001.

Take notice that on November 30, 2001, Transwestern Pipeline Company (Transwestern) tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective January 1, 2002:

126 Revised Sheet No. 5
31 Revised Sheet No. 5A
23 Revised Sheet No. 5A.02
23 Revised Sheet No. 5A.03
28 Revised Sheet No. 5B

Transwestern states that the purpose of this filing is to set forth the approved 2002 Gas Research Institute (GRI) surcharges for the 2002 calendar year to be effective January 1, 2002 in accordance with the Commission's Order approving The Gas Research Institute's Year 2002 Research, Development and Demonstration Program and 2002–2 006 Five-Year Plan issued on September 19, 2001 in Docket No. RP01–434–000.

Transwestern states that copies of the filing were served upon Transwestern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30557 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–76–000]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

December 5, 2001.

Take notice that on November 29, 2001, Williams Gas Pipelines Central, Inc. (Williams) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Twentieth Revised Sheet No. 6A, to become effective January 1, 2002.

Williams states that pursuant to Order Approving Settlement, issued April 29, 1998, in Docket No. RP97–149–003, et al. as modified by the Commission's Order dated September 19, 2001, in Docket No. RP01–434–000 and Williams FERC Gas Tariff, Original Volume No. 1, Article 25 of its General Terms and Conditions, Williams is filing to reflect the new GRI surcharges to be collected on nondiscounted transportation services.

Williams states that copies of this filing have been served on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30567 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–78–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

December 5, 2001.

Take notice that on November 30, 2001, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2, the following revised tariff sheets to become effective January 1, 2002:

Second Revised Volume No. 1

Forty-Fourth Revised Sheet No. 15
Forty-Fifth Revised Sheet No. 16
Forty-Third Revised Sheet No. 18
Thirty-Ninth Revised Sheet No. 21

Original Volume No. 2

Eighty-Eighth Revised Sheet No. 11B

Williston Basin states the proposed tariff sheets are being filed to incorporate the Gas Technology Institute (GTI) General Research, Development and Demonstration Funding Unit Adjustment Provision for 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30569 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–79–000]

Williston Basin Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 5, 2001.

Take notice that on November 30, 2001, Williston Basin Interstate Pipeline Company (Williston Basin or Company), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective November 30, 2001:

Ninth Revised Sheet No. 5
Seventh Revised Sheet No. 6
Seventh Revised Sheet No. 6A
Fourth Revised Sheet No. 7
Seventh Revised Sheet No. 8
Eighth Revised Sheet No. 9
Sixth Revised Sheet No. 10

Williston Basin is proposing to amend its tariff to eliminate the display of its system maps. Williston Basin requests that the Commission grant waiver of section 154.106 of the Commission regulations requiring the display of system maps in a pipeline's FERC Gas Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30570 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–27–001, et al.]

LG&E Power Inc., et al.; Electric Rate and Corporate Regulation Filings

December 4, 2001.

Take notice that the following filings have been made with the Commission:

1. LG&E Power Inc., American Power, Incorporated, and Progress Ventures, Inc.

[Docket No. EC02–27–001]

Take notice that on November 21, 2001, LG&E Power Inc., American Power, Incorporated (Sellers) and progress Ventures, Inc., (Buyer) (collectively, the Applicants) submitted certain additional material described in their November 19, 2001 filing in the captioned proceeding asking for Commission authorization pursuant to the provisions of section 203 of the Federal Power Act for a transaction under which the Buyer would acquire from the Sellers certain jurisdictional facilities associated with Sellers' sale to Buyer of the limited liability company membership interests of LG&E Power Monroe LLC.

The Applicants state that copies of this additional material were served on the Georgia Public Service Commission, North Carolina Utilities Commission, South Carolina Public Service Commission and the Florida Public Service Commission, who were also recipients of the November 19, 2001 filing.

Comment date: January 18, 2002, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Gas and Electric Company

[Docket No. ER01–833–000]

Take notice that on November 30, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Further Request for Deferral of Consideration of the unexecuted Wholesale Distribution Tariff (WDT) Service Agreement and Interconnection Agreement between Pacific Gas and Electric Company and Modesto Irrigation District (MID) filed in FERC Docket No. ER01–833–000 on December 29, 2000. PG&E and Modesto are finalizing the WDT Service Agreement and a letter agreement for review and signature, and PG&E therefore is notifying the Commission that executed agreements will not be filed by November 30, 2001, the requested deferral date.

PG&E requests that the Commission defer consideration of the proceedings filed in ER01–833–000 to February 28, 2002, 90 days beyond the last request for Deferral in order that the parties may finalize and executed the Agreements.

Copies of this filing have been served upon MID, the California Independent System Operator Corporation, and the California Public Utilities Commission.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Alliant Energy Corporate Services, Inc.

[Docket No. ER02–330–001]

Take notice that on November 30, 2001, the Alliant Energy Corporate Services, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) to hold in abeyance the Alliant Energy Corporate Services, Inc.'s proposed Notice of Cancellation and revisions to its Open Access Transmission Tariff (OATT), FERC Electric Tariff, First Revised Volume No. 1, which was filed on November 14, 2001, in the Docket No. indicated above.

Alliant Energy Corporate Services, Inc. has served copies of its filing by placing a copy of same in the United States mail, first-class postage prepaid, to customers under it OATT, the Illinois Commerce Commission, Iowa Department of Commerce, Minnesota Public Utilities Commission and the Public Service Commission of Wisconsin.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. PJM Interconnection, L.L.C.

[Docket No. ER02–235–001]

Take notice that on November 29, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing with the Federal Energy Regulatory Commission (Commission) a correction and an additional conforming change to the revisions to the PJM Open Access Transmission Tariff (PJM Tariff) that were filed in this proceeding on November 1, 2001 (November 1 Filing). PJM states that one of the PJM Tariff sheets submitted with the November 1 Filing contained calculation errors in two of the figures on the sheet and that the Commission's November 20, 2001 letter order in Docket No. ER99–396–000 requires a conforming change to the post-January 1, 2002 version of the PJM Tariff. Copies of this filing have been served on all PJM Members and the state electric regulatory commissions in the PJM control area.

PJM requests an effective date of January 1, 2002, which is the PJM West implementation date and the same effective date as the tariff amendments in the November 1 Filing.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. PacifiCorp

[Docket No. ER01–3124–001]

Take notice that PacifiCorp on November 29, 2001, tendered for filing with the Federal Energy Regulatory Commission (Commission) in accordance with 18 CFR 35 of the Commission's Rules and Regulations and in compliance with the Commission's Order dated November 21, 2001 under FERC Docket No. ER01–3124–000 Mutual Netting/Settlement Agreements. These Netting Agreements were previously accepted for filing and are being resubmitted with the appropriate header and footer information as required in Order 614.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Wellhead Power Panoche, LLC

[Docket No. ER01–3118–001]

Take notice that on November 29, 2001, Wellhead Power Panoche, LLC (Applicant) filed with the Federal Energy Regulatory Commission (Commission) a response to the Commission's Letter Order issued on November 21, 2001 in Docket No. ER01–3118–000 and tendered for filing an amended market-based rate schedule under Section 205 of the Federal Power Act in order to comply with the Federal Energy Regulatory Commission's Order Establishing Refund Effective Date and Proposing to Revise Market-Based Rate Tariffs and Authorization issued on November 20, 2001 in Docket No. EL01–118.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Wellhead Power Gates, LLC

[Docket No. ER01–3117–001]

Take notice that on November 29, 2001, Wellhead Power Gates, LLC (Applicant) responded to the Federal Energy Regulatory Commission (Commission) Letter Order issued on November 21, 2001 in Docket No. ER01–3117–000 and tendered for filing an amended market-based rate schedule under Section 205 of the Federal Power Act in order to comply with the Federal Energy Regulatory Commission's Order Establishing Refund Effective Date and Proposing to Revise Market-Based Rate Tariffs and Authorization issued on November 20, 2001 in Docket No. EL01–118.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Renaissance Power, L.L.C.

[Docket No. ER01–3109–001]

Take notice that on November 30, 2001, Renaissance Power, L.L.C. (Renaissance) tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to Rule 205, 18 CFR 385.205, a revised FERC Electric Tariff No. 1 in compliance with the Commission's letter order dated November 20, 2001 in the above docket, which required Renaissance to include a provision in its tariff prohibiting power purchases from franchised public utility affiliates.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. FPL Energy Marcus Hook, L.P.

[Docket No. ER01–2929–001]

On November 30, 2001, FPL Energy Marcus Hook, L.P. (the Applicant), filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant states that it is a Delaware limited partnership engaged directly and exclusively in the business of developing and operating an approximately 740 MW generating facility to be located in Marcus Hook, Pennsylvania. Electric energy produced by the facility will be sold at wholesale or at retail exclusively to foreign consumers.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Rock River I, LLC

[Docket No. ER01–2742–001]

Take notice that on November 28, 2001, Rock River I, LLC (Rock River) filed with the Federal Energy Regulatory Commission (Commission) informing the Commission of a change in status as a result of a change in its upstream corporate ownership. Rock River is the owner of a wind energy generating facility located in Carbon County, Wyoming and is interconnected with the system of PacifiCorp.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. PJM Interconnection, L.L.C.

[Docket No. ER02–212–001]

Take notice that on November 29, 2001, PJM Interconnection, L.L.C. (PJM), submitted corrections to the amendments to Schedule 2 of the PJM Open Access Transmission Tariff (PJM Tariff) that were submitted in this docket on October 31, 2001 (October 31 Filing). PJM states that the corrections are required to correct two calculation errors in the monthly reactive power service revenue requirements submitted with the October 31 filing. Copies of this filing were served upon all PJM members and the state electric regulatory commissions in the PJM control area.

PJM requests an effective date of January 1, 2002 for the corrections, to conform to the effective date requested for the PJM Tariff amendments submitted with the October 31 filing.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. ISO New England Inc.

[Docket No. ER01–3086–001]

Take notice that on December 1, 2001, ISO New England Inc. submitted as a compliance report on its Load Response Program and the addition of new generation in New England in the above Docket.

Comment date: December 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Sithe Edgar LLC, Sithe New Boston LLC, Sithe Farmingham Llc, Sithe West Medway LLC, Sithe Mystic LLC, AG-Energy, L.P., Power City Partners, L.P., Seneca Power Partners, L.P., Sterling Power Partners, L.P., Sithe Power Marketing, L.P., and Sithe Power Marketing, Inc.

[Docket No. ER01–513–002]

Take notice that on November 30, 2001, the above referenced entities filed with the Federal Energy Regulatory Commission (Commission) the rate schedule designations for their FERC Electric Schedules Nos. 1 and 2, in compliance with Order No. 614.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. New York State Electric & Gas Corporation

[Docket Nos. ER97–2353–006]

Take notice that on November 30, 2001, New York State Electric & Gas Corporation (NYSEG) tendered for filing an amendment to its September 15, 2001 Compliance Filing in the above docket to supply additional information requested by the Federal Energy Regulatory Commission (Commission) in its October 30, 2001 letter in the above-captioned dockets.

Copies of the filing have been served on all parties listed on the official service list maintained by the Secretary of the Commission in the above docket.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Dynegy Power Marketing, Inc., Illinova Energy Partners, Inc., Dynegy Power Services, Inc., Illinois Power Company, El Segundo Power, LLC, Long Beach Generation LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, Rockingham Power, LLC, Rocky Road Power, LLC, Dynegy Midwest Generation, Inc., Calcasieu Power, LLC, Dynegy Danskammer, L.L.C., Dynegy Roseton, L.L.C., Heard County Power L.L.C., Riverside Generating Company, L.L.C., and Nicor Energy, LLC

[Docket Nos. ER99–4160–002, ER94–1475–020, ER94–1612–025, ER99–3322–001, ER98–1127–004, ER98–1796–003, ER99–1115–004, ER99–1116–004, ER99–1567–001, ER99–2157–001, ER00–1895–001, ER00–1049–002, ER01–140–001, ER01–141–001, ER01–943–001, ER01–1044–001, and ER01–1169–001]

Take notice that on November 30, 2001, Dynegy Inc., on behalf of the above-noted entities, filed with the Federal Energy Regulatory Commission (Commission) a withdrawal of the notification of change in status previously filed with the Commission on November 16, 2001.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30548 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Teleconference Meeting for the Big Creek No. 4, Project, P–2017

December 5, 2001.

a. *Date and Time of Meeting:* December 19, 2001, 1:00 PM EST to 3:30 PM EST.

b. *Place:* By copy of this notice we are inviting interested parties to participate in a teleconference from their telephone location. If anyone wishes to participate, they need to call 1–888–730–9139. The participants will need to give the operator the conference leader's name: John Ramer and the passcode: Ramer.

c. *FERC Contact:* John Ramer at (202) 219–2833; *john.ramer@FERC.Fed.US* or John Smith at (202) 219–2460; *john.smith@FERC.Fed.US.*

d. *Purpose of the Meeting:* The Federal Energy Regulatory Commission and the U.S. Forest Service, Sierra National Forest, intend to discuss the Forest Service's 4(e) conditions for the Big Creek No. 4 Project, FERC Project No. 2017.

e. *Proposed Agenda:*

A. Clarification of Forest Service section 4(e) terms and conditions

B. FERC's Schedule for issuing the Final Environmental Impact Statement

f. All local, state, and Federal agencies, Indian Tribes, and interested parties, are hereby invited to participate in this meeting. If you want to participate by teleconference, please contact John Ramer or John Smith at the numbers listed above no later than December 14, 2001.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30553 Filed 12–10–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–7115–3]

Notice of Deficiency for Clean Air Act Operating Permit Program in Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deficiency.

SUMMARY: Pursuant to its authority at 40 CFR 70.10, EPA is publishing this Notice of Deficiency (NOD) for the State of Michigan's Clean Air Act title V operating permit program. The NOD is based upon EPA's finding that the state's requirements for administrative permit amendments do not comply with the requirements of 40 Code of Federal Regulations (CFR) part 70 and the Act. Publication of this document is a prerequisite for withdrawal of the state's title V program approval, but EPA is not withdrawing this program through this action.

EFFECTIVE DATE: November 30, 2001. Because this NOD is an adjudication and not a final rule, the Administrative Procedure Act's 30 day deferral of the effective date of a rule does not apply.

FOR FURTHER INFORMATION CONTACT: Beth Valenziano, EPA Region 5 (AR–18J), 77 W. Jackson Boulevard, Chicago, Illinois 60604, (312) 886–2703, *valenziano.beth@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). Sierra Club and the New York Public Interest Research Group challenged the action. In settling the litigation, EPA agreed to publish a document in the **Federal Register**, so that the public would have the opportunity to identify and bring to EPA's attention alleged deficiencies in title V programs. The EPA published that document on December 11, 2000. 65 FR 77376.

As stated in the **Federal Register** document, EPA agreed to respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA agreed to respond by April 1, 2002 to timely comments on fully approved programs. The EPA is publishing a NOD if the Agency determines that a deficiency exists, and is notifying the commenter in writing to explain the reasons for not making a finding of deficiency on other issues. The EPA received two timely comment letters pertaining to the Michigan title V program. In reviewing the commenters' concerns, EPA agrees that one commenter has identified a deficiency in Michigan's title V operating permit program relating to the state's administrative permit amendment regulations. The EPA is addressing that deficiency in this document. In addition, the commenters raised other issues that EPA has determined are not deficiencies. The EPA is responding to the commenters in writing, explaining the basis for EPA's decision.

Under EPA's permitting regulations, citizens may, at any time petition EPA regarding alleged deficiencies in state title V operating permit programs. In addition, EPA may on its own identify deficiencies. If, in the future, EPA agrees with a new citizen petition or otherwise identifies deficiencies, EPA may issue a new NOD.

II. Description of Action

The EPA is publishing this NOD to notify the state of Michigan and the public that EPA has found a deficiency in the Michigan title V operating permit program. This document is being published to satisfy 40 CFR 70.10(b)(1), which provides that EPA shall publish in the **Federal Register** a notice of any determination that a state's title V permitting program no longer complies with the requirements of 40 CFR part 70 and the Clean Air Act (Act). The deficiency being noticed today relates to Michigan's regulatory authority to grant a permit shield from enforcement for certain administrative amendments.

The EPA's regulations at 40 CFR 70.7(d)(4) do not allow a state operating permit program to grant a permit shield for the following administrative permit amendments specified in 40 CFR 70.7(d)(1)(i)–(iv): a change that corrects typographical errors; a change in the name, address or phone number of the responsible official or other contact person; a change that provides for more frequent monitoring and reporting; and a change in the ownership or operational control of a source where no other changes to the permit are necessary. However, Michigan's rules allow a permit shield for such amendments. Specifically, Michigan Rule (R) 336.1216(1)(b)(iii) provides that the permit shield as described in 40 CFR 70.6(f) and R 336.1213(6) applies to administrative amendments made pursuant to R 336.1216(a)(i) through (iv) once the changes have been approved by the Michigan Department of Environmental Quality (MDEQ). R 336.1216(a)(i) through (iv) allows administrative amendments for the changes specified in 40 CFR 70.7(d)(1)(i) through (iv). Because Michigan's rules impermissibly allow for a permit shield for these administrative amendments, the state's program does not comply with the requirements of the Act and 40 CFR part 70.

Title V provides for the approval of state programs for the issuance of operating permits that incorporate the applicable requirements of the Act. To receive title V program approval, a state permitting authority must submit a program to EPA that meets certain minimum criteria, and EPA must disapprove a program that fails, or withdraw an approved program that subsequently fails, to meet these criteria. These criteria include requirements for revising operating permits, including administrative amendments. 40 CFR 70.4(b)(16); *see* 40 CFR 70.7(d). Part 70 further provides that a permitting authority may grant a permit shield only in certain circumstances. 40 CFR 70.6(f) and 70.7(d)(4).

40 CFR 70.4 and 70.10(b) and (c) provide that EPA may withdraw a part 70 program approval, in whole or in part, whenever the approved program no longer complies with the requirements of part 70 and the permitting authority fails to take corrective action. 40 CFR 70.10(c)(1)(i) lists a number of potential bases for program withdrawal, including the case where the permitting authority's legal authority does not meet the requirements of 40 CFR part 70.

40 CFR 70.10(b), which sets forth the procedures for program withdrawal, requires as a prerequisite to withdrawal that the EPA Administrator notify the permitting authority of any finding of deficiency by publishing a document in the **Federal Register**. Today's document satisfies this requirement and constitutes a finding of deficiency. According to 40 CFR 70.10(b)(2), if Michigan has not taken "significant action to assure adequate administration and enforcement of the program" within 90 days after issuance of this notice of deficiency, EPA may withdraw the state program, apply any of the sanctions specified in section 179(b) of the Act, and/or promulgate, administer, and enforce a federal title V program. 40 CFR 70.10(b)(3) provides that, if the state has not corrected the deficiency within 18 months after the date of the finding of deficiency and issuance of the NOD, EPA will apply the sanctions under section 179(b) of the Act, in accordance with section 179(a) of the Act. In addition, 40 CFR 70.10(b)(4) provides that, if the state has not corrected the deficiency within 18 months after the date of the finding of

deficiency, EPA will promulgate, administer, and enforce a whole or partial program within 2 years of the date of the finding. The sanctions will go into effect unless the state has corrected this deficiency within 18 months after signature of this document.

This document is not a proposal to withdraw the state's title V program. Consistent with 40 CFR 70.10(b)(2), EPA will wait at least 90 days to determine whether the state has taken significant action to correct the deficiency.

III. EPA Responses to Citizen Comments

As discussed above, EPA is responding in writing to all timely comments that citizens submitted pursuant to the settlement agreement. For all comments not resulting in an NOD, EPA is responding directly to the commenter, explaining the reasons why EPA did not find that an NOD was warranted. EPA Region 5 will also post its response letters on the Internet at *http://yosemite.epa.gov/r5/ardcorre.nsf/Title+V+Program+Comments*. EPA Region 5 includes the states of Michigan, Minnesota, Illinois, Indiana, Ohio, and Wisconsin. Finally, EPA will publish a national notice of availability in the **Federal Register** notifying the public that EPA has responded in writing to the commenters and explaining how the public may obtain a copy of EPA's responses.

IV. Administrative Requirements

Under section 307(b)(1) of the Act, petitions for judicial review of today's action may be filed under the United States Court of Appeals for the appropriate circuit within 60 days of December 11, 2001.

(Authority: 42 U.S.C. 7401–7671q.)

Dated: November 30, 2001.

Thomas V. Skinner,

Regional Administrator, Region 5.

[FR Doc. 01–30451 Filed 12–6–01; 3:44 pm]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–7115–2]

Notice of Deficiency for Clean Air Act Operating Permit Program in Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deficiency.

SUMMARY: Pursuant to its authority at 40 CFR 70.10, EPA is publishing this Notice of Deficiency (NOD) for the State of Indiana's Clean Air Act title V operating permit program. The NOD is based upon EPA's finding that several state requirements do not meet the minimum federal requirements of 40 CFR part 70 and the Act for program approval. Publication of this document is a prerequisite for withdrawal of Indiana's title V program approval, but EPA is not withdrawing the program through this action.

EFFECTIVE DATE: November 30, 2001. Because this NOD is an adjudication and not a final rule, the Administrative Procedure Act's 30-day deferral of the effective date of a rule does not apply.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, EPA Region 5 (AR–18J), 77 W. Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 886–3189, E-mail Address: portanova.sam@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). Sierra Club and the New York Public Interest Research Group challenged the action. In settling the litigation, EPA agreed to publish a document in the **Federal Register**, giving the public the opportunity to identify and bring to EPA's attention alleged deficiencies in title V programs. EPA published that document on December 11, 2000. 65 FR 77376.

As stated in the **Federal Register** document published on December 11, 2000 (65 FR 77376), EPA is responding by December 1, 2001 to timely public comments on programs that have obtained interim approval; and by April 1, 2002 to timely comments on fully approved programs. The EPA is publishing a NOD if the Agency determines that a deficiency exists, and is notifying the commenter in writing to explain the reasons for determining that other issues do not constitute a deficiency in the Indiana title V program. The EPA received two timely comment letters pertaining to the Indiana title V program. In reviewing the commenters' concerns, EPA determined that one commenter did identify deficiencies in Indiana's title V operating permit program.

II. Description of Action

EPA recognizes that the Indiana Department of Environmental Management (IDEM) has made an expeditious effort to correct the regulatory deficiencies identified by the commenter. These Indiana regulatory revisions, however, will not become effective until after December 1, 2001. Therefore, the EPA is publishing a NOD for Indiana's Clean Air Act (Act) title V program. This document is being published to satisfy 40 CFR 70.10(b)(1), which provides that EPA shall publish in the **Federal Register** a notice of any determination that a state's title V permitting program no longer complies with the requirements of 40 CFR part 70 and the Act. The deficiencies being noticed are listed below. Because of IDEM's efforts to address these deficiencies as expeditiously as possible, EPA expects these regulatory deficiencies to be corrected by March 2002.

Under EPA's permitting regulations, citizens may, at any time, petition EPA regarding alleged deficiencies in state title V operating permitting programs. In addition, EPA may identify deficiencies on its own. If, in the future, EPA agrees with a new citizen petition or otherwise identifies deficiencies, EPA may issue a new NOD.

1. Permit Shield

Under the Indiana title V program, minor permit modifications, which are not subject to public review, qualify for a title V permit shield. This is not consistent with 40 CFR 70.7(e)(2)(vi), which provides that "the permit shield under 70.6(f) of this part may not extend to minor permit modifications." During EPA's original review of Indiana's title V program, which resulted in granting interim approval on November 14, 1995, the Indiana regulations required minor modifications to be subject to public review equivalent to that required by 40 CFR 70.6, 70.7 and 70.8, and allowed such modifications to qualify for a permit shield. In reviewing that original regulation, EPA determined that the permit shield was acceptable in this situation because of the availability of public review. Subsequent to the November 14, 1995, interim approval, Indiana modified its regulations to remove the public notice requirement from the minor modification provision. However, the state did not remove the permit shield provision. Because Indiana's rules allow for a permit shield for these minor modifications, the state's program does not meet the program approval requirements of title V and 40 CFR part 70. Indiana is in the process of correcting this provision to re-instate the public review requirements for minor modifications. Indiana will revise 326 IAC 2–7–12(b)(4) of the state regulations to require that minor permit modifications go through public review.

2. Compliance Certification With Alternative or Streamlined Limits

Indiana rule 326 IAC 2–7–4(c)) allows sources to certify compliance with alternative or streamlined requirements instead of original applicable requirements. For the initial compliance certifications submitted with permit applications, part 70 does not allow sources to certify compliance with alternative or streamlined requirements instead of the applicable requirements. EPA's March 5, 1996, memorandum entitled "White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program" states that a permitting authority may combine underlying applicable requirements into one streamlined permit term provided that the source's compliance with the streamlined term guarantees that the source is also in compliance with all underlying applicable requirements. Indiana's regulations currently only require sources to certify compliance with streamlined terms. Indiana must revise its regulations to further require sources to certify compliance with the underlying applicable requirements. We encourage states to use EPA guidance documents in implementing the title V program. When applying those guidance documents, however, a state must assure that its program is consistent with 40 CFR part 70.

Because Indiana's rules allow for compliance certification with alternative or streamlined limits, the state's program does not meet the program approval requirements of title V and 40 CFR part 70. Indiana is in the process of correcting this rule provision. Indiana will remove language from 326 IAC 2–7–4(c) which allows compliance certification with alternative or streamlined limits.

3. Supersession

Indiana's construction permits expire upon issuance of a valid title V permit; therefore, the construction permit conditions do not exist independently of title V permits. Permit conditions in previously issued permits must exist independently of title V permits. Allowing the basis for these conditions to expire could cause Indiana to lose the authority to include such conditions in renewed title V permits. Because Indiana's rules do not assure that construction permit conditions exist independently of title V permits, the state's program does not meet the program approval requirements of title V and 40 CFR part 70. Indiana is in the process of revising 326 IAC 2–1.1–9.5 which will address this deficiency by stating that any condition identified as having been established in a permit issued pursuant to a State Implementation Plan-approved permit program will remain in effect even if the original construction permit expires.

4. Operating Parameter Exceedances

Indiana rule 326 IAC 2–7–5(1)(E) considers an exceedance of a permit limit and the corresponding operating parameter as only one violation. This rule provision restricts the state's enforcement authority to restrain or enjoin and to assess a civil penalty for the violation of any permit condition as required by 40 CFR 70.11. Therefore, Indiana's program does not meet the program requirements of title V and 40 CFR part 70. Indiana is in the process of correcting this rule provision. Indiana will remove this language from its rules by deleting paragraph 326 IAC 2–7–5(1)(E).

5. Startup, Shutdown, and Malfunction Exceedances

Indiana rule 326 IAC 2–7–5(1)(F) allows the state to address emission limit exceedances for startups, shutdowns, and malfunctions on a case-by-case basis in title V permits. This allows the permitting authority to establish through the title V permitting process limits which exceed applicable requirements. Because title V does not give permitting authorities the authority to establish new emission limits, Indiana's program does not meet the program approval requirements of title V and 40 CFR part 70. Indiana is in the process of correcting this rule provision. Indiana will remove this language from its rules by deleting paragraph 326 IAC 2–7–5(1)(F).

6. Emission Levels

a. Sulfur Dioxide, Nitrogen Oxides, Carbon Monoxide, Volatile Organic Compounds, and Lead Exemption Levels

Indiana rule 326 IAC 2–1.1–3(d) allows the state to exempt from the title V minor or significant modification requirements sulfur dioxide, nitrogen oxides (NO_X), and volatile organic compound (VOC) emission increases of up to 10 tons per year and carbon monoxide emission increases of up to 25 tons per year. In addition, 326 IAC 2–1.1–3(g) allows the state to exempt from the title V minor or significant modification requirements lead emissions increases of up to 5 tons per year. Because 40 CFR 70.6(e) does not allow the permitting authority to create exemptions from the permit modification requirements, Indiana's program does not meet the program approval requirements of title V and 40 CFR part 70. Indiana is in the process of correcting this deficiency. Indiana will remove language from 326 IAC 2–1.1–3(d) and 326 IAC 2–1.1–3(g) which apply these provisions to title V sources and title V modifications.

b. NO_X and VOC Insignificant Activity Threshold

The definition of insignificant activity in the Indiana rule (326 IAC 2–7–1(21)(A)) does not include specific insignificant activity threshold levels for NO_X and VOC. The rule refers to the limits in 326 IAC 2–1.1–3(d)(1) to establish the insignificant activity threshold levels for these two pollutants. The threshold levels in this provision are 10 tons per year for both NO_X and VOC. EPA considers this an unacceptably high threshold for insignificant activities and, as a result, Indiana's program does not meet the program approval requirements of title V and 40 CFR part 70. Indiana is in the process of correcting this deficiency. Indiana will revise 326 IAC 2–7–1(21)(A) to establish a VOC insignificant activity threshold of 3 pounds per hour or 15 pounds per day and a NO_X insignificant activity threshold of 5 pounds per hour or 25 pounds per day. These threshold levels will be equivalent to the VOC and NO_X thresholds that EPA approved as part of Indiana's original title V program.

7. Conclusion

Title V provides for the approval of state programs for the issuance of operating permits that incorporate the applicable requirements of the Act. To receive title V program approval, a state permitting authority must submit a program to EPA that meets certain minimum criteria, and EPA must disapprove a program that fails, or withdraw an approved program that subsequently fails, to meet these criteria. 40 CFR 70.4(k) and 70.10(b) and (c) provide that EPA may withdraw a part 70 program approval, in whole or in part, whenever the approved program no longer complies with the requirements of part 70 and the permitting authority fails to take corrective action. 40 CFR 70.10(c)(1)(i) lists a number of potential bases for program withdrawal, including failure of the permitting authority's legal authority to meet the requirements of 40 CFR part 70.

40 CFR 70.10(b), which sets forth the procedures for program withdrawal, requires as a prerequisite to withdrawal that EPA Administrator notify the permitting authority of any finding of deficiency by publishing a document in

the **Federal Register**. Today's document satisfies this requirement and constitutes a finding of deficiency. According to 40 CFR 70.10(b)(2), if Indiana has not taken "significant action to assure adequate administration and enforcement of the program" within 90 days after publication of this notice of deficiency, EPA may withdraw the state program, apply any of the sanctions specified in section 179(b) of the Act, or promulgate, administer, and enforce a federal title V program. 40 CFR 70.10(b)(3) provides that, if a state hasn't corrected the deficiency within 18 months after the date of the finding of deficiency and issuance of the NOD, EPA will apply the sanctions under section 179(b) of the Act, in accordance with section 179(a) of the Act. In addition, 40 CFR 70.10(b)(4) provides that, if the state hasn't corrected the deficiency within 18 months after the date of the finding of deficiency, EPA will promulgate, administer and enforce a whole or partial program within 2 years of the date of the finding. The sanctions will go into effect unless the state has corrected this deficiency within 18 months after signature of this document.

Since Indiana has made an expeditious effort to correct the deficiencies outlined in this document and has significantly completed the rulemaking process to correct these deficiencies, EPA considers the state to already have taken significant action to assure adequate administration and enforcement of the program. In fact, EPA expects Indiana's corrections to the deficiencies outlined in this document to be completed and in effect within 90 days after publication of this notice of deficiency.

III. EPA Responses to Citizen Comments

As discussed above, EPA is responding in writing to all timely comments that citizens submitted pursuant to the settlement agreement. For all comments not resulting in a NOD, EPA will explain the reasons why EPA found that a NOD was not warranted. EPA Region 5 will also post its response letters on the Internet at *http://yosemite.epa.gov/r5/ardcorre.nsf/Title+V+Program+Comments*. EPA Region 5 includes the states of Michigan, Minnesota, Illinois, Indiana, Ohio, and Wisconsin.

IV. Administrative Requirements

Under section 307(b)(1) of the Act, petitions for judicial review of today's action may be filed in the United States Court of Appeals for the appropriate circuit within 60 days of December 11, 2001.

(Authority: 42 U.S.C. 7401–7671q.)

Dated: November 30, 2001.

Thomas V. Skinner,

Regional Administrator, Region 5.

[FR Doc. 01–30452 Filed 12–6–01; 3:44 pm]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7115–5]

Federal NO_X Budget Trading Program: Applicability Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of applicability determination under Federal NO_X Budget Trading Program.

SUMMARY: EPA established 40 CFR part 97, the Federal NO_X Budget Trading Program ("the Program"), to reduce interstate transport of ozone under section 126 of the Clean Air Act ("section 126"). The Program applies to existing or new large electric generating units ("EGU's") and large non-EGU's (as defined at 40 CFR 52.34) in states subject to section 126. EPA finds, in an applicability determination dated November 30, 2001, that Point 30 at Weirton Steel Corporation's Plant 0001 in West Virginia is not subject to the Program because it is not a "boiler," "combustion turbine," or "combined cycle system" under 40 CFR 97.2. Since Point 30 is not subject to the Program, NO_X allowances will not be allocated for this unit in EPA's NO_X Allowance Tracking System.

DATES: Any comments regarding this applicability determination must be submitted in writing to EPA at the address below no later than January 10, 2002.

ADDRESSES: U.S. EPA, Clean Air Markets Division (6204N), Attn: Robert Miller, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert Miller, U.S. EPA Headquarters, Clean Air Markets Division, (202) 564–9077.

Dated: November 30, 2001.

Brian J. McLean.

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 01–30585 Filed 12–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7115–4]

Notice of Prevention of Significant Deterioration (PSD) Final Determination for DPL Energy Montpelier Electric Generating Station, Wells County, IN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: This notice announces that on March 13, 2001, the Environmental Appeals Board (EAB) of the EPA dismissed a petition for review of a permit issued for DPL Energy Montpelier Electric Generating Station in Wells County, Indiana by the Indiana Department of Environmental Management (IDEM) pursuant to the State of Indiana's approved minor source New Source Review (NSR) permit program.

DATES: The effective date for the EAB's decision is March 13, 2001. Judicial review of this permit decision, to the extent it is available pursuant to section 307(b)(1) of the Clean Air Act, may be sought by filing a petition for review in the United States Court of Appeals for the Seventh Circuit within 60 days of December 11, 2001.

ADDRESSES: The documents relevant to the above action are available for public inspection during normal business hours at the following address: EPA, Region 5, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604. To arrange viewing of these documents, call Julie Capasso at (312) 886–1426.

FOR FURTHER INFORMATION CONTACT: Julie Capasso, United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard (AR–18J), Chicago, Illinois 60604, telephone (312) 886–1426. Anyone who wishes to review the EAB decision can obtain it at *http://www.epa.gov/eab/disk11/montpelier.pdf*.

SUPPLEMENTARY INFORMATION: This supplemental information is organized as follows:

A. What Action is EPA Taking?
B. What is the Background Information?
C. What did EPA Determine?

A. What Action Is EPA Taking?

We are notifying the public of a final decision by EPA's EAB on a permit issued by IDEM pursuant to the State of Indiana's approved minor source (NSR) permit program.

B. What Is the Background Information?

On December 29, 2000, IDEM issued a "New Source Construction Permit and Minor Source Operation Permit" which authorizes the construction and operation of [8] Twin Pac combustion turbine units, which consist of 16 simple cycle combustion turbines and [8] electric generators. The Permit restricts allowable emissions of any regulated pollutant to no more than 249 tons per year and was issued pursuant to the state's minor source new source review ("NSR") permit program. In issuing the Permit, IDEM did not in any way invoke its permit-issuing authority pursuant to the prevention of significant deterioration ("PSD") program that it administers in the state as a federal delegatee.

On January 23, 2001, Stephen A. Loeschner filed a petition contending that IDEM should have issued a federal PSD permit to DPL Energy rather than a minor source NSR permit because, according to Petitioner, the proposed DPL Energy facility, which Petitioner characterizes as a fossil fuel-fired steam electric plant and which has the potential to emit more than 100 tons per year of any air pollutant, is a major emitting facility and, thus, requires a PSD permit.

On February 14, 2001, IDEM filed a Motion for Summary Disposition with the EAB, in which IDEM asserted that the EAB lacked jurisdiction to review the DPL Energy minor source permit. DPL Energy also filed a motion seeking summary disposition on the same grounds. The Office of General Counsel and Office of Regional Counsel in Region 5 filed an amicus curiae brief maintaining that the EAB lacked jurisdiction in this matter.

C. What Did the EAB Determine?

On March 13, 2001, the EAB denied the petition for review for lack of jurisdiction. The EAB explained that none of the sources of the Board's authority to review permit determinations confers jurisdiction on the Board for the sole purpose of reviewing permits issued under an approved minor source NSR program of any state. See In re Carlton, Inc., North Shore Power Plant, PSD Appeal 00–9 [ADMIN. MAT. 41236] (EAB, Feb. 28, 2001), 9 E.A.D. It therefore follows that the Board does not have jurisdiction to review the minor source permit issued by IDEM to DPL Energy. Also, since Carlton further instructs that the Board's jurisdiction to review PSD permits "is limited to federal PSD permits that are actually issued," it necessarily follows that a state decision not to issue a PSD permit (in contrast to a state decision to deny a PSD permit under a federal program) is not a reviewable decision by the Board.

Dated: November 28, 2001.

Bertram C. Frey,

Acting Regional Administrator, Region 5.

[FR Doc. 01–30593 Filed 12–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7115–9]

Interagency Project To Clean Up Open Dumps on Tribal Lands: Request for Proposals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Tribal Solid Waste Interagency Workgroup (Workgroup) is soliciting proposals for its fourth year of the Tribal Open Dump Cleanup Project (Project). In FY01, the Workgroup made more than $2.8 million available to fully or partially fund 16 selected projects. Each of these projects will result in the closure or upgrade of one or more open dumps located on tribal lands. We are projecting a similar amount of funding for FY02. The Cleanup Project is part of a federal effort to help tribes comprehensively address their solid waste needs. The purpose of the Cleanup Project is to assist with closing or upgrading tribal high-threat waste disposal sites and providing alternative disposal and integrated solid waste management.

The Workgroup was established in April 1998 to coordinate federal assistance to tribes in bringing their waste disposal sites into compliance with the municipal solid waste landfill criteria (40 CFR part 258). Current Workgroup members include representatives from the U.S. Environmental Protection Agency (EPA); the Bureau of Indian Affairs (BIA); the Indian Health Service (IHS); the Bureau of Land Management; the departments of Agriculture, Defense, and Housing and Urban Development; and the National Oceanic and Atmospheric Administration.

Criteria: Eligible recipients of assistance under the Cleanup Project include federally recognized tribes and intertribal consortiums. A full explanation of the submittal process, the qualifying requirements, and the criteria that will be used to evaluate proposals for this project may be found in the Request for Proposals package.

DATES: For consideration, proposals must be received by close of business on January 31, 2002. Proposals postmarked on or before but not received by the closing date will not be considered. Please do not rely solely on overnight mail to meet the deadlines.

FOR FURTHER INFORMATION: Copies of the Request for Proposals package may be downloaded from the Internet at <*www.epa.gov/tribalmsw*> by clicking on "What's New." Copies may also be obtained by contacting EPA, IHS or BIA regional or area offices or one of the following Workgroup representatives:

EPA—Melanie Barger Garvey, 202–564–2579, Christopher Dege, 703–308–2392, or Tonya Hawkins, 703–308–8278.

IHS—Steve Aoyama, 301–443–1046.

BIA—Debbie McBride, 202–208–3606.

Dated: November 30, 2001.

ELIZABETH A. COTSWORTH,

Director, Office of Solid Waste.

[FR Doc. 01–30589 Filed 12–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7117–1]

Cape Fear Wood Preserving Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into a settlement with SECO Investments, Inc. pursuant to 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, regarding the Cape Fear Wood Preserving Superfund Site located in Fayetteville, Cumberland County, North Carolina. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. EPA, Region 4 (WMD–CPSB), Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comments may be submitted to Ms. Batchelor within thirty (30)

calendar days of the date of this publication.

Dated: November 9, 2001.

Franklin E. Hill,

Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 01–30592 Filed 12–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7117–2]

Crestline Contaminated Wells Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into a settlement with the North Carolina Department of Transportation pursuant to 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, regarding the Crestline Contaminated Wells Superfund Site located in Aberdeen, Moore County, North Carolina. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. EPA, Region 4 (WMD–CPSB), Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comments may be submitted to Ms. Batchelor within thirty (30) calendar days of the date of this publication.

Dated: November 9, 2001.

Franklin E. Hill,

Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 01–30591 Filed 12–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7116–8]

Proposed CERCLA 122(h) Administrative Agreement for Recovery of Past Costs for the Ramapo Landfill Superfund Site, Town of Ramapo, Rockland County, NY

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given by the U.S. Environmental Protection Agency ("EPA"), Region II, of a proposed administrative agreement pursuant to Section 122(h) of CERCLA, 42 U.S.C. 9622(h), for recovery of past response costs concerning the Ramapo Landfill Superfund Site ("Site") located in the Town of Ramapo, Rockland County, New York, with the following settling parties: Allied Waste Systems, Inc. (for itself and as alleged successor to Valley Carting Corp.); American Home Products Corporation; Avon Products, Inc.; Beazer East, Inc. (formerly known as Koppers Industries, Inc.); Ford Motor Company; Carmine Franco; Good Samaritan Hospital; International Business Machines Corporation; International Paper Company; Lederle Laboratories, Inc.; Nepera, Inc.; Orange and Rockland Utilities, Inc.; Pneumo Abex Corporation; Ramapo Land Co., Inc.; and Waste Management of New York LLC (as alleged successor to Marangi Brothers, Inc.). The settlement requires the settling parties jointly and severally to pay $222,180.84 in reimbursement of EPA's past costs at the Site. The settlement includes a covenant not to sue the settling parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), in exchange for their payment of monies. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper or inadequate.EPA's response to any comments received will be available for public inspection at EPA Region II, 290 Broadway, New York, New York 10007–1866.

DATES: Comments must be submitted on or before January 10, 2002.

ADDRESSES: The proposed settlement is available for public inspection at EPA Region II offices at 290 Broadway, New York, New York 10007–1866. Comments should reference the Ramapo Landfill Superfund Site located in the Town of Ramapo, Rockland County, New York, Index No. CERCLA–02–2002–2005. To request a copy of the proposed settlement agreement, please contact the individual identified below.

FOR FURTHER INFORMATION CONTACT: Michael A. Mintzer, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 17th Floor, 290 Broadway, New York, New York 10007–1866. Telephone: 212–637–3168.

Dated: November 27, 2001.

William J. Muszynski,

Acting Regional Administrator, Region II.

[FR Doc. 01–30590 Filed 12–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7115–6]

Clean Water Act Section 303(d): Availability of Total Maximum Daily Load (TMDLs) and Determinations That TMDLs Are Not Needed; Public Comment Continuation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period continuation.

SUMMARY: This notice announces the continuation of the public comment period for the TMDLs published in **Federal Register** and the determinations that TMDLs are not needed, published on October 15, 2001 at 66 FR 52403–52404. These TMDLs were completed in response to a court order dated October 1, 1999, in the lawsuit *Sierra Club, et al.* v. *Clifford et al.*, No. 96–0527, (E.D. La.).

DATES: Comments must be submitted for these TMDLs published 10/15/2001 (dissolved oxygen, nutrients, and ammonia) in writing to EPA on or before December 21, 2001.

ADDRESSES: Comments on the TMDLs and the determinations that TMDLs are not needed should be sent to Ellen Caldwell, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733. For further information, contact Ellen Caldwell at

(214) 665–7513. The administrative record file for these TMDLs and the determinations that TMDLs are not needed are available for public inspection at this address as well. Documents from the administrative record file may be viewed at *www.epa.gov/region6/water/tmdl.htm*, or obtained by calling or writing Ms. Caldwell at the above address. Please contact Ms. Caldwell to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell at (214) 665–7513.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the EPA, styled *Sierra Club, et al.* v. *Clifford et al.*, No. 96–0527, (E.D. La.). Among other claims the plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. Discussion of the court's order may be found at 65 FR 54032 (September 6, 2000).

EPA will review all data and information submitted during the continued public comment period and revise the TMDLs and determinations that TMDLs are not necessary where appropriate. EPA will then forward the TMDLs to the Court and the Louisiana Department of Environmental Quality (LDEQ). LDEQ will incorporate the TMDLs into its current water quality management plan. EPA also will revise the Louisiana 303(d) list as appropriate.

Dated: November 29, 2001.

Jayne Fontenot,

Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. 01–30586 Filed 12–10–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 27, 2001.

A. Federal Reserve Bank of Cleveland (Stephen J. Ong, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. McCreary Bancshares, Inc., Employee Stock Ownership Plan, the related trust, and its trustees, Whitley City, Kentucky; to acquire voting shares of McCreary Bancshares, Inc., Whitley City, Kentucky, and thereby indirectly acquire voting shares of Bank of McCreary County, Whitley City, Kentucky.

Board of Governors of the Federal Reserve System, December 5, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–30511 Filed 12–10–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 4, 2002.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. BB&T Corporation, Winston-Salem, North Carolina; to merge with Mid–America Bancorp, Louisville, Kentucky, and thereby indirectly acquire Bank of Louisville, Louisville, Kentucky. In addition, Applicant also is seeking permission to exercise an option to acquire up to 19.9 percent of the voting shares of Mid–America Bancorp under certain circumstances.

In connection with this application, Applicant also has applied to acquire Mid–America Gift Certificate Company, Louisville, Kentucky, and thereby engage in data processing activities, pursuant to § 225.28(b)(14) of Regulation Y; MABC Leasing Co., Louisville, Kentucky, and thereby engage in leasing activities, pursuant to § 225.28(b)(3) of Regulation Y; and MAB Investment Group, Inc., Louisville, Kentucky, and thereby engage in investment advisory activities, pursuant to § 225.28(b)(6) of Regulation Y.

2. BB&T Corporation, Winston-Salem, North Carolina; to merge with AREA Bancshares Corporation, Owensboro, Kentucky, and thereby indirectly acquire AREA Bank, Owensboro, Kentucky, and The Vine Street Trust Company, Owensboro, Kentucky. In addition, Applicant also is seeking permission to exercise an option to acquire up to 19.9 percent of the voting shares of AREA Bancshares Corporation under certain circumstances.

In connection with this application, Applicant also has applied to acquire AREA Trust Company, Owensboro, Kentucky, and thereby engage in trust activities, pursuant to § 225.28(b)(5) of Regulation Y, and AREA Services, Inc., Owensboro, Kentucky, and thereby engage in discount brokerage activities, pursuant to § 225.28(b)(7)(i) of Regulation Y.

B. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Morton Bancorp, Inc., Morton, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Morton, Morton, Mississippi.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Bryan Family Management Trust, Bryan, Texas, and Bryan Heritage

Limited Partnership, Bryan, Texas; to acquire 51 percent of the voting shares of The First National Bank of Bryan, Bryan, Texas.

Board of Governors of the Federal Reserve System, December 5, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–30512 Filed 12–10–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 27, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. FBOP Corporation, Oak Park, Illinois; to acquire Gateway Investment Services, Inc., Los Angeles, California, and thereby engage in securities brokerage activities pursuant to section 225.28(b)(7)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, December 5, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–30510 Filed 12–10–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System Federal Register Citation of Previous Announcement: 66 FR 63059, December 4, 2001.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Friday, December 7, 2001.

CHANGES IN THE MEETING: The open meeting has been canceled.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 for a recorded announcement of this meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement. (The Web site also includes procedural and other information about the open meeting.)

Dated: December 7, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–30663 Filed 12–7–01; 11:23 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0510]

Draft Guidance for Industry on Integration of Dose-Counting Mechanisms Into MDI Drug Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Integration of Dose-Counting Mechanisms into MDI Drug Products." This draft guidance makes recommendations to manufacturers to incorporate dose-counters into metered-dose inhalers (MDIs) being developed for the treatment of lung diseases. The recommendations made in this draft guidance are intended to enhance the use of MDIs, specifically to help patients identify when MDIs are no longer delivering reliable doses.

DATES: Submit written or electronic comments on the draft guidance by February 11, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Sandra L. Barnes, Center for Drug Evaluation and Research (HFD–570), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1050.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled "Integration of Dose-Counting Mechanisms into MDI Drug Products." It is intended primarily for manufacturers of MDI drug products designed to deliver drugs to the lungs (e.g., an MDI for the treatment of asthma). Dose-counters are mechanisms designed to accurately track the number of actuations used by a patient over the life span of an individual MDI. The dose-counter would provide the patient with continuing, accurate data on the amount of medication left in the MDI. Currently, patients do not have an adequate way to track the number of metered-doses left in MDIs, and there is no way to detect when these devices have exceeded their dose limit. The incorporation of a reliable, accurate dose-counter into each MDI will enhance these drug products, which are relied on to deliver important and sometimes life-saving drugs to patients with asthma and other obstructive lung diseases.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on the integration of dose-counting

mechanisms into MDI drug products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: December 3, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–30491 Filed 12–10–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1681]

Guidance on Use of Potassium Iodide as a Thyroid Blocking Agent in Radiation Emergencies; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled "Potassium Iodide as a Thyroid Blocking Agent in Radiation Emergencies." This guidance updates a notice of availability entitled "Potassium Iodide as a Thyroid-Blocking Agent in a Radiation Emergency: Final Recommendations on Use" published in the **Federal Register** on June 29, 1982, concerning the prophylactic use of potassium iodide (KI) in the event of release of radioactive isotopes of iodine. In this guidance, FDA maintains its position that KI is a safe and effective means by which to prevent radioiodine uptake by the thyroid gland and, thus, reduce the risk of thyroid cancer in the event of a radiation emergency. The guidance recommends lower radioactive exposure thresholds for KI prophylaxis as well as lower doses of KI for neonates, infants, and children than previously recommended.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Rose Cunningham, Center for Drug Evaluation and Research (HFD–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–6779.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Emergency Management Agency (FEMA) has established roles and responsibilities for Federal agencies in assisting State and local governments in their radiological emergency planning and preparedness activities. The Federal agencies, including the Department of Health and Human Services (DHHS), are intended to accomplish these roles and responsibilities as part of the Federal Radiological Preparedness Coordinating Committee. Among other responsibilities, DHHS is to provide guidance on the use of radioprotective substances to reduce radiation doses to specific organs from the release into the environment of large quantities of radioactivity. FDA is specifically charged with providing guidance on the prophylactic use of KI in the event of release of radioactive isotopes of iodine.

As part of its responsibilities as established by FEMA, on June 29, 1982, FDA published in the **Federal Register** a notice entitled "Potassium Iodide as a Thyroid-Blocking Agent in a Radiation Emergency: Final Recommendations on Use" (47 FR 28158). In that notice, the agency made recommendations regarding the use of KI as a thyroid blocking agent. During 1999 to 2000, the agency reviewed additional data gathered primarily after the Chernobyl reactor accident. On January 4, 2001 (66 FR 801), the agency issued a draft guidance that revised some of the 1982 recommendations. The initial comment period on the draft guidance closed on February 5, 2001. On February 9, 2001 (66 FR 9711), the agency extended the comment period to April 30, 2001. After consideration of all comments, the agency is issuing this final version of the guidance. Other than clarifying edits, the agency has made no substantial changes to the recommendations incorporated in the draft guidance. In this guidance the agency maintains its position that KI is a safe and effective means by which to prevent radioiodine uptake by the thyroid gland and thus to reduce the risk of thyroid cancer in the event of a radiation emergency. FDA proposes lower radioactive exposure thresholds for KI prophylaxis as well as lower doses of KI for neonates, infants, and children than previously recommended. FDA's revised recommendations are in general accordance with those of the World Health Organization, as expressed in its "Guidelines for Iodine Phrophylaxis Following Nuclear Accidents" (1999), except for minor modifications.

The recommendations in the guidance were prepared by FDA scientists from the Center for Drug Evaluation and Research and from the Center for Devices and Radiological Health, in consultation with other governmental experts.

This level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on the use of potassium iodide as a thyroid blocking agent in radiation emergencies. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may, at any time, submit written or electronic comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number

found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: December 3, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–30492 Filed 12–10–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Imaging of Extracellular Proteases in Cells Using Mutant Anthrax Toxin Protective Antigens

Bugge et al. (NIDCR)
DHHS Reference No. E–295–01/0 filed 05 Sep 2001
Licensing Contact: Richard Rodriguez; 301/496–7056 ext. 287; e-mail: *rodrigur@od.nih.gov.*

The claimed invention provides highly specific and sensitive methods for in vivo, in vitro, or ex vivo imaging of specific extracellular protease activity using an anthrax binary toxin system. The system targets cells that express extracellular proteases of interest. Such a system would be highly useful since various studies have demonstrated a positive correlation between the activity of extracellular proteases and various diseases and undesirable physiological conditions. For example, breakdown of the extracellular matrix by extracellular proteases is a prerequisite for the invasive growth of malignant cells, metastatic spread of tumors, and other pathological remodeling of tissue. In this case, methods are provided for the imaging of a specific extracellular protease by contacting a cell with: (1) A mutant anthrax toxin protective antigen (mPrAg) that binds to a cell surface receptor of a cell expressing an extracellular protease and is cleaved by a specific extracellular protease expressed by the cell and (2) a ligand that specifically binds to the cleaved mPrAg and is linked to a moiety that is detected by an imaging procedure, thereby forming a ligand-mPrAg complex that is translocated into the cell. The detectable moiety linked to the ligand in the ligand-mPrAg complex can be imaged before, during, or after translocation. Specific disease examples might include, but are not necessarily limited to, cancer, inflammation, and tumor progression or regression.

Neural Crest-Melanocyte cDNA Based Microarray Analysis for Human Skin Pigmentation Research

William Pavan and Stacie K. Loftus (NHGRI)
DHHS Reference No. E–014–02/0
Licensing Contact: Pradeep Ghosh; 301/496–7736 ext. 211; e-mail: *ghoshp@od.nih.gov.*

Microarrays have wide applications in basic research and are used for the discovery of candidate genes as markers for disease and for therapeutic intervention. This invention pertains to the identification of a set of neural crest-melanocyte (NC–M) genes through microarray analysis and informatic analysis. Utilizing the extensive sequence information in the expressed sequence tag database (dbEST), the specific set of cDNA sequence was identified for microarray analysis of melanocyte function and diseases. This integrated technique of sequencing with bioinformatics led to the discovery of novel genes. The cDNA sequences selected in this invention are differently expressed in neural crest melanocyte derivates relative to non-neural derived samples. Given that many of the neural-crest melanocyte genes are expressed at embryonic stages of neural crest-melanocyte development, the gene set identified in this invention should provide a useful tool for the analysis of patterns of transcriptional regulation of NC–M development. Thus, this technology will be useful for the characterization of altered expression patterns in diseases such as melanoma. Further, this new microarray research tool has been developed using the set of genes that are likely to be involved in the control of human skin pigmentation. The microarray system utilizing these genes is of significant importance in identifying small molecules that may modulate their activity leading to alterations in human skin pigmentation. Therefore, this invention is significantly useful to the researchers to study alterations in human skin pigment amount and type.

Dated: November 29, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–30515 Filed 12–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of person privacy.

Name of Committee: National Cancer Institute Initial Review Group. Subcommittee A—Cancer Centers.

Date: December 7, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave., Palladin West, Chevy Chase, MD 20815.

Contact Person: David E. Maslow, Ph.D., Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive

Boulevard—Room 8117, Bethesda, MD 20892–7405, 301/496–2330.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30520 Filed 12–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: December 11, 2001.

Time: 9 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Katherine Woodbury, Ph.D., Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: December 3, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30516 Filed 12–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Initial Review Group, Biomedical Research and Research Training Review Subcommittee A.

Date: March 13, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Carole H. Latker, Ph.D., Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 1AS–13, Bethesda, MD 20892, (301) 594–2848, *latkerc@nigms.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: November 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30517 Filed 12–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of General Medical Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory General Medical Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory General Medical Sciences Council.

Date: January 24–25, 2002.

Closed: January 24, 2002, 8:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Open: January 24, 2002, 10:30 am to 5:00 pm.

Agenda: For the discussion of program policies and issues, opening remarks, report of the Director, NIGMS, new potential opportunities and other business of Council.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Closed: January 25, 2002, 8:30 am to adjournment.

Agenda: To review and evaluate grant applications, Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: Norka Ruiz Bravo, Ph.D., Associate Director for Extramural Activities, Natcher Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 2AN24G, Bethesda, MD 20892, (301) 594–4499.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-

in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: *pub.nigms.nih.gov/council/*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; ;93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: November 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30518 Filed 12–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council.

Date: December 10, 2001.

Time: 3:30 pm to 5 pm.

Agenda: To present the Director's Report.

Place: 2 Democracy Plaza, 6707 Democracy Boulevard, Conference Room 701, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Robert D. Hammond, Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, 6707 Democracy Blvd, Room 631, MSC 5452, Bethesda, MD 20892–5452, 301–594–8834, *hammondr@extra.niddk.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the recent attacks on America, portions of the Advisory Council meeting had to be rescheduled.

Information is also available on the Institute's/Center's home page: *www.niddk.nih.gov/fund/divisions/DEA/Council/coundesc.htm.*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30521 Filed 12–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Child Health and Human Development Council.

The meeting will be open to the pubic as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C, as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Child Health and Human Development Council.

Date; January 24–25, 2002.

Open: January 24, 2002, 8:3 am to 5 pm.

Agenda: The agenda includes: Report of the Director, NICHD; presentations by the National Center for Medical Rehabilitation Research and the Division of Intramural Research, NICHD, and other business of the council.

Place: Building 31C, Conference Room 6, National Institutes of Health, 3100 Center Drive, Bethesda, MD 20892.

Closed: January 25, 2002, 8:30 AM to adjournment.

Agenda: To review an evaluate grant applications.

Place: Building 31C, Conference Room 6, National Institutes of Health, 3100 Center Drive, Bethesda, MD 20892.

Contact Person: Mary Plummer, Committee Management Officer, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 496–1485,

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D: and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page:www.nichd.nih.gov/about/nachhd.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: November 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30522 Filed 12–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Events Recordings of High Risk Infants on Apnea Monitors.

Date: December 12, 2001.

Time: 11 am to 1 pm.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Norman Chang, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: November 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30523 Filed 12–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 3, 2001.

Time: 3:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Cheri Wiggs, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–1261.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 3, 2001.

Time: 2 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard Marcus, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, (301) 435–1245, *richard.marcus@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 13, 2001.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Marcia Litwack, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 18, 2001.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jeanne N. Ketley, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (301) 435–1789.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 20, 2001.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Marcia Litwack, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30519 Filed 12–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 4–5, 2001.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Four Points Sheraton, 8400 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Cheryl M. Corsaro, Scientific Review Administrator, Genome Study Section, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892 301/435–1045.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 4, 2001.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Zakir Bengali, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health , 6701 Rockledge Drive, Room 5150, MSC 7842, Bethesda, MD 20892, (301) 435–1743.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 4, 2001.

Time: 2 p.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)
Contact Person: Nancy Shinowara, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7814, Bethesda, MD 20892–7814, (301) 435–1173, *shinowan@drg.nih.gov*.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: December 4, 2001.
Time: 3 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)
Contact Person: Nancy Shinowara, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7814, Bethesda, MD 20892–7814, (301) 435–1173, *shinowan@drg.nih.gov*.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.893, 93.893, National Institutes of Health, HHS)

Dated: December 3, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30524 Filed 12–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: December 10, 2001.
Time: 2 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Richard Marcus, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, 301–435–1245, *richard.marcus@nih.gov*.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: December 10, 2001.
Time: 2:30 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Joy Gibson, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7804, Bethesda, MD 20892, 301–435–4522, gibsonj@csr.nih.gov.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: December 13, 2001.
Time: 8 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Priscilla B. Chen, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787..
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: January 4, 2002.
Time: 11 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Karen Sirocco, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, 301–435–0676, *siroccok@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 3, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30525 Filed 12–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Biotechnology Activities; Recombinant DNA Research: Action Under the NIH Guidelines

AGENCY: National Institutes of Health (NIH), PHS, DHHS.

ACTION: Notice of final action under the NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines).

SUMMARY: The NIH is amending Appendix B–I of the NIH Guidelines to establish criteria for designating strains of E. coli as risk group 1 agents.

DATES: This final action is effective December 11, 2001.

FOR FURTHER INFORMATION: Background documentation and additional information can be obtained from the Office of Biotechnology Activities (OBA), 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892–7985, Phone: 301–496–9838, Fax: 301–496–9839. The OBA web site is located at *http://www4.od.nih.gov/oba*.

SUPPLEMENTARY INFORMATION: This final action amends Appendix B–I of the NIH Guidelines. The proposed action was published for comment in the **Federal Register** on August 13, 2001 (66 FR 42555), and considered by the NIH Recombinant DNA Advisory Committee (RAC) at its meeting on September 6–7, 2001.

Background Information and Response to Comments

The background of the August 13, 2001, proposed action was set forth fully in the **Federal Register** notice announcing that action (66 FR 42555–56). During its September 6–7, 2001, meeting, the RAC discussed the proposed action and considered the one public comment that was received prior to the meeting. This commenter suggested that establishing risk criteria for a specific bacterial strain was inappropriate and that the proposed criteria were not general enough and too complex. The commenter felt that the current definition of a risk group 1 agent should be sufficient. This suggestion was discussed by the RAC. It was the RAC's consensus that establishing

criteria specific for E. coli provided useful guidance in response to the specific request from the University of Florida. The RAC recommended acceptance of the proposed criteria for designation of E. coli as a risk group 1 agent by a vote of 7 in favor, 0 opposed, and 1 abstention.

The NIH concurs with the RAC that risk assessment is enhanced by the establishment of these criteria for designating strains of E. coli as risk group 1 agents. As noted in the proposed action, these criteria are not intended to eliminate the need for case-by-case consideration of the potential effects of a biological agent on those who may be exposed to it (Section II–A–2 of the NIH Guidelines) and are subject to reevaluation and change if it is shown that a strain meeting the criteria is associated with disease in healthy human adults.

After the September RAC meeting, an additional comment on the proposed criteria was received. This comment, from the American Biological Safety Association (ABSA), suggested that the phrase "rough colony morphology" was not very informative; colony morphology is influenced by environmental factors and is not solely dependent upon genotype. We concur with that comment; thus, mention of "rough" colony morphology has been deleted from the criteria. ABSA also suggested that the second criterion should be expanded upon to state that the bacteria do not carry "* * *any functional or complete genes encoding these factors" as opposed to "* * *any genes encoding these factors." We did not concur with this comment due to the fact that the strains of E. coli that have been studied demonstrate the presence or entire absence of factor-encoding genes. Strains carrying genes that have been rendered non-functional by laboratory manipulations (e.g., partial deletions or missense mutations) should not automatically be designated as risk group 1 agents.

Accordingly, the only change in this final action from the proposed action is deletion of the reference to "rough colony morphology."

Amendments to the NIH Guidelines

Appendix B–I. Risk Group (RG1) Agents of the NIH Guidelines is amended to read:

RG1 agents are not associated with disease in healthy adult humans. Examples of RG1 agents include asporogenic Bacillus subtilis or Bacillus licheniformis (see Appendix C–IV–A, Bacillus subtilis or Bacillus licheniformis Host-Vector Systems, Exceptions); adeno-associated virus (AAV) types 1 through 4; and recombinant AAV constructs, in which the transgene does not encode either a potentially tumorigenic gene product or a toxin molecule and are produced in the absence of a helper virus. A strain of Escherichia coli (see Appendix C–II–A, Escherichia coli K–12 Host Vector Systems, Exceptions) is an RG1 agent if it (1) does not possess a complete lipopolysaccharide (i.e., lacks the O antigen); and (2) does not carry any active virulence factor (e.g., toxins) or colonization factors and does not carry any genes encoding these factors.

Those agents not listed in Risk Groups (RGs) 2, 3 and 4 are not automatically or implicitly classified in RG1; a risk assessment must be conducted based on the known and potential properties of the agents and their relationship to agents that are listed.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally, NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which recombinant DNA techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: November 21, 2001.

Ruth L. Kirschstein,

Acting Director, National Institutes of Health.

[FR Doc. 01–30513 Filed 12–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Biotechnology Activities; Recombinant DNA Research: Proposed Actions Under the NIH Guidelines

AGENCY: National Institutes of Health (NIH), PHS, DHHS.

ACTION: Notice of final action under the NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines).

SUMMARY: The NIH is amending the provisions of the NIH Guidelines relating to the Recombinant DNA Advisory Committee (RAC) by authorizing a minimum of 15 voting members and establishing the charter of the committee as the controlling document for the membership and procedures of the RAC.

DATES: This Final Action is effective as of January 10, 2002.

FOR FURTHER INFORMATION: Documentation and additional information can be obtained from the Office of Biotechnology Activities, National Institutes of Health, MSC 7985, 6705 Rockledge Drive, Suite 750, Bethesda, Maryland 20892, Phone 301–496–9838, FAX 301–496–9839. The NIH OBA Web site is located at *http://www4.od.nih.gov/oba/*.

SUPPLEMENTARY INFORMATION:

Background

The RAC serves a unique role in promoting awareness and understanding of the scientific, medical, safety, and ethical issues associated with human gene transfer research. This occurs through review and public discussion of protocols, as well as through specific recommendations for improving trials that are conveyed to investigators and their institutions. To fulfill these functions and address all dimensions of human gene transfer research as fully as possible, the RAC has historically been constituted in a manner that allows for diverse perspectives and necessary expertise in relevant disciplines.

Section IV–C–2 of the NIH Guidelines has provided that the RAC consist of 15 voting members including the Chair, appointed by the DHHS Secretary or designee, at least 8 of whom must be authorities knowledgeable in the fields of molecular genetics, molecular biology, recombinant DNA research, or other scientific fields. At least 4 members of RAC, according to this section, shall be persons knowledgeable

in applicable law, standards of professional conduct and practice, public attitudes, the environment, public health, occupational health, or related fields. Representatives from designated Federal agencies serve as non-voting members.

In recent years, not only has the number of gene transfer trials dramatically increased, but these trials now encompass a much more expansive array of clinical applications than was previously possible. Current trials address, for example, cancer, inborn errors of metabolism, cardiovascular diseases, autoimmune disorders, and neurologic diseases. In addition, trials employ a growing variety of viral vectors, including vaccinia, fowl pox, canary pox, herpes simplex virus, adeno-associated virus, adenovirus, and retroviruses. Thus, an increasingly broad range of expertise is needed on the RAC to adequately assess the issues raised by the progressively more diverse gene transfer trials being proposed and submitted to the NIH. Given the dynamism of the field, flexibility in how this expertise is achieved is key to the effective and efficient functioning of the RAC.

In recognition of the rapidly evolving field of human gene transfer, the NIH is now amending Section IV–C–2 of the NIH Guidelines to authorize a *minimum* of 15 voting members with no maximum number of voting members specified. The maximum number of voting members will be established through the charter for the RAC, which will now be the controlling document for the membership and procedures of the Committee in the event of any conflict with the NIH Guidelines. This will enable NIH to respond promptly to the need for additional expertise on the RAC through appropriate amendments to the charter. The present requirement that at least 8 of the voting members be knowledgeable in the fields of molecular genetics, molecular biology, recombinant DNA research or other scientific fields, is changed to "at least a majority of the voting members," and clinical gene transfer research is added as an example of a relevant scientific field. Finally, the listing of specific types of knowledge for members other than those knowledgeable in relevant scientific fields is broadened by adding laboratory safety and protection of human subjects and by changing "applicable law" to "law," and "standards of professional conduct and practice" to "ethics."

Public Comments

These changes were published as a proposal in the August 24, 2001, **Federal Register** (66 FR 44638) with a 30-day period for comment public. Two sets of comments were received in response, one from a biosafety officer at a large academic institution, the other from private company engaged in gene transfer research. Both commenters expressed the view that it was unnecessary to allow for more than 15 voting members, suggesting instead that additional expertise could be obtained through the use of ad hoc experts. Neither commenter addressed the proposal to make the RAC charter the controlling document for the membership and procedures of the RAC.

Response to Public Commentary

Ad hoc members are only intermittently involved in the RAC process, and while they do serve an important function, they do not benefit from the longitudinal perspective that officially appointed RAC members bring to the review and discussion of human gene transfer protocols by virtue of their ongoing participation. Furthermore, because ad hoc experts do not vote, the NIH believes that they do not have as direct a voice in the final recommendations concerning these protocols as do voting members. The ability to vote ensures that the perspectives of RAC members are fully reflected in the outcome of RAC discussions. For these reasons, the use of ad hoc members is not an optimal means of durably enhancing the range of expertise and intellectual continuity on the RAC.

Thus, no changes are being made in the proposed amendments in response to these two sets of comments. Two changes have been made in the proposed amendments in order to clarify their intent, however. The statement that the charter of the RAC would establish the expertise of voting members has been deleted. That statement implied incorrectly that the RAC charter would be more specific than the NIH Guidelines in specifying the expertise of RAC members. The charter will repeat the provisions of the NIH Guidelines on the expertise of RAC members. The reference to a "majority of the voting members" in the third sentence of the second paragraph of Section IV–C–2 has been changed to "At least a majority of the voting members * * *" Consistent with the current provision, this change clarifies that more than a majority may be knowledgeable in scientific fields, so long as at least four members are knowledgeable in the other fields listed. On November 1, the RAC met by teleconference and voted unanimously to recommend implementation of the proposal.

Amendments to the NIH Guidelines

Section IV–C–2 of the NIH Guidelines is amended to state:

Section IV–C–2. Recombinant DNA Advisory Committee (RAC)

The RAC is responsible for carrying out the functions specified in the NIH Guidelines, as well as others specified in its charter or assigned by the Secretary of Health and Human Services or the NIH Director. The RAC membership and procedures, in addition to those set forth in the NIH Guidelines, are specified in the charter for the RAC which is filed as provided in the General Services Administration Federal Advisory Committee Management regulations, 41 CFR part 101–6, and is available on the OBA web site, *http://www4.od.nih.gov/oba/rac/RACCharter.htm*. In the event of a conflict between the NIH Guidelines and the charter, the charter shall control.

The RAC will consist of not less than 15 voting members, including the Chair, appointed under the procedures of the NIH and the Department of Health and Human Services. The maximum number of voting members will be established in the charter of the RAC. At least a majority of the voting members must be knowledgeable in relevant scientific fields, e.g., molecular genetics, molecular biology, recombinant DNA research, including clinical gene transfer research. At least 4 members of the RAC must be knowledgeable in fields such as public health, laboratory safety, occupational health, protection of human subjects of research, the environment, ethics, law, public attitudes or related fields. Representatives of the Federal agencies listed in the charter shall serve as non-voting members. Nominations for RAC members may be submitted to the Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Suite 750, MSC 7985, Bethesda, MD 20892–7985 (20817 for non-USPS mail), 301–496–9838, 301–496–9838 (fax).

All meetings of the RAC shall be announced in the **Federal Register**, including tentative agenda items, 15 days before the meeting. Final agendas, if modified, shall be available at least 72 hours before the meeting. No item defined as a Major Action under Section IV–C–1–b–(1) may be added to an agenda following **Federal Register** publication.

OMB's "Mandatory Information Requirement for Federal Assistance

Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally, NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the proposed guidance in this notice covers virtually every NIH and Federal research program in which recombinant DNA techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: November 21, 2001.

Ruth L. Kirschstein,

Acting Director, National Institutes of Health.

[FR Doc. 01–30514 Filed 12–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Bureau of Indian Affairs

Office of Special Trustee for American Indians

Office of Indian Trust Transition

Tribal Consultation on Indian Trust Asset Management

AGENCIES: Office of the Secretary, Bureau of Indian Affairs, Office of the Special Trustee for American Indians, Office of Indian Trust Transition, Interior.

ACTION: Notice of tribal consultation meetings.

SUMMARY: The Office of the Secretary, along with the Bureau of Indian Affairs, the Office of Special Trustee for American Indians, and Office of Indian Trust Transition, will conduct meetings on Indian trust asset management. The purpose of the meetings is to discuss a proposed reorganization of the Department's trust responsibility functions to improve the management of Indian trust assets. Any tribe, band, nation or individual is encouraged to attend the meetings and to submit written comments.

DATES: The dates and city locations of the consultation meetings are as follows:

- December 13, 2001—Albuquerque, New Mexico
- December 20, 2001—Minneapolis, Minnesota
- January 3, 2002—Oklahoma City, Oklahoma
- January 10, 2002—Rapid City, South Dakota
- January 17, 2002—San Diego, California
- January 23, 2002—Anchorage, Alaska
- February 1, 2002—Washington, DC (Arlington, Virginia)

ADDRESSES: The addresses for the consultation meetings, which will all begin promptly at 9:00 a.m., are as follows:

- Albuquerque, New Mexico—The Hyatt Regency, 330 Tijeras Street NW
- Minneapolis, Minnesota—The Double Tree Hotel, 7901 24th Ave. South
- Oklahoma City, Oklahoma—Westin Hotel, 1 North Broadway
- Rapid City, South Dakota—Holiday Inn Rushmore Plaza, 505 N. 5th Street
- San Diego, California—Hanalei Red Lion Hotel, 2270 Hotel Circle North
- Anchorage, Alaska—Hilton Anchorage, 500 West 3rd Street
- Washington, DC—Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, Virginia

FOR FURTHER INFORMATION CONTACT: Wayne R. Smith, Deputy Assistant Secretary—Indian Affairs, 1849 C Street NW., MS 4140 MIB, Washington, DC 20240 (202/208–7163).

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to involve affected and interested parties in the process of organizing the Department's trust asset management responsibility functions. The Department has determined that there is a need for dramatic change in the management of Indian trust assets. This need has been made apparent in several ways. An independent consultant has analyzed important components of the Department's trust reform activities and made several recommendations, including the recommendation that the Department consolidate trust functions under a single entity. Concerns have also been raised in the *Cobell* v. *Norton* case, which is currently pending in the Federal District Court for the District of Columbia. Internal review has also supported reorganization. Additionally, a recent report commissioned by the Department of the Interior has supported reorganization. This report, developed by the EDS Corporation, is being made available online at *www.doi.gov* for public review. A new office in the Department, the Office of Indian Trust Transition, has been created to plan and support reorganization. While preliminary actions have been taken by the Department, the plan for reorganization is still in the early stages of development. Prior notice of the first two consultation meetings scheduled in Albuquerque, New Mexico and Minneapolis, Minnesota, were published in the **Federal Register** on December 5, 2001 (66 FR 63306).

Written comments may be submitted at any of the above listed meeting locations or may be mailed to the address indicated under the heading **FOR FURTHER INFORMATION CONTACT.** Interested persons may examine written comments during regular business hours (7:45 a.m. to 4:15 p.m. EST) in the Office of the Assistant Secretary—Indian Affairs, Washington, DC, Monday through Friday, except for Federal holidays. Commenters who wish to remain anonymous must clearly state this preference at the beginning of their written comments. The Department will honor requests for anonymity to the extent allowable by law.

These meetings support administrative policy on tribal consultation by encouraging maximum direct participation of representatives of tribal governments, tribal organizations and other interested persons in important Departmental processes.

Dated: December 7, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 01–30734 Filed 12–10–01; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–02–1320–EL, WYW146744]

North Jacobs Ranch Tract, Wyoming; Competitive Coal Lease Sale

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of competitive coal lease sale.

SUMMARY: Notice is hereby given that certain coal resources in the North Jacobs Ranch Tract described below in Campbell County, WY, will be offered for competitive lease by sealed bid in accordance with the provisions of the

Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*).

DATES: The lease sale will be held at 2 p.m., on Wednesday, January 16, 2002. Sealed bids must be submitted on or before 4 p.m., on Tuesday, January 15, 2002.

ADDRESSES: The lease sale will be held in the First Floor Conference Room (Room 107) of the BLM, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003. Sealed bids must be submitted to the Cashier, Wyoming State Office, at the address given above.

FOR FURTHER INFORMATION CONTACT: Mavis Love, Land Law Examiner, or Melvin Schlagel, Coal Coordinator, at 307–775–6258 and 307–775–6257, respectively.

SUPPLEMENTARY INFORMATION: This coal lease sale is being held in response to a lease by application (LBA) filed by Jacobs Ranch Coal Company of Gillette, WY. The coal resources to be offered consist of all reserves recoverable by surface mining methods in the following-described lands located in southeastern Campbell County near Wright, WY, approximately 7 miles east of State Highway 59 and 2 miles north of State Highway 450:

T. 44 N., R. 70 W., 6th P.M.
Sec. 26: Lots 8 through 12;
Sec. 27: Lots 1 through 16;
Sec. 28: Lots 1 through 16;
Sec. 29: Lots 1 through 16;
Sec. 30: Lots 5 through 20;
Sec. 31: Lots 5 through 20;
Sec. 32: Lots 1 through 16;
Sec. 33: Lots 4, 5, 12, 13;
Sec. 35: Lot 1;
T. 44 N., R. 71 W., 6th P.M.
Sec. 25: Lots 1 through 16.
Containing 4,982.24 acres, more or less.

All of the acreage offered has been determined to be suitable for mining. The surface estate of the tract is controlled by the Jacobs Ranch Mine and the Black Thunder Mine. Also, approximately 200 acres of private coal is located adjacent to the tract at the eastern boundary and about 640 acres of State of Wyoming coal is located adjacent to the tract at the southwest boundary. These reserves might be recovered in conjunction with the LBA but are not included as part of this lease sale.

There are numerous oil and gas wells and coalbed methane wells on the tract. The estimate of the bonus value of the coal lease will include consideration of the future production from these wells. An economic analysis of this future income stream will determine whether a well is bought out and plugged prior to mining or re-established after mining is completed. Other costs considered will include moving or removing roads, pipelines, and surface facilities.

The tract contains surface minable coal reserves in the Wyodak seam currently being recovered in the adjacent, existing mines. Recovery of the Wyodak seam can occur in three splits: the upper, middle, or lower depending on the specific geology encountered. On the LBA, there is generally only a single split with the upper Wyodak separated by a thin parting from the main seam. The two seams merge into a single seam in the western portion of the LBA as the parting pinches out. The upper seam averages 13 feet thick and the main seam averages 52 feet thick on the LBA. The lower Wyodak splits in the far eastern portion of the LBA requiring multiple seam recovery near the burnline along the eastern LBA boundary. An additional seam below the Wyodak occurs in the far western portion of the LBA but this thin seam is not considered to be minable due to the high incremental stripping ratio and relatively low quality. There are no coal outcrops on the tract. The overburden above the Wyodak seam ranges from about 70–300 feet thick on the LBA.

The tract contains an estimated 537,542,000 tons of minable coal. This estimate of minable reserves includes the Wyodak splits mentioned above but does not include any tonnage from localized seams or splits containing less than 5 feet of coal. The total minable stripping ratio (BCY/Ton) of the coal is about 3.5:1. Potential bidders for the LBA should consider the recovery rate expected from thick seam and multiple seam mining.

The North Jacobs Ranch LBA coal is ranked as subbituminous C. The overall average quality on an as-received basis is 8792 BTU/lb, 27.40% moisture, 5.46% ash, 0.45% sulfur, and 1.29% sodium in the ash. These quality averages place the coal reserves near the high end of the range of coal quality currently being mined in the Wyoming portion of the Powder River Basin.

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid equals the fair market value of the tract. The minimum bid for the tract is $100 per acre or fraction thereof. No bid that is less than $100 per acre, or fraction thereof, will be considered. The bids should be sent by certified mail, return receipt requested, or be hand delivered. The Cashier will issue a receipt for each hand-delivered bid. Bids received after 4 p.m., on Tuesday, January 15, 2002, will not be considered. The minimum bid is not intended to represent fair market value. The fair market value of the tract will be determined by the Authorized Officer after the sale.

The lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre, or fraction thereof, and of a royalty payment to the United States of 12.5 percent of the value of coal produced by strip or augur mining methods and 8 percent of the value of the coal produced by underground mining methods. The value of the coal will be determined in accordance with 30 CFR 206.250.

Bidding instructions for the tract offered and the terms and conditions of the proposed coal lease are available from the BLM Wyoming State Office at the addresses above. Case file documents, WYW146744, are available for inspection at the BLM Wyoming State Office.

Dated: December 5, 2001.

Phillip C. Perlewitz,

Acting Deputy State Director, Minerals and Lands.

[FR Doc. 01–30533 Filed 12–10–01; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–912–02–1120–PG–24–1A]

Call for Nomination on Utah Resource Advisory Council (RAC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for nomination on the Utah Resource Advisory Council (RAC).

SUMMARY: The purpose of this notice is to solicit public nominations for a vacancy which occurred on the Utah Resource Advisory Council (RAC). Utah residents with an interest and background in commercial recreation or oil and gas development are being sought to fill this vacancy on the 15-person Council which has occurred due to the resignation of one of its members. The person selected will serve out the remaining balance of a 3-year term that will continue through September 2003.

Nominees will be evaluated based on their experience or knowledge of the geographic area; education, training and/experience; and, their experience in working with disparate groups to achieve collaborative solutions. All nominations must be accompanied by letters of reference from represented interests or organizations, a completed background information nomination form, as well as any other information that speaks to the nominee's

qualifications. The Bureau of Land Management, along with the Governor's Office, will forward the nominations to the Secretary of the Interior, who will make the appointment to the Council.

Resource Advisory Councils were established and authorized in 1995 by the Secretary of the Interior to provide advice and recommendations to the Bureau of Land Management on management of public lands.

FOR FURTHER INFORMATION: Anyone interested in requesting a nomination form should inquire at the Bureau of Land Management, Utah State Office, Attention: Sherry Foot, 324 South State Street, Salt Lake City, Utah 84111; telephone (801) 539–4195. All nominations must be received no later than close of business January 4, 2002.

Dated: November 16, 2001.

Robert Bennett,

Associate State Director.

[FR Doc. 01–30614 Filed 12–10–01; 8:45 am]

BILLING CODE 4310–SS–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–020–02–1310–EI]

Notice of Intent To Prepare Planning Analyses/Environmental Assessments

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent to Prepare a Planning Analysis/Environmental Assessment.

SUMMARY: The Jackson Field Office, Eastern States will prepare a Planning Analysis/Environmental Assessment (PA/EA), in cooperation with the U.S. Army Corps of Engineers, to consider leasing Federal mineral estate for oil and gas exploration and development. The lands, managed by the U.S. Army Corps of Engineers, are located along the South Pass and Southwest Pass near the mouth of the Mississippi River in Plaquemines Parish. This notice is issued pursuant to Title 40 Code of Federal Regulations (CFR) 1501.7 and Title 43 CFR 1610.2(c). The planning effort will follow the procedures set forth in Title 43 CFR part 1600. The public is invited to participate in this planning process, beginning with the identification of planning issues and criteria.

DATES: Comments relating to the identification of planning issues and criteria will be accepted for thirty days from the date of this publication. Individual respondents may request confidentiality. If you wish to without your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

ADDRESSES: Send comments to: Bureau of Land Management, Jackson Field Offices; 411 Briarwood Drive, Suite 404; Jackson, MS 39206.

FOR FURTHER INFORMATION CONTACT: Clay Moore, Lead for PA/EA, Jackson Field Office, (601–977–5400).

SUPPLEMENTARY INFORMATION: The BLM has responsibility to consider nominations to lease Federal mineral estate for oil and gas exploration and development. An interdisciplinary team will be used in the preparation of the PA/EA. Preliminary issues, subject to change as a result of public input, are (1) Potential impacts of oil and gas exploration and development on the surface resources and uses by the Corps of Engineers and (2) consideration of restrictions on lease rights to protect surface resources and uses by the Corps of Engineers. Tract locations, along with acreage, are listed below. Total acreage being addressed is 7,966.6 acres.

T22S, R31E, Louisiana Meridian

Lot 3; being all of Lots or Sections 16 and 35 (33.82 acres)

T22S, R32F, Louisiana Meridian

Lot 2; being all of Lot or Sec. 16 (26.7 acres)
Lot 4a; being all of Lots or Sections 25 through 44 (870.65 acres)
Lot 7; being all of Lot or Section 19 (90.95 acres)

T22S, R33E, Louisiana Meridian

Lot 4b; being all of Lots or Sections 1 through 7 and Lots or Sections 3 through 14 (979.22 acres)
Lot 5; being all of Lots or Sections 15 and 16 (20 acres)

T23S, R21E, Louisiana Meridian

Lot 6; being all of Lots 9, 10, 15 and 16 (273 acres)

T23S, R32E, Louisiana Meridian

Lot 8; being all of Lot or Section 91 (121.72 acres)
Lot 9; being all of Lot or Section 1 and Lot or Section 13 (also described as Lot 18 T22S, R32E; Lot or Sections 14 through 90, Lots or Sections 92 through 96) (1,849 acres)

T24S, R32E, Louisiana Meridian

Lot 10; being all of Lots or Sections 1 through 40 and a portion of Lot or Section 28 (1,908.42 acres)

T24S, R32E and 33E, Louisiana Meridian

Lot 11; being all of Lots or Sections 41 through 78 and Lots 1 through 10 (1,793.12 acres)

Due to the limited scope of this PA/EA process, public meetings are not scheduled.

Sid Vogelpohl,

Acting Field Manager, Jackson Field Office.

[FR Doc. 01–30497 Filed 12–10–01; 8:45 am]

BILLING CODE 4310–GJ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–310–1820–AE]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Northeast California Resource Advisory Council, Alturas, California, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Public Law 92–463) and the Federal Land Policy and Management Act (Public Law 94–579), the U. S. Bureau of Land Management's Northeast California Resource Advisory Council will meet Thursday and Friday, Jan. 10 and 11, 2002, at the Bureau of Land Management's Alturas Field Office, 708 West 12th St., Alturas, California.

SUPPLEMENTARY INFORMATION: The meeting begins at 1 p.m., Jan. 10, and adjourns at noon, Jan. 11, in the Conference Room of the Alturas Field Office. Public comments will be accepted Thursday, Jan. 10, at 4 p.m. Meeting agenda items include a juniper management status report, an overview report of the Modoc-Washoe Experimental Stewardship Program, a status report on wild horse and burro management, and an update on management planning for the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area.

FOR FURTHER INFORMATION CONTACT: BLM Alturas Field Manager Tim Burke, (530) 233–4666; or Public Affairs Officer Joseph J. Fontana, (530) 257–5381.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 01–30615 Filed 12–10–01; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–310–1820–AE]

Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Northwest California Resource Advisory Council, Redding, California.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Public Law 92–463) and the Federal Land Policy and Management Act (Public Law 94–579), the U.S. Bureau of Land Management's Northwest California Resource Advisory Council will meet Wednesday and Thursday, Jan. 30 and 31, 2002, in Redding, California, for a field tour and business meeting. The meeting and tour are open to the public, but anyone attending must provide their own transportation and lunch.

SUPPLEMENTARY INFORMATION: The meeting begins Wednesday, Jan. 30, at 10 a.m. at the BLM Redding Field Office, 355 Hemsted Dr., Redding. Members will convene, then depart for a field tour of public lands managed by the Redding Field Office. On Thursday, Jan. 31, the council will convene at 8 a.m. in the Conference Room of the BLM Redding Field Office. Items on the agenda include a presentation on proposed wilderness legislation, a report from the council's recreation user fee subcommittee, a report on the draft environmental impact statement for management of the Headwaters Forest Reserve, and a report on a BLM vegetative management environmental impact statement.

Public comments will be taken Thursday at 1 p.m. Depending on the number of persons wishing to speak, a time limit may be established.

FOR ADDITIONAL INFORMATION: Contact Lynda J. Roush, BLM Arcata Field Manager, at (707) 825–2300, or BLM Public Affairs Officer Joseph J. Fontana, (530) 257–5381.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 01–30616 Filed 12–10–01; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Dakotas Advisory Council Meeting

AGENCY: Bureau of Land Management, South Dakota Field Office, Interior.

ACTION: Notice of meeting.

SUMMARY: A meeting of the Dakotas Resource Advisory Council will be held February 25 & 26, 2002, at the Holiday Inn, Spearfish, South Dakota. The session will convene at 8 a.m. on February 25th. Agenda items will include: updates on off highway vehicle EIS and the National Energy Policy, Dakota Cement, and Fire and Fuel Reductions.

The meeting is open to the public and a public comment period is set for 8 a.m. on February 26, 2002. The public may make oral statements before the Council or file written statements for the Council to consider. Depending on the number of persons wishing to make an oral statement, a per-person time limit may be established. Summary minutes of the meeting will be available for public inspection and copying.

The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in the Dakotas.

FOR FURTHER INFORMATION CONTACT: Patrick Gubbins, Field Office Manager, South Dakota Field Office, 310 Roundup Street, Belle Fourche, South Dakota. Telephone (605) 892–7000.

Dated: October 31, 2001.

Patrick Gubbins,

Field Office Manager.

[FR Doc. 01–30617 Filed 12–10–01; 8:45 am]

BILLING CODE 4310–88–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–910–01–0777–30]

Northeastern Great Basin Resource Advisory Council Meeting Location and Time

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Council's meeting location and time.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM), Council meetings will be held as indicated below. The agenda for this meeting includes: approval of minutes of the previous meetings, Shoshone-Eureka Resource Management Plan Fire Amendment, Off-Highway Vehicle Draft Guidelines, Vegetation Draft Guidelines, 3809 Regulations, and Wild Horses, Field Managers' and District Ranger's reports.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. The public comment period for the Council meeting is listed below. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided below.

DATES, TIMES, PLACE: The time and location of the meeting is as follows:

Northeastern Great Basin Resource Advisory Council, Elko BLM Field Office, 3900 E. Idaho Street, Elko, Nevada, 89801; January 24, 2002, beginning at 9 a.m. public comment period 1:30 p.m.; tentative adjournment at 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mike Brown, Public Affairs Specialist, Elko Field Office, 3900 E. Idaho Street, Elko, NV 89801, telephone (775) 753–0386.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues, associated with the management of the public lands.

Helen M. Hankins,

Field Office Manager, Elko Field Office.

[FR Doc. 01–30618 Filed 12–10–01; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–427 (Preliminary)]

Film and Television Productions From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase countervailing duty investigation No. 701–TA–427 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) (the Act) to determine whether there is a reasonable indication that an industry

in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of film and television productions (motion-picture film is provided for in subheading 3706.10 of the Harmonized Tariff Schedule of the United States), that are alleged to be subsidized by the Government of Canada. Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B)), the Commission must reach a preliminary determination in countervailing duty investigations in 45 days, or in this case by January 18, 2002. The Commission's views are due at Commerce within five business days thereafter, or by January 28, 2002.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: December 4, 2001.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202–205–3184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on December 4, 2001, by the Film and Television Action Committee, Studio City, CA; the Screen Actors Guild, Los Angeles, CA; Studio Utility Employees Local 724 of the Laborers International Union, Hollywood, CA; Local 355 of the International Brotherhood of Teamsters (Teamsters), Baltimore, MD; Teamsters Local 391, Greensboro, NC; Teamsters Local 399, North Hollywood, CA; Teamsters Local 509, Cayce SC; Teamsters Local 592, Richmond, VA; and the Maryland Production Alliance, Baltimore, MD.

Participation in the Investigation and Public Service List

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on December 27, 2001, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Diane Mazur (202–205–3184) not later than December 21, 2001, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before January 2, 2002, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: December 5, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–30507 Filed 12–10–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–439]

In the Matter of Certain HSP Modems, Software and Hardware Components Thereof, and Products Containing Same; Notice of Commission Decision To Affirm ALJ Orders Nos. 75 and 76; To Review Portions of a Final Initial Determination; To Extend by 45 Days the Target Date for Completion of the Investigation; and To Schedule for Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade

Commission has determined to affirm ALJ Orders Nos. 75 and 76 issued by the presiding administrative law judge ("ALJ") on June 29, 2001, and July 5, 2001, respectively; to deny ESS's motion to strike PCTEL's October 23 letter; to deny PCTEL's motion to supplement the record and its motion for leave to reply to ESS's response; to extend the target date for completion of the investigation by 45 days to March 4, 2002; and to review portions of the final initial determination ("ID") issued on October 18, 2001, by the presiding ALJ finding a violation of section 337 of the Tariff Act of 1930 in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3152. Copies of the public versions of the subject orders and ID, and all other nonconfidential documents filed in connection with this investigation, are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at http://dockets.usitc.gov/eol/public.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 11, 2000, based on a complaint filed by PCTEL, Inc. ("PCTEL") of Milpitas, California. The complaint named Smart Link Ltd. of Netanya, Israel and Smart Link Technologies, Inc. of Watertown, Massachusetts (collectively "Smart Link") and ESS Technology, Inc. ("ESS") of Fremont, California as respondents. The complaint alleged that Smart Link and ESS had violated section 337 of the Tariff Act of 1930 by importing into the United States, selling for importation, and/or selling within the United States after importation certain HSP modems, software and hardware components thereof, and products containing the same by reason of infringement of claims 1–2 of U.S. Letters Patent 5,787,305 ("the '305 patent"), claims 1–4, 7–8, and 11–15 of U.S. Letters Patent 5,931,950 ("the '950 patent"), claims 1, 2, 10, and 15–17 of U.S. Letters Patent 4,841,561 ("the '561 patent"), and claims 1, 6–7, 10–12, and 15–19 of U.S. Letters Patent 5,940,459 ("the '459 patent").

On April 5, 2001, the Commission determined not to review an ID granting PCTEL's motion for summary determination of its satisfaction of the economic prong of the domestic industry requirement.

On June 28, 2001, the Commission determined not to review an ID terminating the investigation as to respondent Smart Link on the basis of a settlement agreement. The only patents asserted by PCTEL against remaining respondent ESS are the '305 and '950 patents. Thus, only the '305 and '950 patents remain at issue in the investigation.

The ALJ issued his final ID on October 18, 2001. He found that respondent ESS's HSP modem products do not infringe claims 1 or 2 of the '305 patent; that the '305 patent is enforceable and not invalid; and that the technical prong of the domestic industry requirement is not met as to the '305 patent (i.e., that PCTEL's products of do not practice any claim in issue of the '305 patent). The ALJ also found that respondent ESS's HSP modem products literally infringe, contributorily infringe, and induce infringement of claims 1–3, 7, 8, and 11–15 of the '950 patent. The ALJ further found that the '950 patent is enforceable, not invalid, and that a domestic industry relating to complainant PCTEL's HSP modem products exists with respect to the '950 patent. Based on his findings concerning the '950 patent, the ALJ found that there is a violation of section 337.

The ALJ also issued his recommended determination on remedy and bonding in the event that the Commission also finds a violation of section 337. He recommended issuance of a limited exclusion order covering the accused ESS modem semiconductors, software, and the downstream products of modem boards and motherboards, but not personal computers. He also recommended issuance of a cease and desist order, and a bond in the amount of 9 percent of the entered value of the accused HSP modem products during the Presidential review period.

On October 31, 2001, complainant PCTEL, respondent ESS, and the Commission investigative attorney ("IA") filed petitions for review of the final ID. On November 7, 2001, the IA filed a response to ESS's petition, and ESS filed a response to PCTEL's and the IA's petitions. On November 8, 2001, PCTEL filed an unopposed motion requesting a one-day extension of time to file its response to ESS's petition for review, which motion was granted by the Chairman, along with its response to ESS's petition for review.

On October 23, 2001, PCTEL filed a letter with the ALJ requesting reconsideration and supplementation of the ID to affirmatively include within the listed accused infringing products of ESS certain chipsets that the ALJ had not included in his ID or RD. On October 24, 2001, ESS filed a motion with the Commission to strike PCTEL's October 23 letter. The Commission has determined to consider PCTEL's October 23 letter as part of its petition for review and therefore denies ESS's motion to strike the letter.

On November 2, 2001, PCTEL filed a motion with the Commission to supplement the record. On November 14, ESS filed an opposition to PCTEL's motion and the IA filed a response in support of the motion. On November 16, 2001, PCTEL filed a motion for leave to reply to ESS's response, and filed a reply. The Commission has determined to deny PCTEL's motion to supplement, and to deny PCTEL's motion to reply to ESS's response as moot.

On November 29, 2001, the IA filed a motion with the Commission for an extension of time to submit briefs if the Commission determines to review the ID, and an extension of the target date from January 18, 2002, to February 18, 2002.

Having examined the ALJ's final ID, the petitions for review and the responses thereto, and the record of the investigation, the Commission has determined to review the following issues: Which chipsets of ESS are accused of infringement; the ALJ's construction of "the device occupies an I/O slot that corresponds to a first communications port" and "UART emulation" claim limitations of claim 1 the '305 patent and the resulting infringement and domestic industry findings; and the ALJ's construction of the "selection logic" and "interrupt" limitations of the claims at issue of the '905 patent, and the resulting infringement and domestic industry findings. The Commission determined not to review the remainder of the final ID.

On review, the Commission requests briefing based on the evidentiary record on all issues under review and is particularly interested in answers to the following questions, with all answers cited to the evidentiary record:

1. As to the construction of "the device occupies an I/O slot that corresponds to a first communications

port" limitation of claim 1 the '305 patent:

In Windows 95 and other later generation operating systems ("the Windows 95 operating systems"), is a standard, UART-based device always assigned to COM 1 through COM 4, and is a non-standard, non-UART device always assigned to COM 5 through COM 128?

Describe in detail serial COM port usage and standard and non-standard base address assignments in both the Windows 3.1 and Windows 95 operating systems, and UART and non-UART COM port usage in the Windows 3.1 and Windows 95 operating systems.

RX–520C states that MS–DOS supports "128 logical names for addressing serial ports." Does MS–DOS therefore support 128 COM ports? How does this statement from RX–520C relate to the statement in the '305 patent that "WINDOWS and MS–DOS support four communication or COM ports"? The '305 patent, col. 1, ll. 46–48.

Under Federal Circuit case law, what is necessary to conclude that one of ordinary skill in the art would interpret the claim term "communications port" in the light of Windows 95? Is being "aware of" the soon-to-be-released Windows 95 operating system sufficient? Is having "access" to an early set of documentation on how to develop software for the soon-to-be-released Windows 95 operating system sufficient?

2. As to the construction of the "UART emulation" limitation of claim 1 of the '305 patent:

What is the difference in "UART emulation" in the Windows 3.1 operating systems vis-a-vis the Windows 95 operating systems?

In the Windows 95 operating systems, does VCOMM expect UART data from all serial devices? Are the device drivers of non-UART devices in the Windows 95 operating systems required to simulate or "emulate" a UART response to VCOMM's data requests ?

3. As to the construction of the "interrupt" limitation of the claims at issue of the '950 patent:

Describe in detail PC power management on the ISA data bus vis-a-vis the PCI data bus, and the operation of a PME signal on the PCI bus.

Would the "interrupt" limitation of the claims at issue of the '950 patent be interpreted by one of ordinary skill in the art as applying only to the ISA bus? Or, in June of 1997, when the application that matured into the '950 patent was filed, would one of ordinary skill in the art also interpret the "interrupt" signal of the '950 patent as a PME signal on the PCI bus?

4. As to the construction of the "selection logic" limitation of the claims at issue of the '950 patent:

Is the claimed interrupt-switching "selection logic" of the claims at issue of the '950 patent mutually exclusive between modes?

Under a proper construction of "selection logic," does the "selection logic" select or switch between interrupt sources, and output that selection onto a single interrupt signal line?

5. As to the infringement of the '305 patent:

Provide a detailed description of how the accused ESS HSP modems operate in the Windows 95 operating systems. How do the accused ESS HSP modems use VCOMM and modem.sys? Do the Windows 95 operating systems expect UART data from the accused ESS HSP modems?

6. As to the infringement of the '950 patent:

Describe the wake and sleep cycles of an ESS modem and the attached PC system. How do the ESS HSP modems block interrupts from an inactive modem, and then select the ring signal as an interrupt? Does the interrupt switching mechanism of the ESS HSP modems select from different interrupt sources for output onto a single interrupt signal line?

In connection with the final disposition of this investigation, the Commission may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair action in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see Certain Devices for Connecting Computers via Telephone Lines, Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994)(Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

Written Submissions: The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on remedy, the public interest, and bonding. Such submissions should address the October 18, 2001, recommended determination by the ALJ on remedy and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Responses to the above questions, written submissions on remedy, the public interest, and bonding, and proposed remedial orders must be filed no later than close of business on January 10, 2002. Reply submissions must be filed no later than the close of business on January 17, 2002. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See § 201.6 of the Commission's rules of practice and procedure, 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in §§ 210.42, 210.43, 210.45, 210.46, and 210.50 of the Commission's rules of practice and procedure (19 CFR 210.42, 210.43, 210.45, 210.46, and 210.50).

Issued: December 5, 2001

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–30506 Filed 12–10–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–450]

In the Matter of: Certain Integrated Circuits, Processes for Making Same, and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Granting Complainants' Motion for Summary Determination on Importation

AGENCY: U.S. International Trade Commission.

ACTION: Corrected notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") issued by the presiding administrative law judge (ALJ) in the above-captioned investigation on November 2, 2001, granting a motion of complainants' United Microelectronics Corporation, UMC Group (USA), and United Foundry Service, Inc. for summary determination on importation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3115. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 6, 2001. The complainants are United Microelectronics Corporation of Hsinchu City, Taiwan; UMC Group (USA) of Sunnyvale, California; and United Foundry Service, Inc. of Hopewell Junction, New York. The respondents are Silicon Integrated Systems Corp. of Hsinchu City, Taiwan; and Silicon Integrated Systems Corporation of Sunnyvale, California. 66 FR 13567 (2001).

On September 13, 2001, complainants filed a motion for summary determination on respondents' first affirmative defense of lack of importation. On September 25, 2001, respondents filed a cross-motion for summary determination on lack of importation. On the same day, the Commission investigative attorney ("IA") filed his response in support of complainants' motion.

On October 5, 2001, complainants filed a memorandum in opposition to respondents' cross-motion for summary determination on lack of importation and a reply memorandum in support of complainants' motion for summary determination. On the same day, the IA filed his response in opposition to respondents' cross-motion for summary determination.

On October 23, 2001, complainants filed a motion for leave to file a supplemental memorandum in support of their motion, which was granted. On October 25, 2001, respondents 2 filed a response to complainants' motion for supplemental memorandum.

On November 2, 2001, the ALJ granted complainants' motion for summary determination and denied respondents' motion for summary determination. On November 8, 2001, respondents filed petition for review of the ID. On November 16, 2001, complainants and the IA filed responses in opposition to respondents' petition.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in § 210.42 of the Commission's rules of practice and procedure (19 CFR 210.42).

Issued: December 5, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–30505 Filed 12–10–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the Compact Council for the National Crime Prevention and Privacy Compact

AGENCY: Federal Bureau of Investigation, Justice.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce a meeting of the Compact Council created by the National Crime Prevention and Privacy Compact Act of 1998 (Compact). Thus far, the federal government and thirteen states are parties to the Compact which governs the exchange of criminal history records for licensing, employment, and similar purposes. The Compact also provides a legal framework for the establishment of a cooperative Federal-state system to exchange such records.

Matters for discussion are expected to include: (1.) Record Screening Requirements, (2.) National Fingerprint File (NFF)/Qualifications and Audit Criteria, (3.) Proposed Progressive Steps for Sanctions, (4.) Improvements to the Criminal History Background Process, (5.) Proposal to Improve Service to the Noncriminal Justice Customers Seeking Interstate Identification Index Information, (6.) Jurisdiction of the Compact Council, (7.) Expansion of Time Frame and Users of the Emergency Child Placement Rule, (8.) NFF Implementation Plan for Non-NFF Compact States, and (9.) Source Documentation for Policy and Compact Council Rules.

The meeting will be open to the public on a first-come first-seated basis. Any member of the public wishing to file a written statement with the Compact Council or wishing to address this session of the Compact Council should notify Ms. Cathy L. Morrison at (304)625–2736, at least 24 hours prior to the start of the session. The notification should contain the requestor's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topic to be addressed, and the time needed for the presentation. Requestors will ordinarily be allowed up to 15 minutes to present a topic.

DATES AND TIME: The Compact Council will meet in open session from 9 a.m. until 5 p.m. on January 8–9, 2002.

ADDRESSES: The meeting will take place at the Sheraton Grand Hotel, 1230 J Street, Sacramento, California, telephone (916) 447–1700.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Ms. Cathy

L. Morrison, Interim Compact Officer, Compact Council Office, Module C3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0147, telephone (304) 625–2736, facsimile (304) 625–5388.

Dated: December 4, 2001.

Thomas E. Bush, III,

Section Chief, Programs Development Section, Federal Bureau of Investigation.

[FR Doc. 01–30536 Filed 12–10–01; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0143(2002)]

Standard on Presence Sensing Device Initiation; Extension of the Office of Management and Budget's Approval of Information-Collection Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comment.

SUMMARY: OSHA requests comment on its proposal to extend OMB approval of the information-collection requirements contained in its Standard on Presence Sensing Device Initiation (PSDI) (29 CFR 1910.217(h)). This standard regulates the use of presence-sensing devices ("PSDs") in mechanical power-press safety systems; a PSD (e.g., a photoelectric field or curtain) automatically stops the stroke of a mechanical power press when the device detects an operator entering a danger zone near the press. Accordingly, the standard protects employees from serious crush injuries, amputations, and death.

DATES: Submit written comments on or before February 11, 2002.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0143(2002), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified by the Standard on Presence Sensing Device Initiation (PSDI) (29 CFR 1910.217(h)) is available for inspection and copying in the Docket Office, or by requesting a copy from Theda Kenney at (202) 693–2222 or Todd Owen at (202) 693–2444. For electronic copies of the ICR, contract OSHA on the Internet at *http://www.osha.gov*, and select "*Information Collection Requests.*"

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct.

A number of paragraphs in OSHA's Standard on Presence Sensing Device Initiation (PSDI) (29 CFR 1910.217(h)) (the "Standard") contain paperwork requirements. These requirements include: Certifying brake-monitor adjustments, alternatives to photoelectric PSDs, safety-system design and installation, and employee training; annual recertification of safety systems; establishing and maintaining the original certification and validation records, as well as the most recent recertification and revalidation records; affixing labels to test rods and to certified and recertified presses; and notifying an OSHA-recognized third-party validation organization when a safety system component fails, the employer modifies the safety system, or a point-of-operation injury occurs. In addition, Appendix A of § 1910.217 provides detailed information and procedures required to meet the certification/validation provisions, as well as the design requirements, contained in the Standard. Accordingly, Appendix A supplements and explains the certification/validation provisions of the PSDI Standard, and does not specify new or additional paperwork requirements for employers. Appendix C § 1910.217 describes the requirements and procedures for obtaining OSHA recognition as a third-party validation organization; therefore the paperwork requirements specified by this appendix do not impose burden hours or cost directly on employers who use PSDs.

By complying with these paperwork requirements, employers ensure that PSDI-equipped mechanical power presses are in safe working order, thereby preventing severe injury and death to press operators and other employees who work near this equipment. In addition, these records provide the most efficient means for an OSHA compliance officer to determine that an employer performed the requirements and that the equipment is safe.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

III. Proposed Actions

OSHA is proposing to extend OMB approval of the information-collection requirements specified by the Standard even though the Agency can attribute no burden hours and cost to these requirements. In previous ICRs, OSHA estimated that each year employers would convert 1,988 mechanical presses to PSDI operation, and that manufacturers would produce an additional 250 new presses using PSDI (for an annual total of 2,238 presses). However, to date, no such presses appear to be in use, either because employers selected other stroke-control devices for mechanical power presses, or because no third-party organization is available to validate employer and manufacturer certifications that their PSDI equipment and practices meet the requirements of the Standard. Therefore, the Standard does not currently affect any known employer; accordingly, the paperwork requirements currently result in no burden hours or cost to employers.

The Agency believes that efforts by the American National Standards Institute (ANSI) to develop a national consensus standard for PSDI may increase use of these devices in the near future. The metal-forming industry, which is working with ANSI on developing the national consensus standard, requested that Agency to retain the Standard. Therefore, OSHA is

proposing that OMB extend its approval of the information-collection requirements specified by the Standard so that the Agency can enforce these requirements if employers begin using PSDI. This notice provides an opportunity for the public to comment on this proposal. The Agency will include a summary of these comments as part of its request to OMB to approve these paperwork requirements.

Type of Review: Extension of a currently-approved information-collection requirement.

Title: Standard on Presence Sensing Device Initiation (PSDI) (29 CFR 1910.217(h)).

OMB Number: 1218–0143.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local, or tribal governments.

Number of Respondents: 0.

Frequency of Recordkeeping: On occasion; annually; other (initially).

Average Time per Response: 0.

Estimated Total Burden Hours: 0.

Estimated Cost (Operation and Maintenance): $0.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC on December 5, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–30577 Filed 12–10–01; 8:45 am]

BILLING CODE 4510–25–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–156)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that The Texas A&M University System, having offices in College Station, Texas, has applied for a partially exclusive license to practice the inventions described and claimed in U.S. Patent No. 5,827,531, entitled "Multi-Lamellar, Immiscible-Phase Microencapsulation of Drugs"; U.S. Patent No. 6,099,864, entitled "INSITU Activation of Microcapsules"; U.S. Patent No. 6,214,300, entitled "Microencapsulation and Electrostatic Processing Device (MEPS)"; U.S. Patent No. 6,103,271, entitled "Microencapsulation & Electrostatic Coating Process"; pending U.S. Patent Application entitled "Protein Crystal Encapsulation Process"; NASA Case No. MSC22936–1–SB; pending U.S. Patent Application entitled "Externally Triggered Microcapsules"; NASA Case No. MSC 22939–1–SB and pending continuations, divisional applications, and foreign applications corresponding to the above-listed cases. Each of the above-listed patents and patent applications are assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. With respect to U.S. Patent No. 5,827,531 only. NASA's property interests are presently limited by the terms of previously issued License No. DE–252. NASA is in the process of terminating the DE–252 License, pursuant to the terms of that license and applicable provisions of Title 37 of the Code of Federal Regulations, part 404. Written objections to the prospective grant of a license should be sent to the Johnson Space Center.

DATES: Responses to this notice must be received by January 10, 2002.

FOR FURTHER INFORMATION CONTACT: James Cate, Patent Attorney, NASA Johnson Space Center, Mail Stop HA, Houston, TX 77058–8452; telephone (281) 483–1001.

Dated: December 4, 2001.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 01–30490 Filed 12–10–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meetings; Sunshine Act

TIME AND DATE: 10:00 a.m., Thursday, December 13, 2001.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Requests from Three (3) Federal Credit Unions to Convert to Community Charters.
2. Community Development Revolving Loan Program for Credit Unions: Notice of Applications for Participation and Interest Rate for Loans.
3. Final Rule: Parts 700, 701, 712, 715, 723, 725, and 790, NCUA's Rules and Regulations, Definitions and Technical Amendments.
4. Proposed Rule: Section 710.19, NCUA's Rules and Regulations, Retirement Benefits for Employees of Federal Credit Unions.
5. Final Rule: Amendment to Section 701.33 NCUA's Rules and Regulations, Definition of Compensation.
6. Proposed Request for Comments on Risk Mitigation of Non-Maturity Shares.
7. National Credit Union Share Insurance Fund (NCUSIF) Operating Level for 2002.
8. NCUA's Annual Performance Plan for 2002.
9. Purchase of Video Conferencing System.
10. Replacement of NCUA's Telephone and Voice Mail System.
11. Amendment to Interpretive Ruling and Policy Statement (IRPS) 99–1.

Recess: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, December 13, 2001.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Administrative Actions under Part 704 of NCUA's Rules and Regulations. Closed pursuant to exemption (8).
2. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemption (8).
3. Two (2) Personnel Matters. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone 703–518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 01–30625 Filed 12–6–01; 4:17 pm]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–317 and 50–318]

Calvert Cliffs Nuclear Power Plant, Inc., Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to Facility Operating License Nos. DPR–53 and DPR–69, issued to Calvert Cliffs Nuclear Power Plant, Inc. (CCNPPI, the licensee), for operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1

and 2, located in Calvert County, Maryland.

Environmental Assessment

Identification of the Proposed Action

The proposed action is a one-time exemption from the requirements of Title 10 of the Code of Federal Regulations (10 CFR) part 50, Appendix E, Items IV.F.2.b and c regarding conduct of a full-participation exercise of the onsite and offsite emergency plans every 2 years. Under the proposed exemption, the licensee would reschedule the exercise originally scheduled for September 25, 2001, and complete the exercise requirements by September 31, 2002.

The proposed action is in accordance with the licensee's application for an exemption dated September 28, 2001.

The Need for the Proposed Action

10 CFR part 50, Appendix E, Items IV.F.2.b and c requires each licensee at each site to conduct an exercise of its onsite and offsite emergency plan every 2 years. Federal agencies (the U.S. Nuclear Regulatory Commission (NRC) for the onsite exercise portion and the Federal Emergency Management Agency for the offsite exercise portion) observe these exercises and evaluate the performance of the licensee, State and local authorities having a role under the emergency plan.

The licensee had initially planned to conduct an exercise of its onsite and offsite emergency plan on September 25, 2001, within the required 2-year interval. However, because of consideration for increased security risk due to ingress and egress of personnel during the current period of heightened security, and consideration that activities associated with the exercise could create undue public alarm, the licensee has decided to postpone the exercise.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the proposed action involves an administrative activity (a schedular change in conducting an exercise) unrelated to plant operations.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2.

Agencies and Persons Consulted

On October 9, 2001, the staff consulted with the Maryland State official, Mr. Richard McLean of the Maryland State Department of Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated September 28, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 4th day of December 2001.

For the Nuclear Regulatory Commission.

Donna Skay,

Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30609 Filed 12–10–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8681]

International Uranium (USA) Corporation; Notice of Opportunity for Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Final finding of no significant impact; notice of opportunity for hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) proposes to accept the license amendment for the NRC Materials License SUA–1358 to authorize the licensee, International Uranium (USA) Corporation (IUSA), to allow for the and reclamation of the White Mesa uranium mill, located near Blanding, Utah. An Environmental Assessment was performed by the NRC staff in accordance with the requirements of 10 CFR part 51. The conclusion of the Environmental Assessment is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

FOR FURTHER INFORMATION CONTACT: Mr. William von Till, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T–8A33, Washington, DC 20555–0001. Telephone (301) 415–6251, e-mail *rwv@nrc.gov*.

SUPPLEMENTARY INFORMATION:

Background

Materials License SUA–1358 was originally issued by NRC on August 7, 1979, Pursuant to Title 10, Code of Federal Regulations (10 CFR), part 40, "Domestic Licensing of Source Material." The IUC site is licensed by the U.S. Nuclear Regulatory Commission (NRC) under Materials License SUA–1358 to possess byproduct material in the form of uranium waste tailings and other uranium byproduct waste generated by the licensee's milling operations, as well as other source material from multiple locations. Some of these locations include material from Formerly Utilized Sites Remedial Action Program (FUSRAP) sites

managed by the U.S. Army Corps of Engineers (USACE). These materials have similar chemical, physical, and radiological composition to conventional mill tailings. The mill is currently operating.

Summary of the Environmental Assessment

The NRC staff performed an appraisal of the environmental impacts associated with the receipt and processing of materials from the Molycorp facility at the White Mesa mill, in accordance with 10 CFR Part 51, Licensing and Regulatory Policy Procedure for Environmental Protection. In conducting its appraisal, the NRC staff considered the following: (1) Information contained in the previous environmental evaluations of the White Mesa project; (2) information contained in the IUSA's amendment application dated December 19, 2000, and supplemented by letters dated January 29, February 2, March 20, August 15, October 17, and November 16, 2001; (3) information derived from NRC staff site visits and inspections of the White Mesa mill site, and (4) from comments and conversations from the State of Utah Department of Environmental Quality (DEQ), and the U.S. Environmental Protection Agency (EPA). The results of the staff's appraisal are documented in an Environmental Assessment.

Conclusions

The NRC staff has examined the actual and potential environmental impacts associated with the receipt and processing of the proposed Molycorp material, and has determined that the action is (1) consistent with requirements of 10 CFR Part 40, (2) will not be inimical to the public health and safety, and (3) will not have long-term detrimental impacts on the environment. The following statements support the FONSI and summarize the conclusions resulting from the staff's environmental assessment:

1. An acceptable environmental and effluent monitoring program is in place to monitor effluent releases and to detect whether applicable regulatory limits are exceeded. Radiological effluents from site operations have been and are expected to continue to remain below the regulatory limits. A groundwater monitoring program is in place to detect potential seepage of contaminants from the tailings cells. The Entrada/Navajo Sandstone Aquifer is separated by low permeability formations from the tailings cells further decreasing a potential impact to groundwater resources. The Molycorp material will be placed on bermed concrete to reduce groundwater contamination while stored on the ore pad and an existing dust suppression program will be implemented at the Mill to reduce the potential for airborne contamination.

2. Present and potential environmental impacts from the receipt and processing of the Molycorp material were assessed. No increase in impacts has been identified as a result of this action, therefore, the staff has determined that the risk factors for health and environmental hazards are insignificant.

Alternatives to the Proposed Action

The action that the NRC is considering is approval of an amendment request to a source material license issued pursuant to 10 CFR part 40. The alternatives available to the NRC are:

1. Approve the license amendment request as submitted; or

2. Amend the license with such additional conditions as are considered necessary or appropriate to protect public health and safety and the environment; or

3. Deny the request.

Based on its review, the NRC staff has concluded that the environmental impacts associated with the proposed action do not warrant either the limiting of IUSA's future operations or the denial of the license amendment. The NRC staff has concluded that there are no significant environmental impacts associated with the proposed action. Therefore, alternatives with equal or greater impacts need not be evaluated. Additionally, in the Technical Evaluation Report prepared for this action, the staff has reviewed the licensee's proposed action with respect to the criteria for reclamation, specified in 10 CFR 40, Appendix A, and has no basis for denial of the proposed action. Therefore, the staff considers that Alternative 1 is the appropriate alternative for selection.

Finding of No Significant Impact

The NRC staff has prepared an Environmental Assessment for the proposed reclamation plan for NRC Source Material License SUA–1358. On the basis of this assessment, the NRC staff has concluded that the environmental impact that may result for the proposed action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted.

The Environmental Assessment and other documents related to this proposed action amendment application are available for public inspection and copying at the NRC Public Document Room, US Nuclear Regulatory Commission Headquarters, Room 0–1F21, 11555 Rockville Pike, Rockville, MD 20852.

Notice of Opportunity for Hearing

The NRC hereby provides notice of an opportunity for a hearing on the license amendment under the provisions of 10 CFR part 2, subpart L, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings." Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(d), a request for hearing must be filed within 30 days of the publication of this notice in the **Federal Register**. The request for a hearing must be filed with the Office of the Secretary, either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, International Uranium (USA) Corporation, Independence Plaza, Suite 950, 1050 Seventeenth Street, Denver, Colorado 80265; Attention: Michelle Rehmann; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

In addition, members of the public may provide comments on the subject application within 30 days of the publication of this notice in the **Federal Register**. The comments may be provided to Michael Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dated at Rockville, Maryland, this 30th day of November 2001.

For the U.S. Nuclear Regulatory Commission.

Melvyn Leach,

Branch Chief, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–30610 Filed 12–10–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of December 10, 17, 24, 31, 2001, January 7, 14, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of December 10, 2001

There are no meetings scheduled for the Week of December 10, 2001.

Week of December 17, 2001—Tentative

There are no meetings scheduled for the Week of December 17, 2001.

Week of December 24, 2001—Tentative

There are no meetings scheduled for the Week of December 24, 2001.

Week of December 31, 2001—Tentative

There are no meetings scheduled for the Week of December 31, 2001.

Week of January 7, 2002—Tentative

Wednesday, January 9, 2002

9:30 a.m.

Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting) (Contact: John Larking, 301–415–7360)

Week of January 14, 2002—Tentative

There are no meetings scheduled for the Week of January 14, 2002.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

ADDITIONAL INFORMATION: By a vote of 5–0 on December 4 and 5, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Units 2 and 3)" be held of December 5, and no less than one week's notice to the public.

By a vote of 5–0 on December 5, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107 (a) of the Commission's rules that "Affirmation of Connecticut Yankee Atomic Power Company (Haddam Neck Plant); Docket 50–213–OLA" be held on December 5, and on less than one week's notice to the public.

By a vote of 5–0 on November 30 and December 3, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Discussion of Intragovernmental and Security Issues (Closed—Ex. 1 & 9)" be held on December 5, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, D.C. 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet System is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: December 6, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–30733 Filed 12–7–01; 12:45 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45122; File No. SR–CHX–99–18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Chicago Stock Exchange, Inc., Relating to the Exchange's Limit Order Display Requirements

December 4, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 24, 1999, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the Exchange. On November 20, 2001, the CHX amended the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

1. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its limit order display requirements under CHX Article XX, Rule 7 to conform to Rule 11Ac1–4 under the Act.[4] The text of the proposed rule change is below. Additions are in italics; deletions are in brackets.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* October 15, 2001 letter from Daniel J. Liberti, Vice President and Chief Enforcement Counsel, CHX, to Joseph Morra, Special Counsel, Division of Market Regulation, Commission ("Amendment No. 1"). The CHX mailed Amendment No. 1 to the Commission on October 15, 2001, but the Commission never received the Amendment. The CHX provided the Commission with a telefaxed copy of the Amendment on November 20, 2001. The Commission agreed to accept the Amendment as of November 20, 2001, while awaiting delivery of the original, signed Amendment. In Amendment No. 1, the CHX (i) confirmed that the proposed change to exempt block-sized orders from the CHX's limit order display requirement will not apply when a customer has requested that the order be displayed; (ii) corrects a typographical error relating to CHX Article XX, Interpretation and Policy .01 relating the mark sense terminal; and (iii) adds new identifiers for subparagraphs (a) and (b) in CHX Article XX, Interpretation and Policy .05. The CHX made other minor, non-substantive changes to the proposal. *See* December 3, 2001 telephone conversation between Daniel J. Liberti, Vice President and Chief Enforcement Counsel, CHX, and Joseph Morra, Special Counsel, Division of Market Regulation, Commission.

[4] 17 CFR 240.11Ac1–4.

Chicago Stock Exchange Rules

Article XX, Rule 7. Recognized Quotations

Recognized quotations shall be public bids and offers in lots of one or more trading units or multiples thereof. Bids and offers in other market centers which may be displayed on the Floor for the purpose of ITS, or in accordance with Rule 39 or Rule 40 of this Article or other purposes shall have no standing in the trading crowds on the Floor. Bids or offers for less than one unit of trading shall specify the number of shares of stock or the principal amount of the bonds covered by the bid or offer. All bids made and all offers made shall be in accordance with the provisions of Rule 11Ac1–1 under the Securities Exchange Act of 1934, governing the dissemination of quotations for reported securities.

The following interpretations and policies pertain to all specialist system issues for which last sale information is reported pursuant to SEC Rule 11Aa3–1.

Interpretations and Policies:

.01 [Specialists shall input their current markets and sizes to the quotation system through the key terminal or the mark sense terminal at the post. These q]*Q*uotations shall be firm as to both price and size unless exempted under one of the conditions specified in paragraphs .06–.09 of this Rule.

.02 In respect to Dual Trading System issues specialists utilizing the Auto Quote mode are prohibited from disseminating a bid and/or offer more than ⅛ point away from the best ITS market.

.03 Market Makers, while at the post, shall input to the quotation system their bids and/or offers which better the current Exchange market. Such quotations shall remain in force until the market maker leaves the post. Market maker quotations and accompanying sizes shall be firm unless exempted under one of the conditions specified in paragraphs .06–.09 of this Rule.

.04 Floor Broker, while at the post, shall input to the quotation system those bids or offers which better the current Exchange market unless the bid or offer is cancelled or withdrawn if not executed immediately. If a floor broker transfers possession of an order to a specialist, the requirement for input to the quotation system becomes the obligation of the specialist. When a floor broker who retains possession of an order leaves the post he must withdraw his bid or offer from the quotation system. Quotations and accompanying sizes shall be firm until withdrawn unless exempted under one of the conditions specified in paragraphs .06–.09 of this Rule.

.05 (*a*) Quotation sizes, unless otherwise specified, shall be assumed to be for 100 shares. [Where bids or offers are made at the same price the aggregate quotation size of such equal bids or offers shall be inputted into the quotation system. Such aggregate sizes shall remain firm until withdrawn unless exempted under one of the conditions specified in paragraphs .06–.09 of this Rule.] With respect to *agency* limit orders received by specialists, each specialist shall publish immediately (i.e., as soon as practicable, which under normal market conditions means no later than 30 seconds from time of receipt) a bid or offer that reflects:

(i) The price and full size of each *agency* limit order that is at a price that would improve the specialist's bid or offer in such security; and

(ii) The full size of each *agency* limit order that is priced equal to the specialist's bid or offer *and the national best bid or offer* for such security and represents more than a *de minimis* change in relation to the size associated with the specialist's bid or offer;

(*b*) The requirements with respect to specialists' display of limit orders shall not apply to any limit order that is:

(i) Executed upon receipt of the order;

(ii) Placed by a person or entity who expressly requests, either at the time the order is placed or prior thereto pursuant to an individually negotiated agreement with respect to such person's orders, that the order not be displayed;

(iii) An odd-lot order;

(iv) Delivered immediately upon receipt to an exchange or association-sponsored system or an electronic communications network that complies with the requirements of Securities and Exchange Commission Rule 11Ac1–1(c)(5) under the Securities Exchange Act with respect to that order;

(v) Delivered immediately upon receipt to another exchange member or over-the-counter market maker that complies with the requirements of Securities and Exchange Commission Rule 11Ac1–4 under the Securities Exchange Act with respect to that order; [or]

(vi) An "all or none" order; *or*[.]

(vii) A block size order, unless the customer order is received with a request that the order be displayed.

.06–.09 (no change)

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 12, 1998, the Commission granted accelerated approval to a proposed rule change amending CHX Article XX, Rule 7 [5] that expressly provided for the display of customer limit orders as contained in Rule 11Ac1–4 under the Act.[6] However, that change did not make CHX, Article XX, Rule 7 totally consistent with Rule 11Ac1–4 in that the Exchange did not adopt certain exceptions allowed under Rule 11Ac1–4, nor did the Exchange limit the application of CHX Article XX, Rule 7 solely to customer limit orders.

The Exchange now proposes to amend CHX Article XX, Rule 7 to be more consistent with Rule 11Ac1–4. More specifically, the proposed rule change would exempt block size limit orders,[7] orders that represent only a *de minimis* change in relation to the size associated with a specialist's quote, and orders for the account of a broker or dealer from the requirements of CHX Article XX, Rule 7, Interpretation and Policy .05. THe proposed rule change would also eliminate the Exchange requirement that a CHX specialist immediately publish the full size of a customer limit order that is at a price that would not improve the specialist's bid or offer when such specialist's bid or offer is not equal to the national best bid or offer.

Under Rule 11Ac1–4(c)(5),[8] a specialist is not required to display an order that is delivered immediately

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[5] *See* Securities Exchange Act Release No. 39540 (January 12, 1998), 63 FR 2708 (January 16, 1998) (SR–CHX–97–26).

[6] 17 CFR 240.11Ac1–4.

[7] As defined in Rule 11Ac1–4, a block size order is an order of at least 10,000 shares or for a quantity of stock having a market value of at least $200,000.

[8] 17 CFR 240.11Ac1–4(c)(5).

upon receipt to an exchange or association-sponsored system that complies with the requirements of the rule with respect to that order. Because other market centers do not require the publication of certain orders that a CHX specialist must currently display under CHX Article XX, Rule 7 (*e.g.* block size orders), a CHX specialist may not deliver such orders to those other market centers for automatic relief from the requirements of CHX Article XX, Rule 7, despite the fact that such practice is permissible under Rule 11Ac1–4. The proposed modifications would, among other things, allow a CHX specialist to safely transfer such orders to other market centers that are subject to the requirements of Rule 11Ac1–4. As such, the proposed rule change would make CHX Article XX, Rule 7 more consistent with the requirements of Rule 11Ac1–4.

The proposal would also eliminate in CHX Article XX, Rule 7, Interpretation and Policy .01, a reference to the mark sense terminal, an Exchange facility that is no longer operational.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act [9] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the CHX consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–99–18 and should be submitted by January 2, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–30503 Filed 12–10–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45121; File No. SR–NYSE–2001–48]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Exchange Fees

December 3, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] ("Act") and Rule 19b–4 thereunder,[2] notice is hereby given that on December 3, 2001,[3] the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend Section 902.02 of the Listed Company Manual ("Manual") to provide that the one-time fee and the minimum fee shall not apply to original listings of closed-end funds, and to implement a $1 million cap on the continuing annual fees payable by any one family of closed-end funds.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections, A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, there are over 380 closed-end funds listed on the Exchange. Many of these funds represent multiple listings from a family of funds such as Nuveen, Morgan Stanley Van Kampen or Merrill Lynch. This year the Exchange has carefully reviewed the original and continuing annual listing fees charged to closed-end funds listed on the Exchange, particularly focusing on how those fees affect the fund families that comprise such a larger part of the closed-end fund listings.

Currently, closed-end funds pay original listing fees based on the same schedule applicable to regular listed companies, with some modest relief in terms of the minimum original fee.[4] The

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[9] 15 U.S.C. 78f(b)(5).

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On December 3, 2001, the Commission received a letter from the NYSE explaining its rationale for the proposed rule filing. The proposed rule change is treated as filed on the date that the letter was received. *See* letter from James Duffy, Senior Vice President & Associate General Counsel, Office of the General Counsel, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated November 21, 2001.

[4] In addition, on July 23rd of this year the Exchange implemented a temporary cap of $1.25 million on the aggregate listing fees payable by any one fund family during 2001, although without refund for any family that had exceeded that level prior to the implementation of the cap. *See* Exchange Act Release No. 44554, July 13, 2001, 66

Exchange now proposes to eliminate the minimum original listing fee for closed-end funds, and to also eliminate the one time charge of $36,800 for such funds. Closed-end funds will pay original listing fees based on the number of shares issued according to the per share schedule applicable to listed companies generally as set forth in Section 902.02 of the Manual. Any fund which listed during the 2001 calendar year will receive a credit against its continuing annual fee for the 2002 calendar year representing the difference between the amount paid according to the current original listing fee schedule and the proposed schedule. In addition, the Exchange proposes to implement a $1 million annual cap on the amount of continuing annual listing fees payable by any one family of closed-end funds. The Exchange has traditionally differentiated with respect to fees among classes of issuers—such as closed end funds and structured (derivative) products. More specifically, this fee modification was influenced by the concern that funds, because they tend to be clustered in a limited number of "families," could have been viewed from a certain perspective as bearing fees that were potentially somewhat high when compared to the fees paid by traditional business corporations.[5]

All the fee changes proposed above will become effective at the beginning of the 2002 calendar year.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4)[6] that an Exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

FR 37715, July 19, 2001. This was done while the Exchange considered further what changes were appropriate in its closed-end fund fee schedule. This $1.25 million cap will expire by its own terms at the end of 2001.

[5] *See* note 3, *supra*.

[6] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8] At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such rule change of it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to SR–NYSE–2001–48 and should be submitted by January 2, 2002.

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–30504 Filed 12–10–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45125; File No. SR–Phlx–2001–95]

Self-Regulatory Organizations; Notice of Filing for Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Philadelphia Stock Exchange, Inc. To Extend a Pilot Program for the Volume Weighted Average Price Trading (VWAP) System

December 4, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 6, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the Exchange. On November 15, 2001, the Exchange amended the proposal.[3] The Exchange filed this proposal under Section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6)[5] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend through November 30, 2002 its pilot program for the Volume Weighted Average Price Trading (VWAP) System ("vwap" system or "System") ("Pilot").

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* November 14, 2001 letter from Murray L. Ross, Vice President and Secretary, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission ("Amendment No. 1"). In Amendment No. 1, the Phlx converted the proposed rule change to a non-controversial filing. *See* Rule 19b–4(f)(6). 17 CFR 240.19b–4(f)(6).

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6). The Phlx requested that the Commission waive the 5-day pre-filing notice requirement, and the 30-day operative delay. *See* Amendment No. 1.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the Pilot through November 30, 2002. The Pilot was established in SR–Phlx–96–14.[6] The only substantive change the Phlx proposes at this time is to extend the pilot program through November 30, 2002.[7] The text of the proposed rule change is available at the Phlx and at the Commission.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act[8] in general, and in particular, with Section 6(b)(5),[9] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

[6] *See* Securities Exchange Act Release No. 41210 (March 24, 1999), 64 FR 15857 (April 1, 1999). *See also* Securities Exchange Act Release Nos. 42701 (April 19, 2000), 65 FR 24529 (April 26, 2000) (SR–Phlx–00–26) and 43477 (October 23, 2000), 65 FR 64734 (October 30, 2000) (SR–Phlx–00–84) (extending pilot through November 1, 2000 and November 30, 2001, respectively).

[7] *See* December 3, 2001 telephone conversation between Murray L. Ross, Vice President and Secretary, Phlx, and Joseph Morra, Special Counsel, Division, Commission.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Exchange has requested that the Commission waive the 5-day pre-filing notice requirement, and accelerate the operative date. The Commission finds good cause to waive the pre-filing notice requirement, and to designate the proposal to be both effective and operative upon filing because such designation is consistent with the protection of investors and the public interest. Waiver of these requirements will allow the Pilot to continue uninterrupted through November 30, 2002. For these reasons, the Commission finds good cause to designate that the proposal is both effective and operative upon filing with the Commission.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR–Phlx–2001–95, and should be submitted by January 2, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–30502 Filed 12–10–01; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] For purposes of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 230X)]

Norfolk Southern Railway Company—Abandonment Exemption—In Raleigh County, WV

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 1.5-mile line of railroad between milepost AM–0.0 at Amigo and milepost AM–1.5 at Devils Fork, in Raleigh County, WV.[1] The line traverses United States Postal Service Zip Code 25911.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with

[1] NSR notes that authority to discontinue operations on the line was granted by the former Interstate Commerce Commission. *See Norfolk and Western Railway Company—Discontinuance Exemption—in Wyoming County, WV*, Docket No. AB–290 (Sub-No. 88X) (ICC served June 18, 1990). The June 18, 1990 notice described the 1.5-mile discontinuance of the line as being located in Wyoming County, WV. By facsimile filed on December 4, 2001, NSR advised the Board that the line is located in Raleigh County, WV, as correctly identified in the present notice, and not Wyoming County, WV, as previously indicated in the notice of June 18, 1990.

any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 10, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 21, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 31, 2001, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NSR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 14, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 11, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our web site at "*WWW.STB.DOT.GOV*."

Decided: December 4, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30608 Filed 12–10–01; 8:45 am]

BILLING CODE 4915–00–P

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form W–7.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form W–7, Application for IRS Individual Taxpayer Identification Number.

DATES: Written comments should be received on or before February 11, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for IRS Individual Taxpayer Identification Number.

OMB Number: 1545–1483.

Form Number: Form W–7.

Abstract: Form W–7 is used to apply for an IRS individual taxpayer identification number (ITIN). An ITIN is a nine-digit number issued by the IRS to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain, a social security number. ITINs are intended for tax use only.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 500,000.

Estimated Time Per Respondent: 1 Hour, 3 minutes.

Estimated Total Annual Burden Hours: 525,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation.

maintenance, and purchase of services to provide information.

Approved: November 28, 2001.

George Freeland.

IRS Reports Clearance Officer.

[FR Doc. 01–30622 Filed 12–10–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of establishment of new system of records.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is establishing a new system of records entitled "Gulf War Registry—VA" (93VA131).

DATES: Comments on the establishment of this system of records must be received no later than January 10, 2002. If no public comment is received, the new system will become effective January 10, 2002.

ADDRESSES: Written comments concerning the proposed new system of records may be submitted to the Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Veterans Health Administration (VHA) Privacy Act Officer (193B3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (727) 320–1839.

SUPPLEMENTARY INFORMATION:

I. Description of the Proposed Systems of Records

The Gulf War Registry (GWR), located at the Austin Automation Center (AAC), Austin, Texas, is an automated integrated system. The registry contains demographic and medical data of registry examinations from August 2, 1990, until such time as Congress by law ends the Gulf War, for veterans serving in the Southwest Asia theatre of operations during the Gulf War who may have been exposed to a toxic substance or environmental hazard. There is also registry data on veteran's spouse or children suffering from an illness or disorder (including birth defects, miscarriages, or stillbirth) which cannot be disassociated from the veteran's service in the Southwest Asia theatre of operations.

These data are entered manually on code sheets by VA facility staff or, in the case of veterans' spouses and children, by non-VA physicians. Hard copies of these code sheets then are sent to the AAC for entry into the GWR data set. The principal identifiers in these GWR records are the Social Security Number and veteran's name. The GWR system of records located at VA Central Office, Washington, DC, is an optical disk system containing images of paper records, i.e., GW code sheets. Once these paper records are scanned on optical disks, they are disposed of in accordance with RCS 10–1.

The purpose of this GWR system of records is to provide information about veterans who have had a GWR examination at a VA facility, and their spouses and/or children who have had examinations by non-VA physicians. The records are used to assist in generating hypotheses for research studies; to enable management to track patient demographics; to report birth defects among veterans' children; to assist in planning the delivery of health care services, including the associated costs; and, to possibly be used in the adjudication of claims perhaps related to exposure to a toxic substance or environmental hazard.

II. Proposed Routine Use Disclosures of Data in the System

We are proposing to establish the following routine use disclosures of information to be maintained in the system:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of, and at the written request of, that individual.

Individuals sometimes request the help of a member of Congress in resolving some issues relating to a matter before VA. The member of Congress then writes VA, and VA must be able to give sufficient information to be responsive to the inquiry.

2. The disclosure of records covered by this system, as deemed necessary and proper, may be made to named individuals serving as accredited service organization representatives, and other individuals named, as approved agents or attorneys, for a documented purpose and period of time, to aid beneficiaries in the preparation and presentation of their cases, during verification and/or due process procedures and in the presentation and prosecution of claims under laws administered by VA.

3. A record containing the name(s) and address(es) of present or former members of the armed services and/or their dependents may be released from this system of records under certain circumstances:

a. To any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, and

b. To any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name(s) or address(es) be provided for a purpose authorized by law; provided, further, that the record(s) will not be used for any purpose other than that stated in the request and that the organization, agency or instrumentality is aware of the penalty provision of 38 U.S.C. 3301(f).

VA must be able to comply with the requirements of agencies charged with enforcing the law who are conducting investigations. VA must also be able to provide information to State or local agencies charged with protecting the public health as set forth in State law.

4. Disclosure may be made to the National Archives and Record Administration (NARA) in records management inspections conducted under authority of Title 44 United States Code.

NARA is responsible for archiving old records no longer actively used, but which may be appropriate for preservation; they are responsible, in general, for the physical maintenance of the Federal government's records. VA must be able to turn records over to these agencies in order to determine the proper disposition of such records.

5. Disclosure of information, excluding name and address (unless name and address is furnished by the requestor), may be made for research purposes determined to be necessary and proper, to epidemiological and other research facilities approved by the Under Secretary for Health.

VA participates in various research programs and activities. VA must be able to disclose information for research purposes approved by the Under Secretary for Health.

6. In order to conduct Federal research necessary to accomplish a

statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(es) of present or former personnel or the Armed Services and/or their dependents may be disclosed

a. To a Federal department or agency or

b. Directly to a contractor of a Federal department or agency. When a disclosure of this information is to be made directly to the contractor, VA may impose applicable conditions on the department, agency, and/or contractor to ensure the appropriateness of the disclosure to the contractor.

VA must be able to disclose information for research purposes needed to accomplish a statutory purpose of a Federal agency. VA occasionally contracts out certain of its functions when this would contribute to effective and efficient operations. VA must be able to give a contractor whatever information is necessary for the contractor to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor from using or disclosing the information for any purpose other than that described in the contract.

7. In the event that a record maintained by VA to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, information may be disclosed at VA's own initiative to the appropriate agency whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto. However, names and addresses of veterans and their dependents will be released only to Federal entities.

8. For program review purposes and the seeking of accreditation and/or certification, disclosure may be made to survey teams of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), College of American Pathologists, American Association of Blood Banks, and similar national accreditation agencies or boards with whom VA has a contract or agreement to conduct such reviews, but only to the extent that the information is necessary and relevant to the review.

VA health care facilities undergo certification and accreditation by several national accreditation agencies or boards to comply with regulations and good medical practices. VA must be able to disclose information for program review purposes and the seeking of accreditation and/or certification of health care facilities and programs.

9. Records from this system of records may be disclosed to the Department of Justice (DOJ), or in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear, when: the agency, or any component thereof or any employee of the agency in his or her official capacity where the DOJ or the agency has agreed to represent the employee; or the U.S., when the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation and has an interest in such litigation, and the use of such records by the DOJ or the agency is deemed by the agency to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which the records were collected.

Whenever VA is involved in litigation, or occasionally when another party is involved in litigation and VA policies or operations could be affected by the outcome of the litigation, VA would be able to disclose information to the court or parties involved. A determination would be made in each instance that, under the circumstances involved, the purpose served by the use of the information in the particular litigation is compatible with a purpose for which VA collects the information.

10. Relevant information may be disclosed to individuals, organizations, private or public agencies, etc., with whom VA has a contract or agreement to perform such services as VA may deem practical for the purposes of laws administered by VA, in order for the contractor to perform the services of the contract or agreement.

VA occasionally contracts out certain of its functions when this would contribute to effective and efficient operations. VA must be able to give a contractor whatever information is necessary for the contractor to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor from using or disclosing the information for any purpose other than that described in the contract.

III. Compatibility of the Proposed Routine Uses

The Privacy Act permits VA to disclose information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which we collected the information. In all of the routine use disclosures described above, the recipient of the information will use the information in connection with a matter relating to one of VA's programs, will use the information to provide a benefit to VA, or disclosure is required by law.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: December 4, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

93VA131

SYSTEM NAME:

Gulf War Registry-VA.

SYSTEM LOCATION:

Character-based data from Gulf War Registry Code Sheets are maintained in a registry dataset at the Austin Automation Center (AAC), 1615 Woodward Street, Austin, Texas 78772. Since the dataset at the ACC is not all-inclusive, i.e., narratives, signatures, noted on the code sheets are not entered into this system, images of the code sheets are maintained at the Department of Veterans Affairs (VA), Environmental Agents Service (131), 810 Vermont Avenue, NW., Washington, DC 20420. These are electronic images of paper records, i.e., code sheets and questionnaires that are stored on optical disks.

CATEGORIES OF INDIVIDUALS COVERED BY THIS SYSTEM:

Veterans who may have been exposed to toxic substances or environmental hazard while serving in the Southwest theatre of operations during the Gulf War from August 2, 1990, until such time as Congress by law ends the Gulf War, and have had a Gulf War Registry examination at a VA medical facility. Also, a spouse or child suffering from an illness or disorder (including birth defects, miscarriages, or stillbirth), which cannot be disassociated from the veteran's service in the Southwest Asia theatre of operations and who has had a Gulf War Registry examination performed by a non-VA physician.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records consist of: Code sheet records recording VA facility code identifier where veteran was examined or treated; veteran's name; address, social security number' date of birth; race/ethnicity; marital status; sex;

branch of service; periods of service; hospital status, ie., impatient, outpatient; areas of service in the Gulf War theatre of operations; list of military units where veteran served; military occupation specialty; names of units in which veteran served; veteran's reported exposure to environmental factors; any traumatic experiences while in the Persian Gulf; veteran's self-assessment of health; veteran's functional impairment; report of birth defects and infant death(s) among veteran's children and/or problems with pregnancy and infertility; date of registry examination; veteran's complaints/symptoms; consultations; diagnoses; disposition (hospitalized, referred for outpatient treatment, etc.); whether veteran had an unexplained illness and had further tests and consultations and diagnoses as part of Phase II, Uniform Case Assessment Examination; and name and signature of examiner/physician coordinator, when provided. Similar responses for spouse and children of Gulf War veterans examined by non-VA physicians are contained in the records. Another category of data entries is obtained from depleted uranium (DU) questionnaires, a supplement to the Gulf War code sheet. The data entries may contain the facility identifier where the information was completed; demographic information (name and social security number); daytime and evening phone numbers; date of questionnaire completion; date of arrival in and departure from the Persian Gulf theatre of operations; source of referral to VA medical center for evaluation; where veteran served i.e. Iraq, Kuwait, Saudi Arabia, the neutral zone (between Iraq and Saudi Arabia), Bahrain, Qatar, The United Arab Emirates, Oman, Gulf of Aden, Gulf of Oman and the Waters of the Persian Gulf, Arabian Sea and Red Sea; capacity in which veteran served; questions relating to potential inhalation exposures to DU including those on, in, or near vehicles hit with friendly fire or enemy fire, entering burning vehicles, individuals near fires involving DU munitions, individuals salvaging damaged vehicles, and those near burning vehicles; whether veteran was wounded, retained DU fragments in veteran's body, handled DU penetrator rounds or any other exposures to DU; whether a 24-hour urine collection for uranium was performed; whether veteran consented to having the DU questionnaire data shared with the Department of Defense; name, title and signature of examiner/registry physician, when provided, and results of urine uranium tests, expressed per mcg per g creatinine.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code (U.S.C.) sec. 1710(e)(1)(B) and sec. 1710(e)(1)(B) and sec. 1720E.

PURPOSE(S):

The records will be used for the purpose of providing information about: Veterans who have had a GWR examination at a VA facility and their spouses and/or children who have had examinations by non-VA physicians to assist in generating hypotheses for research studies; providing management with the capability to track patient demographics; reporting birth defects among veteran's children; planning the delivery of health care services and associated cost; and assisting in the adjudication of claims possibly related to exposure to a toxic substance or environmental hazard.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of, and at the written request of, that individual.

2. Disclosure of records covered by this system, as deemed necessary and proper to named individuals serving as accredited service organization representatives and other individuals named as approved agents or attorneys for a documented purpose and period of time, to aid beneficiaries in the preparation and presentation of their cases during the verification and/or due process procedures, and in the presentation and prosecution of claims under laws administered by the VA.

3. A record containing the name(s) and address(es) of present or former members of the armed services and/or their dependents may be released from this system of records under certain circumstances:

a. To any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, and

b. To any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name(s) or address(es) be provided for a purpose authorized by law; provided, further, that the record(s) will not be used for any purpose other than that stated in the request and that the organization, agency or instrumentality is aware of the penalty provision of 38 U.S.C. 3301(f).

4. Disclosure may be made to the National Archives and Record Administration (NARA) in records management inspections conducted under authority of Title 44 United States Code.

5. Disclosure of information, excluding name and address (unless name and address is furnished by the requestor) for research purposes determined to be necessary and proper, to epidemiological and other research facilities approved by the Under Secretary for Health.

6. In order to conduct Federal research necessary to accomplish a statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(s) of present or former personnel or the Armed Services and/or their dependents may be disclosed

a. To a Federal department or agency or

b. Directly to a contractor of a Federal department or agency. When a disclosure of this information is to be made directly to the contractor, the VA may impose applicable conditions on the department, agency, and/or contractor to ensure the appropriateness of the disclosure to the contractor.

7. In the event that a record maintained by VA to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, information may be disclosed at VA's own initiative to the appropriate agency whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto. However, names and addresses of veterans and their dependents will be released only to Federal entities.

8. For program review purposes and the seeking of accreditation and/or certification, disclosure may be made to survey teams of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), College of American Pathologists, American Association of Blood Banks, and similar national accreditation agencies or boards with whom VA has a contract or agreement to conduct such reviews but

only to the extent that the information is necessary and relevant to the review.

9. Records from this system of records may be disclosed to the Department of Justice (DOJ) or in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: the agency, or any component thereof; or any employee of the agency in his or her official capacity; where the DOJ or the agency has agreed to represent the employee; or the U.S. when the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation, and has an interest in such litigation, and the use of such records by the DOJ or the agency is deemed by the agency to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which the records were collected.

10. Relevant information may be disclosed to individuals, organizations, private or public agencies, etc., with whom VA has a contract or agreement to perform such services as VA may deem practical for the purposes of laws administered by VA, in order for the contractor to perform the services of the contract or agreement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic data are maintained on Direct Access Storage Devices at the AAC, Austin, Texas, and on optical disks at VA Central Office, Washington, DC. AAC stores registry tapes for disaster back up at an off-site location. VA Central Office also has back-up optical disks stored off-site. In addition to electronic data, registry reports are maintained on paper documents and microfiche.

RETRIEVABILITY:

Records are indexed by name of veteran and social security number.

SAFEGUARDS:

Access to records to VA Central Office is only authorized to VA personnel on a "need to know" basis. Records are maintained in manned rooms during working hours. During non-working hours, there is limited access to the building with visitor control by security personnel. Registry data maintained at the AAC can only be updated by authorized AAC personnel. Read access to the data is granted through a telecommunications network to authorized VA Central Office personnel. AAC reports are also accessible through a telecommunications network on a ready-only basis to the owner (VA facility) of the data. Access is limited to authorized employees by individually unique access codes which are changed periodically. Physical access to the AAC is generally restricted to AAC staff, VA Central Office employees, custodial personnel, Federal Protective Service, and authorized operational personnel through electronic locking devices. All other persons gaining access to the computer rooms are escorted. Backup records stored off-site for both the AAC and VA Central Office are safeguarded in secured storage areas.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Environmental Agents Service (131), Office of Public Health and Environmental Hazards (clinical issues) and Management/Program Analyst, Environmental Agents Service (131) (administrative issues) VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained in this system under his or her name or other personnel identifier, or wants to determine the contents of such record, should submit a written request or apply in person to the last VA facility where medical care was provided or submit a written request to the Director, Environmental Agents Service (131), Office of Public Health and Environmental Hazards or the Management/Program Analyst, Environmental Agents Service (131), VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. Inquiries should include the veteran's name, social security number and return address.

RECORD ACCESS PROCEDURES:

An individual who seeks access to records maintained under his or her name may write or visit the nearest VA facility or write to the Director, Environmental Agents Service (131), or the Management/Program Analyst, Environmental Agents Service (131), VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

CONTESTING RECORDS PROCEDURES:

(See "Record Access Procedures.")

RECORDS SOURCE CATEGORIES:

VA patient medical records, various automated record systems providing clinical and managerial support to VA health care facilities, the veteran, family members, and records from Veterans Benefits Administration, Department of Defense, Department of the Army, Department of the Air Force, Department of the Navy and other Federal agencies.

[FR Doc. 01–30613 Filed 12–10–01; 8:45 am]

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Corrections

Federal Register
Vol. 66, No. 238
Tuesday, December 11, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 602

[TD 8965]

Unified Partnership Audit Procedures

Correction

In rule document 01–24517 beginning on page 50541 in the issue of Thursday, October 4, 2001, make the following correction:

§602.101 [Corrected]

On page 50564, in the first column, in the table in paragraph (b), the stars between the entries "301.6231(c)–1" and "301.6231(c)–2" are removed.

[FR Doc. C1–24517 Filed 12–10–01; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Tuesday,
December 11, 2001

Part II

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Parts 573 and 577
Motor Vehicle Safety; Proposed Rules

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 573 and 577

[Docket No. NHTSA–2001–11107]

RIN 2127–AI26

Motor Vehicle Safety; Reimbursement Prior To Recall

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to implement Section 6(b) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Section 6(b) provides that a manufacturer's program to remedy a safety-related defect or a noncompliance with a Federal motor vehicle safety standard shall include a plan for reimbursing an owner for the cost of a remedy incurred within a reasonable time before the manufacturer's notification of the defect or noncompliance and authorizes the agency to establish what constitutes a reasonable time and other conditions for the reimbursement plan.

DATES: *Comments:* You should submit your comments early enough to ensure that Docket Management receives them not later than February 11, 2002.

ADDRESSES: You should mention the docket number of this document in your comments, and submit your comments in writing to Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. You may also submit your comments electronically by logging onto the Dockets Management System website at *http://dms.dot.gov*. Click on "Help & Information" or "Help/info" to obtain instructions for filing the document electronically.

Regardless of how you submit your comments, you should mention the docket number of this document in your comments.

You may call Docket Management at 202–366–9324. You may visit Docket Management from 10:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact Jonathan White, Office of Defects Investigation, NHTSA, (202) 366–5226. For legal issues, contact Andrew J. DiMarsico, Office of Chief Counsel, NHTSA, (202) 366–5263.

SUPPLEMENTARY INFORMATION:

I. Background

On November 1, 2000, the TREAD Act, Pub. L. 106–414, was enacted. The statute was, in part, a response to congressional concerns related to manufacturers' inadequate responses to defects and noncompliances in motor vehicles and motor vehicle equipment. The TREAD Act authorizes the Secretary of Transportation ("the Secretary") to issue various rules relating to a manufacturer's notification and remedy program. The authority to carry out Chapter 301 of Title 49 of the United States Code ("Safety Act"), under which rules directed by the TREAD Act are to be issued, has been delegated to NHTSA's Administrator pursuant to 49 CFR 1.50.

Under 49 U.S.C. 30118(b), the agency may make a final decision that a motor vehicle or replacement equipment contains a defect related to motor vehicle safety or does not comply with an applicable Federal motor vehicle safety standard. In addition, under 49 U.S.C. 30118(c), a manufacturer of a motor vehicle or replacement equipment is required to notify the agency if it determines, or in good faith should determine, that its vehicles or equipment contain a defect that is related to motor vehicle safety or do not comply with an applicable Federal motor vehicle safety standard.

49 U.S.C. 30120(a) provides that when notification of a defect or noncompliance is required under section 30118 (b) or (c), the manufacturer is required to remedy the defect or noncompliance without charge when the vehicle or equipment is presented for remedy. That section further specifies that the remedy, at the option of the manufacturer, can be either to repair the vehicle or equipment or replace it with an identical or reasonably equivalent item or, in the case of a vehicle, refund the purchase price less depreciation. The Safety Act contains separate remedy provisions applicable to tires. 49 U.S.C. 30120(b).

49 U.S.C. 30120(d) requires a manufacturer to file with the Secretary a copy of the manufacturer's program for remedying a defect or noncompliance. Pursuant to 49 CFR part 577, manufacturers are required to notify owners of the remedy program. In order to obtain the manufacturer's remedy at no cost, an owner has to act in accordance with the provisions in the notice from the manufacturer. Any other way of remedying the defect or noncompliance would not be free of charge.

Before the TREAD Act, section 30120(d) did not require the manufacturer to reimburse owners for any costs incurred in remedying the defect or noncompliance prior to the notification required under sections 30118 and 30119. Manufacturers often reimbursed owners for these costs, but not in a uniform way. To the extent that the costs were not covered under a warranty program, manufacturers addressed these matters under extended warranty programs, "good will" programs, or in resolution of claims, including lawsuits.

Section 6(b) of the TREAD Act amends 49 U.S.C. 30120(d) to require a manufacturer's remedy program to include a plan for reimbursing an owner who incurred the cost of the remedy within a reasonable time in advance of the manufacturer's notification under subsection (b) or (c) of section 30118. Section 6(b) further authorizes the Secretary to prescribe regulations establishing what constitutes a reasonable time for purposes of the preceding sentence and other reasonable conditions for the reimbursement plan.

Below is a summary and explanation of the provisions of today's proposed rule implementing section 6(b).

II. Discussion

A. Introduction

Today's proposed rule would require manufacturers to submit reimbursement plans to the agency that satisfy specific requirements and to comply with the terms of those plans. The proposed rule would specify a minimum time period for which a manufacturer must provide reimbursement to an owner who incurred costs to obtain a remedy before the manufacturer provided notification to NHTSA of a noncompliance with a Federal motor vehicle safety standard or of a safety-related defect. In addition, this proposed rule would specify other requirements of the reimbursement plan and identify permissible conditions and limitations.

B. Who Will Be Required to Comply With the Provisions for a Reimbursement Plan?

The TREAD Act amendments to subsection 30120(d) provide that "A *manufacturer's* remedy program shall include a plan for reimbursing an owner * * * (emphasis added)." In these amendments, Congress added requirements to the pre-existing 30120(d) requirement that a manufacturer file with the Secretary a copy of the manufacturer's program for remedying a defect or noncompliance. In this context, the use of the term

manufacturer in the amendments indicates that they apply to the same manufacturers already regulated by section 30120(d). These manufacturers are identified by regulation in the applicability sections of 49 CFR parts 573 and 577, 49 CFR 573.3 and 577.3. Thus, we are proposing that the rule's requirements apply to manufacturers as delineated in sections 573.3 and 577.3.

C. What Constitutes a "Reasonable Time" in Advance of the Manufacturer's Notice of Noncompliance or of a Safety-Related Defect?

Under section 6(b) of the TREAD Act, manufacturers need only provide reimbursement for costs incurred within a "reasonable time" in advance of notification. Thus, not all pre-notification remedies are covered under this provision. The legislative history does not provide further direction. An earlier version of this provision would have required reimbursement for "parts replaced immediately prior to recall." See H.R. Rep. No. 106–954 at 6 (2000). However, this language was not adopted. Instead, Congress used the term "reasonable time," which is more extensive than "immediately prior to recall," and authorized the agency to delineate what constitutes a reasonable time.

The agency believes that there should be objective, bright-line rules for determining reasonable times that apply across the board, as opposed to provisions that would require case-by-case factual determinations. Bright-line rules can be applied by manufacturers, without determinations by NHTSA and with relative certainty and ease. They will likely result in fewer disputes and complaints—which the agency does not have the resources to address. In contrast, case-by-case determinations of what is "reasonable" under particular circumstances are likely to involve knotty questions of what the manufacturer knew at various times and what a "reasonable" consumer would have done at various times. These can be difficult to resolve, and their resolution would be likely to delay the reimbursement program—a result which is not supported by the legislation.

We believe that bright-line rules for determining reasonable times will ordinarily allow manufacturers to administer the pre-notification remedy reimbursement program without NHTSA's involvement. Under today's proposal, there would be no agency involvement in the resolution of disputes between manufacturers and owners. Except for review of the manufacturer's remedy program, NHTSA will remain outside of the process because the agency simply does not have the resources to address individual reimbursement disputes. We seek comments on ways to minimize disputes.

We further believe that the determination of a reasonable time should be related to the statutory concerns underlying the remedy of noncompliances with Federal motor vehicle safety standards and safety-related defects and, where applicable, to the agency's investigative activities with respect to alleged noncompliances and defects.

NHTSA's Office of Vehicle Safety Compliance (OVSC) conducts investigations to determine if motor vehicles or motor vehicle equipment meet the Federal motor vehicle safety standards codified in 49 CFR part 571. An important element of this program is examination or testing of a vehicle or item of motor vehicle equipment. If the agency's examination or testing indicates a possible noncompliance, the agency advises the manufacturer. The testing or examination is a critical event. If the manufacturer does not rebut the *prima facie* noncompliance shown in NHTSA observations or testing, it will ordinarily determine that a noncompliance exists, file a report under 49 CFR part 573, and then conduct a recall. If the manufacturer does not do so, the agency will conduct an investigation and proceed, if appropriate, to a determination of noncompliance. Alternatively, a noncompliance determination may be based on a manufacturer's testing or observation.

NHTSA's Office of Defects Investigations (ODI) conducts investigations to determine if a motor vehicle or item of motor vehicle equipment contains a safety-related defect. A safety defect investigation may involve several major phases. First, information is gathered from consumer reports, complaints and letters that are received by NHTSA through its Auto Safety Hotline (a telephone hotline), website, or written communications. Pursuant to section 3(b) of the TREAD Act, ODI will be able to consider other forms of early warning information. Based upon the available information, ODI may open a defect investigation.

In most cases, the initial phase of such an investigation is known as a Preliminary Evaluation (PE). During a PE, the manufacturer is contacted and required to provide information and other materials to ODI that are then reviewed and analyzed. PEs are generally resolved within four months, either by a manufacturer recall, an ODI decision to close the investigation, or by upgrading the investigation to an engineering analysis (EA). Engineering analyses may also be opened on the basis of recall queries (RQ) or service queries (SQ). During an EA, ODI obtains additional information from the manufacturer pertaining to the alleged problem. ODI may also undertake engineering studies and surveys, and it often performs tests on the vehicle or equipment at issue. The goal is to complete an engineering analysis within one year. If a potential safety-related defect is identified by ODI at the conclusion of the EA, and the manufacturer does not agree to conduct a recall to address it, the agency may proceed to a formal defect determination, which is accompanied by a recall order.

Some defect and noncompliance recalls are initiated by manufacturers under 49 U.S.C. 30118(c) after NHTSA has opened an investigation or other inquiry (we refer to these as influenced recalls). Others are initiated by manufacturers on their own, in the absence of any NHTSA involvement (we refer to these as uninfluenced recalls). Relatively few recalls are ordered by NHTSA under 49 U.S.C. 30118(b).

We are proposing to base our definition of "reasonable time" for purposes of section 6(b) of the TREAD Act on the above-described processes. With respect to a noncompliance with a Federal motor vehicle safety standard, we propose that the period that is reasonable for reimbursement purposes begins on the date of the initial test failure or the initial observation of a possible noncompliance. For noncompliance recalls that are influenced by OVSC, the date of the initial test failure will be apparent. With respect to noncompliance recalls that are not influenced by OVSC, 49 CFR 573.5(c)(7) requires manufacturers to identify "the test results or other data" that led to the manufacturer's determination. We are proposing an amendment to this language to require the manufacturer to specify the date when it first identified the possibility that a noncompliance existed.

With respect to influenced defect recalls, we believe that the opening of an EA by ODI is a relevant stage for the beginning of the reimbursement period. At this stage, there is sufficient concern about the matter within ODI that the investigation has been upgraded from a preliminary stage. NHTSA seeks to resolve the investigation within one year of the opening of the EA, by either a determination that a safety-related defect exists or the closure of the investigation. Some investigations will take less time, while some

investigations will take longer than one year after the opening of an EA.

Circumstances surrounding uninfluenced defect recalls are different from influenced recalls. There is no readily identifiable event comparable to the opening of an EA that may be used for the beginning of the period for reimbursement. Nonetheless, on the whole, we believe that the pre-notification time period for uninfluenced recalls should be comparable to that for influenced recalls. Based on NHTSA's goal of one year for resolving EAs, we are proposing that the time period for uninfluenced recalls should begin one year before the date of the manufacturer's Part 573 notice.

On this basis, we are proposing that the "reasonable time" for purposes of section 6(b) in regard to safety-related defects runs from the date an EA was opened or, if an EA was not opened, one year before the date of the manufacturer's submission a notification to NHTSA pursuant to 49 U.S.C. 30118 and 49 CFR 573.5.

The final question is when does the period of "reasonable time" end. The Act refers to costs incurred in advance of the manufacturer's notification under subsection (b) or (c) of section 30118. Those subsections refer to notices to owners, purchasers and dealers, as well as to NHTSA. In concept, the period should end when the owner receives notice from the manufacturer under 49 CFR part 577. After the owner receives notice, the owner should act in accordance with the provisions in the notice from the manufacturer, and if he or she acts otherwise, he or she should not be reimbursed under a reimbursement rule. However, there are several practical difficulties with this conceptual approach. First, the date on which an owner actually receives notice of the recall is not known by the manufacturer. Thus, an actual notice rule could result in a potentially open-ended reimbursement period if the owner alleged that he or she did not receive a notice. In view of these concerns, we propose the following end dates for the period of reimbursement, regardless of whether the notice is predicated upon a safety-related defect or a noncompliance with a Federal motor vehicle safety standard. For motor vehicles, the end date would be ten days after the manufacturer mailed the last of its initial Part 577 notices (to allow for mail delivery). This is based on the general effectiveness of mailings of Part 577 notices regarding vehicles and the recognition that in large recalls the notices are not all mailed at the same time.

Our approach to replacement equipment would be different from that for motor vehicles because of the difficulties inherent in notifying owners of replacement equipment. In contrast to motor vehicles, which are registered by the states, replacement equipment is not registered by a governmental entity. Even in the case of child restraints, for which NHTSA requires manufacturers to maintain a database of consumers who choose to register their seats, only approximately 30 percent of purchasers return the registration cards to the manufacturer, and many restraints are transferred from the original owner to subsequent owners who do not register the seats. For these reasons, we usually require manufacturers of replacement equipment to publicize the existence of safety defects and noncompliances through press releases, advertisements, website notices, notices in stores that sell the items, etc. Accordingly, for replacement equipment, we are proposing that the end date of the reimbursement period would be the 30 days after the conclusion of the manufacturer's initial efforts to publicize the existence of the defect or noncompliance.

We seek comments on whether other triggers or time periods would be more appropriate.

D. What "Reasonable Conditions" May Be Established by a Reimbursement Plan?

Section 6(b) of the TREAD Act does not specify in detail what must be included in a manufacturer's reimbursement plan. Rather, the section states, "The Secretary may prescribe regulations establishing * * * reasonable conditions for the reimbursement plan." We are proposing regulations that would allow manufacturers to include certain provisions limiting reimbursement in the plan. However, manufacturers may impose less stringent restrictions on reimbursement if they choose to. To assure that manufacturers do not unduly restrict reimbursement, we are proposing to preclude other conditions.

As discussed below, we are proposing several permissible conditions which, generally stated, relate to: (1) the availability of free warranty coverage, (2) the nature of the pre-notice repair or replacement and its relationship to the defect or noncompliance; (3) the amount of the reimbursement, and (4) the provision of suitable documentation for reimbursement. The plan could not include other conditions, except, based on comments, possibly some relating to fraud. These conditions are discussed in detail below.

1. Remedies Performed Outside the Period of Free Remedy Warranty Coverage

One condition that a manufacturer may include in its reimbursement program under today's proposal is that the pre-notification remedy must have been performed or obtained after the conclusion of any warranty that would have covered the repair at no cost to the consumer. Many repairs to address conditions that are subsequently determined to constitute a safety defect are within the coverage provided by the manufacturer's warranty program. The purpose of the reimbursement plan is not to create a duplicate of the manufacturer's warranty program. The purpose is to provide a system, that includes reasonable conditions, to reimburse an owner who has incurred costs to obtain a repair or replacement of the product before notification that a defect or noncompliance exits.

Under a typical warranty program, the manufacturer (through its dealers) will perform the necessary repairs or take other appropriate action at no cost to the owner. This creates an incentive for an owner to return his or her vehicle or equipment promptly to a franchised dealer or other authorized establishment to remedy any problems, including potential safety-related problems, while covered under the warranty program. The warranty program also provides information to the manufacturer that it can consider regarding the performance of its product and that might be reported to NHTSA under the "early warning" regulation to be adopted under section 3(b) of the TREAD Act, 49 U.S.C. 30166(m). Under today's proposal, manufacturers could provide in their remedy program that consumers who could have obtained a free remedy from a franchised dealer or other authorized entity through the manufacturer's warranty program, but had repairs performed elsewhere, would not be eligible for reimbursement.

This exclusion from the reimbursement program would not be absolute. In particular, if an owner presented the vehicle or equipment to a person authorized to perform warranty work and that person concluded that the problem or repair was not covered under the warranty, or the repair did not remedy the problem, an owner would have to be reimbursed for the reasonable costs of a remedy that was subsequently obtained at a facility that is not an authorized warranty service provider.

We seek comments on whether other exclusions related to warranty coverage are warranted.

2. The Nature of the Pre-notification Remedy

We are proposing conditions that a manufacturer may impose in the reimbursement plan on those pre-notification remedies that would be eligible for reimbursement under the manufacturer's plan. We are using the term eligible as a shorthand characterization that the pre-notification remedy would satisfy the technical conditions for reimbursement, which are addressed below.

First, a manufacturer would be permitted to limit reimbursement to remedies that addressed the noncompliance or defect. The defect or noncompliance is described in part 573 information reports and in notifications to owners. See 49 CFR 573.5(c)(5), (c)(8)(i); 49 CFR 577.5(e). The rationale for this condition is straightforward: manufacturers should not be required to pay for repairs that did not address the problems addressed by the recall.

As a second condition, a manufacturer could limit the extent of repairs that are eligible to those that were reasonably necessary to correct the underlying problem. For example, if the defect was a failing ignition switch, under today's proposal the manufacturer would not have to pay for a replacement of a steering column unit that included the switch, unless that was the only pre-notification repair available to the owner.

However, a manufacturer could not provide that to be eligible a repair would have to be *identical* to the recall remedy. In many instances, the part used in the recall would not have been available before the recall. In these circumstances, the pre-recall repair would necessarily have involved the installation of a part that was different from the remedy part. In fact, prior to a recall, repair facilities often replace inadequate original equipment parts with replacement parts that are identical to the original parts. If those parts were defective or otherwise contributed to defective performance, they would be redesigned for purposes of the recall. Another alternative remedy sometimes employed by manufacturers is a specially designed repair kit. These, too, are not available before the recall.

Additionally, the reimbursement program could not preclude a vehicle owner from obtaining both the recall remedy free of charge and reimbursement for past expenses, where otherwise allowed. For example, assume that an owner replaced an item of original equipment with the same part. If the recall remedy is to install a new part made of a material with better properties than the original part, the owner would be entitled to the free recall remedy and to be reimbursed for the cost of pre-recall repair.

Third, the manufacturer of a vehicle could limit reimbursement to costs incurred for the same *type* of remedy as selected by the manufacturer. The general categories of remedies are set forth in 49 U.S.C. 30120(a)(1). For vehicles, this includes repair, replacement of the vehicle with an identical or reasonably equivalent vehicle, or refunding the purchase price less depreciation. Under 49 U.S.C. 30120(a)(1)(A), manufacturers are permitted to choose the remedy. (If the remedy is found to be inadequate, NHTSA may order an alternate remedy. 49 U.S.C. 30120(e)).

For vehicles, if the manufacturer's remedy was a repair, the manufacturer could limit the scope of reimbursement to pre-notification repairs, and not provide reimbursement for the cost of replacement of the vehicle. Since almost all vehicle recalls involve some form of repair, typically the costs to be covered under the reimbursement plan would be for repairs that addressed the defect or noncompliance. Ordinarily this involves parts, associated labor, miscellaneous fees (*e.g.*, disposal of waste) and taxes.

Today's proposal treats replacement equipment differently from motor vehicles with regard to the relationship between the recall remedy and the pre-notice remedy. To begin, problems with vehicles and equipment are addressed differently by owners and businesses. Almost without exception, both recall remedies for defects and noncompliance in vehicles and pre-recall actions taken by consumers to address vehicle problems involve repair. That is not the case for replacement equipment. Although many equipment recalls involve replacement of the defective or noncompliant item, some do not. Yet owners who experience pre-recall problems with replacement equipment will ordinarily replace the equipment rather than have it repaired. In part, this stems from the cost of the items and the availability, effectiveness, and acceptability of repair. Vehicles are very expensive, and repair is the ordinary solution to a problem. On the other hand, many items of replacement equipment are not expensive, and repairs may not be available.

For example, noncompliant and defective tires, lighting equipment, motorcycle helmets, and brake hoses generally are replaced, not repaired. For child seats, sometimes repair kits are developed for recalls. However, these repair kits ordinarily are not available during most or all of the pre-recall period that is relevant under today's proposal. Even if a repair kit were available, an owner who experienced a problem might reasonably elect not to have the seat repaired. For example, assume that the handle locking mechanism on an infant restraint failed, creating a potential for the infant to fall out of the restraint. Ordinarily, the owner would not be able to repair it, but instead would purchase a different child seat. In light of circumstances such as these, we believe it reasonable to require the manufacturer to reimburse an owner for the cost of a replacement that he or she had obtained prior to the defect determination, regardless of the recall remedy (*e.g.*, in the above example, a handle locking mechanism repair kit). However, the owner would not also be entitled to the recall remedy, since the owner would have been made whole by reimbursement for the new seat.

We believe that additional conditions may be warranted for child seats. Consider the following example. An owner of an infant child seat covered by a defect recall may have previously purchased a convertible seat because his or her child outgrew the infant seat, rather than replacing the seat because of a problem with the handle. We believe that the manufacturer should not be required to reimburse such an owner for the cost of the second seat. However, we are not sure of the best way to allow manufacturers to identify situations like this in which reimbursement would not be appropriate, yet to assure that manufacturers do not deny reimbursement where it is warranted. Thus, we seek comment on possible conditions on pre-notification reimbursement in connection with child seats. These include, but are not limited to, whether to allow reimbursement to be conditioned on whether an owner registered the seat with the child seat manufacturer, whether the receipt indicating the purchase of a replacement seat must indicate that it is a model comparable to the original seat, and whether to require the owner of a defective seat to return it to the manufacturer or otherwise prove it has been destroyed in order to obtain reimbursement. We also seek comments on the practical applications of this proposal.

E. Amount of Reimbursement

Beyond the general considerations addressed above regarding remedies for which reimbursement must be provided, we are proposing requirements related to the amount of reimbursement to be provided.

For vehicles, almost without exception, the reimbursement will be

for the costs incurred by the owner to repair or replace the component or system implicated in the defect or noncompliance determination. While there are two other statutorily-authorized types of remedy for defects and noncompliances in motor vehicles—replacement and refund—in practice these types of remedies are extremely rare. Ordinarily, the amount of reimbursement for a repair could not be less than the lesser of (a) the amount actually paid by the owner for an eligible remedy, or (b) the cost of parts for an eligible remedy, labor at local labor rates, miscellaneous fees such as disposal of wastes, and taxes. Costs for parts may be limited to the manufacturer's list retail price for authorized parts. Any associated costs, such as taxes or disposal of wastes may not be limited. This proposed rule does not address, and under this proposed rule manufacturers would not have to provide, reimbursement for consequential injuries and damages such as personal injuries, property damages, rental vehicles, or missed employment. However, the proposed rule would not affect an aggrieved party's right to bring a civil action for any consequential damages that may arise as a result of the problem that was remedied by the owner.

Not all costs of repairs of vehicles would have to be reimbursed. For example, if a custom-designed replacement part was machined and installed, the cost of the custom-designed replacement part would not be reasonable and therefore would not have to be reimbursed. In instances where there are multiple repairs in one service visit, only those repairs that addressed the problem that was ultimately determined to constitute a safety-related defect or noncompliance would be reimbursable.

Even if a vehicle repurchase or replacement remedy is offered by the manufacturer, the owner would only be eligible for reimbursement of the costs associated with the pre-notification repairs. Of course, if the owner continues to own the vehicle, he or she would also be entitled to repurchase or replacement. We note that even if an individual had sold the vehicle prior to being notified of the recall, he or she would be eligible to be reimbursed for any repair costs related to the defect or noncompliance.

With regard to replacement equipment, as noted above, replacement is a very common remedy prior to notice. The amount of reimbursement ordinarily would be based upon the amount paid by the owner for the replacement item, as indicated on a receipt, up to the total of the retail price of the item, plus taxes. In some instances, labor would also be included. In cases in which the owner purchased a brand or model different from the equipment that was the subject of the recall, the manufacturer would be permitted to limit the amount of reimbursement to the ordinary retail price of the defective or noncompliant model that was replaced, plus taxes.

F. How To Obtain Reimbursement

1. What Documentation Must the Owner Submit in Order To Obtain Reimbursement?

We are proposing to allow manufacturers to establish certain requirements with respect to requests for reimbursement for pre-notification remediation of a defect or noncompliance in motor vehicles or motor vehicle equipment. Manufacturers may require an owner to present documentation that shows: (1) The name and mailing address of the owner; (2) product identification information, which means (a) for vehicles, the vehicle make, model year (MY) and model as well as the vehicle identification number (VIN), (b) for replacement equipment other than tires, a description of the equipment, including model and size as appropriate, and, (c) for tires, the model, size, and DOT number of the replaced tire(s); (3) identification of the recall (either the NHTSA recall number or the manufacturer's recall number); (4) a receipt (an original or a copy) that provides the amount of reimbursement sought; for repairs, this would include a breakdown of the amounts for parts, labor, other costs and taxes; for replacements, this would include the cost of the replacement item and associated taxes (where the receipt covers work other than to address the defect or noncompliance, the manufacturer may require the owner to separately identify the costs that are eligible for reimbursement); and (5) if the owner seeks reimbursement for costs within the warranty period, documentation to support either the denial of a repair under warranty or of the failure of a warranty repair followed by a repair at a non-franchised or unauthorized facility.

The manufacturer could provide that, to receive reimbursement, costs must be itemized by parts and labor on a proper receipt. We have selected these documentation provisions to ensure, reasonably effectively, that the vehicle or equipment is covered by a recall, that the reimbursement sought is related to the defect or noncompliance and not to other expenses, that multiple claims for the same work are not presented, and that the reimbursable costs are identified. Ordinarily, further requirements, such as requiring the owner to preserve or present the defective or noncompliant parts to the manufacturer, would be impracticable and unduly burdensome on the owner. We request comments on appropriate reimbursement provisions, including any reasonable provisions related to prevention of fraud. Additionally, we request comments on whether a receipt will provide sufficient information to a manufacturer to determine if the owner's remedy addressed the defect and whether it was reasonable. If not, what other information would be appropriate?

2. To Whom Must the Documentation Be Submitted?

The manufacturer must identify the office, including its address, to which the documentation is to be submitted.

3. May the Manufacturer Establish a Cut-Off Date for Reimbursement Claims?

We believe that there should be some limit on the ability of a manufacturer to establish a cut-off date for submission of claims for reimbursement. One approach is to base the minimum time frame on the period during which the recall campaign is subject to quarterly reporting pursuant to 49 CFR 573.6. That section requires each manufacturer that conducts a defect or noncompliance campaign to provide a quarterly report to NHTSA for six consecutive calendar quarters beginning with the quarter in which the campaign was initiated. Another approach is to set a fixed period applicable to all recalls; e.g., 90 days after the end of the reimbursement period, as defined above. This approach would require manufacturers to identify the outside end date for the submission of claims for reimbursement in the part 577 letter to owners. This outside end date would not be based upon 90 days from the date the letter is sent to each individual owner, rather the outside end date would be based upon the date the manufacturer reasonably believes the notification campaign would be completed. Thus, the outside end date for the submission of claims for reimbursement would be 90 days from the date of the last notification letter sent to owners under part 577. We are proposing the latter approach, but would like to receive comments on whether a different period would be more appropriate.

4. When and How Must an Owner Receive Reimbursement?

We are proposing to require manufacturers to act upon reimbursement claims within a reasonable time from the date a complete claim is received. We have tentatively decided that this period should be 60 days. The action may either be a grant or a denial of the claim for reimbursement.

In the event that a manufacturer receives a claim for reimbursement for a pre-notification remedy that contains deficient documentation, the manufacturer would be required to advise the claimant within 30 days that his or her claim is deficient and provide an explanation of the documents that are needed to make the claim complete and that such supplemental documents must be submitted within an additional 30 days. If the owner does not provide the required information within that 30 day period, the manufacturer may deny the claim.

If the manufacturer determines that a claim for reimbursement will not be paid in full, it must clearly advise the owner, in plain language, the reasons for the denial. NHTSA will not mediate, adjudicate, or otherwise review any disputes between manufacturers and consumers regarding eligibility for, or the amount of, reimbursement.

G. How Is the Owner Notified of the Reimbursement Plan?

The inclusion of a reimbursement plan in a manufacturer's remedy program would have little effect unless owners were aware of their right to obtain such reimbursement. Therefore, we believe that manufacturers must include certain information about the availability of reimbursement for the costs of pre-notification remedies in the notification to owners required under 49 CFR part 577.

There are several possible approaches to this issue. We could require manufacturers to include a copy of the plan in each notification sent to owners. Alternatively, we could amend part 577 to require manufacturers to describe their reimbursement plans in some detail or we could actually mandate particular language that manufacturers would have to use in their owner notifications. In view of the detail needed to fully describe the circumstances under which reimbursement would or would not be allowed, the amount of information included under each of these alternatives could exceed the safety-critical information about the defect or noncompliance itself. We are concerned that a lengthy description of the reimbursement program would run the risk of detracting from an owner's awareness of the need to have the remedy work performed. This imbalance in individual notices would be exacerbated by the inapplicability of the reimbursement provisions to the vast majority of owners, who ordinarily would not have incurred reimbursement expenditures. Therefore, we are proposing that the part 577 owner notification letter would need to identify the possibility of reimbursement for costs incurred to remedy problems related to the recall between certain dates, specify the date by which the owner must submit a claim for reimbursement, and identify ways that owners who may be eligible can review or timely obtain a copy of the manufacturer's reimbursement plan. (Although, as stated above, the actual end date of the period for reimbursement would not be tied to any given owner's receipt of a part 577 letter, to avoid confusion, we are proposing that the manufacturer would provide the date of receipt of the part 577 letter to identify the period in question.) To assure that those plans are available to owners, we are proposing that the part 577 letter would have to identify an Internet Website address maintained by the manufacturer where the plan applicable to the recall in question can be found, and would have to state that the plan could also be obtained by calling the manufacturer at a specified (toll-free) telephone number or by writing to the manufacturer at a specified address, and specify the date by which the owner would have to request the plan in order to receive it in time to complete the request for reimbursement. We request comment on whether this approach will provide owners with adequate information about the possibility of reimbursement for the cost of pre-recall remedies, and whether the specific language that we have proposed can be improved. Additionally, we seek comment whether this approach is a reasonable way to advise vehicle owners of the possible availability of and requirements for reimbursement; i.e., will the owner understand how to obtain reimbursement if this approach is chosen and be able to timely submit a complete reimbursement claim. We also ask for comments concerning alternatives that might be preferable to the proposal with the reasons for, and information relating to, any alternatives. We also seek comments on whether a Website and a toll-free telephone number will provide owners with sufficient, clear information.

H. Nonapplication

To be consistent with the statutory limitation found in 49 U.S.C. 30120(g), the requirement that reimbursement for a pre-notification remedy be provided to an owner does not apply if, in the case of a motor vehicle or replacement equipment, it was bought by the first purchaser more than 10 calendar years, or in the case of a tire, including an original equipment tire, it was bought by the first purchaser more than 5 calendar years, before notice is given under 49 U.S.C. 30118(c) or an order is issued under section 49 U.S.C. 30118(b).

I. General Plans for Reimbursement

We are proposing to allow manufacturers to submit to the agency one or more general reimbursement plans that could be incorporated by reference into any recalls associated with their products, rather than submitting a separate reimbursement plan for each recall. The reimbursement plan would remain on file with the agency and be available to consumers for their review. Under this proposal, the manufacturer would have to update such plans at least every two years to provide consumers with current information. If this proposal were adopted, manufacturers would not have to submit a separate reimbursement plan to NHTSA for each recall. We seek comments on whether this proposal is workable.

III. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

We have considered the impact of this proposed rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking was not reviewed under E.O. 12866, "Regulatory Planning and Review." This rulemaking is not considered "significant" under the Department of Transportation's regulatory policies and procedures. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because this provision only involves reimbursement of eligible expenses to owners who paid to remedy a defect or noncompliance prior to the recall notification.

We estimate that the additional economic impact of this rule upon manufacturers will be small. First, although we cannot precisely estimate the number of owners who have made related repairs prior to a manufacturer's

defect or noncompliance determination, we believe the number is relatively small. One indicator would be the number of complaints received by the manufacturer. Our review of a sample of part 573 reports from the past year indicates that manufacturers often have not received many complaints from owners about the problem prior to making a defect or noncompliance determination. Second, most manufacturers already provide reimbursement for pre-recall repairs under warranty programs and some other circumstances. Finally, one of the conditions that manufacturers may establish under today's proposed rule is that the pre-notification purchase or repair must be outside of the warranty period. Generally, manufacturers offer a warranty program that covers a period of 36 months or 36,000 miles. History indicates that most recalls occur within the period of coverage under warranty programs. In 2000, there were 672 recalls conducted by vehicle and equipment manufacturers. Of these, only 41 (approximately 6%) occurred after the expiration of the period of coverage offered by the manufacturer under its warranty program. Conversely, the remaining 94% occurred within 36 months which is the most common warranty period.

B. Regulatory Flexibility Act

We have also considered the impacts of this notice under the Regulatory Flexibility Act. For the reasons discussed above under E.O. 12866 and the DOT Policies and Procedures, I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because this provision only involves motor vehicle and equipment manufacturers that have submitted defect or noncompliance reports. The majority of recalls are not initiated by small entities. The primary impact of this rule will be felt by the major vehicle manufacturers. Even this impact will be minor since it only involves owners of vehicles and motor vehicle equipment who have paid to remedy a defect or noncompliance prior to recall in a manner that warrants reimbursement under the rule. This number is expected to be small for the reasons stated in the prior section of this notice.

C. National Environmental Policy Act

We have analyzed this proposal under the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

D. Paperwork Reduction Act

NHTSA has determined that this proposed rule will impose new collection of information burdens within meaning of the Paperwork Reduction Act of 1995 (PRA).

E. Executive Order 13132 (Federalism)

Executive Order 13132 on "Federalism" requires us to develop an accountable process to ensure "meaningful and timely input" by State and local officials in the development of "regulatory policies that have federalism implications." The E.O. defines this phrase to include regulations "that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This proposed rule, which would require that manufacturers include a reimbursement plan in their remedy program for owners who have remedied a defect or noncompliance prior to a recall notification under either section 30118(b) or 30118(c) of the Safety Act, will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in E.O. 13132. This rule making does not have those implications because it applies only to manufacturers who are required to file a remedy plan under sections 30118(b) or 30118(c), and not to the States or local governments.

F. Civil Justice Reform

This proposed rule would not have a retroactive or preemptive effect. Judicial review of the rule may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

G. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (P.L. 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribunal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule would not have a $100 million annual effect, no Unfunded Mandates assessment is necessary and one will not be prepared.

H. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this rule.

IV. Submission of Comments

A. How Can I Influence NHTSA's Thinking on This Rule?

In developing this interim final rule, we tried to address the anticipated concerns of all our stakeholders. Your comments will help us improve this rule. We invite you to provide different views on it, new approaches we have not considered, new data, how this rule may affect you, or other relevant information. Your comments will be most effective if you follow the suggestions below:

—Explain your views and reasoning as clearly as possible.
—Provide solid information to support your views.
—If you estimate potential numbers or reports or costs, explain how you arrived at the estimate.
—Tell us which parts of the rule you support, as well as those with which you disagree.
—Provide specific examples to illustrate your concerns.
—Offer specific alternatives.
—Refer your comments to specific sections of the rule, such as the units or page numbers of the preamble, or the regulatory sections.
—Be sure to include the name, date, and docket number with your comments.

B. How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your

comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES.**

Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at *http://dms.dot.gov*. Click on "Help & Information" or "Help/Info" to obtain instructions for filing the document electronically.

C. How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

D. How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel (NCC–30), NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

E. Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES.** To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

F. How Can I Read the Comments Submitted by Other People and Other Materials Relevant to This Rulemaking?

You may view the materials in the docket for this rulemaking on the Internet. These materials include the written comments submitted by other interested persons and the preliminary regulatory evaluation prepared by this agency. You may read them at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location.

You may also see the comments and materials on the Internet. To read them on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on "search."

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA–2000–1234," you would type "1234." After typing the docket number, click on "search."

(4) On the next page, which contains docket summary information for the materials in the docket you selected, click on the desired comments. You may download the comments.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

List of Subjects in 49 CFR Parts 573 and 577

Motor vehicle safety, Reporting and record keeping requirements, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 573 and part 577 as set forth below.

PART 573—DEFECT AND NONCOMPLIANCE REPORTS—[AMENDED]

1. The authority citation for Part 573 continues to read as follows:

Authority: 49 U.S.C. 30102–103, 30112, 30117–121, 30166–167; delegation of authority at 49 CFR 1.50.

2. Part 573.5 would be amended by revising paragraphs (c)(7) and (c)(8)(i) to read as follows:

§ 573.5 Defect and noncompliance information report.

* * * * *

(c) * * *

(7) In the case of a noncompliance, the test results or other data on the basis of which the manufacturer determined the existence of the noncompliance. The manufacturer shall identify the date of each test and observation that indicated that a noncompliance might exist.

(8)(i) A description of the manufacturer's program for remedying the defect or noncompliance. This program shall include a plan for reimbursing an owner or purchaser who incurred costs to obtain a remedy for the problem addressed by the recall within a reasonable time in advance of the manufacturer's notification of owners, purchasers and dealers, in accordance with § 573.13. A manufacturer may incorporate by reference one or more comprehensive reimbursement plans submitted to NHTSA for its entire product line rather than submitting a complete, separate plan for each individual recall. If a manufacturer submits one or more comprehensive plans, the manufacturer shall update each plan every two years. The manufacturer's program will be available for inspection in the public docket, Room 5109 Nassif Building, 400 Seventh St., SW., Washington, DC 20590.

* * * * *

3. Part 573 would be amended by adding § 573.13 to read as follows:

* * * * *

§ 573.13 Reimbursement for pre-notification remedies.

(a) Pursuant to 49 U.S.C. 30120(d) and § 573.5(c)(8)(i), this section specifies requirements for a manufacturer's plan to reimburse owners for costs incurred for remedies in advance of the manufacturer's notification under subsections (b) or (c) of 49 U.S.C. 30118.

(b) For purposes of this section, "pre-notification remedy" means a remedy that is obtained by an owner of a motor vehicle or item of replacement equipment for a problem subsequently addressed by a notification under subsection (b) or (c) of 49 U.S.C. 30118 and that is obtained during the period for reimbursement specified in paragraph (c) of this section.

(c) The manufacturer's plan shall specify a period for reimbursement, as follows:

(1) The beginning date shall be no later than a date determined as follows:

(i) For a noncompliance with a Federal motor vehicle safety standard, the date shall be the date of the first test or observation by either NHTSA or the

manufacturer indicating that a noncompliance may exist.

(ii) For a safety-related defect that is determined to exist following the opening of an Engineering Analysis (EA) by NHTSA's Office of Defects Investigation (ODI), the date shall be the date the EA was opened.

(iii) For a safety-related defect that is determined to exist in the absence of the opening of an EA, the date shall be one year before the date of the manufacturer's notification to NHTSA pursuant to § 573.5.

(2) The ending date shall be no sooner than:

(i) For motor vehicles, 10 calendar days following the date on which the manufacturer mailed the last of its notifications to owners pursuant to part 577 of this chapter.

(ii) For replacement equipment, 30 days after the conclusion of the manufacturer's initial efforts to publicize the existence of the defect or noncompliance.

(d) The manufacturer's plan shall provide for reimbursement of costs for pre-notification remedies, subject to the conditions established in the plan. The following conditions and no others may be established in the plan.

(1) The plan may exclude reimbursement for costs incurred within the period during which the manufacturer's warranty would have provided for a free repair of the problem addressed by the recall, unless a franchised dealer or authorized representative of the manufacturer denied warranty coverage or the repair did not remedy the problem addressed by the recall.

(2)(i) For a motor vehicle, the plan may exclude reimbursement:

(A) If the pre-notification remedy was not of the same type (repair, replacement, or refund of purchase price) as the recall remedy:

(B) If the pre-notification remedy did not address the defect or noncompliance that led to the recall or a manifestation of the recall; or

(C) If the pre-notification remedy was not reasonably necessary to correct the defect or noncompliance or the manifestation of the recall.

(ii) However, the plan may not require that the pre-notification remedy be identical to the remedy elected by the manufacturer pursuant to 49 U.S.C. 30120(a)(1)(A).

(3)(i) For replacement equipment, the plan may exclude reimbursement:

(A) If the pre-notification remedy did not address the defect or noncompliance that led to the recall or a manifestation of the recall; or

(B) If the pre-notification remedy was not reasonably necessary to correct the defect or noncompliance or the manifestation of the recall.

(ii) However, the plan may not require that the pre-notification remedy be identical to the remedy elected by the manufacturer pursuant to 49 U.S.C. 30120(a)(1)(B).

(4) The plan may exclude reimbursement if the owner did not submit adequate documentation to the manufacturer at a designated address within ninety (90) days of the end of the period for reimbursement. The plan may require, at most, the following documentation:

(i) Name and mailing address of the claimant;

(ii) Identification of the product:

(A) For motor vehicles, the vehicle make, model, model year, and the vehicle identification number;

(B) For replacement equipment other than tires, a description of the equipment, including model and size as appropriate; or

(C) For tires, the model, size, and the DOT number;

(iii) Identification of the recall (either the NHTSA recall number or the manufacturer's recall number);

(iv) A receipt for the pre-notification remedy, which may be an original or copy:

(A) If the reimbursement sought is for a repair, the manufacturer may require that the receipt state the total amount paid for the repair of the problem addressed by the recall, including a breakdown of the amount for parts, labor, other costs and taxes; and

(B) If the reimbursement sought is for the replacement of a vehicle part or an item of replacement equipment, the manufacturer may require that the receipt state the total amount paid for the item that replaced the defective or noncompliant items; and

(v) If the pre-notification remedy was obtained at a time when the vehicle or equipment could have been repaired or replaced at no charge under a manufacturer's warranty program, the manufacturer may require the owner to provide documentation indicating that the manufacturer's dealer or authorized facility either refused to remedy the problem addressed by the recall under the warranty or that the warranty repair did not correct the problem addressed by the recall.

(e) The manufacturer's plan shall specify the amount of costs to be reimbursed for a pre-notification remedy.

(1)(i) For motor vehicles, the amount of reimbursement shall not be less than the lesser of:

(A) The amount paid by the owner for the remedy; or

(B) The cost of parts for the remedy, plus associated labor at local labor rates, miscellaneous fees such as disposal of waste, and taxes. Costs for parts may be limited to the manufacturer's list retail price for authorized parts.

(ii) Any associated costs, such as taxes or disposal of wastes may not be limited.

(2) For replacement equipment, the amount of reimbursement ordinarily would be the amount paid by the owner for the replacement item, including taxes. In cases in which the owner purchased a brand or model different from the equipment that was the subject of the recall, the manufacturer may limit the amount of reimbursement to the ordinary retail price of the defective or noncompliant item that was replaced, plus taxes. If the equipment was repaired, the provisions of paragraph (e)(1) of this section apply.

(f) The manufacturer's plan shall identify the office or individual to whom claims for reimbursement shall be submitted.

(g) The manufacturer shall act on requests for reimbursement as follows:

(1) The manufacturer shall act upon a claim for reimbursement within 60 days of its submission. If the manufacturer denies the claim, the manufacturer must send a notice to the claimant within 60 days of submission that includes a clear, concise statement of the reasons for the denial.

(2) If a claim is incomplete when originally submitted, the manufacturer shall advise the claimant within 30 days of the submission the documentation that is needed and offer an opportunity to resubmit the claim with completed documentation. If the owner does not do so within 30 days thereafter, the manufacturer may deny the claim.

(h) Any disputes over the denial in whole or in part of a claim for reimbursement shall be resolved between the claimant and the manufacturer. NHTSA will not mediate or resolve any disputes regarding eligibility for, or the amount of, reimbursement.

(i) The manufacturer shall implement each plan for reimbursement under this section in accordance with its terms.

(j) The requirement that reimbursement for a pre-notification remedy be provided to an owner does not apply if, in the case of a motor vehicle or replacement equipment other than a tire, it was bought by the first purchaser more than 10 calendar years before notice is given under 49 U.S.C. 30118(c) or an order is issued under section 49 U.S.C. 30118(b). In the case

of a tire, this period shall be 5 calendar years.

* * * * *

PART 577—DEFECT AND NONCOMPLIANCE NOTIFICATION—[AMENDED]

1. The authority citation for Part 577 continues to read as follows:

Authority: 49 U.S.C. 30102–103, 30112, 30117–121, 30166–167; delegation of authority at 49 CFR 1.50.

2. Part 577 would be amended by adding § 577.11 to read as follows:

§ 577.11 Reimbursement notification.

(a) When a manufacturer of motor vehicles or replacement equipment is required to provide notice in accordance with §§ 577.5 or 577.6, in addition to complying with other sections of this part, the manufacturer shall notify owners that they may be eligible to receive reimbursement for the cost of obtaining a pre-notification remedy of a problem associated with a defect or noncompliance consistent with the manufacturer's reimbursement plan submitted to NHTSA pursuant to §§ 573.5(c)(8)(i) and 573.13 of this chapter.

(b) The manufacturer's notification shall include the following language, with the information described in brackets filled in fully and appropriately: "If you paid to obtain a remedy for the problem covered by this recall between [the beginning of the period for reimbursement identified in the plan] and the date you received this letter, you may be eligible to have some or all of those costs reimbursed. To see whether you are eligible for such reimbursement, you can review or obtain [manufacturer's] reimbursement plan at [the specific Internet address (Uniform Resource Locator) for the plan applicable to the recall], by calling [manufacturer] at [the manufacturer's toll-free telephone number], or by writing to [manufacturer] at [address]. All claims for reimbursement must be submitted no later than [90 days after the end of the period for reimbursement]."

* * * * *

Issued on: December 5, 2001.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 01–30487 Filed 12–10–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 573 and 577

[Docket No. NHTSA–2001–11108]

RIN 2127–AI23

Motor Vehicle Safety; Acceleration of Manufacturer's Remedy Program

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend regulations that pertain to manufacturers' remedies for defective or noncomplying motor vehicles and replacement equipment in order to implement Section 6(a) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Section 6(a) provides that the Secretary of Transportation may require a manufacturer to accelerate the manufacturer's remedy program if the Secretary determines that it is not likely to be capable of completion within a reasonable time and the Secretary finds: there is a risk of serious injury or death if the remedy program is not accelerated; and that acceleration of the remedy program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both.

DATES: *Comments:* Comments must be received on or before February 11, 2002.

ADDRESSES: You may submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. You may also submit your comments electronically by logging onto the Dockets Management System website at *http://dms.dot.gov*. Click on "Help & Information" or "Help/Info" to obtain instructions for filing the document electronically.

Regardless of how you submit your comments, you should mention the docket number of this document in your comments.

You may call Docket Management at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: for non-legal issues, Jonathan White, Office of Defects Investigation, NSA–11, National Highway Traffic Safety Administration, telephone (202) 366–5227; for legal issues, Michael T. Goode, Office of Chief Counsel, NCC–10, National Highway Traffic Safety Administration, telephone (202) 366–5263.

SUPPLEMENTARY INFORMATION:

I. Background

On November 1, 2000, the TREAD Act, Pub. L. 106–414, was enacted. The statute was, in part, and as it relates to the specific provision discussed below, a response to congressional concerns related to manufacturers' delays in repairing or replacing motor vehicles or motor vehicle equipment that contain a safety-related defect or fail to comply with a Federal motor vehicle safety standard (FMVSS).

Under 49 U.S.C. 30118(b), the agency may make a final decision that a motor vehicle or replacement equipment contains a defect related to motor vehicle safety or does not comply with an applicable Federal motor vehicle safety standard. In addition, under section 30118(c), a manufacturer of a motor vehicle or replacement equipment is required to notify the agency when it determines, or should determine, that a vehicle or equipment contains a defect that is related to motor vehicle safety or the vehicle or equipment does not comply with an applicable safety standard.

Under both circumstances, the manufacturer is required to notify owners, purchasers and dealers of the defect or noncompliance, and to provide a remedy without charge. Section 30119 sets forth statutory requirements for owner notification and requires the manufacturer to give such notice within a reasonable time. See also 49 CFR part 577. However, if a final decision has been rendered under section 30118(b), then the Secretary prescribes the date by which the manufacturer must provide notification.

49 U.S.C. 30120 further provides that a manufacturer of a noncompliant or defective motor vehicle or replacement equipment must repair it or replace it with an identical or reasonably equivalent vehicle or equipment or, in the case of a vehicle, refund the purchase price less depreciation. Under section 30120(c), if a manufacturer decides to repair a defective or noncomplying motor vehicle or replacement equipment and the repair was not done adequately within a reasonable time, the manufacturer is required to replace the vehicle or equipment without charge or, for a vehicle, refund the purchase price. Failure to repair within 60 days after its presentation to a dealer is prima facie evidence of failure to repair or replace within a reasonable time. The agency can extend the 60-day period. This

section also requires the manufacturer to submit its program for remedying a defect or noncompliance to the agency.

49 CFR 573.5(c)(8) requires a manufacturer, as part of its defect and noncompliance information reports submitted to NHTSA, to provide a description of the manufacturer's program for remedying the defect or noncompliance. In 1995, NHTSA amended that section to require a manufacturer to advise NHTSA of the estimated date on which it will begin sending notifications to owners of the defect or noncompliance and that a remedy without charge will be available, as well as the estimated date when the notification campaign will be completed. Section 573.5(c)(8)(ii). In the preamble to the proposed rule that led to the amendment, NHTSA explained that there had been an increase in the number of recalls in which there was a significant delay in the commencement of the remedy campaign, and, in some instances, an inordinate extension of the duration of the campaign. NHTSA further explained that the amendment was necessary in order to assure that the timing and duration of remedy campaigns were appropriate, and also for NHTSA to be able to respond more fully to public questions about the timing of recalls. 58 FR 30817, September 27, 1993.

Section 6(a) of the TREAD Act added a new paragraph (3) to 49 U.S.C. 30120(c), which provides that if the Secretary determines that a manufacturer's remedy program is not likely to be capable of completion within a reasonable time, the Secretary may require the manufacturer to accelerate the remedy program if the Secretary finds: There is a risk of serious injury or death if the remedy program is not accelerated; and acceleration of the remedy program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both.

The agency expects that in the vast majority of recalls, this provision will not be invoked, primarily because in most cases manufacturers implement and complete their remedy programs within reasonable times under the circumstances.

While 49 U.S.C. 30120(c)(3) is effective in the absence of rulemaking, it provides that the Secretary may prescribe regulations to carry it out.

The authority to carry out Chapter 301 of Title 49 of the United States Code, under which the rules directed by the TREAD Act are to be issued, has been delegated to NHTSA's Administrator pursuant to 49 CFR 1.50.

Pursuant to the authorization in 49 U.S.C. 30120(c)(3), we are proposing to amend 49 CFR part 573 to add a new section 573.4. We are also proposing to amend 49 CFR part 577 to add a new section 577.12. Below is a summary and explanation of today's proposed rule.

II. Discussion

A. Who Would Be Required To Comply With Today's Proposal?

This rule would apply to manufacturers of motor vehicles and replacement equipment whose products have been determined to contain a safety-related defect or a noncompliance with a FMVSS. The agency had identified the manufacturing entities who are covered by 49 U.S.C. 30118–30120 in 49 CFR 573.3(a). In view of the above, we are proposing that section 573.3(a)–(f) apply to today's proposed regulation as well.

B. Under What Circumstances May the Administrator Require A Manufacturer To Accelerate Its Remedy Program?

The decision to require a manufacturer to accelerate its remedy program would be a discretionary decision by the Administrator. We are proposing that, to invoke this provision, the Administrator would be required to make two findings and one determination.

Under today's proposed regulation, one required finding, which would be adopted from the statute, would be that there is a risk of serious injury or death if the remedy program is not accelerated. To make this finding, there need only be a risk of such injury or death, not necessarily a high probability, and most safety recalls address circumstances where there is such a risk.

Second, with respect to the statutory requirement of a finding that "acceleration of the remedy program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both," we likewise propose to adopt this statutory phrase as part of the rule.

With regard to the potential expansion of the sources of replacement parts, this finding is most likely to be made when a substantial aftermarket supply capability exists. For example, there are substantial numbers of quality aftermarket parts such as tires, brake rotors, steering and suspension components, and ignition components that can be used on many, if not most, vehicles. Thus, for example, if we were to find that an undue delay in completion of a remedy campaign was due to a manufacturer's inability to produce a sufficient number of brake rotors from its own plants or from its own suppliers, we could require the manufacturer to utilize, or allow owners to utilize, brake rotors from other sources that were appropriate for use on the vehicles in question. On the other hand, it is less likely that this finding would be made where there is no or little aftermarket supply capability for the defective components, such as air bag control units and many ABS brake control units, since the particular specifications of the remedy part may be unique to the particular vehicle or supplier. However, even when there is no aftermarket production of the part to be used as a remedy, the manufacturer may have the ability to expand the sources of replacement parts, such as by contracting with additional suppliers. In addition, in keeping with the congressional goal of assuring that a remedy be provided within a reasonable time, under today's proposal, the addition of assembly lines and/or production shifts within a factory would also be an expansion of the source of the parts within the meaning of section 30120(c)(3)(B).

With regard to the expansion of the number of authorized repair facilities, we note that major vehicle manufacturers have large networks of dealers to perform repairs. Ordinarily, we would not expect to make a finding reflecting the need for these major manufacturers to expand the number of authorized repair facilities. Other vehicle manufacturers, such as importers of limited-production vehicles and multistage vehicle manufacturers, and most manufacturers of equipment items do not have established networks of repair facilities. There have been instances in which an owner would have to travel a large distance to obtain the remedy repair directly from the manufacturer or one of its dealers. This may cause a consumer to delay or even forego the repair. Under the proposed rule we could require such manufacturers to expand the number of repair facilities in order to assure that the campaign is completed in a reasonable time.

Third, with respect to the need for a determination, required by statute, that a manufacturer's remedy program is not likely to be capable of completion within a reasonable time, we propose that reasonableness would be decided in light of all of the circumstances, including the efforts that the manufacturer has made to complete the remedy program, as well as the safety risks associated with the defect or noncompliance.

The statute is silent with respect to when we can require a manufacturer to accelerate its program under section 6(a). In the interests of motor vehicle safety, we believe it appropriate to impose such a requirement at any time that the statutory conditions are found to exist.

We also anticipate that there would be consultation between NHTSA and the manufacturer before a manufacturer would be formally required to accelerate the remedy program, but such consultation is not required by the statute. We further anticipate that in most cases in which we believed that acceleration was appropriate, the manufacturer would take action without being directed to do so by the agency.

C. How Would Acceleration Affect the Nature or Quality of the Remedy?

We would require manufacturers to assure that replacement parts from additional suppliers used under accelerated remedy programs are equivalent to the remedy parts supplied by the manufacturer, so that there will be no difference in the quality of the remedy received by owners. However, in those instances where parts are purchased from manufacturers other than those who would ordinarily supply parts for the vehicle in question, it may be difficult to determine whether or not the part is equivalent. We are proposing that we would have the authority, in appropriate cases, to require manufacturers to provide information to owners with respect to any differences among different brands of replacement parts.

For tires, we believe that there are guidelines available to assure that the tires from alternative sources are at least equivalent. The Uniform Tire Quality Grading System (UTQGS) sets forth three criteria that buyers can use to make relative comparisons among tires. See 49 CFR 575.104. The manufacturer would be required to provide tires of a size and type that are suitable for the owner's vehicle and of the same or better UTQGS rating in each category. Alternatively, a manufacturer could do what Bridgestone/Firestone, Inc. (Firestone) did in connection with the recent recall of millions of Firestone ATX and Wilderness AT tires. Firestone authorized owners to obtain replacement tires of their choice from any tire manufacturer, and agreed to reimburse the owner up to a specified amount per tire. Of course, the reimbursement amount would have to be sufficient to allow for the purchase of a tire that is reasonably equivalent to the defective or noncompliant tire.

As previously indicated, if warranted under the circumstances, we could require a manufacturer to add additional suppliers and/or production lines and/or production shifts in order to increase the number of available remedy parts. In those cases in which the manufacturer identified supplemental repair facilities, it would have to assure that the facility had the parts and expertise needed to adequately perform the remedy.

D. What Would the Manufacturer Be Required To Do After Being Required To Accelerate Its Remedy Program?

The manufacturer would be required to implement the accelerated remedy program as required by the agency. The level of detail and direction may vary. It may include expanding the sources of replacement parts provided to the manufacturer's franchised dealers, expanding the number of authorized repair facilities to include facilities not owned or franchised by the manufacturer that have repair or replacement capabilities. It may include both or other provisions. It may require submission of implementation plans and schedules. Particularly where non-owned or non-franchised facilities are involved, it may include reimbursement requirements, which, are discussed below.

E. What Notice Would the Manufacturer Be Required To Send To Vehicle or Equipment Owners?

This would depend upon the circumstances. If the manufacturer has not sent an initial notification to owners under 49 CFR part 577, relevant information about alternative parts or authorized repair facilities could be included in the initial notification letter. If the manufacturer has sent an initial notification to owners under 49 CFR part 577, the manufacturer would normally be required to send a supplemental letter to all owners except those who have had the remedy performed. Proposed section 577.12 would apply to the scope, timing, form, and content of the notice to be sent by the manufacturer.

F. Accelerated Remedy Programs Involving Reimbursement

In some circumstances, the remedy program could be accelerated without any payment by owners, and there would therefore be no need for reimbursement. In these instances, appropriate financial arrangements would be made between the manufacturer and the dealer or repair facility. For example, when a vehicle is repaired at a dealer who is franchised or authorized by the vehicle manufacturer or when the parts in question (e.g., a tire) are provided by a facility owned or franchised by the manufacturer, the manufacturer would reimburse the dealer for the cost of the parts as well as labor, and the owner would not make a payment. However, in other circumstances, the accelerated program might be structured to allow an owner to obtain the remedy from independent third-party parts suppliers and/or repair facilities, pay that independent entity, and then be reimbursed by the manufacturer.

Reimbursement under an accelerated remedy program would be similar in most respects to the applicable provisions of our proposed regulation implementing section 6(b) of the TREAD Act, codified as the third and fourth sentences of 49 U.S.C. 30120(d) ("pre-notification remedy"). Elsewhere in this issue of the **Federal Register**, we have issued a notice of proposed rulemaking (NPRM) to implement that section. Of course, there are two obvious differences. The effective periods of the respective programs are different. Under the pre-notification remedy program, reimbursement may be available for expenditures before notification of a defect or noncompliance. Under an acceleration of remedy program, reimbursement may be available for expenditures after notification, as provided in the program. Second, under the pre-notification remedy program, reimbursement may be available for a range of remedies that addressed the underlying problem. Under an acceleration of remedy program, reimbursement may not be available at all under the program, and when it is, it may be conditioned on use of a specific remedy. In addition, the acceleration of remedy program may limit the owner to obtaining the remedy at specific service facilities. However, these substantive differences do not affect the application of the general procedures for reimbursement in the pre-notification remedy program. The provisions pertaining to what documentation a manufacturer may require a claimant to submit to obtain reimbursement would be identical to this program, as would be the provisions relating to the amount of reimbursement and the time frame for seeking reimbursement, and the method for owners to obtain a copy of the plan. Since the process governing reimbursement under the two programs would virtually be the same, we see no need to repeat the provisions in this proposal or discuss the provisions here. Interested persons are referred to our discussion of these provisions in the

preamble to the pre-notification remedy NPRM mentioned above. Of course, to the extent that we modify the proposal in that NPRM following public comment, we would make corresponding changes to the applicable provisions of the accelerated remedy rule.

G. Could a Manufacturer Terminate an Accelerated Remedy Program?

We believe that a manufacturer should be able to terminate an accelerated remedy program when the conditions that gave rise to the accelerated program no longer exist. We do not believe that we should require a manufacturer to authorize the use of alternative replacement parts or to reimburse an owner who purchased such parts if the manufacturer is able to provide the recall remedy promptly. Thus, we are proposing that a manufacturer that believes that it can meet all future demand for the remedy through its own mechanisms (*e.g.*, its dealers) may request the agency to authorize it to terminate the accelerated remedy program.

Under the proposal, if NHTSA agrees, the manufacturer could terminate the program, provided that notice is given at least 30 days in advance of the termination date of the accelerated component of the remedy program to all owners of unremedied vehicles or equipment. We invite comment with regard to how such notice should be given.

We are concerned that a notice terminating the accelerated aspect of a recall could confuse an owner or be misinterpreted by an owner as terminating the recall. As a result, the owner might not obtain the remedy, which would compromise motor vehicle safety. We request comment on how to avoid this result.

Regulatory Analyses and Notices

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

We have considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking was not reviewed under E.O. 12866, "Regulatory Planning and Review." This rulemaking is not considered "significant" under the Department of Transportation's regulatory policies and procedures. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation. We do not foresee substantially increased costs to the manufacturer because of an accelerated remedy program. First, a remedy program already exists. The scope of the remedy program is not being expanded. The only aspects being affected are the time for completion and the alternative sources of the remedy. Second, we expect this provision to be invoked infrequently, since in the large majority of cases the manufacturer's original remedy program will resolve the defect or noncompliance in a timely fashion.

2. Regulatory Flexibility Act

We have also considered the impacts of this notice under the Regulatory Flexibility Act. I certify that this proposed rule would not have significant economic impact on a substantial number of small entities. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because this provision only involves accelerating a manufacturer's remedy program and the incidence of such an occurrence is expected to be limited.

3. National Environmental Policy Act

We have analyzed this proposal under the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

4. Paperwork Reduction Act

NHTSA has determined that this proposed rule will impose new collection of information burdens within the meaning of the Paperwork Reduction Act of 1995 (PRA).

5. Executive Order 13132 (Federalism)

Executive Order 13132 on "Federalism" requires us to develop an accountable process to ensure "meaningful and timely input" by State and local officials in the development of "regulatory policies that have federalism implications." The E.O. defines this phrase to include regulations "that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This proposed rule, which would provide for requiring manufacturers to accelerate a remedy program, will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in E.O. 13132. This rule making does not have those implications because it applies to a manufacturer, and not to the States or local governments.

6. Civil Justice Reform

This proposed rule would not have a retroactive or preemptive effect. Judicial review of the rule may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

7. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (P.L. 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribunal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this proposed rule would not have a $100 million annual effect, no Unfunded Mandates assessment is necessary and one will not be prepared.

Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?

—Are the requirements in the rule clearly stated?

—Does the rule contain technical language or jargon that is not clear?

—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?

—Would more (but shorter) sections be better?

—Could we improve clarity by adding tables, lists, or diagrams?

—What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this rule.

Submission of Comments

How Can I Influence NHTSA's Thinking on This Rule?

In developing this proposed rule, we tried to address the anticipated concerns of all our stakeholders. Your comments will help us. We invite you to provide different views on it, new approaches we have not considered, new data, how this rule may affect you, or other relevant information. Your comments

will be most effective if you follow the suggestions below:

Explain your views and reasoning as clearly as possible.

- Provide solid information to support your views.
- If you estimate potential numbers or reports or costs, explain how you arrived at the estimate.
- Tell us which parts of the rule you support, as well as those with which you disagree.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the rule, such as the units or page numbers of the preamble, or the regulatory sections.
- Be sure to include the name, date, and docket number with your comments.

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES.**

Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at *http://dms.dot.gov.* Click on "Help & Information" or "Help/Info" to obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel (NCC–30), NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES.** To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People and Other Materials Relevant to This Rulemaking?

You may view the materials in the docket for this rulemaking on the Internet. These materials include the written comments submitted by other interested persons and the preliminary regulatory evaluation prepared by this agency. You may read them at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location.

You may also see the comments and materials on the Internet. To read them on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on "search."

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA–2000–1234," you would type "1234." After typing the docket number, click on "search."

(4) On the next page, which contains docket summary information for the materials in the docket you selected, click on the desired comments. You may download the comments.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

List of Subjects in 49 CFR Parts 573 and 577

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR Parts 573 and 577 as set forth below.

PART 573—DEFECT AND NONCOMPLIANCE REPORTS

1. The authority citation for Part 573 of Title 49, CFR, continues to read as follows:

Authority: 49 U.S.C. 30102–103, 30112, 30117–121, 30166–167; delegations of authority at 49 CFR 1.50; 501.2.

2. Part 573 is amended, by adding § 573.14 to read as follows:

* * * * *

§ 573.14 Accelerated remedy program

(a) An accelerated remedy program is one in which the manufacturer expands the sources of replacement parts needed to remedy the defect or noncompliance, or expands the number of authorized repair facilities beyond those facilities that usually and customarily provide remedy work for the manufacturer, or both.

(b) The Administrator may require a manufacturer to accelerate its remedy program if:

(1) The Administrator finds that there is a risk of serious injury or death if the remedy program is not accelerated;

(2) The Administrator finds that acceleration of the remedy program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both; and

(3) The Administrator determines that the manufacturer's remedy program is not likely to be capable of completion within a reasonable time.

(c) The Administrator, in deciding whether to require the manufacturer to accelerate a remedy program and what to require the manufacturer to do, may consider a wide range of information, including, but not limited to, the following: the manufacturer's initial or revised report submitted under § 573.5(c), information from the manufacturer, information from other manufacturers and suppliers, information from any source related to the availability and implementation of the remedy, and the seriousness of the

risk of injury or death associated with the defect or noncompliance.

(d) As required by the Administrator, an accelerated remedy program shall include the manner of acceleration (the expansion of the sources of replacement parts, expansion of the number of authorized repair facilities, or both), may identify the parts to be provided and/or the sources of those parts, may require the manufacturer to notify the agency and owners about any differences among different sources or brands of parts, may require the manufacturer to identify additional authorized repair facilities, and may specify additional owner notifications related to the program. The Administrator may also require the manufacturer to include a program to provide reimbursement to owners who incur costs to obtain the recall remedy from sources that are not reimbursed by the manufacturer.

(e) Under an accelerated remedy program, the remedy that is provided shall be equivalent to the remedy that would have been provided if the program had not been accelerated. The replacement parts used to remedy the defect or noncompliance shall be reasonably equivalent to those that would have been used if the remedy program were not accelerated. The service procedures shall be reasonably equivalent. In the case of tires, the replacement tire shall be the same size and type as the defective or noncompliant tire, shall be suitable for use on the owner's vehicle, and for passenger car tires, shall have the same or better rating in each of the three categories enumerated in the Uniform Tire Quality Grading System. See 49 CFR 575.104. For child restraint systems, any replacement shall be of the same type and the same overall quality.

(f) In those instances where the accelerated remedy program provides that an owner may obtain the remedy from a source other than the manufacturer or its dealers or authorized facilities by paying for the remedy and/or its installation, the manufacturer shall reimburse the owner for the cost of obtaining the remedy as specified in paragraphs (b)(1) through (3) of this section. Under these circumstances, the accelerated remedy program shall include, to the extent required by the Administrator:

(1) A description of the remedy and costs that are eligible for reimbursement, including identifying the equipment and/or parts and labor for which reimbursement is available;

(2) Identification, with specificity or as a class, of the alternative repair facilities at which reimbursable repairs may be performed, including an explanation of how to arrange for service at those facilities; and

(3) Other provisions assuring appropriate reimbursement that are consistent with those set forth in § 573.13, including but not limited to provisions regarding the procedures and needed documentation for making a claim for reimbursement, the amount of costs to be reimbursed, the office to which claims for reimbursement shall be submitted, the requirements on manufacturers for acting on claims for reimbursement, and the methods by which owners can obtain information about the program.

(g) In response to a manufacturer's request, the Administrator may authorize a manufacturer to terminate its accelerated remedy program if the Administrator concludes that the manufacturer can meet all future demands for the remedy through its own sources in a prompt manner. The manufacturer shall provide individual notice of the termination of the program to all owners of unremedied vehicles and equipment at least 30 days in advance of the termination date in a form approved by the Administrator.

(h) Each manufacturer shall implement any accelerated remedy program required by the Administrator according to its terms.

* * * * *

3. Part 577 is amended by adding § 577.12 to read as follows:

§ 577.12 Notification pursuant to an accelerated remedy program.

(a) When the Administrator requires a manufacturer to accelerate its remedy program under § 573.12 of this chapter, in addition to complying with other sections of this part, the manufacturer shall provide notification in accordance with this section.

(b) Except as provided elsewhere in this section, or when the Administrator determines otherwise, the notification under this section shall be sent to the same recipients as provided by § 577.7. If no notification has been provided to owners pursuant to this part, the provisions required by this section may be combined with the notification under §§ 577.5 or 577.6. A manufacturer need only provide a notification under this section to owners of vehicles or items of equipment for which the defect or noncompliance has not been remedied.

(c) The manufacturer's notification shall include the following:

(1) If there was a prior notification, a statement that identifies it and states that this notification supplements it.

(2) A statement that the National Highway Traffic Safety Administration has required the manufacturer to accelerate its remedy program and a statement of how it has been expanded (e.g., by expanding the sources of replacement parts and/or expanding the number of authorized repair facilities).

(3) In the case of an accelerated remedy program involving repair through service facilities other than those owned or franchised by the manufacturer or through the manufacturer's authorized dealers, a statement that the owner may elect to obtain the remedy using designated service facilities other than those that are owned or franchised by the manufacturer or are the manufacturer's authorized dealers.

(4) In the case of an accelerated remedy program involving replacement of parts or equipment from sources other than the manufacturer, a statement that the owner may elect to obtain the remedy using replacement parts or equipment from specified sources other than the manufacturer.

(5) The following statements and information shall be included insofar as they are applicable:

(i) A statement indicating whether the owner will be required to pay the alternative facility and/or parts supplier, as may be applicable, subject to reimbursement by the manufacturer;

(ii) Identification of alternative service facilities where the owner may have repairs performed;

(iii) An explanation of how to arrange for service at alternative service facilities; and/or

(iv) Identification of alternative replacement parts that may be utilized.

(6) If applicable, the manufacturer's notification shall include the following language, with the blanks filled in appropriately: "If you elect to obtain the remedy [at a service facility other than the [manufacturer's], one of its dealers or another authorized facility] [and/or] [using sources of replacement parts or equipment other than [the manufacturer's]] and you pay for [that service] [or] [those parts], you will be eligible to be reimbursed for your expenditures. To see what costs are eligible for reimbursement and what procedures apply, you can review or obtain [manufacturer's] accelerated remedy program at [the specific Internet URL for the program], by calling [manufacturer] at [the manufacturer's toll-free telephone number], or by writing to [manufacturer] at [address].

Issued on: December 5, 2001.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 01–30488 Filed 12–10–01; 8:45 am]

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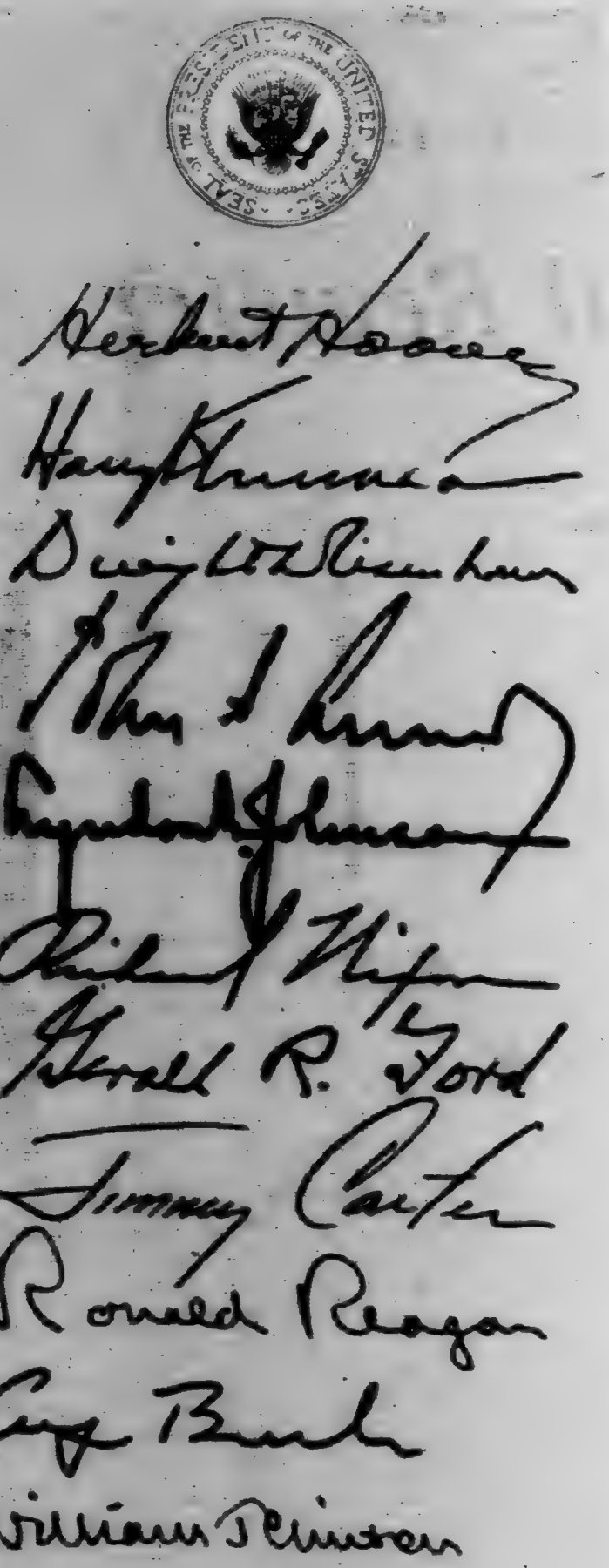

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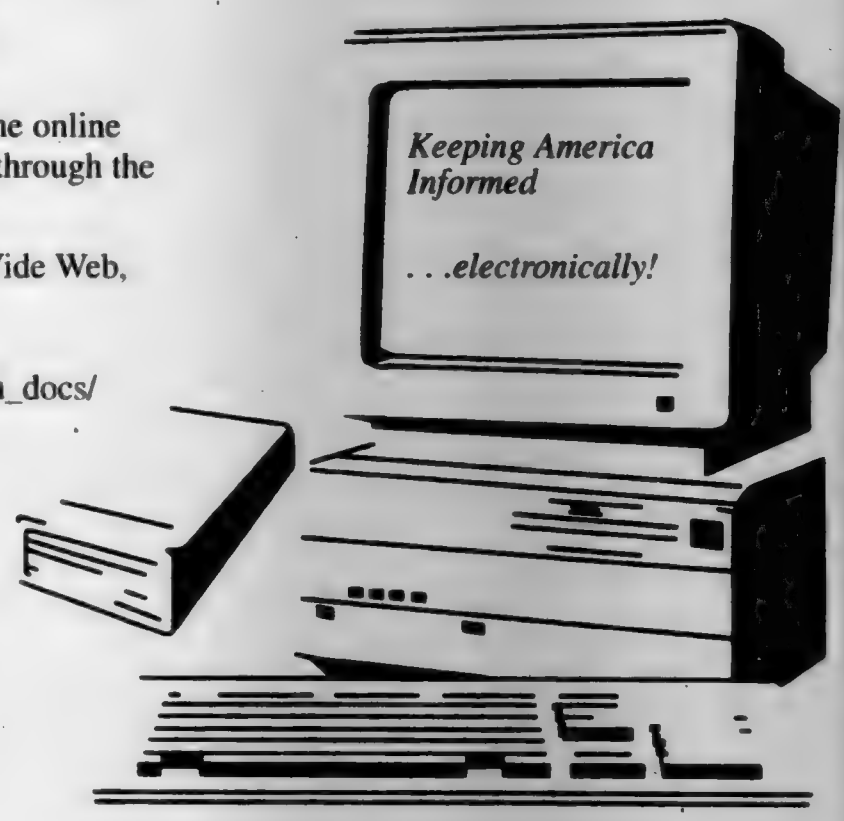

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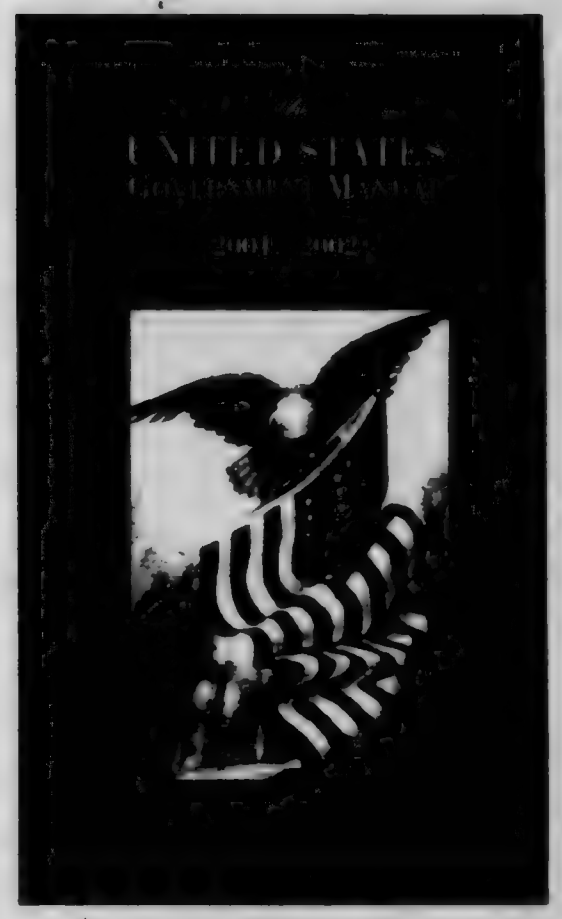

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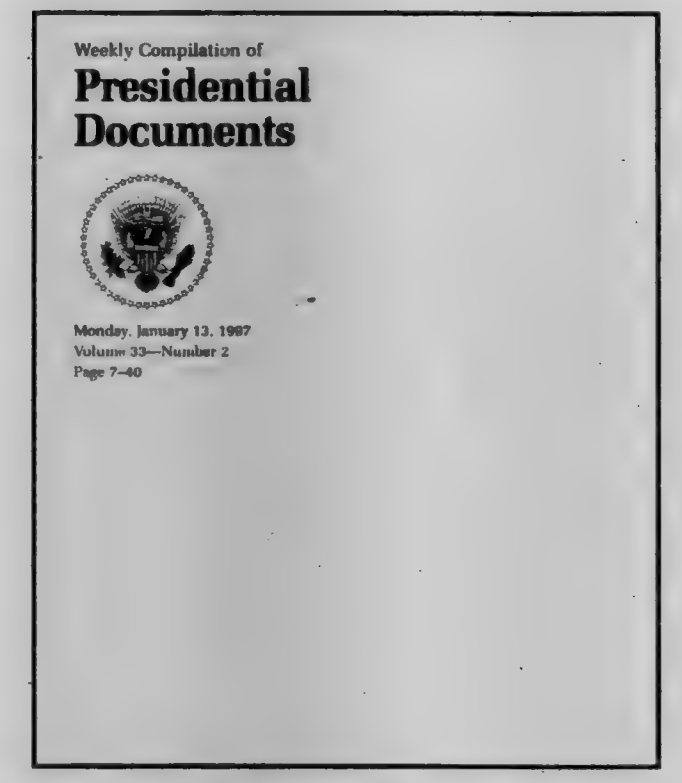

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Presidential Documents

Title 3—

The President

Proclamation 7513 of December 9, 2001

Human Rights Day, Bill of Rights Day, and Human Rights Week, 2001

By the President of the United States of America

A Proclamation

The terrible tragedies of September 11 served as a grievous reminder that the enemies of freedom do not respect or value individual human rights. Their brutal attacks were an attack on these very rights. When our essential rights are attacked, they must and will be defended.

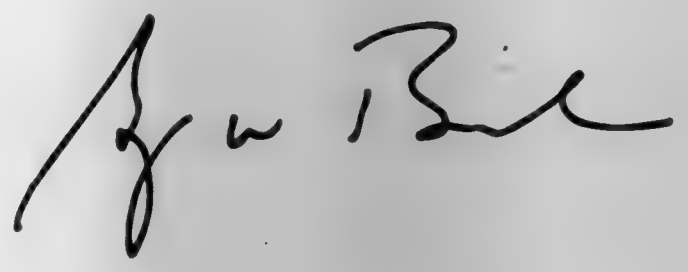
Americans stand united with those who love democracy, justice, and individual liberty. We are committed to upholding these principles, embodied in our Constitution's Bill of Rights, that have safeguarded us throughout our history and that continue to provide the foundation of our strength and prosperity.

The heinous acts of terrorism committed on September 11 were an attack against civilization itself, and they have caused the world to join together in a coalition that is now waging war on terrorism and defending international human rights. Americans have looked beyond our borders and found encouragement as the world has rallied to join the American-led coalition. Civilized people everywhere have recognized that terrorists threaten every nation that loves liberty and cherishes the protection of individual rights.

Respect for human dignity and individual freedoms reaffirms a core tenet of civilized people everywhere. This important observance honoring our Bill of Rights and advocating human rights around the world allows all Americans to celebrate the universal principles of liberty and justice that define our dreams and shape our hopes as we face the challenges of a new era.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 10, 2001, as Human Rights Day; December 15, 2001, as Bill of Rights Day; and the week beginning December 9, 2001, as Human Rights Week. I call upon the people of the United States to honor the legacy of human rights passed down to us from previous generations and to resolve that such liberties will prevail in our Nation and throughout the world as we move into the 21st century.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of December, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



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Rules and Regulations

Federal Register
Vol. 66, No. 239
Wednesday, December 12, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–222–AD; Amendment 39–12551; AD 2001–24–34]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8–70 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–8–70 series airplanes, that currently requires repetitive inspections and repair or replacement, if necessary, of the generator power feeder cables, supporting brackets, and clamps at all the engine pylons. This amendment requires accomplishment of a terminating action for the repetitive inspections. This amendment also requires replacement of the support clamps of the generator power feeder cable on engine nacelles/pylons 1, 2, 3, and 4 with new support clamps. This amendment is prompted by the FAA's determination that further rulemaking is necessary. The actions specified by this AD are intended to prevent a fire on the ground if a fuel leak exists in an engine pylon.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 88–11–03, amendment 39–5922 (53 FR 17018, May 13, 1988), which is applicable to all McDonnell Douglas Model DC–8–70 series airplanes, was published in the **Federal Register** on July 23, 2001 (66 FR 38220). The action proposed to continue to require repetitive inspections and repair or replacement, if necessary, of the generator power feeder cables, supporting brackets, and clamps at all the engine pylons. The action also proposed to require accomplishment of a terminating action for the repetitive inspections, and replacement of the support clamps of the generator power feeder cable on engine nacelles/pylons 1, 2, 3, and 4 with new support clamps.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 108 Model DC–8–70 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 98 airplanes of U.S. registry will be affected by this AD.

The inspection that is currently required by AD 88–11–03, and retained in this AD, takes approximately 12 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $70,560, or $720 per airplane, per inspection cycle.

The new replacement specified in McDonnell Douglas DC–8–70 Service Bulletin 24–72, dated January 14, 1992, that is required in this AD will take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $675 per airplane. Based on these figures, the cost impact of this replacement required by this AD on U.S. operators is estimated to be $83,790, or $855 per airplane.

The new inspection and application of sealants specified in McDonnell Douglas DC–8–70 Service Bulletin 24–71, Revision 1, dated February 25, 1991, that are required in this AD will take approximately 5 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection and application of sealants required by this AD on U.S. operators is estimated to be $29,400, or $300 per airplane.

The new replacement specified in McDonnell Douglas DC–8–70 Service Bulletin 24–73, dated May 30, 1990, that is required in this AD will take approximately 16 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $715 per airplane. Based on these figures, the cost impact of this replacement required by this AD on U.S. operators is estimated to be $164,150, or $1,675 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up,

planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–5922 (53 FR 17018, May 13, 1988), and by adding a new airworthiness directive (AD), amendment 39–12551, to read as follows:

2001–24–34 McDonnell Douglas: Amendment 39–12551. Docket 2001–NM–222–AD. Supersedes AD 88–11–03, Amendment 39–5922.

Applicability: All Model DC–8–70 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a fire on the ground if a fuel leak exists in an engine pylon, accomplish the following:

Restatement of Requirements of AD 88–11–03

Repetitive Inspections, Verification, and Corrective Actions, if Necessary

(a) Within 30 days after June 3, 1988 (the effective date of AD 88–11–03, amendment 39–5922), unless previously accomplished within the last 3,500 flight hours, inspect the generator power feeder cables, support brackets, and clamps between bulkhead feed-through at station YN=278.500 and terminal strip S3–7000 at engine pylons 1, 2, 3, and 4, for evidence of arcing, burning, chafing, damage, or cable droop, in accordance with the Accomplishment Instructions of McDonnell Douglas DC–8–70 Alert Service Bulletin A24–72, dated April 6, 1988.

(1) If no evidence of arcing, burning, chafing, damage, or drooping exists, proceed to paragraph (a)(3) of this AD.

(2) If any evidence of arcing, burning, chafing, damage, or drooping exists, prior to further flight, repair or replace parts, as required, in accordance with the service bulletin.

(3) Verify that the nuts securing cable terminals to terminal strip S3–7000 are tightened to a torque of 120 to 130 inch-pounds.

Repetitive Inspection Interval

(b) Repeat the procedures specified in paragraph (a) of this AD at intervals not to exceed 3,500 flight hours.

New Actions Required by This AD

Terminating Actions for Repetitive Inspections and Verification

(c) Within 1 year after the effective date of this AD, replace the support clamps of the generator power feeder cable on engine pylons 1, 2, 3, and 4 with new support clamps, in accordance with McDonnell Douglas DC–8–70 Service Bulletin 24–72, dated January 14, 1992. The requirements of paragraphs (a)(1) and (a)(2) of this AD must be done prior to or in conjunction with the requirements of this paragraph.

(d) Within 1 year after the effective date of this AD, do the actions specified in paragraphs (d)(1) and (d)(2) of this AD in accordance with McDonnell Douglas DC–8–70 Service Bulletin 24–71, Revision 1, dated February 25, 1991. The requirements of paragraph (a)(3) of this AD must be done prior to or in conjunction with the requirements of this paragraph.

(1) Do a general visual inspection of the terminal strip of the terminal connections of the generator power feeder cable for general condition (i.e., loose connections) and to verify that the ground studs are tight and that the nuts securing the cable terminals to the terminal strip are tightened to a torque of 120 to 130 inch-pound, in accordance with the service bulletin. If any terminal connection is loose, not tight, or torqued improperly, prior to further flight, tighten terminal connection in accordance with the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(2) Apply a coat of certain sealants per Figure 1 of the service bulletin.

(e) Accomplishment of the actions required by paragraphs (c) and (d) of this AD constitute terminating action for the requirements of paragraphs (a) and (b) of this AD.

Replacement of Certain Support Clamps

(f) Within 1 year after the effective date of this AD, replace the support clamps of the generator power feeder cable in the forward pylon on engine nacelles 1, 2, 3, and 4 with new support clamps, in accordance with McDonnell Douglas DC–8–70 Service Bulletin 24–73, dated May 30, 1990.

Alternative Methods of Compliance

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(i) The actions shall be done in accordance with of McDonnell Douglas DC–8–70 Alert Service Bulletin A24–72, dated April 6, 1988; McDonnell Douglas DC–8–70 Service Bulletin 24–72, dated January 14, 1992; McDonnell Douglas DC–8–70 Service Bulletin 24–71, Revision 1, dated February 25, 1991; and McDonnell Douglas DC–8–70 Service Bulletin 24–73, dated May 30, 1990; as applicable. This incorporation by

reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(j) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30210 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–221–AD; Amendment 39–12550; AD 2001–24–33]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, and –200C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–100, –200, and –200C series airplanes, that requires a one-time inspection for damage (i.e., chafing) of the power feeder wire bundle for the auxiliary power unit (APU) generator and the first officer's elevator down control cable and for proper separation between that wire bundle and control cable, and corrective action, if necessary. For certain airplanes, this amendment also requires attaching the power feeder wire bundle to adjacent wire bundles. This action is necessary to prevent a short circuit and resultant arcing between the wire bundle and control cable, which could sever the control cable. Failure of the first officer's elevator down control cable, if combined with a subsequent failure of the captain's elevator down control cable, could result in loss of elevator control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–100, –200, and –200C series airplanes was published in the **Federal Register** on July 23, 2001 (66 FR 38217). That action proposed to require a one-time inspection for damage (i.e., chafing) of the power feeder wire bundle for the auxiliary power unit (APU) generator and the first officer's elevator down control cable and for proper separation between that wire bundle and control cable, and corrective action, if necessary. For certain airplanes, that action also proposed to require attaching the power feeder wire bundle to adjacent wire bundles.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 136 airplanes of the affected design in the worldwide fleet. The FAA estimates that 47 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,820, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–33 Boeing: Amendment 39–12550. Docket 2001–NM–221–AD.

Applicability: Model 737–100, –200, and –200C series airplanes; as listed in Boeing Special Attention Service Bulletin 737–24–1144, Revision 1, dated June 21, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a short circuit and resultant arcing between the power feeder wire bundle for the auxiliary power unit (APU) generator and the first officer's elevator down control cable, which could sever the control cable, and, if combined with a subsequent failure of the captain's elevator down control cable, result in loss of elevator control of the airplane, accomplish the following:

Inspection and Corrective Actions

(a) Within 18 months after the effective date of this AD, perform a one-time detailed visual inspection for damage (i.e., chafing) of the power feeder wire bundle for the APU generator (wire bundle W146) and the first officer's elevator down control cable and for proper separation between that control cable and wire bundle, and attach wire bundle W146 to adjacent wire bundles, as applicable. Do these actions according to Boeing Special Attention Service Bulletin 737–24–1144, Revision 1, dated June 21, 2001.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(1) If no damage to the control cable or wire bundle is found, and if the distance between the control cable and wire bundle is equal to or greater than the minimum separation distance specified in the service bulletin: No further action is required.

(2) If any damage to the first officer's elevator down cable is found: Before further flight, replace the elevator down control cable with a new cable according to the service bulletin, and do paragraph (a)(4) of this AD.

(3) If any damage to the power feeder wire bundle for the APU generator (wire bundle W146) is found: Before further flight, repair the wire bundle according to the service bulletin, and do paragraph (a)(4) of this AD.

(4) If the distance between the control cable and wire bundle is less than the minimum separation distance specified in the service bulletin: Before further flight, reroute the wire bundle by turning wire bundle clamps to a position that provides minimum separation between the wire bundle and control cable, according to the service bulletin.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Special Attention Service Bulletin 737–24–1144, Revision 1, dated June 21, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30209 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–220–AD; Amendment 39–12549; AD 2001–24–32]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–200B, 747–200C, 747–200F, 747SP, and 747SR Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–100, 747–200B, 747–200C, 747–200F, 747SP, and 747SR series airplanes. This AD requires a one-time inspection for chafing of certain wire bundles behind the flight engineer's panel; repairs, if necessary; and a modification to reroute a certain electrical wire bundle to ensure sufficient clearance between that wire bundle and an adjacent flood light support bracket. This action is necessary to prevent chafing of certain electrical wire bundles, which could result in smoke in the cockpit, and uncommanded discharge of fire extinguishing bottles for the No. 4 engine and consequent reduction of the ability to fight a fire in the No. 4 engine. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to

include an airworthiness directive (AD) that is applicable to certain Boeing Model 747–100, 747–200B, 747–200C, 747–200F, 747SP, and 747SR series airplanes was published in the **Federal Register** on July 23, 2001 (66 FR 38214). That action proposed to require a one-time inspection for chafing of certain wire bundles behind the flight engineer's panel; repairs, if necessary; and a modification to reroute a certain electrical wire bundle to ensure sufficient clearance between that wire bundle and an adjacent flood light support bracket.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Request To Exclude Modified Airplanes

The commenter requests that the FAA revise the proposed rule to state that airplanes modified according to the original issue of Boeing Service Bulletin 747–25–2407, dated November 18, 1977, are not subject to the inspection specified in paragraph (a) of this AD. The commenter notes that it performed the modification in that service bulletin on its fleet of Model 747 series airplanes more than 20 years ago.

The FAA does not concur with the commenter's request. The original issue of the referenced service bulletin does not contain procedures for an inspection for chafing of affected wire bundles, or repair of chafed wire bundles. We find these actions are necessary to ensure that any chafed wire bundles are found and fixed. Therefore, airplanes modified according to the original issue of the service bulletin are still subject to the inspection and any necessary corrective actions described in Revision 1 of the service bulletin, dated September 23, 1999, as required by paragraphs (a) and (a)(1) of this AD.

Since the issuance of the proposed AD, however, the FAA has reviewed the modification procedures in the original issue of the service bulletin and determined that those procedures are acceptable for accomplishing the modification required by paragraph (a)(2) of this AD. Therefore, a new Note 3 has been added to this AD (and subsequent notes reordered accordingly) to specify that modifications accomplished prior to the effective date of this AD according to the original issue of the service bulletin are considered acceptable for compliance with paragraph (a)(2) of this AD, but the inspection required by paragraph (a) and any applicable corrective actions required by paragraph (a)(1) of this AD must still be accomplished.

Explanation of Change to Applicability Statement

The applicability statement of the proposed AD specified that the proposed AD would apply to certain airplane models as listed in Boeing Alert Service Bulletin 747–25A2407, Revision 1, dated September 23, 1999. For the convenience of affected operators, we have revised the applicability statement of this AD to specify the line numbers of airplanes subject to this AD.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 217 Model 747–100, 747–200B, 747–200C, 747–200F, 747SP, and 747SR series airplanes of the affected design in the worldwide fleet. The FAA estimates that 108 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. The cost of required parts per airplane will be negligible. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $77,760, or $720 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–32 Boeing: Amendment 39–12549. Docket 2001-NM–220–AD.

Applicability: Model 747–100, 747–200B, 747–200C, 747–200F, 747SP, and 747SR series airplanes; line numbers 001 through 310 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of certain electrical wire bundles located behind the flight engineer's panel, which could result in smoke in the cockpit, and uncommanded discharge of fire extinguishing bottles for the No. 4 engine and consequent reduction of the ability to fight a fire in the No. 4 engine, accomplish the following:

One-Time Inspection and Modification

(a) Within 12 months after the effective date of this AD, perform a one-time detailed visual inspection for chafing of wire bundles in the area of the forward upper corner of the P4 flight engineer's panel, outboard of the drip shield. Pay particular attention to wire bundles W528 and W530.

(1) If any chafing is found, before further flight, repair the chafed wire bundles according to Section 20–10–13 of the Boeing Standard Wiring Practices Manual, and do paragraph (a)(2) of this AD.

(2) If no chafing is found, or after chafing has been repaired, before further flight, modify the airplane by rerouting electrical wire bundle W530 to ensure sufficient clearance between that wire bundle and an adjacent flood light support bracket and installing a caterpillar grommet on the flood light supports, according to Boeing Alert Service Bulletin 747–25A2407, Revision 1, dated September 23, 1999.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Note 3: Modifications accomplished prior to the effective date of this AD according to Boeing Service Bulletin 747–25–2407, dated November 18, 1977, are considered acceptable for compliance with paragraph (a)(2) of this AD. However, the detailed visual inspection required by paragraph (a) and any applicable corrective actions required by paragraph (a)(1) of this AD must still be accomplished.

Operator's Equivalent Procedure

(b) Where Boeing Alert Service Bulletin 747–25A2407, Revision 1, dated September 23, 1999, specifies that installation of a caterpillar grommet may be accomplished per "your equivalent procedure," the procedures must be accomplished per the applicable chapter of the Boeing 747 Overhaul Manual specified in the service bulletin.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The modification required in paragraph (a)(2) of this AD shall be done in accordance with Boeing Alert Service Bulletin 747–25A2407, Revision 1, dated September 23, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30208 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–219–AD; Amendment 39–12548; AD 2001–24–31]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that requires performing a one-time inspection for chafing of certain electrical wire bundles behind the flight engineer's panel in the cockpit; repairing any chafed wire bundles, if necessary; and installing Teflon sleeving over the inspected wire bundles and rerouting them. This action is necessary to prevent burning of electrical wires, which could result in smoke in the cockpit and loss of function of several airplane systems. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes was published in the **Federal Register** on July 23, 2001 (66 FR 38211). That action proposed to require performing a one-time inspection for chafing of certain electrical wire bundles behind the flight engineer's panel in the cockpit; repairing any chafed wire bundles, if necessary; and installing Teflon sleeving over the inspected wire bundles and rerouting them.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Request To Allow Use of Other Service Information

The commenter requests that the FAA revise the proposed AD to specify that

accomplishment of the necessary actions according to Boeing Alert Service Bulletin 747–24A2118, Revision 3, dated June 24, 1999, OR EARLIER REVISIONS, is acceptable for compliance. The commenter states that it has done the actions on its airplanes according to revisions of the service bulletin prior to Revision 3 and believes that this meets the intent of the proposed AD.

The FAA concurs and has added Note 3 to this final rule (and reordered subsequent notes accordingly) to state that inspections and follow-on actions accomplished before the effective date of this AD according to Boeing Service Bulletin 747–24–2118, dated February 9, 1989; Revision 1, dated May 11, 1989; or Revision 2, dated December 21, 1989; are acceptable for compliance with the corresponding actions required by this AD.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 443 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 164 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. The cost of required parts per airplane will be negligible. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $29,520, or $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–31 Boeing: Amendment 39–12548. Docket 2001–NM–219–AD.

Applicability: Model 747 series airplanes, as listed in Boeing Alert Service Bulletin 747–24A2118, Revision 3, dated June 24, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing and burning of electrical wires, which could result in smoke in the cockpit and loss of function of several airplane systems, accomplish the following:

One-Time Inspection and Follow-On Actions

(a) Within 12 months after the effective date of this AD, do a one-time detailed visual inspection for chafing of certain electrical wire bundles behind the P4 flight engineer's panel in the cockpit, according to Boeing Alert Service Bulletin 747–24A2118, Revision 3, dated June 24, 1999. If any chafing is found, before further flight, repair the chafed wire bundles according to the service bulletin. Before further flight following the inspection and repair, as applicable, wrap the electrical wire bundles with Teflon sleeving and reroute them, according to the service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Note 3: Inspections and follow-on actions accomplished before the effective date of this AD according to Boeing Service Bulletin 747–24–2118, dated February 9, 1989; Revision 1, dated May 11, 1989; or Revision 2, dated December 21, 1989; are acceptable for compliance with the corresponding actions required by this AD.

Operator's Comparable Procedure

(b) Where Boeing Alert Service Bulletin 747–24A2118, Revision 3, dated June 24, 1999, specifies that certain procedures may be accomplished per an "operator's comparable procedure," the procedures must be accomplished per the applicable chapter of the Boeing 747 Airplane Maintenance Manual (AMM) specified in the service bulletin.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) Except as required by paragraph (b) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 747–24A2118, Revision 3, dated June 24, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30207 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–218–AD; Amendment 39–12547; AD 2001–24–30]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–200C and –200F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–200C and –200F series airplanes, that requires installation of drip shields over certain shelves in the main equipment bay. This action is necessary to prevent water from dripping through floor panels of the main deck cargo bay onto wire bundles and electronic components, which could lead to the loss of function of multiple electronic components and, consequently, could reduce the flight crew's ability to operate in adverse conditions. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747–200C and –200F series airplanes was published in the **Federal Register** on July 23, 2001 (66 FR 38209). That action proposed to require installation of drip shields over certain shelves in the main equipment bay.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule, including the proposed 18-month compliance time. The commenter states that this is the minimum compliance time that will allow sufficient time for the proposed installation to be accomplished on affected airplanes.

Explanation of Changes to Proposed Rule

Note 2 of this final rule has been revised to correct an error in the reference to Boeing Service Bulletin 747–38–2073.

Also, the statement of unsafe condition in the "Summary" section and preceding the requirements of this AD have been revised to clarify that this AD concerns floor panels of the main deck cargo bay.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 59 Model 747–200C and "200F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 21 airplanes of U.S. registry will be affected by this AD, that it will take approximately 32 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $4,497 per airplane. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $134,757, or $6,417 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has

been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–30 Boeing: Amendment 39–12547. Docket 2001–NM–218–AD.

Applicability: Model 747–200C and "200F series airplanes, as listed in Boeing Alert Service Bulletin 747–38A2073, Revision 2, dated April 26, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent water from dripping through certain floor panels of the main deck cargo bay onto wire bundles and electronic components, which could lead to the loss of function of multiple electronic components and, consequently, could reduce the flight crew's ability to operate in adverse conditions, accomplish the following:

Installation of Drip Shields

(a) Within 18 months after the effective date of this AD, install drip shields (including drip pan assembly, drain tubing, and attaching hardware) over the forward, outboard halves of the E1–1 and E3–1 shelves in the main equipment bay, according to Boeing Aiert Service Bulletin 747–38A2073, Revision 2, dated April 26, 2001.

Note 2: Installation done prior to the effective date of this AD according to Boeing Service Bulletin 747–38–2073, dated November 30, 1989, or Revision 1, dated June 21, 1990, is acceptable for compliance with corresponding actions in paragraph (a) of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin 747–38A2073, Revision 2, dated April 26, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30206 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–217–AD; Amendment 39–12546; AD 2001–24–29]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that requires a one-time inspection for chafing between the hose for the passenger oxygen system (hereinafter called the "oxygen hose") and adjacent electrical wire bundles at certain passenger service units, and corrective actions, if necessary. This AD also requires rerouting or reorienting the oxygen hose to ensure sufficient clearance between the hose and electrical wire bundles. This action is necessary to prevent chafing between the oxygen hose and adjacent electrical wire bundles, which could result in arcing of a chafed electrical wire bundle and consequent burn-through of the oxygen hose. If this occurs when the oxygen system is pressurized, such arcing could represent a potential ignition source in an oxygen-enriched environment. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal

Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes was published in the **Federal Register** on July 23, 2001 (66 FR 38206). That action proposed to require a one-time inspection for chafing between the hose for the passenger oxygen system (hereinafter called the "oxygen hose") and adjacent electrical wire bundles at certain passenger service units (PSU), and corrective actions, if necessary. That action also proposed to require rerouting or reorienting the oxygen hose to ensure sufficient clearance between the hose and electrical wire bundles.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received from a single commenter.

Request To Extend Compliance Time

The commenter requests that the FAA extend the compliance time for the actions in the proposed AD from 12 months to 18 months after the effective date of the AD. The commenter states that it will take about 40 work hours per airplane to do the proposed actions, and this work would best be performed during a heavy maintenance check where appropriate time and expertise is available.

The FAA concurs with the commenter's request. We find that such an increase in the compliance time will not adversely affect safety and will allow the required actions to be completed during a regularly scheduled maintenance visit. We have revised paragraph (a) of this AD accordingly.

Request To Limit Applicability

The commenter requests that the FAA revise the proposed AD to state that only airplanes with PSU configurations delivered by Boeing and as shown in Boeing Alert Service Bulletin 747–35A2035 are subject to the proposed AD. The commenter states that it has accomplished extensive interior modifications and replaced the PSUs on its airplanes through a supplemental type certificate.

The FAA does not concur with the commenter's request. We do not consider the illustrations contained in Boeing Alert Service Bulletin 747–35A2035, Revision 1, dated July 22, 1999, as revised by Boeing Service Bulletin Information Notice 747–35A2035 IN 01, dated September 23, 1999, to be an adequate method of establishing the applicability of this AD. Because the service bulletin does not indicate that the chafing condition is limited to specific PSU part numbers, all airplanes identified in the effectivity listing of the service bulletin must be considered to be subject to the identified unsafe condition. Note 1 of this AD states that, for airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. No change to the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 469 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 166 airplanes of U.S. registry will be affected by this AD, and that the average airplane has approximately 150 PSUs installed (though the actual number varies considerably between airplane configurations). It will take approximately 38 work hours per airplane (0.25 work hours per PSU) to accomplish the required actions, at the average labor rate of $60 per work hour. Required parts will cost approximately $5,250 per airplane ($35 per PSU). Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $1,249,980, or $7,530 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–29 Boeing: Amendment 39–12546. Docket 2001–NM–217–AD.

Applicability: Model 747 series airplanes, as listed in Boeing Alert Service Bulletin 747–35A2035, Revision 1, dated July 22, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by

this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing between the oxygen hose and electrical wire bundles at certain passenger service units, which could result in arcing of a chafed wire bundle and consequent burn-through of the oxygen hose, with the arcing potentially representing an ignition source in an oxygen-enriched environment, accomplish the following:

Inspection and Follow-On Actions

(a) Within 18 months after the effective date of this AD, do a detailed visual inspection for chafing between oxygen hoses and electrical wire bundles at the passenger service units (PSU) in the main deck passenger compartment, upper deck sculpted ceiling, personnel accommodation (crew rest) area, lower lobe forward galley, and aft galley; as applicable. Do the inspection according to Boeing Alert Service Bulletin 747–35A2035, Revision 1, dated July 22, 1999, as revised by Boeing Service Bulletin Information Notice 747–35A2035 IN 01, dated September 23, 1999. Before further flight following this inspection, do the corrective actions in paragraphs (a)(1) and (a)(2) of this AD, as applicable, and reroute the oxygen hose or install an elbow at the oxygen mask inlet connector to reorient the oxygen hose away from the electrical wiring, as applicable, to ensure a minimum of 2 inches clearance between the oxygen hose and electrical wire bundle, according to the service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(1) If any chafing of an oxygen hose is found: Replace the chafed oxygen hose with a new oxygen hose, and install protective sleeving over the new oxygen hose, according to the service bulletin.

(2) If any chafing of a wire bundle is found, repair the wire bundle according to the service bulletin.

Note 3: Inspections and follow-on actions done prior to the effective date of this AD according to Boeing Service Bulletin 747–35–2035, dated January 7, 1983, are acceptable for compliance with corresponding actions in paragraph (a) of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin 747–35A2035, Revision 1, dated July 22, 1999, as revised by Boeing Service Bulletin Information Notice 747–35A2035 IN 01, dated September 23, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30205 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–210–AD; Amendment 39–12545; AD 2001–24–28]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–8 series airplanes, that currently requires repetitive visual and eddy current inspections to detect cracking of the rudder pedals adjuster hub assembly, and replacement of the assembly with a new assembly, if necessary. This amendment requires accomplishment of a terminating action for the repetitive inspections. This amendment also adds airplanes to the applicability of the existing AD. This amendment is prompted by the FAA's determination that further rulemaking is necessary. The actions specified by this AD are intended to prevent loss of rudder pedals control and reduction of braking capability.

DATES: Effective January 16, 2002.

The incorporation by reference of McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 1, dated February 3, 1992, was approved previously by the Director of the Federal Register as of January 22, 1993 (57 FR 60115, December 18, 1992).

The incorporation by reference of the remaining service documents is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5324; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 92–27–06, amendment 39–8440 (57 FR 60115, December 18, 1992), which is applicable to certain McDonnell Douglas Model DC–8 series airplanes, was published in the **Federal Register** on July 23, 2001 (66 FR 38203). The action proposed to continue to require repetitive visual and eddy current inspections to detect cracking of the rudder pedals adjuster hub assembly, and replacement of the assembly with a new assembly, if necessary. That action also proposed to require accomplishment of a terminating action for the repetitive inspections, and to add airplanes to the applicability of the existing AD.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

Request To Withdraw Notice of Proposed Rulemaking (NPRM) or Remove Mandatory Requirement for Replacement

The commenter requests that the FAA withdraw the NPRM, since the inspections required by existing AD 92–27–06 provide an appropriate degree of safety assurance. The commenter states that there have been no loss of rudder pedal control incidents reported since the start of the inspections required by AD 92–27–06. The commenter further states that the loss of rudder pedal control by a flightcrew member is a temporary unsafe condition, since the other flightcrew member can immediately control the airplane with his/her rudder pedals. The commenter also states that of the 107 inspections it has performed on DC–8 rudder pedal adjuster hub assemblies since June 1994, no inspections have resulted in finding cracks. The commenter points out that a review of the FAA Service Difficulty Reports database reveals that no DC–8 rudder pedal control has been lost during flight or taxi because of a cracked rudder pedal adjuster hub assembly.

This same commenter suggests in lieu of withdrawing the NPRM to remove the compliance time of "Prior to the accumulation of 15,000 total landings, or within 3,500 landings after the effective date of this AD" in paragraph (e) of the NPRM, so that the replacement requirement is optional.

The FAA does not agree with the commenter to withdraw the NPRM or remove the mandatory replacement requirement. As specified in the "Background" section of the NPRM, the FAA has determined that, based on the results of investigations described in the NPRM and recommendations of the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), corrective action is necessary to minimize the potential hazards associated with wire and mechanical flight control systems degradation and related causal factors (*e.g.*, inadequate maintenance, contamination, improper repair, and mechanical damage).

In addition, the FAA has determined that long-term continued operational safety will be better assured by modifications or design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. The terminating action required by paragraph (e) of this final rule is consistent with these considerations.

Clarification of Paragraph Reference

Paragraph (c) of the proposed AD states "If no crack is detected as a result of the inspections required by paragraph (a) of this AD, repeat the inspections at intervals not to exceed 3,500 landings." The FAA's intent was that the repeat inspections be accomplished if no crack is detected as a result of the inspection required by paragraph (a) or (b) of this AD, as indicated in service bulletins referenced in the AD. Therefore, we have revised the final rule accordingly.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 264 Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 245 airplanes of U.S. registry will be affected by this AD.

The inspection that is currently required by AD 92–27–06 takes approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $44,100, or $180 per airplane, per inspection cycle.

The new actions that are required by this AD will take approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $4,296 per airplane. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $1,170,120, or $4,776 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8440 (57 FR 60115, December 18, 1992), and by adding a new airworthiness directive (AD), amendment 39–12545, to read as follows:

2001–24–28 McDonnell Douglas: Amendment 39–12545. Docket 2001–NM–210–AD. Supersedes AD 92–27–06, Amendment 39–8440.

Applicability: Model DC–8 series airplanes, serial numbers 45646 and 45928, and as listed in McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 1, dated February 3, 1992; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of rudder pedals control and reduction of braking capability, accomplish the following:

Inspection

(a) For airplanes listed in McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 1, dated February 3, 1992: Prior to the accumulation of 15,000 landings or within 270 days after January 22, 1993 (the effective date of AD 92–27–06, amendment 39–8440), whichever occurs later, conduct a visual and eddy current inspection to detect cracks of the rudder pedals adjuster hub assembly, part number (P/N) 4616066, in accordance with McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 1, dated February 3, 1992, or Revision 2, dated August 5, 1992; or McDonnell Douglas Alert Service Bulletin DC8–27A275R03, Revision 03, dated April 5, 1996. As of the effective date of this AD only McDonnell Douglas Alert Service Bulletin DC8–27A275R03, Revision 03, dated April 5, 1996, shall be used.

(b) For airplanes having serial numbers 45646 and 45928: Prior to the accumulation of 15,000 total landings, or within 270 days after the effective date of this AD, whichever occurs later, conduct a visual and eddy current inspection to detect cracks of the rudder pedals adjuster hub assembly, P/N 4616066, in accordance with McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 1, dated February 3, 1992, or Revision 2, dated August 5, 1992; or McDonnell Douglas Alert Service Bulletin DC8–27A275R03, Revision 03, dated April 5, 1996. As of the effective date of this AD, only McDonnell Douglas Alert Service Bulletin DC8–27A275R03, Revision 03, dated April 5, 1996, shall be used.

No Crack Found During Inspection Required by Paragraph (a) or (b) of This AD: Repetitive Inspections

(c) If no crack is detected as a result of the inspections required by paragraph (a) or (b) of this AD, repeat the inspections at intervals not to exceed 3,500 landings.

Any Crack Found: Replacement and Repetitive Inspections

(d) If any crack is detected as a result of the inspections required by paragraph (a), (b), or (c) of this AD, prior to further flight, replace the rudder pedals adjuster hub assembly, P/N 4616066, with a new assembly, P/N 5965435–1, in accordance with McDonnell Douglas Alert Service Bulletin DC8–27A275R03, Revision 03, dated April 5, 1996. Accomplishment of the replacement constitutes terminating action for the repetitive inspection requirements of this AD.

Terminating Action

(e) Prior to the accumulation of 15,000 total landings, or within 3,500 landings after the effective date of this AD, whichever occurs later, replace the existing adjuster hub assembly with a new assembly, P/N 5965435–1, per McDonnell Douglas Alert Service Bulletin DC8–27A275R03, Revision 03, dated April 5, 1996. Accomplishment of the replacement constitutes terminating action for the requirements of this AD.

Spares

(f) As of the effective date of this AD, no person shall install an adjuster hub assembly, P/N 4616066, on any airplane.

Alternative Methods of Compliance

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(i) The actions shall be done in accordance with McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 1, dated February 3, 1992; McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 2, dated August 5, 1992; or McDonnell Douglas Alert Service Bulletin DC8–27A275R03, Revision 03, dated April 5, 1996; as applicable.

(1) The incorporation by reference of McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 1, dated February 3, 1992, was approved previously by the Director of the Federal Register as of January 22, 1993 (57 FR 60115, December 18, 1992).

(2) The incorporation by reference of the remaining service documents is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(3) Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(j) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30204 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–206–AD; Amendment 39–12544; AD 2001–24–27]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes; Model DC–9–81, –82, –83, and –87 Series Airplanes; Model MD–88 Airplanes; and C–9 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; Model MD–88 airplanes; and C–9 airplanes, that currently requires repetitive inspections to detect cracking of the rudder pedal adjuster hub assembly, and replacement of the assembly, if necessary. That AD also provides for an optional terminating action for the repetitive inspections. This amendment requires accomplishment of a new terminating action for the repetitive inspections. This amendment is prompted by that FAA's determination that further rulemaking is necessary. The actions specified by this AD are intended to

prevent loss of rudder pedal control and reduction of braking capability.

DATES: Effective January 16, 2002.

The incorporation by reference of McDonnell Douglas Service Bulletin DC9–27–325R02, Revision 02, dated December 12, 1995, as listed in the regulations, is approved by the Director of the Federal Register as of January 16, 2002.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of January 22, 1993 (57 FR 60116, December 18, 1992), and as of March 25, 1996 (61 FR 6922, February 23, 1996).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5324; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 96–02–05, amendment 39–9493 (61 FR 6922, February 23, 1996), which is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; Model MD–88 airplanes; and C–9 airplanes, was published in the **Federal Register** on July 23, 2001 (66 FR 38200). The action proposed to continue to require repetitive inspections to detect cracking of the rudder pedal adjuster hub assembly, and replacement of the assembly, if necessary. The action also proposed to require accomplishment of a new terminating action for the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Requests To Withdraw the NPRM

Two commenters request that the FAA withdraw the NPRM, since the inspections required by existing AD 96–02–05 provide an appropriate degree of safety assurance. One commenter states that there have been no loss of rudder pedal control incidents reported since the start of the inspections required by AD 96–02–05. The commenter further states that the loss of rudder pedal control by a flightcrew member is a temporary unsafe condition, since the other flightcrew member can immediately control the airplane with his/her rudder pedals. The commenter also states that of the 304 inspections it has performed on DC–9 rudder pedal adjuster hub assemblies since June 1992, only 2 inspections have resulted in finding cracks. The commenter points out that a review of the FAA Service Difficulty Reports database reveals that no DC–9 rudder pedal control has been lost during flight or taxi because of a cracked rudder pedal adjuster hub assembly.

One commenter provides the following two suggestions in lieu of withdrawing the NPRM:

1. Remove the compliance time of "Prior to the accumulation of 15,000 total landings, or within 3,500 landings after the effective date of this AD" in paragraph (c) of the Notice of Proposed Rulemaking (NPRM), so that the replacement and reidentification requirements are optional; or

2. Revise the compliance time specified in paragraph (c) of the NPRM from 18 months to 3,500 landings.

The other commenter also requests that, if further regulatory action is still deemed necessary, the NPRM specify "more" frequent inspections rather than mandate a component replacement. The commenter did not suggest what interval would suffice for "more" frequent inspections.

The FAA does not agree with the commenters to withdraw the NPRM, remove the mandatory replacement requirement, or require "more" frequent inspections. As specified in the "Background" section of the NPRM, the FAA has determined that, based on the results of investigations described in the NPRM and recommendations of the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), corrective action is necessary to minimize the potential hazards associated with wire and mechanical flight control systems degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In addition, the FAA has determined that long-term continued operational safety will be better assured by modifications or design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. The replacement and reidentification required by paragraph (c) of this AD are consistent with these considerations.

Request To Revise the Heading for Paragraph (a) of the NPRM

One commenter notes that the heading of paragraph (a) of the NPRM contains a typographical error. The NPRM reads, "RESTATEMENT OF REQUIREMENTS OF AD 97–02–05," but the correct AD number is AD 96–02–05. The FAA agrees and has revised the final rule to reflect this correction.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,845 Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; Model MD–88 airplanes; and C–9 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,086 airplanes of U.S. registry will be affected by this AD.

The inspection that is currently required by AD 96–02–05 takes approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $195,480, or $180 per airplane, per inspection cycle.

The new actions that are required by this new AD will take approximately 9 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost

approximately $4,314 per airplane. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $5,271,444, or $4,854 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9493 (61 FR 6922, February 23, 1992), and by adding a new airworthiness directive (AD), amendment 39–12544, to read as follows:

2001–24–27 McDonnell Douglas: Amendment 39–12544. Docket 2001–NM–206–AD. Supersedes AD 96–02–05, Amendment 39–9493.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; Model MD–88 airplanes; and C–9 series airplanes; as listed in McDonnell Douglas Service Bulletin DC9–27–325R02, Revision 02, dated December 12, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of rudder pedals control and reduction of braking capability, accomplish the following:

Restatement of Requirements of AD 96–02–05

Repetitive Inspections and Replacement, If Necessary

(a) For airplanes listed in McDonnell Douglas DC–9 Alert Service Bulletin A27–325R02, Revision 1, dated February 3, 1992: Prior to the accumulation of 15,000 landings or within 270 days after January 22, 1993 (the effective date of AD 92–27–07, amendment 39–8441), whichever occurs later, conduct a visual and eddy current inspection to detect cracks of the rudder pedals adjuster hub assembly, part number 4616066, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–325R02, Revision 1, dated February 3, 1992, or Revision 2, dated January 27, 1995.

(1) If no cracks are detected as a result of the inspections required by this paragraph, repeat the inspections at intervals not to exceed 3,500 landings.

(2) If cracks are detected as a result of the inspections required by this paragraph, prior to further flight, replace the rudder pedal adjuster hub assembly, part number 4616066, with a new assembly having the same part number, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–325R02, Revision 2, dated January 27, 1995. Thereafter, conduct visual and eddy current inspections of the replacement rudder pedals adjuster hub assembly in accordance with this paragraph.

(b) For airplanes listed in McDonnell Douglas DC–9 Alert Service Bulletin A27–325R02, Revision 2, dated January 27, 1995, and not subject to paragraph (a) of this AD: Prior to the accumulation of 15,000 landings or within 270 days after March 25, 1996 (the effective date of AD 96–02–05, amendment 39–9493), whichever occurs later, conduct a visual and eddy current inspection to detect cracks of the rudder pedals adjuster hub assembly, part number 4616066, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–325R02, Revision 1, dated February 3, 1992, or Revision 2, dated January 27, 1995.

(1) If no cracks are detected as a result of the inspections required by this paragraph, repeat the inspections at intervals not to exceed 3,500 landings.

(2) If cracks are detected as a result of the inspections required by this paragraph, prior to further flight, replace the rudder pedals adjuster hub assembly, part number 4616066, with a new assembly having the same part number, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–325R02, Revision 2, dated January 27, 1995. Thereafter, conduct visual and eddy current inspections of the replacement rudder pedals adjuster hub assembly in accordance with this paragraph.

New Actions Required By This AD

Replacement and Reidentification

(c) Prior to the accumulation of 15,000 total landings, or within 18 months after the effective date of this AD, whichever occurs later, do the actions specified in paragraphs (c)(1) and (c)(2) of this AD in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–27–325R02, Revision 02, dated December 12, 1995. Accomplishment of the these actions constitutes terminating action for the requirements of this AD.

(1) Replace the existing magnesium casting hub assembly of the rudder pedal adjuster, part number (P/N) 4616066–3, and bearing, P/N AN201KP4A, in the rudder pedal mechanism between stations X=69.000 and X=120.000 in the flight compartment with a new aluminum assembly, part number (P/N) 5965435–3, and new bearing, P/N MS27641–4; and

(2) Reidentify rudder pedal adjuster, P/N 5641294–501 or –503, as P/N 5641294–507.

Note 2: Installation of the aluminum rudder pedal adjuster hub assembly per McDonnell Douglas Service Bulletin DC9–27–325R02, Revision 1, dated November 30, 1994, before the effective date of this AD, is considered acceptable for the requirements of paragraph (c) of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests

through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) The actions shall be done in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–325R02, Revision 1, dated February 3, 1992; McDonnell Douglas DC–9 Alert Service Bulletin A27–325R, Revision 2, dated January 27, 1995; or McDonnell Douglas Service Bulletin DC9–27–325R02, Revision 02, dated December 12, 1995; as applicable.

(1) The incorporation by reference of McDonnell Douglas Service Bulletin DC9–27–325R02, Revision 02, dated December 12, 1995, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of McDonnell Douglas DC–9 Alert Service Bulletin A27–325R02, Revision 2, dated January 27, 1995, was approved previously by the Director of the Federal Register as of March 25, 1996 (61 FR 6922, February 23, 1996).

(3) The incorporation by reference of McDonnell Douglas DC–9 Alert Service Bulletin A27–325R02, Revision 1, dated February 3, 1992, was approved previously by the Director of the Federal Register as of January 22, 1993 (57 FR 60116, December 18, 1992).

(4) Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30203 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–204–AD; Amendment 39–12543; AD 2001–24–26]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and B4, A300 B4–600 and B4–600R, and A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300 B2 and B4, A300 B4–600 and B4–600R, and A310 series airplanes, that requires modification of the terminal blocks of the starter feeder line of the auxiliary power unit (APU). This action is necessary to prevent slackness and subsequent overheat and arcing of certain wiring connections. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A300 B2 and B4, A300 B4–600 and B4–600R, and A310 series airplanes was published in the **Federal Register** on August 27, 2001 (66 FR 44990). That action proposed to require modification of the terminal blocks of the starter feeder line of the auxiliary power unit (APU).

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 153 airplanes of U.S. registry will be affected by this AD. It will take approximately 1 to 3 work hours per airplane (depending on configuration) to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $60 to $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–20 Airbus Industrie: Amendment 39–12543. Docket 2001–NM–204–AD.

Applicability: The following airplanes, certificated in any category:

TABLE 1.—APPLICABILITY

Model	Excluding those airplanes modified per Airbus Modification 10212, or Airbus Service Bulletin
A300 B2 and B4 series airplanes	A300–24–0079, Revision 02, dated January 3, 2001.
A300 B4–600 and B4–600R series airplanes	A300–24–6034, Revision 03, dated April 6, 2001.
A310 series airplanes	A310–24–2045, Revision 05, dated April 6, 2001.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent slackness and subsequent overheat and arcing of certain wiring connections, accomplish the following:

Modification and Replacement

(a) Modify the terminal blocks (including a general visual inspection of the threaded portion of the lugs to detect damage, distortion, or elongation; measurement of stud dimensions; and re-identification of the terminal blocks), as specified by Table 2 of this AD. If any discrepancy is detected, prior to further flight, replace the terminal block with a new part in accordance with the applicable service bulletin. Table 2 follows:

TABLE 2.—MODIFICATION REQUIREMENTS

For Model	Perform the modification in accordance with Airbus Service Bulletin	Prior to the times specified by paragraphs (i) and (ii), whichever occurs later, for each model
(1) A300 B2 and B4 series airplanes.	A300–24–0079, Revision 02, dated January 3, 2001.	(i) The accumulation of 32,000 total flight cycles or 40,000 total flight hours, whichever occurs first. (ii) 3,600 flight cycles after the effective date of this AD.
(2) A300 B4–600 and B4–600R series airplanes.	A300–24–6034, Revision 03, dated April 6, 2001.	(i) The accumulation of 26,000 total flight cycles or 40,000 flight hours, whichever occurs first. (ii) 3,600 flight cycles after the effective date of this AD.
(3) A310 series airplanes	A310–24–2045, Revision 05, dated April 6, 2001.	(i) The accumulation of 26,000 total flight cycles or 40,000 flight hours, whichever occurs first. (ii) 3,600 flight cycles after the effective date of this AD.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Note 3: Modification, prior to the effective date of this AD, in accordance with Airbus Service Bulletin A300–24–0079, dated March 15, 1993, or Revision 01, dated September 22, 1993 (for Model A300 B2 and B4 series airplanes); A300–24–6034, dated March 15, 1993, Revision 01, dated September 22, 1993; or Revision 02, dated September 7, 1994 (for Model A300 B4–600 and B4–600R series airplanes); or A310–24–2045, dated March 15, 1993, Revision 01, dated September 22, 1993, Revision 02, dated September 7, 1994, Revision 03, dated February 24, 1995, or Revision 04, dated November 24, 1995 (for Model A310 series airplanes); is acceptable for compliance with the requirements of paragraph (a) of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Airbus Service Bulletin A300–24–0079, Revision 02, dated January 3, 2001; Airbus Service Bulletin A300–24–6034, Revision 03, dated April 6, 2001; or Airbus Service Bulletin A310–24–2045, Revision 05, dated April 6, 2001; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane

Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in French airworthiness directive 2001–266(B), dated June 27, 2001.

Effective Date

(e) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30202 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–104–AD; Amendment 39–12542; AD 2001–24–25]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, and –40 Series Airplanes and C–9 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes. This amendment requires modification of the spoiler control system, and installation of protective interlock box assemblies in the spoiler circuit. This amendment is necessary to prevent smoke/fire in the flight compartment in the event that the automatic spoiler actuator overheats, and/or loss of the spoiler control system, which could significantly reduce the braking effectiveness of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes was published in the **Federal Register** on July 23, 2001 (66 FR 38198). That action proposed to require modification of the spoiler control system, and installation of protective interlock box assemblies in the spoiler circuit. That action was proposed to prevent smoke/fire in the flight compartment in the event that the automatic spoiler actuator overheats, and/or loss of the spoiler control system, which could significantly reduce the braking effectiveness of the airplane.

Since the Issuance of the NPRM

The FAA has been advised by the manufacturer that there may be a problem in supplying an adequate number of parts to modify the spoiler control system and to install protective interlock box assemblies in the spoiler circuit within the 1-year compliance time proposed in the NPRM. Consequently, we have extended the compliance times of paragraphs (a) and (b) of this AD to within 18 months after the effective date of this AD. We have determined that such an extension of the compliance times will accommodate the time necessary for affected operators to order, obtain, modify, and install certain parts necessary to accomplish the requirements of paragraph (a) and (b) of the AD, without adversely affecting safety.

Public Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Clarify Requirements

The commenter states that the service bulletin (Boeing Alert Service Bulletin DC9–27A–147, Revision 03, dated May 8, 2001) referenced in the proposed rule specifies that Service Bulletin DC9–27–103 should be incorporated as a prerequisite. However, the commenter states that Service Bulletin DC9–27–103 is not mentioned in the proposed rule. The commenter concludes that compliance with the other service bulletin is implied, but not mandated by the proposed rule. The FAA infers that the commenter is requesting clarification.

The FAA acknowledges the request for clarification. Paragraph (a) of the final rule requires modification of the spoiler control system per Boeing Alert Service Bulletin DC9–27A147, which references Boeing Service Bulletin DC9–27–103. Specifically, however, paragraph (b) of the final rule does require installation of protective interlock box assemblies in the spoiler circuit per McDonnell Douglas DC–9 Service Bulletin 27–103, dated March 19, 1968. The compliance time for accomplishing that installation is clearly stated in paragraph (b) of the final rule as: "Prior to or in conjunction with the requirements of paragraph (a) of this AD." No change to the final rule is necessary.

Request To Revise Reference to Service Information

The commenter requests that the FAA revise the proposed rule to require the procedures described in Boeing Service Bulletin DC9–27–283, which further modifies the spoiler interlock box by replacing the relay with an improved 6-pole double throw relay. Additionally, the commenter suggests that a "proposed" service bulletin that modifies the interlock box with the 6-pole relay and an "as-yet-undefined" service bulletin that describes procedures for modifying interlock boxes without the 6-pole relay be considered by the FAA. The commenter states that these service bulletins have been issued or soon will be issued.

The FAA does not concur with the request to add additional service information to the final rule. Installation of the time-delay relay (as part of the actions required by this AD) will terminate power to the actuator in 10 seconds after energizing the spoiler automatic actuator, and provides adequate protection against overheating of the actuator. To add further requirements to this rule as the commenter proposed, we would have to reissue the Notice of Proposed

Rulemaking (NPRM) as a Supplemental NPRM in order to provide an appropriate time for public comment. Furthermore, we cannot require implementation of actions of service bulletins not yet developed and approved by the FAA. Therefore, we find that, in order to adequately address the unsafe condition in a timely manner, implementation of the required actions as proposed are warranted.

Request To Revise the Cost Estimate

This same commenter also requests that the 3 work hours estimated in the proposed rule for the installation of the protective interlock box assemblies in the spoiler circuit be revised to 24 work hours. The commenter also requests that the estimated cost of replacement parts specified as $20 in the proposed rule be revised to $2,750. The commenter provides this justification based on information retrieved from its SCEPTRE database.

The FAA does not concur that the cost estimates should be revised. We used the work hours specified in McDonnell Douglas DC–9 Service Bulletin 27–103(which is referenced in the AD as the appropriate source of service information for accomplishment of the required installation). We note that the economic analysis of this AD represents the time necessary to perform only the actions actually required by this AD. We recognize that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs. As indicated in the preamble of the NPRM, the cost analysis in AD rulemaking actions typically does not include incidental costs, such as the time required to gain access and close up; planning time; or time necessitated by other administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate. Therefore, no change to the final rule is necessary.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 504 Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes of the affected design in the worldwide fleet. The FAA estimates that 272 airplanes of U.S. registry will be affected by this AD.

It will take approximately 5 work hours per airplane to accomplish the required modification, and that the average labor rate is $60 per work hour. Required parts will cost approximately $937 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $336,464, or $1,237 per airplane.

It will take approximately 3 work hours per airplane to accomplish the proposed installation, and the average labor rate is $60 per work hour. Required parts would cost approximately $20 per airplane. Based on these figures, the cost impact of the installation proposed by this AD on U.S. operators is estimated to be $54,400, or $1,237 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–25 McDonnell Douglas: Amendment 39–12542. Docket 2001–NM–104–AD.

Applicability: Model DC–10–10, –20, –30, and –40 series airplanes, and C–9 airplanes, as listed in Boeing Alert Service Bulletin DC9–27A147, Revision 03, dated May 8, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent smoke/fire in the flight compartment in the event that the automatic spoiler actuator overheats, and/or loss of the spoiler control system, which could significantly reduce the braking effectiveness of the airplane; accomplish the following:

Modification of the Spoiler Control System

(a) Within 18 months after the effective date of this AD, modify the spoiler control system by accomplishing all actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin DC9–27A147, Revision 03, dated May 8, 2001, per the service bulletin.

Note 2: Modification per McDonnell Douglas Service Bulletin DC9–27–147, dated January 7, 1972; Revision 1, dated July 30, 1974; or Revision 2, dated May 9, 1975; before the effective date of this AD; is considered acceptable for compliance with paragraph (a) of this AD.

Installation of Protective Interlock Box Assemblies

(b) Prior to or in conjunction with the requirements of paragraph (a) of this AD, install protective interlock box assemblies in the spoiler circuit, per McDonnell Douglas DC–9 Service Bulletin 27–103, dated March 19, 1968.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin DC9–27A147, Revision 03, dated May 8, 2001, and McDonnell Douglas DC–9 Service Bulletin 27–103, dated March 19, 1968; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept: C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30201 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–103–AD; Amendment 39–12541; AD 2001–24–24]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10 and –30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10 and –30 series airplanes, that requires an inspection of the power feeder cable for evidence of chafing, and repair of any chafed power feeder cable. This amendment also requires replacement of the wiring support clip (standoff) of the power feeder cable with a new, improved wiring support clip. This action is necessary to prevent chafing and arcing of the power feeder cable and adjacent airplane structure and system components, and consequent smoke/fire in an engine nacelle. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10 and –30 series airplanes was published in the **Federal Register** on July 23, 2001 (66 FR 38195). That action proposed to require an inspection of the power feeder cable for evidence of chafing, and repair of any chafed power feeder cable. That action also proposed to require replacement of the wiring support clip (standoff) of the power feeder cable with a new, improved wiring support clip.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 162 Model DC–9–10 and –30 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 107 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $102 or $204 per airplane depending on the airplane configuration. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $17,334 or $28,248; or $162 or $264 per airplane depending on the airplane configuration.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between

the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–24 McDonnell Douglas: Amendment 39–12541. Docket 2001–NM–103–AD.

Applicability: Model DC–9–10 and –30 series airplanes, as listed in Boeing Alert Service Bulletin DC9–24A160, Revision 02, dated March 14, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing and arcing of the power feeder cable and adjacent airplane structure and system components, and consequent smoke/fire in an engine nacelle, accomplish the following:

Inspection; Repair, if Necessary; and Replacement

(a) Within 12 months after the effective date of this AD, do the actions specified in paragraphs (a)(1) and (a)(2) of this AD per Boeing Alert Service Bulletin DC9–24A160, Revision 02, dated March 14, 2001.

(1) Do a general visual inspection of the power feeder cable for evidence of chafing, and repair any chafed power feeder cable.

Note 2: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(2) Replace the wiring support clip (standoff) of the power feeder cable with a new, improved wiring support clip.

Note 3: Inspection, repair, and replacement per McDonnell Douglas Service Bulletin DC9–24–160, dated January 4, 1996, or Revision 01, dated March 7, 1996, before the effective date of this AD is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin DC9–24A160, Revision 02, dated March 14, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30200 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–98–AD; Amendment 39–12540; AD 2001–24–23]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes, that requires modification of the battery ground cable installation in the center accessory compartment (CAC). The actions specified by this AD are intended to prevent a loose ground stud and/or cable attachments, and consequent chafing of adjacent structure and electrical arcing, which could result in smoke/fire in the CAC in the event of fuel leakage. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Natalie Phan-Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5343; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –15, –30, –30F (KC–10A and KDC–10), and –40 series airplanes was published in the **Federal Register** on July 23. 2001 (66 FR 38193). That action proposed to require modification of the battery ground cable installation in the center accessory compartment.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Withdraw Proposed AD

The commenters object to the proposed AD as being unnecessary. One operator, having operated affected airplanes for 29 years, reports that the subject battery ground stud and cable installations have been inspected numerous times during this period in accordance with the FAA-approved DC–10 maintenance program. This operator notes that there has been no history of arcing due to loosening of the ground stud and cable attachments. The commenter adds that any deterioration related to arcing would have been identified and corrected by the maintenance program.

The FAA does not concur with the request to withdraw the proposed AD. The FAA acknowledges that Model DC–10 series airplanes have an extensive life of service and that numerous inspections have been performed as part of the FAA-approved DC–10 maintenance program. (All operators are required to maintain their airplanes in accordance with an FAA-approved maintenance program as required for continued airworthiness.) However, the FAA finds that the subject inspections of the maintenance program do not adequately address certain in-service difficulties and thus do not adequately address the identified unsafe condition. Therefore, the FAA has determined that the proposed rule is appropriate and warranted.

Request To Extend Compliance Time

In lieu of withdrawal of the proposed AD, the commenters request an extension of the proposed compliance time. The commenters state that the extensive in-service history concerning the subject area supports an extension of the compliance time. In addition, the commenters assert that the proposed actions would be best accommodated during planned multiple-day maintenance visits within a compliance time of 18 months.

The FAA does not concur. Due to the degree of urgency associated with addressing the subject unsafe condition, an 18-month compliance time would not provide an adequate level of safety. Therefore, no change to the final rule is necessary in this regard.

Request To Revise Cost Estimate

The commenters disagree with the proposed AD's estimate of 2 work hours required for the modification. The commenters estimate that the modification would take 9.5 work hours.

The FAA has reconsidered the amount of time necessary to accomplish the modification and has increased its estimate to 5 work hours per airplane. The cost impact section of this final rule has been revised accordingly.

Explanation of Change to Applicability

The FAA finds that Model DC–10–10F, –30F, and –40F series airplanes were not specifically identified by model in the applicability of the proposed AD; however, they were identified by manufacturer's fuselage numbers in McDonnell Douglas Alert Service Bulletin DC10–24A174, dated June 29, 2001 (which was referenced in the applicability statement of the proposed AD for the identification of the specific affected airplanes). Therefore, the FAA has revised the applicability throughout the final rule to include Model DC–10–10F, –30F, and –40F series airplanes.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither significantly increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 402 airplanes of the affected design in the worldwide fleet. The FAA estimates that 312 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $2,282 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $805,584, or $2,582 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is

contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–23 McDonnell Douglas: Amendment 39–12540. Docket 2001–NM–98–AD.

Applicability: Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; as listed in McDonnell Douglas Alert Service Bulletin DC10–24A174, dated June 29, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a loose ground stud and/or cable attachments, and consequent chafing of adjacent structure and electrical arcing, which could result in smoke/fire in the center accessory compartment (CAC) in the event of fuel leakage, accomplish the following:

Modification

(a) Within 12 months after the effective date of this AD, modify the battery ground cable installation in the CAC per McDonnell Douglas Alert Service Bulletin DC10–24A174, dated June 29, 2001.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC10–24A174, dated June 29, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30199 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–97–AD; Amendment 39–12539; AD 2001–24–22]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –10F, –30, –30F (KC–10A and KDC–10), –40, and –40F Series Airplanes; and Model MD–10–10F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–10–10, –10F, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F series airplanes. This AD requires an inspection of the power feeder cable assembly of the auxiliary power unit (APU) for chafing, correct type of clamps, and proper clamp installation; and corrective actions, if necessary. The actions specified by this AD are intended to prevent loss of the APU generator due to chafing of the generator power feeder cables, and consequent electrical arcing and smoke/fire in the APU compartment. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Natalie Phan-Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount

Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5343; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –30, –30F (KC–10A and KDC–10), and –40 series airplanes; and Model MD–10–10F series airplanes; was published in the **Federal Register** on July 23, 2001 (66 FR 38191). That action proposed to require an inspection of the power feeder cable assembly of the auxiliary power unit (APU) for chafing, correct type of clamps, and proper clamp installation; and corrective actions, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Clarify Requirements and Extend Compliance Time

The commenters request that the proposed AD be revised to clarify whether the inspection requirement includes verifying the clamp part number. The commenters assert that the proposed AD underestimates the work hours necessary to accomplish the inspection, if the part number verification is also required. The commenters request that the compliance time be extended to accommodate the anticipated additional work hours. According to the commenters, the APU generator must be removed for easy access to the subject support cables—which are installed in an extremely confined space—to verify the part number. The commenters estimate that the inspection, including removal of the APU generator, would take 22.5 work hours. Because the task is best suited to planned multiple-day maintenance visits, the commenters anticipate extended downtime for the affected airplanes and request that the compliance time be extended from 12 months to 18 months.

The FAA partially concurs. In light of the possible confusion regarding certain requirements of the AD, the FAA has determined that clarification may be necessary. Therefore, paragraph (a) has been revised in this final rule to include verification of the clamp part number.

However, the FAA does not concur with the request to extend the compliance time. The FAA has confirmed with the manufacturer that, while removing the APU generator might improve accessibility to the inspection area, it is not necessary. Further, as indicated in the proposed AD, the cost estimates represent only the time necessary to perform the specific actions actually required by the AD. Those figures typically do not include incidental costs, such as the time required to gain access. This AD does not require removal of the APU generator to perform the inspection. Therefore, the work hour estimate in the proposed AD is appropriate, and the proposed compliance time of 12 months is sufficient. No change to the final rule is necessary in this regard.

Clarification to Final Rule Requirements

Paragraph (a)(1) of the proposed AD describes the conditions for which no corrective action is required ("If no wire chafing, correct type of clamps, and proper clamp installation are found * * *"). Because of the potentially misleading description of these negative inspection findings, paragraph (a)(1) has been revised in this final rule to more accurately distinguish the conditions that require corrective action.

Explanation of Change to Applicability

The FAA finds that Model DC–10–10F, –30F, and –40F series airplanes were not specifically identified by model in the applicability of the proposed AD; however, they were identified by manufacturer's fuselage numbers in Boeing Alert Service Bulletin DC10–24A137, Revision 01, dated May 31, 2001 (which was referenced in the applicability statement of the proposed AD for the identification of the specific affected airplanes). Therefore, the FAA has revised the applicability throughout the final rule to include Model DC–10–10F, –30F, and –40F series airplanes.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 372 airplanes of the affected design in the worldwide fleet. The FAA estimates that 282 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $16,920, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–22 McDonnell Douglas: Amendment 39–12539. Docket 2001–NM–97–AD.

Applicability: Model DC–10–10, –10F, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F series airplanes; as listed in Boeing Alert Service Bulletin DC10–24A137, Revision 01, dated May 31, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the auxiliary power unit (APU) generator due to chafing of the generator power feeder cable and consequent electrical arcing and smoke/fire in the APU compartment, accomplish the following:

Inspection and Corrective Action(s), if Necessary

(a) Within 12 months after the effective date of this AD, do a general visual inspection of the power feeder cable assembly of the APU for chafing, correct type (including part number) of clamps, and proper clamp installation, per Boeing Alert Service Bulletin DC10–24A137, Revision 01, dated May 31, 2001.

Note 2: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(1) Condition 1. If no signs of wire chafing are found, and all clamps are of the correct type (including the correct part number), and are installed properly, no further action is required by this AD.

(2) Condition 2. If any wire chafing, incorrect type of any clamp (including incorrect part number), or improper clamp installation is found, before further flight, do applicable corrective action(s) (e.g., repair, replace, and modify discrepant part) per the Accomplishment Instructions of the service bulletin.

Note 3: Accomplishment of the inspection and any applicable corrective actions, per Boeing Service Bulletin DC10–24–137, dated September 15, 1987, before the effective date of this AD, is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin DC10–24A137, Revision 01, dated May 31, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30198 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–96–AD; Amendment 39–12538; AD 2001–24–21]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes, and Model MD–10–10F and –30F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–10 series airplanes, that currently requires a one-time detailed visual inspection to determine if wire segments of the wire bundle routed through the feed through on the aft side of the flight engineer's station are damaged or chafed, and corrective actions; if necessary. This amendment also requires revising the wire bundle support clamp installation at the flight engineer's station. This action is necessary to prevent chafing of the wire bundle located behind the flight engineer's panel caused by the wire bundle coming in contact with the lower edge of the feed through and consequent electrical arcing, which could result in smoke and fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of Boeing Alert Service Bulletin DC10–24A149, Revision 02, dated April 5, 2001, as listed in the regulations, is approved by the Director of the Federal Register as of January 16, 2002.

The incorporation by reference of McDonnell Douglas Alert Service Bulletin DC10–24A149, Revision 01, dated July 28, 1999, as listed in the regulations, was approved previously by the Director of the Federal Register as of June 21, 2000 (65 FR 31253, May 17, 2000).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton,

Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Natalie Phan-Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5343; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–10–03, amendment 39–11727 (65 FR 31253, May 17, 2000), which is applicable to certain McDonnell Douglas Model DC–10 series airplanes, and Model MD–10–10F and –30F series airplanes was published in the **Federal Register** on July 23, 2001 (66 FR 38188). The action proposed to continue to require a one-time detailed visual inspection to determine if wire segments of the wire bundle routed through the feed through on the aft side of the flight engineer's station are damaged or chafed, and corrective actions, if necessary. The action also proposed to require revising the wire bundle support clamp installation at the flight engineer's station.

Comment Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

Request To Withdraw Proposed AD

The commenter requests that the proposed AD be withdrawn. The commenter states that it recently inspected the subject harness installation per AD 2000–10–03 on airplanes with a minimum of 13 years in service and a maximum of 29 years in service. The inspections revealed no chafed or damaged wires or broken support clamps. Therefore, the commenter concludes that the requirements of the proposed AD are unnecessary.

The FAA does not agree. As discussed in the preamble of the proposed AD, we determined that the revision of the wire bundle support clamp installation required by AD 2000–10–03 for certain airplanes does not adequately address the identified unsafe condition. In addition, we determined that all affected airplanes must incorporate this new, improved support clamp, because the procedures specified in McDonnell Douglas Alert Service Bulletin DC10–24A149, Revision 01, dated July 28, 1999 (which was referenced in AD 2000–10–03 as the appropriate source of service information), do not prevent electrical arcing or chafing even if no chafed or damaged wire bundles located behind the flight engineer's panel were found during the required one-time inspection. Therefore, we find that the requirements of this AD are warranted to adequately address the identified unsafe condition.

Request To Revise Compliance Time

If the AD is issued as proposed, the commenter requests that the compliance time for the proposed revision of the wire bundle support clamp installation be revised from 1 year to 18 months. The commenter states that the work scope of the proposed AD is best suited for "a planned multiple-day maintenance visit."

The FAA does not agree. In developing an appropriate compliance time for this action, we considered not only those safety issues in developing an appropriate compliance time for this action, but the recommendations of the manufacturer, and the practical aspect of accomplishing the required revision within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. In consideration of all of these factors, we determined that the compliance time, as proposed, represents an appropriate interval in which the required revision can be accomplished in a timely manner within the fleet and still maintain an adequate level of safety.

In addition, the FAA finds that operators of affected airplanes on the U.S. Register should have already accomplished the one-time inspection required by paragraph (a) of this AD (the effective date for compliance was June 21, 2001) which is a restatement of the requirements of AD 2000–10–03). Operators are given credit for work previously performed by means of the phrase in the "Compliance" section of the AD that states, "Required as indicated, unless accomplished previously." Therefore, operators should be able to accomplish the additional work of revising the wire bundle support clamp installation required by paragraph (b) of this AD within the 1-year compliance time during regularly scheduled maintenance intervals. However, under the provisions of paragraph (c) of this AD, we may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Request To Revise Work Hours

The commenter disagrees with the FAA's estimate of two work hours to accomplish the revision of the wire bundle support clamp installation in the Cost Impact section of the proposed AD. The commenter estimates four work hours per airplane, because of the confined space and numerous wire bundles in the area of the modification.

The FAA does not concur. We used the work hours specified in Boeing Alert Service Bulletin DC10–24A149, Revision 02, dated April 5, 2001 (which is referenced in the AD as the appropriate source of service information for accomplishment of the required modification). We note that the economic analysis of this AD represents the time necessary to perform only the actions actually required by this AD. We recognize that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs. As indicated in the preamble of the notice of proposed rulemaking (NPRM), the cost analysis in AD rulemaking actions typically does not include incidental costs, such as the time required to gain access and close up, planning time; or time necessitated by other administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate. Therefore, no change to the final rule is necessary.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 412 Model DC–10 series airplanes and Model MD–10–10F and –30F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 300 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 2000–10–03, and retained in this AD, take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $18,000, or $60 per airplane.

The new actions that are required in this AD action will take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these

figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $36,000, or $120 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11727 (65 FR 31253, May 17, 2000), and by adding a new airworthiness directive (AD), amendment 39–12538, to read as follows:

2001–24–21 McDonnell Douglas: Amendment 39–12538. Docket 2001–NM–96–AD. Supersedes AD 2000–10–03, Amendment 39–11727.

Applicability: Model DC–10 series airplanes, and Model MD–10–10F and –30F series airplanes; as listed in Boeing Alert Service Bulletin DC10–24A149, Revision 02, dated April 5, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of the wire bundle located behind the flight engineer's panel caused by the wire bundle coming in contact with the lower edge of the feed through and consequent electrical arcing, which could result in smoke and fire in the cockpit, accomplish the following:

Restatement of Certain Requirements of AD 2000–10–03

Inspection and Repair, If Necessary

(a) Within 1 year after June 21, 2000 (the effective date of AD 2000–10–03, amendment 39–11727), perform a one-time detailed visual inspection to determine if the wire segments of the wire bundle routed through the feed through on the aft side of the flight engineer's station are damaged or chafed, in accordance with McDonnell Douglas Alert Service Bulletin DC10–24A149, Revision 01, dated July 28, 1999, or Boeing Alert Service Bulletin DC10–24A149, Revision 02, dated April 5, 2001. If any damaged or chafed wire is found, prior to further flight, repair in accordance with the alert service bulletin.

Note 2: For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required."

New Actions Required by this AD

Revision of Wire Bundle Support Clamp Installation

(b) Within 1 year after the effective date of this AD, revise the wire bundle support clamp installation at the flight engineer's station, per Boeing Alert Service Bulletin DC10–24A149, Revision 02, dated April 5, 2001.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC10–24A149, Revision 01, dated July 28, 1999; or Boeing Alert Service Bulletin DC10–24A149, Revision 02, dated April 5, 2001; as applicable.

(1) The incorporation by reference of Boeing Alert Service Bulletin DC10–24A149, Revision 02, dated April 5, 2001, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of McDonnell Douglas Alert Service Bulletin DC10–24A149, Revision 01, dated July 28, 1999, was approved previously by the Director of the Federal Register as of June 21, 2000 (65 FR 31253, May 17, 2000).

(3) Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30197 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–95–AD; Amendment 39–12537; AD 2001–24–20]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –15, –30, –30F (KC–10A and KDC–10 Military), and –40 Series Airplanes; and Model MD–10–10F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–10–10, –15, –30, –30F (KC–10A and KDC–10 military), and –40 series airplanes; and Model MD–10–10F series airplanes, that requires an inspection to verify that the wire connections at circuit breakers are properly connected, and correction of any incorrect wire connection at the circuit breakers. This amendment is necessary to prevent loss of protection by the circuit breakers in the flight engineer's equipment panel due to improperly wired connections at the circuit breakers, which could result in wire damage and could lead to smoke and/or fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Natalie Phan-Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5343; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –15, –30, –30F (KC–10A and KDC–10 military), and –40 series airplanes; and Model MD–10–10F series airplanes, was published in the **Federal Register** on July 23, 2001 (66 FR 38185). That action proposed to require an inspection to verify that the wire connections at circuit breakers are properly connected, and correction of any incorrect wire connection at the circuit breakers.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 352 Model DC–10–10, –15, –30, –30F (KC–10A and KDC–10 military), and –40 series airplanes; and Model MD–10–10F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 259 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $15,540, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–20 McDonnell Douglas: Amendment 39–12537. Docket 2001–NM–95–AD.

Applicability: Model DC–10–10, –15, –30, –30F (KC–10A and KDC–10 military), and –40 series airplanes; and Model MD–10–10F series airplanes, as listed in Boeing Alert Service Bulletin DC10–24A130, Revision 01, dated March 12, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of protection by the circuit breakers in the flight engineer's equipment panel due to improperly wired connections at the circuit breakers, which could result in wire damage and could lead to smoke and/or fire in the cockpit, accomplish the following:

Inspection, and Corrective Action, If Necessary

(a) Within 1 year after the effective date of this AD, do a general visual inspection to verify that the wire connections at circuit breakers are properly connected, per Boeing Alert Service Bulletin DC10–24A130, Revision 01, dated March 12, 2001. If any wire connection at a circuit breaker is found improperly connected, before further flight, correct that wire connection at the circuit breaker per the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Note 3: Inspection and correction of improper wire connection done before the effective date of this AD per Boeing (McDonnell Douglas) Service Bulletin DC10–24–130, dated October 2, 1985, are considered acceptable for the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin DC10–24A130, Revision 01, dated March 12, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30196 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–297–AD; Amendment 39–12536; AD 2001–24–19]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes; C–9 Airplanes; Model DC–9–81, –82, –83, and –87 Series Airplanes; and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; and Model MD–88 airplanes, that requires an inspection to detect chafing or overheat damage of the electrical wires located at fuselage station Y=110.000 bulkhead of the lower nose left tunnel; and corrective actions, if necessary. This AD also requires replacing the external power ground stud with a new ground stud using new attaching parts, torquing new attachments, and installing a nameplate. This action is necessary to prevent loose external power ground wires, which could cause arcing and overheated wire insulation and consequent smoke/fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Effective January 16 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; and Model MD–88 airplanes was published in the **Federal Register** on July 23, 2001 (66 FR 38183). That action proposed to require an inspection to detect chafing or overheat damage of the electrical wires located at fuselage station Y=110.000 bulkhead of the lower nose left tunnel; and corrective actions, if necessary. That action also proposed to require replacing the external power ground stud with a new ground stud using new attaching parts, torquing new attachments, and installing a nameplate.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. Although the commenters generally support the proposed rule, they have made a number of recommendations, as described in the following paragraphs.

Requests for More Specific Inspection and Repair/Replacement Instructions

On behalf of its members, the Air Transport Association of America requests that the proposed AD be modified to include more specific details for wire location, bundle numbers, and allowable damage limits. The commenters' specific requests are described in the following paragraphs.

- One commenter requests that more detailed work instructions for the specific area or wire bundle be included either in Boeing Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000, or the proposed AD. The commenter states that Figure 1 in the service bulletin does not include specific details as to the location of the wiring within the left tunnel and does not specify the bundle numbers. In addition, that figure includes details for only the ground stud location, buildup, and placard location, and does not include the necessary details for wiring installation.

- One commenter requests that either the proposed AD or Boeing Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000, be revised to clearly identify the wiring damage limits used to determine whether to repair or replace the wiring. The commenter contends that the service bulletin should at least provide specific chapter, page, and task number references in the Aircraft Maintenance Manual (AMM) and Standard Wiring Practices Manual (SWPM). The work instructions in the service bulletin provide only a general reference to the AMM and SWPM.

The FAA does not concur. We point out that the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000, provides a specific reference to Chapter 20 of the AMM and Chapter 20 of the SWPM for repair of electrical wiring. We consider that the procedures referenced in those documents include the specific details required to enable operators to accomplish any necessary corrective actions. Therefore, no change to the final rule is necessary in this regard.

Request To Revise the Compliance Time for the Corrective Actions

One commenter requests revising the compliance time for the corrective actions in the proposed AD. The proposed AD would require those actions to be accomplished in conjunction with the wiring inspection before further flight. However, the commenter contends that, if wiring damage is found, continued operation of the airplane should be allowed provided external electrical power is not used, as provided for in the master minimum equipment list (MMEL). This would allow operators to accomplish any extensive wiring repairs at maintenance stations where the required tools and materials are available. If no damage is found, replacement of ground studs and installation of nameplates should be allowed prior to the compliance deadline. This would allow inspections to be accomplished at the maximum number of stations while allowing operators to concentrate on the required materials at a limited number of stations.

The FAA partially concurs. We agree that the compliance time in paragraph (b) of the final rule should be changed to allow operators that do not find any chafing or damage during the inspection required by paragraph (a) of this AD to accomplish the corrective actions within 18 months after the effective date of this AD instead of before further flight. We consider that such a change still provides an adequate level of safety for the fleet. However, because of the safety implications and consequences associated with chafing or overheat damage of the electrical wires located at fuselage station Y=110.000 bulkhead of the lower nose left tunnel, the corrective actions specified by paragraphs (c) and (d) of this AD must be accomplished before further flight. Further, we do not consider it appropriate to allow continued operation on a revenue-bearing flight when the external electrical power is not used. Paragraph (b) of the final rule has been changed accordingly.

Request To Revise the Torque Value and Modify the Nameplate

One commenter requests revising the torque value in the proposed AD to require the standard torque value of 85 to 95 in-lb, and modification of the nameplate to indicate the higher torque value for the jam nut. The commenter states that it began inspections and modifications on some of its fleet per McDonnell Douglas Alert Service Bulletin DC9–24–135 in 1999, but discontinued those inspections after it was notified that the jam nut torque seemed inadequate to keep the wire connection from moving. Investigation revealed that the 70 in-lb torque value specified in the service bulletin was lower than that specified in both Douglas Process Standard 1.834–6 and Section 20–20–03 of the SWPM, which show the standard torque value for an AN315 jam nut to have a torque value of 85 to 95 in-lb. The commenter states that it was informed by the manufacturer, Boeing, that the 70-in-lb torque value is adequate, but that it has no technical objection to a 90-in-lb torque value. The commenter considers it necessary to comply with the 70-in-lb torque value specified in the service bulletin. However, since the intent of the proposed AD and the service bulletin is to prevent loose external power ground wires and consequent arching and overheating of the wire installation, the commenter does not understand why the service bulletin requires a lower torque value than the standard torque value cited in the referenced Boeing documents.

The FAA does not concur. After careful review of the referenced service bulletin, we have determined that the torque values specified in the Accomplishment Instructions of the service bulletin are adequate. In addition, we point out that the commenter has not provided substantial evidence regarding the necessity of requiring a higher torque value for the ground stud installation. For these reasons, we have determined that no change to the final rule is necessary in this regard.

Explanation of Changes Made to This Final Rule

The FAA has revised paragraphs (c) and (d) of the final rule to clarify that the limits of any chafing or damage are referenced in McDonnell Douglas Alert Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000. In addition, in paragraphs (c) and (d) of the proposed AD, we inadvertently included the phrase "if necessary" instead of "as applicable," and have revised those paragraphs in the final rule to reflect this clarification.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,908 Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 967 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $35 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $149,885, or $155 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the-Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–19 McDonnell Douglas: Amendment 39–12536. Docket 99–NM–297–AD.

Applicability: Model DC–9–10, –20, –30, –40, and -50 series airplanes; C–9 airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; and Model MD–88 airplanes; as listed in McDonnell Douglas Alert Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loose external power ground wires, which could cause arcing and overheated wire insulation and consequent smoke/fire in the cockpit, accomplish the following:

Inspection

(a) Within 18 months after the effective date of this AD, do a general visual inspection to detect chafing or overheat damage of the electrical wires located at fuselage station Y=110.000 bulkhead of the lower nose left tunnel, per McDonnell Douglas Alert Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000.

Note 2: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Condition 1 (No Chafing or Damage)

(b) If no chafing or overheat damage is detected during the inspection required by paragraph (a) of this AD, within 18 months after the effective date of this AD, do the actions specified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD per McDonnell Douglas Alert Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000.

(1) Replace the external power ground stud with a new ground stud using new attaching parts.

(2) Torque the new attachments.

(3) Install nameplate (includes applying silicone primer and adhesive/sealant).

Note 3: Accomplishment of the actions identified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD per McDonnell Douglas DC–9 Service Bulletin 24–135, dated April 14, 1993, before the effective date of this AD, is considered acceptable for compliance with the requirements of paragraph (b) of this AD.

Condition 2 (Chafing or Damage Within Limits)

(c) If any chafing or damage is detected within the limits referenced in McDonnell Douglas Alert Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000, before further flight, repair damage; perform a continuity test to check the integrity of the wiring, and repair as applicable; and do the actions required by paragraphs (b)(1), (b)(2), and (b)(3) of this AD; per the alert service bulletin.

Condition 3 (Chafing or Damage Beyond Limits)

(d) If any chafing or damage is detected beyond the limits referenced in McDonnell Douglas Alert Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000, before further flight, replace any damaged wire with a new wire; perform a continuity test to check the integrity of the wiring, and repair as applicable; and do the actions required by paragraphs (b)(1), (b)(2), and (b)(3) of this AD; per the alert service bulletin.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30195 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–296–AD; Amendment 39–12535; AD 2001–24–18]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –30, and –40 Series Airplanes and C–9 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10, –30, and –40 series airplanes and C–9 airplanes, that requires revising the wiring of the sidewall lights in the forward and aft passenger compartment. The actions specified by this AD are intended to prevent the control switch of the cabin sidewall lights on the forward attendant's panel from overheating, which could result in shorting of the dim, bright, and power terminals, and consequent smoke/fire in the passenger compartment. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –30, and –40 series airplanes and C–9 airplanes was published in the **Federal Register** on July 23, 2001 (66 FR 38180). That action proposed to require revising the wiring of the sidewall lights in the forward and aft passenger compartment.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Change Applicability

One commenter recommends that, because the proposed rule cites a specific Douglas service bulletin, which, in turn, cites a specific set of part numbers, the proposed rule apply only to those airplanes that have not been modified and still use the original Douglas switch and transformer assemblies. Another commenter also recommends that the proposed rule be changed to apply only to airplanes that have not been modified. The first commenter states that Note 1 of the proposed rule specifies that the rule applies to airplanes identified in the applicability provision, regardless of whether the airplanes have been modified, altered, or repaired in the area affected by the AD. The commenter also notes that paragraph (a) of the proposed rule references McDonnell Douglas Alert Service Bulletin DC9–33A062, Revision 01, dated April 24, 2000, which identifies specific switch and transformer part numbers that need to be reworked to prevent the possibility of a shorted switch causing the flight attendant switch panel to overheat. The commenter adds that as part of its "Interior 2000" modification it removed the switches and transformers cited in the referenced service bulletin, and now uses a different switch with a different part number, and does not use the transformers at all.

The FAA does not concur with the requests to revise the applicability in the final rule to specify unmodified airplanes only. If an airplane has been modified in such a manner that the service information referenced in the final rule does not apply, Note 1 of the final rule states that the owner/operator must request an alternative method of compliance (AMOC). If the commenter can provide data that show that an acceptable level of safety can be achieved through the modification it described, the commenter may request approval of an AMOC in accordance with paragraph (b) of this AD. No change to the final rule is necessary in this regard.

Explanation of Change Made to the Final Rule

The FAA has changed paragraph (a) of the final rule that requires revising the wiring of the sidewall lights in the forward and aft passenger compartments, per McDonnell Douglas Alert Service Bulletin DC9–33A062, Revision 01, dated April 24, 2000, and McDonnell Douglas DC–9 Service Bulletin 33–63, dated May 6, 1976. The FAA inadvertently used "and" instead of "or" for revising the wiring per both service bulletins; however, either service bulletin may be used for accomplishment of the action.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 588 Model DC–9–10, –30, and –40 series airplanes and C–9 airplanes of the affected design in the worldwide fleet. The FAA

estimates that 288 airplanes of U.S. registry will be affected by this AD, that it will take approximately 21 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $500 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $506,880, or $1,760 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–18 McDonnell Douglas: Amendment 39–12535. Docket 99–NM–296–AD.

Applicability: Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes, as listed in McDonnell Douglas Alert DC9–33A062, Revision 01, dated April 24, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the control switch of the cabin sidewall lights on the forward attendant's panel from overheating, which could result in shorting of the dim, bright, and power terminals, and consequent smoke/fire in the passenger compartment, accomplish the following:

Revision of Wiring

(a) Within 1 year after the effective date of this AD, revise the wiring of the sidewall lights in the forward and aft passenger compartments, per McDonnell Douglas Alert Service Bulletin DC9–33A062, Revision 01, dated April 24, 2000, or McDonnell Douglas DC–9 Service Bulletin 33–63, dated May 6, 1976.

Note 2: Revising the wiring before the effective date of this AD per McDonnell Douglas DC–9 Service Bulletin 33–62, dated February 11, 1976, is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The action shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC9–33A062, Revision 01, dated April 24, 2000; and McDonnell Douglas DC–9 Service Bulletin 33–63, dated May 6, 1976. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30194 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–295–AD; Amendment 39–12534; AD 2001–24–17]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes; C–9 Airplanes; and Model DC–9–81, –82, and –83 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40,

and –50 series airplanes; C–9 airplanes; and Model DC–9–81, –82, and –83 series airplanes. This AD requires modification of the light switch for the cargo compartment(s). This action is necessary to prevent generation of smoke and fire in a cargo compartment due to an illuminated light with a missing cover contacting cargo contents for an extended period of time. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; and Model DC–9–81, –82, and –83 series airplanes; was published in the **Federal Register** on July 23, 2001 (66 FR 38178). That action proposed to require modification of the light switch of the applicable cargo compartments.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Withdraw the Proposed AD

The Air Transport Association (ATA), on behalf of its members, recommends that the FAA withdraw the proposed AD. The commenter states that the proposed AD does not increase the level of safety, because it does not address the root cause of the incident (i.e., the missing cover from the cargo compartment light). The commenter suggests that, instead of the proposed modification, the FAA should mandate scheduled maintenance action. In an attached comment, one ATA member recommends repetitive inspections to verify that the light cover is installed, as well as rewiring of the cargo door switch to the cargo light switch, so the cargo light cannot stay on. In another attached comment, another ATA member recommends changes to the Master Minimum Equipment List (MMEL) to prohibit operation of the airplane with a missing light cover, unless the exposed bulb is removed or the lighting system for the cargo compartment(s) is deactivated. The ATA and one of its members also point out that all airplanes that would be subject to the proposed AD are required by Federal Aviation Regulations to have a smoke and fire detection and suppression system installed in the cargo compartment(s) of the airplane.

The FAA does not concur with the request to withdraw the proposed AD. In the "Identification of Unsafe Condition" section of the proposed AD, we explain that the identified unsafe condition related not only to the cover missing from the cargo compartment light, but also the fact that the light did not automatically shut off when the cargo compartment was closed. Thus, we have determined that the action required by this AD (i.e., modification of the light switch in the cargo compartment) is adequate to address the identified unsafe condition. Under paragraph (b) of this AD, we may consider a request for approval of an alternative means of compliance (AMOC) with this AD, provided that data are submitted that show that the means of compliance provides an acceptable level of safety.

With regard to the commenters' suggestions to mandate scheduled maintenance action or revise the MMEL, the mechanism that exists to rectify an FAA finding that an unsafe condition exists is an amendment to part 39 of the Federal Aviation Regulations (14 CFR part 39). In addition, under existing bilateral airworthiness agreements, we are obligated to advise foreign airworthiness authorities of unsafe conditions relating to products produced in the United States, and the means of doing this is an amendment to part 39.

No change to the final rule is necessary in this regard.

Request To Revise Applicability of Proposed AD

One commenter requests that, if the FAA does not agree to withdraw the proposed AD, it revise the applicability of the proposed AD to exclude airplanes equipped with a certain smoke and fire detection and suppression system installed in the cargo compartment(s) by a certain supplemental type certificate (STC). The commenter points out that the unsafe condition addressed by the proposed AD requires three events to occur: a missing cover on the cargo compartment light, cargo stacked against that light, and the light being illuminated for the entire flight. The commenter states that the STC for installing the referenced smoke and fire detection and suppression system specifies a restriction against stacking cargo within two inches of the ceiling of the cargo compartment. Thus, there would be no contact with the cargo compartment light located in the ceiling, and the unsafe condition addressed by the proposed AD would not occur.

We do not concur with the request to revise the applicability of this AD. Note 1 of this AD specifies that, if an airplane has been modified in such a manner that the service information referenced in this AD does not apply, the owner/operator must request approval of an AMOC in accordance with paragraph (b) of this AD. For us to approve such a request, the owner/operator must provide data that show that an acceptable level of safety is achieved through installation of the smoke and fire detection and suppression system and the procedural changes to which the commenter refers. No change to the final rule is necessary in this regard.

Request To Add Repetitive Inspections

One commenter requests that the FAA require repetitive inspections following the proposed modification of the light switch for the cargo compartment(s). The inspections would ensure that the guard is still installed over the light switch. The commenter suggests that these inspections could be added to the maintenance program. The commenter's request is based on maintenance reports from its fleet of airplanes, which have been modified per the service bulletin referred to in the proposed AD. The maintenance reports show that the guard over the light switch breaks frequently because of chafing between the guard and the door structure during the numerous opening and closing

cycles of the cargo compartment door during daily ground handling.

We acknowledge the concerns of the commenter, but do not concur with its request. We have received information indicating that breakage of the guard over the light switch, such as that noted by the commenter, may occur if cargo handlers rely upon the guard to extinguish the light in the cargo compartment, rather than MANUALLY extinguishing the cargo compartment light and closing the switch guard before closing the cargo door. We also have received information that the cargo loading document for the airplanes subject to this AD will be revised in the near future to specifically state that the cargo compartment light must be manually extinguished before closing the door. No change to the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 1,068 Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; and Model DC–9–81, –82, and –83 series airplanes; of the affected designs in the worldwide fleet. The FAA estimates that 525 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost between $1,147 and $2,332 per airplane depending on the airplane configuration. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be between $633,675 and $1,255,800, or $1,207 and $2,392 per airplane, depending on the airplane configuration.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–17 McDonnell Douglas: Amendment 39–12534. Docket 99–NM–295–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; and Model DC–9–81, –82, and –83 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin DC9–33A081, Revision 01, dated November 8, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent generation of smoke and fire in a cargo compartment due to an illuminated light with a missing cover contacting cargo contents for an extended period of time, accomplish the following:

Modification

(a) Within 1 year after the effective date of this AD, modify the light switch for the cargo compartment(s) per McDonnell Douglas Alert Service Bulletin DC9–33A081, Revision 01, dated November 8, 1999.

Note 2: Modification before the effective date of this AD per McDonnell Douglas DC–9 Service Bulletin 33–81, dated January 19, 1987, is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC9–33A081, Revision 01, dated November 8, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30193 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–294–AD; Amendment 39–12533; AD 2001–24–16]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes and C–9 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 airplanes. This AD requires an inspection to detect chafing or damage at the conduit and support bracket interface in the forward electrical power center (EPC); and repair or replacement of wires with new wires, if necessary. For certain airplanes, this AD also requires installation of grommets on the conduits of the forward EPC. These actions are necessary to prevent chafing of electrical cables in the forward EPC and a possible short within a conduit, which could result in smoke and fire in the cockpit. These actions are intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 (military) airplanes was published in the **Federal Register** on July 23, 2001 (66 FR 38176). That action proposed to require an inspection to detect chafing or damage at the conduit and support bracket interface in the forward electrical power center (EPC); and repair or replacement of wires with new wires, if necessary. For certain airplanes, that action also proposed to require installation of grommets on the conduits of the forward EPC.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Request To Withdraw the Proposed AD

The Air Transport Association (ATA) of America, on behalf of its members, recommends that the FAA withdraw the proposed AD. The ATA notes that its members generally do not agree that the proposed AD is needed. One ATA member observes (in a member comment attached to the ATA's comment) that it has accomplished the work described in the referenced service bulletin and found that the metal edge of the conduit is smooth and does not pose a potential chafing hazard on its airplanes. The member states that the only incident of chafing occurred during a maintenance check, not in the course of normal fleet operations.

The FAA does not concur with the request to withdraw the proposed rule. Though the commenter asserts that this AD is unnecessary because there have been no incidents during normal fleet operation, we find that the potential for such chafing exists, as shown by the report of a chafed electrical cable in the forward EPC which we described in the proposed AD. Such chafing may occur during maintenance or operations. This AD addresses that potential unsafe condition. No change to the final rule is necessary.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 403 Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 airplanes of the affected design in the worldwide fleet. The FAA estimates that 380 airplanes of U.S. registry will be affected by this AD.

For all airplanes, it will take approximately 1 work hour per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection on U.S. operators is estimated to be $22,800, or $60 per airplane.

For airplanes subject to the modification requirement of this AD, it will take approximately 1 work hour per airplane to accomplish the modification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this modification is estimated to be $60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a

"significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–16 McDonnell Douglas: Amendment 39–12533. Docket 99–NM–294–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 airplanes, as listed in McDonnell Douglas Alert Service Bulletin DC9–24A115, Revision 01, dated April 24, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of the electrical cables in the forward electrical power center (EPC) and a possible short within a conduit, which could result in smoke and fire in the cockpit, accomplish the following:

Inspection; Corrective Action, if Necessary; and Installation of Grommets, if Applicable

(a) Within 1 year after the effective date of this AD, do the actions specified in paragraphs (a)(1) and (a)(2) of this AD, as applicable, per McDonnell Douglas Alert Service Bulletin DC9–24A115, Revision 01, dated April 24, 2000.

(1) For Groups 1 and 2 airplanes identified in the service bulletin: Do a general visual inspection to detect chafing or damage at the conduit and support bracket interface in the forward EPC. If any chafing or damage is detected, before further flight, repair or replace wires with new wires, per the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(2) For Group 1 airplanes identified in the service bulletin: Install grommets on the conduits of the forward EPC.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC9–24A115, Revision 01, dated April 24, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30192 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–292–AD; Amendment 39–12532; AD 2001–24–15]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –30, and –40 Series Airplanes and C–9 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10, –30, and –40 series airplanes and C–9 airplanes, that requires an inspection to detect chafing of the wiring of the attendants' work light of the aft cabin, and repair of chafed wiring. This AD also requires modification and reidentification of the attendants' work light assemblies of the aft cabin. This action is necessary to prevent chafing of the ground wire against the positive contact of the lamp of the attendants' work light of the aft cabin, and consequent arcing or arcing damage to the wiring of the attendants' work light and transformer of the aft cabin. Such arcing or arcing damage could result in short circuits and consequent smoke and fire in the aft cabin area. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A

(D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –30, and –40 series airplanes and C–9 airplanes was published in the **Federal Register** on July 23, 2001 (66 FR 38173). That action proposed to require an inspection to detect chafing of the wiring of the attendants' work light of the aft cabin, and repair of chafed wiring. That action also proposed to require modification and reidentification of the attendants' work light assemblies of the aft cabin.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Requests To Revise the Applicability of the Proposed AD

One commenter requests that the applicability of the proposed AD be revised to "Model DC–9–10, –30, and –40 series airplanes and C–9 airplanes, equipped with an attendants' work light in the aft cabin; certificated in any category; as listed in McDonnell Douglas Alert Service Bulletin DC9–33A058, Revision 02, dated January 27, 2000." The commenter states that airplanes without an attendants' work light are not susceptible to the identified unsafe condition of the proposed AD. The commenter also states that such a change would reduce requests for alternative methods of compliance (AMOC).

The FAA agrees with the commenter and has revised the final rule accordingly.

One commenter requests that the applicability of the proposed AD be revised to apply only to those airplanes on which the affected light assembly, part number L19020–1 or L19145–1, has been installed. The commenter notes that it no longer uses the referenced part number affected by the proposed AD, and that it uses a different lamp assembly, which is not susceptible to identified unsafe condition of the proposed AD.

The FAA does not concur. The commenter did not provide any specific data with regard to its "Interior 2000" modification. Therefore, we are unable to determine whether such a configuration is not subject to the identified unsafe condition. However, under the provisions of paragraph (b) of this AD, the FAA may consider requests for approval of an alternative method of compliance if sufficient data are submitted to substantiate that such a design change would provide an acceptable level of safety. No change to the final rule has been made is this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 176 Model DC–9–10, –30, and –40 series airplanes and C–9 airplanes of the affected design in the worldwide fleet. The FAA estimates that 111 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection and modification, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $6,660, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended].

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–15 McDonnell Douglas: Amendment 39–12532. Docket 99-NM–292-AD.

Applicability: Model DC–9–10, -30, and -40 series airplanes and C–9 airplanes, equipped with an attendants' work light in the aft cabin; certificated in any category; as listed in McDonnell Douglas Alert Service Bulletin DC9–33A058, Revision 02, dated January 27, 2000.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or

repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent arcing or arcing damage to the wiring of the attendants' work light of the aft cabin due to chafing of the ground wire against the positive contact of the lamp of the attendants' work light and transformer of the aft cabin, which could result in short circuits and consequent smoke and fire in the aft cabin area, accomplish the following:

Inspection; Corrective Actions, if Necessary; Modification; and Reidentification

(a) Within 1 year after the effective date of this AD, do the actions specified in paragraphs (a)(1) and (a)(2) of this AD, per McDonnell Douglas Alert Service Bulletin DC9–33A058, Revision 02, dated January 27, 2000.

(1) Do a general visual inspection to detect chafing of the wiring of the attendants' work light of the aft cabin. If any chafing is detected, before further flight, repair chafed wiring per the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(2) Modify and reidentify the attendants' work light assemblies of the aft cabin.

Note 3: Inspections, repairs, modifications, and reidentifications done before the effective date of this AD per McDonnell Douglas Service Bulletin DC9–33–058, dated June 5, 1973, or Revision 1, dated November 26, 1975, are considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC9–33A058, Revision 02, dated January 27, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30191 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–291–AD; Amendment 39–12531; AD 2001–24–14]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes; C–9 Airplanes; and Model DC–9–81, –82, –83, and –87 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; and Model DC–9–81, –82, –83, and –87 series airplanes, that requires an inspection of the power feeder bus cables of the auxiliary power unit (APU) for overheat damage between certain fuselage stations; and corrective action(s), if necessary. This action is necessary to prevent loose terminal stud connections and consequent damage to the small copper terminals, which could result in overheating of the wires at the terminal strip. Such overheating could cause an electrical failure and could result in smoke and fire in the electrical/electronic compartment. This action is intended to address the identified unsafe condition.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; and Model MD–88 airplanes was published in the **Federal Register** on July 23, 2001 (66 FR 38170). That action proposed to require an inspection of the power feeder bus cables of the auxiliary power unit (APU) for overheat damage between certain fuselage stations; and corrective action(s), if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Allow Continued Operation of the Airplane With Damaged Wiring

One commenter requests that the FAA revise paragraph (c) of the proposed AD to allow for continued operation of the airplane with damaged wiring provided that the APU electrical power is not used per the Master Minimum Equipment List (MMEL). The commenter states that such a change would allow for any extensive wiring repairs to be programmed for maintenance stations where the necessary tools and materials are available.

The FAA does not concur. We have determined that, due to the safety implications and consequences associated with such overheat damage, any subject power feeder bus cable that is found to be damaged must be repaired or replaced before further flight. We do not consider it appropriate to render the APU inoperative and allow continued operation on a revenue bearing flight with a known discrepancy until such a time that the required repair or replacement can be accomplished. No change to the final rule is necessary in this regard.

Request To Delay Issuance of Final Rule

One commenter requests that issuance of the final rule be delayed until the Work Instructions of McDonnell Douglas Alert Service Bulletin DC9–24A072, Revision 01, dated May 22, 2000 (which is referenced as the appropriate source of service information in this AD), are revised. The commenter provides several examples of information that needs to be clarified and that is missing.

The FAA does not agree with the commenter's request to delay issuance of the final rule. We do agree to clarify the following information provided by the commenter:

1. The commenter states that "View A–A" of the referenced service bulletin should pertain to Group 2 airplanes, as well as Group 1 airplanes. However, the FAA notes that on page 1 of 16 in the referenced service bulletin, it states "Group 1—Applicable to airplanes, which have not been modified by prior issue of this service bulletin, equipped with APU feeder cables that require inspection, terminal stud stackup revision and torquing nameplate." The key words here are "requires terminal stud stackup revision, and torquing nameplate." These words are not found in the Group 2 definition on page 1 of 16. View A–A refers to the name plate and stacking.

2. The commenter states that no term codes were given in the referenced service bulletin. The FAA notes that term code 1184 is called out in the referenced service bulletin on page 10. Paragraph K. on page 8 of the referenced service bulletin references Douglas Process Standard (DPS) 1.834–40.2. The term code can be found in Table 5.2 in the DPS. The DPS also references the Standard Wiring Practices Manual (SWPM), Chapter 20. The term code also can be found in 20–00–16, page 298.6 and page 243 (details for termination) in DPS 1.834–40.2.

3. The commenter states that no crimp tool code had been noted in the referenced service bulletin. The FAA notes that the crimp tool code can be found in DPS 1.834–40.2, Table 5.1, which is referenced in the service bulletin. It can also be found in SWPM 20–20–03, page 290.

4. The commenter states that no torque value was given in the referenced service bulletin. The FAA notes that the torque value can be found on the nameplate pertaining to the affected terminal strip. It also can be found in SWPM 20–00–03.

5. The commenter states that there was no requirement for a continuity check after the repair. The FAA notes that the continuity check can be found in the referenced service bulletin on page 12, paragraph 3.C.

Explanation of Change to Applicability

The airplane manufacturer has informed the FAA that, although the effectivity of McDonnell Douglas Alert Service Bulletin DC9–24A072, Revision 01, dated May 22, 2000, specifies "MD–80," the listing of affected manufacturer's fuselage numbers does NOT include Model MD–88 airplanes. McDonnell Douglas Model MD–88 airplanes are not subject to the identified unsafe condition. Therefore, we have removed that airplane model from the applicabilty of the final rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 550 Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; and Model DC–9–81, –82, –83, and –87 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 450 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $27,000, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–14 McDonnell Douglas: Amendment 39–12531. Docket 99–NM–291–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; and Model DC–9–81, –82, –83, and –87 series airplanes; as listed in McDonnell Douglas Alert Service Bulletin DC9–24A072, Revision 01, dated May 22, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical failure due to overheated wires at the terminal strip, which could result in smoke and fire in the electrical/electronic compartment, accomplish the following:

General Visual Inspection

(a) Within 1 year after the effective date of this AD, do a general visual inspection of the power feeder bus cables of the auxiliary power unit (APU) for overheat damage between fuselage stations Y=160.000 (Item No. S3–287) and Y=148.000 (Item No. S3–23), per McDonnell Douglas Alert Service Bulletin DC9–24A072, Revision 01, dated May 22, 2000.

Note 2: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Condition 1 (No Evidence of Damage)

(b) If no damage is detected during the inspection required by paragraph (a) of this AD, do the applicable action specified in paragraph (b)(1) or (b)(2) of Table 1 of this AD, per McDonnell Douglas Alert Service Bulletin DC9–24A072, Revision 01, dated May 22, 2000. Table 1 is as follows:

TABLE 1.—CONDITION 1

For airplanes identified in the referenced service bulletin as * * *	Action	By
(1) Group 1	Revise the wiring installation and replace the nameplate with a new nameplate.	Before further flight.
(2) Group 2	Revise the wiring installation	Before further flight.
(3) Group 3	No further action is required by this AD	[Reserved].

Condition 2 (Evidence of Damage)

(c) If any damage is detected during the inspection required by paragraph (a) of this AD, do the applicable action(s) specified in paragraph (c)(1), (c)(2), or (c)(3) of Table 2 of this AD, per McDonnell Douglas Alert Service Bulletin DC9–24A072, Revision 01, dated May 22, 2000. Table 2 is as follows:

TABLE 2.—CONDITION 2

For airplanes identified in the referenced service bulletin as * * *	Action	By
(1) Group 1	(i) Repair or replace wiring with new wiring; and	Before further flight.
	(ii) Revise wiring installation; and	Before further flight.
	(iii) Replace nameplate with a new nameplate	Before further flight.
(2) Group 2	(i) Repair or replace wiring with new wiring; and	Before further flight.
	(ii) Revise wiring installation	Before further flight.
(3) Group 3	(i) Repair wiring, or	Before further flight.
	(ii) Replace wiring with new wiring	Before further flight.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC9–24A072, Revision 01, dated May 22, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30190 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–288–AD; Amendment 39–12530; AD 2001–24–13]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, and –40 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, and –40 series airplanes, that requires rework and reidentification of certain reflector assemblies of the passenger ceiling lights; and installation of a support channel above the reflector, as applicable. This amendment is prompted by reports of heat damaged lamp reflectors and scorched insulation blankets in the main cabin due to the lamps inside the reflectors creating high temperatures. The actions specified by this AD are intended to prevent overheating of the lamp reflectors, which could result in smoke and fire in the main cabin.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 16, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, and –40 series airplanes was published in the **Federal Register** on July 23, 2001 (66 FR 38168). That action proposed to require rework and reidentification of certain reflector assemblies of the passenger ceiling lights; and installation of a support channel above the reflector, as applicable. The proposed actions were intended to prevent overheating of the lamp reflectors, which could result in smoke and fire in the main cabin.

Since the Issuance of the NPRM

The FAA has been advised by the manufacturer that there may be a problem in supplying an adequate number of kits to rework reflector assemblies within the 1-year compliance time proposed in the NPRM. Consequently, we have extended the compliance time of paragraph (a) of this AD (which requires rework and reidentification of the reflector assemblies of the passenger ceiling lights and the installation of a support channel above the reflector) to within 18 months after the effective date of this AD. We have determined that such an extension of the compliance time will accommodate the time necessary for affected operators to order, obtain, and rework and identify the reflector assemblies, without adversely affecting safety.

Comments Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Requests To Revise the Applicability

Two commenters request that the applicability of the proposed AD be revised to specify that the requirements would apply only to airplanes with certain parts installed. One commenter notes that it has replaced the interior of its Model DC–9 fleet with new overhead lighting, and that the interior no longer has the same parts or even the same technology as that specified in McDonnell Douglas Alert Service Bulletin DC9–33A037, Revision 02, dated July 27, 1999 (the appropriate service information specified in the proposed AD). That same commenter suggests that the applicability be revised to specify that the proposed AD would apply only to airplanes that are still using the original Douglas lamp, reflector, and resistor assemblies.

The FAA does not concur with the requests to revise the applicability of the AD. The FAA generally makes every effort to limit the applicability of ADs as close as possible to the actual affected airplanes. The applicability of this final rule is based on information stated in the manufacturer's service bulletin at the time the service bulletin was published (July 27, 1999). Furthermore, it would be virtually impossible to address every conceivable alteration of airplane structure in the applicability of an AD, or to revise an AD's applicability every time an alteration of structure is approved. Since airplanes with altered structures are the exception, not the norm, it is more practical from a workload and cost-effectiveness standpoint to make ADs applicable generally to the affected fleet and to deal with special considerations individually. In the commenter's particular case, where airplanes have been modified so that it could be demonstrated that an unsafe condition does not exist, the operator may simply request approval of an alternative method of compliance to the AD in accordance with the provisions specified in paragraph (b) of this AD. No change to the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increases the economic burden on any operator nor increases the scope of the AD.

Cost Impact

There are approximately 273 Model DC–9–10, –20, –30, and –40 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 177 airplanes of U.S. registry will be affected by this AD, that it will take between 8 and 12 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost between $1,607 and $6,463 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be between $369,399 and

$1,271,391, or between $2,087 and $7,183 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–24–13 McDonnell Douglas: Amendment 39–12530. Docket 98–NM–288–AD.

Applicability: Model DC–9–10, –20, –30, and –40 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin DC9–33A037, Revision 02, dated July 27, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent overheating of the lamp reflectors, which could result in smoke and fire in the main cabin, accomplish the following:

Modification

(a) Within 18 months after the effective date of this AD, rework and reidentify the reflector assemblies of the passenger ceiling lights and install a support channel above the reflector, as applicable, in accordance with McDonnell Douglas Alert Service Bulletin DC9–33A037, Revision 02, dated July 27, 1999.

Note 2: Rework and reidentification of reflector assemblies, and installation of support channels prior to the effective date of this AD in accordance with McDonnell Douglas Service Bulletin DC9–33–037, dated July 18, 1968, or Revision 1, dated May 6, 1971, is an acceptable method of compliance for the requirements of paragraph (a) of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC9–33A037, Revision 02, dated July 27, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on January 16, 2002.

Issued in Renton, Washington, on November 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30189 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30284; Amdt. No. 2083]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase.—Individual SIAP copies may be obtained from:

1. FAA public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription.—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK. 73125). telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5. U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAP by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on December 7, 2001.

James J. Ballough,

Director, Flight Standards Service.

Adoption of The Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending § 97.23 VOR,VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

FDC Date	State	City	Airport	FDC Number	Subject
10/29/01	KS	Hays	Hays Regional	1/1731	VOR/DME Rwy 16, Amdt 3C
10/29/01	KS	Hays	Hays Regional	1/1733	GPS Rwy 16, Orig–B
10/29/01	KS	Hays	Hays Regional	1/1734	VOR/DME Rwy 34, Amdt 2C
10/29/01	KS	Hays	Hays Regional	1/1735	ILS Rwy 34, Orig
11/01/01	TX	Houston	West Houston	1/1830	VOR–D Orig
11/01/01	TX	La Porte	La Porte Muni	1/1899	RNAV (Gps) Rwy 30, Orig
11/01/01	TX	La Porte	La Porte Muni	1/1908	NDB Rwy 30, Amdt 2
11/01/01	TX	Houston	Clover Field	1/1909	RNAV (GPS) Rwy 32L, Orig
11/20/01	KY	Covington	Cincinnati/Northe Rn Kentucky Intl	1/2589	ILS Rwy 36R (Cat I, II, III) Amdt 5
11/20/01	NC	Elizabeth City	Elizabeth City Coast Guard Air Station/ Regional.	1/2592	NDB Rwy 10, Orig-B
11/20/01	NE	Hastings	Hastings Muni	1/2595	VOR OR GPS Rwy 4, Amdt 5A
11/23/01	CA	Sacramento	Sacramento Intl	1/2648	NDB Rwy 16R, Amdt 10A
11/23/01	CA	Sacramento	Sacramento Intl	1/2649	ILS Rwy 16R (Cat I, Cat II, Cat III), Amdt 13A
11/26/01	FL	Miami	Miami Intl	1/2676	RNAV(GPS) Rwy 12, Orig
11/26/01	FL	Miami	Miami Intl	1/2677	RNAV(GPS) Rwy 27R, Orig
11/26/01	FL	Miami	Miami Intl	1/2683	RNAV(GPS) Rwy 30, Orig
11/27/01	CA	Sacramento	Sacramento Intl	1/2701	ILS Rwy 16L, Orig-A
11/27/01	CA	Sacramento	Sacramento Intl	1/2702	ILS Rwy 34L, Amdt 5A
11/27/01	NE	Columbus	Columbus Muni	1/2708	GPS Rwy 14 Orig
11/29/01	MI	Clare	Clare Muni	1/2780	VOR or GPS–A, Amdt 1A
12/03/01	NY	Plattsburgh	Plattsburgh Intl	1/2879	ILS Rwy 17, Orig
12/03/01	NY	New York	La Guardia	1/2881	ILS Rwy 22, Amdt 18A
12/03/01	NY	New York	La Guardia	1/2883	NDB or GPS Rwy 22, Amdt 12A
12/03/01	IN	Muncie	Delaware County Johnson Field	1/2898	ILS Rwy 32, Amdt 9

[FR Doc. 01–30753 Filed 12–11–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30283; Amdt. No. 2082]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure

identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on December 7, 2001.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective December 27, 2001*

Marina, CA, Marina Muni, VOR RWY 11, Orig
Marina, CA, Marina Muni, VOR RWY 29, Orig
Marina, CA, Marina Muni, RNAV (GPS) RWY 11, Orig
Marina, CA, Marina Muni, RNAV (GPS) RWY 29, Orig
San Francisco, CA, San Francisco Intl, RNAV (GPS) RWY 10L, Orig
San Francisco, CA, San Francisco Intl, RNAV (GPS) RWY 28R, Orig
Blackfoot, ID, McCarley Field, VOR/DME RWY 1, Orig
Blackfoot, ID, McCarley Field, RNAV (GPS) RWY 1, Orig
Blackfoot, ID, McCarley Field, RNAV (GPS) RWY 19, Orig
Blackfoot, ID, McCarley Field, VOR/DME RWY 19, Orig
Memphis, TN, Memphis Intl, LOC RWY 18, Orig
Memphis, TN, Memphis Intl, ILS RWY 35, Orig
Kemmerer, WY, Kemmerer Muni, RNAV (GPS) RWY 34, Orig
Kemmerer, WY, Kemmerer Muni, RNAV (GPS) RWY 16, Orig

** * * Effective February 21, 2002*

Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, ILS RWY 9L, Amdt 19
Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, RNAV (GPS) RWY 13, Orig
Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, RNAV (GPS) RWY 31, Orig
Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, RNAV (GPS) RWY 9L, Orig
Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, RNAV (GPS) RWY 9R, Orig
Waterloo, IA, Waterloo Muni, RNAV (GPS) RWY 6, Orig
Waterloo, IA, Waterloo Muni, RNAV (GPS) RWY 18, Orig
Waterloo, IA, Waterloo Muni, RNAV (GPS) RWY 24, Orig
Waterloo, IA, Waterloo Muni, RNAV (GPS) RWY 36, Orig
Waterloo, IA, Waterloo Muni, VOR RWY 6, Amdt 3
Waterloo, IA, Waterloo Muni, GPS RWY 6, Orig CANCELLED
Fergus Fall, MN, Fergus Falls Muni-Einar Mickelson Field, VOR OR GPS RWY 13, Orig-A
Fergus Fall, MN, Fergus Falls Muni-Einar Mickelson Field, NDB OR GPS RWY 31, Amdt 1A
Marshall, MN, Marshall Muni-Ryan Field, VOR/DME RWY 30, Amdt 2A
Marshall, MN, Marshall Muni-Ryan Field, GPS RWY 30, Orig-A
Newark, NJ, Newark Intl, NDB RWY 4R, Amdt 7
Newark, NJ, Newark Intl, NDB RWY 4L, Amdt 11
Newark, NJ, Newark Intl, ILS RWY 4R, Amdt 12
Newark, NJ, Newark Intl, ILS RWY 4L, Amdt 13
Newark, NJ, Newark Intl, ILS RWY 22L, Amdt 11
Newark, NJ, Newark Intl, RNAV (GPS) RWY 4R, Orig
Newark, NJ, Newark Intl, RNAV (GPS) RWY 4L, Orig
Newark, NJ, Newark Intl, RNAV (GPS) RWY 22R, Orig
Angel Fire, NM, Angel Fire, RNAV (GPS) RWY 17, Orig
Medford, OR, Rogue Valley International-Medford, VOR/DME RWY 14, Amdt 5

Note: The FAA published the following procedure in Docket No. 30279; Amdt No. 2078 to Part 97 of the Federal Aviation Regulations (Vol. 66, FR No. 223, Page 57862; dated Monday, November 19, 2001) under section 97.23 effective December 27, 2001 which is hereby rescinded:

Angel Fire, NM, Angel Fire, RNAV (GPS) RWY 17, Orig

[FR Doc. 01–30752 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Parts 3 and 4

Rules of Practice

AGENCY: Federal Trade Commission (FTC).

ACTION: Final rules.

SUMMARY: The Commission is updating and making other technical corrections and changes to Parts 3 and 4 of its regulations on Organization, Procedures and Rules of Practice.

EFFECTIVE DATE: These rule amendments will be effective on December 12, 2001.

FOR FURTHER INFORMATION CONTACT: Marianne Watts, Office of General Counsel, FTC, 600 Pennsylvania

Avenue, NW., Washington, DC 20580, (202) 326–3074, mwatts@ftc.gov.

SUPPLEMENTARY INFORMATION: The Commission is amending Parts 3 and 4 of its Rules, 16 CFR Parts 3 and 4, to update and make other technical clarifications, corrections, and changes to the Rules, as follows.

Consent Agreement Settlements

Matters in administrative litigation may be withdrawn from adjudication pursuant to a motion to consider a proposed consent agreement. If the proposed consent agreement is executed by complaint counsel, the Bureau Director responsible for supervising complaint counsel typically reviews and approves the terms of the proposed consent agreement. The Bureau Director then indicates his or her approval on an approval line. Rule 3.25(c) is being amended to eliminate the suggestion that the Bureau Director is one of complaint "counsel."

Orders Requiring Witnesses to Testify or Provide Other Information and Granting Immunity

Rule 3.39 (a) is being amended to clarify the actual roles of Directors and Assistant Directors of the Bureaus and Regional Directors and Assistant Regional Directors for the Commission's Regional Offices with respect to the issuance of orders requiring a witness to testify or provide information and granting immunity under Title 18, section 6002 of the United States Code. As currently written, Rule 3.39 (a) may suggest that such Directors and Assistant Directors themselves typically present evidence in support of an administrative complaint. To remove the potentially erroneous suggestion, Rule 3.39(a) is being revised to state that such Directors and Assistant Directors have supervisory authority over complaint counsel, who, as attorneys, are typically responsible for performing this function.

Appearances

Rule 4.1 (a)(2)(ii) is being amended to correct certain typographical errors. As originally promulgated in 1983, Rule 4.1 (a)(2)(ii) read as follows: "At the request of counsel representing any party in an adjudicative proceeding, the Administrative Law Judge may permit an expert in the same discipline as an expert witness to conduct all or a portion of the cross-examination of a witness." 48 FR 44,765 (1983). During subsequent rule changes, certain language was inadvertently deleted; those deletions are hereby restored.

Costs for Obtaining Commission Records, The Public Record, Disclosure Requests, and Privacy Act Rules

Pertinent subsections of Rules 4.8, 4.9, 4.11, and 4.13 are being amended to change the title of the official designated by the General Counsel to receive and process initial Freedom of Information Act (FOIA) and Privacy Act requests. Currently, these rules contain numerous references to the title "the Assistant General Counsel for Legal Counsel (Management & Access)." This title no longer exists. Therefore, the references to this title in Rules 4.8, 4.9, 4.11, and 4.13 are being removed and replaced in most instances by the descriptive phrase: "the deciding official (as designated by the General Counsel)." This formulation is being adopted because titles within the Office of the General Counsel may change, and this amendment will reduce the need for future rule changes.

The Administrative Procedure Act does not require prior public notice and comment on these amendments because they relate solely to rules of agency organization, procedure or practice. 5 U.S.C. 553(b)(A). For this reason, the Regulatory Flexibility Act also does not require an initial or final regulatory flexibility analysis. See 5 U.S.C. 603, 604. To the extent these amendments may relate to agency information collection activities, they are exempt from review under the Paperwork Reduction Act. *See* 44 U.S.C. 3518(c); 5 CFR 1320.4 (collections during the conduct of civil or administrative proceedings or investigations).

List of Subjects

16 CFR Part 3

Administrative practice and procedure, Claims, Equal Access to Justice, Lawyers.

16 CFR Part 4

Administrative practice and procedure, Freedom of Information Act, Privacy Act, Sunshine Act.

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, Chapter I, Subchapter A, of the Code of Federal Regulations, as follows:

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

1. The authority citation for Part 3 continues to read as follows:

Authority: 15 U.S.C. 46, unless otherwise noted.

2. Revise § 3.25(c)to read as follows:

§ 3.25 Consent agreement settlements.

* * * * *

(c) If the proposed consent agreement accompanying the motion has also been executed by complaint counsel and approved by the appropriate Bureau Director, the Secretary shall issue an order withdrawing from adjudication those portions of the matter that the proposal would resolve and all proceedings before the Administrative Law Judge shall be stayed with respect to such portions, pending a determination by the Commission pursuant to paragraph (f) of this section.

* * * * *

3. In § 3.39, paragraphs (a) introductory text, (a)(1) and the first sentence of paragraph (a)(2) are revised to read as follows:

§ 3.39 Orders requiring witnesses to testify or provide other information and granting immunity.

(a) Where Commission complaint counsel desire the issuance of an order requiring a witness or deponent to testify or provide other information and granting immunity under title 18, section 6002, United States Code, Directors and Assistant Directors of Bureaus and Regional Directors and Assistant Regional Directors of Commission Regional Offices who supervise complaint counsel responsible for presenting evidence in support of the complaint are authorized to determine:

(1) That the testimony or other information sought from a witness or deponent, or prospective witness or deponent, may be necessary to the public interest, and

(2) That such individual has refused or is likely to refuse to testify or provide such information on the basis of his privilege against self-incrimination; and to request, through the Commission's liaison officer, approval by the Attorney General for the issuance of such order.

* * *

* * * * *

PART 4—MISCELLANEOUS RULES

4. The authority citation for Part 4 continues to read as follows:

Authority: 15 U.S.C. 46, unless otherwise noted.

5. Revise § 4.1 (a)(2)(ii) to read as follows:

§ 4.1 Appearances.

(a)* * *

(2)* * *

(ii) At the request of counsel representing any party in an adjudicative proceeding, the Administrative Law Judge may permit an expert in the same discipline as an expert witness to conduct all or a

portion of the cross-examination of such witness.

* * * * *

§§ 4.8, 4.11, 4.13 [Amended]

6. Section 4.11(a)(2) is corrected as follows:

A. By correctly designating paragraphs (a)(2)(i)(A)(1) through (3) as paragraphs (a)(2)(i)(A)(*1*) through (*3*);

B. By correctly designating paragraphs (a)(2)(ii)(A)(1) and (2) as paragraphs (a)(2)(ii)(A)(*1* and (*2*);

C. By correcting the reference in redesignated paragraph (a)(2)(i)(A)(*1*) that currently reads "(a)(2)(i)(A)(2)" to read "(a)(2)(i)(A)(*2*)'.

7. §§ 4.8, 4.11, and 4.13 are amended by removing the words "Assistant General Counsel for Legal Counsel (Management & Access) or his or her designee" and adding, in their place, the words "deciding official (as designated by the General Counsel)" in the following places:

a. Section 4.8 (c), (e), (g), and (h);

b. Section 4.11(a) (1) (i) (E); 4.11 (a) (1) (iii) (A)-(D); 4.11(a) (1) (iv) (A)-(C); 4.11 (a) (2) (i) (A) (*1*); and

§§ 4.9 and 4.13 [Amended]

8. §§ 4.9 and 4.13 are amended by removing the words "Assistant General Counsel for Legal Counsel (Management & Access)" and adding, in their place, the words "the deciding official (as designated by the General Counsel)" in the following places:

a. Section 4.9 (a) (4) (i); and

b. Section 4.13 (i) (2) (i).

§§ 4.11 and 4.13 [Amended]

9. §§ 4.11 and 4.13 are amended by removing the words "Assistant General Counsel for Legal Counsel (Management & Access)" in the following places:

a. Section 4.11(a) (1) (i) (A); and

d. Section 4.13 (c).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–30441 Filed 12–11–01; 8:45 am]

BILLING CODE 5750–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–188]

RIN 2115–AA97

Safety and Security Zones: High Interest Vessel Transits, Narragansett Bay, Providence River, and Taunton River, RI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety and security zones around high interest vessels operating in the Providence, Rhode Island Captain of the Port Zone. The safety and security zones are needed to safeguard the public, high interest vessels and their crews, and other vessels and their crews, and the Port of Providence, Rhode Island from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry into these zones is prohibited unless authorized by the Captain of the Port, Providence, Rhode Island, or authorized representative. The Coast Guard will announce via broadcast notice to mariners the times and dates during which the zones will be enforced.

DATES: This rule is effective from October 6, 2001, until June 15, 2002.

ADDRESSES: Documents as indicated in this preamble are available for inspection and copying at Marine Safety Office Providence, 20 Risho Avenue, East Providence, Rhode Island between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT David C. Barata at Marine Safety Office Providence, (401) 435–2335.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing an NPRM. On September 11, 2001, two commercial aircraft were hijacked from Logan Airport in Boston, Massachusetts and flown into the World Trade Center in New York, New York inflicting catastrophic human casualties and property damage. A similar attack was conducted on the Pentagon on the same day. National security and intelligence officials warn that future terrorist attacks against civilian targets may be anticipated. Due to the highly volatile nature of the high interest vessels covered by this rule and the potential catastrophic impact of an attack on a high interest vessel, this rulemaking is urgently required to prevent possible terrorist strikes against high interest vessels within and adjacent to Rhode Island Sound, Narragansett Bay, and the Providence and Taunton Rivers. The delay inherent in the NPRM process is contrary to the public interest insofar as it would render high interest vessels in Narragansett Bay and the Port of Providence vulnerable to subversive activity, sabotage or terrorist attack.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The measures contemplated by the rule are intended to prevent possible terrorist attack against high interest vessels, and to protect other vessels, waterfront facilities, the public and the Port of Providence from potential sabotage or other subversive acts, accidents or other causes of a similar nature. Immediate action is required to accomplish these objectives. Any delay in the effective date of this rule is impracticable and contrary to the public interest.

This zone should have minimal impact on the users of Narragansett Bay and the Providence and Taunton Rivers due to the following reasons: High interest vessel transits are infrequent. While a high interest vessel is at anchor, mariners have ample room to transit around the zones. During transits, most mariners can safely maneuver outside the main shipping channels. Mariners requiring use of the channels will only be restricted from entering the safety and security zones for a maximum of three hours during the transit of a high interest vessel. While moored at a facility, commercial traffic and small recreational traffic will have an opportunity to coordinate movement through the safety and security zones with the Captain of the Port's representative. Notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

Background and Purpose

On September 11, 2001, two commercial aircraft were hijacked from Logan Airport in Boston, Massachusetts and flown into the World Trade Center in New York, New York inflicting catastrophic human casualties and property damage. A similar attack was conducted on the Pentagon on the same day. National security and intelligence officials warn that future terrorist attacks are likely. Due to these

heightened security concerns, safety and security zones are prudent for vessels which may be likely targets of terrorist acts. From October 6, 2001 to June 15, 2002, various high interest vessels will be transiting Narragansett Bay en route commercial facilities in the upper Providence River and Taunton River. For purposes of this rulemaking, high interest vessels operating in the Captain of the Port Providence zone include barges or ships carrying liquefied petroleum gas (LPG), liquefied natural gas, chlorine, anhydrous ammonia, or any other cargo deemed to be high interest by the Captain of the Port. Title 33 CFR 165.121 currently provides for safety zones for LPG vessels while at anchor in Rhode Island Sound, while transiting Narragansett Bay and the Providence River, and while LPG vessels are either moored at the Port of Providence LPG facility or at the manifolds connected at the Port of Providence LPG facility. However, in light of the current terrorist threats to national security, this zone is insufficient to protect LPG vessels while anchored in Rhode Island Sound, or while a vessel is transiting or moored in the Port of Providence. Moreover, this rulemaking is necessary to protect other high interest vessels not currently covered by 33 CFR 165.121. This rulemaking will temporarily suspend 33 CFR 165.121 and temporarily add the safety and security zones provided for hereunder as 33 CFR 165.T01–188. These safety and security zones are needed to protect high interest vessels, their crews, and the public, from harmful or subversive acts, accidents or other causes of a similar nature. The safety and security zones have identical boundaries, as follows: (1) All waters of Rhode Island Sound within a one-half mile radius of any high interest vessel while the vessel is anchored within one-half mile of the position Latitude 41°25′ N, Longitude 71°23′ W; (2) all waters of Rhode Island Sound, Narragansett Bay, the Providence and Taunton Rivers two (2) miles ahead and one (1) mile astern and extending 1000 yards on either side of any high interest vessel transiting Narragansett Bay, or the Providence and Taunton Rivers; (3) all waters and land within a 1000-yard radius of any high interest vessel moored at a waterfront facility in the Providence Captain of the Port zone. All persons, other than those approved by the Captain of the Port or authorized representative will be prohibited from entering into the safety and security zones during times in which the zones are enforced. The public will be made aware of dates and times during which the safety and security zones will be enforced through a Broadcast Notice to Mariners made from U.S. Coast Guard Group Woods Hole. These regulations are issued under authority contained in 50 U.S.C. 191, 33 U.S.C. 1223, 1225 and 1226.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The sizes of the zones are the minimum necessary to provide adequate protection for high interest vessels and their crews, other vessels operating in the vicinity of high interest vessels and their crews, adjoining areas, and the public. The entities most likely to be affected are commercial vessels transiting the main ship channel en route the upper Providence River and Taunton River and pleasure craft engaged in recreational activities and sightseeing. The safety and security zones will prohibit any commercial vessels from meeting or overtaking a high interest vessel in the main ship channel, effectively prohibiting use of the channel. However, the zones will only be effective during the vessel transits, which will last for approximately 3 hours. In addition, vessels are able to safely transit around the zones while a vessel is moored or at anchor in Rhode Island Sound. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting high interest vessels, their crews, and the public.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the main ship channel in Narragansett Bay, Providence River, and the Taunton River at the same time as high interest vessels. The safety and security zones will not have a significant economic impact on a substantial number of small entities for several reasons: Small vessel traffic can pass safely around the area and vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the safety and security zones to engage in these activities. When a high interest vessel is at anchor, vessel traffic will have ample room to maneuver around the safety and security zones. The outbound or inbound transit of a high interest vessel will last a maximum of three hours. Although this regulation prohibits simultaneous use of the channel, this prohibition is of short duration and marine advisories will be issued prior to transit of a high interest vessel. While a high interest vessel is moored, commercial traffic and small recreational traffic will have an opportunity to coordinate movement through the safety and security zones with the patrol commander. Before the effective period, we will issue maritime advisories widely available to users of the area.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization would be affected by this rule and you have questions concerning its provisions or options for compliance, please call LT David C. Barata, telephone (401) 435–2335. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this action under Executive Order 13132, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This temporary rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This temporary rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this temporary rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard has considered the environmental impact of implementing this temporary rule and concluded that under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. From October 6, 2001 through June 15, 2002, § 165.121 is temporarily suspended and § 165.T01–188 is temporarily added as follows:

§ 165.T01–188 Safety and Security Zones: High Interest Vessels, Narragansett Bay, Rhode Island.

(a) *Location.* The following areas are safety and security zones:

(1) All waters of Rhode Island Sound within a one half mile radius of any high interest vessel while the vessel is anchored within one half mile of the point Latitude 41°25′ N, Longitude 71°23′ W; (2) all waters of Rhode Island Sound, Narragansett Bay, the Providence and Taunton Rivers two (2) miles ahead and one (1) mile astern, and extending 1000 yards on either side of any high interest vessel transiting Narragansett Bay, or the Providence and Taunton Rivers; (3) all waters and land within a 1000-yard radius of any high interest vessel moored at a waterfront facility in the Providence Captain of the Port zone.

(b) *Effective date.* This rule is effective from October 6, 2001, through June 15, 2002.

(c) *Regulations.*

(1) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within these zones, including below the surface of the water, during times in which high interest vessels are present and the zones are enforced is prohibited unless authorized by the COTP Providence or authorized representative.

For the purposes of this rule, high interest vessels operating in the Captain of the Port Providence zone include barges or ships carrying liquefied petroleum gas (LPG), liquefied natural gas, chlorine, anhydrous ammonia, or any other cargo deemed to be high interest by the Captain of the Port.

(2) All persons and vessels shall comply with the instructions of the COTP, and the designated on-scene U.S. Coast Guard personnel and any personnel from Federal, state, county, municipal or private agencies designated by the Captain of the Port to assist with the enforcement of these safety and security zones.

(3) The general regulations covering safety and security zones in §§ 165.23 and 165.33, respectively, of this part apply.

Dated: October 6, 2001.

J.D. Stieb,

Captain, U.S. Coast Guard, Acting Captain of the Port.

[FR Doc. 01–30750 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL212–1a; FRL–7098–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to volatile organic compound (VOC) rules for Formel Industries, Incorporated (Formel). This flexographic printing facility is located in Cook County, Illinois. The Illinois Environmental Protection Agency (IEPA) submitted the revised rules on March 21, 2001 as amendments to its State Implementation Plan (SIP). The revisions consist of an adjusted standard from the Flexographic Printing Rule, 35 IAC 218.401(a), (b), and (c). The Illinois Pollution Control Board (Board) approved this adjusted standard because the Board considers this to be the

Reasonably Achievable Control Technology (RACT) for Formel. The Board concluded that complying with the Flexographic Printing Rule requirements would be either technically infeasible or economically unreasonable for this facility. The EPA concurs with the Board. The adjusted standard requirements include participation in a market-based emissions trading system, daily record keeping, conducting trials of compliant inks, and reviewing alternate control technologies.

DATES: This rule is effective on February 11, 2002, unless the EPA receives relevant adverse written comments by January 11, 2002. If adverse comment is received, the EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of Illinois's submittal at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886–6524.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" are used we mean the EPA.

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II. What Are the Changes From the Current Rule?
III. What Is the EPA's Analysis of the Supporting Materials?
IV. What Are the Environmental Effects of These Actions?
V. What Rulemaking Actions Are the EPA Taking?
VI. Administrative Requirements.

I. What Is the EPA Approving?

The EPA is approving an adjusted standard from the Flexographic Printing Rule for Formel. Formel is required to comply with the conditions in their adjusted standard. The conditions include participation in the market-based emissions trading system, daily record keeping of inks and VOC content, conducting trials of compliant inks, and reviewing alternate control technologies.

II. What Are the Changes From the Current Rule?

The adjusted standard changes the VOC rule Formel must follow. Formel's facility is located in the metropolitan Chicago severe ozone non-attainment area. Formel, with a permitted VOC emissions limit of 80 tons per year (TPY), is classified as a major source because it can emit more than 25 TPY of VOC. Chicago area flexographic printers classified as major VOC sources are subject to the Flexographic Printing Rule. This rule requires printers to either use compliant inks (low or no VOC content) or use a VOC emissions control device. Limiting VOC emissions will help to reduce ozone because VOC can chemically react in the atmosphere to form ozone.

The adjusted standard given to Formel changes its requirements to complying with a market-based emissions trading system, daily record keeping requirements, and to conduct trials with compliant inks and control devices. The market-based trading system will allow Formel to buy emissions allotments from companies which can reduce their VOC emissions at a lower cost than Formel can. The net VOC emissions of all participants meets the desired reductions.

III. What Is the EPA's Analysis of the Supporting Materials?

Illinois included information on compliant ink trials and control device studies at Formel. The Flexographic Printing Rule requires sources use either compliant inks or use a control device to limit VOC emissions. To evaluate what RACT is for Formel, the first consideration is what options would work? The costs of the options that will work are then estimated. The economic burden on the company is then considered. If the compliance costs of an option are determined to be too high, this option is not considered RACT.

Formel ran trials of printing with compliant inks. They also determined what control technologies would work and their costs. The Illinois Pollution Control Board concluded that the using either compliant inks or a control device would not be RACT for Formel. The EPA agrees with this assessment. Printing on plastic with compliant inks is rather difficult. Low VOC content in Formel's exhaust makes control devices have high operational costs. The adjusted standard requirements are considered RACT by the Board. Similar printers have been granted adjusted standards with comparable requirements.

IV. What Are the Environmental Effects of These Actions?

Formel is located in the Chicago severe ozone non-attainment area. It is permitted to emit up to 80 TPY of VOC. The actual VOC emissions from this facility are about 45–70 TPY. VOC can chemically react to form ozone, so limiting VOC emissions in an ozone non-attainment area is desired. Formel is reducing VOC emissions through participation in a market-based emissions trading program. In this program, Formel buys emission allotments from other participants as an alternative to reducing its emissions. Formel bought 15 allotments in 2000. Each allotment is for 200 pounds of VOC emissions. All participants need to own allotments covering its VOC emissions for the ozone season (May 1 to September 30). The trading program reduces the total VOC emissions from the Chicago area. The total area wide emissions are limited by the number of allotments distributed to participants.

V. What Rulemaking Actions Are the EPA Taking?

The EPA is approving, through direct final rulemaking, revisions to the volatile organic compound rules for Formel Industries, Incorporated of Cook County, Illinois. These revisions are the required compliance with an adjusted standard to the Flexographic Printing Rule. The Illinois Pollution Control Board determined that the adjusted standard is RACT for Formel. The requirements of the adjusted standard include complying with a market-based emissions trading system, daily record keeping, conducting compliant ink trials, and investigation of alternative control devices.

We are publishing this action without a prior proposal because we view these as non-controversial revisions and anticipate no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that serves as the proposal to approve the SIP revision if adverse written comments are filed. This rule will be effective on February 11, 2002. If the EPA receives an adverse written comment, we will publish a final rule informing the public that this rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. The EPA does not intend to institute a second comment period on this action. Any parties interested in commenting on this action must do so now.

VI. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 11, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 25, 2001.

David A. Ullrich,

Deputy Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(160) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(160) On March 21, 2001, Illinois submitted revisions to volatile organic compound rules for Formel Industries, Incorporated in Cook County, Illinois. The revisions consist of a January 18, 2001 Opinion and Order of the Illinois Pollution Control Board in the Matter of: Petition of Formel Industries, Inc. for an Adjusted Standard from 35 ILL. ADM. CODE 218.401(a),(b) and (c): AS 00–13 (Adjusted Standard Air). This Opinion and Order grants Formel Industries, Incorporated an adjusted standard to the Flexographic Printing Rule. The adjusted standard requirements include participation in a market-based emissions trading system, maintaining daily records, conducting trials of compliant inks, and reviewing alternate control technologies.

(i) Incorporation by reference.

Volatile organic compound emissions limits contained in a January 18, 2001 Opinion and Order of the Illinois Pollution Control Board in the Matter of: Petition of Formel Industries, Inc. for an Adjusted Standard from 35 ILL. ADM. CODE 218.401(a), (b) and (c): AS 00–13 (Adjusted Standard-Air). This Opinion and Order was adopted by the Illinois Pollution Control Board on January 18, 2001. It became effective under State law on January 18, 2001.

[FR Doc. 01–30581 Filed 12–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KS 0140–1140a; FRL–7116–3]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action to approve the Kansas rule, "Control of Volatile Organic Compound Emissions (VOC) from Commercial Bakery Ovens

in Johnson and Wyandotte Counties," as a revision to the Kansas State Implementation Plan (SIP). This rule restricts VOC emissions from large commercial bakery operations in the Kansas City area. The effect of this approval is to ensure Federal enforceability of the state air program rules and to maintain consistency between the state-adopted rules and the approved SIP.

In addition, EPA is making corrections to the Kansas table of SIP approved rules.

DATES: This direct final rule will be effective February 11, 2002 unless EPA receives adverse comments by January 11, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Lynn M. Slugantz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Lynn M. Slugantz at (913) 551–7883.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal Approval Process for a SIP?
What Does Federal Approval of a State Regulation Mean to Me?
What is Being Addressed in This Action?
Have the Requirements for Approval of a SIP Revision Been Met?
What Action is EPA Taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean To Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

A. Kansas Bakery Rule

The Kansas Department of Health and Environment (KDHE) has adopted K.A.R. 28–19–717 to control emission of VOCs from commercial bakery ovens, located within the Kansas portion of the Kansas City Metropolitan Ozone Area (KCMA), specifically Johnson and Wyandotte Counties, that have the potential-to-emit greater than 100 tons of VOCs. KDHE, in a continuing effort to maintain good air quality and to strengthen its SIP, has adopted these control regulations for existing major sources not currently limited by regulations. This rule is projected to reduce emissions of VOCs from affected existing bakery facilities in the Kansas portion of the KCMA by 90 tons per year, based on information provided by the existing source affected by this regulation. The new regulation was adopted by the Kansas Secretary of Health and Environment on November 27, 2000, and became effective December 22, 2000. Today, EPA is taking final action to approve rule K.A.R. 28–19–717, "Control of Volatile Organic Compound Emissions (VOC) from Commercial Bakery Ovens in Johnson and Wyandotte Counties", as an amendment to the Kansas SIP.

B. Corrections to a Prior Federal Register Notice

On January 11, 2000 (65 FR 1545), EPA published a direct final rule approving a variety of revisions to the Kansas SIP. In the narrative portion of that rulemaking, we explained the need to remove K.A.R. 28–19–52 because it had been revoked by the State. The opacity-related regulations previously set forth at K.A.R. 28–19–52 are now found at K.A.R. 28–19–650. However, at the end of the notice where EPA listed the amendments to 40 CFR 52.870(c), the EPA-approved Kansas regulations, EPA inadvertently failed to list the removal of "K.A.R. 28–19–52". Also, in that same rulemaking, EPA published an incorrect State effective date for K.A.R. 28–19–650. The correct State effective date for K.A.R. 28–19–650 is January 29, 1999. We are making these corrections in this document.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are processing this action as a final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 11, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 28, 2001.

William Rice,

Acting Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart R—Kansas

2. In § 52.870 the table in paragraph (c) is amended by:

a. Removing the entry "K.A.R. 28–19–52" and the heading "Opacity Restrictions";

b. Revising the entry for "K.A.R. 28–19–650" under the heading "Open Burning Restrictions".

c. Adding in numerical order an entry for "K.A.R. 28–19–717" with a new table heading, "Volatile Organic Compound Emissions."

The revisions and addition read as follows:

§ 52.870 Identification of Plan

* * * * *

(c) * * *

EPA-APPROVED KANSAS REGULATIONS

Kansas citation	Title	State effective date	EPA approval date	Comments
* * *	* * *	* * *	* * *	*
	Open Burning Restrictions			
* * *	* * *	* * *	* * *	*
K.A.R. 28–19–650 Emissions Opacity Limits.	1/29/99	1/11/00, 65 FR 1548	New rule. Replaces K.A.R. 28–19–50 and 28–19–52.	
* * *	* * *	* * *	* * *	*
	Volatile Organic Compound Emissions			
K.A.R. 28–19–717	Control of Volatile Organic Compound Emissions (VOC) from Commercial Bakery Ovens in Johnson and Wyandotte Counties.	12/22/00	12/12/01	

* * * * *

[FR Doc. 01–30579 Filed 12–11–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[IA 0144–1144a; FRL–7117–5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Emissions From Hospital/Medical/Infectious Waste Incinerators; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the state of Iowa's section 111(d) plan for controlling emissions from existing hospital/medical/infectious waste incinerators (HMIWI). The state revised its existing plan to specify certain applicability and compliance dates. Approval of the revised state plan will ensure that it is consistent with the Federal regulations and is Federally enforceable.

DATES: This direct final rule will be effective February 11, 2002 unless EPA receives adverse comments by January 11, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Information regarding this action is presented in the following order:

What is a 111(d) Plan?
What are the Regulatory Requirements for HMIWIs?
Why is This Action Necessary?
What Changes did the State Make to its 111(d) Plan?
What Action are we Taking in This Action?

What Is a 111(d) Plan?

Section 111(d) of the CAA requires states to submit plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines (EG) for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources.

What Are the Regulatory Requirements for HMIWIs?

Standards and guidelines for new and existing HMIWIs were promulgated under the authority of sections 111 and 129 of the Clean Air Act on September 15, 1997 (62 FR 48374). These standards are 40 CFR part 60, subpart Ec for new sources, and 40 CFR part 60, subpart Ce for existing sources.

The subpart Ce EG is not a direct Federal regulation but is a "guideline" for states to use in regulating existing HMIWIs. The EG requires states to submit for EPA approval a section 111(d) state plan containing air emission regulations and compliance schedules for existing HMIWIs.

Why Is This Action Necessary?

This action will ensure consistency between the state plan and the approved Federal plan, and ensure Federal enforceability of the current state plan.

What Changes Did the State Make to its 111(d) Plan?

We originally approved the state's HMIWI 111(d) plan on June 17, 1999 (64 FR 32425), and it became effective on August 16, 1999.

The state's 111(d) plan requirements for HMIWIs are contained in state rule 23.1(5)"b". The state rule, which incorporates the requirements of the EG, makes reference in several places to dates which are tied to EPA's approval of the state's 111(d) plan. Since EPA has subsequently approved the state's 111(d) plan, there is now a fixed date for these rule requirements. Consequently, the state has revised its rules to cite a fixed date for these requirements.

In a rule making action which was effective on March 14, 2001, the state revised rule 23.1(5)"b," subparagraphs (4), (5), (6), (12), and (13) by deleting the reference to EPA's approval date and inserting the appropriate fixed date. The fixed dates refer to requirements for operator training and qualification requirements, waste management requirements, inspection requirements, and compliance times for facilities planning to retrofit or shut down.

In a second state rule making action for HMIWIs which was effective on July 21, 1999, the state corrected a typographical error in rule 23.1(5)"b", subparagraph (1), in the definition of the

term "Hospital/medical/infectious waste incinerator."

These revisions to the state's HMIWIs 111(d) plan were adopted by the Iowa Environmental Protection Commission and became effective on July 21, 1999 and March 14, 2001, respectively.

What Action Are We Taking in This Action?

We are approving these revisions to the state's HMIWI 111(d) plan. We are processing this action as a final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This merely approves a state action as meeting Federal requirements and imposes no additional requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves a state action and does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state action relating to a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing state plan submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove state submissions for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews state submissions, to use VCS in place of state submissions that otherwise satisfy the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 11, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 2, 2001.

William Rice,

Acting Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q—Iowa

2. Section 62.3914 is amended by adding paragraph (d) to read as follows:

§ 62.3914 Identification of plan.

* * * * *

(d) Amended plan for the control of air emissions from hospital/medical/infectious waste incinerators submitted by the Iowa Department of Natural Resources on September 19, 2001. The effective date of the amended plan is February 11, 2002.

[FR Doc. 01–30738 Filed 12–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[IA 0143–1143a); FRL–7117–7]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the state of Iowa's section 111(d) plan for controlling emissions from existing municipal solid waste (MSW) landfills. The state revised its existing plan to incorporate EPA revisions to the MSW landfill emission guideline (EG) and to make other clarifying changes. Approval

of the revised state plan will ensure that it is consistent with the Federal regulations and is Federally enforceable.

DATES: This direct final rule will be effective February 11, 2002 unless EPA receives adverse comments by January 11, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Information regarding this action is presented in the following order:

What is a 111(d) Plan?
What are the Regulatory Requirements for MSW Landfills?
Why is This Action Necessary?
What Changes did the State Make to its 111(d) Plan?
What Action are we Taking in This Action?

What Is a 111(d) Plan?

Section 111(d) of the Clean Air Act (CAA) requires states to submit plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established EGs for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources.

What Are the Regulatory Requirements for MSW Landfills?

Standards and guidelines for new and existing MSW landfills were promulgated under the authority of sections 111 and 129 of the Clean Air Act on March 12, 1996 (61 FR 9905). These standards are 40 CFR part 60, subpart WWW for new sources, and 40 CFR part 60, subpart Cc for existing sources.

The subpart Cc EG is not a direct Federal regulation but is a "guideline" for states to use in regulating existing MSW landfills. The EG requires states to submit for EPA approval a section 111(d) state plan containing air emission regulations and compliance schedules for existing MSW landfills.

Why Is This Action Necessary?

We originally approved the state's MSW landfill 111(d) plan on April 23, 1998 (63 FR 20102). We subsequently revised the Federal EG on June 16, 1998 (63 FR 32743). Consequently, the state revised its 111(d) plan to be consistent with the Federal EG.

What Changes Did the State Make to Its 111(d) Plan?

The state's 111(d) plan requirements for MSW landfills are contained in state rule 23.1(5). The state revised this rule to reference 40 CFR part 60 as amended through November 24, 1998. Therefore, the state has adopted by reference the Federal revisions to the EG that were published on June 16, 1998.

A revision was made to rule 23.1(5)"a" (2) by adding subparagraph "3", which specifies when a landfill source is subject to the Title V permitting requirements.

Additional clarifying revisions were made in rules 23.1(5) "a" (3), paragraphs "1" and "2" and in rule 23.1(5)"a"(6), paragraph "1". These revisions clarify when design capacity reports must be submitted, require all calculations used to determine the maximum design capacity to be submitted with the design capacity report, and clarify compliance dates.

These revisions to the state's MSW landfill 111(d) plan were adopted by the Iowa Environmental Protection Commission on May 17, 1999, and became effective on July 21, 1999.

What Action Are We Taking in This Action?

We are approving these revisions to the state's MSW landfill 111(d) plan. We are processing this action as a final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This merely approves a state action as meeting Federal requirements and imposes no additional requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves a state action and does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state action relating to a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing state plan submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove state submissions for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews state submissions, to use VCS in place of state submissions that otherwise satisfy the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule,

we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 11, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 62

Environmental protection, Air pollution control, Intergovernmental relations, Methane, Municipal solid waste landfills, Nonmethane organic compounds, Reporting and recordkeeping requirements.

Dated: December 2, 2001.

William Rice,

Acting Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q—Iowa

2. Section 62.3913 is amended by adding paragraph (d) to read as follows:

§ 62.3913 Identification of plan.

* * * * *

(d) Amended plan for the control of air emissions from municipal solid waste landfills submitted by the Iowa Department of Natural Resources on September 19, 2001. The effective date of the amended plan is February 11, 2002.

[FR Doc. 01–30736 Filed 12–11–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 99–5045]

RIN 2127–AH11

Federal Motor Vehicle Safety Standards: Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: NHTSA is amending its air brake standard to correct an inconsistency between two provisions concerning emergency brake stops, provide that single-unit truck axles should not be overloaded, clarify the wheel-lock provisions by adding a definition of Atandem axle," and to permit the use of roll bars on vehicles undergoing brake testing. This rulemaking was initiated in response to a petition for rulemaking from the Truck Manufacturers Association.

DATES: *Effective Date*: The amendments made in this rule are effective January 11, 2002.

Petition Date: Any petitions for reconsideration must be received by NHTSA no later than January 28, 2002.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For technical issues: Mr. Joseph Scott, Safety Standards Engineer, Office of Crash Avoidance Standards, Vehicle Dynamics Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366–8525, fax (202) 493–2739.

For legal issues: Mr. Otto Matheke, Attorney-Advisor, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366–2992, fax (202) 366–3820.

SUPPLEMENTARY INFORMATION:

1. Background

Federal Motor Vehicle Safety Standard (Standard) No. 121, *Air brake systems*, specifies performance and equipment requirements for trucks, buses, and trailers equipped with air brake systems to ensure safe braking performance under normal and emergency conditions.

On January 6, 1997, the Truck Manufacturers Association (TMA) submitted a petition for rulemaking to NHTSA requesting that Standard No. 121 be amended. The TMA petition stated that the organization, through a Society of Automotive Engineers (SAE) task force, had reviewed Standard No. 121 in detail. As a result of that evaluation, SAE developed a recommended practice, J1626, *Braking, Stability, and Control Performance Test Procedures for Air-Brake Equipped Trucks (REV APR96)*, to provide a process for verifying vehicle compliance while minimizing test variability. TMA commended NHTSA for its efforts to update and reorganize Standard No. 121, but stated that Standard No. 121 and SAE J1626 should be aligned to improve test efficiency and decrease testing costs to the industry. Contending that aligning Standard No. 121 with SAE J1626 would have no detrimental impact on motor vehicle safety, TMA suggested 10 changes to the standard:

a. *Test sequence*—The first change suggested by TMA involved amending Standard No. 121 to change the braking test sequence. TMA noted that Standard No. 121 currently allows truck tractor braking-in-a-curve tests to be performed in the loaded and unloaded (bobtail) condition on the same surface by permitting the test vehicle to be unloaded between tests. This eliminates the step of moving vehicles from one test site to another and limits the need to water the test track to only a single time. TMA requested that Standard No. 121 be modified to allow unloaded straight line stops and loaded straight line stops immediately following the braking-in-a-curve test. Allowing this, in

TMA's view, would simplify testing and have little impact on the test results as long as the burnish procedure is performed first and final inspection follows all other required tests.

b. *Brake adjustments*—TMA requested that Standard No. 121 be modified to allow brakes to be adjusted using the procedure specified by the vehicle manufacturer at any time during testing other than the burnish procedure. TMA stated that some automatic brake adjusters overadjust during Standard No. 121 testing, but not in normal service. According to TMA, SAE J1626 recognizes this and allows brakes to be adjusted in accordance with the manufacturer's procedure at any time to reduce brake performance variability.

c. *Driveline engagement*—TMA requested that the entire brake test procedure, including the burnish procedure, be conducted with the transmission in neutral or with the clutch disengaged. Standard No. 121 currently provides that tests, but not the burnish procedure, are conducted with the vehicle's transmission in neutral or with the clutch disengaged. This minimizes the effect of engine and driveline drag on stopping distance test results and also relieves the manufacturer of the burden of having to test every engine and driveline package offered on a given chassis. The organization contended that conducting the entire test sequence as well as the burnish procedure with the transmission in neutral or the clutch disengaged would eliminate variability in the burnish and the need to test with numerous combinations of engines and drivelines that are offered with each chassis.

d. *Parking brake test*—TMA requested that Standard No. 121 be modified to allow a service brake application prior to applying and testing the parking brake application and that S5.6.3.1 be amended to provide explicitly that this section's requirements apply to the case in which a single leakage failure occurs in the service brake system after the parking brakes are applied.

e. *Emergency brake effective date*—TMA asked NHTSA to clarify the effective date of emergency brake requirements for trucks and buses. Section S5.7, in TMA's view, does not contain such a schedule for emergency brake requirements. TMA considers that an oversight on the agency's part that should be clarified.

f. *Loaded tractor emergency brake*—TMA requested that the loaded tractor emergency brake test, which contained a requirement that such tests be performed with loaded tractors with unbraked control trailers, be deleted.

g. *Roll bar*—TMA requested that the agency modify Standard No. 121 to permit the use of a roll bar for any vehicle conducting the brake test sequence, including the 60-mile-per-hour (mph) straight-line stops and the 30-mph stops in a curve. TMA asserted that the safety of drivers and technicians is a primary concern during vehicle testing, and that use of a roll bar would protect them in the event of a vehicle rollover.

h. *Axle loading*—TMA requested that S5.3.1.1. of Standard No. 121 be modified to establish the specifications for the loading of the axles of single unit trucks. TMA submitted that the lack of a load limit in the requirements for single trucks could result in testing of these vehicles at a greater weight that the vehicle, or individual axles of the vehicle, were designed to carry.

i. *Wheel lock*—TMA sought clarification of the wheel lock provisions found in S5.1.6.1(b) of Standard No. 121. TMA pointed out that the section provides that "the wheels of at least one rear axle" of a truck tractor must be equipped with an antilock brake system (ABS) that directly controls the wheels on that axle. On the other hand, TMA stated that subparagraph S5.3.1(a) places wheel lock restrictions on 2 rear axles, and that S5.3.1(b) allows one of those 2 axles to lock up both of its wheels, but only if it is a tandem axle. TMA contended that these requirements conflicted with each other and gave the example of a 3-axle truck, bus or tractor. If the vehicle had 2 driven rear axles in tandem, known as a 6x4 configuration, the wheels on both sides of one rear axle might lock up during an entire stopping distance test. Conversely, if one of the 2 rear axles were a nonliftable tag or pusher axle, known as a 6x2 arrangement, then neither of the rear axles could lock up on both its wheels. Thus, TMA argued that the 6x4 vehicle needs ABS control on only one of its rear axles, while the 6x2 must have ABS control on both rear axles. TMA therefore requested that the wheel lockup provisions of S5.3.1(a) through (d) be rescinded, and that S5.3.1 be redrafted.

j. *Typographical errors*—Finally, TMA requested that several typographical errors be corrected.

2. Notice of Proposed Rulemaking

On February 3, 1999, the agency published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register**. The NPRM announced that the agency was partially denying and partially granting the TMA petition. The petition was denied as to items a through e above. It was granted as to the remaining five items, referenced as f through j. For those items that it granted, the agency proposed several changes to Standard No. 121.

The request to change the braking test sequence to conduct the unloaded straight line stops before the loaded straight lines stops was denied because the current GVWR/LLVW (lightly-loaded vehicle weight) is consistent with the other tests in the overall test sequence. In addition, flat-spotting of tires is minimized when GVWR tests are conducted first. Since not all wheels are required to be ABS-controlled and are therefore permitted to lock up, conducting the LLVW tests first, particularly for the 60-mph stopping distance tests, could result in severe flat-spotting of the tires on the non-ABS-controlled axles. Subsequent vehicle test runs would be difficult with the tires in that condition. We also observed that the TMA proposal would eliminate one loading/unloading sequence for truck tractors, but it would necessitate an additional unloading sequence for single unit trucks and buses.

TMA's request that the agency initiate rulemaking to allow brake adjustments at any time during testing was also denied. As we explained in the NPRM, the potential of automatic brake adjusters to over-adjust brakes during the test sequence does not overcome the agency's other concerns. Manual adjustment of the brakes after each test sequence is inappropriate because it would be less representative of real-world braking conditions. Further, Standard No. 121 already allows some brake adjustment during testing. For example, two manual brake adjustments are allowed, one at the end of the braking-in-a-curve test and the other at the end of the GVWR parking brake test. For single unit trucks and buses, one manual brake adjustment is allowed at the end of the GVWR parking brake test. Accordingly, the agency concluded that the existing provisions for manual brake adjustments during the test sequence sufficiently addressed the potential for brake over-adjustment while preserving a well-defined test procedure.

As indicated in the NPRM, NHTSA also declined to start rulemaking proceedings to change the brake test and burnishing procedure to specify that all burnishing and testing be conducted with the transmission in neutral or the clutch disengaged. As we explained in the NPRM, TMA's request to allow the vehicle's brakes to be burnished with the clutch disengaged or the transmission in neutral would result in a higher temperature burnish similar to

a previously revised burnish procedure. In contrast, the current burnish procedure allows the brakes to reach whatever temperatures they are designed to reach when driven in typical stop-and-go driving. Therefore, any braking system design will be conditioned fairly under this approach. We also noted that while TMA was concerned about the burden of testing every engine and driveline package offered on a given chassis, vehicle manufacturers are not required to and currently do not test every combination of engine and drivetrain that is offered on each vehicle. At the time the NPRM was published, as well as today, the legal requirement is that a manufacturer exercise due care in assuring itself that its vehicle is capable of meeting the performance requirements of applicable standards when tested as prescribed in the standards.

We also denied TMA's request to modify the parking brake requirements to allow full application of the service brake prior to application of the parking brake. TMA did not submit any data comparing the grade holding ability of heavy truck air brakes using a full service application before engaging the parking brake, making it difficult to evaluate their proposal. NHTSA noted that full service brake applications prior to engaging the parking brake could damage brake components. The agency decided to conduct vehicle research to evaluate this issue, but could not clarify the test procedure or revise Standard No. 121 until testing had been completed and data had become available.

Finally, TMA's request that NHTSA clarify the emergency brake requirements for trucks and buses do not become effective until March 1, 1998 was denied on the basis that the request had become moot by the time the NPRM had been issued.

The February 3, 1999 NPRM also outlined those portions of the TMA petition that NHTSA considered to be appropriate for further rulemaking action.

The agency proposed to amend Standard No. 121 to eliminate the fully loaded truck-tractor emergency brake testing requirements of S5.7.3(b), to permit the use of roll bars in brake testing. As noted in the NPRM, permitting the use of roll bars in testing would protect drivers in the event of a rollover during a test. To prevent the overloading of single-unit axles in fully loaded brake tests, the agency proposed to amend S5.3.1.1. To clarify the wheel lock requirements, the agency proposed altering Standard No. 121's definition of "tandem axle" that would not include a requirement that all axles in a tandem would be driven. In the agency's view, this definition would resolve potential confusion over the application of ABS requirements for heavy vehicles with three or more axles.

Finally, the agency proposed to correct typographical errors in S6.1.8 and S6.2.5 of Standard No. 121.

3. Comments Received in Response to the NPRM

NHTSA received four comments in response to the NPRM. Comments were submitted by three trade groups, the American Truck Dealers Division of the National Automobile Dealers Association (ATD), the Heavy Duty Brake Manufacturers Council of the Motor Equipment Manufacturer's Association (HDBMC), the Truck Manufacturers Association (TMA), and by one manufacturer, AlliedSignal Truck Brake Systems Company (AlliedSignal). All of the commenters supported, in whole or in part, the series of amendments proposed in the NPRM. HDBMC and AlliedSignal took issue with the agency's decision to deny portions of the original TMA petition for rulemaking.

HDBMC supported the agency's proposed amendments regarding roll bars, wheel lock requirements, and corrections. The organization disagreed with the agency's denial of the remainder of the portions of the TMA petition that would have aligned Standard No. 121 with SAE J–1626. HDBMC stated that the SAE J–1626 is in the final ballot process with completion expected in the second quarter of 1999. They strongly urged the agency to refrain from denying any portion of the TMA petition until the Recommended Practice is finalized by the Society of Automotive Engineers.

AlliedSignal stated that it joined in the comments provided by HDBMC and provided additional comments to supplement that response. AlliedSignal supported the agency's proposed amendments that grant portions of the TMA petition. The company disagreed with the agency's denial of the remaining TMA requests. AlliedSignal urged NHTSA to optimize testing efficiency by giving manufacturers the option of sequencing the unloaded braking-in-a-curve test with the other unloaded tests and, since there are a number of possible test sequences, NHTSA should consider rulemaking to provide manufacturers the opportunity to arrange the testing sequence as they see fit. NHTSA would, however, test in the sequence outlined in the agency's test procedure for FMVSS 121. This, in AlliedSignal's view, "would allow alternate test sequences to be considered in the test procedure when further data is available, without impacting the safety standard."

AlliedSignal supported a common industry standard procedure for brake testing and urges NHTSA and SAE to agree upon a common approach to brake adjustment during compliance testing. AlliedSignal stated that the current limited periods of adjustment seem to be generally adequate; however, in the future, as additional information on automatic adjustment and air disc brakes become available, some modifications may be needed. AlliedSignal said that NHTSA must recognize that automatic adjustment devices are designed to operate under normal use conditions on the road, unlike the testing conditions during the compliance testing process. AlliedSignal also stated that the burnish should be conducted either with the transmission in neutral or with the clutch engaged. The company argued that this procedure is more repeatable and yields more consistent data. AlliedSignal contended that during a parking brake 20 percent gradient hold test, the service brake would be used to initially hold the vehicle on the grade, before the parking brake control is applied. The use of anti-compounding devices, as applicable, in the system to protect the brakes from over-stressing, should not be a concern for compliance, but should be at the manufacturer's discretion based upon good design practice. AlliedSignal suggested that since NHTSA is researching the grade holding procedure, it should also evaluate the equivalence of grade holding as an option to the static draw bar pull procedure. AlliedSignal also stated that although it understood that only issues addressed in this NPRM are to be subjects for rulemaking at this time, the company also recommended that NHTSA consider deleting the Trailer Test Rig Figure 1(a) and section S6.1.13(b) from the standard as these pertained to the old test rig.

ATD supported the agency's proposed amendments relating to wheel lock and the definition of tandem axles. TMA indicated that as NHTSA had proposed to delete S5.7.3(b) to properly reflect the earlier deletion of the loaded truck-tractor emergency brake testing requirements, all references to S5.7.3(b) elsewhere in the standard need to be modified or removed. TMA also indicated that as the agency had proposed to allow the use of roll bars in brake testing, the specifications for vehicle weights contained in Table 1, S5.6.2(b) and S5.7.1 should be modified

to allow for the additional weight of the roll bars.

4. Final Rule

NHTSA is adopting the changes proposed in the NPRM, with two minor modifications. The agency notes that these modifications to Standard No. 121 were either supported by the commenters or were not addressed by any of the commenters. As noted in the NPRM, the agency believes that these modifications will eliminate certain inconsistencies in Standard No. 121, simplify the test burdens of manufacturers, and allow for increased safety during brake testing.

Two of the four commenters, AlliedSignal and HDBMC, indicated their opposition to the agency's decision to deny portions of the TMA petition for rulemaking. NHTSA notes that its rationale for denying portions of the TMA petition are contained in the February 3, 1999 NPRM. Neither AlliedSignal or HDBMC submitted any data or test results with their comments that would support any change from the agency's earlier decision to deny portions of the TMA petition. The agency also notes that HDBMC urged NHTSA not to deny any portion of the TMA petition until the SAE finally approved and adopted the most recent revisions to the SAE J–1626 standard. The most recent revisions of the J–1626 standard were approved and adopted by the SAE in June 1999. The final revisions to J–1626 did not, in NHTSA's view, change that voluntary standard to address the concerns voiced by the agency in the NPRM.

One commenter, TMA, suggested several changes to Standard No. 121 that were not part of the agency's proposal. As TMA indicated, these amendments are, however, related to the agency's proposal. Both are conforming amendments.

The first of these is TMA's suggestion that S6.1.14, which specifies requirements for venting brake lines to the atmosphere for the emergency braking test, be amended to delete a reference to S5.7.3(b). As the agency's proposal and the final rule call for the deletion of S5.7.3(b), TMA's suggestion appears to be well founded. The deletion of this reference does not alter the substance of Standard No. 121, the agency's proposal or this final rule but merely reflects the deletion S5.7.3(b). Therefore, NHTSA is adopting TMA's suggested change.

The second modification suggested by TMA is to modify the specifications for allowable vehicle weights contained in steps 2b, 7 and 8 of Table I and Sections 5.6.2(b) and S5.7.1. We note that these sections all set forth the allowable vehicle weights for the different tests to be performed in the test sequence. If these specifications were to remain unmodified, they would conflict with the final rule's adoption of provisions allowing the use of roll bars during testing as no allowance would be available for the added weight of the roll bar. As the final rule states that up to 1000 pounds may be added to allowable vehicle weights to facilitate the use of roll bars, NHTSA considers TMA's comments on this issue to be appropriate. The agency is therefore revising its earlier proposal and amending Table I, S5.6.2 and S5.7.1. to allow an additional 1,000 pounds of weight.

Rulemaking Analyses and Notices

a. Executive Order 12866 and DOT Regulatory Policies and Procedures

This document has not been reviewed under Executive Order 12866, *Regulatory Planning and Review*. NHTSA has analyzed the impact of this rulemaking action and has determined that it is not "significant" within the meaning of DOT's regulatory policies and procedures. This action clarifies and amends certain provisions of Federal Motor Vehicle Safety Standard No. 121, *Air brake systems*, to permit the addition of a rollbar on test vehicles when undergoing brake testing, clarify when wheel lockup is permitted when brake testing, provide that single-unit truck axles should not be overloaded when brake testing, and delete an obsolete requirement. The amendments do not impose any additional costs on manufacturers of medium and heavy trucks. Although the installation of roll bars on test vehicles would involve additional costs, that provision is optional to manufacturers who may voluntarily want to install them. Further, even if manufacturers chose to install the bars on their test vehicles, the number of affected vehicles would be very small. Thus, the agency estimates that implementation of this final rule will not result in any increased costs to manufacturers, distributors, or consumers. The agency also notes that the amendments contained in this final rule will, to a limited degree, eliminate and simplify certain requirements of Standard No. 121. These amendments may result in very small cost savings for manufacturers. Accordingly, a full regulatory evaluation was not prepared.

b. Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* I hereby certify that this final rule will not have a significant impact on a substantial number of small entities.

The following is the agency's statement providing the factual basis for the certification (5 U.S.C. 605(b)). This final rule will primarily affect manufacturers of medium and heavy trucks. The Small Business Administration (SBA) regulation at 13 CFR part 121 defines a small business as a business entity which operates primarily within the United States (13 CFR 121.105(a)).

SBA's size standards are organized according to Standard Industrial Classification (SIC) codes. SIC code No. 3711, *Motor Vehicles and Passenger Car Bodies*, prescribes a small business size standard of 1,000 or fewer employees. SIC code No. 3714, *Motor Vehicle Part and Accessories*, prescribes a small business size standard of 750 or fewer employees.

This final rule amends Standard No 121 to permit the addition of a rollbar on test vehicles when undergoing brake testing, clarify when wheel lockup is permitted when brake testing, provide that single-unit truck axles should not be overloaded when brake testing, and delete an obsolete requirement. These amendments were requested by the trade organization that represents the major manufacturers of medium and heavy trucks in the U.S. The amendments do not mandate any increased costs or other burdens on truck manufacturers, most, if not all, of which would not qualify as small businesses under SBA guidelines. Neither does this final rule result in any increased costs for small businesses or consumers. Accordingly, there is no significant impact on small businesses, small organizations, or small governmental units by these amendments. As noted above, the agency also notes that the amendments contained in this final rule will, to a limited degree, eliminate and simplify certain requirements of Standard No. 121. These amendments may result in very small cost savings for manufacturers. For these reasons, the agency has not prepared a regulatory flexibility analysis.

c. Paperwork Reduction Act

NHTSA has analyzed this rule in accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511). There are no requirements for information collection associated with this rule.

d. Executive Order 13132 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and

criteria contained in E.O. 13132, and has determined that this rule will not establish policies with federalism implications.

e. Civil Justice Reform

This rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

f. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866, and does not have a disproportionate effect on children, who are unlikely to be conducting brake tests on heavy trucks.

g. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This final rule does not meet the definition of Federal mandate because this rule simply adds a compliance alternative for one year. In no case will annual expenditures exceed the $100 million threshold.

h. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act and has determined that implementation of this rulemaking action will not have any significant impact on the quality of the human environment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.121 is amended by revising S4 to add a definition of "tandem axle" in alphabetical order; by revising S5.3.1.1 (a) through (c), S5.6.2, S5.7.1 and S5.7.3(b); by withdrawing and reserving S5.7.3(c); and by revising S6.1.8, S6.1.14, S6.2.5 and Table I, to read as follows:

§ 571.121 Air brake systems.

* * * * *

S4. *Definitions.*

* * * * *

Tandem axle means a group or set of two or more axles placed in a close arrangement, one behind the other, with the centerlines of adjacent axles not more than 72 inches apart.

* * * * *

S5.3.1.1 * * *

(a) Loaded to its GVWR so that the load on each axle, measured at the tire-ground interface, is most nearly proportional to the axles' respective GAWRs, without exceeding the GAWR of any axle.

(b) In the truck tractor only configuration plus up to 500 lbs. or, at the manufacturer's option, at its unloaded weight plus up to 500 lbs. (including driver and instrumentation) and plus not more than an additional 1,000 lbs. for a roll bar structure on the vehicle, and

(c) At its unloaded vehicle weight (except for truck tractors) plus up to 500 lbs. (including driver and instrumentation) or, at the manufacturer's option, at its unloaded weight plus up to 500 lbs. (including driver and instrumentation) plus not more than an additional 1,000 lbs. for a roll bar structure on the vehicle. If the speed attainable in two miles is less than 60 mph, the vehicle shall stop from a speed in Table II that is four to eight mph less than the speed attainable in two miles.

* * * * *

S5.6.2 *Grade holding.* With all parking brakes applied, the vehicle shall remain stationary facing uphill and facing downhill on a smooth, dry portland cement concrete roadway with a 20-percent grade, both

(a) When loaded to its GVWR, and

(b) At its unloaded vehicle weight plus 1500 pounds (including driver and instrumentation and roll bar).

* * * * *

S5.7.1 *Emergency brake system performance.* When stopped six times for each combination of weight and speed specified in S5.3.1.1, except for a loaded truck tractor with an unbraked control trailer, on a road surface having a PFC of 0.9, with a single failure in the service brake system of a part designed to contain compressed air or brake fluid (except failure of a common valve, manifold, brake fluid housing, or brake chamber housing), the vehicle shall stop at least once in not more than the distance specified in Column 5 of Table II, measured from the point at which movement of the service brake control begins, except that a truck-tractor tested at its unloaded vehicle weight plus up to 1500 pounds shall stop at least once in not more than the distance specified in Column 6 of Table II. The stop shall be made without any part of the vehicle leaving the roadway, and with unlimited wheel lockup permitted at any speed.

* * * * *

S5.7.3 * * *

(b) Be capable of modulating the air in the supply or control line to the trailer by means of the service brake control with a single failure in the towing vehicle service brake system as specified in S5.7.1.

(c) [Reserved]

* * * * *

S6.1.8 For vehicles with parking brake systems not utilizing the service brake friction elements, burnish the friction elements of such systems prior to the parking brake test according to the manufacturer's recommendations. For vehicles with parking brake systems utilizing the service brake friction elements, burnish the brakes as follows: With the transmission in the highest gear appropriate for a speed of 40 mph, make 500 snubs between 40 mph and 20 mph at a deceleration rate of 10 f.p.s.p.s., or at the vehicle's maximum deceleration rate if less than 10 f.p.s.p.s. Except where an adjustment is specified, after each brake application accelerate to 40 mph and maintain that

speed until making the next brake application at a point 1 mile from the initial point of the previous brake application. If the vehicle cannot attain a speed of 40 mph in 1 mile, continue to accelerate until the vehicle reaches 40 mph or until the vehicle has traveled 1.5 miles from the initial point of the previous brake application, whichever occurs first. Any automatic pressure limiting valve is in use to limit pressure as designed. The brakes may be adjusted up to three times during the burnish procedure, at intervals specified by the vehicle manufacturer, and may be adjusted at the conclusion of the burnishing, in accordance with the vehicle manufacturer's recommendation.

* * * * *

S6.1.14 In testing the emergency braking system of towing vehicles under S5.7.3(a), the hose(s) is vented to the atmosphere at any time not less than 1 second and not more than 1 minute before the emergency stop begins, while the vehicle is moving at the speed from which the stop is to be made and any manual control for the towing vehicle protection system is in the position to supply air and brake control signals to the vehicle being towed. No brake application is made from the time the line(s) is vented until the emergency stop begins and no manual operation of the parking brake system or towing vehicle protection system occurs from the time the line(s) is vented until the stop is completed.

* * * * *

S6.2.5 The rate of brake drum or disc rotation on a dynamometer corresponding to the rate of rotation on a vehicle at a given speed is calculated by assuming a tire radius equal to the static loaded radius specified by the tire manufacturer.

* * * * *

Table I—Stopping Sequence

1. Burnish.

2. Stops on a peak friction coefficient surface of 0.5:

(a) With the vehicle at gross vehicle weight rating (GVWR), stop the vehicle from 30 mph using the service brake, for a truck tractor with a loaded unbraked control trailer.

(b) With the vehicle at unloaded weight plus up to 1500 lbs., stop the vehicle from 30 mph using the service brake, for a truck tractor.

3. Manual adjustment of the service brakes allowed for truck tractors, within the limits recommended by the vehicle manufacturer.

4. Other stops with vehicle at GVWR:

(a) 60 mph service brake stops on a peak friction coefficient surface of 0.9, for a truck tractor with a loaded unbraked control trailer, or for a single-unit vehicle.

(b) 60 mph emergency brake stops on a peak friction coefficient of 0.9, for a single-unit vehicle. Truck tractors are not required to be tested in the loaded condition.

5. Parking brake test with the vehicle loaded to GVWR.

6. Manual adjustment of the service brakes allowed for truck tractors and single-unit vehicles, within the limits recommended by the vehicle manufacturer.

7. Other stops with the vehicle at unloaded weight plus up to 1500 lbs.:

(a) 60 mph service brake stops on a peak friction coefficient surface of 0.9, for a truck tractor or for a single-unit vehicle.

(b) 60 mph emergency brake stops on a peak friction coefficient of 0.9, for a truck tractor or for a single-unit vehicle.

8. Parking brake test with the vehicle at unloaded weight plus up to 1500 lbs.

9. Final inspection of service brake system for condition of adjustment.

Issued on December 6, 2001.

Jeffrey W. Runge,

Administrator.

[FR Doc. 01–30636 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 66, No. 239
Wednesday, December 12, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206–AD76

Debarments and Suspensions of Health Care Providers From the Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing to amend its regulations on administrative sanctions of health care providers participating in the Federal Employees Health Benefits Program (FEHBP). The proposed regulations implement the suspension and debarment provisions of section 2 of the Federal Employees Health Care Protection Act of 1998 (Pub. L. 105–266). This statute modified both the substantive and procedural requirements for FEHBP administrative sanctions. These regulations supercede interim regulations issued in 1989 to implement the earlier sanctions legislation that was amended by Pub. L. 105–266. They will promote quicker, more uniform decisionmaking for suspensions and debarments, and will enhance protection against unfit providers for both the FEHBP and the individuals it covers.

DATES: Submit comments on or before February 11, 2002.

ADDRESSES: Send or deliver written comments to David Cope, U.S. Office of Personnel Management, 1900 E Street NW., Room 6400, Washington, DC 20415, or submit comments electronically to *debar@opm.gov*.

FOR FURTHER INFORMATION CONTACT: David Cope, 202–606–2851, FAX 202–606–2153.

SUPPLEMENTARY INFORMATION:

Background

A 1991 GAO report (GGD–91–95, "Fraud and Abuse: Stronger Controls Needed in Federal Employees Health Benefits Program") concluded that OPM needed to be more aggressive in dealing with health care provider integrity problems. Among other steps, GAO recommended that the agency take action to implement effective administrative sanctions authorities.

OPM recognized that an appropriate administrative sanctions program for FEHBP would necessitate legislative action to replace earlier sanctions legislation that had proved to be costly and ultimately unworkable. As an interim measure, in May 1993, OPM adopted the Governmentwide Nonprocurement Suspension and Debarment Common Rule (common rule), a standardized regulatory program that permitted the agency to effectuate sanctions issued by other agencies. Under this authority, OPM has debarred from the FEHBP over 18,700 health care providers who had previously been excluded from the Medicare, Medicaid, and other programs under the Social Security Act by the Office of Inspector General (OIG) of the Department of Health and Human Services. The OPM common rule regulations appear at 5 CFR part 970.

While operating under the common rule, OPM developed legislative proposals for health care provider sanctions that were comprehensive (i.e., offering a full range of sanctions authorities) and procedurally efficient, while affording appropriate due process protections to the subjects of sanctions action. Bills containing these authorities were introduced in both the 104th and 105th Congresses, and a version that closely paralleled the OPM proposals was enacted as part of Pub. L. 105–266 on October 19, 1998.

This proposed rule is the first of two planned regulatory issuances that together will implement all of the Pub. L. 105–266 sanctions authorities. We are addressing debarments and suspensions in the first issuance because we expect them to constitute the majority of our sanctions workload. OPM is currently developing a separate regulatory issuance to address the financial sanctions authorities enacted by Pub. L. 105–266, including financial assessments and civil monetary penalties.

Purposes of Administrative Sanctions

Administrative sanctions are civil remedies that agencies impose under their own authority to protect their programs from transactions with untrustworthy individuals or entities and to recover program funds paid improperly or fraudulently. Because administrative sanctions are not considered to be "punitive," they can, and frequently are, imposed in addition to other remedies, such as criminal or civil judicial action.

Virtually every federal agency has some form of sanctions authority. The most common types of administrative sanctions are:

- Debarment—removing an individual or entity from participation in a program for a designated period of time, after a due process proceeding;
- Suspension—removing an individual or entity from program participation on an immediate basis, without prior due process, because he currently poses a threat to the public interest; and
- Financial sanctions—imposing double or treble damages, fines, and monetary assessments or penalties, based on a due process proceeding.

Administrative Sanctions of Health Care Providers

Various studies by the GAO, the Office of the Inspector General (OIG) of the Department of Health and Human Services, and health insurance industry groups have placed the overall rate of provider fraud in the American health care system within a range of 6 to 12 percent of the total dollar value of claims. The OIG of the Office of Personnel Management has recognized for many years that fraud by health care providers poses a significant problem for both the financial integrity of the Federal Employees Health Benefits Program (FEHBP) and the health care interests of the persons who obtain coverage through it.

One of the difficulties in pursuing provider-related fraud within FEHBP has been the inadequacy of the legal remedies available to address the problem, prior to the passage of Pub. L. 105–266. Although the false claims, false statements, and mail fraud statutes are nominally applicable to many instances of health care fraud, in practice they are seldom invoked because of the high burden of proof in criminal cases and the fact that the dollar amounts in question typically do not reach prosecutorial thresholds. In fact, most instances of provider fraud

are not amenable to being handled appropriately within the federal judicial system. However, the Pub. L. 105–266 administrative sanctions authorities, as implemented by the proposed regulation, are specifically designed to address fraudulent or improper conduct by health care providers quickly, efficiently, and cost-effectively.

Transition to Statutory Debarment System

Adoption of this proposed regulation will have the following effect on existing OPM regulations:

- Upon issuance, this rule will replace the 1989 interim final version of 5 CFR part 890, subpart J, which reflected the legislation superseded by Pub. L. 105—266.
- As of the date this regulation goes into effect, OPM will discontinue issuing new debarments under the common rule (5 CFR part 970) in favor of actions under 5 CFR part 890, subpart J. Common rule debarments already in effect will remain so until the exclusions on which they are based are terminated by the originating agency.

Administrative Sanctions Will Not Affect FEHBP Operations

The proposed regulation fully reflects the policy concepts underlying OPM's operation of the FEHBP. The principal objectives of administrative sanctions activities will be to protect the health and safety of covered persons and the integrity of the FEHBP by excluding providers whose conduct indicates that they may pose a threat to either of those interests. Other than terminating the rights of certain providers to receive payment of FEHBP funds, the regulations will not affect the manner or conditions through which health care services are delivered to FEHBP-covered persons, or any other aspect of the provider—patient relationship. There will be no effect on the ability of FEHBP subscribers to select health insurance coverage appropriate to their circumstances. Finally, sanctions imposed under these regulations will apply only to health care providers, and will not affect the contractual relationship between OPM and the FEHBP carriers. As a related matter, OPM is committed to coordinating with other agencies to combat health care fraud and abuse. The proposed rule attempts wherever possible to maintain consistency and cooperation between FEHBP sanctions and the Medicare administrative sanctions program operated by the OIG, Department of Health and Human Services.

Mandatory and Permissive Debarment

Pub. L. 105–266 established two broad categories of debarments, distinguished by their underlying bases and the debarring official's range of discretion in imposing the sanction. Mandatory debarment authorities require OPM to debar providers who, in prior due process proceedings, were found to have committed certain types of violations. This concept has been part of the Medicare administrative sanctions statute for many years. As detailed in § 890.1004 of the proposed rule, grounds for mandatory debarment include conviction of crimes involving (1) fraud or other financial misconduct, (2) abuse of patients, (3) abuse of controlled substances, or (4) obstruction of an investigation of those crimes. Mandatory debarment also applies to providers who have been debarred, suspended, or excluded by another Federal agency.

Permissive debarment authorities cover violations for which the debarring official may exercise discretion to impose or not impose debarment, according to the facts of each case. Pub. L. 105–266 established 12 separate grounds for permissive debarment. Section 1011 of the proposed rule arranges these grounds into four broad categories. The categories are (1) actions involving revocation, suspension, nonrenewal, or surrender of health care licensure; (2) ownership or control of an entity by a debarred provider, or ownership/control by a provider of a debarred entity; (3) false, deceptive, or wrongful claims practices; and (4) refusal to provide information requested by OPM or a FEHBP carrier to determine the validity or amount of a claim.

Length of Debarments

Pub. L. 105–266 and the proposed rule establish a minimum 3-year period of debarment for mandatory debarments based on convictions. The proposed rule also adopts the Medicare practice of using specific aggravating and mitigating factors to determine whether a period of debarment longer than the minimum period should be imposed (see § 890.1008). Mandatory debarments based on another agency's sanction will always be for an indefinite period running concurrently with the sanction on which they are based. Therefore, they are not subject to a specified minimum period or to extension because of aggravating factors.

Unlike mandatory debarments, Pub. L. 105–266 does not specify statutory minimum periods for permissive debarments. However, to foster economical and consistent decisionmaking, §§ 890.1016–890.1021 of the proposed rule recommend periods for permissive debarments that may be increased or decreased, based on factors specified in the statute. In the interests of sound administration, § 890.1015 establishes an overall minimum period of not less than one year for any permissive debarment.

Procedures and Appeals

Pub. L. 105–266, and these proposed regulations, require OPM to implement the findings of prior criminal, civil, or administrative due process proceedings with regard to all categories of mandatory debarments. For permissive debarments, the debarring official may, but is not required to, accept the relevant findings of a prior adjudication at the Federal, State, or local level as satisfying the requisite factual basis for debarment (e.g., a licensure revocation or suspension by a Federal regulatory board).

The subject of a proposed mandatory debarment will receive a 30-day advance notice of the impending debarment and may challenge ("contest") OPM's action by submitting information and arguments on their behalf (see § 890.1006). If OPM proposes a period of debarment exceeding the 3-year statutory minimum, the provider has the further right to make a personal appearance before the debarring official. The proposed mandatory debarment can be withdrawn only if the basis for it no longer exists, such as a conviction being reversed on appeal, or if the proposed subject is incorrectly identified. No further administrative appeal or reconsideration is available. Mandatory debarments become effective when implemented by OPM and remain in force during all judicial appeals. Sections 890.1009 and 890.1010 of the proposed rule address these procedures.

Permissive debarments (other than those based on prior adjudications) inherently require more extensive adjudication of individual cases than mandatory debarments. However, Pub. L. 105–266 provided an effective method of administering them by establishing specific factors that OPM must consider when deciding whether to impose a permissive debarment. These are enumerated in § 890.1013 of the proposed rule. A provider proposed for debarment on permissive grounds that have been previously adjudicated will receive advance written notice and an opportunity to contest the proposed debarment on essentially the same basis as an individual proposed for debarment on mandatory grounds. These procedures are reflected in

§§ 890.1022–890.1026 of the proposed rule.

When the grounds for a permissive debarment have not previously been determined through a due process adjudication, Pub. L. 105–266 requires that OPM provide an opportunity for a due process hearing to establish the underlying facts. If the debarring official determines that the administrative record contains a *bona fide* dispute about facts material to the debarment, he must request a fact-finding hearing before imposing debarment. If the debarring official decides that there is no genuine and material factual dispute on the record, he may issue a decision without a hearing. Except for debarments based on refusal to provide requested information or false/wrongful claims, the debarment will remain in effect while the hearing and associated procedures are held. The presiding official's findings (whether the hearing is held before or after debarment) are binding on the debarring official. No further administrative appeals are available after the debarring official's final decision. Sections 890.1027–890.1029 of the proposed rule detail the procedural rights of a provider subject to permissive debarment on previously unadjudicated grounds.

Suspension

Suspension is a temporary measure, equivalent in its effect to debarment, i.e., FEHBP funds may not be paid for items or services furnished while a provider is suspended. However, in contrast to a debarment, suspension can be imposed without prior due process, pending the completion of legal or administrative proceedings. Although Pub. L. 105–266 does not address suspension per se, it does confer discretion to make debarments effective immediately, if necessary to protect the health and safety of covered individuals. To exercise this authority systematically, we are proposing in §§ 890.1030–890.1041 to treat suspension as a separate form of sanction. This is also consistent with governmentwide practice under the Uniform Suspension and Debarment Common Rule. Section 890.1031 outlines the bases for taking a suspension action. To suspend a provider, OPM must have reasonable cause to believe that he has committed a violation warranting debarment and adequate evidence that the health and safety of covered individuals, or the integrity of FEHBP funds, would be at risk if a suspension were not issued immediately.

As provided in § 890.1032, the initial period of a suspension may not exceed 12 months. The Department of Justice or a Federal or local prosecutor may request that the suspension be extended for an additional six months. When formal legal or administrative proceedings are initiated during the period of suspension, it may continue indefinitely, pending their completion. If a suspended provider is subsequently debarred, § 890.1034 authorizes the debarring official to account for the period of suspension in determining the period of debarment.

Sections 890.1035–890.1041 provide a reconsideration procedure for suspensions, including the opportunity to make a personal appearance before the suspending official and the right to request a fact-finding proceeding before a presiding official when there is a *bona fide* dispute regarding facts material to the suspension.

Waivers and Exceptions

The proposed rule contains a number of waivers and exceptions that protect the financial and health care interests of persons who obtain their health insurance coverage through the FEHBP. These include provisions that (1) claims will be paid for covered persons who obtain services from a debarred provider without knowledge of his debarment [§ 890.1045]; (2) services furnished by a debarred provider in an emergency situation will be paid under each carrier's emergency coverage provisions [§ 890.1046]; (3) inpatients who were admitted to a debarred institution before its debarment will have continued coverage for inpatient institutional services until they are discharged or transferred, unless OPM determines that their health and safety require an earlier termination of payments [§ 890.1047]; (4) providers who are the sole provider of health care services or the sole source of essential specialized services in a community may apply for a limited waiver of debarment to continue their participation in FEHBP [§ 890.1048]; and (5) covered persons may apply for individual exceptions to permit continued payment of FEHBP funds for services they receive from a debarred provider if equivalent services are not reasonably available to them from a nondebarred provider or if interrupting an ongoing course of treatment by the debarred provider would create a risk to their health [§ 890.1050].

Reinstatement

The proposed rule recognizes two types of reinstatement. First, § 890.1051 implements the provisions of Pub. L. 105–266 authorizing OPM to establish regulations under which debarred providers may be reinstated after expiration of the term of their debarment. The statute makes all such reinstatements permissive on OPM's part and requires the provider to prove that they meet the criteria of § 890.1051(c). The proposed rule requires the debarred provider to apply for reinstatement. The effective date of a provider's reinstatement is to be established by OPM, but it may not occur before the period of debarment expires.

The second type of reinstatement, addressed in § 890.1052, applies when administrative or legal action occurring after the debarment has the effect of retroactively invalidating the basis for the debarment. This will occur, for example, where a conviction or licensure action that was the grounds for our debarment is overturned on appeal. In this case, the provider may qualify for reinstatement before their period of debarment expires. Also included in this category are cases where a provider excluded by another agency is reinstated by that agency, thus removing the basis for debarment. In all of these situations, OPM will reinstate the provider without an application being filed. The effective date of these "automatic" reinstatements will reflect the date of the event forming the basis for the reinstatement. Therefore, if an appeals court's reversal of a criminal conviction or licensure revocation has the effect of invalidating the action from its inception, we will normally make the reinstatement retroactive to the beginning date of the debarment. However, in the case of a termination of a sanction imposed by another Federal agency, the effective date of the automatic reinstatement will be the date of the other agency's reinstatement. The table in § 890.1053 provides an additional reference aid on these issues.

Regulatory Flexibility Act

I certify that this proposed regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon.

Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, OPM proposes to amend part 890 of title 5, Code of Federal Regulations as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for Part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403(p), 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; § 890.102 also issued under sections 11202(f), 11232(e), 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251; and section 721 of Pub. L. 105–261, 112 Stat. 2061.

2. Subpart J of part 890 is revised to read as follows:

Subpart J—Administrative Sanctions Imposed Against Health Care Providers

Sec.

General Provisions and Definitions

890.1001 What are the scope and purpose of these regulations?
890.1002 How is this subpart written and organized?
890.1003 What terms in this subpart have specialized meanings?

Mandatory Debarments

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890.1005 What is OPM's time limit for initiating a mandatory debarment?
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890.1007 What is the minimum period of debarment for mandatory debarments?
890.1008 When can the period of a mandatory debarment based on a conviction exceed the statutory minimum period?
890.1009 How may I contest OPM's proposal to debar me under a mandatory debarment authority?
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Permissive Debarments

890.1011 What are the grounds for permissive debarments?
890.1012 What are OPM's time limits for initiating a permissive debarment?
890.1013 How will OPM decide whether to propose a permissive debarment?
890.1014 How will OPM notify me of my proposed debarment under a permissive debarment authority?
890.1015 What are the minimum and maximum periods for permissive debarments?
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890.1020 How will OPM determine the period of my debarment based on false, wrongful, or deceptive claims?
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890.1049 How will FEHBP carriers handle claims for items or services furnished after a provider's debarment?
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Reinstatement

890.1051 How may I be reinstated when my period of debarment expires?
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Civil Monetary Penalties and Financial Assessments [Reserved]

Subpart J—Administrative Sanctions Imposed Against Health Care Providers

General Provisions and Definitions

§ 890.1001 What are the scope and purpose of these regulations?

(a) *Scope.* This subpart implements section 8902a of title 5, United States Code, as amended by Public Law 105–266 (October 19, 1998). It establishes a system of administrative sanctions that OPM may, or in some cases, must apply to health care providers who have committed certain violations. The sanctions include debarment, suspension, civil monetary penalties, and financial assessments.

(b) *Purpose.* OPM will use the authorities in this subpart to protect the health and safety of the persons who obtain their health insurance coverage through the FEHBP and the financial and programmatic integrity of FEHBP transactions.

§ 890.1002 How is this subpart written and organized?

(a) *Plain language format.* We wrote this subpart in a question-and-answer

format to make it easier for the public and health care providers to use. In this format, the questions comprising most section headings are integral parts of the respective sections and subsections, because the reader cannot interpret the answers without the context of the questions. Therefore, each question and answer are a unified whole with regulatory effect. The tables contained in this subpart also have regulatory effect.

(b) *Words connoting OPM and health care providers.* Unless otherwise indicated, the words "you," "me," and "I" connote a health care provider(s) and the word "we" connotes the Office of Personnel Management.

§ 890.1003 What terms in this subpart have specialized meanings?

The following terms have the meanings shown throughout this subpart:

(a) *Carrier* means an entity responsible for operating a health benefits plan described by section 8903 or section 8903a of title 5, United States Code.

(b) *Community* means a geographically-defined area in which you furnish health care services or supplies and for which you may request a limited waiver of debarment in accordance with this subpart. *Defined service area* has the same meaning as *community.*

(c) *Contest* means your request for the debarring or suspending official to reconsider your proposed sanction, its length, or its amount.

(d) *Control interest* means that:

(1) You have a direct and/or indirect ownership interest of 5 percent or more in an entity;

(2) You own a whole or part interest in a mortgage, deed of trust, note, or other obligation secured by the entity, its property, or its assets, equating to a direct interest of 5 percent or more of the total property or assets of the entity;

(3) You are an officer or director of the entity, if it is organized as a corporation;

(4) You are a partner in the entity, if it is organized as a partnership;

(5) You are a managing employee of the entity, including but not limited to a general manager, business manager, administrator, or other employee who exercises, either directly or through other employees, operational or managerial control over the activities of the entity or a portion of it;

(6) You have substantive control over an entity or a critical influence over the activities of the entity or some portion of it, whether or not you are employed by the entity; or

(7) You act as an agent of the entity.

(e) *Conviction* or *convicted* means the following, without regard to the pendency or outcome of an appeal (other than a judgment of acquittal based on innocence) or request for relief:

(1) A Federal, State, or local court has entered a judgment of conviction against you for a felony or misdemeanor offense;

(2) A Federal, State, or local court has found you guilty of a felony or misdemeanor offense;

(3) A Federal, State, or local court has accepted your plea of guilty, nolo contendere, or the equivalent to a felony or misdemeanor offense; or

(4) You have entered a first offender, diversion, or other program in which a judgment of conviction for a felony or misdemeanor offense has been withheld.

(f) *Covered individual* means an employee, annuitant, family member, or former spouse covered by a health benefits plan described by section 8903 or section 8903a of title 5, United States Code, or an individual eligible under section 8905(d) of title 5, United States Code.

(g) *Debarment* means a decision by the debarring official to prohibit payment of FEHBP funds to you, based on section 8902a (b), (c), or (d) of title 5, United States Code and this subpart.

(h) *Debarring official* means an OPM employee authorized to issue debarments under this subpart.

(i) *FEHBP* means the Federal Employees Health Benefits Program.

(j) *Health care services or supplies* means health care or services and supplies such as diagnosis and treatment; drugs and biologicals; supplies, appliances and equipment; and hospitals or other institutional entities that furnish supplies and services.

(k) *Incarceration* means imprisonment, or any type of confinement with or without supervised release, including but not limited to home detention, community confinement, house arrest, or similar arrangements.

(l) *Limited waiver* means an approval by the debarring official of your request to receive payments of FEHBP funds for items or services rendered in a defined geographical area, notwithstanding your debarment, because you are the sole community provider or sole source of essential specialized services in a community.

(m) *Mandatory debarment* means a debarment based on section 8902a(b) of title 5, United States Code. OPM must debar providers who have committed violations listed in that section.

(n) *Office or OPM* means the United States Office of Personnel Management or the component thereof responsible for conducting the administrative sanctions program described by this subpart.

(o) *Permissive debarment* means a debarment based on sections 8902a(c) or (d) of title 5, United States Code. The debarring official has discretionary authority to debar providers who have committed violations listed in those sections.

(p) *Provider* or *provider of health care services or supplies* means a physician, hospital, or other individual or entity that, directly or indirectly, furnishes health care services or supplies.

(q) *Reinstatement* means a decision by OPM to terminate your debarment and restore your eligibility to receive payment of FEHBP funds.

(r) *Sanction* or *administrative sanction* means any administrative action authorized by section 8902a of Title 5, United States Code, or this subpart, including debarment, suspension, civil monetary penalties, and financial assessments.

(s) *Should know* or *should have known* means that you act(ed) in deliberate ignorance or reckless disregard of the truth or falsity of information. For the purpose of imposing a sanction when the grounds incorporate a "should know" standard, no proof of specific intent to defraud is required to determine that you have committed an actionable violation.

(t) *Sole community provider* means that you are the only source of primary medical care within a defined service area.

(u) *Sole source of essential specialized services in a community* means that you are the only source of specialized health care items or services in a defined service area and items or services furnished by a non-specialist cannot be substituted without jeopardizing the health or safety of covered individuals.

(v) *Suspending official* means an OPM employee authorized to issue suspensions under this subpart.

Mandatory Debarments

§ 890.1004 What are the grounds for mandatory debarments?

OPM must debar you if any of the factors listed in paragraph (a) or (b) of this section applies to you.

(a) *Conviction for criminal offenses.* You have been convicted under Federal or State law of a criminal offense relating to:

(1) Fraud, corruption, breach of fiduciary responsibility, or other

financial misconduct in connection with the delivery of a health care service or supply;

(2) Neglect or abuse of patients in connection with the delivery of a health care service or supply;

(3) Interference with or obstruction of an investigation or prosecution of a criminal offense described in paragraph (a)(1) or (a)(2) of this section; or

(4) Unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

(b) *Administrative sanction currently in effect.* You are currently debarred, suspended, or otherwise excluded from any Federal procurement or nonprocurement activity, within the meaning of section 2455 of the Federal Acquisition Streamlining Act of 1994.

(c) *Direct involvement with an OPM program unnecessary.* Your conviction of an offense listed in paragraph (a) of this section or your receiving a sanction described in paragraph (b) of this section need not have involved an FEHBP covered individual or transaction, or any other OPM program, in order to serve as a basis for mandatory debarment.

§ 890.1005 What is OPM's time limit for initiating a mandatory debarment?

OPM must issue you written notice of a proposed mandatory debarment within 6 years of the event that forms the basis for the debarment. If the basis for the proposed debarment is a conviction, the notice must be issued within 6 years of the date of the conviction. If the basis is another agency's suspension, debarment, or exclusion, the OPM notice must be issued within 6 years of the effective date of the other agency's action.

§ 890.1006 How will OPM notify me of my proposed debarment?

(a) *Written notice.* We will inform you of your proposed debarment by written notice sent not less than 30 days prior to the proposed effective date.

(b) *Contents of the notice.* The notice will contain the following items of information:

(1) Effective date of your debarment;

(2) Minimum length of your debarment;

(3) Basis for your debarment;

(4) The provisions of law and regulation authorizing OPM to debar you;

(5) Effect of the debarment;

(6) Your right to contest the debarment to the debarring official;

(7) Your right to request that we reduce the period of your debarment, if it exceeds the minimum required by law or this subpart; and

(8) The procedures you must follow to apply for reinstatement at the end of your period of debarment, or to seek a waiver of the debarment on the basis that you are the sole health care provider in a community or the sole source of essential specialized services.

(c) *Methods of sending notice.* We will send the notice of proposed debarment to you by one of the following means:

(1) First class mail or, at our option, express delivery service, to your last known street or post office address;

(2) Facsimile transmission (fax), if you have furnished us a current fax number; or

(3) E-mail, if you have furnished us a current e-mail address.

(d) *Delivery to attorney, agent, or representatives.*

(1) If we are proposing to debar you as an individual, we may send the notice of proposed debarment to you or to any other person you have designated to act on your behalf during debarment proceedings.

(2) If we are proposing to debar an entity, we may send the notice of proposed debarment to any owner, partner, director, officer, registered agent for service of process, attorney, or managing employee.

(e) *Presumed timeframes for receipt of notice.* When we compute deadlines associated with your receipt of notices we send to you, we will apply the timeframes specified in paragraphs (e)(1) through (e)(3) of this section.

(1) We will consider any notice we send by first class mail or express delivery service to your last known street or post office address as having been received by you not later than 5 days after we send it.

(2) We will consider any notice we send by facsimile (fax) transmission to a number that you provided to us as having been received by you when we transmit it.

(3) We will consider any notice we send by e-mail to an e-mail address that you furnished to us as having been received by you when we transmit it to your email service provider.

(f) *Procedures if notice cannot be delivered.*

(1) If we learn that a notice we sent to you was undeliverable as addressed or routed, we will make reasonable efforts to obtain a current and accurate address or to use alternative methods of transmitting the notice to you.

(2) If we are unable to deliver a notice to you after reasonable followup efforts, we will presume that you received it 5 days after the date of our final attempt to send it to you.

§ 890.1007 What is the minimum period of debarment for mandatory debarments?

(a) *Debarment based on a conviction.* The statutory minimum period of debarment for a mandatory debarment based on a conviction is 3 years.

(b) *Debarment based on another agency's action.* A mandatory debarment based on another Federal agency's debarment, suspension, or exclusion remains in effect until the originating agency terminates its sanction.

§ 890.1008 When can the period of a mandatory debarment based on a conviction exceed the statutory minimum period?

(a) *Aggravating factors.* OPM may debar you for longer than the 3-year minimum period if aggravating factors are associated with the basis for your debarment. The factors we consider to be aggravating are as follows:

(1) The FEHBP incurred a financial loss as the result of the acts underlying your conviction, or similar acts that were not adjudicated. In determining whether a financial loss occurred, we will not consider any amounts of restitution you may have paid;

(2) The sentence imposed by the court included incarceration;

(3) The underlying offense(s), or similar acts not adjudicated, occurred repeatedly over a period of time, or there is evidence that you planned the offense(s) in advance;

(4) You have a prior record of criminal, civil, or administrative adjudication of related offenses or similar acts; or

(5) The actions underlying your conviction, or similar acts that were not adjudicated, adversely affected the physical, mental, or financial well-being of one or more covered individuals or other persons.

(b) *Mitigating factors.* If the aggravating factors justify debarring you for longer than 3 years, we will also consider whether mitigating factors may justify reducing your debarment period to not less than 3 years. The only factors that we will consider to be mitigating are as follows:

(1) The conviction(s) on which your debarment is based consist entirely or primarily of misdemeanor offenses;

(2) Court records, including associated sentencing reports, contain an official determination that you had a physical, mental, or emotional condition before or during the commission of the offenses underlying the conviction that reduced your level of culpability; or

(3) Your cooperation with Federal and/or State investigative officials

resulted in criminal convictions, civil recoveries, or administrative actions against other individuals, or served as the basis for identifying program weaknesses.

(c) *Maximum period of debarment.* There is no limit on the maximum period of a mandatory debarment based on a conviction.

§ 890.1009 How may I contest OPM's proposal to debar me under a mandatory debarment authority?

(a) *Contesting the debarment.* Within 30 days after receiving written notice that we intend to debar you under a mandatory debarment authority, you may submit information, documents, and written arguments in opposition to the proposed debarment. Our notice will give you specific information about where and how to submit this material. If you do not file a timely contest, your debarment will become effective as stated in the notice, without further action by OPM.

(b) Requesting a reduction of the debarment period. If we propose to debar you for a period longer than the 3-year minimum required by § 890.1007(a), you may request us to reduce the debarment period to not less than 3 years. You may make this request even if you are not contesting the debarment itself. In addition to providing written material, you may appear before the debarring official personally or through a representative to present oral arguments in support of your contest. Our notice will give you specific information about arranging an in-person presentation.

§ 890.1010 How will the debarring official decide my contest?

(a) *Prior adjudication is dispositive.* Evidence indicating that you were the subject of a prior adjudication of a type-described in § 890.1004 fully satisfies the standard of proof for a mandatory debarment.

(b) *Debarring official's decision.* The debarring official will issue a written decision, based on all the information in the administrative record, within 30 days after the administrative record is complete. This decision period may be extended for good cause.

(c) *No further administrative proceedings.* The debarring official's decisions regarding mandatory debarment and the period of your debarment are final and are not subject to further administrative review.

Permissive Debarments

§ 890.1011 What are the grounds for permissive debarments?

(a) *Licensure actions.* We may debar you if either paragraph (a)(1) or (a)(2) of this section applies to you. We may take this action even if you retain current and valid professional licensure in another State(s).

(1) A State licensing authority revokes, suspends, restricts, or declines to renew your license to provide health care items or services for reasons related to your professional competence, professional performance, or financial integrity; or

(2) You surrender your license to provide health care items or services while a formal disciplinary proceeding concerning your professional competence, professional performance, or your financial integrity is pending before a State licensing authority.

(b) *Ownership or control interests.*

(1) We may debar a health care provider that is an entity because a person who holds an ownership or control interest of 5 percent or more in the entity has been:

(i) Convicted of a criminal offense listed in § 890.1003(a) as a basis for debarment;

(ii) Debarred under this subpart from participating in the FEHBP; or

(iii) Assessed with a civil monetary penalty under section 8902a of title 5, United States Code and this subpart.

(2) We may debar you as an individual if both paragraphs (b)(2)(i) and (b)(2)(ii) of this section apply to you.

(i) You have an ownership or control interest in an entity that has been:

(A) Convicted of a criminal offense listed in § 890.1004(a) as a basis for debarment;

(B) Debarred under this subpart from participating in the FEHBP; or

(C) Assessed with a civil monetary penalty under section 8902a of title 5, United States Code and this subpart; and

(ii) You know or should know of the actions underlying the entity's conviction, debarment, or civil monetary penalty.

(c) *False, deceptive, or wrongful claims practices.* We may debar you if, in connection with a claim or claims submitted to a FEHBP carrier, you commit any of the following violations:

(1) You charge for health care items or services in an amount substantially in excess of your customary charges for those items or services;

(2) You charge for health care items or services that are substantially in excess of the needs of the covered individual to whom they are furnished;

(3) You charge for health care items or services whose quality fails to meet professionally recognized standards for items or services of that type;

(4) You charge for health care items or services that you knew or should have known were not furnished to the covered individual as claimed;

(5) You knowingly make, or cause to be made, a false statement or misrepresentation of a material fact reflected in a claim;

(6) You charge for items or services that you knew or should have known were furnished while you were debarred from participation in the FEHBP under this subpart; or

(7) You charge for items and services that you knew or should have known are in violation of the applicable charge limitations of section 8904(b) of title 5, United States Code.

(d) *Failure to furnish required information.* We may debar you if you knowingly fail to provide any information requested by a FEHBP carrier or OPM to determine:

(1) Whether a payment or reimbursement is properly payable; or

(2) The proper amount of payment or reimbursement that may be due.

§ 890.1012 What are OPM's time limits for initiating a permissive debarment?

(a) *Licensure cases.* If the basis for your proposed debarment is a licensure action, we must issue you a notice of proposed debarment within 6 years of the effective date on which a State licensing authority revoked, suspended, restricted, or declined to renew your license, or the date on which you surrendered your license to the State authority.

(b) *Ownership or control.* If the basis for the proposed debarment is ownership or control of an entity by a sanctioned person, or ownership or control of a sanctioned entity by a person who knew or should have known of the basis for the entity's sanction, we must issue a notice of proposed debarment within 6 years of the effective date of the sanction on which the proposed debarment is based.

(c) *False, deceptive, or wrongful claims practices.* If the basis for your proposed debarment involves a claim filed with a FEHBP carrier, we must issue you a notice of proposed debarment within 6 years of the date you presented the claim for payment to the covered person's FEHBP carrier.

(d) *Failure to furnish requested information.* If the basis for your proposed debarment involves your failure to furnish information requested by an FEHBP carrier or OPM, we must issue you a notice of proposed

debarment within 6 years of the date on which the carrier or OPM requested you to furnish the information in question.

§ 890.1013 How will OPM decide whether to propose a permissive debarment?

(a) *Review factors.* We will consider the factors listed in paragraphs (a)(1) through (a)(4) of this section in deciding whether to propose your debarment under a permissive debarment authority. The absence of a factor will be considered neutral; that is, it will have no effect on our decision.

(1) The nature of any claims involved in the basis for your proposed debarment and the circumstances under which they were presented to FEHBP carriers;

(2) The improper conduct involved in the basis for your proposed debarment, your degree of culpability, and your history of prior offenses;

(3) The extent to which you pose or may pose a risk to the health and safety of FEHBP-covered individuals or to the integrity of FEHBP transactions; and

(4) Other factors specifically relevant to your debarment that must be considered in the interests of fairness.

(b) *Specialized review in certain cases.* In determining whether to propose debarment under § 890.1011(c)(2), providing items or services substantially in excess of the needs of a covered individual, or § 890.1011(c)(3), providing items or services that fail to meet professionally-recognized quality standards, we will obtain the input of trained reviewers, based on written medical protocols developed by physicians. If we cannot reach a decision on this basis, we will consult with a physician in an appropriate specialty area.

§ 890.1014 How will OPM notify me of my proposed debarment under a permissive debarment authority?

We will apply the provisions of § 890.1006 to notify you of your proposed permissive debarment.

§ 890.1015 What are the minimum and maximum periods for permissive debarments?

We will not issue a permissive debarment for a period of less than one year, unless we specifically determine that a shorter period is in the interests of the FEHBP and its covered individuals. There is no limit on the maximum period of a permissive debarment.

§ 890.1016 What aggravating and mitigating factors will OPM consider in making a final determination of the period of my debarment?

(a) *Aggravating factors.* We will consider the presence of any of the factors listed in paragraphs (a)(1) through (a)(5) of this section, to represent aggravating circumstances that may support increasing the length of a debarment beyond the periods specified in §§ 890.1016 through 890.1021, respectively. The absence of a factor will have no effect either to increase or lower the nominal period of debarment.

(1) Your actions underlying the basis for the debarment, or similar acts, had an adverse impact on the physical or mental health or well-being of one or more FEHBP-covered individuals or other persons.

(2) You have a documented history of prior criminal wrongdoing; civil violations related to health care items or services; improper conduct; or administrative violations addressed by a Federal or State agency. We will consider matters involving violence, patient abuse, drug abuse, or controlled substances convictions or violations to be particularly serious.

(3) Your actions underlying the basis for the debarment, or similar acts, resulted in financial loss to the FEHBP, FEHBP-covered individuals, or other persons. In determining whether, or to what extent, a financial loss occurred, we will not consider any amounts of restitution you may have paid.

(4) You filed false, wrongful, or improper claims to FEHBP carriers that were numerous, submitted over a prolonged period of time, part of an on-going pattern of wrongful acts, or of which you were specifically aware or directly responsible.

(5) You attempted to obstruct, hinder, or impede official inquiries into the wrongful conduct underlying your debarment.

(b) *Mitigating factors.* The presence of either of the factors identified in paragraphs (b)(1) or (b)(2) of this section may support shortening your period of debarment to not less than one year. Their absence will have no effect to either raise or lower the period of debarment.

(1) Your cooperation with Federal, State, or local authorities resulted in criminal convictions, civil recoveries, or administrative actions against other violators, or served as the basis for official determinations of program weaknesses or vulnerabilities; and

(2) Official records of judicial proceedings or the proceedings of State licensing authorities contain a formal determination that you had a physical, mental, or emotional condition that reduced your level of culpability before or during the period in which you committed the violations in question.

§ 890.1017 How will OPM determine the period of my debarment based on revocation or suspension of my professional licensure?

(a) *Indefinite term of debarment.* Subject to the exceptions in paragraph (b) of this section, your debarment under § 890.1011(a) will be for an indefinite period coinciding with the period during which your license is revoked, suspended, restricted, surrendered, or otherwise not in effect in the State whose action against your license formed the basis for our debarment.

(b) *Aggravating circumstances.* If any of the aggravating circumstances in § 890.1016 apply to you, we may debar you for a stated period beyond the duration of your licensure revocation or suspension.

§ 890.1018 How will OPM determine the period of debarment for an entity owned or controlled by a sanctioned person?

We will determine the length of debarments issued under § 890.1011(b)(1) as described in paragraphs (a) through (c) of this section.

(a) *Concurrent with owner/controller's debarment.* The debarment of an entity based on debarment of an individual with an ownership or control interest will be for a period concurrent with the individual's debarment. If any aggravating or mitigating circumstances identified in § 890.1016 apply to the entity itself and were not considered in setting the period of the individual's debarment, we may debar the entity for a period longer or shorter than the individual's debarment.

(b) *Debarment based on owner/controller's conviction.* The debarment of an entity based on the criminal conviction of a person with an ownership or control interest for an offense listed in § 890.1004(a)(1) through (a)(4), will be for a period of no less than 3 years, subject to adjustment for any aggravating or mitigating circumstances identified in § 890.1016 that apply to the entity itself.

(c) *Debarment based on owner/controller's civil monetary penalty.* The debarment of an entity based on a civil monetary penalty imposed on a person with an ownership or control interest, will be for a period of no less than 3 years, subject to adjustment for any aggravating or mitigating circumstances identified in § 890.1016 that apply to the entity itself.

§ 890.1019 How will OPM determine the period of my debarment based on my ownership or control of a sanctioned entity?

We will determine the period of a debarment issued under § 890.1011(b)(2) as described in paragraphs (a) through (c) of this section.

(a) *Concurrent with entity's debarment.* If your debarment is based on your ownership or control of a debarred entity, we may debar you for a period concurrent with the entity's debarment. If any of the aggravating or mitigating circumstances identified in § 890.1016 applies to you personally and was not considered in setting the period of the entity's debarment, we may debar you for a period longer or shorter than the entity's debarment.

(b) *Debarment based on conviction of entity.* If your debarment is based on the criminal conviction of an entity you own or control for an offense listed in § 890.1004(a)(1) through (a)(4), we will debar you for a period of no less than 3 years, subject to adjustment for any aggravating or mitigating circumstances identified in § 890.1016 that apply to you as an individual.

(c) *Debarment based on civil monetary penalty against entity.* If your debarment is based on a civil monetary penalty imposed on an entity you own or control, we will debar you for 3 years, subject to adjustment on the basis of the aggravating and mitigating circumstances listed in § 890.1016 that apply to you as an individual.

§ 890.1020 How will OPM determine the period of my debarment based on false, wrongful, or deceptive claims?

Debarments under § 890.1011(c) will be for a period of 3 years, subject to adjustment based on the aggravating and mitigating factors listed in § 890.1016.

§ 890.1021 How will OPM determine the period of my debarment based on my failure to provide information needed to resolve claims?

Debarments under § 890.1011(d) will be for a period of 3 years, subject to adjustment based on the aggravating and mitigating factors listed in § 890.1016.

§ 890.1022 How may I contest OPM's proposal to debar me under a permissive debarment authority?

(a) *Right to contest your proposed debarment.* You may challenge a proposed debarment by filing a written contest with the debarring official during the 30-day notice period. If you do not file a timely contest, the debarment will become effective as stated in the notice, without further action by OPM.

(b) *Challenging the length of your proposed debarment.* You may contest the length of the proposed debarment, even if you are not challenging the debarment itself, or you may challenge both the length of a debarment and the debarment itself in the same contest. However, issues involving the length of a debarment are not subject to a fact-finding hearing under § 890.1028.

§ 890.1023 What information will the debarring official consider as part of my contest?

(a) *Documents and oral and written arguments.* You may submit documents and written arguments in opposition to the proposed debarment and/or its length, and you may appear personally or through a representative before the debarring official to provide any other information you believe to be relevant.

(b) *Specific factual basis for contesting the proposed debarment.* You must identify the specific facts that contradict the basis for your proposed debarment as stated in your notice of proposed debarment. A general or unsupported denial that the basis for debarment applies to you does not raise a genuine dispute over facts material to the debarment, and the debarring official will not give it any probative weight.

(c) *Mandatory disclosures.* In addition to any other information that you submit during the contest, you must inform the debarring official of any of the matters in paragraphs (c)(1) through (c)(3) of this section, that applies to you. If you fail to provide applicable information, OPM may initiate further legal or administrative action against you.

(1) Any existing, proposed, or prior exclusion, debarment, penalty, or other sanction imposed on you by a Federal, State, or local government agency, including any administrative agreement that purports to affect only a single agency;

(2) Any criminal or civil legal proceeding not referenced in the notice of proposed debarment that arose from facts relevant to the basis for debarment stated in the notice; and

(3) Any entity in which you have a control interest, as that term is defined in § 890.1003(d).

§ 890.1024 What standards and burdens of proof apply to my contest?

(a) *Preponderance of evidence.* OPM must prove by a preponderance of the evidence that you have committed a sanctionable violation.

(b) *Demonstrating basis for not imposing debarment.* If OPM establishes an evidentiary basis for your debarment, you have the burden of demonstrating that you are presently responsible to participate in FEHBP and that debarment is not necessary to protect the interests of the program and its covered individuals.

§ 890.1025 When can the debarring official decide my contest without an additional fact-finding proceeding?

A fact-finding proceeding in addition to your presentation of arguments, documents, and information to the debarring official is not required in the following circumstances:

(a) *Previously adjudicated facts.* Your proposed debarment is based on facts determined in a prior due process adjudication. Examples of prior due process proceedings include, but are not limited to, the adjudication procedures associated with:

(1) Licensure revocation, suspension, restriction, or nonrenewal by a State licensing authority;

(2) Debarment, exclusion, suspension, civil monetary penalties, or similar legal or administrative adjudications by Federal, State, or local agencies;

(3) A criminal conviction or civil judgment; or

(4) An action on your part that constitutes a waiver of your right to a due process adjudication, such as surrender of your professional license during the pendency of a disciplinary hearing, entering a guilty plea or confession of judgment in a judicial proceeding, or entering a settlement agreement to resolve or forestall a civil, criminal, or administrative action.

(b) *No dispute of material facts.* Your contest does not identify a *bona fide* dispute concerning facts material to the basis for your proposed debarment.

§ 890.1026 How will the debarring official resolve my contest if a fact-finding proceeding is not required?

(a) *Debarring official's procedures.* If the debarring official determines that a fact-finding proceeding is not required, you will receive the final decision on your contest within 30 days after the record closes for submitting evidence, arguments, and information as part of your contest. The debarring official may extend this timeframe for good cause.

(b) *No further administrative review available.* There are no further administrative proceedings after the presiding official's final decision. If you are adversely affected by the decision, you may appeal to the appropriate United States District Court under section 8902a(h)(2) of title 5, United States Code.

§ 890.1027 When must the debarring official request a fact-finding proceeding before deciding my contest?

(a) *Criteria for holding fact-finding proceeding.* The debarring official must request another OPM official ("presiding official") to hold a fact-finding proceeding if both paragraphs (a)(1) and (a)(2) of this section apply.

(1) Facts material to your proposed debarment have not been adjudicated in a prior due process proceeding; and

(2) These facts are genuinely in dispute, based on the entire administrative record available to the debarring official.

(b) *Qualification to serve as presiding official.* The presiding official is designated by the OPM Director or another OPM official authorized by the Director to make such designations. The presiding official will be a senior official who is able to conduct informal adjudicative processes. He will have had no previous contact with your proposed debarment or the contest.

(c) *Effect on contest.* The debarring official must defer his decision on your contest pending the results of the fact-finding proceeding.

§ 890.1028 How will the presiding official conduct the fact-finding proceeding?

(a) *Informal proceeding.* The presiding official will conduct the fact-finding proceedings as informally as practicable, consistent with principles of fundamental fairness. Formal rules of evidence or procedure do not apply to these proceedings.

(b) *Proceeding limited to disputed material facts.* The presiding official can consider only the genuinely disputed facts identified by the debarring official as relevant to the basis for your debarment. Matters previously adjudicated or about which there is no *bona fide* dispute on the record are outside the presiding official's jurisdiction.

(c) *Right to present information, evidence, and arguments.* You may appear before the presiding official with your counsel, submit oral and written arguments and documentary evidence, present witnesses on your behalf, question any witnesses testifying in support of your suspension, and challenge the accuracy of any other evidence that the agency offers as a basis for your suspension.

(d) *Record of proceedings.* The presiding official will make an audio recording of the proceedings before him. If you wish to have a transcribed record, you may purchase it.

(e) *Presiding official's findings.* The presiding official will determine all of the disputed facts identified by the debarring official, on the basis of a preponderance of the evidence in the entire administrative record. Within 30 days after the record of the proceeding closes, the presiding official must issue a written report of all findings of fact to the debarring official.

§ 890.1029 How will the debarring official decide my contest after the fact-finding proceeding?

(a) *Findings must be accepted.* The debarring official must accept the presiding official's findings of fact, unless they are arbitrary, capricious, or clearly erroneous. In such a case, the debarring official must remand the material facts to the presiding official for additional proceedings in accordance with § 890.1028.

(b) *Timeframe for final decision.* The debarring official will issue a final written decision on your contest within 30 days after receiving the presiding official's findings. The debarring official may extend this decision period for good cause.

(c) *Debarring official's final decision.*

(1) The debarring official must observe the evidentiary standards and burdens of proof stated in § 890.1024 in reaching a final decision to debar.

(2) In any case where the final decision is to debar, the debarring official has the discretion to set the period of debarment, subject to the factors identified in §§ 890.1015 through 890.1021.

(3) The debarring official has the discretion to decide not to impose debarment in any case involving a permissive debarment authority.

(e) *No further administrative proceedings.* If you are adversely affected by the debarring official's final decision, you may appeal to the appropriate United States District Court under section 8902a(h)(2) of title 5, United States Code.

Suspension

§ 890.1030 What is a suspension?

(a) *Temporary action pending formal proceedings.* Suspension is a temporary action pending completion of an investigation or ensuing criminal, civil, or administrative proceedings.

(b) *Immediate effect.* Suspension is effective immediately upon the suspending official's decision, without prior notice to you.

(c) *Effect equivalent to debarment.* The effect of a suspension is the same as the effect of a debarment. You may not receive payment from FEHBP funds for items or services you furnish to covered individuals during the period of your suspension.

§ 890.1031 Under what circumstances may OPM suspend me?

(a) *Basis for suspension.* We may suspend you if both paragraphs (a)(1) and (a)(2) of this section apply.

(1) We obtain reliable evidence indicating that one of the grounds for suspension listed in paragraph (b) of this section applies to you; and

(2) The suspending official determines under paragraph (c) of this section that immediate action to suspend you is necessary to protect the public interest.

(b) *Grounds for suspension.* Evidence of any of the following situations may constitute grounds for a suspension:

(1) You are indicted for or convicted of a criminal offense that is a basis for mandatory debarment under this subpart;

(2) You are indicted for or convicted of a criminal offense that reflects a risk to the health, safety, or well-being of covered individuals who may obtain health care services or supplies from you; or

(3) OPM obtains credible evidence indicating, in the judgment of the suspending official, that you have committed a violation that would warrant your debarment under this subpart. This evidence may include, but is not limited to:

(i) Civil judgments;

(ii) Notice that a Federal, State, or local government agency has debarred, suspended, or excluded you from participating in its programs or revoked or declined to renew a professional license; or

(iii) Other official findings by Federal, State, or local bodies that determine factual or legal matters.

(c) *Determining need for immediate action.* Suspension is intended to protect the public interest, including the health and safety of covered individuals or the integrity of FEHBP funds. The suspending official has wide discretion to decide whether to suspend you. He does not need to make a specific finding of immediacy or necessity before suspending you, and he may draw reasonable inferences from the nature of the alleged misconduct and from your actual or potential transactions with the FEHBP.

§ 890.1032 How long will my suspension last?

(a) *Initial period.* The suspending official will establish the initial term of all suspensions as an indefinite period not to exceed 12 months.

(b) *Formal legal proceedings not initiated.* If formal legal or administrative proceedings have not begun against you within 12 months

after the effective date of your suspension, the suspending official may:(1) Terminate the suspension; or(2) If requested by the Department of Justice, the cognizant United States Attorney's Office, or other responsible Federal, State, or local prosecuting official, extend the suspension for an additional period, not to exceed 6 months.

(c) *Formal proceedings initiated.* If formal criminal, civil, or administrative proceedings are initiated against you while you are suspended, the suspension may continue indefinitely, pending the outcome of those proceedings.

(d) *Terminating the suspension.* The suspending official may terminate your suspension at any time, and must terminate it after 18 months, unless formal proceedings have begun within that period.

§ 890.1033 How will OPM notify me of a suspension?

(a) *Written notice.* OPM will send you a written notice of suspension under the procedures and methods described in § 890.1006(c)–(e).

(b) *Contents of notice.* The suspension notice will contain the following information:

(1) That you are suspended, effective on the date of the notice;

(2) The initial period of your suspension;

(3) The basis for your suspension;

(4) The provisions of law and regulation authorizing your suspension;

(5) The effect of your suspension; and

(6) Your rights to contest the suspension.

§ 890.1034 If I am debarred after being suspended, will the suspension period count as part of the debarment period?

The debarring official may consider your contiguous period of suspension when determining the length of your debarment.

§ 890.1035 How may I contest OPM's decision to suspend me?

(a) *Filing a contest of the suspension.* You may challenge a suspension by filing a contest, in writing, with the suspending official not later than 30 days after you receive notice of your suspension. The suspension will remain in effect during the contest, unless it is rescinded by the suspending official.

(b) *Informal proceeding.* The suspending official will use informal, flexible procedures to conduct the contest. Formal rules of evidence and procedure do not apply to this proceeding.

§ 890.1036 What information will the suspending official consider as part of my contest?

(a) *Presenting information and arguments to the suspending official.* You may submit documents and written arguments in opposition to the suspension, and you may appear personally, or through a representative, before the suspending official to provide any other information that you believe to be relevant.

(b) *Specific factual basis for contesting the suspension.* You must identify specific facts that contradict the basis for your suspension as stated in the suspension notice. A general denial that the basis for the suspension applies to you will not raise a genuine dispute over facts material to the suspension, and the suspending official will not give it any probative weight.

(c) *Mandatory disclosures.* You must inform the suspending official of any information described in paragraphs (c)(1) through (c)(3) of this section that applies to you:

(1) Any existing, proposed, or prior exclusion, debarment, penalty, or other sanction imposed by a Federal, State, or local government agency, including any administrative agreement that purports to affect only a single agency;

(2) Any criminal or civil proceeding not referenced in the suspension notice that arose from facts relevant to the basis for the suspension stated in the notice; and

(3) Any entity in which you have a control interest, as that term is defined in § 890.1003(d).

§ 890.1037 When can the suspending official decide my contest without arranging an additional fact-finding proceeding?

In the situations described in paragraphs (a) through (c) of this section apply, the suspending official may decide your contest without an additional fact-finding process.

(a) *Previously adjudicated facts.* Your suspension is based on an indictment or on facts determined by a prior adjudication in which you were afforded due process rights. Examples of due process proceedings include, but are not limited to, the adjudication procedures associated with licensure revocation, suspension, restriction, or nonrenewal by a State licensing authority; similar administrative adjudications by Federal, State, or local agencies; a criminal conviction or civil judgment; or an action on your part that constitutes a waiver of your right to a due process adjudication, such as surrender of your professional license during the pendency of a disciplinary hearing, entering a guilty plea or confession of judgment in a judicial proceeding, or entering a settlement agreement to resolve or forestall a civil, criminal, or administrative action. Neither the existence of the prior adjudication nor any of the underlying circumstances are considered to be subject to genuine factual dispute as part of the suspension proceeding.

(b) *Advisory by law enforcement officials.* OPM is advised by the Department of Justice, the cognizant U.S. Attorney, a State attorney general's office, or a State or local prosecutor's office that proceedings before a presiding official would prejudice the substantial interests of the government in pending or contemplated legal proceedings based on the same facts as the suspension.

(c) *No bona fide factual dispute.* The information, arguments, and documents you submit to the suspending official do not establish that there is a *bona fide* factual dispute regarding facts material to your suspension.

§ 890.1038 How will the suspending official resolve my contest if he determines that a fact-finding proceeding is not required?

(a) *Written decision.* The suspending official will issue a written decision on your contest within 30 days after the record closes for submitting evidence, arguments, and information as part of your contest. He may extend this timeframe for good cause.

(b) *No further administrative review available.* The suspending official's decision is final and is not subject to further administrative review.

§ 890.1039 Under what circumstances must the suspending official arrange a fact-finding proceeding before deciding my contest?

(a) *Disputed material facts.* If the suspending official determines that your contest establishes the existence of a *bona fide* factual dispute regarding facts material to the suspension, he must arrange for them to be resolved through a fact-finding process conducted by another OPM official ("presiding official"), unless the restriction of § 890.1037(b) applies.

(b) *Qualification to serve as presiding official.* The presiding official is designated by the OPM Director or another OPM official authorized by the Director to make such designations. He will be a senior official qualified to conduct informal administrative adjudications. The presiding official must have had no previous contact with your suspension or the contest.

(c) *Decision on contest deferred.* The suspending official must defer any

decision on your contest pending the results of the fact-finding process.

§ 890.1040 How will the presiding official conduct the fact-finding proceeding?

(a) *Informal proceeding.* The presiding official will conduct the fact-finding proceedings as informally as practicable, consistent with principles of fundamental fairness. Specific rules of evidence or procedure do not apply to these proceedings.

(b) *Proceeding limited to disputed material facts.* The presiding official can consider only the genuinely disputed facts identified by the suspending official as relevant to the basis for your suspension. Matters previously adjudicated or about which there is no *bona fide* dispute on the record are outside the presiding official's jurisdiction.

(c) *Right to present information, evidence, and arguments.* You may appear before the presiding official with your counsel, submit oral and written arguments and documentary evidence, present witnesses on your behalf, question any witnesses testifying in support of your suspension, and challenge the accuracy of any other evidence that the agency offers as a basis for your suspension.

(d) *Record of proceedings.* The presiding official will make an audio recording of the proceedings before him. If you wish to have a transcribed record, you may purchase it.

(e) *Presiding official's findings.* Within 30 days after the record of the fact-finding proceeding closes, the presiding official will forward to the suspending official a written report of findings that resolves all of the disputed material facts. You will receive a copy of this report simultaneously.

§ 890.1041 How will the suspending official decide my contest after the fact-finding proceeding is completed?

(a) *Presiding official's findings must be accepted.* The suspending official must accept the presiding official's findings, unless they are arbitrary, capricious, or clearly erroneous.

(b) *Suspending official's decision.* Within 30 days after receiving the presiding official's report, the suspending official must issue a final written decision that either sustains, modifies, or terminates the suspension. The suspending official may extend this period for good cause.

(c) *Effect on subsequent debarment or suspension proceedings.* A decision by the suspending official to modify or terminate your suspension will not prevent OPM from subsequently debarring you, or any other Federal agency from either suspending or debarring you, based on the same facts.

Effect of Debarment

§ 890.1042 When will my debarment go into effect?

(a) *Minimum notice period.* Your debarment will take effect no sooner than 30 days after the date of OPM's notice of proposed debarment, unless the debarring official specifically determines that the health or safety of covered individuals or the integrity of the FEHBP warrants an earlier effective date. In that situation, the notice will specifically inform you that the debarring official decided to shorten or eliminate the 30-day notice period.

(b) *Uncontested debarments.* If you do not contest the proposed debarment, it will take effect on the date stated in the notice of proposed debarment, without further procedures, actions, or notice by OPM.

(c) *Contested debarments and requests for reducing the period of debarment.* If you contest the proposed debarment, it will not go into effect until the debarring official issues a final written decision, unless the health or safety of covered individuals or the integrity of the FEHBP requires your debarment to be effective while your contest is pending.

§ 890.1043 How does my debarment affect me?

(a) *FEHBP payments prohibited.* You may not receive payment, directly or indirectly, from FEHBP funds for items or services that you provide to a covered individual on or after the effective date of your debarment. Also, you may not accept an assignment of a claim for items or services furnished to a covered individual during the period of your debarment. These restrictions remain in effect until you are reinstated by OPM.

(b) *Governmentwide effect.* Your debarment precludes you from participating in all other Federal agencies' procurement and nonprocurement programs and activities, as required by section 2455 of the Federal Acquisition Streamlining Act of 1994. Other agencies may grant you a waiver or exception under their own regulations, to permit you to participate in their programs.

(c) *Civil or criminal liability.* You may be subject to civil monetary penalties or criminal liability if you knowingly file claims, cause claims to be filed, or accept payment from FEHBP carriers for items or services that you provide to a covered individual on or after the effective date of your debarment.

Notifying Outside Parties About Debarment and Suspension Actions

§ 890.1044 What entities will OPM notify of my debarment or suspension?

We will notify the entities listed in paragraphs (a)–(d) of this section about your debarment or suspension.

(a) FEHBP carriers;

(b) General Services Administration, for publication in the comprehensive governmentwide list of Federal agency exclusions;

(c) Other Federal agencies that administer health care or health benefits programs; and

(d) State and local agencies, authorities, boards, or other organizations with health care licensing or certification responsibilities.

§ 890.1045 How will OPM inform persons covered by FEHBP about my debarment or suspension?

After receiving OPM's notice of your debarment or suspension, FEHBP carriers must inform covered individuals who have previously obtained items or services from you of the following:

(a) That you are debarred or suspended;

(b) The minimum period remaining in your period of debarment; and

(c) That OPM must terminate your debarment or suspension before FEHBP funds can be paid for items or services you furnish to covered individuals.

Exceptions to the Effect of Debarments

§ 890.1046 How does my debarment affect payments to me for services I furnish in emergency situations?

You may receive FEHBP funds paid for items or services you furnish on an emergency basis if the FEHBP carrier serving the covered individual determines that:

(a) Your treatment was essential to the health and safety of the covered individual; and

(b) No other source of equivalent treatment was reasonably available.

§ 890.1047 What special rules apply to me as an institutional provider?

(a) *Covered individual admitted before debarment.* If a covered person is admitted before the effective date of your debarment, you may continue to receive payment of FEHBP funds for inpatient institutional services until the covered person is released or transferred, unless the debarring official terminates payments under paragraph (b) of this section.

(b) *Health and safety of covered individuals.* If the debarring official determines that the health and safety of covered persons would be at risk if they

remain in a debarred institution, OPM may terminate your FEHBP payments for them at any time.

(c) *Notice of payment limitations.* If we limit any payment under paragraph (b) of this section, we will inform you of our decision in writing.

(d) *Finality of debarring official's decision.* The debarring official's decision to limit or deny payments under paragraph (b) of this section is not subject to further administrative review or reconsideration.

§ 890.1048 How may I obtain a waiver of my debarment if I am the sole source of health care services in a community?

(a) *Application required.* You may apply for a limited waiver of your debarment at any time after you receive OPM's notice of proposed debarment. Suspended providers are not eligible to request a waiver of their suspension.

(b) *Criteria for granting waiver.* To receive a waiver, you must clearly demonstrate that you meet all of the following criteria:

(1) You are the *sole community provider* or the *sole source of essential specialized services in a community;*

(2) A limited waiver of the debarment would be in the best interests of covered individuals in the defined service area;

(3) There are reasonable assurances that the actions which formed the basis for your debarment will not recur; and

(4) There is no basis under this subpart for continuing your debarment.

(c) *Waiver applies only in the defined service area.* A limited waiver applies only to items or services provided within the defined service area where you are the *sole community provider* or *sole source of essential specialized services.*

(d) *Governmentwide effect continues.* A limited waiver applies only to your FEHBP transactions. Even if we waive your debarment for FEHBP purposes, the governmentwide effect under section 2455 of the Federal Acquisition Streamlining Act of 1994 continues for all other Federal agencies' procurement and nonprocurement programs and activities.

(e) *Waiver rescinded if circumstances change.* We will rescind the limited waiver when any of the conditions on which it is based no longer apply. Examples include, but are not limited to the following:

(1) You cease to provide items or services in the defined service area;

(2) Another provider begins to furnish equivalent items or services in the defined service area, so that you are no longer the sole provider or sole source; or

(3) The actions that formed the basis for your debarment, or similar acts, recur. If we rescind the limited waiver, your debarment will resume full effect for all FEHBP transactions.

(f) *Effect on period of debarment.* The minimum period of your debarment is established when the debarment is initially imposed. A subsequent decision to grant, deny, or rescind a limited waiver will not change that period.

(g) *Application is necessary for reinstatement.* You must apply for reinstatement at the end of your period of debarment, even if your limited waiver is in effect when your debarment expires.

(h) *Finality of debarring official's decision.* The debarring official's decision to grant or deny a limited waiver is final and not subject to further administrative review or reconsideration.

Special Exceptions To Protect Covered Persons

§ 890.1049 How will FEHBP carriers handle claims for items or services furnished after a provider's debarment?

(a) *Covered individual unaware of debarment.* FEHBP funds may be paid for items and services furnished by a debarred provider if, at the time the items or services were furnished, the covered individual did not know, and could not reasonably be expected to know, that the provider was debarred. This provision is intended solely to protect the interests of FEHBP covered persons who obtain services from a debarred or suspended provider in good faith and without knowledge that the provider has been sanctioned. It does not authorize sanctioned providers to submit claims for payment to FEHBP carriers.

(b) *Notice sent by carrier.* When paying a claim under the authority of paragraph (a) of this section, the carrier must send a written notice to the covered individual that includes the following information:

(1) That the provider is debarred and prohibited from receiving payment of FEHBP funds for items or services furnished after the debarment date;

(2) That claims will not be paid for items or services furnished by the debarred provider after the covered individual receives notice of the debarment;

(3) That the current claim is being paid as a legally-authorized exception to the effect of the debarment in order to protect covered individuals who obtain items or services without knowledge of their provider's debarment;

(4) That FEHBP carriers must deny payment of any claim for items or services rendered by a debarred provider 15 days or longer after the date of the notice described in this subsection, unless the covered individual had no knowledge of the provider's debarment when the items or services were rendered;

(5) The minimum period remaining in the provider's debarment; and

(6) OPM must terminate the provider's debarment or suspension before FEHBP funds can be paid for items or services furnished to covered individuals.

§ 890.1050 How may an FEHBP covered individual request an exception to a provider's debarment?

(a) *Request by a covered individual.* Any individual in whose name an FEHBP subscription is issued may submit a request through the FEHBP carrier for continued payment of items or services furnished by a debarred provider to any person covered under that enrollment. Requests will not be accepted for continued payments to suspended providers.

(b) *OPM action on the request.* OPM will consider the recommendation of the FEHBP carrier before acting on the request. To be approved, the request must demonstrate that at least one of the situations in paragraphs (b)(1) or (b)(2) of this section applies.

(1) Interrupting an existing, ongoing course of treatment by the provider would have a detrimental effect on the covered individual's health or safety; or

(2) The covered individual does not have access to an alternative source of the same or equivalent health care items or services within a reasonably accessible service area.

(c) *Scope of the exception.* An approved exception applies only to the covered individual(s) who requested it, or on whose behalf it was requested. The governmentwide effect of the provider's debarment under section 2455 of the Federal Acquisition Streamlining Act is not altered by an exception.

(d) *Provider requests not allowed.* OPM will not consider an exception request submitted by a provider on behalf of a covered individual.

(e) *Finality of debarring official's decision.* The debarring official's decision on an exception request is not subject to further administrative review or reconsideration.

Reinstatement

§ 890.1051 How may I be reinstated when my period of debarment expires?

(a) *Application required.* Reinstatement is not automatic when the minimum period of your debarment expires. You must apply in writing to

OPM, supplying specific information about the reinstatement criteria outlined in paragraph (c) of this section.

(b) *Reinstatement date.* We will accept your reinstatement application no earlier than 60 days before the nominal expiration date of your debarment. However, in no case will we reinstate you before your minimum period of debarment expires.

(c) *Reinstatement criteria.* Your reinstatement application must clearly demonstrate that you meet all of the following criteria:

(1) There are reasonable assurances that the actions resulting in your debarment have not and will not recur;

(2) There is no basis under this subpart for continuing your debarment; and

(3) There is no pending criminal, civil, or administrative action that would subject you to debarment by OPM.

(d) *Written notice of OPM action.* We will inform you in writing of our decision on your reinstatement application.

(e) *Limitation on reapplication.* If we deny your reinstatement application, you may not reapply until 1 year after the date of our decision.

§ 890.1052 Under what circumstances will OPM reinstate me without my filing an application?

If any of the situations identified in paragraphs (a) through (c) of this section occurs, you should inform the debarring official immediately. OPM will reinstate you without the need for a reinstatement application in these circumstances. OPM will send you a written notice concerning the effective date of your reinstatement.

(a) *Conviction reversed.* The conviction on which your debarment was based is reversed or vacated on appeal.

(b) *Sanction terminated.* A sanction imposed by another Federal agency, on which your debarment was based, is terminated by that agency.

(c) *Court order.* A Federal court orders OPM to stay, rescind, or terminate your debarment.

§ 890.1053 Table of procedures and effective dates for reinstatements.

The following table indicates the procedures and effective dates for reinstatements under this subpart:

Basis for debarment	Application required?	Effective date
Period of debarment expires	Yes	After debarment expires.
Conviction reversed on appeal	No	Retroactive (start of debarment).
Other agency sanction ends	No	Ending date of sanction.
Court order ending debarment	No	Retroactive (start of debarment).

§ 890.1054 What agencies and entities will OPM notify about my reinstatement?

We will inform the FEHBP carriers, government agencies and other organizations that were originally notified of your debarment.

§ 890.1055 How may I contest OPM's decision to deny my reinstatement application?

(a) *Obtaining reconsideration of the initial decision.* You, or a representative acting on your behalf, may submit documents and written arguments to the debarring official, opposing the decision to deny your reinstatement application. In addition, you and/or your representative may request to appear in person to present oral arguments to the debarring official. You must submit these materials within 30 days after the date of the decision notice in paragraph (a) of this section.

(b) *Debarring official's final decision on reinstatement.* The debarring official will issue a final written decision, based on the entire administrative record, within 30 days of the record closing to receipt of information. The debarring official may extend the decision period for good cause.

(c) *Finality of debarring official's decision.* The debarring official's final decision is not subject to further administrative review or reconsideration.

Civil Monetary Penalties and Financial Assessments [Reserved]

[FR Doc. 01–30529 Filed 12–11–01; 8:45 am]
BILLING CODE 6325–32–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR PART 1310

[DEA–203C]

RIN 1117–AA52

Establishment of a Threshold for Gamma-Butyrolactone; Correction

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document corrects the proposed rule "Establishment of a Threshold for Gamma-Butyrolactone" (DEA–203P) which DEA published in the **Federal Register** on October 24, 2001 (66 FR 53746). The proposed rule concerned the establishment of a threshold for the List I chemical gamma-butyrolactone (GBL).

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7183

SUPPLEMENTARY INFORMATION:

Background

On Wednesday, October 24, 2001, DEA published a Notice of Proposed Rulemaking titled "Establishment of a Threshold for Gamma-Butyrolactone" in the **Federal Register** (66 FR 53746). The proposed regulations that are subject to this correction suggest adding new paragraphs at Title 21, Code of Federal Regulations (CFR), 1310.04(g)(1) and 21 CFR 1310.08. These paragraphs suggest that no threshold be established for GBL and that certain transactions in GBL be excluded from the definition of a regulated transaction, respectively. However, a previous Final Rule, published on Wednesday October 17, 2001, already added paragraphs at 21 CFR 1310.04(g)(1)(ii)–(iv) and 21 CFR 1310.08(j). Therefore, to alleviate any confusion which might arise by publication of this proposed rule, DEA is redesignating the text of the paragraphs in the proposed rule to align with the currently amended Code of Federal Regulations. No substantive changes to the proposed text are occurring in this correction. In addition, one typographical error is being corrected.

Accordingly, the publication on October 24, 2001 of the proposed rule (DEA–203P), which was the subject of FR Doc. 01–26741, is corrected as follows:

1. On page 53748, in the first column, sixth line of the fourth full paragraph correct "(ii)" to read "(iii)".

PART 1310—[CORRECTED]

2. On page 53749, amendatory instruction 2 is corrected to read as follows: "2. Section 1310.04 is proposed to be amended by adding a new paragraph (g)(1)(v) to read as follows:"

3. Corrected § 1310.04(g)(1)(v) reads as follows:

§ 1310.04 Maintenance of records.

* * * * *

(g) * * *

(1) * * *

(v) gamma-Butyrolactone (Other names include: GBL; Dihydro-2(3H)-furanone; 1,2–Butanolide; 1,4–Butanolide; 4–Hydroxybutanoic acid lactone; gamma-Hydroxybutyric acid lactone)

* * * * *

4. On page 53749, amendatory instruction 3 is corrected to read as follows: "3. Section 1310.08 is proposed to be amended by adding a new paragraph (k) to read as follows:"

5. Corrected § 1310.08(k) reads as follows:

§ 1310.08 Excluded transactions.

* * * * *

(k) Domestic, import, and export distributions of gamma-butyrolactone weighing 16,000 kilograms (net weight) or more in a single container.

Dated: December 5, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 01–30731 Filed 12–11–01; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AK31

Independent Medical Opinions

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the adjudication regulation dealing with independent medical opinions that may be requested to resolve complex or controversial medical issues that may arise in a claim for veterans' benefits. This amendment is a plain language restatement of the existing regulation on this subject, and no substantive changes are being made. The intended effect of this amendment is to clarify the process by which independent medical opinions are obtained.

DATES: Comments must be received on or before February 11, 2002.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273-9289; or e-mail comments to *OGCRegulations@mail.va.gov*. Comments should indicate that they are submitted in response to "RIN 2900-AK31." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Jack Bisset, Consultant, Compensation and Pension Service, Regulations Staff, or Bob White, Team Leader, Plain Language Regulations Project, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7213 and (202) 273–7228, respectively. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: This document proposes to restate in plain language the provisions of the current regulation on independent medical opinions, 38 CFR 3.328 and place them in a new section designated as § 3.2410. Current § 3.328 would be removed, and § 3.2410 would be placed in subpart D, Universal Adjudication Rules that Apply to Benefit Claims Governed by part 3 of this title. This is a plain language restatement of the provisions in current § 3.328 and is not intended to change VA policy or regulations in any substantive way.

Proposed § 3.2410 is divided into seven short paragraphs. Each paragraph provides an answer to a brief introductory question. Paragraph (a) answers the question, "What is an independent medical opinion?" Paragraph (a) states that an independent medical opinion (IMO) is an advisory opinion from a medical expert who is not a VA employee. Paragraph (a) also makes clear that VA makes arrangements for these opinions with various medical institutions but does not select the individual experts who provide the opinions. That selection is made by officials of the institution. This paragraph is a restatement of paragraph (a) of current § 3.328 except for the first clause of the first sentence.

Paragraph (b) of proposed § 3.2410 answers the question, "When will an IMO be requested?" It provides that VA will request an IMO when there is a medical issue in a pending claim which is extremely rare, complex or controversial and cannot be resolved on the evidence of record. This is a restatement of the first clause of paragraph (a) and the first sentence of paragraph (c) of current § 3.328.

Paragraph (c) of proposed § 3.2410 addresses the issue of who can request an IMO. It states that IMOs can be requested by claimants or their representatives, or by Service Center Managers on their own initiative. This is a restatement of the first sentence of paragraph (b) of current § 3.328.

The question in paragraph (d) of proposed § 3.2410 is, "How do I request an IMO?" Paragraph (d) provides that a request for an IMO must be submitted to a Service Center Manager for initial review, and the request must include detailed reasons why the IMO is necessary. This is a restatement of portions of the second and third sentences in paragraph (b) of current § 3.328.

Paragraph (b) of § 3.328 currently requires that a request for an IMO be in writing. VA believes that this requirement is too restrictive and can result in claims processing delays. We have, therefore, added to paragraph (d) of proposed § 3.2410 that the requirement for a "writing" includes e-mail, facsimile, or other written electronic means. VA does not want to prevent the use of methods of submission which could improve processing timeliness.

The question in paragraph (e) of proposed § 3.2410 is, "Who approves the request for an IMO?" Paragraph (e) provides that if the Service Center Manager agrees, on initial review, that an IMO would be appropriate, the request is then forwarded to the Director of the Compensation and Pension Service for approval. If the request is approved, the Director will make arrangements to obtain the IMO. This is a restatement of the last sentence in paragraph (b) and the first two sentences of paragraph (c) of current § 3.328.

Paragraph (f) of proposed § 3.2410 answers the question, "How will I know if the request is approved?" Paragraph (f) states that the Director of the Compensation and Pension Service will notify the claimant that the IMO request has been approved and will provide the claimant with a copy of the opinion when it is received. Paragraph (f) also provides that the special disclosure procedures in 38 CFR 1.577(d) must be followed if the Director believes that disclosure of the IMO would be harmful to the claimant's physical or mental health. Paragraph (f) is a restatement of

the provisions in paragraph (d) of current § 3.328.

Paragraph (g) of proposed § 3.2410 answers the last question, "Can I appeal a VA decision denying my request for an IMO?" Paragraph (g) provides that, if VA decides that an IMO is not appropriate in a particular case, the claimant cannot directly appeal that decision. The claimant can only contest that decision as part of an appeal on a denial of benefits in the case. This is a restatement of the last sentence in paragraph (c) of current § 3.328.

This rulemaking reflects VA's goal of making government more responsive, accessible, and comprehensible to the public. The Plain Language Regulations Project was developed as a long-term comprehensive project to reorganize and rewrite in plain language the adjudication regulations in part 3 of title 38, Code of Federal Regulations. This proposed rule is one of a series of proposed revisions to those regulations.

Unfunded Mandates

The Unfunded Mandates Reform Act, Public Law 104–4, March 22, 1995, requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This proposed rule will have no consequential effect on State, local, or tribal governments.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the paperwork Reduction Act (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

The Secretary certifies that the adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The proposed rule does not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 ad 604.

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 64.109, 64.110, and 64.127.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: December 3, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 3 as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation.

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.328 [Removed].

2. Section 3.328 is removed.

Subpart D—Universal Adjudication Rules that Apply to Benefit Claims Governed by part 3 of This Title.

3. The authority citation for part 3, subpart D continues to read as follows:

Authority: 38 U.S.C. 501(a) unless otherwise noted.

4. New §3.2410 is added under a new undesignated center heading "Evidence Requirements" to read as follows:

Evidence Requirements

§ 3.2410 Independent medical opinions.

(a) *What is an independent medical opinion?*

An independent medical opinion is an advisory opinion that VA obtains from one or more medical experts who are not VA employees to assist VA in deciding a claim for benefits. Although VA makes arrangements for these opinions with recognized medical schools, universities, clinics and medical institutions, the individual experts who provide the opinions are selected by appropriate officials of the institutions and not by VA.

(b) *When will an independent medical opinion be requested?*

VA will request an independent medical opinion when a pending claim involves a medical issue which is extremely rare, complex or controversial, and the evidence of record is insufficient to resolve the issue.

(c) *Who can request an independent medical opinion?*

An independent medical opinion can be requested by you, your representative, or a Service Centef Manager on his or her own initiative.

(d) *How do I request an independent medical opinion?*

You or your representative must submit the request for an independent medical opinion to the Service Center Manager for initial review. The request must be submitted in writing, including e-mail, facsimile, or other written electronic means, and must include detailed reasons why you believe the independent medical opinion is necessary.

(e) *Who approves the request for an independent medical opinion?*

The request for an independent medical opinion is initially reviewed by the Service Center Manager. If the Service Center Manager agrees that an independent medical opinion is appropriate, the Service Center Manager will forward the request to the Director of the Compensation and Pension Service for approval. If approved, the Director will make arrangements for the independent medical opinion.

(f) *How will I know if the request is approved?*

When the request for an independent medical opinion is approved, the Director of the Compensation and Pension Service will notify you of the approval and will provide you with a copy of the opinion when it is received. However, if the Director believes that information contained in the independent medical opinion would be harmful to your physical or mental health, the special procedures in § 1.577(d) must be followed.

(g) *Can I appeal a denial of my request?*

You cannot directly appeal a VA decision denying your request for an independent medical opinion. If VA decides that an independent medical opinion is not appropriate in your case, the reason will be explained in the notice VA sends you about the decision on your claim. You may contest the disapproval of your request for an independent medical opinion only as part of an appeal of the decision made by VA denying benefits in your case.

(Authority: 38 U.S.C. 5109, 5701(b)(1); 5 U.S.C. 552a(f)(3))

[FR Doc. 01–30612 Filed 12–11–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL212–1b;FRL–7098–9]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to volatile organic compound (VOC) rules for Formel Industries, Incorporated (Formel). This flexographic printing facility is located in Cook County, Illinois. The revisions, submitted on March 21, 2001, consist of an adjusted standard from the Flexographic Printing Rule, 35 IAC 218.401(a), (b), and (c). The adjusted standard conditions include participation in the market-based emissions trading system, daily record keeping of inks and VOC content, conducting trials of compliant inks, and reviewing alternate control technologies. The Illinois Pollution Control Board approved this adjusted standard because the Board considers this to be the Reasonably Achievable Control Technology for Formel.

DATES: The EPA must receive written comments by January 11, 2002.

ADDRESSES: You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, IL 60604.

You may inspect copies of Illinois's submittal at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, IL 60604, Telephone: (312) 886–6524.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" are used we mean the EPA.

Table of Contents

I. What actions are the EPA taking today?
II. Where can I find more information about this proposal and the corresponding direct final rule?

I. What Actions Are the EPA Taking Today?

The EPA is proposing to approve revisions to VOC rules for Formel of Cook County, Illinois. The revisions consist of an adjusted standard from the Flexographic Printing Rule, 35 IAC 218.401(a), (b), and (c). The adjusted standard conditions include participation in a market-based emissions trading system, daily record keeping of inks and VOC content, conducting trials of compliant inks, and reviewing alternate control technologies.

The market-based trading system will allow Formel to buy emissions allotments from companies which can reduce their VOC emissions at a lower cost than Formel can. The total VOC emissions of all participants meets the desired reductions for the non-attainment area. Limiting VOC emissions will help to reduce ozone because VOC can chemically react in the atmosphere to form ozone.

II. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 25, 2001.

David A. Ullrich,

Deputy Regional Administrator, Region 5.

[FR Doc. 01–30582 Filed 12–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KS 0140–1140; FRL–7116–4]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Kansas for the purpose of controlling volatile organic compound (VOC) emissions from commercial bakery ovens in Johnson and Wyandotte Counties, Kansas. In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

DATES: Comments on this proposed action must be received in writing by January 11, 2002.

ADDRESSES: Comments may be mailed to Lynn M. Slugantz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Lynn M. Slugantz at (913) 551–7883.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: November 28, 2001.

William Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 01–30580 Filed 12–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–7114–7]

Amendments to Standards of Performance for New Stationary Sources; Monitoring Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments and request for public comment.

SUMMARY: This proposal is a supplement to proposals previously published in the **Federal Register**. Today's action proposes revisions to previously proposed Performance Specification 11

(PS–11): Specifications and Test Procedures for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources and Procedure 2: Quality Assurance Requirements for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources. We are seeking public comment on these proposed revisions.

DATES: *Comments.* You must submit comments so that they are received on or before January 11, 2002.

Public Hearing. If a public hearing has been requested, and anyone contacts us requesting to speak at a public hearing by December 26, 2001, a public hearing will be held on January 28, 2002 beginning at 9:00 a.m. If you are interested in attending the hearing, you must call the contact person listed below (*see* **FOR FURTHER INFORMATION CONTACT**). If a hearing is held rebuttal and supplementary information may be submitted to the docket for 30 days following the hearing.

Request to Speak at Hearing. If you wish to present oral testimony at the public hearing, you must call the contact person listed below (*see* **FOR FURTHER INFORMATION CONTACT**) by January 11, 2002.

ADDRESSES: *Comments.* Submit your written comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (LE–131), Attention: Docket No. A–2001–10, Room M–1500, U. S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. We request that you send a separate copy of your comments to the contact person listed below (*see* **FOR FURTHER INFORMATION CONTACT**).

Public Hearing. If anyone contacts us requesting a public hearing, it will be held at the Emission Measurement Center, Research Triangle Park, North Carolina. If you are interested in attending the hearing or presenting oral testimony, you must contact the person listed below (*see* **FOR FURTHER INFORMATION CONTACT**).

Docket. A docket, No. A–2001–10, containing information relevant to this rulemaking, is available for your use between 8:30 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. You can find the docket at EPA's Air Docket Section, Room M=–1500, First Floor, Waterside Mall, 401 M Street, SW, Washington, D.C. 20460. You may be charged a reasonable fee for copying.

Comments. You may submit your comments by electronic mail (e-mail) to: *a-and-r-docket@epa.gov and bivins.dan@epa.gov.* You must submit e-mail comments either as an ASCII file avoiding the use of special characters and any form of encryption or as an attachment in WordPerfect© version 5.1, 6.1 or Corel 8 file format. You must note the docket number: (A–2001–10) on all comments and data submitted in electronic form. Do not submit confidential business information (CBI) by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Worldwide Web (WWW). In addition to being available in the docket, you can find an electronic copy of this supplemental proposal on the WWW through the Technology Transfer Network (TTN). Following signature, we will post a copy of the supplemental proposal on the Emission Measurement Center's TTN web site at http://www.epa.gov/ttn/emc under Monitoring. We are only accepting comment of the items in this supplemental proposal. The TTN provides information and technology exchange in various areas of air pollution control. If you need more information regarding the TTN, call the TTN HELP line at (919) 541–5384.

FOR FURTHER INFORMATION CONTACT: For information concerning the supplemental proposal, contact Mr. Daniel G. Bivins, Emission Measurement Center (MD–19), Emissions, Monitoring, and Analysis Division, U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5244.

SUPPLEMENTARY INFORMATION: *Outline.* We provided the following outline to aid in reading the preamble to the supplemental proposal.

I. Introduction
II. Summary of Changes
  A. Changes to PS–11
  B. Changes to Procedure 2
III. Administrative Requirements
  A. Docket
  B. Executive Order 12866, Regulatory Planning and Review
  C. Regulatory Flexibility Act
  D. Executive Order 13132, Federalism
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  F. Unfunded Mandates Act
  G. National Technology Transfer and Advancement Act
  H. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
  I. Executive Order 13084, Consultation and Coordination with Indian Tribal Governments
  J. Executive Order 13211, Energy Effects

I. Introduction

PS–11, Specifications and Test Procedures for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources, and Procedure 2, Quality Assurance Requirements for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources, were first published in the **Federal Register** on April 19, 1996 (61 FR 17358) as part of the proposed Hazardous Waste Combustion MACT standard. PS–11 and Procedure 2 were published again on December 30, 1997 (62 FR 67788) for public comment on revisions made to these procedures. Since then, we have continued to learn about the capabilities and performance of PM CEMS through performing and witnessing field evaluations and through discussions with our European counterparts.

Additional experience with the procedures of PS–11 and Procedure 2 led us to propose these further revisions to the December 30, 1997, proposed versions. Today's supplemental proposal provides you an opportunity to comment on the additional revisions made to PS–11 and Procedure 2. Note, we are only accepting comments on the revisions discussed in this supplemental proposal, not the entire contents of PS–11 and Procedure 2, because we have already provided a full opportunity for comment on everything but the changes being proposed today. The changes proposed in today's notice build upon our previous proposal, are largely in response to comments received on that proposal, and further reflect relevant new information obtained subsequently. Because we are seeking comment on only these changes, we believe that 30 days provides sufficient opportunity for the public to assess and comment on today's reproposal.

II. Summary of Changes

A major, non-technical change to PS–11 and Procedure 2 is the presentation, which is now in plain language. We believe this change makes the specifications more understandable. Also, a minor amount of reorganization was done to accommodate the plain language changes. The technical changes are presented in paragraphs A and B. We believe these changes make PS–11 and Procedure 2 more user friendly and applicable to all source categories. These changes also fill the gaps that existed in the earlier proposal.

A. Changes to PS–11

1. Sampling Time for Batch CEMS

Section 6.2.3 of the previous proposal stated:

> Sampling time no less than 35 percent of the averaging period for the applicable

standard or no less than 35 percent of the response time.

In this proposal, the sampling time is being revised in sections 13.3(2)(ii) and 13.3(2)(i) as follows:

Your PM CEMS sampling time must be no less than 30 percent of the cycle time.

The cycle time must be no longer than 15 minutes. This proposed change to the previous version was made to be consistent with the CEMS cycle time requirement in 40 CFR 60.13 (d)(2).

2. Paired Trains for Reference Method (RM) Sampling

Section 8.4.3 of the previous proposal stated:

Use of paired trains is recommended.

The use of paired trains for the RM sampling is being revised in Section 8.6(1)(i) as follows:

You must use paired RM trains when collecting manual PM data.

Originally, we only recommended the use of paired trains for the RM. Now, we are proposing to require paired trains. Paired trains will help ensure the validity of the RM data and eliminate the possibility that correlation problems are the result of bad RM data. We have witnessed testing and obtained results where the paired trains failed the precision criteria. In these cases, it must be assumed that at least one RM sample was incorrect. Several of you commented that we need to specify how much error is acceptable in the RM measurement and to specify when to eliminate imprecise RM data. Therefore, we needed to require paired trains along with setting precision limits for the RM data.

3. Reference Method for Particulate Sampling

Section 8.4.2 of the previous proposal referenced the use of Method 5I. The RM for particulate sampling is being revised in Section 8.6(1) to require the RM specified in the applicable regulation.

In the 1997 draft PS–11, we specified Method 5I as the correlation RM. This was an oversight on our part. Many of you commented that other PM methods should be included. We intend that the RM used to correlate the PM CEMS be that method designated in the applicable regulation. Methods 5 and 17 are applicable RMs. The applicable regulation specifies the RM which in turn designates what is included as PM. This is important for dealing with condensible PM.

4. Condensible Particulate

In the previous proposal, condensible particulate was not specifically addressed. Now, in Section 8.1(1) and 8.1(1)(ii), we are making the following additions:

You must select a PM CEMS that is appropriate for the flue gas conditions at your source.

If condensible PM is an issue, your PM CEMS must maintain the sample gas temperature at the same temperature as the RM filter.

Many of you commented that we needed to address the issue of condensible particulate. Some suggested that the RM filter temperature should be set to match the PM CEMS temperature. Since the RM designates what is considered particulate matter for a source category, we believe that the PM CEMS temperature must be maintained at the temperature of the RM filter. For example, if Method 5 at 248°F ± 25°F is the designated RM and condensible PM is an issue, your PM CEMS must report the PM concentration at 248°F ± 25°F. Some PM CEMS models may not be applicable for sources where condensible PM is an issue.

5. Maximum PM Concentration During Initial Correlation Test

Section 8.4.5 of the 1997 proposal stated:

Vary the process or PM control device as much as the process allows. If it is not possible or practical to obtain PM measurements at the standard, it is recommended that at least six measurement sets be performed at the maximum PM emission level achievable. * * *

The PM concentrations to be included in the initial correlation test are being revised in Section 8.6(4) as follows:

You must attempt to make the simultaneous PM CEMS and RM measurements at three different levels of PM concentrations over the full range of operations identified during the Correlation Test Planning Period. You must attempt to obtain the different levels of PM mass concentration by varying process or PM control device conditions as identified during your PM CEMS Shakedown period and Correlation Test Planning Period.

Many of you commented that causing PM emissions to be twice the emission standard was not acceptable procedure for generating PM CEMS correlation data. Some of you wanted to collect data over longer periods to cover the full operating range of PM concentration. Others of you wanted us to develop methods for generating PM at different concentration levels. Therefore, what we are proposing is to require a Correlation Test Planning Period during which your PM CEMS measures PM and records the monitor's readings that occur during the full range of operating conditions. During the Correlation Test Planning Period, we believe that you can establish the process and control device settings that cause higher and lower PM CEMS responses. The range of PM CEMS readings recorded during this period establishes the levels of PM concentration that you must include in your PM CEMS correlation data set. We are no longer proposing to require you to exceed your emission limit in order to correlate your PM CEMS.

6. Levels of PM Concentration for the Correlation Test

In the previous proposal, Section 8.4.5 listed the following three levels of PM concentrations to be included in the correlation test:

At least three of the minimum 15 measured data points must lie within each of the following levels:

Level 1: 0 to 30 percent of the maximum PM concentration.

Level 2: 30 to 60 percent of the maximum PM concentration.

Level 3: 60 to 100 percent of the maximum PM concentration.

In Sections 8.6(4)(iii),(iv) and 8.6(5), we are proposing to revise these levels as follows:

At least 20 percent of the minimum 15 measured data points you use must be contained in each of the following levels as determined by your PM CEMS during the Correlation Test Planning Period:

- Level 1: From no PM (zero concentration) emissions to 50 percent of the maximum PM concentration;
- Level 2: 25 to 75 percent of the maximum PM concentration; and
- Level 3: 50 to 100 percent of the maximum PM concentration.

Although the above levels overlap, you may only apply individual run data in one level.

If you cannot obtain three distinct levels of PM concentration during normal operations, you must perform correlation testing at whatever range of PM concentrations your PM CEMS recorded during the Correlation Test Planning Period. To ensure that the range of data for your PM CEMS's correlation is maximized, you must follow one or more of the steps in paragraphs (i) through (iv).

Many of you commented that the PM concentration levels in the 1997 draft PS–11 were too rigid and narrowly defined. You wanted flexibility because adjusting your air pollution control device is not an exact science and not always repeatable. Therefore, to provide flexibility, we have expanded the levels and allowed overlap between the levels. Also, we recognized that you may have a source that does not have much variability in the PM emissions. We propose to allow you to collect data over a narrow range of PM concentrations if that narrow range is supported by the data collected during the Correlation Test Planning Period. Also, we have included suggestions to expand the range of correlation data. You are encouraged to try to expand the correlation data set because, if you exceed the highest PM CEMS response used in the correlation data by 125 percent when you are monitoring emissions, you will need to collect additional data to add to the correlation data set.

7. Extrapolation of the PM CEMS Correlation Relation

In the previous proposal, extrapolation of the PM CEMS correlation relation was not specifically addressed. Now, in Section 8.8, we are proposing to make the following addition:

> Data you collect during the correlation testing should be representative of the full range of normal operating conditions at your source as observed during the Correlation Test Planning Period. But, this may in some situations consist of data over a narrow range of PM concentration and PM CEMS response that is well below your source's PM emission limit. Even so, you must use this data to develop the correlation.
>
> If your source later generates three consecutive hourly averages greater than 125 percent of the highest PM CEMS response (e.g., milliamp reading) used for the correlation curve, you must arrange to collect additional correlation data at the higher PM CEMS response, unless we, the State and or local enforcement agency determine that repeating the condition is not advisable.
>
> In this event, you must conduct three additional test runs at the higher response, and revise the correlation equation within 30 days after the occurrence of the three consecutive hourly averages. You must use that new data along with the previous data to calculate a revised correlation equation.

Since we recognize that your source's PM emissions may not have much variability, we propose to allow you to collect correlation data over a narrow range of PM concentrations. But, if three consecutive hourly average PM CEMS readings are greater than 125 percent of the highest PM CEMS reading in your correlation, we are requiring you to collect data at higher readings and add the new data to the correlation data set. Extrapolating the correlation relation and its confidence and/or tolerance bounds beyond the data set will necessarily result in decreased precision in the PM concentration reported by the PM CEMS. For example, if your PM CEMS responses ranged from 4.5 to 5.5 millamps (mA) during your correlation test, your correlation can only be used to report PM emission concentrations up to readings of 6.88 mA. If you have three consecutive hourly average PM CEMS readings greater than 6.88 mA, you are required to collect data at the higher readings and add the new data to the correlation data set. We are requiring you to calculate a new correlation, including an examination of both polynomial and linear forms of the relationship. We are requiring that you complete the testing and correlation development within 30 days of the occurrence. If the reason for exceeding the 125 percent limit for more than three hours was due to a serious failure of the air pollution control system, obviously, we will not make you repeat that operating condition for correlation test purposes.

8. Pretest Preparations—Shakedown Period and Correlation Test Planning Period

As we have stated, a Shakedown period and Correlation Test Planning Period did not exist in the previously proposed version of PS–11. We are now proposing to revise PS–11 in Sections 8.4(1) and 8.4(2) to include requirements for operating your PM CEMS over a shakedown period and over a Correlation Test Planning Period.

Some of you commented that we should prescribe the methods to obtain a range of PM concentrations. We are not proposing to do this. Also, some of you noted that we did not define the maximum PM concentration for the three PM concentration levels. To assist you in planning to conduct the correlation testing, we are proposing to institute a shakedown period and a Correlation Test Planning Period. The shakedown period is similar to a burn-in period, where you and your instrument technicians become familiar with the operation of your PM CEMS. For some of you, the shakedown period will be long, for others, it will be shorter. We considered specifying an amount of time for the shakedown period, but we decided to give you the flexibility to decide when you were comfortable with the operation of your PM CEMS. Following the shakedown period, we envision a period when you operate your PM CEMS in its normal manner and record the monitor's responses. During this Correlation Test Planning Period, you need to establish the relationship between your process operation, air pollution control device operation and PM emissions. Again, we considered specifying an amount of time for the Correlation Test Planning Period, but we decided to give you the flexibility to decide when you understood the operation of your process and air pollution control device sufficiently to reproduce a range of PM concentrations. However, your shakedown period and Correlation Test Planning Period must not extend beyond the date when you are required to report PM emissions with your PM CEMS. You should use the knowledge gained during the Correlation Test Planning Period to operate your process in the manner necessary to obtain the different PM CEMS response levels during the correlation test. For example, if your PM CEMS had 15-minute average responses between 5.5 and 12 mA during the Correlation Test Planning Period, you would operate your process to obtain correlation data points that cover 5.5 to 12 mA output from your PM CEMS.

9. Verification of the Initial Correlation

In the previous proposal, Section 8.5 contained the following requirement regarding verification testing of the initial correlation:

> For CEMS with measurement technologies insensitive to changes in PM properties, only one initial correlation test is required. For CEMS with measurement technologies sensitive to PM property changes, at least three correlation tests are required. The second correlation test result is compared to the first to determine the best correlation model. The two data sets are combined to calculate the correlation equation. The third correlation result is compared to the result from the first two. If this third correlation result confirms the findings of the original two correlations, the data from all three tests are combined to calculate the correlation equation for the PM CEMS. If the third correlation finds some other fit, then additional correlation tests are required until the best fit correlation can be determined. The final correlation equation is calculated from the composite of all the correlation data collected.

We are proposing to eliminate the need to conduct multiple correlation tests in this revised PS–11.

In the 1997 draft PS–11, we envisioned a scenario where some types of PM CEMS would need to verify that the PM CEMS correlation relation remained constant over short periods of time. Whereas, some other types of PM CEMS would only undergo a single correlation test. We have since abandoned that process. You are now responsible for purchasing a PM CEMS that is appropriate for your source's PM characteristics and your source's operation. If your flue gas and PM characteristics are variable, you must select a PM CEMS that can respond appropriately to those variations.

10. Correlation Criteria

We are proposing a minor revision to the correlation criteria. In the previous proposal (Section 13.2), the correlation coefficient was to be greater than or equal to 0.90. In today's revised PS–11 (Section 13.2(1)), the correlation coefficient must be greater than or equal to 0.85.

We have relaxed the correlation coefficient criterion but have retained the confidence interval and tolerance interval criteria to reflect the performance and reliability of PM CEMS during recent field evaluations and through discussions with our European counterparts.

11. PM CEMS Equipment—Diagnostic Checks

In the previous proposal, no requirements existed for diagnostic checks. In Section 6.2(2)of today's proposal, the following diagnostic checks are required:

Your PM CEMS must also be capable of performing automatic diagnostic checks and sending instrument status signals (flags) to the data recorder.

We learned during our field evaluations that recording diagnostic check failures provided valuable information about the operation and maintenance needs (e.g., dirty window check and low battery power) of the PM CEMS.

12. PM CEMS Equipment—Sample Volume Check

The previous proposal contained no requirement for a sample volume check. Section 6.2(3) of the revised PS–11 contains the following requirement:

If your PM CEMS is an extractive type that measures the sample volume and uses the measured sample volume as part of calculating the output value, your PM CEMS must check the sample volume to verify the sample volume measuring equipment. You must do this sample volume check at the normal sampling rate of your PM CEMS.

For some types of PM CEMS, the measured sample volume is part of the calculated output response. Therefore, a check that ensures the proper operation of the equipment that measures the sample volume is as important as the daily zero and upscale drift check of the sample measurement. We are requiring a daily sample volume check. The sample volume check is not the same as the sample volume audit found in Procedure 2. The sample volume check confirms the proper operation of the sample volume measurement equipment. The sample volume audit evaluates the accuracy of the sample volume measured value.

13. PM CEMS Equipment—Appropriate Measurement Range and Automatic Range Switching

In Section 6.1.1.5 of the previous proposal, the monitor was to be spanned as follows:

The span of the instrument shall be sufficient to determine the highest concentration of pollutant at the facility. The span value shall be documented by the CEMS manufacturer with laboratory data.

We are proposing to revise PS–11 in Sections 6.3, 6.4, 8.1(2), and 8.4(3) as follows:

Your PM CEMS must be initially set up to measure over the expected range of your source's PM emission concentrations during routine operations. This will allow your PM CEMS to detect and record significant high PM concentrations encountered during the Correlation Test Planning Period. You may change the measurement range to a more appropriate range during the Correlation Test Planning Period based on your findings.

Your PM CEMS may be equipped to perform automatic range switching so that it is operating in a range most sensitive to the detected concentrations. If your PM CEMS does automatic range switching, you must appropriately configure the data recorder to handle situations of data values being recorded in multiple ranges during range switching intervals.

Therefore, you must select a PM CEMS that is capable of measuring the full range of PM concentrations expected from your source from normal levels through the emission limit concentration.

You must set the response range of your PM CEMS such that its output is within 50 to 60 percent of its maximum output (*e.g.*, 12 to 13.6 mA on a 4 to 20 mA output) when your source is operating at the conditions that were previously observed to produce the highest PM CEMS output. But, the response range must be set such that no 15-minute average equals your PM CEMS maximum output (*e.g.*, 20 mA). In some cases, you may desire to set the response range of your PM CEMS such that its output is 50 to 60 percent of its maximum output (*e.g.*, 12 to 13.6 mA on a 4 to 20 mA output) when your source is operating at its PM emission limit. You may do this by perturbing operation of the air pollution control equipment or bypassing part of the flue gas around the control equipment in order to create PM emissions at the emission limit.

The determination of the instrument span as stated in the 1997 draft PS–11 was inadequate. We are now providing a clearer specification for the PM CEMS measurement range. During our field evaluations, we found that setting the measurement range such that the response to the highest PM concentration was about 12–14 mA gave enough sensitivity to measure the lower PM concentrations and ensure that short-term spikes were adequately represented. If the range is set such that brief spikes are within the measurement range, normal readings would likely be near the detection limit of the monitor.

14. PM CEMS Equipment—Isokinetic Sampling

The previous proposal contained no requirement for isokinetic sampling. Section 6.1(3) of today's revised PS–11 contains the following addition for isokinetic sampling:

If your PM CEMS is an extractive type and your source's flue gas volumetric flow rate varies by more than 10 percent from nominal, your PM CEMS must maintain an isokinetic sampling rate (within 10 percent of true isokinetic). If your extractive type PM CEMS does not maintain an isokinetic sampling rate, you must use actual site-specific data to prove to us, the State and/or local enforcement agency that isokinetic sampling is not necessary.

A few of you expressed concern about extractive PM CEMS not sampling isokinetically during all sampling conditions. During one of our field evaluations, our extractive PM CEMS response was lower than expected when the monitor was sampling about 130 percent isokinetic. During an industry field evaluation, an extractive beta gauge PM CEMS was deliberately made to sample about 65 percent isokinetic. Sampling under-isokinetic caused the monitor's response to read higher than during isokinetic sampling. Therefore, we are proposing to require that extractive type PM CEMS sample isokinetically at all stack gas volumetric flow rates unless you can provide site-specific data that shows isokinetic sampling is not necessary.

15. PM CEMS Measurement Location in Relation to Air Pollution Control By-Pass

The previous proposal contained no requirement for the measurement location in relation to the air pollution control by-pass. Section 8.2(4) of the revised PS–11 contains the following requirement:

If you plan to achieve higher emissions, for correlation test purposes, by adjusting the performance of the air pollution control device (per Section 8.6(5)(i)) or by installing a means to bypass part the of flue gas around the control device, you must locate your PM CEMS measurement (and manual RM measurement) location well downstream of the control device or bypass (e.g., downstream of the induced draft fan), in order to minimize PM stratification that may be created in these cases.

Additionally, we are adding the following guidance in section 2.4(2) related to the PM CEMS installation location:

If you suspect that PM stratification may vary at the selected installation location, we recommend you perform a PM profile test to determine the magnitude of the variability in PM stratification. If the PM stratification varies by more than 10 percent, you must either choose another installation location or eliminate the stratification condition.

Some of you commented that guidance should be given regarding the sampling location of the PM CEMS and the RM. Based on our and industry's field evaluations, we found that the measurement location played an important role in the success or failure of the initial correlation and the stability of the correlation. During one of our studies, we found that, when we were perturbing the air pollution control device, the particulate concentration

was stratified because we were not far enough downstream from the mixing point for the particulate to become evenly dispersed. Therefore, we are providing guidance for locating the PM CEMS in relation to an air pollution control by-pass, if used. Obviously, the 8 duct diameters and 2 duct diameters criteria is ideal, but we recognize that a location meeting those criteria is not always available or accessible. Therefore, we recommend that you select a measurement location that minimizes problems due to flow disturbances, cyclonic flow, and stratification. The main induced draft (ID) fan can provide mixing and blending of the gas stream components; therefore, locating the PM CEMS downstream of the ID fan can reduce stratification. Also, because changing PM stratification will adversely affect the correlation, we are recommending that you perform a PM profile test at the PM CEMS installation location to determine the magnitude of any variation in PM stratification. Our and industry's PM stratification test results showed that when the PM stratification varied by more than 10 percent, an accurate correlation could not be maintained.

16. Pretest Preparations—Preliminary RM Testing

The previous proposal contained norequirement for preliminary testing. Section 8.4(4) of the revised PS–11 contains the following addition:

> We recommend that you perform preliminary manual RM testing after the Correlation Test Planning Period. During this preliminary testing, you would measure the PM emission concentration corresponding to the highest PM CEMS response observed during the full range of normal operation, or when perturbing or bypassing the control equipment.

Based on what we and industry experienced during field evaluations, we believe some preliminary testing can help improve the performance of the initial correlation test. For example, we observed that preliminary testing (1) helped set the proper PM CEMS measurement range, (2) provided guidance when perturbing the air pollution control device, and (3) helped understand what process operating conditions produced what PM emission concentration. Therefore, we are recommending that you do some preliminary test runs before starting the initial correlation test.

17. Reference Method Data—Precision and Bias

The previous proposal contained no requirement for precision and bias in the RM data. Section 8.6(1)(ii) and (iii) of the revised PS–11 contains the following additions for precision and bias:

> During all paired train testing, you must eliminate from the data set used to develop a PM CEMS correlation any pair of data that do not meet the precision criteria specified in Procedure 2, paragraph 10.1(3).
>
> You must test the valid data set for bias according to Procedure 2, Section 10.1(4)(i). You may not use biased data in developing your PM CEMS correlation. You must identify and correct the source of the bias before repeating the manual testing program. Therefore, we strongly recommend that as soon as results from several test runs become available, you immediately examine the data set for evidence of bias so that you can take any necessary corrective action before continuing the testing. This examination would require you to determine the RM particulate concentration results on-site.

Some of you commented that PS–11 needed to specify what RM data should not be included in the correlation data set. We have included criteria for precision of the paired RM measurements and bias between the paired RM measurements found in the entire RM data set. You will find the criteria in Procedure 2.

18. Calculation of Confidence Interval and Tolerance Interval as a Percent of the Emission Limit

In today's proposed revised PS–11, we made a change in the PM concentration levels needed for your PM CEMS correlation. Because of this change, you may collect PM concentration data that is below the emission limit. Therefore, we need to define the PM CEMS response where you calculate both the confidence interval and tolerance interval as a percent of the emission limit for evaluating the performance of the correlation.

Previously, you were instructed to calculate the PM CEMS response at the emission limit and then to calculate the confidence interval and tolerance interval of the correlation curve at that PM CEMS response. This was an appropriate procedure when you collected PM concentration data at twice the emission limit. However, if your PM concentration data does not extend up to the emission limit, calculating the confidence interval and tolerance interval of the correlation curve at the emission limit is not statistically relevant.

In the previous proposed version of PS–11, the confidence interval and tolerance interval were calculated at the emission limit which was approximately the median value of the PM CEMS response. The confidence interval and tolerance interval are smallest at the median value of the PM CEMS response. Therefore, we are stipulating in today's revised PS–11 that you calculate the confidence interval and tolerance interval at the median value of the PM CEMS responses you obtained during the correlation test.

B. Changes to Procedure 2

1. Definition of Calibration vs. Correlation

In the previous proposal, Section 2.3 defined calibration relation as follows:

> The relationship between a CEMS response and measured PM concentrations by the RM which is defined by a mathematical equation.

In today's revision to Procedure 2, this definition is not included. The PS–11 definition was changed from calibration to correlation as follows:

> "Correlation" means the primary mathematical relationship for correlating output from your PM CEMS (typically expressed in some units, e.g., such as response to a milliamp electrical signal) to a particulate concentration, as determined by the RM. The correlation is expressed in the same units that your PM CEMS use to measures the PM concentration.

A few of you commented that "calibrating" the PM CEMS to the manual method data was confusing language. Therefore, we now refer to the process as "correlation."

2. Response Correlation Audit (RCA) Data Points

In the previous proposal, Section 5.1.1 contained the following requirement for the RCA data points:

> If it is not practical to obtain three measured data points in all three PM concentration ranges as specified in Section 8.4.5 of PS–11, a minimum of three measured data points in any of the two ranges specified in Section 8.4.5 is acceptable, as long as at least all 12 data points lie within the range of the calibration relation test.

Section 10.3(5)(ii) of Procedure 2 is revised as follows:

> All 12 data points must lie within the PM CEMS output range examined during the PM CEMS correlation tests.

With this revision, we have clarified where the data points for the RCA must be.

3. Absolute Calibration Audit (ACA) Audit Point Ranges

Section 5.1.2 of the previous proposal contained the following ACA audit points:

> Audit point 1—0 to 20 percent of span value
> Audit point 2—40 to 60 percent of span value
> Audit point 3—80 to 100 percent of span value.

The ACA audit points are revised as follows in Section 10.3(2):

Audit point 1—0 to 20 percent of measurement range
Audit point 2—40 to 60 percent of measurement range
Audit point 3—70 to 100 percent of measurement range.

We removed the word span from PS–11 and Procedure 2. The audit points now reference the measurement range instead of span value. Also, we expanded the third audit point range.

4. ACA Performance Requirement

Section 5.2.3(2) of the previously proposed version had the following ACA requirement:

± 15 percent of the average audit value or 7.5% of the applicable standard, whichever is greater.

The ACA performance criterion are revised in Section 10.4(3) as follows:

Your PM CEMS is out of control if results exceed ± 10 percent of the average audit value or 7.5 percent of the applicable standard, whichever is greater.

We are reducing the performance criterion for the ACA. Based on the results of our field evaluations, our PM CEMS were capable of meeting the ± 10 percent ACA criterion. The 15 percent limit was a holdover from the cylinder gas audit criterion.

5. Relative Response Audit (RRA)

The previous proposed version of Procedure 2 did not include a relative response audit (RRA). We are revising Procedure 2 in Sections 10.3 and 10.3(4) by adding the following:

You must conduct an RRA once every four calendar quarters. If you schedule an RCA for one of the four calendar quarters in the year, the RCA would take the place of the RRA.

You must conduct the RRA by collecting three simultaneous RM PM concentration measurements and PM CEMS measurements at the as-found source operating conditions and PM concentration. Paired trains for the RM sampling are not required but are recommended to avoid failing the test due to imprecise and inaccurate RM results.

Procedure 2 did not specify the frequency for a relative correlation audit (RCA). Many of you commented that the RCA could be done once every 3 to 5 years. One of you commented that 18 months was appropriate between checks of the correlation's stability. We believe that the length of time between checks of the correlation's stability could be source dependent, and therefore, can be specified in the applicable regulation. However, based on our and industry's field evaluations, we observed that the correlations may not be stable for periods of 3 to 5 years. We believe that PM CEMS should be correlated more often than every 5 years. Therefore, we propose a brief, three test run, confirmation of the correlation that would be done on an annual basis. We identify this check as a relative response audit.

6. Sample Volume Audit (SVA)

Section 5.1.4 of the previous proposal contained the following SVA requirement:

For applicable units with a sampling system, an audit of the equipment to determine sample volume must be performed once a year. The SVA procedure specified by the manufacturer will be followed to assure that sample volume is accurately measured across the normal range of sample volumes made over the past year.

In the 1997 draft Procedure 2, we left the procedure for conducting the SVA to the manufacturer. Based on our experiences, we decided to specify a procedure to conduct the SVA. This way, all SVAs will be done in a consistent manner, and the results can be compared.

7. Routine System Checks

The previous proposal of Procedure 2 contained no provisions specific to routine system checks. Section 10.2 of today's revised Procedure 2 contains the following addition of routine system checks:

You must perform routine checks to assure proper operation of system electronics and optics, light and radiation sources and detectors, electric or electro-mechanical systems, and general stability of the system calibration. Necessary components of the routine system checks will depend upon design details of your PM CEMS.

A few of you commented that the daily drift check specifications were not adequately defined to prohibit the sale of poor quality instruments. Therefore, we have clarified that the routine (daily) checks must include the entire measurement system. This language is similar to that in the new PS–1 (or ASTM D6216) for opacity monitors.

8. Treatment of Flagged Data

Section 6.4 of the previous proposal treated flagged data as follows:

All flagged CEMS data are considered invalid; as such, these data may not be used in determining compliance nor be counted towards meeting minimum data availability as required and described in the applicable subpart.

We are proposing to revise Procedure 2 by eliminating the specification to treat all flagged data as invalid. In the 1997 version, Procedure 2 stipulated that all flagged data was considered invalid. However, if the PM CEMS sends an alarm flag that the battery is low, or the protective lenses are getting dirty, or the vacuum is getting high, the data collected is still valid; it should not be automatically treated as invalid. During our field test, we occasionally got flags from the PM CEMS, but the data was not invalid just because we got a flag. If Procedure 2 is not changed, all data flags would produce invalid data. Therefore, a revision is needed.

In this revision, we are removing the requirement that all flagged data is automatically treated as invalid and stipulating that data must be investigated to determine its validity.

9. Alternative Calibration Relation Approaches

Section 6.5 of the previous proposal contained the following allowance for alternative calibration relation approaches:

Certain PM CEMS have technologies established on principles measuring PM concentration directly, whereas other technologies measure PM properties indirectly indicative of PM concentration. It has been shown empirically that a linear relationship can exist between these properties and PM concentration over a narrow range of concentrations, provided all variables remain essentially constant. However, if all variables affecting this relationship do not remain constant, then a linear relationship will probably not occur. Such is the case expected for facilities with PM emissions over a wide range of PM concentrations with certain process and air pollution control configurations. Other non-linear relations may provide a better fit to the calibration data than linear relations because the monitor's response is based on some measurable, and changing, property of the PM concentrations. These non-linear approaches may serve as improved approaches for defining the mathematical relation between the CEMS response and RM measured PM concentrations. The basis and advantage for developing and implementing such alternative approaches for determining compliance must be explicitly included in the calibration relation test report with supporting data demonstrating a better fit than a linear relation. Use of these alternative approaches is subject to approval by the Administrator.

Today's revised Procedure 2 contains no allowance. In Section 12.3(4) of PS–11, the following statement is made:

You may petition the Administrator for alternative solutions or sampling recommendations if the regression analysis presented in Section 12.3, paragraphs (1) through (3) does not achieve satisfactory correlation, confidence or tolerance intervals.

The alternative correlation approaches did not belong in Procedure 2 and were therefore moved to PS–11.

10. Arrangement of Paired Trains

In the previous proposal, arrangement of the paired trains was not specified. Section 10.1 of revised Procedure 2

contains stipulations for the arrangement of the paired trains including specific probe arrangements.

11. Precision of RM Data

In the previous proposal, precision of the RM data was not specified. Section 10.1(3) of revised Procedure 2 contains the precision specification.

Some of you commented that we needed to specify what level of imprecision in the RM data should exclude the data from the correlation data set. We therefore, propose to include criteria for precision of the paired RM measurements. Experience shows that with good operating practices and strict quality control the RSDs can be met at concentrations as low as about 1 mg/dscm.

12. Bias of RM Data

In the previous proposal, a provision to eliminate biased RM data was not specified. Section 10.1(4) of revised Procedure 2 proposes a bias specification. Systematic bias can exist between two sampling systems even when precision requirements are met. We have included these requirements for bias between the paired RM measurements found in the entire RM data set. We believe the precision and bias checks will ensure that only high quality RM data is used to develop your PM CEMS correlation relation.

13. Sample Volume Check

In the previous proposal, a sample volume check was not specified. Section 10.2(5) of revised Procedure 2 proposes to specify requirements for checking the sample volume.

A check that ensures the proper operation of the equipment that measures the sample volume is important. We are now proposing to require a daily sample volume check.

14. Sample Volume Check Performance Criteria

Since a sample volume check was not specified in the previous proposal, performance criteria for the sample volume check was not specified. Section 10.4(2) of revised Procedure 2 proposes the following performance criteria for the sample volume check:

> Your PM CEMS is out of control if sample volume check error exceeds 10 percent for five consecutive daily periods, or exceeds 20 percent for any one day.

Since we added a daily sample volume check, we included these performance specifications. These criteria are consistent with the daily zero and upscale drift check criteria (i.e., 2 times the SVA limit for five consecutive days or 4 times the SVA limit for any single day).

15. Relative Response Audit Performance Criterion

Since a relative response audit was not specified in the previous proposal, performance criteria for the RRA was not specified. Section 10.4(6) of revised Procedure 2 provides the following performance criteria for the RRA:

> At least two of the three sets of PM CEMS and RM measurements must fall within the same specified area on a graph of the correlation regression line as required for the RCA. If your PM CEMS fails to meet this RRA criterion, it is considered out of control.

Since we added a relative response audit, we included this performance specification. We believe that if 67 percent of the test runs (i.e., 2 out of 3) are within the 25 percent tolerance interval (which should include 75 percent of all future data points), then your PM CEMS correlation is still applicable and accurate. We believe the RRA is a cost effective means to ensure that your PM CEMS correlation remains applicable without the need to complete a costly RCA on an annual basis.

16. What To Do in the Event of a Failed RRA

No provision was included in the previous proposal. Now, Section 10.5(1)(ii) proposes:

If your PM CEMS failed an RRA, you must take corrective action until your PM CEMS passes the RRA criteria. If the RRA criteria cannot be achieved, you must perform an RCA.

Since we added the RRA, we need to tell you what to do if your PM CEMS fails to meet the performance criterion. We believe that if 2 out of the 3 test runs do not fall within the 25 percent tolerance interval, then your PM CEMS correlation may no longer be applicable. If your PM CEMS fails to meet the performance specification, we believe you should take corrective actions to correct any problems and repeat the RRA. However, if the RRA criteria cannot be attained, we believe you then need to conduct a full RCA using paired RM trains that meet the precision and bias criteria.

17. What To Do in the Event of a Failed RCA

No provision for a failed RCA was included in the previous version. Now, Section 10.6 proposes to include provisions you must follow if your PM CEMS fails the RCA.

The 1997 draft Procedure 2 did not tell you what to do if your PM CEMS failed to meet the RCA performance criterion. We believe the proposed steps are appropriate. Once your PM CEMS new correlation is developed, you start reporting PM emissions using the new equation. If a new correlation is developed according to step (2), the old correlation data is abandoned. In Germany and Denmark, when any additional RM testing is done, the new data is continually added to the correlation data set and a new correlation relation is calculated each time. However, they do not maintain the correlation performance criteria (i.e., confidence interval and tolerance interval limits) like we do, and therefore we chose not to follow the process used in Germany and Denmark.

III. Administrative Requirements

A. Docket

The docket is an organized and complete file of all information submitted or otherwise considered by us in the development of this proposed rulemaking. The principal purposes of the docket are: (1) to allow you to identify and locate documents so that you can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for interagency review materials) (Clean Air Act Section 307(d)(7)(A)).

B. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we are required to judge whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of this Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, we have determined that this rule is not "significant" because none of the listed criteria apply to this action. Consequently, this action was

not submitted to OMB for review under Executive Order 12866.

C. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires that we conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless we certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule would not have a significant impact on a substantial number of small entities because no additional cost will be incurred by such entities because of the changes specified by the proposed rule. The requirements of the supplemental proposal reaffirm and clarify previously proposed performance specifications for continuous particulate matter emission monitoring systems. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires that we develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications."

"Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Section 6 of Executive Order 13132, we may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the State and local governments, or we consult with State and local officials early in the process of developing the proposed regulation. We also may not issue a regulation that has federalism implications and that preempts State law unless we consult with State and local officials early in the process of developing the proposed regulation.

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule is a revision to a previously proposed rule governing the specifications, test procedures, and quality assurance requirements to be used by owners or operators of stationary sources for particulate matter continuous emission monitoring systems. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

E. Paperwork Reduction Act

This proposed rule does not contain any information collection requirements subject to the Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

F. Unfunded Mandates Act

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), we must prepare a budgetary impact statement to accompany any proposed rule, or any final rule for which a notice of proposed rulemaking was published, that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. Under Section 205, if a budgetary impact statement is required under Section 202, we must select the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule, unless we explain why this alternative is not selected or the selection of this alternative is inconsistent with law. Section 203 requires us to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. Section 204 requires us to develop a process to allow elected state, local, and tribal government officials to provide input in the development of any proposal containing a significant Federal intergovernmental mandate.

We have determined that this proposed rule does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector in any one year. Rules establishing performance specifications and quality assurance requirements impose no costs independent from national emission standards which require their use, and such costs are fully reflected in the regulatory impact assessment for those emission standards. We have also determined that this proposed rule does not significantly or uniquely impact small governments. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

G. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 (NTTAA), § 12(d), Public Law 104–113, generally requires federal agencies and departments to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test method, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like us to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

During this rulemaking, we searched for voluntary consensus standards that might be applicable. An International Organization for Standardization (ISO) standard, number 10155, Stationary source emissions—Automated monitoring of mass concentrations of particles—Performance characteristics, test methods and specifications, was applicable. ISO 10155 was followed for our first field evaluation of PM CEMS; however it was found to be inadequate to fulfill the performance specification needs for our compliance monitoring. Examples of areas where we believed ISO 10155 was inadequate are:

(1) The number of test runs for a correlation test, 9, was insufficient for a comprehensive statistical evaluation of the PM CEMS correlation.

(2) The PM concentration ranges required for a correlation test were too vague.

(3) The measurement location for the PM CEMS and RM were vague.

(4) Accuracy and precision criteria are not established for the RM.

(5) The correlation coefficient limit of greater than 0.95 was too stringent for most of the PM CEMS correlations we

evaluated. Also, ISO 10155 lacks quality assurance and quality control procedures. ISO 10155 was used as the starting point for development of PS–11.

H. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that we determine (1) is "economically significant" as defined under Executive Order 12866, and (2) addresses an environmental health or safety risk that we believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

We interpret Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because this does not establish an environmental standard intended to mitigate health or safety risks.

I. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This proposed rule revises an existing proposed regulation which details the performance and design specifications for continuous emission monitoring systems. Thus, Executive Order 13175 does not apply to this rule.

J. Executive Order 13211, Energy Effects

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 60

Environmental protection, Air Pollution Control, Continuous emission monitoring; Performance specification; Particulate matter.

Dated: November 29, 2001.

Christine Todd Whitman,

Administrator.

We propose that 40 CFR, part 60 be amended as follows:

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601.

2. Appendix B of Part 60 is amended by adding Performance Specification 11 to read as follows:

Appendix B of Part 60—Performance Specifications

* * * * *

Performance Specification 11—Specifications and Test

Procedures for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources

1.0 What Are the Purpose and Applicability of Performance Specification 11?

The purpose of Performance Specification 11 (PS–11) is to establish the initial installation and performance procedures that are required for evaluating the acceptability of a particulate matter (PM) continuous emissions monitoring system (CEMS). The intent of PS–11 is not to evaluate the ongoing performance of your PM CEMS over an extended period of time, nor does it identify specific calibration techniques and auxiliary procedures to assess CEMS performance. You will find procedures for evaluating the ongoing performance of your PM CEMS in Procedure 2 of Appendix F—Quality Assurance Requirements for Particulate Matter Continuous Monitoring Systems Used at Stationary Sources.

1.1 How does PS–11 apply to my PM CEMS? PS–11 applies to your PM CEMS if you are required by any provision of Title 40 of the CFR to install and operate PM CEMS.

1.2 When must I comply with PS–11? You must comply with PS–11 when directed by the applicable rule that required you to install and operate a PM CEMS. Also, you may be required to show compliance with PS–11 if changes at your source result in conditions which are unrepresentative of the previous correlation (e.g., changes in emission control system, significant changes in concentration of PM emitted, or feed inputs to the device).

1.3 What other monitoring is needed? To report your PM emissions in units of the emission standard, you may need to monitor additional parameters to correct the PM concentration reported by your PM CEMS. Your CEMS may include the components listed in paragraphs (1) through (3):

(1) A diluent monitor (i.e., O_2, CO_2, or other CEMS specified in the applicable regulation) which must meet its own performance specifications found in this appendix,

(2) Auxiliary monitoring equipment to allow measurement, determination, or input of the flue gas temperature, pressure, moisture content, and/or dry volume of stack effluent sampled, and

(3) An automatic sampling system.

The performance of your PM CEMS and the establishment of its correlation to manual measurements must be determined in units of mass concentration as measured by your PM CEMS (e.g., mg/acm or mg/dscm).

2.0 What Are the Basic Requirements of PS–11?

PS–11 requires you to perform initial installation and calibration procedures that confirm the acceptability of your CEMS when it is installed and placed into operation. You must develop a site specific correlation of your PM CEMS response against manual gravimetric RM measurements (including those made using EPA RMs 5 or 17).

2.1 What types of PM CEMS technologies are covered? Several different types of PM CEMS technologies (*e.g.*, light scattering, Beta attenuation, etc.) can be designed with in-situ or extractive sample gas handling systems. Each PM CEMS technology and sample gas handling technologies have certain site specific advantages. You must select and install a PM CEMS that is appropriate for the flue gas conditions at your source.

2.2 How is PS–11 different from other performance specifications? PS–11 is based on a technique of correlating PM CEMS response relative to emissions determined by the RM. This technique is called "the correlation." This differs from CEMS used to measure gaseous pollutants which have available calibration gases of known concentration.

(1) Since the type and characteristics of PM vary from source to source, a single PM correlation, applicable to all sources, is not possible. When conducting the initial correlation test of your PM CEMS response to PM emissions determined by the RM, you must pay close attention to accuracy and details. Your PM CEMS must be operating properly. You must perform the manual method testing accurately, with attention to eliminating site-specific systemic errors. You must coordinate the timing of the manual method testing with the sampling cycle of your PM CEMS.

(2) You must complete a minimum of 15 manual PM tests. You must perform the manual testing over the full range of PM CEMS responses observed during the Correlation Test Planning Period.

2.3 How is the correlation data handled? You must carefully review your manual method data and your PM CEMS responses

to include only valid, high quality data. For the correlation, you must reduce and present the manual method data in terms of the measurement conditions reported by your PM CEMS. Then, you must correlate the manual method and PM CEMS data in terms of the output as received from the monitor (e.g., milliamps). At the median PM CEMS response, you must calculate the confidence interval and tolerance interval as a percentage of the applicable PM concentration emission limit and compare the confidence interval and tolerance interval percentages to the acceptance criteria. Also, you must calculate the correlation coefficient, independent of the applicable PM limit, and compare the correlation coefficient to the acceptance criterion.

Situations may arise where you will need two or more correlations. If you need multiple correlations, you need to collect sufficient data for each correlation.

2.4 How do I design my PM CEMS correlation program? When planning your PM CEMS correlation effort, you must address each of the items in paragraphs (1) through (8) to enhance the probability of success. You will find each of these elements further described in this performance specification or the applicable RM procedure.

(1) What type of PM CEMS should I select? You must select a PM CEMS that is most appropriate for your source with technical consideration for potential factors such as interferences, site specific configurations, installation location, flue gas conditions, PM concentration range and other PM characteristics. You can find guidance on which technology is best suited for specific situations in our report "Current Knowledge of Particulate Matter (PM) Continuous Emission Monitoring" (*see* references, section 16.5).

(2) Where should I install my PM CEMS? Your PM CEMS must be installed in a location that is most representative of PM emissions as determined by the RM such that the correlation between PM CEMS response and emissions determined by the RM will meet these performance specifications. Care must be taken in selecting a location and measurement point with minimum problems due to flow disturbances, cyclonic flow, and varying PM stratification. You should refer to Method 1 of this part for guidance (also see section 8.2). If you suspect that PM stratification may vary at the selected installation location, we recommend you perform a PM profile test to determine the magnitude of the variability in PM stratification. If the PM stratification varies by more than 10 percent, you must either choose another installation location or eliminate the stratification condition.

(3) How should I record my CEMS data? You must ensure that your data logger and PM CEMS have been properly programmed to accept and transfer status signals of valid monitor operation (e.g., flags for internal calibration, suspect data, or maintenance periods). You need to ensure that your PM CEMS and data logger are set up to collect and record all normal emission levels and excursions.

(4) How should I record CEMS maintenance and performance data? You must maintain a logbook for documenting CEMS maintenance and performance.

(5) What CEMS data should I review? You must review drift data daily to document proper operation. You must also ensure that any audit material is appropriate to the typical operating range of your PM CEMS.

(6) How long should I operate my PM CEMS before doing the initial correlation test? You must allow sufficient time for your PM CEMS to operate in a "shakedown" mode for you to become familiar with your PM CEMS.

(i) You must observe PM CEMS response over time during normal and varying process conditions. This will assure that your PM CEMS has been properly set up to operate at a range which is compatible with the concentrations and characteristics of PM emissions. You may use this information in establishing the operating conditions necessary to perform the correlations of PM CEMS data to manual method measurements over a wide operating range.

(ii) You must establish what type of process changes will influence flue gas PM concentration and resulting PM CEMS signal on a definable and repeatable basis. You may find the "shakedown" period useful to make adjustments to your planned approach for operating your PM CEMS at your source. For instance, you may change the measurement range or batch sampling period to something other than those you initially planned to use.

(7) How should I do the manual method testing? You must perform the manual method testing in accordance with specific rule requirements, coordinated closely with PM CEMS and process operations and then scrutinize the data according to the precision and bias criteria specified in Procedure 2, paragraph 10.1. You must use paired trains for the manual method testing. You must perform the manual method testing over a suitable PM concentration range as defined during the Correlation Test Planning Period. Since the manual testing for this correlation test is not for compliance reporting purposes, you may conduct the RM test runs for less than the typical 1-hour.

(8) What do I do with the manual RM data and PM CEMS data? You must complete each of the activities in paragraphs (i) through (v).

(i) Screen the manual RM data for validity (*e.g.*, isokinetics, leak checks), and quality assurance (*e.g.*, proper management to program goals) and quality control, (*e.g.*, outlier identification).

(ii) Screen your PM CEMS data for validity (*e.g.*, daily drift check requirements) and quality assurance (*e.g.*, flagged data).

(iii) Convert the manual test data into the same units of PM concentration as reported by your PM CEMS.

(iv) Calculate the polynomial and linear correlations and select the best fit correlation as specified in section 12.3.

(v) Calculate the results for the correlation coefficient, confidence interval, and tolerance interval for the complete set of CEMS/RM correlation data for comparison with the data acceptance criteria specified in section 13.2.

3.0 What Special Definitions Apply to PS–11?

3.1 "Appropriate Measurement Range of your PM CEMS" means a measurement range that is capable of recording readings over the complete range of your source's PM emission concentrations during routine operations. The appropriate range is determined during the Pretest Preparations as specified in section 8.4.

3.2 "Appropriate Data Range for PM CEMS Correlation" means the data range that reflects the full range of your source's PM emission concentrations recorded by your PM CEMS during the Correlation Test Planning Period or other normal operations as defined in the applicable regulations.

3.3 "Batch Sampling" means that gas is sampled on an intermittent basis and concentrated on a collection media before intermittent analysis and follow up reporting. Beta gauge PM CEMS are an example of batch sampling devices.

3.4 "Confidence Interval (CI)" means the statistical term for predicting, with 95 percent confidence, the bounds in which one would predict the correlation line to lie. Equations for calculating CI are provided in section 12.3(1)(ii), Equation 11–10, for the polynomial correlation and section 12.3(3)(ii), Equation 11–33, for the linear correlation. The CI as a percent of the emission limit value is calculated at the median PM CEMS response value.

3.5 "Continuous Emission Monitoring System (CEMS)" means all of the equipment required for determination of particulate matter mass concentration in units of the emission standard. The sample interface, pollutant monitor, diluent monitor, other auxiliary data monitor(s) and data recorder are the major subsystems of your CEMS.

3.6 "Correlation" means the primary mathematical relationship for correlating output from your PM CEMS (typically expressed in some arbitrary units, such as response to a milliamp electrical signal) to a particulate concentration, as determined by the RM. The correlation is expressed in the same units that your PM CEMS measures the PM concentration.

3.7 "Correlation Coefficient (r)" means a quantitative measure of association between your PM CEMS outputs and the RM measurements. Equations for calculating the r value are provided in section 12.3(1)(iv), Equation 11–22, for the polynomial correlation and section 12.3(3)(iv), Equation 11–36, for the linear correlation.

3.8 "Cycle Time" means the time required to complete one sampling, measurement, and reporting cycle. For a batch sampling PM CEMS, the cycle time would start when sample gas is first extracted from the stack/duct and end when the measurement of that batch sample is complete and a new result for that batch sample is produced on the data recorder.

3.9 "Data Recorder" means the portion of your CEMS that provides a permanent record of the monitor output in terms of response and status (flags). The data recorder may also provide automatic data reduction and CEMS control capabilities. (See section 6.6)

3.10 "Diluent Monitor and Other Auxiliary Data Monitor(s) (if applicable)"

means that portion of your CEMS that provides the diluent gas concentration (such as O_2 or CO_2, as specified by the applicable regulations), temperature, pressure, and/or moisture content, and generates an output proportional to the diluent gas concentration or gas property.

3.11 "Drift Check" means a check of the difference in your PM CEMS output readings from the established reference value of a reference standard or procedure after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place. The procedures used to determine drift will be specific to the operating practices of your specific PM CEMS. A drift check includes both a zero drift check and an upscale drift check.

3.12 "Flagged Data" means data marked by your CEMS indicating that the response value(s) from one or more CEMS subsystems is suspect, invalid, or that your PM CEMS is not in source measurement operating mode.

3.13 "Linear Correlation" means a first order mathematical relationship between your PM CEMS and manual method PM concentration that is linear in form ($y = b_0 + b_1x$).

3.14 "Paired Trains" means two simultaneously conducted RM trains. (See section 8.6(1) and Procedure 2.)

3.15 "Path CEMS" means a CEMS that measures PM mass concentrations along a path across the stack or duct cross section..

3.16 "Point CEMS" means a CEMS that measures particulate matter mass concentrations either at a single point, or over a small fixed volume or path.

3.17 "Polynomial Correlation" means a second order equation used to define the relationship between your PM CEMS output and manual method PM concentration ($y = b_0 + b_1x + b_2x^2$).

3.18 "Reference Method (RM)" means the method defined in the applicable regulations but commonly is those methods collectively known as Methods 5 and 17 (for particulate), found in Appendix A of 40 CFR Part 60. Only the front half and dry filter catch portions of the RM can be correlated to your PM CEMS output.

3.19 "Reference Standard" means a reference material or procedure that produces a known and unchanging response when presented to the pollutant monitor portion of your CEMS. You must use these standards to evaluate the overall operation of your PM CEMS but not to develop a PM CEMS correlation.

3.20 "Response Time" means the time interval between the start of a step change in the system input and the time when the pollutant monitor output reaches 95 percent of the final value. (See sections 6.5 and 13.3 for procedures and acceptance criteria.)

3.21 "Sample Interface" means the portion of your CEMS used for one or more of the following: sample acquisition, sample delivery, sample conditioning, or protection of the monitor from the effects of the stack effluent.

3.22 "Sample Volume Check" means a check of the difference between your PM CEMS sample volume reading and the sample volume reference value.

3.23 "Tolerance Interval (TI)" means the interval with upper and lower limits, within a specified percentage of the future data population are contained with a given level of confidence as defined by the respective tolerance interval equations in section 12 of this performance specification. The TI is calculated as a percent of the emission limit value at the median PM CEMS response value.

3.24 "Upscale Check Value" means the expected response to a reference standard or procedure used to check the upscale response of your PM CEMS.

3.25 "Upscale Drift (UD) Check" means a check of the difference between your PM CEMS output reading and the upscale check value.

3.26 "Zero Check Value" means the expected response to a reference standard or procedure used to check the response of your PM CEMS to particulate free or low particulate concentration situations.

3.27 "Zero Drift (ZD) Check" means a check of the difference between your PM CEMS output reading and the zero check value.

3.28 "Zero Point Correlation Value" means a value added to PM CEMS correlation data to represent low or near zero PM concentration data. (See section 8.6 for rationale and procedures.)

4.0 Are There Any Potential Interferences for My PM CEMS?

Yes, condensible water droplets or condensible acid gas aerosols (i.e., those with condensation temperatures above those specified by the method) at the measurement location can be interferences for your PM CEMS if the necessary precautions are not met.

4.1 Where are interferences likely to occur? Interferences may develop if your CEMS is installed downstream of a wet air pollution control system or any other conditions that produce flue gases which, at your PM CEMS measurement point, normally or occasionally contain entrained water droplets or condensible salts before release to the atmosphere.

4.2 How do I deal with interferences? Your PM CEMS must extract and heat a representative sample of the flue gas for measurement to simulate results produced by the RM for conditions such as those described in section 4.1. Independent of your PM CEMS measurement technology and extractive technique, you must have a configuration simulating the RM to assure that:

(1) no formation of new particulate or deposition of particulate occurs in sample delivery from the stack or duct; and

(2) no condensate accumulates in the sample flow measurement apparatus.

4.3 What PM CEMS measurement technologies can I use? You must use a PM CEMS measurement technology that is free of interferences from any condensible constituent in the flue gas and in stack or duct flue gas conditions which normally or occasionally contain entrained water droplets or condensible salts.

5.0 What Do I Need To Know To Ensure the Safety of Persons Using PS–11?

People using the procedures required under PS–11 may be exposed to hazardous materials, operations, site conditions, and equipment. This performance specification does not purport to address all of the safety issues associated with its use. It is your responsibility to establish appropriate safety and health practices and determine the applicable regulatory limitations before performing these procedures. You must consult your CEMS users' manual and materials recommended by the RM for specific precautions to be taken.

6.0 What Equipment and Supplies Do I Need?

The different types of PM CEMS use different operating principles. You must select an appropriate PM CEMS based on your site specific configurations, flue gas conditions, and PM characteristics.

(1) Your PM CEMS must sample the stack effluent continuously or intermittently for batch sampling PM CEMS.

(2) You must ensure that the averaging time, the number of measurements in an average, the minimum data availability, and the averaging procedure for your CEMS conforms with those specified in the applicable emission regulation.

(3) Your PM CEMS must include the minimum equipment described in sections 6.1 through 6.7.

6.1 What equipment is needed for my PM CEMS's sample interface? Your PM CEMS's sample interface must be capable of delivering a representative sample of the flue gas to your PM CEMS. This subsystem may be required to heat the sample gas to avoid particulate deposition or moisture condensation, provide dilution air, perform other gas conditioning to prepare the sample for analysis, or measure the sample volume/flowrate.

(1) If your PM CEMS is installed downstream of a wet air pollution control system such that the flue gases normally or occasionally contain entrained water droplets, your PM CEMS must have equipment to extract and heat a representative sample of the flue gas for measurement so that the pollutant monitor portion of your CEMS measures only dry particulate. Heating must be sufficient to raise the temperature of the extracted flue gas to above the water condensation temperature and must be maintained at all times and at all points in the sample line from where the flue gas is extracted to, including the pollutant monitor and any sample flow measurement devices.

(2) You must consider the measured conditions of the sample gas stream to ensure that manual test data is converted into appropriately consistent units of PM concentration for the correlation calculations. Additionally, you must identify what, if any, additional auxiliary data continuous monitoring and handling systems are necessary in the conversion of your PM CEMS response into units of the PM standard.

(3) If your PM CEMS is an extractive type and your source's flue gas volumetric flow rate varies by more than 10 percent from nominal, your PM CEMS must maintain an isokinetic sampling rate (within 10 percent of true isokinetic). If your extractive type PM CEMS does not maintain an isokinetic

sampling rate, you must use actual site-specific data to prove to us, the State and/or local enforcement agency that isokinetic sampling is not necessary.

6.2 What type of equipment is needed for my PM CEMS? Your PM CEMS must be capable of providing an electronic output proportional to the PM concentration.

(1) Your PM CEMS must be able to perform zero and upscale drift checks. You may perform these checks manually, but performing these checks automatically is preferred.

(2) Your PM CEMS must also be capable of performing automatic diagnostic checks and sending instrument status signals (flags) to the data recorder.

(3) If your PM CEMS is an extractive type that measures the sample volume and uses the measured sample volume as part of calculating the output value, your PM CEMS must check the sample volume to verify the sample volume measuring equipment. You must do this sample volume check at the normal sampling rate of your PM CEMS.

6.3 What is the appropriate measurement range for my PM CEMS? Your PM CEMS must be initially set up to measure over the expected range of your source's PM emission concentrations during routine operations. This will allow your PM CEMS to detect and record significant high PM concentrations encountered during the Correlation Test Planning Period. You may change the measurement range to a more appropriate range during the Correlation Test Planning Period based on your findings.

6.4 What if my PM CEMS does automatic range switching? Your PM CEMS may be equipped to perform automatic range switching so that it is operating in a range most sensitive to the detected concentrations. If your PM CEMS does automatic range switching, you must appropriately configure the data recorder to adequately handle the recording of data values being recorded in multiple ranges during range switching intervals.

6.5 What averaging time and sample intervals should be used? Your CEMS must sample the stack effluent such that the averaging time, the number of measurements in an average, the minimum sampling time, and the averaging procedure for reporting and determining compliance conform with those specified in the applicable regulation. Your PM CEMS must be designed to meet the specified response time and cycle time established in this Performance Specification. (*See* section 13.3.)

6.6 What type of equipment is needed for my data recorder? Your CEMS data recorder must be able to accept and record electronic signals from all the monitors.

(1) Your data recorder must record the signals from your PM CEMS that are proportional to particulate mass concentrations. If your PM CEMS uses multiple ranges, your data recorder must identify what range the measurement was made in and provide range adjusted results.

(2) Your data recorder must accept and record monitor status signals (flagged data).

(3) Your data recorder must accept signals from auxiliary data monitors, as appropriate.

6.7 What other equipment and supplies might I need? You may need other supporting equipment as defined by the applicable RM(s) (see section 7) or as specified by your CEMS manufacturer.

7.0 What Reagents and Standards Do I Need?

7.1 You will need reference-audit rods, -audit wedges, foils, optical filters or other technology-appropriate reference media that are provided by your PM CEMS manufacturer. You must use these reference media for the quarterly QA/QC audits and for daily drift checks (i.e., to measure drift or response) of your PM CEMS. These need not be certified but must be documented by the manufacturer to give results that are consistent, repeatable and reliable.

7.2 You may need other reagents and standards required by the applicable RM(s).

8.0 What Performance Specification Test Procedure Do I Follow?

You must complete each of the activities in sections 8.1 through 8.8 for your performance specification test.

8.1 What is the appropriate equipment selection and setup? You must select a PM CEMS that is most appropriate for your source, giving consideration to potential factors such as flue gas conditions, interferences, site specific configuration, installation location, PM concentration range and other PM characteristics. Your PM CEMS must meet the equipment specifications of section 6.1.

(1) You must select a PM CEMS that is appropriate for the flue gas conditions at your source. If your source contains entrained water droplets, your PM CEMS will require a sample delivery and conditioning system that is capable of extracting and heating a representative sample.

(i) Your PM CEMS must maintain the sample at a temperature sufficient to prevent moisture condensation in the sample line before analysis of PM.

(ii) If condensible PM is an issue, your PM CEMS must maintain the sample gas temperature at the same temperature as the RM filter.

(iii) Your PM CEMS must avoid condensation in the sample flow rate measurement lines.

(2) Some PM CEMS do not have a wide measurement range capability. Therefore, you must select a PM CEMS that is capable of measuring the full range of PM concentrations expected from your source from normal levels through the emission limit concentration.

(3) Some PM CEMS are sensitive to particle size changes, water droplets in the gas stream, particle charge, and stack gas velocity changes, etc. Therefore, you must select a PM CEMS appropriate for your source's PM characteristics.

(4) You must set up your CEMS to operate in accordance with the manufacturer's recommendations.

(5) You must consult your PM CEMS vendor to obtain basic recommendations on the instrument capabilities and setup configuration. You are ultimately responsible for setup and operation of your PM CEMS.

8.2 Where do I install my PM CEMS? You must install your PM CEMS at an accessible location downstream of all pollution control equipment. You must perform your PM CEMS concentration measurements from a location considered most representative, or be able to provide data that can be corrected to be representative of the total PM emissions as determined by the manual RM.

(1) Your site specific correlation developed during the initial correlation testing must relate specific PM CEMS responses to integrated particulate concentrations.

(2) We may require you to relocate your CEMS if the cause of failure to meet the correlation criteria is determined to be the measurement location and a satisfactory correction technique cannot be established.

(3) You must select a measurement location that minimizes problems due to flow disturbances, cyclonic flow, and varying PM stratification (refer to Method 1 for guidance).

(4) If you plan to achieve higher emissions, for correlation test purposes, by adjusting the performance of the air pollution control device (per section 8.6(5)(i)) or by installing a means to bypass part of the flue gas around the control device, you must locate your PM CEMS measurement (and manual RM measurement) location well downstream of the control device or bypass (e.g., downstream of the induced draft fan), in order to minimize PM stratification that may be created in these cases.

8.3 How do I select the manual RM measurement location and traverse points? You must follow EPA Method 1 for identifying manual RM traverse points. Ideally, you should perform your manual measurements at locations where the 8 and 2 flow disturbance criteria are met. Where necessary, you may conduct testing at a location that is 2 diameters downstream and 0.5 diameters upstream of flow disturbances. If your location does not meet the minimum downstream and upstream requirements, you must obtain approval from us to test at your location.

8.4 What are my pretest preparation steps? You must install your CEMS and prepare the RM test site according to the specifications in sections 8.2 and 8.3. You must prepare your CEMS for operation according to the manufacturer's written instructions.

(1) After completing the initial field installation, you must operate your PM CEMS according to the manufacturer's instructions for a shakedown period. Except during times of instrument zero and upscale drift checks, your CEMS must analyze the effluent gas for PM and produce a permanent record of your PM CEMS output.

(i) You must conduct daily checks (zero and upscale drift and sample volume, as appropriate); and, when any check exceeds the daily specification (see section 13.1), make adjustments and perform any necessary maintenance to ensure reliable operation. Your data recorder must reflect these checks and adjustments.

(ii) If the shakedown period is interrupted because of source breakdown, you must continue the shakedown period following resumption of source operation. If the shakedown period is interrupted because of monitor failure, you must continue the shakedown period when the monitor becomes operational.

(iii) The objective of the shakedown period is for you to become familiar with your PM CEMS and its routine operation for providing reliable data.

(iv) Therefore, you must continue the shakedown until you are confident that your PM CEMS is operating within the manufacturer's specifications.

(2) After completing the shakedown period, you must operate your CEMS over a Correlation Test Planning Period of sufficient duration to identify the full range of operating conditions and PM emissions to be used in your PM CEMS correlation test. During the Correlation Test Planning Period you must produce a permanent record of 15-minute average PM CEMS responses.

(i) During the Correlation Test Planning Period you must operate the process and air pollution control equipment in their normal set of operating conditions.

(ii) Your data recorder must record PM CEMS response during the full range of routine process operating conditions.

(iii) You must establish the relationships between operating conditions and PM CEMS response, especially those conditions that produce the highest PM CEMS response over 15-minute averaging periods, and the lowest PM CEMS response as well. The objective of this is for you to be able to reproduce the conditions for purposes of the actual correlation testing discussed in section 8.6.

(iv) You must set the response range of your PM CEMS for the subsequent correlation testing.

(3) You must set the response range of your PM CEMS such that its output is within 50 to 60 percent of its maximum output (*e.g.*, 12 to 13.6 mA on a 4 to 20 mA output) when your source is operating at the conditions that were previously observed to produce the highest PM CEMS output. But, the response range must be set such that no 15-minute average equals your PM CEMS maximum output (*e.g.*, 20 mA). In some cases, you may desire to set the response range of your PM CEMS such that its output is 50 to 60 percent of its maximum output (*e.g.*, 12 to 13.6 mA on a 4 to 20 mA output) when your source is operating at its PM emission limit. You may do this by perturbing operation of the air pollution control equipment or bypassing part of the flue gas around the control equipment in order to create PM emissions at the emission limit.

(4) We recommend that you perform preliminary manual RM testing after the Correlation Test Planning Period. During this preliminary testing, you would measure the PM emission concentration corresponding to the highest PM CEMS response observed during the full range of normal operation, or when perturbing or bypassing the control equipment.

(5) During the last seven days of the Correlation Test Planning Period, and after the monitor response range has been set, you must perform the 7-day zero and upscale drift test (see section 8.5).

(6) You cannot change the response range of the monitor once the response range has been set, and the drift test successfully completed.

8.5 How do I perform the 7-day drift test? You must check the zero (or low level value between 0 and 20 percent of the response range of the instrument) and upscale (between 50 and 100 percent of the instrument's response range) drift. You must perform this check at least once daily over 7 consecutive days. Your PM CEMS must quantify and record the zero and upscale measurements and the time of the measurements. If you make automatic or manual adjustments to your PM CEMS zero and upscale settings, you must conduct the drift test immediately before these adjustments, or conduct it in such a way that you can determine the amount of drift. You will find the calculation procedures for drift in section 12.1 and the acceptance criteria for allowable drift in section 13.1.

(1) What is the purpose of 7-day drift tests? The 7-day drift tests validate the internal performance of your PM CEMS. Another purpose of the 7-day drift measurements is to verify that your CEMS response remains consistent with the responses recorded during the development of the initial correlation and to determine whether your PM CEMS is out of control during day to day operation as specified in section 13.1.

(2) How do I do the 7-day drift testing? You must determine the magnitude of the drift once each day, at 24-hour intervals), for 7 consecutive days while your source is operating normally.

(i) You must conduct the 7-day drift test at the two points specified in section 8.5. You may perform the 7-day drift tests automatically or manually by introducing to your PM CEMS suitable reference standards (these need not be certified) or procedures.

(ii) You must record your PM CEMS zero and upscale response and evaluate them against the zero check value and upscale check value.

(iii) You must conduct the 7-day drift test near the end of the Correlation Test Planning Period. A valid 7-day drift test must be completed before attempting the correlation test.

8.6 How do I conduct my PM CEMS correlation test? You must conduct the correlation test according to the procedure given in paragraphs (2) through (6) while your source is operating at the conditions you observed and documented during the Correlation Test Planning Period discussed in section 8.4(2). If you need multiple correlations, you must conduct sufficient testing and collect at least 15 pairs of RM and PM CEMS data for calculating each separate correlation.

(1) You must use the RM for particulate matter (usually Methods 5, 5i, or 17) that is prescribed by the applicable regulations. You may need to perform other RMs or performance specifications (*e.g.*, Method 3 for oxygen, Method 4 for moisture, etc.) depending on the units in which your PM CEMS reports PM concentration.

Note: You may use test runs that are shorter than 60 minutes in duration (*e.g.*, 20 or 30 minutes). You may perform your PM CEMS correlation tests during new source performance standards performance tests or other compliance tests subject to the Clean Air Act or other statutes, such as the Resource Conservation and Recovery Act. In these cases, your RM results obtained during the PM CEMS correlation test may be used to determine compliance as long as your source and the test conditions are consistent with the applicable regulations.

(i) You must use paired RM trains when collecting manual PM data. You use results of the paired trains to identify and screen the RM data for imprecision and bias.

(ii) During all paired train testing, you must eliminate from the data set used to develop a PM CEMS correlation any pair of data that do not meet the precision criteria specified in Procedure 2, paragraph 10.1(3).

(iii) You must test the valid data set for bias according to Procedure 2, section 10.1(4)(i). You may not use biased data in developing your PM CEMS correlation. You must identify and correct the source of the bias before repeating the manual testing program.

(iv) You must correct the RM results to units consistent with the results of your PM CEMS measurements. For example, if your PM CEMS measures and reports PM emissions in the units of mass per actual volume of stack gas, you must correct your RM results to those units (*e.g.*, mg/acm). If your PM CEMS extracts and heats the sample gas to eliminate water droplets, then measures and reports PM emissions under those actual conditions, you must correct your RM results to those same conditions (*e.g.*, mg/acm at 160°C).

(2) During each test run, you must coordinate process operations, RM sampling, and PM CEMS operations. For example, you must assure that: (1) The process is operating at the targeted conditions, (2) both RM trains are sampling simultaneously, and (3) your PM CEMS and data logger are properly operating.

(i) You must coordinate the start and stop times of each run between the RM sampling and PM CEMS operation. For a batch sampling PM CEMS, you must start the RM at the same time as your PM CEMS sampling.

(ii) You must note the times for port changes on the data sheets so that you can adjust your PM CEMS data accordingly, if necessary.

(iii) You must properly align the time periods for your PM CEMS and your RM measurements to account for your PM CEMS response time.

(3) You must conduct a minimum of 15 valid runs each consisting of simultaneous PM CEMS and RM measurements sets.

(i) You may conduct more than 15 sets of CEMS and RM measurement sets. If you choose this option, you may reject certain test results so long as the total number of valid test results you use to determine the correlation is greater than or equal to 15.

(ii) You must report all data, including the rejected data.

(iii) If you reject data, the basis for rejecting data must be explicitly stated in: (1) The RM, (2) this Performance Specification or Procedure 2, or (3) your QA plan.

(iv) If you use more than 15 runs for the correlation test, each emissions concentration level described in section 8.6(4) must contain no fewer than 20 percent of the total number of runs.

(4) Simultaneous PM CEMS and RM measurements must be performed in a

manner to ensure that the range of data for your PM CEMS's correlation is maximized. The range of data must be identified during the Correlation Test Planning Period. You must first attempt to maximize your correlation range by following paragraphs (i) through (iv). If you cannot obtain the three levels as described in (i) through (iv), then you must use the procedure in section (5).

(i) You must attempt to obtain the three different levels of PM mass concentration by varying process or PM control device conditions, or bypassing part of the flue gas around the control equipment.

(ii) The three PM concentration levels you use in the correlation tests must be distributed over the complete operating range experienced by your source.

(iii) At least 20 percent of the minimum 15 measured data points you use must be contained in each of the following levels as determined by your PM CEMS during the Correlation Test Planning Period:

- *Level 1:* From no PM (zero concentration) emissions to 50 percent of the maximum PM concentration;
- *Level 2:* 25 to 75 percent of the maximum PM concentration; and
- *Level 3:* 50 to 100 percent of the maximum PM concentration.

(iv) Although the above levels overlap, you may only apply individual run data to one level.

(5) If you cannot obtain three distinct levels of PM concentration as described, you must perform correlation testing at whatever range of PM concentrations your PM CEMS recorded during the Correlation Test Planning Period. To ensure that the range of data for your PM CEMS's correlation is maximized, you must follow one or more of the steps in paragraphs (i) through (iii).

(i) If you have an extractive PM CEMS, introduce zero air or filtered ambient air into your PM CEMS sample line to obtain instrument response for a particulate free flue gas.

(ii) To obtain zero point data, perform manual RM measurements when the flue gas is free of particulate emissions or contains very low PM concentration (*e.g.*, when your process is not operating but the fans are operating or your source is combusting only natural gas).

(iii) If none of the steps in paragraphs (ii) or (iii) are possible, you must assume what the monitor response should be when no PM is in the flue gas (*e.g.*, 4 mA = 0 mg/acm).

8.7 What do I do with my PM CEMS initial correlation test data? You must calculate and report the results of the correlation testing as cited in section 12. You must include all data sheets, calculations, charts (records of PM CEMS responses), process data records including PM control equipment operating parameters, and manufacturer's reference media certifications necessary to confirm that your PM CEMS met the performance specifications. In addition, you must:

(1) Determine the integrated (arithmetic average) PM CEMS output over each RM test period.

(2) adjust your PM CEMS outputs and RM test data to the same clock time (considering response time of your PM CEMS). (3) confirm that the RM results are consistent with your PM CEMS response in terms of, where applicable, moisture, temperature, pressure, and diluent concentrations.

(4) determine whether any of the RM test results do not meet the test method criteria or the precision and bias criteria in Procedure 2; and

(5) calculate the correlation coefficient, confidence interval, and tolerance interval for the complete set of CEMS/RM correlation data using the procedures in section 12.0.

8.8 What is the limitation on the range of my PM CEMS correlation? Data you collect during the correlation testing should be representative of the full range of normal operating conditions at your source as observed during the Correlation Test Planning Period. You must use these data to develop the correlation, even though this may in some situations consist of data over a narrow range of PM concentration and PM CEMS response that are well below your source's PM emission limit.

(1) If your source later generates three consecutive hourly averages greater than 125 percent of the highest PM CEMS response (*e.g.*, mA reading) used for the correlation curve, you must collect additional correlation data at the higher PM CEMS response unless we, the State and or local enforcement agency determine that repeating the condition is not appropriate. In doing so, you must conduct three additional test runs at the higher response and revise the correlation equation within 30 days after the occurrence of the three consecutive hourly averages. You must use resulting new data along with the previous data to calculate a revised correlation equation.

9.0 What Quality Control Measures Are Required?

Quality control components are presented in 40 CFR part 60, Appendix F, Procedure 2.

10.0 What Calibration and Standardization Procedures Must I Perform? [Reserved]

11.0 What Analytical Procedures Apply to This Procedure?

Specific analytical procedures are outlined in the applicable RM(s).

12.0 What Calculations and Data Analysis Are Needed?

You must determine the primary relationship for correlating output from your PM CEMS to a particulate concentration, typically in units of mg/m³ of flue gas, using the calculations and data analysis process in sections 12.2 and 12.3. You develop the correlation by performing an appropriate regression analysis between your PM CEMS response and your RM data.

12.1 How do I calculate upscale drift and zero drift? To establish reliability of your PM CEMS by achieving specific drift check requirements, you must determine the difference in your PM CEMS output readings from the established reference values (zero and upscale check values) after a stated period of operation during which you performed no unscheduled maintenance, repair, or adjustment.

(1) Calculate the Upscale Drift (UD) using Equation 11–1:

$$UD = \frac{|R_{CEM} - R_V|}{R_V} \times 100 \qquad \text{(Eq. 11-1)}$$

Where:

UD = The upscale (high level) drift of your PM CEMS in percent,

R_{CEM} = The measured PM CEMS response of the upscale reference standard, and

R_V = The pre-established numerical value of the upscale reference standard.

(2) Calculate the Zero Drift (ZD) using Equation 11–2:

$$ZD = \frac{|R_{CEM} - R_L|}{R_V} \times 100 \qquad \text{(Eq. 11-2)}$$

Where:

ZD = The zero (low level) drift of your PM CEMS in percent.

R_{CEM} = The measured PM CEMS response of the zero reference standard, and

R_L = The pre-established numerical value of the zero reference standard.

R_V = The pre-established numerical value of the upscale reference standard.

(3) Summarize the results on a data sheet similar to that shown in Table 11–3 (see section 18).

12.2 How do I prepare my regression analysis? You must couple the measured PM concentration, y, in the appropriate units, with an average PM CEMS response, x, over corresponding time periods. You must complete your PM CEMS correlation calculations using data deemed acceptable by quality control procedures identified in 40 CFR 60 Appendix F, Procedure 2.

(1) You must evaluate all flagged or suspect data produced during measurement periods and determine whether they should be excluded from your PM CEMS's average.

(2) You must adjust the RM PM concentrations to the units of your PM CEMS measurement conditions. The conditions of your PM CEMS measurement are monitor specific. You must obtain from your PM CEMS's vendor the unit of measure for your PM CEMS.

(i) If your sample gas contains entrained water droplets, you must calculate moisture by one of the following methods, as further clarified in subsections (ii) and (iii) below: (1) determined from the impinger analysis, or (2) calculated from a psychrometric chart based on assumed saturation conditions.

(ii) If your PM CEMS measures PM at non-actual conditions (e.g., dry standard conditions), you must use the lower of the two calculated moisture values.

(iii) If your PM CEMS measures PM at an actual stack condition, you must use the measured moisture content from impingers and not moisture calculated based on saturated conditions when adjusting your RM PM data to PM CEMS conditions.

12.3 How do I determine my PM CEMS correlation? To predict PM concentration from PM CEMS responses, you must use the calculation method of least squares presented in paragraphs (1) through (4). This method minimizes the vertical segments from the data points to the fitted correlation. You must investigate the correlations in the order they are presented: polynomial (i.e., second

order), logarithmic, and linear (i.e., first order). Finally, your correlation must meet the criteria presented in section 13.

(1) Calculate the coefficients of the polynomial correlation and confidence and tolerance intervals using Equations 11–3 through 11–23.

(i) Calculate the polynomial correlation of Equation 11–3 using Equations 11–4 through 11–9. A least-squares polynomial regression provides the best fit coefficients b_0, b_1, and b_2 for your PM CEMS correlation:

$$\hat{y} = b_0 + b_1 x + b_2 x^2 \qquad \text{(Eq. 11-3)}$$

The coefficients b_0, b_1, and b_2 are determined from the solution to the matrix equation

Ab=B

Where:

$$A = \begin{bmatrix} n & S_1 & S_2 \\ S_1 & S_2 & S_3 \\ S_2 & S_3 & S_4 \end{bmatrix}, \quad b = \begin{bmatrix} b_0 \\ b_1 \\ b_2 \end{bmatrix}, \quad B = \begin{bmatrix} S_5 \\ S_6 \\ S_7 \end{bmatrix}$$

and

$$S_1 = \sum_{i=1}^{n}(x_1), S_2 = \sum_{i=1}^{n}(x_1^2), S_3 = \sum_{i=1}^{n}(x_1^3), S_4 = \sum_{i=1}^{n}(x_1^4), \qquad \text{(Eq. 11-4)}$$

$$S_5 = \sum_{i=1}^{n} y_1, S_6 = \sum_{i=1}^{n}(x_i y_i), S_7 = \sum_{i=1}^{n}(x_i^2 y_i). \qquad \text{(Eq. 11-5)}$$

The solutions to b_0, b_1, and b_2 are:

$$b_0 = \frac{(S_5 \cdot S_2 \cdot S_4 + S_1 \cdot S_3 \cdot S_7 + S_2 \cdot S_6 \cdot S_3 - S_7 \cdot S_2 \cdot S_2 - S_3 \cdot S_3 \cdot S_5 - S_4 \cdot S_6 \cdot S_1)}{\det A} \qquad \text{(Eq. 11-6)}$$

$$B_1 = \frac{(n \cdot S_6 \cdot S_4 + S_5 \cdot S_3 \cdot S_2 + S_2 \cdot S_1 \cdot S_7 - S_2 \cdot S_6 \cdot S_2 - S_7 \cdot S_3 \cdot n - S_4 \cdot S_1 \cdot S_5)}{\det A} \qquad \text{(Eq. 11-7)}$$

$$b_2 = \frac{(n \cdot S_2 \cdot S_7 + S_1 \cdot S_6 \cdot S_2 + S_5 \cdot S_1 \cdot S_3 - S_2 \cdot S_2 \cdot S_5 - S_3 \cdot S_6 \cdot n - S_7 \cdot S_1 \cdot S_1)}{\det A} \qquad \text{(Eq. 11-8)}$$

Where:

$$\det A = n \cdot S_2 \cdot S_4 - S_2 \cdot S_2 + S_1 \cdot S_3 \cdot S_2 - S_3 \cdot S_3 \cdot n + S_2 \cdot S_1 \cdot S_3 - S_4 \cdot S_1 \cdot S_1 \qquad \text{(Eq. 11-9)}$$

(ii) Calculate the two-sided 95 percent confidence interval given by Equation 11–10 for the polynomial regression using Equations 11–11 through 11–16. For any positive value of x, the two-sided confidence interval is given by:

$$(y_{c-lower}, y_{c-upper}) = \hat{y} \pm t_f \cdot S_p \sqrt{\Delta} \qquad \text{(Eq. 11-10)}$$

Where:

f=n−3,

Use the t factors listed in Table 1.

Equation 11–10 is simplified to:

$$(y_{c-lower}, y_{c-upper}) = \hat{y} \pm CI \qquad \text{(Eq. 11-11)}$$

Calculate the confidence interval percent (CI %) by Equation 11–12:

$$CI\% = \frac{CI}{EL} \cdot 100\% \qquad \text{(Eq. 11-12)}$$

Where:

CI = The confidence interval at the median x value

EL = PM emission limit, as described in section 13.2.

Determine the scatter or deviation of y values about the polynomial regression curve (correlation) S_P using Equations 11–13 through 11–16:

$$S_p = \sqrt{\frac{1}{n-3}\sum_{i=1}^{n}(\hat{y}_i - y_i)^2}, \text{ and} \qquad \text{(Eq. 11-13)}$$

$$\Delta = C_0 + 2C_1x + (2C_2 + C_3)x^2 + 2C_4x^3 + C_5x^4. \quad \text{(Eq. 11-14)}$$

Calculate the C coefficients using Equation 11–15.

$$C_0 = \frac{(S_2 \cdot S_4 - S_3^2)}{D}, C_1 = \frac{(S_3 \cdot S_2 - S_1 \cdot S_4)}{D}, C_2 = \frac{(S_1 \cdot S_3 - S_2^2)}{D}, C_3 = \frac{(nS_4 - S_2^2)}{D}, C_4 = \frac{(S_1 \cdot S_2 - nS_3)}{D} C_5 = \frac{(nS_2 - S_1^2)}{D} \quad \text{(Eq. 11-15)}$$

Where:

$$D = n(S_2 \cdot S_4 - S_3^2) + S_1(S_3 \cdot S_2 - S_1 \cdot S_4) + S_2(S_1 \cdot S_3 - S_2^2) \quad \text{(Eq. 11-16)}$$

(iii) Calculate the two-sided tolerance interval given by Equation 11–17 for the polynomial regression using Equations 11–18 through 11–21. For any positive value of x, the two-sided tolerance interval is given by:

$$(y_{t-lower}, y_{t-upper}) = \hat{y} \pm k_T \cdot S_p, \quad \text{(Eq. 11-17)}$$

Where:

$$k_T = u_{n'} \cdot v_f \quad \text{(Eq. 11–18)}$$

with f=n – 3, and

$$n' = \frac{1}{\Delta} \quad \text{(Eq. 11-19)}$$

with $n' \geq 2$.

Use the v_f and $u_{n'}$, values in Table 1. Equation 11–17 is simplified to:

$$(y_{t-lower}, y_{t-upper}) = \hat{y} \pm TI \quad \text{(Eq. 11-20)}$$

Calculate the tolerance interval percent (TI %) using Equation 11–21:

$$TI\% = \frac{TI}{EL} \cdot 100\% \quad \text{(Eq. 11-21)}$$

where:

TI = The tolerance interval at the median x value

EL = PM emission limit, as described in section 13.2.

(iv) Calculate the polynomial correlation coefficient, r, from:

$$r = \sqrt{1 - \frac{S_P^2}{S_y^2}} \quad \text{(Eq. 11-22)}$$

Where:

$$S_y = \sqrt{\frac{\sum_{i=1}^{n}(y_1 - \bar{y})^2}{n-1}} \quad \text{(Eq. 11-23)}$$

(v) Any correlation you develop must predict an increased PM concentration with an increased PM CEMS response within the extrapolated range. The sign of the polynomial slope must not change within the extrapolated range of PM CEMS responses. To meet this criterion, the polynomial minimum or maximum must exist outside the expanded data range. The minimum or maximum is the point where the slope of the polynomial curve equals zero. You must calculate the minimum or maximum using Equation 11–24.

$$\text{maximum or minimum} = -\frac{b_1}{2b_2} \quad \text{(Eq. 11-24)}$$

If $b_2 > 0$, your polynomial curve has a minimum. The minimum must exist outside and below the range of PM CEMS responses collected during the correlation period.

$$-\frac{b_1}{2b_2} < x_i \quad \text{(Eq. 11-25)}$$

If the relationship in Equation 11–25 is true and the correlation criteria described in section 13.2 are within the acceptable limits, you must proceed to the linear analysis presented in section 12.3(3).

If $b_2 < 0$ your polynomial curve has a maximum. The maximum must be above 125 percent of the highest PM CEMS response during the correlation test.

$$-\frac{b_1}{2b_2} > \text{Highest Extrapolated CEMS Response Point} \quad \text{(Eq. 11-26)}$$

If the relationship in Equation 11–26 is true and the correlation criteria described in section 13.2 are within the acceptable limits, you must proceed to the linear analysis presented in section 12.3(3).

(2) If the minimum or maximum for the polynomial correlation exists outside the range of PM CEMS responses during the correlation test or the polynomial correlation criteria are not satisfactory, you must also investigate the logarithmic correlation.

Perform a logarithmic transformation of each average PM CEMS response (x values). You can use any number greater than 1 for the base of the logarithm, since the same correlation coefficient will result. You must apply all the procedures and equations outlined in the linear model in section 12.3(3) after logarithmic transformation of the x values has occurred.

You must evaluate the logarithmic correlation at the criteria presented in section 13.2. If all acceptance criteria are achieved, you discontinue further analysis and report all PM CEMS responses using the logarithmic curve.

(3) If the minimum or maximum as defined in Equation 11–24 exists inside the range of PM CEMS responses obtain during the correlation test, you must not use the polynomial correlation, and you must perform the following linear regression. Your

PM CEMS data appear on the x axis, and the RM data appear on the y axis.

(i) Calculate the linear regression, which gives the predicted mass emission $\hat{y}$ based on your PM CEMS response x, given by Equation 11–27, using Equations 11–28 through 11–32.

$$\hat{y} = b_0 + b_1 x \quad \text{(Eq. 11-27)}$$

Where:

$$b_1 = \frac{S_{xy}}{S_{xx}} \quad \text{(Eq. 11-28)}$$

and

$$b_0 = \bar{y} - b_1 \cdot \bar{x} \quad \text{(Eq. 11-29)}$$

Calculate the mean values of the x and y data sets using Equation 11–30

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i, \bar{y} = \frac{1}{n} = \sum_{i=1}^{n} y_i \quad \text{(Eq. 11-30)}$$

where x_i and y_i are the absolute values of the individual measurements and n is the number of data points. Calculate the values of S_{xx}, S_{yy}, and S_{xy} using Equation 11–31.

$$S_{xx} = \sum_{i=1}^{n}(x_1 - \bar{x})^2, S_{yy} = \sum_{i=1}^{n}(y_1 - \bar{y})^2, S_{xy} = \sum_{i=1}^{n}(x_1 - \bar{x})(y_i - \bar{y}) \quad \text{(Eq. 11-31)}$$

and then calculate the scatter or deviation of y values about the regression line (correlation), S_L, using Equation 11–32.

$$S_L = \sqrt{\frac{1}{n-2}\sum_{i=1}^{n}(\hat{y}_i - y_i)^2} \quad \text{(Eq. 11-32)}$$

(ii) Calculate the two-sided $_{100\,(1-a)\%}$ confidence interval, $y_{c\text{-lower}}$ $y_{c\text{-upper}}$, for the predicted concentration $\hat{y}$ at point x, using Equation 11–33. Then, calculate the confidence interval as a percent of the emission limit at the median x value.

$$\left(y_{c-lower}, y_{c-upper}\right) = \hat{y} \pm t_{f,1-a/2} \cdot S_L \sqrt{\frac{1}{n} + \frac{(x-\bar{x})^2}{S_{xx}}}, \text{ with } f = n-2 \quad \text{(Eq. 11-33)}$$

(iii) Calculate the two-sided tolerance interval, $y_{t\text{-lower}}$ $y_{t\text{-upper}}$, for a future observation at point x, given by Equation 11–34 for the linear regression using Equations 11–35 and 11–36.

$$\left(y_{t-lower}, y_{t-upper}\right) = \hat{y} \pm k_t \cdot s_L \quad \text{(Eq. 11-34)}$$

$$k_T = u_{n'} \cdot v_f \text{ and } f = n-2 \quad \text{(Eq. 11-35)}$$

$$n' = \frac{n}{1 + \frac{n \cdot (x-\bar{x})^2}{S_{xx}}}, n' \geq 2 \quad \text{(Eq. 11-36)}$$

Determine the tolerance factor $u_{n'}$ for 75 percent by first calculating n′ and rounding to the nearest whole number. If the calculated $u_{n'}$ is less than 2, n′ = 2. Use the $u_{n'}$ values as a function on n′ and the v and t factors from Table 1. Then, calculate the tolerance interval as a percent of the emission limit at the median x value.

(iv) Calculate the linear correlation coefficient, r, using Equation 11–37.

$$r = \sqrt{1 - \frac{S_L^2}{S_y^2}} \quad \text{(Eq. 11-37)}$$

Where:

S_y was defined by Equation 11–23.

(v) After calculating the polynomial, logarithmic (if needed), and linear correlations, you must determine which correlation produces the best fit to the correlation data. This test to determine if the fit using a polynomial correlation offers a statistically significant improvement over the linear correlation is shown in Equation 11–38. The test is based on the values of deviation, S, calculated in the two formulations:

S_P is the deviation from the polynomial regression, calculated in Equation 11–13, and S_L denotes the deviation from the linear regression, calculated in Equation 11–32.

$$\frac{(n-2)\cdot s_L^2 - (n-3)\cdot s_P^2}{s_P^2} > F_{1,f} \quad \text{(Eq. 11-38)}$$

Where:

df = 1, n − 3

f = n − 3

Put the values for S_P and S_L into Equation 11–38 and compare the result to $F_{1,f}$. Use the values of $F_{1,f}$ at the 95 percent confidence level in Table 2.

If the relationship in Equation 11–38 is true, the polynomial regression gives a better fit at the 95 percent confidence level. Evaluate the criteria described in section 13.2 for the polynomial regression. If the criteria are within the acceptable limits, you report all PM CEMS response values using the polynomial curve.

If the relationship in Equation 11–38 is false, the linear regression gives a better fit at the 95 percent confidence level. Evaluate the criteria described in section 13.2 for the linear regression. If the criteria are within the acceptable limits, you must report all PM CEMS response values using the linear regression.

(4) You may petition the Administrator for alternative solutions or sampling recommendations if the regression analysis presented in paragraphs (1) through (3) does not achieve acceptable correlation, confidence or tolerance intervals.

13.0 What Are the Performance Criteria for My PM CEMS?

You evaluate your PM CEMS based on the 7-day drift check, the accuracy of the correlation, and the sampling periods and cycle/response time.

13.1 What Is the 7-day Drift Check performance specification? Your daily PM CEMS internal drift checks must demonstrate that you PM CEMS does not drift or deviate from the value of the reference light, optical filter, Beta attenuation signal, or other technology-suitable vendor-provided reference standard by more than 2 percent of the upscale value. If your CEMS includes diluent and/or auxiliary monitors (for temperature, pressure, and/or moisture) that are employed as a necessary part of this performance specification, you must determine the calibration drift separately for each ancillary monitor in terms of its respective output (see the appropriate Performance Specification for the diluent CEMS specification). None of the calibration drifts may exceed their separate specification.

13.2 What are the correlation performance specifications? Your PM CEMS correlation must meet each of the minimum specifications in paragraphs (1), (2), and (3). Before confidence and tolerance interval percentage calculations are made, you must convert the emission limit to the appropriate units of your PM CEMS measurement conditions using the average of oxygen and designated gas property (*e.g.*, temperature,

pressure, and moisture) values experienced during the correlation test.

(1) The correlation coefficient, r, must be greater than or equal to 0.85.

(2) The confidence interval (95 percent) at the median PM CEMS reading from the correlation test must be within 10 percent of the PM emission limit value specified in the applicable regulation.

(3) The tolerance interval at the median PM CEMS reading from the correlation test must have 95 percent confidence that 75 percent of all possible values are within 25 percent of the PM emission limit value specified in the applicable regulation.

13.3 What are the sampling periods and cycle/response time? You must document and maintain the response time and any changes in the response time following installation.

(1) The response time for your PM CEMS must not exceed 2 minutes to achieve 95 percent of the final stable value.

(2) If you have a batch sampling PM CEMS, you must evaluate the limits presented in paragraphs (i) and (ii).

(i) Your PM CEMS's response time, which is the equivalent to the cycle time, must be no longer than 15 minutes. In addition, the delay between the end of the sampling time and reporting of the sample analysis must be no greater than 3 minutes. You must document any changes in the response time following installation.

(ii) Your PM CEMS's sampling time must be no less than 30 percent of the cycle time. If you have a batch sampling PM CEMS, sampling must be continuous except during pauses when the collected pollutant on the capture media is being analyzed and the next capture medium starts collecting sample.

13.4 What PM compliance monitoring must I do? You must report your CEMS measurements in the units of the standard expressed in the regulations (*e.g.*, mg/dscm @ 7 percent oxygen, lb/mmBtu, etc.). You may need to install auxiliary data monitoring equipment to convert the units reported by your PM CEMS into units of the PM emission standard.

14.0 Pollution Prevention. [Reserved]

15.0 Waste Management. [Reserved]

16.0 Which References Are Relevant To This Performance Specification?

16.1 Technical Guidance Document: Compliance Assurance Monitoring. U.S. Environmental Protection Agency Office of Air Quality Planning and Standards Emission Measurement Center. August 1998.

16.2 40 CFR part 60, Appendix B, "Performance Specification 2—Specifications and Test Procedures for SO_2 and NO_x, Continuous Emission Monitoring Systems in Stationary Sources."

16.3 40 CFR part 60, Appendix B, "Performance Specification 1—Specification and Test Procedures for Opacity Continuous Emission Monitoring Systems in Stationary Sources.

16.4 40 CFR part 60, Appendix A, "Method 1—Sample and Velocity Traverses for Stationary Sources."

16.5 "Current Knowledge of Particulate Matter (PM) Continuous Emission Monitoring," U.S. Environmental Protection Agency, EPA–454/R–00–039, September 2000.

16.6 40 CFR part 266, Appendix IX, Section 2, "Performance Specifications for Continuous Emission Monitoring Systems."

16.7 ISO 10155, "Stationary Source Emissions—Automated Monitoring of Mass Concentrations of Particles: Performance Characteristics, Test Procedures, and Specifications," dated 1995, American National Standards Institute, New York City.

16.8 G. Box, W. Hunter, J. Hunter, Statistics for Experimenters (Wiley, New York, 1978).

16.9 M. Spiegel, Mathematical Handbook of Formulas and Tables (McGraw-Hill, New York, 1968).

17.0 What Reference tables and validation data are relevant to PS–11? The information in Tables 1 and 2. Use Table 3 to record your 7-day drift test data.

TABLE 1.—FACTORS FOR CALCULATION OF CONFIDENCE AND TOLERANCE INTERVALS

f or n′	t_f	v_f	$u_{n'}$ (75)
2	4.303	4.415	1.433
3	3.182	2.920	1.340
4	2.776	2.372	1.295
5	2.571	2.089	1.266
6	2.447	1.915	1.247
7	2.365	1.797	1.233
8	2.306	1.711	1.223
9	2.262	1.645	1.214
10	2.228	1.593	1.208
11	2.201	1.551	1.203
12	2.179	1.515	1.199
13	2.160	1.485	1.195
14	2.145	1.460	1.192
15	2.131	1.437	1.189
16	2.120	1.418	1.187
17	2.110	1.400	1.185
18	2.101	1.385	1.183
19	2.093	1.370	1.181
20	2.086	1.358	1.179
21	2.080	1.346	1.178
22	2.074	1.335	1.177
23	2.069	1.326	1.175
24	2.064	1.317	1.174
25	2.060	1.308	1.173
26	2.056	1.301	1.172
27	2.052	1.294	1.172
28	2.048	1.287	1.171
29	2.045	1.281	1.171
30	2.042	1.274	1.170
31	2.040	1.269	1.169
32	2.037	1.264	1.169
33	2.035	1.258	1.168
34	2.032	1.253	1.168
35	2.030	1.248	1.167
36	2.028	1.244	1.167
37	2.026	1.240	1.166
38	2.025	1.236	1.166
39	2.023	1.232	1.165

TABLE 1.—FACTORS FOR CALCULATION OF CONFIDENCE AND TOLERANCE INTERVALS—Continued

f or n'	t_f	v_f	$u_{n'}$ (75)
40	2.021	1.228	1.165
41	2.020	1.225	1.165
42	2.018	1.222	1.164
43	2.017	1.219	1.164
44	2.015	1.216	1.163
45	2.014	1.213	1.163
46	2.013	1.210	1.163
47	2.012	1.207	1.163
48	2.011	1.205	1.162
49	2.010	1.202	1.162
50	2.009	1.199	1.162
51	2.008	1.197	1.162
52	2.007	1.194	1.162
53	2.006	1.191	1.161
54	2.005	1.189	1.161
55	2.005	1.186	1.161
56	2.004	1.183	1.161
57	2.003	1.181	1.161
58	2.002	1.178	1.160
59	2.001	1.176	1.160
60	2.000	1.173	1.160
61	2.000	1.170	1.160
62	1.999	1.168	1.160
63	1.999	1.165	1.159

TABLE 2.—VALUES FOR F_f

f	F_{1f}	f	F_{1f}
1	161.4	16	4.49
2	18.51	17	4.45
3	10.13	18	4.41
4	7.71	19	4.38
5	6.61	20	4.35
6	5.99	22	4.30
7	5.59	24	4.26
8	5.32	26	4.23
9	5.12	28	4.20
10	4.96	30	4.17
11	4.84	40	4.08
12	4.75	50	4.03
13	4.67	60	4.00
14	4.60	80	3.96
15	4.54	100	3.94

TABLE 3.—7-DAY DRIFT TEST DATA

Zero drift day #	Date and time	Zero check value (R_L)	PM CEMS response (R_{CEMS})	Difference ($R_{CEMS} - R_L$)	Zero drift $(R_{CEMS} - R_L)/R_V$
1					
2					
3					
4					
5					
6					
7					

Upscale drift day #	Date and time	Upscale check value (R_V)	PM CEMS response (R_{CEMS})	Difference ($R_{CEMS} - R_V$)	Upscale drift ($R_{CEMS} - R_V$)/ R_V
1					
2					
3					
4					
5					
6					
7					

18.0 Are There Example Calculations I Can Use for Following PS–11?

The following table is the data set for a hypothetical monitor and its initial PM CEMS correlation. These PM CEMS measurement conditions are at actual stack conditions. The source emission limit is 34 mg/dscm at 7 percent O_2. X is the CEMS arbitrary unit measurements and Y is the corresponding Method 5 concentration at actual stack conditions. The following series of example calculations provide an illustration of how data are used to determine the correlation coefficient, confidence interval, and tolerance interval for PS–11 treatment. You may use this example to check any spreadsheets that you build.

Run number	PM CEMS response X	Reference method (mg/acm) Y
1	2	3
2	6	5
3	10	4
4	18	8
5	24	12
6	30	14
7	34	16
8	36	15
9	40	17
10	48	18
11	52	17
12	60	19
13	70	18
14	80	21
15	90	23

18.1 Calculate the polynomial correlation. Count the number of simultaneous CEMS and Reference Method samples:

n = 15

The following calculations are necessary for the matrix solution to the polynomial least squares regression analysis.

$$S_1 = \sum_{i=1}^{n}(x_i) = (2+6+10+\ldots+70+80+90) = 600$$

$$S_2 = \sum_{i=1}^{n}(x_i^2) = (2^2+6^2+10^2+\ldots+70^2+80^2+90^2) = 34{,}000$$

$$S_3 = \sum_{i=1}^{n}(x_i^3) = (2^3+6^3+10^3+\ldots+70^3+80^3+90^3) = 2{,}249{,}040$$

$$S_4 = \sum_{i=1}^{n}(x_i^4) = (2^4+6^4+10^4+\ldots+70^4+80^4+90^4) = 1.63\cdot 10^8$$

$$S_5 = \sum_{i=1}^{n}(y_i) = (3+5+4+\ldots+18+21+23) = 210$$

$$S_6 = \sum_{i=1}^{n}(x_i \cdot y_i) = (2\cdot 3)+\ldots+(80\cdot 21)+(90\cdot 23) = 10{,}590$$

$$S_7 = \sum_{i=1}^{n}(x_i^2 \cdot y_i) = (2^2\cdot 3)+(6_2\cdot 5)+\ldots+(80^2\cdot 21)+(90^2\cdot 23) = 652{,}572$$

$$A = \begin{bmatrix} n & S_1 & S_2 \\ S_1 & S_2 & S_3 \\ S_2 & S_3 & S_4 \end{bmatrix} = \begin{bmatrix} 15 & 600 & 34{,}000 \\ 600 & 34{,}000 & 2{,}249{,}040 \\ 34{,}000 & 2{,}249{,}040 & 1.630\cdot 10^8 \end{bmatrix}.$$

The determinant of the above matrix is determined by the cross product:

$$\det A = +n\cdot S_2\cdot S_4 - S_2\cdot S_2\cdot S_2 + S_1\cdot S_3\cdot S_2 - S_3\cdot S_3\cdot n + S_2\cdot S_1\cdot S_3 - S_4\cdot S_1\cdot S_1$$

$$\det A = \begin{array}{r} +15\cdot 34{,}000\cdot(1.630\cdot 10^8) - 34{,}000\cdot 34{,}000\cdot 34{,}000 \\ +600\cdot 2{,}249{,}040\cdot 34{,}000 - 2{,}249{,}040\cdot 2{,}249{,}040\cdot 15 = 1.033\cdot 10^{12} \\ +34{,}000\cdot 600\cdot 2{,}249{,}040 - (1.630\cdot 10^8)\cdot 600\cdot 600 \end{array}$$

The coefficients b_0, b_1, and b_2 are determined from the solution to the matrix equation Ab=B when:

$$A = \begin{bmatrix} n & S_1 & S_2 \\ S_1 & S_2 & S_3 \\ S_2 & S_3 & S_4 \end{bmatrix}, \qquad b = \begin{bmatrix} b_0 \\ b_1 \\ b_2 \end{bmatrix}, \qquad B = \begin{bmatrix} S_5 \\ S_6 \\ S_7 \end{bmatrix}.$$

$$b_0 = \left(S_5 \cdot S_2 \cdot S_4 + S_1 \cdot S_3 \cdot S_7 + S_2 \cdot S_6 \cdot S_3 - S_7 \cdot S_2 \cdot S_2 - S_3 \cdot S_3 \cdot S_5 - S_4 \cdot S_6 \cdot S_1\right)/\det A$$

$$b_0 = \frac{\begin{array}{c}+210 \cdot 34{,}000 \cdot \left(1.630 \cdot 10^8\right) + 600 \cdot 2{,}249{,}040 \cdot 652{,}572 \\ +34{,}000 \cdot 10{,}590 \cdot 2{,}249{,}040 - 652{,}572 \cdot 34{,}000 \cdot 34{,}000 \\ -2{,}249{,}040 \cdot 2{,}249{,}040 \cdot 210 - \left(1.630 \cdot 10^8\right) \cdot 10{,}590 \cdot 600\end{array}}{1.033 \cdot 10^{12}}$$

$$b_0 = \frac{\begin{array}{c}+1.164 \cdot 10^{15} + 8.806 \cdot 10^{14} + 8.098 \cdot 10^{14} \\ -7.544 \cdot 10^{14} - 1.062 \cdot 10^{15} - 1.036 \cdot 10^{15}\end{array}}{1.033 \cdot 10^{12}} = 1.846$$

$$b_1 = \left(n \cdot S_6 \cdot S_4 + S_5 \cdot S_3 \cdot S_2 + S_2 \cdot S_1 \cdot S_7 - S_2 \cdot S_6 \cdot S_2 - S_7 \cdot S_3 \cdot n - S_4 \cdot S_1 \cdot S_5\right)/\det A$$

$$b_1 = \frac{\begin{array}{c}+15 \cdot 10{,}590 \cdot 1.63 \cdot 10^8 + 210 \cdot 2{,}249{,}040 \cdot 34{,}000 + 34{,}000 \cdot 600 \cdot 652{,}572 \\ -34{,}000 \cdot 10{,}590 \cdot 34{,}000 - 652{,}572 \cdot 2{,}249{,}040 \cdot 15 - 1.63 \cdot 10^8 \cdot 600 \cdot 210\end{array}}{1.033 \cdot 10^{12}}$$

$$b_1 = \frac{2.589 \cdot 10^{13} + 1.606 \cdot 10^{13} + 1.331 \cdot 10^{13} - 1.224 \cdot 10^{13} - 2.201 \cdot 10^{13} - 2.504 \cdot 10^{13}}{1.033 \cdot 10^{13}} = 0.4530$$

$$b_2 = \frac{\left(n \cdot S_2 \cdot S_7 + S_1 \cdot S_6 \cdot S_2 + S_5 \cdot S_1 \cdot S_3 - S_2 \cdot S_2 \cdot S_5 - S_3 \cdot S_6 \cdot n - S_7 \cdot S_1 \cdot S_1\right)}{\det A}$$

$$b_2 = \frac{\begin{array}{c}+15 \cdot 34{,}000 \cdot 652{,}572 + 600 \cdot 10{,}590 \cdot 34{,}000 + 210 \cdot 600 \cdot 2{,}249{,}040 \\ -34{,}000 \cdot 34{,}000 - 2{,}249{,}040 \cdot 10{,}590 \cdot 15 - 652{,}572 \cdot 600 \cdot 600\end{array}}{1.033 \cdot 10^{12}}$$

$$b_2 = \frac{3.328 \cdot 10^{11} + 2.160 \cdot 10^{11} + 2.834 \cdot 10^{11} - 2.428 \cdot 10^{11} - 3.573 \cdot 10^{11} - 2.349 \cdot 10^{11}}{1.033 \cdot 10^{12}} = -0.00263$$

Note: More significant figures are necessary for correct calculation of b_0, b_1, and b_2.

The general equation for a polynomial equation is written:

$$\hat{y} = b_0 + b_1 x + b_2 x^2$$

Substitute the slopes and intercept calculated above:

$$\hat{y} = 1.846 + 0.4530x - 0.00263x^2$$

The scatter or deviation of y values with respect to y correlation equation S_P is determined:

$$s_p = \sqrt{\frac{1}{n-3}\sum_{i=1}^{n}\left(\hat{y}_i - y_i\right)^2}$$

Y-predict, $\hat{y}$, is calculated on a run by run basis using the observed PM concentrations, x, and the polynomial correlation equation.

$\hat{y}$ for Run 1 where x = 2

$$\hat{y} = 1.846 + 0.4529 \cdot 2 - 0.00263 \cdot 2^2 = 2.742$$

$$s_p = \sqrt{\frac{1}{15-3}\sum_{i=1}^{n}\left((2.742-3)^2 + \ldots + (21.30-23)^2\right)} = 1.434$$

The C coefficients below are necessary for confidence interval calculations:

$$D = n\left(S_2 \cdot S_4 - S_3^2\right) + S_1\left(S_3 \cdot S_2 - S_1 \cdot S_4\right) + S_2\left(S_1 \cdot S_3 - S_2^2\right)$$

$$D = \begin{array}{c} +15\left(34{,}000 \cdot 1.63 \cdot 10^8 - 2{,}249{,}040^2\right) \\ +600\left(2{,}249{,}040 \cdot 34{,}000 - 600 \cdot 1.63 \cdot 10^8\right) \\ +34{,}000\left(600 \cdot 2{,}249{,}040 - 34{,}000^2\right) \end{array} = 1.033 \cdot 10^{12}$$

$$C_0 = \frac{\left(S_2 \cdot S_4 - S_3^2\right)}{D} = \frac{\left(34{,}000 \cdot 1.63 \cdot 10^8 - 2{,}249{,}040^2\right)}{1.033 \cdot 10^{12}} = 0.4681$$

$$C_1 = \frac{\left(S_3 \cdot S_2 - S_1 \cdot S_4\right)}{D} = \frac{\left(2{,}249{,}040 \cdot 34{,}000 - 600 \cdot 1.63 \cdot 10^8\right)}{1.033 \cdot 10^{12}} = -0.02064$$

$$C_2 = \frac{\left(S_1 \cdot S_3 - S_2^2\right)}{D} = \frac{\left(600 \cdot 2{,}249{,}040 - 34{,}000^2\right)}{1.033 \cdot 10^{12}} = 1.872 \cdot 10^{-4}$$

$$C_3 = \frac{\left(n \cdot S_4 - S_2^2\right)}{D} = \frac{\left(15 \cdot 1.63 \cdot 10^8 - 34{,}000^2\right)}{1.033 \cdot 10^8} = 0.001247$$

$$C_4 = \frac{\left(S_1 \cdot S_2 - n \cdot S_3\right)}{D} = \frac{\left(600 \cdot 34{,}000 - 15 \cdot 2{,}249{,}040\right)}{1.033 \cdot 10^{12}} = -1.291 \cdot 10^{-5}$$

$$C_5 = \frac{\left(n \cdot S_2 - S_1^2\right)}{D} = \frac{\left(15 \cdot 34{,}000 - 600^2\right)}{1.033 \cdot 10^{12}} = 1.452 \cdot 10^{-7}$$

Delta, Δ, is calculated on a run by run basis using the observed PM concentrations, x.

Δ for Run 1 where x = 2

$$\Delta = C_0 + 2C_1x + \left(2C_2 + C_3\right)x^2 + 2C_4x^3 + C_5x^4$$

$$\Delta = \begin{array}{c} 0.4681 + 2\,(-0.02064)\,2 + \left(2 \cdot 1.872 \cdot 10^{-4} + 0.001247\right)2^2 \\ +2\left(-1.291 \cdot 10^{-5}\right) \cdot 2^3 + 1.452 \cdot 10^{-7}2^4 \end{array} = 0.3918$$

18.2 Calculate the polynomial confidence interval. Each ŷ has an associated tolerance and confidence intervals. Acceptance criteria are based on the percent of the interval over the emission limit (see section 13.2).

Recall: Source Emission limit is 34 mg/dscm @7 percent O_2. The example PM CEMS conditions of measurement are equal to the stack conditions.

Convert 34 mg/dscm @7 percent O_2 into units of actual PM concentration:

where:

$C_{s@7\%}$ = 34 mg/dscm @ 7 percent O_2

ts = 292 °F, average temperature during initial PM CEMS Correlation

B_{ws} = 20, average percent moisture during initial PM CEMS Correlation

P = 30 in Hg , average absolute stack pressure during initial PM CEMS Correlation

$$C_{acm} = \left(C_s\right) \cdot \frac{528^0R}{\left(460 + t_{sp}\right)} \cdot \frac{P}{29.92inHg} \cdot \left(1 - \frac{B_{WS}}{100}\right)$$

$$C_{acm} = (34)\frac{528^0R}{(460 + 292)} \cdot \frac{30}{29.92inHg} \cdot \left(1 - \frac{20}{100}\right) = 19.149mg/acm$$

Using the polynomial correlation equation, calculate the predicted CEMS response at the median x value (=36).

$$\hat{y} = 1.846 + 0.4530x - 0.00263x^2$$

$$\hat{y} = 1.846 + 0.4530\ (36) - 0.00263\ (36)^2$$

$$\hat{y} = 14.746$$

Calculate Δ at the median x value:

$$\Delta = C_0 + 2C_1x + (2C_2 + C_3)x^2 + 2C_4x^3 + C_5x^4$$

$$\Delta = \begin{matrix} 0.4681 + 2\ (-0.02064) \cdot 36 \\ + \left(2 \cdot 1.872 \cdot 10^{-4} + 0.001247\right) 36^2 = 0.0948 \\ +2\left(-1.291 \cdot 10^{-5}\right) \cdot 36^3 + 1.452 \cdot 10^{-7} 36^4 \end{matrix}$$

Table 1 lists statistical values as a function of sample size and degrees of freedom.

$$f = n - 3,$$

$$t_f = 2.179$$

Substitute values into the following equation for confidence interval calculation:

$$\left(y_{c-lower}, y_{c-upper}\right) = \hat{y} \pm t_f \cdot s_p \sqrt{\Delta}$$

$$\left(y_{c-lower}, y_{c-upper}\right) = 14.746 \pm 2.179 \cdot 1.434 \sqrt{0.0948}$$

$$\left(y_{c-lower}, y_{c-upper}\right) = 14.746 \pm 0.9621 = (13.784,\ 15.708)$$

$$CI\% = \frac{CI}{EL} \cdot 100\%$$

$$CI\% = \frac{0.9621}{19.149} \cdot 100\% = 5.02\%$$

18.3 The polynomial tolerance interval is calculated through a series of simple calculations and references to Table 1.

$$k_T = u_{n'} \cdot v_f$$

From Table 1 $u_{n'} = 1.203$

$$v_f = 1.5153$$

$$n' = \frac{1}{\Delta}$$

$$n' = \frac{1}{0.0948} = 10.549$$

$$k_T = 1.203 \cdot 1.5153 = 1.8229$$

$$\left(y_{t-lower}, y_{t-upper}\right) = \hat{y} \pm k_T \cdot s_p$$

$$\left(y_{t-lower}, y_{t-upper}\right) = 14.746 \pm 1.8229 \cdot 1.434$$

$$\left(y_{t-lower}, y_{t-upper}\right) = 14.746 \pm 2.6140 = (12.1320,\ 17.3600)$$

$$TI\% = \frac{TI}{EL} \cdot 100\%$$

$$TI\% = \frac{2.6140}{19.149} \cdot 100\% = 13.65\%$$

18.4 Calculate the polynomial correlation coefficient. Correlation, r, is the statistical measure of association between x and y. A value of r near 1 indicates a strong, polynomial relationship, while a value near 0 indicates a poor relationship.

Quantify scatter of y values with respect to the average y:

$$\bar{y} = \frac{1}{n}\sum_{i=1}^{n} y_i = \frac{1}{15}(3+5+4+\ldots+18+21+23) = 14$$

$$S_y = \sqrt{\frac{\sum_{i=1}^{n}(y_i - \bar{y})^2}{n-1}}$$

$$S_y = \sqrt{\frac{\sum_{i=1}^{n}\left((3-14)^2 + \ldots + (23-14)^2\right)}{15-1}} = 6.279$$

Recall the scatter of y values with respect to y correlation equation:

$$S_p = 1.434$$

$$r = \sqrt{1 - \frac{S_p^2}{S_y^2}} = \sqrt{1 - \frac{1.434^2}{6.279^2}} = 0.9726$$

18.5 What is the acceptability of the polynomial correlation? To meet the criteria, the polynomial minimum or maximum must exist outside the expanded data range. Since $b_2 < 0$, the polynomial curve has a maximum. The maximum occurs where y is:

$$y = -\frac{b_1}{2b_2}$$

$$y = -\frac{0.4530}{2\cdot(-0.002632)} = 86.06$$

The extrapelation of the correlation curve is limited to 125 percent above the highest measured PM CEMS response.

Maximum CEMS response = 90

$$\text{Extrapolated PM CEMS range} = 90 \cdot 125\% = 112.5$$

The maximum must occur above the highest extrapolation of correlated range.

$$86.06 \text{ (maximum)} < 112.5$$

In this example data set the polynomial correlation equation predicts that: As the PM CEMS responses increase above 86.06 the PM concentration will decrease. If the source emission limit was outside the extrapolated range a violation would be impossible. This is not acceptable, therefore proceed to the linear analysis.

18.6 Calculate the linear correlation.

Recall the number of simultaneous PM CEMS and RM samples from the table above:

n = 15

Calculate the average RM concentration, x:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i = \frac{1}{15}(2+6+10+\ldots+70+80+90) = 40$$

Calculate the deviations:

$$S_{xx} = \sum_{i=1}^{n} x_i - \bar{x}^2 = 2 - 40^2 + 6 - 40^2 + \ldots + 80 - 40^2 + 90 - 40^2 + 10{,}000$$

Recall the average PM CEMS Response $\bar{y} = 14$

$$S_{yy} = \sum_{i=1}^{n}(y_1 - \bar{y})^2 = (3-14)^2 + (5-14)^2 + \ldots + (21-14)^2 + (23-14)^2 = 552$$

$$S_{xy} = \sum_{i=1}^{n}(x_1 - \bar{x})(y_i - \bar{y}) = (2-40)\cdot(3-14) + \ldots + (90-40)\cdot(23-14) = 2{,}190$$

Calculate the slope (b_1):

$$b_1 = \frac{S_{xy}}{S_{xx}} = \frac{2{,}190}{10{,}000} = 0.2190$$

and the y-intercept (b_0):

$$b_0 = \bar{y} - b_1\bar{x} = 14 - 0.2190\cdot(40) = 5.240$$

These values substituted into the general equation of a line yield the linear correlation for the above data set:

$$\hat{y} = 5.240 + (0.2190)\cdot x$$

The linear deviation is calculated below: Y-predict, $\hat{y}$, is calculated on a run by run basis using the observed PM concentrations, x, and the linear correlation equation: for

$\hat{y}$ for Run 1 where x = 2

$$\hat{y} = 5.240 + (0.2190) \cdot 2 = 5.678$$

$$s_L = \sqrt{\frac{1}{n-2}\sum_{i=1}^{n}(\hat{y}_i - y_i)^2}$$

$$s_L = \sqrt{\frac{1}{15-2}\sum_{i=1}^{n}\left((5.678-3)^2 + \ldots + (24.95-23)^2\right)} = 2.360$$

18.7 Calculate the linear confidence interval. Recall from the polynomial interval investigations the emission limit at actual stack conditions:

$$C_{acm} = 19.149 mg/acm$$

Using the linear correlation equation, calculate the predicted PM CEMS response at the median x value ($\tilde{x}$= 36)

$$\hat{y} = 5.240 + (0.2190)x = 13.124$$

Calculate the confidence interval using the reference values for t_f in Table 1.

$$t_{13,0.975} = 2.160$$

$$\left(y_{c-lower}, y_{c-upper}\right) = \hat{y} \pm t_{f,1-\alpha/2} \cdot S_L \sqrt{\frac{1}{n} + \frac{(x-\bar{x})^2}{S_{xx}}}, \text{with } f = n-2$$

$$\left(y_{c-lower}, y_{c-upper}\right) = 13.124 \pm 2.160 \cdot 2.360 \sqrt{\frac{1}{15} + \frac{(36-40^2)}{10{,}000}}$$

$$\left(y_{c-lower}, y_{c-upper}\right) = 13.124 \pm (2.160) \cdot (2.360) \cdot (0.2613)$$

$$\left(y_{c-lower}, y_{c-upper}\right) = 13.124 \pm 1.332$$

$$= (11.792,\ 14.456)$$

Confidence interval percent is calculated from:

$$CI\% = \frac{CI}{EL} \cdot 100\% = \frac{1.332}{19.149} \cdot 100\% = 6.96\%$$

18.8 Calculate the linear tolerance interval. Recall the median x and predicted PM CEMS result as above.

$$y = 13.124$$

$$x = 36$$

Calculate n′:

$$n' = \frac{n}{1 + \frac{n \cdot (x-\bar{x})^2}{S_{xx}}} = \frac{15}{1 + \frac{15 \cdot (36-40)^2}{10{,}000}} = 14.6$$

Reference the values of v_f and $u_{n'}$, from Table 1.

$$v_f = 1.4854$$

$$u_{n'} = 1.189$$

An intermediate calculation is necessary for the tolerance interval:

$$k_T = (1.189)(1.4854) = 1.766$$

$$\left(y_{t-lower}, y_{t-upper}\right) = \hat{y} \pm k_T \cdot S_L$$

$$\left(y_{t-lower}, y_{t-upper}\right) = 13.124 \pm 1.766 \cdot 2.360$$

$$\left(y_{t-lower}, y_{t-upper}\right) = 13.124 \pm 4.168 = (8.956,\ 17.292)$$

Tolerance interval percent

$$TI\% = \frac{TI}{EL} \cdot 100\% = \frac{4.168}{19.149} \cdot 100\% = 21.77\%$$

18.9 Calculate the linear correlation coefficient

Where:

Sy = 6.279 (Defined in the Polynomial Correlation)

$$r = \sqrt{1 - \frac{S_L^2}{S_y^2}} = \sqrt{1 - \frac{2.360^2}{6.279^2}} = 0.9267$$

The linear correlation meets the acceptance criteria. All PM CEMS responses should be reported using the linear correlation equation.

18.10 Determine the best correlation fit. For example purposes only, assume that the maximum calculated in the polynomial correlation had existed outside the extrapolated range of CEMS responses.

A statistical test determines if the fit using a polynomial regression offers a statistically significant improvement over the linear regression based on their values of deviation, S, calculated in the two formulations.

S_Q is the deviation from the polynomial regression.

S_L denotes the deviation from the linear regression.

$$\frac{(n-2)\cdot s_L^2 - (n-3)\cdot s_Q^2}{s_Q^2} > F_{1,f}$$

When:

f = n − 3

Reference values of $F_{1,f}$ at the 95 percent confidence level in Table 2.

$$F_{1,f} = 4750$$

$$\frac{(15-2)\cdot 2.360^2 - (15-3)\cdot 1.434^2}{1.434^2} > 4.750$$

$$23.210 > 4.750$$

The polynomial regression gives a better fit at the 95 percent confidence level.

Correlation type	Linear acceptance criteria	Polynomial acceptance criteria
Correlation Coefficient (r)	0.9321	0.9726
Confidence Interval (CI)	6.96%	5.02%
Tolerance Interval (TI)	21.77%	13.65%

3. Appendix F of Part 60 is amended by adding Procedure 2 to read as follows:

Appendix F to Part 60—Quality Assurance Procedures

* * * * *

Procedure 2—Quality Assurance Requirements for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources

1.0 What Are the Purpose and Applicability of Procedure 2?

The purpose of Procedure 2 is to establish the minimum requirements for evaluating the effectiveness of quality control (QC) and quality assurance (QA) procedures and the quality of data produced by your particulate matter (PM) continuous emission monitoring system (CEMS). Procedure 2 applies to PM CEMS used for continuously determining compliance with emission standards or operating permit limits as specified in an applicable regulation or permit. Other QC procedures may apply to diluent (e.g., O_2) monitors and other auxiliary monitoring equipment included with your CEMS to facilitate PM measurement or determination of PM concentration in units specified in an applicable regulation.

1.1 What measurement parameter does Procedure 2 address? Procedure 2 covers the instrumental measurement of PM as defined by your source's applicable RM (no CAS number assigned).

1.2 For what types of devices must I comply with Procedure 2? You must comply with Procedure 2 for the total equipment that:

(1) We require you to install and operate on a continuous basis under the applicable regulation, and

(2) You use to monitor the PM mass concentration associated with the operation of a process or emission control device.

1.3 What are the data quality objectives of Procedure 2? The overall data quality objective (DQO) of Procedure 2 is the generation of valid, representative data that can be transferred into useful information for determining PM CEMS concentrations averaged over a prescribed interval. Procedure 2 is also closely associated with Performance Specification 11 (PS–11).

(1) Procedure 2 specifies the minimum requirements for controlling and assessing the quality of PM CEMS data submitted to us or the delegated permitting authority.

(2) You must meet these minimum requirements if you are responsible for one or more PM CEMS used for compliance monitoring. We encourage you to develop and implement a more extensive QA program or to continue such programs where they already exist.

1.4 What is the intent of the QA/QC Procedures found in Procedure 2? Procedure 2 is intended to establish the minimum QA/QC requirements for PM CEMS, and is presented in general terms to allow you to develop a program that is most effective for your circumstances. You may adopt QA/QC procedures which go beyond these minimum requirements to ensure compliance with applicable regulations.

1.5 When must I comply with Procedure 2? You must comply with Procedure 2 immediately following successful completion of the initial correlation test of PS–11.

2.0 What Are the Basic Requirements of Procedure 2?

Procedure 2 requires you to perform periodic evaluations of PM CEMS performance and to develop and implement QA/QC programs to ensure that PM CEMS data quality is maintained.

2.1 What Are the Basic Functions of Procedure 2?

(1) Assessment of the quality of your PM CEMS data by estimating measurement accuracy, and

(2) Control and improvement of the quality of your PM CEMS data by implementing QC requirements and corrective actions.

(3) When the assessment function in paragraph (1) indicates that the data quality is inadequate, the corrective actions in paragraph (2) must be taken until the data quality is acceptable, and

(4) Assessment of the precision and bias of data gathered using manual RM procedures used to compare PM CEMS instrument response, assuring the quality of the RM data, and

(5) Provides requirements for daily instrument zero and upscale drift checks and sample volume checks as well as routine response correlation audits, absolute correlation audits, sample volume audits, and relative response audits.

3.0 What Special Definitions Apply to Procedure 2?

The definitions in Procedure 2 include those provided in Performance Specification 11 (PS–11) of Appendix B, with the following additions:

3.1 "Absolute Correlation Audit (ACA)" means an evaluation of your PM CEMS

response to a series of reference standards covering the full measurement range of the instrument (*e.g.*, 4 mA to 20 mA).

3.2 "Correlation Range" means the range of PM CEMS response used in the complete set of correlation test data.

3.3 "Continuous Emissions Monitoring System" means all of the equipment required for determination of particulate matter mass concentration in units of the emission standard. The sample interface, pollutant monitor, diluent monitor, other auxiliary data monitor(s), and data recorder are the major subsystems of your CEMS.

3.4 "Drift Check" means a determination of the difference in your PM CEMS output readings from the established reference value of a reference standard or procedure after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place. The procedures used to determine drift will be specific to the operating practices of your specific PM CEMS. A drift check includes both a zero drift check and an upscale drift check.

3.5 "Flagged Data" means data marked by your CEMS indicating that the response value(s) from one or more CEMS subsystems is suspect, invalid, or that your PM CEMS is not in source measurement operating mode.

3.6 "PM CEMS Correlation" means the site-specific relationship (*i.e.*, a regression equation) between the output from your PM CEMS (*e.g.*, mA) and the particulate concentration, as determined by the RM. The PM CEMS correlation is expressed in the units that your PM CEMS measures the PM concentration [(*e.g.*, milligrams/actual cubic meter (mg/acm)]. You must derive this relation from response data from the PM CEMS and simultaneously gathered manual RM data. You must gather these data over the full range of source operating conditions and PM concentrations recorded during the Correlation Test Planning Period. You must develop the correlation by performing the steps presented in sections 12.2 and 12.3 of PS–11.

3.7 "Reference Method Sampling Location" means the location in your source's exhaust duct from which you collect manual Reference Method data for developing your PM CEMS correlation and for performing relative response audits (RRAs) and relative correlation audits (RCAs).

3.8 "Reference Standard" means a reference material or procedure that produces a known and unchanging response when presented to the pollutant monitor portion of your CEMS. You must use these standards to evaluate the overall operation of your PM CEMS but not to develop a PM CEMS correlation.

3.9 "Response Correlation Audit (RCA)" means the series of tests you conduct to assure the continued validity of your PM CEMS correlation.

3.10 "Relative Response Audit (RRA)" means the brief series of tests you conduct between the full RCA to assure the continued validity of your PM CEMS correlation.

3.11 "Sample Volume Audit (SVA)" means an evaluation of your PM CEMS measurement of sample volume if your PM CEMS determines PM concentration based on a measure of particulate mass in an extracted sample volume and an independent determination of sample volume.

3.12 "Sample Volume Check" means a determination of the difference between your PM CEMS sample volume reading and the sample volume reference value.

3.13 "Upscale Check Value" means the expected response to a reference standard or procedure used to check the upscale response of your PM CEMS.

3.14 "Upscale Drift (UD) Check" means a determination of the difference between your PM CEMS output reading and the upscale check value.

3.15 "Zero Check Value" means the expected response to a reference standard or procedure used to check the response of your PM CEMS to particulate free or low particulate concentration situations.

3.16 "Zero Drift (ZD) Check" means a determination of the difference between your CEMS output reading and the zero check value.

4.0 Interferences. [Reserved]

5.0 What Do I Need To Know To Ensure the Safety of Persons Using Procedure 2?

People using Procedure 2 may be exposed to hazardous materials, operations, and equipment. Procedure 2 does not purport to address all of the safety issues associated with its use. It is your responsibility to establish appropriate safety and health practices and determine the applicable regulatory limitations before performing this procedure. You must consult your CEMS users manual for specific precautions to be taken with regard to your PM CEMS procedures.

6.0 What Equipment and Supplies Do I Need? [Reserved]

7.0 What Reagents and Standards Do I Need?

You will need reference standards or procedures to perform the zero drift check, the upscale drift check, and the sample volume check.

7.1 What is the reference standard value for the zero drift check? You must use a zero check value that is no greater than 20 percent of the PM CEMS's response range. You must obtain documentation on the zero check value from your PM CEMS manufacturer.

7.2 What is the reference standard value for the upscale drift check? You must use an upscale check value that produces a response between 50 and 100 percent of the PM CEMS's response range. For a PM CEMS that produces output over a range of 4 mA to 20 mA, the upscale check value must produce a response in the range of 12 mA to 20 mA. You must obtain documentation on the upscale check value from your PM CEMS manufacturer.

7.3 What is the reference standard value for the sample volume check? You must use a reference standard value or procedure that produces a sample volume value equivalent to the normal sampling rate. You must obtain documentation on the sample volume value from your PM CEMS manufacturer.

8.0 What Sample Collection, Preservation, Storage, and Transport Are Relevant to This Procedure? [Reserved]

9.0 What Quality Control Measures Are Required by This Procedure for My PM CEMS?

You must develop and implement a QC program for your PM CEMS. Your QC program must, at a minimum, include written procedures which describe in detail complete, step-by-step procedures and operations for the activities in paragraphs (1) through (7).

(1) Procedures for performing drift checks including both zero drift and upscale drift and the sample volume check (see sections 10.2(1), (2), and (5)).

(2) Methods for adjustment of PM CEMS based upon response of checks.

(3) Preventative maintenance of PM CEMS (including spare parts inventory and sampling probe integrity).

(4) Data recording, calculations, and reporting.

(5) Response Correlation Audit and Relative Response Audit procedures including sampling and analysis methods, sampling strategy, and structuring test conditions over the prescribed range of PM concentrations.

(6) Procedures for performing Absolute Correlation Audits and Sample Volume Audits and methods for adjusting your PM CEMS response based upon ACA and SVA results.

(7) Program of corrective action for malfunctioning PM CEMS, including flagged data periods.

9.1 What QA/QC documentation must I have? You are required to keep the QA/QC written procedures on record and available for inspection by us, the State and or local enforcement agency for the life of your CEMS or until you are no longer subject to the requirements of this procedure.

9.2 How do I know if I have acceptable QC procedures for my PM CEMS? Your QC procedures are inadequate or your PM CEMS is incapable of providing quality data if you fail two consecutive QC audits (i.e., out-of-control conditions resulting from the annual audits, quarterly audits or daily checks). Therefore, if you fail the same two consecutive audits, you must revise your QC procedures or modify or replace your PM CEMS to correct the deficiencies causing the excessive inaccuracies. (See section 10.4 for limits for excessive audit inaccuracy.)

10.0 What Calibration/Correlation and Standardization Procedures Must I Perform for My PM CEMS?

You must generate a site-specific correlation for each of your PM CEMS installation(s) relating response from your PM CEMS to results from simultaneous PM RM testing. PS–11 defines procedures for developing the correlation and defines a series of statistical parameters for assessing acceptability of the correlation. However, a critical component of your PM CEMS correlation process is assuring the accuracy and precision of RM data. The activities listed in sections 10.1 through 10.8 assure the quality of the correlation.

10.1 When must I use paired trains for Reference Method testing? You must use paired train RM testing to generate data used to develop your PM CEMS correlation and for RCA testing. Paired trains are not required for the RRA testing.

(1) How should the paired trains be arranged? Such tests should consist of sampling the flue gas using collocated probes and nozzle tips following the general equipment procedures described in EPA Method 301.

(2) Are other paired probe arrangements acceptable? Yes, you must follow the procedures described in paragraphs (i) and (ii).

(i) If collocation of the probes is not possible or practical, use of two single trains inserted through different sample ports at the same stack elevation is the preferred best alternative.

(ii) You can collect simultaneous RM data from different sampling locations if neither of the approaches described in (1) or 2(i) of this section is possible or practical. For this option, you must select sampling locations that minimize the potential for differences in measured PM concentration.

(3) How precise must my RM data be? The relative standard deviation (RSD) of paired data is the parameter used to quantify data precision. Use Equation 2–5 to calculate RSD for two simultaneously gathered data points (population relative standard deviation). Note that an alternate definition of standard deviation may be familiar to you but may not be used. The alternate definition is the default definition in many computer software packages. (i) The precision criterion for RM PM data is that RSD (as defined in Equation 2–5) for any data pair must be such that:

If the average PM concentration is * * *	Then the RSD must be * * *
> 10 mg/dscm	< 10 percent
< 1 mg/dscm	< 25 percent
Between 1 and 10 mg/dscm	< the percentage determined from the following equation: −(15/9) * mg/dscm + 26.667 (i.e., the linear interpolation between 25% at 1 mg/dscm and 10% at 10 mg/dscm.

(ii) You must eliminate pairs of manual method data exceeding the RSD criterion from the data set used to develop a PM CEMS correlation or to assess RCA.

(4) What other criteria must my RM data meet? The potential exists for bias in RM data due to problems with the sampling equipment, operator error, or sample recovery. Systematic errors of this nature can often be identified by cross plotting results from simultaneous dual train tests (i.e., Train A results on x-axis and Train B results on y-axis). Ideally, these data will generate a straight line correlation, passing through the origin, and with a slope of 1.0. To check your data for bias, you must complete the process described in section 10.1(4)(i)

(i) After removing data pairs that fail the precision requirements of section 10.1(3), you must perform a regression analysis of the data pairs and determine the slope of the straight line fit. The slope calculated in the regression analysis must fall between 0.93 and 1.07. Calculated slopes exceeding these criteria strongly suggest that one (or both) of the manual train data sets is/are biased. You may not use biased data in developing your PM CEMS correlation or for evaluating RCA. You must identify and correct the source of the bias before repeating the manual testing program.

10.2 What routine system checks must I perform on my PM CEMS? You must perform routine checks to assure proper operation of system electronics and optics, light and radiation sources and detectors, electric or electro-mechanical systems, and general stability of the system calibration. Necessary components of the routine system checks will depend upon design details of your PM CEMS. As a minimum, you must verify the system operating parameters listed in paragraphs (1) through (5) on a daily basis. Some PM CEMS may perform one or more of these functions automatically or as an integral portion of unit operations; other PM CEMS may perform one or more of these functions manually.

(1) You must check the zero drift to assure stability of your PM CEMS response to the zero check value. You must determine system output on the most sensitive measurement range when the PM CEMS is challenged with a zero reference standard or procedure. You must, at a minimum, adjust your PM CEMS whenever the daily zero drift exceeds 4 percent.

(2) You must check the upscale drift to assure stability of your PM CEMS response to the upscale check value. You must determine system output when the PM CEMS is challenged with a reference standard or procedure corresponding to the upscale check value. You must, at a minimum, adjust your PM CEMS whenever the daily upscale drift check exceeds 4 percent.

(3) For light scattering and extinction type PM CEMS, you must check the system optics to assure that system response has not been altered by the condition of optical components such as fogging of lens and performance of light monitoring devices. You must carefully adhere to the manufacturer's procedures and specifications.

(4) You must record data from your automatic drift adjusting PM CEMS before any adjustment is made. You must program a PM CEMS that automatically adjusts its response to the corrected calibration values (e.g., microprocessor control) to record the unadjusted concentration measured in the drift check before resetting the calibration, if performed, or to record the amount of adjustment.

(5) For extractive type PM CEMS that measures the sample volume and uses the measured sample volume as part of calculating the output value, you must check the sample volume to verify the sample volume measuring equipment. This sample volume check must be done at the normal sampling rate of your PM CEMS. You must adjust your PM CEMS sample volume measurement whenever the daily sample volume check error exceeds 10 percent.

10.3 What are the auditing requirements for my PM CEMS? You must subject your PM CEMS to an ACA and an SVA, as applicable, at least once each calender quarter. Successive quarterly audits must occur no closer than 2 months. You must conduct a RCA at the frequency specified in the applicable regulation or facility operating permit. You must conduct an RRA once every four calendar quarters. If you schedule an RCA for one of the four calendar quarters in the year, the RCA would take the place of the RRA.

(1) When do I need to run an ACA? You must run an ACA each quarter.

(2) How do I conduct an ACA? You must challenge your PM CEMS with an audit standard or an equivalent audit reference to reproduce the PM CEMS's measurement at three points within the following ranges:

Audit point	Audit range
1	0 to 20% of measurement range.
2	40 to 60% of measurement range. and
3	70 to 100% of measurement range.

(i) You must then challenge your PM CEMS three times at each audit point, and use the average of the three responses in determining accuracy at each audit point. Use a separate audit standard for audit points 1, 2, and 3. Challenge the PM CEMS at each audit point for a sufficient period of time to assure that your PM CEMS response has stabilized.

(ii) Operate your PM CEMS in the mode, manner and range specified by the manufacturer.

(iii) Use only audit standards specified and provided by the manufacturer. Store, maintain, and use audit standards as specified by the manufacturer.

(iv) Use the difference between the actual known value of the audit standard specified by the manufacturer and the response of your PM CEMS to assess the accuracy of your PM CEMS.

(3) When do I need to run a SVA? You must perform an audit of the measured sample volume (e.g., the sampling flow rate for a known time) once per quarter for applicable PM CEMS with an extractive sampling system. Also, you must perform and pass an SVA prior to initiation of any of the RM data collection runs for an RCA or RRA.

(i) How do I perform the SVA? You must perform the SVA by independently measuring the volume of sample gas extracted from the stack or duct over each batch cycle or time period with a calibrated device. You may make this measurement either at the inlet or outlet of your PM CEMS, so long as it measures the sample gas volume without including any dilution or recycle air. Compare the measured volume with the volume reported by your PM CEMS for the same cycle or time period to calculate sample volume accuracy.

(ii) How many measurements do I make for the SVA? You must make measurements during three sampling cycles for batch extractive monitors (e.g., Beta-gauge) or during three periods of at least 20 minutes for continuous extractive PM CEMS.

(iii) Do I need to take any precautions when doing the SVA? You may need to condense, collect and measure moisture from the sample gas prior to the calibrated measurement device (e.g., dry gas meter), and correct the results for moisture content. In any case, the volumes measured by the calibrated device and your PM CEMS must be on a consistent temperature, pressure, and moisture basis.

(4) How often must I conduct an RRA? You must conduct an RRA once every four calendar quarters.

(i) How do I conduct an RRA? You must conduct the RRA by collecting three simultaneous RM PM concentration measurements and PM CEMS measurements at the as-found source operating conditions and PM concentration.

(ii) Paired trains for the RM sampling are not required but are recommended to avoid failing the test due to imprecise and inaccurate RM results.

(5) When do I need to run an RCA? You must conduct an RCA at the frequency specified in the applicable regulation or facility operating permit.

(i) How do I conduct an RCA? You must conduct the RCA test according to the procedures described in PS–11 section 8.6, except that the minimum number of runs required is 12 in the RCA instead of 15 as specified in PS–11.

(ii) All 12 data points must lie within the PM CEMS output range examined during the PM CEMS correlation tests.

(6) What other alternative audits can I use? You can use other alternative audit procedures as approved by us, the State or local agency for the quarters when you would conduct ACAs.

10.4 What are my limits for excessive audit inaccuracy? Unless specified otherwise in the applicable subpart, the criteria for excessive inaccuracy are listed in paragraphs (1) through (6).

(1) What are the criteria for excessive zero or upscale drift? Your PM CEMS is out of control if either the zero drift check or upscale drift check exceeds 4 percent for five consecutive daily periods, or exceeds 8 percent for any one day.

(2) What are the criteria for excessive sample volume measurement error? Your PM CEMS is out of control if sample volume check error exceeds 10 percent for five consecutive daily periods, or exceeds 20 percent for any one day.

(3) What are the criteria for excessive absolute correlation audit error? Your PM CEMS is out of control if results exceed ± 10 percent of the average audit value or 7.5 percent of the applicable standard, whichever is greater.

(4) What is the criterion for excessive sample volume audit error? Your PM CEMS is considered out of control if results exceed ± 5 percent of the average sample volume audit value.

(5) What is the criterion to pass the relative correlation audit? At least 75 percent of a minimum number of 12 sets of PM CEMS and RM measurements must fall within a specified area on a graph of the correlation regression line. The specified area on the graph of the correlation regression line is two lines parallel with the correlation regression line, offset at a distance of ± 25 percent of the numerical emission limit value from the correlation regression line. If your PM CEMS fails to meet this RCA criterion, it is considered out of control.

(6) What is the criterion to pass the relative response audit? At least two of the three sets of PM CEMS and RM measurements must fall within the same specified area on a graph of the correlation regression line as required for the RCA. If your PM CEMS fails to meet this RRA criterion, it is considered out of control.

10.5 What do I do if my PM CEMS is out of control? You must take the actions listed in paragraphs (1) and (2) if your PM CEMS is out of control.

(1) You must take necessary corrective action to eliminate the problem and perform tests as appropriate to assure that the corrective action was successful.

(i) Following corrective action, you must repeat the previously failed audit to confirm that your PM CEMS is operating within the specifications.

(ii) If your PM CEMS failed an RRA, you must take corrective action until your PM CEMS passes the RRA criteria. If the RRA criteria cannot be achieved, you must perform an RCA.

(iii) If your PM CEMS failed an RCA, you must follow procedures defined in section 10.6.

(2) You must report both the audit showing your PM CEMS to be out of control and the results of the audit following corrective action showing your PM CEMS to be operating within specifications.

10.6 What do I do if my PM CEMS fails an RCA? After an RCA failure, you must take all applicable actions listed in paragraphs (1) and (2).

(1) Combine RCA data with data from the active PM CEMS correlation and perform the mathematical evaluations defined in PS–11 for development of a PM CEMS correlation including examination of alternate forms of the curve fit (*e.g.*, linear, polynomial, and logarithmic fits). If the expanded data base and revised correlation meet PS–11 statistical criteria, use the revised correlation.

(2) If the criteria in paragraph (1) of this section are not achieved, you must develop a new PM CEMS correlation based on revised data. The revised data set must consist of the test results from only the RCA. The new data must meet all requirements of PS–11 to develop a revised PM CEMS correlation. Your PM CEMS is considered to be back in controlled status when the revised correlation meets all statistical criteria of PS–11.

(3) If the actions in paragraphs (1) and (2) of this section do not result in an acceptable correlation, you must evaluate the cause(s)and comply with the actions listed in paragraphs (i) through (iv) within 90 days after the completion of the failed RCA.

(i) Completely inspect your PM CEMS for mechanical or operational problems. If you find a mechanical or operational problem, repair your PM CEMS and repeat the RCA.

(ii) You may need to relocate your PM CEMS to a more appropriate measurement location. If you relocate your PM CEMS, you must perform a new correlation test according to PS–11 procedures.

(iii) The characteristics of the PM or gas in your source's flue gas stream may have changed such that your PM CEMS measurement technology is no longer appropriate. If this is the case, you must install a PM CEMS with measurement technology that is appropriate for your source's flue gas characteristics. You must perform a new correlation test according to PS–11 procedures.

(iv) If the corrective actions in paragraphs (i) through (iii) were not successful, you must petition us, the State or local agency for approval of alternative criteria or an alternative for continuous PM monitoring.

10.7 When does the out of control period begin and end? The out of control period begins immediately after the last test run or check of an unsuccessful RCA, RRA, ACA, SVA, drift check, or sample volume check. The out of control period ends immediately after the last test run or check of the subsequent successful audit or drift check.

10.8 What happens to my PM CEMS data during out of control periods? During the period the PM CEMS is out of control, you may not use your PM CEMS data to calculate emission compliance or to meet minimum data availability requirements described in the applicable regulation.

10.9 What are the QA/QC reporting requirements for my PM CEMS? You must report the accuracy results from section 10 for your PM CEMS at the interval specified in the applicable regulation. Report the drift and accuracy information as a Data Assessment Report (DAR), and include one copy of this DAR for each quarterly audit with the report of emissions required under the applicable regulation. An example DAR is provided in Procedure 1, Appendix F of this Part.

10.10 What minimum information must I include in my DAR? As a minimum, you must include the information listed in paragraphs (1) through (5) in the DAR.

(1) Your name and address.

(2) Identification and location of monitors in your CEMS.

(3) Manufacturer and model number of each monitor in your CEMS.

(4) Assessment of PM CEMS data accuracy/acceptability, and date of assessment, as determined by an RCA, RRA, ACA, or SVA described in section 10, including the acceptability determination for the RCA or RRA, the accuracy for the ACA or SVA, the

RM results, the audit standards, your PM CEMS responses, and the calculation results as defined in section 12. If the accuracy audit results show your PM CEMS to be out of control, you must report both the audit results showing your PM CEMS to be out of control and the results of the audit following corrective action showing your PM CEMS to be operating within specifications.

(5) Summary of all corrective actions you took when you determined your PM CEMS to be out of control, as described in sections 10.5 and 10.6.

10.11 Where and how long must I retain the QA data that this procedure requires me to record for my PM CEMS? You must keep the records required by this procedure for your PM CEMS onsite and available for inspection by us, the State and or local enforcement agency for a period of 5 years.

11.0 What Analytical Procedures apply to This Procedure?

Sample collection and analysis are concurrent for this procedure. You must refer to the appropriate RM for the specific analytical procedures.

12.0 What Calculations and Data Analysis Must I Perform for My PM CEMS?

(1) How do I determine RCA and RRA acceptability? You must plot each of your PM CEMS/RM data from the RCA test or the RRA test on a figure based on your PM CEMS correlation line to determine if the criterion in paragraphs 10.4(5) or (6), respectively, is met.

(2) How do I calculate ACA Accuracy? You must use Equation 2–1 to calculate results from the ACA tests for each of the three audit points.

$$\text{ACA Accuracy} = \frac{|R_{CEM} - R_V|}{R_V} \times 100 \qquad \text{[Eq. 2-1]}$$

Where:

ACA Accuracy = The ACA accuracy at each audit point, in percent,

R_{CEM} = Your PM CEMS response to the reference standard, and

R_V = The reference standard value.

(3) How do I calculate daily upscale and zero drift? You must calculate the upscale drift (UD) according to Equation 2–2 and the zero drift (ZD) according to Equation 2–3.

$$UD = \frac{|R_{CEM} - R_V|}{R_V} \times 100 \qquad \text{[Eq. 2-2]}$$

Where:

UD = The upscale drift of your PM CEMS, in percent,

R_{CEM} = Your PM CEMS response to the upscale check value, and

R_V = The upscale check value.

$$ZD = \frac{|R_{CEM} - R_L|}{R_V} \times 100 \qquad \text{[Eq. 2-3]}$$

Where:

ZD = The zero (low level) drift of your PM CEMS, in percent,

R_{CEM} = Your PM CEMS response of the zero check value,

R_L = The zero check value, and

R_V = The upscale check value.

(4) How do I calculate SVA Accuracy? You must use Equation 2–4 to calculate accuracy, in percent, for each of the three SVA tests or the daily sample volume check:

$$\text{Accuracy} = \frac{(V_R - V_M)}{V_R} \times 100 \quad \text{[Eq. 2-4]}$$

Where:

V_M = Sample gas volume determined/reported by your PM CEMS (e.g., dscm) and

V_R = Sample gas volume measured by the independent calibrated reference device (e.g., dscm) for the SVA or the reference value for the daily sample volume check.

Note: You must calculate/correct the volume values above to the same basis of temperature, pressure and moisture contents. You must document all data and calculations.

(5) How do I calculate relative standard deviation (RSD)? You must use Equation 2–5 to calculate the RSD for two simultaneously gathered data points (population relative standard deviation).

$$RSD = 100 \times \frac{|(C_a - C_b)|}{(C_a + C_b)} \qquad \text{[Eq. 2-5]}$$

Where:

C_a and C_b = Concentration values, mg/dscm, determined from trains A and B, respectively.

13.0 *Method Performance.* [Reserved]

14.0 *Pollution Prevention.* [Reserved]

15.0 *Waste Management.* [Reserved]

16.0 *Which References Are Relevant to This Method?* [Reserved]

17.0 *What Tables, Diagrams, Flowcharts, and Validation Data Are Relevant to This Method?* [Reserved]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[IA 0144–1144; FRL–7117–6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Emissions From Hospital/Medical/Infectious Waste Incinerators; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revision to the state of Iowa's section 111(d) plan for controlling emissions from existing hospital/medical/infectious waste incinerators.

In the final rules section of the **Federal Register**, EPA is approving the state's submittal as a direct final rule without prior proposal because the Agency views this as noncontroversial and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

DATES: Comments on this proposed action must be received in writing by January 11, 2002.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: December 2, 2001.

William Rice,

Acting Regional Administrator, Region 7.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[IA 0143–1143; FRL–7117–8]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revision to the state of Iowa's section 111(d) plan for controlling emissions from existing municipal solid waste landfills.

In the final rules section of the **Federal Register**, EPA is approving the state's submittal as a direct final rule without prior proposal because the Agency views this as noncontroversial and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

DATES: Comments on this proposed action must be received in writing by January 11, 2002.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: December 2, 2001.

William Rice,

Acting Regional Administrator, Region 7.

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; Amendment of Existing System of Records; USDA/FS–26, Trespass and Claims

AGENCY: Office of the Secretary, USDA.

ACTION: Notice; amendment of system of records; request for comments.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the U.S. Department of Agriculture is proposing to amend its existing system of records entitled USDA/FS–26, Trespass and Claims, to add new routine uses. USDA invites public comment on this publication.

DATES: *Effective Date:* These system amendments will be adopted without further notice on February 11, 2002, unless modified by a subsequent notice to incorporate comments received from the public.

Comment Date: Comments must be received on or before January 11, 2002.

ADDRESSES: Send written comments to the Director, Financial Management (MAIL STOP 1139), Forest Service, USDA, PO Box 96090, Washington, DC 20090–6090. Those who submit comments should be aware that all comments, including names and addresses when provided, are placed in the record and are available for public inspection. Individuals wishing to inspect comments are encouraged to call (703) 605–4763 to make arrangements.

FOR FURTHER INFORMATION CONTACT: Janet Arling, Financial Management Staff, Forest Service, at (304) 636–1800, ext. 208.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act, 5 U.S.C. 552a, the U.S. Department of Agriculture is proposing to amend USDA/FS–26, an existing system of records maintained by the Forest Service. The amendment will add a new routine use to conform this system of records with the Debt Collection Improvement Act of 1996 and, thus, allow referral of legally enforceable debts to the Department of the Treasury for the purpose of participating in the Treasury Offset Program and Cross-Servicing Program as required by section 31001 of the Debt Collection Improvement Act of 1996, Public Law 104–134 (31 U.S.C. 3711).

Other changes to the routine uses include expanding the purposes for which disclosure of these records may be made to the Department of Justice to include requesting legal advice; adding disclosure to a court or other tribunal when the Agency is party to or has interest in litigation and when the Agency determines the records are relevant and necessary and disclosure is compatible with the purpose for which the Agency collected the records; adding disclosure to a State or local government in an effort to recoup debts owed the Government; and adding disclosure to the Department of the Treasury for publication in Notice of Delinquent Debtors.

The system locations are being changed by adding the offices of Forest Supervisors and District Rangers. Other changes to the system of records include adding a purpose statement, clarifying the categories of records in this system, and updating authorities for maintaining the system.

In accordance with the Privacy Act and OMB Circular A–130, the Department of Agriculture has provided a report on this revised system of records to the Office of Management and Budget (OMB) and to the Congress.

A copy of the amended system of records is set out at the end of this notice. Although the Privacy Act only requires a Federal agency to solicit comments from the public with respect to changes in a system's routine use, the Department of Agriculture invites comments on all portions of this notice.

Dated: December 5, 2001.

Ann M. Veneman,

Secretary of Agriculture.

USDA/FS–26

SYSTEM NAME:

Trespass and Claims, USDA/FS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

These records are located at the Forest Service offices of the Chief, the Regional Foresters, Forest and Rangeland Experiment Station Directors, the Directors of the Forest Products Laboratory and the International Institute of Tropical Forestry, the Northeastern Area Director, Forest Supervisors, and District Rangers. The addresses of these offices are listed in 36 CFR part 200, subpart A, or in local telephone directories under the heading "United States Government, Department of Agriculture, Forest Service."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who file claims against the Forest Service pursuant to the Federal Tort Claims Act, the Military Personnel and Civilian Employees' Claims Act of 1964, and the various Forest Service Claims Acts; individuals against whom the Forest Service has claims; and individuals who claim title to National Forest System lands pursuant to the Adjustment of Land Titles Act, Quiet Claim Act, Color of Title Act, Wisconsin Land Title Act, or the Real Property-Quiet Title Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files on individual claims, information on the circumstances of the loss for which the claimant is seeking relief or the circumstances of the loss for which the Government is seeking relief, opinions of the Office of the General Counsel, and disposition of the case. The files also include claim forms, police reports, investigation and accident reports, statements of witnesses, agency reports, financial data, Social Security or employer identification numbers, bank routing and account numbers, and electronic fund transfer information of individuals subject to a claim of the Forest Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 7 U.S.C. 1921, 2253; 16 U.S.C. 502, 556c and 574; 28 U.S.C. 2409a and 2671–2680; 31 U.S.C. 3701, 3711, 3721, 3723, 42 U.S.C. 1471, and 43 U.S.C. 872, 1068 and 1221.

PURPOSE(S):

The purpose of this system of records is to maintain (1) records related to debts owed the agency to ensure the agency and the United States will obtain

payment and (2) administrative files of claims submitted against the agency to provide for legal determinations made in regard to these claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclose information concerning constituents, who are delinquent debtors, to a Member of Congress or to a Congressional staff member in response to an inquiry generated by the written request of the constituent about whom the record is maintained.

2. Disclose information to the Department of Justice (DOJ), or to a court or other tribunal, when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States is party to litigation or has an interest in such litigation and by careful review, the agency determines that the records are both relevant and necessary to the litigation and in each case, the agency determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the agency collected the records. Disclosure may also be made to the DOJ when the DOJ is requested to provide legal advice to the agency or is contemplating representing the agency in proposed litigation.

3. Disclose information concerning delinquent debtors to the Department of Justice for the purpose of litigating to enforce collection of a delinquent debt or to obtain the concurrence in a decision to compromise, suspend, or terminate collection action on a debt with a principal amount in excess of $100,000 or such higher amount as the Attorney General may, from time to time, prescribe in accordance with 31 U.S.C. 3711(a).

4. Disclose information concerning delinquent debtors to the U.S. Department of the Treasury, Financial Management Service, and to any other debt collection center designated by the Secretary of the Treasury, or any debt collection contractor for the purpose of collecting the debt by cross servicing in accordance with 31 U.S.C. 3711(m).

5. Disclose information concerning delinquent debtors to the U.S Department of the Treasury, Financial Management Service, or to any other debt collection center designated by the Secretary of the Treasury, or any federal agency for the purpose of collecting the debt through offset under 31 U.S.C. 3716 (administrative offset), 31 U.S.C. 3720A (Tax refund offset), 5 U.S.C. 5514 (salary offset), or offset under any other statutory or common law authority.

6. Disclose information concerning delinquent debtors to other Federal agencies for the purpose of implementing 31 U.S.C. 3720B, which prohibits persons who are delinquent on Federal debts from obtaining Federal financial assistance in the form of loans or loan insurance or guaranties.

7. Disclose information concerning delinquent debtors to any employer of the debtor for the purpose of conducting administrative wage garnishment pursuant to 31 U.S.C. 3720D.

8. Disclose information concerning delinquent debtors to other Federal agencies or the public for the purpose of selling the debt pursuant to 31 U.S.C. 3711(i).

9. Disclose information or publicly disseminate information concerning delinquent debtors and the debt to the public for the purpose of publicly disseminating information regarding the identity of the debtor pursuant to 31 U.S.C. 3720E.

10. Disclose information concerning delinquent debtors to State and local governments in an effort to collect debts owed the Federal Government.

11. Disclose information concerning delinquent debtors to the Internal Revenue Service for the purposes of effecting an administrative offset against the debtor's income tax refund to recover a delinquent debt owed to the United States by the debtor, or obtaining the mailing address of a taxpayer/debtor in order to locate the taxpayer/debtor to collect or compromise a Federal claim against the taxpayer/debtor in accordance with 31 U.S.C. 3711, 3717, 3728 and 3718 and 26 U.S.C. 6103(m)(2) and 6402.

12. Disclose information concerning delinquent debtors to the Department of Defense or the U.S. Postal Service or other Federal agency for the purpose of conducting an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, so as to identify and locate individuals receiving Federal payments (including, but not limited to, salaries, wages, and benefits) for the purpose of requesting voluntary repayment or implementing Federal employee salary offset or administrative offset procedures.

13. Disclose information concerning delinquent debtors to the Department of Defense or the U.S. Postal Service or other Federal agency for the purpose of participating in computer matching programs to effect an administrative offset against Federal payments certified to be paid to the debtor to recover a delinquent debt owed to the U.S. Government by the debtor.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12): The agency may disclose to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act (31 U.S.C. 3701(A)(3)), information concerning overdue claims from this system of records that is necessary to establish the identity of the debtor, including name, address, and taxpayer identification number; amount, status, and history of the debt or claim; and the program under which the debt or claim arose.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, while active. Closed files are retained for the required retention period. Closed files are electronically scanned, and the information is retained on magnetic disk for the required retention period. Closed paper files are appropriately destroyed. An electronic subset of delinquent debts due the Government is maintained for transmission to the Department of the Treasury for cross servicing in accordance with 31 U.S.C. 3711(m). Authorized personnel may access this data.

RETRIEVABILITY:

Records are indexed and retrieved by the name of the individual claimant or debtor. Data may be retrieved from the paper records, magnetic disk, or electronic files.

SAFEGUARDS:

Records are kept in a locked office. A limited subset of data is maintained in an on-line retrieval system. Access is restricted to authorized Forest Service and Department of the Treasury personnel. A system of operator and terminal passwords is used to restrict access to the on-line system. Passwords are changed as necessary.

RETENTION AND DISPOSAL:

Records are maintained subject to the Federal Records Disposal Act of 1943 (44 U.S.C. 366–380) and retained until the court order is lifted, litigation is concluded, or up to 10 years 3 months have elapsed, whichever is greater.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management, Forest Service, U.S. Department of Agriculture, PO Box 96090, Washington DC 20090–6090, or the appropriate

Director of Financial Management at the addresses specified under System Location.

NOTIFICATION PROCEDURES:

Any individual may request information regarding this system of records or information as to whether the system contains records pertaining to him or her from the Director, Financial Management, Forest Service, U.S. Department of Agriculture, Washington, DC, or the appropriate Director of Financial Management at the address identified under System Location. If the specific location of the records is not known, the individual should address a request to the Director of Financial Management in Washington, DC. The request should be in writing and should contain name, address, and particulars of the claim.

RECORD ACCESS PROCEDURES:

Use same procedures as those prescribed in Notification Procedures.

CONTESTING RECORD PROCEDURES:

Use same procedures as those prescribed in Notification Procedures.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from the claimant, the claimant's or debtor's attorney or legal representative, witnesses, agency employees, and local and federal investigation personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–30658 Filed 12–11–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

National Research Initiative Competitive Grants Program

AGENCY: Cooperative State Research, Education, and Extension Service (CSREES).

ACTION: Notice to Re-submit Applications for the FY 2002 National Research Initiative Competitive Grants Program (NRICGP).

SUMMARY: Applicant institutions that have not received confirmation of receipt of NRICGP proposals sent in response to the November 15, 2001, deadline are requested to re-submit their proposals. Re-submitted proposals are due no later than close of business on December 21, 2001.

SUPPLEMENTARY INFORMATION: On August 16, 2001, (66 FR 43048) CSREES announced the availability of the FY 2002 solicitation for applications which is entitled the "NRI Program Description and Guidelines for Proposal Preparation" for the National Research Initiative Competitive Grants Program. The solicitation invited applications for competitive grant awards in agricultural, forest, and related environmental sciences for FY 2002, and required that proposals be postmarked or delivered on or before dates provided in the table at the end of the notice. Proposals for the following Program Areas were due on or before November 15, 2001:

- Plant Responses to the Environment, Code 22.1
- Managed Ecosystems, Code 23.1
- Soils and Soil Biology, Code 25.0
- Watershed Processes and Water Resources, Code 26.0
- Improving Human Nutrition for Optimal Health, Code 31.0
- Biology of Weedy and Invasive Plants, Code 51.9

Because of problems with mail delivery at the time of the November 15th deadline, CSREES is not confident it received all applications. CSREES thus requests that applicant institutions that have not received confirmation of receipt of applications submitted to meet the November 15, 2001, NRICGP deadline re-submit applications by close of business on December 21, 2001. To avoid duplicate submissions, CSREES will confirm delivery with the institutional Authorized Organization Representative (AOR) of applications delivered successfully at the November 15th NRICGP deadline. If the submitting institution is not contacted by CSREES, the institution should assume that the application(s) were not received and should re-submit them.

DATES: Re-submitted proposals are due no later than close of business on December 21, 2001. All other NRICGP deadlines are retained as published in the FY 2002 Program Description.

ADDRESSES: An original and 14 copies of the re-submitted proposals must be sent via commercial overnight delivery service only, and shipped to the following address: NRI; c/o Proposal Services Unit; Cooperative State Research, Education and Extension Service; U.S. Department of Agriculture; Room 1307, Waterfront Centre; 800 9th Street, SW.; Washington, DC 20024; telephone: (202) 401–5048.

FOR FURTHER INFORMATION CONTACT: Mr. Janice Donatone, Team Leader, Proposal Services Unit; phone: (202) 401–5048; E-mail: *psb@reeusda.gov*.

Additional information concerning this issue is posted on the Agency's Web site at: *www.reeusda.gov*.

Done at Washington, DC this 7th day of December, 2001.

Gary Cunningham,

Associate Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 01–30777 Filed 12–7–01; 4:23 pm]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Forest Service

Livestock Grazing Permit Re-issuance on the Horse Butte Allotment Gallatin National Forest, Gallatin County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) to disclose the environmental effects of continued livestock grazing of up to 263 cow/calf pairs and horses on a Gallatin National Forest grazing allotment located on the Horse Butte peninsula near West Yellowstone, Montana (hereafter referred to as the Horse Butte Allotment). Grazing would occur from June through mid-October annually under a seasonally deferred rotation schedule. Grazing permits establish the amount, duration, location, and circumstances (management constraints) under which grazing will be allowed on the National Forest.

DATES: Written comments and suggestions should be received within 30 days following publication of this notice.

ADDRESSES: Submit written comments and suggestions on this proposal or a request to be placed on the project mailing list to Tris Hoffman, Hebgen Lake Ranger District, Gallatin National Forest, PO Box 520, West Yellowstone, Montana, 59758.

FOR FURTHER INFORMATION CONTACT: Tris Hoffman, EIS Team Leader, Hebgen Lake Ranger District, Phone (406) 823–6966.

SUPPLEMENTARY INFORMATION: The Horse Butte allotment covers approximately 2065 acres of the Horse Butte Peninsula between the Grayling and Madison Arms of Hebgen Lake. The allotment is located approximately 8 miles northwest of West Yellowstone, Montana. It is bordered by private land along much of its eastern boundary. The allotment is comprised of six pastures. Five of the six pastures are currently, and proposed to be, managed under a seasonally deferred rotation system, 58% of which is primary range and

about 37% is secondary range. The sixth pasture, the Grayling Unit, is an on-off pasture. This pasture involves 3 separate parcels of Forest Service property (totaling 65 acres) that are used in combination with adjacent private property. The on-off parcels are currently authorized as continuous grazing.

Comments will be used to identify issues that should be addressed in environmental analysis. The analysis is being conducted in compliance with the National Environmental Policy Act (NEPA) and is designed to inform the Responsible Official of the potential environmental consequences of continued livestock grazing on this allotment. The Responsible Official for this decision is the Hebgen Lake District Ranger. The analysis will also advise of any changes in grazing practices that should be considered.

Cattle grazing around the West Yellowstone area is recognized to be controversial since it influences management practice adopted to prevent the transmission of brucellosis to cattle from bison migrating out of Yellowstone Park (Interagency Bison Management Plan, 12/2000).

The purpose of proposing re-issuance of a livestock grazing permit on the Horse Butte allotment is to continue to allow for this economic activity. Livestock grazing has been an important use of lands within and around the Gallatin National Forest since the 1800's. Grazing has been authorized since the formation of the Gallatin National Forest in the early 1900's and it continues to be an important part of the region's economy today. The Gallatin Forest Plan (1987) set goals and objectives for management of rangeland habitats and livestock grazing. The applicable management area goal for this are is to provide forage for livestock consistent with meeting grizzly bear mortality reduction goals as established by the Interagency Grizzly Bear Committee (Forest Plan, MA 15, pg. III–47). The decision to be made now is whether to re-issue the livestock grazing permit and if so, under what conditions.

The Forest Service will consider a range of alternatives. One of these will be the "no action" alternative, in which none of the proposed activities would be implemented. The EIS will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Past, present, and projected activities on both private and National Forest lands will be considered.

The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. No public meetings are scheduled at this time. Comments from the public and other agencies will be used in preparation of a Draft EIS.

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in the fall of 2003. At that time, the EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register**. The comment period on the Draft EIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register**. It is very important that those interested in this proposal participate at that time. The Final EIS is scheduled to be completed by summer of 2004.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 30-day scoping comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in developing issues and alternatives. To assist the Forest Service is identifying and considering issues, comments should be as specific to this proposal as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

I am the responsible official for this environmental impact statement. My address is Gallatin National Forest, PO Box 130, Federal Building, Bozeman, MT 59771.

Dated: December 6, 2001.

Rebecca Heath,

Forest Supervisor, Gallatin National Forest.

[FR Doc. 01–30664 Filed 12–11–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Shasta County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Shasta County Resource Advisory Committee (RAC) will meet on January 9, 2001 in Redding, California. The purpose of the meeting is to discuss the selection of Title II projects under Public Law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the "Payments to States" Act.

DATES: The meeting will be held on January 9, 2002 from 8 a.m. to 12 p.m.

ADDRESSES: The meeting will be held at the Shasta-Trinity National Forest Headquarters Conference Room, 2400 Washington Ave., Redding, California.

FOR FURTHER INFORMATION CONTACT: Jim Pena, Designated Federal Official, USDA, Shasta-Trinity National Forest, 2400 Washington Ave., Redding, CA 96001. Phone: (530) 242–2201. E-mail: *jpena@fs.fed.us.*

SUPPLEMENTARY INFORMATION: This will be the second meting of the committee, and will focus on developing an overall strategy for selecting Title II projects. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the committee at that time.

Dated: December 4, 2001.

J. Sharon Heywood,

Forest Supervisor.

[FR Doc. 01–30643 Filed 12–11–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Trinity County Resource Advisory Committee (RAC); Meeting

AGENCY: USDA Forest Service.

ACTION: Notice of meeting.

SUMMARY: The Trinity County Resource Advisory Committee (RAC) will meet on January 7, 2002 in Weaverville, California. The purpose of the meeting is to discuss the selection of Title II

projects under Public Law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the "Payments to States" Act.

DATES: The meeting will be held on January 7, 2002 from 6:30 to 8:30 p.m.

ADDRESSES: The meeting will be held at the Trinity County Public Utilities District Conference Room, 26 Ponderosa Lane, Weaverville, California.

FOR FURTHER INFORMATION CONTACT: Joyce Andersen, Designated Federal Official, USDA, Shasta-Trinity National Forest, P.O. Box 1190, Weaverville, CA 96093. Phone: (530) 623–2121. E-mail: *jandersen@fs.fed.us.*

SUPPLEMENTARY INFORMATION: This will be the third meeting of the committee and will focus on developing an overall strategy for selecting Title II projects. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the committee at that time.

Dated: December 4, 2001.

J. Sharon Heywood,

Forest Supervisor.

[FR Doc. 01–30642 Filed 12–11–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

South Mississippi Electric Power Association; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from South Mississippi Electric Power Association for assistance to finance the construction of a 255 megawatt electric generating station in Jefferson Davis County, Mississippi.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW, Washington, DC 20250–1571, telephone (202) 720–0468, fax (202) 720–0820, e-mail at *bquigel@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: No comments were received by RUS via e-mail or telephone during the 30-day comment period which closed on November 30, 2001. However, mail service to the U.S. Department of Agriculture has been disrupted during the comment period due to screening of mail for potential anthrax contamination. Any person that sent written comments on the environmental assessment through the U.S. Postal Service to RUS during the comment period should contact RUS at the telephone number listed above within 5 working days of this notice to ensure their comments are considered prior to project construction. Should RUS conclude that any written comments that may have been submitted during the official comment period warrant further review and would cause reconsideration of RUS' decision, the public would be so notified. Otherwise, this FONSI notice will serve as the final public notice of this project.

The project is to be named the Silver Creek Generating Station. South Mississippi Electric Power Association proposes to construct the generating station. The station site is located approximately 6 miles east of Silver Creek in Jefferson Davis County, Mississippi. The plant and associated facilities will include 3 GE 7EAs, a 115 kV switchyard and substation, approximately 6 miles of 115 kV transmission line, a natural gas metering station, and approximately 0.5 miles of natural gas pipeline.

Copies of the FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Mr. Joey Ward, South Mississippi Electric Power Association, 7037 U.S. Highway 49, North, Hattiesburg, Mississippi 39404–5849, telephone (601) 268–2083. Mr. Ward's e-mail address is *jward@smepa.com.*

Alfred Rodgers,

Acting Assistant Administrator, Electric Program.

[FR Doc. 01–30743 Filed 12–11–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

South Mississippi Electric Power Association; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from South Mississippi Electric Power Association for assistance to finance the construction of a 129 megawatt electric generating station in Smith County, Mississippi.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW, Washington, DC 20250–1571, telephone (202) 720–0468, fax (202) 720–0820, e-mail at *bquigel@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: No comments were received by RUS via e-mail or telephone during the 30-day comment period which closed on November 10, 2001. However, mail service to the U.S. Department of Agriculture has been disrupted during the comment period due to screening of mail for potential anthrax contamination. Any person that sent written comments on the environmental assessment through the U.S. Postal Service to RUS during the comment period should contact RUS at the telephone number listed above within 5 working days of this notice to ensure their comments are considered prior to project construction. Should RUS conclude that any written comments that may have been submitted during the official comment period warrant further review and would cause reconsideration of RUS' decision, the public would be so notified. Otherwise, this FONSI notice will serve as the final public notice of this project.

The project is to be named the Sylvarena Generating Station. South Mississippi Electric Power Association proposes to construct the generating station. The station site is located approximately 3 miles southwest of Sylvarena in Smith County, Mississippi. The plant and associated facilities will include 3 General Electric LM6000 simple cycle combustion turbines, a 69 kV electrical switchyard and substation, approximately 7 miles of new 69 kV transmission line, rebuilding and upgrading of existing 69 kV transmission lines, a natural gas metering station, approximately 1.5 miles of natural gas pipeline, and a guyed microwave tower.

Copies of the FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Mr. Joey Ward, South Mississippi Electric Power Association, 7037 U.S. Highway 49, North, Hattiesburg, Mississippi 39404–5849, telephone

(601) 268–2083. Mr. Ward's e-mail address is *jward@smepa.com*.

Alfred Rodgers,

Acting Assistant Administrator, Electric Program.

[FR Doc. 01–30744 Filed 12–11–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Bureau: International Trade Administration.

Title: TPCC Benchmarking Exercise.

Agency Form Number: N/A.

OMB Number: None.

Type of Request: Emergency Submission.

Burden: 715 hours.

Number of Respondents: 2500.

Avg. Hours Per Response: 5 minutes to 1.5 hours.

Needs and Uses: The Trade Promotion Coordinating Committee (TPCC) chaired by Commerce Secretary Evans is conducting a benchmarking exercise of federal trade promotion programs. The goal of this exercise is to ensure that U.S. government agencies provide exporters with world-class services that enable them to take full advantage of new market openings. The benchmarking exercise is comprised of the following two parts: (1) an analysis of other countries export promotion and financing efforts; and (2) an assessment of what U.S. businesses need to export. The assessment will be based on a survey of exporters' needs and a set of focus group interviews with TPCC agency program users. The information we collect will help us to determine what other organizations help small businesses (and get a sense of who does it well), what the export assistance needs of small business exporters are, why don't more small business export, and if there is a trade financing problem. The survey and focus groups will also address how small businesses are using the Internet for exporting. In March 2002, Secretary Evans will present the TPCC's National Export Strategy to Congress, laying out recommendations based on this exercise to improve and streamline TPCC agency programs and services.

Affected Public: Businesses or other for-profits.

Frequency: Once.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution, NW., Washington, DC 20230 or via Internet at *MClayton@doc.gov*.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503 within 30 days of the publication of this notice in the **Federal Register**.

Dated: December 6, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–30632 Filed 12–11–01; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–819]

Certain Pasta From Italy: Final Results of the Fourth Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: The Department of Commerce is issuing the final results of the fourth administrative review of the countervailing duty order on certain pasta from Italy for the period January 1 through December 31, 1999.

Based on information received since the preliminary results and our analysis of the comments received, the Department of Commerce, "the Department," has revised the net subsidy rates for Agritalia S.r.L., Pastificio Antonio Pallante S.r.L. ("Pallante"), N. Puglisi & F. Industria Paste Alimentari S.p.A. ("Puglisi"), and Pastificio Riscossa F.lli Mastromauro S.r.L. ("Riscossa"). Therefore, the final results differ from the preliminary results. The final net subsidy rates for the reviewed companies are listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: December 12, 2001.

FOR FURTHER INFORMATION CONTACT: Craig Matney, Sally Hastings, Andrew Covington, or Meg Weems, AD/CVD Enforcement, Group I, Office 1, Import Administration, U.S. Department of Commerce, Room 1780, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–1778, 482–3464, 482–3534, and 482–2613, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act ("URAA"), effective January 1, 1995 ("the Act"). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 *et seq.* (2000).

Background

On July 24, 1996, the Department of Commerce ("the Department") published in the **Federal Register** (61 FR 38544) the countervailing duty order on certain pasta from Italy.

In accordance with 19 CFR 351.213(b), this review of the order covers the following producers or exporters of the subject merchandise for which a review was specifically requested: Agritalia; F.lli De Cecco di Filippo Fara S. Martino S.p.A. ("De Cecco"); Delverde S.p.A. ("Delverde"); De Matteis Agroalimentare S.p.A. ("De Matteis"); Pallante; Pastificio Maltagliati S.p.A. ("Maltagliati"); P.A.M. S.r.L.—Prodotti Alimentari Meridionali ("PAM") (PAM is also responding for Pastificio Liguori dal 1820, S.p.A.); Riscossa; Puglisi; and Rummo S.p.A. Molino e Pastificio ("Rummo").

Based on withdrawals of the requests for reviews, we rescinded this administrative review for Arrighi S.p.A. Industrie Alimentari; Audisio Industrie Alimentari de Capitanata, S.p.A.; Commercio-Rappresentanze-Export S.r.L.; Indalco; Industria Alimentare Colavita, S.p.A.; Isola del Grano S.r.L.; Italpast S.p.A.; Italpasta S.r.L.; Labor S.r.L.; La Molisana Alimentari S.p.A.; Molino e Pastificio; Pastificio Campano, S.p.A.; Pastificio di Matino Gaetano & F.lli S.r.L.; Pastificio Fabianelli, S.p.A.; Pastificio F.lli Pagani; Pastificio Guido Ferrara; and, Tamma Industrie Alimentari di Capitanata, S.r.L. (*See, Certain Pasta from Italy: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 66 FR 40987 (August 6, 2001) ("*Preliminary Results*").)

Since the publication of the *Preliminary Results* the following events

have occurred. Supplemental questionnaires were sent to Rummo on August 30, 2001; Puglisi on September 7, 2001; Delverde, Pallante, Riscossa and the Government of Italy ("GOI") on September 27, 2001; and Agritalia on October 2, 2001. Responses were received from Rummo on September 21, 2001; Pallante, Riscossa, GOI and Agritalia on October 9, 2001; and Delverde on October 10, 2001.

Case briefs were submitted on October 22, 2001, by Agritalia, Delverde, DeMatteis, Pallante, Puglisi, and Riscossa. The Department did not conduct a hearing in this review because none was requested.

Scope of Review

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags, of varying dimensions.

Excluded from the scope of this review are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, Bioagricoop Scrl, QC&I International Services, Ecocert Italia, Consorzio per il Controllo dei Prodotti Biologici, Associazione Italiana per l'Agricoltura Biologica, or Codex S.r.L.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the *Harmonized Tariff Schedule of the United States* ("*HTSUS*"). Although the *HTSUS* subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Scope Rulings

The Department has issued the following scope rulings to date:

(1) On August 25, 1997, the Department issued a scope ruling that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the countervailing duty order.(*See* August 25, 1997 memorandum from Edward Easton to Richard Moreland, which is on file in the Central Records Unit ("CRU") in Room B–099 of the main Commerce building.)

(2) On July 30, 1998, the Department issued a scope ruling, finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the countervailing duty order. (*See* July 30, 1998 letter from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Import Administration, to Barbara P. Sidari, Vice President, Joseph A. Sidari Company, Inc., which is on file in the CRU.)

(3) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances may be within the scope of the countervailing duty order. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the countervailing duty order. (*See* May 24, 1999 memorandum from John Brinkmann to Richard Moreland, which is on file in the CRU.)

The following scope ruling is pending:

On April 27, 2000, the Department self-initiated an anti-circumvention inquiry to determine whether Pagani's importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention, with respect to the antidumping and countervailing duty orders on pasta from Italy pursuant to section 781(a) of the Act and 19 CFR 351.225(b). See *Certain Pasta from Italy: Notice of Initiation of Anti-circumvention Inquiry of the Antidumping and Countervailing Duty Orders*, (May 5, 2000).

Period of Review

The period of review ("POR") for which we are measuring subsidies is from January 1 through December 31, 1999.

Analysis of Comments Received

All issues raised in the case briefs by parties to this administrative review are addressed in the December 4, 2001 *Issues and Decision Memorandum* ("*Decision Memorandum*") from Richard W. Moreland, Deputy Assistant Secretary, Import Administration, to Bernard Carreau, Acting Assistant Secretary for Import Administration, which is hereby adopted by this notice. Attached to this notice as Appendix I is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the CRU, Room B–099 of the Department. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at *http://ia.ita.doc.gov/frn/* under the heading "Italy." The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on information received subsequent to the *Preliminary Results* and our analysis of comments submitted in the case briefs, we have made changes in our calculation of the net subsidies for Agritalia, Pallante, Puglisi and Riscossa. These changes are discussed in the relevant sections of the *Decision Memorandum*.

Final Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1 through December 31, 1999, we determine the net subsidy rates for producers/exporters under review to be those specified in the chart shown below.

Company	Ad valorem rate (percent)
Agritalia S.r.L	2.92
F.lli De Cecco di Filippo Fara San Martino, S.p.A	2.21
Delverde S.p.A./Delverde S.r.L	3.27
De Matteis Agroalimentare S.p.A	2.33
Pastificio Antonio Pallante S.r.L	4.92
Pastificio Maltagliati S.p.A	3.85
P.A.M. S.r.L.—Prodotti Alimentari Meridionali	1.08
Pastificio Riscossa F.lli Mastromauro S.r.L	0.99
N. Puglisi & F. Industria Paste Alimentari S.p.A	7.18
Rummo S.p.A. Molino e Pastificio	1.26

We will instruct the Customs Service ("Customs") to assess countervailing duties as indicated above. The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the percentage detailed above of the f.o.b. invoice prices on all shipments of the subject merchandise from the producers/

exporters under review, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

The cash deposit rates for all companies not covered by this review are not changed by the results of this review. Thus, we will instruct Customs to continue to collect cash deposits for non-reviewed companies, except Barilla G. e R. F.lli S.p.A. ("Barilla") and Gruppo Agricoltura Sana S.r.L. ("Gruppo") (which were excluded from the order during the investigation), at the most recent rate applicable to the company. These rates shall apply to all non-reviewed companies until a review of the companies assigned these rates is completed. In addition, for the period January 1 through December 31, 1999, the assessment rates applicable to all non-reviewed companies covered by these orders are the cash deposit rates in effect at the time of entry. This notice serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.301. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: December 4, 2001.

Bernard Carreau,

Acting Assistant Secretary for Import Administration.

Appendix I—Issues Discussed in the Decision Memorandum

I. Subsidies Valuation Methodology

1. Change in Ownership
2. Benchmarks for Long-term Loans and Discount Rates
3. Allocation Period
4. Attribution
5. Sales Values

II. Analysis of programs

A. Programs Previously Determined to Confer Subsidies

1. Law 64/86 Industrial Development Grants
2. Law 488/92 Industrial Development Grants
3. Law 183/76 Industrial Development Grants
4. Industrial Development Loans Under Law 64/86
5. Law 341/95 Interest Contributions on Debt Consolidation Loans
6. Law 598/94 Interest Subsidies
7. Social Security Reductions and Exemptions—Sgravi
8. IRAP Exemptions
9. Law 236/93 Training Grants
10. Law 304/90 Export Marketing Grants
11. European Regional Development Fund
12. Export Restitution Payments
13. Duty-free Import Rights

B. Programs Determined Not To Confer Countervailable Subsidies in the POR

1. IRPEG Exemptions
2. Remission of Taxes on Export Credit Insurance Under Article 33 of Law 227/77
3. ADAPT
4. Law 1329/65 Interest Contributions (Sabatini Law)
5. European Social Fund

C. Programs Determined to Be Not Used

1. Law 64/86 VAT Reductions
2. Export Credits under Law 227/77
3. Capital Grants under Law 675/77
4. Retraining Grants under Law 675/77
5. Interest Contributions on Bank Loans under Law 675/77
6. Interest Grants Financed by IRI Bonds
7. Preferential Financing for Export Promotion under Law 394/81
8. Urban Redevelopment under Law 181
9. Grant Received Pursuant to the Community Initiative Concerning the Preparation of Enterprises for the Single Market ("PRISMA")
10. European Agricultural Guidance and Guarantee Fund ("EAGGF")

III. Analysis of Comments

Comment 1: Sale of duty-free import rights (Agritalia)
Comment 2: Application of the Department's change in ownership methodology to Delverde (Delverde)
Comment 3: Presumption that subsidies continue after a change in ownership (Delverde)
Comment 4: Privatization and the U.K. Lead Bar Panel (Delverde)
Comment 5: Sale of shares vs. assets (Delverde)
Comment 6: Continuity of business operations (Delverde)
Comment 7: Sgravi repayment (Delverde)
Comment 8: Selection of 1999 sales values (Pallante)
Comment 9: Law 64/86 industrial development grants and loans (Pallante)
Comment 10: Sales by CE.S.A.P (Puglisi)
Comment 11: Failure to use company-specific discount rate for 1993 industrial development grant under Law 64/86 (Puglisi)
Comment 12: Failure to use company-specific interest rates for industrial development loans under Law 64/86 (Puglisi and DeMatteis)
Comment 13: Deduction of loan guarantee payments (Puglisi)
Comment 14: Deduction of interest payments on Law 64/86 industrial development grant advances (Puglisi)
Comment 15: Use of FOB sales values (Riscossa)
Comment 16: Attribution of benefits to pasta sales vs. sales of all product (Riscossa)

[FR Doc. 01–30749 Filed 12–11–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended export trade certificate of review, Application No. 92–6A001.

SUMMARY: The Department of Commerce issued an amended Export Trade Certificate of Review to the Aerospace Industries Association of America, Inc. on December 4, 2001. Notice of issuance of the original Certificate was published in the **Federal Register** on April 17, 1992, (57 FR 13707).

FOR FURTHER INFORMATION CONTACT: Vanessa M. Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131, *oetca@ita.doc.gov*. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001 *et seq.*) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2000).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

The Aerospace Industries Association of America, Inc. ("AIA") original Certificate was issued on April 10, 1992 (57 FR 13707, April 17, 1992) and last amended on November 12, 1998 (63 FR 64061, November 18, 1998).

AIA's Export Trade Certificate of Review has been amended to:

1. Add the following companies as new "Members" of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Groen Brothers Aviation, Inc., Salt Lake City, UT; i2 Technologies, Washington, DC; Martin-Baker America, Incorporated, Arlington, VA (Controlling Entity: Martin-Baker Aircraft Company Ltd., Denham, Buckinghamshire, UK); MatrixOne, Inc., Chelmsford, MA; MD Helicopters, Inc., Mesa, AZ; The NORDAM Group, Tulsa,

OK; Omega Air, Inc., Alexandria, VA (Controlling Entity: Omega Air, Dublin Airport, Ireland); Space Access, LLC, Palmdale, CA; Spectrum Astro, Inc., Gilbert AZ; Stellex Aerostructures, Inc., Woodland Hills, CA (Controlling Entity: Stellex Technologies, Inc., Woodland Hills, CA); Swales Aerospace, LLC, Beltsville, MD; Vought Aircraft Industries, Inc., Dallas, TX (Controlling Entity: The Carlyle Group, Washington, DC); W.L. Gore & Associates, Inc., Newark, DE; BAE Systems North America, Inc., Rockville, MD; GenCorp, Sacramento, CA; Smiths Group PLC, London, England, UK, for the activities of Smiths Aerospace Actuation Systems, Los Angeles, Duarte, CA; Triumph Group, Inc.; Wayne, PA; Analytical Graphics, Inc., Malvern, PA; Atlantic Research Corporation, Gainesville, VA (Controlling Entity: Sequa Corporation, New York, NY); Aviall, Inc., Dallas TX; Ball Aerospace & Technologies Corporation, Boulder, CO; Cubic Corporation, San Diego, CA; Curtiss-Wright Corporation, Lyndhurst, NJ; Dassault Falcon Jet Corporation, South Hackensack, NJ (Controlling Entity: Dassault Aviation, France); Davis Tool, Inc., Hillsboro, OR; DRS Technologies, Inc., Parsippany, NJ; Embraer Aircraft Corporation, Brazil; Exostar, LLC, Herndon, VA; Fairchild Dornier Corporation, Wessling, Germany; The Fairchild Corporation for the activities of Fairchild Fasteners, Dulles, VA; General Atomics Aeronautical Systems, Inc., San Diego, CA (Controlling Entity: General Atomics, San Diego, CA); Genuity Solutions, Inc., Woburn, MA; GKN Aerospace, Inc., Reston, VA (Controlling Entity: GKN Westland Aerospace division of GKN, PLC, Worcestershire, UK); ITT Industries, Inc., McLean, VA.

2. Delete the following companies as "Members" of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Aerojet-General Corporation, Sacramento, CA; Allied Signal Inc., Morristown, NJ; Hughes Electronic Corporation, El Segundo, CA; CMS, Inc., Tampa, FL; Coltech Industries, Inc., New York, NY; Digital Equipment Corporation, Maynard, MA; Cordant Technologies, Inc., Ogden, UT; Dowty Decoto, Inc., Duarte, CA; Dynamic Engineering Incorporated, Newport News, VA; Gulfstream Aerospace Corporation, Savannah, GA; Interturbine Corporation, Peabody, MA; ITT Defense and Electronics Inc., McLean, VA; Litton Industries, Inc., Woodland Hills, CA; Lucas Industries, Inc., Reston, VA; Marconi North America Inc., Wayne, NJ; Pacific Scientific Company, Duarte, CA; Sundstrand Corporation, Rockford, IL; Triumph Controls, Inc., North Wales, PA; Veridian Corporation, Alexandria, VA.

3. Change the listings of the current Members as follows: "BF Goodrich; Akron, OH" to "Goodrich Corporation, Charlotte, NC"; "HEICO Corporation, Hollywood, FL" to "HEICO Corporation; Miami, FL"; "B.H. Aircraft Company, Incorporated, Farmingdale, NY" to "B.H. Aircraft Company, Incorporated, Rokonkoma, NY."

Dated: December 5, 2001.

Vanessa M. Bachman,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 01–30666 Filed 12–11–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Overseas Trade Missions

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Revised notice.

SUMMARY: This corrects dates shown for two Department of Commerce overseas trade missions listed in **Federal Register**, Vol. 66, No. 233, Tuesday, December 4, 2001, page 63019. The notice for these two trade missions should read:

The Department of Commerce invites U.S. companies to participate in the below listed overseas trade missions. For a more complete description of each trade mission, obtain a copy of the mission statement from the Project Officer indicated for each mission below. Recruitment and selection of private sector participants for these missions will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions dated March 3, 1997.

Benelux Environmental Technologies Trade Mission

The Hague, Netherlands, and Brussels Belgium,March 4–8, 2002,Recruitment closes on January 18, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. David Fiscus, U.S. Department of Commerce, telephone 202–482–1599, or e-mail David.Fiscus@mail.doc.gov.

Benelux Information and Communications Technology Trade Mission

Amsterdam, Netherlands, and Brussels Belgium,May 13–17, 2002,Recruitment closes on April 10, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. David Fiscus, U.S. Department of Commerce, telephone 202–482–1599, or e-mail David.Fiscus@mail.doc.gov.

FOR FURTHER INFORMATION CONTACT: Thomas Nisbet, U.S. Department of Commerce, telephone 202–482–5657, or e-mail Tom_Nisbet@ita.doc.gov.

Dated: December 7, 2001.

Thomas H. Nisbet,

Director, Promotion Planning and Support Division,Office of Export Assistance and Business Outreach.

[FR Doc. 01–30758 Filed 12–11–01; 8:45 am]

BILLING CODE 3510–D–R–F–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Government-Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of Government owned inventions available for licensing.

SUMMARY: The inventions listed below are owned in whole or in part by the U.S. Government, as represented by the Department of Commerce, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: National Institute of Standards and Technology, Office of Technology Partnerships, Building 820, Room 213, Gaithersburg MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement ("CRADA") with the licensee to perform further research on the inventions for purposes of commercialization. The inventions available for licensing are:

[NIST Docket Number: 96–006D]

Title: Method and Composition for Promoting Improved Adhesion to Substrates.

Abstract: The invention is jointly owned by the U.S. Government, as represented by the Secretary of Commerce, and the American Dental Association Health Foundation. The

Department of Commerce's ownership interest in this invention is available for licensing. An etchant primer composition is provided which includes (a) a compound having the formula RN $(CH_2YCO_2M)_2$ wherein R=R^1 or R^2; R^1= an aromatic group; R^2=a conjugated aliphatic group; Y=a single bond, CH_2, $CHCH_3$ or $C{=}CH_2$; and each M is independently H, an alkali metal, an alkaline earth metal, aluminum, a transition or redox metal or an alkyl group having 1 to 18 carbon atoms, with the proviso that when both M groups are alkyl groups, the compound corresponding to formula I be capable of being easily hydrolyzed, displaced or exchanged with other reagents present in the etchant/primer composition and (b) a polar solvent system. An etchant/primer/adhesive monomer composition is also provided which includes the etchant/primer composition and an adhesive monomer system. One and two step simplified methods for adhering and for preparing substrate surface, such as a dental substrate surface, to a polymeric material are also provided. Kits which may be used with these compositions and methods are also provided.

[NIST Docket Number: 97–036US]

Title: Silicon-on-Insulator Substrates Using Low Dose Implantation

Abstract: The invention is jointly owned by the U.S. Government, as represented by the Secretary of Commerce, and IBM Corp. The Department of Commerce's ownership interest in this invention is available for licensing. An SOI Substrate and method of forming is described incorporating the steps of implanting oxygen under two conditions and performing two high temperature anneals at temperatures above 1250.degree C. and above 1300.degree C, respectively, at two respective oxygen concentrations. The invention overcomes the problem of high SOI substrate fabrication cost due to ion implant time and of getting high quality buried oxide (BOX) layers below a thin layer of single crystal silicon.

[NIST Docket Number: 00–016US]

Title: Method and Apparatus for Entrainment Mixing of Vapor Into Liquids.

Abstract: Mixing of fluids is a central component to innumerable operations in chemical processing on the plant floor and also in many laboratory operations. Most mixing applications simply require the efficient blending of fluids present in a single phase, such as the mixing of the individual components of a liquid. For these applications, magnetic stirrers often provide a convenient and efficient bending without creating ambient air entrainment into the liquid. This is especially true of fluid mixing operations done in the laboratory. There are many other applications, however, in which the entrainment of a vapor phase with a liquid is specifically desired. Examples of these applications include mixing in two-phase reaction vessels and apparatus to measure vapor liquid equilibrium. These mixing operations are difficult to accommodate with magnetic stirrers because the vast majority of such stirrers are designed not to entrain vapor. In this disclosure, we teach a novel design of a mixing rotor that efficiently mixes the liquid phase and also achieves entrainment of vapor into the liquid.

[NIST Docket Number: 00–031US]

Title: Polyelectrolyte Derivatization of Microfluidic Devices.

Abstract: The invention describes the use of polyelectrolyte multilayers (PEMs) to alter the surface of microchannel surfaces was obtained by coating the channels with alternating layers of poly (allyamine hydrochloride) and poly (styrene sulfonate). The PEMs are easily fabricated and provide a means for controlling the flow direction and the electrosmotic mobility in the microchannels.

[NIST Docket Number: 01–008US]

Title: Chemical Modification of Substrates by Photo-ablation Under Different Local Atmospheres and Chemical Environments for the Fabrication of Microstructures.

Abstract: The invention consists of a one step photo-ablation process that can simultaneously use different gas or liquid atmospheres to pattern microchannels and functionalize the surface of polymer substrates.

Dated: December 4, 2001.

Karen H. Brown,

Deputy Director.

[FR Doc. 01–30629 Filed 12–11–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Meeting of the National Conference on Weights and Measures

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the 87th Interim Meeting of the National Conference on Weights and Measures will be held January 27 through January 30, 2002, at the Hyatt Regency Bethesda, Bethesda, MD. The meeting is open to the public. The National Conference on Weights and measures is an organization of weights and measures enforcement officials of the States, counties, and cities of the United States and private sector representatives. The Interim Meeting of the Conference as well as the Annual Meeting to be held next July (a notice will be published in the **Federal Register** prior to such meeting), brings together enforcement officials, other government officials, and representatives of business, industry, trade associations, and consumer organizations to discuss subjects that relate to the field of weights and measures technology and administration. Pursuant to (15 U.S.C. 272B), the National Institute of Standards and Technology supports the National Conference on Weights and Measures in order to promote uniformity among the States in the complex laws, regulations, test methods, and testing equipment that comprise regulatory control by the States of commercial transactions involving weighing and measurement.

DATES: The meeting will be held January 27–January 30, 2002.

LOCATION OF MEETING: Hyatt Regency Bethesda, Bethesda, MD.

FOR FURTHER INFORMATION CONTACT: Henry V. Oppermann, Director of NIST Office of Weights and Measures, 100 Bureau Drive, Stop 2600, Gaithersburg, MD 20899–2600. Telephone (301) 975–4004, or E–mail *owm@nist.gov.*

Dated: December 4, 2001.

Karen H. Brown,

Acting Director.

[FR Doc. 01–30628 Filed 12–11–01; 8:45 am]

BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Withdrawal of Short Supply Petition under the North American Free Trade Agreement (NAFTA)

December 6, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Withdrawal of petition concerning a modification of the NAFTA rules of origin for gimped yarn made from certain filament yarn of nylon.

SUMMARY: On September 5, 2001 the Chairman of CITA received a petition from Unifi, Inc. (Unifi) alleging that

certain untextured (flat) yarns of nylon classified under subheading 5402.41.90 of the Harmonized Tariff Schedule of the United States (HTSUS) cannot be supplied by the domestic industry in commercial quantities in a timely manner and requested that the President proclaim a modification of the NAFTA rules of origin. (see 66 FR 51024, published on October 5, 2001). Unifi requested that the NAFTA rules of origin for gimped yarns classified under subheading 5606.00 of the HTSUS be modified to allow the use of non-North American yarns. CITA solicited public comments regarding the request.

FOR FURTHER INFORMATION CONTACT: Martin J. Walsh, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 USC 1854); Section 202(q) of the North American Free Trade Agreement Implementation Act (19 USC 3332(q); Executive Order 11651 of March 3, 1972, as amended.

On December 4, the Chairman of CITA received a letter from Unifi requesting that its petition be withdrawn because a U.S. company affirmed its intention to restart production of these yarns domestically. As a result of this request, CITA will not consider this short supply petition and is withdrawing its request for public comments on the petition.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–30665 Filed 12–11–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0136]

Federal Acquisition Regulation; Submission for OMB Review; Commercial Item Acquisitions

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0136).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning the clauses and provisions required for use in commercial item acquisitions. A request for public comments was published at 66 FR 48664, September 21, 2001. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before January 11, 2002.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Acquisition Policy Division, GSA (202) 501–4764.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW., Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Federal Acquisition Streamlining Act of 1994 included Title VIII, entitled Commercial Items. The title made numerous additions and revisions to both the civilian agency and Armed Service acquisition statutes to encourage and facilitate the acquisition of commercial items and services by Federal Government agencies.

To implement these changes, DoD, NASA, and GSA amended the Federal Acquisition Regulation (FAR) to include several streamlined and simplified clauses and provisions to be used in place of existing clauses and provisions. They were designed to simplify solicitations and contracts for commercial items.

Information is used by Federal agencies to facilitate the acquisition of commercial items and services.

B. Annual Reporting Burden

Respondents: 118,000.
Responses Per Respondent: 12.1.
Total Responses: 1,427,800.
Hours Per Response: .312.
Total Burden Hours: 445,450.
Obtaining Copies of Proposals: Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVP), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0136 regarding Commercial Item Acquisitions in all correspondence.

Dated: December 6, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–30647 Filed 12–11–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Request for Public Review and Comment of Changes to the Navstar Global Positioning System (GPS) Space Segment/Navigation User Segment Interface Control Document (ICD) for the L2 Civil (L2 C) Signal

AGENCY: Department of the Air Force, DoD.

ACTION: Request for review and comment of changes to ICD–GPS–200C.

SUMMARY: This notice informs the public that the Global Positioning System (GPS)Joint Program Office (JPO) proposes to revise ICD–GPS–200, Navstar GPS SpaceSegment/Navigation User Interfaces, to include the description of the proposed L2 C signal, to be transmitted at the L2 frequency (1227.6 MHz). These proposed changes are described in a Proposed Interface Revision Notice (PIRN): PIRN–200C–007. The PIRN can be reviewed at the following Web site: *http://gps.losangeles.af.mil.* Select "Configuration Management" and then "Public Data for Review." Hyperlinks are provided to "PIRN–200C–007 (PDF)" and to review instructions. Reviewers should save the PIRN to a local memory location prior to opening and performing the review. All comments and their resolutions will be posted to the Web site.

ADDRESSES: Submit comments to Mr. Soon K. Yi via E-mail at syi@arinc.com, by fax at 310–322–4474, or by mail to ARINC Inc., Attn: Soon K. Yi, 2250 E.

ImperialHighway, Suite 450, El Segundo, CA 90245–3509. A comment matrix is provided at the Web site and is the preferred method of comment submittal.

DATES: The suspense date for comment submittal is January 2, 2002.

FOR FURTHER INFORMATION CONTACT: 1st Lt Reginald Victoria, ICD–GPS–200 Point of Contact, 310–363–6329, GPS JPO System Engineering Division.

SUPPLEMENTARY INFORMATION: The civilian and military communities use the Global Positioning System, which employs a constellation of 24 satellites to provide continuously transmitted signals to enable appropriately configured GPS user equipment to produce accurate position, navigation, and time information.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–30635 Filed 12–11–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Federal Advisory Committee for the End-to-End Review of the U.S. Nuclear Command and Control System

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of forthcoming meetings of the Federal Advisory Committee for the End-to-End Review of the U.S. Nuclear Command and Control System (NCCS). The purpose of these meetings is to conduct a comprehensive and independent review of the NCCS positive measures to assure authorized use of nuclear weapons when directed by the President while assuring against unauthorized or inadvertent use. This meeting will be closed to the public.

DATES: December 18—19, 2001.

ADDRESSES: Room 3C912, Pentagon, Washington DC.

FOR FURTHER INFORMATION CONTACT: Mr. William L. Jones, U.S. NuclearCommand and Control System Support Staff (NSS), Skyline 3, 5201 Leesburg Pike,Suite 500, Falls Church, Virginia 22041, (703) 681–8681.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–30634 Filed 12–11–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Grant an Exclusive Patent License

Pursuant to the provisions of part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, as amended, the Department of the Air Force announces its intention to grant Hetero Technology Integration Solutions, Incorporated (HTiS), a corporation of New Hampshire, having a place of business at Newburyport, Massachusetts, an exclusive license in any right, title and interest the Air Force has in:

a. U.S. Patent No. 5,472,914 issued December 5, 1995, entitled "Wafer Joined Optoelectronic Integrated Circuits and Method," Serial No. 274,882 and filed July 14, 1994, by Eric A. Martin, Kenneth Vaccaro, Joseph P. Lorenzo, and Andrew Davis;

b. U.S. Patent No. 5,557,120 issued September 17, 1996, entitled "Wafer Joined Optoelectronic Integrated Circuits," Serial No. 443,915 and filed May 17, 1995, by Eric A. Martin, Kenneth Vaccaro, Joseph P. Lorenzo, and Andrew Davis;

c. U.S. Patent No. 5,639,673 issued June 17, 1997, entitled "Transparent Ohmic Contacts for Schottky Diode Optical Detectors on Thin and Inverted Epitaxial Layers," Serial No. 486,442 and filed June 8, 1995, by Kenneth Vaccaro, Eric A. Martin, Stephen Spaziani, and Andrew Davis; and

d. U.S. Patent No. 5,689,125 issued November 18, 1997, entitled "Cadmium Sulfide Interface Layers for Improving III–V Semiconductor Device Performance and Characteristics," Serial No. 489,601 and filed June 12, 1995, by Kenneth Vaccaro, Andrew Davis, Helen M. Dauplaise, and Joseph P. Lorenzo.

A license for this patent will be granted unless a written objection is received within 15 days from the date of publication of this Notice. Information concerning this Notice may be obtained from Mr. William H. Anderson, Associate General Counsel(Acquisition), SAF/GCQ, 1500 Wilson Blvd., Suite 304, Arlington, VA 22209–2310. Mr. Anderson can be reached at (telephone) 703–588–5090/5091 or by fax at 703–588-8037.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–30633 Filed 12–11–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF ENERGY

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Department of Energy.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Department of Energy (DOE), pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, intends to extend for three years, an information collection package with the Office of Management and Budget (OMB).

The package covers collections of information concerning the public and the management and administration of DOE's Government-owned/contractor-operated facilities (GOCOs), off-site contractors, and the public. The information is used by Departmental management to exercise management oversight with respect to the implementation of applicable statutory and contractual requirements and obligations. The collection of this information is critical to ensure that the Government has sufficient information to judge the degree to which contractors meet contractual requirements; that public funds are being spent in the manner intended; and that fraud, waste, and abuse are immediately detected and eliminated.

DATES: Written comments and recommendations for the proposed collections of information must be submitted to the OMB Desk Officer, within January 11, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this Notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395–3087. In addition, please notify the DOE contact listed in this Notice.

ADDRESSES: Address comments to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 725 17th Street, NW, Washington, DC 20503. (Comments should also be addressed to Susan L. Frey, Director, Records Management Division, Office of the Deputy Associate CIO for Cyber Security [IM–11], Office of the Chief Information Officer, U.S. Department of Energy, Germantown, MD 20874–1290.)

FOR FURTHER INFORMATION CONTACT: Requests for copies of the Department's Paperwork Reduction Act Submission should be directed to Michael B. Raizen, Office of Procurement and Assistance

Policy (ME–61), U.S. Department of Energy, Washington, DC 20585, (202) 586–8189. Any other information should be directed to Ms. Susan L. Frey, (see above address), by telephone at (301) 903–3666 or e-mail at *Susan.Frey@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This package contains: (1) Current OMB No. 1910–4100; (2) Package Title: Procurement; (3)Summary: Request for a three-year extension, which covers mandatory responses; (4) Purpose: This information is required by DOE to ensure that programmatic and administrative management requirements and resources are managed efficiently and effectively and to exercise management oversight over DOE M&O contractors of the Department's GOCO facilities, and off-site contractors. (5) Type of Respondents: DOE management and operating contractors; off-site contractors, and the public; (6) Estimated Number of Responses: 3,811; Estimated number of Burden Hours: 1,086,529. This estimate is the sum of the burden reported by Departmental Elements and the Field Organizations as compiled from their respective contractors or estimated by expert personnel familiar with these collections. Computations are based on the number of respondents times the annual reporting frequency times the hours per each response.

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

Issued in Washington, DC on December 5, 2001.

Loretta D. Bryant,

Acting Director, Records Management Division, Office of Deputy Associate CIO for Cyber Security, Office of the Chief Information Officer.

[FR Doc. 01–30748 Filed 12–11–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, January 15, 2002, 8:00 a.m.–6:00 p.m.; Wednesday, January 16, 2002, 8:00 a.m.–5:00 p.m.

Public participation sessions will be held on: Tuesday, January 15, 2002, 12:15–12:30 p.m, 5:45–6:00 p.m.; Wednesday, January 16, 2002, 11:45–12:00 noon, 4:00–4:15 p.m.

These times are subject to change as the meeting progresses. Please check with the meeting facilitator to confirm these times.

ADDRESSES: Ameritel Inn, 645 Lindsay Boulevard, Idaho Falls, Idaho.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy Lowe, Idaho National Engineering and Environmental Laboratory (INEEL) Citizens' Advisory Board (CAB) Facilitator, Jason Associates Corporation, 477 Shoup Avenue, Suite 205, Idaho Falls, ID 83402, Phone (208) 522–1662 or visit the Board's Internet home page at *http://www.ida.net/users/cab.*

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of future use, cleanup levels, waste disposition and cleanuppriorities at the INEEL.

Tentative Agenda: Topics

- The recently released report titled "Poison in the Vadose Zone"
- Biannual rotation of CAB membership
- Remediation objectives for the Subsurface Disposal Area
- Pit 9 Interim Action
- Public acceptance of alternative technologies to incineration
- Environmental Restoration program and how DOE is doing in implementing its commitments under the Federal Facility Agreement/Consent Order
- Closure of High-Level Waste tanks 182 and 183
- INEEL Long-Term Stewardship Strategic Overview
- CAB's position on the INEEL Comprehensive Environmental Response, Compensation, and Liability Act Disposal Facility
- Proposed Plan for remedial action at Waste Group 10
- Workforce restructuring

(Agenda topics may change up to the day of the meeting. Please contact Jason Associates for the most current agenda or visit the CAB's Internet site at *www.ida.net/users/cab/.)*

Public Participation: This meeting is open to the public. Written statements may be filed with the Board facilitator either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact the Board Chair at the address or telephone number listed above. Requests must be received five days prior to the meeting andreasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer, Jerry Bowman, Assistant Manager for Laboratory Development, Idaho Operations Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Every individual wishing to make public comment will be provided equal time to present their comments. Additional time may be made available for public comment during the presentations.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday through Friday except Federal holidays. Minutes will also be available by writing to Ms. Wendy Lowe,INEEL CAB Facilitator, Jason Associates Corporation, 477 Shoup Avenue, Suite 205, Idaho Falls, ID 83402 or by calling (208) 522–1662.

Issued at Washington, DC, on December 7, 2001.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–30745 Filed 12–11–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, January 17, 2002, 5:30 p.m.—9:30 p.m.

ADDRESSES: 111 Memorial Drive, Barkley Centre, Paducah, Kentucky.

FOR FURTHER INFORMATION CONTACT: W. Don Seaborg, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6806.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations

to DOE and its regulators in the areas of environmental restoration and waste management activities.

Tentative Agenda

5:30 p.m. Informal Discussion
6 p.m. Call to Order; Approve Minutes
6:10 p.m. DDFO's Comments; Board Response; Public Comments
7 p.m. Presentations
8:30 p.m. Task Force and Subcommittee Reports; Board Response; Public Comments
9 p.m. Administrative Issues
9:30 p.m. Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Pat J. Halsey at the address or by telephone at 1–800–382–6938, #5. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments as the first item of the meeting agenda.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 115 Memorial Drive, Barkley Centre, Paducah, Kentucky between 8 a.m. and 5 p.m. on Monday thru Friday or by writing to Pat J. Halsey, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling her at 1–800–382–6938, #5.

Issued at Washington, DC on December 7, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–30746 Filed 12–11–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **FederalRegister**.

DATES: Wednesday, January 9, 2002, 6 p.m.—9:30 p.m.

ADDRESSES: Garden Plaza Hotel, 215 South Illinois Avenue, Oak Ridge, TN 37830.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, PO Box 2001, EM–922, Oak Ridge, TN 37831.Phone (865) 576–4025; Fax (865) 576–5333 or e-mail: *halseypj@oro.doe.gov*.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. FY 2002 Budget and Prioritization, DOE/ORO Representative.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Pat Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the end of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 7:30 a.m. and 5:30 p.m. Monday through Friday, or by writing to Pat Halsey, Department of Energy Oak Ridge Operations Office, PO Box 2001, EM–922, Oak Ridge, TN 37831, or by calling her at (865) 576–4025.

Issued at Washington, DC on December 7, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–30747 Filed 12–11–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–110–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 6, 2001.

Take notice that on November 30, 2001, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to become effective December 1, 2001:

Fiftieth Revised Sheet No. 8
Fiftieth Revised Sheet No. 9
Forty-ninth Revised Sheet No. 13
Sixtieth Revised Sheet No. 18

ANR states that the above-referenced tariff sheets are being filed to implement recovery of approximately $2.4 million of above-market costs that are associated with its obligations to Dakota Gasification Company (Dakota). ANR proposes a reservation surcharge applicable to its Part 284 firm transportation customers to collect ninety percent (90%) of the Dakota costs, and an adjustment to the maximum base tariff rates of Rate Schedule ITS and overrun rates applicable to Rate Schedule FTS–2, so as to recover the remaining ten percent (10%). ANR advises that the proposed changes would increase current quarterly Above-Market Dakota Cost recoveries from $1,968,858 to $2,447,977.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies

of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30693 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–87–000]

ANR Pipeline Company; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, ANR Pipeline Company (ANR), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Thirty-Second Revised Sheet No. 17. ANR requests effective date of January 1, 2002.

ANR states that the filing is being made in compliance with the March 10, 1998 Stipulation and Agreement filed in Docket No. RP97–149, *et al.*, and approved by the Commission on April 29, 1998 (the GRI Settlement), *Gas Research Institute*, 83 FERC ¶ 61,093 (1998), *order on reh'g*, 83 FERC ¶ 61,331 (1998), and the Commission's Letter Order approving the Gas Research Institute's Year 2002 Research, Development and Demonstration Program and 2001–2005 Five-Year Plan issued on September 19, 2001 in Docket No. RP01–434. ANR further states that the revised tariff sheets revise the Gas Research Institute surcharges for 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30720 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–47–001]

Aquila Long Term, Inc.; Notice of Filing

December 6, 2001.

Take notice that on December 4, 2001, Aquila Long Term, Inc. (Aquila Long Term), an indirect wholly owned subsidiary of Aquila, Inc., tendered for filing a rate schedule to engage in sales at market-based rates. Aquila Long term included in its filing a proposed code of conduct.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 13, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30707 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–104–000]

CMS Trunkline Gas Company, LLC; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, CMS Trunkline Gas Company, LLC (Trunkline) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective January 1, 2002:

First Revised Sheet No. 10
First Revised Sheet No. 11
First Revised Sheet No. 12
First Revised Sheet No. 13
First Revised Sheet No. 14
First Revised Sheet No. 15
First Revised Sheet No. 16
First Revised Sheet No. 17

Trunkline states that the purpose of this filing is to revise the Gas Research Institute (GRI) surcharges to be effective January 1, 2002 in compliance with the January 21, 1998, Stipulation and Agreement Concerning GRI Funding (Settlement Agreement) approved by the Commission in Gas Research Institute, 83 FERC ¶ 61,093 (1998), order on reh'g, 83 FERC ¶ 61, 331 (1998) and the Commission's Letter Order dated September 19, 2001 in Docket No. RP01–434–000. Specifically, Trunkline's filing complies with the surcharges set forth in Appendix A to the Settlement Agreement, as adjusted upward by ten percent consistent with the stated intention of Settlement Agreement Article II, Section 1.0 and the Commission's September 19, 2001 Letter Order, as follows: (1) A reservation surcharge of 6.6¢ per dekatherm per month will be charged on non-discounted firm high load factor customers, i.e., greater than 50% load factor; (2) a reservation surcharge of 4.07¢ per dekatherm per month will be charged on non-discounted firm low load factor customers, i.e., less than or equal to 50% load factor; (3) a GRI volumetric surcharge of 0.55¢ per dekatherm surcharge will be charged on all non-discounted firm commodity and interruptible transportation services; and (4) a 0.88¢ per dekatherm surcharge

will be charged on all non-discounted firm commodity units delivered to customers qualifying for service under Trunkline's Rate Schedule SST.

Trunkline states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–30687 Filed 12–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–445–002]

CMS Trunkline LNG Company, LLC; Notice of Compliance Filing

December 6, 2001.

Take notice that on November 30, 2001, CMS Trunkline LNG Company, LLC (TLNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following revised tariff sheets to be effective January 1, 2002.

First Revised Sheet No. 2
First Revised Sheet No. 5
First Revised Sheet No. 52
Original Sheet No. 126
Original Sheet No. 127
Sheet Nos. 128–149

TLNG states that the purpose of this filing is to implement the terms of the August 1, 2001 Stipulation and Agreement in Docket Nos. RP01–445–000 and CP97–26–000 [Not Consolidated] (Settlement) which was approved by the Commission's Order Approving Settlement dated October 11, 2001. Specifically, the revised tariff sheets included herein reflect Settlement rates and the Settlement provision established in new Section 22 of the General Terms and Conditions.

TLNG states that a copy of this filing is available for public inspection during regular business hours at TLNG's office at 5444 Westheimer Road, Houston, Texas 77056–5306. In addition, copies of this filing have been mailed to all affected customers, interested state commissions and parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–30713 Filed 12–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–190–016]

Colorado Interstate Gas Company; Notice of Compliance Filing

December 6, 2001.

Take notice that on November 30, 2001, Colorado Interstate Gas Company (CIG) tendered for filing and acceptance by the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, to become effective December 1, 2001:

Original Sheet Nos. 11E—11M

CIG states that the above tariff sheets are being filed to implement negotiated rate contracts pursuant to the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines issued January 31, 1996 at Docket Nos. RM95–6–000 and RM96–7–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–30673 Filed 12–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–101–000]

Colorado Interstate Gas Company; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff First Revised Volume No. 1, Thirty-Fifth Revised Sheet No. 11, with an effective date of January 1, 2002.

CIG states that the filing is being made in compliance with the Commission's

order issued September 19, 2001 at Docket No. RP01–434–000.

CIG states the tariff sheet is being filed to revise the Stranded Account No. 858 surcharges.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30684 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–102–000]

Colorado Interstate Gas Company; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Volume No. 1, to be effective January 1, 2002.

CIG states that the tariff sheet is being filed to revise the Fuel Reimbursement Percentage applicable to Lost, Unaccounted-For and Other Fuel Gas.

CIG states that copies of the filing have been served upon all shippers on CIG's system, and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30685 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Colorado Interstate Gas Company; [Docket No. RP02–91–000] Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, Colorado Interstate Gas Company (CIG), tendered for filing its final true-up of the Gas Quality Control (GQC) surcharge.

CIG states that the purpose of the filing is to comply with its FERC Gas Tariff, First Revised Volume No. 1, Article 20.1 of the General Terms and Conditions, and the Order of the Federal Energy Regulatory Commission in Docket No. RP01–570–000. CIG states that this filing reflects the final true-up of the GQC surcharge which tracked the costs associated with the incremental facilities and, if any, the cost of low-Btu gas as the result of the Offer of Settlement as accepted by the Commission and approved in Docket No. RP98–113.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30723 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–108–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 6, 2001.

Take notice that on November 30, 2001, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective January 1, 2002:

Fifty-third Revised Sheet No. 25
Fifty-third Revised Sheet No. 26
Fifty-third Revised Sheet No. 27
Forty-seventh Revised Sheet No. 28

Columbia states that this filing is being submitted in accordance with the Federal Energy Regulatory Commission's (Commission) order issued on September 19, 2001 in Gas Research Institute's (GRI) Docket No. RP01–434–000 (Order Approving Settlement), and in accordance with Section 33 of the General Terms and Conditions of its FERC Gas Tariff, Columbia is submitting revised tariff sheets to reflect the 2002 GRI funding mechanism.

Columbia states that copies of its filing have been served upon the parties listed on the official service list.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30691 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–036]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

December 6, 2001.

Take notice that on December 3, 2001, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing to the Federal Energy Regulatory Commission (Commission) the following contract for disclosure of a recently negotiated rate transaction:

FTS–1 Service Agreement No. 71725 between Columbia Gulf Transmission Company and Entergy Mississippi, Inc., dated November 29, 2001

Columbia Gulf requests that the Commission accept the FTS–1 service agreement to be effective January 1, 2002.

Columbia Gulf states that copies of the filing have been served on all parties on the official service list created by the Secretary in this proceeding, and that copies of the filing are being made available for public inspection during regular business hours in Columbia Gulf's offices in Houston, Texas and Washington, DC.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30676 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–14–001]

Crossroads Pipeline Company; Notice of Compliance Filing

December 6, 2001.

Take notice that on November 30, 2001, Crossroads Pipeline Company (Crossroads) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 (Tariff), the revised tariff sheets listed on Appendix A, with a proposed effective date of November 1, 2001. These tariff sheets are being filed in compliance with the Commission's October 31, 2001 Letter Order in the above-referenced docket.

Crossroads states that a copy of this filing is available for public inspection during regular business hour at Crossroads's office at 12801 Fair Lakes Parkway, Fairfax, Virginia, and 10 G Street, NE., Suite 580, Washington, DC 20002. In addition, copies of this filing have been mailed to all affected customers, interested state commissions and parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30714 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–93–000]

Destin Pipeline Company, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

December 6, 2001.

Take notice that on November 30, 2001, Destin Pipeline Company, L.L.C. (Destin) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix A attached to the filing, to become effective January 1, 2002.

Destin states that purpose of this filing, pursuant to the provisions of Section 154 of the Commission Regulations, is to reflect tariff changes necessitated by the change in management and administrative responsibilities of the Destin facilities. These modifications reflect changes to dispatching and emergency addresses and telephone numbers in the form of service agreements.

Destin states that copies of this filing are being served on all affected shippers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30725 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–94–000]

Egan Hub Partners, L.P.; Notice of Proposed Changes in FERC Gas Tariff

December 6, 2001.

Take notice that on November 30, 2001, Egan Hub Partners, L.P. (Egan Hub) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets proposed to be effective on December 1, 2001:

Second Revised Sheet No. 4
Third Revised Sheet No. 90
Third Revised Sheet No. 91
First Revised Sheet No. 99A
First Revised Sheet No. 103A
Fourth Revised Sheet No. 112

Egan Hub states that the purpose of this filing is to modify certain provisions of its tariff to reflect the connection of its storage facility located in Acadia Parish, Louisiana, with the interstate pipeline systems of Texas Eastern Transmission, LP and Florida Gas Transmission Company, as described in the Request for Authorization of Blanket Activity filed on June 18, 2001, in Docket No. CP01–390–000.

Egan Hub states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30726 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–91–000]

El Paso Natural Gas Company; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 29, 2001, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets to become effective January 1, 2002:

Second Revised Volume No. 1–A

Twenty-Second Revised Sheet No. 20
Fifteenth Revised Sheet No. 22
Twenty-First Revised Sheet No. 23
Twenty-Sixth Revised Sheet No. 24
Twenty-First Revised Sheet No. 26
Twenty-First Revised Sheet No. 27
Eighth Revised Sheet No. 37
Eighth Revised Sheet No. 38

Third Revised Volume No. 2

Fiftieth Revised Sheet No. 1–D.2
Forty-Fourth Revised Sheet No. 1–D.3

El Paso states that the above tariff sheets are being filed to adjust its rates for inflation in accordance with its tariff and in accordance with the settlement of its last general rate case.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30717 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–90–000]

El Paso Natural Gas Company; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, with an effective date of January 1, 2002:

Second Revised Volume No. 1–A

Twenty-Third Revised Sheet No. 20
Sixteenth Revised Sheet No. 22
Twenty-Second Revised Sheet No. 23
Twenty-Seventh Revised Sheet No. 24
Twenty-Second Revised Sheet No. 26
Twenty-Second Revised Sheet No. 27

Seventeenth Revised Sheet No. 28
Ninth Revised Sheet No. 37
Ninth Revised Sheet No. 38
Eighth Revised Sheet No. 256
Eighth Revised Sheet No. 257

Third Revised Volume No. 2

Fifty-First Revised Sheet No. 1–D.2
Forty-Fifth Revised Sheet No. 1–D.3

El Paso states that the filing is being made in compliance with the Commission's order issued September 19, 2001 at Docket No. RP01–434–000. El Paso states the tariff sheets are being filed to revise the Gas Research Institute surcharges and to update the identification of low and high load factor shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30722 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–195–004]

Equitrans, L.P.; Notice of Compliance Filing

December 6, 2001.

Take notice that on November 30, 2001, Equitrans, L. P. (Equitrans) filed the following revised tariff sheets in order to comply with the Commission's November 30, 2000. Letter Order in Docket No. RP99–195–004 that approved an uncontested settlement relative to product extractions services on Equitrans' system. Such revised tariff sheets are proposed to be effective as of December 1, 2001.

Eighth Revised Sheet No. 6
Second Revised Sheet No. 22
Second Revised Sheet No. 23
Second Revised Sheet No. 28
Second Revised Sheet No. 31
First Revised Sheet No. 32
Second Revised Sheet No. 74
Second Revised Sheet No. 75
Second Revised Sheet No. 303

Equitrans states that under the approved, uncontested settlement it was authorized to collect both a $.0067 per Dth surcharge in order to recover certain agreed-upon product extraction underrecollections and an interim $.10 per Dth products extraction rate through November 30, 2001 while existing shippers were to make their own products extraction arrangements. Equitrans further states that, consistent with the approved settlement, the revised tariff sheets remove from its tariff both the surcharge and the interim products extraction rate now that it has recovered the agreed-upon underrecollections and that the interim period has expired for existing shippers to make their own products extraction arrangements. The revised tariff sheets are proposed in accordance with the settlement to be effective as of December 1, 2001.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30710 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–2688–002 and ER01–2689–002]

Gilroy Energy Center, LLC; Notice of Filing

December 6, 2001.

Take notice that on December 4, 2001, Gilroy Energy Center, LLC (the Applicant), submitted for filing with the Federal Energy Regulatory Commission (Commission) a second Substitute Sheet No. 3 to its FERC Electric Tariff No. 1, in compliance with the Commission Staff Letter issued in this Docket on November 30, 2001.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 13, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "RIMS" link, select "Docketi" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30705 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–109–000]

Granite State Gas Transmission; Notice of Proposed Changes in FERC Gas Tariff

December 6, 2001.

Take notice that on November 30, 2001, Granite State Gas Transmission (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets to become effective January 1, 2002:

Twenty-fifth Revised Sheet No. 21
Twenty-sixth Revised Sheet No. 22
Seventeenth Revised Sheet No. 23

Granite State states that this filing is being submitted in accordance with the Commission's order issued on September 19, 2001 in Gas Research Institute's (GRI) Docket No. RP01–434–000 (Order Approving Settlement), and in accordance with Section 18 of the General Terms and Conditions of its FERC Gas Tariff, Granite State is submitting revised tariff sheets to reflect the 2002 GRI funding mechanism.

Granite State states that copies of its filing is being served on its firm and interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–30692 Filed 12–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–220–011]

Great Lakes Gas Transmission Limited Partnership; Notice of Negotiated Rate Agreement

December 6, 2001.

Take notice that on November 30, 2001, Great Lakes Gas Transmission Limited Partnership (Great Lakes) filed for disclosure, a transportation service agreement pursuant to Great Lakes' Rate Schedule FT entered into by Great Lakes and Nexen Marketing U.S.A. Inc. (Nexen) (FT Service Agreement). The FT Service Agreement being filed reflects a negotiated rate arrangement between Great Lakes and Nexen commencing December 1, 2001.

Great Lakes states that the FT Service Agreement is being filed to implement a negotiated rate contract as required by both Great Lakes' negotiated rate tariff provisions and the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines, issued January 31, 1996, at Docket Nos. RM95–6–000 and RM96–7–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–30711 Filed 12–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–115–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

December 6, 2001.

Take notice that on November 30, 2000, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Sixth Revised Sheet No. 4A 1, with an effective date of January 1, 2002.

Iroquois states that, pursuant to Part 154 of the Commission's regulations and Section 12.1 of the General Terms and Conditions of its tariff, it is filing Sixth Revised Sheet No. 4 to reflect the GRI surcharge for calendar year 2002, which the Commission approved in an order issued on September 19, 2001 in Docket No. RP01–434–000.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically

via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30698 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–113–000]

Kinder Morgan Interstate Gas Transmission LLC;Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1–A, the following tariff sheet, to become effective January 1, 2002:

Fifth Revised Sheet No. 4D

Pursuant to the Commission's Order issued September 19, 2000 in Docket No. RP00–313–000, KMIGT submits the proposed tariff sheet reflecting the required changes to the Gas Research Institute (GRI) surcharges in its tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30696 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–92–000]

K N Wattenberg Transmission Limited Liability Company; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, K N Wattenberg Transmission Limited Liability Company (KN Wattenberg) tendered for filing as part of its FERC Gas Tariff First Revised Volume No. 1, the following tariff sheet, to become effective December 1, 2001:

Second Revised Sheet No. 0

Pursuant to the Commission's Order issued November 23, 2001, in Docket No. CP01–443–000, KN Wattenberg submits the proposed tariff sheet reflecting cancellation of its FERC Gas Tariff. In the November 23 Order, the Commission found that KN Wattenberg provides primarily gathering service and is thus exempt from FERC's regulatory jurisdiction under section 1(b) of the Natural Gas Act. The Commission granted KN Wattenberg's requested abandonment of facilities and services and rescinded KN Wattenberg's existing certificates. Accordingly, KN Wattenberg abendoned such facilities and services effective 12:01 a.m. December 1, 2001. KN Wattenberg therefore requested waiver of 18 CFR 154.602 to permit the Notice of Termination to become effective on 12:01 a.m. December 1, 2001, as proposed.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30724 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3142–003]

Midwest Independent Transmission System Operator, Inc.; Notice of Filing

December 6, 2001.

Take notice that on November 30, 2001, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) substituted pages to its Open Access Transmission Tariff (OATT), FERC Electric Tariff, Original Volume No. 1, which reflect that Schedule 4 (Energy Imbalance Service and Inadvertent Interchange Service) has been suspended indefinitely until a further refined and enhanced Schedule 4 can be developed in concert with the Midwest ISO and its stakeholders. The Midwest ISO submits that the suspension of its Schedule 4 effective date will result in customers, which are currently Schedule 4 customers of the Midwest ISO Transmission Owners, continuing to take Schedule 4 service under the Midwest ISO Transmission Owners' OATTs. The Midwest ISO shall re-submit at a later date a revised Schedule 4 (Energy Imbalance Service and Inadvertent Interchange Service).

The Midwest ISO also seeks waiver of the Commission's regulations, 18 CFR 385.2010, with respect to service on all parties on the official service list in this proceeding. The Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee

participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at www.midwestiso.org under the heading "FERC Filings" for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 17, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30706 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–72–000]

Midwestern Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

December 6, 2001.

Take notice that on November 30, 2001, Midwestern Gas Transmission Company (Midwestern) tendered for filing to become part of Midwestern's FERC Gas Tariff, Third Revised Volume No. 1, replacing Second Revised Volume No. 1, Midwestern requests an effective date of January 1, 2002.

Midwestern proposes to make numerous housekeeping changes throughout its tariff to reflect the new ownership and operation of Midwestern Gas Transmission Company. Midwestern is also requesting waivers of Subsections 6.2 and 25.2(a) of the General Terms and Conditions of its FERC Gas Tariff as set forth in the filing.

Midwestern states that copies of this filing have been sent to all of Midwestern's contracted shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30715 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–73–000]

Mississippi River Transmission Corporation; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 29, 2001, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its Gas Tariff, Third Revised Volume No. 1, to become effective January 1, 2002 the following sheets:

Forty-Fourth Revised Sheet No. 5
Forty-Fourth Revised Sheet No. 6
Forty-First Revised Sheet No. 7

MRT states that the purpose of this filing is to implement the Gas Research Institute (GRI) Surcharge in accordance with Section 20 of the General Terms and Conditions of MRT's Tariff. The GRI surcharges were approved by the Commission's Letter Order issued September 19, 2001, in Docket No. RP01–434–000, to be effective January 1, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30716 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–98–000]

Mojave Pipeline Company; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, Mojave Pipeline Company (Mojave) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sixth Revised Sheet No. 11, with an effective date of January 1, 2002.

Mojave states that the tariff sheets are being filed to revise the Gas Research Institute surcharges.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections

385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30683 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–97–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Forty Fifth Revised Sheet No. 9 and Fifth Revised Sheet No. 43, with a proposed effective date of January 1, 2002.

National states that pursuant to Article III, Section 1, of the approved settlement at Docket Nos. RP94–367–000, et al., National is required to recalculate the maximum Firm Gathering (FG) rate annually to reflect: (a) The changes in the FG reservation determinants based on the FG throughput for the prior 12 months ended October 31; (b) an annual reduction of 2.5 percent in direct Operation and Maintenance Costs; (c) the costs resulting from operation of Sections 2 and 3 of Article III of the settlement; and (d) changes in the IG revenues to be subtracted from the Gathering Cost-of-Service based on the maximum IG rate in effect each month during the prior 12 months ended October 31 times the IG throughput for the same period. The recalculation produced a negative FG rate. Since the minimum FG reservation rate stated in National's tariff is $0.0000, the maximum FG reservation rate will reflect a rate of $0.0000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30682 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–105–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheet to become effective December 1, 2001:

Forty Third Revised Sheet No. 9

National states that under Article II, Section 2, of the settlement, it is required to recalculate the maximum Interruptible Gathering (IG) rate monthly and to charge that rate on the first day of the following month if the result is an IG rate more than 2 cents above or below the IG rate as calculated under Section 1 of Article II. The recalculation produced an IG rate of $0.12 per dth. In addition, Article III, Section 1 states that any overruns of the Firm Gathering service provided by National shall be priced at the maximum IG rate.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30688 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–106–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 6, 2001.

Take notice that on November 30, 2001, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Nineteenth Revised Sheet No. 8, with a proposed effective date of January 1, 2002.

National states that the proposed tariff sheet reflects an adjustment to recover through National's EFT rate the costs associated with the Transportation and Storage Cost Adjustment (TSCA)

provision set forth in Section 23 of the General Terms and Conditions of National's FERC Gas Tariff.

National further states that copies of this compliance filing were served upon the Company's jurisdictional customers and the regulatory commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30689 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–107–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 6, 2001.

Take notice that on November 30, 2001, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets to become effective January 1, 2002:

Eighteenth Revised Sheet No. 8
Forty Fourth Revised Sheet No. 9
Eighth Revised Sheet No. 10
Sixth Revised Sheet No. 11

National asserts that the purpose of this filing is to reflect the year 2002 Gas Research Institute (GRI) unit surcharges approved by the Commission on September 19, 2001, at Docket No. RP01–434–000. The proposed tariff sheets reflect demand/reservation surcharges of 06.6 cents and 04.07 cents per Dth for "high load factor and low load factor" customers respectively, and a commodity/usage surcharge of .55 cents.

In addition, National is making conforming changes related to it's Order 637 proceeding at Docket No. RP00–399. In part, National's August 31, 2001 filing revised the transportation rate schedules to refer to the rate for "Overrun Transportation" instead of "Authorized Overrun Transportation", effective January 1, 2002. This change was accepted by Commission order dated October 26, 2001. Conforming changes to National's rate sheets are reflected on the attached tariff sheets.

National further states that copies of this filing were served upon National's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30690 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–045]

Natural Gas Pipeline Company of America; Notice of Negotiated Rate Filing

December 6, 2001.

Take notice that on November 30, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing with the Federal Energy Regulatory Commission (Commission), certain tariff sheets to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1 (Tariff). An effective date of December 1, 2001, is requested for these tariff sheets.

Sixth Revised Volume No. 1
Original Sheet No. 26B.01
Fourth Revised Sheet No. 414
Second Revised Sheet No. 26B

Natural states that the purpose of this filing is to implement a negotiated rate transactions under Natural's Rate Schedules ITS pursuant to Section 49 of the General Terms and Conditions of Natural's Tariff. Natural states that the negotiated rate agreement does not deviate in any material respect from the applicable form of service agreement in Natural's Tariff.

Natural requests waivers of the Commission's Regulations to the extent necessary to permit the proposed tariff sheets to become effective December 1, 2001.

Natural states that copies of the filing are being mailed to its customers, interested state commissions and all parties set out on the Commission's official service list in Docket No. RP99–176.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the

instructions (call 202–208–2222 for assistance).

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30708 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–046]

Natural Gas Pipeline Company of America; Notice of Negotiated Rate Filing

December 6, 2001.

Take notice that on November 30, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing with the Federal Energy Regulatory Commission (Commission), certain tariff sheets to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1 (Tariff). An effective date of December 1, 2001, is requested for these tariff sheets.

Original Sheet No. 26U.01
Original Sheet No. 26U.02

Natural also submits for filing and acceptance copies of the Firm Transportation Negotiated Rate Agreement dated August 28, 2001 (Agreement).

Natural states that the purpose of this filing is to implement two (2) negotiated rate transactions entered into by Natural and MidAmerican Energy Company (MidAmerican) under Natural's Rate Schedules FTS and DSS pursuant to Section 49 of the General Terms and Conditions of Natural's Tariff, and to update the listing of non-conforming agreements in Natural's Tariff by eliminating the old, expiring MidAmerican Firm Transportation Negotiated Rate Agreement dated August 3, 2000. Natural states that the two (2) negotiated rate agreements do not deviate in any material respect from the applicable form of service agreement in Natural's Tariff.

Natural requests waivers of the Commission's Regulations to the extent necessary to permit the proposed tariff sheets to become effective December 1, 2001.

Natural states that copies of the filing are being mailed to its customers, interested state commissions and all parties set out on the Commission's official service list in Docket No. RP99–176.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30709 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–29–000]

Nevada Power Company Complainant, v. Morgan Stanley Capital Group, Inc. Respondent; Notice of Complaint

December 6, 2001.

Take notice that on December 4, 2001, Nevada Power Company (NPC) filed a complaint with the Federal Energy Regulatory Commission (Commission) requesting that the Commission mitigate unjust and unreasonable prices in sales contracts between NPC and Morgan Stanley Capital Group, Inc. (Morgan Stanley) entered into in the first half of 2001 for delivery after January 1, 2002.

NPC requests that the Commission set a refund effective date of 60 days from the date of filing of its complaint.

Copies of NPC's filing were served on Morgan Stanley and the Public Utilities Commission of Nevada. NPC has requested privileged treatment of certain information in the complaint and has filed privileged and public copies of the complaint, a request for privileged treatment, and a protective agreement.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 24, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before December 24, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30701 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–31–000]

Nevada Power Company, Complainant, v. Mirant Americas Energy Marketing, L.P., Respondent; Notice of Complaint

December 6, 2001.

Take notice that on December 5, 2001, Nevada Power Company (NPC) filed a complaint requesting that the Federal Energy Regulatory Commission (Commission mitigate unjust and unreasonable prices in sales contracts between NPC and Mirant Americas Energy Marketing, L.P. (Mirant) entered into in the last half of 2000 and the first half of 2001 for delivery after January 1, 2002.

NPC requests that the Commission set a refund effective date of 60 days from the date of filing of its complaint.

Copies of NPC's filing were served on Mirant and the Public Utilities Commission of Nevada. NPC has requested privileged treatment of certain

information in the complaint and has filed privileged and public copies of the complaint, a request for privileged treatment, and a protective agreement.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before December 26, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30703 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–32–000]

Nevada Power Company Complainant, v. Reliant Energy Services, Inc., Respondent.; Notice of Complaint

December 6, 2001.

Take notice that on December 5, 2001, Nevada Power Company (NPC) filed a complaint requesting that the Federal Energy Regulatory Commission (Commission) mitigate unjust and unreasonable prices in sales contracts between NPC and Reliant Energy Services, Inc. (Reliant) entered into in the first half of 2001 for delivery after January 1, 2002. NPC requests that the Commission set a refund effective date of 60 days from the date of filing of their complaint.

Copies of NPC's filing were served on Reliant and the Public Utilities Commission of Nevada. NPC has requested privileged treatment of certain information in the complaint, and has filed privileged and public copies of the complaint, a request for privileged treatment, and a protective agreement.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before December 26, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30704 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–30–000]

Nevada Power Company and Sierra Pacific Power Company, Complainants, v. Calpine Energy Services, L.P., Respondent; Notice of Complaint

December 6, 2001.

Take notice that on December 4, 2001, Nevada Power Company (NPC") and Sierra Pacific Power Company (SPPC) (collectively, the Nevada companies) filed a complaint with the Federal Energy Regulatory Commission (Commission), requesting that the Commission mitigate unjust and unreasonable prices in sales contracts between NPC and Calpine Energy Services L.P., (Calpine) and between SPPC and Calpine entered into in the first half of 2001 for delivery after January 1, 2002.

The Nevada companies request that the Commission set a refund effective date of 60 days from the date of filing of their complaint. Copies of the Nevada companies' filing were served on Calpine and the Public Utilities Commission of Nevada. The Nevada companies have requested privileged treatment of certain information in the complaint and have filed privileged and public copies of the complaint, a request for privileged treatment, and a protective agreement.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 24, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before December 24, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30702 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–103–000]

Panhandle Eastern Pipe Line Company; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following

tariff sheets, to be effective January 1, 2002:

Sixty-Fourth Revised Sheet No. 4
Sixty-Fourth Revised Sheet No. 5
Sixty-Fourth Revised Sheet No. 6
Sixty-Seventh Revised Sheet No. 7
Sixty-Seventh Revised Sheet No. 8
Forty-Third Revised Sheet No. 15
Eighth Revised Sheet No. 17

Panhandle states that the purpose of this filing is to revise the Gas Research Institute (GRI) surcharges to be effective January 1, 2002 in compliance with the January 21, 1998, Stipulation and Agreement Concerning GRI Funding (Settlement Agreement) approved by the Commission in Gas Research Institute, 83 FERC ¶ 61,093 (1998), order on reh'g, 83 FERC ¶ 61,331 (1998) and the Commission's Letter Order dated September 19, 2001 in Docket No. RP01–434–000.

Specifically, Panhandle's filing complies with the surcharges set forth in Appendix A to the Settlement Agreement, as adjusted upward by ten percent consistent with the stated intention of Settlement Agreement Article II, Section 1.0 and the Commission's September 19, 2001 Letter Order, as follows: (1) A reservation surcharge of 6.6¢ per dekatherm per month will be charged on non-discounted firm high load factor customers, i.e., greater than 50% load factor; (2) a reservation surcharge of 4.07¢ per dekatherm per month will be charged on non-discounted firm low load factor customers, i.e., less than or equal to 50% load factor; (3) a GRI volumetric surcharge of 0.55¢ per dekatherm surcharge will be charged on all non-discounted firm commodity and interruptible transportation services; and (4) a 0.88¢ per dekatherm surcharge will be charged on all non-discounted firm commodity units delivered to customers qualifying for service under Panhandle's Rate Schedule SCT.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 01–30686 Filed 12–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–96–000]

Questar Pipeline Company; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, Questar Pipeline Company tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Twenty-Third Revised Sheet No. 5 and Original Volume No. 3, Thirty-First Revised Sheet No. 8, to be effective January 1, 2002.

Questar states that the tendered tariff sheets show a revised Fuel Gas Reimbursement Percentage (FGRP) of 1.6%, replacing the currently effective 0.8% for tracking fuel-use and lost and unaccounted-for gas. The difference of 0.8% is to reflect the increase in fuel, lost and unaccounted-for gas from the current FGRP rate of 1.3% to 1.5% for the prospective 12 months ending December 31, 2001, as well as an increase from −0.5% to 0.1% amortization for fuel under recovered in the 12 month period ended September 30, 2001.

Questar states that the revised FGRP is filed pursuant to Section 12.14 of the General Terms and Conditions of Part 1 of Questar's tariff, First Revised Volume No. 1.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 01–30681 Filed 12–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–077]

Reliant Energy Gas Transmission Company; Notice of Negotiated Rate

December 6, 2001.

Take notice that on November 30, 2001, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective December 1, 2001:

First Revised Sheet No. 634
First Revised Sheet No. 635

REGT states that the purpose of this filing is to reflect the revision of an existing negotiated rate contract and the expiration of an existing negotiated rate contract.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30674 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP96–312–064]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Filing

December 6, 2001.

Take notice that on November 30, 2001, Tennessee Gas Pipeline Company (Tennessee), tendered for filing and approval a Gas Transportation Agreement between Tennessee and Aquila Energy Marketing Corporation pursuant to Tennessee's Rate Schedule FT–A (FT–A Agreement) and a Firm Transportation Negotiated Rate Letter Agreement (Negotiated Rate Agreement). Tennessee requests that the Commission accept and approve the FT–A Agreement and Negotiated Rate Agreement to be effective January 1, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30675 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–114–000]

Tennessee Gas Pipeline Company; Notice Cashout Report

December 6, 2001.

Take notice that on November 30, 2001, Tennessee Gas Pipeline Company (Tennessee) tendered for filing its cashout report for the September 2000 through August 2001 period.

Tennessee states that the cashout report is the third filed by Tennessee under the new cashout reconciliation methodology established pursuant to the March 25, 1999 Stipulation and Agreement on the Tennessee system. Tennessee further states that the cashout repot reflects a cashout gain during the period of $11,579,694. Pursuant to the March 25, 1999 cashout settlement, there is a cumulative loss carry forward from prior cashout operations of $978,801 resulting in a net gain of $10,600,893.

Tennessee states that copies of the filing has been mailed to all affected customers and state regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in on or before December 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30697 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–83–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, the revised sheets attached as Appendix A to the filing, with an effective date of January 1, 2002.

Tennessee states that the revised tariff sheets are being filed in compliance with the March 10, 1998 Stipulation and Agreement filed in Docket No. RP97–149, *et al.*, and approved by the Commission on April 29, 1998 (the "GRI Settlement"), *Gas Research Institute*, 83 FERC ¶ 61,093 (1998), *order on reh'g*, 83 FERC ¶ 61,331 (1998), and the Commission's Letter Order approving the Gas Research Institute's Year 2002 Research, Development and Demonstration Program and 2001–2005 Five-Year Plan issued on September 19, 2001 in Docket No. RP01–434. Tennessee further states that the revised tariff sheets revise the Gas Research Institute surcharges for 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30718 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–85–000]

Tennessee Gas Pipeline Company; Notice of Filing and Request for Waiver

December 6, 2001.

Take notice that on November 30, 2001, Tennessee Gas Pipeline Company (Tennessee), tendered for filing a revised accounting of Tennessee's take-or-pay transition costs and a request for waiver of the requirement that Tennessee restate its take-or-pay transition surcharges.

Tennessee states that this filing of the revised accounting is in compliance with Article XXV of the General Terms and Conditions of its FERC Gas Tariff, Fifth Revised Volume No. 1. Tennessee further states that the request for waiver is based on the fact that Tennessee has not incurred any significant recoverable take-or-pay costs since its last filing on June 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before December 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30719 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–112–000]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 6, 2001.

Take notice that on November 30, 2001, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the revised tariff sheets listed in Appendix A attached to the filing, with an effective date of January 1, 2002.

Texas Gas states the revised tariff sheets are being filed pursuant to Section 22 of the General Terms and Conditions of Texas Gas's FERC Gas Tariff, First Revised Volume No. 1, to reflect the 2002 General RD&D Funding Units authorized in the "Letter Order," issued by the Commission on September 19, 2001, in Docket No. RP01–434–000.

Texas Gas states that copies of this filing have been served upon Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30695 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–426–006]

Texas Gas Transmission Corporation; Notice of Negotiated Rate Filing

December 6, 2001.

Take notice that on December 3, 2001, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective November 1, 2001:

Eighth Revised Sheet No. 1
Original Sheet No. 30
Sheet No. 31

Texas Gas states that the purpose of this filing is to reflect the negotiated rate contract with Conoco, Inc.

Copies of the revised tariff sheets are being mailed to all parties on the service list, Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30712 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–039]

TransColorado Gas Transmission Company; Notice of Compliance Filing

December 6, 2001.

Take notice that on November 30, 2001, pursuant to 18 CFR 154.7 and 154.203, and in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000, TransColorado Gas Transmission Company (TransColorado) tendered for filing and acceptance Thirty-Ninth Revised Sheet No. 21, Twenty-Seventh Revised Sheet No. 22 and Twelfth Revised Sheet No. 22A to Original Volume No. 1 of its FERC Gas Tariff to be effective December 1, 2001.

The tendered tariff sheets propose to revise TransColorado's Tariff to reflect negotiated-rate contract revisions. TransColorado requested waiver of 18 CFR 154.207 so that the tendered tariff sheets may become effective December 1, 2001.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30678 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–89–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 6, 2001.

Take notice that on November 30, 2001, Transcontinental Gas pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets, which tariff sheets are enumerated in Appendix A attached to the filing. Such tariff sheets are proposed to be effective January 1, 2002.

Transco states that the purpose of the instant filing is to reflect the 2002 GRI surcharges approved by the Commission's Order issued on September 19, 2001, in Docket No. RP01–434–000. Also, in accordance with GRI's 1993 settlement, Transco has calculated the firm transportation service load factors on the actual volumes transported during the 12 month period October 2000 through September 2001.

Transco states that copies of the filing are being mailed to affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30721 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–288–018]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 6, 2001.

Take notice that on November 30, 2001, Transwestern Pipeline Company (Transwestern) tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, proposed to become effective on December 1, 2001:

13 Revised Sheet No. 5B.05
Fifth Revised Sheet No. 5B.06
Third Revised Sheet No. 5B.08

Transwestern states that the above sheets are being filed to implement a specific Dynegy Marketing and Trading negotiated rate transaction in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Transwestern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically

via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–30679 Filed 12–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–95–000]

Viking Gas Transmission Company; Notice of Tariff Filing

December 6, 2001.

Take notice that on November 30, 2001, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 the following tariff sheets to become effective January 1, 2002:

Twenty-Seventh Revised Sheet No. 6
Twentieth Revised Sheet No. 6A
Eleventh Revised Sheet No. 6B

Viking states that the purpose of this filing is to change Viking's Gas Research Institute Adjustment (GRI Adjustment) as permitted by Sections 154.204 and 154.401 of the Commission's Rules and Regulations, 18 CFR 154.204, 154.401and in accordance with the Commission's September 19, 2001 "Letter Order Regarding the Application of Gas Research Institute for Advance Approval of Its 2002–2006 RD&D Plan and 2002 RD&D Program and Jurisdictional Rate Provisions To Fund the 2002 Program," issued in Docket No. RP01–434–000 ("September 19, 2001 Letter Order"). Viking's authority to make this filing is set forth in Article XVIII of the General Terms and Conditions of Viking's FERC Gas Tariff, First Revised Volume No. 1.

Accordingly, Viking's GRI Adjustment has been changed to reflect the Commission's September 19, 2001 Letter Order as follows: a demand/reservation surcharge of 6.6 cents per Dth per month for high load factor customers; a demand/reservation surcharge of 4.07 cents per Dth per month for low load factor customers; and a volumetric commodity/usage surcharge of .55 cents per Dth.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–30680 Filed 12–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–111–000]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

December 6, 2001.

Take notice that on November 30, 2001, Williams Gas Pipelines Central, Inc. (Williams) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet to become effective January 1, 2002:

Fourth Revised Sheet No. 6B

Williams states that this filing is being made pursuant to Article 13 of the General Terms and Conditions of its FERC Gas Tariff to reflect revised fuel and loss reimbursement percentages. The percentages are based on actual fuel and loss for the twelve months ended September 30, 2001.

Williams states that copies of this filing have been served on all Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–30694 Filed 12–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–28–007]

Wyoming Interstate Company, Ltd; Notice of Proposed Changes in FERC Gas Tariff

December 6, 2001.

Take notice that on November 30, 2001, Wyoming Interstate Company, Ltd (WIC) tendered for filing and acceptance by the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff to become effective December 1, 2001:

Second Revised Volume No. 2
First Revised Sheet Nos. 102–107
Second Revised Sheet Nos. 110 and 117

The tendered tariff sheets are being filed to implement negotiated rate transactions related to the Medicine Bow facilities.

WIC states that copy of this filing are being mailed to its customers, state commission and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections

385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30677 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–16–001, et al.]

Minnesota Power, et al.; Electric Rate and Corporate Regulation Filings

December 6, 2001.

Take notice that the following filings have been made with the Commission:

1. Minnesota Power, Rainy River Energy Corporation—Taconite Harbor, LTV Steel Mining Company

[Docket No. EC02–16–001]

Take notice that on November 29, 2001, Minnesota Power (MP) and Rainy River Energy Corporation—Taconite Harbor (RRTH) filed with the Federal Energy Regulatory Commission (Commission) an amendment (Amendment) to the November 1, 2001, joint application (Application) pursuant to section 203 of the Federal Power Act of MP, RRTH and LTV Steel Mining Company (LTVSMC), seeking authorization for LTV Steel Mining Company (LTVSMC) to sell and MP and RRTH to acquire certain jurisdictional facilities including a dual-circuit transmission line, substation and step-up transformers. The transaction also involves the acquisition by RRTH of three 75 MW generating facilities from LTVSMC.

The Amendment requests authorization for RRTH to transfer to MP the jurisdictional step-up transformers that RRTH has requested authorization to acquire from LTVSMC and any jurisdictional contracts RRTH may enter into for the sale of the output of the generating facilities RRTH acquired from LTVSMC.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Duke Energy South Bay

[Docket No. ER02–239–001]

Take notice that on November 29, 2001, Duke Energy South Bay LLC (Duke South Bay) tendered for filing revisions to its Reliability Must-Run Service Agreement (RMR Agreement) with the California Independent System Operator Corporation (CAISO), which, respectively, reflect changes to Schedule B, Table B–2 (capital surcharge) for 2001 and 2002. Duke South Bay submitted these revisions pursuant to section 7.4 of the RMR Agreement to recover costs from the CAISO related to Duke South Bay's installation of CAISO-approved Capital Items (Selective Catalytic Reduction (SCR) equipment) on Units #2 and #3 of the Duke South Bay facility. Duke South Bay requests an effective date of November 29, 2001, for the 2001 rate revisions, and an effective date of January 1, 2002, for the 2002 rate revisions.

Duke South Bay also requests to substitute certain revisions in this filing for corresponding revisions it had submitted in ER02–239–000.

Copies of Duke South Bay's filing have been served upon the CAISO, the California Electricity Oversight Board, the California Public Utilities Commission, and all Parties on the Commission's service list in Docket No. ER02–239–000.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. PJM Interconnection, L.L.C.

[Docket No. ER02–427–000]

Take notice that on November 30, 2001, PJM Interconnection, L.L.C. submitted notice of termination of the network integration transmission services agreement for American Cooperative Services, Inc. (American), which terminated by its own terms on November 30, 2001.

Copies of this filing were served upon all members of PJM and the state commissions within the PJM control area.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Southern Company Services, Inc.

[Docket No. ER02–428–000]

Take notice that on November 30, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies), filed with the Federal Energy Regulatory Commission (Commission) two (2) service agreements with Oglethorpe Power Corporation for conditional firm point-to-point transmission service under the Open Access Transmission Tariff of Southern Companies (FERC Electric Tariff, Fourth Revised Volume No. 5). The provision of firm service under those agreements is conditioned upon the availability of sufficient capacity during two scheduled outages on certain transmission lines.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. UGI Development Company

[Docket No. ER02–429–000]

Take notice that on November 30, 2001, UGI Development Company (UGID) tendered for filing revisions to Service Agreement No. 2 for wholesale power sales transactions under UGID's Wholesale Power Sales Tariff, FERC Electric Tariff First Revised Volume No. 1, by and between UGID and UGI Utilities, Inc. UGID requests an effective date of December 1, 2001 for the proposed changes to the Service Agreement.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Southern Company Services, Inc.

[Docket No. ER02–430–000]

Take notice that on November 30, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company (APC), filed with the Federal Energy Regulatory Commission (Commission) the Interconnection Agreement (Agreement) between Blount County Energy, LLC and APC. The Agreement allows Blount County to interconnect its facility in Blount County, Alabama to and operate in parallel with APC's electric system. The Agreement was executed on October 31, 2001. An effective date of October 31, 2001 has been requested.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Commonwealth Edison Company

[Docket No. ER02–431–000]

Take notice that on November 30, 2001 Commonwealth Edison Company (ComEd) submitted for filing an amended Form of Service Agreement for Firm Point-To-Point Transmission Service (Amended Service Agreement) between ComEd and Alliant Energy (Alliant Energy) under the terms of ComEd's Open Access Transmission Tariff (OATT). Copies of this filing were served on Alliant.

ComEd requests an effective date of November 1, 2001, and accordingly seeks waiver of the Commission's notice requirements.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Progress Energy, Inc. on Behalf of Florida Power Corporation

[Docket No. ER02–432–000]

Take notice that on November 30, 2001, Florida Power Corporation (FPC) filed a Service Agreement with Carolina Power & Light Company under FPC's Short-Form Market-Based Wholesale Power Sales Tariff (SM–1), FERC Electric Tariff No. 10. A copy of this filing was served upon the Florida Public Service Commission and the North Carolina Utilities Commission.

FPC is requesting an effective date of November 8, 2001 for this Agreement.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Portland General Electric Company

[Docket No. ER02–433–000]

Take notice that on November 30, 2001, Portland General Electric Company (PGE) filed with the Federal Energy Regulatory Commission (Commission) revised tariff sheets to its Open Access Transmission Tariff. The revised sheets are intended to: (1) Reduce PGE's rates for transmission service to reflect the refunctionalization of PGE's facilities; and (2) update PGE's cost-based rates for ancillary services.

PGE requests that the Commission make the transmission rate reductions effective as of November 1, 2001 and the ancillary services rates effective as of February 1, 2002.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30672 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2474–004 New York]

Erie Boulevard Hydropower L.P.; Notice of Availability of Final Environmental Assessment

December 6, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Energy Projects, Division of Environmental and Engineering Review, reviewed the application for relicensing of the Oswego River Hydroelectric Project, located on the Oswego River in Oswego County, New York.

On November 24, 1999, the Commission staff issued a draft Environmental Assessment (EA) for the project and requested that any comments be filed within 45 days (later extended to January 31, 2000). Comments were filed by five entities and are addressed in the final EA for the project.

In the final EA, the Commission's staff analyze the potential environmental impacts of the existing project and conclude that approval of the project, with appropriate environmental protection measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the final EA are available for review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, NE, Washington, DC 20426, The final EA may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30699 Filed 12–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–439–000]

Columbia Gas Transmission Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Delaware Valley Energy Expansion Project and Request for Comments on Environmental Issues, and Notice of Site Visit

December 6, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Delaware Valley Energy Expansion Project involving the abandonment, construction and operation of facilities by Columbia Gas Transmission Corporation (Columbia) in Chester and Delaware Counties, Pennsylvania and Gloucester County New Jersey.[1] The facilities being abandoned consist of 9.14 miles of 10- and 14-inch-diameter pipeline. The replacement and new facilities consist of 23.86 miles of 20- and 24-inch-diameter pipeline, addition of compression at two existing compressor stations, valves, and a meter station. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline

[1] Columbia's application was filed with the Commission on August 31, 2001, under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" was attached to the project notice Columbia provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (*www.ferc.fed.us*).

Summary of the Proposed Project

Columbia is proposing the Delaware Valley Energy Expansion Project to expand its existing system in Pennsylvania and New Jersey to provide firm transportation to the new Mantua Creek Power Plant being constructed in Gloucester County, New Jersey. This project would allow Columbia to deliver 165,000 Dekatherms per day of gas to the power plant.

In Pennsylvania, Columbia proposes to:

—abandon and replace the existing 10-inch-diameter Line 1856 in Chester County with a 20-inch-diameter pipeline beginning at Columbia's Downingtown Compressor Station, and extending about 8.84 miles to its terminus at Columbia's Eagle Compressor Station;

—abandon and replace the existing 14-inch-diameter Line 1556 in Chester County with a 24-inch-diameter pipeline beginning at Columbia's Eagle Compressor Station, and extending about 0.30 mile to the west;

—construct a 20-inch-diameter pipeline loop [2] along Columbia's existing Line 10345 referred to as Line 10360 (PA) for 5.10 miles beginning near Heyburn Road in Delaware County and extending to its terminus at Laurel Pipe Line Company's Buckeye Tank Farm;

—install an additional 6,000-horsepower single electric driven compressor unit in an extension to a new building to be constructed (under Docket No. CP01–260–000) on the site of its existing Eagle Compressor Station in Chester County; and

—install an additional 6,000-horsepower single electric driven compressor unit in an extension to an existing building on the site of its existing Downingtown Compressor Station in Chester County.

In New Jersey, Columbia would:

—construct Line 10360 (NJ) in Gloucester County consisting of a 20-inch-diameter pipeline that loops Columbia's existing Line 10345, beginning at Columbia's existing launcher/receiver lot along Route 130 in Logan Township and extending about 7.52 miles to its terminus at Columbia's Swedesboro Measuring and Regulating (M&R) Station;

—construct Line 10359 consisting of 20-inch-diameter pipeline in Gloucester County beginning at Columbia's West Deptford Meter Station which extends about 2.10 miles to its terminus at the Mantua Creek Power Plant site; and

—construct an M & R station at the terminus of Line 10359 within the power plant site.

Land Requirements for Construction

Construction of Columbia's proposed facilities would require about 281 acres of land, including construction right-of-way for the new pipeline, loops, valves, compressors, and the meter station; and extra work areas needed for pipe storage yards, staging areas, and warehouse sites. The loops would be constructed adjacent to Columbia's existing rights-of-way. For the construction of the pipelines, Columbia proposes to use a 20- to 95-foot-wide construction right-of-way. The construction right-of-way in most areas would overlap Columbia's existing permanent right-of-way or other permanent highway, railroad, natural gas transportation and electric right-of-ways from between 15 feet to 75 feet. Columbia indicates that about 161 acres would be maintained as new permanent right-of-way.

The compressors would be installed within Columbia's existing compressor stations, and would not require the clearing of additional land.

Construction access to Columbia's project generally would be via the construction right-of-way and existing road network. Columbia has identified 23 existing access roads necessary for the construction of its project and would construct 2 additional access roads requiring a total of 0.29 acre of disturbance.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [3] to discover and address concerns the public may have about proposals. We call this "scoping." The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

—Geology and soils
—Water resources and wetlands
—Vegetation and wildlife
—Threatened and endangered species
—Cultural resources
—Land use
—Reliability and safety
—Air quality and noise

We will evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Columbia. This preliminary list of issues may be changed based on your comments and our analysis.

[2] A loop is a segment of pipeline that is installed adjacent to an existing pipeline and connected to it on both ends. The loop allows more gas to be moved through the pipeline system.

[3] "We", "us", and "our", refer to the environmental staff of the Office of Energy Projects (OEP).

Water Resources and Wetlands
—Crossing 16 perennial waterbodies.
—Crossing 44 wetlands, including 3.3 acres of forested wetlands.
Vegetation
—About 21.5 acres of forest to be cleared.
Federally-Listed Threatened and Endangered Species
—Potential impact on the bald eagle.
Land Use
—Impact on 107 residences located within 50 feet of the construction work area.

Public Participation and Site Visit

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations or routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

• Send an original and two copies of your letter to:Linwood A. Watson, Jr., Acting Secretary,Federal Energy Regulatory Commission,888 First St., N.E., Room 1A,Washington, DC 20426;

• Label one copy of the comments for the attention of Gas 1, PJ–11.1;

• Reference Docket No. CP01–439–000; and

• Mail your comments so that they will be received in Washington, DC on or before January 7, 2002.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the "e-Filing" link and link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on "Login to File" and then "New User Account".

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 2).[4] If you do not return the Information Request, you will be removed from the environmental mailing list.

On December 18 and 19, 2001, the Office of Energy Projects staff will conduct a precertification site visit of the project route and possible reroutes. All parties may attend. Those planning to attend must provide their own transportation. On December 18, 2001, we will be meeting at the Columbia Gas Office at 525 Highlands Blvd., Suite 100, Coatesville, PA at 8:00 am. On December 19, 2001, we will be meeting at the Logan Generating Station entrance on U.S. Route 130 about 1.5 miles south of U.S. Route 322 at 8:00 am.

For further information on attending the site visit, please contact the Commission's Office of External Affairs at (202) 208–0004.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an "intervenor." Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 1). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket#" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 01–30700 Filed 12–11–01; 8:45 am]
BILLING CODE 6717–01–P

[4] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the "RIMS" link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00749; FRL–6810–8]

Section 29 Annual Report on Conditional Registrations; Renewal of Pesticide Information Collection Activities and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) this notice announces that EPA is seeking public comment on the following Information Collection Request (ICR): "Section 29 Annual Report on Conditional Registrations" (EPA ICR No. 0601.07, OMB No. 2070–0026). This is a request to renew an existing ICR that is currently approved and due to expire August 31, 2002. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket control number OPP–00749, must be received on or before February 11, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00749 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Nancy Vogel, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6475; fax number: (703) 305–5884; e-mail address: vogel.nancy@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you hold or have applied for conditional pesticide registration and are required to submit annual pesticide volume data to EPA. Potentially affected categories and entities may include, but are not limited to:

Category	NAICS codes	SIC codes	Examples of potentially affected entities
Manufacturers of pesticides and other agricultural chemicals	325320	286—Industrial organic chemicals 287—Agricultural chemicals	Applicants for or holders of conditional pesticide registration

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The North American Industrial Classification System (NAICS) codes and the Standard Industrial Classification (SIC) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

A. Electronically

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

B. Fax-on-Demand

Using a faxphone call (202) 401–0527 and select item 6091 for a copy of the ICR.

C. In Person

The Agency has established an official record for this action under docket control number OPP–00749. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit the Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00749 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments and/or data electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in Units III.A.1. and III.A.2. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00749. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

C. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: Section 29 Annual Report on Conditional Registrations.

ICR numbers: EPA ICR No. 0601.07, OMB No. 2070–0026.

ICR status: This ICR is a renewal of an existing ICR that is currently approved by OMB and is due to expire August 31, 2002.

Abstract: Section 29 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires the EPA Administrator to submit an annual report to Congress before February 16 of each year. This report includes the total number of applications for conditional registration filed under sections 3(c)(7)(B) and 3(c)(7)(C) of FIFRA during the previous fiscal year. Of those applications approved, the report must also identify the Administrator's findings in each case, the conditions imposed and any modification of such conditions in each case, and the quantities produced of such pesticides. All of this information, except production volume data, is obtained from Agency files. EPA must rely on outside sources for production volume data. Therefore, EPA requires registrants with conditionally registered pesticides to provide production volume data from the preceding fiscal year. There are no forms or third-party disclosure requirements associated with this information collection activity.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, "burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this ICR is estimated to be 84 hours. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Applicants for conditional pesticide registration whose applications are approved during a given fiscal year.

Estimated total number of potential respondents: 30.

Frequency of response: Annual.

Estimated total/average number of responses for each respondent: 1–2.

Estimated total annual burden hours: 84.

Estimated total annual burden costs: $6,612.00.

VI. Are There Changes in the Estimates from the Last Approval?

The registrant burden estimate for this information collection has remained at 84 hours per year, with the number of respondents reporting and the number of conditional registrations each remaining the same. The individual burden per chemical for reporting has remained constant at 1.4 hours, while the burden per registrant has remained constant at 2.8 hours, with an average of two chemicals per registrant.

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: November 27, 2001.

Stephen L. Johnson,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 01–30272 Filed 12–11–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00751; FRL–6811–9]

Foreign Purchaser Acknowledgment Statement of Unregistered Pesticides; Renewal of Pesticide Information Collection Activities and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) this notice announces that EPA is seeking public comment on the following Information Collection Request (ICR): "Foreign Purchaser Acknowledgment Statement of Unregistered Pesticides" (OMB NO. 2070–0027; EPA NO. 0161.09). This is a request to renew an existing ICR that is currently approved and due to expire August 31, 2002 . The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket control number OPP–00751, must be received on or before February 11, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00751 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Nancy Vogel, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6475; fax number: (703) 305–5884; e-mail address: vogel.nancy@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you export pesticides that are not registered in the United States. Potentially affected categories and entities may include, but are not limited to:

Category	NAICS codes	SIC codes	Examples of potentially affected entities
Manufacturers of pesticides and other agricultural chemicals	325320	286—Industrial organic chemicals 287—Agricultural chemicals	Exporters of unregistered pesticide products

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The North American Industrial Classification System (NAICS) codes and the Standard Industrial Classification (SIC) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

A. Electronically

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

B. Fax-on-Demand

Using a faxphone call (202) 401–0527 and select item 6092 for a copy of the ICR.

C. In Person

The Agency has established an official record for this action under docket control number OPP–00751. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit the Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00751 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments and/or data electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in Units III.A.1. and III.A.2. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00751. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

C. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: Foreign Purchaser Acknowledgment Statement of Unregistered Pesticides.

ICR numbers: EPA ICR No. 0161.09, OMB No. 2070–0027.

ICR status: This ICR is a renewal of an existing ICR that is currently approved by OMB and is due to expire August 31, 2002.

Abstract: This information collection program is designed to enable the EPA to provide notice to foreign purchasers of unregistered pesticides exported from the United States that the pesticide product cannot be sold in the United States. Section 17(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires an exporter of any pesticide not registered under FIFRA section 3 or sold under FIFRA section 6(a)(1) to obtain a signed statement from the foreign purchaser acknowledging that the purchaser is aware that the pesticide is not registered for use in the United States and cannot be sold in the United States. A copy of this statement must be transmitted to an appropriate official of the government in the importing country. The purpose of the purchaser acknowledgment statement requirement is to notify the government of the importing country that a pesticide judged hazardous to human health or the environment, or for which no such hazard assessment has been made, will be imported into that country. This information is submitted in the form of annual or per-shipment statements to the EPA, which maintains original records and transmits copies thereof to appropriate government officials of the countries which are importing the pesticides.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, "burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this ICR is estimated to be 24,753 hours. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: All exporters of unregistered pesticides.

Estimated total number of potential respondents: 2,500.

Frequency of response: Annual or per-shipment.

Estimated total/average number of responses for each respondent: 1–2.

Estimated total annual burden hours: 24,753.

Estimated total annual burden costs: $1,948,975.

VI. Are There Changes in the Estimates from the Last Approval?

The total annual respondent burden for this ICR is estimated to be 24,753 hours, an increase of 3,302 hours over the present ICR. This slight increase in respondent burden is due to three factors: (1) EPA has revised the burden estimate for the purchaser acknowledgment requirement to more accurately reflect the numbers of foreign purchaser acknowledgment statements (FPASs) submitted to EPA under the revised policy; (2) the burden estimate includes requirements imposed by the export labeling requirement, due to the new requirement in the PRA to estimate the cost of third party notifications, and (3) costs have increased due to more realistic labor rates supplied by the Bureau of Labor Statistics, which more accurately reflect the costs borne by the exporters of pesticide products.

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: December 3, 2001.

Stephen L. Johnson,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 01–30596 Filed 12–11–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00753; FRL–6812–8]

FIFRA Section 24(c) Special Local Need Registrations; Renewal of Pesticide Information Collection Activities and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) this notice announces that EPA is seeking public comment on the following Information Collection Request (ICR): "FIFRA Section 24(c) Special Local Need Registrations" (EPA ICR No. 0595.08, OMB No. 2070–0055). This is a request to renew an existing ICR that is currently approved and due to expire August 31, 2002. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket control number OPP–00753, must be received on or before February 11, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00753 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Nancy Vogel, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6475; fax number: (703) 305–5884; e-mail address: vogel.nancy@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are a state government that is involved in issuing pesticide registrations. Potentially affected categories and entities may include, but are not limited to:

Category	NAICS codes	SIC codes	Examples of potentially affected entities
State and territorial governments	92411—Administration of air and water resource and solid waste management programs	9241—Administration of environmental quality programs	State and territorial governments involved in issuing pesticide registrations

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The North American Industrial Classification System (NAICS) codes and the Standard Industrial Classification (SIC) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

A. Electronically

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

B. Fax-on-Demand

Using a faxphone call (202) 401–0527 and select item 6093 for a copy of the ICR.

C. In Person

The Agency has established an official record for this action under docket control number OPP–00753. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit the Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00753 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments and/or data electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in Units III.A.1. and III.A.2. Do not submit any

information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00753. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

C. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: FIFRA Section 24(c) Special Local Need Registrations.

ICR numbers: EPA ICR No. 0595.08, OMB No. 2070–0055.

ICR status: This ICR is a renewal of an existing ICR that is currently approved by OMB and is due to expire August 31, 2002.

Abstract: This data collection program is designed to provide the EPA with the necessary data to review approval of a state issued pesticide registration. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), section 24(c) authorizes the States to register additional uses of federally registered pesticides for distribution and use within the State to meet a special local need (SLN). A state-issued registration under FIFRA section 24(c) is deemed a federal registration for the purposes of the pesticide's use within the State's boundaries. A State must notify EPA, in writing, of any action it takes, i.e., issues, amends, or revokes a state registration. The Agency has 90 days to disapprove the registration. In such cases, the State is responsible for notifying the affected registrant.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, "burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this ICR is estimated to be 37,083 hours. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: State and territorial governments (the 50 states plus Washington, D.C., Puerto Rico, the U.S. Virgin Islands, Guam, and the islands of the Pacific Territory and American Samoa).

Estimated total number of potential respondents: 60.

Frequency of response: Annual.

Estimated total/average number of responses for each respondent: 1–3.

Estimated total annual burden hours: 37,083.

Estimated total annual burden costs: $3,557,338.

VI. Are There Changes in the Estimates from the Last Approval?

The total estimated annual respondent burden for this ICR is 37,083 hours, an increase of 12,479 hours over the previous ICR. The average number of applications under this program has increased from 350 per year under the previous ICR to 526 per year for the past 3 years. In addition, costs have increased from $2,360,287 to $3,557,338 due to more realistic labor rates supplied by the Bureau of Labor Statistics.

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval

process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: December 3, 2001.

Stephen L. Johnson,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

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ENVIRONMENTAL PROTECTION AGENCY

[PF–1053; FRL–6809–8]

Notice of Filing of a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1053, must be received on or before January 11, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1053 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Carol E. Frazer PhD., Biopesticides and Pollution Prevention Division, (7511), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8810; e-mail address: frazer.carol@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–1053. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1053 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1053. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential

will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 27, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioners. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

EPA has received a pesticide petition (PP) 1F6314 from 3M, St. Paul, Minnesota 55144–1000, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the biochemical pesticides the C_8, C_{10} and C_{12} saturated fatty acid monoesters of glycerol and propylene glycol in or on all raw agricultural commodities and food.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, 3M has submitted the following summary of information, data, and arguments in support of their pesticide petition. This summary was prepared by 3M and EPA has not fully evaluated the merits of the pesticide petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

3M

PP 1F6314

A. Product Name and Proposed Use Practices

3M's VWX–42 Technology System is comprised of six very closely related active ingredients that are used singly or in combination against Gram positive and Gram negative bacteria, fungi, yeasts and lipid coated viruses to control spoilage of food and feed crops after harvest. The choice of which active ingredient or mix of ingredients to use is determined by the identity of the pest organisms to be controlled and the characteristics desired for the end-use formulation. The active ingredients are generally applied at levels between 0.1% and 1% in the diluted formulation at a rate sufficient to wet thoroughly the commodity being treated.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* The Chemical Abstract Services (CAS) index names for the six active ingredients are as follows:

- Octanoic acid, monoester with 1,2,3-propanetriol, CAS Registry No. 26402–26–6;
- Decanoic acid, monoester with 1,2,3-propanetriol, CAS Registry No. 26402–22–2;
- Dodecanoic acid, monoester with 1,2,3-propanetriol, CAS Registry No. 27215–38–9;
- Octanoic acid, monoester with 1,2-propanediol, CAS Registry No. 68332–79–6;
- Decanoic acid, monoester with 1,2-propanediol, CAS Registry No. 68795–69–7; and
- Dodecanoic acid, monoester with 1,2-propanediol, CAS Registry No. 27194–74–7.

The residues expected in treated raw agricultural commodities and food are the parent compounds and/or their hydrolysis products (metabolites). The hydrolysis products are a mixture of the free fatty acid and glycerol or propylene glycol. The glycerol fatty acid monoesters are natural components in dietary fats and natural breakdown products from the metabolism of fat (triacylglycerol) in all living systems. The propylene glycol monoesters are metabolized by the same pathways and with the same ease as glycerol. Both types of active ingredient are metabolized by living matter as food. The first step in their metabolism is hydrolysis to free fatty acid and glycerol or propylene glycol.

2. *Magnitude of residue at the time of harvest and method used to determine the residue.* An unreasonable worst cast physical model was constructed to generate the residue data. A typical end-use formulation was prepared containing one of the active ingredients. A typical diluted treatment solution (0.86% active ingredient by weight) was prepared by diluting the formulation with water. Eighteen different raw agricultural commodities were obtained from local supermarkets in St. Paul, Minnesota and treated with the diluted formulation by soaking at room temperature for 15 minutes. Ten samples of each commodity were weighed to the nearest milligram before treatment and allowed to drain on a wire grate for 1 minute before reweighing. The difference between pre- and post-soak weights was used as the measure of residue for each commodity sample.

The commodities obtained from supermarket shelves, particularly beans, had inevitably lost moisture between the time of harvest and the time when they were treated to generate residue data. The treatment solution, being

aqueous, under the test conditions replaced moisture lost since harvest. In some cases, the absorption of the diluted aqueous pesticide formulation by the commodity was substantially greater than what would be expected if it had been treated immediately after harvest and treated by wetting its surface rather than soaking. Although certain residue levels determined by our worst-case physical model were clearly excessive, all of the experimentally determined values were included in the dietary analysis in keeping with the intended worst-case nature of the assessment. The experimentally determined residue levels used in the aggregate dietary risk assessment ranged from 10 to 400 parts per million (ppm) (milligrams/kilograms (mg/kg) commodity) active ingredient residue.

3. *A statement of why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* An exemption from tolerance is sought because use of the VWX-42 Technology System active ingredients will create only minuscule exposures (< 1 mg/kg-bodyweight (bwt)/day) when compared to the natural levels of such compounds in living tissue and in foods (~50–100 grams per/day (g/day)), and compared to the levels permitted in food as direct additives (g/day). Hence, there will be no need to monitor for pesticide residues and there is no need for an analytical method for detecting and measuring such residues in the commodities treated.

C. Mammalian Toxicological Profile

A substantial body of primary toxicology data were generated to support EPA registration as biochemical pesticides. In all studies, EPA's limit doses were used and the test compounds were found to be safe, but all tests were not conducted on all 6 active ingredients. Propylene glycol monocaprylate (the C_8 ester) was selected as the test material to represent all 6 active ingredients in subchronic testing (90–day rat oral toxicity study). Because the metabolism and toxicity of the VWX-42 Technology System active ingredients have been well documented in the scientific literature and all six active ingredients are known to be identical with respect to toxicity and metabolism, a new 90–day study was conducted on only 1 of the 6 active ingredients. A full acute toxicity test battery (6 studies) was generated on the C_8 propylene glycol monoester and on the C_{12} glycerol ester, thereby bounding the chemical structures of all 6 ingredients.

The results of the individual studies are summarized below.

1. *Acute oral toxicity (rat) for glycerol monolaurate: Non-toxic.* A group of 6 fasted rats (3 male and 3 female) received a single oral gavage dose of glycerol monolaurate, formulated in corn oil and administered at a dose level of 5,000 mg/kg bwt, in a limit test. No abnormalities were revealed in any of the animals at the macroscopic examination at study termination on Day 15.

The acute lethal oral dose to rats was demonstrated to be greater than 5,000 mg/kg.

2. *Acute oral toxicity (rat) for propylene glycol monocaprylate: Non-toxic.* A group of 6 fasted rats (3 males and 3 females) received a single oral gavage dose of the test substance administered at a dosage of 5,000 mg/kg bwt. Clinical signs of reaction to treatment were confined to piloerection (all rats) and increased salivation (one female only), both evident within a few minutes of dosing with only piloerection persistent during the remainder of Day 1. There were no signs of reaction to treatment and piloerection had resolved by Day 2 in female rats and by Day 4 in male rats. No abnormalities were revealed in any of the animals at the macroscopic examination at study termination on Day 15.

The acute lethal oral dose to rats of propylene glycol monocaprylate was demonstrated in this study to be greater than 5,000 mg/kg bwt.

3. *Acute dermal toxicity (rat) for glycerol monolaurate: Non-toxic.* A group of 10 rats (5 males and 5 females) received a single topical application of glycerol monolaurate formulated in corn oil and administered at a dosage of 5,000 mg/kg bwt. There were no clinical signs of reaction to treatment observed in any animal throughout the study. All animals were killed as scheduled at study termination (Day 15) and subjected to a macroscopic examination. No macroscopic abnormalities were observed for animals killed at study termination on Day 15.

The acute lethal dermal dose to rats of glycerol monolaurate was demonstrated to be greater than 5,000 mg/kg bwt.

4. *Acute dermal toxicity (rat) for propylene glycol monocaprylate: Non-toxic.* A study was performed to assess the acute dermal toxicity of propylene glycol monocaprylate to the rat. A group of 10 rats (5 males and 5 females) received a single topical application of the test substance at a dosage of 5,000 mg/kg bwt. All animals were killed as scheduled at study termination (Day 15) and subjected to a macroscopic examination. No macroscopic abnormalities were observed for animals killed at study termination on Day 15.

The acute lethal dermal dose to rats of propylene glycol monocaprylate was demonstrated to be greater than 5,000 mg/kg bwt.

5. *Acute inhalation (rat) for glycerol monolaurate: Harmless by inhalation.* In all instances, the aerosol generator was blocked following the start of generation. The waxiness of glycerol monolaurate made it impossible to generate aerosols. Because respirable particles cannot be produced from such low melting waxy materials, the test substance is considered harmless by the inhalation route of exposure under normal handling conditions.

6. *Acute inhalation (rat) for propylene glycol monocaprylate: Non-toxic.* The acute toxicity of propylene monocaprylate was assessed by exposing a group of rats (5 males and 5 female), for a period of 4 hours, to a droplet aerosol generated from the test substance at a target concentration of 5 mg/L. Another group (5 male and 5 female), acting as a control was exposed to clean dry air only. The nominal concentration of propylene monocaprylate was 5.6 mg/L. The mass median aerodynamic (MMAD) was 2.0 µm and was within the ideal range (1 µm to 4 µm) for an acute inhalation study. Approximately 88% of the particles were considered of a respirable size (< 7 µm in aerodynamic diameter). The LC_{50} (4–hour inhalation) for propylene glycol monocaprylate, is in excess of 4.92 mg/L (4920 ppm) in air. EPA's limit dose for this test is 2 mg/L.

7. *Eye irritation (rabbit) for glycerol monolaurate: Slight irritant.* Three rabbits were each administered a single ocular dose of 0.1 mL of the test substance (mean weight 60 mg) and observed for up to 7 days after instillation. The instillation in one animal elicited a corneal lesion and iritis (both Graded 1) 48 hours post dose. All 3 rabbits exhibited transient conjunctival inflammation (up to Grade 3). Resolution was complete in two instances within approximately 72 hours of dosing and in one animal 7 days after dosing. The test material is considered a slight eye irritant.

8. *Eye irritation (rabbit) for propylene glycol monocaprylate: Non-irritant.* Three rabbits were each administered a single ocular dose of 0.1 mL of propylene glycol monocaprylate test substance and observed for three days after instillation. The single instillation of propylene glycol monocaprylate elicited in two of the three rabbits a transient, slight to well-defined conjunctival irritation only. The test

substance is not considered an ocular irritant.

9. *Skin irritation (rabbit) for glycerol monolaurate: Non-Irritant.* Three rabbits were each administered a single dermal dose of 0.5 gm of the test substance glycerol monolaurate, under semi-occlusive conditions for 4 hours and observed for up to 11 days. The test material produced transient slight erythema only in one animal. The test substance is not considered a dermal irritant.

10. *Skin irritation (rabbit) for propylene glycol monocaprylate: Non-irritant.* Three rabbits were each administered a single dermal dose of 0.5 mL of the test substance propylene glycol monocaprylate under semi-occlusive conditions for 4 hours and observed for up to 11 days. Propylene glycol monocaprylate produced only slight erythema in all animals. The test substance is not considered a dermal irritant.

11. *Skin sensitization (guinea-pig) for glycerol monolaurate: Non-sensitizer.* Guinea pigs were dosed by intradermal injection and topical application. Based on the results of a preliminary study and in compliance with regulatory guidelines, the following dose levels were selected:

- Intradermal injection: 2.5% w/v in sterile water
- Topical application: 10% w/v in sterile water
- Challenge applications: 0.5 and 1% w/v in sterile water

Ten test and five control guinea pigs were used in this study. Following the first challenge application, negative responses were observed in six test animals, inconclusive responses were seen in three animals and a positive response was observed in the remaining test animal. A second challenge was conducted to clarify these reactions. Following the second challenge application glycerol monolaurate did not produce dermal reactions in any of the test or control animals. Glycerol monolaurate is not considered to have the potential to cause skin sensitization.

The sensitivity of the guinea-pig strain used by the laboratory is checked periodically with a weak/moderate sensitizer - hexyl cinnamic aldehyde (HCA). In this study HCA produced evidence of skin sensitization (delayed contact hypersensitivity) in nine of the ten animals, thus confirming the sensitivity and reliability of the experimental technique.

12. *Skin sensitization (guinea-pig) for propylene glycol monocaprylate: Potential sensitizer.* The guinea pigs were dosed by intradermal injection and topical application. Based on the results of a preliminary study and in compliance with the regulatory guidelines, the following dose levels were selected:

- Intradermal injection: 0.5% v/v in sterile water
- Topical application: as supplied
- Challenge application: 25 and 50% v/v in sterile water

Ten test and five control guinea pigs were used in this study. In this study propylene glycol monocaprylate produced evidence of skin sensitization (delayed contact hypersensitivity) in all of the test animals. Propylene glycol monocaprylate is considered to have the potential to cause skin sensitization. Propylene glycol itself is known to cause allergic reactions in patients receiving medical treatments containing this substance.

The sensitivity of the guinea-pig strain used was checked periodically by the laboratory with a weak to moderate sensitizer - hexyl cinnamic aldehyde (HCA). In this study HCA produced evidence of skin sensitization (delayed contact hypersensitivity) in nine of the ten animals, thus confirming the sensitivity and reliability of the experimental technique.

13. *28–Day oral (rat): for propylene glycol monocaprylate: Non-toxic.* The effects of propylene glycol monocaprylate (T–7475.8) were assessed in rats (groups of 5 males and 5 females) by oral gavage administration once a day for 4 weeks, employing dose levels of 0, 500, 750 or 1,000 mg/kg/day. Doses up to 1,000 mg/kg/day were well tolerated with the only effects noted being higher protein and albumin values and a higher lung and liver weight, all in females. In the absence of histopathological examination, the toxicological importance of these findings is unclear. However, it was considered that 1,000 mg/kg/day was well tolerated and that it would be suitable for use as a high dose level in the subsequent 13 week toxicity study.

14. *13–Week oral (rat) for propylene glycol monocaprylate: Non-toxic.* The systemic toxicity of propylene glycol monocaprylate (T–7475.8) was assessed in groups of rats (20 males and 20 females per group) by oral (gavage) administration at 0, 100, 500, and 1,000 mg/kg/day dose levels for 13 weeks. There were no unscheduled deaths in any of the groups and clinical observation, neurotoxicity, metabolic parameters and organ histopathology indicated no changes of toxicological significance. It was concluded that a dosage of 1,000 mg/kg/day was considered to be a no observable adverse effect level (NOAEL) for both sexes.

Waivers of genotoxicity, reproductive and developmental toxicity studies were also requested on the bases described below.

15. *Genotoxicity.* Because the VWX–42 active ingredients themselves in vertebrate systems are immediately metabolized like any fats to polyols and free fatty acids, upon ingestion they become indistinguishable from the natural background of such compounds in living systems. Polyols and free fatty acids in living systems are not genotoxic. Hence, waivers were requested for all genotoxicity testing requirements on the basis that conducting such tests would not be of value to EPA in its evaluation of risks. The VWX–42 active ingredients are already known, from a metabolic standpoint, not to be genotoxic.

16. *Reproductive and developmental toxicity.* Also on the basis of their metabolism, the VWX–42 active ingredients, and their natural breakdown products, are known not to be reproductive or developmental toxicants. Waivers were requested for all such testing requirements on the basis that conducting such tests would not be of value to EPA in its evaluation of risks.

17. *Scientific literature on toxicity and metabolism.* Basic toxicity testing on mono and diacylglycerols and saturated fatty acids was done in the 1930–1960 period. The available data include extensive testing in intermediate and long-term studies. Less work has been published on propylene glycol saturated fatty acid esters, but the available data are adequate to demonstrate an equivalence between propylene glycol esters and acylglycerols. Comprehensive reviews are available prepared by a number of sources including the Food and Drug Administration (FDA) and the Food and Agricultural Organization of the United Nations (FAO) and the World Health Organization (WHO) through the Joint FAO/WHO Expert Committee on Food Additives (JECFA).

The NOAELs for mono acylglycerols, regardless of the saturated fatty acid, are similar. Rats can be fed from 10–15% in the diet for a lifetime without ill effects, dose levels corresponding to 5 g/kg-bwt/day. Rats fed propylene glycol monosuccinate and monostearate at levels up to 10% of the diet for six months showed no evidence of gross or histological pathology attributable to treatment. Dogs fed at the same levels for six months showed no signs of toxicity.

The particular fatty acid moiety in mono acylglycerols does not matter because vertebrate systems are capable

of metabolizing each of the acids in the range of C_8 to C_{18} with equal facility. Oxidation of fatty acids is a primary source of energy in vertebrate systems. Fatty acids are supplied in the diet in the form of triacylglycerols (fats) which are hydrolyzed by pancreatic lipase enzymes to form free fatty acids, glycerol and mono acylglycerols. The VWX–42 gylcerol active ingredients are indistinguishable from the natural acylglycerols and fatty acids found in the intestine following ingestion of fats.

Specificity of the pancreatic lipase enzyme is independent of the nature of the fatty acid. It is also not stereospecific in its action and glycerol esters and propylene glycol esters are hydrolyzed by it with equal facility.

Studies with ^{14}C-labeled propylene glycol show that it is readily absorbed from the gastrointestinal tract and rapidly converted in the liver to ^{14}C-glycogen or $^{14}CO_2$. In a like manner, when ^{14}C-glycerol is administered to the rat, radiolabel appears in expired CO_2, blood glucose, liver glycogen, liver fat and liver phosphatides within 15 minutes. Within 6 hours, 40% of the label is contained in expired CO_2 and the remainder is distributed through the test animal. Very small amounts are excreted.

FDA has looked at metabolism of propylene glycol mono and distearate as a model compounds to represent propylene glycol fatty acids. In studies on radiolabeled propylene glycol distearate the rate limiting factor in the metabolism was found to be hydrolysis of the ester, which is complete in about 3 hours. In 5 hours, 94% of the propylene glycol is absorbed and 94% of the absorbed material is found in expired CO_2 in 72 hours. The fatty acid portion of the ester is absorbed and metabolized more slowly than the propylene glycol. Only 51% of the stearic acid label was expired as CO_2 in the same period.

D. Aggregate Exposure

1. *Dietary exposure.* Aggregate dietary exposure estimates were generated using EPA's Dietary Exposure Potential Model (DEPM) customarily used by the agency in making such estimates. The model is designed to generate dietary exposure estimates by combining data from established food consumption data bases with residue data. In this case, food consumption data came from the 10th National Food Consumption Survey conducted during the three year period of 1994–1996 by the Agricultural Research Service of the U.S. Department of Agriculture. These data are also known as the Continuing Survey of Food Intake by Individuals, 1994–1996 (CSFII 1994–1996).

i. *Food.* Food residue estimates were generated for use in the DEPM analysis to simulate very broad use of the VWX–42 active ingredients. Specifically, residues estimates were constructed for all food commodities corresponding to the 18 raw agricultural commodities (RACs) for which residue data were generated for the following major food groups:

- Fruits;
- Vegetables;
- Beverages; and
- Infant food.

In keeping with the worst case nature of the analysis, residue data for a tested commodity was used also for similar commodities not tested (*e.g.*, spinach values were used for other delicate greens; kale values were used for other heavy greens such as collard; peach values were used for apricots). The assumption was also made that residue levels are not changed by cooking and that fruit and vegetable mixtures contain 50% of one or more RAC, unless the composition of the mixture is specified.

Total dietary exposure estimates were generated using the model for the U.S. population and 20 subpopulations, including non-nursing infants and children. The subpopulation groups were defined by age, gender, geographic location, ethnicity and income level. All calculations represented residue levels assuming treatment of 100% of every commodity consumed in the U.S. for which residue estimates could be generated, another severe worst-case assumption. The model produced data tables containing the consumption of each food, its assumed residue level and the calculated exposure from that consumption in µg/kg-bwt/day for each of the subpopulations.

For all subpopulation groups, the commodity that contributed in the analysis the most to exposure was cooked green beans. This result reflects the fact that green beans absorbed an unexpectedly large amount of treatment solution in the experimental procedure used to generate RAC residue estimates. Based upon the worst-case data and assumptions described above, the model calculated the highest exposure of 0.5 mg/kg-bwt/day for non-nursing infants. Dietary exposure for the total U.S. population was less than 0.2 mg/kg-bwt/day.

ii. *Drinking water.* All anticipated or proposed use for the VWX–42 active ingredients will be indoors and the active ingredients are not soluble in water. Hence, drinking water is not a feasible route of exposure.

2. *Non-dietary exposure.* The only non-dietary exposures from pesticidal uses of the VWX–42 active ingredients will be occupational, i.e., commercial applicator/mixer loader exposures. Occupational exposures are not included under the FFDCA in the assessment of aggregate exposures for the purpose of establishing tolerances and exemptions from tolerance.

E. Cumulative Exposure

In assessing their cumulative effects, the VWX–42 active ingredients are members of a much larger class of compounds that are toxicologically and metabolically equivalent. This class of compounds are dealt with by all vertebrate systems as food rather than toxicants. Glycerol fatty acid monoesters are natural components in dietary fats and natural breakdown products from metabolism of fat (triacylglycerol) in all living systems. Fatty acid esters of propylene glycol also occur as direct food additives in the human diet in substantial quantities. Toxicologically and metabolically the glycerol and propylene glycol esters are equivalent.

The proposed use of VWX–42 active ingredients as pesticides will contribute a negligible amount (total U.S. population worst case estimate <0.2 mg/kg/day) to the existing cumulative exposure to the class of compounds when compared to natural levels of such compounds and their metabolites in tissue and foods (50–100 g/day in humans for glycerol esters), and to the levels permitted in food as direct additives (grams per day).

F. Safety Determination

1. *U.S. population.* Generating a quantitative measure of safety, such as a margin of exposure value (MOE), is difficult for the VWX–42 active ingredients because they function as foods rather than toxicants in all test animal systems, giving no clear toxicity endpoints even when tested at levels representing a substantial portion of the diet. Both acute and subchronic primary data generated to support this petition show no observed adverse effects at the limit doses established for such tests by EPA. Subchronic and chronic exposure studies reported in the literature run at much higher levels (e.g., 10% or more of the total diet) also produced no adverse effects. In its review of such compounds, the JECFA observed that "dietary loads of a food additive in excess of 10 percent are of little value in assessment of safety-in-use...", and the committee based its conclusion of safety upon the biochemical and metabolic evidence that the breakdown

product of such additives are "normal dietary constituents."

MOE levels can be calculated for the U.S. population as shown below in Table 1, using various NOAELs, including the NOAEL for the 90–day gavage study submitted in support of this petition. These values represent the highest levels tested, not the highest level tolerated without adverse effects. JECFA has also established an allowable daily intake value (ADI) for propylene glycol monostearate of 25 mg/kg-bwt/day that may be used to derive an MOE estimate. The several MOE calculations presented in Table 1 demonstrate that exposures, even when estimated using severe worst-case assumptions, are well below any level of concern.

TABLE 1. CALCULATED MARGINS OF EXPOSURE FOR VWX–42 ACTIVE INGREDIENTS

Basis for calculation	Acceptable level	Estimated exposure	Margin of exposure
NOAEL, 90–day gavage study using propylene glycol monocaprylate	NOAEL = 1,000 mg/kg-bwt/day	U.S. Population = 0.13 mg/kg-bwt/day Non-nursing infants = 0.44 mg/kg-bwt/day	U.S. population = 7,690
FDA NOAEL, 90–day dietary study with propylene glycol monostearate*	NOAEL = 7.52% of diet (= highest dose tested = 3.22 g/kg-bwt/day)	Same as above	U.S. population = 24,770
JECFA ADI for propylene glycol monostearate*	ADI = 25 mg/kg-bwt/day including safety factor of 100	Same as above	U.S. population = 19,230

*Propylene glycol monostearate is widely accepted as a surrogate for all glycerol and propylene glycol monoesters.

2. *Infants and children.* MOE levels for infants and children can be calculated as shown in Table 2 using the same toxicity endpoints as for the U.S. population.

TABLE 2. CALCULATED MARGINS OF EXPOSURE FOR VWX–42 ACTIVE INGREDIENTS

Basis for calculation	Acceptable level	Estimated exposure	Margin of exposure
NOAEL, 90–day garage study using propylene glycol monocaprylate	NOAEL = 1,000 mg/kg-bwt/day	Non-nursing infants = 0.44 mg/kg-bwt/day Children 1–6 = 0.28 mg/kg-bwt/day Children 7–12 = 0.15 mg/kg-bwt/day	Non-nursing infants = 2,270 Children 1–6 = 3,570 Children 7–12 = 6,670
FDA NOAEL, 90–day dietary study with propylene glycol monostearate*	NOAEL = 7.52% of diet (= highest dose tested = 3.22 g/kg-bwt/day)	Same as above	Non-nursing infants = 7,320 Children 1–6 = 11,500 Children 7–12 = 21,470
JECFA ADI for propylene glycol monostearate*	ADI = 25 mg/kg-bwt/day, including safety factor of 100	Same as above	Non-nursing infants = 5,680 Children 1–6 = 8,930 Children 7–12 = 16,670

*Propylene glycol monostearate is widely accepted as a surrogate for all glycerol and propylene glycol monoesters.

G. Effects on the Immune and Endocrine Systems

Because VWX–42 active ingredients in vertebrate systems are immediately metabolized, like any fat, to polyols and free fatty acids, upon ingestion they become indistinguishable from the natural background of such compounds in living systems. On the basis that they are natural components of vertebrate systems, the VWX–42 active ingredients, and their breakdown products, are not expected to have any effect on immune and endocrine systems.

H. Existing Tolerances

No tolerances exist for any of the VWX–42 Technology System compounds as pesticide active ingredients. They may be used as inert ingredients in pesticide formulations and many clearances exist under the FFDCA for their use as direct and indirect food additives.

Mono and diglycerides from fats or oils or fat-forming acids are affirmed as GRAS as direct food additives under 21 CFR 184.1505. Mono and diglycerides of C_8–C_{14} fatty acids are exempt from the requirement for tolerance under 40 CFR 180.1001(c) for use as surfactants and adjuvants in pesticide formulations. Numerous fatty acids, the hydrolysis products of both the glycerol and propylene glycol esters, are themselves also affirmed as GRAS (21 CFR 184.1025).

Propylene glycol mono and diesters of fatty acids are permitted under 21 CFR 172.856 for general use in food; 21 CFR 172.860 permits the corresponding fatty acid metabolites in foods; and 21 CFR 172.863 permits salts of fatty acids in food. The monoesters are also permitted under 21 CFR 175.105 as ingredients in adhesives used in food contact applications. Propylene glycol esters of fatty acids are also cleared by USDA as emulsifiers in margarine or oleomargarine at 2% (48 FR 52696, Nov. 22, 1983).

Glycerol, a hydrolysis product of mono acylglycerols, is listed by FDA as a substance generally recognized as safe (GRAS) as a multiple purpose-food additive when used in accordance with good manufacturing practice (21 CFR 182.1320) and as a GRAS substance when migrating to food from paper and

paperboard products (21 CFR 182.90). An exemption from tolerance has been established by FDA under 21 CFR 182.99 and by EPA under 40 CFR 180.1001(c) and (e) for its use as a solvent and co-solvent in pesticide formulations and as an adjuvant when added to pesticide dilutions by growers or applicators prior to application. It is also deemed GRAS by the Expert Panel of the Flavor and Extract Manufacturers' Association of America.

Propylene glycol, a hydrolysis product of the propylene glycol esters, is affirmed as GRAS under 21 CFR 184.1666. It is used as an anticaking agent, antioxidant, dough strengthener, emulsifier, flavor agent, formulation aid, humectant, processing aid, solvent and vehicle, stabilizer and thickener, surface-active agent, and tenderizer in foods at levels not to exceed current good manufacturing practice. The approved uses result in maximum levels, as served of 5% in alcoholic beverages, 24% in confections and frostings, 2.55% in frozen dairy products, 97% in seasonings and flavoring, 5% in nuts and nut products, and 2% in all other food categories. Propylene glycol is also exempt from the requirement of tolerance by EPA under 40 CFR 180.1001(c) and (e), and has been deemed GRAS by the Expert Panel of the Flavor and Extract Manufacturers' Association of America.

I. International Tolerances

No international tolerances have been established for the active ingredients in the VWX–42 Technology system. The FAO and the WHO through the JECFA has reviewed mono and diacylglycerol and propylene glycol esters of fatty acids and determined that they may be used safely in foods at levels of 1–3 grams per day for an adult. It as observed that "alterations in the fatty acid distribution or polyglycerol content of individual members of a group of diverse substances have no toxicological bearing and only affect the physical and emulsifying properties of each ester." The Committee concluded safety based upon the biochemical and metabolic evidence that the breakdown products of such additives are normal dietary constituents.

[FR Doc. 01–30371 Filed 12–11–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1058; FRL–6812–7]

Notice of Filing a Pesticide Petition to Establish a Tolerance fora Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1058, must be received on or before January 11, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1058 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9368; e-mail address: jamerson.hoyt@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–1058. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1058 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs

(OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1058. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 27, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by BASF Corporation, Agricultural Products, 26 Davis Drive, Research Triangle Park, NC 27709 and represents the view of BASF Corporation. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Interregional Research Project Number 4

PP 0E6185

EPA has received a pesticide petition (0E6185) from the Interregional Research Project Number 4 (IR–4), 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of diflufenzopyr, 2-(1-(3,5-difluorophenylamino]carbonyl)-hydrazono]ethyl)-3-pyridinecarboxylic acid, and its metabolites convertible to M1 (8-methylpyrido[2,3-d]pyridazin-5(6H)-one) in or on crop group 17 (grass forage, fodder, and hay group) including: Forage at 3.0 parts per million (ppm); hay at 1.5 ppm; and corn, sweet, fresh at 0.05 ppm; corn, sweet, forage at 0.05 ppm; corn, sweet, stover at 0.05 ppm, and corn, pop, stover at 0.05 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The nature of the residue in plants (field corn) is understood. In field corn, no diflufenzopyr was detected in any of the corn matrices; metabolites comprising approximately 10% total radioactive residue (TRR) include M1 (8-methylpyrido[2,3-d]pyridazin-5(6H)-one), M10 (8-hydroxymethyl-5(6H)-pyrido[2,3-d]pyridazone) and its glucose conjugate, and M9 (8-methylpyrido[2,3-d]pyridazine-2,5(1H,6H)-dione in forage and fodder, and 6–14% TRR lignin was found in fodder. Corn grain contained 3–4 discrete unknowns, all at less than 10% TRR or less than 0.05 ppm each. The residues of concern in plants are diflufenzopyr, 2-(1-[([3,5-difluorophenylamino]carbonyl)-hydrazono]ethyl)-3-pyridinecarboxylic acid, and its metabolites convertible to M1 (8-methylpyrido [2,3-d]pyridazin-5(6H)-one).

2. *Analytical method.* BASF Corporation has provided suitable independently validated analytical methods for detecting and measuring levels of diflufenzopyr and its metabolites in or on food with a limit of detection that allows monitoring of food with residues at or above the levels described in these and the existing tolerances. Adequate enforcement

methodology (gas chromatography) is available to enforce the tolerance expression. The method may be requested from Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Office location and telephone number: Rm 101FF, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 305–5229.

3. *Magnitude of residues.* Residue trials have been conducted with dicamba/diflufenzopyr end use product distinct on pasture and rangeland grasses and the sweet corn crop for expanded use requested in the subject petition. The tolerances listed below are based on the maximum expected residue from geographically representative field trial data. Crop group 17 (grass, forage, fodder, and hay group) including: Forage at 3.0 ppm; hay at 1.5 ppm; and corn, sweet, fresh at 0.05 ppm; corn, sweet, forage at 0.05 ppm; corn, sweet, stover at 0.05 ppm, and corn, pop, stover at 0.05 ppm.

4. *Animal residue.* Data from metabolism studies in goat and poultry have established that the expected dietary burden from crops treated with diflufenzopyr will not result in quantifiable residues above the limits of the standard analytical method.

B. Toxicological Profile

1. *Acute toxicity.* Acute toxicology studies place technical-grade diflufenzopyr in Toxicity Category III or IV for all routes of exposure. It is not a dermal sensitizer.

i. *Acute oral toxicity (rat).* LD_{50} = >5,000 milligrams/kilogram (mg/kg) in males and females.Toxicity Category IV.

ii. *Acute dermal toxicity (rabbit).* LD_{50} = >5,000 mg/kg in males and females. Toxicity Category IV.

iii. *Acute inhalation toxicity (rat).* LC_{50} = >3.14 mg/L in males and females. Toxicity Category IV.

iv. *Primary eye irritation (rabbit).* Diflufenzopyr is minimally irritating. Toxicity Category III.

v. *Primary dermal irritation (rabbit).* Diflufenzopyr is not a dermal irritant. Toxicity Category IV.

vi. *Dermal sensitization (guinea pig).* Diflufenzopyr is not a dermal sensitizer.

2. *Genotoxicty.* Diflufenzopyr shows no signs of being genotoxic—i. In a microbial mutagenicity assay, *Salmonella typhimurium* strains TA98, TA100, TA1,535, TA1,537, and TA1,538 were exposed to diflufenzopyr (97.1%) in DMSO at concentrations of 333, 667, 1,000, 3,330, 6,670, and 10,000 microgram/plate in the presence and absence of mammalian metabolic activation. Diflufenzopyr (97.1%) was tested to twice the limit concentration of 5,000 microgram/plate and cytotoxicity was observed at 6,670 and 10,000 microgram/plate in the absence of activation (-S9) but not in its presence (+S9). The positive controls induced the appropriate responses in the corresponding strains. There was no evidence that the test article induced mutant colonies over background.

ii. In a mammalian cell gene mutation assay at the *thymidine kinase* locus, heterozygous L5178Y (TK +/-) mouse lymphoma cells cultured *in vitro* were exposed in independent repeat assays to diflufenzopyr technical (97.1% active ingredient) in dimethyl sulfoxide at dose levels ranging from 0.05 to 3.0 mg/mL (50 to 3,000 microgram/mL) in the presence and absence of S9 mammalian metabolic activation in the first trial, and 0.05 to 2.0 mg/mL (50 to 2,000 microgram/mL) in the second. Diflufenzopyr was tested up to cytotoxic dose levels and mutation frequencies were determined for dose levels selected on the basis of relative growth. Although initially declared positive by the then study director, application of more recent criteria for mutagenic responses has rendered the test article negative for forward gene mutation at the *thymidine kinase* locus in mouse L5178Y cells in the presence and absence of S9 activation. The positive controls induced the appropriate responses.

iii. In an *in vivo* mouse bone marrow micronucleus assay, groups of 15 male and female ICR mice were dosed by oral gavage with diflufenzopyr (technical, 97.1%) in corn oil at 500, 1,667, and 5,000 mg/kg. Bone marrow cells were harvested at 24, 48, or 72 hours and scored for micronucleated polychromatic erythrocytes (MPCEs). No mortalities or adverse clinical signs were observed at any dose including the limit dose of 5,000 mg/kg, and there were no changes in the PCE/NCE ratios (an indirect measure of cytotoxicity). The positive control induced significant increases in MPCEs, also in the absence of any target cell cytotoxicity. No significant increase in the frequency of MPCEs in bone marrow cells after any treatment time were recorded; therefore, the test article is considered negative in this micronucleus assay.

iv. In an unscheduled DNA synthesis (UDS) assay, primary rat hepatocyte cultures were exposed to diflufenzopyr (97.1% active ingredient) in dimethylsulfoxide (DMSO) at 15 concentrations ranging from 0.0250 to 1,000 microgram/mL in the presence of 10 microCi/mL (42 Ci/mmole) for approximately 19 hours. Mutagenicity, as measured by UDS, was determined for 6 concentrations selected on the basis of cytotoxicity. The concentrations selected were 5.00, 10.0, 25.0, 50.0, 100, and 250 microgram/mL. The highest concentration selected for UDS evaluation, 250 microgram/mL, was moderately toxic (50.8% survival). There was no evidence that unscheduled DNA synthesis, as determined by radioactive tracer procedures (nuclear silver grain counts) was induced. The positive control induced the appropriate response.

3. *Reproductive and developmental toxicity*—i. In a rat developmental toxicity study, technical diflufenzopyr (98.1% active ingredient) in 0.5% aqueous methyl cellulose was administered by gavage to 25 female Crl: CD BR VAF/Plus (Sprague Dawley) rats/dose at dose levels of 0, 100, 300, or 1,000 mg/kg/day from days 6 through 15 of gestation. The maternal no observed adverse effect level (NOAEL) is 300 mg/kg/day and the maternal lowest observed adverse effect level (LOAEL) is 1,000 mg/kg/day based on decreases in food consumption and weight gain. Developmental effects, characterized as significantly lower fetal body weights (bwts) in males (5%) and skeletal variations, exhibited as incompletely ossified and unossified sternal centra and reduced fetal ossification sites for caudal vertebrae, were observed at 1,000 mg/kg/day. The developmental LOAEL is 1,000 mg/kg/day, based on decreased fetal body weights and skeletal variations. The developmental NOAEL is 300 mg/kg/day.

ii. In a rabbit developmental toxicity study, technical diflufenzopyr (98.1% active ingredient) in 0.5% aqueous methyl cellulose was administered by gavage to 20 female New Zealand White Hra: (NZW)SPF rabbits/dose at dose levels of 0, 30, 100, or 300 mg/kg/day from days 6 through 19 of gestation. The maternal LOAEL is 100 mg/kg/day, based on minimal reductions in body weight gain with no reduction in food consumption and clinical signs of toxicity (abnormal feces). The maternal NOAEL is 30 mg/kg/day. Developmental effects, characterized as significant increases ($p \leq 0.01$) in the incidence of supernumerary thoracic rib pair ossification sites (12.74 vs. 12.54 for controls) occurred at the 300 mg/kg/day dose. No treatment-related developmental effects were noted at the low- or mid-doses. The developmental LOAEL is 300 mg/kg/day based on increased skeletal variations (supernumerary rib ossification sites). The developmental NOAEL is 100 mg/kg/day.

iii. In a 2–generation rat reproduction study, technical diflufenzopyr (98.1% active ingredient) was administered continuously in the diet to 26 Wistar rats/sex/dose at dose levels of 0, 500, 2,000 or 8,000 ppm in the diet (0, 27.3–42.2, 113.1–175.9, or 466.2–742.0 mg/kg/day). The systemic LOAEL is 2,000 ppm (113.1–175.9 mg/kg/day) based on reduced body weight gain, increased food consumption, and increased seminal vesicle weights. The systemic NOAEL is 500 ppm (27.3–42.2 mg/kg/day). The reproductive LOAEL is 8,000 ppm (466.2–742.0 mg/kg/day) based on lower live birth and viability indices, total pre-perinatal loss, reduced body weights and body weight gain during lactation, a higher proportion of runts, and a higher percentage of offspring with no milk in the stomach. The reproductive NOAEL is 2,000 ppm (113.1–175.9 mg/kg/day).

iv. In an acute rat neurotoxicity study, diflufenzopyr (96.4% active ingredient) was administered by gavage to Crl:CD BRR rats (10/sex/group) at dose levels of 0, 125, 500 or 2,000 mg/kg. The rats were evaluated for reactions in functional observations and motor activity measurements at 3 hours, 7 days, and 14 days postdosing. Histopathological evaluation on the brain and peripheral nerves was assessed after day 14. Diflufenzopyr had no definite impact on neurotoxic responses, although a few abnormalities were observed in the functional battery on the day of dosing. A decrease in immediate righting responses that was observed in several males in all treatment groups was not concentration-dependent. Nasal staining was observed in more rats in the 2,000 mg/kg treatment groups (6 males, 3 females), but was not considered a definite or significant response to treatment. Lower mean brain weights in all female treatment groups lacked associated macroscopic and microscopic histopathological changes, and were only 4–5% lower than the control brain weight. There were no definite treatment-related differences in body weights or food consumption in any of the treatment groups. There was no evidence of treatment-related neuropathology in the 2,000 mg/kg treatment group. A LOAEL was not established. The NOAEL for acute neurotoxicity is 2,000 mg/kg (the limit dose).

v. In a subchronic rat neurotoxicity study, diflufenzopyr (96.4% active ingredient) was administered in the diet to Crl: CD BR rats (10/sex/group) at dose levels of 0, 25, 75, or 1,000 mg/kg/day for 13 weeks. The rats were evaluated for reactions in functional observations and motor activity testing at 4 hours and during weeks 4, 8, and 13 of treatment. No treatment-related neurotoxicological effects were observed at any treatment level. A LOAEL for neurotoxicological effects was not established; the NOAEL was 1,000 mg/kg/day for both sexes. Treatment-related toxic effects were observed at the 1,000 mg/kg/day treatment level. The toxicological LOAEL for this study is 1,000 mg/kg/day, based on decreased body weight gains for both sexes. The toxicological NOAEL is 75 milligram/kilogram/day (mg/kg/day).

4. *Subchronic toxicity*—i. In a subchronic feeding study in rats, male and female Wistar rats were fed test diets containing technical diflufenzopyr, purity 96%, at dose levels of 0, 1,000, 5,000, 10,000, and 20,000 ppm (equal to 0, 60.8, 352, 725, and 1,513 mg/kg body weight/day (mg/kg bw/day) for males, and 0, 72.8, 431, 890, and 1,750 mg/kg bwt/day for females) for a period of 13 weeks, 10 rats per sex per group. An additional 10 rats per sex were assigned to the 0 and 20,000 ppm groups for a 4–week recovery period following treatment. The NOAEL was set at 5,000 ppm (equal to 352 mg/kg bwt/day for males, and 431 mg/kg bwt/day for females) based on lower mean body weight gain and decreased food efficiency in the 10,000 and 20,000 ppm groups, both sexes. Additional findings were decreased food intake (20,000 ppm, males only); slight increases in cholesterol (20,000 ppm, both sexes, and 10,000 ppm, males only) and ALAT (10,000 and 20,000 ppm, both sexes); and slightly lower chloride (20,000 ppm, both sexes). Histopathological findings were an increased incidence of foamy macrophages in the lungs in the 10,000 and 20,000 ppm groups, both sexes, and testicular atrophy in the 20,000 ppm group. Following the 47–week recovery period, the only treatment-related effects which showed partial or no evidence of recovery were foamy macrophages in the lungs and testicular atrophy.

ii. In a 13–week feeding study, male and female CD–1 mice were fed test diets containing technical diflufenzopyr, purity 97.1%, at dietary concentrations of 0, 350, 1,750, 3,500, and 7,000 ppm (equal to 0, 58, 287, 613 and 1,225 mg/kg bwt/day for males, and 0, 84, 369, 787 and 1,605 mg/kg bwt/day for females) for a period of 13 weeks, 10 mice per sex per group. The NOAEL was determined to be 7,000 ppm (equal to 1,225 mg/kg bw/day for males and 1,605 mg/kg bw/day for females) since there were no treatment-related effects observed in male or female mice at any dose level tested.

iii. In a subchronic toxicity study in dogs, diflufenzopyr (98% active ingredient) was administered to beagle dogs (4/sex/dose) by feeding at dose levels of 0, 1,500, 10,000, or 30,000 ppm (0, 58, 403, or 1,131 mg/kg/day for males; 0, 59, 424, or 1,172 mg/kg/day for females) for 13 weeks. The lowest adverse effect level LOAEL for this study is 10,000 ppm (403 mg/kg/day in males and 424 mg/kg/day in females), based on the occurrence of erythroid hyperplasia in the bone marrow, extramedullary hemopoiesis in the liver, and hemosiderin deposits in Kupffer cells. The NOAEL is 1,500 ppm (58 mg/kg/day in males and 59 mg/kg/day in females).

iv. In the subchronic rabbit dermal toxicity study, technical diflufenzopyr, purity 96.4%, was moistened with distilled water and administered by dermal application to male and female New Zealand white rabbits, 5/sex/dose, at dose levels of 0, 100, 300, and 1,000 mg/kg bwt per application. Duration of application was 6 hours a day, daily for 21 to 24 consecutive days. The NOAEL for systemic toxicity was determined to be 1,000 mg/kg bwt/day, since there were no apparent signs of treatment-related systemic effects observed in male or female rabbits at any dose level tested. A NOAEL for dermal effects could not be determined since local dermal irritation was observed at all dose levels tested (there were no corresponding findings upon histopathological examination).

5. *Chronic toxicity*—i. In a chronic toxicity study in dogs, diflufenzopyr (98.1% active ingredient) was administered to Beagle dogs (4/sex/dose) by feeding at dose levels of 0, 750, 7,500, or 15,000 ppm (0, 26, 299, or 529 mg/kg/day for males; 0, 28, 301, or 538 mg/kg/day for females) for 52 weeks. The LOAEL for this study is 7,500 ppm (299 mg/kg/day for males and 301 mg/kg/day for females), based on erythroid hyperplasia in the bone marrow in bone sections, reticulocytosis, and increased hemosiderin deposits in the liver, kidneys, and spleen. The NOAEL is 750 ppm (26 mg/kg/day for males and 28 mg/kg/day for females).

ii. In a mouse carcinogenicity study, male and female CD–1 mice were fed test diets containing technical diflufenzopyr, purity 98.1%, at dietary concentrations of 0, 700, 3,500 and 7,000 ppm (equal to 0, 100, 517, and 1,037 mg/kg bwt/day for males, and 0, 98, 500, and 1,004 mg/kg bwt/day for females), 60 mice per sex per group, for a period of 78 weeks. The NOAEL for systemic toxicity was determined to be

7,000 ppm (equal to 1,037 mg/kg bwt/day for males and 1,004 mg/kg bwt/day for females). There were no treatment-related effects observed at any dose level tested in male rats. There was a slight, but statistically significantly lower mean overall body weight gain for females in the 7,000 ppm group, due primarily to decreased gain/increased weight loss during the second year of the study. In the absence of any other treatment-related findings, this was not considered to be an adverse, toxicologically significant finding. There was no evidence of carcinogenic potential of diflufenzopyr for male or female mice at any dose level tested.

iii. In a combined chronic toxicity/carcinogenicity study, male and female Wistar rats were fed test diets containing technical diflufenzopyr, purity 97.1% to 99.6%, at dietary concentrations of 0, 500, 1,500, 5,000, and 10,000 ppm (equal to 0, 22, 69, 236, and 518 mg/kg bwt/day for males, and 0, 29, 93, 323, and 697 mg/kg bwt/day for females), 72 rats per sex per group, for a period of 104 weeks. The NOAEL for systemic toxicity was set at 5,000 ppm (equal to 236 mg/kg bwt/day for males and 323 mg/kg bwt/day for females). Treatment-related effects in the 10,000 ppm group were significantly lower body weight and body weight gains throughout the study period and decreased food efficiency. There was no evidence of carcinogenic potential of diflufenzopyr at any dose level tested. The incidences of benign and malignant tumors were comparable between control and treated groups.

6. *Animal metabolism.* In rats, goats, and hens the majority (greater than 90%) of diflufenzopyr was excreted. In the ruminant, major metabolites include M1, M5 (6-((3,5-difluorophenylcarbamoyl-8-methyl-pyrido[2,3-d]-5-pyridazinone) and M19 (8-hydroxymethylpyrido[2,3-d]pyridazine-2,5(1H,6H)-dione. In poultry, diflufenzopyr was not detected, and M1 was the only significant metabolite identified, and in egg white only. Transfer of secondary residues to livestock is not expected.

7. *Metabolite toxicology.* Toxicity of the metabolites of diflufenzopyr to humans is concurrently evaluated during toxicity testing because both plant and animal metabolites are formed during the course of toxicity tests. Both plant and animal major metabolites are considered not of toxicological concern and have been identified in the rat metabolism study.

8. *Endocrine disruption.* No specific tests have been conducted with diflufenzopyr to determine whether this active ingredient may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects. However, chronic, lifespan, and multigenerational bioassays in mammals and acute aquatic organisms and wildlife did not reveal endocrine effects. It is expected that these studies would reveal endocrine disrupting activity of this active ingredient if it existed.

C. Aggregate Exposure

1. *Dietary exposure.* EPA has established the reference dose (RfD) for diflufenzopyr at 0.26 milligrams/kilogram/day (mg/kg/day). This RfD is based on bone marrow compensated hemolytic anemia observed in the 1-year dog feeding study with a NOAEL of 26 mg/kg/day and an uncertainty factor of 100.

Cancer classification and risk assessment. Based on the lack of evidence of carcinogenicity in mice and rats at doses that were judged to be adequate tb assess the carcinogenic potential, diflufenzopyr has been characterized as "not likely" to be a human carcinogen.

i. *Food—chronic dietary exposure.* A chronic dietary risk assessment was performed for diflufenzopyr and its metabolites characterized as M1. The analysis used the RfD of 0.26 mg/kg bwt/day and assumed that 100% of corn-derived foods contain residues at the tolerance level (0.05 ppm). These assumptions result in a theoretical maximum residue contribution (TMRC) that is less than or equal to 0.1% of the RfD for the overall U.S. population (48 states) and all population subgroups.

ii. *Drinking water.* There are no established maximum contaminant levels or health advisory levels for residues of diflufenzopyr or its metabolites in drinking water. EPA used the screening concentration in ground water (SCI-GROW) model to estimate residues of diflufenzopyr in ground water and the generic expected environmental concentration (GENEEC) model to estimate diflufenzopyr residue levels in surface water. Estimated maximum concentrations of diflufenzopyr in surface and ground water are 3.80 parts per billion (ppb) and 0.006 ppb, respectively. The estimated maximum concentrations in water are less than EPA's level of comparison (29,970 ppb) for diflufenzopyr residues in drinking water as a contribution to acute aggregate exposure. Therefore, taking into account the uses proposed in this action, BASF Corporation concludes with reasonable certainty that residues of diflufenzopyr in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

iii. *Acute exposure and risk.* An acute dietary risk assessment was performed for diflufenzopyr and its metabolites. The analysis was conducted using the acute RfD of 1.0 mg/kg/day, based on developmental findings (increased skeletal variations) observed in the rabbit developmental study. For the population subgroup of concern, females 13 years and older, the estimated 95th percentile of exposure is equal to 0.01% of the acute RfD. The analysis is conservative since it assumes that 100% of corn-derived foods contain residues at the tolerance level (0.05 ppm).

iv. *Chronic exposure and risk.* Using TMRC exposure assumptions, EPA has concluded that aggregate exposure to diflufenzopyr from food will utilize less than 0.1% of the RfD for the U.S. population. Despite the potential for exposure to diflufenzopyr in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. BASF Corporation concludes that there is a reasonable certainty that no harm will result from aggregate exposure to diflufenzopyr residues.

2. *Non-dietary exposure.* There are no registered or proposed residential uses for diflufenzopyr.

D. Cumulative Effects

EPA does not have, at this time, available data to determine whether diflufenzopyr has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, diflufenzopyr does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, BASF Corporation has not assumed that diflufenzopyr has a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population.* Using TMRC exposure assumptions EPA has concluded that aggregate exposure to diflufenzopyr from food will utilize less than 0.1% of the RfD for the U.S. population.

2. *Infants and children.* There is a complete toxicity data base for diflufenzopyr and exposure data are

complete or are estimated based on data that reasonably account for potential exposures. Taking into account the completeness of the data base and the toxicity data regarding prenatal and postnatal sensitivity, BASF Corporation concludes, based on reliable data, that use of the standard margin of safety will be safe for infants and children without addition of another ten-fold factor. Using the standard exposure assumptions EPA has concluded that aggregate exposure to diflufenzopyr from food will utilize 0.1% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to diflufenzopyr in drinking water, BASF Corporation does not expect the aggregate exposure to exceed 100% of the RfD. Based on these risk assessments, BASF Corporation concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to diflufenzopyr residues.

F. International Tolerances

There are no CODEX or Mexican residue limits established for diflufenzopyr or its metabolites.

[FR Doc. 01–30595 Filed 12–11–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7117–3]

Regional Haze Regulations; Availability of Draft Guidance Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: We, the EPA are announcing today the availability of draft guidance to assist State and tribal air pollution control agencies in the implementation of regulations governing regional haze which were published in the **Federal Register** on July 1, 1999. These draft documents address the establishment of natural visibility conditions and the tracking of progress under the regional haze program.

DATES: Comments should be submitted on or before January 11, 2002.

ADDRESSES: Comments should be submitted to Lara Autry, U.S. Environmental Protection Agency (MD–14), Research Triangle Park, NC 27711; E-mail *autry.lara@epa.gov*. An electronic copy of the draft guidance can be accessed at: *http://www.epa.gov/ttn/amtic/visinfo.html*.

FOR FURTHER INFORMATION CONTACT: Lara Autry at the same address; E-mail *autry.lara@epa.gov;* telephone (919) 541–5544.

SUPPLEMENTARY INFORMATION: In section 169A of the 1977 Amendments to the Clean Air Act, Congress established a national visibility goal as the "prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Federal Class I areas which impairment results from manmade air pollution." 42 U.S.C. 7491. These provisions were further supplemented by section 169B of the Clean Air Act Amendments of 1990. 42 U.S.C. 7492. States are required to develop implementation plans that make "reasonable progress" toward this goal.

EPA issued initial visibility regulations in 1980 [1] that addressed visibility impairment in a specific mandatory Federal Class I area that is determined to be "reasonably attributable" to a single source or small group of sources. Regulations to address regional haze were deferred until improved techniques could be developed in monitoring, modeling, and in understanding the effects of specific pollutants on visibility impairment. EPA issued regional haze regulations in 1999.[2]

The overall framework of the regional haze rule requires States to develop SIPs that include (1) reasonable progress goals for improving visibility in each mandatory Federal Class I area, and (2) set of emission reduction measures to meet these goals. Specifically, States will set progress goals for each mandatory Federal Class I area to:

- provide for an improvement in visibility for the 20% most impaired (i.e., worst visibility) days over the period of the implementation plan, and
- ensure no degradation in visibility for the 20% least impaired (i.e., best visibility) days over the same period.

Baseline visibility conditions for the 20% worst and 20% best days are to be determined using monitoring data collected during calendar years 2000–2004. Baseline conditions for 2000–2004, progress goals, and tracking changes over time are to be expressed in terms of the deciview index.[3]

Most States (and Tribes as appropriate [4]) participating in regional planning organizations will submit regional haze implementation plans, including estimates of natural conditions and proposed progress goals, in the 2008 time frame. The regional haze SIP deadlines are linked to the dates when $PM_{2.5}$ designations are finalized. For states that choose to participate in a regional planning organization, the initial (committal) SIP is due within one year of the $PM_{2.5}$ designation and the full control strategy SIP is due within three years of the $PM_{2.5}$ designation, but not later than December 31, 2008. For states that choose not to participate in a regional planning organization, regional haze SIPs are due within one year of the $PM_{2.5}$ designation (for geographic areas designated as attainment or unclassifiable) and within three years of the $PM_{2.5}$ designation (for geographic areas designated as nonattainment), which is the same time that control strategies to attain the $PM_{2.5}$ standard are due. In developing any progress goal, the State will need to analyze and consider in its set of options the rate of improvement between 2004 (when 2000–2004 baseline conditions are set) and 2018 that, if maintained in subsequent implementation periods, would result in achieving estimated natural conditions in 2064.

The purpose of the draft documents announced in today's notice, when completed, will be to provide guidance to the States in implementing the regional haze program and to explain how EPA intends to exercise its discretion in implementing Clean Air Act provisions and EPA regulations concerning the estimation of natural visibility under the Regional Haze program. The guidance is designed to implement national policy on these issues. Sections 169A and 169B of the Clean Air Act and implementing regulations at 40 CFR 51.308 and 51.309 contain legally binding requirements. When completed and issued, these draft guidance documents will not substitute for those provisions or regulations, nor will they constitute regulations themselves. Thus, they will not impose binding, enforceable requirements on any party, and may not apply to a particular situation based upon the circumstances. We and State decision

[1] See 45 FR 80084 (December 2, 1980).

[2] See 64 FR 35713 (July 1, 1999). See also 40 CFR 51.300–51.309.

[3] The deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in visual perception across the entire range of conditions, from pristine to highly impaired. Deciview = 10 $\ln(b_{ext}/10)$.

[4] Under the Tribal Air Rule (63 FR 7254; February 12, 1998; 40 CFR part 49), Tribal governments may elect to implement air programs in much the same way as states, including development of Tribal implementation plans.

makers retain the discretion to adopt approaches on a case-by-case basis that differ from this guidance where appropriate. Any decisions by us regarding a particular State implementation plan (SIP) demonstration will only be made based on the statute and regulations. Therefore, you are free to raise questions and objections about the appropriateness of the application of this guidance to a particular situation; we will, and States should, consider whether or not the recommendations in this guidance are appropriate in that situation. These guidance documents will be living documents and may be revised periodically without public notice. We welcome public comments on these documents at any time and will consider those comments in any future revision of these guidance documents. However, for the purposes of completing the current versions of these documents and providing them to the State and tribal air pollution control agencies for their use, we ask that any comments on these versions be submitted to us not later than January 11, 2002.

Dated: November 28, 2001.

William Lamason,

Acting Director, Emissions Monitoring Analysis Division.

[FR Doc. 01–30741 Filed 12–11–01; 8:45 am]

BILLING CODE 6550–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7116–9]

Proposed CERCLA 122(h) Administrative Agreement for Collection of Past Costs

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice.

SUMMARY: USEPA is proposing to execute an Administrative Agreement (Agreement) under section 122 of CERCLA for collection of a percentage of past response costs at the SCD Chemical Superfund Site. The Settling Party, the Bankruptcy Trustee for the bankruptcy estate of the owner of the property upon which the Superfund Site is located, has agreed, to pay 50% of the net proceeds of sale of the Site property (after payment of the real estate broker's commission, transfer taxes, and closing costs, and liens, such as real property taxes). The property was sold for $150,000 and the proposed distribution to EPA from the sale has been determined by the parties to be $39,768.63. The Settling Party would receive an agreement to make no further claim against the Debtor's estate for its response costs, except for the proposed distribution from the proceeds of the sale of the Subject Property. USEPA today is proposing to execute this Agreement because it provides reimbursement to USEPA for part of its past costs at the SCD Chemical Site.

DATES: Comments on this proposed settlement must be received by January 11, 2002.

ADDRESSES: Copies of the proposed settlement are available at the following address for review: (It is recommended that you telephone Ms. Cheryl Allen at (312) 353–6196 before visiting the Region V Office).

Ms. Cheryl Allen, OPA (P19–J), Coordinator, Office of Public Affairs, U.S. Environmental Protection Agency, Region V, 77 W. Jackson Boulevard (P–19J), Chicago, Illinois 60604, (312) 353–6196.

Comments on this proposed settlement should be addressed to: (Please submit an original and three copies, if possible)

Ms. Cheryl Allen, Coordinator, Office of Public Affairs, U.S. Environmental Protection Agency, Region V, 77 W. Jackson Boulevard (P–19J), Chicago, Illinois 60604, (312) 353–6196.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryl Allen, Office of Public Affairs, at (312) 353–6196.

SUPPLEMENTARY INFORMATION: The Site is approximately a 3-acre property with two abandoned industrial buildings and open grounds area and is located at 14100 Fullerton Avenue in Detroit, Michigan (Wayne County). The Site before the Superfund removal action contained approximately 900 55-gallon drums and numerous smaller containers filled with material, including hazardous substances, from the chemical packaging and distribution operation that was located on the Site. All of these materials were removed. Pursuant to the terms of the administrative agreement the Settling Party has agreed to pay 50% of the net proceeds of sale of the Site property (after payment of the real estate broker's commission, transfer taxes, and closing costs, and liens, such as real property taxes) towards past costs associated with investigation and enforcement of CERCLA at the Site. The property was sold for $150,000 and the proposed distribution to EPA from the sale has been determined by the parties to be $39,768.63. The Settling Party would receive an agreement to make no further claim against the Debtor's estate for its response costs, except for the proposed distribution from the proceeds of the sale of the Subject Property.

A 30-day period, beginning on the date of publication, is open pursuant to section 122(i) of CERCLA for comments on the proposed Administrative Agreement.

Comments should be sent to Ms. Cheryl Allen of the Office of Public Affairs (P–19J), U.S. Environmental Protection Agency, Region V, 77 W. Jackson Boulevard, Chicago, Illinois 60604.

William E. Muno,

Director, Superfund Division, United States Environmental Protection Agency.

[FR Doc. 01–30742 Filed 12–11–01; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting; Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

Date and Time: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on December 13, 2001, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- November 6, 2001 (Open)

B. Reports

- FCS Building Association's Quarterly Report
- Report on Corporate Approvals

- Examination Bulletin: Temporary Relief for Agricultural Producers Under Stress

C. New Business

- Regulation
  - Loan Purchases and Sales 12 CFR Parts 614 and 619 (Final Rule)
- Other
  - Northwest Louisiana PCA Conversion

Closed Session[1]

D. Report

- OSMO Report

Dated: December 10, 2001.

Jeanette C. Brinkley,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 01–30817 Filed 12–10–01; 2:04 pm]

BILLING CODE 6705–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 26, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. William Clayton Vandivort, Sikeston, Missouri; to retain voting shares of Security State Bancshares, Inc., Charleston, Missouri, and thereby indirectly retain voting shares of Bank of Paragould, Paragould, Arkansas, First Security State Bank of Charleston, Charleston, Missouri, and First Security State Bank of Southeast Missouri, Caruthersville, Missouri.

[1] Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Board of Governors of the Federal Reserve System, December 6, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–30668 Filed 12–11–01; 8:45 am]

BILLING CODE 6210–01–S

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, December 12, 2001.

The business of the Board requires that this meeting be held with less than one week's advance notice to the public and no earlier announcement of the meeting was practicable.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed amendments to Regulation Z (Truth in Lending) addressing concerns related to potentially abusive practices in home mortgage lending. (Proposed earlier for public comment, Docket No. R–1090)

2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $6 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System,Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 for a recorded announcement of this meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement. (The Web site also includes procedural and other information about the open meeting.)

Dated: December 7, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–30778 Filed 12–7–01; 4:38 pm]

BILLING CODE 6210–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System

TIME AND DATE: 11 a.m., Monday, December 17, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a **RECORDED ANNOUNCEMENT** of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an **ELECTRONIC ANNOUNCEMENT** that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: December 10, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–30810 Filed 12–10–01; 11:50 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Public Roundtable on Consumer Aspects of Hague Convention on Jurisdiction and Foreign Judgments

AGENCY: Federal Trade Commission.

ACTION: Notice Announcing Public Roundtable.

SUMMARY: The Federal Trade Commission (the "FTC"), in consultation with other government agencies, will hold a roundtable discussion on the consumer aspects of the Proposed Hague Convention on Jurisdiction and Foreign Judgments being negotiated by the Hague Conference on Private International Law. The latest draft of the Convention can be found at *http://www.hcch.net/e/workprog/jdgm.html*.

DATES: The roundtable will be held on Wednesday, December 19, 2001, and will begin at 9:15 a.m.

ADDRESSES: The roundtable will be held at the Federal Trade Commission, Room 432, 600 Pennsylvania Avenue, NW., Washington, DC. Please contact Maneesha Mithal, Bureau of Consumer Protection, Federal Trade Commission, phone: (202)326–2771, facsimile: (202)326–3392, E-mail: *mmithal@ftc.gov* (preferably by E-mail) if you plan to attend.

FOR FURTHER INFORMATION CONTACT: Maneesha Mithal, Bureau of Consumer Protection, Federal Trade Commission, phone: (202)326–2771, facsimile: (202)326–3392, E-mail: *mmithal@ftc.gov*.

SUPPLEMENTARY INFORMATION: Since 1992, the U.S. government has been negotiating an International Jurisdiction and Foreign Judgments Convention through the Hague Conference on Private International Law (the Convention). The State Department is leading the negotiations, assisted by staff of the Department of Justice, the Department of Commerce, the FTC and other agencies.

The Convention would establish international rules on jurisdiction and recognition and enforcement of foreign judgments. In June 2001, the Hague Conference on Private International Law convened what was to be the first session of a two-part conference to finalize the Convention. But because many difficult issues remained unresolved, at the conclusion of the June conference, Hague Conference delegations were unable to decide how to take the negotiations forward. A follow-up meeting has been tentatively scheduled for early 2002 to decide whether to continue the full project, scale it back in some way, or suspend it.

The draft Convention text resulting from the June 2001 negotiations raises many difficult issues, particularly in the area of e-commerce for business-to-consumer (B2C) and business-to-business (B2B) transactions, where stakeholders disagree on appropriate jurisdiction rules.[1] Several suggestions have been made for scaling back the current text in order to achieve consensus on the Convention, including limiting the Convention to enforcement of judgments arising from physical torts and B2B contracts containing choice-of-forum clauses. The U.S. delegation would like to explore with interested stakeholders the possibility of narrowing the Convention to areas where there seems to be consensus.

The FTC is hosting this roundtable as a forum for all interested stakeholders to provide input to U.S. government officials on three specific issues raised by the draft Convention that are particularly relevant to consumer interests: business-to-consumer contracts, informational torts, and physical torts.

Officials from the Department of State, Department of Commerce, and Library of Congress will also be participating in the meeting. Each session of the roundtable will be moderated by government representatives. All attendees are free to participate in the discussion; no particular panelists will be chosen beforehand. An agenda for the roundtable and questions for discussion of these topics are listed below.

9:15: Introductory Remarks

9:30–11:30: Topic 1: Contracts

With respect to contracts, should the Convention be limited to B2B contracts containing choice-of-forum clauses? Why or why not?

If so, how should the term business be defined? What are the concerns of including, for example, non-profit associations and libraries within the definition of business?

If the Convention is limited to B2B contracts containing choice-of-forum clauses, should all such clauses be upheld or should there be exceptions for clauses that are procured as a result of fraud, duress, or unconscionability? Should there be exceptions based on reasonableness or public policy? Why or why not?

A concern has been raised that, even if limited to business-to-business contracts, the Convention could be revised and/or reinterpreted in the future to include consumer contracts also. How can this concern be addressed?

If the Convention were limited to B2B choice-of-forum clauses, U.S. consumers would not be able to get their judgments enforced abroad under the Convention. Are there other international venues where a Convention or other vehicle for enforcement of consumer judgments could be considered? What else can the U.S. do to address this problem?

Should the Convention address all B2B contracts, including those that do not contain choice-of-forum clauses? Why or why not?

Some have suggested that consensus is possible on the issue of jurisdiction for consumer contracts that do not contain choice-of-forum clauses. Should the Convention address consumer contracts without choice-of-forum clauses? What are the advantages and disadvantages of this approach?

11:45–12:30 pm: Topic 2: Physical Torts

Should physical torts (i.e., product liability) be included within the scope of the Convention? If so, how can physical torts be defined?

What are the advantages of inclusion? Disadvantages?

The June 2001 draft of the Convention contains some provisions on damages. If physical torts are included in the Convention, are stakeholders comfortable with the approach to damages outlined in the June 2001 draft of the Convention? Why or why not?

If physical torts are included in the Convention, should the U.S. be willing to give up general doing business jurisdiction in international cases involving physical torts? What impact would this have on U.S. litigation?

12:30–1:30 pm: Lunch

1:30–3:30 pm: Topic 3: Informational Torts (Intellectual Property, Speech Torts)

Should informational torts (e.g., defamation, copyright, trademark, patent infringement) be included within the scope of the Convention? Why or why not?

How can we define informational torts, as opposed to physical torts, for purposes of an international Convention?

Should the Convention distinguish between informational torts involving consumers and businesses? If so, how could such a distinction be made?

Should the Convention distinguish between torts that raise First Amendment issues and other informational torts? If so, how could such a distinction be made?

3:30–5:00 pm: Other Issues/Open Discussion

Should the Convention address lawsuits where the defendant is sued in his or her home forum? Why or why not?

A proposal has been made to negotiate a multi-track Convention, under which a comprehensive Convention would be negotiated, as well as a narrower Convention, and countries could decide which Convention to sign on to. What are your views with respect to this approach?

Do attendees have questions for members of the U.S. delegation?

[1] The latest draft of the Convention can be found at *http://www.hcch.net/e/workprog/jdgm.html*.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–30730 Filed 12–11–01; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Karen M. Ruggiero, Ph.D., Harvard University: On November 26, 2001, the U.S. Public Health Service (PHS) entered into a Voluntary Exclusion Agreement with Harvard University and Karen M. Ruggiero, Ph.D., former Assistant Professor, Department of Psychology at Harvard University. Based on the report of an inquiry conducted by Harvard University (Harvard Report), and related actions and findings by Harvard based on the Harvard Report, as well as additional analysis conducted by ORI in its oversight review, PHS found that Dr. Ruggiero engaged in scientific misconduct by fabricating data in research supported by the National Institutes of Health (NIH).

Specifically, PHS and Harvard University found that:

(1) Dr. Ruggiero fabricated three experiments, including data reported as having been obtained from a total of 240 participants, published in the following paper: Ruggiero, K.M. & Marx, D.M. "Less pain and more to gain: Why high-status group members blame their failure on discrimination." Journal of Personality and Social Psychology, 77(4):774–784, 1999 (the "JPSP paper"). These experiments were also proposed in the "Research Plan" of an application submitted to the National Institute of Mental Health (NIMH), NIH, by Dr. Ruggiero in September 1997 for grant 1 R03 MH58586–01, which was acknowledged as a source of support in the JPSP paper. Dr. Ruggiero admits that she fabricated the data on the 240 participants in the JPSP paper. At her request, a notice of retraction of this paper appeared in the Journal of Personality and Social Psychology 81(2):178, 2001.

(2) Dr. Ruggiero fabricated two experiments, including data reported as having been obtained from a total of 360 participants, published in the following paper: Ruggiero, K.M., Steele, J., Hwang, A., & Marx, D.M. "Why did I get a "D"? The effects of social comparisons on women's attributions to discrimination." Personality and Social Psychology Bulletin 26(10):1271–1283, 2000 (the "PSPB paper"). These experiments were also proposed in the "Research Plan" of the application submitted by Dr. Ruggiero in September 1997 for grant 1 R03 MH58586–01, which was acknowledged as a source of support in the PSPB paper. Dr. Ruggiero admits that she fabricated the data on the 360 participants in the PSPB paper. At her request, a notice of retraction of this paper appeared in the Personality and Social Psychology Bulletin 27(9):1237, 2001.

(3) Dr. Ruggiero's admittedly fabricated research from the JPSP and PSPB papers was cited in and served as the basis for an NIH Individual National Service Award application, F32 MH12868–01 and –01A1, formerly F32 HD41874, "Status effects in perceptions of preferential treatment," submitted in August 2000 by one of Dr. Ruggiero's post-doctoral fellows, with Dr. Ruggiero listed as the sponsor.

(4) In connection with a Harvard School of Public Health grant application to NIH, 1 R01 HL065220–01, "Measuring racial discrimination for health research," Dr. Ruggiero submitted a subcontract in September 2000 citing the admittedly fabricated research from the JPSP and PSPB papers in support of her qualifications to serve as a subcontractor.

(5) In July 1999 and July 2000, Dr. Ruggiero cited and included as "Preliminary Studies" her admittedly fabricated, PHS-supported research from the JPSP and PSPB papers in applications, "The ironic status effect," that she submitted to the National Science Foundation.

The Voluntary Exclusion Agreement (Agreement) states that:

(1) Dr. Ruggiero agreed to exclude herself from any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions (e.g., grants and cooperative agreements) of the United States Government as defined in 45 CFR part 76(Debarment Regulations) for a period of five (5) years, beginning on November 26, 2001.

(2) Dr. Ruggiero agreed to exclude herself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for a period of five (5) years, beginning on November 26, 2001.

(3) Dr. Ruggiero agreed to submit a letter, with a copy to ORI and Harvard, to the Personality and Social Psychology Bulletin requesting retraction of the following paper: Ruggiero, K.M. & Major, B.N. "Group status and attributions to discrimination: Are low- or high-status group members more likely to blame their failure on discrimination?" Personality and Social Psychology Bulletin 24:821–838, 1998. Dr. Ruggiero further agreed that the letter submitted pursuant to this paragraph will state that the retraction is warranted "because serious questions exist concerning the validity of the data which relate solely to my own work and which do not implicate my coauthor in any way." ORI received a copy of her letter to the editor, dated November 5, 2001.

(4) Dr. Ruggiero agreed to submit a letter, with a copy to ORI and Harvard, to Psychological Science requesting a retraction of the following paper: Ruggiero, K.M., Mitchell, J.P., Krieger, N., Marx, D.M., & Lorenzo, M.L. "Now you see it, now you don't: Explicit versus implicit measures of the personal/group discrimination discrepancy." Psychological Science 22:57–67, 2000. Dr. Ruggiero further agreed that the letter submitted pursuant to this paragraph will state that the retraction is warranted "because I improperly excluded some participants who should have been included in the analyses and that this exclusion affected the reported results. Moreover, the improper exclusion of data was solely my doing and was not contributed to or known by my coauthors." ORI received a copy of her letter to the editor, dated October 18, 2001.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. 01–30627 Filed 12–11–01; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Advisory Committee on Immunization Practices (ACIP) Teleconference.

Time and Date: 3:30 p.m.-5:30 p.m., December 7, 2001.

Place: Teleconference call will originate at the Centers for Disease Control and Prevention in Atlanta, Georgia.

Status: Closed.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters to be Discussed: The teleconference will convene in closed session from 3:30 p.m. to 5 p.m. on December 7, 2001. The purpose of this closed session is to discuss the use of anthrax vaccine for persons exposed to B. anthracis in the United States. This teleconference will be closed to the public in accordance with provisions set forth in 5 U.S.C. 552b(c)(1), (7) and (9)(B), and the Determination of the Deputy Director for Management; CDC, pursuant to Pub. L. 92–463.

SUPPLEMENTARY INFORMATION: As provided under 5 U.S.C. 552b(e) and 41 CFR 102–3.150(b), the public health urgency of this agency business requires that the meeting be held prior to the first available date for publication of this notice in the **Federal Register**.

CONTACT PERSON FOR MORE INFORMATION: Gloria A. Kovach, Program Analyst, Epidemiology and Surveillance Division, National Immunization Program, CDC, 1600 Clifton Road, NE, M/S E61, Atlanta, Georgia 30333. Telephone 404/639–8096.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: December 6, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–30669 Filed 12–11–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Methodology for Determining If an Increase in a State or Territory's Child Poverty Rate Is the Result of the TANF Program.

OMB No.: 0970–0186.

Description: In accordance with section 413(i) of the Social Security Act and 45 CFR part 284, DHHS intends to extend the following information collection requirements for instances when Census Bureau data show that a State's child poverty rate increased by 5% or more from 1 year to the next: (1) Optional submission of data on child poverty from an independent source; (2) if the increase in the State's child poverty rate is still determined to be 5% or more, an assessment of the impact of the TANF program(s) in the State on the child poverty rate; and (3) if DHHS determines from the assessment and other information that the child poverty rate in the State increased as a result of the TANF program(s) in the State, a corrective action plan.

Respondents: The respondents are the 50 States and the District of Columbia; and when reliable Census Bureau data become available for the Territories, additional respondents will be Guam, Puerto Rico, and the Virgin Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Optional Submission of Data on Child Poverty from an Independent Source	54	1	8	432
Assessment of the Impact of TANF on the Increase in Child Poverty	54	1	120	6,480
Corrective Action Plan	54	1	160	8,640
Estimated Total Annual Burden Hours				15,552

Additional Information:

Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OPM Comment:

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommencations for the proposed information should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: December 4, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–30732 Filed 12–11–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–89]

Notice of Proposed Information; Collection; Comment Request Employee Interviews/Labor Standards Wage Levels

AGENCY: Office of Departmental Operations and Coordination.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due:* February 11, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department or Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 800a, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; E-mail *Wayne__Eddins@HUD.gov*; telephone (202) 708–2374 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Record of Employee Interview.

OMB Control Number, if applicable: 2501–0009.

Description of the need for the information and proposed use: HUD and local agency officials administering HUD-assisted programs collect information from project construction workers to ensure wages meet labor standards requirements under the Davis-Bacon and related Acts. Local agencies must retain this informaiton to document to the quantity and quality of local enforcement efforts.

Agency form numbers, if applicable: HUD–11.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Total annual burden for this information collection is estimated at 10,000 hours.

20,000 interview respondents × 0.25 hours = 5,000 hours annually.
Recordkeeping 1,000 × 5 hours = 5,000 hours annually.

Status of the proposed information collection: Reinstatement, no changes.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 4 U.S.C. Chapter 35, as amended.

Dated: December 5, 2001.

Wayne Eddins,

Departmental Records Management Officer.

[FR Doc. 01–30645 Filed 12–11–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: Geological Survey, Interior.

ACTION: Notice of Proposed Cooperative Research & Development Agreement (CRADA) Negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with Riverside Technology, Inc. to develop Integrated Science Partnerships that promote Global USGS Mission Objectives.

INQUIRIES: If any other parties are interested in similar activities with the USGS, please contact Richard J. Calnan, 12201 Sunrise Valley Drive, MS 917, Reston, VA 21092, phone: (703) 648–6206.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS policy requirements stipulated in Survey Manual Chapter 500.20.

Dated: November 8, 2001.

P. Patrick Leahy,

Associate Director for Geology.

[FR Doc. 01–30630 Filed 12–11–01; 8:45 am]

BILLING CODE 4310–47–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: Geological Survey, Interior.

ACTION: Notice of Proposed Cooperative Research & Development Agreement (CRADA) Negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with LaFarge Corporation, Inc. to test a set of geophysical tools for evaluation of alluvial deposits without drilling or trenching.

INQUIRIES: If any other parties are interested in similar activities with the USGS, please contact Karl Ellefson, PO Box 25046, MS–964, Denver, Colorado 80225, (303) 236–7032.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS requirements stipulated in Survey Manual Chapter 500.20.

Dated: December 6, 2001.

Linda C. Gundersen,

Chief Scientist for Geology.

[FR Doc. 01–30631 Filed 12–11–01; 8:45 am]

BILLING CODE 4310–47–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Quapaw Tribe of Oklahoma Liquor Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Quapaw Tribe of Oklahoma Liquor Control Ordinance. The Ordinance regulates the control, possession, and sale of liquor on the Quapaw Tribe trust lands, in conformity with the laws of the State of Oklahoma, where applicable and necessary. Although the Ordinance was adopted on June 22, 2001, it does not become effective until published in the **Federal Register** because the failure to comply with the ordinance may result in criminal charges.

DATES: This Ordinance is effective on December 12, 2001.

FOR FURTHER INFORMATION CONTACT: Kaye Armstrong, Office of Tribal Services, 1849 C Street NW, MS 4631–MIB, Washington, DC 20240–4001; telephone (202) 208–4400.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of the adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Quapaw Tribe of Oklahoma Liquor Control Ordinance, Resolution No. 062201A, was duly adopted by the Quapaw Tribal Business Committee on June 22, 2001. The Quapaw Tribe, in furtherance of its economic and social goals, has taken positive steps to regulate retail sales of alcohol and use revenues to combat alcohol abuse and its debilitating effect among individuals and family members within the Quapaw Tribe.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1.

I certify that by Resolution No. 062201A, the Quapaw Tribe of Oklahoma Liquor Control Ordinance was duly adopted by the Quapaw Tribal Business Committee on June 22, 2001.

Dated: December 3, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

The Quapaw Tribe of Oklahoma Liquor Control Ordinance reads as follows:

Liquor Control Ordinance of the Quapaw Tribe of Oklahoma

Article I. Introduction

Section 1. Title. This Ordinance shall be known as the Quapaw Tribe of Oklahoma Liquor Ordinance.

Section 2. Authority. This ordinance is enacted pursuant to the Act of August 15, 1953, 67 stat. 586, codified at 18 U.S.C. 1161, and by section 5 of the Governing Resolution of the Quapaw Tribe of Oklahoma.

Section 3. Purpose. The purpose of this ordinance is to regulate and control the possession and sale of liquor on the Quapaw Tribe of Oklahoma Trust Land. The enactment of a tribal ordinance governing liquor possession and sale on the Quapaw Tribe of Oklahoma Trust land will increase the ability of the tribal government to control the sale, distribution and possession of liquor on Quapaw Tribe of Oklahoma Trust Land and will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal government services.

Section 4. Effective Date. This ordinance shall be effective on certification by the Secretary of the Interior and its publication in the **Federal Register**.

Section 5. Declaration of Public Policy and Purpose.

(a) The introduction, possession, and sale of liquor on the Quapaw Tribe of Oklahoma Trust Land is a matter of special concern to the Quapaw Tribe of Oklahoma.

(b) Federal Law currently prohibits the introduction of liquor into Indian Country (18 U.S.C. 1154), except as provided therein and expressly delegates to the tribes the decision regarding when and to what extent liquor transactions shall be permitted. (18 U.S.C. 1161).

(c) The Quapaw Tribe of Oklahoma finds that a complete ban on liquor within the Quapaw Tribe of Oklahoma Trust Land is ineffective and unrealistic. However, it recognizes that a need still exists for strict regulation and control over liquor transactions within the Quapaw Tribe of Oklahoma Trust Land, because of the many potential problems associated with the unregulated or inadequately regulated sale, possession, distribution, and consumption of liquor. The Quapaw Tribe of Oklahoma finds that exclusive tribal control and regulation of liquor is necessary to achieve maximum economic benefit to the Tribe, to protect the health and welfare of tribal members, and to address specific concerns relating to alcohol use on the Quapaw Tribe of Oklahoma Trust Land.

(d) It is in the best interests of the Tribe to enact a tribal ordinance governing liquor sales on the tribal lands and which provides for exclusive purchase, distribution, and sale of liquor only on tribal lands within the exterior boundaries of the Quapaw Tribe of Oklahoma Trust Land. Further, the Tribe has determined that said purchase, distribution, and sale shall take place only at tribally-owned enterprises and /or tribally licensed establishments operating on land leased from or otherwise owned by the Tribe.

Article II. Definitions

As used in the title, the following words shall have the following meanings unless the context clearly requires otherwise:

(a) *Alcohol.* That substance known as ethyl alcohol, hydrated oxide of ethyl, ethanol, or spirits of wine, from whatever source or by whatever process produced.

(b) *Alcoholic Beverage.* A term synonymous with the term liquor as defined in Article II(f) of this chapter.

(c) *Bar.* Any establishment with special space and accommodations for the sale of liquor by the glass and for consumption on the premises as herein defined.

(d) *Beer.* Any beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water and containing the percent of alcohol by volume subject to regulation as an intoxicating beverage in the state where the beverage is located.

(e) *Business Committee.* The Quapaw Tribal Business Committee.

(f) *Liquor.* Includes all fermented, spirituous, vinous, or malt liquor or combinations thereof, and mixed liquor, a part of which is fermented, and every liquid or solid or semisolid or other substance, patented or not, containing distilled or rectified spirits, potable alcohol, beer, wine, brandy, whiskey, rum, gin aromatic bitters, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption and any liquid, semisolid, solid, or other substances, which contains more than one half of one percent of alcohol.

(g) *Liquor Store.* Any store at which liquor is sold and, for the purpose of this ordinance, including stores only a portion of which are devoted to sale of liquor or beer.

(h) *Malt Liquor.* Includes beer, strong beer, ale, stout and porter.

(i) *Package.* Any container or receptacle used for holding liquor.

(j) *Public Place.* Includes state or county or tribal or federal highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theaters, gaming facilities, entertainment centers, stores, garages, and filling stations which are open to and/or are generally used by the public and to which the public is permitted to have unrestricted access; public conveyances of all kinds and character; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public. For the purpose of this ordinance, Public Place shall also include any establishment other than a

single family home which is designed for or may be used by more than just the owner of the establishment.

(k) *Quapaw Tribal Council.* The general council of the Quapaw Tribe of Oklahoma which is composed of the voting membership of the Tribe.

(l) *Quapaw Tribe of Oklahoma Trust Land.* Those lands which are held in trust by the United States for the Quapaw Tribe and not for any individual Indian.

(m) *Sale and Sell.* Includes exchange, barter and traffic; and also includes the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatsoever commonly used to describe malt or brewed liquor or of wine by any person to any person.

(n) *Spirits.* Any beverage, which contains alcohol obtained by distillation, including wines exceeding seventeen percent of alcohol by weight.

(o) *Wine.* Any alcoholic beverage obtained by fermentation of the natural contents of fruits, vegetables, honey, milk or other products containing sugar, whether or not other ingredients are added, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than seventeen percent of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding seventeen percent of alcohol by weight.

Article III. Powers of Enforcement

Section 1. The Business Committee. In furtherance of this ordinance, the Business Committee shall have the following powers and duties to:

(a) Publish and enforce rules and regulations adopted by the Business Committee governing the sale, manufacture, distribution, and possession of alcoholic beverages on the Quapaw Tribe of Oklahoma Trust Land;

(b) Employ managers, accountants, security personnel, inspectors and such other persons as shall be reasonably necessary to allow the Business Committee to perform its functions. Such employees shall be tribal employees;

(c) Issue licenses permitting the sale or manufacture or distribution of liquor on the Quapaw Tribe of Oklahoma Trust Land;

(d) Hold hearings on violations of this ordinance or for the issuance or revocation of licenses hereunder;

(e) Bring suit in the appropriate court to enforce this ordinance as necessary;

(f) Determine and seek damages for violation of the ordinance;

(g) Make such reports as may be required by the Quapaw Tribal Council; and

(h) Collect taxes and fees levied or set by the Business Committee and to keep accurate records, books and accounts.

Section 2. Limitation on Powers. In the exercise of its powers and duties under this ordinance, the Business Committee and its individual members shall not:

(a) Accept any gratuity, compensation or other thing of value from any liquor wholesaler, retailer or distributor or from any licensee;

(b) Waive the immunity of the Quapaw Tribe from suit without the express consent of the Business Committee.

Section 3. Inspection Rights. The premises on which liquor is sold or distributed shall be open for inspection by the Business Committee at all reasonable times for the purposes of ascertaining whether the rules and regulations of the Business Committee and this ordinance are being complied with.

Article IV. Sales of Liquor

Section 1. License Required. Sales of liquor and alcoholic beverages within the exterior boundaries of Quapaw Tribe of Oklahoma Trust Land may only be made at businesses which hold a Quapaw Liquor License.

Section 2. Sales for Cash. All liquor sales within the Quapaw Tribe of Oklahoma Trust Land boundaries shall be on a cash only basis and no credit shall be extended to any person, organization, or entity, except that the provision does not prevent the payment for purchases with the use of credit cards such as Visa, MasterCard, American Express, etc.

Section 3. Sale for Personal Consumption. All sales shall be for the personal use and consumption of the purchaser. Resale of any alcoholic beverage purchased within the exterior boundaries of the Quapaw Tribe of Oklahoma Trust Land is prohibited. Any person who is not licensed pursuant to this ordinance who purchases an alcoholic beverage within the boundaries of the Quapaw Tribe of Oklahoma Trust Land and sells it, whether in the original container or not, shall be guilty of a violation of this ordinance and shall be subjected to paying damages to the Quapaw Tribe as set forth herein.

Article V. Licensing

Section 1. Procedure. In order to control the proliferation of establishments on the Quapaw Tribe of Oklahoma Trust Land which sell or serve liquor by the bottle or by the drink, all persons or entities which desire to sell liquor within the exterior boundaries of the Quapaw Tribe of Oklahoma Trust Land must apply to the Quapaw Tribe for a license to sell or serve liquor.

Section 2. Application. Any person or entity applying for a license to sell or serve liquor on the Quapaw Tribe of Oklahoma Trust Land must fill in the application provided for this purpose by the Quapaw Tribe and pay such application fees as may be set from time to time by the Business Committee for this purpose. Said application must be filled out completely in order to be considered.

Section 3. Issuance of License. The Business Committee may issue a license if it believes that such issuance is in the best interests of the Quapaw Tribe and its members.

Section 4. Period of License. Each license may be issued for a period not to exceed (2) two years from the date of issuance.

Section 5. Renewal of License. A licensee may renew its license if the licensee has complied in full with this ordinance provided however, that the Business Committee may refuse to renew a license if it finds that doing so would not be in the best interests of the health and safety of the Quapaw Tribe.

Section 6. Revocation of License. The Business Committee may revoke a license for reasonable cause upon notice of hearing at which the licensee is given an opportunity to respond to any charges against it and to demonstrate why the license should not be suspended or revoked.

Section 7. Transferability of Licenses. Licenses issued by the Business Committee shall not be transferable and may only be utilized by the person or entity in whose name it was issued.

Article VI. Taxes

Section 1. Sales Tax. There is hereby levied and shall be collected a tax on each retail sale of liquor or alcoholic beverage on the Quapaw Tribe of Oklahoma Trust Land in the amount of one percent (1%) of the retail sales price. All taxes from the sale of liquor and alcoholic beverages on the Quapaw Tribe of Oklahoma Trust Land shall be paid over to the General Treasury of the Quapaw Tribe.

Section 2. Taxes Due. All taxes for the sale of liquor and alcoholic beverages on the Quapaw Tribe of Oklahoma Trust Land are due on the 15th day of the month following the end of the calendar quarter for which the taxes are due.

Section 3. Delinquent Taxes. Past due taxes shall accrue interest at 2% per month.

Section 4. Reports. Along with payment of the taxes imposed herein, the taxpayer shall submit a quarterly accounting of all income from the sale or distribution of liquor, as well as for the taxes collected.

Section 5. Audit. As a condition of obtaining a license, the licensee must agree to the review or audit of its book and records relating to the sale of liquor and alcoholic beverages on the Quapaw Tribe of Oklahoma Trust Land. Said review or audit may be done periodically by the Tribe through its agents or employees whenever, in the opinion of the Business Committee, such a review or audit is necessary to verify the accuracy of reports.

Article VII. Rules, Regulations and Enforcement

Section 1. In any proceeding under this ordinance, conviction of one unlawful sale or distribution of liquor shall establish prima facie intent of unlawfully keeping liquor for sale, selling liquor or distributing liquor in violation of this ordinance.

Section 2. Any person who shall sell or offer for sale or distribute or transport in any manner, liquor in violation of this ordinance, or who shall operate or shall have liquor for sale in his possession without a license, shall be guilty of a violation of this ordinance subjecting him or her to civil damages assessed by the Business Committee.

Section 3. Any person within the boundaries of the Quapaw Tribe of Oklahoma Trust Land who buys liquor from any person other than a properly licensed facility shall be guilty of a violation of this ordinance.

Section 4. Any person who keeps or possesses liquor upon his person or in any place or on premises conducted or maintained by his principal or agent with the intent to sell or distribute it contrary to the provisions of this title, shall be guilty of a violation of this ordinance.

Section 5. Any person who knowingly sells liquor to a person under the influence of liquor shall be guilty of a violation of this ordinance.

Section 6. Any person engaged wholly or in part in the business of carrying passengers for hire, and every agent, servant, or employee of such person, who shall knowingly permit any person to drink liquor in any public conveyance shall be guilty of an offense. Any person who shall drink liquor in a public conveyance shall be guilty of a violation of this ordinance.

Section 7. No person under the age of 21 years shall consume, acquire or have in his possession any liquor or alcoholic beverage. No person shall permit any other person under the age of 21 to consume liquor on his premises or any premises under his control except in those situations set out in this section. Any person violating this section shall be guilty of a separate violation of this ordinance for each and every drink so consumed.

Section 8. Any person who shall sell or provide any liquor to any person under the age of 21 years shall be guilty of a violation of this ordinance for each such sale or drink provided.

Section 9. Any person who transfers in any manner an identification of age to a person under the age of 21 years for the purpose of permitting such person to obtain liquor shall be guilty of an offense; provided, that corroborative testimony of a witness other than the underage person shall be a requirement of finding a violation of this ordinance.

Section 10. Any person who attempts to purchase an alcoholic beverage through the use of false or altered identification which falsely purports to show the individual to be over the age of 21 years shall be guilty of violating this ordinance.

Section 11. Any person guilty of a violation of this ordinance shall be liable to pay the Quapaw Tribe of Oklahoma the amount of $500 per violation as civil damages to defray the Tribe's cost of enforcement of this ordinance.

Section 12. When requested by the provider of liquor, any person shall be required to present official documentation of the bearer's age, signature and photograph. Official documentation includes one of the following:

(1) Driver's license or identification card issued by any state department of motor vehicles;

(2) United States Active Duty Military; or

(3) Passport.

Section 13. Liquor which is possessed, including for sale, contrary to the terms of this ordinance are declared to be contraband. Any tribal agent, employee or officer who is authorized by the Business Committee to enforce this section shall seize all contraband and preserve it in accordance with the provisions established for the preservation of impounded property.

Section 14. Upon being found in violation of the ordinance, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Quapaw Tribe of Oklahoma.

Article VIII. Abatement

Section 1. Any room, house, building, vehicle, structure, or other place where liquor is sold, manufactured, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this ordinance or of any other tribal law relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, and all property kept in and used in maintaining such place, is hereby declared to be a nuisance.

Section 2. The Chairman of the Business Committee or, if the Chairman fails or refuses to do so, by a majority vote, the Business Committee shall institute and maintain an action in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this article. In addition to all other remedies at tribal law, the Court may also order the room, house, building, vehicle, structure, or place closed for a period of one (1) year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient sum of not less that $25,000 payable to the Tribe and conditioned that liquor will not be thereafter manufactured, kept, sold, bartered, exchanged, given away, furnished, or otherwise disposed of thereof in violation of the provisions of this ordinance or of any other applicable tribal law and that he will pay all fines, costs and damages assessed against him for any violation of this ordinance or other tribal liquor laws. If any conditions of the bond be violated, the bond may be recovered for the use of the Tribe.

Section 3. In all cases where any person has been found in violation of this ordinance relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, an action may be brought to abate as a nuisance any real estate or other property involved in the violation of the ordinance and violation of this ordinance shall be prima facie evidence that the room, house, building, vehicle, structure, or place against which such action is brought is a public nuisance.

Article IX. Revenue

Revenue provided for under this ordinance, from whatever source, shall be expended for administrative costs incurred in the enforcement of this ordinance. Excess funds shall be subject to appropriation by the Business Committee for essential governmental and social services.

Article X. Severability and Effective Date

Section 1. If any provision or application of this ordinance is determined by review to be invalid, such determination shall not be held to render ineffectual the remaining portions of this ordinance or to render such provisions inapplicable to other persons or circumstances.

Section 2. This ordinance shall be effective on such date as the Secretary of the Interior certifies this ordinance and publishes the same in the **Federal Register**.

Section 3. Any and all prior enactments of the Business Committee which are inconsistent with the provisions of this ordinance are hereby rescinded.

Article XI. Amendment

This ordinance may only be amended by a vote of the Business Committee.

[FR Doc. 01–30661 Filed 12–11–01; 8:45 am]
BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[INT–FES–01–40]

Potholes Reservoir Resource Management Plan, Grant County, Washington

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the Potholes Reservoir Resource Management Plan (RMP) final environmental impact statement (FEIS).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior, Bureau of Reclamation (Reclamation), has prepared a final environmental impact statement to document the analysis of four alternatives, including the No Action Alternative, for resource management in the Potholes Reservoir Study area. The alternatives respond differently to the issues and concerns identified during project planning. The Preferred Alternative balances the management agencies' and public's long-term vision for Potholes Reservoir and recognizes the need to protect the natural and cultural environment while supporting the overall recreational interest of the visitors. The Preferred Alternative was modified from that in the Draft EIS to incorporate changes resulting from public comments. The major change was to leave a portion of the Yellow Zone open to seasonal Off-Road Vehicle (ORV) use, instead of closing the entire Yellow Zone to such use year-round. The Preferred Alternative was modified to close 919 acres of the 1,459 acre Lower Crab Creek Arm Management Area (Yellow Zone) to motor vehicle travel and ORV use year-round, and to maintain as seasonally open (July 1 to October 1) 540 acres of the 1,459 acre Yellow Zone. The FEIS includes all comment letters received on the Draft EIS and Reclamation's responses to those comments, as well as a summary of the comments from the public hearings.

A Record of Decision (ROD) will be completed no sooner than 30 days after the publication of the Environmental Protection Agency's Notice of Availability of the FEIS in the **Federal Register**. The ROD will identify the alternative that will be implemented and will discuss factors leading to the decision.

ADDRESSES: Copies of the FEIS are available for public inspection and review at the following locations:

- Bureau of Reclamation, U.S. Department of the Interior, Room 7455, 18th and C Streets, NW., Washington, DC.
- Bureau of Reclamation, Pacific Northwest Regional Office, 1150 North Curtis Road, Suite 100, Boise, Idaho.
- Bureau of Reclamation, Upper Columbia Area Office, 1917 Marsh Road, Yakima, Washington.
- Bureau of Reclamation, Ephrata Field Office, 32 C Street, Ephrata, Washington.

Internet

The FEIS will also be available on the Internet at *http://www.pn.usbr.gov/*.

FOR FURTHER INFORMATION CONTACT: For information, or to obtain a printed copy or a Summary of the FEIS, contact Mr. Jim Blanchard at (509) 754–0239, extension 226.

SUPPLEMENTARY INFORMATION: The purpose of developing a RMP for Potholes Reservoir is to balance the resource protection and conservation objectives with the rising demand for increased recreation opportunities, visitor facilities, and support services.

Throughout the RMP study process, Reclamation routinely solicited input from the public, agencies, Native Americans, and others with a direct interest in the future management of Potholes Reservoir. Information was diligently gathered through public workshops, interviews with key opinion leaders, and ongoing consultations with local, state and Federal agency personnel. Scoping was initiated in August 1996 with interviews with local chambers of commerce, environmental organizations, local business owners, and sportsman clubs. Initial public scoping meetings were held in Othello and Bellevue, Washington, in September 1996.

Through this early and open scoping process, a wide diversity of RMP issues and concerns were identified. These issues and concerns were summarized in a "Problem Statement" and used to develop the range of RMP alternatives evaluated in this FEIS.

A Draft EIS was released on January 26, 2001, for a 60-day review period which was subsequently extended for an additional 30 days due to public requests. Reclamation conducted two hearings on March 13, 2001, at the Midway Learning Center in Moses Lake, Washington, to hear and record public comments. Approximately 150 people attended the hearings. Of those, 29 individuals made statements for the public record. The comments ranged from concern over mosquito and noxious weed problems to personal watercraft control in the study area. Most comments reflected concern about the proposed limitations of ORV use in the Yellow Zone. This was also the major issue identified in the 112 individual letters received commenting on the FEIS, and especially in the five form letters that were submitted by numerous individuals.

Reclamation conducted agency meetings on May 7, 2001, and June 4, 2001, attended by representatives of the U.S. Fish and Wildlife Service, the Washington Department of Fish and Wildlife, and the Grant County Sheriffs Office. The purpose of the meetings was for the administering agencies to consider modifying proposed acreage reduction of the ORV Yellow Zone, based on the comments received at the public hearings. With agreement from the user groups, agencies, and jurisdictional entities, the Preferred Alternative was modified to reflect year-round closure of 919 acres of the 1,459 acre Lower Crab Creek Arm Management Area (Yellow Zone) to motor vehicle travel and ORV use, and to maintain 540 acres of the 1,459 acre Yellow Zone as seasonally open (July 1 to October 1).

Dated: November 19, 2001.

J. William McDonald,

Regional Director, Pacific Northwest Region.

[FR Doc. 01–30667 Filed 12–11–01; 8:45 am]
BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

United States Parole Commission; An additional item added to the agenda of the open meeting held at 5550 Friendship Boulevard, Chevy Chase, Maryland 20815; Correction.

Pursuant To The Government In the Sunshine Act (Public Law 94–409) [5 U.S.C. Section 552b].

AGENCY: Department of Justice, United States Parole Commission.

ACTION: Notice of correction of previous published agenda.

SUMMARY: This notice corrects the agenda previously published in the **Federal Register** December 5, 2001 [66 FR 63260] by adding an additional item to the open meeting of the Commission held in Chevy Chase, Maryland. The following item has been added to the agenda: Approval of Rules and Procedures Memorandum concerning hearing examiner authority to make a probable cause finding and determine location of a revocation hearing and witnesses; instructions for handling warrant requests; and deletion of inaccurate statement regarding the satisfactory evidence standard.

Dated: December 7, 2001.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 01–30786 Filed 12–10–01; 10:08 am]

BILLING CODE 4410–31–M

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

Pursuant To The government In the Sunshine Act (Public Law 94–409) [5 U.S.C. Section 552b].

United States Parole Commission; An additional item added to the agenda of the closed meeting held at 5550 Friendship Boulevard, Chevy Chase, Maryland 20815; Correction.

AGENCY: United States Parole Commission.

ACTION: Notice of correction of previous published agenda.

SUMMARY: This notice corrects the agenda previously published in the **Federal Register** December 5, 2001 [66 FR 63260] by adding an additional item to the closed meeting of the Commission held in Chevy Chase, Maryland. The following item has been added to the agenda: Approval of Examiner Appointment.

Dated: December 7, 2001.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 01–30787 Filed 12–10–01; 10:08 am]

BILLING CODE 4410–31–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0011(2002)]

Extension of the Office of Management and Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comment.

SUMMARY: OSHA solicits comments concerning its proposal to decrease the existing burden-hour estimates for, and to extend OMB approval of, the information-collection requirements of subparts A and B of 29 CFR part 1915.[1] The paperwork requirements specified by subparts A and B ensures that confined and enclosed spaces and other dangerous atmospheres in shipyards are safe for employee entry, and protect shipyard employees from explosive, combustible, and toxic hazards contained in these spaces.

DATES: Submit written comments on or before February 11, 2002.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0011(2002), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified by subparts A and B of 29 CFR part 1915 is available for inspection and copying in the Docket Office, or by requesting a copy from Theda Kenney at (202) 693–2222, or Todd Owen at (202) 693–2444. For electronic copies of the ICR, contact OSHA on the Internet at *http://www.osha.gov*, and select "*Information Collection Requests.*"

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct.

In subpart A, paragraph (b) of § 1915.7 ("Competent Person") specifies that employers must maintain a roster of designated competent persons (for inspecting and testing spaces covered by subpart B), or a statement that a marine chemist will perform these inspections and tests. Under paragraph (d) of this standard, employers must: Ensure that competent persons, marine chemists, and certified industrial hygienists make a record of each inspection and test they perform; post the record near the covered space while work is in progress; and file the record for a specified period. In addition, employers must make the roster or statement, and the inspection and test records, available to designated parties on request. Maintaining the required roster or statement as specified by paragraph (b) assures employees and OSHA that qualified competent persons are performing the inspections and tests. The recordkeeping requirement under paragraph (d) provides important information regarding the inspection and test results; this information allows employers to implement atmospheric controls and other safety procedures to furnish employees with a safe and healthful workplace, and permits employees and OSHA to determine the appropriateness of these controls and procedures.

Subpart B consists of several standards governing employee entry into confined and enclosed spaces and other dangerous atmospheres. These standards require employers to: Warn

[1] Based on its assessment of the paperwork requirements contained in these subparts, the Agency estimates that the total burden hours decreased compared to its previous burden-hour estimate. Under this notice, OSHA is *not* proposing to revise these paperwork requirements in any substantive manner, only to decrease the burden hours imposed by the existing paperwork requirements.

employees not to enter hazardous spaces and other dangerous atmospheres; exchange information regarding hazards, safety rules, and emergency procedures concerning these spaces and atmospheres with other employers whose employees may enter these spaces and atmospheres; post signs prohibiting ignition sources within or near a space that contains bulk quantities of flammable or combustible liquids or gases; ensure that a marine chemist or a U.S. Coast Guard authorized person tests and certifies confined and enclosed spaces and other dangerous atmospheres before performing hot work in these spaces and atmospheres; post this certificate in the immediate vicinity of the hot-work operation while the operation is in progress; and retain the certificate on file for at least three months after completing the operation. These paperwork requirements regulate employee entry into confined and enclosed spaces and other dangerous atmospheres located in shipyards, thereby preventing death or serious injury and illness that may result from employee exposure to the explosive, combustible, and toxic hazards contained in these spaces.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

III. Proposed Actions

OSHA is proposing to decrease the existing burden-hour estimate, and to extend OMB approval of, the collection-of-information requirements specified by subparts A and B. The Agency is proposing to decrease the current burden-hour estimate from 134,993 hours to 134,819 hours, a total decrease of 174 hours.

Type of Review: Extension of a currently-approved information-collection requirement.

Title: Subpart A ("General Provisions") and Subpart B ("Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment") of 29 CFR part 1915.

OMB Number: 1218–0011.

Affected Public: Business or other for-profit; Federal government; State, local, or tribal governments.

Number of Respondents: 300.

Frequency of Recordkeeping: On occasion; other (daily).

Average Time per Response: Varies from two minutes (.03 hour) to 10 minutes (.17 hour).

Total Annual Hours Requested: 134,819.

Total Annual Costs (O&M): $0.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), and Secretary of Labor's Order No. 3–2000 (62 FR 50017).

Signed at Washington, DC, on December 6th, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–30729 Filed 12–11–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL95–F–1]

Nationally Recognized Testing Laboratories, Proposed Revised Fee Schedule

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice provides the proposed revised schedule of fees to be charged by the Occupational Safety and Health Administration (OSHA) to Nationally Recognized Testing Laboratories (NRTLs). As provided under 29 CFR 1910.7, OSHA charges fees for specific types of services if provides to NRTLs. These services are: Processing applications for the initial recognition of an organization as an NRTL, or for expansion or renewal of an existing NRTL's recognition, and performing audits (post-recognition reviews) of NRTLs to determine whether they continue to meet the requirements for recognition. The fees charged to NRTLs first went into effect on October 1, 2000.

Annually, OSHA reviews the costs to the Government of providing the services to determine whether any changes to the fees are warranted. In this notice, we detail the projected costs of providing those services during calendar year 2002 and the resulting changes in the fees currently being charged. OSHA publishes this notice because it has determined that those changes are warranted.

DATES: The new fees shown in this notice will go into effect on January 1, 2002. Written comments must be received on or before December 27, 2002.

ADDRESSES: Submit written comments concerning this notice to: Docket Office, Docket NRTL95–F–1, U.S. Department of Labor, Occupational Safety and Health Administration, Room N2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648. Submit request for extensions concerning this notice to: Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3653, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities at the above address, or phone (202) 693–2110. Our web page includes information about the NRTL Program (see *http://www.osha-slc.gov/dts/otpca/nrtl/index.html* or see *http://www.osha.gov* and select "Programs").

SUPPLEMENTARY INFORMATION:

Notice of Changes in Fees

The Occupational Safety and Health Administration (OSHA) hereby gives notice that it proposes to revise the current fees that the Agency charges to Nationally Recognized Testing Laboratories (NRTLs). OSHA is taking this action as a result of its annual review of the fees, as provided under 29 CFR 1910.7(f). This review has shown that the costs of providing the services covered by the fees have changed sufficiently to warrant revisions to the current Fees Schedule. OSHA promulgated the rule that established the fees on July 31, 2000 (65 FR 46797–46819). The first Fee Schedule, i.e., the fees, went into effect on October 1, 2000. For those unfamiliar with OSHA's Program, we provide a brief overview below.

Many of OSHA's safety standards require equipment or products that are going to be used in the workplace to be tested and certified to help assure they

can be used safety. Products or equipment that have been tested and certified must have a certification mark on them. An employer may rely on the certification mark, which shows the equipment or product has been tested and certified in accordance with OSHA requirements. In order to ensure that the testing and certification is done appropriately, OSHA implemented the NRTL Program. The NRTL Program establishes the criteria that an organization must meet in order to be and remain recognized as an NRTL.

The NRTL Program requirements are set forth under 29 CFR 1910.7, "Definition and requirements for a nationally recognized testing laboratory." To be recognized by OSHA, an organization must: (1) Have the appropriate capability to test, evaluate, and approve products to assure their safe use in the workplace; (2) be completely independent of the manufacturers, vendors, and major users of the products for which OSHA requires certification; (3) have internal programs that ensure proper control of the testing and certification process; and (4) have effective reporting and complaint handling procedures.

OSHA requires NRTL applicants (i.e., organizations seeking initial recognition as an NRTL) to provide detailed information about their programs, processes and procedures in writing when they apply for initial recognition. OSHA reviews the written information and conducts an on-site assessment to determine whether the organization meets the requirements of 29 CFR 1910.7. OSHA uses a similar process when an NRTL (i.e., an organization already recognized) applies for expansion or renewal of its recognition. In addition, the Agency conducts annual audits to ensure that the recognized laboratories maintain their programs and continue to meet the recognition requirements.

Currently, there are 18 NRTLs operating over 45 recognized sites in the U.S., Canada, Europe, and the Far East.

Program Costs

In preparing the proposed fee schedule presented in this notice, OSHA has evaluated the total resources that it has committed to the NRTL Program overall and has then estimated the costs that are involved solely with the application approval and the periodic review (i.e., audit) functions. It is these costs alone that OSHA seeks to recover through its fees. Personnel costs are the wages, salary, and fringe benefits costs of the staff positions involved and the number of full time equivalent (FTE) personnel devoted to the NRTL approval and review activities. These estimates also include travel and other costs of these activities. The Agency believes these estimates are fair and reasonable.

Based on the total estimated costs and the total estimated FTE, OSHA has calculated an estimated equivalent cost per hour (excluding travel). This equivalent cost per hour includes both the direct and indirect cost per hour for "direct staff" members, who are the staff that perform the application, on-site, and legal reviews and the other activities involved in application processing and audits. In Figure 1, direct costs are expenses for direct staff members, and indirect costs are expenses for support and management staff, equipment, and other costs that are involved in the operation of the program. Support and management staff consists of program management and secretarial staff. Equipment and other costs are intended to over items such as computers, telephones, building space, utilities, and supplies, that are necessary or used in performing the services covered by the proposed fees. Although essential to the services provided, these indirect costs are not readily linked to the specific activities involved in application processing and audits and, as explained later, are therefore allocated to the activities based on direct staff costs.

Figure 1 is an itemization of the estimated costs and the equivalent cost per hour calculated. OSHA believes that the costs shown fairly reflect the full cost of providing the services to NRTLs. This figure shows how we calculated the estimated equivalent cost per hour (excluding travel).

FIGURE 1.—CURRENT ESTIMATED ANNUAL COSTS OF NRTL PROGRAM

Cost description	Est. FTE	Aver.cost per FTE (including fringe)	Total est. costs
Direct Staff Costs	4.7	$97,830	$459,800
Travel	na	na	50,000
Indirect Staff & Other Costs	na	na	[1] 73,050
Total Est. Program Costs			582,850
Avg. direct staff cost/hr ($459,800 ÷ 4.7 FTE × 2,080 hours)			47
Equivalent avg. direct staff cost/hr ($532,850 ÷ 4.7 FTE × 2,080 hours) (includes direct & indirect costs)			54.50

[1] This amount consists of $34,800 of indirect staff costs and $38,250 for equipment and other costs.

The use of an "equivalent average direct staff cost per hour" measure is a convenient method of allocating indirect costs to each of the services for which OSHA will charge fees. The same result is obtained if direct staff costs are first calculated and then indirect costs are allocated based on the value, i.e., dollar amount, of the direct staff costs, which is an approach that is consistent with Federal accounting standards. To illustrate, assume a direct staff member spends 10 hours on an activity; the direct staff costs would then be calculated as follows:

Direct staff costs = 10 hours × $40/hour = $400

The $40/hour is the direct staff cost/hour amount shown in Figure 1. The indirect costs would be allocated by first calculating the ratio of indirect costs to direct staff costs, again using the costs shown in Figure 1. This ratio would be as follows:

Indirect costs/direct staff costs = $76,300/$352,200 = 0.217

Next, the indirect costs would be calculated based on the $400 estimate of direct staff costs:

Indirect costs = $400 × 0.217 = $87

Finally, the total costs of the activity are calculated:

Total costs = direct staff costs + indirect costs = $400 + $87 = $487

Taking into account the rounding shown in Figure 1, the actual amount calculated would be $490.

After estimating program costs, the Agency then estimated the time it spends on specific activities or functions. These estimates reflect the Agency's actual experience in performing the services covered by the fees. OSHA calculated time estimates for each major service category. These categories are: initial applications, expansion and renewal applications, and audits. OSHA further divided some categories into the major activities performed and estimated the staff time and travel costs for each of these activities. The Agency then calculated the cost of each major activity using the time estimates, the equivalent cost per hour, and the estimate of travel costs. These costs then serve as the basis for the fees later shown in the proposed fee schedule. Examples of the calculations are shown in Figures 2, 3, 4, and 5.

FIGURE 2.—ESTIMATED COSTS FOR INITIAL APPLICATION

Major activity	Average hours	Average cost [1]
Initial Application Review; staff time: (includes review by office and field staff)	80	$4,360
On-Site Assessment—first day:		
Staff time (includes 16 hours preparation, 4 hours travel, 8 hours at site)	25	1,526
Travel		670
Total (per site, per assessor)		2,196
On-Site Assessment—addnl. day:	8	436
Staff time.		
Travel amount (to cover per diem)		70
Total (per site, per assessor)		506
Final Report & **Federal Register** notice; staff time (includes work performed by field staff and office staff)	120	6,540

[1] Average cost for staff time equal average hours × equivalent average direct staff cost/hr ($54.50).

FIGURE 3.—ESTIMATED COST FOR EXPANSION APPLICATION (ADDITIONAL SITE)

Major activity	Average hours	Average cost [1]
Application Review (expansion for site); staff time: (includes review by office and field staff)	16	$870
On-Site Assessment—first day:		
Staff time: (includes 8 hours preparation, 4 hours travel, 8 hours at site)	20	1,090
Travel		670
Total (per site, per assessor)		1,760
On-Site Assessment—addnl. day:		
Staff time	8	436
Travel amount: (to cover per diem)		70
Total (per site, per assessor)		506
Final Report & **Federal Register** notice; staff time: (includes work performed by field staff and office staff)	48	2,616

[1] Average cost for staff time equal average hours × equivalent average direct staff cost/hr ($54.50).

FIGURE 4.—ESTIMATED COSTS FOR RENEWAL OR EXPANSION (OTHER THAN ADDITIONAL SITE) APPLICATION

Major activity	Average hours	Average cost [1]
Application Review (renewal or expansion other than additional site); staff time: (includes review by office and field staff)	2	$109
On-Site Assessment—first day:		
Staff time: (includes 8 hours preparation, 4 hours travel, 8 hours at site)	20	1,090
Travel		670
Total (per site, per assessor)		1,760
On-Site Assessment—addnl. day:		
Staff time	8	436
Travel amount: (to cover per diem)		70
Total (per site, per assessor)		506
Final Report & **Federal Register** notice; staff time: (includes work performed by field staff and office staff, if there is an on-site assessment)	48	2,616
Final Report & **Federal Register** notice; staff time: (includes work performed by field staff and office staff, if there is no on-site assessment)	28	1,526

[1] Average cost for staff time equal average hours × equivalent average direct staff cost/hr ($54.50).

FIGURE 5.—ESTIMATED COSTS FOR ON-SITE AUDIT

Major activity	Average hours	Average cost*
Pre-site Review; staff time: (field staff only)	8	$436
On-Site Audit—first day:		
Staff time: (includes 4 hours travel)	12	554
Travel		670
Total (per site, per assessor)		1,324
Final Report; staff time: (includes work performed by field staff)	16	872
Total costs		[2] 2,632

[1] Average cost for staff time equal average hours × equivalent average direct staff cost/hr ($54.50).
[2] Based on a one day audit. The costs for any additional days are the same as the per-day costs for an assessment.

In deriving the fee amounts shown in the fee schedule, OSHA has generally rounded the costs shown in Figures 2, 3, 4, and 5, up or down, to the nearest $50 or $100 amount.

OSHA believes that the amounts shown in the proposed schedule reflect the Agency's current reasonable estimation of the costs involved for the services rendered to NRTLs. As previously mentioned, OSHA is not attempting to recover the entire cost of the NRTL Program through the proposed fees but only the costs of providing these services.

What Has Changed

The following table shows the major changes that we have made to the fee schedule, comparing the amount of the current fee to the fee in proposed fee schedule shown later in this notice. Following the table, we explain each of the changes.

TABLE OF MAJOR CHANGES TO FEES SCHEDULE

Description of fee	Current fee amount	Proposed fee amount	Change in fee amount (current minus proposed)
Initial Application Fee	$3,900	$4,400	$3,900 – $4,400 = $500 (increase).
Expansion Application Fee (additional site)	1,550	850	$1,550 – $850 = $700 (reduction).
Expansion Application Fee (additional test standards)	1,550	110	$1,550 – $110 = $1,440 (reduction).
Assessment—Initial Application (per site—Submit With Application).	5,900	6,500	$5,900 – $6,500 = $600 (increase).
Review & Evaluation Fee (per 10 standards) (for standards already recognized for NRTLs or not requiring on-site review).	*50	†10	$500 – $10 = $490 per ten standards (reduction).
Final Report/Register Notice Fee—Renewal or Expansion Application (if OSHA performs on-site assessment).	4,300	2,600	$4,300 – $2,600 = $1,700 (reduction).
Final Report/Register Notice Fee—Renewal or Expansion Application (if OSHA performs No on-site assessment).[5]	4,300	1,500	$4,300 – $1,500 = $2,800 (reduction).

*Per standard.
dagger: Per ten standards.

The current Expansion Application Fee was based upon an NRTL submitting an application that included adding a site and a set of standards to its recognition. Many past expansion applications that we had received were so structured, and the fees were estimated on the basis of receiving similar such applications. However, more recently, NRTLs have opted to submit an expansion application covering a limited number of test standards and did not couple this request with an expansion for an additional site. In addition, the current expansion application fee was estimated on the basis of the NRTL submitting documentation to justify its capabilities for performing testing in an area outside its present scope of recognition. However, if the testing falls within its current capabilities, the application consists of a letter listing the test standards for which it is seeking recognition. The review of this letter is similar to the review we perform for a renewal request. If OSHA must review substantial documentation, e.g., if the standard falls outside the NRTL's current testing capabilities, or if OSHA has not previously recognized the standard for any NRTL, the current per standard fee of $50 covers the necessary staff work to grant the expansion request for the particular standard. If on the other hand OSHA must perform minimal review in determining whether to grant the request for a standard, the rate is $10 for every ten or fewer standards. As a result, we have split the expansion application fee essentially into two fees and adjusted the review and evaluation fee to reflect the work involved for the scenarios just described.

As shown in Figure 1 and later in the proposed fee schedule, the hourly cost charged for staff time will be $54.50, or about 11% higher than the hourly rate of $49 in our current fee schedule, which is available on our web site. The $49 was based upon staff salary and fringe and other program costs during 1999, whereas the $54.50 is based upon projected costs during 2002. Therefore, the 11% increase reflects changes that have accumulated over a three year period, or about 3.6% compounded annually, which is consistent with annual salary adjustments provided to Federal employees.

Fee Schedule and Description of Fees

OSHA proposes the following fee schedule:

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TABLE A. FEE SCHEDULE—NATIONALLY RECOGNIZED TESTING LABORATORY PROGRAM (NRTL PROGRAM) FEE SCHEDULE (EFFECTIVE JANUARY 1, 2002) [10]

Type of service	Activity or category (fee charged per application unless noted otherwise)	Fee amount
Application Processing	Initial Application Review [1]	$4,400.
	Expansion Application Fee (per additional site) [1]	$850.
	Renewal Application Fee or Expansion (other) Application Fee [1]	$110.
	Assessment—Initial Application (per site—Submit with Application) [2 4].	$6,500.
	Assessment—Initial Application (per person, per site—first day—Billed After Assessment) [2 7 8].	$1,500 + travel expenses.
	Assessment—Expansion or Renewal Application (per person, per site—first day) [3 8].	$1,100 + travel expenses.
	Assessment—each addnl. day (per person, per site) [2 3 8]	$440 + travel expenses.
	Review & Evaluation Fee [5] ($10 per 10 standards if standards already recognized for NRTLs or require minimal review; else $55 per standard).	$10 per 10 standards or $55 per standard.
	Final Report/Register Notice—Initial Application [5]	$6,550.
	Final Report/Register Notice Fee—Renewal or Expansion Application (if OSHA performs on-site assessment) [5].	$2,600.
	Final Report/Register Notice Fee—Renewal or Expansion Application (if OSHA performs No on-site assessment) [5].	$1,500.
Audits	On-site Audit (per person, per site—first day) [6]	$1,950 + travel expenses.
	On site Audit (per person, per site—each addnl. day) [6]	$440 + travel expenses.
	Office Audit (per site) [6]	$440.
Miscellaneous	Supplemental Travel (per site—for sites located outside the 48 contiguous States, including the District of Columbia) [4].	$1,000.
	Late Payment [9]	$55.

Notes to OSHA Fee Schedule for NRTLs

1. Who must pay the Application Review Fees, and when must they be paid?

If you are applying for initial recognition as an NRTL, you must pay the Initial Application Review fee and include this fee with your initial application. If you are an NRTL and applying for an expansion or renewal of recognition, you must pay the Expansion Application Review fee or Renewal Application Review fee, as appropriate, and include the fee with your expansion or renewal application.

2. What Assessment Fees do you submit for an initial application, and when must they be paid?

If you are applying for initial recognition as an NRTL, you must pay $6,500 for each site for which you wish to obtain recognition, and you must include this amount with your initial application. We base this amount on two assessors performing a three day assessment at each site. After we have completed the assessment work, we will calculate our assessment fee based on the actual staff time and travel costs incurred in performing the assessment. We will calculate this fee at the rate of $1,500 for the first day and $440 for each additional day, plus actual travel expenses, for each assessor. Actual travel expenses are based on government per diem and travel fares. We will bill or refund the difference between the amount you pre-pair, $6,500/site, and this fee. We will reflect this difference in the final bill that we will send to you at the time we publish the preliminary **Federal Register** notice announcing the application.

3. What assessment fees do you submit for an expansion or renewal application, and when must they be paid?

If you are an NRTL and applying solely for an expansion or renewal of recognition, you do not submit any assessment fee with your application. If we need to perform an assessment for the expansion or renewal request, we will bill you for the fee after we perform the assessment for the actual staff time and travel costs we incurred in performing the assessment. We will assess this fee at the rate of $1,100 for the first day and $440 for each additional day, plus actual travel expenses, for each assessor. Actual travel expenses are based on government per diem and travel fares.

4. When do I pay the Supplemental Travel fee?

You must include this fee when you submit an initial application for recognition and the site you wish to recognized is located outside the 48 contiguous U.S. states (including the District of Columbia). The current supplemental travel fee is $1,000. We will factor in this prepayment when we bill for the actual costs of the assessment, as described in our note #2 above. See note 7 for possible refund of Assessment fees.

5. When do I pay the Review and Evaluation and the appropriate Final Report/Register Notice fees?

We will bill an applicant or an NRTL for the appropriate fees at the time we publish the preliminary **Federal Register** notice to announce the application. We will bill at the rate of $10 per 10 standards reviewed, or fraction thereof, for those standard and provide appropriate explanation.

6. When do I pay the Audit fee?

We will bill the NRTL for this fee (on-site or office, as deemed necessary) after completion of the audit. We will calculate our fee based on actual staff time and travel costs incurred in performing the audit. We will calculate this fee at the rate of $1,950 for the first day and $440 for each additional day, plus actual travel expenses for each auditor. Actual travel expenses are based on government per diem and travel fares.

7. When and how can I obtain a refund for the fees that I paid?

If you are applying for initial recognition as an NRTL, we will refund the assessment fees that we have collected if you withdraw your application before we have traveled to your site to perform the on-site assessment. We will also credit your account for any amount we owe you if the assessment fees we have collected are greater than the actual costs of the assessment. Other than these two cases, we will not refund or grant credit for

any other fees that are due or that we have collected.

8. What rate does OSHA use to charge for staff time?

OSHA has estimated an equivalent staff cost per hour that it uses for determining the fees that are shown in the Fee Schedule. This hourly rate takes into account the costs for salary, fringe benefits, equipment, supervision and support for each "direct staff" member, that is, the staff that perform the main activities identified in the Fee Schedule. The rate is an average of these amounts for each of these direct staff members. The current estimated equivalent staff costs per hour = $54.5.

9. What happens if I do not pay the fees that I am billed?

As explained above, if you are an applicant, we will send you a final bill for the fees at the time we publish the preliminary **Federal Register** notice. If you do not pay the bill by the due date, we will assess the Late Payment fee shown in the Fee Schedule. This late payment fee represents one hour of staff time at the equivalent staff cost per hour (see note 8). If we do not receive payment within 60 days of the bill date, we will cancel your application. As also explained above, if you are an NRTL, we will send you a bill for the audit fee after completion of the audit. If you do not pay the fee by the due date, we will assess the Late Payment Fee shown in the Fee Schedule. If we do not receive payment within 60 days of the bill date, we will publish a **Federal Register** notice stating our intent to revoke recognition.

10. How do I know whether this is the most Current Fee Schedule?

You should contact OSHA's NRTL Program (202–693–2110) or visit the program's web site to determine the effective date of the most current Fee Schedule. Access the site by selecting "Subject Index" or "Programs" at *www.osha.gov*. Any application processing fees are those in effect on the date you submit your application. Audit fees are those in effect on the date we begin our audit. Any pending application (i.e., an application that OSHA has not yet completed processing) will be subject only to the fees for the activities that OSHA begins on or after the effective date of the initial fee schedule.

The fee schedule shows the current activities for which OSHA plans to charge fees. In evaluating the changes to the fee schedule, OSHA has considered the following: (1) Actual expenditures of the 2001 fiscal year, and (2) estimated costs of the 2002 fiscal year.

The following is a description of the tasks and functions currently covered by each type of fee category, e.g., application fees, and the basis used to charge each fee.

Application Fees: This fee reflects the technical work performed by office and field staff in reviewing application documents to determine whether an applicant submitted complete and adequate information. The application review does not include a review of the test standards requested, which is reflected in the review and evaluation fee. Application fees would be based on average costs per type of application. OSHA uses an average costs since the amount of time spent on the application review does not vary greatly by type of application. This is based on the premise that the number and type of documents submitted will generally be the same for a given type of application. Experience has shown that most applicants follow the application guide that OSHA provides to them.

Assessment Fees: This fee is different for initial and for expansion or renewal applications. It is based on the number of days for staff preparatory and on-site work and related travel. Three types of fees are shown, and each one would be charged per site and per person. The two fees for the first day reflect time for office preparation, time at the applicant's facility, and an amount to cover travel in the 48 contiguous states. A supplemental travel amount (to be included with the fee schedule) is assessed for travel outside this area. These travel amounts are only estimates for purposes of submitting the initial fees. The applicant or NRTL is billed actual expenses, based on government per diem and travel fares. Any difference between actual travel expenses and the travel amounts in the fee schedule are reflected in the final bill or refund sent to the applicant or NRTL.

Similar to the application fee, the office preparation time generally involves the same types of activities. Actual time at the facility may vary, but the staff devote at least a full day for traveling and for performing the on-site work. The fee for the additional day reflects time spent at the facility and an amount for one day's room and board..

Review and Evaluation Fee: This fee is charged per test standard (which is part of an applicant's proposed scope of recognition). The fee reflects the fact that staff time spent in the office review of an application varies mainly in accordance with the number of test standards requested by the applicant. In generally, the fee is based on the estimated time necessary to review test standards to determine whether each one is "appropriate," as defined in 29 CFR 1910.7, and covers equipment for which OSHA mandates certification by an NRTL. The fee also covers time to determine the current designation and status (i.e., active or withdrawn) of a test standard by reviewing current directories of the applicable test standard organization. Furthermore, it includes time spent discussing the results of the application review with the applicant. The actual time spent will vary depending on whether an applicant requests test standards that have previously been approved for other NRTLs. When the review is minimal, these activities take approximately 2 hours for every 10 or fewer standards. When the review is more substantial, the estimated average review time per standard is one hour for each standard, which translates to $55 per standard. Substantial review will occur when the standard has not been previously recognized for any NRTL or when the NRTL is proposing to do testing outside its current scope of recognition.

Final Reports/Register Notice Fees: Each of these fees are charged per application. The fee reflects the staff time to prepare the report of the on-site review (i.e., assessment) of an applicant's or an NRTL facility. The fee also reflects the time spent making the final evaluation of an application, preparing the required **Federal Register** notices, and responding to comments received due to the preliminary finding notice. These fees are based on average costs per type of application, since the type and content of documents prepared are generally the same for each type of applicant. There is a separate fee when OSHA performs no on-site assessment. In these cases, the NRTL Program staff perform an office assessment and prepare a memo to recommend the expansion or renewal.

Audit (Post-Recognition Review) Fees: These fees reflect the time for office preparation, time at the facility and travel, and time to prepare the audit report on the on-site audit. A separate fee is shown for an office audit conducted in lieu of an actual visit. Each fee is per site and does not generally vary for the same reasons described for the assessment fee and because the audit is generally limited to one day. As previously described, the audit fee would include amounts for travel, and similar to assessments, OSHA will bill the NRTL for actual travel expenses.

Miscellaneous Fees: The sample fee schedule only shows the average cost for one full day of staff time. OSHA would use this fee primarily in cases of refunding the assessment fee. OSHA will also charge a fee for late payment

of the annual audit fee. The amount for the late fee is based on 1 hour of staff time.

Proposed Decision

OSHA has performed its annual review of the fees it currently charges to Nationally Recognized Testing Laboratories, as provided under 29 CFR 1910.7(f). Based on this review, OSHA has determined that certain fees warrant change, as detailed in this notice. As a result, OSHA proposes to revise those current fees by adopting the Nationally Recognized Testing Laboratory Program Fees Schedule shown as Table A above, which would become effective on January 1, 2002. As provided in our regulations, this proposed fee schedule would remain in effect until superseded by another fee schedule. OSHA would give the public an opportunity to comment on any future changes to the fees, as we are doing through this notice.

OSHA welcomes public comments, in sufficient detail, as to whether it should adopt the proposed Nationally Recognized Testing Laboratory Program Fees Schedule shown as Table A above. Your comment should consist of pertinent written documents and exhibits. To consider it, OSHA must receive the comment at the address provided above (see **ADDRESS** no later than the last date for comments (see **DATES** above). Should you need more time to comment, OSHA must receive your written request for extension at the address provided above (also see **ADDRESS** no later than the last date for comments (also see **DATES** above). You must include your reason(s) for any request for extension. OSHA will limit an extension to 15 days unless the requester justifies a longer period. We may deny a request for extension if it is frivolous or otherwise unwarranted. You may obtain or review documents related to the establishment of the fees and all submitted comments, as received, by contacting the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. You should refer to Docket No. NRTL95–F–1, the permanent record of public information on OSHA NRTL Program fees.

The NRTL Program staff will review all timely comments and, after resolution of issues raised by these comments, will recommend the final version of the NRTL Program Fees Schedule to the Assistant Secretary. The Agency will publish a public notice of its final version of the Fees Schedule in the **Federal Register**, as provided under 29 CFR 1910.7.

Signed at Washington, DC, this 30th day of November, 2001.

John L. Henshaw,

Assistant Secretary.

[FR Doc. 01–30727 Filed 12–11–01; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Exemption Application No. D–10848]

Prohibited Transaction Exemption 2001–46; Grant of Individual Exemption; Bank of America Corporation (BAC)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This document contains an exemption issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

Bank of America Corporation (BAC), Located in Charlotte, North Carolina

[Prohibited Transaction Exemption 2001–46; Exemption Application No. D–10848]

Exemption

Section I—Exemption for In-Kind Redemption of Assets

The restrictions of section 406(a) and 406(b) of ERISA and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (F) of the Code shall not apply, effective August 1, 2001,[1] to certain in-kind redemptions (the Redemptions) by the NationsBank Cash Balance Plan (the In-house Plan) of shares (the Shares) of proprietary mutual funds (the Portfolios) offered by investment companies for which Bank of America, N.A. (Bank of America) or an affiliate thereof provides investment advisory and other services (the Nations Funds).

This exemption is subject to the following conditions:

(A) The In-house Plan pays no sales commissions, redemption fees, or other similar fees in connection with the Redemptions (other than customary transfer charges paid to parties other than Bank of America and affiliates of Bank of America (Bank of America Affiliates));

(B) The assets transferred to the In-house Plan pursuant to the Redemptions consist entirely of cash and Transferrable Securities. Notwithstanding the foregoing, Transferrable Securities which are odd lot securities, fractional shares and

[1] BAC anticipates that the Redemptions will take place on or after August 1, 2001 and, for each Portfolio, will be completed in a single transaction on a single day. However, the applicant represents that different Portfolios may effect Redemptions on different dates. As a result, reference to "the Redemptions" throughout this proposed exemption shall include all in-kind redemptions of Shares made pursuant to the exemption regardless of whether such redemptions are made on the same day.

accruals on such securities may be distributed in cash;

(C) With certain exceptions defined below, the In-house Plan receives a pro rata portion of the securities of the Portfolio upon a Redemption that is equal in value to the number of Shares redeemed for such securities, as determined in a single valuation performed in the same manner and as of the close of business on the same day in accordance with the procedures set forth in Rule 17a-7 under the Investment Company Act of 1940, as amended from time to time (the 1940 Act) (using sources independent of Bank of America and Bank of America Affiliates);

(D) Bank of America, or any affiliate thereof, does not receive any fees, including any fees payable pursuant to Rule 12b-1 under the 1940 Act in connection with any redemption of the Shares;

(E) Prior to a Redemption, Bank of America provides in writing to an independent fiduciary, as such term is defined in section II (an Independent Fiduciary), a full and detailed written disclosure of information regarding the Redemption;

(F) Prior to a Redemption, the Independent Fiduciary provides written authorization for such Redemption to Bank of America, such authorization being terminable at any time prior to the date of the Redemption without penalty to the In-house Plan, and such termination being effectuated by the close of business following the date of receipt by Bank of America of written or electronic notice regarding such termination (unless circumstances beyond the control of Bank of America delay termination for no more than one additional business day);

(G) Before authorizing a Redemption, based on the disclosures provided by the Portfolios to the Independent Fiduciary, the Independent Fiduciary determines that the terms of the Redemption are fair to the participants of the In-house Plan, and comparable to and no less favorable than terms obtainable at arms-length between unaffiliated parties, and that the Redemption is in the best interest of the In-house Plan and its participants and beneficiaries;

(H) Not later than thirty (30) business days after the completion of a Redemption, the relevant Fund will provide to an independent fiduciary acting on behalf of the Plan (the Independent Fiduciary) a written confirmation regarding such Redemption containing:

(i) The number of Shares held by the In-house Plan immediately before the Redemption (and the related per Share net asset value and the total dollar value of the Shares held),

(ii) the identity (and related aggregate dollar value) of each security provided to the In-house Plan pursuant to the Redemption, including each security valued in accordance with Rule 17a-7(b)(4),

(iii) the current market price of each security received by the In-house Plan pursuant to the Redemption, and

(iv) the identity of each pricing service or market-maker consulted in determining the value of such securities;

(I) The value of the securities received by the In-house Plan for each redeemed Share equals the net asset value of such Share at the time of the transaction, and such value equals the value that would have been received by any other investor for shares of the same class of the Portfolio at that time;

(J) Subsequent to a Redemption, the Independent Fiduciary performs a post-transaction review which will include, among other things, a random sampling of the pricing information supplied by Bank of America; and

(K) Each of the In-house Plan's dealings with: the Nations Funds, the investment advisors to the Nations Funds (the Investment Advisers), the principal underwriter for the Nations Funds, or any affiliated person thereof, are on a basis no less favorable to the In-house Plan than dealings between the Nations Funds and other shareholders holding shares of the same class as the Shares;

(L) The Bank maintains, or causes to be maintained, for a period of six years from the date of any covered transaction such records as are necessary to enable the persons described in paragraph (M) below to determine whether the conditions of this exemption have been met, except that (i) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Bank of America, the records are lost or destroyed prior to the end of the six-year period, (ii) no party in interest with respect to the In-house Plan other than Bank of America shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if such records are not maintained or are not available for examination as required by paragraph (M) below.

(M) (1) Except as provided in subparagraph (2) of this paragraph (M), and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (L) above are unconditionally available at their customary locations for examination during normal business hours by (i) any duly authorized employee or representative of the Department of Labor, the Internal Revenue Service, or the Securities and Exchange Commission, (ii) any fiduciary of the In-House Plan or any duly authorized representative of such fiduciary, and (iii) any participant or beneficiary of the In-House Plan or duly authorized representative of such participant or beneficiary.

(2) None of the persons described in paragraphs (M)(1)(ii) and (iii) shall be authorized to examine trade secrets of Bank of America or the Nations Funds, or commercial or financial information which is privileged or confidential.

Section II—Definitions

For purposes of this exemption,

(A) The term "affiliate" means:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) any officer, director, employee, relative, or partner in any such person; and

(3) any corporation or partnership of which such person is an officer, director, partner, or employee.

(B) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(C) The term "net asset value" means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by a method as set forth in the Portfolio's prospectus and statement of additional information, and other assets belonging to the Portfolio, less the liabilities charged to each such Portfolio, by the number of outstanding shares.

(D) The term "Independent Fiduciary" means a fiduciary who is: (i) independent of and unrelated to Bank of America and its affiliates, and (ii) appointed to act on behalf of the In-house Plan with respect to the in-kind transfer of assets from one or more Portfolios to or for the benefit of the In-house Plan. For purposes of this exemption, a fiduciary will not be deemed to be independent of and unrelated to Bank on America if: (i) Such fiduciary directly or indirectly controls, is controlled by or is under common control with Bank of America, (ii) such fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this exemption; except that an independent fiduciary may receive compensation from Bank of

America in connection with the transactions contemplated herein if the amount or payment of such compensation is not contingent upon or in any way affected by the independent fiduciary's ultimate decision, (iii) more than three percent (3%) of such fiduciary's gross income, for federal income tax purposes, in its current tax year, will be paid by Bank of America and its affiliates in the fiduciary's current tax year, or (iv) for the period comprising the tax years in which the independent fiduciary represents the In-house Plan, more than two percent (2%) of such fiduciary's aggregate gross income over such period will be paid by Bank of America and its affiliates.

(E) The term "Transferable Securities" shall mean securities (1) for which market quotations are readily available as determined under Rule 17(a)–7 of the 1940 Act; and (2) which are not: (i) Securities which may not be publicly offered or sold without registration under the 1933 Act; (ii) securities issued by entities in countries which (a) restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as the Nations Funds, or (b) permit transfers of ownership or securities to be effected only by transactions conducted on a local stock exchange; (iii) certain portfolio positions (such as forward foreign currency contracts, futures and options contracts, swap transactions, certificates of deposit and repurchase agreements) that, although they may be liquid and marketable, involve the assumption of contractual obligations, require special trading facilities or can only be traded with the counter-party to the transaction to effect a change in beneficial ownership; (iv) cash equivalents (such as certificates of deposit, commercial paper and repurchase agreements); and (v) other assets which are not readily distributable (including receivables and prepaid expenses), net of all liabilities (including accounts payable).

(F) The term "relative" means a "relative" as that term is defined in section 3(15) of ERISA (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, sister, or a spouse of a brother or a sister.

Written Comments

The Department received 28 written comments with respect to the proposed exemption. Of this amount, 27 comments sought clarification as to the terms of the proposed exemption. The remaining comment was submitted by BAC. In its letter, BAC stated the following:

(1) The Nations Managed SmallCap Index Fund was incorrectly identified in the proposed exemption (and exemption application) as the Nations Managed SmallCap Value Index Fund;

(2) The amount of fiduciary assets under BAC management was incorrectly stated in the proposed exemption (and exemption application) as totaling $231,000,000. Such amount, the applicant states, is $231,000,000,000;

(3) The heading of the proposed exemption should state that Bank of America is located in Charlotte, North Carolina.

In addition, in its letter to the Department, BAC stated that the names of certain parties to the proposed transaction have changed. In this regard, "Bank of America Advisors, Inc." is now "Banc of America Advisors, LLC", and "TradeStreet Investment Associates, Inc." is now "Banc of America Capital Management, LLC". In addition, BAC stated that the "NationsBank Cash Balance Plan" is now "The Bank of America Pension Plan".

BAC stated further that an additional Portfolio, the "Nations MidCap Index Fund", was added as an investment option to BAC's in-house plans in July 2000. Such portfolio may therefore be affected by the exemption. In addition, of the various Nations Funds and Portfolios affected by the exemption, the following have changed their names: "Nations Disciplined Equity Fund" is now "Nations Aggressive Growth Fund'; "Nations Equity Index Fund" is now "Nations LargeCap Index Fund'; "Nations Emerging Growth Fund" is now "Nations MidCap Growth Fund'; "Nations Managed SmallCap Index Fund" is now "Nations SmallCap Index Fund'; and "Nations Small Company Growth Fund" is now "Nations Small Company Fund".

Finally, BAC requests that the definition of Independent Fiduciary, as such term is defined in section II(D) of the proposed exemption, be modified. In this regard, BAC represents that, after reviewing several possible candidates for the position of independent fiduciary with respect to the transactions described herein, it specifically chose IFS to represent the In-house Plan. This decision was based on, among other things, the experience, qualifications and reputation IFS had representing ERISA plans in transactions similar to those contained in this exemption. BAC represents that, in addition to being so qualified, the income IFS has or will receive from BAC or any affiliate in association with the in-kind redemptions is of an amount which ensures IFS's independence. In this regard, BAC represents that for the period beginning on the date IFS was appointed to represent the In-house Plan and ending on the date the last in-kind redemption is expected to occur, the amount of income IFS will have received from BAC or any affiliate thereof will be less than 2% of IFS's aggregate gross taxable income over such period.

The Department recognizes that, in certain instances, proper representation of a plan may require that an independent plan fiduciary provide a level of services which varies greatly over time. In consideration of, among other things, the size and nature of the transaction involved in this exemption, the Department has decided to modify section II(D) of the proposed exemption to read as follows:

(D) The term "Independent Fiduciary" means a fiduciary who is: (i) independent of and unrelated to Bank of America and its affiliates, and (ii) appointed to act on behalf of the In-house Plan with respect to the in-kind transfer of assets from one or more Portfolios to or for the benefit of the In-house Plan. For purposes of this exemption, a fiduciary will not be deemed to be independent of and unrelated to Bank on America if: (i) Such fiduciary directly or indirectly controls, is controlled by or is under common control with Bank of America, (ii) such fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this exemption; except that an independent fiduciary may receive compensation from Bank of America in connection with the transactions contemplated herein if the amount or payment of such compensation is not contingent upon or in any way affected by the independent fiduciary's ultimate decision, (iii) more than three percent (3%) of such fiduciary's gross income, for federal income tax purposes, in its current tax year, will be paid by Bank of America and its affiliates in the fiduciary's current tax year, or (iv) for the period comprising the tax years in which the independent fiduciary represents the In-house Plan, more than two percent (2%) of such fiduciary's aggregate gross income over such period will be paid by Bank of America and its affiliates.

Finally, as stated in footnote 6 of the proposed exemption, BAC represented that certain redeemed securities may have different purchase dates and tax bases attached to them as compared with otherwise identical securities remaining in a Portfolio. BAC subsequently clarified this point by noting that for each issue of securities held by a Portfolio, basis will be

allocated pro rata between the securities to be transferred to the In-house Plan and the securities which are to remain in the Portfolio.

Accordingly, after giving full consideration to the entire record, including the written comments noted above, the Department has decided to grant the exemption.

For further information regarding the comments and other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–10848) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Christopher Motta of the Department, telephone (202) 693–8544 (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 6th day of December, 2001.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits, Administration, U.S. Department of Labor.

[FR Doc. 01–30756 Filed 12–11–01; 8:45 am]

BILLING CODE 4510–25–P

Case No.	FR Citation	Date	Plan/Entity Name
D–10762	66 FR 46830	9/7/01	Key Trust Company of Ohio.
D–10894	66 FR 46837	9/7/01	Brookshire Brothers, Ltd.
D–10913, D–10914	66 FR 46839	9/7/01	The Golden Comprehensive Security Program and The Golden Retirement Savings Program.
D–10954	66 FR 49400	9/27/01	Metropolitan Life Insurance Company.
L–10937	66 FR 49415	9/27/01	Ford Motor Company.
D–10997	66 FR 46843	9/7/01	Exemption to Modify Prohibited Transaction Exemption 97–08 Involving Morgan Stanley Dean Witter & Co. Incorporated.
D–11034	66 FR 49703	9/28/01	Proposed Amendment to Prohibited Transaction Exemption 80–26 for Certain Interest Free Loans to Employee Benefit Plans.

Because no written comments were received from interested persons while the mailroom was closed and the comment periods have since expired for these pendency notices, the Department is hereby extending the comment periods for the above referenced proposed exemptions until December 26, 2001. Therefore, all written comments and/or hearing requests should be sent by regular mail to the address specified in the proposals. Alternatively, interested persons may submit their comments and/or hearing requests by electronic mail to *moffittb@pwba.dol.gov* or by facsimile, (202) 219–0204.

FOR FURTHER INFORMATION CONTACT: Ms. Anna Mpras, U.S. Department of Labor, telephone (202) 693–8565. (This is not a toll-free number.)

Ivan L. Strasfeld,

Director of Exemption, Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 01–30757 Filed 12–11–01; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Notice of Extension of the Comment Periods for Proposed Exemptions Affected by the TemporaryClosure of the Mailroom at the Department of Labor

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor (the Department).

ACTION: Notice of Extension of Comment Periods.

SUMMARY: As a result of the recent anthrax scare, the Department's mailroom was closed between October 22, 2001 and November 26, 2001 in order that protective measures could be taken to ensure the appropriate handling of the mail as well as the general safety of the Department's employees. However, during this time frame, the following proposed individual and class exemptions were published in the **Federal Register** and requested comments from interested persons:

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NMSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork

Reduction Act of 1995, Pub. L. 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 66 FR 46292, and two comments, showing a positive response to NSF's implementation of a web-based job recruitment system, were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send E-mail to *splimpto@nsf.gov*. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Title: "eRecruitment" System.

OMB Control Number: 3145–NEW.

Summary of Collection:

Use of the Information: The information will be used by NSF to provide applicants with the ability to apply electronically for NSF positions and receive notification as to their qualifications, application dispensation and to request to be notified of future vacancies for which they may qualify.

In order to apply for vacancies, applicants will be required to submit certain data in order to receive consideration. Users only need access to the Internet for this system to work. This information will be used to determine which applicants are best qualified for a position, based on applicant responses to a series of job related "yes/no" or "multiple choice" questions. The resume portion requires applicants to provide the same information they would provide were they submitting a paper OF–612. The obvious benefit being that the applicant may do so on-line, 24 hours a day/seven days a week and receive electronic notification about the status of their application or information on other vacancies for which they may qualify. Staff members of the Human Resource Division and the selecting official(s) for specific positions for which applicants apply are the only ones privy to the applicant data. The most significant data is not the applicant personal data such as address or phone number but rather their description of their work experience and their corresponding responses to those questions, which determine their overall rating, ranking, and referral to the selecting official.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average less than 30 to 45 minutes to create the on line resume and potentially less than 10 to 15 minutes to apply for jobs on-line.

Respondents: Individuals. Approximately 4800 applicants apply for NSF vacancies a year. This number could potentially double based on evidence from other agencies that use electronic recruitment systems; the estimated number of responses is 6500.

Estimated Number of Responses: Approximately 25 responses per job opening.

Estimated Total Annual Burden on Respondents: Approximately 45 minutes per respondent total time is all that will be needed to complete the on-line application, for a total of 4,875 hours annually.

Frequency of Responses: Applicants need only complete the resume one time, and they may use that resume to apply as often as they wish for any NSF job opening.

Dated: December 6, 2001.

Suzanne H. Plimpton,

Reports Clearance Officer.

[FR Doc. 01–30659 Filed 12–11–01; 8:45 am]

BILLING CODE 7555–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meeting

TIME & DATE: 2 PM, Monday, December 17, 2001.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW, Suite 800, Washington, DC 20005.

STATUS: Open/Closed.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary, 202–220–2372.

AGENDA:

I. Call to Order
II. Approval of Minutes: September 21, 2001 Regular Meeting
III. Treasurer's Report
IV. Strategic Plan Adoption
V. Executive Directors Quarterly Management Report
VI. Executive Session (Closed)
  (A) Personnel Committee Report—11/14/01
  (B) Personnel Committee Report—12/04/01
VII. Adjournment

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 01–30853 Filed 12–10–01; 3:48 pm]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

Note: The publication date for this notice will change from every other Wednesday to every other Tuesday, effective January 8, 2002. The notice will contain the same information and will continue to be published biweekly.

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the

pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from November 19, 2001 through November 30, 2001. The last biweekly notice was published on November 28, 2001 (66 FR 59498).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By January 11, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Branch, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Assess and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document room (PDR) Reference staff at 1–800–397–4209, 304–415–4737 or by email to pdr@nrc.gov.

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of amendment request: July 5, 2001.

Description of amendment request: The proposed amendment would relax Technical Specification (TS) operability requirements for primary containment systems, secondary containment systems, and the standby gas treatment system during the movement of irradiated fuel and during core alterations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The equipment affected by the proposed changes are mitigative in nature, and relied upon after an accident has been initiated. Application of the Alternative Source Term (AST) does not involve a change to the plant design. While the operation of the primary and secondary containment systems do change as a result of these proposed changes, these systems are not accident initiators. Application of the AST does not initiate a design basis accident. Similarly, application of the AST does not affect the design or operation for any equipment or systems involved in the mitigation of accidents. The proposed changes to the Technical Specifications (TS), while they revise certain performance requirements, do not involve any physical modifications to the plant. As a result, the proposed changes do not affect any of the parameters or conditions that could contribute to the initiation of any accidents. As such, removal of operability requirements during the specified conditions will not significantly increase the probability of occurrence for an accident previously analyzed.

The AST changes do not affect the design and operation of the facility. Rather, once the accident has been postulated the new source term is an input to the evaluation of the consequences. The implementation of the AST has been evaluated in revisions to the analyses of the worst case Fuel Handling Accident (FHA) at Clinton Power Station (CPS). Based on the results of the analyses, it has been demonstrated that, with the proposed changes, the dose consequences of the worst case FHA remain a small fraction of the regulatory guidance provided by the NRC for the AST in RG [regulatory guide] 1.183, "Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors," dated July 2000. Since the primary containment systems, secondary containment systems and the Standby Gas Treatment (SGT) are not assumed to be operable in the FHA, the consequences of eliminating the requirements that these systems be operable during the handling of irradiated fuel in both primary and secondary containment or during core alterations will not increase significantly.

In summary, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No new equipment is introduced, and no installed equipment is operated in a new or different manner. There is no change to the predicted accident response of any plant structure, system or component. The proposed change in availability of mitigative equipment has been evaluated in accordance with the guidance in RG 1.183 and does not produce different or more limiting accident progression or results. As such, no new accident modes or equipment failure modes are created by these proposed changes.

Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The proposed changes involve a selective application of the AST for the FHA consistent with the guidance provided in RG 1.183. The existing analyses demonstrated that the dose consequences associated with the FHA were within the applicable NRC specified limits. For offsite dose, the margin to safety for the FHA using the 10 CFR 100, "Reactor Site Criteria," limits was maintained by the existing analysis. For the Control Room dose, the margin of safety using the 10 CFR 50, "Domestic Licensing of Production and Utilization Facilities," Appendix A, "General Design Criteria for Nuclear Power Plants," General Design Criteria 19, "Control room," dose limits was conservatively maintained by the existing analyses. The results of the FHA analysis revised in support of this submittal however, are subject to revised acceptance criteria. The revised dose consequences of the limiting design basis FHA are within the acceptance criteria found in RG 1.183 and 10 CFR 50.67, "Domestic Licensing of Production and Utilization Facilities, Accident Source Term." The proposed changes ensure that the doses at the exclusion area boundary (EAB), low population zone (LPZ), and control room remain a small fraction of the new regulatory limits in RG 1.183 and 10 CFR 50.67.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Robert Helfrich, Mid-West Regional Operating Group, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Section Chief: Anthony J. Mendiola.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: October 31, 2001.

Description of amendment request: The proposed amendment deletes requirements from the Technical Specifications (and, as applicable, other elements of the licensing bases) to maintain a Post Accident Sampling System (PASS). Licensees were generally required to implement PASS upgrades as described in NUREG–0737,

"Clarification of TMI [Three Mile Island] Action Plan Requirements," and Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident." Implementation of these upgrades was an outcome of the lessons learned from the accident that occurred at TMI, Unit 2. Requirements related to PASS were imposed by Order for many facilities and were added to or included in the technical specifications (TS) for nuclear power reactors currently licensed to operate. Lessons learned and improvements implemented over the last 20 years have shown that the information obtained from PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions.

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 11, 2000 (65 FR 49271) on possible amendments to eliminate PASS, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on October 31, 2000 (65 FR 65018). The licensee affirmed the applicability of the following NSHC determination in its application dated October 31, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the TMI–2 accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing accidents and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 accident guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore, the elimination of PASS requirements from Technical Specifications (TS) (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radionuclides within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in the margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Richard P. Correia.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: October 31, 2001.

Description of amendment request: The proposed amendment deletes requirements from the Technical Specifications (and, as applicable, other elements of the licensing bases) to maintain a Post Accident Sampling System (PASS). Licensees were generally required to implement PASS upgrades as described in NUREG–0737, "Clarification of TMI [Three Mile Island] Action Plan Requirements," and Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident." Implementation of these upgrades was an outcome of the lessons learned from the accident that occurred at TMI, Unit 2. Requirements related to PASS were imposed by Order for many facilities and were added to or included in the technical specifications (TS) for nuclear power reactors currently licensed to operate. Lessons learned and improvements implemented over the last 20 years have shown that the information obtained from PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions.

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 11, 2000 (65 FR

49271) on possible amendments to eliminate PASS, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on October 31, 2000 (65 FR 65018). The licensee affirmed the applicability of the following NSHC determination in its application dated October 31, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the TMI–2 accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing accidents and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 accident guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore, the elimination of PASS requirements from Technical Specifications (TS) (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radionuclides within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in the margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Richard P. Correia.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: May 24, 2001.

Description of amendment request: The proposed amendment would delete License Condition 2.C.(11), which is no longer applicable to the facility. License Condition 2.C.(11) requires inspection of the low-pressure turbine discs during the second refueling outage, including volumetric examination of the disc base using ultrasonic techniques, and specifies that the frequency of subsequent inspections shall be in accordance with the turbine manufacturer's recommendations. The amendment request states that the license condition is no longer applicable for the following reasons: (1) the initial inspection was completed during the second refueling outage as required; and (2) during fifth refueling outage, the low-pressure turbine rotors were replaced with monoblock designed rotors that do not utilize shrunk-on discs, and therefore the subsequent inspections specified in License Condition 2.C.(11) for shrunk-on discs would be meaningless with the new rotor design. The licensee's inspection and maintenance program for the new low-pressure turbine is based on the current turbine manufacturer's recommendations for the monoblock design.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment removes Fermi 2 Operating License Condition 2.C.(11) which details the inspection frequency of the low-pressure (LP) turbine discs. The inspection frequency was recommended because the original turbine rotor design involved a shrunk-on disc configuration. The inspection attributes applied specifically to this disc design and were intended to enhance design reliability. In 1996, however, the LP turbine steam path consisting of rotors, buckets (blades), diaphragms and steam flow guides, all manufactured by English Electric Co., were replaced with General Electric (GE) components. In particular, the GE design does not utilize shrunk-on discs; it includes rotors of monoblock construction, thus negating the applicability of License Condition 2.C.(11). There are no relevant aspects of the

previously recommended inspections that apply to the new monoblock construction.

Section 3.5.1.2.1 of the Fermi 2 UFSAR [Updated Final Safety Analysis Report] addresses the potential for missiles generated from rotating equipment including those generated from a low-pressure turbine rotor segment. Section 10.2.3 of the UFSAR states that following the low-pressure turbine rotor replacement during RFO05, "there will no longer be a design basis turbine missile at Fermi 2." Section 3.5.1.2.2 further states, "The new low-pressure rotors are of monoblock construction. The monoblock rotors have higher speed capability than the maximum attainable speed of the turbine generator units. Per General Electric, the supplier of the new rotors, the probability of missiles being generated is well below 10 to the –8 power." There are no other postulated accidents that were directly attributable to the English Electric Company shrunk-on disc design; therefore, the removal of License Condition 2.C.(11) does not increase the probability of occurrence or the consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change removes License Condition 2.C.(11) because it is no longer applicable to the design of the low-pressure turbine currently installed at the facility. Therefore, removal of the license condition affects neither the design nor the operation of the plant. It cannot create a new failure mode, nor can its removal create the possibility of a new or different kind of accident than any accident previously evaluated.

3. The change does not involve a significant reduction in the margin of safety.

License Condition 2.C.(11) is not applicable to the facility because the low-pressure turbine rotor was replaced with a design which does not include shrunk-on turbine discs. This rotor replacement eliminated the potential for a design basis accident resulting from the turbine missiles at Fermi 2, which was the accident scenario that the inspections referenced in License Condition 2.C.(11) were intended to prevent. Since the license condition no longer applies to the current facility design, and the potential design basis accident associated with the license condition no longer exists, the removal of the license condition will not reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Peter Marquardt, Legal Department, 688 WCB, Detroit Edison Company, 2000 2nd Avenue, Detroit, Michigan 48226–1279.

NRC Acting Section Chief: William D. Reckley, Acting.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: November 11, 2001.

Description of amendment request: A change is proposed to Technical Specification 3.0.3 to allow a longer period of time to perform a missed surveillance. The time is extended from the current limit of "* * * up to 24 hours or up to the limit of the specified Frequency, whichever is less" to "* * *up to 24 hours or up to the limit of the specified Frequency, whichever is greater." In addition, the following requirement would be added to the specification: "A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed."

The Nuclear Regulatory Commission (NRC) staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714). The licensee affirmed the applicability of the following NSHC determination in its application dated November 11, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Peter Marquardt, Legal Department, 688 WCB, Detroit Edison Company, 2000 2nd Avenue, Detroit, Michigan 48226–1279.

NRC Section Chief: William D. Reckley, Acting.

Dominion Nuclear Connecticut, Inc., et al., Docket Nos. 50–245, 50–336, and 50–423, Millstone Nuclear Power Station, Unit Nos. 1, 2, and 3, New London County, Connecticut

Date of amendment request: November 8, 2001.

Description of amendment request: The proposed amendments would incorporate administrative and editorial changes into the Millstone Unit No. 1 Permanently Defueled Technical Specifications (PDTS) and into the Millstone Unit Nos. 2 and 3 Technical Specifications (TSs). Specifically, the proposed changes would: (1) Relocate redundant design features information already included in other licensing basis (LB) documents (e.g., the Final Safety Analysis Report (FSAR)), from Section 5.0, "Design Features," of the Unit Nos. 2 and 3 TS, to other LB documents, consistent with the improved Standard Technical Specifications (STSs) for the respective unit design; (2) revise TS 5.6.2, "Technical Specifications Bases Control Program," in the Unit No. 1 PDTS to incorporate the 10 CFR 50.59 rule change; (3) add a new TS (TS 6.22 for Unit No. 2 and TS 6.17 for Unit No. 3), to incorporate a TS bases control program within the Unit Nos. 2 and 3 TS; (4) add a new TS (TS 6.18, "Component Cyclic or Transient Limits"), to the Unit No. 3 TS to define the program for tracking cyclic (or transient) limits. These limits are proposed to be relocated from where they are listed in TS 5.7, "Component Cyclic or Transient Limit," in the Unit No. 3 TS, to the FSAR; (5) revise the Unit No. 1 PDTS and the Unit Nos. 2 and 3 TS related to Radiological Environmental Monitoring Program (REMP) procedure processing to: (a) remove reference to an organization affiliated with Northeast Utilities (NU), the Production Operations Services Laboratory, which is no longer applicable following the change in ownership from NU to Dominion Nuclear Connecticut (DNC); (b) replace the reference to the Radiological Assessment Branch (a Millstone DNC organization) with the "organization responsible for the REMP" for review/approval of changes to the REMP to avoid future TS changes due to a change in organizational titles; (c) correct an inconsistency within the Unit No. 1 PDTS which implies that REMP procedures are processed under the general procedure processing specification (*i.e.*, TS 5.5.1), in addition to the specific specifications for processing REMP procedure changes (*i.e.*, Specifications 5.5.6 and 5.5.7); and (6) correct miscellaneous editorial issues and achieve consistency between the TSs for each unit. These changes include: (a) Changes to and corrections in titles; (b) correct references to the quality assurance program, and (c) change titles to utilize the term radiation protection rather than health physics.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes related to Section 5, "Design Features," of the Unit Nos. 2 or 3 TS either relocates or deletes certain details from the Technical Specifications and relocates them to the respective unit's updated FSAR or other plant controlled documents. The FSAR and other plant controlled documents will be maintained in accordance with 10 CFR 50.59. The proposed changes to Section 6, "Administrative Controls," adds new administrative specifications consistent with the guidance of the improved STS, corrects inconsistencies, or represents changes in nomenclature, and will correct editorial issues and achieve consistency within the individual TS and between individual TS. The changes are purely administrative or editorial and do not alter any regulatory requirements or have an impact on the acceptance criteria for any design basis accident described in the respective Unit Nos. 2 or 3 FSAR or the Unit No. 1 Defueled Safety Analysis Report (DSAR).

These changes have no impact on plant equipment operation. Since the changes are solely an administrative or editorial change to the TS, they cannot affect the likelihood or consequences of accidents. Therefore, these changes will not increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes have no impact on plant operation. Since the proposed changes are solely an administrative or editorial change to the TS, they do not affect plant operation in any way. The proposed changes do not involve a physical alteration of the plant or change the plant configuration (no new or different type of equipment will be installed). The proposed changes do not require any new or unusual operator actions. The changes do not alter the way any structure, system, or component functions and do not alter the manner in which the plant is operated. The changes do not introduce any new failure modes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

Since the proposed changes are solely administrative or editorial changes to the TS, they do not affect plant operation in any way. The proposed changes to the respective unit's technical specifications will standardize terminology, remove extraneous information and make minor format changes that will not result in any technical changes to current requirements.

The proposed changes do not impact any acceptance criteria for the design basis accidents described in the respective Unit Nos. 2 or 3 FSAR or the Unit No. 1 DSAR and do not impact the consequences of accidents previously evaluated. Therefore, the proposed changes will not result in a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Nuclear Counsel, Dominion Nuclear Connecticut, Inc., Rope Ferry Road, Waterford, CT 06385.

NRC Section Chief: James W. Clifford.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: May 25, 2001.

Description of amendment request: The amendments would revise Technical Specifications (TS) Definitions for ENGINEERED SAFETY FEATURE (ESF) RESPONSE TIME and REACTOR TRIP SYSTEM (RTS) RESPONSE TIME to provide for verification of response time for selected components provided that the components and the methodology for verification have been previously reviewed and approved by the Nuclear Regulatory Commission. The associated Bases will also be revised. The licensee has referenced previously approved WCAP–13632–P–A, Revision 2, "Elimination of Pressure Sensor Response Time Testing Requirements," and WCAP–14036–P–A Revision 1, "Elimination of Periodic Protection Channel Response Time Tests" as the justifications for proposing these changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Conformance of the proposed amendments to the standards for a determination of no significant hazards as defined in 10 CFR 50.92 is shown in the following:

(1) The proposed license amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change to the TS does not result in a condition where the design, material, and construction standards that were applicable prior to the change are altered. The same RTS and ESFAS instrumentation is being used; the time response allocations/modeling assumptions in the UFSAR Chapter 15 analyses are still the same; only the method of verifying time response is changed. The proposed change will not modify any system interface and could not increase the likelihood of an accident since these events are independent of this change. The proposed activity will not change, degrade, or prevent actions or alter any assumptions previously made in evaluating the radiological consequences of an accident described in the UFSAR. Therefore, the proposed amendments do not result in any increase in the probability or consequences of an accident previously evaluated.

(2) The proposed license amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated.

This change does not alter the performance of the reactor protection system (RPS) or the engineered safety features actuation system (ESFAS). All RPS and ESFAS channels will still have response time verified by test before placing the channel in operational service and after any maintenance that could affect response time. Changing the method of periodically verifying instrument response for certain RPS and ESFAS channels (assuring equipment operability) from time response testing to calibration and channel checks will not create any new accident initiators or scenarios. Periodic surveillance of these instruments will detect significant degradation in the channel characteristic. Implementation of the proposed amendments does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed license amendments do not involve a significant reduction in a margin of safety.

This change does not affect the total system response time assumed in the safety analysis. The periodic system response time verification method is modified to allow use of actual test data or engineering data. The method of verification still provides assurance that the total system response is within that defined in the safety analysis, since calibration tests will detect any degradation which might significantly affect channel response time. Based on the above, it is concluded that the proposed license amendment request does not result in a reduction in a margin with respect to plant safety.

Based on the preceding analysis, it is concluded that elimination of periodic [response time testing] RTT is acceptable and the proposed license amendments do not involve a significant hazards consideration finding as defined in 10 CFR 50.92.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn , Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006.

NRC Section Chief: Richard J. Laufer, Acting.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: August 6, 2001.

Description of amendment request: The amendments would revise Technical Specifications (TS) 3.3.2 for engineered safety feature actuation system instrumentation, TS 3.3.6 for containment purge and exhaust isolation instrumentation. The amendments would also revise the appropriate bases, and the bases for Containment Isolation Valves (TS 3.6.3). Specifically, the proposed amendments would modify the TS requirements so that they exclude the Containment Purge Ventilation System and the Hydrogen Purge System, thereby applying the requirements to only the Containment Air Release and Addition System. At Catawba, the containment isolation valves for the Containment Purge Ventilation System and the Hydrogen Purge System are sealed closed in the modes of applicability (Modes 1, 2, 3, and 4) according to TS requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The following discussion is a summary of the evaluation of the changes contained in this proposed amendment against the 10 CFR 50.92(c) requirements to demonstrate that all three standards are satisfied. A no significant hazards consideration is indicated if operation of the facility in accordance with the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated, or
2. Create the possibility of a new or different kind of accident from any accident previously evaluated, or
3. Involve a significant reduction in a margin of safety.

First Standard

Implementation of this amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. Neither the Containment Purge Ventilation System, the Hydrogen Purge System, nor the Containment Air Release and Addition System is capable of by itself initiating any accident. The safety related portions of these systems, which are responsible for maintaining containment isolation during accident conditions, will continue to function as designed, and in accordance with all applicable TS. The design and operation of the systems are not being modified by this proposed amendment. Therefore, there will be no impact on any accident probabilities or consequences.

Second Standard

Implementation of this amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. No new accident causal mechanisms are created as a result of NRC approval of this amendment request. No changes are being made to the plant which will introduce any new accident causal mechanisms. This amendment request does not impact any plant systems that are accident initiators and does not impact any safety analyses.

Third Standard

Implementation of this amendment would not involve a significant reduction in a margin of safety. Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of these fission product barriers will not be impacted by implementation of this proposed amendment. It has already been shown that the performance of all containment isolation functions in response to accident conditions will not be impacted by this proposed amendment. There is no risk significance to this proposed amendment, as no reduction in system or component availability will be incurred. No safety margins will be impacted.

Based upon the preceding discussion, Duke Energy has concluded that the proposed amendment does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn , Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006.

NRC Section Chief: Richard J. Laufer, Acting.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: September 24, 2001.

Description of amendment request: The amendment request proposes to extend the allowed outage time for a Division I or Division II Emergency Diesel Generator (EDG) from 72 hours to 14 days. The proposed changes are intended to provide flexibility in scheduling EDG maintenance activities, reduce refueling outage duration, and improve EDG availability during plant shutdowns.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?*

The proposed Technical Specification (TS) changes do not affect the design, operational characteristics, function, or reliability of the EDGs. The EDGs are not the initiators of previously evaluated accidents. The EDGs are designed to mitigate the consequences of previously evaluated accidents including a loss of offsite power. Extending the allowed outage time (AOT) for a single EDG would not significantly affect the previously evaluated accidents since the remaining EDGs supporting the redundant ESF [Engineered Safety Feature] systems would continue to perform the accident mitigating functions as designed.

The duration of a TS AOT is determined considering that there is a minimal possibility that an accident will occur while a component is removed from service. A risk-informed assessment was performed which concluded that the increase in plant risk is small and consistent with the USNRC [United States Nuclear Regulatory Commission (NRC)] "Safety Goals for the Operations of Nuclear Power Plants; Policy Statement," **Federal Register**, Vol. 51, p.30028 (51 FR 30028), August 4, 1986, as further described by NRC Regulatory Guide 1.177.

The current TS requirements establish controls to ensure that redundant systems relying on the remaining EDGs are Operable. In addition to these requirements, administrative controls will be established to provide assurance that the AOT extension is not applied during adverse weather conditions that could potentially affect offsite power availability.

Both the RBS [River Bend Station, Unit 1] risk-based analysis and the deterministic evaluation support the increased AOT. Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. *Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed TS changes do not involve a change in the design, configuration, or method of operation of the plant that could create the possibility of a new or different kind of accident. The proposed change extends the AOT currently allowed by the TS.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. *Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?*

The proposed extended AOT is not in conflict with any of the approved codes and standards applicable to the onsite AC [Alternating Current] power sources. The proposed changes do deviate from the recommendations of Regulatory Guide (RG) 1.93. An extension of the 72 hour AOT recommended in the RG to 14 days is demonstrated herein to be acceptable and has been approved for several other licensees. Assuming there are no additional failures of redundant equipment during the time that the EDG is removed from service, the intended safety functions would still be met.

The proposed AOT change does not affect any of the assumptions or inputs to the safety analyses of the FSAR [Final Safety Assessment Report] and does not erode the decrease in severe accident risk achieved with the issuance of the Station Blackout (SBO) Rule, 10 CFR 50.63 "Loss of All Alternating Current Power". RBS is classified as a four-hour coping plant with 0.95 EDG reliability (see U[pdated] FSAR Appendix 15C). The assumptions used in the SBO [Station Blackout] analysis regarding reliability of the EDGs are unaffected by the proposed TS changes since preventive maintenance and testing will continue to be performed to maintain reliability assumptions.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark Wetterhahn, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005.

NRC Section Chief: Robert A. Gramm.

Entergy Nuclear Operations, Inc., Docket No. 50–286, Indian Point Nuclear Generating Unit Number 3, Westchester County, New York

Date of amendment request: October 23, 2001.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 5.5.10, "Ventilation Filter Testing Program," to adopt the requirements of the American Society for Testing and Materials Standard (ASTM) D3803–1989, "Standard Test Method for Nuclear-Grade Activated Carbon." The proposed TS revisions are in response to Nuclear Regulatory Commission (NRC) Generic Letter 99–02, "Laboratory Testing of Nuclear-Grade Activated Charcoal." The proposed amendment would also revise the differential pressure criteria for the test of the filter system for the Control Room Ventilation System.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) *Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?*

The proposed license amendment adopts the new test method and acceptance criteria of ASTM D3803–1989, with the exceptions identified, for activated charcoal filters and changes the allowable pressure differential for Control Room ventilation. The changes require laboratory performance testing of adsorber carbon that yields a more accurate result than the testing currently required by the TS and requires a more stringent limit on the Control Room ventilation pressure differential. The proposed change to delete non-conservative TS requirements for testing of adsorber carbon and limiting the Control Room ventilation differential pressure are not plant accident initiators as described in the Final Safety Analysis Report (FSAR). The proposed amendment does not change the function of any structure, system or component (SSC). The function of the ventilation systems is filtration of radiological releases during postulated accidents. The proposed changes will provide greater assurance that this function is provided. The revised TS requirements are for laboratory tests and pressure differential measurements that are currently in place and change only the TS testing requirements. They will not result in any changes to the efficiency assumed in accident analysis. The changes do not alter, degrade or prevent actions described or assumed in an accident described in the FSAR. Therefore, the proposed amendment does not change the possibility of an accident previously evaluated or significantly increase the consequences of an accident previously evaluated.

(2) *Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed license amendment adopts the new test method and acceptance criteria of ASTM D3803–1989, with the exceptions

identified, for activated charcoal filters and changes the allowable pressure differential for Control Room ventilation. The change does not involve any modifications to the plant, will not require changes to how the plant is operated nor will it affect the operation of the plant. The changes require laboratory performance testing of adsorber carbon that yields a more accurate result than the testing currently required by the TS and requires a more stringent limit on the Control Room ventilation pressure differential. The proposed changes to delete non-conservative TS requirements for testing of adsorber carbon and limiting the Control Room ventilation differential pressure are not plant accident initiators as described in the Final Safety Analysis Report (FSAR). The proposed amendment does not change the function of any structure, system or component (SSC). The function of the ventilation systems is filtration of radiological releases during postulated accidents. The proposed changes will provide greater assurance that this function is provided. The revised TS requirements are for laboratory tests and pressure differential measurements that are currently in place and change only the TS testing requirements. They will not result in any changes to the efficiency assumed in accident analysis. The changes do not alter, degrade or prevent actions described or assumed in an accident described in the FSAR. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) *Does the proposed license amendment involve a significant reduction in a margin of safety?*

The proposed license amendment adopts the new test method and acceptance criteria of ASTM D3803–1989, with the exceptions identified, for activated charcoal filters and changes the allowable pressure differential for Control Room ventilation. The proposed license amendment does not reduce the margin of safety but enhances by requiring more accurate testing and a more conservative pressure differential. The proposed test change will require the use of a current and improved ASTM standard to ensure that the carbon ability to adsorb radioactive material will remain at or above the capability credited in our accident analysis. The proposed differential pressure limit will assure that the system provides sufficient flow though the charcoal to meet accident analyses.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John Fulton, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Section Chief: L. Raghavan (Acting).

Entergy Nuclear Operations, Inc., Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: October 23, 2001.

Description of amendment request: The proposed amendment deletes requirements from the Technical Specifications (TSs) (and, as applicable, other elements of the licensing bases) to maintain a Post Accident Sampling System (PASS). Licensees were generally required to implement PASS upgrades as described in NUREG–0737, "Clarification of TMI [Three Mile Island] Action Plan Requirements," and Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident." Implementation of these upgrades was an outcome of the lessons learned from the accident that occurred at TMI, Unit 2. Requirements related to PASS were imposed by Order for many facilities and were added to or included in the TSs for nuclear power reactors currently licensed to operate. Lessons learned and improvements implemented over the last 20 years have shown that the information obtained from PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions.

The Nuclear Regulatory Commission (NRC) staff issued a notice of opportunity for comment in the **Federal Register** on August 11, 2000 (65 FR 49271) on possible amendments to eliminate PASS, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on October 31, 2000 (65 FR 65018). The licensee affirmed the applicability of the following NSHC determination in its application dated October 23, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the TMI–2 accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing accidents and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 accident guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore, the elimination of PASS requirements from Technical Specifications (TS) (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or

elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radionuclides within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in [a] Margin of Safety

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in [a] margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John Fulton, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Section Chief: L. Raghavan (Acting).

Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: September 28, 2001.

Description of amendment request: The licensee proposes to revise a single Anticipated Transient Without Scram (ATWS) Recirculation Pump Trip Reactor Pressure High setpoint to replace the current conditional setpoints which are based upon the number of Safety Relief Valves out of service.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because: a change in the ATWS high RPV [reactor pressure vessel] pressure RWR [ATWS Reactor Pressure High Recirculation Pump] pump trip setpoint does not affect initiation of any accident. Operation in accordance with the revised setpoint ensures the consequences of previously analyzed accidents are not changed.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because: RPV pressure following an ATWS with PRFO [Pressure Regulating Valve Open] event (worst case transient for RPV pressurization) remains within acceptable limits with the revised setpoint. Therefore, changing the setpoint will not lead to a new or different kind of accident.

3. Involve a significant reduction in a margin of safety because: the analyses performed to determine the revised ATWS high pressure RWR pump trip setpoint assure maintenance of the same margin of safety as presently exists for limiting RPV pressure following an ATWS with PRFO (limiting transient). The current analyses actually shows an improved margin over the results of the previous analyses (References 2 and 3), which were performed using an earlier computer code.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. David E. Blabey, 1633 Broadway, New York, New York 10019.

NRC Section Chief: L. Raghavan (Acting).

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: October 30, 2001.

Description of amendment request: The license amendment request proposes changes to Arkansas Nuclear One, Unit 2 (ANO–2) Technical Specification (TS) 3.4.9, "Pressure/Temperature Limits," and TS 3.4.12, "Low Temperature Overpressure Protection (LTOP) System." The primary changes are to update the existing pressure/temperature (P/T) limits from 21 to 32 effective full power years (EFPYs) and to include additional restrictions in the LTOP TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1—Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The probability of occurrence of an accident previously evaluated for ANO–2 is not altered by the proposed amendment to the technical specifications (TSs). The accidents remain the same as currently analyzed in the ANO–2 Safety Analysis Report (SAR) as a result of changes to the P/T limits as well as those for LTOP. The new P/T and LTOP limits were based on NRC [Nuclear Regulatory Commission] accepted methodologies along with ASME [American Society of Mechanical Engineers] Code [Boiler and Pressure Vessel Code] alternatives. The proposed changes do not impact the integrity of the reactor coolant pressure boundary (RCPB) (i.e. there is no change to the operating pressure, materials, loadings, etc.) as a result of this change. In addition, there is no increase in the potential for the occurrence of a loss of coolant accident. The probability of any design basis accident is not affected by this change, nor are the consequences of any design basis accident (DBA) affected by this proposed change. The proposed P/T limit curves and the LTOP limits are not considered to be an initiator or contributor to any accident currently evaluated in the ANO–2 SAR. These new limits ensure the long term integrity of the RCPB.

Fracture toughness test data are obtained from material specimens contained in capsules that are periodically withdrawn from the reactor vessel. These data permit determination of the conditions under which the vessel can be operated with adequate safety margins against non-ductile fracture throughout its service life. A new reactor vessel specimen capsule was withdrawn at the most recent refueling outage and was analyzed to predict the fracture toughness requirements using projected neutron fluence calculations. For each analyzed transient and steady state condition, the allowable pressure is determined as a function of reactor coolant temperature considering postulated flaws in the reactor vessel beltline, inlet nozzle, outlet nozzle, and closure head.

The predicted radiation induced ΔRT_{NDT} [shift in reference temperature for nil-ductility transition] was calculated using the respective reactor vessel beltline materials copper and nickel contents and the neutron fluence applicable to 32 EFPY including an estimated increase in flux due to a proposed power uprate. The ΔRT_{NDT} [reference temperature for nil-ductility transition] and, in turn, the operating limits for ANO–2 were adjusted to account for the effects of irradiation on the fracture toughness of the reactor vessel materials. Therefore, new operating limits are established which are represented in the revised operating curves for heatup/criticality, cooldown and inservice hydrostatic testing contained in the technical specifications.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2—Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed changes to the P/T and LTOP limits will not create a new accident scenario. The requirements to have P/T and LTOP protection are part of the licensing basis of ANO–2. The proposed changes

reflect the change in vessel material properties acknowledged and managed by regulation and the best data available in response to NRC Generic Letter 92–01, Revision 1. The approach used meets NRC and ASME regulations and guidelines. The calculational methodology for fluence is based on an NRC approved Framatome ANP approach. Therefore, the adjusted reference temperatures for fracture toughness are consistent with that previously provided to the NRC. The data analysis for the vessel specimen removed at 2R14 (approximately 15.7 EFPY of exposure) confirms that the vessel materials are responding as predicted.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—Does Not Involve a Significant Reduction in the Margin of Safety

The existing P/T curves and LTOP limits in the technical specifications are reaching their expiration period for the number of years at effective full power operation. The revision of the P/T limits and curves will ensure that ANO–2 continues to operate within the operating margins allowed by 10 CFR 50.60 and the ASME Code. The material properties used in the analysis are based on results established through CE [Combustion Engineering] material reports for copper and nickel content. The application of ASME Code Case N–641 presents alternative procedures for calculating P/T and LTOP temperatures and pressures in lieu of that established for ASME Section XI, Appendix G–2215. This Code alternative allows certain assumptions to be conservatively reduced. However, the procedures allowed by Code Case N–641 still provide significant conservatism and ensure an adequate margin of safety in the development of P/T operating and pressure test limits to prevent non-ductile fractures.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Indiana Michigan Power Company, Docket No. 50–315, Donald C. Cook Nuclear Plant, Unit 1, Berrien County, Michigan

Date of amendment request: November 19, 2001.

Description of amendment request: The proposed amendment would to eliminate restrictions imposed by technical specification (TS) 3.0.4 for the Remote Shutdown Instrumentation.

Basis for proposed no significant hazards consideration determination: **As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:**

1. Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

Response: No.

Probability of Occurrence of an Accident Previously Evaluated

The Remote Shutdown Instrumentation system ensures that sufficient capability is available to permit shutdown and maintenance of Hot Standby of the plant from locations outside of the control room. The proposed change allows Unit 1 to ascend in mode without meeting the LCO [limiting condition for operation] for TS 3.3.3.5. The proposed change does not impact the ability to comply with the allowed outage time (AOT) described in TS 3.3.3.5. As such, the proposed change does not affect any accident initiators or precursors, since the AOT for TS 3.3.3.5 will continue to be met. The proposed change is also consistent with the Unit 2 TS. Therefore, the probability of occurrence of an accident previously evaluated is not significantly increased.

The format changes do not impact any accident initiators or precursors. Thus, the probability of occurrence of an accident previously evaluated is not significantly increased.

Consequences of an Accident Previously Evaluated

The proposed change to allow Unit 1 to ascend in mode without meeting the LCO for TS 3.3.3.5, while continuing to meet the action statement, will not significantly impact the Remote Shutdown Instrumentation systems' capability of performing its design function. The Remote Shutdown Instrumentation ensures that sufficient capability is available to permit shutdown and maintenance of Hot Standby of the plant from locations outside of the control room. The proposed change does not impact the ability to comply with AOT described in TS 3.3.3.5. The proposed change is also consistent with the Unit 2 TS. Thus, there will be no increase in offsite doses, and the consequences of an accident previously analyzed are not increased.

The format changes do not impact the function of the Remote Shutdown Instrumentation. Thus, there will be no increase in offsite doses, and the consequences of an accident previously analyzed are not significantly increased.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The Remote Shutdown Instrumentation system ensures that sufficient capability is available to permit shutdown and maintenance of Hot Standby of the plant from locations outside of the control room. Allowing Unit 1 to ascend in mode without meeting the LCO for TS 3.3.3.5, while continuing to meet the action statement, does not change the function of the Remote Shutdown Instrumentation system or create the possibility of a new or different type of accident. The proposed change does not impact the ability to comply with the AOT described in TS 3.3.3.5. The proposed change is also consistent with the Unit 2 TS. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The format changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not impact the Remote Shutdown Instrumentation system's capability of performing its design function, nor does the proposed change impact the operational characteristics of the Remote Shutdown Instrumentation system. The Remote Shutdown Instrumentation ensures that sufficient capability is available to permit shutdown and maintenance of Hot Standby of the plant from locations outside of the control room. Allowing Unit 1 to ascend in mode without meeting the LCO for TS 3.3.3.5, while continuing to meet the action statement, does not impact CNP's accident analysis. The proposed change is also consistent with the Unit 2 TS. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Esq., 500 Circle Drive, Buchanan, MI 49107.

NRC Section Chief: William D. Reckley, Acting.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment requests: October 12, 2001.

Description of amendment requests: The proposed amendments would delete requirements from the technical specifications (TSs) (and, as applicable, other elements of the licensing bases) to maintain a Post Accident Sampling System (PASS). Licensees were generally required to implement PASS upgrades as described in NUREG–0737, "Clarification of TMI [Three Mile Island] Action Plan Requirements," and Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident." Implementation of these upgrades was

an outcome of the lessons learned from the accident that occurred at TMI, Unit 2. Requirements related to PASS were imposed by Order for many facilities and were added to or included in the TSs for nuclear power reactors currently licensed to operate. Lessons learned and improvements implemented over the last 20 years have shown that the information obtained from PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions.

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 11, 2000 (65 FR 49271) on possible amendments to eliminate PASS, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on October 31, 2000 (65 FR 65018). The licensee affirmed the applicability of the following NSHC determination in its application dated October 12, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the TMI–2 accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing accidents and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 accident guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore, the elimination of PASS requirements from Technical Specifications (TS) (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radionuclides within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in the margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Esq., 500 Circle Drive, Buchanan, MI 49107.

NRC Section Chief: William D. Reckley, Acting.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment requests: November 1, 2001.

Description of amendment requests: The proposed amendments would revise technical specification (TS) surveillance requirements (SR) 4.8.2.3.2.c.2 and 4.8.2.5.2.c.2 and associated TS bases concerning the safety-related batteries to make them more consistent with the Westinghouse Standard TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

Probability of Occurrence of an Accident Previously Evaluated

The proposed change to SRs 4.8.2.3.2.c.2 and 4.8.2.5.2.c.2 to add a requirement to remove visible corrosion and to delete the requirement that the battery be free of corrosion does not affect any accident initiators or precursors. The batteries perform a mitigating function following a loss of AC power, and the presence of corrosion will not adversely impact components whose failure would initiate an accident. Thus, the probability of occurrence of an accident previously evaluated is not significantly increased.

The proposed change to the TS 3/4.8 bases provides clarification and does not affect any accident initiators or precursors. Thus, the probability of occurrence of an accident previously evaluated is not significantly increased.

The proposed change to SRs 4.8.2.3.2.c.3 and 4.8.2.5.2.c.3 increases the battery charger current required during surveillance testing. The required value is within the capability of

the battery charger. Thus, the battery charger is not degraded by this change, and the change does not affect any accident initiators or precursors. Thus, the probability of occurrence of an accident previously evaluated is not significantly increased.

The proposed changes to SR 4.8.2.3.2.d delete the requirement that the battery terminal voltage be maintained greater than or equal to 210 volts during the battery service test, and delete the description of the composite load profile. The removal of the requirement and the description from the SR do not affect any accident initiators or precursors. Thus, the probability of occurrence of an accident previously evaluated is not significantly increased.

The deletion of Tables 4.8–2 and 4.8–3, the incorporation of the words "this page intentionally left blank," and the deletion of the SR 4.8.2.3.2.d and SR 4.8.2.5.2.d references to the tables do not impact battery operation as the tables summarize information used as calculation inputs. These changes do not affect any accident initiators or precursors. Thus, the probability of occurrence of an accident previously evaluated is not significantly increased.

The proposed changes to SR 4.8.2.5.2.d to delete the requirement that the battery terminal voltage be maintained greater than or equal to 210 volts during the battery service test, and to add the term "design duty cycle" does not affect any accident initiators or precursors. Thus, the probability of occurrence of an accident previously evaluated is not significantly increased.

The editorial change does not impact any accident initiators or precursors. Thus, the probability of occurrence of an accident previously evaluated is not significantly increased.

Consequences of an Accident Previously Evaluated

The batteries and their associated chargers provide power to emergency equipment that is used in the mitigation of accidents. The batteries provide power to this equipment following a loss of AC power until the battery chargers are powered by the emergency diesel generators.

The proposed change to SRs 4.8.2.3.2.c.2 and 4.8.2.5.2.c.2 to add a requirement to remove visible corrosion and to delete the requirement that the battery connections be free of corrosion does not impact a battery's capability to power its safety-related loads as the presence of corrosion at the terminal connections does not indicate that the battery is unable to perform its function. Rather, it is the impact of the corrosion on the connections that is of concern. This concern will be addressed by performing a resistance check to verify that battery performance is acceptable. Therefore, this change does not result in an increase in offsite doses. Thus, the consequences of an accident previously analyzed are not increased.

The proposed change to the TS 3/4.8 bases provides clarification and does not impact the battery's capability to power its safety-related loads. Thus, the consequences of an accident previously analyzed are not increased.

The proposed change to SRs 4.8.2.3.2.c.3 and 4.8.2.5.2.c.3 to increase the required battery charger current ensures that the battery charger has sufficient capacity to provide power to emergency equipment while simultaneously recharging batteries that were discharged following a loss of AC power. This ensures that emergency equipment connected to the battery will continue to operate as designed, and offsite doses will not be increased. Thus, the consequences of an accident previously analyzed are not increased.

The proposed changes to SR 4.8.2.3.2.d delete the requirement that the battery terminal voltage be maintained greater than or equal to 210 volts during the battery service test, and delete the description of the composite load profile. However, the SR will still require that the service test demonstrate that the battery capacity is adequate to supply emergency loads. The voltage requirements for the batteries are determined by battery-system specific calculations, and the calculation results are incorporated into the test procedures. This assures that the equipment connected to the battery will continue to operate as designed, and offsite doses will not be increased. Thus, the consequences of an accident previously analyzed are not increased.

The deletion of Tables 4.8–2 and 4.8–3, the addition of the words "this page intentionally left blank," and the deletion of the SR 4.8.2.3.2.d and SR 4.8.2.5.2.d references to the tables do not impact battery operation as the tables summarize information used as calculation inputs. The batteries are tested to a load profile that is developed on the basis of the battery loads for a loss of AC power, and the testing assures that the batteries are capable of performing their safety function. Thus, these changes will not impact battery capability, will not result in an increase in offsite doses, and the consequences of an accident previously analyzed are not increased.

The proposed changes to SR 4.8.2.5.2.d to delete the requirement that the battery terminal voltage be maintained greater than or equal to 210 volts during the battery service test, and to add the term "design duty cycle" requires that the battery be tested in accordance with a load profile developed on the basis of the battery loads for a loss of AC power. The testing of the battery assures that it is capable of performing its safety function. Thus, the capability of the battery is not impacted, there will be no increase in offsite doses, and the consequences of an accident previously analyzed are not increased.

The editorial change does not impact battery capability. Thus, there will be no increase in offsite doses, and the consequences of an accident previously analyzed are not increased.

Therefore, the probability of occurrence or the consequences of accidents previously evaluated are not increased.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The batteries perform a mitigating function by providing power to emergency equipment following a loss of AC power.

The proposed change to SRs 4.8.2.3.2.c.2 and 4.8.2.5.2.c.2 adds a requirement to remove visible corrosion and deletes the requirement that the battery terminals be free of corrosion. The presence of corrosion on the battery terminals does not introduce a mechanism that would cause a plant transient, and I&M will ensure that the corrosion does not impact the battery's function. Thus, the possibility of a new or different kind of accident is not created.

The proposed change to the TS 3/4.8 bases provides clarification and does not introduce a mechanism that would cause a plant transient. Thus, the possibility of a new or different kind of accident is not created.

The proposed change to SRs 4.8.2.3.2.c.3 and 4.8.2.5.2.c.3 increases the acceptance criterion for battery charger current to reflect the present demand on the battery charger when it is simultaneously supplying power to emergency equipment and charging a discharged battery. The increase in the acceptance criterion is within the capability of the battery charger, and no failure mechanisms are introduced by this change. Thus, the change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes to SR 4.8.2.3.2.d to delete the requirement that the battery terminal voltage be maintained greater than or equal to 210 volts during a battery service test, and to delete the load profile description do not directly impact any emergency equipment as the SR continues to require that the battery service test demonstrate that the battery is capable of supplying power to connected equipment, and this change does not introduce any battery failure mechanisms. Thus, the change does not create the possibility of a new or different kind of accident from any previously evaluated.

The deletion of Tables 4.8–2 and 4.8–3, the incorporation of the words "this page intentionally left blank," and the deletion of the SR 4.8.2.3.2.d and SR 4.8.2.5.2.d references to the tables do not impact battery operation as the tables summarize information used as calculation inputs. Thus, the changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes to SR 4.8.2.5.2.d to delete the requirement that the battery terminal voltage be maintained greater than 210 volts during a battery service test, and to add the term "design duty cycle" do not introduce any battery failure mechanisms as they do not alter the battery's physical characteristics or the battery testing requirements. Additionally, the term "design duty cycle" more accurately reflects the use of a simulated load for the battery test. Thus, the change does not create the possibility of a new or different kind of accident from any previously evaluated.

The editorial change does not create the possibility of a new or different kind of accident from any previously evaluated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The proposed changes do not impact the functional requirements of either the

batteries or the battery chargers, nor do the changes impact the operational characteristics of the equipment that is connected to the battery. The batteries will continue to be subjected to a system test to verify that the battery capacity is adequate, and the battery chargers will be tested to verify that they are capable of meeting their rated capacity. These tests will demonstrate that the batteries and the battery chargers are capable of performing their mitigation function for analyzed accidents.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Esq., 500 Circle Drive, Buchanan, MI 49107.

NRC Section Chief: William D. Reckley, Acting.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment requests: November 16, 2001.

Description of amendment requests: The proposed amendments would revise technical specification (TS) Table 3.3–4, "Engineered Safety Feature Actuation System Instrumentation Trip Setpoints." The proposed changes are part of a planned design change to replace the existing 4kV offsite power transformers, loss of voltage relays, and degraded voltage relays with components of an improved design to increase the reliability of offsite power for safety-related equipment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Does the change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?*

Probability of Occurrence of an Accident Previously Evaluated

The proposed changes to the degraded voltage and loss of voltage setpoints and time delay affect when an emergency bus that is experiencing low or degraded voltage will trip from offsite power and shift to an emergency diesel generator. While the setpoints that initiate this action will be modified, the function remains the same. The setpoints have been analyzed to ensure spurious trips will be avoided. The proposed changes will not significantly affect any accident initiators or precursors. The format changes are intended to improve readability, consistency with NUREG–1431, Revision 2, and appearance. In addition, they do not alter any requirements. The bases change provides explanatory information only. Thus, the probability of occurrence of an accident previously evaluated is not significantly increased.

Consequences of an Accident Previously Evaluated

The proposed changes to the degraded voltage and loss of voltage setpoints and time delay affect when an emergency bus that is experiencing low or degraded voltage will trip from offsite power and shift to an emergency diesel generator. While the setpoints that initiate this action will be modified, they are bounded by the current safety analysis. The function of the plant equipment remains the same. The proposed changes improve the reliability of safety-related equipment to operate as designed. The format changes are intended to improve readability, consistency with NUREG–1431, Revision 2, and appearance. In addition, they do not alter any requirements. The bases change provides explanatory information only. Thus, the consequences of an accident previously analyzed are not significantly increased.

2. *Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed changes to the degraded voltage and loss of voltage setpoints and time delay do not affect existing or introduce any new accident precursors or modes of operation. The relays will continue to detect undervoltage conditions and transfer safety loads to the emergency diesel generators at a voltage level adequate to ensure proper safety equipment performance and to prevent equipment damage. The function of the relays remains the same. The format changes are intended to improve readability, consistency with NUREG–1431, Revision 2, and appearance. In addition, they do not alter any requirements. The bases change provides explanatory information only. Thus, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *Does the change involve a significant reduction in a margin of safety?*

The proposed changes will allow all safety-related loads to have sufficient voltage to perform their intended safety function while ensuring spurious trips are avoided. Thus, the results of the accident analyses will not be affected as the input assumptions are protected. The format changes are intended to improve readability, consistency with NUREG–1431, Revision 2, and appearance. In addition, they do not alter any requirements. The bases change provides explanatory information only. Thus, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Esq., 500 Circle Drive, Buchanan, MI 49107.

NRC Section Chief: William D. Reckley, Acting Section Chief.

North Atlantic Energy Service Corporation, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: August 2, 2001, as supplemented November 2, 2001.

Description of amendment request: The amendment would change the Seabrook Station Technical Specification (TS) 6.15 to permit a one-time exception to the 10-year frequency for the Integrated Leakage Rate Test (ILRT). This exception would permit the existing ILRT frequency to be extended from 10 years to 15 years from the last test completed on October 30, 1992.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to the Seabrook Station Technical Specifications does not involve a significant increase in the probability or consequences of an accident previously analyzed. The proposed revision to TS 6.15 adds a one-time extension to the current interval for the ILRT test. It is proposed that the current test interval be extended from ten-years to fifteen-years from the date of the last ILRT performed on October 30, 1992. The proposed extension cannot increase the probability of an accident previously evaluated since the test interval extension does not involve modification of the plant, nor a operation of the plant that could initiate an accident. The proposed extension of the ILRT does not involve a significant increase in the consequences of an accident. The increase in risk is very small because ILRTs identify only a few potential leakage paths that cannot be identified by local leakage rate [Type B and C] testing, and the leaks that have been found by ILRTs have been only marginally above existing requirements. An analysis of the 144 ILRT results including 23 failures, found that no ILRT failures were due to a containment liner breach. NUREG–1493 ["Performance-Based Containment Leak Test Program"] concluded that reducing the ILRT testing frequency to one per twenty years would lead to an imperceptible increase in risk.

Therefore, it is concluded that the proposed change to TS 6.15 does not involve

a significant increase in the probability or consequence of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change to Technical Specification 6.15 does not create the possibility of a new or different kind of accident from any previously evaluated. The proposed change adds a one-time extension to the current Integrated Leakage Rate Test frequency of ten-years to fifteen-years from the date of the last test: The proposed change cannot create the possibility of a new or different type of accident since there are no physical changes being made to the plant. Additionally, there are no changes to the operation of the plant that could introduce a new failure mode creating an accident.

3. The proposed changes do not involve a significant reduction in the margin of safety.

The proposed change does not involve a significant reduction in the margin of safety. The proposed revision to TS 6.15 adds a one-time extension to the current interval for the ILRT test. It is proposed that the current test interval be extended from ten-years to fifteen-years from the date of the last ILRT performed on October 30, 1992. A reduction in the ILRT frequency was found to lead to an imperceptible decrease in the margin of safety. The estimated increase in risk is very small because ILRTs identify only a few potential leakage paths that cannot be identified by local leakage rate [Type B and C] testing, and the leaks that have been found by ILRTs have been only marginally above existing requirements. A Seabrook Station specific risk evaluation is consistent with the generic conclusions identified in NUREG–1493.

Based on the above evaluation, North Atlantic concludes that the proposed change to TS 6.15 does not constitute a significant hazard.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Section Chief: James W. Clifford.

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: October 22, 2001.

Description of amendment request: The proposed amendment deletes requirements from the technical specifications (TSs) (and, as applicable, other elements of the licensing bases) to maintain a Post Accident Sampling System (PASS). Licensees were generally required to implement PASS upgrades as described in NUREG–0737, "Clarification of TMI [Three Mile Island] Action Plan Requirements," and Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident." Implementation of these upgrades was an outcome of the lessons learned from the accident that occurred at TMI, Unit 2. Requirements related to PASS were imposed by Order for many facilities and were added to or included in the TSs for nuclear power reactors currently licensed to operate. Lessons learned and improvements implemented over the last 20 years have shown that the information obtained from PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions.

The Nuclear Regulatory Commission (NRC) staff issued a notice of opportunity for comment in the **Federal Register** on August 11, 2000 (65 FR 49271) on possible amendments to eliminate PASS, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on October 31, 2000 (65 FR 65018). The licensee affirmed the applicability of the following NSHC determination in its application dated October 22, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the TMI–2 accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing accidents and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 accident guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore, the elimination of PASS requirements from Technical Specifications (TS) (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radionuclides within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from

reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in the margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497.

NRC Section Chief: William D. Reckley, Acting.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: October 16, 2001.

Description of amendment request: The proposed amendment would revise the Susquehanna Steam Electric Station (SSES), Units 1 and 2, Technical Specifications (TSs). The licensee proposed to revise selected sections of the administrative controls chapter of the TSs consistent with Nuclear Regulatory Commission (NRC) approved Technical Specification Task Force (TSTF) generic changes to NUREG–1433, "Standard Technical Specifications for General Electric Plants (BWR/4)," Revision 1 (STS). The licensee also proposed editorial and administrative changes to the affected sections.

The licensee categorized the proposed changes as either "Administrative Changes" or "Less Restrictive Changes—Removed Detail." The licensee categorized proposed changes consistent with the approved versions of TSTF–273, TSTF–299, TSTF–308, TSTF–348, and TSTF–364 as "Administrative Changes." An administrative change involves editorial restructuring of the current requirements, or modification of wording that does not affect the technical content of the current TSs. Administrative changes are not intended to add, delete, or relocate any technical requirements of the current TSs. The licensee categorized proposed changes consistent with the approved versions of TSTF–279 and TSTF–363 as "Less Restrictive Changes—Removed Detail." The proposed changes involve moving details out of the TSs and into the TS Bases, the updated Final Safety Analysis Report (UFSAR), the Technical Requirements Manual (TRM), or other documents for which changes are subject to regulatory control. The removal of this information is considered to be less restrictive because it is no longer controlled by the TS change process.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Administrative Changes

1. *Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?*

The proposed change involves reformatting, renumbering, and rewording the existing [technical specification] TS. The reformatting, renumbering, and rewording process involves no technical changes to the existing TS. As such, this change is administrative in nature and does not affect the initiators of analyzed events or assumed mitigation of accidents or transient events. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. *Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in methods governing normal plant operation. The proposed change will not impose any new or eliminate any old requirements. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *Does the proposed change involve a significant reduction in a margin of safety?*

The proposed change will not reduce a margin of safety because it has no effect on any safety analyses assumptions. Therefore, the change does not involve a significant reduction in a margin of safety.

Less Restrictive Changes—Removed Detail

1. *Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?*

The proposed change relocates certain details from the TS to other documents under regulatory control. The TS Bases, [updated final safety analysis report] UFSAR, and [Technical Requirements Manual] TRM will be maintained in accordance with 10 CFR 50.59. In addition to 10 CFR 50.59 provisions, the TS Bases are subject to the change control provisions in the Administrative Controls Chapter of the TS. The UFSAR is subject to the change control provisions of 10 CFR 50.71(e). Other documents are subject to controls imposed by TS or regulations. Since any changes to these documents will be evaluated, no significant increase in the probability or consequences of an accident previously evaluated will be allowed. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. *Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in methods governing normal plant operation. The proposed change will not impose any new or eliminate any old requirements, and adequate control of the information will be maintained. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *Does the proposed change involve a significant reduction in a margin of safety?*

The proposed change will not reduce a margin of safety because it has no effect on any safety analyses assumptions. In addition, the details to be moved from the TS to other documents are the same as the existing TS. Since any future changes to these details will be evaluated, no significant reduction in a margin of safety will be allowed. A significant reduction in a margin of safety is not associated with the elimination of the 10 CFR 50.92 requirement for NRC review and approval of future changes to the relocated details. The proposed change is consistent with NUREG 1433, issued by the NRC staff, revising the TS to reflect the approved level of detail, which indicates that there is no significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Section Chief: L. Raghavan, Acting.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: October 25, 2001.

Description of amendment request: The proposed amendment deletes requirements from the Technical Specifications (TSs) (and, as applicable,

other elements of the licensing bases) to maintain a Post Accident Sampling System (PASS). Licensees were generally required to implement PASS upgrades as described in NUREG–0737, "Clarification of TMI [Three Mile Island] Action Plan Requirements," and Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident." Implementation of these upgrades was an outcome of the lessons learned from the accident that occurred at TMI, Unit 2. Requirements related to PASS were imposed by an Order for many facilities and were added to or included in the TS for nuclear power reactors currently licensed to operate. Lessons learned and improvements implemented over the last 20 years have shown that the information obtained from PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions.

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 11, 2000 (65 FR 49271) on possible amendments to eliminate PASS, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on October 31, 2000 (65 FR 65018). The licensee affirmed the applicability of the following NSHC determination in its application dated October 25, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the TMI–2 accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing accidents and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 accident guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore, the elimination of PASS requirements from Technical Specifications (TS) (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radionuclides within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in [a] Margin of Safety

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in [a] margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005.

NRC Section Chief: L. Raghavan, Acting.

South Carolina Electric & Gas Company (SCE&G), South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: August 20, 2001.

Description of amendment request: The licensee is proposing to revise Virgil C. Summer Nuclear Station (VCSNS) Technical Specifications (TS) to add a footnote to Table 3.3–3 regarding the Steam Line Isolation and Engineered Safety Feature Actuation System (ESFAS) functions. This revision will allow VCSNS to exclude ESFAS steam line isolation instrumentation operability in Mode 3 when the main steam isolation valves, along with associated bypass valves, are closed and disabled, and ease the restriction of Specification 3.0.4 when performing reactor coolant system (RCS) resistance temperature device (RTD) cross calibrations at temperatures below the ESFAS P–12 Interlock for Low-Low T_{avg}. This request is consistent in part with the improved Standard Technical Specifications (ITS).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?*

[The] proposed changes involve upgrading the VCSNS TS to more closely agree with ITS and does not result in any hardware changes. The proposed change revises the applicability for the initiating functions of the main steam isolation function such that when a main steam line isolation valve is closed and the isolation function is accomplished, the automatic initiation of this function is no longer required to be operable. The ESFAS is not assumed to be an initiator of any analyzed event. The role of the ESFAS is in mitigating and thereby limiting the consequences of accidents. The proposed change continues to adequately ensure the operability of the ESFAS main steam line isolation function when the lines are unisolated and thereby ensures the protection provided by the function remains operable when required. The relaxation of the P–12 Function during RCS RTD cross calibration allows all associated narrow range temperature channels to remain in test, with test circuitry installed, during the transition between Modes 4 and 3. Surveillance performance is administratively controlled by plant procedures which assure testing is conducted below the ESFAS P–12 interlock setpoint of 552 °F and that TS limits for mode operability are not exceeded. Therefore, the results of the analyses described in the FSAR [Final Safety Analysis Report] remain bounding. Additionally, the proposed change does not impose any new safety analyses limits or alter the plant's ability to detect or mitigate events. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. *Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed changes involve upgrading the ESFAS area of the VCSNS TS to more closely agree with ITS and to support RCS RTD cross calibration. The changes do not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *Does this change involve a significant reduction in margin of safety?*

The proposed change, which upgrades the ESFAS area of the VCSNS TS to be more consistent with ITS and supports RCS RTD cross calibration, does not have an adverse impact on any design basis safety analysis. In combination with administrative controls, required safety functions will continue to be accomplished in accordance with safety analysis assumptions. As such, the results of the analyses described in the FSAR remain bounding [, thus] assuring the proposed change does not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218.

NRC Section Chief: Richard Laufer, Acting.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: October 31, 2001.

Description of amendment request: The proposed amendment deletes requirements from the Technical Specifications (TS) (and, as applicable, other elements of the licensing bases) to maintain a Post Accident Sampling System (PASS). Licensees were generally required to implement PASS upgrades as described in NUREG–0737, "Clarification of TMI [Three Mile Island] Action Plan Requirements," and Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident." Implementation of these upgrades was an outcome of the lessons learned from the accident that occurred at TMI, Unit 2. Requirements related to PASS were imposed by Order for many facilities and were added to or included in the TS for nuclear power reactors currently licensed to operate. Lessons learned and improvements implemented over the last 20 years have shown that the information obtained from PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions.

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 11, 2000 (65 FR 49271) on possible amendments to eliminate PASS, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on October 31, 2000 (65 FR 65018). The licensee affirmed the applicability of the following NSHC determination in its application dated October 31, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the TMI–2 accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing accidents and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 accident guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore, the elimination of PASS requirements from Technical Specifications (TS) (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radionuclides within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in the margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2 (SQN), Hamilton County, Tennessee

Date of amendment request: November 15, 2001 (TS–01–08).

Description of amendment request: The proposed amendment would increase the full core thermal power rating by 1.3 percent from 3411 MWt to 3455 MWt, based on planned installation of the improved Caldon, Incorporated (Caldon) Leading Edge Flow Meter, LEFM™ (LEFM) feedwater flow measurement instrumentation. This change affects Operating License Condition 2.C.(1) and Definition 1.26 for Rated Thermal Power. In addition, changes are necessary to the reactor power limits of Technical Specification (TS) Table 3.7.1 with an inoperable main steam safety valve for both units and, for Unit 2 only, the interval for which the pressure and temperature curves and the low temperature over pressure protection curves (TS Figures 3.4–2, 3.4–3, and 3.4–4) are valid. A change to the Bases for TS Section 3/4.7.1.1 is also included to address the changes in main steam safety valve capabilities.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The comprehensive analytical efforts performed to support the proposed change included a review of the nuclear steam supply systems (NSSSs) and components that could be affected by this change. All systems and components will function as designed and the applicable performance requirements have been evaluated and found to be acceptable.

The primary loop components (reactor vessel, reactor internals, control rod drive mechanism, loop piping and supports, reactor coolant pump, steam generator and pressurizer) continue to comply with their applicable structural limits and will continue to perform their intended design functions. Thus, there is no increase in the probability of a structural failure of these components. The rod control cluster assembly (RCCA) drop time remains within the current limits assumed in the accident analyses. Thus, there is no increase in the consequences of the accidents which credit RCCA drop. Several steam generator tubes may need to be plugged to preclude the potential for U-bend fatigue if the plant operates below certain steam pressure values. As long as these provisions are maintained, there is no increase in the probability of an steam generator tube rupture event. The leak before break analysis conclusions remain valid and thus the limiting break sizes determined in this analysis remain bounding.

All of the NSSS systems will continue to perform their intended design functions during normal and accident conditions. The pressurizer spray flow remains above its design value. Thus, the control system design analyses that credit the spray flow do not need to be modified for changes in this flow. The auxiliary systems and components continue to comply with applicable structural limits and will continue to perform their intended design functions. Thus, there is no increase in the probability of a structural failure of these components. All of the NSSS and/or balance of plant (BOP) interface systems will continue to perform their intended design functions. The steam generator safety valves will provide adequate relief capacity to maintain the steam generators within design limits. The steam dump system will still relieve 40 percent of the maximum full load steam flow. The current loss-of-coolant accident (LOCA) hydraulic forcing functions are still bounding. Thus, there is no significant increase in the probability of an accident previously evaluated.

The fuel has been completely analyzed to determine the effect of the 1.3 percent power uprate. The fuel assembly and fuel rod integrity have been evaluated. The change results in negligible changes to the hydraulic lift forces and the existing holddown margins remain acceptable. The increase in corrosion of the fuel assembly structural Zircaloy-4 components due to a slight increase in temperature is small, thus acceptable structural margin for normal operating, faulted, and handling conditions exist. The fuel assembly and fuel rod flow-induced vibration (FIV) performance remains acceptable. The existing fuel assembly faulted condition loading and analysis remain applicable and acceptable. The fuel rod strain, creep collapse, and corrosion performance were evaluated at the higher power level with acceptable results.

The fuel cycle design was evaluated and there was no significant effect caused by the 1.3 percent power uprate. The operational analysis of the core was evaluated for the change and found to remain applicable with acceptable results.

The thermal-hydraulic analysis was evaluated and found to remain applicable. The safety analysis addressed all Condition II, III, and IV events with the conclusion that current analyses remain applicable or bounding. The radiological consequences were evaluated and determined to be bounded by current analyses.

Additionally, the current licensing basis steamline break and LOCA mass and energy releases that are used to determine the peak containment pressure and temperature limits continue to remain bounding with the increase in power. Thus, there is no significant increase in the consequences of an accident previously evaluated.

The heatup and cooldown curves for Unit 2 are now applicable for 14.5 EFPY [effective full-power year] instead of 16 EFPY. The heatup and cooldown curves define limits that still ensure the prevention of nonductile failure for the SQN Units 1 and 2 reactor coolant system (RCS). The design-basis events that were protected have not changed. This modification does not alter any assumptions previously made in the radiological consequence evaluations nor affect mitigation of the radiological consequences of an accident described in the Updated Final Safety Analysis Report. Therefore, the proposed changes will not significantly increase the probability or consequences of an accident previously evaluated.

The revised requirements for inoperable MSSVs [main steam safety valves] provide limits for the power range high flux trip

setpoint that ensure adequate relief capability for postulated accidents. This change does not alter any plant systems, components, or operating methods. Since the plant will continue to operate in the same manner with the same protective features, this change will not increase the possibility of an accident. The revised setpoint is a conservative change that provides additional margin considering the effect of the proposed power uprate. Since the revised setpoint continues to provide an equivalent level of safety function, this change will not significantly increase the consequences of an accident and the offsite dose impact will not be significantly increased.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

No new accident scenarios, failure mechanisms or single failures are introduced as a result of the proposed changes. All systems, structures, and components previously required for the mitigation of an event remain capable of fulfilling their intended design function. The proposed changes have no adverse effects on any safety-related system or component and do not challenge the performance or integrity of any safety-related system. Therefore, it is concluded that the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

Operation at the 3455 MWt core power does not involve a significant reduction in a margin of safety. Extensive analyses of the primary fission product barriers have concluded that all relevant design criteria remain satisfied, both from the standpoint of the integrity of the primary fission product barrier and from the standpoint of compliance with the regulatory acceptance criteria. The reduction in the EFPY for the Unit 2 heatup and cooldown curves does not reduce the margin of safety since the curves define the limits for ensuring the prevention of nonductile failure for the RCS and these curves remain unchanged.

The pressure and temperature safety limits will be the same as those for the current operating cycle, thus ensuring that the fuel will be maintained within the same range of safety parameters that form the basis for the Final Safety Analysis Report (FSAR) accident evaluations.

The power uprate represents a small increase in the energy production for the fuel cycle and is well within typical variations that occur as a result of increases in cycle length and capacity factor. The burnup of the fuel will increase proportionally with the increase in power, but will not challenge the current licensed burnup limit for Mark-BW fuel.

The slight increase in core average linear heat rate will result in a slight loss of operating margin, but will not affect safety margins. The centerline fuel melt and transient cladding strain limits will not be affected by the power level uprate, but the margin to these limits will decrease slightly. The LOCA FQ [power peaking factor] limits will not be altered since the increase in core power is absorbed by reducing the power uncertainty used in determination of the limits.

The power peaking limits that provide DNB [departure from nucleate boiling] protection are slightly lower resulting in a proportional loss in DNB margins. The mechanical evaluation of the fuel demonstrates that the power level uprate can be successfully accomplished in compliance with all design criteria.

All FSAR Chapter 15 events have been evaluated and found to remain applicable for the power uprate. The radiological consequences analyses include an initial power assumption of 105 percent of 3411 MWt and remain bounding for the 1.3 percent power uprate.

The more restrictive limits for the power range high flux trip setpoint is based on calculations that ensure sufficient relief capacity to meet accident mitigation requirements. This change will appropriately limit reactor power levels, with inoperable MSSVs, such that the margin of safety is maintained at an equivalent level considering the proposed power uprate.

As appropriate, all evaluations have been performed using methods that have either been reviewed and approved by the NRC or that are in compliance with all applicable regulatory review guidance and standards. All of the fuel and safety evaluations for the 1.3 percent power uprate were performed with the Framatome-ANP approved methodology listed in TS Section 6.9.1.14 of the SQN TSs. Therefore, it is concluded that the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request October 31, 2001.

Description of amendment request: The proposed amendment deletes requirements from the Technical Specifications (TS) (and, as applicable, other elements of the licensing bases) to maintain a Post Accident Sampling System (PASS). Licensees were generally required to implement PASS upgrades as described in NUREG–0737, "Clarification of TMI [Three Mile Island] Action Plan Requirements," and Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident." Implementation of these upgrades was an outcome of the lessons learned from the accident that occurred at TMI, Unit 2. Requirements related to PASS were imposed by Order for many facilities and were added to or included in the TS for nuclear power reactors currently licensed to operate. Lessons learned and improvements implemented over the last 20 years have shown that the information obtained from PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions.

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 11, 2000 (65 FR 49271) on possible amendments to eliminate PASS, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on October 31, 2000 (65 FR 65018). The licensee affirmed the applicability of the following NSHC determination in its application dated October 31, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the TMI–2 accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing accidents and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident

mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 accident guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore, the elimination of PASS requirements from Technical Specifications (TS) (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radionuclides within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in the margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: November 13, 2001.

Description of amendment request: The proposed amendment would revise the Watts Bar Nuclear Unit 1 (WBN) Technical Requirements Manual to add two new sections, TR 3.7.6, "Shutdown Board Room (SDBR) Air Conditioning System (ACS)," and TR 3.7.7, "Elevation 772.0 480 Volt Board Room Air Conditioning (AC) Systems." Each section provides specific actions and associated completion times for various out-of-service conditions associated with the safety-related air conditioning systems.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision to the WBN Technical Requirements Manual (TRM) will provide formalized operational guidance for coping with partial or complete unavailability of shut down board room (SDBR) and 480V board room air conditioning (AC) equipment for limited periods of time. The change does not impact the frequency of an accident because failure of either the SDBR or the 480V board room AC systems is not an initiator of any accident scenario. The change does not modify any plant hardware including the air conditioning systems, and none of their automatic control features or redundant systems currently credited in failure analyses are being deleted, modified, or otherwise replaced by operator actions as a result of the proposed change.

The proposed TRM revision changes current plant operating practice and WBN Final Safety Analysis Assumptions (FSAR) assumptions by allowing continued power operation with both trains of SDBR air conditioning concurrently inoperable and two 480V board room AC systems of the same unit to be concurrently inoperable for a limited duration, up to 12 hours. This condition is acceptable based on the low probability of the occurrence of postulated accidents resulting in core damage concurrent with multiple inoperable systems or trains of cooling equipment during this timeframe, and based on analyses which demonstrate that peak temperatures in each room served by these systems remain below mild environment temperature limits during this time period. Consequently, there is no significant adverse impact on the ability of required safety-related electrical equipment to continue to operate and perform their required functions, during both normal operation and during design basis events. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not modify any plant hardware including the subject air conditioning systems. The change provides specific operational guidance for coping with partial or complete unavailability of shut down board room and 480V board room air conditioning equipment. No new accident or event initiators are created by allowing multiple air conditioning systems to be unavailable for the limited time period of 12 hours. The supported electrical equipment remains capable of performing its intended function both during normal operations and post accident. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed TRM revision changes current FSAR assumptions by allowing continued power operation with both trains of SDBR air conditioning concurrently inoperable and allowing two 480V board room air conditioning systems of the same unit to be inoperable for a limited duration, up to 12 hours. This condition does not significantly reduce the margin of safety due to the low probability of the occurrence of a postulated accident resulting in core damage concurrent with multiple inoperable systems or trains of cooling equipment during the limited time period. In addition, transient temperature analyses demonstrate that peak temperatures in each room served by these systems remain below mild environment temperature limits for a period of 24 hours assuming a complete loss of air conditioning to all rooms served by the SDBR and 480V board room AC systems concurrently. The analysis is bounding for normal operational

conditions. Consequently, there is no significant adverse impact on the ability of required safety-related electrical equipment to continue to operate and perform their required functions during both normal operation and during design basis events. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: October 2, 2001.

Brief description of amendments: The proposed amendment deletes requirements from the Technical Specifications (TSs) (and, as applicable, other elements of the licensing bases) to maintain a Post Accident Sampling System (PASS). Licensees were generally required to implement PASS upgrades as described in NUREG–0737, "Clarification of TMI [Three Mile Island Nuclear Station] Action Plan Requirements," and Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident." Implementation of these upgrades was an outcome of the lessons learned from the accident that occurred at TMI, Unit 2 (TMI–2). Requirements related to PASS were imposed by Order for many facilities and were added to or included in the TSs for nuclear power reactors currently licensed to operate. Lessons learned and improvements implemented over the last 20 years have shown that the information obtained from PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions. The Nuclear Regulatory Commission (NRC) staff issued a notice of opportunity for comment in the **Federal Register** on August 11, 2000 (65 FR 49271), on possible amendments to eliminate PASS, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on October 31, 2000 (65 FR 65018). The licensee affirmed the applicability of the following NSHC determination in its application dated October 2, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the TMI–2 accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing accidents, and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 accident guidance through the use of the SAMGs, the emergency plan, the emergency operating procedures, and site survey monitoring that support modification of emergency plan protective action recommendations.

Therefore, the elimination of PASS requirements from the TSs (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radionuclides within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in the margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Section Chief: Robert A. Gramm.

TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: October 25, 2001.

Brief description of amendments: The proposed amendment would revise Technical Specification (TS) 4.2.1, "Fuel Assemblies," for Comanche Peak Steam Electric Station (CPSES) Units 1 and 2 to allow the use of ZIRLO™ test assemblies and to further allow, "* * * A limited number of lead test assemblies * * * be placed in non-limiting core regions."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Changing the technical specifications within limits of the bounding accident analyses cannot change the probability of an accident previously evaluated, nor will it increase radiological consequences predicted by the analyses of record. Controlling the use of lead test assemblies according to limitations approved by the NRC [Nuclear Regulatory Commission] constrains fuel performance within limits bounded by existing design basis accident and transient analyses.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Inclusion in the reactor core of lead test assemblies according to limitations set by the NRC for lead test assemblies and of a design approved by the NRC ensures that their effect on core performance remains within existing design limits. Use of fuel assemblies whose design has been previously approved by the NRC as lead test assemblies is consistent with current plant design bases, does not adversely affect any fission product barrier, and does not alter the safety function of safety significant systems, structures and components or their roles in accident prevention or mitigation. Currently licensed design basis accident and transient analyses of record remain valid.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not alter the manner in which Safety Limits, Limiting Safety System Setpoints, or Limiting Conditions for Operation are determined. This proposed clarification of TS 4.2.1 is bounded by existing limits on reactor operation. It leaves current limitations for use of lead test assemblies in place, conforms to plant design bases, is consistent with current safety analyses, and limits actual plant operation within analyzed and licensed boundaries.

Therefore, the proposed change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Section Chief: Robert A. Gramm.

TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: November 8, 2001.

Brief description of amendments: The amendments would add the following to the Technical Specifications (TSs) for Comanche Peak Steam Electric Station (CPSES): (1) the phrase, "* * * or if open, capable of being closed * * *" to the TS Limiting Condition for Operation 3.9.4 for the equipment hatch, during core alterations or movement of irradiated fuel assemblies inside containment; and (2) the requirement to verify the capability to install the equipment hatch in a new Surveillance Requirement (SR) 3.9.4.2. Nothing is proposed to be deleted from the TSs. Existing SR 3.9.4.2 would be renumbered SR 3.9.4.3, but would not otherwise be changed. Item (1) will allow the equipment hatch to be open during the conditions stated above.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes will allow the equipment hatch to be open during CORE ALTERATIONS and movement of irradiated fuel assemblies inside containment. The status of the equipment hatch during refueling operations has no affect on the probability of the occurrence of any accident previously evaluated. The proposed revision does not alter any plant equipment or operating practices in such a manner that the probability of an accident is increased. Since the consequences of a fuel handling accident inside containment with an open equipment hatch are bounded by the current analysis described in the FSAR [Final Safety Analysis Report] and the probability of an accident is not affected by the status of the equipment hatch, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not create any new failure modes for any system or component, nor do they adversely affect plant operation. No new equipment will be added and no new limiting single failures will be created. The plant will continue to be operated within the envelope of the existing safety analysis.

Therefore, the proposed changes do not create a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The previously determined radiological dose consequences for a fuel handling accident inside containment with the personnel air lock doors open remain bounding for the proposed changes. These previously determined dose consequences were determined to be well within the limits of 10 CFR [Part] 100 and they meet the acceptance criteria of SRP [Standard Review Plan] section 15.7.4 and GDC [General Design Criterion] 19.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Section Chief: Robert A. Gramm.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application request: November 7, 2001.

Description of amendment request: A change is proposed to Technical specification 3.0.3 to allow a longer period of time to perform a missed surveillance. The time is extended from the current limit of " * * * up to 24 hours or up to the limit of the specified Frequency, whichever is less" to " * * * up to 24 hours or up to the limit of the specified Frequency, whichever is greater." In addition, the following requirement would be added to the specification: "A risk evaluation shall be performed for any Surveillance

delayed greater than 24 hours and the risk impact shall be managed."

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714). The licensee affirmed the applicability of the following NSHC determination in its application dated November 7, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously

Evaluated The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards considerations.

Attorney for licensee: John O'Neill, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Section Chief: Stephen Dembek.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application request: November 7, 2001 (ULNRC–04557).

Description of amendment request: The proposed amendment would revise Surveillance Requirements (SRs) 3.3.1.2 and 3.3.1.3 in the Technical Specifications (TSs) on reactor trip system (RTS) instrumentation. The proposed change to SR 3.3.1.2 would replace the reference to the nuclear instrumentation system (NIS) channel output by a reference to the power range channel output, and delete Note 1 to the SR. The change to SR 3.3.1.3 is editorial in nature.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Overall protection system performance will remain within the bounds of the previously performed accident analyses since there are no hardware changes. The RTS instrumentation will be unaffected. Protection systems will continue to function in a manner consistent with the plant design basis. All design, material, and construction standards that were applicable prior to the request are maintained.

The probability and consequences of accidents previously evaluated in the FSAR [Final Safety Analysis Report] are not adversely affected because the change to the NIS power range channel daily surveillance assures the conservative response of the channel even at part-power levels.

The proposed changes modify the NIS power range channel daily surveillance requirement to assure the NIS power range functions are tested in a manner consistent with the safety analysis and licensing basis.

The proposed changes will not affect the probability of any event initiators. There will be no degradation in the performance of, or an increase in the number of challenges imposed on, safety-related equipment assumed to function during an accident situation. There will be no change to normal plant operating parameters or accident mitigation performance.

The proposed changes will not alter any assumptions or change any mitigation actions in the [accident] radiological consequence evaluations in the FSAR.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no hardware changes nor are there any changes in the method by which any safety-related plant system performs its safety function. This amendment will not affect the normal method of plant operation or change any operating parameters. No performance requirements or response time limits will be affected; however, the proposed TS Bases changes impose explicit NIS power range high trip setpoint adjustment requirements prior to adjusting indicated power in a decreasing power direction. These requirements are consistent with assumptions made in the safety analysis and licensing basis.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of this amendment. There will be no adverse effect or challenges imposed on any safety-related system as a result of this amendment.

This amendment does not alter the design or performance of the 7300 Process Protection System, Nuclear Instrumentation System, or Solid State Protection System used in the plant protection systems.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes require a revision to the criteria for implementation of NIS power range channel adjustments based on secondary power calorimetric calculations; however, the changes do not eliminate any RTS surveillances or alter the frequency of surveillances required by the Technical Specifications. The revision to the criteria for implementation of the daily surveillance will have a conservative effect on the performance of the NIS power range channels, particularly at part-power conditions. The nominal trip setpoints specified in the Technical Specification Bases and the safety analysis limits assumed in the transient and accident analyses are unchanged. None of the acceptance criteria for any accident analysis is changed.

There will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions. There will be no impact on the overpower limit, departure from nucleate boiling ratio (DNBR) limits, heat flux hot channel factor (F_Q), nuclear enthalpy rise hot channel factor ($F\Delta H$), loss of coolant accident peak cladding temperature (LOCA PCT), peak local power density, or any other margin of safety. The radiological dose consequence acceptance criteria listed in the Standard Review Plan will continue to be met.

The imposition of appropriate surveillance testing requirements will not reduce any margin of safety since the changes will assure that safety analysis assumptions on equipment operability are verified on a periodic frequency.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: John O'Neill, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Section Chief: Stephen Dembek.

Virginia Electric and Power Company, Docket No. 50–280, Surry Power Station, Unit No. 1, Surry County, Virginia

Date of amendment request: October 15, 2001, as supplemented November 8, 2001.

Description of amendment request: The proposed amendment would revise Technical Specifications Section 4.4. The proposed changes would permit a one-time 5-year extension of the 10-year performance-based Type A test interval established in NEI 94–01, "Nuclear Energy Institute Industry Guideline for Implementing Performance-Based Option of 10 CFR Part 50, Appendix J," Revision 0, July 26, 1995.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed extension to Type A testing cannot increase the probability of an accident previously evaluated since extension of the containment Type A testing is not a physical plant modification that could alter the probability of accident occurrence nor, is an activity or modification by itself that could lead to equipment failure or accident initiation.

The proposed extension to Type A testing does not result in a significant increase in the consequences of an accident as documented in NUREG–1493. The NUREG notes that very few potential containment leakage paths are not identified by Type B and C tests. It concludes that reducing the Type A (ILRT) testing frequency to once per twenty years leads to an imperceptible increase in risk.

Surry provides a high degree of assurance through indirect testing and inspection that the containment will not degrade in a manner detectable only by Type A testing. The last two Type A tests identified containment leakage within acceptance criteria, indicating a very leak-tight containment. Inspections required by the ASME Code are also performed in order to identify indications of containment degradation that could affect leak-tightness. Also, maintaining the containment subatmospheric during operations provides constant monitoring of the leaktightness of the containment structure. Separately, Type B and C testing, required by Technical Specifications, identifies any containment opening from design penetrations, such as valves, that would otherwise be detected by a Type A test. These factors establish that an extension to the Surry Type A test interval will not represent a significant increase in the consequences of an accident.

2. *Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed revision to Technical Specifications adds a one-time extension to the current interval for Type A testing for Surry Unit 1. The current test interval of ten years, based on past performance, would be extended on a one-time basis to fifteen years from the last Type A test. The proposed extension to Type A testing does not create the possibility of a new or different type of accident since there are no physical changes being made to the plant and there are no changes to the operation of the plant that could introduce a new failure.

3. *Does the proposed amendment involve a significant reduction in a margin of safety?*

The proposed revision to Surry Technical Specifications adds a one-time extension to the current interval for Type A testing. The current test interval of ten years, based on past performance, would be extended on a one-time basis to fifteen years from the last Type A test for Surry Unit 1. The proposed extension to Type A testing will not significantly reduce the margin of safety. The NUREG–1493 generic study of the effects of extending containment leakage testing found that a 20-year interval in Type A leakage testing resulted in an imperceptible increase in risk to the public. NUREG–1493 found that, generically, the design containment leakage rate contributes about 0.1 percent of the overall risk and that decreasing the Type A testing frequency would have a minimal [effect] on this risk since 95% of the Type A detectable leakage paths would already be detected by Type B and C testing. In addition, the risk impact on the total integrated (fifteen year total) Surry Unit 1 plant risk above baseline, for those accident sequences influenced by Type A testing, is only 0.004%. Furthermore, for Surry, maintaining the containment subatmospheric during plant operations further reduces the risk of any containment leakage path going undetected.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Donald P. Irwin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Section Chief: Richard J. Laufer, Acting.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: May 31, 2001 as supplemented October 17, 2001.

Description of amendment request: The proposed changes would revise the Technical Specifications and associated Bases to provide a separate allowed outage time for the backup air supply for the pressurizer power-operated relief valves (PORVs).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Dominion has reviewed the requirements of 10 CFR 50.92 as they relate to the proposed change for Surry Units 1 and 2 and determined that a significant hazards consideration is not involved. The following is provided to support this conclusion.

1. *Does the change involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed change does not introduce any new mechanisms for the initiation of transients or accidents or for the failure of equipment relied upon in the accident analyses to mitigate the consequences of accidents. The impact of the proposed change on the availability and reliability of the pressurizer PORVs is negligible. Therefore the accident analysis results and conclusions remain bounding.

2. *Does the change create the possibility of a new or different kind of accident from any accident previously evaluated.*

There are no modifications to the plant as a result of the changes. No new accident or event initiators are created by changing the required actions for various conditions of PORV inoperability. The proposed change will not introduce any new equipment failure modes that could initiate accidents or change the analysis results presented in the UFSAR [Updated Final Safety Analysis Report].

3. *Does the change involve a significant reduction in a margin of safety.*

The proposed change will not alter the limiting results of the safety analyses presented in Chapter 14 of the UFSAR. Provision of an allowed outage time for the pressurizer PORV backup air system and of more condition specific and appropriate actions for various types of PORV inoperability has an insignificant impact on the availability and reliability of the PORVs for performing their safety related functions.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Donald P. Irwin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Section Chief: Richard J. Laufer, Acting.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: July 26, 2001.

Brief description of amendments: The amendments modify Technical Specifications 5.5.14.b and 5.5.14.b.2, Technical Specification Bases Control Program, such that they are consistent with Title 10 of the Code of Federal Regulations (10 CFR 50.59).

Date of issuance: November 21, 2001.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 247 and 222.

Renewed Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 5, 2001 (66 FR 46475) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated November 21, 2001.

No significant hazards consideration comments received: No.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: April 19, 2001.

Brief description of amendment: The amendment changes the River Bend Station Technical Specifications (TSs) to allow an increase in the number of spent fuel assemblies (SFAs) to be stored in the spent fuel pool from the current TS limit of 2680 SFAs to 3104 SFAs.

Date of issuance: November 19, 2001.

Effective date: As of the date of issuance and shall be implemented 30 days from the date of issuance.

Amendment No.: 123.

Facility Operating License No. NPF–47: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 18, 2001 (66 FR 52948) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 19, 2001.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 23, 2001, as supplemented by letter dated October 25, 2001.

Brief description of amendment: The change deletes Technical Specification

(TS) 3.9.12, "Fuel Handling Building Ventilation System," and TS 3.3.3.1 Surveillance Requirements for the Fuel Storage Pool area radiation monitors.

Date of issuance: November 21, 2001.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 176.

Facility Operating License No. NPF–38: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 22, 2001 (66 FR 44169). The October 25, 2001, supplement contained clarifying information that did not change the scope of the July 23, 2001, application nor the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 21, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: August 22, 2001.

Brief description of amendments: The amendments revise the Technical Specifications for St. Lucie Units 1 and 2 to allow small, controlled, safe insertions of positive reactivity while in shutdown modes.

Date of Issuance: November 19, 2001.

Effective Date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 179 and 122.

Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 19, 2001 (66 FR 48287).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 19, 2001.

No significant hazards consideration comments received: No.

GPU Nuclear Inc., Docket No. 50–320, Three Mile Island Nuclear Station, Unit 2, Dauphin County, Pennsylvania

Date of amendment request: June 21, 2001.

Brief description of amendment request: The amendment revises Three Mile Island Nuclear Station, Unit 2 Technical Specifications Administrative Controls section to provide consistency with the changes to the revised subsection 50.59 of Title 10 of the Code of Federal Regulations, as published in the **Federal Register** on October 4, 1999 (64 FR 53582).

Date of issuance: November 28, 2001

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 57.

Facility Operating License No. DPR–73: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 31, 2001 (66 FR 55020).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 28, 2001.

No significant hazards consideration comments received: No.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, BerrienCounty, Michigan

Date of application for amendments: May 15, 2001.

Brief description of amendments: The amendments change TS 3/4.8.2.2, "A. C. Distribution Shutdown," TS 3/4.8.2.4 "D. C. Distribution—Shutdown," and TS 3/4.9.4, "Containment Building Penetrations." The proposed amendments replaces the current required actions in TSs 3/4.8.2.2. and 3/4.8.2.4, to establish containment integrity within 8 hours if less than the specified minimum complement of A.C. or D.C. busses and equipment is operable in Modes 5 and 6 with new actions which require to immediately suspend operations involving core alterations, positive reactivity changes, and movement of irradiated fuel assemblies, to immediately initiate actions to restore the required busses and return equipment to operable status, and to immediately declare the associated required residual heat removal loop(s) inoperable. The proposed new actions are consistent with NUREG—1431, "Standard Technical Specifications, Westinghouse Plants," Revision 1.

In addition, the proposed amendments will change TS 3/4.9.4 to add options to use containment penetration closure methods that are equivalent to those that are currently required by the TSs during core alterations or movement of irradiated fuel in containment, and to allow unisolation of some penetrations under administrative control.

Date of issuance: November 21, 2001.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment Nos.: 259 and 242.

Facility Operating License Nos. DPR–58 and DPR–74: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 12, 2001 (66 FR 31709).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 21, 2001.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: October 8, 2001.

Brief description of amendments: The amendments revised the Technical Specifications to allow the main control room boundary to be opened intermittently under administrative controls and to allow 24 hours to restore the main control room boundary to Operable status before requiring the plant to perform an orderly shutdown.

Date of issuance: November 26, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 225 and 168.

Facility Operating License Nos. DPR–57 and NPF–5: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 26, 2001 (66 FR 54301).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 26, 2001.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: September 7, 2001 (TS 01–09).

Brief description of amendment: The amendment revised Technical Specifications (TS) Section 3.6.11, "Ice Bed," Surveillance Requirement (SR) 3.6.11.2, SR 3.6.11.3, and the associated Bases, to lower the minimum average ice basket weight from 1236 pounds to 1110 pounds.

Date of issuance: November 29, 2001.

Effective date: As of the date of its issuance and shall be implemented no later than Mode 4 during startup from Cycle 4 refueling outage.

Amendment No.: 33.

Facility Operating License No. NPF–90: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 17, 2001 (66 FR 52804).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 29, 2001.

No significant hazards consideration comments received: No.

Note: The publication date for this notice will change from every other Wednesday to every other Tuesday, effective January 8, 2002. The notice will contain the same information and will continue to be published biweekly.

Dated at Rockville, Maryland, this 3rd of December, 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30455 Filed 12–11–01; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review; Comment Request

AGENCY: Overseas Private Investment Corporation.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the Agency is preparing an information collection request for OMB review and approval and to request public review and comment on the submission. Comments are being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology. The proposed form under review is summarized below.

DATES: Comments must be received within 60 days of publication of this Notice.

ADDRESSES: Copies of the subject form and the request for review prepared for submission to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: *OPIC Agency Submitting Officer:* Carol Brock, Records Manager, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527; 202/336–8563.

Summary of Form Under Review

Type of Request: Form Amendment.
Title: Application for Political Risk Investment Insurance.
Form Number: OPIC–52.
Frequency of Use: Once per investor, per project.
Type of Respondents: Business or other institutions.
Standard Industrial Classification Codes: All.
Description of Affected Public: U.S. companies investing overseas.
Reporting Hours: 6½ hours per project.
Number of Responses: 150 per year.
Federal Cost: $24,300 per year.
Authority for Information Collection: Sections 231 and 234(a) of the Foreign Assistance Act of 1961, as amended.
Abstract (Needs and Uses): The OPIC 52 form is the principal document used by OPIC to determine the investor's and the project's eligibility, assess the environmental impact and development effects of the project, measure the economic effects for the United States and the host country economy, and collect information for underwriting analysis.

Dated: December 6, 2001.

Rumu Sarkar,

Assistant General Counsel, Administrative Affairs, Department of Legal Affairs.

[FR Doc. 01–30657 Filed 12–11–01; 8:45 am]

BILLING CODE 3210–01–M

RAILROAD RETIREMENT BOARD

2002 Railroad Experience Rating Proclamations, Monthly Compensation Base and Other Determinations

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: Pursuant to section 8(c)(2) and section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(2) and 45 U.S.C. 362(r)(3), respectively), the Board gives notice of the following:

1. The balance to the credit of the Railroad Unemployment Insurance (RUI) Account, as of June 30, 2001, is $53,029,889.30;
2. The September 30, 2001, balance of any new loans to the RUI Account, including accrued interest, is zero;
3. The system compensation base is $3,095,486,497.55 as of June 30, 2001;
4. The cumulative system unallocated charge balance is ($236,829,145.06) as of June 30, 2001;
5. The pooled credit ratio for calendar year 2002 is zero;
6. The pooled charged ratio for calendar year 2002 is zero;
7. The surcharge rate for calendar year 2002 is 2.5 percent;
8. The monthly compensation base under section 1(i) of the Act is $1,100 for months in calendar year 2002;
9. The amount described in section 1(k) of the Act as "2.5 times the monthly compensation base" is $2,750 for base year (calendar year) 2002;
10. The amount described in section 2(c) of the Act as "an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600" is $1,421 for months in calendar year 2002;
11. The amount described in section 3 of the Act as "2.5 times the monthly compensation base" is $2,750 for base year (calendar year) 2002;
12. The amount described in section 4(a–2)(i)(A) of the Act as "2.5 times the monthly compensation base" is $2,750 with respect to disqualifications ending in calendar year 2002;
13. The maximum daily benefit rate under section 2(a)(3) of the Act is $52 with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 2002.

DATES: The balance in notice (1) and the determinations made in notices (3) through (7) are based on data as of June 30, 2001. The balance in notice (2) is based on data as of September 30, 2001. The determinations made in notices (5) through (7) apply to the calculation, under section 8(a)(1)(C) of the Act, of employer contribution rates for 2002. The determinations made in notices (8) through (12) are effective January 1, 2002. The determination made in notice (13) is effective for registration periods beginning after June 30, 2002.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Marla L. Huddleston, Bureau of the Actuary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092, telephone (312) 751–4779.

SUPPLEMENTARY INFORMATION: The RRB is required by section 8(c)(1) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(1)) as amended by Public Law 100–647, to proclaim by October 15 of each year certain system-wide factors used in calculating experience-based employer contribution rates for the following year. The RRB is further required by section 8(c)(2) of the Act (45 U.S.C. 358(c)(2)) to publish the amounts so determined and proclaimed.

The RRB is required by section 12(r)(3) of the Act (45 U.S.C. 362(r)(3)) to publish by December 11, 2001, the computation of the calendar year 2002 monthly compensation base (section 1(i) of the Act) and amounts described in sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act which are related to changes in the monthly compensation base. Also, the RRB is required to publish, by June 11, 2002, the maximum daily benefit rate under section 2(a)(3) of the Act for days of unemployment and days of sickness in registration periods beginning after June 30, 2002.

Surcharge Rate

A surcharge is added in the calculation of each employer's contribution rate, subject to the applicable maximum rate, for a calendar year whenever the balance to the credit of the RUI Account on the preceding June 30 is less than the greater of $100 million or the amount that bears the same ratio to $100 million as the system compensation base for that June 30 bears to the system compensation base as of June 30, 1991. If the RUI Account balance is less than $100 million (as indexed), but at least $50 million (as indexed), the surcharge will be 1.5 percent. If the RUI Account balance is less than $50 million (as indexed), but greater than zero, the surcharge will be 2.5 percent. The maximum surcharge of 3.5 percent applies if the RUI Account balance is less than zero.

The system compensation base as of June 30, 1991 was $2,763,287,237.04. The system compensation base for June 30, 2001 was $3,095,486,497.55. The ratio of $3,095,486,497.55 to $2,763,287,237.04 is 1.12021887. Multiplying 1.12021887 by $100 million yields $112,021,887. Multiplying $50 million by 1.12021887 produces $56,010,944. The Account balance on June 30, 2001, was $53,029,889.30. Accordingly, the surcharge rate for calendar year 2002 is 2.5 percent.

Monthly Compensation Base

For years after 1988, section 1(i) of the Act contains a formula for determining the monthly compensation base. Under the prescribed formula, the monthly compensation base increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The monthly compensation base for months in calendar year 2002 shall be equal to the greater of (a) $600 or (b) $600 [1 + {(A—37,800)/56,700}], where A equals the amount of the applicable base with respect to tier 1 taxes for 2002 under section 3231(e)(2) of the Internal Revenue Code of 1986. Section 1(i) further provides that if the amount so determined is not a multiple of $5, it shall be rounded to the nearest multiple of $5.

The calendar year 2002 tier 1 tax base is $84,900. Subtracting $37,800 from $84,900 produces $47,100. Dividing $47,100 by $56,700 yields a ratio of 0.83068783. Adding one gives 1.83068783. Multiplying $600 by the amount 1.83068783 produces the amount of $1,098.41, which must then be rounded to $1,100. Accordingly, the monthly compensation base is determined to be $1,100 for months in calendar year 2002.

Amounts Related to Changes in Monthly Compensation Base

For years after 1988, sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act contain formulas for determining amounts related to the monthly compensation base.

Under section 1(k), remuneration earned from employment covered under the Act cannot be considered subsidiary remuneration if the employee's base year compensation is less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 2002 monthly compensation base of $1,100 produces $2,750. Accordingly, the amount determined under section 1(k) is $2,750 for calendar year 2002.

Under section 2(c), the maximum amount of normal benefits paid for days of unemployment within a benefit year and the maximum amount of normal benefits paid for days of sickness within a benefit year shall not exceed an employee's compensation in the base year. In determining an employee's base year compensation, any money remuneration in a month not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year bears to $600 shall be taken into account. The calendar year 2002 monthly compensation base is $1,100. The ratio of $1,100 to $600 is 1.83333333. Multiplying 1.83333333 by $775 produces $1,421. Accordingly, the amount determined under section 2(c) is $1,421 for months in calendar year 2002.

Under section 3, an employee shall be a "qualified employee" if his/her base year compensation is not less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 2002 monthly compensation base of $1,100 produces $2,750. Accordingly, the amount determined under section 3 is $2,750 for calendar year 2002.

Under section 4(a–2)(i)(A), an employee who leaves work voluntarily without good cause is disqualified from receiving unemployment benefits until he has been paid compensation of not less than 2.5 times the monthly compensation base for months in the calendar year in which the disqualification ends. Multiplying 2.5 by the calendar year 2002 monthly compensation base of $1,100 produces $2,750. Accordingly, the amount determined under section 4(a–2)(i)(A) is $2,750 for calendar year 2002.

Maximum Daily Benefit Rate

Section 2(a)(3) contains a formula for determining the maximum daily benefit rate for registration periods beginning after June 30, 1989, and after each June 30 thereafter. Legislation enacted on October 9, 1996, revised the formula for indexing maximum daily benefit rates. Under the prescribed formula, the maximum daily benefit rate increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The maximum daily benefit rate for registration periods beginning after June 30, 2002, shall be equal to 5 percent of the monthly compensation base for the base year immediately preceding the beginning of the benefit year. Section 2(a)(3) further provides that if the amount so computed is not a multiple of $1, it shall be rounded down to the nearest multiple of $1.

The calendar year 2001 monthly compensation base is $1,050. Multiplying $1,050 by 0.05 yields $52.50, which must then be rounded down to $52. Accordingly, the maximum daily benefit rate for days of unemployment and days of sickness beginning in registration periods after June 30, 2002, is determined to be $52.

Dated: November 13, 2001.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 01–30670 Filed 12–11–01; 8:45 am]

BILLING CODE 7905–01–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25310; File No. 812–12528]

Jackson National Life Insurance Company, et al.; Notice of Application

December 5, 2001.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") granting exemptions from the

provisions of sections 2(a)(32) and 27(i)(2)(A) of the Act and rule 22c–1 thereunder to permit the recapture of contract enhancements applied to purchase payments made under certain flexible premium, deferred variable annuity contracts.

Applicants: Jackson National Life Insurance Company ("Jackson National"), Jackson National Separate Account—I (the "JNL Separate Account"), Jackson National Life Insurance Company of New York ("JNL New York," and collectively with Jackson National, the "Insurance Companies"), JNLNY Separate Account I (the "JNLNY Separate Account," and collectively with JNL Separate Account, the "Separate Accounts"), and Jackson National Life Distributors, Inc. ("Distributor," collectively with the Insurance Companies and Separate Accounts, "Applicants").

Summary of Application: Applicants seek an order under section 6(c) of the Act to the extent necessary to permit the recapture, under specified circumstances, of certain contract enhancements applied to purchase payments made under the flexible premium, deferred variable annuity contract described herein that Jackson National will issue through the JNL Separate Account (the "JNL Contract") and that JNL New York will issue through the JNLNY Separate Account (the "JNLNY Contract," and collectively with the JNL Contract, the "Contract(s)"), as well as other contracts that the Insurance Companies may issue in the future through their existing or future separate accounts ("Other Accounts") that are substantially similar in all material respects to the Contracts ("Future Contracts"). Applicants also request that the order being sought extend to any other National Association of Securities Dealers, Inc. ("NASD") member broker-dealer controlling or controlled by, or under common control with, Jackson National, whether existing or created in the future, that serves as distributor or principal underwriter for the Contracts or Future Contracts ("Affiliated Broker-Dealers"), and any successors in interest to the Applicants.

Filing Date: The Application was filed on September 4, 2001 and amended on October 9, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, in person or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 27, 2001, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, c/o Susan Rhee, Esq., Jackson National Life Insurance Company, 1 Corporate Way, Lansing, Michigan 48951; copies to W. Randolph Thompson, Esq., Jorden Burt LLP, 1025 Thomas Jefferson Street, NW, Suite 400 East, Washington, DC 20007–0805.

FOR FURTHER INFORMATION CONTACT: Harry Eisenstein, Senior Counsel, at (202) 942–0552, or Keith E. Carpenter, Branch Chief, at (202) 942–0679, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 ((202) 942–8090).

Applicants' Representations

1. Jackson National is a stock life insurance company organized under the laws of the state of Michigan in June 1961. Its legal domicile and principal business address is 1 Corporate Way, Lansing, Michigan 48951. Jackson National is admitted to conduct life insurance and annuity business in the District of Columbia and all states except New York. Jackson National is ultimately a wholly-owned subsidiary of Prudential plc (London, England).

2. JNL New York is a stock life insurance company organized under the laws of the state of New York in July 1995. Its legal domicile and principal address is 2900 Westchester Avenue, Purchase, New York 10577. JNL New York is admitted to conduct life insurance and annuity business in Delaware, Michigan and New York. JNL New York is ultimately a wholly-owned subsidiary of Prudential plc (London, England).

3. The JNL Separate Account was established by Jackson National on June 14, 1993, pursuant to the provisions of Michigan law and the authority granted under a resolution of Jackson National's Board of Directors. The JNLNY Separate Account was established by JNL New York on September 12, 1997, pursuant to the provisions of New York law and the authority granted under a resolution of JNL New York's Board of Directors. Jackson National and JNL New York each is the depositors of its respective Separate Account. Each of the Separate Accounts meets the definition of a "separate account" under the federal securities laws and each is registered with the Commission as a unit investment trust under the Act (File Nos. 811–08664 and 811–08401, respectively). JNL Separate Account and JNLNY Separate Account will fund, respectively, the variable benefits available under the JNL Contracts and the JNLNY Contracts. The offering of the Contracts will be registered under the Securities Act of 1933 (the "1933 Act").

4. The Distributor is a wholly-owned subsidiary of Jackson National and serves as the distributor of the Contracts. The Distributor is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 (the "1934 Act") and is a member of the NASD. The Distributor enters into selling group agreements with affiliated and unaffiliated broker-dealers. The Contracts are sold by licensed insurance agents, where the Contracts may be lawfully sold, who are registered representatives of broker-dealers which are registered under the 1934 Act and are members of the NASD.

5. The Contracts require a minimum initial premium payment of $5,000 under most circumstances ($2,000 for a qualified plan contract). Subsequent payments may be made at any time during the accumulation phase. Each subsequent payment must be at least $500 ($50 under an automatic payment plan). Prior approval by the relevant Insurance Company is required for aggregate premium payments of over $1,000,000.

6. The JNL Contracts permit owners to accumulate contract values on a fixed basis through allocations to one of seven fixed accounts (the "Fixed Accounts"), including four "Guaranteed Fixed Accounts" which offer guaranteed crediting rates for specified periods of time (currently, 1, 3, 5, or 7 years), two "DCA Fixed Accounts" (used in connection with dollar cost averaging transfers, one of which, the DCA+ Fixed Account, from time to time offers special crediting rates) and an "Indexed Fixed Option" (with a minimum guaranteed return and additional possible returns based on the performance of the S&P 500 Index).

7. The JNLNY Contracts permit owners to accumulate contract values on a fixed basis through allocations to one of four fixed accounts, including

four "Guaranteed Fixed Accounts" which offer guaranteed crediting rates for specified periods of time (currently, 1, 3, 5, or 7 years).

8. The Contracts also permit owners to accumulate contract values on a variable basis, through allocations to one or more of the investment divisions of the Separate Accounts (the "Investment Divisions," collectively with the Fixed Accounts, the "Allocation Options"). There are currently 34 (33 for JNLNY contracts) Investment Divisions expected to be offered under the Contracts, but additional Investment Divisions may be offered in the future and some of those listed could be eliminated or combined with other Investment Divisions in the future. Similarly, Future Contracts may offer additional or different Investment Divisions.

9. Transfers among the Investment Divisions are permitted. The first 15 transfers in a contract year are free; subsequent transfers cost $25. Certain transfers to, from and among the Fixed Accounts are also permitted during the Contracts' accumulation phase, but are subject to certain adjustments and limitations. Dollar cost averaging and rebalancing transfers are offered at no charge and do not count against the 15 free transfers permitted each year.

10. The Contracts offer certain optional endorsements that relate to withdrawals: (i) An endorsement that expands the percentage of premiums (that remain subject to a withdrawal charge) that may be withdrawn in a contract year with no withdrawal charge imposed from 10% to 20%; and (ii) an endorsement that reduces the withdrawal charges applicable under the Contract and shortens the period for which withdrawal charges are imposed from seven years to five years.

11. If one of the optional Contract Enhancement endorsements is elected, each time an owner makes a premium payment during the first contract year, Jackson National will add an additional amount to the owner's contract value (a "Contract Enhancement"). All Contract Enhancements are paid from Jackson National's general account assets. The Contract Enhancement is equal to 2%, 3%, or 4% of the premium payment. A Contract Owner can choose only one of the Contract Enhancement endorsements. The 2% Contract Enhancement is offered only if the owner elects the optional five year withdrawal charge endorsement or the 20% additional free withdrawal endorsement. An owner may not elect the 3% or 4% Contract Enhancements if one of those two other optional endorsements is elected. The Insurance Companies will allocate the Contract Enhancement to the Guaranteed Accounts and/or Investment Divisions in the same proportion as the premium payment allocation. The Contract Enhancement is not credited to any premiums received after the first contract year.

12. There is an asset-based charge for each of the Contract Enhancements. The 2% Contract Enhancement has a 0.40% charge that applies for five years. The asset-based charges for the other Contract Enhancements apply for seven years and are 0.425% and 0.57%, respectively, for the 3% and 4% Contract Enhancements. These charges will also be assessed against any amounts you have allocated to the guaranteed accounts, resulting in a credited interest rate of 0.40%, 0.425%, and 0.57% for the 2%, 3%, and 4% contract enhancements, respectively, less than the annual credited interest rate that would apply to the guaranteed account if the contract enhancement had not been elected. However, the interest rate will never go below 3%.

13. The Insurance Companies will recapture all or a portion of any Contract Enhancements by imposing a recapture charge whenever an owner: (i) Makes a withdrawal of corresponding premium within the recapture charge period (five years after a first year payment in the case of the 2% Contract Enhancement and seven years after a first year payment in the case of the other Contract Enhancements) in excess of those permitted under the Contracts' free withdrawal provisions (including free withdrawals permitted by a 20% additional free withdrawal endorsement), unless the withdrawal is made for certain health-related emergencies specified in the Contracts (not all of which are available in the JNLNY contracts); (ii) elects to receive payments under an income option within the recapture charge period; or (iii) returns the Contract during the free look period.

14. The amount of the recapture charge varies, depending upon which Contract Enhancement is elected and when the charge is imposed, as follows:

CONTRACT ENHANCEMENT RECAPTURE CHARGE

[As a percentage of first year premium payments]

Completed years since receipt of premium	0 (percent)	1 (percent)	2 (percent)	3 (percent)	4 (percent)	5 (percent)	6 (percent)	7+ (percent)
Recapture Charge (2% Credit)	2	2	1.25	1.25	0.5	0	0	0
Recapture Charge (3% Credit)	3	3	2	2	2	1	1	0
Recapture Charge (4% Credit)	4	4	2.5	2.5	2.5	1.25	1.25	0

15. The recapture charge percentage will be applied to the corresponding premium reflected in the amount withdrawn or the amount applied to income payments that remains subject to a withdrawal charge. The amount recaptured will be taken from the Investment Divisions and the Guaranteed Accounts in the same proportion as the withdrawal charge.

16. Recapture charges will be waived upon death, but will be applied upon electing to commence income payments, even in a situation where the withdrawal charge is waived. Partial withdrawals will be deemed to remove premium payments on a first-in-first-out basis (the order that entails payment of the lowest withdrawal and recapture charges).

17. The Insurance Companies do not assess the recapture charge on any payments paid out as: death benefits; withdrawals necessary to satisfy the minimum distribution requirements of the Internal Revenue Code; if permitted by the owner's state, withdrawals of up to $250,000 from the Separate Account or from the Fixed Accounts other than the Indexed Fixed Option in connection with the owner's terminal illness or if the owner needs extended hospital or nursing home care as provided in the Contract; or if permitted by the owner's state, withdrawals of up to 25% of contract value (12.5% for each of two joint owners) in connection with certain serious medical conditions specified in the Contract.

18. The contract value will reflect any gains or losses attributable to a Contract Enhancement described above. Contract Enhancements, and any gains or losses attributable to a Contract Enhancement, distributed under the Contracts will be

considered earnings under the Contract for tax purposes and for purposes of calculating free withdrawal amounts.

19. The JNL Contracts have a "free look" period of ten (twenty for JNLNY Contracts) days after the owner receives the Contract (or any longer period required by state law). Contract value is returned upon exercise of free look rights by an owner unless state law requires the return of premiums paid. The Contract Enhancement recapture charge reduces the amount returned.

20. The Separate Accounts consist of sub-accounts, each of which will be available under the Separate Accounts. The sub-accounts are referred to as "Investment Divisions." The Separate Accounts currently consist of the 34 (33 for JNLNY Contracts) Investment Divisions, and each will invest in Shares of a corresponding series ("Series") of JNL Series Trust ("Trust") or JNL Variable Fund LLC. Not all Investment Divisions may be available.

21. In addition to the Contract Enhancement charges and the Contract Enhancement recapture charges, the JNL Contracts have the following charges: mortality and expense risk charge of 1.00% (1.25% in the case of the JNLNY Contracts) (as an annual percentage of average daily account value); administration charge of 0.15% (as an annual percentage of average daily account value); contract maintenance charge of $35 per year ($30 per year in the case of the JNLNY Contracts) (waived if contract value is $50,000 or more at the time the charge is imposed); Earnings Protection Benefit charge of 0.30% (as an annual percentage of daily account value—only applies if related optional endorsement is elected); 20% additional free withdrawal benefit charge of 0.30% (as an annual percentage of daily account value—only applies if related optional endorsement is elected); five-year withdrawal charge period charge of 0.30% (as an annual percentage of daily account value—only applies if related optional endorsement is elected); optional death benefit charge of either 0.15% or 0.25% (as an annual percentage of daily account value—only applies if related optional endorsement is elected) depending upon which (if any) optional death benefit endorsement is elected; transfer fee of $25 for each transfer in excess of 15 in a contract year (for purposes of which dollar cost averaging and rebalancing transfers are excluded); commutation fee that applies only upon withdrawals from income payments for a fixed period, measured by the difference in values paid upon such a withdrawal due to using a discount rate of 1% greater than the assumed investment rate used in computing the amounts of income payments; and a withdrawal charge that applies to total withdrawals, partial withdrawals in excess of amounts permitted to be withdrawn under the Contract's free withdrawal provisions (or the 20% additional free withdrawal endorsement) and on the income date (the date income payments commence) if the income date is within a year of the date the Contract was issued.

22. The withdrawal charge for the JNL Contracts varies, depending upon the contribution year of the premium withdrawn as follows:

WITHDRAWAL CHARGE

[As a percentage of premium payments]

Completed years since receipt of premium	0 (percent)	1 (percent)	2 (percent)	3 (percent)	4 (percent)	5 (percent)	6 (percent)	7+ (percent)
Withdrawal Charge	8.5	8	7	6	5	4	2	0
Withdrawal Charge if Five-Year Period is elected	8	7	6	4	2	0	0	0

23. The withdrawal charge is waived upon withdrawals to satisfy the minimum distribution requirements of the Internal Revenue Code and, to the extent permitted by state law, the withdrawal fee is waived in connection with withdrawals of: (i) Up to $250,000 from the Investment Divisions or the Guaranteed Fixed Accounts of the Contracts in connection with the terminal illness of the owner of a Contract, or in connection with extended hospital or nursing home care for the owner; and (ii) up to 25% (12.5% each for two joint owners) of contract value (excluding values allocated to the Indexed Fixed Option) in connection with certain serious medical conditions specified in the Contract.

24. The JNLNY Contracts are identical to the JNL Contracts in the operation of Contract Enhancements, Contract Enhancement charges and Contract Enhancement recapture charges.

25. The withdrawal charges of the JNLNY Contracts are as follows:

WITHDRAWAL CHARGE

[As a percentage of premium payments]

Contribution Year of Premium Payment	1 (percent)	2 (percent)	3 (percent)	4 (percent)	5 (percent)	6 (percent)	7 (percent)	8+ (percent)
Withdrawal Charge	7	6	5	4	3	2	1	0
Withdrawal Charge if Five-Year Period is elected	6.5	5	3	2	1	0	0	0

Applicants' Legal Analysis

1. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request that the Commission pursuant to section 6(c) of the Act grant the exemptions requested below with respect to the Contracts and any Future Contracts funded by the Separate Accounts or Other Accounts that are issued by the Insurance Companies and underwritten or distributed by the Distributor or Affiliated Broker-Dealers. Applicants undertake that Future

Contracts funded by the Separate Accounts or Other Accounts, in the future, will be substantially similar in all material respects to the Contracts. Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Subsection (i) of section 27 of the Act provides that section 27 does not apply to any registered separate account funding variable insurance contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of the subsection. Paragraph (2) provides that it shall be unlawful for such a separate account or sponsoring insurance company to sell a contract funded by the registered separate account unless such contract is a redeemable security. Section 2(a)(32) defines "redeemable security" as any security, other than short-term paper, under the terms of the which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

3. Applicants submit that the recapture of the Contract Enhancement in the circumstances set forth in this Application would not deprive an owner of his or her proportionate share of the issuer's current net assets. A Contract owner's interest in the amount of the Contract Enhancement allocated to his or her Contract value upon receipt of a premium payment is not fully vested until five or seven complete years following a premium. Until or unless the amount of any Contract Enhancement is vested, the Insurance Companies retain the right and interest in the Contract Enhancement amount, although not in the earnings attributable to that amount. Thus, Applicants urge that when the Insurance Companies recapture any Contract Enhancement they are simply retrieving their own assets, and because a Contract owner's interest in the Contract Enhancement is not vested, the Contract owner has not been deprived of a proportionate share of the Separate Account's assets, *i.e.*, a share of the Separate Account's assets proportionate to the Contract owner's contract value.

4. In addition, Applicants state that it would be patently unfair to allow a Contract owner exercising the free-look privilege to retain the Contract Enhancement amount under a Contract that has been returned for a refund after a period of only a few days. If the Insurance Companies could not recapture the Contract Enhancement, Applicants claim that individuals could purchase a Contract with no intention of retaining it and simply return it for a quick profit. Furthermore, Applicants state that the recapture of the Contract Enhancement relating to withdrawals or receiving income payments within the first five or seven years of a premium contribution is designed to protect the Insurance Companies against Contract owners not holding the Contract for a sufficient time period. According to Applicants, it would provide the Insurance Companies with insufficient time to recover the cost of the Contract Enhancement, to its financial detriment.

5. Applicants represent that it is not administratively feasible to track the Contract Enhancement amount in the Separate Accounts after the Contract Enhancement(s) is applied. Accordingly, the asset-based charges applicable to the Separate Accounts will be assessed against the entire amounts held in the Separate Accounts, including any Contract Enhancement amounts. As a result, the aggregate asset-based charges assessed will be higher than those that would be charged if the Contract owner's Contract value did not include any Contract Enhancement. The Insurance Companies nonetheless represent that the Contracts' fees and charges, in the aggregate, are reasonable in relation to service rendered, the expenses expected to be incurred, and the risks assumed by the Insurance Companies.

6. Applicants represent that the Contract Enhancement will be attractive to and in the interest of investors because it will permit owners to put 102%, 103% or 104% of their first-year premium payments to work for them in the Investment Divisions and Guaranteed Accounts. In addition, the owner will retain any earnings attributable to the Contract Enhancements recaptured, as well as the principal of the Contract Enhancement amount once vested.

7. Applicants submit that the provisions for recapture of any Contract Enhancement under the Contracts do not violate sections 2(a)(32) and 27(i)(2)(A) of the Act. Applicants assert that the application of a Contract Enhancement to premium payments made under the Contracts should not raise any questions as to compliance by the Insurance Companies with the provisions of section 27(i). However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from section 2(a)(32) and 27(i)(2)(A), to the extent deemed necessary, to permit the recapture of any Contract Enhancement under the circumstances described in the Application, without the loss of relief from section 27 provided by section 27(i).

8. Section 22(c) of the Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company to accomplish the same purposes as contemplated by section 22(a). Rule 22c–1 under the Act prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

9. It is possible that someone might view the Insurance Companies' recapture of the Contract Enhancements as resulting in the redemption of redeemable securities for a price other than one based on the current net asset value of the Separate Accounts. Applicants contend, however, that the recapture of the Contract Enhancement does not violate Rule 22c–1. The recapture of some or all of the Contract Enhancement does not involve either of the evils that Rule 22c–1 was intended to eliminate or reduce as far as reasonably practicable, namely: (i) The dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or repurchase at a price above it, and (ii) other unfair results, including speculative trading practices. To effect a recapture of a Contract Enhancement, the Insurance Companies will redeem interests in a Contract owner's Contract value at a price determined on the basis of the current net asset value of the Separate Accounts. The amount recaptured will be less than or equal to the amount of the Contract Enhancement that the Insurance Companies paid out of its general account assets. Although Contract owners will be entitled to retain any investment gains attributable to the Contract Enhancement and to bear any investment losses attributable to the Contract Enhancement, the amount of such gains or losses will be determined on the basis of the current net asset values of the Separate Accounts. Thus, no dilution will occur upon the

recapture of the Contract Enhancement. Applicants also submit that the second harm that Rule 22c–1 was designed to address, namely, speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Contract Enhancement. Applicants assert that, because neither of the harms that Rule 22c–1 was meant to address is found in the recapture of the Contract Enhancement, Rule 22c–1 should not apply to any Contract Enhancement. However, to avoid any uncertainty as to full compliance with Rule 22c–1, Applicants request an exemption from the provisions of Rule 22c–1 to the extent deemed necessary to permit them to recapture the Contract Enhancement under the Contracts.

10. Applicants submit that extending the requested relief to encompass Future Contracts and Other Accounts is appropriate in the public interest because it promotes competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications prior to introducing new variable annuity contracts. Investors would receive no benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issues under the Act not already addressed in this Application.

Applicants further submit, for the reasons stated herein, that their exemptive request meets the standards set out in section 6(c) of the Act, namely, that the exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act and that, therefore, the Commission should grant the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01–30649 Filed 12–11–01; 8:45 am]
BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25311; File No. 812–12566]

First Allmerica Financial Life Insurance Co., et al.; Notice of Application

December 5, 2001.

AGENCY: Securities and Exchange Commission (the "SEC" or the "Commission").

ACTION: Notice of an Application for an order pursuant to section 26(c) of the Investment Company Act of 1940 (the "1940 Act") approving the proposed substitutions of securities and pursuant to section 17(b) of the Act exempting related transactions from section 17(a) of the Act.

Applicants: First Allmerica Financial Life Insurance Company ("First Allmerica"), Fulcrum Separate Account of First Allmerica Financial Life Insurance Company (the "First Allmerica Separate Account"), Allmerica Financial Life Insurance and Annuity Company ("Allmerica Financial Life"), Fulcrum Separate Account of Allmerica Financial Life Insurance and Annuity Company (the "Allmerica Financial Life Separate Account"), Allmerica Investment Trust ("AIT"), The Fulcrum Trust ("Fulcrum"), and Gabelli Capital Series Funds, Inc. ("Gabelli") (collectively, the "Applicants").

Summary of Application: Applicants request an order approving the substitution of shares of three series of AIT and one series of Gabelli for shares of series of Fulcrum held by the First Allmerica Separate Account and the Allmerica Financial Life Separate Account to support variable life insurance contracts or variable annuity contracts (collectively, the "Variable Contracts") issued by First Allmerica or Allmerica Financial Life. Applicants also request an order exempting them from section 17(a) of the 1940 Act to the extent necessary to permit the Applicants to, by means of in-kind redemptions and purchases, carry out the above-referenced substitutions of securities.

Filing Date: The application was filed on July 3, 2001 and amended and restated on December 4, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the Commission and serving Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on December 27, 2001, and be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, Richard M. Reilly, President, Allmerica Financial Life, 440 Lincoln Street, Worcester, MA 01653, and copy to George M. Boyd, Esq., First Allmerica, Office of the General Counsel, N–440, 440 Lincoln Street, Worcester, MA 01653.

FOR FURTHER INFORMATION CONTACT: Kenneth C. Fang, Attorney, or Keith E. Carpenter, Branch Chief, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. First Allmerica was organized under the laws of Massachusetts in 1844. Effective October 16, 1995, First Allmerica converted from a mutual life insurance company known as State Mutual Life Assurance Company of America to a stock life insurance company and adopted its present name. First Allmerica is a wholly-owned subsidiary of Allmerica Financial Corporation ("AFC").

2. Allmerica Financial Life is a life insurance company organized under the laws of Delaware in July 1974. Allmerica Financial Life is an indirect, wholly-owned subsidiary of First Allmerica, which in turn is a wholly-owned subsidiary of AFC.

3. The First Allmerica Separate Account and the Allmerica Financial Life Separate Account (the "Applicant Separate Accounts") are separate accounts for which either First Allmerica or Allmerica Financial Life (the "Applicant Insurance Companies") serves as sponsor and depositor. First Allmerica serves as sponsor and depositor of the First Allmerica Separate Account. Allmerica Financial Life serves as sponsor and depositor of the Allmerica Financial Life Separate Account.

4. Each of the two Applicant Separate Accounts is a segregated asset account of the indicated Applicant Insurance Company, and each is registered under the 1940 Act as a unit investment trust. Each of the respective Applicant Separate Accounts is used by the Applicant Insurance Company of which it is a part to fund certain variable annuity or variable life contracts. Certain sub-accounts of the respective Applicant Separate Accounts are

dedicated to owning shares of one of the investment portfolios of Fulcrum. Accordingly, each Fulcrum sub-account reflects the investment performance of that portfolio of Fulcrum in which the sub-account invests.

5. Each Applicant Separate Account is administered and accounted for as part of the general business of the Applicant Insurance Company of which it is a part. The income, gains or losses (realized or unrealized) of each Applicant Separate Account are credited to or charged against the assets of that Separate Account, without regard to income, gains or losses of such Applicant Insurance Company. Each Applicant Separate Account is a "separate account" as defined by the 1940 Act.

6. Each of the Applicant Separate Accounts serves as a funding vehicle for certain Variable Contracts. As the Variable Contracts are currently structured, holders of any of the Variable Contracts ("Contractholders") may select one or more of the investment options available under the Variable Contract held by allocating premiums payable under such contract to that sub-account of the relevant Applicant Separate Account that corresponds to the investment option desired. Thereafter, Contractholders accumulate funds, on a tax-deferred basis, based on the investment experience of the selected sub-account(s). Contractholders may, during the life of the contract, make unlimited transfers of accumulation values among the sub-accounts available under the Variable Contract held. Depending on the type of Variable Contract, the first six or twelve transfers in a contract year are guaranteed to be free of any transfer charge.

7. AIT is registered under the 1940 Act as an open-end diversified investment company and currently consists of 14 different Funds, three of which, the Select Capital Appreciation Fund ("SCAF"), the Select International Equity Fund ("SEIF") and the Select Growth and Income Fund ("SGIF") are involved in the proposed substitution. Currently shares of each Fund are purchased only by the separate accounts established by First Allmerica or Allmerica Financial Life for the purpose of funding variable annuity contracts and variable life insurance policies.

8. Allmerica Financial Investment Management Services, Inc. ("AFIMS" and/or the "Manager") serves as the investment adviser to AIT. AFIMS is an indirect, wholly-owned, subsidiary of AFC and maintains its principal offices at 440 Lincoln Street, Worcester, Massachusetts 01653. Under the terms of a management agreement between AIT and AFIMS (the "Management Agreement"), AFIMS manages AIT's business affairs and has general responsibility for the management of the investments of the Funds, subject to the control of the Board of Trustees of AIT.

9. AFIMS, at its expense, has contracted with investment sub-advisers to manage the investments of the Funds. T. Rowe Price Associates, Inc., ("T. Rowe Price"), 100 East Pratt Street, Baltimore, MD 21202, serves as sub-adviser for SCAF. Bank of Ireland Asset Management (U.S.) Ltd. ("Bank of Ireland"), 26 Fitzwilliam Place, Dublin 2, Ireland and 75 Holly Hill Lane, Greenwich, CT 06830, serves as sub-adviser for SIEF. J.P. Morgan Investment Management Inc. ("J.P. Morgan"), 522 Fifth Avenue, New York, NY 10036, serves as sub-adviser for SGIF.

10. AFIMS is responsible for the payment of all fees to the sub-advisers. Other than the expenses specifically assumed by AFIMS under the Management Agreement, all expenses incurred in the operation of AIT are borne by AIT. For its services, AFIMS is entitled to receive a fee from each Fund of AIT, based on the average daily net asset value of each Fund. In addition, AFIMS has voluntarily undertaken to reimburse each Fund for its fees and expenses that exceed the applicable expense limitation set for that Fund. AFIMS has declared voluntary expense limitations of 1.35% for SCAF, 1.50% for SIEF and 1.10% for SGIF of each Fund's average daily assets through December 31, 2001. The expense limitations may be removed at any time after a Fund's first fiscal year of operations with notice to existing shareholders. Actual expenses have been well below such expense limitations for the three Funds.

11. Fulcrum is registered under the 1940 Act as an open-end diversified investment company and currently consists of four different portfolios, all of which, are involved in the proposed substitution. They are the Global Interactive/Telecomm Portfolio ("GITP"), the International Growth Portfolio ("IGP"), the Growth Portfolio ("GP") and the Value Portfolio ("VP"). Currently, shares of the Portfolios may be sold only to: (a) Life insurance company separate accounts to serve as the underlying investment medium for variable annuity and variable life insurance contracts; (b) qualified retirement plans, as permitted by Treasury Regulations; and (c) life insurance companies and advisers to the Portfolios and their affiliates.

12. AFIMS serves as overall manager of Fulcrum and is responsible for managing the Trust's daily business and has general responsibility for the management of the investments of the Portfolios. Sub-advisers have been hired to handle the day-to-day investment management of the Portfolios. The sub-advisers' activities are subject to general oversight by the Trustees and AFIMS. GAMCO Investors, Inc. ("GAMCO"), One Corporate Center, Rye, NY 10580–1434 serves as the sub-adviser of both GITP and VP. Bee & Associates ("Bee"), a division of Denver Investment Advisors LLC, serves as the sub-adviser of IGP. Analytic Investors, Inc. ("Analytic") serves as the sub-adviser of GP.

13. For these services, each Portfolio pays an overall management fee, computed and accrued daily and paid monthly, based on its average daily net assets. The overall fee varies based on the performance of that Portfolio (after expenses) compared to that of an appropriate benchmark. The sub-adviser receives 80% of the fee, and AFIMS receives the remaining 20%. For the period beginning on the effective date of a Portfolio Manager Agreement with a new sub-adviser and ending with the last day of the twelfth full calendar month thereafter, each Portfolio pays a monthly advisory fee calculated at an annual rate of 0.80% of the Portfolio's average daily net assets. After the first 12 full calendar months with a new sub-adviser, as described above, each Portfolio pays a monthly advisory fee equal to a basic fee, plus or minus an incentive fee. The monthly basic fee equals one-twelfth of the annual basic fee rate of 2.0% multiplied by average daily net assets over the previous 12 months. The incentive fee ranges from −2.0% to +2.0% on an annual basis, depending on a comparison of the Portfolio's performance (reflecting a deduction of portfolio expenses) and the performance of a selected benchmark index over the past 12 months.

14. In addition, AFIMS has agreed to limit operating expenses and reimburse those expenses to the extent that each Portfolio's "other expenses" (*i.e.*, expenses other than management fees) exceed the expense limitations set for the Portfolios. For the two years following the date that the expense limitations end and subject to certain conditions, each Portfolio will reimburse AFIMS for any Portfolio expenses it reimbursed pursuant to the expense limitations. AFIMS currently limits the "other expenses" for GITP and IGP to an annual rate of 1.50% of average daily net assets; the limitation on "other expenses" for GP and VP is an annual rate of 1.20% of average daily net assets.

15. Gabelli was organized on April 3, 1993 as a Maryland corporation. Its address is 7 Hanover Square, New York, NY, 10004. Gabelli currently consists of one series, Gabelli Capital Asset Fund ("GCAF" or a "Fund") which is available to the public only through the purchase of certain variable annuity and variable life insurance contracts issued by The Guardian Insurance & Annuity Company, Inc. ("GIAC"). Subject to approval of this application, the Participation Agreement between GCAF and GIAC will be amended to permit the purchase of GCAF shares by the Applicant Separate Accounts. GCAF's primary goal is to seek growth of capital. The Fund's secondary goal is to produce current income. The Fund invests primarily in equity securities of companies that are selling in the public market at a significant discount to their "private market value." Private market value is the value at which the Fund's sub-adviser believes informed investors would be willing to pay for a company.

16. Guardian Investor Services Corporation ("GISC"), located at 7 Hanover Square, New York, NY 10004, supervises the performance of administrative and professional services provided to the Fund by others, including the Fund's sub-adviser. GISC, which also pays the fees of the sub-adviser, serves as investment adviser to 14 funds with aggregate assets of over $7.8 billion as of March 31, 2001. As compensation for its services and related expenses borne by GISC, the Fund pays GISC a fee based on the value of the Fund's average daily net assets. Gabelli Funds, LLC, located at One Corporate Center, Rye, NY 10580–1434, manages the Fund's assets as the Fund's sub-adviser. The sub-adviser is a New York limited liability company organized in 1999 as successor to a company organized in 1980 and is a wholly-owned subsidiary of Gabelli Asset Management, Inc., a publicly held company. As compensation for its services and the related expenses borne by the sub-adviser, GISC pays the sub-adviser a fee based on a percentage of the value of the Fund's average daily nets assets. Neither GISC nor Gabelli Funds, LLC is affiliated with the Applicant Insurance Companies.

17. Applicant Insurance Companies have approved a proposal to make certain substitutions of shares held in sub-accounts of the Applicant Separate Accounts. Specifically, they have proposed to substitute (a) shares of SCAF for shares of GITP (b) shares of the SIEF for shares of IGP, (c) shares of SGIF for shares of GP, and (d) shares of GCAF for shares of VP. Applicants submit that the proposed substitutions are in the best interest of Contractholders.

18. SCAF and GITP have comparable investment objectives and seek to achieve these objectives by investing in equity securities and utilizing similar investment strategies. While recognizing that GITP has a more narrow focus than SCAF, Applicants have concluded that the investment objectives and policies of SCAF are sufficiently similar to those of GITP that the essential objectives and risk expectations of Contractholders can continue to be met. In addition, Applicants state that AIT does not include a fund focusing exclusively on telecommunication investments, and there is no fund advised by Gabelli Funds, LLC, with a telecommunications focus that can serve as an underlying fund for variable contracts. Applicants believe that, to the extent that there are differences between the investment objectives and policies of SCAF and GITP, the proposed substitution represents a transfer to a more conservative and a more diversified portfolio. Applicants believe that the proposed substitution will benefit Contractholders in that (a) SCAF has a larger asset base than GITP which should provide certain economies of scale and lower expenses, and (b) SCAF has better one-year and since inception performance records than GITP. Applicants believe that GITP has not grown to a size to allow it to operate efficiently. As shown in the table below, SCAF has a larger asset base than GITP, which should provide certain economies of scale, resulting in lower expenses, compared to GITP. The net assets of each Fund, as of March 31, 2001 are as follows:

	Net Assets
Select Capital Appreciation Fund	$433.3 Mllion.
Global Interactive/Telecomm Portfolio	$4.3 Million.

Applicants assert that, as a result of the proposed substitution, the Contractholders who currently invest in GITP will benefit from the lower expenses of SCAF. Applicants state that SCAF has a better performance record than GITP for the one-year and since inception periods. For example, for the one-year period ending December 31, 2000, SCAF out-performed GITP with an average annual total return 33.2% higher than that of GITP. Applicants have no reason to believe that, in the near-term, the performance of GITP will match or exceed that of SCAF. Applicants also believe that the substitution would provide for Contractholders a more predictable advisory fee. SCAF's investment advisory fee is an annual rate of 1.00% for the first $100 million of assets, 0.90% on the next $150 million, 0.80% on the next $250 million, 0.70% over $500 million and 0.65% over $1 billion. GITP's fee can vary from 0% to 4.00% depending on performance (for the year ended December 31, 2000, the advisory fee for GITP was 2.47% while the advisory fee for SCAF was 0.87%). For the foregoing reasons, Applicants submit that the proposed substitution of shares of SCAF for shares of GITP is in the best interest of Contractholders.

19. SIEF and IGP have similar investment objectives and seek to achieve these objectives by investing in similar types of equity securities and utilizing comparable investment strategies. While recognizing that SIEF focuses on the stocks of large cap companies and IGP focuses on small cap stocks, Applicants have concluded that the investment objectives and policies of SIEF are sufficiently similar to those of IGP that the essential objectives and risk expectations of Contractholders can continue to be met. Applicants believe that the proposed substitution will benefit Contractholders in that (a) SIEF has a larger asset base than IGP which should provide certain economies of scale and lower expenses, and (b) SIEF has a better long-term performance record. Applicants do not believe that IGP has grown to a size to allow it to operate efficiently. As shown in the table below, SIEF has a larger asset base than IGP, which should provide certain economies of scale, resulting in lower expenses, compared to SIEF. The net assets of each Fund, as of March 31, 2001 are as follows:

	Net Assets
Select International Equity Fund	$571.6 Million.
International Growth Portfolio	$1.6 Million.

Applicants assert that, as a result of the proposed substitution, the Contractholders who currently invest in IGP will benefit from the lower expenses of SIEF. Applicants state that SIEF has a better long-term performance record than IGP. For example, the return for SIEF for the five-year period ended December 31, 2000 was 12.26% compared to 3.26% for IGP for the period of March 2, 1996 through December 31, 2000. Applicants have no reason to believe that, in the near-term, the performance of IGP will match or exceed that of SEIF. Applicants also believe that the substitution would provide for Contractholders a more predictable advisory fee. SIEF's investment advisory fee is an annual rate of 1.00% for the first $100 million of assets, 0.90% on the next $150 million and 0.85% on assets over $250 million. IGP's fee can vary from 0% to 4.00% depending on performance (for the year ended December 31, 2000, the advisory fee for IGP was 3.71% while the advisory fee for SIEF was 0.88%). For the foregoing reasons, Applicants submit that the proposed substitution of shares of SIEF for shares of IGP is in the best interest of Contractholders.

20. SGIF and GP have similar investment objectives and seek to achieve these objectives by investing in similar types of equity securities and utilizing comparable investment strategies. Applicants have concluded that the investment objectives and policies of SGIF are sufficiently similar to those of GP that the essential objectives and risk expectations of Contractholders can continue to be met. Applicants believe that the proposed substitution will benefit Contractholders in that (a) SGIF has a larger asset base than GP, which may provide certain economies of scale and lower expenses, and (b) SGIF has a better long-term performance record. Applicants do not believe that GP has grown to a size to allow it to operate efficiently. As shown in the table below, SGIF has a larger asset base than GP, which should provide certain economies of scale, resulting in lower expenses, compared to GP. The net assets of each Fund, as of March 31, 2001 are as follows:

	Net Assets
Select Growth and Income Fund	$680.1 Million.
Growth Portfolio	$2.5 Million.

Applicants assert that, as a result of the proposed substitution, the Contractholders who currently invest in GP will benefit from the lower expenses of SGIF. Applicants state that SGIF has a better long-term performance record than GP. For example, the return for SGIF for the five-year period ended December 31, 2000 was 12.83% compared to 5.40% for GP for the period of December 1, 1996 through December 31, 2000. Applicants have no reason to believe that in the near-term the performance of GP will match or exceed that of SGIF. Applicants also believe that the substitution would provide for Contractholders a more predictable advisory fee. SGIF's investment advisory fee is an annual rate of 0.75% on the first $100 million of assets, 0.70% on the next $150 million and 0.65% on assets over $250 million. GP's fee can vary from 0% to 4.00% depending on performance (for the year ended December 31, 2000, the advisory fee for GP was 0.14% while the advisory fee for SGIF was 0.67%). For the foregoing reasons, Applicants submit that the proposed substitution of shares of SGIF for shares of GP is in the best interest of Contractholders.

21. GCAF and VP have similar investment objectives and seek to achieve these objectives by investing in similar types of equity securities and utilizing comparable investment strategies. Applicants have concluded that the investment objectives and policies of GCAF are sufficiently similar to those of VP that the essential objectives and risk expectations of Contractholders can continue to be met. Applicants believe that the proposed substitution will benefit Contractholders in that (a) GCAF has a larger asset base than VP which may provide certain economies of scale and lower expenses, (b) GCAF has a comparable performance record to that of VP, and (c) GCAF and VP are served by affiliated companies within the same investment advisory organization. Applicants do not believe that VP has grown to a size to allow it to operate efficiently. As shown in the table below, GCAF has a larger asset base than VP, which should provide certain economies of scale, resulting in lower expenses, compared to VP. The net assets of each Fund, as of March 31, 2001 are as follows:

	Net assets
Gabelli Capital Asset Fund	$156.8 Million.
Value Portfolio	$7.1 Million.

Applicants assert that, as a result of the proposed substitution, the Contractholders who currently invest in VP will benefit from the lower expenses of GCAF. Applicants state that GCAF and VP have comparable long-term performance records, which have resulted in favorable returns for investors. For example for the five-year period ended December 31, 2000, GCAF had a return of 17.46% compared to 18.23% for VP for the period of December 1, 1996 through December 31, 2000. Assuming the proposed substitution is approved, VP shareholders would continue to receive the potential benefits from having the same organization serve as sub-adviser. Applicants also believe that the substitution would provide for Contractholders a more predictable advisory fee. GCAF's investment advisory fee is an annual rate of 1.00%. VP's fee can vary from 0% to 4.00% depending upon performance (for the year ended December 31, 2000, the advisory fee for VP was 2.58% while the

advisory fee for SCAF was 1.00%). For the foregoing reasons, Applicants submit that the proposed substitution of shares of GCAF for shares of VP is in the best interest of Contractholders.

22. Applicants state that, as of the effective date of the substitutions, shares of GITP, IGP, GP and VP (the "Replaced Portfolios") held by the various Applicant Separate Accounts will be redeemed by the Applicant Insurance Companies. The proceeds of such redemptions, which may be effected in-kind, will then be used to purchase the appropriate number of shares of SCAF, SIEF, SGIF and GCAF (the "Replacement Funds"). Since it is anticipated that the proposed substitution will be effected by in-kind transfer of assets, Contractholders will be fully invested at all times. The proposed substitutions will take place at net asset value with no change in the amount of any Contractholder's account value, cash value or death benefit or in the dollar value of his or her investment in either of the Applicant Separate Accounts. Contractholders will not incur any fees or charges as a result of the proposed substitutions, nor will their rights or the Applicant Insurance Companies' obligations under the Variable Contracts be altered in any way. All expenses incurred in connection with the proposed substitutions, including legal, accounting and other fees and expenses, including brokerage fees, if any, will be paid by the Applicant Insurance Companies. In addition, the proposed substitutions will not impose any tax liability on Contractholders. The proposed substitutions will not cause the Variable Contract fees and charges currently being paid by existing Contractholders to be greater after the proposed substitutions than before the proposed substitutions. Applicant Insurance Companies agree that, for those Contractholders who are Contractholders on the Effective Date of the substitutions, Applicant Insurance Companies will not increase the asset-based or non-asset-based charges under the Variable Contracts for a period of 24 months following the Effective Date of the substitution, except to the extent of any increase in premium taxes charged by one or more states. The Applicant Insurance Companies further agree that if the total operating expenses for any Replacement Fund (net of any expense waiver or reimbursement) for any period (not to exceed a fiscal quarter) during the 24 months following the Effective Date of the substitution exceeds on an annualized basis the relevant Maximum Fund Expense Limit as stated below (which is the net expense ratio for each corresponding Replaced Portfolio for the fiscal year ended December 31, 2000), the Applicant Insurance Companies will make a corresponding reduction in the expenses for the relevant sub-account(s) of the Applicant Separate Accounts (either by reducing or waiving sub-account expenses for that corresponding period or by reimbursing the sub-account on the last day of the period). The Maximum Fund Expense Limits for the Replacement Funds are: 3.97% for the SCAF sub-account; 5.21% for the SIEF sub-account; 1.34% for the SGIF sub-account; and 3.78% for the GCAF sub-account. The proposed substitutions (and any transfer in advance of the substitution) will not be subject to a transfer charge and will not be counted toward any limit on transfers guaranteed not to be subject to a transfer charge.

23. By supplements to the various prospectuses for the Variable Contracts and Applicant Separate Accounts, all owners of the Variable Contracts have been notified of the Applicant Insurance Companies' intention to take the necessary actions, including seeking the order requested by the application to substitute shares of the Underlying Funds as described herein. The supplements for the Applicant Separate Accounts advised Contractholders that from the date of the supplement until a date at least 30 days after the proposed substitution, each owner may make one transfer, free of charge and without limitation, of all amounts allocated to the GITP, IGP, GP or VP sub-accounts, respectively, to another sub-account. That transfer will not be counted toward the limit on transfers guaranteed not to be subject to a transfer charge. Contractholders will also receive a current prospectus relating to SCAF, SIEF, SGIF and GCAF (unless the Contractholder has already received that prospectus).

24. In addition to the prospectus supplements distributed to owners of Variable Contracts, within five days after the proposed substitutions, any Contractholders who were affected by the substitutions will be sent a written notice informing them that the substitutions were carried out and that they may make one transfer, free of charge for at least 30 days after the proposed substitution and without limitation, of all account value under a Variable Contract invested in any one of the affected sub-accounts on the date of the notice to another sub-account available under their Variable Contract. That transfer will not count as one of the number of transfers per year guaranteed to be free of charge. The notice will also state that the Applicant Insurance Companies will not exercise any rights reserved by either under any of the Variable Contracts to impose additional restrictions on transfers until at least 30 days after the proposed substitutions. The notice as delivered in certain states also may explain that, under the insurance regulations in those states, Contractholders who are affected by the substitutions may exchange their Variable Contracts for fixed-benefit life insurance contracts or annuity contracts, as applicable, issued by the Applicant Insurance Companies (or one of their affiliates) during the 60 days following the proposed substitutions.

25. The Applicant Insurance Companies are also seeking approval of the proposed substitutions from any state insurance regulators whose approval may be necessary or appropriate.

Applicants' Legal Analysis

1. Section 26(c) of the 1940 Act requires the depositor of a registered unit investment trust holding the securities of a single issuer to receive Commission approval before substituting the securities held by the trust. Section 26(c) was added to the 1940 Act by the Investment Company Amendments Act of 1970. Prior to the enactment of the 1970 amendments, a depositor of a unit investment trust could substitute new securities for those held by the trust by notifying the trust's security holders of the substitution within five days of the substitution. In 1966, the Commission, concerned with the high sales charges then common to most unit investment trusts and the disadvantageous position in which such charges placed investors who did not want to remain invested in the substituted fund, recommended that section 26 be amended to require that a proposed substitution of the underlying investments of a trust receive prior Commission approval. Congress responded to the Commission's concerns by enacting section 26(b) (now (c)) to require that the Commission approve all substitutions by the depositor of investments held by the unit investment trusts.

2. The proposed substitutions appear to involve substitutions of securities within the meaning of section 26(c) of the Act. Applicants therefore request an order from the Commission pursuant to section 26(c) approving the proposed substitutions.

3. The Variable Contracts expressly reserve for the Applicant Insurance Companies the right, subject to compliance with applicable law, to substitute shares of another investment company for shares of an investment

company held by a Separate Account or a sub-account of a Separate Account. The prospectuses for the Variable Contracts and the Separate Accounts contain appropriate disclosure of this right. The Applicant Insurance Companies each reserved this right of substitution both to protect themselves and their Contractholders in situations where either might be harmed or disadvantaged by circumstances surrounding the issuer of the shares held by one or more of their separate accounts and to afford the opportunity to replace such shares where to do so could benefit itself and Contractholders.

4. Under the proposed substitution of shares of SCAF for shares of GITP, shares of SIEF for shares of IGP, shares of SGIF for shares of GP and shares of GCAF for shares of VP, the interests of Contractholders will be better served primarily because each of the current funds would be replaced by a fund with a comparable investment objective, but with a significantly larger asset base, potentially resulting in lower expenses. In addition each of the proposed replacement funds has a superior or matching performance record compared to the respective current funds.

5. Applicants anticipate that Contractholders will be at least as well off with the proposed array of separate accounts and sub-accounts after the proposed substitutions as they have been with the array of separate accounts and sub-accounts offered prior to the substitutions. The proposed substitutions retain for Contractholders the investment flexibility, which is a central feature of the Variable Contracts.

6. None of the proposed substitutions is of the type that section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the Variable Contracts provide each Contractholder with the right to exercise his or her own judgment and transfer account values into other sub-accounts. Moreover, the Variable Contracts will offer Contractholders the opportunity to transfer amounts out of the affected sub-accounts into any of the remaining sub-accounts without cost or other disadvantage. The proposed substitutions, therefore, will not result in the type of costly forced redemption, which section 26(c) was designed to prevent.

7. The proposed substitutions also are unlike the types of substitutions which section 26(c) was designed to prevent in that by purchasing a Variable Contract, Contractholders select much more than a particular investment company in which to invest their account values. They also select the specific type of insurance coverage offered by either or both of the Applicant Insurance Companies under their Variable Contract as well as numerous other rights and privileges set forth in the Variable Contract. Contractholders may also have considered each or both Applicant Insurance Companies' size, financial condition, type and its reputation for service in selecting their Variable Contract. These factors will not change as a result of the proposed substitutions.

8. Applicants submit that, for all the reasons stated above, the proposed substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

9. Applicants also request an order under section 17(b) exempting them from the provisions of section 17(a) to the extent necessary to effect the proposed substitutions by means of in-kind redemptions and purchases of shares.

10. Section 17(a)(1) and (2) of the 1940 Act, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such a person, or any principal underwriter for such company (collectively, "Transaction Affiliates"), acting as principal, from knowingly selling or purchasing any security or other property to that company. Applicants may be deemed to be Transaction Affiliates of one another based upon this definition.

11. Because the proposed substitutions may be effected by means of an in-kind redemption and a subsequent purchase of shares, also in an in-kind transaction, the substitutions may be deemed to involve one or more purchases or sales of securities or property between Transaction Affiliates. Because the Applicant Separate Accounts (as well as other separate accounts of the Applicant Insurance Companies) are registered collectively with the Commission as a single unit investment trust of which the Applicant Insurance Companies are the depositors, the Applicant Separate Accounts are affiliated persons of each other. Further, because each of the Applicant Separate Accounts are under the common control of the Applicant Insurance Companies, they are all affiliated persons of each other.

12. Section 17(b) of the 1940 Act provides that the Commission may, upon application, grant an order exempting any transaction from the prohibitions of section 17(a) if the evidence establishes that: the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the 1940 Act; and the proposed transaction is consistent with the general purposes of the 1940 Act.

13. Applicants submit that, to the extent that the substitutions are deemed to involve principal transactions among Transaction Affiliates, the manner in which such substitutions are to be implemented are sufficient to assure that such transactions do not involve overreaching on the part of any Applicant or other person, and are fair and reasonable and consistent with the policies and purposes underlying the 1940 Act. Applicants further submit that neither the Underlying Funds nor either of the Applicant Separate Accounts will be participating in the substitutions or subsequent combination on a basis less advantageous than that of any other participant. Finally, Applicants state that, but for the fact that the substitutions may be effected by means of in-kind redemption and purchase transactions, rather than in cash, the procedures would comply with all of the conditions of rule 17a–7 under the 1940 Act. Accordingly, Applicants request an order of the Commission pursuant to section 17(b) of the 1940 Act to permit the substitutions and related transactions described in this Application. Applicants also submit that the proposed substitutions are consistent with the policies of each of the Applicant Separate Accounts and the Underlying Funds and with the general purposes of the 1940 Act.

The Applicants represent that, for all the reasons stated above, the terms of the proposed substitutions as set forth in the application, including any consideration to be paid and received, are reasonable and fair to: (a) The Applicant Insurance Companies; (b) AIT, Fulcrum and Gabelli and their funds/portfolios; and (c) the Contractholders invested in such funds/portfolios; and do not involve overreaching on the part of any person concerned. Furthermore, the Applicants represent that the proposed substitutions will be consistent with the policies of the Applicant Insurance Companies, AIT, Fulcrum and Gabelli as stated in the current registration statement and reports filed under the 1940 Act by each and with the general purposes of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30648 Filed 12–11–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45133; File No. SR–OPRA–2001–04]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Plan to Make Technical Corrections to Section V(c)

December 5, 2001.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on October 24, 2001, the Options Price Reporting Authority ("OPRA"),[2] submitted to the Securities and Exchange Commission ("Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("OPRA Plan"). The proposed amendment would make technical corrections to section V(c) of the OPRA Plan. OPRA has stated that the proposed OPRA Plan amendment involves solely technical or ministerial matters and is, therefore, effective upon filing, pursuant to Rule 11Aa3–2(c)(3)(iii) under the Act.[3] The Commission is publishing this notice to solicit comments on the proposed OPRA Plan amendment from interested persons.

I. Description and Purpose of the Amendment

The proposed OPRA plan amendment would make technical corrections to Section V(c) of the OPRA Plan, as that section was recently amended.[4] These proposed corrections consist of the deletion of an inappropriate reference in paragraph (ii) of section V(c) and the redesignation of subparagraphs (i)–(iv) of paragraph (iv) of section V(c) as subparagraphs (A)–(D) in order to conform their designation to the style of the OPRA Plan. OPRA represents that the proposed OPRA Plan amendment would make no substantive change to the provisions of the OPRA Plan.

II. Implementation of the Plan Amendment

OPRA represents that the proposed OPRA Plan amendment involves solely technical or ministerial matters and is, therefore, effective upon filing, pursuant to Rule 11Aa3–2(c)(3)(iii) under the Act.[5] At any time within 60 days of the filing of the OPRA Plan amendment, the Commission may summarily abrogate the amendment and require that such amendment be filed in accordance with Rule 11Aa3–2(b)(1) under the Act[6] and reviewed in accordance with Rule 11Aa3–2(c)(2) under the Act[7] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets; to remove impediments to, and perfect the mechanisms of, a national market system; or otherwise in furtherance of the purposes of the Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed OPRA Plan amendment that are filed with the Commission, and all written communications relating to the proposed OPRA Plan amendment between the Commission and any person, other than those withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available at the principal offices of OPRA. All submissions should refer to File No. SR–OPRA–2001–04 and should be submitted by January 2, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30651 Filed 12–11–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45130; File No. SR–Amex–2001–17]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the American Stock Exchange LLC Increasing Regular Membership and Creating Two-Year Permits

December 5, 2001.

I. Introduction

On March 19, 2001, the American Stock Exchange LLC ("Exchange" or "Amex") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change increasing the number of regular memberships on the Exchange and creating two-year permits. The Exchange submitted Amendment Nos. 1, 2, and 3 to the proposed rule change on May 3, 2001,[3] May 16, 2001,[4] and May 18, 2001,[5] respectively. The

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[1] 17 CFR 240.11Aa3–2.

[2] OPRA is a national market system plan approved by the Commission pursuant to section 11A of the Exchange Act, 15 U.S.C. 78k–1, and Rule 11Aa3–2 thereunder, 17 CFR 240.11Aa3–2. *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The five signatories to the OPRA Plan that currently operate an options market are the American Stock Exchange, the Chicago Board Options Exchange, the International Securities Exchange, the Pacific Exchange, and the Philadelphia Stock Exchange. The New York Stock Exchange is a signatory to the OPRA Plan, but sold its options business to the Chicago Board Options Exchange in 1997. *See* Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

[3] 17 CFR 240.11Aa3–2(c)(3)(iii).

[4] *See* Securities Exchange Act Release No. 44580 (July 20, 2001), 66 FR 39218 (July 27, 2001) (order approving File No. SR–OPRA–2001–02).

[5] 17 CFR 240.11Aa3–2(c)(3)(iii).

[6] 17 CFR 240.11Aa3–2(b)(1).

[7] 17 CFR 240.11Aa3–2(c)(2).

[8] 17 CFR 200.30–3(a)(29).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Ivonne Natal, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission dated April 30, 2001 ("Amendment No. 1"). Amendment No. 1 states that on April 30, 2001, a majority of the regular and options principal members, voting as a single class, voted in favor of the proposed rule change.

[4] Letter from Ivonne Natal, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated May 14, 2001 ("Amendment No. 2"). Amendment No. 2 requests the Commission to consider the Plan on a pilot basis for a minimum of two years and a maximum of four years, in the event the Seat Fund Committee exercises its discretion to extend the Plan. Amendment No. 2 also states that there are approximately 300 members trading equities on the Exchange floor.

[5] Letter from Ivonne Natal, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated May 17, 2001 ("Amendment No. 3"). Amendment No. 3 clarifies that the administrative fee that the Amex would receive for administering the Plan would be $750.00 per sale/lease and that the administrative fee will be collected out of the sale proceeds, prior to their distribution to the members. Amendment No. 3 also states that Amex members and the Board of Governors have approved this fee.

proposed rule change was published for comment in the **Federal Register** on June 1, 2001.[6] The Commission received no comments on the proposal. This order approves the proposal. The portion of the proposed rule change establishing the trading permits is approved on a pilot basis for a minimum of two years and a maximum of four years, in the event that the Exchange's Seat Fund Committee exercises its authority to renew the permits for an additional two years.

II. Description of the Proposal

The Amex proposes to increase by 25 the number of regular memberships and create 25 two-year permits as a result of a Regular Seat and Two-Year Permit Offering Plan (the "Plan"). The seats and the permits would be allocated as determined by the Exchange's Seat Fund Committee ("Committee"). The Committee would determine the sale price for regular seats would be at least $600,000. The price for two-year permits would be at least $14,000, per month.

The Committee would be able to renew the two-year permits once for an additional two years, but the permits would be non-transferable. A two-year permit would terminate if the holder went out of business. Any regular seats offered but not sold would be permitted to be converted into two-year permits as determined by the Committee.[7] The two-year permits would have no distribution or voting rights.

All prospective seat and/or permit holders would be required to be approved by the Exchange prior to the sale of a seat or the transfer of a permit by the Exchange. The Exchange would receive a $750 administrative fee for each sea/permit for administering the sale/transfer for prospective seat/permit owners.

Prior to any seat sale or permit transfer by the Exchange, a non-member or a person/organization that was not currently the owner of a regular membership would be required to meet all requirements currently applicable to regular or two-year permit holders. If the purchaser of a seat intended to lease the seat pursuant to a special transfer agreement or transfer the seat to a nominee, the lessee or nominee would also be required to meet all Exchange requirements. All applicable fees due by persons/organizations that are not owners of regular memberships or members of the Exchange would be required to be paid before the sale of any seat or transfer of any permit.

Sale proceeds will be distributed to all seat owners at a date to be determined by the Committee. The Ex-date for determining distribution of sale proceeds to owners would be the date of approval of the Plan by the Commission.

III. Discussion

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.[8] Specifically, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[9] in that it is designed to remove impediments to and perfect the mechanism of a free and open market.[10]

The Commission believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market by enhancing the depth and liquidity of the Amex floor by bringing additional capital and market participants to the Amex, which should attract more order flow. In addition, the Commission believes that the proposed rule change will enable the Exchange to better handle increased volume on the Exchange. The Commission believes that increasing the number of seats and providing a limited number of trading permits should enable Exchange members to afford customers an optimal level of service. The Commission notes that there are currently 864 Amex seat holders that have the ability to trade securities pursuant to the Exchange's equity trading rules and approximately 300 equity seat holders.[11] These traders are fully represented on the Exchange's Board and key committees. The Commission specifically notes that the proposed trading permits are limited in duration to a maximum of four years and constitute a *de minimis* number in relation to regular members that trade equities.[12] The Commission also notes that a majority of the Exchange's regular and options principal members voted in favor of the proposed rule change.

IV. Conclusion

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change (SR–Amex–2001–17) is approved. The portion of the proposed rule change establishing trading permits is approved on a pilot basis for a minimum of two years and a maximum of four years.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland.

Deputy Secretary.

[FR Doc. 01–30652 Filed 12–11–01; 8:45 am]

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[6] Securities Exchange Act Release No. 44341 (May 23, 2001), 66 FR 29848.

[7] Consequently, if the Exchange did not sell any of the authorized seats, a maximum of 25 additional trading permits could be authorized, for a total of 50.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] In approving this rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] Options seat holders are permitted to trade exchange traded funds, which trade pursuant to the Exchange's equity rules.

[12] The Act requires an Exchange to "assure a fair representation of its members in the selection of its directors and administration of its affairs. . . ." *See* section 6(b)(3) of the Act, 15 U.S.C. 78f(b)(3). This requirement serves to ensure that an exchange is administered in a way that is equitable to all those who trade on the exchange. If the trading permits had an unlimited term or more than a *de minimis* number of trading permits were being issued, the permit holders would be entitled to fair representation.

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45128; File No. SR–ISE–2001–31]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the International Securities Exchange LLC and Amendment No. 1 Thereto Relating to Payment for Order Flow Fees

December 4, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 16, 2001, the International Security Exchange LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which the ISE has prepared. On November 28, 2001, the ISE submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change, as amended.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to establish a ceiling of $750,000 in each of the ten payment-for-order-flow funds that the ISE maintains. The text of the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

rule change is available at the ISE and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under ISE Rule 802(b), the ISE has divided the options it trades into 10 groups, with one Primary Market Maker ("PMM") assigned to each group. The ISE maintains a payment-for-order-flow fund for each group, consisting of the fees collected from market makers trading options in that group. The PMM for the group is responsible for arranging and making all payments to Electronic Access Members for order flow sent to the ISE in options in that Group.

The purpose of the proposed rule change is to establish a ceiling of $750,000 in each of the ten payment-for-order-flow funds that the ISE maintains. To date, the ISE has been paying out of these funds less money than has been collected, thus building a balance in the individual funds. The ISE believes that capping each fund at $750,000 will provide sufficient money for PMMs to maintain the payment-for-order-flow program while lessening the economic burden on market makers to continue to pay payment-for-order-flow fees. The funds for most of the ten groups of options either currently are at, or the ISE anticipates soon will reach, the $750,000 level. Once a fund reaches this level, market makers trading options in that group will pay the payment-for-order-flow fee only when the imposition of such fee is necessary to replenish the fund to the $750,000 level.

The ISE will implement the rule change so that market makers economically will not pay the payment-for-order-flow fee whenever the fund for a particular group reaches $750,000. In this regard, the ISE anticipates that soon all the group funds will reach this level. From that time forward, market makers will pay this fee only to the extent necessary to replenish a fund after the ISE makes its monthly payments to order flow providers. To the extent that collections exceed payments in a given month, market makers in a group will be responsible for the payment-for-order-flow fee only for that portion of the month necessary to return the fund to the $750,000 level.

The ISE will implement this process by working both with individual market makers and their clearing firms, who handle the payment of fees for their market maker clients. This could result in more than one operational process to implement this fee cap. For example, the ISE could cease charging the fee on the day that a fund reaches $750,000; alternatively, the ISE could continue to impose the fee for the entire month and then credit members for excess payments in their monthly bill. The ISE may adopt one or more of these processes (or a similar process) depending on the particular needs and practices of its market makers and clearing firms.

2. Basis

The ISE states that the basis for the proposed rule change is the requirement under Section 6(b)(4) of the Act [3] that an exchange have an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden Competition

The ISE believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The ISE has not solicited, and does not intend to solicit, comments on this proposed rule change. The ISE has not received any unsolicited written comments from members or other interested parties.

[3] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, which establishes or changes a due, fee, or other charge applicable to members of the Exchange, has become effective pursuant to section 19(b)(3)(A) of the Act [4] and Rule 19b–4(f)(2) thereunder. [5] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to SR–ISE–2001–31 and should be submitted by January 2, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. [6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30656 Filed 12–11–01; 8:45 am]

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[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(2).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45135; File No. SR–NASD–2001–34]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Amendments to the Restated Certificate of Incorporation of The Nasdaq Stock Market, Inc.

December 5, 2001.

I. Introduction

On May 8, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and rule 19b–4 thereunder,[2] a proposed rule change to amend its Restated Certificate of Incorporation ("Certificate") to afford the holders of 4.0% Convertible Subordinated Notes due 2006 (the "Notes") the right to vote with Nasdaq stockholders.

On June 4, 2001 the NASD filed Amendment No. 1 to the proposal.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on June 22, 2001.[4] No comments were received on the proposal. This order approves the proposal.

II. Description of the Proposal

The proposed rule change amends the Certificate to afford the holders of 4.0% Convertible Subordinated Notes due 2006 (the "Notes") the right to vote with Nasdaq stockholders. Nasdaq has sold $240 million of the Notes to Hellman & Friedman Capital Partners IV, L.P. H&F International Partners IV–A, L.P., H&F International Partners IV–B, L.P., and H&F Executive Fund IV, L.P. (collectively, the "HFCP IV LPs"). Below is a description of the amendments proposed to the Certificate to ensure that holders of the Notes have the right to vote with Nasdaq shareholder.

Article Fourth

Paragraph C.1. Nasdaq proposes to amend this paragraph of the Certificate to provide that holders of the Notes have the right to vote with Nasdaq stockholders, with each holder of Notes entitled to a number of votes equal to the number of shares of common stock such holder would obtain upon conversion of the principal amount of Notes held by such person. The amendment also provides that holders of Notes shall be deemed to be stockholders and the Notes shall be deemed to be shares of stock solely for the purposes of provisions of the Delaware General Corporation Law and the Certificate that require the vote of stockholders as a prerequisite to corporate action.

Paragraph C.2. Nasdaq proposes to amend the provision of the Certificate that imposes restrictions on stockholders voting shares in excess of 5% of outstanding stock to make the same restriction applicable to holders of the Notes. Therefore, any person who beneficially owns shares of common stock and/or Notes convertible into common stock in excess of 5% of the then-outstanding shares of common stock would not be permitted to vote such excess shares and/or Notes.[5] As is true under the current Certificate, the calculation of the number of shares of common stock outstanding at any particular time is to be made in accordance with the last sentence of SEC Rule 13d–3(d)(1)(i).[6] As a result, shares of common stock that may be acquired by a holder of Notes through conversion would be deemed to be outstanding for purposes of calculating the voting power owned by such holder.

Paragraph C.3.(f), C.4., and C.5. Currently, these paragraphs: (1) Authorize the Nasdaq Board of Directors to make determinations necessary to implement Paragraph C of Article Fourth of the Certificate, including determinations about stockholder's beneficial ownership of shares; (2) empower the Nasdaq Board of Directors to demand that any person who is reasonably believed to be the beneficial owner of shares in excess of the 5% voting limitation provide information about such person's ownership interest; and (3) provide that determinations made by the Nasdaq Board of Directors to implement Paragraph C of Article Fourth of the Certificate are conclusive and binding upon Nasdaq and its stockholders. Nasdaq proposes to amend these paragraphs to include conforming references to the Notes.

Paragraph C.6. Currently, this paragraph provides that the 5% voting limitation does not apply to: (1) The NASD or its affiliates until such time as the NASD beneficially owns 5% or less of Nasdaq's outstanding common stock; or (2) any other person that the Nasdaq Board of Director may exempt prior to the time that such person beneficially owns more than 5% of the outstanding shares of common stock. The paragraph also provides that the Board may not approve an exemption fro the 5% limit for a registered broker or dealer or an affiliate thereof[7] or a person that is subject to a statutory disqualification under Section 3(a)(29) of the Act.[8] In addition, before granting an exemption, the Nasdaq Board must make certain findings with respect to the effect of an exemption on enumerated aspects of Nasdaq's regulatory obligations.

The proposed rule amendment would add conforming references to the Notes and would also provide that the HFCP IV LPs will be exempted from the 5% voting limitation if the Nasdaq Board of Directors approves an exemption from the 5% voting limitation for any other person (other than an exemption granted in connection with the establishment of a strategic alliance with another exchange or similar market). This exemption would not apply to any other person to whom the HFCP IV LPs might transfer Notes and/or common stock.

Paragraph C.7. Nasdaq represents that this paragraph is a savings clause that

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Mary M. Dunbar, Vice President, Nasdaq, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated June 12, 2001 ("Amendment No. 1").

[4] Securities Exchange Act Release No. 44423 (June 13, 2001), 66 FR 33593.

[5] The Commission notes that because paragraph C.1(b) of the Certificate deems the holders of Notes to be shareholders, this provision restricts voting of Notes to the extent that they are convertible into shares that exceed 5% of Nasdaq's then-outstanding Common Stock, or that exceed 5% when aggregated with the noteholder's direct holdings of Common Stock. Shares underlying the Notes held by a noteholder shall be deemed to be outstanding for the purpose of computing the percentage owned by that noteholder. The voting restriction applies only to holdings of shares and/or Notes in excess of the 5% threshold, however.

[6] 17 CFR 240.13d–3(d)(1)(i).

[7] A small number of the limited partners of the HFCP IV LPs are registered broker/dealers or affiliates of registered broker/dealers (the "Broker/Dealer Investors"). The Certificate provides that Nasdaq may not exempt a registered broker/dealer or an affiliate thereof from the 5% voting limitation. The Certificate defines "affiliate" with reference to SEC Rule 12b–2, 17 CFR 240.12b–2, which in turn defines an "affiliate" of a specified person as "a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified." The interests of the Broker/Dealer Investors in the HFCP IV LPs are minimal. Moreover, the limited partnership agreements that govern the HFCP IV LPs provide that the limited partners shall take no part in the control or management of the business or affairs of the limited partnership, nor shall they have any authority to act for or on behalf of the limited partnership. Accordingly, the HFCP IV LPs are not affiliates of the Broker/Dealer Investors.

[8] 15 U.S.C. 78c(a)(39).

provides that if any portion of Paragraph C. of Article Fourth of the Certificate is found to be invalid, the validity of remaining provisions shall not be affected. Nasdaq proposes to amend the paragraph to include conforming references to the Notes.

Article Ninth

Nasdaq proposes to amend this article to provide that a two-third vote of the holders of outstanding Notes is required: (1) To amend Paragraph C. of Article Fourth of the Certificate in a manner that would adversely affect the rights of the holders of the Notes without similarly affecting the rights of stockholders; or (2) to amend such two-thirds voting requirements.

Article Eleventh

This article authorizes the Nasdaq Board of Directors to consider the effect of proposed corporate action on enumerated aspects of Nasdaq's regulatory obligations. Nasdaq proposes to amend the provision to include conforming references to the Notes.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[9] In particular, the commission believes the proposal is consistent with the requirements of Sections 15A(b)(2) and (6) of the Act,[10] which require, among other things, that the Association be so organized and have the capacity to be able to carry out the purposes of the Act and to comply with, and enforce compliance with, the provisions of the Act, and that the Association's rules are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The purpose of this filing is ensure that the holders of the Notes are granted the same voting rights, and are subject to the same limitations, as the holders of common stock. Therefore, in reviewing this filing, it is instructive to consider the commission's original findings in approving the Certificate.[11] In its order approving the Certificate, the Commission found that the 5% voting limitation and other limitations affecting the control of Nasdaq fulfill the obligations arising under sections 15A(b)(2) and (6). Specifically, the Commission noted that the limitation on voting shares owned in excess of 5% satisfies the requirements of Section 15A(b)(6) because it helps to avoid a situation where the integrity of Nasdaq might be compromised if the NASD had to choose between taking action against a broker or dealer that owned, and could vote, Nasdaq shares in excess of 5%, and fulfilling its self-regulatory responsibilities.

The Commission believes that the changes proposed to Nasdaq's Certificate in this filing are consistent with maintaining the 5% voting limitation that is currently contained in the Certificate, which serves the public interest by ensuring that certain individuals and entities cannot gain undue influence over the operations of Nasdaq, and are therefore consistent with sections 15A(b)(2) and (6).

The Commission also finds that the provision that would exempt HFCP IV LPs from the 5% voting limitation if the Nasdaq Board of Directors approves an exemption from the 5% voting limitation for any other person (other than an exemption granted in connection with the establishment of a strategic alliance with another exchange or similar market) is consistent with section 15A(b)(6) of the Act. The commission notes that as originally approved, the Certificate provided that the Board could grant exemptions from the voting limitation if certain conditions were met.[12] The proposed amendments do not alleviate or in any way change those conditions. They simply provide that if the Board finds it appropriate to approve an exemption for one person or entity, it must also grant the exemption to HFCP IV LPs assuming they meet the same conditions (unless the exemption discussed above for establishment of a strategic alliance applies).

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act [13] that the proposed rule change (SR–NASD–2001–34) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30650 Filed 12–11–01; 8:45 am]

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[9] In approving this rule proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78o-3(b)(2) and (6).

[11] *See* Securities Exchange Act Release No. 42983 (June 26, 2000), 65 FR 41116 (July 3, 2000) (File No. SR–NASD–00–27).

[12] Specifically, the Certificate provides that in no event shall an exemption from the scaled voting provision be granted to (1) a registered broker or dealer, or an affiliate thereof, or (2) an individual or entity subject to statutory disqualification under section 3(a)(39) of the Act. The Board may approve an exemption from the scaled voting provision if the Board determines that granting the exemption would (1) Not reasonably be expected to diminish the quality of, or public confidence in, the Nasdaq Stock Market or other operations of Nasdaq, on the ability to prevent fraudulent and manipulative acts and practices and on investors and the public, and (2) promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities or assist in the removal of impediments to or perfection of the mechanisms for a free and open market and a national market system.

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45136; File No. SR–NYSE–2001–43]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc. Amending Paragraph (1) of the Guidelines to Exchange Rule 105 To Permit Approved Persons of Specialists to Act as a Specialist With Respect to an Option on a Specialty Stock

December 6, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 and ("Act"),[1] Rule 19b–4 thereunder,[2] notice is hereby given that on October 18, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposed rule change on December 4, 2001.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated December 3, 2001 ("Amendment No. 1"). In Amendment No. 1, the NYSE decided to keep the portion of paragraph (l)(ii) of the Guidelines to NYSE Rule 105, which prohibits an approved person affiliated with an NYSE specialist that acts as an options market maker and any other approved person of the specialist from acting as a market maker in any equity security in which the associated specialist is registered as such and which underlies an option to which the approved person acts as an options market maker.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend paragraph (1) of the Guidelines to NYSE Rule 105 to permit an approved person of a specialist to act as a specialist or primary market maker with respect to an option on a stock in which the specialist acts as a market maker on the Exchange ("specialty stock"), provided that all of the requirements of the NYSE Rule 98 exemptive program are met.

The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.

Guidelines for Specialists' Specialty Stock Option Transactions Pursuant to Rule 105

(a) through (k)—No change

* * * * *

(l) Specialist Shall Not Be Options Market-Maker

* * * * *

(ii) Notwithstanding the above, an approved person of an equity specialist entitled to an exemption from this rule under Rule 98 may act as a competitive market-maker, competitive options trader, registered options trader, or *as a specialist or market-maker* [in a similar non-primary market-making capacity] in any option as to which the underlying security is a stock in which the associated specialist is registered as such; provided, however, that if an approved person is so acting as an options market maker pursuant to this paragraph, neither that approved person, nor any other approved person of the specialist, may act as a market maker in any equity security in which the associated specialist is registered as such and which underlies an option as to which the approved person acts as an options market maker.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The next of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections, A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

(1) Purpose

NYSE Rule 105 provides that an "approved person" (*i.e.*, an affiliate in a control relationship) of a specialist organization may trade options on a specialty stock only for hedging purposes. If the approved person establishes a system of internal controls and information barriers pursuant to Exchange Rule 98, however, the approved person may engage in proprietary trading of specialty stock options without being restricted solely to hedging transactions.

Currently, even with an NYSE Rule 98 exemption, an approved person of a specialist may not act as a specialist or primary market maker with respect to an option on a specialty stock. Such approved person of a specialist may, however, act as a competitive or non-primary market maker in a specialty stock option. According to the Exchange, the prohibition on acting as an options specialist or primary market maker has been rooted, historically, in concerns about the perception of an inherent conflict of interest, as there is a direct pricing relationship between a stock and its associated option.

The Exchange believes that on-going consolidation within the securities industry makes it likely that large, well-capitalized, well-regulated organizations may seek to conduct distinct business operations among several affiliated entities. The concerns about possible conflicts of interest as between stock and option market making continue to exist, but the Exchange believes that they can be effectively addressed pursuant to the NYSE Rule 98 exemptive program. The Exchange believes that its experience with this program has demonstrated the viability of "functional regulation" whereby affiliated entities conduct distinct lines of business with strict information barriers between them. Under the NYSE Rule 98 program, specialists and their affiliates must present their proposed operating model to the Exchange for prior approval, and are thereafter, subject to annual NYSE examination. The Exchange states that the NYSE Rule 98 program has been in effect for more than 15 years, and forwards that there have been no instances of a material breach of information barriers.

The Exchange now proposes to amend paragraph (1) of the Guidelines to NYSE Rule 105 to permit an approved person of a specialist to act as a specialist or primary market maker with respect to an option on a specialty stock, provided all requirements of the NYSE Rule 98 exemptive program are met. Thus, among other matters, the approved person must (i) conduct its operations in a legal entity that is separate and distinct from the Exchange equity specialist; (ii) maintain separate and distinct books and records and its own, separately dedicated capital; (iii) maintain strict information barriers between itself and the affiliated Exchange equity specialist regarding trading and position information; (iv) conduct its day to day business with its own staff; and (v) make all trading decisions independent of the Exchange equity specialist.

The Exchange believes that these safeguards are sufficient to address potential conflict of interest problems, while ensuring that the separate entities remain subject to meaningful functional regulation.

(2) Statutory Basis

The Exchange believes the basis for the proposed rule change, as amended, is the requirement under section 6(b)(5) of the Act[4] that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Time for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding, or (ii) as to which the Exchange consents, the Commission will:

[4] 15 U.S.C. 78f(b)(5).

A. by order approve such proposed rule change; or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–2001–43 and should be submitted by January 2, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30653 Filed 12–11–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45132; File No. SR–Phlx–2001–107]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to an Extension of the Interim Intermarket Linkage Program

December 5, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act of 1934"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 29, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 under the Act, proposes to extend the pilot program authorizing implementation of "interim linkages" with the other options exchanges.[3]

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to request an extension of an intermarket options linkage on an "interim" basis. Currently, the Exchange is operating this interim linkage as a pilot program pursuant to Phlx Rule 1081. The interim linkage utilizes existing market infrastructure to facilitate the sending and receiving of order flow between Phlx Specialists, and may later include Registered Options Traders, and their counterparts on the other options exchanges as an interim step towards development of a "permanent" linkage. The Exchange now proposes that the interim linkage would remain in effect on a pilot basis until April 1, 2002.

By way of background, the Commission has approved a linkage plan that now includes all five options exchanges.[4] The options exchanges continue to work towards implementation of this linkage, including contracting with a third party to build a linkage infrastructure. In the meantime, the options exchanges have implemented this interim linkage.

The key component of the interim linkage is the participating exchanges opening their automated customer execution systems, on a limited basis, to market maker orders. Specifically, market makers, such as Phlx Specialists, and later Registered Options Traders, are able to designate certain orders as "customer" orders, and thus, receive execution under the automatic execution parameters of participating exchanges pursuant to the interim linkage.[5]

The interim linkage authorizes the Phlx to implement bilateral or multilateral interim arrangements with the other exchanges to provide for equal access between market makers on our respective exchanges. Currently the interim linkage pilot program allows Phlx Specialists and their equivalents on the other exchanges, when they are holding customer orders, to send orders reflecting the customer orders to the other market for execution when the other market has a better quote. Such orders are limited in size to the lesser of the size of the two markets' "firm" quotes for customer orders. The Exchange expects that the interim linkage may expand to include limited access for pure principal orders of no more than 10 contracts.

Under the rules of the pilot program, all interim linkage orders must be "immediate or cancel" (that is, they cannot be placed on an exchange's limit order book), and a market maker can send a linkage order only when the other (receiving) market is displaying the best national bid or offer and the sending market is displaying an inferior price. This allows a Phlx Specialist to access the better price for its customer. In addition, if the interim linkage includes principal orders, it would allow market makers to attempt to "clear" another market displaying a superior quote.[6]

Phlx Specialists' participation in the interim linkage is voluntary. Only when a Phlx Specialist and their equivalent on another exchange believe that this form

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[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240–19b–4.

[3] On May 16, 2001, the Commission issued a notice of filing and immediate effectiveness of a pilot program submitted by the Phlx authorizing the implementation of an interim linkage. *See* Securities Exchange Act Release No. 44311, 66 FR 28768 (May 24, 2001).

[4] *See* Securities Exchange Act Release Nos. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000); 43573 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 43574 (November 16, 2000), 65 FR 70851 (November 28, 2000).

[5] As with other orders that are executed under the automatic execution parameters of the Exchange, when a limit order constitutes the Exchange's best bid or offer, the specialist executes the incoming order against that order.

[6] The Commission continues to expect that any exchange participating in the interim linkage will implement heightened surveillance procedures to help ensure that their respective market makers send only properly-qualified orders through the interim linkage.

of mutual access is advantageous will the exchanges employ the interim linkage procedures. The Exchange believes that the interim linkage benefits investors and provides useful experience to help the exchanges in implementing the full linkage. For these reasons, the Exchange requests an extension of the pilot program until April 1, 2002.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of section 6(b)(5) under the Act [7] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days or such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the commission will:

(A) by order approve such proposed rule change, or,

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–107 and should be submitted by January 2, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30654 Filed 12–11–01; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78f(b)(5).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45129; File No. SR–Phlx–99–41]

Self-Regulatory Organizations; Notice of Filing and Order Granting Partial Accelerated Approval of Proposed Rule Change and Amendment Nos. 1, 2, and 3 thereto by the Philadelphia Stock Exchange, Inc. Relating to the Trading of Trust Shares

DATES: December 4, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 9, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposal relating to the trading of Trust Shares. On July 10, 2000, the Exchange filed Amendment No. 1 to the proposal.[3] On October 1, 2001, the Exchange filed Amendment No. 2 to the proposal.[4] On November 28, 2001, the Exchange filed Amendment No. 3 to the proposal.[5] The proposed rule change, as amended, is described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant partial accelerated approval to the proposal.[6]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to adopt additional rules and rule amendments that, if approved, would accommodate the trading of Trust Shares. Specifically, the Exchange is proposing to amend Rule 126 to provide for the crossing of block orders; Rule 119 to provide for enhanced specialist participation in Trust Shares; Rule 229 to provide for at-the-opening orders and to provide display of bids and offers in Trust Shares; Rule 703 to establish a minimum net capital requirement for specialists in Trust Shares; and Rule 203 to give precedence to at-the-opening orders and other market orders at opening.[7] Amendment No. 2 replaces the original filing and Amendment No. 1 in their entirety. A list of proposed provisions that the Exchange proposes to establish or amend, is set forth below, with the name of the pertinent rule noted. This is followed by proposed rule text. Proposed new language is in italics; proposed deletions are in brackets.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See letter from Nandita Yagnik, Attorney, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated July 7, 2000 ("Amendment No. 1"). Amendment No. 1 replaced the original proposal in its entirety. The original proposal contained provisions related to the listing of Trust Shares. These provisions do not appear in Amendment No. 1, but were filed in a separate rule proposal, File No. SR–Phlx–00–54. See Securities Exchange Act Release No. 43717 (December 13, 2000), 65 FR 80976 (December 22, 2000).

[4] See letter from John Dayton, Assistant Secretary and Counsel, Phlx, to Nancy Sanow, Assistant Director, Division, Commission, dated September 28, 2001 ("Amendment No. 2"). Amendment No. 2 replaced Amendment No. 1 in its entirety. Amendment No. 2, among other things, omits provisions in the original proposal relating to the establishment of Registered Equity Market Makers to trade Trust Shares.

[5] See letter from John Dayton, Assistant Secretary and Counsel, Phlx, to Nancy Sanow, Assistant Director, Division, Commission, dated November 28, 2001 ("Amendment No. 3"). Amendment No. 3 made certain technical changes to the amended rule proposal.

[6] The Exchange requested accelerated approval of all portions of the proposal except those that deal with guaranteed specialist participation.

[7] Telephone conversation between John Dayton, Assistant Secretary and Counsel, Phlx, and Steven Johnston, Special Counsel, Division, Commission on October 2, 2001 (clarifying that proposed changes to Rules 229 would apply to certain other securities as well as Trust Shares.)

Rule provision	Name of rule
Rule 119(g)	Enhanced Specialist Participation for Trust Shares.*
Rule 126(f) and (g).	Crossing Orders.*
Rule 203	Agreement of Specialists.
Rule 229	PACE.
Rule 703	Financial Responsibility and Reporting.*

*These provisions would apply only to Trust Shares.

Rule 119 Precedence of Highest Bid

Enhanced Specialist Participation for Trust Shares

(g) When the registered specialist in Trust Shares is on parity with a controlled account as defined below, in accordance with Exchange Rules 119 and 120, the specialist is entitled to receive 30% of the initiating order, except in the following circumstances:

(1) where there is one controlled account on parity, the specialist is entitled to receive 60% of the initiating order; or

(2) where there are two controlled accounts on parity, in which case the specialist is entitled to receive 40% of the initiating order.

Further, no customer order which is on parity may receive a smaller participation than any other crowd participant including the specialist. For purposes of this provision, a controlled account includes any account controlled by or under common control with a member broker-dealer. Customer accounts are all other accounts.

Rule 126 "Crossing Orders"

* * * * *

Supplementary Material:

* * * * *

(f) When a member has an order to buy and an order to sell an equivalent amount of the same Trust Share, and both orders are of 25,000 Trust Shares, and both orders are of 25,000 Trust Shares or more and are for the accounts of persons who are not members or member organizations, the member may "cross" those orders at a price at or within the prevailing quotation. The member's bid or offer shall be entitled to priority at such cross price, irrespective of pre-existing bids or offers at that price. The member shall follow the crossing procedures of Rule 451(d), and another member may trade with either the bid or offer side of the cross transaction only to provide a price which is better than the cross price as to all or part of such bid or offer. A member who is providing a better price to one side of the cross transaction must trade with all other market interest having priority at that price before trading with any part of the cross transaction, in whole or in part, at the cross price. A transaction effected the cross price in reliance on this Supplementary Material (f) shall be printed as "Stopped Stock"

(g) Orders to cross 25,000 shares or more Trust Shares, where one or both sides of such cross is for the account of a member or member organization, will be permitted to establish precedence based on size so long as the orders are represented at the post when a sale removing all bids and offers from the Floor takes place. Once the precedence of such orders of 25,000 Trust Shares or more has been established, the broker handling the cross must then bid and offer the security in accordance with Rule 451.

Rule 203 Agreement of Specialists

* * * * *

(e)(i) At an opening, all market orders (whether entrusted to or left with the specialist or represented by a broker or brokers in the Trading Crowd) including at the opening market orders, shall have precedence over limit orders and shall be executed at one price.

(ii) In connection with an opening:

(A) A limited price order to buy which is at a higher price than the price at which the security is to be opened, and a limited price order to sell which is at a lower price than the price at which the security is to be opened, are to be treated as market orders.

(B) A market order to sell short is not to be treated as other market orders, but is to be treated as a limited price order to sell at the price of the first permissible short sale. A limited price order to sell short which is at a lower price than the price at which the security is to be opened, is to be treated as a limited price order to sell at the price of the first permissible short sale. Such orders are to be treated as market orders only if the opening price is higher than the first permissible short sale price.

Rule 229 Philadelphia Stock Exchange Automated Communication and Execution System

* * * * *

Commentary .01

Member organizations wishing to participate in PACE may send to the Philadelphia trading floor market, [and] limit, *and at-the-opening* orders up to the maximum number of shares in securities traded under PACE as shall be fixed by the Exchange from time to time. All orders in eligible securities shall be executed in whole or in part on a first in first out basis. *An at-the-opening order is a market, or limited price order which is to be executed on the opening trade or not at all, and any such order or the portion thereof not so executed is to be treated as cancelled.*

* * * * *

Commentary .15

Orders to which special conditions are attached may be accepted under PACE. The following are the types of orders which will be accepted under PACE:

All or none
Do not increase
Do not reduce
Limit
Market
Open (GTC, day, etc.)
Round-lot, odd-lot, partial round-lot
Stop
Stop limit
With or without
At-the-opening order

* * * * *

Commentary .20

A specialist is responsible for the visibility to the trading crowd of screen displaying the bids and offers for Trust Shares.

Rule 703 Financial Responsibility and Reporting

(a) Financial Responsibility Standards.—Each member organization and foreign currency option participant organization effecting securities transactions shall comply with the capital requirements set forth below:

* * * * *

(v) An assigned Specialist in Trust Shares, as defined in Rule 803(i), that are listed on the Exchange, shall be required to maintain a minimum of $1,000,000 in net capital. The assigned Specialist shall immediately inform the Examinations Department upon failure to be in compliance with such requirement. The Exchange may waive the financial requirements of this Rule in unusual circumstances.

(vi) a member organization or foreign currency option participant organization shall promptly notify the Exchange if it ceases to be in compliance with the net capital requirements of SEC Rule 15c3–1 and/or the provisions of paragraphs (a)(iii) and (a)(iv) above.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filings with the Commission, the self-regulatory organization included

statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On November 8, 1999 the Exchange submitted to the Commission a proposal to adopt new rules and rule amendments to accommodate the trading of Trust Shares, securities that represent interests in a unit investment trust operating on an open end basis and holding a portfolio of securities.[8] The rule amendments deal with the manner in which Trust Shares are expected to trade.

PACE. The Exchange is proposing amendments to Rule 229, Philadelphia Stock Exchange Automated Communication and Execution System ("PACE"). PACE is the Exchange's automatic order routing and execution system on the equity trading floor. PACE accepts orders for manual and automatic execution in accordance with the provisions of Rule 229, which governs PACE and defines its objectives and parameters. The Exchange proposes to amend sections .01 and .15 of the Supplementary Material accompanying Rule 229 to provide for an at-the-opening order for the trading of securities accepted over PACE. An at-the-opening order would be defined as a market or limited price order which is to be executed on the opening trade in a security or not at all, with any such order (or the portion thereof) not so executed to be cancelled.[9] This order type is particularly important for retail investors, institutions, and professional traders who may require execution at the opening price to fulfill their special timing or liquidity needs.

Single Price Opening. The Exchange is proposing to amend Rule 203 to codify single price opening for Trust Shares and other securities.[10] Proposed subsection (e) of Rule 203 would provide that at an opening, all market orders (whether entrusted to or left with the specialist or represented by a broker or brokers in the trading crowd) including at-the-opening market orders, would have precedence over limit orders and would be executed at one price. Market orders receive priority over limit orders in that situation because they must be executed instantaneously at the market price. Provided that there is sufficient liquidity, limit orders at the opening price may be executed with market orders. Limit orders that are not near the opening price will remain on the specialist's book until they come due.

Proposed subsection 203(e)(ii) would provide that a limited price order to buy which is at a higher price than the price at which the security is to be opened, and a limited price order to sell which is at a lower price than the price at which the security is to be opened, are to be treated as market orders. It also would provide that a market order to sell short would be treated as a limited price order to sell at the price of the first permissible short sale. A limited price order to sell short which is at a lower price than the price at which the security is to be opened would be treated as a limited price order to sell at the price of the first permissible short sale. Such orders would be treated as market orders only if the opening price were higher than the first permissible short sale price.

The specialist, who may base the price upon the index value as well as the last sale price and other market factors, would determine the opening price. This differs from the current method of opening for non-primary listed securities, which is based upon the primary market's opening price. Other exchanges have comparable rules.[11]

Block Orders. The Exchange is also proposing new Supplementary Material (f) to Phlx Rule 126, "Crossing Orders." The proposed new Supplementary Material would apply only to the crossing of block orders in Trust Shares and not to the trading of any other securities on the Exchange's equity floor. The proposed rule amendment would permit a member to "cross" at a price at or within the prevailing quotation an order to buy and an order to sell an equivalent amount of the same Trust Share if both orders are for 25,000 Trust Shares or more and are for the accounts of persons who are not members or member organizations. The member's bid or offer would be entitled to priority at the cross price, regardless of pre-existing bids or offers at that price. Another member could trade with either the bid or offer side of the cross transaction only to provide a price which is better than the cross price as to all or part of such bid or offer. A member providing a better price to one side of the cross transaction would be required to trade with all other market interest having priority at that price before trading with any part of the cross transaction at the cross price.

In addition, new Supplementary Material (g) would permit a member to "facilitate" the crossing of orders at a price at or within the prevailing quotation, when the member has an order to buy or sell and one or both of the orders to be crossed are for persons who are members or member organizations and both orders are for 25,000 shares or more, so long as the orders are represented at the post when a sale removing all bids and offers from the Floor takes place. The Phlx understands that these cross transactions, like other exchange transactions, remain subject to section 11(a) of the Act and the rules thereunder. For example, a member relying on the exception provided by Rule 11a2–2T may need to utilize an "independent" floor broker to satisfy the requirements of that Rule. Other exchanges have similar provisions.[12] The Exchange represents that its proposed crossing provision is appropriate given the large size of Trust Share orders that the Exchange anticipates will be generated by investors.

Enhanced Participation for Trust Shares. Proposed new section (g) of Rule 119, which is based upon Phlx Options Rule 1014(g)(i) and (ii), *Equity Option and Index Option Priority and Parity*, provides for splits, which means trade participation among the crowd. The new subsection would provide Phlx equity specialists in Trust Shares with an enhanced participation in "parity trades" or trades where there are several participants bidding/offering the same

[8] Each Trust will provide investors with an instrument that (1) closely tracks the underlying portfolio of securities; (2) trades like a share of common stock; and (3) pays holders of the instrument periodic dividends proportionate to those paid with respect to the underlying portfolio of securities, less certain expenses (as described in the Trust prospectus).

[9] The proposed definition generally tracks the definition of "at the opening order" found in American Stock Exchange LLC ("Amex") Rule 131(f) and New York Stock Exchange ("NYSE") Rule 13.

[10] Telephone conversation between John Dayton, Assistant Secretary and Counsel, Phlx, and Steven Johnston, Special Counsel, Division, Commission on December 4, 2001 (clarifying the scope of securities eligible for single-price opening.)

[11] *See, e.g.*, Amex Rule 108(a) and (b).

[12] See NYSE Rule 72.1(b) (Priority of Agency Cross Transactions); Amex Rule 126, Commentary sections .01 and .02 (Precedence of Bids and Offers); and Chicago Stock Exchange Rule 23, Interpretations and Policies section .02 (Cross Transactions of 25,000 Shares or More).

price.[13] While a parity trade is generally divided evenly among the crowd participants on parity, enhanced participation would give the specialist a greater share of trades than he would normally receive. The purpose of the proposed enhanced parity split is to encourage specialists to make deep and liquid markets in order to attract order flow to the Exchange. Specialists have responsibilities that other crowd participants do not share, such as staffing costs associated with continually updating and disseminating quotes.[14] Therefore, the Exchange represents that granting certain advantages to specialists, such as the proposed enhanced parity split, is a reasonable measure for attracting and retaining well-capitalized specialists.

The Exchange also represents that application of the proposed enhanced parity splits would under no circumstances cause a customer on parity to receive a smaller participation than any other crowd participant, including the specialist. Under the proposal, a customer on parity is ensured a participation that, at a minimum, is equal to that given any other participant on parity.

Current Phlx Rule 199(g) defines a "controlled account" as any account controlled by or under common control with a member broker-dealer, and defines "customer accounts," which include discretionary accounts, as all accounts other than controlled accounts and specialist accounts. Proposed Rule 119(g) provides that when the specialist in Trust Shares is on parity with one controlled account, the specialist is entitled to receive 60% of the initiating order and the controlled account would receive 40%. When the specialist is on parity with two controlled accounts, the specialist is entitled to receive 40% of the initiating order and each controlled account would receive 30%. When the specialist is on parity with three or more controlled accounts, the specialist is entitled 30% of the initiating order remaining after any customer accounts on parity have been filled. As noted above, in any of these situations if a customer were on parity, the customer would not be disadvantaged by receiving a lesser allotment than any other crowd participant, including the specialist.

Enhanced parity is intended to encourage specialist units to trade and to provide liquidity in Trust Shares, thereby attracting order flow to the Exchange. The Exchange believes the proposal balances the competing interests of specialists and market makers.

Financial Responsibility and Reporting. Currently, specialists are required to have $100,000 in net capital to trade equity securities. Trust Shares, which are to be listed on the Exchange, can be expected to entail a substantial financial commitment on the part of the specialist assigned to them. Because of the potential risk associated with listed Trust Shares, the Exchange is proposing to establish a minimum net capital requirement of $1,000,000 for the trading of listed Trust Shares by specialists. The Exchange believes that imposing a higher net capital requirement is one way to ensure that the Trust Share specialist can carry out his duties to maintain a fair and orderly market. The Exchange notes that in the past it has required higher net capital requirements for specialists in FLEX® options. Specialists in those options are also required to have $1,000,000 in net capital.[15] The proposed higher net capital requirement for specialists in Trust Shares traded at the Phlx on a primary basis (contained in proposed new Rule 703(a)(v)) would not apply to Trust Shares traded on an unlisted trading privileges basis.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act[16] in general and furthers the objectives of section 6(b)(5)[17] in particular in that it is designed to facilitate transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors.

B. Self-Regulatory Organization's Statement on Burden of Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The Exchange has requested that the Commission find good cause, pursuant to Section 19(b)(2) of the Act,[18] for approving, prior to the thirtieth day after publication in the **Federal Register**, portions of the rule proposal related to the following: proposed subsections (f) and (g) of Supplementary Material to Rule 126; proposed subsection (e) of Rule 203; proposed Commentary .20, and proposed amendments to Rule Commentary .01 and .15, to Rule 229; and proposed amendments to subsection (a) of Rule 703.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at

[13] Under Phlx Rules 119 and 120, when bids and offers are made simultaneously, or when it is impossible to determine clearly the order of time in which they were made, all such bids and offers shall be on parity. For example, suppose a floor broker holding a sell order for 100 Trust Shares announces his order to the crowd. In response, three crowd participants might simultaneously bid to buy the 100 Trust Shares at the same price. The bids are on parity.

[14] The Exchange is also proposing in this rule filing a $1,000,000 minimum net capital requirement for the specialist in Trust Shares listed on the Exchange.

[15] *See* Phlx Rule 1079(c).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78s(b)(2).

the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–99–41 and should be submitted by January 2, 2002.

V. Commission's Findings and Order Granting Partial Accelerated Approval of Proposed Rule Change

The Phlx has requested that the Commission approve the amended rule proposal on an accelerated basis, except for portions of the amended proposal concerning enhanced participation of specialists. The Exchange notes that the changes for which it seeks accelerated approval would result in rule provisions that are substantially similar to previously approved rules of other exchanges. Further, the Phlx represents that granting approval of the changes would be consistent with the protection of investors and the public interest.

The Commission finds that the portions of the rule change proposal for which the Exchange has requested accelerated approval are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the amendments are consistent with section 6(b)(5) of the Act,[19] which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange has proposed to amend Rule 203 to codify a single price opening for Trust Shares and other securities for which the Exchange is the primary market. In a single-price opening, the specialist seeks to achieve a balance between buy orders and sell orders by setting and displaying a price where there is roughly equal interest on both sides of the market. The price at which this balance is achieved becomes the opening price. Market orders are used to ascertain this balance and, at opening, have precedence over limit orders. The Commission finds the proposal to establish a single price opening is consistent with previously approved rule provisions,[20] and should provide for efficient opening of trading in Exchange securities for which the Phlx is the primary market.

The Exchange proposal would also accommodate the crossing of block trades in Trust Shares. The specific crossing procedures that would be used differ, depending on whether a cross involves an order for the account of an exchange member (a proprietary cross) or no orders for the account of an exchange member (an agency cross). In the proprietary cross situation, orders to be crossed are only permitted to establish precedence based on size if they are represented at the post when a sale has taken place and removed all other bids and offers from the trading floor. In addition, before a member may cross an order with an order for the member's own account, the member would have to satisfy procedural requirements in Rule 451. To take securities in the cross, for example, the member would need to have offered the same securities in the open market at a price higher than the member's bid by the minimum trading increment permitted in those securities; to supply securities in the cross, the member would need to have bid for the securities on the open market at a price lower than the member's offer by the minimum trading increment permitted in those securities.

In the agency cross situation, a member's bid or offer would be entitled to priority over pre-existing bids or offers at the cross price. The member would be required to satisfy the procedure in Rule 451(d), which permits a member to "report to his principal a transaction made with the member himself when he has orders from two principals to buy and to sell the same security," as long as the member adds to his name on that report the words "on order." Another member would be permitted to trade with either side of a pending cross transaction (*i.e.*, "break up" the cross), but only if that other member: (1) offers an improved price to either side of the pending cross transaction; and (2) trades with all market interest that has priority over the price-improving member at the improved price. If these conditions are satisfied, the price-improving member may trade with all or part of either the bid or offer side of the pending cross at the improved price.

As the Phlx noted, the use of a proprietary cross to execute trades raises the issue of compliance with section 11(a) of the Act. For a proprietary cross to avoid violating section 11(a), it must be accomplished consistent with an exception to that section's general prohibition against exchange members trading for their own accounts. As noted by the Exchange in Amendment No. 2 to the proposal, rule 11a2–2(T), *Transactions Effected by Exchange Members Through Other Members*, is one such exception,[21] and an Exchange member seeking to rely upon that rule may need to utilize an independent floor broker. The Commission recognizes that the Exchange is aware of and has addressed the relationship between continued compliance with section 11(a) and the proposed proprietary crossing provision.

The Exchange also proposed to impose a new net capital requirement pertaining to Trust Shares and to make specialists responsible for displaying bids and offers in Trust Shares to the crowd. The Commission finds that the proposed net capital requirement is consistent with the Exchange's expectation that Trust Shares may entail a substantial financial commitment by specialists and that the display requirement is essential to ensuring price transparency.

The Commission finds good cause for partially approving the proposed rule change, and Amendment Nos. 1, 2, and 3 thereto, prior to the thirtieth day after the date of publication of the notice thereof in the **Federal Register** pursuant to section 19(b)(2) of the Act.[22] The portions of the proposed and amended rule change pertaining to the crossing of block trades in Trust Shares, single price openings, and at-the-opening orders conform to rule provisions previously approved for use on the Amex. In addition, the proposal to impose special net capital requirements in connection with the trading of Trust Shares is consistent with a previously approved proposal of the Boston Stock Exchange, and the proposal to display bids and offers in Trust Shares is necessary to ensure transparent trading of this new securities product.

Amendment No. 1 to the proposed rule change, among other things, eliminated portions of the original proposal pertaining to the listing of Trust Shares. The Exchange subsequently filed, and the Commission approved, a separate rule proposal on that topic. Amendment No. 2, among other things, also eliminated from the proposal provisions pertaining to the establishment of Registered Equity Traders in Trust Shares. Amendment No. 2 also strengthens the original proposal by carefully delineating between procedures applicable to proprietary cross transactions versus those the Phlx would apply to agency cross transactions. Amendment No. 3 further strengthens the proposal by

[19] 15 U.S.C. 78s(b)(5).

[20] *See* Amex Rule 108(a) and (b).

[21] The rule was adopted by the Commission pursuant to its authority under Section 11(a)(1)(H) and (a)(2). *See* Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978).

[22] 15 U.S.C. 78f(b)(2).

correcting certain technical errors in the rule proposal. Accordingly, the Commission finds good cause for granting partial accelerated approval to the rule proposal, as amended.[23]

VI. Conclusion

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[24] that proposed amendments to Phlx Rule 126, Rule 203, Rule 229, and Rule 703 are hereby approved.[25]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30655 Filed 12–11–01; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2001–11106]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Numbers 2115–0115, 2115–0078, 2115–0113, and 2115–0013

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of four Information Collection Requests (ICRs). The ICRs comprise (1) Electrical Engineering—Title 46 CFR Subchapter J, (2) Operations Manual and Amendments for Facilities Transferring Oil and Hazardous Materials in Bulk, (3) Self-propelled Vessels Carrying Liquefied Gas, and (4) Application and Permit to Handle Hazardous Material. Before submitting the ICRs to OMB, the Coast Guard is inviting comments on them as described below.

DATES: Comments must reach the Coast Guard on or before February 11, 2002.

ADDRESSES: To make sure that your comments and related material do not enter the docket (USCG 2001–11106) more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. Caution: Because of recent delays in the delivery of mail, your comments may reach the Facility more quickly if you choose one of the other means described below.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov*.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

Copies of the complete ICR are available through this docket on the Internet at http://dms.dot.gov, and also from Commandant (G–CIM–2), U.S. Coast Guard Headquarters, room 6106 (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on these documents; or Dorothy Beard, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–5149, for questions on the docket.

Request for Comments

The Coast Guard encourages interested persons to submit comments. Persons submitting comments should include their names and addresses, identify this document (USCG 2001–11106), and give the reasons for the comments. Please submit all comments and attachments in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped self-addressed postcards or envelopes.

Information Collection Requests

1. *Title:* Electrical Engineering—Title 46 CFR subchapter J.

OMB Control Number: 2115–0115.

Summary: We need the information sought here to ensure compliance with our rules on electrical engineering for the design and construction of U.S.-flag commercial vessels.

Need: 46 U.S.C. 3306 and 3703 authorize the Coast Guard to establish rules to promote the safety of life and property in commercial vessels. These rules appear at 46 CFR subchapter J (parts 110 to 113).

Respondents: Owners, operators, and builders of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden is 1,153 hours a year.

2. *Title:* Operations Manual and Amendments for Facilities Transferring Oil and Hazardous Materials in Bulk.

OMB Control Number: 2115–0078.

Summary: An operations manual is mandatory for waterfront facilities that will be transferring bulk oil or hazardous materials to or from vessels. It establishes procedures for personnel of the facility to follow when conducting the transfer and in the event of a spill.

Need: 33 U.S.C. 1321 authorizes the Coast Guard to establish rules to prevent the discharge of oil and hazardous materials from facilities. 33 CFR part 154 prescribes these rules.

Respondents: Owners and operators of waterfront facilities.

Frequency: On occasion.

Burden Estimate: The estimated burden is 27,369 hours a year.

3. *Title:* Self-propelled Vessels Carrying Liquefied Gas.

OMB Control Number: 2115–0113.

Summary: We need the information sought here to ensure compliance with our rules for the design and operation of carriers of liquefied gas.

Need: 46 U.S.C. 3703 and 9101 authorize the Coast Guard to establish rules to protect life, property, and the environment from the hazards associated with the carriage of dangerous liquid cargo in bulk. 46 CFR part 154 prescribes these rules for the carriage of liquefied gases in bulk on self-propelled vessels by governing the design, construction, equipment, and operation of these vessels and the safety of personnel aboard them.

Respondents: Owners and operators of self-propelled vessels carrying liquefied gas.

Frequency: On occasion.

Burden Estimate: The estimated burden is 5,131 hours a year.

4. *Title:* Application and Permit to Handle Hazardous Materials.

OMB Control Number: 2115–0013.

Summary: The information sought here ensures the safe handling of explosives and other hazardous

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[23] The proposed rule change to Rule 119(a), *Enhanced Specialist Participation*, is not being approved but is only being noticed for comment by the Commission for review under section 19(b)(2) of the Act (15 U.S.C. 78s(b)(2)).

[24] 15 U.S.C. 78s(b)(2).

[25] In approving the proposals, the Commission has considered their impact on efficiency, competition, and capital formation.

materials around ports and aboard vessels. Shipping agents and terminal operators who handle the above commodities must comply.

Need: 33 U.S.C. 1225 authorizes the Coast Guard to establish standards for the handling, storage, and movement of hazardous materials on a vessel or waterfront facility. 33 CFR 126.17 and 49 CFR 176.100 and 176.415 prescribe the rules for facilities and vessels.

Respondents: Shipping agents and terminal operators that handle hazardous materials.

Frequency: On occasion.

Burden Estimate: The estimated burden is 292 hours a year.

Dated: December 7, 2001.

V.S. Crea,

Director of Information and Technology.

[FR Doc. 01–30751 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is issuing this notice to advise the public of the date for the seventh meeting of the FAA Aircraft Repair and Maintenance Advisory Committee. The purpose of the meeting is for the Committee to continue working towards accomplishing the goals and objectives pursuant to its congressional mandate.

DATES: The meeting will be held Tuesday, December 18, 2001, 9 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at Federal Aviation Administration, 800 Independence Avenue, SW., Bessie Coleman Conference Center, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ellen Bowie, Federal Aviation Administration (AFS–300), 800 Independence Avenue, SW., Washington, DC 20591; phone (202) 267–9952; fax (202) 267–5115; E-mail *EllenBowie@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the FAA Aircraft Repair and Maintenance Advisory Committee to be held on December 18, at the Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591.

The agenda will include:

- Committee administration.
- Reading and approval of minutes.
- Review of open/additional action items.
- Final voting on report.
- Sign off on report draft.
- Statements by members of the public.
- Final timeline review.
- Closing remarks and adjournment.

Attendance is open to the public but will be limited to the availability of meeting room space. Persons desiring to present a verbal statement must provide a written summary of remarks. Please focus your remarks on the tasks, specific activities, projects or goals of the Advisory Committee, and benefits to the aviation public. Speakers will be limited to 5-minute presentations. Please contact Ms. Ellen Bowie at the number listed above if you plan to attend the meeting or to present a verbal statement.

Individuals making verbal presentations at the meeting should bring 25 copies to give to the Committee's Executive Director. These copies may be provided to the audience at the discretion of the submitter.

Issued in Washington, DC on December 6, 2001.

David E. Cann,

Manager, Continuous Airworthiness Maintenance Division.

[FR Doc. 01–30639 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Safety Advisory: Unauthorized Cargo Tanks Used To Transport Hazardous Materials

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of identification of unauthorized cargo tanks.

SUMMARY: This notice identifies unauthorized cargo tanks and removes them from service. The FMCSA has identified non-conforming cargo tanks as the result of compliance reviews assessing compliance with Hazardous Materials Regulations. This action notifies tank owners that these tanks are not authorized to transport hazardous materials, and ensures their removal from service. The FMCSA notifies the public that MC–331 cargo tank motor vehicles assembled with designs T–5314, certified 3–10–1997 and T–5602–A, certified 9–12–1997 by Chemical Transportation Engineering Consultants, Inc., Lubbock, TX do not meet the minimum design requirements for a specification cargo tank and are no longer authorized to transport hazardous materials requiring a specification package. These tanks are no longer authorized because the rear end protection devices for these cargo tanks do not meet the minimum regulatory requirements. There is a high probability that a failure of these devices could occur during a rear end collision resulting in serious injury, death and property damage.

FOR FURTHER INFORMATION CONTACT: Mr. Joe DeLorenzo, (708) 283–3572. Midwest Service Center, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 19900 Governors Drive, Suite 210, Olympia Fields, IL 60461. Office hours are from 7:30 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be viewed and downloaded from the internet at *http://dms.dot.gov.*

Background

The FMCSA has the responsibility to ensure cargo tanks are designed and constructed in accordance with the DOT specifications. This authority is granted pursuant to 49 U.S.C. 5101 *et seq.*, as delegated to the FMCSA by the Secretary of Transportation in 49 C.F.R. 1.73(d)(1). To accomplish this mission, FMCSA performs compliance reviews of cargo tank manufacturers and assemblers and verifies the design and analysis of these cargo tanks with the recommended best practices identified in FMCSA's Guidelines for Structural Evaluation of Cargo Tanks, 1st edition, June 1996.

Although FMCSA has no recall authority, we utilize other means to remove unsafe cargo tanks from HM service until defects are corrected. Historically, FMCSA has utilized consent agreements that offer a reduction in the assessment of civil penalties if the cargo tank manufacturers and assemblers will recall and repair these defective tanks. Unfortunately there have been situations where this strategy has not always been effective and the FMCSA officially notified customers using defective cargo tanks by publishing a Safety Advisory Notice in the **Federal Register**. A recent example of the Safety Advisory Notice in the **Federal Register** was the identification of non-conforming cargo tanks manufactured by Acro Trailer Company, Springfield, MO. (attached)

On separate occasions, investigators of the Federal Motor Carrier Safety Administration (FMCSA), performed compliance reviews on Bulk Truck and Transport in Hanover, IN and Eagle Fabrication and Repair, Oak Harbor, OH. These reviews discovered that both facilities were performing functions of a cargo tank assembler by attaching rear end protection devices (bumpers) to cargo tanks. These bumpers were certified by design certifying engineers from Chemical Transportation Equipment Consultants (CTEC), Lubbock, TX to meet the requirements of 49 CFR 178.337–10. An analysis of CTEC's calculations for the design of the bumpers by structural engineers from the FHWA discovered that these bumpers failed to meet the minimum design requirements. FMCSA performed a second level independent analysis of these calculations that verified the results of the FHWA engineers. FMCSA then hired an independent consulting firm specializing in the design and analysis of cargo tanks to perform a third level review of the calculations and verify the results. Their results verified the initial and second level review that the bumpers failed to meet the minimum design requirements of the regulations.

Eagle Fabrication and Repair and Bulk Tank and Transport accepted in good faith the certification of the rear end protection device (bumper) from CTEC. An enforcement case was initiated against CTEC in an effort to remove and repair these unauthorized cargo tanks. The enforcement action resulted in the Agency issuing a Final Order served on April 9, 2001 and effective on May 24, 2001. This final order assessed CETC a civil penalty of $10,000 for violations of the HM regulation. CTEC has failed to respond to the Final Order, failed to provide design modifications to repair these unauthorized tanks, and is no longer in business. There are at least 300 cargo tanks that have not been modified to comply with the requirements. The issuance of the attached **Federal Register** Safety Advisory Notice will remove these unsafe cargo tanks from hazardous materials service by accomplishing the following:

- Notify the owners that these tanks are no longer authorized to transport hazardous materials requiring a specification cargo tank.
- Provide sufficient knowledge and willfulness for FMCSA to initiate enforcement action against any carrier who uses one of these non-conforming tanks to transport hazardous materials requiring a specification cargo tank.
- Fulfill FMCSA's responsibility for the safe transportation of hazardous materials.

Our compliance and enforcement strategies that will be utilized to ensure these unsafe cargo tanks are removed from specification service will include the following:

- The Midwest Service Center will identify the cargo tanks based on sales records or other documents from the manufacturers.
- Provide a copy of the **Federal Register** Notice to each owner via certified mail, return receipt requested. This written correspondence will also request the carrier to provide clear and convincing documentation the cargo tank motor vehicle has been modified or is no longer complying with specifications and operating as a cargo tanker.
- Use compliance reviews and other verification tools to determine if the motor carriers that are operating these tanks have made the modifications and initiate enforcement when appropriate.
- Provide the field staff a list of serial numbers, unit numbers or other unique identifier to enable the field staff and our state partners to effectively identify these tanks and provide guidance documents to determine if the modifications have been made on these tanks.

Cargo tanks represented, marked, certified or sold as a specification package for use in the bulk transportation of hazardous materials must be designed and constructed in accordance with 49 CFR 178 of the Hazardous Materials Regulations (HMR). One of the primary uses of an MC–331 cargo tank is the transportation of liquefied compressed gases. Due to the increased risk associated with the transportation of these types of material, the design specification for an MC–331 cargo tank requires these tanks to be protected from damage during rear-end or overturn accidents.

Specification MC–331 cargo tanks are manufactured in accordance with 49 CFR 178.337. This specification includes various requirements for protecting the integrity of the tank and its fittings in case of an accident. Of concern in this notice is the requirement for rear end protection devices (rear bumper) found in 49 CFR 178.337–10(d). This section states that:

> Each cargo tank shall be provided with at least one rear bumper designed to protect the tank and piping in the event of a rear end collision and minimize the possibility of any part of the colliding vehicle striking the tank. The design shall be such as to transmit the force of a rear end collision in a horizontal line to the chassis of the vehicle. The bumper shall be designed to withstand the impact of the fully loaded vehicle with a deceleration of 2 "g", using a safety factor of four based on the ultimate strength of the bumper material. The bumpers shall conform dimensionally to § 393.86, chapter III of this title.

The key provisions of this section are:

(1) Use of a safety factor of 4, and

(2) Basing this safety factor on the ultimate strength of the material. This means the appropriate ultimate strength of the material, such as tension, compression, shear or bending as appropriate.

During a compliance review of an MC–331 cargo tank motor vehicle assembler conducted by the Federal Motor Carrier Safety Administration (FMSCA), it was discovered that rear bumpers designed and certified by Chemical Transportation Engineering Consultants, Inc. (CTEC) did not meet the requirements of 49 CFR 178.337–10(d) of the Hazardous Materials Regulations. Engineering analysis performed on the design concluded that the rear end protection device (bumper) failed to meet the requirements of the specification. Subsequently, an independent consultant at the request of the FMCSA conducted an additional analysis and arrived at the same conclusions. They are as follows:

- CTEC incorrectly defined the "ultimate strength" of the material as the ultimate tensile strength when analyzing bolts subject to shear forces. As used in § 178.337–10(d) "it means that the strength of the material corresponding to the structural action under investigation (i.e., tension, compression, shear, bending) is to be employed" (Kulak). Shear strength is approximately 62 percent of the tensile strength.
- A safety factor of 4 is clearly required by § 178.337–10(d) when calculating the required strength of the bolts.
- When applying both the safety factor of 4 and considering the shear strength of the bolts as required by the regulation, the design of CTEC's rear end protection device (bumper) clearly does not meet the minimum requirements of § 178.337–10(d).

This design was prepared and certified by CTEC and sold to Eagle Fabrication and Repair, Oak Harbor, OH (Eagle). Eagle properly accepted the certification provided by CTEC and manufactured rear end protection devices in accordance with the designs provided by CTEC. These rear end protection devices were installed on cargo tank motor vehicles by Eagle and sold to other cargo tank motor vehicle

assemblers for installation on cargo tank motor vehicles.

Because these tanks were not equipped with a rear end protection devices designed and constructed in accordance with 49 CFR 178.337–10(d) of the Hazardous Materials Regulations, these cargo tank motor vehicles may not be represented as specification cargo tanks and may not be represented, marked, certified or sold as a specification package used to transport hazardous materials.

During a separate investigation another rear end protection device (bumper) design was discovered that failed to meet the requirements of 49 CFR 178.337–10(b). This design was prepared and certified by CTEC and sold to Bulk Truck and Transport (BT & T), Hanover, IN. BT&T properly accepted the certification provided by CTEC and manufactured rear end protection devices (bumpers) in accordance with CTEC's design. A Federal Highway Administration (FHWA) structural engineer performed engineering analysis on the design and concluded that the rear end protection device (bumper) failed to meet the requirements of the specification because CTEC failed to include the safety factor of four in the engineering analysis as required by the regulations. This preliminary analysis was reviewed by an engineer with the Federal Motor Carrier Safety Administration (FMCSA) (formerly the FHWA Office of Motor Carrier Safety) and determined to be scientifically valid.

Corrective Action to be Taken

Because the tanks equipped with rear end protection devices (bumpers) manufactured using CTEC deigns T–5314 and T–5062 failed to meet the minimum requirements of 49 CFR 178.337–10, they may not be represented, marked, certified or sold as a specification cargo tank and may not be used to transport hazardous materials that require a specification cargo tank. Motor carriers who commit knowing and willful violations of the Federal Hazardous Materials Regulations may be subject to civil and criminal penalties.

Cargo tanks assembled with the rear end protection device (bumper) design specified in this notice may only be used to transport hazardous materials if the rear end protection (bumper) device has been modified to a design that meets the requirements of 49 CFR 178.337–10. Cargo tanks which have not had appropriate modifications performed to comply with 49 CFR 178.337–10(d) must have the specification plate removed, obliterated, or covered and these tanks may not be used to transport hazardous materials requiring a specification cargo tank.

During the compliance review process fundamental errors were discovered in the engineering calculations by CTEC. These engineering calculation errors indicate other designs prepared and certified by CTEC may also not comply with the rear end protection device (bumper) requirements of the MC–331 cargo tank specification. The FMCSA is encouraging the owners of cargo tanks with rear end protection devices and anchoring systems designed and certified by CTEC to have these designs reviewed by a Design Certifying Engineer (DCE) for compliance with the requirements of the regulation.

Issued on: December 5, 2001.

Joseph M. Clapp,

Administrator.

[FR Doc. 01–30641 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement: Downtown/Natomas/Airport Corridor in Sacramento, CA

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement (EIS).

SUMMARY: The Federal Transit Administration (FTA) and the Sacramento Regional Transit District (RT), intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) and an Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA) for proposed transit improvements from 7th Street and K Street in downtown Sacramento, north through the South and North Natomas areas to the Sacramento International Airport. To date, 11 alternatives have been identified to be addressed in the EIS/EIR. These alternatives include a no-action alternative, Transportation Systems Demand (TSM) alternative, transit service improvements, bus service expansion alternatives, bus rapid transit (BRT) alternatives, and light rail transit (LRT) alternatives. In addition, alternatives that are identified from the scoping process will be evaluated in the EIS/EIR. Scoping will be accomplished through correspondence and discussions with interested persons; organizations; and federal, state, and local agencies; and through public and agency meetings.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered in the EIS/EIR must be received no later than January 28, 2002, and must be sent to RT at the address indicated below. Scoping Meetings: RT will conduct three identical scoping meetings. These meetings will be held on December 11, 2001 from 2 p.m. to 4 p.m. at the Regional Transit Administration Building in the Auditorium, located at 1400 29th Street, Sacramento, California 95812; on December 12, 2001 from 6 p.m. to 8 p.m. at The Club at North Natomas, located at 2101 Club Center Drive, Sacramento, California 95835; and December 13, 2001 from 6 p.m. to 8 p.m. at the South Natomas Community Center, located at 2921 Truxel Road, Sacramento, California 95833.

ADDRESSES: Written comments should be sent to Mr. David M. Melko, Policy and Program Manager, Sacramento Regional Transit District, P.O. Box 2110, Sacramento, California 95812–2110. Phone: (916) 321–2992. Fax: (916) 444–2156.

To be added to the mailing list, contact Ms. Susan Willson, Project Manager of Community Relations, The Hoyt Company, 660 J Street, Suite 444, Sacramento, California 95814, (916) 448–2440, e-mail address: *swillson@ns.net*. Please specify the mailing list for the Downtown/Natomas/Airport Corridor Alternatives Analysis/Draft Environmental Impact Statement/Report (DNA AA/DEIS/R). Persons with special needs such as sign language interpretation also should contact Susan Willson, Project Manager of Community Relations, as indicated above. The dates and addresses of the scoping meetings are given in the DATES section above. All locations are accessible to people with disabilities.

FOR FURTHER INFORMATION CONTACT: To request a scoping information packet, contact Mr. David Melko, Policy and Program Manager, Sacramento Regional Transit District, P.O. Box 2110, Sacramento, California 95812–2110. Phone: (916) 321–2992. Fax: (916) 444–2156. The Federal Agency contact is Mr. Jerome Wiggins, Office of Planning and Program Development, FTA, 201 Mission Street, Room 2210, San Francisco, CA 94105. Phone: (415) 744–3115.

SUPPLEMENTARY INFORMATION:

I. Description of Study Area and Scope

The Federal Transit Administration (FTA), as joint lead agency with the

Sacramento Regional Transit District (RT), will prepare an EIS/EIR on a proposal to improve transit service in an approximately 13-mile-long corridor in north Sacramento, California. The study area begins in downtown Sacramento at 7th and K Streets. The southern terminus of the study boundary is typical of an urban downtown environment, with a mixture of land uses. Traveling north, the proposed action would cross the Union Pacific Railyard at the northern edge of downtown and the American River, possibly on a new bridge, traversing the American River Parkway at Discovery Park. It would pass through the South Natomas area (which consists of a mixture of single- and multi-family residential units, and commercial uses), cross Interstate 80 (I–80) and enter the North Natomas area (which consists of a combination of single- and multi-family residential units, commercial and light industrial uses, agricultural, and open space). The northern terminus of the proposed action is reached by crossing I–5/State Route 99, connecting to the Sacramento International Airport, located approximately 13 miles northwest of downtown Sacramento. The Airport now has a mixture of agricultural and urban uses surrounding it. RT will perform conceptual engineering for transit alternatives within the Sacramento Downtown/ Natomas/Airport (DNA) Corridor for a Draft EIS/EIR that satisfies both NEPA and CEQA requirements. In addition, a financial plan will be developed that examines alternative funding sources, including airport related funding opportunities.

II. Purpose and Need

Freeways, highways, streets, and RT's 226 buses and 36 light rail vehicles are currently the primary transportation components responsible for the movement of people and goods in the Sacramento region. All types of services, such as public and private transit services, bicycles and pedestrians, use the existing highway and roadway network. Implementation of the proposed action will serve one of the fastest growing areas of the Sacramento region. The population in RT's service area is expected to grow by about 40 percent over the next 25 years and employment levels are expected to grow even faster. In the DNA Corridor, population is expected to increase by 100 percent (80,000 persons), and employment by 64 percent (83,000 jobs) by 2025. The Sacramento region is a non-attainment area for air quality and measures are needed to reduce mobile source emissions. In addition, RT's current service levels are lower than most of its peer cities of comparable size around the U.S. An expanded transit system will provide greater transportation mobility in a corridor that currently has the lowest amount of transit service in the region, and support economic development in a rapidly growing corridor.

III. Alternatives

The alternatives under consideration include a No-Action Alternative, a Transportation Systems Management (TSM) alternative, two Enhanced Bus Alternatives, two Bus Rapid Transit (BRT) Alternatives, and five Light Rail Transit (LRT) Alternatives. In addition, several sub-alternatives will be evaluated as well as any other alternatives that are identified during the public scoping process. A brief description of the alternatives is provided below. These alternatives will be developed further during the preparation of the Draft EIS/EIR.

Alternative 1: No-Action. This alternative consists of highway and transit systems existing as of year 2000, plus programmed improvements. It serves as the NEPA baseline against which the transportation, environmental, and community impacts of the other alternatives are compared.

Alternative 2: TSM Alternative. This alternative consists of all reasonable cost-effective transit service improvements within the DNA corridor that are in the financially constrained regional transportation plan, short of an investment in a New Starts project. The New Starts Program is a federal program that provides funds for qualifying bus, rail and other transit-related projects.

Alternative 3: Enhanced Bus to North Natomas Town Center. This alternative consists of major expansion in the level of bus service from downtown Sacramento to the North Natomas Town Center, including bus enhancements and high occupancy vehicle (HOV) lane capital improvements along major corridor freeways.

Alternative 4: Enhanced Bus to Sacramento International Airport. This alternative consists of major expansion in the level of bus service from downtown Sacramento to the Sacramento International Airport, including bus enhancements and HOV lane capital improvements along major corridor freeways.

Alternative 5: Bus Rapid Transit to North Natomas Town Center. This alternative consists of major expansion in the level of bus service, HOV lane capital improvements along major corridor freeways, and a Bus Rapid Transit (BRT) guideway from downtown Sacramento to the North Natomas Town Center (following the light rail alignment, including an exclusive BRT bridge across the American River at Discovery Park).

Alternative 6: Bus Rapid Transit to Sacramento International Airport. This alternative consists of major expansion in the level of bus service, HOV lane capital improvements along major corridor freeways, and a BRT guideway from downtown Sacramento to the Sacramento International Airport (following the light rail alignment, including an exclusive BRT bridge across the American River at Discovery Park).

Alternative 7: Light Rail Transit to Richards Blvd/Bus Rapid Transit to Airport. This alternative consists of modest expansion in the level of bus service, with light rail service from downtown Sacramento to Richards Boulevard and a BRT connection to the North Natomas Town Center and the Sacramento International Airport.

Alternative 8: Light Rail Transit to North Natomas Town Center Plus Modest Bus Expansion. This alternative consists of modest expansion in the level of bus service, HOV lane capital improvements along major corridor freeways, with light rail service from downtown Sacramento to the North Natomas Town Center.

Alternative 9: Light Rail Transit to Airport Plus Modest Bus Expansion. This alternative consists of modest expansion in the level of bus service, HOV lane capital improvements along major corridor freeways, with light rail service from downtown Sacramento to the Sacramento International Airport.

Alternative 10: Light Rail Transit to North Natomas Town Center Plus Major Bus Expansion. This alternative consists of major expansion in the level of bus service, HOV lane capital improvements along major corridor freeways, with light rail service from downtown Sacramento to the North Natomas Town Center.

Alternative 11: Light Rail Transit to Airport Plus Major Bus Expansion. This alternative consists of major expansion in the level of bus service, HOV lane capital improvements along major corridor freeways, with light rail service from downtown Sacramento to the Sacramento International Airport.

Sub-Alternatives or alignment options to those described above are being considered at specific locations. These include, but are not limited to:

- Interstate 5 Bridge and Landscape Corridor;
- Truxel Road (including new bridge);
- Highway 160 Bridge;

- WAPA Power Line (in South Natomas);
- Northgate Boulevard (in South Natomas);
- Market Boulevard (in North Natomas); and
- Direct access to Arco Arena.

IV. Probable Effects

The purpose of the EIS/EIR is to fully disclose the environmental consequences of building and operating a major capital investment in the DNA Corridor in advance of any decisions to commit substantial financial or other resources towards its implementation. The EIS/EIR will explore the extent to which study alternatives and alignment options result in environmental impacts and will discuss actions to reduce or eliminate such impacts.

Environmental issues to be examined in the EIS/EIR include: potential changes to the physical environment (natural resources, air quality, noise, water quality, geology, visual); changes in the social environment (land use, development, business and neighborhood disruptions); changes in traffic and pedestrian circulation; changes in transit service and patronage; associated changes in traffic congestion; and impacts on parklands and historic sites. Impacts will be identified both for the construction period and for the long-term operation of the alternatives. The proposed evaluation criteria include transportation, social, economic, and financial measures, as required by current federal (NEPA) and state (CEQA) environmental laws and the implementing regulations of the Council on Environmental Quality and of FTA.

To ensure that the full range of issues related to this proposed action will be addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS/EIR should be directed to the RT Program Manager as noted in the **DATES** section above.

V. FTA Procedures

To streamline the NEPA process and to avoid duplication of effort, the agencies involved in the scoping process will consider the results of any previous planning studies or financial feasibility studies prepared in support of a decision by the Sacramento Area Council of Governments to include a particular alternative in the regional transportation plan for metropolitan Sacramento. Prior transportation planning studies may be pertinent to establishing the purpose and need for the proposed action and the range of alternatives to be evaluated in detail in the EIS. The Draft EIS/EIR will be prepared simultaneously with conceptual engineering for the alternatives, including station and alignment options. The Draft EIS/EIR process will address the potential use of federal funds for the proposed action, including airport rleated funding opportunities, as well as assesses the social, economic, and environmental impacts of the station and alignment alternatives. Station designs and alignment alternatives will be refined to minimize and mitigate any adverse impacts.

After publication, the Draft EIS/EIR will be available for public and agency review and comment, and a public hearing will be held. Based on the Draft EIS/EIR and comments received, RT will select a locally preferred alternative for further assessment in the Final EIS/EIR and will apply for FTA approval to initiate Preliminary Engineering of the preferred alternative.

Issued on: December 5, 2001.

Leslie T. Rogers,

Region IX Administrator.

[FR Doc. 01–30640 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34124]

Livonia, Avon & Lakeville Railroad Corporation—Continuance in Control Exemption—B&H Rail Corp.

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board exempts from the prior approval requirements of 49 U.S.C. 11323–25 the control by Livonia, Avon & Lakeville Railroad Corporation, a Class III rail common carrier, of B&H Rail Corp. (B&H), upon B&H's becoming a rail carrier pursuant to a related transaction in STB Finance Docket No. 34123.[1]

DATES: This exemption is effective on January 11, 2002. Petitions to stay must be filed by December 27, 2001. Petitions to reopen must be filed by January 7, 2002.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Finance Docket No. 34124 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of all pleadings must be served on petitioner's representative Kevin M. Sheys, Esq., Kirkpatrick & Lockhart LLP, 1800 Massachussets Avenue, NW., Second Floor, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: 1 (800) 877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dā 2 Dā Legal, Suite 405, 1925 K Street, NW., Washington, DC 20006. Telephone: (202) 293–7776. [Assistance for the hearing impaired is available through TDD services 1 (800) 877–8339.]

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: December 5, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30735 Filed 12–11–01; 8:45 am]

BILLING CODE 4915–00–P

[1] On October 26, 2001, B&H filed a notice of exemption under the Board's class exemption procedures at 49 CFR 1150.31. The notice covered the acquisition and operation of two rail lines in Steuben County, NY. See B&H Rail Corp.—Lease and Operation Exemption—Livonia, Avon & Lakeville Railroad Corporation and Norfolk Southern Railway Company, STB Finance Docket No. 34123 (STB served Nov. 13, 2001).

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Joint notice and request for comment.

SUMMARY: The OCC, FDIC, and OTS (Agencies), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on proposed revisions to a continuing information collection, as

required by the Paperwork Reduction Act of 1995. The Agencies are soliciting comment concerning their information collection titled, "Interagency Charter and Federal Deposit Insurance Application." The Agencies also give notice that they have sent the information collection to OMB for review and approval. The Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

DATES: You should submit written comments to the Agencies and the OMB Desk Officer by January 11, 2002.

ADDRESSES: Interested parties are invited to submit comments to any or all of the Agencies. All comments, which should refer to the OMB control number, will be shared among the Agencies:

OCC: Office of the Comptroller of the Currency, Public Information Room, 250 E Street, SW., Mail Stop 1–5, Attention: 1557–0014, Washington, DC 20219. You may make an appointment to inspect and photocopy comments at the same location by calling (202) 874–5043. In addition, you may fax your comments to (202) 874–4448 or E-mail them to *regs.comments@occ.treas.gov.*

FDIC: Tamara R. Manly, Management Analyst (Regulatory Analysis), Office of Executive Secretary, Room F–4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. All comments should refer to "Interagency Charter and Federal Deposit Insurance Application." Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: *comments@fdic.gov].* Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC between 9:00 a.m. and 4:30 p.m. on business days.

OTS: Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: 1550–0005, FAX Number (202) 906–6518, or E-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reference Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an E-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, OMB Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: You may request additional information or a copy of the collection from:

OCC: Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. For subject matter information, you may contact Cheryl Martin at (202) 874–4614, Licensing Policy and Systems, Licensing Department, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

FDIC: Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Sally W. Watts, OTS Clearance Officer, (202) 906–7380; Frances C. Augello, Senior Counsel, Business Transactions Division, (202) 906–6151; Patricia D. Goings, Regulatory Analyst, Examination Policy, (202) 906–5668; or Damon C. Zaylor, Regulatory Analyst, Examination Policy, (202) 906–6787, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The agencies are proposing to extend for three years, with revision, the following currently approved information collection:

Report Title: Interagency Charter and Federal Deposit Insurance Application.

OCC's Title: Comptroller's Corporate Manual (Manual). The specific portions of the Manual covered by this notice are those that pertain to the Charter Application located in the Charters section of the Manual, which will become an interagency form.

OMB Numbers:
OCC: 1557–0014.
FDIC: 3064–0001.
OTS: 1550–0005.
Form Numbers:
OCC: None.
FDIC: 6200/05.
OTS: 138.

Affected Public: Individuals or households; businesses or other for-profit.

Type of Review: Revision of a currently approved collection.

Estimated Number of Respondents:
OCC: 50.
FDIC: 200.
OTS: 20.

Frequency of Response: One time.

Estimated Annual Burden Hours per Response:
OCC: 125.
*FDIC:*125.
OTS: 125.

Estimated Total Annual Burden Hours:
OCC: 6,250.
FDIC: 25,000.
OTS: 2,500.

Abstract: This submission covers a revision to the charter applications of the OCC and OTS and the deposit insurance application of the FDIC. The proposed form will make the application form uniform among the Agencies and is titled, "Interagency Charter and Federal Deposit Insurance Application." The Agencies need the information to ensure that the covered proposed activities are permissible under law and regulation and are consistent with safe and sound banking practices. For example, the Agencies are required to consider financial and managerial resources, future earnings prospects, and community reinvestment. Further, the Agencies use the information to evaluate specific individuals' qualifications. Both financial institutions and individuals organizing a financial institution must provide this information.

Current Actions: A task force of the Federal Financial Institutions Examination Council (FFIEC) has adapted, reformatted, and retitled the collection: Interagency Charter and Federal Deposit Insurance Application, pursuant to the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI). Comments were solicited in the **Federal Register** on September 18, 2001 (66 FR 48168). The agencies received one comment on the form. The comment is summarized in each agency's OMB submission.

Comments: All comments will become a matter of public record. Written comments are invited on:

a. Whether the information collection is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimates of the burden of the information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 4, 2001.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Dated at Washington, DC, this 3rd day of December, 2001.

Robert E. Feldman,

Executive Secretary.

Dated: December 5, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation Division, Office of Thrift Supervision.

[FR Doc. 01–30646 Filed 12–11–01; 8:45 am]

BILLING CODE 4810–33–P, 6714–01–P, and 6720–01–P

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Wednesday,
December 12, 2001

Part II

The President

Order of December 10, 2001—Designation Under Executive Order 12958

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Federal Register
Vol. 66, No. 239
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Presidential Documents

Title 3—

The President

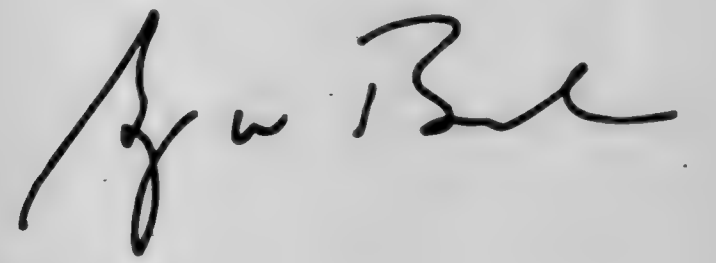
Order of December 10, 2001

Designation Under Executive Order 12958

Pursuant to the provisions of section 1.4 of Executive Order 12958 of April 17, 1995, entitled "Classified National Security Information," I hereby designate the Secretary of Health and Human Services to classify information originally as "Secret."

Any delegation of this authority shall be in accordance with section 1.4(c) of Executive Order 12958.

This order shall be published in the **Federal Register**.



THE WHITE HOUSE,
December 10, 2001.

[FR Doc. 01–30886
Filed 12–11–01; 11:31 am]
Billing code 3195–01–P

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H.J. Res. 76/P.L. 107–79
Making further continuing appropriations for the fiscal year 2002, and for other purposes. (Dec. 7, 2001; 115 Stat. 809)

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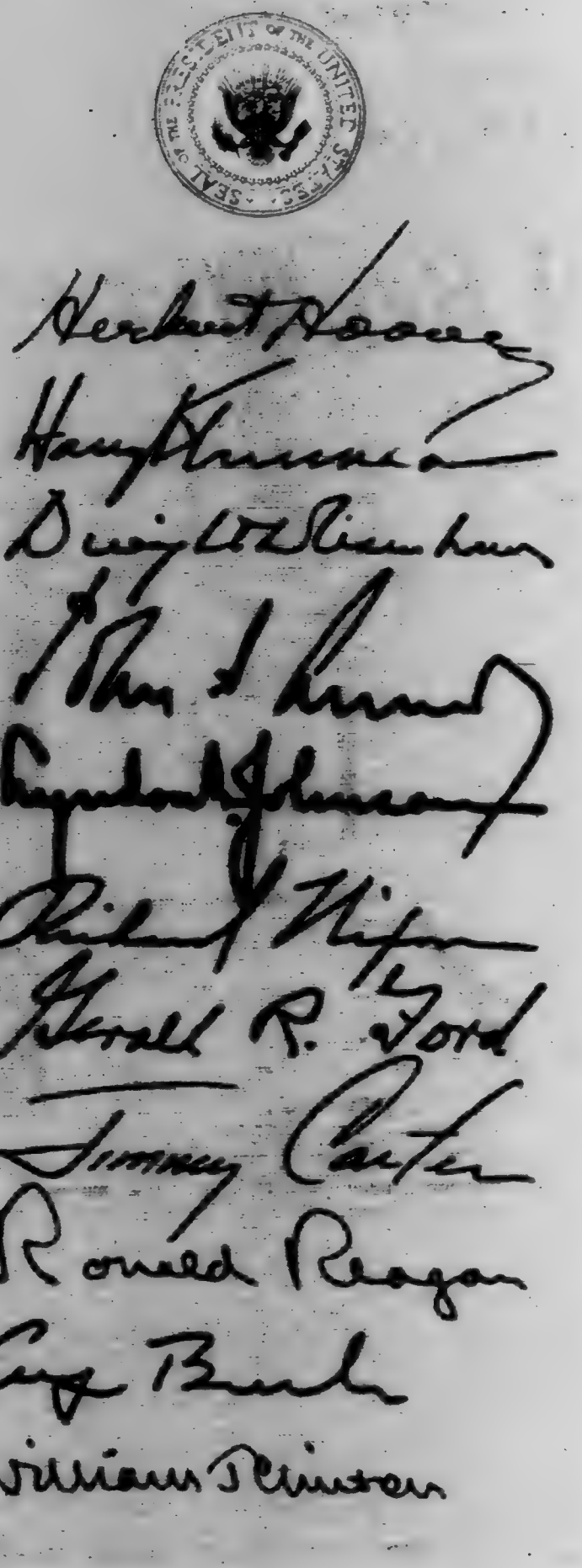

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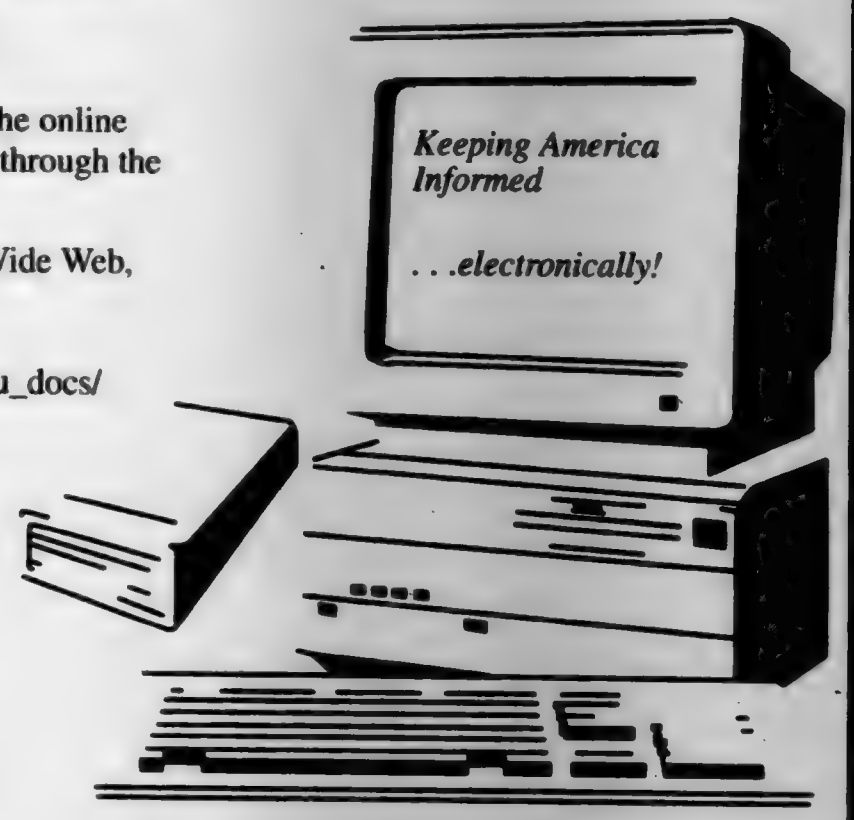

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM203; Special Conditions No. 25–193–SC]

Special Conditions: Canadair Model CL–600–2A12, High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Canadair Model CL–600–2A12 airplanes modified by Gulfstream Aerospace. These modified airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of an electronic flight instrument system that performs critical functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of this system from the effects of high-intensity-radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is November 30, 2001. Comments must be received on or before January 14, 2002.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM203, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: *Docket No. NM203.* Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Meghan Gordon, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2138; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to these special conditions must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM203." The postcard will be date stamped and returned to the commenter.

Background

On July 27, 2001, Gulfstream Aerospace, W 6365 Discovery Drive, Appleton, WI, 54914, applied for a Supplemental Type Certificate (STC) to modify Canadair Model CL–600–2A12 airplanes. The Model CL–600–2A12 is a small transport category airplane, powered by two General Electric CF–34–1A engines, with a maximum takeoff weight of 42,100 pounds. This airplane operates with a 2-pilot crew and can hold up to 20 passengers. The modification incorporates the installation of a Collins Electronic Flight Instrument System. The avionics/electronics and electrical systems installed in this airplane have the potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Gulfstream Aerospace must show that the Model CL–600–2A12, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A21EA, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations included in the certification basis for the Model CL–600–2A12 include 14 CFR part 25, dated February 1, 1965, including amendments 25–1 through 25–37, plus §§ 25.675(a), 25.685(a), 25.733(c), 25.775(e), 25.787(c), 25.815, 25.841(b), 25.951(a), 25.979(d) and (e), 25.1041, 25.1143(e), 25.1303(a), 25.1322, 25.1385(c), 25.1557(b), 25.1583(a), as amended by 25–38; §§ 25.901(b) and (c), 25.903(c) and (e), 25.933(a), 25.943, 25.959, 25.1091(a) and (d), 25.1145(c), 25.1199(b) and (c), 25.1207, 25.1549, 25.1585(a)(9), as amended by 25–40; § 25.1309, as amended by 25–41; § 25.1353(c), as amended by 25–42; §§ 25.571 and 25.629(d)(4) (v), as amended by 25–45; §§ 25.351 and 25.603, as amended by 25–46; and Special Condition 25–ANM–01, dated March 8, 1983.

If the Administrator finds that the applicable airworthiness regulations (that is, part 25, as amended) do not contain adequate or appropriate safety standards for the Model CL–600–2A12 airplanes modified by Gulfstream Aerospace because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model CL–600–2A12 must comply with the fuel vent and exhaust emission requirements of part 34 and the noise certification requirements of part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38, and become part of the airplane's type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should Gulfstream Aerospace apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

As noted earlier, the Model CL–600–2A12 airplanes modified by Gulfstream Aerospace will incorporate a Collins Electronic Flight Instrument System that will perform critical functions. This system may be vulnerable to high-intensity radiated fields (HIRF) external to the airplane. The current airworthiness standards of part 25 do not contain adequate or appropriate safety standards for the protection of this equipment from the adverse effects of HIRF. Accordingly, this system is considered to be a novel or unusual design feature.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electronics and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved that is equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Model CL–600–2A12 airplanes modified by Gulfstream Aerospace. These special conditions require that new avionics/electronics and electrical systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications coupled with electronic command and control of the airplane, the immunity of critical avionics/electronics and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraph 1 or 2 below:

1. A minimum threat of 100 volts rms per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated. Both peak and average field strength components from the Table are to be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to Canadair Model CL–600–2A12 airplanes modified by Gulfstream Aerospace. Should Gulfstream Aerospace apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on Canadair Model CL–600–2A12 airplanes modified by Gulfstream Aerospace. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for Canadair Model CL–600–2A12 airplanes modified by Gulfstream Aerospace.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions*: Functions

whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on November 30, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30638 Filed 12–12–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 301 and 602

[TD 8968]

RIN 1545–AY78

Disclosure of Returns and Return Information by Other Agencies

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation relates to the disclosure of returns and return information by Federal, state and local agencies other than the IRS. The temporary regulation permits the IRS to authorize agencies with access to returns and return information under section 6103 of the Internal Revenue Code (Code) to redisclose returns and return information, with the Commissioner's approval, to any authorized recipient set forth in section 6103, subject to the same conditions and restrictions, and for the same purposes, as if the recipient had received the information from the IRS directly.

DATES: This regulation is effective December 13, 2001.

FOR FURTHER INFORMATION CONTACT: Julie C. Schwartz, 202–622–4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These temporary regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–1757. Responses to this collection of information are required if the Commissioner is to authorize the disclosure of returns and return information from agencies with access to returns and return information under section 6103 to other authorized recipients of returns and return information in accordance with section 6103.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by 26 U.S.C. 6103.

Background

Section 6103(p)(2)(B) provides that return information disclosed pursuant to the Code may be disclosed by any mode or means that the Secretary determines necessary or appropriate. 26 CFR section 301.6103(p)(2)(B)–1 currently permits certain recipients of returns and return information under section 6103, with the Commissioner's approval, to disclose returns and return information to certain other permissible recipients under section 6103. Specifically, the existing regulation permits disclosure by Federal agencies, with the Commissioner's approval, to (1) other Federal agencies, (2) state tax agencies, (3) the General Accounting Office, (4) Federal, state and local child support enforcement agencies, (5) persons described in section 6103(c) (person designated in a taxpayer consent), and 6) persons described in section 6103(e) (person with a material interest).

The Consolidated Appropriations Act, 2001, Pub. L. 106–554 (114 Stat. 2763), was signed into law on December 21, 2000. Section 1 of that Act enacted into law H.R. 5662, the Community Renewal Tax Relief Act of 2000. Section 310 of the Community Renewal Tax Relief Act of 2000 added section 6103(j)(6) to the Code, authorizing the Commissioner to disclose return information to the Congressional Budget Office (CBO) for the purpose of, but only to the extent necessary for, long term models of the Social Security and Medicare programs. The conference report, H.R. Conf. Rep. No. 106–1033, at 1020–21 (2000), provides that it is the intent of Congress that all requests for information made by CBO under this provision be made to the Commissioner, who will use his authority under section 6103(p)(2) such that the Social Security Administration (SSA) or other agency can furnish the information directly to CBO for the purpose of CBO's long term models of Social Security and Medicare. SSA, not IRS, collects and maintains much of the information sought by CBO and also receives the tax information CBO seeks under other provisions of section 6103. However, section 301.6103(p)(2)(B)–1 in its current form would not allow the Commissioner to authorize SSA to redisclose return information properly in its possession to CBO, an authorized recipient of the information under section 6103(j)(6). The temporary regulation allows SSA to make return information in its possession available to CBO to the extent authorized by section 6103(j)(6).

There are other situations, similar to that found under section 6103(j)(6), where it is more efficient for returns and return information in the possession of one authorized agency recipient, to be disclosed by such agency to another statutorily authorized recipient. The inability of agencies, including Federal, state and local agencies, to share returns and return information between themselves or even inside a single agency, even where the information is more readily available from an agency other than the IRS, was highlighted by the Department of the Treasury on pages 89–90 of its October 2000 Report to the Congress on the Scope and Use of Taxpayer Confidentiality and Disclosure Provisions. The report notes, for example, that currently a single agency within a state (or even a single caseworker) may be administering both child support under Title IV–D of the Social Security Act and welfare under Title IV–A of the Social Security Act. The agency may receive return information under both section 6103(l)(6) and section 6103(l)(7) to aid the agency in making determinations of eligibility for these programs, but the current regulation does not permit even intra-agency pooling or sharing of these data. The report notes that both intra- and inter-agency data sharing with respect to common data elements could be authorized by amendment to the Treasury regulations. The temporary regulation allows the IRS to authorize redisclosure in appropriate situations.

Explanation of Provisions

The temporary regulation expands the agencies that may redisclose returns and return information if authorized by the Commissioner of Internal Revenue to any Federal, state or local agency that receives information under section 6103. Similarly, it expands the authorized recipients of returns and return information pursuant to this redisclosure authority to any recipient authorized to receive returns and return information in accordance with section 6103. All redisclosures by agencies pursuant to this regulation will be made subject to the same conditions, restrictions, safeguards, recordkeeping requirements, and civil and criminal penalties that would apply if the disclosure were made by the IRS. The reference in the existing regulation excepting redisclosures of return information under section 6103(m) from the recordkeeping requirements has been deleted as unnecessary because section 6103(p)(3) does not require recordkeeping by the IRS of section 6103(m) disclosures. As under the existing regulation, Federal, state and local agencies making disclosures of return information under the temporary regulation will continue to provide to the IRS certain information regarding disclosures made pursuant to this authority, in order for the IRS to fulfill its reporting requirements under section 6103(p).

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel of the Small Business Administration for comment on their impact on small businesses.

Drafting Information

The principal author of these regulations is Julie C. Schwartz, Office of the Associate Chief Counsel (Procedure and Administration), Disclosure and Privacy Law Division.

List of Subjects

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 301 and 602 are amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *
Section 301.6103(p)(2)(B)–1T also issued under 26 U.S.C. 6103(p)(2); * * *

§ 301.6103(p)(2)(B)–1 [Removed]

Par. 2. Section 301.6103(p)(2)(B)–1 is removed.

Par. 3. Section 301.6103(p)(2)(B)–1T is added to read as follows:

§ 301.6103(p)(2)(B)–1T Disclosure of Returns and Return Information by Other Agencies

(a) *General rule.* Subject to the requirements of paragraphs (b), (c), and (d) of this section, returns or return information that have been obtained by a Federal, state or local agency, or its agents or contractors in accordance with section 6103 (the "first recipient") may be disclosed by the first recipient to another recipient authorized to receive such returns or return information under section 6103 (the "second recipient").

(b) *Approval by Commissioner.* A disclosure described in paragraph (a) of this section may be made if the Commissioner of Internal Revenue (the "Commissioner") determines, after receiving a written request under this section, that such returns or return information are more readily available from the first recipient than from the Internal Revenue Service. The disclosure authorization by the Commissioner shall be directed to the head of the first recipient and may contain such conditions or restrictions as the Commissioner may prescribe. The disclosure authorization may be revoked by the Commissioner at any time.

(c) *Requirements and restrictions.* The second recipient may only receive returns or return information as authorized by the provision of section 6103 applicable to such second recipient. Any returns or return information disclosed may only be used by the second recipient for a purpose authorized by and subject to any conditions imposed by section 6103 and the regulations thereunder, including, if applicable, safeguards imposed by section 6103(p)(4).

(d) *Records and reports of disclosure.* The first recipient shall maintain to the satisfaction of the Internal Revenue Service a permanent system of standardized records regarding such disclosure authorization described in paragraph (a) of this section and any disclosure of returns and return information made pursuant to such authorization, and shall provide such information as prescribed by the Commissioner in order to enable the Internal Revenue Service to comply with its obligations under section 6103(p)(3) to keep accountings for disclosures and to make annual reports of disclosures to the Joint Committee on Taxation. The information required for reports to the Joint Committee on Taxation must be provided within 30 days after the close of each calendar year. The requirements of this paragraph do not apply to the disclosure of returns and return information as provided by paragraph (a) of this section which, had such disclosures been made directly by the Service, would not have been subject to the recordkeeping requirements imposed by section 6103(p)(3)(A).

(e) *Effective date.* This section is applicable on December 13, 2001.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Paragraph 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805 * * *

Paragraph 5. In § 602.101, paragraph (b) is amended by adding an entry to the table in numerical order to read as follows:

§ 602.101 OMB Control Numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
301.6103(p)(2)(B)–1T	1545–1757
* * * * *	

Approved: December 4, 2001.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Mark Weinberger,

Assistant Secretary (Tax Policy), Department of the Treasury.

[FR Doc. 01–30619 Filed 12–12–01; 8:45 am]

BILLING CODE 4830–01–P

POSTAL SERVICE

39 CFR Part 20

International Mail Postal Rates

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service, after considering the comments submitted in response to its request published in the **Federal Register** on October 16, 2001 (66 FR 52555–52560), for comments on proposed changes in international postage rates, hereby gives notice that it is implementing the proposed rates.

EFFECTIVE DATE: 12:01 a.m., Sunday, January 13, 2002.

FOR FURTHER INFORMATION CONTACT: Walter J. Grandjean at (703) 292–3579.

SUPPLEMENTARY INFORMATION: On October 16, 2001, the Postal Service published in the **Federal Register** a notice of proposed changes in international postage rates (66 FR 52555–52560). The Postal Service requested comments by November 15, 2001, and by that date received two comments. Both were from the same publisher using the publishers' periodical rates.

Both commenters stated that if the rates were to be implemented in January 2002, not enough time would be allowed to change software, either company specific proprietary or industry-wide software. Both suggested that the rates not be implemented before March 31, 2002, at the earliest. Both stated that implementation concurrent with the domestic rates in R2001–1 would be appropriate. One commenter noted the dramatic increase in some rate cells for items to Mexico and questioned why these rates would be higher than rates to more distant countries.

The Postal Service understands that many mailers will be required to make software changes. The Postal Service itself must make changes. However, the Postal Service believes that it has provided adequate time for mailers to make changes given that notice of the proposed change was given on October 16, 2001.

Rates are based on the cost of providing service to the countries in a rate group. Where there is more than one country in a rate group, the costs are an average. Where there is a single country in a rate group, the rate reflects the cost of providing service to that country. The publishers' periodical rates to Mexico are currently higher than the rates to Canada and all other countries. Separating the rates for all other countries into three rate groups does not alter the costs of providing service to Mexico. It should be noted that while the first two weight increments for Mexico increased by 25 percent, this is a smaller increase than the increases for the same weight increments for rate groups 3, 4, and 5. The rate increase for Mexico is not out of line with the overall increase to other countries.

After reviewing and considering the comments received, the Postal Service adopts the following postage rates and amends the *International Mail Manual* (IMM), which is incorporated by reference in the *Code of Federal Regulations*. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. The *International Mail Manual* (IMM) is amended to incorporate the following postage rates:

INTERNATIONAL PRIORITY AIRMAIL RATES

Rate group	Per piece rate	Drop shipment per pound	Full service per pound
1 (Canada)	$0.28	$2.60	$3.60
2 (Mexico)	0.12	4.60	5.60
3	0.25	4.00	5.00
4	0.25	5.50	6.50
5	0.12	4.85	5.85
6	0.12	4.75	5.75
7	0.12	6.25	7.25
8	0.12	7.25	8.25
Worldwide	0.20	7.00	8.00

INTERNATIONAL SURFACE AIR LIFT RATES

Rate group	Per piece rate	Full service per pound		Direct shipment per pound		ISC drop shipment per pound	
		Regular	M-bag	Regular	M-bag	Regular	M-bag
1 (Canada)	$0.28	$3.05	$1.50	$2.55	$1.50	$2.05	$1.40
2 (Mexico)	0.12	4.35	1.60	3.85	1.60	3.35	1.50
3	0.25	3.40	1.75	2.90	1.75	2.40	1.50
4	0.25	3.75	2.50	3.25	2.50	2.75	2.50
5	0.12	4.65	2.25	4.15	2.25	3.65	2.00
6	0.12	4.55	2.25	4.05	2.25	3.55	2.00
7	0.12	4.65	2.50	4.15	2.50	3.65	2.25
8	0.12	6.50	3.25	6.00	3.25	5.50	3.00

Note: M-bags are subject to the minimum rate for 11 pounds.

PUBLISHERS' PERIODICAL RATES

Weight not over (oz.)	Rate group 1 (Canada)	Rate group 2 (Mexico)	Rate group 3	Rate group 4 (Australia, Japan, New Zealand)	Rate group 5
1	$0.45	$0.60	$0.60	$0.60	$0.60
2	0.51	0.75	0.71	0.71	0.74
3	0.57	0.90	0.82	0.82	0.88
4	0.63	1.05	0.93	0.93	1.02
5	0.69	1.20	1.04	1.04	1.16
6	0.75	1.35	1.15	1.15	1.30
7	0.81	1.50	1.26	1.26	1.44
8	0.87	1.65	1.37	1.37	1.58
12	1.15	2.13	1.81	1.81	2.02
16	1.43	2.61	2.25	2.25	2.46
20	1.59	3.09	2.69	2.69	2.90
24	1.75	3.57	3.13	3.13	3.34
28	1.91	4.05	3.57	3.57	3.78
32	2.07	4.53	4.01	4.01	4.22
36	3.87	5.01	4.45	4.45	4.66
40	3.99	5.49	4.89	4.89	5.10
44	4.11	5.97	5.33	5.33	5.54
48	4.23	6.45	5.77	5.77	5.98
52	4.39	6.93	6.21	6.21	6.42
56	4.55	7.41	6.65	6.65	6.86
60	4.71	7.89	7.09	7.09	7.30
64	4.87	8.37	7.53	7.53	7.74

$0.25 per pound discount for drop shipments tendered at the New Jersey International and Bulk Mail Center.

COUNTRY RATE GROUPS

Country	Rate Groups		
	IPA	ISAL	Publishers' periodicals
Afghanistan	8		5
Albania	5	5	5
Algeria	8	8	5
Andorra	3		3
Angola	8	8	5
Anguilla	6		5
Antigua and Barbuda	6		5
Argentina	6	6	5
Armenia	8		5
Aruba	6	6	5
Ascension	5		5
Australia	4	4	4
Austria	3	3	5
Azerbaijan	8		5
Bahamas	6		5
Bahrain	8	8	5
Bangladesh	8	8	5
Barbados	6		5
Belarus	5		5
Belgium	3	3	3
Belize	6	6	5
Benin	8	8	5
Bermuda	6		5
Bhutan	8		5
Bolivia	6	6	5
Bosnia-Herzegovina	5		5
Botswana	8		5
Brazil	6	6	5
British Virgin Islands	6		5
Brunei Darussalam	7		5
Bulgaria	5	5	5
Burkina Faso	8	8	5
Burma (Myanmar)	8		5
Burundi	8		5
Cambodia	7		5
Cameroon	8	8	5
Canada	1	1	1
Cape Verde	8		5

COUNTRY RATE GROUPS—Continued

Country	Rate Groups		
	IPA	ISAL	Publishers' periodicals
Cayman	6		5
Central African Republic	8	8	5
Chad	8		5
Chile	6	6	5
China	7	7	5
Colombia	6	6	5
Comoros Islands	8		5
Congo (Brazzaville), Republic of the	8		5
Congo (Kinshasa), Democratic Republic of the	8	8	5
Costa Rica	6	6	5
Côte d'Ivoire (Ivory Coast)	8	8	5
Croatia	5		5
Cuba	6	6	5
Cyprus	8		5
Czech Republic	5	5	5
Denmark	3	3	3
Djibouti	8		5
Dominica	6		5
Dominican Republic	6	6	5
Ecuador	6	6	5
Egypt	8	8	5
El Salvador	6	6	5
Equatorial Guinea	8		5
Eritrea	8		5
Estonia	5		5
Ethiopia	8	8	5
Falkland Islands	6		5
Faroe Islands	5		3
Fiji	7	7	5
Finland	3	3	3
France (Includes Corsica & Monaco)	3	3	3
French Guiana	6	6	5
French Polynesia (Includes Tahiti)	7		5
Gabon	8	8	5
Gambia	8		5
Georgia, Republic of	8		5
Germany	3	3	3
Ghana	8	8	5
Gibraltar	3		3
Great Britain and Northern Ireland	3	3	3
Greece	3	3	3
Greenland	3		3
Grenada	8		5
Guadeloupe	6		5
Guatemala	6	6	5
Guinea	8	8	5
Guinea-Bissau	8		5
Guyana	6	6	5
Haiti	8	8	5
Honduras	6	6	5
Hong Kong	7	7	5
Hungary	5	5	5
Iceland	3	3	3
India	8	8	5
Indonesia (Includes East Timor)	7	7	5
Iran	6	6	5
Iraq	8		5
Ireland	3	3	3
Israel	3	3	3
Italy	3	3	3
Jamaica	6	6	5
Japan	4	4	4
Jordan	8	8	5
Kazakhstan	8		5
Kenya	8	8	5
Kiribati	7		5
Korea, Dem. People's Rep. of (North)	7		5
Korea, Republic of (South)	7	7	5
Kuwait	8	8	5

COUNTRY RATE GROUPS—Continued

Country	Rate Groups		
	IPA	ISAL	Publishers' periodicals
Kyrgyzstan	5		5
Laos	7		5
Latvia	5		5
Lebanon	8	8	5
Lesotho	8		5
Liberia	8		5
Libya	8		5
Liechtenstein	3	3	3
Lithuania	5		5
Luxembourg	3	3	3
Macao	5		5
Macedonia, Republic of	5		5
Madagascar	8	8	5
Malawi	8		5
Malaysia	7	7	5
Maldives	8		5
Mali	8	8	5
Malta	8		5
Martinique	6		5
Mauritania	8	8	5
Mauritius	8	8	5
Mexico	2	2	2
Moldova	8		5
Mongolia	7		5
Montserrat	6		5
Morocco	8	8	5
Mozambique	8	8	5
Namibia	8		5
Nauru	7		5
Nepal	7		5
Netherlands	3	3	3
Netherlands Antilles	6	6	5
New Caledonia	7		5
New Zealand	4	4	4
Nicaragua	6	6	5
Niger	8	8	5
Nigeria	8	8	5
Norway	3	3	3
Oman	8	8	5
Pakistan	8	8	5
Panama	6	6	5
Papua New Guinea	7	7	5
Paraguay	6	6	5
Peru	6	6	5
Philippines	7	7	5
Pitcairn Island	7		5
Poland	5	5	5
Portugal (Includes Azores & Madeira Islands)	3	3	3
Qatar	8	8	5
Reunion	8	8	5
Romania	5	5	5
Russia	5	5	5
Rwanda	8		5
Saint Christopher (St. Kitts) and Nevis	6		5
Saint Helena	8		5
Saint Lucia	6		5
Saint Pierre & Miquelon	6		5
Saint Vincent and the Grenadines	6		5
San Marino	3		3
Sao Tome and Principe	5		5
Saudi Arabia	8	8	5
Senegal	8	8	5
Serbia-Montenegro (Yugoslavia)	5		5
Seychelles	8		5
Sierra Leone	8		5
Singapore	7	7	5
Slovak Republic (Slovakia)	5		5
Slovenia	5		5
Solomon Islands	7		5

COUNTRY RATE GROUPS—Continued

Country	Rate Groups		
	IPA	ISAL	Publishers' periodicals
Somalia	8		5
South Africa	8	[illegible]	5
Spain (Includes Canary Islands)	3	3	3
Sri Lanka	8	[illegible]	5
Sudan	8	[illegible]	5
Suriname	6	6	5
Swaziland	8		5
Sweden	3	3	3
Switzerland	3	3	3
Syria	8	[illegible]	5
Taiwan	7	7	5
Tajikistan	8		5
Tanzania	8	8	5
Thailand	7	7	5
Togo	8	[illegible]	5
Tonga	7		5
Trinidad and Tobago	6	6	5
Tristan da Cunha	8		5
Tunisia	8	8	5
Turkey	5	5	5
Turkmenistan	5		5
Turks and Caicos Islands	6		5
Tuvalu	7		5
Uganda	8	8	5
Ukraine	8		5
United Arab Emirates	8	8	5
Uruguay	6	6	5
Uzbekistan	8		5
Vanuatu	7		5
Vatican City	3		3
Venezuela	6	6	5
Vietnam	7		5
Wallis and Futuna Islands	7		5
Western Samoa	7		5
Yemen	8	[illegible]	5
Zambia	8	[illegible]	5
Zimbabwe	8	[illegible]	5

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–30626 Filed 12–12–01; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7117–9]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the McAdoo Associates Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III announces the deletion of the McAdoo Associates Superfund Site (Site), located in McAdoo Borough, Schuylkill County, Commonwealth of Pennsylvania, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 33 U.S.C. 9605, is appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300. EPA and the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection, have determined that the site no longer poses a significant threat to public health or the environment and that all appropriate response actions under CERCLA have been completed. Monitoring of on-site wells, and five-year reviews to ensure that the site remains protective of public health and the environment will continue to be conducted.

EFFECTIVE DATE: December 13, 2001.

ADDRESSES: Comprehensive information on this site is available for viewing at the Site Information Repositories at the following locations: U.S. EPA, Region III, Regional Center for Environmental Information, 1650 Arch Street, Philadelphia, Pennsylvania 19103, (215) 814–5254 or (800) 553–2509, Monday through Friday 8 a.m. to 4:30 p.m.; McAdoo-Kelayers Library, 15 Kelayers Road, McAdoo, Pennsylvania 18237, (570) 929–1120;

FOR FURTHER INFORMATION CONTACT: Eugene Dennis (3HS21), Remedial Project Manager, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029; (215) 814–3202 or 1–800–553–2509; e-mail address: *dennis.eugene@epa.gov*.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: McAdoo Associates Site, McAdoo Borough, Schuylkill County, Commonwealth of Pennsylvania.

A Notice of Intent to Delete for this site was published in the **Federal Register** on October 3, 2001, 66 FR 48018. The closing date for comments on the Notice of Intent to Delete was November 2, 2001. EPA received no comments during the comment period.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: November 21, 2001.

Abraham Ferdes,

Acting Regional Administrator, Region III.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended under Pennsylvania ("PA") by removing the entry for "McAdoo Associates, McAdoo Borough".

[FR Doc. 01–30819 Filed 12–12–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–4662]

RIN 2127–AC19

Federal Motor Vehicle Safety Standards; School Bus Body Joint Strength

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: On November 5, 1998, NHTSA published a final rule that amended Federal Motor Vehicle Safety Standard No. 221, *School Bus Body Joint Strength*, with an effective date of May 5, 2000 for those amendments. The amendments extended the applicability of that standard to small school buses, narrowed the exclusion of maintenance access panels from the joint strength requirements, and made other changes to the standard. We delayed the effective date on two occasions, so that we would have time to analyze petitions for reconsideration. First, in a final rule published on March 6, 2000, we delayed the effective date to May 5, 2001, and corrected a typographical error. Second, in a final rule published on April 20, 2001, we delayed the effective date to June 1, 2002. We have now completed our analysis of the petitions, and are taking the following actions: making it clearer that the standard applies to small, curved and complex joints; excluding joints that are forward of the passenger component; and making various other changes to the standard. For purposes of clarity, we are withdrawing the earlier amendments, and are republishing them today as modified by the changes we decided to make in response to the petitions for reconsideration. The amendments will become effective on January 1, 2003.

DATES: The final rule published on November 5, 1998 (63 FR 59732) and amended and delayed March 6, 2000 (65 FR 11751), and delayed again on April 20, 2001 until June 1, 2002 (66 FR 20199) is withdrawn as of January 14, 2002. The amendments in this final rule are effective January 1, 2003. Any petitions for reconsideration of this final rule must be received by NHTSA not later than January 28, 2002.

ADDRESSES: Petitions for reconsideration should refer to the docket number for this action and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Copies of the Final Regulatory Evaluation for this rule can be obtained from: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590, telephone: (202) 366–9324. Docket hours are 10 a.m. to 5 p.m., Monday through Friday. The Docket is closed on Federal holidays.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. Charles R. Hott, Office of Crashworthiness Standards at (202) 366–0247. His fax number is (202) 493–2739.

For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel at (202) 366–2992. Her fax number is (202) 366–3820.

You may send mail to both of these officials at National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

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I. Background

NHTSA is authorized by 49 U.S.C. 30101, *et seq.*, to issue Federal motor vehicle safety standards for new motor vehicles, including school buses.[1] In 1974, Congress enacted the Motor Vehicle and Schoolbus Safety Amendments (Pub. L. 93–492), which directed NHTSA to issue Federal motor vehicle safety standards for various aspects of school bus safety, including interior protection for occupants, floor strength, and crashworthiness of body and frame. One of the actions that NHTSA took in response to that Congressional mandate was to issue Standard No. 221, *School Bus Body Joint Strength*.

Standard No. 221 requires the strengthening of school bus body panel joints to prevent them from separating during a crash, thereby exposing cutting edges that could cause serious injuries or allow passenger ejection through openings created by such panel separations. The Standard currently provides that each school bus body panel joint must be capable of holding the body panel to the member to which it is joined when subjected to a force of 60 percent of the tensile strength of the weakest body panel attached to the joint.

Excluded from this requirement are doors, windows, spaces designed for ventilation or another functional purpose, and maintenance access panels (MAPs). MAPs were excluded because they involve areas on the vehicle requiring frequent maintenance and thus needing easy accessibility. Although MAPs were not defined in the Standard, it was NHTSA's intent that manufacturers would limit MAPs to panels providing access to areas requiring routine maintenance.

II. Final Rule of November 1998

On November 5, 1998, NHTSA published in the **Federal Register** a final rule (63 FR 59732) (DMS Docket No. NHTSA–98–4662) that was intended to "enhance the applicability and objectivity of Standard No. 221's school bus joint strength requirements." Before issuing this final rule, NHTSA issued an advance notice of proposed rulemaking (52 FR 23314, June 19, 1987) (No DMS Docket No.) and a notice of proposed rulemaking (56 FR 11142, March 15, 1991) (No DMS Docket No.). NHTSA received 37 comments in response to the ANPRM and 18 comments in response to the NPRM. Each comment was carefully considered before the final rule was issued.

Until the November 1998 final rule takes effect, Standard No. 221 will apply to only school buses over 4536 kg (10,000 lbs) gross vehicle weight rating (GVWR). In the November 1998 final rule, NHTSA extended the applicability of Standard No. 221 to small school buses (GVWR of 4536 kg or less), narrowed the exclusion of MAPs from the joint strength requirements, and made other changes to the Standard. The following summarizes the November 1998 final rule changes to Standard No. 221.

A. Applicability to Small School Buses

In the November 1998 final rule, NHTSA extended the applicability of Standard No. 221 to small school buses (GVWR of 4536 kg or less), after concluding that there is a safety need to extend the Standard to small school buses. The National Transportation Safety Board (NTSB) was concerned that small school buses experience higher crash forces in a crash than do large school buses, since size and mass are important factors in crash severity. NTSB studies on the crashworthiness of large and small school buses found that 6 of 19 small school bus crashes resulted in body panel joint separation (32 percent of the cases studied). In contrast, joint separations in large school buses occurred in MAPs and floor joints, while body panel joints maintained structural integrity very well, even in severe crash forces. These results indicate that the requirements of Standard 221 are very effective (see NTSB Safety Study: Crashworthiness of Small Poststandard School Buses, October 11, 1989). Further, these results led NHTSA to conclude that the structural integrity of small buses would be enhanced by extending the joint strength requirement of Standard 221 to those vehicles. NHTSA concluded that small school buses should at least be subject to the same joint strength requirements as large school buses. This will better help achieve the goal of providing children with equivalent levels of protection against injuries from joint separation, regardless of the GVWR of the vehicle transporting them.

Small school buses are becoming an increasingly larger part of the school bus fleet. From 1988 to 1993, the percentage of small school buses in the total school bus sales for rose from about 13 percent to about 19 percent (an increase of almost 50 percent in market share). From 1994 to 1998, the percentage of small school bus sales held steady at about 16 percent. This rise in sales concerns us because it indicates that crashes and resultant injuries involving small school buses are likely to increase.

B. Maintenance Access Panels

In the November 1998 final rule, NHTSA defined "maintenance access panel" to limit a manufacturer's latitude to designate panels as MAPs and thus have them excluded from the strength requirements of the standard. NHTSA determined that there was a safety need to restrict MAPs. After reviewing NTSB studies and recent NTSB school bus crash investigation reports, NHTSA found that 7 out of 80 crashes studied involved MAP separations, causing head laceration injuries in two of the cases. In 4 of the 20 crashes involving small school buses, body joint separations occurred, resulting in one occupant with multiple leg fractures. Further, NHTSA's own tests had shown that MAP joints were not strong and could separate easily. In order to be excluded from the requirements of Standard No. 221 as a "maintenance access panel" under this rule, a panel must meet the definition of a MAP, and must also meet certain criteria.

1. Definition

The final rule defined "maintenance access panel" as "a body panel which must be moved or removed to provide access to one or more serviceable component(s)." The rule also defined "serviceable component" as a part of the bus which is identified by the body or chassis manufacturer in the owners' or service manuals as requiring routine maintenance at least once each year. The definition specifies that "serviceable component" includes pneumatic and hydraulic devices, wiring harnesses, and tubing only at their attachments.

2. Criteria To Be Excluded

The final rule set criteria that a MAP must meet to be excluded from the requirements of Standard No. 221. To be excluded, the MAP must either: (1) Be located forward of the passenger seating area (the MAP must not lie between a vertical transverse plane located 762 mm (30 inches) in front of the forwardmost passenger seating reference point and a vertical transverse plane

[1] 49 U.S.C. 30125(a)(1) defines a "schoolbus" as a passenger motor vehicle designed to carry a driver and more than ten passengers that the Secretary of Transportation determines "is likely to be used significantly to transport preprimary, primary, and secondary school students to or from school or an event related to school." NHTSA further defines a school bus as a bus that is sold or introduced in interstate commerce for purposes that include carrying students to and from school and related events, but does not include a bus that is designed and sold for operation as a common carrier in urban transportation. 49 CFR 571.3.

tangent to the rear interior wall of the bus at the vehicle's centerline); or (2) be located within the passenger seating area and have an opening that does not exceed 305 mm (12 inches) when measured across any two points diametrically on opposite sides of the opening.

The 305 mm measurement is independent of the serviceable component's perimeter and location. By adopting this restriction, NHTSA sought to ensure that each MAP is no larger than needed to provide access to the serviceable component(s) covered by the MAP.

3. MAP Floor Panels

MAPs that expose the bus interior to areas below the bus floor or within the engine compartment are excluded from Standard No. 221's requirements if the MAP meets the restrictions on either MAP location or size described above. In the November 1998 final rule, NHTSA determined that there is insufficient fire-related reason to require any MAP, regardless of its location outside the bus occupant space or insignificant size, to meet the joint strength requirement if it is on the floor.

C. Engine Access Panels, Ventilation Panels, and Perforated Panels

1. Engine Panels

In the November 1998 final rule, NHTSA excluded engine access panels from the requirements of the Standard. NHTSA believed that engine covers on most front engine buses are located outside the passenger compartment area and that maintenance on rear engine buses is routinely accomplished from the outside. The agency agreed with commenters that direct and often-recurring engine maintenance should be quickly and easily accomplished. This requires easy accessibility to the engine compartment by the driver who may not have an extensive array of tools available.

2. Ventilation Panels

Ventilation panels are used for heater housings, heater air diffusers, heater ducts, heater hose covers, and air conditioning ducts and diffusers. One commenter argued that all those components serve important functional purposes, that the components enclose no occupant air space, and are typically supported by panels that must meet Standard No. 221. After being persuaded that the ventilated panel exclusion is being utilized and that ventilation panels do serve important functional purposes, in the November 1998 final rule, NHTSA determined that ventilation panels should continue to be excluded from the joint strength requirements of Standard 221. Further, due to their size and location, ventilation panels are not so likely as first thought to cause occupant injuries in an accident. NHTSA expressed its belief that extending the joint strength requirements to these panels would result in increased costs for redesign and additional fasteners, as well as decreased serviceability for the end user, without a commensurate safety benefit.

3. Perforated Panels

A commenter stated that perforated metal sheets are widely used in the interior linings of school buses to reduce interior noise, and that the perforations do not extend into the joint area, making the joints stronger than the perforated portions of the panels. NHTSA stated that it was aware that perforated material is often used in school bus ceilings for noise reduction. The agency is unaware of any problems with perforated panels, such as instances in which perforations contributed to the failure of a joint or in which panels separated due to torn perforations. In the November 1998 final rule, NHTSA stated it will monitor the use of perforated panels and their performance in school buses to determine whether there is a safety need to limit or otherwise regulate their use.

D. Test Procedures

The November 1998 final rule made a number of revisions to Standard No. 221's test procedures, including excluding curved, small and complex joints from testing; adopting a provision that support members must remain attached to the specimen during testing; and deleting the term "approximately perpendicular" from S6.3.2 and replacing it by a provision stating that the joint be in stress at 90 degrees plus or minus 3 degrees from the joint centerline.

1. Curved and Small Joints

The November 1998 final rule excluded from the joint tensile strength requirement joints from which a test sample cannot be obtained because of the small size of the joint or the curvature of the panels comprising the joint.

In the NPRM, NHTSA proposed a procedure for testing curved joints, such as those found in roof or ceiling joints. The procedure would have specified that the test specimen be prepared by selecting a joint segment where the radius of curvature is at least 508 mm (20 inches). One commenter, Thomas Built Buses, suggested a method of testing a curved joint, but stated that in order to prevent distortion of the test results, the gripping devices must be able to grip the sample in the same radius as the sample curvature. To avoid such complex test procedures, Thomas strongly recommended that NHTSA approve the use of surrogate joints.

NHTSA recognized that the curved shape of such joints poses difficulty in obtaining accurate test results. The application of force on a curved surface would cause the surface to flatten, thus misrepresenting the actual force loading on the panel. Although NHTSA believes that it is possible to design and fabricate test fixtures and procedures capable of testing curved joints, such fixtures would involve additional certification costs for manufacturers and additional cost for NHTSA in the agency's compliance testing. In the November 1998 final rule, NHTSA stated that since it is not aware of any data indicating that injuries have been caused disproportionately by curved joint separation, NHTSA believes that the potential costs and technical difficulty of testing curved joints more than outweigh any potential safety benefits. However, the agency stated that it will continue to monitor this issue and initiate rulemaking should curved joint separation become a safety problem.

2. Complex Joints

Two commenters addressed NHTSA's proposals to test small and complex joints such as those taken from door, window, and other small or inaccessible body panel joints. General Motors Corporation (GM) stated that NHTSA's proposals regarding the testing of these joints did not fully clarify specimen preparation procedures for such joints found in passenger vans or van cutaways. The commenters contended that many of the joints in those vehicles cannot be tested under either current or proposed testing procedures. GM suggested that NHTSA further study such types of joints and either further clarify pertinent test procedures or exclude such joints from the requirements of Standard 221 as being nontestable. Thomas Built Buses asserted that the testing of very short pieces of frame that would require fittings would violate ASTM test principles. Thomas further argued that tests need not be performed in this manner if NHTSA would approve the use of surrogate sampling.

NHTSA agreed that it would be difficult to test complex joints such as those found in body panels configured to join two or more panels in a single plane in any manner other than linear,

as well as other small joints under either current or proposed testing procedures. Therefore, in the November 1998 final rule, NHTSA decided that test specimens from joints with discrete fasteners will be taken from 305 mm (12 inch) segments (203 mm (8 inches) at the neck) of flat body panels only. Small and complex joints, as well as trim, decorative parts, floor coverings, and molding strips will not be tested. The agency stated that it has no data indicating that any injuries have been caused by failure of those small and complex joints or components. NHTSA stated further that it believed the potential cost of trying to test them would far outweigh any potential safety benefits.

While curved, small and complex joints are excluded from the tensile test requirement because they cannot be accommodated in the test apparatus, they are nevertheless subject to the requirement in S5.1.1 that no body panel, when joined to another body panel, shall have an unattached segment at the joint longer than 203 mm (8 inches). Presumably, rivets or other fasteners will be used. In the November 1998 final rule, NHTSA indicated its belief that this requirement will increase the likelihood that the joints will maintain their integrity in a crash.

3. "Hourglass" Shape of Specimens

NHTSA had proposed that the existing "hourglass" shape of test specimens be eliminated in favor of straight sides because it believed that, with a simple rectangular shape, more joints could potentially be tested. A commenter stated that use of a straight-sided test specimen was contrary to the shape principles set forth in the ASTM sample testing procedures. Those principles were designed to "even-out" the force distortions induced by the testing device. Another commenter stated that the proposal to eliminate the hour glass shape was unacceptable, arguing that the test specimens need to be wider at the grips than at the joint section being tested. It said that this width is needed to allow for proper attachment of the specimen to the test grips and to ensure that adequate loading can be properly applied to the joint portion of the specimen.

In the November 1998 final rule, NHTSA said that it was persuaded by the comments and decided to retain the hourglass shape of test specimens. The ASTM Standards call for the shape of the test specimen to be narrower at the sample's longitudinal centerline than at the ends of the specimen where the grips are attached. That shape concentrates the load exerted by the grips in the center of the specimen rather than at the edges as in the case of a straight-sided specimen.

4. Discontinuing Deduction of Total Area of Material Removed for Installation of Fasteners

NHTSA had proposed to discontinue deduction of the total area of material removed for installation of fasteners (i.e., holes drilled for installation of rivets or screws) in calculating the tensile strength of each joined component. In a letter to Blue Bird Body Company dated November 28, 1978, NHTSA stated that subtracting the fastener holes was the proper procedure for calculating the correct area of the sample, but did not explain the basis for that conclusion.

NHTSA carefully considered the issue in light of public comments. NHTSA determined it is easier for a sample joint to meet the standard's tensile strength requirement when the deduction is made for fastener holes. The required strength of a given joint is based on the tensile strength of the weakest body panel attached at that joint. If the area for fastener holes were deducted from the total area of the test specimen when calculating the strength of the test specimen, the tensile strength of a sample joint could appear higher than the actual tensile strength of that joint. As a result, a given joint could meet the 60 percent tensile requirement of Standard 221 using fewer fasteners than those that would be necessary if the deduction were not made. In setting the 60 percent tensile requirement, the agency determined that minimum value met the need for motor vehicle safety. Since deducting for fastener holes can result in a joint being actually weaker than 60 percent of its weakest member, NHTSA determined that safety is better served if the deduction were not made. Accordingly, in the final rule, the letter of interpretation issued by NHTSA on November 28, 1978 that provided for the deduction was rescinded.

E. Relative vs. Minimum Body Joint Strength Requirements

In response to NHTSA's ANPRM of June 19, 1987, several commenters suggested that NHTSA replace the present relative body joint strength requirement (60 percent of the tensile strength of the weakest joined body panel) with an absolute minimum strength requirement. NHTSA carefully considered the comments on this issue and was persuaded by the commenters who argued that body panel joint strength should be consistent with the bus manufacturers' choice of body panel materials. In the November 1998 final rule, NHTSA determined that specifying a minimum absolute strength requirement by specifying a minimum steel gauge would be design restrictive and require significant changes in current industry design practices and procedures. NHTSA also perceived no safety basis for changing the current relative strength standard in favor of an absolute minimum standard.

III. Petitions for Reconsideration and Changes to Final Rule

In response to the November 5, 1998 final rule, NHTSA received petitions for reconsideration from three school bus manufacturers; American Transportation Corporation (AmTran), Blue Bird Body Co., and Thomas Built Buses. Each manufacturer raised similar concerns. The following summarizes each issue raised in the petitions for reconsideration and each manufacturers' arguments on the issue, and provides NHTSA's response:

A. Exclusion of Small, Curved, and Complex Joints

As noted above, in the November 1998 final rule, NHTSA amended Standard No. 221's tensile strength requirements to exclude joints from which a test sample cannot be obtained because of the joint's small size or because curvature or complexity of the panels comprising the joint made it unable to fit into the test apparatus. All three petitioners opposed this change, saying that the effect would be to remove from Standard No. 221's coverage, many small, curved and complex joints that have been subject to Standard No. 221.

AmTran asked that S5.1.2 be amended so that small, curved and complex joints must meet previous S5.1.2 requirements. AmTran noted that each of its school buses has over 100 joints that meet the previous S5.1.2 requirements, but changes in the November 5, 1998 final rule would permit AmTran to reduce to 14, the number of joints that must meet S5.1.2. AmTran also expressed concern that in the absence of Federal requirements, each State could specify its own joint strength requirements, adding to "product complexity." Thomas Built argued that exclusion of such joints from S5.1.2 "unnecessarily weakens the current standard strength requirement at curved, small and complex joints." Thomas Built asked that NHTSA consider an equipment standard to require fastener spacing on curved, small and complex joints equal to that used in the adjacent straight section of the same joint or basically a "continuation of the spacing."

Blue Bird stated that although it agreed with the exclusion of small joints (less than 8 inches in length), it believed that curved and complex joints should be required to meet Standard No. 221 joint strength requirements. Blue Bird said that there were two separate issues in the exclusion of curved and complex joints: (1) "Testing accommodation" which would include the problems associated with obtaining, preparing, and tensile testing curved and complex joints; and (2) Exclusion of "automotive" type body joints (which are small, curved or complex) that occur in van and van cutaway buses so that manufacturers of these vehicles could continue to modify such vehicles into school buses.

Addressing the first issue, Blue Bird asserted that allowing the manufacture of school buses without subjecting the curved and complex joints to joint strength testing would be "a serious, albeit unintended, degradation of school bus safety." Blue Bird noted that since most joints in the passenger compartment area of school buses are either curved or complex, exclusion of such joints from joint strength requirements would allow the manufacture of school buses with only a few flat joints in the side walls required to meet the joint strength requirement. The school bus roof and ceiling joints are curved and would therefore be excluded. All the joints at the corners and the rear of the bus body are curved and/or complex, and most floor joints are complex and would be excluded.

Blue Bird stated its belief that certification documentation for curved and complex joints can be handled by surrogate sample testing and/or design calculations and analysis. For enforcement purposes, Blue Bird suggested that NHTSA could inspect test buses, measure and inspect joints and require manufacturers to document compliance to what is found. Blue Bird further suggested that NHTSA could review surrogate sample testing data, design calculations and analysis and the results of NHTSA inspections as a means of monitoring a manufacturer's fastening methodology to determine if it constitutes the exercise of due care in complying with the joint strength requirements.

As for the second issue regarding "automotive-type" body joints, Blue Bird suggested that exclusion of structures forward of the passenger compartment could resolve the problems that would arise from testing of automotive-type joints. Blue Bird stated that "no safety problems have been documented" that would justify automotive-type joints having to meet the joint strength requirements of Standard No. 221.

The petitioners expressed concern that the application of S5.2.2 may decrease the effectiveness of the standard. In the November 1998 final rule, S5.2.2 stated:

> S5.2.2 The requirements of S5.1.2 do not apply to joints from which a test specimen of the dimensions specified in Figure 1 can not be obtained.

The petitioners interpreted this section to exclude all joints that are curved and/or complex. The petitioners are aware that this is not the intent of the agency. Nevertheless, the agency agrees to remove S5.2.2 from the standard to avoid this possibility of a manufacturer's arguing, in the event of a compliance test failure, that the standard does not apply to the joint tested. Figure 1 does not provide a side view of the test specimen, and therefore does not indicate a maximum or minimum curvature of the tested components.

B. School Bus Joints Forward of the Passenger Compartment

In the November1998 final rule, NHTSA excluded from the joint test requirements, all interior maintenance access panels which lie forward of the passenger compartment. In doing so, NHTSA addressed MAPs only, not interior school bus joints forward of the passenger compartment.

In their petitions for reconsideration, petitioners asked that joints forward of the passenger compartment be excluded from joint strength testing requirements. AmTran asked that the exclusion be extended to "structures" forward of the passenger compartment. AmTran did not explain what it meant by "structures," but we believe that AmTran was seeking the exclusion of joints forward of the passenger compartment. AmTran recommended that S5.2 and S4 be harmonized to standardize the area of application within the school bus industry, stating that locations of the windshield in relationship to body panels or panels supplied by the chassis manufacturer vary by body style and by manufacturer.

As explained in the previous section addressing the issue of small, curved and complex joints, Blue Bird asked that all joints that lie forward of the passenger compartment be excluded from the joint strength requirement in order to solve the problem of testing procedures for "automotive-type" joints. Blue Bird also recommended that "bus body" be redefined to exclude any structure forward of the passenger compartment. Blue Bird's rationale was that the redefinition "greatly simplifies" the standard by excluding many "controversial and problematic" joints, removes the need to exclude MAPs in this area and provides the desired exclusion for all joints in a cutaway van and most joints in a van-type school bus.

NHTSA agrees with petitioners that joints forward of the passenger compartment should be excluded from Standard No. 221's joint strength requirements. Over the years, we have had no information that "automotive-type" or other joints forward of the passenger compartment have posed safety-related problems that would necessitate "automotive-type" joints having to meet joint strength testing requirements. This is despite the fact that the smaller (4536 kg or less) school buses built on van and van cutaways (on which "automotive-type" joints are found) were not subject to Standard No. 221 until the November 5, 1998 final rule.

C. Removing Cross-Sectional Area of Material in Tensile Strength Calculation

In the final rule, NHTSA discontinued the deduction of the total area of material removed for installation of fasteners (i.e., holes drilled for installation of rivets or screws) in calculating the tensile strength of each joined component. In discontinuing the deduction, NHTSA's rationale was that it is easier for a sample joint to meet the standard's tensile strength requirement when the deduction is made for fastener holes. In setting the 60 percent tensile requirement, the agency determined that that minimum value meet the need for motor vehicle safety. Since deducting for fastener holes can result in a joint being actually weaker than 60 percent of its weakest member, safety is better served if the deduction were not made. Therefore, a letter of interpretation issued by NHTSA on November 28, 1978 that provided for the deduction was rescinded.

All three petitioners opposed the change in the deduction for the area for fastener holes and rescission of the November 28, 1978 interpretation letter. Both AmTran and Thomas Built cited an NTSB study that found that large school buses with body panel joints that met Standard No. 221 maintained structural integrity very well, even in severe crashes, thus providing effective protection to school bus occupants. Thomas Built added that this shows that current design practices have successfully maintained the integrity of body panel joints.

Blue Bird stated that approximately half of the joint designs used in manufacturing Blue Bird school buses use discrete fasteners and the majority of these will require redesign and testing. Blue Bird estimated that the number of required fasteners will increase between 12 and 25 percent. Blue Bird cited other negative factors resulting from the change in the calculation procedure as needing to change hard tooling with long lead times, increased material and labor costs, more noise and repetitive motion injuries in production, increased repair costs and little or no value added to the product. Thomas Built described the cost burden of the new calculation procedure as "staggering," providing estimates of the cost increases due to the new joint strength calculation procedure. Thomas Built estimated that the cost per new school bus of the new calculation procedure was $155 extra for labor and fasteners and $40 extra for tooling and fixtures, totaling $195 more per school bus. Thomas Built also estimated that new calculation procedure also would result in additional costs of $25,000 for plant modifications and $1,050,000 for tooling, a total of $1,075,000.

Regarding Thomas Built's arguments, NHTSA does not agree with Thomas Built that deducting for holes in the test sample is the proper procedure for calculating joint efficiency. The references provided by Thomas are for calculating the tensile strength of the test sample, not joint efficiency. NHTSA notes the tensile strength of a lap joint with discrete fasteners is a function of the shear strength of the fasteners, hole spacing and edge distance on the base plates.

Upon careful consideration of the petitioners' arguments, NHTSA agrees that the deduction for holes in the test sample should be maintained because this change in calculation procedure increases the cost of a school bus while providing little, if any, demonstrable safety benefits. The interpretation letter of November 28, 1978 is also reinstated.

D. Degrees of Tolerance in the Testing Machine Grip Adjustment

Blue Bird Body Co. argued that the plus or minus 3 degrees of tolerance in S6.3.2 testing machine grip adjustment is too great in that it allows the direction of the applied force on the ends of the specimen to be more than one and one quarter inches from the specimen centerline. Stating that such a tolerance could result in inaccurate test results, Blue Bird recommended plus or minus 1 degree as an acceptable tolerance. NHTSA does not agree with Blue Bird, and does not believe that the plus or minus 3 degrees of tolerance would result in producing inaccurate test results. Therefore, S6.3.2 of the November 1998 final rule will remain as issued.

Blue Bird argued that there is an apparent oversight in S6.2(a) where the mechanical properties of materials are known. Blue Bird stated that S6.2(a) should address the minimum material thickness as well as the minimum tensile strength for calculating tensile force. The agency does not agree. The agency believes that it is relatively simple to make a thickness measurement from the test specimen. Unlike the other mechanical properties such as tensile strength, which involves cutting and testing a specimen, a thickness measurement can easily be obtained from the test specimen.

E. Additional School Bus Issues Raised by Blue Bird Body Company

In its petition for reconsideration, Blue Bird also raised the following issues. Because none of them was raised in the notice of proposed rulemaking, NHTSA is unable to adopt them in this final rule; response to petitions for reconsideration. However, depending on whether NHTSA determines that adopting each recommendation would promote safety or would otherwise be justified, each issue may be a subject for future Standard No. 221 rulemaking.

As its first issue, Blue Bird suggested that a design solution to providing maintenance access panels to wiring and other components could be "non-metallic, non-hostile access panels." Blue Bird provided as an example the use of a continuous "plastic" extrusion above the window to replace existing wire molding. These access panels could be designed to provide needed access to wiring or other components that may require service, and yet would be light and flexible enough to not injure occupants in the event of a crash. Blue Bird asked NHTSA to consider the advantages of such designs and amend the final rule to permit their use. On a related issue, Blue Bird stated that in order to foster improvement in design and manufacture of school buses, Standard No. 221 should permit the use of plastic, fiber enforced resin, and other construction materials as well as the use of structural adhesives.

NHTSA notes that nothing in Standard No. 221 prohibits use of plastic, fiber enforced resin or "other construction materials" in the manufacture of school bus joints. Standard No. 221 specifies test procedures for school bus joint strength of "joint component material." (See S6.2(a).) Also, because the issue of permitting "non-metallic, non-hostile access panels" was not raised in the notice of proposed rulemaking, it is outside the scope of the final rule. NHTSA agrees that the idea of access panels that are non-hostile to occupants in crashes is worthy of further investigation.

Blue Bird also stated that if curved and/or complex joints are addressed in Standard No. 221, definitions must be provided, or Figure 1 must show side and end views of the specimen with tolerances on critical dimensions. NHTSA agrees that if there are any unclear or unresolved areas in Standard No. 221, they should be addressed by notice and comment rulemaking, where the public will have an opportunity to present its views.

F. Effective Date of January 1, 2003

In the November 5, 1998 final rule, NHTSA announced an effective date of May 5, 2000 for those amendments. In a final rule published on March 6, 2000, NHTSA delayed the effective date of the November 1998 final rule to May 5, 2001, and corrected a typographical error in the November 1998 final rule. In a final rule published on April 20, 2001 (66 FR 20199) (DOT DMS No. NHTSA–2001–9440), delayed again the effective date of the November 1998 final rule until June 1, 2002.

June 1, 2002 will be less than a year away when this final rule; response to petitions for reconsideration is published. NHTSA seeks to ensure that the school bus industry has adequate notice of the changes in this document, and can make the die and tooling and other manufacturing changes necessary to meet this final rule. We also note that virtually all the changes to the November 1998 final rule were made because NHTSA was petitioned by industry to make these changes. Accordingly, in this final rule, we establish an effective date of January 1, 2003 for the November 1998 final rule, as amended by the changes made in today's final rule.

As advised to do so by **Federal Register** editors, for purposes of clarity, in this document we are withdrawing the November 1998 final rule, and are republishing it today, as modified by the changes we decided to make in response to the petitions for reconsideration.

IV. Rulemaking Analyses and Notices

A. Executive Order 12866; DOT Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making

determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

NHTSA has evaluated the impacts of this final rule under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866. Consequently, it was not reviewed by the Office of Management and Budget. This final rule is also not considered to be significant under the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

The agency prepared a Final Regulatory Evaluation (FRE) for the final rule that was published on November 5, 1998 (63 FR 59732) and has placed a copy of that FRE in the public docket. A copy of the FRE may be obtained by contacting the Department's Docket at the address given at the beginning of this document. For the reasons explained below, we believe this final rule will have no additional cost effects on school bus manufacturers above those resulting from the 1998 final rule.

As explained in the FRE, for the November 1998 final rule, NHTSA estimated that the average consumer cost per vehicle affected by the November 1998 final rule is approximately $221 per large school bus and $343 per small school bus. Those retail price increases include variable costs, fixed factory overhead, tooling, and manufacturers' and dealers' profit margins. The difference in cost between large and small buses arises from the fact that large school buses, which already comply with the body panel joint strength standards of Standard 221, have only to bring their MAPs into compliance. Small school buses, on the other hand, which have heretofore been excluded from the joint strength requirements of Standard 221, must bring their body panel joints and their MAPs into compliance.

Information available to NHTSA indicates that the average combined total of annual sales of large and small school buses is approximately 35,000 units. Approximately 84 percent of those are large and 16 percent are small.

In the FRE for the November 1998 final rule, the estimated costs for small school buses were derived as follows. As discussed above, 21 states and the District of Columbia currently require small school buses to comply with the joint strength requirements of Standard No. 221. Sales within those jurisdictions represent 35 percent of small school bus sales. NHTSA estimates that the average cost of bringing body panel joints on 65 percent (@($414) joint strength upgrade) of the small school buses and MAPs on 100 percent (@($74) MAP redesign) of the small school buses into compliance with Standard No. 221 will be $343 per vehicle. (0.65($414) + 1.00($74) = $343.) The total annual consumer cost for implementing the terms of this final rule for small school buses, therefore, is estimated to be $1,920,800. ($343 × 16% of 35,000 school buses.) These costs are based on optional equipment costs and may be overstated when required on all vehicles.

As noted above, the agency estimated that the average cost per large school bus resulting from the November 1998 final rule to be $222. Thus, the total annual consumer cost of limiting the MAP exclusion in large school buses would average approximately $6,526,800 ($222 × 84% of 35,000 school buses).

In the FRE for the November 1998 final rule, the total annual consumer cost to implement the amendments promulgated by this final rule for both large and small school buses is estimated to be $8,447,600.

NHTSA notes that the FRE for the November 1998 final rule did not factor into the calculation the costs (per bus or for the industry) involved in discontinuing the deduction of the total area of material removed for installation of fasteners (i.e., holes drilled for installation of rivets or screws) in calculating the tensile strength of each joined component. In this final rule, we have reinstated the deduction of the total area of material removed for installation of fasteners. Therefore, since, in this final rule, manufacturers may continue to deduct the total area of material removed, there is no change in the calculation of costs resulting from this final rule.

In the FRE for the November 1998 final rule, NHTSA stated its belief that the provisions in the November 1998 final rule will reduce 6 to 46 minor-to-serious injuries (AIS 1–3) annually. It is estimated that 5 to 33 AIS 1–3 laceration-type injuries will be reduced on large school buses due to the narrowing of the MAPs requirements. It is also estimated that the injury reduction for small school buses will be 0 to 3 AIS 1–3 laceration-type injuries and 1 to 10 AIS–3 fracture-type injuries. The methodology used to obtain these benefits can be found in the Final Regulatory Evaluation available in the docket.

This estimate of injury reduction is unchanged by the issuance of this final rule; response to petitions for reconsideration.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. For the following reasons, I certify that the amendments will not have a significant economic impact on a substantial number of small entities.

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires each agency to evaluate the potential effects of its rules on small businesses, small organizations, and small governmental jurisdictions. The small businesses and organizations most likely to be affected by this final rule are: (1) School bus manufacturers; (2) school bus dealers and distributors; and (3) public and private school bus transportation owners and operators.

The Small Business Administration (SBA) defines a bus manufacturer with fewer than 500 employees as a small business (13 CFR part 121). Using that definition, the agency believes that many of the school bus manufacturers qualify as small businesses. As discussed above, most bus manufacturers known by NHTSA to build small school buses currently offer small school buses with complying body panel joints as an option. The manufacturers produce these vehicles to accommodate the 21 states and the District of Columbia which require that all school buses comply with Standard No. 221. NHTSA believes, therefore, that, as was the case for the November 1998 final rule, this final rule will not require new manufacturing techniques or tooling to be used by school bus manufacturers in order to build school buses that comply with the requirements of Standard No. 221. Further, costs, as a percentage of the

total school bus manufacturing cost, will not increase from the November 1998 final rule. Thus, any impact on total school bus sales will be negligible. On balance, the agency anticipates little measurable impact on school bus manufacturers' revenue levels, profitability, or employment.

The SBA defines a motor vehicle retailer with less than $11,500,000 in annual receipts as a small business. There are approximately 465 school bus dealers and distributors in the United States. From 1991 to1996, an annual average of approximately 35,000 school buses were sold, representing an average of 75 buses per dealer. In order to reach the threshold of $11,500,000 in annual sales receipts, the average dealer would have to sell a much larger number (270) of large school buses annually, assuming a cost of $45,280 per unit. Thus, most school bus dealers are probably small businesses. Because there are no cost effects on manufacturers, the agency also anticipates little measurable impact on retailers' revenue levels, profitability, or employment, as a result of this final rule.

NHTSA has no evidence that this final rule will have a "significant economic impact" on public and private school bus transportation owners and operators, small school districts, or other small school bus purchasers. As discussed above, this final rule will not increase manufacturing costs on school bus manufacturers. Therefore there would be no additional manufacturing costs that would be passed on to school bus purchasers.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the agency notes that there are no collection of information requirements associated with this final rule. Nothing in this final rule imposes a recordkeeping or filing requirement on any manufacturer or any other party. For this reason, we discuss neither electronic recordkeeping nor electronic filing nor do we discuss a fully electronic filing option by October 2003.

D. National Environmental Policy Act

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

E. Executive Order 13132, Federalism

Executive Order 13132 requires us to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, we may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or unless we consult with State and local officials early in the process of developing the proposed regulation. We also may not issue a regulation with Federalism implications and that preempts State law unless we consult with State and local officials early in the process of developing the proposed regulation.

This final rule; response to petitions for reconsideration would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The reason is that this final rule applies to manufacturers of motor vehicles or motor vehicle equipment, and not to the States or local governments. Thus, the requirements of Section 6 of the Executive Order would not apply.

F. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle only if the standard is identical to the Federal standard. However, the United States Government, a state or political subdivision of a state may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings is not required before parties may file suit in court.

G. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). The agency has determined that this final rule will not result in the expenditure by State, local or tribal governments, or by the private sector of $100 million annually.

H. Executive Order 13045 (Economically Significant Rules Affecting Children)

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

Since this final rule is not "significant" and since it does not concern any environmental, health or safety risk with a disproportionate effect on children, E.O. 13045 does not apply.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards [1] in its regulatory activities unless doing so would be inconsistent with applicable law (e.g., the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. In meeting that requirement, we are required to consult with voluntary, private sector, consensus standards bodies. Examples

[2] Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as "performance-based or design-specific technical specifications and related management systems practices." They pertain to "products and processes, such as size, strength, or technical performance of a product, process, or material."

of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using the standards.

Because no voluntary consensus standards were applicable to the issues addressed in this final rule, we did not use any in the promulgation of this final rule.

J. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make this rulemaking easier to understand?

If you have any responses to these questions, please include them in comments to the docket number specified in the heading of this notice.

K. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulation Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, the final rule published November 5, 1998 (63 FR 59732) and amended and delayed March 6, 2000 (65 FR 11751), and delayed again April 20, 2001 until June 1, 2002 (66 FR 20199) is withdrawn, and 49 CFR part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegations of authority at 49 CFR 1.50.

2. Section 571.221 is amended by revising S3; revising the definitions of "body panel joint" and "bus body" in S4; adding, in alphabetical order, the definitions of "maintenance access panel", "passenger compartment" and "serviceable component" to S4; and revising S5 and S6 to read as follows:

§ 571.221 Standard No. 221, School Bus Body Joint Strength.

* * * * *

S3. Application. This standard applies to school buses.

S4. Definitions.

Body panel joint means the area of contact or close proximity between the edges of a body panel and another body component, including but not limited to floor panels, and body panels made of composite materials such as plastic or plywood, excluding trim and decorative parts which do not contribute to the strength of the bus body, members such as rub rails which are entirely outside of body panels, ventilation panels, components provided for functional purposes, and engine access covers.

Bus body means that portion of a bus that encloses the bus occupant space, including the floor, but excluding the bumpers and chassis frame and any structure forward of the passenger compartment.

* * * * *

Maintenance access panel means a body panel which must be moved or removed to provide access to one or more serviceable component(s).

Passenger compartment means space within the school bus interior that is between a vertical transverse plane located 762 mm in front of the forwardmost passenger seating reference point and including a vertical transverse plane tangent to the rear interior wall of the bus at the vehicle centerline.

Serviceable component means any part of the bus, of either a mechanical or electrical nature, which is explicitly identified by the bus chassis and/or body manufacturer in the owner's manual or factory service manual as requiring routine maintenance actions at intervals of one year or less. Tubing, wires and harnesses are considered to be serviceable components only at their attachments.

S5 Requirements.

S5.1 Except as provided in S5.2, each body panel joint, including small, curved, and complex joints, when tested in accordance with the procedure of S6, shall hold the body panel to the member to which it is joined when subjected to a force of 60 percent of the tensile strength of the weakest joined body panel determined pursuant to S6.2.

S5.1.1 Body panels attached to each other shall have no unattached segment at the joint longer than 203 mm.

S5.2 Exclusions

S5.2.1 The requirements of S5.1 do not apply to—

(a) Any interior maintenance access panel or joint which lies forward of the passenger compartment.

(b) Any interior maintenance access panel within the passenger compartment that does not exceed 305 mm when measured across any two points diametrically on opposite sides of the opening.

(c) Trim and decorative parts which do not contribute to the strength of the joint, support members such as rub rails which are entirely outside of body panels, doors and windows, ventilation panels, and engine access covers.

S6 Procedure

S6.1 Preparation of the test specimen.

S6.1.1 If a body panel joint is 203 mm or longer, cut a test specimen that consists of any 203 mm segment of the joint, together with a portion of the bus body whose dimensions are those specified in Figure 1, so that the specimen's centerline is perpendicular to the joint at the midpoint of the joint segment. Where the body panel joint is not fastened continuously, select the segment so that it does not bisect a spot weld or a discrete fastener. Support members which contribute to the strength of a body panel joint, such as rub rails on the outside of body panels or underlying structure attached to joint members, shall remain attached to the test specimen, except that material may be removed from the support members as necessary to clear the gripping areas of the joint members being tested.

S6.1.2 If a joint is less than 305 mm long, cut a test specimen with enough of the adjacent material to permit it to be held in the tension testing machine specified in S6.3.

S6.1.3 Prepare the test specimen in accordance with the preparation procedures specified in the 1989 edition of the Annual Book of American Society for Testing and Materials (ASTM) Standards.

S6.2 *Determination of minimum allowable strength.* For purposes of determining the minimum allowable joint strength, determine the tensile strengths of the joined body components as follows:

(a) If the mechanical properties of a joint component material are specified by the ASTM in the 1989 Annual Book of ASTM Standards, the lowest value of that material's thickness and tensile strength per unit of area shown in that source shall be used.

(b) If the mechanical properties of a material are not specified by the ASTM in the 1989 Annual Book of ASTM Standards, determine its tensile strength by cutting a sheet specimen from outside the joint region of the bus body in accordance with Figure 1 of E 8–89 Standard Test Methods of Tension Testing of Metallic Materials, in Volume 03.01 of the 1989 Annual Book of ASTM Standards, and by testing it in accordance with S6.3.

(c) The cross sectional area of material removed to facilitate the installation of fasteners shall be subtracted from the cross-sectional area of the panel in the determination of the tensile strength of the weakest joined body panel.

S6.3 Strength Test.

S6.3.1 The joint specimen is gripped on opposite sides of the joint in a tension testing machine in accordance with the 1989 Annual Book of ASTM Standards.

S6.3.2 Adjust the testing machine grips so that the applied force on the joint is at 90 degrees plus or minus 3 degrees from the joint centerline, as shown in Figure 1.

S6.3.3 A tensile force is applied to the specimen by separating the heads of the testing machine at any uniform rate not less than 3 mm and not more than 10 mm per minute until the specimen separates.

3. Figure 1 is revised to read as follows:

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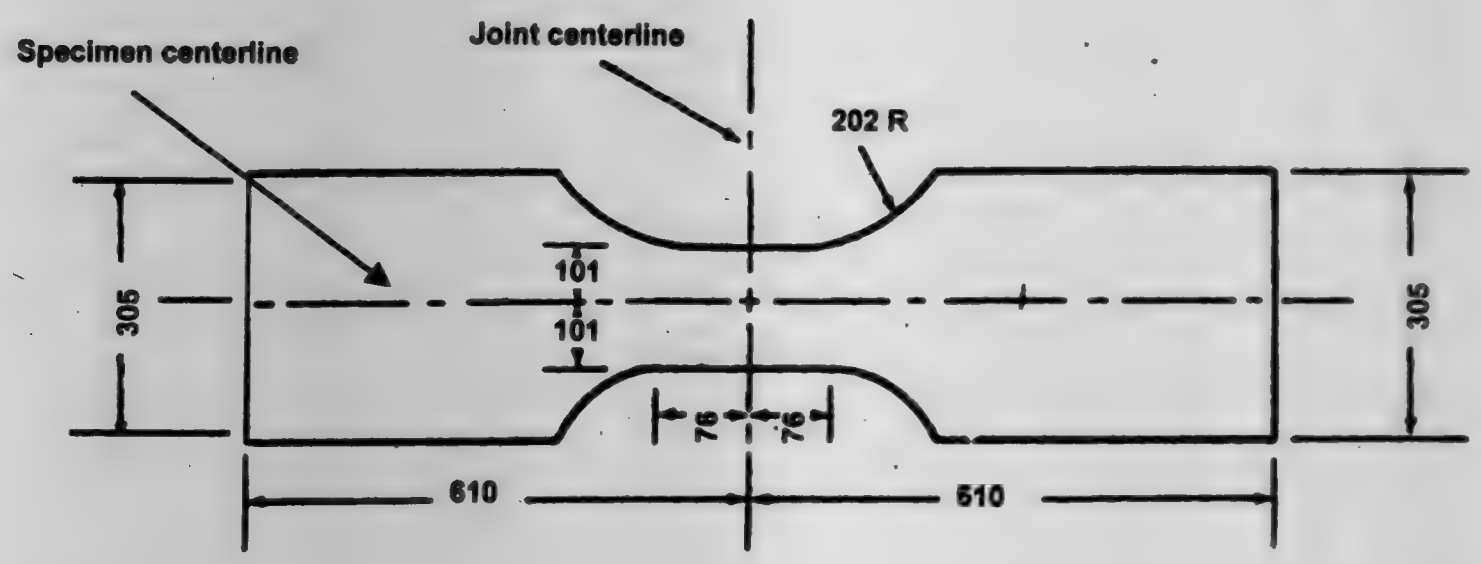
FIGURE 1



All dimensions in millimeters

Issued on: December 5, 2001.

Jeffrey W. Runge,

Administrator.

[FR Doc. 01–30496 Filed 12–12–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. NHTSA–01–11111]

RIN 2127–AH02

Anthropomorphic Test Devices; 3-Year-Old Child Crash Test Dummy

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: On March 22, 2000, NHTSA published a final rule adding a new, more advanced 3-year-old child dummy to the regulation for Anthropomorphic Test Devices. Four organizations filed petitions for reconsideration of this rule. In response to these petitions, this document makes several minor changes to the final rule, including: Slightly raising the limit on the peak forces that occur in the transition compression zone referenced in calibration tests for the dummy's thorax response; revising the impact probe definition to include provisions for mounting suspension hardware if a cable system is used to suspend and guide the pendulum for impacts, to adopt a lower minimum mass moment of inertia, and to clarify the specification for free air resonant frequency; revising specifications in several drawings for the fabrication of load cells; and correcting several minor specification errors in these drawings. This document also denies a request to add a provision for post-test calibration of the dummy.

DATES: The amendment is effective on January 14, 2002.

Petitions for reconsideration of the final rule must be received by January 28, 2002.

ADDRESSES: Petitions for reconsideration should refer to the docket number of this document and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues: Stan Backaitis, Office of Crashworthiness Standards (telephone: 202–366–4912). For legal issues: Deirdre R. Fujita, Office of the Chief Counsel (202–366–2992). Both can be reached at the National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590.

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I. Background

On March 22, 2000, NHTSA published a final rule amending the regulation for Anthropomorphic Test Devices (49 CFR part 572), by adding specifications and calibration requirements for a new, advanced 3-year-old child dummy (65 FR 15254; docket number 2000–7051). The new dummy, part of the family of Hybrid III test dummies, is more representative of children than the existing 3-year-old child test dummy in Part 572, and allows the assessment of the potential for more types of injuries in automotive crashes. The new dummy is used to evaluate the effects of air bag deployment on out-of-position children, and can provide a fuller evaluation of the performance of child restraint systems in protecting young children. The new dummy is defined in part 572 subpart P (Sections 572.140–572.146).

The specifications for the Hybrid III type 3-year-old test dummy (hereinafter referred to as the H–III3C dummy) consist of three elements. First, there is a drawing package that shows the component parts, the subassemblies, and the assembly of the complete dummy. The drawing package also defines materials and, where practical, material treatment processes for all the dummy's component parts, including the dummy's crash sensors and their location and orientation in the dummy. Second, there is a manual containing disassembly, inspection, and assembly procedures, and a dummy parts list.

Third, there are the impact performance criteria and associated test procedures. These are specified to serve as calibration checks so as to assure the uniformity of the dummy's kinematics and impact response, and to reveal possible functional deficiencies from previous use. The tests address head, neck, and thorax impact responses and assess the resistance of the lumbar spine-abdomen region to upper torso flexion motion.

In addition, the final rule adopted generic specifications for all of the dummy-based sensors. For dummies incorporated into Part 572 through the 1990's, the agency specified sensors by make and model. However, the agency concluded that that approach was unnecessarily restrictive and limited innovation and competition. Accordingly, the final rule for the dummy, and those for all new dummies as of year 2000, specified sensors primarily by performance characteristics, and by their intended geometry, alignment and method of attachment within the dummy (see, NHTSA technical report "Development and Evaluation of the Hybrid III 3-year-old Child Dummy" (December 1998), Docket No. 99–5032).

NHTSA received petitions for reconsideration of the rule from First Technology Safety Systems (FTSS), Toyota Motor Corporation (Toyota); the Alliance of Automobile Manufacturers (Alliance) and Robert A. Denton, Inc. (Denton). The petitioners generally supported adopting the new dummy into Part 572, but believed that some technical issues, and one related to the agency's enforcement policy, had to be resolved. To support its suggested revisions, FTSS attached to its petition extracts from the Society of Automotive Engineers (SAE) Dummy Test Equipment Sub-Committee (DTES) meeting minutes pertaining to DTES's evaluation of the H–III3C dummy over the past several months. Similarly, the Alliance stated that its discussion of the calibration procedures of the final rule was based on the DTES's evaluation of the specifications of the rule and other data.

NHTSA has evaluated the petitions and is responding to the suggestions in this document. The agency is also correcting minor errors in the final rule and dummy drawings that we discovered during the review of these petitions.

II. Issues

a. Section 572.144 Thorax Assembly and Test Procedure

Section 572.144(b)(1) limited the peak force within a specified "transition compression zone" because excessively

large force, or acceleration, spikes in that zone might be indicative of deficiencies in the chest structure. The agency stated in the preamble to the final rule that, based on an analysis of the H–III3C dummy's thorax responses, statistically, the peak force of a well-functioning dummy in the transition compression zone of the rib cage could be as high as 860 N. Accordingly, the final rule specified an 860 N peak force limit for the transition compression zone bounded between 12.5 mm and 32 mm of sternum deflection.

The Alliance questioned the need for limiting the peak allowable thorax force, "as it does not make the dummy response fit better into the biomechanical corridor." FTSS requested that the agency change the thoracic peak force requirement from 860 N to 910 N. The petitioner stated that, based on 34 DTES tests and applying a two standard deviation tolerance and rounding to the nearest 10 N, the peak force criterion should be 910 N instead of 860 N. The Alliance suggested that, if the agency retained the additional peak force specification, then the peak force criterion should be changed to 912 N based on the average (mean) of data, plus two standard deviations. These force values, the Alliance notes, were provided by DTES participants (FTSS, TRW and General Motors) following an April 14, 2000 DTES meeting.

NHTSA's Response: The basis for limiting the peak force was explained in the final rule. While this final rule increases the force limit in the transition compression zone, NHTSA confirms the rationale given in the rule for establishing a limit. A limit is needed to better ensure that the dummy's overall responses are reliable and repeatable. Forces within the transition compression zone should be limited because excessively large force spikes are indicative of potential deficiencies in the chest structure, which could affect the results of a compliance test. Biomechanical response corridors indicate that high peaks in the transition compression zone would not be humanlike and not likely to occur in a well functioning physical spring-mass system, which is representative of the dummy's rib cage. An excessively high peak force occurring in the transition compression zone would indicate a mechanical deficiency within the rib cage structure, even though the peak force requirement within the specified maximum allowable compression corridor is met. Accordingly, an additional upper force peak limit prior to reaching the specified maximum displacement corridor would provide significant assurance that the dummy's rib cage has human-like response and adequate structural integrity.[1]

The final rule limited the peak forces that occur in the transition compression zone to 860 N. The agency's analysis of SAE data and NHTSA data generated at the agency's Vehicle Research & Test Center (VRTC) indicated that statistically the peak force of a well-functioning dummy in the transition compression zone could be as high as 860 N. In its petition for reconsideration, FTSS submitted data from 34 tests that supported the petitioner's suggested force value of 912 N. After analyzing the data, NHTSA agrees that the recommended upper peak thorax force in the transition deflection corridor should be changed to a rounded value of 910 N. The 860 N value specified in the final rule was based on tests performed by the SAE using a higher mass pendulum, but at a slightly lower impact speed, than the pendulum and speed specified in the final rule. The ratio of impact energies between the Part 572 calibration test and the SAE biomechanical tests is 1.136. Because the Part 572 calibration test is performed at an approximately 13.6 percent higher energy level than the SAE biomechanical tests, an increase up to 13.6 percent of force in the transition zone is justified. Thus, petitioner FTSS's suggestion to increase the force level to 910 N in the transition zone is reasonable.[2] NHTSA has determined that 910 N is a sufficient and justifiable peak force limit. It is within 12.3 percent of the peak force value allowed at maximum sternum deflection, and well within the data dispersion of +2 standard deviations from the mean of 806 N rounded to the nearest 10 N.

b. Section 572.145 Torso Flexion Test Procedure

Section 572.145(c)(1) specifies that the temperature range for the torso flexion test is at 66° to 78° F (18.9° to 25.6° C). FTSS and the Alliance believed that the range was too wide and could cause test variability because of the sensitivity of the dummy's thorax and lumbar spine/abdomen materials to temperature. FTSS and the Alliance recommended reducing the temperature range to 69° to 72° F. FTSS stated that the narrower range would be consistent with other dummy component tests (see, e.g., 572.144(c)(2), thorax assembly test procedure).

NHTSA's Response: NHTSA is denying the request to change the specified torso flexion temperature range. After receiving the petitions for reconsideration of the final rule on the H-III3C dummy, the agency tested whether the dummy's torso flexion sensitivity is significantly affected by temperatures in the specified temperature range. NHTSA's Vehicle Research & Test Center performed two series of temperature sensitivity tests: one at a temperature range between 66° to 78° F and the other between 69° and 72° F. The change in average force needed to flex the dummy, normalized for the temperature range for each test series, showed very little difference in the two test series: 0.18 lbf/°F for the 66° to 78° F range and 0.17 lbf/°F for the 69° to 72° F range. Thus, the agency concludes, the torso flexion force is virtually unaffected by temperature variation within the specified range and thus should not be a significant factor having effects on crash test measurements, particularly given that the compliance tests are performed at a temperature range between 69° to 72° F. NHTSA has placed a copy of a memorandum in the docket (Docket No. NHTSA–2000–7051–7) documenting details and results of torso resistance to flexion vs. temperature sensitivity tests conducted by the agency in response to this petition.

[1] NHTSA limited the peak force measured during the sternum-to-spine displacement interval in response to a comment from TRC on the NPRM for the Hybrid III fifth percentile female dummy. TRC had stated that the thorax force response for that dummy included several peaks before it gets to the specified corridor, and asked for clarification of which of the forces should be considered and which should be disregarded. TRC had recommended that the final rule limit the peak force that occurs in the deflection interval between the first inertial spike and the peak force at the minimum/maximum required sternum displacement (transition zone) to a value 5 percent or less above the peak force measured within the required minimum/maximum compression corridor. NHTSA agreed with TRC that the initial force spike, occurring within 12.5 mm of impact, is an artifact of the inertial mass interaction between the impactor and the dummy. It has no biomechanical significance, and thus it is not an indicator of a bad ribcage. Thus, the final rule for the fifth percentile female adult dummy accommodated the existence of the initial data spike by limiting peak force measurements only to a specified sternum displacement after the initial force spike has occurred. Because the agency determined that the approach taken in that final rule constituted a good definition of the response force in the transition zone and provided control of the thorax force response levels, the final rule for the H–III3C dummy used the same approach in discounting the significance of the initial data spike. Accordingly, the final rule excluded consideration of force data from the first 12.5 mm of sternum compression and limited the peak allowable force after 12.5 mm (to 860 N).

[2] The increase in thorax force response by 50 N may result at its extreme in only an increase of chest acceleration of less than 1 g in compliance tests based on the upper torso-neck-and head weight of approximately 14 lb (50/4.448/14.00 = 0.8g).

c. Section 572.146(a) Test Probe for Thoracic Impacts

Concentric and Symmetric in Shape: Section 572.146(a) specified generic characteristics for the test probe for thoracic impacts. It specified, among other things, that the test probe "shall be * * * concentric in shape, and symmetric about its longitudinal axis."

The Alliance said that it believes that the requirements for concentricity and symmetry about the longitudinal axis "are unrealistic since the pendulum is often fitted with velocity vanes, causing asymmetry." FTSS stated that the meaning of "concentric in shape" was unclear. FTSS believes that "[c]oncentric means 'having the same center', but does not define the shape of an object" and that, in any event, specifying concentricity was unnecessary. FTSS notes that NHTSA adopted the concentricity and symmetry requirements to locate the probe center of gravity (CG) on the longitudinal axis, passing through the center of the impacting face, and that the rule should therefore simply specify the CG location of the probe. Further, similar to the Alliance, FTSS stated that the addition of cable attachments and velocity vanes does not allow the probe to be symmetric in any one plane. FTSS thus suggested that a tolerance of 3.5 mm should be specified for locating the CG, such as by the statement: "The probe center of gravity shall lie within 3.5 mm of the longitudinal axis passing through the center of the impacting face."

NHTSA's Response: NHTSA agrees with the petitioners that the definition of the probe should include provisions for mounting velocity vanes, suspension hardware, and cable system if and when it is used to guide the pendulum for impacts. NHTSA agrees with the concerns about specifying concentricity and symmetry and has revised the test probe definition by removing the words "* * * in shape and symmetric" from the first sentence in "571.146(a) and has added "except for attachments" to assure that attachments are not considered in evaluating the concentricity of the probe along the longitudinal axis. The sentence now reads: "The test probe for thoracic impacts, except for attachments, shall be of rigid metallic construction and concentric about its longitudinal axis."

Rather than itemizing all attachments, such as suspension hardware, suspension cables and velocity vanes, to specifications for concentricity, symmetry and dimensions, this rule specifies in a new paragraph in § 572.144(c)(7) that any attachments to the impactor (e.g., suspension hardware, suspension cables and velocity vanes) must not contact the dummy during the test.

The agency does not agree with FTSS that the CG offset from the longitudinal axis needs to be specified. To measure such an offset would be extremely difficult, and it would be virtually of no benefit to any user. The requirements in the final rule for moment of inertia in pitch and yaw and the specification of mass, as discussed immediately below, provide sufficient controls to assure stable kinematics during the probe's free flight and impact with the dummy.

Mass Moment of Inertia: Section 572.146(a) also specified that the probe must have a minimum mass moment of inertia 283 kg-cm^2 (0.25 lb-in-sec^2) in yaw and pitch about the CG of the probe, and a free air resonant frequency not less than 1000 Hz. The Alliance stated that it believes that NHTSA did not clearly explain the reason for these criteria. The Alliance stated that it could not determine the necessity of the criteria from data collected by the DTES following the April 2000 meeting. The Alliance further stated that, for thorax impact probes used at a number of test labs, the mass moments of inertia (MMI) values fell below the minimum requirement of 283 kg-cm^2. The petitioner said these probes were used to develop the data that formed the basis for the thorax calibration performance corridors of the final rule. The Alliance said that if NHTSA decides to retain the MMI specification, the impactor should be cylindrical since NHTSA had stated in a final rule for a previous dummy (fifth percentile female) that the ideal impactor is of cylindrical design, and that the following values should be specified: Mass 1.70 kg; MMI 138.4 kg-cm^2. FTSS stated that the specified values of MMI are arbitrary and that its thorax probe has a yaw MMI of 199 kg-cm^2 and pitch MMI of 201 kg-cm^2, which do not meet the specified criterion of 283 kg-cm^2. FTSS said that NHTSA presented no data to suggest that probes, such as those the petitioner uses, do not provide satisfactory performance.

NHTSA's Response: NHTSA defined the impactor in generic terms in response to industry comments on the NPRMs for both the 6-year-old and fifth percentile female dummies, stating that the impactor needed to be generic in definition and that the users desire to make them from building blocks, essentially, an assembly of multiple pieces. The commenters also requested that NHTSA not define the impactor by design. The agency believes that any impactor not defined by design to control its kinematics and response during impact, must be defined by engineering parameters, such as mass, stiffness, MMI and, if needed, CG location. As a result, the agency responded to the commenters' desire for a generic impactor and defined the impactor in engineering terms.

NHTSA notes that assembling impactors from multiple pieces may result in compositions with many forms and wide variations in the location of the CG, and the yaw and pitch MMI. These wide variations are evident in the Alliance's petition, in which the Alliance notes that its member companies have used different impactors with MMIs ranging from 122 to 572 kg-cm^2 (measured) and 138 to 199 kg-cm^2 (calculated).

To determine the effects on kinematics of low and high inertia impactors, in response to petitions for reconsideration of the final rules for the 6-year-old and fifth percentile female dummies, the agency studied the kinematics of impactors having low MMI and compared them with the kinematics of impactors having a much higher MMI. The evaluation revealed that low inertia impactors experienced considerable motion instability. In contrast, impactors with higher MMIs exhibited very stable free flight kinematics. This experiment shows that the use of impactors with low MMIs could lead to unstable kinematics. Inasmuch as the response of the dummy in calibration tests is used as a measure of the dummy's repeatability and objectivity, it is important that the impact probe kinematics not be a source of variability. (A discussion of NHTSA's evaluation of impact probes can be found at Docket No. NHTSA–00–6714–12.)

FTSS stated that its thorax probe has a yaw MMI of 199 kg-cm^2 and a pitch MMI of 201 kg-cm^2. We have determined that the FTSS measured MMI values reflect current industry practice, and, therefore, there are reasonably good grounds for their acceptance. In contrast, the agency believes that the calculated low MMI value of 138.4 kg-cm^2 suggested by the petitioner is considerably below the values of impactors currently used by the industry. The petitioner has not provided any evidence to support the validity of its suggestion. In a study related to moment of inertia specifications for impact probes, the agency found that a pendulum type impact probe must have at least 164 kg-cm^2 MMI value to assure stability during free flight and at impact with the dummy's sternum (ref. Technical Report, Docket No. NHTSA–1999–6714–12). Accordingly, the agency is

specifying, as the minimum, a measured MMI value of 164 kg-cm² (0.145 lb-in-sec²), but not the calculated MMI of 138 kg-cm² (0.122 lb-in-sec²) suggested by the Alliance. The 164 kg-cm² value was also cited by the Alliance in its May 15, 2000 submission to docket NHTSA–2000–7052–6. It should be noted that impactors with lower MMI than the inertia value specified in the final rule may produce motion instability and thus could create unreliable test results. In contrast, the impactors with a higher MMI exhibited very stable free flight kinematics. Accordingly, as a matter of caution, the agency is advising that test facilities conducting tests with impactors having a lower MMI value than the minimum specified in this rule, should exercise great care in the design of the impactor suspension and guidance systems to assure stable and consistent impact kinematics.

Mass (Weight) Distribution: Section 572.146(a) also specified that the test probe shall have a mass of 1.70 ± .01 [kilograms] kg (3.75 ± 0.02 (pounds)(lb)). The Alliance and FTSS believed that a weight tolerance of 10 grams is too small to be practically measured. The Alliance requested that the tolerance be increased to ±0.02 kg (±0.05 lb). FTSS recommended ±0.023 kg.

NHTSA's Response: NHTSA agrees that the tolerance of ± 0.02 lb might be difficult to achieve because some of the accelerometers used on the crash test equipment weigh as much as 0.02 lb while others are as low as 0.002 lb. The agency believes that the total impactor weight tolerance should, to the extent possible, take into account the weight differences between many possible types of accelerometers used on impactors. Accordingly, we agree with the Alliance recommendation to increase the overall weight tolerance to ± 0.02 kg (± 0.05 lb), which allows less than 3 percent variation in the overall weight of the impactor. The weight specification is also changed in Figure P4 of Part 572, Subpart P, titled "Thorax Impact Test Set-Up Specifications."

Effects of Attachments on Concentricity: Section 572.146(a) also specified that: "No concentric portions of the impact probe may exceed the diameter of the impact face." Since the pendulum is often fitted with velocity vanes and cable attachments, the Alliance considered this requirement unrealistic. The Alliance recommended revising the test probe definition to: "The primary test probe, less any additional hardware, for [body region] impacts shall be of rigid metallic construction, concentric in shape, and symmetric about its longitudinal axis." FTSS claimed that it does not know the meaning of "concentric in shape." FTSS noted that necessary addition of cable attachments and velocity vanes means that the requirement cannot be met.

NHTSA Response: NHTSA agrees with the Alliance that addition of suspension hardward and velocity vanes would violate the specification that "No concentric portions of the impact probe may exceed the diameter of the impact face." The agency's concern was that use of an unusually shaped impactor or attachments to it might cause other portions than the impact face to come into contact with the dummy during the impact, which may distort or modify the dummy's impact response. To overcome this concern and those of commenters that they would not be able to meet the concentricity requirements, we are limiting the impactor body's length at which it must not exceed the diameter of the impact face, for a minimum of 1 inch (25.4 mm) to the rear of the impact face. Also, to assure that attachments to the impactor do not contact the dummy during impact, we are including a specification in § 572.144(c)(7) that states that any attachments to the impactor, such as suspension hardware and impact vanes, must not contact the dummy during the test.

Probe Diameter Edge Radius: Another provision of § 572.146(a) specifies that the impacting end of the probe has a diameter face with a maximum edge radius of 12.7 mm (0.5 in). FTSS and the Alliance were concerned that specifying a maximum radius allows for smaller radii which may affect the probe's interaction with the dummy, resulting in differences in the initial contact area. Both petitioners recommended deleting the word "maximum," so that the specification would read "* * * diameter face with an edge radius of 12.7 mm (0.5 in)."

NHTSA's Response: NHTSA agrees with the concern that specifying a maximum radius without a minimum allows for smaller radii, which may affect the probe's interaction with the dummy, resulting in differences in the initial contact area. Also, if a minimum radius were not specified, at the extreme of the specification, the edge of the impactor face could be a sharp edge. If the alignment of the probe face to the dummy's thorax were not perfect, such an edge could produce significant variability in the dummy's impact response. However, we believe that simply deleting "maximum" could raise questions about permissible variations in edge radius from 12.7 mm (0.5 in) in either direction. We see no need to either control the impactor's edge to a great precision or to allow it to be sharp. We find that a commercial tolerance of ±0.1 inches would have minimal effects on the surface area of the impactor, and would preclude use of impactors with a sharp edge. Accordingly, to preclude the potential of large variations, we are specifying a min/max edge radius of 7.6/12.7 mm (0.3/0.5 in). This radius is based on dimensional tolerance of ±0.1 in from the mean of 10.2 mm (0.4 in) as a practical allowance for manufacturing and inspection, without any effects on the performance of the impact probe.

Free Air Resonant Frequency: Section 572.146(a) specifies that the test probe must have a free air resonant frequency not less than 1000 Hz.

In its petition for reconsideration of the requirement, FTSS stated:

> Section 572.146(a) establishes a requirement for the free air resonant frequency without specifying the methods to measure this frequency or with a rationale for the need of this requirement. FTSS [First Technology] has analyzed the probes used in its calibration laboratories, and the results show the first resonant modes of these probes are bending modes, which causes a lateral translation at the accelerometer location. Typical accelerometers have less than 3% cross-axis sensitivity, so if a probe was excited during a dummy test (which is unproven), the affect [sic] on the acceleration signal would be minimal. It may be more appropriate to specify a 1000Hz resonant frequency limit in the sensitive axis of the accelerometer. * * * Although the FTSS H3–3 thorax probe meets the 1000Hz minimum requirement, we still do not agree with this specification. We therefore petition the mass moment of inertia and free air resonance response criteria should be held in abeyance for a period of six months to allow time to develop reasonable and rational criteria for the probes and to develop and manufacture re-designed probes as necessary. * * *

The Alliance raised similar concerns and also suggested deleting the free air resonance frequency requirement until data are available that justify the need for the requirement.

NHTSA's Response: Commentors on the NPRMs for the 6-year-old and fifth percentile adult female dummies expressed a desire for generic impactor specifications to allow users the freedom to design impactors in a variety of ways, including constructing them from building blocks. As a result, the agency developed a generic engineering specification and inserted it in the final rules for these dummies. For the sake of consistency, the agency carried over this "generic" specification into the final rule for the H–III3C dummy.

The resonant frequency is a vital part of the generic specification of an impactor. It is necessary for three reasons: (1) Because the intent of users is to build a non-defined shape and multiple piece impactor of unknown

material, the natural resonant frequency of the impactor is a reliable indicator to assure that the impactor has sufficient structural rigidity, is capable of repeatable responses, and will not distort the responses produced by the dummy; (2) the specification will assure that a multiple piece impactor will not produce separate interactions between its constituent parts; and (3) the specification will ensure that the mounting structure for the accelerometer is sufficiently rigid and will not affect the accelerometer readings.

We agree with the FTSS argument that an impactor can have vibrations in several modes: The first mode of resonance is the bending mode of the probe transverse to the longitudinal axis and the second mode of resonance is the vibration along the longitudinal axis. We concur with the FTSS suggestion that it would be more appropriate to clarify the current specification by adding to the impactor definitions a note that the 1000 Hz minimum resonant frequency is limited only to the direction of the longitudinal axis of the impactor, rather than in any direction. The agency also agrees that a signal of low cross axis sensitivity accelerometer, whose sensitive axis is aligned with the longitudinal axis of the impactor, will be minimally affected by impactor vibrations in the first bending mode. To illustrate how the agency measures the free air second mode resonant frequency of an impactor, we have described a procedure in Docket No. NHTSA–6714–14 and have inserted it in the PADI (Procedures for Assembly, Disassembly and Inspection) document for this dummy.

However, NHTSA does not agree with the Alliance comment that the resonance specification is unnecessary. A multiple piece impact probe, if improperly constructed, may contain a series of resonances along its longitudinal axis which could affect the accelerometer measurement. The 1000 Hz minimum specification would preclude a user from using such a probe.

d. Section 572.146(l)(2) Instrumentation Filter Classes

FTSS and the Alliance stated that the rule did not specify a filter class for rotary potentiometers that some users employ in the pendulum neck test. They suggested adding a new paragraph (iv) to § 572.146(l)(2) to specify: "(iv) Rotation potentiometer—Class 60".

NHTSA's Response: In the regulatory text describing the H–III3C dummy, NHTSA did not specify use of mechanical test fixtures, including potentiometers to measure head rotation in the specified head-neck tests. The agency believed there were several methods for measuring this, and the method suggested in the regulatory text was not essential for the intended purpose. Subsequently, however, the Alliance noted in petitions for reconsideration of the final rules on the 6-year-old and fifth percentile adult female dummies that industry users have concluded that the CFC Channel Class 60 specification is appropriate if a potentiometer is used to measure head rotation. In addition, the agency's Vehicle Research and Testing Center (VRTC) used the CFC 60 to filter head rotations when rotary potentiometers are used in head-neck pendulum tests. VRTC review of raw data showed absence of high frequency signals which would obviate the need for a CFC specification greater than 60. In view of this information, NHTSA has no objection to specifying Channel Class 60 for this application if a potentiometer were used for measuring head rotation.

e. Changes to Drawings

This final rule changes six drawings of the drawing package for the H–III3C dummy in response to petitions for reconsideration and corrects minor errors and omissions in six other drawings that the agency uncovered on its own. Robert A. Denton, Inc. (Denton), a manufacturer of load cells used in crash dummies, petitioned to revise several specifications in the drawings of the load cells used in the dummy. The six drawings were: SA572–S17–L&R; SA572–S18; SA572–S19; SA572–S20; SA572–S21; and SA572–S22. Denton believed that each of the drawings had two problems. The first of these related to the output at capacity. The second related to a material specification requiring that the load cells be made of steel or similar material. NHTSA will address both of these issues below. Denton also pointed out other minor specification errors on drawings SA572–S18, SA572–S19, SA572–S20, and SA572–S21, which are addressed later in this section of the preamble. In its petition for reconsideration, the Alliance stated that it "supports" Denton's petition.

Load Cell Output at Capacity: The drawings had a specification that the output at capacity of the load cells must be 1.0 mV/V MIN. Denton requested that specification be changed to 0.75 mV/V. Denton stated that many of the load cells it has been producing for years have nominal 1.0 mV/V channels. However, the petitioner stated, due to manufacturing variations, load cells could have a sensitivity above or below the 1.0 mV/V level. Denton also believed that NHTSA has not provided data to justify the 1.0 mV/V specification. Denton stated that since load cells with outputs slightly below 1.0 mV/V have functioned satisfactorily for many years, the requirement should be changed to "0.75 mV/V MIN."

NHTSA's Response: NHTSA agrees to the suggested change. The agency has reviewed its data from VRTC and has determined that a minimum output of 0.75 mV/V will not affect the performance and quality of the resulting data channel or the quality and accuracy of the recorded data.

Load Cell Material: The drawings included a material specification indicating that the load cells are made of "steel or similar material." Denton requested that the material specifications be removed from all load cell drawings. Denton questioned whether there was any point to specifying the material used to build load cells, as long as the load cells meet the functional, size and weight specifications listed in the drawings. The petitioner stated that most of the load cells used in the H–III3C dummy are made primarily from aluminum and asked whether NHTSA would consider aluminum to be a "similar material" to steel. Denton also asked: "even if part of the load cell is steel, covers are usually made of aluminum or brass. Sometimes other materials are used internally to the load cells. Does this violate the material specification on the drawing?" Denton stated that if the agency wanted to retain the material specification, the specification should be corrected (the petitioner did not describe the nature of the corrections).

NHTSA's Response: NHTSA does not agree with Denton's recommendation to remove the material specifications. Because the load cells have to be mounted within the structural part of the test dummy that interlinks the dummy's major body segments, load cells maintain a geometric relationship between the major body segments. Accordingly, the rigidity, strength and response of such connections must be compatible with the rest of the dummy. However, NHTSA does believe that specifying a specific load cell material may be too restrictive. The agency is aware that existing load-bearing structures of a load cell are based on metals with a high modulus of elasticity, such as aluminum and steel. As a result, instead of specifying one type of metal for a load cell, NHTSA is revising the load cell drawings to require that the load-bearing structure of the load cell, including provisions for mounting, be of metal or metal alloys. Further, the agency is specifying in the

drawings that non-load bearing parts of the load cell, internally and/or externally, may be made of any material suitable for the intended use, providing they do not interfere with the performance of the load cell.

Other Errors With Drawings SA572–S18, SA572–S19, SA572–S20, and SA572–S21

1. Drawing SA572–S18: Drawing SA572–S18 listed the thermal sensitivity specification as 60° to 90°F. Denton stated that this was an error, and that the correct specification was 60° to 80°F. NHTSA agrees that the correct specification is 60° to 80°F.

2. Drawing SA572–S19: Denton reported five errors in drawing SA572–S19. First, the drawing specified a load cell weight of 0.52 lb maximum, which included a retaining washer, flat head cap screws, and 8 inches of cable. Denton stated that this weight was too low, and that existing load cells will be obsoleted by this specification since the existing load cells have a nominal weight of 0.53 lb with the specified hardware and cable. Denton requested NHTSA to change the specification in any one of three possible ways: (a) Change the weight specification to 0.55 lb max (Denton stated this would "match the NPRM"); (b) change the notes on the drawing to indicate that no cable is included; or (c) change the notes to indicate that the retaining washer and flat head cap screws are not included.

NHTSA agrees that the 0.52 lb maximum is too low and has decided to change the weight specification to 0.55 lb maximum (which is option (a) suggested by Denton).

Second, drawing SA572–S19 also showed the height specification of 1.250 inches as 31.37 mm. Denton pointed out that the correct metric equivalent for 1.250 inches is 31.75 mm. The agency has made the correction.

Third, the drawing showed the 120 lb-in torque specification on the ¼-20 x ⅝" socket head cap screws used to attach the load cell to the neck as 16.56 N-m. Denton stated that the correct metric equivalent to 120 lb-in is 13.56 N-m. NHTSA has made the correction.

Fourth, drawing SA572–S19 showed the bolt circle diameter for the holes used to attach the load cell to the dummy neck as 2.177 inches (55.295 mm). Denton said that the load cells use a bolt circle diameter of 2.125 inches (53.98 mm), which matches the bolt pattern in the mating neck plates 210–2060 and 210–2030. NHTSA agrees and has changed the bolt circle diameter from 2.177 in (55.295 mm) to 2.125 in (53.98 mm).

Fifth, the drawing showed the counterbore for the holes used to attach the load cell to the neck as 0.438 inch diameter with a depth of 1.00 inches. Denton stated that existing load cells, used for both the H–III3C dummy and "the older 3-Year-Old airbag dummy," actually use a bore diameter of ⅜ inch with a depth of 0.91 inches. Denton stated, "Using a 0.438 inch diameter counterbore will make the load cell much more difficult and expensive to manufacture, due to several issues internal to the load cell." (The issues were not specifically identified.) Denton requested that the counterbore diameter be specified as 0.37 minimum with a depth of 1.01 maximum. NHTSA agrees and has made the corrections.

3. Drawing SA572–S20: Denton stated that drawing SA572–S20 contains two errors. First, Denton stated that the drawing showed the height of the load cell specified to a four decimal place dimension (1.5000 inches), which could be construed to imply a ±0.0005 inch tolerance. Denton states: "That tight of a tolerance is not necessary for this application, is difficult to manufacture, and may obsolete many existing load cells." The petitioner requested that the specification be changed to a three decimal place dimension, 1.500 inches, which will have a default tolerance of ±0.005 inches. Second, Denton reported a typographical error in the thermal sensitivity specification. The range should be 15.6° to 26.7°C, not 15.6° to .7°C.

NHTSA agrees that the 1.5000 inches height specification is unnecessarily restrictive. Accordingly, the agency is changing the height specification to 1.500 inches. The agency also agrees that the metric range as well as the typographical error in the temperature sensitivity specification should be corrected as petitioner suggested.

In addition, during our review, we noticed that the diameter for the four through-holes for the mounting of the load cell to the lumbar spine was not specified. We measured the diameter of the through-holes and confirmed with the manufacturer that the hole diameters are 0.257 inch on the flange and in the body of the load cell. The holes in the body of the load cell are counterbored from the bottom with a diameter of 0.375 inch to a depth of 1.13 inches. A new drawing SA572–S20 incorporates this technical correction.

4. Drawing SA572–S21: This drawing specified that the center hole in the load cell is "0.500 diameter thru." Denton stated that this will obsolete all existing load cells. In existing load cells, Denton reported, the hole diameter changes several times as the hole passes through the load cell. In addition, Denton states that the minimum diameter of the through-hole is 27/64 (0.422) inch. Thus, Denton requested that the diameter be changed to 0.410 inch minimum to allow for clearance to the mating part. This modification would not obsolete existing load cells. The petitioner stated that "Since the dummy part which is inserted through the hole has a 0.390 inch diameter, the load cell [with a 0.410 hole] will provide sufficient clearance." Petitioner also noted that "[t]hese load cells have been in use for years throughout the world."

NHTSA is revising the drawing to specify that the minimum diameter of the through-hole is 0.410 in. However, the drawing retains the specification of a maximum diameter, because not having a maximum hole diameter could result in excessively large through-holes. A very large hole within the load cell would permit large variations in the placement of the arm on the dummy=s shoulder, which could produce problems in test repeatability. Accordingly, the upper limit to the hole diameter of 0.50 inches is needed to avoid the arm mis-location problem.

During the agency's review of the drawings following publication of the March 22, 2000 final rule, the agency identified a need to define four holes in the body of the load cell that are used to attach the load céll to the dummy. The drawing showed neither hole dimensions nor their alignment. This was an oversight by the originator of the drawing. New drawing SA572–S21 corrects this oversight by adding to the body of the load cell the note "four 10–24 unc threaded holes equally spaced on a bolt circle of 1.062."

Other Minor Changes in Drawings to Correct for Missing and/or Misplaced Dimensions and/or Notes: Uncovered During the Agency Review Process: The following minor changes are also made to some of the drawings, to correct for missing and/or misplaced dimensions and/or notes. The agency realized the need for these changes during a review of the drawings that we conducted in response to the petitions for reconsideration.

1. Drawing 210–4510. Added in top view to the specification "machined after weldment" the words "parallel to surface B."

2. Drawing 210–4511–1. Added radius dimension R.12 to the top corners of the iliac spine on the left side of the view of drawing.

3. Drawing 210–3731. Added missing dimensions: .99 and 5.68 to locate the center of cut-out radius on the right and left hand sides of the bib, respectively,

and 2.75 diameter dimension to define the head of the bib.

4. Drawings SA572–S4, –S17, –S18, –S19, –S20, –S21, –S22, –S23, –S50 and "S80. Changed single place dimensional tolerance from ±0.1 inch (2.54 mm) to ±0.1 inch (2.5 mm), to correct for metric equivalence.

5. Drawings SA572–S80. Corrected location of accelerometer mounting holes and added dotted lines where those holes are located in all views.

f. Request To Add Provision for Post-Test Calibration

Toyota and the Alliance requested that a post-test calibration of the dummy be included in the performance specifications. A post-test calibration is an assessment of whether the dummy conforms to NHTSA specifications after it has been used in a crash test. Toyota and the Alliance said that a post-test calibration is necessary to provide an objective check of the validity of the test dummy data acquired during the test, particularly if the crash test results in an apparent non-compliance. Toyota and the Alliance argued that without a post-test calibration, "neither a vehicle manufacturer nor a NHTSA test contractor can determine whether an apparent vehicle non-compliance is due to a test dummy anomaly during a test."

Toyota and the Alliance previously raised the issue of post-test calibration of dummies in their comments on NHTSA proposals to establish Hybrid III dummies for a fifth percentile female (H–III5F), a six-year-old child (H–III6C), and a 12-month-old child (CRABI). Historically, NHTSA has provided that the structural properties of a dummy satisfy the specifications set out in the applicable regulation in every respect both before and after its use in any test in a Federal motor vehicle safety standard. However, in the notice of proposed rulemaking for the H–III5F dummy, the agency decided against a post-test dummy calibration provision for the following reasons:

> NHTSA is concerned that the post-test calibration requirement could handicap and delay its ability to resolve a potential vehicle or motor vehicle equipment test failure solely because the post-test dummy might have experienced a component failure and might no longer conform to all of the specifications. On several occasions during the past few years, a dummy has been damaged during a compliance test such that it could not satisfy all of the post-test calibration requirements. Yet the damage to the dummy did not affect its ability to accurately measure the performance requirements of the standard. The agency is also concerned that the interaction between the vehicle or equipment and the dummy could be directly responsible for the dummy's inability to meet calibration requirements. In such an instance, the failure of the test dummy should not preclude the agency from seeking compliance action. Thus, NHTSA has tentatively concluded that removal of the post-calibration requirement would be in the public interest, since it would permit the agency to proceed with a compliance investigation in those cases where the test data indicate that the dummy measurements were not markedly affected by the dummy damage or that some aspect of vehicle or equipment design was responsible for the dummy failure.
>
> (63 FR 46981, 46983, September 3, 1998).

The agency believes this reasoning remains valid. Further, in their comments on this rulemaking, the Alliance and Toyota have not produced any new information that would support the reversal of the decision not to include a post-test calibration provision. Thus, the agency is denying the Toyota petition and that part of the Alliance petition relating to the requirement.

g. Availability of Drawings and PADI Document

The drawings and specifications package and the Procedure for Assembly, Disassembly and Inspection (PADI) document referenced in this final rule are accessible for viewing and copying at the DOT Docket Management System office, Plaza 401, 400 Seventh St., SW., Washington, DC 20590, and are downloadable at DMS.DOT.GOV. Upon access of the website, click "search," under Search click "Search Form," under Agency click "NHTSA," under Category click "Rulemaking," under Subcategory click "Crashworthiness Drawings and Test Equipment Specifications," then click on search and select the desired file. The drawings and specifications package and the PADI document are also available from reprographic Technologies, 9107 Gaither Rd., Gaithersburg, MD 20877, telephone (301) 419–5070.

III. Regulatory Analyses and Notices

a. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed by the Office of Management and Budget under EO 12866, "Regulatory Planning and Review." The rulemaking action is also not considered to be significant under the Department's Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). This document amends 49 CFR part 572 by making relatively minor changes to the design and performance specifications for a 3-year-old child dummy. This rule affects only those businesses which choose to manufacture or test with the dummy, in that the agency will only use dummies for compliance testing that meet all of the criteria specified in this rule. It affects vehicle and air bag manufacturers only insofar as they choose to test with a dummy that meets all of the criteria specified in the agency's regulation. It may indirectly affect child restraint manufacturers in the same manner, if the dummy is incorporated into the child restraint system standard. (NHTSA anticipates publishing an NPRM in the near future that proposes to adopt the dummy into agency compliance tests.) Even then, the amendments made by this rule for the most part correct or clarify existing specifications for the dummy and will not have a significant impact on dummy manufacturers, or on manufacturers of motor vehicles, air bags or child restraints. Because the economic impacts of this final rule are minimal, no further regulatory evaluation is necessary.

b. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

I have considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and certify that this rule will not have a significant economic impact on a substantial number of small entities. This rule only clarifies or corrects specifications for the H–III3C dummy. The rule does not impose or rescind any requirements for anyone. The Regulatory Flexibility Act does not, therefore, require a regulatory flexibility analysis for this action.

c. Executive Order 13132 (Federalism)

Executive Order 13132 requires NHTSA to develop an accountable

process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, the agency may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA also may not issue a regulation with Federalism implications and that preempts State law unless the agency consults with State and local officials early in the process of developing the proposed regulation.

We have analyzed this rule in accordance with the principles and criteria set forth in Executive Order 13132 and have determined that this rule does not have sufficient Federal implications to warrant consultation with State and local officials or the preparation of a Federalism summary impact statement. The rule will not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

d. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under EO 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866. As noted above, the impacts of this rule are minimal. It also does not involve decisions based on health risks that disproportionately affect children. This rule only clarifies or corrects specifications for the H–III3C dummy.

e. Executive Order 12778

Pursuant to Executive Order 12778, "Civil Justice Reform," we have considered whether this rule will have any retroactive effect. This rule does not have any retroactive effect. A petition for reconsideration or other administrative proceeding will not be a prerequisite to an action seeking judicial review of this rule. This rule does not preempt the states from adopting laws or regulations on the same subject, except that it does preempt a state regulation that is in actual conflict with the federal regulation or makes compliance with the Federal regulation impossible or interferes with the implementation of the Federal statute.

f. National Environmental Policy Act

We have analyzed this amendment for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

g. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This rule does not have any new information collection requirements.

h. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

The H–III3C dummy was developed under the auspices of the SAE. (All relevant SAE standards were reviewed as part of the development process: SAE Recommended Practice J211, Rev. Mar95 "Instrumentation for Impact Tests"; and SAE J1733 of 1994–12 "Sign Convention for Vehicle Crash Testing.") In responding to the petitions for reconsideration, NHTSA made some of its decisions based on test data developed by the SAE Dummy Test Equipment Sub-Committee (DTES). In so doing, the agency complied with the NTTAA to the fullest extent possible.

i. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule does not impose any unfunded mandates under the Unfunded Mandates Reform Act of 1995. This rule does not meet the definition of a Federal mandate because it does not impose requirements on anyone. Further, it will not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 572

Motor vehicle safety, Incorporation by reference.

In consideration of the foregoing, NHTSA amends 49 CFR Part 572 as follows:

PART 572—ANTHROPOMORPHIC TEST DUMMIES

1. The authority citation for Part 572 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. Revise § 572.140(a)(1) introductory text, (a)(2), and (b)(1) to read as follows:

§ 572.140 Incorporation by reference.

(a) * * *

(1) A drawings and specifications package entitled, "Parts List and Drawings, Subpart P Hybrid III 3-year-old child crash test dummy, (H–III3C, Alpha version) September 2001," incorporated by reference in § 572.141 and consisting of:

* * * * *

(2) A procedures manual entitled "Procedures for Assembly, Disassembly and Inspection (PADI), Subpart P, Hybird III 3-year-old Child Crash Test Dummy, (H–III3C, Alpha Version) September 2001," incorporated by reference in § 572.141;

* * * * *

(b) * * *

(1) The drawings and specifications package referred to in paragraph (a)(1) of this section and the PADI document referred to in paragraph (a)(2) of this section are accessible for viewing and copying at the Department of Transportation's Docket public area, Plaza 401, 400 Seventh St., SW., Washington, DC 20590, and downloadable at *dms.dot.gov*. They are also available from Reprographic Technologies, 9107 Gaither Rd., Gaithersburg, MD 20877, (301) 419–5070.

* * * * *

3. In § 572.144, revise paragraph (b)(1) and add paragraph (c)(7) to read as follows:

§ 572.144 Thorax assembly and test procedure.

* * * * *

(b) * * *

(1) Maximum sternum displacement (compression) relative to the spine, measured with the chest deflection transducer (SA–572–S50), must not be less than 32mm (1.3 in) and not more than 38mm (1.5 in). Within this specified compression corridor, the peak force, measured by the probe-mounted accelerometer as defined in § 572.146(a) and calculated in accordance with paragraph (b)(3) of this section, shall be not less than 680 N and not more than 810 N. The peak force after 12.5 mm of sternum compression but before reaching the minimum required 32.0 mm sternum compression shall not exceed 910 N.

* * * * *

(c) * * *

(7) No suspension hardware, suspension cables, or any other attachments to the probe, including the velocity vane, shall make contact with the dummy during the test.

4. In § 572.146, revise paragraph (a), add paragraph (l)(2)(iv), and revise Figure P4 to read as follows:

§ 572.146 Test conditions and instrumentation.

(a) The test probe for thoracic impacts, except for attachments, shall be of rigid metallic construction and concentric about its longitudinal axis. Any attachments to the impactor such as suspension hardware, and impact vanes, must meet the requirements of § 572.144(c)(7) of this part. The impactor shall have a mass of 1.70 ± 0.02 kg (3.75 ± 0.05 lb) and a minimum mass moment of inertia 164 kg-cm^2 (0.145 lb-in-sec^2) in yaw and pitch about the CG of the probe. One-third (⅓) of the weight of suspension cables and any attachments to the impact probe must be included in the calculation of mass, and such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis of the probe, has a flat, continuous, and non-deformable 50.8 ± 0.25 mm (2.00 ± 0.01 inch) diameter face with an edge radius of 7.6/12.7 mm (0.3/0.5 in). The impactor shall have a 53.3 mm (2.1 in) dia. cylindrical surface extending for a minimum of 25.4 mm (1.0 in) to the rear from the impact face. The probe's end opposite to the impact face has provisions for mounting an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. The impact probe has a free air resonant frequency not less than 1000 Hz limited to the direction of the longitudinal axis of the impactor.

* * * * *

(1) * * *

(2) * * *

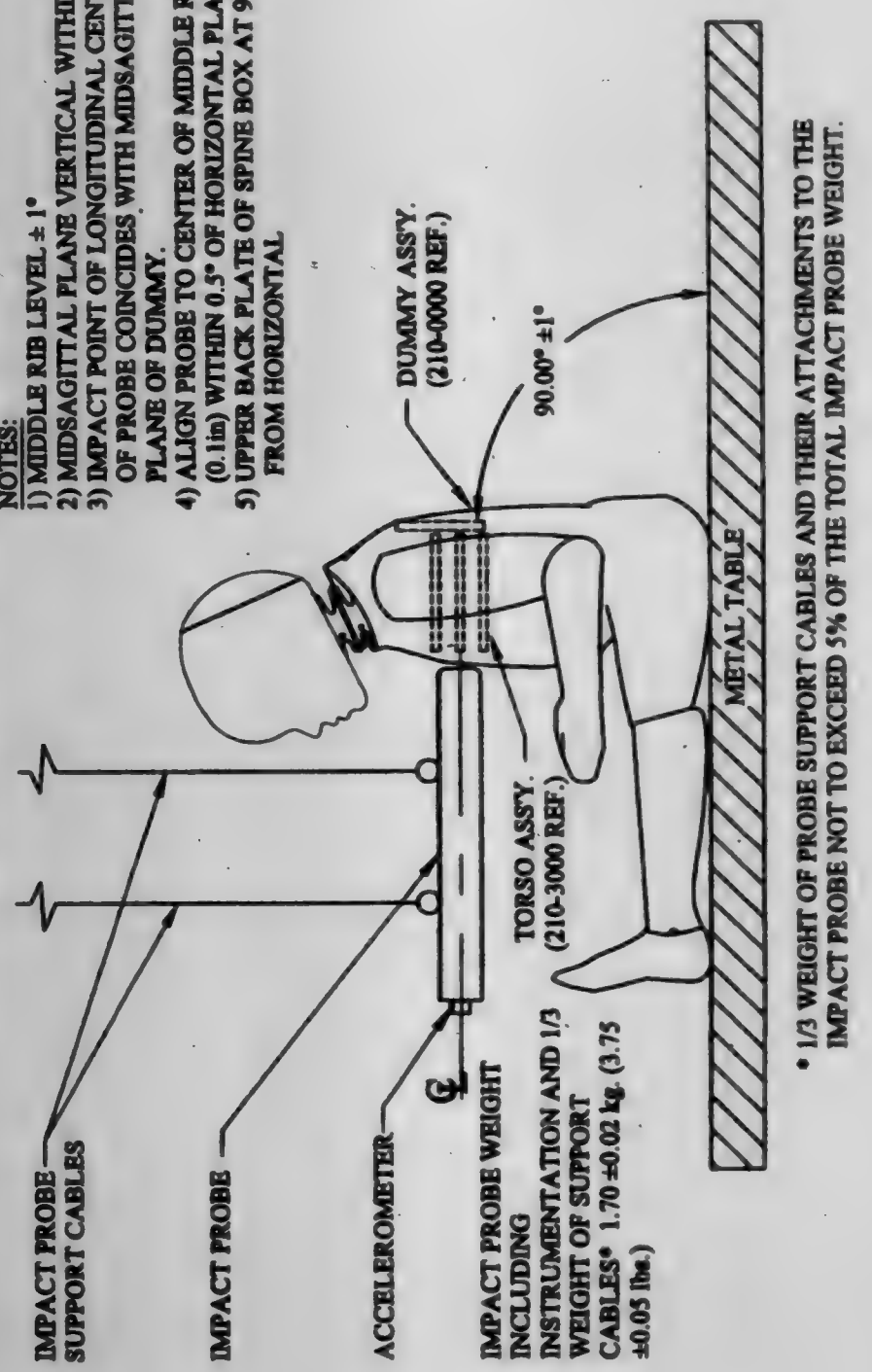
(iv) Rotation potentiometer response (if used)—CFC 60.

* * * * *

BILLING CODE 4910-59-P

Figure P4

THORAX IMPACT TEST SET-UP SPECIFICATIONS



Issued: December 5, 2001.

Jeffrey W. Runge,

Administrator.

[FR Doc. 01–30637 Filed 12–12–01; 8:45 am]

BILLING CODE 4910–60–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 230

[Docket No. 001120325–1290–03, I.D. 111901B]

Whaling Provisions: Aboriginal Subsistence Whaling Quotas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Aboriginal subsistence whaling quota.

SUMMARY: NMFS announces a 2001–2002 aboriginal subsistence whaling quota for gray whales of five gray whales landed. This quota and other management provisions govern the harvest of gray whales by members of the Makah Indian Tribe (Tribe).

DATES: Effective for 1 year beginning December 12, 2001.

ADDRESSES: Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Chris Yates, (301) 713–2322.

SUPPLEMENTARY INFORMATION: Aboriginal subsistence whaling in the United States is governed by the Whaling Convention Act (16 U.S.C. 916 *et seq.*) and by regulations at 50 CFR part 230. The rules require the Secretary of Commerce to publish, at least annually, aboriginal subsistence whaling quotas and any other limitations on aboriginal subsistence whaling deriving from regulations of the International Whaling Commission (IWC).

At the 1997 Annual Meeting of the IWC, the Commission set quotas for aboriginal subsistence use of gray whales from the Eastern stock in the North Pacific. This action by the IWC, thus, authorized aboriginal subsistence whaling by the Tribe for gray whales and is discussed in greater detail in the **Federal Register** notification of aboriginal subsistence whaling quotas for 1999 (64 FR 28413, May 26, 1999).

On June 9, 2000, the United States Court of Appeals for the Ninth Circuit ruled that the Department of Commerce's environmental assessment (EA) under the National Environmental Policy Act (NEPA) should have been completed before entering into a cooperative agreement with the Makah Tribe. The Court ordered the agency to prepare a new NEPA document under circumstances that would ensure an objective evaluation of the environmental consequences of the gray whale harvest.

NOAA set the 2000 quota at zero (65 FR 75186, December 1, 2000) and set the 2001 quota at zero (66 FR 14862, March 14, 2001) pending completion of the NEPA analysis.

NOAA completed a draft EA on January 12, 2001, and solicited public comments. A final EA was issued on July 12, 2001, and selected a preferred alternative allowing the take of up to five whales per year for the years 2001 and 2002. Following the completion of this EA, NOAA and the Tribe entered into a cooperative agreement governing the conduct of the hunt.

The agreement provides that the Makah Tribal Council, in cooperation with NOAA, will manage the gray whale hunts under the 1997 IWC quota and the aboriginal subsistence whaling regulations set forth at 50 CFR Part 230, and details inspection and reporting requirements and enforcement procedures. In addition, the Council will license and regulate Tribal whalers, according to the Management Plan for Makah Treaty Gray Whale Hunting for the Years 1998–2002, as amended by Council Resolution No. 57–01 on May 30, 2001.

Dated: December 7, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–30827 Filed 12–12–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 010710169–1169–01; I.D. 060401B]

RIN 0648–AP31

Atlantic Highly Migratory Species; Pelagic Longline Fishery; Sea Turtle Protection Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency rule; extension of expiration date; request for comments.

SUMMARY: NMFS extends the expiration date of the emergency rule that closed the Northeast Distant Statistical Reporting (NED) Area to pelagic longline fishing, required modifications in deploying pelagic longline fishing gear, and required sea turtle handling and release guidelines for bottom and pelagic longline fisheries to be posted in the wheelhouse. This extension is necessary to maintain the reduction in bycatch and bycatch mortality of loggerhead and leatherback sea turtles in the Atlantic bottom and pelagic longline fisheries as required by the June 14, 2001, Biological Opinion (BiOp).

DATES: The expiration date of the emergency rule published July 13, 2001 (66 FR 36711), is extended to July 8, 2002. Comments must be received no later than 5 p.m. on February 11, 2002.

ADDRESSES: Written comments on this action must be mailed to Christopher Rogers, Chief, NMFS Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910; or faxed to 301–713–1917. Comments will not be accepted if submitted via email or the Internet. Copies of the environmental assessment and regulatory impact review prepared for the July 13, 2001, emergency rule may be obtained from Tyson Kade at the same address.

FOR FURTHER INFORMATION CONTACT: Tyson Kade or Karyl Brewster-Geisz at 301–713–2347.

SUPPLEMENTARY INFORMATION: The Atlantic swordfish and tuna fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act. Atlantic sharks are managed under the authority of the Magnuson-Stevens Act. The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) is implemented by regulations at 50 CFR part 635.

Pelagic Longline Fishery

Pelagic longline gear is a type of commercial fishing gear used by U.S. fishermen in the Atlantic Ocean to target highly migratory species (HMS). The gear consists of a mainline, often many miles long, suspended in the water column by floats and from which baited hooks are attached on leaders (gangions). Though not completely selective, longline gear can be modified (e.g., gear configuration, hook depth, timing of sets) to target yellowfin tuna, bigeye tuna, sharks, or swordfish.

Data collected through observer and vessel logbook programs indicate that pelagic longline fishing for Atlantic swordfish and tunas often results in the catch of non-target finfish species, including sharks, bluefin tuna, billfish, undersized swordfish, and of protected species, including threatened and

endangered sea turtles. The bycatch of protected species (sea turtles or marine mammals) may significantly impair the recovery of these species. Consistent with national standard 9 of the Magnuson-Stevens Act, NMFS has implemented measures to reduce bycatch and bycatch mortality to the extent practicable in the Atlantic bottom and pelagic longline fisheries.

Area Closure and Gear Modifications

The intent of extending this emergency rule is to maintain the reduction in the incidental take and mortality of sea turtles captured by pelagic longlines. The first measure continues the closure of the NED area, which became effective July 15, 2001. The NED area has the highest incidental take rate of sea turtles by the U.S. pelagic longline fleet. This regulatory extension will close the NED area to vessels that have been issued, or are required to have, Federal HMS limited access permits and/or use pelagic longline gear. The closed area is bounded by the following coordinates: 35°00′ N. lat., 60°00′ W. long.; 55°00′ N. lat., 60°00′ W. long.; 55°00′ N. lat., 20°00′ W. long.; 35°00′ N. lat., 20°00′ W. long. This closure comprises an area of approximately 2,631,000 square nautical miles (nm^2), including the Grand Banks and other fishing locations. Only larger vessels, primarily fishing out of ports in the northeast, travel to this area on a seasonal basis, from June through October. Although the NED area is large, vessels fishing in that area primarily utilize less than 10 percent of the total area subject to the closure.

The second measure, which became effective August 1, 2001, is designed to reduce the mortality rate of captured sea turtles year-round and in all fishing areas. All Atlantic vessels that use pelagic longline gear and have been issued, or are required to have, Federal HMS limited access permits are prohibited from setting gangions within two gangion lengths of the floatline. Specifically, while the gear is deployed, gangions may not be attached to floatlines, nor to the mainline except at a distance from the attachment point of the floatline to the mainline of at least twice the length of the average gangion length in the set. Based on information from the Hawaii longline fleet, hooks that are beneath or adjacent to floatlines have a much higher incidental take of sea turtles than hooks one or more positions away from the floatline. NMFS projects that this measure will result in reductions of 22 percent for loggerhead interactions and 24 percent for leatherback interactions.

In addition to restricting the gangion placement relative to the floatline, all Atlantic vessels that use pelagic longline gear and have been issued, or are required to have, Federal HMS limited access permits must continue to deploy the gear during shallow sets so that the length of the gangion is greater than the length of the floatline. The intent of this requirement is to ensure that hooked or entangled turtles have sufficient slack line to be able to reach the surface and avoid drowning. For longline sets in which the combined depth of the floatline plus the gangion is 100 meters or less, the length of the gangion must be at least 10 percent longer than th e length of the floatline. For sets over 100 meters, the requirement does not apply.

Finally, all Atlantic bottom and pelagic longline vessels that have been issued, or are required to have, Federal HMS permits are required to post inside the wheelhouse the guidelines for the safe handling of sea turtles captured in a pelagic longline interaction. This measure allows vessel captains to refer to the appropriate handling and release guidelines in the event a sea turtle is accidentally hooked or entangled. The requirement to post sea turtle handling instructions became effective September 15, 2001. NMFS distributed the guidelines via mail to all HMS bottom and pelagic longline permit holders and announced this requirement and the availability of the guidelines via the fax network. If a vessel owner did not receive the document, it is available for downloading from the Internet at: http://www.nmfs.noaa.gov/sfa/hmspg.html, or NMFS can be contacted to request a copy (see **ADDRESSES**).

Classification

This emergency rule extension is issued under the authority of the Magnuson-Stevens Act and the Atlantic Tunas Convention Act. The Assistant Administrator for Fisheries, NOAA (AA) has determined that these regulations are necessary to comply with the requirements of the June 14, 2001, BiOp.

NMFS prepared an Environment Assessment for this emergency rule that describes the impact on the human environment and found that no significant impact would result. This emergency rule extension is of limited duration. NMFS is in the process of developing a rule, including an environmental impact statement, that will propose measures necessary to meet the requirements of the June 14, 2001, BiOp.

To comply with Executive Order 12866, NMFS also prepared a Regulatory Impact Review for this action which assesses the net economic costs and benefits of this action. Additional details concerning the basis for this action are contained in the initial emergency rule and are not repeated here.

The AA finds that there is good cause to waive the requirement to provide prior notice and an opportunity for public comment pursuant to authority set forth at 5 U.S.C. 553 (b)(B), as providing prior notice and an opportunity for public comment would be contrary to the public interest. Public comments were received regarding the April 11, 2001, draft BiOp which indicated the measures to be implemented by this emergency rule. These comments were addressed, as appropriate, by the final draft of the BiOp, issued June 14, 2001.

NMFS received two comments on the initial emergency rule. The first comment expressed concern over the effectiveness of making the gangions 110 percent of the floatline length. NMFS expects this issue to be addressed and assessed during the ongoing experimental fishery. The second comment expressed support for the measures implemented in the emergency rule as a means of reducing bycatch in the pelagic longline fishery. Comments received on this emergency rule extension will be responded to in the course of the upcoming proposed and final regulations.

The AA has determined that this emergency rule is consistent to the maximum extent practicable with the coastal zone management programs of those Atlantic, Gulf of Mexico, and Carribean coastal states that have approved coastal zone management programs. NMFS notified the states concerning the July 13, 2001, emergency rule and requested that they notify the agency with respect to concurrence with the consistency determination. All states that have replied agreed with this determination.

Dated: December 5, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–30829 Filed 12–12–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 112301F]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for Pacific cod by vessels using hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2001 bycatch allowance of halibut specified for the Pacific cod hook-and-line gear fishery category in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), December 10, 2001, until 2400 hrs, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2001 halibut bycatch allowance specified for the Pacific cod hook-and-line gear fishery category, which is defined at § 679.21 (e)(4)(ii)(A), is 755 metric tons (66 FR 7276, January 22, 2001, and 66 FR 37167, July 17, 2001).

In accordance with § 679.21 (e)(8), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2001 bycatch allowance of halibut specified for the Pacific cod hook-and-line gear fishery category in the BSAI has been caught. Consequently, the Regional Administrator is closing directed fishing for Pacific cod by vessels using hook-and-line gear in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at §§ 679.20 (e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to avoid exceeding the halibut bycatch allowance for the Pacific cod hook-and-line gear fishery category constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553 (b)(3)(B) and 50 CFR 679.20 (b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to avoid exceeding the halibut bycatch allowance for the Pacific cod hook-and-line gear fishery category constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553 (d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 7, 2001.

Jonathan M. Kurland,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–30818 Filed 12–10–01; 2:34 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 240
Thursday, December 13, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–1118]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule; official staff commentary.

SUMMARY: The Board is publishing for comment proposed revisions to the official staff commentary to Regulation Z, which implements the Truth in Lending Act. The commentary applies and interprets the requirements of Regulation Z. The proposed update would clarify how creditors that place Truth in Lending Act disclosures on the same document with the credit contract may satisfy the requirement for providing the disclosures in a form the consumer may keep before consummation. In addition, the proposed revisions provide guidance on disclosing costs for certain credit insurance policies and on the definition of "business day" for purposes of the right to rescind certain home-secured loans.

DATES: Comments must be received on or before February 1, 2002.

ADDRESSES: Comments should refer to Docket No. R–1118 and should be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, or mailed electronically to *regs.comments@federalreserve.gov*. Comments addressed to Ms. Johnson may also be delivered, between 8:45 a.m. and 5:15 p.m., to the Board's mail facility in the West Courtyard, located on 21st Street between Constitution Avenue and C Street, NW. Members of the public may inspect comments in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m. on weekdays pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FOR FURTHER INFORMATION CONTACT: David A. Stein, Senior Attorney, or Dan S. Sokolov, Attorney; Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412; for users of Telecommunications Device for the Deaf ("TDD") only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the Truth in Lending Act (TILA; 15 U.S.C. 1601 *et seq.*) is to promote the informed use of consumer credit by providing for disclosures about its terms and cost. The act requires creditors to disclose the cost of credit as a dollar amount (the finance charge) and as an annual percentage rate. Uniformity in creditors' disclosures is intended to assist consumers in comparison shopping for credit. TILA requires additional disclosures for loans secured by consumers' homes and permits consumers to rescind certain transactions that involve their principal dwelling. In addition, the act regulates certain practices of creditors.

TILA is implemented by the Board's Regulation Z (12 CFR part 226). The Board's official staff commentary (12 CFR part 226 (Supp. I)) interprets the regulation, and provides guidance to creditors in applying the regulation to specific transactions. Good faith compliance with the commentary affords protection from liability under section 130(f) of TILA. The commentary is a substitute for individual staff interpretations; it is updated periodically to address significant questions that arise. The Board expects to adopt final revisions to the commentary in March 2002; to the extent the revisions impose new requirements on creditors, compliance would be optional until October 1, 2002, the effective date for mandatory compliance.

II. Proposed Revisions

Subpart A—General

Section 226.2—Definitions and Rules of Construction

2(a) Definitions

2(a)(6) Business Day

Generally, when consumers have a right to rescind a home-secured loan, they may exercise the right until midnight of the third business day following consummation or the delivery of certain disclosures, whichever occurs last. Comment 2(a)(6)–2 provides that for purposes of rescission, "business day" means all calendar days except Sundays and the federal legal holidays listed in 5 U.S.C. 6103(a). Four legal holidays are identified in that statute by a specific date. Independence Day, July 4, is one example. The comment would be revised to clarify that only the date specified in the statute is considered a legal holiday for purposes of rescission. The proposed comment identifies the four legal holidays in 5 U.S.C. 6103(a) that are defined by a specific date, and provides an example to aid in compliance. The comment also would be amended to include a cross-reference to comment 31(c)(1)–1, which states that creditors may rely on the definition of "business day" used for the rescission rule for purposes of complying with the timing requirements in furnishing disclosures for high-cost loans covered by § 226.32.

Section 226.4—Finance Charge

4(d) Insurance and Debt Cancellation Coverage

Under § 226.4(d), amounts paid for credit insurance or debt cancellation coverage may be excluded from the finance charge if the creditor discloses the fee or premium for the initial term of coverage, among other conditions. Comment 4(d)–11 provides that the initial term is based on the period for which the insurer or creditor is initially obligated to provide coverage. Comment 4(d)–12 provides that creditors have the option of providing disclosures on the basis of one year of coverage, where the fee or premium for the coverage is assessed periodically and the consumer is under no obligation to continue the coverage after making the initial payment. Comment 4(d)–12 would be revised to clarify that this option applies even if the consumer can cancel the

coverage prior to making the initial payment.

Subpart C—Closed-End Credit

Section 226.17—General Disclosure Requirements

17(b) Time of Disclosures

Creditors must give the required disclosures to the consumer in writing, in a form that the consumer may keep, before consummation of the transaction. See § 226.17(a)(1) and (b). Comment 17(b)–3 would be added to clarify how creditors satisfy this timing requirement when TILA disclosures are placed on the same document with the credit contract, as permitted under comment 17(a)(1)–3.

Questions have been raised about whether creditors must provide consumers with a separate copy of the document to keep before providing a second copy that the consumer may execute to become obligated on the credit contract. The proposed comment would clarify that creditors are not required to provide two separate copies to the consumer. A creditor satisfies the timing requirements by giving the consumer one copy of the unexecuted credit contract containing the disclosures to read and sign. The proposed comment would also clarify that it is not sufficient, however, if the document containing the TILA disclosures is merely shown to the consumer (and not given to the consumer) before the consumer signs and becomes obligated.

III. Form of Comment Letters

Comment letters should refer to Docket No. R–1118, and, when possible, should use a standard typeface with a font size of 10 or 12. This will enable the Board to convert text submitted in paper form to machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Also, if accompanied by an original document in paper form, comments may be submitted on 3½ inch computer diskettes in any IBM-compatible DOS-or Windows-based format. Comments may also be mailed electronically to *regs.comments@federalreserve.gov*.

IV. Solicitation of Comments Regarding the Use of "Plain Language"

Section 722 of the Gramm-Leach-Bliley Act of 1999 requires the Board to use "plain language" in all proposed and final rules published after January 1, 2000. The Board invites comments on whether the proposed commentary is clearly stated and effectively organized, and how the Board might make the commentary easier to understand.

List of Subjects in 12 CFR Part 226

Consumer protection, Disclosures, Federal Reserve System, Truth in lending.

Text of Proposed Revisions

Certain conventions have been used to highlight the proposed revisions to the text of the staff commentary. New language is shown inside bold-faced arrows while language that would be deleted is set off with bold-faced brackets. Comments are numbered to comply with **Federal Register** publication rules.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 226 as follows:

PART 226—TRUTH IN LENDING (REGULATION Z)

1. The authority citation for part 226 continues to read as follows:

Authority: 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

2. In Supplement I to Part 226:

a. Under *Section 226.2—Definitions and Rules of Construction*, under *2(a)(6) Business Day*, paragraph 2. is revised.

b. Under *Section 226.4—Finance Charge*, under *4(d) Insurance and Debt Cancellation Coverage*, paragraph 12. is revised.

c. Under *Section 226.17—General Disclosure Requirements*, under *17(b) Time of Disclosures*, a new paragraph 3. is added.

Supplement I to Part 226—Official Staff Interpretations

* * * * *

Subpart A—General

* * * * *

§ 226.2—Definition and Rules of Construction

* * * * *

2(a)(6) Business day.

* * * * *

2. *Rescission rule.* A more precise rule for what is a business day (all calendar days except Sundays and the federal legal holidays listed in 5 U.S.C. 6103(a)) applies when the right of rescission ►or mortgages subject to § 226.32 are involved. See also comment 31(c)(1)–1. Four federal legal holidays are identified in 5 U.S.C. 6103(a) by a specific date: New Year's Day, January 1; Independence Day, July 4; Veteran's Day, November 11; and Christmas Day, December 25. When one of these holidays falls on a Saturday, July 4 for example, federal offices and other entities may observe the holiday on the preceding Friday, July 3. The observed holiday, July 3, is a business day for purposes of rescission or the delivery of disclosures for certain high-cost mortgages covered by § 226.32◄ [is involved].

* * * * *

§ 226.4—Finance Charge

* * * * *

4(d) Insurance and debt cancellation coverage.

* * * * *

12. *Initial term; alternative.* i. *General.* A creditor has the option of providing cost disclosures on the basis of ►an assumed initial term of◄ one year of insurance or debt-cancellation coverage instead of a longer initial term (provided the premium or fee is clearly labeled as being for one year) if:

A. The initial term is indefinite or not clear, or

B. The consumer has agreed to pay a premium or fee that is assessed periodically but the consumer is under no obligation to continue the coverage after ►consummation◄ [making the initial payment].

ii. *Open-end plans.* For open-end plans, a creditor also has the option of providing unit-cost disclosure on the basis of a period that is less than one year if the consumer has agreed to pay a premium or fee that is assessed periodically, for example monthly, but the consumer is under no obligation to continue the coverage.

iii. *Examples.* To illustrate:

A. A credit life insurance policy providing coverage for a 30-year mortgage loan has an initial term of 30 years even though premiums are paid monthly and the consumer is not required to continue the coverage after ►consummation◄ [making the initial payment]. The creditor has the option of making disclosures on the basis of coverage for ►an assumed initial term of◄ one year.

* * * * *

Subpart C—Closed-End Credit

* * * * *

§ 226.17—General Disclosure Requirements

* * * * *

17(b) Time of disclosures.

* * * * *

►3. *Disclosures provided on credit contracts.* Creditors must give the required disclosures to the consumer in writing, in a form that the consumer may keep, before consummation of the transaction. See § 226.17(a)(1) and (b).

Sometimes the disclosures are placed on the same document with the credit contract, as permitted under comment 17(a)(1)–3. In such cases, the timing requirement is satisfied if the creditor gives a copy of the document containing the unexecuted credit contract and the disclosures to the consumer to read and sign, and the consumer is free to take possession of and review the document in its entirety before signing. It is not sufficient, however, if the document containing the disclosures is merely shown to the consumer before the consumer signs and becomes obligated; the creditor must give the document to the consumer. If after receiving the document, the consumer signs it and becomes obligated, the consumer may return it to the creditor to execute or process, provided the consumer is also given a copy at that time to keep.◀

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority, December 7, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–30781 Filed 12–12–01; 8:45 am]

BILLING CODE 6210–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 15

RIN 3038–AB88

Reporting Levels for Large Trader Reports; Security Futures Products

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is proposing to amend part 15 of its rules, 17 CFR part 15, to establish reporting levels for security futures products (SFPs) traded on designated contract markets and notice-designated contract markets. The reporting levels being proposed are 1000 contracts for an SFP involving an individual security and 200 contracts for an SFP involving a narrow-based index of equity securities.

DATES: Comments must be received by January 14, 2002.

ADDRESSES: Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418–5521 or, by e-mail to *secretary@cftc.gov*. Reference should be made to "Reporting Levels for Security Futures Products."

FOR FURTHER INFORMATION CONTACT: Gary J. Martinaitis, Deputy Associate Director, Market Surveillance Section, or Nancy E. Yanofsky, Assistant Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5260. E-mail: *GMartinaitis@cftc.gov* or *NYanofsky@cftc.gov*.

SUPPLEMENTARY INFORMATION: On December 21, 2000, the President signed into law the Commodity Futures Modernization Act of 2000 (CFMA), Pub. L. No. 106–554, which extensively revises the Commodity Exchange Act (Act). Among other things, the CFMA removed the restriction in the Act on the trading of futures contracts on individual equity securities and narrow-based indices of equity securities.[1] Under the revised law, these products are now referred to as "security futures products" (SFPs)[2] and may be traded on designated contract markets, notice-designated contract markets and registered derivatives transaction execution facilities.

SFPs, like all other commodities traded on Commission-designated markets, will be subject to the Commission's large trader reporting rules. Those rules require futures commission merchants, clearing members and foreign brokers to report to the Commission position information of the largest futures and options traders and require the traders themselves to provide certain identifying information. Reporting levels are set for individual futures and option markets under the authority of sections 4i and 4c of the Act to ensure that the Commission receives adequate information to carry out its market surveillance programs. These market surveillance programs are designed to detect and to prevent market congestion and price manipulation and to enforce speculative position limits. They also provide information regarding the overall hedging and speculative use of, and foreign participation in, the futures markets and other matters of public interest. Generally, large trader reports are filed by the firm carrying the reportable trader's position.[3]

Based upon its experience in administering the large trader reporting system, the Commission is proposing to establish a reporting level of 1000 contracts for SFPs involving an individual security[4] and 200 contracts for SFPs involving a narrow-based index of securities.[5] The Commission intends to review these levels an appropriate amount of time after trading in SFPs commences to determine if it provides adequate coverage for effective market surveillance. At that time, the Commission will consider actual trading experience—including trading volume, open interest and the number and position sizes of individual traders—to determine whether the level is too high or too low for effective market surveillance.

The Commission notes that the proposed rules require the reporting of positions in SFPs on notice-designated contract markets. Notice-designated contract markets are entities that are otherwise regulated by the Securities and Exchange Commission (such as registered national securities exchanges and registered national securities associations) that apply for and, pursuant to a notice-filing procedure, become designated as contract markets by the Commission for the limited

[1] *See* section 251(a) of the CFMA. This trading previously had been prohibited by section 2(a)(1)(B)(v) of the Act.

[2] The term "security futures product" is defined in section 1a(32) of the Act to mean "a security future or any put, call, straddle, option, or privilege on any security future." The term "security future" is defined in section 1a(31) of the Act; it generally means a contract of sale for future delivery of a single security or of a narrow-based security index, including any interest therein or based on the value thereof, except exempted securities (with the exclusion of municipal securities) and certain agreements, contracts, or transactions excluded from the Act. Because the CFMA provides that options on security futures cannot be traded until at least December 21, 2003, security futures are the only security futures product that may be available for trading during the next two years.

[3] Generally, parts 17 and 18 of the regulations, 17 CFR parts 17 and 18, require reports from firms and traders, respectively, when a trader holds a "reportable position." A reportable position is any open contract position that at the close of the market on any business day equals or exceeds the quantity specified in Commission rule 15.03 in either: (1) Any one future of any commodity on any one contract market, excluding futures contracts against which notices of delivery have been stopped by a trader or issued by the clearing organization of a contract market; or (2) long or short put or call options that exercise into the same future of any commodity on any one contract market. 17 CFR 15.00 and part 150.

The firms which carry accounts for traders holding "reportable positions" are required to identify those accounts by filing a CFTC Form 102 and to report all reportable positions in the accounts to the Commission. The individual trader who holds or controls the reportable position, however, is required to report to the Commission only in response to a special call.

[4] Based on staff discussions with industry participants, the Commission understands that futures contracts on individual securities will specify 100 shares of the underlying security.

[5] This number corresponds to the current reporting level for security options.

purpose of trading SFPs.[6] The Act and the Commission's regulations exempt notice-designated contract markets from certain provisions of the Act and the Commission's regulations; these trading facilities, however, are subject to the Commission's large trader reporting system.[7] Thus, futures commission merchants (whether registered under a full or a notice filing-procedure under rule 3.10[8]), clearing members, foreign brokers and others who have reporting and other obligations under parts 15 through 21 of the Commission's rules will have concomitant obligations with respect to SFPs traded on notice-designated contract markets.

I. Cost Benefit Analysis

Section 15 of the Act, as amended by section 119 of the CFMA, requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, section 15 does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, section 15 simply requires the Commission to "consider the costs and benefits" of the subject rule.

Section 15(a) further specifies that the costs and benefits of the proposed rule shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission may, in its discretion, give greater weight to any one of the five enumerated areas of concern and may, in its discretion, determine that, notwithstanding its costs, a particular rule is necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The proposed rule imposes limited costs in terms of reporting requirements, particularly since most entities that trade on U.S. futures markets already file larger trader reports with the Commission. Moreover, to reduce the cost of reporting, the Commission will periodically review the reporting level for SFPs, as it generally does for reporting levels for all commodities.[9] The Commission also notes that it will be collecting these reports for itself as well as sharing them with the Securities and Exchange Commission, thereby diminishing the potential for duplication of this reporting burden. The countervailing benefits of these costs are that the Commission will have the necessary information to perform its market surveillance function and thus carry out its mandate of assuring the continued existence of competitive and efficient markets, protecting their price discovery function and protecting market participants and the public interest therein.

After considering these factors, the Commission has determined to propose the revision to part 15 set forth below.

The Commission specifically invites public comment on its application of the criteria contained in the Act for consideration. Commenters are also invited to submit any quantifiable data that they may have concerning the costs and benefits of the proposed rules with their comment letters.

II. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that federal agencies, in proposing rules, consider the impact of those rules on small entities. The Commission has previously determined that large traders and FCMs are not "small entities" for purposes of the RFA.[10] The proposed amendment to reporting requirements primarily impacts FCMs. Similarly, foreign brokers and foreign traders report only if carrying or holding reportable, *i.e.*, large positions. Therefore, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities. The Commission invites comments from any firm believing that these rules would have a significant economic impact on its operations.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) (PRA), which imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA, does not apply to this rule. The Commission believes that the proposed rule amendment does not contain information requirements which require the approval of the Office of Management and Budget. The purpose of this rule is to establish a specific reporting level for security futures products.

List of Subjects in 17 CFR Part 15

Brokers, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act, and in particular sections 4g, 4i, 5, 5a and 8a of the Act, 7 U.S.C. 6g, 6i, 7, 7a and 12a, as amended, the Commission hereby proposes to amend Part 15 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 15—REPORTS—GENERAL PROVISIONS

1. The authority citation for part 15 is proposed to be revised to read as follows:

Authority: 7 U.S.C. 2, 5, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 7, 7a, 9, 12a, 19, and 21, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. No. 106–554, 114 Stat. 2763 (2000); 5 U.S.C. 552 and 552(b).

2. Section 15.03 is proposed to be amended by revising paragraph (b) to read as follows:

§ 15.03 Reporting levels.

* * * * * *

(b) The quantities for the purpose of reports filed under Parts 17 and 18 of this chapter are as follows:

Commodity	Number of contracts
Agricultural:	
Wheat	100
Corn	150
Oats	50
Soybeans	100

[6] *See* section 5f of the Act, 7 U.S.C. 7f.

[7] *See* section 4f(a)(4) of the Act, 7 U.S.C. 6f(a)(4); 17 CFR 41.34. The Commission discussed the application of its large trader reporting system to notice-designated contract markets when it adopted its rules governing these markets. *See* 66 FR 44960 (Aug. 27, 2001).

[8] *See* 66 FR 43080 (Aug. 17, 2001)

[9] *See, e.g.*, 65 FR 14452 (Mar. 17, 2000).

[10] 47 FR 18618–20 (Apr. 30, 1982).

Commodity	Number of contracts
Soybean Oil	200
Soybean Meal	200
Cotton	50
Frozen Concentrated Orange Juice	50
Rough Rice	50
Live Cattle	100
Feeder Cattle	50
Lean Hogs	100
Sugar No. 11	400
Sugar No. 14	100
Cocoa	100
Coffee	50
Natural Resources:	
Copper	100
Gold	200
Silver Bullion	150
Platinum	50
No. 2 Heating Oil	250
Crude Oil, Sweet	350
Unleaded Gasoline	150
Natural Gas	175
Financial:	
Municipal Bond Index	300
3-month (13-Week) U.S. Treasury Bills	150
30-Year U.S. Treasury Bonds	1,000
10-Year U.S. Treasury Notes	1,000
5-Year U.S. Treasury Notes	800
2-Year U.S. Treasury Notes	500
3-Month Eurodollar Time Deposit Rates	1,000
30-Day Fed Funds	300
1-month LIBOR Rates	300
3-month Euroyen	100
Major-Foreign Currencies	400
Other Foreign Currencies	100
U.S. Dollar Index	50
S&P 500 Stock Price Index	1,000
E-Mini S&P Stock Price Index	300
S&P 400 Midcap Stock Index	100
Dow Jones Industrial Average Index	100
New York Stock Exchange Composite Index	50
Amex Major Market Index, Maxi	100
NASDAQ 100 Stock Index	100
Russell 2000 Stock Index	100
Value Line Average Index	50
NIKKEI Stock Index	100
Goldman Sachs Commodity Index	100
Security Futures Products:	
Individual Equity Security	1,000
Narrow-Based Index of Equity Securities	200
All Other Commodities	25

Issued in Washington, D.C., this 7th day of December, 2001, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–30812 Filed 12–12–01; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–106186–98]

RIN 1545–AW36

Withdrawal of Proposed Regulations Relating to Certain Corporate Reorganizations Involving Disregarded Entities; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to withdrawal of notice of proposed rulemaking.

SUMMARY: This document contains a correction to notice of proposed rulemaking (REG–106186–98) which was published in the **Federal Register** on Thursday, November 15, 2001 (66 FR 57400). This regulation relates to the withdrawal of proposed regulations relating to certain corporate reorganizations involving disregarded entities.

DATES: This correction applies as of November 15, 2001.

FOR FURTHER INFORMATION CONTACT: Reginald Mombrun, (202) 622–7750 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations relating to certain corporate reorganizations involving disregarded entities that are the subject of this correction is under 26 U.S.C. 7805 of the Internal Revenue Code.

Need for Correction

As published, proposed regulations (REG–106186–00) contain an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of proposed regulation (REG–106186–00), which is the subject of FR Doc. 01–28671, is corrected as follows:

On page 57400, column 1, in the heading, the language "(REG–106186–00)" is corrected to read "(REG–106186–98)".

LaNita VanDyke,

Acting Chief, Regulations Unit, Associate Chief Counsel (Income Tax and Accounting).

[FR Doc. 01–30831 Filed 12–12–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 301 and 602

[REG–105344–01]

RIN 1545–AY77

Disclosure of Returns and Return Information by Other Agencies

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing a temporary regulation to enable the Commissioner to authorize Federal, state and local agencies with access to returns and return information under section 6103 of the Internal Revenue Code to redisclose such returns and return information, with the Commissioner's approval, to any authorized recipient set forth in section 6103 of the Internal Revenue Code, subject to the same restrictions and for the same purposes, as if the recipient had received the information from the IRS directly.

DATES: Written comments and electronic comments and requests for a public hearing must be received by February 14, 2002.

ADDRESSES: Send submissions to CC:ITA:RU (REG–105344–01), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:ITA:RU (REG–105344–01), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site: *http://www.irs.gov/prod/tax_regs/comments/html.*

FOR FURTHER INFORMATION CONTACT: Julie C. Schwartz, 202–622–4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S, Washington, DC 20224. Comments on the collection of information should be received by February 11, 2002.

Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in 26 CFR 301.6103(p)(2)(B)–1T. This information is required for the Commissioner to authorize agencies with access to returns and return information under section 6103 to disclose such to other authorized recipients of returns and return information in accordance with section 6103. The collection of information is required to obtain a benefit. The likely respondents and recordkeepers are federal agencies and state or local governments.

Estimated total annual reporting and/or recordkeeping burden: 11 hours.

Estimated average annual burden hours per respondent and/or recordkeeper: 1 hour.

Estimated number of respondents and/or recordkeepers: 11.

Estimated annual frequency of responses: Once.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of an internal revenue law. Generally, tax returns and return information are confidential, as required by 26 U.S.C. 6103.

Background

Section 6103(p)(2)(B) provides that return information disclosed pursuant to the Code may be disclosed by any mode or means that the Secretary determines necessary or appropriate. 26 CFR 301.6103(p)(2)(B)–1 currently permits certain recipients of returns and return information under section 6103, with the Commissioner's approval, to disclose returns and return information to certain other permissible recipients under section 6103. Specifically, the existing regulation permits disclosure by Federal agencies, with the Commissioner's approval, to (1) other Federal agencies, (2) state tax agencies, (3) the General Accounting Office, (4) Federal, state and local child support enforcement agencies, (5) persons described in section 6103(c) (person designated in a taxpayer consent), and (6) persons described in section 6103(e) (person with a material interest).

The Consolidated Appropriations Act, 2001, Pub. L. No. 106–554 (114 Stat. 2763), was signed into law on December 21, 2000. Section 1 of that Act enacted into law H.R. 5662, the Community Renewal Tax Relief Act of 2000. Section 310 of the Community Renewal Tax Relief Act of 2000 added section 6103(j)(6) to the Code, authorizing the

Commissioner to disclose return information to the Congressional Budget Office (CBO) for the purpose of, but only to the extent necessary for, long term models of the Social Security and Medicare programs. The conference report, H. R. Conf. Rep. No. 106–1033, at 1020–21 (2000), provides that it is the intent of Congress that all requests for information made by CBO under this provision be made to the Commissioner, who will use his authority under section 6103(p)(2) such that the Social Security Administration (SSA) or other agency can furnish the information directly to CBO for the purpose of CBO's long term models of Social Security and Medicare. SSA, not IRS, collects and maintains much of the information sought by CBO and also receives the tax information CBO seeks under other provisions of section 6103. However, section 301.6103(p)(2)(B)–1 in its current form would not allow the Commissioner to authorize SSA to redisclose return information properly in its possession to CBO, an authorized recipient of the information under section 6103(j)(6). Updating the regulation would allow SSA to make return information in its possession available to CBO to the extent authorized by section 6103(j)(6).

There are other situations, similar to that found under section 6103(j)(6), where it is more efficient for returns and return information in the possession of one authorized agency recipient, to be disclosed by such agency to another statutorily authorized recipient. The inability of agencies, including Federal, state and local agencies, to share returns and return information between themselves or even inside a single agency, even where the information is more readily available from an agency other than the IRS, was highlighted by the Department of the Treasury on pages 89–90 of its October 2000 Report to the Congress on the Scope and Use of Taxpayer Confidentiality and Disclosure Provisions. The report notes, for example, that currently a single agency within a state (or even a single caseworker) may be administering both child support under Title IV–D of the Social Security Act and welfare under Title IV–A of the Social Security Act. The agency may receive return information under both section 6103(l)(6) and section 6103(l)(7) to aid the agency in making determinations of eligibility for these programs, but the current regulation does not permit even intra-agency pooling or sharing of these data. The report notes that both intra- and inter-agency data sharing with respect to common data elements could be authorized by amendment to the Treasury regulations. Updating the regulation would allow the IRS to authorize such redisclosure in appropriate situations.

The text of the proposed temporary regulation also serves as the text of this proposed regulation. The preamble to the temporary regulation contains a full explanation of the reasons underlying the issuance of the proposed regulation.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel of the Small Business Administration for comment on its impact on small businesses.

Comments and Request for a Public Hearing

Before this proposed regulation is adopted as a final regulation, consideration will be given to any electronic and written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of this regulation is Julie C. Schwartz, Office of the Associate Chief Counsel (Procedure and Administration), Disclosure and Privacy Law Division.

List of Subjects

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 301 and 602 are proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *.

Section 301.6103(p)(2)(B)–1 also issued under 26 U.S.C. 6103(p)(2); * * *.

§ 301.6103(p)(2)(B)–1 [Removed]

Par. 2. Section 301.6103(p)(2)(B)–1 is removed.

Par. 3. Section 301.6103(p)(2)(B)–1T is added to read as follows:

[The text of this proposed section is the same as the text of § 301.6103(p)(2)(B)–1T published elsewhere in this issue of the **Federal Register**].

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805 * * *.

Par. 5. In § 602.101, paragraph (b) is amended by adding an entry to the table in numerical order to read as follows:

[The text of this proposed section is the same as the text of § 602.101 published elsewhere in this issue of the **Federal Register**].

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 01–30620 Filed 12–12–01; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7116–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the White Bridge Road property of the Asbestos Dump Superfund Site, Operable Unit Two, from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region II Office

announces its intent to delete the White Bridge Road property of the Asbestos Dump Superfund Site, Operable Unit (OU) 2, from the National Priorities List (NPL) and requests public comment on this action. The Asbestos Dump site is listed in the NPL as being located in Millington, NJ; however, the portion of the site which is the subject of this proposal for partial delisting, the White Bridge Road property, is located in Long Hill Township, NJ. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of New Jersey, through the Department of Environmental Protection, have determined that all appropriate remedial actions have been completed at the White Bridge Road parcel and no further fund-financed remedial action is appropriate under CERCLA. In addition, EPA and the State of New Jersey have determined that all remedial actions taken to date at the White Bridge Road property are protective of public health and the environment. This partial deletion pertains only to the White Bridge Road property of OU 2 of the Asbestos Dump Site. The other properties which comprise the site are the Millington property (OU1), the New Vernon Road property (OU2) and the Deitzman Tract (OU3). All properties comprising the site, other than the White Bridge Road property, will remain on the NPL. No further response actions, other than Operation and Maintenance and enforcement, are planned for any of the properties comprising the Asbestos Dump site.

This deletion of the White Bridge Road property of the Asbestos Dump site is proposed in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites listed on the NPL, published in the **Federal Register** on November 1, 1995.

DATES: The EPA will accept comments concerning its proposal for partial deletion for thirty (30) days after publication of this document in the **Federal Register** and a newspaper of record.

ADDRESSES: Comments may be mailed to: Ms. Kim O'Connell, Section Chief, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor, New York, NY 10007–1866.

Comprehensive information on the White Bridge Road property of the Asbestos Dump Superfund Site as well as information specific to this proposed partial deletion is contained in the Administrative Record and is available for viewing, by appointment only, at: U.S. EPA Records Center, 290 Broadway—18th Floor, New York, New York 10007–1866.

Hours: 9 am to 5 pm—Monday through Friday. Contact the Records Center at 212–637–4308.

Information on the site is also available for viewing at the Information Repository which is located at: Long Hill Township Free Public Library, 91 Central Avenue, Stirling, New Jersey 07930, (908) 647–2088.

FOR FURTHER INFORMATION CONTACT: Ms. Kim O'Connell, Section Chief, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor, New York, NY 10007–1866, phone: (212) 637–4399; fax: (212) 637–4429; e-mail: *oconnell.kim@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Partial Site Deletion

I. Introduction

The United States Environmental Protection Agency (EPA) Region II announces its intent to delete the White Bridge Road property of the Asbestos Dump Site, Operable Unit 2, located in Long Hill Township, Morris County, New Jersey from the National Priorities List (NPL) and requests public comment on this action. The Asbestos Dump site is listed in the NPL as being located in Millington, NJ; however, the portion of the site which is the subject of this proposal for partial deletion, the White Bridge Road property, is located in Long Hill Township, NJ. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. This proposal for partial deletion pertains to the White Bridge Road property of the Asbestos Dump Site—Operable Unit (OU) 2. The White Bridge Road property of the site is a privately owned twelve acre property located on Block 225, Lots 79, 35.01 and 35.02 on White Bridge Road in Long Hill Township, New Jersey. The property has a street address of 651 White Bridge Road in Long Hill Township, NJ. An occupied residence and an active horse boarding facility are located on the property. The property is bounded by White Bridge Road to the north, the Great Swamp National Wildlife Refuge to the east and southeast, Black Brook to the southwest and a vacant wooded lot to the west.

At the White Bridge Road property, EPA implemented extensive soil and air sampling, conducted a Remedial Investigation and Feasibility Study (RI/FS), conducted a risk assessment, selected a remedy and implemented the selected remedial action on asbestos contaminated materials (ACM) on the property.

EPA proposes to delete the White Bridge Road property because all appropriate CERCLA response activities have been completed. The three other properties which constitute the site, Operable Unit 1 (the Millington site), the New Vernon Road property of OU2, and OU3 (the Deitzman tract), will remain on the NPL and are not the subject of this partial deletion.

The NPL is a list maintained by EPA of sites that EPA has determined present a significant risk to public health or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). Pursuant to 40 CFR 300.425(e) of the NCP, any site or portion of a site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA will accept comments concerning its intent for partial deletion for thirty (30) days after publication of this notice in the **Federal Register** and a newspaper of record.

II. NPL Deletion Criteria

The NCP establishes the criteria the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425 (e), sites may be deleted from the NPL where no further response is appropriate to protect public health or the environment. In making this determination, EPA, in consultation with the state, will consider whether any of the following criteria have been met:

(i) Responsible or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and no further response action is appropriate; or

(iii) Based on a remedial investigation, it has been determined that the release poses no significant threat to public health or the environment and, therefore, taking remedial measures is not appropriate.

Deletion of a portion of a site from the NPL does not preclude eligibility for

subsequent Fund-financed actions at the area deleted if future site conditions warrant such actions. Section 300.425(e)(3) of the NCP provides that Fund-financed actions may be taken at sites that have been deleted from the NPL. A partial deletion of a site from the NPL does not affect or impede EPA's ability to conduct CERCLA response activities at areas not deleted and remaining on the NPL. In addition, deletion of a portion of a site from the NPL does not affect the liability of responsible parties or impede Agency efforts to recover costs associated with response efforts.

III. Deletion Procedures

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any person's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management.

The following procedures were used for the intended deletion of the White Bridge Road property of the Asbestos Dump Superfund Site:

1. EPA conducted an RI/FS to characterize and evaluate site contamination, conducted a risk assessment and on September 27, 1991 selected a remedial action. On October 20, 1993, EPA modified the remedy in an Explanation of Significant Differences.

2. The remedial design of the selected remedy for the site was completed in 1993. Construction of the remedy occurred in 1994 and 1995. In 1995, EPA issued a Cure Notice requiring additional work. In 1996, the additional work was completed and in 1997, the final Remedial Action Report for the site was issued.

3. EPA has recommended the partial deletion and has prepared the relevant documents.

4. The State of New Jersey, through the New Jersey Department of Environmental Protection, has concurred with the partial deletion decision in a letter dated November 20, 2001.

5. Concurrent with this national Notice of Intent for Partial Deletion, a notice has been published in a local newspaper and has been distributed to appropriate federal, state and local officials, and other interested parties. This notice announces a thirty-day public comment period on the deletion package, which starts on the date of publication of this notice in the **Federal Register** and a newspaper of record.

6. The Region has made all relevant documents available in the Regional Office and the local site information repository.

This **Federal Register** notice, and a concurrent notice in a newspaper of record, announce the initiation of a thirty (30) day public comment period and the availability of the Notice of Intent for Partial Deletion. The public is asked to comment on EPA's proposal to delete the White Bridge Road property from the NPL. All critical documents needed to evaluate EPA's decision are included in the Administrative Record developed for the site, which is available for review at the information repositories.

Upon completion of the thirty (30) day public comment period, EPA will evaluate all comments received before issuing the final decision on the partial deletion. EPA will prepare a Responsiveness Summary, if appropriate, for comments received during the public comment period and will address concerns presented in the comments. The Responsiveness Summary will be made available to the public at the information repositories. If, after review of all public comments, EPA determines that the partial deletion from the NPL is appropriate, EPA will publish a final notice of partial deletion in the **Federal Register**. Deletion of the White Bridge Road property does not actually occur until the final Notice of Partial Deletion is published in the **Federal Register**.

IV. Basis for Intended Partial Site Deletion

The following provides EPA's rationale for deletion of the White Bridge Road property of the Asbestos Dump Site from the NPL and EPA's finding that the criteria in 40 CFR 300.425(e) are satisfied:

Background

The Asbestos Dump Site is being addressed in three phases, referred to as Operable Units. OU1 is called the Millington Site; OU2 consists of two privately owned, residential properties located in Long Hill Township, New Jersey, called the New Vernon Road property and the White Bridge Road property. The White Bridge Road property is the subject of this Notice of Intent for Partial Deletion. The Dietzman Tract comprises OU3.

From 1945 through 1969, the White Bridge Road property was used for farming. In 1970, the parcel was purchased by the current residents. From 1970 to 1975, ACM, which included asbestos tiles and siding from the National Gypsum Company (NGC), was disposed of on the property. After these disposal activities, the current owner converted the property into a horse farm with stables. A horse riding track was situated 350 feet from the house on a large ACM disposal area. Horse stables in the east-central portion of the property, along with a large grazing field, are located west of the horse riding track and wetland areas. Due to the risk to human health and the environment posed by the release of asbestos fibers, the Asbestos Dump Site was listed on the NPL on September 1, 1983.

Selected Remedy

On April 1, 1985, EPA issued an Administrative Order to the NGC to conduct the RI/FS at the four areas comprising the Asbestos Dump Site. Upon review of the draft May 1987 RI report prepared by NGC, EPA determined that the RI failed to adequately characterize the extent of contamination at the White Bridge Road property. In August and September of 1990, EPA collected and analyzed soil and dust samples at the White Bridge Road property and found high levels of asbestos. On September 30, 1990, the Agency for Toxic Substances and Disease Registry (ATSDR) issued a health consultation that concluded that the asbestos fill at the White Bridge Road property posed an imminent and substantial health and safety threat to residents and workers. On December 20, 1990, a Public Health Advisory was issued for the White Bridge Road property that required residents be dissociated from exposure to site-related asbestos. Based on this, an immediate removal action at the property was implemented.

Removal activities at the White Bridge Road property were conducted to temporarily reduce the potential for asbestos fibers to become airborne and to restrict access. These activities included: placement of signs and temporary fences to restrict access to areas of visible surface contamination, covering of areas of contamination with geotextile fabric (the riding track and portions of the access road were covered), and air sampling.

In conjunction with the removal activities, an RI/FS was initiated by EPA in the fall of 1990 to fully characterize the extent of asbestos. The RI included a hydrogeological investigation and sampling and subsequent laboratory analysis of subsurface soils, sediments, surface water, ground water, potable water, and air. RI field work was completed in the fall of 1990. The RI and FS Reports issued in June 1991 provided detailed summaries and discussion of sampling activities at the Site, the results of the risk assessment performed, and an analysis of remedial alternatives. The FS concluded that if

no action were taken at the White Bridge Road property, a potential health threat to the public and environment would result through inhalation of asbestos. The FS provided a detailed analysis of a number of remedial alternatives which were developed to address site contamination. On July 8, 1991, a Proposed Plan describing EPA's preferred remedy was released for a 30-day public comment period. EPA held a public meeting on July 17, 1991 to discuss the RI/FS results, remedial alternatives, and the Proposed Plan. The meeting was attended by members of the local community and other interested parties.

On September 27, 1991, after consideration of all comments received during the public comment period, EPA issued a Record of Decision (ROD) for the White Bridge Road property of the Asbestos Dump Site. The remedy selected through the ROD included: in-situ solidification/stabilization of asbestos contaminated soils (all ACM present above 0.5 percent by weight of asbestos was addressed); appropriate environmental monitoring to confirm the effectiveness of the remedy; and implementation of institutional controls to assure the integrity of the treated waste.

Response Actions

Prior to the implementation of the remedy, TRC Environmental Corporation (TRC), under contract to EPA, performed a treatability study. The objective of the study was to determine design specifications and to identify limitations and potential problems that could arise from solidification of ACM present at the White Bridge Road property. The Treatability Study Report, dated February 3, 1993, indicated that ACM would not be adequately solidified below the water table. Consequently, the ROD remedy was modified with an Explanation of Significant Differences (ESD) on October 20, 1993 to limit the extent of the solidification/stabilization to the ACM above the water table. In addition, the ESD provided for the addition of a synthetic membrane liner to cover the treated ACM and the placement of geotextile fabric in the trench around the solidified ACM.

The Remedial Design (RD) Report, including drawings and specifications, was prepared by TAMS Consultants, Inc. and TRC Environmental Corporation in January 1993. The design addressed details regarding: excavation and consolidation of ACM; solidification/stabilization of the ACM above the ground water table; construction of a final protective geomembrane/soil cover; construction of a perimeter infiltration trench; and final grading, revegetation, drainage, and erosion controls.

In April 1994, EPA's contractor, CDM Federal Programs Corporation awarded the construction contract to Geo-Con, Inc. for the White Bridge Road construction activities.

EPA issued a Notice to Proceed to the contractor on April 4, 1994. Construction activities were performed in two phases. The first phase included work activities such as excavation, solidification, backfilling and construction of the impermeable cover. Confirmatory sampling of the limits of ACM and excavation of contaminants began in August of 1994. The solidification/stabilization of approximately 9,900 cubic yards (cy) of ACM was initiated on October 10, 1994. The final depth of the solidified ACM is approximately two and a half feet below the ground surface. The geomembrane installation process began on November 15, 1994.

The second phase of construction consisted of site restoration. Site restoration included topsoil placement, cap fence construction, monitoring well installation, stockpile removal, seeding, and landscape replacement. This phase was conducted between March and November 1995.

After implementation of the remedy, EPA discovered that some of the fill material which was used by the contractor on the White Bridge Road property, known as "ODAAT fill," had originated from a facility subject to the New Jersey Cleanup Responsibility Act, now the Industrial Site Recovery Act. On April 7, 1995, EPA issued a Cure Notice to CDM/FPC indicating that this material failed to meet the contract specifications for fill. Approximately 1,010 cubic yards of this unacceptable fill material was placed in three areas of the property.

To address this situation, on August 15, 1995, EPA approved CDM/FPC's Cure Notice Response Workplan for White Bridge Road. The work performed under the Cure Notice Response Workplan was completed on August 28, 1995, and was performed at no cost to EPA or the State.

The subcontractor completed remedial construction activities in October 1995. EPA, CDM/FPC, and Geo-Con, Inc. held a pre-final site inspection on October 26, 1995. As a result, low areas over the impermeable cover were filled and graded with topsoil. All site restoration work was completed in the fall of 1996.

In December 1997, EPA approved the Final Remedial Action Report, prepared by CDM/FPC, which describes all construction activities.

Community Involvement

Public participation activities for the White Bridge Road property of the Asbestos Dump Site, OU2 have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and section 117, 42 U.S.C. 9617. The Remedial Investigation Report, the Feasibility Study Report, the ROD, ESD, Final Remedial Action Report, as well as other documents and information which EPA relied on or considered in recommending that no further action is necessary at the White Bridge Road property, and that the property should be deleted from the NPL, are available for the public to review at the information repositories.

Long Term Maintenance of the Remedy

On January 5, 2001, the owners of the White Bridge Road property filed a Deed Notice with the Morris County Clerk. EPA and the State agreed on the terms of the Deed Notice, which require the property owners to conduct periodic maintenance activities on the cap. The State of New Jersey will be responsible for performing other Operation and Maintenance activities.

Based on the completion of the remedial action activities at the White Bridge Road property of the Asbestos Dump Site, OU2, there are no further response actions, other than maintenance activities, planned or scheduled for this property. Pursuant to CERCLA, if EPA selects remedies at sites which result in hazardous substances, pollutants or contaminants remaining at the site, five year reviews must be performed. A five year review was performed for the Asbestos Dump Site, including the White Bridge Road property in September 2000 and additional five year reviews will be conducted at the White Bridge Road property since asbestos contaminated materials remain on the property.

EPA does not believe that any future response actions, other than maintenance activities to be conducted by the site owners and by the State, will be needed. If future conditions warrant such action, the White Bridge Road property of the Asbestos Dump Site will remain eligible for future Fund-financed response actions. Furthermore, this partial deletion of the White Bridge Road property does not alter the status of the other properties comprising the Asbestos Dump site, which are not proposed for deletion at this time and will remain on the NPL.

In a letter dated November 20, 2001, the New Jersey Department of

Environmental Protection concurred with EPA that all appropriate CERCLA response actions have been completed at the White Bridge Road property and protection of human health and the environment has been achieved. Therefore, EPA makes this proposal to delete the White Bridge Road property of the Asbestos Dump Site from the NPL.

Dated: November 26, 2001.

William J. Muszynski,

Acting Regional Administrator—Region II.

[FR Doc. 01–30740 Filed 12–12–01; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1823, 1836 and 1852

Safety and Health; Notice

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the NASA FAR Supplement (NFS) by revising the prescription for the use of NASA Safety and Health solicitation provisions and contract clauses; removing references to the Service Contract Act (SCA) and Walsh-Healey Public Contracts Act regulations; adding references to the Occupational Safety and Health Act (OSHA) and Department of Transportation (DOT) regulations; and clarifying when a Safety and Health Plan is to be included in a contract or solicitation. This proposed rule would also require the use of NASA's safety and health provisions instead of the FAR Accident Prevention clause, and allow for oral notification, with written confirmation to the contractor, of Safety and Health noncompliance that may pose a serious or imminent danger to safety and health.

DATES: Comments should be submitted to NASA at the address below on or before February 11, 2002.

ADDRESSES: Interested parties should submit written comments to Jeff Cullen, NASA Headquarters Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546. Comments may also be submitted by e-mail to *jcullen@hq.nasa.gov*.

FOR FURTHER INFORMATION CONTACT: Jeff Cullen, (202) 358–1784, *jcullen@hq.nasa.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

Reductions in the number of incidents involving injury or death to personnel, and in lost or restricted workdays can result from an emphasis on safety and occupational health. These reductions enhance the probability of mission success by decreasing development time, cycle times, operational delays and costs. Since NASA contracts comprise approximately 80 percent of its budget, NASA recognizes that for it to achieve mission success, it is critically important that NASA contractors also emphasize safety and occupational health. Currently, NASA requires the inclusion of a NASA Safety and Health clause and submission of a contractor Safety and Health Plan for contracts that are greater than $1 million, involve construction, or have hazardous deliverable end items or operations. Exclusion of the clause has been allowed when the Contracting Officer determined that Walsh-Healey or Service Contract Act (if applicable) regulations constituted adequate safety and health protection. This proposed rule removes the dollar threshold from the Safety and Health clause prescription since safety and health requirements should be determined by the risks rather than cost of the contract requirements. Furthermore, to assure that contractors are held to the same standards for mishap prevention as the Government, the proposed guidance requires use of a Safety and Health clause and submission of a Safety and Health Plan when performance is on a Government facility or when assessed risk warrants inclusion. This proposed rule further revises the conditions that must be met for excluding the clause from contracts, reflecting the greater Government and industry use of Occupational Safety and Health Administration (OSHA) and Department of Transportation (DOT), rather than Walsh-Healey or Service Contract Act safety and health regulations, and includes new NFS guidance on use of the NASA Safety and Health clause instead of the FAR Accident Prevention clause. Finally, this proposed rule makes the requirements for the use of the NASA Safety and Health clause for subcontracts consistent with prime contract requirements.

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 41 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1823, 1836 and 1852

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1823, 1836 and 1852 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 1823, 1836 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1)

PART 1823—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

2. Amend section 1823.7001 in the second sentence of paragraph (c) by removing "clause" and adding "provision" in its place; and revising paragraphs (a) and (b) to read as follows:

1823.7001 NASA solicitation provisions and contract clauses.

(a) The clause at 1852.223–70, Safety and Health, shall be included in all solicitations and contracts when one or more of the following conditions exist:

(1) The work will be conducted completely or partly on premises owned or controlled by the Government.

(2) The work includes construction, alteration, or repair of facilities in excess of the simplified acquisition threshold.

(3) The work, regardless of place of performance, involves hazards that could endanger the public, astronauts and pilots, the NASA workforce (including contractor employees working on NASA contracts), or high value equipment or property, and the hazards are not adequately addressed by Occupational Safety and Health Administration (OSHA) or Department of Transportation (DOT) regulations (if applicable).

(4) When the assessed risk and consequences of a failure to properly manage and control the hazard(s) warrants use of the clause.

(b) The clause prescribed in paragraph (a) of this section may be excluded, regardless of place of performance, when the contracting officer, with the approval of the installation official(s) responsible for matters of safety and occupational health, determines that the application of OSHA and DOT regulations constitutes adequate safety and occupational health protection.

* * * * *

PART 1836—CONSTRUCTION AND ARCHITECT–ENGINEER CONTRACTS

3. Add section 1836.513 to read as follows:

1836.513 Accident prevention.

The contracting officer must insert the clause at 1852.223–70, Safety and Health, in lieu of FAR clause 52.236–13, Accident Prevention, and its Alternate I.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Amend the clause at section 1852.223–70 by revising the date of the clause; revising paragraphs (f)(1) and (g); redesignating paragraphs (h) and (i) as (i) and (j) respectively, and adding a new paragraph (h) to read as follows:

1852.223–70 Safety and Health.

* * * * *

SAFETY AND HEALTH

(XX/XX)

* * * * *

(f) (1) The Contracting Officer may notify the Contractor in writing of any noncompliance with this clause and specify corrective actions to be taken. In situations where the Contracting Officer becomes aware of noncompliance that may pose a serious or imminent danger to safety and health of the public, astronauts and pilots, the NASA workforce (including contractor employees working on NASA contracts), or high value mission critical equipment or property, the Contracting Officer shall notify the Contractor orally, with written confirmation. The Contractor shall promptly take and report any necessary corrective action. The Government may pursue appropriate remedies in the event the Contractor fails to promptly take the necessary corrective action.

* * * * *

(g) The Contractor (or subcontractor or supplier) shall insert the substance of this clause, including this paragraph (g) and any applicable Schedule provisions and clauses, with appropriate changes of designations of the parties, in all solicitations and subcontracts of every tier, when one or more of the following conditions exist:

(1) The work will be conducted completely or partly on premises owned or controlled by the Government.

(2) The work includes construction, alteration, or repair of facilities in excess of the simplified acquisition threshold.

(3) The work, regardless of place of performance, involves hazards that could endanger the public, astronauts and pilots, the NASA workforce (including Contractor employees working on NASA contracts), or high value equipment or property, and the hazards are not adequately addressed by Occupational Safety and Health Administration (OSHA) or Department of Transportation (DOT) regulations (if applicable).

(4) When the Contractor (or subcontractor or supplier) determines that the assessed risk and consequences of a failure to properly manage and control the hazard(s) warrants use of the clause.

(h) The Contractor (or subcontractor or supplier) may exclude the provisions of paragraph (g) from its solicitation(s) and subcontract(s) of every tier when it determines that the clause is not necessary because the application of the OSHA and DOT (if applicable) regulations constitute adequate safety and occupational health protection. When a determination is made to exclude the provisions of paragraph (g) from a solicitation and subcontract, the Contractor must notify and provide the basis for the determination to the Contracting Officer. In subcontracts of every tier above the micro-purchase threshold for which paragraph (g) does not apply, the Contractor (or subcontractor or supplier) shall insert the substance of paragraphs (a), (b), (c), and (f) of this clause).

* * * * *

5. Amend the clause at section 1852.223–72 by revising the date of the clause, and revising paragraph (d) to read as follows:

1852.223–72 Safety and Health (Short Form).

* * * * *

Safety and Health (Short Form)

(XX/XX)

* * * * *

(d) The Contracting Officer may notify the Contractor in writing of any noncompliance with this clause and specify corrective actions to be taken. In situations where the Contracting Officer becomes aware of noncompliance that may pose a serious or imminent danger to safety and health of the public, astronauts and pilots, the NASA workforce (including contractor employees working on NASA contracts), or high value mission critical equipment or property, the Contracting Officer shall notify the Contractor orally, with written confirmation. The Contractor shall promptly take and report any necessary corrective action. The Government may pursue appropriate remedies in the event the Contractor fails to promptly take the necessary corrective action.

* * * * *

6. Revise the clause at section 1852.223–73 and the introductory text of Alternate I to the clause to read as follows:

1852.223–73 Safety and Health Plan.

* * * * *

Safety and Health Plan

(XX/XX)

(a) The offeror shall submit a detailed safety and occupational health plan as part of its proposal (see NPG 8715.3, NASA Safety Manual, Appendices). The plan shall include a detailed discussion of the policies, procedures, and techniques that will be used to ensure the safety and occupational health of Contractor employees and to ensure the safety of all working conditions throughout the performance of the contract.

(b) When applicable, the plan shall address the policies, procedures, and techniques that will be used to ensure the safety and occupational health of the public, astronauts and pilots, the NASA workforce (including Contractor employees working on NASA contracts), and high-value equipment and property.

(c) The plan shall similarly address subcontractor employee safety and occupational health for those proposed subcontracts that contain one or more of the following conditions:

(1) The work will be conducted completely or partly on premises owned or controlled by the government.

(2) The work includes construction, alteration, or repair of facilities in excess of the simplified acquisition threshold.

(3) The work, regardless of place of performance, involves hazards that could endanger the public, astronauts and pilots, the NASA workforce (including Contractor employees working on NASA contracts), or high value equipment or property, and the hazards are not adequately addressed by Occupational Safety and Health Administration (OSHA) or Department of Transportation (DOT) regulations (if applicable).

(4) When the assessed risk and consequences of a failure to properly manage and control the hazards warrants use of the clause.

(d) This plan, as approved by the Contracting Officer, will be included in any resulting contract.

(End of provision).

Alternate I

(XX/XX)

As prescribed in 1823.7001(c), delete the first sentence in paragraph (a) of the basic provision and substitute the following:

* * * * *

[FR Doc. 01–30772 Filed 12–12–01; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 011129286–1286–01; I.D. 110601B]

RIN 0648–AP65

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass; Quota Counting Procedures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes a regulatory amendment that would establish cut-off dates for using landings data from the commercial summer flounder, scup, and black sea bass fisheries to calculate quota overages. The establishment of landings cut-off dates for these fisheries would enable NMFS to establish final adjusted quotas before the beginning of the fishing year on January 1. NMFS also proposes to remove the regulatory language that specifies publication dates for proposed annual summer flounder, scup, and black sea bass fishing measures.

DATES: Public comments must be received on or before December 28, 2001.

ADDRESSES: Comments on the proposed rule should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Mark the outside of the envelope "Comments on regulatory amendment." Comments may also be submitted via facsimile (fax) to 978–281–9135. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of the Environmental Assessment (EA) and Regulatory Impact Review (RIR) are available at the above address. They are also accessible via the Internet at *http://www.nero.nmfs.gov*.

FOR FURTHER INFORMATION CONTACT: Allison Ferreira, Fishery Management Specialist, 978–281–9103, Allison.Ferreira@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FMP requires that NMFS compile all landings information on summer flounder, scup, and black sea bass and compare these landings to the quotas allocated to those fisheries. Landings in excess of quota allocations (overages) are required to be deducted from the quota allocations for the following year. The annual quota allocations are specified through a process that culminates in the publication of final specifications, which are scheduled to be published prior to January 1 each year. However, because the fishing year for these fisheries does not end until December 31, it is impossible to have a final accounting of annual landings at the time the annual specifications are published for the fishing year beginning January 1. As a result, NMFS has had to make overage adjustments during the fishing year, when overages were identified.

This proposed regulatory amendment would resolve the timing problems associated with the overage provisions of the FMP by establishing cut-off dates for commercial summer flounder, scup, and black sea bass landings data to be used in setting quotas for the upcoming year. If, during the fishing year, NMFS discovers that any overage deduction was made in error, e.g., based on calculated landings that exceeded actual landings for the period concerned, NMFS would restore all or part of the overage to the appropriate quota allocation and announce the restoration by publishing a document in the **Federal Register**. The purpose of this action is to allow completion of the compilation of landings data used in making adjustments to the next fishing year's quotas in sufficient time to include all necessary adjustments in the final specifications that establish those quotas. The proposed action would thus improve management by NMFS and state marine fisheries agencies by establishing final quota allocation before the beginning of the fishing year that would not be further adjusted in the middle of the fishing year. This would enable fishermen targeting these species to plan their activities for the upcoming fishing year with greater confidence.

This proposed rule would also remove the regulatory language found at §§ 648.100 (d), 648.120 (c), and 648.140 (c) that specifies publication dates for proposed annual summer flounder, scup, and black sea bass fishing measures. The current publication dates of October 15 for proposed annual fishing measures and of February 15 for proposed recreational measures specified in the regulations are misleading because there is no corresponding deadline for submission of annual specifications and corresponding analyses to NMFS, or publication of final measures. The removal of the publication dates would provide NMFS with the time necessary to ensure that all proposed alternatives are appropriately analyzed.

The cut-off date proposed for compiling landings data that would be used in adjusting the quota allocations for the next fishing year is October 31. However, landings data for the full fishing year 2000 have already been used to calculate overages and make necessary adjustments in 2001. Therefore, this measure would be phased in for the 2002 fishery in that only landings from January through October 2001 would be used to determine 2001 overages for purposes of the 2002 quotas. For the 2003 fishery and subsequent years, implementation would occur as described below.

NMFS considered four alternative cut-off dates in developing the proposed measure. These cut-off dates consisted of September 30, October 31, November 30, and the status-quo or no cut-off date. A public hearing was conducted during the October 11, 2001, meeting of the Mid-Atlantic Fishery Management Council (Council) in New Bern, NC. At that meeting, NMFS announced that its preferred cut-off date was October 31. No comments were received that resulted in a modification of the preferred cut-off date.

Summer Flounder

The commercial summer flounder quota is allocated on a state-by-state basis to the states from Maine through North Carolina. The proposed cut-off date of October 31 would provide sufficient time to compile commercial summer flounder landings data through October 31 and to make necessary quota adjustments to be published in the rule establishing the final specifications for the upcoming year. In addition, this cut-off date would insure that the majority of summer flounder landings data (approximately 80 percent, based on the availability of 2000 summer flounder landings date) are included in the calculation of state-by-state quota overages.

For example, during November 2002, all available 2002 landings data for the period January 1 through October 31 would be compiled and compared to proposed 2002 state quota allocations. Any overages would then be determined, and required deductions would be made from the state allocations for 2003 in the final rule that establishes the 2003 measures (to be published in December 2002). In addition, 2001 landings data for the period January 1 through December 31 would be reviewed and compared to 2001 state quota allocations. This would be the first consideration of landings data for the period November through December 2001. It would be the second consideration of landings from the period January through October 2001; these data would be reviewed to identify any data that were submitted late. Any new overages identified for the 2001 fishing year as the result of this examination would also be deducted from state allocations for 2003 in the final rule that establishes the 2003 measures.

If NMFS determines that a state's quota allocation has been exceeded as of October 31, then that state's commercial summer flounder fishery would be closed in accordance with the regulations fount at § 648.101(c). Any additional overages that may occur

during November and December as a result of state waters remaining open would be deducted from the quota allocation for that state in the following fishing year.

Scup

The commercial scup quota is allocated coastwide from Maine through North Carolina, to three seasonal allocation periods: Winter I, January through April; Summer, May through October; and Winter II, November through December. The proposed action would establish a landings cut-off date of October 31 for the Winter I and Summer quota periods, and establish a second landings cut-off date of June 30 of the following year for the Winter II quota period. A landings cut-off date of October 31 would provide sufficient time to compile commercial scup landings for the Winter I and Summer quota periods and to make necessary adjustments to the quota allocations for these quota periods in the final specifications for the upcoming year. In addition, the proposed cut-off date is consistent with the end of the Summer quota period. Based on the availability of 2000 scup landings data for the Winter I and Summer quota periods, most (up to 95 percent) of the landings occurring during these quota periods would be available for inclusion in the calculation of quota overages for the final specifications if a cut-off date of October 31 was established. The establishment of a second landings cut-off date of June 30 for the scup fishery is proposed because all scup landings for the Winter II fishery are generally accounted for before that date, based on the availability of commercial scup landings for the 2000 Winter II quota period.

For example, during November 2002, all available 2002 landings data for the period January 1 through October 31 would be compiled and compared to the 2002 Winter I and Summer quota allocations. Any overages would then be determined, and required deductions would be made from the Winter I and/or Summer allocations for 2003 in the final rule that establishes the 2003 measures. In addition, all available 2001 landings data for the period January 1 through December 31 would be compiled and compared to the 2001 period allocations (Winter I, Summer, and Winter II). Any new overages identified for the 2001 fishing year as the result of late data would be determined, and the required deductions would be made from the appropriate period allocations for 2003 in the final rule that establishes the 2003 measures.

By June 30, 2003, all available 2002 landings data for the Winter II period (November through December) would be compiled and compared to the 2002 Winter II quota allocation. Any overages would be determined, and the required deductions would be made from the Winter II allocation for 2003. The public would then be informed of this adjustment in a **Federal Register** notification published in July 2003.

Black Sea Bass

The black sea bass quota is allocated coastwide, from Maine to North Carolina, to quarterly allocations: Quarter 1, January through March; Quarter 2, April through June; Quarter 3, July through September; and Quarter 4, October through December. The proposed action would establish a landings cut-off date of October 31 for the Quarter 1 through Quarter 3 fisheries, and establish a second landings cut-off date of June 30 of the following year for the Quarter 4 fishery. Similar to scup, a landings cut-off date of October 31 would provide sufficient time to compile commercial black sea bass landings and make necessary adjustments to the quota allocations for the Quarter 1 through Quarter 3 fisheries in the final specifications for the upcoming year. Based on the availability of 2000 black sea bass landings for this period, at least 90 percent of landings occurring during these quota periods would be available for inclusion in the calculation of quota overages for the final specifications if a cut-off date of October 31 was established. In addition, NMFS is recommending that landings for the Quarter 4 black sea bass fishery be assessed as of June 30 of the following year because the prior year's landings data for this quota period are relatively complete by that date.

For example, during November 2002, all available 2002 landings data for Quarters 1 through 3 that are received by October 31 would be compiled and compared to the 2002 quota allocations for Quarters 1 through 3. Any overages would then be determined, and required deductions would be made from the Quarter 1, 2 or 3 allocations for 2003 in the final rule that establishes the 2003 measures. In addition, all available 2001 landings data (Quarters 1 through 4) would be reviewed to identify any data reported late. Any new overages identified for the 2001 fishing year as the result of this review would also be deducted from the appropriate quarterly allocations for 2003.

By June 30, 2003, all available 2002 landings data for Quarter 4 would be compiled and compared to the 2002 quota allocation for Quarter 4. Any overage would be determined, and required deductions would be made from the Quarter 4 allocation for 2003. The public would then be informed of this adjustment in a **Federal Register** notification published in July 2003.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This proposed rule does not contain certain policies with Federalism implications as that term is defined in Executive Order 13132.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed measures contained in this regulatory amendment could affect any vessel holding an active Federal moratorium permit for summer flounder, scup, or black sea bass, as well as vessels that fish for any one of these species in state waters. Data from the Northeast permit application database show that, as of September 25, 2001, there were 1,396 commercial vessels permitted to take part in the commercial summer flounder, scup, and/or black sea bass fisheries. All of these vessels are considered to be small entities. However, the establishment of a landings cut-off date would not directly modify fishing activities associated with the summer flounder, scup, and black sea bass fisheries. As a result, this action is not expected to have any economic impact on vessels participating in the commercial summer flounder, scup, and black sea bass fisheries. Thus, the revenues and profitability of individual vessels will not be adversely affected by this action. However, the action will allow vessel owners to know the exact quotas for the upcoming fishing year and may enable them to make adjustments to their fishing operations that could potentially increase their profitability by providing vessel owners more certainty in planning for the upcoming fishing year. With exact knowledge of the quotas, they can better plan when to fish based on ex-vessel prices; costs of fuel and food; and arrangements with brokers, dealers, and wharf facilities. As a result, an initial regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements

Dated: December 7, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.100, the first sentence of paragraph (d) introductory text, and paragraph (d)(1)(ii) are revised to read as follows:

§ 648.100 Catch quotas and other restrictions.

* * * * *

(d) After such review, the Regional Administrator will publish a proposed rule in the **Federal Register** to implement a coastwide commercial quota, a recreational harvest limit, and additional management measures for the commercial fishery. * * *

(1) * * *

(ii) All summer flounder landed for sale in a state shall be applied against that state's annual commercial quota, regardless of where the summer flounder were harvested. Any landings in excess of the commercial quota in any state will be deducted from that state's annual quota for the following year in the final rule that establishes the annual state-by-state quotas. The overage deduction will be based on landings for the current year through October 31, and on landings for the previous calendar year that were not included when the overage deduction was made in the final rule that established the annual quota for the current year. If the Regional Administrator determines during the fishing year that any part of an overage deduction was based on erroneous landings data that were in excess of actual landings for the period concerned, NMFS will restore all or part of the overage deducted to the appropriate quota allocation. The Regional Administrator will publish a notification in the **Federal Register** announcing such restoration.

* * * * *

3. In § 648.120, paragraphs (d)(4), (d)(5), and (d)(6) are removed, paragraph (c) is revised and paragraph (d)(3) is added to read as follows:

§ 648.120 Catch quotas and other restrictions.

* * * * *

(c) Annual fishing measures. The Demersal Species Committee shall review the recommendations of the Scup Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall recommend to the MAFMC measures necessary to assure that the specified exploitation rate will not be exceeded. The MAFMC's recommendation must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Administrator shall review these recommendations and any recommendations of the Commission. After such review, NMFS will publish a proposed rule to implement a commercial quota in the **Federal Register**, specifying the amount of quota allocated to each of the three periods, landings limits for the Winter I and Winter II periods, the percentage of landings attained during the Winter I fishery at which the landing limits will be reduced, a recreational harvest limit, and additional management measures for the commercial fishery. If the Regional Administrator determines that additional recreational measures are necessary to assure that the specified exploitation rate will not be exceeded, he or she will publish a proposed rule in the **Federal Register** to implement additional management measures for the recreational fishery. After considering public comment, the Regional Administrator will publish a final rule in the Federal Register to implement annual measures.

(d) * * *

(3) All scup landed for sale in any state during a quota period shall be applied against the coastwide commercial quota for that period, regardless of where the scup were harvested. Any current year landings in excess of the commercial quota in any quota period will be deducted from that quota period's annual quota in the following year as prescribed below:

(i) For the Winter I and Summer quota periods, landings in excess of the allocation will be deducted from the appropriate quota period for the following year in the final rule that establishes the annual quota. The overage deduction will be based on landings for the current year through October 31, and on landings for the previous calendar year that were not included when the overage deduction was made in the final rule that established the period quotas for the current year. If the Regional Administrator determines during the fishing year that any part of an overage deduction was based on erroneous landings data that were in excess of actual landings for the period concerned, NMFS will restore all or part of the overage deduction to the appropriate quota allocation. The Regional Administrator will publish notification in the **Federal Register** announcing the restoration.

(ii) For the Winter II quota period, landings in excess of the allocation will be deducted from the Winter II period for the following year in a notification published in the Federal Register during the following year. The overage deduction will be based on landings information available for the Winter II period as of June 30. If the Regional Administrator determines during the fishing year that any part of an overage deduction was based on erroneous landings data that were in excess of actual landings for the period concerned, NMFS will restore all or part of the overage deduction to the appropriate quota allocation. The Regional Administrator will publish notification in the **Federal Register** announcing the restoration.

* * * * *

4. In § 648.140, paragraphs (c) and (d)(2) are revised and paragraphs (d)(3) and (d)(4) are added to read as follows:

§ 648.140 Catch quotas and other restrictions.

* * * * *

(c) Annual fishing measures. The Demersal Species Committee shall review the recommendations of the Black Sea Bass Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall make its recommendations to the Council with respect to the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. The Council shall review these recommendations and, based on the recommendations and public comment, make recommendations to the Regional Administrator with respect to the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. Included in the recommendation will be supporting documents, as appropriate, concerning the environmental and economic impacts of the proposed action. The Regional Administrator will review these recommendations and any recommendations of the Commission. After such review, the Regional Administrator will publish a proposed rule in the **Federal Register** to implement a commercial quota, a

recreational harvest limit, and additional management measures for the commercial fishery. If the Regional Administrator determines that additional recreational measures are necessary to assure that the target exploitation rate specified in paragraph (a) of this section will not be exceeded, he or she will publish a proposed rule in the **Federal Register** to implement additional management measures for the recreational fishery. After considering public comment, the Regional Administrator will publish a final rule in the Federal Register to implement the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded.

(d) * * *

(2) All black sea bass landed for sale in the states from North Carolina through Maine by a vessel with a moratorium permit issued under § 648.4 (a)(7) shall be applied against that quarter's commercial quota, regardless of where the black sea bass were harvested. All black sea bass harvested north of 35°15.3′ N. lat., and landed for sale in the states from North Carolina through Maine by any vessel without a moratorium permit and fishing exclusively in state waters will be counted against the quota by the state in which it is landed pursuant to the Fishery Management Plan for the Black Sea Bass Fishery adopted by the Commission. The Regional Administrator will determine the date on which the quarterly quota will have been harvested; the EEZ north of 35°15.3′ N. lat. will be closed on that date. The Regional Administrator will publish a notice in the **Federal Register** advising that, upon, and after, that date, no vessel may possess black sea bass in the EEZ north of 35°15.3′ N. lat. during a closure, nor may vessels issued a moratorium permit land black sea bass during the closure. Individual states will have the responsibility to close their ports to landings of black sea bass during a closure pursuant to the Fishery Management Plan for the Black Sea Bass Fishery adopted by the Commission.

(3) For the Quarter 1 through Quarter 3 quota periods, landings in excess of the allocation will be deducted from the appropriate quota period for the following year in the final rule that establishes the annual quota. The overage deduction will be based on landings for the current year through September 30, and landings for the previous calendar year that were not included when the overage deduction was made in the final rule that established the quarterly quotas for the current year. If the Regional Administrator determines during the fishing year that any part of an overage deduction was based on erroneous landings data that were in excess of actual landings for the period concerned, NMFS will restore all or part of the overage deduction to the appropriate quota allocation. The Regional Administrator will publish a notification in the **Federal Register** announcing the restoration.

(4) For the Quarter 4 quota period, landings in excess of the allocation will be deducted from the Quarter 4 period for the following year in a notification published in the **Federal Register** during the following year. The overage deduction will be based on landings information available for the Quarter 4 period as of June 30 of the following year. If the Regional Administrator determines during the fishing year that any part of an overage deduction was based on erroneous landings data that were in excess of actual landings for the period concerned, NMFS will restore all or part of the overage deduction to the appropriate quota allocation. The Regional Administrator will publish a notification in the **Federal Register** announcing the restoration.

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[FR Doc. 01–30828 Filed 12–12–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 240
Thursday, December 13, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Washington Cascades Provincial Advisory committee and Yakima Provincial Advisory Committee

AGENCY: Forest Service, USDA.
ACTION: Notice of meeting.

SUMMARY: The Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee will meet on Thursday, January 17, 2002, at the Wenatchee National Forest headquarters main conference room, 215 Melody lane, Wenatchee, Washington, The meeting will begin at 9 a.m. and continue until 3 p.m. During this meeting we will learn about long-term restoration projects and noxious weeds. All Eastern Washington Cascades and Yakima Province Advisory Committee meetings are open to the public. Interested citizens are welcome to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, 509–662–4335.

Dated: December 6, 2001.

Paul Hart,

Designated Federal Official, Okanogan and Wenatchee National Forests.

[FR Doc. 01–30790 Filed 12–12–01; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Hearing on Environmental Justice

AGENCY: Commission on Civil Rights.
ACTION: Notice of hearings.

SUMMARY: Notice is hereby given pursuant to the provisions of the Civil Rights Commission Amendments Act of 1994, section3, Public Law 103–419, 108 Stat. 4338, as amended, and 45 CFR 702.3., that a public hearing before the U.S. Commission on Civil Rights will take place on Friday, January 11, 2002, beginning at approximately 10 a.m., immediately following previously scheduled Commission business taking place earlier that morning. The purpose of this hearing is to collect information within the jurisdiction of the Commission, under Public Law 98–183, section 5(a)(1) and Section 5 (a)(5), related particularly to the effect of environmental hazards, including hazardous waste sites and industries located in, or near, low-income communities and communities of color, and the question of whether the civil rights of those communities in question are being violated.

The Commission are authorized to hold hearings and to issue subpoenas for the production of documents and the attendance of witnesses pursuant to 45 CFR 701.2. The Commission in an independent bipartisan, fact finding agency authorized to study, collect, and disseminate information, and to appraise the laws and policies of the Federal Government, and to study and collect information with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national original, or in the administration of justice. Hearing impaired persons who will attend the hearings and require the services of a sign language interpreter, should contact Pamela Dunston, Administration's Services and Clearinghouse Division at (202) 376–8105 (TDD (202) 376–8116), at least five (5) working days before the scheduled date of the hearing.

FOR FURTHER INFORMATION CONTACT: Les Jin, Office of the Staff Director (202) 376–7700.

Dated: December 7, 2002.

Les Jin,

Staff Director.

[FR Doc. 01–30764 Filed 12–12–01; 8:45 am]

BILLING CODE 6335–1–M

DEPARTMENT OF COMMERCE

[I.D. 121001A]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for emergency clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: NMFS Alaska Region Vessel Monitoring System (VMS) Program.

Form Number(s): None.

OMB Approval Number: None.

Type of Request: Emergency.

Burden Hours: 13,044.

Number of Respondents: 539.

Average Hours Per Response: 6 hours for installation of a VMS unit, 4 hours per year to maintain a VMS unit, 5 seconds for an automated position report, and 12 minutes to fax a check-in report.

Needs and Uses: As required in the reasonable and prudent measures in the Endangered Species Act, Section 7 biological opinion on the effects of the BSAI and GOA pollock, Atka mackerel, and Pacific cod fisheries on the endangered Steller sea lions, the National Marine Fisheries Service (NMFS) must implement changes to information collected from fishery participants. These new registrations will be in effect on January 1, 2002 and will end for Atka mackerel on January 15, 2002. In order to participate in the three fisheries, these registered participants must install vessel monitoring system (VMS) units on their vessels and operate the VMS while directed fishing for each of the species. Some of these applicants have already acquired VMS units for use in the Atka mackerel and pollock fisheries. This emergency collection of information extends the requirement for use of VMS units to all vessels that are directed fishing for Pacific cod, pollock, and Atka mackerel in the exclusive economic zone off Alaska.

Affected Public: Business and other for-profit organizations.

Frequency: Every 20 minutes for a position report, on occasion for a check-in report.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: December 6, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–30826 Filed 12–12–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–806]

Certain Pasta From Turkey: Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: The Department is issuing the final results of the first administrative review of the countervailing duty order on pasta from Turkey.

EFFECTIVE DATE: December 13, 2001.

FURTHER INFORMATION CONTACT: Annika O'Hara or Melanie Brown, Office of AD/CVD Enforcement 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3798 and (202) 482–4987, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department") regulations are to 19 CFR part 351 (April 2000).

Background

On July 24, 1996, the Department published in the **Federal Register** (61 FR 38546) the countervailing duty order on certain pasta from Turkey.

In accordance with 19 CFR 351.213(b), this review of the order covers the following producers or exporters of the subject merchandise for which a review was specifically requested: Filiz Gida Sanayi ve Ticaret A.S. ("Filiz"), Beslen Makarna Gida Sanayi ve Ticaret A.S. and Beslen Pazarlama Gida Sanayi ve Ticaret A.S. ("Beslen"), Pastavilla Makarnacilik Sanayi ve Ticaret A.S. ("Pastavilla"), and Maktas Makarnacilik ve Ticaret A.S. ("Maktas").

Since the publication of the preliminary results (*see Certain Pasta from Turkey: Preliminary Results of Countervailing Duty Administrative Review*, 66 FR 41553 (August 8, 2001)), the following events have occurred: On October 11, 2001, the Department issued a third supplemental questionnaire to Pastavilla, Maktas, and the Government of Turkey. Responses were received between October 19 and October 23, 2001. On October 31, 2001, Maktas submitted a case brief. No rebuttal briefs were submitted and we received no requests for a hearing.

Scope of Order

Covered by the order are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this order is typically sold in the retail market, in fiberboard or cardboard cartons or polyethylene or polypropylene bags, of varying dimensions.

Excluded from the order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

The merchandise under review is currently classifiable under subheading 1902.19.20 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Scope Ruling

To date, the Department has issued the following scope ruling:

On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances may be within the scope of the countervailing duty order. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the countervailing duty order. (See May 24, 1999 memorandum from John Brinkman to Richard Moreland, which is on file in the Central Records Unit ("CRU") in Room B–099 of the main Commerce building.)

Period of Review

The period of review ("POR") for which we are measuring subsidies is from January 1, 1999 through December 31, 1999.

Analysis of Comments Received

All issues raised in the case by parties to this administrative review are addressed in the December 6, 2001 *Issues and Decision Memorandum* from Richard Moreland, Deputy Assistant Secretary for Import Administration, to Bernard Carreau, Acting Assistant Secretary for Import Administration ("*Decision Memorandum*"), which is hereby adopted by this notice. Only one interested party, Maktas, filed a case brief. No parties filed rebuttal briefs. The only issue raised by Maktas concerned the calculation of the benefit conferred by the Resource Utilization Support Fund ("KKDF") tax exemption program. Parties can find a complete discussion of this issue and the corresponding recommendation in the public *Decision Memorandum* which is on file in the CRU. In addition, a complete version of the memorandum can be accessed directly on the Internet at *http://ia.ita.doc.gov/frn/* under the heading "Turkey." The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

In the preliminary results, we found a program called "Exemption from KKDF, BIST, and Stamp Taxes on Export-related Loans" to provide countervailable benefits. In addition to being countervailed as a separate tax program under this heading, the benefit from these tax exemptions was added to the benefit conveyed by preferential interest rates on pre-shipment export loans in order to capture the total

benefit from these loans. Based upon the comment received and further review of the questionnaire responses, we have made three changes related to this program since the preliminary results: (1) We have found the exemption from stamp taxes to be not countervailable; (2) we have analyzed the KKDF and the BIST (Banking and Insurance Transactions) tax exemptions as two separate programs; and (3) we have changed the benefit calculation methodology for the KKDF and BIST tax exemptions on certain loans. These changes are discussed in further detail in the relevant sections of the *Decision Memorandum*.

Final Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 1999 through December 31, 1999, we determine the net subsidy rates for producers/exporters under review to be those specified in the chart shown below.

Company	Ad valorem rate (percent)
Beslen Makarna Gida Sanayi ve Ticaret A.S. and Beslen Pazarlama Gida Sanayi ve Ticaret A.S.	0.00
Filiz Gida Sanayi ve Ticaret A.S.	0.00
Maktas Makarnacilik ve Ticaret A.S.	6.52
Pastavilla Makarnacilik Sanayi ve Ticaret A.S.	1.73

We will instruct the Customs Service ("Customs") to assess countervailing duties as indicated above. The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the percentages detailed above of the f.o.b. invoice prices on all shipments of the subject merchandise from the producers/exporters under review, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

The cash deposit rates for all companies not covered by this review are not changed by the results of this review. Thus, we will instruct Customs to continue to collect cash deposits for non-reviewed companies. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the *Notice of Countervailing Duty Order: Certain Pasta ("Pasta") from Turkey*, 61 FR 38546 (July 24, 1996), which provides the most recently published countervailing duty rates for companies not reviewed in this administrative review. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is completed. In addition, for the period January 1, 1999 through December 31, 1999, the assessment rates applicable to all non-reviewed companies covered by these orders are the cash deposit rates in effect at the time of entry.

Return or Destruction of Proprietary Information

This notice serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: December 6, 2001.

Bernard Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–30823 Filed 12–12–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 011123281–1281–01]

Special American Business Internship Training Program (SABIT) Grants Funding Availability

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: This Notice announces availability of funds for the Special American Business Internship Training Program (SABIT), for training business executives and scientists (also referred to as "interns") from the New Independent States (NIS).

DATES: This notice is effective as of December 17, 2001. The closing date for applications is March 1, 2002. If available funds are depleted prior to the closing date, a notice to that effect will be published in the **Federal Register**. Processing of complete applications takes approximately three to four months. All awards are expected to be made by July 1, 2002.

ADDRESSES: Request for Applications: Competitive Application kits will be available from ITA starting on the day this notice is published. To obtain a copy of the Application Kit please contact SABIT by: (1) E-mail at *SABITApply@ita.doc.gov*, providing your name, company name and address; (2) Telephone (202) 482–0073; (3) The world wide web at *www.mac.doc.gov/sabit/sabit.html;* (4) Facsimile (202) 482–2443; (5) Mail: Send a written request with two self-addressed mailing labels to Application Request, The SABIT Program, U.S. Department of Commerce, [FCB]—Fourth Floor—4100W, 1401 Constitution Avenue, NW., Washington, DC, 20230. The telephone numbers are not toll free numbers. Only one copy of the Application Kit will be provided to each organization requesting it, but it may be reproduced by the requesters.

FOR FURTHER INFORMATION CONTACT: Liesel C. Duhon, Director, SABIT Program, U.S. Department of Commerce, phone—(202) 482–0073, facsimile—(202) 482–2443. These are not toll free numbers.

SUPPLEMENTARY INFORMATION:

Authority: 22 U.S.C. 2395 (b).

Catalog of Federal Domestic Assistance (CFDA): 11.114—Special American Business Internship Training Program.

Program Description

The Department of Commerce, International Trade Administration (ITA) established the SABIT program in September 1990 to assist the former Soviet Union's transition to a market economy. Since that time, SABIT has been supporting U.S. companies that wish to provide business executives and scientists from the NIS three-to six-month programs of hands-on training in a U.S. market economy.

Under the SABIT program, qualified U.S. firms will receive funds through a cooperative agreement with ITA to help defray the cost of hosting interns. The training must take place in the United States. ITA will interview NIS managers or scientists nominated by participating U.S. companies, or assist in identifying eligible candidates. Interns may be from any of the following Independent States: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. However, specific restrictions may apply. The U.S. firms will be expected to provide the interns with a hands-on, non-academic,

executive training program designed to maximize their exposure to management or commercially-oriented scientific operations. At the end of the training program, interns must return to the NIS. If there is any evidence of a conflict of interest between an intern and the company, the intern is disqualified.

SABIT exposes NIS business managers and scientists to a completely new way of thinking in which demand, consumer satisfaction, and profits drive production. Senior-level interns visiting the U.S. for internship programs with public or private sector companies will be exposed to an environment which will provide them with practical knowledge for transforming their countries' enterprises and economies to-the free market. The program provides first-hand, eye-opening experience to managers and scientists which cannot be duplicated by American managers traveling to their territories.

Managers: SABIT assists economic restructuring in the NIS by providing top-level business managers with practical training in American methods of innovation and management in such areas as strategic planning, financing, production, distribution, marketing, accounting, wholesaling, and/or labor relations. This first-hand experience in the U.S. economy enables interns to become leaders in establishing and operating a market economy in the NIS, and creates a unique opportunity for U.S. firms to familiarize key executives from the NIS with their products and services. Sponsoring U.S. firms will benefit by establishing relationships with key managers in similar industries who are uniquely positioned to assist their U.S. sponsors do business in the Independent States.

Scientists: SABIT provides opportunities for gifted scientists to apply their skills to peaceful research and development in the civilian sector, in areas such as defense conversion, medical research, and the environment, and exposes them to the role of scientific research in a market economy where applicability of research relates to business success. Sponsoring firms in the U.S. scientific community also benefit from exchanging information and ideas, and different approaches to new technologies.

All internships are three to six months; however, ITA reserves the right to allow an intern to stay for a shorter period of time (no less than one month) if the U.S. company agrees and the intern demonstrates a need for a shorter internship based on his or her management responsibilities. ITA will reimburse companies for the round trip international travel (coach class tickets) of each intern from the intern's home city in the NIS to the U.S. internship site, upon submission of the paid travel invoice, payment receipt, or other evidence of payment and the form SF–270, "Request for Advance or Reimbursement." Travel under the program is subject to the Fly America Act. Recipient firms provide directly to interns a stipend of $34 a day. Recipient firms will be reimbursed for this stipend, up to a maximum of six months, upon the submission of an end-of-internship report and Standard Form SF–270, Request for Advance and/or Reimbursement. Interns must return to their home countries immediately upon completion of their U.S. internships. Recipient firms will provide housing for the interns and will be reimbursed for up to $500 per month for housing costs (not including utilities or telephone service charges), upon the submission of the end-of-internship report and Standard Form SF–270. For cities with higher costs of living, up to $750.00 may be reimbursed. In either case, sufficient proof of the actual cost of similar housing in the local area must be provided. In general, each award will have a cap of $13,700 per intern for total cost of airline travel, stipend and housing costs. ITA reserves the right to allow an award to exceed this cap in cases of unusually high costs, specifically airfare from remote regions of the NIS such as Central Asia and the Caucasus. However, the total reimbursement cannot exceed the award amount. There are no specific matching requirements for the awards. Recipient firms, however, are expected to bear the costs beyond those covered by the award, including: visa fees, insurance, any food and incidentals costs beyond the $34 per day stipend, training manuals, additional lodging costs beyond the reimbursed amount, any training-related travel within the U.S., and provision of the hands-on training for the interns.

U.S. firms wishing to utilize SABIT in order to be matched with an intern without applying for financial assistance may do so. Such firms will be responsible for all costs, including travel expenses, related to sponsoring the intern. However, prior to acceptance as a SABIT intern, work plans and candidates must be approved by the SABIT Program. Furthermore, program training will be monitored by SABIT staff and evaluated upon completion of training.

ITA does not guarantee that it will match Applicants with the profile provided to SABIT.

Funding Availability

Pursuant to section 632(a) of the Foreign Assistance Act of 1961, as amended (the "Act") funding for the program will be provided by the United States Agency for International Development (A.I.D). ITA will award financial assistance and administer the program pursuant to the authority contained in section 635(b) of the Act and other applicable grant rules. The estimated amount of financial assistance available for the program is $1,500,000. Additional funding may become available at a future date.

Matching Requirements

There are no specific matching requirements.

Funding Instrument

Federal assistance will be awarded pursuant to a cooperative agreement between DOC and the recipient firm.

Eligibility Criteria

Eligible applicants for the SABIT program will include all for profit or non-profit U.S. corporations, associations, organizations or other public or private entities located in the United States. Agencies or divisions of the federal government are not eligible. However, state and local governments are eligible.

Award Period

Funds will be available effective with the publication of this notice. The funds will remain available until they are expended. Recipient firms will have one year from the date listed on the Financial Assistance Award, CD–450, in order to use the funds. However, DOC reserves the right to allow an extension if the recipient can justify the need for extra time. If applicants incur any costs prior to an award being made, they do solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs.

Evaluation Criteria

Consideration for financial assistance will be given to those SABIT proposals which:

(1) Present a realistic work plan describing in detail the training program to be provided to the SABIT intern(s). Work plans must include the proposed internship training activities. The components of the training activities must be described in as much detail as possible, preferably on a week-by-week basis. The description of the training activities should include an account of

what the intern's(s') duties and responsibilities will be during the training. Please note, if you are coordinating an internship which will take place at several companies, you must provide a workplan for each company.

(2) Demonstrate a commitment to the intent and goals of the program to provide practical, on-the-job, non-academic, non-classroom, training: in the case of manager interns, an appropriate management training experience, or, in the case of scientist interns, a practical, commercially-oriented scientific training experience. Include a brief objectives section indicating why the Applicant wishes to provide an internship to a manager(s) or scientist(s) from the NIS, and how the proposed internship would further the purpose of the SABIT program as described above. Also, the Applicant should note how the internship to be provided will respond to the priority needs of senior business managers and scientists in the NIS.

(3) Provide fully the following information: (a) Whether Applicant is applying to host managers or scientists, or both (and the number of each); (b) Whether potential intern candidate(s) is(are) employed in priority industries, and which one(s); (c) The duration of the internship; (d) The location(s) of the internship; (e) The name, address, and telephone number of the application's preparer and the name, address, and telephone number of the designated internship coordinator; (f) Name(s) of division(s) in which the intern(s) will be placed; (g) The individual(s) in the U.S. company under whose supervision the intern will train; (h) The anticipated housing arrangements to be provided for the intern(s). Note that housing arrangements should be suitable for mid- and senior-level professionals, and that each intern must be provided with a private room; (i) A statement that the host firm is solidly committed to interns' return to their own countries upon completion of the internships.

(4) Provide a general description of the profile of the intern(s) the Applicant would like to host, including: educational background; occupational/professional background (including number of years and areas of experience); size and nature of organization at which the intern(s) is/are presently employed; preference for the region of the NIS where the intern(s) is/are employed; and whether Applicant is open to sponsoring interns from a variety of NIS countries. If the U.S. company is nominating an intern candidate, please provide a resume for said candidate. Evaluation criteria are listed in decreasing importance. That is, evaluation criterion 1 is most important, followed by criterion 2, etc.

Project Funding Priorities

Applicant proposal must provide an explanation, including description and extent of involvement, in priority business sector(s). While Applicants involved in any industry sector may apply to the program, priority consideration is given to those operating in the following sectors: (a) Agribusiness (including food processing and distribution, and agricultural equipment), (b) Defense conversion, (c) Energy, (d) Environment (including environmental clean-up), (e) Financial services (including banking and accounting), (f) Housing, construction and infrastructure, (g) Medical equipment, supplies, pharmaceuticals, and health care management, (h) Product standards and quality control, (i) Telecommunications, (j) Transportation and (k) Biotechnology.

Selection Procedures

Each application will receive an independent, objective review by one or more three or four-member independent review panels qualified to evaluate applications submitted under the program. Applications will be evaluated on a competitive, "rolling" basis as they are received in accordance with the selection evaluation set forth above. Awards will be made to those applications which successfully meet the selection criteria. If funds are not available for all those applications which successfully meet the criteria, awards will be made to the first applications received which successfully do so. ITA reserves the right to reject any application; to limit the number of interns per applicant; and to waive informalities and minor irregularities in applications received. The final selecting official reserves the right to make awards based on U.S. geographic and organization size diversity among applicants, as well as to consider priority business sectors (listed in Project Funding Priorities, above) when making awards. Recipients may be eligible, pursuant to approval of an amendment of an active award, to host additional interns under the program. ITA reserves the right to evaluate applicants based on past performance. The Director of the SABIT Program is the final selecting official for each award.

Intergovernmental Review

Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

Application Forms and Kit

To obtain an application kit, please refer to the section above marked **ADDRESSES**. All applicants must submit a completed Standard Form 424, "Application for Federal Assistance" and a Standard Form 424B, "Assurances—Non-Construction Programs." All applicants must also submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying". Form CD–511 and Standard Forms 424 and 424B are included in the Application Kit supplied by the SABIT office. Applicants will also need to provide the information to fulfill the "Evaluation Criteria" listed above.

An original and two copies of the application (including Standard Form 424 (Rev. 4–92) and supplemental material) are to be sent to the address designated in the Application Kit and postmarked no later than the closing date. Please sign the original application (including forms) with blue ink. Applications will be considered on a "rolling" basis as they are received, subject to the availability of funds.

Additional Information: Applicants must also submit: (1) Evidence of adequate financial resources of Applicant organization to cover the costs involved in providing an internship(s). As evidence of such resources, Applicant should submit financial statements audited by an outside organization or an annual report including such statements. If these are not available, a letter should be provided from the Applicant's bank or outside accountant attesting to the financial capability of the firm to undertake the scope of work involved in training an intern under the SABIT program.

(2) Evidence of a satisfactory record of performance in grants, contracts and/or cooperative agreements with the Federal Government, if applicable. (Applicants who are or have been deficient in current or recent performance in their grants, contracts, and/or cooperative agreements with the Federal Government shall be presumed to be unable to meet this requirement). (3) A statement that the Applicant will provide medical insurance coverage for interns during their internships. Recipients will be required to submit proof of the interns' medical insurance coverage to the Federal Program Officer before the interns' arrivals. The insurance coverage must include an

accident and comprehensive medical insurance program as well as coverage for accidental death, emergency medical evacuation, and repatriation.

Disposition of Unsuccessful Applications

Unsuccessful applications may be retained or destroyed by the SABIT Program.

Other Requirements

Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements, which are contained in **Federal Register** Notice of October 1, 2001 (66 FR 49917), are applicable.

All applicants are advised of the following:

1. Participating companies will be required to comply with all relevant U.S. tax and export regulations. Export controls may relate not only to licensing of products for export, but also to technical data transfer. The U.S. Department of Commerce's Bureau of Export Administration (BXA) reviews applications in question to determine whether export licenses are required. SABIT will not award a grant until the export license issue has been satisfied.

2. The following statutes apply to this program: Section 907 of the FREEDOM Support Act, Public Law 102–511, 22 U.S.C. 5812 note (Restriction on Assistance to the Government of Azerbaijan); 7 U.S.C. 5201 *et seq.* (Agricultural Competitiveness and Trade—the Bumpers Amendment); The Foreign Assistance Act of 1961, as amended, including Chapter 11 of Part I, section 498A(b), Public Law 102–511, 22 U.S.C. 2295a(b) (regarding ineligibility for assistance); 22 U.S.C. 2420(a), Section 660(a) of The Foreign Assistance Act of 1961, as amended (Police Training Prohibition); and provisions in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Acts, concerning impact on jobs in the United States (see, e.g., 536 of Public Law 106–113).

3. The collection of information is approved by the Office of Management and Budget, OMB Control Number 0625–0225. Public reporting for this collection of information is estimated to be three hours per response, including the time for reviewing instructions, and completing and reviewing the collection of information. All responses to this collection of information are voluntary, and will be protected from disclosure to the extent allowed under the Freedom of Information Act. The use of Standard Forms 424 and 424B is approved under OMB Control Numbers 0348–0043 and 0348–0040, respectively.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Clearance Officer, International Trade Administration, Department of Commerce, Room 4001, 14th and Constitution Ave., NW., Washington, DC 20230.

4. *Executive Order 12866:* It has been determined that this notice is not significant for purposes of E.O. 12866.

5. *Executive Order 13132:* It has been determined that this notice does not contain policies with Federalism implications as that term is defined in E.O. 13132.

Because notice and comment are not required under 5 U.S.C. 553, or any other law, for notices relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared for this notice, 5 U.S.C. 601 *et seq.*

Dated: December 7, 2001.

Liesel C. Duhon,

Director, SABIT Program.

[FR Doc. 01–30780 Filed 12–12–01; 8:45 am]

BILLING CODE 3510–HE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Coastal Zone Management Programs

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Louisiana Coastal Resources Program.

This Coastal Zone Management Program evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended and regulations at 15 CFR part 923, subpart L.

The CZMA requires continuing review of the performance of states with respect to coastal program implementation. Evaluation of Coastal Zone Management Programs requires findings concerning the extent to which a state has met the national objectives, adhered to its Coastal Management Program document approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The evaluation will include a site visit, consideration of public comments, and consultations with interested Federal, state, and local agencies and members of the public. A public meeting will be held as part of the site visit.

Notice is hereby given of the dates of the site visit for this evaluation, and the dates, local times, and locations of the public meeting during the site visit.

The Louisiana Coastal Resources Program evaluation site visit will be held February 18–22, 2002. One public meeting will be held during the week. The public meeting will be on Wednesday, February 20, 2002, at 7 p.m., in the LaSalle Office Building, 617 North 3rd Street, Baton Rouge, Louisiana.

Copies of Louisiana's most recent performance reports, as well as OCRM's notification and supplemental request letters to the State, are available upon request from OCRM. Written comments from interested parties regarding this Program are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Douglas Brown, Acting Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th floor, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Douglas Brown, Acting Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–3155, Extension 215.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: December 6, 2001.

Alan Neuschatz,

Chief Financial Officer/Chief Information Officer for Ocean Services and Coastal Zone Management.

[FR Doc. 01–30789 Filed 12–12–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110101B]

Harbor Porpoise Bycatch Estimates for 2000

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability.

SUMMARY: NMFS announces the availability of harbor porpoise bycatch estimates for January through December, 2000.

ADDRESSES: Send information requests to Protected Resources Division, NOAA Fisheries, One Blackburn Drive, Gloucester, MA 01930–2298 or Marine Mammal Conservation Division, NOAA Fisheries, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Kimberly Thounhurst, Northeast Region, (978) 281–9138 or Emily Hanson Menashes, Office of Protected Resources, (301) 713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

The 2000 harbor porpoise bycatch estimates are accessible by the Internet at *http://www.nero.nmfs.gov/porptrp/*.

Background

NMFS published a final rule implementing the Harbor Porpoise Take Reduction Plan (HPTRP) on December 2, 1998 (63 FR 66464) to reduce the incidental take of the Gulf of Maine/Bay of Fundy stock of harbor porpoise in the Northeast sink gillnet fishery and Mid-Atlantic coastal gillnet fishery to below the Potential Biological Removal (PBR) level for the stock. The HPTRP contains management measures including fishery closures and gear modifications. The HPTRP measures are described in the December 1998 final rule and correction notice (63 FR 71041, December 23, 1998).

The most current estimate of incidental take of harbor porpoise for 2000 by fishery is available. This information is provided pursuant to a requirement of the May 12, 2000, Settlement Agreement in *Center for Marine Conservation et al.* v. *Daley et al.* (D. DC, Civ. No. 1:98CV02029 EGS). For 2000, the total estimated bycatch of harbor porpoise was 529 animals (CV=0.36). This estimate is comprised of 507 animals (coefficient of variation (CV)=0.37) from the Northeast sink gillnet fishery, 21 animals (CV=0.76) from the Mid-Atlantic coastal gillnet fishery, and 1 animal (CV unknown) from an unknown Mid-Atlantic fishery. Estimates of harbor porpoise bycatch in Canadian waters for 2000 are not currently available. Additional detail about the 2000 harbor porpoise bycatch estimates in U.S. waters is available in the 2000 bycatch analysis provided to the plaintiffs of the settlement agreement and can be obtained by contacting NMFS at one of the locations given in the **ADDRESSES** section.

For 1999, the total estimated bycatch of harbor porpoise was 323 animals (CV=0.25), comprised of 270 animals (CV=0.28) from the Northeast sink gillnet fishery and 53 animals (CV=0.49) from the Mid-Atlantic coastal gillnet fishery. 1999 and 2000 represent the years since implementation of the Harbor Porpoise Take Reduction Plan and fishery management measures intended to reduce harbor porpoise bycatch. From 1994 through 1998, the mean annual mortality of harbor porpoise was 1,521 animals (CV=0.10), comprised of 1163 animals (CV=0.11) from the Northeast sink gillnet fishery and 358 animals (CV=0.20) from the Mid-Atlantic coastal gillnet fishery.

Dated: December 10, 2001.

David Cottingham,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–30830 Filed 12–12–01; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, January 4, 2002.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–30887 Filed 12–11–01; 11:58 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, January 11, 2002.

PLACE: 1155 21st St., NW., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–30888 Filed 12–11–01; 11:58 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, January 18, 2002.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–30889 Filed 12–11–01; 11:58 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, January 25, 2002.

PLACE: 1155 21st St., NW., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 01–30890 Filed 12–11–01; 11:58 am]
BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is conducting a study of training received by AmeriCorps*VISTA Members and Project Supervisors. This particular submission concerns the collection of information, from AmeriCorps*VISTA Project Supervisors only, as to their perceptions of the efficacy and impact of the training. Copies of the information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by February 11, 2002.

ADDRESSES: Send comments to the Corporation for National and Community Service, Office of Evaluation, Attn: Carol Hafford, 1201 New York Avenue, NW., Washington, DC, 20525, or *chafford@cns.gov*.

FOR FURTHER INFORMATION CONTACT: Carol Hafford (202) 606–5000, ext. 232 or *chafford@cns.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The AmeriCorps*VISTA program provides training for members and the project supervisors who support members serving in community-based organizations, schools, and state/local agencies, and other institutions. Corporation-sponsored training takes place along a timeline based on when AmeriCorps*VISTA members begin and end their service periods. Training cycles occur five times each year, and each cycle begins with Project Supervisor Training. Project Supervisor Training occurs about three months prior to the time members are scheduled to begin service. This cluster or national-level event lasts about three or four days, and focuses on the information supervisors need to make their AmeriCorps*VISTA experience successful for their organizations as well as the members.

The second training event in the cycle is Pre-Service Orientation (PSO). It is for all new AmeriCorps*VISTA member candidates and takes place immediately prior to the start of service with the sponsoring organization. PSO usually occurs at the cluster or national level and less frequently at the state level. It lasts about three days and is required for all AmeriCorps*VISTA candidates prior to their being sworn in. Major emphases are placed on understanding the mission of AmeriCorps*VISTA and its anti-poverty focus, understanding the role of an AmeriCorps*VISTA member in building sustainable community infrastructure, developing an ethic of service, and learning about AmeriCorps*VISTA rules, procedures, and benefits.

The third training event is On-Site Orientation and Training (OSOT). This event is conducted by the sponsoring organization for its new AmeriCorps*VISTA members. The sponsor is encouraged to involve members of the community as well as the organization's staff in this training, which may last from one to three weeks. The main purposes of OSOT are to orient a new AmeriCorps*VISTA member to his/her role in the project and to the community of service.

For most AmeriCorps*VISTA members, Early Service Training (EST) is their final formal training event during their year of service with the sponsor. EST occurs three to five months into the service period and usually takes place at cluster or national levels. The purposes are to reinforce the prior training and experiences of the AmeriCorps*VISTA members by discussing problems and successes related to project goals and developing needed skills to address these concerns.

The AmeriCorps*VISTA Member and Supervisor Training study seeks to determine members' and supervisors' perceptions of the efficacy of multiple training components in developing the knowledge, skills, and attitudes needed to conduct capacity-building and sustainability activities. The study will also address the perceived impact of training and supervisor support on members' performance, retention, and satisfaction with the service experience.

II. Current Action

The Corporation seeks approval of one survey form that will be used to examine AmeriCorps*VISTA supervisors perceptions about training. This requires information from project supervisors that will address: (1) The extent to which Corporation-sponsored training prepares Supervisors to recruit, retain, and support AmeriCorps*VISTA members; and (2) whether, in their opinion, training provided to AmeriCorps*VISTA members contributes to the members' performance, retention, and satisfaction with the service experience.

Type of Review: New collection.

Agency: Corporation for National and Community Service.

Title: AmeriCorps*VISTA Project Supervisors Survey.

OMB Number: None.

Agency Number: None.

Affected Public: AmeriCorps*VISTA project supervisors at community-based organizations, elementary and secondary schools, state and local agencies.

Total Respondents: Approximately 400.

Frequency: Annual.

Average Time Per Response: 30 minutes.

Estimated Total Burden Hours: 200.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 7, 2001.

David B. Rymph,

Acting Director, Department of Evaluation and Effective Practices.

[FR Doc. 01–30767 Filed 12–12–01; 8:45 am]

BILLING CODE 5050–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Deadline for Submission of Donation Application for the Harbor Tug Ex-HOGA (YTM 146)

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of the deadline of June 13, 2002 for submission of a donation application for the harbor tug Ex-HOGA (YTM 146), a National Historic Landmark. Ex-HOGA is located at Suisun Bay National Defense Reserve Fleet, Benicia, CA.

The donation of Naval vessels to qualified organizations is authorized by Title 10, section 7306 of the United States Code. A qualified organization is: (1) Any state, commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof; (2) the District of Columbia; (3) any nonprofit entity organized pursuant to section 501(c)(3) of the Internal Revenue Code. By law, the transfer of a Navy ship for donation must occur at no cost to the United States Government. The successful applicant will be required to place Ex-HOGA on static display as a maritime museum/memorial and to maintain the vessel in a condition that is satisfactory to the Secretary of the Navy.

A qualified organization wishing to apply for Ex-HOGA must submit a comprehensive donation application to the Navy that addresses the following areas:

Financial Plan: The Financial Plan will estimate the start-up and operating costs, and provide detailed evidence of firm financing adequate to cover these costs. Start-up costs include towing, mooring (this includes but not limited to the cost of building, leasing, and improving dock and/or shore facilities, and dredging), maintenance, museum development, and meeting environmental requirements (including permitting fees and expenses). Operating costs are those associated with operating and maintaining the vessel as a museum and memorial, including rent, utilities, personnel, insurance, etc.

Firm financing means available funding to ensure the first five years of operation and future stability for long-term operation. This can include pledges, loans, gifts, bonds, funds on deposit at a financial institution, or any combination of the above. The applicant must also provide income projections from sources such as individual and group admissions, facility rental fees and gift shop revenues sufficient to cover the estimated operating expenses.

Technical: The technical area is comprised of four equally weighted plans: Towing, Mooring, Maintenance, and Environmental.

The Towing Plan describes how Ex-HOGA will be towed from the Suisun Bay National Defense Reserve Fleet in Benicia, CA, to the permanent display site proposed by the applicant. The Towing Plan must comply with all Navy Tow Manual requirements.

The Mooring Plan describes how Ex-HOGA will be secured at its permanent display site during normal and extreme weather conditions (including the 100-year storm event) to prevent damage to the ship, its mooring system, the pier, and surrounding facilities. The mooring location must be acceptable to the Navy, and not obstruct or interfere with navigation.

The Environmental Plan describes how the applicant will comply with all Local, State, Federal environmental and public health and safety regulations and permitting requirements. The applicant must also provide information necessary for the Navy to complete an environmental assessment of the donation as required by the National Environmental Policy Act (NEPA), including the impact of the donation on the natural and man-made environment, local infrastructure, and evaluation of the socio-economic consequences of the donation.

The Maintenance Plan must describe plans for long-term, short-term, and daily maintenance of the vessel, including ship preservation and maintenance schedule, underwater hull inspections, emergency response and fire/flood/intrusion control, pest control, security, periodic dry-docking, and qualifications of the maintenance team.

Curatorial: The applicant must describe in the Curatorial/Museum Plan the qualifications for a professional curator (and curator staff, if necessary). The plan should also establish a Collections Management Plan that describes how the museum will collect and manage artifacts, including a statement of purpose and description of access, authority, and collection management responsibilities.

The Curatorial Plan must also include a Historic Management Plan that describes how the museum will display the vessel and exhibits, including a description of the historical context of the ship, historical subject matter that will be displayed with the ship, and exhibit display plans.

If the Navy receives more than one application for donation of Ex-HOGA, a two-step evaluation process will be utilized. Phase I is a screening process to determine if applications meet minimum requirements. Phase II is a comparative analysis of the applications to determine the best-qualified applicant. Where two or more application meet minimum requirements, the Navy may consider additional criteria. This criterion may include submitting information on community support and benefit to the Navy.

Community Support: Includes evidence of local support such as letters of support from individuals, organizations, newspapers articles or editorials, letters of endorsement from the city and/or local Government, and written approval of the local Port Authority (this is essential). Evidence of regional support should also be provided. This includes letters of endorsement from adjacent communities and counties, cities or states. Also describe how the location of the ship will encourage public visitation and tourism, become an integral part of the community, and how the ship will enhance community development.

Benefit to the Navy: Describe how the donee may support Navy recruiting efforts. Other areas of benefit to the Navy include a connection between the Navy and the proposed berthing location, how veterans associations in the area are willing to support the vessel, how the donee will honor veterans' contributions to the United States, and how the exhibit will commemorate those contributions and showcase Naval traditions.

The relative importance for each of the areas that must be addressed in the donation application are as follows:

Financial and technical are the most important criteria and are equal in importance. Benefit to the Navy is next in importance. Curatorial and Community are less important than Benefit to the Navy and are equal in importance.

The Secretary of the Navy will make the final decision as to the donation of Ex-HOGA. After the decision to donate the ship is made, the Navy notifies Congress and Congress has 30 days of continuous session to consider the decision.

A detailed description of all donation application criteria and donation application information can be obtained from the Navy Donation Program Web Site at *http://www.navsea.navy.mil/ndp/*, or from the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Commander, Naval Sea Systems Command, ATTN: Ms. Gloria Carvalho (PMS 333G), 1333 Isaac Hull Avenue SE., Stop 2701, Washington Navy Yard, DC 20376–2701, telephone (202) 781–0485.

Dated: December 7, 2001.

T. J. Welsh,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 01–30791 Filed 12–12–01; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 11, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: December 7, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Student Financial Assistance

Type of Review: Revision.

Title: Federal Family Education Loan (FFEL) , Direct Loan, and Perkins Loan Discharge Applications.

Frequency: One time.

Affected Public: Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 70,200.

Burden Hours: 35,100.

Abstract: These forms will serve as the means of collecting the information necessary to determine whether a FFEL or Direct Loan borrower qualifies for a loan discharge based on total and permanent disability. school closure, false certification of student eligibility, or unauthorized signature. The school closure discharge application may also be used by Perkins Loan borrowers applying for a closed school discharge.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the Internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his Internet address *Joe.Schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–30771 Filed 12–12–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Assessment and Finding of No Significant Impact for Transportation of Low-Level Radioactive Waste From the Oak Ridge Reservation to Off-Site Treatment or Disposal Facilities

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE), announces the availability of the Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for Transportation of Low-Level Radioactive Waste from the Oak Ridge Reservation to Off-Site Treatment or Disposal Facilities (DOE/EA–1315) for public review and comment. The EA has been prepared in accordance with the requirements of the National Environmental Policy Act of 1969 as amended (NEPA); Council on Environmental Quality regulations implementing NEPA, 40 CFR parts 1500–1508; and DOE NEPA Implementing Procedures.

DATES: The review period for the EA/FONSI begins with publication of this notice and extends for 30 days. Comments postmarked after that date will be considered to the extent practicable.

ADDRESSES: Comments on the EA/FONSI may be submitted by mail: Mr. William G. McMillan, U.S. Department of Energy, Oak Ridge Operations Office, PO Box 2001, Oak Ridge, Tennessee 37831, or by telephone (1–865–241–6426), or by fax (1–865–576–6074), or electronically at *McMillanWG@oro.doe.gov*, or by submitting comments to the NEPA e-mail box at *NEPA@oro.doe.gov*.

Copies of the Draft EA may also be obtained by contacting Mr. William McMillan by any of the means described

above. The Draft EA is also available for review at the U.S. Department of Energy Public Reading Room at 230 Warehouse Road, Oak Ridge, TN 37830. Phone: (865) 241–4780 or 1–800–382–6938, option 6).

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, telephone 202–586–4600, or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION: The EA evaluates the potential environmental impacts associated with transportation of legacy and operational low-level (radioactive) waste (LLW) from the Oak Ridge Reservation (ORR) in Tennessee for treatment or disposal at various locations in the United States. DOE has determined that the proposed action is not a major Federal action that would significantly affect the quality of the human environment within the context of NEPA. Therefore, preparation of an environmental impact statement is not necessary, and DOE is issuing a FONSI. The EA also evaluates the potential environmental impacts associated with the no action alternative.

The draft Environmental Assessment was distributed in June 2000 to the NEPA coordinators in each state through which proposed rail or highway routes pass, as well as to local stakeholders in the Oak Ridge, Tennessee, area. Their comments were received and incorporated into the document. Because this document involves transportation across the continental United States, however, DOE has concluded that it should provide opportunity for further comment to a broader distribution. Therefore, these documents are available for a 30-day public comment period. If significant issues are documented as a result of this comment period, the document will be revised as appropriate.

The DOE-Oak Ridge Operations (ORO) Office has LLW that must be transported from Oak Ridge to treatment and disposal facilities because on-site disposal is not available for the expected large life-cycle volumes, nor for the technical constituents, of many ORR LLW streams. The reservation encompasses three major DOE facilities: Oak Ridge National Laboratory (ORNL), Oak Ridge Y–12 Plant, and East Tennessee Technology Park (ETTP). Large quantities of LLW have been generated as a result of normal operations associated with research or manufacturing conducted at these facilities. DOE legacy and operational LLW on ORR (approximately 40,000 m^3) is managed in compliant storage. It is estimated that 7700 m^3 of waste could be generated annually from operations over the next 20 years. While a large portion of ORR LLW will eventually be shipped to other federally owned, DOE-operated disposal facilities, DOE also intends to use commercial disposal facilities when cost-effective, compliant, and in the best interest of the government.

The planned action is to package as needed, load, and ship existing and forecasted ORR LLW to existing or future facilities at other DOE sites such as the Nevada Test Site (NTS), the Hanford Reservation, the Savannah River Site, and licensed commercial nuclear waste treatment or disposal facilities. These include Envirocare of Utah Inc. (Envirocare), Clive, Utah; Waste Control Specialists (WCS), Andrews, Texas; commercial facilities near the Savannah River Site (SRS), Aiken, South Carolina; commercial facilities near ORR; and commercial facilities near the Hanford Site, Richland, Washington. LLW will either be shipped directly from ORR to a DOE or licensed commercial disposal facility or to a licensed commercial treatment facility and then to a DOE or licensed commercial disposal facility. ORR LLW will generally be transported by truck but may also be transported by rail or intermodal carrier (i.e., truck and rail combination) when advantageous.

The impact analysis in the EA addressed the potential effects of loading and transporting accumulated legacy and ongoing operations LLW from Oak Ridge, Tennessee, to destinations representative of other DOE sites and licensed commercial nuclear waste treatment or disposal facilities. The potential effects of transport over both highway and rail routes were evaluated. Evaluation of LLW being generated by ongoing operations at the ORR was based on volumes anticipated over a 20-year life cycle. The potential effects were evaluated on per shipment, annual, and 20-year bases. The EA did not address waste for which treatment and disposal are addressed pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), on-site activities that are already being conducted as a part of routine waste management at the ORR, or activities conducted prior to loading or at the destination facilities.

Issued in Oak Ridge, Tennessee, on October 29, 2001.

David Allen,

Oak Ridge Operations Office, NEPA Compliance Officer.

[FR Doc. 01–30807 Filed 12–12–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–3000–001, EC01–146–001 and RT01–101–001]

International Transmission Company; and DTE Energy Company; Notice of Filing

December 7, 2001.

Take notice that on November 27, 2001, International Transmission Company (International Transmission) tendered for filing with Federal Energy Regulatory Commission (Commission) a Supplemental Agreement. The Supplemental Agreement is a multi-party contract by and among International Transmission, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), and each of the Midwest ISO transmission owners (Owners).

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 14, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30795 Filed 12–12–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3142–000]

Midwest Independent Transmission System Operator, Inc.; Notice of Filing

December 7, 2001.

Take notice that on November 27, 2001, the Midwest Independent Transmission System operator, Inc. (the Midwest ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) redlined and clean versions of Substitute Original Sheet No. 162a to the Midwest ISO Open Access Transmission Tariff (OATT), FERC Electric Tariff, First Revised Volume No. 1, which was filed with the Commission on November 26, 2001 and contained a typographical error. The Midwest ISO filing in this proceeding regarded, among other things, Attachments N and N–1 of the Midwest ISO OATT.

The Midwest ISO has electronically served copies of its filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommmittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's Web site as *www.midwestiso.org* under the heading "Filings to FERC" for other interested parties in this matter.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 18, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30794 Filed 12–12–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–34–000]

Nevada Power Company, Complainant v. BP Energy Company, Respondent; Notice of Complaint

December 7, 2001.

Take notice that on December 5, 2001, Nevada Power Company (NPC) filed a complaint requesting that the Commission mitigate unjust and unreasonable prices in sales contracts between NPC and BP Energy Company (BP) entered into in the first half of 2001 for delivery after January 1, 2002.

NPC requests that the Commission set a refund effective date of 60 days from the date of filing of their complaint.

Copies of NPC's filing were served on BP and the Public Utilities Commission of Nevada.

NPC has requested privileged treatment of certain information in the complaint, and has filed privileged and public copies of the complaint, a request for privileged treatment, and a protective agreement.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before December 26, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30801 Filed 12–12–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–33–000]

Nevada Power Company and Sierra Pacific Power Company, Complainant v. El Paso Merchant Energy, L.P., Respondent; Notice of Complaint

December 7, 2001.

Take notice that on December 5, 2001, Nevada Power Company (NPC) and Sierra Pacific Power Company (SPPC) (collectively, the Nevada companies) filed a complaint requesting that the Federal Energy Regulatory Commission (Commission) mitigate unjust and unreasonable prices in sales contracts between NPC and El Paso Merchant Energy, L.P. (El Paso) and between SPPC and El Paso entered into in late 2000 and the first half of 2001 for delivery after January 1, 2002.

The Nevada companies request that the Commission set a refund effective date of 60 days from the date of filing of their complaint.

Copies of the Nevada companies' filing were served on El Paso and the Public Utilities Commission of Nevada. The Nevada companies have requested privileged treatment of certain information in the complaint, and have filed privileged and public copies of the complaint, a request for privileged treatment, and a protective agreement.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before December 26, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://*

www.ferc.gov using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30800 Filed 12–12–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–38–000]

Nevada Power Company and Sierra Pacific Power Company, Complainants v. American Electric Power Services Corporation, Respondent; Notice of Complaint

December 7, 2001.

Take notice that on December 6, 2001, Nevada Power Company (NPC) and Sierra Pacific Power Company (SPPC) (collectively, the Nevada companies) filed a complaint requesting that the Commission mitigate unjust and unreasonable prices in sales contracts between NPC and American Electric Power Services Corporation (AEP) and between SPPC and AEP entered into in late 2000 and the first half of 2001 for delivery after January 1, 2002.

The Nevada companies request that the Commission set a refund effective date of 60 days from the date of filing of their complaint.

Copies of the Nevada companies' filing were served on AEP and the Public Utilities Commission of Nevada.

The Nevada Companies have requested privileged treatment of certain information in the complaint, and have filed privileged and public copies of the complaint, a request for privileged treatment, and a protective agreement.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before December 26, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30803 Filed 12–12–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–35–000]

Niagara Mohawk Power Corporation Operator Corporation, Complainant v. Rochester Gas & Electric Corporation, Respondent; Notice of Complaint

December 7, 2001.

Take notice that on December 6, 2001, Niagara Mohawk Power Corporation (Niagara Mohawk) filed with the Federal Energy Regulatory Commission (Commission) a Complaint against Rochester Gas & Electric Corporation., pursuant to section 206 of the Federal Power Act (FPA) 16 U.S.C. 824e (1194), and Rules 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206. The Complaint states that Rochester Gas & Electric Corporation has breached a jurisdictional agreement between the parties entitled "Exit Agreement", dated June 8, 1998, and filed with the Commission in Docket No. ER99–3359.

Niagara Mohawk states that this filing has been served upon Rochester Gas & Electric Corporation and the New York Public Service Commission.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before December 26, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30802 Filed 12–12–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–37–000]

NSTAR Electric & Gas Corporation, Complainant v. ISO New England, Inc., and Parties to Market Rule 17, Section 17.3.2.2 (b) Agreements, Respondents; Notice of Complaint

December 7, 2001.

Take notice that on December 6, 2001, NSTAR Electric & Gas Corporation filed a Complaint against the ISO New England, Inc. and Parties to Section 17.3.2.2(b) Agreements seeking referrals of amounts collected in excess of filed rates since May of 1999.

Copies of said filing have been served upon NEPOOL Participants, the ISO New England, Inc., as well as upon the utility regulatory agencies of the six New England States.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before December 26, 2001. Copies of this filing are on file

with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30806 Filed 12–12–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–32–000]

Texas Eastern Transmission, LP; Notice of Application

December 7, 2001.

Take notice that on November 28, 2001, Texas Eastern Transmission, LP (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in the captioned docket an application for a certificate of public convenience and necessity and related authorizations pursuant to section 7 of the Natural Gas Act (NGA), as amended, and the Commission's Rules and Regulations thereunder. Texas Eastern requests the following:

(i) A certificate of public convenience and necessity to construct, install, own, operate and maintain certain facilities, known as the Texas Eastern Incremental Market Expansion Project (TIME Project), necessary to provide 100,000 dekatherms per day (Dth/d) of firm natural gas transportation service to New Jersey Natural Gas Company (New Jersey Natural);

(ii) authorization to establish an initial NGA section 7(c) recourse rate using the incremental facilities proposed, as described in the application; and

(iii) other waivers, authorities, and relief as may be proper as appropriate to implement the proposal;

all as more thoroughly described in the application on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (please call (202) 208–2222 for assistance).

Texas Eastern is requesting that the Commission issue a preliminary determination by March 13, 2002 and a final certificate by June 12, 2002 to enable Texas Eastern to meet New Jersey Natural's in-service date of November 1, 2002.

The name, address, and telephone number of the person to whom correspondence and communications concerning this Application should be addressed is: Steven E. Tillman, Director of Regulatory Affairs, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, Texas 77251–1642, Phone: (713) 627–5113, Fax: (713) 627–5947.

Texas Eastern proposes to: (i) Construct, install, own, operate, and maintain a new 10,000 HP electric driven compressor unit at the existing Lambertville Compressor Station in Hunterdon County, New Jersey; (ii) construct, own, operate, and maintain four new segments of 36-inch diameter pipeline loops in Perry, Lebanon, Berks, and Bucks counties, Pennsylvania, totaling approximately 15.8 miles; (iii) perform compression uprates of 8,600 horsepower, from 13,400 to 22,000 horsepower, at each of two existing compressor stations, the Entriken in Huntingdon County, Pennsylvania, and the Armagh Indiana County, Pennsylvania; and (iv) upgrade the existing meter and regulation station M&R No. 70058 in Richmond County, New York, to accommodate the increased flow at this location.

Additionally, Texas Eastern seeks authorization to render the new firm transportation service pursuant to Texas Eastern's existing Firm Rate Schedule FT–1. Texas Eastern's proposed initial FT–1 recourse rate is an incremental reservation rate designed to recover all costs associated with the new facilities, estimated to be $75.2 Million. Texas Eastern states that Texas Eastern and New Jersey Natural have agreed to a negotiated rate for firm transportation service of up to 100,000 Dth/d under the FT–1 Service Agreement in accordance with the negotiated rate authority contained in section 29 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before December 28, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community

and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30797 Filed 12–12–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–34–000]

Texas Gas Transmission Corporation; Notice of Application

December 7, 2001.

Take notice that on December 4, 2001, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP02–34–000, for: (1) an application pursuant to section 7(b) of the Natural Gas Act (NGA) for authorization to abandon, by sale to Stone Energy Corporation (Stone), certain supply lateral facilities and appurtenances, located in the East Cameron and Vermillion areas, offshore Louisiana and (2) a determination by the Commission, that upon approval of the abandonment by sale, Stone's ownership and operation of the subject supply lateral facilities will be exempt from Commission jurisdiction under the NGA, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" from the RIMS Menu and follow the instructions (call (202) 208–2222 for assistance).

Texas Gas states that it has entered into an agreement with Stone whereby Texas Gas will, upon Commission approval, transfer by sale to Stone, certain supply lateral facilities consisting of 6.94 miles of 12-inch diameter pipeline, measurement facilities, and appurtenances located in the East Cameron and Vermillion block areas, offshore Louisiana. Texas Gas declares that pursuant to an agreement dated March 23, 2001 and amended August 9, 2001, Texas Gas and Stone have mutually agreed, that subject to receipt of acceptable regulatory approvals, Texas Gas will sell to Stone all of Texas Gas' rights, title, and interests in the identified supply lateral facilities and appurtenances.

Texas Gas states that the agreement will terminate Texas Gas' interest in the subject facilities upon the date of closing, which will occur after receipt of acceptable regulatory approval. Texas Gas indicates that Stone will pay Texas Gas the sum of $100 for Texas Gas' interest (100%) in the facilities. Texas Gas declares that in recognition of the costs associated with any future retirement of these facilities by Stone, the agreement provides for Texas Gas to pay Stone actual and reasonable costs associated with the retirement up to $125,000.

Texas Gas indicates that the subject facilities are not contiguous to its mainline system, were originally constructed and operated to support its merchant function by connecting supplies in the East Cameron and Vermillion areas to the Tennessee Gas Pipeline Company system for ultimate delivery to Texas Gas' mainline system. Texas Gas asserts that due to the elimination of Texas Gas' merchant function and termination of third party transportation agreements, for delivery of the subject gas supplies to Texas Gas' mainline system, Texas Gas no longer has a firm transportation commitment involving the utilization of these facilities. Texas Gas avers that since these facilities are no longer integral to their role as an open-access transporter, abandonment of these facilities will enable Texas Gas to streamline its transmission operations.

Texas Gas states that abandonment by sale of these supply lateral facilities will not adversely affect any of Texas Gas' customers, since only interruptible service is provided through these facilities and Stone has indicated it will, upon transfer, provide non-jurisdictional service on a non-discriminatory basis.

Any questions regarding this amendment should be directed to David N. Roberts, Manager of Certificates and Tariffs, Texas Gas Transmission Corporation, PO Box 20008, Owensboro, Kentucky 42304, at (270) 688–6712.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before December 17, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the

environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30798 Filed 12–12–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–37–000]

Williston Basin Interstate Pipeline Company; Notice of Application

December 7, 2001.

Take notice that on November 30, 2001, Williston Basin Interstate Pipeline Company (Williston Basin), 1250 West Century Avenue, Bismarck, North Dakota 58530, filed pursuant to sections 7(c) and 7(b) of the Natural Gas Act and the Commission's Regulations thereunder, an Abbreviated Application for a Certificate of Public and Necessity to construct and operate the Grasslands Pipeline Project, and for authority to abandon certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Specifically, Williston Basin proposes to:

- Construct and operate approximately 219 miles of new 16-inch natural gas pipeline from Belle Creek, Montana to Dunn County, North Dakota and 28 miles of 16-inch looping along an existing 8-inch pipeline in Campbell County, Wyoming;
- Construct and operate three new 4,180 Horsepower compressor stations in Campbell County, Wyoming, Fallon County, Montana and Dunn County, North Dakota;
- Construct and operate one mile of 16-inch pipeline, and associated facilities, to interconnect with the facilities of Northern Border Pipeline Company in Dunn County, North Dakota;
- Construct and operate 0.9 miles of 12-inch lateral line in Fallon County, Montana;
- Construct and operate various metering and regulating facilities in Campbell County, Wyoming, Dunn County, North Dakota, and Fallon County, Montana;
- Uprate 40 miles of existing 8-inch supply line in Campbell County, Wyoming to a maximum allowable operating pressure of 1,440 psig, and to abandon and replace nine-existing underground road crossings as part of the uprating effort; and
- To construct and operate certain permanent and temporary miscellaneous facilities such as pig launcher/receiver sites, cathodic protection units, pipe yards, access roads and staging areas.

Williston Basin states that the proposed project will accomplish three objectives. Specifically, the project will provide: (1) An outlet for coal bed natural gas production in the Powder River Basin along with other conventional gas sources in Wyoming and Montana; (2) access to Williston Basin's storage facilities to shippers of gas produced in Powder River Basin; and (3) access from Williston Basin's storage facilities to the facilities of Northern Border Pipeline Company.

Williston Basin proposes an in-service date of November 1, 2002 and asks that the Commission authorize its proposal by August 21, 2002.

Any questions regarding the amendment should be directed to Keith A. Tiggelaar, Director, Regulatory Affairs, Williston Basin Interstate Pipeline Company, PO Box 5601, Bismarck, ND, 58506–5601, (701) 530–1560.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before December 28, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the

environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30799 Filed 12–12–01; 8:45 am]

BILLING CODE 5717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP01–176–000 and CP01–179–000]

Georgia Strait Crossing Pipeline LP; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Georgia Strait Crossing Project

December 7, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft environmental impact statement (EIS) on natural gas pipeline facilities proposed by Georgia Strait Crossing Pipeline LP (GSX–US) in the above-referenced dockets.

The draft EIS was prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). The staff concludes that approval of the proposed project, with appropriate mitigating measures as recommended, would have limited adverse environmental impact. The draft EIS also evaluates alternatives to the proposal, including system alternatives, route alternatives, and route variations.

The draft EIS addresses the potential environmental effects of the construction and operation of the following facilities in Whatcom and San Juan Counties, Washington:

- About 32.0 miles of 20-inch-diameter pipeline (onshore mainline pipeline) extending from the interconnect facilities at the international border between the United States and Canada near Sumas, Washington, across Whatcom County, to a new compressor station (Cherry Point Compressor Station) near Cherry Point, Washington;
- About 1.1 miles of 16-inch-diameter pipeline (onshore mainline pipeline) extending from the Cherry Point Compressor Station to the beginning of the marine portion of the pipeline at the edge of the Strait of Georgia;
- About 13.9 miles of 16-inch-diameter marine pipeline (offshore mainline pipeline) extending from the edge of the Strait of Georgia near Cherry Point, Washington to the international border between the United States and Canada at a point about midway between the west end of Patos Island (Washington) and the east end of Saturna Island (British Columbia) in Boundary Pass;
- Interconnect facilities including a receipt point meter station, pig launcher, interconnect piping, and associated valves (Sumas Interconnect Facility) adjacent to the existing Sumas Compressor Station in Whatcom County, Washington;
- A new compressor station (Cherry Point Compressor Station) consisting of one 10,302-hp two-stage compressor unit, pig launcher/receiver facilities, and associated valves near Cherry Point in Whatcom County, Washington;
- Six mainline valves (MLV), one each at the Sumas Interconnect Facility and Cherry Point Compressor Station and four valves along the proposed pipeline route; and
- An onshore and an offshore tap valve.

The purpose of the GSX–US project is to provide a natural gas transportation system to supply the growing demand for natural gas on Vancouver Island.

Comment Procedures and Public Meetings

Any person wishing to comment on the EIS may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and are properly recorded:

- Send an original and two copies of your comments to: Linwood A. Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Reference Docket Nos. CP01–176–000.
- Label one copy of your comments for the attention of Gas Group 2, PJ–11.2.
- Mail your comments so that they will be received in Washington, DC on or before February 4, 2002.

Comments may also be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link and the link to the User's Guide. Before you can file comments you will need to create an account by clicking on "Login to File" and then "New User Account."

Due to current events, we cannot guarantee that we will receive mail on a timely basis from the U.S. Postal Service, and we do not know how long this situation will continue. However, we continue to receive filings from private mail delivery services, including messenger services in a reliable manner. The Commission encourages electronic filing of any comments on this draft EIS. We will include all comments that we receive within a reasonable time frame in our environmental analysis of this project.

We will announce in a future notice, the location and time of at least one local public meeting to receive comments on the draft EIS.

Interested groups and individuals are encouraged to attend and present oral comments on the environmental impacts described in the draft EIS. Transcripts of the meetings will be prepared.

After these comments are reviewed, any significant new issues are investigated, and modifications are made to the draft EIS as necessary, a final EIS will be published and distributed by the staff. The final EIS will contain the staff's responses to timely comments received on the draft EIS.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's rules of practices and procedures (18 CFR 385.214).

Anyone may intervene in this proceeding based on this draft EIS. You must file your request to intervene as specified above.[1] You do not need intervenor status to have your comments considered.

The draft EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Regulatory Energy Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

A limited number of copies of the draft EIS are available from the Public Reference and Files Maintenance Branch identified above. In addition, the draft EIS has been mailed to Federal, state, and local agencies, elected officials, public interest groups, individuals, and affected landowners who requested a copy of the draft EIS; public libraries; newspapers; and parties to this proceeding.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC Web site (*www.ferc.gov*) using the "RIMS" link to information in the docket numbers. Click on the "RIMS" link, select "Docket#" from the RIMS menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarily, the "CIPS" link on the FERC internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet Web site, click on the "CIPS" link, select "Docket#" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30796 Filed 12–12–01; 8:45 am]

BILLING CODE 6717–01–P

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications Acceptance for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

December 7, 2001.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection.

a. *Type of Applications:* Three new major licenses.

b. *Project Nos.:* 1982–017, 2567–009, and 2670–014.

c. *Date Filed:* June 21, 1996, June 22, 1998, and August 24, 1998, respectively.

d. *Applicant:* Northern States Power Company (NSP).

e. *Names of Projects:* Holcombe, Wissota, and Dells.

f. *Location:* On the Chippewa River in Chippewa, Rusk, and Eau Claire Counties, Wisconsin. The Holcombe and Wissota projects do not utilize any federal lands, but the Dells Project utilizes 6.6 acres of federal lands, administered by the U.S. Bureau of Land Management (BLM).

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Lloyd Everhart, Northern States Power Company, 100 North Barstow Street, P.O. Box 8, Eau Claire, WI 54702–0008, 715–839–2692.

i. *FERC Contact:* Mark Pawlowski; *mark.pawlowski@ferc.fed.us,* 202–219–2795.

j. *Deadline for Filing Comments, Motions to Intervene, Recommendations, Terms and Conditions, and Prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Linwood A. Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, the intervener also must serve a copy of the document on that resource agency.

k. *Status of Environmental Analysis:* These applications have been accepted for filing and are ready for environmental analysis at this time.

l. Description of the Projects (from upstream to downstream):

The Holcombe Project consists of: (1) Four earthen embankments that include: The 700-foot-long North Dike and 200-foot-long South Dike, which are part of the Holcombe Dam; and the 4,600-foot-long Holcombe Dike and 1,900-foot-long Callahan Dike, which serve as flood control measures and are normally "dry" under normal operations; (2) an impoundment with a maximum surface area of 4,300 acres, a normal water surface elevation of 1045.0 feet NGVD, 46,000 acre-feet of gross storage, and 4,300 acre-feet of usable storage under normal operations; (3) a powerhouse containing 6 vertical propeller-type turbine-generating units with a total installed capacity of 33,000 kW; (4) a 462-foot-long reinforced and mass concrete spillway equipped with 13, 30-foot-wide steel tainter gates; (5) an outdoor substation that directly connects to the NSP systemwide transmission network; and (6) appurtenant facilities. The average annual energy production is 94,021,000 kWh.

The Wissota Project consists of: (1) Six earthen embankments totaling about 7,300 feet long, and a 165-foot-long gravity dam; (2) a 904-foot-long concrete overflow spillway with 13 Stauwerke flap gates, each 64 feet wide by 10.5 feet high; (3) a 6,212-acre reservoir with a normal surface elevation of 897.1 feet NGVD, and a gross storage capacity of 162,971 acre-feet; (4) a powerhouse containing 6 vertical Francis turbine-generator units for a total installed capacity of 36,000 kW; (4) an outdoor substation that directly connects to the NSP systemwide transmission network; and (5) appurtenant facilities. The average annual energy generation is 149,392,471 kWh.

The Dells Project consists of: (1) A 396-foot-long concrete gated spillway dam with 13 Tainter gates; (2) an impoundment with a maximum surface area of 1,183 acres, a normal water surface elevation of 794.4 feet NGVD, 11,158 acre-feet of gross storage, and 2,000 acre-feet of usable storage under normal operations; (3) powerhouse A containing 5 turbine-generator units with a total installed capacity of 8,400 kW; (3) powerhouse B containing 2 turbine-generators with a total installed capacity of 1,100 kW; (4) a 1,884-foot-

long transmission line; and (5) appurtenant facilities. The average annual energy production is 48,029,165 kWh.

The three Chippewa River projects are operated in close coordination with other Chippewa River hydroelectric projects owned by NSP, primarily in a peaking mode, where the projects are operated fully during the day, and shut down at night for reservoir refill. The three project reservoirs typically operate within a 1 to 2-foot drawdown range. NSP dispatch centers in Minneapolis and Eau Claire coordinate operations, depending on system electrical demand, availability of water (river flow), and costs of energy over the next 24 hours. Hydropower operations are planned one day in advance, with the objective to produce as much energy as possible during the peak electrical demand periods of the day.

As a result of negotiations among NSP, state and federal resource agencies, and non-governmental organizations (NGOs), the Lower Chippewa River Settlement Agreement (LCRSA) was filed with the Commission on February 1, 2001.[1] This agreement, which represents the resolution of all major issues related to the relicensing of the three Chippewa River projects, includes operational and other measures for protection and enhancement of environmental resources at the three projects proposed for relicensing, as well as at three other Chippewa River hydroelectric projects. These other projects include: The Cornell Project (FERC No. 2639–009), Jim Falls Project (FERC No. 2491–025, and Chippewa Falls Project (FERC No. 2440–040). Applications for amendment of license to implement the proposed operational changes at these projects were filed on February 1, 2001.[2] Our environmental analysis will include an assessment of the proposed environmental protection and enhancement measures at all six Chippewa River projects.

m. Locations of the Applications: Copies of each of the three applications are available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20246, or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Copies also are available for inspection and reproduction at the address in item h, above.

n. Filing and Service of Responsive Documents: The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions, and prescriptions concerning the applications be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must: (1) Bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number(s) of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30805 Filed 12–12–01; 8:45 am]

BILLING CODE 6717–01–P

[1] This filing was noticed by the Commission on February 14, 2001.

[2] These filings were also noticed by the Commission on February 14, 2001.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

December 7, 2001.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. Copies of this filing are on file with the Commission and are available for public inspection. The documents may be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the

instructions (call 202–208–2222 for assistance).

Exempt

1. Project No. 2342—12–5–01—Nicholas Jayjack
2. Project Nos. 1932–004, and 1934–010—12–5–01—Gene Zimmerman
3. Docket No. CP98–150–000, *et al.* 12–3–01—Richard E. Hall, Jr.
4. Docket No. CP02–11–000—12–4–01—Alisa Lykens
5. Project No. 2042—12–4–01—Tim Bachelder
6. Docket No. CP01–361–000—12–3–01—Susan Smillie
7. Project No. 2661—12–3–01—Carol Gleichman
8. Project No. 2016—12–3–01—Carol Gleichman
9. Project No. 1354—12–3–01—Van Button
10. Project No.1354—12–3–01—Van Button
11. Docket No. CP01–361–000—12–3–01—Susan Smillie
12. Project No. 1354—12–3–01—Dixie Jackson

Prohibited

1. Docket Nos. ER96–2945–015—11–29–01—Morris Schreim
   ER97–4143–003
   ER97–1238–010
   ER98–2075–009
   ER98–542–005
   ER91–569–009
   ER97–4166–008

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30804 Filed 12–12–01; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:24 a.m. on Monday, December 10, 2001, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate, supervisory, and resolution activities.

In calling the meeting, the Board determined, a motion of Director John M. Reich (Appointive), seconded by Director James E. Gilleran (Director, Office of Thrift Supervision), concurred in by Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Dated: December 11, 2001.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 01–30909 Filed 12–11–01; 12:51 pm]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Time of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the previously announced meeting of the Board of Directors scheduled to be held on Monday, December 10, 2001, at 2 p.m. (open session) has been *rescheduled* for 10 a.m. that same day.

No earlier notice of the change in time of this meeting was practicable.

Dated: December 7, 2001.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 01–30925 Filed 12–11–01; 2:15 pm]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Draft Guidance for the Use of Portable (Hand-Held) Radiological Instruments

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of draft guidance.

SUMMARY: We (FEMA) [1] have developed draft guidance for the use of portable (hand-held) radiological instruments for the detection of radioactive contamination on persons in association with peacetime nuclear accidents. Three draft documents pertaining to the draft guidance are available for distribution, review and comment.

DATES: We invite comments on the draft guidance, which we should receive on or before February 11, 2002.

ADDRESSES: You may obtain copies of the draft guidance documents from William F. McNutt, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2857, or (e-mail) *william.mcnutt@fema.gov.*

Please send any comments on the draft guidance to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, or (e-mail) *rules@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Vernon L. Wingert, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2872.

SUPPLEMENTARY INFORMATION: The three draft guidance documents are: (a) *Contamination Monitoring Guidance for Portable Instruments Used for Radiological Emergency Response* (10 pages); (b) *Background Information on Contamination Monitoring Guidance for Portable Instruments Used for Radiological Emergency Response* (55 pages); and (c) *Statements of Consideration for Contamination Monitoring Guidance for Portable Instruments Used for Radiological Emergency Response* (7 pages).

We developed this guidance in response to a request from the Conference of Radiation Control Program Directors (CRCPD). The CRCPD asked us to develop guidance for portable instruments that afford protection to the public equivalent to the portal monitor standard that we established and published in the **Federal Register**, 60 FR 15290–15291, March 23, 1995.

We worked through the Federal Radiological Preparedness Coordinating Committee (FRPCC) and its Offsite Emergency Instrumentation Subcommittee to develop and coordinate the portal monitor standard and the guidance for portable instruments. We chair the FRPCC and with the Nuclear Regulatory Commission (NRC) co-chair the Offsite Emergency Instrumentation Subcommittee, which includes members from several Federal agencies. Members of the CRCPD's E–6 Committee (composed of State radiological health officials) participate in meetings of this Subcommittee as ex-officio members. We also made the draft guidance available to FEMA Regional staff and CRCPD constituents in all 50 States for review and comment. We

[1] The terms "we" and "us" in this notice mean FEMA.

have addressed and resolved their comments.

While we developed only one standard for portal monitors, we developed guidance for four (4) types of portable instruments because of the instrument-specific factors that influence the manner in which radiation is detected and measured. We developed the guidance for portable instruments through extensive empirical tests of different portable radiological instruments currently in use today by State and government personnel. Despite instrument-specific differences between portal monitors and portable instruments, use of the draft guidance will afford protection to individuals equivalent to that afforded by the portal monitor standard.

Based on extensive consultation with Federal and State officials, the primary issue involving this guidance is the extended period of time required to monitor an individual adequately with some types of portable radiological instruments. The planning criterion set forth in this document for monitoring individuals using a portable CDV–700 radiological instrument is 300 counts per minute (CPM) above background levels. Empirical studies undertaken since 1991 have substantiated per-person monitoring time frames for different types of radiological instruments ranging from 2.6 minutes to as high as 19 minutes (for a CDV–700 with standard GM side window probe) for total body scans to detect spot contamination.

The range of times required to monitor individuals, coupled with the need of State and local governments to provide sufficient resources to monitor at least 20% of the plume exposure pathway emergency planning zone (EPZ) population, may require State and local governments with certain types of radiological instruments to re-examine their radiological emergency planning and preparedness for accidents involving commercial nuclear power plants. This issue is extensively documented and addressed in the three documents previously cited, and we provide suggestions on how State and local governments may address this issue and related resource requirements.

We welcome comments on the monitoring issue, related resource requirements, and any other issues raised by the draft guidance.

Dated: December 7, 2001.

Joe M. Allbaugh,

Director.

[FR Doc. 01–30824 Filed 12–12–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011548–005.

Title: Hanjin/Sinolines Cross Space Charter & Sailing Agreement.

Parties: Hanjin Shipping Co., Ltd. Sinotrans Container Lines Co. Ltd.

Synopsis: The proposed modification substitutes Sinotrans Container Lines Co., Ltd., trading as Sinolines, for China National Foreign Trade Transportation Corporation as a party to the agreement.

Agreement No.: 011746–001.

Title: COSCON/KL/YMUK Asia/U.S. Pacific Coast Slot Allocation Agreement.

Parties: COSCO Container Lines Company, Ltd. Kawasaki Kisen Kaisha, Ltd. Yangming (UK) Ltd.

Synopsis: The proposed modification adds a new vessel string in the agreement trade on which the parties may share space. The parties request expedited review.

By Order of the Federal Maritime Commission.

Dated: December 7, 2001.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 01–30768 Filed 12–12–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicant should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

Global Kwon Yoon, 1212 W. Gardena Blvd., #D, Gardena, CA 90247, Deuk Kwon Yoon, Sole Proprietor

Cosa Freight, Inc., 17800 Castleton Street, #695, City of Industry, CA 90740, Officers: Xia Zhang, Vice President (Qualifying Individual), James Zhang, President

Navetrans Corp. dba Costa Rica Carriers, 240 Crandon Blvd., Suite 203 A, Miami, FL 33149, Officers: Sahir Miguel Morales, Asst. Vice President (Qualifying Individual), Joachim Haubold, President

North Star Express, Inc., 2252 Beverly Blvd., Suite 204, Los Angeles, CA 90057, Officers: Leonardo B. Lucena, Marketing Director (Qualifying Individual), Eleuterio Gagar, President

A.S.L. Shipping Lines Inc. dba American Shipping Line, 2 East Valley Blvd., Suite 200 B, Alhambra, CA 91801, Officer: Michael Duong, President (Qualifying Individual)

Cargo Control Express, Inc. dba Ramses Logistics Co., 2782 Engel Drive, Los Alamitos, CA 90702, Officer: Christine Kim, President (Qualifying Individual)

AE Eagle America Inc., 155–04 145th Avenue, Jamaica, NY 11434, Officers: Davy NG, Secretary (Qualifying Individual), Milton Cheung, President

Cargozone Trans Corporation, 19550 Dominguez Hills Dr., Rancho Dominguez, CA 90220, Officers: Paul M. Kim, Secretary (Qualifying Individual), Byung Keun Han, President

North American Container Group, 6600 N. Lincoln Ave., Suite 3066, Lincolnwood, IL 60712, Mark M. Marcus, Sole Proprietor

Datacargo Co. Inc. dba Datacargo, 8235 N.W. 82nd Avenue, Miami, FL 33166, Officers: Luis Andres Sara, General Manager (Qualifying Individual), Maria Elena Gomez Ruggiero, Vice President

Alcon Express Corp., 179–30 149th Ave. Suite 105, Jamaica, NY 11434, Officers: Connie Jiang, Vice President (Qualifying Individual), Alan C. Wang, President

Allison Shipping International, Inc., 3906 Walnut Avenue, Long Beach, CA 90807, Officers: Donna B. Betts, CEO (Qualifying Individual), Rita R. Sehwani, Secretary

Awell Logistics Group, Inc., 2675C McCone Avenue, Hayward, CA 94545, Officers: Jack Huie, Vice President (Qualifying Individual), Shing Lan Hon, CEO

WP Logistics Inc., 1730 Park Lawn Road, Hacienda Heights, CA 91745,

Officers: Joey Tam, Secretary (Qualifying Individual), Danny Tam, Vice President

Deltamax Freight System, Inc., 880 Lively Blvd., Elk Grove Village, IL 60007, Officers: Tien-Yu Wu, President (Qualifying Individual), Elise Wu, Secretary

Ireh Logistic Services Inc., 500 Carson Plaza Dr., Suite 202, Carson, CA 90746, Officer: Sunny Kang, CEO (Qualifying Individual)

ISI Express (N.Y.) Inc., 177–25 Rockaway Blvd., 207, Jamaica, NY 11434, Officers: Chia Yu Lee (Charlie) (Qualifying Individual), Stephen Fu, President

J C Trans (USA), Inc., 139 Mitchell Ave., Suite 223, South San Francisco, CA 94080, Officers: Tom Fan, Vice President (Qualifying Individual), Chung-Kwai Wan, President

KL Logistics Corp., 23509 Himber Place, Harbor City, CA 90710, Officer: Kenny Lee, CEO (Qualifying Individual)

Quality Express, Inc., 9620 S. La Cienega Blvd., Inglewood, CA 90301, Officers: Yukio Nakano, Vice President (Qualifying Individual), Joseph Cheng-Meng Lam, President

Star Airfreight Co., Ltd., 149–35 177th Street, 2/Fl., Jamaica, NY 11434, Officers: Anthony Chan, President (Qualifying Individual), Eddie T.C. Yau, Chairman/CEO

Peacock Group, Inc., 323 Claremont Street, Buchanan, MI 49107, Officer: David R. Gault, Chairman/President (Qualifying Individual)

Yurram Corp. dba Starliner Shipping & Travel, 5305 Church Avenue, Brooklyn, NY 11203, Officers: Nigel L. Murray, President (Qualifying Individual), Rhea Murray, Secretary

Bondex Air & Sea Logistic, Inc., 731 S. Garfield Avenue, 2nd Floor, Alhambra, CA 91801, Officers: Scott S.F. Wang, President (Qualifying Individual), Eva Chen, Vice President

Ecuamerica International, Inc., 5401-D Southern Comfort Blvd., Tampa, FL 33634, Michael De La Llana, President (Qualifying Individual), Susana Elvia De La Llana, Vice President

SeaMac Shipping Inc., 215 East Bay Street, Suite 201–I, Charleston, SC 29401, Officers: John Laban Sease, Vice President (Qualifying Individual), Thomas McInerney, President

Gateways International, Inc., 2030 First Avenue, Suite 200, Seattle, WA 98121–2112, Officers: Richard W. Curry, President (Qualifying Individual), George W. Pasha, IV, Vice President

Fredonia, Inc. dba Fredonia Cargo Lines, 478 Pennsylvania Ave., #301, Glen Ellyn, IL 60137, Officers: Frank Hollesen, President (Qualifying Individual), Kathy Hollesen, Treasury/Vice President

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Delex, Inc., 1326 McDonald Avenue, Brooklyn, NY 10033, Officer: Oleg Ardashev, President (Qualifying Individual)

Summit Cargo Group, Inc., 724 South Hindry Avenue, Inglewood, CA 90301, Officers: Tony Feist, Dir. of Operations (Qualifying Individual), Zachary Zemby, President

Kuhn Hay, Inc., 1625 Drew Road, El Centro, CA 92243, Officers: James E. Kuhn, President (Qualifying Individual), John Robert Kuhn, Director

Top Cargo Inc., 3537 NW 82nd Avenue, Miami, FL 33122, Officer: Damian J. Pelegrino, President (Qualifying Individual)

Sun Express International, Inc. dba BNX Shipping, Hawaii, 1188 Bishop Street, #1006, Honolulu, HI 96813, Officer: Sun Hee Lee, President (Qualifying Individual)

Dispatch Services Logistics Company, Inc., 479 West Sixth Street, Suite #203, San Pedro, CA 90731, Officers: Lee Phillip Meister, President (Qualifying Individual), Rose Fletcher, Secretary

EgeTrans USA, Inc., EgeTrans Atlantic Service, 729 North Route 83, Suite 304, Bensenville, IL 60106, Officers: Sandra L. Pattison, Vice President (Qualifying Individual), Peter Steinmuller, Dir./President

Nakamura Air Express (USA), Inc., 9432 Bellanca Ave., Suite 210, Los Angeles, CA 90045, Officers: Myungsil Yoo Francis, Corporate Secretary (Qualifying Individual)

Transunion America Inc., 66–00 Long Island Expressway, Suite 200, Maspeth, NY 11378, Officers: Geri S. Alex, Vice President (Qualifying Individual), Jose Viano, President

American Links Logistics International, Inc., 3591 Highland Drive, San Bruno, CA 94066, Officers: Letty Batacan, Import Manager (Qualifying Individual), Walfredo M. Enrico, President

Dated: December 7, 2001.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 01–30769 Filed 12–12–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 27, 2001.

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Joseph D. Freund Irrevocable Trust No. 2, the Duane M. Freund Irrevocable Trust No. 2, the Kenneth J. Freund Irrevocable Trust No. 2, and the Michael R. Freund Irrevocable Trust No. 2, all of Aurora, Colorado, and the following individuals who serve as co-trustees of one or more of the trusts: Joseph Freund, Jr., Elizabeth, Colorado, James Campbell, Denver, Colorado, Laura Freund Buddington, Denver, Colorado, Scott Freund, Elizabeth, Colorado, Phillip Pasion, Parker, Colorado, Angela Freund Bennett, Denver, Colorado, and Kenneth Freund, Jr, Aurora, Colorado, to retain voting shares of Commerce Bankshares, Inc., Aurora, Colorado, and thereby indirectly retain voting shares of Commerce Bank, Aurora, Colorado.

Board of Governors of the Federal Reserve System, December 7, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–30783 Filed 12–12–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank

holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 7, 2002.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. CBA Bancshares, Inc., Minneapolis, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Arizona, Wickenburg, Arizona.

Board of Governors of the Federal Reserve System, December 7, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–30782 Filed 12–12–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 27, 2001.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Provincial Corp., Lakeville, Minnesota; to engage *de novo*, through AmericEd Financial Services, LLC, Lakeville, Minnesota, in the origination and sale of government guaranteed student loans, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, December 7, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–30784 Filed 12–12–01; 8:45 am]

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FEDERAL RESERVE SYSTEM

[Docket Nos. R–1107, R–1108, R–1109, and R–1110]

Policy Statement on Payments System Risk

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy statement.

SUMMARY: The Board has revised its Policy Statement on Payments System Risk (PSR policy) to modify the net debit cap calculation for U.S. branches and agencies of foreign banks, to modify the time electronic check presentments are posted to depository institutions' Federal Reserve accounts for purposes of measuring daylight overdrafts, and to incorporate, with minor modifications, its interim policy that allows certain depository institutions to pledge collateral to the Federal Reserve in order to access additional daylight overdraft capacity above their net debit caps. These changes to the policy should benefit the few financially healthy institutions that have been constrained by their net debit caps by increasing their daylight overdraft capacity and should remove a potential impediment to the use of electronic check presentment. The Board has also removed provisions from the PSR policy that are now addressed in the Reserve Banks' Automated Clearing House operating circular. Finally, the Board has decided to retain the $50 million limit on the value of book-entry securities transfers.

DATES: The revised PSR policy is effective December 10, 2001 with the following exceptions: (1) revisions to the criteria used to determine the U.S. capital equivalency measure for foreign banking organizations will take effect on February 21, 2002 and (2) the modification to post electronic check presentments to depository institutions' Federal Reserve accounts at 1 p.m. local time will take effect on April 1, 2002.

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SUPPLEMENTARY INFORMATION:

I. Background

The Board recently conducted a review of its PSR policy to evaluate the effectiveness of its daylight credit policies, recognizing that significant changes have occurred in the banking, payments, and regulatory environment in the past few years. The Board's daylight credit policies addressed net debit caps, capital measures, the daylight overdraft fee, the book-entry securities transfer limit, interaffiliate transfers, third-party access to Fedwire, counseling, ex post and real-time monitoring, and the posting rules.[1] In addition, the Board evaluated further changes to the rate charged on average daily daylight overdrafts in depository institutions' Federal Reserve accounts.[2]

[1] As part of its review, the Board rescinded its policies on Fedwire third-party access effective April 9, 2001 (66 FR 19165, April 13, 2001) and interaffiliate transfers effective January 1, 2002 (66 FR 30198, June 5, 2001).

[2] In October 1992, the Board approved charging a fee for daylight overdrafts, which was to be phased in as 24 basis points in 1994, 48 basis points in 1995, and 60 basis points in 1996 (57 FR 47084, October 14, 1992). In March 1995, however, the Board decided to raise the daylight overdraft fee to

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The Board determined that these policies appear to be generally effective in controlling risk to the Federal Reserve and creating incentives for depository institutions to manage their intraday credit exposures. Furthermore, the PSR policy appears to be well understood by the industry, and private-sector participants have generally benefited from the policy's risk controls. The Board also recognized, however, that the policy has imposed costs on the industry and is considered burdensome by some depository institutions.

In conducting its review, the Board evaluated the effect of past policy actions on depository institutions' behavior and on the markets generally and also considered the effect of various payment system initiatives on payments activity and the demand for daylight credit. Through its analysis, the Board identified growing liquidity pressures among certain payments system participants. Specifically, the Board learned that a small number of financially healthy institutions regularly find their net debit caps to be constraining, causing them to delay sending payments and, in some cases, to turn away business. To address these liquidity concerns, the Board adopted on an interim basis, and requested comment on, a policy that allows depository institutions with self-assessed net debit caps (average, above average, or high) to pledge collateral to the Federal Reserve in order to access additional daylight overdraft capacity above their net debit cap levels (66 FR 30199, June 5, 2001).

The Board also learned through its policy review that some foreign banking organizations (FBOs) believe that their net debit caps constrain their business activity and place them at a competitive disadvantage in comparison with U.S. depository institutions. Some FBOs assert that certain U.S. depository institutions hold a significant portion of their assets in foreign markets but are able to use 100 percent of their total risk-based capital in establishing their caps, while the PSR policy does not recognize the FBOs' worldwide financial strength. In considering the concerns raised by FBOs, the Board assessed the criteria used in determining their U.S. capital equivalency measure. In addition, the Board evaluated trends in FBOs' daylight credit use, considered supervisory and legal issues, assessed the potential impact of new or emerging payments system initiatives, and held discussions with FBOs. To address the liquidity concerns identified by FBOs, the Board requested comment on proposed modifications to the criteria used to determine an FBO's U.S. capital equivalency measure (66 FR 30205, June 5, 2001).

The Board also evaluated the effectiveness of the current daylight overdraft posting rules and found these rules to be generally effective and well understood by the industry. In reviewing the posting rules, however, the Board found that the posting times for electronic check presentment (ECP) transactions often create a disincentive for depository institutions to use Federal Reserve electronic check services. As a result, the Board requested comment on changing the posting time associated with ECP transactions in an effort to remove any disincentive created by the posting rules (66 FR 30195, June 5, 2001).

Finally, the Board considered the effectiveness of the $50 million limit on the transaction size of book-entry securities transfers on Fedwire. The Board focused on whether the limit was imposing an undue regulatory burden on depository institutions and their securities-dealer customers. Because the industry bears a significant portion of the limit's costs in terms of transaction fees and receives a benefit in terms of reduced daylight overdraft fees, the Board requested comment on the desirability of retaining the $50 million limit (66 FR 30193, June 5, 2001).

II. Summary of Comments and Analysis

The Board has updated its PSR policy to incorporate most aspects of its near-term proposals. The following section describes the proposed changes to the PSR policy, provides a summary and analysis of the comments received on the proposals, and highlights the provisions of the revised PSR policy.

A. Increased Daylight Overdraft Capacity Through Collateralization (Docket No. R–1107)

In its review of the PSR policy, the Board identified growing liquidity pressures among certain payments system participants. The Board also recognized that certain payment system initiatives, such as the Clearing House Interbank Payments System with intraday finality (new CHIPS), the Continuous Linked Settlement (CLS) system, and the Federal Reserve's settlement-day finality for ACH credit transactions, may exacerbate these institutions' liquidity needs at specific times during the day. To address these liquidity concerns, the Board adopted on an interim basis and requested comment on a policy that allows a depository institution with a self-assessed net debit cap to pledge collateral to its administrative Reserve Bank to secure daylight overdraft capacity in excess of its net debit cap (interim policy).[3]

In the interim policy, the Board eliminated the separate treatment of book-entry securities overdrafts for self-assessed institutions; however, the Board proposed eliminating the separate treatment of book-entry securities overdrafts for *all* depository institutions with the adoption of a final policy. By eliminating the separate treatment of book-entry securities overdrafts for self-assessed institutions, the Board abolished its collateralization requirement for self-assessed institutions that incurred "frequent and material" book-entry securities overdrafts.[4] The previous policy required institutions that met the frequent and material criteria to collateralize fully their peak book-entry securities overdrafts, not just the portion that exceeded the net debit cap. Under the interim policy, Reserve Banks could require self-assessed depository institutions that frequently exceeded their caps as a result of transactions with settlement-day finality to collateralize the difference between their peak daylight overdrafts and their net debit cap levels, rather than the entire amount of their peak book-entry securities overdrafts.[5]

The Board received twenty-five comment letters on its interim policy statement. The commenters included eleven commercial banking organizations and six of their trade

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36 basis points instead of 48 basis points and stated it would evaluate further changes to the fee after two years (60 FR 12559, March 7, 1995). In June 2001, the Board requested comment on the benefits and drawbacks associated with the following potential longer-term changes to the PSR policy: (1) Lowering self-assessed net debit caps and eliminating the two-week average caps, (2) implementing a two-tiered pricing regime for daylight overdrafts in which institutions that pledge collateral to the Reserve Banks would pay a lower fee on their collateralized daylight overdrafts than on their uncollateralized daylight overdrafts, and (3) rejecting payments with settlement-day finality that would cause an institution to exceed its daylight overdraft capacity level (66 FR 30208, June 5, 2001). The Board will continue to evaluate these policy options.

[3] The administrative Reserve Bank is responsible for the administration of Federal Reserve credit, reserves, and risk management policies for a given depository institution or other legal entity.

[4] Under the previous policy, an account holder met the "frequent and material" criteria when it exceeded its net debit cap, because of book-entry securities transactions, on more than three days in any two consecutive reserve-maintenance periods and by more than 10 percent of its capacity.

[5] These transactions include Fedwire funds transfers, book-entry securities transfers, net settlement service entries, and ACH credit originations.

associations, two clearing organizations, and six Federal Reserve Banks.

Commenters generally supported the Board's interim policy statement. Ten of the commenters explicitly noted that the potential benefits of allowing depository institutions with self-assessed net debit caps to pledge collateral for additional daylight overdraft capacity outweighed any potential drawbacks. Several commenters stated that the interim policy's primary benefits were additional flexibility in managing intraday liquidity and the potential for improved efficiency in payments activity. One commenter believed the policy's elimination of the frequent and material collateralization requirement for book-entry securities overdrafts would reduce regulatory burden. Only one commenter recommended that the Board not adopt the interim policy because it believed the policy would increase its organization's regulatory burden.

Three commenters stated that allowing collateral to support daylight overdraft capacity above net debit cap levels would reduce Federal Reserve credit risk and could more closely align the Federal Reserve's policies with those of other central banks. One commenter who generally supported the policy stated that the costs of pledging additional collateral to the Federal Reserve might negate the benefits of acquiring additional daylight overdraft capacity. Six commenters, however, noted that under the interim policy, depository institutions would primarily use collateral already pledged to a Reserve Bank. Two commenters indicated that institutions might pledge additional collateral once they gain experience with the policy. Three commenters stated that some depository institutions might pledge additional collateral if certain longer-term policy proposals were adopted, such as lowering the single-day net debit cap level and implementing two-tiered pricing for collateralized versus uncollateralized credit.

The Board has adopted the interim policy's provision enabling self-assessed depository institutions to obtain additional daylight credit by pledging collateral, which was intended to provide flexibility in addressing the liquidity needs of the few financially healthy institutions that are or may be constrained by their current net debit caps. In addition, the revised PSR policy continues to allow depository institutions to pledge collateral accepted today for discount window or PSR purposes. In conducting its review of the policy, the Board found that more than 25 percent of account holders already have collateral pledged to the Reserve Banks. The Board believes it would be reasonable for depository institutions to use collateral already pledged to a Reserve Bank for discount window purposes to obtain additional daylight overdraft capacity when that collateral is not supporting an outstanding discount window loan. In addition, the Board expects that very few depository institutions will seek to expand their daylight overdraft capacity levels by pledging collateral because approximately 97 percent of all account holders use less than 50 percent of their net debit caps for their average peak overdrafts.

Two commenters expressed concern about the policy placing limits on the amount of book-entry securities overdrafts that institutions could incur and the potential implications for government securities market participants. The interim policy's elimination of the separate treatment of book-entry securities overdrafts for self-assessed institutions may require certain depository institutions to establish a maximum daylight overdraft capacity limit to accommodate their book-entry securities transactions. The commenters believed that any limitation on book-entry securities overdrafts might cause market disruptions and further noted that as long as these overdrafts were collateralized, a rigid limit would not be necessary. One commenter suggested that if a limit were to be imposed, that the limit be allowed to vary on a daily basis depending on the amount of collateral that the institution had pledged to its Reserve Bank. Another commenter recommended limiting the amount of additional daylight overdraft capacity to 50 percent of current net debit cap levels.

Two commenters supported allowing all book-entry securities overdrafts that are secured pursuant to the Reserve Banks' Operating Circular 10 (Lending) to be excluded from overdrafts measured against the cap.[6] Alternatively, two commenters recommended that the policy allow only those book-entry securities overdrafts in excess of the net debit cap to be secured pursuant to the Operating Circular 10 and exclude them from overdrafts measured against the cap.

Seven commenters expressed concern over the types of collateral accepted under the interim policy, particularly with regard to government securities market participants. Two of these commenters asked that the revised PSR policy reflect the continued acceptance of securities "in transit" to collateralize book-entry securities overdrafts.[7] One commenter recommended exploring alternatives to stable pool collateral to secure daylight overdrafts arising from particular transactions whose dollar amounts have the potential to make stable pool collateral requirements impracticable. Two commenters recommended allowing a depository institution to pledge collateral held for its benefit at another depository institution to secure funds overdrafts, provided the collateral is held in an account maintained by a Reserve Bank or is otherwise acceptable to the Reserve Bank.

The Board has decided to include book-entry securities overdrafts for purposes of determining an institution's compliance with its cap. Under the revised PSR policy, the Board requires that those depository institutions with self-assessed net debit caps that wish to expand their daylight overdraft capacity by pledging collateral consult with their Reserve Banks to establish a maximum daylight overdraft capacity limit.[8] The Reserve Banks will consider the institution's reasons for requesting additional daylight overdraft capacity as well as the institution's financial and supervisory information in determining the appropriate level of collateralized credit, if any, to grant above the net debit cap. Depository institutions will continue to have some flexibility as to the specific types of collateral they may pledge to the Reserve Banks; however, all collateral must be acceptable to the Reserve Banks.

The Board recognizes that with the policy's elimination of the separate treatment of book-entry securities overdrafts, some depository institutions may find their net debit cap levels insufficient in accommodating their book-entry securities overdrafts and may request a maximum daylight

[6] Depository institutions that pledge collateral to a Reserve Bank must sign an agreement in Operating Circular 10, which provides the Reserve Bank with a security interest in all the borrower's right, title, and interest in property (wherever located, now owned or hereafter acquired), including, but not limited to, accounts, chattel paper, inventory, equipment, instruments, investment property, general intangibles, payment intangibles, documents, deposit accounts, commercial tort claims, real property, and intellectual property, and which is (a) identified on a collateral schedule, (b) identified on the books or records of a Reserve Bank as pledged to the Bank, or (c) for which a financing statement has been filed.

[7] Securities in transit refer to book-entry securities transferred over Fedwire's National Book-Entry System that have been purchased by a depository institution, but not yet paid for and owned by the institution's customers.

[8] A depository institution's "maximum daylight overdraft capacity limit" is the total amount of Reserve Bank-approved daylight overdraft capacity, both uncollateralized and collateralized.

overdraft capacity limit to expand their capacity. To address commenters' concerns related to placing a limit on the amount of an institution's book-entry securities overdrafts, the revised PSR policy will allow the Reserve Banks to continue to accept securities in transit on the Fedwire book-entry securities system as collateral to support an institution's maximum daylight overdraft capacity limit. The Reserve Banks recognize that by accepting securities in transit as collateral to support an institution's additional daylight overdraft capacity, the institution's daylight overdraft capacity will vary on a daily basis.[9]

Two commenters expressed concern about the interim policy's provision that a Reserve Bank could require a depository institution with a self-assessed net debit cap that *frequently* exceeded its daylight overdraft capacity level to collateralize the difference between its peak daylight overdraft and its net debit cap level. These commenters noted that this requirement could marginally increase Federal Reserve credit risk because, unlike the previous policy that stipulated a depository institution with book-entry securities overdrafts that met the frequency and materiality thresholds had to collateralize fully those overdrafts, a depository institution would need to collateralize only the portion of its peak book-entry securities overdraft in excess of its net debit cap.

The Board agrees that this change could increase the Federal Reserve's credit exposure; however, the Board believes the increase in Federal Reserve credit risk would be minimal given that the majority of institutions that participate in the government securities market do not meet the frequent and material criteria. In addition, for the past several years, the policy has allowed the Reserve Banks to protect themselves from risk when they believe it is appropriate by requiring institutions to pledge collateral. The interim policy allowed Reserve Banks to require collateral for the portion of an institution's daylight overdraft above its net debit cap level if the institution frequently exceeded its cap as a result of transactions with settlement-day finality. In considering the frequency threshold, the Board determined that its longstanding policy of allowing Reserve Banks to exercise discretion in applying risk controls to their account holders is more practicable and precludes the need for the frequency threshold.

Regarding the Board's proposal to eliminate the separate treatment of book-entry securities overdrafts for *all* depository institutions, commenters were generally supportive. The proposed policy change would require depository institutions with exempt-from-filing and de minimis caps to apply for higher net debit caps if they frequently exceed their caps because of book-entry securities transfers. Commenters did not believe such a policy change would create any undue burden. Two commenters noted that depository institutions frequently exceeding their net debit caps might be an indication that the institutions' payment activities have expanded or become more complex. They believed the requirement for such an institution to apply for a higher net debit cap was useful and appropriate.

As mentioned previously, the Board has determined that its existing policies preclude the need for a frequency threshold. Under the Board's policy, Reserve Banks review the status of institutions that exceed their net debit caps during any two-week reserve-maintenance period. In addressing situations where an institution exceeds its net debit cap level, Reserve Banks may recommend that the institution apply for a higher net debit cap. In addition, if the institution does not qualify for a higher net debit cap, Reserve Banks have the discretion to apply risk controls, including requiring collateral, imposing clearing balance requirements, and delaying or rejecting transactions that would exceed the institution's account balance.

Under the revised PSR policy, Reserve Banks will review the status of an institution that exceeds its *de minimis* cap during a reserve-maintenance period and decide if the institution's cap level should be maintained or if the institution should be required to perform a self-assessment for a higher cap. Similarly, Reserve Banks will decide if an institution with an exempt-from-filing cap that incurs overdrafts in its Federal Reserve account in excess of the lesser of $10 million or 20 percent of capital on more than two days in any two consecutive reserve-maintenance periods should maintain its exemption or be required to file for a higher cap. Finally, Reserve Banks will also review the status of any zero cap institution that incurs a daylight overdraft and may decide to monitor the institution's activity in real time and reject or delay certain transactions. If the institution qualifies for a positive cap, the Reserve Bank may suggest that the institution accept an exempt-from-filing cap or file for a higher cap if the institution believes that it will continue to incur daylight overdrafts.

One commenter stated that the policy should allow Reserve Banks to have flexibility in dealing with bankers' banks because they typically have limited ability to pledge collateral to their Reserve Banks but experience large intraday account fluctuations. While the Board's policy allows bankers' banks to access Federal Reserve payment services, bankers' banks that are exempt from reserve requirements do not have regular access to the discount window and, therefore, may not incur daylight overdrafts. Bankers' banks that waive their reserve requirement exemption would be free to establish net debit caps and would be subject to the same PSR policies as other depository institutions.

Another commenter requested clarification on the method used to determine the maximum limit on an institution's daylight overdraft capacity and advocated consistent administration of the revised PSR policy throughout the Federal Reserve System. The Board believes that the revised PSR policy clarifies the conditions under which a depository institution may receive additional daylight overdraft capacity and notes that, pursuant to the Federal Reserve Act, the Board exercises general supervision over the Reserve Banks (section 11j). The Board expects to exercise this authority in a manner that should ensure equitable administration of the revised PSR policy.

Based upon its analysis of the comments received, the Board is adopting all of the provisions of the interim policy except the frequency threshold that determined when a Reserve Bank would require a depository institution with a self-assessed net debit cap to collateralize the difference between its peak daylight overdraft and its net debit cap level. As mentioned previously, the Board believes its longstanding policy of allowing Reserve Banks to exercise discretion in applying risk controls to their account holders is more practicable and precludes the need for a frequency threshold.

In adopting all of the other provisions of the interim policy, the Board recognizes the importance of providing an environment in which payment systems may function effectively and

[9] Depository institutions with self-assessed net debit caps that receive Reserve Bank approval to support a maximum daylight overdraft capacity limit with securities in transit must submit a board-of-directors resolution at least once in each twelve-month period. The resolution requires the depository institution's board of directors to acknowledge that (1) securities in transit will be used to collateralize daylight overdraft capacity in a manner consistent with the reasons and purposes submitted to the institution's administrative Reserve Bank and (2) the value of the securities in transit pledged to the Reserve Bank will fluctuate intraday and over time.

efficiently and remove barriers, as appropriate, to foster risk-reducing payment system initiatives. Under the revised PSR policy, certain depository institutions with self-assessed net debit caps may pledge collateral to their administrative Reserve Banks to secure daylight overdraft capacity in excess of their net debit caps. The Board believes that requiring collateral allows the Federal Reserve to protect the public sector from additional credit risk while providing extra liquidity to the few institutions that might otherwise be constrained. Providing extra liquidity to constrained institutions should help prevent liquidity-related market disruptions. In addition, the Board's decision to eliminate the separate treatment of book-entry securities overdrafts for *all* depository institutions should simplify administration of and compliance with the policy.

B. Daylight Overdraft Capacity for Foreign Banking Organizations (Docket No. R–1108)

During the Board's policy review, a few FBOs indicated that their net debit caps constrain their business activity and place them at a competitive disadvantage to U.S. depository institutions. These FBOs assert that certain U.S. depository institutions hold a significant portion of their assets in foreign markets but are able to use 100 percent of their total risk-based capital in establishing their caps, while the PSR policy does not recognize the FBOs' worldwide financial strength. The Board found that during 2000, approximately 35 percent of U.S. branches and agencies of foreign banks with positive net debit caps had cap utilization levels of 75 percent or more.[10] In contrast, during the same time period, less than 5 percent of domestically chartered institutions used more than 50 percent of their net debit caps for their average daily peak daylight overdrafts.

To address the liquidity concerns identified by FBOs during its review of the policy, the Board requested comment on proposed modifications to the criteria used to determine the U.S. capital equivalency measure for FBOs. The Board proposed (1) eliminating the Basle Capital Accord (BCA) criteria used in the policy to determine U.S. capital equivalency measure for FBOs, (2) replacing the BCA criteria with the strength of support assessment (SOSA) rankings and financial holding company (FHC) status in determining U.S. capital equivalency measure for FBOs, and (3) raising the percentage of capital used in calculating U.S. capital equivalency measure for certain FBOs. The Board also proposed replacing "liabilities to nonrelated parties" with "net due to related depository institutions" as a proxy for calculating the U.S. capital equivalency measure for SOSA 3-ranked FBOs.[11] Specifically, an FBO's U.S. capital equivalency measure would be equal to one of the following:

- 35 percent of capital for FBOs that are FHCs
- 25 percent of capital for FBOs that are not FHCs and are ranked a SOSA 1
- 10 percent of capital for FBOs that are not FHCs and are ranked a SOSA 2
- 5 percent of "net due to related depository institutions" for FBOs that are not FHCs and are ranked a SOSA 3.

The Board received ten comment letters on its proposal regarding daylight overdraft capacity for FBOs. The commenters included three commercial banking organizations and three of their trade associations, one clearing organization, and three Federal Reserve Banks.

All of the commenters supported the proposed changes to the calculation of FBOs' net debit caps. Commenters generally believed that the proposed net debit cap structure, combined with the interim policy that allows depository institutions with self-assessed net debit caps to obtain additional daylight overdraft capacity, reasonably addresses the liquidity needs of FBOs. One commenter noted that the proposal would improve FBOs' capacity to clear and settle U.S. dollar payments.

Four commenters supported further increases in the percentage of capital used in the calculation of FBOs' net debit caps, particularly for institutions that hold an FHC classification. One commenter recommended allowing Reserve Banks to use discretion on a case-by-case basis when providing daylight credit to FBOs. In particular, the commenter stated that the percentage applied to determine the U.S. capital equivalency measure for institutions that are ranked SOSA 1 should be allowed to exceed 25 percent if the Reserve Bank agrees, presuming the institution has demonstrated adequate need for additional liquidity.

With respect to FBOs' access to the U.S. payments system, two commenters stated that the proposed policy changes provided FBOs with appropriate access. Four commenters, although in support of the proposed policy, requested to be treated more similarly to domestically-chartered institutions in the calculation of their net debit caps. Two of these commenters expressed concern that the proposal leaves FBOs at a competitive disadvantage in comparison with domestically-chartered depository institutions. These commenters recommended that the Board consider further actions to address differences in the net debit cap calculation between FBOs and domestic institutions. They maintain that, in many instances, the supervision of FBOs, particularly for large and complex banking organizations, is comparable to, if not more stringent than, the supervision of domestically-chartered depository institutions and that this should offset concerns outlined in the Board's proposal about the risks these institutions pose. One commenter also recommended that foreign banks and domestically-chartered banks be treated comparably with respect to the real-time monitor. None of the commenters, however, addressed the extent to which the Board should consider the legal risks, such as differing international solvency laws, involved in the evaluation of the net debit cap calculation for FBOs.

While the Board recognizes commenters' concerns regarding the criteria used to determine the U.S. capital equivalency measure for FBOs, it believes that the criteria outlined in the Board's proposal are appropriate given the added supervisory and legal risks that FBOs present in comparison with domestically-chartered depository institutions. Although commenters contend that the level of supervision parallels and sometimes surpasses that of domestically-chartered depository institutions, the Board believes that the availability of this information to U.S. regulators may not be timely or comparable to similar information used in the supervision of U.S. depository institutions. The Board also believes that FBOs present additional legal risks, particularly in relation to insolvency laws. The Board believes that it is not practicable for the Federal Reserve to undertake and keep current extensive analyses of the legal risks presented by the insolvency law(s) applicable to each FBO with a Federal Reserve account in order to quantify precisely the legal risk that the Federal Reserve incurs by providing intraday credit to that institution. The Board believes that these additional risks warrant differential treatment of FBOs in relation to the provision of intraday liquidity.

[10] Cap utilization is equal to an institution's average daily peak daylight overdraft divided by the institution's net debit cap.

[11] Reporting Form FFIEC 002/002S. *Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.* Schedule RAL—Assets and Liabilities: Liabilities: item 4—"Liabilities to nonrelated parties" and item 5—"Net due to related depository institutions."

The Board received no comments on its question regarding the appropriateness of replacing "liabilities to nonrelated parties" with "net due to related depository institutions" as a proxy for calculating U.S. capital equivalency for SOSA 3-ranked FBOs.

One commenter recommended clarifying the policy to refer to "worldwide capital" in relation to the capital measure for FBOs as opposed to merely "capital," to be consistent with language from the previous policy statement. The Board believes the capital of a foreign banking organization is, by definition, the organization's "worldwide capital."

Four commenters believed that the Federal Reserve should play an active role in an initiative to establish a cross-border collateral pool as an intraday liquidity service for participating banks. These commenters mentioned that such a facility would enable an institution to receive funds in a foreign central bank account by earmarking intraday balances in central bank money with its home country central bank. The Board is amenable to discussing this initiative, but is not addressing it in this notice.

Based upon its analysis and the comments received, the Board is adopting the proposed policy changes to FBOs' net debit caps. The Board is replacing the BCA criteria with SOSA rankings and FHC status in determining the U.S. capital equivalency measure and raising the percentage of capital used in the net debit cap calculation for certain FBOs. The Board believes that SOSA rankings provide broader information about the condition of the FBO, its supervision, and the home country, whereas the BCA distinction provides information only about the home country treatment of bank capital adequacy. Furthermore, the BCA designation reflects the one-time adoption of BCA standards by a country's supervisory authority, while U.S. bank supervisors update the SOSA rankings regularly. The Board believes that, like the SOSA ranking, FHC status is preferable to the BCA distinction in determining the risk posed by FBOs to the U.S. payments system because FHCs must continue to meet certain capital and management standards in order to maintain their status and are subject to enhanced reporting requirements.

In addition, the Board is replacing "liabilities to nonrelated parties" with "net due to related depository institutions" as a proxy for calculating the U.S. capital equivalency measure for SOSA 3-ranked FBOs. "Liabilities to nonrelated parties" may increase relative to assets when an institution becomes financially weaker and could unduly increase the institution's overdraft capacity. "Net due to related depository institutions" reflects the amounts owed to the parent by the branch and can be viewed as the capital investment by the FBO parent in its U.S. operations. The Board notes that this policy change would not affect any SOSA 3-ranked FBOs at this time.

C. Modifications to Daylight Overdraft Posting Rules for Electronic Check Presentments (Docket No. R–1109)

In reviewing the PSR posting rules, the Board found that the posting times for electronic check presentment (ECP) transactions often create a disincentive for depository institutions to use Federal Reserve electronic check services. The Reserve Banks deliver the majority of electronic check presentments in the morning, and the delivery of the ECP files constitutes legal presentment of the checks under the terms of the Federal Reserve's uniform check Operating Circular 3. In accordance with the Board's objectives in designing the posting rules, the current posting rules stipulate that debits to depository institutions' Federal Reserve accounts for check presentments occur on the next clock hour that is at least one hour after presentment takes place, beginning at 11 a.m. Eastern Time (ET) and no later than 3 p.m. local time. Because the Reserve Banks generally deliver electronic check presentments in the morning, the corresponding debits occur at 11 a.m. ET. As a result, for many depository institutions, the posting times for electronic check presentments are earlier than the posting times associated with their paper check presentments.

The often earlier debit posting times associated with electronic check presentments have caused some depository institutions to incur daylight overdrafts earlier in the day and, in many cases, for longer periods of time. Because the Reserve Banks charge depository institutions a fee for the amount and duration of their Federal Reserve daylight credit use, the daylight overdraft charges of a few institutions that have moved to electronic check services have grown substantially. As a result, some depository institutions have asserted that the increases in their daylight overdraft charges have reduced or eliminated the benefits of using Federal Reserve electronic check services.

To remove barriers that may discourage depository institutions' use of Federal Reserve electronic check presentment services, the Board requested comment on proposed modifications to its daylight overdraft posting rules to allow debits associated with ECP transactions to post to depository institutions' Federal Reserve accounts no earlier than 1 p.m. local time.

The Board received nineteen comment letters on its proposal to modify daylight overdraft posting rules for ECP transactions. The commenters included eight commercial banking organizations and four of their trade associations, one clearing organization, and six Federal Reserve Banks.

All of the commenters supported the proposed change in the posting time for ECP debits. Commenters generally believed that the benefits of the Board's proposed change in the posting time for ECP debits outweighed any disadvantages. In addition, commenters generally noted that posting ECP debits at 1 p.m. local time should facilitate participation in Federal Reserve ECP services by eliminating any disincentive created by the current posting rules.

None of the commenters indicated that the proposed change in the posting time of ECP debits would provide the Federal Reserve Banks with an inappropriate competitive advantage. One commenter stated that the later posting time actually improves the ability of private-sector banks to compete with Federal Reserve Banks. Another commenter noted that private-sector banks providing ECP services have the additional advantage of negotiating settlement arrangements with their correspondents. Two commenters noted that the proposed posting time does not unduly benefit paying banks or collecting banks, because the vast majority of depository institutions function as both paying and collecting banks.

One commenter recommended that the Board evaluate the potentially negative effect of posting debits and associated credits later in the day on bankers' banks, noting that the policy might impede their ability to manage their accounts within net debit cap levels. The Board believes that because the Federal Reserve Banks deliver the majority of electronic check presentments in the morning, account holders have adequate time before 1 p.m. local time to manage their accounts appropriately.

One commenter recommended that the Board extend the ECP posting time of 1 p.m. local time to debits and credits related to paper check transactions, noting that such a provision would enable many depository institutions to more easily monitor and manage their account activity. The Board notes that Reserve Banks do not post check debits to institutions' accounts prior to

presentment. Therefore, a single time for all check debits and credits would necessarily be later in the day than many depository institutions believed would be appropriate, according to earlier comments on this issue (57 FR 47084, October 14, 1992).

Based upon its analysis of the comments received, the Board has revised the PSR policy to reflect a modified posting time of 1 p.m. local time for ECP transactions. Because the Reserve Banks post the vast majority of check transactions by 1 p.m. local time, the Board believes that applying this posting time to ECP transactions should minimize any disincentive posed by the posting rules to move to ECP services. The Board also believes that the revised posting time should reduce or eliminate any potential increase in daylight overdraft charges created by differences in posting times for ECP and paper check transactions.

D. Retention of the $50 Million Fedwire Securities Transfer Limit (Docket No. R–1110)

During its review, the Board also considered the effectiveness of the $50 million limit on the transaction size of book-entry securities transfers on Fedwire to determine whether the limit was imposing an undue regulatory burden on securities market participants. To better understand the limit's effectiveness, Federal Reserve staff met with representatives of primary dealers, clearing banks, and industry utilities. These representatives supported retention of the limit, noting its positive net effect on the government securities settlement system. To ensure that it considered the perspectives of all parties before making a final determination, the Board requested comment on the desirability of retaining the $50 million limit on the transaction size of book-entry securities transfers on Fedwire.

The Board received fifteen comment letters regarding the $50 million limit. The commenters included seven commercial banking organizations and four of their trade associations, two clearing organizations, and two Federal Reserve Banks.

All of the commenters supported the retention of some limit on the size of book-entry securities transfers on Fedwire. Twelve commenters supported retention of the $50 million limit, while three commenters favored increasing the transfer limit amount to $100 million or more. None of the commenters favored reducing the transfer limit amount.

Ten commenters indicated that retaining a $50 million limit was reasonable and cited reduced overdrafts and enforcement of dealers accepting partial deliveries of large trades as the policy's primary benefits. Three commenters viewed the costs that institutions would incur to modify their systems as a reason not to change the limit, while two commenters specifically stated that changes to the limit would not require costly systems changes for their organizations. Three commenters stated that increasing the transfer limit would reduce administrative burden and would more appropriately reflect the current trading environment while not putting smaller market participants at a competitive disadvantage. Five commenters stated that lowering the transfer limit would increase systems and transactions costs and could potentially increase the number of delivery fails.

Following the September 11 terrorist attacks, one commenter recommended further evaluation of the transfer limit's necessity and of the possibility of lifting or modifying the limit in times of crisis. Board staff recently contacted some commenters who supported the limit to determine whether their views had changed because of the financial market disruptions resulting from the September 11 attacks. These commenters indicated that their views did not change and that they continue to support the limit's retention.

Two commenters stated that the limit's requirement of multiple deliveries per trade generally increases transaction costs and the potential for trade failures or transaction errors. Ten commenters viewed the policy's provision for multiple deliveries in order to reduce position building by dealers as beneficial. One commenter stated that the limit prevents securities delivery logjams that may otherwise occur if larger entities were to regularly accumulate securities in order to make larger par value deliveries first. Another commenter did not believe that the limit promotes any specific benefits in the government securities market.

The Board believes the $50 million limit on book-entry securities transfers in combination with daylight overdraft fees has been effective in reducing total daylight overdrafts. In addition, the industry bears a significant portion of the costs and benefits of the limit and supports retention of the limit. As a result, the Board has retained the $50 million limit on book-entry securities transfers on Fedwire.

III. Competitive Impact Analysis

The Board has established procedures for assessing the competitive impact of rule or policy changes that have a substantial impact on payments system participants.[12] Under these procedures, the Board assesses whether a change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints, or due to a dominant market position of the Federal Reserve deriving from such differences. If no reasonable modifications would mitigate the adverse competitive effects, the Board will determine whether the expected benefits are significant enough to proceed with the change despite the adverse effects. The Board believes the modifications to its PSR policy will have no adverse effect on the ability of other service providers to compete effectively with the Federal Reserve Banks in providing similar services.

IV. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the revised PSR policy under the authority delegated to the Board by the Office of Management and Budget. The collections of information associated with the PSR policy are found in the Guide to the Federal Reserve's Payments System Risk policy.

The information on de minimis and self-assessed net debit caps requested in the Board's PSR policy is currently collected in the mandatory Report of Net Debit Cap (FR 2226; OMB No. 7100–0217). The information on daylight overdraft capacity for foreign banking organizations is currently collected in the Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks (FR 2225; OMB No. 7100–0216), a voluntary report.

The Board expects to publish a separate notice issuing changes to the FR 2226 and FR 2225 reporting requirements to comply with the revised PSR policy. The burden associated with these information collections will be addressed at that time.

The Board has a continuing interest in the public's opinions of our collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or mailed electronically to *regs.comments@federalreserve.gov*, or

[12] These procedures are described in the Board's policy statement "The Federal Reserve in the Payments System," as revised in March 1990 (55 FR 11648, March 29, 1990).

mailed to the Office of Management and Budget, Paperwork Reduction Project (7100–0199), Washington, DC 20503.

V. Federal Reserve Policy Statement on Payments System Risk

Section I. of the PSR policy is revised, effective December 10, 2001, to read as follows:

Introduction

I. Federal Reserve Daylight Credit Policies
A. Daylight overdraft definition and measurement
B. Pricing
C. Net debit caps
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2. Cap categories
a. Self-assessed
b. De minimis
c. Exempt-from-filing
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3. Capital
a. U.S.-chartered institutions
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D. Collateral
E. Special situations
1. Edge and agreement corporations
2. Bankers' banks
3. Limited-purpose trust companies
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1. Ex post
2. Real time
3. Multi-District institutions
G. Transfer-size limit on book-entry securities
II. Policies for private-sector systems
A. Privately operated multilateral settlement systems
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III. Other Policies
A. Rollovers and continuing contracts

Introduction

The Federal Reserve Board has developed this policy to address the risks that payment systems present to the Federal Reserve Banks (Reserve Banks), to the banking system, and to other sectors of the economy. This policy is directed primarily at risks on large-dollar payment systems, including Federal Reserve and private-sector systems. Risk can arise from transactions on the Federal Reserve's real-time gross settlement system (Fedwire), from transactions processed in other Federal Reserve payment systems (for example, the automated clearinghouse (ACH) system), and from transactions on private large-dollar systems.

The Reserve Banks face direct risk of loss should depository institutions be unable to settle their intraday or "daylight" overdrafts in their Federal Reserve accounts before the end of the day.[1] Moreover, systemic risk may occur if an institution participating in a private large-dollar payment system were unable to settle its net debit position. If this were to occur, the institution's creditors in that system might then be unable to settle their obligations in that system or other systems. Serious repercussions could spread to other participants in the private system, to other depository institutions not participating in the system, and to the nonfinancial economy generally. A Reserve Bank could be exposed to an indirect risk if the Federal Reserve's policies did not address this systemic risk. Finally, depository institutions create risk by permitting their customers, including other depository institutions, to incur daylight overdrafts in the depository institutions' accounts in anticipation of receiving covering funds before the end of the day.

The Board is aware that large-dollar systems are an integral part of clearing and settlement systems and that it is vital to keep the payments mechanism operating without significant disruption. Recognizing the importance of avoiding such disruptions, the Board continues to seek to reduce the risks of settlement failures that could cause these disruptions. The Board is also aware that some intraday credit may be necessary to keep the payments mechanism running smoothly and efficiently. The reduction and control of intraday credit risks, although essential, must be accomplished in a manner that will minimize disruptions to the payments mechanism. The Board expects to reduce and control risks without unduly disrupting the smooth operation of the payments mechanism by establishing guidelines for use by institutions and relying largely on the efforts of individual institutions to identify, control, and reduce their own exposures.

The Board expects depository institutions to manage their Federal Reserve accounts effectively and minimize their use of Federal Reserve daylight credit. Although some intraday credit may be necessary, the Board expects that, as a result of its policies, relatively few institutions will consistently rely on intraday credit supplied by the Federal Reserve to conduct their business. The Board also expects to continue observing, over time, a reduction in the volume of intraday credit at those institutions with a pattern of substantial reliance on such credit. The Board will continue to monitor the effect of its policies on the payments system.

The general methods used to control intraday credit exposures are explained in the policies below. These methods include limits on daylight overdrafts in depository institutions' accounts at Reserve Banks; collateralization, in certain situations, of daylight overdrafts at the Federal Reserve; limits on the maximum level of credit exposure that can be produced by each participant on private large-dollar systems; availability of backup facilities capable of completing daily processing requirements for private large-dollar systems; and credit and liquidity safeguards for private delivery-against-payment systems. To assist depository institutions in implementing the Board's policies, the Federal Reserve has prepared two documents, the "Overview of the Federal Reserve's Payments System Risk Policy" and the "Guide to the Federal Reserve's Payments System Risk Policy," which are available on line at *http://www.federalreserve.gov/PaymentSystems/PSR* or from any Reserve Bank. The "Overview of the Federal Reserve's Payments System Risk Policy" summarizes the Board's policy on payments system risk, including net debit caps and daylight overdraft fees. The overview is intended for use by institutions that incur only small and infrequent daylight overdrafts. The "Guide to the Federal Reserve's Payments System Risk Policy" explains in detail how these policies apply to different institutions and includes procedures for completing a self-assessment and filing a cap resolution, as well as information on other aspects of the policy.

I. Federal Reserve Daylight Credit Policies

A. Daylight Overdraft Definition and Measurement

A daylight overdraft occurs when a depository institution's Federal Reserve account is in a negative position during the business day. The Reserve Banks use an ex post system to measure daylight overdrafts in depository institutions' Federal Reserve accounts. Under this ex post measurement system, Fedwire funds transfers, book-entry securities transfers, and net settlement transactions are posted as they are processed during the business day. Other transactions, including automated

[1] In this policy statement, the terms "depository institution" or "institution" will be used to refer not only to institutions defined as "depository institutions" in 12 U.S.C. 461(b)(1)(A), but also to U.S. branches and agencies of foreign banking organizations, Edge and agreement corporations, and bankers' banks, unless the context indicates a different reading.

clearinghouse and check transactions, are posted to depository institutions' accounts according to a defined schedule. The following table presents the schedule used by the Federal Reserve for posting transactions to institutions' accounts for purposes of measuring daylight overdrafts.

Procedures for Measuring Daylight Overdrafts [2]

Opening Balance (Previous Day's Closing Balance)

Post Throughout Business Day:
- +/− Fedwire funds transfers
- +/− Fedwire book-entry securities transfers
- +/− Net settlement entries.

Post at 8:30 a.m. Eastern Time:
- +/− Government and commercial ACH credit transactions [3]
- + Treasury Electronic Federal Tax Payment System (EFTPS) investments from ACH credit transactions
- + Advance-notice Treasury investments
- + Treasury checks, postal money orders, local Federal Reserve Bank checks, and EZ-Clear savings bond redemptions in separately sorted deposits
- − Penalty assessments for tax payments from the Treasury Investment Program (TIP).[4]

Post at 8:30 a.m. Eastern Time and Hourly, on the Half-Hour, Thereafter:
- +/− Main Account Administrative Investment or Withdrawals from TIP
- +/− SDI (Special Direct Investment) Administrative Investment or Withdrawals from TIP
- + 31 CFR Part 202 Account Deposits from TIP
- − Uninvested PATAX Tax Deposits from TIP
- − Main Account Balance Limit Withdrawals from TIP
- − Collateral Deficiency Withdrawals from TIP
- − 31 CFR Part 202 Deficiency Withdrawals from TIP.

Post at 8:30 a.m., 11:30 a.m., and 6:30 p.m. Eastern Time:
- − Main Account Treasury Withdrawals from TIP.[5]

Post by 9:15 a.m. Eastern Time:
- + U.S. Treasury and government agency book-entry interest and redemption payments
- + U.S. Treasury and government agency matured coupons and definitive securities received before the maturity date.

Post Beginning at 9:15 a.m. Eastern Time:
- − Original issues of Treasury securities.[6]

Post at 9:30 a.m. Eastern Time and Hourly, on the Half-Hour, Thereafter:
- + FR–ETA Value Fedwire Investments from TIP.

Post at 11:00 a.m. Eastern Time:
- +/− ACH debit transactions
- + EFTPS investments from ACH debit transactions.

Post at 11:00 a.m. Eastern Time and Hourly Thereafter:
- +/− Commercial check transactions, including returned checks [7]
- +/− Check corrections amounting to $1 million or more
- + Currency and coin deposits
- + Credit adjustments amounting to $1 million or more.

Post at 12:30 p.m. Eastern Time and Hourly, on the Half-Hour, Thereafter:
- + Dynamic Investments from TIP.

Post by 1:00 p.m. Eastern Time:
- + Same-day Treasury investments.

Post at 1:00 p.m. Local Time and Hourly Thereafter (Beginning on April 1, 2002):
- − Electronic check presentments.[8]

Post at 5:00 p.m. Eastern Time:
- + Treasury checks, postal money orders, and EZ-Clear savings bond redemptions in separately sorted deposits. These items must be presented by 4:00 p.m. Eastern Time.
- + Local Federal Reserve Bank checks. These items must be presented before 3:00 p.m. Eastern Time.
- +/− Same-day ACH transactions. These transactions include ACH return items, check-truncation items, and flexible settlement items.

Post at 6:30 p.m. Eastern Time:[9]
- + Penalty Abatements from TIP.

Post After the Close of Fedwire Funds Transfer System:
- +/− All other transactions. These transactions include the following: local Federal Reserve Bank checks presented after 3:00 p.m. eastern time but before 3:00 p.m. local time; noncash collection; credits for U.S. Treasury and government agency definitive security interest and redemption payments if the coupons or securities are received on or after the maturity date; currency and coin shipments; small-dollar credit adjustments; and all debit adjustments. Discount-window loans and repayments are normally posted after the close of Fedwire as well; however, in unusual circumstances a discount window loan may be posted earlier in the day with repayment 24 hours later, or a loan may be repaid before it would otherwise become due.

Equals:

Closing Balance

B. Pricing

Reserve Banks charge a fee for average daily daylight overdrafts in Federal Reserve accounts. Daylight overdraft fees apply to all daylight overdrafts in depository institutions' Federal Reserve accounts above the level of a deductible; however, Reserve Banks will waive fees of $25 or less in any two-week reserve-maintenance period.

For each two-week reserve-maintenance period, the Reserve Banks calculate and assess daylight overdraft fees, which are equal to the sum of any

[2] This schedule of posting rules does not affect the overdraft restrictions and overdraft-measurement provisions for nonbank banks established by the Competitive Equality Banking Act of 1987 and the Board's Regulation Y (12 CFR 225.52).

[3] Depository institutions that are monitored in real time must fund the total amount of their commercial ACH credit originations when the transactions are processed. If the Federal Reserve receives commercial ACH credit transactions from depository institutions monitored in real time after the scheduled close of the Fedwire funds transfer system, these transactions will be processed when the Federal Reserve's Account Balance Monitoring System (ABMS) reopens, or by the ACH deposit deadline, whichever is earlier. The ABMS provides intraday account information to the Reserve Banks and depository institutions and is used primarily to give authorized Reserve Bank personnel a mechanism to control and monitor account activity for selected institutions. For more information on ACH transaction processing, refer to the ACH Settlement Day Finality Guide available through the Federal Reserve Financial Services Web site at *http://www.frbservices.org*.

[4] The Reserve Banks will identify and notify depository institutions with Treasury-authorized penalties on Thursdays. In the event that Thursday is a holiday, the Reserve Banks will identify and notify depository institutions with Treasury-authorized penalties on the following business day. Penalties will then be posted on the business day following notification.

[5] On rare occasions, the Treasury may announce withdrawals in advance that are based on depository institutions' closing balances on the withdrawal date. The Federal Reserve will post these withdrawals after the close of Fedwire.

[6] Original issues of government agency securities are delivered as book-entry securities transfers and will be posted when the securities are delivered to the purchasing institutions.

[7] Electronic check presentments will post at 11:00 a.m. Eastern Time and hourly thereafter until April 1, 2002.

[8] The Federal Reserve Banks will post debits to depository institutions' accounts for electronic check presentments made before 12:00 p.m. local time at 1:00 p.m. local time. The Reserve Banks will post presentments made after 12:00 p.m. local time on the next clock hour that is at least one hour after presentment takes place but no later than 3:00 p.m. local time.

[9] The Federal Reserve Banks will process and post Treasury-authorized penalty abatements on Thursdays. In the event that Thursday is a holiday, the Federal Reserve Banks will process and post Treasury-authorized penalty abatements on the following business day.

daily daylight overdraft charges during the period. For each day, an institution's daylight overdraft charge is equal to the effective daily rate charged for daylight overdrafts multiplied by the average daylight overdraft for the day minus a deductible valued at the effective daily rate.

Daylight overdraft fees are calculated using an annual rate of 36 basis points, quoted on the basis of a 24-hour day. To obtain the effective annual rate for the standard Fedwire operating day, the quoted 36-basis-point fee is multiplied by the fraction of a 24-hour day during which Fedwire is scheduled to operate. For example, under an 18-hour scheduled Fedwire operating day, the effective annual rate used to calculate daylight overdraft fees equals 27 basis points (36 basis points multiplied by 18/24).[10] The effective daily rate is calculated by dividing the effective annual rate by 360.

An institution's average daily daylight overdraft is calculated by dividing the sum of its negative Federal Reserve account balances at the end of each minute of the scheduled Fedwire operating day (with positive balances set to zero) by the total number of minutes in the scheduled Fedwire operating day.

The daily daylight overdraft charge is reduced by a deductible, valued at the effective daily rate for a 10-hour operating day. The deductible equals 10 percent of a capital measure (see section I.C.3., "Capital"). Because the effective daily rate applicable to the deductible is kept constant at the 10-hour-operating-day rate, any changes to the scheduled Fedwire operating day will not affect the value of the deductible.

C. Net Debit Caps

1. Definition

To limit the aggregate amount of daylight credit that the Reserve Banks extend, each institution incurring daylight overdrafts in its Federal Reserve account must adopt a net debit cap, that is, a ceiling on the daylight overdraft position that it can incur during a given interval. Alternatively, if an institution's daylight overdrafts generally do not exceed the lesser of $10 million or 20 percent of its capital, the institution may qualify for the exempt-from-filing cap. An institution must be financially healthy and have regular access to the discount window in order to adopt a net debit cap greater than zero or qualify for the filing exemption.

An institution's cap category and capital measure determine the size of its net debit cap. More specifically, the net debit cap is calculated as an institution's cap multiple times its capital measure:

net debit cap = cap multiple × capital measure

Cap categories (see section I.C.2., "Cap categories") and their associated cap levels, set as multiples of capital, are listed below:

NET DEBIT CAP MULTIPLES

Cap category	Single day	Two-week average
High	2.25	1.50
Above average	1.875	1.125
Average	1.125	0.75
De minimis	0.40	0.40
Exempt from filing[11]	$10 million or 0.20	$10 million or 0.20
Zero	0.0	0.0

[11] The net debit cap for the exempt-from-filing category is equal to the lesser of $10 million or 0.20 multiplied by a capital measure.

An institution is expected to avoid incurring daylight overdrafts that, on average over a two-week period, exceed its two-week average cap, and, on any day, exceed its single-day cap. The two-week average cap provides flexibility, in recognition that fluctuations in payments can occur from day to day. The purpose of the higher single-day cap is to limit excessive daylight overdrafts on any day and to ensure that institutions develop internal controls that focus on their exposures each day, as well as over time.

The two-week average cap is measured against the average, over a two-week reserve-maintenance period, of an institution's daily maximum daylight overdraft positions in its Federal Reserve account. In calculating the two-week average, the Federal Reserve treats each positive end-of-minute balance in an institution's Federal Reserve account as if the account balance were equal to zero. The number of days used in calculating the average is the number of business days the institution's Reserve Bank is open during the reserve-maintenance period.

The Board's policy on net debit caps is based on a specific set of guidelines and some degree of examiner oversight. Under the Board's policy, a Reserve Bank may limit or prohibit an institution's use of Federal Reserve intraday credit if (1) the institution's use of daylight credit is deemed by the institution's supervisor to be unsafe or unsound; (2) the institution does not qualify for a positive net debit cap (see section I.C.2., "Cap categories"); or (3) the institution poses excessive risk to a Reserve Bank by incurring chronic overdrafts in excess of what the Reserve Bank determines is prudent.

While capital measures differ, the net debit cap provisions of this policy apply to foreign banking organizations (FBOs) to the same extent that they apply to U.S. institutions. The Reserve Banks will advise home-country supervisors of the daylight overdraft capacity of U.S. branches and agencies of FBOs under their jurisdiction, as well as of other pertinent information related to the FBOs' caps. The Reserve Banks will also provide information on the daylight overdrafts in the Federal Reserve accounts of FBOs' U.S. branches and agencies in response to requests from home-country supervisors.

2. Cap Categories

The policy defines the following six cap categories, described in more detail below: zero, exempt-from-filing, de minimis, average, above average, and high. The average, above average, and high cap categories are referred to as "self-assessed" caps.

a. Self-assessed. In order to establish a net debit cap category of average, above average, or high, an institution must perform a self-assessment of its own creditworthiness, intraday funds management and control, customer credit policies and controls, and operating controls and contingency

[10] A change in the length of the scheduled Fedwire operating day would not change the amount of fees charged because the effective daily rate is applied to average daylight overdrafts, which, in turn, would be adjusted by the change in the operating day.

procedures.[12] The assessment of creditworthiness is based on the institution's supervisory rating and Prompt Corrective Action (PCA) designation.[13] An institution may perform a full assessment of its creditworthiness in certain limited circumstances, for example, if its condition has changed significantly since its last examination, or if it possesses additional substantive information regarding its financial condition. An institution performing a self-assessment must also evaluate its intraday funds-management procedures and its procedures for evaluating the financial condition of and establishing intraday credit limits for its customers. Finally, the institution must evaluate its operating controls and contingency procedures to determine if they are sufficient to prevent losses due to fraud or system failures. The "Guide to the Federal Reserve's Payments System Risk Policy," available on line at http://www.federalreserve.gov/PaymentSystems/PSR or from any Reserve Bank, includes a detailed explanation of the self-assessment process.

Each institution's board of directors must review the self-assessment and determine the appropriate cap category. The process of self-assessment, with board-of-directors review, should be conducted at least once in each twelve-month period. A cap determination may be reviewed and approved by the board of directors of a holding company parent of a depository institution, provided that (1) the self-assessment is performed by each entity incurring daylight overdrafts, (2) the entity's cap is based on the entity's own capital, and (3) each entity maintains for its primary supervisor's review its own file with supporting documents for its self-assessment and a record of the parent's board-of-directors review.[14]

In applying these guidelines, each institution should maintain a file for examiner review that includes (1) worksheets and supporting analysis used in its self-assessment of its own risk category, (2) copies of senior-management reports to the board of directors of the institution or its parent (as appropriate) regarding that self-assessment, and (3) copies of the minutes of the discussion at the appropriate board-of-directors meeting concerning the institution's adoption of a cap category.[15]

As part of its normal examination, the depository institution's examiners may review the contents of the self-assessment file.[16] The objective of this review is to ensure that the institution has applied the guidelines seriously and diligently, that the underlying analysis and method were reasonable, and that the resultant self-assessment was generally consistent with the examination findings. Examiner comments, if any, should be forwarded to the board of directors of the institution. The examiner, however, would generally not require a modification of the self-assessed cap category, but rather would inform the appropriate Reserve Bank of any concerns. The Reserve Bank would then decide whether to modify the cap category. For example, if the institution's level of daylight overdrafts constitutes an unsafe or unsound banking practice, the Reserve Bank would likely assign the institution a zero net debit cap and impose additional risk controls.

The contents of the self-assessment file will be considered confidential by the institution's examiner. Similarly, the Federal Reserve and the institution's examiner will hold the actual cap level selected by the institution confidential. Net debit cap information should not be shared with outside parties or mentioned in any public documents; however, net debit cap information will be shared with the home-country supervisor of U.S. branches and agencies of foreign banks.

The Reserve Banks will review the status of any institution with a self-assessed net debit cap that exceeds its cap during a two-week reserve-maintenance period and will decide if the cap should be maintained or if additional action should be taken (see section I.F., "Monitoring").

b. De minimis. Many depository institutions incur relatively small overdrafts and thus pose little risk to the Federal Reserve. To ease the burden on these small overdrafters of engaging in the self-assessment process and to ease the burden on the Federal Reserve of administering caps, the Board allows institutions that meet reasonable safety standards to incur de minimis amounts of daylight overdrafts without performing a self-assessment. A depository institution may incur daylight overdrafts up to 40 percent of its capital if the institution submits a board-of-directors resolution.

An institution with a de minimis cap must submit to its Reserve Bank at least once each year a copy of its board-of-directors resolution (or a resolution by its holding company's board) approving the depository institution's use of daylight credit up to the de minimis level. The Reserve Banks will review the status of a de minimis cap institution that exceeds its cap during a two-week reserve-maintenance period and will decide if the de minimis cap should be maintained or if the institution will be required to perform a self-assessment for a higher cap.

c. Exempt-from-filing. Depository institutions that only rarely incur daylight overdrafts in their Federal Reserve accounts that exceed the lesser of $10 million or 20 percent of their capital are excused from performing self-assessments and filing board-of-directors resolutions with their Reserve Banks. This dual test is designed to limit the filing exemption to depository institutions that create only low-dollar risks to the Reserve Banks and that

[12] This assessment should be done on an individual-institution basis, treating as separate entities each commercial bank, each Edge corporation (and its branches), each thrift institution, and so on. An exception is made in the case of U.S. branches and agencies of FBOs. Because these entities have no existence separate from the FBO, all the U.S. offices of FBOs (excluding U.S.-chartered bank subsidiaries and U.S.-chartered Edge subsidiaries) should be treated as a consolidated family relying on the FBO's capital.

[13] Section 131 of the 1991 FDICIA defines five PCA designations. An insured depository institution is (1) "well capitalized" if it significantly exceeds the required minimum level for each relevant capital measure, (2) "adequately capitalized" if it meets the required minimum level for each relevant capital measure, (3) "undercapitalized" if it fails to meet the required minimum level for any relevant capital measure, (4) "significantly undercapitalized" if it is significantly below the required minimum level for any relevant capital measure, or (5) "critically undercapitalized" if it fails to meet any level specified under subsection (c)(3)(A), which provides that each appropriate Federal banking agency shall, by regulation, in consultation with the FDIC, specify the ratio of tangible equity to total assets at which an insured depository institution is critically undercapitalized (Public Law 102–242, title I, Sec. 131(a), December 19, 1991, 105 Stat. 2253).

[14] An FBO should undergo the same self-assessment process as a domestic bank in determining a net debit cap for its U.S. branches and agencies. Many FBOs, however, do not have the same management structure as U.S. depository institutions, and adjustments should be made as appropriate. If an FBO's board of directors has a more limited role to play in the bank's management than a U.S. board has, the self-assessment and cap category should be reviewed by senior management at the FBO's head office that exercises authority over the FBO equivalent to the authority exercised by a board of directors over a U.S. depository institution. In cases in which the board of directors exercises authority equivalent to that of a U.S. board, cap determination should be made by the board of directors.

[15] In addition, for FBOs, the file that is made available for examiner review by the U.S. offices of an FBO should contain the report on the self-assessment that the management of U.S. operations made to the FBO's senior management and a record of the appropriate senior management's response or the minutes of the meeting of the FBO's board of directors or other appropriate management group, at which the self-assessment was discussed.

[16] Between examinations, examiners or Reserve Bank staff may contact an institution about its cap if statistical or supervisory reports or ad hoc information suggest that there may have been a change in the institution's financial condition.

incur small overdrafts relative to their capital.

The Reserve Banks will review the status of an exempt depository institution that incurs overdrafts in its Federal Reserve account in excess of $10 million or 20 percent of capital on more than two days in any two consecutive two-week reserve-maintenance periods. The Reserve Bank will decide if the exemption should be maintained or if the institution will be required to file for a cap. Any exemptions for depository institutions that meet the size and frequency standards are granted at the discretion of the Reserve Bank.

d. Zero. Some financially healthy depository institutions that could obtain positive net debit caps choose to have zero caps. Often these institutions have very conservative internal policies regarding the use of Federal Reserve daylight credit or simply want to ensure that they do not incur daylight overdrafts to avoid any daylight overdraft fees. If a depository institution that has adopted a zero cap incurs a daylight overdraft, the Reserve Bank counsels the institution and may monitor the institution's activity in real time and reject or delay certain transactions that would cause an overdraft. In addition, if the institution qualifies for a positive cap, the Reserve Bank may suggest that the institution adopt an exempt-from-filing cap or file for a higher cap if the institution believes that it will continue to incur daylight overdrafts.

In addition, a Reserve Bank may assign a depository institution a zero net debit cap. Institutions that may pose special risks to the Reserve Banks, such as those without regular access to the discount window, those incurring daylight overdrafts in violation of this policy, or those in weak financial condition, are generally assigned a zero cap (see section I.E.4., "Problem institutions"). Recently-chartered institutions may also be assigned a zero net debit cap.

3. Capital

As described above, an institution's cap category and capital measure determine the size of its net debit cap. The capital measure used in calculating an institution's net debit cap depends upon its chartering authority and home-country supervisor.

a. U.S.-chartered institutions. For depository institutions chartered in the United States, net debit caps are multiples of "qualifying" or similar capital measures that consist of those capital instruments that can be used to satisfy risk-based capital standards, as set forth in the capital adequacy guidelines of the federal financial regulatory agencies. All of the federal financial regulatory agencies collect, as part of their required reports, data on the amount of capital that can be used for risk-based purposes—"risk-based" capital for commercial and savings banks and savings associations and total regulatory reserves for credit unions. Other U.S.-chartered entities that incur daylight overdrafts in their Federal Reserve accounts should provide similar data to their Reserve Banks.

b. U.S. branches and agencies of foreign banks. The following policy on U.S. branches and agencies of foreign banks' net debit caps is effective through February 20, 2002.

For U.S. agencies and branches of foreign banks, net debit caps on daylight overdrafts in Federal Reserve accounts are calculated by applying the cap multiples for each cap category to a consolidated U.S. capital equivalency measure.[17]

For a foreign bank whose home-country supervisor adheres to the Basle Capital Accord, U.S. capital equivalency is equal to the greater of 10 percent of worldwide capital or 5 percent of the total liabilities of each agency or branch, including acceptances, but excluding accrued expenses and amounts due and other liabilities to offices, branches, and subsidiaries of the foreign bank. In the absence of contrary information, the Reserve Banks presume that all banks chartered in G–10 countries meet the acceptable prudential capital and supervisory standards and will consider any bank chartered in any other nation that adopts the Basle Capital Accord (or requires capital at least as great and in the same form as called for by the accord) eligible for the Reserve Banks' review for meeting acceptable prudential capital and supervisory standards.

For all other foreign banks, U.S. capital equivalency is measured as the greater of (1) the sum of the amount of capital (but not surplus) that would be required of a national bank being organized at each agency or branch location, or (2) the sum of 5 percent of the total liabilities of each agency or branch, including acceptances, but excluding accrued expenses and amounts due and other liabilities to offices, branches, and subsidiaries of the foreign bank.

The following policy replaces the above policy on U.S. branches and agencies of foreign banks' net debit caps beginning on February 21, 2002.

For U.S. branches and agencies of foreign banks, net debit caps on daylight overdrafts in Federal Reserve accounts are calculated by applying the cap multiples for each cap category to the FBO's U.S. capital equivalency measure.[18] U.S. capital equivalency is equal to the following:

- 35 percent of capital for FBOs that are financial holding companies (FHCs)[19]
- 25 percent of capital for FBOs that are not FHCs and have a strength of support assessment ranking (SOSA) of 1[20]
- 10 percent of capital for FBOs that are not FHCs and are ranked a SOSA 2
- 5 percent of "net due to related depository institutions" for FBOs that are not FHCs and are ranked a SOSA 3.

Granting a net debit cap, or any extension of intraday credit, to a depository institution is at the discretion of the Reserve Bank. In the event a Reserve Bank grants a net debit cap or extends intraday credit to a financially healthy SOSA 3-ranked FBO, the Reserve Bank may require such credit to be fully collateralized, given the heightened supervisory concerns with SOSA 3-ranked FBOs.

D. Collateral

The Board recognizes that while net debit caps provide sufficient liquidity to most institutions, some depository institutions may still experience liquidity pressures. The Board believes it is important to provide an environment in which payment systems may function effectively and efficiently

[17] The term "U.S. capital equivalency" is used in this context to refer to the particular capital measure used to calculate net debit caps and does not necessarily represent an appropriate capital measure for supervisory or other purposes.

[18] See footnote 17.

[19] The Gramm-Leach-Bliley Act (Public Law 106–102, 113 Stat. 1338 (1999)) defines a financial holding company as a bank holding company that meets certain eligibility requirements. In order for a bank holding company to become a financial holding company and be eligible to engage in the new activities authorized under the Gramm-Leach-Bliley Act, the Act requires that all depository institutions controlled by the bank holding company be well capitalized and well managed. With regard to a foreign bank that operates a branch or agency or owns or controls a commercial lending company in the United States, the Act requires the Board to apply comparable capital and management standards that give due regard to the principle of national treatment and equality of competitive opportunity.

[20] The SOSA ranking is composed of four factors, including the FBO's financial condition and prospects, the system of supervision in the FBO's home country, the record of the home country's government in support of the banking system or other sources of support for the FBO; and transfer risk concerns. Transfer risk relates to the FBO's ability to access and transmit U.S. dollars, which is an essential factor in determining whether an FBO can support its U.S. operations. The SOSA ranking is based on a scale of 1 through 3, with 1 representing the lowest level of supervisory concern.

and remove barriers, as appropriate, to foster risk-reducing payment system initiatives. Consequently, certain depository institutions with self-assessed net debit caps may pledge collateral to their administrative Reserve Banks to secure daylight overdraft capacity in excess of their net debit caps, subject to Reserve Bank approval.[21] The Board believes that requiring collateral allows the Federal Reserve to protect the public sector from additional credit risk while providing extra liquidity to the few institutions that might otherwise be constrained. Providing extra liquidity to constrained institutions should help prevent liquidity-related market disruptions.

A depository institution with a self-assessed net debit cap that wishes to expand its daylight overdraft capacity by pledging collateral should consult with its administrative Reserve Bank. The Reserve Bank will consider the institution's reasons for requesting additional daylight overdraft capacity as well as its financial and supervisory information in determining the appropriate level of collateralized credit, if any, to grant above the net debit cap. The financial and supervisory information considered may include, but is not limited to, capital and liquidity ratios, the composition of balance sheet assets, CAMELS or other supervisory ratings and assessments, and SOSA rankings (for U.S. branches and agencies of foreign banks).

The Reserve Banks will work with a depository institution that requests additional daylight overdraft capacity to decide on the appropriate maximum daylight overdraft capacity level. If the Reserve Bank approves the request for additional daylight overdraft capacity, the depository institution must submit a board-of-directors resolution at least once in each twelve-month period. An institution's maximum daylight overdraft capacity is defined as follows:

maximum daylight overdraft capacity = net debit cap + Reserve Bank-approved collateralized credit

This policy is intended to provide some additional liquidity to the few institutions that might otherwise be constrained from participating in risk-reducing payment system initiatives. Depository institutions that request daylight overdraft capacity beyond the net debit cap must have already explored other alternatives to address their increased liquidity needs.[22] In addition, depository institutions have some flexibility as to the specific types of collateral they may pledge to the Reserve Banks; however, all collateral must be acceptable to the Reserve Banks.[23]

Depository institutions with exempt-from-filing and de minimis net debit caps may *not* obtain additional daylight overdraft capacity by pledging collateral. These depository institutions must first file for a higher net debit cap to obtain additional daylight overdraft capacity.

Similarly, depository institutions with zero net debit caps may *not* obtain additional daylight overdraft capacity by pledging collateral. If an institution has voluntarily adopted a zero net debit cap, but qualifies for a positive net debit cap, it must file for a positive net debit cap to obtain daylight overdraft capacity. Depository institutions that have been assigned a zero net debit cap by their administrative Reserve Bank are not eligible to apply for any daylight overdraft capacity.

A self-assessed institution that has been approved for additional daylight overdraft capacity should avoid incurring daylight overdrafts that, on average over a two-week period, exceed its two-week average limit, and, on any day, exceed its single-day limit. The two-week average limit is equal to the two-week average cap plus the amount of applicable Reserve Bank-approved collateral, averaged over a two-week reserve-maintenance period. The single-day limit is equal to an institution's net debit cap plus the amount of applicable Reserve Bank-approved collateral.[24]

The Reserve Banks will review the status of any institution that exceeds its maximum daylight overdraft capacity during a two-week reserve-maintenance period and will decide if this limit should be maintained or if additional action should be taken (see section I.F., "Monitoring").

E. Special Situations

Special risks are presented by the participation on Fedwire of Edge and agreement corporations, bankers' banks that are not subject to reserve requirements, limited-purpose trust companies, and institutions that have been assigned a zero cap by their Reserve Banks. Most of these institutions lack regular discount-window access. In developing its policy for these institutions, the Board has sought to balance the goal of reducing and managing risk in the payments system, including risk to the Federal Reserve, with that of minimizing the adverse effects on the payments operations of these institutions.

Regular access to the Federal Reserve discount window generally is available to institutions that are subject to reserve requirements. If an institution that is not subject to reserve requirements and thus does not have regular discount-window access were to incur a daylight overdraft, the Federal Reserve might end up extending overnight credit to that institution if the daylight overdraft were not covered by the end of the business day. Such a credit extension would be contrary to the quid pro quo of reserves for regular discount-window access as reflected in the Federal Reserve Act and in Board regulations. Thus, institutions that do not have regular access to the discount window should not incur daylight overdrafts in their Federal Reserve accounts.

Certain institutions are subject to a daylight-overdraft penalty fee levied against the average daily daylight overdraft incurred by the institution. These include Edge and agreement corporations, bankers' banks that are not subject to reserve requirements, and limited-purpose trust companies. The annual rate used to determine the daylight-overdraft penalty fee is equal to the annual rate applicable to the

[21] The administrative Reserve Bank is responsible for the administration of Federal Reserve credit, reserves, and risk management policies for a given depository institution or other legal entity.

[22] Some potential alternatives available to a depository institution to address increased intraday credit needs include (1) filing for a higher net debit cap, (2) shifting funding patterns or delaying the origination of funds transfers, or (3) transferring some payments processing business to a correspondent bank. Furthermore, the Board's policies on Federal Reserve daylight credit extensions are intended to address intraday risk to the Federal Reserve arising from daylight overdrafts. Most transactions that lack settlement-day finality, however, pose primarily interday, rather than intraday, risk. Escalated counseling, requiring collateral, or applying for a maximum daylight overdraft capacity limit for daylight overdrafts caused by these transactions may be of limited use in reducing or managing the associated overdrafts. Under administrative counseling flexibility, the Reserve Banks work with affected institutions on means of avoiding daylight overdrafts, but generally do not subject these institutions to escalated levels of counseling, require collateral, or assign a zero cap.

[23] The Reserve Banks may accept securities in transit on the Fedwire book-entry securities system as collateral to support a maximum daylight overdraft capacity level. Securities in transit refer to book-entry securities transferred over Fedwire's National Book-Entry System that have been purchased by a depository institution but not yet paid for and owned by the institution's customers.

[24] A depository institution with a self-assessed cap that has been approved for additional daylight overdraft capacity may, at any time, pledge more or less collateral than its Reserve Bank-approved collateral limit. Applicable collateral to be used in the calculation of an institution's single-day and two-week average limit must be less than or equal to the amount of collateral approved by the Reserve Bank.

daylight overdrafts of other depository institutions (36 basis points) plus 100 basis points multiplied by the fraction of a 24-hour day during which Fedwire is scheduled to operate (18/24). The daily daylight-overdraft penalty rate is calculated by dividing the annual penalty rate by 360.

The daylight-overdraft penalty rate applies to the institution's average daily daylight overdraft in its Federal Reserve account. The daylight-overdraft penalty rate is charged in lieu of, not in addition to, the rate used to calculate daylight overdraft fees for depository institutions described in section I.B. While daylight overdraft fees are calculated differently for these institutions than for depository institutions, overnight overdrafts at these institutions are generally priced the same as overnight overdrafts at other depository institutions.

1. Edge and Agreement Corporations

Edge[25] and agreement corporations should refrain from incurring daylight overdrafts in their Federal Reserve accounts. In the event that any daylight overdrafts occur, the Edge or agreement corporation must post collateral to cover the overdrafts. In addition to posting collateral, the Edge or agreement corporation would be subject to the daylight-overdraft penalty rate levied against the average daily daylight overdrafts incurred by the institution, as described above.

This policy reflects the Board's concerns that these institutions lack regular access to the discount window and the possibility that the parent company may be unable or unwilling to cover its subsidiary's overdraft on a timely basis. The Board notes that the parent of an Edge or agreement corporation could fund its subsidiary during the day over Fedwire or the parent could substitute itself for its subsidiary on private systems. Such an approach by the parent could both reduce systemic risk exposure and permit the Edge or agreement corporation to continue to service its customers. Edge and agreement corporation subsidiaries of foreign banking organizations are treated in the same manner as their domestically owned counterparts.

2. Bankers' Banks

Bankers banks[26] are exempt from reserve requirements and do not have regular access to the discount window. They do, however, have access to Federal Reserve payment services. The Board's policy provides that bankers' banks should refrain from incurring daylight overdrafts and post collateral to cover any overdrafts they do incur. In addition to posting collateral, a bankers' bank would be subject to the daylight-overdraft penalty fee levied against the average daily daylight overdrafts incurred by the institution, as described above.

The Board's policy for bankers' banks reflects the Reserve Banks' need to protect themselves from potential losses resulting from daylight overdrafts incurred by bankers' banks. The policy also considers the fact that some bankers' banks do not incur the costs of maintaining reserves as do other depository institutions and do not have regular access to the discount window.

Bankers' banks may voluntarily waive their exemption from reserve requirements, thus gaining access to the discount window. Such bankers' banks are free to establish net debit caps and would be subject to the same policy as other depository institutions. The policy set out in this section applies only to those bankers' banks that have not waived their exemption from reserve requirements.

3. Limited-Purpose Trust Companies[27]

The Federal Reserve Act permits the Board to grant Federal Reserve membership to limited-purpose trust companies subject to conditions the Board may prescribe pursuant to the Act. As a general matter, member limited-purpose trust companies do not accept reservable deposits, do not have regular discount-window access, and may not incur daylight overdrafts.

Limited-purpose trust companies are subject to the same daylight-overdraft penalty rate as other institutions that do not maintain reserves and do not have regular discount-window access. Limited-purpose trust companies should refrain from incurring overdrafts and should post collateral to cover any overdrafts they do incur.

4. Problem Institutions

For depository institutions that are in weak financial condition, the Reserve Banks will impose a zero cap. The Reserve Bank will also monitor the institution's activity in real time and reject or delay certain transactions that would create an overdraft. Problem institutions should refrain from incurring daylight overdrafts and must post collateral to cover any daylight overdrafts they do incur.

F. Monitoring

1. Ex Post

Under the ex post monitoring procedures, an institution with a daylight overdraft in excess of its maximum daylight overdraft capacity or net debit cap may be contacted by its Reserve Bank.[28] The Reserve Bank may counsel the institution, discussing ways to reduce its excessive use of intraday credit. Each Reserve Bank retains the right to protect its risk exposure from individual institutions by unilaterally reducing net debit caps, imposing collateralization or clearing-balance requirements, rejecting or delaying certain transactions during the day until the institution has collected balances in its Federal Reserve account, or, in extreme cases, taking the institution off line or prohibiting it from using Fedwire.

2. Real Time

A Reserve Bank will apply real-time monitoring to an individual institution's position when the Reserve Bank believes that it faces excessive risk exposure, for example, from problem banks or institutions with chronic overdrafts in excess of what the Reserve Bank determines is prudent. In such a case, the Reserve Bank will control its risk exposure by monitoring the institution's position in real-time, rejecting or delaying certain transactions that would exceed the institution's maximum daylight overdraft capacity or net debit cap, and taking other prudential actions, including requiring collateral.[29]

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[25] These institutions are organized under section 25A of the Federal Reserve Act (12 U.S.C. 611–631) or have an agreement or undertaking with the Board under section 25 of the Federal Reserve Act (12 U.S.C. 601–604a).

[26] For the purposes of this policy statement, a bankers' bank is a depository institution that is not required to maintain reserves under the Board's Regulation D (12 CFR 204) because it is organized solely to do business with other financial institutions, is owned primarily by the financial institutions with which it does business, and does not do business with the general public. Such bankers' banks also generally are not eligible for Federal Reserve Bank credit under the Board's Regulation A (12 CFR 201.2(c)(2)).

[27] For the purposes of this policy statement, a limited-purpose trust company is a trust company that is a member of the Federal Reserve System but that does not meet the definition of "depository institution" in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)).

[28] Even if the institution is not a state member bank, the Reserve Bank can make this contact when an overdraft occurs in a Federal Reserve account or when the institution is in a net debit position on a system that settles on the books of the Federal Reserve.

[29] Depository institutions that are monitored in real time must fund the total amount of their ACH credit originations when the transactions are processed by the Federal Reserve, even if those transactions are processed one or two days before settlement.

3. Multi-District Institutions

Depository institutions, such as those maintaining merger-transition accounts and U.S. branches and agencies of a foreign bank, that access Fedwire through accounts in more than one Federal Reserve District are expected to manage their accounts so that the total daylight overdraft position across all accounts does not exceed their net debit caps. One Reserve Bank will act as the administrative Reserve Bank and will have overall risk-management responsibilities for institutions maintaining accounts in more than one Federal Reserve District. In the case of families of U.S. branches and agencies of the same foreign banking organization, net debit cap compliance will be monitored by the Reserve Bank that exercises the Federal Reserve's oversight responsibilities under the International Banking Act.[30] The administrative Reserve Bank may determine, in consultation with Reserve Banks in whose territory other U.S. agencies or branches of the same foreign bank are located and with the management of the foreign bank's U.S. operations, that branches and agencies outside its District either will not be permitted to incur overdrafts in Federal Reserve accounts or will be required to allocate part or all of the foreign family's net debit cap (and the responsibility for administering part or all of the collateral requirement) to a Reserve Bank in whose District one or more of the foreign offices operate.[31] For domestic depository institutions that have branches in multiple Federal Reserve Districts, the administrative Reserve Bank generally will be the Reserve Bank where the head office of the bank is located.

[30] 2 USC 3101–3108.

[31] As in the case of Edge and agreement corporations and their branches, with the approval of the designated administrative Reserve Bank, a second Reserve Bank may assume the responsibility of managing and monitoring the net debit cap of particular foreign branch and agency families. This would often be the case when the payments activity and national administrative office of the foreign branch and agency family is located in one District, while the oversight responsibility under the International Banking Act is in another District. If a second Reserve Bank assumes management responsibility, monitoring data will be forwarded to the designated administrator for use in the supervisory process.

G. Transfer-Size Limit on Book-Entry Securities

Secondary-market book-entry securities transfers on Fedwire are limited to a transfer size of $50 million par value. This limit is intended to encourage partial deliveries of large trades in order to reduce position building by dealers, a major cause of book-entry securities overdrafts before the introduction of the transfer-size limit and daylight overdraft fees. This limitation does not apply to either of the following:

a. Original issue deliveries of book-entry securities from a Reserve Bank to a depository institution.

b. Transactions sent to or by a Reserve Bank in its capacity as fiscal agent of the United States, government agencies, or international organizations.

Thus, requests to strip or reconstitute Treasury securities or to convert bearer or registered securities to or from book-entry form are exempt from this limitation. Also exempt are pledges of securities to a Reserve Bank as principal (for example, discount-window collateral) or as agent (for example, Treasury Tax and Loan collateral).

By order of the Board of Governors of the Federal Reserve System, December 10, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–30811 Filed 12–12–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–10–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: Contents of a Request for a Health Hazard Evaluation (OMB No. 0920–0102)—Extension—The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC). The mission of the National Institute for Occupational Safety and Health is to promote safety and health at work for all people through research and prevention.

Each year, in accordance with its mandates under the Occupational Safety and Health Act of 1970 and the Federal Mine Safety and Health Act of 1977, the National Institute for Occupational Safety and Health (NIOSH) responds to approximately 450 requests for health hazard evaluations to identify potential chemical, biological or physical hazards at the workplace. A printed NIOSH form is available for requesting these health hazard evaluations. The form is also available on the Internet and differs from the printed version only in format and in the fact that it uses an Internet address to which recipients can submit the form to NIOSH. Both the printed and Internet versions of the form provide the mechanism for employees, employers, and other authorized representatives to supply the information required by the regulations which govern the NIOSH health hazard evaluation program (42 CFR 85.3–1). In general, if employees are submitting the form it must contain the signatures of three or more current employees. However, regulations allow a single signature if the requestor is one of three (3) or fewer employees in the process, operation, or job of concern. It takes approximately six (6) NIOSH employees about five (5) minutes to evaluate the submitted form. The information provided is used by NIOSH to determine whether there is reasonable cause to justify conducting an investigation. The purpose of investigations conducted in the health hazard evaluation program is to help employers and employees identify and eliminate occupational health hazards. Without the information requested on this form, NIOSH would be unable to perform its legislated function of conducting health hazard evaluations in workplaces. The total annualized burden for this data collection is 90 hours.

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
Employees and Representatives	290	1	12/60
Employers	160	1	12/60

Dated: December 5, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–30759 Filed 12–12–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY–02–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: Willingness to Pay Project—NEW—Epidemiology Program Office (EPO), Centers for Disease Control and Prevention (CDC). The mission of the Prevention Effectiveness Branch is to provide information and training to build internal and external capacity in economic and decision sciences.

This project will use qualitative and quantitative research to develop and test informational approaches (educational materials or product labeling) to educate consumers about food safety issues, develop and test survey instruments and test experimental protocols to be used in the main quantitative data collection; provide a nationally-representative estimate of consumer willingness to pay for (a) Publicly-provided reductions in the probability of contracting foodborne illnesses; (b) reductions in severity of symptoms associated with foodborne illnesses, and (c) materials that facilitate private, defensive precautions against foodborne illness during home food preparation (*e.g.*, meat thermometers, antibacterial soaps and cutting boards). Estimate the effect of education programs and product labeling on willingness to pay for the reductions; compare the empirical estimates of the above mentioned consumer willingness to pay derived from a conjoint analysis instrument and a simulated marketplace experiment.

Public awareness and stated concern regarding foodborne illnesses have increased rapidly over the past decade. The general public, while seemingly well-informed and concerned about some relevant food safety issues, appear unknowledgeable or ill-informed about emerging issues. *The Food Safety Survey* data suggest that information provided to consumers at the point of purchase may be a fruitful means of educating the public about food safety, and analyses of consumer purchase data indicate that health-related information provided at the point of purchase can make significant long-term changes in purchasing behavior.

While providing health-related information about food has been the focus of major policy initiatives in the last few years, little empirical economic research has attempted to understand the market and welfare effects of different health information policies. In addition, previous research does not address the distribution of effects across different consumers. Policy makers and food manufacturers cannot provide labels that satisfy everyone's information desires while simultaneously catering to consumers' cognitive and time constraints. As a result, policy makers need to understand how different sectors of the consumer population will be affected, particularly those members of the population who face relatively high food safety risks.

The lack of information hinders policy makers from making informed decisions on the proper allocation of resources in this area since the benefits or reducing the risk of illness are not well known. Not having the information readily available makes cost-effectiveness and cost-benefit analyses difficult to do as well as resource-intensive. This data collection effort will reduce this burden by making data available to researchers for use in program and policy evaluation. If this data collection effort were not to take place, agencies will either have to continue to piece together data when conducting economic analyses of food safety policies and regulations, or they will fund a large-scale effort like the one being proposed. Another large-scale effort would be a waste of public funds. Providing consumers information about the risks and about protective measures allows consumers to more accurately assess how much they would pay for reductions in this risk, but more importantly, it also informs the consumer as to what the risks are and how they can protect themselves. This information is important since the consumer is the last line of defense in the campaign against foodborne illnesses. The total estimated burden is 1500 hours.

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Survey respondents	3300	1	20/60
Virtual shopping respondents	600	1	40/60

Dated: December 5, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–30760 Filed 12–12–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–09–02]

Agency Forms Undergoing Paperwork Reduction Act Review

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Proposed Project: NIOSH Website for Kids and Teens—New—The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC). The mission of the National Institute for Occupational Safety and Health is to promote safety and health at work for all people through research and prevention.

The goal of this project is to develop a more effective means of communicating NIOSH occupational safety and health (OSH) information to youth via the *NIOSH Website for Kids and Teens*. NIOSH research indicates that approximately 80% of youths are employed at some point before they leave high school. Research also indicates that despite being prevented by child labor laws from engaging in the most dangerous occupations, teens have a higher rate of injury per hour worked than adults. Each year, 70 teens die from work injuries. Another 200,000 are injured on the job each year. Of these, about 100,000 are injured seriously enough to require emergency room treatment.

This project will identify effective promotional methods to assure a high level of awareness of the *NIOSH Website for Kids and Teens* among youth and to generate a high volume of first-time visitors to the website. This project will also develop enhanced website content to increase the relevance of the *NIOSH Website for Kids and Teens* for the youth audience and to insure repeated visits to the website. The Theory of Planned Behavior (TPB) will be used to guide the assessment of youth attitudes and intentions regarding the usage of an OSH website. This information will be used to tailor promotional messages to increase their appeal to youth who report that they would not be likely to visit an OSH website. The effectiveness of the tailored promotional messages will be contrasted with that of untailored messages.

Due to significant differences in cognitive and emotional development, the youth audience targeted by this study will be segmented into three age groups, 5–8, 9–14, and 15–19. These age groups roughly correspond to elementary, middle, and high school. Different website content will be developed for each age group.

Since youth from rural and urban backgrounds have different opportunities for employment, it is expected that youth from these two areas will have different OSH information needs. This study will recruit representative samples of youth from both rural and urban areas. Differences found between youth from these two areas will be used to tailor website content for each group. The impact of this tailoring will be assessed by systematically matching and mismatching this tailored content with representative samples of youth from each area.

The aims of this project will be accomplished in three phases: (1) Representative samples from each of three targeted age groups (5–8, 9–14, 15–19) will be surveyed regarding their preferences for website content, style, promotional channels, behavioral intentions, behavioral norms, and perceived behavioral constraints; (2) Pretesting of enhanced OSH website content and format developed by this study on representative samples of the targeted age groups and of promotional materials; (3) A promotional campaign using a 3 (elementary, middle, and high school age groups) × 2 (tailored promotional messages, untailored promotional messages) × 2 (rural, urban) design. Promotional messages will be placed in venues (such as magazines or television programs) that have youth oriented content. The effectiveness of these promotional channels and messages will be determined by monitoring the volume of visits to the respective internet portal pages for the *NIOSH Website for Kids and Teens*. The total estimated burden is 3,000 hours.

Type of survey	Type of respondents	Number of respondents	Number of responses/respondent	Avg. burden/response (in hrs.)
Audience Need Preference Survey	Elementary, and middle, and high school students.	750	1	2
Pretesting	Elementary, middle, and high school students.	750	1	2

Dated: December 5, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–30761 Filed 12–12–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–06–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written

comments should be received within 30 days of this notice.

Proposed Project: National Survey of Endoscopic Capacity (SECAP)—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC), proposes to conduct a study to provide a national assessment of the current capacity to conduct colorectal cancer (CRC) screening and follow-up examinations for average risk persons aged 50 and older. Colorectal cancer is the second leading cause of cancer-related deaths in the United States. While there is strong scientific evidence that screening for CRC reduces incidence and mortality from this disease, rates of use of screening tests are currently low. Efforts to promote widespread screening for CRC are intensifying among local, state, and federal health agencies and professional organizations nationwide. However, limited information is available regarding the number of health care personnel currently trained and available to perform screening and follow-up examinations.

The proposed study will be conducted through the implementation of a survey which will be mailed to a random sample of 1,800 providers known to possess flexible sigmoidoscopes and colonoscopes, based upon lists provided by major endoscopic equipment manufacturers. The sampling frame will be designed to include providers from all regions of the country and all physician specialists who may be screening for CRC. The survey will provide information on the types of health care providers who are performing CRC screening and follow-up examinations, the equipment currently being used for screening and follow-up examinations, and current reimbursement rates for these tests. The results of the analysis will be used to (1) Identify deficits in the medical infrastructure, (2) guide the development of training initiatives and educational programs for health care providers, and (3) provide critical baseline information for local, state and federal policy makers for the planning of national initiatives to increase colorectal cancer screening.

The total annualize burden for this data collection is 880 hours.

Respondents	Number of respondents	Responses per respondent	Hours per response
Screening Phone Call	1,800	1	5/60
Mailed Survey	1,750	1	25/60

Dated: December 5, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–30762 Filed 12–12–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–54–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: An Assessment of the Feasibility and Need for Support of Cervical Cancer Screening Services in Publicly Funded Sexually Transmitted Disease (STD) Clinics—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control Prevention (CDC).

The National Center for Chronic Disease Prevention and Health Promotion, Division of Cancer Prevention and Control (DCPC) in collaboration with the National Center for HIV, STD, and TB Prevention, Division of STD Prevention proposes to evaluate the need for and suitability of delivering cervical cancer screening services to women receiving health care in public STD clinics. STD clinics provide health services to a population of women considered to be at high risk for human papillomavirus (HPV) infection. Certain HPV types cause abnormal Pap smears and are etiologically linked to cervical cancer. Many women who seek medical attention from STD clinics have limited access to other sources of health care. Moreover, there is limited published information about the cervical cancer screening behaviors or magnitude of cervical dysplasia in this at-risk population. CDC is conducting this project in response to a Congressional mandate encouraging the exploration of alternative strategies and methods to increase access to cervical cancer screening services among medically underserved women.

To determine if STD clinics are an appropriate venue to identify women in need of cervical cancer screening services, DCPC will recruit and enroll a projected sample of 22,680 women attendees of eight publicly funded clinics. Four of the participating clinics will offer cervical cancer screening services and four will not provide these services. To estimate the need for cervical cancer screening among STD clinic attendees, women who meet the project enrollment criteria at all participating clinics will be asked to participate in a brief interview regarding their recent cervical cancer screening history and their need for screening.

For women attending publicly funded STD clinics offering cervical cancer screening services, data will be collected on the results of the screening examination, results of the diagnostic assessments of abnormal screening tests, and the costs associated with cervical cancer screening and follow-up. For women attending clinics not offering cervical cancer screening, attendees determined to be in need of screening will be referred to local providers offering these services.

A sub-study, verifying attendees reports of recent cervical screening services will be conducted on a sample of clinic attendees. Official Pap smear reports will be collected for those women who indicate a Pap smear was performed during the preceding 12 months. Clinic staff and health care provider activities will involve interviewing attendees, determining attendees eligibility status, and verifying Pap test results. The total annualized burden for this data collection is 9,969 hours.

Respondents	Activity	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
STD clinic clients—one time visit	Screening	22,680	1	5/60
	Consent Form	18,144	1	5/60
	Survey	18,144	1	10/60
	Release Form	8,709	1	5/60
Repeat STD clinic clients	Screening	2,250	2	5/60
	Consent Form	2,016	2	5/60
	Survey—1st visit	2,016	1	10/60
	Survey—2nd visit	2,016	1	5/60
	Release Form	968	1	5/60
Healthcare Providers	Copy/mail reports	7,742	1	10/60
Clinic Staff— Baseline Visit	1st meeting	10	8	30/60
	Clinic Dir.	1	8	120/60
	Med. Director	1	8	30/60
	Provider	3	8	30/60
	Outreach staff	3	8	30/60
	Clerical	3	8	30/60
Clinic Staff—4 followup visits—clinic performing cervical cancer screening.	1st meeting	10	4	30/60
	Clinic Dir.	1	4	120/60
	Medical Dir.	1	4	30/60
	Provider	3	4	30/60
	Outreach staff	3	4	30/60
	Clerical	2	4	60/60
Clinic Staff—4 followup visits—clinic not performing cervical cancer screening.	1st meeting	10	4	30/60
	Clinic Dir.	1	4	60/60
	Medical Dir.	1	4	30/60
	Provider	2	4	30/60
	Outreach staff	1	4	30/60
	Clerical	1	4	60/60

Dated: December 5, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–30763 Filed 12–12–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–02–03]

Fiscal Year 2002 Family Violence Prevention and Services Discretionary Funds Program; Availability of Funds and Request for Applications

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Announcement of the availability of funds and request for applications under the Office of Community Services Family Violence Prevention and Services Discretionary Funds Program.

SUMMARY: The Office of Community Services (OCS) announces its Family Violence Prevention and Services discretionary funds program for fiscal year (FY) 2002. Funding for grants under this announcement is authorized by the Family Violence Prevention and Services Act, Public Law 102–295, as amended, governing discretionary programs for family violence prevention and services. Applicants should note that the award of grants under this program announcement is subject to the availability of funds. This announcement contains all forms and instructions for submitting an application.

CLOSING DATE: The closing date for submission of applications is February 11, 2002. Applications postmarked after the closing date will be classified as late. Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing. Detailed application submission instructions, including the addresses where applications must be received, are found in Part IV of this announcement.

Hand delivered applications are accepted during the normal working hours of 8 a.m. to 4:30 p.m. EST at the Family Violence Operations Center: 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209 between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

MAILING ADDRESS: Applications should be mailed to Family Violence Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209; Attention: Application for Family Violence Prevention and Services Program.

Number of Copies Required: One signed original application and four copies are required at the time of initial submission. (OMB–0970–0062, expiration date 01/29/2002.)

Acknowledgement of Receipt: An acknowledgement will be mailed to all applicants with an identification number which will be noted on the acknowledgement. This number must be referred to in all subsequent communications with OCS concerning the application. If an acknowledgment is not received within three weeks after the application deadline, applicants must notify the Family Violence Operations Center by telephone at (703) 351–7676. The applicant should also submit a mailing label for the acknowledgement.

Note: To facilitate receipt of this acknowledgement from ACF, applicant should include a cover letter with the application containing an e-mail address and

facsimile (FAX) number if these items are available to the applicant.

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families, Office of Community Services, Division of State Assistance, 370 L'Enfant Promenade, SW, Washington, DC 20447. Telephone Sunni Knight, (202) 401–5319, James Gray, (202) 401–5705, William Riley (202) 401–5529, or Shena Williams, (202) 205–5932.

For a Copy of the Announcement Contact: Administration for Children and Families, Office of Community Services, 370 L'Enfant Promenade, SW., Washington, DC, 20447. Telephone Shena Williams, (202) 205–5932. Our Web site address is: *http://www.acf.dhhs.gov/programs/ocs* under "Funding Opportunities".

SUPPLEMENTARY INFORMATION: The Office of Community Services, Administration for Children and Families, announces that applications are being accepted for funding for FY 2002 projects on:

FV–01–01—Public Information/Community Awareness Campaign Projects for the Prevention of Family Violence; and

FV–02–02—Collaborative Efforts between Faith-Based Organizations and Domestic Violence Organizations.

This program announcement consists of four parts:

Part I provides information on the family violence prevention and services program and the statutory funding authority applicable to this announcement.

Part II describes the priority areas under which applications for FY 2002 family violence funding are being requested.

Part III describes the applicable evaluation criteria.

Part IV provides other information and instructions for the development and submission of applications.

Part I. Introduction

Title III of the Child Abuse Amendments of 1984, (Pub. L. 98–457, 42 U.S.C. 10401, *et seq.*) is entitled the Family Violence Prevention and Services Act (the Act). The Act was first implemented in FY 1986, was reauthorized and amended in 1992 by Pub. L. 102–295, and was amended and reauthorized for fiscal years 1996 through 2000 by Pub. L. 103–322, the Violent Crime Control and Law Enforcement Act of 1994 and by Pub. L. 104–235, the "Child Abuse Prevention and Treatment Act Amendment of 1996." The Act was most recently amended by the "Victims of Trafficking and Violence Protection Act of 2000" (Pub. L. 106–386, 10/28/2000).

The purpose of this legislation is to assist States in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of family violence and provide immediate shelter and related assistance for victims of family violence and their dependents.

We expect to fund two priority areas in FY 2002:

Public Information/Community Awareness Campaign Projects for the Prevention of Family Violence

1. The purpose of the public information/community awareness projects is to assist in the continued development of state/local public information and community awareness campaign projects and activities that assist in preventing family violence. These projects should provide information on resources, facilities, other individuals seeking assistance, and service alternatives available to family violence victims and their dependents, community organizations, local school districts, and others.

Collaborative Efforts Between Faith-Based Organizations and Domestic Violence Organizations

2. The purpose of this priority area is to support collaborative efforts that would enhance the response to a battered woman whose initial point of contact for help was with a member of a faith-based organization. Further, this priority area seeks to support the development of credible and helpful information from faith-based organizations in order to increase the involvement and leverage from this vital segment of the community.

Part II. Fiscal Year 2002 Family Violence Projects

1. Priority Area FV01–01. Public Information and/or Community Awareness Campaign Projects for the Prevention of Family Violence

Background

Based on the positive response to prior year public information and community awareness grants, ACF will again make these grants available in FY 2002.

Previous public information/community awareness grants have stimulated the development of a number of very effective informational programs and activities at the local levels. They have assisted community organizations to focus on and emphasize prevention; helped make available public service announcements and descriptive program brochures in several different languages, including Russian and Vietnamese; and assisted in the implementation of conflict resolution activities in elementary, middle, and high school curricula. The continuation of these grant awards will help assure that individuals, particularly those within minority communities, are aware of available alternatives and resources for the intervention and prevention of family violence.

This priority area requires the development and implementation of an effective public information campaign that may be used, for example, by public and private agencies, schools, churches, boys and girls clubs, community organizations, and individuals.

Accurate information is critical to any community awareness strategy and activity. How information is communicated must be modified where communication barriers may exist because of perceived or real language differences and cultural insensitivity. OCS seeks to continue to provide victims, their dependents, perpetrators, and others in the community with knowledge of the service options available.

Eligible Applicants

State and local public agencies, Territories, and Native American Tribes and Tribal Organizations who are, or have been, recipients of Family Violence Prevention and Services Act grants; State and local private non-profit agencies experienced in the field of family violence prevention; and public and private non-profit educational institutions, community organizations, community-based coalitions, faith-based organizations, and other entities that have designed and implemented family violence prevention information activities or community awareness strategies.

Minimum Requirements for Project Design

In order to successfully compete under the priority area, the applicant should:

- Present a plan for community awareness and public information activities that clearly reflects how the applicant will target the populations at risk, including pregnant women; coordinate its implementation efforts with public agencies and other community organizations; and communicate with institutions active in the field of family violence prevention.
- Describe the proposed approach to the development of a public information campaign and identify the specific audience(s), community(s), and groups that will be targeted, including

communities and groups with the highest prevalence of domestic violence.

Include, as critical elements in the plan:

- A set of achievable objectives and a description of the population groups, relevant geographic area, and the indicators to be used to measure progress and the overall effectiveness of the campaign;
- The intended strategies for test marketing the development plans, and assurances that effectiveness criteria will be implemented prior to the completion of the final plan;
- The development and use of non-traditional sources as community awareness or information providers (applicants should present specific plans for the use of local organizations, businesses and individuals in the distribution of information and materials);
- The identification of the media to be used in the campaign and the geographic limits of the campaign;
- How the applicant would be responsive and sensitive to minority communities and their cultural perspectives; and
- A description of the kind, volume, distribution, and timing of the proposed information with assurances that the public information campaign activities will not supplant or lower the current frequency of current public service announcements.

Project Duration

The length of the project should not exceed 12 months.

Federal Share of the Project

The maximum Federal share of the project will not exceed $35,000 for the 1-year project period. Applications for lesser amounts also will be considered under this priority area.

Matching Requirements

Successful applicants must provide at least 25 percent of the total cost of the project. The approved total cost of the project is the sum of the ACF share and non-Federal share. Applications for lesser amounts also will be considered under this priority area. Cash or in-kind contributions may meet the non-Federal share, although applicants are encouraged to meet their match requirements through cash contributions. If approved for funding, the applicant will be held accountable for commitments of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds. Therefore, a project requesting $35,000 in Federal funds (based on an award of $35,000 per budget period) must include a match of at least $11,666 (25% of total project cost) for a total budget of $46,666.

Anticipated Number of Projects to be Funded

We anticipate that five projects will be funded at the maximum level. We may fund more than five projects if we receive acceptable applications for lesser amounts.

Priority Area FV–02–02, Collaborative efforts between Faith-Based/Spiritual Organizations and Domestic Violence Organizations

Background

For many women across varying social and economic strata, churches, synagogues, or places of contemplation and spiritual connection may be the only sources of safe and confidential interaction. However, even in these settings of assumed trust and confidentiality, many women who seek counseling are hesitant to expose the nature and extent of their abuse because of fear, shame, guilt, or feelings of human or spiritual failure. Additionally, spiritual leaders, though dedicated to the principles of respect and human dignity for all people, are sometimes unable to recognize the characteristics and results of abusive relationships. Even when recognized, they often lack the resources and information available to provide support that would ensure protection and safety through the resolution of the problem.

Establishing a collaborative effort between faith-based organizations and domestic violence intervention services will help provide organizations with information about the availability of domestic violence intervention services, effectively create additional points of entry to services for victims of family violence, and expand and strengthen the network of knowledgeable service providers.

Some suggested activities applicable under this priority area are:

(a) Plan and implement training and the development of training materials that enable leaders of faith-based organizations to increase the capacity of the faith-based community to understand and appropriately respond to the complexities of domestic violence.

(b) Plan and implement a replicable domestic violence collaborative project that provides information on resources, facilities, and service alternatives to family violence victims and their dependents for use by faith-based organizations.

(c) Plan and implement a domestic violence information and awareness project related to specific population groups such as youth, elderly, disabled, or gay/lesbian/transgender individuals that provide information on the services available to these groups for intervention and prevention.

Eligible Applicants

State and local private non-profit agencies experienced in the field of family violence prevention in collaboration with private non-profit faith-based organizations, public and private non-profit educational/faith-based institutions, associations, or societies, and other entities that have designed and implemented activities related to the prevention of domestic violence as a faith-based issue.

Minimum Requirements for Project Design

This project requires the collaboration between a recognized domestic violence service provider or state domestic violence coalition with a church, synagogue, mosque, faith-based or spiritually-based organization or an organization representing multiple churches, synagogues, mosques, and/or other faith-based entities. Applicant's proposal should include a description of the collaborating domestic violence service provider's organization, domestic violence service experience, and organizational affiliation with the domestic violence community.

The applicant's proposal should address the following:

Demonstrate that the required collaboration has occurred in the preparation and planned implementation of the activities specified in the grant application; and demonstrate that the developed materials and/or training will incorporate guiding principles similar to the following:

- The safety of victims and children is a priority;
- The integrity and authority of each battered woman over her own life is to be respected;
- Perpetrators, not victims, must be held responsible for the abuse and for stopping it; and
- The confidentiality of client information must be ensured.

Include, as critical elements in the plan:

- A set of identified objectives for training, outreach, and the development of training materials;
- Development of an approach and strategy that is useful in providing sensitive and responsive services and/or training.

- A description of the type, distribution and timing of information to be developed and distributed; and
- A description of any non-traditional informational sources, counseling practices, programs, or organizational linkages that might be utilized in the provision of services and information to persons in abusive situations who contact faith-based organizations.

Project Duration

The length of the project should not exceed 12 months.

Federal Share of the Project

The maximum Federal share of the project is not to exceed $37,500 for the 1-year project period. Applications for lesser amounts also will be considered under this priority area.

Matching Requirements

Successful applicants must provide at least 25 percent of the total cost of the project. The approved total cost of the project is the sum of the ACF share and non-Federal share. Cash or in-kind contributions may meet the non-Federal share although applicants are encouraged to meet their match requirements through cash contributions. If approved for funding, the applicant will be held accountable for commitments of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds. Therefore, a project requesting $37,500 in Federal funds (based on an award of $37,500 per budget period) must include a match of at least $12,500 (25% of the total project cost) for a total budget of $50,000.

Anticipated Number of Projects To Be Funded

It is anticipated, subject to the availability of funds, that six projects will be funded at the maximum level; more than six projects may be funded depending on the number of acceptable applications for lesser amounts which are received.

Part III. Evaluation Criteria

Applicants must clearly identify the specific priority area under which they wish to have their applications considered, and tailor their applications accordingly. Previous experience has shown that an application which is broad and more general in concept than outlined in the priority area description is less likely to score as well as one which is more clearly focused and directly responsive to the concerns of that specific priority area.

Using the evaluation criteria below, a panel of at least three reviewers (primarily experts from outside the Federal government) will review each application. Applicants should ensure that they address each minimum requirement in the priority area description under the appropriate section of the Program Narrative Statement.

Reviewers will determine the strengths and weaknesses of each application in terms of the appropriate evaluation criteria listed below and provide comments and assign numerical scores. The point value following each criterion heading indicates the maximum numerical weight that each section may be given in the review process:

1. Need for the Project (10 points)

The extent to which the need for the project and the problems it will address have national and local significance; the applicability of the project to coordination efforts by national, Tribal, State and local governmental and non-profit agencies; its ultimate impact on domestic violence prevention services and intervention efforts, policies and practice; the relevance of other documentation as it relates to the applicant's knowledge of the need for the project; and the identification of the specific topic or program area to be served by the project. Maps and other graphic aids may be attached.

2. Goals and Objectives (10 points)

The extent to which the specific goals and objectives have national or local significance, the clarity of the goals and objectives as they relate to the identified need for and the overall purpose of the project, and their applicability to policy and practice. The provision of a detailed discussion of the objectives and the extent to which the objectives are realistic, specific, and achievable;

3. Approach (30 points)

The extent to which the application outlines a sound and workable plan of action pertaining to the scope of the project, and details about how the proposed work will be accomplished; relates each task to the objectives and identifies the key staff member who will be the lead person; provides a chart indicating the timetable for completing each task, the lead person, and the time committed; cites factors which might accelerate or decelerate the work, giving acceptable reasons for taking this approach as opposed to others; describes and supports any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement; and provides for projections of the accomplishments to be achieved.

The extent to which, when applicable, the application describes the evaluation methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved;

4. Results and Benefits (20 points)

The extent to which the application identifies the results and benefits to be derived; the extent to which they are consistent with the objectives of the application; the extent to which the application indicates the anticipated contributions to policy, practice, and theory; and the extent to which the proposed project costs are reasonable in view of the expected results. The extent to which the application has identified, in specific terms, the results and benefits specific for target groups and human service providers, to be derived from implementing the proposed project; and has described how the expected results and benefits will relate to previous demonstration efforts.

5. Level of Effort: (30 Points)

Staffing pattern—Describe the staffing pattern for the proposed project, clearly linking responsibilities to project tasks and specifying the contributions to be made by key staff.

Competence of staff—Describe the qualifications of the project team including any experiences working on similar projects. Also, describe the variety of skills to be used, relevant educational background, and the demonstrated ability to produce final results that are comprehensible and usable. One or two pertinent paragraphs on each key member are preferred to resumes. However, resumes may be included in the ten pages allowed for attachments/appendices.

Adequacy of resources—Specify the adequacy of the available facilities, resources and organizational experience with regard to the tasks of the proposed project. List the financial, physical and other resources to be provided by other profit and nonprofit organizations. Explain how these organizations will participate in the day to day operations of the project.

Budget—Relate the proposed budget to the level of effort required obtaining project objectives and providing a cost/benefit analysis. Demonstrate that the project's costs are reasonable in view of the anticipated results.

Collaborative efforts—Discuss in detail and provide documentation for

any collaborative or coordinated efforts with other agencies or organizations. Identify these agencies or organizations and explain how their participation will enhance the project. Letters from these agencies and organizations discussing the specifics of their commitment must be included in the application.

Authorship—The authors of the application must be clearly identified together with their current relationship to the applicant organization and any future project role they may have if the project is funded.

Applicants should note that non-responsiveness to the section designated as "Minimum Requirements for Project Design," in the applicable priority areas, will result in a low evaluation score by the panel of expert reviewers.

CFDA: 93.592 Family Violence Prevention and Services: Family Violence Prevention and Services Act, as amended.

Part IV: Other Information and Instructions for the Development and Submission of Applications

A. Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, (EO) "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Program and Activities." Under the EO, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories, except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa and Palau, have elected to participate in the EO process and have established a Single Point of Contact (SPOCs). Applicants from these twenty-three jurisdictions need take no action regarding EO 12372. Applicants for projects to be administered by Federally recognized Indian Tribes are also exempt from the requirements of EO 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that OCS can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations that may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, 4th Floor Aerospace Center, 370 L'Enfant Promenade, SW, Washington, DC 20447.

A list of the Single Point of Contact for each State and Territory is included at the end of this announcement.

B. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Public Law 104–13, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements in regulations, including program announcements. This program announcement does not contain information requirements beyond those approved for ACF grant applications under OMB Control Number 0970–0062. An agency may not conduct or sponsor and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

C. Deadline for Submittal of Applications

The closing date and time for submittal of applications under this program announcement is found at the beginning of this program announcement under **CLOSING DATE.**

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of the date or time of submission and time of receipt.

Late applications: Applications, which do not meet the criteria above, are considered late applications. The ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend the deadline for all applicants due to acts of God, such as floods, hurricanes or earthquakes; widespread disruption of the mails; or if ACF determines a deadline extension to be in the best interest of the Government. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

D. Instructions for Preparing the Application and Completing Application Forms

1. SF 424

Single-sided copies of SF should be used.

At the top of the Cover Page of the SF 424, enter the single priority area number under which the application is being submitted. An application should be submitted under only one priority area.

2. SF 424A Budget Information—Non-Construction Programs

With respect to the 424A, Budget Information—Non-Construction Programs, Sections A, B, C, E, and F are to be completed. Section D does not need to be completed.

In order to assist applicants in correctly completing the SF 424 and 424A, detailed instructions for completing these forms are contained on the forms themselves. See the Instructions accompanying SF 424A, as well as the instructions set forth below.

Section A—Budget Summary

Lines 1–4:

Column (a) Line 1—Enter OCS FVPS Program.

Column (b) Line 1—Enter 93.592.

Columns (c) and (d)—Not Applicable.

Columns (e), (f) and (g)—For lines 1 through 4, enter in appropriate amounts needed to support the project for the entire project period.

Line 5:

Enter the figures from Line 1 for all columns completed, (e), (f), and (g).

Section B—Budget Categories

This section should contain entries for OCS funds only. For all projects, the first budget period will be entered in Column (1).

Allocability of costs is governed by applicable cost principles set forth in the Code of Federal Regulations (CFR), Title 45, parts 74 and 92.

Budget estimates for administrative costs must be supported by adequate detail for the grants officer to perform a cost analysis and review. Adequately detailed calculations for each budget object class are those which reflect

estimation methods, quantities, unit costs, salaries, and other similar quantitative detail sufficient for the calculation to be duplicated. For any additional object class categories included under the object class *other*, identify the additional object class(es) and provide supporting calculations.

Supporting narratives and justifications are required for each budget category, with emphasis on unique/special initiatives; large dollar amounts; local, regional, or other travel; new positions; major equipment purchases; and training programs.

A detailed itemized budget with a separate budget justification for each major item should be included as indicated below:

Line 6a:

Personnel—Enter the total costs of salaries and wages.

Justification—Identify the project director and staff. Specify by title or name the percentage of time allocated to the project, the individual annual salaries and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Line 6b:

Fringe Benefits—Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate, which is entered on Line 6j.

Justification—Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate. Provide a breakdown of amounts and percentages that comprise fringe benefit costs.

Line 6c:

Travel—Enter total cost of all travel by employees of the project. Do not enter costs for consultant's travel.

Justification—Include the name(s) of traveler(s), total number of trips, destinations, length of stay, mileage rate, transportation costs and subsistence allowances. Traveler must be a person listed under the personnel line or employee being paid under non-federal share. (**Note**: Local transportation and Consultant travel costs are entered on Line 6h.)

Line 6d:

Equipment—Enter the total costs of all equipment to be acquired by the project. Equipment means an article of non-expendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for financial statement purposes, or (b) $5,000. [Note: If an applicant's current rate agreement was based on another definition for equipment, such as "tangible personal property $500 or more", the applicant shall use the definition used by the cognizant agency in determining the rate(s). However, consistent with the applicant's equipment policy, lower limits may be set.]

Justification—Equipment to be purchased with Federal funds must be required to conduct the project, and the applicant organization or its subgrantees must not already have the equipment or a reasonable facsimile available to the project.

Line 6e:

Supplies—Enter the total costs of all tangible personal property other than that included on line 6d.

Justification—Provide a general description of what is being purchased such as type of supplies: Office, classroom, medical, etc. Include equipment costing less than $5,000 per item.

Line 6f:

Contractual—Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations including delegate agencies and specific project(s) or businesses to be financed by the applicant.

Justification—Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, the estimated dollar amounts, and selection process of the awards as part of the budget justification. Also provide back-up documentation identifying the name of contractor, purpose of contract, and major cost elements.

Note 1: Whenever the applicant/grantee intends to delegate part of the program to another agency, the applicant/grantee must submit Sections A and B of this Form SF–424A, completed for each delegate agency by agency title, along with the required supporting information referenced in the applicable instructions.

The total costs of all such agencies will be part of the amount shown on Line 6f. Provide draft Request for Proposal in accordance with 45 CFR part 74, Appendix A. All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.

Note 2: Contractual cannot be a person—must be an organization, firm, etc. Enter Consultant cost on Line 6h.

Line 6g:

Construction—Not applicable.

Line 6h:

Other—Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to, insurance, food, medical and dental costs (non-contractual), fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local travel), space and equipment rentals, printing and publication, computer use training costs including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Line 6i:

Total Direct Charges—Enter the total of 6a through 6h.

Line 6j:

Indirect Charges—Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by DHHS or other Federal agencies.

Line 6k:

Totals—Enter the total amount of Lines 6i and 6j.

Line 7:

Program Income—Enter the estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Justification—Describe the nature, source and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources

This section is to record the amounts of *Non-Federal* resources that will be used to support the project. *Non-Federal* resources mean other than OCS funds for which the applicant has received a commitment. Provide a brief explanation, on a separate sheet, showing the type of contribution, broken out by Object Class Category, (See SF–424A, Section B.6) and whether it is cash or third party in-kind. The firm commitment of these required funds must be documented and submitted with the application in order to be given credit in the Criterion.

Except in unusual situations, this documentation must be in the form of letters of commitment or letters of intent from the organization(s)/individuals from which funds will be received.

Line 8:

Column (a)—Enter the project title.

Column (b)—Enter the amount of cash or donations to be made by the applicant.

Column (c)—Enter the State contribution.

Column (d)—Enter the amount of cash and third party in-kind contributions to be made from all other sources.

Column (e)—Enter the total of columns (b), (c), and (d).

Lines 9, 10 and 11:

Leave Blank

Line 12:

Carry the total of each column of Line 8, (b) through (e). The amount in Column (e) should be equal to the amount on Section A, Line 5, Column (f).

Justification—Describe third party in-kind contributions, if included.

Section F—Other Budget Information

Line 21:

Direct Charges—Include narrative justification required under Section B for each object class category for the total project period.

Line 22:

Indirect Charges—Enter the type of DHHS or other Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved, where applicable. Attach a copy of the approved rate agreement.

Line 23:

Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

3. Project Summary Description

Clearly mark this separate page with the applicant name as shown in item 5 of the SF 424, and the title of the project as shown in item 11 of the SF 424. The summary description should not exceed 300 words. These 300 words become part of the computer database on each project.

Care should be taken to produce a summary description which accurately and concisely reflects the application. It should describe the objectives of the project, the approaches to be used and the outcomes expected. The description should also include a list of major products that will result from the proposed project, such as software packages, materials, management procedures, data collection instruments, training packages, or videos (please note that audiovisuals should be closed captioned). The project summary description, together with the information on the SF 424, will constitute the project "abstract." It is the major source of information about the proposed project and is usually the first part of the application that the reviewers read in evaluating the application.

4. Program Narrative Statement

The Program Narrative Statement is a very important part of an application. It should be clear, concise, and address the specific requirements mentioned under the priority area description in Part II. The narrative should also provide information concerning how the application meets the evaluation criteria using the following headings:

(a) Need for the Project;
(b) Goals and Objectives;
(c) Approach;
(d) Results and Benefits; and
(e) Level of Effort.

The specific information to be included under each of these headings is described in Part III, Evaluation Criteria.

The narrative should be typed double-spaced on a single-side of an 8½" x 11" plain white paper, with 1" margins on all sides. All pages of the narrative (including charts, references/footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with "Objectives and Need for the Project" as page number one. Applicants should not submit reproductions of larger size paper, reduced to meet the size requirement.

The length of the application, including the application forms and all attachments, should not exceed 60 pages. A page is a single side of an 8½" x 11" sheet of paper. Applicants are requested not to send pamphlets, maps, brochures or other printed material along with their application as these pose photocopy difficulties. These materials, if submitted, will not be included in the review process if they exceed the 60-page limit. Each page of the application will be counted to determine the total length.

5. Organizational Capability Statement

The Organizational Capability Statement should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is organized, the types and quantity of services it provides, and/or the research and management capabilities it possesses. This description should cover capabilities not included in the Program Narrative Statement. It may include descriptions of any current or previous relevant experience, or describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization should be included.

6. Assurances/Certifications

Applicants are required to file an SF 424B, Assurances—Non-Construction Programs, and the Certification Regarding Lobbying. Both must be signed and returned with the application. In addition, applicants must certify their compliance with:

Drug-Free Workplace Requirements; and

Debarment and Other Responsibilities; and

Certification Regarding Environmental Tobacco Smoke.

These certifications are self-explanatory. Copies of these assurances/certifications are reprinted at the end of this Application Kit and should be reproduced as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug Free Workplace Requirements, and Debarment and Other Responsibilities, and Environmental Tobacco Smoke certifications.

E. The Application Package

Each application package must include an original and four copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or articles of incorporation.

Applicants should include a self-addressed stamped acknowledgement card. All applicants will be notified automatically about the receipt of their application. If acknowledgement of receipt of your application is not received within three weeks after the deadline date, please notify to Family Violence Operations Center by telephone at (703) 351–7676.

F. Post-Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award

which provides the amount of Federal funds approved for use in the project, the project and budget periods for which support is provided, the terms and conditions of the award, the total project period for which support is contemplated, and the total required financial grantee participation.

General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grants, grantees will be subject to the provisions of 45 CFR part 74 or 92.

Grantees will be required to submit semi-annual financial reports (SF 269) throughout the project period, as well as a final progress and financial report within 90 days of the termination of the project.

Grantees are subject to the audit requirements in 45 CFR parts 74 (non-governmental), 92 (governmental), and OMB Circular A–133. If an applicant does not request indirect costs, it should anticipate in its budget request the cost of having an audit performed at the end of the grant period.

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions or Indian Tribes and Tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) To certify that they have neither used nor will use any appropriated funds for payment to lobbyists; (2) to disclose the name, address, payment details, and the purpose of any agreements with lobbyists whom recipients or their subtier contractors or subgrantees will pay with profits or non-appropriated funds on or after December 22, 1989 and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance.

(Catalog of Federal Domestic Assistance number 93.592, Family Violence Prevention and Services)

Dated: December 7, 2001.

Clarence H. Carter,

Director, Office of Community Services.

List of Attachments

Attachment A—Certification Regarding Lobbying
Attachment B—Certification Regarding Debarment
Attachment C—Certification Regarding Environmental Tobacco Smoke
Attachment D—Certification Regarding Drug-Free Workplace
Attachment E—State Single Point of Contact

Attachment A

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Attachment A Page 2
Approved by OMB
0348-0046

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	**Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

BILLING CODE 4184-01-C

Instructions for Completion of SF–LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designated if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment, include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP–DE–90–001."

9. For a covered Federal action when there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348–0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Attachment B

Certification Regarding Debarment, Suspension and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Attachment C

Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Attachment D

Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR part 76, subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

Attachment E

State Single Point of Contact Listing Maintained by OMB

In accordance with Executive Order 12372, "Intergovernmental Review of Federal Programs," Section 4, "the Office of Management and Budget (OMB) shall maintain a list of official State entities designated by the States to review and coordinate proposed Federal financial assistance and direct Federal development." This attached listing is the OFFICIAL OMB LISTING. OMB's point of contact for the SPOC list is Fredrick J. Charney (202) 395–3993 or *grants@omb.eop.gov*. This listing is also published in the Catalogue of Federal Domestic Assistance biannually

October 5, 1999

*OMB State Single Point of Contact Listing**

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone: (602) 280–1315, Fax: (602) 280–8144.

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, Fax: (501) 682–5206.

California

Grants Coordination, State Clearinghouse, Office of Planning & Research, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone: (916) 445–0613, Fax: (916) 323–3018..

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Office of the Budget, 540 S. Dupont Highway, Suite 5, Dover, Delaware 19901, Telephone: (302) 739–3326, Fax: (302) 739–5661.

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Mgmt. & Dev., 717 14th Street, NW. Suite 1200, Washington, DC 20005, Telephone: (202) 727–1700 (direct), (202) 727–6537 (secretary), Fax: (202) 727–1617.

Florida

Florida State Clearinghouse, Department of Community Affairs, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399–2100, Telephone: (850) 922–5438, Fax: (850)

414–0479, Contact: Cherie Trainor, (850) 414–5495.

Georgia

Deborah Stephens, Coordinator, Georgia State Clearinghouse, 270 Washington Street, SW.—8th Floor, Atlanta, Georgia 30334, Telephone: (404) 656–3855, Fax: (404) 656–7901.

Illinois

Virginia Bova, State Single Point of Contact, Illinois Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, Illinois 60601, Telephone: (312) 814–6028, Fax: (312) 814–1800.

Indiana

Renee Miller, State Budget Agency, 212 State House, Indianapolis, Indiana 46204–2796, Telephone: (317) 232–2971 (directline), Fax: (317) 233–3323.

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, Fax: (515) 242–4809.

Kentucky

Kevin J. Goldsmith, Director, Sandra Brewer, Executive Secretary, Intergovernmental Affairs, Office of the Governor, 700 Capitol Avenue, Frankfort, Kentucky 40601, Telephone: (502) 564–2611, Fax: (502) 564–0437.

Maine

Joyce Benson, State Planning Office, 184 State Street, 38 State House Station, Augusta, Maine 04333, Telephone: (207) 287–3261, Fax: (207) 287–6489.

Maryland

Linda Janey, Manager, Plan & Project Review, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 767–4490, Fax: (410) 767–4480.

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 660 Plaza Drive—Suite 1900, Detroit, Michigan 48226, Telephone: (313) 961–4266, Fax: (313) 961–4869.

Mississippi

Cathy Mallette Clearinghouse Officer, Department of Finance and Administration, 550 High Street, 303 Walters Sillers Building, Jackson, Mississippi 39201–3087, Telephone: (601) 359–6762, Fax: (601) 359–6758.

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Jefferson Building, 9th Floor, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, Fax: (314) 751–7819.

Nevada

Department of Administration, State Clearinghouse, 209 E. Musser Street, Room 220, Carson City, Nevada 89710, Telephone: (702) 687–4065, Fax: (702) 687–3983, Contact: Heather Elliot, (702) 687–6367.

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2 1/2 Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, Fax: (603) 271–1728.

New Mexico

Nick Mandell, Local Government Division, Room 201 Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640, Fax: (505) 827–4984.

North Carolina

Jeanette Furney, North Carolina Department of Administration, 116 West Jones Street—Suite 5106, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571.

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, FAX: (701) 224–2308.

Rhode Island

Kevin Nelson, Review Coordinator, Department of Administration, Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 277–2656, FAX: (401) 277–2083.

South Carolina

Omeagia Burgess, State Single Point of Contact, Budget and Control Board, Office of State Budget, 1122 Ladies Street—12th Floor, Columbia, South Carolina 29201, Telephone: (803) 734–0494, FAX: (803) 734–0645.

Texas

Tom Adams, Governors Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 463–1771, FAX: (512) 936–2681.

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1027, FAX: (801) 538–1547.

West Virginia

Fred Cutlip, Director, Community Development Division, W. Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, FAX: (304) 558–3248.

Wisconsin

Jeff Smith, Section Chief, Federal/State Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–0267, FAX: (608) 267–6931.

Wyoming

Sandy Ross, State Single Point of Contact, Department of Administration and Information, 2001 Capitol Avenue, Room 214, Cheyenne, WY 82002, Telephone: (307) 777–5492, FAX: (307) 777–3696.

Territories

Guam

Joseph Rivera, Acting Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96932, Telephone: (671)475–9411 or 9412, FAX: (671)472–2825.

Puerto Rico

Jose Caballero-Mercado, Chairman, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (787) 727–4444, (787) 723–6190, FAX: (787) 724–3270.

North Mariana Islands

Mr. Alvaro A. Santos, Executive Officer, Office of Management and Budget, Office of the Governor, Saipan, MP 96950, Telephone: (670) 664–2256, FAX: (670) 664–2272, Contact person: Ms. Jacoba T. Seman, Federal Programs Coordinator, Telephone: (670) 664–2289, FAX: (670) 664–2272.

Virgin Islands

Nellon Bowry, Director, Office of Management and Budget, #41 Norregade Emancipation Garden, Station, Second Floor, Saint Thomas, Virgin Islands 00802.

Please direct all questions and correspondence about intergovernmental review to: Linda Clarke, Telephone: (809) 774–0750, FAX: (809) 776–0069.

If you would like a copy of this list faxed to your office, please call our publications office at: (202) 395–9068.

*In accordance with Executive Order #12372, "Intergovernmental Review of Federal Programs," this listing represents the designated State Single Points of Contact. The jurisdictions not listed no longer participate in the process but grant applicants are still eligible to apply for the grant even if your state, territory, commonwealth, etc does not have a "state single point of contact." states without "state single points of contact" include: Alabama, Alaska; American Samoa; Colorado; Connecticut; Hawaii; Idaho; Kansas; Louisiana; Massachusetts, Minnesota; Montana; Nebraska; New Jersey; New York; Ohio; Oklahoma; Oregon; Palau; Pennsylvania; South Dakota; Tennessee; Vermont, Virginia; and Washington. This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to the Office of Management and Budget and the State in question. Changes to the list will only be made upon formal notification by the State. Also, this listing is published biannually in the Catalogue of Federal Domestic Assistance.

[FR Doc. 01–30825 Filed 12–12–01; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–2535]

Ciba Specialty Chemicals Corp; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 9B4680) proposing that the food additive regulations be amended to provide for the expanded safe use of 5,7-bis(1,1-dimethylethyl)-3-hydroxy-2(3H)-benzofuranone, reaction products with o-xylene as an antioxidant and/or stabilizer in olefin polymers, adhesives, pressure-sensitive adhesives, and ethylene-vinyl acetate copolymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Anna P. Shanklin, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3093.

(After December 14, 2001, the Center for Food Safety and Applied Nutrition's address will be: 5100 Paint Branch Pkwy., College Park, MD 20740.)

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 6, 1999 (64 FR 42950), FDA announced that a food additive petition (FAP 9B4680) had been filed by Ciba Specialty Chemicals Corp., 540 White Plains Rd., Tarrytown, NY 10591–9005. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the expanded safe use of 5,7-bis(1,1-dimethylethyl)-3-hydroxy-2(3H)-benzofuranone, reaction products with o-xylene as an antioxidant and/or stabilizer for olefin polymers complying with 21 CFR 177.1520, adhesives complying with 21 CFR 175.105, pressure-sensitive adhesives complying with 21 CFR 175.125, and ethylene-vinyl acetate copolymers complying with 21 CFR 177.1350 intended for use in contact with food. Ciba Specialty Chemicals Corp. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: November 16, 2001.

L. Robert Lake,

Director of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 01–30765 Filed 12–12–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0501]

International Cooperation on Harmonisation of Technical Requirements for Approval of Veterinary Medicinal Products (VICH); Draft Guidance for Industry on "Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Summary Update Reports (PSUs)" (VICH GL29); Request for Comments; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry (#142) entitled "Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Summary Update Reports (PSUs)" (VICH GL29). This draft guidance has been developed by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This draft guidance is intended to describe the reporting system for identification of possible adverse events following the use of marketed veterinary medicinal products submitted to the European Union, Japan, and the United States.

DATES: Submit written or electronic comments on the draft guidance by January 14, 2002, to ensure their adequate consideration in preparation of the final document. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine (CVM), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. Comments should be identified with the full title of the draft guidance and the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: William C. Keller, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6642, e-mail: wkeller@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical procedures for the development of pharmaceutical products. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Conference on Harmonisation of Technical Requirements for Approval of Pharmaceuticals for Human Use for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission, European Medicines Evaluation Agency; European Federation of Animal Health; Committee on Veterinary Medicinal Products; FDA; the U.S. Department of Agriculture; the Animal Health Institute; the Japanese Veterinary Pharmaceutical Association; the Japanese Association of Veterinary Biologics; and the Japanese Ministry of Agriculture, Forestry, and Fisheries.

Two observers are eligible to participate in the VICH Steering

Committee: One representative from the Government of Australia/New Zealand and one representative from the industry in Australia/New Zealand. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confédération Mondiale de L'Industrie de la Santé Animale (COMISA). A COMISA representative also participates in the VICH Steering Committee meetings.

II. Draft Guidance on Management of Periodic Summary Update Reports

The VICH Steering Committee held a meeting on June 28, 2001, and agreed that the draft guidance document entitled "Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Summary Update Reports (PSUs)" should be made available for public comment.

This draft guidance should be read in conjunction with the VICH guidance document entitled "Pharmacovigilance of Veterinary Medicinal Products: Management of Adverse Event Reports (AERs)" (VICH GL24) that defines the PSU.

The draft guidance describes harmonized submission timing and submission content for PSU reports. Harmonization of those elements between the VICH regions facilitates the reporting responsibilities for the marketing authorities or drug sponsors, many with worldwide activities. More specifically, the draft guidance presents the terms and definitions intended to harmonize other previously used terms referring to similar pharmacovigilance concepts. The draft guidance describes the various components of information flow within the pharmacovigilance system. Finally, the draft guidance defines data elements that are sufficiently comprehensive to cover complex reports from most sources for the purpose of electronic transmission.

FDA and the VICH Safety Working Group will consider comments about the draft guidance document. Ultimately, FDA intends to adopt the VICH Steering Committee's final guidance and publish it as a final guidance. (Information collection is covered under OMB control number 0910– 0012.)

III. Significance of Guidance

This draft document, developed under the VICH process, has been revised to be consistent with FDA's good guidance practices regulation (21 CFR 10.115). For example, the document has been designated "guidance" rather than "guideline." Because guidance documents are not binding, mandatory words such as "must," "shall," and "will" in the original VICH documents have been substituted with "should." Similarly, words such as "require" or "requirement" have been replaced by "recommendation" or "recommended" as appropriate to the context.

The draft guidance represents the agency's current thinking on management of PSUs of approved new animal drugs. This guidance does not create or confer any rights for or on any person and will not operate to bind FDA or the public. An alternative method may be used as long as it satisfies the requirements of applicable statutes and regulations.

IV. Comments

This draft guidance document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit written or electronic comments regarding this draft guidance document. Written or electronic comments should be submitted to the Dockets Management Branch (address above). Submit written or electronic comments by January 14, 2002, to ensure adequate consideration in preparation of the final guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

V. Electronic Access

Electronic comments may be submitted electronically on the Internet at http://www.fda.gov/dockets/ecomments. Once on this Internet site, select [Docket No. 01D–0501] "Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Summary Update Reports (PSUs)" (VICH GL29) and follow the directions.

Copies of the draft guidance entitled "Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Summary Update Reports (PSUs)" (VICH GL29) may be obtained on the Internet from the CVM home page at http://www.fda.gov/cvm.

Dated: December 3, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–30766 Filed 12–12–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Addendum to the Recovery Plan for the Multi-Island Plants for Public Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability for public review of a draft Addendum to the Recovery Plan for the Multi-Island Plants. There are 10 plant taxa included in this plan, all of which are listed as endangered. All 10 taxa are endemic to the Maui Nui group of islands in the Hawaiian Islands.

DATE: We will consider comments on the draft addendum received by February 11, 2002.

ADDRESSES: Copies of the draft recovery plan addendum are available for inspection, by appointment, during normal business hours at the following locations: U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, Hawaii 96850 (phone 808/541–3441) and Hawaii State Library 478 S. King Street, Honolulu, Hawaii 96813. Requests for copies of the draft addendum and written comments and materials regarding this plan should be addressed to Paul Henson, Field Supervisor, Ecological Services, at the above U.S. Fish and Wildlife Service Honolulu address.

FOR FURTHER INFORMATION CONTACT: Christa Russell, Plant Conservation Program Coordinator, at the above U.S. Fish and Wildlife Service Honolulu address.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, we are working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for downlisting or delisting listed species, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act requires that public notice and an opportunity for public review and comment be provided during recovery plan development. We will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions.

This draft Addendum to the Recovery Plan for the Multi-Island Plants covers 10 plant taxa, all of which are listed as endangered. These 10 Hawaiian plant taxa are endemic to the Maui Nui group of islands in the Hawaiian Islands. This group includes Maui, Molokai, Lanai, and Kahoolawe. Five taxa are endemic to the island of Maui, three taxa are endemic to the island of Lanai, one taxon is endemic to Molokai, and one taxon is endemic to the island of Kahoolawe. The listed plants are: *Clermontia samuellii* (oha wai), *Cyanea copelandii* ssp. *haleakalaensis* (haha), *Cyanea glabra* (haha), *Cyanea hamatiflora* ssp. *hamatiflora* (haha), *Dubautia plantaginea* ssp. *humilis* (naenae), *Hedyotis schlechtendahliana* var. *remyi* (kopa), *Kanaloa kahoolawensis* (kohe malama malama o Kanaloa), *Labordia tinifolia* var. *lanaiensis* (kamakahala), *Labordia triflora* (kamakahala), and *Melicope munroi* (alani).

The 10 taxa included in this draft addendum grow in a variety of vegetation communities (shrublands and forests), elevational zones (coastal to montane), and moisture regimes (dry to wet). These taxa and their habitats have been variously affected or are currently threatened by one or more of the following: competition for space, light, water, and nutrients by introduced vegetation; habitat degradation by wild, feral or domestic animals (pigs, goats, and deer); predation by animals (deer, pigs, goats, rats, slugs, and insects); substrate loss, and collecting for scientific or horticultural purposes. In addition, due to the small number of existing individuals and their very narrow distributions, these taxa and most of their populations are subject to an increased likelihood of extinction and/or reduced reproductive vigor from naturally occurring events such as hurricanes.

The objective of the addendum to the recovery plan is to provide a framework for the recovery of these 10 taxa so that their protection by the Endangered Species Act (ESA) is no longer necessary. The interim objective is to stabilize all existing populations of these 10 plants. To be considered stable, each taxon must be managed to control threats (e.g., fenced) and be represented in an *ex situ* (such as a nursery or arboretum) collection. In addition, a minimum total of three populations of each taxon should be documented on islands where they now occur or occurred historically. Each of these populations must be naturally reproducing and increasing in number, with a minimum of 25 mature individuals per population for long-lived perennials (*Kanaloa kahoolawensis* and *Melicope munroi*) and a minimum of 50 mature individuals per population for short-lived perennials (*Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra, Cyanea hamatiflora* ssp. *hamatiflora, Dubautia plantaginea, Hedyotis schlechtendahlia* var. *remyi, Labordia tinifolia* var. *lanaiensis*, and *Labordia triflora*).

For downlisting, a total of five to seven populations of each taxon should be documented on islands where they now occur or occurred historically. In certain cases, however, a particular taxon may be eligible for downlisting even if all five to seven of the populations are on only one island, provided all of the other recovery criteria have been met and the taxon is not in danger of extinction throughout all or a significant part of its range.

Each of these populations must be naturally reproducing, stable or increasing in number, and secure from threats, with a minimum of 100 mature individuals per population for long-lived perennials and a minimum of 300 mature individuals per population for short-lived perennials. Each population should persist at this level for a minimum of 5 consecutive years before downlisting is considered. A total of 8 to 10 populations of each taxon should be documented on islands where they now occur or occurred historically. As with downlisting, there may be certain cases in which a particular taxon may be eligible for delisting even if all 8 to 10 of the populations are on only one island, provided all of the other recovery criteria have been met and the populations in question are widely distributed and secure enough that one might reasonably conclude that the taxon is not in danger of extinction throughout all or a significant part of its range. Each of these populations must be naturally reproducing, stable or increasing in number, and secure from threats, with a minimum of 100 mature individuals per population for long-lived perennials and a minimum of 300 mature individuals per population for short-lived perennials. Each population should persist at this level for a minimum of 5 consecutive years.

Public Comments Solicited

We solicit written comments on the recovery plan addendum described. All comments received by the date specified above will be considered prior to approval of this plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533 (f).

Dated: August 22, 2001.

Rowan W. Gould,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 01–30773 Filed 12–12–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Renewal Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces the Information Collection Request for Adult Education Annual Report Form OMB #1076–0120 requires renewal. The information collection requirement, with no appreciable changes, is submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before January 14, 2002.

ADDRESSES: Comments are to be mailed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of the Interior, 725 17th Street, Washington, DC 20503. Copies of comments should be sent to William Mehojah, Director, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, 1849

C St. NW, Mail Stop 3512–MIB, Washington, DC 20240, or hand delivered to room 3512 at the above address.

FOR FURTHER INFORMATION CONTACT: Garry Martin, Bureau of Indian Affairs, (202) 208–3478.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection is necessary to assess the need for adult education programs under 25 CFR 46, subpart A, sections 46.20 Program Requirements and 46.30 Records and Reporting Requirements of the Adult Education Program.

We did not receive any comments on our **Federal Register** notice of August 31, 2001 (66 FR 46198). You may still send comments on this collection of information to the Office of Information and Regulatory Affairs, OMB at the address listed in **ADDRESSES** section. Please send copies of these comments to the Director of the Office of Indian Education Programs at the address listed in the **ADDRESSES** section.

II. Method of Collection

The Adult Education Program regulations under 25 CFR 46, subpart A, contain the program requirements which govern the program. Information collected from the contractors will be used for administrative planning, setting long- and short-term goals, and analyzing and monitoring the use of funds.

III. Data

Title of the Collection of Information: Bureau of Indian Affairs Adult Education Program Annual Report Form.

OMB Number: 1076–0120; Expiration Date: November 30, 2001.

Type of Review: Renewal of a currently approved information collection.

Summary of the Collection of Information: The collection of information provides pertinent data on the adult education programs.

Description of the need for the information and proposed use of the information: Submission of this information is necessary to assess the need for adult education programs. The information is needed for the utilization and management of program resources to provide education opportunities for adult American Indians and Alaska Natives to complete high school requirements, and to gain new skills and knowledge for individual student self-enhancement. The information collected with the annual report will be used by the Bureau or tribally-controlled programs for fiscal accountability and appropriate direct services documentation. The results of the data are used for administrative planning.

Affected Entities: Tribal adult education contractors.

Estimated number of respondents: 70. Respondents are tribal adult education program administrators.

Proposed frequency of responses: Annually.

Burden: The estimate of total annual reporting and record keeping burden that will result from the collection of information: Reporting 4 hours per response × 70 respondents = 280 hours.

Estimated Annual Costs: $5,040.00 (4 hours × 70 × $18.00 = salary dollars).

IV. Request for Comments

The Department of the Interior invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden (including the hours and cost) of the proposed collection of information, including the validity of the methodology and assumption used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid Office of Management and Budget Control Number.

This notice is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1.

Dated: November 19, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–30770 Filed 12–12–01; 8:45 am]

BILLING CODE 4310–65–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Realty Action for Proposed Land Use Permit on Public Lands Near Fairbanks, AK

Authority: 43 U.S.C. 1732.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice to the public that certain public lands are available for a non-Federal use.

SUMMARY: The Gas Producers Pipeline Team is comprised of BP Exploration (Alaska), Inc.; ExxonMobil Production Company; and Phillips Alaska, Inc. The Gas Producers Pipeline Team has applied for a permit to use public lands near Fairbanks, Alaska, for a non-Federal purpose. The Bureau of Land Management has determined the lands are available for this use and that publication of this Notice of Realty Action is necessary pursuant to BLM manual 2920.4.

DATES: Submit comments on or before January 7, 2002.

ADDRESSES: Address all comments concerning this notice to Robert Schneider, Field Manager, Northern Field Office, BLM, 1150 University Ave., Fairbanks, AK 99709–3844.

FOR FURTHER INFORMATION CONTACT: Lon Kelly, 907–474–2368.

SUPPLEMENTARY INFORMATION: The Gas Producers Pipeline Team has applied for a permit to use public lands for certain trials of trenching technology. The BLM has determined the lands are available for this non-Federal use. The decision on authorization of the non-Federal use will be made after an evaluation of the application. The application has been assigned the serial number FF093460.

The proposed permit would grant exclusive use of specific public lands for a period of time not to exceed one year, and non-exclusive use for an additional period. The permit would authorize the use of these public lands to conduct trials of trenching machines and related techniques. This work would help assess the potential of trenching technology for use in the

eventual construction of a gas pipeline in Alaska.

The proposed action is in conformance with the White Mountains National Recreation Area Resource Management Plan, dated February 6, 1986.

The parcel proposed for permitting under provisions of section 302 of the Federal Land Policy and Management Act (FLPMA) of 1976 and 43 CFR 2920 is described as follows:

Fairbanks Meridian, Alaska

T.4 N., R.2W., secs. 25 and 31

The parcel affected by the proposed permit is near Washington Creek, just off the Elliott Highway, approximately 20 statute miles north of Fairbanks, Alaska. The test trench site is approximately 800 feet by 2000 feet and encompasses about 36.7 acres. A driveway about 200 feet long will connect the test site with the Elliott Highway. The lands are currently undeveloped. The proposed permit would authorize the digging and rehabilitation of 13 trenches, requiring the removal and replacement of 45,000 cubic yards of material for the trenches. Rent would not be less than the appraised fair market value.

For a period of 25 days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the Northern Field Office Manager at the above address. The 25-day comment period, rather than the customary 45-day period, is necessary to allow expedited evaluation of comments and processing of the permit so work can begin during February 2002, if the application is approved. The work must be conducted in typical winter conditions if the necessary data are to be collected, and a later start would amount to a one-year delay. The BLM manual requires notices of realty action to be published in the **Federal Register**, and then published in a local newspaper for the following three weeks.

In the absence of adverse comments, the application for the proposed use will be processed in accordance with normal procedures.

Dated: December 10, 2001.

Carson W. Culp,

Assistant Director, Minerals, Realty & Resource Protection.

[FR Doc. 01–30864 Filed 12–12–01; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act to 1995, this notice announces that the Bureau of Reclamation (Reclamation) intends to seek approval of the following proposed new information collection: Ririe Reservoir Recreation Survey. Before submitting the information collection request to the Office of Management and Budget for approval, Reclamation is soliciting comments on specific aspects of the information collection.

DATES: Comments on this notice must be received by February 11, 2002.

ADDRESSES: Address all comments concerning this notice to Bureau of Reclamation, Pacific Northwest Regional Office, Attention Ms. Vicki Kellerman, 1150 N. Curtis Road, Suite 100, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposed collection of information form, contact Ms. Vicki Kellerman at (208) 378–5326.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of Reclamation's functions, including whether the information will have practical use; (b) the accuracy of Reclamation's estimated time and cost burdens of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, use, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including increased use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted with 60 days of this publication.

Title: Ririe Reservoir Recreation Survey.

Abstract: Ririe Reservoir is located on Willow Creek, a minor tributary of the Snake River in Bonneville County of eastern Idaho. Ririe Reservoir has recreation attributes that serve Idaho Falls, Ririe, and southeastern Idaho, as well as out-of-state visitors. Primary summer activities consist of boating, swimming, fishing, camping, and picnicking. In general the survey will be used to determine carrying capacity for recreation uses on both Reclamation lands and water, and necessary management actions related to recreation, as identified in the Resource Management Plan for this reservoir. Further, the survey will determine if and when boat ramps, docks, parking, and other facilities need to be expanded for recreation during the next 10 years and if the expansion can be accomplished without detriment to natural, recreational, and cultural resources.

Description of respondents: Ririe Reservoir recreationists from Idaho Falls, Ririe, southeastern Idaho, and an indeterminate diversity of out-of-state visitors to Ririe Reservoir.

Frequency: This is a one-time voluntary survey.

Estimated completion time: An average of 30 minutes per respondent.

Annual responses: 250 respondents.

Annual burden hours: 125.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: November 20, 2001.

Jerrold D. Gregg,

Snake River Office, Area Manager.

[FR Doc. 01–30774 Filed 12–12–01; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Tualatin Basin Water Supply Feasibility Study, Portland, OR

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a Planning Report/Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy

Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) intends to prepare a Planning Report/ Environmental Impact Statement (PR/ EIS) to identify alternatives to meet future water supply needs in the Tualatin River Basin in Oregon. The purpose of the PR/EIS is to evaluate alternative methods of meeting future water supply needs for river flow restoration, municipal water, and agricultural irrigation. The Water Managers Group (WMG), an organization representing municipal water suppliers, agricultural water users, wastewater and stormwater managers, and county facilities managers, indicate that 50,000 additional acre-feet (15 billion gallons) of water per year could be needed by the year 2050 to meet demands in the three water-use sectors of river flow restoration, municipal and industrial demand, and agricultural demand. Reclamation is working with the WMG to evaluate alternatives to meeting this water supply demand because some of the alternatives involve Federal action. Although the study may result in a preferred alternative that does not involve a Federal action, Reclamation is initiating the PR/EIS process to provide appropriate public involvement and assessment of environmental impacts should a Federal action be selected for implementation. Reclamation is requesting public comment and agency input to help identify significant issues related to water supply in the Tualatin Basin to be addressed in the PR/EIS.

DATES: Scoping meetings will be held on the following dates and times:

- Hillsboro, OR:

January 8, 2002; 2 to 4 p.m. and 6 to 8 p.m.

- Portland, OR:

January 9, 2002; 2 to 4 p.m. and 6 to 8 p.m.

Written comments will be accepted through January 16, 2002 for inclusion in the scoping summary document.

ADDRESSES: Comments and requests to be added to the mailing list may be submitted to Bureau of Reclamation, 1150 N. Curtis Road, Suite 100, Mail Code: PN–6303, Boise, ID 83706–1234.

The scoping meetings will be held at the following locations:

- Hillsboro: Clean Water Services, 2550 Hillsboro Hwy. (Hwy. 219), Hillsboro, OR
- Portland: Metro Council Chambers, 600 NE Grand Ave., Portland, OR

The meeting facilities are physically accessible to people with disabilities. Please direct requests for sign language interpretation for the hearing impaired, or other auxiliary aids, to Mike Relf by December 31, 2001 at the telephone, fax or TTY relay numbers listed under the "For Additional Information" section of this notice.

FOR FURTHER INFORMATION CONTACT: Mike Relf, Activity Manager, Pacific Northwest Regional Office, Bureau of Reclamation, (208) 378–5106, fax: (208) 378–5066, or at (208) 378–5106 via toll free TTY relay (800) 833–6388.

SUPPLEMENTARY INFORMATION:

Public Disclosure

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Background

Reclamation is the owner and operator of Scoggins Dam, completed in 1975, which is located on Scoggins Creek, a tributary of the Tualatin River. Henry Hagg Lake, with a storage capacity of 53,600 acre-feet (16.1 billion gallons), is the impoundment created by Scoggins Dam. Stored water in Henry Hagg Lake is currently used for river flow restoration, municipal water supply, and agricultural irrigation throughout the Tualatin River Basin. Henry Hagg Lake also provides park and recreational facilities that are operated by Washington County.

In 1997, a group of public and private agencies charged with managing water resources in the Tualatin Basin began a planning process to evaluate resource and environmental needs within the Basin. The objective was to develop long-term water resource management strategies, as part of a collaborative process. The participating agencies included Clean Water Services and the Joint Water Commission (composed of the cities of Hillsboro, Beaverton, Forest Grove, and the Tualatin Valley Water District), the City of Tigard, Tualatin Valley Irrigation District, Washington County, the Oregon Water Resources Department, and the Lake Oswego Corporation. Results and conclusions of the planning process were described in the 2001 Integrated Water Resources Management (IWRM) Strategy. The IWRM Strategy indicated that 50,000 additional acre-feet (15 billion gallons) of water per year could be needed by the year 2050 to meet demands in the three water-use sectors of river flow restoration, municipal and industrial demand, and agricultural demand.

River Flow Restoration: The IWRM Project identified potential major water supply deficits by the year 2050 in the Tualatin Basin. A major component of unmet need in the Tualatin Basin is water for flow restoration in the Tualatin River. The Tualatin River historically experiences low flows in the summer months, and yields less than 2 percent of its total annual discharge between the months of June and September. Low water flows coupled with high ambient phosphorous levels and high temperatures have created chronic water quality problems, particularly in the lower reaches of the River's mainstem. Impacts from urban development, farming and increased water withdrawals have contributed to the degradation of water quality in the Tualatin River and its tributaries. Clean Water Services is the agency responsible for meeting Federal and state water quality standards established for the River and its major tributaries. Numerical standards have been established by the Oregon Department of Environmental Quality (DEQ) for nutrients, bacteria, dissolved oxygen, and temperature. As one strategy to meet these standards, Clean Water Services maintains contracts for the release of stored water from Henry Hagg Lake and the Barney Reservoir to augment river flow. However, additional flow augmentation is needed in order to meet water quality standards. Clean Water Services has also been charged by the Washington County Board of Commissioners to coordinate the Tualatin watershed's Endangered Species Act (ESA) response to the listing of upper Willamette spring Chinook and winter steelhead as threatened species. The ESA may require higher instream flows and/or changes to flow patterns during critical seasons. For these reasons, Clean Water Services is interested in exploring options for long-term water supply in the Tualatin Basin.

Municipal and industrial demand: Twelve cities are located in the Tualatin Basin, serving a population of 450,000. Current municipal and industrial (M&I) demands total about 10 billion gallons

in the summer months. For the municipalities in the Tualatin Basin, summer-time demand (defined as demand between the months of June and September) must be met by stored supplies in Henry Hagg Lake, the Barney Reservoir (owned by the Joint Water Commission) and by the City of Portland's Bull Run reservoirs. Currently, approximately 30 percent of the M&I demand in the Tualatin Basin is met by importing water from the Bull Run watershed east of Portland. M&I demands are projected to approximately double due to population growth in Washington County over the next 50 years. By 2050, approximately 20 billion gallons (67,000 acre-feet) of stored supply will be needed. This projected summer demand exceeds the capacity of the current supply system. For this reason, the cities in the Tualatin Basin are interested in exploring options for long-term water supply.

Agricultural demand: The Tualatin Valley Irrigation District (TVID) is currently authorized by Federal contract with Reclamation to irrigate up to 17,000 acres in the Tualatin Valley. Natural flows from the Tualatin River are used to supply irrigation needs at the beginning of the season. As river flows decrease, the TVID uses stored water in Henry Hagg Lake to meet irrigation demand. In addition, an undetermined number of agricultural water users are exercising individual water rights to natural flows on the Tualatin River and its tributaries. Trends in agricultural water demand in the Tualatin Basin will depend on population growth patterns, crop types, and market value for agricultural products. Future water supply planning should be able to provide the flexibility to meet increased need for irrigation, or for decreased need for irrigation supply due to increased conservation and efficiency. Even if water demands do not increase over time in this sector, shifts may occur in where and when irrigators withdraw water from the River and its tributaries. These changes may be required as a response to the ESA or other environmental regulations. New water supply projects in the Basin may also cause a shift in demand patterns. For these reasons, long term water supply planning must consider agricultural water use.

Alternatives To Be Considered in the PR/EIS

A range of water supply options will be used to develop alternatives for evaluation in the PR/EIS process. These options currently include, but are not limited to, the following:

- Conserve and reuse water;
- Construct a pipeline to provide irrigation water from the Willamette River;
- Increase the height of Scoggins Dam by 20 feet or by 40 feet;
- Construct impoundments on other tributaries of the Tualatin River;
- Import additional water from other regional water supply sources; and
- No action.

Issues To Be Investigated by the Study

Major issues that will be addressed by the PR/EIS include:

- Engineering feasibility of water supply options;
- Biological evaluation of impacts of water supply options, including wildlife and wildlife habitat, wetlands, fisheries, and special-status species;
- Economics;
- Surface and ground water hydrology;
- Water quality;
- Soils and geology;
- Outdoor recreation;
- Social well-being;
- Environmental justice;
- Sacred Sites;
- Indian trust assets (ITAs); and
- Cultural resources.

Dated: November 27, 2001.

J. William McDonald,

Regional Director, Pacific Northwest Region.

[FR Doc. 01–30775 Filed 12–12–01; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA #223E]

Controlled Substances: Established Initial Aggregate Production Quotas for 2002

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of aggregate production quotas for 2002.

SUMMARY: This notice establishes initial 2002 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act (CSA).

EFFECTIVE DATE: December 13, 2001.

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in Schedules I and II. This responsibility has been delegated to the Administrator of the DEA by § 0.100 of Title 28 of the Code of Federal Regulations.

The 2002 aggregate production quotas represent those quantities of controlled substances that may be produced in the United States in 2002 to provide adequate supplies of each substance for: the estimated medical, scientific, research and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks (21 U.S.C. 826(a) and 21 CFR 1303.11). These quotas do not include imports of controlled substances for use in industrial processes.

On November 13, 2001, a notice of the proposed initial 2002 aggregate production quotas for certain controlled substances in Schedules I and II was published in the **Federal Register** (66 FR 56860). All interested persons were invited to comment on or object to these proposed aggregate production quotas on or before December 4, 2001.

Nine companies commented on a total of thirty-five Schedules I and II controlled substances within the published comment period. The companies commented that the proposed aggregate production quotas for 4-methoxyamphetamine, alfentanil, amphetamine, codeine (for sale), codeine (for conversion), codeine-N-oxide, dextropropoxyphene, difenoxin, dihydrocodeine, diphenoxylate, ecgonine, fentanyl, gamma-hydroxybutyric acid, heroin, hydrocodone (for sale), hydromorphone, meperidine, methadone (for sale), methadone intermediate, methylphenidate, morphine (for sale), morphine (for conversion), morphine-N-oxide, norlevorphanol, normorphine, noroxymorphone (for conversion), opium, oxycodone (for sale), oxycodone (for conversion), oxymorphone, pentobarbital, phenylacetone, secobarbital, sufentanil and thebaine were insufficient to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and for the establishment and maintenance of reserve stocks.

DEA has taken into consideration the above comments along with the relevant 2001 manufacturing quotas, current 2001 sales and inventories, 2002 export requirements and research and product development requirements. Based on this information, the DEA has adjusted the initial aggregate production quotas for alfentanil, codeine (for sale), codeine-N-oxide, dextropropoxyphene,

dihydrocodeine, diphenoxylate, heroin, marihuana, meperidine, methadone intermediate, morphine (for sale), morphine-N-oxide, norlevorphanol, normorphine, opium, oxycodone (for conversion), oxymorphone, phenylacetone, secobarbital and sufentanil to meet the legitimate needs of the United States.

Regarding 4-methoxyamphetamine, amphetamine, codeine (for conversion), difenoxin, ecgonine, fentanyl, gamma-hydroxybutyric acid, hydrocodone (for sale), hydromorphone, methadone (for sale), methylphenidate, morphine (for conversion), noroxymorphone (for conversion), oxycodone (for sale), pentobarbital and thebaine, the DEA has determined that the proposed initial 2002 aggregate production quotas are sufficient to meet the current 2002 estimated medical, scientific, research and industrial needs of the United States.

Pursuant to Part 1303 of Title 21 of the Code of Federal Regulations, the Administrator of the DEA will, in early 2002, adjust aggregate production quotas and individual manufacturing quotas allocated for the year based upon 2001 year-end inventory and actual 2001 disposition data supplied by quota recipients for each basic class of Schedule I or II controlled substance.

Therefore, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the DEA by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator hereby orders that the 2002 initial aggregate production quotas for the following controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	Established initial 2002 quotas
Schedule I	
2,5-Dimethoxyamphetamine	12,501,000
2,5-Dimethoxy-4-ethylamphetamine (DOET)	[illegible]
3-Methylfentanyl	[illegible]
3-Methylthiofentanyl	2
3,4-Methylenedioxyamphetamine (MDA)	15
3,4-Methylenedioxy-N-ethylamphetamine (MDEA)	15
3,4-Methylenedioxymethamphetamine (MDMA)	15
3,4,5-Trimethoxyamphetamine	[illegible]
4-Bromo-2,5-Dimethoxyamphetamine (DOB)	[illegible]
4-Bromo-2,5-Dimethoxyphenethylamine (2–CB)	2
4-Methoxyamphetamine	7
4-Methylaminorex	[illegible]
4-Methyl-2,5-Dimethoxyamphetamine (DOM)	[illegible]
5-Methoxy-3,4-Methylenedioxyamphetamine	2
Acetyl-alpha-methylfentanyl	2
Acetyldihydrocodeine	2
Acetylmethadol	2
Allylprodine	2
Alphacetylmethadol	7
Alpha-ethyltryptamine	[illegible]
Alphameprodine	2
Alphamethadol	2
Alpha-methylfentanyl	2
Alpha-methylthiofentanyl	2
Aminorex	7
Benzylmorphine	2
Betacetylmethadol	2
Beta-hydroxy-3-methylfentanyl	[illegible]
Beta-hydroxyfentanyl	[illegible]
Betameprodine	2
Betamethadol	2
Betaprodine	2
Bufotenine	2
Cathinone	[illegible]
Codeine-N-oxide	52
Diethyltryptamine	[illegible]
Difenoxin	9,000
Dihydromorphine	1,101,000
Dimethyltryptamine	3
Gamma-hydroxybutyric acid	7
Heroin	9
Hydroxypethidine	2
Lysergic acid diethylamide (LSD)	[illegible]
Marihuana	840,000
Mescaline	7
Methaqualone	[illegible]
Methcathinone	9
Morphine-N-oxide	52
N,N-Dimethylamphetamine	7
N-Ethyl-1-Phenylcyclohexylamine (PCE)	[illegible]
N-Ethylamphetamine	7
N-Hydroxy-3,4-Methylenedioxyamphetamine	2

Basic class	Established initial 2002 quotas
Noracymethadol	2
Norlevorphanol	52
Normethadone	7
Normorphine	57
Para-fluorofentanyl	2
Pholcodine	2
Propiram	415,000
Psilocybin	2
Psilocyn	2
Tetrahydrocannabinols	131,000
Thiofentanyl	2
Trimeperidine	2
Schedule II	
1-Phenylcyclohexylamine	12
1-Piperidinocyclohexanecarbonitrile (PCC)	10
Alfentanil	902
Alphaprodine	2
Amobarbital	451,000
Amphetamine	13,964,000
Carfentanil	120
Cocaine	251,000
Codeine (for sale)	43,494,000
Codeine (for conversion)	59,051,000
Dextropropoxyphene	136,696,000
Dihydrocodeine	534,000
Diphenoxylate	708,000
Ecgonine	51,000
Ethylmorphine	12
Fentanyl	440,000
Glutethimide	2
Hydrocodone (for sale)	23,825,000
Hydrocodone (for conversion)	13,500,000
Hydromorphone	1,409,000
Isomethadone	12
Levo-alphacetylmethadol (LAAM)	12
Levomethorphan	2
Levorphanol	37,000
Meperidine	10,037,000
Metazocine	1
Methadone (for sale)	12,705,000
Methadone Intermediate	19,081,000
Methamphetamine	2,315,000
325,000 grams of levo-desoxyephedrine for use in a non-controlled, non-prescription product; 1,950,000 grams for methamphetamine for conversion to a Schedule III product; and 40,000 grams for methamphetamine (for sale)	
Methylphenidate	17,618,000
Morphine (for sale)	17,533,000
Morphine (for conversion)	110,774,000
Nabilone	2
Noroxymorphone (for sale)	25,000
Noroxymorphone (for conversion)	6,000,000
Opium	700,000
Oxycodone (for sale)	40,109,000
Oxycodone (for conversion)	700,000
Oxymorphone	454,000
Pentobarbital	27,728,000
Phencyclidine	21
Phenmetrazine	2
Phenylacetone	10,218,000
Secobarbital	1,002
Sufentanil	2,100
Thebaine	59,090,000

The Administrator further orders that aggregate production quotas for all other Schedules I and II controlled substances included in §§ 1308.11 and 1308.12 of Title 21 of the Code of Federal Regulations be established at zero.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866.

This action does not preempt or modify any provision of state law; nor does it impose enforcement

responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this action does not have federalism implications warranting the application of Executive Order 13132.

The Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The establishment of aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Administrator has determined that this action does not require a regulatory flexibility analysis.

This action meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

This action will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

This action is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This action will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

The Drug Enforcement Administration makes every effort to write clearly. If you have suggestions as to how to improve the clarity of this regulation, call or write Frank L. Sapienza, Chief, Drug & Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

Dated: December 7, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–30821 Filed 12–12–01; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Parole Commission

[(Public Law 94–409) (5 U.S.C. Sec. 552b)]

Record of Vote of Meeting Closure

I, Edward F. Reilly, Jr., Chairman of the United States Parole Commission, was present at a meeting of said Commission which started at approximately 11 a.m. on Thursday, December 6, 2001; at the U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide one appeal from the National Commissioners' decisions pursuant to 28 CFR section 2.27 and the Approval of the Hearing Examiner Appointment. Three Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Edward F. Reilly, Jr., Michael J. Gaines, and John R. Simpson.

In Witness Whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: December 6, 2001.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 01–30881 Filed 12–11–01; 10:40 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10852, et al.]

Proposed Exemptions; Rockford Corporation 401(k) Retirement Savings Plan (the Plan) et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration (PWBA), Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to PWBA via e-mail or FAX. Any such comments or requests should be sent either by e-mail to: *moffittb@pwba.dol.gov*, or by FAX to (202) 219–0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Rockford Corporation 401(k) Retirement Savings Plan (the Plan) Located in Tempe, AZ

[Application No. D–10852]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act (or ERISA) and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[1] If the exemption is granted, the restrictions of sections 406(a)(1)(D), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(D) and (E) of the Code, shall not apply, effective December 30, 1999 until March 15, 2000, to an arrangement, by Rockford Corporation (Rockford), the Plan sponsor, for the reversal of the original purchase of debt securities (the Debentures) previously issued by Rockford (the Reversal Transactions), involving the following transactions affecting the individually-directed accounts in the Plan (the Plan Accounts) of certain Plan participants (the Participants): (1) The purchase, by the Participants, from their Plan Accounts of the Debentures; (2) the distribution in kind of the Debentures by the Plan Accounts to the Participants; (3) the rollover of the Debentures, if distributed in kind to the Participants, into self-directed individual retirement accounts (the IRAs) established by the Participants; and (4) any benefit that may have inured to Rockford by not having to repurchase the Debentures held by the Plan Accounts.

This proposed exemption is subject to the following conditions:

(a) A Form 5330 was filed by Rockford with the Internal Revenue Service (the Service) and all appropriate excise taxes were paid with respect to the Plan's acquisition and holding of the Debentures, as well as for the extension of credit by the Plan to Rockford resulting therefrom.

(b) With respect to each Debenture,

(1) Rockford offered to repurchase such Debentures from each affected Participant's account in the Plan (the Plan Account), at their fair market value, as determined by Arthur Andersen LLP (Arthur Andersen), a qualified, independent appraiser; and

(2) By March 15, 2000 each Debenture was either—(i) repurchased by Rockford; (ii) purchased by or distributed in kind to each Participant whose Plan Account had held such Debentures; and (iii) rolled over, at the election of the Participant, into the Participant's self-directed IRA.

(c) At the time of the Reversal Transactions, each Plan Account received no less than fair market value for the Debentures, which was in excess of their initial cost.

(d) The Plan Accounts paid no fees or commissions in connection with the Reversal Transactions.

(e) Rockford advised each affected Participant in advance of any transaction of the various options available with respect to the divestment of the Debentures from the Participant's Plan Account.

(f) Rockford has maintained, or will cause to be maintained, for a period of six years from the date of such transactions, in a manner capable for audit and examination, such records as are necessary to enable the persons described below in paragraph (g) to determine whether the conditions of this exemption have been met, except that a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Rockford, the records are destroyed prior to the end of the six year period.

(g)(1) Except as provided in paragraph (2) of this section (g) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (f) are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department or the Service;

(B) Any fiduciary of the Plan or any duly authorized employee or representative of such fiduciary; and

(C) Any Participant or beneficiary or duly authorized employee or representative of such Participant or beneficiary.

(g)(2) None of the persons described in subparagraphs (g)(1)(B)–(g)(1)(C) shall be authorized to examine the trade secrets of Rockford or commercial or financial information which is privileged or confidential.

Effective Date: If granted, this proposed exemption will be effective between December 30, 1999 and March 15, 2000.

Summary of Facts and Representations

1. The Plan is a self-directed individual account plan intended to meet the requirements under section 404(c) of the Act. As of February 28, 2001, the Plan had 365 participants who exercised investment discretion over their Plan Accounts and total assets of $5,895,662.

2. The Plan is sponsored by Rockford, a designer, manufacturer and distributor of high performance car audio systems. Rockford is incorporated in the State of Arizona and it maintains its principal place of business at 648 S. River Road, Tempe, Arizona. As of December 31, 2000, Rockford had total assets of $66.9 million and shareholders' equity of $46.3 million.

3. On May 1, 1995, Rockford issued a class of convertible subordinated debentures (*i.e.*, the Debentures) worth $1 million to its shareholders which included certain Participants who were also senior employees and officers of Rockford.[2] The Debentures have a maturity date of May 1, 2002 and provide for quarterly payments of interest, at the annualized rate of 8.5 percent. At maturity, the Debentures require a full return of principal. The Debentures are also convertible into common stock at any time before their redemption or maturity at a face value of $10.50 per share.

4. The Participants were free to acquire the Debentures with their personal funds, other savings, or the balances in their Plan Accounts. However, because these Participants did not have sufficient funds to purchase the securities in their personal capacity, they suggested that Rockford amend the Plan's investment options to permit

[1] For purposes of this proposed exemption, references to provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[2] Because of the requirements of the securities laws, the Debentures could only be offered to Rockford's current shareholders or option holders.

such investments by certain Plan Accounts. Therefore, Rockford amended the Plan and only 20 Participants acquired the Debentures for their respective Plan Accounts. It is represented that the acquisition of the Debentures by each Plan Account was based on the exercise of control by the Participant who directed such purchase and was not motivated or influenced by Rockford.

The Debentures were issued in amounts based upon the original principal amounts invested. There was no minimum amount required in connection with such purchases. As noted in the following table, some Participants invested over 25 percent of the assets in their Plan Accounts in the Debentures.[3]

Participant	Plan account balance or employee rollover	Purchase price paid for debentures or face value	Percent of vested balance
R. Trout	$41,668.65	$10,000.00	24
A. Zimmerman	58,984.16	15,755.00	27
G. Church	12,936.47	3,521.00	27
T. Coulson	23,095.67	704.00	3
H. Kane	17,402.39	3,521.00	20
W. Turner	50,301.94	3,521.00	7
A. Gitch	21,441.30	11,056.00	52
H. Parvin (Chris)	36,896.55	5,000.00	14
J. Harris II (Wayne)	53,251.36	39,500.00	74
M. Williams	12,408.85	704.00	6
R. Gentry	14,048.23	1,760.00	13
M. Lowe	8,342.00	2,112.00	25
M. Rudolph	2,589.73	1,300.00	50
L. Ferris	9,975.33	5,000.00	50
M. Albers	40,300.31	3,520.00	9
J. Thompson; Rollover	50,000.00	50,000.00	100
D. Hammerle	5,338.90	1,789.00	34
D. Boshes	13,326.13	7,042.00	53
D. Boshes; Rollover	13,000.00	13,000.00	100
V. Hodson	114.88	114.00	99
D. Richards	7,580.02	4,250.00	56

In the aggregate, the Plan Accounts purchased approximately 18 percent (or $183,169.54) of the $1 million issue while Rockford's other shareholders purchased the remaining 82 percent of the Debentures. The Plan Accounts paid no fees or commissions to Rockford in connection with such acquisitions.

5. During the course of a routine audit of the Plan in March 1999, Ernst & Young, LLP (Ernst & Young), the Plan's accountants, questioned whether the Debentures constituted "qualifying employer securities" within the meaning of section 407(d)(5) of the Act.[4] Based upon a variety of legal advice, Rockford considered this question and subsequently determined that the Debentures failed to meet the requirements of section 407(e)(2)(B) of the Act because 50 percent of the Debentures were not held by persons which were independent of Rockford.[5] Therefore, Rockford filed a Form 5330 with the Service on April 7, 2000 and paid excise taxes on July 6, 2000 to cover the prohibited transactions arising from the acquisition and holding of the Debentures by the Plan Accounts, as well as in connection with prohibited extensions of credit by the Plan Accounts to Rockford.

6. It is represented that the Debentures were never in default or delinquency and they appreciated significantly in value following their acquisition by the Plan Accounts. Between May 1, 1995 and March 15, 2000, the Participants earned interest payments as follows with respect to the Debentures:

[3] The Department is not providing retroactive exemptive relief with respect to the original acquisition of the Debentures by the Plan Accounts. As stated later in this proposal, Rockford has already paid excise taxes to the Service with respect to prohibited transactions arising in connection with the original acquisition and holding of the Debentures by the Plan Accounts, including prohibited extensions of credit by the Plan Accounts to Rockford.

[4] Section 407(d)(5)(B) of the Act states that the term "qualifying employer security" means an employer security which is a marketable obligation (as defined in section 407(e) of the Act). Section 407(e) of the Act states that, for purposes of section 407(d)(5) of the Act, the term "marketable obligation" means a bond, debenture, note, or certificate, or other evidence of indebtedness if—

(1) such obligation is acquired—

(A) on the market, either (i) at the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (ii) if the obligation is not traded on such national securities exchange, at a price not less favorable to the plan than the offering price for the obligation as established by the current bid and asked prices quoted by persons independent of the issuer;

(B) from an underwriter, at a price (i) not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, and (ii) at which a substantial portion of the same issue is acquired by persons independent of the issuer; or

(C) directly from the issuer, at a price not less favorable to the plan than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;

(2) immediately following acquisition of such obligation—

(A) not more than 25 percent of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the plan, and

(B) at least 50 percent of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer; and

(3) immediately following acquisition of the obligation, not more than 25 percent of the assets of the plan is invested in obligations of the employer or an affiliate of the employer.

[5] According to the exemption application, the purchase of the Debentures was noted in the 1995 financial statements without comment. In the 1996 financial statements, Ernst & Young reportedly questioned whether the Debentures had been offered to a nondiscriminatory group, as required under Code qualification rules. The comment was repeated in the 1997 and 1998 financial statements. In March 1999, Ernst & Young decided to review various regulatory issues related to the Debentures and retained legal counsel for consultation on the discrimination issue and qualifying employer securities matter. However, these issues were resolved with the Service in a closing agreement dated July 19, 2001.

Participant	2d Q '95 (in $s)	3d Q '95—4th Q '99 (in $s)	1st Q '00	Total interest (in $s)
R. Trout	141.67	3,825.00	223.20	3,966.67
A. Zimmerman	223.20	6,026.22	31.59	6,472.62
G. Church	49.88	1,346.76	4.32	1,428.23
T. Coulson	9.97	269.28	31.59	298.53
H. Kane	49.88	1,346.76	.....	1,428.23
W. Turner	49.88	1,346.76	62.53	1,396.64
A. Gitch	156.63	4,228.92	106.25	4,447.90
H. Parvin (Chris)	70.83	1,912.50	.....	2,089.58
J. Harris II (Wayne)	559.58	15,108.84	2.16	15,668.42
M. Williams	9.97	269.28	5.40	281.41
R. Gentry	24.93	673.20	6.48	703.53
M. Lowe	29.92	807.84	7.98	844.24
M. Rudolph	18.42	497.34	.....	523.74
L. Ferris	70.83	1,912.50	.....	1,983.33
M. Albers	49.87	1,346.40	.....	1,396.27
J. Thompson; Rollover	.....	19,125.00	10.98	19,125.00
D. Hammerle	25.35	684.36	.....	720.69
D. Boshes	99.76	4,972.50	.....	5,072.26
D. Boshes; Rollover	.....	2,603.52	.....	2,603.52
V. Hodson	1.62	43.56	.....	45.18
D. Richards	60.21	1,625.76	.....	1,685.97

[1] Figures are approximate.

In addition, an annual fee of $1,000 was either paid by Rockford or the Plan's forfeiture account to The Principal Financial Group, the Plan administrator and recordkeeper, as well as an unrelated party, in connection with the holding of the Debentures by the Plan Accounts.

7. The Debentures were valued on December 16, 1999 by Messrs. James C. Gari, CFA, Manager, Financial Valuation, and Andrew W. Fernandez, Consultant, Financial Valuation, both of whom are employed by the Chicago, Illinois office of Arthur Andersen, which was retained by Rockford as a qualified, independent appraiser. The fees received by Arthur Andersen in connection with the appraisal were paid by Rockford and they represented less than one percent of Arthur Andersen's annual gross income.

In their appraisal report, the appraisers treated the Debentures as a minority interest in the common stock of Rockford because the convertibility feature of the Debentures would permit their conversion into a total of 94,742 shares [6] of common stock (of which 17,435 shares of common stock were allocated to the Plan Accounts), at any time before redemption or maturity. The value of the common stock had increased significantly in value, thus, resulting in a substantial appreciation in the value of the Debentures. Thus, utilizing the Income Approach's discounted cash flow analysis to valuation, the appraisers placed the fair market value of the stock at $20.50 per share, as of November 1, 1999.

Based on the Arthur Andersen appraisal, the total fair market value of the minority interest relating to all of the Debentures was $1,942,211. Of this amount, $357,417.50 was attributed to the Debentures held by the Plan Accounts which can be broken down as follows for each affected Participant:

Participant	Face value	Fair market value	Number of shares
R. Trout	$10,000.00	$19,516.00	952
A. Zimmerman	15,755.00	30,750.00	1,500
G. Church	3,521.00	6,867.00	335
T. Coulson	704.00	1,373.50	67
H. Kane	3,521.00	6,867.50	335
W. Turner	3,521.00	6,867.50	335
A. Gitch	11,056.00	21,566.00	1,052
H. Parvin (Chris)	5,000.00	9,758.00	476
J. Harris II (Wayne)	39,500.00	77,100.50	3,761
M. Williams	704.00	1,373.50	67
R. Gentry	1,760.00	3,423.50	167
M. Lowe	2,112.00	4,120.50	201
M. Rudolph	1,300.00	2,521.50	123
L. Ferris	5,000.00	9,758.00	476
M. Albers	3,520.00	6,867.50	335
J. Thompson; Rollover	50,000.00	97,600.50	4,761
D. Hammerle	1,789.15	3,485.00	170
D. Boshes	7,042.00	13,735.00	670
D. Boshes; Rollover	13,000.00	25,379.00	1,238
V. Hodson	114.00	205.00	10

[6] The 94,742 shares of common stock representing the Debentures constituted 2 percent of Rockford's common stock.

Participant	Face value	Fair market value	Number of shares
D. Richards	4,250.39	8,282.00	404
Totals	183,169.54	357,417.50	17,435

8. Rockford believed that Participants whose Plan Accounts were invested in the Debentures could consider themselves to be adversely affected if the transaction were reversed by Rockford's repurchase of the Debentures. This was because the Participants would lose the future potential increase in value that they had hoped to realize by reason of such investment. Therefore, Rockford advised each Participant, whose Plan Account had been invested in the Debentures, that he or she could elect to (a) have Rockford purchase the Debentures from their respective Plan Account, at fair market value, as determined by a qualified, independent appraiser; (b) purchase the Debentures from his or her respective Plan Account at fair market value or receive an in kind distribution of the Debentures from the Participant's Plan Account; or (c) rollover the Debentures at their fair market value into the Participant's self-directed IRA, if the distribution was in kind. The Participants were further advised that although the choice of alternatives was entirely up to them, the Debentures could not remain in the Plan.[7]

To facilitate a Participant's purchase of Debentures from his or her Plan Account, Rockford also offered to make market rate loans to the Participants. However, no Participants took advantage of Rockford's offer.

For purposes of repurchasing the Debentures, Rockford and the Participants relied upon the Arthur Andersen appraisal to determine fair market value. Thus, between December 30, 1999 and March 15, 2000, the Debentures held by the Plan Accounts were either (a) repurchased by Rockford; (b) purchased by the Participant or distributed in kind to the Participant; or (c) rolled over, at the election of such Participant, into a self-directed IRA, if the distribution was in kind. The transactions can be summarized as follows:

Participant	Face value	Fair market value	Disposition
R. Trout	$10,000.00	$19,516.00	Rollover[1].
A. Zimmerman	15,755.00	30,750.00	Rollover.
G. Church	3,521.00	6,867.00	Rep. Rockford.[2]
T. Coulson	704.00	1,373.50	Rep. Rockford.
H. Kane	3,521.00	6,867.50	Rep. Rockford.
W. Turner	3,521.00	6,867.50	Rep. Rockford.
A. Gitch	11,056.00	21,566.00	Rep. Rockford.
H. Parvin (Chris)	5,000.00	9,758.00	Rollover.[2]
J. Harris II (Wayne)	39,500.00	77,100.50	Roll/Rep. Part.[3]
M. Williams	704.00	1,373.50	Rep. Rockford.
R. Gentry	1,760.00	3,423.50	Rep. Rockford.
M. Lowe	2,112.00	4,120.50	Rep. Rockford.
M. Rudolph	1,300.00	2,521.50	Rep. Rockford.
L. Ferris	5,000.00	9,758.00	Rollover.
M. Albers	3,520.00	6,867.50	Rollover.
J. Thompson Rollover	50,000.00	97,600.50	Rollover.
D. Hammerle	1,789.15	3,485.00	Rep. Rockford.
D. Boshes	7,042.00	13,735.00	Rollover.
D. Boshes Rollover	13,000.00	25,379.00	Rollover.
V. Hodson	114.00	205.00	Rollover.
D. Richards	4,250.39	8,282.00	Rollover.
Total	183,169.54	357,417.50	

[1] Rollovers include distributions in kind.
[2] Repurchased by Rockford.
[3] Rollover/Repurchased by Participant.

The Plan Accounts paid no fees or commissions in connection with the Reversal Transactions.

9. Rockford believes that its repurchase of the Debentures from the Plan Accounts can be viewed as a "correction" of a prior prohibited transaction under section 4975 of the Code.[8] Rockford has, however, requested an administrative exemption from the Department with respect to its arrangement whereby Participants were permitted to (a) purchase the Debentures directly from their Plan Accounts, (b) receive distributions in kind of such Debentures from their Plan Accounts, or (c) roll over such Debentures into self-directed IRAs, if the distribution was in kind. Rockford states that exemptive relief is required to the extent the initial acquisition and

[7] It is represented that the sale of the Debentures to Rockford would not raise any tax issues for the Participants inasmuch as the transaction was simply the reversal of a prior prohibited transaction. It is also represented that the distribution option offered to Participants would pose income tax consequences while the rollover option would not.

[8] In this regard, the Department has no jurisdiction with respect to the meaning of "correction" under section 53.4941(e)–1(c)(1) of the Foundation Excise Tax Regulations, which applies to prohibited transactions under section 4975 of the Code by reason of Temporary Pension Excise Tax Regulation 141.4975–13. Under section 53.4941(e)–1(c)(1), any correction pursuant to section 4941 of the Code is not a prohibited act of self-dealing. Therefore, the Department expresses no opinion herein on whether the repurchase of the Debentures by Rockford from the affected Plan Accounts was a correction within the meaning of 53.4941(e)–1(c)(1).

holding of the Debentures by the Plan Accounts (including the extension of credit transaction) were not "corrected," within the meaning of section 4975 of the Code, by the subsequent Participant actions. Additionally, exemptive relief is required to the extent Rockford received a benefit by not having to repurchase any of the Debentures held by the Plan Accounts.

10. To document each Reversal Transaction, Rockford is maintaining for a period of six years from the date of such transaction, records that will enable certain persons, such as employees of the Department or the Service, Plan fiduciaries, Participants or their beneficiaries, to determine whether the conditions of the exemption have been met. Such records are being made available at their customary location for examination during normal business hours.

11. In summary, it is represented that the arrangement satisfied the statutory criteria for an exemption under section 408(a) of the Act because:

(a) Rockford filed a Form 5330 with the Service and paid appropriate excise taxes that were due with respect to the transactions arising during the Plan's ownership of the Debentures;

(b) Rockford offered to repurchase the Debentures from each affected Participant's Plan Account, and by March 15, 2000, each Debenture was either (i) repurchased by Rockford; (ii) purchased by a Participant whose Plan Account had been invested in the Debentures, or (iii) distributed in kind to a Participant whose Plan Account had held the Debentures; or (iii) rolled over, at the election of the Participant into a self-directed IRA, if the distribution was in kind.

(c) Each Plan Account received fair market value for the Debentures, which was an amount in excess of their initial cost.

(d) The fair market value of the Debentures, which was equated to the value of a minority interest in Rockford common stock, was determined by Arthur Andersen, a qualified, independent appraiser.

(e) Rockford will maintain for a period of six years from the date of each Reversal Transaction, in a manner capable for audit and examination, records of the transaction in order that certain persons, such as employees of the Department or the Service, Plan fiduciaries, Participants or their beneficiaries, can determine that the conditions of the exemption have been met.

For Further Information Contact: Ms. Jan D. Broady, U.S. Department of Labor, (202) 219–8881. (This is not a toll-free number.)

Massachusetts Mutual Insurance Company (MassMutual) Located in Springfield, Massachusetts

[Application No. D–10869]

Proposed Exemption

The Department is considering the grant of the following exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

Section I. Retroactive Exemption for the Purchase of Fund Shares

For the period from April 1, 1995 until the date this proposed exemption is granted, the restrictions of sections 406(a) and 406(b) of the Act and the taxes imposed by section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the purchase by an employee benefit plan (the Client Plan) (directly or through a single customer or pooled separate account or other pooled vehicle) of shares of one or more diversified open-end management investment companies (Fund or Funds) in exchange for Client Plan assets transferred in-kind to a Fund from a single customer or pooled separate account or other pooled vehicle holding plan assets maintained by MassMutual (a Separate Account), where MassMutual or its affiliate is the Fund's investment adviser and a Client Plan fiduciary, provided the following conditions have been met: [9]

(a) No sales commissions, redemption fees, or other fees are paid by the Client Plan in connection with the purchase of Fund shares by a Client Plan.

(b) All transferred assets are either cash or securities for which market quotations are readily available.

(c) The assets transferred in-kind to the Funds constitute the Client Plan's pro rata portion of the assets held by the Separate Account immediately prior to the transfer.

(d) The Client Plan receives Fund shares having a total net asset value equal to the value of the assets transferred by the Client Plan on the date of the transfer, as determined in a single valuation performed in the same manner at the close of the same business day with respect to all Client Plans participating in the transaction on such date, in accordance with the procedures set forth in Rule 17a–7 of the Investment Company Act of 1940 (the 1940 Act) (using sources independent of MassMutual and the Fund) and the procedures established by the Funds pursuant to Rule 17a–7 for the valuation of such assets.

(e) An Independent Fiduciary with respect to each Client Plan receives advance written notice of an in-kind transfer and purchase of assets and full written disclosure of information concerning the Funds, including:

(1) A current prospectus for each Fund to which the Separate Account's assets may be transferred, updated as necessary;

(2) A statement describing the investment advisory and other fees to be charged to, or paid by, a Client Plan and the Funds to the Fund Adviser, including the nature and extent of any differential between the rates of the fees paid by the Fund and the rates of the fees paid by the Client Plan in connection with the Client Plan's investment in the Separate Account;

(3) A statement of the reasons why MassMutual considers such investment to be appropriate for the Client Plan; and

(4) A statement describing whether there are any limitations applicable to MassMutual with respect to which Client Plan assets may be invested in Fund shares, including the nature of the limitations.

(f) The Independent Fiduciary may: (1) Opt-out of the in-kind transfer of the Client Plan's interest in the Separate Account for shares of the Funds (including by selling its interest in a pooled vehicle) without penalty; or (2) approve the in-kind transfer (on the basis of the prospectus and disclosure referred to in paragraph (e) of this Section) consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act. Approval for the in-kind transfer of a Client Plan's interest in the Separate Account in exchange for Fund shares may be presumed notwithstanding that MassMutual does not receive any response from a Client Plan pursuant to MassMutual's two written requests (one by certified mail) for such approval, provided that the first such request occurs at least 90 days before the in-kind transfer and the second such request occurs within 45 days thereafter.

(g) MassMutual sends a written confirmation by regular mail or personal delivery to the Independent Fiduciary of

[9] The Department notes that the proposed exemption would not provide relief for any prohibited transactions that may arise in connection with terminating a separate investment account, or permitting certain plans to withdraw from a separate investment account that is not terminating, or liquidating or transferring any plan assets held by the separate investment account.

each Client Plan participating in the in-kind transfer, no later than 105 days after completion of each purchase, containing:

(1) The number of Separate Account units held by the Client Plan immediately before the transfer, and the related per unit value and the total dollar amount of such units; and

(2) The number of Fund shares held by the separate account immediately following the transfer, and the related per share net asset value and the total dollar amount of such shares.

(h) All other dealings between the Client Plan and the Funds are on a basis no less favorable to the Client Plan than dealings between the Funds and other shareholders holding the same class of shares as the Client Plans.

(i) Conditions (a) and (f) of Section III have been met.

Section II. Prospective Exemption for the Purchase of Fund Shares

If this proposed exemption is granted, the restrictions of sections 406(a) and 406(b) of the Act and the taxes imposed by section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code, shall not apply to the purchase by a Client Plan (directly or through a single customer or pooled separate account or other pooled vehicle) of shares of one or more Fund(s) in exchange for Client Plan assets transferred in-kind to a Fund from a Separate Account, where MassMutual or its affiliate is the Fund's investment adviser and a Client Plan fiduciary, provided that the following conditions are met:

(a) The assets transferred in-kind to the Funds constitute the Client Plan's pro rata portion of the assets held by the Separate Account immediately prior to the transfer. Notwithstanding the foregoing, the allocation among Client Plans of fixed-income securities held by a Separate Account on the basis of each Client Plan's pro rata share of the aggregate value of such securities will not fail to meet the requirements of this subsection if:

(1) The aggregate value of the fixed-income securities does not exceed one percent of the total value of the assets held by the Separate Account immediately prior to the transfer; and

(2) Such securities have the same coupon rate and maturity, and at the time of the transfer, the same credit ratings from nationally recognized statistical rating agencies.

(b) An Independent Fiduciary with respect to each Client Plan receives advance written notice of the in-kind transfer and purchase and full written disclosure of information concerning the Funds including:

(1) The identity of the securities that will be valued in accordance with Rule 17a–7(b)(4) under the 1940 Act;

(2) The identity of any fixed-income securities allocated on the basis of each Client Plan's pro rata share of the aggregate value of such securities pursuant to Section II (a);

(3) Upon request of the Independent Fiduciary, a copy of the proposed exemption and/or a copy of the final exemption, once such documents are published in the **Federal Register**; and

(4) The date on which the in-kind purchase will take place.

(c) MassMutual sends by regular mail or personal delivery to the Independent Fiduciary of each Client Plan that purchases Fund shares pursuant to the in-kind transfer:

(1) not later than 30 days after the completion of the purchase, a written confirmation containing:

(A) The identity of each security valued in accordance with Rule 17a–7(b)(4) under the 1940 Act;

(B) The current market price, as of the date of the in-kind transfer, of each such security involved in the purchase of Fund shares; and

(C) The identity of each pricing service or market-maker consulted in determining the current market price of such securities; and

(2) not later than 90 days after each in-kind transfer, a written confirmation which contains:

(A) the number of Separate Account units held by such affected Client Plan immediately before the in-kind transfer (and the related per unit value and the aggregate dollar value of the units transferred); and

(B) the number of shares in the Funds that are held by such affected Client Plan following the in-kind transfer (and the related per share net asset value and the aggregate dollar value of the shares received).

(d)(1) MassMutual provides the Independent Fiduciary of each Client Plan holding shares of the Funds with—

(A) A copy of an updated prospectus of such Fund, at least annually; and

(B) Upon request of the Independent Fiduciary, a report or statement (which may take the form of the most recent financial report, the current statement of additional information, or some other written statement) containing a description of all fees paid by the Fund to MassMutual or its affiliates.

(2) With respect to each of the Funds in which a Client Plan invests, in the event such Fund places brokerage transactions with an affiliate of MassMutual, MassMutual will provide the Independent Fiduciary of such Client Plan at least annually with a statement specifying:

(A) The total, expressed in dollars, of brokerage commissions of each Fund's investment portfolio that are paid to an affiliate of MassMutual by such Fund;

(B) The total, expressed in dollars, of brokerage commissions of each Fund's investment portfolio that are paid by such Fund to brokerage firms unrelated to MassMutual;

(C) The average brokerage commissions per share, expressed as cents per share, paid to an affiliate of MassMutual by each portfolio of a Fund; and

(D) The average brokerage commissions per share, expressed as cents per share, paid by each portfolio of a Fund to brokerage firms unrelated to MassMutual.

(e) The Independent Fiduciary may: (1) opt-out (including by selling its interest in a pooled vehicle) of the in-kind exchange of the Client Plan's interest in the Separate Account for shares of the Funds without penalty; or (2) approve the in-kind transfer (on the basis of the prospectus and disclosure referred to in paragraph (b) of this Section and paragraph (e) of Section I) consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act. Approval for the in-kind transfer of a Client Plan's interest in the Separate Account in exchange for Fund shares may be presumed notwithstanding that MassMutual does not receive any response from a Client Plan pursuant to MassMutual's two written requests (one by certified mail) for such approval, provided that the first such request occurs at least 90 days before the in-kind transfer and the second such request occurs within 45 days thereafter.

(f) All of a Client Plan's assets held in a Separate Account (other than Fund shares already held in the Account) are transferred in-kind to one or more of the Funds in exchange for Fund shares, except that any Plan assets in the Separate Account which are not suitable for acquisition by the Funds shall be liquidated as soon a reasonably practicable, and the cash proceeds shall be invested directly in shares of the Funds.

(g) The authorization described in paragraph (e) of this section is terminable at will by the Independent Fiduciary of a Client Plan, without penalty to such Client Plan. Such termination will be effected by MassMutual redeeming the shares of the Fund(s) held by the affected Client Plan or selling its interest in a Separate Account, in one business day, provided

that if, due to circumstances beyond the control of MassMutual, the redemption cannot be executed within one business day, MassMutual shall have one additional business day to complete such redemption.

(h) Conditions (a), (b), (d), (e), and (h) of Section I, Conditions (a) and (e) of Section III, and Conditions (a) and (b) of Section V have been met.

Section III. Retroactive Exemption for the Receipt of Fees

For the period from April 1, 1995 until the date this proposed exemption is granted, the restrictions of sections 406(a) and 406(b) of the Act and the taxes imposed by section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code, shall not apply to the receipt of fees by MassMutual from the Funds for acting as an investment adviser for such Funds, as well as for providing other services to the Funds which are "Secondary Services", as defined in Section VI(i), in connection with the investment by the Client Plans for which MassMutual serves as a fiduciary in shares of the Funds, provided that the following conditions are met:

(a) As to each Client Plan, the combined total of all fees received by MassMutual for the provision of services to the Client Plan, and for the provision of services to a Fund in which a Client Plan holds shares, is not in excess of "reasonable compensation" within the meaning of section 408(b)(2) of the Act.

(b) The price paid or received by a Client Plan for shares in a Fund is the net asset value of such shares, as defined in Section VI(g), at the time of the transaction and is the same price that would have been paid or received for the shares by any other investor at that time.

(c) Neither MassMutual, other than in its capacity as agent for the Funds, nor any officer or director of MassMutual, purchases or sells shares of the Funds from or to any Client Plan.

(d) The Independent Fiduciary approves the fees to be paid by the Funds to MassMutual as such fees relate to:

(1) Fund shares purchased by a Client Plan for cash;

(2) Fund shares purchased by a Client Plan pursuant to an in-kind transfer (upon the Independent Fiduciary's consideration of the information described in paragraph (e) of Section I);

(3) the addition of a Secondary Service (as defined in Section V (i)) provided by MassMutual to the Fund for which a fee is charged, or an increase in the rate of any fee paid by the Funds to MassMutual for any Secondary Service that results either from an increase in the rate of such fee or from a decrease in the number or kind of services performed by MassMutual for such fee over an existing rate for such Secondary Service that had been authorized by the Independent Fiduciary of a Client Plan. The approvals required in this paragraph may be presumed notwithstanding that MassMutual does not receive any response from a Client Plan to MassMutual's two written requests (one by certified mail) for approval of a change in the rates of fees provided that the first such request occurs at least 90 days before the in-kind transfer and the second such request occurs within 45 days thereafter. Such approval may be limited solely to the investment advisory and other fees paid by the mutual fund in relation to the fees paid by a Client Plan and need not relate to any other aspects of such investment.

(e) The Fund Adviser does not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the acquisition of Fund shares in exchange for Client Plan assets.

(f) The Plan does not pay any plan-level investment management, investment advisory or similar fee with respect to the Client Plan assets invested in such shares for the entire period of such investment. This condition does not preclude the payment of investment advisory fees by an investment company under the terms of its investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940.

(g) On an annual basis, MassMutual provides the Independent Fiduciary of each Client Plan holding shares of the Funds with—

(1) A copy of an updated prospectus of such Fund; and

(2) Upon request of the Independent Fiduciary, a report or statement (which may take the form of the most recent financial report, the current statement of additional information, or some other written statement) containing a description of all fees paid by the Fund to MassMutual or its affiliates.

(3) Oral or written responses to inquiries of the Independent Fiduciary as they arise.

(h) Conditions (a), (e), (h) and (i) of section I, Condition (b) of Section II, and Conditions (a) and (b) of Section V have been met.

Section IV. Prospective Exemption for the Receipt of Fees

If this proposed exemption is granted, the restrictions of sections 406(a) and 406(b) of the Act and the taxes imposed by section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code, shall not apply to the receipt of fees by MassMutual from the Funds for acting as an investment adviser for such Funds, as well as for providing other services to the Funds which are "Secondary Services," as defined in Section VI(i), in connection with the investment by the Client Plans for which MassMutual serves as a fiduciary in shares of the Funds, provided that the following conditions are met:

(a) For each Client Plan using the fee structure described in paragraph (d)(2) of this Section with respect to investments in a particular Fund, the Independent Fiduciary of the Client Plan receives full written disclosure in a Fund prospectus or otherwise of any increases in the rates of fees charged by MassMutual to the Funds for investment advisory services.

(b) All authorizations made by an Independent Fiduciary regarding investments in a Fund and the fees paid to MassMutual are subject to an annual reauthorization, wherein any such prior authorization referred to in Section III(d) shall be terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by MassMutual of written notice of termination. The Independent Fiduciary must be supplied with a Termination Form, at the times specified in paragraph (c) of this Section, with instructions on the use of the form, including the following information:

(1) The authorization is terminable at will by any of the Client Plans, without penalty to such Client Plans, upon receipt by MassMutual of written notice from the Independent Fiduciary; and

(2) Failure by the Independent Fiduciary to return the Termination Form on behalf of a Client Plan will be deemed to be an approval of the additional Secondary Service for which a fee is charged or increase in the rate of any fees, if such Termination Form is supplied pursuant to the requirements of this Section, and will result in the continuation of the authorizations of MassMutual to engage in the transactions on behalf of such Client Plan.

(c) The Independent Fiduciary is supplied with a Termination Form no less than annually; provided that the Termination Form need not be supplied to the Independent Fiduciary pursuant to this paragraph sooner than six months after such Termination Form is supplied pursuant to paragraph (e) below, except to the extent required to disclose an additional service or an increase in fees.

(d) Each Client Plan satisfies either (but not both) of the following:

(1) For a Client Plan for which MassMutual serves as a non-discretionary trustee, the Plan does not pay any Plan-level investment management fees, investment advisory fees, or similar fees to MassMutual with respect to Client Plan assets invested in shares of the Funds. This condition does not preclude the payment of investment advisory fees, or similar fees, by a Fund to MassMutual under the terms of its investment advisory agreement adopted in accordance with section 15 of the 1940 Act, nor does it preclude the payment of fees for Secondary Services to MassMutual pursuant to a duly adopted agreement between MassMutual and the Funds.

(2) For a Client Plan for which MassMutual serves as a discretionary fiduciary (*i.e.*, a trustee or investment manager), such Client Plan pays MassMutual an investment advisory fee based on total Client Plan assets from which a credit had been subtracted representing such Client Plan's *pro rata* share of all investment advisory fees paid by the Funds. This condition does not preclude the payment of fees for Secondary Services to MassMutual pursuant to a duly adopted agreement between MassMutual and the Funds.

(e)(1) For each Client Plan using the fee structure described in paragraph (d)(1) of this Section with respect to investments in a particular Fund, an increase in the rate of fees paid by the Fund to MassMutual regarding any investment management services, investment advisory services, or similar services that MassMutual provides to the Fund over an existing rate for such services that had been authorized by an Independent Fiduciary in accordance with paragraph (d) of Section III; or

(2) For any Client Plan under this exemption, an addition of a Secondary Service (as defined in Section V (i)) provided by MassMutual to the Fund for which a fee is charged, or an increase in the rate of any fee paid by the Funds to MassMutual for any Secondary Service that results either from an increase in the rate of such fee or from a decrease in the number or kind of services performed by MassMutual for such fee over an existing rate for such Secondary Service that had been authorized by the Independent Fiduciary of a Client Plan in accordance with paragraph (d) of Section III—

MassMutual will, at least 30 days in advance of the implementation of such additional service for which a fee is charged or fee increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Fund and which explains the nature and amount of the increase in fees) to the Independent Fiduciary of the Client Plan. Such notice shall be accompanied by a Termination Form with instructions as described above.

(f) Conditions (a), (e) and (h) of Section I, Conditions (b) and (d) of Section II, Conditions (a), (b), (c), (d), (e), and (g) of Section III, and Conditions (a) and (b) of Section V have been met.

Section V. General Conditions

(a) MassMutual maintains for a period of six years the records necessary to enable the persons described in paragraph (b) of this section to determine whether the conditions of this exemption, and the proper crediting of fees described in paragraph (d)(2) of Section IV, have been met, except that:

(1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of MassMutual, the records are lost or destroyed prior to the end of the six-year period; and

(2) no party in interest other than MassMutual shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained or are not available for examination as required by paragraph (b) below.

(b)(1) Except as provided in paragraph (b)(2) below and notwithstanding any provisions of section 504(a)(2) of the Act, the records referred to in paragraph (a) in this section are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the Securities and Exchange Commission,

(ii) Any fiduciary of the Client Plans who has authority to acquire or dispose of shares of the Funds owned by the Client Plans, or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of the Client Plans or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (b)(1)(ii) and (iii) above shall be authorized to examine trade secrets of MassMutual, or commercial or financial information that is privileged or confidential.

Section VI. Definitions

For purposes of this proposed exemption:

(a) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person.

(2) Any officer, director, employee or relative of such person, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term "Client Plan" means a pension plan described in 29 CFR 2510.3–2, a welfare benefit plan described in 29 CFR 2510.3–1, and a plan described in section 4975(e)(1) of the Code.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "fixed income security" means any interest-bearing or discounted government or corporate debt security with a face amount of $1,000 or more that obligates the issuer to pay the holder a specified sum of money, and to repay the principal amount of the loan at maturity.

(e) The term "Fund" or "Funds" means any diversified open-end management investment company or companies registered under the Adviser's Act for which MassMutual or its affiliates serves as an investment adviser, and may also serve as a custodian, shareholder servicing agent, transfer agent or provide some other secondary service (as defined in paragraph (j) of this section).

(f)(1) The term "Independent Fiduciary" means a fiduciary of a Client Plan who is unrelated to, and independent of, MassMutual. For purposes of this exemption, a Client Plan fiduciary will be deemed to be unrelated to, and independent of, MassMutual if such fiduciary represents that neither such fiduciary, nor any individual responsible for the decision to authorize or terminate authorization for transactions described in Section I, II, III, or IV is an officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of MassMutual and represents that such fiduciary shall advise MassMutual if those facts change.

(2) Notwithstanding anything to the contrary in this Section VI(f), a fiduciary is not independent if:

(i) such fiduciary directly or indirectly controls, is controlled by, or

is under common control with the Insurer;

(ii) such fiduciary directly or indirectly receives any compensation or other consideration from MassMutual for his or her own personal account in connection with any transaction described in this exemption;

(iii) any officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of MassMutual, responsible for the transactions described in Section I, II, III or IV is an officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of the Client Plan sponsor or of the fiduciary responsible for the decision to authorize or terminate authorization for transactions described in Section I, II, III or IV. However, if such individual is a director of MassMutual or of the responsible fiduciary and if he or she abstains from participation in the decision to authorize or terminate authorization for transactions described in Section I, II, III or IV, then Section VI(f)(2)(iii) shall not apply.

(g) The term "Net Asset Value" means the amount calculated by dividing the value of all securities, determined by a method as set forth in a Fund's prospectus and Statement of Additional Information, and other assets belonging to each of the portfolios in such Fund, less the liabilities chargeable to each portfolio, by the number of outstanding shares.

(h) The term "pooled separate account" means a pooled investment fund maintained by MassMutual or an affiliate for the collective investment of assets attributable to two or more plans maintained by unrelated employers.

(i) The term "secondary service" means a service provided by massMutual or an affiliate to a Fund other than investment management, investment advisory or similar services.

(j) The term "security" shall be defined by section 2(36) of the Adviser's Act, as amended, 15 U.S.C. 80a–2(36) (1996).

(k) The term "Fund Adviser" means (i) any affiliate of MassMutual which serves as an investment adviser to a Fund, and (ii) any affiliate of an investment adviser identified in subsection (i).

(l) The term "Termination Form" means the form supplied to the Independent Fiduciary, at the times specified above, which expressly provides an election to the Independent Fiduciary to terminate on behalf of the Client Plans the authorizations described in Paragraph (b) of Section IV. Such Termination Form may be used at will by the Independent Fiduciary to terminate such authorization without penalty to the Client Plans and to notify MassMutual in writing to effect such termination by redeeming the shares of the Fund held by the Client Plans requesting termination by the close of the business day following the date of receipt by MassMutual, whether by mail, hand delivery, facsimile or other available means at the option of the Independent Fiduciary, of written notice of such request for termination; provided that if, due to circumstances beyond the control of MassMutual, the redemption cannot be executed within one business day, MassMutual shall have one additional business day to complete such redemption.

Summary of the Facts and Representations

1. The applicant is MassMutual, a mutual life insurance company organized in 1851. MassMutual, either directly or through its affiliates, offers, among other things, asset accumulation products, employee benefit services, and investment management services. MassMutual is registered under the Investment Advisers Act of 1940, as amended (the Advisers Act) and is an adviser for certain mutual funds.

MassMutual maintains numerous separate investment accounts in which certain plan participants invest. These accounts are advised and/or subadvised by MassMutual, or by a MassMutual affiliate such as OppenheimerFunds, Inc., HarbourView Asset Management Corporation, Trinity Investment Management Corporation, and David L. Babson and Company. MassMutual represents that, while its separate investment accounts purchase portfolio securities directly, most separate investment accounts also purchase mutual fund shares, including shares of Funds advised by non-affiliated third party managers. The applicant states that as the investment performances of the unaffiliated Funds change over time, MassMutual may desire to replace the manager of such a Fund. This involves, MassMutual states, selling shares of the unaffiliated Fund (and incurring certain transaction costs) and acquiring shares of a different Fund (and thus incurring additional transaction costs).

MassMutual represents that, in light of the above, it is more economical, more efficient, and less unwieldy to keep the assets of a separate investment account in proprietary Funds and, to the extent necessary, change the Funds' subadvisers. The preferable way to accomplish this, MassMutual states, is to: (1) Take a distribution of the unaffiliated Fund shares in-kind; (2) transfer the unaffiliated Fund shares to a proprietary Fund; and (3) either: (i) hire the prior adviser as a subadviser; (ii) hire a new adviser as the subadiviser; or (iii) manage the assets of the proprietary Fund through affiliates.[10] The applicant states that no brokerage commissions or other remuneration is charged to the Client Plans in connection with such an asset transfer as any such costs or expenses are paid by MassMutual.

2. The applicant therefore seeks an exemption to permit the in-kind transfer of the assets held by separate investment accounts maintained by MassMutual in exchange for shares of certain mutual funds for which MassMutual or its affiliates serves as an investment adviser or may provide some other secondary service. This involves, therefore, the in-kind transfer of portfolio securities (representing the Client Plans' interest in certain separate investment accounts) to the Funds in exchange for the transfer of shares of the Funds to the separate investment accounts.[11] The applicant also seeks relief for the receipt of fees by MassMutual for acting as an investment adviser for the Funds, and for providing certain "secondary services" to the Funds.[12]

MassMutual represents that the in-kind transfer transactions described herein are designed to comply with the Adviser's Act and Prohibited Transaction Exemption (PTE) 77–4 and PTE 97–41, as applicable.[13] MassMutual notes, however, that such transactions involve circumstances which differ slightly from those presented in either PTE 77–4 or PTE 97–41.[14] In this regard,

[10] The Department is expressing no opinion in this proposed exemption regarding the application of ERISA to the in-kind distribution of unaffiliated Fund shares.

[11] MassMutual represents that an in-kind transfer may involve, for example, a separate investment account's receipt of securities (pursuant to an in-kind distribution) from a mutual fund maintained by unaffiliated parties; followed by the transfer of such securities from the separate investment account to mutual funds advised by affiliates of MassMutual (an potentially subadvised by an unaffiliated investment adviser.

[12] The applicant represents that there will be no increase in fees paid by the Client Plans as a result of the in-kind transfer.

[13] MassMutual represents that while collective investment funds and other registered investment advisers have been granted exemptions to permit similar in-kind transfers, many insurance companies have relied on PTE 77–4 or other exemptions to convert separate investment accounts to mutual funds. In this regard, the Department is expressing no view as to the availability of this class exemption for the in-kind transfer of separate investment account assets in exchange for mutual fund shares.

[14] PTE 77–4, 42 FR 18732 (Apr. 8, 1977) permits the purchase or sale by a plan of shares of a registered investment company in situations where

the applicant points out that, for purposes of the exemption as proposed, approval of an in-kind transfer by an Independent Fiduciary may occur in writing and, additionally, approval may be in the form of "negative consent". Under the "negative consent" arrangement, approval for the in-kind transfer of a Client Plan's interest in the Separate Account will be presumed if MassMutual does not receive any response from a Client Plan to MassMutual's two written requests (one by certified mail) for such approval to the extent such requests are made prior to an in-kind transfer.

3. MassMutual notes that, with respect to the types of transactions described herein, the Securities and Exchange Commission (SEC) Rule 17a–7 (Rule 17a–7) permits transfers involving only those securities for which market quotations are readily available and which do not include restricted securities (such as those described by SEC Rule 144) or other securities for which market quotations are not readily available.[15] Therefore, MassMutual represents that, to the extent the Independent Fiduciary of a Client Plan approves the investment in the Funds, the purchase of Fund shares by the separate investment account has been/will be accomplished in accordance with Rule 17a–7 and the procedures adopted by the Fund's board of directors pursuant to such Rule.

Among the conditions of Rule 17a–7 is the requirement that the transaction be effected at the "independent current market price" for the security involved.[16] In this regard, MassMutual represents that the "independent current market price" for the types of separate investment account securities involved in the transaction is determined as follows:

(A) If the security is a "reported security" as the term is defined in Rule 11Aa3–1 under the Securities Exchange Act of 1934 (the '34 Act) (17 CFR 240.11Aa3–1), the last sale price with respect to such security reported in the consolidated transaction reporting system (the Consolidated System); or, if there are no reported transactions in the Consolidated System that day, the average of the highest current independent bid and the lowest current independent offer for such security (reported pursuant to Rule 11Ac1–1 under the '34 Act) (17 CFR 240.11Ac1–1), as of the close of business on the separate investment account valuation date.

(B) If the security is not a reported security, and the principal market for such security is an exchange, then the last sale on such exchange or, if there is no reported transactions on such exchange that day, the average of the highest current independent bid and the lowest current independent offer on the exchange as of the close of business on the separate investment account valuation date.

(C) If the security is not a reported security and is quoted in the NASDAQ system, then the average of the highest current independent bid and the lowest current independent offer reported on Level 1 of NASDAQ as of the close of business on the separate investment account valuation date.

(D) For all other securities, the average of the highest current independent bid and the lowest current independent offer determined on the basis of reasonable inquiry from at least three independent sources as of the close of business on the separate investment account valuation date.

MassMutual represents that these valuation conditions are objective and allow for review by independent parties. The applicant additionally states that the same values are used to determine the amount of securities transferred from a separate investment account and the amount of securities received by a Fund. Therefore, according to the applicant, the total net asset value of the Fund shares received by the separate investment account, or the separate investment account on behalf of the approving Client Plans, is equal in value to the Client Plan's share of the assets of the separate investment account exchanged for shares of the Fund on the date of transfer.

4. MassMutual represents that, to the extent an Independent Fiduciary does not approve the transaction, a reasonable period of time is given for the liquidation of the Client Plan's interest in the separate investment account. According to the applicant, this may be done either in cash, in-kind or through the transfer to another separate investment account.[17] Thereafter, MassMutual states, the remaining separate investment account assets are transferred to the corresponding Funds on behalf of the Client Plans approving the transaction.

5. Although MassMutual will generally divide the assets held in a separate investment account among the Client Plans on a pro rata basis, in some instances, the separate investment account may hold "small investments" in fixed-income securities that are not divisible, or that can be divided only at substantial cost.[18] In these situations, solely for purposes of the prospective relief requested herein, MassMutual will treat equivalent "small investment" fixed income securities as fungible for allocation purposes if such securities have the same coupon rates, maturities and credit ratings at the time of the transaction.[19] MassMutual will allocate such fixed-income securities among the Client Plans in a manner such that each receives its pro rata share of the value of such securities.[20]

6. MassMutual represents that the proposed exemption is in the interest of participants and beneficiaries because it provides for Client Plan investment in Fund shares and allows for such Funds to be managed by different managers over time, without requiring the costs attendant to asset liquidation. MassMutual additionally represents that the proposed exemption is protective of participants and beneficiaries in that it requires notice to, and consent of, an independent fiduciary. MassMutual

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the investment adviser of the investment company is also a fiduciary with respect to the plan. PTE 97–41, 62 FR 42830 (Aug. 8, 1997), permits a plan to purchase shares of a registered open-end investment company in an in-kind exchange for the plan's collective investment fund assets where the bank or plan adviser of the fund is also a fiduciary of the plan.

[15] MassMutual retains ongoing responsibilities under ERISA's general standards of fiduciary conduct with respect to plans electing to remain as investors in the separate investment account and with respect to other aspects of the transfers.

[16] Rule 17a–7 also includes the following requirements: (a) the transaction must be consistent with the investment objectives and policies of the Fund, as described in its registration statement; (b) the security that is the subject of the transaction must be one for which market quotations are readily available; (c) no brokerage commissions or other remuneration may be paid in connection with the transaction; and (d) the Fund's board of directors (including a majority of those directors who are independent of the Fund's investment adviser) must adopt procedures to ensure that the requirements of Rule 17a–7 are followed, and determined no less frequently than quarterly that the transactions during the preceding quarter were in compliance with such procedures.

[17] In these situations, Client Plans will receive, prior to the transfer date, cash or their pro rata portions of each separate investment account asset. To the extent a Client plan seeks to transfer its interest to another separate investment account, such transfer will occur without cost or penalty.

[18] This would apply in the case of a separate investment account which held portfolio securities and did not purchase shares of a mutual fund. These investments will typically be issued in units of $1,000 or more.

[19] In order to establish what constitutes "small investments" MassMutual proposes that this exception from the general pro rata division rule be available only for investment positions in fixed-income securities which, in the aggregate, constitute no more than one (1) percent of the separate investment account's assets. This one (1) percent limit will ensure that the "small investment" positions in the fixed-income securities will represent a de minimis portion of the overall assets held by the separate investment account at the time of the transactions.

[20] MassMutual represents that the valuation of fixed income securities will be performed in accordance with Rule 17a–7.

represents that the exemption is administratively feasible in that the values given the Fund shares and the separate account securities are objectively calculated in accordance with securities laws and in accordance with procedures approved by the Fund's board of directors pursuant to such laws.

7. MassMutual requests retroactive relief for the purchase by the Client Plan (directly or through a single customer or pooled separate account or other pooled vehicle) of shares of one or more Funds in exchange for assets of the Client Plan transferred in-kind from a Separate Account. MassMutual states that such purchases met the criteria of section 408(a) of the Act since, among other things:

(a) No sales commissions, redemption fees, or other fees were paid by the Client Plan.

(b) All transferred assets were either cash or securities for which market quotations were readily available.

(c) The assets transferred in-kind to the Funds constituted the Client Plan's pro rata portion of the assets held by the Separate Account immediately prior to the transfer.

(d) The Client Plan received Fund shares having a total net asset value equal to the value of the assets transferred by the Client Plan on the date of the transfer, as determined in a single valuation performed in the same manner at the close of the same business day with respect to all Client Plans participating in the transaction on such date, in accordance with the procedures set forth in Rule 17a–7 of the 1940 Act (using sources independent of MassMutual and the Fund) and the procedures established by the Funds pursuant to Rule 17a–7 for the valuation of such assets.

(e) An Independent Fiduciary with respect to each Client Plan received advance written notice of an in-kind transfer and purchase of assets and full written disclosure of information concerning the Funds, including:

(1) A current prospectus for each Fund to which the Separate Account's assets may be transferred, updated as necessary;

(2) A statement describing the investment advisory and other fees to be charged to, or paid by, a Client Plan and the Funds to the Fund Adviser, including the nature and extent of any differential between the rates of the fees paid by the Fund and the rates of the fees paid by the Client Plan in connection with the Client Plan's investment in the Separate Account;

(3) A statement of the reasons why MassMutual considered such investment to be appropriate for the Client Plan; and

(4) A statement describing whether there were any limitations applicable to MassMutual with respect to which Client Plan assets would be invested in Fund shares, including the nature of the limitations.

(f) The Independent Fiduciary was allowed the opportunity to: (1) Opt-out (including by selling its interest in a pooled vehicle) of the in-kind transfer of the Client Plan's interest in the Separate Account for shares of the Funds without penalty; or (2) approve the in-kind transfer (on the basis of the prospectus and disclosure referred to in paragraph (e) of Section I) consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act. In this regard, approval for the in-kind transfer of a Client Plan's interest in the Separate Account was presumed notwithstanding that MassMutual did not receive any affirmative response from a Client Plan pursuant to MassMutual's two written requests (one by certified mail) for such approval, provided that the first such request occurred at least 90 days before the in-kind transfer and the second such request occurred within 45 days thereafter.

(g) MassMutual sent a written confirmation by regular mail or personal delivery to the Independent Fiduciary of each Client Plan participating in the in-kind transfer, no later than 105 days after completion of each purchase, containing:

(1) The number of Separate Account units held by the Client Plan immediately before the transfer, and the related per unit value and the total dollar amount of such units; and

(2) The number of Fund shares held by the separate account immediately following the transfer, and the related per share net asset value and the total dollar amount of such shares.

(h) All other dealings between the Client Plan and the Funds were on a basis no less favorable to the Client Plan than dealings between the Funds and other shareholders holding the same class of shares as the Client Plans.

8. MassMutual also requests prospective relief for the purchase by the Client Plan (directly or through a single customer or pooled separate account or other pooled vehicle) of shares of one or more Funds in exchange for assets of the Client Plan transferred in-kind from a Separate Account. MassMutual states that such a purchase meets the criteria of section 408(a) of the Act since, among other things:

(a) The assets transferred in-kind to the Funds will constitute the Client Plan's pro rata portion of the assets held by the Separate Accounts immediately prior to the transfer. Notwithstanding the foregoing, the allocation among Client Plans of fixed-income securities held by a Separate Account on the basis of each Client Plan's pro rata share of the aggregate value of such securities will not fail to meet the requirements of this subsection if:

(1) The aggregate value of the fixed-income securities does not exceed one percent of the total value of the assets held by the Separate Account immediately prior to the transfer; and

(2) Such securities have the same coupon rate and maturity, and at the time of the transfer, the same credit ratings as provided from nationally recognized statistical rating agencies.

(b) An Independent Fiduciary with respect to each Client Plan will receive advance written notice of the in-kind transfer and purchase and full written disclosure of information concerning the Funds including:

(1) The identity of the securities that will be valued in accordance with Rule 17a–7(b)(4) under the 1940 Act;

(2) The identity of any fixed-income securities allocated on the basis of each Client Plan's pro rata share of the aggregate value of such securities;

(3) Upon request of the Independent Fiduciary, a copy of the proposed exemption and/or a copy of the final exemption, once such documents are published in the **Federal Register**; and

(4) The date on which the in-kind purchase will take place.

(c) MassMutual will send by regular mail or personal delivery to the Independent Fiduciary of each Client Plan that purchases Fund shares pursuant to the in-kind transfer:

(1) Not later than 30 days after the completion of the purchase, a written confirmation containing:

(A) The identity of each security valued in accordance with Rule 17a–7(b)(4) under the 1940 Act;

(B) The current market price, as of the date of the in-kind transfer, of each such security involved in the purchase of Fund shares; and

(C) The identity of each pricing service or market-maker consulted in determining the current market price of such securities; and

(2) Not later than 90 days after each in-kind transfer, a written confirmation which contains:

(A) The number of Separate Account units held by such affected Client Plan immediately before the in-kind transfer (and the related per unit value and the

aggregate dollar value of the units transferred); and

(B) The number of shares in the Funds that are held by such affected Client Plan following the in-kind transfer (and the related per share net asset value and the aggregate dollar value of the shares received).

(d)(1) MassMutual will provide the Independent Fiduciary of each Client Plan holding shares of the Funds with—

(A) A copy of an updated prospectus of such Fund, at least annually; and

(B) Upon request of the Independent Fiduciary, a report or statement (which may take the form of the most recent financial report, the current statement of additional information, or some other written statement) containing a description of all fees paid by the Fund to MassMutual or its affiliates.

(2) With respect to each of the Funds in which a Client Plan invests, in the event such Fund places brokerage transactions with an affiliate of MassMutual, MassMutual will provide the Independent Fiduciary of such Client Plan at least annually with a statement specifying:

(A) The total, expressed in dollars, of brokerage commissions of each Fund's investment portfolio that are paid to an affiliate of MassMutual by such Fund;

(B) The total, expressed in dollars, of brokerage commissions of each Fund's investment portfolio that are paid by such Fund to brokerage firms unrelated to MassMutual;

(C) The average brokerage commissions per share, expressed as cents per share, paid to an affiliate of MassMutual by each portfolio of a Fund; and

(D) The average brokerage commissions per share, expressed as cents per share, paid by each portfolio of a Fund to brokerage firms unrelated to MassMutual.

(e) The Independent Fiduciary may: (1) Opt-out (including by selling its interest in a pooled vehicle) of the in-kind exchange of the Client Plan's interest in the Separate Account for shares of the Funds without penalty; or (2) approve the in-kind transfer (on the basis of the prospectus and disclosure referred to in paragraph (b) of section II and paragraph (e) of Section I) consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act. In this regard, approval for the in-kind transfer of a Client Plan's interest in the Separate Account in exchange for Fund shares may be presumed notwithstanding that MassMutual does not receive any response from a Client Plan pursuant to MassMutual's two written requests (one by certified mail) for such approval, provided that the first such request occurs at least 90 days before the in-kind transfer and the second such request occurs within 45 days thereafter.

(f) All of a Client Plan's assets held in a Separate Account (other than Fund shares already held in the Account) will be transferred in-kind to one or more of the Funds in exchange for Fund shares, except that any Plan assets in the Separate Account which are not suitable for acquisition by the Funds will be liquidated as soon a reasonably practicable, and the cash proceeds will be invested directly in shares of the Funds.

(g) The authorization described in paragraph (e) of Section II will be terminable at will by the Independent Fiduciary of a Client Plan, without penalty to such Client Plan. Such termination will be effected by MassMutual redeeming the shares of the Fund(s) held by the affected Client Plan or selling its interest in a Separate Account in one business day, provided that if, due to circumstances beyond the control of MassMutual, the redemption cannot be executed within one business day, MassMutual will have one additional business day to complete such redemption.

9. MassMutual requests retroactive relief for the receipt of fees by MassMutual from the Funds, for acting as an investment adviser for such Funds, as well as for providing other services to the Funds which are "Secondary Services," as defined in Section VI(i), in connection with the investment by the Client Plans for which MassMutual serves as a fiduciary in shares of the Funds. MassMutual states that such receipt of fees meets the criteria of section 408(a) of the Act since, among other things:

(a) As to each Client Plan, the combined total of all fees received by MassMutual for the provision of services to the Client Plan, and for the provision of services to a Fund was not in excess of "reasonable compensation" within the meaning of section 408(b)(2) of the Act.

(b) The price paid or received by a Client Plan for shares in a Fund was the net asset value of such share, as defined in Section VI(g), at the time of the transaction and was the same price that would have been paid or received for the shares by any other investor at that time.

(c) Neither MassMutual, other than in its capacity as agent for the Funds, nor any officer or director of MassMutual, purchases or sells shares of the Funds from or to any Client Plan.

(d) The Independent Fiduciary approved the fees to be paid by the Funds to MassMutual as such fees related to:

(1) Fund shares purchased by a Client Plan for cash;

(2) Fund shares purchased by a Client Plan pursuant to an in-kind transfer (upon the Independent Fiduciary's consideration of the information described in paragraph (e) of Section I and paragraph (b) of Section II);

(3) The addition of a Secondary Service (as defined in Section V (i)) provided by MassMutual to the Fund for which a fee is charged, or an increase in the rate of any fee paid by the Funds to MassMutual for any Secondary Service that resulted either from an increase in the rate of such fee or from a decrease in the number or kind of services performed by MassMutual for such fee over an existing rate for such Secondary Service that had been authorized by the Independent Fiduciary of a Client Plan. In this regard, such approvals were presumed notwithstanding that MassMutual did not receive any response from a Client Plan to MassMutual's two written requests (one by certified mail) for approval of a change in the rates of fees provided that the first such request occurred at least 90 days before the in-kind transfer and the second such request occurred within 45 days thereafter. Such approval may have been limited solely to the investment advisory and other fees paid by the mutual fund in relation to the fees paid by a Client Plan and did not relate to any other aspects of such investment.

(e) The Fund Adviser did not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the transactions.

(f) The Plan did not pay any plan-level investment management, investment advisory or similar fee with respect to the Client Plan assets invested in such shares for the entire period of such investment. This condition did not preclude the payment of investment advisory fees by an investment company under the terms of its investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940.

(g) On an annual basis, MassMutual provided the Independent Fiduciary of each Client Plan holding shares of the Funds with—

(1) A copy of an updated prospectus of such Fund; and

(2) Upon request of the Independent Fiduciary, a report or statement (which may take the form of the most recent financial report, the current statement of additional information, or some other

written statement) containing a description of all fees paid by the Fund to MassMutual or its affiliates.

(3) Oral or written responses to inquiries of the Independent Fiduciary as they arose.

10. MassMutual also requests prospective relief for the receipt of fees by MassMutual from the Funds, for acting as an investment adviser for such Funds, as well as for providing other services to the Funds which are "Secondary Services," as defined in Section VI(i), in connection with the investment in shares of the Funds by the Client Plans for which MassMutual serves as a fiduciary. MassMutual states that such receipt of fees meets the criteria of section 408(a) of the Act since, among other things:

(a) For each Client Plan using the nondiscretionary fee structure described in paragraph (d)(2) of Section IV with respect to investments in a particular Fund, the Independent Fiduciary of the Client Plan will receive full written disclosure in a Fund prospectus or otherwise of any increases in the rates of fees charged by MassMutual to the Funds for investment advisory services.

(b) All authorizations made by an Independent Fiduciary regarding investments in a Fund and the fees paid to MassMutual will be subject to an annual reauthorization, wherein any such prior authorization referred to in Section III(d) shall be terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by MassMutual of written notice of termination. The Independent Fiduciary will be supplied with a Termination Form, at the times specified in paragraph (c) of Section IV, with instructions on the use of the form, including the following information: (1) The authorization is terminable at will by any of the Client Plans, without penalty to such Client Plans, upon receipt by MassMutual of written notice from the Independent Fiduciary; and (2) Failure by the Independent Fiduciary to return the Termination Form on behalf of a Client Plan will be deemed to be an approval of the additional Secondary Service for which fee is charged or increase in the rate of any fees, if such Termination Form is supplied pursuant to the requirements of Section IV, and will result in the continuation of the authorizations of MassMutual to engage in the transactions on behalf of such Client Plan.

(c) The Independent Fiduciary will be supplied with a Termination Form annually; provided that the Termination Form need not be supplied to the Independent Fiduciary pursuant to this paragraph sooner than six months after such Termination Form is supplied pursuant to paragraph (e) of Section IV, except to the extent required to disclose an additional service or an increase in fees.

(d) Each Client Plan will satisfy either (but not both) of the following:

(1) For a Client Plan for which MassMutual serves as a non-discretionary trustee, the Plan will not pay any Plan-level investment management fees, investment advisory fees, or similar fees to MassMutual with respect to Client Plan assets invested in the Funds. This condition will not preclude the payment of investment advisory fees, or similar fees, by a Fund to MassMutual under the terms of its investment advisory agreement adopted in accordance with section 15 of the 1940 Act, nor will it preclude the payment of fees for Secondary Services to MassMutual pursuant to a duly adopted agreement between MassMutual and the Funds.

(2) For a Client Plan for which MassMutual serves as a discretionary fiduciary (*i.e.*, a trustee or investment manager), such Client Plan will pay MassMutual an investment advisory fee based on total Client Plan assets from which a credit had been subtracted representing such Client Plan's pro rata share of investment advisory fees paid by the Funds. This condition will not preclude the payment of fees for Secondary Services to MassMutual pursuant to a duly adopted agreement between MassMutual and the Funds.

(e)(1) For each Client Plan using the fee structure described in paragraph (d)(1) of Section IV with respect to investments in a particular Fund, an increase in the rate of fees paid by the Fund to MassMutual regarding any investment management services, investment advisory services, or similar services that MassMutual provides to the Fund over an existing rate for such services that had been authorized by an Independent Fiduciary in accordance with paragraph (d) of Section III; or

(2) For any Client Plan under this exemption, an addition of a Secondary Service (as defined in Section V (i)) provided by MassMutual to the Fund for which a fee is charged, or an increase in the rate of any fee paid by the Funds to MassMutual for any Secondary Service that results either from an increase in the rate of such fee or from a decrease in the number or kind of services performed by MassMutual for such fee over an existing rate for such Secondary Service that had been authorized by the Independent Fiduciary of a Client Plan in accordance with paragraph (d) of Section III, MassMutual will, at least 30 days in advance of the implementation of such increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Fund and which explains the nature and amount of the increase in fees) to the Independent Fiduciary of the Client Plan. Such notice shall be accompanied by a Termination Form with instructions as described in Section IV.

Notice to Interested Persons: The applicant represents that the potentially interested participants and beneficiaries cannot all be identified and therefore the only practical means of notifying such participants and beneficiaries of this proposed exemption is by the publication of this notice in the **Federal Register**. Comments and requests for a hearing must be received by the Department not later than 45 days from the date of publication of this notice of proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Christopher Motta of the Department, telephone (202) 693–8540. (This is not a toll-free number.)

State Farm Mutual Automobile Insurance Company and State Farm VP Management Corp.

[Exemption Application No. D–10961]

Proposed Exemption

The Department of Labor is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[21]

Section I: Transactions

If the exemption is granted, the restrictions of sections 406(a)(1)(A) through (D) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the purchase or redemption of an institutional class of shares (the Institutional Shares) of State Farm mutual funds (the Fund(s)), open-end management investment companies registered under the Investment Company Act of 1940 (the 1940 Act), by pension plans (the Plan(s)), as defined in Section III (h), below, which are established by:

[21] For purposes of this proposed exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer to the corresponding provisions of the Code.

(a) Independent contractor agents (the Agent(s)) of State Farm Mutual Automobile Insurance Company (State Farm) or its affiliates, who are also registered representatives of State Farm VP Management Corp. (SFVPMC), for themselves and their employees, and

(b) The family members of such Agents (the Family Member(s))(as defined in section 3(15) of the Act), provided that the conditions set forth in Section II, below are satisfied.

Section II: Conditions

(a) Neither State Farm nor its affiliates has discretionary authority or control with respect to the investment of the plan assets involved in the transaction or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets.

(b) Plans do not pay any plan-level investment management, investment advisory, or similar fees to State Farm or its affiliates in connection with the investment of the assets of such Plans in any of the Funds.

(c) Plans do not pay any redemption fees in connection with the sale of shares of any of the Funds by such Plans.

(d) Plans do not pay any sales commissions in connection with the acquisition or sale of shares of any of the Funds, and the Agents do not receive any sales commissions or any other compensation or benefit, direct or indirect, in connection with the transactions that are the subject of this exemption. In this regard, neither State Farm nor any of its affiliates provides production credit, bonus, trip, or other sales incentive to such Agents based on such transactions.

(e) All dealings between the Plans and the Funds and State Farm and its affiliates are on a basis no less favorable to such Plans than such dealings are with other shareholders of the Funds.

(f) The price paid or received by a Plan for shares in a Fund is the net asset value per share, as defined, in Section III (d), below, at the time of the transaction and is the same price that would have been paid or received for such shares by any other investor in such Fund at that time.

(g) For each Plan, the combined total of all fees received by State Farm and its affiliates for the provision of services to such Plan, and in connection with the provision of services to any of the Funds in which such Plan may invest, are not in excess of "reasonable compensation" within the meaning of section 408(b)(2) of the Act.

(h) Neither State Farm nor its affiliates receives any fees payable pursuant to Rule 12b-1 under the 1940 Act in connection with the proposed transactions.

(i) The Plans are not employee benefit plans sponsored or maintained by State Farm or its affiliates.

(j)(1) Each Agent, or a Family Member of such Agent (as defined in section 3(15) of the Act) in the case of a Plan sponsored by such Family Member, or each participant (the Participant(s)) in the case of a Plan which provides for participant investment direction, receives in advance of any initial investment in a Fund by such Plan (or Participant's account, in the case of a participant directed individual account plan) a full and detailed written disclosure of information concerning each Fund in which such Plan or Participant's account, as the case may be, is considering investing, including but not limited to:

(A) A current prospectus for such Fund;

(B) A statement describing the fees for investment advisory, investment management, or similar services, a statement describing any fees for secondary services (Secondary Services), as defined below in Section III (f), (including but not limited to fees for acting as custodian, transfer agent, or for providing administrative, brokerage, or other services) payable to State Farm or its affiliates, and all other fees to be charged to or paid by such Plan, Participant's account, or such Fund to State Farm or its affiliates;

(C) A statement regarding appropriate investments for retirement plans and explaining why such Fund would be an appropriate investment for such Plan or Participant's account, as the case may be; and

(D) Upon the request of an Agent, a Family Member, or a Participant in a participant directed individual account plan, as the case may be, a copy of this proposed exemption and/or a copy of the final exemption, if granted, as such documents appear when published in the **Federal Register**.

(2) Each Participant, in the case of a Plan that does not provide for participant investment direction, receives from the fiduciary responsible for directing the investment of plan asset in advance of any initial investment in a Fund by such Plan:

(A) A statement that the Plan is investing in the Funds;

(B) The name of each Fund in which such Plan is investing; and

(C) A current prospectus for each such Fund.

(k) Any investment of the assets of a Plan (or a Participant's account in the case of a participant directed individual account plan) in each particular Fund is implemented only at the express direction of an Agent, Family Member, or Participant in a participant directed individual account plan, as appropriate, after such Agent, Family Member, or Participant receives the information described in paragraph (j) of Section II, above.[22]

(l) Pursuant to paragraph (k) of Section II, above, the investment of any assets of a Plan (or Participant's account, in the case of a participant directed individual account plan) in a Fund shall be terminable at will by an Agent, Family Member, or Participant, as appropriate, without penalty to such Plan (or Participant's account, in the case of an individually directed account plan), upon receipt by State Farm or its affiliates of a written notice of termination. A form (the Termination Form) expressly providing an election to terminate the investment in a Fund by a Plan (or Participant's account, in the case of an individually directed account plan) with instructions on the use of the form must be supplied to Agents, Family Members, or Participants, as the case may be, no less than annually; provided that the Termination Form need not be supplied to Agents, Family Members, or Participants, pursuant to this paragraph, sooner than six (6) months after such Termination Form is supplied pursuant to paragraph (m) of this Section II, below, except to the extent required by such paragraph in order to disclose an additional service or a fee increase. The instructions for the Termination Form must include a statement that the investment by a Plan in the Fund is terminable at will by a Plan (or Participant's account in the case of a participant directed individual account plan) without penalty to such Plan (or Participant's account), upon receipt by State Farm or its affiliates of written notice from the appropriate Agent, Family Member, or Participant.

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[22] The Department notes that the general standards of fiduciary conduct under the Act would apply to the investment transactions permitted by this proposed exemption, and that satisfaction of the conditions of this proposed exemption should not be viewed as an endorsement of any particular investment by the Department. Section 404 of the Act requires, among other things, that a fiduciary discharge his duties with respect to a plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion. Accordingly, the Department notes that the selection and the retention of any of the Funds as an investment or an investment option under a Plan is a fiduciary act. In this regard, the Department expects the fiduciary of a Plan to determine, if such selection and retention of any of the Funds by a Plan is appropriate after taking into consideration the investment performance of such Funds and the fees paid by such Funds (including advisory fees and administrative fees paid to State Farm and other persons).

(m)(1) In the event of an increase in fees paid by a Fund for any service, or

(2) In the event of an addition of any Secondary Service for which a fee is charged, or

(3) In the event of an increase in the rate of any fee that results either from an increase in the rate of such fee or from the decrease in the number or kind of services performed for such fee, State Farm or its affiliates will, at least 30 days in advance of the implementation of such fee increase or a fee for an additional service or increase in the rate of a fee, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of such Fund and that explains the nature and amount of the additional service for which a fee is charged or the increase in fees or the increase in the rate of any fee) to the appropriate Agent, Family Member, or Participant in a participant directed individual account plan. Such notice shall be accompanied by a Termination Form with instructions, as described above in paragraph (l) of this Section II, which will permit a Plan (or Participant's account, in the case of a participant directed individual account plan) to redeem shares of such Fund without penalty.

(n)(1) On an annual basis, each Agent, Family Member, or Participant in a participant directed individual account plan receives from State Farm the following information for each Fund in which a Plan (or Participant's account, in the case of a participant directed individual account plan) invests:

(a) A copy of the current prospectus,

(b) Upon the request of the appropriate Agent, Family Member, or Participant in a participant directed individual account plan, a copy of the Statement of Additional Information that contains a description of all fees paid by such Fund to State Farm or its affiliates;

(c) A copy of the annual report prepared by State Farm or its affiliates that includes information about the portfolios in such Fund, as well as audit findings of an independent auditor, within 60 days of the preparation of such report; and

(d) Oral or written responses to inquiries of an Agent, Family Member, or Participant, as such responses arise.

(2) On an annual basis, each Participant in the case of a Plan that does not provide for participant investment direction receives from the fiduciary responsible for directing the investment of plan assets copies of the annual report for each of the Funds in which the assets of such Plan are invested.

(o) Any Plan subject to this proposed exemption that is a prototype retirement plan sponsored by State Farm or its affiliates may not require the investment of a minimum percentage of the total assets of such Plan in State Farm investment products.

(p) State Farm or its affiliates maintain for a period of six (6) years the records necessary to enable the persons described in paragraph (q) of this Section II, below, to determine whether the conditions of this exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of State Farm or its affiliates, the records are lost or destroyed prior to the end of the six-year period; and

(2) No party in interest other than State Farm and its affiliates shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained or are not available for examination as required by paragraph (q) of this Section II, below.

(q)(1) Except as provided in paragraph (q)(2) of this Section II, below, and notwithstanding any provisions of section 504(a)(2) of the Act, the records referred to in paragraph (p) of this Section II, above, are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(ii) Any Agent, Family Member, Participant in the case of a participant directed individual account plan, or any other fiduciary of a Plan who has authority to acquire or dispose of shares of any of the Funds owned by such Plan, or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of a Plan or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (q)(1)(ii) and (iii) of this Section II, above, shall be authorized to examine trade secrets of State Farm or its affiliates, or commercial or financial information that is privileged or confidential.

Section III—Definitions

For purposes of this proposed exemption:

(a) The term, "affiliate" or "affiliates," means:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative (as defined in paragraph (e) of this Section III, below), or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(b) The term, "control," means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term, "Fund or Funds," shall include any diversified open-end investment company or companies registered under the 1940 Act for which State Farm or its affiliates serve as an investment adviser and may also serve as a custodian, dividend disbursing agent, shareholder servicing agent, transfer agent, Fund accountant, or provide some other Secondary Service (as defined in paragraph (f) of this Section III, below), which has been approved by such Fund.

(d) The term, "net asset value," means the amount for purposes of pricing all purchases and sales, calculated by dividing the value of all securities (determined by a method as set forth in a Fund's prospectus and Statement of Additional Information) and other assets belonging to such Fund or portfolio of such Fund, less the liabilities charged to each such portfolio or Fund, by the number of outstanding shares.

(e) The term, "relative," means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(f) The term, "Secondary Service," means a service other than an investment management, investment advisory, or similar service, which is provided by State Farm or its affiliates to a Fund, including custodial, accounting, brokerage, administrative, or any other service.

(g) "Termination Form," means the form supplied to an Agent, Family Member, or Participant in a participant directed individual account plan, as appropriate, that expressly provides an election to terminate on behalf of a Plan (or the Participant's account in the case of a participant directed individual account plan) the investment of plan assets in a Fund. Such Termination Form may be used at will by an Agent, Family Member, or Participant in a participant directed individual account plan to terminate the investment by a Plan in a Fund without penalty to the Plan (or the Participant's account, in the

case of a participant directed individual account plan) and to notify State Farm and its affiliates in writing to effect a termination by selling the shares of a Fund held by the Plan (or Participant's account) requesting such termination within one business day following receipt by State Farm or its affiliates of the form; provided that if, due to circumstances beyond the control of State Farm or its affiliates, the sale cannot be executed within one business day, State Farm or its affiliates shall have one additional business day to complete such sale.

(h) The term, "Plan" or "Plans," means any pension plan subject to the Act and/or the Code, including but not limited to plans that provide for participant investment direction, traditional individual retirement accounts (IRAs), SEP-IRAs, and Keogh plans.

Effective Date: This proposed exemption, if granted, is effective, as of May 1, 2001.

Summary of Facts and Representations

1. State Farm is a mutual insurance company organized under the laws of the State of Illinois. It is a property/casualty insurance company and is the parent company of a number of life and property/casualty insurance companies and financial services companies.

2. SFVPMC, organized as a Delaware corporation in 1996, is a wholly-owned subsidiary of State Farm. SFVPMC is registered as a broker-dealer with the Securities and Exchange Commission and is a member of the National Association of Securities Dealers, Inc. SFVPMC serves as the distributor of variable life insurance policies and variable annuity contracts issued by State Farm companies. State Farm Agents act as registered representatives of SFVPMC in connection with the sale of such insurance policies and variable annuity contracts.

3. State Farm Investment Management Corp. (SFIMC), organized as a Delaware corporation in 1966, is a wholly-owned subsidiary of State Farm. SFIMC is registered as an investment adviser under the 1940 Act. SFIMC performs investment advisory, transfer agent, and underwriting services for State Farm.

4. Although there are a modest number of State Farm Agents who are employees, State Farm and its subsidiaries sell their products through an exclusive agency force—a majority of which are independent contractors. State Farm selects and trains the Agents and provides them with exclusive agency contracts. State Farm works closely with the Agents in a number of areas, but it does not actively supervise them. This proposed exemption concerns only those State Farm Agents who are independent contractors, and all references to Agents should be read to apply to Agents of State Farm and its subsidiaries that are independent contractors.

5. Many Agents hire employees to assist them in their sales and related activities. It is common for Agents to sponsor for themselves and for their employees retirement plans that are subject to the Act and/or the Code. In addition, Family Members of the Agents (as defined in section 4975(e)(6) of the Code) may also establish for themselves plans that are subject to the Act and/or the Code. These plans most frequently include 401(a) plans, IRAs, and SEP-IRAs. Many of these plans are funded with annuity and insurance contracts issued by life insurance subsidiaries of State Farm.

6. During the fourth quarter of 2000, State Farm established the Funds, listed below, and placed $410,000,000 into such Funds as seed money. The seed money was allocated to the Funds as follows:

(1) State Farm Equity Fund ($20 million); (2) State Farm Small Cap Equity Fund ($50 million); (3) State Farm International Equity Fund ($50 million); (4) State Farm S&P 500 Index Fund ($50 million); (5) State Farm Small Cap Index Fund ($50 million); (6) State Farm International Index Fund ($50 million); (7) State Farm Equity and Bond Fund ($50 million); (8) State Farm Bond Fund ($30 million); (9) State Farm Tax Advantaged Bond Fund ($50 million); and (10) State Farm Money Market Fund ($10 million).

It is represented that the seed money was entirely derived from State Farm assets and not from the assets of any employee benefit plan. State Farm has informed the Department that it has no intention at this time of withdrawing such seed money from the Funds. It is further represented that the viability of the Funds is not dependent in any manner upon the investment of assets of any employee benefit plan.

For each Fund, there are several classes of shares. As of September 2, 2001, the percentage of State Farm's ownership in each portfolio of the Funds and each class of retail shares within each portfolio was as follows: (1) State Farm Equity Fund A (29.41%) and State Farm Equity Fund B (33.86%); (2) State Farm Small Cap Equity Fund A (93.45%) and State Farm Small Cap Equity Fund B (97.57%); (3) State Farm International Equity Fund A (95.40%) and State Farm International Equity Fund B (98.59%); (4) State Farm S&P 500 Index Fund A (76.06%) and State Farm S&P 500 Index Fund B (89.74%); (5) State Farm Small Cap Index Fund A (94.07%) and State Farm Small Cap Index Fund B (98.26%); (6) State Farm International Index Fund A (96.76%) and State Farm International Index Fund B (92.91%); (7) State Farm Equity and Bond Fund A (85.00%) and State Farm Equity and Bond Fund B (94.43%); (8) State Farm Bond Fund A (55.72%) and State Farm Bond Fund B (60.45%); (9) State Farm Tax Advantaged Bond Fund A (94.41%) and State Farm Tax Advantaged Bond Fund B (99.53%); and (10) State Farm Money Market Fund A (61.67%) and State Farm Money Market Fund B (99.98%).

7. In early 2001, State Farm began offering shares of the ten (10) separate Funds, listed in paragraph 6 above, for sale through the State Farm Mutual Fund Trust (the Trust). The Trust is an open-end management investment company organized as a business trust under the laws of the State of Delaware. Each of the Funds has its own investment objective, investment policies, restrictions, and risks that are generally reflected in the name of each Fund.

8. SFIMC is the investment adviser to each of these Funds. It is represented that the State Farm S&P 500 Index Fund, the State Farm Small Cap Index Fund, and the State Farm International Index Fund (the Equity Index Funds) seek to achieve their respective investment objectives by investing all of their assets in the S&P 500 Index Master Portfolio, the International Index Master Portfolio, and the Russell 2000 Index Master Portfolio (the Master Portfolios) for which Barclays Global Fund Advisors (Barclays), a party unrelated to State Farm, serves as the investment adviser.

9. State Farm, through the Trust, issues a separate series of shares of beneficial interest for each Fund, representing fractional undivided interests in such Fund. In this regard, for each Fund there are three (3) classes of shares, Class A shares, Class B shares, and Institutional Shares. These classes of shares are distinguished by varying sales charges and shareholder servicing fees. Class A shares have a front-end sales load of up to 3.00 percent (3%) and charge a 12b–1 distribution fee of up to .25 percent (.25%). Class B shares have no front-end load, but provide for a contingent deferred sales charge on the back end of up to 3.00 percent (3%). In addition, Class B shares charge a 12b–1 distribution fee of up to .65 percent (.65%). Finally, Institutional Shares have no sales loads or 12b–1 distribution fees.

SFVPMC is the broker-dealer, principal underwriter, and distributor for the Funds. Class A and Class B

shares of the Funds are sold through State Farm Agents who become licensed as registered representatives of SFVPMC. As of October 2000, there were approximately 9,200 State Farm Agents who were registered representatives of SFVPMC. The Institutional Shares are designed primarily for investment by employee benefit plans sponsored by State Farm and its affiliates and are not generally made available for sale to the public.

10. State Farm and its subsidiary, SFVPMC, (collectively, the Applicants) have requested a prohibited transaction exemption which would permit: (a) The independent contractor Agents of State Farm who are also registered representatives of SFVPMC; and (b) the Family Members of such Agents to direct that assets of any Plan sponsored by such Agents or Family Members be invested in the Institutional Shares of one or more of the recently established Funds.

Absent the requested relief, the Applicants are concerned that a violation of section 406(b)(2) of the Act would be deemed to occur if assets of any of the Plans are invested in any of the Funds, because an Agent would be representing both SFVPMC and a Plan in any purchase or redemption of shares of such Funds. The Applicants are also seeking relief from any potential violations of section 406(a) of the Act and section 4975(c)(1)(A)–(D) of the Code that could be deemed to occur in the proposed transactions.

11. There are two class exemptions covering transactions similar to those at issue in this proposed exemption. The first class exemption, Prohibited Transaction Class Exemption 77–3 (PTCE 77–3) (42 FR 18734, April 8, 1977), permits the acquisition or sale of shares of an open-end investment company registered under the 1940 Act by an employee benefit plan covering only employees of such investment company, its investment adviser, principal underwriter, or "affiliated persons" of such entities (as defined in section 2(a)(3) of the 1940 Act). In this regard, the Applicants have determined that the proposed transactions are not within the scope of PTCE 77–3, because the Agents (and their Family Members) are not affiliated persons of any of the Funds, investment advisers to any of the Funds, or principle underwriters of such Funds within the meaning of section 2(a)(3) of the 1940 Act.

The other class exemption, Prohibited Transaction Class Exemption 77–4 (PTCE 77–4) (42 FR 18732, Apr. 8, 1977), permits the purchase or sale of shares of an open-end investment company where the investment adviser to the company is also a fiduciary of the plan. In this regard, the Applicants have determined that the proposed transactions are not within the scope of PTCE 77–4, because the investment adviser of the Funds is not a fiduciary of the Plans. However, because the proposed transactions appear to parallel the transactions contemplated by PTCE 77–3 and PTCE 77–4, the Applicants have requested administrative relief comparable to that afforded by PTCE 77–3 and PTCE 77–4.

12. As an investment adviser, SFIMC continuously furnishes an investment program for the Funds (other than the Equity Index Funds), is responsible for managing the investments of the Funds, and has responsibility for making decisions governing whether to buy, sell, or hold any particular security. In carrying out its obligations to manage the investment and reinvestment of the assets of the Funds, SFIMC performs research and obtains and evaluates pertinent economic, statistical, and financial data relevant to the investment policies of such Funds. As investment adviser to the Equity Index Funds, SFIMC monitors the performance of the Master Portfolio in which each of the Equity Index Funds invests.

Pursuant to an investment advisory agreement, adopted in accordance with section 15 of the 1940 Act, the Trust pays SFIMC compensation in the form of an investment advisory and management services fee. The amount of the fee for each Fund is described in the prospectus for such Fund. In this regard, such fee accrues daily; is paid quarterly to SFIMC; and is based on average daily net assets. It is represented that SFIMC reimburses each Fund, if and to the extent, that the total annual operating expenses of each Fund exceed a specified percentage of the average net assets of such Fund.

With respect to one of the Funds, the State Farm Equity and Bond Fund, SFIMC has agreed not to receive an investment advisory and management services fee for services rendered to such Fund. However, SFIMC will receive fees from managing the underlying Funds in which the State Farm Equity and Bond Fund invests. In this regard, SFIMC attempts to maintain approximately 60 percent (60%) of the net assets of the State Farm Equity and Bond Fund in shares of the State Farm Equity Fund and approximately 40 percent (40%) of the net assets of the State Farm Equity and Bond Fund in shares of the State Farm Bond Fund.

13. The Trust is responsible for payment of all expenses it may incur in its operation and for all of its general administrative expenses, except those expressly assumed by SFIMC. These include (by way of description and not of limitation), any share redemption expenses, expenses of portfolio transactions, shareholder servicing costs, pricing costs (including the daily calculation of net asset value), interest on amounts borrowed by the Trust, charges of the custodian and transfer agent, cost of auditing services, non-interested Trustees' fees, legal expenses, all taxes and fees, investment advisory and management service fees, certain insurance premiums, cost of maintenance of corporate existence, investor services (including allocable personnel and telephone expenses), costs of printing and mailing updated Trust prospectuses to shareholders, costs of preparing, printing, and mailing proxy statements and shareholder reports to shareholders, the cost of paying dividends, capital gains distribution, costs of Trustee and shareholder meetings, dues to the Investment Company Institute to which the Funds are members, and any extraordinary expenses, including litigation costs in legal actions involving the Trust, or costs related to indemnification of Trustees, officers and employees of the Trust. The Board of Trustees of the Trust determines the manner in which expenses are allocated among the Funds of the Trust.

14. Pursuant to a sub-advisory agreement, adopted in accordance with section 15 of the 1940 Act, SFIMC has engaged Capital Guardian Trust Company (CGTC) as the investment sub-adviser to provide day-to-day portfolio management for the State Farm Small Cap Equity Fund and the State Farm International Equity Fund. CGTC manages the investments of the State Farm Small Cap Equity Fund and the State Farm International Equity Fund, determining which securities or other investments to buy and sell for each, selecting the brokers and dealers to effect the transactions, and negotiating commissions.

For its services, SFIMC pays CGTC an investment sub-advisory fee equal to a percentage of the average daily net assets of each of the State Farm Small Cap Equity Fund and the State Farm International Equity Fund at the rates, as described in the prospectus of each Fund.

15. As stated above, Barclays is the investment adviser to the Master Portfolios. Pursuant to an investment advisory contract with the Master Portfolios, adopted in accordance with section 15 of the 1940 Act, Barclays provides investment guidance and policy direction in connection with the management of the assets of the Master

Portfolios. Barclays is entitled to receive monthly fees as compensation for its advisory and administrative services to each Master Portfolio, as described in the prospectus. This advisory fee is an expense of the Master Portfolios borne proportionately by its interest holders, such as the Equity Index Funds.

16. The Applicants represent that the requested exemption is administratively feasible in that it will not require monitoring by the Department. In this regard, State Farm or its affiliates will maintain for a period of six (6) years the records necessary to determine whether the conditions of this exemption have been met.

17. The Applicants represent that the investment in the Funds is in the best interest of the Plans and their participants and beneficiaries. In this regard, the Funds represent a wide range of investment alternatives for plan assets. The price to be paid or received by a Plan for Institutional Shares in a Fund will be the net asset value per share at the time of the transaction and will be the same price that would have been paid or received for such shares by any other investor in such Fund at that time.

The exemption will permit the Plans to acquire Institutional Shares that would not ordinarily be available to Plans of this size with minimal fees and expenses. With respect to fees, the Plans will pay no plan-level investment advisory, investment management, or similar fee to State Farm or its affiliates in connection with the investment of the assets of such Plans in the Funds, nor will the Plans pay sales commissions or redemption fees in connection with the purchase or sale of Institutional Shares of the Funds. Furthermore, neither State Farm nor its affiliates will receive any fees payable pursuant to Rule 12b-1 under the 1940 Act in connection with the proposed transactions. The costs to each such Plan of any investment in the Funds should therefore be at least comparable to the costs of investing in shares of other similar mutual funds.

18. The proposed transactions parallel the transactions contemplated by PTCE 77–3 and PTCE 77–4. In this regard, as a result of the exclusive agency relationship and other factors, the Agents and their employees identify with State Farm in a way that is similar to the identification that employees of an insurance company, an investment company, or other financial institution would have with the company that employs them. Furthermore, the proposed exemption contains conditions similar to those imposed in PTCE 77–3 and PTCE 77–4 that are designed to prevent abuse.

19. The proposed exemption contains additional safeguards to protect the interests of the Plans. In this regard, the investment of assets of a Plan (or a Participant's account in the case of a participant directed individual account plan) in each particular Fund will be implemented only at the express direction of an Agent, Family Member, or Participant in a plan that provides participant investment direction. In no event, will State Farm nor its affiliates have discretionary authority or control with respect to the investment of the plan assets involved in the proposed transactions, nor will State Farm or its affiliates render investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets.

Prior to the initial investment by any of the Plans in a Fund, annually after the initial investment, and in advance of any increase in fees, any increase in the rate of fees, or the addition of any Secondary Service for which a fee is charged, Agents, Family Members, or Participants, as appropriate, will receive from State Farm or its affiliates certain written disclosure of information concerning such Fund. Investment in the Funds will be terminable at will by a Plan without penalty, upon receipt of written notification by State Farm or its affiliates.

The proposed exemption contains a condition that ensures that fiduciaries of the Plans are not improperly induced to purchase Institutional Shares of the Fund for Plans. In this regard, Agents will not receive sales commission or any other compensation or benefit, directly or indirectly, in connection with the purchase or sale of Institutional Shares of the Funds. Furthermore, it is represented that the Agents will not be pressured in any manner to cause Plans to purchase any shares in the Funds.

The exemption, if granted, would operate to permit the Plans to purchase Institutional Shares in the Funds but would not require that the Plans be funded with the Funds. Furthermore, State Farm has confirmed to the Department that formal action will be taken through an amendment to the prototype documents, effective May 31, 2001, to delete any provision permitting the insurer to limit investment options under the prototypes. Accordingly, the proposed exemption contains a condition that any Plan that adopts a prototype retirement plan sponsored by State Farm or its affiliates must not be required under the provisions of such prototype to invest a minimum percentage of the total investments under such Plan in State Farm products.

20. In summary, the Applicants represent that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because: (a) the acquisition and sale of Institutional Shares of the Funds to the Plans parallel the transactions contemplated by PTCE 77–3 and PTCE 77–4, and the proposed exemption contains safeguards similar to the conditions in such class exemptions; (b) the Plans pay no sales commissions or redemption fees with respect to investments by such Plans in any of the Funds; (c) Agents do not receive sales commission or any other compensation or benefit, directly or indirectly, in connection with the proposed transactions; (d) the Plans do not pay any plan-level investment advisory or similar fee in connection with the investment of the assets of such Plans in any of the Funds; (e) all dealings between the Plans, any of the Funds, and State Farm and its affiliates are on a basis no less favorable to such Plans than such dealings are with other shareholders of such Funds; (f) the price paid or received by a Plan for Institutional Shares in a Fund is the net asset value per share at the time of the transaction and is the same price that would have been paid or received for such shares by any other investor in such Fund at that time; (g) for each Plan, the combined total of all fees received by State Farm and its affiliates for the provision of services to such Plan, and in connection with the provision of services to any of the Funds in which such Plan may invest, are not in excess of "reasonable compensation" within the meaning of section 408(b)(2) of the Act; (h) neither State Farm nor its affiliates receives any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the proposed transactions; (i) prior to the initial investment by any of the Plans in a Fund, annually after the initial investment, and in advance of any increase in fees, any increase in the rate of fees, or the addition of any Secondary Service for which a fee is charged, Agents, Family Members, or Participants, as appropriate, receive certain written disclosure of information concerning such Fund; (j) any investment of assets of a Plan (or a Participant's account, in the case of a participant directed individual account plan) in a Fund is implemented only at the express direction of an Agent, Family Member, or Participant in a participant directed individual account plan; (k) investment by a Plan (or by a Participant's account, in the case of a individually directed account plan) in a

Fund is terminable at will by such Plan (or Participant's account), without penalty, upon receipt by State Farm or its affiliates of written notice of termination; (l) the Plans are not employee benefit plans sponsored or maintained by State Farm or its affiliates; and (m) any Plan subject to this proposed exemption which adopts a prototype retirement plan sponsored by State Farm or its affiliates must not be required under the provisions of such prototype to invest a minimum percentage of the total investments under such Plan in State Farm products.

For Further Information Contact: Ms. Angelena C. Le Blanc of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Rollover Individual Retirement Account for Brenda A. Moran (the IRA) Located in Hobbs, New Mexico

[Application No. D–11015]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, subpart B (55 FR 32836, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale (the Sale) of common stock (the Stock) of Bravo Energy Inc. (Bravo) by the IRA [23] to Bravo, a disqualified person with respect to the IRA, provided that the following conditions are met:

(a) The Sale is a one-time transaction for cash;

(b) The terms and conditions of the Sale are at least as favorable to the IRA as those obtainable in an arm's length transaction with an unrelated party;

(c) The IRA receives the greater of $14.24 per share of Stock or the fair market value of the Stock at the time of the Sale; and

(d) The IRA is not required to pay any commissions, costs or other expenses in connection with the Sale.

Summary of Facts and Representations

1. The IRA is an individual retirement account under section 408(a) of the Code. The Applicant is the sole participant of the IRA. As of April 30, 2001, the IRA held assets valued at approximately $2,242,747.41. Moran is the only person who has investment discretion over the assets in the IRA.

2. The IRA acquired 10,199 shares of Stock as a result of a rollover from the employee stock ownership plan of Moran Co., a New Mexico corporation. Moran Co. merged into Bravo effective as of July 31, 1991.

3. The Applicant requests an exemption for the Sale. The Applicant represent that the proposed transaction would be feasible because it would be a one-time transaction for cash. Furthermore, the Applicant states that the transaction would be in the best interest of the IRA because the Sale would enable the IRA to invest the proceeds from the Sale in assets with a higher rate of return. Finally, the Applicant represents that the transaction will be protective of the rights of the IRA's participant and beneficiaries because the IRA will receive the greater of $14.24 per share of Stock or the fair market value of the Stock, as determined by a qualified, independent appraiser on the date of the Sale, and will incur no commissions, costs, or other expenses as a result of the Sale.

4. James W. Francis, a CPA accredited in business valuation with Johnson, Miller Co., located in Hobbs, New Mexico, appraised the Stock on October 11, 2001, based on Internal Revenue Service pronouncements. The value was obtained by determining the price that a hypothetical willing buyer would pay a willing seller for the shares of the Stock owned by the IRA. Based upon the factors related to the valuation and approaches, methods and procedures of valuation considered and other information accumulated during the investigation and analysis, including a December 31, 1999 valuation prepared by a qualified, independent, appraiser previously hired by the Applicant, the December 31, 2000 balance sheet prepared by Bravo, and inspecting the Stock and analyzing all relevant data, Mr. Francis determined that a fee simple interest in the Stock had a fair market value of approximately $14.24 per a share as of October 11, 2001.

5. In summary, the Applicant represents that the proposed transaction satisfies the statutory criteria of section 4975(c)(2) of the Code because:

(a) The terms and conditions of the Sale would be at least as favorable to the IRA as those obtainable in an arm's length transaction with an unrelated third party;

(b) The Sale would be a one-time cash transaction allowing the IRA to divest itself of the Stock and reinvest the proceeds of the Sale in assets that will yield a higher rate of return;

(c) The IRA would receive an amount equal to the greater of $14.24 per share of the Stock, which represents the appraised fair market value of the Stock, as appraised by Mr. Francis in October 11, 2001, or the fair market value of the Stock at the time of the Sale; and

(d) The IRA would not be required to pay any commissions, costs or other expenses in connection with the Sale.

Notice to Interested Parties: Because Moran is the only participant in the IRA, it has been determined that there is no need to distribute the notice of proposed exemption (the Notice) to interested persons. Comments and requests for a hearing are due thirty (30) days after publication of the Notice in the **Federal Register**.

For Further Information Contact: Khalif Ford of the Department, telephone (202) 219–8883 (this is not a toll-free number).

Individual Retirement Account of Howard E. Adkins (the IRA) Located in Boise, Idaho

[Application No. D–11025]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570 Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by the IRA of an interest (the Interest) in certain real property (the Property) to Moccasin, LLC (the LLC), a disqualified person with respect to the IRA,[24] provided that the following conditions are satisfied: (1) The sale is a one-time transaction for cash; (2) the IRA pays no commissions nor other expenses relating to the sale; and (3) the sales price received by the IRA equals the Interest's fair market value, as of the date of the sale, as established by a qualified, independent appraiser.

Summary of Facts and Representations

1. The IRA is an individual retirement account, as described under section 408(a) of the Code. The IRA was established by Howard E. Adkins, M.D., who is the sole participant. Dr. Adkins' wife, Ione M. Adkins, is the beneficiary of the IRA. As of September 18, 2001,

[23] Because Brenda A. Moran (the Applicant) is the only participant in the IRA, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act under section 4975 of the Code.

[24] Pursuant to 29 CFR 2510.3–2(d), the IRA is not an employee benefit plan within the jurisdiction of Title I of the Act. However, there is jurisdiction under Title II of the Act, pursuant to section 4975 of the code.

the IRA had total assets of approximately $651,021.00, which consisted primarily of the Interest (as valued by an independent appraisal, discussed below). The trustee of the IRA is First Security Bank of Idaho, N.A., located in Boise, Idaho.

2. Dr. Adkins and his wife are the sole managing members of the LLC, an Idaho limited liability company in which each owns 7,500 units. The LLC has no other members. The LLC, the proposed purchaser of the Interest, was formed to hold title to two real estate investment properties, which are ranches located near Salmon, Idaho. The LLC is contemplating a sale of one of the two ranches, with the proceeds to be used by the LLC to purchase the Interest from the IRA 7 in a tax-free exchange (pursuant to section 1031 of the Code).

3. The Property consists of four units of farmland in Adams County, Washington—the West Tract (Units 45 & 46) and the East Tract (Units 56 & 57). The Property was originally acquired as an investment by Dr. Adkins' individual account in the Adkins Fulwyler Pension Trust (the Trust). The Trust purchased two units of the Property in 1983 from Charles H. and Tonia L. Howarth, who are unrelated parties, for approximately $222,250. The Trust purchased two additional units in 1985 from the Prudential Insurance Company, also unrelated, for approximately $225,000. The Property and other assets were distributed from the Trust and rolled over into the IRA in December, 1995.

On July 20, 2000, Dr. Adkins turned 70½, the maximum age for a minimum required distribution (MRD) from his IRA. The applicant represents that there was insufficient cash available to make the MRD to Dr. Adkins from his IRA for the year 2000.[25] Consequently, Dr. Adkins was forced to receive some cash and a small undivided interest (nine percent) in Units 45 & 46 of the Property.[26] The applicant represents that the Property is not adjacent to any other real property owned by the Adkinses.

The Property is being rented annually to an unrelated third party for approximately $35,000.00 per year. Rental expenses include (i) a custodian charge by Wells Fargo Bank of 1% per month of the value of the Property, (ii) an onsite Property manager that receives 12% of the net rental income, (iii) taxes and water charges of approximately $18,000 per year, and (iv) miscellaneous repair and equipment purchases. The applicant further represents that the Property has not been leased to, nor used by, a disqualified person with respect to the IRA, at any time since being acquired by the IRA.[27]

4. The Property has been appraised by Columbia Appraisal and Real Estate Company, a qualified, independent appraiser located in Pasco, Washington. Robert L. Greeno, a general appraiser certified in the State of Washington, and Wendy C. Greeno, Appraisal Assistant, estimated that the fair market value of the Property was $685,700, as of September 18, 2001. Utilizing the Sales Comparison Approach, the Greenos chose three recent sales of comparable irrigated farms in Adams County, which were within a 15-mile radius of the Property, as the best indicators of the current market value of the Property. Mr. Greeno concluded that the West Tract (Units 45 & 46) consists of 148.2 irrigable acres worth $2,600 per acre for a value of $385,320, while the East Tract (Units 56 & 57) consists of 130.6 irrigable acres worth $2,300 per acre for a value of $300,380—thus, a total value for the Property of $685,700.

Subtracting the nine percent (9%) minority interest in the West Tract of the Property (*i.e.*, valued at $34,679), which is owned individually by Dr. Adkins as a result of the MRD from the IRA, Mr. Greeno concluded that the fair market value of the IRA's Interest was $651,021, as of September 18, 2001.

5. The applicant proposes that the LLC purchase the Interest from the IRA for an amount in cash equal to the fair market value of the Interest ($651,021, as of September 18, 2001), based on an updated, independent appraisal at the time of the transaction. The IRA will pay no commissions nor other expenses relating to the sale.

The applicant represents that the proposed exemption is in the best interests of the IRA because the IRA will be able to obtain a much better price for the Interest from the LLC, compared with offers it has received in past attempts to sell the Interest on the open market, and without incurring any brokerage commissions or other transaction costs. In addition, the sale will allow the IRA an opportunity to divest itself of an illiquid asset. The IRA will then be able to reinvest the sale proceeds in other investments that will increase the diversification of the IRA's assets and facilitate the payment of retirement benefits.

6. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria for an exemption under section 4975(c)(2) of the Code for the following reasons:

(a) the sale will be a one-time transaction for cash; (b) the IRA will pay no commissions nor other expenses relating to the sale; (c) the sale price received by the IRA will equal the Interest's fair market value, as of the date of the sale, as established by a qualified, independent appraiser; and (d) the sale will allow the IRA an opportunity to divest itself of an illiquid asset, increase the diversification of the IRA's assets by reinvesting the proceeds of the sale in other investments, and facilitate the payment of retirement benefits.

Notice to Interested Persons: Because Dr. Adkins is the sole participant in his IRA, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing with respect to the proposed exemption are due within 30 days of the date of publication of this notice in the **Federal Register**.

For Further Information Contact: Ms. Karin Weng of the Department, telephone (202) 693–8540. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things,

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[25] The Department notes that the Internal Revenue Service has taken the position that a lack of diversification of investments in a qualified plan may raise questions in regard to the exclusive benefit rule under section 401(a) of the Code. See, e.g., Rev. Rul. 73–532, 1973–2 C.B. 128. The Department further notes that section 408(a) of the Code, which describes tax qualification provisions for IRAs, mandates that an IRA trust be created for the exclusive benefit of an individual and his or her beneficiaries. However, the Department expresses no opinion herein as to whether the acquisition and holding of the Property by the IRA violated any provisions of the Code.

[26] The applicant represents that the MRD for the 2000 tax year was calculated as follows. The fair market value of the total assets of the IRA on December 31, 1999 was $637,300. As of that date, the fair market value of Units 45 & 46 of the Property was equal to $346,200, while the fair market value of Units 57& 58 of the Property was equal to $291,100. The MRD for 2000 was $30,936. Thus, nine percent of Units 45 & 46 were deeded to Dr. Adkins (i.e., $346,200 × .09 = $31,158). However, the Department expresses no opinion herein as to whether the amount distributed to Dr. Adkins as the MRD satisfied the applicable provisions of the Code.

[27] The Department notes that any lease or use of the Property by a "disqualified person," as defined in section 4975(e)(2) of the Code, would be a separate prohibited transaction under section 4975(c)(1)(A) or (D) of the Code.

require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 6th day of December, 2001.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits, Administration, Department of Labor.

[FR Doc. 01–30755 Filed 12–12–01; 8:45 am]

BILLING CODE 4510–29–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–416]

Entergy Operations, Inc.; Grand Gulf Nuclear Station, Unit 1 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) part 50, appendix E IV.F.2.b and c for Facility Operating License No. NPF–29, issued to Entergy Operations, Inc., the licensee, for operation of the Grand Gulf Nuclear Station (GGNS), Unit 1, located in Claiborne County, Mississippi. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action is a one time exemption from the requirements of 10 CFR part 50, appendix E, sections IV.F.2.b and c regarding conduct of a full participation exercise of the onsite and offsite emergency plans every 2 years. Under the proposed exemption, the licensee would reschedule the exercise originally scheduled for September 19, 2001, and complete the exercise requirements during the week of March 4, 2002.

The proposed action is in accordance with the licensee's application for an exemption dated September 18, 2001, supplemented by letter dated December 3, 2001.

The Need for the Proposed Action

10 CFR part 50, Appendix E, Items IV.F.2.b and c requires each licensee at each site to conduct an exercise of its onsite and offsite emergency plan every 2 years. Federal agencies (the NRC for the onsite exercise portion and the Federal Emergency Management Agency (FEMA) for the offsite exercise portion) observe these exercises and evaluate the performance of the licensee, State and local authorities having a role under the emergency plan.

The licensee had initially planned to conduct an exercise of its onsite and offsite emergency plan on September 19, 2001, within the required 2-year interval. However, due to circumstances resulting from the national tragedy of September 11, 2001, the licensee was concerned that the performance of an Emergency Plan Exercise, including full participation of offsite authorities, would result in undue stress and risk to the general public and to plant personnel. Based on the concerns created by this extraordinary event, the licensee has decided to postpone the exercise.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the proposed action involves an administrative activity (a scheduler change in conducting an exercise) unrelated to plant operations.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the GGNS.

Agencies and Persons Consulted

On October 5, 2001, the staff consulted with the Mississippi State official, Robert W. Goff of the Mississippi Department of Health, regarding the environmental impact of the proposed action. The State official had no comments. In addition, by telephone conference on September 20, 2001, the FEMA indicated support for a one-time rescheduling of the Emergency Plan exercise from September 19, 2001, to a date during calendar year 2002.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letters dated September 18, and December 3, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville,

Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 7th day of December, 2001.

For the Nuclear Regulatory Commission.

Robert A. Gramm,

Chief, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30833 Filed 12–12–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–25312; File No. 812–12280]

Nationwide Life Insurance Company, et al.; Notice

December 7, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order pursuant to section 26(c) of the Investment Company Act of 1940 ("1940 Act").

Applicants: Nationwide Life Insurance Company ("Nationwide"); Nationwide Variable Account-4 (the "Separate Account"); and Salomon Smith Barney ("SSB") (all collectively, the "Applicants").

Summary of the Application: Applicants seek an order pursuant to section 26(c) of the 1940 Act to permit the substitution of shares of the Smith Barney Variable Account Funds—Income and Growth Portfolio and the Smith Barney Variable Account Funds—Reserve Account Portfolio (collectively, the "Existing Funds"), with shares of the Travelers Series Fund, Inc.—Smith Barney Large Cap Value Portfolio and the Travelers Series Fund, Inc.—Smith Barney Money Market Portfolio, respectively, (collectively, the "Replacement Funds").

Filing Date: The Application was filed on September 28, 2000, and amended on December 5, 2001.

Hearing or Notification of Hearing: An Order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 28, 2001, and should be accompanied by proof of service on Applicants in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Applicants, Jamie Casto, Nationwide Life Insurance Company, One Nationwide Plaza 1–09–V3, Columbus, Ohio 43215.

FOR FURTHER INFORMATION CONTACT: Martha Atkins, Attorney, at (202) 942–0668, or Keith Carpenter, Branch Chief, at (202) 942–0679, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. Nationwide is a stock life insurance company organized under the laws of the State of Ohio. Nationwide is wholly owned by Nationwide Financial Services, Inc. ("NFS"). NFS, a Delaware corporation, is a publicly traded holding company with two classes of common stock outstanding, each with different voting rights. This enables Nationwide Corporation (the holder of all the outstanding Class B Common Stock) to control NFS. Nationwide Corporation stock is held by Nationwide Mutual Insurance Company (95.24%) and Nationwide Mutual Fire Insurance Company (4.76%), the ultimate controllers of Nationwide.

2. The Separate Account was established on October 7, 1987 by Nationwide for the purpose of funding variable annuity contracts. The Separate Account is registered under the 1940 Act as a unit investment trust (File No. 811–5701). The Separate Account supports two deferred variable annuity contracts (collectively, the "contracts") that are registered under the Securities Act of 1933 ("1933 Act") (File Nos. 33–25734 and 33–26454).

3. The Separate Account maintains separate sub-accounts for each underlying mutual fund available under the contracts. Contract owners may currently choose to have purchase payments allocated to one or more sub-accounts which invest in the following underlying mutual funds:

Federated Insurance Series, Federated Quality Bond Fund II
Greenwich Street Series Fund, Intermediate High Grade Portfolio, Total Return Portfolio
Smith Barney Variable Account Funds, Income and Growth Portfolio, Reserve Account Portfolio, U.S. Government/ High Quality Securities Portfolio
Travelers Series Fund, Inc., Smith Barney Large Cap Value Portfolio, Smith Barney International Equity Portfolio, Smith Barney Money Market Portfolio

4. The prospectus portion of the registration statements for the contracts contain provisions stipulating Nationwide's right to substitute shares of one underlying mutual fund for shares of another underlying mutual fund already purchased or to be purchased in the future with purchase payments or premiums made under the contracts in the event that: (i) The underlying mutual fund options currently available under the contracts are no longer available for investment by the Separate Account; or (ii) in the judgment of Nationwide's management, further investment in such underlying mutual fund shares is inappropriate in view of the purposes of the contracts.

5. Applicants seek an Order pursuant to section 26(c) of the 1940 Act to permit the substitution of shares of the Replacement Funds in Column B for shares of the Existing Funds in Column A in the following table.

Column A, existing funds	Column B, replacement funds
Smith Barney Variable Account Funds—Income and Growth Portfolio ...	Travelers Series Fund, Inc.—Smith Barney Large Cap Value Variable Portfolio.
Smith Barney Variable Account Funds—Reserve Account Portfolio	Travelers Series Fund, Inc.—Smith Barney Money Market Portfolio.

6. Each of the Existing Funds and Replacement Funds is part of an open-end, diversified management investment company established to fund benefits under variable life insurance policies and variable annuity contracts.

7. Nationwide is not affiliated with any of the Replacement Funds, nor is Nationwide affiliated with the adviser to the Replacement Funds (SSB Citi Fund Management LLC).

8. Salomon Smith Barney Inc. ("SSB"), which serves as general distributor-principal underwriter of the contracts issued by the Separate Account, is affiliated with the adviser to the Existing Funds and the Replacement Funds (SSB Citi Fund Management LLC).

9. Information about the Existing Funds and Replacement Funds, in addition to the rationale for each replacement proposed is provided below.

10. Smith Barney Variable Account Funds—Income and Growth Portfolio to be replaced with Travelers Series Fund, Inc.—Smith Barney Large Cap Value Portfolio.

Existing fund	Replacement fund
Smith Barney Variable Account Funds, Smith Barney Variable Account Funds was organized as a Massachusetts business trust on December 18, 1986, is an open-end, diversified, management investment company. Smith Barney Variable Account Funds is managed by SSB Citi Fund Management LLC, a subsidiary of Citigroup. *The Income and Growth Portfolio,* Investment Objective: To seek current income and long-term growth of income and capital by investing primarily in common stocks. Specifically, the Portfolio invests primarily in common stocks of U.S. companies having market capitalizations of at least $5 billion at the time of investment.	*Travelers Series Fund Inc.,* Travelers Series Fund Inc. was incorporated in Maryland on February 22, 1994, and is an open-end, diversified, management investment company. Travelers Series Fund, Inc. is managed by SSB Citi Fund Management LLC, a subsidiary of Citigroup Inc. *Smith Barney Large Cap Value Portfolio,* Investment Objective: To seek current income and long-term growth of income and capital by investing primarily in common stocks. Specifically, the Portfolio invests primarily in common stocks of U.S. companies having market capitalizations of at least $5 billion at the time of investment.

	Existing fund—Smith Barney variable account funds—income and growth portfolio (percent)	Replacement fund—Travelers Series Fund, Inc.,—Smith Barney large cap value portfolio (percent)
Adviser	SSB Citi Fund Management LLC	SSB Citi Fund Management LLC
Subadviser	N/A	N/A
With reimbursements/waivers (as of 07/01/01):		
Management fees	0.59	0.65
Other expenses	0.41	0.02
12b–1 fees	0.00	0.00
Total expenses	1.00	0.67
Without reimbursements/waivers (as of 07/01/01):		
Management fees	0.60	0.65
Other Expenses	0.41	0.02
12b–1 fees	0.00	0.00
Total expenses	1.01	0.67

Specific asset and performance information as of 07/01/01 is as follows (performance represents average annual total returns):

	Existing fund—Smith Barney variable account funds—income and growth portfolio	Replacement fund—Travelers Series Fund, Inc.—Smith Barney large cap value portfolio
Inception Date	July 1989	June 1994
Fund Assets	$7,654,000	$573,337,000
1 Year	9.43%	11.15%
3 Year	2.33%	2.86%
5 Year	11.27%	10.89%
Inception to 07/01/01	11.64%	13.21%

11. Smith Barney Variable Account Funds and Travelers Series Fund Inc., are affiliates, each supporting different distribution channels. Accordingly, both trusts use the same investment adviser, SSB Citi Fund Management LLC ("SSB Citi Fund"). Nationwide is the primary shareholder (approximately 95%) in the Smith Barney Variable Account Funds—Income and Growth Portfolio. SSB Citi Fund has informed Nationwide that it wishes to terminate operation of the Smith Barney Variable Account Funds, including the Income and Growth Portfolio, and that upon moving all assets out of the Smith Barney Variable Account Funds, it will file a form N–8F, Application for Deregistration of Certain Registered Investment Companies.

12. Applicants propose to move the assets currently located in the Smith Barney Variable Account Funds—Income and Growth Portfolio into the Travelers Series Fund, Inc.—Smith Barney Large Cap Value Portfolio. The proposed substitution will enable SSB Citi Fund to liquidate the Smith Barney Variable Account Funds by moving the assets located in the Income and Growth Portfolio to a comparable fund of an affiliate, Travelers Series Fund Inc. Both funds have the same investment manager (SSB Citi Fund), the same investment objective (current income and long-term growth of income and capital), and comparable short- and long-term performance. Additionally, the expenses associated with the replacement fund are 33 basis points lower than the expenses of the existing fund.

13. Assets in the Travelers Series Fund, Inc.—Smith Barney Large Cap Value Portfolio are substantially larger and more actively managed, making it more likely that it will meet its stated investment objectives while maintaining lower expenses to the contract owners as compared to the Smith Barney Variable Account Funds—Income and Growth Portfolio.

14. Neither Nationwide nor any of its affiliates currently receives, and will not receive for a period of three years from the date of the Order requested herein, any direct or indirect benefit from the Travelers Series Fund, Inc.—Smith Barney Large Cap Value Portfolio, its adviser, and/or the adviser's affiliates, including, without limitation, 12b–1, shareholder service, administrative or other service fees, revenue sharing or other arrangement, either with specific reference to the Travelers Series Fund, Inc.—Smith Barney Large Cap Value Portfolio or as part of an overall business arrangement.

15. The proposed substitution would enable investors to enjoy the economies of scale associated with a larger fund, without changing the investment objective or fund manager originally contemplated when allocations were originally made to the Smith Barney Variable Account Funds—Income and Growth Portfolio. Furthermore, the underlying mutual fund expenses would decrease. Consequently, it is believed that by substituting assets out of the Smith Barney Variable Account Funds—Income and Growth Portfolio and into the Travelers Series Fund, Inc.—Smith Barney Large Cap Value Portfolio, contract owners will be better served.

16. Smith Barney Variable Account Funds—Reserve Account Portfolio to be replaced with Travelers Series Fund, Inc.—Smith Barney Money Market Portfolio.

Existing fund	Replacement fund
Smith Barney Variable Account Funds Smith Barney Variable Account Funds was organized as a Massachusetts business trust on December 18, 1986, and is an open-end, diversified, management investment company. Smith Barney Variable Account Funds is managed by SSB Citi Fund Management LLC, a subsidiary of Citigroup. *The Reserve Account Portfolio* Investment Objective: To seek current income by investing exclusively in money market instruments and other high quality fixed income obligations with limited maturities. Currently, the Portfolio has insufficient assets to invest in accordance with the above stated investment objective. Consequently, assets in the Portfolio are actually being invested in repurchase agreements and U.S. treasury bills.	*Travelers Series Fund Inc.* Travelers Series Fund Inc. was incorporated in Maryland on February 22, 1994, and is an open-end, diversified, management investment company. Travelers Series Fund, Inc. is managed by SSB Citi Fund Management LLC, a subsidiary of Citigroup Inc. *Smith Barney Money Market Portfolio* Investment Objective: To seek maximum current income consistent with preservation of capital. The Portfolio seeks to maintain a stable $1 share price. The Portfolio invests in high quality U.S. dollar denominated short term debt securities, including commercial paper, corporate and municipal obligations, obligations of U.S. and foreign banks, securities of the U.S. government, its agencies or instrumentalities and related repurchase agreements.

	Existing fund—Smith Barney variable account funds—reserve account portfolio (percent)	Replacement fund—Travelers Series Fund, Inc.—Smith Barney money market portfolio (percent)
Adviser	SSB Citi Fund Management LLC	SSB Citi Fund Management LLC
Subadviser	N/A	N/A
With reimbursements/waivers (as of 07/01/01):		
Management Fees	0.00	0.50
Other Expenses	1.00	0.03
12b–1 Fees	0.00	0.00
Total Expenses	1.00	0.53
Without reimbursements/waivers (as of 07/01/01):		
Management Fees	0.45	0.50
Other Expenses	86.14	0.03
12b–1 Fees	0.00	0.00
Total Expenses	86.59	0.53

Specific asset and performance information as of 07/01/01 is as follows (performance represents average annual total returns):

	Existing fund—Smith Barney variable account funds—reserve account portfolio	Replacement fund—Travelers Series Fund, Inc.—Smith Barney money market portfolio
Inception Date	August 1989	June 1994
Fund Assets	$26,915	$471,084,000
1 Year	4.49%	5.59%
3 Year	3.30%	5.24%
5 Year	2.13%	5.16%
Inception to 07/01/01	4.54%	5.14%

17. Smith Barney Variable Account Funds and Travelers Series Fund Inc. are affiliates, each supporting different distribution channels. Accordingly, both trusts use the same investment adviser, SSB Citi Fund Management LLC ("SSB Citi Fund"). Nationwide is the primary shareholder (approximately 85%) in the Smith Barney Variable Account Funds—Reserve Account Portfolio. SSB Citi Fund has informed Nationwide that it wishes to terminate operation of the Smith Barney Variable Account Funds, including the Reserve Account Portfolio, and that upon moving all assets out of the Smith Barney Variable Account Funds, it will file a form N–8F, Application for Deregistration of Certain Registered Investment Companies.

18. Applicants propose to move the assets currently located in the Smith Barney Variable Account Funds—Reserve Account Portfolio into the Travelers Series Fund, Inc.—Smith Barney Money Market Portfolio. The proposed substitution will enable SSB Citi Fund to liquidate the Smith Barney Variable Account Funds by moving the assets located in the Reserve Account Portfolio to a comparable fund of an affiliate, Travelers Series Fund Inc. Both funds have the same investment manager (SSB Citi Fund) and similar investment objectives (current income). Furthermore, the replacement fund has slightly better performance, both in the short and long term.

19. As reflected in the Reserve Account Portfolio's prospectus, this fund currently has insufficient assets to invest in accordance with the stated fund objective. Furthermore, the total expenses associated with this fund, prior to reimbursements and waivers, is 86.59%. Taking into account the reimbursements and waivers, total expenses are 1.00%, still 47 basis points higher than the replacement fund. Although performance of the Smith Barney Variable Account Funds—Reserve Account Portfolio is comparable to, although slightly lower than, the replacement fund, it is unlikely that such performance would have been sustained had the existing fund not waived such a large portion of their actual expenses. Furthermore, the fact that such a large portion of the existing fund's expenses are not being recouped further jeopardizes the existing fund's ability to maintain assets. This depletion of assets only further undermines the fund's ability to invest according to the stated fund objectives.

20. Assets in the Travelers Series Fund, Inc.—Smith Barney Money Market Portfolio are substantially larger and more actively managed, making it more likely that it will meet its stated investment objectives while maintaining lower expenses as compared to the Reserve Account Portfolio. Furthermore, as stated previously, SSB Citi Fund has indicated that the assets in the Smith Barney Variable Account Funds—Reserve Account Portfolio are insufficient to invest according to the stated investment objective.

21. Neither Nationwide nor any of its affiliates currently receives, and will not receive for a period of three years from the date of the Order requested herein, any direct or indirect benefit from the Travelers Series Fund, Inc.—Smith Barney Money Market Portfolio, its adviser, and/or the adviser's affiliates, including, without limitation, 12b–1, shareholder service, administrative or other service fees, revenue sharing or other arrangement, either with specific reference to the Travelers Series Fund, Inc.—Smith Barney Money Market Portfolio or as part of an overall business arrangement.

22. The proposed substitution would enable investors to have their allocations invested as originally intended, without changing the fund manager or incurring increased expenses. Therefore, by substituting assets out of the Smith Barney Variable Account Funds—Reserve Account Portfolio and into the Travelers Series Fund, Inc.—Smith Barney Money Market Portfolio, it is believed that contract owners will be more likely to achieve their original investment objective while being better served.

23. Applicants represent that the investment objectives of the Existing Funds and corresponding Replacement Funds are closely comparable. When viewed in the context of the wide spectrum (most conservative to most aggressive) of investment objectives reflected in contemporary mutual fund offerings, the Existing Funds and corresponding Replacement Funds are closely comparable.

24. For these reasons, Applicants assert that the substitution of the Replacement Funds for the Existing Funds will not create circumstances in which contract owners will be forced to surrender their contracts and purchase alternative investments (incurring deferred sales charges on the contracts or new sales charges on new investments) in order to maintain an investment strategy contemplated when making their original purchase.

25. Applicants state that the proposed substitution will take place on a date designated by Nationwide (the "Exchange Date"). In addition, the Applicants state that the proposed substitution will occur at the relative net asset values of the Replacement Funds and the Existing Funds on the Exchange Date and that no charges will be assessed in connection with the substitution transaction. Nationwide will bear all of the costs (including legal, accounting, brokerage, and other expenses) associated with the substitution. Accordingly, contract owners' contract values will not be affected in any way by the substitution. The proposed substitution will not impose any tax liability on contract owners and will not cause the fees and charges currently being paid by existing contract owners to be greater after the proposed substitution than before the proposed substitution. Applicants also represent that the proposed substitution will not be treated as a transfer for the purposes of transfer limitations. Nationwide has informed contract owners that it will not exercise any rights it may have under the contracts to impose restrictions on transfers or eliminate the transfer privilege under the contracts from the date contract owners are informed of the Exchange

Date until at least thirty (30) days following the substitution.

26. Existing and prospective contract owners have been provided with current prospectuses for the Replacement Funds.

27. Contract owners will be notified of the impending Exchange Date. Contract owners with interests remaining in the Existing Funds will be advised that the Existing Funds will be replaced with the Replacement Funds on the Exchange Date. Contract owners will be given notice prior to the substitutions and will have thirty (30) days after the Exchange Date to reallocate unit values among other sub-accounts without imposition of any transfer charge or limitation, or the transfer counting against any limit on the number of transfers each year. All necessary forms and other information necessary for contract owners to effectuate exchanges among investment options will continue to be provided.

28. On the Exchange Date, all shares held by the Separate Account in the Existing Funds will be redeemed in cash, resulting in a complete liquidation of the sub-accounts. Contemporaneously with this redemption, cash proceeds received from the Existing Funds will be used to purchase shares in the corresponding Replacement Funds. All shares will be purchased and redeemed at prices based on the current net asset value per share next computed after receipt of the redemption request and in a manner consistent with Rule 22c–1 under the 1940 Act.

29. Nationwide asserts that it is likely that unit values (which include both accumulation unit values and annuity unit values) of the Existing Funds and the Replacement Funds will be different on the Exchange Date. In order to keep each contract owner's contract value the same after the Exchange Date as immediately prior to the Exchange Date, the number of units held by beneficial shareholders in the Existing Funds are likely to be different than the number of units held by beneficial shareholders in the corresponding Replacement Funds when the exchange takes place.

30. Within five (5) days of the Exchange Date, all contract owners affected by the transaction will receive a written confirmation of the transaction in accordance with Rule 10b–10 under the Securities Exchange Act of 1934. The confirmation will state that contract owners may transfer all cash value under an annuity contract in the affected sub-accounts to any other available sub-accounts. The notice will also reiterate that Nationwide will not exercise any right reserved by it under the contracts to impose any restrictions or fees on transfers until at least thirty (30) days after the Exchange Date.

Applicants' Legal Analysis

1. Section 26(c) of the 1940 Act requires the depositor or trustee of a registered unit investment trust holding the securities of a single issuer to obtain Commission approval before substituting securities held by the trust. The section further provides that the Commission shall issue an order approving such substitution if the evidence establishes that the substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Applicants represent that the proposed substitution, in accordance with the standards set forth under section 26(c) of the 1940 Act, is in the best interest of contract owners. With respect to management and fund objectives, the Replacement Funds, as has been demonstrated, are closely comparable to the corresponding Existing Fund. Accordingly, the proposed substitution should not create incentives for contract owners to surrender contracts and seek out other investment opportunities (incurring additional sales charges) in order to maintain a desired investment strategy. On the contrary, the close comparability of the funds proposed as a substitute for the Existing Funds ensures that investment strategies currently employed by contract owners may be maintained after the substitution.

3. Each of the Replacement Funds currently has greater assets than the Existing Fund being substituted into it. This will create the opportunity for better performance between the Existing Funds and Replacement Funds, which have similar management and investment objectives. The benefits of economies of scale will be passed to contract owners.

4. The Applicants maintain that the substitutions will not result in the type of costly forced redemption that section 26(c) was intended to guard against and, for the following reasons, are consistent with the protection of investors and the purposes fairly intended by the 1940 Act:

a. Each Replacement Fund has investment objectives that are similar to those of the corresponding Existing Fund, and permits contract owners continuity of their investment objectives and expectations;

b. The costs of the substitutions, including any brokerage costs, will be borne by Nationwide and will not be borne by contract owners and no charges will be assessed to effect the substitutions.

c. The substitutions will be effected at the net asset value of the respective sub-accounts of the Existing Funds and Replacements Funds in conformity with section 22(c) of the 1940 Act and Rule 22c-1 thereunder, without the imposition of any transfer or similar charge by Applicants, and with no change in the amount of any contract owner's contract value or in the dollar value of his or her investment in such contract.

d. The substitutions will not cause the fees and charges under the contracts currently being paid by contract owners to be greater after the substitutions than before the substitutions.

e. The contract owners will be given notice prior to the substitutions and will have an opportunity to reallocate unit values among other sub-accounts without imposition of any transfer charge or limitation, or the transfer counting against any limit on the number of transfers each year, for thirty (30) days after the Exchange Date.

f. Within five (5) days after the substitutions, Nationwide will send to the affected contract owners written confirmation that the substitutions have occurred.

g. The substitutions will in no way alter the insurance benefits to contract owners or the contractual obligations of Nationwide.

h. The substitutions will have no adverse tax consequences to contract owners and will in no way alter the tax benefits to contract owners.

5. Applicants assert, for the reasons stated above, that the proposed substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act and the requested Order approving the substitution should be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30808 Filed 12–12–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25313; File No. 812–12616]

United Investors Life Insurance Company, *et al.*

December 7, 2001.

AGENCY: Securities and Exchange Commission (the "Commission").

ACTION: Notice of an application for an Order of Approval pursuant to section 26(c) of the Investment Company Act of 1940, as amended (the "Act").

Applicants: United Investors Life Insurance Company ("United Investors"), Titanium Annuity Variable Account of United Investors Life Insurance Company ("Annuity Account"), and Titanium Universal Life Variable Account of United Investors Life Insurance Company ("Life Account"), (all collectively, the "Applicants").

Summary of Application: Applicants seek an order of the Commission, pursuant to section 26(c) of the Act, approving the substitution of shares of the AIM V.I. Capital Appreciation Fund portfolio of the AIM Variable Insurance Funds for shares of the Strong Discovery Fund II portfolio of the Strong Variable Insurance Funds, Inc. held by the Annuity Account and Life Account (together, the "Accounts") to support variable annuity and life insurance policies issued by United Investors.

Filing Date: The application was filed on August 28, 2001 and amended and restated on December 3, 2001 and on December 7, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on December 28, 2001, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Commission, 450 Fifth Street NW, Washington, DC 20549–0609. Applicants, c/o John H. Livingston, Esq., United Investors Life Insurance Company, 2001 Third Avenue South, Birmingham, Alabama 35233. Copies to Frederick R. Bellamy, Esq., Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Avenue, NW, Washington, DC 20004–2415.

FOR FURTHER INFORMATION CONTACT: Kenneth C. Fang, Attorney, or Keith E. Carpenter, Branch Chief, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. United Investors is a stock life insurance company originally incorporated under the laws of Missouri on August 17, 1981, as a successor to a company of the same name established in Missouri on September 27, 1961. United Investors is engaged in the sale of life insurance and annuity products and is admitted to do business in the District of Columbia and all states except New York. United Investors is an indirect subsidiary of Torchmark Corporation, a publicly traded life insurance and diversified financial services company. For purposes of the Act, United Investors is the depositor and sponsor of the Annuity Account and the Life Account, as those terms have been interpreted by the Commission, with respect to variable annuity and variable life separate accounts.

2. United Investors established the Annuity Account on September 15, 1999 as a segregated investment account under Missouri law. Under Missouri law, the assets of the Annuity Account are owned by United Investors but are held separately from all other assets of United Investors for the benefit of the owners of, and the persons entitled to payment under, the variable annuity policies. Assets in the Annuity Account attributable to the policy values are not chargeable with liabilities arising out of any other business that United Investors may conduct. The Annuity Account currently has 32 subaccounts, each of which invests in shares of a single mutual fund portfolio. Income, if any, and gains and losses, realized or unrealized, arising from the assets of each subaccount shall be credited to or charged against the amounts allocated to that subaccount without regard to the income, gains or losses of any other subaccount or any other business of United Investors. The Annuity Account is a "separate account" as defined by Rule 0–1(e) under the Act, and is registered with the Commission as a unit investment trust (File No. 811–10035). The variable annuity policies have been registered as securities under the Securities Act of 1933, as amended (the "1933 Act") on Form N–4 (File No. 333–43022).

3. United Investors established the Life Account on September 15, 1999 as a segregated investment account under Missouri law. Under Missouri law, the assets of the Life Account are owned by United Investors but are held separately from all other assets of United Investors for the benefit of the owners of, and the persons entitled to payment under, the variable life policies. Assets in the Life Account attributable to the variable life policy values are not chargeable with liabilities arising out of any other business that United Investors may conduct. The Life Account currently has 32 subaccounts, each of which invests in shares of a single mutual fund portfolio. Income, if any, and gains and losses, realized or unrealized, arising from the assets of each subaccount shall be credited to or charged against the amounts allocated to that subaccount without regard to the income, gains or losses of any other subaccount or any other business of United Investors. The Life Account is a "separate account" as defined by Rule 0–1(e) under the Act, and is registered with the Commission as a unit investment trust (File No. 811–09657). The variable life policies have been registered as securities under the 1933 Act on Form S–6 (File No. 333–89875).

4. Strong Variable Insurance Funds, Inc. (the "Strong Fund") is a series investment company as defined by Rule 18f-2 under the Act and is registered under the Act as an open-end management investment company (File No. 811–6553). The Strong Fund issues a separate series of shares of stock in connection with each series and has registered these shares under the 1933 Act on Form N–1A (File No. 33–45321). Strong Fund Capital Management, Inc. serves as investment adviser to the Strong Funds. One of the subaccounts of each of the Annuity Account and the Life Account invests in shares of the Strong Discovery Fund II ("Discovery Fund").

5. The Discovery Fund seeks capital growth. The Discovery Fund's May 1, 2001 prospectus explains its principal investment strategies as follows:

> The Discovery Fund II invests, under normal conditions, in securities that its manager believes offer attractive opportunities for growth. The fund usually invests in a diversified portfolio of common stocks from small-, medium-, and large-capitalization companies. These are chosen through a combination of in-depth fundamental analysis of a company's financial reports and direct, on-site research during company visits. When the manager believes market conditions favor fixed-income investments, the manager has the flexibility to invest a significant portion of the fund's assets in bonds. The fund would primarily invest in intermediate- and long-term investment grade bonds. To a limited extent, the fund may also invest in foreign securities. The manager may sell a holding if

its growth potential or fundamental qualities change. The fund's active trading approach may increase the fund's costs, which may reduce the fund's performance. The fund's active trading approach may also increase the amount of capital gains tax that you pay on the fund's returns.

The manager may invest without limitation in cash or cash-type securities (high-quality, short-term debt securities issued by corporations, financial institutions, the U.S. government, or foreign governments) as a temporary defensive position during adverse market, economic, or political conditions if the fund's manager determines that a temporary defensive position is advisable. This could reduce the benefit to the fund if the market goes up. In this case, the fund may not achieve its investment goals.

6. AIM Variable Insurance Funds ("AIM Fund") is a series investment company as defined by Rule 18f–2 under the Act and is registered under the Act as an open-end diversified management investment company (File No. 811–7452). The AIM Fund issues a separate series of shares of beneficial interest in connection with each series and has registered these shares under the 1933 Act on Form N–1A (File No. 33–57340). A I M Advisors, Inc. serves as investment adviser to the AIM Fund. One of the subaccounts of each of the Annuity Account and the Life Account invests in the AIM V.I. Capital Appreciation Fund Series I shares ("AIM Capital Appreciation Fund"). United Investors is not affiliated with the AIM Fund or A I M Advisors, Inc., except to the extent that it might be an "affiliated person" of the AIM Fund solely by record ownership of more than 5% of a class of shares of the AIM Fund (*i.e.*, ownership of shares held in the Accounts for the benefit of policy owners).

7. The AIM Capital Appreciation Fund's investment objective is growth of capital. The AIM Capital Appreciation Fund's May 1, 2001 prospectus explains its principal investment strategies as follows:

> The fund seeks to meet its objective by investing principally in common stocks of companies the portfolio managers believe are likely to benefit from new or innovative products, services or processes as well as those that have experienced above-average, long-term growth in earnings and have excellent prospects for future growth. The portfolio managers consider whether to sell a particular security when any of those factors materially changes. The fund may also invest up to 25% of its total assets in foreign securities.
>
> In anticipation of or response to adverse market conditions, for cash management purposes, or for defensive purposes, the fund may temporarily hold all or a portion of its assets in cash, money market instruments, shares of affiliated money market funds, bonds or other debt securities. As a result, the fund may not achieve its investment objective.

8. The policies are individual and group flexible premium variable life and deferred variable annuity policies. The variable annuity policies provide for the accumulation of values on a variable basis, fixed basis, or both, during the accumulation period, and for settlement or annuity payment options on a variable basis, fixed basis, or both. The variable life insurance policies provide for the accumulation of values on a variable basis, fixed basis, or both and for death benefit options and other life insurance features. Under the policies and as disclosed in the prospectuses, United Investors reserves the right to substitute shares of one fund for shares of another, including a fund of a different management investment company.

9. A policy owner may transfer all or part of the policy value from one subaccount to another or the fixed account, up to twelve times per year free of charge (for the annuity policies, before the annuity benefit date). Owners of variable annuities may transfer policy value once per year after the annuity benefit date. Each transfer must be for at least $100 or, if less, the entire subaccount value. United Investors charges $25 per transfer for each additional transfer after twelve per year.

10. United Investors, on its behalf and on behalf of the Accounts, proposes to substitute shares of the AIM Capital Appreciation Fund for shares of the Discovery Fund. Applicants believe that by making the proposed substitution, they can better serve the interests of the policy owners.

11. On April 5, 2001, the board of directors of the Strong Fund (the "Board") voted to close the Discovery Fund to new separate account investors effective April 6, 2001. Subsequently, on June 1, 2001, Strong Capital Management, Inc. notified United Investors of the Board's intention to terminate the Strong Fund's participation agreements with United Investors effective December 1, 2001 and cease the Discovery Fund's operations soon thereafter. The Board indicated that it decided to close the Discovery Fund because of the Discovery Fund's small asset base, lack of expected asset growth, and lack of economies of scale. The Board also requested that all of the insurance companies currently having separate accounts invested in the Discovery Fund, including United Investors, seek an order from the Commission approving the substitution of other securities for shares of the Discovery Fund currently held by these separate accounts.

12. Applicants had no influence or control over the Board's decision to terminate United Investors' relationship with Discovery Fund. Indeed, United Investors was not even consulted. Further, Applicants believe that some or all of these other insurance companies will seek an order from the Commission to substitute shares of certain securities for shares of Discovery Fund. Accordingly, Applicants believe that the resulting decrease in the assets of Discovery Fund would likely result in higher expenses and less favorable performance, to the detriment of the policy owners.

13. Applicants submit that the AIM Capital Appreciation Fund is a very suitable and appropriate substitute for the Discovery Fund. The AIM Capital Appreciation Fund and the Discovery Fund have the same objective of capital growth. Their investment strategies are very similar, as evidenced from the language quoted above from their prospectuses. They are both stock funds that use a "growth" style of stock selection (as opposed to a "value" style); both can invest in any size company (small, medium, or large capitalization companies); both can invest, to a limited extent, in foreign stocks; both can invest substantially in debt securities for defensive purposes.

14. The AIM Capital Appreciation Fund is an attractive fund to investors, and Applicants believe that policy owners should actually be better off with the proposed substitution because the AIM Capital Appreciation Fund has more assets, better performance, a substantially lower portfolio turnover rate, and substantially lower expenses than the Discovery Fund. Over the last five years, the AIM Capital Appreciation Fund has grown over 400%. Conversely, the Discovery Fund has declined by approximately 41% in asset size over the last five years. The AIM Capital Appreciation Fund's growing asset base of $1.5 billion allows it to achieve and maintain reasonable economies of scale as evidenced by an expense ratio that at 0.82% is considerably lower than the Discovery Fund's expense ratio of 1.2% (figures are for calendar year 2000). The AIM Capital Appreciation Fund also has a substantially lower management fee.

15. The AIM Capital Appreciation Fund has performed comparably to its benchmark index, the S&P 500 Index, since its inception. Whereas the AIM Capital Appreciation Fund has an average annual total return of 17.37% since its inception on May 5, 1993, its benchmark index has returned 17.72% in that period. For the five-year period

ended December 31, 2000, the AIM Capital Appreciation Fund's average annual total return was 15.45%; the Discovery Fund's annual return for that period was only 5.73%.

16. The AIM Capital Appreciation Fund is also managed efficiently. Its portfolio turnover rate has never been above 100% in the last five years. The Discovery Fund, on the other hand, has a high portfolio turnover rate ranging from 194% to 970% in the last five years.

17. The following charts show the approximate year-end size (in net assets), expense ratio (ratio of operating expenses as a percentage of average net assets), portfolio turnover rate, and annual total returns for each of the past five years for both of the Funds.

Strong discovery fund II	Net assets at year-end (millions)	Expense ratio (before imposition of expense caps) (percent)	Actual expense ratio (percent)	Management fee (percent)	Portfolio turnover rate (percent)	Total return (percent)
1996	$229	1.2	1.2	1.00	970	0.8
1997	214	1.2	1.2	1.00	198	11.4
1998	196	1.2	1.2	1.00	194	7.3
1999	152	1.2	1.1	1.00	235	5.1
2000	136	1.3	1.2	1.00	480	4.4

AIM V.I. Capital appreciation fund	Net assets at year-end (millions)	Expense ratio (before imposition of expense caps) (percent)	Actual expense ratio (percent)	Management fee (percent)	Portfolio turnover rate (percent)	Total return (percent)
1996	$370	0.73	0.73	0.64	59	17.58
1997	523	0.68	0.68	0.63	65	13.50
1998	647	0.67	0.67	0.62	83	19.30
1999	1,131	0.73	0.73	0.62	65	44.61
2000	1,534	0.82	0.82	0.61	98	−10.91

Neither the AIM Capital Appreciation Fund nor the Discovery Fund imposes a Rule 12b–1 fee, and no Rule 12b–1 Plan has been authorized for the AIM Capital Appreciation Fund.

18. Prior to the date the substitution is effected, by supplements to the various prospectuses for the policies and the Accounts, United Investors notified all owners of the policies invested in the Discovery Fund of their intention to take the necessary actions, including seeking the order requested by this Application, to substitute shares of the AIM Capital Appreciation Fund as described herein. The supplements advised policy owners that from the date of the supplement until 30 days after the date of the proposed substitution, owners are permitted to make one transfer (free of charge) of all amounts under a policy invested in the Discovery Fund to any other subaccount available under the policy without that transfer counting as a "free" transfer permitted under a policy. The supplements also informed policy owners that United Investors will not exercise any rights reserved under any policy to impose additional restrictions on transfers until at least 30 days after the proposed substitution.

19. United Investors will redeem the shares of Discovery Fund for cash and use the redemption proceeds to purchase shares of the AIM Capital Appreciation Fund. The proposed substitution will take place at relative net asset value with no change in the amount of any policy owner's policy value in either of the Accounts. The number of subaccount units credited to the affected policy owners will, of course, be adjusted to reflect the differences in subaccount unit values between the Discovery Fund and the AIM Capital Appreciation Fund subaccounts on the date of the substitution. As a result, policy owners will remain fully invested. Policy owners will not incur any fees or charges as a result of the proposed substitution, nor will their rights or United Investors' obligations under the policies be altered in any way. All expenses incurred in connection with the proposed substitution, including legal, accounting, and other fees and expenses, will be paid by United Investors. Any brokerage expenses relating to or resulting from the proposed substitution will be borne by United Investors or Strong Capital Management, Inc., so they will not be borne directly or indirectly by policy owners. In addition, the proposed substitution will not impose any tax liability on policy owners. The proposed substitution will not cause the policy fees and charges currently being paid by existing policy owners to be greater after the proposed substitution than before the proposed substitution. United Investors will not exercise any right they may have under the policies to impose additional restrictions on transfers under any of the policies for a period of at least 30 days following the substitution. Any transfers of amounts involved in the substitution made during the 30 days following the proposed substitution will be free of charge and will not count as a "free" transfer.

20. Within five days after the proposed substitution, any policy owners who were affected by the substitution will be sent a written notice informing them that the substitution was carried out, and that until 30 days after the substitution they may make one transfer, free of charge, of all policy value under a policy affected by the substitution to another subaccount or separate account available under their policy without that transfer counting as one of any limited number of transfers permitted in a policy year or as one of a limited number of transfers permitted in a policy year free of charge. The notice will also reiterate the fact that United Investors will not exercise any rights reserved by them under the policies to impose additional restrictions on transfers until at least 30 days after the proposed substitution. The notice as delivered in certain states also may explain any other rights they may have under state insurance regulations.

Legal Analysis

1. Applicants request that the Commission issue an order pursuant to section 26(c) of the Act approving the proposed substitution. section 26(c) of the Act requires the depositor of a registered unit investment trust holding the securities of a single issuer to receive Commission approval before substituting the securities held by the trust. Specifically, Section 26(c) states:

> It shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution. The Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title.

2. Section 26(c) was added to the Act by the Investment Company Amendments of 1970 (it was originally section 26(b)). Prior to the enactment of the 1970 amendments, a depositor of a unit investment trust could substitute new securities for those held by the trust by notifying the trust's security holders of the substitution within five days of the substitution. In 1966, the Commission, concerned with the high sales charges then common to most unit investment trusts and the disadvantageous position in which such charges placed investors who did not want to remain invested in the substituted fund, recommended that Section 26 be amended to require that a proposed substitution of the underlying investments of a trust receive prior Commission approval.

3. Congress responded to the Commission's concerns by enacting section 26(c) to require that the Commission approve all substitutions by the depositor of investments held by unit investment trusts. The Senate Report on the bill explained the purpose of the amendment as follows:

> The proposed amendment recognizes that in the case of the unit investment trust holding the securities of a single issuer notification to shareholders does not provide adequate protection since the only relief available to shareholders, if dissatisfied, would be to redeem their shares. A shareholder who redeems and reinvests the proceeds in another unit investment trust or in an open-end company would under most circumstances be subject to a new sales load. The proposed amendment would close this gap in shareholder protection by providing for Commission approval of the substitution. The Commission would be required to issue an order approving the substitution if it finds the substitution consistent with the protection of investors and provisions of the Act.

4. The proposed substitution appears to involve the substitution of securities within the meaning of section 26(c) of the Act. Applicants therefore request an order from the Commission pursuant to section 26(c) approving the proposed substitution.

5. The policies expressly reserve for United Investors the right, subject to compliance with applicable law, to substitute shares of another management company for shares of a management company held by a subaccount of the Accounts. The prospectuses for the policies contain appropriate disclosure of this right.

6. United Investors reserved this right of substitution both to protect itself and its policy owners in situations where either might be harmed or disadvantaged by circumstances surrounding the issuer of the shares held by one or more of their separate accounts and to afford the opportunity to replace such shares where to do so could benefit themselves and policy owners.

7. The proposed substitution is necessary because the Board decided to close down and liquidate the Discovery Fund. Allowing the proposed substitution will effortlessly transition policy owners into a fund that closely approximates their current investment in terms of investment objective and policies but with lower expenses and better long-term performance.

8. In addition to the foregoing, Applicants generally submit that the proposed substitution meets the standards that the Commission and its staff have applied to similar substitutions that have been approved in the past.

9. The proposed substitution is not the type of substitution that section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the policies provide each policy owner with the right to exercise his or her own judgment and transfer policy or cash values into other subaccounts. Moreover, the policies will offer policy owners the opportunity to transfer amounts out of the affected subaccounts into any of the remaining subaccounts without cost or other disadvantage. The proposed substitution, therefore, will not result in the types of costly forced redemption that section 26(c) was designed to prevent.

10. The proposed substitution also is unlike the type of substitution that section 26(c) was designed to prevent in that by purchasing a policy, policy owners select much more than a particular investment company in which to invest their account values. They also select the specific type of insurance coverage offered by United Investors under its policies as well as numerous other rights and privileges set forth in the policies. Policy owners may also have considered United Investors' size, financial condition, type, and reputation for service in selecting their policy. These factors will not change as a result of the proposed substitution.

11. United Investors does not currently receive (and will not receive for three years from the date of the Commission order requested herein) any direct or indirect benefit from the AIM Capital Appreciation Fund or A I M Advisors, Inc., or any of its affiliates, that would exceed the amount that United Investors has received from the Discovery Fund or Strong Capital Management Inc., or any of its affiliates, including without limitation Rule 12b–1 fees, shareholder service or administrative or other service fees, revenue sharing or other arrangements, either with specific reference to the AIM Capital Appreciation Fund or as part of an overall business arrangement.

Conclusion

Applicants request an order of the Commission pursuant to section 26(c) of the Act approving the proposed substitution by United Investors. Applicants submit that, for all the reasons stated above, the proposed substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30809 Filed 12–12–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45137; File No. SR–NASD–2001–48]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. To Clarify That the Nasdaq Limited Partnership Qualitative Listing Requirements Are Applicable to Limited Partnerships Listed on Both the National Market and the SmallCap Market

December 6, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] notice is hereby given that on August 7, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change clarifies that Nasdaq's limited partnership qualitative listing requirements are applicable to limited partnerships listed on both the National Market and the SmallCap Market. Nasdaq is also proposing to make a conforming change to Marketplace Rule 4350. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

4350. Qualitative Listing Requirements for Nasdaq National Market and Nasdaq SmallCap Market Issuers Except for Limited Partnerships [traded on the Nasdaq National Market]

(a)–(l) No change

4470. Qualitative Listing Requirements for Nasdaq National Market Issuers That Are Limited Partnerships

Renumbered as Rule 4360 and amended as follows:

4360. Qualitative Listing Requirements for Nasdaq [National Market] Issuers That Are Limited Partnerships

(a) No change

(b) Distribution of Annual and Interim Reports

(1) Each [NNM] issuer that is a limited partnership shall distribute to limited partners copies of an annual report containing audited financial statements of the limited partnership. The report shall be distributed to limited partners within a reasonable period of time after the end of the limited partnership's fiscal year end and shall be filed with Nasdaq at the time it is distributed to limited partners.

(2)(A) Each [NNM] issuer that is a limited partnership which is subject to SEC Rule 13a–13 shall make available copies of quarterly reports including statements of operating results to limited partners either prior to or as soon as practicable following the partnership's filing of its Form 10–Q with the Commission. Such reports shall be distributed to limited partners if required by statute or regulation in the state in which the limited partnership is formed or doing business or by the terms of the partnership's limited partnership agreement. If the form of such quarterly report differs from the Form 10–Q, the issuer shall file one copy of the report with Nasdaq in addition to filing its Form 10–Q pursuant to Rule 4310(c)(14). The statement of operations contained in quarterly reports shall disclose, at a minimum, any substantial items of an unusual or nonrecurrent nature and net income before and after estimated federal income taxes or net income and the amount of estimated federal taxes.

(B) Each [NNM] issuer that is a limited partnership which is not subject to SEC Rule 13a–13 and which is required to file with the Commission, or another federal or state regulatory authority, interim reports relating primarily to operations and financial position, shall make available to limited partners reports which reflect the information contained in those interim reports. Such reports shall be distributed to limited partners if required by statute or regulation in the state in which the limited partnership is formed or doing business or by the terms of the partnership's limited partnership agreement. Such reports shall be distributed to limited partners either before or as soon as practicable following filing with appropriate regulatory authority. If the form of the interim report provided to limited partners differs from that filed with the regulatory authority, the issuer shall file one copy of the report to limited partners with Nasdaq in addition to the report to the regulatory authority that is filed with Nasdaq pursuant to Rule 4310(c)(14).

(c)–(d) No change

(e) Partner Meetings

An [NNM] issuer that is a limited partnership shall not be required to hold an annual meeting of limited partners unless required by statute or regulation in the state in which the limited partnership is formed or doing business or by the terms of the partnership's limited partnership agreement.

(f)–(g) No change

(h) Listing Agreement

Each [NNM] issuer that is a limited partnership shall execute a Listing Agreement in the form designated by Nasdaq.

(i) Conflict of Interest

Each [NNM] issuer which is a limited partnership shall conduct an appropriate review of all related party transactions on an ongoing basis and shall utilize the Audit Committee or a comparable body of the Board of Directors or the review of potential material conflict of interest situations where appropriate.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to clarify that Nasdaq's limited partnership qualitative listing requirements are applicable to limited partnerships listed on both the National Market and the SmallCap Market. The limited partnership qualitative listing standards were initially adopted in 1993 for limited partnerships listed on the National Market.[2] Limited partnerships listed on the SmallCap Market were not required to comply with these qualitative standards as there were no corporate governance requirements for SmallCap Market issuers at that time. Although corporate governance requirements were subsequently implemented for the SmallCap Market

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 32250 (April 30, 1993), 58 FR 27601 (May 10, 1993).

in 1997,[3] the limited partnership rules have not been updated to reflect this change. As such, Nasdaq is proposing to amend its Marketplace Rules in order to clarify that the limited partnership qualitative listing standards apply to all limited partnerships listed on Nasdaq.

Nasdaq is also proposing to make a conforming change to Marketplace Rule 4350.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[4] in that the proposal is designed to prevent fraudulent and manipulative acts and practices, and to protect investors and the public interest. As previously mentioned, Nasdaq is proposing to amend its limited partnership qualitative listing standards in order to provide greater clarity and transparency for issuers, their counsel and investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Nasdaq has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submission should refer to file number SR–NASD–2001–48 and should be submitted by January 3, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30779 Filed 12–12–01; 8:45 am]

BILLING CODE 8010–01–M

[3] Securities Exchange Act Release No. 38961 (August 22, 1997), 62 FR 45695 (August 29, 1997).

[4] 15 U.S.C. 78o–3(b)(6).

[5] 17 CFR 200.30–3(a)(12).

TENNESSEE VALLEY AUTHORITY

Patton Island Bridge and Approaches Crossing the Tennessee River and Connecting the Cities of Florence and Muscle Shoals, Colbert and Lauderdale Counties, AL

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Issuance of Supplemental Record of Decision.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR part 1500 to 1508) and TVA's procedures implementing the National Environmental Policy Act. TVA has decided to issue an approval to the Alabama Department of Transportation under section 26a of the TVA Act for the relocation and modification of 2,270 feet of Sweetwater Creek. The purpose of the relocation is to allow construction of the northern approaches to the Patton Island Bridge across the Tennessee River. TVA previously adopted the Final Environmental Impact Statement, Project DE–0026(801), Patton Island Bridge and Approaches Crossing the Tennessee River and Connecting the Cities of Florence and Muscle Shoals, Colbert and Lauderdale Counties, (FEIS) prepared by the State of Alabama Highway Department in Cooperation with the Department of Transportation, Federal Highway Administration. A Notice of TVA's adoption of this FEIS and of TVA's issuance of the Record of Decision to adopt the "Build" alternative in the FEIS was given in the **Federal Register** of September 29, 1994.

FOR FURTHER INFORMATION CONTACT: Harold M. Draper, NEPA Specialist, Environmental Policy and Planning, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 8C, Knoxville, Tennessee 37902–1499; telephone (865) 632–6889 or e-mail *hmdraper@tva.gov*.

SUPPLEMENTARY INFORMATION: Under the "build" alternative identified in the FEIS, a multi-lane highway would be built across the Tennessee River. On September 20, 1994, TVA issued a Record of Decision (ROD) for its adoption of the "build" alternative. The build alternative required approval for the Patton Island Bridge crossing under section 26a of the TVA Act, and approval for a permanent easement over 63.7 acres of TVA land for construction, operation, and maintenance of a new highway across the Muscle Shoals Reservation and Pickwick Reservoir lands. This previous ROD appeared at 59 FR 49738 (September 29, 1994). The Alabama Department of Transportation has now requested approval for construction of an additional segment of the Patton Island project. The additional segment would require approval under section 26a of the TVA Act for a channel relocation and two culverts affecting 2270 feet of Sweetwater Creek. The impacts of this segment were evaluated in the 1991 FEIS and have been verified by TVA in issuing this supplemental ROD.

Alternatives Considered

The previously adopted EIS evaluated five alternative corridors for a new multi-lane road between Muscle Shoals and Florence. In the Patton Island Corridor, two alternatives were considered. North of the Patton Island Bridge, two alternatives were considered. Because construction of the Patton Island bridge has been underway for several years, TVA re-evaluated the no action alternative and the two action alternatives considered in the 1991 FEIS for completion of the remainder of the project. Under No Action, the Patton Island Expressway would end at the northern side of the River and not continue to Florence Boulevard (US 43–72), which is a logical terminus. The two action alternatives are:

1A. Build along a corridor designated "Alternative A." North of the Tennessee River and in the vicinity of Sweetwater

Creek, this route would be slightly to the east of Alternative B and cross under Florence Boulevard (U.S. 43–72). In order to construct an underpass at the Florence Boulevard intersection, retaining walls would be required, adding to the costs of the project, and a compact diamond-shaped interchange would be constructed. This would restrict the length and functioning of turning lanes on Florence Boulevard.

1B. Build along a corridor designated "Alternative B." North of the Tennessee River and in the vicinity of Sweetwater Creek, this route would be slightly to the west of Alternative A. It would cross over Florence Boulevard, and therefore would not restrict the potential length and functioning of turning lanes as in Alternative A. Both Alternative 1A and Alternative 1B would require that a playground in a public housing development be moved. Avoidance of the playground was judged to be not practicable because additional residential property losses (Alternative A), or a relocation of a railroad switching yard (Alternative B), would be required. The playground will be replaced in a new location convenient to the housing project.

Because the original EIS was issued in 1991, TVA conducted a supplemental environmental review of the impacts of the Sweetwater Creek relocation to confirm that the findings of the 1991 EIS were still valid. The proposed stream relocation and modification of Sweetwater Creek was announced to the public and environmental agencies through issuance of a Joint Public Notice by the U.S. Army Corps of Engineers, TVA, and the State of Alabama on June 20, 2000. Responses were received from the Alabama Historical Commission (AHC), the U.S. Fish and Wildlife Service (FWS), The Foundry of the Shoals, and two members of the public. AHC requested that a cultural resources assessment be provided for review. Information on previous section 106 coordination was subsequently provided, and by letter of August 10, 2000, AHC concurred that the project would not adversely affect resources eligible for the National Register of Historic Places. FWS expressed concerns about the loss of a riparian buffer along the stream and recommended that the proposed riprapped channel be meandered and planted with mast-producing hardwood trees. They also requested mitigation of any unavoidable loss of aquatic habitat through the Alabama Stream Habitat Restoration Program. The stream habitat program was never created, and therefore is not a viable mitigation option. However, the applicant has agreed to replant the proposed new channel with hardwood trees in a 30-foot wide riparian buffer on both sides of the stream. Additionally, the applicant has agreed to deduct 0.5 credits from the Alabama Department of Transportation wetland mitigation bank. The banking agreement includes sites throughout Alabama, and suitable compensatory mitigation banks currently exist for use by ADOT in Jackson County, Alabama and Lawrence County, Alabama within the Tennessee River watershed. The Foundry of the Shoals was concerned that the proposed project would increase flooding in the area. Members of the public expressed concerns about the length of the culverting and the loss of natural stream values. TVA has reviewed the plans and confirmed that there would be no reduction in the size of the channel; as a result, flooding problems would not be affected by the highway construction. Because this is an urban area, the stream exhibits few natural stream values. In addition, it is not practical to reduce the length of the culvert because this is the only place to squeeze a multi-lane facility through an urban area without extensive residential or industrial property impacts. Both Alternatives 1A and 1B would have impacts to the floodplain. Only no action would not impact the floodplain. However, this alternative is not practicable because the traffic congestion needs are not addressed. Florence is a participant in the National Flood Insurance Program. In accordance with this program, the project will not significantly increase 100-year flood elevations and will not involve placement of fill or other flow obstructions in the floodway portion of the floodplain unless compensatory adjustments are also included. By letter of July 24, 2000, the Alabama Department of Environmental Management issued Water Qualify Certification under section 401 of the Clean Water Act.

Based on the supplemental evaluation, TVA concurs that the Alternative 1B route north of the river in the city of Florence is still the appropriate build alternative.

Decision

TVA has decided to issue section 26a approval for the relocation and modification of 2,270 feet of Sweetwater Creek in Florence, Alabama. Specific actions requiring section 26a approval are a culvert extending 1400 feet from north of Huntsville Avenue to south of the proposed new highway, a channel relocation and riprap extending 760 feet south of the Huntsville Avenue-Patton Island Expressway culvert, and a culvert extending 110 feet under Union Avenue. The relocation, culverts, and riprap would allow completion of the Patton Island project originally proposed in the FEIS. Based on its supplemental evaluation, TVA reaffirms that the analyses contained in the FEIS are adequate. The EIS concluded that Alternative 1B north of the river in Florence is the appropriate build alternative. Alternative 1B is the more practical alternative given the topography of the Florence area, and would result in less traffic congestion on Florence Boulevard. Because of these reasons, TVA believes that this is the more environmentally preferable alternative for completion of the Patton Island project. The other action alternative in the Sweetwater Creek area, Alternative 1A, would require a retaining wall at the Cherry Hills Housing Project playground, which representatives of the project have said is not desirable. The No Action alternative is not desirable because it would result in increasing traffic congestion as the area grows.

Environmental Commitments

TVA will require the use of Best Management Practices for erosion control and will also require that the relocated channel be planted with a 30-foot width of mast-producing hardwood trees on each side of the channel. In addition, 0.5 credits will be withdrawn from the Alabama Department of Transportation wetland mitigation bank complex. With the implementation of the above environmental protection measures, TVA has determined that adverse environmental impacts of the Patton Island Expressway project across Sweetwater Creek would be substantially reduced. These protective measures represent all of the practicable measures to avoid or minimize environmental harm that are associated with this alternative.

Dated: December 5, 2001.

Kathryn J. Jackson,

Executive Vice President, River System Operations & Environment.

[FR Doc. 01–30813 Filed 12–12–01; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2001–10235]

Notice of Public Hearing; the Union Pacific Railroad

The Union Pacific Railroad (UP) has petitioned the Federal Railroad

Administration (FRA) seeking a waiver of compliance with the requirements of 49 CFR 214.329. UP requests relief that will permit the use of a system described by UP as the automatic train approach warning system (TAWS). UP proposes that roadway work groups be permitted to substitute TAWS for watchmen/lookouts as the method of train approach warning when fouling a track within equipped interlockings and controlled points. UP also proposes that lone workers be permitted to use TAWS as a method of train approach warning within the limits of those interlockings and controlled points without a requirement to establish working limits. Technical details of the TAWS system, its developmental history, and its function were described in the **Federal Register** notice cited in the following sentence.

The FRA issued a public notice (66 FR 49063, September 25, 2001) seeking comments of interested parties. All documents in the public docket, including UP's detailed waiver request, are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*. After examining the railroad's proposal and the available facts, FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 9 a.m. CST, on Wednesday, February 6, 2002, in Room 102–A (first floor) of the Peter Kiewit Building, 1313 Farnam Street, Omaha, Nebraska. Interested parties are invited to present oral statements at the hearing.

The hearing will be an informal one and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (Title 49 CFR 211.25), by a representative designated by the FRA.

Issued in Washington, DC on December 10, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–30822 Filed 12–12–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 216X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Buchanan County, VA

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR 1152 Subpart *F—Exempt Abandonments* to abandon a 2.95-mile line of railroad between milepost SP–0.0, at Dwight, and milepost SP–2.95, at Spruce Pine, in Buchanan County, VA (line). The line traverses United States Postal Service Zip Code 24066.

Applicant has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 12, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 24, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 2, 2002, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, Esq., Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Applicant has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 18, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 13, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Website at *www.stb.dot.gov*.

Decided: December 3, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30448 Filed 12–12–01; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. See 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 7, 2001.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995. Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the

Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before January 14, 2002, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1630.

Regulation Project Number: REG–106388–98 NPRM.

Type of Review: Extension.

Title: Education Tax Credits.

Description: Section 25A allows individual taxpayers a Hope Scholarship Credit or a Lifetime Learning Credit for certain educational expenses if certain requirements are met. The proposed regulations provide guidance to taxpayers regarding the education credits in section 25A. Section 25A provides that a taxpayer must elect to claim an education credit. The proposed regulations provide that a taxpayer must elect to claim an education credit by attaching Form 8863, "Education Credits (Hope and Lifetime Learning Credits)" to the taxpayer's return for the year in which the credit is claimed.

Respondents: Individuals or households.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: George Freeland, Internal Revenue Service, Room 5577, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, (202) 395–7860.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 01–30776 Filed 12–12–01; 8:45 am]

BILLING CODE 4830–01–P

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Federal Register

Thursday,
December 13, 2001

Part II

The President

Proclamation 7512—To Implement the Agreement Between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area

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Presidential Documents

Title 3—

The President

Proclamation 7512 of December 7, 2001

To Implement the Agreement Between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area

By the President of the United States of America

A Proclamation

1. On October 24, 2000, the United States of America and the Hashemite Kingdom of Jordan entered into an Agreement on the Establishment of a Free Trade Area (the "JFTA").

2. Section 101 of the United States-Jordan Free Trade Area Implementation Act (the "JFTA Act") (Public Law 107–43, 115 Stat. 243) (19 U.S.C. 2112 Note) authorizes the President to proclaim such modifications or continuation of any duty, such continuation of duty-free or excise treatment, or such additional duties, as the President determines to be necessary or appropriate to carry out Article 2.1 of the JFTA and the schedule of duty reductions with respect to Jordan set out in Annex 2.1 of the JFTA.

3. Section 102 of the JFTA Act provides certain rules for determining whether an article is wholly the growth, product, or manufacture of Jordan, or is a new or different article of commerce that has been grown, produced, or manufactured in Jordan and thus is eligible for the tariff and certain other treatment contemplated under the JFTA ("products of Jordan"). I have determined that it is necessary to include these rules of origin, together with particular rules applicable to certain other goods, in the Harmonized Tariff Schedule of the United States (HTS).

4. Section 604 of the Trade Act of 1974, as amended (the "1974 Act") (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of relevant provisions of that Act, of other Acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including sections 101 and 102 of the JFTA Act and 604 of the 1974 Act, do proclaim that:

(1) In order to—

(a) provide generally for the preferential tariff treatment being accorded under the JFTA and to set forth rules for determining whether goods imported into the customs territory of the United States are eligible for preferential treatment under the JFTA, and

(b) provide tariff-rate quotas with respect to certain products of Jordan and to make technical and conforming changes in specified HTS provisions for purposes of the JFTA, the HTS is modified as set forth in Annex I to this proclamation.

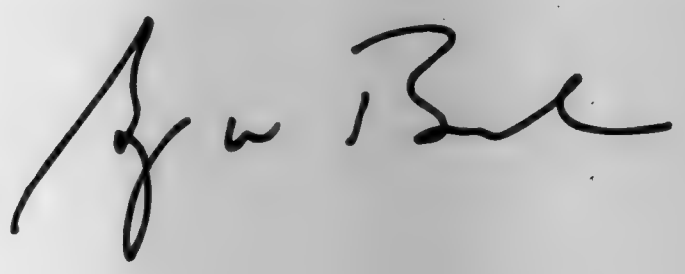
(2) In order to implement the initial stage of duty elimination provided for in the JFTA and to provide for future staged reductions in duties for products of Jordan for purposes of the JFTA, the HTS is modified as provided in Annex II to this proclamation, effective on the date specified in such Annex for each HTS provision and on any subsequent dates set forth for such provisions in Annex II columns.

(3) All provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are hereby superseded to the extent of such inconsistency.

(4) (a) The amendments to the HTS made by paragraphs (1)(b) and (2) of this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the dates indicated in Annexes I and II to this proclamation.

(b) Except as provided in subparagraph (a), this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after December 17, 2001.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of December, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



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VOL 66 ISS 240 DE 13 2001 UMI

ANNEX I

MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to goods that are entered, or withdrawn from warehouse for consumption, on or after December 17, 2001, the Harmonized Tariff Schedule of the United States (HTS) is hereby modified as follows.

The HTS is modified as provided below, with bracketed matter included to assist in the understanding of proclaimed modifications. The following supersedes matter in the HTS. The subheadings and superior text are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1 General", "Rates of Duty 1 Special" and "Rates of Duty 2", respectively.

(1). General note 3(c)(i) is modified by inserting, immediately above the line reading "Agreement on Trade in Pharmaceutical Products.....K', a new line reading "United States-Jordan Free Trade Area Implementation Act.....JO".

(2). General notes 18, 19, 20, 21, 22 and 23 are hereby redesignated as notes 19, 20, 21, 22, 23 and 24, respectively, and the following new general note 18 is inserted in numerical sequence:

"18. United States-Jordan Free Trade Area Implementation Act.

(a) The products of Jordan described in Annex 2.1 of the Agreement between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area, entered into on October 24, 2000, are subject to duty as provided herein. Products of Jordan, as defined in subdivisions (b) through (d) of this note, that are imported into the customs territory of the United States and entered under a provision for which a rate of duty appears in the "Special" subcolumn followed by the symbol "JO" in parentheses are eligible for the tariff treatment set forth in the "Special" subcolumn, in accordance with sections 101 and 102 of the United States-Jordan Free Trade Area Implementation Act (Public Law 107-43, 115 Stat. 243).

(b) For purposes of this note, subject to the provisions of subdivisions (d) and (e), goods imported into the customs territory of the United States are eligible for treatment as "products of Jordan" only if--

(i) such goods are imported directly from Jordan into the customs territory of the United States, and

(ii) they are--

(A) wholly the growth, product or manufacture of Jordan, or

(B) new or different articles of commerce that have been grown, produced or manufactured in Jordan and meet the requirements of subdivision (c) of this note.

(c) (I) For purposes of subdivision (b)(ii)(A) of this note, except as otherwise provided in subdivision (d) for textile and apparel articles, the expression "wholly the growth, product or manufacture of Jordan" refers both to--

(A) an article which has been entirely grown, produced or manufactured in Jordan, and

(B) all materials incorporated in an article which have been entirely grown, produced or manufactured in Jordan,

but does not include articles or materials imported into Jordan from another country, whether or not such articles or materials were substantially transformed into new or different articles of commerce after their importation into Jordan.

(ii) For purposes of subdivision (b)(ii)(B), goods are eligible for the tariff treatment provided in this note if the sum of--

(A) the cost or value of the materials produced in Jordan, plus

(B) the direct costs of processing operations performed in Jordan,

is not less than 35 percent of the appraised value of such article at the time it is entered. If the cost or value of materials produced in the customs territory of the United States is included with respect to an article to which this subdivision applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied toward determining the percentage referred to in this subdivision.

(iii) No article may be considered to meet the requirements of this note by virtue of having merely undergone–

(A) simple combining or packaging operations, or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(iv) For purposes of subdivision (ii)(A), the term "cost or value of the materials" includes–

(A) the manufacturer's actual cost for the materials,

(B) when not included in the manufacturer's actual cost for the materials, the freight, insurance, packing and all other costs incurred in transporting the materials to the manufacturer's plant,

(C) the actual cost of waste or spoilage (material list), less the value of recoverable scrap, and

(D) taxes and/or duties imposed on the materials by a party to the Agreement, provided they are not remitted upon exportation.

When a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of (I) all expenses incurred in the growth, production or manufacturer of the material, including general expenses; (II) an amount for profit; and (III) freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant. If the pertinent information is not available, the appraising officer may ascertain or estimate the value thereof using all reasonable ways and means at his disposal.

(v) For purposes of subdivision (ii)(B), the term "direct costs of processing operations" performed in Jordan means those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture or assembly of the goods entered under the terms of subdivision (a) of this note. That term includes, but is not limited to, the following, to the extent that they are includible in the appraised value of goods imported into the customs territory of the United States–

(A) all actual labor costs involved in the growth, production, manufacture or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control and similar personnel, and

(B) dies, molds, tooling and depreciation on machinery and equipment which are allocable to the specific merchandise,

(C) research, development, design, engineering and blueprint costs insofar as they are allocable to the specific article, and

(D) costs of inspecting and testing the specific article;

but that term does not include costs which are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (I) profit, and (II) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising and salesmen's salaries, commissions or expenses.

(vi) For purposes of subdivision (b)(i) of this note, except for goods covered by the provisions of subdivision (d) of this note, the term "Imported directly" means–

Annex I (continued)
-3-

(A) direct shipment from Jordan to the United States without passing through the territory of any intermediate country, or

(B) if shipment is through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of any intermediate country and the invoices, bills of lading and other shipping documents show the United States as the final destination, or

(C) if shipment is through an intermediate country and the invoices and other documents do not show the United States as the final destination, then the articles in the shipment are imported directly only if they–

(I) remain under the control of the customs authority in an intermediate country,

(II) do not enter into the commerce of an intermediate country except for the purpose of a sale other than at retail, provided that the articles are imported as a result of the original commercial transaction between the importer and the producer or the producer's sales agent, and

(III) have not been subjected to operations other than loading and unloading, and other activities necessary to preserve the article in good condition.

(d) Textile and apparel articles.

(1) For purposes of this note, a textile or apparel article imported directly from Jordan into the customs territory of the United States shall be eligible for the tariff treatment provided in subdivision (a) of this note only if–

(A) the article is wholly obtained or produced in Jordan;

(B) the article is a yarn, thread, twine, cordage, rope, cable or braiding, and–

(i) the constituent staple fibers are spun in Jordan, or

(ii) the continuous filament is extruded in Jordan;

(C) the article is a fabric, including a fabric classified in chapter 59 of the tariff schedule, and the constituent fibers, filaments or yarns are woven, knitted, needled, tufted, felted, entangled or transformed by any other fabric-making process in Jordan; or

(D) the article is any other textile or apparel article that is wholly assembled in Jordan from its component pieces.

Such textile and apparel articles not wholly obtained or produced in Jordan must comply with the requirements of this subdivision and of subdivision (c)(ii) of this note.

(2) For purposes of subdivision (d)(1)(A) of this note, an article is "wholly obtained or produced in Jordan" if it is wholly the growth, product or manufacture of Jordan.

(3) Notwithstanding the provisions of subdivision (d)(1)(D) and except as provided in subdivisions (d)(5) and (d)(6) of this note, subdivision (d)(1)(A), (d)(1)(B) or (d)(1)(C), as appropriate, shall determine whether a good that is classified in one of the following headings or subheadings of the tariff schedule shall be considered to meet the requirements of subdivision (b) of this note: 5609, 5807, 5811, 6209.20.50 (the requirement of this subdivision applies only to babies' diapers of this provision), 6213, 6214, 6301, 6302, 6304, 6305, 6306, 6307.10, 6307.90, 6308.00.00 and 9404.90.

(4) Notwithstanding the provisions of subdivision (d)(1)(D) and except as provided in subdivisions (d)(5) and (d)(6) of this note, a textile or apparel article which is knit-to-shape in Jordan shall be considered to meet the requirements of subdivision (b) of this note.

(5) Notwithstanding the provisions of subdivision (d)(1)(D) of this note, a good classified in subheading 6117.10, heading 6213 or 6214 or subheadings 6302.22, 6302.29.00, 6302.52, 6302.53.00, 6302.59.00, 6302.92.00, 6302.93, 6302.99, 6303.92, 6303.99.00, 6304.19, 6304.93.00, 6304.99, 9404.90.85 or 9404.90.95 of the tariff schedule, except for a good classified in any such provision as of cotton or of wool or consisting of fiber blends containing 16 percent or more by weight of cotton, shall be considered to meet the requirements of

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subdivision (b) of this note if the fabric in the good is both dyed and printed in Jordan, and such dyeing and printing is accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing or moireing.

(6) Notwithstanding the provisions of subdivision (d)(1)(C) of this note, a fabric classified in the tariff schedule as of silk, cotton, man-made fiber, or vegetable fiber shall be considered to meet the requirements of subdivision (b) of this note if the fabric is both dyed and printed in Jordan, and such dyeing and printing is accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing or moireing.

(7) If the origin of a textile or apparel article cannot be determined under subdivision (d)(1) or (d)(3) through (d)(6), inclusive, of this note, then that article shall be considered to meet the requirements of subdivision (b) of this note if–

(A) the most important assembly or manufacturing process occurs in Jordan, or

(B) if the applicability of subdivision (b) of this note cannot be determined under subdivision (d)(7)(A) of this note, the last important assembly or manufacturing occurs in Jordan.

(e) Exclusion. A good shall not be considered to meet the requirements of subdivision (b) of this note if the good–

(1) is imported into Jordan, and, at the time of importation, would be classified in heading 0805 of the tariff schedule, and

(2) is processed in Jordan into a good classified in subheadings 2009.11.00 through 2009.30, inclusive, of the tariff schedule.

(f) Certification and records. Whenever an importer enters an article as eligible for the preferential treatment provided under this note–

(1) the importer shall be deemed to certify that such article qualifies for the preferential treatment provided under this note;

(2) the importer shall be prepared to submit to the customs officer concerned, upon request, a declaration setting forth all pertinent information concerning the production or manufacture of the article, and the information on such declaration should contain at least the following pertinent details:

(A) a description of the article, quantity, numbers and marks of packages, invoice numbers and bills of lading;

(B) a description of the operations performed in the production of the article in Jordan and identification of the direct costs of processing operations;

(C) a description of any materials used in the production of the article which are wholly the growth, product or manufacture of Jordan or of the United States, and a statement as to the cost or value of such materials;

(D) a description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in the article which are claimed to have been sufficiently processed in Jordan so as to be materials produced in Jordan; and

(E) a description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in Jordan.

This declaration shall be prepared, signed and submitted upon request by the U.S. customs officer concerned. A declaration should only be requested when the Customs Service has reason to question the accuracy of the certification that, by operation of subdivision (f)(1) of this note, is deemed to have occurred, or when the Customs Service procedures for assessing the risk of improper or incorrect entry of an article indicate that verification of an entry is appropriate, or when a random verification is conducted. The information necessary for the preparation of the declaration shall be retained in the files of the importer for a period of five years.

(g) The Secretary of the Treasury, after consultation with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this note."

(3). The last sentence of U.S. note 1 to subchapter IV of chapter 99 is modified by deleting "Goods of Canada or Mexico imported" and inserting "Goods of Canada, Mexico or Jordan imported" in lieu thereof.

(4). Chapter 99 is modified by inserting a new subchapter at the end thereof, as follows:

"SUBCHAPTER IX

TEMPORARY MODIFICATIONS ESTABLISHED PURSUANT TO
THE UNITED STATES-JORDAN FREE TRADE AGREEMENT

U.S. Notes

1. This subchapter contains temporary modifications of the provisions of the tariff schedule established pursuant to the United States-Jordan Free Trade Agreement. Qualifying goods of Jordan, entered under the terms of general note 18 to the tariff schedule, and described in the provisions of this subchapter, for which a rate of duty followed by the symbol "(JO)" is herein provided, are subject to duty at the rate set forth in this subchapter in lieu of the rate provided therefor in chapters 1 through 98. Notwithstanding quota provisions provided for elsewhere in the tariff schedule, originating goods of Jordan shall be permitted to enter the United States to the extent allowable in the provisions of this subchapter. Furthermore, any quantity provided for Jordan on goods in this subchapter shall not be counted toward any quota provided for such good elsewhere in the tariff schedule. Originating goods of Jordan imported into the United States also shall not be subject to any of the provisions, duties or limitations of subchapter IV of chapter 99 of the tariff schedule. Unless otherwise provided, the provisions and notes of this subchapter are effective as to such goods of Jordan entered, under general note 18 to the tariff schedule, through the close of December 31, 2010, at the close of which date this subchapter shall be deleted from the tariff schedule and shall cease to apply to any goods entered after that date.

2. Whenever goods are classifiable under a provision for which the temporary modification of the applicable United States-Jordan Free Trade Agreement rate of duty is provided for in a subheading in this subchapter, the reporting number, in the absence of specific instructions to the contrary, shall be the appropriate statistical reporting number for the basic provision (the appropriate provision for classification purposes in chapters 1 through 97) preceded by the subheading number of this subchapter. For statistical purposes, both the basic provision statistical reporting number and the applicable subheading number of this subchapter shall be collected by the United States Bureau of Census.

3. The aggregate quantity of goods, that are qualifying goods entered under subheading 9909.04.05 in any calendar year shall not exceed the quantity specified below for that year:

Year	Quantity (kg)	Year	Quantity (kg)	Year	Quantity (kg)
2001	60,000	2004	117,000	2007	229,000
2002	75,000	2005	146,000	2008	286,000
2003	94,000	2006	183,000	2009	358,000

Beginning in calendar year 2010 quantitative limitations shall cease to apply on such qualifying goods.

4. The aggregate quantity of goods, that are qualifying goods entered under subheading 9909.12.05 entered in any calendar year, shall not exceed the quantity specified below for that year:

Year	Quantity (kg)	Year	Quantity (kg)	Year	Quantity (kg)
2001	1,000	2004	1,150	2007	1,300
2002	1,050	2005	1,200	2008	1,400
2003	1,100	2006	1,250	2009	1,450

Provided, that peanuts in the shell shall be charged against the above quotas on the basis of 75 kilograms for each 100 kilograms of peanuts in the shell.

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Beginning in calendar year 2010 quantitative limitations shall cease to apply on such qualifying goods.

5. The aggregate quantity of goods, that are qualifying goods entered under subheading 9909.17.05 in any calendar year, shall not exceed the quantity specified below for that year:

Year	Quantity (kg)	Year	Quantity (kg)	Year	Quantity (kg)
2001	5,000	2004	5,450	2007	6,000
2002	5,150	2005	5,600	2008	6,150
2003	5,300	2006	5,800	2009	6,300

Beginning in calendar year 2010 quantitative limitations shall cease to apply on such qualifying goods.

6. The aggregate quantity of goods, that are qualifying goods entered under subheading 9909.52.05 in any calendar year, shall not exceed the quantity specified below for that year:

Year	Quantity (kg)	Year	Quantity (kg)	Year	Quantity (kg)
2001	1,000	2004	1,150	2007	1,300
2002	1,050	2005	1,200	2008	1,400
2003	1,100	2006	1,250	2009	1,450

Beginning in calendar year 2010 quantitative limitations shall cease to apply on such qualifying goods.

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	Goods of Jordan, under the terms of general note 18 to the tariff schedule:		
	Goods provided for in subheading 0401.30.25, 0401.30.75, 0402.10.50, 0402.21.25, 0402.21.50, 0402.21.90, 0402.29.50, 0402.91.70, 0402.91.90, 0402.99.45, 0402.99.55, 0402.99.90, 0403.10.50, 0403.90.16, 0403.90.45, 0403.90.55, 0403.90.65, 0403.90.78, 0403.90.95, 0404.10.15, 0404.10.90, 0404.90.50, 0405.10.20, 0405.20.30, 0405.20.70, 0405.90.20, 0406.10.08, 0406.10.18, 0406.10.28, 0406.10.38, 0406.10.48, 0406.10.58, 0406.10.68, 0406.10.78, 0406.10.88, 0406.20.28, 0406.20.33, 0406.20.39, 0406.20.48, 0406.20.53, 0406.20.63, 0406.20.67, 0406.20.71, 0406.20.75, 0406.20.79, 0406.20.83, 0406.20.87, 0406.20.91, 0406.30.18, 0406.30.28, 0406.30.38, 0406.30.48, 0406.30.53, 0406.30.63, 0406.30.67, 0406.30.71, 0406.30.75, 0406.30.79, 0406.30.83, 0406.30.87, 0406.30.91, 0406.40.70, 0406.90.12, 0406.90.18, 0406.90.32, 0406.90.37, 0406.90.42, 0406.90.48, 0406.90.54, 0406.90.68, 0406.90.74, 0406.90.78, 0406.90.84, 0406.90.88, 0406.90.92, 0406.90.94, 0406.90.97, 1517.90.60, 1806.10.15, 1806.10.75, 1806.20.26, 1806.20.28, 1806.20.36, 1806.20.38, 1806.20.82, 1806.20.83, 1806.20.87, 1806.20.89, 1806.32.06, 1806.32.08, 1806.32.16, 1806.32.18, 1806.32.70, 1806.32.80, 1806.90.06, 1806.90.10, 1806.90.18, 1806.90.20, 1806.90.28, 1806.90.30, 1901.10.30, 1901.10.40, 1901.10.75, 1901.10.85, 1901.20.15, 1901.20.35, 1901.20.50, 1901.20.70, 1901.90.36, 1901.90.43, 1901.90.47, 2103.90.78, 2105.00.40, 2106.90.09, 2106.90.26, 2106.90.36, 2106.90.66, 2106.90.87, 2202.90.28, 2309.90.28 or 2309.90.48:		
9909.04.05	Subject to the quantitative limits specified in U.S. note 3 to this subchapter.....	Free (JO)	
	Other:		
9909.04.10	Goods provided for in subheading 0401.30.75.....	[See Annex II(B) to this proclamation)(JO)	
9909.04.11	Goods provided for in subheading 0401.30.25 or 0403.90.16.....	[See Annex II(B) to this proclamation)(JO)	
9909.04.12	Goods provided for in subheading 0403.90.78.....	[See Annex II(B) to this proclamation)(JO)	
9909.04.13	Goods provided for in subheading 0402.10.50 or 0402.21.25.....	[See Annex II(B) to this proclamation)(JO)	
9909.04.14	Goods provided for in subheading 0402.21.50 or 0403.90.55.....	[See Annex II(B) to this proclamation)(JO)	

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	[Goods of Jordan, under...]		
	[Goods provided for in subheading 0401.30.25...]		
	[Other:]		
9909.04.15	Goods provided for in subheading 0402.21.90 or 0403.90.65		[See Annex II(B) to this proclamation](JO)
9909.04.16	Goods provided for in subheading 0402.29.50		[See Annex II(B) to this proclamation](JO)
9909.04.17	Goods provided for in subheading 0402.91.70 or 0402.91.90		[See Annex II(B) to this proclamation](JO)
9909.04.18	Goods provided for in subheading 0402.99.45 or 0402.99.55		[See Annex II(B) to this proclamation](JO)
9909.04.19	Goods provided for in subheading 0402.99.90		[See Annex II(B) to this proclamation](JO)
9909.04.20	Goods provided for in subheading 0403.10.50		[See Annex II(B) to this proclamation](JO)
9909.04.21	Goods provided for in subheading 0403.90.45 or 0404.10.90		[See Annex II(B) to this proclamation](JO)
9909.04.22	Goods provided for in subheading 0403.90.95		[See Annex II(B) to this proclamation](JO)
9909.04.23	Goods provided for in subheading 0404.10.15		[See Annex II(B) to this proclamation](JO)
9909.04.24	Goods provided for in subheading 0404.90.50		[See Annex II(B) to this proclamation](JO)
9909.04.25	Goods provided for in subheading 0405.10.20		[See Annex II(B) to this proclamation](JO)
9909.04.26	Goods provided for in subheading 0405.20.30, 2106.90.26 or 2106.90.36		[See Annex II(B) to this proclamation](JO)
9909.04.27	Goods provided for in subheading 0405.20.70 or 2106.90.66		[See Annex II(B) to this proclamation](JO)
9909.04.28	Goods provided for in subheading 0405.90.20		[See Annex II(B) to this proclamation](JO)

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	:[Goods of Jordan, under...]	:
	: [Goods provided for in subheading 0401.30.25...]	:
	: [Other:]	:
9909.04.29	: Goods provided for in subheading 0406.10.08, 0406.10.88, 0406.20.91, 0406.30.91 or 0406.90.97.....	:[See Annex II(B) to this proclamation)(JO)
9909.04.30	: Goods provided for in subheading 0406.10.18, 0406.20.28, 0406.20.63, 0406.30.18, 0406.30.63, 0406.40.70 or 0406.90.74.....	:[See Annex II(B) to this proclamation)(JO)
9909.04.31	: Goods provided for in subheading 0406.10.28, 0406.20.33, 0406.20.67, 0406.30.28, 0406.30.67, 0406.90.12 or 0406.90.78.....	:[See Annex II(B) to this proclamation)(JO)
9909.04.32	: Goods provided for in subheading 0406.10.38, 0406.20.39, 0406.20.71, 0406.30.38, 0406.30.71, 0406.90.54 or 0406.90.84.....	:[See Annex II(B) to this proclamation)(JO)
9909.04.33	: Goods provided for in subheading 0406.10.48, 0406.20.48, 0406.20.75, 0406.30.48, 0406.30.75, 0406.90.18 or 0406.90.88.....	:[See Annex II(B) to this proclamation)(JO)
9909.04.34	: Goods provided for in subheading 0406.10.58, 0406.20.53, 0406.20.79, 0406.30.79, 0406.90.32, 0406.90.37, 0406.90.42 or 0406.90.68.....	:[See Annex II(B) to this proclamation)(JO)
9909.04.35	: Goods provided for in subheading 0406.10.68, 0406.20.83, 0406.30.53 0406.30.83 or 0406.90.92.....	:[See Annex II(B) to this proclamation)(JO)
9909.04.36	: Goods provided for in subheading 0406.10.78, 0406.20.87, 0406.30.87, 0406.90.94 or 1901.90.36.....	:[See Annex II(B) to this proclamation)(JO)
9909.04.37	: Goods provided for in subheading 0406.90.48.....	:[See Annex II(B) to this proclamation)(JO)
9909.04.38	: Goods provided for in subheading 1517.90.60.....	:[See Annex II(B) to this proclamation)(JO)
9909.04.39	: Goods provided for in subheading 1806.10.15.....	:[See Annex II(B) to this proclamation)(JO)

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	[Goods of Jordan, under...]	
	[Goods provided for in subheading 0401.30.25...]	
	[Other:]	
9909.04.40	Goods provided for in subheading 1806.10.75	[See Annex II(B) to this proclamation](JO)
9909.04.41	Goods provided for in subheading 1806.20.26, 1806.20.36, 1806.32.06 or 1806.32.16	[See Annex II(B) to this proclamation](JO)
9909.04.42	Goods provided for in subheading 1806.20.28, 1806.20.38, 1806.32.08 or 1806.32.18	[See Annex II(B) to this proclamation](JO)
9909.04.43	Goods provided for in subheading 1806.20.82 or 1806.20.87	[See Annex II(B) to this proclamation](JO)
9909.04.44	Goods provided for in subheading 1806.20.83 or 1806.20.89	[See Annex II(B) to this proclamation](JO)
9909.04.45	Goods provided for in subheading 1806.32.70, 1806.90.08, 1806.90.18 or 1806.90.28	[See Annex II(B) to this proclamation](JO)
9909.04.46	Goods provided for in subheading 1806.32.80, 1806.90.10, 1806.90.20 or 1806.90.30	[See Annex II(B) to this proclamation](JO)
9909.04.47	Goods provided for in subheading 1901.10.30, 1901.10.40, 1901.10.75 or 1901.10.85	[See Annex II(B) to this proclamation](JO)
9909.04.48	Goods provided for in subheading 1901.20.15, 1901.20.35, 1901.20.50 or 1901.20.70	[See Annex II(B) to this proclamation](JO)
9909.04.49	Goods provided for in subheading 1901.90.43 or 1901.90.47	[See Annex II(B) to this proclamation](JO)
9909.04.50	Goods provided for in subheading 2103.90.78	[See Annex II(B) to this proclamation](JO)
9909.04.51	Goods provided for in subheading 2105.00.40	[See Annex II(B) to this proclamation](JO)

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	:[Goods of Jordan, under...]	
	[Goods provided for in subheading 0401.30.25...]	
	[Other:]	
9909.04.52	Goods provided for in subheading 2106.90.09	:[See Annex II(B) to this proclamation](JO)
9909.04.53	Goods provided for in subheading 2106.90.87	:[See Annex II(B) to this proclamation](JO)
9909.04.54	Goods provided for in subheading 2202.90.28	:[See Annex II(B) to this proclamation](JO)
9909.04.55	Goods provided for in subheading 2309.90.28 or 2309.90.48	:[See Annex II(B) to this proclamation](JO)
	Goods provided for in subheading 1202.10.80, 1202.20.80, 2008.11.15, 2008.11.35 or 2008.11.60:	
9909.12.05	Subject to the quantitative limits specified in U.S. note 4 to this subchapter	:Free (JO)
	Other:	
9909.12.20	Goods provided for in subheading 1202.10.80	:[See Annex II(B) to this proclamation](JO)
9909.12.40	Goods provided for in subheading 1202.20.80, 2008.11.15, 2008.11.35 or 2008.11.60	:[See Annex II(B) to this proclamation](JO)
	Goods provided for in subheading 1701.11.50, 1701.12.50, 1701.91.30, 1701.91.48, 1701.91.58, 1701.99.50, 1702.20.28, 1702.30.28, 1702.40.28, 1702.60.28, 1702.90.20, 1702.90.58, 1702.90.68, 1704.90.58, 1704.90.68, 1704.90.78, 1806.10.28, 1806.10.38, 1806.10.55, 1806.20.73, 1806.20.77, 1806.20.94, 1806.20.98, 1806.90.39, 1806.90.49, 1806.90.59, 1901.20.25, 1901.20.60, 1901.90.54, 1901.90.58, 2101.12.38, 2101.12.48, 2101.12.58, 2101.20.38, 2101.20.48, 2101.20.58, 2106.90.46, 2106.90.72, 2106.90.76, 2106.90.80, 2106.90.91, 2106.90.94 or 2106.90.97:	
9909.17.05	Subject to the quantitative limits specified in U.S. note 5 to this subchapter	:Free (JO)
	Other:	
9909.17.10	Goods provided for in subheading 1701.11.50	:[See Annex II(B) to this proclamation](JO)
9909.17.15	Goods provided for in subheading 1701.12.50, 1701.91.30, 1701.99.50, 1702.90.20 or 2106.90.46	:[See Annex II(B) to this proclamation](JO)

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	[Goods of Jordan, under...]	
	[Goods provided for in subheading 1701.11.50...]	
	[Other:]	
9909.17.20	Goods provided for in subheading 1701.91.48, 1701.91.58 or 1702.90.68.....	[See Annex II(B) to this proclamation](JO)
9909.17.25	Goods provided for in subheading 1702.20.28 or 1702.30.28.....	[See Annex II(B) to this proclamation](JO)
9909.17.30	Goods provided for in subheading 1702.40.28, 1702.60.28 or 1702.90.58.....	[See Annex II(B) to this proclamation](JO)
9909.17.35	Goods provided for in subheading 1704.90.58, 1704.90.68 or 1704.90.78.....	[See Annex II(B) to this proclamation](JO)
9909.17.40	Goods provided for in subheading 1806.10.28, 1806.10.38 or 1806.10.55.....	[See Annex II(B) to this proclamation](JO)
9909.17.45	Goods provided for in subheading 1806.20.73, 1806.20.77, 2101.12.38, 2101.12.48, 2101.12.58, 2101.20.38, 2101.20.48 or 2101.20.58.....	[See Annex II(B) to this proclamation](JO)
9909.17.50	Goods provided for in subheading 1806.20.94 or 1806.20.98.....	[See Annex II(B) to this proclamation](JO)
9909.17.55	Goods provided for in subheading 1806.90.39, 1806.90.49 or 1806.90.59.....	[See Annex II(B) to this proclamation](JO)
9909.17.60	Goods provided for in subheading 1901.20.25 or 1901.20.60.....	[See Annex II(B) to this proclamation](JO)
9909.17.65	Goods provided for in subheading 1901.90.54 or 1901.90.58.....	[See Annex II(B) to this proclamation](JO)
9909.17.70	Goods provided for in subheading 2106.90.72, 2106.90.76 or 2106.90.80.....	[See Annex II(B) to this proclamation](JO)
9909.17.75	Goods provided for in subheading 2106.90.91, 2106.90.94 or 2106.90.97.....	[See Annex II(B) to this proclamation](JO)
	Goods provided for in subheading 5201.00.18, 5201.00.28, 5201.00.38, 5201.00.80, 5202.99.30 or 5203.00.30:	
9909.52.05	Subject to the quantitative limits specified in U.S. note 6 to this subchapter.....	Free (JO)

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	:[Goods of Jordan, under...]	:	:
	: [Goods provided for in subheading 5201.00.18...]	:	:
	: Other:	:	:
9909.52.20	: Goods provided for in subheading	:	:
	: 5201.00.18, 5201.00.28, 5201.00.38	:	:
	: 5201.00.80 or 5203.00.30.....	:	:[See Annex III(B)
	:	:	: to this
	:	:	: proclamation)(JO)
9909.52.40	: Goods provided for in subheading	:	:
	: 5202.99.30.....	:	:[See Annex II(B)
	:	:	: to this
	:	:	: proclamation)(JO)*
	:	:	:

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Annex II

Modifications to the Rates of Duty 1 Special Subcolumn of the Harmonized Tariff Schedule of the United States (HTS)

Section A. Effective with respect to goods of Jordan, under the terms of general note 18 to the tariff schedule, entered, or withdrawn from warehouse for consumption, on or after December 17, 2001, the HTS is modified as follows.

(1). For the following provisions, in the Rates of Duty 1 Special subcolumn, insert in the parentheses following the "Free" rate in such subcolumn the symbol "JO" in alphabetical order:

0201.10.05	0402.21.73	0405.20.50	0406.30.32	0406.90.82
0201.10.10	0402.21.75	0405.20.60	0406.30.34	0406.90.86
0201.20.02	0402.29.05	0405.90.05	0406.30.42	0406.90.90
0201.20.04	0402.29.10	0405.90.10	0406.30.44	0406.90.93
0201.20.06	0402.91.03	0406.10.02	0406.30.49	0406.90.95
0201.20.10	0402.91.06	0406.10.04	0406.30.51	0910.40.30
0201.20.30	0402.91.10	0406.10.12	0406.30.56	0910.91.00
0201.20.50	0402.91.30	0406.10.14	0406.30.61	0910.99.60
0201.30.02	0402.99.03	0406.10.24	0406.30.65	1202.10.05
0201.30.04	0402.99.06	0406.10.34	0406.30.69	1202.10.40
0201.30.06	0402.99.10	0406.10.44	0406.30.73	1202.20.05
0201.30.10	0402.99.30	0406.10.54	0406.30.77	1202.20.40
0201.30.30	0402.99.68	0406.10.64	0406.30.81	1209.91.80
0201.30.50	0402.99.70	0406.10.74	0406.30.85	1209.99.40
0202.10.05	0403.10.05	0406.10.84	0406.30.89	1515.90.40
0202.10.10	0403.10.10	0406.20.22	0406.40.51	1517.90.45
0202.20.02	0403.90.02	0406.20.24	0406.40.52	1517.90.50
0202.20.04	0403.90.04	0406.20.29	0406.40.54	1701.11.05
0202.20.06	0403.90.37	0406.20.31	0406.40.58	1701.11.10
0202.20.10	0403.90.41	0406.20.34	0406.90.06	1701.12.05
0202.20.30	0403.90.47	0406.20.36	0406.90.08	1701.12.10
0202.20.50	0403.90.51	0406.20.43	0406.90.14	1701.91.05
0202.30.02	0403.90.57	0406.20.44	0406.90.16	1701.91.10
0202.30.04	0403.90.61	0406.20.49	0406.90.28	1701.91.42
0202.30.06	0403.90.72	0406.20.51	0406.90.31	1701.91.52
0202.30.10	0403.90.74	0406.20.56	0406.90.34	1701.91.54
0202.30.30	0403.90.87	0406.20.61	0406.90.36	1701.99.05
0202.30.50	0403.90.90	0406.20.65	0406.90.39	1701.99.10
0401.30.02	0404.10.08	0406.20.69	0406.90.41	1702.20.22
0401.30.05	0404.10.11	0406.20.73	0406.90.44	1702.30.22
0401.30.42	0404.10.48	0406.20.77	0406.90.46	1702.40.22
0401.30.50	0404.10.50	0406.20.81	0406.90.51	1702.60.22
0402.10.05	0404.90.28	0406.20.85	0406.90.52	1702.90.05
0402.10.10	0404.90.30	0406.20.89	0406.90.61	1702.90.10
0402.21.02	0405.10.05	0406.30.12	0406.90.63	1702.90.52
0402.21.05	0405.10.10	0406.30.14	0406.90.66	1702.90.90
0402.21.27	0405.20.10	0406.30.22	0406.90.72	1704.10.00
0402.21.30	0405.20.20	0406.30.24	0406.90.76	1704.90.35

Annex II (continued)
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1704.90.52	1901.10.35	2103.90.72	2309.90.42	7114.19.00
1704.90.54	1901.10.55	2103.90.74	2309.90.44	8538.90.80
1704.90.74	1901.10.60	2103.90.90	2905.45.00	9020.00.90
1806.10.22	1901.10.80	2104.10.00	3307.30.10	9614.20.80
1806.10.34	1901.20.02	2105.00.05	3923.21.00	9801.00.70
1806.10.43	1901.20.05	2105.00.10	3923.30.00	9801.00.80
1806.10.65	1901.20.30	2105.00.25	3924.10.50	9802.00.40
1806.20.22	1901.20.42	2105.00.30	4016.99.60	9802.00.50
1806.20.24	1901.20.45	2106.90.03	4414.00.00	9812.00.20
1806.20.34	1901.20.65	2106.90.06	4420.10.00	9812.00.40
1806.20.67	1901.90.33	2106.90.22	5201.00.22	9813.00.05
1806.20.75	1901.90.34	2106.90.24	5201.00.24	9813.00.10
1806.20.79	1901.90.38	2106.90.32	5201.00.34	9813.00.15
1806.20.81	1901.90.42	2106.90.34	5201.00.55	9813.00.20
1806.20.85	1901.90.44	2106.90.42	5201.00.60	9813.00.25
1806.20.95	1901.90.46	2106.90.44	5203.00.05	9813.00.30
1806.32.01	1901.90.48	2106.90.62	5203.00.10	9813.00.35
1806.32.04	1901.90.56	2106.90.64	5702.10.10	9813.00.40
1806.32.14	2005.70.25	2106.90.78	5702.91.20	9813.00.45
1806.32.55	2007.99.75	2106.90.83	6802.10.00	9813.00.50
1806.32.60	2008.11.22	2106.90.85	6802.91.05	9813.00.55
1806.90.01	2008.11.25	2106.90.95	6802.91.15	9813.00.60
1806.90.05	2008.11.42	2106.90.99	6802.92.00	9813.00.70
1806.90.15	2008.11.45	2202.10.00	6913.90.50	9813.00.75
1806.90.25	2101.12.32	2202.90.22	7113.11.50	9814.00.50
1806.90.55	2101.12.54	2202.90.24	7113.19.21	9818.00.05
1901.10.05	2101.20.32	2309.90.22	7113.19.29	9818.00.07
1901.10.15	2101.20.54	2309.90.24	7113.19.50	

(2). The Rates of Duty 1 Special subcolumn is modified by inserting in such subcolumn, for each of the provisions listed in column A below, the phrase in column B opposite such provision.

Column A	Column B
0401.30.25	See 9909.04.05, 9909.04.11 (JO)
0401.30.75	See 9909.04.05, 9909.04.10 (JO)
0402.10.50	See 9909.04.05, 9909.04.13 (JO)
0402.21.25	See 9909.04.05, 9909.04.13 (JO)
0402.21.50	See 9909.04.05, 9909.04.14 (JO)
0402.21.90	See 9909.04.05, 9909.04.15 (JO)
0402.29.50	See 9909.04.05, 9909.04.16 (JO)
0402.91.70	See 9909.04.05, 9909.04.17 (JO)
0402.91.90	See 9909.04.05, 9909.04.17 (JO)
0402.99.45	See 9909.04.05, 9909.04.18 (JO)
0402.99.55	See 9909.04.05, 9909.04.18 (JO)
0402.99.90	See 9909.04.05, 9909.04.19 (JO)
0403.10.50	See 9909.04.05, 9909.04.20 (JO)
0403.90.16	See 9909.04.05, 9909.04.11 (JO)
0403.90.45	See 9909.04.05, 9909.04.21 (JO)

Annex II (continued)
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0403.90.55	See 9909.04.05, 9909.04.14 (JO)
0403.90.65	See 9909.04.05, 9909.04.15 (JO)
0403.90.78	See 9909.04.05, 9909.04.12 (JO)
0403.90.95	See 9909.04.05, 9909.04.22 (JO)
0404.10.15	See 9909.04.05, 9909.04.23 (JO)
0404.10.90	See 9909.04.05, 9909.04.21 (JO)
0404.90.50	See 9909.04.05, 9909.04.24 (JO)
0405.10.20	See 9909.04.05, 9909.04.25 (JO)
0405.20.30	See 9909.04.05, 9909.04.26 (JO)
0405.20.70	See 9909.04.05, 9909.04.27 (JO)
0405.90.20	See 9909.04.05, 9909.04.28 (JO)
0406.10.08	See 9909.04.05, 9909.04.29 (JO)
0406.10.18	See 9909.04.05, 9909.04.30 (JO)
0406.10.28	See 9909.04.05, 9909.04.31 (JO)
0406.10.38	See 9909.04.05, 9909.04.32 (JO)
0406.10.48	See 9909.04.05, 9909.04.33 (JO)
0406.10.58	See 9909.04.05, 9909.04.34 (JO)
0406.10.68	See 9909.04.05, 9909.04.35 (JO)
0406.10.78	See 9909.04.05, 9909.04.36 (JO)
0406.10.88	See 9909.04.05, 9909.04.29 (JO)
0406.20.28	See 9909.04.05, 9909.04.30 (JO)
0406.20.33	See 9909.04.05, 9909.04.31 (JO)
0406.20.39	See 9909.04.05, 9909.04.32 (JO)
0406.20.48	See 9909.04.05, 9909.04.33 (JO)
0406.20.53	See 9909.04.05, 9909.04.34 (JO)
0406.20.63	See 9909.04.05, 9909.04.30 (JO)
0406.20.67	See 9909.04.05, 9909.04.31 (JO)
0406.20.71	See 9909.04.05, 9909.04.32 (JO)
0406.20.75	See 9909.04.05, 9909.04.33 (JO)
0406.20.79	See 9909.04.05, 9909.04.34 (JO)
0406.20.83	See 9909.04.05, 9909.04.35 (JO)
0406.20.87	See 9909.04.05, 9909.04.36 (JO)
0406.20.91	See 9909.04.05, 9909.04.29 (JO)
0406.30.18	See 9909.04.05, 9909.04.30 (JO)
0406.30.28	See 9909.04.05, 9909.04.31 (JO)
0406.30.38	See 9909.04.05, 9909.04.32 (JO)
0406.30.48	See 9909.04.05, 9909.04.33 (JO)
0406.30.53	See 9909.04.05, 9909.04.35 (JO)
0406.30.63	See 9909.04.05, 9909.04.30 (JO)
0406.30.67	See 9909.04.05, 9909.04.31 (JO)
0406.30.71	See 9909.04.05, 9909.04.32 (JO)
0406.30.75	See 9909.04.05, 9909.04.33 (JO)
0406.30.79	See 9909.04.05, 9909.04.34 (JO)
0406.30.83	See 9909.04.05, 9909.04.35 (JO)
0406.30.87	See 9909.04.05, 9909.04.36 (JO)
0406.30.91	See 9909.04.05, 9909.04.29 (JO)
0406.40.70	See 9909.04.05, 9909.04.30 (JO)
0406.90.12	See 9909.04.05, 9909.04.31 (JO)

Annex II (continued)
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0406.90.18	See 9909.04.05, 9909.04.33 (JO)
0406.90.32	See 9909.04.05, 9909.04.34 (JO)
0406.90.37	See 9909.04.05, 9909.04.34 (JO)
0406.90.42	See 9909.04.05, 9909.04.34 (JO)
0406.90.48	See 9909.04.05, 9909.04.37 (JO)
0406.90.54	See 9909.04.05, 9909.04.32 (JO)
0406.90.68	See 9909.04.05, 9909.04.34 (JO)
0406.90.74	See 9909.04.05, 9909.04.30 (JO)
0406.90.78	See 9909.04.05, 9909.04.31 (JO)
0406.90.84	See 9909.04.05, 9909.04.32 (JO)
0406.90.88	See 9909.04.05, 9909.04.33 (JO)
0406.90.92	See 9909.04.05, 9909.04.35 (JO)
0406.90.94	See 9909.04.05, 9909.04.36 (JO)
0406.90.97	See 9909.04.05, 9909.04.29 (JO)
1202.10.80	See 9909.12.05, 9909.12.20 (JO)
1202.20.80	See 9909.12.05, 9909.12.40 (JO)
1517.90.60	See 9909.04.05, 9909.04.38 (JO)
1701.11.50	See 9909.17.05, 9909.17.10 (JO)
1701.12.50	See 9909.17.05, 9909.17.15 (JO)
1701.91.30	See 9909.17.05, 9909.17.15 (JO)
1701.91.48	See 9909.17.05, 9909.17.20 (JO)
1701.91.58	See 9909.17.05, 9909.17.20 (JO)
1701.99.50	See 9909.17.05, 9909.17.15 (JO)
1702.20.28	See 9909.17.05, 9909.17.25 (JO)
1702.30.28	See 9909.17.05, 9909.17.25 (JO)
1702.40.28	See 9909.17.05, 9909.17.30 (JO)
1702.60.28	See 9909.17.05, 9909.17.30 (JO)
1702.90.20	See 9909.17.05, 9909.17.15 (JO)
1702.90.58	See 9909.17.05, 9909.17.30 (JO)
1702.90.68	See 9909.17.05, 9909.17.20 (JO)
1704.90.58	See 9909.17.05, 9909.17.35 (JO)
1704.90.68	See 9909.17.05, 9909.17.35 (JO)
1704.90.78	See 9909.17.05, 9909.17.35 (JO)
1806.10.15	See 9909.04.05, 9909.04.39 (JO)
1806.10.28	See 9909.17.05, 9909.17.40 (JO)
1806.10.38	See 9909.17.05, 9909.17.40 (JO)
1806.10.55	See 9909.17.05, 9909.17.40 (JO)
1806.10.75	See 9909.04.05, 9909.04.40 (JO)
1806.20.26	See 9909.04.05, 9909.04.41 (JO)
1806.20.28	See 9909.04.05, 9909.04.42 (JO)
1806.20.36	See 9909.04.05, 9909.04.41 (JO)
1806.20.38	See 9909.04.05, 9909.04.42 (JO)
1806.20.73	See 9909.17.05, 9909.17.45 (JO)
1806.20.77	See 9909.17.05, 9909.17.45 (JO)
1806.20.82	See 9909.04.05, 9909.04.43 (JO)
1806.20.83	See 9909.04.05, 9909.04.44 (JO)
1806.20.87	See 9909.04.05, 9909.04.43 (JO)
1806.20.89	See 9909.04.05, 9909.04.44 (JO)

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1806.20.94	See 9909.17.05, 9909.17.50 (JO)
1806.20.98	See 9909.17.05, 9909.17.50 (JO)
1806.32.06	See 9909.04.05, 9909.04.41 (JO)
1806.32.08	See 9909.04.05, 9909.04.42 (JO)
1806.32.16	See 9909.04.05, 9909.04.41 (JO)
1806.32.18	See 9909.04.05, 9909.04.42 (JO)
1806.32.70	See 9909.04.05, 9909.04.45 (JO)
1806.32.80	See 9909.04.05, 9909.04.46 (JO)
1806.90.08	See 9909.04.05, 9909.04.45 (JO)
1806.90.10	See 9909.04.05, 9909.04.46 (JO)
1806.90.18	See 9909.04.05, 9909.04.45 (JO)
1806.90.20	See 9909.04.05, 9909.04.46 (JO)
1806.90.28	See 9909.04.05, 9909.04.45 (JO)
1806.90.30	See 9909.04.05, 9909.04.46 (JO)
1806.90.39	See 9909.17.05, 9909.17.55 (JO)
1806.90.49	See 9909.17.05, 9909.17.55 (JO)
1806.90.59	See 9909.17.05, 9909.17.55 (JO)
1901.10.30	See 9909.04.05. 9909.04.47 (JO)
1901.10.40	See 9909.04.05, 9909.04.47 (JO)
1901.10.75	See 9909.04.05, 9909.04.47 (JO)
1901.10.85	See 9909.04.05, 9909.04.47 (JO)
1901.20.15	See 9909.04.05, 9909.04.48 (JO)
1901.20.25	See 9909.17.05, 9909.17.60 (JO)
1901.20.35	See 9909.04.05, 9909.04.48 (JO)
1901.20.50	See 9909.04.05, 9909.04.48 (JO)
1901.20.60	See 9909.17.05, 9909.17.60 (JO)
1901.20.70	See 9909.04.05, 9909.04.48 (JO)
1901.90.36	See 9909.04.05. 9909.04.36 (JO)
1901.90.43	See 9909.04.05, 9909.04.49 (JO)
1901.90.47	See 9909.04.05, 9909.04.49 (JO)
1901.90.54	See 9909.17.05, 9909.17.65 (JO)
1901.90.58	See 9909.17.05, 9909.17.65 (JO)
2008.11.15	See 9909.12.05, 9909.12.40 (JO)
2008.11.35	See 9909.12.05, 9909.12.40 (JO)
2008.11.60	See 9909.12.05, 9909.12.40 (JO)
2101.12.38	See 9909.17.05, 9909.17.45 (JO)
2101.12.48	See 9909.17.05, 9909.17.45 (JO)
2101.12.58	See 9909.17.05, 9909.17.45 (JO)
2101.20.38	See 9909.17.05, 9909.17.45 (JO)
2101.20.48	See 9909.17.05, 9909.17.45 (JO)
2101.20.58	See 9909.17.05, 9909.17.45 (JO)
2103.90.78	See 9909.04.05, 9909.04.50 (JO)
2105.00.40	See 9909.04.05, 9909.04.51 (JO)
2106.90.09	See 9909.04.05, 9909.04.52 (JO)
2106.90.26	See 9909.04.05, 9909.04.26 (JO)
2106.90.36	See 9909.04.05, 9909.04.26 (JO)
2106.90.46	See 9909.17.05, 9909.17.15 (JO)
2106.90.66	See 9909.04.05, 9909.04.27 (JO)

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2106.90.72	See 9909.17.05, 9909.17.70 (JO)
2106.90.76	See 9909.17.05, 9909.17.70 (JO)
2106.90.80	See 9909.17.05, 9909.17.70 (JO)
2106.90.87	See 9909.04.05, 9909.04.53 (JO)
2106.90.91	See 9909.17.05, 9909.17.75 (JO)
2106.90.94	See 9909.17.05, 9909.17.75 (JO)
2106.90.97	See 9909.17.05, 9909.17.75 (JO)
2202.90.28	See 9909.04.05, 9909.04.54 (JO)
2309.90.28	See 9909.04.05, 9909.04.55 (JO)
2309.90.48	See 9909.04.05, 9909.04.55 (JO)
5201.00.18	See 9909.52.05, 9909.52.20 (JO)
5201.00.28	See 9909.52.05, 9909.52.20 (JO)
5201.00.38	See 9909.52.05, 9909.52.20 (JO)
5201.00.80	See 9909.52.05, 9909.52.20 (JO)
5202.99.30	See 9909.52.05, 9909.52.40 (JO)
5203.00.30	See 9909.52.05, 9909.52.20 (JO)

(3). For subheading 2105.00.20 and heading 9817.61.01, in the Rates of Duty 1 Special subcolumn, insert a "Free" rate of duty followed by the symbol "JO" in parentheses.

(4). For subheading 5810.91.00, in the Rates of Duty 1 Special subcolumn, insert "See additional U.S. note 1" followed by the symbol "JO" in parentheses.

(5). For subheading 5810.92.10, in the Rates of Duty 1 Special subcolumn, insert in the parentheses following "See additional U.S. note 2" the symbol "JO" in alphabetical order.

(6). For subheading 5810.92.90, in the Rates of Duty 1 Special subcolumn, insert in the parentheses following "See additional U.S. note 3" the symbol "JO" in alphabetical order.

(7). For subheading 5810.99.10, in the Rates of Duty 1 Special subcolumn, insert "See additional U.S. note 4" followed by the symbol "JO" in parentheses.

(8). For subheading 5810.99.90, in the Rates of Duty 1 Special subcolumn, insert "See additional U.S. note 5" followed by the symbol "JO" in parentheses.

(9). For subheading 9802.00.60, in the Rates of Duty 1 Special subcolumn, insert in the parentheses following "A duty upon the value of such processing outside the United States (see U.S. note 3 of this subchapter)" the symbol "JO" in alphabetical order.

(10). For subheading 9802.00.80, in the Rates of Duty 1 Special subcolumn, insert in the parentheses following "A duty upon the full value of the imported article, less the cost or value of such products of the United States (see U.S. note 4 of this subchapter)" the symbol "JO" in alphabetical order.

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Annex II (continued)
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Section (B). Effective with respect to goods of Jordan, under the terms of general note 18 to the tariff schedule, entered, or withdrawn from warehouse for consumption, on or after December 17, 2001, and on January 1 of each of the successive years, for each of the enumerated subheadings in the following table, the Rates of Duty 1 Special subcolumn in the HTS is modified (i) by inserting in such subcolumn for each subheading the rate of duty specified for such subheading in the December 17, 2001 column followed by the symbol "JO" in parentheses, and (ii) for each of the subsequent dated columns the rates of duty that are followed by the symbol "JO" in parentheses are deleted and the rates of duty for such dated column are inserted in such subheadings in lieu thereof.

HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0101.20.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0102.90.40	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0104.20.00	34¢/head	Free	Free	Free	Free	Free	Free	Free	Free	Free
0105.11.00	0.4¢ each	Free	Free	Free	Free	Free	Free	Free	Free	Free
0105.12.00	0.4¢ each	Free	Free	Free	Free	Free	Free	Free	Free	Free
0105.19.00	0.4¢ each	Free	Free	Free	Free	Free	Free	Free	Free	Free
0105.92.00	1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0105.93.00	1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0105.99.00	1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0106.00.10	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0106.00.30	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0201.10.50	23.7%	21.1%	18.4%	15.8%	13.2%	10.5%	7.9%	5.2%	2.6%	Free
0201.20.80	23.7%	21.1%	18.4%	15.8%	13.2%	10.5%	7.9%	5.2%	2.6%	Free
0201.30.80	23.7%	21.1%	18.4%	15.8%	13.2%	10.5%	7.9%	5.2%	2.6%	Free
0202.10.50	23.7%	21.1%	18.4%	15.8%	13.2%	10.5%	7.9%	5.2%	2.6%	Free
0202.20.80	23.7%	21.1%	18.4%	15.8%	13.2%	10.5%	7.9%	5.2%	2.6%	Free
0202.30.80	23.7%	21.1%	18.4%	15.8%	13.2%	10.5%	7.9%	5.2%	2.6%	Free
0203.12.10	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0203.19.20	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0203.22.10	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0203.29.20	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0204.10.00	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0204.21.00	1.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0204.22.20	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0204.22.40	1.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0204.23.20	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0204.23.40	1.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0204.30.00	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0204.41.00	1.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0204.42.20	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0204.42.40	1.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0204.43.20	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0204.43.40	1.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0207.11.00	4.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0207.12.00	4.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0207.13.00	14¢/kg	10.5¢/kg	7¢/kg	3.5¢/kg	Free	Free	Free	Free	Free	Free
0207.14.00	13.2¢/kg	8.8¢/kg	4.4¢/kg	Free	Free	Free	Free	Free	Free	Free
0207.24.00	7.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0207.25.20	7¢/kg	5.2¢/kg	3.5¢/kg	1.7¢/kg	Free	Free	Free	Free	Free	Free
0207.25.40	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
0207.26.00	14¢/kg	10.5¢/kg	7¢/kg	3.5¢/kg	Free	Free	Free	Free	Free	Free
0207.27.00	15.8¢/kg	14¢/kg	12.3¢/kg	10.5¢/kg	8.8¢/kg	7¢/kg	5.2¢/kg	3.5¢/kg	1.7¢/kg	Free
0207.32.00	4.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0207.33.00	4.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0207.34.00	8.8¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0207.35.00	8.8¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0207.36.00	8.8¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0208.10.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
0208.90.30	3.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0208.90.40	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
0209.00.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0210.11.00	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0210.12.00	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0210.19.00	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0210.90.20	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0210.90.40	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0302.23.00	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0302.69.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0302.70.20	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
0303.33.00	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0303.39.00	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0303.71.00	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0303.75.00	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0303.80.20	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
0304.90.90	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
0305.10.40	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
0305.20.20	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
0305.30.20	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0305.30.40	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0305.41.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0305.61.20	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0305.63.20	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0305.69.20	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0305.69.40	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0305.69.60	0.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0306.14.20	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
0306.24.20	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
0307.60.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0401.10.00	0.1¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
0401.20.20	0.2¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
0401.20.40	1.2¢/liter	0.9¢/liter	0.6¢/liter	0.3¢/liter	Free	Free	Free	Free	Free	Free
0403.10.90	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
0403.90.20	0.1¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
0403.90.85	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
0404.10.05	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
0404.10.20	0.1¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0404.90.10	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0404.90.70	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
0405.20.40	9.8¢/kg	6.5¢/kg	3.2¢/kg	Free	Free	Free	Free	Free	Free	Free
0405.20.80	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
0406.10.95	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
0406.20.10	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
0406.20.15	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
0406.20.54	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
0406.20.55	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
0406.20.57	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
0406.20.95	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
0406.30.05	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
0406.30.55	4.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0406.30.57	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
0406.30.95	4.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0406.40.20	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0406.40.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0406.40.44	10.2%	7.6%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
0406.40.48	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
0406.90.05	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
0406.90.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0406.90.25	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
0406.90.33	19.1%	17%	14.9%	12.7%	10.6%	8.5%	6.3%	4.2%	2.1%	Free
0406.90.38	9.7%	7.3%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
0406.90.43	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
0406.90.49	4%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
0406.90.59	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
0406.90.99	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
0407.00.00	1.4¢/doz.	Free	Free	Free	Free	Free	Free	Free	Free	Free
0408.11.00	38¢/kg	28.5¢/kg	19¢/kg	9.5¢/kg	Free	Free	Free	Free	Free	Free
0408.19.00	7.2¢/kg	4.8¢/kg	2.4¢/kg	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0408.91.00	42.8¢/kg	38¢/kg	33.3¢/kg	28.5¢/kg	23.8¢/kg	19¢/kg	14.2¢/kg	9.5¢/kg	4.7¢/kg	Free
0408.99.00	7.2¢/kg	4.8¢/kg	2.4¢/kg	Free	Free	Free	Free	Free	Free	Free
0409.00.00	0.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0410.00.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0501.00.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0502.10.00	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0505.90.20	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0509.00.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0510.00.20	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
0511.99.40	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0601.10.15	44.8¢/1000	Free	Free	Free	Free	Free	Free	Free	Free	Free
0601.10.30	19.2¢/1000	Free	Free	Free	Free	Free	Free	Free	Free	Free
0601.10.45	27.8¢/1000	Free	Free	Free	Free	Free	Free	Free	Free	Free
0601.10.60	67¢/1000	Free	Free	Free	Free	Free	Free	Free	Free	Free
0601.10.75	9.6¢/1000	Free	Free	Free	Free	Free	Free	Free	Free	Free
0601.10.85	72¢/1000	Free	Free	Free	Free	Free	Free	Free	Free	Free
0601.10.90	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0601.20.10	19.2¢/1000	Free	Free	Free	Free	Free	Free	Free	Free	Free
0601.20.90	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0602.10.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0602.30.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0602.90.30	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0602.90.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0602.90.50	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0602.90.60	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0602.90.90	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0603.10.30	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0603.10.60	3.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0603.10.70	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0603.10.80	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0603.90.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0604.99.60	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
0701.10.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0701.90.10	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0701.90.50	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0702.00.20	1.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0702.00.40	1.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0702.00.60	1.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0703.10.20	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0703.10.30	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0703.10.40	1.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0703.20.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0703.90.00	16%	12%	8%	4%	Free	Free	Free	Free	Free	Free
0704.10.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0704.10.40	5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0704.10.60	7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0704.20.00	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
0704.90.20	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0704.90.40	10%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0705.11.20	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0705.11.40	1.8¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0705.19.20	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0705.19.40	1.8¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0705.21.00	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
0705.29.00	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
0706.10.05	7.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0706.10.10	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0706.10.20	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0706.90.20	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0706.90.30	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0706.90.40	5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0707.00.20	2.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0707.00.40	2.8¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0707.00.50	2.8¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0707.00.60	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0708.10.20	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0708.10.40	1.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0708.20.10	1.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0708.20.90	2.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0708.90.05	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0708.90.15	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
0708.90.30	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0708.90.40	2.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0709.10.00	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
0709.20.10	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0709.20.90	10.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0709.30.20	1.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0709.30.40	0.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0709.40.20	11.9%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
0709.40.40	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0709.40.60	0.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0709.51.00	4.4¢/kg + 10%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0709.60.20	2.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0709.60.40	2.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0709.70.00	16%	12%	8%	4%	Free	Free	Free	Free	Free	Free
0709.90.05	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
0709.90.10	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
0709.90.14	10%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0709.90.20	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0709.90.30	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
0709.90.35	4.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0709.90.45	19.1%	17%	14.9%	12.7%	10.6%	8.5%	6.3%	4.2%	2.1%	Free
0709.90.90	10%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0710.10.00	7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.21.20	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.21.40	1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.22.10	1.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.22.15	2.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.22.25	2.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.22.37	2.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.22.40	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
0710.29.05	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.29.15	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.29.30	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.29.40	1.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.30.00	7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.40.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
0710.80.20	2.8¢/kg + 4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.80.40	1.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.80.45	1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.80.50	1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.80.60	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
0710.80.65	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
0710.80.70	5.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.80.85	7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.80.93	7.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.80.97	7.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.90.10	3.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0710.90.90	7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0711.10.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0711.20.18	1.8¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
0711.20.28	2.9¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0711.20.38	2.9¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
0711.20.40	4.3¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
0711.30.00	4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0711.40.00	3.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0711.90.40	2.8¢/kg on drained weight + 4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0711.90.60	3.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0712.20.20	26.8%	23.8%	20.8%	17.8%	14.9%	11.9%	8.9%	5.9%	2.9%	Free
0712.20.40	19.1%	17%	14.9%	12.7%	10.6%	8.5%	6.3%	4.2%	2.1%	Free
0712.30.10	0.6¢/kg + 0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0712.30.20	0.9¢/kg + 1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0712.90.10	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0712.90.15	2.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0712.90.20	1.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0712.90.30	1.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0712.90.40	26.8%	23.8%	20.8%	17.8%	14.9%	11.9%	8.9%	5.9%	2.9%	Free
0712.90.65	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0712.90.70	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0712.90.74	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
0712.90.78	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
0712.90.80	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
0713.10.10	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.10.40	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.20.10	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.20.20	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.31.10	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.31.40	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.32.10	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.32.20	0.6¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0713.33.10	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.33.20	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.33.40	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.39.10	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.39.20	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.39.40	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.40.10	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.40.20	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.50.10	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.50.20	0.6¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.90.10	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.90.60	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0713.90.80	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0714.10.10	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
0714.10.20	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
0714.20.10	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
0714.20.20	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0714.90.10	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0714.90.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
0714.90.40	12.8%	9.6%	6.4%	3.2%	Free	Free	Free	Free	Free	Free
0714.90.45	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
0714.90.60	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
0802.11.00	3.8¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0802.12.00	18¢/kg	12¢/kg	6¢/kg	Free	Free	Free	Free	Free	Free	Free
0802.21.00	5.2¢/kg	3.5¢/kg	1.7¢/kg	Free	Free	Free	Free	Free	Free	Free
0802.22.00	7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0802.31.00	3.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0802.32.00	19.8¢/kg	13.2¢/kg	6.6¢/kg	Free	Free	Free	Free	Free	Free	Free
0802.50.20	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0802.50.40	0.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0802.90.10	4.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0802.90.15	6.6¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0802.90.20	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0802.90.25	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0802.90.80	0.6¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0802.90.94	2.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0802.90.98	2.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0803.00.40	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0804.10.20	6.6¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0804.10.40	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0804.10.60	1.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0804.10.80	14.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0804.20.40	3.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0804.20.60	3.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0804.20.80	4.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0804.30.20	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0804.30.40	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0804.30.60	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0804.40.00	8.4¢/kg	5.6¢/kg	2.8¢/kg	Free	Free	Free	Free	Free	Free	Free
0804.50.40	4.9¢/kg	3.3¢/kg	1.6¢/kg	Free	Free	Free	Free	Free	Free	Free
0804.50.60	5.2¢/kg	3.9¢/kg	2.6¢/kg	1.3¢/kg	Free	Free	Free	Free	Free	Free
0804.50.80	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0805.10.00	0.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0805.20.00	0.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0805.30.20	1.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0805.30.40	1.3¢/kg	0.9¢/kg	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free
0805.40.40	0.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0805.40.60	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0805.40.80	1.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0806.90.00	0.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0806.10.20	56.5¢/m^3	Free	Free	Free	Free	Free	Free	Free	Free	Free
0806.10.60	90¢/m^3	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0806.20.10	0.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0806.20.20	1.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0806.20.90	1.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0807.11.30	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
0807.11.40	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
0807.19.10	10.2%	7.6%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
0807.19.20	26.8%	23.6%	20.8%	17.8%	14.9%	11.9%	8.9%	5.9%	2.9%	Free
0807.19.50	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0807.19.60	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
0807.19.70	4%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
0807.19.80	25.2%	22.4%	19.6%	16.8%	14%	11.2%	8.4%	5.6%	2.8%	Free
0807.20.00	4%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
0808.20.40	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0809.10.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0809.30.20	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0809.40.40	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0810.10.20	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0810.10.40	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0810.20.10	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
0810.90.40	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0811.10.00	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
0811.20.20	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0811.20.40	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
0811.90.10	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0811.90.22	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
0811.90.25	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0811.90.40	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
0811.90.50	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0811.90.52	8.7%	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free
0811.90.55	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
0811.90.80	11.6%	8.7%	5.8%	2.9%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0812.10.00	10.7¢/kg	8¢/kg	5.3¢/kg	2.8¢/kg	Free	Free	Free	Free	Free	Free
0812.20.00	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0812.90.10	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
0812.90.20	0.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0812.90.30	1.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0812.90.40	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0812.90.90	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
0813.10.00	0.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0813.20.10	1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0813.20.20	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
0813.30.00	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0813.40.10	0.0%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0813.40.15	1.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0813.40.20	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0813.40.30	7.9¢/kg	5.3¢/kg	2.6¢/kg	Free	Free	Free	Free	Free	Free	Free
0813.40.40	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0813.40.80	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
0813.40.90	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
0813.50.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
0814.00.40	0.8¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0814.00.80	0.8¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0901.90.20	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0902.10.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
0902.20.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
0904.20.20	1.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0904.20.40	2.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0904.20.60	1.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0904.20.76	2.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0908.20.20	3.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0910.10.40	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
0910.40.40	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0910.99.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1001.10.00	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1001.90.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1001.90.20	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1003.00.20	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
1003.00.40	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
1005.90.20	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
1005.90.40	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1006.10.00	0.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1006.20.20	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1006.20.40	1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1006.30.10	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
1006.30.90	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1006.40.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1007.00.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1008.20.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1008.30.00	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
1008.90.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1101.00.00	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1102.10.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1102.20.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1102.30.00	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
1102.90.30	10.2%	7.6%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
1102.90.60	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
1103.11.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1103.12.00	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1103.13.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1103.14.00	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
1103.19.00	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
1104.11.00	1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1104.12.00	0.6¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
1104.19.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1104.21.00	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1104.22.00	0.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1104.23.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1104.29.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1104.30.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1105.10.00	0.8¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1105.20.00	0.6¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1106.10.00	8.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
1106.30.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1106.30.40	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
1107.10.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1107.20.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1108.11.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1108.12.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1108.13.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1108.20.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1109.00.10	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1109.00.90	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
1204.00.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1205.00.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1207.20.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1207.91.00	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
1208.10.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1208.90.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1209.21.00	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1209.22.20	0.8¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1209.24.00	0.6¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1209.25.00	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1209.30.00	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1209.91.10	2.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
1209.91.50	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1210.10.00	6.6¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1210.20.00	6.6¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1211.90.40	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1211.90.60	3.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1212.30.00	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1212.91.00	19.8¢/l	Free	Free	Free	Free	Free	Free	Free	Free	Free
1212.92.00	93¢/l	62¢/l	31¢/l	Free	Free	Free	Free	Free	Free	Free
1214.10.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1301.90.40	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1302.12.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1302.13.00	80.1¢/kg	71.2¢/kg	62.3¢/kg	53.4¢/kg	44.5¢/kg	35.6¢/kg	26.7¢/kg	17.8¢/kg	8.9¢/kg	Free
1302.19.40	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1302.39.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1401.20.40	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1401.90.20	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1401.90.40	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1402.90.10	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1403.10.00	$2.475/t	Free	Free	Free	Free	Free	Free	Free	Free	Free
1403.90.40	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1501.00.00	2.2¢/kg	1.5¢/kg	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free
1502.00.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1503.00.00	1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1504.10.40	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1504.20.40	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1504.20.60	1.1¢/kg + 3.7%	0.7¢/kg + 2.5%	0.3¢/kg + 1.2%	Free	Free	Free	Free	Free	Free	Free
1504.30.00	1.2¢/kg + 3.7%	0.8¢/kg + 2.5%	0.4¢/kg + 1.2%	Free	Free	Free	Free	Free	Free	Free
1505.10.00	0.6¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1505.90.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1506.00.00	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1507.10.00	15.2%	11.4%	7.6%	3.8%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
1507.90.40	15.2%	11.4%	7.6%	3.8%	Free	Free	Free	Free	Free	Free
1508.10.00	5.6¢/kg	3.7¢/kg	1.8¢/kg	Free	Free	Free	Free	Free	Free	Free
1508.90.00	3.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1509.10.20	2.5¢/kg on contents and container	Free	Free	Free	Free	Free	Free	Free	Free	Free
1509.10.40	1.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1509.90.20	2.5¢/kg on contents and container	Free	Free	Free	Free	Free	Free	Free	Free	Free
1509.90.40	1.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1510.00.40	2.5¢/kg on contents and container	Free	Free	Free	Free	Free	Free	Free	Free	Free
1510.00.60	1.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1512.11.00	1.2¢/kg + 2.5%	0.8¢/kg + 1.7%	0.4¢/kg + 0.8%	Free	Free	Free	Free	Free	Free	Free
1512.19.00	0.8¢/kg + 1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1512.21.00	4.4¢/kg	3.3¢/kg	2.2¢/kg	1.1¢/kg	Free	Free	Free	Free	Free	Free
1512.29.00	4.4¢/kg	3.3¢/kg	2.2¢/kg	1.1¢/kg	Free	Free	Free	Free	Free	Free
1514.10.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1514.90.50	0.8¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1514.90.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1515.11.00	4.7¢/kg	3.1¢/kg	1.5¢/kg	Free	Free	Free	Free	Free	Free	Free
1515.19.00	3.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1515.21.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1515.29.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1515.50.00	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1515.60.00	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1516.10.00	5.2¢/kg	3.5¢/kg	1.7¢/kg	Free	Free	Free	Free	Free	Free	Free
1516.20.10	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
1516.20.90	6.6¢/kg	4.4¢/kg	2.2¢/kg	Free	Free	Free	Free	Free	Free	Free
1517.10.00	9.2¢/kg	6.1¢/kg	3¢/kg	Free	Free	Free	Free	Free	Free	Free
1517.90.10	9%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
1517.90.20	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
1517.90.90	4.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1518.00.20	3.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1518.00.40	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
1521.90.20	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1522.00.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1601.00.20	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1601.00.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1601.00.60	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.10.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.20.20	2.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.20.40	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.31.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1602.32.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1602.39.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1602.41.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1602.41.20	2.6¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.41.90	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.42.20	2.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.42.40	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.49.10	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.49.20	2.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.49.40	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.49.60	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.49.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1602.50.05	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.50.09	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.50.20	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.50.60	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.50.90	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1602.90.10	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
1602.90.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1603.00.10	8.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
1604.11.20	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
1604.12.20	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1604.13.20	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
1604.13.30	16%	12%	8%	4%	Free	Free	Free	Free	Free	Free
1604.13.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1604.14.10	31.5%	28%	24.5%	21%	17.5%	14%	10.5%	7%	3.5%	Free
1604.14.20	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
1604.14.30	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
1604.14.40	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1604.14.50	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
1604.14.70	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1604.14.80	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
1604.15.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1604.16.40	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1604.19.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1604.19.20	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1604.19.25	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1604.19.30	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1604.19.40	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
1604.19.50	9.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
1604.19.80	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
1604.20.05	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
1604.20.40	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
1604.20.50	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
1604.30.20	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
1605.10.05	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
1605.10.40	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1605.20.05	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1605.30.05	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
1605.90.10	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
1605.90.50	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1605.90.55	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1701.11.20	1.1¢/kg less 0.01¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 0.7¢/kg	0.8¢/kg less 0.01¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 0.5¢/kg	0.5¢/kg less 0.008¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 0.3¢/kg	0.2¢/kg less 0.004¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 0.1¢/kg	Free	Free	Free	Free	Free	Free
1701.91.80	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
1702.11.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1702.19.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1702.30.40	1.6¢/kg	1.1¢/kg	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free
1702.40.40	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
1702.50.00	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
1702.60.40	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
1702.90.35	0.1¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
1702.90.40	0.1¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
1703.10.30	0.1¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
1703.10.50	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
1703.90.30	0.1¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
1703.90.50	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
1704.90.10	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1704.90.90	8.3%	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free
1803.20.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1805.00.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1806.20.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1806.20.60	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1806.20.75	8.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
1806.20.99	8.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
1806.31.00	2.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1806.32.30	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1806.32.90	3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1806.90.90	3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1901.10.45	11.9%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
1901.10.95	11.9%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
1901.20.40	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
1901.20.60	8.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
1901.90.10	1.6¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
1901.90.20	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
1901.90.28	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1901.90.32	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
1901.90.70	8.1%	6.1%	4%	2%	Free	Free	Free	Free	Free	Free
1901.90.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1902.11.40	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1902.19.40	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1902.20.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1902.30.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1902.40.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1903.00.40	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
1904.10.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
1904.20.10	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
1904.20.90	11.9%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
1904.90.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
1905.90.90	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2001.10.00	4.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2001.20.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2001.90.10	4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2001.90.20	4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2001.90.25	8.1%	6.1%	4%	2%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2001.90.30	2.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2001.90.33	3.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2001.90.35	4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2001.90.39	4.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2001.90.42	2.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2001.90.45	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2001.90.50	3.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2001.90.60	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
2002.10.00	8.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2002.90.40	5.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2002.90.80	5.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2003.10.00	3¢/kg on drained weight + 4.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2004.10.40	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2004.10.80	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2004.90.10	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2004.90.80	1¢/kg on entire contents of container	Free	Free	Free	Free	Free	Free	Free	Free	Free
2004.90.90	5.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.10.00	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
2005.20.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2005.51.20	0.7¢/kg on entire contents of container	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.51.40	1¢/kg on entire contents of container	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.59.00	0.7¢/kg on entire contents of container	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.60.00	11.2%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2005.70.02	2.7¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.70.04	1.8¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.70.06	1.8¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.70.08	1.8¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.70.12	1.8¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.70.16	2.7¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.70.18	3.4¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.70.23	3.4¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.70.50	4.8¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.70.60	7.5¢/kg on drained weight	5¢/kg on drained weight	2.5¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free
2005.70.70	4.9¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.70.75	2.1¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.70.91	2.7¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.70.93	4.4¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.70.97	4.4¢/kg on drained weight	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.80.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
2005.90.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2005.90.20	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.90.30	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.90.50	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2005.90.55	11.9%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
2005.90.60	11.9%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
2005.90.85	0.4¢/kg on entire contents of container	Free	Free	Free	Free	Free	Free	Free	Free	Free
2005.90.97	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
2006.00.20	7.9¢/kg + 5.1%	5.9¢/kg + 3.8%	3.9¢/kg + 2.5%	1.9¢/kg + 1.2%	Free	Free	Free	Free	Free	Free
2006.00.30	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2006.00.40	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2006.00.50	12.8%	9.6%	6.4%	3.2%	Free	Free	Free	Free	Free	Free
2006.00.60	3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2006.00.70	8%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2006.00.90	12.8%	9.6%	6.4%	3.2%	Free	Free	Free	Free	Free	Free
2007.10.00	9.8%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
2007.91.10	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
2007.91.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2007.91.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2007.99.05	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2007.99.10	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2007.99.15	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2007.99.20	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2007.99.25	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2007.99.35	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
2007.99.40	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2007.99.45	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
2007.99.48	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
2007.99.50	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2007.99.55	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
2007.99.60	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
2007.99.65	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
2007.99.70	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.19.15	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2008.19.20	5.6¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.19.25	4.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.19.30	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.19.40	16.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.19.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2008.19.85	20.1%	17.9%	15.6%	13.4%	11.2%	8.9%	6.7%	4.4%	2.2%	Free
2008.19.90	14.3%	10.7%	7.1%	3.5%	Free	Free	Free	Free	Free	Free
2008.20.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.30.10	1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.30.20	2.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.30.30	8.4¢/kg	5.6¢/kg	2.8¢/kg	Free	Free	Free	Free	Free	Free	Free
2008.30.35	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
2008.30.37	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
2008.30.40	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.30.46	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.30.48	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.30.55	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.30.60	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.30.65	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
2008.30.70	0.5¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.30.80	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.30.85	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
2008.30.95	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
2008.40.00	12.2%	9.1%	6.1%	3%	Free	Free	Free	Free	Free	Free
2008.50.20	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
2008.50.40	26.8%	23.8%	20.8%	17.8%	14.9%	11.9%	8.9%	5.9%	2.9%	Free
2008.60.00	5.1¢/kg + 3.3%	3.4¢/kg + 2.2%	1.7¢/kg + 1.1%	Free	Free	Free	Free	Free	Free	Free
2008.70.00	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
2008.80.00	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
2008.91.00	0.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.92.10	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2008.92.90	11.9%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
2008.99.05	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.99.10	7.9¢/kg	5.3¢/kg	2.6¢/kg	Free	Free	Free	Free	Free	Free	Free
2008.99.13	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.99.15	0.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.99.18	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.99.20	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.99.23	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.99.25	20.1%	17.9%	15.6%	13.4%	11.2%	8.9%	6.7%	4.4%	2.2%	Free
2008.99.28	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
2008.99.29	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
2008.99.35	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
2008.99.40	0.7¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.99.42	12.8%	9.6%	6.4%	3.2%	Free	Free	Free	Free	Free	Free
2008.99.45	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
2008.99.50	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.99.60	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
2008.99.61	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.99.63	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2008.99.65	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
2008.99.80	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
2008.99.90	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
2009.11.00	7¢/liter	6.2¢/liter	5.4¢/liter	4.7¢/liter	3.9¢/liter	3.1¢/liter	2.3¢/liter	1.5¢/liter	0.7¢/liter	Free
2009.19.25	2.2¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
2009.19.45	3.9¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
2009.20.20	3.3¢/liter	2.2¢/liter	1.1¢/liter	Free	Free	Free	Free	Free	Free	Free
2009.20.40	6.3¢/liter	4.7¢/liter	3.1¢/liter	1.5¢/liter	Free	Free	Free	Free	Free	Free
2009.30.10	0.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2009.30.20	1.2¢/liter	0.8¢/liter	0.4¢/liter	Free	Free	Free	Free	Free	Free	Free
2009.30.40	1.7¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
2009.30.60	6.3¢/liter	4.7¢/liter	3.1¢/liter	1.5¢/liter	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2009.40.20	3.3¢/liter	2.5¢/liter	1.6¢/liter	0.8¢/liter	Free	Free	Free	Free	Free	Free
2009.40.40	0.5¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
2009.50.00	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
2009.60.00	2.2¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
2009.80.40	0.3¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
2009.80.60	0.2¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
2009.80.80	0.1¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
2009.90.20	0.1¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
2009.90.40	5.5¢/liter	3.7¢/liter	1.8¢/liter	Free	Free	Free	Free	Free	Free	Free
2101.12.90	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
2101.20.90	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
2101.30.00	1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2102.10.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2102.20.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2102.20.60	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2103.10.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2103.20.20	3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2103.20.40	5.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2103.30.40	1.4¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2103.90.40	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2103.90.60	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2104.20.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2105.00.50	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
2106.10.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2106.90.12	2.1¢/kg + 0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2106.90.15	4.2¢/kg + 0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2106.90.18	12.7¢/kg + 1.4%	8.5¢/kg + 0.9%	4.2¢/kg + 0.4%	Free	Free	Free	Free	Free	Free	Free
2106.90.28	9.8¢/kg	6.5¢/kg	3.2¢/kg	Free	Free	Free	Free	Free	Free	Free
2106.90.38	9.8¢/kg	6.5¢/kg	3.2¢/kg	Free	Free	Free	Free	Free	Free	Free
2106.90.48	8.2¢/liter	4.7¢/liter	3.1¢/liter	1.5¢/liter	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2106.90.52	The rate applicable to the natural juice in heading 2009	Free	Free	Free	Free	Free	Free	Free	Free	Free
2106.90.54	The rate applicable to the natural juice in heading 2009	Free	Free	Free	Free	Free	Free	Free	Free	Free
2106.90.58	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2106.90.82	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2201.10.00	0.1¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
2202.90.10	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
2202.90.30	2.2¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
2202.90.35	5.8¢/liter	3.9¢/liter	1.9¢/liter	Free	Free	Free	Free	Free	Free	Free
2202.90.36	The rate applicable to the natural juice in heading 2009	The rate applicable to the natural juice in heading 2009	The rate applicable to the natural juice in heading 2009	Free	Free	Free	Free	Free	Free	Free
2202.90.37	The rate applicable to the natural juice in heading 2009	The rate applicable to the natural juice in heading 2009	The rate applicable to the natural juice in heading 2009	Free	Free	Free	Free	Free	Free	Free
2202.90.90	0.1¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
2204.10.00	19.8¢/liter	19.8¢/liter	19.8¢/liter	18.8¢/liter	16.8¢/liter	14.8¢/liter	13.3¢/liter	11.8¢/liter	10.3¢/liter	8.8¢/liter
2204.21.20	19.8¢/liter	19.8¢/liter	19.8¢/liter	18.8¢/liter	16.8¢/liter	14.8¢/liter	13.3¢/liter	11.8¢/liter	10.3¢/liter	8.8¢/liter
2204.21.30	6.3¢/liter	6.3¢/liter	6.3¢/liter	5.9¢/liter	5.3¢/liter	4.7¢/liter	4.2¢/liter	3.7¢/liter	3.2¢/liter	2.8¢/liter
2204.21.50	6.3¢/liter	6.3¢/liter	6.3¢/liter	5.9¢/liter	5.3¢/liter	4.7¢/liter	4.2¢/liter	3.7¢/liter	3.2¢/liter	2.8¢/liter
2204.21.60	5.3¢/liter	5.3¢/liter	5.3¢/liter	5¢/liter	4.5¢/liter	3.9¢/liter	3.5¢/liter	3.1¢/liter	2.7¢/liter	2.3¢/liter
2204.21.80	16.9¢/liter	16.9¢/liter	16.9¢/liter	16¢/liter	14.3¢/liter	12.6¢/liter	11.3¢/liter	10¢/liter	8.8¢/liter	7.5¢/liter
2204.29.20	8.4¢/liter	8.4¢/liter	8.4¢/liter	7.9¢/liter	7.1¢/liter	6.3¢/liter	5.6¢/liter	5¢/liter	4.3¢/liter	3.7¢/liter
2204.29.40	22.4¢/liter	22.4¢/liter	22.4¢/liter	21.2¢/liter	19¢/liter	16.8¢/liter	15¢/liter	13.3¢/liter	11.6¢/liter	9.9¢/liter

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2204.29.60	14¢/liter	14¢/liter	14¢/liter	13.3¢/liter	11.9¢/liter	10.5¢/liter	9.4¢/liter	8.3¢/liter	7.2¢/liter	6.2¢/liter
2204.29.80	22.4¢/liter	22.4¢/liter	22.4¢/liter	21.2¢/liter	19¢/liter	16.8¢/liter	15¢/liter	13.3¢/liter	11.6¢/liter	9.9¢/liter
2204.30.00	4.4¢/liter + 31.4¢/pf. liter	4.4¢/liter + 31.4¢/pf. liter	4.4¢/liter + 31.4¢/pf. liter	4.1¢/liter + 29.8¢/pf. liter	3.7¢/liter + 26.6¢/pf. liter	3.3¢/liter + 23.5¢/pf. liter	2.9¢/liter + 21.1¢/pf. liter	2.6¢/liter + 18.7¢/pf. liter	2.2¢/liter + 16.3¢/pf. liter	1.9¢/liter + 13.9¢/pf. liter
2205.10.30	3.5¢/liter	3.5¢/liter	3.5¢/liter	3.3¢/liter	2.9¢/liter	2.6¢/liter	2.3¢/liter	2¢/liter	1.8¢/liter	1.5¢/liter
2205.10.60	4.2¢/liter	4.2¢/liter	4.2¢/liter	3.9¢/liter	3.5¢/liter	3.1¢/liter	2.8¢/liter	2.5¢/liter	2.1¢/liter	1.8¢/liter
2205.90.20	3.5¢/liter	3.5¢/liter	3.5¢/liter	3.3¢/liter	2.9¢/liter	2.6¢/liter	2.3¢/liter	2¢/liter	1.8¢/liter	1.5¢/liter
2205.90.40	3.8¢/liter	3.8¢/liter	3.8¢/liter	3.6¢/liter	3.2¢/liter	2.8¢/liter	2.5¢/liter	2.2¢/liter	1.9¢/liter	1.6¢/liter
2205.90.60	4.2¢/liter	4.2¢/liter	4.2¢/liter	3.9¢/liter	3.5¢/liter	3.1¢/liter	2.8¢/liter	2.5¢/liter	2.1¢/liter	1.8¢/liter
2206.00.15	0.4¢/liter	0.4¢/liter	0.4¢/liter	0.3¢/liter	0.3¢/liter	0.3¢/liter	0.2¢/liter	0.2¢/liter	0.2¢/liter	0.1¢/liter
2206.00.30	3.1¢/liter + 22.1¢/pf. liter on ethyl alcohol content	3.1¢/liter + 22.1¢/pf. liter on ethyl alcohol content	3.1¢/liter + 22.1¢/pf. liter on ethyl alcohol content	2.9¢/liter + 20.9¢/pf. liter on ethyl alcohol content	2.6¢/liter + 18.7¢/pf. liter on ethyl alcohol content	2.3¢/liter + 16.5¢/pf. liter on ethyl alcohol content	2¢/liter + 14.8¢/pf. liter on ethyl alcohol content	1.8¢/liter + 13.2¢/pf. liter on ethyl alcohol content	1.6¢/liter + 11.5¢/pf. liter on ethyl alcohol content	1.3¢/liter + 9.8¢/pf. liter on ethyl alcohol content
2206.00.45	3¢/liter	3¢/liter	3¢/liter	2.8¢/liter	2.5¢/liter	2.2¢/liter	2¢/liter	1.7¢/liter	1.5¢/liter	1.3¢/liter
2206.00.60	13.9¢/liter	13.9¢/liter	13.9¢/liter	13.2¢/liter	11.8¢/liter	10.4¢/liter	9.3¢/liter	8.3¢/liter	7.2¢/liter	6.1¢/liter
2206.00.90	4.2¢/liter	4.2¢/liter	4.2¢/liter	3.9¢/liter	3.5¢/liter	3.1¢/liter	2.8¢/liter	2.5¢/liter	2.1¢/liter	1.8¢/liter
2207.10.30	17¢/pf. liter	15.1¢/pf. liter	13.2¢/pf. liter	11.3¢/pf. liter	9.4¢/pf. liter	7.5¢/pf. liter	5.6¢/pf. liter	3.7¢/pf. liter	1.8¢/pf. liter	Free
2207.10.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2207.20.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2208.40.20	23.7¢/pf. liter	23.7¢/pf. liter	23.7¢/pf. liter	22.5¢/pf. liter	20.1¢/pf. liter	17.7¢/pf. liter	15.9¢/pf. liter	14.1¢/pf. liter	12.3¢/pf. liter	10.5¢/pf. liter
2208.40.60	23.7¢/pf. liter	23.7¢/pf. liter	23.7¢/pf. liter	22.5¢/pf. liter	20.1¢/pf. liter	17.7¢/pf. liter	15.9¢/pf. liter	14.1¢/pf. liter	12.3¢/pf. liter	10.5¢/pf. liter
2208.90.80	21.1¢/pf. liter	21.1¢/pf. liter	21.1¢/pf. liter	20¢/pf. liter	17.9¢/pf. liter	15.8¢/pf. liter	14.2¢/pf. liter	12.6¢/pf. liter	10.9¢/pf. liter	9.3¢/pf. liter
2209.00.00	0.2¢/pf. liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
2302.50.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2303.10.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2304.00.00	0.2¢/liter	Free	Free	Free	Free	Free	Free	Free	Free	Free
2305.00.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2306.10.00	0.4¢/kg	0.2¢/kg	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free
2306.20.00	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
2306.30.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2306.40.00	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2306.50.00	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2306.60.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2306.70.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2306.90.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
2308.10.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2308.90.50	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2308.90.80	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2309.90.60	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2309.90.70	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2309.90.95	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2511.10.50	62.5¢/t	Free	Free	Free	Free	Free	Free	Free	Free	Free
2515.12.20	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2515.20.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2516.12.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2516.22.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2516.90.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2518.20.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2530.40.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2603.00.00	0.8¢/kg on lead content	Free	Free	Free	Free	Free	Free	Free	Free	Free
2607.00.00	0.5¢/kg on lead content	Free	Free	Free	Free	Free	Free	Free	Free	Free
2611.00.60	28.1¢/kg on tungsten content	18.7¢/kg on tungsten content	9.3¢/kg on tungsten content	Free	Free	Free	Free	Free	Free	Free
2613.10.00	6.4¢/kg on molybdenum content + 0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2613.90.00	13.3¢/kg on molybdenum content	8.9¢/kg on molybdenum content	4.4¢/kg on molybdenum content	Free	Free	Free	Free	Free	Free	Free
2616.10.00	0.4¢/kg on lead content	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2616.90.00	0.8¢/kg on lead content	Free	Free	Free	Free	Free	Free	Free	Free	Free
2620.19.60	0.3¢/kg on copper content + 0.3¢/kg on lead content	Free	Free	Free	Free	Free	Free	Free	Free	Free
2620.90.20	13.2¢/kg on tungsten content + 2.8%	8.8¢/kg on tungsten content + 1.9%	4.4¢/kg on tungsten content + 0.9%	Free	Free	Free	Free	Free	Free	Free
2707.60.05	2.3¢/kg + 10%	1.7¢/kg + 7.5%	1.1¢/kg + 5%	0.5¢/kg + 2.5%	Free	Free	Free	Free	Free	Free
2707.60.10	0.4¢/kg + 1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2707.99.40	0.4¢/kg + 1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2709.00.10	2.6¢/bbl	Free	Free	Free	Free	Free	Free	Free	Free	Free
2709.00.20	5.2¢/bbl	Free	Free	Free	Free	Free	Free	Free	Free	Free
2710.00.05	2.6¢/bbl	Free	Free	Free	Free	Free	Free	Free	Free	Free
2710.00.10	5.2¢/bbl	Free	Free	Free	Free	Free	Free	Free	Free	Free
2710.00.15	26.2¢/bbl	Free	Free	Free	Free	Free	Free	Free	Free	Free
2710.00.18	26.2¢/bbl	Free	Free	Free	Free	Free	Free	Free	Free	Free
2710.00.20	5.2¢/bbl	Free	Free	Free	Free	Free	Free	Free	Free	Free
2710.00.25	5.2¢/bbl	Free	Free	Free	Free	Free	Free	Free	Free	Free
2710.00.30	42¢/bbl	Free	Free	Free	Free	Free	Free	Free	Free	Free
2710.00.35	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2710.00.40	0.9¢/kg + 4.2%	0.6¢/kg + 2.8%	0.3¢/kg + 1.4%	Free	Free	Free	Free	Free	Free	Free
2710.00.45	5.2¢/bbl	Free	Free	Free	Free	Free	Free	Free	Free	Free
2710.00.60	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
2801.30.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2801.30.20	2.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2804.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2804.21.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2804.29.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2804.30.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2804.40.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2804.69.10	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2804.69.50	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2805.11.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
2805.19.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2805.21.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2805.22.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2805.30.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2805.40.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2806.20.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2810.00.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2811.19.10	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2811.19.60	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2811.21.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2811.22.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2811.23.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2811.29.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2812.10.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2812.90.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2813.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2813.90.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2815.30.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2816.10.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2816.20.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2816.30.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2818.10.20	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2819.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2819.90.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2820.10.00	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2820.90.00	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2821.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2821.20.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2822.00.00	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2823.00.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2824.10.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2824.20.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2824.90.10	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2824.90.50	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2825.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2825.20.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2825.30.00	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
2825.50.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2825.50.20	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2825.50.30	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2825.60.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2825.70.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2825.90.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2825.90.15	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2825.90.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2825.90.30	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2825.90.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2826.11.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2826.11.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2826.19.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2826.20.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2826.90.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2827.10.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2827.31.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2827.33.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2827.34.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2827.35.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2827.36.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2827.38.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2827.39.10	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2827.39.20	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
2827.39.25	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2827.39.30	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2827.39.40	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2827.39.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2827.41.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2827.49.10	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
2827.49.50	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2827.59.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2827.60.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2827.60.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2828.10.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2828.90.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2829.19.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2829.90.40	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2829.90.60	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2830.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2830.20.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2830.30.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2830.90.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2831.10.50	8.2%	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free
2831.90.00	8.2%	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free
2832.10.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2832.20.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2832.30.10	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2832.30.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2833.11.50	0.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2833.21.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2833.23.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2833.24.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2833.25.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2833.26.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2833.27.00	0.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2833.29.10	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2833.29.30	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
2833.29.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2833.30.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2833.40.20	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2833.40.60	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2834.10.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2834.10.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2834.22.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2834.29.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2834.29.50	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2835.10.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2835.22.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2835.23.00	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2835.24.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2835.29.20	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2835.29.50	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2835.31.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2835.39.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2835.39.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2836.10.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2836.20.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2836.40.10	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2836.40.20	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2836.60.00	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2836.70.00	0.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2836.91.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2836.92.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2836.99.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2836.99.20	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2836.99.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2837.20.10	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2837.20.50	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2838.00.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2839.11.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2839.19.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2839.20.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2839.90.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2840.11.00	0.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2840.19.00	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
2840.20.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2840.30.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2841.10.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2841.20.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2841.30.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2841.40.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2841.50.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2841.61.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2841.69.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2841.70.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2841.70.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2841.80.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2841.90.10	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
2841.90.20	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2841.90.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2841.90.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2842.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2842.90.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2843.10.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2843.21.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2843.29.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2843.30.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2843.90.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2844.10.10	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2844.10.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2844.30.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2844.30.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2846.10.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2846.90.80	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2847.00.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2848.00.10	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2849.10.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2849.20.20	0.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2849.90.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2849.90.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2849.90.30	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
2849.90.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2850.00.07	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2850.00.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2850.00.20	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
2850.00.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2851.00.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.11.00	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
2903.12.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.13.00	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
2903.14.00	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.15.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2903.16.00	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
2903.19.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.19.60	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
2903.21.00	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2903.22.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.23.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.29.00	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
2903.30.05	4%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2903.30.20	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.41.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.42.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.43.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.44.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.45.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.46.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.47.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.49.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.51.00	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2903.59.10	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2903.59.15	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2903.59.20	1.1¢/kg + 7.5%	0.7¢/kg + 5%	0.3¢/kg + 2.5%	Free	Free	Free	Free	Free	Free	Free
2903.59.30	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
2903.59.40	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.59.70	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2903.61.10	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
2903.61.20	7%	4.7%	2.3%	Free	Free	Free	Free	Free	Free	Free
2903.61.30	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2903.62.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2903.69.05	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2903.69.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2903.69.20	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2903.69.27	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2903.69.30	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2903.69.70	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2904.10.04	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2904.10.08	1.2¢/kg + 7.7%	0.9¢/kg + 5.8%	0.6¢/kg + 3.8%	0.3¢/kg + 1.9%	Free	Free	Free	Free	Free	Free
2904.10.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2904.10.15	1.1¢/kg + 6.2%	0.7¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free	Free
2904.10.32	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2904.10.37	1.2¢/kg + 7.7%	0.9¢/kg + 5.8%	0.6¢/kg + 3.8%	0.3¢/kg + 1.9%	Free	Free	Free	Free	Free	Free
2904.10.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2904.20.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2904.20.15	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2904.20.30	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2904.20.35	0.9¢/kg + 6.6%	0.7¢/kg + 4.9%	0.4¢/kg + 3.3%	0.2¢/kg + 1.6%	Free	Free	Free	Free	Free	Free
2904.20.40	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2904.20.45	1.1¢/kg + 7.2%	0.7¢/kg + 4.8%	0.3¢/kg + 2.4%	Free	Free	Free	Free	Free	Free	Free
2904.20.50	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2904.90.04	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2904.90.08	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2904.90.15	1.1¢/kg + 7.2%	0.7¢/kg + 4.8%	0.3¢/kg + 2.4%	Free	Free	Free	Free	Free	Free	Free
2904.90.20	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
2904.90.30	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2904.90.35	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2904.90.40	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2904.90.47	1.2¢/kg + 7.7%	0.9¢/kg + 5.8%	0.6¢/kg + 3.8%	0.3¢/kg + 1.9%	Free	Free	Free	Free	Free	Free
2904.90.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2905.11.20	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
2905.12.00	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2905.13.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2905.14.50	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2905.15.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2905.16.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2905.17.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2905.19.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2905.22.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2905.22.20	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2905.22.50	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2905.29.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2905.29.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2905.31.00	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2905.32.00	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
2905.39.10	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
2905.39.20	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2905.39.90	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2905.41.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2905.42.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2905.43.00	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2905.44.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2905.49.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2905.49.20	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2905.49.40	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2905.49.50	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2905.50.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2905.50.60	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2906.11.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2906.12.00	1.2¢/kg + 6%	0.9¢/kg + 6%	0.6¢/kg + 4%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2906.13.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2906.14.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2906.19.50	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2906.21.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2906.29.10	7.3%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
2906.29.20	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2906.29.60	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2907.11.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2907.12.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2907.13.00	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2907.15.10	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
2907.15.60	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
2907.19.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2907.19.20	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
2907.19.40	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2907.19.60	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2907.21.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2907.22.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2907.22.50	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2907.23.00	1.2¢/kg + 7%	0.9¢/kg + 5.2%	0.6¢/kg + 3.5%	0.3¢/kg + 1.7%	Free	Free	Free	Free	Free	Free
2907.29.10	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2907.29.25	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2907.29.90	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2907.30.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2908.10.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2908.10.15	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2908.10.20	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
2908.10.25	0.4¢/kg + 8.8%	0.3¢/kg + 6.6%	0.2¢/kg + 4.4%	0.1¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2908.10.35	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2908.10.60	0.4¢/kg + 8.8%	0.3¢/kg + 6.6%	0.2¢/kg + 4.4%	0.1¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2908.20.04	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2908.20.15	0.4¢/kg + 8.8%	0.3¢/kg + 6.6%	0.2¢/kg + 4.4%	0.1¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2908.20.20	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2908.20.60	0.4¢/kg + 8.8%	0.3¢/kg + 6.6%	0.2¢/kg + 4.4%	0.1¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2908.90.04	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2908.90.08	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2908.90.24	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2908.90.28	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2908.90.30	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2908.90.40	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2908.90.50	0.4¢/kg + 8.8%	0.3¢/kg + 6.6%	0.2¢/kg + 4.4%	0.1¢/kg + 2.2%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2909.11.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2909.19.14	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2909.19.18	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2909.19.60	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2909.20.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2909.30.05	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2909.30.07	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
2909.30.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2909.30.20	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
2909.30.30	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
2909.30.40	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2909.30.60	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
2909.41.00	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2909.42.00	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2909.43.00	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2909.44.00	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2909.49.10	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2909.49.15	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
2909.49.20	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2909.49.60	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2909.50.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2909.50.20	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2909.50.40	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2909.50.45	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2909.50.50	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
2909.60.10	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2909.60.20	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
2909.60.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2910.10.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2910.20.00	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2910.30.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2910.90.10	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2910.90.20	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2910.90.50	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2911.00.50	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
2912.11.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2912.12.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2912.13.00	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
2912.19.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2912.19.20	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2912.19.30	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2912.19.40	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
2912.19.50	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2912.21.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2912.29.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2912.29.60	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
2912.30.10	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
2912.30.20	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2912.30.50	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
2912.41.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2912.42.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
2912.49.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2912.49.25	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2912.49.50	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2912.50.50	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2912.60.00	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
2913.00.40	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
2913.00.50	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2914.11.10	8.6%	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free
2914.12.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2914.13.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2914.19.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2914.21.20	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2914.22.10	0.8¢/kg + 6.6%	0.6¢/kg + 4.9%	0.4¢/kg + 3.3%	0.2¢/kg + 1.6%	Free	Free	Free	Free	Free	Free
2914.22.20	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2914.23.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2914.29.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2914.29.50	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2914.31.00	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2914.39.90	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2914.40.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2914.40.20	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
2914.40.40	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
2914.40.90	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2914.50.30	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
2914.50.50	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2914.69.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2914.69.20	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2914.69.90	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
2914.70.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2914.70.40	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
2914.70.90	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.11.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2915.12.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2915.13.10	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2915.13.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.21.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.22.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.23.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.24.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.29.50	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.31.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.32.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2915.33.00	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
2915.34.00	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
2915.35.00	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2915.39.10	10.1%	7.6%	5%	2.5%	Free	Free	Free	Free	Free	Free
2915.39.20	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2915.39.30	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2915.39.35	1.2¢/kg + 8.4%	0.9¢/kg + 6.3%	0.6¢/kg + 4.2%	0.3¢/kg + 2.1%	Free	Free	Free	Free	Free	Free
2915.39.40	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
2915.39.45	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.39.47	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2915.39.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.40.10	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.40.20	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2915.40.30	1.2¢/kg + 8.4%	0.9¢/kg + 6.3%	0.6¢/kg + 4.2%	0.3¢/kg + 2.1%	Free	Free	Free	Free	Free	Free
2915.40.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.50.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.50.20	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2915.50.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.60.10	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2915.60.50	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.70.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.90.10	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.90.14	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.90.18	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2915.90.20	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2915.90.50	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2916.11.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2916.12.10	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2916.12.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2916.13.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2916.14.20	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free

HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2916.15.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2916.15.50	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2916.19.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2916.19.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2916.19.30	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
2916.19.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2916.20.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2916.31.15	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2916.31.20	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
2916.31.30	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2916.31.50	1.2¢/kg + 8.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2916.32.10	1.2¢/kg + 8.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2916.32.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2916.34.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2916.34.15	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2916.34.25	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2916.35.15	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2916.35.25	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2916.39.03	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2916.39.06	1.2¢/kg + 8.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2916.39.08	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2916.39.12	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2916.39.15	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2916.39.16	1.2¢/kg + 8.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2916.39.20	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2916.39.45	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2916.39.75	1.2¢/kg + 8.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2917.11.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2917.12.10	9.4%	7%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
2917.12.20	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
2917.12.50	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2917.13.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2917.14.10	0.7¢/kg + 8%	0.5¢/kg + 6%	0.3¢/kg + 4%	0.1¢/kg + 2%	Free	Free	Free	Free	Free	Free
2917.14.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2917.19.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2917.19.15	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
2917.19.17	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2917.19.20	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2917.19.23	1.2¢/kg + 8.4%	0.9¢/kg + 6.3%	0.6¢/kg + 4.2%	0.3¢/kg + 2.1%	Free	Free	Free	Free	Free	Free
2917.19.27	1.2¢/kg + 8.4%	0.9¢/kg + 6.3%	0.6¢/kg + 4.2%	0.3¢/kg + 2.1%	Free	Free	Free	Free	Free	Free
2917.19.30	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2917.19.40	1.1¢/kg + 6.6%	0.7¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free	Free
2917.19.70	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2917.20.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2917.31.00	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
2917.32.00	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
2917.33.00	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
2917.34.00	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
2917.35.00	0.7¢/kg + 5.4%	0.5¢/kg + 3.6%	0.2¢/kg + 1.8%	Free	Free	Free	Free	Free	Free	Free
2917.36.00	1.2¢/kg + 8.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2917.37.00	0.9¢/kg + 7.2%	0.7¢/kg + 5.4%	0.4¢/kg + 3.6%	0.2¢/kg + 1.8%	Free	Free	Free	Free	Free	Free
2917.39.04	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2917.39.15	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2917.39.17	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
2917.39.20	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
2917.39.30	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2917.39.70	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
2918.11.10	3.6%	2.6%	1.2%	Free	Free	Free	Free	Free	Free	Free
2918.11.50	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2918.13.50	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2918.14.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
2918.15.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2918.15.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2918.16.10	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
2918.16.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2918.17.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2918.19.10	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2918.19.20	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2918.19.30	1.2¢/kg + 6.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2918.19.60	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2918.19.90	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2918.21.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2918.21.50	1.2¢/kg + 6.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2918.22.10	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2918.22.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2918.23.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2918.23.20	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2918.23.30	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2918.23.50	1.2¢/kg + 6.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2918.29.04	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2918.29.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2918.29.22	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2918.29.25	1.2¢/kg + 6.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2918.29.30	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2918.29.65	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2918.29.75	1.2¢/kg + 6.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2918.30.10	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2918.30.25	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2918.30.30	1.2¢/kg + 6.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2918.30.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2918.90.05	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2918.90.18	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2918.90.20	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2918.90.30	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2918.90.35	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
2918.90.43	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2918.90.47	1.2¢/kg + 8.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2918.90.50	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2919.00.25	6.6%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
2919.00.30	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2919.00.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2920.10.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2920.10.40	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2920.10.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2920.90.10	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2920.90.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2920.90.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2921.11.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2921.12.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2921.19.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2921.19.60	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2921.21.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2921.22.05	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2921.22.10	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
2921.22.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2921.29.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2921.30.10	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2921.30.30	1.2¢/kg + 8.4%	0.8¢/kg + 6.3%	0.6¢/kg + 4.2%	0.3¢/kg + 2.1%	Free	Free	Free	Free	Free	Free
2921.30.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2921.41.10	1.2¢/kg + 7.4%	0.9¢/kg + 5.5%	0.6¢/kg + 3.7%	0.3¢/kg + 1.8%	Free	Free	Free	Free	Free	Free
2921.41.20	0.8¢/kg + 9.1%	0.6¢/kg + 6.8%	0.4¢/kg + 4.5%	0.2¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2921.42.10	3.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2921.42.15	0.8¢/kg + 9.1%	0.6¢/kg + 6.8%	0.4¢/kg + 4.5%	0.2¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2921.42.18	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2921.42.21	0.8¢/kg + 9.1%	0.6¢/kg + 6.8%	0.4¢/kg + 4.5%	0.2¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2921.42.22	0.8¢/kg + 9.1%	0.6¢/kg + 6.8%	0.4¢/kg + 4.5%	0.2¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2921.42.23	0.8¢/kg + 9.1%	0.6¢/kg + 6.8%	0.4¢/kg + 4.5%	0.2¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2921.42.55	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2921.42.65	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2921.42.90	0.8¢/kg + 9.1%	0.6¢/kg + 6.8%	0.4¢/kg + 4.5%	0.2¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2921.43.08	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2921.43.15	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2921.43.19	0.8¢/kg + 9.1%	0.6¢/kg + 6.8%	0.4¢/kg + 4.5%	0.2¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2921.43.40	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2921.43.60	0.8¢/kg + 9.1%	0.6¢/kg + 6.8%	0.4¢/kg + 4.5%	0.2¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2921.44.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2921.44.20	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2921.44.70	0.8¢/kg + 9.1%	0.6¢/kg + 6.8%	0.4¢/kg + 4.5%	0.2¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2921.45.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2921.45.20	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2921.45.60	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2921.45.90	0.8¢/kg + 9.1%	0.6¢/kg + 6.8%	0.4¢/kg + 4.5%	0.2¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2921.49.10	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2921.49.32	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2921.49.37	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
2921.49.43	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2921.49.45	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2921.49.50	0.8¢/kg + 9.1%	0.6¢/kg + 6.8%	0.4¢/kg + 4.5%	0.2¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2921.51.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2921.51.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2921.51.30	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2921.51.50	0.8¢/kg + 9.1%	0.6¢/kg + 6.8%	0.4¢/kg + 4.5%	0.2¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2921.59.08	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2921.59.20	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
2921.59.30	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2921.59.40	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2921.59.80	0.8¢/kg + 9.1%	0.6¢/kg + 6.8%	0.4¢/kg + 4.5%	0.2¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2922.11.00	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
2922.12.00	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
2922.13.00	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
2922.19.15	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2922.19.20	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2922.19.60	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2922.19.70	1.2¢/kg + 8%	0.9¢/kg + 6%	0.6¢/kg + 4%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2922.19.95	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2922.21.10	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2922.21.40	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2922.21.50	1.2¢/kg + 8%	0.9¢/kg + 6%	0.6¢/kg + 4%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2922.22.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2922.22.20	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2922.22.50	1.2¢/kg + 8%	0.9¢/kg + 6%	0.6¢/kg + 4%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2922.29.10	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2922.29.15	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2922.29.26	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2922.29.27	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2922.29.29	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2922.29.60	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2922.29.80	1.2¢/kg + 8%	0.9¢/kg + 6%	0.6¢/kg + 4%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2922.30.10	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2922.30.14	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2922.30.17	1.2¢/kg + 8%	0.9¢/kg + 6%	0.6¢/kg + 4%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2922.30.25	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2922.30.45	1.2¢/kg + 8%	0.9¢/kg + 6%	0.6¢/kg + 4%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2922.30.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2922.41.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2922.42.10	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2922.42.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2922.43.10	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2922.43.50	1.2¢/kg + 8%	0.9¢/kg + 6%	0.6¢/kg + 4%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2922.49.10	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2922.49.27	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2922.49.30	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2922.49.37	1.2¢/kg + 8%	0.9¢/kg + 6%	0.6¢/kg + 4%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2922.49.40	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2922.49.80	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2922.50.10	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2922.50.11	1.2¢/kg + 8%	0.9¢/kg + 6%	0.6¢/kg + 4%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2922.50.14	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2922.50.17	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2922.50.19	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2922.50.25	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2922.50.35	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2922.50.40	1.2¢/kg + 8%	0.9¢/kg + 6%	0.6¢/kg + 4%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2922.50.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2923.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2923.20.20	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2923.90.00	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
2924.10.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2924.10.80	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2924.21.04	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2924.21.16	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2924.21.18	1.2¢/kg + 8.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2924.21.20	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2924.21.45	1.2¢/kg + 8.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2924.21.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2924.22.00	1.2¢/kg + 8.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2924.29.05	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2924.29.10	1.2¢/kg + 8.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2924.29.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2924.29.31	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2924.29.36	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free	Free
2924.29.41	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2924.29.47	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
2924.29.52	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2924.29.62	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2924.29.65	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2924.29.70	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2924.29.75	1.2¢/kg + 8.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2924.29.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2925.11.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2925.19.10	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
2925.19.40	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
2925.19.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2925.20.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2925.20.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2925.20.60	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
2925.20.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2926.10.00	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
2926.90.05	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2926.90.08	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2926.90.12	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2926.90.14	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2926.90.17	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
2926.90.21	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2926.90.23	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2926.90.25	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2926.90.30	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2926.90.44	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2926.90.47	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
2927.00.06	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2927.00.15	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2927.00.25	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2927.00.30	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2927.00.40	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2927.00.50	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
2928.00.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2928.00.25	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2928.00.30	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2928.00.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2929.10.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2929.10.15	1.2¢/kg + 7.4%	0.9¢/kg + 5.5%	0.6¢/kg + 3.7%	0.3¢/kg + 1.8%	Free	Free	Free	Free	Free	Free
2929.10.20	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2929.10.30	0.9¢/kg + 8.3%	0.7¢/kg + 6.2%	0.4¢/kg + 4.1%	0.2¢/kg + 2%	Free	Free	Free	Free	Free	Free
2929.10.35	5.3%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
2929.10.55	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2929.10.80	0.9¢/kg + 8.3%	0.7¢/kg + 6.2%	0.4¢/kg + 4.1%	0.2¢/kg + 2%	Free	Free	Free	Free	Free	Free
2929.90.15	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2929.90.20	0.9¢/kg + 8.3%	0.7¢/kg + 6.2%	0.4¢/kg + 4.1%	0.2¢/kg + 2%	Free	Free	Free	Free	Free	Free
2929.90.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2930.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2930.20.10	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2930.20.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2930.20.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2930.30.60	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2930.90.10	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2930.90.24	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2930.90.29	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2930.90.30	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2930.90.44	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2930.90.49	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2930.90.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2931.00.10	1.1¢/kg + 6.6%	0.7¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free	Free
2931.00.15	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2931.00.22	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2931.00.25	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2931.00.27	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2931.00.30	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2931.00.60	9.6%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
2931.00.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2932.11.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2932.13.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2932.19.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2932.19.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2932.21.00	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
2932.29.10	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2932.29.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2932.29.25	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2932.29.30	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2932.29.45	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2932.29.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2932.91.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2932.92.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2932.93.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2932.94.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2932.99.08	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2932.99.20	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2932.99.35	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2932.99.39	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2932.99.60	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2932.99.70	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2932.99.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2933.11.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.19.08	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2933.19.23	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.19.30	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.19.35	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.19.37	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.19.43	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2933.19.45	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2933.19.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.21.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.29.10	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2933.29.20	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
2933.29.35	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.29.43	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2933.29.45	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2933.29.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.32.10	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2933.32.50	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.39.20	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2933.39.21	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2933.39.23	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.39.25	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.39.27	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2933.39.30	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
2933.39.41	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.39.61	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.39.91	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2933.40.06	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2933.40.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.40.15	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2933.40.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.40.26	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.40.30	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2933.40.60	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.40.70	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2933.51.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2933.59.10	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.59.15	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2933.59.19	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.59.21	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.59.22	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.59.36	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.59.45	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
2933.59.53	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.59.59	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2933.59.70	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.59.80	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2933.59.95	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.61.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2933.69.60	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2933.71.00	0.9¢/kg + 5.9%	0.6¢/kg + 3.9%	0.3¢/kg + 1.9%	Free	Free	Free	Free	Free	Free	Free
2933.79.09	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.79.15	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2933.79.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2933.79.30	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2933.79.80	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.90.06	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
2933.90.13	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2933.90.14	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.90.17	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2933.90.22	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2933.90.24	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.90.26	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.90.46	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.90.53	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.90.55	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.90.61	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
2933.90.65	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.90.70	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.90.75	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.90.79	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.90.82	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2933.90.85	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2933.90.87	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
2933.90.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2933.90.97	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2934.10.10	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2934.10.20	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2934.10.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2934.20.05	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2934.20.10	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
2934.20.15	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2934.20.20	0.3¢/kg + 6.6%	0.2¢/kg + 4.4%	0.1¢/kg + 2.2%	Free	Free	Free	Free	Free	Free	Free
2934.20.30	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2934.20.35	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2934.20.40	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2934.20.80	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2934.30.12	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2934.30.23	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
2934.30.27	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2934.30.43	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2934.30.50	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2934.90.05	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2934.90.06	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2934.90.08	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2934.90.11	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2934.90.12	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2934.90.15	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2934.90.16	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2934.90.18	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2934.90.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2934.90.30	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2934.90.39	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2934.90.44	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2934.90.47	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2934.90.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2935.00.05	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2935.00.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2935.00.15	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2935.00.20	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2935.00.32	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2935.00.48	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2935.00.60	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2935.00.75	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2935.00.95	1.2¢/kg + 8.8%	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2938.10.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2938.90.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2940.00.60	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2941.20.10	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
2942.00.05	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2942.00.10	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2942.00.35	8.2%	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free
2942.00.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3201.90.10	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3201.90.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3202.10.10	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
3202.10.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3202.90.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3203.00.80	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3204.11.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3204.11.15	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.11.35	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.11.50	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
3204.12.17	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.12.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3204.12.30	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3204.12.45	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.12.50	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
3204.13.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3204.13.20	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.13.25	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
3204.13.60	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.13.80	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
3204.14.10	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.14.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3204.14.25	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
3204.14.30	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.14.50	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
3204.15.10	0.9¢/kg + 7.2%	0.6¢/kg + 4.8%	0.3¢/kg + 2.4%	Free	Free	Free	Free	Free	Free	Free
3204.15.20	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
3204.15.30	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3204.15.35	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.15.40	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.15.80	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3204.16.10	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.16.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3204.16.30	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.16.50	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
3204.17.04	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3204.17.20	8.7%	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free
3204.17.60	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.17.90	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
3204.19.11	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3204.19.20	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.19.25	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
3204.19.30	1¢/kg + 7.6%	0.7¢/kg + 5.7%	0.5¢/kg + 3.8%	0.2¢/kg + 1.9%	Free	Free	Free	Free	Free	Free
3204.19.35	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3204.19.40	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
3204.19.50	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
3204.20.10	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
3204.20.80	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3204.90.00	4.4%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3205.00.15	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
3205.00.40	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
3205.00.50	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
3206.11.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
3206.19.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
3206.20.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3206.30.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3206.41.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3206.42.00	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3206.43.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3206.49.10	4.4%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3206.49.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3206.49.30	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3206.49.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3206.50.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3207.10.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3207.20.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3207.30.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3207.40.10	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
3207.40.50	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
3208.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3208.20.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3208.90.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3209.10.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3209.90.00	2.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3210.00.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3211.00.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3212.10.00	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3212.90.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3213.10.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3213.90.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3214.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3214.90.50	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
3215.11.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3215.19.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3215.90.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3215.90.50	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3301.12.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3301.13.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3301.19.10	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3301.24.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3301.29.10	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3301.29.20	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3301.90.10	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3302.10.40	4.2¢/kg + 0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3302.10.50	8.5¢/kg + 0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3307.10.10	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3307.10.20	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3307.20.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3307.30.50	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3307.41.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3307.49.00	3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3307.90.00	2.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3402.11.20	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3402.11.40	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3402.11.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3402.12.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3402.12.50	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3402.13.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3402.13.20	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3402.13.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3402.19.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3402.19.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3402.20.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3402.90.10	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3402.90.30	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3402.90.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3403.11.20	0.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3403.11.40	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
3403.11.50	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3403.19.10	0.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3403.19.50	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3403.91.10	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
3403.91.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3403.99.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3404.20.00	5.5%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
3501.10.10	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
3501.90.20	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
3501.90.60	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
3502.11.00	35.7¢/kg	23.8¢/kg	11.9¢/kg	Free	Free	Free	Free	Free	Free	Free
3502.19.00	7.7¢/kg	5.8¢/kg	3.8¢/kg	1.9¢/kg	Free	Free	Free	Free	Free	Free
3503.00.10	0.6¢/kg + 0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3503.00.20	0.6¢/kg + 1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3503.00.40	1.4¢/kg + 1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3503.00.55	1.4¢/kg + 1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3504.00.10	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3504.00.50	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3505.10.00	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
3505.20.00	1¢/kg + 1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3506.10.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3506.10.50	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3506.91.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3506.99.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3601.00.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3603.00.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3603.00.60	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3603.00.90	0.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3604.10.10	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3604.10.90	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3604.90.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3606.90.30	4.4%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3606.90.60	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3701.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3701.20.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3701.30.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3701.91.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3701.99.30	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3701.99.60	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.20.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.31.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.32.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.39.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.41.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.42.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.43.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.44.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.51.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.52.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.53.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.54.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.91.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.92.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.93.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3702.95.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3703.10.30	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3703.10.60	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3703.20.30	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3703.20.60	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3703.90.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3703.90.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3706.10.30	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3707.10.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3707.90.32	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3707.90.60	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3801.10.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3801.30.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3801.90.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3802.10.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3802.90.10	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3802.90.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3802.90.50	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3804.00.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3805.10.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3805.90.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3806.10.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3806.20.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3806.30.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3806.90.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3807.00.00	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.10.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.10.25	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.10.30	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.10.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.20.15	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.20.28	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.20.30	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.20.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.30.15	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.30.20	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.30.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.40.10	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.40.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.90.08	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.90.70	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3808.90.95	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3809.10.00	1.6¢/kg + 2.2%	1.1¢/kg + 1.5%	0.5¢/kg + 0.7%	Free	Free	Free	Free	Free	Free	Free
3809.91.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3809.92.10	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
3809.92.50	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
3809.93.10	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
3809.93.50	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
3810.10.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3810.90.10	1.1¢/kg + 6.9%	0.7¢/kg + 4.6%	0.3¢/kg + 2.3%	Free	Free	Free	Free	Free	Free	Free
3810.90.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3811.19.00	1.2¢/kg + 7.4%	0.9¢/kg + 5.5%	0.6¢/kg + 3.7%	0.3¢/kg + 1.8%	Free	Free	Free	Free	Free	Free
3811.21.00	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
3811.29.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3811.90.00	1.1¢/kg + 6.9%	0.7¢/kg + 4.6%	0.3¢/kg + 2.3%	Free	Free	Free	Free	Free	Free	Free
3812.10.10	1.1¢/kg + 6.9%	0.7¢/kg + 4.6%	0.3¢/kg + 2.3%	Free	Free	Free	Free	Free	Free	Free
3812.10.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3812.20.10	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
3812.20.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3812.30.20	1.1¢/kg + 6.9%	0.7¢/kg + 4.6%	0.3¢/kg + 2.3%	Free	Free	Free	Free	Free	Free	Free
3812.30.60	1.1¢/kg + 6.9%	0.7¢/kg + 4.6%	0.3¢/kg + 2.3%	Free	Free	Free	Free	Free	Free	Free
3812.30.90	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3813.00.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3814.00.10	1.1¢/kg + 6.9%	0.7¢/kg + 4.6%	0.3¢/kg + 2.3%	Free	Free	Free	Free	Free	Free	Free
3814.00.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3814.00.50	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
3815.90.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3815.90.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3815.90.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3816.00.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3817.10.10	0.3¢/kg + 8.6%	0.2¢/kg + 6.4%	0.1¢/kg + 4.3%	2.1%	Free	Free	Free	Free	Free	Free
3817.10.50	0.3¢/kg + 8.6%	0.2¢/kg + 6.4%	0.1¢/kg + 4.3%	2.1%	Free	Free	Free	Free	Free	Free
3817.20.00	1.1¢/kg + 6.9%	0.7¢/kg + 4.6%	0.3¢/kg + 2.3%	Free	Free	Free	Free	Free	Free	Free
3819.00.00	1.1¢/kg + 6.9%	0.7¢/kg + 4.6%	0.3¢/kg + 2.3%	Free	Free	Free	Free	Free	Free	Free
3820.00.00	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3821.00.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3823.11.00	1¢/kg + 1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3823.12.00	1¢/kg + 1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3823.13.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3823.19.20	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3823.19.40	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3823.70.20	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3823.70.40	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3823.70.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3824.10.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
3824.20.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3824.30.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3824.40.10	1.2¢/kg + 7.4%	0.9¢/kg + 5.5%	0.6¢/kg + 3.7%	0.3¢/kg + 1.8%	Free	Free	Free	Free	Free	Free
3824.40.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3824.60.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3824.71.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3824.79.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3824.90.19	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3824.90.22	1.2¢/kg + 8.3%	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
3824.90.25	1.2¢/kg + 7.4%	0.9¢/kg + 5.5%	0.6¢/kg + 3.7%	0.3¢/kg + 1.8%	Free	Free	Free	Free	Free	Free
3824.90.28	1.1¢/kg + 6.9%	0.7¢/kg + 4.6%	0.3¢/kg + 2.3%	Free	Free	Free	Free	Free	Free	Free
3824.90.31	4.8%	3.2%	1.8%	Free	Free	Free	Free	Free	Free	Free
3824.90.32	8.7%	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free
3824.90.33	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3824.90.34	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3824.90.35	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3824.90.36	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3824.90.40	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3824.90.45	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3824.90.46	6.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
3824.90.47	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3824.90.90	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3901.10.00	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
3901.20.00	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
3901.30.60	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3901.90.55	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
3901.90.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3902.10.00	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
3902.20.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3902.30.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3902.90.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3903.11.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3903.19.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3903.20.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3903.30.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3903.90.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3903.90.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3904.10.00	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
3904.21.00	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
3904.22.00	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
3904.30.60	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3904.40.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3904.50.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3904.61.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3904.69.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3904.90.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3905.12.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3905.19.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3905.21.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3905.29.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3905.30.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3905.91.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3905.91.50	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3905.99.60	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3906.10.00	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
3906.90.20	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
3906.90.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3907.10.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3907.20.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3907.30.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
3907.40.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3907.50.00	0.6¢/kg + 3.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3907.60.00	0.9¢/kg + 5.6%	0.6¢/kg + 3.7%	0.3¢/kg + 1.8%	Free	Free	Free	Free	Free	Free	Free
3907.91.40	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3907.91.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3907.99.00	0.9¢/kg + 5.6%	0.6¢/kg + 3.7%	0.3¢/kg + 1.8%	Free	Free	Free	Free	Free	Free	Free
3908.10.00	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
3908.90.70	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3909.10.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3909.20.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3909.30.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3909.40.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3909.50.20	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3909.50.50	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
3910.00.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3911.10.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
3911.90.25	3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3911.90.45	2.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3911.90.90	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3912.11.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
3912.12.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
3912.20.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3912.31.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3912.39.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3912.90.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3913.10.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3913.90.20	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3913.90.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3914.00.60	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3916.10.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3916.20.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3916.90.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3916.90.20	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3916.90.30	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3916.90.50	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3917.10.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3917.10.90	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3917.21.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3917.22.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3917.23.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3917.29.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3917.31.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3917.32.60	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3917.33.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3917.39.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3917.40.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3918.10.10	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3918.10.20	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3918.10.31	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3918.10.32	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3918.10.40	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3918.10.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3918.90.10	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3918.90.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3918.90.30	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3918.90.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3919.10.10	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3919.10.20	2.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3919.90.10	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3919.90.50	2.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3920.10.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3920.20.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3920.30.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3920.41.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3920.42.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3920.42.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3920.51.10	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
3920.51.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3920.59.10	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
3920.59.80	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3920.61.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3920.62.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3920.63.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3920.63.20	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3920.69.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3920.71.00	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
3920.72.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3920.73.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3920.79.10	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
3920.79.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3920.91.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3920.92.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3920.93.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3920.94.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3920.99.10	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free

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Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3920.99.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3920.99.50	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
3921.11.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3921.12.11	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3921.12.15	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3921.12.19	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3921.12.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3921.13.11	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3921.13.15	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3921.13.19	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3921.13.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3921.14.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3921.19.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3921.90.11	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3921.90.15	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3921.90.19	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3921.90.21	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3921.90.25	8.2%	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free
3921.90.29	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3921.90.40	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3921.90.50	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3922.10.00	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
3922.20.00	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
3922.90.00	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
3923.10.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3923.29.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3923.40.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3923.50.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3923.90.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3924.10.10	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3924.10.20	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3924.10.30	2.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3924.90.10	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3924.90.20	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3924.90.55	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3925.10.00	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
3925.20.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3925.30.10	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3925.30.50	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3925.90.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3926.10.00	2.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.20.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.20.40	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free	Free
3926.20.90	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.30.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3926.30.50	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3926.40.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3926.90.10	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.90.15	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.90.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.90.25	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3926.90.30	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.90.33	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3926.90.35	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3926.90.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.90.45	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.90.50	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.90.55	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
3926.90.56	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
3926.90.57	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3926.90.59	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.90.60	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
3926.90.65	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.90.70	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3926.90.75	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.90.77	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.90.83	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
3926.90.85	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
3926.90.87	2.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
3926.90.98	2.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4006.10.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4006.90.50	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4008.11.50	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4008.19.60	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4008.19.80	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4008.29.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4008.29.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4009.10.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4009.20.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4009.30.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4009.40.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4009.50.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.11.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.12.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.12.50	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4010.12.55	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
4010.12.90	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.13.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.19.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.19.50	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4010.19.55	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
4010.19.80	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.19.90	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
4010.21.30	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.21.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.22.30	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.22.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.23.30	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.23.41	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4010.23.45	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
4010.23.50	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.23.90	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.24.30	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.24.41	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4010.24.45	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
4010.24.50	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.24.90	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.29.10	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.29.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.29.30	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.29.41	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4010.29.45	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
4010.29.50	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4010.29.90	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4011.10.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4011.10.50	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4011.20.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4011.20.50	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4011.99.40	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4011.99.60	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4012.10.40	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4012.10.60	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4012.90.45	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4012.90.90	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
4013.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4013.90.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4014.90.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4015.19.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4015.19.50	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
4015.90.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4016.91.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4016.92.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4016.93.10	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4016.93.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4016.94.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4016.95.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4016.99.03	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4016.99.05	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4016.99.10	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4016.99.15	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4016.99.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4016.99.55	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4017.00.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.10.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.10.80	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.21.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.22.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.29.30	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.29.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.29.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.31.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.31.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.31.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.31.60	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.31.80	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
4104.39.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.39.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.39.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.39.60	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4104.39.80	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4105.12.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4105.19.10	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4105.19.20	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4105.20.30	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4105.20.60	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4106.12.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4106.19.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4106.19.30	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4106.20.30	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4106.20.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4107.10.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4107.10.30	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4107.21.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4107.90.30	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4107.90.60	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4108.00.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4109.00.30	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4109.00.40	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4109.00.70	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4201.00.30	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4201.00.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4202.11.00	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4202.19.00	16%	12%	8%	4%	Free	Free	Free	Free	Free	Free
4202.21.30	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
4202.21.60	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
4202.21.90	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
4202.22.15	14%	10.5%	7%	3.5%	Free	Free	Free	Free	Free	Free
4202.22.35	8.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
4202.22.40	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
4202.22.45	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
4202.22.60	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
4202.22.70	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
4202.22.80	14.8%	11.1%	7.4%	3.7%	Free	Free	Free	Free	Free	Free
4202.29.10	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
4202.29.20	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4202.29.50	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
4202.29.90	16%	12%	8%	4%	Free	Free	Free	Free	Free	Free
4202.31.30	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4202.31.60	8%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4202.32.10	9¢/kg + 3.4%	6¢/kg + 2.3%	3¢/kg + 1.1%	Free	Free	Free	Free	Free	Free	Free
4202.32.20	16%	12%	8%	4%	Free	Free	Free	Free	Free	Free
4202.32.40	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
4202.32.80	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
4202.32.95	14.8%	11.1%	7.4%	3.7%	Free	Free	Free	Free	Free	Free
4202.39.10	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
4202.39.20	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4202.39.50	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
4202.39.90	16%	12%	8%	4%	Free	Free	Free	Free	Free	Free
4202.91.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4202.92.15	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
4202.92.20	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
4202.92.30	14.8%	11.1%	7.4%	3.7%	Free	Free	Free	Free	Free	Free
4202.92.45	16%	12%	8%	4%	Free	Free	Free	Free	Free	Free
4202.92.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4202.92.60	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
4202.92.90	14.8%	11.1%	7.4%	3.7%	Free	Free	Free	Free	Free	Free
4202.99.10	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
4202.99.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4202.99.50	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
4202.99.90	16%	12%	8%	4%	Free	Free	Free	Free	Free	Free
4203.10.20	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4203.10.40	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
4203.21.20	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4203.21.55	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4203.21.60	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
4203.21.80	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4203.29.05	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
4203.29.08	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
4203.29.15	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
4203.29.18	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
4203.29.20	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
4203.29.30	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
4203.29.40	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
4203.29.50	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
4203.30.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4203.40.30	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4204.00.30	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4205.00.40	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4205.00.60	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4206.10.30	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4206.10.90	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4301.60.30	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
4302.11.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4302.12.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4302.13.00	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4302.19.15	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
4302.19.30	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4302.19.45	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
4302.19.50	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4302.19.75	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4302.20.30	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4302.20.60	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4302.20.90	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4302.30.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
4303.10.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4304.00.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
4405.00.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4409.10.65	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4409.20.65	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4411.19.40	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
4411.29.20	0.9¢/kg + 0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4411.29.90	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4412.13.25	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.13.40	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.13.50	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.13.60	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.13.90	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.14.25	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
4412.14.30	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.14.55	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.19.30	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4412.19.40	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.19.50	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
4412.22.30	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.22.40	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.29.35	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.29.45	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.92.30	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4412.92.40	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
4412.92.50	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
4412.99.35	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4412.99.45	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.99.55	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
4413.00.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4415.10.90	8.5%	6.4%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
4415.20.80	8.5%	6.4%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
4416.00.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4417.00.80	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
4418.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4418.20.40	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4418.20.80	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4418.40.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4418.90.40	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4419.00.40	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
4419.00.80	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4420.90.45	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4420.90.80	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4421.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4421.90.20	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4421.90.30	8.5%	6.4%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
4421.90.40	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
4421.90.60	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
4421.90.80	4.8¢/gross	3.2¢/gross	1.6¢/gross	Free	Free	Free	Free	Free	Free	Free
4421.90.85	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4421.90.98	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4503.90.60	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
4601.10.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4601.20.40	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4601.20.60	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4601.20.90	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
4601.91.20	4.9%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
4601.99.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4602.10.05	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4602.10.09	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
4602.10.12	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
4602.10.16	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4602.10.18	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4602.10.21	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
4602.10.22	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
4602.10.23	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
4602.10.25	14.4%	10.8%	7.2%	3.6%	Free	Free	Free	Free	Free	Free
4602.10.29	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
4602.10.45	4.9%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
4602.10.80	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
4602.90.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5003.90.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5007.10.30	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5007.10.60	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
5007.90.30	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5007.90.60	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
5101.11.60	9.3¢/clean kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
5101.19.60	14¢/clean kg	9.3¢/clean kg	4.6¢/clean kg	Free	Free	Free	Free	Free	Free	Free
5101.21.40	15.4¢/clean kg	10.3¢/clean kg	5.1¢/clean kg	Free	Free	Free	Free	Free	Free	Free
5101.21.70	4.8¢/kg + 3.9%	3.2¢/kg + 2.6%	1.6¢/kg + 1.3%	Free	Free	Free	Free	Free	Free	Free
5101.29.40	15.4¢/clean kg	10.3¢/clean kg	5.1¢/clean kg	Free	Free	Free	Free	Free	Free	Free
5101.29.70	4.8¢/kg + 3.9%	3.2¢/kg + 2.6%	1.6¢/kg + 1.3%	Free	Free	Free	Free	Free	Free	Free
5101.30.40	18.3¢/kg	12.2¢/kg	6.1¢/kg	Free	Free	Free	Free	Free	Free	Free
5101.30.70	4.8¢/kg + 3.9%	3.2¢/kg + 2.6%	1.6¢/kg + 1.3%	Free	Free	Free	Free	Free	Free	Free
5102.10.20	2.5¢/clean kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
5102.10.40	2.5¢/clean kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
5102.10.60	0.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5102.10.90	2.4¢/kg + 2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5103.10.00	1.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
5103.20.00	1.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
5103.30.00	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5105.10.00	5.2¢/kg + 4.2%	3.5¢/kg + 2.8%	1.7¢/kg + 1.4%	Free	Free	Free	Free	Free	Free	Free
5105.21.00	3.9¢/kg + 3.2%	2.6¢/kg + 2.1%	1.3¢/kg + 1%	Free	Free	Free	Free	Free	Free	Free
5105.29.00	4¢/kg + 3.3%	2.7¢/kg + 2.2%	1.3¢/kg + 1.1%	Free	Free	Free	Free	Free	Free	Free
5105.30.00	5.4¢/kg + 4.3%	3.6¢/kg + 2.9%	1.8¢/kg + 1.4%	Free	Free	Free	Free	Free	Free	Free
5106.10.00	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5106.20.00	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5107.10.30	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5107.10.60	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5107.20.30	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5107.20.60	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5108.10.30	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5108.10.60	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
5108.20.30	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5108.20.60	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
5109.10.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5109.10.60	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5109.10.90	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5109.90.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5109.90.60	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5109.90.90	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5111.11.20	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5111.11.30	5.6¢/kg + 8.8%	4.2¢/kg + 6.6%	2.8¢/kg + 4.4%	1.4¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
5111.11.70	26.4%	23.5%	20.5%	17.6%	14.7%	11.7%	8.8%	5.8%	2.9%	Free
5111.19.10	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5111.19.20	5.6¢/kg + 8.8%	4.2¢/kg + 6.6%	2.8¢/kg + 4.4%	1.4¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
5111.19.60	26.4%	23.5%	20.5%	17.6%	14.7%	11.7%	8.8%	5.8%	2.9%	Free
5111.20.05	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5111.20.10	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5111.20.90	17.4¢/kg + 27.1%	15.5¢/kg + 24.1%	13.5¢/kg + 21.1%	11.6¢/kg + 18.1%	9.7¢/kg + 15.1%	7.7¢/kg + 12%	5.8¢/kg + 9%	3.8¢/kg + 6%	1.9¢/kg + 3%	Free
5111.30.05	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5111.30.10	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5111.30.90	17.4¢/kg + 27.1%	15.5¢/kg + 24.1%	13.5¢/kg + 21.1%	11.6¢/kg + 18.1%	9.7¢/kg + 15.1%	7.7¢/kg + 12%	5.8¢/kg + 9%	3.8¢/kg + 6%	1.9¢/kg + 3%	Free
5111.90.30	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5111.90.40	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5111.90.50	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5111.90.90	25.3%	22.5%	19.7%	16.9%	14.1%	11.2%	8.4%	5.6%	2.8%	Free
5112.11.10	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5112.11.30	26.4%	23.5%	20.5%	17.6%	14.7%	11.7%	8.8%	5.8%	2.9%	Free
5112.11.60	26.4%	23.5%	20.5%	17.6%	14.7%	11.7%	8.8%	5.8%	2.9%	Free
5112.19.20	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5112.19.60	26.4%	23.5%	20.5%	17.6%	14.7%	11.7%	8.8%	5.8%	2.9%	Free
5112.19.95	26.4%	23.5%	20.5%	17.6%	14.7%	11.7%	8.8%	5.8%	2.9%	Free
5112.20.10	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5112.20.20	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5112.20.30	17.4¢/kg + 27.1%	15.5¢/kg + 24.1%	13.5¢/kg + 21.1%	11.6¢/kg + 18.1%	9.7¢/kg + 15.1%	7.7¢/kg + 12%	5.8¢/kg + 9%	3.8¢/kg + 6%	1.9¢/kg + 3%	Free
5112.30.10	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5112.30.20	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5112.30.30	17.4¢/kg + 27.1%	15.5¢/kg + 24.1%	13.5¢/kg + 21.1%	11.6¢/kg + 18.1%	9.7¢/kg + 15.1%	7.7¢/kg + 12%	5.8¢/kg + 9%	3.8¢/kg + 6%	1.9¢/kg + 3%	Free
5112.90.30	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5112.90.40	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5112.90.50	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5112.90.90	25.3%	22.5%	19.7%	16.9%	14.1%	11.2%	8.4%	5.6%	2.8%	Free
5113.00.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5202.91.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5203.00.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5204.11.00	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5204.19.00	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5204.20.00	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5205.11.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5205.11.20	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
5205.12.10	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
5205.12.20	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
5205.13.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
5205.13.20	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5205.14.10	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5205.14.20	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5205.15.10	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5205.15.20	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5205.21.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
5205.22.00	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5205.23.00	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5205.24.00	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5205.26.00	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5205.27.00	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5205.28.00	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5205.31.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
5205.32.00	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5205.33.00	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5205.34.00	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5205.35.00	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5205.41.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
5205.42.00	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
5205.43.00	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5205.44.00	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5205.46.00	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5205.47.00	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5205.48.00	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5206.11.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.12.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.13.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.14.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.15.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.21.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.22.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.23.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.24.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.25.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.31.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.32.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.33.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.34.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.35.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.41.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.42.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.43.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.44.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5206.45.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5207.90.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5208.11.20	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5208.11.40	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
5208.11.80	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
5208.12.40	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5208.12.60	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
5208.12.80	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5208.13.00	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5208.19.20	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5208.19.40	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5208.19.60	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
5208.19.80	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5208.21.20	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5208.21.40	8.1%	6.1%	4%	2%	Free	Free	Free	Free	Free	Free
5208.21.60	9.8%	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free
5208.22.40	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5208.22.60	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5208.22.80	9.8%	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free
5208.23.00	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
5208.29.20	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
5208.29.40	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5208.29.60	8.1%	6.1%	4%	2%	Free	Free	Free	Free	Free	Free
5208.29.80	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
5208.31.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5208.31.40	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5208.31.60	8.3%	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free
5208.31.80	10.7%	8%	5.3%	2.6%	Free	Free	Free	Free	Free	Free
5208.32.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5208.32.30	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
5208.32.40	8.3%	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free
5208.32.50	10.7%	8%	5.3%	2.6%	Free	Free	Free	Free	Free	Free
5208.33.00	8.2%	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free
5208.39.20	7%	4.7%	2.3%	Free	Free	Free	Free	Free	Free	Free
5208.39.40	8%	4%	2%	Free	Free	Free	Free	Free	Free	Free
5208.39.60	8.3%	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free
5208.39.80	10.7%	8%	5.3%	2.6%	Free	Free	Free	Free	Free	Free
5208.41.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5208.41.40	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5208.41.60	9.1%	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
5208.41.80	11.7%	8.8%	5.8%	2.9%	Free	Free	Free	Free	Free	Free
5208.42.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5208.42.30	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5208.42.40	9.1%	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
5208.42.50	11.7%	8.8%	5.8%	2.9%	Free	Free	Free	Free	Free	Free
5208.49.40	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5208.49.60	8.3%	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free
5208.49.80	11.7%	8.8%	5.8%	2.9%	Free	Free	Free	Free	Free	Free
5208.51.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5208.51.40	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5208.51.60	9.1%	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
5208.51.80	10.7%	8%	5.3%	2.6%	Free	Free	Free	Free	Free	Free
5208.52.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5208.52.30	5.5%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
5208.52.40	9.1%	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
5208.52.50	10.7%	8%	5.3%	2.6%	Free	Free	Free	Free	Free	Free
5208.53.00	7%	4.7%	2.3%	Free	Free	Free	Free	Free	Free	Free
5208.59.20	8.2%	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free
5208.59.40	5.5%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
5208.59.60	8.3%	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free
5208.59.80	10.1%	7.6%	5%	2.5%	Free	Free	Free	Free	Free	Free
5209.11.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
5209.12.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
5209.19.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
5209.21.00	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
5209.22.00	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
5209.29.00	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
5209.31.30	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5209.31.60	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5209.32.00	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5209.39.00	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5209.41.30	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5209.41.60	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5209.42.00	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5209.43.00	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5209.49.00	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5209.51.30	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5209.51.60	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5209.52.00	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5209.59.00	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5210.11.40	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5210.11.60	8.1%	6.1%	4%	2%	Free	Free	Free	Free	Free	Free
5210.11.80	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
5210.12.00	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
5210.19.20	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
5210.19.40	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5210.19.60	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5210.19.80	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
5210.21.40	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5210.21.60	9.1%	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
5210.21.80	10.7%	8%	5.3%	2.6%	Free	Free	Free	Free	Free	Free
5210.22.00	8.2%	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free
5210.29.20	8.2%	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free
5210.29.40	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5210.29.60	9.1%	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
5210.29.80	11.7%	8.8%	5.8%	2.9%	Free	Free	Free	Free	Free	Free
5210.31.40	8.1%	6.1%	4%	2%	Free	Free	Free	Free	Free	Free
5210.31.60	9.7%	7.3%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5210.31.80	12.4%	9.3%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5210.32.00	8.3%	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free
5210.39.20	8.3%	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free
5210.39.40	7%	4.7%	2.3%	Free	Free	Free	Free	Free	Free	Free
5210.39.60	9.7%	7.3%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5210.39.80	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5210.41.40	8.1%	6.1%	4%	2%	Free	Free	Free	Free	Free	Free
5210.41.60	9.7%	7.3%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5210.41.80	12.4%	9.3%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5210.42.00	8.3%	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free
5210.49.20	8.3%	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free
5210.49.40	8.1%	6.1%	4%	2%	Free	Free	Free	Free	Free	Free
5210.49.60	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5210.49.80	12.4%	9.3%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5210.51.40	8.1%	6.1%	4%	2%	Free	Free	Free	Free	Free	Free
5210.51.60	9.7%	7.3%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5210.51.80	12.4%	9.3%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5210.52.00	8.3%	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free
5210.59.20	8.3%	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free
5210.59.40	7%	4.7%	2.3%	Free	Free	Free	Free	Free	Free	Free
5210.59.60	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5210.59.80	8.7%	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free
5211.11.00	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
5211.12.00	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
5211.19.00	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
5211.21.00	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5211.22.00	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5211.29.00	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5211.31.00	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5211.32.00	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5211.39.00	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5211.41.00	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5211.42.00	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5211.43.00	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5211.49.00	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5211.52.00	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
5211.59.00	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5212.11.10	20.7%	18.4%	16.1%	13.8%	11.5%	9.2%	6.9%	4.6%	2.3%	Free
5212.11.60	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5212.12.10	20.7%	18.4%	16.1%	13.8%	11.5%	9.2%	6.9%	4.6%	2.3%	Free
5212.12.60	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5212.13.10	20.7%	18.4%	16.1%	13.8%	11.5%	9.2%	6.9%	4.6%	2.3%	Free
5212.13.60	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5212.14.10	20.7%	18.4%	16.1%	13.8%	11.5%	9.2%	6.9%	4.6%	2.3%	Free
5212.14.60	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5212.15.60	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5212.21.10	20.7%	18.4%	16.1%	13.8%	11.5%	9.2%	6.9%	4.6%	2.3%	Free
5212.21.60	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5212.22.10	20.7%	18.4%	16.1%	13.8%	11.5%	9.2%	6.9%	4.6%	2.3%	Free
5212.22.60	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5212.23.10	20.7%	18.4%	16.1%	13.8%	11.5%	9.2%	6.9%	4.6%	2.3%	Free
5212.23.60	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5212.24.10	20.7%	18.4%	16.1%	13.8%	11.5%	9.2%	6.9%	4.6%	2.3%	Free
5212.24.60	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5301.21.00	0.1¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
5301.29.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5308.30.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5309.21.20	14.9%	11.2%	7.4%	3.7%	Free	Free	Free	Free	Free	Free
5309.21.30	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5309.29.20	14.9%	11.2%	7.4%	3.7%	Free	Free	Free	Free	Free	Free
5311.00.20	14.9%	11.2%	7.4%	3.7%	Free	Free	Free	Free	Free	Free
5311.00.60	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5401.10.00	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5401.20.00	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5402.10.30	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5402.10.60	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5402.20.30	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5402.20.60	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5402.31.30	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5402.31.60	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5402.32.30	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
5402.32.60	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5402.33.30	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5402.33.60	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5402.39.30	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5402.39.60	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5402.41.90	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
5402.42.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5402.43.10	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
5402.43.90	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
5402.49.90	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
5402.51.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5402.52.10	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5402.52.90	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5402.59.00	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
5402.61.00	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
5402.62.00	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
5402.69.00	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
5403.10.30	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
5403.10.60	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
5403.20.30	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
5403.20.60	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
5403.31.00	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
5403.32.00	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
5403.33.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5403.39.00	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
5403.41.00	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
5403.42.00	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5403.49.00	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5404.10.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5404.10.40	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5404.10.80	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5405.00.30	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5405.00.60	4.6%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
5406.10.00	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
5406.20.00	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
5407.10.00	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
5407.30.90	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5407.41.00	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
5407.42.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.43.10	13.6¢/kg + 12.6%	10.2¢/kg + 9.4%	6.8¢/kg + 6.3%	3.4¢/kg + 3.1%	Free	Free	Free	Free	Free	Free
5407.43.20	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
5407.44.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5407.51.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.52.05	18.9¢/kg + 17.6%	16.8¢/kg + 15.6%	14.7¢/kg + 13.7%	12.6¢/kg + 11.7%	10.5¢/kg + 9.8%	8.4¢/kg + 7.8%	6.3¢/kg + 5.8%	4.2¢/kg + 3.9%	2.1¢/kg + 1.9%	Free
5407.52.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.53.10	16.8¢/kg + 15.5%	12.6¢/kg + 11.6%	8.4¢/kg + 7.7%	4.2¢/kg + 3.8%	Free	Free	Free	Free	Free	Free
5407.53.20	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5407.54.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.61.11	19.2¢/kg + 17.8%	17.1¢/kg + 15.8%	14.9¢/kg + 13.8%	12.8¢/kg + 11.8%	10.7¢/kg + 9.9%	8.5¢/kg + 7.9%	6.4¢/kg + 5.9%	4.2¢/kg + 3.9%	2.1¢/kg + 1.9%	Free
5407.61.19	19.2¢/kg + 17.6%	17.1¢/kg + 15.6%	14.9¢/kg + 13.6%	12.8¢/kg + 11.6%	10.7¢/kg + 9.9%	8.5¢/kg + 7.9%	6.4¢/kg + 5.9%	4.2¢/kg + 3.9%	2.1¢/kg + 1.9%	Free
5407.61.21	13.6¢/kg + 12.6%	10.2¢/kg + 9.4%	6.8¢/kg + 6.3%	3.4¢/kg + 3.1%	Free	Free	Free	Free	Free	Free
5407.61.29	13.6¢/kg + 12.6%	10.2¢/kg + 9.4%	6.8¢/kg + 6.3%	3.4¢/kg + 3.1%	Free	Free	Free	Free	Free	Free
5407.61.91	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.61.99	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5407.69.10	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.69.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.69.40	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
5407.69.90	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.71.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.72.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.73.20	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
5407.74.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.81.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.82.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.83.00	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
5407.84.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.91.05	17.4¢/kg + 27.1%	15.5¢/kg + 24.1%	13.5¢/kg + 21.1%	11.6¢/kg + 18.1%	9.7¢/kg + 15.1%	7.7¢/kg + 12%	5.8¢/kg + 9%	3.8¢/kg + 6%	1.9¢/kg + 3%	Free
5407.91.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5407.91.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.92.05	17.4¢/kg + 27.1%	15.5¢/kg + 24.1%	13.5¢/kg + 21.1%	11.6¢/kg + 18.1%	9.7¢/kg + 15.1%	7.7¢/kg + 12%	5.8¢/kg + 9%	3.8¢/kg + 6%	1.9¢/kg + 3%	Free
5407.92.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5407.92.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5407.93.05	17.4¢/kg + 27.1%	15.5¢/kg + 24.1%	13.5¢/kg + 21.1%	11.6¢/kg + 18.1%	9.7¢/kg + 15.1%	7.7¢/kg + 12%	5.8¢/kg + 9%	3.8¢/kg + 6%	1.9¢/kg + 3%	Free
5407.93.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5407.93.20	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5407.94.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5407.94.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5408.10.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5408.21.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5408.22.10	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5408.22.90	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5408.23.21	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5408.23.29	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5408.24.10	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5408.24.90	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5408.31.05	17.4¢/kg + 27.1%	15.5¢/kg + 24.1%	13.5¢/kg + 21.1%	11.6¢/kg + 18.1%	9.7¢/kg + 15.1%	7.7¢/kg + 12%	5.8¢/kg + 9%	3.8¢/kg + 6%	1.9¢/kg + 3%	Free
5408.31.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5408.31.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5408.32.05	17.4¢/kg + 24.3%	15.5¢/kg + 21.6%	13.5¢/kg + 18.9%	11.6¢/kg + 16.2%	9.7¢/kg + 13.5%	7.7¢/kg + 10.8%	5.8¢/kg + 8.1%	3.8¢/kg + 5.4%	1.9¢/kg + 2.7%	Free
5408.32.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5408.32.30	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5408.32.90	12.6%	9.4%	6.3%	3.1%	Free	Free	Free	Free	Free	Free
5408.33.05	17.4¢/kg + 24.3%	15.5¢/kg + 21.6%	13.5¢/kg + 18.9%	11.6¢/kg + 16.2%	9.7¢/kg + 13.5%	7.7¢/kg + 10.8%	5.8¢/kg + 8.1%	3.8¢/kg + 5.4%	1.9¢/kg + 2.7%	Free
5408.33.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5408.33.15	13.6¢/kg + 12.6%	10.2¢/kg + 9.4%	6.8¢/kg + 6.3%	3.4¢/kg + 3.1%	Free	Free	Free	Free	Free	Free
5408.33.30	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5408.33.90	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5408.34.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5408.34.90	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5501.10.00	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5501.20.00	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5501.30.00	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5501.90.00	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5502.00.00	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5503.10.90	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5503.20.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5503.30.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5503.40.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5503.90.90	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5504.10.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5504.90.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5506.10.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
5506.20.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
5506.30.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
5506.90.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
5507.00.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
5508.10.00	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5508.20.00	9.4%	7%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
5509.11.00	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
5509.12.00	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5509.21.00	8.1%	6.1%	4%	2%	Free	Free	Free	Free	Free	Free
5509.22.00	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5509.31.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5509.32.00	8.6%	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free
5509.41.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5509.42.00	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
5509.51.30	8.1%	6.1%	4%	2%	Free	Free	Free	Free	Free	Free
5509.51.60	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5509.52.00	10.5%	7.9%	5.2%	2.6%	Free	Free	Free	Free	Free	Free
5509.53.00	11.1%	8.3%	5.5%	2.7%	Free	Free	Free	Free	Free	Free
5509.59.00	11.1%	8.3%	5.5%	2.7%	Free	Free	Free	Free	Free	Free
5509.61.00	11.1%	8.3%	5.5%	2.7%	Free	Free	Free	Free	Free	Free
5509.62.00	10.5%	7.9%	5.2%	2.6%	Free	Free	Free	Free	Free	Free
5509.69.20	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5509.69.40	8.6%	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free
5509.69.60	11.1%	8.3%	5.5%	2.7%	Free	Free	Free	Free	Free	Free
5509.91.00	10.5%	7.9%	5.2%	2.6%	Free	Free	Free	Free	Free	Free
5509.92.00	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
5509.99.20	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5509.99.40	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5509.99.60	11.1%	8.3%	5.5%	2.7%	Free	Free	Free	Free	Free	Free
5510.11.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5510.12.00	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5510.20.00	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
5510.30.00	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
5510.90.20	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
5510.90.40	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5510.90.60	11.1%	8.3%	5.5%	2.7%	Free	Free	Free	Free	Free	Free
5511.10.00	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
5511.20.00	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
5511.30.00	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
5512.11.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5512.19.00	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
5512.21.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5512.29.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5512.91.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5512.99.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5513.11.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5513.12.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5513.13.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5513.19.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5513.21.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5513.22.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5513.23.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5513.29.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5513.31.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5513.32.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5513.33.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5513.39.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5513.41.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5513.42.00	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
5513.43.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5513.49.00	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5514.11.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5514.12.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5514.13.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5514.19.00	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
5514.21.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5514.22.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5514.23.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5514.29.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5514.31.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5514.32.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5514.33.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5514.41.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5514.42.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5514.49.00	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
5515.11.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5515.12.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5515.13.05	17.4¢/kg + 27.1%	15.5¢/kg + 24.1%	13.5¢/kg + 21.1%	11.6¢/kg + 18.1%	9.7¢/kg + 15.1%	7.7¢/kg + 12%	5.8¢/kg + 9%	3.8¢/kg + 6%	1.9¢/kg + 3%	Free
5515.13.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5515.19.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5515.22.05	17.4¢/kg + 24.5%	15.5¢/kg + 21.8%	13.5¢/kg + 19.1%	11.6¢/kg + 16.3%	9.7¢/kg + 13.6%	7.7¢/kg + 10.9%	5.8¢/kg + 8.1%	3.8¢/kg + 5.4%	1.9¢/kg + 2.7%	Free
5515.22.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5515.91.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5515.92.05	17.4¢/kg + 27.1%	15.5¢/kg + 24.1%	13.5¢/kg + 21.1%	11.6¢/kg + 18.1%	9.7¢/kg + 15.1%	7.7¢/kg + 12%	5.8¢/kg + 9%	3.8¢/kg + 6%	1.9¢/kg + 3%	Free
5515.92.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5515.99.00	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
5516.11.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5516.12.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5516.13.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5516.14.00	10.2%	7.6%	5.1%	2.5%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5516.21.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5516.22.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5516.23.00	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
5516.24.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5516.31.05	17.4¢/kg + 24.3%	15.5¢/kg + 21.6%	13.5¢/kg + 18.9%	11.6¢/kg + 16.2%	9.7¢/kg + 13.5%	7.7¢/kg + 10.8%	5.8¢/kg + 8.1%	3.8¢/kg + 5.4%	1.9¢/kg + 2.7%	Free
5516.31.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5516.32.05	17.4¢/kg + 27.1%	15.5¢/kg + 24.1%	13.5¢/kg + 21.1%	11.6¢/kg + 18.1%	9.7¢/kg + 15.1%	7.7¢/kg + 12%	5.8¢/kg + 9%	3.8¢/kg + 6%	1.9¢/kg + 3%	Free
5516.32.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5516.33.05	17.4¢/kg + 27.1%	15.5¢/kg + 24.1%	13.5¢/kg + 21.1%	11.6¢/kg + 18.1%	9.7¢/kg + 15.1%	7.7¢/kg + 12%	5.8¢/kg + 9%	3.8¢/kg + 6%	1.9¢/kg + 3%	Free
5516.33.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5516.34.05	17.4¢/kg + 24.3%	15.5¢/kg + 21.6%	13.5¢/kg + 18.9%	11.6¢/kg + 16.2%	9.7¢/kg + 13.5%	7.7¢/kg + 10.8%	5.8¢/kg + 8.1%	3.8¢/kg + 5.4%	1.9¢/kg + 2.7%	Free
5516.34.10	10.3%	7.7%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
5516.41.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5516.42.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5516.44.00	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
5516.91.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5516.92.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5516.93.00	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
5516.94.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5601.10.10	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5601.10.20	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
5601.21.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5601.22.00	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
5601.29.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
5602.10.10	10.6%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
5602.10.90	9.1%	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
5602.21.00	44.8¢/kg + 6.8%	33.6¢/kg + 5.1%	22.4¢/kg + 3.4%	11.2¢/kg + 1.7%	Free	Free	Free	Free	Free	Free
5602.29.00	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5602.90.60	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
5602.90.90	46.5¢/kg + 7%	34.9¢/kg + 5.2%	23.2¢/kg + 3.5%	11.6¢/kg + 1.7%	Free	Free	Free	Free	Free	Free
5604.10.00	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
5604.20.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5604.90.00	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5605.00.10	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
5605.00.90	11.1%	8.3%	5.5%	2.7%	Free	Free	Free	Free	Free	Free
5606.00.00	7%	4.7%	2.3%	Free	Free	Free	Free	Free	Free	Free
5607.29.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5607.30.20	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5607.41.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5607.41.30	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
5607.49.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5607.49.15	5.5%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
5607.49.25	13.5¢/kg + 7.3%	10.1¢/kg + 5.5%	6.7¢/kg + 3.6%	3.3¢/kg + 1.8%	Free	Free	Free	Free	Free	Free
5607.49.30	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5607.50.25	5.5%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
5607.50.35	18.4¢/kg + 10%	13.8¢/kg + 7.5%	9.2¢/kg + 5%	4.6¢/kg + 2.5%	Free	Free	Free	Free	Free	Free
5607.50.40	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5607.90.20	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
5608.11.00	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
5608.19.10	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
5608.19.20	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5608.90.10	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
5608.90.23	11.8%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
5608.90.27	11.8%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
5608.90.30	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5609.00.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5609.00.30	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5609.00.40	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
5701.10.90	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5702.31.10	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
5702.31.20	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
5702.32.10	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
5702.32.20	5.5%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
5702.39.20	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5702.49.20	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
5702.51.20	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5702.51.40	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
5702.52.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5702.59.10	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5702.59.20	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5702.91.30	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5702.91.40	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5702.92.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5702.99.10	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5702.99.20	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5703.10.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
5703.20.10	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
5703.20.20	5.3%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5703.30.00	4.9%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
5703.90.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
5704.10.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5705.00.20	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5801.21.00	19.1%	17%	14.9%	12.7%	10.6%	8.5%	6.3%	4.2%	2.1%	Free
5801.22.10	12.1%	9.1%	6%	3%	Free	Free	Free	Free	Free	Free
5801.22.90	19.1%	17%	14.9%	12.7%	10.6%	8.5%	6.3%	4.2%	2.1%	Free
5801.23.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
5801.24.00	11.7%	8.8%	5.8%	2.9%	Free	Free	Free	Free	Free	Free
5801.25.00	15.6%	11.7%	7.8%	3.9%	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5801.31.00	14.4%	10.8%	7.2%	3.6%	Free	Free	Free	Free	Free	Free
5801.32.00	12.9%	9.7%	6.4%	3.2%	Free	Free	Free	Free	Free	Free
5801.33.00	10.9%	8.2%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
5801.34.00	12.9%	9.7%	6.4%	3.2%	Free	Free	Free	Free	Free	Free
5801.35.00	14.4%	10.8%	7.2%	3.6%	Free	Free	Free	Free	Free	Free
5801.36.00	10.9%	8.2%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
5801.90.10	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5801.90.20	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5802.11.00	8.2%	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free
5802.19.00	8%	6%	4%	2%	Free	Free	Free	Free	Free	Free
5802.20.00	12.9%	9.7%	6.4%	3.2%	Free	Free	Free	Free	Free	Free
5802.30.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
5803.90.11	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5803.90.12	20.7%	18.4%	16.1%	13.8%	11.5%	9.2%	6.9%	4.6%	2.3%	Free
5804.10.10	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
5804.21.00	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
5804.29.10	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
5804.29.90	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5804.30.00	11.1%	8.3%	5.5%	2.7%	Free	Free	Free	Free	Free	Free
5806.10.10	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
5806.10.24	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5806.10.28	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
5806.10.30	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
5806.20.00	5.5%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
5806.31.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
5806.32.10	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
5806.32.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
5806.39.10	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
5806.39.20	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
5806.40.00	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5807.10.05	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5807.10.15	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
5807.10.20	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5807.90.05	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
5807.90.15	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
5807.90.20	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5808.10.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5808.10.70	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5808.10.90	4.4%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
5808.90.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
5809.00.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
5810.10.00	11.9%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
5811.00.10	11.1%	8.3%	5.5%	2.7%	Free	Free	Free	Free	Free	Free
5811.00.20	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
5811.00.30	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5901.10.10	5.5%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
5901.10.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5901.90.20	5.5%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
5901.90.40	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5902.10.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
5902.20.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
5903.10.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5903.10.18	11.9%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
5903.10.25	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5903.10.30	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5903.20.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5903.20.18	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5903.20.25	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5903.20.30	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5903.90.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5903.90.18	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5903.90.25	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5903.90.30	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5906.10.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5906.91.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5906.91.25	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
5906.91.30	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5906.99.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5906.99.30	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5907.00.15	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5907.00.35	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
5908.00.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5909.00.20	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5910.00.10	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
5910.00.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5911.10.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5911.10.20	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
5911.20.10	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
5911.31.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
5911.32.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
5911.40.00	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
5911.90.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6001.10.20	14.4%	10.8%	7.2%	3.6%	Free	Free	Free	Free	Free	Free
6001.10.60	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
6001.21.00	8.2%	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free
6001.22.00	14.4%	10.8%	7.2%	3.6%	Free	Free	Free	Free	Free	Free
6001.29.00	5.5%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6001.91.00	15.6%	11.7%	7.8%	3.9%	Free	Free	Free	Free	Free	Free
6001.92.00	14.4%	10.6%	7.2%	3.6%	Free	Free	Free	Free	Free	Free
6001.99.10	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
6001.99.90	5.5%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6002.10.40	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
6002.10.60	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6002.20.10	11.9%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
6002.20.30	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
6002.20.60	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
6002.20.90	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6002.30.20	10.4%	7.8%	5.2%	2.6%	Free	Free	Free	Free	Free	Free
6002.30.90	5.5%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6002.41.00	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
6002.42.00	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6002.43.00	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6002.49.00	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6002.91.00	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
6002.92.10	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6002.92.90	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6002.93.00	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6002.99.10	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
6101.10.00	54.3¢/kg + 14%	40.7¢/kg + 10.5%	27.1¢/kg + 7%	13.5¢/kg + 3.5%	Free	Free	Free	Free	Free	Free
6101.20.00	13%	9.7%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6101.30.10	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6101.30.15	43.2¢/kg + 11.2%	32.4¢/kg + 8.4%	21.6¢/kg + 5.6%	10.8¢/kg + 2.8%	Free	Free	Free	Free	Free	Free
6101.30.20	26%	23.1%	20.2%	17.3%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6101.90.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6101.90.90	4.4%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6102.10.00	48.7¢/kg + 14.2%	36.5¢/kg + 10.6%	24.3¢/kg + 7.1%	12.1¢/kg + 3.5%	Free	Free	Free	Free	Free	Free
6102.20.00	13%	9.7%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6102.30.05	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
6102.30.10	59.4¢/kg + 17.3%	52.8¢/kg + 15.4%	46.2¢/kg + 13.5%	39.6¢/kg + 11.5%	33¢/kg + 9.6%	26.4¢/kg + 7.7%	19.8¢/kg + 5.7%	13.2¢/kg + 3.8%	6.6¢/kg + 1.9%	Free
6102.30.20	26%	23.1%	20.2%	17.3%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6102.90.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6102.90.90	4.4%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6103.11.00	43.3¢/kg + 11.2%	32.5¢/kg + 8.4%	21.6¢/kg + 5.6%	10.8¢/kg + 2.8%	Free	Free	Free	Free	Free	Free
6103.12.10	53.6¢/kg + 13.9%	40.2¢/kg + 10.4%	26.8¢/kg + 6.9%	13.4¢/kg + 3.4%	Free	Free	Free	Free	Free	Free
6103.12.20	26%	23.1%	20.2%	17.3%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6103.19.20	10.4%	7.8%	5.2%	2.6%	Free	Free	Free	Free	Free	Free
6103.19.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6103.19.90	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6103.21.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free	Free	Free	Free	Free	Free
6103.22.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free	Free	Free	Free	Free	Free
6103.23.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6103.29.10	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6103.29.20	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free	Free	Free	Free	Free	Free	Free
6103.31.00	43.2¢/kg + 11.2%	32.4¢/kg + 8.4%	21.6¢/kg + 5.6%	10.8¢/kg + 2.8%	Free	Free	Free	Free	Free	Free
6103.32.00	11.9%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
6103.33.10	43.2¢/kg + 11.2%	32.4¢/kg + 8.4%	21.6¢/kg + 5.6%	10.8¢/kg + 2.8%	Free	Free	Free	Free	Free	Free
6103.33.20	26%	23.1%	20.2%	17.3%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6103.39.10	18.8%	16.7%	14.6%	12.5%	10.4%	8.3%	6.2%	4.1%	2%	Free
6103.39.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6103.39.80	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6103.41.10	54¢/kg + 14%	40.5¢/kg + 10.5%	27¢/kg + 7%	13.5¢/kg + 3.5%	Free	Free	Free	Free	Free	Free
6103.41.20	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6103.42.10	13.2%	9.9%	6.6%	3.3%	Free	Free	Free	Free	Free	Free
6103.42.20	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
6103.43.10	59.4¢/kg + 15.3%	52.8¢/kg + 13.6%	46.2¢/kg + 11.9%	39.6¢/kg + 10.2%	33¢/kg + 8.5%	26.4¢/kg + 6.8%	19.8¢/kg + 5.1%	13.2¢/kg + 3.4%	6.6¢/kg + 1.7%	Free
6103.43.15	26%	23.1%	20.2%	17.3%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6103.43.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6103.49.10	26%	23.1%	20.2%	17.3%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6103.49.20	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6103.49.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6103.49.80	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6104.11.00	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6104.13.20	18.8%	16.7%	14.6%	12.5%	10.4%	8.3%	6.2%	4.1%	2%	Free
6104.19.10	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6104.19.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6104.19.80	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free

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Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6104.21.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free	Free	Free	Free	Free	Free
6104.22.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free	Free	Free	Free	Free	Free
6104.23.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6104.29.10	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6104.29.20	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free	Free	Free	Free	Free	Free	Free
6104.31.00	48.1¢/kg + 14%	36.1¢/kg + 10.5%	24¢/kg + 7%	12¢/kg + 3.5%	Free	Free	Free	Free	Free	Free
6104.32.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6104.33.10	48.9¢/kg + 14.3%	36.7¢/kg + 10.7%	24.4¢/kg + 7.1%	12.2¢/kg + 3.5%	Free	Free	Free	Free	Free	Free
6104.33.20	26%	23.1%	20.2%	17.3%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6104.39.10	23.7%	21.1%	18.4%	15.8%	13.2%	10.5%	7.9%	5.2%	2.6%	Free
6104.41.00	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6104.42.00	9.4%	7%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6104.43.10	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6104.43.20	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6104.44.10	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6104.44.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6104.49.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6104.49.90	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6104.51.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6104.52.00	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
6104.53.10	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6104.53.20	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6104.59.10	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6104.59.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6104.59.80	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6104.61.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6104.62.10	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
6104.63.10	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6104.63.15	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6104.63.20	26%	23.1%	20.2%	17.3%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6104.69.10	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6104.69.20	26%	23.1%	20.2%	17.3%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6104.69.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6104.69.80	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6105.10.00	18.1%	16.1%	14.1%	12.1%	10.1%	8%	6%	4%	2%	Free
6105.20.10	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6105.20.20	29.7%	26.4%	23.1%	19.8%	16.5%	13.2%	9.9%	6.6%	3.3%	Free
6105.90.10	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6105.90.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6105.90.80	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6106.10.00	18.1%	16.1%	14.1%	12.1%	10.1%	8%	6%	4%	2%	Free
6106.20.10	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6106.20.20	29.7%	26.4%	23.1%	19.8%	16.5%	13.2%	9.9%	6.6%	3.3%	Free
6106.90.10	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6106.90.15	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6106.90.25	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6106.90.30	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6107.11.00	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
6107.12.00	12.2%	9.1%	6.1%	3%	Free	Free	Free	Free	Free	Free
6107.19.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6107.19.90	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6107.21.00	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
6107.22.00	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6107.29.20	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6107.29.50	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6107.29.90	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6107.91.00	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
6107.92.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6107.99.20	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6107.99.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6107.99.90	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6108.11.00	12.3%	9.2%	6.1%	3%	Free	Free	Free	Free	Free	Free
6108.19.10	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6108.19.90	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
6108.21.00	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
6108.22.10	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6108.22.90	12.8%	9.6%	6.4%	3.2%	Free	Free	Free	Free	Free	Free
6108.29.10	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
6108.29.90	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6108.31.00	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
6108.32.00	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6108.39.10	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6108.39.40	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6108.39.80	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6108.91.00	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
6108.92.00	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6108.99.20	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6108.99.50	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6108.99.90	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6109.10.00	14.6%	10.9%	7.3%	3.6%	Free	Free	Free	Free	Free	Free
6109.90.15	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6109.90.40	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
6109.90.60	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6110.10.10	4%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
6110.10.20	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6110.30.10	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
6110.30.15	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
6110.30.20	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
6110.90.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6110.90.90	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
6111.10.00	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6111.20.10	18.1%	16.1%	14.1%	12.1%	10.1%	8%	6%	4%	2%	Free
6111.20.20	13.8%	10.3%	6.9%	3.4%	Free	Free	Free	Free	Free	Free
6111.20.30	13.8%	10.3%	6.9%	3.4%	Free	Free	Free	Free	Free	Free
6111.20.40	9.4%	7%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6111.20.50	12.4%	9.3%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6111.20.60	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
6111.30.10	28%	23.1%	20.2%	17.3%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6111.30.20	29.7%	26.4%	23.1%	19.8%	16.5%	13.2%	9.9%	6.6%	3.3%	Free
6111.30.30	29.7%	26.4%	23.1%	19.8%	16.5%	13.2%	9.9%	6.6%	3.3%	Free

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Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6111.30.40	28.6%	25.4%	22.2%	19%	15.9%	12.7%	9.5%	6.3%	3.1%	Free
6111.30.50	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6111.90.10	18.8%	16.7%	14.6%	12.5%	10.4%	8.3%	6.2%	4.1%	2%	Free
6111.90.20	21.7%	19.3%	16.9%	14.5%	12.1%	9.6%	7.2%	4.8%	2.4%	Free
6111.90.40	26.4%	23.5%	20.5%	17.6%	14.7%	11.7%	8.8%	5.8%	2.9%	Free
6111.90.50	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6111.90.70	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6111.90.90	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6112.11.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6112.12.00	26%	23.1%	20.2%	17.3%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6112.19.10	26%	23.1%	20.2%	17.3%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6112.19.40	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
6112.19.80	19.9%	17.7%	15.5%	13.3%	11.1%	8.8%	8.6%	4.4%	2.2%	Free
6112.20.10	26%	23.1%	20.2%	17.3%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6112.20.20	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6112.31.00	23.9%	21.2%	18.6%	15.9%	13.3%	10.6%	7.9%	5.3%	2.6%	Free
6112.39.00	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
6112.41.00	22.9%	20.4%	17.8%	15.3%	12.7%	10.2%	7.6%	5.1%	2.5%	Free
6112.49.00	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
6113.00.10	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6113.00.90	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6114.10.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
6114.20.00	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
6114.30.10	26%	23.1%	20.2%	17.3%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6114.30.20	29.6%	26.3%	23%	19.7%	16.4%	13.1%	9.8%	6.5%	3.2%	Free
6114.30.30	12.3%	9.2%	6.1%	3%	Free	Free	Free	Free	Free	Free
6114.90.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6114.90.90	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6115.11.00	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6115.12.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6115.19.40	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6115.19.80	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6115.20.10	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
6115.20.90	12.8%	9.6%	6.4%	3.2%	Free	Free	Free	Free	Free	Free
6115.91.00	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6115.92.60	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
6115.92.90	11.1%	8.3%	5.5%	2.7%	Free	Free	Free	Free	Free	Free
6115.93.60	15.4%	11.5%	7.7%	3.8%	Free	Free	Free	Free	Free	Free
6115.93.90	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6115.99.14	15.4%	11.5%	7.7%	3.8%	Free	Free	Free	Free	Free	Free
6115.99.18	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6115.99.40	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6115.99.80	8%	6%	4%	2%	Free	Free	Free	Free	Free	Free
6116.10.08	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6116.10.13	14%	10.5%	7%	3.5%	Free	Free	Free	Free	Free	Free
6116.10.17	21.6%	19.2%	16.8%	14.4%	12%	9.6%	7.2%	4.8%	2.4%	Free
6116.10.44	11.1%	8.3%	5.5%	2.7%	Free	Free	Free	Free	Free	Free
6116.10.48	15.2%	11.4%	7.6%	3.8%	Free	Free	Free	Free	Free	Free
6116.10.55	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
6116.10.65	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
6116.10.75	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
6116.10.95	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
6116.91.00	24¢/kg + 5.4%	16¢/kg + 3.6%	8¢/kg + 1.8%	Free	Free	Free	Free	Free	Free	Free
6116.92.08	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6116.92.64	21.6%	19.2%	16.8%	14.4%	12%	9.6%	7.2%	4.8%	2.4%	Free
6116.92.74	21.6%	19.2%	16.8%	14.4%	12%	9.6%	7.2%	4.8%	2.4%	Free
6116.92.88	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
6116.92.94	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
6116.93.08	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6116.93.64	23.8¢/kg + 5.3%	15.9¢/kg + 3.5%	7.9¢/kg + 1.7%	Free	Free	Free	Free	Free	Free	Free
6116.93.74	23.8¢/kg + 5.3%	15.9¢/kg + 3.5%	7.9¢/kg + 1.7%	Free	Free	Free	Free	Free	Free	Free

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Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6116.93.88	15.2%	11.4%	7.6%	3.8%	Free	Free	Free	Free	Free	Free
6116.93.94	15.2%	11.4%	7.6%	3.8%	Free	Free	Free	Free	Free	Free
6116.99.35	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6116.99.48	15.4%	11.5%	7.7%	3.8%	Free	Free	Free	Free	Free	Free
6116.99.54	15.4%	11.5%	7.7%	3.8%	Free	Free	Free	Free	Free	Free
6116.99.95	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6117.10.10	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
6117.10.20	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6117.10.40	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6117.10.60	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
6117.20.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6117.20.90	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
6117.80.10	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
6117.80.85	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6117.80.95	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6117.90.10	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
6117.90.90	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6201.11.00	36.6¢/kg + 14.5%	27.4¢/kg + 10.9%	18.3¢/kg + 7.2%	9.1¢/kg + 3.6%	Free	Free	Free	Free	Free	Free
6201.12.10	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6201.12.20	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
6201.13.10	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6201.13.30	45.9¢/kg + 18.1%	40.8¢/kg + 16.1%	35.7¢/kg + 14.1%	30.6¢/kg + 12.1%	25.5¢/kg + 10.1%	20.4¢/kg + 8%	15.3¢/kg + 6%	10.2¢/kg + 4%	5.1¢/kg + 2%	Free
6201.13.40	25.5%	22.7%	19.8%	17%	14.2%	11.3%	8.5%	5.6%	2.8%	Free
6201.19.90	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6201.91.10	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6201.91.20	45.9¢/kg + 18.1%	40.8¢/kg + 16.1%	35.7¢/kg + 14.1%	30.6¢/kg + 12.1%	25.5¢/kg + 10.1%	20.4¢/kg + 8%	15.3¢/kg + 6%	10.2¢/kg + 4%	5.1¢/kg + 2%	Free
6201.92.10	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6201.92.15	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
6201.92.20	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6201.93.10	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6201.93.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6201.93.25	45.8¢/kg + 18.1%	40.7¢/kg + 16.1%	35.6¢/kg + 14.1%	30.5¢/kg + 12.1%	25.4¢/kg + 10.1%	20.3¢/kg + 8%	15.2¢/kg + 6%	10.1¢/kg + 4%	5¢/kg + 2%	Free
6201.93.30	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6201.93.35	25.5%	22.7%	19.8%	17%	14.2%	11.3%	8.5%	5.6%	2.8%	Free
6201.99.90	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6202.11.00	34.4¢/kg + 14.5%	25.8¢/kg + 10.9%	17.2¢/kg + 7.2%	8.6¢/kg + 3.6%	Free	Free	Free	Free	Free	Free
6202.12.10	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6202.12.20	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
6202.13.10	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6202.13.30	40.1¢/kg + 18.1%	35.6¢/kg + 16.1%	31.2¢/kg + 14.1%	26.7¢/kg + 12.1%	22.3¢/kg + 10.1%	17.8¢/kg + 8%	13.3¢/kg + 6%	8.9¢/kg + 4%	4.4¢/kg + 2%	Free
6202.13.40	25.5%	22.7%	19.8%	17%	14.2%	11.3%	8.5%	5.6%	2.8%	Free
6202.19.90	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6202.91.10	12.1%	9.1%	6%	3%	Free	Free	Free	Free	Free	Free
6202.91.20	32¢/kg + 14.5%	24¢/kg + 10.9%	16¢/kg + 7.2%	8¢/kg + 3.6%	Free	Free	Free	Free	Free	Free
6202.92.10	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6202.92.15	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
6202.92.20	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
6202.93.10	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6202.93.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6202.93.40	40.1¢/kg + 18.1%	35.6¢/kg + 16.1%	31.2¢/kg + 14.1%	26.7¢/kg + 12.1%	22.3¢/kg + 10.1%	17.8¢/kg + 8%	13.3¢/kg + 6%	8.9¢/kg + 4%	4.4¢/kg + 2%	Free
6202.93.45	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6202.93.50	25.5%	22.7%	19.8%	17%	14.2%	11.3%	8.5%	5.6%	2.8%	Free
6202.99.90	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6203.11.15	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6203.11.30	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6203.11.60	16.9¢/kg + 15.1%	12.7¢/kg + 11.3%	8.4¢/kg + 7.5%	4.2¢/kg + 3.7%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6203.11.90	16.9¢/kg + 15.1%	12.7¢/kg + 11.3%	8.4¢/kg + 7.5%	4.2¢/kg + 3.7%	Free	Free	Free	Free	Free	Free
6203.12.10	16.9¢/kg + 15.1%	12.7¢/kg + 11.3%	8.4¢/kg + 7.5%	4.2¢/kg + 3.7%	Free	Free	Free	Free	Free	Free
6203.12.20	25.2%	22.4%	19.6%	16.8%	14%	11.2%	8.4%	5.6%	2.8%	Free
6203.19.10	11.6%	8.7%	5.8%	2.9%	Free	Free	Free	Free	Free	Free
6203.19.20	47.6¢/kg + 18.9%	42.3¢/kg + 16.8%	37¢/kg + 14.7%	31.7¢/kg + 12.6%	26.4¢/kg + 10.5%	21.1¢/kg + 8.4%	15.8¢/kg + 6.3%	10.5¢/kg + 4.2%	5.2¢/kg + 2.1%	Free
6203.19.30	18.4%	16.4%	14.3%	12.3%	10.2%	8.2%	6.1%	4.1%	2%	Free
6203.19.50	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6203.19.90	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6203.21.30	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free	Free	Free	Free	Free	Free
6203.21.90	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free	Free	Free	Free	Free	Free
6203.22.10	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
6203.22.30	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6203.23.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6203.29.20	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6203.29.30	The rate applicable to each garment in the ensemble if separately entered	Free	Free	Free	Free	Free	Free	Free	Free	Free
6203.31.50	15.4%	11.5%	7.7%	3.8%	Free	Free	Free	Free	Free	Free
6203.31.90	15.4%	11.5%	7.7%	3.8%	Free	Free	Free	Free	Free	Free
6203.32.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6203.32.20	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
6203.33.10	19.8%	17.6%	15.4%	13.2%	11%	8.8%	6.6%	4.4%	2.2%	Free
6203.33.20	25.2%	22.4%	19.6%	16.8%	14%	11.2%	8.4%	5.6%	2.8%	Free
6203.39.10	19.8%	17.6%	15.4%	13.2%	11%	8.8%	6.6%	4.4%	2.2%	Free
6203.39.20	25.2%	22.4%	19.6%	16.8%	14%	11.2%	8.4%	5.6%	2.8%	Free
6203.39.50	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6203.39.90	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
6203.41.05	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
6203.41.12	37¢/kg + 14.5%	27.7¢/kg + 10.9%	18.5¢/kg + 7.2%	9.2¢/kg + 3.6%	Free	Free	Free	Free	Free	Free
6203.41.18	37¢/kg + 14.5%	27.7¢/kg + 10.9%	18.5¢/kg + 7.2%	9.2¢/kg + 3.6%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6203.41.20	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6203.42.20	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
6203.42.40	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
6203.43.15	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6203.43.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6203.43.25	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
6203.43.30	45.8¢/kg + 18.1%	40.7¢/kg + 16.1%	35.6¢/kg + 14.1%	30.5¢/kg + 12.1%	25.4¢/kg + 10.1%	20.3¢/kg + 8%	15.2¢/kg + 6%	10.1¢/kg + 4%	5¢/kg + 2%	Free
6203.43.35	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6203.43.40	25.7%	22.8%	20%	17.1%	14.3%	11.4%	8.5%	5.7%	2.8%	Free
6203.49.10	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6203.49.15	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
6203.49.20	25.7%	22.8%	20%	17.1%	14.3%	11.4%	8.5%	5.7%	2.8%	Free
6203.49.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6204.11.00	12.1%	9.1%	6%	3%	Free	Free	Free	Free	Free	Free
6204.12.00	12.6%	9.4%	6.3%	3.1%	Free	Free	Free	Free	Free	Free
6204.13.10	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
6204.13.20	32.5¢/kg + 23.8%	28.9¢/kg + 21.2%	25.3¢/kg + 18.5%	21.7¢/kg + 15.9%	18.1¢/kg + 13.2%	14.4¢/kg + 10.6%	10.8¢/kg + 7.9%	7.2¢/kg + 5.3%	3.6¢/kg + 2.6%	Free
6204.19.10	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
6204.19.20	32.5¢/kg + 23.8%	28.9¢/kg + 21.2%	25.3¢/kg + 18.5%	21.7¢/kg + 15.9%	18.1¢/kg + 13.2%	14.4¢/kg + 10.6%	10.8¢/kg + 7.9%	7.2¢/kg + 5.3%	3.6¢/kg + 2.6%	Free
6204.19.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6204.19.80	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
6204.21.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free	Free	Free	Free	Free	Free
6204.22.10	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6204.22.30	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free	Free	Free	Free	Free	Free
6204.23.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6204.29.20	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6204.29.40	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free	Free	Free	Free	Free	Free	Free
6204.31.10	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6204.31.20	14.8¢/kg + 15.1%	11.1¢/kg + 11.3%	7.4¢/kg + 7.5%	3.7¢/kg + 3.7%	Free	Free	Free	Free	Free	Free
6204.32.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6204.32.20	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
6204.33.10	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6204.33.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6204.33.40	41.6¢/kg + 18.9%	37¢/kg + 16.8%	32.4¢/kg + 14.7%	27.7¢/kg + 12.6%	23.1¢/kg + 10.5%	18.5¢/kg + 8.4%	13.8¢/kg + 6.3%	9.2¢/kg + 4.2%	4.6¢/kg + 2.1%	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6204.33.50	25.2%	22.4%	19.8%	16.8%	14%	11.2%	8.4%	5.6%	2.8%	Free
6204.39.20	32.6¢/kg + 14.8%	24.4¢/kg + 11.1%	16.3¢/kg + 7.4%	8.1¢/kg + 3.7%	Free	Free	Free	Free	Free	Free
6204.39.30	25.2%	22.4%	19.6%	16.8%	14%	11.2%	8.4%	5.6%	2.8%	Free
6204.39.60	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6204.39.80	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
6204.41.10	5.5%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6204.41.20	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6204.42.10	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
6204.42.20	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
6204.42.30	8%	6%	4%	2%	Free	Free	Free	Free	Free	Free
6204.43.10	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6204.43.20	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6204.43.30	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6204.43.40	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6204.44.20	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6204.44.30	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6204.44.40	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6204.49.10	5.3%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6204.49.50	5.3%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6204.51.00	12.1%	9.1%	6%	3%	Free	Free	Free	Free	Free	Free
6204.52.10	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
6204.52.20	8.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
6204.53.10	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6204.53.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6204.53.30	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6204.59.10	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6204.59.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6204.59.30	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6204.59.40	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
6204.61.10	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
6204.61.90	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6204.62.20	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
6204.62.30	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6204.62.40	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
6204.63.12	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6204.63.15	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6204.63.20	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6204.63.25	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6204.63.30	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6204.63.35	26.3%	23.4%	20.5%	17.5%	14.6%	11.7%	8.7%	5.8%	2.9%	Free
6204.69.10	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6204.69.20	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6204.69.25	26.3%	23.4%	20.5%	17.5%	14.6%	11.7%	8.7%	5.8%	2.9%	Free
6204.69.40	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6204.69.60	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6204.69.90	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6205.10.10	7%	4.7%	2.3%	Free	Free	Free	Free	Free	Free	Free
6205.10.20	16.9¢/kg + 15.1%	12.7¢/kg + 11.3%	8.4¢/kg + 7.5%	4.2¢/kg + 3.7%	Free	Free	Free	Free	Free	Free
6205.20.10	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
6205.20.20	18.1%	16.1%	14.1%	12.1%	10.1%	8%	6%	4%	2%	Free
6205.30.10	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
6205.30.15	45.8¢/kg + 18.1%	40.7¢/kg + 16.1%	35.6¢/kg + 14.1%	30.5¢/kg + 12.1%	25.4¢/kg + 10.1%	20.3¢/kg + 8%	15.2¢/kg + 6%	10.1¢/kg + 4%	5¢/kg + 2%	Free
6205.30.20	26.8¢/kg + 23.8%	23.8¢/kg + 21.2%	20.8¢/kg + 18.5%	17.8¢/kg + 15.9%	14.9¢/kg + 13.2%	11.9¢/kg + 10.6%	8.9¢/kg + 7.9%	5.9¢/kg + 5.3%	2.9¢/kg + 2.6%	Free
6205.90.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6205.90.30	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6205.90.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6206.10.00	5.3%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6206.20.10	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6206.20.20	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6206.20.30	26.4¢/kg + 14.8%	19.8¢/kg + 11.1%	13.2¢/kg + 7.4%	6.6¢/kg + 3.7%	Free	Free	Free	Free	Free	Free
6206.30.10	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
6206.30.20	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6206.30.30	12.6%	9.4%	6.3%	3.1%	Free	Free	Free	Free	Free	Free
6206.40.10	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6206.40.20	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
6206.40.25	53.5¢/kg + 13.6%	40.1¢/kg + 10.2%	26.7¢/kg + 6.8%	13.3¢/kg + 3.4%	Free	Free	Free	Free	Free	Free
6206.40.30	24.8%	22%	19.3%	16.5%	13.8%	11%	8.2%	5.5%	2.7%	Free
6206.90.00	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
6207.11.00	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
6207.19.10	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
6207.19.90	8.6%	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free
6207.21.00	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
6207.22.00	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6207.29.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6207.29.90	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6207.91.10	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
6207.91.30	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
6207.92.20	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6207.92.40	8.6%	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free
6207.99.20	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6207.99.40	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
6207.99.70	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6207.99.90	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6208.11.00	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6208.19.20	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6208.19.50	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6208.19.90	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
6208.21.00	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
6208.22.00	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6208.29.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6208.29.90	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6208.91.10	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
6208.91.30	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6208.92.00	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6208.99.20	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6208.99.30	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6208.99.50	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6208.99.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6209.10.00	30¢/kg + 13.6%	22.5¢/kg + 10.2%	15¢/kg + 6.8%	7.5¢/kg + 3.4%	Free	Free	Free	Free	Free	Free
6209.20.10	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
6209.20.20	12.4%	9.3%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6209.20.30	12.8%	9.6%	6.4%	3.2%	Free	Free	Free	Free	Free	Free
6209.20.50	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free	Free
6209.30.10	22.1%	19.6%	17.2%	14.7%	12.3%	9.8%	7.3%	4.9%	2.4%	Free
6209.30.20	26.3%	23.4%	20.5%	17.5%	14.6%	11.7%	8.7%	5.8%	2.9%	Free
6209.30.30	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6209.90.10	22.1%	19.6%	17.2%	14.7%	12.3%	9.8%	7.3%	4.9%	2.4%	Free
6209.90.20	18.9%	16.8%	14.7%	12.6%	10.5%	8.4%	6.3%	4.2%	2.1%	Free
6209.90.30	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6209.90.90	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6210.10.20	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6210.10.70	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6210.10.90	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6210.20.30	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6210.20.50	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6210.20.70	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6210.20.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
6210.30.30	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6210.30.50	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6210.30.70	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6210.30.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
6210.40.30	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6210.40.50	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6210.40.70	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6210.40.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
6210.50.30	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6210.50.50	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6210.50.70	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6210.50.90	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
6211.11.10	25.6%	22.8%	19.9%	17.1%	14.2%	11.4%	8.5%	5.7%	2.8%	Free
6211.11.40	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
6211.11.80	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
6211.12.10	13.2%	9.9%	6.6%	3.3%	Free	Free	Free	Free	Free	Free
6211.12.40	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6211.12.80	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
6211.20.04	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6211.20.08	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6211.20.15	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6211.20.24	20%	17.8%	15.6%	13.3%	11.1%	8.9%	6.6%	4.4%	2.2%	Free
6211.20.28	25.5%	22.7%	19.8%	17%	14.2%	11.3%	8.5%	5.6%	2.8%	Free
6211.20.34	20.2%	18%	15.7%	13.5%	11.2%	9%	6.7%	4.5%	2.2%	Free
6211.20.38	25.9%	23%	20.1%	17.2%	14.4%	11.5%	8.6%	5.7%	2.8%	Free
6211.20.44	12.1%	9.1%	6%	3%	Free	Free	Free	Free	Free	Free
6211.20.48	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6211.20.54	20.1%	17.9%	15.6%	13.4%	11.2%	8.9%	6.7%	4.4%	2.2%	Free
6211.20.58	25.8%	22.9%	20%	17.2%	14.3%	11.4%	8.6%	5.7%	2.8%	Free
6211.20.64	20.4%	18.1%	15.8%	13.6%	11.3%	9%	6.8%	4.5%	2.2%	Free
6211.20.68	26.3%	23.4%	20.5%	17.5%	14.6%	11.7%	8.7%	5.8%	2.9%	Free
6211.20.74	12.1%	9.1%	6%	3%	Free	Free	Free	Free	Free	Free
6211.20.78	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6211.31.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6211.32.00	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
6211.33.00	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6211.39.10	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6211.39.90	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6211.41.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
6211.42.00	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
6211.43.00	13.1%	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6211.49.10	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6211.49.90	5.8%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6212.10.30	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6212.10.50	13.8%	10.3%	6.9%	3.4%	Free	Free	Free	Free	Free	Free
6212.10.70	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
6212.10.90	13.8%	10.3%	6.9%	3.4%	Free	Free	Free	Free	Free	Free
6212.20.00	19.8%	17.6%	15.4%	13.2%	11%	8.8%	6.6%	4.4%	2.2%	Free
6212.30.00	21.6%	19.2%	16.8%	14.4%	12%	9.6%	7.2%	4.8%	2.4%	Free
6212.90.00	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
6213.10.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6213.10.20	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6213.20.10	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
6213.20.20	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6213.90.10	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
6213.90.20	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6214.10.10	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6214.10.20	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6214.20.00	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
6214.30.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6214.40.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6214.90.00	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
6215.10.00	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6215.20.00	20.4¢/kg + 10.4%	15.3¢/kg + 7.8%	10.2¢/kg + 5.2%	5.1¢/kg + 2.6%	Free	Free	Free	Free	Free	Free
6215.90.00	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6215.00.08	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6215.00.13	14%	10.5%	7%	3.5%	Free	Free	Free	Free	Free	Free
6215.00.17	21.6%	19.2%	16.8%	14.4%	12%	9.6%	7.2%	4.8%	2.4%	Free
6216.00.19	12.4¢/kg + 6.1%	9.3¢/kg + 4.6%	6.2¢/kg + 3%	3.1¢/kg + 1.5%	Free	Free	Free	Free	Free	Free
6216.00.21	16.9¢/kg + 8.4%	12.7¢/kg + 6.3%	8.4¢/kg + 4.2%	4.2¢/kg + 2.1%	Free	Free	Free	Free	Free	Free
6216.00.24	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
6216.00.26	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
6216.00.29	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
6216.00.31	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
6216.00.35	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6216.00.38	21.6%	19.2%	16.8%	14.4%	12%	9.6%	7.2%	4.8%	2.4%	Free
6216.00.41	21.6%	19.2%	16.8%	14.4%	12%	9.6%	7.2%	4.8%	2.4%	Free
6216.00.46	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6216.00.54	16.9¢/kg + 8.4%	12.7¢/kg + 6.3%	8.4¢/kg + 4.2%	4.2¢/kg + 2.1%	Free	Free	Free	Free	Free	Free
6216.00.58	16.9¢/kg + 8.4%	12.7¢/kg + 6.3%	8.4¢/kg + 4.2%	4.2¢/kg + 2.1%	Free	Free	Free	Free	Free	Free
6216.00.80	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6216.00.90	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6217.10.10	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
6217.10.85	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6217.10.95	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6217.90.10	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
6217.90.90	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6301.10.00	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
6301.30.00	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
6301.40.00	8.2%	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free
6301.90.00	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
6302.10.00	4.9%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
6302.21.30	13.3%	10%	6.6%	3.3%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6302.21.50	19.8%	17.6%	15.4%	13.2%	11%	8.8%	6.6%	4.4%	2.2%	Free
6302.21.70	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6302.21.90	5.3%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6302.22.10	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6302.22.20	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
6302.29.00	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
6302.31.30	13.3%	10%	6.6%	3.3%	Free	Free	Free	Free	Free	Free
6302.31.50	19.8%	17.6%	15.4%	13.2%	11%	8.8%	6.6%	4.4%	2.2%	Free
6302.31.70	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6302.31.90	5.3%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6302.32.10	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6302.32.20	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
6302.39.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
6302.40.10	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
6302.40.20	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
6302.51.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
6302.51.20	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
6302.51.30	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
6302.51.40	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
6302.52.10	5.3%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6302.53.00	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6302.59.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
6302.60.00	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
6302.91.00	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
6302.93.10	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
6302.93.20	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
6302.99.10	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6302.99.20	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
6303.11.00	8.7%	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free
6303.12.00	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6303.19.00	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6303.91.00	8.7%	6.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free
6303.92.10	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6303.92.20	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6303.99.00	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6304.11.10	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
6304.11.20	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
6304.11.30	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
6304.19.05	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
6304.19.10	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6304.19.15	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6304.19.20	6.8%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
6304.19.30	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
6304.91.00	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
6304.92.00	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
6304.93.00	7.3%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
6304.99.10	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6304.99.15	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6304.99.25	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6304.99.35	9.5%	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
6304.99.40	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6304.99.60	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6305.20.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
6305.32.00	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
6305.33.00	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
6305.39.00	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
6305.90.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
6306.11.00	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
6306.12.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
6306.19.00	4%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
6306.21.00	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
6306.22.90	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6308.29.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6308.41.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6308.49.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6308.91.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6308.99.00	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
6307.10.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6307.10.20	5.5%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6307.20.00	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
6307.90.30	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
6307.90.72	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
6307.90.75	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
6307.90.85	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
6307.90.89	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6307.90.99	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6308.00.00	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
6310.90.10	2.9¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
6401.10.00	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6401.91.00	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6401.92.60	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6401.92.90	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6401.99.30	22.5%	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
6401.99.60	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6401.99.90	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6402.19.05	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
6402.19.15	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
6402.19.50	68.4¢/kg + 28.8%	60.8¢/kg + 25.6%	53.2¢/kg + 22.4%	45.6¢/kg + 19.2%	38¢/kg + 16%	30.4¢/kg + 12.8%	22.8¢/kg + 9.6%	15.2¢/kg + 6.4%	7.6¢/kg + 3.2%	Free
6402.19.70	68.4¢/kg + 15.3%	60.8¢/kg + 13.6%	53.2¢/kg + 11.9%	45.6¢/kg + 10.2%	38¢/kg + 8.5%	30.4¢/kg + 6.8%	22.8¢/kg + 5.1%	15.2¢/kg + 3.4%	7.6¢/kg + 1.7%	Free
6402.19.90	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
6402.30.30	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
6402.30.50	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6402.30.60	21.6%	19.2%	16.8%	14.4%	12%	9.6%	7.2%	4.8%	2.4%	Free
6402.30.70	81¢/kg + 33.7%	72¢/kg + 30%	63¢/kg + 26.2%	54¢/kg + 22.5%	45¢/kg + 18.7%	36¢/kg + 15%	27¢/kg + 11.2%	18¢/kg + 7.5%	9¢/kg + 3.7%	Free
6402.30.80	81¢/kg + 18%	72¢/kg + 16%	63¢/kg + 14%	54¢/kg + 12%	45¢/kg + 10%	36¢/kg + 8%	27¢/kg + 6%	18¢/kg + 4%	9¢/kg + 2%	Free
6402.30.90	16%	12%	8%	4%	Free	Free	Free	Free	Free	Free
6402.91.40	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
6402.91.50	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6402.91.60	43.2%	38.4%	33.6%	28.8%	24%	19.2%	14.4%	9.6%	4.8%	Free
6402.91.70	81¢/kg + 33.7%	72¢/kg + 30%	63¢/kg + 26.2%	54¢/kg + 22.5%	45¢/kg + 18.7%	36¢/kg + 15%	27¢/kg + 11.2%	18¢/kg + 7.5%	9¢/kg + 3.7%	Free
6402.91.80	81¢/kg + 18%	72¢/kg + 16%	63¢/kg + 14%	54¢/kg + 12%	45¢/kg + 10%	36¢/kg + 8%	27¢/kg + 6%	18¢/kg + 4%	9¢/kg + 2%	Free
6402.91.90	16%	12%	8%	4%	Free	Free	Free	Free	Free	Free
6402.99.05	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
6402.99.10	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
6402.99.14	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6402.99.15	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
6402.99.20	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6402.99.30	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6402.99.60	43.2%	38.4%	33.6%	28.8%	24%	19.2%	14.4%	9.6%	4.8%	Free
6402.99.70	81¢/kg + 33.7%	72¢/kg + 30%	63¢/kg + 26.2%	54¢/kg + 22.5%	45¢/kg + 18.7%	36¢/kg + 15%	27¢/kg + 11.2%	18¢/kg + 7.5%	9¢/kg + 3.7%	Free
6402.99.80	81¢/kg + 18%	72¢/kg + 16%	63¢/kg + 14%	54¢/kg + 12%	45¢/kg + 10%	36¢/kg + 8%	27¢/kg + 6%	18¢/kg + 4%	9¢/kg + 2%	Free
6402.99.90	16%	12%	8%	4%	Free	Free	Free	Free	Free	Free
6403.19.10	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6403.19.30	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
6403.19.40	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6403.19.50	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
6403.40.30	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6403.40.60	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
6403.51.30	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6403.51.60	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
6403.51.90	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6403.59.15	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6403.59.30	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6403.59.60	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
6403.59.90	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
6403.91.30	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6403.91.60	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
6403.91.90	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
6403.99.20	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
6403.99.40	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6403.99.60	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
6403.99.75	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6403.99.90	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
6404.11.20	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
6404.11.40	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6404.11.50	43.2%	38.4%	33.6%	28.8%	24%	19.2%	14.4%	9.6%	4.8%	Free
6404.11.60	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6404.11.70	81¢/kg + 33.7%	72¢/kg + 30%	63¢/kg + 26.2%	54¢/kg + 22.5%	45¢/kg + 18.7%	36¢/kg + 15%	27¢/kg + 11.2%	18¢/kg + 7.5%	9¢/kg + 3.7%	Free
6404.11.80	81¢/kg + 18%	72¢/kg + 16%	63¢/kg + 14%	54¢/kg + 12%	45¢/kg + 10%	36¢/kg + 8%	27¢/kg + 6%	18¢/kg + 4%	9¢/kg + 2%	Free
6404.11.90	16%	12%	8%	4%	Free	Free	Free	Free	Free	Free
6404.19.15	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
6404.19.20	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6404.19.25	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6404.19.30	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
6404.19.35	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6404.19.40	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6404.19.50	43.2%	38.4%	33.6%	28.8%	24%	19.2%	14.4%	9.6%	4.8%	Free
6404.19.60	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6404.19.70	81¢/kg + 33.7%	72¢/kg + 30%	63¢/kg + 26.2%	54¢/kg + 22.5%	45¢/kg + 18.7%	36¢/kg + 15%	27¢/kg + 11.2%	18¢/kg + 7.5%	9¢/kg + 3.7%	Free
6404.19.80	81¢/kg + 18%	72¢/kg + 16%	63¢/kg + 14%	54¢/kg + 12%	45¢/kg + 10%	36¢/kg + 8%	27¢/kg + 6%	18¢/kg + 4%	9¢/kg + 2%	Free
6404.19.90	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6404.20.20	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
6404.20.40	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
6404.20.60	33.7%	30%	26.2%	22.5%	18.7%	15%	11.2%	7.5%	3.7%	Free
6405.10.00	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
6405.20.30	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6405.20.60	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6405.20.90	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
6405.90.20	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6405.90.90	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
6406.10.05	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
6406.10.10	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
6406.10.20	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
6406.10.25	30.2%	26.8%	23.5%	20.1%	16.8%	13.4%	10%	6.7%	3.3%	Free
6406.10.30	56.7¢/kg + 23.5%	50.4¢/kg + 20.9%	44.1¢/kg + 18.3%	37.8¢/kg + 15.7%	31.5¢/kg + 13.1%	25.2¢/kg + 10.4%	18.9¢/kg + 7.8%	12.6¢/kg + 5.2%	6.3¢/kg + 2.6%	Free
6406.10.35	55.8¢/kg + 12.3%	49.6¢/kg + 10.9%	43.4¢/kg + 9.5%	37.2¢/kg + 8.2%	31¢/kg + 6.8%	24.8¢/kg + 5.4%	18.6¢/kg + 4.1%	12.4¢/kg + 2.7%	6.2¢/kg + 1.3%	Free
6406.10.40	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6406.10.45	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
6406.10.50	23.5%	20.9%	18.3%	15.7%	13.1%	10.4%	7.8%	5.2%	2.6%	Free
6406.10.72	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
6406.10.77	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
6406.10.85	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
6406.10.90	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
6406.20.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6406.91.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6406.99.15	12.5%	9.4%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
6406.99.30	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6501.00.60	48¢/doz. + 0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6501.00.90	8.4¢/kg + 8.4%	6.3¢/kg + 6.3%	4.2¢/kg + 4.2%	2.1¢/kg + 2.1%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6502.00.20	25.5¢/doz. + 2.5%	17¢/doz. + 1.7%	8.5¢/doz. + 0.8%	Free	Free	Free	Free	Free	Free	Free
6502.00.40	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6502.00.90	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6503.00.90	10.3¢/kg + 4.8% + 1.4¢/article	6.9¢/kg + 3.2% + 0.9¢/article	3.4¢/kg + 1.6% + 0.4¢/article	Free	Free	Free	Free	Free	Free	Free
6504.00.30	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
6504.00.60	77.7¢/doz. + 3.8%	58.3¢/doz. + 2.8%	38.8¢/doz.+ 1.9%	19.4¢/doz. 0.9%	Free	Free	Free	Free	Free	Free
6504.00.90	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6505.10.00	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free	Free
6505.90.15	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
6505.90.20	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
6505.90.25	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
6505.90.30	28.4¢/kg + 8.6%	21.3¢/kg + 6.4%	14.2¢/kg + 4.3%	7.1¢/kg + 2.1%	Free	Free	Free	Free	Free	Free
6505.90.40	23.8¢/kg + 6%	15.9¢/kg + 4%	7.9¢/kg + 2%	Free	Free	Free	Free	Free	Free	Free
6505.90.50	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6505.90.60	22.3¢/kg + 7.8%	16.7¢/kg + 5.8%	11.1¢/kg + 3.9%	5.5¢/kg + 1.9%	Free	Free	Free	Free	Free	Free
6505.90.70	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6505.90.80	15¢/kg + 5.4%	10¢/kg + 3.6%	5¢/kg + 1.8%	Free	Free	Free	Free	Free	Free	Free
6506.90.90	15.9¢/kg + 5.7%	10.6¢/kg + 3.8%	5.3¢/kg + 1.9%	Free	Free	Free	Free	Free	Free	Free
6506.92.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6506.99.00	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
6601.10.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
6601.99.00	6.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
6602.00.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6603.10.80	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
6603.20.90	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
6603.90.80	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6701.00.30	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6701.00.60	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6702.10.20	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
6702.10.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6702.90.10	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6702.90.35	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
6702.90.65	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
6801.00.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6802.21.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6802.21.50	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6802.22.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6802.23.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6802.29.00	3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6802.91.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6802.91.25	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6802.91.30	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6802.93.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6802.99.00	3.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6803.00.10	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6804.22.10	2.5¢/kg + 1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6806.10.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6807.90.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6809.19.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6810.11.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6810.19.12	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6810.19.14	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
6810.19.50	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6812.50.10	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
6814.10.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6814.90.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6905.10.00	10.8%	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6905.90.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6907.10.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
6907.90.00	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
6908.10.10	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
6908.10.20	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
6908.10.50	10.1%	7.6%	5%	2.5%	Free	Free	Free	Free	Free	Free
6908.90.00	10.1%	7.6%	5%	2.5%	Free	Free	Free	Free	Free	Free
6909.11.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6909.12.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6909.19.50	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6909.90.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6910.10.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
6910.90.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
6911.10.10	26.1%	23.2%	20.3%	17.4%	14.5%	11.6%	8.7%	5.8%	2.9%	Free
6911.10.15	4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6911.10.25	3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6911.10.35	20.8%	15.6%	10.4%	5.2%	Free	Free	Free	Free	Free	Free
6911.10.37	4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6911.10.38	3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6911.10.41	3.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6911.10.45	11.5%	7.7%	3.8%	Free	Free	Free	Free	Free	Free	Free
6911.10.52	4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6911.10.58	3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6911.10.60	18.3%	13.7%	9.1%	4.5%	Free	Free	Free	Free	Free	Free
6911.10.80	18.3%	13.7%	9.1%	4.5%	Free	Free	Free	Free	Free	Free
6911.90.00	2.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6912.00.10	0.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6912.00.20	27.7%	24.6%	21.5%	18.4%	15.4%	12.3%	9.2%	6.1%	3%	Free
6912.00.35	4.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6912.00.39	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6912.00.41	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6912.00.44	5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6912.00.45	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6912.00.46	4.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6912.00.48	4.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6912.00.50	3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6913.10.20	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6914.10.80	4.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
6914.90.80	2.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7001.00.20	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7002.10.10	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7002.20.50	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
7002.32.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
7002.39.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
7003.12.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7003.19.00	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7003.20.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7003.30.00	4.7%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
7004.20.20	0.5¢/kg + 0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7004.20.50	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
7004.90.25	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
7004.90.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7005.10.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7005.21.10	7.2¢/m² + 0.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7005.21.20	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7005.29.08	9.3¢/m²	Free	Free	Free	Free	Free	Free	Free	Free	Free
7005.29.18	10.8¢/m²	7.2¢/m²	3.6¢/m²	Free	Free	Free	Free	Free	Free	Free
7005.29.25	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7005.30.00	14.5¢/m²	Free	Free	Free	Free	Free	Free	Free	Free	Free
7006.00.10	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
7006.00.20	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
7006.00.40	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7007.11.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
7007.19.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7007.21.10	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7007.21.50	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7007.29.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7008.00.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7009.10.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7009.91.10	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
7009.91.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
7009.92.10	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
7009.92.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
7010.20.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7010.20.30	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
7010.91.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7010.91.30	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
7010.92.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7010.92.30	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
7010.93.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7010.93.30	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
7010.94.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7010.94.30	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
7011.10.50	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7011.20.10	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
7011.20.80	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
7011.90.00	4.9%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
7012.00.00	4.9%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
7013.10.10	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
7013.10.50	23.4%	20.8	18.2%	15.6%	13%	10.4%	7.8%	5.2%	2.6%	Free
7013.21.10	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
7013.21.20	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
7013.21.30	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7013.21.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7013.29.05	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
7013.29.10	29%	25.8%	22.6%	19.3%	16.1%	12.9%	9.6%	6.4%	3.2%	Free
7013.29.20	22.9%	20.4%	17.8%	15.3%	12.7%	10.2%	7.6%	5.1%	2.5%	Free
7013.29.30	9%	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free
7013.29.40	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7013.29.50	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
7013.29.60	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7013.31.10	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
7013.31.20	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
7013.31.30	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
7013.31.50	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
7013.32.10	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
7013.32.20	22.9%	20.4%	17.8%	15.3%	12.7%	10.2%	7.6%	5.1%	2.5%	Free
7013.32.30	10.2%	7.6%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
7013.32.40	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
7013.39.10	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
7013.39.20	22.9%	20.4%	17.8%	15.3%	12.7%	10.2%	7.6%	5.1%	2.5%	Free
7013.39.30	10.2%	7.6%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
7013.39.40	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
7013.39.50	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
7013.39.60	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
7013.91.10	16%	12%	8%	4%	Free	Free	Free	Free	Free	Free
7013.91.20	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
7013.91.30	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
7013.91.50	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
7013.99.10	13.6%	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
7013.99.20	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
7013.99.30	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
7013.99.35	4.9%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
7013.99.40	34.2%	30.4%	26.6%	22.8%	19%	15.2%	11.4%	7.6%	3.8%	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7013.99.50	27%	24%	21%	18%	15%	12%	9%	6%	3%	Free
7013.99.60	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
7013.99.70	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
7013.99.80	10.2%	7.6%	5.1%	2.5%	Free	Free	Free	Free	Free	Free
7013.99.90	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
7014.00.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7014.00.20	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7014.00.30	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7014.00.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7016.10.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7016.90.10	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
7016.90.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7017.10.60	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7017.20.00	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
7017.90.50	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
7018.10.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7018.20.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7018.90.10	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7018.90.50	4.9%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
7019.11.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7019.12.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7019.19.15	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
7019.19.28	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
7019.19.30	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7019.19.90	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7019.31.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7019.32.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7019.39.10	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7019.39.50	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7019.40.15	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
7019.40.40	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free

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Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7019.40.90	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
7019.51.90	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
7019.52.40	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
7019.52.90	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
7019.59.40	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
7019.59.90	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
7019.90.10	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7019.90.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7020.00.60	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7103.10.40	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
7103.99.50	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
7104.10.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7104.20.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7104.90.50	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
7106.91.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7106.92.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7107.00.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7108.12.50	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7108.13.70	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7109.00.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
7111.00.00	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
7113.11.10	3.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7113.11.20	6.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7113.19.10	3.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7113.19.25	2.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7113.19.30	2.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7113.20.10	3.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7113.20.21	2.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7113.20.25	2.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7113.20.29	2.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7113.20.30	2.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7113.20.50	2.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7114.11.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7114.11.20	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7114.11.30	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7114.11.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7114.11.45	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7114.11.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7114.11.60	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7114.11.70	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7114.20.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7115.10.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7115.90.30	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7115.90.40	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7115.90.60	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7116.10.10	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7116.10.25	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
7116.20.05	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7116.20.15	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
7116.20.30	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7116.20.35	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7116.20.40	8.4%	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
7117.11.00	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
7117.19.15	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
7117.19.20	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
7117.19.30	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7117.19.90	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
7117.90.20	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7117.90.30	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7117.90.55	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
7117.90.90	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
7202.11.10	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7202.11.50	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.19.10	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.19.50	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.21.10	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.21.50	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.21.75	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.21.90	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
7202.30.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.41.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.49.10	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.49.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.50.00	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
7202.70.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.80.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7202.91.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.92.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.93.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.99.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7202.99.50	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7307.11.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7307.19.30	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7307.19.90	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
7307.21.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7307.21.50	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7307.22.50	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
7307.23.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7307.29.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7307.91.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7307.91.30	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7307.91.50	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
7307.92.90	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7307.93.30	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
7307.93.60	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
7307.93.90	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7307.99.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7307.99.30	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7307.99.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7315.89.10	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7315.89.50	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7315.90.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7318.11.00	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
7318.12.00	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
7318.13.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7318.14.10	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
7318.14.50	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
7318.15.60	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
7318.15.80	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
7318.19.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7318.21.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
7318.24.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7318.29.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7319.20.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7319.30.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7319.90.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7320.10.30	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7320.10.60	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7320.10.90	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7320.20.10	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7320.20.50	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7320.90.50	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7321.11.10	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7321.81.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7321.82.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7323.91.50	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
7323.93.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7323.94.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7323.99.30	5.1%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
7323.99.70	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
7323.99.90	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7324.10.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7325.91.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7325.99.50	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7326.19.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7326.20.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7326.90.35	5.8%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free
7326.90.60	6.4%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free
7326.90.85	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7403.11.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7403.12.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7403.13.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7403.19.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7403.21.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7403.22.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7403.23.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7403.29.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7407.10.15	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7407.10.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7407.10.50	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7407.21.15	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7407.21.30	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7407.21.50	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7407.21.70	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7407.21.90	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7407.22.15	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7407.22.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7407.22.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7407.29.15	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7407.29.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7407.29.50	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7408.11.30	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7408.11.60	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7408.19.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7408.21.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7408.22.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7408.22.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7408.29.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7408.29.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.11.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.11.50	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.19.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.19.50	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.19.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.21.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.29.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.31.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.31.50	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.31.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.39.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.39.50	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.39.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.40.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.90.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.90.50	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7409.90.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7410.11.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7410.12.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7410.21.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7410.21.60	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7410.22.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7411.10.10	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7411.10.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7411.21.10	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7411.21.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7411.22.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7411.29.10	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7411.29.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7412.10.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7412.20.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7413.00.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7413.00.50	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7413.00.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7414.20.60	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7414.20.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7414.90.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7415.10.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7415.21.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7415.29.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7415.31.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7415.32.10	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7415.32.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7415.32.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7415.39.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7416.00.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7417.00.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7418.11.20	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7418.11.40	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7418.19.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7418.19.20	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7418.19.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7418.20.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7418.20.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7419.10.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7419.99.15	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7419.99.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7505.11.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7505.11.30	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7505.11.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7505.12.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7505.12.30	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7505.12.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7505.21.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7505.21.50	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7505.22.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7505.22.50	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7506.10.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7506.10.30	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7506.10.45	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7506.10.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7506.20.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7506.20.30	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7506.20.45	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7506.20.60	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7507.11.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7507.12.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7507.20.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7508.10.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7508.90.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7508.90.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7601.10.30	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7601.20.30	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7601.20.60	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7603.10.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7603.20.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7604.10.10	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7604.10.30	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7604.10.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7604.21.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7604.29.10	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7604.29.30	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7604.29.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7605.11.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7605.19.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7605.21.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7605.29.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7606.11.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7606.11.60	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7606.12.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7606.12.60	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
7606.91.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7606.91.60	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7606.92.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7606.92.60	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
7607.11.30	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
7607.11.60	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
7607.11.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7607.19.10	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
7607.19.30	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7607.19.60	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7607.20.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7608.10.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7608.20.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7609.00.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7610.10.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7610.90.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7611.00.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7612.10.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7612.90.10	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7613.00.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7614.10.10	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7614.10.50	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7614.90.20	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7614.90.40	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7614.90.50	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7615.11.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7615.19.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7615.19.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7615.19.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7615.19.70	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7615.19.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7615.20.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7616.10.10	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7616.10.30	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7616.10.50	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
7616.10.70	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
7616.10.90	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
7616.91.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7616.99.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7801.10.00	1.2% on the value of the lead content	Free	Free	Free	Free	Free	Free	Free	Free	Free
7801.91.00	1.2% on the value of the lead content	Free	Free	Free	Free	Free	Free	Free	Free	Free
7801.99.30	1.2% on the value of the lead content	Free	Free	Free	Free	Free	Free	Free	Free	Free
7801.99.90	1.2% on the value of the lead content	Free	Free	Free	Free	Free	Free	Free	Free	Free
7803.00.00	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7804.11.00	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7804.19.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7805.00.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7806.00.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7901.11.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7901.12.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7901.12.50	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7901.20.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7903.10.00	0.3¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
7903.90.30	0.2¢/kg	Free	Free	Free	Free	Free	Free	Free	Free	Free
7903.90.60	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7904.00.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7905.00.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7906.00.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7907.00.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
7907.00.60	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8003.00.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8004.00.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8005.00.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8005.00.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8006.00.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8007.00.10	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8007.00.50	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8101.10.00	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
8101.91.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8101.91.50	4.9%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8101.92.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
8101.93.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8101.99.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8102.10.00	4.5¢/kg on molybdenum content + 0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8102.91.10	6.9¢/kg on molybdenum content + 0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8102.92.30	4.9%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8102.92.60	4.9%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8102.93.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8102.99.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8103.10.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8103.90.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8104.11.00	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
8104.19.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
8104.30.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8104.90.00	11.1¢/kg on magnesium content + 2.6%	7.4¢/kg on magnesium content + 1.7%	3.7¢/kg on magnesium content + 0.8%	Free	Free	Free	Free	Free	Free	Free
8105.10.30	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8105.90.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8107.90.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8108.10.50	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
8108.90.30	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
8108.90.60	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8109.10.60	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8109.90.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8111.00.45	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
8111.00.60	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8112.11.60	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
8112.19.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
8112.20.60	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8112.30.60	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8112.30.90	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8112.40.60	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8112.91.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8112.91.40	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8112.91.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8112.91.60	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8112.99.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8113.00.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8201.40.60	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
8201.50.00	0.5¢ each + 1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8201.60.00	0.5¢ each + 1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8201.90.30	1.5¢ each + 3.8%	1¢ each + 2.5%	0.5¢ each + 1.2%	Free	Free	Free	Free	Free	Free	Free
8202.40.30	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
8203.20.20	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8203.20.40	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
8203.20.60	9¢/doz. + 4.1%	6¢/doz. + 2.7%	3¢/doz. + 1.3%	Free	Free	Free	Free	Free	Free	Free
8203.20.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8203.40.30	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
8203.40.60	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8204.11.00	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
8204.12.00	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8204.20.00	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
8205.10.00	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
8205.20.30	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
8205.30.30	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
8205.30.60	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8205.40.00	4.6%	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
8205.51.30	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8205.51.60	1.6¢/kg + 3.7%	1.1¢/kg + 2.5%	0.5¢/kg + 1.2%	Free	Free	Free	Free	Free	Free	Free
8205.51.75	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8205.59.10	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
8205.59.45	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
8205.59.55	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
8205.59.70	0.7¢/kg + 1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8205.59.80	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8205.60.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8205.70.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8205.90.00	The rate of duty applicable to that article in the set subject to the highest rate of duty	The rate of duty applicable to that article in the set subject to the highest rate of duty	The rate of duty applicable to that article in the set subject to the highest rate of duty	Free	Free	Free	Free	Free	Free	Free
8206.00.00	The rate of duty applicable to that article in the set subject to the highest rate of duty	The rate of duty applicable to that article in the set subject to the highest rate of duty	The rate of duty applicable to that article in the set subject to the highest rate of duty	Free	Free	Free	Free	Free	Free	Free
8207.13.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.19.30	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.19.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.20.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.30.30	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
8207.30.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8207.40.30	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
8207.40.60	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.50.20	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.50.40	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
8207.50.60	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
8207.50.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.60.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.70.30	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.70.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.80.30	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.80.60	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.90.15	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.90.30	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.90.45	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.90.60	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8207.90.75	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8209.00.00	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8210.00.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8211.10.00	The rate of duty applicable to that article in the set subject to the highest rate of duty	The rate of duty applicable to that article in the set subject to the highest rate of duty	The rate of duty applicable to that article in the set subject to the highest rate of duty	Free	Free	Free	Free	Free	Free	Free
8211.91.20	0.3¢ each + 4.8%	0.2¢ each + 3.2%	0.1¢ each + 1.6%	Free	Free	Free	Free	Free	Free	Free
8211.91.25	0.3¢ each + 5.1%	0.2¢ each + 3.4%	0.1¢ each + 1.7%	Free	Free	Free	Free	Free	Free	Free
8211.91.30	0.7¢ each + 8.4%	0.5¢ each + 5.3%	0.3¢ each + 4.2%	0.1¢ each + 2.1%	Free	Free	Free	Free	Free	Free
8211.91.40	0.1¢ each + 1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8211.91.50	0.5¢ each + 2.7%	0.3¢ each + 1.8%	0.1¢ each + 0.9%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8211.91.80	0.2¢ each + 3.6%	0.1¢ each + 2.4%	1.2%	Free	Free	Free	Free	Free	Free	Free
8211.92.20	0.6¢ each + 3.4%	0.4¢ each + 2.3%	0.2¢ each + 1.1%	Free	Free	Free	Free	Free	Free	Free
8211.92.40	0.7¢ each + 3.4%	0.5¢ each + 2.3%	0.2¢ each + 1.1%	Free	Free	Free	Free	Free	Free	Free
8211.92.60	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8211.92.90	0.3¢ each + 4.5%	0.2¢ each + 3%	0.1¢ each + 1.5%	Free	Free	Free	Free	Free	Free	Free
8211.93.00	2.2¢ each + 4%	1.5¢ each + 2.7%	0.7¢ each + 1.3%	Free	Free	Free	Free	Free	Free	Free
8211.94.10	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8211.94.50	0.8¢ each + 4.3%	0.6¢ each + 3.2%	0.4¢ each + 2.1%	0.2¢ each + 1%	Free	Free	Free	Free	Free	Free
8211.95.10	0.1¢ each + 2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8211.95.50	0.3¢ each + 4.5%	0.2¢ each + 3%	0.1¢ each + 1.5%	Free	Free	Free	Free	Free	Free	Free
8211.95.90	2.2¢ each + 4%	1.5¢ each + 2.7%	0.7¢ each + 1.3%	Free	Free	Free	Free	Free	Free	Free
8213.00.30	1.3¢ each + 3.4%	1¢ each + 2.5%	0.6¢ each + 1.7%	0.0¢ each + 0.0%	Free	Free	Free	Free	Free	Free
8213.00.60	6¢ each + 6%	4¢ each + 4%	2¢ each + 2%	Free	Free	Free	Free	Free	Free	Free
8213.00.90	4.6¢ each + 4.6%	3.4¢ each + 3.4%	2.3¢ each + 2.3%	1.1¢ each + 1.1%	Free	Free	Free	Free	Free	Free
8214.10.00	0.2¢ each + 3.1%	0.1¢ each + 2.1%	1%	Free	Free	Free	Free	Free	Free	Free
8214.20.30	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8214.20.90	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8214.90.30	0.7¢ each + 3.6%	0.5¢ each + 2.4%	0.2¢ each + 1.2%	Free	Free	Free	Free	Free	Free	Free
8214.90.60	0.1¢ each + 1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8214.90.90	0.7¢ each + 1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8215.10.00	The rate of duty applicable to that article in the set subject to the highest rate of duty	The rate of duty applicable to that article in the set subject to the highest rate of duty	The rate of duty applicable to that article in the set subject to the highest rate of duty	Free	Free	Free	Free	Free	Free	Free
8215.20.00	The rate of duty applicable to that article in the set subject to the highest rate of duty	The rate of duty applicable to that article in the set subject to the highest rate of duty	The rate of duty applicable to that article in the set subject to the highest rate of duty	Free	Free	Free	Free	Free	Free	Free
8215.91.60	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8215.91.90	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8215.99.01	0.6¢ each + 14.2%	0.7¢ each + 12.6%	0.6¢ each + 11%	0.5¢ each + 9.4%	0.4¢ each + 7.9%	0.3¢ each + 6.3%	0.2¢ each + 4.7%	0.1¢ each + 3.1%	1.5%	Free
8215.99.05	0.3¢ each + 8.3%	0.2¢ each + 4.2%	0.1¢ each + 2.1%	Free	Free	Free	Free	Free	Free	Free
8215.99.10	0.4¢ each + 5%	0.3¢ each + 3.7%	0.2¢ each + 2.5%	0.1¢ each + 1.2%	Free	Free	Free	Free	Free	Free
8215.99.15	0.3¢ each + 3.6%	0.2¢ each + 2.4%	0.1¢ each + 1.2%	Free	Free	Free	Free	Free	Free	Free
8215.99.20	0.3¢ each + 2.4%	0.2¢ each + 1.6%	0.1¢ each + 0.8%	Free	Free	Free	Free	Free	Free	Free
8215.99.24	0.1¢ each + 2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8215.99.26	0.1¢ each + 1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8215.99.30	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
8215.99.35	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
8215.99.40	2.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8215.99.50	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
8301.10.20	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8301.10.40	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8301.10.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8301.10.60	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
8301.10.80	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8301.10.90	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8301.20.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
8301.30.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
8301.40.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8301.40.60	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
8301.50.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8301.60.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8301.70.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8302.10.30	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8302.10.60	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8302.10.90	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8302.20.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
8302.30.30	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8302.30.60	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8302.41.30	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8302.41.60	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8302.41.90	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8302.42.30	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8302.42.60	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8302.49.20	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
8302.49.60	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
8302.49.80	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8302.60.30	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8302.60.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8303.00.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8304.00.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8305.10.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8305.90.60	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
8306.10.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8306.21.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8306.30.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8307.10.30	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8307.10.60	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8307.90.30	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8307.90.60	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8308.10.00	0.5¢ each + 1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8308.90.60	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8308.90.90	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8309.90.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8401.10.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8401.20.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8401.30.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8401.40.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8402.11.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
8402.12.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8402.19.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
8402.20.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8402.90.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8404.10.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8404.20.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
8404.90.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8406.10.10	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8406.81.10	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8406.82.10	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8406.90.20	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8406.90.30	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8406.90.40	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8406.90.45	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8407.33.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8407.34.14	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8407.34.18	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8407.34.44	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8407.34.48	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8408.10.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8408.20.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8408.20.90	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8409.91.30	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8409.91.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8409.91.92	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8409.91.99	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8409.99.91	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8409.99.92	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8410.11.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8410.12.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8410.13.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8410.90.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8411.81.80	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8411.82.80	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8411.99.90	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8413.30.10	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8413.30.90	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8413.91.10	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8414.10.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8414.20.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8414.40.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8414.51.00	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8414.59.30	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8414.59.60	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8414.80.90	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8414.90.10	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8415.20.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8415.81.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8415.82.00	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8415.83.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8415.90.40	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8415.90.80	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8417.10.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8417.20.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8417.80.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8417.90.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8418.22.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8418.29.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8419.50.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8419.60.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8419.81.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8419.89.90	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8419.90.80	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8420.10.10	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8420.91.10	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8420.99.10	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8421.19.90	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8421.23.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8421.31.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8422.11.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8423.20.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8423.89.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8423.90.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8424.20.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8424.81.90	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8424.89.70	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8424.90.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8438.40.00	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8438.50.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8438.90.90	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8442.50.90	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8443.11.10	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8443.21.00	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8443.30.00	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8443.40.00	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8443.51.10	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8443.59.10	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8443.90.10	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8445.19.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8445.40.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8445.90.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8446.21.50	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8446.30.50	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8447.20.30	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8448.20.10	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8448.20.50	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8448.31.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8448.33.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8448.39.50	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8448.41.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8448.42.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8449.00.10	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8450.11.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8450.12.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8450.19.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8450.20.00	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8450.90.20	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8450.90.40	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8450.90.60	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8451.21.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8451.29.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8451.40.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8451.80.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8451.90.30	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8451.90.60	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8451.90.90	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8452.40.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8456.10.10	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8456.10.80	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8456.20.10	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8456.20.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8456.30.10	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8456.30.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8456.99.30	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8456.99.90	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8457.10.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8457.20.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8457.30.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8458.11.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8458.19.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8458.91.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8458.91.50	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8458.99.10	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8458.99.50	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8459.10.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8459.21.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8459.29.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8459.31.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8459.39.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8459.40.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8459.51.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8459.59.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8459.61.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8459.69.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8459.70.40	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8459.70.80	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8460.11.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8460.19.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8460.21.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8460.29.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8460.31.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8460.39.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8460.40.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8460.40.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8460.90.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8460.90.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8461.10.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8461.10.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8461.20.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8461.20.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8461.30.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8461.30.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8461.40.10	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
8461.40.50	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8461.50.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8461.50.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8461.90.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8461.90.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8462.10.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8462.21.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8462.29.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8462.31.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8462.39.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8462.41.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8462.49.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8462.91.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8462.91.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8462.99.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8462.99.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8463.10.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8463.20.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8463.30.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8463.90.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8464.20.50	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8464.90.90	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8465.10.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8465.91.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8465.92.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8465.93.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8465.94.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8465.95.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8465.96.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8465.99.80	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8466.10.80	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8466.20.10	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8466.20.80	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8466.30.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8466.30.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8466.30.80	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
8466.92.50	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8466.93.30	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
8466.93.53	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8466.93.75	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
8466.93.95	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8466.94.65	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8466.94.85	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8467.11.10	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8467.19.10	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8468.10.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8468.20.10	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8468.80.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8468.90.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8472.10.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8472.20.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8472.30.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8472.90.40	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8472.90.95	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8473.10.40	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8473.10.60	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8473.10.90	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8473.40.95	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8477.10.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8477.20.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8477.30.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8477.40.80	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8477.51.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8477.59.80	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8477.80.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8477.90.25	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8477.90.45	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8477.90.65	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8477.90.85	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8479.50.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8479.60.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8479.89.55	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8479.89.65	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8479.89.97	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8480.10.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8480.20.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8480.30.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8480.41.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8480.49.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8480.71.80	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8480.79.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8481.10.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8481.20.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8481.30.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8481.30.20	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8481.30.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8481.40.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8481.80.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8481.80.30	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
8481.80.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8481.80.90	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8481.90.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8481.90.30	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8481.90.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8482.10.10	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8482.10.50	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
8482.20.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
8482.30.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
8482.40.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
8482.50.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
8482.80.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8482.91.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8482.99.05	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
8482.99.15	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
8482.99.25	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
8482.99.35	7.4%	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
8482.99.45	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
8482.99.65	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
8483.10.10	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.10.30	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.20.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.20.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.30.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.30.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.40.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.40.70	12.5¢ each + 1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.40.80	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.40.90	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.50.40	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
8483.50.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.50.90	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.60.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.60.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.90.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.90.20	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.90.30	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.90.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8483.90.70	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
8483.90.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8484.10.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8484.20.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8484.90.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8485.90.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.10.20	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8501.10.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.10.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.20.20	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.20.40	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.20.50	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.20.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.31.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.31.40	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.31.50	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.31.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.31.80	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.32.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.32.60	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.33.30	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.33.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.33.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.34.30	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.34.60	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.40.20	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.40.40	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.40.50	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.40.60	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.51.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.51.40	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.51.50	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.51.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.52.40	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.53.60	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.53.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8501.61.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.62.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.63.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8501.64.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8502.11.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8502.12.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8502.13.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8502.20.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8502.31.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8502.39.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8502.40.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8503.00.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8503.00.35	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
8503.00.65	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8503.00.75	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
8503.00.95	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8504.10.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8504.23.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8504.31.40	4.9%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8504.31.80	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8504.32.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8504.33.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8504.34.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8504.40.40	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8504.40.95	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8504.50.80	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8504.90.75	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8504.90.95	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8505.11.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8505.19.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8505.20.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8505.90.80	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8506.10.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8506.30.10	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8506.30.50	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8506.40.10	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8506.40.50	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8506.50.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8506.60.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8506.80.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8506.90.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8507.10.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8507.20.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8507.20.80	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8507.30.40	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8507.30.80	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8507.40.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8507.40.80	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8507.80.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8507.80.80	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8507.90.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8507.90.80	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8508.10.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8509.40.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8509.80.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8509.90.05	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8509.90.15	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8509.90.25	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8509.90.35	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8509.90.45	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8509.90.55	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8510.20.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8510.30.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8510.90.30	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8510.90.55	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8511.10.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8511.20.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8511.30.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8511.40.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8511.50.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8511.80.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8511.80.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8511.90.20	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8511.90.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8512.10.40	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8512.20.40	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8512.30.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8512.40.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8512.40.40	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8512.90.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8512.90.70	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8512.90.90	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8513.10.20	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
8513.10.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8513.90.20	10%	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free
8513.90.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8514.30.80	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8515.11.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8515.31.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8515.39.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8515.90.30	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8516.29.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8516.31.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8516.32.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8516.40.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8516.50.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8516.60.60	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8516.71.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8516.72.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
8516.79.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8516.90.05	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8516.90.15	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8516.90.25	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8516.90.85	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8516.90.90	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8518.10.80	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8518.21.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8518.22.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8518.29.80	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8518.30.20	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8518.40.20	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8518.50.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8518.90.40	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
8518.90.80	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8519.29.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8519.31.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8519.40.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8519.93.40	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8522.10.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8522.90.25	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8522.90.35	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8522.90.55	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8522.90.65	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8522.90.75	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8524.10.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8524.39.60	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8524.51.30	2.4¢/m² of recording surface	Free	Free	Free	Free	Free	Free	Free	Free	Free
8524.52.10	0.2¢/lin. m	0.1¢/lin. m	Free	Free	Free	Free	Free	Free	Free	Free
8524.52.20	2.4¢/m² of recording surface	Free	Free	Free	Free	Free	Free	Free	Free	Free
8524.53.20	2.4¢/m² of recording surface	Free	Free	Free	Free	Free	Free	Free	Free	Free
8525.10.30	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8525.10.70	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8525.30.30	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8525.30.60	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8525.30.90	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8525.40.80	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8526.92.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8527.19.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8527.21.10	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8527.29.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8527.29.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8527.31.05	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8527.31.40	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8527.31.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8527.32.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8527.39.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8527.90.95	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
8528.12.16	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.12.24	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.12.28	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.12.32	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8528.12.36	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.12.40	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.12.44	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.12.48	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.12.52	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.12.56	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.12.64	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.12.72	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.12.80	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.12.97	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.13.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.21.19	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.21.29	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.21.34	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.21.39	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.21.41	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.21.42	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.21.44	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.21.49	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.21.51	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.21.52	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.21.60	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.21.70	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.21.80	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.21.90	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.22.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.30.30	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.30.40	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.30.50	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.30.60	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.30.64	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8528.30.68	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.30.72	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.30.78	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8528.30.90	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.10.20	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.10.90	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.01	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.03	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.09	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.13	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.16	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.19	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.26	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.29	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.33	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.39	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.43	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.49	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.53	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.63	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.69	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.73	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.81	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.83	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.86	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.93	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.95	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8529.90.97	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8531.10.00	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8531.80.90	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8531.90.30	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8531.90.90	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8535.10.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8535.21.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8535.29.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8535.30.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8535.40.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8535.90.40	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8535.90.80	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8536.10.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8536.20.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8536.30.40	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8536.30.80	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8536.41.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8536.49.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8536.50.40	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8536.50.90	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8536.61.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8536.69.80	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8536.90.80	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8537.10.30	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8537.10.60	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8537.10.90	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8537.20.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8538.10.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8538.90.30	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8538.90.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8538.90.60	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8539.10.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8539.21.40	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8539.22.40	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
8539.22.80	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8539.29.10	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
8539.29.20	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
8539.29.40	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8539.31.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8539.32.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8539.39.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8539.41.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8539.49.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8539.90.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8540.11.10	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
8540.11.24	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
8540.11.28	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
8540.11.30	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
8540.11.44	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
8540.11.48	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
8540.11.50	12%	9%	6%	3%	Free	Free	Free	Free	Free	Free
8540.12.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8540.12.20	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8540.12.50	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8540.12.70	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8540.20.20	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
8540.20.40	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8540.40.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8540.50.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8540.60.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8540.71.40	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8540.72.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8540.79.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8540.81.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8540.89.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8540.91.15	4%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free

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Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8540.91.50	4%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
8543.19.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8543.20.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8543.30.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8543.40.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8543.89.40	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8543.89.60	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8543.89.70	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8543.89.80	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8543.89.96	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8543.90.15	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8543.90.35	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8543.90.68	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8543.90.88	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8544.11.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8544.19.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8544.20.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
8544.30.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8544.41.80	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8544.49.80	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8544.51.90	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8544.59.20	2.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8544.59.40	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8544.60.20	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8544.60.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8544.60.60	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8546.10.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8546.20.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8547.10.40	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8547.10.80	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8547.90.00	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8603.10.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8603.90.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8604.00.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8605.00.00	12.4%	9.3%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
8606.10.00	12.4%	9.3%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
8606.20.00	12.4%	9.3%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
8606.30.00	12.4%	9.3%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
8606.91.00	12.4%	9.3%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
8606.92.00	12.4%	9.3%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
8606.99.00	12.4%	9.3%	6.2%	3.1%	Free	Free	Free	Free	Free	Free
8607.12.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8607.19.03	0.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8607.19.06	0.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8607.19.30	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8607.19.90	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8607.21.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8607.21.50	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8607.29.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8607.29.50	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8607.30.10	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8607.30.50	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8607.99.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8607.99.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8608.00.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8701.20.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8702.10.30	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8702.10.60	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8702.90.30	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8702.90.60	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8703.10.10	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8703.10.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8703.21.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8703.22.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8703.23.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8703.24.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8703.31.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8703.32.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8703.33.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8703.90.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8704.21.00	22.5%	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
8704.22.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8704.22.50	22.5%	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
8704.23.00	22.5%	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
8704.31.00	22.5%	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
8704.32.00	22.5%	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
8704.90.00	22.5%	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free
8706.00.03	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8706.00.05	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8706.00.15	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8706.00.25	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8706.00.50	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8707.10.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8707.90.50	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.10.30	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.10.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.21.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.29.10	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.29.15	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.29.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.29.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.31.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.39.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8708.40.10	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.40.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.40.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.50.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.50.80	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.60.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.60.80	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.70.45	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.70.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.80.30	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.80.45	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.91.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.92.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.93.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.93.75	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.94.50	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.99.55	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.99.58	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.99.61	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.99.64	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.99.67	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.99.70	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.99.73	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8708.99.80	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8711.40.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8711.50.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8712.00.15	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
8712.00.25	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
8712.00.35	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
8712.00.44	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
8712.00.48	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
8712.00.50	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8714.91.20	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8714.91.30	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8714.91.50	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
8714.92.10	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8714.92.50	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
8714.93.28	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8714.93.35	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
8714.94.90	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
8714.95.00	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
8714.96.10	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
8714.96.90	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
8714.99.80	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
8715.00.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8716.80.50	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8716.90.30	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
8716.90.50	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8804.00.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8903.10.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8903.91.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8903.92.00	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8903.99.15	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8903.99.20	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
8903.99.90	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9001.10.00	5%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
9001.20.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9001.30.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9001.40.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9001.50.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9001.90.40	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9001.90.50	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9001.90.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9001.90.80	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9001.90.90	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9002.11.40	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9002.11.90	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9002.19.00	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9002.20.40	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9002.20.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9002.90.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9002.90.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9002.90.70	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9002.90.95	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9003.11.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9003.90.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9004.10.00	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9004.90.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9005.80.40	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
9005.80.60	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
9005.90.40	The rate applicable to the article of which it is a part or accessory	Free	Free	Free	Free	Free	Free	Free	Free	Free
9005.90.80	The rate applicable to the article of which it is a part or accessory	Free	Free	Free	Free	Free	Free	Free	Free	Free
9006.40.60	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
9006.52.30	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9006.52.60	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
9006.59.40	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9006.59.60	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
9006.91.00	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
9006.99.00	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9007.20.40	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9007.20.80	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9007.91.80	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9007.92.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9008.10.00	5.2%	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
9008.20.80	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9008.30.00	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9008.90.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9009.12.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9009.22.00	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9010.10.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9010.50.30	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9010.50.40	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9010.60.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9010.90.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9010.90.90	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9011.10.40	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9011.10.80	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
9011.20.40	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9011.20.80	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
9011.80.00	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
9011.90.00	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
9012.10.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9012.90.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9013.10.10	11.9%	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
9013.10.30	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9013.10.40	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
9013.20.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9013.80.20	4.9%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
9013.80.40	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
9013.80.90	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9013.90.20	12.8%	9.6%	6.4%	3.2%	Free	Free	Free	Free	Free	Free
9013.90.90	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9014.10.10	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9014.10.90	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9014.20.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9014.20.40	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9014.80.10	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9014.80.20	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9015.10.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9015.20.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9015.30.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9015.40.80	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9015.80.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9015.90.00	The rate applicable to the article of which it is a part or accessory	Free	Free	Free	Free	Free	Free	Free	Free	Free
9016.00.20	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9016.00.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9016.00.60	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9017.10.80	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9017.20.40	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9017.20.80	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9017.30.40	4.3%	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
9017.30.80	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9017.80.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9017.90.00	The rate applicable to the article of which it is a part or accessory	Free	Free	Free	Free	Free	Free	Free	Free	Free
9020.00.60	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9022.29.40	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9022.29.80	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9022.30.00	0.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9022.90.05	0.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9022.90.15	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9022.90.25	0.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9022.90.40	0.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9022.90.60	0.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9022.90.70	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9022.90.95	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9024.10.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9024.80.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9024.90.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9025.19.40	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9025.19.80	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9025.80.10	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9025.80.15	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9025.80.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9025.80.35	0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9025.80.40	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9025.80.60	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9025.90.00	The rate applicable to the article of which it is a part or accessory	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9027.10.20	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9027.10.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9027.10.60	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9027.40.00	0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9027.90.20	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9027.90.58	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9027.90.68	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9027.90.88	1.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9028.10.00	8¢ each + 1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9028.20.00	8¢ each + 1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9028.30.00	8¢ each + 0.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9028.90.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9029.10.40	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
9029.20.20	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
9029.20.60	8¢ each + 1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9029.90.20	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
9029.90.40	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
9029.90.60	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9030.10.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9030.20.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9030.31.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9030.39.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9030.83.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9030.89.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9030.90.25	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9030.90.45	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9030.90.68	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9030.90.88	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9031.10.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9031.20.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9031.30.00	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9031.49.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9031.49.90	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9031.80.80	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9031.90.20	1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9031.90.45	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9031.90.58	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9031.90.90	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9032.10.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9032.20.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9032.81.00	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9032.89.20	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9032.89.40	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9032.89.60	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9032.90.20	0.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9032.90.40	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9032.90.60	0.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9033.00.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9101.11.40	38.2¢ each + 4.6% on the case and strap, band or bracelet + 3.9% on the battery	25.5¢ each + 3.1% on the case and strap, band or bracelet + 2.6% on the battery	12.7¢ each + 1.5% on the case and strap, band or bracelet + 1.3% on the battery	Free	Free	Free	Free	Free	Free	Free
9101.11.80	65.2¢ each + 4.6% on the case and strap, band or bracelet + 3.9% on the battery	43.5¢ each + 3.1% on the case and strap, band or bracelet + 2.6% on the battery	21.7¢ each + 1.5% on the case and strap, band or bracelet + 1.3% on the battery	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9101.19.40	32.8¢ each + 4% on the case and strap, band or bracelet + 3.3% on the battery	24.6¢ each + 3% on the case and strap, band or bracelet + 2.5% on the battery	16.4¢ each + 2% on the case and strap, band or bracelet + 1.6% on the battery	8.2¢ each + 1% on the case and strap, band or bracelet + 0.8% on the battery	Free	Free	Free	Free	Free	Free
9101.19.80	30.5¢ each + 2.2% on the case and strap, band or bracelet + 1.8% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9101.21.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9101.21.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9101.21.80	80.5¢ each + 2.2% on the case and strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free
9101.29.10	20¢ each + 2.5% on the case and strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free
9101.29.20	30.5¢ each + 2.2% on the case and strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free
9101.29.30	$1.14 each + 2.5% on the case and strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free

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Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9101.29.40	$1.536 each + 4% on the case and strap, band or bracelet	$1.152 each + 3% on the case and strap, band or bracelet	76.8¢ each + 2% on the case and strap, band or bracelet	38.4¢ each + 1% on the case and strap, band or bracelet	Free	Free	Free	Free	Free	Free
9101.29.50	45¢ each + 2.2% on the case and strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free
9101.29.70	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9101.29.80	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9101.99.40	73.5¢ each + 2.2% on the case	49¢ each + 1.5% on the case	24.5¢ each + 0.7% on the case	Free	Free	Free	Free	Free	Free	Free
9102.11.10	33¢ each + 4.5% on the case + 10.5% on the strap, band or bracelet + 3.9% on the battery	22¢ each + 3% on the case + 7% on the strap, band or bracelet + 2.6% on the battery	11¢ each + 1.5% on the case + 3.5% on the strap, band or bracelet + 1.3% on the battery	Free	Free	Free	Free	Free	Free	Free
9102.11.25	30¢ each + 6.3% on the case + 10.5% orr the strap, band or bracelet + 3.9% on the battery	20¢ each + 4.2% on the case + 7% on the strap, band or bracelet + 2.6% on the battery	10¢ each + 2.1% on the case + 3.5% on the strap, band or bracelet + 1.3% on the battery	Free	Free	Free	Free	Free	Free	Free
9102.11.30	33¢ each + 4.5% on the case + 2.1% on the strap, band or bracelet + 3.9% on the battery	22¢ each + 3% on the case + 1.4% on the strap, band or bracelet + 2.6% on the battery	11¢ each + 1.5% on the case + 0.7% on the strap, band or bracelet + 1.3% on the battery	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9102.11.45	30¢ each + 6.3% on the case + 2.1% on the strap, band or bracelet + 3.9% on the battery	20¢ each + 4.2% on the case + 1.4% on the strap, band or bracelet + 2.6% on the battery	10¢ each + 2.1% on the case + 0.7% on the strap, band or bracelet + 1.3% on the battery	Free	Free	Free	Free	Free	Free	Free
9102.11.50	60¢ each + 4.5% on the case + 10.5% on the strap, band or bracelet + 3.9% on the battery	40¢ each + 3% on the case + 7% on the strap, band or bracelet + 2.6% on the battery	20¢ each + 1.5% on the case + 3.5% on the strap, band or bracelet + 1.3% on the battery	Free	Free	Free	Free	Free	Free	Free
9102.11.65	57¢ each + 6.3% on the case + 10.5% on the strap, band or bracelet + 3.9% on the battery	38¢ each + 4.2% on the case + 7% on the strap, band or bracelet + 2.6% on the battery	19¢ each + 2.1% on the case + 3.5% on the strap, band or bracelet + 1.3% on the battery	Free	Free	Free	Free	Free	Free	Free
9102.11.70	40¢ each + 3% on the case + 1.4% on the strap, band or bracelet + 2.6% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.11.95	57¢ each + 6.3% on the case + 2.1% on the strap, band or bracelet + 3.9% on the battery	38¢ each + 4.2% on the case + 1.4% on the strap, band or bracelet + 2.6% on the battery	19¢ each + 2.1% on the case + 0.7% on the strap, band or bracelet + 1.3% on the battery	Free	Free	Free	Free	Free	Free	Free

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Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9102.19.20	16¢ each + 2.4% on the case + 5.5% on the strap, band or bracelet + 2.1% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.19.40	16¢ each + 2.4% on the case + 1.1% on the strap, band or bracelet + 2.1% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.19.60	28.5¢ each + 2.2% on the case + 5.3% on the strap, band or bracelet + 2% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.19.80	28.5¢ each + 2.2% on the case + 1% on the strap, band or bracelet + 2% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.21.10	37.5¢ each + 3% on the case + 7% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.21.25	37.5¢ each + 3% on the case + 1.4% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9102.21.30	$1.312 each + 3.6% on the case + 8.4% on the strap, band or bracelet	87.5¢ each + 2.4% on the case + 5.6% on the strap, band or bracelet	43.7¢ each + 1.2% on the case + 2.8% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free
9102.21.50	87.5¢ + 2.4% on the case + 1.1% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.21.70	76.5¢ each + 2.1% on the case + 4.9% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.21.90	76.5¢ each + 2.1% on the case + 1% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.29.02	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
9102.29.04	20¢ each + 3% on the case	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.29.10	30¢ each + 4.5% on the case + 2.1% on the strap, band or bracelet	20¢ each + 3% on the case + 1.4% on the strap, band or bracelet	10¢ each + 1.5% on the case + 0.7% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free
9102.29.15	43.5¢ each + 3.4% on the case + 7.9% on the strap, band or bracelet	29¢ each + 2.3% on the case + 5.3% on the strap, band or bracelet	14.5¢ each + 1.1% on the case + 2.6% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9102.29.20	28¢ each + 2.2% on the case + 1% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.29.25	$1.752 each + 3.6% on the case + 8.9% on the strap, band or bracelet	$1.314 each + 2.8% on the case + 6.7% on the strap, band or bracelet	87.6¢ each + 1.9% on the case + 4.4% on the strap, band or bracelet	43.8¢ each + 0.9% on the case + 2.2% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free
9102.29.30	$1.095 each + 2.4% on the case + 1.1% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.29.35	$1.207 each + 3.1% on the case + 7.3% on the strap, band or bracelet	80.5¢ each + 2.1% on the case + 4.8% on the strap, band or bracelet	40.2¢ each + 1% on the case + 2.4% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free
9102.29.40	$1.464 each + 3.8% on the case + 1.7% on the strap, band or bracelet	$1.098 each + 2.8% on the case + 1.3% on the strap, band or bracelet	73.2¢ each + 1.9% on the case + 0.8% on the strap, band or bracelet	36.6¢ each + 0.9% on the case + 0.4% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free
9102.29.45	46.5¢ each + 2.4% on the case + 5.6% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.29.50	46.5¢ each + 2.4% on the case + 1.1% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9102.29.55	77.5¢ each + 2.1% on the case + 4.9% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.29.60	87.5¢ each + 2.4% on the case + 1.1% on the strap, band or bracelet	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.91.20	1.9% on the movement and case + 2.6% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.91.40	32¢ each + 4.8% on the case + 4.2% on the battery	24¢ each + 3.6% on the case + 3.1% on the battery	16¢ each + 2.4% on the case + 2.1% on the battery	8¢ each + 1.2% on the case + 1% on the battery	Free	Free	Free	Free	Free	Free
9102.91.80	57¢ each + 4.5% on the case + 3.9% on the battery	38¢ each + 3% on the case + 2.6% on the battery	19¢ each + 1.5% on the case + 1.3% on the battery	Free	Free	Free	Free	Free	Free	Free
9102.99.20	10¢ each + 1.5% on the case	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.99.40	69¢ each + 2.2% on the case	46¢ each + 1.5% on the case	23¢ each + 0.7% on the case	Free	Free	Free	Free	Free	Free	Free
9102.99.60	58¢ each + 3% on the case	Free	Free	Free	Free	Free	Free	Free	Free	Free
9102.99.80	$1.095 each + 3% on the case	Free	Free	Free	Free	Free	Free	Free	Free	Free
9103.10.20	1.3% on the movement and case + 1.8% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9103.10.40	18¢ each + 3.3% on the case + 2.6% on the battery	12¢ each + 2.2% on the case + 1.7% on the battery	6¢ each + 1.1% on the case + 0.8% on the battery	Free	Free	Free	Free	Free	Free	Free
9103.10.80	36¢ each + 3.4% on the case + 2.6% on the battery	24¢ each + 2.3% on the case + 1.7% on the battery	12¢ each + 1.1% on the case + 0.8% on the battery	Free	Free	Free	Free	Free	Free	Free
9103.90.00	18¢ each + 3.4% on the case	12¢ each + 2.3% on the case	6¢ each + 1.1% on the case	Free	Free	Free	Free	Free	Free	Free
9104.00.05	1.3% on the movement and case + 1.7% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9104.00.10	16¢ each + 3.4% on the movement and case + 2.6% on the battery	12¢ each + 2.5% on the movement and case + 2.1% on the battery	8¢ each + 1.7% on the movement and case + 1.4% on the battery	4¢ each + 0.8% on the movement and case + 0.7% on the battery	Free	Free	Free	Free	Free	Free
9104.00.20	24¢ each + 5.1%	18¢ each + 3.8%	12¢ each + 2.5%	6¢ each + 1.2%	Free	Free	Free	Free	Free	Free
9104.00.25	1.9% on the movement and case + 2.6% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9104.00.30	15¢ each + 2.1% on the movement and case + 1.7% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9104.00.40	15¢ each + 2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9104.00.45	1.3% on the movement and case + 1.7% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9104.00.50	10¢ each + 2.3% on the case + 1.7% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9104.00.60	9.5¢ each + 2.2% on the case	Free	Free	Free	Free	Free	Free	Free	Free	Free
9105.11.40	1.9% on the movement and case + 2.6% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9105.11.80	24¢ each + 5.5% on the case + 4.2% on the battery	18¢ each + 4.1% on the case + 3.1% on the battery	12¢ each + 2.7% on the case + 2.1% on the battery	6¢ each + 1.3% on the case + 1% on the battery	Free	Free	Free	Free	Free	Free
9105.19.10	24¢ each + 5.5% on the case	18¢ each + 4.1% on the case	12¢ each + 2.7% on the case	6¢ each + 1.3% on the case	Free	Free	Free	Free	Free	Free
9105.19.20	30¢ each + 3.4% on the case	Free	Free	Free	Free	Free	Free	Free	Free	Free
9105.19.30	21.5¢ each + 1.4¢/jewel over 7 + 1.8% on the case	Free	Free	Free	Free	Free	Free	Free	Free	Free
9105.19.40	12¢ each + 5.1%	9¢ each + 3.8%	6¢ each + 2.5%	3¢ each + 1.2%	Free	Free	Free	Free	Free	Free
9105.19.50	11.5¢ each + 1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9105.21.40	1.9% on the movement and case + 2.6% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9105.21.80	22.5¢ each + 5.1% on the case + 3.9% on the battery	15¢ each + 3.4% on the case + 2.6% on the battery	7.5¢ each + 1.7% on the case + 1.3% on the battery	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9105.29.10	10¢ each + 2.3% on the case	Free	Free	Free	Free	Free	Free	Free	Free	Free
9105.29.20	20¢ each + 2.3% on the case	Free	Free	Free	Free	Free	Free	Free	Free	Free
9105.29.30	28.5¢ each + 1.8¢/jewel over 7 + 4.9% on the case	Free	Free	Free	Free	Free	Free	Free	Free	Free
9105.29.40	12¢ each + 5.1%	9¢ each + 3.8%	6¢ each + 2.5%	3¢ each + 1.2%	Free	Free	Free	Free	Free	Free
9105.29.50	22.5¢ each + 3.2%	15¢ each + 2.1%	7.5¢ each + 1%	Free	Free	Free	Free	Free	Free	Free
9105.91.40	1.9% on the movement and case + 2.6% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9105.91.80	22.5¢ each + 5.1% on the case + 3.9% on the battery	15¢ each + 3.4% on the case + 2.6% on the battery	7.5¢ each + 1.7% on the case + 1.3% on the battery	Free	Free	Free	Free	Free	Free	Free
9105.99.10	8.5¢ each + 1.2% + 0.5¢/jewel	Free	Free	Free	Free	Free	Free	Free	Free	Free
9105.99.50	5.6¢ each + 2.4%	3.7¢ each + 1.6%	1.8¢ each + 0.8%	Free	Free	Free	Free	Free	Free	Free
9105.99.60	11.5¢ each + 1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9106.10.00	27¢ each + 4.2% + 1.5¢/jewel	18¢ each + 2.8% + 1¢/jewel	9¢ each + 1.4% + 0.5¢/jewel	Free	Free	Free	Free	Free	Free	Free
9106.20.00	27¢ each + 4.2% + 1.5¢/jewel	18¢ each + 2.8% + 1¢/jewel	9¢ each + 1.4% + 0.5¢/jewel	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9106.90.40	27¢ each + 4.2% + 1.5¢/jewel	18¢ each + 2.8% + 1¢/jewel	9¢ each + 1.4% + 0.5¢/jewel	Free	Free	Free	Free	Free	Free	Free
9106.90.55	1.9% on the apparatus + 2.6% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9106.90.65	12¢ each + 1.8% + 0.6¢/jewel	9¢ each + 1.3% + 0.4¢/jewel	6¢ each + 0.9% + 0.3¢/jewel	3¢ each + 0.4% + 0.1¢/jewel	Free	Free	Free	Free	Free	Free
9106.90.75	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9106.90.85	11.2¢ each + 1.7% + 0.6¢/jewel	7.5¢ each + 1.1% + 0.4¢/jewel	3.7¢ each + 0.5% + 0.2¢/jewel	Free	Free	Free	Free	Free	Free	Free
9107.00.40	12¢ each + 3.2% + 2¢/jewel	9¢ each + 2.4% + 1.5¢/jewel	6¢ each + 1.6% + 1¢/jewel	3¢ each + 0.8% + 0.5¢/jewel	Free	Free	Free	Free	Free	Free
9107.00.80	33.7¢ each + 4.8% + 1.8¢/jewel	22.5¢ each + 3.2% + 1.2¢/jewel	11.2¢ each + 1.6% + 0.6¢/jewel	Free	Free	Free	Free	Free	Free	Free
9108.11.40	28.8¢ each + 4.2% on the battery	21.6¢ each + 3.1% on the battery	14.4¢ each + 2.1% on the battery	7.2¢ each + 1% on the battery	Free	Free	Free	Free	Free	Free
9108.11.80	36¢ each + 2.6% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9108.12.00	1.5% on the movement + 2.1% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9108.19.40	21¢ each + 3.1% on the battery	14¢ each + 2.1% on the battery	7¢ each + 1% on the battery	Free	Free	Free	Free	Free	Free	Free
9108.19.80	39.7¢ each + 2.9% on the battery	26.5¢ each + 1.9% on the battery	13.2¢ each + 0.9% on the battery	Free	Free	Free	Free	Free	Free	Free

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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9108.91.10	14.5¢ each	Free	Free	Free	Free	Free	Free	Free	Free	Free
9108.91.20	28.5¢ each	Free	Free	Free	Free	Free	Free	Free	Free	Free
9108.91.30	$1.728 each	$1.296 each	86.4¢ each	43.2¢ each	Free	Free	Free	Free	Free	Free
9108.91.40	$1.62 each	$1.44 each	$1.26 each	$1.08 each	90¢ each	72¢ each	54¢ each	36¢ each	18¢ each	Free
9108.91.50	45¢ each	Free	Free	Free	Free	Free	Free	Free	Free	Free
9108.91.60	$1.125 each	75¢ each	37.5¢ each	Free	Free	Free	Free	Free	Free	Free
9108.99.20	12.5¢ each	Free	Free	Free	Free	Free	Free	Free	Free	Free
9108.99.40	$1.296 each	$1.152 each	$1.008 each	86.4¢ each	72¢ each	57.6¢ each	43.2¢ each	28.8¢ each	14.4¢ each	Free
9108.99.60	86¢ each	Free	Free	Free	Free	Free	Free	Free	Free	Free
9109.11.10	1.9% on the movement + 2.6% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9109.11.20	15¢ each + 2.6% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9109.11.40	5.6¢ each + 2.4% on the movement + 1.9% on the battery	3.7¢ each + 1.6% on the movement + 1.3% on the battery	1.8¢ each + 0.8% on the movement + 0.6% on the battery	Free	Free	Free	Free	Free	Free	Free
9109.11.60	16.5¢ each + 2.4% on the movement + 1.9% on the battery	11¢ each + 1.6% on the movement + 1.3% on the battery	5.5¢ each + 0.8% on the movement + 0.6% on the battery	Free	Free	Free	Free	Free	Free	Free
9109.19.10	1.9% on the movement + 2.6% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free
9109.19.20	10¢ each + 1.7% on the battery	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9109.19.40	9.6¢ each + 4% on the movement + 3.3% on the battery	7.2¢ each + 3% on the movement + 2.5% on the battery	4.8¢ each + 2% on the movement + 1.6% on the battery	2.4¢ each + 1% on the movement + 0.8% on the battery	Free	Free	Free	Free	Free	Free
9109.19.60	22.5¢ each + 3.2% on the movement + 2.6% on the battery	15¢ each + 2.1% on the movement + 1.7% on the battery	7.5¢ each + 1% on the movement + 0.8% on the battery	Free	Free	Free	Free	Free	Free	Free
9109.90.20	15¢ each	10¢ each	5¢ each	Free	Free	Free	Free	Free	Free	Free
9109.90.40	12¢ each + 5.1%	9¢ each + 3.8%	6¢ each + 2.5%	3¢ each + 1.2%	Free	Free	Free	Free	Free	Free
9109.90.60	15¢ each + 2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9110.11.00	The rate applicable to the complete, assembled movement	The rate applicable to the complete, assembled movement	The rate applicable to the complete, assembled movement	The rate applicable to the complete, assembled movement	The rate applicable to the complete, assembled movement	The rate applicable to the complete, assembled movement	The rate applicable to the complete, assembled movement	The rate applicable to the complete, assembled movement	The rate applicable to the complete, assembled movement	Free
9110.12.00	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
9110.19.00	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
9110.90.20	The rate applicable to the complete, assembled movement	The rate applicable to the complete, assembled movement	The rate applicable to the complete, assembled movement	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9110.90.40	2.1% + 0.8¢/jewel + 0.1¢ for each other piece or part, but if consisting in part of a plate or a set of plates the total duty shall not exceed the duty for the complete movement	Free	Free	Free	Free	Free	Free	Free	Free	Free
9110.90.60	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9111.10.00	6¢ each + 2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9111.20.20	5.2¢ each + 4%	3.5¢ each + 2.7%	1.7¢ each + 1.3%	Free	Free	Free	Free	Free	Free	Free
9111.20.40	2.7¢ each + 5.7%	1.8¢ each + 3.8%	0.9¢ each + 1.9%	Free	Free	Free	Free	Free	Free	Free
9111.80.00	2.8¢ each + 6%	2.1¢ each + 4.5%	1.4¢ each + 3%	0.7¢ each + 1.5%	Free	Free	Free	Free	Free	Free
9111.90.40	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
9111.90.60	1.2¢ each + 5.1%	0.8¢ each + 3.4%	0.4¢ each + 1.7%	Free	Free	Free	Free	Free	Free	Free
9111.90.70	4.8%	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
9112.10.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9112.80.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
9112.90.00	4.1%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
9113.10.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9113.20.20	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
9113.20.40	8.9%	6.7%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
9113.20.60	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
9113.20.80	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9113.90.40	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
9113.90.80	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9114.10.40	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
9114.10.80	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9114.30.40	0.3¢ each + 5.4%	0.2¢ each + 3.6%	0.1¢ each + 1.8%	Free	Free	Free	Free	Free	Free	Free
9114.30.80	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9114.40.20	6¢ each	Free	Free	Free	Free	Free	Free	Free	Free	Free
9114.40.40	7.5¢ each	5¢ each	2.5¢ each	Free	Free	Free	Free	Free	Free	Free
9114.40.60	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
9114.40.80	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9114.90.15	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
9114.90.30	4.5% + 1.7¢/jewel + 0.1¢ for each other piece or part, but if consisting in part of a plate or a set of plates the total duty shall not exceed the duty for the complete movement	3% + 1.1¢/jewel + 0.1¢ for each other piece or part, but if consisting in part of a plate or a set of plates the total duty shall not exceed the duty for the complete movement	1.5% + 0.5¢/jewel, but if consisting in part of a plate or a set of plates the total duty shall not exceed the duty for the complete movement	Free	Free	Free	Free	Free	Free	Free
9114.90.40	3.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
9114.90.50	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9201.10.00	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9201.20.00	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9201.90.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9202.10.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9202.90.20	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9202.90.40	3.5%	4.3%	2.1%	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9202.90.60	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9203.00.80	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9204.10.80	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9205.10.00	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9205.90.40	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9206.00.20	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9206.00.80	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
9207.10.00	4%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
9207.90.00	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9208.10.00	1.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9208.90.00	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
9209.91.80	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9209.92.20	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9209.92.40	5¢/1000 pins + 1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9209.92.80	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9209.93.80	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9209.94.40	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
9209.94.80	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9209.99.10	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
9209.99.80	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
9301.00.30	3.7% on the value of the rifle + 16% on the value of the telescopic sight, if any	2.8% on the value of the rifle + 12% on the value of the telescopic sight, if any	1.8% on the value of the rifle + 8% on the value of the telescopic sight, if any	0.9% on the value of the rifle + 4% on the value of the telescopic sight, if any	Free	Free	Free	Free	Free	Free
9301.00.60	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9302.00.00	7¢ each + 1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9303.20.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9303.30.40	1.9% on the value of the rifle + 5% on the value of the telescopic sight, if any	Free	Free	Free	Free	Free	Free	Free	Free	Free
9303.30.60	1.5% on the value of the rifle + 6.5% on the value of the telescopic sight, if any	Free	Free	Free	Free	Free	Free	Free	Free	Free
9303.90.40	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9304.00.20	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9304.00.60	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
9305.10.20	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9305.10.40	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9305.29.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9305.90.50	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9305.90.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9307.00.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9404.21.00	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9404.29.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9404.29.90	3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9404.30.40	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9404.30.80	4.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9404.90.10	2.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9404.90.20	3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9404.90.80	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9404.90.85	10.1%	6.7%	3.3%	Free	Free	Free	Free	Free	Free	Free
9404.90.95	6.1%	6.1%	4%	2%	Free	Free	Free	Free	Free	Free
9405.10.40	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9405.10.60	5.7%	3.8%	1.9%	Free	Free	Free	Free	Free	Free	Free
9405.10.80	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9405.20.40	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9405.20.60	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
9405.20.80	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9405.30.00	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
9405.40.40	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9405.40.60	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
9405.40.80	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9405.50.20	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9405.50.30	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
9405.50.40	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
9405.60.20	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
9405.60.40	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
9405.60.60	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
9405.91.10	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
9405.91.30	9.6%	7.2%	4.8%	2.4%	Free	Free	Free	Free	Free	Free
9405.91.40	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
9405.91.60	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9405.92.00	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9405.99.20	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9405.99.40	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
9406.00.40	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9406.00.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.11.40	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.12.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.19.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.31.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.39.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.40.00	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
9506.51.20	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
9506.51.40	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.51.60	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9506.59.40	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
9506.59.80	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.62.80	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.69.40	4%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
9506.69.60	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.70.40	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.91.00	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.99.08	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.99.12	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
9506.99.30	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.99.45	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.99.50	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9506.99.55	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
9506.99.60	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9507.10.00	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
9507.20.40	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9507.20.80	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9507.30.20	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
9507.30.40	12¢ each	Free	Free	Free	Free	Free	Free	Free	Free	Free
9507.30.60	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9507.30.80	4%	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
9507.90.20	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9507.90.40	4.2%	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
9507.90.60	2.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9507.90.70	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
9507.90.80	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
9601.90.40	1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9601.90.80	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9602.00.10	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9602.00.40	0.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9602.00.50	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free

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Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9603.10.05	5%	4%	2%	Free	Free	Free	Free	Free	Free	Free
9603.10.15	3.7¢ each	2.5¢ each	1.2¢ each	Free	Free	Free	Free	Free	Free	Free
9603.10.35	11.2%	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
9603.10.40	5%	4%	2%	Free	Free	Free	Free	Free	Free	Free
9603.10.50	28.8¢ each	25.6¢ each	22.4¢ each	19.2¢ each	16¢ each	12.8¢ each	9.6¢ each	6.4¢ each	3.2¢ each	Free
9603.10.60	28.8%	25.6%	22.4%	19.2%	16%	12.8%	9.6%	6.4%	3.2%	Free
9603.10.90	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
9603.29.40	0.1¢ each + 5.2%	0.1¢ each + 3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
9603.29.80	0.1¢ each + 1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9603.30.20	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9603.40.20	5.6%	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
9603.40.40	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9603.90.80	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9604.00.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9605.00.00	5%	4%	2%	Free	Free	Free	Free	Free	Free	Free
9606.10.40	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9606.10.80	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9606.21.40	0.2¢/line/gross + 3.4%	0.1¢/line/gross + 2.3%	1.1%	Free	Free	Free	Free	Free	Free	Free
9606.21.60	2.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9606.29.20	0.2¢/line/gross + 3.3%	0.1¢/line/gross + 2.2%	1.1%	Free	Free	Free	Free	Free	Free	Free
9606.29.40	0.1¢/line/ gross + 1.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9606.29.60	1.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9606.30.80	4.5%	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
9607.11.00	7.5%	5%	2.5%	Free	Free	Free	Free	Free	Free	Free
9607.19.00	10.4%	7.8%	5.2%	2.6%	Free	Free	Free	Free	Free	Free
9607.20.00	9.2%	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
9608.10.00	0.6¢ each + 4%	0.4¢ each + 2.7%	0.2¢ each +	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9608.20.00	2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9608.31.00	0.2¢ each + 1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9608.39.00	0.2¢ each + 1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9608.40.40	4.9%	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
9608.50.00	The rate applicable to each article in the absence of this subheading	The rate applicable to each article in the absence of this subheading	The rate applicable to each article in the absence of this subheading	Free	Free	Free	Free	Free	Free	Free
9608.60.00	0.3¢ each + 2.1%	0.2¢ each + 1.6%	0.1¢ each + 1%	0.5%	Free	Free	Free	Free	Free	Free
9608.99.20	0.2¢ each + 1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9608.99.30	16¢/thousand + 2.8%	12¢/thousand + 2.1%	8¢/thousand + 1.4%	4¢/thousand + 0.7%	Free	Free	Free	Free	Free	Free
9609.10.00	10.5¢/gross + 3.2%	7¢/gross + 2.1%	3.5¢/gross + 1%	Free	Free	Free	Free	Free	Free	Free
9610.00.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9611.00.00	1.3%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9612.10.90	6.2%	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
9612.20.00	1.7%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9613.10.00	4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9613.20.00	4.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9613.30.00	2.4%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9613.80.20	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9613.80.40	1.8%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9613.80.60	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
9613.80.80	6.7%	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
9613.90.40	1.9%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9613.90.80	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
9614.20.15	0.2¢ each + 1.0%	Free	Free	Free	Free	Free	Free	Free	Free	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9614.20.60	1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9614.90.40	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
9614.90.80	0.2¢ each + 1.5%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9615.11.10	10.8¢/gross + 1.5%	7.2¢/gross + 1%	3.6¢/gross + 0.5%	Free	Free	Free	Free	Free	Free	Free
9615.11.20	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
9615.11.30	21.6¢/gross + 3.4%	14.4¢/gross + 2.3%	7.2¢/gross + 1.1%	Free	Free	Free	Free	Free	Free	Free
9615.11.40	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
9615.19.20	4.8¢/gross + 0.6%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9615.19.40	21.6¢/gross + 3.4%	14.4¢/gross + 2.3%	7.2¢/gross + 1.1%	Free	Free	Free	Free	Free	Free	Free
9615.19.60	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
9615.90.20	6%	4%	2%	Free	Free	Free	Free	Free	Free	Free
9615.90.30	3.8%	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
9615.90.40	3.9%	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
9615.90.60	8.8%	6.6%	4.4%	2.2%	Free	Free	Free	Free	Free	Free
9616.20.00	2.1%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9617.00.10	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
9617.00.30	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
9617.00.40	5.1%	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
9617.00.60	5.4%	3.6%	1.8%	Free	Free	Free	Free	Free	Free	Free
9618.00.00	2.2%	Free	Free	Free	Free	Free	Free	Free	Free	Free
9816.00.20	2.5% of the fair retail value	Free	Free	Free	Free	Free	Free	Free	Free	Free
9816.00.40	1.5% of the fair retail value	Free	Free	Free	Free	Free	Free	Free	Free	Free
9909.04.10	$1.481/kg	$1.316/kg	$1.152/kg	98.7¢/kg	82.3¢/kg	65.8¢/kg	49.3¢/kg	32.9¢/kg	16.4¢/kg	Free
9909.04.11	69.4¢/liter	61.7¢/liter	54¢/liter	46.3¢/liter	38.6¢/liter	30.8¢/liter	23.1¢/liter	15.4¢/liter	7.7¢/liter	Free
9909.04.12	$1.481/kg	$1.316/kg	$1.152/kg	98.7¢/kg	82.3¢/kg	65.8¢/kg	49.3¢/kg	32.9¢/kg	16.4¢/kg	Free
9909.04.13	77.8¢/kg	69.2¢/kg	60.5¢/kg	51.9¢/kg	43.2¢/kg	34.6¢/kg	25.9¢/kg	17.3¢/kg	8.6¢/kg	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9909.04.14	98.2¢/kg	87.3¢/kg	76.4¢/kg	65.5¢/kg	54.6¢/kg	43.6¢/kg	32.7¢/kg	21.8¢/kg	10.9¢/kg	Free
9909.04.15	$1.40/kg	$1.244/kg	$1.089/kg	93.3¢/kg	77.8¢/kg	62.2¢/kg	46.6¢/kg	31.1¢/kg	15.5¢/kg	Free
9909.04.16	99.3¢/kg + 13.4%	88.3¢/kg + 11.9%	77.2¢/kg + 10.4%	66.2¢/kg + 8.9%	55.2¢/kg + 7.4%	44.1¢/kg + 5.9%	33.1¢/kg + 4.4%	22¢/kg + 2.9%	11¢/kg + 1.4%	Free
9909.04.17	28.1¢/kg	25¢/kg	21.9¢/kg	18.7¢/kg	15.6¢/kg	12.5¢/kg	9.3¢/kg	6.2¢/kg	3.1¢/kg	Free
9909.04.18	44.6¢/kg	39.6¢/kg	34.7¢/kg	29.7¢/kg	24.8¢/kg	19.8¢/kg	14.8¢/kg	9.9¢/kg	4.9¢/kg	Free
9909.04.19	41.6¢/kg + 13.4%	37¢/kg + 11.9%	32.4¢/kg + 10.4%	27.7¢/kg + 8.9%	23.1¢/kg + 7.4%	18.5¢/kg + 5.9%	13.8¢/kg + 4.4%	9.2¢/kg + 2.9%	4.6¢/kg + 1.4%	Free
9909.04.20	93.1¢/kg + 15.3%	82.8¢/kg + 13.6%	72.4¢/kg + 11.9%	62.1¢/kg + 10.2%	51.7¢/kg + 8.5%	41.4¢/kg + 6.8%	31¢/kg + 5.1%	20.7¢/kg + 3.4%	10.3¢/kg + 1.7%	Free
9909.04.21	78.8¢/kg	70¢/kg	61.3¢/kg	52.5¢/kg	43.8¢/kg	35¢/kg	26.2¢/kg	17.5¢/kg	8.7¢/kg	Free
9909.04.22	93¢/kg + 15.3%	82.7¢/kg + 13.6%	72.3¢/kg + 11.9%	62¢/kg + 10.2%	51.7¢/kg + 8.5%	41.3¢/kg + 6.8%	31¢/kg + 5.1%	20.6¢/kg + 3.4%	10.3¢/kg + 1.7%	Free
9909.04.23	93.1¢/kg + 7.6%	82.8¢/kg + 6.8%	72.4¢/kg + 5.9%	62.1¢/kg + 5.1%	51.7¢/kg + 4.2%	41.4¢/kg + 3.4%	31¢/kg + 2.5%	20.7¢/kg + 1.7%	10.3¢/kg + 0.8%	Free
9909.04.24	$1.07/kg + 7.6%	95.1¢/kg + 6.8%	83.2¢/kg + 5.9%	71.3¢/kg + 5.1%	59.4¢/kg + 4.2%	47.5¢/kg + 3.4%	35.6¢/kg + 2.5%	23.7¢/kg + 1.7%	11.8¢/kg + 0.8%	Free
9909.04.25	$1.386/kg	$1.232/kg	$1.078/kg	92.4¢/kg	77¢/kg	61.6¢/kg	46.2¢/kg	30.8¢/kg	15.4¢/kg	Free
9909.04.26	$1.796/kg	$1.596/kg	$1.397/kg	$1.197/kg	99.8¢/kg	79.8¢/kg	59.8¢/kg	39.9¢/kg	19.9¢/kg	Free
9909.04.27	63.3¢/kg + 7.6%	56.3¢/kg + 6.8%	49.2¢/kg + 5.9%	42.2¢/kg + 5.1%	35.2¢/kg + 4.2%	28.1¢/kg + 3.4%	21.1¢/kg + 2.5%	14¢/kg + 1.7%	7¢/kg + 0.8%	Free
9909.04.28	$1.678/kg + 7.6%	$1.492/kg + 6.8%	$1.305/kg + 5.9%	$1.119/kg + 5.1%	93.2¢/kg + 4.2%	74.6¢/kg + 3.4%	55.9¢/kg + 2.5%	37.3¢/kg + 1.7%	18.6¢/kg + 0.8%	Free
9909.04.29	$1.358/kg	$1.207/kg	$1.056/kg	90.5¢/kg	75.4¢/kg	60.3¢/kg	45.2¢/kg	30.1¢/kg	15¢/kg	Free
9909.04.30	$2.042/kg	$1.815/kg	$1.588/kg	$1.361/kg	$1.134/kg	90.7¢/kg	68¢/kg	45.3¢/kg	22.6¢/kg	Free
9909.04.31	$1.104/kg	98.1¢/kg	85.8¢/kg	73.6¢/kg	61.3¢/kg	49¢/kg	36.8¢/kg	24.5¢/kg	12.2¢/kg	Free
9909.04.32	94.9¢/kg	84.4¢/kg	73.8¢/kg	63.3¢/kg	52.7¢/kg	42.2¢/kg	31.6¢/kg	21.1¢/kg	10.5¢/kg	Free
9909.04.33	$1.622/kg	$1.442/kg	$1.262/kg	$1.081/kg	90.1¢/kg	72.1¢/kg	54¢/kg	36¢/kg	18¢/kg	Free
9909.04.34	$1.931/kg	$1.716/kg	$1.502/kg	$1.287/kg	$1.073/kg	85.8¢/kg	64.3¢/kg	42.9¢/kg	21.4¢/kg	Free
9909.04.35	$1.247/kg	$1.108/kg	97¢/kg	83.1¢/kg	69.3¢/kg	55.4¢/kg	41.5¢/kg	27.7¢/kg	13.8¢/kg	Free
9909.04.36	$1.015/kg	90.2¢/kg	78.9¢/kg	67.6¢/kg	56.4¢/kg	45.1¢/kg	33.8¢/kg	22.5¢/kg	11.2¢/kg	Free
9909.04.37	$1.689/kg	$1.501/kg	$1.313/kg	$1.126/kg	93.8¢/kg	75¢/kg	56.3¢/kg	37.5¢/kg	18.7¢/kg	Free
9909.04.38	30.7¢/kg	27.3¢/kg	23.9¢/kg	20.5¢/kg	17.1¢/kg	13.6¢/kg	10.2¢/kg	6.8¢/kg	3.4¢/kg	Free

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Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9909.04.39	19.5¢/kg	17.3¢/kg	15.1¢/kg	13¢/kg	10.8¢/kg	8.6¢/kg	6.5¢/kg	4.3¢/kg	2.1¢/kg	Free
9909.04.40	30.2¢/kg	26.8¢/kg	23.5¢/kg	20.1¢/kg	16.8¢/kg	13.4¢/kg	10¢/kg	6.7¢/kg	3.3¢/kg	Free
9909.04.41	33.4¢/kg + 3.8%	29.7¢/kg + 3.4%	26¢/kg + 3%	22.3¢/kg + 2.5%	18.6¢/kg + 2.1%	14.8¢/kg + 1.7%	11.1¢/kg + 1.2%	7.4¢/kg + 0.8%	3.7¢/kg + 0.4%	Free
9909.04.42	47.5¢/kg + 3.8%	42.2¢/kg + 3.4%	36.9¢/kg + 3%	31.6¢/kg + 2.5%	26.4¢/kg + 2.1%	21.1¢/kg + 1.7%	15.8¢/kg + 1.2%	10.5¢/kg + 0.8%	5.2¢/kg + 0.4%	Free
9909.04.43	33.4¢/kg + 7.6%	29.7¢/kg + 6.8%	26¢/kg + 5.9%	22.3¢/kg + 5.1%	18.6¢/kg + 4.2%	14.8¢/kg + 3.4%	11.1¢/kg + 2.5%	7.4¢/kg + 1.7%	3.7¢/kg + 0.8%	Free
9909.04.44	47.5¢/kg + 7.6%	42.2¢/kg + 6.8%	36.9¢/kg + 5.9%	31.6¢/kg + 5.1%	26.4¢/kg + 4.2%	21.1¢/kg + 3.4%	15.8¢/kg + 2.5%	10.5¢/kg + 1.7%	5.2¢/kg + 0.8%	Free
9909.04.45	33.4¢/kg + 5.4%	29.7¢/kg + 4.8%	26¢/kg + 4.2%	22.3¢/kg + 3.6%	18.6¢/kg + 3%	14.8¢/kg + 2.4%	11.1¢/kg + 1.8%	7.4¢/kg + 1.2%	3.7¢/kg + 0.6%	Free
9909.04.46	47.5¢/kg + 5.4%	42.2¢/kg + 4.8%	36.9¢/kg + 4.2%	31.6¢/kg + 3.6%	26.4¢/kg + 3%	21.1¢/kg + 2.4%	15.8¢/kg + 1.8%	10.5¢/kg + 1.2%	5.2¢/kg + 0.6%	Free
9909.04.47	93.1¢/kg + 13.4%	82.8¢/kg + 11.9%	72.4¢/kg + 10.4%	62.1¢/kg + 8.9%	51.7¢/kg + 7.4%	41.4¢/kg + 5.9%	31¢/kg + 4.4%	20.7¢/kg + 2.9%	10.3¢/kg + 1.4%	Free
9909.04.48	38¢/kg + 7.6%	33.8¢/kg + 6.8%	29.6¢/kg + 5.9%	25.3¢/kg + 5.1%	21.1¢/kg + 4.2%	16.9¢/kg + 3.4%	12.6¢/kg + 2.5%	8.4¢/kg + 1.7%	4.2¢/kg + 0.8%	Free
9909.04.49	93.1¢/kg + 12.4%	82.8¢/kg + 10.8%	72.4¢/kg + 9.5%	62.1¢/kg + 8.1%	51.7¢/kg + 6.8%	41.4¢/kg + 5.4%	31¢/kg + 4%	20.7¢/kg + 2.7%	10.3¢/kg + 1.3%	Free
9909.04.50	27.4¢/kg + 5.7%	24.4¢/kg + 5.1%	21.3¢/kg + 4.4%	18.3¢/kg + 3.8%	15.2¢/kg + 3.2%	12.2¢/kg + 2.5%	9.1¢/kg + 1.9%	6.1¢/kg + 1.2%	3¢/kg + 0.6%	Free
9909.04.51	45.1¢/kg + 15.3%	40.1¢/kg + 13.6%	35.1¢/kg + 11.9%	30.1¢/kg + 10.2%	25.1¢/kg + 8.5%	20¢/kg + 6.8%	15¢/kg + 5.1%	10¢/kg + 3.4%	5¢/kg + 1.7%	Free
9909.04.52	77.5¢/kg	68.9¢/kg	60.3¢/kg	51.7¢/kg	43.1¢/kg	34.4¢/kg	25.8¢/kg	17.2¢/kg	8.6¢/kg	Free
9909.04.53	25.9¢/kg + 7.6%	23¢/kg + 6.8%	20.1¢/kg + 5.9%	17.2¢/kg + 5.1%	14.4¢/kg + 4.2%	11.5¢/kg + 3.4%	8.6¢/kg + 2.5%	5.7¢/kg + 1.7%	2.8¢/kg + 0.8%	Free
9909.04.54	21.1¢/liter + 13.4%	18.8¢/liter + 11.9%	16.4¢/liter + 10.4%	14.1¢/liter + 8.9%	11.7¢/liter + 7.4%	9.4¢/liter + 5.9%	7¢/liter + 4.4%	4.7¢/liter + 2.9%	2.3¢/liter + 1.4%	Free
9909.04.55	72.3¢/kg + 5.7%	64.3¢/kg + 5.1%	56.2¢/kg + 4.4%	48.2¢/kg + 3.8%	40.2¢/kg + 3.2%	32.1¢/kg + 2.5%	24.1¢/kg + 1.9%	16¢/kg + 1.2%	8¢/kg + 0.6%	Free
9909.12.20	147.4%	131%	114.6%	98.2%	81.9%	65.5%	49.1%	32.7%	16.3%	Free
9909.12.40	118.6%	105.4%	92.2%	79%	65.9%	52.7%	39.5%	26.3%	13.1%	Free
9909.17.10	30.4¢/kg	27¢/kg	23.7¢/kg	20.3¢/kg	16.9¢/kg	13.5¢/kg	10.1¢/kg	6.7¢/kg	3.3¢/kg	Free

Annex II (continued)
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HTS Subheading	December 17, 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
9909.17.15	32.1¢/kg	28.5¢/kg	25¢/kg	21.4¢/kg	17.8¢/kg	14.2¢/kg	10.7¢/kg	7.1¢/kg	3.5¢/kg	Free
9909.17.20	30.5¢/kg + 4.5%	27.1¢/kg + 4%	23.7¢/kg + 3.5%	20.3¢/kg + 3%	16.9¢/kg + 2.5%	13.5¢/kg + 2%	10.1¢/kg + 1.5%	6.7¢/kg + 1%	3.3¢/kg + 0.5%	Free
9909.17.25	15.2¢/kg of total sugars + 4.5%	13.5¢/kg of total sugars + 4%	11.8¢/kg of total sugars + 3.5%	10.1¢/kg of total sugars + 3%	8.4¢/kg of total sugars + 2.5%	6.7¢/kg of total sugars + 2%	5¢/kg of total sugars + 1.5%	3.3¢/kg of total sugars + 1%	1.6¢/kg of total sugars + 0.5%	Free
9909.17.30	30.5¢/kg of total sugars + 4.5%	27.1¢/kg of total sugars + 4%	23.7¢/kg of total sugars + 3.5%	20.3¢/kg of total sugars + 3%	16.9¢/kg of total sugars + 2.5%	13.5¢/kg of total sugars + 2%	10.1¢/kg of total sugars + 1.5%	6.7¢/kg of total sugars + 1%	3.3¢/kg of total sugars + 0.5%	Free
9909.17.35	36¢/kg + 9.3%	32¢/kg + 8.3%	28¢/kg + 7.2%	24¢/kg + 6.2%	20¢/kg + 5.2%	16¢/kg + 4.1%	12¢/kg + 3.1%	8¢/kg + 2%	4¢/kg + 1%	Free
9909.17.40	30.2¢/kg	26.8¢/kg	23.5¢/kg	20.1¢/kg	16.8¢/kg	13.4¢/kg	10¢/kg	6.7¢/kg	3.3¢/kg	Free
9909.17.45	27.4¢/kg + 7.6%	24.4¢/kg + 6.8%	21.3¢/kg + 5.9%	18.3¢/kg + 5.1%	15.2¢/kg + 4.2%	12.2¢/kg + 3.4%	9.1¢/kg + 2.5%	6.1¢/kg + 1.7%	3¢/kg + 0.8%	Free
9909.17.50	33.4¢/kg + 7.6%	29.7¢/kg + 6.8%	26¢/kg + 5.9%	22.3¢/kg + 5.1%	18.6¢/kg + 4.2%	14.8¢/kg + 3.4%	11.1¢/kg + 2.5%	7.4¢/kg + 1.7%	3.7¢/kg + 0.8%	Free
9909.17.55	33.4¢/kg + 5.4%	29.7¢/kg + 4.8%	26¢/kg + 4.2%	22.3¢/kg + 3.6%	18.6¢/kg + 3%	14.8¢/kg + 2.4%	11.1¢/kg + 1.8%	7.4¢/kg + 1.2%	3.7¢/kg + 0.6%	Free
9909.17.60	38¢/kg + 7.6%	33.8¢/kg + 6.8%	29.6¢/kg + 5.9%	25.3¢/kg + 5.1%	21.1¢/kg + 4.2%	16.9¢/kg + 3.4%	12.6¢/kg + 2.5%	8.4¢/kg + 1.7%	4.2¢/kg + 0.8%	Free
9909.17.65	21.3¢/kg + 7.6%	18.9¢/kg + 6.8%	16.5¢/kg + 5.9%	14.2¢/kg + 5.1%	11.8¢/kg + 4.2%	9.4¢/kg + 3.4%	7.1¢/kg + 2.5%	4.7¢/kg + 1.7%	2.3¢/kg + 0.8%	Free
9909.17.70	63.3¢/kg + 7.6%	56.3¢/kg + 6.8%	49.2¢/kg + 5.9%	42.2¢/kg + 5.1%	35.2¢/kg + 4.2%	28.1¢/kg + 3.4%	21.1¢/kg + 2.5%	14¢/kg + 1.7%	7¢/kg + 0.8%	Free
9909.17.75	25.9¢/kg + 7.6%	23¢/kg + 6.8%	20.1¢/kg + 5.9%	17.2¢/kg + 5.1%	14.4¢/kg + 4.2%	11.5¢/kg + 3.4%	8.6¢/kg + 2.5%	5.7¢/kg + 1.7%	2.8¢/kg + 0.8%	Free
9909.52.20	28.2¢/kg	25.1¢/kg	21.9¢/kg	18.8¢/kg	15.7¢/kg	12.5¢/kg	9.4¢/kg	6.2¢/kg	3.1¢/kg	Free
9909.52.40	7¢/kg	6.2¢/kg	5.4¢/kg	4.6¢/kg	3.9¢/kg	3.1¢/kg	2.3¢/kg	1.5¢/kg	0.7¢/kg	Free

Annex II (continued)
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Section C. Effective with respect to goods of Jordan, under the terms of general note 18 to the tariff schedule, entered, or withdrawn from warehouse for consumption, on or after the dates listed below.

(1). Effective on the dates set forth in this paragraph:

(a). Additional U.S. note 1 to chapter 58 is modified by:

(i). On December 17, 2001, inserting the following immediately above the column 2 rate of duty-

"column 1 (special)-	1.7%, but in the case of embroidery in the piece note less than the rate which would apply to such product if not embroidered (JO)"

(ii). On January 1, 2002, deleting the rate preceding the symbol "(JO)" and inserting a "Free" rate of duty in lieu thereof.

(iii). On January 1, 2003, deleting "Free (JO)".

(b)(i). Additional U.S. note 2 to chapter 58 is modified by inserting opposite "column 1 (special)-", after the rate for goods of Mexico, the following on the dates set forth below:

December 17,2001	January 1, 2002	January 1, 2003	January 1, 2004
4.4%, but in the case of embroidery in the piece not less than the rate which would apply to such product if not embroidered (JO)	2.9%, but in the case of embroidery in the piece not less than the rate which would apply to such product if not embroidered (JO)	1.4%, but in the case of embroidery in the piece not less than the rate which would apply to such product if not embroidered (JO)	Free (JO)

(ii). On January 1, 2005, delete "Free (JO)" from such note 2.

(c)(i). Additional U.S. note 3 to chapter 58 is modified by inserting opposite "column 1 (special)-", after the rate for goods of Mexico, the following on the dates set forth below:

December 17, 2001	January 1, 2002	January 1, 2003	January 1, 2004
5.8%, but in the case of embroidery in the piece not less than the rate which would apply to such product if not embroidered (JO)	3.9%, but in the case of embroidery in the piece not less than the rate which would apply to such product if not embroidered (JO)	1.9%, but in the case of embroidery in the piece not less than the rate which would apply to such product if not embroidered (JO)	Free (JO)

(ii). On January 1, 2005, delete "Free (JO)" from such note 3.

(d). Additional U.S. note 4 to chapter 58 is modified by:

(i). On December 17, 2001, inserting the following immediately above the column 2 rate of duty-

"column 1 (special)-	5.8%, but in the case of embroidery in the piece note less than the rate which would apply to such product if not embroidered (JO)"

(ii). On January 1, 2002, deleting "5.8%" and inserting "3.9%" in lieu thereof.

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(iii). On January 1, 2003, deleting "3.9%" and inserting "1.9%" in lieu thereof.
(iv). On January 1, 2004, deleting the rate preceding the symbol "(JO)" and inserting a "Free" rate of duty in lieu thereof.
(v). On January 1, 2005, deleting "Free (JO)".

(e). Additional U.S. note 5 to chapter 58 is modified by:
(i). On December 17, 2001, inserting the following immediately above the column 2 rate of duty-

"column 1 (special)-	4.4%, but in the case of embroidery in the piece note less than the rate which would apply to such product if not embroidered (JO)"

(ii). On January 1, 2002, deleting "4.4%" and inserting "2.9%" in lieu thereof.
(iii). On January 1, 2003, deleting "2.9%" and inserting "1.4%" in lieu thereof.
(iv). On January 1, 2004, deleting the rate preceding the symbol "(JO)" and inserting a "Free" rate of duty in lieu thereof.
(v). On January 1, 2005, deleting "Free (JO)".

(2). Effective on January 1, 2003, the Rates of Duty 1 Special subcolumn for subheading 5810.91.00 is modified by deleting the "(JO)" symbol and the rate preceding such symbol and inserting in the parentheses following the "Free" rate in such subcolumn the symbol "JO" in alphabetical order.

(3). Effective on January 1, 2005, the Rates of Duty 1 Special subcolumn for subheadings 5810.992.10, 5810.92.90, 5810.99.10 and 5810.99.90 is modified by deleting the "(JO)" symbol and the rate preceding such symbol and inserting in the parentheses following the "Free" rate in such subcolumn the symbol "JO" in alphabetical order.

(4). Effective on January 1, 2010:
(a). For the following provisions, in the Rates of Duty 1 Special subcolumn, insert in the parentheses following the "Free" rate in such subcolumn the symbol "JO" in alphabetical order:

4202.12.20	4202.12.60	6104.12.00	6109.90.10	6110.20.20
4202.12.40	4202.12.80	6104.62.20	6110.20.10	6110.30.30

(b). For subheading 9802.00.60, in the Rates of Duty 1 Special subcolumn, in the parentheses following "A duty upon the value of such processing outside the United States (see U.S. note 3 of this subchapter)", delete the symbol "JO", and insert in the parentheses following "Free" the symbol "JO" in alphabetical order.

(c). For subheading 9802.00.80, in the Rates of Duty 1 Special subcolumn, in the parentheses following "A duty upon the full value of the imported article, less the cost or value of such products of the United States (see U.S. note 4 of this subchapter)", delete the symbol "JO" and insert in the parentheses following "Free" the symbol "JO" in alphabetical order.

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(5). Effective on January 1, 2011, the Rates of Duty 1 Special subcolumn is modified by, for the following subheadings, deleting the "(JO)" symbol and the rate preceding such symbol and inserting in the parentheses following the "Free" rate in such subcolumn the symbol "JO" in alphabetical order:

0401.30.25	0406.20.28	0406.90.74	1806.20.73	1901.90.47
0401.30.75	0406.20.33	0406.90.78	1806.20.77	1901.90.54
0402.10.50	0406.20.39	0406.90.84	1806.20.82	1901.90.58
0402.21.25	0406.20.48	0406.90.88	1806.20.83	2008.11.15
0402.21.50	0406.20.53	0406.90.92	1806.20.87	2008.11.35
0402.21.90	0406.20.63	0406.90.94	1806.20.89	2008.11.60
0402.29.50	0406.20.67	0406.90.97	1806.20.94	2101.12.38
0402.91.70	0406.20.71	1202.10.80	1806.20.98	2101.12.48
0402.91.90	0406.20.75	1202.20.80	1806.32.06	2101.12.58
0402.99.45	0406.20.79	1517.90.60	1806.32.08	2101.20.38
0402.99.55	0406.20.83	1701.11.50	1806.32.16	2101.20.48
0402.99.90	0406.20.87	1701.12.50	1806.32.18	2101.20.58
0403.10.50	0406.20.91	1701.91.30	1806.32.70	2103.90.78
0403.90.16	0406.30.18	1701.91.48	1806.32.80	2105.00.40
0403.90.45	0406.30.28	1701.91.58	1806.90.08	2106.90.09
0403.90.55	0406.30.38	1701.99.50	1806.90.10	2106.90.26
0403.90.65	0406.30.48	1702.20.28	1806.90.18	2106.90.36
0403.90.78	0406.30.53	1702.30.28	1806.90.20	2106.90.46
0403.90.95	0406.30.63	1702.40.28	1806.90.28	2106.90.66
0404.10.15	0406.30.67	1702.60.28	1806.90.30	2106.90.72
0404.10.90	0406.30.71	1702.90.20	1806.90.39	2106.90.76
0404.90.50	0406.30.75	1702.90.58	1806.90.49	2106.90.80
0405.10.20	0406.30.79	1702.90.68	1806.90.59	2106.90.87
0405.20.30	0406.30.83	1704.90.58	1901.10.30	2106.90.91
0405.20.70	0406.30.87	1704.90.68	1901.10.40	2106.90.94
0405.90.20	0406.30.91	1704.90.78	1901.10.75	2106.90.97
0406.10.08	0406.40.70	1806.10.15	1901.10.85	2202.90.28
0406.10.18	0406.90.12	1806.10.28	1901.20.15	2309.90.28
0406.10.28	0406.90.18	1806.10.38	1901.20.25	2309.90.48
0406.10.38	0406.90.32	1806.10.55	1901.20.35	5201.00.18
0406.10.48	0406.90.37	1806.10.75	1901.20.50	5201.00.28
0406.10.58	0406.90.42	1806.20.26	1901.20.60	5201.00.38
0406.10.68	0406.90.48	1806.20.28	1901.20.70	5201.00.80
0406.10.78	0406.90.54	1806.20.36	1901.90.36	5202.99.30
0406.10.88	0406.90.68	1806.20.38	1901.90.43	5203.00.30

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TREASURY DEPARTMENT
Alcohol, Tobacco and Firearms Bureau

Alchohol, tobacco, and other excise taxes:
Tobacco products and cigarette papers and tubes—
Removal from manufacturer's premises for experimental purposes; application requirement eliminated; comments due by 12-17-01; published 10-17-01 [FR 01-25843]

VETERANS AFFAIRS DEPARTMENT

Adjudication; pensions, compensation, dependency, etc.:
Acceptable evidence from foreign countries; comments due by 12-18-01; published 10-19-01 [FR 01-26382]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.J. Res. 76/P.L. 107–79
Making further continuing appropriations for the fiscal year 2002, and for other purposes. (Dec. 7, 2001; 115 Stat. 809)

Last List November 30, 2001

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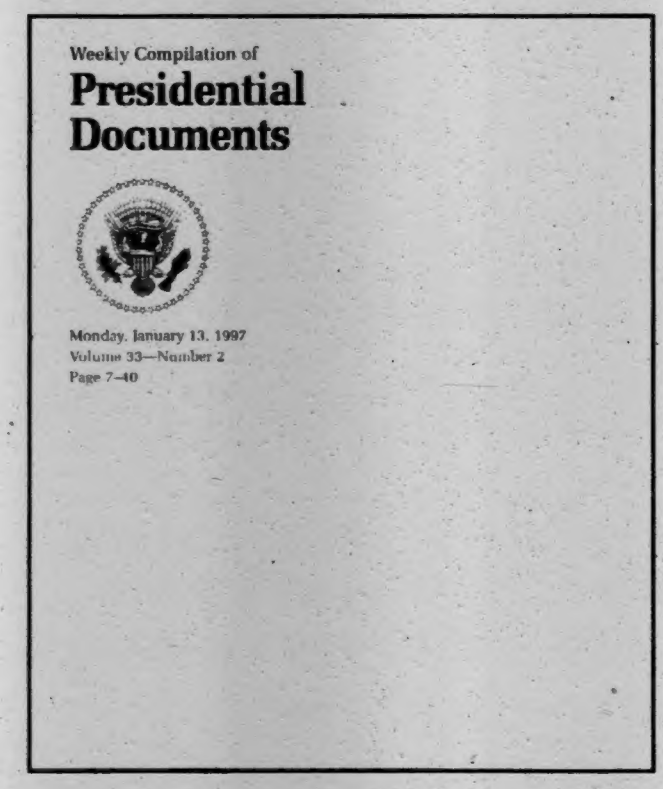

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